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Thursday
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Presidential Documents

Title 3—

The President

Presidential Determination No. 96–18 of March 8, 1996

Eligibility of Slovenia and the Former Yugoslav Republic of Macedonia To Be Furnished Defense Articles and Services Under the Foreign Assistance Act and the Arms Export Control Act

Memorandum for the Secretary of State

Pursuant to the authority vested in me by section 503(a) of the Foreign Assistance Act of 1961, as amended, and section 3(a)(1) of the Arms Export Control Act, I hereby find that the furnishing of defense articles and services to the Governments of Slovenia and the Former Yugoslav Republic of Macedonia will strengthen the security of the United States and promote world peace.

You are authorized and directed to report this finding to the Congress and to publish it in the **Federal Register**.

William J. Clinton

THE WHITE HOUSE,
Washington, March 8, 1996.

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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 330, 333, and 335

RIN 3206–AH25

Agency Funding for Federal Employment Information

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations requiring each agency to pay a fee for its share of the cost of providing employment information through OPM to Federal employees and the public. The regulations implement a permanent statutory provision of Public Law 104–52, which authorizes OPM to charge fees to agencies to pay the cost of providing Federal employment information and related services. The fee for FY 96 will be based on each agency's proportionate share of the Federal competitive service workforce as of March 31, 1995, including all permanent and nonpermanent employees.

EFFECTIVE DATE: March 21, 1996.

FOR FURTHER INFORMATION CONTACT: Richard Whitford on 202–606–2525, TDD 202–606–0591, or FAX 202–606–5049.

SUPPLEMENTARY INFORMATION: The Treasury, Postal Service, and General Government Appropriations Act, 1996 (Pub. L. 104–52, November 19, 1995) shifts the funding for the Federal employment information function from OPM appropriations to a combination of OPM appropriations and fees for services to be paid by agencies into OPM's revolving fund.

Employment Information

Under 5 U.S.C. 3327, agencies must notify OPM of (1) competitive examinations and (2) vacancies in the competitive service and Senior Executive Service for which the agency will consider applicants from outside the Federal service. Under 5 U.S.C. 3330, agencies must notify OPM of competitive service job announcements open to applicants outside an agency's own workforce. Under both laws, OPM is responsible for disseminating the information to the public.

Agencies also are required by the Interagency Career Transition Assistance Plan for Displaced Employees in 5 CFR part 330 (60 FR 67281, December 29, 1995) to notify OPM of competitive service vacancies open to candidates outside an agency's workforce, including temporary vacancies lasting 90 days or more. OPM makes this information available to assist displaced employees in finding employment. The Plan implemented, in part, the President's memorandum of September 12, 1995, entitled "Career Transition Assistance for Federal Employees."

In addition to carrying out the obligations discussed above, OPM provides employment information to support outplacement services of agency career transition centers. OPM also responds to a large volume of inquiries from the public, Federal employees, Congressional offices, and others on a broad range of employment topics.

Public Law 104–52 amended 5 U.S.C. 3330, which addresses competitive service announcements, to authorize OPM to charge fees to agencies to pay the cost of providing services under section 3330 and for related Federal employment information.

Proposed Regulations and Comments

On January 8, 1996, OPM issued proposed regulations at 61 FR 546 to implement the new funding arrangement. We proposed that fees for FY 96 be based on each agency's proportionate share of the Federal competitive service workforce as of March 31, 1995, including all permanent and nonpermanent employees. We received written comments from five agencies.

One agency disagreed with the proposal to base fees on each agency's proportionate share of competitive service employees and suggested that fees be based on the number of inquiries handled annually. The commenter believes the OPM proposal would cause smaller agencies to subsidize larger agencies that use the OPM services more frequently.

OPM believes that a fee based on employment levels is fair. Such a funding mechanism reflects the centralized recruitment benefits to an agency, employment services to its employees, and dissemination of information and responses to a high volume of inquiries to the general public that otherwise would go to individual agencies.

OPM can identify the number of inquiries handled through its employment information system but not the source of contacts nor the agencies of interest to individual job seekers. Furthermore, there is no evidence that larger agencies make relatively greater use of OPM's employment information system than smaller agencies do.

Three agencies disagreed with the use of employment levels as of March 31, 1995, and suggested, respectively, mid-September 1995, October 31, 1995, or March 31, 1996, as more appropriate for the period in which services are provided. OPM has retained March 31, 1995. If future agency fees are based on employment levels, OPM will need to notify agencies of their share by the third quarter of the fiscal year preceding the one in which the fee is due to allow for agency budget planning. Employment levels will be taken from OPM's Central Personnel Data File (CPDF). Because agencies transmit personnel actions to CPDF on a quarterly basis, the most recent available data will be as of March 31, of each year.

An official from a component of a department commented that fees based on employment levels as of March 31 would not be appropriate for his organization because in a recent reorganization a considerable number of employees were transferred to a different component. OPM will notify each agency/department headquarters of its total agency fee (unless an agency requests otherwise). How the total fee is assessed among the components will be an internal matter for each agency.

One agency recommended that assessment be waived for any agency that does not have an appropriation for the current year. While we understand the concerns of agencies under a continuing resolution, we do not believe an exemption would be equitable to

other agencies—which also may be operating under a reduced appropriation.

Another agency suggested that it be given the option of using either OPM employment information services or developing its own recruitment and outreach programs. The OPM employment information function complements individual agency recruitment programs. However, agencies do not have an option under 5 U.S. 3327 and 3330; they are required to report examinations and vacancies to OPM. Nor does OPM have an option. The law requires OPM to disseminate employment information to the public, and Congress has made clear through Public Law 104–52 that agencies are to share in the funding of that responsibility.

The Administration and Congress clearly favor a single job information system over multiple agency-based systems. Beginning with National Performance Review recommendations to the President's initiative on career transition assistance and recent amendments to title 5, U.S.C, the support for an interagency information system has been clear and consistent. Thus, as agencies undergo downsizing and restructuring, a major consideration should be the appropriateness and cost-effectiveness of developing or operating duplicative employment information systems. Agencies also should note that adjustments to personnel reductions may be eased through more effective use of the Federal Employment Information System. Agencies may take the following steps:

- Refer inquiries about vacancies and employment that can be handled by OPM's automated Governmentwide employment information system directly to it, such as requests for job announcements and application materials.
- Make a single entry of vacancies to the Federal Employment Information System instead of mailing hard copy announcements to multiple recruiting points or third-party providers, or using paid advertising.
- When entering jobs into the database, make maximum use of the "remarks" section of the job record to provide information and minimize job seekers' follow-up calls to the personnel office. Also, to further minimize the number of inquiries to agencies and reduce personnel office workload, OPM will provide job announcements directly to job seekers (from electronic files of job announcements agencies transmit to OPM).

OPM recognizes that not every agency is prepared at present to provide electronic files of job announcements. We plan to work with those agencies during a transition period in which we will continue to provide entry assistance. In light of the benefits that will accrue to agencies through electronic transmission, our goal is that they acquire the necessary capability and assume the data entry and vacancy announcement uploading functions by May 1, 1996.

One agency commented that the proposal removes agency flexibility to determine how best to notify State employment offices of examinations/vacancies, and that agency discretion be restored because agency funds are affected. Section 3327 of title 5, U.S.C., requires OPM to make this information available to State Employment Service offices. Since 1989, OPM has met this statutory requirement through regular electronic reports of job listings in the Federal Employment Information System to America's Job Bank, a Department of Labor funded organization that disseminates vacancy information to State Employment Service offices. Agencies need take no further action. Any attempt to delete selected agency data, as proposed, would have an adverse impact on this cost-effective approach as it now operates.

A competitive service agency suggested that excepted service agencies also be assessed for their fair share because they too benefit from the system. OPM lacks legal authority to assess excepted agencies because 5 U.S.C. 3327 and 3330 do not cover excepted positions.

Final Regulations

OPM is adopting the regulations as proposed with only minor editorial changes. The fee for FY 96 will be based on each agency's proportionate share of the Federal competitive service workforce as of March 31, 1995, including all permanent and nonpermanent employees. OPM has been appropriated $2.5 million for the employment information function in FY 96. The balance to be collected through agency fees is $2.8 million. OPM will bill at the agency headquarters level to minimize billing and accounting unless we hear otherwise from an agency.

Concerning future years, OPM will soon establish a working group of the Interagency Advisory Group, consisting of officials from representative agencies and OPM, to review the level, quality and costs of information services provided and make recommendations for improving efficiency and effectiveness. All agencies will have the opportunity, through the Interagency Advisory Group, to discuss and comment on recommendations of the working group prior to implementation.

OPM will regularly report to agencies the information it collects regarding customer satisfaction and complaints. OPM also will notify each agency annually of the costs of the services, its obligation and of payment procedures.

The final regulations also consolidate the public notice requirements for competitive service positions in parts 330, 333, and 335.

Waiver of Delay in Effective Date

Pursuant to 5 U.S.C. 553(d)(3), I find that good cause exists to waive the delay in effective date and make these regulations effective in less than 30 days. The statutory basis for these regulations (Pub. L. 104–52) was effective on November 19, 1995, and OPM's reduced FY 96 appropriations will not allow it to continue the employment information function without reimbursement from agencies. It would be contrary to the public interest and impracticable to delay implementation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it pertains only to Federal agencies.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects in 5 CFR Part 330

Armed forces reserves, Government employees.

List of Subjects in 5 CFR Parts 333 and 335

Government employees.

U.S. Office of Personnel Management.
James B. King,
Director.

Accordingly, OPM is amending 5 CFR parts 330, 333, and 335, as follows:

PART 330—RECRUITMENT, SELECTION, AND PLACEMENT (GENERAL)

1. The authority citation for part 330 is revised to read as follows:

Authority: 5 U.S.C. 1302, 3301, 3302; E.O. 10577, 3 CFR, 1954–58 Comp., p. 218.

Section 330.102 also issued under 5 U.S.C. 3327 and 3330.

Subpart B also issued under 5 U.S.C. 3315 and 8151.

Section 330.401 also issued under 5 U.S.C. 3310.

Subpart H also issued under 5 U.S.C. 8337(h) and 8457(b).

Subpart I also issued under 106 Stat. 2720, 5 U.S.C. 3301 note.

2. Section 330.102 is revised, to read as follows:

§ 330.102 Federal employment information.

(a) *Vacancies open to the public.* (1) *Notice required*—(i) Under 5 U.S.C. 3327, Federal agencies must notify OPM promptly of:

(A) Open competitive examinations;

(B) Vacancies in the competitive service to be filled under direct hire procedures or part 333 of this chapter; and

(C) Vacancies in the Senior Executive Service for which the agency seeks applications from persons outside the Federal service. Also, in accordance with § 317.501(b)(2) of this chapter, agencies must notify OPM of all Senior Executive Service vacancies to be filled by initial career appointment.

(ii) OPM will provide this information to the employment offices of the United States Employment Service.

(2) *Agencies covered.* Paragraph (a)(1) of this section applies to:

(i) The executive departments listed at 5 U.S.C. 101;

(ii) The military departments listed at 5 U.S.C. 102;

(iii) Government owned corporations in the executive branch as described at 5 U.S.C. 103;

(iv) Independent establishments in the executive branch as described at 5 U.S.C. 104, including the Nuclear Regulatory Commission; and

(v) Government Printing Office.

(b) *All other vacancies*—(1) *Notice required.* Under 5 U.S.C. 3330, OPM must maintain, and make available to the public, a list of agency vacancy announcements for positions in the competitive service. Under § 330.706 of this chapter, agencies must notify OPM promptly of competitive service vacancies to be filled for more than 90 days when the agency will accept applications from individuals outside the agency's own work force.

(2) *Agencies covered.* Except for any executive agency or unit thereof whose principal function is the conduct of foreign intelligence or counterintelligence activities, as determined by the President, paragraph (b)(1) of this section applies to:

(i) The executive departments listed at 5 U.S.C. 101;

(ii) The military departments listed at 5 U.S.C. 102;

(iii) Government corporations in the executive branch as described at 5 U.S.C. 103; and

(iv) Independent establishments in the executive branch as described at 5 U.S.C. 104.

(c) *Funding.* Under 5 U.S.C. 3330(f), OPM is authorized to charge fees to agencies for their share of the cost of providing employment information to the public and to Federal employees. OPM will work with agencies to review the effectiveness and efficiency of the Federal Employment Information System in meeting Federal agency and public needs and identify improvements to the system, consistent with the minimum level of service and statutory requirements. Subsequently, OPM will annually compute the cost of providing employment information and notify each agency of its share, along with a full accounting of the costs, and payment procedures.

PART 333—RECRUITMENT AND SELECTION FOR TEMPORARY AND TERM APPOINTMENTS OUTSIDE THE REGISTER

3. The authority citation for part 333 is revised to read as follows:

Authority: 5 U.S.C. 1302, 3301, 3302, 3327, 3330; E.O. 10577, 3 CFR 1954–58 Comp., p. 218; section 333.203 also issued under 5 U.S.C. 1104.

4. Section 333.102 is revised to read as follows:

§ 333.102 Notice of job announcements to OPM.

Under 5 U.S.C. 3327 and 3330, agencies are required to report job announcements to OPM when recruiting outside the register. This requirement is implemented through § 330.102 of this chapter.

PART 335—PROMOTION AND INTERNAL PLACEMENT

5. The authority citation for part 335 is revised to read as follows:

Authority: 5 U.S.C. 3301, 3302, 3330; E.O. 10577, 3 CFR 1957–58 Comp., p. 218.

6. Section 335.105 is revised to read as follows:

§ 335.105 Notice of job announcements to OPM.

Under 5 U.S.C. 3330, agencies are required to report job announcements to OPM for vacancies for which an agency will accept applications from outside the agency's work force. This requirement is implemented through § 330.102 of this chapter.

[FR Doc. 96–6916 Filed 3–21–96; 8:45 am]
BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Parts 1 and 47

Rules of Practice

AGENCY: Office of the Secretary of Agriculture, USDA.

ACTION: Final rule.

SUMMARY: We are amending the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes and the Rules of Practice Under the Perishable Agricultural Commodities Act. This final rule provides that the adjudication, under the Perishable Agricultural Commodities Act, of whether an individual is "responsibly connected" with a particular commission merchant, dealer, or broker will be joined with any related disciplinary proceedings against the same commission merchant, dealer, or broker; and that any adjudications of such status will be made by Administrative Law Judges of the Department of Agriculture. USDA believes that the procedures, by reducing the incidence of multiple hearings, will facilitate speedy enforcement of the PACA and will result in savings in employee time and travel expense. They will also abolish the need for AMS to employ individuals to act as presiding officers at responsibly connected proceedings. In 1994, presiding officers were paid $26,866, a large portion of which would be saved under the new regulation.

EFFECTIVE DATE: This final rule is effective April 22, 1996.

FOR FURTHER INFORMATION CONTACT: Mary Hobbie, Assistant General Counsel, Trade Practices Division, Office of the General Counsel, USDA, Room 2446 South Building, 14th Street and Independence Avenue SW., Washington, DC 20250–1400 (202) 720–5293.

SUPPLEMENTARY INFORMATION:

Disciplinary Proceedings

Section 2 of the Perishable Agricultural Commodities Act (PACA), 7 U.S.C. 499b, proscribes as unfair various conduct on the part of commission merchants, dealers, or brokers. The PACA provides redress for such unlawful conduct in the form of suspension or revocation of required licenses, and to a limited extent, civil penalties. The Agricultural Marketing Service (AMS) of the U.S. Department of Agriculture (USDA) enforces section 2 of the PACA, in part, through

administrative proceedings adjudicated by Administrative Law Judges.

While the PACA is the substantive law governing these administrative disciplinary proceedings, The Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (Rules of Practice), at 7 CFR 1.130–1.151 provide their procedural framework. Disciplinary proceedings are instituted by filing a formal complaint with the Hearing Clerk. The respondent is given the opportunity to file an answer to the complaint. An Administrative Law Judge determines the issues and makes a decision after opportunity for a full evidentiary hearing. Both parties may request testimonial and documentary subpoenas. Any decision of the Administrative Law Judge may be appealed to the Judicial Officer, acting for the Secretary. An appeal from a decision of the Judicial Officer may be taken to the appropriate U.S. Circuit Court of Appeals.

Proceedings To Determine Responsibly Connected Status

In addition to the proscription against unfair conduct embodied in section 2, section 8(b) of the PACA (7 U.S.C. 499h(b)) forbids a licensee from employing a person who is or has been "responsibly connected" with a firm or person whose license has been revoked or is under suspension by the Secretary, a person who has been found to have committed any flagrant or repeated violation of section 2, or against whom there is an unpaid reparation award. Such employment violations subject the employing firm or individual to license suspension or revocation. On November 15, 1995, the PACA Amendments of 1995 were signed into law. One of those amendments, 7 U.S.C. 499h(e), provides for the sanction of civil penalties in lieu of revocation or suspension of license. The final rule reflects this amendment.

The PACA, in section 1(9) (7 U.S.C. 499a), defines "responsibly connected" to mean "affiliated or connected with a commission merchant, dealer, or broker as (A) partner in a partnership, or (B) officer, director, or holder of more than 10 per centum of the outstanding stock of a corporation or association."

Prior to 1975, the determination as to responsibly connected status was made without the benefit of an oral hearing. After the decision of the U.S. Court of Appeals for the District of Columbia in *Quinn* v. *Butz*, 510 F.2d 743 (D.C. Cir. 1975), USDA instituted a procedure governed by regulations published at 7 CFR 47.47–47.68 giving any person finally determined by the PACA Branch of AMS to have been responsibly connected to a firm subject to license revocation or suspension the opportunity for an oral hearing before a presiding officer appointed by AMS.

Currently, determinations as to whether an individual is responsibly connected to a particular commission merchant, dealer, or broker are made independently of any related disciplinary proceeding against the commission merchant, dealer, or broker. Although typically the two proceedings involve a common fact nucleus, currently no mechanism exists for joining the procedures to achieve a more efficient use of resources. In addition, in those cases where the individual requests an oral hearing, responsibly connected proceedings frequently are not concluded until the sanction in the related disciplinary proceeding has been in effect for a year or more. Thus, although an offending entity's license may have been revoked for as much as a year, those individuals responsible for the violations may nevertheless continue to be employed in the industry pending a determination of responsibly connected status.

The rules currently governing determination of responsibly connected status are set out at 7 CFR 47.47–47.68. In brief, these rules provide for a preliminary determination by the Perishable Agricultural Commodities Branch (PACA Branch), AMS, as to the status of a person who is potentially responsibly connected, notification of the preliminary determination, and an opportunity to respond and furnish evidence to the Chief, PACA Branch. If the Chief, PACA Branch, sustains the preliminary determination that the individual is responsibly connected, the individual is then entitled to file a petition with the Administrator of AMS for a review proceeding and final decision and to request an oral hearing. If an oral hearing is requested, it is held before a hearing officer appointed by the Administrator. Appeals of adverse decisions of the Administrator lie to the U.S. Circuit Courts of Appeal. In any event, no employment sanction begins to run until one of the following three conditions set forth in section 8(b) of the PACA exists: (1) the license of the firm with which the responsible connection exists has been suspended or revoked; (2) there is a finding that the firm has committed a flagrant or repeated violation of section 2 of the PACA; or (3) the firm has failed to pay a reparation award under section 7 of the PACA.

Proposed Rule

On July 3, 1995, we proposed to modify the procedures for determining responsibly connected status to accomplish two objectives: (1) to consolidate, where the possibility exists, hearings in disciplinary cases and related determinations of responsibly connected status; and (2) to provide for review by an Administrative Law Judge of the final determination of the Chief, PACA Branch, that an individual is responsibly connected. Because the issues in both the disciplinary proceedings and the responsibly connected hearings are based upon identical or closely-related facts, and because the sanctions are related, such a procedure eliminates the need for duplicative litigation. The procedure we proposed also offers the advantage of insuring that the sanctions against the licensee and the individuals responsibly connected with it will commence concurrently.

Instead of filing a petition for review with the Administrator of AMS, under the proposed procedures, the individual contesting the final determination by the Chief, PACA Branch, that he or she is responsibly connected would file a petition for review with the Office of the Hearing Clerk, and the petition would be decided by an Administrative Law Judge, after opportunity for oral hearing. Any hearing on a responsibly connected determination will be consolidated with the hearing, if any, on the disciplinary matters out of which the issue of responsibly connected status arose. Likewise, all responsibly connected hearings arising out of the relationships between more than one individual and one particular PACA licensee would be consolidated.

To illustrate by hypothetical, assume that PACA Branch, AMS, institutes a disciplinary proceeding against the Acme Produce Company, of which the officers, directors, and shareholders of greater than 10 percent of the stock consist of Able, Jones, and Smith. Under the proposal, all issues arising out of the disciplinary infractions charged against Acme and all employment sanctions arising out of the relationships between Acme on the one hand and Able, Jones, and Smith on the other hand will be consolidated for hearing to the extent that the employment sanctions originate from Acme's alleged disciplinary violations. If for any reason there is no hearing on the issues involving Acme, but Able, Jones, and Smith file petitions for review of their status as responsibly connected individuals and request hearings, those hearings will be consolidated in one proceeding before an Administrative Law Judge.

To the extent that no disciplinary proceeding has been instituted against Acme and the proposed employment sanctions against Able, Jones and Smith arise under PACA section 8(b)(3) solely from Acme's failure to pay one or more reparation awards under PACA section 7, all hearings on petitions for review will be consolidated in one proceeding before an Administrative Law Judge. The vehicle used to achieve this consolidation will be a mandatory joinder under the Rules of Practice as amended.

USDA believes that the proposed procedures, by reducing the incidence of multiple hearings, will facilitate speedy enforcement of the PACA and will result in savings in employee time and travel expense. They will also abolish the need for AMS to employ individuals to act as presiding officers at responsibly connected proceedings. In 1994, presiding officers were paid $26,866, a large portion of which would be saved under the proposed new regulation.

Comments on the Proposed Rule

We solicited comments concerning the proposal for a 30-day comment period ending August 2, 1995. We received no comments from members of the public. However, upon thorough review of the rule as proposed, we have determined that several minor changes are appropriate in order to better reflect the intent of the proposal.

We have amended 7 CFR 1.132, Definitions, to add the definition of "petitioner." This obviates any confusion with respect to the denomination of the parties to a proceeding pursuant to the PACA. The person filing a petition for review shall be called "petitioner."

In § 1.133(b)(2), we have clarified in the final version that the new procedures apply whenever there is an issue of responsibly connected status where, for whatever reason, a licensee is potentially subject to license suspension or revocation. Thus, the new procedures apply whether the potential license suspension or revocation stems from alleged violation of 7 U.S.C. 499b (unfair practices), 7 U.S.C. 499h(b) (employment violations), or as provided in 7 U.S.C. 499g(d) (failing to pay reparation awards).

We are also modifying language in the final version of 7 CFR 1.136 to clarify that the Chief, PACA Branch, must file the record with the hearing clerk 10 days after service of the petition for review upon the Chief, PACA Branch.

Conclusion

Based on the rationale in the proposed rule and this rulemaking document, we are adopting the provisions of the proposal as a final rule except as previously discussed in this rulemaking document and except for minor editorial changes for clarity.

Executive Order 12866 and Regulatory Flexibility Act

The Secretary has determined that this final rule would not have a significant economic impact on a substantial number of small entities. While small entities will continue to be subject to identical substantive requirements under the revised procedures, the new procedures will not result in any new burdens. The new rule merely changes the form of the hearing utilized to determine responsibly connected status.

This rule has been determined not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

The Paperwork Reduction Act of 1980 does not apply to this rule since the rule does not seek answers to identical questions or impose reporting or recordkeeping requirements on 10 or more persons, and the information collected is not used for general statistical purposes.

List of Subjects

7 CFR Part 1

Administrative practice and procedure, Agriculture, Antitrust, Blind, Claims, Concessions, Cooperatives, Equal access to justice, Federal buildings and facilities, Freedom of information, Lawyers, Privacy.

7 CFR Part 47

Administrative practice and procedure, Agricultural commodities, Brokers.

For the reasons set out in the preamble 7 CFR part 1 and 7 CFR chapter I are amended as follows:

PART 1—ADMINISTRATIVE REGULATIONS

1. The authority citation for part 1, Subpart H, continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 61, 87e, 149, 150gg, 162, 163, 164, 228, 268, 499o, 608c(14), 1592, 1624(b), 2151, 2621, 2714, 2908, 3812, 4610, 4815, 4910; 15 U.S.C. 1828; 16 U.S.C. 620d, 1540(f), 3373; 21 U.S.C. 104, 11, 117, 120, 122, 127, 134e, 134f, 135a, 154, 463(b), 621, 1043; 43 U.S.C. 1740; 7 CFR 2.35, 2.41.

§ 1.131 [Amended]

2. Section 1.131 is amended as follows:

a. In paragraph (a), in the listing, by adding "1(9)," immediately after the entry "Perishable Agricultural Commodities Act, 1930, sections" and immediately before "3(c)".

3. Section 1.132 is amended by adding, in alphabetical order, a new definition to read as follows:

§ 1.132 Definitions.

* * * * *

Petitioner means an individual who has filed a petition for review of a determination that the individual is responsibly connected to a licensee within the meaning of 7 U.S.C. 499a(9).

* * * * *

4. Section 1.133 is amended as follows:

a. In paragraph (b), by revising the paragraph heading; and

b. In paragraph (b), by redesignating paragraph (b)(2) as paragraph (b)(3), and by adding a new paragraph (b)(2), to read as follows:

§ 1.133 Institution of proceedings.

* * * * *

(b) *Filing of complaint or petition for review.* * * * (2) Any person determined by the Chief, PACA Branch, pursuant to 7 CFR 47.47–47.68 to have been responsibly connected within the meaning of 7 U.S.C. 499a(9) to a licensee who is subject or potentially subject to license suspension or revocation as the result of an alleged violation of 7 U.S.C. 499b or 499h(b) or as provided in 7 U.S.C. 499g(d) shall be entitled to institute a proceeding under this section and to have determined the facts with respect to such responsibly connected status by filing with the Hearing Clerk a petition for review of such determination.

* * * * *

5. Section 1.135 is amended as follows:

a. By revising the section heading;

b. By designating the text of current § 1.135 as paragraph (a), and by adding a heading to newly designated paragraph (a); and

c. By adding paragraph (b), to read as follows:

§ 1.135 Contents of complaint or petition for review.

(a) *Complaint.* * * *

(b) *Petition for review.* The Petition for Review of responsibly connected status

shall describe briefly and clearly the determination sought to be reviewed and shall include a brief statement of the factual and legal matters that the petitioner believes warrant the reversal of the determination.

6. Section 1.136 is amended by adding a sentence at the end of paragraph (a) to read as follows:

§ 1.136 Answer.

(a) * * * As response to a petition for review of responsibly connected status, the Chief, PACA Branch, shall within ten days after being served by the Hearing Clerk with a petition for review, file with the Hearing Clerk a certified copy of the agency record upon which the Chief, PACA Branch, made the determination that the individual was responsibly connected to a licensee under the Perishable Agricultural Commodities Act, 7 U.S.C. 499a *et seq.*, and such agency record shall become part of the record in the review proceeding.

* * * * *

7. Section 1.137 is revised to read as follows:

§ 1.137 Amendment of complaint, petition for review, or answer; joinder of related matters.

(a) *Amendment.* At any time prior to the filing of a motion for a hearing, the complaint, petition for review, answer, or response to petition for review may be amended. Thereafter, such an amendment may be made with consent of the parties, or as authorized by the Judge upon a showing of good cause.

(b) *Joinder.* The Judge shall consolidate for hearing with any proceeding alleging a violation of the Perishable Agricultural Commodities Act, 7 U.S.C. 499a *et seq.*, any petitions for review of determination of status by the Chief, PACA Branch, that individuals are responsibly connected, within the meaning of 7 U.S.C. 499a(9), to the licensee during the period of the alleged violations. In any case in which there is no pending proceeding alleging a violation of the Perishable Agricultural Commodities Act, 7 U.S.C. 499a *et seq.*, but there have been filed more than one petition for review of determination of responsible connection to the same licensee, such petitions for review shall be consolidated for hearing.

8. Section 1.141 is amended as follows:

a. By adding a new sentence after the first sentence of paragraph (a);

b. By designating the text of paragraph (e) following the heading as paragraph (e)(1), and by adding a new paragraph (e)(2), to read as follows:

§ 1.141 Procedure for hearing.

(a) * * * A petition for review shall be deemed a request for a hearing.* * *

* * * * *

(e) *Failure to appear.* (1) * * *

(2) If the petitioner in the case of a Petition for Review of a determination of responsibly connected status within the meaning of 7 U.S.C. 499a(9), having been duly notified, fails to appear at the hearing without good cause, such petitioner shall be deemed to have waived his right to a hearing and to have voluntarily withdrawn his petition for review.

* * * * *

PART 47—RULES OF PRACTICE UNDER THE PERISHABLE AGRICULTURAL COMMODITIES ACT

9. The authority citation for part 47 continues to read as follows:

Authority: 7 U.S.C. 499o; 7 CFR 2.17(a)(8)(xiii), 2.50 (a)(8)(xiii).

§ 47.47 Additional definitions.

10. Section 47.47 is revised to read as follows:

§ 47.47 Additional definitions.

The following definitions, which are in addition to those in § 47.2 (a) through (h), shall be applicable to proceedings under §§ 47.47 through 47.49.

(a) *Chief* means the Chief of the PACA Branch, or any officer or employee to whom authority has heretofore lawfully been delegated or to whom authority may hereafter lawfully be delegated by the Chief, to act in such capacity.

(b) *PACA Branch* means that PACA Branch of the Division.

(c) *Petition for review* means the document filed requesting review by an Administrative Law Judge of the Chief's determination.

§ 47.49 [Amended]

11. Section 47.49 is amended as follows:

a. In paragraphs (a), (b), and (c), the words "Regulatory Branch" are removed each time they occur and the words "PACA Branch" are added in their place.

b. Paragraph (d) is amended by removing all words appearing after "may file" and adding in their place the words "with the Hearing Clerk, pursuant to § 1.130–1.151 of this title, a petition for review of the determination.".

c. Paragraphs (e) and (f) are removed.

§ 47.50 through 47.68 [Removed]

12. Sections 47.50 through 47.68 are removed.

Done in Washington, DC, this 29th day of February 1996.

Dan Glickman,

Secretary of Agriculture.

[FR Doc. 96–6693 Filed 3–20–96; 8:45 am]

BILLING CODE 3410–01–M

Agricultural Marketing Service

7 CFR Part 54

[No. LS–95–006]

Amendment to Meats, Prepared Meats, and Meat Products (Grading, Certification and Standards)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS) is amending the Meats, Prepared Meats, and Meat Products (Grading, Certification and Standards) by adding definitions, changing certificate forms, removing two outdated official stamp imprints, and adding three new official stamp imprints. Program changes made to better serve our customers and improve efficiency resulted in development of the above new items, and caused the disuse of the old stamps and certificates.

EFFECTIVE DATE: April 22, 1996.

FOR FURTHER INFORMATION CONTACT: Larry R. Meadows, Chief, Meat Grading and Certification Branch, (202) 720–1246.

SUPPLEMENTARY INFORMATION:

Executive Orders 12866 and 12778 and the Regulatory Flexibility Act

This rule has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by OMB.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to this rule or the application of its provisions.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (Pub. L. 96–354, 5 U.S.C. 601 *et seq.*), the Administrator of the AMS has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of the businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

After implementation of the rule the unit cost for providing meat grading and certification services will remain at approximately $.0009 per pound. Therefore, implementation of the changes will not significantly affect the cost of providing meat grading and certification services to the meat industry. Accordingly, the Administrator of AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities as defined by the RFA.

Paperwork Reduction Act

The action replaces two forms with new editions. However, the new forms will be completed by AMS graders will not be a burden on the public. Therefore, under the provisions of the Paperwork Reduction Act the forms will not be reviewed by OMB.

Background

The Secretary of Agriculture is authorized under the Agricultural Marketing Act (AMA) of 1946, as amended, 7 U.S.C. 1621 *et seq.*, to provide voluntary Federal meat grading and acceptance services to facilitate the orderly marketing of meat and meat products and to enable consumers to obtain the quality of meat they desire. As program activities or industry practices change, the regulations governing such activities require updating. Since July 1990, when Title 7, Subtitle B, Chapter I, Subchapter C, Part 54, Sections 54.1–54.26 was last amended, the program revised official certificates and other documents. The two new certificates, which allow up to five program employees to charge an applicant on one document, significantly reduce preparation time, certificate usage, and documents sent to users of the service. As a result of the changes to the official certificates, new representations are included in the rule.

The program will also add a single stamp and a series of three new official stamps, which were developed to prevent repetitive motion injuries to our personnel. The program conducted a study of all aspects of the work, and consulted experts in ergonomics prior to developing the new stamps. The new stamps will allow meat graders to apply significantly fewer stamp imprints while ensuring complete grade identification within the slaughter facility. The new stamps will be used in conjunction with grade labeled bags ensuring full grade identification throughout the marketing chain. The new stamps will also reduce the amount of meat branding ink placed on carcasses. Meat branding ink on calf, veal, lamb, and in processed beef products can produce discolored spots, which detract from appearances. The new certificates and stamps are now in use.

The program will remove the following two outdated, no longer in use, official stamps: "U.S.D.A. PRE-IDENT FEDERAL PURCHASE," and "U.S.D.A. EXAMINED AS CERTIFIED."

The program substitutes "Certification service" for "Acceptance service"—in all locations—because not all work performed results in accepted products, and adds the newly-developed Quality Systems Certification and Contract Verification Programs, which are not currently defined under the regulations and require explanation. The Quality Systems Certification Program (QSCP) evaluates processes to assure that vendors produce acceptable products without evaluating end products on a fulltime basis. The Contract Verification Program evaluates contractually purchased products, and provides purchasers an evaluation of how accurately a contractor is adhering to contractual requirements. Both programs will be available on a single-use consultation-fee basis or on a retainer-fee basis for long term usage. In conjunction with the new QSCP service, the program developed a new identification mark. The program provides for the new mark to be used on advertising materials but not directly on retail packaging.

Comments

On October 13, 1995, the Agency published in the Federal Register (60FR198) a proposed rule to amend the regulations adding new stamp imprints, services, and certificate forms, and removing no longer in use stamps and certificate forms which were not being used. This proposed rule was published allowing the opportunity for public comment as a means for providing full participation in the rulemaking process. Comments on this proposed rule were requested by November 12, 1995. During the 30-day comment period, the Agency received comments from one meat industry group.

Discussion of Comments

The commenter expressed concern about stamp imprint legibility of the New stamp because of rough exterior surface fat. The Agency realizes that changing industry practices have resulted in a less desirable surface to apply a stamp imprint. However, after testing the new stamp on hundreds of thousands of carcasses, the Agency determined the new stamp applies a satisfactory imprint on surfaces that are sufficiently dry.

The commenter expressed concern over the requirement of stamp users to institute the use of grade labeled bags, and the associated costs that must be passed to the consumer [use of the new stamp and grade labeled bags is restricted to facilities with in-house fabrication capability]. The high cost of implementing use of grade labeled bags was a major concern of other companies, but all are now marketing competitive priced products. The Agency shares concern about rising cost burdening consumers; the use of the new stamp will no longer require a full roller brand, and therefore, one less employment position in the grading process. This stamp will also significantly reduce meat branding ink use, and its associated discoloration problems in processed products. Reduced salaries and benefits, combined with lessened meat branding usage cost, will offset any cost of grade labeled bags. The Agency anticipates other cost savings through undiscovered new operational efficiencies. An additional benefit of using grade labeled bags is obtained through positive grade identity through the marketing chain. However, when intact carcasses are shipped, they will continue to be fully roller branded.

List of Subjects in 7 CFR Part 54

Food grades and standards, Food labeling, Meat and meat products.

For the reasons set forth in the preamble, 7 CFR Part 54 is amended as follows:

PART 54—MEATS, PREPARED MEATS, AND MEAT PRODUCTS (GRADING, CERTIFICATION, AND STANDARDS)

1. The authority citation for Part 54 continues to read as follows:

Authority: 7 U.S.C. 1622–1624.

2. In § 54.1, the definition "Acceptance service" is removed and four new definitions are added to read as follows:

§ 54.1 Meaning of words.

* * * * *

Certification service. The service established and conducted under the regulations for the determination and certification or other identification of the compliance of products with specifications.

* * * * *

Contract verification service. A program allowing institutions or other

large purchasers of commodity products to have those products compared to contractual requirements.

* * * * *

Institutional Meat Purchase Specifications. Specifications describing various meat cuts, meat products, and meat food products derived from all livestock species, commonly abbreviated "IMPS", and intended for use by any meat procuring activity. For labeling purposes, only product certified by the Meat Grading and Certification Branch may contain the letters "IMPS" on the product label.

* * * * *

Quality Systems Certification Program. A multifaceted program allowing all aspects of the livestock industry to have quality systems, or processes within quality systems, verified by AMS agent(s) to effectuate use of such quality systems to meet contractual requirements, or as a marketing tool.

* * * * *

3. In § 54.4, the words "Acceptance service" are removed in the third sentence and the words "Certification service" are added in their place, and a new sentence is added at the end of the section to read as follows:

§ 54.4 Kind of service.

* * * The Contract Verification Service, under the regulations, provides wholesale buyers of noncertified commodity products a method of determining whether procurement(s) meet contractually specified requirements. The Quality Systems Certification Program, under the regulations, provides meatpackers, processors, producers, or other businesses in the livestock and meat trade the ability to have special processes or documented quality management systems verified.

4. In § 54.14, paragraphs (a) and (b) and figures 1 and 2 are revised to read as follows:

§ 54.14 Official certificates.

(a) Agricultural Products Certificate Form LS–5–3 (Figure 1) is the official certificate for products under the regulations. The official grader shall prepare, sign, and issue an Agricultural Products Certificate Form LS–5–3 covering products for which that grader determined final specification compliance. Where weight or count is verified, the grader shall initial in the block titled "Weights and Total Count Verified."

(b) Applicant Charges Certificate Form LS–5–5 (Figure 2) will be used to reduce paperwork for applicants assigned multiple graders. Assigned graders will complete one Form LS–5–5. Each grader will enter their code letters and signature in the appropriate location(s) to indicate certificate completion.

BILLING CODE 3410-02-P

U.S. DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE

AGRICULTURAL PRODUCTS CERTIFICATE

CERTIFICATE NUMBER A-0011913-1

This certificate is issued for the efficiency and of officers and of courts of the United States as prima facie evidence of the truth of the statements therein contained.
Department of Agriculture.

DESCRIPTION OF PRODUCT (Include letters to comply with any of the regulatory laws enforced by the U.S. Department of Agriculture)

ACCEPTED ☐ REJECTED ☐ OTHER ☐

APPLICANT INFORMATION — COMMITMENT ☐ NONCOMMITMENT ☐

WEEK BEGINNING DATE — DAY — MONTH — NO. 4 4 — (NAME, CITY, STATE)

LABORATORY RESULTS — DATE RESERVE MAILED — DATE VERDICT NOTIFIED — RECEIVER, BUYER, OR TERMINAL

CHARGES		SUNDAY GRAD	SUNDAY CERT	MONDAY GRAD	MONDAY CERT	TUESDAY GRAD	TUESDAY CERT	WEDNESDAY GRAD	WEDNESDAY CERT	THURSDAY GRAD	THURSDAY CERT	FRIDAY GRAD	FRIDAY CERT	SATURDAY GRAD	SATURDAY CERT	TOTAL GRAD	TOTAL CERT
BASE	L1																
PREMIUM	L2																
HOLIDAY	L3																
LABORATORY FEE	L4	0		0		0		0		0		0		0		0	
PER DIEM	L5	0		0		0		0		0		0		0		0	
MILES	L7																
TOTAL OTHER	27	0		0		0		0		0		0		0		0	

LOT — UNITS — WEIGHT — NOTICE TO DELIVER NUMBER — PATTY OR SLICE COUNT — PRODUCTION DATE — THAWING DATE — REMARK — RESERVE

CERTIFICATION STATEMENT

I CERTIFY that as a representative and duly authorized employee of the Department of the U.S.D.A. I witnessed the production of the product described above and that the product was produced under sanitary conditions and was packaged and identified as described above. I further certify that I am not employed by the applicant named above.

The issuance of this certificate does not relieve the applicant of responsibility for compliance with all applicable laws and regulations. Such laws and regulations include, but are not limited to, those relating to the labeling, packaging, and handling of the product.

SIGNATURE OF GRADER

WEIGHTS AND TOTAL COUNT VERIFIED (Initials)

Figure 1. Agricultural products certificate.

Figure 2. Applicant charges.

U.S. DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE

APPLICANT CHARGES

This certificate is receivable by all officers and all courts of the United States as prima facie evidence of the truth. The statements therein constituted. (This certificate does not excuse failure to comply with any of the regulatory laws enforced by the U.S. Department of Agriculture.)
The services of all carcass and the furnishing of grading personnel under the regulations governing such services shall be accomplished without discrimination as to race, color, religion, sex, or national origin.

WEEK BEGINNING DATE: DY / MONTH / DAY
DOCUMENT NO: C-0012007-1
APPLICANT INFORMATION: NO. 4 4
NAME, CITY, STATE

1	SUNDAY		MONDAY		TUESDAY		WEDNESDAY		THURSDAY		FRIDAY		SATURDAY		TOTAL	
	GRAD	CERT	GRAD	CERT	GRAD	CERT	GRAD	CERT	GRAD	CERT	GRAD	CERT	GRAD	CERT	GRAD	CERT
BASE																
PREMIUM																
HOLIDAY																
LAB FEE	$		$		$		$		$		$		$		$	
PER DIEM	$		$		$		$		$		$		$		$	
MILES																
TOTAL OTHER	$		$		$		$		$		$		$		$	
GRADERS EQUIPMENT CODE					☐ COMMITMENT ☐ NONCOMMITMENT						SIGNATURE					
2																
BASE																
PREMIUM																
HOLIDAY																
LAB FEE	$		$		$		$		$		$		$		$	
PER DIEM	$		$		$		$		$		$		$		$	
MILES																
TOTAL OTHER	$		$		$		$		$		$		$		$	
GRADERS EQUIPMENT CODE					☐ COMMITMENT ☐ NONCOMMITMENT						SIGNATURE					
3																
BASE																
PREMIUM																
HOLIDAY																
LAB FEE	$		$		$		$		$		$		$		$	
PER DIEM	$		$		$		$		$		$		$		$	
MILES																
TOTAL OTHER	$		$		$		$		$		$		$		$	
GRADERS EQUIPMENT CODE					☐ COMMITMENT ☐ NONCOMMITMENT						SIGNATURE					
4																
BASE																
PREMIUM																
HOLIDAY																
LAB FEE	$		$		$		$		$		$		$		$	
PER DIEM	$		$		$		$		$		$		$		$	
MILES																
TOTAL OTHER	$		$		$		$		$		$		$		$	
GRADERS EQUIPMENT CODE					☐ COMMITMENT ☐ NONCOMMITMENT						SIGNATURE					
5																
BASE																
PREMIUM																
HOLIDAY																
LAB FEE	$		$		$		$		$		$		$		$	
PER DIEM	$		$		$		$		$		$		$		$	
MILES																
TOTAL OTHER	$		$		$		$		$		$		$		$	
GRADERS EQUIPMENT CODE					☐ COMMITMENT ☐ NONCOMMITMENT						SIGNATURE					

LA 5-4 (02-92)

3410-02-C

* * * * *

5. § 54.17 is amended by:
(1) revising the text in paragraph (b),
(2) revising paragraph (c),
(3) revising paragraph (d),
(4) revising paragraph (e),
(5) revising paragraph (f),
(6) revising paragraph (g), and
(7) adding new paragraphs (h), (i), (j), and (k) to read as follows:

§ 54.17 Official identifications.

* * * * *

(b) A shield enclosing the letters "USDA" as shown in Figure 1 with the appropriate quality grade designation "Prime," "Choice," "Select," "Good," "Standard," "Commercial," "Utility," "Cutter," "Canner," or "Cull," as provided in the official United States Standards for Grades of Beef, Veal and Calf, Lamb, Yearling Mutton, and Mutton Carcasses and accompanied by the class designation "Bullock," "Veal," "Calf," "Lamb," "Yearling Mutton," or "Mutton," constitutes a form of official identification under the regulations to show the quality grade, and where necessary the class, undersaid standards, of steer, heifer, and cow beef, veal, calf, lamb, yearling mutton and mutton. The code identification letters of the grader performing the service will appear intermittently outside the shield.

* * * * *

(c) A shield enclosing the letters "USDA" and the words "Yield Grade," as in Figure 1, with the appropriate yield grade designation "1," "2," "3", "4," or "5" as provided in the Official United States Standards for Grades of Fresh Beef Carcasses and the Official United States Standards for Grades of Lamb, Yearling Mutton, and Mutton Carcasses constitutes a form of official identification under the regulations to show the yield grade under said standards. When yield graded, bull and bullock carcasses will be identified with the class designation "Bull" and "Bullock," respectively. The code identification letters of the grader performing the service will appear outside the shield.

BILLING CODE 3410-02-M



Figure 1.

BILLING CODE 3410-02-C

(d) Under the regulations, for carcass grade identification purposes only, a shield enclosing the letters "USDA" with the appropriate yield grade designation number of "1," "2," "3," "4," or "5" between the "US" and "DA", with the appropriate quality grade designation of "Prime", "Choice," or "Select," below both as shown in Figure 1. The code identification letters for the grader performing the service will appear outside underneath the shield.

BILLING CODE 3410-02-M



Figure 1.

BILLING CODE 3410-02-C

(e) Under the regulations, for yield grade identification purposes only, a shield enclosing the letters "US" on one side and "DA" on the other, with the appropriate Yield Grade designation number "1," "2," "3," "4," or "5" as shown in Figure 1. The code identification letters for the grader performing the service will appear outside underneath the shield.

BILLING CODE 3410-02-M



Figure 1.

BILLING CODE 3410-02-C

(f) Under the regulations, for quality grade identification only, a shield enclosing the letters "US" on one side and "DA" on the other with the appropriate Quality Grade designation of "Prime," "Choice," or "Select" as shown in Figure 1. The code identification letters for the grader performing the service will appear outside underneath the shield.

BILLING CODE 3410-02-M



Figure 1.

BILLING CODE 3410-02-C

(g) The letters "USDA" with the appropriate grade designation "1," "2," "3," "4," "Utility," or "Cull" enclosed in a shield as shown in Figure 1, as provided in the Official United States Standards for Grades of Pork Carcasses, constitutes a form of official identification under the regulations to show the grade under said standards of barrow, gilt, and sow pork carcasses.

BILLING CODE 3410-02-M



Figure 1.

BILLING CODE 3410-02-C

(h) The following constitute forms of official identification under the regulations to show compliance of products:

BILLING CODE 3410-02-M



Figure 1.



Figure 2.



Figure 3.

BILLING CODE 3410-02-C

Note: The letters "RWX", and "UF" shown in figures 1, and 2 are examples, respectively, of the code identification letters of the official grader performing the service.

(i) The following, as shown in Figure 1, constitutes official identification to show quality system certification:

BILLING CODE 3410-02-M



Figure 1.

BILLING CODE 3410-02-C

(j) A shield-shaped ear tag enclosing the letters "USDA", the words "Carcass Data Service," as shown below (Figure 1), and a serial number constitutes a form of official identification under the regulations for livestock and carcasses. Other information may appear on the backside of the ear tag at the option of the purchasers.

BILLING CODE 3410-02-M

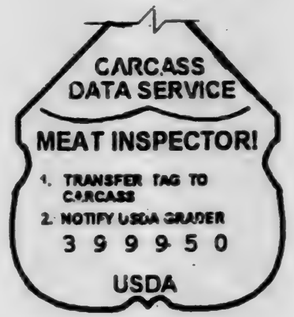


Figure 1.

BILLING CODE 3410-02-C

(k)(1) One device used by USDA graders is a rectangular, serially numbered, orange tag on which a shield encloses the letters "USDA" and the words "Product Control" as shown in Figure 1, constitutes a form of official identification under the regulations for meat and meat products.

BILLING CODE 3410-02-M

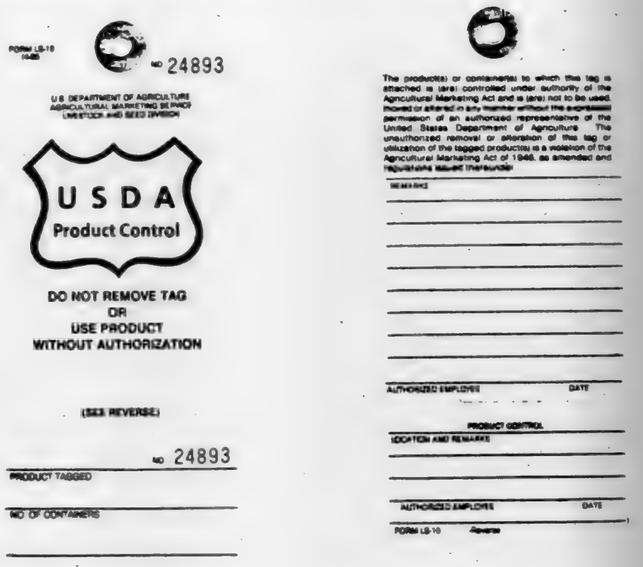


Figure 1. Form LS-10. USDA Product Control.

BILLING CODE 3410-02-C

(2) Official graders and supervisors of grading may use "Product Control" tags or other methods and devices as approved by the Administrator for the identification and control of meat and meat products which are not in compliance with the regulations or are held pending the results of an examination. Any such meat or meat product so identified shall not be used, moved, or altered in any manner; nor shall official control identification be removed, without the express permission of an authorized representative of the USDA.

Dated: February 21, 1996.

Lon Hatamiya,

Administrator.

[FR Doc. 96–6645 Filed 3–20–96; 8:45 am]

BILLING CODE 3410–02–M

Commodity Credit Corporation

7 CFR Part 1421

RIN 0560–AE28

Extension of Maturing 1994 and Subsequent Crop Year Wheat and Feed Grain Price Support Loans

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This final rule adopts, without change, the proposed rule published in the **Federal Register** at 60 FR 55807 on November 3, 1995, allowing producers to extend maturing wheat, corn, grain sorghum, barley, oat, and rye price support loans during times of abnormal marketing conditions.

EFFECTIVE DATE: March 21, 1996.

FOR FURTHER INFORMATION CONTACT: Margaret Wright, Program Specialist, Farm Service Agency (FSA), USDA, room 3627, South Building, P.O. Box 2415, Washington, DC 20013–2415, telephone 202–720–8481.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be significant and was reviewed by Office of Management and Budget (OMB) under Executive Order 12866.

Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies are Commodity Loans and Purchases—10.051.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable because the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of these determinations.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Executive Order 12778

This final rule has been reviewed pursuant to Executive Order 12778. To the extent State and local laws are in conflict with these regulatory provisions, it is the intent of CCC that the terms of the regulations prevail. The provisions of this final rule are not retroactive. Prior to any judicial action in a court of competent jurisdiction, administrative review under 7 CFR part 780 must be exhausted.

Paperwork Reduction Act

The amendments to 7 CFR part 1421 set forth in this final rule do not contain additional information collections that require clearance by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35. Existing information collections were approved by OMB and assigned OMB Control Numbers 0560–0087 and 0560–0129.

Public Comments

No comments were received in response to the proposed rule published on November 3, 1995, at 60 FR 55807.

List of Subjects in 7 CFR Part 1421

Grains, Loan programs/agriculture, Oilseeds, Peanuts, Price support programs, Reporting and recordkeeping requirements, Soybeans, Surety bonds, Warehouses. Accordingly, the proposed rule which amended 7 CFR part 1421 published at 60 FR 55807 on November 3, 1995, is adopted as a final rule without change as follows:

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

1. The authority citation for 7 CFR part 1421 continues to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1425, 1441z, 1444f-1, 1445b-3a, 1445c-3, 1445e, and 1446f; 15 U.S.C. 714b and 714c. Subpart—Rice Marketing Certificate Program is also issued under authority of 7 U.S.C. 1441–2; 15 U.S.C. 714b and 714c.

2. Section 1421.6 is amended by revising paragraph (e) to read as follows:

§ 1421.6 Maturity and expiration dates.

* * * * *

(e) Notwithstanding any other provision of this section, CCC may allow producers with wheat, corn, grain sorghum, barley, oat, and rye loans maturing during times of abnormal marketing conditions, as determined by CCC, to extend such loans beyond the maturity date specified in paragraph (a) of this section. If CCC determines that the commodity pledged as collateral for such loans cannot be marketed because of such abnormal marketing conditions, CCC may authorize such loans to be extended to a date that will allow affected producers to market such commodity in a normal manner.

Signed in Washington, DC, on March 13, 1996.

Bruce R. Weber,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 96–6774 Filed 3–20–96; 8:45 am]

BILLING CODE 3410–05–P

Animal and Plant Health Inspection Service

9 CFR Parts 82, 145, and 147

[Docket No. 94–091–2]

National Poultry Improvement Plan and Auxiliary Provisions

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the National Poultry Improvement Plan (the Plan) and its auxiliary provisions by providing new or modified administrative and testing procedures for Plan participants and participating flocks. These changes, which were voted on and approved by the voting delegates at the Plan's 1992 and 1994 National Plan Conferences, will keep the provisions of the Plan current with changes in the poultry industry, reduce paperwork requirements for some Plan participants, establish new program classifications, and allow the use of new sampling and laboratory procedures.

EFFECTIVE DATE: April 22, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Andrew R. Rhorer, Senior Coordinator, Poultry Improvement Staff, National Poultry Improvement Plan, Veterinary Services, APHIS, USDA, 1500 Klondike Road, Suite A–102, Conyer, GA 30207; (404) 922–3496.

SUPPLEMENTARY INFORMATION:

Background

The National Poultry Improvement Plan (referred to below as "the Plan") is a cooperative Federal-State-industry mechanism for controlling certain poultry diseases. The Plan consists of a variety of programs intended to prevent and control egg-transmitted, hatchery-disseminated poultry diseases. Participation in all Plan programs is voluntary, but flocks, hatcheries, and dealers must qualify as "U.S. Pullorum-Typhoid Clean" before participating in any other Plan program. Also, the regulations in 9 CFR part 82, subpart B, which provide for certain testing, restrictions on movement, and other restriction on certain chickens, eggs, and other articles due to the presence of *Salmonella enteritidis*, require that no hatching eggs or newly hatched chicks from egg-type chicken breeding flocks may be moved interstate unless they are classified "U.S. Sanitation Monitored" under the Plan or they meet the requirements of a State classification plan that the Administrator of the Animal and Plant Health Inspection Service (APHIS) has determined to be equivalent to the Plan, in accordance with 9 CFR 145.23(d).

The Plan identifies States, flocks, hatcheries, and dealers that meet certain disease control standards specified in the Plan's various programs. As a result, customers can buy poultry that has tested clean of certain diseases or that has been produced under disease-prevention conditions.

The regulations in 9 CFR parts 145 and 147 (referred to below as the regulations) contain the provisions of the Plan. APHIS amends these provisions from time to time to incorporate new scientific information and technologies into the Plan.

On July 7, 1995, we published in the **Federal Register** (60 FR 35343–35353, Docket No. 94–091–1) a proposal to amend the regulations to:

1. Require the ratio of male to female birds in representative samples taken from certain flocks for pullorum-typhoid testing to reflect the ratio of male to female birds in the flock from which the sample was taken;
2. Alter the number of birds serologically monitored for *Mycoplasma gallisepticum* and *M. synoviae* in egg-type and meat-type chicken breeding flocks;
3. Allow the use of a federally licensed enzyme-linked immunosorbent assay (ELISA) test for the serological screening of egg-type chickens in the "U.S. S. Enteritidis Monitored" program;
4. Allow the use of fishmeal as an animal protein source for meat-type breeding chickens and turkey breeding flocks;
5. Establish a new "U.S. S. Enteritidis Clean" classification for primary meat-type chicken breeding flocks;
6. Establish a new "U.S. M. Synoviae Clean State" classification for turkeys;

7. Provide alternative reporting methods for participating waterfowl, exhibition poultry, and game bird flocks;

8. Establish a maximum number of positive samples for *Mycoplasma gallisepticum* or *M. synoviae* to be examined using the hemagglutination inhibition (HI) and/or serum plate dilution (SPD) tests;

9. Allow the use of a colony lift assay as a supplemental screening test to aid in the detection of group D salmonella suspect colonies on selective and non-selective agar culture plates;

10. Establish new procedures for collecting environmental samples and cloacal swabs from egg-type and meat-type chicken flocks and waterfowl, exhibition poultry, and game bird flocks for bacteriological examination;

11. Provide a laboratory protocol for the bacteriological examination of baby chicks from egg-type and meat-type chicken flocks and waterfowl, exhibition poultry, and game bird flocks; and

12. Modify the composition of the Plan's General Conference Committee.

We also proposed to amend several other sections of the regulations to reflect the proposed changes discussed above or to reflect a change made in a previously published final rule.

We solicited comments concerning our proposal for 60 days ending September 5, 1995. We received three comments by that date. They were from a State agriculture department, a college of veterinary medicine, and a State egg quality assurance program. We carefully considered all of the comments we received. They are discussed below.

One commenter pointed out that laboratory procedure for the bacteriological examination of cull chicks should have specified that the 25 randomly selected 1- to 5-day-old chicks must be chicks that have not been housed with any other poultry. The commenter correctly noted that the "have not been housed" provision was part of the laboratory procedure that was approved by the voting delegates at the Plan's 1994 National Plan Conference. We agree with the commenter and acknowledge that the words in question were inadvertently omitted from the text of the proposed rule. We have, therefore, added the words "that have not been placed in a brooding house" to paragraph (a) of new § 147.17.

Another commenter fully supported several specific aspects of the proposed rule, including the addition of § 147.17, the laboratory procedure recommended for the bacteriological examination of cull chicks for salmonella. The commenter particularly applauded the inclusion of the bursa of Fabricius in the organ pool for such examinations, and recommended that the other testing protocols in part 147 be amended to include the bursa of Fabricius in any organ pools collected for examination. Because the commenter's suggested amendments were not within the scope of the proposed rule, we cannot make such changes in this final rule. However, the commenter's recommendation will be forwarded to the Plan's General Conference Committee for consideration and could be included in a future rulemaking.

The third commenter was concerned about the use of the word "clean" in the "U.S. S. Enteritidis Clean" classification. Specifically, he stated that the word "clean" in the classification would lead one to believe that a flock classified as such is negative for *Salmonella enteritidis* serotype Enteritidis (SE), but the testing procedures within the classification allow a flock with an SE-positive environment and one SE-positive bird from a 25-bird sample to still be eligible for "clean" status if no SE was recovered from a second 25-bird sample. To the commenter, the SE-positive environment and bird were indicative of at least low levels of SE infection in the flock, even if no SE was recovered from a second 25-bird sample. The commenter concluded that the classification of a flock from which SE has been isolated from an environmental sample or in which one bird has been found to be SE-positive as "U.S. S. Enteritidis Clean" is misleading and could result in the spread of SE through infected chicks.

As we stated in the proposed rule, the introductory text of § 145.33(h) provides that the "U.S. S. Enteritidis Clean" classification is intended for primary meat-type breeders who wish to assure their customers that the chicks produced are certified free of SE; the "clean" designation does not mean that the entire flock has been conclusively shown to be negative for SE. The regulations in § 145.33(h) require that environmental samples be collected once the flock reaches 4 months of age, then every 30 days thereafter. If SE is isolated from an environmental sample, 25 randomly selected birds from the flock must be bacteriologically examined for SE. If only one of the 25 birds is found positive for SE, there is the possibility that there was some cross-contamination in the laboratory that conducted the tests. For that reason, we included the provision that allows the Plan participant to request the bacteriological examination of a second 25-bird sample if only one bird from the first sample was SE-positive. The testing of a 25-bird sample is not the only action that must be taken after SE is isolated in an environmental sample, however; the regulations also require that blood samples from 300 birds be officially tested with pullorum antigen every 30 days with no positive samples found. We believe that this monthly serologic testing of at least 300 birds will be sufficient to detect the low levels of SE infection that the commenter feared might remain undetected through the testing of 25 or 50 birds, so we have made no change in this final rule based on that comment.

Therefore, based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposal as a final rule, with the changes discussed in this document and other minor changes for clarity and consistency and to correct typographical errors.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

The changes contained in this document are based on the recommendations of representatives of member States, hatcheries, dealers, flockowners, and breeders who took part in the Plan's 30th and 31st Biennial Conferences. The changes will keep the provisions of the Plan current with changes in the poultry industry, reduce paperwork requirements for some Plan participants, establish new program classifications, and allow the use of new sampling and laboratory procedures.

The Plan serves as a "seal of approval" for egg and poultry producers in the sense that tests and procedures recommended by the Plan are considered optimal for the industry. Several of the recommendations in this rule, such as the serological sampling of male meat-type birds for pullorum-typhoid and the use of fishmeal as a protein source, are already practiced by the industry. Other changes, such as the addition of a laboratory protocol for the bacteriological examination of baby chicks, provide guidelines for practices that may not currently be in use but are recognized as being potentially beneficial for the industry. In all cases, the changes have been generated by the industry itself with the goal of reducing disease risk and increasing product marketability.

Because participation in the Plan is voluntary, individuals are likely to remain in the program as long as the costs of implementing the program are lower than the added benefits they receive from the program.

The only change in this document that will entail additional costs for some producers is the creation of the "U.S. S. Enteritidis Clean" classification for primary meat-type chicken breeding flocks. However, we expect that any additional costs associated with the new classification will be slight in comparison to the expected increase in U.S. poultry exports, particularly to countries that require strict Salmonella enteritidis testing of poultry.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB) under OMB control number 0579–0007.

List of Subjects

9 CFR Part 82

Animal diseases, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements, Transportation.

9 CFR Parts 145 and 147

Animal diseases, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, 9 CFR parts 82, 145, and 147 are amended as follows:

PART 82—EXOTIC NEWCASTLE DISEASE IN ALL BIRDS AND POULTRY; PSITTACOSIS AND ORNITHOSIS IN POULTRY; POULTRY DISEASE CAUSED BY SALMONELLA ENTERITIDIS SEROTYPE ENTERITIDIS

1. The authority citation for part 82 is revised to read as follows:

Authority: 21 U.S.C. 111–113, 115, 117, 120, 123–126, 134a, 134b, and 134f; 7 CFR 2.18, 2.22, 2.53, 2.80, and 371.2(d).

§ 82.30 [Amended]

2. In § 82.30, in the definition of *certified Salmonella enteritidis serotype enteritidis tested free flocks*, the words "Sanitation Monitored" are removed and the words "S. Enteritidis Monitored" added in their place.

§ 82.34 [Amended]

3. In § 82.34, the words "Sanitation Monitored" are removed and the words "S. Enteritidis Monitored" added in their place.

PART 145—NATIONAL POULTRY IMPROVEMENT PLAN

4. The authority citation for part 145 continues to read as follows:

Authority: 7 U.S.C. 429; 7 CFR 2.22, 2.80, and 371.2(d).

5. In § 145.10, paragraphs (g) and (h) are revised and new paragraphs (m) and (n) are added to read as follows:

§ 145.10 Terminology and classification; flocks, products, and States.

* * * * *

(g) *U.S. Pullorum-Typhoid Clean State.* (See § 145.24(a), § 145.34(a), § 145.44(a), and § 145.54(a).)

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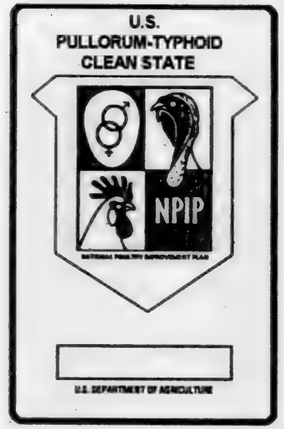


Figure 8

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(h) *U.S. Pullorum-Typhoid Clean State, Turkeys.* (See § 145.44(b).)

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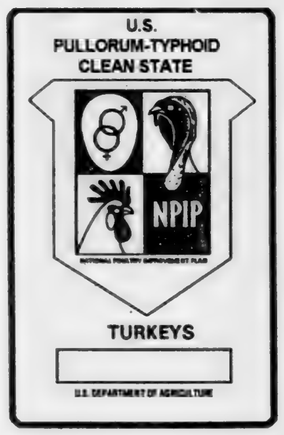


Figure 9

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* * * * *

(m) *U.S. S. Enteritidis Clean.* (See § 145.33(h).)

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Figure 14

BILLING CODE 3410-34-C

(n) *U.S. M. Synoviae Clean State, Turkeys.* (See § 145.44(d).)

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Figure 15

BILLING CODE 3410-34-C

6. Section 145.14 is amended by revising the introductory text immediately after the third sentence (which ends with the words "in the house") to read as follows:

§ 145.14 Blood testing.

* * * The ratio of male to female birds in representative samples of birds from meat-type chicken, waterfowl,

exhibition poultry, and game bird flocks must be the same as the ratio of male to female birds in the flock. In houses containing fewer than 30 birds, all birds in the house must be tested.

* * * * *

7. Section 145.23 is amended as follows:

a. Paragraph (c)(1)(i) is amended by removing the words "with the approval of the Official State Agency and the concurrence of the Service, provided that a minimum" and adding the words "if all pens are equally represented and a total" in their place.

b. Paragraph (c)(1)(ii)(A) is revised to read as set forth below.

c. In paragraph (d)(1)(vii), the first sentence is revised to read as set forth below.

d. Paragraph (e)(1)(i) is amended by removing the words ", with the approval of the Official State Agency and the concurrence of the Service, provided that a minimum" and adding the words "if all pens are equally represented and a total" in their place.

e. Paragraph (e)(1)(ii)(A) is revised to read as set forth below.

§ 145.23 Terminology and classification; flocks and products.

* * * * *

(c) * * *

(1) * * *

(ii) * * *

(A) At intervals of not more than 90 days, 75 birds from the flock shall be tested, *Provided*, that fewer than 75 birds from the flock may be tested at any one time if all pens are equally represented and a total of at least 75 birds from the flock is tested within each 90-day period; or

* * * * *

(d) * * *

(1) * * *

(vii) Blood samples from 300 non-vaccinated birds as described in paragraph (d)(1)(vi) of this section shall be tested with either pullorum antigen or by a federally licensed Salmonella enteritidis enzyme-linked immunosorbent assay (ELISA) test when the flock is more than 4 months of age.

* * *

* * * * *

(e) * * *

(1) * * *

(ii) * * *

(A) At intervals of not more than 90 days, 75 birds from the flock shall be tested: *Provided*, That fewer than 75 birds from the flock may be tested at any one time if all pens are equally represented and a total of at least 75 birds from the flock is tested within each 90-day period; or

* * * * *

8. Section 145.33 is amended as follows:

a. Paragraph (c)(1)(i) is amended by removing the words "with the approval of the Official State Agency and the concurrence of the Service, provided that a minimum" and adding the words "if all pens are equally represented and a total" in their place.

b. Paragraph (c)(1)(ii)(A) is revised to read as set forth below.

c. In paragraph (d)(1)(iii), the first sentence is amended by removing the word "should" and adding the word "shall" in its place, and by adding the words "or the Fishmeal Inspection Program of the National Marine Fisheries Service" immediately before the period.

d. Paragraph (d)(1)(iv) is amended by removing the word "should" and adding the word "shall" in its place, and by adding the words "or the Fishmeal Inspection Program of the National Marine Fisheries Service" immediately before the semicolon.

e. Paragraph (e)(1)(i) is amended by removing the words ", with the approval of the Official State Agency and the concurrence of the Service, provided that a minimum" and adding the words "if all pens are equally represented and a total" in their place.

f. Paragraph (e)(1)(ii)(A) is revised to read as set forth below.

g. A new paragraph (h) is added to read as set forth below.

§ 145.33 Terminology and classification; flocks and products.

* * * * *

(c) * * *

(1) * * *

(ii) * * *

(A) At intervals of not more than 90 days, 75 birds from the flock shall be tested, *Provided*, That fewer than 75 birds from the flock may be tested at any one time if all pens are equally represented and a total of at least 75 birds from the flock is tested within each 90-day period; or

* * * * *

(e) * * *

(1) * * *

(ii) * * *

(A) At intervals of not more than 90 days, 75 birds from the flock shall be tested: *Provided*, That fewer than 75 birds from the flock may be tested at any one time if all pens are equally represented and a total of at least 75 birds from the flock is tested within each 90-day period; or

* * * * *

(h) *U.S. S. Enteritidis Clean.* This classification is intended for primary meat-type breeders wishing to assure their customers that the chicks produced are certified free of *Salmonella enteritidis*.

(1) A flock and the hatching eggs and chicks produced from it shall be eligible for this classification if they meet the following requirements, as determined by the Official State Agency:

(i) The flock originated from a U.S. S. Enteritidis Clean flock, or meconium from the chicks and a sample of chicks that died within 7 days after hatching have been examined bacteriologically for *S. enteritidis* at an authorized laboratory and any group D salmonella samples have been serotyped.

(ii) All feed fed to the flock meets the following requirements:

(A) Pelletized feed contains either no animal protein or only animal protein products produced under the Animal Protein Products Industry (APPI) Salmonella Education/Reduction Program or the Fishmeal Inspection Program of the National Marine Fisheries Service. The protein products must have a minimum moisture content of 14.5 percent and must have been heated throughout to a minimum temperature of 190 °F, or to a minimum temperature of 165 °F for at least 20 minutes, or to a minimum temperature of 184 °F under 70 lbs. pressure during the manufacturing process;

(B) Mash feed contains either no animal protein or only animal protein product supplements manufactured in pellet form and crumbled; and

(C) All feed is stored and transported in such a manner as to prevent possible contamination.

(iii) The flock is maintained in compliance with §§ 147.21, 147.24(e), and 147.26 of this chapter.

(iv) Environmental samples, as described in § 147.12 of this chapter, are collected from the flock by an Authorized Agent when the flock reaches 4 months of age and every 30 days thereafter. The environmental samples shall be examined bacteriologically for group D salmonella at an authorized laboratory, and cultures from group D positive samples shall be serotyped.

(v) Blood samples from 300 birds from the flock are officially tested with pullorum antigen when the flock is at least 4 months of age. All birds with positive or inconclusive reactions, up to a maximum of 25 birds, shall be submitted to an authorized laboratory and examined for the presence of group D salmonella in accordance with §§ 147.10 and 147.11 of this chapter. Cultures from group D positive samples shall be serotyped.

(vi) Hatching eggs produced by the flock are collected as quickly as possible, are handled as described in § 147.22 of this chapter, and are sanitized or fumigated.

(vii) Hatching eggs produced by the flock are incubated in a hatchery that is in compliance with the recommendations in §§ 147.23 and 147.24(b) of this chapter, and the hatchery must have been sanitized either by a procedure approved by the Official State Agency or by fumigation.

(2) If *Salmonella enteritidis* serotype Enteritidis (SE) is isolated from a specimen taken from a bird in the flock, except as provided in paragraph (h)(3) of this section, the flock shall not be eligible for this classification.

(3) If SE is isolated from an environmental sample collected from the flock in accordance with in paragraph (h)(1)(iv) of this section, 25 randomly selected live birds from the flock must be bacteriologically examined for SE as described in § 147.11 of this chapter. If only one bird from the 25-bird sample is found positive for SE, the participant may request bacteriological examination of a second 25-bird sample from the flock. If no SE is recovered from any of the specimens in the second sample, the flock will be eligible for the classification and will remain eligible for this classification if the flock is tested in accordance with paragraph (h)(1)(v) of this section each 30 days and no positive samples are found.

(4) In order for a hatchery to sell products of this classification, all products handled by the hatchery must meet the requirements of this paragraph.

(5) This classification may be revoked by the Official State Agency if the participant fails to follow recommended corrective measures. The Official State Agency shall not revoke the participant's classification until the participant has been given an opportunity for a hearing in accordance with rules of practice adopted by the Official State Agency. (Approved by the Office of Management and Budget under control number 0579–0007)

§ 145.43 [Amended]

9. In § 145.43, paragraph (f)(3)(ii) is amended by adding the words "or the Fishmeal Inspection Program of the National Marine Fisheries Service" immediately before the period.

10. In § 145.44, a new paragraph (d) is added to read as follows:

§ 145.44 Terminology and classification; States.

* * * * *

(d) *U.S. M. Synoviae Clean State, Turkeys.* (1) A State will be declared a U.S. M. Synoviae Clean State, Turkeys, if the Service determines that:

(i) No *Mycoplasma synoviae* is known to exist nor to have existed in turkey breeding flocks in production within the State during the preceding 12 months;

(ii) All turkey breeding flocks in production are tested and classified as U.S. M. Synoviae Clean or have met equivalent requirements for *M. synoviae* control under official supervision;

(iii) All turkey hatcheries within the State only handle products that are classified as U.S. M. Synoviae Clean or have met equivalent requirements for *M. synoviae* control under official supervision;

(iv) All shipments of products from turkey breeding flocks other than those classified as U.S. M. Synoviae Clean, or equivalent, into the State are prohibited;

(v) All persons performing poultry disease diagnostic services within the State are required to report to the Official State Agency within 48 hours the source of all turkey specimens that have been identified as being infected with *M. synoviae;*

(vi) All reports of *M. synoviae* infection in turkeys are promptly followed by an investigation by the Official State Agency to determine the origin of the infection; and

(vii) All turkey breeding flocks found to be infected with *M. synoviae* are quarantined until marketed under supervision of the Official State Agency.

(2) The Service may revoke the State's classification as a U.S. M. Synoviae Clean State, Turkeys, if any of the conditions described in paragraph (d)(1) of this section are discontinued. The Service shall not revoke the State's classification as a U.S. M. Synoviae Clean State, Turkeys, until it has conducted an investigation and the Official State Agency has been given an opportunity for a hearing in accordance with rules of practice adopted by the Administrator of the Service.

11. In § 145.52, a new paragraph (c) is added to read as follows:

§ 145.52 Participation.

* * * * *

(c) Subject to the approval of the Service and the Official State Agencies in the importing and exporting States, participating flocks may report poultry sales to importing States by using printouts of computerized monthly shipping and receiving reports in lieu of VS Form 9–3, "Report of Sales of Hatching Eggs, Chicks, and Poults."

PART 147—AUXILIARY PROVISIONS ON NATIONAL POULTRY IMPROVEMENT PLAN

12. The authority citation for part 147 continues to read as follows:

Authority: 7 U.S.C. 429; 7 CFR 2.22, 2.80, and 371.2(d).

13. In § 147.5, footnote 4 is amended by removing the words "Animal and Plant Health Inspection Service, Veterinary Services, Operational Support, 4700 River Road Unit 33, Riverdale, Maryland 20737–1231" and adding the words "National Poultry Improvement Plan, Veterinary Services, APHIS, USDA, 1500 Klondike Road, Suite A–102, Conyer, GA 30207" in their place.

14. Section 147.6 is amended as follows:

a. In § 147.6, paragraph (b)(2) is amended by adding two new sentences at the end of the paragraph to read as set forth below.

b. In paragraph (b)(8), the words "on the retest" are added immediately after the word "positive".

§ 147.6 Procedure for determining the status of flocks reacting to tests for Mycoplasma gallisepticum, Mycoplasma synoviae, and Mycoplasma meleagridis.

* * * * *

(b) * * *

(2) * * * *Provided*, that for egg-type and meat-type chicken and waterfowl, exhibition poultry, and game bird flocks, if more than 50 percent of the samples are positive for either *Mycoplasma gallisepticum, M. synoviae*, or both, the HI and/or the SPD test shall be conducted on 10 percent of the positive samples or 25 positive samples, whichever is greater. The results of the HI and/or SPD tests must be followed by the action prescribed in paragraphs (b)(3), (b)(4), and (b)(5) of this section.

* * * * *

15. Section 147.11 is amended as follows:

a. Paragraph (a)(3) is amended by adding a new sentence at the end of the paragraph to read as set forth below.

b. In paragraph (a)(4), the last sentence is amended by adding the words "and paragraph (a)(5) of this section" immediately after the words "illustration 2", and by adding the words ", and a colony lift assay to aid in the detection of group D salmonella colonies" immediately after the word "XLT4".

c. Paragraph (a)(5) is revised as set forth below.

d. At the end of paragraph (a)(6), illustration 2 is revised as set forth below.

§ 147.11 Laboratory procedure recommended for the bacteriological examination of salmonella.

(a) * * *

(3) * * * As a supplemental procedure, a colony lift assay may also

be used as a screening test to aid in the detection of group D salmonella suspect colonies on selective and nonselective agar culture plates.

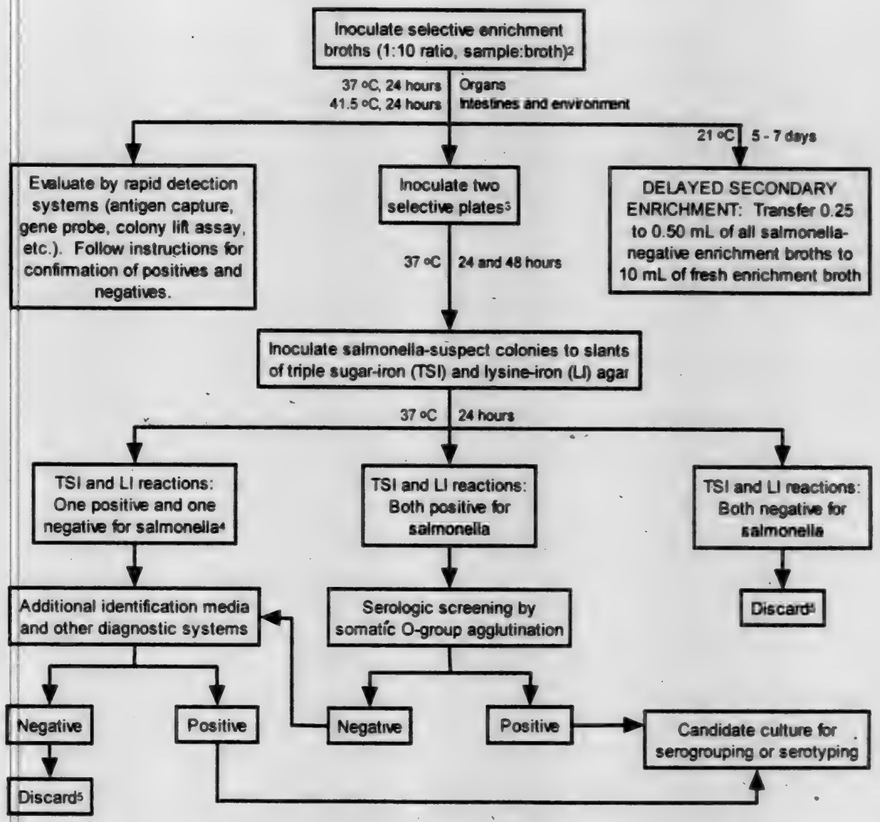
* * * * *

(5) As a supplement to the standard colony pick to triple sugar-iron (TSI) and lysine-iron (LI) agar slants, a group D colony lift assay may be utilized to signal the presence of hard-to-detect group D salmonella colonies on agar culture plates. A system such as the Analytical Profile Index for Enterobacteriaceae (API) may also be utilized to aid cultural identifications.

* * * * *

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ILLUSTRATION 2: *Environmental, organ, and intestinal samples.*[1]
Environmental monitoring programs and pullorum-typhoid reactors.



[1] Organ tissues from all reactor birds should also be evaluated without selective enrichment (refer to illustration 1).

[2] Hajna TT or Mueller-Kauffmann tetrathionate enrichment broth is preferred over selenites.

[3] For enrichment broths of organ samples, inoculate xylose-lysine-desoxycholate (XLD) or XLD-Novobiocin (XLDN) and brilliant green (BG) or BG-Novobiocin (BGN) media. One of the media shall be either XLDN or BGN. For enrichment broths of intestinal or environmental samples, inoculate xylose-lysine-tergitol 4 (XLT4) or XLDN and BGN or BG media.

[4] If combined results with TSI and LI agars, additional identification media, and O-group screening procedures are inconclusive, restreak original colony onto selective plating agar to check for purity.

[5] Reevaluate if epidemiologic, necropsy, or other information indicates the presence of an unusual strain of Salmonella.

* * * * *

BILLING CODE 3410-34-C

§§ 147.12, 147.14, 147.15, and 147.16 [Amended]

16. In §§ 147.12, 147.14, 147.15, and 147.16, footnotes 11 through 21 and their references are redesignated as footnotes 12 through 22.

17. Section 147.12 is amended as follows:

a. Paragraphs (a) through (c) are redesignated as follows:

Old section	New section
147.12(a), introductory text.	147.12(b)(1).
147.12(a)(1)	147.12(b)(1)(i).
147.12(a)(2)	147.12(b)(1)(ii).
147.12(b), introductory text.	147.12(b)(2).
147.12(b)(1)	147.12(b)(2)(i).
147.12(c), introductory text.	147.12(b)(3).
147.12(c)(1)	147.12(b)(3)(i).
147.12(c)(2)	147.12(b)(3)(ii).
147.12(c)(2)(i)	147.12(b)(3)(ii)(A).
147.12(c)(2)(ii)	147.12(b)(3)(ii)(B).

b. A new paragraph (a) and an introductory paragraph (b) are added to read as set forth below.

c. In newly redesignated paragraph (b)(1), the introductory text of the paragraph is amended by removing the reference "(a)(1) or (2)" and replacing it with the reference "(b)(1)(i) or (b)(1)(ii)".

d. In newly redesignated paragraph (b)(2), the introductory text of the paragraph is amended by removing the reference "(a)(1)" and replacing it with the reference "(b)(2)(i)".

e. In newly redesignated paragraph (b)(3)(ii), the text of newly redesignated footnote 12 is amended by removing the words "Animal and Plant Health Inspection Service, Veterinary Services, National Center for Import-Export, 4700 River Road Unit 38, Riverdale, Maryland 20737–1231" and adding the words "National Poultry Improvement Plan, Veterinary Services, APHIS, USDA, 1500 Klondike Road, Suite A–102, Conyer, GA 30207" in their place.

f. A new paragraph (b)(2)(ii) is added and reserved.

§ 147.12 Procedures for collecting environmental samples and cloacal swabs for bacteriological examination.

* * * * *

(a) *For egg- and meat-type chickens, waterfowl, exhibition poultry, and game birds.* All samples and swabs described in this paragraph shall be cultured in accordance with illustration 2 of § 147.11, including delayed secondary enrichment. All salmonellae recovered shall be serogrouped or serotyped.

(1) *Environmental samples.* Fecal material, litter, dust, or floor litter surface or nest box drag swab samples to be submitted for bacteriological examination shall be collected in accordance with the procedures described in paragraphs (a)(1), (a)(2), or (a)(3) of this section:

(i) *Procedure for sampling in broth.* Authorized laboratories will provide capped tubes 1 to 2 cm in diameter and 15 to 20 cm in length that are two-thirds full of a recently made, refrigerated, sterile enrichment broth (Hajna or Mueller-Kauffmann Tetrathionate Brilliant Green) for each sample. Sufficient tubes shall be taken to the premises to provide at least one tube per pen or one tube per 500 birds, whichever is greater. At least one sterile, cotton-tipped applicator will be needed for each tube. The dry applicator is first placed in or drawn through fresh manure (under roost, near water troughs, fecal droppings, or diarrhetic droppings). After each streaking, place the cotton-tipped applicator in the tube of broth and swirl the applicator to remove the collected material. Withdraw the applicator from the tube and use it to take additional specimens by streaking on or through areas where defecation, trampling of feces, or settling of dust is common; e.g., on or near waterers, feeders, nests, or rafters, etc. When the volume of material collected equals approximately 10 percent of the volume of the broth (usually 10–12 streakings), place the applicator in the tube and break the stick in half, leaving the lower or cotton-tipped half in the broth and retaining the upper half for future disposal. Replace the cap on the inoculated tube and continue the sampling procedure in other areas of the pen.

(ii) *Procedure for sampling in dry containers.* Place a sample of fecal material, litter, or dust in a sterile, sealable container. The sample shall consist of several specimens of material taken from a representative location in the pen or house. Collect at least 10 g (approximately a heaping tablespoonful) of material for each sample. Collect the specimens in each sample with a sterile tongue depressor or similar uncontaminated instrument. The samples shall vary in type and consistency. Half of the samples shall be comprised of material representing defecated matter from a large portion of the flock; i.e., trampled, caked material near waterers and feeders. The minimum number of samples to be taken shall be determined by the following: Five samples from pens or houses of up to 500 birds; Ten samples from pens or houses of 500 to 2,500 birds; Fifteen samples from pens or houses with more than 2,500 birds. The samples may be pooled to not fewer than five samples at the laboratory as long as the volume of material collected equals approximately 10 percent of the volume of the broth.

(2) *Cloacal swabs.* Cloacal swabs for bacteriological examination shall be taken from each bird in the flock or from a minimum of 500 birds in accordance with the procedure described in paragraph (a)(2)(i) of this section.

(i) *Procedure for taking cloacal swabs.* The authorized laboratory will provide sterile capped tubes or other suitable containers and cotton-tipped applicators for use in taking the cloacal swabs. Insert the cotton-tipped applicator into the cloaca and rectum in such a manner as to ensure the collection of fecal material. Place the swab and adhering fecal material in the tube and break the stick in half, keeping the upper half of the stick for future disposal. The cloacal swabs may be combined in the sterile tubes in multiples of five or in combinations specified by the authorized laboratory.

(ii) [Reserved].

(3) *Drag-swabs.* Utilization of drag swabs (DS) involves the exposure of gauze pads, a key component of a DS sampler, to the surface of random, flock-representative floor litter and nest box areas. The sampler pads shall be sterile and slightly moist to promote adherence of particulate material, and impregnated with double-strength skim milk [11] to protect salmonella viability during sample collection, batching, storage, and shipment. Floor litter surface DS sample results tend to reflect the salmonella carrier/shedder status of a flock. Nonetheless, other environmental samples as described in paragraphs (a)(1)(i), (a)(1)(ii), or (a)(3)(iv) of this section shall also be periodically collected.

(i) *Drag-swab sampler assembly.* Drag-swab (DS) samplers may be assembled using two 3- by 3-inch sterile gauze pads; size 20 wrapping twine; and paper clips, staples, or similar fasteners. Fold each gauze pad in half and attach one pad to a 2-foot-long (60 cm) piece of twine and the other to a 1-foot-long (30 cm) piece of twine. To attach a pad to the twine with a paper clip, bend the end wires of the paper clip slightly and push them through the fabric of the folded pad, thus securing the clips to the folded pads; then securely tie the twine to the free rounded end of the paper clip. To attach a pad to the twine with a staple, staple the twine to the pad near the center of the fold, applying the staple at a right angle to the twine and parallel to the fold. (A pre-tied knot in the free end of the twine will prevent the twine from slipping under the staple during use.) Once the pads and the twine have been attached, securely connect the free ends of both lengths of twine to a small loop tied at the end of a 5-foot-long piece of twine. The resulting assembly resembles the letter Y, with a long vertical stem and two diagonal branches of different lengths with a gauze pad securely attached to the end of each branch. Wrap the twine around each two-pad DS sampler to produce a small bundle. Autoclave the assembled DS sampler bundle and transfer it with sterile forceps or other aseptic method to a resealable sterile bag. Aseptically add 15 mL of double-strength skim milk to the bag and massage the milk into the gauze pads. Seal the bags and store at -20 °C.

(ii) *Procedures and applications for DS samplers.* DS samplers shall be completely thawed prior to use. Complete pad/twine/fastener assemblies shall be used to sample floor litter surfaces; nest box surfaces may be sampled using 3- by 3-inch sterile gauze pads impregnated with double-strength skim milk in the manner described in paragraph (a)(1) of this section. In either instance, the Plan participant collecting the samples shall wear a fresh pair of disposable sterile gloves for each flock or house sampled. Each sampler bag shall be marked with the type of sample (floor litter or nest box surface) and the identity of the house or flock from which the sample was taken.

(iii) *Floor litter sampling technique.* For flocks with fewer than 500 breeders, at least one DS set (two DS pads) shall be dragged across the floor litter surface for a minimum of 15 minutes. For flocks with 500 or more breeders, a minimum of two DS sets (four DS pads) shall be dragged across the floor litter surface for a minimum of 15 minutes per DS set. Upon completion of dragging, lower each DS pad by its attached twine into a separate, resealable sterile bag. Alternatively, each DS set of two pads may be lowered by its attached twine into the storage/transport bag from which the DS set was originally taken. Remove the twine from the pad or DS set by grasping the pad or DS set through the sides of the bag with one hand while pulling on the twine with the other hand until the connection is broken. Seal the bags and promptly refrigerate them to between 2 and 4° C. Do not freeze. Discard the twine in an appropriate disposal bag.

(iv) *Nest box sampling technique.* The Plan participant shall collect nest-box samples by using two 3- by 3-inch sterile gauze pads premoistened with double-strength skim milk and wiping the pads over assorted locations in about 10 percent of the total nesting area. Upon completion, place each pad in a separate, resealable sterile bag. Seal the bags and promptly refrigerate them to between 2 and 4° C. Do not freeze.

(v) *Culturing of litter surface and nest box samples.* When refrigerated to between 2 and 4° C, pads impregnated with double-strength skim milk may be stored or batched for 5 to 7 days prior to culturing. Pads shipped singly or paired in a single bag shall not be pooled for culturing but shall be separately inoculated into 60 mL of selective enrichment broth.

(b) *For turkeys.* * * *

* * * * *

18. In § 147.14, paragraph (a)(2)(ii) is revised to read as set forth below.

§ 147.14 Procedures to determine status and effectiveness of sanitation monitored program.

* * * * *

(a) * * *

(2) * * *

(ii) Tetrathionate selective enrichment broths, competitor-controlling plating media (XLT4, BGN, etc.), delayed secondary enrichment procedures, and colony lift assays detailed in paragraph (a)(5) and illustration 2 of § 147.11.

19. A new § 147.17 is added to subpart B to read as follows:

§ 147.17 Laboratory procedure recommended for the bacteriological examination of cull chicks for salmonella.

The laboratory procedure described in this section is recommended for the bacteriological examination of cull chicks from egg-type and meat-type chicken flocks and waterfowl, exhibition poultry, and game bird flocks for salmonella.

(a) From 25 randomly selected 1- to 5-day-old chicks that have not been placed in a brooding house, prepare 5 organ pools, 5 yolk pools, and 5 intestinal tissue pools as follows:

(1) *Organ pool:* From each of five chicks, composite and mince 1- to 2-gram samples of heart, lung, liver, and spleen tissues and the proximal wall of the bursa of Fabricius.

(2) *Yolk pool:* From each of five chicks, composite and mince 1- to 2-gram samples of the unabsorbed yolk sac or, if the yolk sac is essentially absent, the entire yolk stalk remnant.

(3) *Intestinal pool:* From each of five chicks, composite and mince approximately 0.5 cm^2 sections of the crop wall and 5-mm-long sections of the duodenum, cecum, and ileocecal junction.

(b) Transfer each pool to tetrathionate selective enrichment broth (Hajna or Mueller-Kauffmann) at a ratio of 1 part tissue pool to 10 parts broth.

(c) Repeat the steps in paragraphs (a) and (b) of this section for each five-chick group until all 25 chicks have been examined, producing a total of 15 pools (5 organ, 5 yolk, and 5 intestinal).

(d) Culture the 15 tetrathionate pools as outlined for selective enrichment in illustration 2 of § 147.11. Incubate the organ and yolk pools for 24 hours at 37 °C and the intestinal pools at 41.5 °C. Plate as described in illustration 2 of § 147.11 and examine after both 24 and 48 hours of incubation. Confirm suspect colonies as described. Further culture all salmonella-negative tetrathionate broths by delayed secondary enrichment procedures described for environmental, organ, and intestinal samples in illustration 2 of § 147.11. A colony lift assay may also be utilized as a supplement to TSI and LI agar picks of suspect colonies.

§ 147.26 [Amended]

20. In § 147.26, in paragraph (a), the introductory text is amended by removing the word "and" and by adding the words ", U.S. S. Enteritidis Monitored, and U.S. S. Enteritidis Clean" immediately before the word "classifications".

21. In § 147.43, the introductory text of paragraph (a) is amended by adding two new sentences before the first sentence to read as set forth below; by removing the words "the Assistant Secretary of Agriculture for Marketing and Inspection Services, or his/her designee,"; and by removing the words "and who shall be designated as vice chairperson,".

§ 147.43 General Conference Committee.

(a) The General Conference Committee Chairperson and the Vice Chairperson shall be elected by the members of the General Conference Committee. A representative of the Animal and Plant Health Inspection Service will serve as Executive Secretary and will provide the necessary staff support for the General Conference Committee. * * *

* * * * *

Done in Washington, DC, this 15th day of March 1996.

Lonnie J. King,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–6834 Filed 3–20–96; 8:45 am]

BILLING CODE 3410–34–P

[11] Obtain procedure for preparing double strength skim milk from USDA-APHIS "Recommended Sample Collection Methods for Environmental Samples," available from the National Poultry Improvement Plan, Veterinary Services, APHIS, USDA, 1500 Klondike Road, Suite A–102, Conyer, GA 30207.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 748

Suspicious Activity Report; Report of Catastrophic Act and Bank Secrecy Act Compliance

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: This final rule changes existing references from "Criminal Referral Form" to "Suspicious Activity Report" to conform the language in the rule to the new Suspicious Activity Report (SAR) which the financial regulatory agencies and the Department of the Treasury have developed to replace the Criminal Referral Form (CRF). It also reduces the required retention period for SARs' and any attachment thereto from the current 10 years to 5 years. This final rule streamlines reporting requirements by providing that credit unions file a new SAR with NCUA and appropriate Federal law enforcement agencies by sending the SARs to the Financial Crimes Enforcement Network of the Department of the Treasury.

EFFECTIVE DATE: April 1, 1996.

ADDRESSES: National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428.

FOR FURTHER INFORMATION CONTACT: John K. Ianno or Jon Canerday, Office of General Counsel, at the above address or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION: An interagency Bank Fraud Working Group (BFWG), consisting of representatives from many federal agencies, including the federal financial institutions supervisory agencies (the Agencies) [1] and law enforcement agencies, was formed in 1984. The BFWG addresses substantive issues, promotes cooperation among the Agencies and federal and state law enforcement agencies, and improves the federal government's response to white collar crime in financial institutions. It is under the auspices of the BFWG that the revisions to this regulation and the reporting requirements are being made.

Suspicious Activity Report

The Agencies have been working on a project to improve the criminal referral process, to reduce unnecessary reporting burdens on financial institutions, and to eliminate confusion associated with the current duplicative reporting of suspicious currency transactions in criminal referral forms and currency transaction reports (CTRs). Contemporaneously, Treasury analyzed the need to revise the procedures used by financial institutions for reporting suspicious currency transactions. As a result of these reviews, the Agencies and Treasury approved the development of a new referral process that includes suspicious currency transaction reporting.

To implement the reporting process, and to reduce unnecessary burdens associated with these various reporting requirements, the Agencies and the Department of the Treasury, through its Financial Crimes Enforcement Network (FinCEN), developed a new form for reporting known or suspected federal criminal law violations and suspicious currency transactions. The new report is designated the Suspicious Activity Report (SAR). The SAR is a simplified and shortened version of its predecessors. The new referral process and the SAR reduce the burden on credit unions for reporting known or suspected criminal violations and suspicious currency transactions. The SAR increases the reporting thresholds at which filing by credit unions becomes mandatory. It also reduces from several to one the number of copies of the form a credit union is required to file and eliminates the need to file supporting documents with the form. Supporting documents must be retained for five years instead of the ten years currently required. These changes will reduce reporting burdens for credit unions.

Agencies anticipate that the new reporting system will be operational April 1,1996. Once implemented, all referrals will be housed in one central database. As with the CRF, complete instructions for filing will continue to be on the SAR itself. The new referral process will be detailed in a Letter to Credit Unions to be issued contemporaneously with the new form. Until that time, credit unions will continue to file reports in accordance with current requirements.

Rulemaking—5 U.S.C. 553

The NCUA finds that good cause exists to make this final rule effective on April 1, 1996, less than 30 days after its publication date. The rule implements technical changes to NCUA's existing rule intended to conform its language to the adoption of the SAR, and reduces the reporting and recordkeeping requirements of credit unions. The adoption of this rule, effective April 1, 1996, will assure that credit unions are able to comply with NCUA and Treasury reporting requirements for suspicious activity by completing a single SAR and filing it at one location.

Regulatory Flexibility Act

The Regulatory Flexibility Act requires the NCUA to prepare an analysis to describe any significant economic impact any regulation may have on a substantial number of small credit unions (primarily those under $1 million in assets). The types of changes made by this rule have no economic impact on credit unions. These are merely housekeeping changes. Therefore, the NCUA Board has determined and certifies that, under the authority granted in 5 U.S.C. 605(b), this final rule will not have a significant economic impact on a substantial number of small credit unions. Accordingly, the Board has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

This final rule makes technical changes to reflect the use of Suspicious Activity Reports in place of Criminal Referral Forms and shortens the records retention requirements for the form and related documents. The Agencies and Treasury have submitted the SAR to OMB for approval. The same amount of information will continue to be collected under this rule although reporting will be simplified. The Rule does not change any paperwork requirements.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. This Rule applies to all federally insured credit unions, simplifies the reporting process, and shortens the document retention period from that contained in the present rule. The NCUA Board has determined that this amendment is not likely to have any direct effect on states, the relationship between states, or the distribution of power and responsibilities among the various levels of government because federally insured credit unions are currently required to report crimes or suspected crimes which occur at their offices.

List of Subjects in 12 CFR Part 748

Bank Secrecy Act, Credit unions, Crime, Currency, Reporting and recordkeeping requirements, Security measures.

[1] The federal financial institutions supervisory agencies are the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the National Credit Union Administration.

By the National Credit Union Administration Board on March 13, 1996.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA amends 12 CFR chapter VII as follows:

PART 748—SUSPICIOUS ACTIVITY REPORT; REPORT OF CATASTROPHIC ACT AND BANK SECRECY ACT COMPLIANCE

1. The heading of Part 748 is revised as set forth above.

2. The authority citation for Part 748 is revised to read as follows:

Authority: 12 U.S.C. 1766(a), 1786(q); 31 U.S.C. 5311.

3. Section 748.1 (c) is revised to read as follows:

§ 748.1 Filing of reports.

* * * * *

(c) *Suspicious Activity Report.* (1) Each federally-insured credit union will report any crime or suspected crime that occurs at its office(s), utilizing NCUA Form 2362, Suspicious Activity Report (SAR), within thirty calendar days after discovery. Each federally-insured credit union must follow the instructions and reporting requirements accompanying the SAR. Copies of the SAR may be obtained from the appropriate NCUA Regional Office.

(2) Each federally-insured credit union shall maintain a copy of any SAR that it files and the original of all attachments to the report for a period of five years from the date of the report, unless the credit union is informed in writing by the National Credit Union Administration that the materials may be discarded sooner.

(3) Failure to file a SAR in accordance with the instructions accompanying the report may subject the federally-insured credit union, its officers, directors, agents or other institution-affiliated parties to the assessment of civil money penalties or other administrative actions.

(4) Filing of Suspicious Activity Reports will ensure that law enforcement agencies and NCUA are promptly notified of actual or suspected crimes. Information contained on SARs' will be entered into an interagency database and will assist the federal government in taking appropriate action.

[FR Doc. 96–6702 Filed 3–20–96; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–ANE–13; Amendment 39–9453; AD 95–25–08]

Airworthiness Directives; Royal Inventum Company DR1 and DR6 Series Galley Water Heaters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Royal Inventum Company DR1 and DR6 Series Galley Water Heaters, that requires the installation of a pressure relief valve, and 3-phase safety devices on each Royal Inventum Company DR1 and DR6 series galley water heater. This amendment is prompted by a report of a Royal Inventum DR6 water heater explosion during an overheat test at a maintenance facility. The actions specified by this AD are intended to prevent explosions of Royal Inventum Company DR1 and DR6 series galley water heaters, which could cause personal injury or galley damage to the aircraft.

DATES: Effective May 20, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of May 20, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from B/E Aerospace, Inventum Galley Products Division (Royal Inventum Company), P.O. Box 1152, 3430 BD Nieuwegin, The Netherlands. This information may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Terry Fahr, Aerospace Engineer, Boston Aircraft Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA, 01803–5299; telephone (617) 238–7155, fax (617) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to Royal Inventum Company DR1 and DR6 series galley water heaters was published in the **Federal Register** on June 21, 1995 (60 FR 32287). That action proposed to require the installation of new pressure relief valves, and 3-phase safety devices on each Royal Inventum Company DR1 and DR6 series galley water heater. The actions would be required to be in accordance with Inventum Bilthoven-Holland Service Bulletin's (SB's) 25__330, Revision 1, dated September 28, 1977; SB 25__331, Revision 1, dated September 28, 1977; and Inventum Alert Service Bulletin (ASB) DR1/DR6–25–4, Revision A, dated December 6, 1993, that specify the installation of a pressure relief valve; and Inventum Bilthoven-Holland SB's 25__340, dated July 7, 1977; SB 25__344, dated January 18, 1978; SB 25__345, dated February 16, 1978; SB 25__346, dated February 16, 1978; and Inventum ASB DR1/DR6–25–5, Revision A, dated December 6, 1993, that specify the installation of 3-phase safety devices. The Director-General of Civil Aviation of the Netherlands has classified these service bulletins as mandatory and issued Airworthiness Directive BLA 93–168 (AB), dated December 17, 1993, in order to assure the airworthiness of these water heaters.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter states that the Inventum DR6 series water heaters have been used on Boeing 747, 757 and 767 series aircraft and recommends that the Applicability be changed to show these aircraft. The commenter further states that they were unable to determine usage of Inventum DR1 and DR6 series water heaters on Boeing 727 and 737 series aircraft. The FAA agrees. Since the Boeing 727 and 737 series aircraft usage was given to the FAA by the Director-General of Civil Aviation of the Netherlands, the FAA will retain reference to the Boeing 727 and 737 series aircraft in the Applicability section. Reference to the Boeing 747, 757 and 767 series aircraft will be added. Operators are cautioned, however, not to read the list of aircraft as an exclusive list of the aircraft that may have the affected water heaters installed. This AD applies to all aircraft with an affected water heater, whether or not listed.

One commenter supports the AD.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden

on any operator nor increase the scope of the AD.

The FAA estimates that 250 water heaters installed on aircraft of U.S. registry will be affected by this AD, that it will take approximately six and one half work hours per water heater to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $250 per aircraft. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $94,500.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40101, 40113, 44701.

39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

95-25-08 Royal Inventum Company: Amendment 39-9453. Docket 95-ANE-13.

Applicability: Royal Inventum Company DR1 and DR6 series galley water heaters, installed on but not limited to Boeing 727, 737, 747, 757 and 767 series, McDonnell Douglas DC-9 series; and Fokker F.28 series (except Mk. 0100) aircraft.

Note: This AD applies to each water heater identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For water heaters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any water heater from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent possible explosion of water heaters that could cause personal injury and aircraft damage, accomplish the following:

(a) Within 90 days after the effective date of this AD install a pressure relief valve in accordance with Inventum Alert Service Bulletin (ASB) DR1/DR6-25-4, Revision A, dated December 6, 1993, or Inventum Service Bulletin (SB) 25__330, Revision 1, dated September 28, 1977; or SB 25__331, Revision 1, dated September 28, 1977; and two 3-phase safety devices in accordance with Inventum ASB DR1/DR6-25-5, Revision A, dated December 6, 1993, or SB 25__340, dated July 7, 1977; SB 25__344, dated January 18, 1978; or SB 25__345, dated February 16, 1978; or SB 25__346, dated February 16, 1978.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Boston Aircraft Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Boston Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Boston Aircraft Certification Office.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

(d) The modification and inspection shall be done in accordance with the following service bulletins:

Document No.	Pages	Revision	Date
Inventum Alert Service Bulletin (ASB) DR1/DR6-25-4 ..... Total Pages: 5.	1-5	A	12/6/1993
Inventum Bilthoven-Holland (SB) 25__330 ..... Total Pages: 4.	1-4	1	9/28/1977
SB 25__331 ..... Total Pages: 4.	1-4	1	9/28/1977
ASB DR1/DR6-25-5 ..... Total Pages: 5.	1-5	A	12/6/1993
SB 25__340 ..... Total Pages: 6.	1-6	N/A	7/7/1977
SB 25__344 ..... Total Pages: 7.	1-7	N/A	1/18/1978
SB 25__345 ..... Total Pages: 7.	1-7	N/A	2/16/1978
SB 25__346 ..... Total Pages: 7.	1-7	N/A	2/16/1978

This incorporation by reference was approved by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from B/E Aerospace, Inventum Galley Products Division (Royal Inventum Company), P.O. Box 1152, 3430 BD Nieuwegin, The Netherlands. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(e) This amendment becomes effective on May 20, 1996.

Issued in Burlington, Massachusetts, on January 29, 1996.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 96-5854 Filed 3-20-96; 8:45 am]

BILLING CODE 4910-13-P

14 CFR Part 39

[Docket No. 94-NM-179-AD; Amendment 39-9542; AD 96-06-05]

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes two existing airworthiness directives (AD), applicable to certain Boeing Model 727 series airplanes, that currently require repetitive visual inspections to detect cracks of the elevator rear spar, and repair, if necessary. This amendment adds new inspections to detect cracks and loose brackets of the elevator rear spar; adds a new terminating modification for the inspections, and expands the applicability of the rules to include additional airplanes. This amendment is prompted by reports of cracking in the spar radii at the tab hinge location of the elevator rear spar on certain airplanes. The actions specified by this AD are intended to prevent cracking in elements of the elevator rear spar assembly, which could result in excessive free play of the elevator control tab and possible tab flutter.

DATES: Effective April 22, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 22, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Walter Sippel, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2774; fax (206) 227-1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 84-22-02, amendment 39-4951 (49 FR 45743, November 20, 1984), and AD 87-24-03, amendment 39-5769 (52 FR 43742, November 16, 1987), both of which are applicable to Boeing Model 727 series airplanes, was published in the **Federal Register** as a supplemental notice of proposed rulemaking on September 19, 1995 (60 FR 47896). The action proposed to require repetitive visual inspections to detect cracks and loose brackets of the elevator rear spar, and various follow-on actions. The supplemental NPRM also proposed to require the installation of a modification of the elevator rear spar that would constitute terminating action for the repetitive inspections. Additionally, the supplemental NPRM proposed to expand the applicability of the existing proposed rules to include additional airplanes.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter supports the proposal.

A discussion of other comments received follows:

Requests to Withdraw the Proposal

Two commenters request that the FAA withdraw the proposal. These commenters consider that the problem addressed is strictly a quality control problem and is not associated with airplanes on a fleet-wide basis.

The FAA does not concur. There have been at least 13 occurrences of cracking found in modified elevator rear spars on in-service airplanes. New information has revealed that the shear plate contacting the radius of the rear spar is not the only problem that is creating the addressed cracking. New data show that loose tee fittings attached to the rib may also contribute to cracking in the rear spar. In light of this, the FAA finds no reason to consider the unsafe condition to be limited to a few airplanes, nor a single operator's quality program.

Request To Allow Inspections With the Elevator Tab Installed

One commenter requests that the proposed rule be revised to allow the inspection of modified elevator rear spars to be accomplished with the elevator tab installed. This commenter, an operator, states that it has inspected all of its affected modified airplanes using this method and have not found any cracking of rear spars.

The FAA cannot concur with this commenter's request since no technical data were submitted that could demonstrate that this method of inspection would provide an acceptable level of safety (compared to the proposed inspection methods). Additionally, the reliability of the inspection method suggested by the commenter is not clear. (For example, would other operators obtain accurate results? Have the results of inspections performed with elevator tabs installed been compared those of inspections performed with elevator tabs not installed?) The FAA suggests that this commenter submit justifying data and apply for the approval of this inspection as an alternative method of compliance with the AD, in accordance with the provisions of paragraph (j) of the final rule.

Requests To Extend the Inspection Interval for Modified Airplanes

Several commenters request that the proposed rule be revised to extend the compliance time for accomplishing the visual inspection of modified airplanes. One commenter requests that it be extended from the proposed 4,000 flight hours to 3,000 flight cycles after the effective date of the final rule. This commenter, an operator, states that it modified its fleet of affected airplanes (in accordance with AD 84-22-02 and 87-24-03) between 1987 and 1992. This operator has been inspecting the subject area on these modified airplanes at every "C" check (approximately every 3,000 flight cycles) and has found no cracking to date. Other commenters request that the initial inspection be required at the next regularly scheduled "C" check scheduled for the airplane. These commenters assert that the work hours needed to accomplish this inspection and the complexity of this inspection require that it be accomplished at a main base facility and by maintenance personnel specifically trained for this task.

The FAA does not concur with these commenters' request. The FAA has received reports of cracking in rear spars on several modified airplanes after approximately 4,000 flight hours (after

modification). In addition, a crack has been found on a new, modified one-piece spar that had accumulated approximately 4,000 fight hours. In light of these findings, the FAA has determined that the compliance time of 4,000 flight hours represents the maximum interval of time allowable for the affected airplanes to continue to operate prior to accomplishing the required inspection without compromising safety. The FAA does not consider a "C" check to be an appropriate inspection interval, since maintenance schedules for "C" checks may vary from operator to operator, and there would be no assurance that the inspection would be accomplished during the maximum interval of 4,000 flight hours. Further, the FAA does not consider 3,000 flight cycles to be an appropriate interval, since many fatigue cycles can occur per flight and the subject cracking is associated with fatigue. Consequently, an interval of "3,000 flight cycles" would result in a much longer time period than data show is acceptable.

Requests To Delete Calendar Time From Inspection Intervals

Several commenters request that the proposed rule be revised to delete the references to calendar time in the repetitive inspection intervals for both modified and unmodified spars. The proposal would require that, in those cases where no cracking is found, visual inspections be conducted every "1,600 flight hours or 18 months, whichever occurs first." The commenters contend that calendar time as an inspection interval is inappropriate in this case because the subject cracking is related to fatigue (which is associated with flight cycles or flight hours), and not to conditions such as corrosion (which is associated with calendar time or environmental conditions). These commenters request that the inspection interval be expressed only in flight cycles or flight hours.

The FAA concurs. Since the cracking addressed by this AD is the result of problems associated with fatigue, it is more appropriate that structure be inspected at intervals related to flight hours rather than calendar time. The final rule has been revised to delete the references to "18 months" in the compliance times for the repetitive inspections.

Requests To Delete Mandatory Terminating Action

Several commenters request that the proposed rule be revised to delete the requirement to accomplish the terminating modification within 5 years. These commenters contend that continuing repetitive inspections of the area will provide an acceptable level of safety. One of these commenters, an operator, states that its existing inspection program, which has been carried out successfully in its fleet over the past 10 years, is adequate for finding and repairing cracks prior to the time that a serious cracking condition can develop. Another commenter states that it has continued to inspect its airplanes that previously have been modified and has not detected any cracking in the modified structure.

The FAA concurs that installation of the terminating modification need not be mandatory. The FAA has reconsidered the information it has received concerning the subject cracks that have been found on in service airplanes. This information indicates that cracking has been found during the scheduled inspection periods, and before any cracking was able to propagate to critical lengths. Additionally, the FAA finds that inspections are easy to accomplish, since the area is easily accessible, and they are effective in finding cracks. Moreover, the cracking is easily detectable and the consequences of the cracking are not likely to be catastrophic. In light of this, the FAA has determined that continuing inspections will provide an acceptable level of safety, and that the terminating modification need not be mandatory. The final rule has been revised to provide for a program of repetitive inspections, in lieu of installation of the terminating modification, for airplanes on which no cracking is detected during the required inspections. The terminating modification will be provided as an optional installation for those airplanes.

Requests for On-Going Repetitive Inspections in Lieu of Terminating Action

Several commenters request that, if the proposed AD is revised to delete the requirement that would mandate installation of the terminating modification, then it should include a specific schedule of repetitive inspections of the affected airplanes. These commenters provide various suggestions for this inspection schedule:

1. One commenter requests that repetitive inspections of all airplanes be allowed at intervals of 4,000 flight hours. This commenter states that it is regularly conducting inspections of all of its affected airplanes at approximately 4,000 flight hour intervals and has found little cracking or other discrepancies.

2. Another commenter requests that continued repetitive inspections of unmodified two-piece spars and all modified spars all be allowed to be conducted at intervals of 4,000 flight hours. This commenter, an operator, conducts inspections of airplanes with these configurations in its fleet every 4,000 flight hours. In the last 18 months, 33 cracked spars have been found during 84 inspections of unmodified spars, and 4 cracked spars have been found during 36 inspections of modified spars. All cracks were found and repaired in a timely manner, and no flutter of the flight control surface was experienced. Based on this experience, this commenter considers 4,000-flight hour inspections to be both effective and economical.

3. One commenter requests that the inspections of unmodified spars (either one- or two-piece) be repeated at intervals of 1,600 flight hours or 13 months, whichever occurs later. The commenter considers the proposed inspection interval of "1,600 flight hours or 18 months, whichever occurs first" is far too restrictive. This commenter, an operator, states that its suggested interval would allow it to conduct the inspections during its regularly scheduled maintenance periods, without disrupting scheduling.

The FAA responds to these specific suggestions as follows:

As for Item 1, the FAA cannot concur with the suggestion that all airplanes, whether modified or unmodified, be inspected at the same interval, as one commenter suggested. Since reports indicate that cracking has been found on modified one-piece spars within 4,000 flight hours after modification, inspections every 4,000 flight hours are appropriate for these spars. However, because modified spars have certain reinforcements and less interference, they are less prone to the subject cracking than are unmodified spars; therefore, cracking could be expected to occur in unmodified spars earlier than it could develop in the modified spars. In light of this, inspection intervals of fewer flight hours will be more effective for detecting cracking in unmodified one-piece spars in a timely manner.

As for Item 2, the FAA concurs that a repetitive inspection interval of 4,000 flight hours for unmodified two-piece spars and all modified spars is acceptable. In-service reports have shown that the 4,000 flight hour inspection interval is effective and appropriate for detecting cracking in a timely manner.

As for Item 3, the FAA does not agree with the suggestion that an inspection interval of 1,600 flight hours or 13 months, whichever is later, is appropriate for two-piece unmodified spars. First, as discussed previously, a calendar time (i.e., "13 months") is inappropriate in addressing problems associated with fatigue (such as the cracking addressed by this AD action). Second, while 1,600 flight hours is appropriate for unmodified one-piece spars, it is not appropriate for unmodified two-piece spars. The configuration of two-piece spars makes them inherently less prone to cracking than the one-piece spars, and the inspections that have been accomplished in accordance with AD 87–24–03 at the 4,000 flight hour interval have been shown to be effective in controlling cracking. Therefore, the FAA finds that the 4,000-flight hour interval for inspections of the unmodified two-piece spars is suitable.

In light of the information presented by commenters to this supplemental NPRM, as well as the reports of inspection findings, the FAA has determined that a different specific repetitive inspection interval for each of the various configurations of spars is appropriate. Taking this into account, the FAA has revised the final rule as follows:

For airplanes equipped with unmodified one-piece spars: If no cracking is found, the inspections are to be repeated every 1,600 flight hours. (This interval is unchanged from that previously required by AD 84–22–02.)

For airplanes equipped with modified one-piece spars: If no cracking is found, the inspections are to be repeated every 4,000 fight hours.

For airplanes equipped with unmodified two-piece spars: If no cracking is found, the inspections are to be repeated every 4,000 flight hours. (This interval is unchanged from that previously required by AD 87–24–03.)

For airplanes equipped with modified two piece spars: If no cracking is found, the inspections are to be repeated every 4,000 flight hours.

For all configurations: If cracking is found during any inspection and subsequently is stop-drilled, the inspection is repeated within 1,600 flight hours after stop-drilling, and the terminating modification is required to be accomplished within 3,200 flight hours after stop-drilling. (This provision is not changed from what was proposed in the notice.)

The FAA has determined that this change—providing for continuing inspections in lieu of mandatory terminating action—will not compromise safety, since the quality and timeliness of the repeated inspections will ensure that cracking will be detected before it can propagate to critical levels. Additionally, the FAA has determined that this change represents merely an optional method of compliance with the rule as it was originally proposed. The optional procedures will not impose an additional burden on any operator. They are a logical outgrowth of the notice that do not necessitate providing an additional opportunity for public comment.

Correction of Typographical Errors

The FAA has been advised that, in certain sections of the notice, the numbers of the applicable service bulletins were incorrectly cited. The FAA acknowledges these typographical errors and has revised the final rule to specify the correct Boeing Service Bulletin numbers of: 727–55–0087 and 727–55–0089.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 1,631 Model 727 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,166 airplanes of U.S. registry will be affected by this proposed AD.

The inspections will take approximately 17 work hours per airplane to accomplish (this includes the time required to gain access, remove parts, inspect, install, and perform functional testing), at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection requirements of this AD on U.S. operators is estimated to be $1,189,320, or $1,020 per airplane, per inspection cycle.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

For operators who elect to install the optional terminating modification, it will take approximately 430 work hours per airplane to accomplish, at an average labor rate of $60 per work hours. Required parts will cost approximately $8,580 per airplane. Based on these figures, the cost impact of the optional modification is estimated to be $34,380 per airplane.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–4951 (59 FR 45743, November 20, 1984), and amendment 39–5769 (52 FR 43742, November 16, 1987), and by adding a new airworthiness directive (AD), amendment 39–9542, to read as follows:

96–06–05 Boeing: Amendment 39–9542. Docket 94–NM–179–AD. Supersedes AD 84–22–02, amendment 39–4951; and AD 87–24–03, amendment 39–5769.

Applicability: Model 727 series airplanes, line numbers 1 through 1832 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (j) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent excessive free play of the elevator control tab and possible tab flutter, accomplish the following:

(a) For airplanes on which the modification or repair described in Boeing Service Bulletin 727–55–0085, dated August 31, 1984 (specified as terminating action in AD 84–22–02, amendment 39–4951), has not been accomplished and the repetitive inspections required by AD 84–22–02 have not been initiated: Prior to the accumulation of 8,000 total flight hours since date of manufacture, or within 300 flight hours after the effective date of this AD, whichever occurs later, perform a visual inspection to detect cracks and loose hinge brackets of the elevator rear spar in the area along the upper and lower edges at the shear plate, in accordance with Boeing Service Bulletin 727–55–0089, dated June 29, 1995. Then accomplish the follow-on actions (i.e., repetitive inspections, stop-drilling, modification) in accordance with that service bulletin, at the times specified as follows .

Note 2: AD 84–22–02 pertains to the one-piece elevator rear spar.

(1) Repeat the visual inspection thereafter at intervals not to exceed 1,600 flight hours.

(2) If any crack is detected and stop-drilled as a result of any inspection required by this paragraph, accomplish the requirements of paragraph (g) of this AD at the times specified in that paragraph.

(b) For airplanes on which the modification or repair described in Boeing Service Bulletin 727–55–0085, dated August 31, 1984 (specified as terminating action in AD 84–22–02, amendment 39–4951), has not been accomplished and the repetitive inspections required by AD 84–22–02 have been initiated: Accomplish either paragraph (b)(1) or (b)(2) of this AD, as applicable.

(1) If no crack has been detected as a result of inspections required by AD 84–22–02: Within 1,600 flight hours after the last inspection required by that AD, perform a visual inspection to detect cracks and loose brackets of the elevator rear spar in the area along the upper and lower edges at the shear plate, in accordance with the Boeing Service Bulletin 727–55–0089, dated June 29, 1995. Accomplish follow-on actions (i.e., repetitive inspection, stop-drilling, modification) in accordance with that service bulletin, at the times specified as follows:

(i) Repeat the visual inspection thereafter at intervals not to exceed 1,600 flight hours.

(ii) If any crack is detected and stop-drilled as a result of any inspection required by this paragraph, accomplish the requirements of paragraph (g) of this AD at the times specified in that paragraph.

(2) If any crack has been stop-drilled in accordance with AD 84–22–02, accomplish the requirements of paragraph (g) of this AD at the times specified in that paragraph.

(c) For airplanes on which the modification or repair described in Boeing Service Bulletin 727–55–0085, dated August 31, 1984 (specified as terminating action in AD 84–22–02, amendment 39–4951), has been accomplished: Within 4,000 flight hours after the effective date of this AD, perform a visual inspection to detect cracks and loose hinge brackets of the elevator rear spar in the area along the upper and lower edges at the shear plate, in accordance with Boeing Service Bulletin 727–55–0089, dated June 29, 1995. Accomplish follow-on actions (i.e., repetitive inspections, stop-drilling, modification) in accordance with that service bulletin, at the times specified as follows:

(1) Repeat the visual inspection thereafter at intervals not to exceed 4,000 flight hours.

(2) If any crack is detected and stop-drilled as a result of any inspection required by this paragraph, accomplish the requirements of paragraph (g) of this AD at the times specified in that paragraph.

(d) For airplanes on which the modification or repair described in Boeing Service Bulletin 727–55–087, dated June 20, 1986 (specified as terminating action in AD 87–24–03, amendment 39–5769), has not been accomplished and the repetitive inspections required by AD 87–24–03 have not been initiated: Accomplish the requirements of paragraph (d)(1) of this AD at the earliest of the times specified in paragraph (d)(2).

Note 3: AD 87–24–03 pertains to the two-piece elevator rear spar.

(1) Perform a visual inspection to detect cracks and loose hinge brackets of the elevator rear spar in the area along the upper and lower edges at the shear plate, at the earliest of the times specified in paragraph (d)(2) of this AD, and in accordance with Boeing Service Bulletin 727–55–0089, dated June 29, 1995. Accomplish follow-on actions (i.e., repetitive inspection, stop-drilling, modification) in accordance with that service bulletin, at the times specified as follows:

(i) Repeat the visual inspection thereafter at intervals not to exceed 4,000 flight hours.

(ii) If any crack is detected and stop-drilled as a result of any inspection required by this paragraph, accomplish the requirements of paragraph (g) of this AD at the times specified in that paragraph.

(2) Accomplish the initial visual inspection required by paragraph (d)(1) of this AD at the earliest of the following times:

(i) Prior to the accumulation of 27,000 total flight hours since date of manufacture, or within 4,000 flight hours after December 24, 1987 (the effective date of 87–24–03, amendment 39–5769), whichever occurs later; or

(ii) Prior to the accumulation of 12,000 total flight hours since date of manufacture, or within 4,000 flight hours after the effective date of this AD, whichever occurs later; or

(iii) Prior to the accumulation of 27,300 total flight hours since date of manufacture, or within 300 flight hours after the effective date of this AD, whichever occurs later.

(e) For airplanes on which the modification or repair described in Boeing Service Bulletin 727–55–087, dated June 20, 1986 (specified as terminating action in AD 87–24–03, amendment 39–5769), has not been accomplished and the repetitive inspections required by AD 87–24–03 have been initiated: Accomplish either paragraph (e)(1) or (e)(2) of this AD, as applicable.

(1) If no crack has been detected as a result of inspections required by AD 87–24–03: Within 4,000 flight hours after the last inspection required by that AD, perform a visual inspection to detect cracks and loose brackets of the elevator rear spar in the area along the upper and lower edges at the shear plate, in accordance with Boeing Service Bulletin 727–55–0089, dated June 29, 1995. Accomplish follow-on actions (i.e., repetitive inspection, stop-drilling, modification) in accordance with that service bulletin, at the times specified as follows:

(i) Repeat the visual inspection thereafter at intervals not to exceed 4,000 flight hours.

(ii) If any crack is detected and stop-drilled as a result of any inspection required by paragraph (e)(1) of this AD, accomplish the requirements of paragraph (g) of this AD at the times specified in that paragraph.

(2) If any crack has been detected and stop-drilled in accordance with AD 87–24–03, accomplish the requirements of paragraph (g) of this AD at the times specified in that paragraph.

(f) For airplanes on which the modification or repair described in Boeing Service Bulletin 727–55–087, dated June 20, 1986 (specified as terminating action in AD 87–24–03, amendment 39–5769), has been accomplished: Within 4,000 flight hours after the effective date of this AD, perform a visual inspection to detect cracks and loose hinge brackets of the elevator rear spar in the area along the upper and lower edges at the shear plate, in accordance with Boeing Service Bulletin 727–55–0089, dated June 29, 1995. Accomplish follow-on actions (i.e., repetitive inspection, stop-drilling, modification) in accordance with the service bulletin, at the times specified as follows:

(1) Repeat the visual inspection thereafter at intervals not to exceed 4,000 flight hours.

(2) If any crack is detected and stop-drilled as a result of any inspection required by this paragraph, accomplish the requirements of paragraph (g) of this AD at the times specified in that paragraph.

(g) If any crack is detected and stop-drilled in accordance with paragraph (a)(2), (b)(1)(ii), (b)(2), (c)(2), (d)(1)(ii), (e)(1)(ii), (e)(2), or (f)(2) of this AD, accomplish the following:

(1) Within 1,600 flight hours after stop-drilling, perform a visual inspection to detect cracks and loose hinge brackets of the elevator rear spar in the area along the upper and lower edges at the shear plate, and accomplish follow-on actions (i.e., stop-drilling, modification) in accordance with the service bulletin. If any crack growth is detected after stop-drilling, prior to further flight, modify the elevator rear spar in accordance with Part II of the Accomplishment Instructions of Boeing Service Bulletin 727–55–0089, dated June 29, 1995. Accomplishment of this modification constitutes terminating action for the repetitive inspection requirements of this AD.

(2) Within 3,200 flight hours after stop-drilling, modify the elevator rear spar in accordance with Part II of the Accomplishment Instructions of Boeing Service Bulletin 727–55–0089, dated June 29, 1995. Accomplishment of this modification constitutes terminating action for the repetitive inspection requirements of this AD.

(h) Modification of the elevator rear spar in accordance with Part II of the Accomplishment Instructions of Boeing Service Bulletin 727–55–0089, dated June 29, 1995, constitutes terminating action for the requirements of this AD.

(i) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(j) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(k) The actions shall be done in accordance with Boeing Service Bulletin 727–55–0089, dated June 29, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(l) This amendment becomes effective on April 22, 1996.

Issued in Renton, Washington, on March 12, 1996.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–6391 Filed 3–20–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–NM–22–AD; Amendment 39–9543; AD 96–06–06]

Airworthiness Directives; Boeing Model 747–100, -200, -300, and SP Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747–100, -200, -300, and SP series airplanes, that requires revising the Airplane Flight Manual (AFM) to prohibit the use of the autoland function. This amendment also requires installation of a diode and a marker on certain shelves and making wiring changes to the flight mode annunciator of the autopilot/flight director system, which terminates the requirements for the AFM limitation. This amendment is prompted by a report that the flightcrew was unaware of the configuration of the autoland system during landing. The actions specified by this AD are intended to ensure flightcrew awareness of the configuration of the autoland system in the event of a change from fail-operational to fail-passive mode.

DATES: Effective April 22, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 22, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Hania Younis, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2764; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 747–100,-200, -300, and SP series airplanes was published in the **Federal Register** as a supplemental notice of proposed rulemaking on January 23, 1996 (61 FR 1722). That action proposed to require:

1. revising the Airplane Flight Manual (AFM) to prohibit the use of the autoland function;

2. installing a diode and a marker on shelves;

3. making wiring changes to the flight mode annunciator (FMA) of the autopilot/flight director system, which would terminate the requirements for the AFM revision; and

4. conducting follow-on operational tests.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supports the proposed rule.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 179 Boeing Model 747–100, –200, –300, and SP series airplanes of the affected design in the worldwide fleet. The FAA estimates that 12 airplanes of U.S. registry will be affected by this AD.

It will take approximately 1 work hour per airplane to accomplish the required revision to the AFM, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $720, or $60 per airplane.

It will take approximately 10 work hours per airplane to accomplish the required installation and operational test, at an average labor rate of $60 per work hour. Required parts will cost approximately $613 per airplane. Based on these figures, the cost impact of these requirements on U.S. operators is estimated to be $14,556, or $1,213 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–06–06 Boeing: Amendment 39–9543. Docket 95–NM–22–AD.

Applicability: Model 747–100, –200, –300, and SP series airplanes, equipped with triple channel autoland autopilots; as listed in Boeing Alert Service Bulletin 747–22A2212, Revision 1, dated April 27, 1995, and Boeing Alert Service Bulletin 747–22A2213, Revision 2, dated June 22, 1995; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To ensure flightcrew awareness of the configuration of the autoland system in the event of a change from fail-operational to fail-passive mode, accomplish the following:

(a) Within 3 months after the effective date of this AD, revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following statement. This may be accomplished by inserting a copy of this AD in the AFM.

Pay close attention to all 3 NAV receiver flags immediately after FLARE ARM is annunciated on the FMA's. If there is a flag on any NAV receiver, the corresponding autopilot channel must be disconnected; the approach must be down-graded to dual channel, CAT II configuration; and the autopilot must be disconnected prior to landing.

(b) Within 18 months after the effective date of this AD, install a diode and a marker on the E1–4, E1–5, and E1–6 shelves, and make wiring changes to the flight mode annunciator of the autopilot/flight director system, in accordance with Boeing Alert Service Bulletin 747–22A2212, Revision 1, dated April 27, 1995; or Boeing Alert Service Bulletin 747–22A2213, Revision 1, dated April 27, 1995, or Revision 2, dated June 22, 1995; as applicable. After this installation and wiring change is accomplished, the AFM limitation required by paragraph (a) of this AD may be removed from the AFM.

(c) Prior to further flight after accomplishment of paragraph (b) of this AD, perform an operational test of the newly installed diodes, in accordance with Boeing Alert Service Bulletin 747–22A2212, Revision 1, dated April 27, 1995; or Boeing Alert Service Bulletin 747–22A2213, Revision 1, dated April 27, 1995, or Revision 2, dated June 22, 1995; as applicable. Thereafter, repeat the operational test at intervals not to exceed 20,000 flight hours.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) The installation, wiring changes and operational tests shall be done in accordance with Boeing Alert Service Bulletin 747–22A2212, Revision 1, dated April 27, 1995; Boeing Alert Service Bulletin 747–22A2213, Revision 1, dated April 27, 1995, or Boeing Alert Service Bulletin 747–22A2213, Revision 2, dated June 22, 1995; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

(g) This amendment becomes effective on April 22, 1996.

Issued in Renton, Washington, on March 12, 1996.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–6390 Filed 3–20–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 94–NM–164–AD; Amendment 39–9544; AD 96–06–07]

Airworthiness Directives; British Aerospace Model BAC 1–11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to all British Aerospace Model BAC 1–11 200 and 400 series airplanes, that currently requires visual inspections to detect cracks in the flight deck canopy area, and repair, if necessary. This amendment reduces the inspection threshold and repetitive inspection interval, and identifies specific structural members to be inspected. This amendment also requires eddy current inspections to detect cracks of the top sill members at station 82.5, and replacement of cracked parts with new parts, or repair of the top sill members. This amendment is prompted by reports of additional cracking found in the structural members in the flight deck canopy area of the affected airplanes. The actions specified by this AD are intended to ensure that cracking in the flight deck canopy area is detected and corrected in a timely manner; such cracking could result in reduced structural integrity of the cockpit frame and the adjacent fuselage structure.

DATES: Effective April 22, 1996.

The incorporation by reference of British Aerospace Alert Service Bulletin 53–A–PM5994, Issue 3, dated April 8, 1993, listed in the regulations is approved by the Director of the Federal Register as of April 22, 1996.

The incorporation by reference of British Aerospace Alert Service Bulletin 53–A–PM5994, Issue 2, dated June 5, 1990, listed in the regulations was approved previously by the Director of the Federal Register as of February 25, 1991 (56 FR 1569, January 16, 1991).

ADDRESSES: The service information referenced in this AD may be obtained from British Aerospace, Airbus Limited, P.O. Box 77, Bristol BS99 7AR, England. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2797; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 91–02–12, amendment 39–6861 (56 FR 1569, January 16, 1991), which is applicable to all British Aerospace Model BAC 1–11 200 and 400 series airplanes, was published in the **Federal Register** on January 3, 1996 (61 FR 131). The action proposed to supersede AD 91–02–12 to continue to require repetitive visual inspections to detect cracks in the flight deck canopy area, and repair, if necessary. However, it also proposed to:

1. reduce the inspection threshold and repetitive inspection interval,

2. identify specific structural members to be inspected,

3. require repetitive eddy current inspections to detect cracks of the top sill members at station 82.5, and

4. require replacement of cracked parts with new parts, or repair of the top sill members.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 31 Model BAC 1–11 200 and 400 series airplanes of U.S. registry that will be affected by this AD.

The actions that are currently required by AD 91–02–12 take approximately 18 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact on U.S. operators of the actions currently required is estimated to be $33,480, or $1,080 per airplane.

The new actions that are required by this new AD will take approximately 19 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact on U.S. operators of the new requirements of this AD is estimated to be $35,340, or $1,140 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—Airworthiness Directives

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–6861 (56 FR 1569, January 16, 1991), and by adding a new airworthiness directive (AD), amendment 39–9544, to read as follows:

96–06–07 British Aerospace Airbus Limited (Formerly British Aerospace Commercial Aircraft Limited, British Aerospace Aircraft Group): Amendment 39–9544. docket 94–NM–164–AD. Supersedes AD 91–02–12, Amendment 39–6861.

Applicability: All Model BAC 1–11 200 and 400 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the cockpit frame and the adjacent fuselage structure, accomplish the following:

(a) Prior to the accumulation of 30,000 total landings, or within 6 months after February 25, 1991 (the effective date of AD 91–02–12, amendment 39–6861), whichever occurs later; and thereafter at intervals not to exceed 5,000 landings: Perform a visual inspection to detect cracks of the flight deck canopy area, in accordance with British Aerospace Alert Service Bulletin 53–A–PM5994, Issue 2, dated June 5, 1990; or Issue 3, dated April 8, 1993. Pay particular attention to the top sill joint strap, the top sill intercostal, the frame at Station 113, and the top sill boom and web. Repeat this inspection until the inspections required by paragraph (c) of this AD are accomplished. After the effective date of this AD, the inspection shall be accomplished only in accordance with Issue 3 of the alert service bulletin.

(b) If any crack is found during the inspection required by paragraph (a) of this AD, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Following accomplishment of the repair, repeat the inspection required by paragraph (a) of this AD thereafter at intervals not to exceed 5,000 landings until the inspections required by paragraph (c) of this AD are accomplished.

(c) Perform a detailed visual inspection to detect cracks of the top sill joint strap at station 82.5, of the frame at station 113, and of the frame at station 160.5 (left-hand side only) between stringers 13 and 15; and an eddy current inspection to detect cracks of the top sill members at station 82.5. Perform these inspections in accordance with British Aerospace Airbus Limited Alert Service Bulletin 53–A–PM5994, Issue 3, dated April

8, 1993, at the time specified in paragraph (c)(1) or (c)(2) of this AD, as applicable. Accomplishment of these inspections terminates the repetitive inspection requirement of paragraph (a) of this AD.

(1) For airplanes operating at a maximum cabin differential pressure not exceeding 7.5 pounds per square inch (psi): Perform the inspections at the later of the times specified in paragraphs (c)(1)(i) and (c)(1)(ii) of this AD. Thereafter, repeat these inspections at intervals not to exceed 5,000 landings or 7,500 hours time-in-service, whichever occurs first.

(i) Prior to the accumulation of 20,000 total landings since date of entry into service; or

(ii) Within 1,200 landings or 12 months after the effective date of this AD, whichever occurs later.

(2) For airplanes operating at a maximum cabin differential pressure greater than 7.5 psi, but not exceeding 8.2 psi, including those airplanes having incorporated British Aerospace Airbus Limited Modification PM3187: Perform the inspections at the later of the times specified in paragraphs (c)(2)(i) and (c)(2)(ii) of this AD. Thereafter, repeat these inspections at intervals not to exceed 3,500 landings or 5,250 hours time-in-service, whichever occurs first.

(i) Prior to the accumulation of 14,000 total landings since date of entry into service; or

(ii) Within 800 landings or 12 months after the effective date of this AD, whichever occurs later.

Note 2: British Aerospace Airbus Limited Modification PM3187 increases the cabin differential pressure from the normal 7.5 psi to 8.2 psi. If Modification PM3187 has been incorporated on the airplane, that airplane is considered to be subject to the requirements of paragraph (c)(2) of this AD.

(d) If any crack is found during any inspection required by paragraph (c) of this AD, prior to further flight, accomplish the requirements of paragraph (d)(1), (d)(2), or (d)(3), as applicable.

(1) For cracking of the joint strap, doubler, or angle at the sill joint at station 82.5: Replace the cracked part with a new part in accordance with British Aerospace Airbus Limited Alert Service Bulletin 53–A–PM5994, Issue 3, dated April 8, 1993.

(2) For cracking of the frame at station 113: Repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113.

(3) For cracking of the frame at station 160.5: Repair in accordance with the Structural Repair Manual, as specified in British Aerospace Airbus Limited Alert Service Bulletin 53–A–PM5994, Issue 3, dated April 8, 1993.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(g) The inspections shall be done in accordance with British Aerospace Alert Service Bulletin 53–A–PM5994, Issue 2, dated June 5, 1990; or British Aerospace Alert Service Bulletin 53–A–PM5994, Issue 3, dated April 8, 1993. The incorporation by reference of British Aerospace Alert Service Bulletin 53–A–PM5994, Issue 2, dated June 5, 1990, was approved previously by the Director of the Federal Register, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, as of February 25, 1991 (56 FR 1569, January 16, 1991). The incorporation by reference of British Aerospace Alert Service Bulletin 53–A–PM5994, Issue 3, dated April 8, 1993, was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from British Aerospace, Airbus Limited, P.O. Box 77, Bristol BS99 7AR, England. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on April 22, 1996.

Issued in Renton, Washington, on March 12, 1996.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–6386 Filed 3–20–96; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 93–SW–26–AD; Amendment 39–9539; AD 96–06–02]

Airworthiness Directives; The Enstrom Helicopter Corporation Model F–28A, F–28C, F–28C–2, 280, and 280C Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to The Enstrom Helicopter Corporation Model (Enstrom) F–28A, F–28C, 280, and 280C helicopters, that currently requires an initial and repetitive visual inspections of the upper swashplate bearings for corrosion, and replacement of defective upper swashplate bearings with airworthy bearings. This amendment requires that the visual inspections apply to both the upper and lower swashplate bearings (bearings); expands the applicability to include the Model F–28C–2 helicopter; limits the applicability to those affected helicopters manufactured prior to January 1, 1981; establishes a retirement life of 1,200 hours time-in-service for certain bearings; and provides a corrected upper swashplate bearing part number. This amendment is prompted by the necessity to require visual inspections of the lower swashplate bearings; to expand the applicability to include the Model F–28C–2 helicopter; to establish a retirement life for certain bearings; and to correct the upper swashplate bearing part number from the existing AD. The actions specified by this AD are intended to prevent failure of the bearings and subsequent loss of control of the helicopter.

DATES: Effective April 25, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 25, 1996.

ADDRESSES: The service information referenced in the proposed rule may be obtained from The Enstrom Helicopter Corporation, Twin County Airport, P.O. Box 490, Menominee, Michigan 49858. This information may be examined at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Joe McGarvey, Aerospace Engineer, Airframe Branch, Chicago Aircraft Certification Office, Small Airplane Directorate, FAA, 2300 East Devon Avenue, Room 232, Des Plaines, Illinois 60018, telephone (708) 294–7136, fax (708) 294–7834.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 76–06–11, Amendment 39–2560, (41 FR 13906, April 1, 1976), which is applicable to Enstrom Model F–28A, F–28C, 280, and 280C helicopters manufactured prior to January 1, 1981, was published in the **Federal Register** on July 6, 1994 (59 FR 34584). That action proposed to require visual inspections of both the upper and lower swashplate bearings; to expand the applicability to include the Model F–28C–2 helicopter which was omitted in AD 76–06–11; to establish a retirement life of 1,200 hours time-in-service for certain upper and lower swashplate bearings; and to correct the upper swashplate bearing part number in the existing AD. That action also proposed an optional terminating action from the requirements of the AD and limited the applicability of the AD requirements to those affected model helicopters manufactured prior to January 1, 1981.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for editorial changes and adding explanatory Note 1, relating to the scope of the applicability statement when modifications, alterations, or repairs have been made in the area subject to the requirements of the AD. Additionally, the FAA has revised the proposed estimated average labor rate from $55 per work hour to an estimated average labor rate of $60 per work hour in the preamble portion of this final rule. This revision will increase the estimated total cost impact of the AD from $1,105,500 to $1,122,000. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that 660 helicopters of U.S. registry will be affected by this AD, that it will take approximately 5 work hours per helicopter to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $1,400 per helicopter. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $1,122,000.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–2560 (41 FR 13906, April 1, 1976), and by adding a new airworthiness directive (AD), Amendment 39–9539, to read as follows:

[AD 96–06–02] The Enstrom Helicopter Corporation: Amendment 39–9539. Docket No. 93–SW–26–AD. Supersedes AD 76–06–11, Amendment 39–2560.

Applicability: Model F–28A, F–28C, F–28C–2, 280, and 280C helicopters, manufactured prior to January 1, 1981, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (e) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the upper and lower swashplate bearings (bearings) and subsequent loss of control of the helicopter, accomplish the following:

(a) Within the next 10 hours time-in-service (TIS) after the effective date of this AD, and thereafter at intervals not to exceed 100 hours TIS since the last inspection, perform a visual inspection of the upper swashplate bearing, part number (P/N) Z993L13X3B, bearing number SKF 6013–RS, or ECD013–13, and lower swashplate bearing, P/N 5201SBKZZ–ABEC, or ECD009–1T, for corrosion as follows:

(1) Lower the swashplate to lowest position with the collective control.

(2) Remove the plastic bearing seals from the upper and lower swashplate bearings using a blunt scribe.

(3) Using an inspection mirror, visually inspect the bearings for grease lubricant and any evidence of corrosion. Rotate the bearings and housing to reposition balls and race for complete inspection. For bearings found free of corrosion or defects, repack them with Exxon ANDOK–B grease or any MIL–G–18709A grease, and reinstall the bearing seals in accordance with the applicable maintenance manual.

(b) Replace any unairworthy bearing with an airworthy bearing in accordance with the applicable maintenance manual.

(c) Before further flight, after the effective date of this AD, remove all upper and lower swashplate bearings having 1,200 hours or more TIS, and replace them with airworthy bearings. For bearings with less than 1,200 hours TIS on the effective date of this AD, replace the bearings on or before attaining 1,200 hours TIS.

(d) Installation of revised upper swashplate bearing housing, P/N 28–16106–2, and lower swashplate bearing housing, P/N 28–16361–1, that are equipped with grease fittings and integral bearing shields as described in The Enstrom Helicopter Corporation Service Information Letter No. 0110, Revision B, dated March 18, 1993, constitutes terminating action for the requirements of this AD.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used when approved by the Manager, Chicago Aircraft Certification Office, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Chicago Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Chicago Aircraft Certification Office.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

(g) The optional replacement permitted by paragraph (d) shall be done in accordance with The Enstrom Helicopter Corporation Service Information Letter No. 0110, Revision B, dated March 18, 1993. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from The Enstrom Helicopter Corporation, Twin County Airport, P.O. Box 490, Menominee, Michigan 49858. Copies may be inspected at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on April 25, 1996.

Issued in Fort Worth, Texas, on March 11, 1996.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 96–6420 Filed 3–20–96; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 94–SW–16–AD; Amendment 39–9541, AD 96–06–04]

Airworthiness Directives; Bell Helicopter Textron, A Division of Textron Canada, Ltd. Model 206A and 206B Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to Bell Helicopter Textron, A Division of Textron Canada, Ltd., (BHTC) Model 206A and 206B helicopters, that currently requires an inspection of the main transmission input driveshaft assembly (driveshaft) at intervals of 300 hours time-in-service (TIS); the application of a zinc chromate primer inspection visual aid; and, daily visual checks of the driveshaft. This amendment requires inspections of the driveshaft at intervals of 300 hours TIS; the application of a self-adhesive temperature indicator visual inspection aid; and, preflight visual owner/operator (pilot) checks of the driveshaft. This amendment is prompted by recent studies that indicate self-adhesive temperature indicators are a more reliable means of detecting overheat conditions on grease-lubricated couplings than the zinc chromate primers currently in use. The actions specified by this AD are intended to prevent failure of the driveshaft due to coupling wear or overheating, which could result in loss of power to the main rotor and a subsequent forced emergency landing.

DATES: Effective April 25, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 25, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from BHTC, 12,800 Rue de l'Avenir, Mirabel, Quebec, Canada J7J1R4, ATTN: Product Support Engineering Light Helicopters. This information may be examined at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Jurgen Priester, Aerospace Engineer, Rotorcraft Certification Office, Rotorcraft Directorate, FAA, Fort Worth, Texas 76193–0170, telephone (817) 222–5159; fax (817) 222–5959.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 81–04–08, Amendment 39–4037 (46 FR 12469, February 17, 1981), which is applicable to BHTC Model 206A and 206B helicopters, was published in the **Federal Register** on September 8, 1995 (60 FR 46790). That action proposed to require inspections of the driveshaft at intervals of 300 hours TIS; the application of a self-adhesive visual over-temperature indicator; and, preflight visual checks of the driveshaft. The checks described in the proposal (before the first flight of each day) may be performed by an owner/operator (pilot), but must be entered into the aircraft records showing compliance with the preflight check requirements of this AD in accordance with sections 43.11 and 91.417(a)(2)(v) of the Federal Aviation Regulations. The notice proposed to allow a pilot to perform these checks because they involve only a visual check for grease leakage, overheating, and security of the clamps and bolts used to attach the driveshaft to transmission and engine couplings. These checks can be performed equally well by a pilot or a mechanic. They involve checking items similar to those items that a pilot checks during a preflight check. The notice proposed that a mechanic inspect the driveshaft and driveshaft couplings at intervals of 300 hours TIS.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. However, the FAA has reorganized paragraphs (a) and (b) to separate the requirements of the visual checks that may be performed by the pilot from the required corrective actions that must be performed by a mechanic if certain conditions are discovered during the visual check. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed with the exception of organizational changes noted and various editorial changes. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that 4,312 helicopters of U.S. registry will be affected by this AD, that it will take approximately one and one-half work hours per helicopter to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will be provided by the manufacturer at no charge, but installation materials will cost approximately $10 per helicopter. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $431,200.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC App. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–4037 (46 FR 12469, February 17, 1981), and by adding a new airworthiness directive (AD), Amendment 39- , to read as follows:

AD 96–06–04 Bell Helicopter Textron, a Division of Textron Canada, Ltd.: Amendment 39–9541, Docket No. 94–SW–16–AD. Supersedes AD 81–04–08, Amendment 39–4037.

Applicability: Model 206A and 206B helicopters, certificated in any category.

Note 1:

This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (e) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the main transmission input driveshaft assembly (driveshaft) due to coupling wear or overheating, which could result in loss of power to the main rotor and a subsequent forced emergency landing, accomplish the following:

(a) Before the first flight of each day after the effective date of this AD, visually check the driveshaft, part number (P/N) 206–040–100–13; for: (1) grease leakage from the driveshaft couplings, P/N 206–040–108–005; and (2) visual damage and security of the clamps and bolts used to attach the driveshaft to the transmission and engine couplings. After compliance with paragraph (d) of this AD, also check the self-adhesive over-temperature indicators (over-temperature indicators) for overheating, deterioration, debonding, or discoloration. The visual checks may be performed by an owner/operator (pilot) holding at least a private pilot certificate, and must be entered into the aircraft records showing compliance with the visual check of this AD in accordance with sections 43.11 and 91.417(a)(2)(v) of the Federal Aviation Regulations.

(b) If any discrepancies are discovered as a result of the visual check performed in paragraph (a), accomplish the following before further flight:

(1) If there is any grease leakage or any indications of overheating, disassemble and inspect the driveshaft in accordance with the applicable maintenance manual and replace the over-temperature indicators in accordance with Part III of the Accomplishment Instructions of Bell Helicopter Textron, Inc., Alert Service Bulletin (ASB) No. 206–93–76, Revision B, dated September 6, 1994.

(2) If any "dot" on an over-temperature indicator has changed color to black, accomplish the corrective action in accordance with TABLE I and the accompanying Notes in ASB No. 206–93–76, Revision B, dated September 6, 1994.

(3) If there are any deteriorated, debonded, or discolored over-temperature indicator(s) that would prevent interpretation of the indicating "dots", replace those over-temperature indicator(s) in accordance with Part III of the Accomplishment Instructions of ASB No. 206–93–76, Revision B, dated September 6, 1994. If only one over-temperature indicator is missing, and no "dot" on any other over-temperature indicator on the same coupling is discolored or shows mechanical damage or degradation of the epoxy overcoating, the helicopter may be returned to service.

(4) If there are any loose or damaged clamps or bolts, secure the loose clamps or bolts and replace the damaged clamps or bolts in accordance with the applicable maintenance manual.

(c) Inspect and lubricate the driveshaft assembly, P/N 206–040–100–13, and driveshaft couplings, P/N 206–040–108–005, in accordance with the helicopter's maintenance manual and according to the compliance schedule that follows, and thereafter, inspect and lubricate at intervals not to exceed 300 hours time-in-service (TIS):

(1) For helicopters with 250 hours TIS or more, compliance is required within the next 50 hours TIS; or,

(2) For helicopters with less than 250 hours TIS, compliance is required prior to attaining 300 hours TIS.

(d) Install the over-temperature indicators at the next 300 hours TIS driveshaft coupling inspection and lubrication in accordance with Part I of the Accomplishment Instructions of ASB No. 206–93–76, Revision B, dated September 6, 1994.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used when approved by the Manager, Rotorcraft Certification Office, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Certification Office.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

(g) The inspections, maintenance and installation of over-temperature indicators shall be done in accordance with ASB No. 206–93–76, Revision B, dated September 6, 1994. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bell Helicopter Textron, A Division of Textron Canada, Ltd., 12,800 Rue L'Avenir, Mirabel, Quebec, Canada J7J1R4, ATTN: Product Support Engineering Light Helicopters. Copies may be inspected at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on April 25, 1996.

Issued in Fort Worth, Texas, on March 11, 1996.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 96–6419 Filed 3–20–96; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 95–NM–47–AD; Amendment 39–9545; AD 96–06–08]

Airworthiness Directives; McDonnell Douglas Model DC–10–10, –15, –30, and –40 Series Airplanes, and Model KC–10A (Military) Airplane

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–10–10, –15, –30, and –40 series airplanes, and Model KC–10A (military) airplanes. This amendment requires inspection(s) to detect cracks of the attach bolts of the front spar support fitting of each wing, and replacement of attach bolts with ones that are corrosion resistant. This amendment is prompted by a report of failure of the attach bolts of the front spar fitting as a result of corrosion pitting. The actions specified by this AD are intended to prevent such stress corrosion, which could lead to the failure of the attach bolts of the front spar; this situation could result in reduced structural integrity of the wing.

DATES: Effective April 22, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 22, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton,

Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: John Cecil, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (310) 627–5322; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–10–10, –15, –30, and –40 series airplanes, and Model KC–10A (military) airplanes, was published in the **Federal Register** on August 30, 1995 (60 FR 45108). That action proposed to require inspection(s) to detect cracks of the attach bolts of the front spar support fitting of each wing, and replacement of attach bolts with ones that are corrosion resistant.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter supports the proposal.

Another commenter requests that the proposal be revised to give operators "credit" for having accomplished the initial required ultrasonic inspection prior to the effective date of the final rule. This commenter is concerned that, if such credit is not specified in the AD, operators may be required to perform duplicate inspections needlessly.

The FAA acknowledges this commenter's concerns, and finds that some clarification is necessary. Operators are always given credit for work accomplished prior to the effective date of an AD by means of the phrase in the compliance section of the rule that states, "Required as indicated, unless accomplished previously." Since the ultrasonic inspection required by paragraph (a) of this AD is to be accomplished specifically in accordance with McDonnell Douglas DC–10 Service Bulletin 57–126, which was released on October 30, 1992, the possibility exists that some operators may have accomplished the initial ultrasonic inspection some years ago when the service bulletin was originally issued. For those operators, the "unless accomplished previously" phrase is intended to ensure that they not conduct a duplicate initial inspection.

However, in light of this commenter's concerns, the FAA finds that the compliance time for repetitive inspections must be clarified. The intent of this AD is to establish a schedule of inspections that are to be conducted at 18-month intervals. Regardless of when the initial inspection was conducted, that inspection must be repeated within 18 months afterwards. Accordingly, paragraph (a) of the final rule has been revised to clarify that the initial inspection is required within 18 months after the effective date of the AD, unless it was accomplished previously within 18 months prior to the effective date. Paragraph (b) of the final rule has been clarified to specify that the inspection must then be repeated at an interval not to exceed 18 months after that initial inspection, and must be repeated again every 18 months after that.

One commenter states that the manufacturer has advised that it is developing revised procedures for accomplishment of the bolt replacement (which may include only partial replacement under certain conditions). The commenter requests that the FAA revise the proposed rule to make these new procedures available to affected operators.

The FAA concurs with the commenter's request. Since issuance of the proposal, the FAA has reviewed and approved McDonnell Douglas Service Bulletin DC1057–126, Revision 1, dated March 1, 1996. This revised service bulletin is essentially identical to the McDonnell Douglas DC–10 Service Bulletin 57–126, dated October 30, 1992, but provides procedures for replacing a minimum of 5 of the attach bolts of the front spar support fitting on each wing with corrosion-resistant attach bolts; and, at the next pylon removal after that replacement, replacing the remaining 1 attach bolt of the front spar support fitting on each wing. Accomplishment of the replacement of these six attach bolts eliminates the need for the repetitive inspections of them. These replacement procedures are identical to the procedures proposed in paragraph (b)(2) of the proposed rule. The FAA has revised the final rule to include the newly released (revised) service bulletin as an additional source of service information.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 420 Model DC–10–10, –15, –30, and –40 series airplanes, and Model KC–10A (military) airplanes of the affected design in the worldwide fleet. The FAA estimates that 237 airplanes of U.S. registry will be affected by this AD.

It will take approximately 6 work hours per airplane to accomplish the required inspections, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection requirements of this AD on U.S. operators is estimated to be $85,230, or $360 per airplane, per inspection cycle.

It will take approximately 6 work hours per airplane to accomplish the required bolt replacement, at an average labor rate of $60 per work hour. Required parts will cost approximately $43,000 per airplane. Based on these figures, the cost impact of the replacement requirements of this AD on U.S. operators is estimated to be $10,276,320, or $43,360 per airplane.

The number of work hours indicated above does not include time for gaining access, removing and reinstalling engines, removing and reinstalling pylons, closing up, or performing functional checks. Additionally, it does not include time for preparation for the replacement, administrative functions, or nonproductive elapsed time.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–06–08 McDonnell Douglas: Amendment 39–9545. Docket 95–NM–47–AD.

Applicability: Model DC–10–10, –15, –30, and –40 series airplanes, and Model KC–10A (military) airplanes; as listed in McDonnell Douglas DC–10 Service Bulletin 57–126, dated October 30, 1992; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the wing, accomplish the following:

(a) Within 18 months after the effective date of this AD, unless previously accomplished within the last 18 months prior to the effective date of this AD, perform an ultrasonic inspection to detect cracks in the 6 attach bolts of the front spar support fitting of each wing, in accordance with McDonnell Douglas DC–10 Service Bulletin 57–126, dated October 30, 1992, or McDonnell Douglas Service Bulletin DC10–57–126, Revision 1, dated March 1, 1996.

(b) If no crack is detected on an attach bolt during the inspection specified in paragraph (a) of this AD, accomplish paragraphs (b)(1) and (b)(2) of this AD.

(1) Within 18 months after accomplishing the inspection specified in paragraph (a) of this AD, repeat the ultrasonic inspection, and continue to repeat it thereafter at intervals not to exceed 18 months, until the procedures required by paragraph (b)(2) of this AD are accomplished.

(2) Within 5 years after the effective date of this AD, replace a minimum of 5 of the attach bolts of the front spar support fitting on each wing with corrosion-resistant attach bolts, in accordance with the service bulletin. At the next pylon removal after that replacement, replace the remaining 1 attach bolt of the front spar support fitting on each wing. Accomplishment of the replacement constitutes terminating action for the repetitive inspection requirements of this AD for that attach bolt.

(c) If any crack is detected on an attach bolt during any inspection required by paragraph (a) or (b)(1) of this AD, prior to further flight, replace the cracked attach bolt with a corrosion-resistant attach bolt, in accordance with the service bulletin. Accomplishment of such replacement constitutes terminating action for the repetitive inspection requirements of this AD for that attach bolt only.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) The inspection and replacement procedures shall be done in accordance with McDonnell Douglas DC–10 Service Bulletin 57–126, dated October 30, 1992; or McDonnell Douglas Service Bulletin DC10–57–126, Revision 1, dated March 1, 1996. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(g) This amendment becomes effective on April 22, 1996.

Issued in Renton, Washington, on March 13, 1996.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–6542 Filed 3–20–96; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 96–NM–50–AD; Amendment 39–9546; AD 96–06–09]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to three Boeing Model 767 series airplanes, serial numbers 26847, 27048, and 27049. This action requires a functional check of the trailing edge flap drive bypass valve, and eventual replacement of the control valve module for the trailing edge flaps with an improved module. This amendment is prompted by reports of failure of the bypass valve motor in the control valve module of the trailing edge flaps due to hydraulic fluid contamination. The actions specified in this AD are intended to prevent such failure, which could result in loss of shutdown protection for the trailing edge flap drive; this condition could result in reduced controllability of the airplane in the event of uncommanded or asymmetrical flap motion.

DATES: Effective April 5, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 5, 1996.

Comments for inclusion in the Rules Docket must be received on or before May 20, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–50–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Susan Letcher, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington; telephone (206) 227–2670; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: On September 27, 1993, the FAA issued AD 93–19–05, amendment 39–8703 (58 FR 54940, October 25, 1993), which is applicable to Boeing Model 767 series airplanes, line positions 001 through 402 inclusive. That AD requires (initially) various functional checks of:

1. the leading edge slat shutoff valve,
2. the trailing edge flap drive bypass valve,
3. the leading edge slat long term shutoff control, and
4. the leading edge slat drive mechanical rigging.

In addition, that AD requires installation of terminating modifications for the required functional checks. One of these modifications involves replacing the bypass valve motor of the control valve module for the trailing edge flaps.

AD 93–19–05 was prompted by a report of an uncommanded slat extension during cruise, and several instances of an inoperative trailing edge flap bypass valve motor. These instances were attributed to hydraulic fluid in the bypass valve motor. The requirements of that AD are intended to prevent uncommanded deployment of leading edge slats, which could result in structural damage to the wing and consequent degradation of flight control. Additionally, the requirements of that AD are intended to ensure shutdown protection for the trailing edge flap drive in the event of uncommanded or asymmetrical flap motion.

Since the issuance of AD 93–19–05, the manufacturer has advised the FAA that three airplanes (those having serial numbers 26847, 27048, and 27049) were delivered on which the replacement of the bypass valve motor in the control valve module for the trailing edge flaps had not been accomplished during production. Those three airplanes were not included in the applicability of AD 93–19–05; however, they are subject to the same unsafe condition addressed by that AD. The FAA has determined that loss of shutdown protection for the trailing edge flap drive due to hydraulic fluid contamination of the bypass valve motor could occur on these three airplanes.

The FAA has reviewed and approved Boeing Service Bulletin 767–27A0094, Revision 5, dated June 9, 1994, which describes (among other actions) procedures to perform a one-time functional check of the bypass valve of the trailing edge flap drive.

The FAA has also reviewed and approved Boeing Service Bulletin 767–27–0138, dated August 17, 1995, which describes procedures for replacement of the control valve module for the trailing edge flaps with an improved module on the three airplanes having serial numbers 26847, 27048, and 27049. The bypass valve motor in the improved module was redesigned to ensure that the motor is hermetically sealed. Accomplishment of this replacement will prevent hydraulic fluid contamination.

Since an unsafe condition has been identified that is likely to exist or develop on other Boeing Model 767 series airplanes of the same type design, this AD is being issued to prevent loss of shutdown protection for the trailing edge flap drive, which could result in reduced controllability of the airplane in the event of uncommanded or asymmetrical flap motion. This AD requires a one-time functional check of the trailing edge flap drive bypass valve, and eventual replacement of the control valve module for the trailing edge flaps with an improved module. The actions are required to be accomplished in accordance with the service bulletins described previously. This AD applies only to airplanes having serial numbers 26847, 27048, and 27049.

[**Note:** The FAA's normal policy is that when an AD requires a substantive change, such as a change (expansion) in its applicability, the "old" AD is superseded by removing it from the system and a new AD is added. In the case of this AD action, the FAA normally would have proposed superseding AD 93–19–05 to expand its applicability to include the three additional affected airplanes. However, in reconsideration of the entire fleet size that would be affected by a supersedure action, and the consequent workload associated with revising maintenance record entries, the FAA has determined that a less burdensome approach is to issue a separate AD applicable only to the three additional airplanes. This AD does not supersede AD 93–19–05; airplanes listed in the applicability of AD 93–19–05 are required to continue to comply with the requirements of that AD. This AD is a separate AD action, and is applicable only to airplanes having serial numbers 26847, 27048, and 27049.]

Operators should note that the manufacturer's recommended compliance time for accomplishment of the functional check is within 400 flight hours after receipt of the service bulletin. While the FAA agrees that 400 flight hours would normally be an appropriate compliance time, this AD specifies a compliance time of 25 days after the effective date of this AD. This compliance time was developed by taking into account the date that the initial service bulletin recommended (September 28, 1989) for accomplishment of the actions and the time that has elapsed since that date. The FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, as well as the time necessary to perform the functional check (1 work hour). In light of these factors, the FAA finds 25 days to be an appropriate compliance time for initiating the required functional check.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 96–NM–50–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–06–09 Boeing: Amendment 39–9546. Docket 96–NM–50–AD.

Applicability: Model 767 series airplanes, having serial number 26847, 27048, or 27049, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously. To prevent loss of shutdown protection for the trailing edge flap drive, which could result in reduced controllability of the airplane in the event of uncommanded or asymmetrical flap motion, accomplish the following:

(a) Within 25 days after the effective date of this AD, perform a one-time functional check to ensure that the bypass valve motor in the control valve module for the trailing edge flaps is operational, in accordance with Part II of the Accomplishment Instructions of Boeing Service Bulletin 767–27A0094, Revision 5, dated June 9, 1994. If a failed bypass valve motor is found, prior to further flight, accomplish the replacement required by paragraph (b) of this AD.

(b) Within 60 days after the effective date of this AD, replace the control valve module for the trailing edge flaps with an improved module having a redesigned bypass valve motor that is hermetically sealed, in accordance with Boeing Service Bulletin 767–27–0138, dated August 17, 1995.

(c) As of the effective date of this AD, no person shall install either a control valve module, part number S256T005–7, or a bypass valve, part number S256T005–4, on any airplane.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) The functional check shall be done in accordance with Boeing Service Bulletin 767–27A0094, Revision 5, dated June 9, 1994. The replacement shall be done in accordance with Boeing Service Bulletin 767–27–0138, dated August 17, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on April 5, 1996.

Issued in Renton, Washington, on March 13, 1996.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–6540 Filed 3–20–96; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 303

Rules and Regulations Under the Textile Fiber Products Identification Act

AGENCY: Federal Trade Commission.

ACTION: Final Rule.

SUMMARY: This document amends the Rules and Regulations under the Textile Fiber Products Identification Act (Textile Rules) by adding the International System of Units (SI metric system) equivalents beside the inch/pound unit measurements in Textile Rules 10, 21, 32, and 45 (16 CFR 303.10, 303.21, 303.32, and 303.45). These metrication amendments are required by Executive Order 12770 of July 25, 1991 and the Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act.

EFFECTIVE DATE: March 21, 1996.

ADDRESSES: Requests for copies of this notice should be sent to Public Reference Branch, Room 130, Federal Trade Commission, Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Bret S. Smart, Program Advisor, Los Angeles Regional Office, Federal Trade Commission, 11000 Wilshire Blvd., Suite 13209, Los Angeles, CA 90024, (310) 235–7890 or Edwin Rodriguez, Attorney, Federal Trade Commission, Sixth Street and Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–3147.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Textile Fiber Products Identification Act (Textile Act), 15 U.S.C. 70 *et seq.*, requires marketers of covered textile products to mark each product with (1) The generic names and percentages by weight of the constituent fibers present in the textile product; (2) the name under which the manufacturer or other responsible company does business or, in lieu thereof, the registered identification number (RN) of such company; and (3) the name of the

country where the textile product was processed or manufactured.

Furthermore, the Textile Act contains advertising and recordkeeping provisions. As authorized and directed by section 7(c) of the Textile Act, 15 U.S.C 70e(c), the Commission has promulgated the Textile Rules, which are set forth at 16 CFR Part 303.

As part of the Commission's systematic review of all current Commission rule, regulations, and guides, the Commission published a **Federal Register** notice on May 6, 1994, 59 FR 23646, seeking comments about the regulatory and economic costs and benefits of the Textile Rules. The notice also stated that the Commission proposed to amend Textile Rules 10, 21, 32, and 45 (16 CFR 303.10, 303.21, 303.32, and 303.45) to include the metric equivalents beside the inch/pound unit measurements already included in those Rules.

II. Metrication Amendments

In a separate notice, the Commission summarizes the results of its regulatory review of the Textile Rules, and seeks comment on whether it should make additional substantive amendments to the Rules. In this notice, the Commission announces adoption of the metrication amendments set out in the request for comments.

Currently, Rules 10, 21, 32, and 45 (16 CFR 303.10, 303.21, 303.32, and 303.45) include measurements expressed exclusively in inch/pound units. Under Executive Order 12770 of July 25, 1991, 56 FR 35801 (July 29, 1991), and the Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act, 15 U.S.C. 205b, all federal agencies are required to use the SI metric system of measurement in all procurements, grants, and other business-related activities (which include rulemakings), except to the extent that such use is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms.

The proposed amendments to Rules 10, 21, 32, and 45 were set out in the regulatory review notice. Four of the twenty-eight comments submitted in response to the regulatory review expressed general support for the proposed metrication amendments.[1] The remaining twenty-four comments did not address these metrication amendments.

List of Subjects in 16 CFR Part 303

Labeling, Reporting and recordkeeping requirements, Textiles, Trade practices.

The metrication amendments are technical and non-substantive; they merely provide metric equivalents to the existing measurements expressed in inch/pound units and do not create any new requirements. Therefore, Rules 10, 21, 32, and 45 (16 CFR 303.10, 303.21, 303.32, and 303.45) are amended as set out below.

PART 303—RULES AND REGULATIONS UNDER THE TEXTILE FIBER PRODUCTS IDENTIFICATION ACT

1. The authority citation for part 303 continues to read as follows:

Authority: 15 U.S.C. 70 *et seq.*

* * * * *

2. Section 303.10(b) is revised to read as follows:

§ 303.10 Fiber content of special types of products.

* * * * *

(b) Where drapery or upholstery fabrics are manufactured on hand-operated looms for a particular customer after the sale of such fabric has been consummated, and the amount of the order does not exceed 100 yards (91.44 m) of fabric, the required fiber content disclosure may be made by listing the fibers present in order of predominance by weight with any fiber or fibers required to be designated as "other fiber" or "other fibers" appearing last, as for example:

Rayon
Wool
Acetate
Metallic
Other fibers

* * * * *

3. Section 303.21(a)(1) is revised to read as follows:

§ 303.21 Marking of samples, swatches, or specimens and products sold therefrom.

(a) * * *

(1) If the samples, swatches, or specimens are less than two square inches (12.9 cm^2) in area and the information otherwise required to appear on the label is clearly, conspicuously, and non-deceptively disclosed on accompanying promotional matter in accordance with the Act and regulations.

* * * * *

4. Section 303.32 is revised to read as follows:

§ 303.32 Products containing reused stuffing.

Any upholstered product, mattress, or cushion which contains stuffing which has been previously used as stuffing in any other upholstered product, mattress, or cushion shall have securely attached thereto a substantial tag or label, at least 2 inches (5.08 cm) by 3 inches (7.62 cm) in size, and statements thereon conspicuously stamped or printed in the English language and in plain type not less than 1/8 inch (8.38 mm) high, indicating that the stuffing therein is composed in whole or in part of "reused stuffing," "secondhand stuffing," "previously used stuffing," or "used stuffing."

5. Section 303.45(a)(1)(xv)) is revised to read as follows:

§ 303.45 Exclusions from the act.

(a) * * *

(1) * * *

(xv) Flags with heading or more than 216 square inches (13.9 dm^2) in size.

* * * * *

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 96–6734 Filed 3–20–96; 8:45 am]

BILLING CODE 6750–01–M

[1] National Knitwear & Sportswear Association (1) p. 1, American Textile Manufacturers Institute (10) p. 6, Fieldcrest Cannon, Inc. (13) p. 6, and Milliken & Company (22) p. 6. The number in parentheses denotes the number assigned by the Office of the Secretary to the comment in the public record of comments received in the regulatory review of the Textile Rules.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Issuance of Notices Relating to Debarment; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that appeared in the **Federal Register** of March 4, 1995 (61 FR 8214). The document published with an incorrect section number designation. This document corrects that error.

EFFECTIVE DATE: March 4, 1996.

FOR FURTHER INFORMATION CONTACT: LaJuana D. Caldwell, Office of Policy (HF–27), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2994.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 4, 1996 (61 FR 8214), FDA published a final rule that contained an error in the designation of a section. Section 5.99 was incorrectly designated as § 5.98. This document corrects that error.

In FR Doc. 96–4914, appearing on page 8214 in the **Federal Register** of Monday, March 4, 1996, the following corrections are made:

1. On page 8214, under "**SUPPLEMENTARY INFORMATION,**" in lines 14 and 29 "§ 5.98" is corrected to read "§ 5.99".

§ 5.31 [Corrected]

In § 5.31 *Petitions under part 10,* the following corrections are made:

2. On page 8215, in paragraphs (f)(1)(vi), (f)(2)(x), and (f)(8), "5.98" is corrected to read "5.99".

§ 5.98 [Redesignated]

3. § 5.98 *Issuance of notices relating to proposals and orders for debarment of an application to terminate debarment* the section number is redesignated as § 5.98.

Dated: March 14, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–6667 Filed 3–20–96; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 172

[Docket No. 87F–0179]

Food Additives Permitted for Direct Addition to Food for Human Consumption; Olestra; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that appeared in the **Federal Register** of January 30, 1996 (61 FR 3118). The document amended the food additive regulations to provide for the safe use of sucrose esterified with medium and long chain fatty acids (olestra) as a replacement for fats and oils. The document was published with some typographical errors. This document corrects those errors.

DATES: The regulation is effective January 30, 1996. Submit written comments on the labeling requirement (§ 172.867(c)) by April 1, 1996.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Helen R. Thorsheim, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3092.

In FR Doc. 96–1584, appearing on page 3118 in the **Federal Register** of Tuesday, January 30, 1996, the following corrections are made:

1. On page 3119, in the second column, in the first footnote, in the sixth line, the last word "volum" is corrected to read "volume"; in the same column, in the second footnote, in the seventh line, "FAc" is corrected to read "FAC"; and in the eighth line, the word "meetins" is corrected to read "meetings". On the same page, in the third column, in the third full paragraph, in the eleventh line, after the period, the plus sign is removed.

2. In the following places the paragraph symbol that printed inadvertently is removed: On page 3120, in the second column, in the third paragraph, in the nineteenth line, following the word "at"; in the third column, in the first paragraph, in the fifteenth line, following the word "in"; and in the same column, in the third paragraph, in the eighteenth line, following the word "vitamins"; on page 3135, in the third column, in the third paragraph, at the beginning of the fourth line; on page 3166, in the third column, at the beginning of the twenty-first line; and on page 3169, in the third column, in the first paragraph, in the thirty-second line, following the word "to".

3. On page 3121, in the first column, in the sixth line, "vitamin" is corrected to read "vitamins".

4. On page 3124, in the first column, in the fourth full paragraph, in the third line, "250 F" is corrected to read "250 °F".

5. On page 3125, in the third column, in the second paragraph, in the twelfth line, following the word "that", the comma is removed.

6. On page 3126, in the third column, in the first full paragraph, in the eighteenth line, and on page 3127, in the first column, in the second paragraph, in the eleventh line, "CO2" is corrected to read "CO_2".

7. On page 3126, in the third column, in the first paragraph, in the twentieth line "14C-sucrose" is corrected to read "^{14}C-sucrose".

8. On page 3129, in the first column, in the tenth line, the closing parenthesis is removed following the word "review", and reinserted following "NTP", and in the same column, in the thirteenth footnote, beginning in the first line the words "was chief" are corrected to read "was formerly chief".

9. On page 3130, in the third column, in the second paragraph, in the twenty-third line, "C14-labeled" is corrected to read "^{14}C-labeled".

10. On page 3131, in the first column, in the first paragraph, in the thirteenth line, "C^{14}-labeled" is corrected to read "^{14}C-labeled".

11. On page 3132, in the second column, in fifteenth line, "Vitamin K" is corrected to read "vitamin K", and in the same column, in both the twentieth and twenty-first footnotes, and in the third column, in the twenty-second footnote, "vol." is corrected to read "vol. 2".

12. On page 3135, in the first column, in the twenty-fourth footnote, in the fourth line, "basline" is corrected to read "baseline", and in the second column, in the first paragraph, in the tenth line, "1,25–(OH)D" is corrected to read "1,25–$(OH)_2$D".

13. On page 3136, in the second column, in the second full paragraph, in the seventh line, the word "vitamin" is removed, and on the same page, in the third column, in the sixth line, "K1" is corrected to read "K_1".

14. On page 3137, in the first column, in the second full paragraph, in the fifth line, "3H-labeled" is corrected to read "^{3}H-labeled".

15. On page 3138, in the second column, in the first paragraph, in the third line, and in the third column, in the third line, "B12" is corrected to read "B_{12}".

16. On page 3144, in the third column, in the second paragraph, in the eleventh line, the word "that" is removed.

17. On page 3147, in the third column, in the first paragraph, in the thirteenth line, insert a comma after the word "cancer", and in the same column, in the forty-first footnote, the sentences "Dr. Alvan Feinstein is Chief of the Clinical Epidemiology Unit and a Sterling Professor of Medicine and Epidemiology at Yale University School of Medicine. Dr. Feinstein has consulted for the petitioner and presented at its request." are added after the footnote number.

18. On page 3148, in the first column, in the first full paragraph, in the third line; in the second paragraph, in the second and twenty-fifth lines; in the second column, in the sixteenth line; and in the first paragraph, in the fourth line, the word "carotenoid" is corrected to read "carotenoids".

19. On page 3151, in the third column, in the fifty-fifth footnote, in the second line, the name "Schneemna" is corrected to read "Schneeman".

20. On page 3152, in the second column, in the first full paragraph, in the sixth line, "IV.B.1.a." is corrected to read "IV.B.1.".

21. On page 3153, in the second column, in the fourteenth line, the word "was" is removed, and in the same column, in the sixtieth footnote, the

name "Joann" is corrected to read "Joanne".

22. On page 3156, in the third column, in the sixth line, "to safe" is corrected to read "to be safe", and in the same column, in the first full paragraph, in the fourth line, the word "stated" is removed.

23. On page 3158, in the first column, following the footnote, "[72] Transcript, vol. 1, p. 152." the misplaced sentence "Accordingly, the petitioner concluded * * * by intestinal microflora." is removed and reinserted in the same column as a new last sentence of the second paragraph, following the words "metabolize olestra.[72]" On the same page, in the third column, in the second paragraph, in the eighth line, "section VI.3." is corrected to read "section VI.B.3."

24. On page 3163, in the second column, in the third paragraph, in the third and twenty-second lines, "(Ref. 105)" is corrected to read "(Ref. 104)".

25. On page 3167, in Table 10, in the second column, in the last line, "$K_1$1/g olestra" is corrected to read "K_1/g olestra".

26. On page 3171, in the first column, in Ref. 102, in the the fifth line, "pp. 783–799)." is corrected to read "pp. 783–799,"; and in the third column, in § 172.867, in paragraph (b)(6), in the first line, "C12" and "C14" are corrected to read "C_{12}" and "C_{14}", in the third line "C20" is corrected to read "C_{20}", and in the fourth line, "C16" and "C18" are corrected to read "C_{16}" and "C_{18}".

§ 172.867 Corrected

27. On page 3172, in the third column, in § 172.867 *Olestra*, in paragraph (d), in the fifth line, the word "lacetate" is corrected to read "acetate", and in the seventh line, "K!" is corrected to read "K_1". In the same column, in paragraph (e)(1), in the fourth line of the warning statement "and other other nutrients" is corrected to read "and other nutrients", and in paragraph (e)(2)(iv), in the first line, the word "kearned" is corrected to read "kerned".

Dated: March 13, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–6741 Filed 3–20–96; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 573

[Docket No. 94F–0282]

Food Additives Permitted in Feed and Drinking Water of Animals; Poly(2-vinylpyridine-co-styrene)

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations (animal use) to provide for the safe use of the food additive poly(2-vinylpyridine-co-styrene) as a coating agent in the preparation of rumen-stable, abomasum-dispersible nutrient products for dairy cattle. This action is in response to a food additive petition filed by Rhone-Poulenc Animal Nutrition.

DATES: Effective March 21, 1996; written objections and request for hearing by April 22, 1996.

ADDRESSES: Submit written objections and requests for hearing to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Sharon A. Benz, Center for Veterinary Medicine (HFV–226), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1729.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of August 11, 1994 (59 FR 41326), FDA announced that a food additive petition (animal use) (FAP 2231) had been filed by Rhone-Poulenc Animal Nutrition, 42, Avenue Aristide Briand, B.P. 100, 92164 Antony Cedex, France. The petition proposed to amend the food additive regulations in § 573.870 (21 CFR 573.870) to provide for the safe use of poly(2-vinylpyridine-co-styrene) as a coating agent in the preparation of rumen-stable, abomasum-dispersible nutrient products for dairy cattle and dairy replacement heifers. The additive is currently listed in § 573.870 as safe for use as a nutrient protectant in feed for beef cattle.

The notice of filing provided for a 75-day comment period. One comment has been received in response to the notice and is on file in the Dockets Management Branch (address above). The comment raised several questions concerning the fate and effects of poly(2-vinylpyridine-co-styrene) and its components released into the environment. Questions concerned the degradation rate when applied to the land as manure fertilizer, and degradation endpoint products. The comment also questioned whether the polymer or its monomers (styrene and 2-vinylpyridine) resulted in bioaccumulation, movement into groundwater, and/ or pollutant uptake by animals and plants.

FDA has reviewed the environmental assessment and supporting studies for use of poly(2-vinylpyridine-co-styrene) in dairy cattle feed. The amount expected to enter the soil environment from a typical consumption of 10 to 25 grams of rumen protected amino acid per head per day via manure from treated animals is 1.06 parts per million. The polymer is expected to be strongly adsorbed by soil and to have a low mobility. Therefore, it is not expected to move in significant quantities to surface or groundwater due to agricultural runoff. The environmental assessment states that no more than trace quantities are likely to enter the aquatic environment and no subsequent bioconcentration is expected. The environmental assessment demonstrates that 1.31 pounds of each of the monomers are expected to enter the environment each year resulting in soil concentrations of 0.21 parts per trillion (ppt) and air point source concentrations of 60 ppt. Therefore, the two monomers are not expected to have a significant effect on the environment. The information in the environmental assessment is sufficient to address the questions raised in the comment and adequate to conclude that significant environmental impacts are not expected to occur.

FDA has evaluated the data in the petition and other relevant material and concluded that use of poly(2-vinylpyridine-co-styrene) for dairy cattle (including replacement dairy heifers) in addition to the use for beef cattle as a nutrient protectant in feed is safe. Therefore, § 573.870 is amended as set forth below.

In accordance with § 571.1(h) (21 CFR 571.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Veterinary Medicine by appointment with the information contact person listed above. As provided in 21 CFR 571.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before April 22, 1996, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 573

Animal feeds, Food additives.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 573 is amended as follows:

PART 573—FOOD ADDITIVES PERMITTED IN FEED AND DRINKING WATER OF ANIMALS

1. The authority citation for 21 CFR part 573 continues to read as follows:

Authority: Secs. 201, 402, 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348).

§ 573.870 [Amended]

2. Section 573.870 *Poly(2-vinylpyridine-co-styrene)* is amended in the introductory text and in paragraph (b) by adding the phrase "and dairy cattle and replacement dairy heifers" after the phrase "beef cattle".

Dated: March 6, 1996.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 96–6738 Filed 3–20–96; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8653]

RIN 1545–AG75

Hedging Transaction by Members of a Consolidated Group; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction of final regulations.

SUMMARY: This document contains a correction to the final regulations [TD 8653] which were published in the **Federal Register** for Monday, January 8, 1996 (61 FR 517). The final regulations relate to the character and timing of gain or loss from certain hedging transactions entered into by members of a consolidated group.

EFFECTIVE DATE: February 7, 1996.

FOR FURTHER INFORMATION CONTACT: Jo Lynn Ricks of the Office of the Assistant Chief Counsel (Financial Institutions and Products), (202) 622–3920 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations which are the subject of this correction are under sections 446 and 1221 of the Internal Revenue Code.

Need for Correction

As published, TD 8653 contains an error that is in need of correction.

Correction of Publication

Accordingly, the publication of the final regulations which is the subject of FR Doc. 96–178, is corrected as follows:

§ 1.1221–2 [Corrected]

On page 520, column 2, § 1.1221–2, paragraph (d)(2)(iv), last line, the language "after the date so indicated." is corrected to read "after the date so indicated. The election may be revoked only with the consent of the Commissioner.".

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 96–6483 Filed 3–20–96; 8:45 am]

BILLING CODE 4830–01–U

26 CFR Part 1

[TD 8648]

RIN 1545–AB21

Controlling Corporation's Basis Adjustment in its Controlled Corporation's Stock Following a Triangular Reorganization; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains a correction to final regulations [TD 8648] which were published in the **Federal Register** for Thursday, December 21, 1995 (60 FR 66077). The final regulations relate to the rules for adjusting the basis of a controlling corporation in the stock of a controlled corporation as the result of certain triangular reorganizations involving the stock of the controlling corporation.

EFFECTIVE DATE: December 21, 1995.

FOR FURTHER INFORMATION CONTACT: Curt Cutting, (202) 622–7550 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction are under sections 358, 1032, and 1502 of the Internal Revenue Code.

Need for Correction

As published, TD 8648 contains a typographical error that is in need of clarification.

Correction of Publication

Accordingly, the publication of the final regulations which are the subject of FR Doc. 95–30875, is corrected as follows:

§ 1.358–6 [Corrected]

On page 66080, column 3, § 1.358–6 (c)(4), in paragraph (d) of *Example 2.*, line 9, the language "Under 1.358–6 (c)(2)(i)(A), *P*'s basis in its *T*" is corrected to read "Under § 1.358–6 (c)(2)(i)(A), *P*'s basis in its *T*".

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 96–6484 Filed 3–20–96; 8:45 am]

BILLING CODE 4830–01–U

26 CFR Parts 1 and 31

[TD 8661]

RIN 1545–AU10

Federal Tax Deposits by Electronic Funds Transfer

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to the deposit of Federal taxes by electronic funds transfer (EFT) under section 6302 of the Internal Revenue Code. The document also includes temporary regulations providing authority for the voluntary payment of certain Federal taxes by EFT. The regulations would provide the public with additional guidance needed to make deposits by EFT and would affect certain taxpayers not previously required to make deposits by EFT. The text of these temporary regulations also serves as the text of a cross-reference notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register**.

EFFECTIVE DATE: March 21, 1996.

FOR FURTHER INFORMATION CONTACT: Vincent G. Surabian, 202–622- 6232 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On July 11, 1994, the IRS issued Treasury Decision 8553 (59 FR 35414), setting forth temporary regulations relating to the deposit of Federal taxes by EFT. Those temporary regulations explained which taxpayers must make deposits by electronic funds transfer, which taxes must be so deposited, and when the deposits must commence. The text of those temporary regulations also served as the text of a cross-reference notice of proposed rulemaking published in the same issue of the **Federal Register** at 59 FR 35418.

The IRS received many comment letters in response to the publication of those temporary regulations. In addition, a number of oral comments were made at the public hearing held on October 3, 1994. With limited exceptions, those comments will not be addressed in this document, but instead will be addressed in final regulations that the IRS expects to publish in the near future.

Under the temporary regulations currently in place, the requirement to begin EFT deposits is based on the taxpayer's total deposits of the taxes imposed by chapters 21 (FICA taxes), 22 (railroad retirement taxes) and 24 (income tax withheld at source) of the Internal Revenue Code during certain "determination periods." If the taxpayer's deposits of those taxes during a determination period exceed a prescribed dollar threshold, the taxpayer must begin to deposit by EFT on and after the applicable effective date prescribed in the temporary regulations, unless otherwise exempted.

The amendments to the temporary regulations set forth in this document provide a special rule for any taxpayer that does not make deposits of the taxes imposed by chapters 21, 22, and 24, but that does make deposits of other taxes required to be deposited pursuant to regulations issued under section 6302 (for instance, corporate income taxes). If the taxpayer's total deposits for all other depository taxes during a prescribed determination period exceed a prescribed dollar threshold, the taxpayer must begin depositing by EFT on and after the applicable effective date prescribed in these amendments to the temporary regulations, unless otherwise exempted. (A taxpayer will become subject to the EFT requirement for the January 1, 1998, applicable effective date by exceeding the threshold amount during either calendar year 1995 or calendar year 1996.) The phase-in schedule is as follows:

Threshold amount	Determination period	Applicable effective date
$50 thousand	1–1–95 to 12–31–95.	January 1, 1998.
$50 thousand	1–1–96 to 12–31–96.	January 1, 1998.
$20 thousand	1–1–97 to 12–31–97.	January 1, 1999.

The current temporary regulations provide that a taxpayer subject to the EFT requirement must use EFT for all deposits required to be made on and after the applicable effective date. This requirement may subject a taxpayer to two different modes of deposit with respect to the same return period. For example, assume an employer is required to deposit by EFT beginning with the January 1, 1997, applicable effective date. The employer pays its employees weekly and has a paydate on December 31, 1996. The employment taxes incurred for that paydate would be reportable on the fourth quarter 1996 Form 941, but the due date for the deposit of those taxes would occur in early January 1997. Under the current rule, all the deposits relating to the fourth quarter 1996 Form 941 would be made by paper coupon (FTD coupon) with the exception of the deposit for the December 31 payroll, which would be made by EFT. For purposes of consistency, this rule is being changed with respect to the January 1, 1997, applicable effective date and thereafter to provide that the first deposit required to be made by EFT is the first deposit with respect to a deposit obligation incurred for a return period beginning on or after the applicable effective date. Thus, under the revised rule, the deposit with respect to the December 31 paydate in the example would be made by FTD coupon rather than by EFT.

The current temporary regulations provide that a deposit by EFT is deemed made (i) at the time a debit is made (the amount is withdrawn from the taxpayer's account) if the Government's authorized financial agent debits the taxpayer's account; or (ii) in all other cases, at the time the funds are credited to the Treasury's general account. Comments by the Federal Reserve Board, the Financial Management Service, and IRS personnel recommended a clarification of that provision. Based on those recommendations, the current temporary regulations are amended to provide that a deposit by EFT is deemed made (i) at the time a debit is made (the amount is withdrawn from the taxpayer's account and not returned or reversed) if the Government's authorized agent originates a debit entry which instructs the taxpayer's financial institution to debit the taxpayer's account for a Federal tax payment; or (ii) in all other cases (assuming the amount is not returned or reversed), either at the time the funds are paid into the Treasury's general account at the Federal Reserve Bank of New York or at the time the funds are invested under Treasury's Tax and Loan program (see 31 CFR Part 203). Investment occurs when the funds are credited by the Federal Reserve Bank to the depositary institution's note balance.

These temporary regulations also define the term *taxpayer*. For purposes of the EFT requirement, a taxpayer is any person required to deposit federal taxes, including not only individuals, but also any trust, estate, partnership, association, company or corporation. This definition responds to numerous inquiries following the issuance of the current temporary regulations.

Sections 31.6302–1T(h)(2) (describing the taxes required to be deposited by EFT) and 31.6302–1T(h)(8) (describing when a deposit of tax by EFT is deemed to be a payment of tax) have been revised solely for purposes of clarity. No substantive change is being made to either of the provisions.

These temporary regulations allow individual taxpayers to make voluntary payments of income tax by EFT, even though individual income tax is not required to be deposited with a government depositary. The voluntary EFT payments are to be made in accordance with instructions provided in procedures to be prescribed by the Commissioner at a future date.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these rules and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, a copy of these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Vincent G. Surabian, Office of the Assistant Chief Counsel (Income Tax & Accounting), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 31 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.6302–4T also issued under 26 U.S.C. 6302(a) and (c). * * *

Par. 2. Section 1.6302–4T is added to read as follows:

§ 1.6302–4T Use of financial institutions in connection with individual income taxes (temporary).

Voluntary payments by electronic funds transfer. An individual may voluntarily remit by electronic funds transfer all payments of tax imposed by subtitle A of the Code, including any payments of estimated tax. Such payments must be made in accordance with procedures to be prescribed by the Commissioner.

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

Par. 3. The authority citation for part 31 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 4. Section 31.6302–1T is amended as follows:

1. Paragraph (h)(1)(ii)(A) is redesignated as paragraph (h)(1)(ii)(A)(*1*); the first sentence in newly designated paragraph (h)(1)(ii)(A)(*1*) is removed, and three new sentences are added in its place; and, in the last sentence of the newly designated paragraph, the text preceding the table is revised.

2. Paragraph (h)(1)(ii)(A)(*2*) is added.

3. Paragraphs (h)(2), (h)(3), (h)(7) and (h)(8) are revised.

The additions and revisions read as follows:

§ 31.6302–1T Federal tax deposit rules for withheld income taxes and taxes under the Federal Insurance Contributions Act (FICA)—deposits required to be made by electronic funds transfer after December 31, 1994 (temporary).

* * * * *

(h) * * * (1) * * *

(ii) *Periods after December 31, 1994.* (A)(1) Taxpayers whose aggregate deposits of the taxes imposed by Chapters 21 (Federal Insurance Contributions Act), 22 (Railroad Retirement Tax Act), and 24 (Collection of Income Tax at Source on Wages) of the Internal Revenue Code during a 12-month determination period exceed the applicable threshold amount are required to deposit all depository taxes described in paragraph (h)(2) of this section by electronic funds transfer (as defined in paragraph (h)(3) of this section) unless exempted under paragraph (h)(4) of this section. If the applicable effective date is January 1, 1995, or January 1, 1996, the requirement to deposit by electronic funds transfer applies to all deposits required to be made on and after the applicable effective date. If the applicable effective date is January 1, 1997, or thereafter, the requirement to deposit by electronic funds transfer applies to all deposits required to be made with respect to deposit obligations incurred for return periods beginning on and after the applicable effective date. * * * The threshold amounts, determination periods and applicable effective dates for purposes of this paragraph (h)(1)(ii)(A)(*1*) are as follows:

* * *

(*2*) Unless exempted under paragraph (h)(4) of this section, a taxpayer that does not deposit any of the taxes imposed by chapters 21, 22, and 24 during the applicable determination periods set forth in paragraph (h)(1)(ii)(A)(*1*) of this section, but that does make deposits of other depository taxes (as described in paragraph (h)(2) of this section), is nevertheless subject to the requirement to deposit by electronic funds transfer if the taxpayer's aggregate deposits of all depository taxes exceed the threshold amount set forth in this paragraph (h)(1)(ii)(A)(*2*) during an applicable 12-month determination period. This requirement to deposit by electronic funds transfer applies to all depository taxes due with respect to deposit obligations incurred on and after the applicable effective date. The threshold amount, determination periods, and applicable effective dates for purposes of this paragraph (h)(1)(ii)(A)(*2*) are as follows:

Threshold amount	Determination period	Applicable effective date
$50 thousand	1–1–95 to 12–31–95.	January 1, 1998.
$50 thousand	1–1–96 to 12–31–96.	January 1, 1998.
$20 thousand	1–1–97 to 12–31–97.	January 1, 1999.

* * * * *

(2) *Taxes required to be deposited by electronic funds transfer.* The requirement to deposit by electronic funds transfer under paragraph (h)(1)(ii) of this section applies to all the taxes required to be deposited under §§ 1.6302–1, 1.6302–2, and 1.6302–3 of this chapter; §§ 31.6302–1, 31.6302–2, 31.6302–3, 31.6302–4, and 31.6302(c)–3; and § 40.6302(c)–1 of this chapter.

(3) *Definitions*—(i) *Electronic funds transfer.* An *electronic funds transfer* is any transfer of depository taxes made in accordance with Revenue Procedure 94–48 (1994–2 C.B. 694), (see § 601.601(d)(2) of this chapter), or in accordance with procedures subsequently prescribed by the Commissioner.

(ii) *Taxpayer.* For purposes of this section, a *taxpayer* is any person required to deposit federal taxes, including not only individuals, but also

any trust, estate, partnership, association, company or corporation.

* * * * *

(7) *Time deemed deposited.* A deposit of taxes by electronic funds transfer will be deemed made—

(i) At the time a debit is made (the amount is withdrawn from the taxpayer's account and not returned or reversed) if the Government's authorized agent originates a debit entry which instructs the taxpayer's financial institution to debit the taxpayer's account for a Federal tax payment; or

(ii) In all other cases (assuming the amount is not returned or reversed), either at the time that the funds are paid into the Treasury's general account at the Federal Reserve Bank of New York, or at the time that the funds are invested under Treasury's Tax and Loan program (see 31 CFR part 203). Investment occurs when the funds are credited by the Federal Reserve Bank to the depository institution's note balance.

(8) *Time deemed paid.* In general, an amount deposited under this paragraph (h) will be considered to be a payment of tax on the last day prescribed for filing the applicable return for the return period (determined without regard to any extension of time for filing the return) or, if later, at the time deemed deposited under paragraph (h)(7) of this section. In the case of the taxes imposed by chapters 21 and 24 of the Internal Revenue Code, solely for purposes of section 6511 and the regulations thereunder (relating to the period of limitation on credit or refund), if an amount is deposited prior to April 15th of the calendar year immediately succeeding the calendar year that includes the period for which the amount was deposited, the amount will be considered paid on April 15th.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

Approved: December 22, 1995.

Leslie Samuels,

Assistant Secretary of the Treasury.

[FR Doc. 96–6718 Filed 3–20–96; 8:45 am]

BILLING CODE 4830–01–P

26 CFR Parts 1 and 602

[TD 8638]

RIN 1545–AT44

Certain Transfers of Domestic Stock or Securities by U.S. Persons to Foreign Corporations; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to temporary regulations.

SUMMARY: This document contains a correction to temporary regulations (TD 8638), which were published in the **Federal Register** Tuesday, December 26, 1995 (60 FR 66739), that amend the Income Tax Regulations with respect to certain transfers of stock or securities of domestic corporations by United States persons to foreign corporations pursuant to the corporate organization, reorganization, or liquidation provisions of the Internal Revenue Code. The temporary regulations also remove certain parts of the existing temporary regulations regarding transfers by U.S. persons of stock or securities of both domestic and foreign corporations.

EFFECTIVE DATE: December 26, 1995.

FOR FURTHER INFORMATION CONTACT: Philip L. Tretiak, (202) 622–3860 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations that are the subject of this correction is under section 367 Internal Revenue Code.

Need for Correction

As published, the temporary regulations (TD 8638) contains an error which may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the final regulations (TD 8638), which were the subject of FR Doc. 95–30829, is corrected as follows:

On page 66739, column 2, in the preamble under the paragraph heading "Applicability and Effective Dates", line 9, the language "for transfers occurring January 25, 1996." is corrected to read "for transfers occurring after January 25, 1996.".

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 96–6482 Filed 3–20–96; 8:45 am]

BILLING CODE 4830–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL140–1–7283a; IL141–1–7284a; FRL–5441–5]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) approves, through direct final procedure, Illinois' November 14, 1995 request to incorporate an exemption for acetone from the definitions of Organic Material and Organic Materials, Petroleum Liquid, and Volatile Organic Matter (VOM) or Volatile Organic Compounds (VOC) contained in the Illinois State Implementation Plan (SIP), and thereby from regulation as an ozone precursor. The USEPA also approves Illinois' November 15, 1995 request to revise the definition of VOM or VOC contained in the Illinois SIP to incorporate an exemption for parachlorobenzotrifluoride and cyclic, branched or linear completely-methylated siloxanes from the definition of VOM or VOC and thereby, from regulation as ozone precursors. These requested SIP revisions were made in response to, and consistent with, USEPA's action to add these chemical compounds to the list of chemicals that are exempted from the definition of VOC. In the proposed rules section of this **Federal Register**, USEPA is proposing approval of and soliciting public comment on these requested SIP revisions. If adverse comments are received on this action, USEPA will withdraw this final rule and address the comments received in response to this action in a final rule on the related proposed rule which is being published in the proposed rules section of this **Federal Register**. A second public comment period will not be held. Parties interested in commenting on this action should do so at this time.

DATES: This action is effective May 20, 1996 unless adverse or comments not previously addressed by the State or USEPA are received by April 22, 1996. If the effective date of this action is delayed due to adverse comments, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

Copies of the Illinois submittal are available for public review during normal business hours, between 8:00 a.m. and 4:30 p.m., at the above address.

A copy of this SIP revision is also available for inspection at: Office of Air and Radiation (OAR), Docket and Information Center (Air Docket 6102), Room 1500, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Regulation Development Section, Regulation Development Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois, 60604. Telephone: (312) 886–6036.

SUPPLEMENTARY INFORMATION: On June 16, 1995 (60 FR 31633), USEPA amended the definition of VOC to exclude acetone from the definition of VOC and thereby from control as an ozone precursor. Similarly on October 5, 1994 (59 FR 50693), USEPA amended the definition of VOC to add parachlorobenzotrifluoride and the class of compounds known as cyclic, branched or linear completely-methylated siloxanes to the list of chemicals excluded from the definition of VOC and thereby from control as ozone precursors. These exclusions were based on scientific evidence that these chemical compounds have negligible photochemical reactivity and a negligible contribution to tropospheric ozone formation.

The USEPA is approving the amendments to Title 35: Environmental Protection of the Illinois Administrative Code (35IAC), Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Part 211 as received on November 14th and November 15th 1995 as requested SIP revisions.

Final Rulemaking Action

For the reasons stated above, USEPA is approving the State's request to incorporate these revised definitions into the Illinois SIP. The specific rule and rule amendments being approved are as follows: Section 211.4250 Organic Material and Organic Materials, Section 211.4260 Organic Solvent, Section 211.4610 Petroleum Liquid, Section 211.7150 Volatile Organic Material (VOM) or Volatile Organic Compounds (VOC)

The USEPA is publishing this action without prior proposal because USEPA views this action as a noncontroversial revision and anticipates no adverse comments. However, the rulemaking will not be deemed final if timely unaddressed adverse or critical comments are filed. The "direct final" approval shall be effective on May 20, 1996, unless USEPA receives such adverse or critical comments by April 22, 1996. The USEPA is now soliciting public comments on this action. Any parties interested in commenting on this action should do so at this time. In the proposed rules section of this **Federal Register**, USEPA is publishing a separate document which constitutes a "proposed approval" of the requested SIP revision. If warranted by comments adverse to or critical of the approval discussed above, which have not been addressed by the State or USEPA, USEPA will publish a **Federal Register** document which withdraws this final action. The USEPA will then address public comments received in a subsequent rulemaking document based on the proposed approval.

Under sections 202, 203 and 205 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act), signed into law on March 22, 1995, USEPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to a State, local and/or tribal government(s) in the aggregate. The USEPA must also develop a plan with regard to small governments that would be significantly or uniquely affected by the rule.

This rule imposes no additional Federal requirements. Rather it removes some existing Federal requirements which are no longer needed.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, USEPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

The SIP approvals under section 110 and subchapter I, part D, of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on small entities. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids the USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (1976).

Under section 307(b)(1)of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 20, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purpose of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Ozone, and Volatile organic compounds.

Dated: March 1, 1996.

Valdas V. Adamkus,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart O—Illinois

2. Section 52.720 is amended by adding paragraphs (c)(125) and (126) to read as follows:

§ 52.720 Identification of plan.

(c) * * *

(125) On November 14, 1995 the State submitted requested revisions to the Illinois State Implementation Plan in the form of revisions to the definitions of Organic Material and Organic Materials, Organic Solvent, Petroleum Liquid and Volatile Organic Material (VOM) or Volatile Organic Compound (VOC) intended to exempt acetone from regulation as a VOC.

(i) Incorporation by reference. Illinois Administrative Code, Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emission Standards and Limitations for Stationary Sources, Part 211: Definitions and General Provisions, Subpart B: Definitions, Section 211.4250 Organic Material and Organic Materials, Section 211.4260 Organic Solvent, Section 211.4610 Petroleum Liquid, Section 211.7150 Volatile Organic Material (VOM) or Volatile Organic Compounds (VOC). Amended at 19 Ill. Reg. 15176, effective October 19, 1995.

(126) On November 15, 1995 the State submitted a requested revision to the Illinois State Implementation Plan in the form of a revision to the definition Volatile Organic Material (VOM) or Volatile Organic Compound (VOC) intended to exempt parachlorobenzotrifluoride and cyclic, branched or linear completely methylated siloxanes from the definition of VOM or VOC and thereby, from regulation as a VOC.

(i) Incorporation by reference. Illinois Administrative Code, Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emission Standards and Limitations for Stationary Sources, Part 211: Definitions and General Provisions, Subpart B: Definitions, Section 211.7150 Volatile Organic Material (VOM) or Volatile Organic Compounds (VOC). Amended at 19 Ill. Reg. 11066, effective July 12, 1995.

[FR Doc. 96–6603 Filed 3–20–96; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Part 52

[IN66–1–7289a; FRL–5439–6]

Approval and Promulgation of State Implementation Plan; Indiana; Clean-Fuel Fleet Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The U.S. Environmental Protection Agency (USEPA) is giving full approval through a direct final action to a state implementation plan (SIP) revision request submitted on December 20, 1995, and February 14, 1996, by the State of Indiana for the purpose of establishing a Clean-Fuel Fleet Program (CFFP) in Lake and Porter Counties. Lake and Porter Counties are classified as severe nonattainment for ground-level ozone, commonly known as urban smog, and are required under the Clean Air Act (CAA) to attain the National Ambient Air Quality Standards (NAAQS) by 2007. The Indiana CFFP, which is also required by the CAA, is one of the control measures being implemented in these counties to reduce ozone precursor emissions in order to help attain the ozone standard. The Indiana CFFP requires that, beginning in Model Year (MY) 1998, a specified percentage of the new vehicles acquired by certain vehicle fleets operating in Lake and Porter Counties meet clean fuel vehicle (CFV) emissions standards, which are more stringent, than current federal vehicle standards. Indiana expects that after the full phase-in of the CFFP, approximately 3500 fleet vehicles in Lake and Porter Counties will meet the CFV tailpipe standards.

DATES: This final rule is effective May 20, 1996 unless adverse comments are received by April 22, 1996. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of this submittal, and other documents pertinent to this direct final rule are available at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, Air Programs Branch, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Comments on this rule should be addressed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo, Environmental Protection Specialist, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6082.

SUPPLEMENTARY INFORMATION:

I. Background

On November 15, 1990, Congress enacted amendments to the 1977 CAA, codified at 42 U.S.C. 7401–7671q. The CFFP is contained under Part C of Title II of the CAA, entitled "Clean Fuel Vehicles." Part C was added to the CAA to establish two programs, a clean-fuel vehicle pilot program in the state of California (the California Pilot Test Program) and a federal CFFP in certain ozone and carbon monoxide (CO) nonattainment areas.

The CFFP will introduce lower polluting vehicles, CFVs, into centrally-fueled fleets by requiring covered fleet operators to include a specified percentage of CFVs in their new fleet purchases. The goal of the CFFP is to reduce emissions of non-methane organic gases (NMOG), oxides of nitrogen (NO_x), and CO through the introduction of CFVs into the covered areas. Both NMOG and NO_x are precursors of ozone and, in most areas, their reduction will reduce the concentration of ozone in covered ozone nonattainment areas. Reductions of vehicular CO emissions will reduce the concentration of CO in covered CO nonattainment areas.

Congress chose centrally-fueled fleets because operators of these fleets have more control over obtaining fuel than the general public. Additionally, the control that operators maintain over their fleets simplifies maintenance and refueling of these vehicles. Finally, because fleet vehicles typically travel more miles on an annual basis than do non-fleet vehicles, they provide greater opportunity to improve air quality on a per vehicle basis.

Section 182(c)(4) of the CAA allows states to opt-out of the CFFP by submitting, for USEPA approval, a SIP revision consisting of a substitute program resulting in as much or greater long term emission reductions in ozone producing and toxic air emissions as the CFFP. The USEPA may approve such a revision "only if it consists exclusively of provisions other than those required under the [CAA] for the area."

USEPA has promulgated rulemakings on March 1, 1993, December 9, 1993, and September 30, 1994, establishing emission standards for CFVs and criteria for state CFFPs (See 58 FR 11888, 58 FR 64679, and 59 FR 50042). These rules were codified in 40 CFR part 88.

II. Program Requirements

Unless a state chooses to opt-out of the CFFP under section 182(c)(4) of the CAA, section 246 of the CAA directs a state containing covered areas to revise its SIP, within 42 months after enactment of the CAA, to establish a CFFP. The CFFP shall require a specified percentage of all newly acquired vehicles of covered fleets, beginning with MY 1998 and thereafter, to be CFVs, and such vehicles shall use the fuel on which the vehicle was certified to be a CFV (or to use a fuel that will result in even fewer emissions than the fuel that was used for certification), when operating in the covered area.

III. State Submittal

The State of Indiana did not choose to opt-out of the CFFP pursuant to section 182(c)(4) of the CAA. On December 7, 1994, the Indiana Air Pollution Control Board (IAPCB) held a preliminary adoption hearing on a proposed rule to establish a CFFP program, and on October 4, 1995, the IAPCB adopted the rule. The rule became effective on January 18, 1996, and was published in the Indiana State Register on February 1, 1996. The Indiana Department of Environmental Management (IDEM) formally submitted the CFFP rule to USEPA on December 20, 1995, as a revision to the Indiana ozone SIP, and submitted an addendum which included the Secretary of State signature and the published rule on February 14, 1996.

The December 20, 1995, and February 14, 1996, submittals contains the following new rules:

326 Indiana Air Code (IAC) 19–3 Clean Fuel Fleet Vehicles

19–3–1 Applicability
19–3–2 Definitions
19–3–3 General purchase requirements
19–3–4 Banking and trading of credits
19–3–5 Registration and recordkeeping requirements
19–3–6 Exemptions from transportation control measures
19–3–7 Violations

IV. USEPA's Analysis of the State's Clean Fuel Fleet Program

USEPA has reviewed the State's submittal for consistency with the requirements of USEPA regulations at 40 CFR Part 88. A summary of USEPA's analysis is provided below.

A. Covered Areas

The SIP revision needs to list those areas where the CFFP will be implemented, as required by section 246(a)(2) of the CAA. In Indiana, the applicable areas defined by section 246(a)(2) are Lake and Porter Counties.

Section 19–3–1 defines the CFFP's covered area as Lake and Porter Counties. These are the same counties as required by the CAA.

B. Definitions

Sections 241(1) through (7) of the CAA, and 40 CFR 88.302–94, define specific terms that are to be used in state CFFP regulations.

Section 19–3–2 contains definitions of the terms used by Indiana in the CFFP rule. The revision's definitions are consistent with section 241(1) through (7) of the CAA as well as 40 CFR Part 88.302–94.

C. Fleet Applicability

Section 246(b) requires that the SIP revision's provisions for compliance with the CFFP apply to "covered fleet operators." The definition of "covered fleet operator," as provided for in 40 CFR 88.302–94, can be broken down into the following criteria which the SIP revision must include in order to determine which fleet operators are "covered fleet operators:"

(a) The fleet operator is a person (individual, business, agency, etc;) who owns, operates, leases, or otherwise controls ten or more fleet vehicles. Vehicles leased for less than 120 days are exempt from this criteria.

(b) At least ten of those fleet vehicles are in a vehicle class which is required by the CAA to be covered in the program. These vehicle classes are light-duty vehicles and light-duty trucks (LDVs and LDTs) less than 8,500 pounds Gross Vehicle Weight Rating (GVWR) and heavy-duty trucks (HDTs) less than 26,000 pounds GVWR.

(c) At least ten of those vehicles are not exempt from the program. Section 241(5) of the CAA exempts motor vehicles held for lease or rental (without a driver) to the general public, motor vehicles held for sale by motor vehicle dealers (including demonstration vehicles), motor vehicles used for motor vehicle manufacturer product evaluations or tests, law enforcement and other emergency vehicles, and nonroad vehicles (including farm and construction vehicles).

(d) At least ten of those vehicles operate in the covered area. All fleet vehicles which are garaged in the covered area are considered to "operate in the covered area." In addition, 40 CFR 88.302–94 provides that fleet vehicles that operate in, but are garaged outside, the covered area be included in the CFFP. This means that fleet vehicles garaged outside the Lake and Porter Counties but nonetheless operated in those counties are applicable to the CFFP rules.

(e) At least ten of those vehicles can be centrally fueled 100 percent of the time. "Can be centrally fueled," as defined in 40 CFR 88.302–94, means the sum of those vehicles that are centrally fueled and those vehicles that are capable of being centrally fueled. Fleet vehicles are "centrally fueled" when they are fueled 100 percent of the time at a location that is owned, operated, or controlled by the covered fleet operator, or is under contract with the covered fleet operator. Location, as defined in 40 CFR 88.302–94(3), means any building structure, facility, or installation which; is owned or operated by a person, or is under the control of a person; is located on one or more contiguous properties and contains or could contain a fueling pump or pumps for the use of the vehicles owned or controlled by that person. Any vehicle under normal operation which is garaged at a personal residence that is, in fact, centrally fueled 100 percent of the time shall be considered to be "centrally fueled" for applicability purposes.

On the other hand, a fleet vehicle that is "capable of being centrally fueled" is one which could be refueled 100 percent of the time at a location that is owned, operated, or controlled by the covered fleet operator, or is under contract with the fleet operator. Fleet vehicles garaged at a personal residence would not be considered being "capable of being centrally fueled" for applicability purposes. A state must, in its SIP revision, provide a methodology to be used in determining how many fleet vehicles are capable of being centrally fueled, subject to USEPA approval.

Section 19–3–1 and 19–3–2 of the Indiana rule contain all the necessary components for determining covered fleet operator applicability as described above. Further, the rule states in subsection 19–3–2(4) that the determination of "capable of being centrally fueled" shall be made by using USEPA's recommended method provided on December 9, 1993 (58 FR 64684), as amended on September 30, 1994 (59 FR 50068). This method includes requiring covered fleet operators which control vehicles which are not centrally fueled 100 percent of the time to develop trip profiles which indicate the refueling patterns of those vehicles. These trip profiles will, in turn, be used to calculate the number of vehicles in the fleet which are capable of being centrally fueled.

D. Clean-Fuel Vehicles (CFVs)

Section 241(7) of the CAA defines a CFV to mean a vehicle in a class or category of vehicles that has been certified to meet for any model year the applicable CFV standards. 40 CFR 88.104–94 and 40 CFR 88.105–94 establish three categories of increasingly stringent CFV standards, which are referred to as low-emission vehicle (LEV) standards, ultra low-emission vehicle (ULEV) standards, and zero-emission vehicle (ZEV) standards.

Section 19–3–2(7) of the Indiana rule defines a CFV as a vehicle certified as a LEV, ULEV, or ZEV when it is operating on the clean fuel for which the vehicle was certified as a clean fuel vehicle, meeting the emissions standards applicable to such a vehicle promulgated September 30, 1994 at 59 FR 50042. The standards specified in the rule are the same as those established in 40 CFR 88.104–94 and 40 CFR.105–94.

E. Percentage Requirements

Section 246(b) of the CAA provides that the SIP revision require that at least a specified percentage of all new covered fleet vehicles in MY 1998 and thereafter purchased by each covered fleet operator shall be CFVs, and that these CFVs shall use the clean fuel or fuels for which they were certified to operate on when operating in the covered area.

"New covered fleet vehicle," for purposes of this requirement, means a vehicle that has not been previously controlled by the current purchaser, regardless of the MY, except as follows: vehicles that were manufactured before the start of MY 1998 for such vehicle's weight class, vehicles transferred due to the purchase of a company not previously controlled by the purchaser or due to a consolidation of business operations, vehicles transferred as part of an employee transfer, or vehicles transferred for seasonal requirements, that is, less than 120 days (See 40 CFR

88.302–94). This definition of new covered fleet vehicle is distinct from the definition of new vehicle as it applies to manufacturer certification, including the certification of vehicle to clean fuel standards.

Further, section 246(b) of the CAA provides the following table detailing the phase-in of the specified percentage requirements, which must be included in the SIP revision:

Vehicle type	MY 1998 (percent)	MY 1999 (percent)	MY 2000 (percent)
LDTs up to 6000 lbs. GVWR and LDVs	30	50	70
HDTs above 8,500 lbs. GVWR but below 26,000 lbs. GVWR	50	50	50

As an alternative to purchasing CFVs to meet the purchase requirement, section 246 allows fleet operators to redeem CFFP credits instead (the CFFP credit provisions are described in further detail below). Also, section 247 provides that new or existing vehicles owned or purchased by the fleet can be converted to meet CFV standards, if the conversions were made according to requirements promulgated at 40 CFR 88.306. (See September 30, 1994, at 59 FR 50042).

Finally, section 246(d) of the CAA requires that the choice of CFVs and clean fuels shall be at the discretion of the covered fleet operators.

The Indiana rule correctly incorporates all of the above required percentage purchase requirements which will be placed upon covered fleet operators. It also includes the three ways listed above to comply with the purchase requirement. Section 19–3–3(d) of the Indiana rule provides that the fleet operator shall decide which CFVs and fuels to use in order to comply with the purchase requirement. Section 19–3–3(f) requires that CFVs used to meet purchase requirements or generate credits shall operate at all times on the fuel for which they were certified as CFVs in Lake and Porter Counties. Finally, the rule requires at section 3(b) that CFV conversions must be done in accordance with the requirements for CFV conversions contained in 59 FR 50042, September 30, 1994.

G. Credit Program

Section 246(f) of the CAA and 40 CFR 88.304–94 require states to implement a credit program as part of their CFFPs. Briefly, the CFFP credit program establishes a market-based mechanism that allows fleet owners some flexibility in complying with the CFFP purchase requirement. The regulations under 40 CFR 88.304–94 require CFFPs to allow fleet operators to generate credits in any of the following ways: (1) by the purchase of more CFVs than the minimum required by a CFFP; (2) by the purchase of CFVs which meet more stringent emission standards than the minimum required by the CFFP; (3) by the purchase of CFVs otherwise exempt from the CFFP; and (4) by the purchase of CFVs before MY 1998.

40 CFR 88.304–94 further states that the credits generated may be used by a covered fleet operator to satisfy the purchase requirements of a CFFP or may be traded by one covered fleet operator to another, provided the credits were generated, traded, and used by operators located in the same nonattainment area. Lake and Porter Counties are in the same ozone nonattainment area as the Chicago area (as codified in 40 CFR 81.314 and 40 CFR 81.315), so that fleet operators covered under the Indiana CFFP can trade credits with fleet operators covered under the Illinois CFFP for the Chicago area portion of the ozone nonattainment area, and vice versa. Certain restrictions on the trading of the credits between classes must be observed. The credits do not depreciate with time and are to be freely traded without interference by the State.

Section 19–3–4 establishes rules for acquiring, trading and redeeming credits under the Indiana CFFP credit program according to regulations established in 40 CFR 88.304–94. The rule under 19–3–4(d)(4) requires credits for LDV and HDV to be kept separate. Trading of credits between the LDV and LDT subclasses is permitted. However, trading is not allowed between the HDV class and LDV/LDT class, or between HDV subclasses in an upward direction. These limitations and restrictions are consistent with those specified in section 246(f)(2) of the CAA. Moreover, section 19–3–4(a)(11) specifies that CFVs used to meet the purchase requirements or to generate purchase credits for a fleet operator cannot be used to satisfy additional purchase requirements or generate additional purchase credits for any other fleet operator, even if the latter operator purchases or acquires those CFVs from the former. Section 19–3–4(e) of the Indiana rule includes tables which set forth the amount of credit granted for the various ways of meeting the purchasing requirements explained above. These tables are identical to Tables C94–1.1, C94–1.2, C94–1.3, C94–4.1, C94–4.2, and C94–4.3 of 40 CFR Part 88, Subpart C.

Finally, the rule specifies that each fleet operator submit an annual report to IDEM which indicates the number of credits sold, traded, or purchased during the previous year and the number of credits proposed to be used by the operator to satisfy purchase requirements for that year.

H. Fuel Use

40 CFR 88.304–94(b)(3) requires that the fuel on which a dual fuel/flexible fuel CFV was certified must be used at all times when the vehicle is in the covered area.

Section 19–3–3(f) requires that any CFV acquired to meet the purchase requirements of the CFFP or to generate credits must be operated, while in the covered area, on the fuel or power source for which it was certified by USEPA to meet applicable emission standards.

It should be noted that the definition of "clean alternative fuel" under section 241(2) of the CAA does not designate particular fuels as fuels that vehicles must use in order to be considered CFVs. Rather, for purposes of the CFFP, "clean alternative fuel," is defined under section 241(2) of the CAA as meaning any fuel or power source used in a CFV that complies with the standards and requirements applicable to such vehicle under the CFFP when using such fuel or power sources. In other words, when a vehicle model is certified to meet CFV emission standards, the fuel type the vehicle model used to achieve those standards is considered the "clean alternative fuel."

A CFV can operate on any fuel, including gasoline, as long as the vehicle's manufacturer received a certificate from the USEPA for that vehicle model confirming that it meets the particular CFV emission standard when using that fuel. The type of fuel or power source on which a CFV will operate on will be determined only by what fuel the CFV has been certified to use.

I. Fuel Availability:

Section 246(e) of the CAA requires the SIP revision to require fuel providers to make clean alternative fuel available to the covered fleets at central locations.

Because fuel providers in Lake and Porter Counties are already required by USEPA to make reformulated gasoline available, and USEPA expects that many CFVs in MY 1998 will be certified to operate on reformulated gasoline. USEPA believes that section 246(e) is satisfied for purposes of the Indiana CFFP.

J. Consultation

Section 246(a)(4) of the CAA requires that the SIP revision must be developed in consultation with fleet operators, vehicle manufacturers, fuel producers, distributors of motor vehicle fuel, and other interested parties, taking into consideration operational range, specialty uses, vehicle and fuel availability, costs, safety, resale values, and other relevant factors.

On October 14, 1994, before the IAPCB preliminarily adopted the CFFP, IDEM sent a letter, addressed to 250 representatives of fleet operators and fuel providers expected to be affected by the Indiana CFFP, which described the program, solicited comment on the proposed rule, invited the representatives to participate with IDEM in the program's development, and invited them to attend the IAPCB preliminary adoption hearing.

On August 31, 1995, before the IAPCB adopted the CFFP, IDEM sent a letter to these same representatives inviting them to attend an informational session where IDEM and the regulated community could meet together to discuss the CFFP and be given further opportunity to comment on the rule. This meeting was held in Portage, Indiana on September 20, 1995.

K. Recordkeeping and Monitoring

USEPA recommends that the State include recordkeeping provisions in its CFFP that require fleet operators to register with the State in advance of MY 1998 in order to provide information to be used to determine their covered status, require annual reports from covered fleet operators indicating annual fleet acquisitions, fuel use, and credit generation/redemption to determine compliance, and require covered and noncovered fleet operators to submit periodic reports indicating covered status (See 58 FR at 64679, December 9, 1993).

Section 19–3–5 provides for recordkeeping and reporting requirements as described above. In addition, 19–3–5 requires that information required in the annual report, as well as routine maintenance records for all vehicles, shall be maintained by the covered fleet operator for compliance audit purposes. Monthly odometer readings, fuel economy information, and fuel usage for dual fuel or flexible-fuel vehicles also need to be kept, as well as copies of converted vehicle certification for all converted clean-fuel vehicles. CFVs shall at all times be accompanied by certification that they are CFVs.

L. Enforcement

40 CFR 88.304–94(b)(ii) requires that each CFFP SIP revision stipulate the specific mechanism by which the CFFP will be administered and enforced.

IDEM will oversee compliance and enforcement with this rule, and will hire contractors to review the annual recordkeeping reports to assure the regulatory requirements of the Indiana CFFP are being met.

The Indiana Code (IC) 13–7–13–1, states that any person who violates any provision of IC 13–1–1, IC 13–1–3, or IC 13–1–11, or any regulation or standard adopted by one (1) of the boards (i.e., IAPCB), or who violates any determination, permit, or order made or issued by the commissioner (of IDEM) pursuant to IC 13–1–1, or IC 13–1–3, is liable for a civil penalty not to exceed twenty-five thousand dollars per day of any violation. Because this submittal is a regulation adopted by the IAPCB, a violation of which subjects the violator to penalties under IC 13–7–13–1, and because a violation of the ozone SIP would also subject a violator to enforcement under section 113 of the CAA by USEPA, USEPA finds that the submittal contains sufficient enforcement penalties for approval. In addition, IDEM has submitted a civil penalty policy document which accounts for various factors in the assessment of an appropriate civil penalty for noncompliance with IAPCB rules, among them, the severity of the violation, intent of the violator, and frequency of violations. USEPA finds these criteria sufficient to deter non-compliance.

M. Transportation Control Measure Exemptions

40 CFR 88.307–94(a) requires states to exempt any CFV required by law to participate in a CFFP from temporal-based (e.g., time-of-day or day-of-week) transportation control measures (TCM) existing for air quality reasons as long as the exemption does not create a clear and direct safety hazard. In the case of high occupancy vehicle (HOV) lanes, this exemption only applies to CFVs that are certified by USEPA to be inherently low-emitting vehicles (ILEV) pursuant to 40 CFR 88.313–93.

Section 19–3–6 stipulates that CFVs shall receive TCM exemptions from time-of-day, day-of-the-week, day-of-the-month, or other similar time-based restrictions. Further, ILEVs shall be exempt from mechanisms designed to reduce air pollution from motor vehicles by limiting their use in certain areas, air quality related parking restrictions, and HOV lane restrictions.

N. Conclusion

The USEPA has reviewed the Indiana CFFP SIP revision submitted to the USEPA as described above. The materials contained in the SIP revision represent an acceptable approach to the CFFP requirements and meet the criteria required for approvability. The USEPA therefore approves Indiana's CFFP SIP submittal. With this action, USEPA incorporates Indiana's CFFP SIP revision into the SIP, making it federally enforceable.

Procedural Background

A. Direct Final Action

The USEPA is publishing this action without prior proposal because USEPA views this action as a noncontroversial revision and anticipates no adverse comments. However, USEPA is publishing a separate document in this **Federal Register** publication, which constitutes a "proposed approval" of the requested SIP revision and clarifies that the rulemaking will not be deemed final if timely adverse or critical comments are filed. The "direct final" approval shall be effective on May 20, 1996, unless USEPA receives adverse or critical comments by April 22, 1996. If USEPA receives comments adverse to or critical of the approval discussed above, USEPA will withdraw this approval before its effective date by publishing a subsequent **Federal Register** document which withdraws this final action. All public comments received will then be addressed in a subsequent rulemaking document. Any parties interested in commenting on this action should do so at this time. If no such comments are received, USEPA hereby advises the public that this action will be effective on May 20, 1996.

B. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has

exempted this regulatory action from Executive Order 12866 review.

C. Applicability to Future SIP Decisions

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. USEPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

D. Unfunded Mandates

Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act") (signed into law on March 22, 1995) requires that the USEPA prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year. Section 203 requires the USEPA to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the USEPA must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The USEPA must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the USEPA explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

This final rule only approves the incorporation of existing state rules into the SIP and imposes no additional requirements. This rule is estimated to result in the expenditure by State, local, and tribal governments or the private sector of less than $100 million in any one year. USEPA, therefore, has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Furthermore, because small governments will not be significantly or uniquely affected by this rule, the USEPA is not required to develop a plan with regard to small governments.

E. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. section 600 et seq., USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. (5 U.S.C. sections 603 and 604.) Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements a State has already imposed. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Clean Air Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *USEPA.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. section 7410(a)(2).

F. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 20, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Ozone, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: February 29, 1996.

Valdas V. Adamkus,

Regional Administrator.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart P—Indiana

2. Section 52.770 is amended by adding paragraph (c)(104) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(104) On December 20, 1995, and February 14, 1996, Indiana submitted a Clean-Fuel Fleet Program for Lake and Porter Counties as a revision to the State Implementation Plan.

(i) Incorporation by reference. 326 Indiana Administrative Code 19–3 Clean Fuel Fleet Vehicles, Sections 1 through 7. Adopted by the Indiana Air Pollution Control Board October 4, 1995. Signed by the Secretary of State December 19, 1995. Effective January 18, 1996. Published at Indiana Register, Volume 19, Number 5, February 1, 1996.

[FR Doc. 96–6597 Filed 3–20–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[MA–19–1–6648a; A–1–FRL–5436–3]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Emission Statements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving Massachusetts' revised 310 CMR 7.12, "Inspection Certificate, Record Keeping and Reporting" and incorporating it into Massachusetts' SIP. EPA received revisions to the Massachusetts SIP revising 310 CMR 7.12 on three separate occasions however, EPA is addressing all three submissions in this action. These revisions to 310 CMR 7.12 streamline and clarify the permitting process and address the Clean Air Act's emission statement program requirement. This action is being taken in accordance with the Clean Air Act.

DATES: This action is effective May 20, 1996, unless, notice is received by April 22, 1996, that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Susan Studlien, Acting Director, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA and the Division of Air Quality Control, Department of Environmental Protection, One Winter Street, Boston, MA.

FOR FURTHER INFORMATION CONTACT: David Conroy, (617) 565–3254.

SUPPLEMENTARY INFORMATION:

I. Background

The air quality planning and State Implementation Plan (SIP) requirements for ozone nonattainment and transport area are set out in subparts I and II of part D of Title I of the Clean Air Act, as amended by the Clean Air Act Amendments of 1990 (CAA or "the Act"). EPA has published a "General Preamble" describing EPA's preliminary views on how EPA intends to review SIP's and SIP revisions submitted under Title I of the CAA, including those State submittals for ozone transport areas within the States (see 57 FR 13498 (April 16, 1992) ["SIP: General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990"], 57 FR 18070 (April 28, 1992) ["Appendices to the General Preamble"], and 57 FR 55620 (November 25, 1992) ["SIP: NO_x Supplement to the General Preamble"]).

EPA has also issued a draft guidance document describing the requirements for the emission statement programs discussed in this Notice, entitled "Guidance on the Implementation of an Emission Statement Program" (July, 1992). The Agency is also conducting a rulemaking process to modify part 40 of the CFR to reflect the requirements of the emission statement program.

Section 182 of the Act sets out a graduated control program for ozone nonattainment areas. Section 182(a) sets out requirements applicable in marginal nonattainment areas, which are also made applicable in subsections (b), (c), (d), and (e) to all other ozone nonattainment areas. Among the requirements in section 182(a) is a program in paragraph (3)(B) of that subsection for stationary sources to prepare and submit to the State each year emission statements showing actual emissions of volatile organic compounds (VOC) and nitrogen oxides (NO_x). This paragraph provides that the States are to submit a revision to their State Implementation Plans (SIPs) by November 15, 1992 establishing their emission statement program.

Section 184(b)(2) of the Act extends the requirements for major stationary sources in moderate ozone nonattainment areas to sources in the ozone transport region which emit, or have the potential to emit, 50 tpy or more of VOC. Section 182(f) extends the requirements for major stationary sources of VOC in ozone transport regions to major sources of NO_x. For areas designated as attainment or nonattainment areas which are not classified, Section 182(f) refers to Section 302 where the major source definition for NO_x is the potential to emit 100 tons per year. Therefore, the emission statement requirement encompasses all stationary sources in all classified nonattainment areas, as well as sources in attainment areas and unclassified nonattainment areas within ozone transport regions, which emit or have the potential to emit 100 tpy or more of NO_x or 50 tpy or more of VOC.

Massachusetts is located in the ozone transport region and is a classified ozone nonattainment area. Therefore, Massachusetts is subject to the more stringent source threshold requirement of 182(a)(3)(B). Massachusetts' source thresholds of the emission statement regulation must cover *all* sources which emit VOC or NO_x.

For classified ozone nonattainment areas, the States may waive, with EPA approval, the requirement for an emission statement for classes or categories of sources with less than 25 tons per year of actual plant-wide NO_x or VOC emissions in nonattainment areas if the class or category is included in the base year and periodic inventories and emissions are calculated using emission factors established by EPA (such as those found in EPA publication AP–42) or other methods acceptable to EPA. Massachusetts has provided a 1990 baseyear inventory which includes emissions from sources that emit below 25 tpy of VOC or NO_x emissions and will be updating this inventory every three years until the area is redesignated to attainment. In addition, the methods and emission factors used by Massachusetts to calculate emissions for the 1990 baseyear inventories have been reviewed by EPA. As a result, EPA finds the 25 tpy threshold acceptable.

Additionally, if either VOC or NO_x is emitted at or above the statutory reporting level, the other pollutant must be included in the emission statement, even if it is emitted at levels below the specified cutoffs.

The CAA requires that States' rules specify that facilities must submit the first emission statement to the State within three years after November 15, 1990, and annually thereafter. EPA requests that the States submit the emission data to EPA through the Aerometric Information Retrieval System (AIRS). The minimum emission statement data should include: certification of data accuracy; source identification information; operating schedule; emissions information (including annual and typical ozone season day emissions); control equipment information; and process data. EPA developed emission statements data elements to be consistent with other source and State reporting requirements. This consistency is essential to assist States with quality assurance for emission estimates and to facilitate consolidation of all EPA reporting requirements.

II. Analysis of State Submission

A. Procedural Background

The Act requires States to observe certain procedural requirements in developing its SIP, of which the emission statement program will become a part. Section 110(l)(2) of the Act provides that each revision to an implementation plan submitted by a State under the CAA must be adopted by such State after reasonable notice and public hearing. EPA must at the outset determine whether a submittal is complete and therefore warrants further EPA review and action (see Section 110(k)(1) and 57 FR 13565). EPA's completeness criteria for SIP submittals are set out at 40 CFR Part 51, Appendix V (1991), as amended by 57 FR 42216 (August 26, 1991).

On July 15, 1994, EPA received the SIP submittal of amendments to 310 CMR 7.12 addressing emission statement requirements. The amendments were adopted by Massachusetts on June 29, 1994 and became effective on July 1, 1994. Hearings were held on May 6, 10, 11, and 13, 1994. EPA deemed the submittal complete on July 15, 1994 and the sanctions clocks were stopped. However, the February 21, 1993 finding also triggered the Federal Implementation Plan (FIP) clock. EPA has remained obligated to promulgate a FIP clock until this final rulemaking action is taken. Therefore, the FIP clock is stopped on the effective date of this final rulemaking action approving Massachusetts' emission statement program.

B. Components of the Emission Statement Program

There are several key general and specific components of an acceptable emission statement program. Specifically, the State must submit a revision to its SIP and the emission statement program must meet the

minimum requirements for reporting by the sources and the State. In general, the program must include, at a minimum, provisions for applicability, definitions, compliance, and specific source requirements detailed below.

1. SIP Revision Submission

EPA requires States to submit their SIP revision within 2 years of enactment of the Clean Air Act Amendments of 1990 (CAAA) (November 15, 1990).

Massachusetts was notified in a letter dated January 15, 1993, that if the emission statement submittal was not received by February 21, 1993, a finding of failure to submit will automatically be made. Since Massachusetts did not submit the SIP revision until July 15, 1994, findings were made. EPA reviewed the submittal and deemed it complete on July 15, 1994. Therefore, the sanctions clock was stopped. However, the February 21, 1993 finding also triggered the Federal Implementation Plan (FIP) clock. EPA has remained obligated to promulgate a FIP until this final rulemaking action is taken. Therefore, the FIP clock is stopped on the effective date of this final rulemaking action approving the emission statement program.

2. Reporting Requirements for State

In addition to the program elements applying to sources, the SIP should include a provision that States provide to EPA the identifying information for the sources covered by the emission statement program, the value for rule effectiveness utilized by the State in its SIP calculations, the source data elements entered into AIRS, and quarterly emission statement status reports. The minimum source identification information should include the AIRS code, the AFS point number (ID), the AFS segment number (ID), and the Source Category Code (SCC) and descriptions for each segment.

In addition, States should supply to EPA the current rule effectiveness (RE) factors at the SCC pollutant level, if applicable, and the RE method codes. The emission statement data submittal to AIRS should include all data obtained from the source and the State. These source-supplied data elements include source identification information (name, physical location, mailing address of the facility, latitude and longitude, and 4-digit Standard Industrial Classification (SIC) code(s)), operating schedule information (percentage annual throughput, days per week on the normal operating schedule, hours per day during the normal operating schedule, and hours per year on the normal operating schedule), process rate data (annual process rate (annual throughput) and peak ozone season daily process rate), control equipment information (current primary and secondary control equipment identification codes and current combined control equipment efficiency (%)), and emissions information (estimated actual VOC and NO_X emissions at the segment level (in tons per year for an annual emission rate and pounds per day for a typical ozone season day), estimated emissions method code, calendar year for the emissions, and emission factor (if used)). EPA recommends that the States electronically submit emission statement data into the AIRS database no later than July 1 of each year, commencing in 1993. The quarterly reports should show the total number of facilities that met the State's emission statements program requirements and the number of facilities that failed to meet the requirements. Quarterly reports should be submitted commencing no later than July 1, 1993.

The July 15, 1994 submittal did not fully meet the data element requirement for an approvable emission statement program. EPA notified Massachusetts with a list of data elements that Massachusetts needed to add to the source registration forms for EPA to approve its emission statement program. Massachusetts assured EPA in a letter, dated December 30, 1994, that the data elements were being incorporated into the source registration forms. Massachusetts' source registration forms do require all the EPA required data elements. The uploading of emission statement information to AIRS, by July 1 of each year, is a grant condition that EPA has negotiated with Massachusetts.

3. Sources Covered

Section 182(a)(3)(B) requires that States with areas designated as nonattainment for ozone require emission statement data from sources of VOC or NO_X in the nonattainment areas. This requirement applies to all classified ozone nonattainment areas, regardless of the classification (Marginal, Moderate, etc.). Section 184(b)(2) of the Act extends the requirements for major stationary sources in moderate ozone nonattainment areas to sources in the ozone transport region. Section 182(f) extends the requirements for major stationary sources of VOC in ozone transport regions to major sources of NO_X. Therefore, the emission statement requirement encompasses all stationary sources in all classified nonattainment areas, as well as sources in attainment areas and unclassified nonattainment areas within ozone transport regions, which emit or have the potential to emit 100 tpy or more of NO_X or 50 tpy or more of VOC.

The States may waive, with EPA approval, the requirement for emission statements for classes or categories of sources with less than 25 tons per year of actual plant-wide NO_X or VOC emissions in nonattainment areas if the class or category is included in the base year and periodic inventories. Massachusetts emission statement regulations have exempted sources with VOC and NO_X emissions below 25 tpy from emission statement requirements. Massachusetts has provided 1990 baseyear inventories which include emissions from sources that emit 25 tpy of VOC or NO_X and will be updating these inventories every three years until the area is redesignated to attainment. In addition, the methods and emission factors used by Massachusetts to calculate emissions for the 1990 baseyear inventory have been reviewed by EPA. As a result, EPA finds the 25 tpy threshold acceptable.

The entire state of Massachusetts is designated as nonattainment for ozone and is located within the boundaries of the ozone transport region. 310 CMR 7.12(1)(b) states that information required by 310 CMR 7.12(1)(a) shall be submitted annually for any facility having actual emissions greater than or equal to:

(1) Volatile organic compounds, 25 tpy

(2) Nitrogen oxides, 25 tpy

(3) Any other pollutant regulated under the Act, 100 tpy and once every three years for all other facilities.

4. Reporting Requirements for Sources

Sources covered by the State emission statement program will submit, at a minimum, the data elements described under section II.B.2 of this notice.

The emission statement submitted by the source will contain a certification that the information is accurate to the best knowledge of the individual certifying the statement. EPA recommends that the State program require the submission of the data from the sources no later than April 15 of each year.

Massachusetts sends a cover letter accompanying the emission statement forms to the facilities. The cover letter, included in the SIP submittal, requires that the forms be completed using data pertaining to the facility's operations during calendar year 1993 and returned to DEP no later than June 1, 1994. EPA is approving this submittal date since the Emission Statement Workgroup is proposing to require States to submit emission statement data to AIRS by November 15 rather than July 1. Massachusetts will have sufficient time to submit data to AIRS by November 15 if sources submit emission statements by June 1.

5. Reporting Forms

Although EPA has developed a proposed format for the emission statement reporting process in its guidance document, the Act allows States to develop their own format for emission statement reporting.

Massachusetts provides the sources with Source Registration/Emission Statement forms. On December 30, 1994, Massachusetts sent a letter notifying EPA that the current Source Registration/Emission Statement forms are being modified in format to provide to industry a summary of the data in the DEP SSEIS (and EPA AIRS) system as a basis for update and certification of emissions. In addition, the letter included data elements that had been added or are in the process of being added to the forms.

III. Final Action

EPA is approving Massachusetts' revised 310 CMR 7.12, "Inspection Certificate, Record Keeping and Reporting" and incorporating it into Massachusetts' SIP. EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective May 20, 1996, unless adverse or critical comments are received by April 22, 1996.

If the EPA receives such comments, this action will be withdrawn before the effective date by simultaneously publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on May 20, 1996.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et. seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. §§ 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Section 182(a)(3)(B) of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being approved by this action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from review under Executive Order 12866.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on small entities. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410 (a)(2).

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State Implementation Plan. Each request for revision to the State Implementation Plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 20, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* Section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Oxides of nitrogen, Reporting and recordkeeping requirements, Volatile organic compounds.

Notes: Incorporation by reference of the State Implementation Plan for the State of Massachusetts was approved by the Director of the Federal Register on July 1, 1982.

Dated: September 18, 1995.

John P. DeVillars,

Regional Administrator, Region I.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart W—Massachusetts

2. Section 52.1120 is amended by adding paragraph (c)(106) to read as follows:

§ 52.1120 Identification of plan.

* * * * *

(c) * * *

(106) Revisions to the State Implementation Plan submitted by the Massachusetts Department of Environmental Protection on June 28, 1990, September 30, 1992, and July 15, 1994.

(i) Incorporation by reference.

(A) Letter from the Massachusetts Department of Environmental Protection, dated June 28, 1990, submitting a revision to the Massachusetts State Implementation Plan.

(B) Letter from the Massachusetts Department of Environmental Protection, dated September 30, 1992, submitting a revision to the Massachusetts State Implementation Plan.

(C) Letter from the Massachusetts Department of Environmental Protection, dated July 15, 1994, submitting a revision to the Massachusetts State Implementation Plan.

(D) Regulation 310 CMR 7.12 entitled "Inspection Certification Record Keeping and Reporting" which became effective on July 1, 1994.

(ii) Additional materials.

(A) Nonregulatory portions of submittal.

(B) Letter from the Massachusetts Department of Environmental Protection, dated December 30, 1994, assuring EPA that the data elements noted in EPA's December 13, 1994 letter were being incorporated into the source registration forms used by Massachusetts emission statement program.

(ii) Additional materials.

(A) Nonregulatory portions of submittal.

* * * * * *

3. In § 52.1167 Table 52.1167 is amended by adding new state citations for entry 310 CMR 7.12 to read as follows:

§ 52.1167 EPA—approved Massachusetts State regulations

* * * * *

TABLE 52.1167—EPA—APPROVED MASSACHUSETTS REGULATIONS

State citation	Title/subject	Date submitted by State	Date approved by EPA	Federal Register citation	52.1120(c)	Comments/unapproved sections
•	•	•	•	•	•	•
310 CMR 7.12 ..	Inspection Certificate Record Keeping and Reporting.	6/28/90; 9/30/92; 7/15/94	March 21, 1996	61 FR 1559	106	The 6/28/90 and 9/30/92 submittals deal with the permitting process. The 7/15/94 submittal develops 7.12 to comply with emission statement requirements.
•	•	•	•	•	•	•

[FR Doc. 96–6781 Filed 3–20–96; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Parts 52 and 81

[OH78–2–7116; FRL–5440–4]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Ohio

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: The USEPA is approving the Ohio Environmental Protection Agency's (OEPA) request for redesignation of Clinton County, Ohio from transitional ozone nonattainment to attainment. The USEPA is also approving the maintenance plan and emissions inventory for Clinton County as a revision to Ohio's State Implementation Plan (SIP) for ozone. Clinton County's monitoring data shows that it is already meeting the ozone air quality standard. In addition, in order to meet USEPA redesignation requirements the State must continue to maintain the ozone National Ambient Air Quality Standards for at least ten years after the redesignation, or the year 2006. Thus, the State has developed a maintenance plan which includes specific contingency measures to assure continued compliance with the ozone air quality standard. Any monitored violation in Clinton County will trigger these contingency measures to reduce ozone levels. In addition, an ambient air monitor will remain in operation to verify future attainment status of the area.

EFFECTIVE DATE: This final rule is effective on March 21, 1996.

ADDRESSES: Copies of the redesignation request, public comments on the rulemaking, and other materials relating to this rulemaking are available for inspection at the following address: (It is recommended that you telephone Fayette Bright at (312) 886–6069, before visiting the Region 5 Office.) United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard (AR–18J), Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Fayette Bright, Air Programs Branch, Regulation Development Section (AR–18J), United States Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886–6069.

SUPPLEMENTARY INFORMATION:

I. Background

On November 15, 1994, the OEPA submitted to the USEPA a request for redesignation of Clinton County, Ohio from transitional nonattainment [1] to attainment for ozone, and a maintenance plan designed to assure continued attainment of the national ambient air quality standards for ozone in the Clinton County area. On February 24, 1995, the OEPA submitted additional information to the USEPA regarding the State public hearing and responses to public comments received regarding the redesignation and the maintenance plan. The redesignation request was supported by technical information demonstrating that the requirements of Section 107(d)(3)(E) of the Clean Air Act (Act) were met. On May 5, 1995, a document was published in the **Federal Register** (60 FR 22337) which proposed approval of the redesignation request the maintenance plan, and the emissions inventory.

[1] As stated in the proposed rule, Clinton County did not experience a violation during the three year period from January 1, 1987 through December 31, 1989. Therefore, pursuant to Section 185(A) of the Clean Air Act, it was designated a transitional nonattainment area for ozone. Under this classification, the requirements of Subpart 2 of Part D of Title 1 of the CAA for ozone nonattainment areas were suspended for Clinton County until December 31, 1991. See 60 FR 22337 (May 5, 1995). After December 31, 1991, the requirements were no longer suspended, however, Subpart 2 did not contain any new requirements that would apply to a transitional area that was not classified under Section 181(a) as marginal or above.

II. Summary of Proposed Rulemaking

The proposed rulemaking detailed how the State submittal fulfilled the redesignation requirements of the Act. Specifically, Section 107(d)(3)(E) of the Act provides for redesignation if: (i) The Administrator determines that the area has attained the National Ambient Air Quality Standards (NAAQS); (ii) the Administrator has fully approved the applicable implementation plan for the area under Section 110(k); (iii) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions; (iv) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of Section 175(A); (v) the State containing such area has met all requirements applicable to the area under Section 110 and Part D. The USEPA also provided guidance on redesignation in the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990, 57 FR 13498 (April 16, 1992), supplemented at 57 FR 18070 (April 28, 1992) and in three key memoranda which were cited in the May 5, 1995 Federal Register notice. See 60 FR 22337. The following discussion expands and clarifies the analysis made in the proposed rule as to how the State has fulfilled the Act's redesignation requirements for Clinton County.

A. The Area Must Have Attained the Ozone NAAQS.

There is a 2-step process to determining whether an area has violated the ozone NAAQS which both tallies the number of monitored exceedances and accounts for any time the monitor was not operating or operating improperly. The first step is to determine the number of expected exceedances for each year of the last three years from each monitoring site. The second step is to determine the area's average expected exceedance rate over the most recent three year period. Pursuant to 40 C.F.R. 50.9, this rate cannot exceed 1.0.

The OEPA submitted monitoring data for Clinton County for the years 1977 through 1994. The monitor recorded 5 exceedances of the ozone NAAQS in 1983. This resulted in an average expectant exceedance rate of greater than 1.0. Consequently, Clinton County was found to be in violation of the NAAQS. On November 15, 1990, Clinton County retained its nonattainment designation and was classified as a transitional area based on monitoring data for 1987, 1988 and 1989. Clinton County exceeded the NAAQS for ozone for the years 1988, 1989, and 1993, during which there were only single exceedances during each of these years. In addition, monitoring data shows that no exceedances were monitored during 1995. Because Clinton County had only one exceedance during the last three years of complete monitoring data (1993–1995), the average expected exceedance rate is 0.33 per year, which falls below the average expected exceedance rate of 1.0. Thus, Clinton County currently meets the ozone NAAQS and has been in attainment since 1986.

B. The Area Must Have a Fully Approved State Implementation Plan (SIP) Under Section 110(k)

Because Clinton County is classified as a transitional area for ozone, it is only required to submit an emissions inventory as a SIP revision.[2] This final rulemaking also approves the emissions inventory for the Clinton County area which has been included as part of the maintenance plan.[3] Consequently, the area has satisfied the second requirement.

C. The Improvement in Air Quality Must Be Due to Permanent and Enforceable Reductions in Emissions Resulting From Implementation of the SIP and Applicable Federal Air Pollutant Control Regulations and Other Permanent and Enforceable Reductions

The State of Ohio did not rely on new SIP measures to meet this requirement because there were no new emission reduction programs required by the CAA to be approved into the SIP. Instead, the State demonstrated that the improvement in air quality was due to the Federal Motor Vehicle Emissions Control Program (FMVCP) required at 40 Code of Federal Regulations (CFR) Part 86 and the lower fuel volatility requirements at 40 CFR Part 80. Both of these requirements are permanent measures enforceable by the Federal government.

The State has also shown that in Clinton County, actual total VOC emissions were reduced by approximately two (2) tons per day from 1990 to 1993. The State attributes these results exclusively to reductions in mobile source emissions. The mobile source emission reductions were the result of the lower fuel volatility program and the FMVCP. Consequently, the third requirement has also been met.

D. The Area Must Have a Fully Approved Maintenance Plan Meeting the Requirements of Section 175(A)

The OEPA has met the applicable requirements by submitting a maintenance plan consisting of emission inventories for area, point, and mobile sources of Volatile Organic Compounds (VOC), Nitrogen Oxides (NO_X), and Carbon Monoxide (CO) emissions. This maintenance plan also includes a contingency plan with defined measures to be implemented in accordance with a specified schedule, as presented in Section II. D of the May 5, 1995 proposed rule. Additionally, any monitored violation in Clinton County would also trigger contingency measures in the counties comprising the Cincinnati moderate nonattainment area. (The State has also developed rules and an implementation plan to place a program in operation in the event a violation in any of these areas occur).

The current RVP requirement in the State of Ohio is 9.0 pounds per square inch (psi).[4] There is a 1 psi waiver available for retailers and blenders who use ethanol as an octane enhancer/additive. This waiver would still be available with the State's low-RVP program in the event it is implemented. The low-RVP program and other measures on Ohio's list of contingency measures are new measures that are not currently in place in the area.

E. The Area Must Have Met All Applicable Requirements Under Section 110 and Part D

Ohio has also met this requirement, as detailed in a discussion in the May 5, 1995 **Federal Register** proposed approval of the redesignation request at 60 FR 22343.

The proposed rulemaking also presented summary tables of VOC emissions, CO emissions, and NO_X emissions projections for Clinton County. The tables for VOC and NO_X are presented below.

[2] September 4, 1992 memorandum issued by John Calcagni, Director, Air Quality Management Division, entitled "Procedures for Processing Requests to Attainment".

[3] The September 4, 1992 memorandum issued by John Calcagni, Director, Air Quality Management Division, entitled, "Procedures for Processing Requests to Attainment," allows approval action on the SIP elements and the redesignation request to occur simultaneously.

[4] Federal RVP requirements are found at 40 CFR Section 80.27. As of the summer of 1992, gasoline RVP could not exceed 9.0 psi during the months of May through September. There is a special provision for fuels blended to a 10 volume percent ethanol. The provision allows the RVP to exceed 9.0 psi up to 10.0 psi.

SUMMARY OF VOC EMISSIONS (TONS/DAY)

	1990 base	1993 attain	1996 proj.	1999 proj.	2002 proj.	2006 proj.
Point	0.0	0.0	0.0	0.0	0.0	0.0
Area	11.3	11.33	11.36	11.39	11.42	11.47
Mobile	5.04	3.27	2.82	2.80	2.31	2.42
Totals	16.34	14.60	14.18	14.19	13.73	13.89

SUMMARY OF NO_X Emissions (tons/day)

	1990 base	1993 attain	1996 proj.	1999 proj.	2002 proj.	2006 proj.
Point	0.0	0.0	0.0	0.0	0.0	0.0
Area	1.62	1.63	1.64	1.64	1.65	1.66
Mobile	4.80	4.19	3.69	3.65	3.13	3.25
Totals	6.42	5.82	5.33	5.29	4.78	4.91

The VOC and NO_X emissions projected for the year 2006 in the above tables are considered emission budgets for purposes of transportation conformity. Section 176 of the CAA sets forth the requirement that the federal government and metropolitan planning organizations may not support transportation activities that do not conform to the purpose of the SIP. This is generally known as "transportation conformity." In the Maintenance Plan portion of the SIP an emissions budget is established for certain areas. This budget is the amount of emissions that the area must remain below in order to maintain the ozone standard. Clinton County is designated as a transitional nonattainment area that is generally downwind of the Cincinnati Metropolitan area. The Clinton County area does not have any major stationary sources of emissions and is considered a relatively small source of emissions. In addition, the last violation of the ozone NAAQS in Clinton County occurred in 1983.

Public Comment/USEPA Response

In response to USEPA's request for written comments on the proposed rulemaking, USEPA received comments from the Miami Group of the Ohio Chapter of the Sierra Club (the Miami Group). The Miami Group submitted comments regarding the redesignation of both the Cincinnati and the Clinton County areas.[5] Because this final rulemaking only addresses the redesignation of the Clinton County area, the following discussion summarizes and responds *only* to the Miami Group's comments insofar as they concerned the redesignation of the Clinton County area. USEPA will respond to the Miami Group's comments regarding the redesignation of the Cincinnati area in any final rulemaking regarding the redesignation of the Cincinnati area.

Comment: The area has not yet proven that it has attained the NAAQS. The NAAQS for ozone are not fully protective of the public health and the environment. The area has reached attainment previously only to be followed by violations. Additionally, the ozone monitoring network may be insufficient and no consideration is given to downwind areas.

Response: The current ozone standard was set to protect public health. The OEPA has shown that the Clinton County area meets the NAAQS, as described in both this final rulemaking and in the proposed rulemaking published on May 5, 1995. In addition, the ozone monitoring network has been determined by USEPA, to be representative of ambient air concentrations of ozone in the Clinton County area. In addition, the monitoring network will remain in operation after the redesignation to attainment to verify the future attainment status of the area.

Finally, as stated in the proposed rule, the USEPA intends to address the transport or downwind area issue through Section 110 of the Act, based on a domain-wide modeling analysis. The domain-wide modeling analysis involves modeling the eastern portion of the United States in an effort to better understand what is needed in this region to reduce the amount of transported ozone and ozone precursors such as volatile organic compounds and oxides of nitrogen, so that the ozone NAAQS can be achieved in all areas across the region. Section 110 of the CAA requires that SIPs contain adequate provisions to prohibit sources or emissions activities within the State from contributing to nonattainment, or interfering with maintenance in any other state with respect to the NAAQS. USEPA expects to use its authority under the CAA to require states to revise their SIPs to meet this requirement.

Comment: The improvement in air quality is not due to permanent and enforceable reductions in emissions. The lack of violations of the ozone NAAQS may be due to voluntary controls. Increasing vehicle miles travelled will result in increasing emissions, offsetting reductions from the removal of older vehicles. There are inconsistencies in the Vehicle Miles Traveled (VMT) and growth projections between the SIP, the Transportation Improvement Program (TIP), and the redesignation request.

Response: The State reasonably attributed improvement in air quality to be primarily due to two Federal programs: the FMVCP and the lower Reid Vapor Pressure (RVP) program, both of which are permanent and Federally enforceable. The transportation projections were calculated using methods consistent with USEPA guidance. The differences in VMT growth projections are slight and do not affect the approval of the redesignation package. The year 2006 total VOC emission totals as detailed in this rulemaking set the budget for transportation conformity purposes. While VMT is increasing in Clinton County, the vehicles in the area are producing less pollution per vehicle due to the FMVCP. This offsets the growth in VMT and results in less pollution from the mobile sources sector. Emissions projections using USEPA's mobile emissions model to estimate vehicle emissions combined with the VMT projections for Clinton County confirm this conclusion.

Comment: The transportation modeling and emission analysis is flawed and makes it impossible for the maintenance plan to succeed. Changes in VMT brought about by changes in highway systems or land development have not been adequately addressed.

Response: The approach used to estimate mobile source emissions is reasonable and in accordance with USEPA guidance. The Mobile 5a model is the appropriate model to use to predict emission factors which can be applied to VMT to obtain emission projections. Additionally, mobile source inventories will be updated at least once every three years to incorporate new VMT estimates and revised USEPA mobile emission models.

Comment: If the area is redesignated to attainment, stationary sources will be allowed to grow uncontrolled.

Response: Currently, no major sources are located in the Clinton County area. Any major new sources located in this area would be subject to Prevention of Significant Deterioration (PSD) requirements at 40 C.F.R. § 52.21. These regulations require major new sources and major modifications of existing sources to use Best Available Control Technology (BACT). In addition, any allowable emission increases from such new construction could not cause or contribute to air pollution in the area. The maintenance plan prepared for Clinton County also relies on contingency measures to correct any future violations. These contingency measures would be implemented in the event the standard is violated.

Comment: The contingency plan is based on insufficient control measures and the implementation schedule is too long.

Response: The contingency plan is adequate. It contains 12 possible measures. Moreover, it is not limited to the list of 12 measures in the submittal. For example, the State may select other control measures based on cost-effectiveness, VOC reduction potential, economic and social consideration, or other factors. The implementation schedule calls for a VOC control program to be implemented as expeditiously as possible and to be in place no later than 12 months from the verification that a violation of the ozone National Ambient Air Quality Standards (NAAQS) has occurred. USEPA believes that this schedule satisfies the requirement of section 175A that contingency measures promptly correct any violations and is consistent with schedules contained in numerous other maintenance plans approved by USEPA.

Comment: The Long Range Plan contains emission projections which are insupportable.

Response: Ohio demonstrated that by considering the growth in the area (including VMT growth) and present controls on existing emission sources, emissions will remain below the attainment year inventory through the year 2006. In projecting mobile source emissions, Ohio obtained VMT based on the TRANPLAN Model which uses traffic counting data for the year 1990. To forecast VMT to the year 2006, Ohio used growth parameters based on modeling of the Long Range Transportation Plan (future highway network). This modeling process incorporated population growth estimates from Ohio Data Users Center, employment forecasts, and other forecasts regarding socio-economic data. USEPA considers the methodology which was used to project emissions to be reasonable.

III. Rulemaking Action

Clinton County, which is located to the northeast of the City of Cincinnati, is being redesignated from transitional nonattainment to attainment for ozone. In the proposed rulemaking published on May 5, 1995, USEPA detailed how the Clinton County portion of the submittal met the redesignation requirements of Section 107(d)(3)(E). See 60 FR 22337.

USEPA received comments pertaining to the proposed rulemaking. The comments were considered and responses were detailed in the above section of this notice. The USEPA believes that the redesignation requirements of Section 107(d) are satisfied and is taking final action to approve the request for redesignation to attainment and to approve the maintenance plan and emissions inventory for Clinton County, Ohio.

USEPA finds that there is good cause for this redesignation, maintenance plan and emissions inventory to become effective immediately upon publication because a delayed effective date is unnecessary due to the nature of a redesignation to attainment, which exempts the area from certain Act requirements that would otherwise apply to it. The immediate effective date for this redesignation, maintenance plan and emissions inventory is authorized under both 5 U.S.C. 553(d)(1), which provides that rulemaking actions may become effective less than 30 days after publication if the rule "grants or recognizes an exemption or relieves a restriction" and section 553(d)(3), which allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule."

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. USEPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000. Redesignation of an area to attainment under section 107(d)(3)(E) of the Act does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. The Administrator certifies that the approval of the redesignation request will not affect a substantial number of small entities. SIP approvals under section 110 and subchapter I, Part D of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the Act, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act), signed into law on March 22, 1995, USEPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of the state implementation plan or plan revisions approved in this action, the State and any affected local or tribal governments have elected to adopt the program

[5] USEPA's proposed rule in the May 5, 1995 **Federal Register** notice at 60 FR 22343 addressed OEPA's request for both the redesignation of the Ohio portion of the Cincinnati area and the Clinton County area.

provided for under section 175A of the Clean Air Act. The rules and commitments being proposed for approval in this action may bind State, local and tribal governments to perform certain actions and also may ultimately lead to the private sector being required to perform certain duties. To the extent that the rules and commitments being proposed for approval by this action will impose or lead to the imposition of any mandate upon the State, local or tribal governments either as the owner or operator of a source or as a regulator, or would impose or lead to the imposition of any mandate upon the private sector, USEPA's action will impose no new requirements; such sources are already subject to these requirements under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, will result from this action. The USEPA has also determined that this action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 20, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental Protection, Air pollution control, Ozone, Nitrogen oxides, Volatile organic compounds.

40 CFR Part 81

Air pollution control.

Dated: March 1, 1996.

Valdas V. Adamkus,

Regional Administrator.

Chapter 1, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. Section 52.1885 is amended by adding paragraphs (b)(9) and (y) to read as follows:

§ 52.1885 Control Strategy: Ozone.

* * * * *

(b) * * *

(9) Clinton County

* * * * *

(y) Approval—The 1990 base-year ozone emissions inventory requirement of Section 182(a)(1) of the Clean Air Act has been satisfied for Clinton County.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES-OHIO

1. The authority citation for part 81 continues to read as follows:

Authority: 42. U.S.C. 7401–7671q.

2. In § 81.336 the ozone table is amended by revising the entry for the Clinton County Area to read as follows:

§ 81.336 Ohio

* * * * *

OHIO—OZONE

Designated area	Designation		Classification	
	Date[1]	Type	Date	Type
Clinton County Area, Clinton County	March 21, 1996	Attainment		

[1] This date is November 15, 1990 unless otherwise noted.

[FR Doc. 96–6778 Filed 3–20–96; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

46 CFR Part 572

[Docket No. 94–31]

Information Form and Post-Effective Reporting Requirements for Agreements Among Ocean Common Carriers Subject to the Shipping Act of 1984

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission is amending its regulations governing the information submission requirements for agreements among ocean common carriers subject to the Shipping Act of 1984. Certain kinds of newly filed agreements are required to be accompanied by a new information form, which requires the submission of specific data on the agreement member lines' cargo carryings, revenue results and port service patterns before they entered into the agreement. In addition, the member lines of certain kinds of effective agreements will be required to submit reports on their operations on a regular and ongoing basis, which will reflect the lines' cargo carryings, revenue results and port service patterns after they entered into the agreement. The application of this rule to a particular agreement depends primarily on whether the agreement authorizes its carrier members to engage in certain activities, and secondarily on the carrier members' combined market share. An agreement that does not authorize any of the activities specified by the rule must still be filed with the Commission, unless it qualifies for one of the Commission's filing exemptions, but does not have any information form or reporting obligations. The intent of this rule is to provide the Commission with improved information on the impact of concerted carrier practices on the foreign commerce of the United States, and to facilitate the processing and monitoring of ocean carrier agreements under the standards of the Shipping Act of 1984.

EFFECTIVE DATE: April 19, 1996, except for 46 CFR 572.701(a) and 46 CFR 572.702, which are stayed until further notice.

FOR FURTHER INFORMATION CONTACT:

Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573–0001, (202) 523–5740

Austin L. Schmitt, Director, Bureau of Economics and Agreement Analysis, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573–0001, (202) 523–5787

SUPPLEMENTARY INFORMATION:

A. Background

The jurisdiction of the Federal Maritime Commission ("FMC" or "Commission") over ocean carrier agreements in the foreign commerce of the United States extends under section 4(a) of the Shipping Act of 1984 ("1984 Act") to all agreements to:

(1) Discuss, fix, or regulate transportation rates, including through rates, cargo space accommodations, and other conditions of service;

(2) Pool or apportion traffic, revenues, earnings, or losses;

(3) Allot ports or restrict or otherwise regulate the number and character of sailings between ports;

(4) Limit or regulate the volume or character of cargo or passenger traffic to be carried;

(5) Engage in exclusive, preferential, or cooperative working arrangements * * *;

(6) Control, regulate, or prevent competition in international ocean transportation; and

(7) Regulate or prohibit * * * use of service contracts.

46 U.S.C. app. 1703(a).

The reforms in 1984 to the Shipping Act were intended in large part to facilitate the swift effectiveness, with immunity from the antitrust laws, of such agreements. Section 15 of the former Shipping Act, 1916 ("1916 Act"), had required carriers to secure Commission approval for any agreement governing rates, conditions of service, or similar matters, before such an agreement could become effective. Under standards set forth in section 15, the Commission was permitted to disapprove, cancel, or modify any agreement which it found to be unjustly discriminatory or unfair, or to operate to the detriment of the commerce of the United States, or to be contrary to the public interest, or to be in violation of the 1916 Act. 46 U.S.C. 814 (1982).

The Commission, with Supreme Court approval, had taken the position that agreements to set rates, pool revenues, restrict capacity, or to engage in other activities that normally would be contrary to the antitrust laws were presumed to be contrary to the public interest, and would be approved only if they were shown to be "required be a serious transportation need, necessary to secure important public benefits or in furtherance of a valid regulatory purpose of the Shipping Act." *FMC v. Svenska Amerika Linien*, 390 U.S. 238, 243 (1968). The burden of making this showing was placed upon the carrier proponents of an agreement, on the ground that information regarding the operation and probable future impact of an agreement "[a]lmost uniformly * * * is in the hands of those seeking approval * * * and it is incumbent upon those in possession of such information to come forward with it." *Mediterranean Pools Investigation*, 9 F.M.C. 264, 290 (1966). Under these procedures, the implementation of agreements had often been delayed for considerable amounts of time, especially if formal protests were made. *See Marine Space Enclosures, Inc. v. FMC*, 420 F.2d 577 (D.C. Cir. 1969) (requiring that the Commission hold a hearing where a protest raising substantial issues had been filed). In many cases, protests were filed by other carriers, who effectively delayed or blocked the approval of their competitors' business plans.

The 1984 Act did away with the requirement that an agreement had to be approved by the Commission before it could lawfully operate. Instead, agreements now generally become effective forty-five days after they are filed. As a partial counterbalance to this liberalized approach, conference agreements[1] are required by section 5(b) of the Act, 46 U.S.C. app. 1704(b), to include a number of procompetitive provisions, and the Commission may reject a conference agreement that does not meet this standard. Especially noteworthy is the requirement that all conference agreements must clearly state that any member line may take "independent action" ("IA") on any rate or service item required to be filed in a tariff with the Commission; this empowers any member line to set an individual rate below (or above) the conference rate, without having to obtain approval of the rate from the other member lines. The conference is then required to publish the IA rate in its conference tariff upon no more than ten days' notice.

The Commission may also prescribe the "form and manner" in which agreements of any kind must be filed, and may reject an improperly drafted agreement. In addition, the Commission may request information and documents in connection with a newly filed agreement and, if its demand is not "substantially" met, may seek a delay in the agreement's effective date or other relief from the United States District Court for the District of Columbia.[2]

The 1984 Act sets forth an extensive list of prohibited acts, barring many anticompetitive practices that previously had been outlawed under the broad "public interest" standard of section 15 of the 1916 Act. For example, section 10(b)(6) of the 1984 Act, 46 U.S.C. app. 1709(b)(6), carries forward section 15's prohibition of agreements that are unfair or unjustly discriminatory between shippers or ports. Sections 10(c) (1)–(3) and (5) of the 1984 Act, *id.* app. 1709(c) (1)–(3) and (5), prohibit boycotts, restrictions on technological innovations, predatory practices and the denial of reasonable freight forwarded compensation, all of which the Commission previously had found violated section 15.[3]

If the Commission has indications that an agreement may be operating in violation of the 1984 Act, it may institute an investigation of the agreement and its member lines. In addition, the Commission may ask any U.S. district court to temporarily enjoin the agreement while the investigation proceeds.[4] If the court should find that continued operation of the agreement would be inequitable, it can issue an order barring further effectiveness of the agreement until ten days after issuance of the Commission's final decision. If the Commission should find in its final decision that violations of the 1984 Act in fact occurred, it may "disapprove, cancel or modify" the agreement,[5] which would in effect supersede the existing court injunction. In addition, the Commission may assess fines against the agreement member lines.[6]

The other procedure provided by the 1984 Act by which the Commission can prevent an agreement from going into effect, or prevent further operation of an existing agreement, is set forth in section 6(g). This provision authorizes the Commission to seek an injunction in the U.S. District Court for the District of Columbia against an agreement that is "likely, by a reduction in competition, to produce an unreasonable reduction in transportation service or an unreasonable increase in transportation cost." 46 U.S.C. app. 1705(g). A proceeding under section 6(g) does not involve questions of discrimination or

[1] Under the 1984 Act, a conference is an association of ocean common carriers that engage in concerted activities and utilize a common tariff. Section 3(7), 46 U.S.C. app. 1702(7).

[2] Sections 6 (d) and (i) of the 1984 Act, 46 U.S.C. app. 1705 (d) and (i).

[3] *See* S. Rep. No. 3, 98th Cong., 1st Sess. 35–37 (1984).

[4] Section 11(h)(1) of the 1984 Act, 46 U.S.C. app. 1710(h)(1).

[5] Section 11(c) of the 1984 Act, 46 U.S.C. app. 1710(c).

[6] Section 13(a) of the 1984 Act, 46 U.S.C. app. 1712(a).

unfairness, which are covered by the section 10 prohibited acts, nor does it involve questions of statutory violations or fines against the carriers. Section 6(g) was meant to provide a way of dealing with "unusual or severe cases not addressed by other prohibitions in the Act,"[7] and the only remedy available under the provision is an injunction against the agreement itself.

B. The Commission's Agreement Program

The Commission's procedures for evaluating and monitoring carrier agreements reflect the responsibilities and limitations imposed by the 1984 Act. When an agreement is first filed, its provisions are immediately reviewed to ensure that they contain the 1984 Act's mandatory provisions and do not authorize activities barred by the prohibited acts sections. In the ordinary case, that is a one-time process and does not entail ongoing periodic review.

An agreement's effect on shippers, ports and maritime commerce is a different matter. An agreement of significant anticompetitive dimensions—for example, a large market share combined with authority to fix rates and control service contracts—poses potential dangers of unjust discrimination and unreasonable rate increases or service reductions both when it is first filed and for as long as it remains in effect. Thus, under the new regulatory framework established by the 1984 Act, the role of the Commission as a monitoring and surveillance agency was greatly enhanced. In discharging that responsibility, the Commission cannot merely examine an agreement's provisions; rather, it must continually gather, review and interpret data on the impact of the agreement on U.S. foreign commerce. As for the source of such information, the 1984 Act removed the burden of proof in agreement investigations from the carriers, but did not alter the accuracy of the Commission's 1966 observation in *Mediterranean Pools Investigation* that the primary source for information on the operation of an agreement is the carriers that are the parties to the agreement.

C. The Proposed Rule

On December 5, 1994, the Commission published a Notice of Proposed Rulemaking ("NPR" or "proposed rule") (59 FR 62372), which proposed significant amendments to the Commission's regulations governing the submission of information by ocean carriers about their agreements. The Commission explained that, while the existing regulations had served their purpose adequately, the increasingly comprehensive and complex agreements filed in recent years indicated a need for updating and augmentation. The Commission pointed out that agreements with multi-country geographic ranges are now common, new devices and arrangements for dealing with excess capacity have appeared, rate discussion agreements between conference and nonconference lines have become more prevalent, and networks of vessel and space charter agreements covering a multitude of trade lanes have been established.

In response to these industry developments, the Commission proposed new regulations designed to elicit more detailed and specific information on ocean carrier agreements in a more structured and comprehensive manner. The proposed rule formulated a sliding scale of information demands for three classes of agreements that authorized certain specific activities, "Class A," "Class B" and "Class C." An agreement that did not authorize any of the specified activities would still be required by law to be filed with the Commission, unless it qualified for one of the existing exemptions established by the Commission,[8] but would not have any information obligations.

1. Classification of Agreements: The Six Class A/B Activities

Under the proposed rule, Class A and Class B agreements permitted the same kinds of activities; the difference between them was market share. An agreement would be a Class A or a Class B agreement if it authorized *any one* of the following six activities:

- Ratemaking. This specifically included not only traditional conference agreements, under which a group of lines agree upon fixed rates and practices and are bound to them under a common tariff, but also less formal agreements which authorize discussion and agreement upon rates on a "non-binding" basis. The Commission noted that the latter types of agreements have become increasingly common, and that their presence in a trade raises serious concerns about the true level of competition since they can involve discussions and agreements about rates between non-conference lines or between a conference and its non-conference competitors.

Under the proposed rule, the "ratemaking" criterion would be met if the agreement authorizes its carrier members to (1) agree on a binding basis under a common tariff, (2) agree on a non-binding basis, or (3) discuss any kind of basic linehaul rate. On the other hand, the proposed rule specifically excluded those agreements that are limited to practices that affect the manner in which rates are collected from shippers—for example, credit conditions and the handling of delinquent accounts—but do not concern the level of the rates themselves, and those agreements that concern charges or payments to persons other than shippers, *e.g.*, inland divisions of through rates, brokerage, freight forwarder compensation, employment of neutral bodies for self-policing purposes, or development of cargo information systems.

- Discussion or exchange of vessel-operating cost data. The Commission has received a number of agreements that do not authorize rate discussions or agreements of any kind, but do authorize discussion of or exchange of cost data among the member carriers. The most significant costs for ocean common carriers are vessel-operating costs, which the proposed rule defined to include wages of officers and crew, fringe benefits, consumable stores, supplies and equipment, maintenance and repair, insurance, vessel fuel, and charter hire. The Commission stated that it believed that agreements to discuss and exchange information about these costs should be subjected to the same degree of scrutiny as their close cousins, rate discussion agreements. On the other hand, the proposed rule did not apply the "costs" criterion to discussion of other types of expense that are less important for setting rates. In order to make this distinction effective, the proposed rule required agreements seeking to authorize discussion or exchange of cost data to specify whether that authority includes any of the vessel-operating costs.
- Joint service. The Commission observed that, while the introduction of a joint service into a trade by outside lines may increase the level of competition and the range of services available for shippers, there can be negative effects on competition and service if the joint service is formed by lines that up to that point had been competing in the trade, and especially if the new entity would have substantial market power.
- "Capacity management" or "capacity regulation." This relatively new device for dealing with overtonnaging had appeared in two major agreements, the Trans-Atlantic Conference Agreement ("TACA") and the Transpacific Stabilization Agreement ("TSA"). It limited the availability of vessel space to shippers, but did not reduce the real capacity of the carriers.
- Regulation or discussion of service contracts. Most agreements engaging in this activity are conference agreements, which would already be covered by the "ratemaking" criterion. However, agreements among non-conference lines may include authority to confer and to reach "non-binding" agreements on service contract terms.
- Cargo or revenue pooling. The Commission explained that such agreements are severely anticompetitive by nature and must be closely regulated.

2. Classification of Agreements: The Importance of Market Share

The proposed rule required any agreement that authorized one or more of the six Class A/B activities to be accompanied, upon its initial filing, with an information form showing its parties' market shares both for the entire agreement and in each of the sub-trades within the overall scope of the agreement, during the most recent calendar quarter for which complete data are available. "Sub-trade" was defined as all liner movements between each U.S. port range (Atlantic, Gulf and Pacific) and each foreign country within the overall scope of the agreement. For example, an agreement with an overall scope of U.S. Pacific Coast to the Far East would have sub-trades of U.S. Pacific Coast to Japan, U.S. Pacific Coast to Taiwan, and so forth.

An agreement that authorized at least one of the six Class A/B activities and whose parties held combined market shares of 50 percent or more in half or more of its sub-trades would be classified as a Class A agreement under the proposed rule.[9] The parties to such an agreement would be required to submit extensive historical data on the initial information form *and*, if the agreement went into effect, to submit detailed quarterly reports on their operations under the agreement. An agreement that authorized at least one of the six activities, but whose parties did not hold market shares of 50 percent or more in at least half of its sub-trades, would be classified as a Class B agreement. It would file the same information form as a Class A agreement but, if it went into effect, would have significantly lighter reporting obligations. Under the proposed rule, classification of an agreement as Class A would not be permanent; the agreement's ongoing reporting obligations would include market share data, and at the beginning of each calendar year, the parties' sub-trade market shares during the third calendar quarter (July–September) of the previous calendar year would determine whether it would remain under Class A reporting obligations for the upcoming year.

Market share is an important measure of an agreement's potential for abuse of economic power and unreasonable or discriminatory price and service practices. In the NPR, the Commission explained that the break point of 50 percent in at least half of the sub-trades was chosen "in the belief that an agreement that is a relatively minor presence in a majority of its sub-trades—that is, a 'Class B' agreement—is unlikely to be able to impose unreasonable or unfair rates or practices regardless of what it authorizes its parties to do, and does not require extensive gathering of information about its operation." 59 FR at 62377. The Commission also pointed out, however, that an important feature of the proposed rule was that the market share calculation for a rate discussion agreement or a "non-binding" rate agreement between conference and non-conference lines would add the market shares held by the non-conference lines to those held by the conference lines for purposes of determining whether the agreement should be classified as Class A or Class B.

The new focus on sub-trades resulted from the increasing number of agreements with multi-coast or even multi-continent geographic ranges. The Commission pointed out in the NPR that in some of the more geographically fragmented parts of the world, such as the Far East and the South Pacific, individual countries can constitute separate and cloistered markets, and that agreements that serve a comparatively unified landmass, such as Europe, might still implement practices that differ from area to area within the general market. The Commission concluded that these factors argued for information-gathering systems that acquire data relevant to an agreement's sub-trades, rather than only the market defined by the agreement's total scope. Accordingly, the information (besides market share) sought by the proposed rule for Class A agreements was, for the most part, concerned with the agreement's sub-trades.

3. Class A Agreements Under the Proposed Rule

The proposed rule's *informtion form* for a Class A agreement began by requiring a listing of all effective agreements covering all or part of the geographic scope of the proposed agreement, whose parties include one or more of the parties to the proposed agreement. This provision was designed to ensure that the Commission has accurate information regarding the recent trend toward networks of agreements connected by common parties. Next, the form required an identification of all Class A/B activities that the agreement seeks to authorize.

After obtaining the market share data discussed above, the information form then inquired into the recent agreement-wide cargo carryings and revenue results of each of the carriers that would now join together into the agreement. Otherwise, the information form focused primarily on the state of affairs in each of the agreement's sub-trades before the agreement was filed. This would be done by reference to the major commodities carried by the carriers to and from the United States in each sub-trade.

Using the actual commodities potentially affected by a new agreement as the chief focus of analysis was a vital component of the proposed rule. The proposed information form, while continuing to require the submission of aggregate data in certain areas, mainly would require each party to the new agreement to identify the commodities that have made up the bulk of its cargo in each sub-trade and then to submit data on the revenues it has realized from each of those commodities. This information was intended to give the Commission a reasonably thorough summary of pre-agreement activity in each sub-trade covered by the new agreement, as well as in the agreement's entire geographic scope. If the agreement should go into effect, that summary would serve as a baseline for analyzing the corresponding information later obtained through the post-implementation reports. In the NPR, the Commission stated:

> In sum, the proposed rule both changes the orientation of agreement review to that of the cargo being affected, and also calls for more refined and differentiated data from the carriers. These reforms should provide the Commission with improved and more useful indicators of the potential or actual impact of an agreement on the needs of shippers for good service at reasonable rates, and in particular whether the agreement might cause or has caused unfair or unreasonable conditions for specific commodities, classes of shippers or geographic areas.

[7] H.R. Rep. No. 600, 98th Cong., 2d Sess. 37 (1984).

[8] *See* 46 CFR 572.302–11.

[9] For example, if an agreement with ten sub-trades reported that it had market shares of 50 percent or more in five or more sub-trades, it would be a Class A agreement. By using that methodology rather than average market share, the proposed rule sought to focus on those agreements with significant market power spread through at least half of their total geographic scope.

59 FR at 62377.

Under the *reporting requirements* for effective Class A Agreements, the parties' market shares would continue to be tracked by sub-trade. In addition, the reporting requirements would mirror the information form in order to provide "before and after" depictions of the trade, with some additional provisions that can apply only to an effective agreement. For example, a new section entitled "Independent Rate Actions" was proposed for Class A conference agreements, which would require the submission of information designed to allow the Commission to monitor the level of independent rate activity (or the lack of such activity) on specific commodities.

4. Class B Agreements Under the Proposed Rule

As already stated, the proposed rule prescribed the same information form for Class B agreements as for Class A agreements. This would establish the same pre-agreement baseline. However, assuming the Class B agreement was allowed to go into effect, the reporting requirements would be limited to quarterly updates on market share, agreement-wide (as opposed to sub-trade) cargo and revenue results, membership in other agreements, and changes in port service.

5. Class C Agreements Under the Proposed Rule

An agreement that authorized service rationalization, such as space charters, coordination of service frequency and port rotations, and coordination of the size and capacity of vessels to be deployed by the parties, but did not authorize "capacity management" (or any of the other Class A/B activities), would be a Class C agreement under the proposed rule. The Commission noted that, although such agreements have rarely presented serious regulatory concerns, some oversight is necessitated by section 6(g)'s admonition against agreements that cause unreasonable reductions in service. For a Class C agreement, the proposed rule provided for information form and reporting requirements regarding membership in other agreements and service at the ports within the agreement's overall scope.

6. Other Amendments

The proposed rule contained a number of other amendments to the Commission's existing agreement regulations. For the most part, these amendments were not substantive and were designed to make the existing regulations consistent with the proposed rule, to eliminate certain outdated regulations, or to reorganize certain subparts of the existing regulations.

7. Carrier Costs and Profits

The Commission's obligation under section 6(g) to police against agreements that may cause, or have caused, unreasonable increases in transportation rates, and the 1984 Act's purpose of providing an efficient and economic transportation system in the ocean commerce of the United States, 46 U.S.C. app. 1701(2), raised the question whether these policies can or should be pursued by monitoring the costs or profits of the carriers to a particular agreement. The proposed rule did not include provisions on carrier costs or profits, but the Commission solicited comments on the lawfulness and feasibility of such provisions. Commenters were asked to address how such provisions might be structured, particularly given the proposed rule's focus on individual country sub-trades; whether costs or profits under a particular agreement can be measured accurately, particularly if the carriers to the agreement also have operations elsewhere; and whether arguments that an agreement is necessary to control costs or to improve profits are better explored in the context of an investigation of that agreement, rather than made the subject of regulations applicable to broad classes of agreements.

D. Summary of the Comments

The comments on the Proposed Rule were all filed by carriers or carrier organizations. No shippers, shipper organizations, government agencies or other maritime interests responded to the NPR. Comments were filed by:

—TACA, the Asia North America Eastbound Rate Agreement, the Transpacific Westbound Rate Agreement, the Inter-American Freight Conference,and twenty-one other conferences and discussion agreements, filing jointly (referred to below as the "25 Agreements");
—the Council of European & Japanese National Shipowners' Associations ("CENSA");
—TSA, which adopted the comments of the 25 Agreements and filed additional comments on the special topic of capacity management programs;
—the Trans-Pacific Freight Conference of Japan, the Japan-Atlantic and Gulf Freight Conference, and their member lines ("Japan Conferences");
—the India, Pakistan, Bangladesh, Ceylon and Burma Outward Freight Conference and the Calcutta, East Coast of India and Bangladesh/U.S.A. Conference (the "Associated India/Pakistan Conferences"); and
—Hanjin Shipping Co., Ltd.

1. Hanjin

Hanjin's comments attacked the lawfulness of the proposed rule. The carrier made no counterproposals and suggested no alternatives, but merely urged that the rule be withdrawn.

Hanjin's central objection was to the proposed rule's model of generalized regulations that prescribe information requirements for classes of agreements; the gist of its position was that the Commission is restricted, as a matter of law, to requiring information only on an "as needed" basis for individual agreements. Hanjin contended that, when an agreement is first filed, the FMC's only authority is to ensure that the agreement complies with the content requirements of section 5 of the 1984 Act and does not transgress the standards of section 6(g), and that to discharge those functions the FMC does not need the information required under the proposed rule. Much of that information, Hanjin argued, would be overly burdensome to produce and is not sufficiently tied to the scope, size, or other specifics of a particular agreement. Similarly, with respect to effective agreements, Hanjin submitted that the Commission should act only through targeted investigations where information demands can be properly focused and limited.

Discussion Hanjin's arguments are incorrect. The Commission has ample statutory authority to promulgate general regulations governing the initial evaluation and subsequent surveillance of carrier agreements. Section 5(a) of the 1984 Act states specifically that "[t]he Commission may *by regulation* prescribe the form and manner in which an agreement shall be filed *and the additional information and documents necessary to evaluate the agreement.*" 46 U.S.C. app. 1704(a) (emphases added). In addition, the Commission has broad rulemaking authority under section 17(a) of the Act, *id.* app. 1716(a), and there is nothing in the language or legislative history of the Act that bars the application of that authority to carrier agreements. Hanjin does not acknowledge that the Commission has had in effect since 1984 extensive rulemaking-generated regulations governing the filing and monitoring of agreements, including regulations prescribing the current information form. It should also be pointed out that the Commission could obtain the same information set forth in the proposed rule—both the new information form data and the correlated monitoring report data—by issuing a demand for a "periodical or special report" under section 15 of the 1984 Act, 46 U.S.C. app. 1714(a). However, the Commission believes that, over the long run, regular and universally applicable information gathering is less burdensome on the industry than *ad hoc* section 15 orders or investigative subpoenas, because it enhances predictable and consistent regulation and the information obtained can persuade the agency that more formal and costly investigations are not necessary.

2. Other Comments

Of the other commenters, none challenged the proposed rule's central thesis that changes to the FMC's information-gathering processes were required by the changes in the nature, scope and complexity of carrier agreements since 1984. The Japan Conferences, for example, said that they "* * * do not oppose the concept embodied in the Proposed Rule which would enable the Commission to become better informed relative to newly filed agreement activity and their post-effective implementation." (Comments at 3). None of these commenters objected to the intensified treatment under the rule of rate discussion agreements, "non-binding" rate agreements, and agreements to discuss or exchange vessel-operating cost data. None argued against the rule's proposal to distinguish between Class A and Class B agreements on the basis of market share, and there were no objections to the rule's proposed demarcation of a 50 percent market share. None argued against the rule's intention to monitor the impact of effective agreements according to the revenue realized from leading commodities. None took issue with the rule's proposal to require by regulation—rather than by negotiated consent—the submission of reports at regular intervals for effective agreements, although issues were raised regarding the frequency of such reports.

E. Specific Issues

The following analysis of the specific issues raised by the comments is organized by subject matter. In general, the issues raised by the comments apply both to the proposed rule's revised information form and to the rule's new post-effective monitoring reports. Where an issue raised special concerns for either the information form or for the monitoring reports, that is indicated in the text.

1. Class A/B Activities

(a) Duplicative Filings

The members of the Japan Conferences are also members of three inter-conference "policy agreements" (FMC Nos. 206–010838, 206–008600, and 206–010707) that contain authority to discuss and agree on rate and service contract issues of common interest. The Conferences did not object to the fact that these agreements would be Class A/B agreements under the proposed rule, but argued that they should not be required to submit the same information for both the basic conference agreements and the inter-conference agreements:

> These supplementary agreements involve the identical Conference parties, the same TPFCJ and JAGFC trades and subtrades, the same vessels and services, and the same Conference rates and service contracts. . . . [T]he Proposed Rule should be revised to permit the information which is required to be submitted by the relevant conference to qualify as the supplementary arrangement's economic information submission.

(Comments at 6).

Discussion It is unnecessary to amend the rule to deal with this concern. Complaints from the members of an agreement that they are being asked to submit information that duplicates information submitted in connection with another agreement can and will be handled on a case-by-case basis, under the rule's waiver procedure.

(b) Non-binding Rate Authority That Can Only Be Implemented Through Other Agreements

A related issue was also raised by the Japan Conference lines, which stated that they "also operate under space charter and sailing agreements within the Conference trades, as well as in other trades and beyond." (Comments at 2). Such agreements typically contain authority to discuss and agree upon rates on a "non-binding" basis, a Class A/B activity. The Japan Conferences argued, however, that under the terms of these agreements, any rate agreements arrived under them can only be implemented through the Conferences themselves, and so all relevant information about the impact of the smaller agreements would be provided to the Commission through the Conferences' submissions.

Discussion Again, such discrete, fact-specific situations will be left for the rule's waiver procedure. A waiver may well be appropriate for side agreements between two or more conference members that are subject to reporting requirements through their membership in the conference agreement itself. However, a different situation would be presented by an agreement allowing "non-binding" rate discussions between a conference line and non-conference line.

2. Information Form for Class A/B Agreements

(a) Scope of Requirement

The Japan Conferences raised a general objection to the proposed rule's requirement that all new agreements authorizing any of the Class A/B activities must file an information form, and to the Commission's intention, as stated in the proposed rule, to require all effective agreements that authorize any of the Class A/B activities to file equivalents of information forms in order to establish baselines for future monitoring. The Japan Conferences proposed instead that such requirements be imposed only on agreements with a 35 percent market share. This change, it was argued, would excuse "smaller agreements which are likely never to threaten dominance in the trade they serve or ever to imperil the (section 6(g)) general standard * * *." (Comments at 10).

Discussion This suggested modification is rejected. The information form requirement for Class A/B agreements is triggered by the anticompetitive activities that such agreements authorize, rather than by market share. This is because the collusion on price or service that a Class A/B agreement would introduce into a trade has sufficiently serious implications for shippers and the foreign commerce of the United States that extensive information on the parties' pre-agreement prices and services is necessary. If the parties have a low market share initially, that may ease the agreement's initial review under section 6(g). However, the agreement's potential for unreasonable price increases or service reductions would always be present, particularly since the Commission cannot lawfully impose a term limit on an agreement's effectiveness. 46 U.S.C. app. 1705(f). If the parties should eventually obtain a high market share and if the agreement became the subject of a section 6(g)—investigation, comparisons with the pre-agreement profile of the trade would clearly be relevant. In addition, even a 35 percent market share may make the agreement parties the price leaders in the trade if the remaining 65 percent is spread out among many other carriers.

(b) Actual Versus Authorized Activity

The Associated India/Pakistan Conferences suggested that "[a]s an additional question or, in the

alternative, the information form could query whether the parties actually do discuss or exchange data on operating costs, pool cargoes or revenues, etc., as the case may be." (Comments at 1).

Discussion This suggested amendment is rejected. It would be impractical to attempt to adjust the level of regulation according to whether the parties were or were not using the authority contained in the agreement. Agreements must be taken at face value, and permitted activities must be assumed to be actual activities. With regard to the information form, it should be noted that the parties would be violating the Shipping Act and the antitrust laws if they were already engaged in the activities that the newly filed agreement sought to authorize.

3. Market Share

As stated above, no commenter objected to the proposed rule's provision that an agreement that authorized at least one of the Class A/B activities and held market shares of 50 percent or more in half or more of its sub-trades would be classified as a Class A agreement for purposes of the rule's monitoring report requirements. However, there were some comments on how market share should be calculated.

(a) Definition of "Sub-trade"

As stated above, the proposed rule defined "sub-trade" as all liner movements between each U.S. port range (Atlantic, Gulf and Pacific) and each foreign country within the overall scope of the agreement.

The 25 Agreements (joined by TSA) said that carriers "do not necessarily" collect and maintain data on cargo movements according to the proposed rule's definition, and that using that definition would result in a "huge" amount of data for some conferences. (Comments at 4). They would narrow the definition in two ways.

First, the United States should be considered as one unit (*i.e.*, no port ranges). The same argument was made by CENSA.

Second, it was argued that the Commission should * * *

* * * recognize that agreements may cover a large number of foreign countries, many of which are small and may be considered together by the agreement as one market. In such a case, the agreement should be allowed to provide data to the Commission regarding this group of foreign countries, rather than having to break down the data on a country-by-country basis. Accordingly, the Conferences suggest that the Commission allow the members of an agreement to provide the data in the manner in which they define their markets. If, in a particular case, the Commission believes more detailed data is required, it can request additional information.

(Comments at 5–6). A similar, though less specific, argument was made by the Japan Conferences, which contended that the Commission should allow the substitution of "broader geographic ranges of countries wherever possible," in order to reduce the burden of complying with the Rule. (Comment at 13).

Discussion The question of how to define an agreement's sub-trades is extremely important, because much of the substantive information required by the final rule—not just market share—is to be collected and submitted by sub-trade.

Any deviation from the rule's definition of sub-trade, for either the U.S. side or for the foreign side, will be allowed only through the rule's waiver procedure. Further, the burden will be on the carriers to show that their marketing and pricing are done by multi-country regions rather than by individual countries, or, in the case of the United States, by the United States as one unit rather than by separate port ranges. If such a showing is made, then an appropriate adjustment from the rule's requirements can and should be made. The rule is intended to measure and monitor actual economic behavior, not to impose its own model on the industry.

It should be noted, however, that waivers of the definition of "sub-trade" could involve difficult issues of fact. For example, in the case of a newly filed agreement, the information form requires data from the agreement signatory carriers on their operations in the agreement trade and sub-trades before the agreement was filed, when the carriers presumably were not coordinating their marketing and pricing. Therefore, an attempt to construct a regional definition of "sub-trade" that could be used by all carriers for their information from data submissions will succeed only if it can be shown that the carriers, though operating individually, were nevertheless applying essentially similar regional marketing and pricing practices.

A somewhat easier situation may be presented by the monitoring reports, which track the market shares, services and revenue results of the agreement parties after the agreement has been implemented. For conference agreements at least, this would allow the use of the agreement common tariff as the indicator of the parties' marketing and pricing practices, and it should not be difficult to define the agreement's sub-trades according to the construction of the agreement tariff. Similarly, a joint service operated by a single entity, *see* 46 U.S.C. app. 1709(e), would presumably be utilized only one tariff.

Because efforts to agree upon an alternative definition of "sub-trade" for a particular agreement may be arduous and time-consuming, the final rule provides that a waiver of the rule's definition must be obtained in advance of the required information submission, whether that be an information form or a monitoring report.

(b) Market Shares of Non-member Carriers

CENSA, the Japan Conferences and the Associated India/Pakistan Conferences argued that they should not be required to produce market share data for carriers not parties to their agreements.

Discussion This suggested modification is rejected. The current information form already requires the parties to a new agreement to provide "estimates (or precise information where available) of non-party liner operator market share (shown either for each individual operator or for all operators collectively)." 46 CFR part 572, at 314 (1994). The final rule is thus only an incremental refinement of an existing requirement. The rule requires that non-party market shares be stated by individual liner operator in order that the true extent of non-party competition can be gauged accurately; as observed above, an agreement with a market share of only 35 percent could nevertheless have significant market power if the non-party carriers all have small market shares.

(c) Cargo Not Measured in TEUs

The proposed rule required market share, cargo carrying and revenue results to be measured by TEUs. The 25 Agreements and the Associated India/Pakistan Conferences pointed out that data on breakbulk and certain other types of cargo are not available in TEUs.

Discussion The final rule clarifies that the member lines of an agreement should include only containerized cargo (stated in TEUs) in their information submissions, if the cargo they carry in the agreement trade—or sub-trade, if that is the focus of the particular report—is predominantly containerized. If the cargo they carry is predominately non-containerized, the carriers' reports of market share, cargo carryings and revenue results should include only non-containerized cargo. The rule does not impose a particular unit of measure of non-containerized cargo, requiring only that the unit employed be stated clearly and applied consistently.

4. Reports on Cargo Carryings

In response to a comment by the Associated India/Pakistan Conferences, the final rule clarifies that reports on cargo carryings should include cargo not subject to tariff filing.

5. Reports on Carrier Revenues

The comments on the proposed rule's provisions for the submission of carrier revenue data focused on the commercial sensitivity of such data. The commenters—the 25 Agreements, CENSA and the Japan Conferences—were apparently concerned that reporting individual carrier revenue data to the Commission, as the rule would require, will result in exposure of confidential business information. Three protective limitations were proposed:

—Conferences with four or more members would provide total revenue and average-revenue-per-TEU but on an aggregated, agreement-wide basis rather than on a line-by-line basis. It was argued that this would give the Commission the necessary information on the agreement's impact, while safeguarding the confidentiality of the revenue data.

—Conferences with three or fewer members should be exempt from providing revenue data altogether. The 25 Agreements contended that even the aggregate approach is not sufficiently protective for smaller conferances "***because even with an average, there are so few figures contributing to the average, the average revenue per line is likely to be fairly obvious." (Comments at 7). It was also submitted that small conferences often do not have secretariats or other central staff who can protect sensitive information, and that the demands of the proposed rule would be especially burdensome for small conferences.

—Rate discussion agreements which do not have binding rate-making authority should be exempt from providing revenue data if their membership includes carriers who belong to a conference. The rationale was that in such cases the Commission would obtain the carriers' revenue data through the conference's reporting. It was also argued that, like small conferences, discussion agreements generally do not have a central staff to collect the data from the member lines and maintain its confidentiality.

Discussion These limitations are rejected. By requiring individual carrier revenue data, the rule recognizes that Shipping Act agreements, unlike a merger, maintain the separate trade identities of their parties (with the limited exception of joint services). Thorough and accurate regulation of these ongoing price and service consortia requires knowledge of the business results of the actual operating entities. The rule's emphasis on sub-trades also requires individual carrier data, since a particular agreement sub-trade may not be served by all the parties to the agreement. Similarly, individual carrier data will further appropriate oversight of multiple agreements that are connected by common parties.

The comments would have the form and manner of appropriate regulation determined, not by the carriers that are the regulated entities under the Shipping Act, but by the form of organization that the carrier choose for themselves. The requirement for individual carrier data accommodates the apparent trend in ocean shipping away from traditional conferences, which have featured relatively independent chairmen and established central offices, and toward looser discussion agreements administered in some cases by rotation among the member lines. If this trend should continue, the excuse offered by the comments as to why even aggregate data should not be required from some agreements might eventually be raised for all agreements.

Taken on its own terms, the suggested distinction between conference is flawed: A three-member conference serving a small trade may well have a dominant market share, and therefore require careful monitoring. More generally, small conferences do not necessarily mean small member lines; a relatively small conference may have as members large carriers with established and sophisticated information systems. The proposal for rate discussion agreements would be workable only if all of the members of a particular discussion agreement were also members of a conference *and* if the discussion agreement and the conference agreement had identical geographic scopes. In such a situation, a waiver might be merited to avoid duplicative reporting as discussed above, but a general exemption is unworkable and in appropriate.

With regard to the carriers' concern about disclosure of their revenue data, there is no reasonable ground for anticipating improper public use of such data by the Commission. Once received by the Commission, revenue data is protected under section 6(j) of the 1984 Act and is exempt from disclosure under the Freedom of Information Act.[10]

6. Carriage and Revenues Data by Leading Commodities in Each Sub-trade

The heart of the proposed rule can be found in parts VI and VII of the information form for Class A/B agreements and the corresponding parts VI and VII of the monitoring report for Class A agreements. These provisions required each member line of such an agreement to submit extensive data for each "top 10" commodity carried in each sub-trade.

The provisions triggered strong opposition from most of the commenters, particularly the requirement in the two parts VII that each carrier provide detailed information on how it carried each major commodity in each sub-trade (*i.e.*, TEUs carried port-to-port under tariff rates; TEUs carried under intermodal tariff rates; TEUs carried port-to-port under service contracts; and TEUs carried in intermodal service under service contracts) and then the average revenue per TEU realized by the carrier from each type of carriage. The 25 Agreements, for example, contended:

Determining the method by which cargo moves, *e.g.*, tariff vs. service contract, port-to-port vs. intermodal, would likely require a review of every bill of lading for every shipment in the trade. The potential cost and burden of performing such a review is staggering.

(Comments at 11).

Discussion Significant revisions to these sections of the proposed rule are warranted in response to the concerns of the commenters. Specifically, each member line will be required to provide total carriage and average revenue data for each leading commodity in each sub-trade, but will no longer be required to calculate such data separately for port-to-port and intermodal services, or for tariff and service contract services. This modification essentially adopts an alternative offered by the 25 Agreements (except that the Agreement urged limitations on reporting revenue data which were identical to those already rejected above (*i.e.*, aggregate instead of individual line data, no reporting for small conferences, and so on)). As revised, the new regulations will obtain cargo and revenue data most directly relevant to review of an agreement under the section 6(g) general standard, while eliminating the aspects of the

[10] 5 U.S.C. 552(b)(4); *see, e.g., Gulf & Western Industries, Inc. v. United States*, 615 F.2d 527, 529 (D.C. Cir. 1979).

proposed rule that would have placed the greatest burden on the industry.

The comments addressed the "top 10" scheme only in passing; in response to a comment by the Associated India/Pakistan Conferences, the final rule clarifies that individual commodities should be identified at the 4-digit level of customarily used commodity coding schedules.

7. Port Service Data

Part VIII of the proposed information form required data on the number of calls by each member-line during the most recent 12-month period at each port covered by the agreement, and any change in the nature or type of service to be effected immediately "by the agreement," including base port designations and frequency of vessel calls. Similar data was required by the proposed monitoring report for Class A agreements.

The 25 Agreements (joined by CENSA) suggested that "port" be limited to U.S. ports, "* * * since the FMC does not require information regarding calls at foreign ports to fulfill its regulatory responsibilities." (Comments at 12). Also, they proposed that changes in service be clarified to mean only those changes "* * * that are required by the agreement, rather than any changes made by an individual carrier for its own commercial reasons." (*Id.*).

Discussion The Commission disagrees that the impact of agreements on liner service in U.S. foreign trades can be adequately monitored by reference only to U.S. ports, but will make other modifications to this part of the Rule. The phrase "by the agreement" will be deleted from the information form, so that it is clear that each member line of a new agreement should state whether *it* (rather than "the agreement") will be making any changes in the nature or frequency of its service at any port covered by the agreement, once the agreement goes into effect. In the corresponding part of the monitoring report, the requirement that each member line list the number of calls at each port during the previous calendar quarter is deleted; instead, the lines are simply asked to describe any changes in the nature of their services at each agreement port, *e.g.*, serving a port by substituted rather than direct service.

8. Capacity Management Programs

The special provisions of the proposed rule that deal with agreements authoring "capacity management" or "capacity regulation," including the identification of "capacity management" or "capacity regulation" as one of the Class A/B activities, are deleted. There are now no agreements on file with the Commission containing such programs, and accordingly there is no need at present for specific regulations addressing this unusual and highly controversial area of carrier activity. Any future capacity management filings will be dealt with on a case-by-case basis. Through its statutory authorities in section 6(d) and 15 of the 1984 Act, the Commission will have sufficient means of analyzing any such agreements by obtaining and reviewing all planning documents, trade reports, capacity calculations, and any other relevant information that was used to negotiate the capacity limits in the new agreement. If reporting is necessary, that could be done through imposition of a permanent section 15 order.

9. Data on Independent Actions

For the monitoring reports filed by Class A conferences, the proposed rule required each member line to state the number of IAs taken on each leading commodity within each sub-trade, and the total number of TEUs of that commodity covered by the IAs. The 25 Agreements opposed this requirement on the ground of burdensomeness. The Japan Conferences claimed that "the Conferences" do not maintain data on the TEUs carried by their member lines under IA rates, and suggested that many of their member lines do not maintain such data either.

The proposed rule also required identification of each shipper for whom an IA was taken on a leading commodity during the calendar quarter, and a statement as to whether the shipper was a beneficial cargo owner, a non-vessel-operating common carrier, or a shipper's association. The 25 Agreements responded that IAs are often not taken for a specific shipper:

> Instead, they may be taken to service a particular market so that a carrier can break into that market or remain competitive in it. In such instances, therefore, the carriers obviously cannot provide any shipper information.

(Comments at 15–16). Similar objections were filed by the Japan Conferences and CEMSA, although the Japan Conferences were willing to provide data on the type of shipper for whom IAs had been taken.

Discussion The requirement for reporting the number of TEUs moving under the IAs taken for each leading commodity has been deleted. The final rule requires each member of a "Class A" conference to submit data both on the number of IAs taken on each leading commodity in each agreement sub-trade and, in part VII of the conference's monitoring report, on the average revenue per TEU realized by the member line from its carriage of each leading commodity in each sub-trade. The Commission believes that it will be able to accurately monitor the true level of IA activity within a conference by comparing and contrasting these two sets of data.

Reductions have also been made in the amount of shipper-related IA data. Rather than requiring the name of each shipper for whom an IA was taken during the calendar quarter, the final rule instead requires each member line to state how many of its total IA actions for each leading commodity during the quarter were taken to service specific shipper accounts (rather than for general commercial reasons) and of those, how many were taken for NVO accounts and how many for shippers' association accounts. These changes respond to observations of the commenters that many IAs are taken to preserve market share or to penetrate new markets, rather than for specific customers, and to the commenters' concerns about protecting the identity of those shippers for whom IA was taken.

10. Quarterly Reporting

Objections were raised to the proposed rule's requirements that monitoring reports be submitted on a quarterly basis. The Japan Conferences, for example, said that "* * * economic trends in the ocean shipping business do not ordinarily change to any significant degree in the space of a three month period, or even over six months or a year." (Comments at 4). They asked that reports be submitted annually "* * * or, certainly, with no greater frequency than semi-annually." *Id.* at 5).

Discussion The final rule retains the requirement for quarterly monitoring reports. The Commission specifically disagrees with the Japan Conferences' characterization of the cycles of international ocean shipping; the experience of the Pacific trades during 1995 was certainly to the contrary. More important, given the significant modifications and reductions made by the final rule to the information demands of the proposed rule, there is no basis to conclude on this record that quarterly reporting will be unduly burdensome or otherwise unreasonable. It should be pointed out again, however, that an individual waiver of the quarterly reporting requirement can be obtained under the proper circumstances.

11. Miscellaneous

The proposed monitoring report for Class A agreements required a statement as to whether the agreement is a conference or has capacity management provisions. This was meant to facilitate checking of the carriers' compliance with the special requirements for such agreements. The 25 Agreements viewed this as "duplicative information" (Comments at 15) that should be required only if there has been some change since the last report. As discussed above, the proposed rule's provisions for capacity management agreements have been deleted, but the requirement that a conference identify itself as such in its monitoring reports is retained to avoid any uncertainties from the fact that conference names often do not include the word "conference."

In response to a suggestion from the Associated India/Pakistan Conferences, the "contact person" provisions of the information forms and monitoring reports have been updated to include fax and telex numbers as well as cable addresses.

The number of copies required for an agreement filing by subpart 572.401 has been reduced from an original and ten copies to an original and seven copies. In addition, subpart 572.701 and the instructions for the Information Forms and Monitoring Reports have been clarified with respect to joint services.

12. Carrier Costs and Profits

The 25 Agreements and CENSA argued that data on profits and/or costs in the agreement trade are irrelevant to a section 6(g) analysis. The Japan Conferences were also opposed, but took a less dogmatic position:

> The Conferences do not contend that there will never be a case where it would be appropriate or necessary for the Commission to review cost or profit information, or that in a proper case involving a particular agreement, section 15 should not be used to demand such information.

(Comments at 14). Rather, they argued that rulemaking is too broad a procedure and is not tied to a specific need for such data. Also, they pointed out that the proposed rule is based on sub-trade data, and that cost and profit data by sub-trade would be very suspect.

Discussion: The Commission will not propose a further rulemaking at this time to capture cost and profit data. However, we wish to stress that the costs incurred and the profits realized by the carrier parties to a particular agreement could well be relevant to a section 6(g) analysis of that agreement, especially if purported revenue losses are being used to justify the agreement.

For the most part, these amended regulations will become effective thirty days after publication in the **Federal Register**. New agreements then will be required to comply with the revised information form provisions. However, the proper application of the new monitoring report provisions in 46 CFR 572.701–705 to agreements already in effect cannot be determined immediately, because the market share data necessary to separate Class A/B agreements into Class A and Class B are not readily available.

Accordingly, effectiveness of the monitoring report provisions of the final rule is stayed until further notice. The Commission will direct all existing Class A/B agreements to submit reports under section 15 of the 1984 Act that will include all the information demanded of new Class A/B agreements under the information form regulations, including market share data. Upon review of these reports, those agreements will be appropriately classified into Class A or Class B, the stay of monitoring report provisions will be lifted, and the orderly filing of the regular monitoring reports (including those applicable to Class C agreements) will begin.

For those agreements already in effect that are subject to negotiated reporting requirements, those requirements will remain in effect until the stay is lifted and the new reporting requirements become applicable. Also, the stay does not apply to the pre-existing obligation (now codified at 572.706–708) of certain agreements to submit minutes of their meetings.

The Federal Maritime Commission certifies, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that this rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units and small government jurisdictions. The ocean carriers affected by the rule are not "small organizations" or "small governmental jurisdictions" as defined by 5 U.S.C. 601 and, as large and predominantly foreign-based enterprises, are not "small business concerns" as defined by 15 U.S.C. 632 and regulations issued thereunder.

The collection of information requirements contained in this rule has been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1995, and has been assigned OMB control number 3072–0045. Under the proposed rule, the incremental public reporting burden was estimated to range from an average of 46 to 144 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. With the modifications made to the proposed rule, the incremental public reporting burden for preparing responses to the collection of information requirements of the final rule is estimated to range from an average of 36 to 97 hours per response. Send comments regarding this burden estimate, including suggestions for reducing this burden, to Bruce A. Dombrowski, Deputy Managing Director, Federal Maritime Commission, Washington, DC 20573, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

List of Subjects in 46 CFR Part 572

Administrative practice and procedure; Maritime carriers; Reporting and recordkeeping requirements.

Therefore, pursuant to 5 U.S.C. 553 and sections 4, 5, 6, 10, 15 and 17 of the Shipping Act of 1984, 46 U.S.C. app. 1703, 1704, 1705, 1709, 1714 and 1716, part 572 of Title 46, Code of Federal Regulations, is amended as follows:

PART 572—AGREEMENTS BY OCEAN COMMON CARRIERS AND OTHER PERSONS SUBJECT TO THE SHIPPING ACT OF 1984

1. The authority citation for part 572 continues to read as follows:

Authority: 5 U.S.C. 553, 46 U.S.C. app. 1701–1707, 1709–1710, 1712 and 1714–1717.

2. In § 572.103, the first sentence of paragraph (a), the first two sentences of paragraph (b), the first sentence of paragraph (c), and the second sentence of paragraph (d) are revised; in paragraph (e), the third sentence is revised, the last sentence is revised, and a new sentence is added as follows:

§ 572.103 Policies.

(a) The Act requires that agreements be processed and reviewed, upon their initial filing, according to strict statutory deadlines. * * *

(b) The Act requires that agreements be reviewed, upon their initial filing, to ensure compliance with all applicable provisions of the Act and empowers the Commission to obtain information to conduct that review. This part identifies those classes of agreements which must be accompanied by information submissions when they are first filed, and sets forth the kind of information for each class of agreement which the

Commission believes relevant to that review. * * *

(c) In order to further the goal of expedited processing and review of agreements upon their initial filing, agreements are required to meet certain minimum requirements as to form. * * *

(d) * * * In order to minimize delay in implementation of routine agreements and to avoid the private and public cost of unnecessary regulation, the Commission is exempting certain classes of agreements from the filing requirements of this part.

(e) * * * This, however, requires greater monitoring of agreements after they have become effective, to assure continued compliance with all applicable provisions of the Act. * * * Only that information which is necessary to assure that Commission monitoring responsibilities will be fulfilled is requested. It is the policy of the Commission to keep the costs of regulations to a minimum and at the same time obtain information needed to fulfill its statutory responsibility.

* * * * *

3. In § 572.104, paragraphs (ee) and (ff) are redesignated (ii) and (jj); (dd) is redesignated (hh); (z) through (cc) are redesignated (dd) through (gg); (y) is redesignated (cc); (s) through (x) are redesignated (u) through (z); and (e) through (r) are redesignated (f) through (s); new paragraphs (e), (t), (aa), (bb), and (kk) are added; in newly redesignated (g), the last sentence is revised; newly redesignated (j) is revised; the heading of newly redesignated (o) is revised; newly redesignated (cc) is revised; and in newly redesignated (hh), the last sentence is revised to read as follows:

§ 572.104 Definitions.

* * * * *

(e) *Capacity management or capacity regulation agreement* means an agreement between two or more ocean common carriers which authorizes withholding some part of the capacity of the parties' vessels from a specified transportation market, without reducing the real capacity of those vessels. The term does not include sailing agreements or space charter agreements.

* * * * *

(g) *Conference agreement* * * * The term does not include joint service, pooling, sailing, space charter, or transshipment agreements.

* * * * *

(j) *Effective agreement* means an agreement approved pursuant to the Shipping Act, 1916, or effective pursuant to an exemption under that act, or effective under the Act.

* * * * *

(o) *Joint service agreement* * * *

* * * * *

(t) *Monitoring report* means the report containing economic information which must be filed at defined intervals with regard to certain kinds of agreements that are effective under the Act.

* * * * *

(aa) *Rate,* for purposes of this part, includes both the basic price paid by a shipper to an ocean common carrier for a specified level of transportation service for a stated quantity of a particular commodity, from origin to destination, on or after a stated effective date or within a defined time frame, and also any accessorial charges or allowances that increase or decrease the total transportation cost to the shipper.

(bb) *Rate agreement* means an agreement between ocean common carriers which authorizes agreement upon, on either a binding basis under a common tariff or on a non-binding basis, or discussion of, any kind of rate.

(cc) *Sailing agreement* means an agreement between ocean common carriers which provides for the rationalization of service by establishing a schedule of ports which each carrier will serve, the frequency of each carrier's calls at those ports, and/or the size and capacity of the vessels to be deployed by the parties. The term does not include joint service agreements, or capacity management or capacity regulation agreements.

* * * * *

(hh) *Space charter agreement* * * * The arrangement may include arrangements for equipment interchange and receipt/delivery of cargo, but may not include capacity management or capacity regulation as used in this subpart.

* * * * *

(kk) *Vessel-operating costs* means any of the following expenses incurred by an ocean common carrier: Salaries and wages of officers and unlicensed crew, including relief crews and others regularly employed aboard the vessel; fringe benefits; expenses associated with consumable stores, supplies and equipment; vessel fuel and incidental costs; vessel maintenance and repair expense; hull and machinery insurance costs; protection and indemnity insurance costs; costs for other marine risk insurance not properly chargeable to hull and machinery insurance or to protection and indemnity insurance accounts; and charter hire expenses.

§ 572.301 [Amended]

4. In § 572.301, paragraph (b) is amended by removing the words "Information Form" and the comma immediately thereafter.

§ 572.302 [Amended]

5. In § 572.302, paragraph (b) is amended by removing the words "Information Form" and the comma immediately thereafter.

§ 572.303 [Amended]

6. In § 572.303, paragraph (b) is amended by removing the words "and Information Form."

§ 572.304 [Amended]

7. In § 572.304, paragraph (b) introductory text is amended by removing the words "and Information Form."

§ 572.305 [Amended]

8. In § 572.305, paragraph (b) is amended by removing the words "and Information Form."

§ 572.306 [Amended]

9. In § 572.306, paragraph (b) is amended by removing the words "and Information Form."

§ 572.308 [Amended]

10. In § 572.308, paragraph (b) is amended by removing the words "and Information Form."

§ 572.309 [Amended]

11. In § 572.309, paragraph (a) introductory text, is amended by removing the words "Information Form" and the comma immediately thereafter.

12. In subpart D, the heading is revised to read as follows:

Subpart D—Filing of Agreements

13. In § 572.401, the heading and paragraphs (a)(1), (a)(2), (c), (d), and (e) are revised to read as follows:

§ 572.401 General requirements.

(a) * * *

(1) A true copy and 7 additional copies of the filed agreement;

(2) Where required by this part, an original and five copies of the completed Information Form Referenced at subpart E of this part; and

* * * * *

(c) Any agreement which does not meet the filing requirements of this section, including any applicable Information Form requirements, shall be rejected in accordance with § 572.601.

(d) Assessment agreements shall be filed and shall be effective upon filing.

(e) Parties to agreements with expiration dates shall file any modification seeking renewal for a specific term or elimination of a termination date in sufficient time to accommodate the waiting period required under the Act.

* * * * *

§ 572.402 [Amended]

14. In § 572.402, paragraph (e)(2) is amended by revising the reference to "§§ 572.501 and 572.502" to read "§§ 572.403 and 572.404," paragraph (f) is amended by revising the reference to "§§ 572.501(b)(3), 572.501(b)(6) and 572.502(a)(1)" to "§§ 572.403(b)(3), 572.403(b)(6) and 572.404(a)(1)," and paragraph (h) is removed.

§ 572.403 [Redesignated as § 572.405 and Amended]

15. Section 572.405 is removed and § 572.403 is redesignated § 572.405 with paragraphs (a) and (g)(3) revised as follows:

§ 572.405 Modifications of agreements.

* * * * *

(a) Agreement modifications shall be: filed in accordance with the provisions of 572.401 and in the format specified in 572.402; with the content and organization specified in 572.403 and 572.404 and in accordance with this section.

* * * * *

(g) * * *

(3) The filing of a republished agreement, as described in paragraph (g)(2) of this section, may be accomplished by filing only an executed original true copy. No Information Form requirements apply to the filing of a republished agreement.

§ 572.501 [Redesignated as § 572.403 and Amended]

16. Section 572.501 is redesignated 572.403 and paragraphs (a) and (b) are amended by revising the references to "§ 572.502" to read "§ 572.404."

§ 572.406 [Redesignated as § 572.407]
§ 572.404 [Redesignated as § 572.406]

17. Section 572.406 is redesignated § 572.407 and 572.404 is redesignated § 572.406 and revised to read as follows;

§ 572.406 Application for waiver.

(a) Upon showing of good cause, the Commission may waive the requirements of §§ 572.401, 572.402, 572.403, 572.404 and 572.405.

(b) Requests for such a waiver shall be submitted in advance of the filing of the agreement to which the requested waiver would apply and shall state:

(1) The specific provisions from which relief is sought;

(2) The special circumstances requiring the requested relief; and

(3) Why granting the requested waiver will not substantially impair effective regulation of the agreement.

§ 572.202 [Redesignated as § 572.404 and Amended]

18. Section 572.502 of subpart E is redesignated § 572.404 and paragraphs (a) and (b)(1) are amended by revising the reference to "§ 572.501" to read "§ 572.403."

19. The heading of subpart E is removed and new subpart E is added as follows:

Subpart E—Information Form Requirements

Sec.

572.501 General requirements.
572.502 Subject agreements.
572.503 Information form for Class A/B agreements.
572.504 Information form for Class C agreements.
572.505 Application for waiver.

Subpart E—Information Form Requirements

§ 572.501 General requirements.

(a) Certain agreements must be accompanied, upon their initial filing, with an Information Form setting forth information and data on the filing parties' prior cargo carryings, revenue results and port service patterns.

(b) The filing parties to an agreement subject to this subpart shall complete and submit an original and five copies of the applicable Information Form at the time the agreement is filed. Copies of the applicable Form may be obtained at the Office of the Secretary or by writing to the Secretary of the Commission.

(c) A complete response in accordance with the instructions on the Information Form shall be supplied to each item. Whenever the party answering a particular part is unable to supply a complete response, that party shall provide either estimated data (with an explanation of why precise data are not available) or a detailed statement of reasons for noncompliance and the efforts made to obtain the required information.

(d) The Information Form for a particular agreement may be supplemented with any other information or documentary material.

(e) The Information Form and any additional information submitted in conjunction with the filing of a particular agreement shall not be disclosed except as provided in § 572.608.

§ 572.502 Subject agreements.

Agreements subject to this subpart are divided into two classes, Class A/B and Class C. When used in this subpart:

(a) Class A/B agreement means an agreement that is one or more of the following:

(1) A rate agreement as defined in § 572.104(aa) and § 572.104(bb);

(2) A joint service agreement as defined in § 572.104(o);

(3) A pooling agreement as defined in § 572.104(y);

(4) An agreement authorizing discussion or exchange of data on vessel-operating costs as defined in § 572.104(kk); or

(5) An agreement authorizing regulation or discussion of service contracts as defined in § 572.104(dd).

(b) Class C agreement means an agreement that is one or more of the following:

(1) A sailing agreement as defined in § 572.104(cc); or

(2) A space charter agreement as defined in § 572.104(hh).

§ 572.503 Information form for Class A/B agreements.

The Information Form for Class A/B agreements, with accompanying instructions that are intended to facilitate the completion of the Form, is set forth in appendix A of this part.

The instructions should be read in conjunction with the Shipping Act of 1984 and with this part 572.

§ 572.504 Information form for Class C agreements.

The Information Form for Class C agreements, with accompanying instructions that are intended to facilitate the completion of the Form, is set forth in appendix B of this part. The explanation and instructions should be read in conjunction with the Shipping Act of 1984 and 46 CFR part 572.

§ 572.505 Application for waiver.

(a) Upon a showing of good cause, the Commission may waive any part of the information form requirements of § 572.503 or § 572.504.

(b) A request for such a waiver must be approved in advance of the filing of the information form to which the requested waiver would apply. The Commission will take into account the presence or absence of shipper complaints in considering an application for a waiver. Requests for a waiver shall state:

(1) The specific requirements from which relief is sought;

(2) The special circumstances requiring the requested relief; and

(3) Why granting the requested waiver will not substantially impair effective regulation of the agreement, either during pre-implementation review or during post-implementation monitoring.

20. In § 572.601, paragraph (a) and the first sentence of paragraph (b)(1) are revised, as follows:

§ 572.601 Preliminary review—rejection of agreements.

(a) The Commission shall make a preliminary review of each filed agreement to determine whether the agreement is in compliance with the filing requirements of the Act and this part and, where applicable, whether the accompanying Information Form is complete or, where not complete, whether the deficiency is adequately explained or is excused by a waiver granted by the Commission under § 572.505.

(b)(1) The Commission shall reject any agreement that otherwise fails to comply with the filing and Information Form requirements of the Act and this part. * * *

* * * * *

21. In § 572.608, paragraph (b)(2) is revised, as follows:

§ 572.608 Confidentiality of submitted materials.

* * * * *

(b) * * *

(2) It is disclosed to either body of Congress or to a duly authorized committee or subcommittee of Congress.

* * * * *

22. In § 572.701, paragraphs (b), (c) and (d) are removed, paragraph (f) is redesignated (i) and is revised, paragraph (e) is redesignated (f) and is revised, paragraph (a)(1) is redesignated (d) and is revised, paragraph (a)(2) is redesignated (e) and the second sentence thereof is revised, a new paragraph (a) is added, a new paragraph (b) is added, a new paragraph (c) is added, a new paragraph (g) is added, and a new paragraph (h) is added, as follows:

§ 572.701 General requirements.

(a) Certain agreements are required to submit quarterly Monitoring Reports on an ongoing basis for as long as they remain in effect, setting forth information and data on the agreement member lines' cargo carryings, revenue results and port service patterns under the agreement.

(b) Certain agreements are required to submit minutes of their meetings for as long as they remain in effect.

(c) *Joint Services.* For purposes of the requirements of this Subpart, a joint service filing its own Monitoring Report shall file as one carrier. If a joint service is a party to another agreement that is otherwise subject to the requirements of this Subpart, the joint service shall be treated as one member of that agreement for purposes of that agreement's Monitoring Reports.

(d) *Address.* Monitoring Reports and minutes required by this subpart should be addressed to the Commission as follows: Director, Bureau of Economics and Agreement Analysis, Federal Maritime Commission, Washington, DC 20573–0001. Copies of the applicable Monitoring Report form may be obtained from the Bureau of Economics and Agreement Analysis. The lower, left-hand corner of the envelope in which each Monitoring Report or set of minutes is forwarded should indicate the nature of its contents and the related agreement number. For example: "Monitoring Report, Agreement 5000" or "Minutes, Agreement 5000."

(e) *Electronic filing.* * * * Detailed information on electronic transmission is available from the Commission's Bureau of Economics and Agreement Analysis.

* * * * *

(f) *Time for filing.* Monitoring Reports shall be filed within 30 days of the end of each calendar quarter. Other documents shall be filed within 30 days of the end of a quarter-year, a meeting, or the receipt of a request for documents.

(g) A complete response in accordance with the instructions on the applicable Monitoring Report shall be supplied to each item. Whenever the party answering a particular part is unable to supply a complete response, that party shall provide either estimated data (with an explanation of why precise data are not available) or a detailed statement of reasons for noncompliance and the efforts made to obtain the required information.

(h) A Monitoring Report for a particular agreement may be supplemented with any other information or documentary material.

(i) *Confidentiality.* (1) The Monitoring Reports, minutes, and any other additional information submitted for a particular agreement will be exempt from disclosure under 5 U.S.C. 552, except to the extent:

(i) It is relevant to an administrative or judicial action or proceeding; or

(ii) It is disclosed to either body of Congress or to a duly authorized committee or subcommittee of Congress.

(2) Parties may voluntarily disclose or make Monitoring Reports, minutes or any other additional information publicly available. The Commission must be promptly informed of any such voluntary disclosure.

§ 572.202 [Redesignated as § 572.706 and Amended]

23. Section 572.702 is redesignated 572.706, the heading thereof is revised, and a new paragraph (d) is added, as follows:

§ 572.706 Filing of minutes—including shippers' requests and complaints, and consultations.

* * * * *

(d) *Serial numbers.* (1) Each set of minutes filed with the Commission should be assigned a number. For example, a conference filing minutes of its first meeting upon the effective date of this rule should assign Meeting No. 1 to its minutes, the next meeting will be assigned Meeting No. 2, and so on.

(2) Any conference or rate agreement which, for its own internal purposes, has a system for assigning sequential numbers to its minutes in a manner which differs from that set forth in paragraph (d)(1) of this section may continue to utilize its own system thereof.

§ 572.703 [Redesignated as § 572.707 and Amended]

24. Section 572.703 is redesignated 572.707, and the reference to "§ 572.702" in the introductory text is revised to read "§ 572.706."

§ 572.704 [Redesignated as § 572.909 and Revised]

25. Section 572.704 is redesignated 572.709 and is revised as follows:

§ 572.709 Application for waiver.

(a) Upon a showing of good cause, the Commission may waive any requirement of this subpart.

(b) A request for such a waiver must be approved in advance of the filing of the Monitoring Report or minutes to which the requested waiver would apply. The Commission will take into account the presence or absence of shipper complaints in considering an application for a waiver. Requests for a waiver shall state:

(1) The specific requirements from which relief is sought;

(2) the special circumstances requiring the requested relief; and

(3) why granting the requested waiver will not substantially impair effective regulation of the agreement.

26. A new § 572.702 is added to read as follows:

§ 572.702 Agreements subject to Monitoring Report requirements.

(a) Agreements subject to the Monitoring Report requirements of this subpart are divided into three classes, Class A, Class B and Class C. When used in this subpart:

(i) *Class A agreement* means an agreement that is subject to the definition set forth in § 572.502(a) and has market shares of 50 percent or more in half or more of its sub-trades.

(2) *Class B agreement* means an agreement that is subject to the definition set forth in § 572.502(a) but does not have market shares of 50 percent or more in half or more of its sub-trades.

(b) Classification of an agreement as "Class A" or "Class B" for purposes of its reporting obligations under this subpart shall be done by the Bureau of Economics and Agreement Analysis, based in the first instance on the market share data reported on the agreement's Information Form pursuant to § 572.503, or on similar data otherwise obtained. Thereafter, at the beginning of each calendar year, the Bureau of Economics and Agreement Analysis shall determine whether the agreement should be classified as "Class A" or "Class B" for that year, based on the market share data reported on the agreement's quarterly Monitoring Report for the third quarter (July–September) of the previous calendar year.

(c) *Class C agreement* means an agreement that is subject to the definition set forth in § 572.502(b).

27. A new § 572.703 is added, as follows:

§ 572.703 Monitoring report for Class A agreements.

The Monitoring Report form for Class A agreements, with accompanying instructions that are intended to facilitate the completion of the Report, is set forth in appendix C of this part. The instructions should be read in conjunction with the Shipping Act of 1984 and with 46 CFR part 572.

28. A new § 572.704 is added, as follows:

§ 572.704 Monitoring report for Class B agreements.

The Monitoring Report form for Class B agreements, with accompanying instructions that are intended to facilitate the completion of the Report, is set forth in appendix D of this part. The instructions should be read in conjunction with the Shipping Act of 1984 and with 46 CFR part 572.

29. A new § 572.705 is added, as follows:

§ 572.705 Monitoring report for Class C agreements.

The Monitoring Report form for Class C agreements, with accompanying instructions that are intended to facilitate the completion of the Report, is set forth in appendix E of this part. The explanation and instructions should be read in conjunction with the Shipping Act of 1984 and 46 CFR part 572.

30. A new § 572.708 is added as follows:

§ 572.708 Retention of records.

Each agreement required to file minutes pursuant to this subpart shall retain a copy of each document listed in said minutes for a minimum period of 3 years after the date the document is distributed to the members. Such documents may be requested by the Director, Bureau of Economics and Agreement Analysis, in writing by reference to a specific minute, and shall indicate that the documents will be received in confidence. Requested documents shall be furnished by the parties within the time specified.

31. Section 572.902 is revised as follows:

§ 572.702 Falsification of reports.

Knowing falsification of any report required by the Act or this part, including knowing falsification of any item in any applicable Information Form or Monitoring Report, is a violation of the rules of this part and is subject to the civil penalties set forth in section 13(a) of the Act and may be subject to the criminal penalties provided for in 18 U.S.C. 1001.

§ 572.991 [Amended]

32. Section 572.991 is amended by revising the reference to "the Paperwork Reduction Act of 1980, Public Law 96–511" to read "the Paperwork Reduction Act of 1995, Public Law 104–13" and by revising the reference to "section 3507(f)" to read "section 3507(a)(3)."

33. Appendix A to Part 572 is revised to read as follows:

Appendix A to Part 572—Information Form for Class A/B Agreements and Instructions

Instructions

All agreements between ocean common carriers that are Cass A/B agreements as defined in 46 CFR 572.502(a) must be accompanied by a completed Information Form for such agreements. A complete response must be supplied to each part of the Form. Where the party answering a particular part is unable to supply a complete response, that party shall provide either estimated data (with an explanation of why precise data are not available) or a detailed statement of reasons for noncompliance and the efforts made to obtain the required information. For purposes of the requirements of this Form, if one of the agreement signatories is a joint service operating under an effective agreement, that signatory shall respond to the Form as a single agreement party. All sources must be identified.

Part I

Part I requires a statement of the full name of the agreement as also provided under 46 CFR 572.403.

Part II

Part II requires a list of all effective agreements covering all or part of the geographic scope of the filed agreement, whose parties include one or more of the parties to the filed agreement.

Part III(A)

Part III(A) requires a statement as to whether the agreement authorizes the parties to collectively fix rates under a common tariff, to agree upon rates on a non-binding basis, or to discuss rates. Such rate activities may be authorized by a conference agreement, an interconference agreement, an agreement among one or more conferences and one or more non-conference ocean common carriers, an agreement between two or more conference member lines, an agreement between one or more conference member lines and one or more non-conference ocean common carriers, or an agreement among two or more non-conference ocean common carriers.

Part III(B)

Part III(B) requires a statement as to whether the agreement authorizes the parties to establish a joint service.

Part III(C)

Part III(C) requires a statement as to whether the agreement authorizes the parties to pool cargo or revenues.

Part III(D)

Part III(D) requires a statement as to whether the agreement authorizes the parties to discuss or exchange data on vessel-operating costs as defined in 46 CFR 572.104(kk).

Part III(E)

Part III(E) requires a statement as to whether the agreement authorizes the parties to regulate or discuss service contracts.

Part IV

Part IV requires the market shares of all liner operators within the entire geographic scope of the agreement and in each sub-trade within the scope of the agreement, during the most recent calendar quarter for which complete data are available. A joint service shall be treated as a single liner operator, whether it is an agreement line or a non-agreement line. *Sub-trade* is defined as the scope of all liner movements between each U.S. port range within the scope of the agreement and each foreign country within the scope of the agreement. Where the agreement covers both U.S. inbound and outbound liner movements, inbound and outbound market shares should be shown separately.

U.S. port ranges are defined as follows:

Atlantic—Includes ports along the eastern seaboard from the northern boundary of Maine to, but not including, Key West, Florida. Also includes all ports bordering upon the Great Lakes and their connecting

waterways as well as all ports in the State of New York on the St. Lawrence River.

Gulf—Includes all ports along the Gulf of Mexico from Key West, Florida, to Brownsville, Texas, inclusive. Also includes all ports in Puerto Rico and the U.S. Virgin Islands.

Pacific—Includes all ports in the States of Alaska, Hawaii, California, Oregon and Washington. Also includes all ports in Guam, American Samoa, Northern Marianas, Johnston Island, Midway Island and Wake Island.

An application may be filed for a waiver of the definition of "sub-trade," under the procedure described in 46 CFR 572.505. In any such application, the burden shall be on the filing carriers to show that their marketing and pricing practices have been done by ascertainable multi-country regions rather than by individual countries or, in the case of the United States, by broader areas than the port ranges defined herein. The carriers must further show that, though operating individually, they were nevertheless applying essentially similar regional practices.

The *formula for calculating market share* in the entire agreement scope or in a sub-trade is as follows:

The total amount of liner cargo carried on each liner operator's liner vessels in the entire agreement scope or in the sub-trade during the most recent calendar quarter for which complete data are available, divided by the total liner movements in the entire agreement scope or in the sub-trade during the same calendar quarter, which quotient is multiplied by 100. The calendar quarter used must be clearly identified. The market shares held by non-agreement lines as well as by agreement lines must be provided, stated separately in the format indicated.

If 50 percent or more of the total liner cargo carried by the agreement lines in the entire agreement scope or in the sub-trade during the calendar quarter was containerized, only containerized liner movements (measured in TEUs) must be used for determining market share. If 50 percent or more of the total liner cargo carried by the agreement lines was non-containerized, only non-containerized liner movements must be used for determining market share. The unit of measure used in calculating amounts of non-containerized cargo must be specified clearly and applied consistently.

Liner movements is the carriage of liner cargo by liner operators. *Liner cargoes* are cargoes carried on liner vessels in a liner service. A *liner operator* is a vessel-operating common carrier engaged in liner service. *Liner vessels* are those vessels used in a liner service. *Liner service* refers to a definite, advertised schedule of sailings at regular intervals. All these definitions, terms and descriptions apply only for purposes of the Information Form.

Part V

Part V requires, for each agreement member line that served all or any part of the geographic area covered by the agreement during all or any part of the most recent 12-month period for which complete data are available, a statement of each line's total liner cargo carryings within the geographic area, total liner revenues within the geographic area, and average revenue.

If 50 percent or more of the total liner cargo carried by all the agreement member lines in the geographic area covered by the agreement during the 12-month period was containerized, each agreement member line should report only its total carryings of containerized liner cargo (measured in TEUs) within the geographic area, total revenues generated by its carriage of containerized liner cargo, and average revenue per TEU. Conversely, if 50 percent or more of the total liner cargo carried by all the agreement member lines in the geographic area covered by the agreement during the 12-month period was non-containerized, each line should report only its total carryings of non-containerized liner cargo (specifying the unit of measurement used), total revenues generated by its carriage of non-containerized liner cargo, and average revenue per unit of measurement.

The Information Form specifies the format in which the information is to be reported. Where the agreement covers both U.S. inbound and outbound liner movements, inbound and outbound data should be stated separately.

Part VI

Part VI requires a list, for each sub-trade within the scope of the agreement, of the top 10 liner commodities (including commodities not subject to tariff filing) carried by all the agreement member lines during the same 12-month period used in responding to Part V, or a list of the commodities accounting for 50 percent of the total liner cargo carried by all the agreement member lines during the 12-month period, whichever list is longer. If 50 percent or more of the total liner cargo carried by all the agreement member lines in the sub-trade during the 12-month period was containerized, this list should include only containerized commodities. If 50 percent or more of the total liner cargo carried by all the agreement member lines in the sub-trade during the 12-month period was non-containerized, this list should include only non-containerized commodities. Commodities should be identified at the 4-digit level of customarily used commodity coding schedules. Where the agreement covers both U.S. inbound and outbound liner movements, inbound and outbound sub-trades should be stated separately.

Part VII

Part VII requires a statement of the cargo volume and revenue results experienced by each of the parties to the proposed agreement from each major commodity in each subtrade. The Information Form specifies the format in which the information is to be reported.

Part VIII

Part VIII is concerned with the levels of service at each port within the entire geographic scope of the agreement. Each of the agreement lines is required to provide the number of calls it made at each port over the 12-month period used in responding to Parts V, VI and VII, and also to indicate any immediate change it plans to make in the nature or type of service at a particular port after the agreement goes into effect.

Part IX(A)

Part IX(A) requires the name, title, address, telephone number and cable address, telex or fax number of a person the Commission may contact regarding the Information Form and any information provided therein.

Part IX(B)

Part IX(B) requires the name, title, address, telephone number and cable address, telex or fax number of a person the Commission may contact regarding a request for additional information or documents.

Part IX(C)

Part IX(C) requires that a representative of the agreement lines sign the Information Form and certify that the information in the Form and all attachments and appendices are, to the best of his or her knowledge, true, correct and complete. The representative is also required to indicate his or her relationship with the parties to the agreement.

Federal Maritime Commission

Information Form For Certain Agreements By Or Among Ocean Common Carriers

Agreement Number _____
(Assigned by FMC)

Part I Agreement Name:

Part II Other Agreements

Lists all effective agreements covering all or part of the geographic scope of this agreement, whose parties include one or more of the parties to this agreement.

Part III Agreement Type

(A) *Rate Agreements*
Does the agreement authorize the parties to collectively fix rates on a binding basis under a common tariff, or to agree upon rates on a non-binding basis, or to discuss rates?
Yes ☐ No ☐

(B) *Joint Service Agreements*
Does the agreement authorize the parties to establish a joint service?
Yes ☐ No ☐

(C) *Pooling Agreements*
Does the agreement authorize the parties to pool cargoes or revenues?
Yes ☐ No ☐

(D) *Vessel-Operating Costs*
Does the agreement authorize the parties to discuss or exchange data on vessel-operating costs?
Yes ☐ No ☐

(E) *Service Contracts*
Does the agreement authorize the parties to discuss or agree on service contract terms and conditions, on either a binding or non-binding basis?
Yes ☐ No ☐

Part IV Market Share Information

Provide the market shares of all liner operators within the entire scope of the agreement and within each agreement sub-trade during the most recent calendar quarter for which complete data are available. The information should be provided in the format below:

MARKET SHARE REPORT FOR (INDICATE EITHER ENTIRE AGREEMENT SCOPE, OR SUB-TRADE NAME) TIME PERIOD

	TEUs or other unit of measurement	Percent
Agreement Market Share:		
Line A	X,XXX	XX
Line B	X,XXX	XX
Line C	X,XXX	XX
Total Agreement Market Share	X,XXX	XX
Non-Agreement Market Share:		
Line X	X,XXX	XX
Line Y	X,XXX	XX
Line Z	X,XXX	XX
Total Non-Agreement Market Share	X,XXX	XX
Total Market	X,XXX	100

Part V Cargo and Revenue Results Agreement-Wide

For each party that served all or any part of the geographic area covered by the entire agreement during all or any part of the most recent 12-month period for which complete data are available, state total cargo carrying in TEUs or other unit of measurement within the entire geographic area, total revenues within the geographic area, and average revenue per TEU or other unit of measurement. The same 12-month period must be used for each party. The information should be provided in the format below:

TIME PERIOD

Carrier	Total TEUs or other unit of measurement	Total revenues	Avg. revenue per TEU or other unit of measurement
A		$	$
B		$	$
C		$	$
Etc		$	$

Part VI Leading Commodities

For each sub-trade within the scope of the agreement, list the top 10 commodities carried by all the parties during the same time period used in responding to Part V, or list the commodities accounting for 50 percent of the total carried by all the parties during the same 12-month period, whichever list is longer. The same 12-month period must be used in reporting for each sub-trade. The information should be provided in the format below:

Time Period (Same as That Used in Responding to Part V)

I. Sub-Trade

A. First leading commodity
B. Second leading commodity
C. Third leading commodity etc.

TIME PERIOD

[Same as that used in responding to Part V]

	Port	Port	Port	Port	Port
Carrier A.					
Carrier B.					
Carrier C.					
Etc..					

Also, for each party, indicate any planned change in the nature or type of service (such as base port designation, frequency of vessel calls, use of indirect rather than direct service, etc.) to be effected at any port within the entire geographic scope of the agreement after the effective date of the agreement.

Part IX

(A) Identification of Person(s) to Contact Regarding the Information Form

(1) Name _____
(2) Title _____
(3) Firm Name and Business _____
(4) Business Telephone Number _____
(5) Cable Address, Telex or Fax Number _____

(B) Identification of an Individual Located in the United States Designated for the Limited Purpose of Receiving Notice of an Issuance of a Request for Additional Information or Documents (see 46 CFR 572.606).

(1) Name _____
(2) Title _____
(3) Firm Name and Business _____
(4) Business Telephone Number _____
(5) Cable Address, Telex or Fax Number _____

(C) Certification
This Information Form, together with any and all appendices and attachments thereto, was prepared and assembled in accordance with instructions issued by the Federal Maritime Commission. The information is, to the best of my knowledge, true, correct, and complete.

Name (please print or type) _____
Title _____
Relationship with parties to agreement _____
Signature _____
Date _____

II. Sub-Trade

A. First leading commodity etc.

Part VII Cargo and Revenue Results by Sub-Trade

For the same time period used in responding to Parts V and VI, and for each sub-trade within the scope of the agreement, and for each of the leading commodities listed for each sub-trade in the response to Part VI, and for each party, state the total TEUs (or other unit of measurement) carried and average gross revenue per TEU (or other unit of measurement).

The information should be provided in the format below:

Time Period (Same as That Used in Responding to Part V)

I. Sub-trade A
A. First leading commodity
1. Carrier A
(a) Total TEUs (or other unit of measurement) carried
(b) Average gross revenue per TEU (or other unit of measurement)
2. Carrier B
(a) etc.
B. Second leading commodity
1. Carrier A
(a) etc.
II. Sub-trade B
A. First leading commodity
1. etc.

Part VIII Port Service

For each port within the entire geographic scope of the agreement, state the number of port calls by each of the parties over the same time period used in responding to Parts V, VI and VII. The information should be provided in the format below:

34. A new appendix B to part 572 is added to read as follows:

Appendix B to Part 572—Information Form for Class C Agreements and Instructions.

Instructions

All agreements between or among ocean common carriers that are Class C agreements as defined in 46 CFR 572.502(b) must be

accompanied by a completed Information Form for such agreements. A complete response must be supplied to the Form. Where the filing party is unable to supply a complete response, that party shall provide either estimated data (with an explanation of why precise data are not available) or a detailed statement of reasons for noncompliance and the efforts made to obtain the required information. For purposes of the requirements of this Form, if one of the agreement signatories is a joint service operating under an effective agreement, that signatory shall respond to the Form as a single agreement party. All sources must be identified.

Part I

Part I requires a statement of the full name of the agreement as also provided under 46 CFR 572.403.

Part II

Part II requires a list of all effective agreements covering all or part of the geographic scope of the filed agreement, whose parties include one or more of the parties to the filed agreement.

Part III

Part III is concerned with the level of service at each port within the entire geographic scope of the agreement. Each agreement line is required to state the number of calls it made at each port over the most recent 12-month period for which complete data are available, and also to indicate any immediate change it plans to make in the nature or type of service at a particular port after the agreement goes into effect.

Part IV(A)

Part IV(A) requires the name, title, address, telephone number and cable address, telex or fax number of a person the Commission may contact regarding the Information Form and any information provided therein.

Part IV(B)

Part IV(B) requires the name, title, address, telephone number and cable address, telex or fax number of a person the Commission may contact regarding a request for additional information or documents.

Part IV(C)

Part IV(C) requires that a representative of the agreement lines sign the Information Form and certify that the information in the Form and all attachments and appendices are, to the best of his or her knowledge, true, correct and complete. The representative is also required to indicate his or her relationship with the parties to the agreement.

Federal Maritime Commission

Information Form For Certain Agreements By or Among Ocean Common Carriers

Agreement Number _____
(Assigned by FMC)
Part I Agreement Name:

_____

Part II Other Agreements

List all effective agreements covering all or part of the geographic scope of this agreement, whose parties include one or more of the parties to this agreement.

Part III Port Service

For each port within the entire geographic scope of the agreement, state the number of port calls by each of the parties over the most recent 12-month period for which complete data are available. The information should be provided in the format below.

TIME PERIOD

	Port	Port	Port	Port	Port
Carrier A					
Carrier B					
Carrier C					
Etc.					

Also, for each party, indicate any planned change in the nature or type of service (such as base port designation, frequency of vessel calls, use of indirect rather than direct service, etc.) to be effected at any port within the entire geographic scope of the agreement after the effective date of the agreement.

Part IV

(A) Identification of Person(s) to Contact Regarding the Information Form
(1) Name _____
(2) Title _____
(3) Firm Name and Business

_____
(4) Business Telephone Number

_____
(5) Cable Address, Telex or Fax Number

_____

(B) Identification of an Individual Located in the United States Designated for the Limited Purpose of Receiving Notice of an Issuance of a Request for Additional Information or Documents (see 46 CFR 572.606).
(1) Name _____
(2) Title _____
(3) Firm Name and Business

_____
(4) Business Telephone Number

_____
(5) Cable Address, Telex or Fax Number

_____

(C) Certification

This Information Form, together with any and all appendices and attachments thereto, was prepared and assembled in accordance with instructions issued by the Federal Maritime Commission. The information is, to the best of my knowledge, true, correct, and complete.

Name (please print or type)

_____
Title _____
Relationship with parties to agreement

_____
Signature _____
Date _____

36. A new appendix C to part 572 is added to read as follows:

Appendix C to Part 572—Monitoring Report for Class A Agreements and Instructions

Instructions

A complete response must be supplied to each part of the Report. Where the party answering a particular part is unable to supply a complete response, that party shall provide either estimated data (with an explanation of why precise data are not available) or a detailed statement of reasons for noncompliance and the efforts made to obtain the required information. All sources must be identified.

Part I

Part I requires a statement of the full name of the agreement, and the assigned FMC number.

Part II

Part II requires a statement of any change occurring during the calendar quarter to the list of other agreements set forth in Part II of the Information Form.

Part III

Part III requires the filing party to indicate whether the agreement authorizes the parties to operate as a conference.

Part IV

Part IV requires the market shares of all liner operators within the entire geographic scope of the agreement and in each sub-trade within the scope of the agreement during the calendar quarter. A joint service shall be treated as a single liner operator, whether it is an agreement line or a non-agreement line.

Sub-trade is defined as the scope of all liner movements between each U.S. port range within the scope of the agreement and each foreign country within the scope of the agreement. Where the agreement covers both U.S. inbound and outbound line movements, inbound and outbound market shares should be shown separately.

U.S. port ranges are defined as follows:

Atlantic—Includes ports along the eastern seaboard from the northern boundary of Maine to, but not including, Key West, Florida. Also includes all ports bordering upon the Great Lakes and their connecting waterways as well as all ports in the State of New York on the St. Lawrence River.

Gulf—Includes all ports along the Gulf of Mexico from Key West, Florida, to Brownsville, Texas, inclusive. Also includes all ports in Puerto Rico and the U.S. Virgin Islands.

Pacific—Includes all ports in the States of Alaska, Hawaii, California, Oregon and Washington. Also includes all ports in Guam, American Samoa, Northern Marinas, Johnston Island, Midway Island and Wake Island.

An application may be filed for a waiver of the definition of "sub-trade," under the provisions described in 46 CFR 572.709. In any such application, the burden shall be on the agreement carriers to show that their marketing and pricing practices are done by ascertainable multi-country regions rather than by individual countries or, in the case of the United States, by broader areas than the port ranges defined herein. The Commission will also consider whether the alternate definition of "sub-trade" requested by the waiver application is reasonably consistent with the definition of "sub-trade" applied in the original Information Form filing for the agreement.

The *formula for calculating market share* in the entire agreement scope or in a sub-trade is as follows:

The total amount of liner cargo carried on each liner operator's liner vessels in the entire agreement scope or in the sub-trade during the calendar quarter, divided by the total liner movements in the entire agreement scope or in the sub-trade during the calendar quarter, which quotient is multiplied by 100. The market shares held by non-agreement lines as well as by agreement lines must be provided, stated separately in the format indicated.

If 50 percent or more of the total liner cargo carried by the agreement lines in the entire agreement scope or in the sub-trade during the calendar quarter was containerized, only containerized liner movements (measured in TEUs) must be used for determining market share. If 50 percent or more of the total liner cargo carried by the agreement lines was non-containerized, only non-containerized liner movements must be used for determining market share. The unit of measure used in calculating amounts of non-containerized cargo must be specified clearly and applied consistently.

Liner movements is the carriage of liner cargo by liner operators. *Liner cargoes* are cargoes carried on liner vessels in a liner service. A *liner operator* is a vessel-operating common carrier engaged in liner service. *Liner vessels* are those vessels used in a liner service. *Liner service* refers to a definite, advertised schedule of sailings at regular intervals. All these definitions, terms and descriptions apply only for purposes of the Monitoring Report.

Part V

Part V requires each agreement member line's total liner cargo carryings within the entire geographic area covered by the agreement during the calendar quarter, each line's total liner revenues within the geographic area during the calendar quarter, and average revenue.

If 50 percent or more of the total liner cargo carried by all the agreement member lines in the geographic area covered by the agreement during the calendar quarter was containerized, each agreement member line should report only its total carryings of containerized liner cargo (measured in TEUs) during the calendar quarter within the geographic area, total revenues generated by its carriage of containerized liner cargo, and average revenue per TEU. Conversely, if 50 percent or more of the total liner cargo carried by all the agreement member lines in the geographic area covered by the agreement during the calendar quarter was non-containerized, each agreement member line should report only its total carryings of non-containerized liner cargo during the calendar quarter (specifying the unit of measurement used), total revenues generated by its carriage of noncontainerized liner cargo, and average revenue per unit of measurement.

The Monitoring Report specifies the format in which the information is to be reported. Where the agreement covers both U.S. inbound and outbound liner movements, inbound and outbound data should be stated separately.

Part VI

Part VI requires a list, for each sub-trade within the scope of the agreement, of the top 10 liner commodities (including commodities not subject to tariff filing) carried by all the agreement member lines during the calendar quarter, or a list of the commodities accounting for 50 percent of the total liner cargo carried by all the agreement member lines during the calendar quarter, whichever list is longer. If 50 percent or more of the total liner cargo carried by all the agreement member lines in the sub-trade during the calendar quarter was containerized, this list should include only containerized commodities. If 50 percent or more of the total liner cargo carried by all the agreement member lines in the sub-trade during the calendar quarter was noncontainerized, this list should include only non-containerized commodities. Commodities should be identified at the 4-digit level of customarily used commodity coding schedules. Where the agreement covers both U.S. inbound and outbound liner movements, inbound and outbound sub-trades should be stated separately.

Part VII

Part VII requires a statement of the cargo volume and revenue results experience by each of the agreement lines from each major commodity in each sub-trade during the calendar quarter. The Monitoring Report specifies the format in which the information is to be reported.

Part VIII

Part VIII is required to be completed if Part III is answered "YES." Each conference line is required to indicate the extent to which it has taken independent rate actions on each of the leading commodities in each of the sub-trades. Part VIII also inquires into the type of shipper for whom independent rate actions have been taken. The Monitoring Report specifies the format in which the information is to be reported.

Part IX

Part IX requires each of the agreement lines to indicate any change in the nature or type of service it provided at any port within the entire geographic range of the agreement during the calendar quarter.

Part X(A)

Part X(A) requires the name, title, address, telephone number and cable address, telex or fax number of a person the Commission may contact regarding the Monitoring Report and any information provided therein.

Part X(B)

Part X(B) requires that a representative of the agreement lines sign the Monitoring Report and certify that the information in the Report and all attachments and appendices are, to the best of his or her knowledge, true, correct and complete. The representative is also required to indicate his or her relationship with the parties to the agreement.

Federal Maritime Commission

Monitoring Report For Class A agreements Between or Among Ocean Common Carriers

Agreement Number _____
(Assigned by FMC)
Part I Agreement Name:

_____

Part II Other Agreements

Indicate any change occurring during the calendar quarter to the list of other agreements set forth in Part II of the Information Form.

Part III Conference Agreements

Does the agreement authorize the parties to operate as a conference?
Yes ☐ No ☐

Part IV Market Share Information

Provide the market shares of all liner operators within the entire geographic scope of the agreement and within each agreement sub-trade during the calendar quarter. The information should be provided in the format below:

MARKET SHARE REPORT FOR CALENDAR QUARTER

[Indicate either entire agreement scope, or sub-trade name]

	TEUs or other unit of measurement	Percent
Agreement Market Share:		
Line A	X,XXX	XX%
Line B	X,XXX	XX%
Line C	X,XXX	XX%

MARKET SHARE REPORT FOR CALENDAR QUARTER—Continued

[Indicate either entire agreement scope, or sub-trade name]

	TEUs or other unit of measurement	Percent
Total Agreement Market Share ..	X,XXX	XX%
Non-Agreement Market Share:		
Line X	X,XXX	XX%
Line Y	X,XXX	XX%
Line Z	X,XXX	XX%
Total Non-Agreement Market Share ..	X,XXX	XX%
Total Market	X,XXX	100%

Part V Cargo and Revenue Results Agreement-Wide

For each agreement member line, provide total cargo carryings (measured in TEUs or other unit of measurement) during the calendar quarter within the entire geographic area covered by the agreement, total revenues within the geographic area during the calendar quarter, and average revenue per TEU or other unit of measurement. The information should be provided in the format below:

CALENDAR QUARTER

Carrier	Total TEUs or other unit of measurement	Total revenues	Avg. Revenue per TEU or other unit of measurement
A	.....	$	$
B	.....	$	$
C	.....	$	$
Etc	.....	$	$

Part VI Leading Commodities

For each sub-trade within the scope of the agreement, list the top 10 commodities carried by all the parties during the calendar quarter, or list the commodities accounting for 50 percent of the total carried by all the parties during the calendar quarter, whichever list is longer. The information should be provided in the format below:

Calendar Quarter

I. Sub-trade
A. First leading commodity
B. Second leading commodity
C. Third leading commodity etc.
II. Sub-trade
A. First leading commodity etc.

Part VIII Cargo and Revenue Results by Sub-Trade

For each sub-trade within the scope of the agreement, and for each of the leading commodities listed for each sub-trade in the response to Part VI, and for each party, state the total TEUs (or other unit of measurement) carried and average gross revenue per TEU (or other unit of measurement).

The information should be provided in the format below:

Calendar Quarter

I. Sub-trade A
A. First leading commodity
1. Carrier A
(a) Total TEUs (or other units of measurement) carried
(b) Average gross revenue per TEU (or other unit of measurement)
2. Carrier B)
(a) etc.
II. Sub-trade B
A. First leading commodity
1. etc.

Part VIII Independent Rate Actions (if applicable)

For each sub-trade within the scope of the agreement, and for each of the leading commodities listed for each sub-trade in the response to Part VI, and for each party, state (a) the total number of independent rate actions taken during the calendar quarter applicable to that commodity moving in that sub-trade; (b) how many of the total were independent rate actions taken to service specific shipper accounts; (c) of those, how many were for non-vessel-operating common carriers, and how many were for shippers' associations. The information should be provided in the format below:

Calendar Quarter

I. Sub-trade A
A. First leading commodity
1. Carrier A
(a) Number of IA rate actions
(i) Number of IA rate actions taken to service specific shipper accounts
(i)(a) Number taken to service non-vessel-operating common carrier accounts
(1)(b) Number taken to service shippers' association accounts
2. Carrier B
(a) etc.
B. Second leading commodity
1. Carrier A
(a) etc.
II. Sub-trade B
A. First leading commodity
1. etc.

Part IX Port Service

For each party, state any change in the nature or type of service (such as base port designation, frequency of vessel calls, use of indirect rather than direct service, etc.) effected at any port within the entire geographic scope of the agreement during the calendar quarter.

Part X

(A) Identification of Person(s) to Contact Regarding the Monitoring Report
(1) Name _____
(2) Title _____
(3) Firm Name and Business _____
(4) Business Telephone Number _____
(5) Cable Address, Telex or Fax Number _____

(B) Certification

This Monitoring Report, together with any and all appendices and attachments thereto, was prepared and assembled in accordance with instructions issued by the Federal Maritime Commission. The information is, to the best of my knowledge, true, correct, and complete.

Name (please print or type) _____
Title _____
Relationship with parties to agreement _____
Signature _____
Date _____

37. A new appendix D to Part 572 is added to read as follows:

Appendix D to Part 572—Monitoring Report for Class B Agreements and Instructions.

Instructions

A complete response must be supplied to each part of the Report. Where the party answering a particular part is unable to supply a complete response, that party shall provide either estimated data (with an explanation of why precise data are not available) or a detailed statement of reasons for noncompliance and the efforts made to obtain the required information. All sources must be identified.

Part I

Part I requires a statement of the full name of the agreement, and the assigned FMC number.

Part II

Part II requires a statement of any change occurring during the calendar quarter to the list of other agreements set forth in Part II of the Information Form.

Part III

Part III requires the market shares of all liner operators within the entire geographic scope of the agreement and in each sub-trade within the scope of the agreement during the calendar quarter. A joint service shall be treated as a single liner operator, whether it is an agreement line or a non-agreement line.

Sub-trade is defined as the scope of all liner movements between each U.S. port range within the scope of the agreement and each foreign country within the scope of the agreement. Where the agreement covers both U.S. inbound and outbound liner movements, inbound and outbound market shares should be shown separately.

U.S. port ranges are defined as follows:

Atlantic—Includes ports along the eastern seaboard from the northern boundary of Maine to, but not including, Key West, Florida. Also includes all ports bordering upon the Great Lakes and their connecting waterways as well as all ports in the State of New York on the St. Lawrence River.

Gulf—Includes all ports along the Gulf of Mexico from Key West, Florida, to Brownsville, Texas, inclusive. Also includes all ports in Puerto Rico and U.S. Virgin Islands.

Pacific—Includes all ports in the State of Alaska, Hawaii, California, Oregon and Washington. Also includes all ports in Guam, American Samoa, Northern Marinas, Johnston Island, Midway Island and Wake Island.

An application may be filed for a waiver of the definition of "sub-trade," under the provisions described in 46 CFR 572.709. In any such application, the burden shall be on the agreement carriers to show that their marketing and pricing practices are done by ascertainable multi-country regions rather than by individuals countries or, in the case of the United States, by broader areas than the port ranges defined herein. The Commission will also consider whether the alternate definition of "sub-trade" requested by the waiver application is reasonably consistent with the definition of "sub-trade" applied in the original Information Form filing for the agreement.

The *formula for calculating market* share in the entire agreement scope or in a sub-trade is as follows:

The total amount of liner cargo carried on each liner operator's liner vessels in the entire agreement scope or in the sub-trade during the calendar quarter, divided by the total liner movement in the entire agreement scope or in the sub-trade during the calendar quarter, which quotient is multiplied by 100. The market shares held by non-agreement lines as by agreement lines must be provided, stated separately in the format indicated.

If 50 percent or more of the total liner cargo carried by the agreement lines in the entire agreement scope or in the sub-trade during the calendar quarter was containerized, only containerized liner movements (measured in TEUs) must be used for determining market share. If 50 percent or more of the total liner cargo carried by the agreement lines was non-containerized cargo, only non-containerized liner movements must be used for determining market share. The unit of measure used in calculating amounts of non-containerized cargo must be specified clearly and applied consistently.

Liner movements is the carriage of liner cargo by liner operators. *Liner cargoes* are cargoes carried on liner vessels in a liner service. A *liner operator* is a vessel-operating common carrier engaged in liner service. *Liner vessels* are those vessels used in a liner service. *Liner service* refers to a definite, advertised schedule of salings at regular intervals. All these definitions, terms and descriptions apply only for purposes of the Monitoring Report.

Part IV

Part IV requires each agreement member line's total liner cargo carrying within the entire geographic area covered by the agreement during the calendar quarter, each line's total liner revenues within the geographic area during the calendar quarter, and average revenue.

If 50 percent or more of the total liner cargo carried by all the agreement member lines in the geographic area covered by the agreement during the calendar quarter was containerized, each agreement member line should report only its total carrying of containerized liner cargo (measured in TEUs) during the calender quarter within the geographic area, total revenues generated by its carriage of containerized liner cargo, and average revenue per TEU. Conversely, if 50 percent or more of the total liner cargo carried by all the agreement member lines in the geographic area covered by the agreement during the calendar quarter was non-containerized, each agreement member line should report only its total carryings of non-containerized liner cargo during the calendar quarter (specifying the unit of measurement used), total revenues generated by its carriage of non-containerized cargo, and average revenue per unit of measurement.

The Monitoring Report specifies the format in which the information is to be reported. Where the agreement covers both U.S. inbound and outbound liner movements, inbound and outbound data should be stated separately.

Part V

Part V requires each of the agreement member lines to indicate any change in the nature or type of service it provided at any port within the entire geographic scope of the agreement during the calendar quarter.

Part VI(A)

Part VI(A) requires the name, title, address, telephone number and cable address, telex or fax number of a person the Commission may contact regarding the Monitoring Report and any information provided therein.

Part VI(B)

Part VI(B) requires that a representative of the agreement lines sign the Monitoring Report and certify that the information in the Report and all attachments and appendices are, to the best of his or her knowledge, true, correct and complete. The representative is also required to indicate his or her relationship with the parties to the agreement.

Federal Maritime Commission

Monitoring Report For Class B Agreements Between or Among Ocean Common Carriers

Agreement Number _____
(Assigned by FMC)

Part I Agreement

Name: _____

Part II Other Agreements

Indicate any change occurring during the calendar quarter to the list of other agreements set forth in Part II of the Information Form.

Part III Market Share Information

Provide the market shares of all liner operators within the entire geographic scope of the agreement and within each sub-trade during the calendar quarter. The information should be provided in the format below:

MARKET SHARE REPORT FOR CALENDAR QUARTER

[Indicate either entire agreement scope, or sub-trade name]

	TEUs or other unit of measurement	Percent
Agreement Market Share:		
Line A	X,XXX	XX
Line B	X,XXX	XX
Line C	X,XXX	XX
Total Agreement Market Share	X,XXX	XX
Non-Agreement Market Share:		
Line X	X,XXX	XX
Line Y	X,XXX	XX
Line Z	X,XXX	XX
Total Non-Agreement Market Share	X,XXX	XX
Total Market	X,XXX	100

Part IV Cargo and Revenue Results Agreement-Wide

For each agreement member line, provide total cargo carryings (measured in TEUs or other unit of measurement) during the calendar quarter within the entire geographic area covered by the agreement, total revenues within the geographic area during the calendar quarter, and average revenue per TEU or other unit of measurement. The information should be provided in the format below:

CALENDAR QUARTER

Carrier	Total TEUs or other unit of measurement	Total revenues	Avg. revenue per TEU or other unit of measurement
A	.....	$	$
B	.....	$	$
C	.....	$	$
Etc	.....	$	$

Part V Port Service

For each party, state any change in the nature or type of service (such as base port designation, frequency of vessel calls, use of indirect rather direct service, etc.) effected at any port within the entire geographic scope of the agreement during the calendar quarter.

Part VI

(A) Identification of Person(s) to Contact Regarding the Monitoring Report
(1) Name _____
(2) Title _____
(3) Firm Name and Business _____
(4) Business Telephone Number _____

(5) Cable Address, Telex or Fax Number

(B) Certification

This Monitoring Report, together with any and all appendices and attachments thereto, was prepared and assembled in accordance with instructions issued by the Federal Maritime Commission. The information is, to the best of my knowledge, true, correct, and complete.

Name (please print or type)

Title

Relationship with parties to agreement

Signature

Date

38. A new appendix E to part 572 is added to read as follows:

Appendix E to Part 572—Monitoring Report for Class C Agreements and Instructions

Instructions

A complete response must be supplied to the Report. Where the filing party is unable to supply a complete response, that party shall provide either estimated data (with an explanation of why precise data are not available) or a detailed statement of reasons for noncompliance and the efforts made to obtain the required information. All sources must be identified.

Part I

Part I requires a statement of the full name of the agreement, and the assigned FMC number.

Part II

Part II requires a statement of any change occurring during the calendar quarter to the list of other agreements set forth in Part II of the Information Form.

Part III

Part III requires a statement of any change in the nature or type of service at any of the ports within the entire geographic scope of the agreement.

Part IV(A)

Part IV(A) requires the name, title, address, telephone number and cable address, telex or fax number of a person the Commission may contact regarding the Monitoring Report and any information provided therein.

Part IV(B)

Part IV(B) requires that a representative of the agreement lines sign the Monitoring Report and certify that the information in the Report and all attachments and appendices are, to the best of his or her knowledge, true, correct and complete. The representative is also required to indicate his or her relationship with the parties to the agreement.

Federal Maritime Commission

Monitoring Report For Class C Agreements Between or Among Ocean Common Carriers

Agreement Number
(Assigned by FMC)

Part I Agreement

Name:

Part II Other Agreements

Indicate any change occurring during the calendar quarter to the list of other agreements set forth in Part II of the Information Form.

Part III Port Service

For each party, state any change in the nature or type of service (such as base port designation, frequency of vessel calls, use of indirect rather direct service, etc.) effected at any port within the entire geographic scope of the agreement during the calendar quarter.

Part IV-

(A) Identification of Person(s) to Contact Regarding the Monitoring Report

(1) Name
(2) Title
(3) Firm Name and Business

(4) Business Telephone Number

(5) Cable Address, Telex or Fax Number

(B) Certification

This Monitoring Report, together with any and all appendices and attachments thereto, was prepared and assembled in accordance with instruments issued by the Federal Maritime Commission. The information is, to the best of my knowledge, true, correct, and complete.

Name (please print or type)

Title

Relationship with parties to agreement

Signature

Date

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 96–6600 Filed 3–20–96; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 95–111; RM–8652, RM–8704]

Radio Broadcasting Services; Athens and Atlanta, IL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Atlantis Broadcasting Co., LLC, allots Channel 242A at Atlanta, Illinois, as the community's first local aural transmission service (RM–8704). We also deny the mutually exclusive proposal filed by WMSI, Inc., proposing the allotment of Channel 241A at Athens, Illinois, as the community's first local aural transmission service (RM–8652). *See* 60 FR 39143, August 8, 1995. Channel 242A can be allotted to Atlanta in compliance with the Commission's minimum distance separation requirements with a site restriction of 6.1 kilometers (3.8 miles) southwest to avoid short-spacings to the licensed sites of Station WHOW-FM, Channel 240A, Clinton, Illinois, and Station KIHT(FM), Channel 242C1, St. Louis, Missouri, and to the application site (40–40–11 and 89–53–34) for Channel 243A, Farmington, Illinois. The coordinates for Channel 242A at Atlanta are North Latitude 40–13–22 and West Longitude 89–17–04. With this action, this proceeding is terminated.

DATES: Effective May 2, 1996. The window period for filing applications will open on May 2, 1996 and close on June 3, 1996.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 95–111, adopted March 5, 1996, and released March 18, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Sections 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Illinois, is amended by adding Atlanta, Channel 242A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc.96–6795 Filed 3–20–96; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 89–87; RM–6637]

Television Broadcasting Services; Bessemer and Tuscaloosa, AL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document grants an Application for Review filed by Channel 17 Associates, Ltd., licensee of Station WDBB, Channel 17, Tuscaloosa, Alabama, directed to the *Report and Order*. 55 FR 4884, February 12, 1990. In doing so, it grants the proposal to reallot Channel 17 to Bessemer, Alabama, and modify the Station WDBB license to specify Bessemer as the community of license. The reference coordinates for Channel 17 at Bessemer are 33–28–48 and 87–25–47. With this action, the proceeding is terminated.

EFFECTIVE DATE: April 22, 1996.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 418–2177.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order* in MM Docket No. 89–87, adopted January 26, 1996, and released March 8, 1996. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1919 m Street, NW., Room 246, or 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.606 [Amended]

2. Section 73.606(b), the Television Table of Allotments under Alabama, is amended by removing Tuscaloosa, Channel 17.

3. Section 73.606(b), the Television Table of Allotments under Alabama, is amended by adding Bessemer, Channel 17.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–6759 Filed 3–20–96; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF VETERANS AFFAIRS

48 CFR Parts 801, 814, 833, 836, and 852

RIN 2900–AH27

VA Acquisition Regulations: Administrative Amendments

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs Acquisition Regulations (VAAR) to correct typographical errors and to update office names and job titles due to administrative changes within the Department. Also, the threshold for Architect-Engineer short selection procedures and the time frame for filing a protest are revised to be consistent with the Federal Acquisition Regulation (FAR), as required by 41 U.S.C. 405 and 421.

EFFECTIVE DATE: March 20, 1996.

FOR FURTHER INFORMATION CONTACT: Don Kaliher, Acquisition Policy Division (95A), Office of Acquisition and Materiel Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 565–4424.

SUPPLEMENTARY INFORMATION: This final rule consists of nonsubstantive changes and, therefore, is not subject to the notice and comment and effective date provisions of 5 U.S.C. 553. Also, this final rule is not a significant revision as defined in FAR 1.501–1.

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–602, since it does not contain any substantive provisions. This final rule would not cause a significant effect on any entities. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

List of Subjects in 48 CFR Parts 801, 814, 833, 836, and 852

Administrative practice and procedure, Government procurement, Reporting and recordkeeping requirements.

Approved: March 8, 1996.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 48 CFR parts 801, 814, 833, 836, and 852 are amended as follows:

1. The authority citation for parts 801, 814, 833, 836 and 852 continues to read as follows:

Authority: 38 U.S.C. 501 and 40 U.S.C. 486(c).

PART 801—VETERANS AFFAIRS ACQUISITION REGULATIONS SYSTEM

§ 801.602–3 [Amended]

2. In § 801.602–3, paragraph (a)(3)(i) is amended by removing "Deputy Assistant Secretary for Facilities" and adding, in its place, "Chief Facilities Management Officer, Office of Facilities Management"; and paragraph (a)(3)(ii) is amended by removing "Assistant Secretary for Acquisition and Facilities" and adding, in its place, "Assistant Secretary for Management".

§ 801.602–7 [Amended]

3. Section 801.602–70 is amended by removing "Marketing Center" wherever it appears and adding, in its place, "National Acquisition Center", by removing "Office of Facilities" wherever it appears and adding, in its place, "Office of Facilities Management", and by removing "(93D)" wherever it appears and adding, in its place, ", Acquisition Review Division".

4. In § 801.602–70, paragraph (a) introductory text is amended by removing "Illionis" and adding, in its place, "Illinois"; paragraph (a)(4)(v) is amended by removing "Service" and adding, in its place, "Schedule"; paragraph (d) is amended by removing "Deputy Assistant Secretary for Facilities" and adding, in its place, "Chief Facilities Management Officer, Office of Facilities Management"; paragraph (g) is amended by removing "813.103" and adding, in its place, "48 CFR 833.103"; and paragraph (j)(2) is amended by removing "VHS&RA" and adding, in its place, "VHA".

§ 801.602–71 [Amended]

5. Section 801.602–71 is amended by removing "Office of Facilities" wherever it appears and adding, in its place, "Office of Facilities Management", and by removing "(93D)" wherever it appears and adding, in its place, ", Acquisition Review Division".

6. In § 801.602–71, paragraph (b) is amended by removing the heading "*Veterans Health Services and Research Administration (VHS&RA) Field Facilities, VA Marketing Center, VA Supply Depots*" and adding, in its place, "*Veterans Health Administration (VHA) Field Facilities, VA National Acquisition Center*"; paragraph (b)(1) is amended by removing "(93)" and adding, in its place, ", Acquisition Review Division"; paragraph (b)(2) is amended by removing "(023)" and adding, in its place, "(025)"; and paragraph (b)(3) is amended by removing "(93)" and adding, in its place, ", Program Development and Evaluation Division".

§ 801.602–72 [Amended]

7. In § 801.602–72, paragraph (d)(6)(iv) is amended by removing "Office of Facilities" and adding, in its place, "Office of Facilities Management".

§ 801.602–73 [Amended]

8. Section 801.602–73 is amended by removing "Veterans Administration" and adding, in its place, "Department of Veterans Affairs".

§ 801.603–71 [Amended]

9. Section 801.603–71 is amended by removing "Marketing Center" wherever it appears and adding, in its place, "National Acquisition Center".

10. In § 801.603–71, paragraph (e) is amended by removing "Director, VA Marketing Center" and adding, in its place, "Associate Deputy Assistant Secretary for the National Acquisition Center".

§ 801.670–5 [Amended]

11. In § 801.670–5, paragraph (a)(2) is amended by removing "Personnel and Labor Relations" and adding, in its place, "Human Resources Management"; and paragraph (b) is amended by removing "Chief Medical Director" and adding, in its place, "Under Secretary for Health"; by removing "Regional Directors" and adding, in its place, Veterans Integrated Service Network Directors"; and by removing "(93)" and adding, in its place, ", Acquisition Review Division".

§ 801.670–6 [Amended]

12. Section 801.670–6 is amended by removing "VHS&RA" and adding, in its place, "VHA".

§ 801.680 [Amended]

13. In § 801.680, paragraph (b) is amended by removing "Supply" and adding, in its place, "Acquisition and Materiel Management".

PART 814—SEALED BIDDING

§ 814.403 [Amended]

14. Section 814.403 is amended by removing "14–403" and adding, in its place, "14.403".

§ 814.404–70 [Amended]

15. Section 814.404–70 is amended by removing "(93B)" and adding, in its place, ", Acquisition Review Division,", and by removing "Deputy Assistant Secretary for Facilities (08)" and adding, in its place, "Chief Facilities Management Officer, Office of Facilities Management".

§ 814.406–3 [Amended]

§ 814.406–4 [Amended]

16. Sections 814.406–3 and 814.406–4 are amended by removing "(93B)" wherever it appears and adding, in its place, ", Acquisition Review Division".

17. In § 814.406–3, paragraph (a) is amended by removing "Administrator" and adding, in its place, "Secretary".

§ 814.407–71 [Amended]

18. In § 814.407–71, paragraph (a) introductory text is amended by removing "Deputy Assistant Secretary for Facilities" and adding, in its place, "Chief Facilities Management Officer, Office of Facilities Management".

PART 833—PROTESTS, DISPUTES, APPEALS

§ 833.102 [Amended]

19. In § 833.102, paragraph (a) is amended by removing "Office of Facilities" and adding, in its place, "Office of Facilities Management"; and by removing "Deputy Assistant Secretary for Facilities (08)" and adding, in its place, "Chief Facilities Management Officer, Office of Facilities Management".

§ 833.103 [Amended]

20. Section 833.103 is amended by removing "Office of Facilities" wherever it appears in the text and in the footnote and adding, in its place, "Office of Facilities Management", by removing "Deputy Assistant Secretary for Facilities (08)" wherever it appears in the text and in the footnote and adding, in its place, "Chief Facilities Management Officer, Office of Facilities Management", by removing "Deputy Assistant Secretary for Facilities" wherever it appears and adding, in its place, "Chief Facilities Management Officer, Office of Facilities Management", and by removing "(95B)" wherever it appears in the text and in the footnote and adding, in its place, ", Acquisition Review Division".

§ 833.103 [Amended]

21. In § 833.103, paragraph (b)(1) is amended by removing "(93D)" and adding, in its place, ", Acquisition Review Division".

22. In § 833.103, the letter statement following paragraph (d) is amended by removing "10 working days" and "10 workdays" wherever it appears and adding, in its place, "14 calendar days".

§ 833.104 [Amended]

23. Section 833.104 is amended by removing "(95B)" wherever it appears and adding, in it place, ", Acquisition Review Division", by removing "Deputy Assistant Secretary for Facilities (08)" wherever it appears and adding, in its place, "Chief Facilities Management Officer, Office of Facilities Management", and by removing "Deputy Assistant Secretary for Facilities" and adding, in its place, "Chief Facilities Management Officer, Office of Facilities Management".

§ 833.105 [Amended]

24. In § 833.105, paragraph (b) is amended by removing "(95B)" and adding, in its place, ", Acquisition Review Division"; and by removing "Deputy Assistant Secretary for Facilities (08)" and adding, in its place, "Chief Facilities Management Officer, Office of Facilities Management".

§ 833.212 [Amended]

25. Section 833.212 is amended by removing "(93)" wherever it appears and adding, in its place, ", Acquisition Review Division".

26. In § 833.212, paragraph (a) is amended by removing "Office of Facilities" and adding, in its place, "Office of Facilities Management".

PART 836—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

§ 836.208 [Amended]

27. Section 836.208 is amended by removing "Deputy Assistant Secretary for Facilities" and adding, in its place, "Chief Facilities Management Officer, Office of Facilities Management".

§ 836.209 [Amended]

28. Section 836.209 is amended by removing "Deputy Assistant Secretary for Facilities" and adding, in its place, "Chief Facilities Management Officer, Office of Facilities Management,".

§ 836.211 [Amended]

29. In § 836.211, paragraph (b) is amended by removing "Deputy Assistant Secretary for Facilities" and adding, in its place, "Chief Facilities Management Officer, Office of Facilities Management".

§ 836.371 [Amended]

30. In § 836.371, the section heading is amended by removing "of" and adding, in its place, "to".

§ 836.601 [Amended]

31. Section 836.601 is amended by removing "38 U.S.C. 1820" and adding, in its place, "38 U.S.C. 3720".

§ 836.602–2 [Amended]

32. In § 836.602–2, paragraph (a) is amended by removing "Office of Facilities" in both places and adding, in its place, "Office of Facilities Management"; and paragraph (b) is amended by removing "Supply" and adding, in its place, "Acquisition and Materiel Management".

§ 836.602–4 [Amended]

33. Section 836.602–4 is amended by removing "Deputy Assistant Secretary for Facilities" and adding, in its place, "Chief Facilities Management Officer, Office of Facilities Management,".

§ 836.602–5 [Amended]

34. Section 836.602–5 is amended by removing "$10,000" from the section heading and adding, in its place, "the Simplified Acquisition Threshold"; and by removing "Deputy Assistant Secretary for Facilities" and adding, in its place, "Chief Facilities Management Officer, Office of Facilities Management".

§§ 836.602–2 and 836.602–3 [Amended]

§ 836.606–72 [Amended]

35. Sections 836.602–2, 836.602–3, and 836.606–72, are amended by removing "Deputy Assistant Secretary for Facilities" wherever it appears and adding, in its place, "Chief Facilities Management Officer, Office of Facilities Management".

PART 852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

§ 852.210–70 [Amended]

36. In § 852.210–70(b), paragraph (b) of the clause is amended by removing "Illustration s" and adding, in its place, "Illustrations".

§ 852.210–76 [Amended]

37. Section 852.210–76 is amended by removing "(APR 1984)" from the clause heading and adding, in its place, "(JUL 1989)"; and by adding in the clause "and" immediately after "services performed commercially under Government order".

§ 852.219–70 [Amended]

38. Section 852.219–70 is amended by adding in the clause heading "(DEC 1990)" immediately after "VETERAN-OWNED SMALL BUSINESS".

§ 852.236–83 [Amended]

39. In § 852.236–83, paragraph (b)(5) of the clause is amended by removing "Secondary switchgear" and the corresponding "5" the first time "Secondary switchgear" appears in the "Values of Adjusting, Correcting, and Testing System" table.

§ 852.236–88 [Amended]

40. In § 852.236–88(a), paragraph (a) of the clause is amended by removing "cost of pricing data" and adding, in its place, "cost or pricing data"; and by removing "15,804–6" and adding, in its place, "15.804–6"; and paragraph (a) of the clause in paragraph (b) of the section is amended by removing "15,804–6" and adding, in its place, "15.804–6".

§ 852.236–91 [Amended]

41. In § 852.236–91, paragraph (e) is amended by removing "unusually severe whether" and adding, in its place, "unusually severe weather".

[FR Doc. 96–6498 Filed 3–20–96; 8:45 am]
BILLING CODE 6325–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 95–50; Notice 2]

RIN 2127–AF74

Federal Motor Vehicle Safety Standards; Reflecting Surfaces

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: In this final rule, NHTSA rescinds the Federal motor vehicle safety standard that regulates the reflectivity of specified metallic components located in front of the driver. This action is part of the agency's efforts to implement the President's Regulatory Reinvention Initiative. In issuing this rule, the agency concludes that rescinding the standard will not adversely affect motor vehicle safety.

DATES: *Effective Date:* This final rule is effective May 6, 1996.

Petitions for Reconsideration: Any petitions for reconsideration of this final rule must be received by NHTSA no later than May 6, 1996.

ADDRESSES: Any petition for reconsideration of this final rule should refer to the docket and notice number set forth in the heading of this notice and be submitted to: Administrator, NHTSA, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Van Iderstine, Office of Vehicle Safety Standards, Office of Safety Performance Standards, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590. Mr. Van Iderstine's telephone number is (202) 366–5280. The FAX number is (202) 366–4329.

SUPPLEMENTARY INFORMATION:

President's Regulatory Reinvention Initiative

NHTSA has undertaken a review of its regulations pursuant to the March 4, 1995, directive "Regulatory Reinvention Initiative" from the President to the heads of departments and agencies. During the course of this review, the agency identified several requirements and regulations that are potential candidates for rescission, including Federal Motor Vehicle Safety Standard No. 107, *Reflecting surfaces* (49 CFR § 571.107).

In this final rule, NHTSA concludes that Standard No. 107 can be rescinded without adversely affecting motor vehicle safety. That conclusion is based on the agency's finding that the vehicle manufacturers established a practice of using nonglossy materials and matte finishes on unregulated components as well as on regulated components. Since the manufacturers have elected to use non-glossy surfaces on components that are not subject to the standard, the agency concludes that rescinding the regulatory requirements will not result in the return of the glossy surfaces that originally prompted the agency to issue the standard. In reaching this conclusion, NHTSA also notes that the virtual elimination of metallic components within the driver's forward field of view has already reduced the effective scope of the standard to the level of insignificance.

Background

Standard No. 107 specifies reflectance requirements that apply to specified metallic components in the driver's forward field of view: the windshield wiper arms and blades, the inside windshield moldings, the horn ring and hub of the steering wheel assembly, and the inside rearview mirror frame and mounting bracket. The standard requires that the specular gloss of the surface of these components not exceed 40 units when tested. ("Specular gloss" refers to the amount of light reflected from a test specimen.) The purpose of the standard

is to reduce the likelihood that glare from the regulated components will distract drivers or interfere with their vision.

Notice of Proposed Rulemaking

On June 26, 1995 (60 FR 32935), NHTSA published a notice of proposed rulemaking to rescind Standard No. 107. In reviewing the history of the standard, the agency cited its earlier termination of a rulemaking to extend Standard No. 107's specular gloss limits to non-metallic surfaces (54 FR 35011; August 23, 1989). NHTSA terminated that rulemaking after concluding that the non-metallic surfaces had not been shown to cause glare that would affect the driver's performance.

In proposing to rescind the standard, NHTSA regarded the 1989 termination as having a bearing on the continuance of the standard. NHTSA noted that matte finishes were being used on components in front of the driver and stated its belief that market forces would continue to favor matte finishes and surfaces for components in the driver's field of view, and would be reinforced in that respect by product liability concerns. Evidence of the influence of these factors may be found in the disappearance of steering wheel rings and metallic windshield mountings, and in the use of matte finishes on unregulated as well as regulated components.

Further, NHTSA stated that the need for the standard has been reduced by the increased use of non-metallic materials (hard plastic or rubber) for parts such as windshield wiper arms and blades, steering wheel assembly hubs, and inside rearview mirror frame and mounting brackets. The substitution of non-metallic surfaces removes these vehicle components from the scope of Standard No. 107.

NHTSA continued by noting that the decreasing tendency to use metal is also evident with respect to components not regulated by Standard No. 107. Since 1987, vehicle interior styling practices have favored a combination of hard plastic and padded faux leather, materials that do not reflect sufficient light to create glare.

NHTSA's Response to Public Comments on the NPRM

In response to the NPRM, NHTSA received comments from the Insurance Institute for Highway Safety (IIHS), Chrysler Corporation, the Truck Manufacturers Association, the Association of International Automobile Manufacturers, Inc., Vehicle Improvement Products Inc., the Advocates for Highway and Auto Safety (Advocates) and the State of Connecticut (Connecticut). All commenters, except for Advocates and Connecticut, supported rescission of the standard. The commenters that favored rescission agreed with NHTSA that established industry practices in using nonglossy materials and finishes on both regulated and unregulated components in the driver's forward field of view have eliminated the need for Standard No. 107. While IIHS agreed that Standard No. 107 should be rescinded, it objected to NHTSA's reliance on product liability considerations and recall procedures as rationales for the rescission.

In opposing the rescission, Advocates asserted that the defects authority would be inadequate as an alternative to the standard, in part because the rescission of the standard might enable the manufacturers to argue that a glossy surface could not be a "defect," and in part because the defects process is protracted and may often prove inconclusive. In Advocates' view, product liability litigation was available before the adoption of the standard and would not constitute a changed fact that could justify rescinding the standard (citing a comment by IIHS on the agency's proposed rescission of Standard No. 211).

In rescinding Standard No. 107, NHTSA affirms its view that the presence of the defects authority and product liability considerations will act to constrain manufacturers from producing vehicles with high-gloss metallic surfaces. The agency regards these factors as real and effective constraints, whatever their limitations.

However, the agency's principal basis for rescission continues to be the evident and universal practice by manufacturers of designing their vehicles to avoid the use of these surfaces, whether or not regulated. The standard was promulgated at a time when the prevailing design practice favored the use of chrome and other metallic surfaces, inside the vehicle as well as outside. The move away from these surfaces has been in part a matter of trends in styling, but also a response to regulatory forces and to the imperative to cut costs.

The chrome steering wheel hub, for example, and the horn ring, are effectively barred by the installation of driver air bags. The metallic rear-view mirror mounts have been displaced by cheaper and easier-to-install adhesive mountings that attach directly to the window. The metallic windshield mounting ring has been replaced by mounting techniques that produce a better bond as well as a better appearance.

By referring in the NPRM to the effects of market forces, the agency was alluding to these specific measures. Despite Advocates' concerns, none of these measures appears vulnerable to being abandoned because of the dictates of fashion. They are real changes which have every likelihood of being permanent. Their collective effect has been to reduce the scope of Standard No. 107 almost to the vanishing point. In the agency's view, the standard no longer serves its purpose and may therefore be rescinded with no adverse effect on motor vehicle safety. The agency thus concurs with IIHS's view that the principal basis for rescission is that Standard No. 107 has "become out of date."

In an analogous rulemaking, NHTSA decided not to specify in Standard No. 108, *Lamps, reflective devices and associated equipment*, that headlamps and taillamps of motorcycles be illuminated at all times when the engine is running, because the motorcycle industry already provided such performance on almost all motorcycles. (See 26 FR 32899, June 25, 1981.)

The reasoning used to extend Standard No. 214, *Side impact protection*, to light trucks, which Advocates suggests as a precedent, is not apposite here. Although Advocates correctly noted that light trucks were already meeting the passenger car dynamic side impact protection requirements, the agency regarded the rapid proliferation of new light truck models as necessitating a standard that would prevent new models from falling below the level of current models. By contrast, the use of low-gloss, non-metallic surfaces throughout the vehicle has been the industry practice for years and shows no sign of changing. Further, the Standard No. 214 rulemaking involved a much more significant safety problem than the one addressed by Standard No. 107.

The State of Connecticut favored one uniform national standard and therefore opposed rescission of Standard No. 107. Once the rescission of Standard No. 107 becomes effective, the States will be free to adopt reflecting surface requirements differing from those in the rescinded standard since there will no longer be a Federal Motor Vehicle Safety Standard (FMVSS) to preempt non-identical State laws. Connecticut stated that without a Federal safety standard, there is a possibility that the 50 States will issue different (and possibly conflicting) standards on reflecting surfaces.

NHTSA does not share Connecticut's concern that rescission of Standard No. 107 will result in individual States regulating reflecting surfaces. There is not now, and there is not likely to be in the future, a safety problem from reflecting surfaces in the view of the driver. Thus, there will not be a safety problem for the States to regulate.

If a State is nevertheless disposed to regulate in this area, it may do so. The fact that no State has previously chosen to regulate components not regulated by Standard No. 107 is a good basis for believing that there is no need for States to regulate.

Effective Date

In the NPRM, NHTSA proposed that if a final rule rescinding Standard No. 107 is published, the effective date for the final rule be 30 days after publication in the **Federal Register**. NHTSA received no comments on this issue. Thus, the agency determines that there is good cause shown that an effective date earlier than 180 days after issuance is in the public interest. Following publication of the NPRM, the agency amended the provisions in 49 CFR § 553.35 regarding petitions for reconsideration to extend the period within which petitions may be filed to 45 days (60 FR 62221; December 5, 1995). Accordingly, the final rule will take effect 45 days after its publication in the **Federal Register**.

Rulemaking Analyses and Notices

1. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule was not reviewed under Executive Order 12866 (Regulatory Planning and Review). NHTSA has analyzed the impact of this rulemaking action and determined that it is not "significant" within the meaning of the Department of Transportation's regulatory policies and procedures. The final rule does not impose any costs. If the elimination of the necessity for certifying compliance with Standard No. 107 enables vehicle and equipment manufacturers to use fewer resources in assessing the reflectivity of the components formerly covered by the Standard, there will be a slight cost savings. For these reasons, the impacts will be so minimal that preparation of a full regulatory evaluation is not warranted.

2. Regulatory Flexibility Act

NHTSA has also considered the impacts of this final rule under the Regulatory Flexibility Act. I hereby certify that this final rule will not have a significant economic impact on a substantial number of small entities. As explained above, the rule will not impose any new requirements but will relieve a restriction for design of certain components in the driver's forward field of view. The final rule may have a very slight beneficial effect on small manufacturers and dealers of motor vehicle equipment since they will no longer have to certify compliance with a safety standard on reflecting surfaces. For these reasons, small businesses, small organizations and small governmental units which purchase motor vehicles will not be significantly affected by the final rule. Accordingly, a final regulatory flexibility analysis has not been prepared.

3. Executive Order 12612 (Federalism)

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612. The agency has determined that the final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

4. National Environmental Policy Act

The agency also has analyzed this final rule for the purpose of the National Environmental Policy Act, and determined that it will not have any significant impact on the quality of the human environment.

5. Executive Order 12778 (Civil Justice Reform)

This final rule will not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the State requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, tires.

In consideration of the foregoing, 49 CFR part 571 is amended as set forth below:

PART 571—[AMENDED]

1. The authority citation for part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

§ 571.107 [Removed]

2. Section 571.107 is removed and reserved.

Issued on: March 13, 1996.

Ricardo Martinez,

Administrator.

[FR Doc. 96–6745 Filed 3–20–96; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 950129018–6018–01; I.D. 030196B]

Groundfish of the Gulf of Alaska; Pacific Cod for Processing by the Inshore Component

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Correction to a closure.

SUMMARY: This document contains a correction to a closure (I.D. 030196B) which was published Wednesday, March 6, 1996 (61 FR 8888).

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), March 3, 1996, until 12 midnight, A.l.t., December 31, 1996.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

The closure that is the subject of this correction prohibited directed fishing for Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Western Regulatory Area.

Need for Correction

As published, the closure contained an incorrect date.

Correction of Publication

Accordingly, the publication on March 6, 1996, of the closure (I.D. 030196B), which was the subject of FR Doc. 96–5228, is corrected as follows:

On page 8888, in the second column, the **EFFECTIVE DATE** is corrected to read as follows:

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), March 3, 1996, until 12 midnight, A.l.t., December 31, 1996.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 13, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–6647 Filed 3–20–96; 8:45 am]

BILLING CODE 3510–22–F

50 CFR Part 672

[Docket No. 960129018–6018–01; I.D. 031596A]

Groundfish of the Gulf of Alaska; Pacific Cod for Processing by the Inshore Component

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for Pacific cod for processing by the inshore component in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the allocation of Pacific Cod for processing by the inshore component in the Central Regulatory Area.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), March 18, 1996, until 12 midnight, A.l.t., December 31, 1996.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

In accordance with § 672.20(c)(1)(ii)(B), the allocation of Pacific cod for processing by the inshore component in the Central Regulatory Area was established by the Final 1996 Harvest Specifications for Groundfish (61 FR 4304, February 5, 1996) as 38,610 metric tons (mt).

The Director, Alaska Region, NMFS (Regional Director), has determined, in accordance with § 672.20(c)(2)(ii), that the allocation of Pacific cod total allowable catch for processing by the inshore component in the Central Regulatory Area soon will be reached. The Regional Director established a directed fishing allowance of 33,610 mt, with consideration that 5,000 mt will be taken as incidental catch in directed fishing for other species in the Central Regulatory Area. The Regional Director has determined that the directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Central Regulatory Area.

Maximum retainable bycatch amounts for applicable gear types may be found in the regulations at § 672.20(g).

Classification

This action is taken under 50 CFR 672.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 18, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–6854 Filed 3–18–96; 2:20 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register

Vol. 61, No. 56

Thursday, March 21, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–243–AD]

Airworthiness Directives; Saab Model SAAB SF340A and SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Saab Model SAAB SF340A and SAAB 340B series airplanes. This proposal would require installation of an automatic flight idle stop on the control quadrant in the flight compartment. This proposal is prompted by several reports of one or both power levers being moved aft of the flight idle stop on approach. The actions specified by the proposed AD are intended to prevent such movement of the power lever(s) during flight, which could result in the loss of power to one or both engines, as well as severe engine damage.

DATES: Comments must be received by April 19, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–243–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from SAAB Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linkping, Sweden. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Ruth E. Harder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–1721; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–NM–243–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–243–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfartsverket (LFV), which is the airworthiness authority for Sweden, recently notified the FAA that an unsafe condition may exist on certain Saab Model SAAB SF340A and SAAB 340B series airplanes. The LFV advises that it received a report indicating that the flight crew on a Model SAAB 340B series airplane moved both power levers aft of the flight idle stop when the airplane was on approach. This movement of the power levers resulted in loss of power to both engines. Both engines sustained extensive mechanical damage due to propeller overspeed, which resulted in a forced landing. Additionally, there have been several other incidents where the flight crew on a Model SAAB 340B series airplane moved one or both power levers aft of the flight idle stop during flight.

When the power levers are moved aft of the flight idle stop into the beta range during flight, it is possible for air loads to back-drive the propeller, which could result in overspeed of the propeller and power turbine of the engine. ("Beta" is the range of propeller operation intended for use during taxi, ground idle, or reverse operations, as controlled by the power lever settings aft of the flight idle stop.) Within the beta range, the propeller blade angle is proportional to the power lever position, and the propeller power control unit (PCU) is not controlling blade pitch or providing propeller overspeed protection.

Saab has issued Service Bulletin 340–76–032, Revision 01, dated September 25, 1995, which describes procedures for installation of an automatic flight idle stop on the control quadrant in the flight compartment. The installation involves removing the mechanical beta stop (if installed), removing the old control quadrant, installing a new/modified control quadrant, and accomplishing a functional test of the flight idle stop system. Accomplishment of this installation will prevent the power levers from being moved aft of the flight idle position during flight.

The service bulletin specifies that certain additional actions are necessary as part of installing an automatic flight idle stop. These additional actions may be accomplished prior to, or in conjunction with, the accomplishment of Saab Service Bulletin 340–76–032. The actions are described in the following Saab service bulletins:

- Service Bulletin 340–76–031, Revision 02, dated September 25, 1995, which describes procedures for modification of the electrical system of the flight idle stop. The modification entails installing new relays and a

console in certain electrical centers, installing indicator lamps in the center instrument panel, and routing of all necessary wiring for these functions.

• Service Bulletin 340–32–100, Revision 01, dated September 25, 1995, which describes procedures for installing a control unit with a wheel spin-up signal. The installation involves removing the currently installed anti-skid control unit and installing new/modified anti-skid control unit having a new part number.

The LFV classified these service bulletins as mandatory and issued Swedish airworthiness directive 1–070, dated April 10, 1995, in order to assure the continued airworthiness of these airplanes in Sweden.

These airplane models are manufactured in Sweden and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LFV has kept the FAA informed of the situation described above. The FAA has examined the findings of the LFV, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, the proposed AD would require installation of an automatic flight idle stop on the control quadrant in the flight compartment. The actions would be required to be accomplished in accordance with the service bulletins described previously.

Operators should note that, although the Swedish AD requires accomplishing the installation within 20 months (after the effective date of the Swedish AD), this proposed AD would require accomplishing the installation within 12 months. In developing an appropriate compliance time for this proposed AD, the FAA considered not only the LFV's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, parts availability, and the time necessary to perform the installation. In light of all of these factors, the FAA finds 12 months to be an appropriate compliance time for initiating the proposed action in that it represents the maximum interval of time allowable for affected airplanes to continue to operate without compromising safety.

The FAA estimates that 224 airplanes of U.S. registry would be affected by this proposed AD, that it would take between 122 and 142 work hours per airplane to accomplish the proposed actions, depending upon the configuration of the airplane. The average labor rate is $60 per work hour. Required parts would cost approximately $9,300 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be between $3,722,880 and $3,991,680 (between $16,620 and $17,820 per airplane).

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The FAA recognizes that the obligation to maintain aircraft in an airworthy condition is vital, but sometimes expensive. Because AD's require specific actions to address specific unsafe conditions, they appear to impose costs that would not otherwise be borne by operators. However, because of the general obligation of operators to maintain aircraft in an airworthy condition, this appearance is deceptive. Attributing those costs solely to the issuance of this AD is unrealistic because, in the interest of maintaining safe aircraft, prudent operators would accomplish the required actions even if they were not required to do so by the AD.

A full cost-benefit analysis has not been accomplished for this proposed AD. As a matter of law, in order to be airworthy, an aircraft must conform to its type design and be in a condition for safe operation. The type design is approved only after the FAA makes a determination that it complies with all applicable airworthiness requirements. In adopting and maintaining those requirements, the FAA has already made the determination that they establish a level of safety that is cost-beneficial. When the FAA, as in this proposed AD, makes a finding of an unsafe condition, this means that the original cost-beneficial level of safety is no longer being achieved and that the proposed actions are necessary to restore that level of safety. Because this level of safety has already been determined to be cost-beneficial, a full cost-benefit analysis for this proposed AD would be redundant and unnecessary.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Saab Aircraft AB: Docket 95–NM–243–AD.

Applicability: Model SAAB SF340A series airplanes, serial numbers -004 through -159 inclusive; and Model SAAB 340B series airplanes, serial numbers -160 through -379 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent the movement of both power levers aft of the flight idle stop during flight, which could result in loss of power to both engines, as well as severe engine damage, accomplish the following:

(a) Within 12 months after the effective date of this AD, accomplish the requirements of paragraphs (a)(1), (a)(2), and (a)(3) of this AD.

(1) Modify the electrical system of the flight idle stop in accordance with Saab Service Bulletin 340–76–031, Revision 02, dated September 25, 1995; and

(2) Install a control unit with a wheel spin-up signal in accordance with Saab Service Bulletin 340–32–100, Revision 01, dated September 25, 1995; and

(3) Install an automatic flight idle stop on the control quadrant in the flight compartment in accordance with Saab Service Bulletin 340–76–032, Revision 01, dated September 25, 1995.

Note 2: The actions specified in paragraphs (a)(1) and (a)(2) of this AD may be accomplished prior to, or in conjunction with, the accomplishment of the requirement of paragraph (a)(3) of this AD.

Note 3: Paragraph 2.A. of the Accomplishment Instructions of Saab Service Bulletin 340–76–032, Revision 01, dated September 25, 1995, specifies procedures for removal of a mechanical beta stop mechanism from the airplane. Since installation of a mechanical beta stop mechanism was not required previously by AD, that mechanism may not have been installed on certain airplanes affected by this AD. In such cases, procedures for removal of the mechanical beta stop would not apply.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished. Issued in Renton, Washington, on March 15, 1996.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–6809 Filed 3–20–96; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 95–NM–203–AD]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Boeing Model 767 series airplanes. This proposal would require repetitive operational tests to verify proper deployment of the ram air turbine (RAT), and replacement of the rotary actuator motor with a new or serviceable rotary actuator motor, if necessary. This proposal is prompted by reports of corroded rotary actuator motors of the RAT found on in-service airplanes. The actions specified by the proposed AD are intended to prevent such corrosion, which could result in failure of the RAT to deploy and subsequent loss of emergency hydraulic power to the flight controls in the event that power is lost in both engines.

DATES: Comments must be received by May 14, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–203–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Sheila Kirkwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (206) 227–2675; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–NM–203–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–203–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received several reports of corroded rotary actuator motors of the ram air turbine (RAT) found on in-service Boeing Model 767 series airplanes during ground testing. In these incidents, the effects of such corrosion prevented deployment of the RAT. Investigation has revealed that the rotary actuator motor of the RAT is not hermetically sealed. The motor is located in the right aft fairing of the airplane where it is susceptible to moisture accumulation when exposed to high cycling or humid conditions; such moisture accumulation can produce or accelerate the identified corrosion conditions. Corrosion of the rotary actuator motors, if not detected and corrected in a timely manner, could result in failure of the RAT to deploy and subsequent loss of emergency hydraulic power to the flight controls in the event that power is lost in both engines.

The FAA has reviewed and approved Boeing Alert Service Bulletin 767–29A0080, dated October 12, 1995, which describes procedures for repetitive operational tests to verify

proper deployment of the ram air turbine (RAT) system, and replacement of the rotary actuator motor with a new or serviceable rotary actuator motor, if necessary. The alert service bulletin recommends that the repetitive operational tests be accomplished at intervals not to exceed 3,000 flight hours.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require repetitive operational tests to verify proper deployment of the ram air turbine (RAT) system, and replacement of the rotary actuator motor with a new or serviceable rotary actuator motor, if necessary. The actions would be required to be accomplished in accordance with the alert service bulletin described previously.

Operators should note that, although the alert service bulletin recommends a repetitive interval of 3,000 flight hours for the operational tests, the proposed AD would require that the operational tests be accomplished at intervals not to exceed 1,000 flight hours. In developing an appropriate compliance time for this action, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but the susceptibility of the rotary actuator motor to moisture accumulation when exposed to high cycling or humid conditions, which could lead corrosion of the rotary actuator motor. In consideration of these items, the FAA finds that operational tests conducted at intervals of 1,000 flight hours will better ensure that any detrimental effects associated with corrosion will be identified and corrected prior to the time that they could adversely affect the actuator motor.

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

There are approximately 583 Boeing Model 767 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 197 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $11,820, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 95–NM–203–AD.

Applicability: All Model 767 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent corrosion of the rotary actuator motors, which could result in failure of the RAT to deploy and subsequent loss of emergency hydraulic power to the flight controls in the event that power is lost in both engines, accomplish the following:

(a) Within 6 months after the effective date of this AD, perform an operational test to verify proper deployment of the ram air turbine (RAT) in accordance with Boeing Alert Service Bulletin 767–29A0080, dated October 12, 1995.

(1) If the RAT deploys properly, repeat the operational test thereafter at intervals not to exceed 1,000 flight hours.

(2) If the RAT deploys improperly, prior to further flight, replace the rotary actuator motor with a new or serviceable rotary actuator motor, in accordance with the service bulletin. Repeat the operational test thereafter at intervals not to exceed 1,000 flight hours.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on March 15, 1996.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–6808 Filed 3–20–96; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1304

[DEA Number 139P]

RIN Number 1117–AA33

Consolidation, Elimination, and Clarification of Various Regulations; Correction

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Proposed Rule; Correction.

SUMMARY: This document contains a correction to the Notice of Proposed Rulemaking (DEA Number 139P) which was published on March 5, 1996 (61 FR 8503). The proposed rule related to regulatory reinvention initiatives under the President's National Performance Review (NPR).

DATES: Written comments or objections must be received by July 3, 1996.

ADDRESSES: Comments and objections should be submitted in quintuplicate to the Deputy Administrator, Drug Enforcement Administration, Washington, D.C. 20537, Attention: DEA Federal Register Representative/CCR.

FOR FURTHER INFORMATION CONTACT:

G. Thomas Gitchel, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, D.C. 20537, Telephone (202) 307–7297.

SUPPLEMENTARY INFORMATION: The proposed rule that is the subject of this correction is intended to consolidate, eliminate, and clarify many of DEA's regulations designed to detect and deter the diversion of controlled substances and chemicals. The proposed change to Section 1304.11(c), as published, retained the current regulatory language rather than the new amended language. The new rule will provide more flexibility for registrants by allowing them to conduct biennial inventories on any date within two years of the initial inventory or previous biennial inventory.

Accordingly, the publication on March 5, 1996, of the proposed regulations under NPR, which were the subject of FR Doc. 96–4663, is corrected as follows:

§ 1304.11 [Corrected]

On page 5824, in the first column, in Section 1304.11, paragraph (c), the words "The biennial inventory may be taken on the day of the year on which the initial inventory was taken or on any other fixed date which does not vary by more than 6 months from the biennial date that would otherwise apply. If the registrant elects to take the biennial inventory on another fixed date, he/she shall notify the Administration of this election and of the date on which the biennial inventory will be taken" is corrected to read "The biennial inventory may be taken on any date which is within two years of the previous biennial inventory date."

Dated: March 13, 1996.

Gene R. Haislip,

Deputy Assistant Administrator, Drug Enforcement Administration.

[FR Doc. 96–6606 Filed 3–20–96; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 31

[IA–03–94]
RIN 1545–AS79

Federal Tax Deposits by Electronic Funds Transfer

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations relating to the deposit of Federal taxes by electronic funds transfer under section 6302 of the Internal Revenue Code. The text of the temporary regulations also serves as the comment document for this notice of proposed rulemaking. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written comments and outlines of topics to be discussed at the public hearing scheduled for July 16, 1996, beginning at 10 a.m., must be received by June 19, 1996.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (IA–03–94), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (IA–03–94), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. The public hearing will be held in the Commissioner's Conference Room, room 3313, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Vincent G. Surabian, 202–622–6232 (not a toll-free number). Concerning submissions and the public hearing, Michael Slaughter, 202–622–7190 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations published in the Rules and Regulations section of this issue of the **Federal Register** contain amendments to the Regulations on Employment Taxes and Collection of Income Tax at Source (26 CFR part 31) and an addition to the Income Tax Regulations (26 CFR part 1). These amendments relate to the deposit of Federal taxes by electronic funds transfer. The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains these proposed regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these rules and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, a copy of this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) that are timely submitted to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for July 16, 1996, beginning at 10 a.m. in the Commissioner's Conference Room, room 3313, Internal Revenue Building. Because of access restrictions, visitors will not be admitted beyond the building lobby more than 15 minutes before the hearing starts.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons who wish to present oral comments at the hearing must submit written comments and an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by June 19, 1996.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is Vincent G. Surabian, Office of the Assistant Chief Counsel (Income Tax & Accounting), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

Proposed Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 31 are proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding the following entry to read as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.6302–4 also issued under 26 U.S.C. 6302(a) and (c). * * *

Par. 2. Section 1.6302–4 is added to read as follows:

§ 1.6302–4 Use of financial institutions in connection with individual income taxes.

[The text of this proposed section is the same as the text of § 1.6302–4T published elsewhere in this issue of the **Federal Register**].

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

Par. 3. The authority citation for part 31 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 4. Proposed § 31.6302–1(h), published July 11, 1994 (59 FR 35418), by cross-referencing temporary regulations published the same day (59 FR 35414) is amended as follows:

1. Paragraph (h)(1)(ii)(A) is redesignated as paragraph (h)(1)(ii)(A)(*1*); the first sentence in the paragraph is removed, and three new sentences are added in its place; and, in the last sentence of the newly designated paragraph, the text preceding the table is revised.

2. Paragraph (h)(1)(ii)(A)(*2*) is added.

3. Paragraphs (h)(2), (h)(3), (h)(7) and (h)(8) are revised.

The revised and added provisions read as follows:

§ 31.6302–1 Federal tax deposit rules for withheld income taxes and taxes under the Federal Insurance Contributions Act (FICA) attributable to payments made after December 31, 1992.

[The text of paragraphs (h)(1)(ii)(A)(*1*), (h)(1)(ii)(A)(*2*), (h)(2), (h)(3), (h)(7) and (h)(8) is the same as the text of those paragraphs in § 31.6302–1T published elsewhere in this issue of the **Federal Register**.]

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 96–6719 Filed 3–20–96; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL140–1–7283b; IL141–1–7284b; FRL–5441–6]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) proposes to approve Illinois' November 14, 1995 request to incorporate an exemption for acetone from the definitions of Organic Material and Organic Materials, Petroleum Liquid, and Volatile Organic Matter (VOM) or Volatile Organic Compounds (VOC) contained in the Illinois State Implementation Plan (SIP) and thereby from regulation as an ozone precursor. The USEPA also proposes to approve Illinois' November 15, 1995 request to revise the definition of VOM or VOC contained in the Illinois SIP to incorporate an exemption for parachlorobenzotrifluoride and cyclic, branched or linear completely-methylated siloxanes from the definition of VOM or VOC and thereby, from regulation as ozone precursors. These requested SIP revisions were made in response to and consistent with USEPA's action to add these chemical compounds to the list of chemicals that are exempted from the definition of VOC. In the final rules section of this **Federal Register**, the USEPA is approving these actions as a direct final rule without prior proposal because USEPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If USEPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule. USEPA will not institute a second comment period on this action. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed rule must be received on or before April 22, 1996.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR18–J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and USEPA's analysis of it are available for inspection at: Regulation Development Section, Air Programs Branch (AR18–J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6036.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: March 1, 1996.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 96–6604 Filed 3–20–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[IN66–1–7289b; FRL–5439–7]

Approval and Promulgation of State Implementation Plan; Indiana; Clean Fuel Fleet Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The U.S. Environmental Protection Agency (USEPA) is proposing to approve a revision to the Indiana State Implementation Plan (SIP) for the purpose of establishing a Clean-Fuel Fleet Program. Indiana submitted the SIP revision request on December 20, 1995, and February 14, 1996, to satisfy a federal mandate, found in the Clean Air Act, requiring certain states to establish Clean-Fuel Fleet Programs. This revision establishes and requires the implementation of an Clean-Fuel Fleet Program in Lake and Porter Counties ozone nonattainment area. In the final rules section of this **Federal Register**, the USEPA is approving this action as a direct final rule without prior proposal because USEPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If USEPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed rule must be received on or before April 22, 1996.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and USEPA's analysis of it are available for inspection at: Air Programs Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6082.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: February 29, 1996.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 96–6598 Filed 3–20–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[MA–19–1–b; A–1–FRL–5436–4]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Emission Statements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve Massachusetts' revised 310 CMR 7.12, "Inspection Certificate, Record Keeping and Reporting" and incorporating it into Massachusetts' SIP. EPA received revisions to the Massachusetts SIP revising 310 CMR 7.12 on three separate occasions however, EPA is addressing all three submissions in this action. These revisions streamline and clarify the permitting process and address the Clean Air Act's emission statement program requirement. In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP revisions as a direct final rule without prior proposal because the Agency views them as noncontroversial revision amendments and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this proposal.

Any parties interested in commenting on this proposal should do so at this time.

DATES: Comments must be received on or before April 22, 1996.

ADDRESSES: Comments may be mailed to Susan Studlien, Acting Director, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203. Copies of the state's submittal and EPA Technical Support Document are available for public inspection during normal business hours, by appointment at the Air Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA and the Division of Air Quality Control, Department of Environmental Protection, One Winter Street, Boston, MA.

FOR FURTHER INFORMATION CONTACT: David Conroy, (617) 565–3254.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: September 18, 1995.

John P. DeVillars,

Regional Administrator, Region I.

[FR Doc. 96–6782 Filed 3–20–96; 8:45 am]

BILLING CODE 6560–60–P

[FRL–5443–6]

40 CFR Part 300

National Oil and Hazardous Substances Pollution Contingency Plan National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of Intent to Delete the New Castle Spill Site from the National Priorities List (NPL).

SUMMARY: The Environmental Protection Agency (EPA) Region 3 announces its intent to delete the New Castle Spill Site (Site) from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). EPA promulgated the NCP pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended. EPA and the Delaware Department of Natural Resources and Environmental Control (DNREC) have determined that all appropriate CERCLA actions have been implemented and that the Site poses no significant threat to public health, welfare, or the environment. Therefore, further remedial measures pursuant to CERCLA are not needed.

DATES: Comments concerning the proposed deletion of the Site from the NPL may be submitted on or before April 22, 1996.

ADDRESSES: Comments may be submitted to Stephanie Dehnhard (3HW23), Remedial Project Manager, U.S. Environmental Protection Agency, 841 Chestnut Building, Philadelphia, Pennsylvania, 19107, (215) 597–3167.

Comprehensive information on this Site is available for viewing at the Site information repositories at the following locations:

U.S. EPA, Region 3, Hazardous Waste Technical Information Center, 841 Chestnut Building, Philadelphia, PA, (215) 597–6633. Delaware Department of Natural Resources and Environmental Control, 715 Grantham Lane, New Castle, DE, (302) 323–4540.

FOR FURTHER INFORMATION CONTACT: Stephanie Dehnhard (3HW23), U.S. EPA Region 3, 841 Chestnut Building, Philadelphia, PA, 19107, (215) 597–3167.

SUPPLEMENTARY INFORMATION:

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures

IV. Basis For Intended Site Deletion

I. Introduction

The Environmental Protection Agency (EPA) Region 3 announces its intent to delete the New Castle Spill Site, New Castle, Delaware, from the National Priorities List (NPL), Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part 300, and requests comments on this decision. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL has the list of those sites. As described in Section 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions in the unlikely event that conditions at a site warrant such action in the future.

EPA will accept comments on the proposal to delete this Site from the NPL for thirty calendar days after publication of this notice in the **Federal Register**.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses the procedures that EPA is using for this action. Section IV discusses the New Castle Spill Site and explains how the Site meets the deletion criteria.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that sites may be deleted from, or recategorized on the NPL where no further response is appropriate. In making a determination to delete a site from the NPL, EPA considers, in consultation with the state, whether any of the following criteria has been met:

(i) Responsible parties or other parties have implemented all appropriate response actions required;

(ii) All appropriate Fund-financed response under CERCLA has been implemented, and no further action by responsible parties is appropriate; or

(iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

Sites may not be deleted from the NPL until the state in which the site is located has concurred on the proposed deletion. EPA is required to provide the state with 30 working days for review of the deletion notice prior to its publication in the **Federal Register**.

Pursuant to the NCP, 40 CFR 300.425(e)(3), all sites deleted from the NPL are eligible for further Fund-financed remedial actions should future conditions warrant such action. When there is a significant release from a site deleted from the NPL, the site can be restored to the NPL without application of the Hazard Ranking System.

III. Deletion Procedures

Section 300.425(e)(4) of the NCP sets forth requirements for site deletions to assure public involvement in the decision. During the proposal to delete a site from the NPL, EPA is required to conduct the following activities:

(i) Publish a notice of intent to delete in the **Federal Register** and solicit comment through a public comment period of a minimum of 30 calendar days;

(ii) Publish a notice of availability of the notice of intent to delete in a major local newspaper of general circulation at or near the site that is proposed for deletion;

(iii) Place copies of information supporting the proposed deletion in the information repository at or near the site proposed for deletion; and,

(iv) Respond to each significant comment and any significant new data submitted during the comment period in a Responsiveness Summary.

If appropriate, after consideration of comments received during the public comment period, EPA then publishes a notice of deletion in the **Federal Register** and places the final deletion package, including the responsiveness summary, in the Site repositories.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. As stated in Section II of this Notice, § 300.425(e)(3) of the NCP provides that the deletion of a site from the NPL does not preclude eligibility for future response actions.

IV. Basis for Intended Site Deletion

The following site summary provides EPA's rationale for the proposal to delete the New Castle Spill Site from the NPL.

The Site is a former manufacturing plant of the Witco Corporation (Witco) located 0.5 miles west of the Delaware River and 0.5 miles north of the City of New Castle, Delaware. Surrounding the Site is a mixed commercial and residential area. The Site is bordered on the west by a marsh and on the east by a dual highway.

Among the chemicals Witco used in the production of plastic foams was the semi-volatile organic compound tris(2-chloropropyl) phosphate (Tris). Sometime before 1977 it is estimated that approximately 4–5 drums of Tris, stored on the Site, were spilled on the ground contaminating the soil and shallow ground water beneath. Under the direction of DNREC, the ground water was pumped and discharged into the adjacent marsh. Numerous investigations of the soil and ground water followed, including an EPA Site Inspection in 1981. EPA proposed the Site for inclusion on the NPL on December 30, 1982 and finalized the listing on the NPL on September 8, 1983.

Pursuant to an Administrative Order on Consent with DNREC, Witco conducted a remedial investigation (RI) and feasibility study (FS) from February 1988 to June 1989. These studies determined the extent of contamination, the risks to human health and the environment posed by the contamination, and cleanup alternatives to address those risks. The RI included sampling of soils, ground water, surface water, and marsh sediments.

Results of the RI showed that the ground water in the shallow Columbia aquifer was contaminated with the organic compounds Tris, trichloroethylene (TCE), and 1,2-dichlorethene. Only Tris was determined to be present at levels that presented a significant risk to human health. TCE was determined to be from another source upgradient of the Site and was addressed through a separate State action. No Tris contamination was found in the deeper Potomac aquifer. Tris and several other organic compounds were found in soil samples but at levels that would not threaten human health or the environment and were no longer considered a source of contamination to the ground water. Contaminant levels found in the marsh area were well below levels that would threaten the wetland habitat or environmental receptors.

Using the RI data, an endangerment assessment was performed to evaluate the risks that contaminants detected at the Site posed to human health and the environment. Of the numerous exposure pathways evaluated, only potential future exposure to ground water used as a potable water supply was determined to present a risk to human health that exceeded acceptable levels as defined by the NCP. As no one was using the Columbia aquifer in the area for a potable water supply, natural attenuation was determined to be the most appropriate means by which to reduce the Tris concentrations to acceptable levels. EPA developed a health-based drinking water cleanup level of 4.4 mg/l for Tris and estimated that it would take approximately four years for Tris to reach this level by natural attenuation.

To document this cleanup approach, EPA and DNREC issued a Record of Decision (ROD) on September 28, 1989 which included the following components: (1) Monitoring of the Columbia aquifer on a quarterly basis for Tris to ensure the effectiveness of the natural attenuation process; (2) monitoring of the Potomac aquifer on an annual basis for Tris to ensure that contamination has not migrated from the Columbia aquifer; (3) monitoring of the surface water and sediments of the adjacent wetlands on an annual basis for Tris, with further evaluation and bioassay testing required if trigger values of 100 ug/l Tris in surface water, or 1000 ug/kg Tris in sediments were reached; (4) institutional restrictions on the placement of wells in the Columbia aquifer in the vicinity of the Site; and, (5) a five year effectiveness review of the remedy.

Public participation was encouraged in the remedy selection process. Prior to issuing the ROD, EPA and DNREC had released a proposed plan outlining the cleanup alternatives developed in the feasibility study and the preferred remedy. A public comment period followed the proposed plan's release from August 22, 1989 to September 22, 1989. A public meeting was held on September 6, 1989 to discuss the proposed plan. All public comments were addressed and documented in the responsiveness summary which is part of the ROD.

In April 1991, EPA and Witco entered into a Consent Decree whereby Witco agreed to implement the remedy selected in the ROD. Witco began quarterly ground water, surface water, and sediment monitoring in July 1992 which continued through September 1995. Tris levels in the surface water and sediment samples were consistently well below the trigger levels specified in the ROD or not detected at all; therefore, no further evaluation or bioassay testing was necessary in the marsh. Tris was not detected in the Potomac aquifer in any sampling event.

Of the 13 monitoring wells screened in the Columbia aquifer that were included in the monitoring program, only two wells showed concentrations of Tris above the ground water cleanup level of 4.4 mg/l during the entire monitoring period. By natural attenuation, Tris concentrations decreased with time in these two wells until they were below the cleanup level for the last several sampling events. During the last sampling event in September 1995, Tris concentrations ranged from approximately 1 to 2 mg/l. A statistical analysis of the data confirmed that there is very little chance that the Tris concentration will exceed the cleanup level in the future.

In November 1990, pursuant to the ROD, DNREC instituted a Ground Water Management Zone (GMZ) in the vicinity of the Site to restrict installation of drinking water wells in the area. Now that the Tris cleanup level has been achieved in the area of the Site and there is no longer a need to prevent exposure to the ground water, DNREC will retract the GMZ following the deletion of the Site from the NPL.

Based on the information presented above, EPA has determined that Witco, the responsible party for this Site, has implemented all response actions required and that no further action is appropriate. Thus, the required NPL deletion criteria presented in Section II, above, have been met. DNREC has concurred on this determination. Correspondence documenting this concurrence is included in the supporting documentation.

The ROD stated that EPA would conduct a five-year effectiveness review to reevaluate the Site. The evaluation made to determine if the NPL Deletion criteria have been met serves as that review. In addition, EPA reviewed the most recent toxicological information available for Tris and determined that the cleanup level of 4.4 mg/l in ground water remains protective. Therefore, EPA has determined that the Site poses no significant threat to public health or the environment.

The NCP at 40 CFR 300.430 states that EPA shall review remedial actions every five years if hazardous substances, pollutants, or contaminants remain at the site above levels that allow unrestricted exposure and unlimited use. Since neither of these conditions exists at this Site, further five-year reviews are not warranted and will not be conducted.

EPA, with the concurrence of DNREC, believes that the criteria for deletion of the Site have been met. Therefore, EPA is proposing deletion of the Site from the NPL. Documents supporting this action are available in the site repositories of information.

Dated: March 8, 1996.

Alvin R. Morris,

Acting Regional Administrator, U.S. EPA Region 3.

[FR Doc. 96–6561 Filed 3–20–96; 8:45 am]

BILLING CODE [illegible]

Notices

Federal Register

Vol. 61, No. 56

Thursday, March 21, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Foreign Agricultural Service's (FAS) intention to request an extension for a currently approved information collection that aids in analyzing existing information products to better meet reader needs.

DATES: Comments on this notice must be received by May 20, 1996 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Sally Klusaritz, Deputy Director, Information Division, Foreign Agricultural Service, U.S. Department of Agriculture, 14th and Independence Avenue, S.W., Washington, DC 20250–1004, (202) 720–3448.

SUPPLEMENTARY INFORMATION:

Title: FAS/Readership Survey.

OMB Number: 0551–0022.

Expiration Date of Approval: August 31, 1996.

Type of Request: Extension of a currently approved information collection.

Abstract: The delivery of information on foreign supply and demand for agricultural products is one of the primary missions of the Foreign Agricultural Service (FAS). In order for this mission to be done effectively and in a cost-efficient manner, FAS requires a good understanding of the various audiences for FAS materials, their needs for various types of information, and the use they make of this information. The FAS Readership Survey will have an impact on the type of information delivery system FAS uses.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 10 minutes per response.

Respondents: U.S. subscribers to FAS periodicals.

Estimated Number of Respondents: 800.

Estimated Number of Responses per Respondent: 16.

Estimated Total Annual Burden on Respondents: 134 hours.

Copies of this information collection can be obtained without charge from Pamela Hopkins, the Agency Information Collection Coordinator, at (202) 720–6713.

Request for Comments: Send comments regarding the accuracy of the burden estimate, ways to minimize the burden, including through the use of automated collection techniques or other forms of information technology, or any other aspect of this collection of information, to: Sally Klusaritz, Deputy Director, Information Division, Foreign Agricultural Service, U.S. Department of Agriculture, 14th and Independence Ave., SW., AG BOX 1004, Washington, DC 20250–1004.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Signed at Washington, D.C., March 14, 1996.

August Schumacher, Jr.,

Administrator, Foreign Agricultural Service.

[FR Doc. 96–6835 Filed 3–20–96; 8:45 am]

BILLING CODE 3410–10–M

Forest Service

Newspapers Used for Publication of Legal Notice of Appealable Decisions for Intermountain Region, Utah, Idaho, Nevada, and Wyoming

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: This notice lists the newspapers that will be used by all ranger districts, forests, and the Regional Office of the Intermountain Region to publish legal notice of all decisions subject to appeal under 36 CFR 215 and 36 CFR 217. The intended effect of this action is to inform interested members of the public which newspapers will be used to publish legal notices of decisions, thereby allowing them to receive constructive notice of a decision, to provide clear evidence of timely notice, and to achieve consistency in administering the appeals process.

DATES: Publication of legal notices in the listed newspapers will begin with decisions subject to appeal that are made on or after March 1, 1996. The list of newspapers will remain in effect until October 1996 when another notice will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: K. Dale Torgerson, Regional Appeals Manager, Intermountain Region, 324 25th Street, Ogden, UT 84401, phone (801) 625–5274.

SUPPLEMENTARY INFORMATION: The administrative appeal procedures 36 CFR 215 and 36 CFR 217, of the Forest Service require publication of legal notice in a newspaper of general circulation of all decisions subject to appeal. This newspaper publication of notices of decisions is in addition to direct notice to those who have requested notice in writing and to those known to be interested and affected by a specific decision.

The legal notice is to identify: the decision by title and subject matter; the date of the decision; the name and title of the official making the decision; and how to obtain copies of the decision. In addition, the notice is to state the date the appeal period begins which is the day following publication of the notice.

The timeframe for appeal shall be based on the date of publication of the notice in the first (principal) newspaper listed for each unit.

The newspapers to be used are as follows:

Regional Forester, Intermountain Region

For decisions made by the Regional Forester affecting National Forests in Idaho:
The Idaho Statesman, Boise, Idaho
For decisions made by the Regional Forester affecting National Forests in Nevada:
The Reno Gazette-Journal, Reno, Nevada
For decisions made by the Regional Forester affecting National Forests in Wyoming:
Casper Star-Tribune, Casper, Wyoming
For decisions made by the Regional Forester affecting National Forests in Utah:
Standard-Examiner, Ogden, Utah
If the decision made by the Regional Forester affects all National Forests in the Intermountain Region, it will appear in:
Standard-Examiner, Ogden, Utah

Ashley National Forest

Ashley Forest Supervisors decisions:
Vernal Express, Vernal, Utah
Vernal District Ranger decisions:
Vernal Express, Vernal, Utah
Flaming Gorge District Ranger for decisions affecting Wyoming:
Casper Star Tribune, Casper, Wyoming
Flaming Gorge District Ranger for decisions affecting Utah:
Vernal Express, Vernal, Utah
Roosevelt and Duchesne District Ranger decisions:
Uintah Basin Standard, Roosevelt, Utah

Boise National Forest

Boise Forest Supervisor decisions:
The Idaho Statesman, Boise, Idaho
Mountain Home District Ranger decisions:
The Idaho Statesman, Boise, Idaho
Boise District Ranger decisions:
The Idaho Statesman, Boise, Idaho
Idaho City District Ranger decisions:
The Idaho Statesman, Boise, Idaho
Cascade District Ranger decisions:
The Advocate, Cascade, Idaho
Lowman District Ranger decisions:
The Idaho City World, Idaho City, Idaho
Emmett District Ranger decisions:
The Messenger-Index, Emmett, Idaho

Bridger-Teton National Forest

Bridger-Teton Forest Supervisor decisions:
Casper Star-Tribune, Casper, Wyoming
Jackson District Ranger decisions:
Casper Star-Tribune, Casper, Wyoming
Buffalo District Ranger decisions:
Casper Star-Tribune, Jackson, Wyoming
Big Piney District Ranger decisions:
Casper Star-Tribune, Jackson, Wyoming
Pinedale District Ranger decisions:
Casper Star-Tribune, Casper, Wyoming
Greys River District Ranger decisions:
Casper Star-Tribune, Casper, Wyoming
Kemmerer District Ranger decisions:
Casper Star-Tribune, Casper, Wyoming

Caribou National Forest

Caribou Forest Supervisor decisions:
Idaho State Journal, Pocatello, Idaho
Soda Springs District Ranger decisions:
Idaho State Journal, Pocatello, Idaho
Montpelier District Ranger decisions:
Idaho State Journal, Pocatello, Idaho
Malad District Ranger decisions:
Idaho State Journal, Pocatello, Idaho
Pocatello District Ranger decisions:
Idaho State Journal, Pocatello, Idaho

Dixie National Forest

Dixie Forest Supervisor decisions:
The Daily Spectrum, St. George, Utah
Pine Valley District Ranger decisions:
The Daily Spectrum, St. George, Utah
Cedar City District Ranger decisions:
The Daily Spectrum, St. George, Utah
Powell District Ranger decisions:
The Daily Spectrum, St. George, Utah
Escalante District Ranger decisions:
The Daily Spectrum, St. George, Utah
Teasdale District Ranger decisions:
The Daily Spectrum, St. George, Utah

Fishlake National Forest

Fishlake Forest Supervisor decisions:
Richfield Reaper, Richfield, Utah
Loa District Ranger decisions:
Richfield Reaper, Richfield, Utah
Richfield District Ranger decisions:
Richfield Reaper, Richfield, Utah
Beaver District Ranger decisions:
Richfield Reaper, Beaver, Utah
Fillmore District Ranger decisions:
Richfield Reaper, Fillmore, Utah

Humboldt-Toiyabe National Forests

Humboldt Forest Supervisor decisions:
Elko Daily Free Press, Elko, Nevada
Toiyabe Forest Supervisor decisions:
Reno Gazette-Journal, Reno, Nevada
Sierra Ecosystem Coordination Center (SECO):
Carson District Ranger decisions:
Reno Gazette-Journal, Reno, Nevada
Bridgeport District Ranger decisions:
The Review-Herald, Mammoth Lakes, California
Spring Mountain National Recreation Area Ecosystem (SMNRAE):
Spring Mountain National Recreation Area District Ranger decisions:
Las Vegas Review Journal, Las Vegas, Nevada
Central Nevada Ecosystem (CNECO):
Austin District Ranger decisions:
Reno Gazette-Journal, Reno, Nevada
Tonopah District Ranger decisions:
Tonopah Times Bonanza-Goldfield News, Tonopah, Nevada
Ely District Ranger decisions:
Ely Daily Times, Ely, Nevada
Northeast Nevada Ecosystem (NNECO):
Mountain City District Ranger decisions:
Elko Daily Free Press, Elko, Nevada
Ruby Mountains District Ranger decisions:
Elko Daily Free Press, Elko, Nevada
Jarbidge District Ranger decisions:
Elko Daily Free Press, Elko, Nevada
Santa Rosa District Ranger decisions:
Humboldt Sun, Winnemucca, Nevada

Manti-Lasal National Forest

Manti-Lasal Forest Supervisor decisions:
Sun Advocate, Price, Utah
Sanpete District Ranger decisions:
The Pyramid, Mt. Pleasant, Utah
Ferron District Ranger decisions:
Emery County Progress, Castle Dale, Utah
Price District Ranger decisions:
Sun Advocate, Price, Utah
Moab District Ranger decisions:
The Times Independent, Moab, Utah
Monticello District Ranger decisions:
The San Juan Record, Monticello, Utah

Payette National Forest

Payette Forest Supervisor decisions:
Idaho Stateman, Boise, Idaho
Weiser District Ranger decisions:
Signal American, Weiser, Idaho
Council District Ranger decisions:
Council Record, Council, Idaho
New Meadows, McCall, and Krassel District Ranger decisions:
Star News, McCall, Idaho

Salmon and Challis National Forests

Salmon Forest Supervisor decisions:
The Recorder-Herald, Salmon, Idaho
Cobalt District Ranger decisions:
The Recorder Herald, Salmon, Idaho
North Fork District Ranger decisions:
The Recorder-Herald, Salmon, Idaho
Leadore District Ranger decisions:
The Recorder-Herald, Salmon, Idaho
Salmon District Ranger decisions:
The Recorder-Herald, Salmon, Idaho
Challis Forest Supervisor decisions:
The Challis Messenger, Challis, Idaho
Middle Fork District Ranger decisions:
The Challis Messenger, Challis, Idaho
Challis District Ranger decisions:
The Challis Messenger, Challis, Idaho
Yankee Fork District Ranger decisions:
The Challis Messenger, Challis, Idaho
Lost River District Ranger decisions:
The Challis Messenger, Challis, Idaho

Sawtooth National Forest

Sawtooth Forest Supervisor decisions:
The Times News, Twin Falls, Idaho
Burley District Ranger decisions:
Ogden Standard Examiner, Ogden, Utah, for those decisions on the Burley District involving the Raft River Unit.
South Idaho Press, Burley, Idaho for decisions issued on the Idaho portions of the Burley District.
Twin Falls District Ranger decisions:
The Times News, Twin Falls, Idaho

Ketchum District Ranger decisions:
Wood River Journal, Hailey, Idaho
Sawtooth National Recreation Area:
Challis Messenger, Challis, Idaho
Fairfield District Ranger decisions:
The Times News, Twin Falls, Idaho

Targhee National Forest

Targhee Forest Supervisor decisions:
The Post Register, Idaho Falls, Idaho
Dubois District Ranger decisions:
The Post Register, Idaho Falls, Idaho
Island Park District Ranger decisions:
The Post Register, Idaho Falls,Idaho
Ashton District Ranger decisions:
The Post Register, Idaho Falls, Idaho
Palisades District Ranger decisions:
The Post Register, Idaho Falls, Idaho
Teton Basin District Ranger decisions:
The Post Register, Idaho Falls, Idaho

Uinta National Forest

Uinta Forest Supervisor decisions:
The Daily Herald, Provo, Utah
Pleasant Grove District Ranger decisions:
The Daily Herald, Provo, Utah
Heber District Ranger decisions:
The Daily Herald, Provo, Utah, and
Wasatch Wave, Heber City, Utah
Spanish Fork District Ranger decisions:
The Daily Herald, Provo, Utah

Wasatch-Cache National Forest

Wasatch-Cache Forest Supervisor decisions:
Salt Lake Tribune, Salt Lake City, Utah
Salt Lake District Ranger decisions:
Salt Lake Tribune, Salt Lake City, Utah
Kamas District Ranger decisions:
Salt Lake Tribune, Salt Lake City, Utah
Evanston District Ranger decisions:
Uintah County Herald, Evanston, Wyoming
Mountain View District Ranger decisions:
Uintah County Herald, Evanston, Wyoming
Ogden District Ranger decisions:
Ogden Standard Examiner, Ogden, Utah
Logan District Ranger decisions:
Logan Herald Journal, Logan, Utah

Dated: March 5, 1996.

Robert M. Swinford,

Acting Deputy Regional Forester.

[FR Doc. 96–6743 Filed 3–20–96; 8:45 am]

BILLING CODE 3410–11–M

Oil and Gas Leasing; Custer National Forest, Sioux Ranger District; Harding County, SD

AGENCIES: Forest Service, USDA; Bureau of Land Management, USDI.

ACTION: Notice; intent to prepare environmental impact statement.

SUMMARY: The USDA, Forest Service, and the USDI, Bureau of Land Management (BLM) will prepare an Environmental Impact Statement (EIS) to disclose the environmental effects of oil and gas leasing and reasonable foreseeable actions resulting from subsequent exploration and development, as well as interconnected actions, on the portion of the Sioux Ranger District in South Dakota. The Forest Service and BLM are joint lead agencies for the preparation of this document (40 CFR 1501.5).

The Custer National Forest and Resources Management Plan (Forest Plan) and Record of Decision (1987) identified which lands on the Forest are available for oil and gas leasing. This EIS, consistent with the Federal Onshore Oil and Gas Reform Act of 1987, will reaffirm the administratively available decision, identify specific lands the BLM would be authorized to lease, and develop site-specific lease stipulations designed to reduce impacts to surface resource values. This analysis will evaluate reasonable foreseeable impacts of post-leasing activity. The analysis will tier to the Forest Plan Environmental Impact Statement.

DATES: Comments concerning the scope of the analysis should be received in writing by April 22, 1996.

ADDRESSES: Send written comments to Nancy Curriden, Forest Supervisor, Custer National Forest, P.O. Box 2556, Billings, Montana 59103.

FOR FURTHER INFORMATION CONTACT: Mark Slacks, EIS Team Leader, Custer National Forest, 406–657–6361 or 701–842–2393.

SUPPLEMENTARY INFORMATION: This analysis will address oil and gas leasing and the site-specific application of lease stipulations for Federal minerals within National Forest System (NFS) lands located in Harding County, South Dakota. Included are all Federal minerals within National Forest boundaries of the North and South Cave Hills, Slim Buttes, and East and West Short Pine Hills. The project area encompasses approximately 77,330 acres, 9,575 acres of which are currently leased for oil and gas development.

This EIS will address the environmental effects of leasing in the various management areas defined in the Forest Plan. The scope of the EIS will be confined to those issues associated with oil and gas leasing and subsequent activities and will not address land allocations made in the Forest Plan.

The Custer Forest Plan identifies Forest-wide and management area multiple use goals, objectives and standards. Oil and gas leasing and possible subsequent exploration and development activities and their individual and cumulative effects were considered in the development of Forest-wide goals and objectives, as well as in the development of specific management area direction. The goals for the ten management areas (MAs) within the project area are very briefly summarized here: MA B, provides for the continuation of livestock grazing; MA C, to manage for key wildlife habitat areas; MA D, to maintain or improve long-term diversity and quality of habitat for selected species; MA E, to facilitate exploration, development and production of energy and mineral resources; MA F, to provide a spectrum of recreation opportunities; MA L, to provide opportunities for research, study, and monitoring of natural-occurring ecological processes; MA M, to provide healthy, self-perpetuating riparian plant and water communities; MA N, to provide healthy, self perpetuating woody draw plant communities; MA O, to protect the unique geological and scenic features of National Natural Landmarks; and MA P, to provide adequate facilities for the administration of the Custer National Forest. The Forest Plan identifies lease stipulations to be applied by Management Area (also Appendix V). Briefly and in part, no surface use stipulations are recommended for riparian areas, wetlands, floodplains, slopes exceeding 40%, fragile soils, areas of mass failure hazard, Management Area C, recreation areas, national natural landmarks, and administrative areas. Surface occupancy Restrictions and Limited Surface Use stipulations are used primarily for wildlife, visual and recreation values.

The Forest Supervisor will decide which National Forest System lands are administratively available for oil and gas leasing and with what, if any, stipulations for other surface resource protection. The Forest Supervisor will also decide what specific National Forest system lands the BLM will be authorized to offer for lease, subject to the Forest Service required stipulations.

The BLM State Director will decide whether or not to offer for lease those specific lands authorized by the Forest Service. The State Director will also decide whether or not to lease Federal minerals beneath non-Federal lands (split estate lands) within the project area (there are approximately 165 acres of split estate lands under BLM jurisdiction within the project area).

The Responsible Officials for this EIS and these decisions are Nancy Curriden, Forest Supervisor, and Larry E. Hamilton, BLM State Director.

Additional Resource Information

The project area consists of National Forest System lands within the following Townships and Ranges within Harding County, South Dakota: T 17 N, R 1 E; T 16 N, R(s) 3 & 4 E; T(s) 20, 21, & 22 N, R(s) 4, 5, & 6 E; and T(s) 16, 17, 18, & 19 N, R(s) 7, 8, & 9 E; Black Hills Meridian. As noted previously, this includes the North and South Cave Hills, Slim Buttes, and East and West Short Pine Hills. All National Forest System lands within the project area lie within a 30 mile radius of Buffalo, South Dakota. The following information provides a synopsis of the resources found within the project area.

The project area includes five forested hill or butte areas situated like islands in the extensive grasslands in northwestern South Dakota. These island-like hills or buttes are comprised of sandstone and are geologically younger than the surrounding grasslands. The geology, soils, and topographic relief of the hills and buttes, along with increasing precipitation from the prairie to the tops of the buttes, results in a biologically diverse area.

Geologic Resources

There are a number of caves, paleontological resources, and special geologic features within the project area. In addition to providing an opportunity for scientific study, these geologic features have been used historically and prehistorically, and continue to be used, by Native Americans as well as others. Caves also provide habitat for certain species of vertebrate and invertebrate creatures. Additionally, much of the analysis area is rich in vertebrate and invertebrate fossils.

The Castles National Natural Landmark is a special geologic feature that lies within the project area. This landmark was added to the National Register of Natural Landmarks in 1978, is 1,005 acres in size, and is located in the northern part of the Slim Buttes.

Other special geologic features that may exist within the project area are Cretaceous/Tertiary (K/T) boundary outcrops and geologic type sections. The K/T boundary marks a major extinction even in geologic time. The formations representing this event are exposed in the project area. Some such outcrops have world-class characteristics, literally occurring in only a few places in the world. Geologic type sections are the outcrop areas for a particular rock formation for which the formation was originally described and named.

Heritage Resources

Internationally recognized rock art is located in the North Cave Hills, of which 102 of these sites are currently listed on the National Register of Historic Places. The Cave Hills have been recognized as having the highest site density in the Custer National Forest. The Native American communities continue to use traditional hunting, and plant and mineral gathering areas within the project area. The Cheyenne, Sioux and Assiniboine have expressed concern over the proper treatment of traditional cultural properties and burials located in the project area. The site of the Battle of the Slim Buttes is adjacent to the project area, and is considered sacred to the Lakota Sioux. Ludlow Cave is located in the Cave Hills and is considered one of the most important sites in the State of South Dakota, as well as being considered sacred to the Hidatsa, Crow, Arikara, Cheyenne, Assiniboine, and Sioux.

Hydrologic Resources

The project area is at the divides for tributaries draining into the Little Missouri, Gran, and Moreau Rivers. Streamflows are erratic, with most streams being intermittent in nature. During most of the year surface water is generally lacking. Water quality within the project area has not been measured, but may be better than the surrounding areas because of the sandy soils on the buttes. Ground water supplies in general range from poor to fair in quality.

Recreation and Visual Resources

There are two developed recreation sites (Reva Gap and Picnic Springs), numerous dispersed sites, caves, a proposed Research Natural Area (Deer Draw), and The Castles National Natural Landmark within the project area. In addition, the area is popular for hunting deer, turkey, antelope, and grouse (sage and sharptail).

Each of the five geographic areas (buttes) within the project area stand out like islands from the sea of grass surrounding them. Their striking contrast to the prairie around them results in a unique, high-quality visual experience.

Social and Economic Resources

The communities within and near the project area rely on income from numerous sources, including livestock production, crops farming (primarily wheat, oats, and barley), tourism and recreation, and oil and gas development.

Special Areas—Research Natural Areas/Special Interest Areas

There are two special areas within the project area. The Castles National Natural Landmark is a Special Interest Area and was discussed previously. Deer Draw, located in the Slim Buttes, is a proposed Research Natural Area. Deer Draw features vegetation types which are absent from other designated natural areas within the region. Of primary significance is the presence of an interconnected series of woody draws in good to excellent ecological condition.

Transportation System

The present road network is accessed by County and State roads which pass through or by the isolated areas of National Forest System lands. This road network provides access to nearly every section of land in the project area. Road standards vary from double lane paved roads to unconstructed single lane wheel tracks. Primary uses of State and County roads include farm and ranch use, tourism, oil production activity, National forest access, hunting, and general access or through travel. Primary uses of the National Forest road system includes recreation visits (pleasure driving, hunting, camping, picnicking, etc.), National Forest administration, and other National Forest uses (grazing, oil production, mineral exploration).

Preliminary Issues

Based on comments made by the public on past proposals or actions, the following is a list of preliminary issues to be addressed in this Environmental Impact Statement. This list is subject to verification, and will be confirmed or modified based on the public responses received during this scoping process.

1. Sulfur dioxide and hydrogen sulfide, as well as other noxious gases, are common emissions from oil wells in some areas of the Williston Basin. Also, there would be additional emissions from equipment and vehicles used in oil and gas exploration, development, and production (e.g. drilling rigs and pump jacks powered by internal combustion engines). There is the potential to exceed established air quality standards from noxious gases emitted from oil and gas development, as well as from equipment and vehicle emissions.

2. Oil and gas exploration, development, and production may affect threatened and endangered species or sensitive species. There are concerns that oil and gas exploration, development, production, and rehabilitation could affect habitats,

resulting in a change of plant and wildlife populations.

3. Caves are created by geologic processes and cave features (e.g. ice, stalactites, stalagmites, crystals, etc.) are important from a scientific perspective. Cave features may be vandalized, or possibly destroyed, as a result of increased access into an area, precluding scientific study of cave formation and cave processes. In addition, oil and gas exploration, development, and production may affect cave hydrology, biological resources, heritage resources, air flow, mineral formations, and is a possible source of pollution from spills and accidents. Also, cave-dwelling wildlife, especially bats, could be affected by oil and gas development activities.

4. Much of the analysis area is rich in vertebrate and invertebrate fossils. There are concerns over the possible destruction and loss of these resources. These activities may also create new fossil-bearing exposures that would not otherwise be found.

5. There are special geological features that are present (The Castles National Natural Landmark), and some that may be present (e.g. the Cretaceous/Tertiary (K/T) boundary outcrops, and Geologic Type Sections) within the project area. There are concerns that oil and gas exploration, development, and production activities may damage or adversely affect these resources.

6. The entire project area is permitted for livestock grazing. Access roads and pads for wells and ancillary equipment constructed for oil and gas exploration, development, and production may affect the lands permitted for grazing.

7. There are several concerns regarding Heritage Resources:

a. That recorded and unrecorded sites will not receive adequate protection from oil and gas activities, as well as the potential for atmospheric and visual intrusions.

b. That improved access could result in site vandalism and unauthorized site excavation.

c. Native American communities are concerned that traditional cultural properties, and plant and mineral gathering areas will not receive respectful treatment.

8. Oil and gas development may affect water resources, including associated resources such as wetlands and riparian areas. All water uses, water quality and quantity may be affected by oil and gas exploration, development, production, and rehabilitation. Also, oil, hazardous materials, and other fluid spills from production facilities, trucks, and pipelines may affect surface water quality, as well as other resource values.

9. There is a concern that vehicles and equipment, as well as the construction of drilling pads and roads for oil and gas exploration, development, and production may provide suitable transport and habitat, respectively, for noxious weeds to infest new and larger areas.

10. Oil and gas development activities have the potential to affect recreation values and activities within the project area in several ways. Travel over Forest Development Roads to developed recreation sites, as well as dispersed sites, could be affected during exploration, drilling, and production operations. Use of recreation facilities, the National Forest, a high quality visual experience, scenic driving (the nation's number one recreational activity), hunting, and other recreational activities could be affected by commercial traffic, drilling, and production activities and facilities.

11. Forest Service and Bureau of Land Management surface management policies which may protect some resources at the expense of others may have a net positive or negative effect on the total income to communities. Included with this issue are the effects of Forest Service surface management policies on the economics of oil and gas development and production, resulting in the possible preclusion of drilling due to environmental protection policies.

12. Land ownership within and adjacent to National Forest System lands in the analysis area is a system of intermingled Federal, State, and private lands. Availability of Federal lands for oil and gas leasing affects industry decisions to lease and develop intermingled or adjacent State and private lands.

13. Jurisdiction or ownership on the National Forest road system, within the project area, is generally complete, except for segments of access routes between the Forest boundary and the County road providing access to the area. Because of the commercial aspect of the proposed action, lack of clear rights-of-way may create access difficulties for future, site-specific project decisions.

Preliminary Alternatives

The following have been identified as preliminary alternatives. A reasonable range of alternatives to the proposed action will be developed that meet the underlying purpose and need for the proposal, except the No Action Alternative because it is required under the National Environmental Policy Act. The Environmental Impact Statement will discuss the issues, a reasonable range of alternatives to the proposed action designed to respond to the issues, and the amount of oil and gas development that might occur under each alternative. The alternatives can be adjusted to fit specific concerns, and new alternatives can be developed based on the responses received from the public and other agencies through the scoping process.

Alternative 1—No Action—No leasing at this time.

Alternative 2—Proposed Action—Issue leases with the stipulations identified in the Forest Plan.

Alternative 3—Standard Terms—Issue leases with standard lease terms only, no additional stipulations.

Public participation will be important to the analysis. Part of the goal of public involvement is to identify additional issues and to refine the preliminary issues noted above. People may visit with Forest Service officials at any time during the analysis and prior to the decision. However, two periods are specifically designated for comments on the analysis: (1) During the scoping process, and (2) during the Draft Environmental Impact Statement comment period.

During the scoping process, the Forest Service is seeking information and comments from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. A scoping document will be mailed to parties known to be interested in the proposed action by March 22, 1996. The agency invites written comments and suggestions on this action, especially regarding identification of issues and alternative development. An open house will be held in Buffalo, South Dakota sometime in April 1996. Notification of the time and place of this open house will be published in local newspapers.

The comment period on the draft environmental impact Statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register.**

A Draft EIS is scheduled for release to the public for comment in March 1997, and the Final EIS is scheduled for September 1997.

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact Statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC.*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact Statement stage but that are not raised until after completion of the final environmental impact Statement may be waived or dismissed by the courts. *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact Statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments should be as specific as possible. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Dated: March 13, 1996.

Nancy T. Curriden,

Forest Supervisor.

[FR Doc. 96-6775 Filed 3-20-96; 8:45 am]

BILLING CODE 3410-11-M

Tie Camp Project, Medicine Bow/Routt National Forest, Carbon County, Wyoming and Jackson County, Colorado

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The Forest Service will prepare an Environmental Impact Statement to analyze and disclose the environment effects of a site-specific proposal to harvest timber in the Coon Creek area of the Hayden Ranger District of the Medicine Bow/Routt National Forest within Carbon County, Wyoming and Jackson County, Colorado. The proposal could have impacts on the Coon Creek "roadless area." The National Environmental Policy Act (NEPA) requires an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to the proposed action.

The Forest Service is soliciting comments during the scoping phase of the environmental analysis process from other Federal, State, and local agencies, Indian Tribes, and organizations and individuals who may be interested or affected by the decision. The analysis process will include:

1. Identification of the issues to be addressed.

2. Identification of the issues to be analyzed in detail.

3. Elimination of non-significant issues, issues addressed by previous environmental analyses, and issues not within the scope of this decision.

DATES: Comments related to the scope of the analysis should be received by April 15, 1996. Comments may be either written or oral.

ADDRESSES: Send written comments to Don G. Carroll, District Ranger, Brush Creek/Hayden Ranger District, P.O. Box 187, Encampment, Wyoming 82325. Oral Comments can be made by calling (307) 327-5481.

FOR FURTHER INFORMATION CONTACT: Andy Cadenhead, Project Coordinator, (307) 327-5481.

SUPPLEMENTARY INFORMATION: The Medicine Bow National Forest Land and Resource Management Plan (Appendix A) identifies three potential timber sales in the Tie Camp analysis area: Commisary Park, Rim Road, and Damfino Creek. The Routt National Forest Land and Resource Management Plan lists the Dinner Park Timber Sale as a potential project in the analysis area. The proposed action is consistent with both the Medicine Bow and Routt National Forest Plans, and is intended to implement both Plans and also achieve the desired future condition for the area.

The decisions to be made consist of how to best manage the area, and whether to implement the proposed activities, including measures designed to mitigate any adverse environmental effects. A reasonable range of alternatives, including "no action," which would result in no development of the area, and the "proposed action," will be considered. Other alternatives may be formulated in response to "scoping," and may consider various combinations of designs for implementing the proposed activities.

The Responsible Official will be Jerry E. Schmidt, Forest Supervisor, Medicine Bow/Routt National Forest, 2468 Jackson Street, Laramie, Wyoming, 82070.

The Draft Environmental Impact Statement (DEIS) is expected to be available during mid-1997 and the Final Environmental Impact Statement (FEIS) available during September, 1997.

A 45-day public comment period on the Draft Environmental Impact Statement will commence on the day the Environmental Protection Agency publishes a "Notice of Availability" in the **Federal Register.**

The Forest Service believes it is important to give reviewers an early notice of several court rulings related to public participation in the environmental review process. First, reviewers of Draft Environmental Impact Statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised during the Draft Environmental Impact Statement stage, but are not raised until after completion of the Final Environmental Impact Statement, may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). As a result of these previous court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the Final Environmental Impact Statement.

To assist the Forest Service in identifying and considering issues and concerns related to the proposed action, comments on this Draft Environmental Impact Statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft document. Comments may also address the adequacy of the Draft Environmental Impact Statement or the merits of the alternatives displayed in the document. Reviewers should refer to the Council on Environmental Quality Regulations at 40 CFR 1503.3 for implementing the procedural provisions of the National Environmental Policy Act for addressing these points. Please note that any comments that are submitted in relation to this DEIS will be considered as public information.

Dated: March 6, 1996.

Jerry E. Schmidt,

Forest Supervisor.

[FR Doc. 96-6756 Filed 3-20-96; 8:45 am]

BILLING CODE 3410-11-M

Intergovernmental Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Intergovernmental Advisory Committee (IAC) will meet on April 4, 1996, at the Howard Johnson Airport Hotel, 7101 NE 82nd Avenue, Portland, Oregon 97220. The purpose of the meeting is to continue discussions on the implementation of the Northwest Forest Plan. The meeting will begin at 9:00 a.m. on April 4 and continue until 4:00 p.m. Agenda items to be discussed include, but are not limited to: (1) recommendations for implementation of proposed data standards by the IRICC Vegetation Strike Team, (2) a progress report on riparian reserve evaluation methods and techniques, and (3) a review of Regional Interagency Executive Committee priorities and work group product integration. The IAC meeting will be open to the public. Written comments may be submitted for the record at the meeting. Time will also be scheduled for oral public comments. Interested persons are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Questions regarding this meeting may be directed to Don Knowles, Executive Director, Regional Ecosystem Office, 333 SW 1st Avenue, P.O. Box 3623, Portland, OR 97208 (Phone: 503–326–6265.

Dated: March 12, 1996.

Donald R. Knowles,

Designated Federal Official.

[FR Doc. 96–6816 Filed 3–20–96; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Sunshine Act Meeting

March 19, 1996.

DATE AND TIME: Wednesday, March 6, 1996, 12:30 a.m.

PLACE: U.S. Commission on Civil Rights, 624 Ninth Street, NW., Room 540, Washington, DC 20425.

STATUS:

Agenda

Information Requests Received From Congress

The Chairperson called a special open meeting in accordance with 45 CFR Section 701.11(b) (1995) to discuss information requests received from Congress. The Staff Director published a press release announcing the meeting on March 5, 1996. This notice is published in the **Federal Register** after the meeting in order to provide a public record of all Commission meetings as required by 45 CFR Section 702.55 (1995).

CONTACT PERSON FOR FURTHER INFORMATION: Barbara Brooks, Press and Communications (202) 376–8312.

Miguel A. Sapp,

Parliamentarian.

[FR Doc. 96–7030 Filed 3–19–96; 2:25 pm]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[DOCKET 20–96]

Foreign-Trade Zone 82—Mobile, AL; Application for Subzone Status, Zeneca Inc. (Agricultural Chemicals); Mobile County, AL

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of Mobile, Alabama, grantee of FTZ 82, requesting special-purpose subzone status for the agricultural chemical manufacturing plant of Zeneca Inc. (Zeneca), in Mobile County, Alabama. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on March 11, 1996.

Zeneca Inc. is a wholly-owned subsidiary of Zeneca Group PLC (U.K.), a bioscience company comprising three global businesses—pharmaceuticals, agrochemicals and seeds, and specialty products. Zeneca Group was created as part of the 1993 worldwide reorganization of Imperial Chemical Industries PLC (U.K.) along industry lines.

Zeneca's Alabama plant (75 acres; 205 tons/day) is located at mile marker 21 on Highway 43, near Bucks (Mobile County), Alabama, some 20 miles north of Mobile. The facility (250 employees) is used to produce and/or distribute a wide range of agricultural chemical products, including herbicides, pesticides, insecticides and organic intermediate chemicals. Herbicides include DEVRINOL®, EPTAM®, ORDRAM®, PREFAR® and BETASAN®, RONEET®, SUTAN®, TILLAM®, VERNAM®, ICIA 0574 and ICIA 2957. Insecticides include AMBUSH®, PRELUDE®, CYMBUSH®, DEMON®, DYFONATE®, IMIDAN®, and PROLATE®. Chemical intermediates include phosphorous trichloride and thiophenol. The application also requests approval for the production of FLEX® (herbicide), for which a plant expansion is currently underway. The active ingredients for a number of these products are or would be sourced abroad. For those products currently produced in the U.S., foreign-sourced materials account for some 10 percent of finished product value. Approximately 25 percent of the plant's production is exported.

Zone procedures would exempt Zeneca from Customs duty payments on foreign materials used in production for export. On domestic sales, the company would be able to choose the duty rates that apply to the finished products instead of the duty-rates that would otherwise apply to the foreign-sourced materials. The HTSUS category and duty rates for the final products and associated inputs are as follows:

Final Product/Input	HTSUS No.	Duty rate
FLEX®	2935.00.1300	Duty-free.
R118118	2916.31.5000	$0.03/kg + 16.8%.
Acifluorifen acid	2934.90.1500	12.8%.
Potassium carbonate	2836.40.1000	1.9%.
AMBUSH®/PRELUDE®/	2916.70.0000	3.7%.
Pba	2909.49.1500	18.6%.
CYMBUSH®/DEMON®/	2916.20.0000	3.7%.
Pbald	2912.49.2500	11.3%.
DEVRINOL®/	3823.90.5050	5.0%.
Cpa	2926.90.4700	18.6%.

At the outset, zone procedures would be mainly used in the production of FLEX®. The application indicates that the savings from zone procedures will help improve the Mobile County plant's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is May 20, 1996. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to June 4, 1996).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

Customs Service Port Director's Office, Suite 3004, 150 N. Royal Street, Mobile, Alabama 36602

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th & Pennsylvania Avenue, NW, Washington, DC 20230

Dated: March 13, 1996.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–6858 Filed 3–20–96; 8:45 am]

BILLING CODE 3510–DS–P

[Order No. 807]

Grant of Authority for Subzone Status C. Ceronix, Inc. (Video Display Monitors), Auburn, CA

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Port of Sacramento, grantee of Foreign-Trade Zone 143, for authority to establish special-purpose subzone status at the gaming/recreational machine video display monitor manufacturing plant of C. Ceronix, Inc., located in Auburn, California, was filed by the Board on March 28, 1995, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 10–95, 60 FR 17514, 4/6/95); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby authorizes the establishment of a subzone (Subzone 143A) at the C. Ceronix, Inc., plant in Auburn, California, at the locations described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 12th day of March 1996.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration Alternate Chairman, Foreign-Trade Zones Board.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–6859 Filed 3–20–96; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

[A–122–804, C–122–805]

New Steel Rail, Except Light Rail, From Canada; Final Results of Changed Circumstances Antidumping and Countervailing Duty Administrative Reviews, and Revocation in Part of Antidumping and Countervailing Duty Orders

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Final results of changed circumstances antidumping and countervailing duty administrative reviews, and revocation in part of antidumping and countervailing duty orders.

SUMMARY: On September 15, 1989, the Department of Commerce (the Department) published an antidumping duty order on new steel rail, except light rail, from Canada. The Department published a countervailing duty order on new steel rail, except light rail, from Canada on September 22, 1989. On November 30, 1995 the Department simultaneously initiated changed circumstances antidumping and countervailing duty administrative reviews and the preliminary results of these reviews with intent to revoke the orders in part. We are now revoking these orders in part, with regard to 100 ARA–A new steel rail, except light rail, from Canada, because this portion of these orders is no longer of interest to domestic parties.

EFFECTIVE DATE: March 21, 1996.

FOR FURTHER INFORMATION CONTACT: Roy F. Unger, Jr., Office of Antidumping Compliance or Robert Copyak, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–0651 and (202) 482–2209, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 15, 1989, the Department published an antidumping duty order on new steel rail, except light rail, from Canada (54 FR 38263). The Department published a countervailing duty order on new steel rail, except light rail, from Canada, on September 22, 1989 (54 FR 39032). On October 20, 1995, Cleveland Track Material, Inc., requested that the Department conduct changed circumstances administrative reviews to determine whether to partially revoke the orders with regard to 100ARA–A new steel rail. The orders with regard to imports of new steel rail other than 100ARA–A were not affected by this request. In addition, the petitioners in this case informed the Department that they, as a representative of the U.S. steel rail industry, did not oppose the revocation of the orders with regard to 100ARA–A new steel rail from Canada.

We preliminarily determined that petitioner's affirmative statement of no interest constitutes good cause for conducting changed circumstances reviews. Consequently, on November 30, 1995, the Department published a notice of initiation and preliminary results of changed circumstances antidumping and countervailing duty administrative reviews to determine whether to revoke these orders in part (60 FR 61538). We gave interested parties an opportunity to comment on the preliminary results of these changed circumstances reviews. We received no comments.

Scope of Review

The merchandise covered by these changed circumstances reviews are imports of 100ARA–A new steel rail, except light rail, whether of carbon, high carbon, alloy or other quality steel, and includes standard rails, all main line sections, heat-treated or head-hardened (premium) rails, transit rails, contact rail (or "third rail") and crane rails. This merchandise is currently

classified under subheadings 7302.10.1020, 7302.10.1040, 7302.10.5000, and 8548.00.0000 of the Harmonized Tariff Schedule (HTS). The HTS numbers are provided for convenience and Customs purposes. The written description of the scope of these reviews remains dispositive.

These changed circumstances administrative reviews cover all manufacturers/exporters of 100 ARA–A steel rail, except light rail, from Canada.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the **Federal Register** on May 11, 1995 (60 FR 25130).

Final Results of Review; Partial Revocation of Antidumping and Countervailing Duty Orders

The affirmative statement of no interest by petitioners in this case constitutes changed circumstances sufficient to warrant partial revocation of these orders. Therefore, the Department is partially revoking these orders on new steel rail, except light rail, from Canada, with regard to 100ARA–A new steel rail, except light rail, from Canada in accordance with sections 751 (b) and (d) and 782(h) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 353.25(d)(1) and 355.25(d)(1). Although our preliminary results stated that we would revoke the antidumping duty order in part retroactive to August 1, 1994, the Office of Countervailing Compliance has already liquidated entries for calendar year 1994. In addition, the anniversary month for this antidumping case is September. Therefore, this partial revocation, for antidumping purposes, applies to all entries of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after September 1, 1994, and, for countervailing duties, all entries of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after January 1, 1995.

The Department will instruct the U.S. Customs Service (Customs) to proceed with liquidation, without regard to antidumping or countervailing duties, of all unliquidated entries of 100ARA–A new steel rail from Canada entered, or withdrawn from warehouse, for consumption on or after September 1, 1994, for antidumping duties and on or after January 1, 1995, for countervailing duties. The Department will further instruct Customs to refund with interest any estimated duties collected with respect to unliquidated entries of 100ARA–A new steel rail from Canada entered, or withdrawn from warehouse, for consumption on or after September 1, 1994, for antidumping duties and on or after January 1, 1995, for countervailing duties, in accordance with section 778 of the Act.

This notice also serves as a reminder to parties subject to administrative protection orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d) and 355.34(d). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This changed circumstances administrative review, partial revocation of the antidumping and countervailing duty orders, and notice are in accordance with sections 751 (b) and (d) and 782(h) of the Act and sections 353.22(f), 353.25(d), 355.22(h), and 355.25(d) of the Department's regulations.

Dated: March 14, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–6864 Filed 3–20–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–351–809, A–580–809, A–201–805, A–307–805]

Final Negative Determination of Scope Inquiry on Certain Circular Welded Non-Alloy Steel Pipe and Tube From Brazil, the Republic of Korea, Mexico and Venezuela

AGENCY: Import Administration, International Trade Administration Commerce.

ACTION: Notice of Final Negative Determination of Scope Inquiry.

SUMMARY: On January 13, 1994, we preliminarily determined that (i) pipe certified to American Petroleum Institute (API) 5L line pipe specifications (API 5L line pipe or line pipe) and (ii) pipe certified to both the API 5L line pipe specifications and the less-stringent American Society for Testing and Materials (ASTM) A–53 standard pipe specifications (dual-certified pipe,[1]) when actually used as certain circular welded non-alloy steel pipe (standard pipe), and falling within the physical parameters outlined in the scope of the orders, are within the scope of the antidumping duty orders on standard pipe from Brazil, the Republic of Korea, Mexico and Venezuela. *See Preliminary Affirmative Determination of Scope Inquiry*, 59 FR 1929 (January 13, 1994) (*Preliminary*). We gave interested parties an opportunity to comment.

After a thorough analysis of the comments received from the parties, as well as a review of the record evidence from the less-than-fair-value (LTFV) investigations which gave rise to these antidumping duty orders, we determine that (i) pipe certified to the API 5L line pipe specification, and (ii) pipe certified to both the API 5L line pipe specifications and the less-stringent ASTM A–53 standard pipe specifications which fall within the physical parameters outlined in the scope of the orders and enter as line pipe of a kind used for oil and gas pipelines are outside the scope of the antidumping duty orders on certain welded carbon steel non-alloy pipe from Brazil, Korea, Mexico and Venezuela, irrespective of end use.

EFFECTIVE DATE: March 21, 1996.

FOR FURTHER INFORMATION CONTACT: Robert M. James at (202) 482–5222 or Zev Primor at (202) 482–5253, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute (the Tariff Act of 1930, as amended (the Tariff Act)) and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Background

On April 22, 1993, Allied Tube & Conduit Corporation, Sawhill Tubular Division, Tex-Tube Division American Tube Company, Century Tube Corporation, Laclede Steel Company, LTV Tubular Products Company, Sharon Tube Company, Western Tube & Conduit Corporation, Wheatland Tube Company, and CSI Tubular Products, Inc., petitioners in these cases, requested that the Department of Commerce (the Department) conduct an anticircumvention inquiry. Petitioners argued pursuant to section 781(c) of the Tariff Act and 19 CFR 353.29(g)(1993), that certain exports from Brazil, Korea and Mexico of API 5L line pipe and dual-certified pipe were circumventing the antidumping duty orders on standard pipe because they were actually used in a standard pipe application. The Department concluded that a scope inquiry pursuant to 19 CFR 353.29(i) was the appropriate avenue for addressing the issues raised by petitioners.

The Department initiated its scope inquiry on June 7, 1993 and granted interested parties the opportunity to comment on whether API 5L line pipe and dual-certified pipe, when used in standard pipe applications, are within the scope of the orders. We received comments from petitioners and six respondents on July 6, 1993 and rebuttal comments on July 19, 1993. Petitioners and five respondents also met separately with the Acting Assistant Secretary for Import Administration to voice their concerns on this issue.

Exports of standard pipe from Venezuela were the subject of a concurrent antidumping investigation. The scope of the resulting order is identical to that of the orders covering Brazil, Korea and Mexico. As a result, we determined that it was appropriate to include imports from Venezuela in the present scope inquiry. See Memorandum from Director, Office of Antidumping Compliance, to Deputy Assistant Secretary for Compliance, October 25, 1993 (hereafter, October 25 Memorandum). In this memorandum we also determined that the record evidence regarding the scope of the orders contained sufficient ambiguity to necessitate further comments by the parties. Accordingly, we asked that interested parties comment on the so-called "Diversified Products" criteria (see below). Petitioners and four respondents filed comments on November 22, 1993 and rebuttals on December 3, 1993.

On January 13, 1994, the Department published in the **Federal Register** its preliminary affirmative scope determination. We concluded that sufficient ambiguity existed in the record to necessitate consideration of the "Diversified Products" criteria found at 19 CFR 353.29(i)(2). We further determined that the meaning of certain exclusionary language in the scope of the orders was unclear and, further, that petitioners had predicated this exclusionary language upon the "actual end use" of the subject merchandise (as opposed to the "chief" or "primary end use," as respondents argue). We further determined that the scope language "does not clearly include or exclude line pipe or dual certified pipe . . . which is actually used in standard pipe applications." *Preliminary* at 1930. As a result of our Diversified Products analysis, we determined that line pipe and dual-certified pipe, when actually used in a standard pipe application and falling within the physical parameters outlined in the orders, are within the scope of these orders. *See* Preliminary at 1933.

Since publication of our preliminary determination we received comments and rebuttal comments from the following parties: petitioners; Mannesmann Pipe & Steel Corporation (Mannesmann); Korea Iron and Steel Association, Dongbu Steel Company, Ltd., Hyundai Steel Pipe Company, Ltd., Korea Steel Pipe Company, Ltd., Pusan Steel Pipe Company, Ltd., and Union Steel Manufacturing Company, Ltd. (collectively, the Korean respondents); Hyundai Pipe Co., Ltd. (Hyundai); Villacero and Tuberia Nacional (Villacero); Hylsa, S.A. de C.V. (Hylsa); and Western American Manufacturing, Inc. (Western). The Governments of Korea and Mexico also submitted comments.

On April 13, 1994, the Department issued a draft end-use certificate and requested comments from the interested parties regarding implementation of end-use certification procedures in the event of a final affirmative determination. Petitioners, respondents, and the Government of Mexico commented on the draft end-use certificate, as did a number of U.S. pipe importers and distributors. In light of our negative final determination, however, the issue of end-use certification is moot, so we have not addressed these comments.

Analysis

The regulations governing the Department's antidumping scope determinations can be found at 19 CFR 353.29. Our criteria for determining whether a product is included in the scope of an order are set forth in section 353.29(i)(1). These criteria are the descriptions of the merchandise contained in the order, the petition, the initial LTFV investigation, and the determinations of the Department and the International Trade Commission (ITC). If these descriptions are not dispositive of the issue, the Department will further consider the factors provided for under 19 CFR 353.29(i)(2), commonly referred to as the "Diversified Products" criteria (see *Diversified Products Corp. v. United States*, 572 F. Supp. 883 (CIT 1983)). These factors are as follows: (i) the physical characteristics of the product subject to the scope inquiry; (ii) the expectations of the ultimate purchasers; (iii) the ultimate use of the product; and (iv) the channels of trade. However, if the record of the Department's and ITC's proceedings *is* dispositive of the issue, then the Department will issue a final scope determination without reference to the "Diversified Products" criteria.

After careful consideration of the comments by the interested parties, and based upon our review of the record for purposes of this final determination, we have determined that the scope language adopted by the Department in the antidumping duty orders excludes line pipe and dual-certified pipe. This conclusion is supported by the record of the Department's original investigations. We will address each of the relevant aspects of the original investigations in turn, below.[2]

The Language of the Petitions Did Not Address Line or Dual-Certified Pipe

The original antidumping duty petitions defined the subject merchandise as "welded non-alloy steel pipes, of circular cross-section, not more than 406.4 mm (16 inches) in outside diameter regardless of wall thickness, surface finish . . . or end finish . . . These pipes and tubes are generally known as standard pipe, though they may also be called structural or mechanical tubing in certain applications." Antidumping Petition, September 24, 1991 at 4. The product descriptions continued, as required by our regulations,[3] with an illustrative listing of typical uses for standard pipe, and observed that the subject merchandise is most commonly produced to the ASTM A–53 specification for standard pipe. The petitions did not mention either line pipe or dual-certified pipe.

In its initiation notice, the Department adopted petitioners' language to define the merchandise covered by the six concurrent investigations and also did not mention either line pipe or dual-certified pipe. *See Initiation of Antidumping Duty Investigations: Circular Welded Non-Alloy Steel Pipe*

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[1] This merchandise, sometimes referred to as "dual-stenciled," may also include "multiple-stenciled" pipe.

[2] Because in this final scope determination we have found the scope language to be dispositive, we have not addressed the "Diversified Products" criteria found in section 353.29(i)(2), nor have we specifically addressed comments by the parties on these criteria.

[3] 19 CFR 353.12(b)(4) directs petitioners to include "[a] detailed description of the merchandise that defines the requested scope of the investigation including technical characteristics and *uses of the merchandise*, and its current U.S. Tariff classification number." (Emphasis added.)

from Brazil, the Republic of Korea, Mexico, Romania, Taiwan and Venezuela, 56 FR 52528 (October 21, 1991). The petitions and the Department's notice of initiation do not indicate that actual end use was a consideration in crafting the scope of the investigations. To the extent that uses of the subject merchandise are noted, this was in accordance with the Department's regulations. These materials support the conclusion that physical characteristics, not actual end uses, defined the scope of the petitions and the initial investigations. However, the petitions and the initiation notice do not address and, therefore, do not definitively resolve the treatment of line pipe or dual-certified pipe.

The Final Scope Language Adopted by the Department Excludes Line and Dual-Certified Pipe

While the record reflects some initial uncertainty at least as to whether multiple-stenciled pipe was covered by the Department's investigations, this uncertainty was resolved early in the proceedings. Prior to submitting their questionnaire responses, respondents requested clarification as to whether triple-certified pipe was included in the scope of the investigations. See Memoranda, Case Analyst to the File, November 15, 1991. In their comments of November 19, 1991, petitioners recognized that an importer could sell dual-certified pipe entered under the HTS line pipe item into either the line pipe or standard pipe market after it entered the United States.[4] Indeed, the purpose of dual-certifying a product is to alert potential consumers of that product's suitability for use in either line pipe or standard pipe applications. Petitioners did not tie treatment of dual-certified pipe to the market in which it was sold. Instead, petitioners stated that "[d]ual or triple certified standard pipe should be covered by these investigations only if they enter the United States under one of the tariff numbers listed in section I.D.3 of the petitions." These tariff numbers, under heading 7306.30 of the HTS, cover standard pipe, and not line or dual-certified pipe. See Petitioners' November 19, 1991 submission at 1. Petitioners further stated that "[a]ny pipe entered under [HTS] item 7306.10.10 [i.e., the item heading for line pipe] would be line pipe outside the scope of the petitions." This statement indicates that in the petitioners' view, the inclusion or exclusion of line pipe is tied to the HTS category.

With regard to dual-certified pipe, petitioners noted that this pipe "generally enters the United States under the separate tariff item H[T]S 7306.10.10 while other standard pipe enters into tariff items H[T]S 7306.30.10 or 7306.30.50." Petitioners explained that:

> "General Rules of Interpretation 6 and 3(a) of the [HTS] provide that goods that are classifiable under two or more tariff subheadings are to be classified under the subheading providing the most specific description. Subheading 7306.10 which covers 'line pipe of a kind used for oil and gas pipelines' is more specific than, and therefore takes precedence over, subheading 7306.30, 'other, welded, of circular cross-section, of iron or non-alloy steel'."[5]

Here, petitioners recognized that dual-certified pipe was entering the United States under the HTS item for line pipe because the proper Customs classification for dual-certified pipe is under this item. Taken together, these statements establish that petitioners understood that HTS classification of pipe products was based upon the specificity of the category, not actual use, and that dual-certified pipe would be placed in the line pipe category and, thus, excluded from the order.

Petitioners reiterated their intention to exclude any pipe entered as line pipe in a March 5, 1992 letter to the Department (addressing structural tubing and mechanical tubing). In this submission, petitioners stated that "[t]he scope, as defined by the petition, the Department and the Commission, clearly excludes both imports of line pipe entering the United States in [HTS] category 7306.10 and oil country tubular goods . . .".

Accordingly, the Department did not require respondents to report API 5L line pipe and dual-certified pipe as part of its investigations, and our preliminary and final determinations of sales at less-than-fair-value adopted the exclusionary language suggested by petitioners in defining the scope of the orders:

> . . . circular welded non-alloy steel pipes and tubes, of circular cross-section, not more than 406.4 millimeters (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, bevelled end, threaded, or threaded and coupled). These pipes and tubes are generally known as standard pipe, though they may also be called structural or mechanical tubing in certain applications. Standard pipes and tubes are intended for the low pressure conveyance of water, steam, natural gas, air, and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipe may also be used for light load-bearing and mechanical applications, such as for fence tubing, and for protection of electrical wiring, such as conduit shells.
>
> The scope is not limited to standard pipe and tube fencing or those types of mechanical and structural pipe that are used in standard pipe applications. All carbon steel pipes and tubes within the physical description outlined above are included within the scope of this investigation, *except line pipe*, oil country tubular goods, boiler tubing, mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished conduit. *Standard pipe that is dual or triple certified/stenciled that enters the U.S. as line pipe of a kind used for oil or gas pipelines is also not included in this investigation.*[6]

In keeping with the petition and petitioners' November 19, 1991 letter, the scope language adopted by the Department does not make actual end use a principal consideration in defining the products covered by the investigations. The first paragraph of the scope language merely describes the physical characteristics of the subject merchandise and offers, as do many antidumping duty orders, an illustrative list of its typical uses. The second paragraph states that "[a]ll carbon steel pipes and tubes within the physical description outlined above are included within the scope of these orders . . .". Therefore, the language of the scope of the orders relies on physical characteristics, not on actual or potential end uses.

The scope language goes on to specifically exclude certain types of pipe that fit the physical description, including "line pipe, oil country tubular goods, pipe and tube hollows for redraws, finished scaffolding, and finished conduit." The scope language excludes these separate categories of pipe, based upon industry classifications, without discussion of actual end uses. It follows that line pipe is not covered by the order regardless of how it is finally used.

As to dual-certified pipe, the same analysis of the order's language holds. The scope provides that "[s]tandard pipe that is dual or triple certified/stenciled that enters the U.S. as line pipe of a kind used for oil or gas pipelines is also not included in these orders." The emphasis on pipe "that enters the U.S. as line pipe," language suggested by petitioners, underscores that the key factors the Department used in determining the scope of the investigations were the physical characteristics and the classification of the merchandise as it passed through U.S. Customs (*i.e.*, "enters the U.S."), and not on its disposition at some later point in the stream of commerce. This conclusion is supported by the fact that the phrase "line pipe of a kind used for oil and gas pipelines" is taken verbatim from HTS item 7306.10.10. The phrase "of a kind used for" is commonly used by Customs to signify the chief, or principal, use of a product and not its actual use. See *Group Italglass U.S.A., Inc.* v. *United States*, Slip Op. 93–46 at 6 (CIT March 29, 1993) ("The language in heading 7010 'of a kind' preceding 'used for' simply buttresses the interpretative rule for use provisions that it is the use of the class or kind of goods imported that is controlling rather than the use to which the specific imports were put."). Therefore, by the language of the scope, if pipe enters the United States as pipe "of a kind used for oil and gas pipelines" (*i.e.*, is classified by Customs under HTS item 7306.10.10), it is excluded from the scope of the orders.

The Determinations of the ITC Did Not Cover Line Pipe

The ITC, in defining the like product for purposes of its injury investigations, followed the language adopted by the Department in the notice of initiation. In its preliminary determination, the ITC first discussed the products "subject to these investigations;" the ITC later defined line pipe and dual-certified pipe under the separate heading "Other Pipe and Tube Products," stating that line pipe is "produced to meet different specifications than 'standard' pipes, and a large percentage of line pipes are made to larger diameters than the pipes and tubes subject to these investigations." Determinations of the Commission (Preliminary), USITC Publication 2454 (November 1991) at A–9. The ITC continued to draw a distinction between line and dual-certified pipe in its final determination and did not include producers of line pipe in its definition of the U.S. industry for purposes of its affirmative injury determination. The ITC did not, therefore, examine the impact of imports of line pipe upon the domestic industry. See Determinations of the Commission (Final), USITC Publication 2564 (October 1992) at I–7 through I–13. Under U.S. law, the Department cannot cover within the scope of an order merchandise which has not first been subject to an affirmative injury determination. See Section 731 of the Tariff Act.

The record with respect to dual-certified pipe is less clear. The ITC's "Producers' Questionnaire" requested data on domestic production of pipes "that were single or multiple stenciled to meet *standard pipe specifications*." ITC Producers' Questionnaire at 14 (original emphasis; submitted as Exhibit 10 to Petitioners' July 6, 1993 Comments). The ITC noted that 15.5 percent of the reported domestic shipments comprised dual-certified pipe and that "the products in question were not sold as standard pipe." USITC Publication 2564 at I–12, note 20 and I–21, note 48. However, the ITC did not indicate whether or not these shipments were included in its injury analysis. Furthermore, as petitioners have acknowledged, the ITC did not include dual-certified pipe in its purchasers' or importers' questionnaires. *See* Petitioners' February 23, 1994 Comments at 16. Therefore, while the ITC's determinations support the conclusion that line pipe is not covered, the record with respect to the ITC's treatment of dual-certified pipe is inconclusive, but cannot be read to conflict with the Department's scope language excluding dual-certified pipe.

In light of the language of the scope and the underlying record of the investigations, the Department has concluded that an affirmative scope ruling would be contrary to the scope language as written and would represent an impermissable expansion of the scope of the orders. Accordingly, we have concluded that API 5L line pipe and dual-certified pipe do not fall within the scope of the orders.

Comments by the Parties

Petitioners maintain that our preliminary affirmative scope determination is correct, is supported by substantial record evidence and is in accordance with law. According to petitioners, the "plain language" of the scope includes *all* pipe meeting the published physical description of the subject merchandise which is used as, or intended for use as, standard pipe "without regard to the tariff number or industry specifications." Petitioners' February 16, 1994 Comments at 2. In light of the Department's preliminary determination that the scope is not dispositive of this issue, petitioners aver that the Department's analysis of the "Diversified Products" criteria leads properly to the same affirmative determination. *Id.* at 3.

Petitioners support the Department's preliminary conclusion (as outlined in its October 25 Memorandum) that petitioners relied upon HTS item numbers to identify merchandise covered by the investigations because they presumed incorrectly that these tariff classifications were based upon the actual and not the principal end use of the merchandise. Petitioners February 23, 1994 Rebuttal Comments at 9 and 10. Further, petitioners suggest, the Department's statements in the orders' scope that standard pipes "are intended for [specific uses]" and that "line pipe of a kind used for oil and gas pipelines is excluded" constitute an "actual" end-use test and that the merchandise covered by the scope of the orders is, in fact, defined in terms of actual end use. Thus, the Department must conduct an analysis of whether the merchandise is actually used in a standard- or line-pipe application. *See, e.g.*, Petitioners' Rebuttal Comments, February 23, 1994 at 7 through 9, and 12 through 13. Petitioners further argue that the Court of International Trade (CIT), in *Ipsco, Inc.* v. *United States*, 715 F. Supp. 1104 (CIT 1989) (*Ipsco*), held that the Department's use of the phrase "intended for use" permits an inquiry into how the API 5L and dual-certified pipes at issue here are actually used. *Id.* at 14.

Finally, Petitioners suggest that, because the ITC included in its analysis dual-certified pipe used as standard pipe, a final affirmative determination would be fully consonant with the requirement, pursuant to the statute and the General Agreement on Tariffs and Trade (GATT), that products be subject to an affirmative injury finding prior to the imposition of antidumping duties. *Id.* at 15.

Hylsa, the Korean Respondents, Mannesmann, Villacero and Western agree that the plain language of the scope of these orders is dispositive of this issue in that this language expressly excludes the subject products. Respondents further argue that use, actual or otherwise, played no role in the Department's determination of the scope of the orders. Respondents suggest that the phrase "of a kind used for" is a Customs "term of art" which imposes a chief- or primary-use test, not an actual end-use test. *See, e.g.*, Villacero's Comments, February 11, 1994 at 7; Korean Respondents' Comments, February 16, 1994 at 6 and 7, and 8 through 17, and Hylsa's Comments, February 16, 1994 at 4 through 9. Respondents also find the *Ipsco* decision inapposite here,

[4] Petitioners reiterated this knowledge in their April 22, 1993 anticircumvention petitions: "[E]nd users of dual-certified pipe knew that such pipe could be used as either line pipe or standard pipe . . . End users in the plumbing and building trade, for example, purchase it for use as standard pipe while energy companies and utilities purchase it for use as line pipe." Anticircumvention Petitions at 13.

[5] Petitioners' November 19, 1991 Letter at 1 and 2.

[6] *Final Determination of Sales at Less Than Fair Value*, 57 FR 42940 (September 17, 1992); see also *Preliminary Determination of Sales at Less Than Fair Value*, 57 FR 17803 (April 28, 1992) (emphasis added).

contending that the issue before the CIT in *Ipsco* involved an order where *"end use was the defining characteristic"* of that order's scope. Hyundai's Comments, February 15, 1994 at 7 (original emphasis). In contrast, argue respondents, the scope of the standard pipe orders includes *"express exclusionary language;"* therefore, respondents contend, "the list of end uses is, as the Department itself concedes, 'illustrative'." Korean Respondents' Comments, February 16, 1994 at 25 (original emphasis).

Hylsa, Hyundai, the Korean Respondents, Mannesmann and Villacero also argue that, contrary to the statute and the GATT, inclusion of API 5L line pipe and dual-certified pipe would subject merchandise to antidumping duties without the requisite affirmative determination of material injury to the domestic industry. Citing to these and previous investigations of standard and line pipe, respondents contend that the ITC has consistently identified line pipe as a separate like product. *See, e.g.*, Korean Respondents' February 16, 1994 Comments at 35 and 36. In these investigations, respondents continue, the ITC limited its injury analysis to the domestic standard pipe industry and, therefore, did not include line or dual-certified pipe in its investigations.

The Department's Response

For the reasons cited in the analysis section above, the Department disagrees with petitioners. After further review of the record evidence, we find that the language of the orders excludes API 5L line pipe and dual-certified pipe irrespective of actual end use. While there may be uncertainty over why these products were excluded from the orders, as suggested in our October 25 Memorandum, the descriptions of the merchandise contained in the petition, the initial investigations, and the determinations of the Department and the ITC, plus the record compiled during this scope inquiry, indicate that it is correct to conclude that API 5L line pipe and dual-certified pipe were excluded from these proceedings from their inception. Further, these documents indicate that at the time the petition was filed and during the investigations, the actual end use of the imported merchandise was not a determinative factor in the formulating the scope description which was, rather, based upon physical characteristics coupled with product classifications under the Harmonized Tariff Schedule of the United States.[7]

With respect to petitioners' argument that they misunderstood the underlying principles of the HTS tariff classifications, as stated in the analysis section above, petitioners' November 19, 1991 letter recognizes that the classification system is based on the specificity of the HTS category, and that dual-certified pipe entered as line pipe could be sold and actually used as either standard or line pipe following importation. Further, petitioners state in their July 6, 1993 scope comments that their position with respect to pipe entered under HTS item 7306.10.10 was based not on the actual use of the pipe but, rather, on petitioners' lack of interest in pursuing the small quantity of dual-certified pipe entered under HTS item 7306.10.10 which might later be used as standard pipe. Petitioners noted their "belief that little imported dual stencilled pipe entered as line pipe was going into standard pipe applications" and suggested that the quantity of dual-certified pipe actually used in standard pipe applications "would have little or no impact on the operation of a dumping order." Petitioners July 6, 1993 Scope Comments at 10.[8]

Even if it were the case, as we suggested in our October 25 Memorandum, that petitioners operated under the "incorrect presumption" that HTS tariff numbers were based upon actual end use, and that the subject merchandise would be so classified (*see* October 25 Memorandum at 5, note 5 and 8), the Department does not now have the discretion to "correct" this misapprehension within the context of a scope inquiry. It is well established that the Department has the authority to clarify the scope of an antidumping duty order. The Department may not, however, modify or expand the scope of an order "in a way contrary to its terms." See, *e.g., Smith Corona Corp.* v. *United States*, 915 F.2d 683 (Fed. Cir. 1990); *Alsthom Atlantique* v. *United States*, 787 F.2d 565 (Fed. Cir. 1986); *Royal Business Machines* v. *United States*, 669 F.2d 692 (Fed. Cir. 1982).[9] Moreover, regardless of petitioners' intentions, the fact remains that, as a result of the scope language suggested repeatedly by petitioners and adopted by the Department in its initiation of these investigations, the ITC did not consider whether the domestic industry was injured by imports of line pipe; with respect to dual-certified pipe, the record is unclear.

As to the decision in *Ipsco*, it is inapposite to the instant scope inquiry. In *Oil Country Tubular Goods from Canada* (which gave rise to the *Ipsco* decision) the actual end use of the merchandise was an explicit part of the scope of the order which contains no exclusionary provisions whatever. See *Antidumping Duty Order: Oil Country Tubular Goods (OCTG) from Canada* 51 FR 21782 (June 16, 1986). In contrast to that case, here the scope of the order is driven by physical characteristics and tariff classification of the merchandise, not actual end use, and specifically excludes certain categories of pipe, including line and dual-stenciled pipe, without reference to intended or actual uses.

Conclusion

For the reasons cited above, the Department determines that: (i) pipe certified to the API 5L line pipe specification, and (ii) pipe certified to both the API 5L line pipe specifications and the less-stringent ASTM A–53 standard pipe specifications which fall within the physical parameters outlined in the scope of the orders and enter as line pipe of a kind used for oil and gas pipelines are outside the scope of the antidumping duty orders on certain welded carbon steel non-alloy pipe from Brazil, Korea, Mexico and Venezuela, irrespective of end use. We will notify

[7] Petitioners also suggest that the order provides HTS numbers "for convenience and customs purposes" and the written descriptions of the merchandise are dispositive. See Petitioners' February 23, 1994 Rebuttal Comments at 5 and note 13. While the Department typically includes this disclaimer in its published notices, here, petitioners explicitly based the product coverage upon HTS classifications, and quoted directly from the applicable Customs language to further buttress this emphasis on tariff classifications. The Department's adoption of petitioners language and reliance upon Customs classifications is, in fact, part of the written description of the scope and is, therefore, controlling.

[8] In their April 22, 1993 request for an anticircumvention inquiry (which gave rise to the instant scope inquiry), petitioners maintained that the scope "specifically excludes" API 5L line and dual-certified pipe. Petitioners quoted the Department's scope language that "pipe that is dual or triple certified-stenciled that enters the U.S. as line pipe of a kind used for oil and gas pipelines is also not included in this investigation," and stated that "[l]ine pipe is also specifically excluded" from the scope of the orders. See Petitioners' April 22, 1993 Anticircumvention Petition at 3 and 25. Petitioners included these statements as part of their explanation of why anticircumvention proceedings, and not a scope inquiry, were necessary to address petitioners' concerns.

[9] This does not, however, preclude the Department's addressing the types of concerns raised here by petitioners at the investigation stage of a proceeding in formulating the scope language. In fact, the Department has addressed these same concerns in several recent pipe investigations. See, *e.g., Final Determination of Sales at Less Than Fair Value: Certain Small Diameter Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from Brazil*, 60 FR 31960 (June 19, 1995).

directly the U.S. Customs Service of this determination.

Dated: March 14, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–6862 Filed 3–20–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–533–809]

Certain Forged Stainless Steel Flanges From India; Antidumping Duty Administrative Review; Time Limits

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Extension of Time Limits.

SUMMARY: The Department of Commerce (the Department) is extending the time limits of the preliminary and final results of the new shipper antidumping duty administrative review of certain forged stainless steel flanges from India. The review covers one manufacturer/exporter of the subject merchandise to the United States and the period March 1, 1995 through August 31, 1995.

EFFECTIVE DATE: March 21, 1996.

FOR FURTHER INFORMATION CONTACT: Karen H. Park or John Kugelman, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–5253.

SUPPLEMENTARY INFORMATION: Because this review is extraordinarily complicated, the Department is extending the time limits for completion of the preliminary results until July 19, 1996, in accordance with section 751(a)(2)(B)(iv) of the Trade and Tariff Act of 1930, as amended by the Uruguay Round Agreements Act of 1994. We will issue our final results for this review by December 16, 1996.

These extensions are in accordance with section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)(3)(A)).

Dated: March 14, 1996.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 96–6861 Filed 3–20–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–428–810]

High-Tenacity Rayon Filament Yarn From Germany; Antidumping Duty Administrative Review; Time Limits

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Extension of Time Limits.

SUMMARY: The Department of Commerce (the Department) is extending the time limits of the preliminary and final results of the third antidumping duty administrative review of high-tenacity rayon filament yarn from Germany. The review covers one manufacturer/exporter of the subject merchandise to the United States and the period June 1, 1994 through May 31, 1995.

EFFECTIVE DATE: March 21, 1996.

FOR FURTHER INFORMATION CONTACT: Matthew Blaskovich or Zev Primor, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–5831/4114.

SUPPLEMENTARY INFORMATION: Because it is not practicable to complete this review within the time limits mandated by Section 751(a)(3)(A) of the Trade and Tariff Act of 1930, as amended by the Uruguay Round Agreements Act of 1994, the Department is extending the time limits for completion of the preliminary results until June 27, 1996. We will issue our final results for this review by September 25, 1996.

These extensions are in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)(3)(A)).

Dated: March 14, 1996.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 96–6863 Filed 3–20–96; 8:45 am]

BILLING CODE 3510–DS–P

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 96–006. *Applicant:* The Scripps Research Institute, 10666 North Torrey Pines Road, La Jolla, CA 92037. *Instrument:* Electron Microscope, Model CM 200. *Manufacturer:* Philips, The Netherlands. *Intended Use:* The instrument will be used for studies of the structure of tobacco, alfalfa, and cucumber mosaic viruses, muscle proteins, nuclear pore complexes, microtubules, CHIP28 water channels, acetylcholine receptors, gap junctions, rotavirus and reovirus, and rice yellow mottle virus. The goals of the investigations are in general to understand the structural basis for how the subcellular organelles and supramolecular assemblies function and to elucidate the role that they play in the life of the cell. In addition, the instrument will be used to provide training in use of the electron microscope as a research tool. *Application Accepted by Commissioner of Customs:* February 2, 1996.

Docket Number: 96–009. *Applicant:* New York University Medical Center, Skirball Institute of Biomolecular Medicine, 550 First Avenue, New York, NY 10016. *Instrument:* Electron Microscope, Model CM 200. *Manufacturer:* Philips, The Netherlands. *Intended Use:* The instrument will be used for determining the structure of biological macromolecules (i.e., proteins). The objectives of the research are to elucidate the physical and chemical properties of these protein molecules in order to better understand how they accomplish their respective cellular functions. *Application Accepted by Commissioner of Customs:* February 9, 1996.

Docket Number: 96–010. *Applicant:* University of New Mexico, 200 Yale Boulevard NE, Albuquerque, NM 87131. *Instrument:* Mass Spectrometer, Model VG Sector 54. *Manufacturer:* Fisons Instruments, United Kingdom. *Intended Use:* The instrument will be used for measurement of $^{230}Th/^{232}Th$ ratios in igneous rocks and the data then used to understand mantle (deep earth) processes, dating of volcanic events, etc. In addition, the instrument will facilitate measurements by students in courses such as Isotopic Principles of Radiogenic Isotope Geochemistry and Geochronology. *Application Accepted*

by Commissioner of Customs: February 12, 1996.

Docket Number: 96–011. *Applicant:* National Institute of Standards and Technology, I270 & Quince Orchard Road, Gaithersburg, MD 20899-0001. *Instrument:* Laser Tracker, Model SMART 310. *Manufacturer:* Leica Inc., Switzerland. *Intended Use:* The instrument will be used in the application of the metrology discipline criteria to determine the dimensional accuracies of large manufactured parts. *Application Accepted by Commissioner of Customs:* February 12, 1996.

Docket Number: 96–012. *Applicant:* University of Albany, SUNY, Department of Geological Sciences, 1400 Washington Avenue, Albany, NY 12222. *Instrument:* Mass Spectrometer, Model OPTIMA. *Manufacturer:* Fisons Instruments, United Kingdom. *Intended Use:* The instrument will be used to accurately analyze large volumes of samples in research which includes climatic and paleoclimatic studies and environmental geochemical studies of near surface processes. It will be used primarily to measure the stable isotopes of oxygen and carbon in carbonate and water samples. In addition, the instrument will be used in laboratory section of a stable isotope geochemistry course for upper-level undergraduate and graduate students. *Application Accepted by Commissioner of Customs:* February 14, 1996.

Docket Number: 96–013. *Applicant:* Northern Illinois University, Department of Chemistry, DeKalb, IL 60115-2862. *Instrument:* Diode-Array Detector for Stopped-Flow Spectrometer, Model PDA.1. *Manufacturer:* Applied Photophysics, Ltd., United Kingdom. *Intended Use:* The instrument will be used as an accessory to an existing spectrometer that will be used for the investigation of the chemical reactivity of heme proteins including their reactions with oxidizing agents such as hydrogen peroxide and molecular oxygen, reducing agents such as ferrocytochrome *c* and FE(II) and Co(II) complexes, their electron transfer reactions, and their reactions with small ligands such as fluoride, cyanide, azide, and other nitrogen containing materials. The instrument will be used for educational purposes in three research courses: Chemistry 499H - Research, Chemistry 599 - Research, and Chemistry 699 - Doctoral Research Dissertation. *Application Accepted by Commissioner of Customs:* February 14, 1996.

Docket Number: 96–014. *Applicant:* Columbia University, Lamont-Doherty Earth Observatory, Rte. 9W, Palisade, NY 10964. *Instrument:* Mass Spectrometer, Model OPTIMA. *Manufacturer:* Fisons Instruments, United Kingdom. *Intended Use:* The instrument will be used to investigate the stable isotopic composition of oxygen and carbon in naturally-occurring carbonate samples, including coral and shell material. These investigations will involve reconstructing past climatic conditions using the isotopic compositions as indicators of the ambient temperature and water conditions at time of formation. *Application Accepted by Commissioner of Customs:* February 22, 1996.

Frank W. Creel

Director, Statutory Import Programs Staff

[FR Doc. 96–6860 Filed 3–20–96; 8:45 am]

BILLING CODE 3510–DS–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Indonesia

March 15, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing limits.

EFFECTIVE DATE: March 20, 1996.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6704. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being increased for five percent allowance for traditional folklore products made from handloomed fabrics.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 60 FR 65299, published on December 19, 1995). Also see 60 FR 62410, published on December 6, 1995.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Donald R. Foote,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 15, 1996.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 30, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Indonesia and exported during the twelve-month period which began on January 1, 1996 and extends through December 31, 1996.

Effective on March 20, 1996, you are directed to amend the directive dated November 30, 1995 to increase the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
334/335	197,205 dozen.
336/636	521,413 dozen.
338/339	1,008,060 dozen.
341	746,675 dozen.
342/642	327,880 dozen.
347/348	1,442,673 dozen.
350/650	143,389 dozen.
351/651	426,244 dozen.
634/635	262,305 dozen.
638/639	1,291,113 dozen.
641	1,999,679 dozen.
647/648	2,859,464 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1995.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Donald R. Foote,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.96–6865 Filed 3–20–96; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Philippines

March 15, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: March 20, 1996.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6713. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for swing, special shift and carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 60 FR 65299, published on December 19, 1995). Also see 60 FR 62412, published on December 7, 1995.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Donald R. Foote,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 15, 1996.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on Novembr 30, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in the Philippines and exported during the twelve-month period beginning on January 1, 1996 and extending through December 31, 1996.

Effective on March 20, 1996, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted limit [1]
Levels in Group I	
338/339	2,435,724 dozen.
342/642	554,839 dozen.
350	74,760 dozen.
351/651	628,673 dozen.
369–S [2]	211,948 kilograms.
638/639	1,747,658 dozen.
645/646	612,130 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1995.

[2] Category 369–S: only HTS number 6307.10.2005.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Donald R. Foote,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 96–6866 Filed 3–20–96; 8:45 am]

BILLING CODE 3510–DR–F

COMMODITY FUTURES TRADING COMMISSION

New York Futures Exchange; Applications for Designation as a Contract Market in Options on the British Pound, Deutsche Mark, Japanese Yen, and Swiss Franc Futures Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of a proposed commodity option contract.

SUMMARY: The New York Futures Exchange (NYFE or Exchange) has applied for designation as a contract market in options on its British Pound, Deutsche Mark, Japanese Yen, and Swiss Franc futures contracts. The Acting Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before April 22, 1996.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st St., NW, Washington, DC 20581. Reference should be made to the NYFE British Pound, Deutsche Mark, Japanese Yen, and Swiss Franc futures option contracts.

FOR FURTHER INFORMATION CONTACT: Please contact Stephen Sherrod of the Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st St., NW, Washington, DC 20581; telephone (202) 418–5277.

SUPPLEMENTARY INFORMATION: Copies of the terms and conditions will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st St., N.W., Washington, D.C. 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 418–5097.

Other materials submitted by the NYFE may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the

proposed terms and conditions, or with respect to other materials submitted by the NYFE, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st St., NW., Washington, DC 20581 by the specified date.

Issued in Washington, DC, on March 15, 1996.

Blake Imel,

Acting Director.

[FR Doc. 96–6802 Filed 3–20–96; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Department of the Army

Collegiate Education Advisory Committee

AGENCY: U.S. Army Cadet Command.

ACTION: Notice of meeting.

SUMMARY: In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Name of Committee: Collegiate Education Advisory Committee.

Date of Meeting: 20 April 1996.

Place of Meeting: Radisson Hotel, Hampton, Virginia.

Time of Meeting: 0830–1700 on 20 April 1996.

Proposed Agenda: Review and discussion of the statue of Army ROTC since the September 1995 meeting at the Radisson Hotel, Hampton, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. Roger Spadafora, U.S. Army Cadet Command, ATTCC–TE, Fort Monroe, Virginia 23651–5000; phone (804) 727–4595.

SUPPLEMENTARY INFORMATION:

1. The Committee will review the significant changes in ROTC scholarships, missioning, advertising strategy, marketing, camps and on-campus training, the Junior High School Program and ROTC Nursing.

2. Meeting of the Advisory Committee is open to the public. Due to space limitations, attendance may be limited to those persons who have notified the Advisory Committee Management Office in writing at least five days prior to the meeting of their intent to attend the 20 April 1996 meeting.

3. Any members of the public may file a written statement with the Committee before, during or after the meeting. To the extent that time permits, the Committee chairman may allow public presentations of oral statements at the meeting.

4. All communications regarding this Advisory Committee should be directed to the above address.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96–6810 Filed 3–20–96; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Community Redevelopment Authority and Available Surplus Buildings and Land at Military Installations Designated for Closure: Naval Air Warfare Center, Aircraft Division, Warminster, PA

SUMMARY: This Notice provides information regarding the redevelopment authority that has been established to plan the reuse of the Naval Air Warfare Center, Aircraft Division, Warminster, Pennsylvania, and the surplus property that is located at that base closure site.

FOR FURTHER INFORMATION CONTACT: For further general information, contact John J. Kane, Director, Department of the Navy, Real Estate Operations, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332–2300, telephone (703) 325–0474, or Marian E. DiGiamarino, Special Assistant for Real Estate, Base Closure Team, Northern Division, Naval Facilities Engineering Command, Lester, PA 19113–2090, telephone (610) 595–0762. For more detailed information regarding particular properties identified in this Notice (i.e. acreage, floorplan, sanitary facilities, exact street address, etc.), contact Helen McCabe, Realty Specialist, Base Closure Team, Northern Division, Naval Facilities Engineering Command, Lester, PA 19113–2090, telephone (610) 595–0549.

SUPPLEMENTARY INFORMATION: In 1991, the Naval Air Warfare Center, Aircraft Division, Warminster, Pennsylvania, was designated for realignment pursuant to the Defense Base Closure and Realignment Act of 1990, Public Law 101–510, as amended. In 1995 this designation was revised to reflect complete closure. Pursuant to this revised designation, on 28 September 1995, the remaining land and facilities at this installation were declared excess to the Department of Navy and made available for use by other federal public agencies. No interest has been expressed.

Notice of Surplus Property

Pursuant to paragraph (7)(B) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the following information regarding the redevelopment authority for and surplus property at the Naval Air Warfare Center, Aircraft Division, Warminster, Pennsylvania, is published in the **Federal Register**.

Redevelopment Authority

The redevelopment authority for the Naval Air Warfare Center, Aircraft Division, Warminster, Pennsylvania, for purposes of implementing the provisions of the Defense Base Closure and Realignment Act of 1990, as amended, is the Federal Lands Reuse Authority of Bucks County (FLRA–BC), chaired by Mr. Robert Finley. A cross section of community interests is represented on the Reuse Authority. For further information contact Mr. Steven W. Rockwell, Executive Director, Federal Lands Reuse Authority of Bucks County, P.O. Box 3049, Warminster, PA 18974, telephone (215) 957–2310, facsimile (215) 957–2322.

Surplus Property Descriptions

The following is a listing of the additional land and facilities at the Naval Air Warfare Center, Aircraft Division, Warminster, Pennsylvania including the Oreland Open Water Test Facility, Oreland, PA, an off-site component, that are surplus to the federal government.

Land

Approximately 53 acres of improved and unimproved fee simple land at the Naval Air Warfare Center, Aircraft Division, Warminster, Pennsylvania (including its off-site component). In general, all areas will be available upon the closure of the Air Warfare Center, anticipated for March 1997.

Buildings

The following is a summary of the facilities located on the above described land which will be available when the Center closes in March 1997, unless otherwise indicated. Property numbers are available on request.

Main Base

Biological lab facilities (3 structures); Comments: Approx. 8,938 square feet;—Communications systems lab facility (5 structures); Comments: Approx. 28,947 square feet;—Community research lab facilities (9 structures); Comments: Approx. 75,163 square feet;—Fire/rescue facility (1 structure); Comments: Approx. 13,139 square feet;—Gate/entry facility (2 structures); Comments: Approx. 246 square feet;—Minibuoy test facility (1 structure); Comments: Approx. 40 square feet;—Miscellaneous facilities; Comments: Measuring systems vary (TACAMO aprons, fencing, etc.);—Paved drive/plant area; Comments: measuring systems vary;—Pavements/grounds; Comments: Approx. 2,643 square feet (parking, sidewalks, roads, etc.);—Primary substation; Comments: Measuring systems vary;—Public works shop and maintenance storage facilities (6 structures); Comments: Approx. 4716 square feet;—Refuel vehicle facility (2 structures); Comments: Approx. 1,120 square feet;—Research, development, test & evaluation storage lab facility (1 structure); Comments: Approx. 577 square feet;—Sewage treatment facility (2 structures); Comments: Approx. 2,543 square feet;—Sonobuoy Accelerator (1 structure); Comments: Approx. 40 square feet;—Substation #2A; Comments: Measuring systems vary;—Substation #4 facility (1 structure); Comments: Approx. 626 square feet;—Switch/substation (2 structures); Comments: Approx. 3,507 square feet;—Underwater lab (6 structures); Comments: Approx 58,818 square feet;—Utilities; Comments: Measuring systems vary (water, electric distribution lines, fire protection, drainage ditch, sanitary sewer);—Well-potable water #10; Comments: Approx 58,818 square feet.

Off-Site Component

Instrument facility (1 structure); Comments: Approx. 253 square feet;—Miscellaneous facilities; Comments: Measuring systems vary (loading dock and pad, fixed crane, flag pole, fencing, electric line, parking area, etc.)

Expressions of Interest

Pursuant to paragraph 7(C) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, State and local governments, representatives of the homeless, and other interested parties located in the vicinity of the Naval Air Warfare Center, Aircraft Division, Warminster, Pennsylvania, shall submit to said redevelopment authority Federal Lands Reuse Authority of Bucks County (FLRA-BC) a notice of interest, of such governments, representatives and parties in the above described surplus property, or any portion thereof. A notice of interest shall describe the need of the government, representative, or party concerned for the desired surplus property. Pursuant paragraphs 7(C) of said Section 2905(b), the redevelopment authority shall assist interested parties in evaluating the surplus property for the intended use and publish in a newspaper of general circulation in Bucks and Montgomery Counties, Pennsylvania, the date by which expressions of interest must be submitted.

Dated: March 12, 1996.

M. A. Waters,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 96–6817 Filed 3–20–96; 8:45 am]

BILLING CODE 3810–FFP

DEPARTMENT OF ENERGY

Sale of Naval Petroleum Reserve No. 1; Intent To Prepare a Supplemental Environmental Impact Statement and Conduct Public Scoping Meeting

AGENCY: Office of Naval Petroleum and Oil Shale Reserves, Energy.

ACTION: Notice of intent to prepare a Supplemental Environmental Impact Statement.

SUMMARY: Title XXXIV, Subtitle B, of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106) directs the Secretary of Energy to sell the Federal government's interests in Naval Petroleum Reserve Numbered 1 (NPR–1, also called "Elk Hills"). In 1993, the Department of Energy (DOE) published a supplement (DOE/EIS–0158) to a 1979 Environmental Impact Statement (EIS) which analyzed the impacts of oil and gas production at NPR–1 under continued Federal ownership and operation. Sale of Federal ownership was not analyzed in the 1993 Supplemental EIS. DOE has determined that the sale required by Public Law 104–106 constitutes a major Federal action which may have significant impact upon the environment within the meaning of the National Environmental Policy Act (NEPA). For this reason, DOE intends to prepare a supplement to the 1993 Supplemental EIS to cover foreseeable impacts from the sale and reasonable alternatives.

DATES: DOE invites interested agencies, organizations, and members of the public to submit comments or suggestions to assist in identifying significant environmental issues and determining the appropriate scope of the Supplemental EIS. Comments may be submitted by mail or presented at a scoping meeting to be held at Bakersfield, California, on the date and at the time indicated below.

Tuesday, April 16, 1996
1:00 P.M. to 3:00 P.M., and 7:00 P.M. to 9:00 P.M.

Red Lion Hotel, 3100 Camino del Rio Court, Bakersfield, California

Written comments postmarked by May 6, 1996, will be considered in the preparation of the Draft Supplemental EIS. Comments postmarked after that date will be considered to the maximum extent practicable. Requests to speak at the meeting should be received by Anthony J. Como, at the address indicated below, on or before April 9, 1996. In addition, requests to speak may be submitted to Mr. Como via facsimile at (202) 586–6050 or a message may be left on our toll-free number at 1–888–NPREIS1 (677–3471). Requests to speak may also be made at the time of registration for the meeting. However, persons who submitted advance requests to speak by April 9, 1996, will be given priority if time should become limited during the meeting.

ADDRESSES: Written comments or suggestions on the scope of the supplemental EIS, and requests to speak at the scoping meeting, may be submitted to: Anthony J. Como, Document Manager (FE–52), U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, DC 20585–0350, Phone: 202–586–5935, Telefax: 202–586–6050.

Envelopes should be labeled "Scoping for Sale EIS".

FOR FURTHER INFORMATION CONTACT: For general information on the DOE NEPA review process, contact: Carol M. Borgstrom, Director, Office of NEPA Policy, and Assistance (EH–42), U.S. Department of Energy, 1000 Independence Ave., S.W., Washington, D.C. 20585–0119, Phone: 202–586–4600, Telefax: 202–586–7031, Toll Free: (800) 472–2756.

For information on the sale of NPR–1 required by Pub. L. 104–106, contact: John Bartholomew, Divestment Administrator (FE–41), U.S. Department of Energy, 1000 Independence Ave., S.W., Washington, D.C. 20585–0340, Phone: 202–586–4248, Telefax: 202–586–0835.

SUPPLEMENTARY INFORMATION: NPR–1 comprises 47,985 acres and is located about 35 miles west of Bakersfield in Kern County, California. It was created by an Executive Order issued by President Taft in 1912 to provide an emergency source of liquid fuels for the military. Except for brief periods of production in the 1920's and during World War II, Elk Hills was maintained in an essentially undeveloped status until the 1973–74 oil embargo demonstrated the Nation's vulnerability to oil supply interruptions. As a result of the embargo, the Congress passed the Naval Petroleum Reserves Production

Act of 1976 (Pub. L. 94–258), which authorized and directed that the Reserve be explored and developed to its full economic and productive potential. Public Law 94–258 required that Elk Hills be produced for six years at the "maximum efficient rate" consistent with sound engineering practices. The law also provided the President discretionary authority to extend production subsequently, in increments of up to three years each, if continued production is found to be in the national interest. Such findings have been made and production is presently authorized through April 5, 1997.

Elk Hills is currently producing approximately 61,000 barrels per day of oil, 345 million cubic feet per day of natural gas, and 500 thousand gallons per day of natural gas liquids. All of the government's share of production (approximately 47,000 barrels per day of oil, 40 million cubic feet per day of natural gas, and 225 thousand gallons per day of natural gas liquids) is sold on the open market via competitive bids, and all revenues from these sales are deposited into the Miscellaneous Receipts Account in the U.S. Treasury. Since the opening of Elk Hills to full development in 1976, revenues through Fiscal Year 1995 from the sale of hydrocarbon products produced from the field have totaled almost $13.0 billion, against total costs of $3.0 billion.

Elk Hills consists of about 67 sections of land, approximately 78 percent of which is owned by the Federal government and 22 percent by Chevron U.S.A. These lands have been developed and operated as a unit pursuant to a Unit Plan Contract (UPC) entered into in 1944. Under the UPC, the Federal government has the exclusive control, subject to the UPC, over the exploration, development, and operation of NPR–1.

To meet President Clinton's call to reinvent government, DOE evaluated the Federal government's role at Elk Hills in context with current national priorities and needs. The Department recognized that this facility consistently earns substantial revenues for the Treasury. However, the Department decided that continued involvement by the Federal government in what is essentially a commercial enterprise was inappropriate, and recommended to the Congress that Elk Hills be privatized. Congress agreed that privatization was the appropriate course of action and included language in the Defense Authorization Act for Fiscal Year 1996 authorizing the sale.

Preliminary Identification of Alternatives

One of the major purposes of an EIS is to define and analyze the reasonable alternatives to the proposed action, and the environmental impacts to be expected from each alternative. As background for public comments and suggestions concerning reasonable alternatives to be considered, DOE has tentatively identified two alternatives, as well as a reference case, to be analyzed in the Supplemental EIS:

1. Continued Federal Ownership and Operation Under Public Law 104–106 ("No Action")

Public Law 104–106 establishes certain conditions that must be met for the sale of the Federal government's ownership interests in Elk Hills to be completed. For example, under section 3414(b), the Secretary of Energy may suspend the sale if the Secretary and the Director of the Office of Management and Budget jointly determine that the sale is proceeding in a manner inconsistent with achievement of a sale price that reflects the full value of Elk Hills, or that a course of action other than immediate sale is in the best interests of the United States. The "No Action" alternative, therefore, contemplates that sale does not take place for some reason, and that Federal ownership and operation of NPR–1 will continue.

The environmental and socioeconomic impacts of continued Federal ownership and operation of Elk Hills were analyzed in the 1993 Supplemental EIS (DOE/EIS–0158). Those analyses assumed that the petroleum engineering strategy that was being used in 1993 to guide the overall development of Elk Hills ("maximum efficient rate" production, as required by the Naval Petroleum Reserves Production Act of 1976), would continue to be used in the future. However, section 3412(h) of the Defense Authorization Act for Fiscal Year 1996, which authorized the sale of Elk Hills, also revised the basic operating strategy for that oil field. Section 3412(h) requires that, until the sale of Elk Hills is completed, DOE must produce the field not at the "maximum efficient rate," but rather "at a maximum daily oil or gas rate * * * which will permit maximum economic development * * * consistent with sound oil field engineering practices * * *" It is possible that development of Elk Hills under this new strategy may proceed at a different pace, and may consist of a different mix of facility development and operational projects, than was analyzed in the 1993 Supplemental EIS. DOE will have a more detailed, but still preliminary, description of activities under the "maximum economic development" strategy available at the scoping meeting. However, the Department is seeking public input on this issue and encourages suggestions and comments.

2. Sale of the Federal Government's Ownership Interests ("Proposed Action")

In this scenario, all Federal ownership interests in Elk Hills would be sold; DOE would no longer have authority or responsibility for the management of Elk Hills, and all development and production decisions would be vested solely with the private sector owner(s). This is the outcome sought by the legislation and is therefore the proposed action for the Supplemental EIS. Private owners of Elk Hills will not be bound by any Federal statutory requirements regarding development philosophies, as was DOE with the "maximum efficient rate" requirement in Public Law 94–258. This may result in the Elk Hills field taking a different course in the future, with different levels of development activity and different types of projects than under continued government ownership. DOE will have a preliminary description of a number of possible development scenarios for NPR–1 under private ownership available for presentation at the scoping meeting. However, the Department is seeking public input on this issue and encourages suggestions and comments.

3. Reference Case

In order to understand the changes in environmental impacts which Public Law 104–106 could cause at NPR–1, the Supplemental EIS will describe a "reference case" scenario comprised of the present conditions at the reserve. This scenario will be based on the 1993 Supplemental EIS and actual operational data obtained since that document was published. The reference case will provide a basis of comparison for evaluating the required change from the "maximum efficient rate" operation strategy to "maximum economic development." DOE believes at this time that the reference case will be similar to the No Action alternative in many respects.

Preliminary Identification of Environmental Issues

The purpose of this notice is to solicit comments and suggestions for consideration in preparation of the EIS Supplement. As background for public comment, it is useful to list in this document those environmental issues which have been tentatively identified for analysis. This list is not intended to be all-inclusive or to imply any predetermination of impacts. Following is a preliminary list of issues that may require analysis in the NPR–1 Supplemental EIS.

In addition to seeking comments from the public on this preliminary list of potential impacts, DOE is also soliciting comments on how environmental compliance activities conducted by a private owner of Elk Hills may differ from compliance activities conducted at the site by the Federal government, as described in the 1993 Supplemental EIS and other documents related to environmental compliance, such as the 1995 Biological Opinion issued by the U.S. Fish and Wildlife Service under Section 7 of the Endangered Species Act.

1. Air Quality: Release of air pollutants from the Reserve would probably occur at about the same levels as projected in the 1993 Supplemental EIS under Alternative 1, although it is possible that some increases could also occur. Implementation of Alternative 2 could result in the continued release of gaseous and particulate residuals from the Reserve, and possibly increase the level of releases.

2. Impacts to Wildlife: Operation under either of the alternatives would continue to produce some potentially adverse impacts to some wildlife inhabiting the Reserve. Of particular concern would be the continued or expanded disturbance of habitat, and other related interactions, involving the six Federal- and state-listed endangered species known to exist on the NPR–1 site (the San Joaquin kit fox, giant kangaroo rat, blunt-nosed leopard lizard, Tipton kangaroo rat, Hoover's wooly-star, and San Joaquin antelope squirrel).

3. Socioeconomic Effects: Sale of NPR–1 to a private owner could result in a combination of positive and negative impacts in the local area, depending on possible changes in state and local taxation of the new privately-owned Reserve lands and related revenues, and in the alteration of existing Federal purchasing and contracting practices by a private sector owner. It is possible that overall staffing levels at Elk Hills will be lower under a private owner than they are with Federal ownership and operation. Hence, adoption of Alternative 2 by DOE could potentially have adverse impacts in a number of Kern County communities, due to direct loss of jobs by NPR–1 workers, indirect economic impacts on businesses supported in whole or in part by Federal operation of the Reserve, and by community loss of other revenues. Continued Federal ownership under Alternative 1 could maintain socioeconomic benefits for the area through the interaction of the substantial employment, subcontracting, and supply requirements of the Reserve with the local economy and residents.

4. Water Resources: Some concern exists regarding the potential for additional impacts to groundwater resources near the Reserve as a result of continued and possibly expanded reinjection of wastewater and disposal of other production wastes onsite. This concern is associated with Alternatives 1 and 2.

5. Cumulative Impacts: NEPA requires that the EIS evaluate the potential cumulative effects of the various alternatives in relation to the impacts of past, present, and reasonably foreseeable future development (of any kind), both on- and offsite. Cumulative impacts will be evaluated within the Supplemental EIS for all important issues, e.g., air quality, wildlife species, and socioeconomic conditions in nearby areas.

Scoping

The above preliminary lists of major environmental issues and reasonable alternatives are not meant to be exhaustive or final. For instance, even though some potential environmental impact areas, such as cultural resources, land use, and recreation, are not specified above as major issues, they will be evaluated as part of the NEPA analysis and will be discussed in the Supplemental EIS. DOE identified the reasonable alternatives and environmental issues listed above based on its experience with the major issues that have been raised in previous NEPA compliance activities for Elk Hills. DOE considers the scoping process to be open and dynamic in the sense that alternatives other than those given above may warrant examination, and new issues may be identified and evaluated. Interested parties are invited to participate in the scoping process both to refine the preliminary alternatives and environmental issues to be analyzed in depth, and to eliminate from detailed study those alternatives and environmental issues that are not significant or pertinent.

The scoping process will involve all interested agencies (Federal, state, county, and local), groups, and members of the public. Comments are invited on both the alternatives and the issues to be considered in the Supplemental EIS. A public scoping meeting will be held at the location, date, and time indicated above. This scoping meeting will be informal and conducted as a discussion between attendees and DOE. The DOE presiding officer will establish only those procedures needed to ensure that everyone who wishes to speak has a chance to do so and that all issues and comments raised are clearly understood by DOE. Depending upon the number of persons wishing to speak, DOE may allow longer times for representatives of organizations. Consequently, persons wishing to speak on behalf of an organization should identify that organization in their request to speak. Persons who have not submitted a request to speak in advance may register to speak at the scoping meeting. However, advance requests to speak are encouraged. Both oral and written comments will be considered and will be given equal weight by DOE.

A complete transcript of the public scoping meeting will be retained by DOE and made available for inspection during business hours, Monday through Friday, at the Department of Energy Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue, S.W., Washington, DC 20585, and at the Department of Energy Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–5208. Additional copies of the public scoping meeting transcripts will also be made available during normal business hours at the following locations:

Beale Memorial Library— Main Branch, 1315 Truxtun Avenue, Bakersfield, California

Taft Branch—Kern County Library, 27 Emmons Park Drive, Taft, California

A notice of locations where documents will be available will be published in the **Federal Register** at the time of announcement of the availability of the Draft Supplemental EIS. In addition, copies of the public scoping meeting transcripts will be made available for purchase.

Those interested parties who do not wish to submit comments or suggestions at this time, but who would like to receive a copy of the Draft Supplemental EIS, should notify Anthony J. Como at the address given in the address section of this notice.

Dated at Washington, DC, this 13th day of March, 1996, for the United States Department of Energy.

Peter N. Brush,

Principal Deputy Assistant Secretary Environment, Safety and Health.

[FR Doc. 96–6837 Filed 3–20–96; 8:45 am]

BILLING CODE 6450–01–P

Draft Environmental Impact Statement for Completion of the West Valley Demonstration Project and Closure or Long-Term Management of Facilities at the Western New York Nuclear Service Center

AGENCY: United States Department of Energy.

ACTION: Notice of availability and notice of wetlands involvement.

SUMMARY: The U.S. Department of Energy (DOE) and the New York State Energy Research and Development Authority (NYSERDA) announce the availability for public review and comment of the Draft Environmental Impact Statement (EIS) for Completion of the West Valley Demonstration Project (Project) and Closure or Long-Term Management of Facilities at the Western New York Nuclear Service Center (Center). DOE also gives public notice that the alternatives analyzed in the EIS include proposed actions that would occur in wetlands. The EIS evaluates alternatives for integrated sitewide actions to complete DOE decontamination and decommissioning activities and provide for NYSERDA's closure or long-term management of facilities at the Center. This joint EIS supports the selection of the site management strategy and will assist NYSERDA and DOE in making decisions for future site closure or management activities. DOE and NYSERDA will identify the selected site management strategy in a National Environmental Policy Act (NEPA) Record of Decision and in State Environmental Quality Review Act (SEQRA) Findings, respectively. If necessary, additional NEPA or SEQRA documents will be prepared for DOE and NYSERDA actions not specifically addressed in this document.

DATES: The comment period on the Draft EIS will continue until September 22, 1996. Comments postmarked after that date will be considered to the extent practicable. Public meetings will be held at the locations and dates listed in the supplementary information section of this notice.

ADDRESSES: Requests for information about, and copies of, the Draft EIS should be directed to the Community Relations Department of the West Valley Demonstration Project, P.O. Box 191, West Valley, NY 14171–0191, or by calling (800) 633–5280 or (716) 942–2152.

Written comments on the Draft EIS should be mailed to the following address:

Draft EIS, Community Relations Dept./MS–A, West Valley Demonstration Project, P.O. Box 191, West Valley, New York 14171. Fax: (716) 942–4703, Internet: http://freenet.buffalo.edu/wvdp/eisform.htp

For general information on the DOE NEPA process, call (800) 472–2756 to leave a message, or contact:

Carol Borgstrom, Director, Office of NEPA Policy and Assistance (EH–42), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–0119, (202) 586–4600

For general information on the New York State Environmental Quality Review Act (SEQRA) process, call (518) 457–2224 to leave a message or contact:

Jack Nasca, Regulatory Services, New York State Department of Environmental Conservation, 50 Wolf Road, Room 538, Albany, NY 12233–1750

Availability of the Draft EIS: Copies of the Draft EIS have been distributed to federal, state, tribal and local officials, as well as agencies, organizations and individuals who may be interested or affected. Copies of the Draft EIS are also available for public review at the locations listed at the end of this Notice.

SUPPLEMENTARY INFORMATION:

Background

On December 27, 1988, DOE issued a Notice of Intent (53 FR 53052) to prepare the Environmental Impact Statement for Completion of the West Valley Demonstration Project and Closure or Long-Term Management of Facilities at the Western New York Nuclear Service Center. The Notice of Intent stated that the EIS would evaluate alternatives for completing the Project and closure or long-term management of facilities at the Center which is located near Buffalo, New York. The public comment period on the Notice of Intent extended from December 27, 1988 to February 23, 1989, with two public scoping meetings.

DOE issued an Implementation Plan in March 1995 that recorded the results of the scoping process.

The Center is the site of a former spent nuclear fuel reprocessing facility. NYSERDA holds title to the site on behalf of the people of the State of New York. The site includes the process building and associated facilities, waste storage facilities, two radioactive waste disposal areas, and tanks containing liquid high-level radioactive waste from past reprocessing operations. The West Valley Demonstration Project is a joint federal-state cleanup under which DOE, in cooperation with NYSERDA, will solidify the high-level radioactive waste, transport the solidified waste for disposal at an appropriate federal repository, dispose of the low-level and transuranic waste produced by the solidification of the high-level waste, and decontaminate and decommission all facilities used in solidifying the high-level waste. In 1982, a Final EIS was issued by DOE concerning long-term management of the liquid high-level wastes. On the basis of that earlier EIS, DOE decided to concentrate, chemically treat, and convert the liquid high-level wastes to a solid terminal waste form suitable for transportation offsite and eventual disposal in a federal geologic repository.

The current EIS evaluates alternatives for integrated sitewide actions to complete DOE decontamination and decommissioning activities and provide for NYSERDA's closure or long-term management of facilities at the Center. This EIS evaluates the treatment, storage, and disposal of high-level, low-level, low-level mixed, hazardous, and industrial waste and contaminated soil. This EIS is being prepared in accordance with the requirements of NEPA of 1969; with Council on Environmental Quality regulations implementing NEPA (40 CFR Parts 1500–1508), and DOE NEPA Implementing Procedures (10 CFR Part 1021); and with the New York State Environmental Quality Review Act (SEQRA). This joint EIS provides environmental information to support the selection of the site management strategy and will assist NYSERDA and DOE in making decisions for future site closure or management activities. The Nuclear Regulatory Commission is a cooperating agency in the preparation of this EIS. DOE and NYSERDA will identify the selected site management strategy in a NEPA Record of Decision and in SEQRA Findings, respectively. If necessary, additional NEPA or SEQRA documents will be prepared for DOE and NYSERDA actions not specifically addressed in this document.

Alternatives Considered

Five alternatives for Project completion and closure or long-term management of the facilities at the Center are analyzed in this EIS. These five alternatives were identified after considering comments received during the scoping process. The five alternatives are:

Alternative I: Removal and Release to Allow Unrestricted Use. Alternative I is the removal of existing facilities including buried waste so there are minimal remnants of nuclear operations. All waste would be disposed of offsite.

Alternative II: Removal, On-Premises Waste Storage, and Partial Release to Allow Unrestricted Use. Alternative II is the removal of existing facilities including buried waste so there are minimal remnants of nuclear operations, with the exception of on-premises storage of high-level, low-level, and low-level mixed waste. Hazardous and industrial waste would be disposed of offsite.

Alternative III: In-Place Stabilization and On-Premises Low-Level Waste Disposal. Alternative III is the in-place stabilization of contaminated structures and buried waste. Uncontaminated structures would be removed. Low-level waste would be disposed of onsite. All other waste would be disposed of offsite.

Alternative IV: No Action: Monitoring and Maintenance. Alternative IV is the management of the site in its current configuration. There would be long-term monitoring and maintenance. Only hazardous waste would be disposed of offsite.

Alternative V: Discontinue Operations. Alternative V is the discontinuation of operations; the site would be left in its current configuration. No closure actions would be taken. All waste would be left onsite.

Alternative IV (No Action: Monitoring and Maintenance) is required by NEPA and SEQRA regulations to be considered in order to establish a baseline for comparison with the environmental effects of the "action" alternatives. Alternatives II (On-Premises Storage) and V (Discontinue Operations) were evaluated in the EIS in response to comments received during the scoping process. Although Alternative V is not considered a reasonable alternative by either DOE or NYSERDA, it provides an environmental baseline for evaluating impacts. The long-term performance assessment (an analysis of the effects that contaminated facilities would have on human health and the environment over the long term) of Alternative V gives an understanding of the long-term public hazard and contribution of natural processes, such as surface water flow or erosion, to that hazard. Table S–1 in the EIS summarizes the actions for each alternative, including the disposition of newly generated and stored waste. Neither DOE nor NYSERDA has identified a preferred alternative.

The alternatives include proposed actions that would occur in wetlands. Pursuant to 10 CFR Part 1022, the Draft EIS includes an assessment of the potential impacts to wetlands.

Invitation to Comment

The public is invited to submit written and oral comments on any or all portions of the Draft EIS. Public information sessions on the Draft EIS will be held in the Western New York area in April 1996, including sessions planned specifically to share EIS information with members of the Seneca Nation of Indians. The dates, times and locations of the public information sessions are as follows:

Tuesday, April 23, 1996, 1:00–9:00 p.m., Seneca Nation Reservation, Irving, NY

Wednesday, April 24, 1996, 1:00–9:00 p.m., McKinley Park Inn, McKinley Parkway, Hamburg, NY

Thursday, April 25, 1996, 1:00–9:00 p.m., Seneca Nation Reservation, Salamanca, NY

Friday, April 26, 1996, 1:00–9:00 p.m., Ashford Office Complex, Route 219, Ashford, NY

These sessions will also be announced through public notices in area newspapers, press releases, Internet notifications and through Seneca Nation advertising media. These sessions will be conducted as "poster presentations" with the DOE, NYSERDA, and EIS contractor personnel available to explain and discuss topics and issues related to the Draft EIS.

In addition, DOE and NYSERDA are planning to hold one public hearing, on August 6, 1996, to receive oral and written comments on the Draft EIS. Further information regarding the EIS will be available by calling (800) 633–5280 (toll free), or, for those who receive a copy of the EIS, by contacting the personnel identified in the Summary of the Draft EIS.

Written comments on the Draft EIS will be accepted until September 22, 1996, at the New York address at West Valley (provided above). DOE and NYSERDA will consider these public comments in preparing the Final EIS.

Persons who wish to speak at the public hearing are asked to register in advance by calling the following toll-free number: (800) 633–5280. Requests to speak that have not been submitted before the hearing will be handled in the order in which they are received. DOE's and NYSERDA's responses to comments received during the public hearing or in writing will be included in the Final EIS.

WVDP Public Reading Rooms

The following is a list of public reading rooms where the Draft EIS and supporting technical documents are available:

Central Library, Lafayette Square, Buffalo, NY 14203, Phone: (716) 858–7098

Concord Hulbert Library, 18 Chapel Street, Springville, NY 14141, Phone: (716) 592–7742

Olean Public Library, 134 North 2nd Street, Olean, NY 14760, Phone: (716) 372–0200

West Valley Central School Library, West Valley, NY 14171, Phone: (716) 942–3293

Ashford Office Complex, 9060 Route 219, West Valley, NY 14171 Phone: (716) 942–4555

Issued in Washington, D.C., March 18, 1996.

Stephen Cowan,

Deputy Assistant Secretary for Waste Management.

[FR Doc. 96–6836 Filed 3–20–96; 8:45 am]

BILLING CODE 6450–01–P

Notice of Floodplain and Wetland Involvement for the Ventron Site, Essex County, Massachusetts

AGENCY: Former Sites Restoration Division, Department of Energy (DOE).

ACTION: Notice of floodplain and wetland involvement.

SUMMARY: DOE proposes to remediate sediment and soil containing elevated levels of uranium-238 from a floodplain and wetland, a floodplain and wetland buffer zone, and from the Massachusetts coastal zone in Essex County, Massachusetts. In accordance with 10 CFR 1022, DOE has prepared a floodplain and wetlands assessment and will perform this proposed action in a manner so as to avoid or minimize potential harm to or within the affected floodplain and wetland resources.

DATES: Comments are due to the address below no later than April 5, 1996.

FOR FURTHER INFORMATION ON THIS PROPOSED ACTION OR TO COMMENT ON THE ACTION, CONTACT: Mr. Jim Kopotic, Ventron Site Manager, Former Sites Restoration Division, U.S. Department of Energy, P.O. Box 2001, Oak Ridge, TN 37831–8541, Phone: (423) 576–9441, FAX: (423) 576–0956.

FOR FURTHER INFORMATION ON GENERAL DOE FLOODPLAIN/WETLANDS ENVIRONMENTAL REVIEW REQUIREMENTS, CONTACT: Carol Borgstrom, Director, Office of NEPA Oversight, EH–42, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: Ventron is a privately-owned site that processed natural uranium oxide, salts, and metal between 1942 and 1948 for the Manhattan Engineer District (MED) and later for the Atomic Energy Commission (AEC). No enriched or depleted uranium was used at the site. Prior to and subsequent to MED- and AEC-related activities at the site, other radioactive elements including thorium compounds and hazardous chemicals were processed at the Ventron site in work unrelated to MED, AEC, or DOE contracts. DOE has authority at the site for remediation of media containing elevated levels of natural uranium (uranium-238). DOE is remediating the

Ventron site in accordance with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The Ventron site is currently an inactive facility and is being cleaned up by the current owner, Morton International, in a separate but related action.

Risks from exposure to radioactive materials at the Ventron site for future workers and residents at the site exceed DOE's public dose limit (100 mrem/yr), thereby meeting DOE's criteria for conducting removal actions to prevent potential future exposures to nearby humans under the no-action alternative. Although sediment and soil with elevated levels of uranium-238 at the Ventron site pose no immediate threats to human or ecological health, the remediation of the site could proceed to prevent radiation exposure to workers involved in Morton's remedial activities.

The implementation of the remedial action alternatives at the Ventron site would involve activity in a floodplain and a tidal wetland, a floodplain and wetland buffer zone, and the Massachusetts coastal zone. In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements (10 CFR 1022), DOE will prepare a floodplain and wetland assessment for this proposed DOE action. DOE will evaluate remedial options affecting two media at the site: harbor sediment and on-site soil and furnace ash. Remedial action for the affected harbor sediment may include: no action, or complete removal of sediment containing uranium levels above DOE guidelines. Remedial action for on-site soil and furnace ash may include: no action or, complete removal of soil and furnace ash containing uranium levels above DOE guidelines. Access to affected sediment and soil may require decontamination and demolition of structures in the floodplain and wetland buffer zone and Massachusetts coastal zone. DOE would temporarily store excavated material onsite before transport offsite to an approved, licensed waste disposal facility. A floodplain and wetlands assessment that incorporates the values of the National Environmental Policy Act will be included in the engineering evaluation and cost analysis being prepared for the proposed project. Upon completion and approval of the assessment DOE will publish a floodplain Statement of Findings in the **Federal Register** that describes the proposed action and measures DOE would implement to prevent environmental damage to floodplain resources at the Ventron site.

Issued in Oak Ridge, Tennessee on March 8, 1996.

James L. Elmore,

Alternate NEPA Compliance Officer.

[FR Doc. 96–6838 Filed 3–20–96; 8:45 am]

BILLING CODE 6450–01–P

Floodplain Statement of Findings For West Tributary Surface Water Monitoring Improvements

AGENCY: Office of Environmental Management, Department of Energy (DOE).

ACTION: Floodplain statement of findings.

SUMMARY: This Floodplain Statement of Findings for the West Tributary Surface Water Monitoring Improvements Project has been prepared in accordance with 10 CFR Part 1022. DOE proposes to replace an existing V-notched, contracted, weir that is located within the 100-year floodplain of White Oak Creek in Roane County, Tennessee with a complex-shaped critical flow flume. A Floodplain Assessment (available from the Oak Ridge address below) describing the potential effects of the action and alternatives to avoid or minimize potential harm to or within the affected floodplain was prepared. DOE will allow 15 days of public review after publication of this Statement of Findings before implementing the proposed action.

FOR FURTHER INFORMATION CONTACT: Bryan Westich, Waste Management Technology Development Division, U.S. Department of Energy, 3 Main Street, Oak Ridge, Tennessee 37830, Telephone (615) 241–2160, FAX (615) 576–5333.

FOR FURTHER INFORMATION ON GENERAL DOE FLOODPLAIN/WETLANDS ENVIRONMENTAL REVIEW REQUIREMENTS CONTACT: Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance, EH–42, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: This is a Floodplain Statement of Findings for the West Tributary Surface Water Monitoring Improvements Project prepared in accordance with 10 CFR Part 1022. A Notice of Involvement for the proposed action was published in the **Federal Register** on October 4, 1993. This action is part of the Surface Water Monitoring Program at the Oak Ridge National Laboratory (ORNL) to enhance the accuracy of flow measurement and contaminant mass flux monitoring by upgrading or replacing existing flow measurement structures or devices. One such flow measurement structure is located in a tributary (West Tributary) to White Oak Lake. The structure is also located within the 100-year floodplain of White Oak Creek. The site is located in an area that is not accessible to the general public.

DOE is proposing to replace an existing V-notched, contracted, weir with a complex-shaped critical flow flume which will facilitate a larger range of flow measurement. As part of this action it would be necessary to demolish the existing V-notched weir structure and recontour the streams side slopes and bed to accommodate the installation of the new flume. Stream flow would be diverted during demolition and construction activities.

Three alternatives were considered in addition to the proposed action. The first was the no-action alternative. This alternative would not meet the program objective for enhanced accuracy of stream flow measurement and contaminant mass flux monitoring. The second alternative would be the restoration or upgrading of the existing weir structure. This action would not result in a significant increase in measurable flow range and would not meet the program objectives. The third alternative would be to replace the weir with a commercially available H-flume in lieu of the critical flow flume. The use of an H-flume would result in a greater upstream water depth to accommodate the desired flow range. Additional topographic contouring would be required in the area of the H-flume. Therefore the use of the H-flume would be less practical than the use of the critical flow flume. There is no practicable alternative to the location of this action in the floodplain.

The Floodplain Assessment concluded that the replacement of the V-notched weir with the critical flow flume would have no significant effect on the 100-year floodplains of White Oak Creek, White Oak Lake, or the West Tributary. Risks to individuals, property, or the environment will not be increased as a result of this action. DOE will allow 15 days of public review after publication of the Statement of Findings before implementing the proposed action.

Issued in Oak Ridge, Tennessee on March 11, 1996.

James L. Elmore,

Alternate NEPA Compliance Officer.

[FR Doc. 96–6839 Filed 3–20–96; 8:45 am]

BILLING CODE 6450–01–P

Morgantown Energy Technology Center; Climate Change Fuel Cell Program

AGENCY: Department of Energy (DOE), Morgantown Energy Technology Center.

ACTION: Solicitation for financial assistance applications.

SUMMARY: In the Defense Appropriations Conference Report, dated September 26, 1994, Congress agreed to provide funding to the Department of Defense (DoD) for a competitive, cost-shared, near-term, Climate Change Fuel Cell Program. The responsibility for procurement, program management, and contract administration for these funds has been delegated to the Department of Energy, Morgantown Energy Technology Center (METC). The objectives of the "Climate Change Fuel Cell Program" are to reduce greenhouse gas emissions through the efficient use of fossil fuels, to accelerate fuel cell commercialization for U.S. manufacturers, and to satisfy the DoD goals for the environment, readiness, and economy, through activities which would stimulate end-user applications. Successful offerors will demonstrate, through their applications, a commitment to purchase, install, operate, and maintain, fuel cell power plant(s) with a combined capacity rated between 100 and 3,000 kW. This project will culminate with a summary report after one year of power plant operation. Grants will be awarded consistent with the amounts defined in the Funding Availability section of this document.

DATES: Applications may be submitted at any time after the issuance date of this solicitation up to and including one year after the issue date. The issue date is the date on which this notice appears in the **Federal Register**. Applications must state an acceptance period of at least 120 days. Applications will be evaluated in at least two rounds based on the evaluation factors set forth herein. Selections for the first round will be made by July 30, 1996, and awards made by September 30, 1996. The second round of selections and awards will be made after September 30, 1996, contingent upon availability of appropriated funds.

SUPPLEMENTARY INFORMATION:

Identification Number, Authority for Issuance, and Title

a. DE–PS21–96MC33099.

b. The use of Financial Assistance is authorized by 10 CFR 600.

c. Title of Financial Assistance: "Climate Change Fuel Cell Program."

d. Type of award instrument: Grant.

e. Catalog of Federal Domestic Assistance: 81.089.

f. Expected Duration of Support: Thirty-six months.

g. Statutory Authority: Public Law 95–224 (as codified at 31 U.S.C. 6301–6306).

h. Qualification Requirements: An Applicant's chosen fuel cell power plant(s) must be substantially manufactured in the U.S. (i.e., at least 50 percent of the value of the components must be produced in the U.S. and the unit (a fuel cell power plant) must be assembled in the U.S.); and the unit must not have been delivered to the installation site prior to this solicitation. The applicant must be an energy service provider, utility, or end user and cannot be a fuel cell manufacturer or developer. The application must identify an installation site and contain proof of a signed contract, firm or contingent, for purchase of fuel cell power plant(s), dated no earlier than publication of the Congressional language authorizing this program (September 26, 1994). The proposed project must be between 100 and 3,000 kilowatts in size and must be operational (providing electric and/or thermal energy to an end user) within three calendar years after award.

Submission, Withdrawal, and Unsuccessful Applications

1. The Application/Information Package includes application forms to be submitted, the 1994 Conference Report language, and other information needed for preparation of applications. The Application/Information Package will be available on the Internet [http://www.metc.doe.gov/business/solicita.html] after March 27, 1996. If Internet access is not available, a 3.5" diskette in WordPerfect, version 5.2. may be requested from the contract specialist referenced below by mail or by telecopy ((304) 285–4683). The contract specialist may also be reached by telephone at (304) 285–4086. The Application/Information Package may also be obtained from the DOE Business Communication Center at [john.bashista@hq.doe.gov].

2. Applications are to be submitted to the following address: U.S. Department of Energy, Morgantown Energy Technology Center, Attn: R. Diane Manilla, M.S. I07, 3610 Collins Ferry Road, Morgantown, WV 26505.

Mark the outside package of each application with the solicitation number: DE–PS21–96MC33099.

3. Applications may be withdrawn by the offeror at any time prior to award by written notice to the individual identified in item 2 above.

4. Unsuccessful applications will be retained by the receiving office and will not be returned to unsuccessful applicants. Unsuccessful applicants will be given an opportunity for a debriefing which will describe the evaluation process and discuss the major strengths and weaknesses found in their application.

Funding Availability

The amount of money available for awards through September 30, 1996, is approximately $15,000,000. Grant values will be $1,000/kW, provided that the grant shall not exceed a third of the total project costs (unit cost, delivery, installation, and one year of precommercial operation).

Evaluation Factors and Application Preparation Instructions

1. Evaluation Factors

Applications will be evaluated in accordance with the following criteria with priority given to power plants servicing DoD installations:

- *Firmness of Financial Commitment* Firmness of the applicant's proposed funding sources for the project as evidenced by the commitment of the organizations providing funding assistance to the program and the estimated contribution of each.
- *Site Information* Intended use of thermal and electrical energy, type of operation (grid connected or grid independent), Environmental, Safety and Health issues, construction/installation issues and arrangements, firmness of site selection (letter of intent from end user and installation site authority).
- *Project Plans and Schedule* Reasonableness and adequacy of project plans (schedules and milestones) as evidenced by the planned completion date for key milestones for the installation and operation of the fuel cell power plant.

2. Relative Importance of the Evaluation Criteria

The criteria are listed in descending order of importance. Criterion 1 is of greater importance than Criteria 2 and 3. Criterion 3 is of less importance than 1 and 2. Criterion 3 is approximately half the importance of Criterion 1. Criterion 2 is slightly less important than Criterion 1.

3. Cost Evaluation

The total project costs which include unit cost, delivery, installation, and one year of precommercial operation will be reviewed for reasonableness and cost realism.

4. Program Policy Factors

a. Descending priority will be given to those projects providing energy service to: DoD installations—U.S., DoD installations—foreign, non-DoD installations—U.S., and non-DoD installations—foreign.

b. It is desirable to select for award projects representing diverse fuel cell power plant sizes, applications, and locations.

5. Application Preparation Instructions

a. Applications must include:

(1) A listing of the organizations providing funding assistance to the program and the estimated contribution of each.

Note: Grant funds will not be dispursed until after the 8-hour test.

(2) Site Description/Installation Information consisting of intended use of thermal and electrical energy, type of operation (grid connected or grid independent), Environmental, Safety and Health issues, construction/installation issues and arrangements, firmness of site selection (letter of intent from end user and installation site authority).

(3) Planned completion date for key milestones for the installation and operation of the fuel cell power plant.

(4) Portions of the fuel cell purchase agreement indicating the product, delivery, price, date of purchase agreement and signatures of buyer and seller.

(5) Letters of intent to participate from the end user (if applicable) and installation site authority.

b. Applicants who include in their application business sensitive or proprietary data that they do not want disclosed to the public for any purpose or used by the Government except for evaluation purposes shall:

1. Mark the title page with the following legend: "This application or quotation includes business sensitive or proprietary data that shall not be disclosed outside of the Government and shall not be duplicated, used, or disclosed—in whole or in part—for any purpose other than to evaluate this application or quotation. If, however, a grant is awarded to this applicant as a result of—or in connection with—the submission of this data, the government shall have the right to duplicate, use, or disclose the data to the extent provided in the resulting grant. This restriction does not limit the Government's right to use information contained in this data if it is obtained from another source without restriction. The business sensitive or proprietary data subject to this restriction are contained in pages (insert number or other identification of pages)"; and

2. Mark each page of data it wishes to restrict with the following legend: "Use or disclosure of data contained on this page is subject to the restriction on the title page of this application or quotation."

c. Each application will be submitted in an original and six copies to the address given in the summary section, above, designated as the delivery point for applications.

DOE Obligation for Application Preparation

DOE is under no obligation to reimburse the applicant for any costs associated with the preparation or submission of applications.

Application Review and Selection

1. Each application will be objectively reviewed on its own merit against the evaluation criteria stated in the solicitation. A two-step review process will be employed. The initial evaluation will be performed to determine if the application meets the qualification criteria stated in the solicitation. Applications passing the initial evaluation will be subject to a comprehensive evaluation.

2. Groups of applications will be reviewed and selected for award as often as practicable.

3. Selection of application(s) will be made in consideration of the evaluation criteria, program policy factors, and the availability of funds.

Application Evaluation and Award

DOE reserves the right to fund, in whole or in part, any, all, or none of the applications submitted in response to this solicitation.

James J. Grabulis,

Director, Acquisition and Assistance Division.

[FR Doc. 96–6841 Filed 3–20–96; 8:45 am]

BILLING CODE 6450–01–P

Morgantown Energy Technology Center; CRADA Opportunity Announcement

AGENCY: Department of Energy (DOE), Morgantown Energy Technology Center.

ACTION: Notice of CRADA opportunity announcement.

SUMMARY: The Morgantown Energy Technology Center (METC) is offering partnering opportunities with United States companies in the area of hot gas desulfurization for developers of transport reactor systems, system integrators, and developers of novel sorbents. The vehicle for the partnering is a Cooperative Research and Development Agreement (CRADA). CRADAs offer private sector partners the opportunity to share in outcomes of development activities and also offer the option for protection of CRADA-generated data. These agreements do require the partner to share in the cost and do not involve METC funding of the partner's activities.

The Utility Industry and METC agree that IGCC technologies being demonstrated under the CCT program will play a significant role in supplying U.S. electricity during the next century. As the markets for such plants expand to replace today's older plants and to supply demand for additional electricity, the sales of cost-effective, hot gas sulfur removal sorbents, and related process systems could be substantial. The proposed CRADA is expected to accelerate commercial availability of improved, lower-cost, hot gas desulfurization sorbents for transport reactors. By closely linking test planning, operation and analysis as performed by METC with sorbent preparation, and analysis as performed by the CRADA Participant; enhanced R&D effectiveness is achievable.

DATES: Proposals received by March 29, 1996, will be evaluated, in order of importance, for: a) monetary value of industry contribution; b) proposer qualifications; and c) merits of commercialization plan. Any or all proposals may be accepted or rejected as deemed to be in the best interest of the Government. Pending content of proposals received, negotiation with one or more Participant is planned immediately following proposal evaluation. The target date for completion of a negotiated draft agreement is April 12, 1996, such that a final agreement can be executed by May 30, 1996.

ADDRESSES: Parties interested in this CRADA opportunity are requested to submit a proposal by March 29, 1996. Additional information is available on METC's Internet Homepage at "http://www.metc.doe.gov" or by contacting Dr. Rodney J. Anderson, Technology Transfer Program Manager, U.S. Department of Energy, Morgantown Energy Technology Center, P.O. Box 880, 3610 Collins Ferry Road, Morgantown, WV 26507–0880; Telephone: (304) 285–4709.

SUPPLEMENTARY INFORMATION: A METC on-site facility—the Transport Reactor Facility—is being commissioned with testing operations to begin by mid-1996. This facility will operate with either simulated or actual gasifier coal gas at high pressure and high temperature to test sulfur removal sorbents in transport-flow regimes. Test objectives are to qualify sorbents for demonstration in commercial-scale Clean Coal Technology (CCT) projects such as the Sierra Pacific Power Company, an Integrated Gasification Combined Cycle (IGCC) technology.

The test reactor is designed as a single pass system to explore various aspects of hot gas desulfurization in the transport regime. The reactor is constructed from 0.334-inch i.d. Incoloy 800 tubing with a nominal 28-foot reaction length. It operates at temperature up to 1500°F (816°C), pressures from 100–600 psig (0.7–4.1 MPa-(ga)), a residence times from 2–10 seconds, solids feed rates from 0.5–10 lb/hr (0.23–4.54 kg/hr), gas feed rates from 200–1000 scfh (5.7–28.3 scmh). Preheated gases and solids mix in a nozzle at the bottom of the reactor. Reactant gas enters the nozzle concentrically and countercurrenlt to the solids flow to promote thorough mixing. The mixture reacts and flows upward in a transport flow regime through the reactor. Five zones of heaters line the vertical section of the reactor and provide temperature control. The reaction can be quenched at either of two vertical injection ports to allow variable reactant residence times. Quenching at the lower port gives a reaction length of 12 feet (3.67 meters) whereas quenching at the upper port provides a reaction length of 28 feet (8.6 meters). Reactor facility investment is approximately $4 million. Proposals require the Participant to provide a cost estimate and description of work scope that the Participant is proposing to perform, supply, and/or fund. The Participant may propose to compensate METC for work performed by METC, however METC cannot reimburse the Participant for work performed by the Participant. As a minimum, the Participant's contribution shall be: sorbent development and supply, and a portion of sorbent analytical work. Test operation shall be performed by METC personnel; however, Participant personnel may be present during testing and may perform most other test activities. Additionally, the Participant shall describe its qualifications for sorbent development and supply consistent with the CRADA objective and for the work scope proposed to be performed by the Participant. Qualifications for transport reactor design and commercial offering should be provided, if appropriate. Also, the Participant shall describe its long range plan for supplying projected quantities of hot gas desulfurization sorbent to the marketplace. Product pricing and performance parameters should be provided as a function of market projections. Elaborate proposals are not required nor expected. It is recommended that the proposal not exceed 25 pages.

James J. Grabulis,

Director, Acquisition & Assistance Division, Morgantown Energy Technology Center.

[FR Doc. 96–6842 Filed 3–20–96; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. RP96–110–000]

Carnegie Interstate Pipeline Company; Notice of Changed Comment Periods to Technical Conference

March 15, 1996.

At the technical conference held on March 5, 1996, in the above-captioned proceeding comment periods were established for parties to respond to issues raised at the technical conference concerning the review of Carnegie Interstate Pipeline Company's (Carnegie) release of its unassigned Texas Eastern Transmission Corporation (Texas Eastern) capacity. One party has requested additional time to review data related to the filing before it files its initial comments. Accordingly, the comment periods are revised as follows: Initial comments are due by the close of business March 28, 1996; with reply comments due by the close of business April 15, 1996.

All comments should be filed with the Secretary's office and in accordance with the provisions of the Commission's Rule of Practice and Procedure. In particular, 18 FERC 385.2010 (Rule 2010) requires that you serve a copy of the comments to each person whose name appears on the official service list in this proceeding.

For additional information, please contact Bob Sheldon at (202) 208–2273.

Lois D. Cashell,

Secretary.

[FR Doc. 96–6766 Filed 3–20–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–88–000]

CNG Transmission Corporation; Notice of Technical Conference

March 15, 1996.

Take notice that a technical conference has been scheduled in the above-captioned proceeding for 10:00 a.m. on March 28, 1996, in Room 3M–2A, at the offices of the Federal energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The purpose of the conference is to discuss matters of interest and concern relating to CNG Transmission Corporation's proposal to abandon operational capacity in excess of 3.2 MMcf/day at the Johnsonburg M&R Station located in Elk County, Pennsylvania, and permission to install flow control devices necessary to ensure the desired level of operation of the facility.

All interested parties are invited to attend. For additional information, interested parties may call Philip J. Veres at (202) 208–0049.

Lois D. Cashell,

Secretary.

[FR Doc. 96–6772 Filed 3–20–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–245–000]

Northern Natural Gas Company; Notice of Request Under Blanket Authorization

March 15, 1996.

Take notice that on March 13, 1996, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed in Docket No. CP96–245–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to install and operate a new delivery point, the MAPCO delivery point, located in Gage County, Nebraska under Northern's blanket certificate issued in Docket No. CP82–401–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northern proposes to install and operate the MAPCO delivery point to accommodate natural gas deliveries to Mid-America Pipeline Company (Mid-America) under Northern's currently effective interruptible throughput service agreement. Northern states that Mid-America requests the proposed delivery point to provide fuel for its pumping station. The estimated volumes that would be delivered at the MAPCO delivery point are up to 984 MMBtu per day and 76,608 MMBtu on an annual basis. Northern estimates the cost to install the new delivery point as $68,850. Northern states that Mid-America would reimburse it for the costs of the proposed delivery point.

Any person or the Commission's staff may, within 45 days after issuance of

the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–6770 Filed 3–20–96; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 3083–072 and 3083–078]

Oklahoma Municipal Power Authority; Notice Shortening Comment Period

March 15, 1996.

On March 14, 1996, the Oklahoma Municipal Power Authority (OMPA) field an offer of settlement in the above-captioned together with an unopposed request for shortening of the comment period under Rule 602(f)(2) of the Commission's Rule of Practice and Procedure, 18 CFR 385.602(f)(2). OMPA requests shortened comment periods in order to facilitate Commission action on the offer by May 1, 1996, when OMPA is required to begin monitoring and managing its hydroelectric electric operations to maintain water quality standards for dissolved oxygen under its previously approved water quality plan. OMPA requests that the comment period be shortened to March 29, 1996 (15 days) for original comments, and to April 5, 1996 (7 days) for reply comments. For good cause shown, the comment periods are shortened as requested.

Lois D. Cashell,

Secretary.

[FR Doc. 96–6769 Filed 3–20–96; 8:45 am]

BILLING CODE 6717–01–M

Federal Energy Regulatory Commission

[Docket No. CP96–193–000]

Texas Eastern Transmission Corporation; Notice of Request Under Blanket Authorization

March 15, 1996.

Take notice that on February 15, 1996, Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP96–193–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to construct and operate a delivery point on its facilities in Bucks County, Pennsylvania to make natural gas deliveries of up to 250,000 dt equivalent of natural gas per day on an interruptible basis under Rate Schedule IT–1 to Interstate Energy Company (IEC), wholly-owned subsidiary of Pennsylvania Power & Light Co. (PP&L), for transmission to PP&L for consumption at PP&L's Martins Creek Steam Electric Station, under the blanket certificate issued in Docket No. CP82–535–000, pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Texas Eastern states that the proposed facilities consist of one 12-inch valve and 12-inch check valve each and electronic gas measurement equipment on Texas Eastern's 30-inch Line 19 and 24-inch Line No. 12, along with dual 12-inch meter runs, related equipment and 50 feet of 18-inch pipeline extending from IEC's 18-inch pipeline to Texas Eastern's Line Nos. 12 and 19. Texas Eastern estimates a cost of facilities of $441,000 which it indicates would be fully reimbursed by IEC.

It is indicated that IEC has requested that Texas Eastern construct and operate the facilities so that IEC may receive natural gas service from Texas Eastern so that IEC may ultimately deliver natural gas service to PP&L's Martins Creek Steam Station in Northampton County, Pennsylvania. It is also indicated that PP&L intends to modify its oil-fired Martins Creek Units 3 and 4 to co-fire these units with natural gas, resulting in reduced carbon dioxide emissions, reduced emissions of sulfur dioxide, reduced nitrous oxide emissions and reduced energy costs. Texas Eastern states that it has been informed by IEC that Martins Creek is not currently, nor has it ever been, served by UGI, Inc, the local distribution company which holds certificate authority from the Pennsylvania Public Utility Commission to provide natural gas service in the vicinity of the power plant. Texas Eastern submits that the delivery point proposed for IEC does not constitute a bypass of UGI.

Texas Eastern states that interruptible transportation service to be rendered to PP&L through the delivery point requested by IEC would be performed using existing capacity on Texas Eastern's system and would have no effect on Texas Eastern's peak day or annual deliveries. It is also stated that the proposal would be accomplished without detriment or disadvantage to Texas Eastern's other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–6771 Filed 3–20–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER95–1096–003, et al.]

PacifiCorp Power Marketing, Inc., et al.; Electric Rate and Corporate Regulation Filings

March 14, 1996.

Take notice that the following filings have been made with the Commission:

1. PacifiCorp Power Marketing, Inc.

[Docket No. ER95–1096–003]

Take notice that on February 2, 1996, PacifiCorp Power Marketing, Inc. tendered for filing a letter requesting an order addressing the substance of its December 14, 1995, Amended Application in the above-referenced docket.

Comment date: March 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Western Power Services, Inc. (formerly Western Gas Resources) Power Marketing, Inc.)

[Docket No. ER95–748–003]

Take notice that on March 1, 1996, Western Power Services, Inc. formerly known as Western Gas Resources Power Marketing, Inc. submits the notification of change in name.

Comment date: March 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. Duke/Louis Dreyfus L.L.C.

[Docket No. ER96–108–003]

Take notice that on February 20, 1996, Duke/Louis Dreyfus L.L.C. (Duke/Louis Dreyfus) notified the Commission of a change in status.

The change in status results from the formation by Duke/Louis Dreyfus and Eastern Utilities Associates of a joint venture to market power.

Comment date: March 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. Westar Electric Marketing, Inc.

[Docket No. ER96–458–002]

Take notice that on February 20, 1996, Westar Electric Marketing, Inc. tendered for filing a revised Code of Conduct which incorporates requirements specified in the Commission's February 14, 1996, Order on Westar Electric's Application in Docket No. ER96–458–000.

Comment date: March 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Utility Management Corporation

[Docket No. ER96–1144–000]

Take notice that on March 7, 1996, Utility Management Corporation tendered for filing an amendment in the above-referenced docket.

Comment date: March 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Kentucky Utilities Company

[Docket No. ER96–1239–000]

Take notice that on March 1, 1996, Kentucky Utilities Company (KU), tendered for filing a service agreement between KU and Engelhard Power Marketing, Inc. under its TS Tariff. KU requests an effective date of February 27, 1996.

Comment date: March 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Maine Public Service Company

[Docket No. ER96–1240–000]

Take notice that on March 4, 1996, Maine Public Service Company (Maine Public), filed an executed Service Agreement with Green Mountain Power Corporation.

Comment date: March 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. South Carolina Electric & Gas Company

[Docket No. ER96–1241–000]

Take notice that on March 4, 1996, South Carolina Electric & Gas Company, tendered for filing proposed Contract for Purchases and Sales of Power and Energy between South Carolina Electric & Gas Company and Koch Power Services, Inc.

Under the proposed contract, the parties will purchase and sell electric energy and power between themselves. South Carolina Electric and Gas Company also requested waiver of notice in order that the contract be effective on April 1, 1996.

Copies of this filing were served upon Koch Power Services, Inc.

Comment date: March 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Interstate Power Company

[Docket No. ER96–1242–000]

Take notice that on March 4, 1996, Interstate Power Company, tendered for filing a Notice of Cancellation of its Rate Schedule FERC No. 0129.

Comment date: March 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Cinergy Services, Inc.

[Docket No. ER96–1243–000]

Take notice that on March 4, 1996, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Non-Firm Point-to-Point Transmission Service Tariff (the Tariff) entered into between Cinergy and Illinois Power Company.

Comment date: March 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. New England Power Pool

[Docket No. ER96–1244–000]

Take notice that on March 4, 1996, the New England Power Pool Executive Committee filed a signature page to the NEPOOL Agreement dated September 1, 1971, as amended, signed by North American Energy Corporation, Inc. (North American). The New England Power Pool Agreement, as amended, has been designated NEPOOL FPC No. 2.

The Executive Committee states that acceptance of the signature page would permit North American to join the over 90 other electric utilities and independent power producers that already participate in the Pool. NEPOOL further states that the filed signature page does not change the NEPOOL Agreement in any manner, other than to make North American a Participant in the Pool. NEPOOL requests an effective date of May 1, 1996 for commencement of participation in the Pool by North American.

Comment date: March 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. New England Power Pool

[Docket No. ER96–1245–000]

Take notice that on March 4, 1996, the New England Power Pool Executive Committee filed a signature page to the NEPOOL Agreement dated September 1, 1971, as amended, signed by Phibro, Inc. (Phibro). The New England Power Pool Agreement, as amended, has been designated NEPOOL FPC No. 2.

The Executive Committee states that acceptance of the signature page would permit Phibro to join over 90 other electric utilities and independent power producers that already participate in the Pool. NEPOOL further states that the filed signature page does not change the NEPOOL Agreement in any manner, other than to make Phibro a Participant in the Pool. NEPOOL requests an effective date of May 1, 1996, for commencement of participation in the Pool by Phibro.

Comment date: March 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. El Paso Electric Company

[Docket No. ER96–1246–000]

Take notice that on March 4, 1996, El Paso Electric Company (El Paso or the Company), filed a Utility Service Contract with the Department of the Air Force for service to Holloman Air Force Base in Alamogordo, New Mexico (Holloman). The rates charged by EPE for service pursuant to the contract are regulated by the New Mexico Public Utility Commission for retail service.

The Company reiterates in its present filing its request that the Commission disclaim jurisdiction over the sale in view of the *de minimis* amount of resales. If the Commission does not disclaim jurisdiction, the Company asks that the Commission treat the contract as filed effective as of December 27, 1995 as to service which is to be resold by Holloman to non-government users.

Comment date: March 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Florida Power Corporation

[Docket No. ER96–1247–000]

Take notice that on March 4, 1996, Florida Power Corporation tendered for filing an amendment to the All Requirements Electric Service Agreement with the City of Newberry dated September 1, 1988. The amendment (a) prevents either Florida Power or Newberry from seeking any change in the rate schedule for all requirements service or the terms and conditions of that service to become effective prior to January 1, 2006; (b) allows either party to terminate service by giving five years' written notice no earlier than January 1, 2001, and (c) provides for an annual review of the rates in the agreement for service beyond December 1, 2005.

The amendment provides that it shall become effective as soon as a new territorial agreement between the Company and the Customer is approved by the Florida Public Service Commission. The territorial agreement is in the process of being finalized.

Comment date: March 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Southern California Edison Company

[Docket No. ER96–1248–000]

Take notice that on March 4, 1996, Southern California Edison Company (Edison), tendered for filing the following Supplemental Agreement (Supplemental Agreement) to the 1990 Integrated Operations Agreement between the City of Azusa (Azusa) and Edison, FERC Rate Schedule No. 247:

Supplemental Agreement for the Integration of Non-Firm Energy from Idaho Power Company Between Southern California Edison Company and City of Azusa

The Supplemental Agreement sets forth the terms and conditions by which Edison will integrate Azusa's purchases of non-firm energy under the Power Sale Agreement between Azusa and Idaho Power Company during the specified winter months of November through April. Edison is requesting waiver of the 60-day prior notice requirement, and requests that the Commission assign to the Supplemental Agreement an effective date of March 5, 1996.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: March 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–6822 Filed 3–20–96; 8:45 am]

BILLING CODE 6717–01–F

[Docket No. ER96–1249–000, et al.]

Southern California Edison Company, et al.; Electric Rate and Corporate Regulation Filings

March 15, 1996.

Take notice that the following filings have been made with the Commission:

1. Southern California Edison Company

[Docket No. ER96–1249–000]

Take notice that on March 4, 1996, Southern California Edison Company (Edison), tendered for filing the following Supplemental Agreement (Supplemental Agreement) to the 1990 Integrated Operations Agreement between the City of Colton (Colton) and Edison, FERC Rate Schedule No. 249:

Supplemental Agreement for the Integration of Non-Firm Energy From Idaho Power Company Between Southern California Edison Company and City of Colton

The Supplemental Agreement sets forth the terms and conditions by which Edison will integrate Colton's purchases of non-firm energy under the Power Sale Agreement between Colton and Idaho Power Company during the specified winter months of November through April. Edison is requesting waiver of the 60-day prior notice requirement, and requests that the Commission assign to the Supplemental Agreement an effective date of March 5, 1996.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: March 29, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Southern California Edison Company

[Docket No. ER96–1250–000]

Take notice that on March 4, 1996, Southern California Edison Company (Edison) tendered for filing a letter dated December 28, 1995 (Letter), from the City of Colton (Colton). The Letter reduces the Contract Capacity referenced in the 1995, Power Sale Agreement between Colton and Edison, Commission Rate Schedule No. 345.

Edison requests an effective date of June 1, 1996.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: March 29, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. Consumers Power Company

[Docket No. ER96–1251–000]

Take notice that on March 5, 1996, Consumers Power Company, tendered for filing Amendment No. 1 to the wholesale service agreement dated September 19, 1994, providing for the sale of firm and non-firm power to Alpena Power Company.

Copies of the filing were served upon Alpena Power Company and the Michigan Public Service Commission.

Comment date: March 29, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. Southern Company Services, Inc.

[Docket No. ER96–1254–000]

Take notice that on March 5, 1996, Southern Company Services, Inc., acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power company (Southern Companies), tendered for filing an Interchange Service Contract between Southern Companies and Delhi Energy Services. The Interchange Service Contract establishes the terms and conditions of power supply, including provisions relating to service conditions, control of system disturbances, metering and other matters related to the administration of the agreement.

Comment date: March 29, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Florida Power Corporation

[Docket No. ER96–1255–000]

Take notice that on March 5, 1996, Florida Power Corporation tendered for filing (1) an extended letter agreement among Florida Power Corporation, Florida Cities and Seminole Electric Cooperative in which Florida Power agrees to the same rate moratorium provision that it agreed to with Reedy Creek Improvement District in Docket No. ER95–457–000 and (2) rate schedule revisions providing for the moratorium. The Company requests that the rate schedule revisions be allowed to become effective as of March 5, 1996.

Comment date: March 29, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Consolidated Edison Company of New York, Inc.

[Docket No. ER96–1256–000]

Take notice that on March 5, 1996, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing an agreement to provide interruptible transmission service for Gateway Energy, Inc. (Gateway).

Con Edison states that a copy of this filing has been served by mail upon Gateway.

Comment date: March 29, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Consolidated Edison Company of New York, Inc.

[Docket No. ER96–1257–000]

Take notice that on March 5, 1996, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a Supplement to Con Edison Rate Schedule FERC No. 128, the PARS Facilities Agreement under which Con Edison is responsible for the purchase, installation, operation, and maintenance of phase angle regulators at the Branchburg-Ramapo Interconnection between the New York Power Pool (NYPP) and the Pennsylvania-New Jersey-Maryland (PJM) Interconnection. Con Edison has requested waiver of notice requirements so that the Supplement can be made effective as of January 1, 1994.

Con Edison states that a copy of this filing has been served by mail upon NYPP and PJM.

Comment date: March 29, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Cinergy Services, Inc.

[Docket No. ER96–1258–000]

Take notice that on March 5, 1996, Cinergy Services, Inc. (Cinergy), tendered for filing on behalf of its operating companies, The Cincinnati Gas & Electric Company (CG&E) and PSI Energy, Inc. (PSI), an Interchange Agreement, dated February 1, 1996, between Cinergy, CG&E, PSI and Western Gas Resources Power Marketing, Inc. (WGRPM).

The Interchange Agreement provides for the following service between Cinergy and WGRPM.

1. Exhibit A—Power Sales by WGRPM
2. Exhibit B—Power Sales by Cinergy

Cinergy and WGRPM have requested an effective date of April 1, 1996.

Copies of the filing were served on Western Gas Resources Power Marketing, Inc., the Public Utilities Commission of the State of Colorado, the Kentucky Public Service Commission, the Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: March 29, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Louisville Gas and Electric Company

[Docket No. ER96–1259–000]

Take notice that on March 5, 1996, Louisville Gas and Electric Company, tendered for filing copies of a service agreement between Louisville Gas and Electric Company and Koch Power Services, Inc., under Rate GSS.

Comment date: March 29, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Central Illinois Light Company

[Docket No. ER96–1260–000]

Take notice that on March 6, 1996, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61202, tendered for filing with the Commission a substitute Index of Customers under its Coordination Sales Tariff and service agreements for five new customers.

CILCO requested an effective date of March 8, 1996.

Copies of the filing were served on all affected customers parties and the Illinois Commerce Commission.

Comment date: March 29, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power)

[Docket No. ER96–1261–000]

Take notice that on March 4, 1996, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), filed Service Agreements to add the following Customers as of the effective dates listed below:

Catex Vitol Electric, L.L.C., February 5, 1996
Citizens Lehman Power Sales, February 5, 1996
Electric Clearinghouse, Inc., February 5, 1996
Industrial Energy Applications, Inc., February 5, 1996
Louis Dreyfus Electric Power Inc., February 5, 1996
NorAm Energy Services, Inc., February, 1996
Sonat Power Marketing, Inc., February 5, 1996
Tennessee Power Company, February 5, 1996
InterCoast Power Marketing Company, February 7, 1996
Ohio Edison Company, February 12, 1996
PowerNet Corporation, February 16, 1996
CNG Power Services Corporation, February 21, 1996

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission and the West Virginia Public Service Commission.

Comment date: March 29, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company (Allegheny Power)

[Docket No. ER96–1262–000]

Take notice that on March 5, 1996, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), filed a Service Agreement to add PECO Energy Company as a Customer under Allegheny Power's Point-to-Point Transmission Service Tariff which has been accepted for filing by the Federal Energy Regulatory Commission. Allegheny Power proposes to make service available to PECO Energy Company as of February 5, 1996.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission and the West Virginia Public Service Commission.

Comment date: March 29, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. Louisville Gas and Electric Company

[Docket No. ER96–1263–000]

Take notice that on March 6, 1996, Louisville Gas and Electric Company, tendered for filing copies of service agreements between Louisville Gas and Electric Company and Rainbow Energy Marketing Corporation under Rate GSS.

Comment date: March 29, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Saguaro Power Company, a Limited Partnership

[Docket No. QF90–203–001]

On February 21, 1996, Saguaro Power Company, a Limited Partnership (Applicant), submitted for filing an amendment to its filing in this docket.

The amendment provides additional information pertaining to the ownership of its cogeneration facility. No determination has been made that the submittal constitutes a complete filing.

Comment date: April 4, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–6824 Filed 3–20–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–178–000]

Maritimes & Northeast Pipeline, L.L.C.; Notice of Attendance at Meetings and Site Visit

March 15, 1996.

On March 26, 1996, at 10:00 a.m., the Office of Pipeline Regulation (OPR) staff will participate in an inspection with Maritimes & Northeast Pipeline, L.L.C. (M&NP) and the Massachusetts Energy Facilities Siting Board (Siting Board), of the locations to the facilities proposed by M&NP in Massachusetts (M&NP Project).

On March 26 and 28, 1996, at 7:00 p.m., the OPR staff will attend public scoping meetings to be conducted by the Siting Board and the Environmental Policy Act Unit of the Massachusetts Executive Office of Environmental Affairs. These meetings will take place, respectively, in Dracut and Methuen, Massachusetts.

On March 27, 1996, the OPR staff will inspect by helicopter and on the ground, along with M&NP personnel, the locations related to the facilities proposed by M&NP in Massachusetts, New Hampshire, and Maine.

All interested parties may attend. Those planning to attend the March 27, 1996 site inspection must provide their own transportation.

The Commission will issue a notice of its own environmental scoping meetings for this project in the future.

For further information, call Jeff Gerber, (202) 208–1121.

Lois D. Cashell,

Secretary.

[FR Doc. 96–6773 Filed 3–20–96; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 5984–000–NY]

Niagara Mohawk Power Corporation; Notice of Availability of Environmental Assessment

March 15, 1996.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for a new license for the Oswego Falls Hydroelectric Project, located on the Oswego River in the city of Fulton, Oswego County, New York, and has prepared a final Environmental Assessment (EA) for the project. In the EA, the Commission's staff has analyzed the potential environmental impacts of the existing project and has concluded that approval of the project, with appropriate environmental protection or enhancement measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, Room 2A, of the Commission's offices at 888 First Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 96–6768 Filed 3–20–96; 8:45 am]

BILLING CODE 6717–01–M

Notice of Amendments to License Application Filed With the Commission

March 15, 1996.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Type of Application: New License.
b. Project No.: 2188–030.
c. Dates Filed: November 30, 1992. Dates Amended: (1) February 24, 1994; (2) March 21, 1994; (3) March 2, 1995; (4) June 16, 1995; and (5) March 6, 1996.
d. Applicant: Montana Power Company.
e. Name of Project: Missouri-Madison Hydroelectric Project.
f. Location: On the Madison and Missouri Rivers in Gallatin, Madison, Lewis and Clark, and Cascade Counties, Montana.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Applicant Contact: Ms. Linda McGillan, Montana Power Company, 40 East Broadway, Butte, MT 59701, (406) 723–5454, Ext. 73352.
i. FERC Contact: Mr. John McEachern, (202) 219–3056.
j. Comment Date: May 1, 1996.
k. Description of Project: The existing Missouri-Madison Project consists of nine developments described as follows.

The Hebgen Development which includes: a reservoir that stores and regulates flow from a 905 square mile drainage area and has a surface area of 13,000 acres at normal maximum reservoir water level of 6,534.87 feet. Normal maximum reservoir storage is 386,184 acre-feet, of which 378,845 acre-feet are usable storage between elevations 6,473 feet and 6,534.87 feet. Existing structures consist of a diversion dam, an outlet works, a side-channel spillway, several buildings, and two 15 kW diesel-fueled generators. The dam is an earth-filled structure 721 feet long and 85 feet above the streambed. The outlet works consists of an intake structure, an outlet conduit through the dam, and a terminal structure. The spillway, which is located on the right bank of the river, is 375 feet long and discharges to a discharge chute that varies from 47 feet wide at the inlet to 20 feet wide at the downstream end. The downstream end is equipped with a flip bucket that provides energy dissipation into a riprap-lined plunge

pool in the Madison River. The buildings include a residence, garage, recreation residences, and boathouse.

The Madison Development which includes: a reservoir, known as Ennis Lake, that intercepts a drainage area of 2,181 square miles and has a normal maximum surface area of 3,900 acres at elevation 4,841 feet. Normal maximum reservoir storage is 41,917 acre-feet, of which 39,115 acre-feet are usable storage between elevations 4,826 feet and 4,841 feet. Existing structures consist of the diversion dam, intake, a flow line, a surge chamber, penstocks, a powerhouse, and a tailrace. The generating facilities at the powerhouse connect to a 100-kV power line that is part of Montana Power's transmission system. The dam, which is 257 feet long and 38.5 feet high above the streambed, consists of a rock-filled spillway, a concrete intake structure, and two non-overflow abutment sections at each end. The spillway is 140 feet long with roller-equipped side panels for providing control of flow. The intake is at the right end of the spillway and provides flow control to the steel flow line. The flow line, which is 7,500 feet long and 13 feet in diameter, is located on the right side of the river and leads to the surge chamber and the powerhouse. The concrete surge chamber is 38 feet wide, 117 feet long, and 34 feet high, and has an overflow spillway over which water is discharged in the event of a plant trip. Four penstocks 9 feet in diameter and about 90 feet long convey water from the surge chamber to the powerhouse. The powerhouse is 203 feet long, 67 feet wide, and 36 feet high, and contains four generating units and associated equipment.

The Hauser Development which includes: two connected reservoirs, Hauser Lake and Lake Helena, that have a surface area of 5,970 acres and intercept a drainage area of 16,876 square miles. Usable storage capacities are 52,893 acre-feet for Hauser Lake and 11,360 acre-feet for Lake Helena. Existing structures consist of a diversion dam, a forebay, six penstocks, a powerhouse, a tailrace, and two 69-kV transmission lines. A roadway embankment with a sluiceway connection to the main reservoir isolates Lake Helena from Hauser Lake. Hauser Dam is 700 feet long and 80 feet high above the streambead. It consists of a spillway, a non-overflow section, a forebay intake section, a two abutment sections. The spillway is 493 feet long with slidegates and removable flashboards for flow control. The intake, which enters the forebay, is located between the non-overflow section and the right abutment section. The forebay is a concrete structure 250 feet long and 39 feet wide, which directs flow to the powerhouse. Six steel penstocks 12 to 14 feet in diameter convey water from the forebay to the six turbines in the powerhouse, which is 236 feet long and 57 feet wide. Each of the two transmission lines is 12 miles long and extends to the East Helena switching station.

The Holter Development which includes: a reservoir that has a surface area of 4,550 acres at an elevation of 3,564 feet and intercepts an area of 17,150 square miles. Normal maximum reservoir storage is 240,000 acre-feet, of which 81,920 acre-feet are usable storage between elevations 3,543 feet and 3,564 feet. Existing structures consist of a diversion dam, a powerhouse, and a tailrace. The dam is 1,364 feet long and 124 feet high above the streambed. It consists of a central overflow spillway section, right and left non-overflow sections, and a powerhouse intake section. The spillway is 682 feet long with slide gates and removable flashboards for flow control The powerhouse is constructed integrally with the dam and averages 208 feet long and 81 feet wide.

The Black Eagle Development which includes: a reservoir that intercepts an area of 22,100 square miles and has a surface area of 402 acres at the normal maximum reservoir water level of 3,290 feet elevation. Normal maximum reservoir storage is 1,820 acre-feet, of which 1,710 acre-feet are usable storage between elevations 3,279 feet 3,290 feet. Existing structures consist of a diversion dam, a forebay, a powerhouse, and a tailrace. The dam is 782 feet long and 34.5 feet high above the streambed. It consists of a 646-foot-long overflow spillway with removable flashboards for flow control, a 105-foot-long wastegate section with slidegates for flow control, and a right abutment section. The forebay, which forms the left abutment of the dam, is 421 feet long and 96 feet wide and directs flow to the powerhouse. The intake and the powerhouse averages 135 feet long and 50 feet wide and contains three generators. The tailrace channel is about 1,500 feet long with concrete sidewalls.

The Rainbow Development which includes: a reservoir that has a surface area of 126 acres at normal reservoir water level of 3,224 feet. Normal maximum reservoir storage is 1,237 acre-feet, of which 1,170 acre-feet are usable storage between elevations 3,212 feet and 3,224 feet. Existing structures include a diversion dam, three flow lines, a surge tank, a surge chamber, 16 penstocks, a powerhouse, and a tailrace. The dam, which is 1,146 feet long and 44 feet high above the streambed, consists of an overflow spillway, a concrete intake section, and a wastegate structure on the right abutment. The spillway is 1,065 feet long with rubber dams and removable flashboards for flow control. Two adjacent structures totaling about 200 feet wide form the intake, which discharges into flow lines that are about 2,400 feet long. Flow lines for units 7 and 8 have a surge tank 40 feet in diameter and 65 feet high. A standpipe 12 feet in diameter and 45 feet high is upstream of the surge tank. Flow lines for units 1 through 6 lead to the surge chamber, which is 182 feet wide and 346 feet long and has a spillway for discharge of water in the event of a plant trip. Sixteen buried penstocks transfer water from the surge tank and surge chamber to the eight turbine generating units in the powerhouse. The powerhouse is 41 feet wide and 415 feet long with smaller extensions. The tailrace below the powerhouse is about 60 feet wide and 850 feet long.

The Cochrane Development which includes: a reservoir that intercepts an area of 23,270 square miles and has a surface area of 249 acres at the normal maximum reservoir water level of 3,116.5 feet elevation. Normal maximum reservoir storage is 8,464 acre-feet, of which 4,503 acre-feet are usable storage between elevations 3,090 feet and 3,116.5 feet. Existing structures consist of a diversion dam, a powerhouse, a tailrace, and a 100-kV transmission line. The diversion dam is 856 feet long and 100 feet high above the streambed. It has a spillway section, a powerhouse/intake section, and left and right non-overflow sections. The spillway has radial gates for flow control and a standby generator for emergency gate operation. The intake, penstocks, and powerhouse are constructed integrally with the dam. The left and right non-overflow sections are 190 and 144 feet long, respectively. The transmission line is 2.9 miles long and connects the Cochrane Development to the Rainbow Development switchyard.

The Ryan Development which includes: a reservoir that intercepts a drainage area of 23,080 square miles and has a surface area of 168 acres at normal maximum elevation of 3,037 feet. Normal maximum reservoir storage is 3,653 acre-feet, of which 2,440 acre-feet are usable storage between elevations 3,020 feet and 3,037 feet. Existing structures consist of a diversion dam, penstocks, a powerhouse, a tailrace, and two adjacent 100-kV transmission lines. The diversion dam is 1,465 feet long

and 82 feet high above the streambed. It consists of an overflow spillway, a wastegate section, an intake section, and left and right abutment sections. The spillway is 1,000 feet long with removable flashboards for flow control. The wastegate is 129 feet long with gates for flow control and a skimmer gate. The intake section is between the wastegate section and the left abutment and is 135 feet long. The left and right abutments are 150 and 100 feet long, respectively. eight buried 327-foot-long penstocks convey water from the intake to the powerhouse, which is 253 feet long and 80 feet wide with six main generators and two exciters. The tailrace is about 1,500 feet long and tapers from 220 feet wide at its upstream end to 100 feet wide at the discharge. The two adjacent power lines are 4.6 miles long and terminate at the Rainbow Development switching station.

The Morony Development which includes: a reservoir that intercepts a total drainage area of 23,292 square miles and has a surface of 304 acres at normal maximum reservoir water level of 2,887 feet elevation. Normal maximum reservoir storage is 13,598 acre-feet, of which 7,595 acre-feet are usable storage between elevations 2,887 feet and 2,861 feet. Existing structures consist of a diversion dam, a powerhouse integral with the dam, a tailrace, and a 100-kV transmission line. The dam is 842 feet long and 96 feet high above the streambed. It consists of an overflow spillway section, a powerhouse/intake section, and left and right non-overflow sections. The spillway is 390 feet long with nine radial gates for regulating flow and a slide gate for handling trash. The powerhouse/intake section is 195 feet long and contains the penstocks leading to the powerhouse, which is 162 feet long and 58 feet wide. Water is discharged through a short tail race. The left and right non-overflow sections of the dam are 199 and 68 feet long, respectively. The 100-kV transmission line is 8.5 miles long and terminates at the Great Falls switchyard. The original license included a 7.4-mile-long, 100-kV transmission line to the Rainbow Development switchyard.

Amendment 1: On page E–2–60 of the application, Montana Power proposed development of a day use recreation area on the north shore of Ennis Lake at the Madison Development. Montana Power amends this proposal by substituting development of Sandy Beach, also on the north shore of Ennis Lake, as the day use area site. In addition, Montana Power amends its application to reallocate $1 million from the $1.5 million originally proposed for the Black Eagle Recreation Area (page E–5–52 of the application) and $100,000 from the $200,000 originally proposed for the Sulfur Springs Trailhead (page E–5–54 of the application) to partially fund construction of the Lewis and Clark Interpretive Center in Great Falls.

Amendment 2: In the application, Montana Power proposed to conduct a study to evaluate the effects of flow reductions on fisheries and fish habitat in the bypass reach of the Madison River (pages E–2–15 and E–2–16 of the application) and to fund a flushing flow (sediment transport) study in the Madison and Missouri rivers (pages E–1–15, E–2–13, E–4–12, and E–9–9 of the application). Montana Power has subsequently completed final reports on these studies, and amends the application by proposing additional measures to protect, mitigate, and enhance fisheries resources in the Madison River bypass reach and measures to maintain adequate flushing flows in the Madison River Downstream of Hebgen and Madison dams. Additional measures proposed for the Madison River bypass include:

(1) Funding for initial supplementation of spawning gravels at three key locations within the bypass reach ($27,000);

(2) Funding for annual replacement of spawning gravels transported by high flows at key locations within the bypass reach. The proposed Madison River fisheries biologist (page E–2–14 of the application) would evaluate the feasibility of introducing replacement gravels at upstream reaches in the bypass (e.g., below Madison Dam). If feasible, this method could replenish spawning gravels at key sites by natural downstream transport during high flows ($5,500 per year for gravel replacement at three key sites; $2,000 per year if gravel replacement at a single upstream site is feasible);

(3) Maintaining an instantaneous minimum spawning flow of 200 cfs in the bypass reach from April 1 through June 30, and an instantaneous minimum (maintenance) flow of 80 cfs in the bypass reach from July 1 through March 31 ($97,693 per year);

(4) In the bypass reach, flow reductions from 600 cfs to minimum flow would not exceed 100 cfs per hour, and flow increases from less than 600 cfs to 600 cfs would not exceed 100 cfs per hour (except when needed to meet the 1,100 cfs minimum flow below the powerhouse or to avoid overfilling Ennis Lake);

(5) Establishing a permanent flow gauge station in the bypass reach to monitor instantaneous minimum flow and flow ramping rate (at bypass streamflows less than 600 cfs); and

(6) Activities of the proposed Madison River fisheries biologist (page E–2–14 of the application) may include: (1) monitoring of salmonid species specific habitat usage and preference in the bypass reach; (2) analysis of invertebrate drift and fish populations relative to bypass reach flows; (3) spawning gravel supplementation and evaluation; and, (4) additional fish outmigration trapping and standing surveys during bypass reach upramping and downramping periods.

Additional measures proposed for flushing flows include:

(1) Operating Hebgen Dam (pages E–1–7 to E–1–9 of the application) and Madison Dam (pages E–2–4 to E–2–6 of the application) in recognition of continued flushing flow needs in the Upper Madison River and funding further investigation of flushing flow needs in the Lower Madison River near Norris and Greycliff;

(2) Cooperating with the Bureau of Reclamation, in consultation with other agencies, and the public to determine appropriate releases from Canyon Ferry Dam to meet flushing flow needs in the Missouri River below Canyon Ferry, Holter, and Hauser dams; and

(3) Monitoring flushing flow needs in the Upper and Lower Madison River near Kirby Ranch, Ennis, Norris, and Greycliff for 3 consecutive years (1995–1997) to establish baseline conditions, and every 5 years thereafter for the term of the new license.

Amendment 3: On pages A–2–1 through A–2–6 of the application, Montana Power proposed replacing the existing four Madison Development horizontal turbines and generators with four vertical Francis turbines and four vertical shaft generators. Montana Power amends this proposal by substituting rehabilitation and upgrade modifications to the four existing horizontal turbines and generators.

Amendment 4: On pages C–2–1, C–3–1, C–6–1, and C–8–1 of the application, Montana Power proposed schedules for completing modifications and/or expansions at the Madison, Hauser, Rainbow, and Ryan developments, respectively. All construction dates were based on the assumption that a new license would be issued in 1994. Montana Power amends this proposal by changing the construction dates for the Madison, Hauser, and Rainbow developments and by deleting the proposed modification to the Ryan Development, as follows:

Development name	Application construction start date	Amendment construction start date[1]	Amended on-line date
Madison	1995	2001	Late 2002.
Hauser	1998	2000	Late 2002.
Rainbow	1996	2006	2010
Ryan	Subject to additional study.	None. No plans for construction at this time.	None at this time.

[1] These dates assume that a new license will be issued in the last quarter of 1996.

Amendment 5: Montana Power's fifth amendment to the license application includes the revisions and material listed below.

(1) Throughout the application, Montana Power refers to the operating level of Cochrane Reservoir as 3,115.0 feet. This amendment is to change all references to the operating level of Cochrane Reservoir from 3,115.0 feet to 3,116.5.

(2) Montana Power submitted at Madison Thermal Mitigation Plan to the Commission on June 30, 1995. This amendment includes a revised Final Madison Thermal Mitigation Plan.

(3) In its August 21, 1995, filing with the Commission, Montana Power stated that it would submit the Comprehensive Recreation Plan Executive Summary upon its completion. This amendment includes the Comprehensive Recreation Plan Executive Summary.

(4) In its August 21, 1995, filing with the Commission, Montana Power stated that the 1995 Madison River temperature and meteorological field data would be available in November. This amendment includes the 1995 temperature and meteorological data.

(5) Since filing the final application, Montana Power has completed some of the proposed enhancement measures in Exhibit E, and some of the cost estimates of enhancements have been updated. This amendment includes revised Exhibit E tables that depict these changes in cost estimates and summarize the funds Montana Power has spent on various enhancement measures since filing the application in 1992.

(6) In its August 21, 1995, filing with the Commission, Montana Power provided updated Benefit/Cost Work Papers for all the Missouri-Madison developments based on its 1995 *Electric Integrated Least Cost Resources Plan* (ILCP). This amendment includes newly updated and revised Benefit/Cost Work Papers.

l. Available Location of Application: A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 1st Street, NE., Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Montana Power Company, 40 East Broadway, Butte, MT 59701 or by calling (406) 723–5454.

m. Refiling of comments on the original application or motions to intervene in this docket is not necessary. This notice supplements the notice issued April 6, 1995, for Montana Power Company's Project No. 2188–030. Comments on the amendments to the license application should be filed by May 1, 1996.

n. Montana Power's responses to comments on the amendments to the license application should be filed by June 1, 1996.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters and title "COMMENTS," "RECOMMENDATIONS FOR TERMS AND CONDITIONS," or "PROTEST", "MOTION TO INTERVENE," as applicable, and the project number of the particular application to which the filing is in response. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 1st Street, NE., Washington, DC 20436. An additional copy must be sent to: the Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the applicant specified in the particular application.

p. This notice also consists of the following standard paragraph: B.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules and Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Lois D. Cashell,

Secretary.

[FR Doc. 96–6767 Filed 3–20–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–235–000, et al.]

Southern Natural Gas Company, et al.; Natural Gas Certificate Filings

March 14, 1996.

Take notice that the following filings have been made with the Commission:

1. Southern Natural Gas Company

[Docket No. CP96–235–000]

Take notice that on March 6, 1996, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202–2563, filed in Docket No. CP96–235–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to construct and operate a new natural gas delivery point located in Etowah County, Alabama under Southern's blanket certificate issued in Docket No. CP82–406–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Southern proposes to construct and operate a new delivery point consisting of two 6-inch turbine meters and other appurtenant facilities for DeKalb-Cherokee County Gas District (DeKalb-Cherokee). Southern states that the new facilities would cost approximately $307,700 and DeKalb-Cherokee would reimburse Southern for these costs. Southern adds that DeKalb-Cherokee would construct, own and operate, as part of its natural gas distribution system, 58 miles of 10 or 12 inch diameter pipeline extending from the outlet of the proposed meter station to its existing distribution system.

Southern states that DeKalb-Cherokee does not propose to add any additional transportation demand to its firm service agreements as a result of the addition of the delivery point. Southern asserts that DeKalb-Cherokee has elected to assign a Maximum Daily Delivery Quantity of 5,657 Mcf of gas per day from its existing delivery point to the proposed new delivery point. Southern estimates that average annual gas deliveries at the new delivery point would be 1,095,000 Mcf. Southern mentions that the proposed facilities will have no adverse effect on its ability to provide its peak day or firm deliveries.

Comment date: April 29, 1996, in accordance with Standard Paragraph G at the end of this notice.

2. Northwest Pipeline Corporation

[Docket No. CP96–236–000]

Take notice that on March 7, 1996, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84158, filed in Docket No. CP96–236–000 a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216) for authorization to abandon certain facilities and construct and operate replacement facilities under Northwest's blanket certificate issued in Docket No. CP82–433–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northwest proposes to abandon certain undersized facilities and construct and operate replacement facilities in order to provide firm service to Washington Water Power Company at a cost of $260,880.

Comment date: April 29, 1996, in accordance with Standard Paragraph G at the end of this notice.

3. Williams Natural Gas Company

[Docket No. CP96–240–000]

Take notice that on March 8, 1996, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP96–240–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to utilize facilities originally installed for transportation of natural gas under Section 311 of the Natural Gas Policy Act of 1978 (NGPA) for purposes other than NGPA Section 311 transportation under WNG's blanket certificate issued in Docket No. CP82–479–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

WNG proposes to utilize the NGPA Section 311 facilities originally installed for transportation of natural gas to Tartan Energy Company (Tartan) located in Greene County, Missouri for deliveries of gas other than NGPA Section 311 transportation. The facilities consist of a dual 4-inch meter run, regulator and electronic flow measurement equipment. WNG states that the cost to construct the facilities was $105,070. WNG states that the authorization requested would allow Tartan additional receipt point flexibility in the future.

WNG states that the proposed change is not prohibited by an existing tariff and that it has sufficient capacity to accomplish the deliveries estimated as up to 10,100 Dth per day and annual volume of 2,000,000 Dth without detriment or disadvantage to its other customers.

Comment date: April 29, 1996, in accordance with Standard Paragraph G at the end of this notice.

4. Tennessee Gas Pipeline Company

[Docket No. CP96–241–000]

Take notice that on March 11, 1996, Tennessee Gas Pipeline Company (Tennessee), Post Office Box 2511, Houston, Texas 77252, filed a request with the Commission in Docket No. CP96–241–000 pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to modify an existing receipt point to provide a delivery point for Hunt Petroleum Corporation (Hunt Petroleum), authorized in blanket certificate issued in Docket No. CP82–413–000, all as more fully set forth in the request on file with the Commission and open to public inspection.

Tennessee proposes to establish a delivery point for Hunt Petroleum by modifying an existing receipt point located at Tennessee's Milepost 525A–101+0.33 in Plaquemines Parish, Louisiana. To accomplish this Tennessee would remove an existing check valve, fabricate, install, own, operate and maintain a tie-in assembly and install measurement charts at Hunt Petroleum's platform. Hunt Petroleum will own and Tennessee will inspect Hunt Petroleum's installation of a 2 inch orifice meter that would be used as the delivery meter for Hunt Petroleum's gas lift operations.

Comment date: April 29, 1996, in accordance with Standard Paragraph G at the end of this notice.

5. Transcontinental Gas Pipe Line Corporation

[Docket No. CP96–242–000]

Take notice that on March 11, 1996, Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1396, Houston, Texas 77251, filed in Docket No. CP96–242–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon an off system gas supply facility located in Hidalgo County, Texas, all as more fully set forth in the application on file with the Commission and open to public inspection.

Transco proposes to abandon the facility, which consists of approximately 2.47 miles of small diameter pipeline and an associated meter located in the South McAllen field in Hidalgo County. Transco proposes to retire the line in place and to remove the meter. It is stated that the facility was constructed under Commission authorization in Docket Nos. CP78–541, CP79–506, and CP80–415. Transco requests abandonment authorization because the pipeline has developed a leak which would require repairs costing $30,000 which Transco has determined is uneconomical. It is asserted that Transco has minimal gas supplies located behind the facility. It is further asserted that the abandonment would have no impact on Transco's customers or rate schedules.

Comment date: April 4, 1996, in accordance with Standard Paragraph F at the end of this notice.

6. Northern Natural Gas Company

[Docket No. CP96–244–000]

Take notice that on March 13, 1996, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed a prior notice request with the Commission in Docket No. CP96–244–000 pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to abandon three small volume meter stations (farm taps) in Nebraska and Minnesota under Northern's blanket certificate issued in Docket No. CP82–401–000 pursuant to Section 7 of the NGA, all as more fully set forth in the request which is open to the public for inspection.

Northern proposes to abandon by removal three farm taps located in Johnson County, Nebraska, and Dodge County, Minnesota, and currently served by Peoples Natural Gas Company. Northern states that it would remove taps from farms belonging to Kevin Kuhlman in Johnson County, Bernice Hackenmiller in Dodge County, and Ken and Dorothy Mensing in Dodge County, all who have requested the removals.

Comment date: April 29, 1996, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–6823 Filed 3–20–96; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5443–5]

Agency Information Collection Activities Up for Renewal; Request for Comments: Beach Closing Survey Report on the Great Lakes (OMB Control Number 2090–003)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB). Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before May 20, 1996.

ADDRESSES: Great Lakes National Program Office, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, G–9J, Chicago, IL 60604–3590.

Request copy of Beach Closing Survey questionnaire from David C. Rockwell, Environmental Scientist at the above address or locate electronically at http://glnpogis2.r05.epa.gov/glnpo/glnpo.html

FOR FURTHER INFORMATION CONTACT: David C. Rockwell, phone (313) 353–1373; fax: (312) 353–2018; email: Rockwell.David@epamail.epa.gov

SUPPLEMENTARY INFORMATION: Affected entities: Entities affected by this action are city and county public health agencies involved with monitoring bathing beach water quality.

Title: Beach Closing Survey Report on the Great Lakes, OMB Control Number 2090–0003, August 31, 1999.

Abstract: This information collection will provide a summary report on the number and extent of beaches closed in the Great Lakes Basin. The information is used to respond to public inquiry about bathing beach recreational water quality. Response by county or city public health agencies to this collection of information is voluntary. The information collected consists of public records and is not of a sensitive nature.

A Federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The Great Lakes National Program Office sends twelve questions (contact David Rockwell for copy) to county or city public health agency officials who maintain beach closing information as a matter of public record for the public bathing beaches under their jurisdiction. The twelve questions have been answered in prior years. The respondent is provided with a copy of the previous year questionnaire, along with the questionnaire for the current year, and asked to note if there were any beaches closed. Questions six and seven are answered every year. Other questions may not require answers if conditions or procedures have not changed. There have been approximately 100 inquiries sent with near 100 percent response. A summary report allows the Great Lakes National Program Manager, United States Environmental Protection Agency (USEPA) to report promptly the annual status of beaches closed to anyone seeking this information. The EPA would like to solicit comments to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The public reporting burden for this collection of information is estimated to average 30 minutes per questionnaire response.

Dated: March 1, 1996.

Vicki Thomas,

Acting Director, Great Lakes National Program Office.

[FR Doc. 96–6723 Filed 3–19–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Being Reviewed by FCC For Extension Under Delegated Authority 5 CFR 1320 authority, Comments Requested

March 14, 1996.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commissions burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. The FCC is reviewing the following information collection requirements for possible 3-year extension under delegated authority 5 CFR 1320, authority delegated to the Commission by the Office of Management and Budget (OMB).

DATES: Written comments should be submitted on or before May 20, 1996. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESS: Direct all comments to Dorothy Conway, Federal Communications, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to dconway@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0236.
Title: Section 74.703 Interference.
Form Number: None.
Type of Review: Extension of existing collection.
Respondents: Business or other for-profit.
Number of Respondents: 10.
Estimated Time Per Response: 12 hours (this time is split between cost and burden, 2 hours burden for the licensee and 10 hours cost for a communications attorney).
Total Annual Burden: 20 hours.
Needs and Uses: Section 74.703(f) requires licensees of low power TV or TV translator stations causing interference to other stations to submit a report to the FCC detailing the nature of interference, source of interfering signals, and remedial steps taken to eliminate the interference. This report is to be submitted after operation of the station has resumed. The data is used by FCC staff to determine that the licensee has eliminated all interference caused by operation of their station.

OMB Approval Number: 3060–0248.
Title: Section 74.751 Modification of Transmission Systems.
Form Number: None.
Type of Review: Extension of an existing collection.
Respondents: Business or other for-profit.
Number of Respondents: 200.
Estimated Time Per Response: 0.5 hours.
Total Annual Burden: 100.
Needs and Uses: Section 74.751(c) requires licensees of low power TV or TV translator stations to send written notification to the FCC of equipment changes which may be made at licensee's discretion without the use of a formal application. Section 74.751(d) requires that licensees of low power TV or TV translator stations place in the station records a certification that the installation of new or replacement transmitting equipment complies in all respects with the technical requirements of this section and the station authorization. The notifications and certifications of equipment changes are used by FCC staff to assure that the equipment changes made are in full compliance with the technical requirements of this section and the station authorizations and will not cause interference to other authorized stations.

OMB Approval Number: 3060–0095.
Title: Annual Employment Report - Cable Television.
Form Number: FCC 395–A.
Type of Review: Extension of an existing collection.
Respondents: Business or other for-profit.
Number of Respondents: 2,564.
Estimated Time Per Response: 1.75 hours/form; 0.25/certification; 2.417 hours/supplemental information sheet
Total Annual Burden: 4,683 hours.
Needs and Uses: The Annual Employment Report (FCC 395-A) is a data collection device used to assess and enforce the Commission's EEO requirements. The report identifies employees by gender, race, color and/or national origin in nine major job categories. Every cable entity with 6 or more full-time employees and all Satellite Master Antenna Television Systems serving 50 or more subscribers and having 6 or more full-time employees must file annually a full FCC 395-A. However, cable entities with 5 or fewer full-time employees must only file Sections I, II and IX of the FCC 395-A and thereafter need not file again unless its employment increases. In addition, cable entities with 6 or more full-time employees will file a Supplemental Investigation Sheet once every 5 years. The data is used by FCC staff to monitor a cable unit's efforts to afford equal employment opportunity in employment. The data is also used to assess industry trends.

OMB Approval Number: 3060–0574.
Title: MVPD Annual Employment Report.
Form Number: FCC 395–M.
Type of Review: Extension of an existing collection.
Respondents: Business or other for-profit.
Number of Respondents: 155.
Estimated Time Per Response: 1.75 hours/form; 0.25/certification; 2.417 hours/supplemental information sheet.
Total Annual Burden: 232 hours.
Needs and Uses: Section 22(e) of the Cable Television Consumer Protection Act of 1992 (1992 Cable Act) amends the definition of "cable operator" for EEO purposes to include program packages of multiple video program distributors (MVPD) using owned or leased transport facilities in the multipoint distribution service (MDS), multichannel, multipoint distribution service (MMDS), direct broadcast satellite (DBS), television receive only (TVRO) and video dialtone facilities to provide multiple channels of video programming. The MVPD Annual Employment Report (FCC 395-M) is a data collection device used to assess and enforce the Commission's EEO requirements. The report identifies employees by gender, race, color and/or national origin in nine major job categories. The FCC 395–M contains a

grid which collects data on full and part-time employees, collects hiring and promotion data for senior upper-level job categories, and a list of job titles within each of the 15 job categories. MVPD units may submit computer-generated lists of job titles which are currently maintained for internal recordkeeping purposes. Every MVPD unit with 6 or more full-time employees must file annually a full FCC 395-M. However, MVPD units with 5 or fewer full-time employees must only file Sections I, II and IX of the FCC 395-M and thereafter need not file again unless its employment increases. In addition, MVPD units with 6 or more full-time employees will file a Supplemental Investigation Sheet once every 5 years. The data is used by FCC staff to monitor a MVPD unit's efforts to afford equal employment opportunity in employment. The data is also used to assess industry trends.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–6760 Filed 3–20–96; 8:45 am]

BILLING CODE 6712–01–F

Public Safety Wireless Advisory Committee; Subcommittee Meetings

AGENCIES: National Telecommunications and Information Administration (NTIA), Commerce, and Federal Communications Commission (FCC).

ACTION: Notice of the next meetings of the Spectrum Requirements, Interoperability, Technology, Operational Requirements and Transition Subcommittees, and the Steering Committee of the Public Safety Wireless Advisory Committee.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, this notice advises interested persons of the next meetings of the five Subcommittees and Steering Committee of the Public Safety Wireless Advisory Committee. The NTIA and the FCC established a Public Safety Wireless Advisory Committee, Subcommittees, and Steering Committee to prepare a final report to advise the NTIA and the FCC on operational, technical and spectrum requirements of Federal, state and local Public Safety entities through the year 2010. All interested parties are invited to attend and to participate in the next round of meetings of the Subcommittees and the Steering Committee.

DATES: April 10 through 12, 1996.

ADDRESSES: Admiral Kidd Club (Officers Club), Naval Training Center, Harbor Dr. and Laning Rd. (Gate 10), San Diego, CA 92133.

FOR FURTHER INFORMATION CONTACT: For information regarding the Subcommittees, contact:

Interoperability Subcommittee: James E. Downes at 202–622–1582
Operational Requirements Subcommittee: Paul H. Wieck at 515–281–5261
Spectrum Requirements Subcommittee: Richard N. Allen at 703–630–6617
Technology Subcommittee: Alfred Mello at 401–738–2220
Transition Subcommittee: Ronnie Rand at 904–322–2500 or 800–949–2726 ext. 600.

For information regarding accommodations and transportation, contact: Deborah Behlin at 202–418–0650 (phone), 202–418–2643 (fax), or dbehlin@fcc.gov (email). You may also contact Ms. Behlin for general information concerning the Public Safety Wireless Advisory Committee. Information is also available from the Internet at the Public Safety Wireless Advisory Committee homepage (http://pswac.ntia.doc.gov).

SUPPLEMENTARY INFORMATION: The Steering Committee and the five Subcommittees of the Public Safety Wireless Advisory Committee will hold consecutive meetings over a three day period, Wednesday through Friday, April 10, 11, 12, 1996. The expected arrangement of the meetings, which is subject to change at the time of the meetings, is as follows:

April 10: The Steering Committee and then the Transition Subcommittee will meet consecutively starting at 9:00 a.m.

April 11: The Operational Requirements Subcommittee and then the Technology Subcommittee will meet consecutively starting at 9:00 a.m.

April 12: The Interoperability Subcommittee and then the Spectrum Requirements Subcommittee will meet consecutively starting at 9:00 a.m.

The tentative agenda for each subcommittee meeting is as follows:

1. Welcoming Remarks
2. Approval of Agenda
3. Administrative Matters
4. Work Program/Organization of Work
5. Meeting Schedule
6. Agenda for Next Meeting
7. Other Business
8. Closing Remarks

The tentative agenda for the Steering Committee meeting is as follows:

1. Welcoming Remarks
2. Approval of Agenda
3. Administrative Matters
4. Work Program/Organization of Work
5. Meeting Schedule
6. Agenda for Next Meeting
7. Other Business
8. Closing Remarks

Anyone who is submitting papers, information, or written comments to the Steering Committee or any of the five subcommittees is asked to provide 100 copies at time of submittal.

The tentative schedule and general location of future meetings of the Subcommittees of the Public Safety Wireless Advisory Committee is as follows: May 29, 30, 31, 1996, at Scott AFB, Illinois (near St Louis, MO), June 1996, in Washington, DC.

The tentative schedule and general location of the next full meeting of the Public Safety Wireless Advisory Committee is: June 1996, in Washington, DC.

The Co-Designated Federal Officers of the Public Safety Wireless Advisory Committee are William Donald Speights, NTIA, and John J. Borkowski, FCC. For public inspection, a file designated WTB–1 is maintained in the Private Wireless Division of the Wireless Telecommunications Bureau, Federal Communications Commission, Room 8010, 2025 M Street, NW., Washington, DC 20554.

Federal Communications Commission.

Robert H. McNamara,

Chief, Private Wireless Division, Wireless Telecommunications Bureau.

[FR Doc. 96–6794 Filed 3–20–96; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

DATE AND TIME: Tuesday, March 26, 1996 at 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.
Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration
Internal personnel rules and procedures or matters affecting a particular employee

DATE AND TIME: Thursday, March 28, 1996 at 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC (ninth floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes
Title 26 Certification Matters
Advisory Opinion 1996–7:

Sharon Ayres of Harry Browne for President
Advisory Opinion 1995–47:
Congressman Robert Underwood.
Legislative Recommendations 1996
(continued from meeting of March 21, 1996, if necessary)
Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 219–4155.

Delores Hardy,

Administrative Assistant.

[FR Doc. 96–7072 Filed 3–19–96; 3:50 pm]

BILLING CODE 6715–01–M

FEDERAL LABOR RELATIONS AUTHORITY

Federal Employees; Criteria To Be Applied in Determining Whether To Transfer Employees From One Collective Bargaining Unit to Another When Both Affected Labor Organizations Agree on the Transfer

AGENCY: Federal Labor Relations Authority.

ACTION: Notice of opportunity to file briefs as *amici curiae* in a proceeding before the Federal Labor Relations Authority in which the Authority is determining whether to grant a petition seeking to transfer employees from one established collective bargaining unit to another.

SUMMARY: The Federal Labor Relations Authority provides an opportunity for all interested persons to file briefs as *amici curiae* on significant issues arising in a case pending before the Authority. The Authority is considering this case pursuant to its responsibilities under the Federal Service Labor-Management Relations Statute, 5 U.S.C. 7101–7135 (1988) and its regulations set forth at 5 CFR part 2422 (1994). The issues concern the criteria to be applied to determine whether to grant a petition seeking to transfer employees from one established, nationwide, consolidated collective bargaining unit to another such unit when the exclusive representatives of both units agree on the transfer.

DATES: Briefs submitted in response to this notice will be considered if filed by close of business on April 19, 1996. Extensions of time will not be granted. The date of filing shall be determined by the date of mailing, as indicated by the postmark date. If no postmark date is evident on the mailing, it shall be presumed to have been mailed 5 days prior to receipt. If filing is by personal delivery, it shall be considered filed on the date it is received by the Authority.

ADDRESSES: Mail or deliver briefs to James H. Adams, Acting Director, Case Control Office, Federal Labor Relations Authority, 607 14th Street, NW., Suite 415, Washington, DC 20424–0001.

FORMAT: All briefs shall be captioned "*National Association of Government Employees/Service Employees International Union, Local 5000 and Service Employees International Union and U.S. Department of Veterans Affairs*, No. WA–AC–50071, Amicus Brief" and shall contain separate, numbered headings for each issue discussed. Parties must submit an original and four (4) copies of each amicus brief, with any enclosures, on 8½ × 11 inch paper.

FOR FURTHER INFORMATION CONTACT: James H. Adams, Acting Director, Case Control Office, Federal Labor Relations Authority, 607 14th Street, NW., Suite 415, Washington, DC 20424–0001, Telephone: FTS or Commercial (202) 482–6540.

SUPPLEMENTARY INFORMATION: On March 15, 1996, the Authority granted, in part, an application for review of the Regional Director's Decision and Order in *National Association of Government Employees/Service Employees International Union, Local 5000 and Service Employees International Union and U.S. Department of Veterans Affairs*, No. WA–AC–50071. A copy of the decision may be obtained in the Authority's Case Control Office at the aforementioned address; a copy will be forwarded (by mail or facsimile) to any person who so requests by contacting James H. Adams at the same address. A brief summary of the case follows.

The petition in this case, which was filed jointly by the National Association of Government Employees/Service Employees International Union, Local 5000 (NAGE/SEIU or NAGE) and the Service Employees International Union (SEIU), seeks an amendment of certification to transfer employees from a bargaining unit for which SEIU is the exclusive representative to a unit for which NAGE is the exclusive representative. The Agency maintained a "neutral position" regarding the petition in proceedings before the RD, and filed no submissions with the Authority.

In 1978, the National Association of Government Employees was certified as the exclusive representative of a nationwide, consolidated bargaining unit composed of certain nonprofessional employees of the Agency. In 1982, the National Association of Government Employees affiliated with SEIU and became NAGE/SEIU. SEIU "has jurisdiction over NAGE." Currently, NAGE represents approximately 10,200 nonprofessional employees in this unit.

Since 1980, SEIU has represented a nationwide, consolidated bargaining unit of other nonprofessional employees of the Agency, including approximately 900 employees at the Agency's Medical Center in San Diego, California, who are represented by SEIU Local 102. There are approximately 9,800 employees in SEIU's consolidated unit. SEIU, Local 102 and the Agency's Medical Center in San Diego are parties to a collective bargaining agreement.

The joint petitioners seek to "sever" the San Diego Medical Center employees from SEIU's consolidated unit and include them in NAGE's consolidated unit. The petition was filed after a "special meeting" was held among SEIU Local 102 members, at which the sole subject was the transfer of affiliation from SEIU to NAGE. All SEIU Local 102 members were invited to the meeting. Following a discussion of the issue of the transfer of affiliation, a total of five members voted unanimously, by secret ballot, to transfer representation from SEIU to NAGE.

The RD dismissed the petition on the ground that the joint petitioners had failed to establish the "unusual circumstances" necessary under Authority case law to justify severance of employees from a bargaining.

The Authority granted review under § 2422.17(c)(1) of the Authority's regulations, 5 CFR 2422.17(c)(1), on the ground that there is an absence of precedent on the following issues:

1. Should the facts that the joint petitioners agree that the San Diego employees should be severed from the SEIU unit and included in the NAGE unit, and/or that the agency does not oppose such agreement, be considered in resolving the petition in this case?

2. If those facts are considered, what principles should be used to determine whether to grant the petition?

(a) As to severance, for example, should SEIU's agreement be accorded the same effect as the disclaimer in *Treasury*? It is noted, in this regard, that there is no suggestion that SEIU would disclaim interest in representing the San Diego employees if the petition is dismissed.

(b) As to accretion, for example, should the joint petitioners' agreement be considered dispositive in light of the Agency's neutral position? Are there any circumstances that would override the agreement? Are there any circumstances in which an election should be directed?

The Authority directed the parties to file briefs on the foregoing issues as well as an issue whether, if the petition were to be granted, the resulting units would continue to be appropriate within the meaning of 5 U.S.C. 7112. As these matters are likely to be of concern to agencies, labor organizations, and other interested persons, the Authority finds it appropriate to provide for the filing of amicus briefs addressing these issues.

Dated: March 18, 1996.

For the Authority.

James H. Adams,

Acting Director, Case Control Office.

[FR Doc. 96–6843 Filed 3–20–96; 8:45 am]

BILLING CODE 6727–01–M

FEDERAL MARITIME COMMISSION

Automated Tariff Filing and Information System, Firms Certified for Batch Filing Capability

[Of At Least One Type of Tariff]

As of March 13, 1996

Calcutta, East Coast of India and Bangladesh/U.S.A. Conference, Metuchen, New Jersey
Dart Maritime Service, Bethlehem, Pennsylvania
Distribution Publications, Inc. ("DPI"), Oakland, California
D.X.I., Inc., Pittsburgh, Pennsylvania
Effective Tariff Management Corporation ("ETM"), Bowie, Maryland
Expeditors International ("EI"), Seattle, Washington
Flexible Business Systems, Inc., Miami, Florida
Glenserve Company, Glendora, New Jersey
Insight Consulting Group, Saddle Brook, NJ
Japan-Atlantic and Gulf Freight Conference, Tokyo, Japan
Japan-Puerto Rico & Virgin Island Freight Conference, Tokyo, Japan
Japan-United States Eastbound Freight Conference, Tokyo, Japan
King Ocean Central America, S.A., ("KOCA"), Gundo Alt, Panama
King Ocean Service de Venezuela, S.A. ("KOSDV"), Chuao, Caracas
Logistical Concepts Ltd. ("LCL"), Drexel Hill, Pennsylvania
Maersk Inc., San Francisco, California
Mariner Systems, Inc. San Francisco, California
Maritime Management International, Inc., Miami, Florida
Matson Navigation Company, Inc., San Francisco, California
Matson Terminals, Inc., San Francisco, California
Miller Traffic service, Inc., Maywood, California
Nippon Yusen Kaisha ("NYK"), San Francisco, California
NVO Tariff Services, Fremont, California
NX Corp., Columbia, Maryland
Ocean Tariff Bureau, Long Beach, California
Pacific Coast Tariff Bureau ("PCTB"), San Francisco, California
Paramount Tariff Services, Ltd. ("PTS"), Torrance, California
Rijnhaave Information Services, Inc., and World Tariff Services, Inc. ("WTS"), Union, New Jersey
Simple Transportation Solutions International, Titusville, Florida
Star Shipping A/S, San Francisco, California
Sumner Tariff Services, Inc. Washington, D.C.
Tariff Data Services, Houston, Texas
Transamericas T.I.S., Inc., Falls Church, Virginia
Transax Systems, Bridgewater, New Jersey
Trans-Pacific Freight Conference of Japan, Tokyo, Japan
Transportation Services, Inc. ("TSI"), Fort Lauderdale, Florida
U.S. Traffic Service, Torrance, California
Wallenius Lines AB, Woodcliff Lake, New Jersey
Wallenius Lines North America, Inc., Woodcliff Lake, New Jersey
Zim Container Service, Inc., New York, New York

Note: In the certification process, some certificants used software developed by other firms and may not be holding themselves out of file tariffs for the public, generally.

Joseph C. Polking,

Secretary.

[FR Doc. 96–6821 Filed 3–20–96; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 4, 1996.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Rickie L. Wiggs, and Gary F. Hileman*, both Grand Tower, Illinois; each to acquire an additional 13.3 percent each, for a total of 33.3 percent, of the voting shares of Shawnee Bancshares, Inc., Grand Tower, Illinois.

Board of Governors of the Federal Reserve System, March 15, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96-6785 Filed 3-20-96; 8:45 am]

BILLING CODE 6210-01-F

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices" (12 U.S.C. 1843). Any request for

a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 15, 1996.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. Bank of Boston Corp., Boston, Massachusetts; to acquire 100 percent of the voting shares of, and merge with The Boston Bancorp, Boston, Massachusetts, and thereby indirectly acquire South Boston Savings Bank, Boston, Massachusetts.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. International Bancorporation, Golden Valley, Minnesota; to acquire 100 percent of the voting shares of Northern National Bank, Nisswa, Minnesota, a *de novo* bank.

2. White Pine Bancorp, Inc., Pine River, Minnesota, and Randall Bancorp, Inc., Pine River, Minnesota, and Norbanc Group, Inc., Pine River, Minnesota, to acquire 8.67 percent of the voting shares of Bankers Capital Corporation, Lusk, Wyoming, and thereby indirectly acquire Lusk State Bank, Lusk, Wyoming.

Board of Governors of the Federal Reserve System, March 15, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96-6786 Filed 3-20-96; 8:45 am]

BILLING CODE 6210-01-F

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.25 of Regulation Y (12 CFR 225.25) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act, including whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices" (12 U.S.C. 1843). Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 4, 1996.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. One Valley Bancorp of West Virginia, Inc., Charleston, West Virginia; to acquire CSB Financial Corporation, Lynchburg, Virginia, and its subsidiary, Co-operative Savings Bank, FSB, Lynchburg, Virginia, and thereby engage in operating a savings association and engage in securities and mutual funds brokerage activities, pursuant to §§ 225.25(b)(9) and (15) of the Board's Regulation Y.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Sword Financial Corporation, Horicon, Wisconsin; to engage *de novo* in making and servicing loans, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

C. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Emprise Financial Corporation, Wichita, Kansas; to acquire Wichita Federal Savings and Loan Association, Wichita, Kansas, and thereby engage in operating a savings association, pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, March 15, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96-6787 Filed 3-20-96; 8:45 am]

BILLING CODE 6210-01-F

GOVERNMENT PRINTING OFFICE

Depository Library Council to the Public Printer; Meeting

The Depository Library Council to the Public Printer (DLC) will hold its Spring 1996 meeting on Monday, April 15, 1996, through Thursday, April 18, 1996, in Arlington, Virginia. The meeting sessions will take place from 8:30 a.m. until 5 p.m. on Monday, Tuesday, Wednesday and from 8:30 a.m. until 12 noon on Thursday. The sessions will be held at the Washington National Airport Hilton, 2399 Jefferson Davis Highway, Arlington, Virginia 22202. The purpose of this meeting is to discuss the Federal Depository Library Program. The meeting is open to the public.

A limited number of hotel rooms have been reserved at the Washington National Airport Hilton for anyone needing hotel accommodations (telephone 703–418–6800; FAX 703–418–3763). Please specify the Depository Library Council when you contact the hotel. Room cost per night is $114.

Michael F. DiMario,

Public Printer.

[FR Doc. 96–6820 Filed 3–20–96; 8:45 am]

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[INFO–96–12]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques for other forms of information technology. Send comments to Wilma Johnson, CDC Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project

1. Vibrio Illness Investigation Report Form—(0920–0322)—Extension—The purpose of the Cholera and other *Vibrio* Illness Investigation Report Form is to collect information on illness occurring as a result of infection with *Vibrio* species. Vibrios are important pathogens in the United States, and primary septicemia, gastroenteritis, and wound infections have been associated with various species. In particular, gastroenteritis and primary septicemia have been associated with the consumption of undercooked shellfish, and particularly with raw Gulf Coast oysters. Associations have also been linked to wound infections with exposure of broken skin to seawater. Most importantly, *Vibrio cholerae* 01 is the organism responsible for cholera, a severe, dehydrating diarrheal illness. Although infections with *Vibrio cholerae* 01 are notifiable in all states, an official report form for this illness did not previously exist. The Vibrio Illness Investigation Report Form is used to record information on all *Vibrio*-related illness, as well as more detailed information on cholera illness, which is currently a reportable disease in all states. The form has a separate optional Seafood Investigation section to be completed when applicable. The form provides a consolidated, systematic method by which health departments can report such information, which is then used to gain a better understanding of the incidence, etiology, and epidemiology of all *Vibrio*-related illness occurring in the United States.

Data columns have been added to, and comments space reduced on, the form to facilitate data entry and reduce the burden. No change in the frequency of reporting has occurred or is projected.

Most respondents are epidemiologists or nurses in the local health department, but in some instances infection control nurses or physicians might complete the form. The total cost per respondent is estimated at $11.00. This is primarily salary, but also includes postage and telephone calls.

Respondents	No. of respondents	No. of responses/respondent	Avg. burden/response (in hrs.)	Total burden (in hrs.)
Local health department staff	90	1	0.33	30
Health care facility staff	45	1	0.33	15
Physicians	15	1	0.33	5
Total				50

2. Prospective Evaluation of Health-Care Workers Exposed to Blood From Patients Infected with HIV—(0920–0131)—Extension—The HIV Infections Branch, Hospital Infections Program (HIP), Centers for Disease Control and Prevention (CDC) plans to continue surveillance of health-care workers (HCWs) exposed to the blood of persons infected with human immunodeficiency virus (HIV). This prospective evaluation, initiated in August 1983, provides essential scientific information on the risk of HIV transmission in the health care setting. The objectives of the project are to: (1) estimate the risk of HIV infection in HCWs exposed via the percutaneous, mucous-membrane, or skin route to HIV infected blood, according to type of exposure; (2) describe the type of devices and circumstances of the exposures sustained by HCWs; (3) describe the clinical natural history and development of laboratory markers of HIV infection in HCWs enrolled in this project who seroconvert to HIV; and, (4) describe the use of post-exposure chemoprophylaxis by HCWs exposed to HIV infected blood.

The design of this voluntary surveillance includes enrollment of participating institutions (respondents) throughout the United States. In the event that an HCW employed at the facility sustains an eligible exposure to HIV infected blood, the HCW is enrolled and followed prospectively. Epidemiologic data and serum for HIV antibody testing are collected within 30 days after the exposure with follow-up visits and serum samples collected at 6 weeks, 3, 6, and 12 months from the date of the exposure.

The number of respondents is the expected number of institutions participating in the project annually. The number of responses is based on the average number of forms which will be completed during each year. The 250 HCWs enrolled each year will each need four Follow-up forms completed. The number of Reports of Antiviral Prophylaxis is based on the proportion of HCWs expected to be prescribed antiviral prophylaxis (approximately 40%). The total cost to respondents is estimated at $10,525.

Respondents	No. of respondents	No. of responses/respondent	Avg. burden/response (in hrs.)	Total burden (in hrs.)
Initial Case Report Form	250	1	0.33	83
Confidential Report Form	250	1	0.25	63
Follow-up Form	250	4	0.25	250

Respondents	No. of respondents	No. of responses/respondent	Avg. burden/response (in hrs.)	Total burden (in hrs.)
Antiviral Prophylaxis Rpt	100	1	0.25	25
Total				421

Dated: March 15, 1996.

Wilma G. Johnson,

Acting Associate Director for Policy Planning and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–6792 Filed 3–20–96; 8:45 am]

BILLING CODE 4163–18–P

[30DAY–08]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Office on (404) 639–7090.

The following request has been submitted for review since the last publication date on February 6, 1996:

Proposed Project

Hanford Environmental Dose Reconstruction (HEDR) Project Milk Producers Survey—New—OMB approved the information collections for the "Hanford Thyroid Disease Full Epidemiology Study" under OMB No. 0920–0296 to determine the health effects to the public from radioactive releases from the Hanford Nuclear Site Operations during the 1940's and 1950's. A primary component of these releases was radioactive iodine. Consumption of fresh milk from cows that have eaten contaminated vegetation and fresh leafy vegetables and eggs from chickens with access to outdoor vegetation are important pathways of radioactive iodine to the human body which adversely affects the thyroid gland. To estimate the doses to the thyroid that individuals and populations could have received, historical milk cow and chicken feeding and distribution practices must be reconstructed for the downwind area. This information is particularly important for use in this ongoing study and its relation to radiation exposures. Researchers from LTG Associates will collect information from a representative sample of individuals who farmed in 7 counties within the study area during the periods of 1945 and 1951.

Respondents	No. of respondents	No. of responses/respondents	Avg. burden/response (in hrs.)
Contact Potential Sources of Names of farmers	50	1	0.16
Initial Contact of Potential Candidates	1,600	1	0.16
Scheduling Interview	400	1	0.08
Telephone Interview	400	1	2

The total annual burden is 1108. Send comments to Allison Eydt; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503.

Wilma G. Johnson,

Acting Associate Director for Policy Planning and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–6793 Filed 3–20–96; 8:45 am]

BILLING CODE 4163–18–P

Food and Drug Administration

[Docket No. 96N–0084]

Agency Emergency Processing Request Under OMB Review

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for emergency processing under the Paperwork Reduction Act of 1995. The purpose of the proposed collection of information is to enable FDA to compile lists of U.S. processors that export certain animal-derived foods to the European Community (EC). These lists must be completed by May 1, 1996, to meet EC trade requirements. To meet the EC deadline, FDA is requesting OMB approval by March 28, 1996.

DATES: Submit written comments by March 28, 1996.

ADDRESSES: Submit written comments to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Desk Officer for FDA. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Charity B. Smith, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, rm. 16B–19, Rockville, MD 20857, 301–827–1686.

SUPPLEMENTARY INFORMATION: FDA has requested emergency processing of this proposed collection of information under section 3507(j) of the Paperwork Reduction Act of 1995 and 5 CFR 1320.13 because the information is needed to meet the May 1, 1996, EC deadline; the information is essential to the agency's mission; and public harm is reasonably likely to result if normal clearance procedures are followed.

With respect to the following collection of information, comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of the agency s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Request for Information from U.S. Processors that Export Shell Eggs, Dairy Products, Game Meat and Game Meat Products to the European Community:

The EC is a group of 15 European countries that have agreed to harmonize their commodity requirements to facilitate commerce among member States. EC legislation for intra-EC trade has been extended to trade with non-EC countries, including the United States. For certain food products, including those listed below, EC legislation requires assurance from the responsible authority of the country of origin that the processor of the food is in compliance with applicable regulatory requirements.

With the assistance of trade associations, FDA intends to request information from processors that export certain animal-derived products (shell eggs, dairy products, game meat and game meat products) to the EC. FDA will use this information to compile lists of processors that meet U.S. requirements and will provide the lists to the EC quarterly. Inclusion on the lists is voluntary. EC member countries will refer to the lists at ports of entry to verify that products offered for importation to the EC from the United States are from processors that meet U.S. regulatory requirements. Products processed by firms not on the processor list are subject to detention and possible refusal at the port. FDA intends to request the following information from each processor:

(1) Business name and address;

(2) Name and telephone number of person designated as business contact;

(3) Lists of products presently being shipped to the EC and those intended to be shipped in the next 2 years;

(4) Name and address of manufacturing plants for each product and;

(5) Names and affiliations of any Federal, State, or local governmental agencies that inspect the plant, government-assigned plant identifier, such as plant number; and last date of inspection.

FDA estimates the burden of the proposed collection of information is as follows:

SHELL EGGS

Estimated Annual Reporting Burden				
No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
25	1	25	0.25	6.25

DAIRY PRODUCTS

Estimated Annual Reporting Burden				
No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
50	1	50	0.25	12.50

GAME MEAT AND GAME MEAT PRODUCTS

Estimated Annual Reporting Burden				
No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
25	1	25	0.25	6.25

There are no capital costs or operating and maintenance costs associated with this collection.

Third Party Disclosure

The following estimate of the burden on trade associations assumes that the trade associations will disseminate FDA's information request through a mass mailing to their membership or publish it in their trade magazine or newsletter:

Estimated Annual Reporting Burden				
No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
12	1	12	8	96

There are no capital costs or operating and maintenance costs associated with this collection.

Dated: March 15, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96-6737 Filed 3-18-96; 8:45 am]

BILLING CODE 4160-01-F

[Docket No. 95D-0022]

Computer Assisted Product License Application (CAPLA) Guidance Manual (March 1996); Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance manual entitled "Computer Assisted Product License Application (CAPLA) Guidance Manual (March 1996)." This guidance manual was developed by FDA's Center for Biologics Evaluation and Research (CBER). The manual provides guidance for the submission of computer assisted license applications. The guidance manual is intended to increase the efficiency and quality of the review process for applicants and FDA. The manual also supersedes a previous Points to Consider guidance made available in November 1990.

DATES: Written comments by June 19, 1996.

ADDRESSES: Submit written requests for single copies of the guidance manual entitled "Computer Assisted Product License Application (CAPLA) Guidance Manual (March 1996)" to the Division of Congressional and Public Affairs (HFM-11), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852-1448. Send two self-addressed adhesive labels to assist that office in processing your requests. The guidance manual may also be obtained by mail or FAX by calling the Center for Biologics Evaluation and Research Voice Information System at 1-800-835-4709.

Additionally, persons with access to the INTERNET may obtain the guidance manual in several ways. Users of "Web Browser" software, such as Mosaic, Netscape, or Microsoft Internet Explorer may obtain this document via the World Wide Web by using the following Uniform Resource Locators: http://www.fda.gov/cber/cberftp.html ftp://ftp.fda.gov/CBER/

The document may also be obtained via File Transfer Protocol (FTP). Requesters should connect to FDA's FTP Server, FTP.FDA.GOV (192.73.61.21). CBER's documents are maintained in a subdirectory called "CBER" on the server. Logins with the user name of anonymous are permitted, and the user's e-mail address should be sent as the password. The "READ.ME" file in that subdirectory describes the available documents which may be available as an ASCII text file (*.TXT), or a WordPerfect 5.1 or 6.x document (*.w51,wp6), or both. Finally, the document can be obtained by "bounce-back e-mail". A message should be sent to: "CAPLA@a1.cber.fda.gov".

Submit written comments on the guidance manual to the Dockets Management Branch (HFA-305), Food and Drug Administration, 12420 Parklawn Dr., rm 1-23, Rockville, MD 20857. Two copies of any comments are to be submitted, except that individuals may submit one copy. Requests and comments should be identified with the docket number found in brackets in the heading of this document. A copy of the guidance manual and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Timothy W. Beth, Center for Biologics Evaluation and Research (HFM-630), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852-1448, 301-594-3074.

SUPPLEMENTARY INFORMATION: One of FDA's continuing objectives is to improve the speed and quality of its biologics licensing review and approval program. In order to reach a decision to approve a license application the agency must evaluate all information and data provided by applicants that support the safety, purity, potency, and efficacy of the proposed product. To make the review process more efficient for industry and FDA, CBER is utilizing electronic information systems technology. FDA believes the increased use of CAPLA's and computerization will enhance the timeliness, effectiveness, and efficiency of the biologics review process and reduce burdensome, nonessential hard-copy handling and storage.

In the **Federal Register** of November 20, 1990 (55 FR 48291), FDA announced the availability of a document entitled "Points to Consider (PTC): Computer Assisted Submissions for License Applications." Since the publication of that document, CBER has gained considerable experience and expertise in the area of electronic information transfer. FDA is announcing in this **Federal Register** notice a document entitled "Computer Assisted Product License Application (CAPLA) Guidance Manual (March 1996)." This new manual supersedes the 1990 PTC document, and should be used as guidance by applicants for electronically submitting license applications or new drug applications (NDA's) to CBER.

A CAPLA is any electronic submission, ranging from a single diskette containing data files to a complete system including custom software and sponsor-owned hardware. Over time, CBER expects CAPLA's will evolve from stand-alone systems to submissions containing just electronic information files, with no applicant provided hardware or software. Applicants should confer with the CBER CAPLA coordinator early in the development of a CAPLA to assess whether it is necessary to include "commercial off the shelf" (COTS) software products or custom developed tools to support the CAPLA submission. The manual contains a listings of preferred COTS software and CBER contacts.

The guidance manual provides general information to applicants on the design, development, and submission of CAPLA's. The guidance manual is intended to address the special circumstances to be considered when an applicant electronically submits information in support of a license application; however, the guidance manual does not explain the scientific, clinical, or regulatory aspects of preparing a license application.

The manual is divided into four main sections: (1) Introduction; (2) CAPLA design and development; (3) CAPLA delivery and operations; and (4) CBER's computing environment. The manual also provides information regarding the following topics: Joint planning between the applicant and CBER, cross-platform tools, clinical review, CAPLA guidance for biostatistical review, data presentation formats, communication with CBER, CBER contacts, and license application forms.

The CAPLA guidance manual provides information regarding milestones that the applicant should consider when planning for CAPLA submissions. The following milestones are outlined in the guidance manual: (1) 12 to 18 months before submission: confer on network system requirements; (2) 6 months before submission: confer on CAPLA structure and content; (3) 1 to 3 months before submission: provide demonstration or prototype CAPLA; (4) 30 days before submission: submit confirmation; and (5) day of submission: provide certifications.

Please note that an accompanying paper submission of the application remains a requirement at this time (21 CFR 601.2 and 601.3). The information in the electronic submission should not differ from the information provided in the paper submission.

As with other guidance documents, FDA does not intend this guidance manual to be all-inclusive. The manual is intended to provide information, not to set forth requirements. Applicants may follow the guidance or may choose to use alternative methods even though they are not provided in the manual. If an applicant chooses to use alternative methods, that applicant is encouraged to discuss the matter further with CBER.

This guidance document is not binding on either FDA or persons submitting biological license applications or NDA's to CBER, and does not create or confer any rights, privileges, or benefits for or on any person.

Interested persons may submit to the Dockets Management Branch (address above) written comments on the guidance manual by June 19, 1996. Received comments will be considered in determining whether further revisions to the guidance manual are warranted. If the CAPLA guidance manual is revised or updated, a notice will be published in the **Federal Register** announcing its availability.

Dated: March 13, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96-6742 Filed 3-20-96; 8:45 am]

BILLING CODE 4160-01-F

Request for Nominations for Members on Public Advisory Committees; Science Advisory Board to the National Center for Toxicological Research

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for voting members to serve on the Science Advisory Board (the Board) to the National Center for Toxicological Research (NCTR). Nominations will be accepted for two vacancies that will occur on June 30, 1996.

FDA has a special interest in ensuring that women, minority groups, and individuals with disabilities are adequately represented on advisory committees and, therefore, encourages nominations for appropriately qualified female, minority, and physically disabled candidates. Final selections from among qualified candidates for each vacancy will be determined by the expertise required to meet specific agency needs and in a manner to ensure appropriate balance of membership.

DATES: Nominations should be received by April 22, 1996.

ADDRESSES: All nominations for membership, except for general public representatives (consumer-nominated members), should be sent to Barbara J. Jewell (address below). All nominations for general public representatives (consumer-nominated members) shall be submitted in writing to Annette J. Funn (address below).

FOR FURTHER INFORMATION CONTACT:

Regarding all nominations for membership, except for general public representatives (consumer-nominated members): Barbara J. Jewell, National Center for Toxicological Research (HFT-10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3155.

Regarding all nominations for general public representatives (consumer-nominated members): Annette J. Funn, Office of Consumer Affairs (HFE-88), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5006.

SUPPLEMENTARY INFORMATION: FDA is requesting nominations for members to serve on the Board to NCTR. The function of the Board is to advise the Director, NCTR, on establishment and implementation of a research program that will assist in fulfilling the regulatory responsibilities of the Commissioner of Food and Drugs. The Board provides an extra-agency review to ensure that the research programs at NCTR are scientifically sound and pertinent.

Criteria for Members

Persons nominated for membership on the Board shall have adequately diversified experience that is appropriate to the work of the Board in the fields related to toxicological research.

The specialized training and experience necessary to qualify the nominees as experts suitable for appointment are subject to review, but may include experience in medical practice, teaching, and/or research relevant to the field of activity of the Board. The term of office is up to 4 years, depending on the appointment date.

General Public Representatives (Consumer-Nominated Members)

FDA currently attempts to place on committees members who are nominated by consumer organizations. These members are recommended by a consortium of 12 consumer organizations that has the responsibility for screening, interviewing, and recommending consumer-nominated candidates with appropriate scientific credentials. Candidates are sought who are aware of the consumer impact of committee issues, but who also possess enough technical background to understand and contribute to the committee's work. For some advisory committees the agency notes, however, it may require such nominees to meet the same technical qualifications and specialized training required of other expert members of the committee. The term of office for these members is up to 4 years, depending on the appointment date. Nominations are invited for consideration for membership as openings become available.

Nomination Procedures

Any interested person may nominate one or more qualified persons for membership on the Board. Nominations shall state that the nominee is aware of the nomination, is willing to serve as a member of the Board, and appears to have no conflict of interest that would preclude board membership. A current copy of nominee's curriculum vitae should be included. Potential candidates will be asked by FDA to provide detailed information concerning such matters as financial holdings, consultancies, and research grants or contracts in order to permit evaluation of possible sources of conflict of interest.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14 relating to advisory committees.

Dated: March 15, 1996.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 96-6739 Filed 3-20-96; 8:45 am]

BILLING CODE 4160-01-F

[FDA-225-96-4001]

Memorandum of Cooperation Between the Food and Drug Administration, Mexico, and Canada

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing notice of a memorandum of cooperation (MOC) between the FDA, the Subsecretaría de Regulación y Fomento Sanitario, Mexico, and the Health Protection Branch, Canada. The purpose of the MOC is to expand and strengthen communications among the three governments in the scientific and regulatory fields of health.

DATES: The agreement became effective October 30, 1995.

FOR FURTHER INFORMATION CONTACT: Marilyn E. Veek, Office of International Affairs (HFY–50), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4480.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 20.108(c), which states that all written agreements and memoranda of cooperation between FDA and others shall be published in the **Federal Register**, the agency is publishing notice of this memorandum of cooperation.

Dated: March 11, 1996.

Gary J. Dykstra,

Acting Associate Commissioner for Regulatory Affairs.

Memorandum of Cooperation Between the Subsecretaría de Regulación y Fomento Sanitario Secretaría de Salud (SSA) of the United Mexican States and the Food and Drug Administration (FDA), Department of Health and Human Services of the United States of America and the Health Protection Branch (HPB), Health Canada of Canada Regarding Cooperation in the Scientific and Regulatory Fields of Health

Preamble

The Subsecretaría de Regulación y Fomento Sanitario, the Food and Drug Administration and the Health Protection Branch seek to expand and strengthen communications among the three governments in the scientific and regulatory fields of health.

I. Purpose

The Subsecretaría de Regulación y Fomento Sanitario of the Secretaría de Salud (SSA) of the United Mexican States, the Food and Drug Administration (FDA) of the Department of Health and Human Services of the United States of America, and the Health Protection Branch (HPB) of the Department of Health of Canada affirm by this document their intention to strengthen existing mutual cooperation in the scientific and regulatory areas of regulated products, specifically foods (including dietary supplements), drugs (including biologics), cosmetics, medical devices, radiation-emitting electronic products, and related products. The parties intend to enhance, expand, and develop joint efforts to exchange information in health and in regulatory areas related to regulated products and prevention of health fraud related to the following areas:

A. The exchange of information at the earliest feasible stages of investigations into the safety of regulated products.

B. The exchange of information (including, for example, legislation, regulations, proposed amendments, guidelines, and technical documents such as evaluations of foreign suppliers of regulated products and enforcement decisions, including recalls or rejected shipments of products, and training material for regulatory officers) with respect to regulated products.

C. Communication on evaluation of the safety and nutritional quality of food, of the safety, effectiveness, and quality of drugs (including biologics) and medical devices, of the chemical and microbiological safety of cosmetics. The activities are intended to include, for example, communications on clinical protocols, new product approvals, and withdrawal of marketing approval due to concerns about safety, lack of proof of effectiveness, bioequivalence problems, etc.

D. The parties also intend to communicate on the evaluation of the chemical and microbiological safety of foods and cosmetics by exchanging information on chemical and microbiological analytical methods and criteria for safety evaluation.

E. Exchange of information on areas where two or more of the countries regulatory requirements are equivalent, with a view to working toward the development of a common approach in determining compliance status. The participants also intend to discuss their standards with a view toward considering whether it would be appropriate to undertake harmonization activities.

F. Strive through increased dialogue to achieve a common position in meetings of international organizations.

G. Communicate concerning the development of research and monitoring protocols and projects (including, for example, such areas as epidemiology, dietary surveys and health hazard related issues) and pre- and post-market surveillance activities.

H. Communicate concerning the development of programs to increase consumer protection related to health fraud.

II. Specific Plans

As the need arises in areas described in Section I, the participants may develop and agree upon specific plans of cooperation which will be incorporated in written agreements or arrangements.

III. Source of Funding

Each party to the Memorandum of Cooperation intends to fund its own activities subject to the availability of appropriated funds, personnel, and other resources. Any exchange of information or other activity under this Memorandum of Cooperation are to be performed in accordance with applicable laws and regulations.

IV. Participating Parties

A. Subsecretaría de Regulación y Fomento Sanitario, Secretaría de Salud, Lieja 7, 1er. Piso, Col. Juarez, 06696 Mexico, D.F.

B. Food and Drug Administration, Department of Health and Human Services, 5600 Fishers Lane, Rockville, Maryland 20857.

C. Health Protection Branch, Health Canada, Tunney's Pasture, Ottawa, Ontario K1A 0L7.

V. Liaison Officers

A. Coordinador de Asesores, Subsecretaría de Regulación and Fomento Sanitario, Lieja 7, 1er. Piso, Col. Juarez, 06696 Mexico, D.F., (525) 553–73–28 and (525) 553–6979; FAX (525) 553–69–96.

B. Director, International Affairs Staff, Office of External Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–4480; FAX (301) 443–0235.

C. Advisor to the Assistant Deputy Minister, Health Protection Branch, Health Canada, Tunney's Pasture, Ottawa, Ontario K1A 0L7, (613) 957–1804; FAX (613) 957–3954.

VI. Duration

Cooperation under this memorandum will commence upon signature of all participants. This memorandum may be revised by mutual written consent of all participants. Cooperation under this memorandum may be terminated upon thirty days advance written notice to the other participants.

For the Food and Drug Administration of the United States of America

Sharon Smith Holston
Title: Deputy Commissioner, External Affairs, FDA
Date: October 30, 1995
Place: Ottawa, Canada

For the Subsecretaría de Regulación y Fomento Sanitario of the United Mexican States

Rafael Camacho Solís
Title: Subsecretario de Regulación y Fomento Sanitario
Date: 30/x/95
Place: Ottawa, Canada

For the Health Protection Branch of Canada

Kent R. Foster
Title: ADM, HPB
Date: 30 October 1995
Place: Ottawa, Canada

[FR Doc. 96–6740 Filed 3–20–96; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency—s functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Information Collection Requirements contained in BPD–718: Advance Directives (Medicare and Medicaid); *Form No.:* HCFA-R–10; Use: Certain Medicare and Medicaid organizations are responsible for collecting and documenting, in medical records, whether or not an individual has executed an advance directive, this document indicates the individual—s preference if he/she is incapacitated. Frequency: On occasion; Affected Public: Business or other for-profit, Not-for-profit institutions, Federal government, and State, local or tribal government; *Number of Respondents:* 38,927; *Total Annual Responses:* 38,927; *Total Annual Hours Requested:* 908,250.

To request copies of the proposed paperwork collections referenced above, call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections should be sent within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Financial and Human Resources, Management Planning and Analysis Staff, Attention: Louis Blank, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850

Dated: March 13, 1996.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources.

[FR Doc. 96–6751 Filed 3–20–96; 8:45 am]

BILLING CODE 4120–03–P

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) this notice is publishing the following summaries of proposed collections for public comment. The title, description, and respondent description of the information collection are shown below with an estimate of the annual reporting and recordkeeping burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Video Display Terminal (VDT) Operators Eye Care Program; *Form No.:* HCFA–81; *Use:* This form is needed to gather information necessary to process employees' request to participate in the VDT Operators' Eye Care Program. Part of the form will be completed by HCFA employees and their supervisors. Another part of the form is completed by personal eye care practitioners and opticians providing services to HCFA employees; *Frequency:* On occasion; *Affected Public:* Business or other for profit, Individuals or households, Federal Government; *Number of Respondents:* 500; *Total Annual Responses:* 500; *Total Annual Hours Requested* 2,000.

2. *Type of Information Collection Request:* Reinstatement, with change, of a previously approved collection for which approval has expired; *Title of Information Collection:* Attending Physicians Statement and Documentation of Medical Emergency; *Form No.:* HCFA–1771; *Use:* This form is used to document the attending physician's statement that the hospitalization was required due to an emergency and give clinical support for the claim; *Frequency:* On occasion; *Affected Public:* Business or other for profit; *Number of Respondents:* 1,700; *Total Annual Responses:* 1,700; *Total Annual Hours Requested* 425.

To request copies of the proposed paperwork collection referenced above, call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections should be sent within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Financial and Human Resources, Management Planning and Analysis Staff, Attention: Zaneta Davis, 7500 Security Boulevard, Room C2–26–17 Baltimore, Maryland 21244–1850.

Dated: March 14, 1996.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff.

[FR Doc. 96–6757 Filed 3–20–96; 8:45 am]

BILLING CODE 4120–03–P

Public Information Collection Requirements Submitted for Public Comment and Recommendations

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summaries of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Reinstatement, without change, of a previously approved collection for which approval has expired; *Title of Information Collection:* Information Collection Requirements in Final Peer Review Organization Sanction Regulations, 42 CFR 1004.40(b), 1004.50(g), 1004.60(b), and 1004.70 (b) and (c); *Form No.:* HCFA–R–65; *Use:* This rule revises and updates the procedures governing the imposition and adjudication of program sanctions predicated on recommendations of State Utilization and Quality Control Peer Review Organizations (PROs). These changes are being made as a result of

statutory revisions designed to address health care fraud and abuse issues and the Office of Inspector General sanction process; *Frequency:* On Occasion; *Affected Public:* Business or other for profit; *Number of Respondents:* 53; *Total Annual Hours:* 22,684.

2. *Type of Information Collection Request:* Reinstatement, without change, of a previously approved collection for which approval has expired; *Title of Information Collection:* Post-Certification Revisit Form; *Form No.:* HCFA–2567B; *Use:* This form is used to collect deficiency correction status information pursuant to the Clinical Laboratory Improvement Amendments of 1988 and the Medicare/Medicaid certification requirements of P.L.100–578 and sections 1864 and 1902 of the Social Security Act; *Frequency:* Annually; *Affected Public:* Business or other for profit, State, Local, or Tribal Governments; *Number of Respondents:* 72,000; *Total Annual Hours:* 61,000.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's WEB SITE ADDRESS at http://www.ssa.gov/hcfa/hcfahp2.html, or to obtain the supporting statement and any related forms, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Financial and Human Resources, Management Planning and Analysis Staff, Attention: John Burke, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: March 6, 1996.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 96–6818 Filed 3–20–96; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

Applicant: National Biological Service, Midcontinent Ecological Science Center, Fort Collins, CO, PRT–812383

The applicant requests a permit to export liver samples from dead captive-born black-footed ferret (*Mustela nigripes*) to Department of Biology, University of Leeds, Leeds, England for genetic analysis for the purpose of benefiting the species in the wild.

Applicant: Bass Pro Outdoor World, Springfield, MO, PRT–801339

The applicant requests a permit to purchase in interstate commerce one bontebok (*Damiliscus pygarus dorcas*) and one Mountain zebra (*Equus zebra zebra*) trophy for the purpose of enhancement for the survival of the species through conservation education.

Applicant: Russell H. Underdahl, North Oaks, MN, PRT–812362

The applicant requests a permit to import a sport-hunted cheetah (*Acinonyx jubatus*) from Namibia for the purpose of enhancement of the survival of the species.

Applicant: Lawrence B. Carlson, Anoka, MN, PRT–811919

The applicant requests a permit to import a sport-hunted leopard (*Panthera pardus*) from Cameroon for the purpose of enhancement of the survival of the species.

Applicant: Jim Deal, Anoka, MN, PRT–811998

The applicant requests a permit to import a sport-hunted leopard (*Panthera pardus*) from Cameroon for the purpose of enhancement of the survival of the species.

Applicant: Regional Director, Region 2, U. S. Fish & Wildlife Service, Albuquerque, NM, PRT–812381

The applicant requests a permit to import eggs from whooping cranes (*Grus americana*) located in Wood Buffalo National Park, Northwest Territories, Canada for the purpose of enhancement of the species through captive-breeding.

Applicant: Sea World, Inc., Orlando, FL, PRT–812385

The applicant requests a permit to import 3 captive-held hawksbill sea turtles (*Eretmochelys imbricata*) from London Zoo, London, England for the purpose of enhancement of the species through conservation education.

Applicant: John Saltzman, Kenner, LA, PRT–812191

The applicant requests a permit to import a sport-hunted trophy of a male bontebok (*Damaliscus pygarus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Jeheskel Shoshani, Detroit, MI, PRT–811937

The applicant request a permit to import the fetus of a preserved Asian elephant (*Elephas maximus*) born in captivity from the African Lion Safari in Ontario, Canada for the purpose of the survival of the species through scientific research.

Applicant: Wildlife Conservation Society, Bronx, NY, PRT–811776

The applicant request a permit to import dropped feathers taken from wild and captive born birds from various international institutions and collections occurring from field studies for the purpose of the survival of the species through scientific research.

Applicant: Duke University Primate Center, Durham, NC, PRT–812378

The applicant requests a permit to import one male Aloatran bamboo lemur (*Hapalemur griseus alaotrensis*) from the Jersey Wildlife Preservation Trust for the purpose of scientific research and enhancement of the survival of the species through propagation.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: March 15, 1996.

Mary Ellen Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 96–6783 Filed 3–20–96; 8:45 am]

BILLING CODE 4310–55–P

Bureau of Land Management

[WO–880–9500–00–24 1A]

Extension of Approved Information Collection; OMB Number 1004–0109

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is announcing its intention to request renewal of approval to collect certain information from the Governors of States to allow the BLM to compute units of payments due to local governments. The Payments in Lieu of Taxes (PILT) Act of September 13, 1982, as amended, requires that the Governor of each State furnish BLM with a listing of payments that have been made to local governments by the State on behalf of the Federal government under eleven receipt-sharing statutes. This information helps local governments recover some of the expenses they incur by providing services on public lands.

DATES: Comments on the proposed information collection must be received by May 20, 1996, to be assured of consideration.

ADDRESSES: Comments may be mailed to: Regulatory Management Team (420), Bureau of Land Management, 1849 C Street NW., Room 401LS, Washington, D.C. 20240.

Comments may be sent via Internet to: !WO140@attmail.com. Please include "ATTN: 1004–0109" and your name and return address in your Internet message.

Comments may be hand-delivered to the Bureau of Land Management Administrative Record, Room 401, 1620 L Street, NW., Washington, DC.

Comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Bill Howell, Budget and Finance Team, (202) 452–7721.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.12(a), BLM is required to provide 60-day notice in the **Federal Register** concerning a collection of information contained in a published current rule to solicit comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. BLM will receive and analyze any comments sent in response to this notice and include them with its request for approval from the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

BLM makes payments in lieu of taxes (PILT) to units of local government for certain Federal lands within their boundaries through authority provided by the Payment in Lieu of Taxes Act of October 20, 1976 (90 Stat. 2662, 31 U.S.C. 6901–6907). The implementing regulations are found at 43 CFR Subpart 1881—Payments in Lieu of Taxes. The regulations were issued on September 29, 1977 (35 FR 51580), amended on July 15, 1980 (45 FR 47619), and last amended on January 10, 1985 (50 FR 1305). The Governor of each State or his agent must furnish BLM with a listing of payments that have been made to local governments by the State on behalf of the Federal government under eleven revenue-sharing laws specified at 31 U.S.C. 6903(a)(1). BLM provides the States with a printout matrix designed to facilitate recording the requested information. Each printout lists each qualifying unit of local government down the left hand side of the page along with the unit of local government code used by the Census Bureau. Across the top of the printouts are columns which indicate each of the revenue acts. BLM uses the information provided by the States to compute the PILT payments to local governments within the State.

Based on BLM's experience in administering PILT, BLM estimates the State reporting burden for this information collection to average 20 hours. The respondents already maintain this information for their own record-keeping purposes and need only transfer it to the matrix described above. The estimate includes time for research, time to transcribe and audit the data, and time to prepare the PILT submission. The respondents are offices designated by the Governor of each State, usually the Treasurer's office. The frequency of response is once annually, reporting on the previous fiscal year's revenues. The number of responses per year is 50. The estimated total annual burden on the States collectively is about 1,000 hours.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will also become a matter of public record.

Dated: March 15, 1996.

Annetta L. Cheek,

Chief, Regulatory Management Team.

[FR Doc. 96–6776 Filed 3–20–96; 8:45 am]

BILLING CODE 4310–84–P

[WO–320–1330–01–24 1A]

Extension of Currently Approved Information Collection; OMB Approval Number 1004–0121

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is announcing its intention to request extension of approval for the collection of information from applicants to lease solid minerals other than coal and oil shale. The information supplied allows BLM to determine whether an applicant, permittee, or lessee is qualified to hold an interest under the terms of the Mineral Leasing Act of 1920 (MLA).

DATES: Comments on the proposed information collection must be received by May 20, 1996, to be considered.

ADDRESSES: Comments may be mailed to: Regulatory Management Team (420), Bureau of Land Management, 1849 C Street NW., Room 401 LS, Washington, D.C. 20240.

Comments may be sent via Internet to: !WO140@attmail.com. Please include "ATTN: 1004–0121" and your name and return address in your Internet message.

Comments may be hand delivered to the Bureau of Land Management Administrative Record, Room 401, 1620 L Street, NW., Washington, DC.

Comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Patrick J. Sheehy, (202) 452–0350.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.12(a), BLM is required to provide a 60-day notice in the **Federal Register** concerning a collection of information contained in published current rules to solicit comments on (a) whether the proposed collection of information is necessary

for the proper performance of the functions of the agency, including whether information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

BLM plans to seek from the Office of Management and Budget extension of approval for the information collection requirements in 43 CFR Parts 3500 through 3580, which cover the leasing of solid minerals other than coal and oil shale. These regulations implement the statutory authority governing leasing activities on Federal lands which is found in the Mineral Leasing Act of 1920 (30 U.S.C. 181 *et seq.*), the Mineral Leasing Act for Acquired Lands of 1947 (30 U.S.C. 351–359), Section 402 of Reorganization Plan No. 3 of 1946 (5 U.S.C. Appendix 1031), the Multiple Mineral Development Act of 1954 (30 U.S.C. 521–531), the National Environmental Policy Act of 1969 (42 U.S.C. 4321), and the Federal Land Policy and Management Act of 1967 (43 U.S.C. 1701 et seq.).

The implementing regulations outline procedures for members of the public to submit applications, offers, statements, petitions, and various forms. The information required in the applications, statements and petitions is needed by BLM to determine applicant qualifications to hold a lease to obtain a benefit under the terms of the MLA and its subsequent amendments and the regulations. Information collection requirements are based on the statutory requirements concerning the qualifications and eligibility to hold title to or interest in Federal mineral leases and on the regulatory requirements relating to the identification, location and quality of minerals under application and identification of proposed operational activities. The affected public consists of all prospective holders of Federal non-energy leases, prospecting permits, use permits, and exploration licenses.

BREAKDOWN OF INFORMATION COLLECTIONS AND TOTAL HOURS

Type of information collection	No. of responses	Hours per response	Total hours
Prospecting Permit (Form 3510–1)	325	5/6	271
Exploration plan for Prospecting Permit	250	10	2,500
Prospecting Permit Extension	125	1	125
Preference Right Lease (Form 3520–7)	25	10	250
Competitive Lease Bids	12	1	12
Fringe acreage/Lease Modification	10	2	20
Assignments/Sublease	50	2	100
Lease Renewals/Adjustments	30	2	60
Use Permit (Form 3510–2)	6	2	12
Exploration License	10	3	30
Development Contract	3	3	9
Bonding (Forms 3504–1, 3 and 4)	400	5/6	333
Total	1,246		3,722

Based on its experience administering the leasing program, BLM estimates that it will take an average of about three hours to complete the applications, petitions, offers and statements required. The applicants will have access to records, plats and maps necessary for providing legal land descriptions. The type of information necessary is outlined in the regulations and is already maintained by the respondents for their own recordkeeping purposes and needs only to be compiled in a reasonable format. The estimate also includes the time required for assembling the information, as well as the time of clerical personnel, if needed.

BLM estimates that approximately 1,246 filings will be made annually for a total of 3,722 reporting hours. Respondents vary from individuals to small businesses and major corporations.

Any interested member of the public may request and obtain, without charge, copies of any of forms listed in this notice by contacting the person identified under **FOR FURTHER INFORMATION CONTACT.**

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become part of the public record.

Dated: March 15, 1996.

Annetta L. Cheek,

Chief, Regulatory Management Team.

[FR Doc. 96–6777 Filed 3–20–96; 8:45 am]

BILLING CODE 4310–84–P

[AZ–025–1430–00; AZA 8177]

Termination of Classification and Opening of Lands to Entry in Mohave County, Arizona

AGENCY: Bureau of Land Management Interior.

ACTION: Notice.

SUMMARY: This Notice will open 60 acres to location and entry under the public land laws and general mining laws.

EFFECTIVE DATE: April 22, 1996.

FOR FURTHER INFORMATION CONTACT: Joyce Bailey, Realty Specialist, Kingman Resource Area, 2475 Beverly Avenue, Kingman, Arizona 86401, telephone (520) 757–3161.

SUPPLEMENTARY INFORMATION: The following described lands were classified on March 11, 1975, under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*), for 12 trash pickup sites. The lease was issued October 1, 1975, and relinquished March 18, 1988. Following field examination, the relinquishment was accepted July 27, 1995. The classification is no longer needed:

Gila and Salt River Meridian, Arizona

T. 16 N., R. 13 W.,
Sec. 21, S½SW¼SE¼SW¼.
T. 23 N., R. 13 W.,
Sec. 30, E½NE¼NE¼NE¼.
T. 24 N., R. 14 W.,
Sec. 30, W½SE¼SE¼SW¼.
T. 20 N., R. 17 W.,
Sec. 6, N½NE¼NE¼SE¼.
T. 21 N., R. 17 W.,
Sec. 18, por. lot 1 (N½NW¼NW¼NW¼).
T. 29 N., R. 17 W.,
Sec. 10, S½SE¼SE¼SE¼.
T. 17 N., R. 18 W.,
Sec. 24, E½SE¼NE¼NE¼.
T. 23 N., R. 18 W.,
Sec. 9, por. lot 4 less patented mining claim (E½NE¼NE¼SE¼).
T. 19 N., R. 19 W.,
Sec. 14, N½SE¼NW¼NW¼.
T. 21 N., R. 19 W.,
Sec. 2, S½SE¼SW¼SE¼.
T. 19 N., R. 20 W.,
Sec. 27, W½SW¼SW¼NW¼.
T. 18 N., R. 21 W.,
Sec. 29, S½SW¼SW¼SW¼.
The areas described aggregate 60 acres.

At 9 a. m. on April 22, 1996, the classification on the lands described above will be terminated and the lands will be open to location and entry under the United States mining laws and public land laws.

Dated: March 5, 1996.

Mary Jo Yoas,

Chief, Lands and Minerals Operations.

[FR Doc. 96–6814 Filed 3–20–96; 8:45 am]

BILLING CODE 4310–32–P

[MT–070–1430–01; MTM81959]

Notice of Realty Action: Recreation and Public Purposes (R&PP) Act Classification; Beaverhead County, Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following public lands in Beaverhead County, Montana, have been examined and found suitable for classification for lease or conveyance to the State of Montana under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). The State of Montana proposes to use the lands for inclusion into the Bannack State Park and Historical Area.

Principal Meridian Montana

T. 8 S., R. 11 W.,
Sec. 5, Lots 4, 7, 8, SWNW, NWSW,
Sec. 6, Lots 1–9, 11, S2NE, SENW,
Sec. 7, Lots 1, 4, 5, 6, 9, 11, 14, 16, 17, N2NESW, N2NWNWSE,
Sec. 8, Lots 4, 5, 6,
T. 8 S., R. 12 W.,
Sec. 1, Lot 6,
Sec. 12, E2NE,
Containing 958.24 acres more or less.

The lands are not needed for Federal purposes. Lease and/or conveyance is consistent with current BLM land use planning and would be in the public interest. A lease will be issued for those lands which may be encumbered. For those lands which are not encumbered or become unencumbered, a patent will be issued. The lease or patent, when issued, will be subject to the following terms, conditions and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. A right-of-way for ditches and canals constructed by the authority of the United States.

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove the minerals.

4. The lands will be conveyed subject to all valid, existing rights (e.g., rights-of-way, easements and leases of record).

Furthermore, the decision is to revoke Executive Order dated April 15, 1930, insofar as it affects 958.24 acres of public land withdrawn for Oil-Shale Deposits under the authority of the act of Congress approved June 25, 1910 (36 Stat. 847), as amended by the act of August 24, 1912 (57 Stat. 497), and to revoke Public Land Order 5739 dated July 22, 1980, in its entirety insofar as it affects 305 acres of public land withdrawn under the authority of Section 204 of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2751; 43 U.S.C. 1714).

FOR FURTHER INFORMATION CONTACT: Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Dillon Resource Area, 1005 Selway Drive, Dillon, Montana 59725–9431.

SUPPLEMENTARY INFORMATION: Upon publication of this notice in the **Federal Register**, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws. For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested persons may submit comments regarding the classification of the lands, the proposed lease/conveyance, or the revocation of existing withdrawals to the District Manager, Butte District Office, 106 North Parkmont, Box 3388, Butte, Montana 59702–3388.

CLASSIFICATION COMMENTS: Interested parties may submit comments involving the suitability of the land for a State Park. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

APPLICATION COMMENTS: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a State Park.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice in the **Federal Register**.

Dated: March 12, 1996.

James R. Owings,

District Manager.

[FR Doc. 96–6812 Filed 3–20–96; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities; Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; Application for Certificate of Citizenship in Behalf of an Adopted Child.

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days from the date listed at the top of this page in the **Federal Register**.

Request written comments and suggestions from the public and affected

agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan, 202–616–7600, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Application for Certificate of Citizenship in Behalf of an Adopted Child.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form N–643. Office of Examinations, Adjudications Division, Immigration and Naturalization Service, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. Other: None. The information collected is used to allow U.S. citizen parents to apply for a certificate of citizenship on behalf of their adopted alien children.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 8,000 responses at one hour per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 8,000 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: March 14, 1996.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 96–6784 Filed 3–20–96; 8:45 am]

BILLING CODE 4410–10–M

National Institute of Corrections

Meeting Announcement

A meeting of the Task Force on Prison Construction Standardization and Techniques will be held on April 3, 1996, at the National Institute of Corrections offices, 500 First Street, NW., Washington, DC 20534. The meeting will convene at 9:00 am and adjourn at 4:00 pm. The purpose of the meeting will be to discuss the scope of work to be done by the Task Force and identify specific projects. No part of the meeting will be closed.

For more information contact Dee Halley, National Institute of Corrections, Academy Division, 1960 Industrial Circle, Suite A, Longmont, CO 80501; 1–800–995–6429 or fax 1–303–682–0469.

Morris Thigpen,

Director.

[FR Doc. 96–6819 Filed 3–20–96; 8:45 am]

BILLING CODE 4410–36–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 96–030]

NASA Advisory Council, Earth Systems Science and Applications Advisory Committee (ESSAAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Earth Systems Science and Applications Advisory Committee.

DATES: April 19, 1996, 8:30 a.m. to 6:00 p.m.

ADDRESSES: National Aeronautics and Space Administration, Conference Room 7H46, 300 E Street, S.W., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Robert A. Schiffer, Code YS, National Aeronautics and Space Administration, Washington, DC 20546, (202) 358–1876.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The provisional agenda for the meeting is as follows:

—Update of Mission to Planet Earth
—Future Directions for MTPE Science and Response to Key ESSAAC Recommendations
—Integrated Global Observing System Planning
—EOSDIS Restructuring
—NASA Center Views on MTPE Science Planning—Seasonal-to-Interannual Climate Variability Research
—Perspective on Future Role of ESSAAC
—Committee Discussion

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: March 13, 1996.

Leslie M. Nolan,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 96–6829 Filed 3–20–96; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL COMMUNICATIONS SYSTEM

Industry Executive Subcommittee of the National Security Telecommunications Advisory Committee

AGENCY: National Communications Systems (NCS).

ACTION: Notice of meeting.

SUMMARY: A meeting of the Industry Executive Subcommittee of the President's National Security Telecommunications Advisory Committee will be held on Thursday, March 21, 1996, from 9:00 a.m. to 12:00 noon. The meeting will be held at Booz, Allen & Hamilton, 8283 Greensboro Drive, McLean, VA. The agenda is as follows:

—Call to Order/Welcoming Remarks
—Manager's Report
—National Information Infrastructure Report
—Network Security Group Report
—Information Assurance Task Force Report
—National Security and Emergency Preparedness Group Report
—Standards Liaison Group Report
—Legislative and Regulatory Group Report
—Issues Group Report
—Adjournment

Due to the requirement to discuss classified information, in conjunction with the issues listed above, the meeting will be closed to the public in the interest of National Defense.

FOR FURTHER INFORMATION CONTACT: Telephone (703) 607–6221 or write the Manager, National Communications System, 701 S. Court House Rd., Arlington, VA 22204–2198.

Dennis Bodson,

Chief, Technology and Standards.

[FR Doc. 96–6752 Filed 3–20–96; 8:45 am]

BILLING CODE 5000–03–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Advanced Scientific Computing; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Advanced Scientific Computing (#1185).

Date and Time: April 8, 1996, 8:30 a.m. to 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Suite 1150, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. John Van Rosendale, Program Director, New Technologies Program, Suite 1122, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306–1962.

Purpose of Meeting: To provide recommendations and advice concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals in the "New Millenium" Point Design Studies as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 18, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–6844 Filed 3–20–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Biological Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), in the National Science Foundation announces the following meeting:

Name and Committee Code: Special Emphasis Panel in Biological Sciences (1754).

Date and Time: April 10, 1996, 8:30 a.m.–5:00 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Rm. 380, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Machi F. Dilworth, Program Director, NSF/DOE/USDA Arabidopsis Genome Sequencing Program, Room 685, National Science Foundation, 4201 Wilson Boulevard, VA 22230, Telephone (703) 306–1422.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted in response to the NSF/DOE/USDA Arabidopsis Genome Sequencing Program.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information and personal information on individuals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 18, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–6845 Filed 3–20–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Design, Manufacture, and Industrial Innovation; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Design, Manufacture, and Industrial Innovation—(61).

Date and Time: April 8–9, 1996, 8:30 a.m.–5:00 p.m.

Place: Room 310, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Sara B. Nerlove, Program Manager, SBIR Office, (703) 306–1391 and Dr. Donald E. Jones, Program Manager, EHR/DUE, (703) 306–1613, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the NSF for financial support.

Agenda: To review and evaluate ESIE/DUE Phase II proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: March 18, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–6846 Filed 3–20–96; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Education and Human Resources; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Education and Human Resources.

Date and Time: April 3, 1996, 10:15 a.m.; April 4, 1996, 8:30 a.m.

Place: Arlington Renaissance Hotel, 950 N. Stafford Street, Arlington, VA 22203.

Type of Meeting: Open.

Contact Person: Peter E. Yankwich, Executive Secretary, Directorate for Education and Human Resources, Room 830, Arlington, VA 22230, (703) 306–1670.

Summary Minutes: May be obtained from contact person listed above.

Purpose of Committee: To provide advice and recommendations concerning NSF support for Education and Human Resources.

Agenda: Review of FY 1995 Programs and Initiative. Strategic Planning for FY 1996 and Beyond.

Dated: March 18, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–6847 Filed 3–20–96; 8:45 am]

BILLING CODE 7555–01–M

Federal Networking Council Advisory Committee; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Federal Networking Council Advisory Committee Meeting (1177).

Date and Time: April 8, 1996; 1:00 p.m. to 6:00 p.m. and April 8, 1996; 8:30 a.m. to 6:00 p.m.

Place: Room 1235.

Type of Meeting: Open.

Contact Person: Ms. Julie Walker, Coordinator, Federal Networking Council, DynCorp ATS, 4001 N. Fairfax Drive, Suite 200, Arlington, VA 22203–1614, Telephone: (703) 522–6410, Fax: (703) 522–7161. Internet: walkerj@snap.org.

Purpose of Meeting: The purpose of this meeting is for the Advisory Committee to provide the Federal Networking Council (FNC) with technical, tactical, and strategic advice, concerning policies and issues raised in the implementation and deployment of the National Research and Education Network (NREN) Program.

Agenda: Network Transition and Scalability, Internet Privacy and Security, Intellectual Property Rights (IPR), and Education.

Luncheon: There is no fee to attend this meeting. However, attendees who register in advance may order refreshments and/or a box lunch for which there will be a charge. To obtain a registration form, contact Ms. Walker by telephone, fax or electronic mail at the number or address above. Forms must be received by March 28, 1996.

Dated: March 18, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–6848 Filed 3–20–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel for Geosciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Public Law 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel for Geosciences (1756).

Date: April 10 through 12, 1996.

Time: 7:30 a.m. to 9:00 p.m. each day.

Place: Rooms 730 & 770, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Maryellen Cameron, Program Director, Petrology and Geochemistry Program, Division of Earth Sciences, Room 785, National Science Foundation, Arlington, VA 22230, (730) 306–1554.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate environmental geochemistry and biochemistry proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 18, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–6849 Filed 3–20–96; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Mathematical and Physical Sciences; Subcommittee of the Advisory Committee for Mathematical and Physical Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Mathematical and Physical Sciences (#6) Subcommittee of the Advisory Committee for Mathematical and Physical Sciences.

Date and Time: April 8–10, 1996; 8:30 a.m. to 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Thomas A. Weber, Division Director, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone (703) 306–1811.

Purpose of Meeting: To provide oversight review of the Division of Materials Research programs, including examination of decisions on proposals, reviewer comments, and other privileged materials.

Agenda: Perform functions of the Committee of Visitors (COV), (see "Purpose of Meeting", above), and to prepare COV Reports of their findings of the divisional programs.

Reason for Closing: The proposals being reviewed including information of a proprietary or confidential nature, include technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552 b.(c) (4) and (6) of the Government in the Sunshine Act.

Dated: March 18, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–6850 Filed 3–20–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Physics; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Physics (#1208).

Date: April 9 through 11, 1996.

Place: Bridge Annex, California Institute of Technology, 1201 E. California Boulevard, Pasadena, California.

Type of Meeting: Closed.

Contact Person: Dr. David Berley, Program Manager, Laser Interferometer Gravitational Observatory, Physics Division, Room 1015, National Science Foundation, 4201 Arlington Blvd., Arlington, VA 22230. Telephone: (703) 306–1892.

Purpose of Meeting: To review the cost, schedule, and management of the Laser Interferometer Gravitational-Wave Observatory (LIGO) project and to assess the actions taken on issues raised in previous reviews.

Agenda: To evaluate the current cost estimate, schedule, and to review the project management.

Reason for Closing: The Project plans being reviewed include information of a proprietary or confidential nature, including technical information; information on personnel and proprietary data for present and future subcontracts. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 18, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–6851 Filed 3–20–96; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Physiology and Behavior; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting.

Name: Advisory Panel for Physiology and Behavior (#1160)

Date and Time: April 10 and 11, 1996, 8 a.m.–6 p.m.

Place: Room 390, 4201 Wilson Boulevard, Arlington, Virginia 22230

Type of Meeting: Part-Open

Contact Person: Dr. Elvira Doman and Dr. John Fray, Program Directors, Integrative Animal Biology, Division of Integrative Biology and Neuroscience, room 685, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230. Telephone: (703) 306–1421.

Minutes: May be obtained from the contact persons listed above.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: Open Session: April 11, 2 p.m.–3 p.m.: Discussion with Dr. Mary Clutter, Assistant Director, Directorate for Biological Sciences. To discuss research trends and opportunities in biology.

Closed Session: April 10, 8 a.m.–6 p.m., April 11, 8 a.m–2 p.m., 3 p.m.–6 p.m. To review and evaluate Integrative Animal Biology proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: March 18, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–6852 Filed 3–20–96; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Physiology and Behavior; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name: Advisory Panel for Physiology and Behavior.

Date and Time: April 10th through 12th, 1996; 8:30 a.m.–5:00 p.m.

Place: National Science Foundation, Room 370, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Part-open.

Contact Person: Dr. James Coleman, Program Director, Ecological & Evolutionary Physiology, Division of Integrative Biology and Neuroscience, Suite 685, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1421.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Minutes: May be obtained from the contact person listed above.

Agenda: Open Session: April 12th, 1996; 9:30 p.m. to 10:30 p.m.—for a discussion on research trends and opportunities assessment procedures in Ecological and Evolutionary Physiology.

Closed Session: April 10th and 11th, 8:30 a.m. to 5:00 p.m.; April 12th 8:00 a.m. to 9:30 a.m. and 10:30 a.m. to 5:00 p.m. To review and evaluate Ecological & Evolutionary Physiology proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 18, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–6853 Filed 3–20–96; 8:45 am]

BILLING CODE 7555–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–36975; File No. SR–CSE–96–01]

Self-Regulatory Organizations; The Cincinnati Stock Exchange; Order Granting Approval to Proposed Rule Change Relating to Clearance Identification Procedures for Members

March 14, 1996.

On January 16, 1996, The Cincinnati Stock Exchange ("CSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to require that members give up only their own or another CSE member's clearing number when executing a transaction on the Exchange.

The proposed rule change was published for comment in the **Federal Register** on February 9, 1996.[3] No comments were received on the proposal.

The Exchange proposes to add a third policy/interpretation to Article II, Section 5.1 of its by-laws. This policy would require the Exchange's members to give up only their own or another CSE member's clearing number when executing a transaction on the Exchange. The Exchange reasons that this requirement would ensure that the CSE has jurisdiction over all of the parties involved in executing and settling trades that occur on the Exchange.

The Exchange proposes to place this requirement in Article II, Section 5.1 of its by-laws ("Restrictions on Admittance to or Continuance in Membership Association") instead of Chapter XIII, Rule 13.1 of its rules ("Comparison and Settlement Requirements") because, in the CSE's opinion, this requirement is a condition of membership being placed on existing members, and it does not impact the Exchange's procedures regarding the comparison and settlement of trades.[4]

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).[5] Specifically the Commission believes the proposal is consistent with the Section 6(b)(5)[6] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts, to foster cooperation and coordination with persons engaged in clearing, settling, and processing information with respect to transactions in securities and, in general, to protect investors and the public interest.

The Commission agrees that this give up requirement should ensure that the CSE may exercise jurisdiction over all of the parties involved in executing, clearing, and settling trades that occur on the Exchange. In turn, this should enhance the Exchange's ability to resolve issues involving the clearance and settlement of transactions that occur on the Exchange.[7]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (SR–CSE–96–01) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–6763 Filed 3–20–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36973; File No. SR–NASD–95–39, Amendment No. 3]

Self-Regulatory Organizations; Notice of Amendment No. 3 to Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Application of the Rules of Fair Practice to Transactions in Exempted Securities and an Interpretation of Its Suitability Rule

March 14, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 18, 1995, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change regarding the application of the Rules of Fair Practice to transactions in exempted securities and an interpretation of the NASD's suitability

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 36810 (Feb. 5, 1996), 61 FR 5050.

[4] See Letter dated February 12, 1996, from Robert P. Ackermann, Vice President, Regulatory Services, CSE, to Glen Barrentine, Senior Counsel/Team Leader, SEC.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] The Commission notes that this requirement is similar to New York Stock Exchange, Inc. Rule 138 and American Stock Exchange, Inc. Rule 104.

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

rule.[1] On October 17, 1995, the NASD filed Amendment No. 1 to the proposed rule change. The Commission solicited comments on the proposed rule change and Amendment No. 1 from interested persons on October 24, 1995.[2] On January 22, 1996, the NASD filed Amendment No. 2 to the proposed rule change,[3] and on February 15, 1996, replaced Amendment No. 2 with Amendment No. 3. to the proposed rule change.[4] Amendment No. 3 is described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the amendments to the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Below is the text of proposed changes to the original proposal. Proposed new language is italicized and deletions are in brackets.

Interpretation of the Board of Governors Prompt Receipt and Delivery Interpretation

* * * * *

(b) Sales:

(1) Long Sales.

No member or persons associated with a member shall accept a long sale order from any customer in any security *(except exempt securities other than municipals)* unless:

(A) The member has possession of the security;

(B) The customer is long in his account with the member;

(C) The member or person associated with a member makes an affirmative determination that the customer owns the security and will deliver it in good deliverable form within three (3) business days of the execution of the order; or

(D) The security is on deposit in good deliverable form with a member of the Association, a member of a national securities exchange, a broker-dealer registered with the Securities and Exchange Commission, or any organization subject to state or federal banking regulations and that instructions have been forwarded to that depository to deliver the securities against payment.

* * * * *

Recommendations to Customers

Sec. 2. (a) In recommending to a customer the purchase, sale or exchange of any security, a member shall have reasonable grounds for believing that the recommendation is suitable for such customer upon the basis of the facts, if any, disclosed by such customer as to his other security holdings and as to his financial situation and needs.

(b) Prior to the execution of a transaction recommended to a non-institutional customer, other than transactions with customers where investments are limited to money market mutual funds, a member shall make reasonable efforts to obtain information concerning:

(i) the customer's financial status;

(ii) the customer's tax status;

(iii) the customer's investment objectives; and

(iv) such other information used or considered to be reasonable by such member or registered representative in making recommendations to the customer.

For purposes of this subsection 2(b), the term "non-institutional customer" shall mean a customer that does not qualify as an "institutional account" under Article III, Section 21(c)(4) of the Rules of Fair Practice.

Interpretation of the Board of Governors

Suitability Obligations to Institutional Customers

Preliminary Statement as to Members' Obligations

As a result of broadened authority provided by amendments to the Government Securities Act adopted in 1993, the Association is extending its sales practice rules to the government securities market, a market with a particularly broad institutional component. Accordingly, the Board believes it is appropriate to provide further guidance to members on their suitability obligations when making recommendations to institutional customers. The Board believes this Interpretation is applicable not only to government securities but to all debt securities, excluding municipals.[1] Furthermore, because of the nature and characteristics of the institutional customer/member relationship, the Board is extending this Interpretation to apply equally to the equity securities markets as well.

The NASD's suitability rule is fundamental to fair dealing and is intended to promote ethical sales practices and high standards of professional conduct. Members' responsibilities include having a reasonable basis for recommending a particular security or strategy, as well as having reasonable grounds for believing the recommendation is suitable for the customer to whom it is made. Members are expected to meet the same high standards of competence, professionalism, and good faith regardless of the financial circumstances of the customer.

Article III, Section 2(a) requires that,

In recommending to a customer the purchase, sale or exchange of any security, a member shall have reasonable grounds for believing that the recommendation is suitable for such customer upon the basis of the facts, if any, disclosed by such customer as to his other security holdings and as to his financial situation and needs.

This Interpretation concerns only the manner in which a member determines that a recommendation is suitable for a particular institutional customer. The manner in which a member fulfills this suitability obligation will vary depending on the nature of the customer and the specific transaction. Accordingly, this Interpretation deals only with guidance regarding how a member may fulfill such "customer-specific suitability obligations" under Article III, Section 2(a) of the Rules of Fair Practice.[2]

While it is difficult to define in advance the scope of a member's suitability obligation with respect to a specific institutional customer transaction recommended by a member, the Board has identified certain factors which may be relevant when considering compliance with Article III, Section 2(a) of the Rules of Fair Practice. These factors are not intended to be requirements or the only factors to be considered but are offered merely as guidance in determining the scope of a member's suitability obligations.

Considerations Regarding the Scope of Members' Obligations to Institutional Customers

The two most important considerations in determining the scope of a member's suitability obligations in making recommendations to an institutional customer are the customer's capability to evaluate investment risk independently and the extent to which the customer [intends to exercise] *is exercising* independent judgment in evaluating a member's recommendation. A member must determine, based on the information available to it, the customer's capability to evaluate investment risk. In some cases, the member may conclude that the customer is not capable of making independent investment decisions in general. In other cases, the institutional customer may have general capability, but may not be able to understand a particular type of instrument or its risk. This is more likely to arise with relatively new types of instruments, or those with significantly different risk or volatility characteristics than other investments generally made by the institution. If a customer is either generally not capable of evaluating investment risk or lacks sufficient capability to evaluate the particular product, the scope of a member's customer-specific obligations under the suitability rule would not be diminished by the fact that the member was dealing with an institutional customer. On the other hand, the fact that a customer initially needed help understanding a potential investment need not necessarily imply that the customer did not ultimately develop an understanding and make an independent investment decision.

A member may conclude that a customer [intends to exercise] *is exercising* independent judgment if the customer's investment decision will be based on its own independent assessment of the opportunities and risks presented by a potential investment, market factors and other investment considerations. Where the broker-dealer has reasonable grounds for concluding that the institutional customer is making independent investment decisions and is capable of independently evaluating investment risk, then a member's obligation to determine that a recommendation is suitable for a particular customer is fulfilled.[3] Where a customer has delegated decision-making authority to an agent, such as an investment advisor or a bank trust department, this Interpretation shall be applied to the agent.

A determination of capability to evaluate investment risk independently will depend on an examination of the customer's capability to make its own investment decisions, including the resources available to the customer to make informed decisions. Relevant considerations could include:

- The use of one or more consultants, investment advisers or bank trust departments;
- The general level of experience of the institutional customer in financial markets and specific experience with the type of instruments under consideration;
- The customer's ability to understand the economic features of the security involved;
- The customer's ability to independently evaluate how market developments would affect the security; and
- The complexity of the security or securities involved.

A determination that a customer is making independent investment decisions will depend on the nature of the relationship that exists between the member and the customer. Relevant considerations could include:

- Any written or oral understanding that exists between the member and the customer regarding the nature of the relationship between the member and the customer and the services to be rendered by the member;
- The presence or absence of a pattern of acceptance of the member's recommendations;
- The use by the customer of ideas, suggestions, market views and information obtained from other members or market professionals, particularly those relating to the same type of securities; and
- The extent to which the member has received from the customer current comprehensive portfolio information in connection with discussing recommended transactions or has not been provided important information regarding its portfolio or investment objectives.

Members are reminded that these factors are merely guidelines which will be utilized to determine whether a member has fulfilled its suitability obligations with respect to a specific institutional customer transaction and that the inclusion or absence of any of these factors is not dispositive of the determination of suitability. Such a determination can only be made on a case-by-case basis taking into consideration all the facts and circumstances of a particular member/customer relationship, assessed in the context of a particular transaction.

For purposes of this Interpretation, an institutional customer shall be any entity other than a natural person. In determining the applicability of this Interpretation to an institutional customer, the NASD will consider the dollar value of the securities that the institutional customer has in its portfolio and/or under management. While this Interpretation is potentially applicable to any institutional customer, the guidance contained herein is more appropriately applied to an institutional customer with at least $10 million invested in securities in the aggregate in its portfolio and/or under management.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

This amendment completely replaces and supersedes Amendment No. 2. This Amendment responds to public comments received by the SEC to the publication of the proposed rule change in Securities Exchange Act Release No. 36383 (October 17, 1995), 60 FR 54530 (October 24, 1995) (the "Release").[5] This

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[1] A draft of the proposed Suitability Interpretation contained in the proposed rule change was first published for comment in Notice to Members 94-62 (August 1994) ("NTM 94-62"). The proposed Suitability Interpretation published in NTM 94-62 was revised, and a second draft was published for comment in Notice to Members 95-21 (April 1995) ("NTM 95-21"). Copies of NTM 94-62 and NTM 95-21 are included in File No. SR-NASD-95-39 as Exhibits 2 and 4 to the original rule filing respectively.

[2] *See* Securities Exchange Act Release No. 36383 (October 17, 1995), 60 FR 54530 (October 24, 1995). The Commission received nine comment letters in connection with the proposed rule change. *See infra* note 5.

[3] See letter from Suzanne E. Rothwell, Associate General Counsel, NASD, to Mark P. Barracca, Branch Chief, SEC, dated January 22, 1996.

[4] Amendment No. 2 responded to some of the comments received on the proposed rule change. Amendment No. 3 expands upon the discussion contained in Amendment No. 2 by including responses to all of the comment letters received on the proposed rule change. Amendment No. 3 to SR-NASD-95-39 completely replaces and supersedes Amendment No. 2. *See* letters from Joan C. Conley, Secretary, NASD, to Mark P. Barracca, Branch Chief, SEC, dated February 15, 1996, and March 4, 1996.

[1] Rules for municipal securities are promulgated by the Municipal Securities Rulemaking Board.

[2] This Interpretation does not address the obligation related to suitability that requires that a member have ". . . a 'reasonable basis' to believe that the recommendation could be suitable for at least some customers." In the Matter of the Application of F.J. Kaufman and Company of Virginia and Frederick J. Kaufman, Jr., 50 SEC 164 (1989).

[3] *See*, note 2.

[5] The Commission received letters from the following: (1) Brian C. Underwood, Vice President-Director of Compliance, A.G. Edwards & Sons, Inc., dated November 14, 1995; (2) David J. Master, Chairman and CEO, Coastal Securities Ltd., dated November 28, 1995; (3) Betsy Dotson, Assistant Director Federal Liaison Center, Government Finance Officers Association, dated November 14, 1995; (4) Thomas M. Selman, Associate Counsel, Investment Company Institute, dated November 14, 1995; (5) Jane D. Carlin, Principal and Counsel, Morgan Stanley & Co. Incorporated, dated December 5, 1995; (6) Paul Saltzman, Senior Vice President and General Counsel, Public Securities Association, dated November 30, 1995; (7) Scott H.

amendment, in response to certain public comments, makes certain changes to the text of the proposed rule change, the statement of purpose section of the proposed rule change, and the applicability of certain Rules of Fair Practice in the chart (reproduced below) entitled "Applicability of the Rules of Fair Practice to Exempted Securities, Including Government Securities (Except Municipals)" ("Applicability Table").

1. Purpose

a. Application of the NASD Rules of Fair Practice to Government Securities

Interpretation of the Board of Governors—Prompt Receipt and Delivery of Securities, Article III, Section 1 of the Rules of Fair Practice ("Prompt Receipt and Delivery Interpretation")

The proposed rule change would expand the short-sale exemption under paragraphs (b)(2) (a) and (b) of the Prompt Receipt and Delivery Interpretation from corporate debt to all debt. One commenter suggests that the long-sale provisions under paragraph (b)(1) of the Prompt Receipt and Delivery Interpretation be similarly amended to exempt a member from making affirmative determinations required under that paragraph prior to accepting a long sale from any customer.[6] The commenter states that the Interpretation will otherwise require a dealer who purchases a government security from a customer to ascertain that the customer is "long" the security at the time of the transaction. The commenter argues that this affirmative determination requirement would be contrary to the practice in the government securities market that allows a customer to sell a security to a dealer and cover the sale with a subsequent purchase or repurchase transaction in the "specials market". The commenter states that this practice has been recognized by the Federal Reserve Board and is allowed under Regulation T. The commenter further argues that the ability of customers to finance such short positions along with their ability to keep their positions confidential from the executing dealer helps to make the government securities market extremely liquid.

The NASD acknowledges that, in some circumstances, it may be difficult for members to ascertain the position of a customer's account prior to accepting a long-sale in the government securities market. The NASD also recognizes that purchase and repurchase transactions in the government securities market reduce fails and increase the liquidity of the market. It is also important to note that the proposed rule change would amend Article III, Section 21(b)(i) of the Rules of Fair Practice to exempt all debt from the member requirement to mark order tickets "long" or "short." In addition, the proposed rule change would amend paragraph (b)(2) of the Prompt Receipt and Delivery Interpretation to exempt all debt from the affirmative determination requirement regulating short sales. Consistent with these positions, the NASD proposes: (1) to amend paragraph (b)(1) of the Prompt Receipt and Delivery Interpretation to provide an exemption from the requirements applicable to long sales for exempt securities except for municipals; and (2) to make a conforming change to the Applicability Table to provide that the Prompt Receipt and Delivery Interpretation is "Not Applicable".

Interpretation of the Board of Governors—Execution of Retail Transactions in the Over-the-Counter Market, Article III, Section 1 of the Rules of Fair Practice ("Best Execution Interpretation")

The proposed rule change would apply the Best Execution Interpretation to exempt securities including government securities, except for municipals. Two commenters state that members will have difficulty readily determining the best bid/ask price for a particular government security or similar security, or even the last sale price, as the government securities market and the over-the-counter ("OTC") debt markets lack systems similar to the consolidated quotation system and the inter-market trading system.[7] One commenter states that the best execution concept has occurred largely in the context of the equity markets and questions the Interpretation's application to the fixed income principal markets where transactions are executed at a "net price".[8] The commenter argues that the application of the Best Execution Interpretation should be delayed and considered with the NASD's Mark-Up Proposal[9] in order to consider the extent to which both interpretations provide guidance in connection with pricing securities fairly. One commenter also argues that the NASD should provide guidance that government securities transactions "be executed at a resultant price to the customer that is reasonable related to the market".[10] The commenter argues that this concept more accurately reflects important issues in the government securities markets relating to the: (i) mechanics of odd-lot transactions; (ii) difficulty of obtaining the "best price" as that term is considered in the equity markets; and (iii) quotations of active versus non-active government issues of the same maturity in order to serve different customer needs, i.e., institutional liquidity-goals versus retail customer yield-goals. The commenter also argues that applying the Best Execution Interpretation to government securities is counter to the SEC's initiative of providing more market transparency to the government securities markets because, for example, it will force firms to continue to use verbal/paper ticket order desks.

The NASD believes that the general concept of the Best Execution Interpretation, *i.e.*, that a member should seek in executing customer transactions to obtain the best price for the customer, should apply in the government securities market even though certain specific provisions of the Best Execution Interpretation may not be applicable to the government securities market. The NASD's position regarding the applicability of the Best Execution Interpretation to government securities is consistent with its position that the concepts of the Interpretation apply as well to all OTC markets that the NASD regulates, including direct participation programs.[11] The NASD will further consider whether an amendment to the Best Execution Interpretation is necessary to clarify this position as it applies to government securities, but believes such an amendment is not necessary at this time given the clarification provided herein.

Rockoff, Managing Director, Director of Compliance, and Assistant General Counsel, Nomura Securities International, Inc., dated December 14, 1995; (8) Robert F. Prince, Chairman Federal Regulation Committee, and Zachary Snow, Chairman OTC Derivatives Products Committee, Securities Industry Association, dated December 17, 1995; and (9) David Rosenau, President, The Winstar Government Securities Company L.P., dated December 27, 1995. These letters will be referred to hereinafter by their number as indicated in this footnote.

[6] See Comment Letter No. 6, *supra* note 5.

[7] *See* Comment Letters Nos. 6 and 9, *supra* note 5.

[8] *See* Comment Letter No. 6, *supra* note 5.

[9] *See* NTM 94–62 (requesting comment on the proposed Interpretation of the Board of Governors application of the NASD Mark-Up Policy to Transactions in Government and Other Debt Securities).

[10] *See* Comment Letter No. 9, *supra* note 5.

[11] *See* NTM 91–69 (discussing the application of the Interpretation to transactions in direct participation program securities).

Interpretation of the Board of Governors—Front Running Policy, Article III, Section 1 of the Rules of Fair Practice ("Front Running Policy")

The proposed rule change would apply the Front Running Policy to exempt securities including government securities, except for municipals. One commenter requests that the effectiveness of the Front Running Policy be delayed to determine how this policy applies to the government securities market.[12] The commenter argues that the Front Running Policy was intended to apply solely to equities and is currently limited to transactions that are required to be reported on the last sale reporting systems administered by Nasdaq, the Consolidated Tape Association or the Options Price Reporting Authority, whereas government securities transactions are not reported on such systems. The commenter further argues that whereas a member's advance knowledge of a block trade can have a substantial effect on an equity security, it is less clear that such prior knowledge permits a broker-dealer to predict and benefit from the effect of a transaction on the price of a government security transaction because of differences in the government securities markets. The commenter requests clarification, for purposes of the Front Running Policy, regarding what constitutes a "block trade" in the government securities markets, because government securities do not trade as "shares."

In response, the NASD acknowledges that the Front Running Interpretation is drafted to apply only to equity securities. The NASD proposes to amend the Applicability Table to indicate that the Front Running Policy under Article III, Section 1 of the Rules of Fair Practice is "Not Applicable." The NASD believes, however, that the member conduct prohibited by the Front Running Interpretation may occur under certain circumstances in the government securities markets. The NASD intends to review the application of the Front Running Interpretation to the government securities markets. In the interim, the NASD will remind members that actions for similar front running conduct occurring in the government securities markets may be brought under Article III, Section 1 of the Rules of Fair Practice.[13]

The NASD similarly notes that the Interpretation of the Board of Governors at paragraph 2125.07 regarding the trading ahead of customer limit orders and the Interpretation of the Board of Governors—Trading Ahead of Research Reports, are drafted to apply only to equity securities. The NASD believes the Conduct addressed by these Interpretations also may occur under certain circumstances in the government securities markets and intends to review the application of these Interpretations to the government securities markets. In the interim, the NASD will remind members that actions for similar conduct occurring in the government securities markets may be brought under Article III, Section 1 of the Rules of Fair Practice. The NASD would further amend the Applicability Table by adding the recently approved Interpretation of the Board of Governors at paragraph 2125.07, and the Interpretation of the Board of Governors—Trading Ahead of Research Reports under Article III, Section 1 of the Rules of Fair Practice, with the statement that these Interpretations are "Not Applicable," and followed by footnotes stating that violations for such conduct in the government securities markets may be brought under Article III, Section 1 of the Rules of Fair Practice.

Article III, Section 23 of the Rules of Fair Practice—Net Prices to Persons Not in Investment Banking or the Securities Business

The proposed rule change would apply Article III, Section 23 of the Rules of Fair Practice to exempt securities, except for municipals. One commenter requests clarification of the application of that section to the government securities markets.[14] In response, the NASD has determined that the requirements contained in Article III, Section 23 are superseded and more clearly provided for under: (i) Rule 10b–10 of the Act relating to Confirmation of Transactions; and (ii) Article III, Section 25 of the Rules of Fair Practice relating to Dealing with Non-Members. The NASD, therefore, proposes to amend the Applicability Table to indicate that Article III, Section 23 of the Rules of Fair Practice is "Not Applicable; Superseded by SEC and NASD Rules."

Article III, Section 35A of the Rules of Fair Practice/Schedule C to the By-laws

The proposed rule change would apply Schedule C of the By-Laws ("Schedule C"), regarding NASD registration requirements of persons associated with a member, to the personnel of sole-government securities broker-dealers, including persons selling options on government securities. The proposed rule change also would have the effect of applying Article III, Section 35A of the Rules of Fair Practice ("Section 35A") to the options communications of such members with the public. One commenter states that Section 35A(b) requires a Compliance Registered Options Principal to approve such literature, but Schedule C requires a member to designate such a principal only according to Article III, Section 33.[15] Pursuant to the Applicability Table of the proposed rule change, however, the commenter notes that the NASD would not apply the provisions of Article III, Section 33 to government securities. The commenter requests clarification as to whether the proposed rule change will require a government securities broker-dealer to register an associated person as its "Compliance Registered Options Principal" under Part II, Section 2(f) of Schedule C in order to comply with Section 35A(b) of the Rules of Fair Practice that requires the registration of such a Principal in order to approve certain options advertisements, sales materials and other literature for government securities options transactions.[16] The commenter argues that this compliance issue is unclear because the registration provision under Part II, Section 2(f) of Schedule C provides that a member should designate a Compliance Registered Options Principal only according to the options provisions of Article III, Section 33 of the Rules of Fair Practice which would not be applicable to government securities.

In response, the NASD is currently reviewing the issue of whether a "Compliance Registered Options Principal" under Schedule C should be required for members that trade options on government securities, and the NASD intends to file in 1996 a proposed rule change regarding this registration issue. Therefore, the NASD is amending the Applicability Table to indicate that Article III, Section 35A(b) is "Not Applicable/Under Review." Article III, Section 35A(b) will not be applicable to options advertisements, sales materials and other literature for government securities options transactions during this interim review period.

Article III, Section 45 of the Rules of Fair Practice—Customer Account Statements

The proposed rule change would phase-in the implementation of Article

[12] *See* Comment Letter No. 6, *supra* note 5.

[13] A footnote has been added to the Applicability Table to indicate that such conduct in the government securities market may be brought under Article III, Section 1 of the Rules of Fair Practice.

[14] *See* Comment Letter No. 6, *supra* note 5.

[15] *Id.*

[16] *Id.*

III, Sections 21, 27 and 32 of the Rules of Fair Practice to dealers in government securities within three months after the effective date of the rule change to provide members with sufficient time to change their internal procedures to comply with the rules. One commenter requests that the effective date of the application of Article III, Section 45 of the Rules of Fair Practice be provided the same implementation period. The NASD, upon review, concurs with this suggestion and proposes that Article III, Section 45 of the Rules of Fair Practice be implemented within three months after the effective date of the rule change to provide members with sufficient time to change their internal procedures to comply with this rule.

Set forth below is a table identifying the applicability of the Rules of Fair Practice to exempted securities, including government securities (except municipals). Proposed changes to the original table contained in the Release are indicated, with additions in italics and deletions in brackets.

APPLICABILITY OF THE RULES OF FAIR PRACTICE TO EXEMPTED SECURITIES, INCLUDING GOVERNMENT SECURITIES (EXCEPT MUNICIPALS)

	Article III	
Section 1	Business Conduct of Members	Applicable.
	Interpretations of the Board of Governors—.	
	Execution of Retail Transactions in the Over-the Counter Market	Applicable.
	Prompt Receipt and Delivery	*Not* Applicable.
	Forwarding of Proxy and Other Materials	Not Applicable.
	Free-Riding and Withholding	Amending to be Not Applicable.
	Interpretation on Limit Order Protection	Not Applicable.
	Interpretation of the Board of Governors ¶2125.07	*Not Applicable.**
	Front Running Policy	*Not Applicable.**
	Trading Ahead of Research Reports	*Not Applicable.**
Section 2	Recommendations to Customers	Applicable.
	Policy of the Board of Governors—Fair Dealing With Customers Policy	Applicable.
Section 3	Charges to Customers	Applicable.
Section 4	Fair Prices and Commission	Applicable.
	Interpretation of the Board of Governors—NASD Mark-Up Policy	Applicable.**
Section 5	Publication of Transactions and Quotations	Applicable.
	Interpretation of the Board of Governors—Manipulative and Deceptive Quotations.	Applicable.
Section 6	Offers at Stated Prices	Applicable.
	Policy of the Board of Governors—Policy With Respect to Firmness of Quotations.	Applicable.
Section 7	Disclosure of Prices in Selling Agreements	Applicable only to traditional underwriter arrangements.
Section 8	Securities Taken in Trade	Not Applicable.
	Interpretation of the Board of Governors—Safe Harbor and Presumption of Compliance.	Not Applicable.
Section 9	Use of Information Obtained in Fiduciary Capacity	Applicable.
Section 10	Influencing or Rewarding Employees of Others	Applicable.
Section 11	Payment Designed to Influence Market Prices, Other than Paid Advertising	Applicable.
Section 12	Disclosure on Confirmations	Not Applicable; superseded by SEC rules.
Section 13	Disclosure of Control.	Not Applicable.
Section 14	Disclosure of Participation or Interest in Primary or Secondary Distribution	Applicable.
Section 15	Discretionary Accounts	Applicable.
Section 16	Offers "At the Market"	Not Applicable.***
Section 17	Solicitation of Purchases on an Exchange to Facilitate a Distribution of Securities.	Applicable.
Section 18	Use of Fraudulent Devices	Applicable.
Section 19	Customers Securities or Funds	Applicable.
Section 20	Installment or Partial Payment Sales	Applicable.
Section 21	Books and Records	Applicable, except for proposed amendments to Subsection (b)(i).
Section 22	Disclosure of Financial Condition	Applicable.
Section 23	Net Prices to Persons Not in Investment Banking or Securities Business	*Not Applicable.*
Section 24	Selling Concessions	Not Applicable.
	Interpretation of the Board of Governors—Services in Distribution	Not Applicable.
Section 25	Dealing with Non-Members	Not Applicable.
	Interpretation of the Board of Governors—Transactions Between Members and Non-members.	Not Applicable.
Section 26	Investment Companies	Not Applicable.
Section 27	Supervision	Applicable.
Section 28	Transactions for or by Associated Persons	Applicable.
Section 29	Variable Contracts of an Insurance Co.	Not Applicable.
Section 30	Margin Accounts	Applicable.
Section 31	Securities Failed to Receive and Failed to Deliver	Not Applicable.
Section 32	Fidelity Bonds	Applicable.
Section 33	Options	Not Applicable.
Section 34	Direct Participation Programs Appendix F	Not Applicable.
Section 35	Communications With the Public	Applicable.

APPLICABILITY OF THE RULES OF FAIR PRACTICE TO EXEMPTED SECURITIES, INCLUDING GOVERNMENT SECURITIES (EXCEPT MUNICIPALS)—Continued

Section 35A	Options Communications With the Public	*Not Applicable/ Under Review.*
Section 36	Transactions with Related Persons	Not Applicable.
	Interpretations of the Board of Governors—Transactions With Related Persons.	Not Applicable.
Section 37	Operating Rules for ITS/CAES and CAES	Not Applicable.
Section 38	Regulation of Activities of Members Experiencing Financial and/or Operational Difficulties.	Applicable.
Section 39	Approval of Change in Exempt Status under SEC Rule 15c3–3	Applicable.
Section 40	Private Securities Transactions	Applicable.
Section 41	Short-Interest Reporting	Not Applicable.
Section 42	Prohibition on Transactions During Trading Halts	Not Applicable.
Section 43	Outside Business Activities	Applicable.
Section 44	The Corporate Financing Rule	Not Applicable.
Section 45	Customer Account Statements	Applicable.
Section 46	Adjustment of Open Orders	Not Applicable.
Section 47	Clearing Agreements	Applicable.
Section 48	Short Sale Rule	Not Applicable.
Section 49	Primary Nasdaq Market Maker Standards	Not Applicable.
	Article IV.—Complaints	
Section 1	Availability to Customers of Certificate, by-laws, Rules and Code of Procedures.	Applicable.
Section 2	Complaints by Public Against Members for Violations of Rules	Applicable.
Section 3	Complaints by District Business Conduct Committee	Applicable.
Section 4	Complaints by Board of Directors	Applicable.
Section 5	Reports and Inspection of Books for Purpose of Investigating Complaints	Applicable.
	Article V	
Section 1	Sanctions for Violations of Rules	Applicable.
Section 2	Interpretation of the Board of Governors—The Effect of a Suspension or Revocation of the Registration, if any, of a Person Associated with a Member or the Barring of a Person from further Association with any Member.	Applicable.
	Payment for Fines, Other Monetary Sanctions, or Costs	Applicable.
Section 3	Posts of Proceedings	Applicable.

* *The NASD intends to review the application of this Interpretation to the government securities markets. In the interim, members are reminded that actions for similar conduct occurring in the government securities markets may be brought under Article III, Section 1 of the Rules of Fair Practice.*

** Article III, Section 4 of the Rules of Fair Practice and the NASD Mark-Up Policy currently apply to transactions in equity and corporate debt securities. The NASD is developing an Interpretation of the Mark-Up Policy with respect to exempt securities and other debt securities. Therefore, the current application of Article III, Section 4 of the Rules of Fair Practice and the NASD Mark-Up Policy will not apply to transactions in exempt securities until adoption of the proposed Interpretation of the NASD Mark-Up Policy with respect to all debt securities. However, current Article III, Section 4 of the Rules of Fair Practice and the Mark-Up Policy remain in full force and effect for all equity and corporate debt transactions. *See* letter from Elliott R. Curzon, Assistant General Counsel, NASD, to Mark P. Barracca, Branch Chief, Division of Market Regulation, SEC, dated October 17, 1995 (Amendment No. 1 to the proposed rule change).

*** *The NASD intends to review the application of this Interpretation to the government securities markets. In the interim, members are reminded that actions for similar conduct occurring in the government securities markets may be brought under Article III, Section 1 of the Rules of Fair Practice.*

b. Interpretation of the Board of Governors—Suitability Obligations to Institutional Customers, Article III, Section 2 of the Rules of Fair Practice

Amendment to the Text of the Proposed Interpretation

One commenter pointed out that in the sixth and seventh paragraphs of the proposed Suitability Interpretation the NASD states that the two most important factors in determining a member's suitability obligations are a customer's capability to evaluate investment risk independently and the extent to which the customer "intends to exercise independent judgment in evaluating a member's recommendation." [17] The commenter notes that the NASD goes on to state in the ninth paragraph that a member's obligation to determine suitability is fulfilled if it determines that the customer is capable of evaluating risk and "is making independent investment decisions." The commenter states that such language in the Suitability Interpretation is confusing as it appears to create two different standards, *i.e.*, "intends to exercise independent judgment" versus "is making independent investment decisions." The commenter suggests replacing the phrase "intends to exercise" with the phrase "is exercising" to eliminate this confusion.

[17] *See* Comment Letter No. 5, *supra* note 5.

Upon review, the NASD proposes to conform the language contained in the sixth and seventh paragraphs by replacing the phrase "intends to exercise" with the phrase "is exercising." This change is consistent with the purpose of the Suitability Interpretation to provide guidance to members in fulfilling their obligation under Article III, Section 2(a) to have reasonable grounds for believing that the recommendation to a customer for the purchase, sale or exchange of any security is suitable for the customer upon the basis of factors, if any, disclosed by such customer as to his other security holdings and as to his financial situation and needs. Under this rule, the member's suitability obligation relates to the member's

recommendation and not to a future transaction date. Under the proposed Suitability Interpretation, therefore, a member should be considering whether a customer "is making independent investment decisions" in connection with the member's present recommendation(s) rather than speculating on the customer's intent to exercise independent judgment at some future transaction date.

Regulatory Status of Language Contained in NASD Notice to Members Requesting Member Comment

One commenter expressed concern that the earlier proposals of the Suitability Interpretation contained in Notice to Members 94–62 ("NTM 94–62") and Notice to Members 95–21 ("NTM 95–21") [18] may be interpreted by end-users and private litigants to support the proposition that there has been a shift in the underlying substantive policy position on the part of both the NASD and the Commission to increase a member's suitability obligations to institutional accounts.[19] The commenter specifically expressed strong opposition to the language contained in NTM 94–62 that "the member's relationship with the customer gives rise to a duty to help the customer determine reasonable investment parameters."

It is the position of the NASD that language contained in any NASD Notice to Members publishing a proposal for comment prior to the filing of resulting NASD rule changes with the SEC should be deemed to have no regulatory status unless the NASD states otherwise. The primary regulatory purpose of the NASD publishing draft proposals for member comment, such as earlier versions of the Suitability Interpretation, is to receive member comment on the initiative without adopting any final position on the particular matter. Any subsequent revisions to proposed rule language or in narrative discussion contained in Notices to Members are not intended by the Association to imply any position regarding the merit of the published language or discussion. The attachment of any regulatory significance to language and discussion contained in Notices to Members publishing a proposal for comment would be contrary to and harm the self-regulatory process envisioned by Section 15A of the Act, as amended, whereby the Association, through the contributions of industry and non-industry volunteers, is able to publish often controversial regulatory proposals for member comment. Therefore, the language contained in NTM 95–21 and NTM 94–62 should not be interpreted by end-users, private litigants, or others, to support the proposition that there has been a shift in any underlying substantive policy position on the part of the NASD to change a member's suitability obligations to institutional accounts.

Member Determination Regarding the Institutional Customer's Capability To Evaluate Investment Risk Independently

One commenter states that three additional factors should be included for consideration by a member in determining an institutional customer's capability to evaluate investment risk independently.[20] The commenter considers the following to be typical indicia of financial sophistication and sufficient trading experience: (i) Whether or not the customer is engaged in the financial industry or in the business of managing its own or others' investments; (ii) whether the customer has in-house investment professionals charged with the responsibility for recommending or making investment decisions on behalf of the customer; and (iii) whether the customer has independently adopted investment guidelines and provides explicit investment guidelines to the member broker-dealer.

The NASD acknowledges that additional factors may be of value to members when considering whether an institutional customer is capable of evaluating investment risk independently. The NASD's proposed Suitability Interpretation states that the considerations included therein are not intended to be requirements or the only factors to be considered, but are offered merely as guidance in determining the scope of a member's suitability obligations. The NASD will look at the listed factors in the Suitability Interpretation in the context of an examination of a member, but recognizes that in certain cases the listed factors may be inappropriate or other factors may also be pertinent to the specific situation.

One commenter argues that the Suitability Interpretation should require that broker-dealers provide specific types of information to customers with regard to specific transactions, such as the instrument's behavior under a variety of conditions, types of risk incurred with certain instruments, and valuation information.[21] The commenter suggests that the absence of affirmative broker-dealer duties may lead to a debate regarding what constitutes a recommendation that triggers the NASD's suitability rule contained in Article III, Section 2 of the Rules of Fair Practice.

The NASD is not seeking by the proposed rule change to adopt the Suitability Interpretation in order to impose additional duties on members which are not already imposed by current Article III, Section 2 of the Rules of Fair Practice, by general anti-fraud principles contained in Section 10(b) of the Act and other provisions of the federal securities laws, or in Article III, Section 18 of the NASD's Rules of Fair Practice.[22] With respect to the issue raised regarding what constitutes a recommendation, the NASD stated in the Release that a significant amount of caselaw has been developed as a result of NASD disciplinary actions and SEC enforcement cases with respect to this concept, which is available as guidance to the membership.

One commenter argues that the relevance of the customer's use of consultants, investment advisers or bank trust departments should depend on the extent of the use and nature of the outside advice.[23] The Commenter also questions whether outside managers for investment pools and trustees fall within the scope of this factor. The NASD agrees that the relevance of a customer's use of professional advisers will depend on the extent of the use of such outside advice. In addition, the proposed Suitability Interpretation states that where a customer has delegated decision-making authority to an agent, such as an investment advisor or a bank trust department, the Interpretation shall be applied to the agent. The Suitability Interpretation, therefore, would apply to any delegated agents of the customer, including outside managers for investment pools, trustees, and other agents.

One commenter argues that the relevance of the customer's general level of experience in the financial markets and with types of instruments under consideration will depend not only on the expertise of the staff but on the nature of changing markets as well.[24] The commenter argues that the relevance of the customer's ability to understand economic features or the complexity of the security involved may turn on the nature of information provided to the investor regarding the features of a specific instrument. The commenter also argues that a customer's track record or an affirmative statement by the customer that it has the ability to independently evaluate the effect of the market on a security are unreliable indicators of a customer's ability to independently evaluate the effect of the market on the security. The NASD agrees that the relevance of factors listed in the Suitability Interpretation will vary depending on numerous circumstances. Both the Suitability Interpretation and the discussion of the proposed rule change in the Release emphasized that the factors listed in the Suitability Interpretation are merely guidelines and that the inclusion or absence of any of these factors is not dispositive of the determination of suitability. With regard to the member's consideration of a customer's track record, the NASD addressed this concern in the Release by stating that it believes that a member in an ongoing member/customer relationship will often gain knowledge of factors pertaining to the customer's capability to independently evaluate investment risk, as well as whether the customer intends to and is making independent investment judgments. The NASD believes that a customer's track record or an affirmative statement by the customer are helpful factors for consideration, though not dispositive in themselves.

Member Determination Regarding the Institutional Customer's Making of Independent Investment Decisions

One commenter argues that the factor regarding the "presence or absence of a pattern of acceptance of a member's recommendation" is too broad and should apply only to "captive" account situations, where a single broker-dealer is effectively controlling substantially all investment decisions of an account.[25] In response, the NASD believes that it would be inappropriate to limit to "captive accounts" the member's consideration of the presence or absence of a pattern of a customer's acceptance of a member's recommendation. The NASD believes that a member should be allowed to consider this factor whenever it is appropriate and reasonable to the member's determination.

One commenter argues that three of the listed factors warrant reconsideration as determinative factors or rebuttable presumptions that the member has fulfilled its suitability obligation.[26] Another commenter also argues that the Suitability Interpretation should be amended to create a rebuttable presumption that a member's recommendations to defined institutional customers are suitable.[27] In response, the NASD does not believe it is appropriate to create a safe harbor for members' suitability obligations nor to change or reduce members' obligations under the suitability rule in Article III, Section 2 of the Rules of Fair Practice.

One commenter requests clarification that the lack of a written agreement will not work against investors in disputed cases, and that the inclusion of such a provision in the rule does not indicate a preference for such agreements.[28] The NASD believes that the act of developing such agreements with a customer may be helpful to a member in determining its suitability obligations to the customer, but the existence or absence of such an agreement is not intended to create a presumption as to whether the member has or has not fulfilled its suitability obligations under Article III, Section 2 of the Rules of Fair Practice.

One commenter argues that member consideration of the customer's use of other information as a means of limiting a broker-dealer's suitability obligation may discourage investors from becoming more informed and responsible.[29] The NASD does not agree that the referenced factor or any of the factors listed in the Suitability Interpretation will discourage institutional customers from being more informed and responsible. Rather, this factor recognizes that in many cases institutional customers rely on financial information other than that provided by the member and may, in fact, be subject to a fiduciary obligation to do so.

One commenter argues that member consideration of "the extent to which the member has received from the customer current comprehensive portfolio information in connection with discussion of recommended transactions" may not be prudent for the institutional investor with concerns that a member's detailed knowledge of the institution's holdings may affect the institution's ability to trade certain portions of the portfolio or may adversely affect the market for the institution's holdings.[30] The commenter, however, supports the Interpretation's provision that the member consider the extent to which the member has not been provided important information regarding the institution's portfolio or investment objectives.[31] The commenter considers this latter provision to include a jurisdiction's[32] investment guidelines and risk constraints, as well as relevant state and local law. The commenter recommends replacing both of the above considerations with language that would focus on whether the customer has provided "material relevant to a particular transaction" and requiring that the member make a reasonable request to obtain relevant portfolio or investment objectives information. The NASD agrees with the commenter that any material relevant to a particular transaction provided by a customer would help members fulfill their suitability obligations under the Suitability Interpretation. The NASD, however, believes that such material information would include current comprehensive portfolio information in connection with the transaction and that the more specific guideline is appropriate even though a customer may not be willing to provide such information. The NASD recognizes the commenter's concerns and reminds members that the Suitability Interpretation states that all the factors are merely guidelines, and that the inclusion or absence of any of these factors is not dispositive in the determination of suitability.

Application of Suitability Interpretation to Certain Agents Delegated by the Institutional Customer

The Suitability Interpretation would require that if an institutional customer has delegated investment authority to an agent such as an investment advisor or money manager, then the Interpretation applies to the agent rather than the customer. One commenter believes that investment professionals employed by institutional customers should bear the total responsibility for their investment decisions made on behalf of their institutional customers, *i.e.*, where the customer relies on an investment professional, the determination of suitability should be presumed to be made by the investment professional.[33] The NASD has stated in the Release that it does not believe it is appropriate to create a safe harbor for members' suitability obligations nor to change or reduce members' obligations under the

[18] *See supra* note 1.
[19] *See* Comment Letter No. 6, *supra* note 5.
[20] *See* Comment Letter No. 5, *supra* note 5.
[21] *See* Comment Letter No. 3, *supra* note 5.
[22] *See infra* discussion under "Other Comments."
[23] *See* Comment Letter No. 3, *supra* note 5.
[24] *Id.*
[25] *See* Comment Letter No. 5, *supra* note 5.
[26] *See* Comment Letter No. 6, *supra* note 5.
[27] *See* Comment Letter No. 8, *supra* note 5.
[28] *See* Comment Letter No. 3, *supra* note 5.
[29] *Id.*
[30] *Id.*
[31] *Id.*
[32] The commenter's reference to the term "jurisdiction" reflects that the commenter represents state and local government officials and other public finance specialists involved in all the disciplines comprising public finance.
[33] *See* Comment Letters Nos. 1 and 8, *supra* note 5.

suitability rule in Article III, Section 2 of the Rules of Fair Practice.[34]

Application of Suitability Interpretation to Institutional Customer: $10 Million Threshold

The Suitability Interpretation provides that for its purposes, an institutional customer shall be any entity other than a natural person. It also provides that in determining the applicability of the Suitability Interpretation to an institutional customer, the NASD will consider the dollar value of the securities that the institutional customer has in its portfolio and/or under management. It further states that while it is potentially applicable to any institutional customer, the guidance contained therein is more appropriately applied to an institutional customer with at least $10 million invested in securities in the aggregate in its portfolio and/or under management.

One commenter argues that the $10 million threshold is contrary to language contained in the Congressional report on the Government Securities Act Amendments of 1993, which states that no distinction should be made in the application of the NASD's rules between investors on the basis of size of portfolio.[35] The commenter also argues that the $10 million portfolio threshold contradicts other language in the Suitability Interpretation that states that the Interpretation is potentially applicable to any institutional customer. The commenter further states the $10 million portfolio threshold provision is, therefore, confusing, difficult to apply, and requests clarification on: (i) what is meant by the reference to securities in the aggregate in its portfolio and/or under management; (ii) what is the period during which the $10 million portfolio size criteria applies; (iii) what is intended by the phrase "under management"; and (iv) what connection the portfolio size has to the rest of the rule. The commenter also requests clarification on how institutional investors with a portfolio less than the threshold will be treated and recommends that if the threshold amount remains, that it be significantly higher than $10 million because otherwise the Interpretation would inappropriately apply to certain small governmental entities with portfolios that are nominal in the context of government operations.

The NASD responded to such concerns when it stated in the Release that it "agrees that portfolio size is not dispositive of a member's suitability obligations, but believes it is appropriate for the NASD to consider the portfolio size of the customer in determining the applicability of the proposed Suitability Interpretation. The NASD believes that there is a greater likelihood that the member can apply the proposed Suitability Interpretation to an institutional customer with at least $10 million invested in securities in the aggregate in its portfolio and/or under management, but the NASD has no intent to create a presumption either above or below that aggregate dollar amount that the Interpretation will, in fact, apply to a particular institutional customer. In connection with concerns regarding the NASD's method of calculating the $10 million test, the NASD intends to look for guidance for such calculations to SEC Rule 144A."[36]

One commenter supports the $10 million threshold but states that this threshold suggests that the dealer is more likely to be able to reach the determination called for by the Suitability Interpretation for accounts of at least that size.[37] One commenter requests clarification that a member's suitability obligations and the guidance provided by the Interpretation apply identically to all registered investment companies regardless of the amount of assets that a particular investment company has under management.[38] The commenter is concerned that the Interpretation will otherwise inadvertently lead to discrimination against smaller investment companies. The commenter argues that all investment companies are subject to equal treatment under the Investment Company Act of 1940 and must operate within the same competitive environment in which they are expected to obtain professional, experienced investment management for their shareholders. One commenter similarly argued that the Interpretation will have an adverse impact on all smaller institutional accounts.[39] The commenter argues that the burden on competition is not necessary or appropriate for such smaller accounts.

The NASD believes the commenters referenced in the preceding paragraph have misinterpreted the reference to $10 million to imply a definitive threshold that distinguishes capable from non-capable institutional customers. The NASD further believes that the additional provisions in the paragraph containing the $10 million dollar reference eliminate any inference that $10 million is a definitive threshold. Also, as noted above, the NASD stated in the Release that it does not intend to create a presumption either above or below that aggregate dollar amount that the Interpretation will, in fact, apply to a particular institutional customer. The $10 million threshold, therefore, in the context of the complete paragraph does not and should not result in inadvertent discrimination against either investment companies or other institutional customers with less than $10 million invested in securities in the aggregate in their portfolios and/or under management.

Another commenter supports the threshold and states that the $10 million provision acknowledges that although certain investors with substantial assets do not fall within the NASD definition of "institutional account" in Article III, Section 21 of the Rules of Fair Practice (which establishes a $50 million asset threshold), they are nevertheless capable of evaluating investments and exercising independent investment judgment.[40] The NASD agrees with this commenter's understanding of the $10 million provision contained in the Suitability Interpretation.

The proposed rule change would also amend Article III, Section 2(b) of the Rules of Fair Practice to clarify that for purposes of the account information requirements, the definition of a "non-institutional customer" shall mean a customer that does not qualify as an "institutional account" under Article III, Section 21(c)(4) of the Rules of Fair Practice. One commenter argues that the information-gathering requirement in Article III, Section 2(b) should apply only to customers that are not considered institutional customers under the Suitability Interpretation.[41] The commenter states that a member will be required to attempt to gather the information required by Article III, Section 2(b) from a customer (such as an entity with total assets of less than $50 million) even if the member reasonably concludes, consistent with the proposed Suitability Interpretation, that the institutional customer is capable of understanding the risks of the recommended transaction and intends to exercise independent judgment in evaluating the member's recommendation.

It is the position of the NASD that the proposed rule change to Article III, Section 2(b) of the Rules of Fair Practice is to distinguish this requirement from the suitability obligations under Article III, Section 2(a) of the Rules of Fair Practice and the Suitability Interpretation. The proposed rule change clarifies that fulfilling the suitability obligation under the Suitability Interpretation does not reduce the member's other obligation under Article III, Section 2(b) to customers that do not qualify as institutional accounts under Article III, Section 21(c)(4) of the Rules of Fair Practice, even though some of these customers would be considered institutional customers according to the Suitability Interpretation. The NASD considers the account information requirements contained under Article III, Section 2(b) to be an obligation with regulatory merit separate from and not superseded by the guidance contained in the Suitability Interpretation.

Additional Comments

One commenter states that Article III, Section 2(a) of the Rules of Fair Practice is an unclear rule.[42] The NASD disagrees with this statement. The source of the language for Article III, Section 2(a) of the Rules of Fair Practice dates from the 1930s Investment Bankers Code drafted during the days of the National Recovery Administration. The NASD believes that during those difficult financial times it would not have been unusual for the involved business and government leaders to have determined that the U.S. financial markets could not be revived and flourish in an business environment with a fair practice standard of *caveat emptor*. The NASD believes the drafters of the suitability rule language must have developed the suitability rule to establish a basic obligation that a broker-dealer is responsible for its recommendations, similar to the basic responsibility of a manufacturer for the quality of its product. In developing the rule, it is believed that the drafters recognized that a workable suitability rule could not go so far as to provide detailed guidance for all circumstances, yet must address all circumstances. The result of their efforts is the language subsequently adopted as the NASD's suitability rule in Article III, Section 2(a) of the Rules of Fair Practice. The historical use of this rule has demonstrated that it sets a standard of behavior that is workable and enforceable when applied to the specific facts and situations giving rise to a complaint of violation. Contrary to the commenter's suggestion that Article III, Section 2(a) is an unclear rule, the NASD believes that the suitability rule is an important and proven regulatory standard of fair dealing in the securities industry much the same as the NASD's requirement under Article III, Section 1 of the Rules of Fair Practice that a member, in the conduct of his business, shall observe high standards of commercial honor and just and equitable principles of trade. The NASD believes that the language contained in its suitability rule has achieved its intended purpose of protecting the investing public and maintaining confidence in the U.S. securities markets and has, thereby, contributed to the global competitiveness and growth of the U.S. financial markets since the 1930s.

The commenter also argues that the Suitability Interpretation would impose an "unclearly articulated burden of proof" on a member regarding how to fulfill suitability obligations to institutional customers.[43] The NASD disagrees. The Suitability Interpretation would provide a member with significantly more guidance than now exists under Article III, Section 2(a) of the Rules of Fair Practice regarding when the member is considered to have "reasonable grounds for believing" that it has fulfilled its suitability obligations under Article III, Section 2(a) of the Rules of Fair Practice.

The commenter also argues that the Suitability Interpretation unfairly allocates responsibilities between the customer and the broker-dealer and is confusing because it would: (i) Impose new duties on members to obtain certain information from institutional customers regarding the Interpretation's listed factors and to keep books and records regarding their suitability determinations for future examination by the NASD; (ii) fails to provide a clear definition of "institutional investor" and "recommendation;" and (iii) fails to establish a rebuttable presumption that a member's recommendations to institutional customers are suitable.

The commenter states that the Suitability Interpretation imposes new duties that do not currently exist as Article III, Section 2(a) of the Rules of Fair Practice requires only that a member make a suitability determination "upon the basis of the facts, *if any*, disclosed by such customer," and Article III, Section 2(b) of the Rules of Fair Practice requires only that a member must make reasonable efforts to obtain current information with regard to non-institutional accounts. The commenter argues that the text of these two subsections of Article III, Section 2 of the Rules of Fair Practice suggests that it is not currently mandatory for members to obtain the information set forth in the list of relevant factors for institutional investors. Another commenter also argues that the Suitability Interpretation should not increase member documentation or record keeping requirements.[44]

The NASD agrees that Article III, Section 2(a) of the Rules of Fair Practice does not contain books and records requirements, and the NASD does not bring actions under Section 2(a) on this basis. The Suitability Interpretation also does not contain books and records requirements. Members, however, are responsible for demonstrating the fulfillment of their suitability obligations under Article III, Section 2(a) in NASD examinations. Members would have the same responsibility under the Suitability Interpretation. With regard to the member obligations contained in the Suitability Interpretation, the NASD states in the Release that in revising earlier drafts of the Suitability Interpretation, the NASD intended to eliminate the appearance that the listed factors create an evidentiary checklist for NASD compliance review by replacing the phrase "the Board has identified certain factors which are considered when the NASD conducts its review for compliance" in the fourth paragraph of the Suitability Interpretation contained in the proposed rule change, with the phrase "the Board has identified certain factors which may be relevant when considering compliance."[45] Thus, the NASD agrees with the commenter that the responsibilities of the member are limited under Article III, Section 2(a) of the Rules of Fair Practice in that the member is not the guarantor of the investment nor responsible for the absence of information not provided by the institutional customer.

In a related comment, one commenter also objects that the proposed Suitability Interpretation would impose a "heavy burden of proof" when dealing in an institutional context.[46] The NASD's position is that a member is responsible for demonstrating in an NASD examination or investigation that it has fulfilled its obligations under Article III, Section 2(a) of the Rules of Fair Practice, in the same manner that the member must demonstrate

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[34] *See also* Comment Letters Nos. 6 and 8, *supra* note 5.

[35] *See* Comment Letter No. 3, *supra* note 5.

[36] *See* Securities Exchange Act Release No. 36383, *supra* note 2, at 54549.

[37] *See* Comment Letter No. 6, *supra* note 5.

[38] *See* Comment Letter No. 4, *supra* note 5.

[39] *See* Comment Letter No. 1, *supra* note 5.

[40] *See* Comment Letter No. 5, *supra* note 5.

[41] *See* Comment Letter No. 6, *supra* note 5.

[42] *See* Comment Letter No. 7, *supra* note 5. The commenter states that the Suitability Interpretation proposed to be adopted under Article III, Section 2 "muddies an already unclear rule."

[43] *See* Comment Letter No. 7, *supra* note 5.

[44] *See* Comment Letter No. 8, *supra* note 5.

[45] *See* Securities Exchange Act Release No. 36383, *supra* note 2, at 54553.

[46] *See* Comment Letter No. 7, *supra* note 5.

compliance with its obligations under any federal security law. Thus, a member may determine that it is necessary to establish internal procedures that will facilitate a demonstration that the member has met its regulatory obligations. This responsibility exists under Article III, Section 2(a) today.

With regard to the commenter's specific proposal that the Suitability Interpretation provide an objective definition of the term "institutional investor," the NASD believes this approach would arbitrarily discriminate between institutional investors based on factors such as asset size, portfolio size or institutional type. The NASD states in the Release that the Suitability Interpretation provides guidance to members on the relevant considerations that should be examined by a member in fulfilling its suitability obligations to all institutional customers and does not unfairly discriminate between institutional customers based on such factors.[47] The NASD further states in the Release that it believes this regulatory approach is in furtherance of the Act, as amended.[48]

With respect to the commenter's proposal that a definition of "recommendation" be adopted, the NASD stated in the Release that Article III, Section 2 of the Rules of Fair Practice has been applicable to members' recommendations since the inception of the NASD.[49] A significant amount of case law has been developed as a result of NASD disciplinary actions with respect to this provision, which is available as guidance to the membership. The NASD believes that defining the term "recommendation" is unnecessary and would raise many complex issues in the absence of the specific facts of a particular case.

With regard to the commenter's proposal that the Suitability Interpretation provide a rebuttable presumption that member recommendations to institutional customers are suitable, the NASD states in the Release that it believes that a member's suitability obligation under Article III, Section 2(a) of the Rules of Fair Practice remains with the member until fulfilled and that, therefore, the creation of a "clear rebuttable presumption" through the fulfillment of certain procedures would not be appropriate.[50] In addition, as set forth below, such a rebuttable presumption would only be acceptable if a definable class of institutional investors could be identified that would not need the protection of the NASD's suitability rule under all conceivable circumstances.

The commenter also suggests there is regulatory precedent for its position that the Suitability Interpretation should be amended to provide for a rebuttable presumption that member transactions with institutional investors are suitable. The commenter cites Rule 144A under the Securities Act of 1933, as amended ("1933 Act"), which provides exemptions from the registration requirements of the 1933 Act by allowing unregistered securities to be resold to objectively defined "qualified institutional investors" ("QIBs"). The commenter also cites Rule 15a–6 of the Securities Exchange Act of 1934, as amended ("Exchange Act"), which provides exemptions for certain foreign brokers and dealers from the broker-dealer registration requirements of Section 15(a)(1) and 15B(a)(1) of the Exchange Act when, among other things, such foreign broker-dealers deal under certain conditions with "U.S. institutional investors" or "major U.S. institutional investors."[51] The commenter states that it is difficult to understand why the NASD's suitability rule is "sacrosanct" relative to the above statutorily-required securities and broker-dealer registration requirements.

The NASD notes that Rule 144A under the 1933 Act allows unregistered securities to be resold to certain institutional buyers who are of sufficient size they are presumed to have the sophistication[52] to purchase securities based upon disclosure documents meeting the anti-fraud requirements rather than the SEC standardized disclosure forms. In the NASD's opinion, Rule 144A is not a safe harbor from disclosure because, regardless of the lack of reliance on the SEC's disclosure documents and pre-offering registration with the SEC, disclosure regarding the securities offered is generally provided to QIBs in order for the offering to be in compliance with the anti-fraud provisions of the federal securities laws.[53] The creation of a "rebuttable presumption" under the NASD's suitability rule would, however, create a safe harbor from the NASD's fair practice standard that a member shall reasonably believe that its recommendation is suitable, which the NASD believes is totally inappropriate. As important, the NASD is unable to identify a class of institutional investors that would not need the protection of the NASD's suitability rule under all conceivable circumstances. For the above reasons, the NASD believes that a proposed "rebuttable presumption" for the NASD's suitability rule in connection with transactions with institutional customers is significantly different than the SEC's Rule 144A safe harbor for resales of unregistered securities to QIBs.

With regard to the commenter's argument that there is precedent for providing a status safe harbor in the Suitability Interpretation based on Rule 15a–6 of the Exchange Act, the NASD believes that these provisions are too different for any comparison and precedent to be used. Rule 15a–6 of the Exchange Act does not waive major investor protection standards for U.S. institutions, whereas the NASD believes a safe harbor in the Suitability Interpretation would waive such protections. Rule 15a–6, *inter alia*, provides an exemption from broker-dealer registration (referred to as the direct contact exemption) that generally permits certain foreign broker-dealers[54] to engage in solicited transactions with "U.S. institutional investors" or "major U.S. institutional investors" through a registered broker-dealer acting as an intermediary. The rule permits foreign broker-dealers to contact U.S. institutional investors only with the participation of an associated person of a registered broker-dealer. Rule 15a–6 also generally permits certain foreign broker-dealers to send research reports under certain conditions[55] to "major U.S. institutional investors" and to engage in unsolicited transactions from such investors without a registered broker-dealer acting as an intermediary.[56] The SEC has stated that under these conditions, it believes that direct distribution would be consistent with the free flow of information across national boundaries without raising substantial investor protection concerns.[57] The NASD believes that different procedures adopted under Rule 15a–6 for solicited and unsolicited transactions and for "U.S. institutional investors" and "major U.S. institutional investors" demonstrates that the SEC sought to carefully preserve the safe-guards offered by broker-dealer registration, and not adopt an across-the-board exemption similar to the securities registration exemption provided by Rule 144A for QIBs. In this connection, the SEC states in the adopting release that "* * * the Commission does not believe that sophistication is in all circumstances an effective substitute for broker-dealer regulation."[58] The exemption adopted under Rule 15a–6 that permits unregistered foreign broker-dealers to send research reports under certain conditions to a "major U.S. institutional investor" and permits such institutions in certain circumstances to engage in unsolicited transactions is narrowly drawn. The NASD believes that the definition of "major U.S. institutional investor" sets a very high standard[59] for a very small exemption and recognizes the reality that such U.S. investors interested in foreign securities are capable of accessing research and entering into transactions with unregistered foreign broker-dealers with respect to foreign securities. Rule 15a–6, therefore, is significantly more narrow than that proposed by the commenter with respect to the NASD's suitability rule that would relieve members of their suitability obligations with respect to the entire class of institutional investors. Moreover, the provisions of Rule 15a–6 are intended to accommodate regulatory comity and facilitate access to foreign markets by certain U.S. institutional investors.

The commenter also argues, contrary to its prior argument, that "even though the NASD does not intend to create a safe harbor, the Proposal adopts the framework of a safe harbor when it suggests that 'where the broker-dealer has reasonable grounds for concluding that the institutional customer is making independent investment decisions and is capable of independently calculating investment risk, then a member's obligation to determine that a recommendation is suitable for a particular customer is fulfilled.'" The NASD disagrees; there are no safe harbors in the suitability Interpretation. The Suitability Interpretation clarifies, by discussion and examples of relevant factors, the standard to establish the "reasonable grounds" that a member should have under Article III, Section 2(a) of the Rules of Fair Practice regarding the suitability of its recommendations to institutional customers. Under the Suitability Interpretation, a member is unable to determine whether its obligation to an institutional customer under Article III, Section 2(a) of the Rules of Fair Practice is fulfilled unless the member engages in a subjective inquiry and analysis of the factors in the Suitability Interpretation and any other relevant factors. The Suitability Interpretation requires the member to have sufficient knowledge of the customer in order to rely on the Interpretation in fulfilling its obligation under Article III, Section 2(a) of the Rules of Fair Practice. The NASD states in the Release[60] that it believes such knowledge is often gained in an ongoing member/customer relationship, but acknowledges that a consideration would include the extent to which the member has received from the customer current comprehensive portfolio information in connection with discussing recommended transactions or has not been provided important information regarding its portfolio or investment objectives.

[47] *See* Securities Exchange Act Release No. 36383, *supra* note 2, at 54549.

[48] *See supra* discussion under "Application of Suitability Interpretation to Institutional Customer: $10 Million Threshold."

[49] *See* Securities Exchange Act Release No. 36383, *supra* note 2, at 54556.

[50] *Id.* at 54553.

[51] The discussion of Rule 144A and Rule 15a–6 contained in this Release was prepared by the NASD's Office of General Counsel. Accordingly, the discussion of Rule 144A and Rule 15a–6 contained herein is not a description or interpretation of the rules by the Commission or Commission staff. *See* Securities Exchange Act Release No. 27017 (July 11, 1989), 54 FR 30013 (July 18, 1989).

[52] Rule 144A relies on an extremely high standard of $100 million invested in securities in order to ensure that potential investors have sufficient sophistication to make investment decisions without need for SEC registration.

[53] In fact, the introduction to Rule 144A specifically states that "[t]his section relates solely to the application of Section 5 of the Act and not to antifraud or other provisions of the Federal securities laws."

[54] Rule 15a–6(a) exempts only foreign brokers or dealers, which are defined in paragraph (b)(3) to mean persons not resident in the United States that are not offices or branches of, or natural persons associated with, registered broker-dealers, and whose securities activities fall within the definitions of "broker" or "dealer" in sections 3(a)(4) or 3(a)(5) of the Exchange Act. The definition in paragraph (b)(3) expressly includes any U.S. person engaged in business as a broker or dealer entirely outside the United States. This definition also includes foreign banks to the extent that they operate from outside the United States, but not their U.S. branches or agencies.

[55] The research report must not recommend the use of the foreign broker-dealer to effect trades in any security, and the foreign broker-dealer must not initiate follow-up contact with the major U.S. institutional investors who receive the research, or otherwise induce or attempt to induce the purchase or sale of any security by those major U.S. institutional investors.

[56] If, however, the foreign broker-dealer already had a relationship with a registered broker-dealer that facilitated compliance with the direct contact exemption in the rule, the rule would require all trades resulting from the provision of research to be effected through that registered broker-dealer pursuant to the provisions of that exemption.

[57] *See* Securities Exchange Act Release No. 27017 (July 11, 1989), 54 FR 30013 (July 17, 1989).

[58] *Id.*

[59] Paragraph (b)(4) of Rule 15a–6 of the Exchange Act generally defines "major U.S. institutional investor" as a U.S. institutional investor with assets, or assets under management, in excess of $100 million, or a registered investment adviser with assets under management in excess of $100 million. Paragraph (b)(7) of Rule 15a–6 of the Exchange Act generally defines "U.S. institutional investor" as a registered investment company, bank, savings and loan association, insurance company, business development company, small business investment company or employee benefit plan defined in Rule 501(a)(1) of Regulation D under the Securities Act, a private business development company as defined in Rule 501(a)(2), an organization described in Section 501(c)(3) of the Internal Revenue Code, as defined in Rule 501(a)(3) or a trust defined in Rule 501(a)(7).

[60] *See* Securities Exchange Act Release No. 36383, *supra* note 2, at 54555.

2. Statutory Basis

The NASD believes that the proposed rule change, as amended, is consistent with the provisions of Section 15A(b)(6) of the Act,[61] which requires that the rules of the Association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest in that the rule change will implement the Association's expanded sales practice authority over exempted securities, except for municipals, by creating one set of sales practice rules for members by merging the Government Securities Rules into the Rules of Fair Practice and applying, where applicable, the Rules of Fair Practice to those members registered with the SEC solely under the provisions of Section 15C of the Act and to transactions in exempted securities, including government securities, except municipals. The proposed rule change, as amended, will also further the above purposes of the Act by adopting a new Interpretation of the Board of Governors—Suitability Obligations to Institutional Customers under Article III, Section 2 of the Rules of Fair Practice to: (i) apply the NASD's suitability rule under Article III, Section 2(a) of the Rules of Fair Practice to transactions in exempted securities including government securities, except municipals; and (ii) provide guidance to members on their suitability obligations when making recommendations to institutional customers, of which the government securities markets has a particularly broad institutional component. The proposed rule change, as amended, will also further the above-purposes of the Act by: (i) Making clarifying amendments to certain sections and Interpretations under Articles III and IV of the Rules of Fair Practice relating to the government securities business; (ii) making technical changes to NASD By-Laws, Schedules of the By-Laws, the Rules of Fair Practice, and the Code of Procedure to replace references to provisions of the Government Securities Rules with references to the appropriate Rules of Fair Practice, and to delete the terms "exempted security" or "exempted" securities, or, replace these terms with the term "municipal securities," as

[61] 15 U.S.C. § 78o–3.

applicable; and (iii) modifying references to SEC Rules 15c3–1 and 15c3–3 to reflect SEC amendments to those rules.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed Suitability Interpretation contained in the proposed rule change, as amended, is consistent with the intent of the Act as amended by the Government Securities Amendments.[62] The proposed Suitability Interpretation expands the suitability rule contained under Article III, Section 2(a) of the Rules of Fair Practice to all securities transactions, including transactions in exempted securities, except for municipals. While the proposed Suitability Interpretation acknowledges that a member's relationships with institutional customers may be different from the normal member/retail customer relationship, it does not unfairly discriminate against such institutional customers. The proposed rule change applies the suitability rule under Article III, Section 2 of the Rules of Fair Practice to both retail and institutional customers in connection with all securities transactions, other than municipals. The proposed Suitability Interpretation provides members with an appropriate analysis of their suitability obligations to institutional customers based on the institutional customer's capability to evaluate investment risk independently and the extent to which the customer is exercising independent judgement in evaluating the member's recommendation.[63]

On the basis of the foregoing, the NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received as to Amendment No. 3 to the proposed rule change.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–95–39 and should be submitted by April 22, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–6765 Filed 3–20–96; 8:45 am]

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[62] The Association received one comment letter that argued that the proposed Suitability Interpretation distinguished between institutional and retail customers and, therefore, was contrary to the intent of the Government Securities Amendments. See Comment Letter No. 3, supra note 5.

[63] *See* H.R. 103–225, 103rd Cong., 1st Sess. (September 23, 1993).

[Release No. 34–36976; File no. SR–Phlx–96–07]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., To Adopt a Market Index Option Hedge Exemption

March 14, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 13, 1996, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx, pursuant to Rule 19b–4 of the Act, proposes to amend Commentary .01 to Phlx Rule 1001A to establish a hedge exemption from broad-based (market) index option position limits.

Specifically, the Phlx proposes to exempt from position and exercise limits[4] any position in a market index option that is hedged by share positions in at least 20 stocks, or securities convertible into such stock, in four industry groups comprising the index, of which no one component security accounts for more than 15% of the value of the portfolio hedging the index option position. Under the proposal, no position in a market index option may exceed two-times[5] the broad-based index option position specified in Phlx Rule 1001A(a).[6] In addition, the underlying value of the option position may not exceed the value of the underlying portfolio employed as the hedge. The proposed exemption would be available to public customers, as well as to firm and proprietary traders.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of and basis for the proposed rule change, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] On February 26, 1996, the Phlx filed an amendment to the rule proposal. See letter from Gerald D. O'Connell, First Vice President, Market Regulation and Trading Operations, Phlx, to Michael Walinskas, Branch Chief, Office of Market Supervision, Division of Market Regulation, Commission, dated February 26, 1996 ("Amendment No. 1"). Amendment No. 1 made several minor changes to the rule proposal in order to make it correspond to the final draft of the narrow-based (industry) index option hedge exemption that was recently approved for the Phlx by the Commission. See Securities Exchange Act Release No. 36858 (February 16,1 996), 61 FR 7295 (February 27, 1996) (File No. SR–Phlx–95–45).

[4] Position limits impose a ceiling on the number of option contracts which an investor or group of investors acting in concert may hold or write in each class of options on the same side of the market (*i.e.*, aggregating long calls and short puts or long puts and short calls). Exercise limits prohibit an investor or group of investors acting in concert from exercising more than a specified number of puts or calls in a particular class of options within five consecutive business days.

[5] For instance, if the position limit for a market index option is 25,000 contracts, an additional 50,000 contracts under this proposal would be permitted, for a total of 75,000 contracts.

[6] Under Phlx Rule 1001A(a), the Value Line Composite Index ("VLE"), the U.S. Top 100 Index ("TPX"), and the National Over-the-Counter Index ("XOC") each have a position limit of 25,000 contracts, of which no more than 15,000 contracts can be in the nearest expiration month. The Phlx notes that the Big Cap Index ("MKT") is no longer listed on the Exchange.

Phlx has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Phlx is proposing to adopt a broad-based index option hedge exemption under which broad-based index option positions hedged in accordance with the proposal would be entitled to exceed existing position limits by up to two-times above the limit. The purpose of the proposal is to establish a provision parallel to the hedge exemption for equity options[7] as well as the broad-based index option hedge exemptions that are in place on other option exchanges.[8]

In order to qualify for the exemption, the market index option position must be hedged by share positions in at least 20 stocks, or securities convertible into such stock,[9] in four industry groups comprising the index, of which no one component security accounts for more than 15% of the value of the portfolio hedging the index option position. Under the proposal, no position in a market index option may exceed two-times the broad-based index option position specified in Phlx Rule 1001A(a). In addition, the underlying value of the option position may not exceed the value of the underlying portfolio employed as the hedge.[10] In addition, under the proposal, exercise limits will continue to correspond to position limits, so that investors may exercise the number of contracts set forth as the position limit, as well as those contracts exempted by this proposal, during five consecutive business days.[11]

The Phlx notes that broad-based index option hedge exemptions are in place on other options exchanges. Generally, these index option hedge exemptions allow public customers to apply for position limit exemptions in broad-based index options that are hedged with exchange-approved qualified stock portfolios. A qualified portfolio is comparison of net long or short positions in at least 20 common stocks or securities readily convertible into such common stock, none of which accounts for more than 15% of the value of the portfolio.

The Phlx notes that the Chicago Board Options Exchange, Inc. ("CBOE"), in CBOE Rule 24.4, provides a broad-based index option hedge exemption for public customers holding positions in broad-based index options other than a.m.-settled, European-style Standard and Poor's ("S&P") 500 Index options, and Quarterly Index Expirations ("QIXs") and Capped-Style QIXs ("Q-CAPS") on the S&P 500 Index. Under Interpretation and Policy .01 to CBOE Rule 24.4, exempted positions may not exceed 75,000 contracts (two-times above the regular position limit),[12] except as otherwise provided in CBOE Rule 24.4, Interpretation and Policies .02 and .03, and except that exempted combined positions in options based on the S&P/Barra Value Index and the S&P/Barra Growth Index may not exceed 65,000 same-side of the market options contracts.[13]

Similarly, Commentary .01 to the American Stock Exchange, Inc.'s ("Amex") Rule 904C provides a broad-based index option position limit exemption for public customers who satisfy the criteria established by AMEX.[14]

In light of the Exchange's exerience with the equity option hedge exemption, as well as its review of the rules of the other options exchanges, the Phlx believes that a similar hedge exemption for its market index options is appropriate. The Phlx also believes that the proposed conditions for granting such an exemption are reasonable and in line with prior Commission-approved provisions.

According to the Phlx, trading volume for index options has markedly increased. In 1994, volume increased-two-fold over 1993, from 1,119,147 contracts to 2,456,685. In 1995, volume remained steady with over 2,783,043 contracts traded. The Phlx attributes the recent growth in trading and open interest to institutional trading, which, according to the Phlx, is typically hedged by baskets of the underlying stocks.

The Phlx proposes to exempt positions in broad-based options in a manner which balances the hedging needs of index options traders with the Exchange's obligation to maintain a fair and orderly market. The Phlx believes that a hedge exemption up to 75,000 contracts for broad-based index options would considerably enhance the attractiveness of these products for institutional traders, who would, in turn, trade more of the product in a hedged manner and thereby provide stabilizing liquidity in both the index options and the underlying securities.[15]

In 1989, the Commission approved a Phlx proposed hedge exemption for Utility Index options ("UTY"), on a pilot basis.[16] Although the UTY hedge

[7] *See* Phlx Rule 1001, Commentary .07. *See also* Securities Exchange Act Release No. 35738 (May 18, 1995), 60 FR 27573 (May 24, 1995) (order approving permanent hedge exemption pilot programs) (File Nos. SR–Phlx–95–10, SR–Amex–95–13, SR–CBOE–95–13, SR–NYSE–95–04, and SR–PSE–95–05).

[8] *See infra* notes 12–14 and accompanying text.

[9] The Exchange permits the use of convertible securities in its equity option hedge exemption. See Securities Exchange Act Release No. 32174 (April 20, 1993), 58 FR 25687 (April 27, 1993) (order approving File No. SR–Phlx–92–22). Similarly, other options exchanges permit the use of convertible securities with respect to broad-based index option hedge exemptions.

[10] The value of the underlying portfolio is determined as follows: (1) the total market value of the net stock position; less (2) the value of: (a) any offsetting calls and puts in the respective index option; (b) any offsetting positions in related stock index futures or options; and (c) any economically equivalent positions.

The values of offsetting positions are determined by multiplying the number of opposite-side-of-the-market (offsetting) calls, puts, or futures contracts by the index value and by the index multiplier. Then, the value is subtracted from the market value of the portfolio. This number must be compared with the underlying value of the option position in excess of the position limit being hedged/exempted, which is calculated by multiplying the number of option contracts for which the exemption is sought by the index value and the multiplier; this value cannot exceed the value of the underlying portfolio.

[11] *See* Phlx Rule 1002A.

[12] Under CBOE Rule 24.4(a), the position limit for broad-based index options, other than Russell 2000 Index options and S&P/Barra Growth Index and S&P/Barra Value Index options, is 25,000 contracts on the same-side of the market. CBOE Rule 24.4(b), (c), and (d) contain separate position limit provisions for a.m.-settled, European-style option contracts on the S&P 500 Index, and QIXs and Q-CAPS on the S&P 500 Index, QIXs and Q-CAPS on the S&P 100 Index, and QIXs on the Russell 2000 index.

[13] CBOE Rule 24.4, Interpretation and Policy .02 provides a hedge exemptionf or certain positions in a.m-settled, European-style S&P 500 Index options, and QIXs and Q-CAPS on the S&P 500 Index. Specifically, Interpretation and Policy .02(d) provides that a customer's exempted position may not exceed 150,000 same-side of the market contracts in am.m.-settled S&P 500 Index options, and QIXs and Q–CAPS on the S&P 500 Index. Interpretation and Policy .02(b) states that a money manager may not hold in its aggregated accounts more than 250,000 exempted same-side of the market option contracts or, in a single account, more than 135,000 exempted same-side of the market option contracts.

[14] In addition, Amex Rule 904C, Commentary .02 provides a facilitation exemption for Institutional index and MidCap index options up to 100,000 and 75,000 contracts, respective.

[15] In support of this contention, the Phlx believes that the hedge exemption for S&P 100 Index ("OEX") options, which permits positions up to 75,000 contracts (two times above the regular position limit), serves as a significant liquidity provider for that product.

[16] Specifically, the UTY hedge exemption provision exempted any position taken by a public customer in UTY options that was hedged by at least 10 UTY component stocks, of which no one component stock could account for more than 15% of the stock portfolio hedging the UTY position. See Securities Exchange Act Release No. 27486 (November 30, 1989), 54 FR 50675 (December 8, 1989) (order approving File No. SR–Phlx–89–27).

Continued

exemption pilot program applied only to customers, the Phlx believes that it is appropriate and necessary to expand the availability of the exemption beyond public customers. The Phlx believes that significant increases in the depth and liquidity of the market for these index options could result from permitting firm and proprietary traders to be eligible for the exemption. According to the Phlx, because customers rely, for the most part, on a limited number of proprietary traders to facilitate large-sized orders, not including such traders in the exemption effectively reduces the benefit of the exemption to customers. While large-sized positions in market index options are most commonly initiated by institutional trades hedging stock portfolios on behalf of public customers, the Phlx believes that proprietary traders should be afforded the same exemption so that they may fulfill their role as facilitators.

The Phlx also believes that the hedge exemption is necessary to better meet the needs of investors who use Phlx market index options for investment and hedging purposes. According to the Phlx, many institutional traders and portfolio managers deal in dollar amounts much greater than that permissible under current position limit levels and have expressed that Exchange position limits hamper their ability to fully utilize such index options. As a result, the Phlx believes that many index options are ineffective for such traders, who often turn to futures instruments where ample relief is already available.[17] Thus, the Phlx believes that the proposed hedge exemption should alleviate the situation where investors with substantial hedging needs are discouraged from participating in the options market due to existing position limits.

The Phlx believes that the proposed broad-based index option hedge exemption should not increase the potential for disruption or manipulation in the markets for the stocks underlying each index. The Phlx notes that this is because the proposal incorporates several surveillance safeguards, which the Phlx will employ to monitor the use of this exemption. Specifically, the Exchange will require that a form be filed by member firms and their customers who seek exemptions, in lieu of granting an automatic exemption. Moreover, the hedge exemption form must be kept current, with information updated as warranted. Any information concerning the dollar value and composition of the stock portfolio,[18] or its equivalent, the current hedged and aggregate options positions, and any stock index futures positions must be promptly provided to the Exchange. In addition, the Exchange's Market Surveillance Department will monitor trading activity in Phlx traded index options and the stocks underlying those indexes to detect potential frontrunning and manipulation abuses, as well as review such trading to ensure that the closing of positions subject to the exemption are conducted in a fair and orderly manner. On a daily basis, the Exchange's Market Surveillance Department will also monitor each option contract to ensure that it is hedged by the equivalent dollar amount of component securities.

The Phlx also notes that the proposal contains several specific safeguards. First, the hedge must consist of a previously established position in at least 20 of the stocks underlying the index, none of which may constitute more than 15% of the hedge portfolio, and must include stocks from at least four separate industry groups.[19] Thus, not only does the basket of stocks comprising the hedge resemble the underlying index, but it also ensures that unwinding such positions will be spread out among a wide and disparate group of stocks.

Second, the proposal provides a ceiling on the maximum size of the options position by providing the positions established under the proposal may not exceed two-times the limits set forth in Exchange Rule 1001A(a).[20] In addition, the Exchange may determine to grant a position limit exemption for less than the maximum of two-times above the limit.

Third, both the options and stock positions must be initiated and liquidated in an orderly manner. This means that a reduction of the options position must occur at or before the corresponding reduction in the stock portfolio position. Moreover, initiating or liquidating positions should not be conducted in a manner calculated to cause unreasonable price fluctuations or unwarranted price changes or with a view toward taking advantage of any differential in price between a group of securities and an overlying stock position. The Exchange's Market Surveillance Department must be notified in writing for approval in advance of initiating or liquidating any such position as well as of any material change in the portfolio or futures positions which materially affects the unhedged value of the qualified portfolio.

Fourth, any securities that are used as a hedge pursuant to the rule may not also be used to hedge other option positions.

Fifth, the portfolio must be previously established and the options must be carried in an account with an Exchange member.

Sixth, if any member or member organization carrying an account which has received an exemption pursuant to this rule has reason to believe that as a result of an opening transaction, the position telescoping provisions of the rule, or the execution of a clearing member trade assignment agreement transaction ("CMTA"),[21] that its customer, acting alone or in concert with others, directly or indirectly, violates this position limit exemption, then the member or member organization has violated this rule. Violation of any of these provisions, absent reasonable justification or excuse, will result in withdrawal of the hedge exemption and subsequent denial of an application for a hedge exemption.

Lastly, the value of the market index option position cannot exceed the dollar value of the underlying portfolio. The purpose of this requirement is to further ensures that sock transactions are not used to manipulate the market in a manner benefitting the option position.

This provision was approved for a one-year pilot program, which expired on November 30, 1990.

[17] The Commission has recognized that under the rules promulgated by the Commodity Futures Trading Commission ("CFTC"), futures positions that are deemed to be bona fide hedging transactions are exempt from position limit rules. See Securities Exchange Act Release No. 25739 (May 24, 1988), 53 FR 20204 (June 2, 1988) (order approving File No. SR-CBOE-87-25).

[18] The Phlx notes that as the dollar value of the hedging portfolio fluctuates, the number of exempt contracts may need to be adjusted.

[19] To determine the share amount of each component required to hedge an exempt option position: index value × index multiplier × component's weighting = dollar amount of component. That amount divided by price = number of shares of component. Conversely, to determine how many options can be purchased based on a certain portfolio, divide the dollar amount of the basket by the index value × the index multiplier.

[20] The Exchange notes that it is adopting the language "two times above the limit" to signify "in addition to" the current position limit. For instance, where the position limit is 25,000 contracts, an additional 50,000 hedged contracts would be permissible. This language parallels a recent change by another exchange. See Securities Exchange Act Release No. 36609 (December 20, 1995), 60 FR 67002 (December 27, 1995) (notice of File No. SR-CBOE-95-68). This exemption, however, may be used in addition to any other position limit exemption that is available under the Exchange's rules.

[21] A CMTA agreement is an agreement between a Phlx Options Clearing Corporation ("OCC") member and a non-Phlx OCC member which enables the non-Phlx OCC member to have trades executed on its behalf on the Exchange by the Phlx member.

2. Statutory Basis

The Phlx believes that the proposed market index hedge exemption should increase the depth and liquidity of the broad-based index options market and allow more effective hedging with underlying stock portfolios without increasing the potential for market manipulation or disruption, consistent with the purposes of position limits. For the same reasons, the Exchange believes that exercise limits should correspond to the position limit exemption granted by the proposal. Accordingly, the Phlx believes that the proposed rule change is consistent with Section 6(b) of the Act in general, and with Section 6(b)(5) in particular,[22] in that it is designed to promote just and equitable principles of trade, and, by promoting liquidity in the index options marketplace, will serve to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Phlx consents, the Commission will:

A. by order approve the proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR-Phlx-96-07 and should be submitted by April 11, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[23]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96-6764 Filed 3-20-96; 8:45 am]

BILLING CODE 8010-01-M

[22] 15 U.S.C. § 78f(b)(5) (1988).

[23] 17 CFR 200.30-3(a)(12) (1994).

DEPARTMENT OF STATE

[Public Notice No. 2358]

Advisory Committee on International Communications and Information Policy; Public Meeting

The Department of State is holding the fourth meeting of its Advisory Committee on International Communications and Information Policy. The Committee was reestablished on August 11, 1994, in order to provide a formal channel for regular consultation and coordination on major economic, social and legal issues and problems in international communications and information policy, especially as these issues and problems involve users of information and communication services, providers of such services, technology research and development, foreign industrial and regulatory policy, the activities of international organizations with regard to communications and information, and developing country interests.

The 24-person committee was appointed by Ambassador Vonya B. McCann, United States Coordinator for International Communications and Information Policy, U.S. Department of State, and serves under the Chairmanship of Ed Black, President, Computer & Communications Industry Association.

The purpose of this meeting will be to follow-up on the recent creation of working groups on various issues that will help chart the future direction and work plan of the committee. The members will look at the substantive issues on which the committee should focus, as well as specific countries and regions of interest to the committee.

The committee will follow the procedures prescribed by the Federal Advisory Committee Act (FACA). Meetings will be open to the public unless a determination is made in accordance with the FACA Section 10(d), 5 U.S.C. 552b(c) (1) and (4) that a meeting or a portion of the meeting should be closed to the public.

This meeting will be held on Friday, April 12, 1996, from 9:30 a.m.–12 noon in Room 1107 of the Main Building of the U.S. Department of State, located at 2201 "C" Street, NW., Washington, DC 20520. While the meeting is open to the public, admittance to the State Department Building is only by means of a pre-arranged clearance list. In order to be placed on the pre-clearance list, please provide your name, title, company, social security number, and date of birth to Shirlett Brewer at (202) 647–5233 or by fax at (202) 647–5957. All attendees must use the "C" Street entrance. One of the following valid ID's will be required for admittance: any U.S. driver's license with photo, a passport, or a U.S. Government agency ID.

For further information, contact the Executive Secretary of the committee, at (202) 647–5385.

Dated: March 12, 1996.

Timothy C. Finton,

Executive Secretary, Advisory Committee for International Communications and Information Policy.

[FR Doc. 96-6753 Filed 3-20-96; 8:45 am]

BILLING CODE 4710-45-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements imposed upon the public which were transmitted by the Department of Transportation to the Office of Management and Budget (OMB) for its approval in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 USC Chapter 35).

DATES: March 15, 1996.

ADDRESSES: Written comments on the DOT information collection requests should be forwarded, as quickly as possible, to Edward Clarke, Office of Management and Budget, New Executive Office Building, Room 10202, Washington, D.C. 20503. If you anticipate submitting substantive comments, but find that more than 30 days from the date of publication are needed to prepare them, please notify the OMB official of your intent immediately.

FOR FURTHER INFORMATION CONTACT: Copies of the DOT information collection requests submitted to OMB may be obtained from Judith Street; (202) 267–9895; ABC–100; 800 Independence Avenue, S.W., Washington, DC 20591.

SUPPLEMENTARY INFORMATION: Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to OMB for approval or renewal under that Act. OMB reviews and approves agency submissions in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms and the reporting and recordkeeping requirements. OMB approval of an information collection requirement must be renewed at least once every three years.

Items Submitted to OMB for Review

The six following information collection requests were submitted to OMB on March 14, 1996:

1. OMB No: 2120–0003

Administration: Federal Aviation Administration (FAA)

Title: Malfunction or Defect Report.

Need for Information: Under 49 U.S.C. Chapter 447, Subsection 44702, as amended, empowers the Secretary of Transportation to issue certificates for air taxi operators and repair stations, respectively, and to prescribe such terms, conditions, and limitations on those certificates as necessary to ensure safety in air transportation. Submission of Malfunction or Defect Reports are necessary to ensure safety.

Proposed Use of Information: The FAA needs this information to determine inservice performance of aeronautical productions. Collection of this data permits the FAA to evaluate its certification standards, maintenance programs, and regulatory requirements since their effectiveness is reflected in the number of equipment failures or lack thereof. When defects are reported, which are likely to exist on other products of the same or similar design, the information is used as a basis for Airworthiness Directive (AD).

Frequency: On occasion.

Burden Estimate: 6,147 hours.

Respondents: Repair stations certificated under part 145 and Air Taxi operators certificated under part 135.

Number of Respondents: 20,940.

Form(s): one.

2. OMB No: 2120–0005.

Administration: Federal Aviation Administration (FAA).

Title: General Operating Rules—FAR 91.

Need for Information: The reporting and recordkeeping requirements of Federal Aviation Regulation (FAR) Part 91, General Operating and Flight Rules, are authorized by Part A of Subtitle VII of the Revised Title 49 of the United States Code. FAR Part 91 prescribes rules governing the operation of aircraft (other than moored balloons, kites, rockets and unmanned free balloons) within the United States. The reporting and recordkeeping requirements prescribed by various sections of FAR Part 91 are necessary for FAA to assure compliance with these provisions.

Proposed Use of Information: The FAA needs this information to determine compliance. Also because Subtitle VII of Revised Title 49 U.S.C. authorizes the issuance of regulations governing the use of navigable airspace. 14 CFR 91 prescribes regulations governing the general operation and flight of aircraft.

Frequency: On occasion.

Burden Estimate: 231,064 hours.

Respondents: Individual airmen, state or local governments and businesses.

Number of Respondents: See enclosure.

Form(s): None.

3. OMB No: 2120–0042.

Administration: Federal Aviation Administration (FAA).

Title: Aircraft Registration.

Need for Information: Public Law 103–272 states that all aircraft must be registered before they may be flown. The registration system provides identification of all civil aircraft in the United States. The registration record also provides evidence of ownership which may be used in court if there is a controversy over ownership.

Proposed Use of Information: The FAA needs this information to register an aircraft or hold an aircraft in trust. The information required to register and prove ownership of an aircraft is required by any person wishing to register an aircraft.

Frequency: On occasion.

Burden Estimate: 73,847.50 hours.

Respondents: Individuals, businesses, state and local governments.

Number of Respondents: 73,002.

Form(s): Nine.

4. OMB No: 2120–0514.

Administration: Federal Aviation Administration (FAA).

Title: Aviation Insurance.

Need for Information: Under 49 U.S.C. Chapter 443 the FAA is authorized to provide aviation insurance in emergency situations in which the President determines that continuation of air service is in the foreign policy interest of the United State and the FAA Administrator has determined that aviation insurance is not available on reasonable terms and conditions from commercial sources.

Proposed Use of Information: The FAA needs this information to determine when insurance is not available from commercial sources.

Frequency: On occasion.

Burden Estimate: 68 hours.

Respondents: Businesses or other for profit.

Number of Respondents: 45.

Form(s): None.

5. OMB No: 2120–0517.

Administration: Federal Aviation Administration (FAA).

Title: FAR Part 150–Airport Noise Compatibility Planning.

Need for Information: Sections 103(a)(1) and 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (ASNA), as amended, permit "airport operators" to voluntarily submit noise exposure maps and noise compatibility programs to the FAA.

Proposed Use of Information: The FAA needs this information to approve airport operators noise compatibility programs eligible for a 10-percent set-aside of discretionary grant funds under the FAA Airport Improvement Program.

Frequency: On occasion.

Burden Estimate: 54,900 hours.

Respondents: Airport operators who voluntarily submit maps and noise compatibility programs to FAA for review.

Number of Respondents: 17.

Form(s): None.

6. OMB No: 2120–0570.

Administration: Federal Aviation Administration (FAA).

Title: Simulator Rule/Part 142, Certificated Training Centers.

Need for Information: Under 49 U.S.C. CHAPTER 447 states that, applications for certificates under this title shall be in such form, contain such information, and be filed and served in such a manner as the FAA Administrator may prescribe.

Proposed Use of Information: The FAA needs this information to determine compliance with airmen certification and testing to ensure safety.

Frequency: Annually.

Burden Estimate: 5,450 hours.

Respondents: Business or other for profit.

Number of Respondents: 42.

Form(s): Requesting approval from OMB.

Issued in Washington, D.C., on March 25, 1996.

Phillip Leach,

Computer Specialist, Information Resource Management (IRM) Strategies Division.

[FR Doc. 96–6811 Filed 3–20–96; 8:45 am]

BILLING CODE 4910–13–P

Aviation Proceedings; Agreements Filed During the Week Ending March 15, 1996

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–96–1139.

Date filed: March 11, 1996.

Parties: Members of the International Air Transport Association.

Subject: COMP Reso 024f, Local Currency Fare Changes—Zimbabwe, Intended effective date: Upon Government Approval.

Docket Number: OST–96–1140.

Date filed: March 11, 1996.

Parties: Members of the International Air Transport Association.

Subject: Comp Telex Mail Vote 785, MV 785 (Currency Adjustment—Hong Kong dollar), Intended Effective date: April 1, 1996.

Docket Number: OST–96–1155.

Date filed: March 15, 1996.

Parties: Members of the International Air Transport Association.

Subject: TC3 Telex Mail Vote 786, Osaka-Ulan Bator fares; r-1—043i, r-3—063i, r-5—076t, r-2—053i, r-4—063ii, r-6—085hh, r-7—087k.

Intended effective date: April 27, 1996.

Paulette V. Twine,

Chief, Documentary Services Division.

[FR Doc. 96–6856 Filed 3–20–96; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

[Summary Notice No. PE–96–12]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and dispositions of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), disposition of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before April 4, 1996.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address: nprmcmts@mail.hq.faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. D. Michael Smith, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7470.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Docket No. 27609.

Petitioner: M. Shannon & Associates.

Sections of the FAR Affected: 14 CFR 91.9 and 91.531.

Description of Relief Sought: To permit M. Shannon & Associates and Falcon 10/100 aircraft operators who hold a written license agreement from M. Shannon & Associates to operate these aircraft in single-pilot operations.

Docket No.: 28069.

Petitioner: Delta Airlines, Inc.

Sections of the FAR Affected: 14 CFR 108.23(b).

Description of Relief Sought: To allow Delta Airlines, Inc., to conduct security training on a calendar year basis rather than every 12 calendar months.

[FR Doc. 96–6747 Filed 3–20–96; 8:45 am]

BILLING CODE 4910–13–M

[Summary Notice No. PE–96–13]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemptions received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before April 10, 1996.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address: nprmcmts@mail.hq.faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G,

FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. D. Michael Smith, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7470.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on March 15, 1996.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 26821.
Petitioner: MCI Telecommunications.
Sections of the FAR Affected: 14 CFR 61.57(d).
Description of Relief Sought: To amend Exemption No. 5742, as amended, to allow MCI Telecommunications pilots in command to increase the interval between the night takeoff and landing recency-of-experience requirements from 90 days to 7 calendar months, subject to certain conditions and limitations. One of the proposed conditions would require each pilot in command to complete a training program specific to night landings, takeoffs, and night operations before operating under the exemption and at 7-month intervals.

Docket No.: 28465.
Petitioner: Comair Aviation Academy, Inc.
Sections of the FAR Affected: 14 CFR 141.15.
Description of Relief Sought: To permit Comair Aviation Academy, Inc., to operate an FAA-approved part 141 satellite base in Taipei, Taiwan, offering interested U.S. citizens and "others" in Taiwan the opportunity to attend an FAA-approved part 141 private pilot ground training course.

Docket No.: 28470.
Petitioner: Compoende Aeronáutica Ltda.
Sections of the FAR Affected: 14 CFR 145.47(b).
Description of Relief Sought: To permit Compoende Aeronáutica Ltda., an FAA-certificated foreign repair station located at São José dos Campos, São Paulo, Brazil, (FAA Certificate No. C50Y672J) to substitute the calibration standards of the Brazilian National Standards Laboratory, Instituto Nacional de Metrologia, Normalizacão e Qualidade Industrial, for the calibration standards of the U.S. National Institute of Standards and Technology for its inspection and test equipment.

[FR Doc. 96–6748 Filed 3–20–96; 8:45 am]
BILLING CODE 4910–13–M

Federal Highway Administration

Intelligent Transportation Society of America; Public Meeting

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The Intelligent Transportation Society of America (ITS AMERICA) will hold a meeting of its Coordinating Council on April 14, 1996. The session is expected to focus on: (1) Federal Intelligent Transportation Systems (ITS) reports; (2) ITS AMERICA President's report; (3) Dedicated Short Range Communications Standard; (4) ATMS R&D Program Review Update; (5) Presentation on Final Privacy Principles; (6) Report on Adherence/Enforcement Strategies; and, (7) Update on World Congress activities. ITS AMERICA provides a forum for national discussion and recommendations on ITS activities including programs, research needs, strategic planning, standards, international liaison, and priorities. The charter for the utilization of ITS AMERICA establishes this organization as an advisory committee under the Federal Advisory Committee Act (FACA), 5USC app. 2, when it provides advice or recommendations to DOT officials on ITS policies and programs. (56 FR 9400, March 6, 1991).

DATES: The Coordinating Council of ITS AMERICA will meet on April 14 from 1:00 p.m. to 5:00 p.m. (Eastern Standard time).

ADDRESSES: Sheraton Washington Hotel, 2660 Woodley Road, N.W., Washington, D.C. 20008, (202) 328–2000.

FOR FURTHER INFORMATION CONTACT: Materials associated with this meeting may be examined at the offices of ITS AMERICA, 400 Virginia Avenue, SW., Suite 800, Washington, D.C. 20024. Persons desiring further information or to request to speak at this meeting should contact Mr. Bill Collier at ITS AMERICA by telephone at (202) 484–4131, or by FAX at (202) 484- 3483. The DOT contact is Mr. Whitey Metheny, FHWA, HVH–1, Washington, D.C. 20590, (202) 366–2835. Office hours are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except for legal holidays.

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: March 14, 1996.

Christine M. Johnson,

Director, ITS Joint Program Office.

[FR Doc. 96–6796 Filed 3–20–96; 8:45 am]
BILLING CODE 4910–22–P

Intelligent Transportation Society of America; Public Meeting

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The Intelligent Transportation Society of America (ITS AMERICA) will hold a meeting of its Board of Directors on April 16, 1996. The session is expected to focus on: (1) Federal Report by Mort Downey; (2) Report of the DSRC Task Force; (3) Report of the Futures Group; (4) Presentation of Final Privacy Principles; (5) Update on the ITS America Sixth Annual Meeting; and, (6) Report on Adherence/Enforcement Strategies. ITS AMERICA provides a forum for national discussion and recommendations on ITS activities including programs, research needs, strategic planning, standards, international liaison, and priorities. The charter for the utilization of ITS AMERICA establishes this organization as an advisory committee under the Federal Advisory Committee Act (FACA) 5 USC app. 2, when it provides advice or recommendations to DOT officials on ITS policies and programs. (56 FR 9400, March 6, 1991).

DATES: The Board of Directors of ITS AMERICA will meet on April 16 from 1:30 p.m. to 5:30 p.m.

ADDRESSES: Sheraton Washington Hotel, 2660 Woodley Road, NW., Washington, DC 20008, (202) 328–2000.

FOR FURTHER INFORMATION CONTACT: Materials associated with this meeting may be examined at the offices of ITS AMERICA, 400 Virginia Avenue SW., Suite 800, Washington, DC 20024. Persons desiring further information or to request to speak at this meeting should contact Mr. Bill Collier at ITS AMERICA by telephone at (202) 484–4131 or by FAX at (202) 484–3483. The DOT contact is Mr. Whitey Metheny, FHWA, HVH–1, Washington, DC 20590, (202) 366–2835. Office hours are from 7:30 a.m. to 4 p.m., e.t., Monday through Friday, except for legal holidays.

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: March 14, 1996.

Christine M. Johnson,

Director, ITS Joint Program Office.

[FR Doc. 96–6797 Filed 3–20–96; 8:45 am]
BILLING CODE 4910–22–P

National Highway Traffic Safety Administration

[Docket No. 96–23; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming 1986 Volkswagen Golf Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1986 Volkswagen Golf passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that a 1986 Volkswagen Golf that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) It is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is April 22; 1996.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9:30 a.m. to 4 p.m.]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. § 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i)(I) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Motors of Kingsville, Maryland ("J.K.") (Registered Importer 90–006) has petitioned NHTSA to decide whether 1986 Volkswagen Golf passenger cars are eligible for importation into the United States. The vehicle which J.K. believes is substantially similar is the 1986 Volkswagen Golf that was manufactured for importation into, and sale in, the United States and certified by its manufacturer, Volkswagenwerke A.G., as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared the non-U.S. certified 1986 Volkswagen Golf to its U.S. certified counterpart, and found the two vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

J.K. submitted information with its petition intended to demonstrate that the non-U.S. certified 1986 Volkswagen Golf, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S. certified counterpart, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the non-U.S. certified 1986 Volkswagen Golf is identical to its U.S. certified counterpart with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence * * *.*, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 107 *Reflecting Surfaces*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 203 *Impact Protection for the Driver From the Steering Control System*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 211 *Wheel Nuts, Wheel Discs and Hubcaps*, 212 *Windshield Retention*, 214 *Side Impact Protection*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, and 301 *Fuel System Integrity*, 302 *Flammability of Interior Materials*.

Additionally, the petitioner states that the non-U.S. certified 1986 Volkswagen Golf complies with the Bumper Standard found in 49 CFR Part 581.

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp; (b) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) installation of U.S.-model headlamps and front sidemarkers; (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarkers; (c) installation of a high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 111 *Rearview Mirror:* replacement of the passenger side rearview mirror with a U.S.-model component.

Standard No. 114 *Theft Protection:* installation of a warning buzzer microswitch and a warning buzzer in the steering lock assembly.

Standard No. 115 *Vehicle Identification Number:* installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 118 *Power Window Systems:* rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection:* installation of a seat belt warning buzzer. The petitioner states that the vehicle is equipped with shoulder and lap belts in all outboard seating positions and with a lap belt in the rear center seating position that are identical to those found on its U.S. certified counterpart.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW.,

Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: March 18, 1996.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 96–6831 Filed 3–20–96; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 96–24; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming 1985 Maserati Bi-Turbo Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1985 Maserati Bi-Turbo passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that a 1985 Maserati Bi-Turbo that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is April 22, 1996.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9:30 am to 4 pm]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. § 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i)(I) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Motors of Kingsville, Maryland ("J.K.") (Registered Importer 90–006) has petitioned NHTSA to decide whether 1985 Maserati Bi-Turbo passenger cars are eligible for importation into the United States. The vehicle which J.K. believes is substantially similar is the 1985 Maserati Bi-Turbo that was manufactured for importation into, and sale in, the United States and certified by its manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared the non-U.S. certified 1985 Maserati Bi-Turbo to its U.S. certified counterpart, and found the two vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

J.K. submitted information with its petition intended to demonstrate that the non-U.S. certified 1985 Maserati Bi-Turbo, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S. certified counterpart, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the non-U.S. certified 1985 Maserati Bi-Turbo is identical to its U.S. certified counterpart with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence * * *.*, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 107 *Reflecting Surfaces*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 203 *Impact Protection for the Driver From the Steering Control System*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 211 *Wheel Nuts, Wheel Discs and Hubcaps*, 212 *Windshield Retention*, 214 *Side Impact Protection*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, 301 *Fuel System Integrity*, and 302 *Flammability of Interior Materials*.

Additionally, the petitioner states that the non-U.S. certified 1985 Maserati Bi-Turbo complies with the Bumper Standard found in 49 CFR Part 581.

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp; (b) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) installation of U.S.-model headlamps and front sidemarkers; (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarkers.

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 111 *Rearview Mirror:* replacement of the passenger side rearview mirror with a U.S.-model component.

Standard No. 114 *Theft Protection:* installation of a warning buzzer microswitch and a warning buzzer in the steering lock assembly.

Standard No. 115 *Vehicle Identification Number:* installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 118 *Power Window Systems:* rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection:* installation of a seat belt warning buzzer. The petitioner states that the vehicle is equipped with shoulder and lap belts in all seating positions.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: March 18, 1996.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 96–6832 Filed 3–20–96; 8:45 am]

BILLING CODE 4910–59–M

Research and Special Programs Administration

[Docket No. PDA–14(R)]

Application by National Tank Truck Carriers, Inc. for a Preemption Determination as to Hazardous Materials Requirements Imposed by the City of El Paso, Texas

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice dismissing application and closing the docket.

APPLICANT: National Tank Truck Carriers, Inc. (NTTC).

LOCAL LAW AFFECTED: Title 9, Chapter 9.56 of the City of El Paso, Texas Municipal Code requiring motor carriers or operators that transport hazardous materials to obtain a permit based on inspections which are conducted only during limited time periods, from November 1 through December 31 of each year.

APPLICABLE FEDERAL REQUIREMENTS: Federal hazardous materials transportation law, 49 U.S.C. § 5101 et seq., and the Hazardous Materials Regulations, 49 CFR Parts 171–180.

SUMMARY: The application for a determination of preemption is dismissed, and this docket is closed because the City of El Paso passed an ordinance that deleted the permit requirement for transportation of hazardous materials in El Paso.

FOR FURTHER INFORMATION CONTACT: Karin V. Christian, Attorney, Office of the Chief Counsel, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590–0001 (Tel. No. [202] 366–4400).

SUPPLEMENTARY INFORMATION: On December 10, 1995, NTTC applied for a determination that the Federal hazardous material transportation law preempts certain provisions of Chapter 9.56 of the City of El Paso, Texas Municipal Code requiring motor carriers and operators transporting hazardous materials to obtain permits based on inspections conducted only during limited periods of time, from November 1 through December 31 of each year.

On January 19, 1996, RSPA published a Public Notice and Invitation to Comment (Notice) on NTTC's application. 61 FR 1432. Five comments were received in response to the Notice.

On February 15, 1996, the Office of the City Attorney of the City of El Paso forwarded a copy of an ordinance amendment to RSPA. This amendment deleted the permit requirement for transportation of hazardous materials in El Paso. The amendment was introduced at an El Paso City Council meeting on February 13, 1996 and on February 27, 1996, the City Council approved the ordinance amendment deleting the permit requirement.

After receiving a copy of the approved amended ordinance, NTTC submitted a written request to RSPA on March 7, 1996, withdrawing NTTC's application for a preemption determination and stating that the amendment has rendered moot its concerns. Therefore, NTTC's application is dismissed, and the docket is closed.

Issued in Washington, DC on March 15, 1996.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 96–6833 Filed 3–20–96; 8:45 am]

BILLING CODE 4910–60–P

Office of Hazardous Materials Safety; Notice of Applications for Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for modification of exemptions or applications to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Requests for modifications of exemptions (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix "X" denote a modification request. Application numbers with the suffix "P" denote a party to request. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before April 5, 1996.

ADDRESS COMMENTS TO: Dockets Unit, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Unit, Room 8426, Nassif Building, 400 7th Street SW., Washington, DC.

Application No. and Applicant	Renewal of exemption
8125–M: Compagnie Des Containers Reservoirs, 2 Cedex, FR [1]	8125
9769–M: Federal Aviation Administration (Alaska Region), Anchorage, AL [2]	9769

Application No. and Applicant	Renewal of exemption
9926–M: Implementos Agricolas LaLa, S.A., S.A. Durango, ME[3] ...	9926
10814–M: Lorad Industrial Imaging, Danbury, CN[4] ...	10814
11005–M: Pressure Technology, Inc., Hanover, MD[5] ...	11005
11055–M: Rollins CHEMPAK Inc., Wilmington, DE[6] ...	11055
11171–M: Dart Container Corp. of PA, Leola, PA[7] ...	11171
11248–M: HAZMATPAC, Houston, TX[8] ...	11248
11432–M: Western Atlas International, Houston, TX[9] ...	11432

[1] To modify the exemption to provide for the transportation in commerce of trimethylchlorosilane, Class 3, as an additional class of material for shipment in non-DOT specification IMO Type 5 portable tanks.

[2] To modify the exemption to provide for cargo aircraft as an additional mode of transportation for shipment of lab-packs.

[3] To modify the exemption to provide for an alternative processing method of non-DOT specification cylinders and provide for an additional size cylinder with a service pressure of 2200 psi.

[4] To modify the exemption to provide for a change in the shipping container used to transport industrial x-ray instrumentation containing nonliquefied sulfur hexafluoxide.

[5] To modify the exemption to provide for an additional design non-DOT specification fiber reinforced plastic (FRP) full composite aluminum cylinders.

[6] To modify the exemption to include all materials meeting the definition of a toxic material that is an inhalation hazard, Zone A, as specifically listed in 49 CFR 172.101 and additional packaging of lab packs.

[7] To modify the exemption to provide for unlimited reuse flexible bulk bags, increase testing to minimum 1,000 lots and authorize reuse of repaired IBCs.

[8] To modify the exemption to provide an optional type obsorbent material in specially designed combination type packaging for transporting limited quantities of certain hazardous materials.

[9] To modify the exemption to provide for the use of IME 22 container as the outer packaging for a combination of detonators or igniters.

Application No. and applicant	Parties to exemption
4453–P: IRECO of Florida, Inc., Miramar, FL ...	4453
7774–P: Pomrenke Wireline Services, Inc., Rock Springs, WY ...	7774
8554–P: IRECO of Florida, Inc., Miramar, FL ...	8554
9275–P: Bayer Corporation (formerly Miles, Inc., Pittsburgh, PA ...	9275
9617–P: John Joseph, Inc., Ringwood, NJ ...	9617
9617–P: Explosives Supply, Inc., Ringwood, NJ ...	9617
9723–P: Autumn Industries, Inc., Warren, OH ...	9723
9723–P: Pollution Solutions of Vermont, Inc. (PSOV), Williston, VT ..	9723
9769–P: Tri-State Motor Transit Co., Joplin, MO ...	9769
9769–PM: Federal Aviation Administration (Alaska Region), Anchorage, AL[1] ...	9769
9769–P: EOG Environmental, Inc., Milwaukee, WI ...	9769
9769–P: HazMat Environmental Group, Inc., Buffalo, NY ...	9769
10001–P: Wakeman Industries, Inc., Charlestown, NH ...	10001
10031–P: Air Products and Chemicals, Inc., Allentown, PA ...	10031
10441–P: Erickson, Inc., Richmond, CA ...	10441
10441–P: Autumn Industries, Inc., Warren, OH ...	10441
10589–P: Occidental Chemical Corporation, Deer Park, TX ...	10589
10798–P: Niacet Corporation, Niagara Falls, NH ...	10798
10818–P: T.J. Egan Waste Systems, Bloomfield, NJ ...	10818
10933–P: Safeway Chemical Transportation, Inc., Wilmington, DE ...	10933
10933–P: Republic Environmental Systems (Transp. Group), Hatfield, PA ...	10933
10933–P: Tri-State Motor Transit Co., Joplin, MO ...	10933
11043–P: Erickson, Inc., Richmond, CA ...	11043
11055–P: SET Environmental, Inc., Wheeling, IL ...	11055
11055–P: Safeway Chemical Transportation, Inc., Wilmington, DE ...	11055
11156–P: John Joseph, Inc., Ringwood, NJ ...	11156
11156–P: Explosives Supply, Inc., Ringwood, NJ ...	11156
11200–P: U.S. Department of Defense, Falls Church, VA ...	11200
11207–P: NIPSCO Industries Companies, Hammond, IN ...	11207
11294–P: Tri-S Inc., Ellington, CT ...	11294
11294–P: United States Pollution Control, Inc., Columbia, SC ...	11294
11294–P: Laidlaw Environmental Services (Northeast), Inc., Columbia, SC ...	11294
11294–P: Laidlaw Environmental Services (FS), Inc., Columbia, SC	11294
11294–P: Laidlaw Environmental Services of Illinois, Inc., Columbia, SC ...	11294
11294–P: Laidlaw Environmental Services of California, Inc., Columbia, SC ...	11294
11294–P: Laidlaw Environmental Services (TES), Inc., Columbia, SC ...	11294
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11294–P: Laidlaw Environmental Services (TS), Inc., Columbia, SC	11294
11294–P: Bryson Industrial Services, Inc., Columbia, SC ...	11294
11294–P: Autumn Industries, Inc., Warren, OH ...	11294
11294–P: Tri-State Motor Transit Co., Joplin, MO ...	11294
11294–P: Pollution Solutions of Vermont, Inc. (PSOV), Williston, VT ..	11294
11373–P: SOCO-Lynch Corporation, Los Angeles, CA ...	11373
11373–P: Southchem, Inc., Durham, NC ...	11373
11373–P: Textile Chemical Company, Inc., Reading, PA ...	11373
11458–P: Carter-Wallace, Inc., Cranbury, NJ ...	11458
11588–P: CAL–VA, Inc., Chantilly, VA ...	11588
11568–P: City Medical Wastes Services, Hamtramck, MI ...	11588
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11588–P: Waste Management of Ohio, Livonia, MI ...	11588
11588–P: Medico Environmental Services, Inc., Clearwater, FL ...	11588
11588–P: Trans Med, Ltd., Ronkonkoma, NY ...	11588
11588–P: A–1 Medical Waste Removal, Inc., Staten Island, NY ...	11588
11588–P: Stericycle, Deerfield, IL ...	11588
11588–P: Med Compliance Service, Inc. of Texas, El Paso, TX ...	11588

[1] To modify the exemption to provide for cargo aircraft as an additional mode of transportation for shipment of lab-packs.

This notice of receipt of applications for modification of exemptions and for party to an exemption is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on March 15, 1996.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 96–6806 Filed 3–20–96; 8:45 am]

BILLING CODE 4910–60–M

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Exemptions

AGENCY: Research and Special programs Administration, DOT.

ACTION: List of Applicants for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulation (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before April 22, 1996.

ADDRESS COMMENTS TO: Dockets Unit, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

FOR FURTHER INFORMATION CONTACT:

Copies of the applications are available for inspection in the Dockets Unit, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

NEW EXEMPTIONS

Application No. and applicant	Regulation(s) affected	Nature of exemption thereof
11636–N: National Independent Parts Cleaners Association, Canby, OR.	49 CFR 173.150(f)(3)(vii), 173.150(f)(3)(vii), 173.28(b)(2), 173.28(b)(2).	To authorize the transportation in commerce of reused 1A2 steel drums without leak proofness test for use in transporting waste combustible liquids. (mode 1)
11638–N: Williamette Industries, Inc., Charlotte, NC.	49 CFR 178.522(b)(4)(5) ...	To authorize the transportation in commerce of corrosive or flammable liquids in non-DOT specification composite package similar to 6HG2 not to exceed 55-gallon. (modes 1, 3)
11644–N: United States Can Company, Elgin, IL.	49 CFR 173.1200(a)(8), 173.304(e), 173.306(a), 178.33a.	To authorize the transportation in commerce of a non-DOT specification three-piece inside metal container with welded side seam and double seamed ends comparable to DOT-Specification 2Q for use in transporting R–134a (1, 1, 2 tetrafluoroethane). (modes 1, 2, 3, 4)
11645–N: Chemical Products Corp., Cartersville, GA.	49 CFR 173.212, 173.213 ...	To authorize the transportation in commerce of various Class 8 material in non-DOT specification multi-ply paper bags in 50 pounds or 100 pounds lots until current inventories are depleted. (modes 1, 2)
11646–N: Barton Solvents Inc., Des Moines, IA.	49 CFR 172.203(a), 172.301(c), 177.834(h).	To authorize the unloading of hazardous materials from drums and/or intermediate bulk containers without removal from motor vehicles. (mode 1)
11647–N: Taylor-Wharton Co., Harrisburg, PA.	49 CFR 178.37–4 ...	To eliminate the requirement for any cylinder made by the billet piercing process to be inspected after the parting. (modes 1, 2, 3, 4, 5)
11648–N: Ill. Dept. of Nuclear Safety, Springfield, IL.	49 CFR 173.421(b) ...	To authorize the transportation in commerce of emergency response instrument kits that contain radioactive material that exceed the limited quantity radiation level. (mode 1)
11649–N: VTG USE, Inc., West Chester, PA.	49 CFR 178.245–1, 2(b) ...	To authorize the manufacture, mark and sale of non-DOT specification containers equipped with man hole openings located in the rear side of the tank and the loading/discharge valve openings grouped on the right hand side of the tanks for use in transporting freon. (modes 1, 2)
11651–N: Bayer Corp., Pittsburgh, PA.	49 CFR 173.241(b) ...	To authorize the transportation in commerce of self-hearing solid, organic, Division 4.2 material in non-DOT specification sift-proof cargo tanks. (mode 1)
11652–N: Best Foods, Inc., Englewood Cliffs, NJ.	49 CFR 172.203(a), 173.150(b), 173.152(b), 173.154(b), 173.155(b), 173.306(a) & (b), Appendix B to subpart B of Part 107.	To authorize the transportation in commerce of display packs of consumer commodities in packages that exceed the gross weight limit. (mode 1)
11653–N: Phillips Petroleum Co., Bartlesville, OK.	49 CFR 174.9 ...	To authorize the transportation in commerce of a empty tank car with defective heater coils (PSPX 517) last contained a Class 8 material. (mode 2)
11654–N: Hoechst Celanese Corp., Dallas, TX.	49 CFR 172.203(a), 173.31(c)(1), 179.13, Appendix B to Subpart B, Par. (2).	To authorize the transportation in commerce of certain Class 3 material in DOT 105J tank cars with a maximum gross weight greater than 183,000 but not greater than 184,000. (mode 2)

This notice of receipt of applications for new exemptions is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on March 15, 1996.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials, Exemptions and Approvals.

[FR Doc. 96–6807 Filed 3–20–96; 8:45 am]

BILLING CODE 4910–60–M

Surface Transportation Board[1]

[STB Docket No. AB–55 (Sub-No. 523X)]

CSX Transportation, Inc.—Abandonment Exemption—in Raleigh County, WV

CSX Transportation, Inc. (CSXT) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon approximately 6.23 miles of its line of railroad between milepost CAQ–13.72 at Stotesbury and milepost CAQ–19.95 at Stone Coal Junction, in Raleigh County, WV.[2]

CSXT has certified that: (1) No local traffic has moved over the line for at

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (the Act), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10903.

[2] In *CSX Transportation, Inc.—Abandonment Exemption—In Raleigh County, WV*, Docket No. AB–55 (Sub-No. 394X), a notice of exemption was served on September 21, 1991, of CSXT's abandonment of it's line segment between milepost CAQ–5.45 at Pemberton, and milepost CAQ–13.72, at Stotesbury.

least 2 years; (2) overhead traffic that formerly moved over this line is now moving via CSXT over a leased NS line parallel to this line;[3] (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to use of this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on April 20, 1996, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[4] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[5] and trail use/rail banking requests under 49 CFR 1152.29[6] must be filed by April 1, 1996. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by April 10, 1996, with: Office of the Secretary, Case Control Branch, Surface Transportation Board, 1201 Constitution Avenue, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Charles M. Rosenberger, Senior Counsel, CSX Transportation, Inc., 500 Water Street J150, Jacksonville, FL 32202.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

CSXT has filed an environmental report which addresses the abandonments effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by March 26, 1996. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Surface Transportation Board, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: March 13, 1996.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–6827 Filed 3–20–96; 8:45 am]

BILLING CODE 4915–00–P

[3] *See CSX Transportation, Inc.—Lease and Operation Exemption—Norfolk and Western Railway Company*, Finance Docket No. 32768 (ICC served Oct. 27, 1995).

[4] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[5] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[6] The Board will accept late-filed trail use requests so long as the abandonment has not been consummated and the abandoning railroad is willing to negotiate an agreement.

[Docket No. AB–33 (Sub-No. 70)]

Union Pacific Railroad Company—Abandonment—Wallace Branch, ID

AGENCY: Surface Transportation Board, DOT.

ACTION: Extension of comment filing period.

SUMMARY: The Rails to Trails Conservancy seeks the issuance of a certificate of interim trail use under section 8(d) of the National Trails System Act, 16 U.S.C. 1247(d), for a 71.5-mile rail line of Union Pacific Railroad Company between milepost 16.5, near Plummer, and milepost 7.6, near Mullan, via milepost 80.4/0.0 near Wallace, in Benewah, Kootenai, and Shoshone Counties, ID. The ICC issued a notice on December 29, 1995 (60 FR 67364) to request comments from all interested parties, agencies, and members of the public as to whether there is any impediment to the issuance of Trails Act authority in the unusual circumstances of this case. Comments were originally due on January 29, 1996. At the request of the Environmental and Natural Resources Division of the United States Department of Justice (DOJ), acting on behalf of the Departments of Interior and Agriculture, the Board extended the comment period for 45 days to March 14, 1996.

DOJ now requests an additional 6 month period within which to file its comments in order to conduct a natural resource damages assessment. Further, DOJ states that the assessment must consider not only the environmental but also the potential human health effects of bringing recreators into the area. DOJ states that the Coeur d'Alene Tribe supports the extension and that the Union Pacific Railroad Company will not oppose it. The Rails-to-Trails Conservancy opposes any extension.

While the Board supports the pursuit of negotiated resolutions, the Board does not favor granting lengthy extensions of time in established procedural schedules, especially where, as here, a prior extension has been granted. The Board will grant a 2 month extension of the comment period until May 14, 1996. DOJ is directed to report to the Board by May 1, 1996 on the status of its efforts to negotiate settlement of certain issues.

DATES: The report is due by May 1, 1996 and comments are due by May 14, 1996.

ADDRESSES: An original and 10 copies of the report and all comments, referring to Docket No. AB–33 (Sub-No. 70), should be filed with the Office of the Secretary, Case Control Branch, Surface Transportation Board, 1201 Constitution Avenue, N.W., Washington, DC 20423. In addition, a copy of the report and all comments must be served on all parties of record.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927–5660. [Assistance for the hearing impaired is available through TDD at (202) 927–5721.]

Decided: March 14, 1996.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–6828 Filed 3–20–96; 8:45 am]

BILLING CODE 4915–00–P

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (the Act), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10903.

DEPARTMENT OF THE TREASURY

Federal Law Enforcement Training Center

AGENCY: Advisory Committee to the National Center for State, Local, and International Law Enforcement Training.

ACTION: Notice of meeting.

SUMMARY: The agenda for this meeting includes remarks by the Director of the Federal Law Enforcement Training Center and Committee Co-chairs; and reports on Leadership Model, Community Oriented Policing (COP), and the COP Fellowship.

DATES: March 26, 1996.

ADDRESSES: Federal Law Enforcement Training Center, Glynco, Georgia 31524.

FOR FURTHER INFORMATION CONTACT: Hobart M. Henson, National Center for State, Local, and International Law Enforcement Training, Federal Law Enforcement Training Center, Glynco, Georgia 31524.

Dated: March 14, 1996.

Earl L. Housenfluck,

Deputy Office Director.

[FR Doc. 96–6801 Filed 3–20–96; 8:45 am]

BILLING CODE 4810–32–M

UTAH RECLAMATION MITIGATION AND CONSERVATION COMMISSION

Request for Recommendations

AGENCY: Utah Reclamation Mitigation and Conservation Commission.

ACTION: Notice.

SUMMARY The Utah Reclamation Mitigation and Conservation Commission is requesting comment on their Draft Mitigation and Conservation Five-Year Plan. The Plan will guide the Commission's mitigation and conservation program for impacts associated with the construction of the Central Utah Project and other Federal reclamation projects in Utah.

DATES: The comment period will be open for a period of 30 days from March 15, 1996, through April 15, 1996.

ADDRESSES: Copies of the Draft Mitigation and Conservation Plan are available from the Planning Manager, Utah Reclamation Mitigation and Conservation Commission, 111 East Broadway, Suite 310, Salt Lake City, Utah 84111. Comments on the Draft Plan should be sent to the same address.

FOR FURTHER INFORMATION CONTACT: Joan Degiorgio, Telephone (801) 524–3146; Fax (801) 524–3148.

Authority: Pub. L. 102–575, 106 Stat. 4600, 4625, October 30, 1992.

Joan Degiorgio,

Acting Executive Director.

[FR Doc. 96–6754 Filed 3–20–96; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF VETERANS AFFAIRS

Agency Information Collection: Submission for OMB Review; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

OMB Number: 2900–0040.

Title and Form Number: Request for Postponement of Offsite or Exterior Onsite Improvements, VA Form 26–1847.

Type of Information Collection: Extension of a currently approved collection.

Needs and Uses: The form serves as the lender's and veteran's request for guaranty of home loan for which offsite or exterior onsite improvements are incomplete to permit the veteran's occupancy of the property. Without this information, it would not be possible for loans to be guaranteed in such cases with adequate protection for the veteran and VA, and for veterans to occupy affected properties.

Affected Public: Individuals or households—Business or other for-profit.

Estimated Annual Burden: 2,500 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: Generally one-time.

Estimated Number of Respondents: 5,000 respondents.

OMB Control Number: 2900–0047.

Title and Form Number: Financial Statement, VA Form 26–6807.

Type of Review: Extension of a currently approved collection.

Need and Uses: The form is completed by respondents (veteran-obligors and prospective assumers) in connection with release of liability and substitution of entitlement cases. The information collection is essential to determinations for release of liability and substitution of entitlement cases.

Affected Public: Individuals or households.

Estimated Annual Burden: 30,000 hours.

Estimated Average Burden Per Respondent: 45 minutes.

Frequency of Response: Generally one-time.

Estimated Number of Respondents: 40,000.

OMB Control Number: 2900–0244.

Title and Form Number: Electrical Systems Inspection Report, VA Form 26–8731b.

Type of Review: Extension of a currently approved collection.

Need and Uses: The form is used by inspectors to record inspection findings for electrical systems of used manufactured homes proposed as security for guaranteed loans. The information is used by VBA to determine acceptability of units for VA financing.

Affected Public: Business or other for-profit—Individuals or households.

Estimated Annual Burden: 240 hours.

Estimated Average Burden Per Respondent: 2 hours.

Frequency of Response: Generally one-time.

Estimated Number of Respondents: 120.

OMB Control Number: 2900–0253.

Title and Form Number: Nonsupervised Lender's Nomination and Recommendation of Credit Underwriter, VA Form 26–8736a.

Type of Review: Extension of a currently approved collection.

Need and Uses: The form is submitted to VBA by a nonsupervised lender with the initial application for authority to close loans on an automatic basis or in connection with nominations of additional or new credit underwriters, subsequent to approval. The information is used by VBA to determine if the lender's nominee is qualified to close VA loans on an automatic basis.

Affected Public: Business or other for-profit.

Estimated Annual Burden: 1,000 hours.

Estimated Average Burden Per Respondent: 20 minutes.

Frequency of Response: Generally one-time.

Estimated Number of Respondents: 3,000.

OMB Control Number: 2900–0320.

Title and Form Number: Escrow Agreement for Postponed Exterior Onsite Improvements, VA Form 26–1849.

Type of Review: Extension of a currently approved collection.

Need and Uses: The form is a legal agreement between builder/seller, lender, and escrow agent covering escrow of funds for unfinished exterior onsite improvements of newly constructed housing proposed for VA guaranteed financing.

Affected Public: Individuals or households—Business or other for-profit.

Estimated Annual Burden: Because escrow agreements, such as VA Form 26–1849, are common practices in the building and lending industry, only 1 hour is being requested.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: Generally one-time.

Estimated Number of Respondents: 32,000.

OMB Control Number: 2900–0355.

Title and Form Number: Verification of Pursuit of Course (Leading to a Standard College Degree), VA Form 22–6553.

Type of Review: Extension of a currently approved collection.

Need and Uses: The form is used by schools to certify enrollment information and to report changes in a student's enrollment status. The information is used to determine if VA education benefits are affected.

Affected Public: State, Local or Tribal Government—Not-for-profit institutions.

Estimated Annual Burden: 35,240 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 5,286.

OMB Control Number: 2900–0396.

Title and Form Number: Certification of Training, VA Form 22–8929; Notice of Intent to Employ a Veteran, VA Form 22–8930; Employer's Application for Approval of a Job Training Program, VA Form 22–8931; Application for a Certificate of Eligibility, VA Form 22–8932.

Type of Review: Revision of currently approved collection.

Need and Uses: The employer uses VA Form 22–8929 to apply for reimbursement for training a veteran; VA Form 22–8930 to notify VA that the employer is going to hire a veteran; VA Form 22–8931 to request VA approval of a job training program. The veteran uses VA Form 22–8931 to apply for a certification of eligibility for job training.

Affected Public: Business or other for-profit—Individuals or households—State, Local or Tribal Government—Not-for-profit institutions.

Estimated Annual Burden: 26,400 hours.

Estimated Average Burden Per Respondent: 24 minutes (average).

Frequency of Response: On occasion.

Estimated Number of Respondents: 59,400.

OMB Control Number: 2900–0474.

Title and Form Number: Loan Guaranty Funding Fee Transmittal, VA Forms 26–8986 and 26–8986–1.

Type of Review: Extension of a currently approved collection.

Need and Uses: Use of these forms will allow lending institutions to transmit funding fees required for VA-guaranteed home loans to a lockbox depository.

Affected Public: Individuals or households—Business or other for-profit.

Estimated Annual Burden: 58,333 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: Generally one-time.

Estimated Number of Respondents: 350,000.

ADDRESSES: Copies of these submissions may be obtained from Ron Taylor, VA Clearance Officer (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 565–4412.

Comments and recommendations concerning the submissions should be directed to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–4650. Do not send requests for benefits to this address.

DATES: Comments on the collections of information should be directed to the OMB Desk Officer on or before April 22, 1996.

FOR FURTHER INFORMATION CONTACT: Ron Taylor, VA Clearance Officer (045A4), (202) 565–4412.

Dated: March 8, 1996.

By direction of the Secretary.

William T. Morgan,

Management Analyst.

[FR Doc. 96–6799 Filed 3–20–96; 8:45 am]

BILLING CODE 8320–01–P

federal register

Thursday
March 21, 1996

Part II

Department of Housing and Urban Development

24 CFR Parts 290 and 886

Disposition of Multifamily Projects and Sale of HUD-Held Multifamily Mortgages; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 290 and 886

[Docket No. FR–3715–F–02]

RIN 2502–AG30

Office of Assistant Secretary for Housing—Federal Housing Commissioner; Disposition of Multifamily Projects and Sale of HUD-Held Multifamily Mortgages

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule implements at 24 CFR part 290 the regulatory requirements under the Multifamily Housing Property Disposition Reform Act of 1994 that affect the management and disposition of HUD-owned properties and properties with HUD-held mortgages, and the sale of HUD-held multifamily mortgages. Conforming changes are made to part 886.

EFFECTIVE DATE: April 22, 1996.

FOR FURTHER INFORMATION CONTACT: Barbara D. Hunter, Director, Program Management Division, Office of Multifamily Asset Management and Disposition, Department of Housing and Urban Development, Room 6182, 451 7th Street SW, Washington, DC 20410. Telephone (202) 708–3944; TDD (202) 708–4594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in § 290.9 of this rule have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), and assigned OMB control number 2502–0204. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

I. Statutory and Regulatory Background

On August 17, 1993 (58 FR 43708), the Department published a final rule amending its requirements for the management and disposition of HUD-owned multifamily housing projects. The regulation, at 24 CFR part 290, implemented HUD's statutory authority, contained in section 207 (k) and (l) of the National Housing Act and in section 203 of the Housing and Community Development Amendments of 1978, to handle and dispose of such real property.

Section 203 was amended by section 181 of the Housing and Community Development Act of 1987 (1987 Act), section 1010 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (1988 Act), and section 579 of the National Affordable Housing Act of 1990 (NAHA). A final rule published on August 17, 1993 implemented the NAHA amendments. Generally, the statutory amendments specified the type of assistance to be provided when the Department determines to preserve units as affordable low- and very low-income housing, and included certain projects with HUD-held mortgages within the scope of section 203.

In the Multifamily Housing Property Disposition Reform Act of 1994 (MHPDRA) (Pub. L. 102–233, approved April 11, 1994), section 203 was completely revised. An interim rule amending 24 CFR part 290 to reflect the new statutory amendments was published on March 2, 1995 (60 FR 11844) with a 60 day public comment period. The Department received no comments on the interim rule.

II. Changes Made by the Final Rule—Regulatory Reinvention

Consistent with Executive Order 12866 and President Clinton's memorandum of March 4, 1995 to all Federal Departments and Agencies on regulatory reinvention, HUD has reviewed all its regulations to determine whether certain regulations can be eliminated, streamlined, or consolidated with other regulations. In keeping with the President's mandate to reinvent and reform regulations, the Department is taking advantage of the publication of this final rule to streamline part 290. The entire part has been re-drafted to eliminate text that only repeats the statutory language, or provisions that are only advisory (rather than binding) or non-exclusive. Instead of consisting of nine subparts, A through I, as did the interim rule, this final rule has only two subparts: subpart A—Disposition of Multifamily Projects, and subpart B—Sale of HUD-Held Multifamily Mortgages.

One goal of reinventing regulations is to remove rule text that only repeats statutory language. To achieve this goal, rules will only contain legally binding requirements that are in addition to those contained in a statute. This will streamline regulations, avoid redundancy, and remove the problems that result when a rule that echoes the language of a statute becomes inconsistent with new statutory amendments. The period before a rule is amended to conform to new statutory language is often one of confusion and uncertainty as to which law applies. The final rule promulgated here does not, therefore, repeat any statutory language; it contains only those provisions that clarify the statutory procedures, or provisions that address those areas that give the Secretary discretion to act.

The remaining regulatory text is further pruned to eliminate provisions that are only advisory (rather than binding) or non-exclusive. An example of such a provision is the listing in § 290.42(d)(3) of the interim rule of persons included in the definition of "displaced person." This listing is prefaced by the phrase, "This includes, but is not limited to:", which indicates that it only provides examples, and is not exclusive or complete. Such lists of examples are more appropriate for inclusion in guidance materials (such as the appendix which follows this rule) than in rules.

The consolidated statutory and regulatory procedures for the disposition of multifamily properties, which were contained in the interim rule, have been placed in an appendix to this final rule. The final rule will be codified in the Code of Federal Regulations; the appendix will not be codified. However, the appendix is available to the public as a single document which provides a unified overview of the disposition process. The user-friendly features of the interim rule, its tables and question-and-answer format, are retained as features of the appendix.

A number of consolidating and clarifying adjustments are also made to the regulatory language that remains in part 290. The requirements for the timing of any disposition-related notifications (i.e., pre-foreclosure notification to tenants and units of general local government; pre-disposition community and tenant input notification; state and local government right of first refusal notification) are combined into a single provision, at § 290.11, which states that notifications will be made, as appropriate, (1) 60 or more days before HUD forecloses on a project, or (2) before, or not more than 30 days after, HUD acquires a project. By making it clear that notifications that may be made up to 30 days after acquisition may also be made before acquisition, the rule confirms that the notification provisions are meant to complement, rather than impede, the disposition process. For instance, in the case of a negotiated sale to a State or local government (including public agencies), waiting until after acquisition to provide the statutorily required state and local government right of first refusal notification could delay a disposition for 90 days. Providing this notification earlier in the process allows for a more expeditious disposition.

A correction is made in the table entitled "Pre-Disposition Notification Requirements," which now appears in the appendix. In the interim rule, the timing for providing notice to tenants and the community was listed as 60 days in the table, and 30 days in the rule text. The time period in the table is here conformed to 30 days.

This rule also includes two provisions, at §§ 290.37 and 290.39, added to the Sale of HUD-Held Multifamily Mortgages subpart by an interim rule published on February 6, 1996 (61 FR 4580). These provisions are included in this rule to present the complete part 290 in its current form. However, after considering comments submitted on these provisions, they will be republished separately as a final rule.

As an additional matter, the Department is taking advantage of the publication of this rule to provide notice of section 401 of Pub. L. 104–99 (110 Stat. 26, approved January 26, 1996), which provides that, "During fiscal year 1996, the Secretary of Housing and Urban Development may manage and dispose of multifamily properties owned by the Secretary, including the provision of the grants from the General Insurance Fund (12 U.S.C. 1735c) for the necessary costs of rehabilitation and other related development costs and multifamily mortgages held by the Secretary without regard to any other provision of law."

III. Other Matters

Any assistance made available to a purchaser under this rule, whether rental or other financial assistance, will be subject to scrutiny under section 102(d) of the HUD Reform Act, insofar as that statutory provision has been implemented by guidelines issued by the Office of Housing under 24 CFR part 12, subpart D (see, *e.g.*, a **Federal Register** Notice published April 9, 1991 (56 FR 14436) entitled "Administrative Guidelines; Limitations on Combining Other Government Assistance with HUD Housing Assistance").

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street SW, Washington, DC 20410.

Regulatory Flexibility Act

The Secretary, in accordance with provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that it will not have a significant economic impact on a substantial number of small entities. These requirements governing the management and disposition of HUD-owned multifamily housing projects should not affect the ability of small entities, relative to larger entities, to bid for and acquire projects that HUD determines to sell.

Executive Order 12612, Federalism

HUD has determined, in accordance with Executive Order 12612, *Federalism*, that this rule will not have a substantial, direct effect on the States or on the relationship between the Federal government and the States, or on the distribution of power or responsibilities among the various levels of government. While the rule would impose terms and conditions on States that acquire projects under this rule, that is clearly the intent of the authorizing legislation, and therefore no further review is necessary or appropriate.

Executive Order 12606, the Family

HUD has determined that this rule will not have a significant impact on family formation, maintenance, and general well-being within the meaning of Executive Order 12606, *The Family*, because it does not affect the eligibility of families for admission into multifamily housing projects that are subject to this rulemaking.

The Catalog of Federal Domestic Assistance Program number and title are 14.156, Lower Income Housing Assistance Program (Section 8).

List of Subjects

24 CFR Part 290

Low and moderate income housing, Mortgage insurance.

24 CFR Part 886

Grant programs—housing and community development, Lead poisoning, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, under the authority of 42 U.S.C. 3535(d), for the reasons stated in the preamble, title 24 of the Code of Federal Regulations is amended by adopting the amendments to part 886 of the interim rule published in the **Federal Register** of March 2, 1995 (60 FR 11844) as final without change, and by revising part 290, to read as follows:

PART 290—DISPOSITION OF MULTIFAMILY PROJECTS AND SALE OF HUD-HELD MULTIFAMILY MORTGAGES

Subpart A—Disposition of Multifamily Projects

Sec.
290.1 Applicability.
290.3 Definitions.
290.7 Occupancy requirements.
290.9 Setting rental rates.
290.11 Notification requirements.
290.13 Negotiated sales.
290.15 Disposition plan.
290.17 Displacement of tenants and relocation assistance.
290.19 Restrictions concerning nondiscrimination against Section 8 certificate holders and voucher holders.
290.21 Computing annual number of units eligible for substitution of tenant-based assistance or alternative uses.
290.23 Rebuilding.
290.25 Determination not to preserve a project or a part of a project.

Subpart B—Sale of HUD-Held Multifamily Mortgages

290.30 General.
290.31 Sale of current mortgages securing subsidized projects.
290.33 Sale of delinquent mortgages securing subsidized projects.
290.35 Sale of HUD-held mortgages securing unsubsidized projects.
290.37 Requirements for continuing federal rental subsidy contracts.
290.39 Nondiscrimination in admitting certificate and voucher holders.

Authority: 12 U.S.C. 1701z–11, 1701z–12, 1713, 1715b, 1715z–1b; 42 U.S.C. 3535(d).

Subpart A—Disposition of Multifamily Projects

§ 290.1 Applicability.

The requirements of this part supplement the requirements of 12 U.S.C. 1701z–11 for the management and disposition of multifamily housing projects and the sale of HUD-held multifamily mortgages. The goals and objectives of this part are the same as the goals and objectives of 12 U.S.C. 1701z–11, which shall be referred to in this part as "the Statute."

§ 290.3 Definitions.

The terms *Department* and *URA* are defined in 24 CFR part 5. The following definitions apply to this part:

Cooperative means a nonprofit, limited equity, or consumer cooperative as defined under 24 CFR part 213. It

may include mutual housing associations.

HUD-owned project means a multifamily project that has been acquired by HUD.

Market area means the area from which a multifamily housing project may reasonably be expected to draw a substantial number of its tenants, as determined by HUD, taking into consideration the knowledge of the HUD office with jurisdiction over the project of the local real estate market and HUD's project underwriting experience. Submarkets may be used in large, complex metropolitan areas.

Multifamily housing project means a multifamily project that is or was insured under sections 207, 213, 220, 221(d)(3), 221(d)(4), 223(f), 231, 236, or 608 of the National Housing Act (12 U.S.C. 1713, 1715e, 1715k, 1715l, 1715n, 1715v, 1715z–1, or 1742–1746); or is or was subject to a loan under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q); or was a Real Estate Owned (REO) multifamily project transferred by the Government National Mortgage Association to the Department. Multifamily housing project does not include projects consisting of one to eleven units insured under section 220(d)(3)(A) of the National Housing Act (12 U.S.C. 1715l); or mobile home parks under section 207(m) of that Act (12 U.S.C. 1713); or vacant land; or property covered by a homeownership program approved under the Homeownership and Opportunity for People Everywhere ("HOPE") program.

Multifamily project means a project consisting of five or more units that has or had a mortgage (even if subordinate to other mortgages) insured under the National Housing Act or is or was subject to a loan under section 202 of the Housing Act of 1959, or a hospital, intermediate care facility, nursing home, group practice facility, or board and care facility that has or had a mortgage insured, or is or was subject to a loan under, these authorities. Multifamily project does not include projects consisting of one to eleven units insured under section 220(d)(3)(A) of the National Housing Act (12 U.S.C. 1715k), which are classified as single family homes.

Nonprofit organization means a corporation or association organized for purposes other than making a profit or gain for itself. Stockholders or trustees do not share in profits or losses. Profits are used to accomplish the charitable, humanitarian, or educational purposes of the corporation.

Preexisting tenant means a family that resides in a unit in a multifamily housing project immediately before the project is acquired under this part by a purchaser other than the Department.

Subsidized project means a multifamily housing project that is receiving, or immediately before its mortgage was foreclosed by HUD or the project was acquired by HUD, pursuant to this regulation, was receiving any of the following types of assistance:

(1) Below market interest rate mortgage insurance under the proviso of section 221(d)(5) of the National Housing Act (12 U.S.C. 1715l) (hereinafter, a BMIR project);

(2) Interest reduction payments made in connection with mortgages insured under section 236 of the National Housing Act (hereinafter, a 236 project);

(3) Direct loans made under section 202 of the Housing Act of 1959 (hereinafter, a 202 project);

(4) Assistance, to more than 50 percent of the units in the project, in the form of:

(i) Rent supplement payments under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s) (hereinafter, Rent Supp);

(ii) Additional assistance payments under section 236(f)(2) of the National Housing Act (hereinafter, RAP);

(iii) Housing assistance payments under section 23 of the United States Housing Act of 1937 (42 U.S.C. 1437 *note*) (as in effect before January 1, 1975) (hereinafter, Sec. 23); or

(iv) Housing assistance payments under Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) (excluding payments of tenant-based Section 8 assistance) (hereinafter, project-based Section 8 assistance).

Sufficient habitable, affordable, rental housing is available means that the HUD office with jurisdiction determines that there is an adequate supply of habitable, affordable housing for low- and very low-income families available in the market area. Submarkets, consisting of portions of units of general local government, may be used in large, complex metropolitan areas. Local housing markets having an adequate supply of standard-quality rental housing would include housing markets in which the supply of rental housing available and in production is adequate to meet the anticipated demand (*e.g.*, the housing market is balanced), as well as those in which there is an excess supply of rental housing (*e.g.*, the housing market is soft). Rental markets that do not have an adequate supply (*e.g.*, tight markets) are characterized by low rental vacancy rates, low levels of production and turnover of rental housing, and, usually, by high levels of rent inflation. HUD will make the determination of whether sufficient habitable, affordable, rental housing is available using established market analysis techniques, and will consider information that demonstrates:

(1) The rental housing vacancy rate is at a low level relative to the rate required for a balanced market, typically a four percent vacancy rate; except that a rate lower than four percent may be considered in unusual circumstances if it can be demonstrated that there is an adequate supply of affordable housing for low-income families;

(2) The number of rental housing units being produced on an annual basis is not large enough to satisfy demand arising from the increase in households, or, in markets where there is little or no growth, evidence that the number of additional rental units being supplied is not sufficient to meet the demand arising from net losses to the available inventory and the inadequate supply of rental housing has inhibited growth;

(3) The shortage of housing is resulting in rent increases that exceed normal increases commensurate with the costs of operating rental housing;

(4) A significant number, or proportion, of the households holding Section 8 certificates or rental vouchers are unable to find adequate housing because of the shortage of rental housing, including PHA data showing a lower than average percentage of units under lease and a longer than average time required to find units.

Unsubsidized project means a multifamily housing project that is not a subsidized project.

Useful life means, generally, twenty years, but it may be more or less, as determined by the Department.

§ 290.7 Occupancy requirements.

(a) *Multifamily housing project that is HUD-owned or for which HUD is mortgagee-in-possession.* Occupancy in a multifamily housing project that is HUD-owned or for which HUD is mortgagee-in-possession shall be available on a basis that is comparable to the occupancy requirements that applied to the project immediately before HUD acquired the project or became mortgagee-in-possession, except that preference shall be given to tenants of other HUD-owned multifamily housing projects who are eligible for assistance in accordance with the displacement and relocation provisions at § 290.17.

(b) *Evictions.* Eviction from a HUD-owned multifamily housing project is governed by 24 CFR part 247, subpart B.

(c) *Threat to health and safety.* Whenever HUD determines that there is an immediate threat to the health and safety of the tenants, HUD may require the tenants to vacate the premises and shall provide temporary relocation benefits as provided in § 290.17 to tenants required to vacate the premises.

§ 290.9 Setting rental rates.

Because of the subsidies involved in making multifamily housing projects affordable, the setting of rents involves two steps: first, establishing the rent on a unit that will be paid to the owner, and second, determining the rent that the tenant pays (with the difference made up by a subsidy), using a number of procedures to obtain income verification and notify tenants of changes in rent. These procedures for a property owned by HUD or where HUD is mortgagee-in-possession are explained below.

(a) *Setting unit rents.* Except as modified by this section, for a property where HUD is mortgagee-in-possession (MIP), HUD will set unit rents in accordance with the rent setting requirements of the project's mortgage insurance or direct loan program; or for a property owned by HUD, rents will be set in accordance with the rent setting requirements of the project's mortgage insurance or direct loan program in effect immediately before HUD became the owner of the project.

(b) *Setting rents payable by tenants.* (1) *Tenant rent.* The rent the tenant pays will be based on the income certification and the rent payment requirements of the project's mortgage insurance or direct loan program in effect while HUD is MIP or immediately before HUD became the owner of the project, as affected by any of the factors in paragraphs (b)(2) through (b)(4) of this section. However, if a tenant does not certify income as required by this section, the tenant must pay the unit rent as determined under the rent setting requirements in paragraph (a) of this section.

(2) *Utility allowance.* For a tenant whose rent is based on a percentage of adjusted income (except for rental voucher or rental certificate holders), if the cost of utilities (except telephone) and other housing services for the unit is the responsibility of the tenant to pay directly to the provider of the utility or service, HUD will deduct from the rent to be paid by the tenant to HUD a utility allowance, which is an amount equal to HUD's estimate of the monthly costs of a reasonable consumption of the utilities and other services for the unit for an energy-conservative household of modest circumstances consistent with the requirement of a safe, sanitary, and healthful living environment. If the utility allowance exceeds the percentage of the tenant's adjusted income payable as rent, HUD will pay the difference between the amount payable as rent and the utility allowance to the tenant or, with the consent of the tenant and the utility company, either jointly to the tenant and the utility company or directly to the utility company.

(3) *Rent adjustments for project viability.* For a HUD-owned project, HUD may adjust the rent provided for in paragraphs (b)(1) or (b)(2) of this section if necessary or desirable to maintain the existing economic mix in the project, prevent undesirable turnover, or increase occupancy.

(4) *Tenants who are rental voucher or rental certificate holders.* Tenants assisted with rental vouchers or certificates certify their income to the public housing agency (PHA) administering the assistance, and pay rent pursuant to the policies and procedures governing such assistance.

(c) *Income verification and rent notification procedures.* (1) *Income certification by tenants.* (i) *In subsidized projects.* (A) For families residing in subsidized projects, when HUD becomes MIP or owner, HUD will request an income certification from each family as soon as practicable after HUD initially assumes management, unless the family's income has been examined by the owner or by HUD not more than four months before HUD's assumption of management.

(B) For each family applying for admission to subsidized projects, HUD will request an income certification to determine the family's eligibility for a subsidized rent, and (if the rent is based on a percentage of adjusted income) the family's subsidized rent, in accordance with part 813 of this title.

(ii) *In unsubsidized projects.* (A) For tenants in occupancy when HUD becomes mortgagee-in-possession or owner of an unsubsidized project, HUD may request an income certification from families who are not paying a subsidized rent.

(B) For families applying for admission to such projects, HUD will request sufficient information for income verification to determine the family's ability to pay the unit rent.

(2) *Notice of increases in the amount of rent payable.* Whenever HUD proposes an increase in rents in a HUD-owned multifamily project or a project where HUD is mortgagee-in-possession, HUD will provide tenants 30 days notice of the proposed changes and an opportunity to review and comment on the new rent and supporting documentation. After HUD considers the tenants' comments and has made a decision with respect to its proposed rent change, HUD shall notify the tenants of its decision, with the reasons for the decision. A tenant in occupancy before the effective date of any revised rental rate must be given 30 days notice of the revised rate, and any change in the tenant's rent is subject to the terms of an existing lease. Notices to each tenant must be personally delivered or sent by first class mail. General notices of rent increases to all tenants must be posted in the project office and in appropriate conspicuous and accessible locations around the project.

(3) *Disclosure and verification of Social Security numbers.* Any certifications or reexaminations of the income of tenants or prospective tenants in connection with tenancy under this section are subject to the requirements for the disclosure and verification of Social Security Numbers, as provided by part 200, subpart T, of this title.

(4) *Signing of consent forms for income verification.* Any certifications or reexaminations of the income of tenants or prospective tenants in connection with tenancy under this section are subject to the requirements for the signing and submitting of consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by part 200, subpart V, of this title.

(Approved by the Office of Management and Budget under control number 2502–0204.)

§ 290.11 Notification requirements.

(a) *In general.* HUD may combine two or more of the required notifications, as appropriate, to simplify the disposition process.

(b) *Timing of notifications.* Disposition-related notifications (i.e., pre-foreclosure notification to tenants and units of general local government; pre-disposition community and tenant input notification; state and local government right of first refusal notification) will be made, as appropriate:

(1) 60 or more days before HUD forecloses on a project; or

(2) Before, or not more than 30 days after, HUD acquires a project.

(c) *Methods of notification.* (1) *To tenants.* Pre-disposition notification will be delivered to each unit in the project, or sent to each unit by first class mail. Where HUD is mortgagee-in-possession or owner of a project, the notice will also be posted in the project office and in appropriate conspicuous and accessible locations around the project.

(2) *To units of general local government.* Pre-disposition notification to a unit of general local government

will be sent to the chief executive officer of the unit of general local government by first class mail. For purposes of receiving or sending any notices or information under this part, the unit of general local government is its chief executive officer, or the person designated by the chief executive officer to receive or send the notice or information.

(3) *To the community or any other party.* HUD will consult with tenants and their organizations, officials of units of general local government, and other entities as HUD determines to be appropriate, to identify community recipients of any required notification. Any notice required to be made to any party other than a tenant or a unit of general local government will be sent by first class mail.

(d) *Content of notifications.* Notifications will, as appropriate, identify the project acquired or to be foreclosed by HUD; provide the general terms and conditions concerning the sale, future use, and operation of the project as proposed by HUD; indicate the time by which any offers must be made or any comments must be submitted; and state that the full disposition recommendation and analysis and other supporting information will be available for inspection and copying at the HUD Field Office.

§ 290.13 Negotiated sales.

When HUD conducts a negotiated sale involving the disposition of a project to a person or entity without a public offering, the following provisions apply:

(a) HUD may negotiate the sale of any project to an agency of the federal, State, or local government.

(b) When HUD determines that a purchaser can demonstrate the capacity to own and operate a project in accordance with standards set by HUD, and/or a competitive offering will not generate offers of equal merit from qualified purchasers, HUD may approve a negotiated sale of a subsidized project to:

(1) A resident organization wishing to convert the project to a nonprofit or limited equity cooperative;

(2) A cooperative (*e.g.*, nonprofit limited equity, consumer cooperative, mutual housing organization) with demonstrated experience in the operation of nonprofit (and preferably low-income) housing;

(3) A nonprofit entity that will continue to operate the project as low-income housing and whose governing board is composed of project residents;

(4) A State or local governmental entity with the demonstrated capacity to acquire, manage, and maintain the project as housing available to and affordable by low-income residents;

(5) A State or local governmental or nonprofit entity with the demonstrated capacity to acquire, manage, and maintain the project as a shelter for the homeless or other public purpose, generally when the project is vacant or has minimal occupancy and is not needed in the area for continued use as rental housing for the elderly or families; or

(6) Other nonprofit organizations.

§ 290.15 Disposition plan.

(a) *In general.* Before disposing of a HUD-owned multifamily housing project, HUD will develop an initial and a final disposition plan for the project that specifies the minimum terms and conditions for the disposition of the project, the sales price that is acceptable to HUD, and the assistance that HUD plans to make available to a prospective purchaser.

(b) *Environmental requirements.* HUD will perform, and include in the final disposition plan, the environmental reviews required by 24 CFR part 50.

§ 290.17 Displacement of tenants and relocation assistance.

(a) *Scope of section.* This section applies to all HUD-owned multifamily housing projects and all multifamily housing projects subject to HUD-held mortgages. When HUD is not the mortgagee-in-possession or owner, the owner of the project shall comply with this section, if HUD has authorized the demolition of, repairs to, or conversion of the use of the multifamily housing project.

(b) *Minimizing displacement.* Consistent with the other goals and objectives of this part, all reasonable steps shall be taken to minimize the displacement of persons (families, individuals, businesses, and nonprofit organizations) from a project covered by this part. If displacement or temporary relocation will occur in connection with the disposition of a project, HUD may require the purchaser of the project to provide assistance in accordance with this section.

(c) *Relocation assistance at non-URA levels.* Whenever the displacement of a residential tenant (family or individual) occurs in connection with the management or disposition of a multifamily housing project, but is not subject to paragraph (d) of this section (*e.g.*, occurs as a direct result of HUD repair or demolition of all or a part of a HUD-owned multifamily housing project or as a direct result of the foreclosure of a HUD-held mortgage on a multifamily housing project or sale of a HUD-owned project without federal financial assistance), the displaced tenant shall be eligible for the following relocation assistance:

(1) Advance written notice of the expected displacement shall be provided at least 60 days before displacement, describe the assistance and the procedures for obtaining the assistance, and contain the name, address and phone number of an official responsible for providing the assistance;

(2) Other advisory services, as appropriate, including counseling, referrals to suitable (and where appropriate, accessible), decent, safe, and sanitary replacement housing, and fair housing-related advisory services;

(3) Payment for actual reasonable moving expenses, as determined by HUD; and

(4) Such other federal, State or local assistance as may be available.

(d) *Relocation assistance at URA levels.* (1) *General.* The requirements of this paragraph apply to any displacement that results whenever assistance under 24 CFR part 886, subpart C, (or other federal financial assistance, as defined in 49 CFR 24.2(j)) is provided in connection with the purchase, demolition, or rehabilitation of a multifamily property by a third party. A displaced person (defined in paragraph (d)(3) of this section) must be provided relocation assistance at the levels described in, and in accordance with the requirements of, the URA, implementing regulations at 49 CFR part 24, and this section.

(2) *Definition of "initiation of negotiations".* Under the URA, for purposes of determining the method for computing the replacement housing assistance to be provided to a residential tenant displaced as a direct result of privately undertaken rehabilitation, demolition, or acquisition of the real property, the term "initiation of negotiations" means the transfer of title to the purchaser.

(3) *Definition of displaced person.* The term "displaced person" means any person (family, individual, business, or nonprofit organization) that moves from the real property, or moves personal property from the real property, permanently, as a direct result of acquisition, rehabilitation or demolition for a federally assisted project. However, a person does not qualify as a "displaced person" if:

(i) The person is excluded under 49 CFR 24.2(g)(2);

(ii) The person has been evicted for a serious or repeated violation of the terms and conditions of the lease or occupancy agreement, violation of applicable federal, State, or local law, or other good cause, and HUD determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance;

(iii) The person moves into the property after transfer of title to the purchaser; or

(iv) HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for an assisted project.

(e) *Temporary relocation (URA and non-URA relocation assistance).* Residential tenants, who will not be required to move permanently, but who must relocate temporarily (*e.g.*, to permit property repairs), shall be provided:

(1) Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporary housing and any increase in monthly rent or utility costs. The party responsible for this requirement may, at its option, perform the services involved in temporarily relocating the tenants or pay for such services directly; and

(2) Appropriate advisory services, including reasonable advance written notice of the date and approximate duration of the temporary relocation; the suitable (and where appropriate, accessible), decent, safe, and sanitary housing to be made available for the temporary period; the terms and conditions under which the tenant may lease and occupy a suitable, decent, safe, and sanitary dwelling in the building/complex following completion of the repairs; and the right to financial assistance provided under paragraph (e)(1) of this section.

(f) *Appeals.* If a person disagrees with the purchaser's determination concerning the person's eligibility for relocation assistance or the amount of the assistance for which the person is eligible, the person may file a written appeal of that determination with the owner or purchaser. A person who is dissatisfied with the purchaser's determination on his or her appeal may submit a written request for review of that decision to the HUD Field Office responsible for administering the URA in the area.

§ 290.19 Restrictions concerning nondiscrimination against Section 8 certificate holders and voucher holders.

The purchaser of any multifamily housing project shall not refuse unreasonably to lease a dwelling unit offered for rent, offer to sell cooperative stock, or otherwise discriminate in the terms of tenancy or cooperative purchase and sale because any tenant or purchaser is the holder of a Certificate of Family Participation or a Voucher under Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), or any successor legislation. This provision is limited in its application, for tenants or applicants with Section 8 Certificates or their equivalent (other than Vouchers), to those units which rent for an amount not greater than the Section 8 Fair Market Rent, as determined by HUD. The purchaser's agreement to this condition must be contained in any contract of sale and also may be contained in any regulatory agreement, use agreement, or deed entered into in connection with the disposition.

§ 290.21 Computing annual number of units eligible for substitution of tenant-based assistance or alternative uses.

(a) *Substitution of tenant-based Section 8 assistance to low-income families instead of project-based assistance to units.* The number of units eligible, as permitted by the Statute, for this form of substitution within the 10 percent limit will be estimated at the beginning of each fiscal year, taking into consideration the aggregate number of subsidized project units disposed of by HUD in the immediately preceding fiscal year and the disposition activity planned for the current fiscal year.

(b) *Alternate uses.* The number of units eligible for alternate uses in any fiscal year, as permitted by the Statute, will be determined at the beginning of the fiscal year as the applicable percentages (*i.e.*, either 10 percent or 5 percent) of the estimated total number of units to be disposed of in the fiscal year, taking into consideration the total number of units in multifamily housing projects disposed of by the Department in the immediately preceding fiscal year, and the extent of the disposition activity planned in the current fiscal year.

§ 290.23 Rebuilding.

HUD may provide project-based assistance to support the rebuilding of a HUD-owned multifamily housing project only. The required determination that rebuilding the project would be less expensive than substantial rehabilitation means that the costs to HUD for rebuilding are such that the monthly debt service needed to amortize the cost of relocating tenants, demolition, site preparation, rebuilding, operating expenses, and a reasonable return to the purchaser cannot be provided with rents that are within 120 percent of the most recently published Section 8 Fair Market Rents for Existing Housing (24 CFR part 888, subpart A), and would be less expensive than rehabilitation.

§ 290.25 Determination not to preserve a project or a part of a project.

HUD may determine to demolish, or otherwise dispose of, a HUD-owned multifamily housing project, or any portion of such a project, or to foreclose a HUD-held mortgage on a multifamily housing project, without ensuring its continued availability as affordable rental or cooperative housing for low- and very low-income families under appropriate circumstances which may include one or more those listed in paragraphs (a) through (g) of this section. If HUD decides not to preserve an occupied multifamily housing project at a foreclosure sale or sale of a HUD-owned project, tenants must be provided relocation assistance as described in § 290.17.

(a) The costs to HUD of rehabilitation are such that the monthly debt service needed to amortize the cost of rehabilitation, operating expenses, and a reasonable return to the purchaser cannot be provided with rents that are, for subsidized and formerly subsidized projects, within 120 percent of the most recently published Section 8 Fair Market Rents for Existing Housing (24 CFR part 888, subpart A) or, for unsubsidized and formerly unsubsidized projects, within rents obtainable in the market.

(b) Construction is substantially incomplete.

(c) Preservation is not feasible because of environmental factors that cannot be mitigated by HUD or the purchaser. For example, when the project is located on a site that cannot be made to comply with the Section 8 Site and Neighborhood standards in 24 CFR 886.307(k) because of factors that adversely affect the health, safety and general welfare of residents such as air pollution; smoke; mud slides; fire or explosion hazards. Preservation may also be infeasible because of significantly deteriorated surrounding neighborhood conditions with inadequate police or fire protection; high crime rates; drug infestation; or lack of public community services needed to support a safe and healthy living environment for residents.

(d) HUD determines the project is unfit for rehabilitation.

(e) Rehabilitation would cost more than constructing comparable new housing.

(f) A reduction in the number of units in the project will enhance long-term project viability, for example, demolition of a building to provide

space for a playground, open space, or combining one-bedroom units to create larger units for families.

(g) Continued preservation of the project as rental or cooperative housing is not compatible with State or local land use plans for the area in which the project is located.

Subpart B—Sale of HUD-Held Multifamily Mortgages

§ 290.30 General.

(a) Except as otherwise provided in § 290.32(a)(2), HUD will sell HUD-held multifamily mortgages on a competitive basis. HUD retains full discretion to offer any qualifying mortgage for sale and to withhold or withdraw any offered mortgage from sale. However, when a qualifying mortgage is offered for sale, the procedures set out in this subpart will govern the sale.

(b) References in subpart B of this part to mortgages securing subsidized projects include HUD-held purchase money mortgages on subsidized projects.

§ 290.31 Sale of current mortgages securing subsidized projects.

HUD will sell current mortgages securing subsidized projects, as follows:

(a) *Current mortgages with FHA mortgage insurance* will be sold either:

(1) On a competitive basis to FHA-approved mortgagees; or

(2) On a negotiated basis, to State or local governments, or to a group of investors that includes an agency of a State or local government if, in addition to meeting the requirements of the Statute, the sales price is the best price that HUD can obtain from an agency of a State or local government while maintaining occupancy for the tenant group originally intended to be served by the subsidized housing program.

(b) *Current mortgages without FHA mortgage insurance* will be sold if HUD can offer protections equivalent to those listed for an insured sale in paragraph (a) of this section.

§ 290.33 Sale of delinquent mortgages securing subsidized projects.

Delinquent mortgages securing subsidized projects will be sold only if, as part of the sales transaction:

(a) The mortgages are restructured; and

(b) Either FHA mortgage insurance or equivalent protections are provided.

§ 290.35 Sale of HUD-held mortgages securing unsubsidized projects.

HUD's policy for selling HUD-held mortgages securing unsubsidized projects is as follows:

(a) *Current mortgages* may be sold with or without FHA mortgage insurance.

(b) *Delinquent mortgages* may be sold without FHA mortgage insurance. However, delinquent mortgages will not be sold if:

(1) HUD believes that foreclosure is unavoidable; and

(2) The project securing the mortgage is occupied by very low-income tenants who are not receiving housing assistance and would be likely to pay rent in excess of 30 percent of their adjusted monthly income if HUD sold the mortgage.

§ 290.37 Requirements for continuing federal rental subsidy contracts.

For any mortgage that, at the time HUD offers the mortgage for sale without FHA mortgage insurance, is delinquent and secures a subsidized project or unsubsidized project that receives any of the forms of assistance enumerated in paragraphs (4)(i) to (4)(iv) of the "subsidized project" definition in § 290.3:

(a) The mortgage purchaser and its successors and assigns shall require the mortgagor to record a covenant running with the land as part of any loan restructuring or of a final compromise of the mortgage debt and shall include a covenant in any foreclosure deed executed in connection with the mortgage. The covenant shall continue in effect until the last federal project-based rental assistance contract expires by its own terms. The covenant shall provide that, except where otherwise approved by HUD, a project purchaser shall agree to assume the obligations of any outstanding:

(1) Project-based federal rental subsidy contract; and

(2) Tenant-based Section 8 housing assistance payments contract with a public housing agency and the related lease.

(b) In the event of foreclosure of the mortgage sold by HUD, the mortgage purchaser and its successors and assigns shall not foreclose in a manner that interferes with any lease related to federal project-based assistance or any lease related to tenant-based, Section 8 housing assistance payments.

§ 290.39 Nondiscrimination in admitting certificate and voucher holders.

(a) *Nondiscrimination requirement.* For any mortgage described in paragraphs (c) or (d) of this section that HUD sells without FHA mortgage insurance, the project owner shall not unreasonably refuse to lease a dwelling unit offered for rent, offer to sell cooperative stock, or otherwise discriminate in the terms of tenancy or cooperative purchase and sale because any tenant or purchaser is a certificate or voucher holder under 24 CFR part 982.

(b) *Inapplicability to current mortgages securing unsubsidized projects that receive no project based-assistance.* The nondiscrimination requirements of this section do not apply to any mortgage that is current under the terms of the mortgage at the time HUD offers it for sale, if the mortgage secures an unsubsidized project that does not receive any of the forms of project-based assistance enumerated in paragraphs (4)(i) to (4)(iv) of the "subsidized project" definition in § 290.3.

(c) *Applicability to mortgages securing unsubsidized projects receiving project-based assistance (partially-assisted projects) or securing subsidized projects.* (1) The nondiscrimination requirement in paragraph (a) of this section applies to the project owner upon the sale of a mortgage without FHA mortgage insurance if, at the time HUD offers it for sale, the mortgage secures:

(i) An unsubsidized project that receives any of the forms of assistance enumerated in paragraphs (4)(i) to (4)(iv) of the "subsidized project" definition in § 290.5; or

(ii) A subsidized project, as defined in § 290.3.

(2) This requirement shall continue in effect until the mortgage is paid in full, including by a mortgage prepayment, except as provided in paragraph (d) of this section.

(2) A subsidized project, as defined in § 290.3.

This requirement shall continue in effect until the mortgage is paid in full, including by a mortgage prepayment, except as provided in paragraph (d) of this section.

(d) *Covenant requirement for all delinquent mortgages sold without FHA mortgage insurance.* This paragraph (d) applies to the sale of any mortgage that is delinquent at the time HUD offers it for sale without FHA mortgage insurance, without regard to the subsidy status of the project. The mortgage purchaser and its successors and assigns shall require the mortgagor to record a covenant running with the land as part of any loan restructuring or final compromise of the mortgage debt and shall include a covenant in any foreclosure deed executed in connection with the mortgage. The covenant shall set forth the nondiscrimination requirement in paragraph (a) of this section. The covenant shall continue in effect until a date that is the same as the maturity date of the mortgage sold by HUD.

Dated: March 7, 1996.

Nicolas P. Retsinas,

Assistant Secretary for Housing—Federal Housing Commissioner.

[**Note:** The following guide to part 290 will not be codified in title 24 of the Code of Federal Regulations.]

GUIDE

Disposition of Multifamily Projects and Sale of HUD-Held Multifamily Mortgages—Guide

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General Provisions

1. What subjects does this guide cover?

This guide sets out, in a single document, the combined statutory (section 101 of the Multifamily Housing Property Disposition Reform Act of 1994, hereinafter, "the Statute," codified at 12 U.S.C. 1701z–11) and regulatory (24 CFR part 290) requirements for the management and disposition of multifamily projects. Except as provided in paragraph (b) of this section, the requirements described in this guide apply to the sale of multifamily projects which are or were, before being acquired by the Department, assisted or had a mortgage insured under the National Housing Act, or which were subject to a loan or a capital advance under Section 202 of the Housing Act of 1959.

(b) The requirements described in this guide do not apply to multifamily projects being foreclosed by HUD for which the decision to foreclose has been made before March 2, 1995, the effective date of the interim rule which implemented the Multifamily Housing Property Disposition Reform Act of 1994 at 24 CFR part 290, nor to HUD-owned projects where the initial disposition program has been approved before March 2, 1995. For such projects, the procedures in the regulations at 24 CFR 290 in effect immediately prior to March 2, 1995 apply, unless HUD determines, on a case-by-case basis, to apply the new requirements.

2. What are HUD's management and disposition goals?

(a) HUD's goals are to carry out the management and disposition of HUD-owned multifamily projects and multifamily projects subject to HUD-held mortgages in a manner that:

(1) Is consistent with the National Housing Act, section 203 of the Housing and Community Development Amendments of 1978, and other relevant statutes;

(2) Will protect the financial interests of the Federal Government; and

(3) Will, in the least costly fashion among reasonable available alternatives, address the goals of:

(i) Preserving certain housing so that it can remain available to and affordable by low-income persons;

(ii) Preserving and revitalizing residential neighborhoods;

(iii) Maintaining the existing housing stock in a decent, safe, and sanitary condition;

(iv) Minimizing the involuntary displacement of tenants;

(v) Maintaining housing for the purpose of providing rental housing, cooperative housing, and homeownership opportunities for low-income persons;

(vi) Minimizing the need to demolish multifamily housing projects;

(vii) Adhering to fair housing requirements; and

(viii) Disposing of such projects in a manner consistent with local housing market conditions.

(b) *Competing goals.* In determining the manner in which a project is to be managed and disposed of, HUD may balance competing goals relating to individual projects in a manner that will further the purposes of the Statute.

3. What definitions apply in this guide?

The following definitions apply in this guide:

Affordable means, with respect to a unit of a multifamily housing project:

(1) For a unit occupied by a very-low income family, the unit rent does not exceed 30 percent of 50 percent of the area median income (not the income of the family), as determined by the Department, with adjustments for smaller and larger families; or

(2) For a unit occupied by a low-income family other than a very low-income family, the unit rent does not exceed 30 percent of 80 percent of the area median income (not the income of the family), as determined by the Department, with adjustments for smaller and larger families; or

(3) The unit, or the family residing in the unit, is receiving assistance under Section 8 of the United States Housing Act of 1937.

Cooperative means a nonprofit, limited equity, or consumer cooperative as defined under 24 CFR part 213. It may include mutual housing associations.

Department means the United States Department of Housing and Urban Development, or HUD.

HUD-owned project means a multifamily project that has been acquired by HUD.

Low-income family means a low-income family as defined at 24 CFR part 813.

Market area means the area from which a multifamily housing project may reasonably be expected to draw a substantial number of its tenants, as determined by HUD, taking into consideration the knowledge of the HUD office with jurisdiction over the project of the local real estate market and HUD's project underwriting experience. Submarkets may be used in large, complex metropolitan areas.

Multifamily housing project means a multifamily project that is or was insured under sections 207, 213, 220, 221(d)(3), 221(d)(4), 223(f), 231, 236, or 608 of the National Housing Act; or is or was subject to a loan under section 202 of the Housing Act of 1959; or was a Real Estate Owned (REO) multifamily project transferred by the Government National Mortgage Association to the Department. Multifamily housing project does not include projects consisting of one to eleven units insured under section 220(d)(3)(A) of the National Housing Act; or mobile home parks under section 207(m) of that Act; or vacant land; or property covered by a homeownership program approved under the Homeownership and Opportunity for People Everywhere ("HOPE") program.

Multifamily project means a project consisting of five or more units that has or had a mortgage (even if subordinate to other mortgages) insured under the National Housing Act or is or was subject to a loan under section 202 of the Housing Act of 1959, or a hospital, intermediate care facility, nursing home, group practice facility, or board and care facility that has or had a mortgage insured, or is or was subject to a loan under, these authorities. Multifamily project does not include projects consisting of one to eleven units insured under section 220(d)(3)(A) of the National Housing Act, which are classified as single family homes.

Nonprofit organization means a corporation or association organized for purposes other than making a profit or gain for itself. Stockholders or trustees do not share in profits or losses. Profits are used to accomplish the charitable, humanitarian, or educational purposes of the corporation.

Preexisting tenant means a family that resides in a unit in a multifamily housing project immediately before the project is acquired under this part by a purchaser other than the Department.

Project-based assistance means assistance that is attached to a structure.

Subsidized project means a multifamily housing project that is receiving, or immediately before its mortgage was foreclosed by HUD or the project was acquired by HUD, pursuant to the Statute, was receiving any of the following types of assistance:

(1) Below market interest rate mortgage insurance under the proviso of section 221(d)(5) of the National Housing Act (hereinafter, a BMIR project);

(2) Interest reduction payments made in connection with mortgages insured under section 236 of the National Housing Act (hereinafter, a 236 project);

(3) Direct loans made under section 202 of the Housing Act of 1959 (hereinafter, a 202 project);

(4) Assistance, to more than 50 percent of the units in the project, in the form of:

(i) Rent supplement payments under section 101 of the Housing and Urban Development Act of 1965 (hereinafter, Rent Supp);

(ii) Additional assistance payments under section 236(f)(2) of the National Housing Act (hereinafter, RAP);

(iii) Housing assistance payments under section 23 of the United States Housing Act of 1937 (as in effect before January 1, 1975) (hereinafter, Sec. 23); or

(iv) Housing assistance payments under Section 8 of the United States Housing Act of 1937 (excluding payments of tenant-based Section 8 assistance) (hereinafter, project-based Section 8 assistance).

Sufficient habitable, affordable, rental housing is available means that the HUD office with jurisdiction determines that there is an adequate supply of habitable, affordable housing for low- and very low-income families available in the market area. Submarkets, consisting of portions of units of general local government, may be used in large, complex metropolitan areas. Local housing markets having an adequate supply of standard-quality rental housing would include housing markets in which the supply of rental housing available and in production is adequate to meet the anticipated demand (*e.g.*, the housing market is balanced), as well as those in which there is an excess supply of rental housing (*e.g.*, the housing market is soft). Rental markets that do not have an adequate supply (*e.g.*, tight markets) are characterized by low rental vacancy rates, low levels of production and turnover of rental housing, and, usually, by high levels of rent inflation. HUD will make the determination of whether sufficient habitable, affordable, rental housing is available using established market analysis techniques, and will consider information that demonstrates:

(1) The rental housing vacancy rate is at a low level relative to the rate required for a balanced market, typically a four percent vacancy rate; except that a rate lower than four percent may be considered in unusual circumstances if it can be demonstrated that there is an adequate supply of affordable housing for low-income families;

(2) The number of rental housing units being produced on an annual basis is not large enough to satisfy demand arising from the increase in households, or, in markets where there is little or no growth, evidence that the number of additional rental units being supplied is not sufficient to meet the demand arising from net losses to the available inventory and the inadequate supply of rental housing has inhibited growth;

(3) The shortage of housing is resulting in rent increases that exceed normal increases commensurate with the costs of operating rental housing;

(4) A significant number, or proportion, of the households holding Section 8 certificates or rental vouchers are unable to find adequate housing because of the shortage of rental housing, including PHA data showing a lower than average percentage of units under lease and a longer than average time required to find units.

Tenant-based assistance means rental assistance that is not attached to a structure.

Unit of general local government means a city, town, township, county, parish, village, or other general purpose political subdivision of a State.

Unsubsidized project means a multifamily housing project that is not a subsidized project.

URA means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601–4655).

Useful life means, generally, twenty years, but it may be more or less, as determined by the Department.

Very low-income family means a very low-income family as defined at 24 CFR part 813.

4. What provisions may be waived?

The Assistant Secretary for Housing may waive any regulatory provision issued under the statute. Each waiver must be in writing, and must be supported by documentation of the facts and reasons which formed the basis for the waiver. HUD will publish a **Federal Register** notice informing the public of all waivers granted under this section in accordance with the HUD Reform Act of 1989 and HUD policies regarding publication of waivers.

Management and Maintenance Provisions

5. What maintenance and management standards apply to multifamily housing projects?

(a) Scope. The provisions of this section apply to any multifamily housing project:

(1) That is HUD-owned;

(2) For which HUD is mortgagee-in-possession; or

(3) That is subject to a mortgage held by HUD.

(b) *Maintenance and Management standards.* With respect to projects within the scope of this section, HUD or the owner, as appropriate, shall:

(1) To the greatest extent possible, maintain all occupied projects in a decent, safe, and sanitary condition, and in compliance with any standards established by the Department and under applicable State or local laws, rules, ordinances, or regulations relating to the accessibility and physical condition of the housing;

(2) Maintain full occupancy;

(3) Maintain projects for purposes of providing rental or cooperative housing; and

(4) Manage projects in accordance with the requirements of the Fair Housing Act (42 U.S.C. 3601–19) and implementing regulations at 24 CFR parts 100 et al, which prohibit discrimination in the sale or rental of housing and in related transactions on the basis of race, color, religion, sex, national origin, handicap, or familial status; section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8 that prohibit discrimination against disabled individuals in Federally-assisted activities, and 24 CFR part 9, which prohibit discrimination against disabled individuals in Federally-conducted activities; Title VI of the Civil Rights Act of 1964 and implementing regulations at 24 CFR part 1, which prohibit discrimination based on race, color, or national origin in programs receiving Federal financial assistance; the Age Discrimination Act of 1975 and implementing regulations at 24 CFR part 146, which prohibit discrimination based on age in programs receiving Federal financial assistance; and Executive Order 11063, as amended by Executive Order 12259 (Equal Opportunity in Housing) and implementing regulations at 24 CFR part 107.

6. How may HUD contract for management services, or require the owner of a multifamily project to contract for management services?

(a) *Scope.* The provisions of this section apply to any multifamily housing project:

(1) That is HUD-owned;

(2) For which HUD is mortgagee-in-possession; or

(3) That is subject to a mortgage held by HUD.

(b) *Contracting for management services.* (1) With respect to projects within the scope of this section, HUD may, or may require the owner to, contract for management services for the project with for-profit and nonprofit entities and public agencies, including public housing agencies, on a negotiated, competitive bid, or other basis, at a price determined by HUD to be reasonable, with a manager determined by HUD to be capable of:

(i) Implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and maintenance expenses to ensure that the project will remain in a decent, safe, and sanitary condition, and in compliance with any standards under applicable State or local laws, rules, ordinances, or regulations relating to the accessibility and physical condition of the housing, and any such standards established by HUD;

(ii) Responding to the needs of tenants and working cooperatively with tenant organizations;

(iii) Providing adequate organizational, staff, and financial resources to the project; and

(iv) Meeting such other requirements as HUD may determine to be necessary or appropriate.

(2) HUD will conduct outreach efforts to minority-owned and female-owned businesses to become managers of the HUD-owned projects covered by this section, in accordance with Executive Order 11625, as amended by Executive Order 12007 (Minority Business Enterprises), Executive Order 12432 (Minority Business Enterprise Development), and Executive Order 12138 (National Women's Business Enterprise Policy).

7. What occupancy requirements apply to multifamily housing projects?

(a) *Multifamily housing project that is HUD-owned or for which HUD is mortgagee-in-possession.* Occupancy in a multifamily housing project that is HUD-owned or for which HUD is mortgagee-in-possession shall be available on a basis that is comparable to the occupancy requirements that applied to the project immediately before HUD acquired the project or became mortgagee-in-possession, except that preference shall be given to tenants of other HUD-owned multifamily housing projects who are eligible for assistance in accordance with the displacement and relocation provisions at section 17 of this guide.

(b) *Evictions.* Eviction from a HUD-owned multifamily housing project is governed by 24 CFR part 247, subpart B.

(c) *Threat to health and safety.* Whenever HUD determines that there is an immediate threat to the health and safety of the tenants, HUD may require the tenants to vacate the premises and shall provide temporary relocation benefits as provided in section 17 of this guide to tenants required to vacate the premises.

PROJECT RENTS WHILE HUD IS MIP OR OWNER

Unit rents	*Unit rents* in accordance with the rent setting requirements of the project's mortgage insurance or direct loan program while HUD is mortgagee-in-possession (MIP), or in accordance with the rent setting requirements of the project's mortgage insurance or direct loan program in effect immediately before HUD became the owner of the project (section 8(a) of this guide).
Rents payable by tenants	1. *Tenant rent.* Rent the tenant pays will be based on the income certification and the rent payment requirements of the project's mortgage insurance or direct loan program in effect while HUD is MIP or immediately before HUD became the owner of the project (section 8(b)(1) of this guide). 2. *Rent when tenant does not certify income.* If a tenant does not certify income, the tenant must pay the unit rent (section 8(b)(1) of this guide). 3. *Utility allowance.* For a tenant whose rent is based on a percentage of adjusted income, HUD will use a utility allowance to reduce the rent (section 8(b)(2) of this guide). 4. *Project viability.* HUD may adjust the rent to promote project viability (section 8(b)(3) of this guide). 5. *Tenants with rental vouchers or certificates.* Tenant pays rent in accordance with policies and procedures governing such assistance (section 8(b)(4) of this guide).

8. How will rental rates be set when HUD is mortgagee-in-possession (MIP) or owner of a multifamily housing project?

Because of the subsidies involved in making multifamily housing projects affordable, the setting of rents involves two steps: first, establishing the rent on a unit that will be paid to the owner, and second, determining the rent that the tenant pays (with the difference made up by a subsidy), using a number of procedures to obtain income verification and notify tenants of changes in rent. These procedures are explained below.

(a) *Setting unit rents.* Except as modified by this section, for a property where HUD is mortgagee-in-possession (MIP), HUD will set unit rents in accordance with the rent setting requirements of the project's mortgage insurance or direct loan program; or for a property owned by HUD, rents will be set in accordance with the rent setting requirements of the project's mortgage insurance or direct loan program in effect immediately before HUD became the owner of the project.

(b) *Setting rents payable by tenants.* (1) *Tenant rent.* The rent the tenant pays will be based on the income certification and the rent payment requirements of the project's mortgage insurance or direct loan program in effect while HUD is MIP or immediately before HUD became the owner of the project, as affected by any of the factors in paragraphs (b)(2) through (b)(4) of this section. However, if a tenant does not certify income as required by this section, the tenant must pay the unit rent as determined under the rent setting requirements in paragraph (a) of this section.

(2) *Utility allowance.* For a tenant whose rent is based on a percentage of adjusted income (except for rental voucher or rental certificate holders), if the cost of utilities (except telephone) and other housing services for the unit is the responsibility of the tenant to pay directly to the provider of the utility or service, HUD will deduct from the rent to be paid by the tenant to HUD a utility allowance, which is an amount equal to HUD's estimate of the monthly costs of a reasonable consumption of the utilities and other services for the unit for an energy-conservative household of modest circumstances consistent with the requirement of a safe, sanitary, and healthful living environment. If the utility allowance exceeds the percentage of the tenant's adjusted income payable as rent, HUD will pay the difference between the amount payable as rent and the utility allowance to the tenant or, with the consent of the tenant and the utility company, either jointly to the tenant and the utility company or directly to the utility company.

(3) *Rent adjustments for project viability.* For a HUD-owned project, HUD may adjust the rent provided for in paragraphs (b)(1) or (b)(2) of this section if necessary or desirable to maintain the existing economic mix in the project, prevent undesirable turnover, or increase occupancy.

(4) *Tenants who are rental voucher or rental certificate holders.* Tenants assisted with rental vouchers or certificates certify their income to the public housing agency (PHA) administering the assistance, and pay rent pursuant to the policies and procedures governing such assistance.

(c) *Income verification and rent notification procedures.*

(1) *Income certification by tenants.* (i) *In subsidized projects.* (A) For families residing in subsidized projects, when HUD becomes MIP or owner, HUD will request an income certification from each family as soon as practicable after HUD initially assumes management, unless the family's income has been examined by the owner or by HUD not more than four months before HUD's assumption of management.

(B) For each family applying for admission to subsidized projects, HUD will request an income certification to determine the family's eligibility for a subsidized rent, and (if the rent is based on a percentage of adjusted income) the family's subsidized rent, in accordance with 24 CFR part 813.

(ii) *In unsubsidized projects.* (A) For tenants in occupancy when HUD becomes mortgagee-in-possession or owner of an unsubsidized project, HUD may request an income certification from families who are not paying a subsidized rent.

(B) For families applying for admission to such projects, HUD will request sufficient information for income verification to determine the family's ability to pay the unit rent.

(2) *Notice of increases in the amount of rent payable.* Whenever HUD proposes an increase in rents in a HUD-owned multifamily project or a project where HUD is mortgagee-in-possession, HUD will provide tenants 30 days notice of the proposed changes and an opportunity to review and comment on the new rent and supporting documentation. After HUD considers the tenants' comments and has made a decision with respect to its proposed rent change, HUD shall notify the tenants of its decision, with the reasons for the decision. A tenant in occupancy before the effective date of any revised rental rate must be given 30 days notice of the revised rate, and any change in the tenant's rent is subject to the terms of an existing lease. Notices to each tenant must be personally delivered or sent by first class mail. General notices of rent increases to all tenants must be posted in the project office and in appropriate conspicuous and accessible locations around the project.

(3) *Disclosure and verification of Social Security numbers.* Any certifications or reexaminations of the income of tenants or prospective tenants in connection with tenancy under this section are subject to the requirements for the disclosure and verification of Social Security Numbers, as provided by part 200, subpart T, of this title.

(4) *Signing of consent forms for income verification.* Any certifications or reexaminations of the income of tenants or prospective tenants in connection with tenancy under this section are subject to the requirements for the signing and submitting of consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by 24 CFR part 200.

PRE-DISPOSITION NOTIFICATION REQUIREMENTS

Pre-foreclosure (section 10 of this guide).	1. *Timing.* Not later than 60 days before foreclosure on any mortgage. 2. *Recipients.* (i) Tenants of the project, and (ii) The unit of general local government in which the project is located. 3. *Contents.* (i) General terms and conditions concerning the sale, future use, and operation of the project that HUD proposes to impose; and, (ii) Whether temporary or permanent relocation is anticipated, and, if so, available displacement and relocation assistance.
Right of first refusal (section 11 of this guide).	1. *Timing.* Before, or not more than 30 days after, HUD acquires title to a multifamily housing project. 2. *Recipients.* (i) The appropriate unit of general local government; (ii) Public housing agencies in the project's market area; (iii) The State agency or agencies designated to receive such notice by the chief executive officer of the State in which the project is located. 3. *Contents.* (i) Description of the project; (ii) Invitation to recipients to make bona fide offers to purchase the project; (iii) Offer of right of first refusal for period of up to 90 days; (iv) Method by which the recipient may respond to HUD.
Notice to tenants and the community (section 12 of this guide).	1. *Timing.* Before, or not more than 30 days after, HUD acquires title to a multifamily housing project. 2. *Recipients.* (i) To the tenants of the project; (ii) To the unit of general local government in which the project is located; and (iii) To the community in which the project is located. 3. *Contents.* (i) Description of the project; (ii) Proposed general terms and conditions concerning the sale, future use, and operation of the project; (iii) Invitation for tenants and their organizations, units of general local government, and other public or nonprofit entities to submit comments on the disposition plan, and/or proposals for disposition which will be considered by HUD in making its property disposition determination.

Notification Requirements

9. How will HUD provide required notifications?

(a) *In general.* HUD may combine two or more of the notifications required by the Statute, as appropriate, to simplify the disposition process. Disposition-related notifications (i.e., pre-foreclosure notification to tenants and units of general local government; pre-disposition community and tenant input notification; state and local government right of first refusal notification) will be made, as appropriate:

(1) 60 or more days before HUD forecloses on a project, or

(2) Before, or not more than 30 days after, HUD acquires a project.

(b) *Methods of notification.* (1) *To tenants.* The notices required to be made to tenants under the Statute will be delivered to each unit in the project, or sent to each unit by first class mail. Where HUD is mortgagee-in-possession or owner of a project, the notice will also be posted in the project office and in appropriate conspicuous and accessible locations around the project.

(2) *To the unit of general local government.* The notice required to be made to a unit of general local government under the statute will be sent to the chief executive officer of the unit of general local government by first class mail. For purposes of receiving or sending any notices or information under the statute, the unit of general local government is its chief executive officer, or the person designated by the chief executive officer to receive or send the notice or information.

(3) *To the community or any other party.* HUD will consult with tenants and their organizations, officials of units of general local government, and other entities as HUD determines to be appropriate, to identify community recipients of any notification required by the statute. Any notice required to be made to any party other than a tenant or a unit of general local government will be sent by first class mail.

10. What notification must be given before foreclosure?

(a) *Timing and recipients of notice.* Not later than 60 days before foreclosing on any mortgage held by the Department on any multifamily housing project, HUD will provide notice of the proposed foreclosure sale to the tenants of the project and to the unit of general local government in which the project is located.

(b) *Contents of notice.* The notice will describe the general terms and conditions concerning the sale, future use, and operation of the project that HUD proposes to impose on a purchaser other than HUD through the foreclosure. The notice will also state whether temporary or permanent relocation is anticipated as a result of repairs or the proposed disposition, including any anticipated conversion of use, and, if so, the levels of displacement and relocation assistance available as described in section 17 of this guide.

11. Who has a right of first refusal for properties that HUD is selling, and what kind of notice must HUD provide?

(a) *Timing and recipients of notice.* Before, or not more than 30 days after,

HUD acquires title to a multifamily housing project, HUD will provide notice of the right of first refusal to the appropriate unit of general local government, as well as public housing agencies in the project's market area, and the State agency or agencies designated to receive such notice by the chief executive officer of the State in which the project is located.

(b) *Content of notice.* The notice will describe the project acquired by HUD, and contain an invitation to recipients to make bona fide offers to purchase the project. The notice will state:

(1) That for a period specified in the notice, not to exceed 90 days from the time the notification is made, HUD will not sell or offer to sell the project other than to a recipient of the notice, unless the recipients notify HUD sooner that they will not make an offer to purchase the project;

(2) That if a recipient expresses interest within the specified period in acquiring the project, HUD will consult with the interested parties in the preparation of the disposition plan and the terms and conditions of the sale of the project. HUD will accept a bona fide offer to purchase the project if the offer complies with the terms and conditions of the disposition plan for the project, or is otherwise acceptable to HUD;

(3) The method by which the recipient may respond to HUD with an expression of interest or a bona fide offer, or by which the recipient may notify HUD that an offer will not be made.

12. What kind of notice must HUD provide to tenants and the community when HUD is selling a project?

(a) *Timing and recipients of notice.* Before, or not more than 30 days after, HUD acquires title to a multifamily housing project, HUD will provide notice of HUD's acquisition and proposed disposition of the project to the tenants of the project, to the unit of general local government, and to the community in which the project is located.

(b) *Content of notice.* The notice will describe the project acquired by HUD, and the general terms and conditions concerning the sale, future use, and operation of the project as proposed by HUD. The notice will, as appropriate, state:

(1) HUD has acquired the project.

(2) During HUD's ownership, HUD will, to the extent feasible, assure that the project is maintained in a decent, safe, and sanitary condition.

(3) HUD is developing a final disposition plan for the project.

(4) HUD normally seeks to sell HUD-owned projects as rapidly as possible.

(5) HUD's interest in learning of tenant, community, and local government plans and capacity for the acquisition of the project for use as rental or cooperative housing.

(6) HUD's final determination of the terms and conditions to be imposed on the disposition of the project will not be made until after HUD considers the comments received from tenants, the community, and the unit of general local government within the specified comment period.

(7) A brief description of a proposed manner of disposition of the project.

(8) A description of the pending notice of the right of first refusal to purchase the project as described in section 11 of this guide.

(9) That alternative uses of units in the project may be part of the project's disposition, and that:

(i) Some of the units in the project may be made available for uses other than rental or cooperative uses, including low-income homeownership opportunities, or community space, office space for tenant or housing-related service providers or security programs, or small business uses, if such uses benefit the tenants of the project;

(ii) Some of the units in the project may be used in any manner, if the Department and the unit of general local government or area-wide governing body determine that such use will further fair housing, community development, or neighborhood revitalization goals;

(iii) Such alternative uses of units may only take place if:

(A) Tenant-based Section 8 rental assistance is made available to each eligible family residing in the project that is displaced as a result of such actions; and

(B) The Department determines that sufficient habitable, affordable rental housing is available in the market area in which the project is located to ensure use of such assistance.

(10) That for any very low-income family who is a preexisting tenant of the project who upon disposition of the project would be required to pay rent in an amount in excess of 30 percent of the adjusted income of the family:

(i) For a period of 2 years beginning upon the date of the acquisition of the project under the disposition, the rent for the unit occupied by the family may not be increased above the rent charged immediately before the acquisition; and

(ii) The family shall be considered displaced for purposes of the preferences for assistance under sections 6(c)(4)(A)(i), 8(d)(1)(A)(i), and 8(o)(3)(B) of the United States Housing Act of 1937.

(11) Whether temporary or permanent relocation is anticipated as a result of repairs or the proposed disposition, including any anticipated conversion of use, and, if so, the levels of relocation assistance available as described in section 17 of this guide.

(12) That tenants and their organizations, units of general local government, and other public or nonprofit entities are invited to submit comments on the disposition plan, and/or proposals (*e.g.*, expressions of interest to convert the project to a cooperative or other form of resident-controlled ownership, or other resident initiative), which will be considered by HUD in making its property disposition determination.

(13) That comments must be submitted to HUD within 30 days of receipt of the notice.

(14) That the full disposition recommendation and analysis and other supporting information will be available for inspection and copying at the HUD field office.

METHODS OF DISPOSITION

Foreclosure sales. (section 13(a) of this guide).	HUD may dispose of a project at a foreclosure sale: 1. In accordance with the Multifamily Mortgage Foreclosure Act, or 2. In accordance with other Federal or State foreclosure law.
Sale of HUD-owned projects. (section 13(b) of this guide).	HUD may sell a HUD-owned project using any of the following procedures: 1. Competitive bid; 2. Auction; 3. Request for proposals; 4. Negotiated sale, as described in section 13(b)(1) and (2); or 5. Any other method, on such terms as HUD considers appropriate.

METHODS OF DISPOSITION—Continued

Transfer for use under other HUD programs. (section 13(c) of this guide).	HUD, under an agreement, may transfer a multifamily housing project: 1. To a public housing agency (PHA) for use of the project as public housing; or 2. To an entity eligible to own or operate 202 or 811 supportive housing.

Disposition Procedures

13. What are the different methods that may be used for the disposition of a multifamily housing project?

HUD may use any of the following methods, as appropriate, for the disposition of a multifamily housing project:

(a) *Foreclosure sales.* Foreclosure sales will be conducted, at HUD's discretion, in accordance with the Multifamily Mortgage Foreclosure Act, or other Federal or State foreclosure law, on such terms as HUD considers appropriate to further the goals and purposes stated in section 2 of this guide.

(b) *Sale of HUD-owned projects.* HUD may dispose of a HUD-owned multifamily project by competitive bid, auction, request for proposals, or other method, on such terms as HUD considers appropriate to further the goals and purposes stated in section 2 of this guide. When HUD conducts a negotiated sale involving the disposition of a project to a person or entity without a public offering, the following provisions apply:

(1) HUD may negotiate the sale of any project to an agency of the Federal, State, or local government.

(2) When HUD determines that a purchaser can demonstrate the capacity to own and operate a project in accordance with standards set by HUD, and/or a competitive offering will not generate offers of equal merit from qualified purchasers, HUD may approve a negotiated sale of a subsidized project to:

(i) A resident organization wishing to convert the project to a nonprofit or limited equity cooperative;

(ii) A cooperative (e.g., nonprofit limited equity, consumer cooperative, mutual housing organization) with demonstrated experience in the operation of nonprofit (and preferably low-income) housing;

(iii) A nonprofit entity that will continue to operate the project as low-income housing and whose governing board is composed of project residents;

(iv) A State or local governmental entity with the demonstrated capacity to acquire, manage, and maintain the project as housing available to and affordable by low-income residents;

(v) A State or local governmental or nonprofit entity with the demonstrated capacity to acquire, manage, and maintain the project as a shelter for the homeless or other public purpose, generally when the project is vacant or has minimal occupancy and is not needed in the area for continued use as rental housing for the elderly or families; or

(vi) Other nonprofit organizations.

(c) *Transfer for use under other HUD programs.*

(1) *In general.* Subject only to the requirements of an agreement under paragraph (c)(2) of this section, HUD may transfer a multifamily housing project:

(i) To a public housing agency (PHA) for use of the project as public housing; or

(ii) To an entity eligible to own or operate housing assisted under section 202 of the Housing Act of 1959 or under section 811 of the Cranston-Gonzalez National Affordable Housing Act for use as supportive housing under either of those sections.

(2) *Transfer agreement.* An agreement providing for the transfer of a project as described in paragraph (c)(1) of this section must:

(i) Contain such terms, conditions, and limitations as HUD determines to be appropriate, including requirements to ensure use of the project as public housing, supportive housing under section 202 of the Housing Act of 1959, or supportive housing under section 811 of the Cranston-Gonzalez National Affordable Housing Act, as applicable; and

(ii) Ensure that no tenant of the project will be displaced as a result of the transfer.

14. What qualities does HUD look for in a purchaser?

(a) *Foreclosure sales.* HUD will dispose of a multifamily housing project through a foreclosure sale only to a purchaser that the Department determines is capable of implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and repair expenses to ensure that the project will remain in decent, safe, and sanitary condition and in compliance with any standards under applicable State or local laws, rules, ordinances, or regulations relating to the physical condition of the housing and any such standards established by the Department.

(b) *HUD-owned multifamily housing projects.* Sales of HUD-owned multifamily housing projects may be made only to a purchaser determined by the Department to be capable of:

(1) Satisfying the conditions of the disposition plan, as described in section 15 of this guide, for the project;

(2) Implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and repair expenses to ensure that the project will remain in decent, safe, and sanitary condition and in compliance with any standards under applicable State or local laws, rules, ordinances, or regulations relating to the physical condition of the housing and any such standards established by the Department;

(3) Responding to the needs of the tenants and working cooperatively with tenant organizations;

(4) Providing adequate organizational, staff, and financial resources to the project; and

(5) Meeting such other requirements as HUD may determine to be appropriate for the particular project.

15. What kind of disposition plan will HUD prepare before selling a project?

(a) *In general.* Before disposing of a HUD-owned multifamily housing project, HUD will develop an initial and a final disposition plan for the project that specifies the minimum terms and conditions for the disposition of the project, the sales price that is acceptable to HUD, and the assistance that HUD plans to make available to a prospective purchaser.

(b) *Market-wide plans.* In developing the disposition plan under this section for a HUD-owned multifamily housing project located in a market area in which at least 1 other HUD-owned multifamily housing project is located, HUD may coordinate the disposition of HUD-owned multifamily housing projects located within the same market area to the extent and in such a manner as the Department determines appropriate to carry out the goals and

purposes stated in section 2 of this guide.

(c) *Sales price.* The sales price in the disposition plan will be reasonably related to the intended use of the project after the sale, any rehabilitation requirements for the project, the rents for units in the project that can be supported by the market, the amount of rental assistance available for the project under Section 8 of the United States Housing Act of 1937, the occupancy profile of the project (including family size and income levels for tenant families), and any other factors that HUD considers appropriate.

(d) *Community and tenant input.* In developing the initial and final disposition plans, HUD will consider any timely input from officials of the unit of general local government affected, the community in which the project is situated, and the tenants of the project, including the comments received in response to the notice described in section 12 of this guide. To obtain this input, HUD may provide technical assistance, directly or indirectly, and may use amounts available for technical assistance under the Emergency Low Income Housing Preservation Act of 1987, subtitle C of the Low-Income Housing Preservation and Resident Homeownership Act of 1990, subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act, or the Statute, for the provision of such technical assistance. Recipients of technical assistance funding under the provisions referred to in this subparagraph may provide technical assistance to the extent of such funding, notwithstanding the source of the funding.

(e) *Environmental requirements.* HUD will perform, and include in the final disposition plan, the environmental reviews required by 24 CFR part 50.

TABLE OF ACTIONS TO FACILITATE DISPOSITION

All Multifamily Housing Projects	*Required Actions* 1. Displacement requirements (section 17 of this guide). 2. Very-low income preexisting tenant—2 year rent freeze if rent after disposition more than 30 percent of adjusted income (section 18 of this guide). 3. Nondiscrimination against Section 8 certificate holders and voucher holders (section 19 of this guide).
Subsidized Projects	*Basic Actions* 1. Provide project-based Section 8 assistance to at least all units that, before acquisition or foreclosure, received: Rent Supp, RAP, Sec. 23, project-based Section 8 (section 20(a) of this guide). 2. Vacancy in any assisted unit must be filled by a family that is eligible for the assistance (section 20(b) of this guide). 3. Rent and use restrictions on BMIR, 236, or 202 subsidized project units that were not covered before acquisition or foreclosure by Rent Supp, RAP, Sec. 23, or project-based Section 8 (section 20(c) of this guide). *Alternatives to Basic Actions* 1. Assistance to, or restrictions on, units in unsubsidized projects instead of assistance to units in subsidized projects (section 21(a) of this guide). 2. Substitution of tenant-based Section 8 assistance to low-income families instead of project-based assistance to units (section 21(b) of this guide). 3. Use of the additional assistance and restrictions permitted by the Statute (section 21(b) of this guide).
Unsubsidized Projects	*Basic Actions* 1. Provide project-based Section 8 assistance for all units that, before acquisition or foreclosure, received assistance under: (i) The new construction and substantial rehabilitation program under section 8(b)(2) of the United States Housing Act of 1937 (as in effect before October 1, 1983); (ii) The property disposition program under section 8(b) of such Act; (iii) The project-based certificate program under section 8 of such Act; (iv) The moderate rehabilitation program under section 8(e)(2) of such Act; (v) Section 23 of such Act (as in effect before January 1, 1975); (vi) The rent supplement program under section 101 of the Housing and Urban Development Act of 1965; or (vii) Section 8 of the United States Housing Act of 1937, following conversion from assistance under section 101 of the Housing and Urban Development Act of 1965 (section 22(a) of this guide). 2. Provide tenant-based Section 8 assistance to preexisting tenants of LMSA-assisted units (section 22(b) of this guide). *Alternatives to Basic Actions* 1. Substitution of tenant-based Section 8 assistance to low-income families instead of project-based assistance to units (section 23(a) of this guide). 2. Use of the additional assistance and restrictions permitted by the Statute (section 23(b) of this guide).
All Multifamily Housing Projects	*Additional Actions* 1. Discounted sales price (section 25 of this guide). 2. Additional use and rent restrictions (section 26 of this guide). 3. Short-term loans (section 27 of this guide). 4. Up-front grants (section 28 of this guide). 5. Additional tenant-based assistance (section 29 of this guide). 6. Alternative uses (section 30 of this guide). 6. Rebuilding (section 31 of this guide). 7. Emergency assistance funds (section 32 of this guide). 8. Determination not to preserve (section 33 of this guide).

All Multifamily Housing Projects—Required Actions

16. What actions must be taken in the disposition of all multifamily housing projects?

The requirements regarding tenants who are displaced (section 17 of this guide), unassisted very low-income tenants (section 18 of this guide), and nondiscrimination against Section 8 certificate holders and voucher holders (section 19 of this guide), apply in the disposition of all multifamily housing projects.

17. What actions must be taken concerning tenants who are displaced by the disposition of a multifamily housing project?

(a) *Scope of section.* This section applies to all HUD-owned multifamily housing projects and all multifamily housing projects subject to HUD-held mortgages. When HUD is not the mortgagee-in-possession or owner, this section applies to the owner of the project, if HUD has authorized the demolition of, repairs to, or conversion of the use of the multifamily housing project.

(b) *Minimizing displacement.* Consistent with the other goals and objectives of the Statute, all reasonable steps shall be taken to minimize the displacement of persons (families, individuals, businesses, and nonprofit organizations) from a project covered by this part. If displacement or temporary relocation will occur in connection with the disposition of a project, HUD may require the purchaser of the project to provide assistance in accordance with this section.

(c) *Relocation assistance at non-URA levels.* Whenever the displacement of a residential tenant (family or individual) occurs in connection with the management or disposition of a multifamily housing project, but is not subject to paragraph (d) of this section (*e.g.*, occurs as a direct result of HUD repair or demolition of all or a part of a HUD-owned multifamily housing project or as a direct result of the foreclosure of a HUD-held mortgage on a multifamily housing project or sale of a HUD-owned multifamily housing project without federal financial assistance), the displaced tenant is to be eligible for the following relocation assistance:

(1) Advance written notice of the expected displacement. The notice shall be provided at least 60 days before displacement, describe the assistance and the procedures for obtaining the assistance, and contain the name, address and phone number of an official responsible for providing the assistance;

(2) Other advisory services, as appropriate, including counseling, referrals to suitable (and where appropriate, accessible), decent, safe, and sanitary replacement housing, and fair housing-related advisory services;

(3) Payment for actual reasonable moving expenses, as determined by HUD;

(4) For displaced eligible families and individuals—

(i) The opportunity to relocate to a suitable (and where appropriate, accessible), decent, safe, and sanitary dwelling unit in a HUD-owned multifamily housing project, in a public housing project, or in another HUD subsidized multifamily housing project,

(ii) Assistance under the Section 8 Certificate program (see 24 CFR 882.209(a)(4)(ii)(B)) or the Housing Voucher program (see 24 CFR 887.155(c)), if the assistance is available; or

(iii) The right to return, whenever possible, to a repaired or rebuilt unit.

(5) Such other federal, State or local assistance as may be available.

(d) *Relocation assistance at URA levels.* (1) *General.* Whenever assistance under 24 CFR part 886, subpart C (or other federal financial assistance, as defined in 49 CFR 24.2(j)) is provided in connection with the purchase, demolition, or rehabilitation of a multifamily housing project by a third party, any resulting displacement is subject to this paragraph. A displaced person (defined in paragraph (d)(3) of this section) must be provided relocation assistance at the levels described in, and in accordance with the requirements of, the URA, implementing regulations at 49 CFR part 24, and this section.

(2) *Definition of "initiation of negotiations".* Under the URA, for purposes of determining the method for computing the replacement housing assistance to be provided to a residential tenant displaced as a direct result of privately undertaken rehabilitation, demolition, or acquisition of the real property, the term "initiation of negotiations" means the transfer of title to the purchaser.

(3) *Definition of displaced person.* (i) The term "displaced person" means any person (family, individual, business, or nonprofit organization) that moves from the real property, or moves personal property from the real property, permanently, as a direct result of acquisition, rehabilitation or demolition for a federally assisted project. This includes, but is not limited to:

(A) A person that moves permanently from the real property after receiving notice requiring such move, if the move occurs on or after the date of the transfer of title to the purchaser.

(B) Any person that HUD determines was displaced as a direct result of acquisition, rehabilitation or demolition for an assisted project.

(C) A tenant-occupant of a dwelling unit who moves from the building/complex, permanently, after the transfer of title to the purchaser, if the move occurs before the tenant is provided notice offering him or her the opportunity to lease and occupy a suitable, decent, safe, sanitary, and where appropriate, accessible dwelling in the same building/complex, under reasonable terms and conditions, upon completion of the project. Such reasonable terms and conditions shall include a monthly rent, including estimated average monthly utility costs, that does not exceed the greater of the tenant's monthly rent before transfer of title to the purchaser and estimated average monthly utility costs, or that is affordable, as defined in this part.

(D) A tenant-occupant of a dwelling unit who is required to relocate temporarily for the project, but does not return to the building/complex, if either the tenant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, or other conditions of the temporary relocation are not reasonable.

(E) A tenant-occupant who moves from the building/complex permanently after he or she has been required to move to another unit in the same building/complex for the project, if either the tenant is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move, or other conditions of the move are not reasonable.

(ii) Notwithstanding the provisions of paragraph (d)(3)(i) of this section, a person does not qualify as a "displaced person" if:

(A) The person is excluded under 49 CFR 24.2(g)(2).

(B) The person has been evicted for a serious or repeated violation of the terms and conditions of the lease or occupancy agreement, violation of applicable Federal, State, or local law, or other good cause, and HUD determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance.

(C) The person moves into the property after transfer of title to the purchaser.

(D) HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for an assisted project.

(e) *Temporary relocation (URA and non-URA relocation assistance).* Residential tenants, who will not be required to move permanently, but who must relocate temporarily (e.g., to permit property repairs), shall be provided:

(1) Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporary housing and any increase in monthly rent or utility costs. The party responsible for this requirement may, at its option, perform the services involved in temporarily relocating the tenants or pay for such services directly; and

(2) Appropriate advisory services, including reasonable advance written notice of the date and approximate duration of the temporary relocation; the suitable (and where appropriate, accessible), decent, safe, and sanitary housing to be made available for the temporary period; the terms and conditions under which the tenant may lease and occupy a suitable, decent, safe, and sanitary dwelling in the building/complex following completion of the repairs; and the right to financial assistance provided under paragraph (e)(1) of this section.

(f) *Appeals.* If a person disagrees with the purchaser's determination concerning the person's eligibility for relocation assistance or the amount of the assistance for which the person is eligible, the person may file a written appeal of that determination with the owner or purchaser. A person who is dissatisfied with the purchaser's determination on his or her appeal may submit a written request for review of that decision to the HUD Field Office responsible for administering the URA in the area.

18. What actions must be taken concerning very low-income tenants in the disposition of a multifamily housing project?

HUD will require that for a period of 2 years, beginning upon the date of disposition of a multifamily housing project, the rent for any unit occupied by a very low-income family, that is a preexisting tenant and that would be required to pay a rent that is more than 30 percent of the adjusted income (as defined in part 813) of the family, may not be increased above the rent charged immediately before the acquisition. Such a family will also be considered displaced for purposes of the preferences for assistance under sections 6(c)(4)(A)(i), 8(d)(1)(A)(i), and 8(o)(3)(B) of the United States Housing Act of 1937.

19. What restrictions concerning nondiscrimination against Section 8 certificate holders and voucher holders apply in the disposition of a multifamily housing project?

The purchaser of any multifamily housing project shall not refuse unreasonably to lease a dwelling unit offered for rent, offer to sell cooperative stock, or otherwise discriminate in the terms of tenancy or cooperative purchase and sale because any tenant or purchaser is the holder of a Certificate of Family Participation or a Voucher under Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), or any successor legislation. This provision is limited in its application, for tenants or applicants with Section 8 Certificates or their equivalent (other than Vouchers), to those units which rent for an amount not greater than the Section 8 Fair Market Rent, as determined by HUD. The purchaser's agreement to this condition must be contained in any contract of sale and also may be contained in any regulatory agreement, use agreement, or deed entered into in connection with the disposition.

Subsidized Projects—Basic and Alternative Actions to Facilitate Disposition

20. What are the basic actions that may be taken in the disposition of a subsidized project?

The basic assistance that HUD will provide and the basic restrictions HUD will require in the disposition of a subsidized project depend upon the profile of the project's units and tenants, as follows:

(a) *Assisted units—provision of project-based Section 8 assistance.* Except as noted in section 21 of this guide, and to the extent budget authority is available, HUD will provide project-based Section 8 assistance to assist at least all of a subsidized project's units that were covered, before acquisition or foreclosure, by the rent subsidies (Rent Supp, RAP, Sec. 23, project-based Section 8) included in the definition of a subsidized project.

(b) *Assisted units—tenant eligibility restrictions.* The contract for project-based Section 8 assistance in accordance with paragraph (a), above, will provide that when a vacancy occurs in any unit that requires such assistance, but which was occupied by a family ineligible for such assistance, the owner will lease the available unit to a family that is eligible for the assistance.

(c) *Unassisted units—use and rent restrictions.* HUD will require use or rent restrictions on BMIR, 236, or 202 subsidized projects to ensure that units that were not covered before acquisition or foreclosure by Rent Supp, RAP, Sec. 23, or project-based Section 8 rent subsidies remain available and affordable for the remaining useful life of the project.

21. What alternatives to the basic actions are available in the disposition of subsidized projects?

In the disposition of a subsidized project, HUD may take the following alternative actions instead of the basic actions listed in section 20 of this guide:

(a) *Unit substitution: assistance to, or restrictions on, units in unsubsidized projects instead of assistance to units in subsidized projects.* Instead of providing project-based Section 8 assistance as described in section 20(a) of this guide, HUD may, in unsubsidized projects located in the same market area, provide project-based Section 8 assistance to units to be occupied by very low-income persons, or impose use and rent restrictions to assure that units remain available to and affordable by very low-income families for the remaining useful life of the project. When this unit substitution procedure is used, the total number of unsubsidized project units provided with assistance and/or placed under use and rent restrictions must be at least equal to the number of subsidized project units that would have received project-based Section 8 in the absence of unit substitution. In addition, HUD will make tenant-based Section 8 assistance available to low-income families residing in the subsidized project's units that would have received project-based Section 8 assistance if this unit substitution alternative had not been used.

(b) *Substitution of tenant-based Section 8 assistance to low-income families instead of project-based assistance to units.* Instead of providing project-based Section 8 assistance as described in section 20(a) of this guide, HUD may enter into annual contribution contracts with public housing agencies to provide tenant-based Section 8 assistance to all low-income families who reside, on the date that the project is acquired by a purchaser other than HUD, in units that would have been eligible for the project-based Section 8 assistance as described in section 20 of this guide. Tenant-based Section 8 assistance may be used in this way as a substitute for project-based Section 8 assistance in not more than 10 percent of the aggregate number of subsidized project units disposed of by HUD in any fiscal year, and only if HUD determines that there is available in the market area in which the project is located an adequate supply of habitable, affordable housing for very low-income families and other low-income families using tenant-based assistance. The number of units eligible for this form of substitution within the 10 percent limit will be estimated at the beginning of each fiscal year, taking into consideration the aggregate number of subsidized project units disposed of by HUD in the immediately preceding fiscal year and the disposition activity planned for the current fiscal year.

(c) *Additional actions.* Instead of, or in addition to, providing project-based Section 8 assistance in the disposition of a subsidized project as described in section 20(a) of this guide, HUD may make use of the additional actions to facilitate the disposition of multifamily housing projects as described in sections 24 through 33 of this guide.

Unsubsidized Projects—Basic and Alternative Actions to Facilitate Disposition

22. What are the basic actions that may be taken in the disposition of an unsubsidized project?

The basic assistance that HUD will provide and the basic restrictions HUD will require in the disposition of an unsubsidized project depend upon the profile of the project's units and tenants, as follows:

(a) *Assisted units—provision of project-based Section 8 assistance.* Except as noted in section 23 of this guide, and to the extent budget authority is available, HUD will provide project-based Section 8 assistance for all of an unsubsidized project's units that were covered, before acquisition or foreclosure, by an assistance contract under:

(1) The new construction and substantial rehabilitation program under section 8(b)(2) of the United States Housing Act of 1937 (the 1937 Act) (as in effect before October 1, 1983);

(2) The property disposition program under section 8(b) of the 1937 Act;

(3) The project-based certificate program under section 8 of the 1937 Act;

(4) The moderate rehabilitation program under section 8(e)(2) of the 1937 Act;

(5) Section 23 of the 1937 Act (as in effect before January 1, 1975);

(6) The rent supplement program under section 101 of the Housing and Urban Development Act of 1965; or

(7) Section 8 of the 1937 Act, following conversion from assistance under section 101 of the Housing and Urban Development Act of 1965.

(b) *LMSA-assisted units—provision of tenant-based section 8 assistance.* HUD will provide tenant-based Section 8 assistance for families that are preexisting tenants of unsubsidized projects in units that, immediately before foreclosure or acquisition of the project by HUD, were covered by an assistance contract under the loan management set-aside program under section 8(b) of the United States Housing Act of 1937.

23. What alternatives to the basic actions are available in the disposition of unsubsidized projects?

In disposing of an unsubsidized project, HUD may take the following alternative actions instead of the basic actions listed in section 22 of this guide:

(a) *Substitution of tenant-based Section 8 assistance to low-income families instead of project-based assistance to units.* Instead of providing project-based Section 8 assistance as described in section 22 of this guide, HUD may enter into annual contribution contracts with public housing agencies to provide tenant-based Section 8 assistance to all low-income families who reside, on the date that the project is acquired by a purchaser other than HUD, in units eligible for the project-based Section 8 assistance as described in section 22 of this guide. Tenant-based Section 8 assistance may be used in this way as a substitute for project-based Section 8 assistance only if HUD determines that there is available in the market area in which the project is located an adequate supply of habitable, affordable housing for very low-income families and other low-income families using tenant-based assistance.

(b) *Additional actions.* Instead of, or in addition to, providing project-based Section 8 assistance in the disposition of an unsubsidized project as described in section 22 of this guide, HUD may make use of the additional assistance and restrictions for the disposition of multifamily housing projects as described in sections 24 through 33 of this guide.

All Multifamily Housing Projects—Additional Actions to Facilitate Disposition

24. What guidelines will HUD apply in determining which additional actions to take in the disposition of a multifamily housing project?

The additional actions to facilitate disposition available under this subpart are intended to replace, supplement or make more cost effective the Section 8 assistance that would otherwise be required, and are to be provided in a manner consistent with the goals and purposes stated in section 2 of this guide and, unless otherwise noted:

(a) On terms that will ensure that at least the units in the project otherwise required to receive project-based Section 8 assistance as described in section 20(a) of this guide (for a subsidized project) and in section 22(a) of this guide (for an unsubsidized project) are available to and affordable by low-income persons for the remaining useful life of the project, with use or rent restrictions as HUD may prescribe; and

(b) With tenant-based Section 8 assistance to any very low-income families who would have received project-based assistance under Section 8 as described in section 20(a) of this guide (for a subsidized project) and in section 22(a) of this guide (for an unsubsidized project), but because of action taken as described in sections 24 through 33 of this guide, did not receive such assistance, and are left residing in units of the project with rents that exceed the amount payable as rent under section 3(a) of the United States Housing Act of 1937 for very low-income families.

25. May HUD reduce the sales price for a project?

HUD may reduce the selling price of a project. The sales price for a project will be reasonably related to the intended use of the property as affordable housing for very low-income tenants after sale, any rehabilitation requirements for the project, the rents for units in the project that can be supported by the market, the amount of project-based Section 8 assistance being made available by HUD in the disposition of the project, the occupancy profile of the project (including family size and income levels for tenant families), and any other factors that the Department considers appropriate.

26. May HUD require additional use and rent restrictions?

HUD may require units in a project to be subject to use or rent restrictions to provide that the units will be available to and affordable by low- and very low-income persons for the remaining useful life of the project.

27. May HUD provide short-term loans to facilitate the sale of a project?

HUD may provide short-term loans to facilitate the sale of a multifamily housing project if:

(a) Authority for such loans is provided in advance in an appropriation Act;

(b) The loan has a term of not more than 5 years;

(c) HUD determines, based upon documentation provided by the purchaser, that the purchaser has obtained a commitment of permanent financing to replace the short-term loan

from a lender who meets standards established by the Department; and

(d) The terms of the loan are consistent with prevailing practices in the marketplace or the provision of the loan results in no cost to the Government, as defined in section 502 of the Congressional Budget Act of 1974.

28. Under what conditions may HUD provide up-front grants?

HUD may utilize the budget authority provided for contracts issued under this part for project-based Section 8 assistance to (in addition to providing project-based Section 8 rental assistance) provide up-front grants for the necessary cost of rehabilitation and other HUD-approved related development costs to reduce the level of Section 8 contract rents if HUD determines that action under this section is more cost-effective than providing project-based Section 8 assistance as described in section 20(a) of this guide (for a subsidized project) and in section 22(a) of this guide (for an unsubsidized project).

29. What additional tenant-based assistance may HUD offer?

To facilitate the sale of a multifamily housing project, HUD may make tenant-based Section 8 assistance available to families residing in a multifamily housing project who are eligible to receive tenant-based assistance but who do not qualify for project-based assistance.

30. How may HUD provide for alternative uses of units in the disposition of a multifamily housing project?

(a) *In general.* Notwithstanding any other provision of law, after providing notice to and an opportunity for comment by preexisting tenants, HUD may allow up to:

(1) 10 percent of the total number of rental housing units in multifamily housing projects that are disposed of by the Department during any fiscal year to be made available for uses other than rental or cooperative uses, such as, low-income homeownership opportunities, or in any particular project, community space, office space for tenant or housing-related service providers or security programs, or small business uses, if such uses benefit the tenants of the project; and

(2) 5 percent of the total number of rental housing units in multifamily housing projects that are disposed of by the Department during any fiscal year to be used in any manner, if HUD and the unit of general local government or area-wide governing body determine that such use will further fair housing, community development, or neighborhood revitalization goals.

(b) *Computation of number of eligible units.* The number of units eligible for alternate uses in any fiscal year will be determined at the beginning of the fiscal year as the applicable percentages in paragraphs (a)(1) or (2) of this section (i.e., either 10 percent or 5 percent) of the estimated total number of units to be disposed of in the fiscal year, taking into consideration the total number of units in multifamily housing projects disposed of by the Department in the immediately preceding fiscal year, and the extent of the disposition activity planned in the current fiscal year.

(c) *Displacement protection.* HUD may take actions under paragraph (a) of this section only if:

(1) Tenant-based Section 8 assistance is made available to each family eligible for such assistance residing in the project that is displaced as a result of such actions; and

(2) HUD determines that sufficient habitable, affordable rental housing is available in the market area in which the project is located to ensure use of such assistance.

31. What disposition assistance may be available to rebuild a multifamily housing project?

(a) Notwithstanding any provision of section 8 of the United States Housing Act of 1937, HUD may provide project-based assistance as described in section 20(a) of this guide (for a subsidized project) and in section 22(a) of this guide (for an unsubsidized project) to support the rebuilding of a HUD-owned multifamily housing project rebuilt or to be rebuilt (in whole or in part and on-site, off-site, or in a combination of both) in connection with a disposition under this part, if HUD determines all of the following:

(1) The project is not being maintained in a decent, safe, and sanitary condition;

(2) The costs to HUD for rebuilding are such that the monthly debt service needed to amortize the cost of relocating tenants, demolition, site preparation, rebuilding, operating expenses, and a reasonable return to the purchaser cannot be provided with rents that are within 120 percent of the most recently published Section 8 Fair Market Rents for Existing Housing (24 CFR part 888, subpart A), and would be less expensive than rehabilitation;

(3) The unit of general local government in which the project is located approves the rebuilding and makes a financial contribution or other commitment to the project determined by HUD to be satisfactory;

(4) The rebuilding is a part of a local neighborhood revitalization plan approved by the unit of general local government.

(b) The provisions described in section 17 of this guide apply to any tenants of the project who are displaced through an action taken under paragraph (a) of this section.

32. What emergency assistance funds may be provided to tenants?

HUD may make arrangements with State agencies and units of general local government of States receiving emergency assistance under part A of title IV of the Social Security Act for the provision of assistance under that Act on behalf of eligible families who would reside in any multifamily housing projects.

33. Under what circumstances may HUD make a determination not to preserve a project or a part of a project?

HUD may determine to demolish, or otherwise dispose of, a HUD-owned multifamily housing project, or any portion of such a project, or to foreclose a HUD-held mortgage on a multifamily housing project, without ensuring its continued availability as affordable rental or cooperative housing for low- and very low-income families under appropriate circumstances which may include one or more of those listed in paragraphs (a) through (g) of this section, below. If HUD decides not to preserve an occupied multifamily housing project at a foreclosure sale or sale of a HUD-owned project, tenants must be provided relocation assistance as described in section 17 of this guide.

(a) The costs to HUD of rehabilitation are such that the monthly debt service needed to amortize the cost of rehabilitation, operating expenses, and a reasonable return to the purchaser cannot be provided with rents that are, for subsidized and formerly subsidized projects, within 120 percent of the most recently published Section 8 Fair Market Rents for Existing Housing (24 CFR part 888, subpart A) or, for unsubsidized and formerly unsubsidized projects, within rents obtainable in the market.

(b) Construction is substantially incomplete.

(c) Preservation is not feasible because of environmental factors that cannot be mitigated by HUD or the purchaser. For example, when the project is located on a site that cannot be made to comply with the Section 8 Site and Neighborhood standards in 24 CFR 886.307(k) because of factors that adversely affect the health, safety and general welfare of residents such as air pollution; smoke; mud slides; fire or explosion hazards. Preservation may also be infeasible because of significantly deteriorated surrounding neighborhood conditions with inadequate police or fire protection; high crime rates; drug infestation; or lack of public community services needed to support a safe and healthy living environment for residents.

(d) HUD determines the project is unfit for rehabilitation.

(e) Rehabilitation would cost more than constructing comparable new housing.

(f) A reduction in the number of units in the project will enhance long-term project viability, for example, demolition of a building to provide space for a playground, open space, or combining one-bedroom units to create larger units for families.

(g) Continued preservation of the project as rental or cooperative housing is not compatible with State or local land use plans for the area in which the project is located.

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Part III

The President

Proclamation 6872—Women's History Month, 1996

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Presidential Documents

Title 3—

The President

Proclamation 6872 of March 19, 1996

Women's History Month, 1996

By the President of the United States of America

A Proclamation

It is impossible to fully appreciate America's proud history without recognizing the extraordinary contributions that women have made to our country since its founding. Women's History Month provides an opportunity to celebrate the countless women who have enriched our Nation and to ensure that their achievements—in homes and businesses, schools and hospitals, courtrooms and statehouses—will always be remembered.

We have come a long way since Abigail Adams asked her husband John to "remember the ladies" when drafting the Constitution, and we recognize that women not only have broadened and reshaped the path laid by our Founding Fathers, but also have made new avenues toward progress and justice. Female workers filled the textile mills that drove the Industrial Revolution. Women like Susan B. Anthony, Ida B. Wells-Barnett, and Elizabeth Cady Stanton fought tirelessly for suffrage and women's rights. Jane Addams founded America's first settlement house for poor immigrants and established social work as a new and respected field. And farm and migrant laborers across the country gained the leadership of Dolores Huerta when she joined the newly created United Farm Workers Union.

Indeed, there is no aspect of our history left untouched by women—from the first published American poet, Anne Bradstreet; to Sacajawea, Lewis and Clark's interpreter and guide; to Harriet Tubman, heroine of the Underground Railroad; to Margaret Mead, who revolutionized the study of anthropology. Writers and artists such as Laura Ingalls Wilder, Mary Cassatt, Beverly Sills, Amy Tan, and Martha Graham have captured our imaginations. Champions like Wilma Rudolph and Bonnie Blair have taken America to great heights in the international sports world.

Today, women make up close to half of our Nation's labor force, and women-owned businesses are changing the face of the American and global economies. But barriers to equality remain. Despite the efforts of women like Esther Peterson, a leader in the effort to end gender-based salary differences, many women are still paid considerably less than their male counterparts. Often these women also struggle with the dual responsibilities of raising a family and meeting the demands of a full-time job.

Last September, thousands of women from around the globe met to discuss these issues at the United Nations Fourth World Conference on Women in Beijing, China, and to develop a Platform for Action. The resulting document represents a powerful consensus on the need to advance women's status by improving access to education, health care, jobs, and credit. It describes the fundamental desire of all women to enjoy basic legal and human rights and to take part in political life. Only through our commitment to these principles can we forever end discrimination and injustice based on gender, promote women's full participation in all aspects of American life, and join people everywhere who seek true equality.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim March 1996, as Women's History Month. I call upon Government officials, educators, and all Ameri-

cans to observe this month with appropriate programs, ceremonies, and activities; to remember year-round the many important contributions that women make to our country each day; and to learn and share information about women's history in homes, classrooms, and community centers across the Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of March, in the year of our Lord nineteen hundred and ninety-six, and of the Independence of the United States of America the two hundred and twentieth.

William J. Clinton

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REMINDERS

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RULES GOING INTO EFFECT TODAY

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Agricultural Marketing Service
Raisins produced from grapes grown in California; published 2-20-96
AGRICULTURE DEPARTMENT
Commodity Credit Corporation
Loan and purchase programs:
Grains and similarly handled commodities--
Wheat and feed grains; maturing 1994 and subsequent crop year price support loans; extension; published 3-21-96
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HEALTH AND HUMAN SERVICES DEPARTMENT
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Poly(2-vinylpyridine-co-styrene); published 3-21-96
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Income taxes and employment taxes and collection of income taxes at source:
Federal tax deposits by electronic funds transfer; published 3-21-96
Income taxes:
Accrued benefits between employer and employee contributions; allocation; published 12-22-95
VETERANS AFFAIRS DEPARTMENT
Acquisition regulations:
Administrative amendments; published 3-21-96

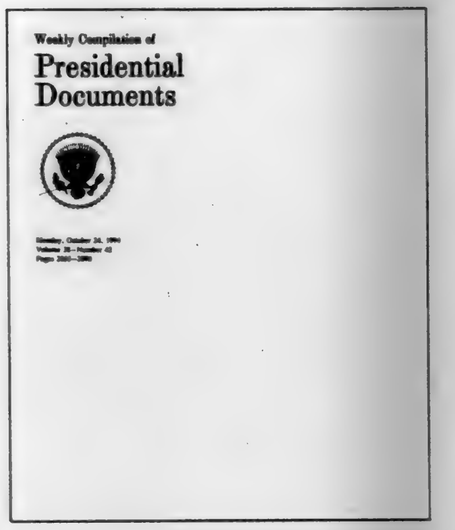
COMMENTS DUE NEXT WEEK

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Melons grown in Texas; comments due by 3-29-96; published 2-28-96
Universal Cotton Standards Advisory Committee recommendations; comments due by 3-29-96; published 2-28-96
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Food stamp program affecting Alaska, Commonwealth of Northern Mariana Islands, Puerto Rico, and demonstration projects; comments due by 3-25-96; published 1-24-96
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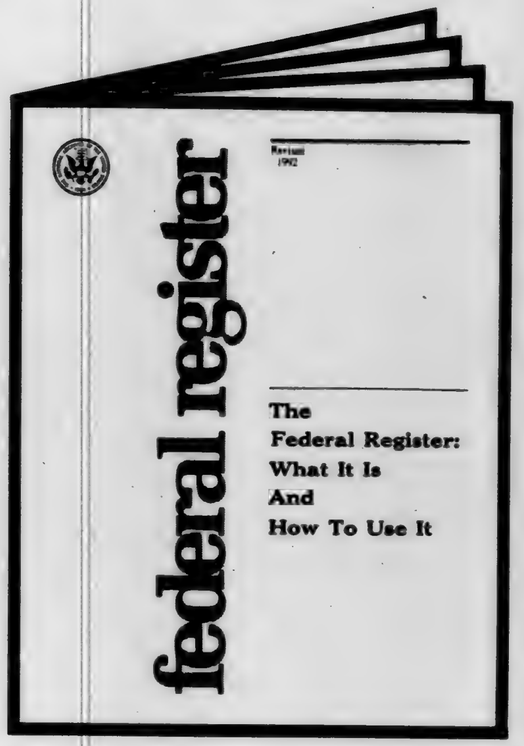
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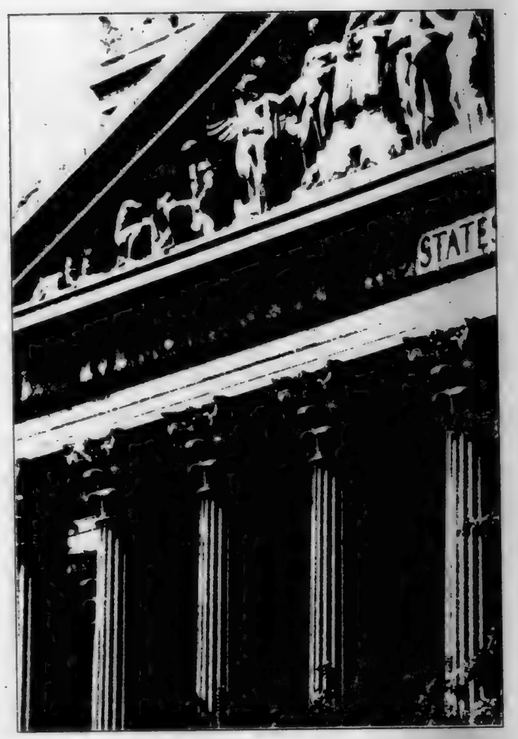
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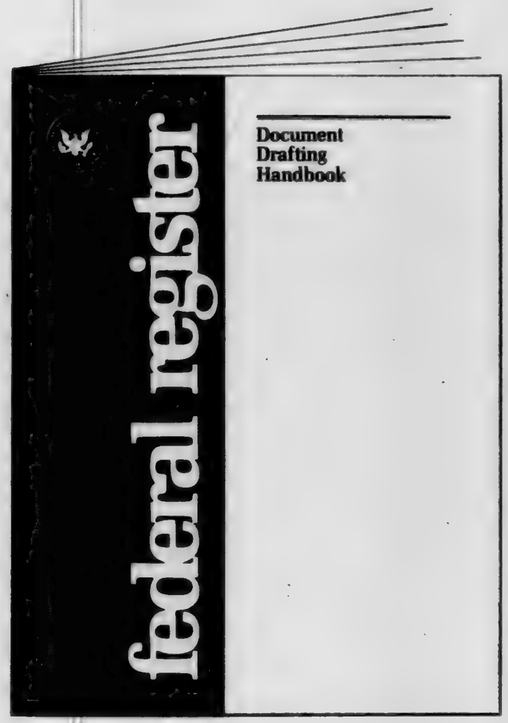
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WASHINGTON, DC

[Two Sessions]

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April 23, 1996 at 9:00 am

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RESERVATIONS: 202–523–4538

RALEIGH, NC

WHEN: April 16, 1996 at 9:00 am

WHERE: Federal Building and U.S. Courthouse, Room 209, 310 New Bern Avenue, Raleigh, NC 27601

RESERVATIONS: 1–800–688–9889

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DEPARTMENT OF AGRICULTURE

Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency

7 CFR Part 1927

RIN 0575-AB52

Real Estate Title Clearance and Loan Closing

AGENCIES: Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: The Rural Housing Service (RHS) and the Farm Service Agency (FSA), collectively hereafter referred to as "agency," amend the Real Estate Title Clearance and Loan Closing regulation. This action makes loan closing procedures consistent with the private sector for commercial loans and makes loan closing requirements consistent with local laws and procedures that are typical in the area where an agency loan is made. The intended effect is to provide the public with easier and less costly access to agency programs.

EFFECTIVE DATE: April 22, 1996.

FOR FURTHER INFORMATION CONTACT: Walter B. Patton, Senior Loan Specialist, Rural Housing Service, USDA, Room 5334, South Agriculture Building, 14th and Independence Ave. SW, Washington, DC 20250, Telephone (202) 720–0099.

SUPPLEMENTARY INFORMATION:

Classification

This rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by OMB.

Paperwork Reduction Act

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB control number 0575–0147, in accordance with the Paperwork Reduction Act of 1980. This final rule does not impose any new information collection requirements from those approved by OMB.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." It is the determination of the agency that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1949, Pub. L. 91–190, an Environmental Impact Statement is not required.

Intergovernmental Consultation

This regulation is an instructional procedure and is not covered by Executive Order 12372. Programs listed in the Catalog of Federal Domestic Assistance are as follows: Catalog Nos. 10.405, Farm Labor Housing Loans and Grants; 10.415, Rural Rental Housing Loans; and 10.416, Soil and Water Loans, are subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials (7 CFR part 3015, subpart V, 48 FR 29112, June 24, 1983). Catalog Nos. 10.404, Emergency Loans; 10.406, Farm Operating Loans; 10.407, Farm Ownership Loans; 10.410, Very Low to Moderate Income Housing Loans, and nonprogram loans are excluded from the scope of Executive Order 12372.

Civil Justice Reform

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. In accordance with this rule: (1) all state and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) pursuant to section 212 of the Department of Agriculture Reorganization Act of 1994, Public Law 103–354 (October 13, 1994), administrative appeal proceedings must be exhausted before bringing suit challenging actions taken under this rule.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulator actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the agency generally must prepare a written statement, including a cost-benefit analysis for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires the agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Discussion

On May 11, 1994, the Farmers Home Administration (FmHA) (predecessor to the Rural Housing Service and the Farm Service Agency), published a proposed rule with a request for public comments to revise 7 CFR part 1927, subpart B, "Real Estate Title Clearance and Loan Closing."

The agency received fifteen comments. Eight comments came from within the United States Department of Agriculture (USDA); six comments came from private practice attorneys, and one comment came from a title insurance company.

Those sections of the proposed regulation that are administrative in nature and apply only to administrative procedures within the agency have been removed from this document. These procedures are available from any agency office upon request.

The proposed rule discussed the need to make real estate title clearance and loan closing procedures more

compatible with the public sector requirements. Many of the comments addressed this desire.

The agency policy is that all loans be closed with the issuance of a title insurance policy except in those areas of the country where title insurance is unavailable. It is anticipated that in most states, attorneys will continue to close loans and be issuing agents of title insurance for a title insurance company instead of providing a title opinion. This provides better protection for both the agency and the borrower. When a title insurance company indemnifies the issuing agent attorney through the use of an indemnification agreement, the attorney will not be required to obtain a fidelity bond or errors and omissions insurance.

Comments and Other Significant Changes are Discussed Below

One respondent questioned the need for a title insurance company to provide an audited financial statement in order to show financial responsibility to the agency. We feel it is important that the agency can determine the financial responsibility of a title insurance company. We will allow each State Office to determine whether the State Agency which regulates title insurance companies requires sufficient proof of financial responsibility to meet this requirement, or if additional proof is necessary. If the State Office concludes that the State Insurance Agency provides sufficient assurance of financial responsibility of State regulated title insurance companies, no other minimal information will be required from the individual title insurance company.

One respondent questioned § 1927.59(a)(1) (i) through (iii), which states that title insurance will only be obtained for subsequent loans in certain situations. The recommendation was that title insurance should be required in all subsequent loan cases. It has been decided that title insurance or title opinions will be obtained unless the cost of title services is excessive in relationship to the size of the loan, the agency currently has a first mortgage security interest, the applicant has sufficient income to service all loans from the agency, the borrower is current on all existing agency loans, and the best mortgage obtainable adequately protects agency security interests.

A comment questioned the policy of not allowing the mention of the use of abstracts of title in any title opinions furnished to the United States Department of Agriculture (USDA). The agency does not prevent an attorney from using an abstract of title when preparing an attorney's opinion, but what the agency requires is the unqualified opinion of the attorney, not an opinion which passes the liability for an error from the attorney to an abstract company. Reviewing the abstract is a method an attorney can use to arrive at his or her opinion and it is not necessary on the face of the opinion to indicate the methodology by which the attorney arrived at the opinion. With the agency's policy shifting to the use of title insurance policies, instead of title opinions, this concern will be diminished. (This subject is not specifically addressed in this regulation and no change is being made.)

The recommendation to continue to have the attorney use Forms FmHA 1927–9, "Preliminary Title Opinion," and FmHA 1927–10, "Final Title Opinion," on title opinions for both loan closing and foreclosure proceedings when an attorney's opinion is used, is acceptable. The proposed regulation did not preclude this practice.

A comment was made suggesting that loan closing attorneys and title companies agree to indemnify the agency against any losses that occur as a result of mistakes. The agency does not agree with this suggestion. Title insurance will provide the agency with adequate coverage against any errors made by the title insurers. The agency will be a named insured on title insurance policies issued in conjunction with agency loans. In those areas where attorney's opinions will still be used, the agency is protected to a lesser extent by the attorney's malpractice insurance.

A comment was received debating the use of a title opinion versus title insurance, and the additional cost incurred if a title insurance company were to require a survey. Typically, the agency requires a survey unless the title insurance company provides survey coverage. The change to the regulation will give State Offices the authority to decide the form of title insurance certification and form of survey that is best for their state.

It was recommended that the definitions of "approved attorney" and "approved title insurance company," be expanded to cross reference the provisions providing for approval. This recommendation was accepted.

It was pointed out that an "issuing agent" may or may not be a party who can perform closing services, depending on local law. This fact was incorporated.

It was pointed out that the reference to "warranty deed" in the definition of "mortgage" in § 1927.52 is somewhat confusing. This reference was removed.

It was suggested to expand the definition of "quitclaim deed." The current method of conveying title by use of a quitclaim deed has not been a problem.

The Anti-Deficiency Act, 31 U.S.C. §§ 1512–1519, precludes Federal agencies from agreeing to expend federal funds in excess of an appropriation. The covenants in warranty deeds could commit the agency to expend funds in future fiscal years were a warranty to be breached. This would violate the Anti-Deficiency Act and, for this reason, the agency cannot use warranty deeds in conveying property to which it holds title. Therefore, no change was made.

It was pointed out that a closing protection letter need not be furnished when the loan closing is conducted in a branch office of the title insurance company. This was incorporated.

It was also pointed out that by saying a closing protection letter must provide equivalent protection of a "professional liability and fidelity insurance policy," will create problems, because title insurance companies are prohibited by law from providing professional liability and fidelity insurance. This reference was removed.

It was pointed out that § 1927.54(d)(4) is not needed when a closing protection letter is provided. The paragraph stated, "Title insurance company agrees that the title insurance company employee or closing agent who supervises the closing of the transaction will be authorized to receive funds and give receipts for the company's charges." This paragraph has been removed.

It was suggested that we remove what appears to be a mandatory requirement that an owner's title insurance policy be issued. In most instances, an owner should obtain an owner's policy of title insurance for the owner's protection and the agency will encourage but not require this. A correction was made to clarify this point.

It was pointed out that in some states only an attorney can prepare a deed. Therefore, a change was made that a closing agent can prepare a deed unless prohibited by law.

One commentor stated that the statement, "Loan funds for the payment of a lien may be disbursed only upon the receipt of a discharge, satisfaction, or release," in § 1927.58(a), is impracticable. We agree with this perception; however, a completely satisfactory wording is impracticable. The word "receipt" is being changed to "recording." We believe it is understood by closing agents that funds change hands and releases and recordings occur substantially simultaneously.

A comment was made that instead of "recommending" the use of title insurance, we should "require" its use unless prohibited by State law. If this were implemented, any deviation would need to be authorized by the Administrator. Since State laws vary greatly, it is important to give State Offices latitude in this regard. In some very rural areas of the country title insurance may be unavailable for logistical as opposed to legal reasons. This wording will remain unchanged.

The question was raised as to why the agency requires the borrower to receive a copy of the title opinion. It goes on to say neither the conventional nor the government mortgage market provides a title opinion to the borrower. The agency has a responsibility to provide supervised credit. It is important that all borrowers are aware of the terms and conditions of the title insurance commitment as well as the final title insurance binder. No change is made with regard to this comment.

A comment was made concerning "a loan is considered closed," and "the date of closing," and which definition is correct. The terms apply to two different events and are not meant to be the same. By definition "closed loan" is "a loan is considered to be closed when the mortgage is filed for record." The date of closing is the date that the closing agent conducts the loan closing activity. No change was made.

It was commented that sometimes "mortgagee's policy" was interchanged with "lender's policy." All references were changed to "lender's policy."

Concerning debarment or suspension, a comment was made that the proposed regulation implied that once a party was debarred or suspended they are always debarred or suspended. This was corrected by inserting the words "is currently."

A comment was made that the closing agent should not be required to determine the validity of the legal description, but rather should use the legal description provided by the survey or other legal document. It is part of the closing agent's duties to verify an accurate legal description. Using the survey or other recorded legal document is one way of meeting this requirement but the ultimate responsibility rests with the closing agent. No change has been made.

A comment was made that in one section we required the return of "the final title opinion or policy of title insurance," within one day, while in another section it requires they be returned "as soon as possible." The requirement is removed from the section requiring their return within one day.

It was recommended that § 1927.59(a)(iv) be clarified by changing the word "additional" to "subsequent." This change was made.

A comment was made that we refer to a "clear" title while the conventional term is "marketable." This change was made.

A comment was made that there are different definitions and examples of "exceptions" in various passages. These variations were corrected.

Two concerns were raised about the requirement that approved attorneys providing title opinions must have a $50,000 fidelity bond. The comment was that no other lender requires a fidelity bond and it results in increased cost to the borrower. We believe the continued requirement for a fidelity bond is necessary to protect these funds which are public monies. Therefore, this requirement will not be changed for closings where attorney opinions are obtained. In most cases where the party handling closing funds is covered by an acceptable closing protection letter, there will be no need for a fidelity bond.

A question was raised concerning the "certification of title," and the business of insuring titles. It is not the intent of this regulation that attorneys insure titles. In most cases, the agency will obtain title insurance and in such cases the agency will look to the title insurance company, not the closing agent, if there is a defect in title. In those cases where an attorney's opinion is issued instead of title insurance, if the title opinion is defective, the agency will seek redress from the attorney who issued the opinion.

A question was raised with regard to the requirement that an approved attorney furnishing a title opinion must have at least a $250,000 errors and omissions insurance policy with a deductible not to exceed $5,000. The regulation will allow each State Office to establish the appropriate level of errors and omissions insurance coverage and the level of deductible, according to what is customary in the area and necessary for the protection of the agency. To the extent that real estate loans are closed using a title insurance policy with a closing protection letter covering the closing agent, concerns regarding fidelity bonds, and errors and omissions insurance coverage, are eliminated.

One respondent requested the reinstatement of Form FmHA 427–18, "Fidelity Bond for Loan Closing Attorneys." It is felt that a surety company can provide verification of fidelity bond coverage without the agency developing a replacement form. In keeping with the Paperwork Reduction Act, this form will not be reinstated.

Four public comments encouraged the agency to require the adoption of title insurance policies. Two respondents said they would reduce their legal fees, as an accommodation to the purchaser, when title insurance policies are issued. We believe the proposed rule adequately addressed these comments and no changes will be required.

List of Subjects for 7 CFR Part 1927

Loan programs—Agriculture, Loan program—Housing and community development, Mortgages.

Therefore, chapter XVIII, title 7, Code of Federal Regulations is amended by revising part 1927 to read as follows:

PART 1927—TITLE CLEARANCE AND LOAN CLOSING

Subpart A—[Reserved]

Subpart B—Real Estate Title Clearance and Loan Closing

Sec.

1927.51 General.
1927.52 Definitions.
1927.53 Costs of title clearance and closing of transactions.
1927.54 Requirements for closing agents.
1927.55 Title clearance services.
1927.56 Scheduling loan closing.
1927.57 Preparation of closing documents.
1927.58 Closing the transaction.
1927.59 Subsequent loans and transfers with assumptions.
1927.60—1927.99 [Reserved]
1927.100 OMB control number.

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 42 U.S.C. 1480.

Subpart A—[Reserved]

Subpart B—Real Estate Title Clearance and Loan Closing

1927.51 General.

(a) *Types of loans covered by this subpart.* This subpart sets forth the authorities, policies, and procedures for real estate title clearance and closing of loans, assumptions, voluntary conveyances and credit sales in connection with the following types of Rural Housing Service (RHS) and Farm Service Agency (FSA) loans: Farm Ownership (FO), Nonfarm Enterprise (FO–NFE), Emergency (EM), Operating (OL), Rural Housing (RH), Farm Labor Housing (LH), Rural Rental Housing (RRH), Rural Cooperative Housing (RCH), Soil and Water (SW), Indian Land acquisition loans involving nontrust property, and NonProgram (NP) loans. This subpart does not apply to guaranteed loans.

(b) *Programs not covered by this subpart.* Title clearance and closing for

all other types of agency loans and assumptions will be handled as provided in the applicable program instructions or as provided in special authorizations from the National Office.

(c) [Reserved]

(d) Copies of all agency forms referenced in this regulation and the agency's internal administrative procedures for title clearance and loan closing are available upon request from the agency's State Office. Forms and title clearance and loan closing requirements which are specific for any individual state must be obtained from the agency State Office for that state.

1927.52 Definitions.

Agency. The Rural Housing Service (RHS) and Farm Service Agency (FSA) or their successor agencies.

Approval official. The agency employee who has been delegated the authority to approve, close, and service the particular kind of loan, will approve an attorney or title company as closing agent for the loans. If a loan must be approved at a higher level, the initiating office may approve the closing agent.

Approved attorney. A duly licensed attorney, approved by the agency, who provides title opinions directly to the agency and the borrower or upon whose certification of title an approved title insurance company issues a policy of title insurance. Approved attorneys also close loans, assumptions, credit sales, and voluntary conveyances and disburse funds in connection with agency loans. Approved attorney is further defined in § 1927.54(c).

Approved title insurance company. A title insurance company, approved by the agency, (including its local representatives, employees, agents, and attorneys) that issues a policy of title insurance. Depending on the local practice, an approved title insurance company may also close loans, assumptions, credit sales, and voluntary conveyances and disburse funds in connection with agency loans. If the approved title insurance company does not close the loan itself, the loan closing functions may be performed by approved attorneys or closing agents authorized by the approved title insurance company.

Borrower. The party indebted to the agency after the loan, assumption, or credit sale is closed.

Certificate of title. A certified statement as to land ownership, based upon examination of record title.

Closed loan. A loan is considered to be closed when the mortgage is filed for record and the appropriate lien has been obtained.

Closing agent. The approved attorney or title company selected by the applicant and approved by the agency to provide closing services for the proposed loan. Unless a title insurance company also provides loan closing services, the term "title company" does not include "title insurance company."

Closing protection letter. An agreement issued by an approved title insurance company which is an American Land Title Association (ALTA) form closing protection letter or which is otherwise acceptable to the agency and which protects the agency against damage, loss, fraud, theft, or injury as a result of negligence by the issuing agent, approved attorney, or title company when title clearance is done by means of a policy of title insurance. Depending on the area, closing protection letters may also be known as "Insured Closing Letters," "Indemnification Agreements," "Insured Closing Service Agreements," or "Statements of Settlement Service Responsibilities."

Cosigner. A party who joins in the execution of a promissory note or assumption agreement to guarantee repayment of the debt.

Credit sale. A sale in which the agency provides credit to the purchasers of agency inventory property. Title clearance and closing of a credit sale are the same as for an initial loan except the property is conveyed by quitclaim deed.

Deed of trust. See trust deed.

Exceptions. Exceptions include, but are not limited to, recorded covenants; conditions; restrictions; reservations; liens; encumbrances; easements; taxes and assessments; rights-of-way; leases; mineral, oil, gas, and geothermal rights (with or without the right of surface entry); timber and water rights; judgments; pending court proceedings in Federal and State courts (including bankruptcy); probate proceedings; and agreements which limit or affect the title to the property.

Fee simple. An estate in land of which the owner has unqualified ownership and power of disposition.

FSA. The Farm Service Agency, an agency of the United States Department of Agriculture (and any successor agency). FSA is the successor agency for farm program loans of the former Farmers Home Administration.

General warranty deed. A deed containing express covenants by the grantor or seller as to good title and right to possession.

Indemnification agreement. An agreement that protects the agency against damage, loss, fraud, theft, or injury as a result of useful conduct or negligence on behalf of the issuing agent, approved attorney, or title company. This agreement may also be entitled closing protection letter, insured closing letter, insured closing service agreement, statement of settlement service responsibilities, or letters which provide similar protection.

Issuing agent. An individual or entity who is authorized to issue title insurance for an approved title insurance company.

Land purchase contract (contract for deed). An agreement between the buyer and seller of land in which the buyer has the right to possession and use of the land over a period of time (usually in excess of 1 year) and makes periodic payments of a portion of the purchase price to the seller. The seller retains legal title to the property until the final payment is made, at which time the buyer will receive a deed to the land vesting fee title in the buyer.

Mortgage. Real estate security instrument which pledges land as security for the performance of an obligation such as repayment of a loan. For the purpose of this regulation the term "mortgage" includes deed of trust and deed to secure debt. A real estate mortgage or deed of trust form for the state in which the land to be taken as security is available in any agency office, and will be used to secure a mortgage to the agency.

National Office. The National Headquarters Office of FSA or RHS depending on the loan program involved.

OGC. The Office of the General Counsel, United States Department of Agriculture.

Program regulations. The agency regulations for the particular loan program involved (e.g., subpart A of part 1944 of this chapter for single family housing (SFH) loans).

Quitclaim deed. A transfer of the seller's interest in the title, without warranties or covenants. This type of deed is used by the agency to convey title to purchasers of inventory property.

RHS. The Rural Housing Service, an agency of the United States Department of Agriculture, or its successor agency. RHS is the successor agency to the Rural Housing and Community Development Service (RHCDS) which was, in turn, the successor agency to the Farmers Home Administration.

Seller. Individual or other entity which convey ownership in real property to an applicant for an agency loan or to the agency itself.

Special warranty deed. A deed containing a covenant whereby the grantor agrees to protect the grantee against any claims arising during the grantor's period of ownership.

State Office. For FSA this term refers to the FSA State Office. For RHS this term refers to the Rural Economic and Community Development State Director.

Title clearance. Examination of a title and its exceptions to assure the agency that the loan is legally secured and has the required priority.

Title company. A company that may abstract title, act as an issuing agent of title insurance for a title insurance company, act as a loan closing agent, and perform other duties associated with real estate title clearance and loan closing.

Title defects. Any exception or legal claim of ownership (through deed, lien, judgment, or other recorded document), on behalf of a third party, which would prevent the seller from conveying a marketable title to the entire property.

Trust deed. A three party security instrument conveying title to land as security for the performance of an obligation, such as the repayment of a loan. For the purpose of this regulation a trust deed is covered by the term "mortgage." A trust deed is the same as a deed of trust.

Voluntary conveyance. A method of liquidation by which title to agency security is transferred by a borrower to the agency by deed in lieu of foreclosure.

Warranty deed. A deed in which the grantor warrants that he or she has the right to convey the property, the title is free from encumbrances, and the grantor shall take further action necessary to perfect or defend the title.

§ 1927.53 Costs of title clearance and closing of transactions.

The borrower or the seller, or both, in compliance with the terms of the sales contract or option will be responsible for payment of all costs of title clearance and closing of the transaction and will arrange for payment before the transaction is closed. These costs will include any costs of abstracts of title, land surveys, attorney's fees, owner's and lender's policies of title insurance, obtaining curative material, notary fees, documentary stamps, recording costs, tax monitoring service, and other expenses necessary to complete the transaction.

§ 1927.54 Requirements for closing agents.

(a) *Form of title certification.* State Offices are directed to require title insurance for all loan closings unless the agency determines that the use of title insurance is not available or is economically not feasible for the type of loan involved or the area of the state where the loan will be closed. If title insurance is used, State Offices are authorized to require a closing protection letter issued by an approved title insurance company to cover the closing agent, if available. A closing protection letter need not be furnished when the closing is conducted by the title insurance company.

(b) *Approval of closing agent.* An attorney or title company may act as a closing agent and close agency real estate loans, provide necessary title clearance, and perform such other duties as required in this subpart. A closing agent will be responsible for closing agency loans and disbursing both agency loan funds and funds provided by the borrower in connection with the agency loan so as to obtain title and security position as required by the agency. The closing agent must be covered by a fidelity bond which will protect the agency unless a closing protection letter is provided to the agency. The borrower will select the approved closing agent. If title clearance is by an attorney's opinion, the agency will approve the attorney who will perform the closing in accordance with paragraph (c) of this section. The attorney will be approved after submitting a certification acceptable to the agency. If title certification is by means of a policy of title insurance, the title company which will issue the policy must have been approved in accordance with paragraph (d) of this section. A closing agent's delay in providing services without justification in connection with agency loans may be a basis for not approving the closing agent in future cases.

(c) *Approval of attorneys.* Any attorney selected by an applicant, who will be providing title clearance where the certificate of title will be an attorney's opinion, must submit an agency form certifying to professional liability insurance coverage. If the attorney is also the closing agent, fidelity coverage for the attorney and any employee having access to the funds must be provided. The agency will determine the appropriate level of such insurance. Required insurance will, as a minimum, cover the amount of the loan to be closed. The agency will approve the form stipulating the bond coverage. The agency will approve any attorney who is duly licensed to practice law in the state where the real estate security is located and who complies with the bonding and insurance requirements in this section. If the certification of title will be by means of title insurance, any attorney or closing agent designated as an approved attorney or closing agent by the approved title insurance company which will issue the policy of title insurance will be acceptable, and when covered by a closing protection letter, will not be required to obtain professional liability insurance or a fidelity bond. Each approved title insurance company may provide a master list of their approved attorneys that are covered by its closing protection letters to the State Office and, in such cases the attorneys are approved for closings for that title insurance company. Delay in providing closing services without justification may be a basis for not approving the attorney in future cases.

(d) *Approval of title companies.* A title company acting as a closing agent, or as an issuing agent for a title insurance company, must be covered by a title insurance company closing protection letter or submit an agency form certifying to fidelity coverage to cover all employees having access to the loan funds. The agency will determine the appropriate level of such coverage and will approve the form stipulating the bond coverage. Delay in providing closing services without justification may be a basis for not approving the company in future cases. Each approved title insurance company may provide a master list of their approved title companies that are covered by its closing protection letter to the State Office and, in such cases the title companies on the list are approved for closings for that title insurance company.

(e) *Approval of title insurance companies.* The agency will approve any title insurance company which issues policies of title insurance in the State where the security property is located if:

(1) The form of the owner's and lender's policies of title insurance (including required endorsements) to be used in closing agency loans are acceptable to the agency, and will contain only standard types of exceptions and exclusions approved in advance by the agency;

(2) The title insurance company is licensed to do business in the state (if a license is required); and

(3) The title insurance company is regulated by a State Insurance Commission, or similar regulator, or if not, the title insurance company submits copies of audited financial statements, or other approved financial statements satisfactory to the agency, which show that the company has the financial ability to cover losses arising out of its activities as a title insurance company and under any closing protection letters issued by the title insurance company.

(4) Delay in providing services without justification may be a basis for not approving the company.

(f) [Reserved]

(g) *Conflict of interest.* A closing agent who has, or whose spouse, children, or business associates have, a financial interest in the real estate which will secure the agency debt shall not be involved in the title clearance or loan closing process. Financial interest includes having either an equity, creditor, or debtor interest in any corporation, trust, or partnership with a financial interest in the real estate which will secure the agency debt.

(h) *Debarment or suspension.* No attorney, title company, title insurance company, or closing agent, currently debarred or suspended from participating in Federal programs, may participate in any aspect of the agency loan closing and title clearance process.

(i) *Special provisions.* Closing agents are responsible for having current knowledge of the requirements of State law in connection with loan closing and title clearance and should advise the agency of any changes in State law which necessitate changes in the agency's State mortgage forms and State Supplements.

(j) [Reserved]

§ 1927.55 Title clearance services.

(a) *Responsibilities of closing agents.* Services to be provided to the agency and the borrower by a closing agent in connection with the transaction vary depending on whether a title insurance policy or title opinion is being furnished. The closing agent is expected to perform these services without unnecessary delay.

(b) [Reserved]

(c) *Ordering title services.* Application for title examination or insurance will be made by the borrower to a title company or attorney. The lender's policy will be for at least the amount of the loan. The United States of America will be named as the insured lender.

(d) *Use of title opinion.* If a title opinion will be issued, a title examination will include searches of all relevant land title and other records, so as to express an opinion as to the title of the property and the steps necessary to obtain the appropriate title and security position to issue a title opinion as required by this subpart. The closing agent or approved attorney will determine:

(1) The legal description and all owners of the real property;

(2) Whether there are any exceptions affecting the property and advise the approval official and borrower of the nature and effect of outstanding interests or exceptions, prior sales of part of the property, judgments, or interests to assist in determining which exceptions must be corrected in order for the borrowers to obtain good and marketable title of record in accordance with prevailing title examination standards, and for the agency to obtain a valid lien of the required priority;

(3) Whether there are outstanding Federal, State, or local tax claims (including taxes which under State law may become a lien superior to a previously attaching mortgage lien) or homeowner's association assessment liens;

(4) Whether outstanding judgments of record, bankruptcy, insolvency, divorce, or probate proceedings involving any part of the property, whether already owned by the borrower, or to be acquired by assumption or with loan funds, or involving the borrower or the seller exist;

(5) If a water right is to be included in the security for the loan, and if so, the full legal description of the water right;

(6) In addition to paragraph(d)(2) of this section, if wetlands easements or other conservation easements have been placed on the property;

(7) What measures are required for preparing, obtaining, or approving curative material, conveyances, and security instruments, and

(8) That sufficient copies of these interests and exceptions are provided as requested by the approval official.

(e) *Use of title insurance.* When title insurance is to be obtained, the approval official will be furnished with a title insurance binder disclosing any defects in, exceptions to, and encumbrances against, the title, the conditions to be met to make the title insurable and in the condition required by the agency, and the curative or other actions to be taken before closing of the transaction. The binder must include a commitment to issue a lender policy in an amount at least equal the amount of the loan, except in instances where there may be an outstanding owner's policy in favor of the borrower. Not withstanding the provisions of this section, the instance of an assumption without a subsequent loan, the existing policy may be continued if the coverage meets or exceeds the assumption balance and the title company agrees in writing to extend coverage in full force and effect.

(f) [Reserved]

§ 1927.56 Scheduling loan closing.

The agency, in coordination with the closing agent, will arrange a loan closing and send loan closing instructions, on an agency form to the closing agent when the agency determines that the exceptions shown on the preliminary title opinion or title insurance binder will not adversely affect the suitability, security value, or successful operation of the property and all other agency conditions to closing have been satisfied.

§ 1927.57 Preparation of closing documents.

(a) *Preparation of deeds.* The closing agent, unless prohibited by law, will prepare, complete, or approve documents, including deeds, necessary for title clearance and closing of the transaction and provide the agency with the policy of title insurance or title opinion providing the lien priority required by the agency and subject only to exceptions approved by the agency. Agency forms will be used when required by this part.

(1) [Reserved]

(2) [Reserved]

(b) *Preparation of mortgages.* The closing agent will insure that all mortgages are properly prepared, completed, executed, and filed for record. Where applicable, the mortgages should recite that it is a purchase money mortgage. The following requirements will be observed in preparing agency mortgages:

(1)–(8) [Reserved]

(9) *Alteration of mortgage form.* An agency mortgage form may be altered pursuant to a State Supplement having prior approval of the National Office, or in a special case, to comply with the terms of loan approval prescribed in accordance with program instructions. No other alterations in the printed mortgage forms will be made without prior approval of the National Office. Any changes made by deletion, substitution, or addition (excluding filling in blanks) will be initialed in the margin by all persons signing the mortgage.

(10) [Reserved]

(11) *Mortgages on leasehold estates.* When the agency security interest is a leasehold estate, unless State law or State Supplement otherwise provides, the real estate mortgage or deed of trust form, available in any agency office, will be modified as follows:

(i) In the space provided on the mortgage for the description of the real property security, the leasehold estate and the land covered by the lease must be described. The following language must be used unless modified by a State Supplement:

All of borrower's right, title, and interest in and to a leasehold estate for an original term of ____ years, commencing on _____, 19 ___, created and established by and between _____ as lessor and owner and ____ as lessee, including any extensions and renewals thereof, a copy of which lease was recorded or filed in book ____, page ____, as instrument number ____, in the Office of the (e.g., County Clerk), for the aforesaid county and State and covering the following real property: _____.

(ii) Immediately preceding the covenant starting with the words "should default," the following covenant will be added:

( ) Borrower covenants and agrees to pay when due all rents and any and all other charges required by said lease, to comply with all other requirements of said lease, and not to surrender or relinquish, without the Government's prior written consent, any of borrower's right, title, or interest in or to said leasehold estate or under said lease while this mortgage remains of record.

(12) *Mortgages on land purchase contract.* When the agency security interest is on a borrower's interest in a land purchase contract, OGC will provide language used to modify agency forms.

(13) [Reserved]

(c) [Reserved]

(d) *Preparation of protective instruments.* The closing agent will properly prepare, complete, and approve releases and curative documents necessary for title clearance and closing, in recordable form and record them if required.

(1) *Prior lienholder's agreement.* If any liens (other than agency liens or tax liens to local governmental authorities) or security agreements (hereafter called "liens"), with priority over the agency mortgage will remain against the real property securing the loan, the lienholders must execute, in recordable form, agreements containing all of the following provisions unless prior approval for different provisions has been obtained from the National Office:

(i) The prior lienholder shall agree not to declare the lien in default or accelerate the indebtedness secured by the prior lien for a specific period of time after notice to the agency. The agreement must:

(A) Provide that the specified period of time will not commence until the lienholder gives written notice of the borrower's default and the prior lienholder's intention to accelerate the indebtedness to the agency office servicing the loan,

(B) Include the address of the agency servicing office,

(C) Give the agency the option to cure any monetary default by paying the amount of the borrower's delinquent payments to the prior lienholder, or pay the obligation in full and have the lien assigned to the agency, and

(D) Provide that the prior lienholder will not declare the lien in default for any nonmonetary reason if the agency commences liquidation proceedings against the property and thereafter acquires the property.

(ii) When the prior lien secures future advances, including the lienholder's costs for borrower liquidation or bankruptcy, which under State law have priority over the mortgage being taken (or an agency mortgage already held), the prior lienholder shall agree not to make advances for purposes other than taxes, insurance or payments on other prior liens without written consent of the agency.

(iii) The prior lienholder shall consent to the agency making (or transferring) the loan and taking (or retaining) the related mortgage if the prior lien instrument prohibits a loan or mortgage (or transfer) without the prior lienholder's consent.

(iv) The prior lienholder shall consent to the agency transferring the property subject to the prior lien after the agency has obtained title to the property either by foreclosure or voluntary conveyance if the prior lien instrument prohibits such transfer without the prior lienholder's consent.

(2) [Reserved]

(3) [Reserved]

(4) *Agreement by holder of seller's interest under land purchase contract.* If the buyer's interest in the security property is that of a buyer under a land purchase contract, it will be necessary for the seller to execute, in recordable form, an agreement containing all of the following provisions:

(i) The seller shall agree not to sell or voluntarily transfer the seller's interest under the land purchase contract without the prior written consent of the State Office.

(ii) The seller shall agree not to encumber or cause any liens to be levied against the property.

(iii) The seller shall agree not to commence or take any action to accelerate, forfeit, or foreclose the buyer's interest in the security property until a specified period of time after notifying the State Office of intent to do so. This period of time will be 90 days unless a State Supplement provides otherwise. The agreement shall give the agency the option to cure any monetary default by paying the amount of the buyer's delinquent payments to the seller, or paying the seller in full and having the contract assigned to the agency.

(iv) The seller shall consent to the agency making the loan and taking a security interest in the borrower's interest under the land purchase contract as security for the agency loan.

(v) The seller shall agree not to take any actions to foreclose or forfeit the interest of the buyer under the land purchase contract because the agency has acquired the buyer's interest under the land purchase contract by foreclosure or voluntary conveyance, or because the agency has subsequently sold or assigned the buyer's interest to a third party who will assume the buyer's obligations under the land purchase contract.

(vi) When the agency acquires a buyer's interest under a land purchase contract by foreclosure or deed in lieu of foreclosure, the agency will not be deemed to have assumed any of the buyer's obligations under the contract, provided that the failure of the agency to perform any such obligations while it holds the buyer's interest is a ground to commence an action to terminate the land purchase contract.

(5) [Reserved]

(6) [Reserved]

(e) [Reserved]

1927.58 Closing the transaction.

The closing agent will cooperate with the approval official, borrower, seller, and other necessary parties to arrange the time and place of closing. The transaction may be closed when the agency determines that the agency requirements for the loan have been satisfied and the closing agent or approved attorney can issue or cause to be issued a policy of title insurance or final title opinion as of the date of closing showing title vested as required by the agency, the lien of the agency's mortgage in the priority required by the agency, and title to the mortgaged property subject only to those exceptions approved in writing by the agency. The loan will be considered closed when the mortgage is filed for record and the required lien is obtained.

(a) *Disbursement of loan funds.* When the closing agent indicates that the conditions necessary to close the loan have been met, loan funds will be forwarded to the closing agent. Loan funds will not be disbursed prior to filing of the mortgage for record; however, when necessary, loan funds may be placed in escrow before the mortgage is filed for record and disbursed after it is filed. No development funds will be kept in escrow by the closing agent after loan closing, unless approved by the agency. Loan funds for the payment of a lien may be disbursed only upon the recording of a discharge, satisfaction, or release of prior lien interests (or assignment where necessary to protect the interests of the agency).

(b) *Title examination and liens or claims against borrowers.* If there are exceptions or recorded items which have arisen since the preliminary title opinion, the transaction will not be closed until these entries have been cleared of record or approved by the agency. The closing agent will advise the approval official of the nature of such intervening instruments and the effect they may have on obtaining a valid mortgage of the priority required or the title insurance policy to be issued.

(c) *Taxes and assessments.* The closing agent will determine if all taxes and assessments against the property which are due and payable are paid at or before the time of loan closing. If the seller and the borrower have agreed to prorate any taxes or assessments which are not yet due and payable for the year in which the closing of the transaction takes place, the seller's proportionate share of the taxes and assessments will be deducted from the proceeds to be paid to seller at closing and will be added to the amount required to be paid by borrower at closing. Appropriate prorations as agreed upon between the borrower and seller may also be made for taxes paid by the seller which are applicable to a period after the closing date, and for common area maintenance fees, prepaid rentals, insurance (unless the borrower is to obtain a new policy of insurance), and growing crops.

(d) *Affidavit regarding work of improvement.*

(1) *Execution by borrower.* If required by State Supplement, the closing agent will require that an affidavit regarding work of improvement, provided by the agency, be completed and executed when a loan is being made to a borrower who already owns the real estate to be mortgaged. This affidavit will be executed by the borrower at closing.

(2) *Execution by seller.* If required by State Supplement, the closing agent will require that an affidavit regarding work of improvement, provided by the agency, be completed and executed (including acknowledgment) by the seller when the agency is making a loan to a borrower to enable the borrower to acquire the property (including transfers). This affidavit will be executed by the seller at closing.

(3) *Legal insufficiency of affidavit form.* If the agency affidavit regarding work of improvement is not legally sufficient in a particular State, a State form approved by OGC will be used. A similar form that may be required by a title insurance company may be substituted for the agency form.

(4) *Recording.* The affidavit will not be recorded unless the closing agent deems it necessary and State law permits.

(5) *Delay in closing.* The loan will not be closed if, at the loan closing, the seller (in a sale transaction) or the borrower (in a nonpurchase money loan situation) indicates that construction, repair, or remodeling has been commenced or completed on the property, or related materials or services have been delivered to or performed on the property within the time limit specified in the affidavit, unless a State Supplement provides otherwise. The closing agent will notify the approval official, who will determine if the work of improvement could result in a lien prior to the agency lien. The State Office will, with the advice and concurrence of OGC, provide in a State Supplement the period of time to be used in completing the affidavit.

(e) [Reserved]

(f) [Reserved]

(g) *Return of loan documents to approval official after loan closing.* Within 1 day after loan closing, the closing agent will return completed and executed copies of the loan closing instructions, the executed original promissory note, and all other documents required for loan closing (except the mortgage), to the approval official. If the recorded mortgage is customarily returned to the borrower or closing agent after recording, then it must be forwarded to the approval official immediately.

(h) *Final title opinion or title insurance policy.* As soon as possible after the transaction has been closed.

(1) *Final title opinion.* The attorney will issue a final title opinion to the agency and the borrower on a form provided by the agency. Issuance of the final title opinion should not be held up pending the return of recorded instruments. If it is not possible for the final title opinion to show the book and page of recording of the agency security instrument, the words "and is recorded" in the final title opinion form provided by the agency office, may be deleted and the blank space completed to show the filing office and the filing instrument number, if available. Attached to the final title opinion will be required documents then available, including any which the approval official has furnished to the attorney which were not previously returned. The attorney will ensure that all recorded instruments are forwarded or delivered to the proper parties after recording. The certification of title will be forwarded for a voluntary conveyance.

(2) *Title insurance policy.* The closing agent will send or deliver the title insurance policy, with the United States listed as mortgage holder, to the approval official. The policy will be subject only to standard exceptions and those outstanding encumbrances, and exceptions, approved by the approval official. If an owner's policy of title insurance is requested, the closing agent will send or deliver it to the borrower. The closing agent will ensure that all recorded instruments are delivered or sent to the proper parties after recording.

(3) [Reserved]

(i) *Other services of the closing agent.*

(1) The closing agent will assist the approval official in preparing, completing, obtaining execution and acknowledgment, and recording the required documents when necessary. The closing agent will keep the approval official advised as to the progress of title clearance and preparation of material for closing the transaction.

(2) The closing agent will provide services for deeds in lieu of foreclosure as set forth in § 1927.62 of this subpart, and § 1955.10 of subpart A of part 1955 of this chapter.

§ 1927.59 Subsequent loans and transfers with assumptions.

Title services and closing for subsequent loans to an existing borrower will be done in accordance with previous instructions in this subpart, except that:

(a) *Loans closed using title insurance or title opinions.*

(1) Title insurance or title opinions will be obtained unless:

(i) The cost of title services is excessive in relationship to the size of the loan,

(ii) The agency currently has a first mortgage security interest,

(iii) The applicant has sufficient income to service the additional loan,

(iv) The borrower is current on the existing agency loan, and

(v) The best mortgage obtainable adequately protects the agency security interests.

(2) Title insurance or a final title opinion will not be obtained for a subsequent Section 504 loan where the previous Section 504 loan was unsecured or secured for less than $7,500 and the outstanding debt amount plus the new loan is less than $7,500.

(3) Loans closed using a new lender title insurance policy:

(i) Will cover the entire real property which is to secure the loan, including the real property already owned and any additional real property being acquired by the borrower with the loan proceeds.

(ii) Will cover the entire amount of any subsequent loan plus the amount of any existing loan being refinanced (if the existing loan is not being refinanced, the new lender policy will insure only the amount of the subsequent loan).

(b) *Title services required in connection with assumptions.* These regulations are contained in part 1965, subparts A, B, and C, of this chapter as appropriate for the loan type.

§§ 1927.60–1927.99 [Reserved]

§ 1927.100 OMB control number.

The reporting requirements contained in this regulation have been approved by the Office of Management and Budget and have been assigned OMB control number 0575–0147. Public reporting burden for this collection of information is estimated to vary from 5 minutes to 1.5 hours per response, with an average of .38 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, Ag Box 7630, Washington, D.C. 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB# 0575–0147), Washington, D.C. 20503. You are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Dated: February 25, 1996.

Jill Long Thompson,

Under Secretary, Rural Economic and Community Development.

Dated: February 28, 1996.

Eugene Moos,

Under Secretary, Farm and Foreign Agriculture Services.

[FR Doc. 96–6698 Filed 3–21–96; 8:45 am]

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 212

[INS No. 1669–94]

RIN 1115–AD77

Waiver of Certain Types of Visas

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule amends the Immigration and Naturalization Service (the Service) regulations to permit district directors, in individual cases, to waive nonimmigrant visa or passport requirements under section 212(d)(4)(A) of the Immigration and Nationality Act (the Act), if satisfied that a nonimmigrant alien is unable to present these documents because of an unforeseen emergency. The rule clarifies that carriers are liable for fines imposed under section 273 of the Act for bringing nonimmigrants to the United States who do not have a valid passport or nonimmigrant visa, or border crossing identification card, even if a waiver of these documents is granted by the district director at the time of admission into the United States. This change was necessary to conform the language of the regulations with the statutory provision that imposes fine liability on a carrier which transports an alien to the United States without the proper documentation.

EFFECTIVE DATE: March 22, 1996.

FOR FURTHER INFORMATION CONTACT: Robert F. Hutnick, Assistant Chief Inspector, Inspections Division, Immigration and Naturalization Service, 425 I Street NW., room 7228, Washington, DC 20536, telephone number (202) 616–7499.

SUPPLEMENTARY INFORMATION: Section 212(d)(4)(A) of the Act allows the Attorney General to waive the requirement that a nonimmigrant alien be in possession of a visa or passport if he or she is unable to present the necessary documents due to an unforeseen emergency. Section 273(b) of the Act imposes a fine upon a carrier for violations of section 273(a) of the Act. Section 273(a) of the Act requires carriers bringing aliens into the United States to ensure that its passengers are in possession of a valid passport and unexpired visa, if a visa is required under the Act or regulations

The regulations at 8 CFR 212.1(g) had the unintended effect of relieving the carrier of fine liability if the district director granted a waiver of the passport or nonimmigrant visa requirement. In *Air BVI Ltd., Flight BL 410* (BIA Unpublished Decision No. SAJ 10/50.670, August 26, 1992), the Board of Immigration Appeals (the Board) characterized the regulation as creating a "blanket" waiver because of language in the regulation stated that "a visa * * * is not required." The Board based its decision on whether an alien's admission with a waiver relieved the carrier of liability for a fine by interpreting the regulations in effect at the time involved. *Matter of Plane "CUT–604"*, 7 I&N 701 (BIA 1958). If the regulations creates a blanket waiver, by stating that no visa is required, no fine liability is incurred by the carrier. By contrast, a regulation that provides for a discretionary waiver of the visa and passport requirements to be granted to a nonimmigrant on a case-by-case basis will not relieve the carrier of fine liability.

This rule removes the language, "[a] visa and a passport are not required of a nonimmigrant" so that even when the district director waives the documentary requirements in the exercise of his or her discretion, on a case-by-case basis, and admits such a nonimmigrant to the United States, such admission will not eliminate the carrier's fine liability for bringing that alien to the United States without proper documentation (*Matter of Plane "CUT–604"*). The fine procedures at 8 CFR 280 remain applicable and require no change.

This rule further amends § 212.1(g) by removing the provision regarding waivers of the visa requirement granted pursuant to section 212(d)(4)(A) of the Act in the case of a national or resident of Cuba. This action is being taken because this provision is obsolete.

On April 14, 1995, at 60 FR 19001–19002, the Immigration and Naturalization Service (the Service) published a proposed rule with request for comments in the **Federal Register**, in order to correct this loophole in the regulations which allowed carriers to transport improperly documented aliens to the United States without incurring fines under section 273 of the Act. Interested persons were invited to submit written comments on or before June 13, 1995. The following is a discussion of those comments received by the Service and the Service's response.

Discussion of Comments on the Proposed Rule

The Service received four comments on the proposed rule. One commenter claimed the proposed change "will have an effect repugnant to the intent of Congress, the existing regulation of the Attorney General and the intended effect of the current regulation." It must be emphasized that the Service policy of strictly enforcing the fine provisions of section 273 of the Act in appropriate cases is a continuation of a more than 70-year-old policy of carrying out Congress' intent to hold carriers responsible for passengers they have transported to the United States. The Board and the courts have consistently held that carriers must exercise reasonable diligence in boarding their passengers for transport to the United States and are subject to administrative fines for failure to do so, e.g., *Matter of*

Eastern Airlines, Inc., Flight #798, Int. Dec. 3110 (BIA 1989); *Matter of M/V Guadalupe*, 13 I&N Dec. 67 (BIA 1968); *New York & Porto Rico S.S. Co.* v. *United States*, 66 F.2d 523, 525 (2d Cir. 1933).

The imposition of administrative fines in appropriate cases has long been an important tool in enforcing our immigration laws and safeguarding our borders. In enacting both section 273 of the Act of 1952 as well as section 16 of the Immigration Act of 1924, the precursor of section 273, Congress intended to make the carrier ensure compliance with the requirements of the respective statutory provisions. *See* Joint Hearings on the Revision of Immigration, Naturalization, and Nationality Laws, Senate and House Subcommittees on the Judiciary, Testimony of Stuart G. Tipton, General Counsel, Air Transport Association of America at p. 294 (March 14, 1951); *Matter of M/V "Runaway"*, 18 I&N Dec. at 128 (citing section 273 cases). Indeed, in enacting section 273 of the Act, Congress strengthened the previous penalty provisions, which only applied to carriers unlawfully transporting immigrants to this country, to apply to the unlawful transport of nonimmigrants as well. *See Matter of S.S. Greystoke Castle and M/V Western Queen*, 6 I&N Dec. 112, 114–15 (BIA, AG 1954); Legal Opinion of the INS General Counsel, 56336/273a at 6 (Sept. 3, 1953).

The commenter further claims that "Congress clearly contemplated situations whereby nonimmigrant aliens would need to travel to the United States without the formality of obtaining a passport or visa by enacting INA 212(d)(4)(A)." Congress indeed contemplated a situation where this would arise. Nevertheless, the commenter failed to mention that a passport or visa may be waived only by "the Attorney General and the Secretary of State acting jointly." Congress at no time envisioned that carrier representatives would be responsible for determining admissibility of aliens to the United States at the port of embarkation *for any reason* without prior authority from the Attorney General or Secretary of State.

One commenter wrote that "the motivation for the proposed rule is to circumvent the holding in *Matter of "Flight SR–4"*, 10 I&N Dec. 197 (BIA 1963) and *Air BVI, LTD., Flight BL 410*, SAJ 10/50.670, Decided by the Board August 26, 1992." The Service is not trying to circumvent these decisions; rather it is clarifying the regulation by amending it to conform to Congressional intent.

Regarding fines even though an alien was subsequently admitted, a 5th Circuit Court stated, in part:

> And intrinsically, [the] 1952 Act which included for the first time nonimmigrant aliens contains terms indicating quite persuasively that Congress carefully distinguished between penalties against the carrier and the ultimate admission of the aliens. *The Peninsular & Occidental Steamship Company* versus *The United States*, 242 F. 2d 639 (5 Cir. 1957). See also the conclusions of the BIA in such cases as *Matter of SS Florida*, 5 I&N Dec. 85 (BIA 1954) and *Matter of Plane "F–BHSO"*, 9 I&N Dec. 595 (BIA 1962).

The amending of the regulation also parallels the granting of a visa waiver to a lawful permanent resident. In 8 CFR 211.1(b)(3) it reads, in part:

> *Waiver of visas.* An immigrant alien returning to an unrelinquished lawful permanent residence in the United States after a temporary absence abroad who satisfies the district director in charge of the port of entry that there is good cause for his failure to present an immigrant visa, Form I–151 or I–551, or reentry permit may, upon application on Form I–193, be granted a waiver of that requirement.

The regulation at 8 CFR 212.1(g) is being amended to read, in part:

> Upon a nonimmigrant's application on Form I–193, a district director at a port of entry may, in an exercise of his or her discretion, on a case-by-case basis, waive the documentary requirements, if satisfied that the nonimmigrant cannot present the required documents because of an unforeseen emergency.

The clarification at 8 CFR 212.1(g) will give the Service the ability to exercise discretion to admit improperly documented nonimmigrants while penalizing carriers for the bringing of these aliens to the United States in violation of section 273 of the Act. This is similar to the granting of individual waivers to lawful permanent residents under 8 CFR 211.1(b)(3), which does not relieve the carrier of liability under section 273 of the Act. This has been the intent of Congress since the enactment of the Immigration Act of 1924 which established section 16, the precursor to section 273 of the Immigration Act of 1952. This will clarify any ambiguity in the regulation regarding carriers' liability to ensure the transportation of properly documented aliens to the United States and the imposition of penalties for failure to do so.

One commenter claimed that the regulatory change violates the Regulatory Flexibility Act (5 U.S.C. 605(b)) because the rule will have a significant impact on a substantial number of small entities. The Service disagrees. The number of aliens entering the United States without documentation for unforeseen emergent reasons is sufficiently low that there is no likely harm to any small carrier. According to the Department of State, very few aliens apply for emergency visa waivers. Furthermore, fines are not imposed on carriers that have properly screened their passengers for proper documentation required to enter the United States. These penalties are imposed only for those cases where the carrier has failed to properly screen its passengers and permitted improperly documented aliens to board its aircraft or vessel. No carrier, whether small or large, need suffer any penalties under section 273 of the Act if it properly screens its passengers. To this end, the Service has and will continue to conduct training for carriers upon request to improve a carrier's screening procedures and thereby reducing its fines under section 273 of the Act.

In addition, carriers are having their fines burden reduced as a direct result of the passage of the Immigration and Nationality Technical Corrections Act of 1994, Public Law 103–416, which was signed by the President on October 25, 1994. Section 209(a)(6) Pub. L. 103–416 contained a technical amendment which added section 273(e) to the Act. The addition of section 273(e) to the Act permits the Service to reduce, refund, or waive fines under section 273 of the Act pursuant to such regulations as the Attorney General shall prescribe in cases in which: (1) The carrier demonstrates that it had screened all passengers on the vessel or aircraft in accordance with procedures prescribed by the Attorney General, or (2) circumstances exist that the Attorney General determines would justify such reduction, refund, or waiver. The new legislation, corresponding regulations, and a Memorandum of Understanding (MOU) to be signed with individual carriers, will enable the Service to reduce, refund, or waive a fine imposed under section 273 of the Act for a carrier that demonstrates successful screening procedures by achieving satisfactory performance in the transportation of properly documented aliens to the United States. The Service will reward those carriers that follow the terms of the legislation or MOU and continue to impose financial penalties on carriers that fail to properly screen passengers. Increased carrier training and increased carrier cooperation with the Service are also expected to contribute to a reduction in the arrival of improperly documented aliens to the United States. Regulations regarding fines mitigation will be published as a proposed rule, with comment period, in the **Federal Register**.

The commenter also claims that the proposed rule constitutes a "significant regulatory action." The Service does not agree. This rule clarifies § 212.1(g) to conform to Congressional intent on the boarding of improperly documented aliens. In spite of the Board's holdings to the effect that the old regulation did not allow the Service to fine a carrier for bringing nonimmigrants to the United States without the required documents when a visa waiver is subsequently granted at the port of entry, the Board has never held that the carrier was not liable for fines in these circumstances under section 273 of the Act. Consequently, this rule simply amends the language to conform to Congressional intent, as recognized by the Board.

The commenter correctly states that "the legitimate goal of the Service is to protect the borders of the United States but only to the extent authorized by Congress and the Attorney General." He incorrectly states "no national security concern * * * would be served by the proposed change." The Service disagrees with this assertion. The Service is charged with continually encouraging carriers to properly screen their passengers prior to embarkation for the United States. Proper screening by trained carrier personnel overseas can and should prevent the arrival to the United States of aliens not in possession of proper documentation. Travel to the United States should be accomplished through the orderly procedures presently in place to ensure a legal flow of immigrants and nonimmigrants. Furthermore, a carrier cannot rely on the passenger's urgent need to travel on short notice, since considerations of personal expediency do not constitute due diligence contemplated by the statute (*Matter of Aircraft "VT DJK"*, 12 I. & N. Dec. 267 (BIA 1967).

One commenter claimed it "defied logic [in cases where] * * * the [d]istrict [d]irector was satisfied that the alien was unable to present the required documents and, therefore, found good cause to grant a waiver" that the Service should fine the carrier. The reason that most waivers are given in the first place is not so much that the district director was satisfied that the alien was unable to present the required documents, but rather that the Service showed compassion to the alien for the mistake of the carrier in boarding the alien and, further, determined that returning the alien to his or her port of embarkation would impose a significant hardship on the alien. This rule will permit the Service to continue to grant visa waivers in cases involving aliens not in possession of proper documentation to enter the United States, when otherwise admissible, but properly fine the carrier for allowing the alien to arrive in the United States in the first place.

One commenter claims that this rule will have an adverse effect on family well-being. Another commenter stated "the proposed rule will adversely affect the travelling public and reflect negatively upon the Service and air carriers. * * *" The Service disagrees. The Department of State and the Service already have in place the proper procedures which aliens, in emergent circumstances, may utilize to obtain authorization for travel to the United States without a visa or passport. The Service does not perceive that family well-being will be affected whatsoever by this rule. Aliens who are not properly documented for travel to the United States must obtain permission from the Department of State and the Service before boarding a carrier. Accordingly, a carrier should not, under any circumstances, board an improperly documented alien without prior authorization from the Department of State and the Service.

The commenter further claims that the carrier should not be "penalized for showing the same compassion by transporting the passenger that the Service evidences by issuing a waiver." Again the service disagrees. The decision to admit an alien without proper documentation is clearly vested in the Attorney General and the Secretary of State and not in the carrier.

One commenter is concerned about the Service's policy of proceeding with fines against carriers in certain cases involving improperly documented aliens arriving because "emergency medical treatment, for funerals, for visiting critically injured or dying relatives, and other 'unforeseen emergencies.'" The commenter further claims that "a carrier must have some latitude to determine that the passenger is travelling due to a valid emergency, such as a death in the family, a medical emergency, or the loss of all documents due to robbery, etc." The Service again disagrees. The statute vests discretionary authority in the Service and not in the carrier. Furthermore, as stated previously, procedures presently exist for aliens to obtain emergency waivers of both passport and visa from the Department of State with concurrence from the Service. According to section 212(d)(4) of the Act, as amended by the Immigration Act of 1990 (Pub. L. 101–649, dated November 29, 1990, 104 Stat. 5076), "[e]ither or both of the requirements of paragraph (7)(B)(i) of subsection (a) may be waived by the Attorney General and the Secretary of State acting jointly (A) on the basis of unforeseen emergency in individual cases. * * *"

Furthermore, § 41.3 of 22 CFR states:

> Under the authority of INA 212(d)(4), the documentary requirements of INA 212(a)(7)(B)(i)(I), (i)(II) may be waived for any alien in whose case the consular officer serving the port or place of embarkation is satisfied after consultation with, and concurrence by, the appropriate immigration officer, that the case falls within any of the following categories:
>
> * * *
>
> (d) *Emergent circumstances; visa waiver.* An alien well and favorably known at the consular office, who was previously issued a nonimmigration visa which has expired, and who is proceeding directly to the United States under emergent circumstances which preclude the timely issuance of a visa.

The procedures for aliens seeking a passport or visa waiver for emergent reasons are also described in Title 9 of the *Foreign Affairs Manual* (FAM) part 41, section 3, in part, as follows:

> **Waivers by Joint Action of Consular and Immigration Officers of Passport and/or Visa Requirements**
>
> Under the authority of INA 212(d)(4), the documentary requirements of INA 212(a)(7)(B)(i)(I), (i)(II), may be waived for any alien in whose case the consular officer serving the port or place of embarkation is satisfied after consultation with, and concurrence by, the appropriate immigration officer, that the case falls within any of the following categories:
>
> (a) Residents of Foreign Contiguous Territory; Visa and Passport Waiver
>
> * * *;
>
> (b) Aliens for Whom Passport Extension Facilities Are Unavailable; Passport Waiver
>
> * * *;
>
> (c) Aliens Precluded From Obtaining Passport Extensions by Foreign Government Restrictions; Passport Waiver
>
> * * *;
>
> (d) Emergent Circumstances; Visa Waiver
>
> An alien well and favorably known at the consular office, who was previously issued a nonimmigrant visa which has expired, and who is proceeding directly to the United States under emergent circumstances which preclude the timely issuance of a visa.

(e) Members of Armed Forces of Foreign Countries; Visa and Passport Waiver

* * *;

(f) Landed Immigrants in Canada; Passport Waiver

* * *;

(g) Authorization to Individual Consular Office; Visa and/or Passport Waiver

An alien within the district of a consular office which has been authorized by the Department, because of unusual circumstances prevailing in that district, to join with immigration officers abroad in waivers of documentary requirements in specific categories of cases, and whose case falls within one of those categories.

Notes

N1 Transporting Undocumented Aliens to United States

Posts must inform carriers inquiring about transporting an undocumented alien that they would be subject to a fine unless such alien is within one of the categories listed in 22 CFR 41.2 or 41.3.

N2 Areas of Responsibility of Immigration Officers

Consular officers shall address requests for concurrence in waivers of passport and visa requirements to the immigration officer in charge, in care of the appropriate post as indicated in 9 FAM Part IV.

N3 Furnishing Information Concerning Waivers to Immigration Officers

* * *

(7) A brief summary of the emergent circumstances surrounding the case which must include information indicating that all of the requirements of the subparagraph of 22 CFR 41.3 under which the waiver is recommended have been met; and

* * *

N4 Issuing Documents to Waiver Beneficiaries

* * *.

Aliens in emergent circumstances can and should obtain a visa or a waiver of visa, if required, prior to boarding. These procedures are in place to ensure that aliens are not allowed to arrive in the United States without first being properly screened, unless waived by statute.

The Service respectfully declines the invitation of one commenter to "develop an agreed set of criteria to define an unforeseen emergency." There already exist procedures an alien must follow to apply for entry into the United States under emergent circumstances as previously explained. The Service expects aliens to follow these emergency procedures to obtain the proper documentation to enter the United States if they lack the necessary documentation. In instances of emergent circumstances and travel requests occurring after the normal consulate business hours, consular officers are available for visa or passport waiver authorization on a case-by-case basis. To allow carriers the authority to determine admissibility of aliens not in possession of proper documentation at the port of embarkation would seriously undermine the enforcement of the Act and the security of the United States, and would circumvent existing immigration laws and regulations. As the carrier organizations admit, only immigration officers can determine the admissibility of an alien to the United States. The Service is not in a position to abdicate its authority or responsibility to safeguard the borders of the United States as Congress has mandated.

One commenter stated that the Service should never consider granting a visa waiver under emergent circumstances. The commenter states that "under no circumstances or unforeseen emergencies * * * should [a government body] be authorized to grant entry into the United States [to any alien] without valid documentation." Furthermore, the same commenter concluded, "in the event that someone attempts to enter into the United States without proper credentials, they should be fined and deported to the place of original entry. * * *" The statute authorizes a waiver of the documentary requirements in appropriate circumstances. In the case of a nonimmigrant who is otherwise admissible, a favorable exercise of that discretion is often appropriate to avoid unnecessary hardship.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that the rule will not have significant economic impact on a substantial number of small entities. This rule merely removes any ambiguity between the current regulations and section 273 of the Act.

Executive Order 12866

This rule is not considered by the Department of Justice, Immigration and Naturalization Service, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, and the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

Executive Order 12612

The regulation proposed herein will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Paperwork Reduction Act

The information collection requirement contained in this rule has been cleared by the Office of Management and Budget under the provisions of the Paperwork Reduction Act. The OMB control number for this collection is contained in 8 CFR 299.5, Display of Control Numbers.

List of Subjects in 8 CFR Part 212

Aliens, Documentation, Nonimmigrant, Passport and visas, Waivers.

Accordingly, part 212 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

1. The authority citation for part 212 continues to read as follows:

Authority: 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1187, 1225, 1226, 1227, 1228, 1252; 8 CFR part 2.

2. In § 212.1, paragraph (g) is revised to read as follows:

§ 212.1 Documentary requirements for nonimmigrants.

* * * * *

(g) *Unforeseen emergency.* A nonimmigrant seeking admission to the United States must present an unexpired visa and a passport valid for the amount of time set forth in section 212(a)(7)(B) of the Act, or a valid border crossing identification card at the time of application for admission, unless the nonimmigrant satisfies the requirements described in one or more of the paragraphs (a) through (f) or (i) of this section. Upon a nonimmigrant's application on Form I–193, a district director at a port of entry may, in the exercise of his or her discretion, on a case-by-case basis, waive the documentary requirements, if satisfied that the nonimmigrant cannot present the required documents because of an unforeseen emergency. The district director or the Deputy Commissioner may at any time revoke a waiver previously authorized pursuant to this paragraph and notify the nonimmigrant in writing to that effect.

* * * * *

Dated: December 11, 1995.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 96–7039 Filed 3–21–96; 8:45 am]

BILLING CODE 4410–10–M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Federal Credit Union Field of Membership and Chartering Policy

AGENCY: National Credit Union Administration ("NCUA").

ACTION: Final rule and final amendments to Interpretive Ruling and Policy Statement 94–1 ("IRPS 96–1").

SUMMARY: The NCUA Board is updating the references to federal credit union chartering, field of membership modifications and conversions. The NCUA Board is issuing amendments to its field of membership policies. One change will require senior citizen and retiree groups to meet the same conditions as other associational groups in order to qualify for a federal credit union charter or addition to an existing charter through a field of membership amendment. The Board is also issuing five amendments to clarify operational issues. The amendments clarify: The application of field of membership requirements to mergers; the streamlined expansion procedure; the documentation requirements for low-income communities; the use of surveys to support a community common bond; and appeal procedures.

EFFECTIVE DATE: July 1, 1996.

FOR FURTHER INFORMATION CONTACT: Michael J. McKenna, Staff Attorney, Office of General Counsel, 1775 Duke Street, Alexandria, Virginia 22314–3428 or telephone (703) 518–6540.

SUPPLEMENTARY INFORMATION:

A. Background

In 1984, NCUA adopted a policy which permitted federal credit unions (FCUs) to accept senior citizen and retiree members through the formation of associations. The only requirement for adding these associations to a credit union charter was a written request from the FCU to the NCUA; no request from the group or copy of the association's charter or bylaws was necessary. As a result, many FCUs added senior citizen/retiree associations to their charters. Subsequent policy statements, including Interpretive Ruling and Policy Statement 94–1 (IRPS 94–1) (the "Chartering Manual"), continued this policy. 59 FR 29066 (June 3, 1994).

In 1994, two bank trade associations and six Texas commercial banks filed suit against Communicators FCU of Houston, Texas, as a result of several additions to the FCU's field of membership. The suit challenged, among other additions, the 1994 addition of a senior citizen/retiree group formed solely for the purpose of acquiring credit union service. While upholding the other field of membership additions, the court vacated the addition of the senior citizen/retiree association and permanently enjoined NCUA from adding any similar associations to the FCU. *Texas Bankers Association, et al. v. NCUA, et al.*, 1995 WL 328319 (D.D.C., May 31, 1995) (the "*Communicators FCU*" decision). On September 28, 1995, partly in response to the *Communicators FCU* decision, the Board issued proposed amendments to the Chartering Manual. 60 Fed. Reg. 51396 (October 4, 1995).

B. Comments

Seventy comments were received. Comments were received from thirty-four federal credit unions, two state chartered credit unions, seven state credit union leagues and three national credit union trade associations. The comments were generally positive and supported most of the proposed amendments.

The Board also received comments from twenty-five banking associations. Briefly summarized, the bank commenters support NCUA's proposed amendment to require senior citizen/retiree groups to meet the same conditions as other associational groups before seeking to charter or join a federal credit union. The bank commenters argue against permitting federal credit unions that have adopted the "once a member, always a member" bylaw to continue serving members based on their membership in the senior citizen group. Many of the bank commenters also request that NCUA re-examine its policies relating to all forms of select group field of membership expansions.

The Senior Citizen and Retiree Association Policy

The Board proposed to modify its senior citizen/retiree policy to require such groups to meet associational common bond requirements before seeking to join or charter an FCU. Twenty-three commenters agree with NCUA that senior citizen and retiree groups should meet the same criteria as other associational groups before seeking to charter or join a federal credit union.

Sixteen commenters disagreed with the Board's proposal. Seven of these commenters believe that such groups are an underserved segment of the population. They believe that a formal organization with bylaws and officer and membership requirements should be sufficient for senior citizen associations. Two commenters recommend that NCUA treat senior citizen groups the same as low-income groups. Two commenters state that the conversion of an existing group to a bona fide association should not require that the association be completely divorced from the credit union. They suggest that a senior citizen/retiree group could have bylaws that permit the group to have the same directors as the credit union and conduct their annual meeting concurrently with the credit union's annual meeting. One commenter suggests that the final amendments clarify that a credit union may help senior groups meet the associational common bond requirement.

The Board believes the policy modification is an appropriate response to the *Communicators FCU* decision and is adopting the proposed amendment in final. In determining whether a group satisfies this common bond requirement, NCUA will consider the totality of the circumstances, such as whether the members pay dues, have voting rights, hold office, hold meetings, have a purpose other than to obtain credit union services, whether there is interaction among members and whether the group has its own bylaws. See, Chapter 1, Section II.B. of the Chartering Manual, 59 FR at 29076. Provided operational area requirements are met, senior citizen/retiree associations formed for purposes other than seeking credit union service will qualify to join an existing FCU. The Board is not requiring such associations to have a specific type of internal structure. Moreover, the Board continues to stress that an FCU may assist a senior citizen group to form an association that will qualify under the Chartering Manual.

The Board also requested comment on how to address members of existing senior citizen/retiree groups which do not meet the proposed characteristics of an association. The Board proposed that such groups must meet the normal associational common bond requirements to enroll new senior citizen/retiree group members. If the credit union has adopted the "once a member, always a member" bylaw, it may continue to serve its current members. Fourteen commenters agree with this proposal. One commenter believes it would be unfair to current senior citizen members to deny them credit union service and benefits because of a change in NCUA policy.

Thirteen commenters oppose NCUA's proposed treatment of senior citizen/retiree groups that do not have associational characteristics. Nine of these commenters recommend grandfathering any existing senior citizen/retiree groups and allowing the credit unions to continue to serve the groups. Two commenters state that the *Communicators FCU* decision does not compel the Board to retroactively apply any new policy it adopts. The comments from banking associations all opposed permitting existing members to retain membership.

The *Communicators FCU* decision does not compel the Board to apply its new policy retroactively. The Board considered whether to grandfather existing groups in the final amendment. However, in light of the rationale expressed in the *Communicators FCU* decision, the Board believes that grandfathering groups that do not meet the requirements of the new policy is inappropriate. Grandfathering the groups will simply invite litigation without furthering any of NCUA's chartering goals. Therefore, the Board is requiring that all existing senior citizen groups meet standard associational common bond requirements or be deleted from the charter. Many of these groups may already meet these requirements. If the FCU has adopted the "once a member, always a member" bylaw, it can continue to serve members who had joined based on their membership in the senior citizen/retiree group. Any other treatment would not be in the best interest of current members or the credit unions to which they belong. An FCU that has a group that does not meet the associational requirements in its field of membership should delete the group by submitting a charter amendment to the appropriate regional office. Compliance will be monitored through the exam program.

Low-Income Associations

The Board did not propose any changes to the ability of a federal credit union to add low-income associations that are formed solely for the purpose of obtaining credit union service without meeting the standard characteristics of an association. Thirteen commenters agreed that credit unions should be allowed to add to low-income groups to their field of membership. Three of these commenters stated that this policy enables credit unions to serve groups not currently receiving financial services. One commenter believes this policy is consistent with credit unions' "people helping people" philosophy.

Five commenters stated that federal credit unions should not be allowed to add low-income groups formed solely for the purpose of seeking credit union service. Two of these commenters found no reason to differentiate between senior citizen groups and low-income groups. One of these commenters believes eliminating this policy would not significantly affect the ability of low-income persons to join federal credit unions. One commenter believes it is preferable for low-income groups seeking credit union service to be encouraged to form a credit union rather than to be included in the field of membership of an existing credit union.

Congress and the NCUA Board have long recognized that special efforts must be made for those who are attempting to serve the needs of persons of limited means. The FCU Act was enacted "to make more available to people of small means credit for provident purposes through a national system of cooperative credit." 12 U.S.C. 1751. Congress established a special segment of credit unions serving predominantly low-income members. 12 U.S.C. 1752(5). Congress also established and funded a Community Development Revolving Loan Fund for Credit Unions, designed to help, through loans to credit unions serving predominantly low-income persons, in providing "basic financial and related services" to low-income persons and in "stimulating economic activities * * *" which will result in increased income, ownership and employment opportunities for low-income residents." 12 CFR 705.2(a). *See also,* 12 U.S.C. 1766(k) (giving the Board authority over the Community Development Revolving Loan Fund for Credit Unions). NCUA defines as "low-income" persons earning less than 80 percent of the average for all wage earners and persons whose annual household income falls at or below 80 percent of the median household income for the nation. 12 CFR 701.32(d)(2). The Board believes that the current low income credit union program continues to serve an important governmental purpose and is therefore not modifying its low-income association policy.

Clarifications of Operational Issues

The Board proposed five amendments to its chartering and field of membership policies to clarify operational issues. The amendments addressed: (1) the application of field of membership rules to credit union mergers; (2) the use of the streamlined expansion procedure; (3) the documentation requirements for low-income community credit unions as well as low-income additions; (4) the use of surveys to support a community charter; and (5) appeal procedures.

Mergers

A. Operational Area

The Board proposed to clarify how it applies operational and field of membership requirements to mergers. The Board reiterated that mergers will usually fall into the common bond addition or select group addition category, but some may fall into both categories. In a merger, common bond groups may be added to a federal credit union's field of membership without regard to location. The Board then clarified that for select group additions the field of membership requirements are met for each merging group only if the group could have been added to the continuing credit union without the benefit of the merger. The continuing credit union would have to analyze each group in the merging credit union's field of membership as if the continuing credit union was expanding its own field of membership without a merger. Three commenters support this proposal. One of these commenters believes that a more expansive policy would give large credit unions a great advantage over smaller credit unions in expanding their field of membership. This commenter believes that most credit unions cannot realistically provide quality service to members who live and work a great distance from the credit union.

Thirty-four commenters disagree with the concept of applying operational area requirements to "select group additions" in a merger. Nineteen commenters believe that a discontinuing credit union's groups should be added to the continuing credit union's charter. Nine commenters believe that operational area is an anachronism in an era of significant technological advancements. Three commenters believe that mergers are a business decision that should best be left to credit unions, not NCUA. Three commenters state that the proposal is overly restrictive. Three commenters state that the clarification will create additional paperwork and delay approval. Two commenters believe the proposal will result in a decrease in the number of mergers. Two commenters state that mergers should be based on the services the continuing credit union can provide and the philosophical "fit" between the merging credit unions. One commenter believes that the economic impact on other credit unions in a similar area should not be the determining factor on whether a merger is approved or not. One commenter suggests NCUA should be concerned with safety and soundness issues and not field of membership issues when considering a merger.

The Board recognizes that how field of membership requirements should be applied in a merger is a continuing controversy within the credit union community. The Board wishes to reiterate that it is not willing to discard operational area requirements in the merger context. However, the Board believes that in response to changing technologies, operational area requirements need to be reviewed, and not only in the context of mergers. The Board is currently in the process of conducting such a review and may issue new policies after the study is complete.

The Board's proposed clarification may, however, impose a paperwork burden without providing any significant assistance in reaching NCUA's field of membership goals. In light of the commenter's concerns and the language of IRPS 94–1, the Board believes that the proposed clarification was overly broad and has reconsidered its position. Rather than requiring each group in the discontinuing field of membership to be within the operational area of the continuing credit union, any of the discontinuing credit union's groups that are within the operational area of either credit union may be transferred intact to the continuing credit union. Any group that is not within the operational area of either federal credit union, prior to the completion of the merger, will be deleted from the continuing credit union's field of membership and only members of record will be transferred to the continuing credit union.

This clarification should not significantly decrease the number of mergers or impose a significant burden on credit unions wishing to merge. Rather, it applies the operational area requirements to mergers as required by IRPS 94–1 since a group could not ordinarily be added to either credit union's field of membership if it was not within the operational area of the credit union.

The Board also requested comment on whether mergers should be limited to credit unions that primarily serve groups in the same geographic location. One commenter supports this concept. Fourteen commenters disagree and believe that credit unions should be able to merge even if they do not primarily serve groups in the same geographic area. Seven commenters believe that geographic location is unimportant because of current and coming technologies. Four commenters state that the standard for considering mergers should be whether the continuing credit union can provide quality member services. One commenter believes that financial soundness is more important than geographic location. The Board is not placing any new geographic limitations on mergers but is continuing to study whether it should modify how it applies field of membership requirements to mergers.

B. Views of Overlapped Credit Unions

The Board requested comment on whether it should require NCUA Regions to conduct an overlap analysis for merging credit unions and whether an affected credit union should be notified of the merger and be given an opportunity to comment or object. Twelve commenters wanted both an overlap analysis and the opportunity to comment or object. One of these commenters believes that some recent merger decisions have put some smaller credit unions in a competitive disadvantage with larger credit unions. One commenter believes that such an analysis is necessary because of the potential harm to the overlapped credit union. This commenter states that with respect to a preexisting overlap, NCUA should review the effect a proposed merger may have on the nature of any preexisting overlaps.

Sixteen commenters believe that NCUA should not require an overlap analysis for a group in a discontinuing credit union's field of membership that has service available from another credit union. Five of these commenters believe the analysis is unnecessary since one was conducted when the overlap was originally granted. Two commenters state that there is no useful purpose in re-examining an existing overlap. One commenter states that the merger should not adversely affect the credit union anymore than it was affected by the original overlap. Two commenters state that a merger does not add to the number of federal credit unions a member can belong, it just replaces an existing overlap with a different credit union.

The Board believes that conducting an analysis of a preexisting overlap is unnecessary. Such a requirement would increase the burden on the merging credit unions as well as NCUA without any corresponding benefit. The Board believes that transferring a preexisting overlap to the continuing credit would not ordinarily have a significant impact on any other credit union. Consequently, the Board is not modifying its existing policy which does not require the Region to conduct an overlap analysis for merging credit unions.

The Board also requested comment on whether credit unions that may be adversely affected by a merger should have the right to appeal the Regional Director's determination. The Board also asked whether NCUA should establish a formal process for credit unions to comment on a merger prior to the Regional Director making a determination. Thirteen commenters believe that NCUA should establish such a comment process; twelve oppose the right to appeal the Regional Director's decision. Four commenters state that such an appeal creates an unnecessary obstacle to a merger and will delay the process. One of these commenters believes that the appeal process will prove costly to NCUA and credit unions.

The Board believes that a formal comment period will delay the merger process and increase costs for credit unions and NCUA without any corresponding benefits. Therefore, the Board is not establishing such a process. However, the Board will continue to consider appeals from credit unions that may be adversely affected by a merger through the normal appeal process.

C. Waivers

An operational area waiver procedure is available when a state-chartered credit union is merged into an FCU. The Board clarified that the waiver is discretionary on the part of NCUA and permits groups already receiving quality credit union services, who are located outside of the credit union's operational area, to continue to have credit union service after the merger. Two commenters recommend making available to federal credit unions the operational area waiver procedure. The Board does not believe the waiver procedure needs to be extended to federal credit unions because in almost all cases involving federal credit unions

operational area requirements will be met. The Board is clarifying in the final amendments that the waiver is only available if the group is not being served by any other credit union. The Board will continue to review this area but is not making any further changes at this time.

Streamlined Expansion Procedure (SEP)

SEP permits well-operated federal credit unions to add small groups of less than 100 persons with an occupational common bond to its field of membership without prior NCUA approval. The group must be located within 25 miles of the credit union's service facilities and in general, the group must not have credit union service available. The Board proposed three clarifications to this policy. First, the Board proposed that a credit union may use SEP if the only other credit union service available is from a community credit union. The Board is adopting this proposal. Nineteen commenters supported this proposal. One of those commenters requests that it be modified to protect community credit unions serving smaller rural communities. Another commenter that approved of the proposal states that there should be some minimum overlap protection for community credit unions.

Six commenters do not believe credit unions should be able to use SEP to overlap a community credit union. Three commenters believe any overlap of a community credit union should be done through the normal expansion process because the use of SEP could erode a community credit union's potential for growth. One commenter believes that community credit unions need overlap protection. One commenter states that if a company is within a community's boundaries and being adequately served by a community credit union, then no overlap should be permitted.

NCUA does not afford overlap protection to a community credit union when it is overlapped by an occupational group. Chapter I, IV.B.1, Chartering Manual, 59 FR at 29080. This long-standing policy is working well and the Board is not convinced that it should be changed. Since the standard policy is not being changed it is only logical to extend the policy to SEP. To do otherwise would simply place an unnecessary paperwork burden on credit unions and NCUA. Consequently, the Board is adopting the proposed amendment in final.

Second, the Board proposed that, consistent with standard field of membership expansions, the group as a whole will be considered to be within a credit union's 25 mile limit when: a majority of the group's members live or work within the 25 mile limit; or the group's headquarters is located within the 25 mile limit; or the group's "paid from" or "supervised from" location is within the 25 mile limit. Eight commenters support this proposal. One commenter objects to the proposed amendment. Eleven commenters believe that NCUA should eliminate the 25 mile limit for SEP because they believe the concept of operational area is outdated. Six commenters believe that groups added to a credit union's field of membership under SEP should be required to be within 25 miles of the credit union.

The Board believes the 25 mile limit for SEP is working well and should not be modified at this time. The Board is adopting the proposed amendment in final so that SEP's definition of a group's location is consistent with standard field of membership expansions. To eliminate any possible confusion the Board is reiterating that there is no standard 25 mile operational area limit for standard field of membership expansions.

Third, the Board proposed that if an FCU has SEP in its charter and merges into a credit union without SEP, the continuing credit union must submit a charter amendment and receive NCUA approval if it wishes to use SEP. Nine commenters support this proposal. One commenter states that applying for SEP is not a burden for credit unions. One commenter believes that this proposal provides NCUA with appropriate control. One commenter requests that NCUA clarify that if the continuing credit union already had SEP it would not need to reapply after the merger. One commenter believes that if either federal credit union in a merger has SEP then the continuing credit union should maintain SEP.

The Board is adopting this proposed amendment in final to maintain appropriate controls over SEP. The Board believes that the continuing credit union's application for SEP can be accomplished as part of the merger process. The Board is also clarifying that if the continuing credit union already has SEP it need not reapply after the merger.

Documentation Requirements to Establish Low-Income Services

The Board proposed that for new low-income charters or community expansions, the Regional Director would decide what documentation satisfies the community common bond requirement. The Board is adopting this proposal. Such documentation must clearly define the area's geographic boundaries and the charter applicant must establish that the area is recognized as a distinct "neighborhood, community or rural district." Chapter 1, Section II.C.1, Chartering Manual, 59 FR at 29077. Twelve commenters support this proposal. One commenter states that depending on the circumstances the Regional Director may be better able to determine documentation requirements. One commenter supports this proposal if it will result in providing more flexibility for groups seeking to charter low-income credit unions or for low-income community expansions.

Five commenters state that the Regional Director should not be allowed to determine the appropriate documentation for low-income charters or low-income expansions. Three commenters believe that documentation requirements for low-income credit unions and expansions should be specific and uniform. Two of the commenters believe this proposal will result in inconsistencies among the Regions.

The Board believes that in many cases, a low-income area already has the common interest and characteristics of a community just by lacking the basic financial services found in more affluent communities. The Board also believes that allowing the Regional Director to decide what documentation will satisfy the community common bond requirement will provide NCUA with more flexibility in granting low-income community charters and low-income community expansions. The Board also expects that this amendment will minimize bureaucratic hurdles and expedite making credit union service available to persons in low-income communities. The Board will be monitoring the process to assure consistent application among NCUA Regions.

Community Charters

The Board proposed to amend the Chartering Manual to clarify that surveys are not always required to demonstrate a community charter. Ten commenters agreed with this proposal and none opposed. Surveys should not be required if other evidence is more relevant or more clearly demonstrates the sentiment of the community. The Board is adopting the proposed amendment in final.

Procedures for Appealing Chartering and Field of Membership Determinations

The Board proposed that all appeals be made within 60 days of the Regional Director's determination. Seventeen commenters agree with this proposal; two commenters believe there should be less time and four commenters oppose the proposed appeal procedure.

Three commenters recommend that the appeal process for chartering and field of membership should be the same as those adopted by NCUA for examination issues. One commenter believes the current appeal process is sufficient.

The Board believes that a timeframe should be established to deal with appeals expeditiously and concludes that the 60 days proposed by a majority of those commenting gives the credit union sufficient time to appeal the region's determination. The Board also believes that it and not the supervisory review committee is best suited to resolve field of membership issues. The Board is adopting the proposed amendment in final.

The Board also requested comment on whether there should be a time limit on the Board to render a decision on the appeal. Fourteen commenters believe there should be such a time limit. Nine commenters suggest 60 days, four suggest 30 days and one suggests 10 days. Two commenters believe that the Board's time limit for deciding an appeal could be extended if there were extenuating circumstance or good cause. Two commenters state that there should be a procedure to protect credit unions from possible retaliation as a result of their appeal.

Recent experience leads the Board to believe that flexibility is necessary to respond to unique circumstances. The appealing credit union does not necessarily want the Board's determination fast, they want it correct. The Board is setting a goal of 90 days to render a decision. The Board will investigate any claim by a credit union that believes it is being singled out by NCUA because of its proper use of the appeal process to immediately contact the Board.

Miscellaneous Comments

There were several comments received which did not address themselves to specific requests for comment. Three commenters believe that charter amendments and mergers which create virtually unlimited fields of membership violate the cooperative nature of credit unions and dilute the principle of the common bond. One commenter, discussing operational area requirements, stated that if a select group feels they will be better served by a credit union 1000 miles away instead of the neighboring credit union then the select group should be permitted to be added to the field of membership of the distant credit union. One commenter states that NCUA should develop policies that would prohibit overlapping memberships. The Board is continuing to review operational area and overlaps and will take these comments into consideration when studying the issues.

One commenter states that the Regions should be required to make field of membership expansion determinations within 10 days. In fact, most determinations are made within a 10 day period. There are circumstances, however, which make it difficult to meet this goal.

One commenter requests that students should be part of the community common bond so that persons who attend any educational institution located in a community would be eligible to join a credit union whose field of membership includes that community. The Board agrees. The Board believes that a student is working for the purpose of the community common bond and therefore a person going to school within a community but is not living within the community boundaries is deemed to be working in the community for field of membership purposes. One commenter believes that NCUA should not allow a federal credit union to add low-income communities to their field of membership. The Board disagrees. The policy is working well and has increased the number of low-income people receiving credit union service.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires the NCUA to prepare an analysis to describe any significant economic impact a proposed regulation may have on a substantial number of small credit unions (primarily those under $1 million in assets). The changes to NCUA policy resulting from the adoption of these amendments to the IRPS do not have a significant economic impact on a substantial number of small credit unions. The changes are either legally required or simply clarify existing policy. Accordingly, the Board determines and certifies that this final rule does not have a significant economic impact on a substantial number of small credit unions and that a Regulatory Flexibility Act analysis is not required.

Paperwork Reduction Act

NCUA has determined that the requirement for a FCU to delete from its charter senior citizen/retiree groups that do not meet standard associational requirements do constitute a collection of information under the Paperwork Reduction Act. The Paperwork Reduction Act and regulations of the Office of Management and Budget (OMB) require that the public be provided an opportunity to comment on information collection requirements, including an agency's estimate of burden of the collection of information.

NCUA estimates that it should take an average of 15 minutes for an FCU to prepare and submit the required charter amendment. NCUA estimates that approximately 300 FCUs will need to submit the charter amendment, resulting in a total of 75 burden hours. This increase in burden will only occur once.

The NCUA Board invites comment on (1) whether the collection of information is necessary for the proper performance of the functions of NCUA including whether the information will have practical utility; (2) the accuracy of NCUA's estimate of the burden of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Suzanne Beauchesne, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428. Comments should be postmarked by May 21, 1996.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. The proposed amendments apply to federal credit unions as well as state chartered credit unions that seek to become federal credit unions. Therefore, the actions will not affect state interests.

List of Subjects in 12 CFR Part 701

Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on March 13, 1996.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA amends 12 CFR part 701 as follows:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, 1789. Section 701.6 is also authorized by 31 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C 1601 *et seq.*;

42 U.S.C. 1981 and 3601–3610. Section 701.35 is also authorized by 42 U.S.C 4311–4312.

2. Section 701.1 is revised to read as follows:

§ 701.1 Federal credit union chartering, field of membership modifications, and conversions.

National Credit Union Administration practice and procedure concerning chartering, field of membership modifications, and conversions are set forth in Interpretive Ruling and Policy Statement 94–1—Chartering and Field of Membership Policy (IRPS 94–1), as amended by IRPS 96–1. Both IRPS are incorporated into this section.

(Approved by the Office of Management and Budget under control number 3133–0015)

Note: The text of the interpretive ruling and policy statement (IRPS 94–1) does not and the following amendments will not appear in the Code of Federal Regulations.

3. In IRPS 94–1, Chapter 1, Section II.C.2 is revised to read as follows:

II.C.2—Special Documentation Requirements

Information to support that the area chosen represents one well-defined area, distinguishable from the immediate surrounding areas, includes:

- Political jurisdictions;
- Major trade areas (shopping patterns);
- Traffic flows;
- Shared/common facilities (for example, educational, medical, police and fire protection, school district, water, etc.);
- Organizations/clubs whose membership is made up exclusively of persons within the area;
- Newspapers or other periodicals published for and about the area;
- Census tracts;
- Common characteristics and background of residents (for example, income, religious beliefs, primary ethnic groups, similarity of occupations, household types, primary age group, etc.);
- History of area; and
- In general, what causes the chosen area and its residents to be distinguishable from the immediate surrounding areas and residents—some examples are old, well-established ethnic neighborhoods, planned communities and small/rural towns or rural counties.

The following information must be provided to support a need for a community credit union or community field of membership expansion:

- A list of credit unions presently in the area and those credit union's positions regarding a new charter or field of membership expansion; and
- A list of other financial institutions (for example, banks, savings and loan associations) that service the area.
- Written documentation reflecting support for the application for the charter, field of membership expansion or conversion to a community credit union may be in the form of letters, surveys, studies, pledges, or a petition. Other types of evidence may also be acceptable. If a survey is used it should reflect the following:
  - For the residents of the community:

Approximate number contacted
Number in favor of the credit union
Number against the credit union
Number who will join the credit union
Number who have pledged initial and/or systematic savings and amount of pledges

  - For the employers in the community:

Number of area employers and number of employees
Number contacted
Number in favor of the credit union
Number against the credit union
Number willing to provide payroll deductions to the credit union
Number willing to provide other type(s) of support to the credit union

  - For community organizations (including churches):

Number in area and number of members
Number contacted
Number in favor of the credit union
Number against the credit union
Number willing to provide some type of support to the credit union, i.e., advertising facilities, etc.
Letters of support from area civic leaders

If the community is also a recognized legal entity, it may be served as, or be included in, the field of membership—for example, "DEF Township, Kansas" or "GHI County, Minnesota."

4. In IRPS 94–1, Chapter 1, Section V.A.2 is revised to read as follows:

V.A.2—Special Common Bond Rules for Low-Income Federal Credit Unions

Generally, a low-income credit union is chartered as a community or associational credit union. The Regional Director will determine whether the applicants have provided sufficient evidence to demonstrate the need for a low-income community charter. Such evidence must establish that the geographic area's boundaries are clearly defined and that the area is recognized as a distinct neighborhood, community, or rural district. A low-income credit union that has a community common bond may include the following language in its field of membership:

"Persons who live in [the target area]; persons who regularly work, worship, perform volunteer services, or participate in associations headquartered in [the target area]; persons participating in programs to alleviate poverty or distress which are located in [the target area]; incorporated and unincorporated organizations located in [the target area] or maintaining a facility in [the target area]; and organizations of such persons."

In recognition of the special efforts needed to help make credit union service available to persons in low-income communities, NCUA permits credit union chartering and field of membership amendments based on associational groups formed for the sole purpose of making credit union service available to low-income persons. The association must be defined so that all its members will meet the low-income definition of Part 701.32 of NCUA's Regulations. The association, in documenting its low-income membership, may use the same types of documentation as are currently permitted for determining whether a community is low-income under Part 701.32 of NCUA's Regulations.

In addition, a proposed or existing low-income federal credit union whether community or associationally based, may include in its field of membership, without regard to location, one or more groups constituting an occupational, associational or community common bond. Except for the operational area requirements, the proposed or existing credit union must meet all the requisites for including the group in its charter. Moreover, the proposed or existing credit union must take care to ensure that it will continue to meet the requirements for low-income status.

5. In IRPS 94–1, Chapter 1, Section V.A.3 is revised to read as follows:

V.A.3—Special Common Bond Rules for Other Federal Credit Unions Seeking To Serve Low-Income Persons

In the interest of making credit union service available to persons in low-income communities, NCUA also permits any occupational, associational, multiple group, or community federal credit union to include in its field of membership, without regard to location, communities and associational groups satisfying the low-income definition of Part 701.32 of NCUA's Regulations. The associational group may be formed for the sole purpose of providing eligibility for federal credit union service, but must comprise only persons meeting NCUA's low-income definition.

The federal credit union adding the low-income community or association must document that the community or association meets the low income definition in Part 701.32 of NCUA's Regulations, just as is required for a designated low-income credit union. The Regional Director will ensure that the proposed low-income community addition is sufficient to establish a community common bond. A federal credit union adding such a community or association, however, would not be able to receive the benefits, such as expanded use of non member deposits and access to the Community Development Revolving Loan Program for Credit Unions, offered to low-income credit unions.

A federal credit union that desires to include a low-income community or association in its field of membership must first develop a business plan specifying how it will serve the entire low-income community. The business plan, at a minimum, must identify the credit and depository needs of the low-income community or association and detail how the credit union plans to serve those needs. The credit union will be expected to regularly review the business plan as well as loan penetration rates in the community to determine if the community is being adequately served. NCUA will require periodic service status reports on its service

to the low-income community and may review the credit union's service to low-income persons during examinations.

6. In IRPS 94–1, Chapter 1, Section V.B is deleted and Sections V.C. and V.D. are redesignated V.B and V.C, respectively.

7. In IRPS 94–1, Chapter 1, Section VIII.D is revised to read as follows:

VIII.D—Appeal of Regional Director's Decision

If the Regional Director denies a charter application, the group may appeal the decision to the NCUA Board. If not included with the denial notice, a copy of these procedures may be obtained from the appropriate region. An appeal will be sent to the regional office within sixty days of the denial. The Regional Director will then forward the appeal to the NCUA Board. NCUA central office staff will make an independent review of the facts and present the appeal with recommendations to the Board.

Before appealing, the prospective group may, within thirty days of the denial, provide supplemental information to the Regional Director for reconsideration. In these cases, the request will not be considered as an appeal but as a request for reconsideration by the regional director. If the request is again denied, the group may proceed with the appeal process.

8. In IRPS 94–1, Chapter 2, Section II.A.3.a is revised to read as follows:

II.A.3.a—General

The special rules for credit unions serving low-income persons and serving employees at industrial parks, shopping centers and similar facilities apply equally to field of membership additions. However, there are two special situations unique to existing federal credit unions: (1) corporate restructurings and (2) plant or base closings, and other kinds of distress to a substantial portion of a credit union's membership.

9. In IRPS 94–1, Chapter 2, Section III.A is revised to read as follows:

III.A—Mergers

Generally, the standards applicable to field of membership amendments found in Section II of this chapter apply to mergers where the continuing credit union is a federal charter. This requires analyzing each group in the merging credit union's field of membership. Groups in the merging credit union that are within the operating area of either credit union may be transferred intact into the continuing credit union. Merger applicants must provide NCUA with their own analysis of how the proposed field of membership of the continuing credit union conforms to this policy. For those groups from the merging credit union that do not meet operational area requirements, unless granted a waiver under the procedure for merging state chartered credit unions, only the members of record will be transferred to the continuing credit union.

Where the merging credit union is state chartered, the field of membership rules for a credit union converting to a federal charter apply with the following differences:

- In a merger involving a common bond addition, the requirements to provide a request for credit union service from the corporate, associational, or other unit to be added is not required, since the unit already has credit union service.
- In a merger involving a select group addition:

For the same reason as above, the requirement for a letter from each group included in the credit union's field of membership is not required.

Where a state credit union is merging into a federal credit union, the operational area requirement may be waived if it can demonstrate that the group does not have other credit union service available and the credit union will continue to be able to provide quality credit union service to the group. In determining quality of services, NCUA will consider the number of members of the group who are using the credit union's services. The waiver is discretionary on the part of NCUA and will be strictly scrutinized. The waiver will only be granted if supported by clear and convincing evidence. Absent any waivers, only members of record of groups that do not meet operational area requirements will be transferred to the continuing credit union. Upon merging, the state credit union's field of membership will be worded to conform to the NCUA standards set forth in Chapter 1. Any subsequent field of membership amendments must comply with applicable amendment procedures.

- In a merger of a community credit union into a federal credit union of any type, the continuing credit union may be permitted to continue to provide service to the merging credit union's members of record as of the merger date where the operational area requirement is satisfied. Except in the case of an emergency merger or where the continuing credit union is low-income, the continuing federal credit union can obtain only the members of record of the merging community credit union.
- Where both credit unions are community charters, the continuing credit union is a federal credit union, and the criteria for expanding the service area of a community federal credit union (as discussed previously in this Chapter) are satisfied, the entire field of membership of the merging credit union may be added to the continuing federal credit union's charter.

Mergers must be approved by all affected NCUA regional directors, and, as applicable, the state regulators.

10. In IRPS 94–1, Chapter 2, Section III.B. is revised to read as follows:

III.B—Emergency Mergers

NCUA may approve emergency mergers without regard to field of membership or other legal constraints. An emergency merger involves NCUA's direct intervention. The credit union to be merged must either be insolvent or be likely to become insolvent within 12 months and NCUA must determine that:

- An emergency requiring expeditious action exists;
- Other alternatives are not reasonably available; and
- The public interest would best be served by approving the merger.

In an emergency merger situation, NCUA takes an active role in finding a suitable merger partner (continuing credit union). NCUA is primarily concerned that the continuing credit union has the financial strength and management expertise to absorb the troubled credit union without adversely affecting its own financial condition and stability.

As a stipulated condition to an emergency merger, the field of membership of the merging credit union may be transferred intact to the continuing federal credit union without regard to any field of membership restrictions and without changing the character of the continuing federal credit union for future amendments. Under this authority, therefore, a federal credit union may take into its field of membership a group defined by a community or associational common bond permitted under state law, regardless of whether that common bond definition could be approved under the Federal Credit Union Act. If a federal credit union which has added groups or communities under an emergency merger later proposes to merge with another federal credit union, the groups or communities added pursuant to the emergency merger will not be subject to operational area or field of membership analysis.

11. In IRPS 94–1, Chapter 2, Section VIII.B is revised to read as follows:

VIII.B—Streamlined Expansion Procedure (SEP) for Small Occupational Groups

In keeping with the goals of NCUA chartering policy to provide service to all eligible groups desiring credit union service, well operated federal credit unions except those designated as "distressed" may take advantage of the SEP for adding occupational groups to their fields of membership.

To use this procedure, the federal credit union's board of directors must first apply to their respective NCUA regional director for a charter amendment. The charter amendment request must be signed by the presiding officer of the board of directors.

The following is a sample amendment for permitting a federal credit union to use the SEP authority:

Groups of persons with occupational common bonds which are located within 25 miles of one of the credit union's service facilities, which have provided a written request for service to the credit union, which do not presently have credit union service available, other than through a community credit union, which have no more members in the group than the maximum number established by the NCUA Board for additions under this provision: Provided, however, that the National Credit Union Administration may permanently or temporarily revoke the power to add groups under this provision upon a finding, in the Agency's discretion, that permitting additions under this provision are not in the best interests of the credit union, its members, or the National Credit Union Share Insurance Fund.

Once NCUA has approved the amendment and the credit union board has adopted it, the SEP authority may be implemented. The charter amendment permits approved federal credit unions to immediately begin serving employee groups meeting criteria set forth in this section. Under this procedure, there is no formal NCUA action necessary on each group being added.

The maximum number of persons for each group of employees which may be added under SEP will be established by the NCUA Board from time to time. The number will be based on potential primary members—that is, the persons sharing the basic occupational affinity to each sponsor group; family members and other derivative members are not included in the SEP limit. Several groups may be simultaneously added using these procedures; however, the maximum number of persons for each group must fall within the SEP limit.

The SEP does not apply to associational groups since NCUA must review membership requirements and geographical area prior to these groups being added to a field of membership. The procedure also does not apply to community charter expansions, because of the more individualized analysis required.

The following SEP steps and documentation requirements must be adhered to:

- The federal credit union must complete, for each group to be added, an Application for Field of Membership Amendment form, NCUA 4015, shown in Appendix D.
- The federal credit union must obtain a letter, on the group's letterhead where possible, signed by an official representative identified by title, requesting credit union service and stating that the group does not have any other credit union service available from any associational, occupational or multiple group credit union.
- The group must be located within 25 miles of one of the federal credit union's service facilities. The group will be considered to be within the 25 mile limit when: (1) a majority of the group's members live or work within the 25 mile limit; or (2) the group's headquarters is located within the 25 mile limit; or (3) the group's "paid from" or "supervised from" location is within the 25 mile limit.
- The group must indicate the number of potential members—the number of employees—seeking service.
- The federal credit union must maintain the above documentation permanently with its charter.
- The federal credit union must maintain a control log of groups added to its field of membership under the SEP procedure. The control log must include the date the group obtained service, the name and location of the sponsor group, the number of potential primary members added, the number of miles to the nearest main or branch office, the federal credit union board of director's approval of the group and the date approved. See Appendix D for the SEP Control Log, NCUA 4016.
- The groups added under SEP must be reported to the federal credit union's board at the next regular board meeting and made a part of the meeting minutes.
- The control log and other SEP documentation must be made available to NCUA upon request.

The regional director may from time to time request service status reports on groups added under SEP. It is advisable to use some method, such as a sponsor prefix added to the member account number, to readily access data for such groups.

Should a federal credit union fail to provide quality credit union service, as determined by the group's members or employees, to a group added under SEP, NCUA may subsequently permit dual membership with another credit union.

Should a federal credit union fail to follow the above procedures or deteriorate financially or operationally, NCUA, at its discretion, may revoke the SEP privilege.

If a federal credit union that has SEP in its charter merges with another federal credit union that does not have SEP, the continuing credit union, if it desires to have SEP, must submit a charter amendment and receive approval from NCUA to implement SEP. Otherwise, the groups obtained by the merging credit union through SEP must be listed specifically in the continuing credit union's field of membership or a reference to the merging credit union's SEP log must be made in the continuing credit union's field of membership as of the date of the merger.

12. In IRPS 94–1, Chapter 2, Section VIII.G is revised to read as follows:

VIII.G—Appeal of Regional Director Decision

If a field of membership expansion, merger, or spin-off is denied by the Regional Director, the federal credit union may appeal the decision to the NCUA Board. If not included with the denial notice, a copy of these procedures may be obtained from the Regional Director who made the decision. An appeal must be sent to the appropriate regional office within sixty days of the denial. The Regional Director will then forward the appeal to the NCUA Board. NCUA central office staff will make an independent review of the facts and present the appeal to the Board with a recommendation.

The federal credit union may, within thirty days of the denial, request reconsideration and provide supplemental information to the regional director. The request for reconsideration will not be considered an appeal but will toll the sixty day requirement to file an appeal until a ruling is received on the request for reconsideration.

13. In IRPS 94–1, Chapter 3, Section 3.H, is added as follows:

III.H—Appeal of Regional Director Decision

If a conversion to a state charter is denied by the Regional Director, the credit union may appeal the decision to the NCUA Board. If not included with the denial notice, a copy of these procedures may be obtained from the Regional Director who made the decision. An appeal must be sent to the appropriate regional office within sixty days of the denial. The Regional Director will then forward the appeal to the NCUA Board. NCUA central office staff will make an independent review of the facts and present the appeal to the Board with a recommendation.

The federal credit union may, within thirty days of the denial, request reconsideration and provide supplemental information to the regional director. The request for reconsideration will not be considered an appeal but will toll the sixty day requirement to file an appeal until a ruling is received on the request for reconsideration.

[FR Doc. 96–6701 Filed 3–21–96; 8:45 am]

BILLING CODE 7535–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM–122; Special Conditions No. 25–ANM–111]

Special Conditions: McDonnell Douglas Model DC9–10, –20, –30, –40, –50, High-Intensity Radiated Fields

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the McDonnell Douglas DC9–10, –20, –30, –40, –50 airplane. This airplane will utilize new avionics/electronic systems that provide critical data to the flightcrew. The applicable regulations do not contain adequate or appropriate safety standards for the protection of these systems from the effects of high-intensity radiated fields. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is March 14, 1996. Comments must be received on or before April 6, 1996.

ADDRESSES: Comments on these final special conditions, request for comments, may be mailed in duplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, Attn: Rules Docket (ANM–7), Docket No. NM–122, 1601 Lind Avenue SW., Renton, Washington 98055–4056; or delivered in duplicate to the Office of the Assistant Chief Counsel at the above address. Comments must be marked: Docket No. NM–122. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Gerald Lakin, FAA, Standardization Branch, ANM–113, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98055–4056, (206) 227–1187.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA has determined that good cause exits for making these special conditions effective upon issuance; however, interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the regulatory docket and special conditions number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. These special conditions may be changed in light of comments received. All comments submitted will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this request must be submitted with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. NM–122." The postcard will be date stamped and returned to the commenter.

Background

On June 25, 1995, JanzAir Consulting Services, Suite 202, Lee Wagener Blvd., Fort Lauderdale, Florida 33315–3570, applied for a supplemental type certificate in the transport airplane category for the McDonnell Douglas Model DC9–10, –20, –30, –40, –50 airplane. The DC9–10, –20, –30, –40, –50 is a low swept wing, commercial jet airplane powered by two Pratt & Whitney JT8D turbofan engines mounted on pylons extending from the aft fuselage. The airplane has a seating capacity of 80 to 125 passengers, and a maximum takeoff weight of 85,700 to 121,000 pounds. The flight controls will be powered and capable of manual reversion.

Type Certification Basis

Under the provisions of § 21.101 of the FAR, JanzAir must show, except as provided in § 25.2, that the modified DC9–10, –20, –30, –40, –50 meets the applicable provisions of part 25, effective February 1, 1965, as amended by Amendments 25–1 through 25–83. In addition, the proposed certification basis for the modified DC9–10, –20, –30, –40, –50 includes part 34, effective September 10, 1990, plus any amendments in effect at the time of certification; and part 36, effective December 1, 1969, as amended by Amendment 36–1 through the amendment in effect at the time of certification. No exemptions are anticipated. The special conditions incorporated herein form an additional part of the type certification basis. In addition, the certification basis may include other special conditions that are not relevant to these special conditions.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25, as amended) do not contain adequate or appropriate safety standards for the modified DC9–10, –20, –30, –40, –50 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16 to establish a level of safety equivalent to that established in the regulations.

Special conditions, as appropriate, are issued in accordance with § 11.49 of the FAR after public notice, as required by §§ 11.28 and 11.29, and become part of the type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Features

The McDonnell Douglas Model DC9–10, –20, –30, –40, –50 airplane avionics enhancement will utilize electronic systems that perform critical functions, including a digital Electronic Flight Instrument System (EFIS), attitude and heading reference systems (AHRS), and air data systems (ADS). These systems may be vulnerable to high-intensity radiated fields (HIRF) external to the airplane.

Discussion

There is no specific regulation that addresses protection requirements for electrical and electronic systems from HIRF. Increased power levels from ground based radio transmitters and the growing use of sensitive electrical and electronic systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by reference, special conditions are issued for the modified McDonnell Douglas DC9 which require that new technology electrical and electronic systems, such as the EFIS, AHRS and ADS, be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of HIRF.

High-Intensity Radiated Fields

With the trend toward increased power levels from ground based transmitters, plus the advent of space and satellite communications, coupled with electronic command and control of the airplane, the immunity of critical digital avionics systems to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling of electromagnetic energy to cockpit-installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown with either paragraphs 1 or 2 below.

1. A minimum threat of 100 volts per meter peak electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated.

Frequency	Peak (V/M)	Average (V/M)
10 KHz–100 KHz	50	50
100 KHz–500 KHz	60	60
500 KHz–2000 KHz	70	70
2 MHz–30 MHz	200	200
30 MHz–100 MHz	30	30
100 MHz–200 MHz	150	33
200 MHz–400 MHz	70	70
400 MHz–700 MHz	4,020	935
700 MHz–1000 MHz	1,700	170
1 GHz–2 GHz	5,000	990
2 GHz–4 GHz	6,680	840
4 GHz–6 GHz	6,850	310
6 GHz–8 GHz	3,600	670
8 GHz–12 GHz	3,500	1,270
12 GHz–18 GHz	3,500	360
18 GHz–40 GHz	2,100	750

As discussed above, these special conditions would be applicable initially to the modified Model DC9–10, –20, –30, –40, –50. Should JanzAir apply at a later date for a supplemental type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well, under the provisions of § 21.101(a)(1).

Under standard practice, the effective date of final special conditions would be 30 days after the date of publication in the **Federal Register**. However, as issuance of the supplemental type certificate for the JanzAir modified DC9 airplane is planned for March 22, 1996, the FAA finds that good cause exists for making these special conditions effective upon issuance.

Conclusion

This action affects certain design features only on the modified DC9–10, –20, –30, –40, –50 airplane. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Federal Aviation Administration, Reporting and record keeping requirements.

The authority citation for these proposed special conditions is as follows:

Authority: 49 U.S.C. app. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2), 42 U.S.C. 1857f–10, 4321 et seq., E.O. 11514; and 49 U.S.C. 106(g).

The Special Conditions

Accordingly, the following special conditions are issued as part of the type certification basis for the JanzAir modified DC9–10, –20, –30, –40, –50 airplanes.

1. *Protection from Unwanted Effects of High-Intensity Radiated Fields (HIRF).* Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high-intensity radiated fields.

2. For the purpose of this special conditions, the following definition applies: *Critical Functions.* Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on March 14, 1996.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–100.

[FR Doc. 96–7000 Filed 3–21–96; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 94P–0216]

Food Labeling: Nutrient Content Claim for "Extra"

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its food labeling regulations to include the term "extra" as a synonym for the term "added." This action is in response to FDA's decision to grant a citizen petition for the synonym filed by Darigold, Inc. FDA concludes that the term "extra" is a clear and unambiguous synonym for "more" and is consistent with the term "added."

DATES: The regulation is effective March 22, 1996; comments by April 22, 1996.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), 12420 Parklawn Dr., rm 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joyce J. Saltsman, Center for Food Safety and Applied Nutrition (HFS–165), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–5916.

SUPPLEMENTARY INFORMATION:

Section 403(r)(4) of the Federal Food, Drug, and Cosmetic Act (the act) provides that any person may petition the Secretary of Health and Human Services (and, by delegation, FDA) to approve nutrient content claims that are not specifically provided for in FDA's regulations. In the **Federal Register** of January 6, 1993 (58 FR 2302), FDA published a final rule entitled "Food Labeling: Nutrient Content Claims, General Principles, Petitions, Definition of Terms; Definitions of Nutrient Content Claims for the Fat, Fatty Acid, and Cholesterol Content of Food" (hereinafter referred to as "nutrient content claims final rule"). That final rule, among other things, defined specific nutrient content claims that included the terms "good source," "high," and "more" (§ 101.54 (21 CFR 101.54)), and established procedures for the submission and review of petitions regarding the use of nutrient content claims (§ 101.69 (21 CFR 101.69)). Section 101.69(n) establishes the procedures to petition for use of a synonymous term.

On March 21, 1995, FDA received a petition from Darigold, Inc., P.O. Box 79007, Seattle, WA 98119, to establish the term "extra" as a synonym for the term "more" (Ref. 1). In accordance with procedures established in § 101.69(n), FDA concluded that the term "extra" is a clear and unambiguous synonym for "more" and, in particular, is consistent with the term "added." To evaluate whether the term "extra" and existing terms, such as "more" and "added," have the same meaning, FDA reviewed definitions for the term "extra" in current dictionaries and found that it is common for the term "extra" to be defined as "more than is usual" and "additional." Both meanings clearly relate "extra" to the defined terms "more" and "added." Based on this information, FDA concluded that the term "extra" would be commonly understood to have the same meaning as "more" and "added." It advised the firm of this in a letter dated October 30, 1995 (Ref.2). The agency also explained in the October 30 letter that the term "extra" is most closely synonymous with the term "added" in that it suggests that the labeled food has been altered compared to a similar reference food. Therefore, the agency concluded that the term "extra" as a relative claim must be used in the same way that the term "added" is used, as specified under (§ 101.13(j)(1)(i)(B) (21 CFR 101.13(j)(1)(i)(B)).

In § 101.69(n)(4), FDA stated that as soon as practicable following the agency's decision to either grant or deny a petition for a synonymous term, it would publish a notice in the **Federal Register** informing the public of its decision, and that if it grants the petition, FDA will list the term in its nutrient content claims regulation. Therefore, in this document, the agency is amending §§ 101.13(j) and 101.54(e) to include the term "extra" as a synonym for the term "added."

I. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a. m. and 4 p. m., Monday through Friday.

1. Darigold, Inc., "Petition for Synonymous Term 'Extra'," March 18, 1994 [CP1].

2. Scarbrough, F. Edward, CFSAN, FDA, Letter to Douglas C. Marshall, Darigold, Inc., October 30, 1995 [PAV1].

II. Environmental Impact

The agency has determined under 21 CFR 25.24(a)(11) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

III. Analysis of Impact

FDA has examined the economic implications of the final rule amending 21 CFR part 101 as required by Executive Order 12866 and the Regulatory Flexibility Act (Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches which maximize net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). The Regulatory Flexibility Act requires analyzing options for regulatory relief for small businesses. This rule provides added flexibility to existing rules governing nutrient content claims. FDA finds that this final rule is not a significant rule as defined by Executive Order 12866. In addition, in accordance with the Regulatory Flexibility Act, the agency certifies that the final rule will not have a significant impact on a substantial number of small businesses.

IV. Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et. seq.).

V. Public Comment

FDA, for good cause, finds that this final rule is announcing an agency decision reached in accordance with a procedure established by statute, and that notice and public procedure thereon are unnecessary. However, in accordance with 21 CFR 10.40(e)(1), FDA is providing 30 days for comment on whether the announced action should be modified or revoked.

Interested persons may, on or before April 22, 1996, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 101

Food labeling, Nutrition, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 101 is amended as follows:

PART 101—FOOD LABELING

1. The authority citation for 21 CFR part 101 continues to read as follows:

Authority: Secs. 4, 5, 6 of the Fair Packaging and Labeling Act (15 U.S.C. 1453, 1454, 1455); secs. 201, 301, 402, 403, 409, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 342, 343, 348, 371).

§ 101.13 [Amended]

2. Section 101.13 *Nutrient content claims—general principles* is amended in paragraph (j)(1)(i)(B) by adding the word "extra," before the word "fortified".

§ 101.54 [Amended]

3. Section 101.54 *Nutrient content claims for "good source," "high," and "more,"* is amended in the first sentence of the introductory text of paragraphs (e)(1) and (e)(2) by removing the words "'enriched,' and 'added'", and adding in their place the words "'enriched,' 'added,' and 'extra'".

Dated: March 14, 1996.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 96–6942 Filed 3–21–96; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AH96

Travel Time; Removal of Obsolete Provisions From the CFR

AGENCY: Department of Veterans Affairs.

ACTION: Correcting amendments.

SUMMARY: In a document published in the **Federal Register** on June 29, 1976 (41 FR 26681), we deleted the material currently included in paragraphs (i), (ii), and (iii) of 38 CFR 3.6(b)(7). These paragraphs concerned travel-time provisions for determining whether a person was on "active duty" for purposes of VA-benefit eligibility. They were deleted because they were obsolete and no longer served any purpose. Inadvertently, the deletions were never reflected in the Code of Federal Regulations. Accordingly, this document makes a correction in the Code of Federal Regulations by deleting said paragraphs (b)(7) (i), (ii), and (iii).

EFFECTIVE DATE: March 22, 1996.

FOR FURTHER INFORMATION CONTACT: Paul Trowbridge, Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, telephone (202) 273–7210.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Veterans.

Accordingly, 38 CFR part 3 is corrected as follows:

PART 3—ADJUDICATION

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

§ 3.6 [Corrected]

2. Section 3.6 is amended by removing paragraphs (b)(7) (i), (ii), and (iii).

Dated: March 15, 1996.

Thomas O. Gessel,

Director, Office of Regulations Management, Office of General Counsel.

[FR Doc. 96–6800 Filed 3–21–96; 8:45 am]

BILLING CODE 8320–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MA–18–01–7262a; A–1–FRL–5427–6]

Approval and Promulgation of Air Quality Implementation Plans; Rhode Island: Emissions Caps

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Rhode Island. This revision approves Air Pollution Control Act (APC) 29.3 entitled "Emissions Caps," into the Rhode Island SIP. The intended effect of this action is to approve a SIP revision by the State of Rhode Island to incorporate regulations for the issuance of federally enforceable operating permits which restrict sources' potential to emit criteria

pollutants such that sources can avoid reasonably available control technology (RACT), title V operating permit requirements, or otherwise applicable requirements. This action also extends federal enforceability to limits on hazardous air pollutants (HAPs). This action is being taken in accordance with sections 110 and 112(l) of the Clean Air Act.

DATES: This action is effective May 21, 1996, unless notice is received April 22, 1996, that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Dave Fierra Director, Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203–2211. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, S.W., (LE–131), Washington, D.C. 20460; and Division of Air and Hazardous Materials Division of Rhode Island Department of Environmental Management, 291 Promenade Street, Providence, Rhode Island 02908.

FOR FURTHER INFORMATION CONTACT: Ida Gagnon (617) 565–3500.

SUPPLEMENTARY INFORMATION: On May 22, 1995, the State of Rhode Island submitted a formal revision to its State Implementation Plan (SIP) to incorporate regulations for the issuance of federally enforceable operating permits. The revision consists of the addition of APC 23.9 entitled "Emissions Caps." The State of Rhode Island adopted these regulations in order to have the authority to issue federally enforceable operating permits under its SIP. In order to extend the federal enforceability of state operating permits to hazardous air pollutants (HAPs), EPA is also approving this regulation pursuant to section 112(l) of the Act.

Summary of SIP Revision

The State of Rhode Island's principal purpose for adopting the operating permit regulations of APC 29.3 is to have a federally enforceable means of expeditiously restricting potential emissions such that sources can avoid RACT, title V operating permit requirements, or otherwise applicable requirements, as well as reduce annual compliance fees. The operating permit provisions in title V of the Clean Air Act Amendments of 1990 have created additional interest in mechanisms for limiting sources' potential to emit, thereby allowing the sources to avoid being defined as "major" with respect to title V operating permit programs. A key mechanism for such limitations is the use of federally enforceable state operating permits (FESOPs). The EPA issued general guidance on FESOPs in the **Federal Register** on June 28, 1989 (54 FR 27274). This rule making evaluates whether Rhode Island has satisfied the requirements for this type of federally enforceable limitation on potential to emit. Each of the five criteria, as specified in the **Federal Register** of June 28, 1989, for approval of a state's program for the issuance of FESOPs under its SIP and how the state's submittal satisfies those criteria are presented below:

Criterion 1. The state's operating permit program (i.e. the regulations or other administrative framework describing how such permits are issued) must be submitted to and approved by EPA as a SIP revision: On May 22, 1995, the State of Rhode Island submitted an administratively and technically complete SIP revision request to EPA consisting of Air Pollution Control Regulation No. 29.3 "Emissions Caps." That SIP revision is the subject of this rule making action.

Criterion 2. The SIP revision must impose a legal obligation that operating permit holders adhere to the terms and limitations of such permits (or subsequent revisions of the permit made in accordance with the approved operating permit program) and provide that permits which do not conform to the operating permit program requirements and the requirements of EPA's underlying regulations may be deemed not "federally enforceable" by EPA: APC 29.3.5(b) requires sources to obtain permits to operate and authorizes Rhode Island to establish terms and conditions in these permits that are federally enforceable to "ensure that emissions are limited by quantifiable and enforceable means." Additionally, 29.3.9 requires that no source may operate after the time it is required to submit a timely and complete application for an operating permit under APC 29, except in compliance with an emissions cap or an operating permit.

Criterion 3. The state operating permit program must require that all emission limitations, controls, and other requirements imposed by such permits will be at least as stringent as any applicable limitations and requirements contained in the SIP, or enforceable under the SIP, and that the program may not issue permits that waive, or make less stringent, any limitations or requirements contained in or issued pursuant to the SIP, or that are otherwise "federally enforceable" (e.g. standards established under Section 111 and 112 of the Clean Air Act): APC 29.3.5 contains regulatory provisions which state the emissions cap issued by the Division will be at least as stringent as any applicable requirement and the emissions cap will not waive or make less stringent any applicable requirement. Applicable requirement is defined in APC 29 to include all SIP requirements.

Criterion 4. The limitations, controls, and requirements of the state's operating permits must be permanent, quantifiable, and otherwise enforceable as a practical matter: APC 29.3.5 and 29.3.7 contain regulatory provisions which satisfy this criterion. Emission cap permits must be renewed every five years, but remain enforceable pending DEM's action and timely renewal application. In addition, subparagraphs 29.3.5(b) and (c) require that permit restrictions contain combinations of production and/or operational limitations to ensure emissions are limited by quantifiable and enforceable means, including keeping sufficient records to show limitations are followed.

Criterion 5. The state operating permits must be issued subject to public participation. This means that the state agrees, as part of its program, to provide EPA and the public with timely notice of the proposal and issuance of such permits, and to provide EPA, on a timely basis, with a copy of each proposed (or draft) and final permit intended to be "federally enforceable." This process must also provide for an opportunity for public comment on the permit applications prior to issuance of the final permits: APC 29.3.6 contains provisions that the Division will either deny the emissions cap or give public notice of its intention to issue an emissions cap. The general public will be notified of DEM's intention to issue an emissions cap by publishing a notice in a newspaper. The applicant, EPA, city or town executives where a source is located, and persons who request to be on a mailing list will be sent a copy of the notice.

The State of Rhode Island has also requested approval of its Emissions Caps program under section 112(l) of the Act for the purpose of creating federally enforceable limitations on the potential to emit of HAPs. Approval under section 112(l) is necessary

because the SIP approval discussed above only extends to criteria pollutants for which EPA has established national ambient air quality standards under section 109 of the Act. Federally enforceable limits on criteria pollutants or their precursors (i.e., VOCs or PM–10) may have the incidental effect of limiting certain HAPs listed pursuant to section 112(b).[1] As a legal matter, no additional program approval by the EPA is required beyond SIP approval under section 110 in order for these criteria pollutant limits to be recognized as federally enforceable. However, section 112 of the Act provides the underlying authority for controlling *all* HAP emissions, regardless of their relationship to criteria pollutant controls.

The EPA has determined that the five approval criteria for approving FESOP programs into the SIP, as specified in the June 28, 1989 **Federal Register** notice, are also appropriate for evaluating and approving the programs under section 112(l). The June 28, 1989 notice does not address HAPs because it was written prior to the 1990 amendments to section 112. The June 28, 1989 criteria are basic principles which are not unique to criteria pollutants. Therefore, the five criteria discussed above are applicable to FESOP approvals under section 112(l) as well as under section 110.

In addition to meeting the criteria in the June 28, 1989 notice, a FESOP program for HAPs must meet the statutory criteria for approval under section 112(l)(5). Section 112(l) allows the EPA to approve a program only if the program: (1) Contains adequate authority to assure compliance with any section 112 standard or requirement; (2) provides for adequate resources; (3) provides for an expeditious schedule for assuring compliance with section 112 requirements; and (4) is otherwise likely to satisfy the objectives of the Act.

The EPA plans to codify the approval criteria for programs limiting potential to emit HAPs, in Subpart E of Part 63, the regulations promulgated to implement section 112(l) of the Act. (See 58 FR 62262, November 26, 1993.) The EPA currently anticipates that these regulatory criteria, as they apply to FESOP programs, will mirror those set forth in the June 28, 1989 notice. FESOP programs approved pursuant to section 112(l) prior to the planned Subpart E revisions will be approved as meeting the criteria in EPA's June, 1989 notice. Therefore, further approval actions for those programs will not be necessary.

The EPA believes it has authority under section 112(l) to approve programs to limit potential to emit HAPs directly under section 112(l) prior to this revision to Subpart E. EPA is therefore approving Rhode Island's Emissions Caps program now so that Rhode Island may begin to issue federally enforceable synthetic minor permits as soon as possible.

Regarding the statutory criteria of section 112(l)(5) referred to above, the EPA believes Rhode Island's Emissions Caps program contains adequate authority to assure compliance with section 112 requirements since the third criterion of the June 28, 1989 notice is met, that is, the program in APC 29.3.5 states that all requirements in the Emissions Caps program must be at least as stringent as all other applicable federally enforceable requirements. In connection with EPA's review of Rhode Island's title V operating permit program, EPA has also conducted an extensive analysis of Rhode Island's underlying authority to enforce HAP limits. Please note that a source which receives an Emissions Caps permit may still need a title V operating permit under APC 29 if EPA promulgates a MACT standard which requires non-major sources to obtain title V permits.

Regarding the requirement for adequate resources, the EPA believes Rhode Island has demonstrated that it can provide for adequate resources to support the Emissions Caps program through an annual compliance/assurance fee and a permit fee. EPA believes this mechanism will be sufficient to provide for adequate resources to implement this program. For more information regarding the fees program, refer to the Technical Support Document.

The EPA also believes that Rhode Island's Emissions Cap program provides for an expeditious schedule which assures compliance with section 112 requirements. This program will be used to allow a source to establish a voluntary limit on potential to emit to avoid being subject to a CAA requirement applicable on a particular date. Nothing in Rhode Island's program would allow a source to avoid or delay compliance with a CAA requirement if it fails to obtain an appropriate federally enforceable limit by the relevant deadline. Finally, the EPA believes it is consistent with the intent of section 112 and the Act for States to provide a mechanism through which sources may avoid classification as a major source by obtaining a federally enforceable limit on potential to emit. EPA has long recognized federally-enforceable emissions or operational limits as a means to stay below major source thresholds under the Act. This approval merely applies the same principles to another set of pollutants and regulatory requirements under the Act.

The EPA's review of this SIP revision indicates the criteria for approval as provided in the June 28, 1989 **Federal Register** notice (54 FR 27282) and in section 112(l)(5) of the Act have been satisfied.

During the development of this rule, EPA and Rhode Island have been asked whether permits the State has issued pursuant to these regulations prior to today's action approving this program into the SIP are nevertheless federally enforceable. In the preamble to the regulations that EPA promulgated on June 28, 1989 (54 FR 27274), which set forth the five criteria outlined above for a federally enforceable operating permit program, EPA indicated that it would "consult with States on methods by which existing operating permits could be made federally enforceable under a subsequently approved State operating permits program." 54 FR at 27284. The preamble went on to discuss options for securing EPA approval of previously issued permits. As EPA concluded in its approval of the Illinois FESOP program (57 FR at 59931 (Dec. 17, 1992)), these options were not intended to be a complete list of alternatives. To avoid burdensome requirements to reprocess each previously issued permit, EPA will use the same approach announced in that Illinois approval for determining whether such permits are federally enforceable and for ratifying their status as enforceable under the approved SIP.

EPA today finds the existing Rhode Island regulations to be consistent with federal requirements. If the State followed its own procedures, each permit issued under this regulation was subject to public notice and comment, with notice to EPA. Moreover, the regulation requires each permit to be enforceable as a practical matter. Therefore, EPA will consider all previously issued operating permits which were processed in a manner consistent with the State regulations federally enforceable with the promulgation of this rule, provided that any permits the State wishes to make federally enforceable are submitted to EPA and are accompanied by documentation that the procedures approved today were followed in issuing the permit.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse

[1] The EPA issued guidance on January 25, 1995 addressing the technical aspects of how these criteria pollutant limits may be recognized for purposes of limiting a source's potential to emit of HAP to below section 112 major source levels.

comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective May 21, 1996, unless adverse or critical comments are received by April 22, 1996.

If EPA receives such comments, this action will be withdrawn before the effective date by simultaneously publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on May 21, 1996.

Final Action

EPA is approving APC 29.3 "Emissions Caps" effective in the State of Rhode Island on May 18, 1995 under sections 110 and 112(l) of the CAAA.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et. seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110, section 112(l), and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410 (a)(2).

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. A future document will inform the general public of these tables.

The OMB has exempted this action from review under Executive Order 12866.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 21, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the action promulgated today does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Note: Incorporation by reference of the State Implementation Plan for the State of Rhode Island was approved by the Director of the Federal Register on July 1, 1982.

Dated: January 30, 1996.

John P. DeVillars,

Regional Administrator, Region I.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart OO—Rhode Island

2. Section 52.2070 is amended by adding paragraph (c)(45) to read as follows:

§ 52.2070 Identification of plan.

* * * * *

(c) * * *

(45) Revisions to the State Implementation Plan submitted by the Rhode Island Department of Environmental Management on May 15, 1995

(i) Incorporation by reference.

(A) Letter from the Rhode Island Department of Environmental Protection dated May 15, 1995 submitting a revision to the Rhode Island State Implementation Plan.

(B) Air Pollution Control Regulation 29.3 "Emissions Caps"; effective in the State of Rhode Island on May 18, 1995.

(ii) Additional materials.

(A) Non-regulatory portions of the submittal.

3. In § 52.2081 Table 52.2081 is amended by adding new entry for state citation APC 29.3 to read as follows:

§ 52.2081 EPA-Approved Rhode Island State regulations.

* * * * *

State citation	Title/subject	Date adopted by State	Date approved by EPA	Federal Register citation	52.2070 (45) Comments/unapproved sections
•	•	•	•	•	• • •
No. 29.3	EMISSIONS	4/28/95	March 22, 1996	[Insert FR citation from published date].	This rule limits a source's potential to emit, therefore avoiding RACT, title V operating permits.
•	•	•	•	•	• • •

[FR Doc. 96–6601 Filed 3–21–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[WI64–01–7169a; FRL–5437–3]

Approval and Promulgation of State Implementation Plan; Wisconsin; Rate-of-Progress and Contingency Plans

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: In this action, USEPA is approving a revision to the Wisconsin State Implementation Plan (SIP) for the purpose of satisfying the rate-of-progress and contingency plan requirements of the Clean Air Act (Act) which will aid in ensuring the attainment of the national ambient air quality (NAAQS) for ozone.

DATES: This "direct final" rule will be effective May 21, 1996, unless USEPA receives adverse or critical comments by April 22, 1996. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to: Carlton T. Nash, United States Environmental Protection Agency, Region 5, Air and Radiation Division, Air Programs Branch (AR–18J), 77 West Jackson Boulevard, Chicago, Illinois, 60604.

Copies of the documents relevant to this action are available at the above address for public inspection during normal business hours.

FOR FURTHER INFORMATION CONTACT: Brad J. Beeson at (312) 353–4779.

SUPPLEMENTARY INFORMATION:

I. Background

On November 15, 1990, Congress enacted amendments to the 1977 Clean Air Act (CAA); Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. Section 182(b)(1) of the CAA requires all ozone nonattainment areas classified as moderate and above to submit a SIP revision by November 15, 1993, which describes, in part, how these areas will achieve an actual emissions reduction of at least 15 percent during the first 6 years after enactment of the CAA (November 15, 1996). Emissions and emissions reductions shall be calculated on a typical weekday basis for the "peak" 3-month ozone period (generally June through August).

The 15 percent VOC emissions reduction required by November 15, 1996 is defined within this document as "rate-of-progress." Furthermore, the portion of the SIP revision that illustrates the plan for the achievement of the emissions reduction is subsequently defined in this document as the "rate-of-progress plan."

In addition, section 172(c)(9) requires moderate and above areas to adopt contingency measures by November 15, 1993. The General Preamble states that the contingency measures generally must provide reductions of 3 percent of the emissions from the adjusted base year inventory. While all contingency measures must be fully adopted rules or measures, the State can use these measures in 2 different ways. The State can use its discretion to implement any contingency measures it wants before 1996. Alternatively, the State may decide not to implement a measure until the area has failed to either make rate-of-progress or attain the national ambient air quality standards (NAAQS). In that situation, the reductions must be achieved in the year following that in which the failure has been identified.

II. Wisconsin's SIP Submittal

The Act requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission to USEPA. Section 110(a)(2) of the Act provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing. Section 110(l) of the Act similarly provides that each revision to an implementation plan submitted by a State under the Act must be adopted by such State after reasonable notice and public hearing.

The State of Wisconsin held a public hearing on October 14, 1993, to receive public comment on the implementation plan for their moderate and above ozone nonattainment areas. Following the public hearing the plan was adopted by the State Natural Resources Board and signed by the Governor's designee, George Meyer on September 9, 1993, and submitted to USEPA on November 15, 1993 as a proposed revision to the SIP.

The SIP revision was reviewed by USEPA to determine completeness shortly after its submittal, in accordance with the completeness criteria set out at 40 CFR Part 51, Appendix V (1991), as amended by 57 FR 42216 (August 26, 1991). Because neither plan included fully adopted rules for all the measures listed in the plans, these submittals were deemed incomplete.

On July 13, 1995, the State made a supplemental submittal which included fully adopted rules for both the rate-of-progress and contingency plan. On July 18, the State's SIP submittal was deemed complete.

III. The USEPA's Analysis of Wisconsin's Rate-of-Progress and Contingency Plans

The USEPA has reviewed the State's submittal for consistency with the requirements of USEPA regulations. A summary of USEPA's analysis is provided below. More detailed support for approval of the State's submittal is contained in a Technical Support Document (TSD), dated January 10, 1996, which is available from the Region 5 Office, listed above.

A. Accurate Emission Inventory

Sections 172(c)(3) and 182(b)(1) of the Act require that nonattainment plan provisions include a comprehensive, accurate, current inventory of actual emissions from all sources of relevant pollutants in the nonattainment area. Because the approval of such inventories is necessary to an area's rate-of-progress plan and attainment demonstration, the emission inventory must be approved prior to or with the rate-of-progress plan submission.

On June 15, 1994, USEPA approved Wisconsin's base year inventory. Therefore, Wisconsin has a comprehensive, accurate, current inventory of actual emissions from all sources of relevant pollutants in the nonattainment area.

B. Calculation of the Adjusted Base Year Inventory

The Act specifies the emission baseline from which the 15 percent reduction is calculated. This baseline value is termed the 1990 adjusted base year inventory. Section 182(b)(1)(D) excludes from the baseline the emissions that would be eliminated by Federal Motor Vehicle Control Program (FMVCP) regulations promulgated by January 1, 1990, and Reid vapor pressure (RVP) regulations (55 FR 23666, June 11, 1990), which require maximum RVP limits in nonattainment areas during the peak ozone season.

The adjusted base year inventory is determined by starting with the emission inventory, and then removing all biogenic emissions as well as emissions from sources located outside of the designated nonattainment boundary. The resulting inventory is termed the rate-of-progress base year inventory. The rate-of-progress base year inventory is then adjusted by removing the expected FMVCP and RVP reductions in order to derive the adjusted base year inventory.

Wisconsin used USEPA's MOBILE5a emission factor model to correctly calculate its adjusted base year inventory. Wisconsin's documentation includes the actual 1990 motor vehicle emissions using 1990 vehicle miles traveled (VMT) and MOBILE5a emission factors, and the adjusted emissions using 1990 VMT and the MOBILE emission factors in calendar year 1996 with the appropriate RVP for the nonattainment area as mandated by USEPA. The plan includes adequate information on how the MOBILE5a model was run to calculate the expected emission reductions from FMVCP and RVP.

As specified by the Act, section 182(b)(1)(B), preenactment banked emission credits were not included in any of Wisconsin's inventories.

Provided below is a tabular summary of the emission inventories calculated above.

Emissions inventory	Tons per day
A. 1990 Base Year Emission Inventory	559.9
B. 1990 Rate-of-Progress Inventory	409.5
C. Emission Reductions from the pre-1990 FMVCP and Phase II RVP expected by 1996	70.2
D. 1990 Adjusted Base Year Inventory (B–C)	339.3

C. Required Reductions

The adjusted base year inventory is multiplied by 0.15 to calculate the amount of the required rate-of-progress emission reduction. The amount of reductions necessary to meet the contingency plan requirement is 3 percent of the adjusted base year inventory. Therefore the adjusted base year inventory is multiplied by 0.03 to calculate the amount of required reductions for the contingency plan requirement.

Shown below is a table summarizing the amount of required reductions for the rate-of-progress and contingency plans.

Inventory	Tons per day
1990 Adjusted Base Year Inventory	339.3
Reduction for Rate-of-Progress Requirement	50.9
Reduction for Contingency Requirement	10.2

Therefore, to meet the rate-of-progress requirement, Wisconsin's plan must provide for at least a 50.9 tons per day (tpd) reduction, net of growth, in VOC emissions. In addition, to meet the contingency requirement, the State's plan must provide for at least a 10.2 tpd reduction, net of growth, in VOC emissions.

Under section 182(b)(1)(D) of the Act, the following reductions are not creditable towards the rate-of-progress reductions: (1) FMVCP regulations promulgated by January 1, 1990; (2) RVP regulations; (3) RACT corrections; and (4) inspection and maintenance (I/M) corrections. Thus, the total expected reductions comprise the amount of reductions necessary to meet the rate-of-progress requirement and the expected reductions from the four noncreditable programs just described.

Wisconsin has documented the correct amount for the total expected reductions in the nonattainment area by showing each step, discussing any assumptions made, and stating the origin of the number used in the calculations.

D. Projected Emission Inventory

Emission projections for sources within an air basin are needed to determine if the rate-of-progress requirements in the Act are met and to determine if the area will attain the NAAQS by the applicable attainment date. The purpose of projecting the emission inventories into the future is not solely to predict what is likely to happen, but also to test the ability of the regulations in the control strategy to meet the rate-of-progress goals and attain the ozone NAAQS.

Growth factors are not included in the calculations of the 1990 adjusted base year inventory or the 1996 target. Growth factors are needed, however, to project emissions to 1996 for the rate-of-progress demonstration as part of the rate-of-progress plan.

Wisconsin has included growth factors documenting assumptions made. The State's calculations for growth in the on-road mobile, industrial, and area source sectors is 11.6, 0.5, and 2.1 tpd respectively. These growth estimations were calculated in a manner consistent with USEPA's guidance.

E. Control Measures

The revision submitted by the State lists a series of control measures projected to achieve a 63.6 tpd reduction in VOC emissions. See the table below for list of the measures and their associated reductions.

Control measure	Expected reductions	Implemented by Nov. 1996
On road mobile sector:		
94–96 tailpipe and evaporative	0.72	✔
I/M and RFG (severe counties)	34.06	✔
I/M (Sheboygan County)	0.98	✔
ECO	1.57	✔
Federal detergent additive rule	0.57	✔
RFG—Class C (moderate counties)	1.50	
RFG—Class B (severe counties)	5.66	
Industrial Sector		
Wood furniture coating	2.38	✔
Misc. wood product coating	0.91	✔

Control measure	Expected reductions	Implemented by Nov. 1996
Yeast manufacturing	0.73	✔
Screen printing controls	0.12	✔
Foundries—gray iron and steel	0.06	✔
Industrial adhesives	0.21	✔
Lithography	0.58	✔
Degreasing	2.01	✔
Area Sources		
AIM coatings	3.77	✔
Autobody refinishing	2.91	✔
RFG (off-road)	1.56	✔
Federal non-road engine standards	0.87	✔
Stage II vapor recovery	7.70	✔
Traffic markings	3.62	✔
Gas station tank breathing	0.91	✔
Consumer and commercial products	2.80	✔

F. Rate-of-Progress and Contingency Plan Demonstrations

Overall, a State's rate-of-progress and contingency plans must provide for an 18 percent reduction in VOC emissions, of which rules for 15 percent must be implemented by November 15, 1996. For Wisconsin this means that at a minimum the State's plan must provide for a 61.1 tpd reduction in VOCs, of which at least 50.9 tpd of these reductions must be achieved by November 15, 1996.

The State's plan provides for a 62.0 tpd reduction, net of growth, in VOCs of which 54.8 tpd will be accomplished by November 15, 1996. For measures not implemented by 1996, Wisconsin's SIP clearly states the trigger mechanisms, a schedule of the implementation of the measures, and an indication that the measures will be implemented with no further action by the State or USEPA (e.g., additional rulemaking actions such as public hearings or legislative review). Therefore the State's plan meets the minimum program requirements.

G. Enforceability Issues

All measures and other elements in the SIP must be enforceable by the State and USEPA (see sections 172(c)(6), 110(a)(2)(A) of the Act, and 57 FR 13556). The USEPA criteria addressing the enforceability of SIP's and SIP revisions were stated in a September 23, 1987 memorandum (with attachments) from J. Craig Potter, Assistant Administrator for Air and Radiation (see 57 FR 13541). Nonattainment area plan provisions must also contain a program that provides for enforcement of the control measures and other elements in the SIP [see section 110(a)(2)(C) of the Act].

Each rule has been or will be independently reviewed and approved by USEPA as part of the State's SIP. Part of this review process includes a review of the enforceability of the rule. Rules that are not enforceable will not be approved by USEPA.

H. Concluding Statement

The USEPA has reviewed Wisconsin's rate-of-progress and contingency plan SIP revisions submitted to USEPA as described above. The materials contained in these SIP revisions represent an acceptable approach to the rate-of-progress and contingency plan requirements and meet all the criteria required for approvability.

IV. Action

The USEPA approves Wisconsin's rate-of-progress and contingency plan SIP submittals. With this action, USEPA incorporates Wisconsin's rate-of-progress and contingency plan SIP revision into the SIP, making them federally enforceable.

For the purposes of transportation conformity determinations, final approval of this rate-of-progress plan revision would eliminate the need for a build/no-build test for VOC for the 1996 analysis year. However, for analysis years later than 1996, conformity determinations addressing VOC must demonstrate consistency with this plan revision's motor vehicle emissions budget, consistency with the VOC motor vehicle emissions budget in the submitted (but not yet approved) attainment demonstration (if any), and satisfaction of the build/no-build test (until the attainment demonstration is approved). Final approval of this rate-of-progress plan revision would not eliminate the need for a build/no-build test for NO_x for the 1996 analysis year.

Because USEPA considers this action noncontroversial and routine, we are approving it without prior proposal. This action will become effective on May 21, 1996. However, if we receive significant adverse comments by April 22, 1996, USEPA will publish a notice that modifies or withdraws this action.

V. Miscellaneous.

A. Applicability to Future SIP Decisions

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. The USEPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

B. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from E.O. 12866 review.

C. Regulatory Flexibility.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

This approval does not create any new requirements. Therefore, I certify that this action does not have a significant impact on any small entities

affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of the regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (1976).

D. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, USEPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, USEPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires USEPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The USEPA has determined that the approval action promulgated today does not include a Federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector.

This Federal action approves pre-existing requirements under state or local law, and imposes no new Federal requirements. Accordingly, no additional costs to state, local, or tribal governments, or the private sector, result from this action.

E. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 21, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: January 26, 1996.

Valdas V. Adamkus,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart YY—Wisconsin

2. Section 52.2570 is amended by adding paragraph (c)(87) to read as follows:

§ 52.2570 Identification of plan.

* * * * *

(c) * * *

(91) The State of Wisconsin requested a revision to the Wisconsin State Implementation Plan (SIP). This revision is for the purpose of satisfying the rate-of-progress requirement of section 182(b) and the contingency measure requirement of section 172(c)(9) of the Clean Air Act (Act) which will aid in ensuring the attainment of the national ambient air quality standard (NAAQS) for ozone.

(i) Incorporation by reference.

(A) Wisconsin Statutes, sections 144.31(1)(e) and (f), enacted on April 30, 1992, by Wisconsin Act 302.

[FR Doc. 96–6779 Filed 3–21–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 70

[KY–JEFF–96–01; FRL–5445–7]

Clean Air Act Approval of Operating Permits Program; Jefferson County, Kentucky

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final full approval.

SUMMARY: The EPA is promulgating full approval of the Operating Permits Program submitted by the Jefferson County, Kentucky Air Pollution Control District (District) located in the geographic area of Jefferson County, Kentucky. The Jefferson County, Kentucky program was submitted for the purpose of complying with Federal requirements which mandate that state and local agencies develop, and submit to EPA programs for issuing operating permits to all major stationary sources, and to certain other sources.

EFFECTIVE DATE: April 22, 1996.

ADDRESSES: Copies of the District's submittal and other supporting information used in developing the final full approval are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 4, 345 Courtland Street NE, Atlanta, Georgia 30365, on the 3rd floor of the Tower Building. Interested persons wanting to examine these documents, contained in EPA docket number KY–JEFF–96–01, should make an appointment at least 24 hours before the visiting day.

FOR FURTHER INFORMATION CONTACT: Leonardo Ceron, Title V Program Development Team, Air Programs Branch, Air, Pesticides & Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 345 Courtland Street, NE., Atlanta, GA 30365, (404) 347–3555 extension 4196.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

Title V of the 1990 Clean Air Act Amendments (Section 501–507 of the Clean Air Act ("the Act")), and implementing regulations at 40 Code of Federal Regulations (CFR) part 70 require that states or authorized local agencies develop and submit operating permits programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within one year after receiving the submittal. EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant interim approval for a period of up to two years. If EPA has not fully approved a program by November 15, 1995, or by the end of the interim program, it must establish and implement a Federal Program.

On November 24, 1995, EPA proposed full approval, or in the alternative, interim approval of the operating permits program for the Jefferson County, Kentucky, Air Pollution Control District. *See* 60 FR 58033. The November 24, 1995, notice also proposed approval of the District's interim mechanism for implementing section 112(g) and for delegation of section 112 standards as promulgated. EPA did not receive any comments on the proposal. On February 16, 1996, the District submitted a package containing revisions to the operating permits program, which addressed the deficiency discussed in the full/interim approval notice. As required by 40 CFR 70.6(g), the District adopted revisions to Regulation 1.07, section 2.2, to ensure that excess emissions due to emergency situations are classified as a violation of an existing permit. Specifically the new regulation 1.07, section 2.2, reads as follows: "Notwithstanding the provisions of section 2.1, if a federal regulation requires compliance with emissions standards during startup, shutdown, malfunction, or emergency, excess emissions resulting from any of these events shall be deemed in violation of those standards even though, based upon a showing by the owner or operator of the source and an affirmative determination by the district, the applicable requirements identified in section 2.1 are satisfied." Additionally, 40 CFR 70.6(g) required the District to adopt revisions to Regulation 1.07, section 2.1, to only allow sources the use of the legal mechanism of "affirmative defense" when excess emissions are emitted from a source during an emergency situation. Specifically, the new Regulation 1.07, section 2.2 reads as follows: "However, in the case of technology-based federal emission standards, an emergency shall constitute an affirmative defense to an enforcement action brought for noncompliance with these emission standards if, based upon a showing by the owner or operator of the source and an affirmative determination by the District, the requirements of section 5 are met." It is EPA's understanding that the District's sections 2.1 and 2.2 allow sources to use the legal mechanism of affirmative defense on federally mandated emission limits, when a federally promulgated emission standards has been violated during emergencies situations as defined in Regulation 1.07, section 5. These changes became locally effective on January 17, 1996.

In this action, EPA is promulgating full approval of the Jefferson County, Kentucky operating permits program, and approving the section 112(g) and section 112(l) mechanisms noted above.

II. Final Action and Implications

A. Title V Operating Permits Program

The EPA is promulgating full approval of the operating permits program submitted by the Jefferson County, Kentucky, Air Pollution Control District, on February 1, 1994, and supplemented on November 15, 1994; May 3, 1995; July 14, 1995; and February 16, 1996. The November 24, 1995, notice established that the District would receive full approval of its program if changes to Regulation 1.07, sections 2.1 and 2.2 were adopted prior to final promulgation. Such changes became locally effective on January 17, 1996. The District has demonstrated that the program will be adequate to meet the minimum elements of a state or local operating permits program as specified in 40 CFR part 70.

The scope of the District's part 70 program approved in this notice applies to all part 70 sources (as defined in the approved program) within Jefferson County, Kentucky, except any sources of air pollution over which an Indian Tribe has jurisdiction. *See, e.g.*, 59 FR 55813, 55815–18 (Nov. 9, 1994). The term "Indian Tribe" is defined under the Act as "any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is Federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians." *See* section 302(r) of the Act; *see also* 59 FR 43956, 43962 (Aug. 25, 1994); 58 FR 54364 (Oct. 21, 1993).

B. Preconstruction Permit Program Implementing Section 112(g)

EPA is approving the use of District's preconstruction program found in Regulation 2.03 as a mechanism to implement section 112(g) during the transition period between promulgation of EPA's section 112(g) rule and the District's adoption of rules specifically designed to implement section 112(g). This approval is limited to the implementation of the 112(g) rule and is effective only during any transition time between the effective date of the 112(g) rule and the adoption of specific rules by the District to implement section 112(g). The duration of this approval is limited to 18 months following promulgation by EPA of section 112(g) regulations to provide the District with adequate time to adopt regulations consistent with Federal requirements.

C. Program for Delegation of Section 112 Standards as Promulgated

Requirements for approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by EPA as they apply to part 70 sources. Section 112(l)(5) requires that the District's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, the EPA is also promulgating approval under section 112(l)(5) and 40 CFR 63.91 of the District's program for receiving delegation of section 112 standards and programs that are unchanged from Federal rules as promulgated. In addition, EPA is approving the delegation of all existing standards and programs under 40 CFR parts 61 and 63. This program for delegation applies to both part 70 sources and non-part 70 sources.

III. Administrative Requirements

A. Docket

Copies of the District's submittal and other information relied upon for the final full approval are contained in docket number KY–JEFF–96–01 maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this final full approval. The docket is available for public inspection at the location listed under the **ADDRESSES** section of this document.

B. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

C. Regulatory Flexibility Act

EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: March 15, 1996.

Phyllis P. Harris,

Acting Deputy Regional Administrator.

Part 70, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, et seq.

2. Appendix A to part 70 is amended by adding the entry for Kentucky in alphabetical order to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Kentucky

(a) Kentucky Natural Resources and Environmental Protection Cabinet: submitted on December 27, 1993, and supplemented on November 15, 1994, April 14, 1995, May 3, 1995 and May 22, 1995; interim approval effective on December 14, 1995; interim approval expires on December 14, 1997.

(b) Air Pollution Control District of Jefferson County, Kentucky: submitted on February 1, 1994, and supplemented on November 15, 1994, May 3, 1995, July 14, 1995 and February 16, 1996; full approval effective on April 22, 1996.

* * * * *

[FR Doc. 96–7035 Filed 3–21–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 799

[OPPTS–42185; FRL–5356–7]

RIN 2070–0033

Testing Consent Order For Alkyl Glycidyl Ethers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final consent agreement and order; final rule.

SUMMARY: Pursuant to the Toxic Substances Control Act (TSCA), EPA has issued a testing consent order (Order) that incorporates an enforceable consent agreement (ECA) with Air Products and Chemicals, Inc., Callaway Chemical Company, Ciba-Geigy Corporation, CVC Specialty Chemicals, and Shell Chemical Company (the Companies). The Companies have agreed to perform certain health effects tests on alkyl (C_{12}-C_{13}) glycidyl ether (CAS No. 120547–52–6), as a representative of the alkyl glycidyl ethers subcategory of EPA's proposed test rule for glycidol and its derivatives. This notice summarizes the ECA, adds alkyl (C_{12}-C_{13}) glycidyl ether to the list of chemical substances and mixtures subject to testing consent orders, and announces that export notification requirements apply to alkyl (C_{12}-C_{13}) glycidyl ether.

EFFECTIVE DATE: March 22, 1996.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Rm. ET–543B, USEPA, 401 M St., SW., Washington, DC 20460; telephone: (202) 554–1404, TDD: (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: This notice amends 40 CFR 799.5000 by adding alkyl (C_{12}-C_{13}) glycidyl ether to the list of chemical substances and mixtures subject to testing consent orders and export notification requirements.

I. Background

Alkyl glycidyl ethers (AGEs) are epoxy resin additives derived from glycidol and are used as modifiers for other epoxides in flooring and adhesives. Their annual production volume is approximately 7 million pounds. Approximately 37,000–69,000 workers may be exposed to AGEs.

In its Third Report to the EPA Administrator, published in the **Federal Register** on October 30, 1978 (43 FR 50630), the TSCA section 4 Interagency Testing Committee (ITC) designated the category glycidol and its derivatives (collectively referred to as "glycidyls") for priority consideration for health effects testing with regard to the following endpoints: Carcinogenicity, mutagenicity, teratogenicity, and other adverse health effects, with particular emphasis on the reproductive system. Epidemiological studies were also recommended. The rationale for the original designation is discussed in the same **Federal Register** notice. This chemical category was defined by the ITC as all substances with the general formula:

$$R\text{–}O\text{–}CH_2CH(O)CH_2$$

where R is a hydrogen atom or any alkyl, aryl, or acyl group. R is unrestricted as to the number and type of substituents it may carry.

On December 30, 1983, EPA published an advanced notice of proposed rulemaking (ANPRM) (FRL–2480–7) in the **Federal Register** (48 FR 57562) to require testing glycidyls under section 4(a) of TSCA.

In the November 7, 1991 issue of the **Federal Register** (56 FR 57144), EPA published a notice of proposed rulemaking (FRL–3736–2) for testing the category glycidol and its derivatives. Unit I.D. of the notice described EPA's evaluation of the testing needs for glycidyls. The proposal contained testing requirements for, among others, the following chemical substances: lauryl glycidyl ether (CAS No. 2461–18–9); hexadecyl glycidyl ether (CAS No. 15965–99–8); *n*-octadecyl glycidyl ether (CAS No. 16245–97–9); tetradecyl glycidyl ether (CAS No. 38954–75–5); alkyl (C_{10}-C_{16}) glycidyl ether (CAS No. 68081–84–5); and alkyl (C_{12}-C_{14}) glycidyl ether (CAS No. 68609–97–2). The proposal designated these chemical substances as subcategory II-A.

The November 7, 1991, notice proposed that manufacturers of subcategory II-A chemical substances conduct tests on a representative member of the subcategory for the following endpoints: Subchronic toxicity, developmental toxicity, subchronic neurotoxicity (functional observational battery, motor activity, and neuropathology), and genetic toxicology (immediately required testing—the *salmonella typhimurium* reverse mutation assay; *in vitro* mammalian bone marrow cytogenetics; and *in vivo* mammalian bone marrow cytogenetics tests: chromosomal analysis or micronucleus assay).

II. Enforceable Consent Agreement Negotiations

On July 17, 1992, EPA published a **Federal Register** notice (57 FR 31714) (FRL–4078–9) announcing an "open season". The open season was a time during which industry and other interested parties could submit to EPA proposals for enforceable consent agreements (ECAs) to test chemical substances for which the Agency had not issued final test rules. In that notice, EPA indicated that it would review the submissions and select candidates for negotiation of ECAs pursuant to 40 CFR 790.22. EPA also indicated that it would, at a future date, publish a **Federal Register** notice soliciting persons interested in participating in or monitoring negotiations for the development of ECAs on the chemical substances selected.

On September 15, 1992, the Companies submitted a proposal (Ref. 1) for a categorization scheme and a testing program that would be an alternative to that described in the proposed test rule for the category glycidol and its derivatives. The Companies proposed a testing program for, among others, a representative of the subcategory II-A chemical substances. On April 26, 1993, the Companies made another proposal (Ref. 2) that expanded the scope of the testing program.

On August 18, 1993, EPA published a **Federal Register** notice (58 FR 43893) (FRL–4639–5) that solicited interested parties to participate in or monitor ECA negotiations on subcategory II-A chemical substances.

On November 30, 1994, the Companies submitted a draft proposed ECA (Ref. 3) that revised the material that they had previously submitted in this matter. The Companies proposed as the test substance alkyl (C_{12}-C_{13}) glycidyl ether (CAS No. 120547–52–6) which is subsumed within the six subcategory II-A substances (60 FR 31154, June 13, 1995) (FRL–4960–3). These seven chemicals are referred to as alkyl glycidyl ethers (AGEs). The Companies proposed the following tests—subchronic toxicity (with an assessment of testicular toxicity), developmental toxicity, subchronic neurotoxicity (functional observational battery, motor activity, neuropathology, and electrophysiology), and genetic toxicity (*in vivo* mammalian bone marrow cytogenetics test: micronucleus assay). In addition, the Companies offered to undertake voluntarily a product stewardship program to address the potential health and environmental hazards associated with AGEs in the workplace.

On June 13, 1995, EPA published a **Federal Register** notice (60 FR 31154) (FRL–4960–3) that resolicited interested parties to negotiate an ECA for AGEs, and announced a public meeting for this negotiation. EPA held the public meeting, which was attended by representatives of the Companies and other interested parties, on July 26, 1995. During the public meeting and following the meeting (Refs. 4, 5, 6, and 7), consensus was reached on the ECA, with alkyl (C_{12}-C_{13}) glycidyl ether to be tested as a representative of AGEs, and on the tests to be included in the ECA (see table 1 in Unit IV of this preamble). On January 22, 1996, EPA received the ECA and a memorandum of understanding (MOU) for a product stewardship program, both signed by the Companies.

On March 15, 1996, EPA signed the ECA and accompanying Order, and the MOU.

III. Proposed Test Rule

EPA has decided not to finalize the proposed test rule for AGEs contained in the proposed test rule for the category glycidol and its derivatives (56 FR 57144, November 7, 1991) (FRL–3736–2). EPA has instead reached agreement with the Companies that the testing requirements for AGEs in the proposed rule will be met by implementing the ECA and Order, and that the issuance of the ECA and Order constitutes final EPA action for purposes of 5 U.S.C. 704. Should EPA decide in the future that it requires additional data on AGEs, the Agency will initiate a separate action.

IV. Testing Program

Table 1 describes the required testing, test standards, and reporting requirements under the ECA for alkyl (C_{12}-C_{13}) glycidyl ether as a representative of AGEs. This testing program will allow EPA to characterize further the potential health hazards resulting from exposure to AGEs.

TABLE 1.—REQUIRED TESTING, TEST STANDARDS AND REPORTING REQUIREMENTS FOR ALKYL (C_{12}-C_{13}) GLYCIDYL ETHER AS A REPRESENTATIVE OF AGES

Description of test	Test standard (40 CFR citation)	Deadline for final report[1] (months)	Interim reports[2] required (number)
Subchronic Toxicity:	(Appendix I)	21	3
1. 90-day dermal subchronic toxicity study in rats with assessment of testicular toxicity.			
Developmental Toxicity:	(Appendix II)	21	3
1. Dermal developmental toxicity screen in rats.			
Neurotoxicity:	(Appendix III)	21	3
1. Dermal subchronic functional observational battery in rats.			
2. Dermal subchronic motor activity test in rats.			
3. Dermal subchronic neuropathology in rats.			
4. Dermal subchronic electrophysiology in rats.			
Genetic Toxicity:	798.5395	12	1
1. In vivo mammalian bone marrow cytogenetics test: Micronucleus assay in mice.			
2. The salmonella typhimurium reverse mutation assay.	798.5265	12	1
3. Detection of gene mutations in somatic cells in culture.	798.5300	12	1

[1] Number of months after the effective date of the testing consent order.

[2] Interim reports are required every 6 months from the effective date until the final report is submitted. This column shows the number of interim reports required for each test.

V. Export Notification

The issuance of the ECA and Order subjects any persons who export or intend to export alkyl (C_{12}-C_{13}) glycidyl ether, of any purity, to the export notification requirements of section 12(b) of TSCA. The listing of a chemical substance or mixture at 40 CFR 799.5000 serves as notification to persons who export or intend to export such chemical substance or mixture that the substance or mixture is the subject of an ECA and Order and that 40 CFR part 707 applies.

VI. Public Record

EPA has established a record for this ECA and Order under docket number OPPTS–42185 (FRL–5356–7), which is available for inspection Monday through Friday, excluding legal holidays, in Rm. NE B607, 401 M St., SW., Washington, DC 20460, from 12 noon to 4 p.m. Information claimed as Confidential Business Information (CBI), while part of the record, is not available for public review. This record contains the basic information considered in developing this ECA and Order and includes the following information.

A. Supporting Documentation

(1) Testing Consent Order for Alkyl Glycidyl Ethers, with incorporated Enforceable Consent Agreement and associated testing protocols attached as appendices.

(2) **Federal Register** notices pertaining to this notice, the testing consent order and the enforceable consent agreement, consisting of:

(a) "Third Report of the Interagency Testing Committee; receipt of the report and request for comments" (43 FR 50630, October 30, 1978).

(b) Advance notice of proposed rulemaking for glycidol and its derivatives (48 FR 57562, December 30, 1983) (FRL–2480–7).

(c) Notice of proposed rulemaking for glycidol and its derivatives (56 FR 57144, November 7, 1991) (FRL–3736–2).

(d) Notice of Opportunity to Initiate Negotiations for TSCA Section 4 Testing Consent Agreements (57 FR 31714, July 17, 1992) (FRL–4078–9).

(e) Notice of Testing Consent Agreement Development for Listed Chemical Substances; Solicitation for Interested Parties (58 FR 43893, August 18, 1993) (FRL–4639–5).

(h) Testing Consent Agreement Development for Alkyl Glycidyl Ethers; Solicitation of Interested Parties and Notice of Public Meeting (60 FR 31154, June 13, 1995) (FRL–4960–3).

(3) Communications consisting of:

(a) Written letters.

(b) Meeting summaries.

(4) Reports - published and unpublished factual materials.

B. References

1. The Epoxy Resin Systems Task Group of The Society of the Plastics Industry, Inc. Letter from Lynne R. Harris to Gary E. Timm. Proposed Testing Program for the Chemical Category Glycidol and Its Derivatives. Washington, DC (September 15, 1992).

2. The Epoxy Resin Systems Task Group of The Society of the Plastics Industry, Inc. Letter from Lynne R. Harris to TSCA Public Docket Office. Testing Consent Agreement Development. Washington, DC (April 26, 1993).

3. The Epoxy Resin Systems Task Group of The Society of the Plastics Industry, Inc. Letter from Lynne R. Harris to Charles M. Auer. Draft Enforceable Consent Agreement Proposed for Alkyl Glycidyl Ethers and Product Stewardship Program. Washington, DC (November 30, 1994).

4. EPA. Letter from Frank D. Kover to Lynne R. Harris. Dermal Absorption Study—ECA for Alkyl Glycidyl Ethers. Washington, DC (August 16, 1995).

5. EPA. Letter from Charles M. Auer to Lynne R. Harris. Enforceable Consent Agreement for Alkyl Glycidyl Ethers; Final Draft for Test Sponsors Signatures. Washington, DC (September 21, 1995).

6. The Epoxy Resin Systems Task Group of The Society of the Plastics Industry, Inc. Letter from Lynne R. Harris to Keith Cronin. Draft Protocols for Studies Required Under Enforceable Consent Agreement. Washington, DC (December 21, 1995).

7. The Epoxy Resin Systems Task Group of the Plastics Industry, Inc. Letter from Lynne R. Harris to Keith Cronin. Revisions to Draft Protocols for Studies Required Under Enforceable Consent Agreement. Washington, DC (February 9, 1996).

VII. Regulatory Requirements

A. Regulatory Assessments

This notice announces a testing consent order incorporating a negotiated enforceable consent agreement between EPA and the Companies. Since the action announced is not a "regulation", "rule" or "regulatory action" as these terms are defined by sections 3(d) and (e) of Executive Order 12866 (58 FR 51735, October 4, 1993), the Executive Order is not applicable. The current action is not a "rule" as defined by section 601(2) of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*; therefore, this statute does not apply. Similarly, because the action is not a "regulation" or a "rule" within the meaning of section 101(a) of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), the act is not applicable.

B. Paperwork Reduction Act

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information, unless it displays a currently valid control number assigned by the Office of Management and Budget (OMB). The information collection requirements related to the action announced in this notice have already been approved by OMB pursuant to the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, under OMB control number 2070–0033 (EPA ICR No. 1139). This action does not impose any burdens requiring additional OMB approval.

The public reporting burden for this collection of information is estimated to average 586 hours per response. The estimate includes time for reviewing the test protocols attached to the ECA and gathering and analyzing the data generated by the tests.

List of Subjects in 40 CFR Part 799

Environmental protection, Chemicals, Chemical export, Hazardous substances, Health effects, Laboratories, Reporting and recordkeeping requirements, and Testing.

Dated: March 15, 1996.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, title 40 of the Code of Federal Regulations, chapter I, subchapter R, part 799 is amended as follows:

PART 799—[AMENDED]

1. The authority citation for part 799 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

2. Section 799.5000 is amended by adding alkyl (C_{12}-C_{13}) glycidyl ether to the table in CAS number order, to read as follows:

§ 799.5000 Testing consent orders for substances and mixtures with Chemical Abstract Service Registry Numbers.

* * * * *

CAS Number	Substance or mixture name	Testing	FR publication date
* *	* *	* *	* *
120547-52-6	Alkyl (C_{12}-C_{13}) Glycidyl Ether	Health Effects	March 22, 1996
* *	* *	* *	* *

[FR Doc. 96–7040 Filed 3–21–96; 8:45 am]
BILLING CODE 6560–50–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 74

RIN 0991–AA56

Uniform Administrative Requirements for Awards and Subawards to Institutions of Higher Education, Hospitals, Other Non-Profit Organizations, and Commercial Organizations; and Certain Grants and Agreements With States, Local Governments and Indian Tribal Governments

AGENCY: Department of Health and Human Services (HHS).

ACTION: Final Rule including an Interim Final Rule for State-Administered Entitlement Programs.

SUMMARY: This final rule amends the HHS grants administration regulations to incorporate changes resulting from comments received in response to the publication of an interim rule implementing Office of Management and Budget (OMB) Circular A–110 on August 25, 1994. The revision of Section 74.1(a)(3), which applies this rule to the entitlement programs, remains an interim final rule until permanent policies are developed for these programs.

EFFECTIVE DATES: This final rule is effective April 22, 1996. The interim final rule revising § 74.1(a)(3) is effective April 22, 1996.

FOR FURTHER INFORMATION CONTACT: Charles Gale, Director, Division of Grants Policy and Oversight, HHS, Room 517–D, 200 Independence Ave. SW, Washington, DC 20201; telephone (202) 690–6377; fax (202) 690–8772; for the hearing impaired only: TDD (202) 690–6415.

SUPPLEMENTARY INFORMATION: The interim rule published by the Department on August 25, 1994 (59 FR 43754) provided recipients with substantial flexibility regarding OMB Circular A–110. This flexibility included, for example, declining to exercise the authority to require prior approval for percentage budget transfers (Circular A–110, Section _____.25(f)), declining to exercise the authority to require prior approval for fund transfers between direct and indirect costs (Circular A–110, Section _____.25(c)(5)), and declining to exercise the authority to require a notice of Federal interest in equipment (Circular A–110, Section _____.37). This final rule continues that flexibility.

The Department received comments on the interim rule from several organizations representing the grantee community and from within HHS. Organizations commenting included community action agencies, community health centers, universities, State governments, law firms, and firms of certified public accountants. Many comments were supportive of HHS' implementation of OMB Circular A–110. All comments were considered in developing these final amendments.

The following section presents a summary of the comments, grouped by subject, and a response to each. Whenever possible we have cited the specific provision under consideration.

General

Comment: HHS should control the use of policy options by HHS awarding agencies. (For example, the choice of how program income shall be used under particular grants may be determined by HHS awarding agencies pursuant to Section 74.24(b).)

Response: We believe the regulation strikes an appropriate balance between providing overall HHS uniformity, and giving flexibility to HHS awarding agencies, particularly in that HHS awarding agencies must operate within the requirements of the new rule in exercising their options.

Comment: The definition of "Federal share" includes property improved with Federal funds. Do not apply the Federal share requirement to property improved with Federal funds.

Response: We do not agree. Improvement of property with Federal funds creates a Federal interest in the same way as methods of financing property with Federal funds creates a Federal interest. (Section 74.2)

Comment: The definition of "Federal share" includes "improvement expenditures." Define "improvement."

Response: "Improvement" needs no special definition because this is not a specialized use of the term. Only the ordinary, common sense meaning is intended. (Section 74.2)

Comment: The definition of "Federal share" discusses property acquired on an amortized basis. Give examples of the Federal share on an amortized basis.

Response: We have dropped that addition to the definition in order to avoid any implication of a change in the basic definition. It was not intended to alter the definition. The Federal share of property acquired on an amortized basis is determined in the same way as the Federal share of any other property. (Section 74.2)

Comment: The external policy issuances of HHS awarding agencies should be rescinded.

Response: There is no need to rescind HHS agencies' policy issuances. In many cases those issuances provide helpful explanations of HHS policy as it applies to special situations. Provisions of those issuances which conflict with this regulation, if any, are superseded. (Section 74.3)

Comment: Deviations from the Part 74 rules, in individual cases, should be approved at the HHS level, rather than by the HHS awarding agencies.

Response: We do not agree. HHS agencies make thousands of awards each year. It is not administratively feasible to route all individual cases to a central office. It would entail unacceptable delays for recipients. (Section 74.4)

Comment: We would hope that the new rule continues to exempt block grants and other grants and subgrants covered by 45 CFR Part 92.

Response: Part 74 applies to subawards made by State and local governments under 45 CFR Part 92 when those subawards are made to organizations covered by Part 74. Part 74 does not apply to subawards under block grants covered by 45 CFR Part 96. We have amended the text to make it clear that it does not apply to block grants. (Section 74.5(a)(1))

Comment: May a recipient impose special conditions on a subrecipient as it deems necessary or appropriate? For example, may a recipient insist on obtaining title when a subrecipient purchases equipment?

Response: A recipient may impose special conditions on a subrecipient provided the special conditions are consistent with the provisions of this regulation. Rules which apply to recipients flow down also to subrecipients, as provided in Section 74.5. When a subrecipient purchases equipment, the subrecipient retains title subject to the recipient's right to require transfer under Section 74.34(h).

Pre-Award Requirements

Comment: Why was the previous subpart E, Waiver of Single State Agency Requirements, dropped from the regulation?

Response: Subpart E was dropped from the interim final because it was decided that it would be better placed in the individual program regulations. However, in recognition of its placement in Part 74 for many years, we have now concluded it should be retained in this regulation as a matter of general information. Accordingly, we

have added the waiver provision at Section 74.1(a)(3).

Comment: The circumstances for imposing special conditions should be limited to violations of statutory and regulatory conditions.

Response: We do not agree. In addition to violations of statutory and regulatory conditions, Section 74.14(a) lists other situations which we believe warrant special conditions.

Post-Award Requirements

Comment: Allow recipients to request advances when their cash declines to a percentage of their monthly budget.

Response: We do not agree. A percentage rule would allow recipients to request advances, in some cases, before they are actually needed. (Section 74.22(g))

Comment: Relax the requirement for insured bank accounts for certain days, such as payroll days, when cash balances are temporarily higher than the amount covered by Federal Deposit Insurance.

Response: The insured account requirement says "whenever possible." This covers situations, as described above, where recipients can justify that compliance is not possible. (Section 74.22(i)(2))

Comment: Do not apply the requirement for return of interest earned on advance payments to the period between deposit of the funds in the recipient's bank, and their disbursement by the recipient.

Response: We do not agree. This is precisely the period that the interest-return requirement was designed to cover. (Section 74.22(k))

Comment: Correct the reference to "paid fringe benefits" in the discussion of volunteer services.

Response: We agree. We have amended the last sentence of section 74.23(d) to read "fringe benefits consistent with those paid * * *."

Comment: Do not require that recipients use the deductive alternative for program income in cases where the HHS awarding agency does not specify which alternative to use.

Response: We do not agree. Not all Federally-supported projects are suitable for expansion with additional funds from program income. (Section 74.24(d))

Comment: Delete the requirement that recipients use the deductive alternative for any income that exceeds the amount authorized by the HHS awarding agency for the recipient to use under the additive or cost-sharing alternatives.

Response: We do not agree. Not all Federally-supported projects are suitable for unlimited expansion with additional funds from program income. (Section 74.24(c))

Comment: Budget revisions should be considered approved if the HHS awarding agency does not reply within 30 days.

Response: We do not agree. Occasionally it is not possible to reply in 30 days. This does not make the requested budget revision appropriate. (Section 74.25(i))

Comment: Do not impose OMB Circular A–133 audit requirements on commercial organizations because most are already audited in accordance with generally accepted auditing standards (GAAS).

Response: We have revised section 74.26(a) to add new paragraphs (2) and (3) to give commercial organizations which receive annual HHS awards that exceed the OMB Circular A–133 audit threshold the option of either a Circular A–133 audit or a financial related audit of HHS awards in accordance with Government Auditing Standards (GAS). However, an audit performed in accordance with GAAS alone can not be used as a substitute. (Proposed revisions to OMB Circular A–133 (60 FR 14594) set the audit threshold at $300,000).

Comment: Amend the real property disposition rules to authorize waiver of the recipient's requirement to reimburse the Federal Government if the property has been used for its authorized purpose for the period, usually 20 years, specified in the conditions of the award. (Comment from an HHS awarding agency.)

Response: Since the commenter's objection can be accomplished in a particular program through OMB Circular A–110's deviations procedures, we see no reason to amend the real property disposition rules. (Section 74.32(c))

Comment: When real property is sold, the Federal share should be based on the proceeds of sale rather than the fair market value.

Response: We do not agree. In order for the Federal Government to equitably share in the appreciation or depreciation of real property acquired with Federal funds, the Federal Government's share must be based on the current fair market value. (Section 74.32(c)(2))

Comment: Federally-furnished equipment should be included in the provisions for Federally-owned equipment.

Response: Federally-owned equipment includes Federally-furnished equipment. (Section 74.33)

Comment: Restore Circular A–110's introductory language in the provisions on exempt property.

Response: We have amended section 74.33(b) to reference 31 U.S.C. 6306, which authorizes HHS to vest title to tangible personal property in certain specified organizations conducting scientific research.

Comment: In determining equipment's value for disposition purposes, "imputed undepreciated value" should be an acceptable alternative to the regulation's "current fair market value."

Response: We do not agree. In our view, current fair market value is a more accurate measure of value. (Section 74.34)

Comment: The prohibition on use of equipment to provide services for a fee that is less than that charged by private companies should be limited to services other than those for which the award was made.

Response: The prohibition does not apply to the activities for which the award was specifically made, because the award was statutorily authorized for that purpose, e.g., the provision of health care under an award to a community health center. (Section 74.34(b)(1))

Comment: The statement that property shall be held in "trust" for the award's beneficiaries, and that the recipient shall record "liens" should be deleted because "trust" and "lien" have legal meanings that go beyond the requirements of the policy.

Response: We do not agree. We believe that the legal effect of "trusts" and "liens," as used in Section 74.37, is consistent with the requirements of the policy and that Federal interests are better protected by considering recipients as trustees for the beneficiaries of the program and by providing the Federal Government with a lien on the applicable property. (Section 74.37)

Comment: Delete the requirement that the recipient record a notice of Federal interest in property, unless the HHS awarding agency furnishes a computation of the Federal interest in each item of property.

Response: The recipient has much better information with which to calculate the Federal recipient shares of property than does the HHS awarding agency. In order to furnish such a computation to the recipient, HHS would have to impose a burdensome reporting requirement. There is no advantage to any of the parties in doing so. (Section 74.37)

Comment: Exempt small purchases from the requirement for a cost or price analysis.

Response: Although this is not a new requirement, OMB and the Federal agencies will carefully review this requirement, especially for purchases involving $2,500, or less, as revisions to OMB Circular A–110 are developed. Federal fiscal interests require, and the section on cost or price analysis is intended to assure, that each element of the cost of a recipient's procurement action is reasonable, allocable and allowable. Recipients, however, are provided considerable latitude in determining the appropriate form of the cost or price analysis, depending on the nature and size of the procurement action. (Section 74.45)

Comment: Do not require the contract clauses to be used with purchase orders that do not require a written contract.

Response: We do not agree. All of these clauses have been determined necessary to protect Federal interests, if not actually required by law, and therefore cannot be waived. (Section 74.48(e))

Comment: The requirement for reasonable access to the recipient's employees for purposes of discussing records should be rewritten to state that recipients do not have an affirmative obligation to produce an employee for an interview.

Response: We do not agree. Reasonable access to a recipient's personnel is necessary in order for the Federal Government to exercise fully its rights to undertake audits, examinations and similar procedures. Accordingly, recipients do have an affirmative obligation to provide that access. (Section 74.53(e))

Comment: Since Appendix G has been removed, do HHS awarding agencies continue to have authority to place pre-award approval requirements on procurements under the entitlement programs? (Comment from an HHS awarding agency.)

Response. Yes. OMB Circular A–110 does not preclude HHS awarding agencies from continuing their longstanding policies pertaining to pre-award approval and other requirements regarding procurements under the entitlement programs.

Comment: All enforcement actions should have a hearing on the record.

Response: Part 74 is not intended to establish any enforcement action hearing rights. The section on enforcement simply states that recipients and subrecipients will receive whatever opportunity for a hearing, appeal or other administrative proceeding that they are entitled to. (Section 74.62(b))

Comment: Allow subrecipients to appeal recipient enforcement actions to HHS.

Response: See the previous response. (Section 74.62(b))

Other Substantive Changes

Other substantive changes are as follows:

1. In section 74.1(a)(3) we have added references to section 74.23, Cost sharing or matching, and section 74.52, Financial reporting, to the list of sections of this part which do not apply to the entitlement programs. These have been approved deviations for many years, and were inadvertently left out of the interim regulation.

2. As we discussed in the preamble to the interim regulation (at 59 FR 43758), the applicability of this regulation to the entitlement programs is a temporary measure until new policies for these programs are developed. Therefore, section 74.1(a)(3) remains as interim final rule. We intend to work with the Department of Agriculture and OMB to review existing policies and promulgate new regulations regarding these programs.

3. We have added OMB Circular A–110's prohibitions on additional requirements, additional copies of payment reports, and additional prior approval requirements at sections 74.1(c), 74.22(m), and 74.25(l), respectively. We have included the Circular's references, at section _____.25 (d) and (i), with respect to approval of deviations by OMB, and specified that it refers to class deviations (74.25(l)). It is noted that individual case deviations do not require OMB approval. (Circular section _____.4.)

4. Because this regulation is applicable to some awards to governmental organizations (the entitlement programs), while OMB Circular A–110 is not, we have added a sentence to the definition of program income in section 74.2 to exempt taxes, special assessments, levies, and fines raised by governmental recipients from the definition of program income.

5. We have added a statement of policy that the Department will use its deviation authority to facilitate comprehensive or integrated service delivery or multi-source consolidated awards. A particularly appropriate example would be to facilitate Empowerment Zones or Enterprise Communities, and similar awards in communities that unsuccessfully applied for those designations. (HHS may not grant deviations in classes of cases without the approval of OMB.) (Section 74.4(b))

6. We have amended sections 74.5, 74.12, and 74.22 to exempt subawards from section 74.12, Forms for applying for HHS financial assistance, and use of the forms prescribed in section 74.22, Payment. Recipients need not apply the forms in dealing with their subrecipients and should not impose more burdensome requirements on subrecipients.

7. In order to permit automated tracking of audits, we have amended section 74.26(d) to provide that audits shall include the recipient's Employer Identification Number, and to request that recipients submit a computer disk containing the audit report in addition to the paper copy.

8. We have amended section 74.34 to add a provision that formerly appeared at section 74.139(b)(2) and was inadvertently left out of the interim rule. That provision allows proceeds from equipment disposition to be used for project costs if the recipient's project is still receiving support from the same HHS program, and if the HHS awarding agency gives prior approval.

9. We have amended section 74.44(e)(2) to change the simplified acquisition threshold (formerly the "small purchase threshold") for recipient procurements from $25,000 to $100,000 as provided in the Federal Acquisition Streamlining Act of 1994. We have also added the $100,000 reference to Section 74.48(b).

10. Two changes have been made to Appendix A as a result of the Federal acquisition Streamlining Act, Public Law 103–355. The threshold for the requirement to include a provision for compliance with the Copeland "Anti-Kickback Act" (18 U.S.C. 874) was raised from $2,000 to $100,000. Also, the threshold for the requirement to include the provision for compliance with sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333) was raised to $100,000.

Other editorial changes have been made to correct errors and improve clarity.

Regulatory Impact Analyses

Executive Order 12866

This rule was submitted to the Office of Management and Budget.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and, by approving it, certifies that it does not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

In keeping with the requirements of 44 U.S.C. 3504(h), the information

collection requirements in this rule have been approved by OMB as Standard Forms or HHS adaptations of Standard Forms with the following clearance numbers: SF–269: 0348–0039; SF–424: 0348–0043; and PMS 270 and 272: 0937–0200.

List of Subjects in 45 CFR Part 74

Accounting, Administrative practice and procedures, Grant programs-health, Grant programs-social programs, Grants administration, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Number does not apply.)

Dated: March 4, 1996.

Donna E. Shalala,

Secretary of Health and Human Services.

Accordingly, the interim rule amending Part 74 of Title 45 of the Code of Federal Regulations, which was published at 59 FR 43754 on August 25, 1994, is adopted as final, except for Section 74.1(a)(3), which remains interim, with the following changes:

PART 74—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR AWARDS AND SUBAWARDS TO INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, OTHER NONPROFIT ORGANIZATIONS, AND COMMERCIAL ORGANIZATIONS; AND CERTAIN GRANTS AND AGREEMENTS WITH STATES, LOCAL GOVERNMENTS AND INDIAN TRIBAL GOVERNMENTS

1. The authority citation for Part 74 is revised to read as follows:

Authority: 5 U.S.C. section 301; OMB Circular A–110; Appendix J is also issued under 31 U.S.C. section 7505.

2. Section 74.1 is amended by adding a new paragraph (c) to read as follows:

§ 74.1 Purpose and applicability.

* * * * *

(c) HHS shall not impose additional or inconsistent requirements except as provided in §§ 74.4 and 74.14, or unless specifically required by Federal statute or executive order.

§ 74.2 [Amended]

3. Section 74.2 is amended by:

a. Removing the last sentence in the definition of "Federal share."

b. Adding a sentence at the end of the definition of "Program income" to read as follows:

§ 74.2 Definitions.

* * * * *

Program income * * * Furthermore, program income does not include taxes, special assessments, levies, and fines raised by governmental recipients.

* * * * *

§ 74.3 [Amended]

4. Section 74.3 is amended by adding "Federal" before "statute".

5. Section 74.4 is amended by designating the current text as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 74.4 Deviations.

(a) * * *

(b) As a matter of Departmental policy, requests for individual case deviations will be considered favorably by HHS and its awarding agencies whenever the deviation will facilitate comprehensive or integrated service delivery, or multiple-source consolidated awards, unless the deviation would impair the integrity of the program.

§ 74.5 [Amended]

6. Section 74.5(a) introductory text is amended by adding "(except for § 74.12 and the forms prescribed in § 74.22)" after "this part".

7. Section 74.5(a)(1) is revised to read as follows:

§ 74.5 Subawards.

(a) * * *

(1) Except for subawards under block grants (45 CFR part 96), all subawards received by institutions of higher education, hospitals, other nonprofit organizations, and commercial organizations from any recipient of an HHS award, including any subawards received from States, local governments, and Indian tribal governments covered by 45 CFR part 92; and

* * * * *

8. Section 74.12 is amended by adding a new paragraph (e) to read as follows:

§ 74.12 Forms for applying for HHS financial assistance.

* * * * *

(e) This section does not apply to applications for subawards.

§ 74.17 [Amended]

9. Section 74.17 is amended by removing the "HHS" preceding "official(s)" in the second sentence.

10. Section 74.22 is amended by adding a sentence at the end of paragraph (m) and a new paragraph (n) to read as follows:

§ 74.22 Payment.

* * * * *

(m) * * * HHS shall not require recipients to submit more than an original and two copies.

(n) Recipients and subrecipients are not required to use forms PMS–270 and 272 in connection with subaward payments.

11. Section 74.23(d) is amended by revising the last sentence to read as follows:

§ 74.23 Cost sharing or matching.

* * * * *

(d) * * * In either case, fringe benefits consistent with those paid that are reasonable, allowable, and allocable may be included in the valuation.

* * * * *

12. Section 74.25 is amended in paragraph (c)(5) by revising "or costs" to read "of costs", and by adding a new paragraph (l) to read as follows:

§ 74.25 Revision of budget and program plans.

* * * * *

(l) No other prior approval requirements for specific items may be imposed unless a class deviation has been approved by OMB.

13. Section 74.26 is amended by revising paragraphs (a) and (d) to read as follows:

§ 74.26 Non-Federal audits.

(a)(1) Recipients and subrecipients that are institutions of higher education, hospitals affiliated with institutions of higher education, and other nonprofit organizations shall be subject to the audit requirements contained in OMB Circular A–133, "Audits of Institutions of Higher Education and Other Non-Profit Institutions." (See Appendix I to this part.)

(2) Recipients and subrecipients that are commercial organizations have two options regarding audits:

(i) A financial related audit (as defined in the Government Auditing Standards, GPO Stock #020–000–00–265—4) of a particular award in accordance with Government Auditing Standards, in those cases where the recipient receives awards under only one HHS program; or, if awards are received under multiple HHS programs, a financial related audit of all HHS awards in accordance with Government Auditing Standards; or

(ii) An audit that meets the requirements contained in OMB Circular A–133.

(3) Commercial organizations that receive annual HHS awards totaling less than OMB Circular A–133's audit requirement threshold are exempt from requirements for a non-Federal audit for that year, but records must be available for review by appropriate officials of Federal agencies.

* * * * *

(d)(1) All copies of audit reports required by this section shall be submitted to: Department of Health and Human Services, Office of Inspector General, National External Audit Review Center, Lucas Place, Room 514, 323 West 8th Street, Kansas City, MO 64105.

(2) The HHS Office of Inspector General will distribute copies as appropriate within HHS. Recipients, therefore, are not required to send their audit reports to any other HHS officials. Recipients shall provide their Employer Identification Numbers (EIN) on the cover page of reports and submit along with the printed reports a computer disk containing the entire contents of the audit report a computer disk containing the entire contents of the audit report or at least the information in the report relating to HHS awards.

14. Section 74.33(b) is amended by adding two sentences at the beginning of the paragraph to read as follows:

§ 74.33 Federally-owned and exempt property.

* * * * *

(b) For research awards to certain types of recipients, 31 U.S.C. 6306 authorizes HHS to vest title to property acquired with Federal funds in the recipient without further obligation to the Federal government and under conditions that HHS considers appropriate. Such property is "exempt property." * * *

15. Section 74.34 is amended by adding a new paragraph (g)(4) to read as follows:

§ 74.34 Equipment.

* * * * *

(g) * * *

(4) If the recipient's project or program for which or under which the equipment was acquired is still receiving support from the same HHS program, and if the HHS awarding agency approves, the net amount due may be used for allowable costs of that project or program. Otherwise the net amount must be remitted to the HHS awarding agency by check.

* * * * *

§ 74.35 [Amended]

16. Section 74.35(b)(2) is amended by adding the word "are" after "supplies".

§ 74.44 [Amended]

17. Section 74.44(a)(2) is amended by adding "recipient and the" before "Federal Government".

18. Section 74.44(e)(2) is amended by removing "small purchase threshold fixed at 41 U.S.C. 403(11) (currently $25,000)" and replacing it with "simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently $100,000)".

§ 74.48 [Amended]

19. Section 74.48(b) is amended by removing "small purchase threshold" and replacing it with "simplified acquisition threshold (currently $100,000".

§ 74.81 [Amended]

20. Section 74.81 is amended by adding "Transfer" after "Technology".

§ 74.90 [Amended]

21. Section 74.90(d) is amended by adding "the office responsible for awarding agency preliminary appeal process or, where none," after "e.g.,".

Appendix A to Part 74 [Amended]

22. Paragraph 2 of Appendix A is amended by removing "$2,000" and replacing it with "$100,000".

23. Paragraph 4 of Appendix A is amended by removing "$2,000 for construction contracts and in excess of $2500" and replacing it with "$100,000 for construction contracts and".

24. Section 74.1(a)(3) is amended as an interim final rule by revising interim paragraph (a)(3) to read as follows:

§ 74.1 Purpose and applicability.

(a) * * *

(3) HHS grants and agreements, and any subawards under such grants and agreements, awarded to carry out the entitlement programs identified at 45 CFR Part 92, § 92.4(a)(3), (a)(7), and (a)(8), except that §§ 74.12, 74.23, 74.25, and 74.52 of this part do not apply. Under these programs, requests to HHS from Governors or other duly constituted State authorities for waiver of single State agency requirements in accordance with 31 U.S.C. 6501–6508 will be given expeditious handling. Whenever possible, such requests will be granted.

* * * * *

[FR Doc. 96–6878 Filed 3–21–96; 8:45 am]

BILLING CODE 4150–17–M

OFFICE OF PERSONNEL MANAGEMENT

45 CFR Part 801

Voting Rights Program

AGENCY: Office of Personnel Management.

ACTION: Final rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is establishing a new office for filing applications or complaints under the Voting Rights Act of 1965, as amended. This designation is necessary to enforce the voting guarantees of the Fourteenth and Fifteenth amendments to the Constitution. This amendment establishes Alameda County, California, as a new office for filing applications or complaints.

DATES: This rule is effective March 23, 1996. In view of the need for its publication without an opportunity for prior comment, comments will still be considered. To be timely, comments must be received on or before April 22, 1996.

ADDRESSES: Send or deliver comments to Barbara Matthews-Beck, Attorney, Office of Personnel Management, Room 7F10, 1900 E Street NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Barbara Matthews-Beck, (202) 606–1700.

SUPPLEMENTARY INFORMATION: Pursuant to the Settlement Agreement and Order in *United States of America* v. *Alameda County, California, et al.*, C.A. No. 95–1266 (N.D. Cal. January 22, 1996), Alameda County has been designated as an additional examination point under the provisions of the Voting Rights Act of 1965, as amended. This designation is necessary to enforce the guarantees of the Fourteenth and Fifteenth amendments to the Constitution. Accordingly, pursuant to section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973d, OPM will appoint Federal Examiners to review the qualifications of applicants to be registered to vote and Federal observers to observe local elections.

Under § 553(b)(3)(B) of title 5 of the United States Code, the Director finds that good cause exists for waiving the general notice of proposed rulemaking. The notice is being waived because of OPM's legal responsibilities under 42 U.S.C. § 1973e(a) and other parts of the Voting Rights Act of 1965, as amended, which require OPM to publish counties certified by the U.S. Attorney General and locations within these counties where citizens can be federally listed and become eligible to vote, and where Federal observers can be sent to observe local elections.

Under § 553(d)(3) of title 5 of the United States Code, the Director finds that good cause exists to make this amendment effective in less than 30 days. The regulation is being made effective immediately in view of the pending election to be held in the subject county, where Federal observers will observe the election under the authority of the Voting Rights Act of 1965, as amended.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it adds one new location to the list of counties in the regulations concerning OPM's responsibilities under the Voting Rights Act.

List of Subjects in 45 CFR Part 801

Administrative practice and procedure, Voting rights.

U.S. Office of Personnel Management.

James B. King,

Director.

Accordingly, OPM is amending 45 CFR Part 801 as follows:

PART 801—VOTING RIGHTS PROGRAM

1. The authority citation for Part 801 continues to read as follows:

Authority: 5 U.S.C. § 1103; secs. 7, 9, 79 Stat. 440, 411 (42 U.S.C. §§ 1973e, 1973g).

2. Appendix A to Part 801 is amended under "Dates, Times, and Places for Filing" by adding alphabetically Alameda County of California to read as follows:

Appendix A to Part 801

* * * * *

Dates, Times, and Places for Filing

* * * * *

California

County; Place for filing; Beginning date	
Alameda;	Oakland-U.S. Attorneys Office, Oakland Branch, 1301 Clay Street, Suite 3405, Oakland, California, 94612 (510) 637–3784 and (510) 637–3748; March 23, 1996

* * * * *

[FR Doc. 96–7073 Filed 3–21–96; 8:45 am]

BILLING CODE 6325–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[FCC 96–88]

Computation of Time

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission makes three minor amendments to the Commission's computation of time rule. First, it adds an illustrative example to the rules to make more explicit that the three extra days added for service by mail where a response period is 10 days or less are calculated from the end of the filing period regardless of whether the last day of the filing period is a business day or a holiday. Second, it provides that where any party is served by mail, and the response period is 10 days or less, the filing period for all parties (not just the ones served by mail) shall be extended the additional three days. Third, it provides that service by facsimile machine shall be treated as hand delivery, not service by mail. The intended effect of this action is to make the rule clearer and more fair.

EFFECTIVE DATE: March 22, 1996.

FOR FURTHER INFORMATION CONTACT: David S. Senzel, Office of General Counsel (202) 418–1760.

SUPPLEMENTARY INFORMATION: Adopted: March 5, 1996; Released March 15, 1996.

1. In this order we make three minor amendments to the Commission's computation of time rule, 47 CFR 1.4. First, we add an illustrative example to the rules to make more explicit that the three extra days added for service by mail where a response period is 10 days or less are calculated from the end of the filing period regardless of whether the last day of the filing period is a business day or a holiday. Second, we provide that where any party is served by mail, and the response period is 10 days or less, the filing period for all parties (not just the ones served by mail) shall be extended the additional three days. Third, we provide that service by facsimile machine shall be treated as hand delivery, not service by mail.

2. Section 1.4(h) addresses the filing period for responding to pleadings that have been served on a party by mail. The rule states:

> If a document is required to be served upon other parties by statute or Commission regulation and the document is in fact served by mail * * * and the filing period[1] for a response is 10 days or less, an additional 3 days (excluding holidays) will be allowed for filing a response. * * *

3. Section 1.4(j) governs the filing date for pleadings that would otherwise be due on a holiday (when the Commission is closed for business). It provides that:

> If, after making all the computations provided for in this section, the filing date[2] falls on a holiday, the document shall be filed on the next business day. * * *

4. Because Section 1.4(h) indicates that the three extra days for a response to a pleading served by mail where the response period is 10 days or less is based on the "filing period," not the "filing date," and because Section 1.4(j) says that the "filing date" is not calculated until after all other computations are made, the additional three days for service by mail are added without regard to whether the last day of the filing period is a holiday and would therefore not be the filing date if service were by hand. Thus, the first day to be counted for the extra three days is the first business day after the end of the filing period whether the filing period ends on a business day or a holiday. How the rule applies is demonstrated in *Summit Communications, Inc.*, 9 FCC Rcd 4833, n.1 (Cable Serv. Bur. 1994). In that case, a party filed a petition for reconsideration of a franchising authority's certification (47 CFR 76.911) on Thursday, October 28, 1993. The filing period for oppositions was 10 days (47 CFR 1.106(g)), so the filing period ended on Sunday, November 7. Service was made by mail, an additional three days were added following the end of the filing period on Sunday, November 7, and the opposition was due Wednesday, November 10. The fact that the "filing date" would have been moved forward from Sunday to Monday if there had not been mail service was irrelevant, since under the rules the filing date is not determined until after all other computations. Because a more recent staff decision interpreted the rule differently and incorrectly added the extra three days from the date the filing date would have been if service was by hand rather than from the end of the filing period, *see Falcon Cablevision*, 10 FCC Rcd 10409 n.3 (Cable Serv. Bur. 1995), we are amending the rule to be more explicit by adding an illustrative example setting out the correct interpretation of the rule.

5. We also amend Section 1.4(h) to provide that when one party is served by mail and the response period is 10 days or less, all parties should get the additional three days. This approach is most equitable because it avoids the possibility that some parties in multi-party litigation may be required to file their pleadings before others, giving others an opportunity to "preview" their arguments before filing their own pleading. We will therefore amend Section 1.4(h) to specify that if one party is served by mail and the response period is 10 days or less, all parties will be given the additional three days.

6. Finally, we amend Section 1.4(h) to treat service by facsimile machine the same as hand service. *See* 47 CFR 1.773(a)(4) (treating delivery by facsimile machine like hand service in the tariff context). *See also SEC v. Stratton Oakmont, Inc.*, 1995 WL 46559 (D.D.C. 1995). Because service by facsimile, like hand delivery, is essentially instantaneous, we believe that this treatment is warranted generally.

7. Because the rule amendments involve rules of agency organization, procedure, or practice, the notice and comment and effective date provisions of the Administrative Procedure Act are inapplicable. 5 U.S.C. 553(b)(A), (d).

8. Accordingly, it is ordered, That pursuant to Sections 4(i), 4(j), and 303(r)of the Communications Act, 47 U.S.C. 154(i), 154(j), and 303(r), 47 CFR part 1 is amended as set forth below, effective March 22, 1996.

9. The text of this order is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street NW., Washington D.C. The text may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., Suite 140, 2100 M Street NW., Washington, D.C. 20037.

List of Subjects in 47 CFR Part 1

Administrative practice and procedure, Radio, Telecommunications, Television.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

Part 1 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 1—PRACTICE AND PROCEDURE

1. The authority citation for Part 1 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

2. Section 1.4 is amended in paragraph (h), by revising the text preceding Example 11, in paragraphs (i) and (j) by redesignating Examples 12 and 13 as Examples 13 and 14, respectively, and by adding new Example 12 in paragraph (h) to read as follows:

§ 1.4 Computation of time.

* * * * *

(h) If a document is required to be served upon other parties by statute or Commission regulation and the document is in fact served by mail (see § 1.47(f)), and the filing period for a response is 10 days or less, an additional 3 days (excluding holidays) will be allowed to all parties in the proceeding for filing a response. This paragraph (§ 1.4(h)) shall not apply to documents filed pursuant to § 1.89, § 1.120(d), § 1.315(b) or § 1.316. For purposes of this paragraph service by facsimile shall be deemed equivalent to hand delivery.

* * * * *

Example 12: Assume that oppositions to a petition in a particular proceeding are due 10 days after the petition is filed and must be served on the parties to the proceeding. If the petition is filed on October 28, 1993, the last day of the filing period for oppositions is Sunday, November 7. If service is made by mail, the opposition is due three days after November 7, or Wednesday, November 10.

* * * * *

[FR Doc. 96–6658 Filed 3–21–96; 8:45 am]

BILLING CODE 6712–01–P

47 CFR Part 76

[MM Docket No. 93–215; FCC 95–502]

Cable Television Rate Regulation; Cost of Service Rules; Correction

AGENCY: Federal Communications Commission.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to the final cost rules and regulations, which were published Friday, March 8, 1996, (61 FR 9361). The regulations govern the standard cost of service showings filed by cable operators seeking to justify rates for regulated cable services.

EFFECTIVE DATE: April 18, 1996, except for new information collection requirements adopted herein, which will become effective on the date of approval by the Office of Management and Budget or on April 18, 1996, whichever date occurs later.

FOR FURTHER INFORMATION CONTACT: Tom Power, Cable Services Bureau, (202) 416–0800.

SUPPLEMENTARY INFORMATION:

Background

The Second Report and Order and First Order on Reconsideration in MM Docket 93–215 refines existing cost of service rules and creates final rules governing standard cost of service showings filed by capable operators seeking to justify rates for regulated cable services.

Need for Correction

As published, statements indicating the effective date for the requirements and regulations established in the Second Report and Order and First Order on Reconsideration in MM Docket 93–215 contained errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication on March 8, 1996 of the final regulations, which were the subject of FR Doc. 96–5427, is corrected as follows:

Effective Date [Corrected]

On page 9361, in the second column, the statement of the effective date should be revised to read **EFFECTIVE DATE:** This final rule contains information collection requirements that will not become effective until approval by the Office of Management and Budget, but no sooner than April 18, 1996. The Commission will publish a document specifying the effective date of such requirements. All other requirements and regulations contained in this final rule shall become effective on April 18, 1996."

* * * * *

IV. Ordering Clauses [Corrected]

Paragraph 60. On page 9367, in the second column, the paragraph should be revised to read "It is further ordered that the requirements and regulations established in this decision shall become effective on April 18, 1996, except for the new information collection requirements adopted herein, which shall become effective upon the date of approval by the Office of Management and Budget or on April 18, 1996, whichever date occurs later."

* * * * *

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–6939 Filed 3–21–96; 8:45 am]

BILLING CODE 6712–01–M

[1] Section 1.4(e)(3) provides: The term *filing period* means the number of days allowed or prescribed by statute, rule, order, notice or other Commission action for filing any document with the Commission. It does not include any additional days allowed for filing any document pursuant to paragraphs (g), (h) and (j) of this section.

[2] Section 1.4(e)(4) provides: The term *filing date* means the date upon which a document must be filed after all computations of time authorized by this section have been made.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 215 and 216

[Docket No. 960313071–6071–01; I.D. 022796E]

RIN 0648–AI20

Taking and Importing of Marine Mammals; Consolidation of Regulations

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: To simplify NMFS' Code of Federal Regulations (CFR), NMFS issues this final rule to redesignate those regulations governing the take of northern fur seals for subsistence purposes on the Pribilof Island and aspects of the administration of the Pribilof Islands. By this rule, an entire part within the CFR is removed. This final rule does not make substantive changes to the existing regulations. The purpose of this final rule is to make the regulations more concise, better organized, and thereby easier for the public to use. This action is consistent with the President's Regulatory Reform Initiative to simplify regulations and reduce the regulatory burden on the public.

EFFECTIVE DATE: This rule is effective March 22, 1996.

FOR FURTHER INFORMATION CONTACT: Margot L. Bohan, Office of Protected Resources, NMFS, (301) 713–2322.

SUPPLEMENTARY INFORMATION:

In March 1995, President Clinton issued a directive to Federal agencies regarding their responsibilities under his Regulatory Reinvention Initiative. This initiative is part of the National Performance Review and calls for comprehensive regulatory reform. The President directed all agencies to undertake a review of all their regulations, with an emphasis on eliminating or modifying those that are obsolete, duplicative, or otherwise in need of reform. This final rule is intended to carry out the President's directive with respect to those regulations implementing the annual Pribilof Island fur seal subsistence harvest.

NMFS is consolidating the provisions of 50 CFR part 215, critical to the management of the northern fur seal subsistence harvest on the Pribilof Island, into 50 CFR part 216—Regulations Governing the Taking and Importing of Marine Mammals. This final rule moves definitions in § 215.2 to § 216.3 and makes definition additions and revisions in § 216.3. Subparts C and D of part 215 are redesignated, respectively, as subpart G—Pribilof Island Administration and subpart F—Pribilof Islands, Taking for Subsistence Purposes of part 216, and part 215 is removed.

Classification

This final rule is exempt from review under E.O. 12866. Because this rule makes only nonsubstantive changes to existing regulations, no useful purpose would be served by providing advance notice and opportunity for public comment. Accordingly, the Assistant Administrator for Fisheries, NOAA, under 5 U.S.C. 553(b)(B), for good cause finds that it is unnecessary to provide prior notice and opportunity for public comment on this rule or to delay for 30 days its effective date. Because this rule is being issued without public comment, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act, and none has been prepared. This final rule is expected to result in no economic costs to the public.

This action is categorically excluded from the requirement to prepare an environmental assessment by section 6.02b.3(b)(ii)(aa) of NOAA Administrative Order 216–6 as revised. This final rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

This rule does not directly affect the coastal zone of any state with an approved coastal zone management program.

List of Subjects

50 CFR Part 215

Administrative practice and procedure, Marine mammals, Penalties, Pribilof Islands, Reporting and recordkeeping requirements.

50 CFR Part 216

Adminstrative practice and procedure, Imports, Indians, Marine mammals, Penalties, Reporting and recordkeeping requirements, Transportation.

Dated: March 15, 1996.

Charles Karnella,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 215 and 216 are amended as follows:

PART 215—PRIBILOF ISLANDS

1. The authority citation for part 215 continues to read as follows:

Authority: 16 U.S.C. 1151–1175, 1361 *et seq.*

2. In § 215.2, paragraphs (d), (g) and (h) are redesignated to § 216.3, in alphabetical order, and the paragraph designations are removed.

3. Subpart C, consisting of §§ 215.21 through 215.27, and subpart D, consisting of §§ 215.31 through 215.34, of part 215 are redesignated as subpart G, *Pribilof Islands Administration*, consisting of §§ 216.81 through 216.87, and subpart F, *Pribilof Islands, Taking for Subsistence Purposes*, consisting of §§ 216.71 through 216.74, of part 216, respectively and the subpart headings are revised to read as set forth above.

PART 215—[REMOVED]

4. Part 215 is removed.

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

5. The authority citation for part 216 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

6. In 216.3, the definition, "Article of Handicraft", is added and the definition, "Wasteful Manner", is revised, in alphabetical order, to read as follows:

§ 216.3 Definitions.

* * * * *

Article of Handicraft means items made by an Indian, Aleut or Eskimo from the nonedible byproducts of fur seals taken for personal or family consumption which—

(1) Were commonly produced by Alaskan Natives on or before October 14, 1983;

(2) Are composed wholly or in some significant respect of natural materials, and;

(3) Are significantly altered from their natural form and which are produced, decorated, or fashioned in the exercise of traditional native handicrafts without the use of pantographs, multiple carvers, or similar mass copying devices. Improved methods of production utilizing modern implements such as sewing machines or modern tanning techniques at a tannery registered pursuant to § 216.23(c) may be used so long as no large scale mass production industry results. Traditional native handicrafts include, but are not limited to, weaving, carving, stitching, sewing, lacing, beading, drawing, and painting. The formation of traditional native groups, such as a cooperative, is permitted so long as no large scale mass production results.

* * * * *

Wasteful Manner means any taking or method of taking which is likely to result in the killing of marine mammals beyond those needed for subsistence, subsistence uses, or for the making of authentic native articles of handicrafts and clothing, or which results in the waste of a substantial portion of the marine mammal and includes, without limitation, the employment of a method of taking which is not likely to assure the capture or killing of a marine mammal, or which is not immediately followed by a reasonable effort to retrieve the marine mammal.

[FR Doc. 96–6855 Filed 3–21–96; 8:45 am]

BILLING CODE 3510–22–F

50 CFR Part 300

[Docket No. 960228054–6054–01; I.D. 120495A]

RIN 0648–AI50

High Seas Fishing Compliance Act; Initial Regulations; OMB Control Numbers

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Interim final rule; request for comments.

SUMMARY: NMFS issues an interim final rule (IFR) to implement the High Seas Fishing Compliance Act of 1995 (HSFCA). The purpose of the HSFCA is to license U.S. vessels fishing on the high seas and to implement the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (Agreement).

DATES: Effective upon publication. Comments must be received on or before May 21, 1996.

ADDRESSES: Send comments on the IFR and on the collection-of-information requirement to Richard Schaefer, Office of Fisheries Conservation and Management, National Marine Fisheries Service, 1315 East West Highway, Silver Spring, MD 20910. Also send comments on the collection-of-information requirement to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: Paperwork Reduction Project 0648–0304, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Robert Dickinson, (301) 713–2337.

SUPPLEMENTARY INFORMATION: On November 24, 1993, the United Nations Food and Agriculture Organization (FAO) adopted the Agreement. The Agreement was negotiated largely at the initiative of the United States in response to fisheries crises that have arisen in many areas of the world. As the size and efficiency of modern fleets have come to exceed the productivity of their traditional coastal harvesting areas, fishery managers of coastal nations generally have reacted by imposing stricter management regimes. As a result, increasing numbers of vessels have sought fishing opportunities on the high seas.

The need for the Agreement evolved from the concern that vessels belonging to member nations of regional fisheries organizations were reflagging to non-member nations, in order to continue fishing in the management areas unconstrained by rules set by the organizations and their members. For example, the effectiveness of the International Commission for the Conservation of Atlantic Tunas (ICCAT) has been compromised by vessels registered in nations that are not ICCAT members. Flying "flags of convenience," these vessels then fish for tuna in the North Atlantic in defiance of ICCAT rules and management regimes.

Although the Agreement has been popularly referred to as the "reflagging agreement," it does not deal directly with the reflagging of fishing vessels, in part because FAO negotiators did not wish to deter legitimate transfers of vessel registries or flags. The primary tenet of the Agreement is the obligation of Parties to the Agreement (Parties) to require that fishing vessels carrying their flags obtain specific authorization to operate on the high seas. Parties are also responsible for ensuring that their authorized vessels do not undermine conservation and management measures that have been adopted by global or regional fishery management organizations.

The HSFCA implements the Agreement, primarily by requiring a system of licensing for all U.S. vessels that fish on the high seas, and by requiring vessels so licensed to fish in accordance with international conservation and management measures recognized by the United States. The HSFCA also requires the Secretary of Commerce (Secretary), in consultation with the Secretary of State, to publish from time to time in the **Federal Register** a list of agreements containing or resulting in such measures.

For purposes of the HSFCA, the Secretary, in consultation with the Secretary of State, has determined that all conservation and management measures for living marine resources set forth in, or adopted pursuant to, the following international agreements to which the United States is party are included within the term "international conservation and management measures recognized by the United States," except any such measure to which the United States, consistent with the terms of such agreement, has lodged an objection or reservation:

International Convention for the Conservation of Atlantic Tunas (basic instrument for the International Commission for the Conservation of Atlantic Tunas—ICCAT);

Convention between the United States of America and the Republic of Costa Rica for the Establishment of an Inter-American Tropical Tuna Commission (basic instrument for the Inter-American Tropical Tuna Commission—IATTC);

Convention for the Conservation of Salmon in the North Atlantic Ocean (basic instrument for the North Atlantic Salmon Conservation Organization—NASCO);

Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries (basic instrument for the Northwest Atlantic Fisheries Organization—NAFO);

Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean (basic instrument for the North Pacific Anadromous Fish Commission—NPAFC);

Convention on the Conservation and Management of Pollock Resources of the Central Bering Sea;

Convention for the Conservation of Antarctic Marine Living Resources (basic instrument for the Commission for the Conservation of Antarctic Marine Living Resources—CCAMLR);

International Convention for the Regulation of Whaling (basic instrument for the International Whaling Commission—IWC);

Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America;

Convention for the Conservation of Antarctic Seals;

Agreement to Reduce Dolphin Mortality in the Eastern Tropical Pacific Tuna Fishery; and

Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific Ocean.

In addition, conservation and management measures set forth in, or adopted pursuant to, the following international agreements to which the United States is not party are included in the term "international conservation

and management measures recognized by the United States":

Convention on Future Multilateral Cooperation in North-East Atlantic Fisheries (basic instrument for the North-East Atlantic Fisheries Commission);

Agreement between the Government of the Kingdom of Norway and the Government of the Union of Soviet Socialist Republics Concerning Co-operation in the Field of Fisheries; and

Convention for the Conservation of Southern Bluefin Tuna.

This listing of "international conservation and management measures recognized by the United States" will be revised and updated from time to time by publication in the **Federal Register**. The inclusion or exclusion of items from this listing is without prejudice to any positions or views the United States Government may take or express with regard to such items in the future.

This IFR implements the application and issuance procedures for HSFCA permits. Application forms are available from NMFS Regional Offices. Applicants for HSFCA permits are encouraged to apply for their permits through the NMFS Regional Office with which they usually interact on Federal fisheries matters. The amount of fees charged for a permit issued under the HSFCA may recover administrative costs incurred in issuing such permits. Anticipated administrative costs for issuance of HSFCA permits have been determined to be $50.00 per application. This amount is the HSFCA application fee until further notice.

Permits issued under the HSFCA are valid for 5 years. Except for vessels that have unpaid or overdue civil penalties, criminal fines, or other liabilities incurred in a judicial proceeding under any statute administered by NOAA, any vessel of the United States is eligible to receive a permit under the HSFCA, unless the vessel was previously authorized by a foreign nation to be used for fishing on the high seas, and (1) the foreign nation suspended such authorization, because the vessel undermined the effectiveness of international conservation and management measures, and the suspension has not expired; or (2) the foreign nation, within the 3 years preceding application for a permit under the HSFCA, withdrew such authorization, because the vessel undermined the effectiveness of international conservation and management measures.

The restrictions in the above paragraph related to any sanctions imposed on a vessel by a foreign nation do not apply if ownership of the vessel has changed since the vessel undermined the effectiveness of international conservation and management measures, and the present owner provides sufficient evidence to the director of the NMFS Regional Office serving as the issuing office (Regional Director) demonstrating that the owner and operator at the time the vessel undermined the effectiveness of international conservation and management measures have no further legal, beneficial, or financial interest in, or control of, the vessel. The restrictions in the above paragraph related to any sanctions imposed on a vessel by a foreign nation also do not apply if a determination is made by the Regional Director that issuing a permit under the HSFCA would not subvert the purposes of the Agreement.

A permit issued under the HSFCA is void in the event the permitted vessel is no longer eligible for United States documentation, such documentation is revoked or denied, or the vessel is deleted from such documentation.

NMFS has experienced delays in implementing the HSFCA due to government furloughs and closures. NMFS realizes that some individuals may experience unavoidable delays in obtaining an HSFCA permit due to circumstances such as extended trips at sea. Such individual circumstances will be taken into consideration during any enforcement operations.

Classification

The Assistant Administrator for Fisheries, NOAA, under 5 U.S.C. 553(b)(B), finds that the need to license U.S. vessels to fish on the high seas, as required by the HSFCA, constitutes good cause to waive providing notice and the opportunity for public comment and to waive the 30-day delay in effective date under 5 U.S.C. 553(d)(3). Because the HSFCA requires that owners and operators of such vessels have licenses in order to operate legally on the high seas after March 3, 1996, delay in the issuance and effectiveness of this rule affording them the opportunity to apply for such licenses would be contrary to the public interest.

This IFR has been determined to be not significant for purposes of E.O. 12866.

This IFR contains a collection-of-information requirement subject to the Paperwork Reduction Act, namely the information required to be submitted on a permit application. The collection of this information has been approved by the OMB under OMB Control Number 0648–0304. The burden estimate for compliance is 30 minutes. Send comments regarding this burden estimate or any other aspect of the collection of information, including suggestions for reducing this burden, to Richard Schaefer, NMFS, or the Office of Information and Regulatory Affairs, OMB (see **ADDRESSES**).

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number.

List of Subjects in 50 CFR Part 300

High Seas Fishing, Fisheries, Permits, International Agreements, Reporting and recordkeeping requirements.

Dated: March 18, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service

For the reasons set out in the preamble, 15 CFR Chapter IX and 50 CFR Chapter III are amended as follows:

15 CFR Chapter IX

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

2. In 902.1, paragraph (b), the table is amended by adding in the left column under 50 CFR, in numerical order, "300.4", and in the right column, in corresponding position, the control number "–0304.".

50 CFR Chapter III

3. Subchapters A through D are redesignated as Subchapters B through E, respectively.

4. Subchapter A, High Seas Fishing Compliance Act, consisting of Part 300, is added to read as follows:

SUBCHAPTER A—HIGH SEAS FISHING COMPLIANCE ACT

PART 300—HIGH SEAS FISHERIES

Subpart A—General Provisions

Sec.

300.1 Purpose.
300.2 Definitions.
300.3 Issuing offices.
300.4 Vessel permits.
300.5 Vessel and gear identification. [Reserved]
300.6 Prohibitions.
300.7 Facilitation of enforcement.
300.8 Penalties.

Subpart B—Reporting and Recording

300.20 [Reserved]

Authority: 16 U.S.C. 5501 *et seq.*

Subpart A—General Provisions

§ 300.1 Purpose.

This part implements the High Seas Fishing Compliance Act of 1995 (Act), which requires the Secretary of Commerce to license U.S. vessels fishing on the high seas.

§ 300.2 Definitions.

The terms used in this part have the following meanings:

Act means the High Seas Fishing Compliance Act of 1995, 16 U.S.C. 5501 *et seq.*

Agreement means the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, adopted by the Conference of the Food and Agriculture Organization of the United Nations on November 24, 1993.

Authorized officer means:

(1) Any commissioned, warrant, or petty officer of the U.S. Coast Guard; or any U.S. Coast Guard personnel accompanying and acting under the direction of a commissioned, warrant, or petty officer of the U.S. Coast Guard;

(2) Any special agent or fisheries enforcement officer of NMFS; or

(3) Any person designated by the head of any Federal or state agency that has entered into an agreement with the Secretary or the Commandant of the U.S. Coast Guard to enforce the provisions of the Act.

High seas means the waters beyond the territorial sea or exclusive economic zone (or the equivalent) of any nation, to the extent that such territorial sea or exclusive economic zone (or the equivalent) is recognized by the United States.

High seas fishing vessel means any vessel of the United States used or intended for use:

(1) On the high seas;

(2) For the purpose of the commercial exploitation of living marine resources; and

(3) As a harvesting vessel, mothership, or any other support vessel directly engaged in a fishing operation.

International conservation and management measures means measures to conserve or manage one or more species of living marine resources that are adopted and applied in accordance with the relevant rules of international law, as reflected in the 1982 United Nations Convention on the Law of the Sea, and that are recognized by the United States.

NMFS means the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.

NMFS issuing office means the NMFS regional office through which a permit is issued under the Act.

Operator means, with respect to any vessel, the master or other individual on board and in charge of that vessel.

Owner means, with respect to any vessel:

(1) Any person who owns that vessel in whole or part;

(2) Any charterer of the vessel, whether bareboat, time, or voyage;

(3) Any person who acts in the capacity of a charterer, including but not limited to parties to a management agreement, operating agreement, or any similar agreement that bestows control over the destination, function, or operation of the vessel; or

(4) Any agent designated as such by a person described in this paragraph.

Regional Director means the director of the NMFS regional office serving as the issuing office.

§ 300.3 Issuing offices.

NMFS Regional Offices will issue permits required under this part. While applicants for permits may submit an application to any NMFS Regional Office, applicants are encouraged to submit their applications to the NMFS Regional Office with which they normally interact on fisheries matters. The addresses of the NMFS Regional Offices are as follows:

(a) Northeast Region, NMFS, (Attn: HSFCA Permits), One Blackburn Drive, Gloucester, MA 01930–2298.

(b) Southeast Region, NMFS, (Attn: HSFCA Permits), 9721 Executive Center Drive, N., St. Petersburg, FL 33702.

(c) Southwest Region, NMFS, (Attn: HSFCA Permits), 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213.

(d) Northwest Region, NMFS, (Attn: HSFCA Permits), 7600 Sand Point Way, NE., BIN C15700, Bldg. 1, Seattle, WA 98115.

(e) Alaska Region, NMFS, (Attn: HSFCA Permits), 709 West Ninth Street, Suite 401, P.O. Box 21668, Juneau, AK 99802.

§ 300.4 Vessel permits.

(a) *Eligibility.* (1) Except for vessels having unpaid or overdue civil penalties, criminal fines, or other liabilities incurred in a judicial proceeding under any statute administered by NOAA, any high seas fishing vessel of the United States is eligible to receive a permit under this part, unless the vessel was previously authorized to be used for fishing on the high seas by a foreign nation, and

(i) The foreign nation suspended such authorization, because the vessel undermined the effectiveness of international conservation and management measures, and the suspension has not expired; or

(ii) The foreign nation, within the 3 years preceding application for a permit under this section, withdrew such authorization, because the vessel undermined the effectiveness of international conservation and management measures.

(2) The restrictions in paragraphs (a)(1)(i) and (a)(1)(ii) of this section do not apply if ownership of the vessel has changed since the vessel undermined the effectiveness of international conservation and management measures, and the new owner has provided sufficient evidence to the Regional Director demonstrating that the owner and operator at the time the vessel undermined the effectiveness of such measures has no further legal, beneficial, or financial interest in, or control of, the vessel.

(3) The restrictions in paragraphs (a)(1)(i) and (a)(1)(ii) of this section do not apply if it is determined by the Regional Director that issuing a permit would not subvert the purposes of the Agreement.

(b) *Application forms.* The owner or operator of a high seas fishing vessel may apply for a permit under this part by completing an application form. Applicants may obtain an application form from an NMFS issuing office listed in § 300.3. (c) *Application information.* An applicant must submit a complete and accurate permit application, signed by the owner or operator, to the appropriate Regional Director.

(d) *Fees.* The NMFS issuing office will charge a fee to recover the administrative expenses of permit issuance. The amount of the fee will be determined in accordance with the procedures of the NOAA Finance Handbook for determining administrative costs of each special product or service. The fee is specified with the application form. The appropriate fee must accompany each application. Failure to pay the fee will preclude issuance of the permit. Payment by a commercial instrument later determined to be insufficiently funded will invalidate any permit.

(e) *Issuance.* (1) Except as provided in subpart D of 15 CFR part 904, the Regional Director will issue a permit, which will include appropriate

conditions or restrictions, within 30 days of receipt of a completed application and payment of the appropriate fee.

(2) The Regional Director will notify the applicant of any deficiency in the application.

(f) *Validity.* Permits issued under this part are valid for 5 years from the date of issuance. Renewal of a permit prior to its expiration is the responsibility of the permit holder. For a permit to remain valid to its expiration date, the vessel's U.S. Coast Guard documentation or state registration must be kept current. A permit issued under this part is void when the name of the owner or vessel changes, or in the event the vessel is no longer eligible for U.S. documentation, such documentation is revoked or denied, or the vessel is deleted from such documentation.

(g) *Change in application information.* Any changes in vessel documentation status or other permit application information must be reported to the Regional Director in writing within 15 days of such changes.

(h) *Transfer.* A permit issued under this part is not transferable or assignable to another vessel or owner; it is valid only for the vessel and owner to which it is issued.

(i) *Display.* A valid permit, or a copy thereof, issued under this part must be on board the vessel while operating on the high seas and available for inspection by an authorized officer. Faxed copies of permits are acceptable.

§ 300.5 Vessel and gear identification. [Reserved]

§ 300.6 Prohibitions.

It is unlawful for any person to:

(a) Use a high seas fishing vessel on the high seas in contravention of international conservation and management measures.

(b) Use a high seas fishing vessel on the high seas, unless the vessel has on board a valid permit issued under § 300.4.

(c) Violate the conditions or restrictions of a permit issued under § 300.4.

(d) Fail to submit information, fail to submit information in a timely manner, or to submit false or inaccurate information, with respect to any information required to be submitted, reported, communicated, or recorded pursuant to the Act or the regulations in this part.

(e) Refuse to permit an authorized officer to board a high seas fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Act, this part or any other applicable law.

(f) Forcibly assault, resist, oppose, impede, intimidate, or interfere with an authorized officer in the conduct of any search or inspection described in paragraph (e) of this section.

(g) Resist a lawful arrest or detention for any act prohibited by this section.

(h) Interfere with, delay, or prevent, by any means, the apprehension, arrest, or detection of another person, knowing that such person has committed any act prohibited by this section.

(i) Ship, transport, offer for sale, sell, purchase, import, export, or have custody, control or possession of, any living marine resource taken or retained in violation of the Act or this part.

(j) Violate any provision of the Act or the regulations in this part.

§ 300.7 Facilitation of enforcement.

(a) *Compliance.* The operator of, or any other person on board, any fishing vessel subject to this part must immediately comply with instructions and signals issued by an authorized officer to stop the vessel and with instructions to facilitate safe boarding and inspection of the vessel, its gear, equipment, fishing record (where applicable), and catch for purposes of enforcing the Act and this part.

(b) *Communications.* (1) Upon being approached at sea by a U.S. Coast Guard vessel or aircraft, or other vessel or aircraft with an authorized officer on board, the operator of a fishing vessel must be alert for communications conveying enforcement instructions.

(2) VHF-FM radiotelephone is the preferred method of communicating between vessels. If the size of the vessel and the wind, sea, and visibility conditions allow, a loudhailer may be used instead of the radio. Hand signals, placards, high frequency radiotelephone, or voice may be employed by an authorized officer, and message blocks may be dropped from an aircraft.

(3) If other communications are not practicable, visual signals may be transmitted by flashing light directed at the vessel signaled. Coast Guard units will normally use the flashing light signal "L" as the signal to stop. In the International Code of Signals, "L" (.-..) means "you should stop your vessel instantly."

(4) Failure of a vessel's operator promptly to stop the vessel when directed to do so by an authorized officer using loudhailer, radiotelephone, flashing light signal, or other means constitutes prima facie evidence of the offense of refusal to allow an authorized officer to board.

(5) The operator of a vessel who does not understand a signal from an enforcement unit and who is unable to obtain clarification by loudhailer or radiotelephone must consider the signal to be a command to stop the vessel immediately.

(c) *Boarding.* The operator of a vessel directed to stop must:

(1) Monitor Channel 16, VHF-FM, if so equipped;

(2) Stop immediately and lay to or, if appropriate and/or directed to do so by the authorized officer, maneuver in such a way as to allow the safe boarding of the vessel by the authorized officer and the boarding party;

(3) Except for those vessels with a freeboard of 4 ft (1.25 meters) or less, provide a safe ladder, if needed, for the authorized officer and boarding party to come on board;

(4) When necessary to facilitate the boarding or when requested by an authorized officer, provide a manrope or safety line, and illumination for the ladder; and

(5) Take such other actions as necessary to facilitate boarding and to ensure the safety of the authorized officer and the boarding party.

(d) *Signals.* The following signals, extracted from the International Code of Signals, may be sent by flashing light by an enforcement unit when conditions do not allow communications by loudhailer or radiotelephone. Knowledge of these signals by vessel operators is not required. However, knowledge of these signals and appropriate action by a vessel operator may preclude the necessity of sending the signal "L" and the necessity for the vessel to stop instantly.

(1) "AA" repeated (.- .-) is the call to an unknown station. The operator of the signaled vessel should respond by identifying the vessel by radiotelephone or by illuminating the vessel's identification.

(2) "RY-CY" (.-. -.-- -.-. -.--) means "you should proceed at slow speed, a boat is coming to you." This signal is normally employed when conditions allow an enforcement boarding without the necessity of the vessel being boarded coming to a complete stop, or, in some cases, without retrieval of fishing gear that may be in the water.

(3) "SQ3" (... --.- ...--) means "you should stop or heave to; I am going to board you."

§ 300.8 Penalties.

Any person or high seas fishing vessel found to be in violation of the Act, this part, or any permit issued under this part will be subject to the civil and criminal penalty provisions, permit sanctions, and forfeiture provisions prescribed in the Act, 15 CFR part 904 (Civil Procedures), and other applicable laws.

Subpart B—Reporting and recordkeeping.

§ 300.20 [Reserved]

[FR Doc. 96–6867 Filed 3–21–96; 3:24 pm]
BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 61, No. 57
Friday, March 22, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1005, 1006, 1007, 1011, 1012, 1013, and 1046

[Docket No. AO–366–A37; AO–388–A9, et al.; DA–95–22]

Milk in the Carolina and Certain Other Marketing Areas; Decision on Proposed Amendments to Marketing Agreements and Orders

7 CFR part	Marketing area	Docket No.
1005	Carolina	AO–388–A9
1006	Upper Florida	AO–356–A32
1007	Southeast	AO–366–A37
1011	Tennessee Valley	AO–251–A40
1012	Tampa Bay	AO–347–A35
1013	Southeastern Florida.	AO–286–A42
1046	Louisville-Lexington-Evansville.	AO–123–A67

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This final decision proposes to amend certain location adjustments under the Southeast Federal milk marketing order. The decision denies a proposal to provide a fluid milk surcharge during the period of November 1995 through March 1996 and a transportation credit on bulk milk purchased for 6 Federal milk orders in the Southeastern United States. The decision is based on the record of a public hearing held in Atlanta, Georgia, on September 19, 1995.

FOR FURTHER INFORMATION CONTACT: Nicholas Memoli, Marketing Specialist, Order Formulation Branch, USDA/AMS/Dairy Division, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 690–1932.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12866.

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this proposed rule will not have a significant economic impact on a substantial number of small entities. The proposed amendments will promote orderly marketing of milk by producers and regulated handlers.

The proposed amendments have been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have a retroactive effect. If adopted, the proposed rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with the law and requesting a modification of an order or to be exempted from the order. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Prior Documents in This Proceeding

Notice of Hearing: Issued August 11, 1995; published August 17, 1995 (60 FR 42815).

Supplemental Notice of Hearing: Issued September 8, 1995; published September 13, 1995 (60 FR 47495).

Recommended Decision: Issued December 18, 1995; published December 27, 1995 (60 FR 66929).

Preliminary Statement

A public hearing was held upon proposed amendments to the marketing agreements and the orders regulating the handling of milk in the aforesaid marketing areas. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice (7 CFR Part 900), at Atlanta, Georgia, on September 19, 1995. Notice of such hearing was issued on August 11, 1995, and September 8, 1995, and published August 17, 1995 (60 FR 42815) and September 13, 1995 (60 FR 47495), respectively.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Administrator, on December 18, 1995, issued a recommended decision containing notice of the opportunity to file written exceptions thereto. Six comments were received in response to the notice.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, with no material modifications. Under Issue No. 1, two paragraphs have been added at the end of the discussion and, under Issue No. 3, 12 paragraphs have been added at the end of the issue to discuss the exceptions received.

The material issues on the record of the hearing relate to:

1. Whether the location adjustment at Hammond, Louisiana, should be increased by 7 cents under Order 7.
2. Whether the location adjustment at Mobile, Alabama, should be reduced by 7 cents under Order 7.
3. Whether a transportation credit for supplemental milk should be adopted for Orders 5, 6, 7, 11, 12 and 13.[1]
4. Whether a fluid milk surcharge should be provided on a temporary basis for Orders 5, 6, 7, 11, 12, and 13.
5. Whether emergency marketing conditions in the 6 regulated areas warrant the omission of a recommended decision and the opportunity to file written exceptions thereto.

Findings and Conclusions

The following findings and conclusions on the material issues are

[1] The Louisville-Lexington-Evansville order was dropped from Proposals 4 and 5, as contained in the hearing notice, at the hearing.

based on evidence presented at the hearing and the record thereof:

1. Whether the Location Adjustment at Hammond, Louisiana, Should Be Increased by 7 Cents Under Order 7

The location adjustment in the portion of Tangipahoa Parish, Louisiana, south of State Highway 16, should be increased from plus 50 cents to plus 57 cents. The 7-cent price increase applies to both Class I prices applicable to handlers and blend prices applicable to producers. However, for the sake of simplicity, the price increase is discussed in terms of the Class I differential price.

The vice-president of fluid milk marketing and economic analysis for Mid-America Dairymen, Inc. (Mid-Am), proposed the 7-cent higher location adjustment at Hammond, Louisiana, which is located in the southern portion of Tangipahoa Parish. He stated that the 7-cent location adjustment increase would provide a $3.65 Class I differential price at Hammond, the same price applicable at Baton Rouge and New Orleans.

The representative explained that Mid-Am is a cooperative owned by approximately 18,000 dairy farmers and a major supplier of distributing plants pooled on the Southeast Federal milk marketing order (Order 7). He testified that in southeast Louisiana Mid-Am has a full supply agreement with 5 of the 6 plants in the New Orleans/Baton Rouge/Hammond area and a partial supply agreement with the 6th plant. In August 1995, he indicated, Mid-Am represented 55.9 percent of both the Class I sales and total producer milk pooled on Order 7.

The Mid-Am representative stated that the final decision for the Southeast order that was issued on May 3, 1995 (60 FR 25014), established a price of $3.58 at Hammond and a price of $3.65 at Baton Rouge and New Orleans, Louisiana. The representative argued that the 7-cent difference in price provides a competitive sales advantage to the plant located in Hammond while its ability to procure milk is no different than plants located in Baton Rouge.

According to the Mid-Am representative, the milk supply for plants in Hammond and Baton Rouge comes from direct-ship milk produced in Louisiana's "Florida parishes" (i.e., Tangipahoa, Washington, St. Tammany, St. Helena, Livingston, East Feliciana, and East Baton Rouge). He contended that the 7-cent lower price at Hammond is not justified since the per hundredweight rate paid to local milk haulers who deliver milk to Baton Rouge and Hammond is the same. He elaborated further that the rate per hundredweight that is charged producers in the Florida parishes is the same whether the producer's milk is delivered to Hammond or Baton Rouge or even New Orleans. Thus, he asserted, competing handlers in the New Orleans/Hammond/Baton Rouge area should have the same Class I differential price because the cost of procuring milk at each of these locations is the same.

The assistant operations manager for Fleming Dairy, which operates two distributing plants in the Southern United States, testified in support of the proposal to equalize Class I prices adjusted for location at Hammond, Baton Rouge, and New Orleans, Louisiana. Alternatively, the witness stated, Fleming would support a 7-cent price reduction at Baton Rouge and New Orleans, which also would equalize the Class I differential prices at these locations. He testified that equal and uniform Class I differential prices are justified for these locations for competitive reasons.

The Fleming witness indicated that 100 percent of the raw milk supply delivered to its distributing plant in Baker, Louisiana,[2] is produced by dairy farmers located within 45 miles of the plant. He stated that a higher Class I price at one location compared to another suggests a greater shortage or need to attract milk from distant supply areas. However, the witness indicated, southern Louisiana has an abundant supply of milk available and has had to regularly transfer milk to Florida during short production months to supplement Florida's raw milk requirements. Additionally, he argued, handlers located in Hammond should not have a competitive advantage over Baton Rouge handlers because both locations are approximately the same distance to New Orleans, the primary population center of southern Louisiana.

According to the Fleming witness, the Secretary's Final Decision issued May 3, 1995, justifying the lower price in Hammond compared to Baton Rouge or New Orleans was based on mistaken conclusions of facts and miscommunications within the newly enlarged cooperative association (Mid-Am). The witness also stated that marketing conditions in the Southern United States have changed since the merger hearing was held in 1993. He explained that a single farmer-owned cooperative now controls the milk supply for southern Louisiana, as opposed to three or four competing cooperatives which previously supplied this area. Accordingly, he agreed with Mid-Am that the difference in price for these locations is not justified because there is no freight difference in supplying New Orleans, Hammond, and Baton Rouge with raw milk. Thus, he urged the Secretary to correct the price disparity at Hammond immediately.

Fleming reiterated support for the 7-cent location adjustment increase at Hammond, Louisiana, in its post-hearing brief. Gold Star Dairy, Inc. (Gold Star), Little Rock, Arkansas, also supported the proposed 7-cent location adjustment increase at Hammond in a post-hearing brief. Gold Star stated that the 7-cent increase will correct an unintended inequity problem in the Southeast order. There was no opposition to the proposed increase at the hearing, in post-hearing briefs, or in the exceptions to the recommended decision.

The proposed 7-cent higher location adjustment in the southern portion of Tangipahoa Parish should be adopted to provide the same prices at pool distributing plants located at Hammond and Baton Rouge, Louisiana. These plants are located within a major production area of the market and procure their milk supplies from the same nearby farms. As a result, the rates paid to haulers to transport milk to Hammond compared to Baton Rouge are the same because the mileage from producers' farms to the various plants is essentially the same. Thus, the value of producer milk delivered to Hammond should be no less than the value of such milk delivered to Baton Rouge. Therefore, the southern portion of Tangipahoa Parish should be moved to Zone 12, as proposed in the recommended decision, to provide a 7-cent higher price at Hammond.

In its exception to the recommended decision, Fleming again emphasized its support for equalizing the prices at Baton Rouge, Hammond, and New Orleans, but asked the Secretary to consider whether it may be more appropriate to reduce the New Orleans and Baton Rouge prices to the Hammond level rather than increase the Class I price at Hammond to the price level applicable at New Orleans and Baton Rouge.

The suggestion of Fleming Dairy to reduce the New Orleans and Baton Rouge prices to the level at Hammond may have merit. However, there was no proposal on this record to reduce the price at New Orleans or Baton Rouge. If there is any desire on the part of the industry for such a reduction, it should be fully explored on the record, particularly taking into consideration

[2] Baker is 10 miles north of Baton Rouge. Both Baker and Baton Rouge are in East Baton Rouge Parish, which is within Zone 12 of the marketing area.

what the impact of such a change might have on handlers in the adjacent Texas marketing area. At the present time, there is close Class I price alignment between Texas and Louisiana handlers. If a price reduction in southern Louisiana is deemed to have merit, it should be considered in conjunction with an overall evaluation of price levels in the area.

2. Whether the location adjustment at Mobile, Alabama, should be reduced by 7 cents under Order 7.

The location adjustment at Mobile, Alabama, should be reduced from plus 57 cents to plus 50 cents.

A witness appearing on behalf of Barber Pure Milk Company (Barber) and Dairy Fresh Corporation (Dairy Fresh) proposed the 7-cent reduction in the location adjustment at Mobile, Alabama. The witness stated that Barber and Dairy Fresh operate pool distributing plants under Order 7. He said the Barber plant at Mobile and the Dairy Fresh plant at Prichard, Alabama, are located within 20 miles of the Mobile City Hall and handle approximately 8.5 to 9.5 million pounds of milk per month.

The witness for Barber and Dairy Fresh contended that the Southeast order, which became effective July 1, 1995, established pricing zones that created cost inequities for the Barber Mobile plant and the Dairy Fresh Prichard plant with other Order 7 pool plant handlers. He argued that the final decision lowered the Class I price adjusted for location for Barber and Dairy Fresh competitors while the price at Mobile remained unchanged at $3.65. He claimed that the 7-cent difference is a substantial amount and that Barber and Dairy Fresh cannot continue to operate as viable business entities with the current pricing situation. The proposed $3.58 Class I differential price is the price applicable for most of Barber and Dairy Fresh's competitors and is sufficient to attract an adequate supply of milk to the Mobile area, he asserted.

The Barber/Dairy Fresh witness also indicated that the market structure in the Southeastern United States had changed since the merger hearing was held in 1993. He stated that several plants had closed or changed ownership and that one new large state-of-the-art Class I plant had recently opened. Several cooperatives serving the Southeast marketing area at the time of the hearing have now joined Mid-Am, resulting in Mid-Am being the major supply organization in the market, he added.

The witness explained that one key change that has occurred since the 1993 merger hearing is that Barber now receives its entire milk supply from Mid-Am and approximately 2.8 million pounds are for its Mobile plant. He added that Dairy Fresh purchases about 92 percent of its milk from nonmembers and the remainder from Mid-Am. The milk supply for both plants is from producers located in the same general area, he said, while the Class I distribution area of the Mobile and Prichard plants is primarily along the Gulf Coast stretching west from Mobile to Hancock County, Mississippi, east from Mobile to Tallahassee, Florida, and northeast from Mobile to Montgomery County, Alabama.

The witness argued that the proposed price change is needed to equalize prices between Mobile-area handlers and handlers located in the Upper Florida order. He urged the Department to lower the location adjustment by 7 cents at Mobile, Alabama, thus changing the location adjustment from a plus 57 cents to a plus 50 cents.

In its post-hearing brief and exception to the recommended decision, Barber and Dairy Fresh reiterated their support for the proposed 7-cent lower location adjustment. The brief pointed out that witnesses at the hearing testified that 7 cents per hundredweight is a significant amount for Class I milk. The handlers asserted that the adoption of the proposal would align the Mobile price with the price applicable in the northern portion of the Upper Florida order.

At the hearing, in its post-hearing brief, and in its exception to the recommended decision, Gold Star Dairy opposed the 7-cent lower location adjustment at Mobile, Alabama, but presented no testimony or evidence to support its position. There was no other opposition testimony.

The location adjustment at Mobile, Alabama, should be reduced by 7 cents to provide a price of $3.58 by eliminating the Zone 12 island around Mobile in what is otherwise a Zone 11 region. The city of Mobile, Alabama, is within Mobile County, which is in Zone 11 of the Southeast order. Unlike the rest of Mobile County, the 20-mile radius area surrounding the city of Mobile is now part of Zone 12, which is priced 7 cents above Zone 11.

The record of this hearing indicates that changes in procurement patterns have occurred since the 1993 hearing and that the original reason for placing the Mobile handlers in the 7-cent higher pricing zone—i.e., to insure the two Mobile handlers of an adequate supply of milk—is no longer an overriding consideration. The record of this hearing indicates that the Barber plant at Mobile now has a full supply contract with Mid-America Dairymen, Inc., thereby eliminating any concern that the handler had about obtaining an adequate supply of milk.

Although the Dairy Fresh plant at Prichard still receives a majority of its milk from nonmember producers, there was no testimony at the hearing from any cooperative association representative or any nonmember producer, no post-hearing briefs, and no exceptions filed in response to the recommended decision to indicate that the plant would not be able to maintain its milk supply with the proposed 7-cent lower Class I price.

Accordingly, it must be concluded that no valid purpose is served by pricing the Mobile area at its current $3.65 Class I differential price. A 7-cent lower price at Mobile will properly align the prices at Mobile with the Florida panhandle, which has a Class I differential price of $3.58, as well as with counties directly east and west of Mobile, which are also priced at $3.58. Most importantly, the record indicated that the lower price at Mobile would not jeopardize the supply of milk at the Barber or Dairy Fresh plants.

3. Whether a Temporary Transportation Credit for Supplemental Milk Should Be Adopted for Orders 5, 6, 7, 11, 12, and 13.

The proposed amendment to provide a transportation credit for bulk milk received by transfer from a plant regulated under another Federal order for Orders 5, 6, 7, 11, 12, and 13 during the period of July 1995 through February 1996 should be denied. The cooperatives withdrew their pre-hearing request to amend the Louisville-Lexington-Evansville Federal milk marketing order.

The transportation credit was proposed by the Dairy Cooperative Marketing Association, Inc. (DCMA), whose members include Arkansas Dairy Cooperative, Associated Milk Producers, Inc., Carolina-Virginia Milk Producers, Inc., Cooperative Milk Producers, Inc., Florida Dairy Farmers Association, Inc., Mid-America Dairymen, Inc., and Tampa Independent Dairy Farmers Association, Inc. These cooperatives represent the vast majority of milk pooled in the 6 marketing areas.

A spokesman for DCMA testified that a shortage of milk in the Southeast has been brought about by lower prices, rising costs, and extreme weather conditions in most areas of the Southeast. According to the spokesman, many factors, including extreme heat and drought conditions, contributed to the decline in milk production in the Southeast. He indicated that milk production in Florida declined by 15 percent or more during 1995. During August 1995, he noted, producer milk pooled on the 6 Federal milk orders was down approximately 15 million pounds from volumes pooled during August 1994 in comparable Federal orders.

The DCMA spokesman stated that the percentage of producer milk allocated to Class I under the 6 orders has increased, while total producer milk pooled under the orders has decreased. During July and August 1995, the spokesman indicated, the pounds of milk purchased as transfers from other Federal order plants exceeded 30 and 74 million, respectively.

According to the witness, current milk production of producers pooled on the 6 southeastern orders will be insufficient to meet fluid requirements. He argued that the current Federal order minimum Class I price structure has not and will not attract an adequate supply of locally-produced milk.

Some handlers and/or cooperatives, he complained, will incur the cost of obtaining needed supplemental supplies from distant marketing areas. Additionally, he claimed, those producers who are responsible for supplying the needs of the market will pay the cost of bringing in supplemental milk. This will result in such producers not receiving uniform prices for their milk, he said.

The DCMA spokesman stated that the proposal would provide a temporary transportation credit to handlers who purchase supplemental milk allocated to Class I use from plants regulated under other Federal milk marketing orders. Milk received on a requested Class II or III basis or milk that is simply allocated to Class II or III would not receive the transportation credit, he said. He explained that the rate of the hauling credit would be 3.9 cents per hundredweight per 10 miles, based on the distance between the shipping and receiving plants, less any positive difference between the Class I differential applicable at the receiving plant and the Class I differential applicable at the shipping plant. The rate of 3.9 cents per hundredweight per 10 miles is reflective of the actual cost of hauling milk, he claimed.

The DCMA spokesman testified that the transportation credit should be made effective beginning July 1, 1995, and extend through February 29, 1996. Applying the transportation credit retroactively is appropriate, he argued, because of the substantial amount of supplemental milk purchased during the months of July and August. However, he recommended that the amount of money deducted from the pool for transportation credits each month be limited to 150 percent of the funds generated by the proposed Class I price surcharge for the month. This approach would spread the price-reducing impact of the transportation credits over the proposed 7-month period. DCMA reiterated its position in a post-hearing brief.

The marketing specialist of the Southern Region of Associated Milk Producers, Inc. (AMPI), testified in support of the DCMA's proposed transportation credits for emergency relief. According to the representative, AMPI's Southern Region represents approximately 3,000 Grade A dairy farmers located throughout the Southwest United States, with the greatest concentration of milk production in Texas and New Mexico. He indicated that AMPI also now has a substantial quantity of producer milk marketed on the Southeast order each month that was associated with the former Central Arkansas Federal milk order (Order 108).

The AMPI representative stated that AMPI assisted in supplying supplemental milk to the Southeast during the extreme milk shortage. He testified that from August 23 through September 10 AMPI delivered 10 loads of milk per day to Schepps Dairy, Dallas, Texas, to allow Mid-Am to reroute an equivalent amount of milk to southeastern handlers from the Mid-Am reload facility in Sulphur Springs, Texas. A total of 193 loads of milk were delivered to Schepps, he noted.

The AMPI spokesman stated that AMPI supplied approximately 8.8 million pounds of supplemental milk during July and August, which includes milk delivered to Schepps, as well as milk transferred directly into the Southeast marketing area. He said that AMPI charged the purchasing handler or cooperative $2.00 per hundredweight for this service and that the buyer paid the freight charge.

A representative for Fleming Dairy (Fleming), Nashville, Tennessee, testified in support of the proposed transportation credit, but recommended certain modifications. He agreed with the testimony of DCMA that the Southeast had suffered an unusual milk supply crisis since early August and that it would be equitable to provide a method to reimburse those who have served the market by incurring extraordinary costs to bring supplemental milk into the region from distant supply markets. He said that Fleming is supplied primarily by independent producers, but receives supplemental supplies from Mid-Am. During the last week of August, he indicated, Fleming obtained milk supplies from the New Mexico-West Texas and Upper Midwest marketing areas to meet its fluid demand due to the insufficient supply of locally-produced milk.

According to the Fleming representative, some additional supplemental milk may be required through October, but the period of greatest crisis and demand is now over. Thus, he stated, Fleming would favor a transportation credit through the month of October.

The Fleming spokesman testified that supplemental shipments of milk in late summer and fall are a recurring feature of the southeastern marketing areas, and transportation credits in some form would be justified as a permanent feature of the orders for the months of July through October. However, he recommended that the transportation credit only apply for distances that exceed 100 miles. He said the Secretary should determine whether the proposed 3.9-cent rate is justified.

The Fleming representative also observed that this is the first year in which there has been a significant need for supplemental milk in the southeast region from the north-central region since the adoption of Class III–A pricing. The witness stated that the transportation credit should not be granted to a handler or cooperative association that has any milk assigned to Class III–A during the same period of time. In addition, he said, Class III–A pricing should be suspended for the Southeast region and neighboring marketing areas in the northeast and north-central regions when there is a clear demand for milk for Class I use that is not being met. Class III–A, he stressed, was adopted to permit the orderly disposition of excess milk when another use for the milk was not available, not as a bargaining lever to extract high give-up costs when the need for fluid milk is great.

Fleming's post-hearing brief reiterated its qualified support for transportation credits. The brief stated that transportation credits for past services of marketwide benefit are consistent with the 1985 amendments to the Agricultural Marketing Agreement Act. The transportation credits, Fleming contended, are necessarily retroactive because the application for credit comes only after a service has been rendered.

The president of Southern Belle Dairy (Southern Belle) Somerset, Kentucky, testified in opposition to the proposed transportation credit. The representative stated that Southern Belle is a pool plant regulated under the Tennessee Valley Federal milk order. He explained

that Southern Belle receives its milk supply from Southeastern Graded Milk Producers, Milk Marketing, Inc., and Mid-America Dairymen, Inc. He said Southern Belle also receives supplemental milk supplies from Armour Foods.

According to the Southern Belle representative, during the crisis period Southern Belle purchased 2 loads of milk in Buffalo, New York, at a give-up charge of $5.50 per hundredweight. He said that, under the DCMA proposal, Southern Belle would receive a transportation credit of approximately $1,500, but claimed that the proposed 5-cent per hundredweight surcharge to pay for the transportation credits would force Southern Belle to pay an amount far in excess of its $1,500 credit.

In a post-hearing brief, Southern Belle reiterated its opposition to the retroactive application of the transportation credit but did not support or oppose the prospective issuance of the credit for supplemental milk purchased during months of very short production. The brief also argued that the record evidence shows that the "crisis" was due to Mid-Am's inability to properly manage its sales of milk and to recover adequate over-order premiums to cover the costs of purchasing supplemental milk supplies. Finally, Southern Belle argued that the retroactive application of the proposed transportation credit would encourage cooperatives to request relief for a problem that no longer exists.

The general manager of Gold Star Dairy (Gold Star), Little Rock, Arkansas, also testified in opposition to the proposed transportation credit at the hearing. In its post-hearing brief, Gold Star opposed any retroactive application of the transportation credit but did not support or oppose the issuance of the credit for Class I milk purchased during months of very short production.

Gold Star contended that there is no record evidence to support DCMA'S argument that supplemental milk would be needed beyond October. According to Gold Star's brief, the last year of shipments into the southeast region from Wisconsin was in 1992, a year in which shipments began in mid-August and extended to October. The brief also argued that shipments from Wisconsin in 1995 probably have peaked already and that no shipments will likely be needed after October.

Gold Star and Southern Belle argued that the Secretary does not have the authority to issue rules that would have a retroactive effect. Moreover, even if he did, they contend, such authority would invite the post-crisis demand for modifications of the rules to alleviate problems that may no longer exist.

A brief filed on behalf of Land-O-Sun Dairies, Inc. (Land-O-Sun), opposed the proposed transportation credit. Land-O-Sun stated that it operates pool plants regulated under Orders 5 and 11 in Spartanburg, South Carolina, and Kingsport, Tennessee, respectively. The handler also indicated it operates an Order 5 partially regulated plant in Portsmouth, Virginia.

Land-O-Sun argued that the Secretary lacks the authority to grant rules regarding transportation credits that would have a retroactive effect absent the expressed statutory language. According to Land-O-Sun, the Department of Health and Human Services (HHS) issued a rule in 1984 which applied to a cost reimbursement calculation method and tried to recoup costs that were incurred prior to the effective date of the 1984 rule. However, Land-O-Sun noted, in the case of *Bowen v. Georgetown University Hospital*, 488 U.S. 204 (1988), the Supreme Court invalidated the retroactive feature of the HHS rule.

Land-O-Sun contends that the Agricultural Marketing Agreement Act, as amended, is wholly silent on the issue of retroactive powers vested in the Secretary. It argues that in 1986 the Secretary did not have the authority to implement retroactively the Class I differentials mandated by the 1985 Farm Bill and, by the same token, does not now have the authority to implement the proposed transportation credits retroactively.

Land-O-Sun argues that even if the Secretary had the authority to impose the retroactive transportation credits, he should deny this request because the problem should have been addressed through private business agreements. The Land-O-Sun brief states that the proposed credit penalizes both handlers who procured their own supplies and producers not involved in bringing in supplemental supplies. Finally, Land-O-Sun stated that there is significant competition between Order 5 plants and plants located in Florida, Georgia, Tennessee, Virginia, and Kentucky and that the 5-cent higher surcharge for Order 5 compared to Orders 7 and 11 would place Order 5 handlers at a competitive disadvantage.

Milkco, Inc. (Milkco), a fully regulated handler under Order 5, filed a post-hearing brief in opposition to the proposed transportation credit because of its retroactive effect. Milkco stated that if a transportation credit is granted, it should apply to the same months that an emergency fluid milk surcharge would be applicable.

After carefully evaluating the record evidence and the post-hearing briefs, we must conclude that during the summer of 1995 there was a need for supplemental milk for Class I use in all of the 6 orders and that this need was particularly acute for the Carolina and 3 Florida orders. Furthermore, the record clearly shows that the burden of bringing in supplemental milk to satisfy fluid milk demand fell, almost exclusively, on the cooperative associations supplying these markets. The record also shows that during the months of July and August 1995 over-order charges were either non-existent or—where they did exist—appeared to be inadequate to compensate the cooperatives for the costs which they incurred.

It may be true, as opponents argue, that price adjustments should not be made to compensate for prior marketing costs. Any pool plant operator that obtained milk on a direct-shipped basis—at whatever cost it had to pay—during July through September of 1995 would not be eligible for a credit under the DCMA proposal; yet the handler would now be asked to pay a higher Class I price to subsidize someone else's supplemental milk expense.

Opponents argued that the Secretary lacks the authority to retroactively apply the proposals. Ultimately, this question can only be clarified in a court of law. However, in this proceeding the threshold question of whether or not the proposals are supported by the record precludes any subsequent debate concerning their legality.

While the record clearly showed that a great deal of milk was brought into the 6 markets, it lacked comparable data for earlier years from which to measure the magnitude of this year's problem. As can be seen in Table 1, for example, there was clearly much more bulk milk imported to the Carolina and Florida markets for Class I use in August of 1995 compared to August 1993, but this picture is less clear in comparing the bulk imports for the Southeast market in August 1995 compared to August 1994, and the comparison is virtually impossible for the Tennessee Valley market because of the restrictions on the data. Also, while the record data unequivocally demonstrated a significant drop in production for some of the markets involved in this proceeding, it was less demonstrative for some of the other markets involved. For example, while producer receipts in the Southeastern Florida market were down by 8.5 percent in July (compared to July 1994), they were up by 19 percent during July 1995 in the Tennessee Valley market. Similarly, in August 1995 producer receipts were down (compared to a year earlier) in 4 of the 6 markets, but they were up by 4 percent in Order 7 and by 2 percent in Order 11.

TABLE 1.—MILLIONS OF POUNDS OF BULK FLUID MILK PRODUCTS FROM OTHER ORDER PLANTS NOT REQUESTED FOR CLASS II OR III USE, JULY–AUGUST, 1993–1995

	7/93	8/93	7/94	8/94	7/95	8/95
Order 5	2.3	1.8	R	R	1.7	12.3
Orders 6, 12, and 13	2.4	17.3	R	15.8	16.3	32.9
Order 7	4.1	12.3	6.9	27.6	10.5	29.7
Order 11	.8	R	0	R	R	5.2

R=Data restricted. Less than 3 handlers involved.

The record also was lacking in detail with respect to cooperatives' over-order charges. In the Florida markets, where such charges were in effect during the summer months, there is no indication how much, if any, of the premium is supposed to cover the cost of bringing supplemental milk to the market. It was also unclear how this year's transportation and give-up costs compared to prior years.

A transportation credit, with or without an accompanying surcharge, might have merit in these seasonally-deficit markets where no other means exist to recoup costs of servicing the market. However, the specific proposals under consideration in this proceeding are not supported by the weight of evidence in the record.

Exceptions to the recommended decision. Five comments were received with respect to the proposed transportation credit and the proposed fluid milk surcharge.

Southern Belle reiterated its opposition to the proposed Class I price increase and the retroactive application of transportation credits, but stated that "it took no position" on the prospective issuance of transportation credits for Class I milk during months of very short production.

Gold Star Dairy also restated its opposition to the proposed Class I price increase and the retroactive application of transportation credits. The exception stated that, even though the proposed transportation credits were not adopted, the Secretary should clarify his position regarding the issuance of retroactive rules. Land O' Sun Dairies, Inc., took a similar position in its exception.

Fleming Dairy stated in its exception that Land O' Sun Dairy was incorrect in asserting that the proposed transportation credits from future producer settlement funds constitute unlawful retroactive rulemaking. According to Fleming, the proposal would mitigate burdens of the past by credits from future pools. While supportive of the DCMA proposal, Fleming suggested that the transportation credit for mileage be limited to 3.4 cents per 10 miles and that such credit only apply beyond 100 miles distance from the transferor plant to the transferee plant.

In response to the request of Gold Star and Land O' Sun for a clarification of the Secretary's position regarding the legality of the retroactive application of transportation credits, no good purpose would be served in a hypothetical discussion of this issue when there is insufficient record evidence to support any credits.

A proposal was made for a transportation credit applicable to past marketings to be paid for through a surcharge based upon current and future marketings.

Dairy Cooperative Marketing Association, Inc., also excepted to the denial of the proposed transportation credit and fluid milk surcharge.

DCMA argued that a marketwide service provision is justified under the Act if it can be shown that marketwide services are being performed in a market and the cost for such services are not being borne equally by all producers in the market. It stated that the rationale for denying the transportation credits and Class I surcharge is inconsistent with past agency decisions with respect to other markets.

The rationale for denying this proposal was not the concept of transportation credits, but the factual record herein. Proponents claimed that an unusual milk shortage necessitated a temporary emergency action. Yet, the record failed to sufficiently support this claim. The evidence, as noted above, was inconsistent from month to month, year to year, and order to order.

In its exception, DCMA states that "the Administrator concluded, as an apparent expression of policy, that transportation credits are only available where no other means exist to recoup costs of servicing the market." DCMA incorrectly interprets this statement to mean that transportation credits can only be adopted if all other means of recouping costs, including cooperative over-order charges, have been exhausted. The statement included in the recommended decision and in this final decision reads: "A transportation credit, with or without an accompanying surcharge, might have merit for these seasonally deficit markets where no other means exist to recoup costs of servicing the market." The clause "where no other means exist to recoup costs of servicing the market" was intended to be interpreted as a nonrestrictive clause adding information about the markets at issue herein rather than serving to identify or define a precondition necessary for adoption of any proposal. In the past year, some of the cooperative associations in the Southeast apparently have been unable to maintain over-order charges at a level necessary to recoup all of their costs for servicing these markets.

DCMA is correct in asserting that any decision regarding transportation credits need not be based upon the level of over-order payments in effect in a market. However, the proposal before the Secretary was not only for temporary transportation credits for past months, but also for a Class I surcharge to pay for them. In these circumstances, the level of over-order payments becomes a relevant consideration. For example, if some handlers are already paying a cooperative association an over-order charge for balancing the market, but their competitors, who obtain milk from nonmember producers or other cooperatives, are not, it is inequitable for the aforementioned handlers to be subject to an additional surcharge under the order for a service for which they have already paid, at least in part. Similarly, if some handlers already paid extra charges to non-order producer sources, it would be inequitable to charge them an additional surcharge (as well as denying them any transportation credits). If all parties had advance notice of the proposed

transportation credit and surcharge, all could have made arrangements for their supplemental milk supplies with equal knowledge concerning how they would be impacted by the order's provisions and with equal knowledge in making their contractual. The situation before the Secretary, however, was one in which the importation of supplemental milk had already occurred, handlers had dealt with the shortage in different ways and had incurred different costs, and the proposed solution to the problem would have compensated some handlers for their costs but not others.

There is nothing wrong with the concept of a transportation credit or a marketwide service payment, and a surcharge on Class I milk to pay for the credits may be entirely justified as well. Where the concept, however, cannot be effectuated until the shipments have been made, an increased number of factual circumstances should be considered. A reconstruction of what had happened and who was deserving of reimbursement was not clearly developed in the record.

4. Whether a Fluid Milk Surcharge Should Be Provided on a Temporary Basis for Orders 5, 6, 7, 11, 12, and 13

The proposal to impose a Class I surcharge in each of the 6 orders to pay for the proposed transportation credits should not be adopted.

A spokesman for DCMA proposed a fluid milk surcharge for the 6 Federal milk marketing orders for the period of November 1, 1995, through March 31, 1996. The spokesman requested that the proposed amendment not be considered for the Louisville-Lexington-Evansville Federal milk order. The DCMA spokesman estimated that a temporary fluid milk surcharge would generate enough money to fund the out-of-pocket transportation costs incurred by handlers during the period of July 1, 1995, through March 31, 1996. This money would be returned to dairy farmers through the blend price by the added specified rate to the Class I differential for each order, he stated.

The representative testified that DCMA's revised proposal would provide a fluid milk surcharge of 5 cents per hundredweight for Orders 7 and 11, 10 cents per hundredweight for Order 5, 20 cents per hundredweight for Order 6, 25 cents for Order 12, and 30 cents for Order 13.

According to the DCMA representative, these proposed temporary surcharges are designed to help assure that an adequate supply of milk will be made available to meet the fluid needs of the 6 orders. The representative proposed that the fluid milk surcharge for each order become effective November 1, 1995, and extend through March 1996. The November 1 effective date is needed to provide adequate advance notice, he stated.

The assistant operations manager for Fleming testified in support of the proposed fluid milk surcharge. He stated that Fleming favors a surcharge to offset the cost of the transportation credit for the extraordinary supplemental milk costs incurred by cooperatives during the months of July through October, but said that the surcharge and the transportation credit should be coordinated for each market. Fleming reiterated its qualified support for the proposed fluid milk surcharge in its post-hearing brief.

The controller of Coburg Dairy (Coburg), an Order 5 pool plant located in North Charleston, South Carolina, testified in support of the proposed fluid milk surcharge at a rate of 10 cents per hundredweight for Order 5. The witness indicated that Coburg purchases its raw milk supply from Edisto Milk Producers Association, a cooperative which purchases raw milk from Carolina Virginia Milk Producers Association and from brokers. He stated that Coburg has distribution throughout South Carolina, southeastern Georgia, and parts of North Carolina.

The director of milk procurement and marketing for Dean Foods Company (Dean Foods) testified in opposition to DCMA's proposed fluid milk surcharge. According to the witness, Dean Foods is the largest fluid milk processor in the United States and owns and operates plants in Kentucky, Florida, and Athens, Tennessee.

The witness for Dean Foods stated that weather conditions in the southeast region caused milk supply shortages in the region in late August and early September. As a result, he indicated, supplemental milk was purchased from outside the region. The witness claimed that there has been and continues to be a shortage of milk in portions of the southeast region and that Dean Foods had adjusted its bottling schedule to accommodate the temporary shortage. However, he said, the Dean Foods plant at Athens, Tennessee, currently has an adequate supply of milk available to meet the plant's needs.

According to the witness, Dean Foods and other processors in the State of Florida agreed in June to accept a 73-cent per hundredweight increase in over-order premiums to help producers recover some of the costs for transporting supplemental milk into the region. Dean Dairies in Florida has agreed to a 40-cent increase for the month of October, he indicated. The witness also testified that processors in Florida have been paying from $1.00 to $1.75 per hundredweight in over-order premiums. Additionally, he stated, Dean Foods, Athens, Tennessee, agreed to 15-cent and 20-cent per hundredweight increases in over-order premiums for the months of September and October, respectively.

The witness for Dean Foods stressed that negotiations between buyers and sellers of milk remain the best mechanism to recover the costs associated with purchasing supplemental milk. He argued that the Federal Order system was not designed to remedy short-term aberrations in the market or provide relief to cooperatives for poor business decisions.

The general manager for Gold Star also testified in opposition to the proposed fluid milk surcharge for the 6 Federal milk marketing orders. The witness indicated that Gold Star is a handler regulated under the Southeast order but that a significant portion of its sales are in the Texas marketing area. If the surcharge were imposed, Gold Star would be at a competitive disadvantage compared to handlers regulated under the Texas order, he claimed, because those handlers would not be subject to the surcharge. These arguments were reiterated in Gold Star's post-hearing brief.

The representatives of Gold Star and Southern Belle claimed that the proposed fluid milk surcharge would have an impact on each handler's fluid milk sales. The representatives argued that in an industry where most sales are determined on fractions of a cent per gallon, the handlers would not be able to pass the cost on to its customers in areas where its competing handlers would not be subject to the surcharge. The Southern Belle representative stated that Southern Belle competes with handlers located in Ohio, Kentucky, West Virginia, Indiana, and Virginia, all of whom would not be subject to the surcharge.

Southern Belle also filed a post-hearing brief in opposition to the proposed fluid milk surcharge. Southern Belle stated that the crisis, if there was one, is now over for the Tennessee Valley marketing area. Southern Belle also indicated that it acquired its own supplemental milk without the assistance of cooperatives and no longer needs any supplemental milk. The handler added that it should not be required to pay an additional amount for its milk to compensate producers or cooperatives for services that it did not receive and will not need.

Tillamook County Creamy Association (Tillamook), a cooperative association located in Tillamook, Oregon, opposed the proposed fluid milk surcharge at the hearing and in its post-hearing brief. Tillamook contended that the continued existence of Class III–A pricing was and is a major contributing factor to any perceived problem of production and delivery of Grade A milk into the Southeast during the past summer.

Tillamook indicated that the amount of milk allocated to Class III–A in Orders 5, 11, and 46 was about 1.4 million pounds in August 1995 compared to 270 thousand pounds in August 1994, and further noted that Federal Order 7 had approximately 2.1 million pounds of milk allocated to Class III–A in August 1995. Additionally, Tillamook pointed out that record data indicates that while handlers and cooperatives located in the Southeast were purchasing supplemental milk supplies from as far as Minnesota and El Paso, significant volumes of milk were being allocated to Class III–A in Federal Orders 4 (Middle Atlantic marketing area), 33 (Ohio Valley marketing area), 36 (Eastern Ohio-Western Pennsylvania marketing area), 40 (Southern Michigan marketing area), and 126 (Texas marketing area).

Tillamook recommended that the Secretary suspend Class III–A pricing nationwide to free up milk needed for fluid use in the Southeast and to continue uniform pricing throughout the Federal order program. The cooperative claimed that the fluid milk surcharge benefits a small portion of the dairy industry, while the suspension or alteration of Class III–A on an emergency basis would increase all dairy farmers' income. Therefore, Tillamook urged the Secretary to deny the proposed fluid milk surcharge and grant relief on Class III–A immediately.

In a post-hearing brief, Milkco opposed the revised proposal for a fluid milk surcharge for the 6 Federal milk orders, specifically the 10-cent surcharge for Order 5. Milkco indicated that it has approximately 44.5 percent of its total Class I sales in the Southeast and Tennessee Valley marketing areas. It stated that the proposed amendment would require it to pay 5 cents per hundredweight more than handlers regulated under Orders 7 and 11. Accordingly, Milkco contended, the amount of the surcharge should be the same for Orders 5, 7, and 11.

The Agricultural Marketing Agreement Act, as amended, clearly authorizes the Secretary to include provisions for payments to handlers that provide facilities to furnish additional supplies of milk needed by the market, but the Act does not provide for an automatic increase in the Class I price to offset such payments. If there had been a stronger record supporting adoption of the proposed transportation credit, the balance might have weighed in favor of taking the action for a temporary period of time. However, the evidence presented by the handler opposition to the proposals, in conjunction with the lack of clarity in the record concerning the magnitude of the problem and any needed increase in Class I prices, leads us to conclude that the transportation credit should not be adopted and, consequently, the Class I surcharge to pay for the transportation credit need not and should not be adopted either.

5. Whether Emergency Marketing Conditions in the 6 Regulated Areas Warrant the Omission of a Recommended Decision and the Opportunity To File Written Exceptions Thereto

Proponents of Proposals 1–2 and 4–5 requested that the Secretary handle these issues on an expedited basis by omitting a recommended decision and the opportunity to file exceptions thereto. This request was denied in the recommended decision and the issue is now moot.

Non-material Issues: Correction to § 1007.50(d). Paragraph (d) of Section 50 of the Southeast order should be corrected to reflect the appropriate order language. The changes resulting from the 27-market Class III–A proceeding (DA–91–13) and included in the December 31, 1993, **Federal Register** at 58 FR 63286 were adopted by reference at 60 FR 25036 in the final decision for the Southeast order. However, in the process of preparing the final decision and final order for the Southeast marketing area, the revised language in § 1007.50(d) was inadvertently overlooked.

Correction to § 1007.92(c). A typographical error in paragraph (c) of Section 92 of the Southeast order also should be corrected. The word "four," where it appears for the third and final time, should be changed to read "three." There are 6 months in the base-building period of the order, but the market administrator only uses the high 4 production months to compute a base. If a producer does not have 4 complete months of production for one of the reasons stated in that paragraph, the producer must notify the market administrator that he or she does not have 4 complete months of production because during "three" or more months his/her production was reduced. Instead of stating "three or more" months, however, the order now states "four or more". Therefore, the word "four", where it appears for the third time, should be changed to "three" to remove the inconsistency that now exists.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth supplement those that were made when the orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

The following findings are hereby made with respect to the Southeast tentative marketing agreement and order:

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the aforesaid marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the

exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing Agreement and Order

Annexed hereto and made a part hereof is an order amending the order regulating the handling of milk in the Southeast marketing area, which has been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions. A marketing agreement that reflects the attached order verbatim is available upon request from the market administrator.

It is hereby ordered that this entire decision and the order amending the order be published in the **Federal Register**.

Determination of Producer Approval and Representative Period

December 1995 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Southeast marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the marketing area.

List of Subjects in 7 CFR Part 1007

Milk marketing orders.

Dated: March 18, 1996.

Michael V. Dunn,

Assistant Secretary, Marketing and Regulatory Programs.

Order Amending the Order Regulating the Handling of Milk in the Southeast Marketing Area

This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the Southeast order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the aforesaid marketing areas. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The Southeast order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the Southeast marketing area. The minimum prices specified in the order as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The Southeast order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held; and

(4) All milk and milk products handled by handlers, as defined in the order as hereby amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products.

Order Relative to Handling

It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Southeast marketing area shall be in conformity to and in compliance with the terms and conditions of the Southeast order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the Southeast order contained in the recommended decision issued by the Administrator, Agricultural Marketing Service, on December 18, 1995, and published in the **Federal Register** on December 27, 1995 (60 FR 66929), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein.

PART 1007—MILK IN THE SOUTHEAST MARKETING AREA

1. The authority citation for 7 CFR Part 1007 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 1007.2 [Amended]

2. In § 1007.2, *Zone 11*, the words "(more than 20 miles from the Mobile city hall)" are removed following the word "Mobile" and the words "(north of State Highway 16)" are added following the word "Tangipahoa".

3. In § 1007.2, *Zone 12*, the words "Alabama counties: Mobile (within 20 miles of the Mobile city hall)." are removed and the words "Tangipahoa (south of State Highway 16)" are added following the word "St. Mary,".

§ 1007.50 [Amended]

4. In § 1007.50(d), the words "value per hundredweight of 3.5 percent milk and rounded to the nearest cent, and subject to the adjustments set forth in paragraph (c) of this section for the applicable month" are removed and the words "times 35 and rounded to the nearest cent" are added in their place.

5. In § 1007.92(c), the word "four", where it appears for the third and final time, is changed to read "three".

[FR Doc. 96–6985 Filed 3–21–96; 8:45 am]

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7 CFR Part 1205

[CN–96–002]

1996 Proposed Amendment to Cotton Board Rules and Regulations Adjusting Supplemental Assessment on Imports

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service proposes to amend the Cotton Board Rules and Regulations by raising the value assigned to imported cotton for the purpose of calculating supplemental assessments collected for use by the Cotton Research and Promotion Program. This action is required by this regulation on an annual basis to ensure that the assessments collected on imported cotton and the cotton content of imported products remain similar to that paid on domestically produced cotton. The proposed value reflects the 12-month average price received by U.S. farmers for Upland cotton for calendar year 1995.

DATES: Comments must be received by April 22, 1996.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule to Craig Shackelford, Chief, Research and Promotion Staff, Cotton Division, AMS, USDA, P.O. Box 96456, Room 2641–S, Washington, D.C. 20090–6456, or by facsimile (202) 690–1718. Three copies of all written materials shall be submitted, and they will be made available for public inspection in the office of the Cotton Division, Washington, D.C. during regular business hours. All comments should reference docket number, date, and page number of this issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Craig Shackelford, (202) 720–2259.

SUPPLEMENTARY INFORMATION: This rule has been determined to be "not significant" for purposes of Executive Order 12866, and, therefore, has not been reviewed by the Office of Management and Budget.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under Section 12 of the Act, any person subject to an order may file with the Secretary a petition stating that the order, any provision of the plan, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. Such person is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the District Court of the United States in any district in which the person is an inhabitant, or has his principal place of business, has jurisdiction to review the Secretary's ruling, provided a complaint is filed within 20 days from the date of the entry of the ruling.

The Administrator, Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

There are an estimated 10,000 importers who are presently subject to rules and regulations issued pursuant to the Cotton Research and Promotion Order. This rule would affect importers of cotton and cotton-containing products. The majority of these importers are small businesses under the criteria established by the Small Business Administration. This rule would raise the assessments paid by the importers under the Cotton Research and Promotion Order. Even though the assessment would be raised, the increase is small and would not significantly affect small businesses. The AMS Administrator therefore has certified that this rule will not have a significant economic impact on a substantial number of small entities.

In compliance with Office of Management and Budget (OMB) regulations (5 CFR Part 1320) which implement the Paperwork Reduction Act (PRA) of 1980 (44 U.S.C. 3501 et seq.) the information collection requirements contained in the regulation to be amended have been previously approved by OMB and were assigned control number 0581–0093.

The Cotton Research and Promotion Act Amendments of 1990 enacted by Congress under Subtitle G of Title XIX of the Food, Agriculture, Conservation and Trade Act of 1990 on November 28, 1990, contained two provisions that authorized changes in the funding procedures for the Cotton Research and Promotion Program. These provisions are: (1) The assessment of imported cotton and cotton products; and (2) termination of the right of cotton producers to demand a refund of assessments.

An amended Cotton Research and Promotion Order was approved by producers and importers voting in a referendum held July 17–26, 1991. Proposed rules implementing the amended Order were published in the **Federal Register** on December 17, 1991, (56 FR 65450). The final implementing rules were published on July 1 and 2, 1992, (57 FR 29181) and (57 FR 29431), respectively.

This proposed rule would increase the value assigned to imported cotton in the Cotton Board Rules and Regulations 7 CFR 1205.510 (b)(2). This value is used to calculate supplemental assessments on imported cotton and the cotton content of imported products. Supplemental assessments are the second part of a two-part assessment. The first part of the assessment is levied on the weight of cotton produced or imported at a rate of $1 per bale of cotton which is equivalent to 500 pounds or $1 per 226.8 kilograms of cotton.

Supplemental assessments are levied at a rate of five-tenths of one percent of the value of domestically produced cotton, imported cotton, and the cotton content of imported products. The agency adopted the use of the calendar year average price received by U.S. farmers for Upland cotton as a benchmark for the value of domestically produced cotton. The source for this statistic is "Agricultural Prices", a publication of the National Agricultural Statistics Service (NASS) of the Department of Agriculture. Use of the average price figure in the calculation of supplemental assessments on imported cotton and the cotton content of imported products yields an assessment that approximates assessments paid on domestically produced cotton.

The current value of imported cotton as published in the **Federal Register** (60 FR 36033) on July 13, 1995 for the purpose of calculating supplemental assessments on imported cotton is $1.5057 per kilogram. This number was calculated using the annual average price received by farmers for Upland cotton during the calendar year 1994 which was $0.683 per pound. Using the Average Price Received by U.S. farmers for Upland cotton for the calendar year 1995, which is $0.802 per pound, the new value of imported cotton would be $1.6931 per kilogram. The proposed value is $0.1874 per kilogram greater than the previous value.

An example of the assessment formula and how the various figures are obtained is as follows:

One bale is equal to 500 pounds.
One kilogram equals 2.2046 pounds.
One pound equals 0.453597 kilograms.
One dollar per bale assessment converted to kilograms
A 500 pound bale equals 226.8 kg. (500 × .453597)
$1 per bale assessment equals $0.002000 per pound (1 ÷ 500) or
$0.004409 per kg. (1 ÷ 226.8)
Supplemental assessment of 5/10 of one percent of the value of the cotton converted to kilograms.
Average price received $0.768 per pound or $1.6931 per kg. (0.768 × 2.2046) = 1.6931.
5/10 of one percent of the average price in kg. equals $0.008465 per kg. (1.6931 × .005)

The total assessment per kilogram of raw cotton is obtained by adding the $1 per bale equivalent assessment of $0.004409 per kg. and the supplemental assessment § 0.008465 per kg. which equals $0.012874 per kg.

The current assessment on imported cotton is $0.011938 per kilogram of imported cotton. The proposed assessment is $0.012874, an increase of $0.000936 per kilogram. This increase reflects the increase in the Average Price of Upland Cotton Received by U.S. Farmers during the period January through December 1995.

Since the value of cotton is the basis of the supplemental assessment calculation and the figures shown in the

right hand column of the Import Assessment Table 1205.510(b)(3) are a result of such a calculation, these figures have been revised. These figures indicate the total assessment per kilogram due for each Harmonized Tariff Schedule (HTS) number subject to assessment.

As a result of changes in the Harmonized Tariff Schedule, numbering revisions to the Import Assessment Table used in the Cotton Research and Promotion program were necessary. These changes are as follows:

Numbers Deleted:

5205250000
5205450000
6203492010

Numbers Changed:

Old number	New number	Comment
5209430020	5209430030	Use same conversion factor.
5209430040	5209430050	Use same conversion factor.
5311004000	5311004020	Use same conversion factor.
5806200000	5806200010	
	5806200020	Use same conversion factor.
6115199010	6115198010	Use same conversion factor.
6115922000	6115929200	Use same conversion factor.
6115932020	6115926020	Use same conversion factor.

Two other changes are proposed to lessen the administrative burden for importers. The first simplifies the process to determine if the minimum value of cotton has been imported to warrant payment of the assessment. The second lengthens the amount of time that an exemption certificate remains valid.

The Cotton Research and Promotion Act Amendments of 1990 provided for the establishment of a de minimis (a minimum) volume or value of imported cotton under which no assessment would be paid. Section 1205.510(b)(3)(I) provides that any cotton imported in which the value of the cotton is less than $220.99 shall not be subject to the assessment. When the de minimis value was first implemented in 1992, the 220.99 equaled $2.00 in cotton assessment. The U.S. Customs Service does not collect assessments of $2.00 or less. Each subsequent year, with the adjustment of the assessment on imported cotton, the amount of assessment due on cotton has increased or decreased in relation to the change in the minimum import assessment fee of $2.00.

The agency proposes to change the de minimis value of cotton to a fluctuating value that will always yield an assessment of $2.00.

Section 1205.510(b)(6)(I) provides for an importer to claim an exemption from the assessment under specific conditions. The exemption is valid for 120 days. This proposal would lengthen that period so that exemption certificates issued by the Cotton Board would be valid for 1 year from the date of issue.

List of Subjects in 7 CFR Part 1205

Advertising, Agricultural research, Cotton, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 1205 is proposed to be amended as follows:

PART 1205—COTTON RESEARCH AND PROMOTION

1. The authority citation for Part 1205 continues to read as follows:

Authority: 7 U.S.C. 2101–2118.

2. In § 1205.510, paragraphs (b)(2), (b)(3), and (b)(6)(i) are revised to read as follows:

§ 1205.510 Levy of assessments.

* * * * *

(b) * * *

(2) The 12-month average of monthly average prices received by U.S. farmers will be calculated annually. Such average will be used as the value of imported cotton for the purpose of levying the supplemental assessment on imported cotton and will be expressed in kilograms. The value of imported cotton for the purpose of levying this supplemental assessment is $1.6931 per kilogram.

(3) The following table contains Harmonized Tariff Schedule (HTS) classification numbers and corresponding conversion factors and assessments. The left column of the following table indicates the HTS classifications of imported cotton and cotton-containing products subject to assessment. The center column indicates the conversion factor for determining the raw fiber content for each kilogram of the HTS. HTS numbers for raw cotton have no conversion factor in the table. The right column indicates the total assessment per kilogram of the article assessed.

(i) Any line item entry of cotton appearing on Customs entry documentation in which the value of the cotton contained therein results in the calculation of an assessment of two dollars ($2.00) or less will not be subject to assessments as described in this section.

(ii) In the event that any HTS number subject to assessment is changed and such change is merely a replacement of a previous number and has no impact on the physical properties, description, or cotton content of the product involved, assessments will continue to be collected based on the new number.

IMPORT ASSESSMENT TABLE

[Raw Cotton Fiber]

HTS No.	Conversion factor	Cents per kg.
5201000000	0	1.2874
5201000500	0	1.2874
5201001200	0	1.2874
5201001400	0	1.2874
5201001800	0	1.2874
5201002200	0	1.2874

IMPORT ASSESSMENT TABLE—Continued

[Raw Cotton Fiber]

HTS No.	Conversion factor	Cents per kg.
5201002400	0	1.2874
5201002800	0	1.2874
5201003400	0	1.2874
5201003800	0	1.2874
5204110000	1.1111	1.4304
5204200000	1.1111	1.4304
5205111000	1.1111	1.4304
5205112000	1.1111	1.4304
5205121000	1.1111	1.4304
5205122000	1.1111	1.4304
5205131000	1.1111	1.4304
5205132000	1.1111	1.4304
5205141000	1.1111	1.4304
5205210000	1.1111	1.4304
5205220000	1.1111	1.4304
5205230000	1.1111	1.4304
5205240000	1.1111	1.4304
5205310000	1.1111	1.4304
5205320000	1.1111	1.4304
5205330000	1.1111	1.4304
5205340000	1.1111	1.4304
5205410000	1.1111	1.4304
5205420000	1.1111	1.4304
5205440000	1.1111	1.4304
5206120000	0.5556	0.7153
5206130000	0.5556	0.7153
5206140000	0.5556	0.7153
5206220000	0.5556	0.7153
5206230000	0.5556	0.7153
5206240000	0.5556	0.7153
5206310000	0.5556	0.7153
5207100000	1.1111	1.4304
5207900000	0.5556	0.7153
5208112020	1.1455	1.4747
5208112040	1.1455	1.4747
5208112090	1.1455	1.4747
5208114020	1.1455	1.4747
5208114060	1.1455	1.4747
5208114090	1.1455	1.4747
5208116090	1.1455	1.4747
5208124020	1.1455	1.4747
5208124040	1.1455	1.4747
5208124090	1.1455	1.4747
5208126020	1.1455	1.4747
5208126040	1.1455	1.4747
5208126060	1.1455	1.4747
5208126090	1.1455	1.4747
5208128020	1.1455	1.4747
5208128090	1.1455	1.4747
5208130000	1.1455	1.4747
5208192020	1.1455	1.4747
5208192090	1.1455	1.4747
5208194020	1.1455	1.4747
5208194090	1.1455	1.4747
5208196020	1.1455	1.4747
5208196090	1.1455	1.4747
5208224040	1.1455	1.4747
5208224090	1.1455	1.4747
5208226020	1.1455	1.4747
5208226060	1.1455	1.4747
5208228020	1.1455	1.4747
5208230000	1.1455	1.4747
5208292020	1.1455	1.4747
5208292090	1.1455	1.4747
5208294090	1.1455	1.4747
5208296090	1.1455	1.4747
5208298020	1.1455	1.4747
5208312000	1.1455	1.4747
5208321000	1.1455	1.4747
5208323020	1.1455	1.4747

IMPORT ASSESSMENT TABLE—Continued
[Raw Cotton Fiber]

HTS No.	Conversion factor	Cents per kg.
5208323040	1.1455	1.4747
5208323090	1.1455	1.4747
5208324020	1.1455	1.4747
5208324040	1.1455	1.4747
5208325020	1.1455	1.4747
5208330000	1.1455	1.4747
5208392020	1.1455	1.4747
5208392090	1.1455	1.4747
5208394090	1.1455	1.4747
5208396090	1.1455	1.4747
5208398020	1.1455	1.4747
5208412000	1.1455	1.4747
5208416000	1.1455	1.4747
5208418000	1.1455	1.4747
5208421000	1.1455	1.4747
5208423000	1.1455	1.4747
5208424000	1.1455	1.4747
5208425000	1.1455	1.4747
5208430000	1.1455	1.4747
5208492000	1.1455	1.4747
5208494020	1.1455	1.4747
5208494090	1.1455	1.4747
5208496010	1.1455	1.4747
5208496090	1.1455	1.4747
5208498090	1.1455	1.4747
5208512000	1.1455	1.4747
5208516060	1.1455	1.4747
5208518090	1.1455	1.4747
5208523020	1.1455	1.4747
5208523040	1.1455	1.4747
5208523090	1.1455	1.4747
5208524020	1.1455	1.4747
5208524040	1.1455	1.4747
5208524060	1.1455	1.4747
5208525020	1.1455	1.4747
5208530000	1.1455	1.4747
5208592020	1.1455	1.4747
5208592090	1.1455	1.4747
5208594090	1.1455	1.4747
5208596090	1.1455	1.4747
5209110020	1.1455	1.4747
5209110030	1.1455	1.4747
5209110090	1.1455	1.4747
5209120020	1.1455	1.4747
5209120040	1.1455	1.4747
5209190020	1.1455	1.4747
5209190040	1.1455	1.4747
5209190060	1.1455	1.4747
5209190090	1.1455	1.4747
5209210090	1.1455	1.4747
5209220020	1.1455	1.4747
5209220040	1.1455	1.4747
5209290040	1.1455	1.4747
5209290090	1.1455	1.4747
5209313000	1.1455	1.4747
5209316020	1.1455	1.4747
5209316030	1.1455	1.4747
5209316050	1.1455	1.4747
5209316090	1.1455	1.4747
5209320020	1.1455	1.4747
5209320040	1.1455	1.4747
5209390020	1.1455	1.4747
5209390040	1.1455	1.4747
5209390060	1.1455	1.4747
5209390080	1.1455	1.4747
5209390090	1.1455	1.4747
5209413000	1.1455	1.4747
5209416020	1.1455	1.4747
5209416040	1.1455	1.4747
5209420020	1.0309	1.3272

IMPORT ASSESSMENT TABLE—Continued
[Raw Cotton Fiber]

HTS No.	Conversion factor	Cents per kg.
5209420040	1.0309	1.3272
5209430030	1.1455	1.4747
5209430050	1.1455	1.4747
5209490020	1.1455	1.4747
5209490090	1.1455	1.4747
5209516030	1.1455	1.4747
5209516050	1.1455	1.4747
5209520020	1.1455	1.4747
5209590020	1.1455	1.4747
5209590040	1.1455	1.4747
5209590090	1.1455	1.4747
5210114020	0.6873	0.8848
5210114040	0.6873	0.8848
5210116020	0.6873	0.8848
5210116040	0.6873	0.8848
5210116060	0.6873	0.8848
5210118020	0.6873	0.8848
5210120000	0.6873	0.8848
5210192090	0.6873	0.8848
5210214040	0.6873	0.8848
5210216020	0.6873	0.8848
5210216060	0.6873	0.8848
5210218020	0.6873	0.8848
5210314020	0.6873	0.8848
5210314040	0.6873	0.8848
5210316020	0.6873	0.8848
5210318020	0.6873	0.8848
5210414000	0.6873	0.8848
5210416000	0.6873	0.8848
5210418000	0.6873	0.8848
5210498090	0.6873	0.8848
5210514040	0.6873	0.8848
5210516020	0.6873	0.8848
5210516040	0.6873	0.8848
5210516060	0.6873	0.8848
5211110090	0.6873	0.8848
5211120020	0.6873	0.8848
5211190020	0.6873	0.8848
5211190060	0.4165	0.5362
5211210030	0.6873	0.8848
5211210050	0.6873	0.8848
5211290090	0.6873	0.8848
5211320020	0.6873	0.8848
5211390040	0.6873	0.8848
5211390060	0.6873	0.8848
5211490020	0.6873	0.8848
5211490090	0.6873	0.8848
5211590020	0.9164	1.1798
5212146090	0.9164	1.1798
5212156020	0.9164	1.1798
5212216090	0.2864	0.3687
5309214010	0.2864	0.3687
5309214090	0.2864	0.3687
5309294010	0.9164	1.1798
5311004020	0.5727	0.7373
5407810010	0.5727	0.7373
5407810030	0.4009	0.5161
5407912020	0.4009	0.5161
5408312020	0.4009	0.5161
5408329020	0.4009	0.5161
5408349020	0.4009	0.5161
5408349090	0.5556	0.7153
5509530030	0.5556	0.7153
5509530060	0.4009	0.5161
5513110020	0.4009	0.5161
5513110040	0.4009	0.5161
5513110060	0.4009	0.5161
5513110090	0.4009	0.5161
5513120000	0.4009	0.5161
5513130020		

IMPORT ASSESSMENT TABLE—Continued
[Raw Cotton Fiber]

HTS No.	Conversion factor	Cents per kg.
5513210020	0.4009	0.5161
5513310000	0.4009	0.5161
5514120020	0.4009	0.5161
5516420060	0.4009	0.5161
5516910060	0.4009	0.5161
5516930090	0.4009	0.5161
5601210010	1.1455	1.4747
5601210090	1.1455	1.4747
5601300000	1.1455	1.4747
5602109090	0.5727	0.7373
5602290000	1.1455	1.4747
5602906000	0.526	0.6772
5604900000	0.5558	0.7153
5607902000	0.8889	1.1444
5608901000	1.1111	1.4304
5608902300	1.1111	1.4304
5609001000	1.1111	1.4304
5609004000	0.5558	0.7153
5701104000	0.0556	0.0716
5701109000	0.1111	0.143
5701901010	1.0444	1.3446
5702109020	1.1	1.4161
5702312000	0.0778	0.1002
5702411000	0.0722	0.093
5702412000	0.0778	0.1002
5702421000	0.0778	0.1002
5702913000	0.0889	0.1144
5702991010	1.1111	1.4304
5702991090	1.1111	1.4304
5703900000	0.4489	0.5779
5801210000	1.1455	1.4747
5801230000	1.1455	1.4747
5801250010	1.1455	1.4747
5801250020	1.1455	1.4747
5801260020	1.1455	1.4747
5802190000	1.1455	1.4747
5802300030	0.5727	0.7373
5804291000	1.1455	1.4747
5806200010	0.3534	0.455
5806200020	0.3534	0.455
5806310000	1.1455	1.4747
5806400000	0.4296	0.5531
5808107000	0.5727	0.7373
5808900010	0.5727	0.7373
5811002000	1.1455	1.4747
6001106000	1.1455	1.4747
6001210000	0.8591	1.106
6001220000	0.2864	0.3687
6001910010	0.8591	1.106
6001910020	0.8591	1.106
6001920020	0.2864	0.3687
6001920030	0.2864	0.3687
6001920040	0.2864	0.3687
6002203000	0.8681	1.1176
6002206000	0.2894	0.3726
6002420000	0.8681	1.1176
6002430010	0.2894	0.3726
6002430080	0.2894	0.3726
6002921000	1.1574	1.49
6002930040	0.1157	0.149
6002930080	0.1157	0.149
6101200010	1.0094	1.2995
6101200020	1.0094	1.2995
6102200010	1.0094	1.2995
6102200020	1.0094	1.2995
6103421020	0.8806	1.1337
6103421040	0.8806	1.1337
6103421050	0.8806	1.1337
6103421070	0.8806	1.1337
6103431520	0.2516	0.3239

IMPORT ASSESSMENT TABLE—Continued
[Raw Cotton Fiber]

HTS No.	Conversion factor	Cents per kg.
6103431540	0.2516	0.3239
6103431550	0.2516	0.3239
6103431570	0.2516	0.3239
6104220040	0.9002	1.1589
6104220080	0.9002	1.1589
6104320000	0.9207	1.1853
6104420010	0.9002	1.1589
6104420020	0.9002	1.1589
6104520010	0.9312	1.1988
6104520020	0.9312	1.1988
6104622010	0.8806	1.1337
6104622015	0.8806	1.1337
6104622025	0.8806	1.1337
6104622030	0.8806	1.1337
6104622060	0.8806	1.1337
6104632010	0.3774	0.4859
6104632025	0.3774	0.4859
6104632030	0.3774	0.4859
6104632060	0.3774	0.4859
6104692030	0.3858	0.4967
6105100010	0.985	1.2681
6105100020	0.985	1.2681
6105100030	0.985	1.2681
6105202010	0.3078	0.3963
6105202030	0.3078	0.3963
6106100010	0.985	1.2681
6106100020	0.985	1.2681
6106100030	0.985	1.2681
6106202010	0.3078	0.3963
6106202030	0.3078	0.3963
6107110010	1.1322	1.4576
6107110020	1.1322	1.4576
6107120010	0.5032	0.6478
6107210010	0.8806	1.1337
6107220015	0.3774	0.4859
6107220025	0.3774	0.4859
6107910040	1.2581	1.6197
6108210010	1.2445	1.6022
6108210020	1.2445	1.6022
6108310010	1.1201	1.442
6108310020	1.1201	1.442
6108320010	0.2489	0.3204
6108320015	0.2489	0.3204
6108320025	0.2489	0.3204
6108910005	1.2445	1.6022
6108910015	1.2445	1.6022
6108910025	1.2445	1.6022
6108910030	1.2445	1.6022
6108920030	0.2489	0.3204
6109100005	0.9956	1.2817
6109100007	0.9956	1.2817
6109100009	0.9956	1.2817
6109100012	0.9956	1.2817
6109100014	0.9956	1.2817
6109100018	0.9956	1.2817
6109100023	0.9956	1.2817
6109100027	0.9956	1.2817
6109100037	0.9956	1.2817
6109100040	0.9956	1.2817
6109100045	0.9956	1.2817
6109100060	0.9956	1.2817
6109100065	0.9956	1.2817
6109100070	0.9956	1.2817
6109901007	0.3111	0.4005
6109901009	0.3111	0.4005
6109901049	0.3111	0.4005
6109901050	0.3111	0.4005
6109901060	0.3111	0.4005
6109901065	0.3111	0.4005
6109901090	0.3111	0.4005

IMPORT ASSESSMENT TABLE—Continued
[Raw Cotton Fiber]

HTS No.	Conversion factor	Cents per kg.
6110202005	1.1837	1.5239
6110202010	1.1837	1.5239
6110202015	1.1837	1.5239
6110202020	1.1837	1.5239
6110202025	1.1837	1.5239
6110202030	1.1837	1.5239
6110202035	1.1837	1.5239
6110202040	1.1574	1.49
6110202045	1.1574	1.49
6110202065	1.1574	1.49
6110202075	1.1574	1.49
6110909022	0.263	0.3386
6110909024	0.263	0.3386
6110909030	0.3946	0.508
6110909040	0.263	0.3386
6110909042	0.263	0.3386
6111201000	1.2581	1.6197
6111202000	1.2581	1.6197
6111203000	1.0064	1.2956
6111205000	1.0064	1.2956
6111206010	1.0064	1.2956
6111206020	1.0064	1.2956
6111206030	1.0064	1.2956
6111206040	1.0064	1.2956
6111305020	0.2516	0.3239
6111305040	0.2516	0.3239
6112110050	0.7548	0.9717
6112120010	0.2516	0.3239
6112120030	0.2516	0.3239
6112120040	0.2516	0.3239
6112120050	0.2516	0.3239
6112120060	0.2516	0.3239
6112390010	1.1322	1.4576
6112490010	0.9435	1.2147
6114200005	0.9002	1.1589
6114200010	0.9002	1.1589
6114200015	0.9002	1.1589
6114200020	1.286	1.6556
6114200040	0.9002	1.1589
6114200046	0.9002	1.1589
6114200052	0.9002	1.1589
6114200060	0.9002	1.1589
6114301010	0.2572	0.3311
6114301020	0.2572	0.3311
6114303030	0.2572	0.3311
6115198010	1.0417	1.3411
6115929200	1.0417	1.3411
6115936020	0.2315	0.298
6116101300	0.3655	0.4705
6116101720	0.8528	1.0979
6116926420	1.0965	1.4116
6116926430	1.2183	1.5684
6116926440	1.0965	1.4116
6116928800	1.0965	1.4116
6117809010	0.9747	1.2548
6117809040	0.3655	0.4705
6201121000	0.948	1.2205
6201122010	0.8953	1.1526
6201122050	0.6847	0.8815
6201122060	0.6847	0.8815
6201134030	0.2633	0.339
6201921000	0.9267	1.193
6201921500	1.1583	1.4912
6201922010	1.0296	1.3255
6201922021	1.2871	1.657
6201922031	1.2871	1.657
6201922041	1.2871	1.657
6201922051	1.0296	1.3255
6201922061	1.0296	1.3255
6201931000	0.3089	0.3977

IMPORT ASSESSMENT TABLE—Continued
[Raw Cotton Fiber]

HTS No.	Conversion factor	Cents per kg.
6201933511	0.2574	0.3314
6201933521	0.2574	0.3314
6201999060	0.2574	0.3314
6202121000	0.9372	1.2066
6202122010	1.1064	1.4244
6202122025	1.3017	1.6758
6202122050	0.8461	1.0893
6202122060	0.8461	1.0893
6202134005	0.2664	0.343
6202134020	0.333	0.4287
6202921000	1.0413	1.3406
6202921500	1.0413	1.3406
6202922026	1.3017	1.6758
6202922061	1.0413	1.3406
6202922071	1.0413	1.3406
6202931000	0.3124	0.4022
6202935011	0.2603	0.3351
6202935021	0.2603	0.3351
6203122010	0.1302	0.1676
6203221000	1.3017	1.6758
6203322010	1.2366	1.592
6203322040	1.2366	1.592
6203332010	0.1302	0.1676
6203392010	1.1715	1.5082
6203399060	0.2603	0.3351
6203422010	0.9961	1.2824
6203422025	0.9961	1.2824
6203422050	0.9961	1.2824
6203422090	0.9961	1.2824
6203424005	1.2451	1.6029
6203424010	1.2451	1.6029
6203424015	0.9961	1.2824
6203424020	1.2451	1.6029
6203424025	1.2451	1.6029
6203424030	1.2451	1.6029
6203424035	1.2451	1.6029
6203424040	0.9961	1.2824
6203424045	0.9961	1.2824
6203424050	0.9238	1.1893
6203424055	0.9238	1.1893
6203424060	0.9238	1.1893
6203431500	0.1245	0.1603
6203434010	0.1232	0.1586
6203434020	0.1232	0.1586
6203434030	0.1232	0.1586
6203434040	0.1232	0.1586
6203498045	0.249	0.3206
6204132010	0.1302	0.1676
6204192000	0.1302	0.1676
6204198090	0.2603	0.3351
6204221000	1.3017	1.6758
6204223030	1.0413	1.3406
6204223040	1.0413	1.3406
6204223050	1.0413	1.3406
6204223060	1.0413	1.3406
6204223065	1.0413	1.3406
6204292040	0.3254	0.4189
6204322010	1.2366	1.592
6204322030	1.0413	1.3406
6204322040	1.0413	1.3406
6204423010	1.2728	1.6386
6204423030	0.9546	1.229
6204423040	0.9546	1.229
6204423050	0.9546	1.229
6204423060	0.9546	1.229
6204522010	1.2654	1.6291
6204522030	1.2654	1.6291
6204522040	1.2654	1.6291
6204522070	1.0656	1.3719
6204522080	1.0656	1.3719

IMPORT ASSESSMENT TABLE—Continued
[Raw Cotton Fiber]

HTS No.	Conversion factor	Cents per kg.
6204533010	0.2684	0.343
6204594060	0.2684	0.343
6204622010	0.9961	1.2824
6204622025	0.9961	1.2824
6204622050	0.9961	1.2824
6204624005	1.2451	1.6029
6204624010	1.2451	1.6029
6204624020	0.9961	1.2824
6204624025	1.2451	1.6029
6204624030	1.2451	1.6029
6204624035	1.2451	1.6029
6204624040	1.2451	1.6029
6204624045	0.9961	1.2824
6204624050	0.9961	1.2824
6204624055	0.9854	1.2686
6204624060	0.9854	1.2686
6204624065	0.9854	1.2686
6204633510	0.2546	0.3278
6204633530	0.2546	0.3278
6204633532	0.2437	0.3137
6204633540	0.2437	0.3137
6204692510	0.249	0.3206
6204692540	0.2437	0.3137
6204699044	0.249	0.3206
6204699046	0.249	0.3206
6204699050	0.249	0.3206
6205202015	0.9961	1.2824
6205202020	0.9961	1.2824
6205202025	0.9961	1.2824
6205202030	0.9961	1.2824
6205202035	1.1206	1.4427
6205202046	0.9961	1.2824
6205202050	0.9961	1.2824
6205202060	0.9961	1.2824
6205202065	0.9961	1.2824
6205202070	0.9961	1.2824
6205202075	0.9961	1.2824
6205302010	0.3113	0.4008
6205302030	0.3113	0.4008
6205302040	0.3113	0.4008
6205302050	0.3113	0.4008
6205302070	0.3113	0.4008
6205302080	0.3113	0.4008
6206100040	0.1245	0.1603
6206303010	0.9961	1.2824
6206303020	0.9961	1.2824
6206303030	0.9961	1.2824
6206303040	0.9961	1.2824
6206303050	0.9961	1.2824
6206303060	0.9961	1.2824
6206403010	0.3113	0.4008
6206403030	0.3113	0.4008
6206900040	0.249	0.3206
6207110000	1.0852	1.3971
6207199010	0.3617	0.4657
6207210010	1.1085	1.4271
6207210030	1.1085	1.4271
6207220000	0.3695	0.4757
6207911000	1.1455	1.4747
6207913010	1.1455	1.4747
6207913020	1.1455	1.4747
6208210010	1.0583	1.3625
6208210020	1.0583	1.3625
6208220000	0.1245	0.1603
6208911010	1.1455	1.4747
6208911020	1.1455	1.4747
6208913010	1.1455	1.4747
6209201000	1.1577	1.4904
6209203000	0.9749	1.2551
6209205030	0.9749	1.2551

IMPORT ASSESSMENT TABLE—Continued
[Raw Cotton Fiber]

HTS No.	Conversion factor	Cents per kg.
6209205035	0.9749	1.2551
6209205040	1.2186	1.5688
6209205045	0.9749	1.2551
6209205050	0.9749	1.2551
6209303020	0.2463	0.3171
6209303040	0.2463	0.3171
6210109010	0.2291	0.2949
6210403000	0.0391	0.0503
6210405020	0.4556	0.5865
6211111010	0.1273	0.1639
6211111020	0.1273	0.1639
6211118010	1.1455	1.4747
6211118020	1.1455	1.4747
6211320007	0.8461	1.0893
6211320010	1.0413	1.3406
6211320015	1.0413	1.3406
6211320030	0.9763	1.2569
6211320060	0.9763	1.2569
6211320070	0.9763	1.2569
6211330010	0.3254	0.4189
6211330030	0.3905	0.5027
6211330035	0.3905	0.5027
6211330040	0.3905	0.5027
6211420010	1.0413	1.3406
6211420020	1.0413	1.3406
6211420025	1.1715	1.5082
6211420060	1.0413	1.3406
6211420070	1.1715	1.5082
6211430010	0.2603	0.3351
6211430030	0.2603	0.3351
6211430040	0.2603	0.3351
6211430050	0.2603	0.3351
6211430060	0.2603	0.3351
6211430066	0.2603	0.3351
6212105020	0.2412	0.3105
6212109010	0.9646	1.2418
6212109020	0.2412	0.3106
6212200020	0.3014	0.388
6212900030	0.1929	0.2483
6213201000	1.1809	1.5203
6213202000	1.0628	1.3682
6213901000	0.4724	0.6082
6214900010	0.9043	1.1642
6216000800	0.2351	0.3027
6216001720	0.6752	0.8693
6216003800	1.2058	1.5523
6216004100	1.2058	1.5523
6217109010	1.0182	1.3108
6217109030	0.2546	0.3278
6301300010	0.8766	1.1285
6301300020	0.8766	1.1285
6302100010	1.1689	1.5048
6302215010	0.8182	1.0534
6302215020	0.8182	1.0534
6302217010	1.1689	1.5048
6302219010	0.8182	1.0534
6302217020	1.1689	1.5048
6302219020	0.8182	1.0534
6302217050	1.1689	1.5048
6302219050	0.8182	1.0534
6302222010	0.4091	0.5267
6302222020	0.4091	0.5267
6302313010	0.8182	1.0534
6302313050	1.1689	1.5048
6302315050	0.8182	1.0534
6302317010	1.1689	1.5048
6302319010	0.8182	1.0534
6302317020	1.1689	1.5048
6302319020	0.8182	1.0534
6302317040	1.1689	1.5048

IMPORT ASSESSMENT TABLE—Continued

[Raw Cotton Fiber]

HTS No.	Conversion factor	Cents per kg.
6302319040	0.8182	1.0534
6302317050	1.1689	1.5048
6302319050	0.8182	1.0534
6302322020	0.4091	0.5267
6302322040	0.4091	0.5267
6302402010	0.9935	1.279
6302511000	0.5844	0.7524
6302512000	0.8766	1.1285
6302513000	0.5844	0.7524
6302514000	0.8182	1.0534
6302600010	1.1689	1.5048
6302600020	1.052	1.3543
6302600030	1.052	1.3543
6302910005	1.052	1.3543
6302910015	1.1689	1.5048
6302910025	1.052	1.3543
6302910035	1.052	1.3543
6302910045	1.052	1.3543
6302910050	1.052	1.3543
6302910060	1.052	1.3543
6303110000	0.9448	1.2163
6303910000	0.6429	0.8277
6304111000	1.0629	1.3684
6304190500	1.052	1.3543
6304191000	1.1689	1.5048
6304191500	0.4091	0.5267
6304192000	0.4091	0.5267
6304910020	0.9351	1.2038
6304920000	0.9351	1.2038
6505901540	1.181	1.5204
6505902060	0.9935	1.279
6505902545	0.5844	0.7524

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(6) * * *

(i) A request for such exemption must be submitted to the Cotton Board by the importer, prior to the importation of the cotton product. The Cotton Board will then issue, if deemed appropriate, a numbered exemption certificate valid for 1 year from the date of issue. The exemption number should be entered by the importer on the Customs entry documentation in the appropriate location as determined by the U.S. Customs Service.

* * * * *

Dated: March 18, 1996.

Lon Hatamiya,

Administrator.

[FR Doc. 96–6984 Filed 3–21–96; 8:45 am]

BILLING CODE 3410–02–P

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7 CFR Part 1230

[No. LS–96–001]

Pork Promotion, Research, and Consumer Information Order—Increase in Importer Assessments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: Pursuant to the Pork Promotion, Research, and Consumer Information Act (Act) of 1985 and the Pork Promotion, Research, and Consumer Information Order (Order), this proposed rule would increase the amount of the assessment per pound due on imported pork and pork products to reflect an increase in the 1995 five-market average price for domestic barrows and gilts. This proposed action would bring the equivalent market value of the live animals from which such imported pork and pork products were derived in line with the market values of domestic porcine animals. These proposed changes will facilitate the continued collection of assessments on imported porcine animals, pork, and pork products.

DATES: Comments must be received by April 22, 1996.

ADDRESSES: Send two copies of comments to Ralph L. Tapp, Chief; Marketing Programs Branch; Livestock and Seed Division; Agricultural Marketing Service (AMS), USDA, Room 2606–S; P.O. Box 96456; Washington, D.C. 20090–6456. Comments will be available for public inspection during regular business hours at the above office in Room 2606 South Building; 14th and Independence Avenue, SW.; Washington, D.C. 20090–6456.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief, Marketing Programs Branch, 202/720–1115.

SUPPLEMENTARY INFORMATION: The Department of Agriculture (Department) is issuing this proposed rule in conformance with Executive Order 12866.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This proposal is not intended to have a retroactive effect. The Act states that the statute is intended to occupy the field of promotion and consumer education involving pork and pork products and of obtaining funds thereof from pork producers and that the regulation of such activity (other than a regulation or requirement relating to a matter of public health or the provision of State or local funds for such activity) that is in addition to or different from the Act may not be imposed by a State.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under § 1625 of the Act, a person subject to an order may file a petition with the Secretary stating that such order, a provision of such order or an obligation imposed in connection with such order is not in accordance with the law; and requesting a modification of the order or an exemption from the order. Such person is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in the district in which person resides or does business has jurisdiction to review the Secretary's determination, if a complaint is filed not later than 20 days after the date such person receives notice of such determination.

This action also was reviewed under the Regulatory Flexibility Act (RFA) (5 United States Code (U.S.C.) 601 et seq.). The effect of the Order upon small entities was discussed in the September 5, 1986, issue of the **Federal Register** (51 FR 31898), and it was determined that the Order would not have a significant effect upon a substantial number of small entities. Many of the estimated 200 importers may be classified as small entities. This proposed rule would increase the amount of assessments on imported pork and pork products subject to assessment by two-hundredths of a cent per pound, or as expressed in cents per kilogram, four-hundredths of a cent per kilogram. Adjusting the assessments on imported pork and pork products would result in an estimated increase in assessments of $104,000 over a 12-month period. Accordingly, the Administrator of AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

The Act (7 U.S.C. 4801–4819) approved December 23, 1985, authorized the establishment of a national pork promotion, research, and consumer information program. The program was funded by an initial assessment rate of 0.25 percent of the market value of all porcine animals marketed in the United States and an equivalent amount of assessment on imported porcine animals, pork, and pork products. However, that rate was increased to 0.35 percent in 1991 (56 FR 51635) and to 0.45 percent effective September 3, 1995 (60 FR 29963). The final Order establishing a pork promotion, research, and consumer information program was published in the September 5, 1986, issue of the **Federal Register** (51 FR 31898; as corrected, at 51 FR 36383 and amended at 53 FR 1909, 53 FR 30243, 56 FR 4, 56 FR 51635, and 60 FR 29963) and assessments began on November 1, 1986.

The Order requires importers of porcine animals to pay U.S. Customs Service (USCS), upon importation, the assessment of 0.45 percent of the animal's declared value and importers of pork and pork products to pay USCS, upon importation, the assessment of 0.45 percent of the market value of the live porcine animals from which such pork and pork products were produced. This proposed rule would increase the assessments on all of the imported pork and pork products subject to assessment as published in the **Federal Register** as a final rule June 7, 1995, and effective on September 3, 1995; (60 FR 29965). This increase is consistent with the increase in the annual average price of domestic barrows and gilts for calendar year 1995 as reported by USDA, AMS, Livestock and Grain Market News (LGMN) Branch. This increase in assessments would make the equivalent market value of the live porcine animal from which the imported pork and pork products were derived reflect the recent increase in the market value of domestic porcine animals, thereby promoting comparability between importer and domestic assessments. This proposed rule would not change the current assessment rate of 0.45 percent of the market value.

The methodology for determining the per pound amounts for imported pork and pork products was described in the Supplementary Information accompanying the Order and published in the September 5, 1986, **Federal Register** at 51 FR 31901. The weight of imported pork and pork products is converted to a carcass weight equivalent by utilizing conversion factors which are published in the Department's Statistical Bulletin No. 697 "Conversion Factors and Weights and Measures." These conversion factors take into account the removal of bone, weight lost in cooking or other processing, and the nonpork components of pork products. Secondly, the carcass weight equivalent is converted to a live animal equivalent weight by dividing the carcass weight equivalent by 70 percent, which is the average dressing percentage of porcine animals in the United States. Thirdly, the equivalent value of the live porcine animal is determined by multiplying the live animal equivalent weight by an annual average market price for barrows and gilts as reported by USDA, AMS, LGMN Branch. This average price is published on a yearly basis during the month of January in LGMN Branch's publication "Livestock, Meat, and Wool Weekly Summary and Statistics." Finally, the equivalent value is multiplied by the applicable assessment rate of 0.45 percent due on imported pork and pork products. The end result is expressed in an amount per pound for each type of pork or pork product. To determine the amount per kilogram for pork and pork products subject to assessment under the Act and Order, the cent-per-pound assessments are multiplied by a metric conversion factor 2.2046 and carried to the sixth decimal.

The formula in the preamble for the Order at 51 FR 31901 contemplated that it would be necessary to recalculate the equivalent live animal value of imported pork and pork products to reflect changes in the annual average price of domestic barrows and gilts to maintain equity of assessments between domestic porcine animals and imported pork and pork products.

The average annual market price increased from $39.57 in 1994 to $41.76 in 1995, an increase of about 6 percent. This increase would result in a corresponding increase in assessments for all HTS numbers listed in the table in § 1230.110, 60 FR 29965; June 7, 1995, of an amount equal to two-hundredths of a cent per pound, or as expressed in cents per kilogram, four-hundredths of a cent per kilogram. Based on the most recent available Department of Commerce, Bureau of Census, data on the volume of imported pork and pork products available for the period January 1, 1995, through September 30, 1995, the proposed increase in assessment amounts would result in an estimated $104,000 increase in assessments over a 12-month period.

List of Subjects in 7 CFR Part 1230

Administrative practice and procedure, Advertising, Agricultural research, Marketing agreement, Meat and meat products, Pork and pork products.

For the reasons set forth in the preamble, it is proposed that 7 CFR Part 1230 be amended as follows:

PART 1230–PORK PROMOTION, RESEARCH, AND CONSUMER INFORMATION

1. The authority citation for 7 CFR Part 1230 continues to read as follows:

Authority: 7 U.S.C. 4801–4819.

Subpart B—[Amended]

2. In Subpart B—Rules and Regulations, § 1230.110 is revised to read as follows:

§ 1230.110 Assessments on imported pork and pork products.

(a) The following HTS categories of imported live porcine animals are subject to assessment at the rate specified.

Live porcine animals	Assessment
0103.10.0000 .	0.45 percent Customs Entered Value.
0103.91.0000 .	0.45 percent Customs Entered Value.
0103.92.0000 .	0.45 percent Customs Entered Value.

(b) The following HTS categories of imported pork and pork products are subject to assessment at the rates specified.

Pork and pork products	Assessment	
	cents/lb	cents/kg
0203.11.0000	.27	.595242
0203.12.1010	.27	.595242
0203.12.1020	.27	.595242
0203.12.9010	.27	.595242
0203.12.9020	.27	.595242
0203.19.2010	.31	.683426
0203.19.2090	.31	.683426
0203.19.4010	.27	.595242
0203.19.4090	.27	.595242
0203.21.0000	.27	.595242
0203.22.1000	.27	.595242
0203.22.9000	.27	.595242
0203.29.2000	.31	.683426
0203.29.4000	.27	.595242
0206.30.0000	.27	.595242
0206.41.0000	.27	.595242
0206.49.0000	.27	.595242
0210.11.0010	.27	.595242
0210.11.0020	.27	.595242
0210.12.0020	.27	.595242
0210.12.0040	.27	.595242
0210.19.0010	.31	.683426
0210.19.0090	.31	.683426
1601.00.2010	.37	.815702
1601.00.2090	.37	.815702
1602.41.2020	.41	.903886
1602.41.2040	.41	.903886
1602.41.9000	.27	.595242
1602.42.2020	.41	.903886
1602.42.2040	.41	.903886
1602.42.4000	.27	.595242
1602.49.2000	.37	.815702
1602.49.4000	.31	.683426

Dated: March 18, 1996.

Lon Hatamiya,

Administrator.

[FR Doc. 96-6983 Filed 3-21-96; 8:45 am]

BILLING CODE 3410-02-P

Animal and Plant Health Inspection Service

9 CFR Parts 1, 2, and 3

[Docket No. 95-099-2]

Dogs and Cats in Commercial Pet Trade; Public Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service is hosting a public meeting to gather information on the current Animal Welfare Act regulations and standards that apply to the care of dogs and cats in the commercial pet trade. In line with our commitment to ensure appropriate care for animals regulated under the Animal Welfare Act, we are reviewing these regulations and standards and are seeking recommendations and opinions from the affected industries and concerned public to determine whether revisions are necessary.

DATES: The public meeting will be held on two consecutive half days—from 1 p.m. until 5 p.m. on the first day and from 8 a.m. until noon on the second day. The meeting will be held in Washington, DC, on April 10 and 11, 1996.

ADDRESSES: The public meeting will be held at the U.S. Department of Agriculture South Building, South Cafeteria, First Floor, Wing 3, 14th Street and Independence Avenue SW., Washington, DC. If travelling by Metro to the USDA South Building, take the Blue Line (towards Stadium-Armory/Addison Road) or the Orange Line (towards Stadium-Armory/New Carrollton). Exit the train at the Smithsonian station and follow signs to Independence Avenue. Enter Wing 1 of the USDA South Building (entrance is at the corner of 12th Street and Independence Avenue) immediately after exiting the station. You will be required to show identification at the Guard Desk. Proceed to the South Cafeteria in Wing 3 on the first floor; registration will take place at the back of the Cafeteria.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Smith, Animal Health Technician, Animal Care Staff, REAC, APHIS, USDA, 4700 River Road Unit 84, Riverdale, MD 20737-1234; (301) 734-4972.

SUPPLEMENTARY INFORMATION: Under the Animal Welfare Act (AWA) (7 U.S.C. 2131 *et seq.*), the Animal and Plant Health Inspection Service (APHIS) is responsible for regulating the care provided to certain animals, including dogs and cats in the commercial pet trade. APHIS believes the AWA regulations and standards pertaining to such dogs and cats may need to be updated. APHIS officials are reviewing the pertinent AWA regulations and standards.

In conducting this review, the agency is seeking recommendations and opinions regarding the housing, care, handling, and transportation of dogs and cats in the commercial pet trade. APHIS officials decided to hold three meetings to gather input from the public, animal protection organizations, and members of affected industries, such as dealers, research facilities, and commercial animal transporters. The first two meetings were held in Kansas City, MO, on February 21 and 22, 1996, and in St. Louis, MO, on February 23 and 24, 1996. We have chosen to hold the third meeting in Washington, DC.

The meeting will include four workshops facilitated by trained APHIS facilitators: (1) Space requirements for primary enclosures, including room for exercise; (2) sanitation, materials, flooring, and construction of primary enclosures; (3) veterinary care and breeding frequency; and (4) transportation by land and by air. In these workshops, group participation will be used to develop recommendations within specific topic areas. After the workshops have concluded, each workshop group will report its recommendations to the entire meeting.

APHIS will consider these recommendations in developing any revisions to the current AWA regulations and standards. The Agency will initiate rulemaking for any changes deemed appropriate.

Participants will register to participate in one workshop for the entire meeting. Registration for workshop sessions will be held from 11 a.m.-1 p.m. on April 10 at the back of the South Cafeteria, with the general session beginning at 1 p.m. Attendance may be limited for some workshops because of space availability. Any persons who are unable to attend the meeting, but who wish to comment on any topics covered by the four workshops, may send written comments to the person listed under **FOR FURTHER INFORMATION CONTACT.**

Done in Washington, DC, this 19th day of March 1996.

Lonnie J. King,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96-6982 Filed 3-21-96; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM-121, Notice No. SC-96-1-NM]

Special Conditions: Cessna Aircraft Model 750 Airplanes; Operation With Fly-by-Wire Rudder

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This document proposes special conditions for the Cessna Aircraft Model 750 airplane. This airplane will have novel and unusual design features, relating to its electronic rudder flight control system, when compared to the state of technology envisioned in the airworthiness standards of part 25 of the Federal Aviation Regulations (FAR). These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that provided by the airworthiness standards of part 25.

DATES: Comments must be received on or before April 22, 1996.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate (ANM-100), Attn: Rules Docket No. NM-121, 1601 Lind Avenue SW, Renton, Washington, 98055-4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. Comments must be marked Docket No. NM-121. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mark I. Quam, FAA, Standardization Branch, ANM-113, Transport Standards Staff, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW, Renton, Washington 98055-4056; telephone (206) 227-2145, facsimile (206) 227-1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these proposed special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before further rulemaking action is taken on these proposals. The proposals contained in this notice may be changed in light of the comments received. All comments received will be available in the Rules Docket, both before and after the closing date for comments, for examination by interested parties. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must also submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. NM-121." The postcard will be date stamped and returned to the commenter.

Background

On October 15, 1991, Cessna Aircraft Company (Cessna), 6030 Cessna Blvd., P.O. Box 7704, Wichita, KS 67277-7704, applied for a new type certificate in the transport airplane category for the Model 750 (Citation X) airplane. The Cessna 750 is a twin-engine, swept-wing business jet aircraft that is configured for approximately 8-12 passengers. The airplane has two Allison Engine Company AE 3007C turbofan engines rated at 6400 pounds of sea level, static takeoff thrust. The airplane has a maximum operating altitude of 51,000 feet and a range of approximately 3300 nautical miles.

The Cessna 750 has a yaw control system provided by a lower rudder and an upper rudder. Each rudder surface has an independent full-time control system, except that they share mechanical input at the rudder pedals. The lower surface is controlled by mechanical input to hydraulically-powered actuators. The upper surface is electronically controlled.

The lower rudder is positioned by two identical power control units (PCUs) installed one above the other, in parallel, in the vertical fin. The PCUs are each powered by an independent hydraulic system. Both the pilot and co-pilot rudder pedals are connected to the PCUs through conventional 1/8" diameter stainless steel cables, bellcranks, and PCU input bungees. Dual mechanical load paths are provided from the input sector to the PCUs to ensure that no single mechanical disconnect can result in loss of both rudder pedal and electric trim input to the PCUs. Rudder pedal travel of +/- 2.9 inches provides a maximum lower rudder deflection of +/- 30 degrees. The lower rudder system has dual rudder authority limiters designed to limit deflection, depending on the airplane's dynamic pressure. The purpose of the rudder limiter is to protect the airplane structure against overload. Both rudder authority limiters, each controlled by an independent rudder limit module, operate simultaneously so that a failure of one system will not allow the lower rudder to deflect to an unwanted position. Dual yaw damper actuators are linked in series to the lower rudder system to provide Dutch roll damping and turn coordination.

The upper rudder is driven electrically by the stand-alone yaw stability augmentation systems (YSAS), which consist of two identical systems. Each YSAS consists of a yaw stability augmentation computer (YSAC), two dual rotary variable transformer (RVT) sensors, and a servo motor which is a part of an electromechanical actuator (EMA). Either one of two YSASs continuously provides Dutch roll damping of the airplane, as well as tracking of the upper rudder to the mechanical command from the rudder pedals through electronic sensing of the rudder pedal torque tube position in the cockpit. The maximum upper rudder deflection is +/- 18 degrees. Upper surface position limiting is accomplished by electrical and mechanical stops at the surface.

In normal conditions, the manual yaw command from either the pilot or co-pilot rudder pedals is transmitted through the cable system and the PCU input bungees to the rudder PCUs. The PCUs then drive the lower rudder surface in proportion to the input command. At the same time, the rudder pedal command is electrically sensed at the rudder pedal torque tube and transmitted to the active YSAS for tracking the upper rudder. The position of each rudder surface may be displayed to the pilot along with the authority limiter position. In normal operation, both the lower and upper rudder systems provide yaw damper function at the same time. If the yaw damper function on either rudder system completely fails, the other system will provide adequate control to maintain the yaw stability of the airplane.

Type Certification Basis

Under the provisions of § 21.17 of the FAR, Cessna must show, except as provided in § 25.2, that the Model 750 (Citation X) meets the applicable provisions of part 25, effective February 1, 1965, as amended by Amendments 25-1 through 25-74. In addition, the proposed certification basis for the

Model 750 includes § 25.1316, System lightning protection, as amended by Amendment 25–80; part 34, effective September 10, 1990, plus any amendments in effect at the time of certification; and part 36, effective December 1, 1969, as amended by Amendment 36–1 through the amendment in effect at the time of certification. The special conditions that may be developed as a result of this notice will form an additional part of the type certification basis. The certification basis also includes Special Conditions No. 25–ANM–99, dated 5/8/95, pertaining to protection from High Intensity Radiated Fields, and may include other special conditions that are not relevant to these proposed special conditions.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25, as amended) do not contain adequate or appropriate safety standards for the Cessna Model 750 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16 to establish a level of safety equivalent to that established in the regulations.

Special conditions, as appropriate, are issued in accordance with § 11.49 of the FAR after public notice, as required by §§ 11.28 and 11.29, and become part of the type certification basis in accordance with § 21.17(a)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Discussion

The proposed type design of the Cessna 750 contains novel or unusual design features not envisioned by the applicable part 25 airworthiness standards and therefore special conditions are considered necessary in the following areas:

1. Upper Rudder Control System Operation Without Normal Electrical Power

The Cessna Model 750 upper rudder control system is required in order to maintain safe flight. The Cessna design has four yaw dampers, including lower rudder dual yaw dampers that are hydraulically powered, and an upper rudder with dual YSASs that are electrically powered. If all hydraulic power is lost to the lower rudder (manual reversion), then availability of the upper rudder yaw damper function becomes critical. Section 25.1351(d) of the FAR, Operation without normal electrical power, requires safe operation in VFR conditions for at least five minutes with inoperative normal power. This rule was structured around a traditional design utilizing mechanical control cables for flight control, while the crew took time to sort out the electrical failure, start engine(s) if necessary, and re-establish some of the electrical power generation capability.

Service experience with traditional two-engine airplane designs has shown that the loss of electrical power generated by the airplane's engines is not extremely improbable. The electrical power system of the Cessna 750 must therefore be designed with standby or emergency electrical sources of sufficient reliability and capacity to power the upper rudder control system in the event of the loss of normally generated electrical power. The need for electrical power for the Cessna Model 750 upper rudder control system was not envisioned by part 25 since, in traditional designs, cables and hydraulics are utilized for the flight control system. Therefore, Special Condition No. 1 is proposed.

2. Design Maneuver Requirements

In a conventional airplane, pilot inputs directly affect control surface movement (both rate and displacement) for a given flight condition. In the Cessna Model 750, the pilot provides only a portion of the input to the upper rudder control surface, and it is possible that the pilot control displacements specified in § 25.351 of the FAR may not result in the maximum displacement and rates of displacement of the upper rudder. The intent of these noted rules may not be satisfied if literally applied. Therefore, Special Condition No. 2 is proposed.

3. Interaction of Systems and Structures

The Cessna Model 750 has a full-time electronic upper rudder flight control system affecting the yaw axis. The current rules are inadequate for considering the affects of this system, and its failures, on structural performance. Therefore, Special Condition No. 3 is proposed.

As discussed above, these special conditions would be applicable initially to the Cessna Model 750 (Citation X) airplane. Should Cessna apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain unusual or novel design features on one model series of airplanes. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplanes.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation Safety, Reporting and Recordkeeping requirements.

The authority citation for part 25 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44704.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for the Cessna Aircraft Model 750 airplanes.

1. Upper Rudder Control System Operations Without Normal Electrical Power

In lieu of compliance with § 25.1351(d), it must be demonstrated, by test or combination of test and analysis, that the upper rudder control system provides for safe flight and landing with inoperative normal engine electrical power (electrical power sources excluding the battery and any other standby electrical sources). The airplane operation should be considered at the critical phase of flight and include the ability to restart the engines and maintain flight for a minimum of 30 minutes in Instrument Meteorological Conditions (IMC).

Discussion: The Cessna Model 750 fly-by-wire upper rudder control system requires a continuous source of electrical power in order to maintain yaw control. Section § 25.1351(d), Operation without normal electrical power, requires safe operation in visual flight rules (VFR) conditions for at least five minutes with inoperative normal power. This rule was structured around a traditional design utilizing mechanical control cables for flight control while the crew took time to sort out the electrical failure and was able to re-establish some of the electrical power generation capability. In order to maintain the same level of safety associated with traditional designs, the Cessna 750 upper rudder control system design shall be demonstrated to operate for at least 30 minutes without the normal source of engine-generated electrical power. It should be noted that service experience has shown that the loss of all electrical power that is generated by the airplane's engines is not extremely improbable.

The emergency electrical power system must be designed to supply the upper rudder control system without the need for crew action following the loss of the normal electrical power system.

For compliance purposes:

1. A test demonstration of the loss of normal engine-generated power is to be established such that:

a. The failure condition should be assumed to occur during night instrument meteorological conditions (IMC), at the most critical phase of flight relative to the electrical power system design and distribution of equipment loads on the system.

b. The upper rudder control system can provide for continued safe flight and landing using emergency electrical power (batteries, etc.) for at least 30 minutes of operation in IMC. An engine restart should be included in this demonstration.

c. Availability of APU operation should not be considered in establishing emergency power system adequacy.

2. Since the availability of the emergency electrical power system operation is necessary for maintaining safe flight with the upper rudder, the emergency electrical power system must be available immediately prior to each flight.

3. The emergency electrical power system must be shown to be satisfactorily operational in all flight regimes.

2. Design Yaw Maneuver Requirements

In lieu of compliance with § 25.351 of the FAR, the airplane must be designed for loads resulting from the yaw maneuver conditions specified in paragraphs (a) through (d) of this section, at speeds from V_{MC} to V_D. Unbalanced aerodynamic moments about the center of gravity must be reacted in a rational or conservative manner considering the airplane inertia forces. In computing the tail loads, the yawing velocity may be assumed to be zero.

(a) With the airplane in unaccelerated flight at zero yaw, it is assumed that the cockpit rudder control is suddenly displaced to achieve the resulting rudder deflection, as limited by:

(1) the control system or control surface stops; or

(2) a limit pilot force of 300 pounds from V_{MC} to V_A and 200 pounds from V_C/M_C to V_D/M_D, with a linear variation between V_A and V_C/M_C.

(b) With the cockpit rudder control deflected so as always to maintain the maximum rudder deflection available within the limitations specified in paragraph (a) of this section, it is assumed that the airplane yaws to the overswing sideslip angle.

(c) With the airplane yawed to the static equilibrium sideslip angle, it is assumed that the cockpit rudder control is held so as to achieve the maximum rudder deflection available within the limitations specified in paragraph (a) of this section.

(d) With the airplane yawed to the static equilibrium sideslip angle of paragraph (c) of this section, it is assumed that the cockpit rudder control is suddenly returned to neutral.

3. Interaction of Systems and Structures

Airplanes equipped with fly-by-wire control systems that affect structural performance, either directly or as a result of a failure or malfunction, must account for the influence of these systems and their failure conditions in showing compliance with the requirements of 14 CFR part 25, subparts C and D.

(a) General. The following criteria will be used in determining the influence of the upper rudder control systems and their failure conditions on the airplane structure.

(b) System fully operative. With the system fully operative, the following apply:

(1) Limit loads must be derived in all normal operating configurations of the systems from all the limit conditions specified in 14 CFR part 25, subpart C, taking into account any special behavior of such systems or associated functions or any effect on the structural performance of the airplane that may occur up to the limit loads. In particular, any significant nonlinearity (rate of displacement of control surface, thresholds, or any other system nonlinearities) must be accounted for in a realistic or conservative way when deriving limit loads from limit conditions.

(2) The airplane must meet the strength requirements of 14 CFR part 25 (Static strength, residual strength), using the specified factors to derive ultimate loads from the limit loads defined above. The effect of non linearities must be investigated beyond limit conditions to ensure the behavior of the system presents no anomaly compared to the behavior below limit conditions. However, conditions beyond limit conditions need not be considered when it can be shown that the airplane has design features that make it impossible to exceed those limit conditions.

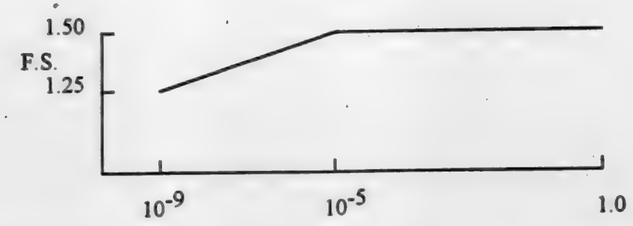
(3) The airplane must meet the aeroelastic stability requirements of § 25.629.

(c) System in the failure condition. For any failure condition in the system not shown to be extremely improbable, the following apply:

(1) At the time of occurrence. Starting from 1–g level flight conditions, a realistic scenario, including pilot corrective actions, must be established to determine the loads occurring at the time of failure and immediately after failure. The airplane must be able to withstand these loads multiplied by an appropriate factor of safety that is related to the probability of occurrence of the failure. The factor of safety (F.S.) is defined in Figure 1.

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Figure 1
Factor of Safety at Time of Occurrence



P_j—Probability of occurrence of failure mode j (per hour)

(i) These loads must also be used in the damage tolerance evaluation required by § 25.571(b) if the failure condition is probable.

(ii) Freedom from flutter, divergence, and control reversal must be shown up to the speeds defined in § 25.629(b)(2). For failure conditions which result in speed increases beyond V_C/M_C, freedom from flutter, divergence, and control reversal must be shown to increased speeds, so that the margins intended by § 25.629(b)(2) are maintained.

(iii) Notwithstanding subparagraph (1) of this paragraph, failures of the system that result in forced structural vibrations (oscillatory failures) must not produce loads that could result in catastrophic fatigue failure or detrimental deformation of primary structure.

(2) For the continuation of the flight. For the airplane in the system failed state, and considering any appropriate reconfiguration and flight limitations, the following apply:

(i) Static and residual strength must be determined for loads derived from the following conditions at speeds up to V_C, or the speed limitation prescribed for the remainder of the flight.

(A) The limit symmetrical maneuvering conditions specified in §§ 25.331 and 25.345.

(B) The limit gust conditions specified in § 25.341 (but using the gust velocities for V_C and § 25.345.

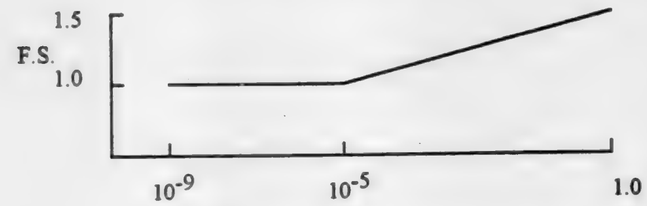
(C) The limit rolling conditions specified in § 25.349 and the limit unsymmetrical conditions specified in §§ 25.367 and 25.427(b) and (c).

(D) The limit yaw maneuvering conditions specified in Special Condition No. 2.

(E) The limit ground loading conditions specified in §§ 25.473 and 25.491.

(ii) For static strength substantiation, each part of the structure must be able to withstand the loads specified in subparagraph (2)(i) of this paragraph, multiplied by a factor of safety depending on the probability of being in this failure state. The factor of safety is defined in Figure 2.

Figure 2
Factor of Safety for Continuation of Flight



Q_j-Probability of being in failure condition j

$Q_j=(T_j)(P_j)$ where:

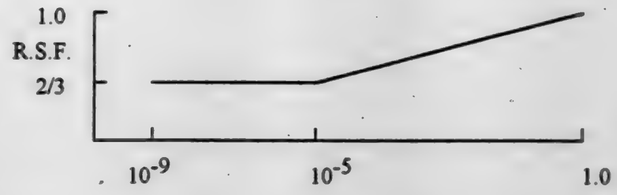
T_j=Average time spent in failure condition j (in hours)

P_j=Probability of occurrence of failure mode j (per hour)

Note: If P_j is greater than 10^{-3} per flight hour, then a residual strength factor of 1.0 must be used.

(iii) For residual strength substantiation as defined in § 25.571(b), structures affected by failure of the system and with damage in combination with the system failure, a reduced factor may be applied to the loads specified in subparagraph (2)(i) of this paragraph. However, the residual strength level must not be less than the 1-g flight load, combined with the loads introduced by the failure condition, plus two-thirds of the load increments of the conditions specified in subparagraph (2)(i) of this paragraph, applied in both positive and negative directions (if appropriate). The residual strength factor (R.S.F.) is defined in Figure 3.

Figure 3
Residual Strength Factor



Q_j-Probability of being in failure condition j

$Q_j=(T_j)(P_j)$ where:

T_j=Average time spent in failure condition j (in hours)

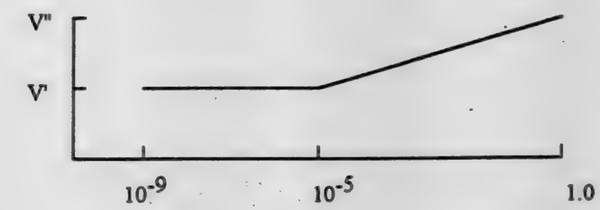
P_j=Probability of occurrence of failure mode j (per hour)

Note: If P_j is greater than 10^{-3} per flight hour, then a residual strength factor of 1.0 must be used.

(iv) If the loads induced by the failure condition have a significant effect on fatigue or damage tolerance, then their effects must be taken into account.

(v) Freedom from flutter, divergence, and control reversal must be shown up to a speed determined from Figure 4. Flutter clearance speeds V' and V'' may be based on the speed limitation specified for the remainder of the flight, using the margins defined by § 25.629(b).

Figure 4
Clearance Speed



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Q_j-Probability of being in failure condition j

V'=Clearance speed as defined by § 25.629(b)(2).

V''=Clearance speed as defined by § 25.629(b)(1).

$_j=(T_j)(P_j)$ where:

T_j=Average time spent in failure condition j (in hours)

P_j=Probability of occurrence of failure mode j (per hour)

Note: If P_j is greater than 10^{-3} per flight hour, then the flutter clearance speed must not be less than V''.

(vi) Freedom from flutter, divergence, and control reversal must also be shown up to V' in Figure 4 above, for any probable system failure condition combined with any damage required or selected for investigation by § 25.571(b).

(vii) If the mission analysis method is used to account for continuous turbulence, all the systems failure conditions associated with their probability must be accounted for in a rational or conservative manner in order to ensure that the probability of exceeding the limit load is not higher than the value prescribed in appendix G of 14 CFR part 25.

(3) Consideration of certain failure conditions may be required by other sections of 14 CFR part 25, regardless of calculated system reliability. Where analysis shows the probability of these failure conditions to be less than 10^{-9}, criteria other than those specified in this paragraph may be used for structural substantiation to show continued safe flight and landing.

(d) Warning considerations. For upper rudder control system failure detection and warning, the following apply:

(1) The system must be checked for failure conditions, not extremely improbable, that degrade the structural capability below the level required by part 25 or significantly reduce the reliability of the remaining system. The crew must be made aware of these failures before flight. Certain elements of the control system, such as mechanical and hydraulic components, may use special periodic inspections, and electronic components may use daily checks, in lieu of warning systems, to achieve the objective of this requirement. These certification maintenance requirements must be limited to components that are not readily detectable by normal warning systems and where service history shows that inspections will provide an adequate level of safety.

(2) The existence of any failure condition, not extremely improbable, during flight that could significantly affect the structural capability of the

airplane, and for which the associated reduction in airworthiness can be minimized by suitable flight limitations, must be signaled to the flightcrew. For example, failure conditions which result in a factor of safety between the airplane strength and the loads of 14 CFR part 25, subpart C, below 1.25, or flutter margins below V", must be signaled to the crew during flight.

(e) Dispatch with known failure conditions. If the airplane is to be dispatched in a known upper rudder control system failure condition that affects structural performance, or affects the reliability of the remaining system to maintain structural performance, then the provisions of this special condition must be met for the dispatched condition and for subsequent failures. Operational and flight limitations may be taken into account.

Issued in Renton, Washington, on March 8, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–100.

[FR Doc. 96–6749 Filed 3–21–96; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 95–CE–75–AD]

Airworthiness Directives; Aerospace Technologies of Australia, Nomad Models N22B, N22S, and N24A Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Aerospace Technologies of Australia (ASTA) Nomad Models N22B, N22S, and N24A airplanes. The proposed action would require repetitively inspecting the tailplane stabilizer center section and repairing any cracked tailplane structure. This proposal also provides an optional modification as a terminating action, after an inspection in which no cracks are found. A tailplane failure on one of the affected airplanes prompted the proposed action. The actions specified by the proposed AD are intended to prevent cracking in the stabilizer center section, which, if not detected and corrected, could result in tailplane failure and loss of control of the airplane.

DATES: Comments must be received on or before June 28, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–CE–75–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from AeroSpace Technologies of Australia, Limited, ASTA DEFENCE, Private Bag No. 4, Beach Road Lara 3212, Victoria, Australia. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Ron Atmur, Aerospace Engineer, Aircraft Certification Office, FAA, 3960 Paramount Blvd., Lakewood, California, 90712; telephone (310) 627–5224; facsimile (310) 627–5210;

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 95–CE–75–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–CE–75–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Civil Airworthiness Authority (CAA), which is the airworthiness authority for Australia, has notified the FAA that an unsafe condition may exist on ASTA Nomad N22 and N24 series airplanes that have not incorporated ASTA Modification N663 and N768. The Australian CAA reported one accident and several incidents of cracking in the tailplane stabilizer center section of the airplanes.

The accident was caused by the loss of a tailplane during flight. Investigation of the accident revealed undetected cracking around the center lightening hole which was significantly accelerated by long periods of engine ground running. Subsequent testing also indicated that engine ground running at moderate to high power settings during ground maneuvers create unexpected fatigue loads and accelerate the crack growth.

ASTA has issued Nomad Alert Service Bulletin (Nomad SB) ANMD–55–26, Revision 8, dated April 15, 1994, which specifies procedures for inspecting and modifying the stabilizer center section on Nomad Models N22B, N22S, and N24A airplanes. Accomplishment of these procedures incorporates Modifications (Mod.) N663 and N768. Mod. N663 reworks the horizontal stabilizer to incorporate a strengthened main spar assembly that includes a gust stop spring box and modified mass balance arm. The trim tab hinges are moved 0.17 inches aft and farings are added to the bottom skin of the horizontal stabilizer to permit increased trim tab movement. Mod. N768 replaces the pivot brackets, attachment bolts, and spar web doubler with strengthened components.

The Australian CAA classified this service bulletin as mandatory and issued AD/GAF–N22/58 amdt 4, issued November, 1991, in order to assure the continued airworthiness of these airplanes in Australia.

These airplane models are manufactured in Australia and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement between Australia and the United States. Pursuant to this bilateral airworthiness agreement, the Australian CAA has kept the FAA informed of the above-described situation. The FAA has examined the findings of the Australian CAA, reviewed all available information, and determined that AD action is necessary for airplanes of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop in other ASTA Nomad Models N22B, N22S, and N24A airplanes of the same type design that do not have Modifications N663 and N768 incorporated in the area of the tailplane stabilizer center section, the proposed AD would require inspecting (using both visual and eddy current methods) the tailplane stabilizer section for cracks and, prior to further flight, repairing any cracked tailplane stabilizer center section. This AD also provides the option of modifying the tailplane stabilizer center section (Mod. N663 and N768) as a terminating action. Accomplishment of the proposed inspection would be in accordance with Nomad SB ANMD–55–26, Revision 8, dated April 15, 1994. If the tailplane stabilizer center section is found cracked, the repair would be in accordance with a scheme obtained from the Los Angeles Aircraft Certification Office.

The FAA estimates that 15 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 15 workhours per airplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. The total cost impact of the proposed AD upon U.S. operators of the affected airplanes is estimated to be $13,500. This figure only includes the cost for the initial inspection and does not include replacement costs if the tailplane stabilizer center section is found cracked, nor does it include repetitive inspection costs. Additionally, the FAA has no way of determining how many tailplane stabilizer center sections may be cracked or how many repetitive inspections each owner/operator may incur over the life of the airplane.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

Aerospace Technologies of Australia (ASTA): Docket No. 95–CE–75–AD.

Applicability: Nomad Models N22B, N22S, and N24A airplanes (all serial numbers), certificated in any category, that have not incorporated ASTA Modification N663 and N768 in the area of the tailplane stabilizer.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 100 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished, and thereafter at intervals not to exceed 100 hours TIS.

To prevent cracking in the tailplane stabilizer center section, which, if not detected and corrected, could result in tailplane failure and loss of control of the airplane, accomplish the following:

(a) Inspect the tailplane stabilizer center section and center lightening hole for cracks (using both visual and eddy current methods) in accordance with section "C. Description, (1) Part 1—Inspection." of ASTA Nomad Alert Service Bulletin (Nomad SB) ANMD–55–26, Revision 8, dated April 15, 1994.

(b) If cracks are found during any inspection required by this AD, prior to further flight, repair the stabilizer center section in accordance with a repair scheme obtained from the manufacturer through the Manager, Los Angeles Aircraft Certification Office, at the address specified in paragraph (d).

(1) This repair scheme does not eliminate the repetitive inspection requirement.

(2) The repetitive inspection requirement of this AD may be terminated by incorporating both Modification (Mod.) N663 and N768 in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Nomad SB ANMD–55–26, Revision 8, dated April 15, 1994. These modifications may only be incorporated, prior to further flight, after any inspection provided no cracks are found.

(3) Modifications N663 and N768 may also be incorporated as terminating action to the repetitive inspections of this AD on airplanes that have cracks repaired in the tailplane stabilizer center section provided the modifications are incorporated prior to further flight after an inspection where no cracks were found.

Note 2: Mod. N663 reworks the horizontal stabilizer to incorporate a strengthened main spar assembly that includes a gust stop spring box and modified mass balance arm. The trim tab hinges are moved 0.17 inches aft and farings are added to the bottom skin of the horizontal stabilizer to permit increased trim tab movement. Mod. N768 incorporates Mod. 663 and replaces the pivot brackets, attachment bolts, and spar web doubler with strengthened components.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Los Angeles Aircraft Certification Office, FAA, 3960 Paramount Blvd., Lakewood, California, 90712. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles Aircraft Certification Office.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles Aircraft Certification Office.

(e) All persons affected by this directive may obtain copies of the document referred to herein upon request to AeroSpace Technologies of Australia, Limited, ASTA DEFENCE, Private Bag No. 4, Beach Road Lara 3212, Victoria, Australia; or may examine this/these document(s) at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on March 15, 1996.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–6882 Filed 3–21–96; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 95–CE–94–AD]

Airworthiness Directives; Jetstream Aircraft Limited HP137 Mk1, Jetstream Series 200, and Jetstream Models 3101 and 3201 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to supersede Airworthiness Directive (AD) 87–07–01, which currently requires the following on Jetstream Aircraft Limited (JAL) HP137 Mk1, Jetstream series 200, and Jetstream Model 3101 airplanes: repetitively inspecting the nose landing gear (NLG) top cap assembly securing bolts for looseness or cracks, retorquing any loose security bolt, and replacing any cracked security bolt. AD 87–07–01 also provides the option of incorporating a NLG modification as terminating action for the repetitive inspections. A report of cracked and loose bolts found on an airplane with the above-referenced NLG modification prompted the proposed action. The proposed action would: retain the repetitive inspections required by AD 87–07–01; increase the AD applicability to include Jetstream Model 3201 airplanes and airplanes that have the NLG top cap assembly modified in accordance with AD 87–07–01; require replacing two of the NLG top cap assembly securing bolts; and incorporate a new NLG top cap assembly that would eliminate the repetitive inspection requirement of the AD. The actions specified in the proposed AD are intended to prevent failure of the NLG caused by cracked or loose securing bolts, which, if not detected and corrected, could lead to NLG collapse and damage to the airplane.

DATES: Comments must be received on or before May 24, 1996.

ADDRESSES: Submit comments on the proposal in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–CE–94–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Jetstream Aircraft Limited, Manager Product Support, Prestwick Airport, Ayrshire, KA9 2RW Scotland; telephone (44–292) 79888; facsimile (44–292) 79703; or Jetstream Aircraft Inc., Librarian, P.O. Box 16029, Dulles International Airport, Washington, DC, 20041–6029; telephone (703) 406–1161; facsimile (703) 406–1469. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Ms. Dorenda Baker, Program Officer, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B–1000 Brussels, Belgium; telephone (322) 508–2715; facsimile (322) 230–6899; or Mr. Jeffrey Morfitt, Project Officer, Small Airplane Directorate, Airplane Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6932; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 95–CE–94–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–CE–94–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

AD 87–07–01, Amendment 39–5582, currently requires the following on Jetstream Aircraft Limited (JAL) HP137 Mk1, Jetstream series 200, and Jetstream Model 3101 airplanes: repetitively inspecting the nose landing gear (NLG) top cap assembly securing bolts for looseness or cracks, retorquing any loose security bolt, and replacing any cracked security bolt. This AD also provides the option of replacing the existing top cap assembly and bolts with parts of improved design.

The FAA has received a report of NLG top cap assembly failure on a Jetstream airplane where the existing top cap assembly and bolts were replaced with parts of improved design in accordance with AD 87–07–01. In addition, JAL has re-evaluated the instructions and the design of the improved NLG top cap assembly specified in AD 87–07–01, and determined that airplanes that have the NLG top cap assembly design installed as specified in AD 87–07–01 could experience NLG failure caused by cracked or loose securing bolts.

The JAL Jetstream Model 3201 airplanes were not included in AD 87–07–01 because they had NLG top cap assemblies and bolts of improved design incorporated at manufacture. These NLG top cap assemblies and bolts are of design identical to that referenced in the incident report described above and to that of the assemblies referenced as terminating action for the repetitive inspection requirement of AD 87–07–01.

JAL has designed a new NLG top cap assembly bolt that, when incorporated, would reduce the possibility of loose or cracked securing bolts and subsequent NLG failure. Jetstream Service Bulletin (SB) 32–JA 901040, Revision No. 3, dated August 9, 1995, specifies procedures for:

—Checking the torque levels of the NLG top cap assembly securing bolts;
—Replacing two of the NLG top cap assembly securing bolts and checking the length of the NLG top cap assembly securing bolts; and
—Installing a new modified top cap assembly.

Jetstream SB 32–JA 901040 also references NLG top cap installation procedures that are included in AP Precision Hydraulics Ltd SB 32–41, which incorporates the following pages:

Pages	Revision level	Date
1, 2, 6, 7, 8 and 15	Revision No. 2	March 9, 1993.
4 and 10	Revision No. 1	July 11, 1991.
3, 5, 9, 11, 12, 13, and 14	Original Issue	November 17, 1990.

The FAA has reviewed all available information related to the incident described above, including the referenced service bulletins, and has determined that AD action should be taken to prevent failure of the NLG caused by cracked or loose securing bolts, which, if not detected and corrected, could lead to NLG collapse and damage to the airplane.

AD 87–07–01 has been identified as one that should be superseded under the FAA's aging commuter-class airplane policy. The FAA has determined that reliance on critical repetitive inspections on aging commuter-class airplanes carries an unnecessary safety risk when a design change exists that could eliminate or, in certain instances, reduce the number of those critical inspections. In determining what inspections are critical, the FAA considers (1) the safety consequences if the known problem is not detected during the inspection; (2) the probability of the problem not being detected during the inspection; (3) whether the inspection area is difficult to access; and (4) the possibility of damage to an adjacent structure as a result of the problem.

Based on these factors, the FAA established this aging commuter-class aircraft policy to require the incorporation of a known design change when it could eliminate or, in certain instances, reduce the number of critical repetitive inspections.

The FAA is combining this policy with the incident presented in this discussion to establish the basis for the proposed AD action.

Since an unsafe condition has been identified that is likely to exist or develop in other JAL HP137 Mk1, Jetstream series 200, and Jetstream Models 3101 and 3201 airplanes of the same type design that do not have a modified NLG top cap assembly incorporated (Amendment JA 901040) in accordance with Jetstream SB 32–JA 901040, Revision 3, dated August 9, 1995, the proposed AD would supersede AD 87–07–01 with a new AD that would:

—Retain the requirement contained in AD 87–07–01 of repetitively inspecting the NLG top cap assembly securing bolts for looseness, retorquing any loose security bolt, and replacing any cracked security bolt;
—Require replacing two of the NLG top cap assembly securing bolts and checking the other two NLG top cap assembly securing bolts for the correct length; and
—Require replacing (at a specified time) the NLG top cap assembly with a part of improved design (Amendment JA 901040) as terminating action for the repetitive inspections.

Accomplishment of the proposed actions would be in accordance with Jetstream SB 32–JA 901040, Revision No. 3, and AP Precision Hydraulics SB 32–41.

The FAA estimates that 150 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 18 workhours (inspection: 6 workhours; replacement: 12 workhours) to accomplish the proposed actions, and that the average labor rate is approximately $60 an hour. Parts cost approximately $1,200 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $342,000 or $2,280 per airplane. This figure only takes into account the cost of the proposed initial inspection and proposed inspection-terminating modification and does not take into account the cost of the proposed repetitive inspections. The FAA has no way of determining the number of repetitive inspections each of the owners/operators would incur over the life of the affected airplanes.

This figure is also based on the assumption that none of the affected airplane owners/operators have accomplished the proposed modification. This action would eliminate the repetitive inspections required by AD 87–07–01. The FAA has no way of determining the operation levels of each individual operator of the affected airplanes, and subsequently cannot determine the repetitive inspection costs that would be eliminated by the proposed action. The FAA estimates these costs to be substantial over the long term.

In addition, JAL has informed the FAA that parts have been distributed to owners/operators that would equip approximately 62 of the affected airplanes. Assuming that these parts have been installed on the affected airplanes, the cost impact of the proposed modification upon the public would be reduced $141,360 from $342,000 to $200,640.

The intent of the FAA's aging commuter airplane program is to ensure safe operation of commuter-class airplanes that are in commercial service without adversely impacting private operators. Of the approximately 150 airplanes in the U.S. registry that would be affected by the proposed AD, the FAA has determined that approximately 95 percent are operated in scheduled passenger service by 10 different operators.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the

Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Airworthiness Directive (AD) 87–07–01, Amendment 39–5582, and adding a new AD to read as follows:

Jetstream Aircraft Limited: Docket No. 95–CE–94–AD. Supersedes AD 87–07–01, Amendment 39–5582.

Applicability: The following airplane models and serial numbers, certificated in any category, that do not have a modified nose landing gear (NLG) top cap assembly incorporated (Amendment JA 901040) in accordance with Jetstream Service Bulletin (SB) 32–JA 901040, Revision No. 3, dated August 9, 1995:

Model	Serial Numbers
HP137 Mk1	All serial numbers;
Jetstream series 200	All serial numbers;
Jetstream Model 3101.	All serial numbers; and
Jetstream Model 3201.	Serial numbers 790 through 854.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent failure of the NLG caused by cracked or loose securing bolts, which, if not detected and corrected, could lead to NLG collapse and damage to the airplane, accomplish the following:

Note 2: The paragraph structure of this AD is as follows:

Level 1: (a), (b), (c), etc.
Level 2: (1), (2), (3), etc.
Level 3: (i), (ii), (iii), etc.
Level 2 and Level 3 structures are designations of the Level 1 paragraph they immediately follow.

(a) Within the next 300 landings accumulated on the NLG after the effective date of this AD, accomplish the following in accordance with the applicable portion of the ACCOMPLISHMENT INSTRUCTIONS section of Jetstream SB 32–JA 901040, Revision No. 3, dated August 9, 1995, and AP Precision Hydraulics Ltd SB 32–41, which incorporates the following pages:

Pages	Revision level	Date
1, 2, 6, 7, 8 and 15	Revision No. 2	March 9, 1993.
4 and 10	Revision No. 1	July 11, 1991.
3, 5, 9, 11, 12, 13, and 14	Original Issue	November 17, 1990.

(1) Replace two of the NLG top cap assembly securing bolts, and check the other two for correct length in accordance with part 1A of the ACCOMPLISHMENT INSTRUCTIONS section of AP Precision Hydraulics Ltd SB 32–41. Prior to further flight, replace any NLG top securing bolt that is not the length specified in AP Precision Hydraulics Ltd SB 32–41.

(2) Check the tightness of the four NLG top cap assembly securing bolts and ensure that these bolts are not broken in accordance with part 1b of the ACCOMPLISHMENT INSTRUCTIONS section of AP Precision Hydraulics Ltd SB 32–41.

(i) Prior to further flight, retorque any bolts with incorrect torque values.

(ii) If any bolts are broken or gaps are found as specified in paragraph A.(4) of part 1b of the ACCOMPLISHMENT INSTRUCTIONS section of AP Precision Hydraulics Ltd SB 32–41, prior to further flight, replace the NLG in accordance with the applicable maintenance manual.

(b) Within 1,200 landings after the actions required by paragraph (a) of this AD (all paragraph designations), and thereafter at intervals not to exceed 1,200 landings, until the modification required by paragraph (c) of this AD is incorporated, check the tightness of the four NLG top cap assembly securing bolts and ensure that these bolts are not broken in accordance with part 1b of the ACCOMPLISHMENT INSTRUCTIONS section of AP Precision Hydraulics Ltd SB 32–41.

(1) Prior to further flight, retorque any bolts with incorrect torque values.

(2) If any bolts are broken or gaps are found as specified in paragraph A.(4) of part 1b of the ACCOMPLISHMENT INSTRUCTIONS section of AP Precision Hydraulics Ltd SB 32–41, prior to further flight, replace the NLG in accordance with the applicable maintenance manual.

(c) Upon accumulating 20,000 landings on the NLG or within the next 2,500 landings accumulated on the NLG after the effective date of this AD, whichever occurs later, install a new NLG top cap assembly or modify the existing NLG top cap assembly in accordance with Part 2 of the ACCOMPLISHMENT INSTRUCTIONS section of AP Precision Hydraulics Ltd SB 32–41, which incorporates the following pages:

Pages	Revision level	Date
1, 2, 6, 7, 8 and 15	Revision No. 2	March 9, 1993.
4 and 10	Revision No. 1	July 11, 1991.
3, 5, 9, 11, 12, 13, and 14	Original Issue	November 17, 1990.

(d) Incorporating the modification required by paragraph (c) of this AD is considered terminating action for the repetitive torque checks required by this AD and may be incorporated at any time prior to 20,000 landings on a NLG or within the next 2,500 landings accumulated on the NLG after the effective date of this AD, whichever occurs later (at which time it must be incorporated).

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Brussels Aircraft Certification Office (ACO), Europe, Africa, Middle East office, FAA, c/o American Embassy, 1000 Brussels, Belgium. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Brussels ACO.

Note 4: Alternative methods of compliance approved in accordance with AD 87–07–01 (superseded by this action) are not considered approved as alternative methods of compliance with this AD.

(g) All persons affected by this directive may obtain copies of the document referred to herein upon request to Jetstream Aircraft Limited, Manager Product Support, Prestwick Airport, Ayrshire, KA9 2RW Scotland; or Jetstream Aircraft Inc., Librarian, P.O. Box 16029, Dulles International Airport, Washington, DC; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(h) This amendment supersedes AD 87–07–01, Amendment 39–5582.

Issued in Kansas City, Missouri, on March 14, 1996.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–6881 Filed 3–21–96; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 95–NM–199–AD]

Airworthiness Directives; McDonnell Douglas Model DC–10 Series Airplanes and KC–10A (Military) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–10 series airplanes, and KC–10A (military) airplanes. This proposal would require high frequency eddy current inspection(s) to detect cracks in the secondary pivot support of the horizontal stabilizer, and various follow-on actions, if necessary. This proposal is prompted by reports of crack development in the secondary pivot support of the horizontal stabilizer due to fatigue. The actions specified by the proposed AD are intended to prevent such fatigue cracking, which could result in reduced structural integrity of the horizontal stabilizer and, subsequently, lead to reduced controllability of the airplane.

DATES: Comments must be received by May 17, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–199–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Ron Atmur, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5224; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–NM–199–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–199–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports of crack development in the secondary pivot support of the horizontal stabilizer on several McDonnell Douglas Model DC–10 series airplanes. These airplanes had accumulated between 37,738 and 57,029 total flight hours and between 13,831 and 32,313 total flight cycles. The cause of such cracking has been attributed to fatigue. Fatigue cracking in the secondary pivot support of the horizontal stabilizer, if not detected and corrected in a timely manner, could result in reduced structural integrity of the horizontal stabilizer; this situation subsequently could lead to reduced controllability of the airplane.

The FAA has reviewed and approved McDonnell Douglas DC–10 Service Bulletin 53–167, Revision 1, dated February 15, 1995, which describes procedures for high frequency eddy current (HFEC) inspection(s) to detect cracks in the secondary pivot support of the horizontal stabilizer. For cases where no cracks are detected during inspection, the service bulletin describes procedures for either conducting repetitive inspections, or installing a preventative modification. The preventative modification entails cold working holes in angles and installing angles on pivot supports. For cases where any crack is detected during inspection, the service bulletin describes procedures for either repairing the cracked area (temporary repair) and follow-on actions, or replacing the secondary pivot support of the horizontal stabilizer with a new secondary pivot support (permanent repair). Replacement of the affected secondary pivot support will ensure the structural integrity of the horizontal stabilizer, and will eliminate the need for repetitive inspections.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require HFEC inspection(s) to detect cracks in the secondary pivot support of the horizontal stabilizer. The proposed AD would also require repair of the cracked area and follow-on actions, or replacement of the cracked secondary pivot support of the horizontal stabilizer with a new secondary pivot support. Such replacement would constitute

terminating action for the repetitive inspections. The actions would be required to be accomplished in accordance with the service bulletin described previously.

There are approximately 376 McDonnell Douglas Model DC–10 series airplanes and KC–10A (military) airplanes of the affected design in the worldwide fleet. The FAA estimates that 230 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 5 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $69,000, or $300 per airplane, per inspection cycle.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g) 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Docket 95–NM–199–AD.

Applicability: Model DC–10–10, -15, -30, and -40 series airplanes, and KC–10A (military) airplanes; as listed in McDonnell Douglas DC–10 Service Bulletin 53–167, Revision 1, dated February 15, 1995; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking in the secondary pivot support of the horizontal stabilizer, which could result in reduced structural integrity of the horizontal stabilizer and, subsequently, lead to reduced controllability of the airplane, accomplish the following:

(a) Prior to the accumulation of 10,000 total landings, or within 3,000 landings after the effective date of this AD, whichever occurs later, perform a high frequency eddy current (HFEC) inspection to detect cracks in the secondary pivot support of the horizontal stabilizer, in accordance with McDonnell Douglas DC–10 Service Bulletin 53–167, Revision 1, dated February 15, 1995.

(b) If no cracks are detected during the HFEC inspection required by paragraph (a) of this AD, accomplish paragraph (b)(1) of this AD until paragraph (b)(2) of this AD is accomplished.

(1) Repeat the HFEC inspection thereafter at intervals not to exceed 10,000 landings.

(2) Accomplishment of the preventative modification in accordance with Condition I (no cracks), Option 2, of the service bulletin constitutes terminating action for the repetitive inspection requirements of paragraph (b)(1) of this AD.

(c) If any crack is detected during the HFEC inspection required by paragraph (a) or (b) of this AD, prior to further flight, accomplish either paragraph (c)(1) or (c)(2) of this AD.

(1) Repair the crack in accordance with Paragraph (1) of Condition II (cracks), Option 1 (temporary repair), of the Accomplishment Instructions of the service bulletin. Within 300 landings after accomplishing that repair, perform a visual inspection to detect cracks at the area of the repair, in accordance with the service bulletin.

(i) If any crack is detected during the visual inspection required by paragraph (c)(1) of this AD, prior to further flight, repair it in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(ii) Prior to 2,800 landings after accomplishing the HFEC inspection required by paragraph (a) of this AD, replace the secondary pivot support of the horizontal stabilizer with a new secondary pivot support, in accordance with Condition II (cracks), Option 2, of the service bulletin. Accomplishment of this replacement constitutes terminating action for the repetitive HFEC and visual inspection requirements of this AD.

(2) Replace the secondary pivot support of the horizontal stabilizer with a new secondary pivot support, in accordance with Condition II (cracks), Option 2 (permanent repair), of the service bulletin. Accomplishment of this replacement constitutes terminating action for the repetitive HFEC and visual inspection requirements of this AD.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on March 18, 1996.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–6931 Filed 3–21–96; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 95–ANE–55]

Airworthiness Directives; AlliedSignal Inc. TFE731 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to AlliedSignal Inc. (formerly Garrett Engine Division) TFE731 series turbofan engines. This proposal would require removing certain fan rotor disks from service in accordance with a drawdown schedule, and would establish new fan rotor disk life limits. This proposal is prompted after additional analyses revealed that stress levels in the fan rotor disk dovetail slots for the applicable engine models are higher than initially calculated. The actions specified by the proposed AD are intended to prevent uncontained failure of the fan rotor disk due to fatigue cracking in the dovetail slots, which can result in inflight engine shutdowns, severe secondary damage, and fan rotor assembly separation from the engine.

DATES: Comments must be received by May 21, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–ANE–55, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from AlliedSignal Aerospace, Attn: Data Distribution, M/S 64–3/2101–201, P.O. Box 29003, Phoenix, AZ 85038–9003; telephone (602) 365–2493, fax (602) 365–5577. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Joseph Costa, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712–4137; telephone (310) 627–5246; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–ANE–55." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–ANE–55, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

The Federal Aviation Administration (FAA) has received reports of three fan rotor disk separations on AlliedSignal Inc. (formerly Garrett Engine Division) TFE731 series turbofan engines. The FAA has determined from subsequent analyses that stress levels in the disk dovetail slots installed are higher than initially calculated. Also, recent review of fan rotor disk dovetail slot eddy-current inspection data from TFE731–2 and –3 series engines has indicated that crack detectability is between 80–90 percent, not as high as previously evaluated. To date, eddy-current inspections have detected fatigue cracks in the dovetail slot in approximately 176 (or 4%) of TFE731–2, –2A, –3, and –3R disks and in 8 (or 1%) of TFE731–3A, –3A, –3B, –3B, 3C, –3CR, and –4R disks and have been removed from service. The FAA concluded that a reduction in the fan rotor disk service life limit is necessary to maintain an acceptable level of safety. This condition, if not corrected, could result in an uncontained failure of the fan rotor disk due to fatigue cracking in the dovetail slots, which can result in inflight engine shutdowns, severe secondary damage, and fan rotor assembly separation from the engine.

The FAA has reviewed and approved the technical contents of AlliedSignal Engines Alert Service Bulletin (ASB) No. TFE731–A72–3569, dated May 31, 1995, and ASB No. TFE731–A72–3570, dated May 31, 1995, that describe removing certain fan rotor disks from service in accordance with a drawdown schedule. These new life limits will be included subsequently in AlliedSignal Engines Service Bulletin (SB) No. TFE731–72–3001 and SB No. TFE731–72–3501.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require removing certain fan rotor disks from service in accordance with a drawdown schedule and would establish new fan rotor disk life limits. The actions would be required to be accomplished in accordance with the ASB's described previously.

There are approximately 5,000 engines of the affected design in the worldwide fleet. The FAA estimates that 2,500 engines installed on aircraft of U.S. registry would be affected by this proposed AD, that it would take approximately 16 work hours per engine to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $2,400,000.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

AlliedSignal Inc.: Docket No. 95–ANE–55.

Applicability: AlliedSignal Inc. (formerly Garrett Engine Division) Models TFE731–2, –2A, –3, –3A, –3AR, –3B, –3BR, –3C, –3CR, –3D, –3DR, –3R, and –4R turbofan engines, installed on, but not limited to the following aircraft: Avions Marcel Dassault Falcon 10, 50, 100 series; Learjet 31, 35, 36, and 55 series; Lockheed-Georgia 1329–23 and –25 series; Israel Aircraft Industries 1124 series and 1125 Westwind series; Cessna Model 650, Citations III, VI, and VII; Raytheon British Aerospace HS–125 series; and Sabreliner NA–265–65.

Note: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) to request approval from the Federal Aviation Administration (FAA). This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any engine from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent uncontained failure of the fan rotor disk due to fatigue cracking in the dovetail slots, which can result in inflight engine shutdowns, severe secondary damage, and fan rotor assembly separation from the engine, accomplish the following:

(a) For engines equipped with fan rotor disks, part numbers (P/N's) 3072162–5, 3073436–5, 3073539–(All), and 3074529–(All), where (All) denotes any dash number, remove fan rotor disks from service and install a serviceable disk in accordance with the Accomplishment Instructions of AlliedSignal Engines Alert Service Bulletin (ASB) No. TFE731–A72–3569, dated May 31, 1995, as required by the following schedule:

Fan rotor disk cycles since new (CSN) on the effective date of this AD	Required fan rotor disk retirement (remove from service)
3,600 or less	Not to exceed the new life limit of 4,100 CSN.
3,601 to 5, 500	Within the next 500 cycles after the effective date of this AD or prior to reaching 5,700 CSN, whichever occurs first.
5,501 or greater	Within the next 200 cycles after the effective date of this AD, not to exceed 7,100 CSN.

(b) For engines equipped with fan rotor disks, P/N 3072816–(All), where (All) denotes any dash number, remove fan rotor disks from service and install a serviceable disk in accordance with Accomplishment Instructions of AlliedSignal Engines ASB No. TFE731–A72–3570, dated May 31, 1995, as required by the following schedule of CSN after the effective date of this AD.

Fan rotor disk CSN on the effective date of this AD	Required fan rotor disk retirement (remove from service)
3,850 or less	Not to exceed the new life limit of 4,600 CSN.
3,851 to 6,000	Within the next 750 cycles or prior to reaching 6,500 CSN, whichever occurs first.
6,001 or greater	Within the next 500 cycles, not to-exceed 10,000 CSN.

(c) A serviceable part is one that has not exceeded the life limits established by this AD.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Los Angeles Aircraft Certification Office.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on March 12, 1996.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 96–6972 Filed 3–21–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 71

[Airspace Docket No. 96–AGL–1]

Proposed Amendment to Class E Airspace; Rochester, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Class E airspace at Rochester, MN. Additional controlled airspace is required for the Copter GPS 325 degrees approach procedure to St. Mary's Hospital Heliport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed for aircraft executing the approach. The intended effect of the proposal is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

DATES: Comments must be received on or before April 26, 1996.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, rules Docket No. 96–AGL–1, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, System Management Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Peter H. Salmon, Air Traffic Division, System Management Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7459.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 96–AGL–1." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend Class E airspace at Rochester, MN. This proposal would provide adequate Class E airspace for IFT operators executing the Copter GPS 325 degrees approach procedure to St. Mary's Hospital Heliport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed for aircraft executing the approach. The intended effect of this action is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions. The area would be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 6005 Class E airspace areas extending from 700 feet or more above the surface of the earth.

* * * * *

AGL MN E5 Rochester, MN [Revised]

(Lat. 44°01'11"N, long. 92°28'59"W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the St. Mary's Hospital Heliport, excluding that airspace within the Rochester Municipal Airport, MN, Class D and Class E5 airspace.

* * * * *

Issued in Des Plaines, Illinois on March 7, 1996.

Maureen Woods,

Acting Manager, Air Traffic Division.

[FR Doc. 96–6993 Filed 3–21–96; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket Nos. 91N–384H, 94P–0390 and 95P–0241]

Food Labeling: Nutrient Content Claims, General Principles; Health Claims, General Requirements and Other Special Requirements for Individual Health Claims; and Definition of Term: Healthy; Extension of Comment Periods

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; extension of comment periods.

SUMMARY: The Food and Drug Administration (FDA) is extending to

July 18, 1996, the comment periods for two proposed rules, entitled "Food Labeling: Nutrient Content Claims, General Principles; Health Claims, General Requirements and Other Special Requirements for Individual Health Claims" (60 FR 66206, December 21, 1995) and "Food Labeling: Nutrient Content Claims, Definition of Term: Healthy" (61 FR 5349, February 12, 1996). This action is being taken in response to requests for additional time to conduct consumer research, to develop information requested by the agency, and to evaluate and comment on issues common to both proposals.

DATES: Submit written comments by July 18, 1996.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Comments should be identified with the docket numbers found in brackets in the heading of this document. Received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: F. Edward Scarbrough, Center for Food Safety and Applied Nutrition (HFS–150), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4561.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 21, 1995 (60 FR 66206), FDA published a proposed rule entitled "Food Labeling: Nutrient Content Claims, General Principles; Health Claims, General Requirements and Other Special Requirements for Individual Health Claims" (the claims proposal) in response to petitions submitted by the National Food Processors Association (NFPA) and the American Bakers Association (ABA). In that proposal, FDA proposed to amend its regulations on nutrient content claims to provide additional flexibility in the use of these claims on food products. FDA had provided for interested persons to submit written comments on the proposal by March 20, 1996.

In the **Federal Register** of February 12, 1996, FDA published a proposed rule entitled "Food Labeling: Nutrient Content Claims, Definition of Term: Healthy" (the healthy proposal) in response to petitions submitted to the agency by the American Frozen Food Institute (AFFI), the National Food Processors Association (NFPA), and the American Bakers Association (ABA). In that proposal, FDA proposed to revise its food labeling regulations by amending the definition of the term "healthy" to permit certain processed fruits and vegetables and enriched cereal-grain products that conform to a standard of identity to bear this term. FDA had provided for interested persons to submit written comments on the proposal by April 29, 1996.

The agency has received requests from NFPA for extensions of the comment periods for both proposals. Although FDA has a policy of generally not extending such comment periods so that necessary regulations can be promulgated as expeditiously as possible, the agency agrees that additional time may be needed by the requestor to conduct consumer research, to develop information requested by the agency, and to evaluate issues common to both proposals so that meaningful comments may be submitted. Therefore, FDA is extending the comment period for the claims proposal an additional 120 days and the comment period for the healthy proposal an additional 80 days. Thus, comments received by July 18, 1996, will be considered by FDA during its completion of these rulemakings.

Interested persons may, on or before July 18, 1996, submit to the Dockets Management Branch (address above) written comments regarding either proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments regarding the healthy proposal are to be identified with docket numbers 91N–384H and 95P–0241. Comments regarding the claims proposal are to be identified with docket numbers 94P–0390 and 95P–0241. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 19, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–7046 Filed 3–19–96; 4:41 pm]

BILLING CODE 4160–01–F

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

National Highway Traffic Safety Administration

23 CFR Part 1206

[Docket No. 96–02; Notice 1]

RIN 2127–AG10

Rules of Procedure for Invoking Sanctions Under the Highway Safety Act of 1966

AGENCY: Federal Highway Administration (FHWA) and National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to replace the outdated rules of procedure contained in 23 CFR Part 1206 with new procedures as a part of the regulatory review directed by President Clinton on March 4, 1995. It proposes to change the regulation to reflect the current sanction authority of 23 U.S.C. 402 and to replace the present burdensome hearing process with a simplified review process.

DATES: Comments must be received no later than May 6, 1996.

ADDRESSES: Comments should refer to the docket number set forth above and be submitted (preferably in 10 copies) to the Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, DC 20590. Docket hours are from 9:30 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: In FHWA, Mila Plosky, Office of Highway Safety, 202–366–6902; or Raymond W. Cuprill, Office of the Chief Counsel, 202–366–1377. In NHTSA, Gary Butler, Office of State and Community Services, 202–366–2121; or Heidi L. Coleman, Office of the Chief Counsel, 202–366–1834.

SUPPLEMENTARY INFORMATION:

Background

On March 4, 1995, President Clinton directed all Federal Departments and agencies to overhaul the nation's regulatory system. One of the actions required by the directive was to revise any regulation that had become outdated or otherwise in need of reform. The Department has identified 23 CFR Part 1206 as a regulation that should be revised to conform to the current provisions of 23 U.S.C. 402.

This regulation was first promulgated in May 1974, and it has not been changed since then. Since that time, 23 U.S.C. 402 has been amended to provide more flexibility to the States regarding the planning and implementation of highway safety programs.

When the Section 402 program was first established, under the Highway Safety Act of 1966, the Act required DOT to establish uniform standards for State highway safety programs to assist States and local communities in organizing their highway safety programs. Eighteen such standards were established. Until 1976, the Section 402 program was principally directed towards achieving State and local compliance with these 18 standards, which were considered mandatory requirements with financial sanctions for non-compliance.

Under the Highway Safety Act of 1976, Congress provided for a more flexible implementation of the program so the Department would not have to require State compliance with every uniform standard or with each element of every uniform standard. As a result, the standards become more like guidelines for use by the States, and management of the program shifted from enforcing standards, to problem identification and countermeasure development and evaluation, using the standards as a framework for State programs. In 1987, Section 402 of the Highway Safety Act was formally amended to provide that the standards be changed to guidelines.

To reflect these changes, this notice proposes to amend the regulation by removing from Section 1206.1, Scope, the requirement that States must comply with highway safety program standards, and by removing the term "highway safety program standards" from the definitions contained in Section 1206.3. The notice also proposes to remove from Section 1206.3, definitions of other terms which are proposed to no longer appear in the regulation.

The notice also proposes to make additional revisions to the regulation to reflect other changes that have been made to the Section 402 statute, and to the manner in which the Section 402 program is implemented.

In 1974, when Part 1206 was first promulgated, States were required to submit to DOT both a Comprehensive Highway Safety Plan (a multi-year plan of the State and its political subdivisions for implementing the highway safety program standards) and an Annual Highway Safety Work Program (detailing the activities and proposed expenditures of the State and its political subdivisions for implementing selected components of the State's Comprehensive Highway Safety Plan during the year) for approval. Any state which was not implementing a highway safety program approved by DOT would be subject to the reduction of its Federal aid highway Section 104 apportionments by 10 percent.

The documentation States are required to submit for approval has since been dramatically reduced, and the sanction contained in Section 402 has been changed. The 10 percent reduction in Section 104 (Federal aid highway) apportionments was replaced in 1976 by a 50 percent reduction of Section 402 (highway safety grant) apportionments. The NPRM proposes to revise the definition of the term "highway safety program" contained in Section 1206.3, and provisions in Section 1206.4, Sanctions, to reflect these changes and to conform the regulation to the current provisions of 23 U.S.C. 402.

The existing regulation requires that extensive procedures be followed to determine whether a sanction is to be invoked against a State. The regulation provides, for example, that upon making a proposed recommended determination to invoke sanctions against a State, DOT must send to the Governor of that State and publish in the **Federal Register** a notice proposing the recommended determination. A hearing must be held before a three-member hearing board, and a prehearing conference and consent determination may be sought by the State or by DOT.

These procedures have not been followed since 1976, when the Section 402 program changed, as described above. Accordingly, this notice proposes to update and streamline these outdated procedures. It proposes to replace the extensive hearing process with a simplified process based on documentation. The agencies believe this revision to the regulation will continue to ensure that States have a full and fair opportunity to be heard on the issues involved, should the agencies propose to invoke sanctions against a State, but in a manner that would be less costly and burdensome for the State and the Federal agencies.

Regulatory Analyses and Notices

Executive Order 12778 (Civil Justice Reform)

This proposed rule would not have any preemptive or retroactive effect. It imposes no requirements on the States, but rather simply proposes to revise outdated or burdensome provisions in the regulation. The enabling legislation does not establish a procedure for judicial review of final rules promulgated under its provisions. There is no requirement that individuals submit a petition for reconsideration or other administrative proceedings before they may file suit in court.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The agencies have determined that this proposed action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation Regulatory Policies and Procedures. This proposed rule would not impose any additional burden on the public. It is technical in nature and would not change the requirements of the program. It is anticipated that there would be no economic impact as a result of this rulemaking. Accordingly, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), the agencies have evaluated the effects of this proposed action on small entities. Based on the evaluation, we certify that this proposed action would not have a significant impact on a substantial number of small entities. Accordingly, the preparation of a Regulatory Flexibility Analysis is unnecessary.

Paperwork Reduction Act

This proposed action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act

The agencies have analyzed this proposed action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and have determined that it would not have any significant impact on the quality of the human environment.

Executive Order 12612 (Federalism Assessment)

This proposed action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this proposed action does not have sufficient federalism implications to warrant the preparation of a federalism assessment. Accordingly, the preparation of a Federalism Assessment is not warranted.

Comments to the Docket

The agencies are providing a 30-day comment period for interested parties to present data, views, and arguments on the proposed action. The agencies invite comments on the issues raised in this notice and any other issues commenters believe are relevant to this action. All comments must not exceed 15 pages in length (49 CFR 553.21). This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion. Necessary attachments may be appended to these submissions without regard to the 15-page limit.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule, if one is issued, will be considered as suggestions for further rulemaking action. The agencies will continue to file relevant information in the docket as it becomes available after the closing date and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified of receipt of their comments by the docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receipt of the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 23 CFR Part 1206

Grant programs—transportation, Highway safety.

In accordance with the foregoing, Part 1206 of Title 23 of the Code of Federal Regulations would be revised to read as follows:

PART 1206—RULES OF PROCEDURE FOR INVOKING SANCTIONS UNDER THE HIGHWAY SAFETY ACT OF 1966

Sec.
1206.1 Scope
1206.2 Purpose
1206.3 Definitions
1206.4 Sanctions
1206.5 Review Process

Authority: 23 U.S.C. 402; delegation of authority at 49 CFR 1.48 and 1.50.

§ 1206.1 Scope.

This part establishes procedures governing determinations to invoke the sanctions applicable to any State that does not comply with the highway safety program requirements in the Highway Safety Act of 1966, as amended (23 U.S.C. 402).

§ 1206.2 Purpose.

The purpose of this part is to prescribe procedures for determining whether and the extent to which the 23 U.S.C. 402 sanctions should be invoked, and to ensure that, should sanctions be proposed to be invoked against a State, the State has a full and fair opportunity to be heard on the issues involved.

§ 1206.3 Definitions.

As used in this part:

(a) *Administrators* means the Administrators of the Federal Highway Administration and the National Highway Traffic Safety Administration.

(b) *Highway safety program* means an approved program in accordance with 23 U.S.C. 402, which is designed by a State to reduce traffic accidents, and death, injuries and property damage resulting therefrom.

(c) *Implementing* means both having and putting into effect an approved highway safety program.

§ 1206.4 Sanctions.

(a) The Administrators shall not apportion any funds under 23 U.S.C. 402 to any State which is not implementing a highway safety program.

(b) If the Administrators have apportioned funds to a State and subsequently determine that the State is not implementing a highway safety program, the Administrators shall reduce the funds apportioned under 23 U.S.C. 402 to the State by amounts equal to not less than 50 per centum, until such time as the Administrators determine that the State is implementing a highway safety program.

(c) The Administrators shall consider the gravity of the State's failure to implement a highway safety program in determining the amount of the reduction.

(d) If the Administrators determine that a State has begun implementing a highway safety program before the end of the fiscal year for which the funds were withheld, they shall promptly apportion to the State the funds withheld from its apportionment.

(e) If the Administrators determine that the State did not correct its failure before the end of the fiscal year for which the funds were withheld, the Administrators shall reapportion the withheld funds to the other States, in accordance with the formula specified in 23 U.S.C. 402(c), not later than 30 days after such determination.

§ 1206.5 Review process.

(a) In any fiscal year, if the Administrators determine, based on a preliminary review, that a State is not implementing a highway safety program in accordance with 23 U.S.C. 402, the Administrators shall issue jointly to the State an advance notice, advising the State that the Administrators expect to either withhold funds from apportionment under 23 U.S.C. 402, or reduce the State's apportioned funds under 23 U.S.C. 402. The Administrators shall state the amount of the expected withholding or reduction. The advance notice will normally be sent not later than ninety days prior to final apportionment.

(b) If the Administrators issue an advance notice to a State, based on a preliminary review, the State may, within 30 days of its receipt of the advance notice, submit documentation demonstrating that it is implementing a highway safety program. Documentation shall be submitted to the Administrator for NHTSA, 400 Seventh Street SW, Washington, D.C. 20590.

(c) If the Administrators decide, after reviewing all relevant information, that a State is not implementing a highway safety program in accordance with 23 U.S.C. 402, they shall issue a final notice, advising the State either of the funds being withheld from apportionment under 23 U.S.C. 402, or of the apportioned funds being reduced under 23 U.S.C. 402 and the amount of the withholding or reduction. The final notice of a withholding will normally be issued on October 1. The final notice of a reduction will be issued at the time of a final decision.

Issued on: March 19, 1996.

Rodney E. Slater,
Administrator, Federal Highway Administration.

Ricardo Martinez,
Administrator, National Highway Traffic Safety Administration.

[FR Doc. 96–7020 Filed 3–21–96; 8:45 am]
BILLING CODE 4910–59–P

Coast Guard

33 CFR Part 100

[CGD01–96–016]

RIN 2115–AE46

Special Local Regulations; Revision

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to permanently amend a number of special local regulations governing marine events in the First Coast Guard District. Changes made to these sections will eliminate the requirement to publish notices for the respective events in the **Federal Register**. Annual notification and applicable changes to the events will be specified in a Coast Guard Notice to Mariners.

DATES: Comments must be received on or before May 6, 1996.

ADDRESSES: Comments should be mailed to Commander (b), First Coast Guard District, Captain John Foster Williams Federal Building, 408 Atlantic Ave., Boston, MA 02110–3350, or may be hand delivered to Room 428 at the same address, between 8 a.m. and 4 p.m., Monday through Friday, except federal holidays. Comments will become part of this docket and will be available for inspection or copying at the above address.

FOR FURTHER INFORMATION CONTACT: Lieutenant(jg) B. M. Algeo, Chief, Boating Affairs Branch, First Coast Guard District, (617) 223–8311.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD01–96–016), the specific section of the proposal to which each comment applies, and give reasons for each comment. The Coast Guard requests that all comments and attachments be submitted in an 8½" x 11" unbound format suitable for copying and electronic filing. If that is not practical, a second copy of any bound material is requested. Persons requesting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposed in view of the comments. The Coast Guard plans no public hearing. Persons may request a public hearing by writing to Commander (b), First Coast Guard District at the address under **ADDRESSES**. The request should include reasons why a hearing would be beneficial. If it is determined that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Drafting Information

The drafters of this notice are Lieutenant(jg) B. M. Algeo, Project Manager, First Coast Guard District, and Commander J. D. Stieb, Project Counsel, First Coast Guard District Legal Office.

Discussion of Proposed Amendments

The Coast Guard desires to permanently amend 33 C.F.R. Part 100, sections 100.103—National Sweepstakes Regatta, 100.107—Windjammer Days, 100.108—Great Kennebec River Whatever Race, 100.109—Whatever Festival Hydroplanes, 100.111—Stonington Lobster Boat Races, and 100.505—New Jersey Offshore Grand Prix. These sections currently require either the effective dates and times of each rule or changes to the effective dates and times be published in the **Federal Register**. To reduce unnecessary administrative actions, the Coast Guard proposes to eliminate the requirements to publish notices in the **Federal Register**. The Coast Guard believes sufficient notification is achieved by providing notice of the dates and times in a Coast Guard Notice to Mariners.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT, is unnecessary. This conclusion is based on the fact that no substantive changes are being made to the special local regulations and that notice of the events by Coast Guard Notice to Mariners will provide sufficient notice to waterways users.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider the economic impact on small entities of a rule for which a general notice of proposed rulemaking is required. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

For the reasons discussed in the Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impacts of this proposal and concluded that, under paragraph 2.B.2.e.34(h) of COMDTINST 16475.1B, (as revised by 59 FR 38654, July 29, 1994) this proposal modifies special local regulations issued in conjunction with annually issued regatta or marine parade permits and is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Proposed Regulation

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Section 100.103 is amended by revising paragraph (b) as follows:

§ 100.103 National Sweepstakes Regatta, Redbank, NJ.

* * * * *

(b) *Effective period.* This section is in effect from 8 a.m. to 6 p.m. annually on the third weekend in August. However, the requirements of this section may be waived by a Coast Guard Notice to Mariners.

* * * * *

3. Section 100.107 is amended by revising paragraph (c) as follows:

§ 100.107 Windjammer Days, Boothbay Harbor, ME.

* * * * *

(c) *Effective period.* This section is in effect from 2 p.m. to 10 p.m. annually on the second Tuesday in July. However, the requirements of this

section may be waived by a Coast Guard Notice to Mariners.

4. Section 100.108 is amended by revising paragraph (c) as follows:

§ 100.108 Great Kennebec River Whatever Race.

* * * * *

(c) *Effective period.* This section is in effect from 6 a.m. to 6 p.m. annually on the first Sunday in July. However, the requirements of this section may be waived by a Coast Guard Notice to Mariners.

5. Section 100.109 is amended by revising paragraph (c) as follows:

§ 100.109 Whatever Festival Hydroplanes, Augusta, ME.

* * * * *

(c) *Effective period.* This section is in effect annually on the fourth weekend in June. However, the requirements of this section may be waived by a Coast Guard Notice to Mariners.

6. Section 100.111 is amended by revising paragraph (c) as follows:

§ 100.111 Stonington Lobster Boat Races, Stonington, ME.

* * * * *

(c) *Effective period.* This section is in effect from 10 a.m. to 4 p.m. annually on the third or fourth Saturday in July. However, the requirements of this section may be waived by a Coast Guard Notice to Mariners.

7. Section 100.505 is amended by revising paragraph (b) as follows:

§ 100.505 New Jersey Offshore Grand Prix.

* * * * *

(b) *Effective period.* This section is in effect from 8 a.m. to 5 p.m. annually on the third Wednesday in July. However, the requirements of this section may be waived by a Coast Guard Notice to Mariners.

* * * * *

Dated: March 4, 1996.

J.L. Linnon,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 96-6548 Filed 3-21-96; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[RI-18-01-7262b; A-1-FRL-5427-9]

Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; Emissions Caps

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Rhode Island. This revision approves Air Pollution Control Regulation (APC) 29.3, entitled "Emissions Caps" into the Rhode Island SIP. EPA is also proposing to extend the federal enforceability of this regulation to hazardous air pollutants. In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this proposal. Any parties interested in commenting on this proposal should do so at this time.

DATES: Comments must be received on or before April 22, 1996.

ADDRESSES: Comments may be mailed to Dave Fierra, Director, Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, JFK Federal Bldg., Boston, MA 02203-2211. Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA and the Division of Air and Hazardous Materials Department of Environmental Management, 291 Promenade Street, Providence, RI 02908.

FOR FURTHER INFORMATION CONTACT: Ida Gagnon (617) 565-3500.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Authority: 42 U.S.C. 7401-7671q.

Dated: January 30, 1996.

John P. DeVillars,

Regional Administrator, Region I.

[FR Doc. 96-6602 Filed 3-21-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[WI64-01-7169b; FRL-5437-4]

Approval and Promulgation of State Implementation Plan; Wisconsin; Rate-of-Progress and Contingency Plans

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: The USEPA is proposing to approve a revision to the Wisconsin State Implementation Plan (SIP) for the purpose of satisfying the rate-of-progress and contingency plan requirements of the Clean Air Act which will aid in ensuring the attainment of the national ambient air quality for ozone.

DATES: Comments on this proposed action must be received by April 22, 1996.

ADDRESSES: Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch (AR-18J), Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final rule which is located in the Rules section of this **Federal Register**. Copies of the request and the USEPA's analysis are available for inspection at the following address: (Please telephone Brad Beeson at (312) 353-4779 before visiting the Region 5 office.) USEPA, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590.

Authority: 42 U.S.C. 7401-7671q.

Dated: January 26, 1996.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 96-6780 Filed 3-21-96; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 74, 78, and 101

[ET Docket No. 96-35; FCC 96-80]

Flexible Standards for Directional Microwave Antennas

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: By this Notice of Proposed Rule Making (*"NPRM"*), the Commission proposes to amend its fixed service microwave rules to make them compatible with new, emerging technologies for directional antennas. Adoption of this proposal would remove a regulatory impediment to the use of directional antennas employing new, emerging technologies by Commission licensees.

DATES: Comments are due on or before April 26, 1996. Reply comments are due on or before May 13, 1996.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Michael J. Marcus, Office of Engineering and Technology, (202) 418-2418.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's NPRM in ET Docket No. 96-35, adopted February 29, 1996, and released March 14, 1996. The complete NPRM is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, DC, and also may be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington DC 20037.

Summary of NPRM

1. For those frequency bands listed in 47 CFR Sections 74.536, 74.641, 78.105, and 101.115 that have only a minimum antenna gain requirement, the Commission proposes to allow directional antennas to comply with requirements for either minimum antenna gain or maximum beamwidth. The Commission does not propose to change any of the existing requirements with respect to sidelobe suppression because it believes that these requirements, which are designed to reduce potential interference, can readily be met by both conventional and new antenna technologies. The Commission proposes to convert the present antenna gain requirements to the comparable requirements for antenna beamwidths based on two assumptions: (1) A parabolic ("dish") antenna with an efficiency of 55% is used as a reference; and (2) the illumination function taper value is 70. Table I depicts the existing gain requirements and the new corresponding beamwidth requirements for bands that do not have an existing maximum beamwidth option:

TABLE I.—ANTENNA GAIN AND EQUIVALENT BEAM

Gain (dBi)	Equivalent beamwidth (degrees)
34	3.5
36	2.7
38	2.2

This technical equivalency is independent of the frequency bands.

2. The Commission notes that these new types of antennas may differ somewhat from conventional antennas in the exact shape of the mainlobe. Thus, even with sidelobe suppression required by the present rules, the beam shape for a planar array antenna may be different than for a dish antenna. While the Commission does not believe that these differences would have a significant impact on spectrum efficiency, it seeks comment on whether such differences might have an impact on coordination. The Commission proposes to address this problem by requiring the coordination process to treat all antennas as if they had the mainlobe shape and total gain of a conventional parabolic dish antenna. However, the Commission invites comments on this approach, and encourages alternative proposals.

List of Subjects

47 CFR Part 74

Radio broadcasting, Television broadcasting.

47 CFR Part 78

Cable television, Communications equipment, Radio.

47 CFR Part 101

Communications common carriers, Communications equipment, Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96-6938 Filed 3-21-96; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Parts 1000 through 1149

[STB Ex Parte No. 527]

Expedited Procedures for Processing Rail Rate Reasonableness, Exemption and Revocation Proceedings

AGENCY: Surface Transportation Board, DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: Under new 49 U.S.C. 10704(d), enacted as part of section 102(a) of the ICC Termination Act of 1995 (ICCTA), the Surface Transportation Board (Board) is required to establish procedures to expedite the handling of challenges to the reasonableness of railroad rates and of proceedings involving the granting or revocation of railroad exemptions. Such procedures are to be promulgated by October 1, 1996. The Board solicits comments on how the existing regulations at 49 CFR Parts 1000 through 1149 can be modified to expedite the handling of rate reasonableness and exemption/revocation proceedings.

DATES: Comments are due on May 6, 1996.

ADDRESSES: Send comments (an original and 10 copies) referring to STB Ex Parte No. 527 to: Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Ave., N.W., Washington, DC 20423-0001. Parties are encouraged to submit all pleadings and attachments on a 3.5-inch diskette in WordPerfect 5.1 format.

FOR FURTHER INFORMATION CONTACT: Thomas J. Stilling, (202) 927-7312. [TDD for the hearing impaired: (202) 927-5721.]

SUPPLEMENTARY INFORMATION: New 49 U.S.C. 10704(d), which was enacted as part of section 102(a) of the ICC Termination Act of 1995 (ICCTA), Pub. L. No. 104-88, 109 Stat. 803, provides that:

> Within 9 months after the effective date of the ICC Termination Act of 1995, the Board shall establish procedures to ensure expeditious handling of challenges to the reasonableness of railroad rates. The procedures shall include appropriate measures for avoiding delay in the discovery and evidentiary phases of such proceedings and exemption and revocation proceedings, including appropriate sanctions for such delay, and for ensuring prompt disposition of motions and interlocutory administrative appeals.

New section 10704(d) is one of several specific provisions designed to implement the new rail transportation policy (RTP) "to provide for the expeditious handling and resolution of all [rail related] proceedings." New 49 U.S.C. 10101(15). Other such provisions adopted by the ICCTA include new 49 U.S.C. 10704(c), which requires the Board to decide the reasonableness of a challenged rate within 9 months after the close of the record if the determination is based upon a stand-alone cost presentation,[1] and within 6 months if it is based upon a simplified methodology.[2] In addition, any proceeding to grant or revoke an exemption "shall be completed within 9 months after it is begun." New 49 U.S.C. 10502 (b) and (d).

These various provisions were included in the ICCTA, in part, in response to concerns raised by parties that litigate before the Board. We hope, and expect, that the parties that raised these concerns will now participate in a constructive way to assist us in establishing appropriate procedures to expedite cases. Accordingly, we institute this proceeding to examine ways in which we can comply with the new RTP and, in particular, the specific requirements of new section 10704(d).[3]

New section 10704(d) addresses the need to expedite two distinct types of proceedings—rate reasonableness and exemption/revocation cases. We note that, whereas the decisional time limits in rate reasonableness cases run from the date on which the administrative record is closed, in exemption/revocation cases they run from the date on which the proceeding is instituted. Therefore, any delay in the record-building stage of an exemption/revocation proceeding caused by a protracted discovery or evidentiary process can hinder a party's ability to effectively present its case within the allotted time. For that reason, special discovery and evidentiary procedures might be needed for exemption/revocation proceedings.

The existing regulations that govern the filing and processing of rate reasonableness and exemption/revocation cases are contained in the *Rules of Practice* at 49 CFR 1000 through 1129 (*Rules of General Applicability*), and at 49 CFR 1130 through 1149 (*Rate Procedures*). These regulations provide a starting point in the search for new ways of expediting cases. We recognize that some provisions of the existing regulations have been rendered obsolete by the ICCTA and are now in the process of being eliminated. Moreover, certain provisions will require minor conforming changes, such as updating references to statutory provisions or replacing the reference to the ICC with the Surface Transportation Board. Those changes, which do not materially affect the way in which a case is argued or a decision reached, can be handled ministerially without comment from the public. In this proceeding, by contrast, we are focusing on those procedures (both codified and uncodified) that have a direct and significant impact on the time devoted to developing the administrative record and the adequacy of that record.

Discovery

In any proceeding in which discovery is needed to develop an adequate evidentiary record, the discovery process can have a substantial impact on how quickly the case proceeds. We recognize that the evidentiary process in the larger rate reasonableness cases where stand-alone cost is used—such as challenges to the rate charged for large volume movements of coal—can involve extensive discovery. In these cases, discovery disputes often arise as each party attempts to acquire the data needed to present its case fully. The number of such disputes and how they are handled by the parties (and by the decisional body) can be a major factor in protracting these proceedings.

In exemption/revocation proceedings, the development of an adequate factual record can also be a substantial undertaking. With the new statutory deadlines, it is imperative that the discovery process be structured so as to enable discovery to be conducted fully and completed quickly.[4] It is equally important that discovery procedures not be abused so as to limit an opposing party's ability to effectively participate in a proceeding within the time allotted.

We solicit comments, particularly from parties that have been involved in litigating cases, as to how we can speed up the discovery process, how discovery disputes can be avoided, and how we can more effectively resolve the discovery disputes that require resolution by the Board. In particular, parties should suggest changes to the discovery regulations (49 CFR 1114.21–1114.31) that they believe would expedite the processing of cases.

Some particular areas on which commenters may wish to focus include the need for Board approval prior to discovery; the use and role of administrative law judges (ALJs) in handling discovery matters in major rate cases; and the best way to handle interlocutory appeals of discovery orders.

The existing discovery rules, for example, require prior Board approval for all discovery other than interrogatories and requests for admissions. See 49 CFR 1114.21(b)(2). The discovery rules also provide for the filing of certain discovery documents with the Board, even though the documents are not "evidence," and will not be evidence unless and until they are filed in an evidentiary submission. See 49 CFR 1114.24(h). Every unnecessary filing that is required to be made with the Board, or processed by the Board, slows down the process for the parties and impedes the Board in its ability to complete its cases quickly.[5] Therefore, we ask commenters to consider ways in which discovery can proceed without the need for any Board action or involvement, at least until a conflict arises.

A difficult issue in major rate cases involves disputes over discovery. On the one hand, we must assure that parties obtain the information they need to make their case; on the other hand, we are concerned that discovery not become overreaching and unduly burdensome. Also, we are directed by statute to assure that the process can be completed in a timely fashion. Thus, we seek a process that will quickly produce proper discovery rulings in the first instance, and that will then provide only narrow grounds for interlocutory appeals.

In the past, we have used ALJs initially to resolve discovery disputes in significant cases. Given the highly technical issues raised in major rate cases, and the need to curtail the appellate process, our preliminary view is that the Board's staff—which is thoroughly familiar with the practical application of the agency's maximum rate procedures—should be involved in the resolution of discovery disputes from the outset. Commenters should address how we can best utilize the talents of an ALJ and/or our own staff to produce initial discovery rulings that will balance the burdens of production with the needs for information.[6]

New section 10704(d) directs the Board to dispose of motions and interlocutory administrative appeals promptly. Many of these motions and interlocutory appeals concern discovery. The ICC was not always consistent in its handling of, for example, interlocutory appeals. Sometimes, it treated interlocutory appeals under the rules governing appellate procedures found at 49 CFR 1115. Sometimes, it treated them under its regulations governing interlocutory appeals from hearing officers found at 49 CFR 1113.5. Assuming that we can devise procedures that will advance prompt and proper rulings in the first instance, we would be inclined to adopt interlocutory appeals procedures along the lines of those found at 49 CFR 1113.5, which permit interlocutory appeals only in extremely narrow circumstances. We would also be inclined to provide that such matters will be handled by the entire Board, rather than the Chairman, in order to limit the number of appellate levels available. Commenters should address this issue as well.[7]

Evidentiary Phase

The number and timing of evidentiary filings can also greatly affect the length of a rate reasonableness proceeding. For example, in a rate case we can proceed with the market dominance and rate reasonableness phases sequentially or simultaneously. In some cases in the past, the ICC conducted the two phases of the case sequentially; only if it found market dominance did the ICC schedule the filing of rate reasonableness evidence.[8] More recently, the ICC provided for the market dominance and rate reasonableness evidence to be filed simultaneously.

The sequential procedure can extend the time needed to close the record, but has the advantage of sparing the parties the expense associated with presenting evidence on the reasonableness of a rate in cases where the carrier is found not to possess market dominance. The simultaneous procedure allows faster completion of the record, but always requires the parties to incur the expense of filing evidence on the reasonableness of a rate. We ask for comments on whether to adopt a general policy that would govern all cases, or whether we should continue to decide on a case-by-case basis whether to bifurcate the two phases of a rate proceeding.[9]

Different evidentiary considerations apply to exemption and revocation proceedings. Exemption or revocation requests may be very particularized (i.e., for an individual transaction) or quite broad (for an entire class of traffic or transactions). Generally, the broader the request, the more extensive and complicated the evidentiary record that needs to be developed. However, even a narrowly drawn individual exemption petition can require a lengthy evidentiary process. Exemption petitions involving construction or abandonment activity, for example, often require extensive environmental analyses (either an environmental assessment or environmental impact statement). In such cases, it can be difficult to complete the environmental review within 9 months. Comments are solicited on how proceedings requiring extensive environmental analysis can best be accommodated in an exemption context. One approach may be to issue an exemption that is conditional pending completion of the environmental analysis.

More generally, to speed the exemption/revocation process in all cases, it would seem that any party seeking either an exemption or a revocation of an exemption should be required to provide all of its supporting information at the time it submits its exemption or revocation request. We welcome suggestions on fashioning appropriate procedural schedules, including how much time should be allowed for the filing of reply and rebuttal evidence. For those cases in which the public should have an opportunity to comment on a request for exemption or revocation, we also welcome suggestions on how to structure our procedures to obtain the participation of potentially interested persons in a prompt and effective manner.

Another issue that affects how much time is needed to complete the administrative record is the timing of the briefing schedule in those cases where briefing is needed. A simultaneous briefing schedule proceeds more quickly than sequential submissions of opening, reply and rebuttal briefs. Sequential briefing, however, better focuses the issues and allows parties to directly address and respond to those issues that are considered important by the opposing party. We request comments as to whether we should adopt a general policy on simultaneous or sequential briefing in rate reasonableness and exemption/revocation proceedings, or whether we should make that decision on a case-by-case basis. We also request comments on whether page limits generally should be imposed and, if so, what the page limit should be.

Sanctions

New section 10704(d) specifically calls for "sanctions to be imposed for dilatory tactics in rate cases and revocation proceedings."[10] H.R. Conf. Rep. No. 422, 104th Cong., 1st Sess. 172 (1995), *reprinted in* 1996 U.S. Code Cong. & Admin. News 856. The current sanctions for failure to respond to discovery are found at 49 CFR 1114.31, and the current sanctions for failure to comply with the procedural schedule are found at 49 CFR 1112.3. Parties should review these provisions and comment on whether there are other sanctions, such as monetary sanctions or other sanctions used by the courts,

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[1] *See Coal Rate Guidelines, Nationwide*, 1 I.C.C.2d 520 (1985), *aff'd sub nom. Consolidated Rail Corp. v. United States*, 812 F.2d 1444 (3d Cir. 1987) (adopting constrained market pricing, including stand-alone cost, as a test for maximum reasonableness of coal rates).

[2] New 49 U.S.C. 10701(d)(3) requires the Board "to establish [within 1 year] a simplified and expedited method for determining the reasonableness of challenged rail rates in those cases in which a full stand-alone cost presentation is too costly." In *Rate Guidelines—Non-Coal Proceedings*, Ex Parte No. 347 (Sub-No. 2) (ICC Dec. 1, 1995), 60 FR 62256 (1995), simplified guidelines have been proposed for public comment.

[3] In *New Procedures in Rail Exemption Revocation Proceedings*, Ex Parte No. 400 (Sub-No. 4) (ICC Apr. 28, 1995), the Interstate Commerce Commission (ICC) solicited comments on a proposal by the Railway Labor Executives' Association to establish formal procedural rules to govern petitions to revoke exemptions. In a separate decision served today, that proceeding is being discontinued because the concerns that were to be addressed there can and should be subsumed into this broader proceeding. The comments filed in that proceeding will be incorporated into the record in this proceeding and need not be refiled.

[4] In some cases, exemptions have been granted based on the evidence filed with the petition and without receiving comment from other interested parties. In such cases, it may be appropriate to develop procedures that would permit a party wishing to petition to revoke the exemption to conduct discovery prior to the filing of a petition for revocation.

[5] Similar internal paperwork burdens result from the practice of permitting emergency filings by facsimile (FAX) [See 54 FR 52587 (Dec. 22, 1989)]. Although the concept of FAX filings was well conceived, in practice it burdens the Secretary's Office, by requiring it to process each FAX, and then to process, for a second time, the same document when it is submitted in hard copy. As the existing regulations already contemplate the use of overnight delivery services (see 49 CFR 1004.6), we are considering restricting the use of FAXes in the future. Commenters may wish to address this issue.

[6] For example, it may be that discovery in major rate cases should be handled directly by the Board; that the ALJ handling discovery should be directed to include Board staff in all discovery conferences; or that the ALJ should only prepare a recommended decision on discovery.

[7] We also, of course, seek comment on how we should handle motions and interlocutory appeals related to matters other than discovery.

[8] In the new law, as in the law prior to the ICCTA, a prerequisite to our exercise of jurisdiction over the reasonableness of a rail rate is the requirement that a rail carrier have market dominance over the transportation at issue. New 49 U.S.C. 10707.

[9] One option would be not to bifurcate cases unless all parties to the proceeding favored bifurcation.

[10] The Board has general powers to carry out the provisions of the statute, including the imposition of sanctions. New 49 U.S.C. 721.

that would be more appropriate and effective.

Other Issues

Finally, we welcome any other suggestions on ways to improve the processing of rate reasonableness and exemption/revocation cases.[11] In general, we expect to expedite the record-building stage of cases by looking with disfavor on requests to extend the procedural schedule. We intend to deny all requests for extensions of time that fail to demonstrate a compelling need for additional time.

We tentatively conclude that the proposed action will not have a substantial adverse impact on a significant number of small entities. In any event, the impact on small entities should be beneficial because it should allow parties to more quickly avail themselves of their statutory right to institute proceedings before the Board and to have the Board expedite the processing of those proceedings.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Decided: March 8, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 96–6986 Filed 3–21–96; 8:45 am]

BILLING CODE 4915–00–P

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49 CFR Parts 1002 and 1150

[STB Ex Parte No. 529]

Class Exemption for Acquisition or Operation of Rail Lines by Class III Rail Carriers Under 49 U.S.C. 10902

AGENCY: Surface Transportation Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The ICC Termination Act of 1995 (ICCTA) enacted a new provision for Class II and Class III rail carrier acquisitions or operations of rail lines. Pursuant to the request by the Regional Railroads of America (RRA) and The American Short Line Railroad Association (ASLRA), the Surface Transportation Board (Board) is proposing to institute a new class exemption procedure to apply to transactions in which Class III rail carriers seek to acquire additional rail properties. As proposed, the class exemption would be similar to the Board's existing rules for noncarrier transactions. Because the new statute precludes the Board from imposing labor protective conditions on Class III carriers receiving a certificate under 49 U.S.C. 10902, labor protection will not be provided under the proposed class exemption.

DATES: Comments are due on April 22, 1996.

ADDRESSES: Send comments (an original and 10 copies) referring to STB Ex Parte No. 529 to: Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927–5660. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (ICCTA), enacted on December 29, 1995, abolished the Interstate Commerce Commission (ICC). Responsibility for administering certain regulation over the rail industry was vested in a new Surface Transportation Board (Board) within the U.S. Department of Transportation. *See* ICCTA Section 101 (abolition of the ICC). *See also* new 49 U.S.C. 701(a) (establishment of Board), as enacted by ICCTA Section 201(a): The transfer took effect on January 1, 1996.

In the ICCTA, Congress established a new provision—49 U.S.C. 10902—that applies to the acquisition or operation of additional rail lines by Class II or Class III railroads. As enacted, subsection 10902(c) requires the Board, after application by a Class II or III rail carrier, to issue a certificate authorizing the transaction "unless the Board finds that such activities are inconsistent with the public convenience and necessity." The new provision requires Class II rail carriers to provide adversely affected railroad employees a maximum of 1 year of severance pay—equal to the employee's earnings during the 12 months preceding the application filing date. The Board may not require labor protection from a Class III rail carrier. *See* 49 U.S.C. 10902(d). The Board may approve the requested certificate as filed or may include conditions (other than labor protection conditions) the Board finds necessary in the public interest. *See* 49 U.S.C. 10902(c).

The criteria for approving a transaction under section 10902 are substantially the same as those found in section 10901, which requires that the Board approve the construction of rail lines and noncarrier acquisitions and operations. Noncarrier transactions under section 10901 are subject to a class exemption found in 49 CFR 1150.31 through 1150.35. *See Class Exemption—Acq. & Oper. of R. Lines Under 49 U.S.C. 10901*, 1 I.C.C.2d 810 (1985), 4 I.C.C.2d 309 (1988), 4 I.C.C.2d 822 (1988). Those rules have been carried forward by section 204 of the ICCTA as rules of the Board. Petitioners assert that the 10901 class exemption for noncarriers is beneficial in that it allows certainty in the timing of closing line sales, which is of critical importance to the financing of those transactions.

RRA and ASLRA submit that a similar class exemption should apply to transactions by a Class III rail carrier under section 10902.[1] They contend that such a class exemption would not alter the competitive balance between rail carriers and shippers and thus the covered transactions would not result in an abuse of market power. Petitioners assert that the exemption will conform to the national rail transportation policy in 49 U.S.C. 10101, continue sound public policy, and make efficient use of the Board's limited resources.

Petitioners' proposed rules, unlike those adopted by the ICC establishing the class exemption for transactions under section 10901, do not distinguish between small and large transactions. We believe that it is necessary for Class III railroads that wish to make more significant acquisitions of rail line—acquisitions that would produce projected revenues following the acquisition that would result in the applicant qualifying as a Class II or I railroad—to provide additional information in their filings. We also believe that these exemptions should not become effective until 21 days after they are filed, rather than in 7 days as is the case under the proposed rules for the acquisition of smaller lines. These requirements are similar to those currently imposed by the rules for the class exemption from section 10901 at 49 CFR 1150.35.[2]

We are also proposing that verified notices of exemption and caption summaries be submitted on diskette in addition to the written submission. The diskette would be required to be a 3.5-inch floppy diskette formatted for WordPerfect 5.1, or formatted so that it can be readily converted into WordPerfect 5.1.

Petitioners propose that the fee for filing under the proposed section 10902 class exemption be the same as the fee for filing under the current class exemption under section 10901, i.e., $950. Petitioners note that this fee would be subject to change as part of the Board's periodic updating of its filing fees, to reflect the Board's experience in handling requests under the new procedure. Our rulemaking incorporates this fee proposal while noting that the Board is currently reviewing its filing fees and that fee increases may be required in the near future.

Finally, petitioners ask that their proposal be implemented immediately as interim rules pending the Board's review of comments and publication of the final rules. We will not grant this request because we want to wait for the comments of the public on the proposed rules before putting them into effect.[3] Rather, we will handle section 10902 Class III applications on a case-by-case basis in the interim, and we will attempt to meet individual requests for expedited handling where sufficiently justified. Once we receive and review the comments from the public on these proposed rules, we intend to issue final rules and make them effective in as timely a manner as possible.

Request for Comments

We invite comments on all aspects of the proposed regulations. Written comments (an original and 10 copies) are due on April 22, 1996.

We encourage comments on a 3.5-inch floppy diskette formatted for WordPerfect 5.1, or formatted so that it can be readily converted into WordPerfect 5.1. Any diskette submission (one diskette will be sufficient) should be in addition to the written submission.

Small Entities

The Board certifies that this rule, if adopted, would not have a significant effect on a substantial number of small entities. If anything, the proposed class exemption should lessen the economic burden on such entities by expediting regulatory decisions affecting Class III railroads and by minimizing the cost of complying with the ICCTA and the Board's implementing rules.

Environment

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects

49 CFR Part 1002

User Fees.

49 CFR Part 1150

Administrative practice and procedure, Railroads.

Decided: March 11, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

For the reasons set forth in the preamble, the Board proposes to amend title 49, chapter X, parts 1002 and 1150 of the Code of Federal Regulations, as follows:

PART 1002—FEES

1. The authority citation for part 1002 is proposed to be revised to read as follows:

Authority: 5 U.S.C. 552(a)(4)(A), and 553, 31 U.S.C. 9701 and 49 U.S.C. 721(a).

2. Section 1002.2 is proposed to be amended by adding a new paragraph (f)(36) to read as follows:

§ 1002.2 Filing fees.

* * * * *

(f) * * *

Type of proceeding	Fee
. . . . .	.
(36) Notice of exemption under 49 CFR 1150.41–1150.45	$950
. . . . .	.

PART 1150—CERTIFICATE TO CONSTRUCT, ACQUIRE, OR OPERATE RAILROAD LINES

3. The authority citation for part 1150 is proposed to be revised to read as follows:

Authority: 5 U.S.C. 553 and 559; 49 U.S.C. 721(a), 10901, 10902, and 10502.

4. The heading for subpart D is revised to read as follows:

Subpart D—Exempt Transactions Under 49 U.S.C. 10901

5. A new subpart E, consisting of §§ 1150.41–1150.45, is added to read as follows:

Subpart E—Exempt Transactions Under 49 U.S.C. 10902 for Class III Rail Carriers

1150.41 Scope of exemption.
1150.42 Procedures and relevant dates for small line acquisitions.
1150.43 Information to be contained in notice for small line acquisitions.
1150.44 Caption summary.
1150.45 Procedures and relevant dates—transactions under 49 U.S.C. 10902 that involve creation of Class I or Class II carriers.

Subpart E—Exempt Transactions Under 49 U.S.C. 10902 for Class III Rail Carriers

§ 1150.41 Scope of exemption.

Except as indicated below, this exemption applies to acquisitions and operations by Class III rail carriers under 49 U.S.C. 10902. This exemption also includes:

(a) Acquisition by a Class III rail carrier of rail property that would be operated by a third party;

(b) Operation by a Class III carrier of rail property acquired by a third party;

(c) A change in operators on the line; and

(d) Acquisition of incidental trackage rights. Incidental trackage rights include the grant of trackage rights by the seller, or the acquisition of trackage rights to operate over the line of a third party that occur at the time of the purchase.

§ 1150.42 Procedures and relevant dates for small line acquisitions.

(a) This exemption applies to the acquisition of rail lines with projected annual revenues which, together with the acquiring carrier's projected annual revenue, do not exceed the annual revenue of a Class III railroad. To qualify for this exemption, the Class III rail carrier applicant must file a verified notice providing details about the transaction, and a brief caption summary, conforming to the format in § 1150.44, for publication in the **Federal Register**. In addition to the written submission, the notice and summary must be submitted on a 3.5-inch diskette formatted for WordPerfect 5.1.

(b) The exemption will be effective 7 days after the notice is filed. The Board, through the Director of the Office of Proceedings, will publish a notice in the **Federal Register** within 30 days of the filing. A change in operators would

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[11] In several recent cases, we have required that pleadings be filed in paper form and on computer disk in WordPerfect format. We have also required that spreadsheets be filed in Lotus 1–2–3. Having evidence on electronic media in a format that is familiar to the staff has been quite beneficial as we analyze the record. We intend to require that evidence be filed on computer disks in the future.

[1] RRA and ASLRA indicate that they intend to file subsequent rulemaking requests for a class exemptions governing Class II acquisitions under section 10902 and a class exemption for Class III consolidations or transactions under section 11323.

[2] We note that our proposal for differing requirements depending on whether the transaction would result in the applicant's becoming a Class II or I railroad is consistent with Congressional intent as evidenced by the different handling under the ICCTA, including section 10902, of many transactions according to the class of railroad involved.

[3] United Transportation Union (UTU), on March 4, 1996, submitted a statement in opposition to the proposed rules. UTU contends that the new procedure does not provide adequate notice to employees and that the filing fee is too low. UTU suggests a 60-day notice period before the exemption becomes effective and a minimum filing fee of $5000. In this document, we are merely giving notice and seeking comments on the proposal submitted by RRA and ASLRA, as amended to conform to the current rules upon which the proposal is based. In determining final rules for this class of transactions, we will give full consideration to UTU's comments along with all other comments we receive. We invite comments on UTU's requests as well.

follow the provisions at § 1150.44, and notice must be given to shippers.

(c) If the notice contains false or misleading information, the exemption is void *ab initio*. A petition to revoke under 49 U.S.C. 10502(d) does not automatically stay the exemption.

(d) Applicant must preserve intact all sites and structures more than 50 years old until compliance with the requirements of section 106 of the National Historic Preservation Act, 16 U.S.C. 470f, is achieved.

§ 1150.43 Information to be contained in notice for small line acquisitions.

(a) The full name and address of the Class III rail carrier applicant;

(b) The name, address, and telephone number of the representative of the applicant who should receive correspondence;

(c) A statement that an agreement has been reached or details about when an agreement will be reached;

(d) The operator of the property;

(e) A brief summary of the proposed transaction, including:

(1) The name and address of the railroad transferring the subject property to the Class III rail carrier applicant;

(2) The proposed time schedule for consummation of the transaction;

(3) The mile-posts of the subject property, including any branch lines; and

(4) The total route miles being acquired;

(f) A map that clearly indicates the area to be served, including origins, termini, stations, cities, counties, and states; and

(g) A certificate that applicant's projected revenues following the transaction do not exceed those that would qualify it as a Class iII rail carrier.

§ 1150.44 Caption summary.

The caption summary must be in the following form. The information symbolized by numbers is identified in the key in this section as follows:

DEPARTMENT OF TRANSPORTATION—Surface Transportation Board

Notice of Exemption

STB Finance Docket No. (1)—Exemption (2)—(3)

(1) Has filed a notice of exemption to (2) (3)'s line between (4). Comments must be filed with the Board and served on (5). (6).

Key to symbols:

(1) Name of carrier acquiring or operating the line, or both.

(2) The type of transaction, e.g., to acquire, operate, or both.

(3) The transferor.

(4) Describe the line.

(5) Petitioner's representative, address, and telephone number.

(6) Cross reference to other class exemptions being used. The notice is filed under 49 CFR 1150.41. If the notice contains false or misleading information, the exemption is void *ab initio*.

The filing of a petition to revoke will not automatically stay the transaction.

§ 1150.45 Procedures and relevant dates—transactions under 49 U.S.C. 10902 that involve creation of Class I or Class II carriers.

(a) To qualify for this exemption, applicant must serve a notice of intent to file a notice of exemption no later than 14 days before the notice of exemption is filed with the Board.

(b) The notice of intent must contain all the information required in § 1150.43 plus:

(1) A general statement of service intentions; and

(2) A general statement of labor impacts.

(c) The notice of intent must be served on:

(1) The Governor of each state in which track is to be sold;

(2) The state(s) Department of Transportation or equivalent agency;

(3) The national offices of the labor unions with employees on the affected line(s); and

(4) Shippers representing at least 50 percent of the volume of local traffic and traffic originating or terminating on the line(s) in the most recent 12 months for which data are available (beginning with the largest shipper and working down).

(d) Applicant must also file a verified notice of exemption conforming to the requirements of paragraph (b) of this section and of § 1150.44, and certify compliance with § 1150.45 (a), (b), and (c), attaching a copy of the notice of intent. In addition to the written submission, the notice must be submitted on a 3.5-inch diskette formatted for WordPerfect 5.1.

(e) The exemption will be effective 21 days after the notice is filed. The Board, through the Director of the Office of Proceedings, will publish a notice in the **Federal Register** within 30 days of the filing.

(f) If the notice contains false or misleading information, the exemption is void ab initio. A petition to revoke under 49 U.S.C. 10502(d) does not automatically stay the transaction. Stay petitions must be filed within 7 days of the filing of the notice of exemption. Replies will be due 7 days thereafter. To be considered, stay petitions must be timely served on the applicant.

(g) Applicant must preserve intact all sites and structures more than 50 years old until compliance with the requirements of section 106 of the National Historic Preservation Act, 16 U.S.C. 470f, is achieved.

[FR Doc. 96–6826 Filed 3–21–96; 8:45 am]

BILLING CODE 4915–00–P

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49 CFR Part 1121

[Ex Parte No. 400 (Sub-No. 4)]

New Procedures in Rail Exemption Revocation Proceedings

AGENCY: Surface Transportation Board, DOT.

ACTION: Proposed rule, withdrawal.

SUMMARY: The Surface Transportation Board is discontinuing the rulemaking in Ex Parte No. 400 (Sub-No. 4).

DATES: This withdrawal is made on March 22, 1996.

FOR FURTHER INFORMATION CONTACT: Thomas J. Stilling, (202) 927–7312. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: In an Advanced Notice of Proposed Rulemaking (ANPR) served April 28, 1995, 60 FR 22035 (May 4, 1995) the Interstate Commerce Commission solicited comments on a proposal to expedite rail exemption revocation proceedings. Subsequent to the issuance of the ANPR, the ICC Termination Act of 1995 (ICCTA), Pub. L. No. 104–88, 109 Stat. 803 was enacted. The provisions of 49 U.S.C. 10704(d), part of section 102(a) of ICCTA, require the Surface Transportation Board to establish procedures to expedite the handling of challenges to the reasonableness of railroad rates and of proceedings involving the granting or revocation of railroad exemptions.

In response to section 10704(d), we have instituted a new proceeding, *Expedited Procedures for Processing Rail Rate Reasonableness, Exemption and Revocation Proceedings*, Ex Parte No. 527 (published elsewhere in this section of the **Federal Register**). Because Ex Parte No. 527 will review the exemption revocation procedures at 49 CFR 1121, we are discontinuing this proceeding. The comments previously filed in response to the ANPR will be made part of the record in Ex Parte No. 527 and need not be refiled.

Decided: March 8, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 96–6987 Filed 3–21–96; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AD74

Migratory Bird Hunting: Regulations Regarding the Prohibition Against Artificially Altering or Manipulating Natural Vegetation in Moist Soil Areas To Attract Waterfowl for Hunting Purposes

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent and request for comments.

SUMMARY: The principal purpose of this action is to notify the public and invite comments regarding promulgation of a separate rulemaking that will govern the manner in which, or if at all, natural vegetation in moist soil areas may be altered or manipulated artificially to attract waterfowl for hunting purposes. Previously, the subject regulations [§ 20.21(i)] had been part of the ongoing review of 50 CFR Part 20, but henceforth will be considered separately.

DATES: Comments on this proposal must be received by June 20, 1996.

ADDRESSES: Comments regarding this notice should be addressed to: Director (FWS/NAWWO), U.S. Fish and Wildlife Service, 110 ARLSQ, 1849 C ST., NW., Washington, DC 20240. Comments received on this notice will be available for public inspection during normal business hours in Room 110, Arlington Square Building, 4401 No. Fairfax Drive, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Dr. Byron K. Williams, Executive Director, or Dr. Keith A. Morehouse, Wildlife Biologist, North American Waterfowl and Wetlands Office, 703/358–1784; Faxform 703/358–2282.

SUPPLEMENTARY INFORMATION: The Service is currently undertaking review and revision of the migratory bird hunting regulations contained in 50 CFR Part 20; there have been two earlier notices regarding this review (56 FR 57872; 58 FR 63488). Publication of the proposed rule that incorporates and/or takes into consideration comments submitted as part of that review will occur soon.

In the Part 20 review process, the Service has received many comments concerning waterfowl baiting. In particular, many commenters have expressed the need for changes in regulations addressing manipulation of natural vegetation in moist soil areas to attract waterfowl for hunting. Based on these comments, the Service proposes opening for further review and comment only the particular waterfowl baiting that occurs with natural vegetation in moist soil areas. However, it would not be judicious to treat a single concern of waterfowl baiting in isolation. Thus, the Service further proposes to remove the entire waterfowl aspect of the baiting regulations from the broader review of migratory bird hunting regulations and treat it as a separate rulemaking. Subsequently, the additional review of the manipulation of natural vegetation on moist soil areas will be incorporated with other aspects of waterfowl baiting in a single, proposed rulemaking.

Waterfowl baiting has been an issue for years, possibly extending back to the inception of the regulations and there is a wide diversity of opinion on the subject. Some see the baiting regulations as highly definitive and clear; others believe that they lack definition and subject to broad, individual interpretation. The concern is how and whether to consider changing the waterfowl baiting regulations to allow for management (i.e., mowing or other artificial manipulation) of natural vegetation for waterfowl habitat. There are four key issues:

(1) What are the potential impacts on available habitat? Supporters of a regulatory change suggest that the regulations as currently enforced impose unnecessary economic burdens on landowners (e.g., by altering otherwise cost-effective mowing schedules). As a result, some groups argue that the current baiting regulations will lead to loss of waterfowl habitats as landowners transfer these lands to other uses. Though such losses may occur, at present there is no way to determine their magnitude and importance.

(2) What are the potential impacts on waterfowl populations? Waterfowl harvest is likely to increase; however, the magnitude of the increase and resulting impacts on populations are open to speculation since little or no evidence exists to support a position.

(3) What are the potential impacts on law enforcement? Any change must be enforceable by law enforcement personnel and clearly define what constitutes "natural vegetation." Hunters must be able to clearly recognize what is lawful and what is not lawful, so that law enforcement agents are not in the position of certifying areas as legal for hunting, or trying to enforce rules that are unclear and subject to wide individual interpretation.

(4) What is the effect on existing law? Courts have interpreted the current baiting regulations in a number of decisions. These judicial opinions add to the ability of those concerned with the regulations to determine accurately the scope of their prohibitions. Any change to the regulations would render some of this existing case law inapplicable and, therefore, would at least temporarily increase the degree of uncertainty associated with the regulations.

The Service is not offering strategies or options to resolve the issue at this time. The intent of this notice is to apprise the public that the Service is beginning a process to review and may propose to change the baiting regulations as they apply to natural vegetation manipulation and waterfowl hunting. At a later date, the Service will provide more detail on the nature of the process and how the Service proposes to involve the public.

You may at any time submit preliminary comments regarding whether revision of the waterfowl baiting regulations is desirable. However, the Service does plan to publish a proposed rule during which specific comments will be solicited. In addition, the Service will consider in future proposed rulemakings any comments received in response to previous notices (referenced earlier in this section) pertaining to waterfowl baiting and moist soil management.

In summary, the principal purpose of this action is to notify the public and invite any comments regarding promulgation of separate rulemakings that will govern the manner in which, or if at all, natural vegetation in moist soil areas may be altered or manipulated artificially to attract waterfowl for hunting purposes.

NEPA Consideration

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(C)), and the Council on Environmental Quality's regulation for implementing NEPA (40 CFR 1500–1508), the Service will comply with NEPA prior to adopting a final rule.

Endangered Species Act Considerations

Section 7 of the Endangered Species Act (ESA), as amended (16 U.S.C. 1531–1543; 87 Stat. 884), provides that, "The Secretary shall review other programs

administered by him and utilize such programs in furtherance of the purposes of this Act" (and) shall "insure that any action authorized, funded or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of (critical) habitat * * *" Consequently, the Service will initiate Section 7 consultation under the ESA for the final rulemaking to change, if appropriate, the waterfowl baiting regulations. When completed, the results of the Service's consultation under Section 7 of the ESA may be inspected at, and will be available from, the North American Waterfowl and Wetlands Office, Suite 110, 4401 North Fairfax Drive, Arlington, Virginia 22203.

Authorship

The primary author of this notice is Dr. Keith A. Morehouse, U.S. Fish and Wildlife Service, North American Waterfowl and Wetlands Office, Arlington, Virginia.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

The regulation(s) that eventually may be promulgated to govern baiting are authorized under the Migratory Bird Treaty Act (July 3, 1918), as amended (16 U.S.C. 703–711); the Fish and Wildlife Improvement Act of 1978 (November 8, 1978), as amended (16 U.S.C. 712); and the Fish and Wildlife Act of 1956 (August 8, 1956), as amended (16 U.S.C. 742 a–d and e–j).

Dated: March 15, 1996.

George T. Frampton,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 96–7025 Filed 3–21–96; 8:45 am]

BILLING CODE 3410-55-M

Notices

Federal Register

Vol. 61, No. 57

Friday, March 22, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Marshland Watershed Project; Marshland Dike: Soper to Heyner Snohomish County, Washington

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to Section 102(2) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR Part 1500); and the Natural Resources Conservation Service Regulations (7 CFR Part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Marshland Watershed Project; Marshland Dike: Soper to Heyner. Snohomish County, Washington.

FOR FURTHER INFORMATION CONTACT: Lynn A. Brown, State Conservationist, Natural Resources Conservation Service, Rock Pointe Tower II, West 316 Boone Avenue, Suite 450, Spokane, Washington 99201–2348, telephone: (509) 353–2337.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Lynn A. Brown, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project was authorized for construction in 1962 under the authority of the Watershed Protection and Flood Prevention Act (PL 83–566) as amended and administered by the USDA Natural Resources Conservation Service (NRCS).

The project (Soper to Heyner) plans to remove the existing, uncompacted dike and the Lowell-Snohomish County River Road and return the area to a natural river levee and associated riparian area. A new dike is planned for construction away from the river and will be built with suitable compacted material. The extent of the dike construction is from a point near the Yoshihara-Soper property line to the upstream end of the section of dike constructed in 1966, amounting to approximately 4,200 feet. The alignment of the 4,200 feet of dike is different than previous alternatives that have been evaluated in the marshland Watershed Plan and environmental assessments. This new alignment is the result of recent flood caused damage that took place in December 1995. The planned alignment has been moved to the west edge of the newly created "scoured area" and will also be west of the Wallace residence and tie back into the upstream end of the 1966 constructed dike. The designed height of the dike will be in accordance with the Levee and Dike System Coordination Agreement, signed March 13, 1991, which is part of the Snohomish River Comprehensive Flood Control Management Plan, dated December 1991. The agreed to dike height is the 5-year flood frequency level plus one foot of freeboard. The dike is designed to withstand overtopping during high flows in the Snohomish River. The Wallace residence and buildings are planned for removal from their existing site in accordance with the real estate agreement between the Wallace party (sellers) and the Marshland Flood Control District (buyers). The total size of the riparian area to be created, is approximately 9.5 acres.

The Notice of a Finding Of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Frank R. Easter, Watershed Planning Team Leader.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(This activity is listed in the Catalog of Federal Domestic Assistance under NO. 10.904, Watershed Protection and Flood Prevention, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials)

Dated: March 15, 1996.

Lynn A. Brown,

State Conservationist.

[FR Doc. 96–6895 Filed 3–21–96; 8:45 am]

BILLING CODE 3410-16-M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Maine Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 2:00 p.m. on Monday, April 8, 1996, at the University of Maine, Jewett Hall Auditorium, 46 University Drive, Augusta, Maine 04330. The purpose of the meeting is to release a Committee report, *Civil Rights Issues in Maine: A Briefing Summary on Hate Crimes, Racial Tensions, and Migrant/ Immigrant Workers*, and to hold a planning meeting.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Dr. Barney Bérubé, 207–287–5980, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 15, 1996.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 96–6971 Filed 3–21–96; 8:45 am]

BILLING CODE 6335-01-P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: 1995 Census Test – Integrated Coverage Measurement (Housing Unit Follow-up).

Form Number(s): DG–1377.

Agency Approval Number: 0607–0804.

Type of Request: Extension, EMERGENCY REVIEW.

Burden: 250 hours.

Number of Respondents: 2,241.

Avg Hours Per Response: 5 minutes.

Needs and Uses: Prompted by the need to improve estimation techniques during the decennial census, the Census Bureau has developed an Integrated Coverage Measurement (ICM) approach to be tested during the 1995 Census Test. The ICM approach will utilize a separately sampled group of blocks within the 1995 Census Test sites which will be independently listed and then interviewed in addition to being enumerated in the census test. We will reconcile differences between the independent roster obtained in the ICM interviews and the census test results. This reconciliation will allow us to measure our coverage of persons in missed housing units and coverage of persons missed within housing units enumerated in the census test. Before ICM interviews are conducted, the independent listing will be enhanced by matching to existing census records. We will use the Housing Unit Follow–up Form to resolve non–matches and duplicate addresses. ICM interviews will then be conducted at housing units on the "enhanced listing." Emergency review of an extension of the current clearance is necessary because of delays in planned field work due to the Federal government shutdowns last year and earlier this year.

Affected Public: Individuals or households.

Frequency: One–time.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Jerry Coffey, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, Acting DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Jerry Coffey, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: March 18, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–6920 Filed 3–21–96; 8:45 am]

BILLING CODE 3510–07–F

National Oceanic and Atmospheric Administration

[I.D. 031396D]

Incidental Take of Marine Mammals; Bottlenose Dolphins and Spotted Dolphins

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of issuance of letters of authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) as amended, and implementing regulations, notification is hereby given that letters of authorization to take bottlenose and spotted dolphins incidental to oil and gas structure removal activities were issued on March 8, 1996, to Tatham Offshore, Inc. 7400 Texas Commerce Tower, 600 Travis, Houston, TX 77002; and Mobil Exploration and Producing U.S., Inc., 1250 Poydras Plaza, New Orleans, LA 70113–1892.

EFFECTIVE DATE: The letters of authorization are effective from March 8, 1996 through March 7, 1997.

ADDRESSES: The applications and letters are available for review in the following offices: Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910 and the Southeast Region, NMFS, 9721 Executive Center Drive N, St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, Office of Protected Resources, NMFS, (301) 713–2055 or Charles Oravetz, Southeast Region (813) 570–5312.

SUPPLEMENTARY INFORMATION:

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs NMFS to allow, on request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region, if certain findings are made and regulations are issued. Under the MMPA, the term "taking" means to harass, hunt, capture or kill or to attempt to harass, hunt, capture or kill marine mammals.

Permission may be granted for periods up to 5 years if the Secretary of Commerce finds, after notification and opportunity for public comment, that the taking will have a negligible impact on the species or stock(s) of marine mammals and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses. In addition, NMFS must prescribe regulations that include permissible methods of taking and other means effecting the least practicable adverse impact on the species and its habitat, and on the availability of the species for subsistence uses, paying particular attention to rookeries, mating grounds and areas of similar significance. The regulations must include requirements pertaining to the monitoring and reporting of such taking. Regulations governing the taking of bottlenose and spotted dolphins incidental to oil and gas structure removal activities in the Gulf of Mexico were published on October 12, 1995 (60 FR 53139) and remain in effect until November 13, 2000.

Summary of Request

NMFS received requests for letters of authorization on February 22, 1996, from Mobil Exploration and Producing U.S., Inc., and on February 26, 1996, from Tatham Offshore, Inc. These letters request a take by harassment of a small number of bottlenose and spotted dolphins incidental to the above mentioned activity. Issuance of these letters of authorization is based on a finding that the total takings will have a negligible impact on the bottlenose and spotted dolphin stocks of the Gulf of Mexico.

Dated: March 13, 1996.

Patricia A. Montanio,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–7045 Filed 3–21–96; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 031596B]

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of an application for a modification to a research/enhancement permit (P211I).

SUMMARY: Notice is hereby given that the Oregon Department of Fish and Wildlife in La Grande, OR (ODFW) has applied in due form for a modification to a permit authorizing a take of a threatened species for the purpose of scientific research/enhancement.

DATES: Written comments or requests for a public hearing on this application must be received on or before April 22, 1996

ADDRESSES: The application and related documents are available for review in the following offices, by appointment:

Office of Protected Resources, F/PR8, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401); and

Environmental and Technical Services Division, 525 NE Oregon Street, Suite 500, Portland, OR 97232–4169 (503–230–5400).

Written comments or requests for a public hearing should be submitted to the Chief, Endangered Species Division, Office of Protected Resources.

SUPPLEMENTARY INFORMATION: ODFW requests a modification to a permit under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531-1543) and the NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217–227).

ODFW (P211I) requests modification 1 to scientific research/enhancement permit 973. Permit 973 authorizes ODFW a take of juvenile, threatened, Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*) associated with a captive broodstock program for three races of threatened chinook salmon in the Grande Ronde River Basin. Permit 973, issued on August 7, 1995 (60 FR 42147, August 15, 1995), authorized the collection, handling, and rearing of juvenile, listed, naturally-produced, chinook salmon for the beginning of the captive broodstock program. For modification 1, ODFW requests a transfer of 1994 brood juveniles of Catherine Creek origin and 1994 brood juveniles of Lostine River origin to the NMFS Manchester Marine Laboratory in Washington. ODFW also requests that the NMFS staff at the laboratory, under the direction of Dr. Conrad Mehnken, be authorized to rear and maintain the listed juvenile fish as an agent of ODFW under permit 973. The objective of the transfer is to dilute the risk of an unanticipated catastrophic event that could cause a decimation of the gene pool at one hatchery location by allocating listed juvenile fish to another hatchery location. The transfer of listed juvenile fish is requested for 1996 only. The authorization for NMFS's responsibility to rear and maintain listed juvenile fish as an agent of ODFW under permit 973 is requested for the duration of the permit. Permit 973 expires on September 30, 1998.

Those individuals requesting a hearing (see **ADDRESSES**) should set out the specific reasons why a hearing on this application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in these application summaries are those of the applicants and do not necessarily reflect the views of NMFS.

Dated: March 18, 1996.

Russell J. Bellmer,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–7044 Filed 3–21–96; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 030696B]

Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of application for a scientific research permit (P66K) and application to modify permit no. 841 (P129J).

SUMMARY: Notice is hereby given that the Alaska Department of Fish and Game, Division of Wildlife Conservation, P.O. Box 3–2000, Juneau, AK 99802, has applied in due form for a permit to take marine mammals for purposes of scientific research, and Dr. Bruce R. Mate, Professor, Fisheries and Wildlife, Oregon State University, Newport, OR 97365–5296, has requested a modification to permit no. 841.

DATES: Submit comments on or before April 18, 1996.

ADDRESSES: The application and modification requests and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

(P66K)—Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668 (907/586–7221); and

(P129J)—Southwest Region, NMFS, 501 West Ocean Blvd., Long Beach, CA 90802–4213 (310/570–5301).

Written data or views, or requests for a public hearing on these requests should be submitted to the Director, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on these particular requests would be appropriate.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of these applications to the Marine Mammal Commission and its Committee of Scientific Advisors.

SUPPLEMENTARY INFORMATION: The subject actions are requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR part 222).

The Alaska Department of Fish and Game requests authority to take harbor seals (*Phoca vitulina richardsi*) and spotted seals (*Phoca largha*) for scientific research in the following manner:

Harbor seals—Up to 1000 to be captured, restrained, measured (weight, length, girth, blubber thickness by ultrasound, and bioimpedence), sampled (flipper punches, vibrissae, blubber biopsy), flipper tagged, and released. Of these, 225 will be equipped with satellite-linked time-depth recorders (SLTDR) and/or VHF telemetry; 50 muscle biopsied; and 50 injected with deuterium oxide and Evans Blue solution. Additionally up to 1000 may be harassed during collection of scats from haulouts (individual animals may be inadvertently harassed more than once during research activities) and up to 10 may be accidentally killed during capture activities.

Spotted seals—Up to 100 to be captured, restrained, measured (weight, length, girth, blubber thickness by ultrasound, bioimpedence), sampled (flipper punches, vibrissae, blubber biopsy), flipper tagged, and released. Of these, 50 will be equipped with a SLTDR or VHF telemetry. Additionally up to 500 may be inadvertently harassed (individual animals may be harassed more than once) and up to 5 may be accidentally killed during capture activities. Samples collected from seals may be exported on a worldwide basis as the need arises. Activities will occur in southeast Alaska and along the west coast of Alaska.

(P129J)—Permit No. 841 authorizes the permit holder to conduct radio

tagging and biopsy sampling on up to 55 blue whales (*Balaenoptera musculus*), and up to 50 each of fin whales (*B. physalus*), humpback whales (*Megaptera novaeangliae*) and gray whales (*Eschrichtius robustus*) over a 5-year period and to inadvertently harass up to 200 each during tagging and biopsy sampling cruises. The permit holder requests authorization to tag an additional 50 blue whales through the duration of the Permit (i.e., through 1998). The work in 1996 and 1997 will concentrate on animals feeding in southern California prior to their southward migration.

Dated: March 6, 1996.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–7029 Filed 3–19–96; 4:41 pm]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment of an Import Limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Costa Rica

March 18, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit.

EFFECTIVE DATE: March 27, 1996.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715. For information on categories on which consultations have been requested, call (202) 482-3740.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The United States Government has decided to continue the restraint limit on Categories 352/652 for an additional twelve-month period, beginning on March 27, 1996 and extending through March 26, 1997.

This action is taken in accordance with the Uruguay Round Agreement on Textiles and Clothing and the Uruguay Round Agreements Act.

The United States remains committed to finding a mutual solution concerning Categories 352/652. Should such a solution be reached in consultations with the Government of Costa Rica, further notice will be published in the **Federal Register**.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 60 FR 65299, published on December 19, 1995). Also see 61 FR 3002, published on January 30, 1996.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 18, 1996.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing; and in accordance with the provisions of Executive Order 11651 of March 30, 1972, as amended, you are directed to prohibit, effective on March 27, 1996, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 352/652, produced or manufactured in Costa Rica and exported during the twelve-month period beginning on March 27, 1996 and extending through March 26, 1997, in excess of 15,288,569 dozen.

Imports charged to this category limit for the period March 27, 1995 through March 26, 1996 shall be charged against that level of restraint to the extent of any unfilled balance. Goods in excess of that limit will be subject to the limit established in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 96–7055 Filed 3–21–96; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds to the Procurement List commodities to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: April 22, 1996.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On January 19 and 26, 1996, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (61 FR 1362 and 2494) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities.

3. The action will result in authorizing small entities to furnish the commodities to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities proposed for addition to the Procurement List.

Accordingly, the following commodities are hereby added to the Procurement List:

Tape, Electronic Data Processing
7045–01–240–4951
Stamp, Custom, Pre-inked
7520–01–381–8027
(Requirements for the GSA Customer Supply Centers)
Sign Kit, Contaminate
9905–01–363–0872
9905–01–363–0873
9905–01–363–0875
9905–01–363–0876
9905–01–363–0877

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

E. R. Alley, Jr.,

Deputy Executive Director.

[FR Doc. 96–7017 Filed 3–21–96; 8:45 am]

BILLING CODE 6353–01–P

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to and Deletions from Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete commodities previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: April 22, 1996.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed addition, all entities of the Federal Government (except as otherwise indicated) will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Food Service

Vandenberg Air Force Base, California
NPA: Life Options, Vocational and Resource Center, Lompoc, California

Medical Transcription

U.S. Naval Hospital, North Charleston, South Carolina
NPA: Association for the Blind, Inc., Charleston, South Carolina

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action does not appear to have a severe economic impact on future contractors for the commodities.

3. The action will result in authorizing small entities to furnish the commodities to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities proposed for deletion from the Procurement List.

The following commodities have been proposed for deletion from the Procurement List:

Flag, Signal

8345–00–935–0441
8345–00–935–0639
8345–00–935–0442
8345–00–935–0595
8345–00–935–1839
8345–00–935–0624
8345–00–935–0436
8345–00–935–0474
8345–00–935–0588
8345–00–935–0591
8345–00–935–0592
8345–00–926–6807
8345–00–935–0450
8345–00–935–0453
8345–00–935–0465
8345–00–935–0460
8345–00–935–0483
8345–00–926–6804
8345–00–926–9988
8345–00–935–0638
8345–00–935–0626
8345–00–935–1838
8345–00–926–9987
8345–00–935–0608
8345–00–926–6806
8345–00–926–9984
8345–00–935–0634
8345–00–935–0607
8345–00–935–0475
8345–00–935–0604
8345–00–926–9216
8345–00–935–0471
8345–00–935–0590
8345–00–926–6805
8345–00–935–0582
8345–00–926–9979
8345–00–926–9985
8345–00–935–0631
8345–00–935–0484
8345–00–935–0599
8345–00–926–6810
8345–00–935–0602
8345–00–935–0640
8345–00–935–0623
8345–00–935–0620
8345–00–935–0470
8345–00–935–0473
8345–00–935–0446
8345–00–935–1840
8345–00–926–9978
8345–00–926–6002
8345–00–935–0598
8345–00–935–0447
8345–00–926–9977
8345–00–926–6803
8345–00–935–0597
8345–00–935–0468
8345–00–935–0594
8345–00–935–0467
8345–00–935–0409
8345–00–935–0451
8345–00–935–0633
8345–00–935–0630
8345–00–926–9980
8345–00–935–0446
8345–00–935–0438
8345–00–935–0464
8345–00–935–0437
8345–00–926–6809
8345–00–935–0408
8345–00–935–0619
8345–00–935–0478
8345–00–935–0589
8345–00–926–6003
8345–00–935–0466
8345–00–935–0407
8345–00–926–9219

8345–00–935–0627
8345–00–926–6814
8345–00–935–0445

Pennant, Signal, and Special Flags

8345–00–935–4755
8345–00–926–6028
8345–00–926–5987
8345–00–935–0404
8345–00–935–0421
8345–00–935–0513
8345–00–935–0497
8345–00–914–6077
8345–00–935–0406
8345–00–935–0415
8345–00–935–3199
8345–00–935–0411
8345–00–926–6026
8345–00–926–9214
8345–00–935–0503
8345–00–935–0500
8345–00–825–1819
8345–00–935–3201
8345–00–825–1847
8345–00–926–9208
8345–00–914–6083
8345–00–914–6080
8345–00–926–5990
8345–00–935–0519
8345–00–935–0405
8345–00–914–6076
8345–00–926–9207
8345–00–825–1839
8345–00–825–1868
8345–00–935–4753
8345–00–935–0420
8345–00–935–1841
8345–00–825–1818
8345–00–935–0539
8345–00–935–0524
8345–00–935–0518
8345–00–935–0495
8345–00–935–0509
8345–00–935–0492
8345–00–935–0517
8345–00–914–6075
8345–00–935–0410
8345–00–926–9215
8345–00–935–0538
8345–00–926–9212
8345–00–926–9211
8345–00–935–0526
8345–00–935–0514
8345–00–935–0537
8345–00–935–0508
8345–00–935–0534
8345–00–935–0403
8345–00–914–6087
8345–00–935–1843
8345–00–935–0419
8345–00–935–0525
8345–00–935–0542
8345–00–935–0504
8345–00–935–0541
8345–00–935–0522
8345–00–921–4497
8345–00–914–6084
8345–00–935–0521
8345–00–935–0536
8345–00–926–1549
8345–00–935–0490
8345–00–935–0493
8345–00–914–7411
8345–00–935–4754
8345–00–935–0418
8345–00–926–9213
8345–00–926–9210
8345–00–935–0512
8345–00–935–0511
8345–00–914–6086
8345–00–935–0417
8345–00–926–1548
8345–00–926–5989
8345–00–935–4756
8345–00–825–1840
8345–00–935–0499
8345–00–935–0501
8345–00–914–6085
8345–00–935–0540
8345–00–914–6079
8345–00–935–0523
8345–00–914–6082
8345–00–935–0520
8345–00–914–6081
8345–00–926–5988
8345–00–935–0416
8345–00–926–5991
8345–00–926–1552
8345–00–926–1551

E. R. Alley, Jr.,
Deputy Executive Director.
[FR Doc. 96–7018 Filed 3–21–96; 8:45 am]
BILLING CODE 6353–01–P

DEPARTMENT OF DEFENSE

Department of the Army

Advisory Committee Notice (Cultural and Natural Resources Management Plan Review Schedule)

AGENCY: Headquarters, I Corps and FT. Lewis, FT. Lewis, WA

ACTION: Notice of open meeting.

SUMMARY: In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463) announcement is made of the following committee meeting:

Name: Yakima Training Center Cultural and Natural Resources Committee Policy Committee.

Date: April 18, 1996.

Place: Yakima Training Center, Building 266, Yakima, Washington.

Time: 1:30 p.m.

Proposed Agenda: Cultural and Natural Resources Management Plan review schedule. All proceedings are open.

FOR FURTHER INFORMATION CONTACT: Stephen Hart, Chief, Civil Law, (206) 967–0793.

Gregory D. Showalter,
Army Federal Register Liaison Officer.
[FR Doc. 96–6926 Filed 3–21–96; 8:45 am]
BILLING CODE 3710–08–M

Notice of Intent To Grant an Exclusive License of a U.S. Government-Owned Patent

AGENCY: U.S. Army Medical Research and Materiel Command, DOD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.7 (a)(I)(i), announcement is made of the intent to grant an exclusive, royalty-bearing, revocable license of U.S. Patent Application Serial Number 08/348,882, filed November 28, 1994 and entitled "Infectious cDNA Clones of Japanese Encephalitis Virus and Attenuated Strains Japanese Encephalitis Virus Made from the Clones", to OraVax, Inc., 230 Albany Street, Cambridge, Massachusetts 02139. Rights to this invention are owned by the United States Government as represented by the Secretary of the Army. Anyone wishing to object to the grant of this license has 60 days from the date of this notice to file written objections along with supporting evidence, if any. Written objections are to be filed with the Command Judge Advocate, U.S. Army Medical Research and Materiel Command, Fort Detrick, Frederick, Maryland 21702–5012.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, Fort Detrick, Frederick, Maryland 21702–5012.

FOR FURTHER INFORMATION CONTACT: Mr. John F. Moran, Patent Attorney, (301) 619–2065 or telefax (301) 619–7714.

Gregory D. Showalter,
Army Federal Register Liaison Officer.
[FR Doc. 96–6928 filed 3–21–96; 8:45 am]
BILLING CODE 3710–01–M

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Application Concerning a Method of Raising Antibodies

AGENCY: U.S. Army Medical Research and Materiel Command, DOD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability of U.S. Patent Application Serial No. 08/460,617 entitled "Method of Raising Antibodies Against *E. coli* of the Family CS4–CFA/I", and filed June 2, 1995, for licensing. This patent has been assigned to the United States Government as represented by the Secretary of the Army.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Staff Judge Advocate, Fort Detrick, Frederick, Maryland 21702–5012.

FOR FURTHER INFORMATION CONTACT: Mr. John F. Moran, Patent Attorney, (301) 619–2065 or telefax (301) 619–7714.

SUPPLEMENTARY INFORMATION: The invention provides a means of immunization of humans with a peptide or denatured protein against enterotoxigenic *E. coli* (ETEC) strains of the CS4–CFA/I family. The antibodies raised by the peptides and proteins may be used as the basis for a cross-reactive ETEC vaccine as well as diagnostic agents to identify antigens of CS4–CFA/I bacteria.

Gregory D. Showalter,
Army Federal Register Liaison Officer.
[FR Doc. 96–6929 Filed 3–21–96; 8:45 am]
BILLING CODE 3710–08–M

Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Storm Damage Reduction and Beach Erosion Control Project on Absecon Island, Atlantic County, New Jersey

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: The action being taken is an evaluation of the alternatives for storm damage reduction and the control of further erosion on Absecon Island, New Jersey. The purpose of any consequent work would be to provide shore property protection and to stabilize the shoreline at the predetermined width.

FOR FURTHER INFORMATION CONTACT: Questions regarding the DEIS should be addressed to Ms. Beth Brandreth, (215) 656–6558, U.S. Army Corps of Engineers, CENAP–PL–E, Wanamaker Building, 100 Penn Square East, Philadelphia, Pennsylvania 19107–3390.

SUPPLEMENTARY INFORMATION:

1. *Proposed Action:* a. The draft document evaluates a study area approximately 8 miles in length, extending from Absecon Inlet to Great Egg Harbor Inlet. The study area encompasses Absecon Island, which contains the four communities of Atlantic City, Ventnor, Margate, and Longport. The beaches in these communities have been subject to erosion by storms, tidal inundation, and wave action. Three potential offshore sand borrow sources will be investigated in this study.

b. The authorities for the proposed project are the resolutions adopted by the Committee on Public Works and Transportation of the U.S. House of Representatives and the Committee on Environmental and Public Works of the U.S. Senate in December 1987.

2. *Alternatives:* In addition to the no action alternative, the alternatives considered for storm damage reduction and erosion control will fall into structural and non-structural categories. The structural measures to correct the beach erosion include bulkheads, seawalls, revetments, offshore breakwaters, groins, beach nourishment, perched beach, submerged reef with beachfill, and offshore submerged feeder berms. Non-structural measures include flood insurance, developmental regulations, and evacuation.

3. *Scoping:* a. Numerous studies and reports addressing beach erosion along the New Jersey Coast were conducted by the Corps of Engineers. The most recent study for this area is a Reconnaissance Report: Brigantine Inlet to Great Egg Harbor Inlet Reconnaissance Study (February 1992), which identified a number of problem areas where erosion was negatively impacting the adjacent shorelines. This study identified Absecon Island as one of the primary areas to be recommended for further study in the feasibility phase.

b. The scoping process is on-going and has involved preliminary coordination with Federal, State, and local agencies. Participation of the general public and other interested parties and organizations will be invited by means of a public notice.

c. The significant issues and concerns that have been identified include the impacts of the project on aquatic biota, water quality, intertidal habitat, shallow water habitat, and cultural resources.

4. *Availability:* It is estimated that the DEIS will be made available to the public in April 1996.

Gregory D. Showalter,
Army Federal Register Liaison Officer.
[FR Doc. 96–6925 Filed 3–21–96; 8:45 am]
BILLING CODE 3710–GR–M

Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Churchmans Marsh Reservoir/New Castle County Water Supply Project In New Castle County, Delaware

AGENCY: U.S. Army Corps of Engineers-Philadelphia District, DOD; Cooperating Agency: U.S. Environmental Protection Agency-Region III.

ACTION: Notice of intent.

SUMMARY: The proposed action evaluates the need for and the alternative methods of providing additional water supply capacity to meet present and projected water demands in northern New Castle County, Delaware.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and DEIS can be answered by Ms. Mary Marshall, U.S. Army Corps of Engineers-Environmental Resources Branch (CENAP–PL–E), Wanamaker Building, 100 Penn Square East, Philadelphia, Pennsylvania 19107–3390; phone: 215–656–6561, fax: 215–656–6543.

SUPPLEMENTARY INFORMATION:

1. Proposed project: The applicant, the Water Resources Agency for New Castle County has applied for a Department of the Army Permit to construct a 2 billion gallon, 250 acre off-stream reservoir in a freshwater tidal wetland, Churchmans Marsh. The proposed project site is located approximately 5 miles southwest of Wilmington and 7 miles east of Newark. It is bounded to the south by I–95, to the north by the White Clay Creek and to the east by the Christina River. Reservoir construction includes diking the perimeter of the site and excavating approximately nine million cubic yards of material to a depth of approximately −20 feet mean sea level. An intake weir will be constructed on the upstream side of the dike to allow flows to enter from the White Clay Creek.

2. Alternatives that will be addressed by the Draft Environmental Impact Statement include:

a. The proposed project—Churchmans Marsh reservoir impoundment;

b. Reservoir impoundment on Artesian Marsh (Churchmans South) site;

c. Reservoir impoundments on tributaries to White Clay Creek and Red Clay Creek;

d. Water transfer via existing and/or proposed pipelines;

e. Aquifer recharge;

f. Desalination of brackish surface water;

g. Indirect waste water reuse; and

h. No action.

3. The following paragraphs detail the scoping actions that have occurred to date:

a. The applicant has taken a number of steps to solicit input from the public including the development of a citizens advisory group. Numerous public information meetings have been held to discuss the status of the project and obtain public comments. In addition, numerous pre-application and pre-scoping meetings have been held with agency participation from the Delaware Department of natural Resources and Environmental Control, the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, the U.S.

Environmental Protection Agency, the National Park Service and the Delaware River Basin Commission.

b. Significant issues to be addressed in the EIS regarding the proposed project include:

1. Loss of 250 acres of tidal freshwater wetlands within impoundment area;
2. Impact of project construction and operation on water quality and flood storage capacity;
3. Fish and wildlife habitat impacts, including endangered species;
4. The effect of nearby hazardous waste sites and Interstate 95 on water quality;
5. Disposal of excavated materials;
6. Mitigation plans; and
7. Water supply alternatives to the proposed action.

c. The U.S. Army Corps of Engineers, Philadelphia District and the U.S. Environmental protection Agency, Region III have executed a Cooperating Agency Agreement for the development of this EIS. The U.S. Environmental Protection Agency, through this agreement, has committed to play an active role in the scoping process, the performance of appropriate field investigations, the development of portions of the Draft and Final EIS's, primarily those related to water quality and hazardous waste issues, and the development of responses to comments received on those sections of the DEIS.

4. A Public Workshop/Scoping Meeting is scheduled for Thursday, April 11, 1996, in the Clayton Hall Conference Center on the University of Delaware's North Campus in Newark, Delaware. The conference center will open at 6 pm for informal viewing of project displays and documents and discussions with appropriate agency representatives. This formal meeting will begin at 7 pm.

5. It is estimated that the Draft Environmental Impact Statement will be made available to the public in the Spring of 1997.

Frank J. Cianfrani,

Chief, Regulatory Branch, Corps of Engineers-Philadelphia District.

[FR Doc. 96–6927 Filed 3–21–96; 8:45 am]

BILLING CODE 3710–GR–M

Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Flood Control Project on the Bolles Canal in Palm Beach County, Florida

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: The Jacksonville District, U.S. Army Corps of Engineers intends to prepare a General Reevaluation Report (GRR) for the Bolles Canal flood control study (between the Miami and Hillsborough Canals). A Draft Environmental Impact Statement will be prepared for the project.

FOR FURTHER INFORMATION CONTACT: Ms. Therese Fretwell, (904) 232–3271, U.S. Army Corps of Engineers, Jacksonville District, P.O. Box 4970, Jacksonville, Florida 32232–0019.

SUPPLEMENTARY INFORMATION:

a. The study of possible flood control measures for the Bolles Canal is authorized under the Flood Control Act of 1948. Subsequently, the Flood Control Act of 1954 authorized the construction of S–171 and S–172 within the Bolles Canal for the protection of the Everglades Agricultural Area (EAA); however, these structures were not constructed. The process of preparing the General Reevaluation Report will allow the Corps to reformulate and/or modify plans for flood control in this study area. In July 1986, the Jacksonville District requested and received concurrence to reactivate and improve Bolles Canal as an authorized part of the C & SF Project. This decision was based on South Florida Water Management's (SFWMD) conclusion that the total capacity of private pump stations discharging into Bolles Canal was much greater than present Canal capacity. Increasing the capacity of the Bolles Canal may significantly enhance the effectiveness of the Stormwater Treatment Areas (STA's). Thus, in a letter dated 5 October 1994, SFWMD requested that the Jacksonville District pursue a multi-objective study for improvements to the Bolles Canal. The project will involve channel improvements and modifications, and levee and structural improvements and construction. The U.S. Army Corps of Engineers has determined that an Environmental Impact Statement (EIS) should be prepared in order to satisfy requirements under the National Environmental Policy Act (NEPA).

b. Scoping: The scoping process as outlined by the Council on Environmental Quality will be utilized to involve Federal, State, and local agencies; and other interested persons and organizations. A scoping letter will be sent to interested Federal, State, and local agencies requesting their comments and concerns regarding the issues they think should be included in the EIS. Interested persons and organizations wishing to participate in the scoping process should contact the Corps of Engineers at the above mentioned address. Environmental considerations will include potential presence of historical or archaeological resources, aesthetics, wetlands, ecosystems, water quality, water supply, endangered and threatened species and wildlife habitats and values. Public meetings will be held in the future; exact dates, times and locations will be published in local papers.

c. It is estimated that the DEIS will be available to the public by January 1998.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96–6923 Filed 3–21–96; 8:45 am]

BILLING CODE 3710–AJ–M

Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement/Report (DEIS/R) for the Port of Hueneme Feasibility Study, Port Hueneme, California

AGENCY: Los Angeles District, U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: To date, deep draft vessels entering the Port of Hueneme Entrance Channel, have to limit the amount of cargo product that can be brought into the harbor for berthing due to existing shallow bottom depths. In order to increase the cargo efficiency of product delivery, a plan has been developed to deepen the existing channel from the −35 foot contour depth to a depth of −40 to −45 feet mean lower low water. Approximately 1 million cubic yards of material would be dredged for disposal. Disposal options include offshore, near/onshore and upland sites. Potential disposal sites have not been identified at this time. Project figures are available by contacting the below individual and address.

FOR FURTHER INFORMATION CONTACT: Questions concerning the proposed action and DEIS/R can be answered by Mr. Russell L. Kaiser, Environmental Planning Section, at (213) 894–0247, U.S. Army Corps of Engineers, P.O. Box 2711, Los Angeles, California, 90053.

SUPPLEMENTARY INFORMATION:

1. Proposed Action: The proposed action would reduce some of the current limit and cargo product restrictions that can be brought into the harbor for berthing due to existing shallow depths.

2. Alternatives: Although no alternatives have been developed to date, as part of the process, a full array of alternatives would be developed for further analyses. The proposed plan, viable project alternatives, and the "no action" plan will be carried forward for detailed analysis in the National Environmental Policy Act/California Environmental Policy Act document.

3. Scoping Process: Potential impacts associated with the proposed action and alternatives will be fully evaluated. Resource categories that will be analyzed include: geology, oceanography/water quality, air and noise quality, marine resources, cultural resources, socioeconomics, land/water use, recreation, ground and vessel traffic and safety, energy, and aesthetics. The Los Angeles District will be conducting a public scoping meeting with the Port of Hueneme on 28 March 1996, at 7:00 pm, in the Board Room of the Oxnard Harbor District, 105 East Hueneme Road, Port Hueneme, California.

4. Significant Issues: The only possible significant issue at this time may be related to disposal of dredged material if testing shows sediments are contaminated and require special handling.

5. Other Environmental Review and Consultation: Environmental review and consultation as required by Sections 401 and 404 of the Clean Water Act, as amended, (33 U.S.C. 1341 and 1344); the Fish and Wildlife Coordination Act (16 U.S.C. 661 *et seq.*); the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 *et seq.*); the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*); Executive Order 11990, "Protection of Wetlands," (24 May 1977); and other applicable statutes or regulations will be conducted concurrently with the EIR/EIS review process.

6. Schedule: We estimate the draft EIR/EIS will be made available to the public in Spring of 1997.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96–6930 Filed 3–21–96; 8:45 am]

BILLING CODE 3710–KF–M

Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Proposed Ocean City, Maryland, and Vicinity Water Resources Feasibility Study at Ocean City, in Worcester County, Maryland; Correction

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Correction to Notice of Intent.

SUMMARY: Reference NOI published in **Federal Register** on Thursday, February 29, 1996, Volume 61, number 41, pages 7778–9. This document contains corrections to the Notice of Intent published for the Ocean City, Maryland, and Vicinity Water Resources Feasibility Study and Draft Environmental Impact Statement (EIS). The corrections relate to the types of documents to be prepared and the dates that the draft documents will be available for public review.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed actions, draft Programmatic EIS, and Supplemental EIS's can be addressed to Ms. Stacey Marek, Study Manager, Baltimore District, U.S. Army Corps of Engineers, ATTN: CENAB–PL–PC, P.O. 1715, Baltimore, Maryland 21203–1715, telephone (410) 962–4977. E-mail address: ocwr@ccmail.nab.usace.army.mil.

SUPPLEMENTARY INFORMATION:

Background: The Ocean City feasibility study will address four different water-related problems in the Maryland coastal bay area as separate report components. The components include (1) the restoration of the northern end of Assateague Island; (2) long-term sand placement opportunities along Ocean City and Assateague Island shorelines; (3) restoration of terrestrial and aquatic habitat; and (4) navigation improvements to the harbor, inlet, and Thorofare channel. The Assateague Island Restoration component will be completed earlier than the other 3 components due to a potentially imminent breach of Assateague Island. The original schedule completion date for the draft Ocean City, Maryland, and Vicinity Water Resources Feasibility Report and DEIS was June 1997.

Need for Correction: As published, the original NOI failed to clarify that a Programmatic EIS, addressing general impacts of the overall project and specific impacts of the Assateague Island restoration, would be available first, followed by a separate supplemental EIS addressing the remaining project components, and to identify the dates the documents would be available for public review.

Correction of Publication: Accordingly, the **Federal Register** published on Thursday, February 29, 1996, Volume 61, number 41, pages 7778–9, is corrected as follows: On page 7778, in the Summary paragraph, substitute the following for the final sentence:

A Programmatic EIS addressing the general actions and impacts of the overall proposed study and the specific actions and impacts of the Assateague Island Restoration component will be prepared and provided for public review in March 1977. Subsequently, separate Supplemental EIS will be prepared for the study components addressing long-term sand placement; restoration of terrestrial and aquatic habitat; and navigation improvements to the harbor, inlet, and Thorofare channel. The Supplemental EIS will be provided for public review in October 1997.

On page 7778, in item number 7, line 2; and on page 7779, in item 7, line 2: substitute "environmental documents" for "DEIS." On page 7779, in item number 10, substitute the following: The draft Programmatic EIS addressing the general actions and impacts of the overall Ocean City, Maryland, Water Resources Feasibility Study and the specific actions and impacts of the Assateague Island Restoration is scheduled to be available for public review in Mar. 1997; a Supplemental EIS addressing the specific actions and impacts of the remaining 3 study components are scheduled to be available for public review in October 1977.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96–6924 Filed 3–21–96; 8:45 am]

BILLING CODE 3710–41–M

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Public Forum

AGENCY: National Assessment Governing Board, Education.

ACTION: Notice of information collection activity.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the National Assessment Governing Board (NAGB) has submitted an Information Collection Request (ICR) to the Office of Management and Budget for approval of the collection abstracted below. The ICR describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument and explanatory materials.

DATES: Comments must be submitted on or before April 22, 1996.

FOR FURTHER INFORMATION OR A COPY CONTACT: Susan Cooper Loomis, NAEP ALS Project Director, American College Testing, 2201 N. Dodge Street, Iowa City, Iowa 52243. Copies of the complete ICR and accompanying appendices may be obtained from the NAEP ALS Project Director at the address above.

SUPPLEMENTARY INFORMATION:

Title: NAEP Consumer Survey Research Study of the Achievement Levels for the U.S. History NAEP and the Geography NAEP.

Abstract: The purpose of this information collection activity is to gather information for NAGB regarding the achievement levels set for the 1994 NAEP in U.S. History and in Geography. In particular, Congress has deemed that the achievement levels must be shown to be reasonable, valid, and informative to the public. This survey is designed to collect responses from individuals who are likely to have some interest in the ALS process (having been invited in 1994 to nominate individuals to serve as panelists for the ALS process) and individuals who are likely to have some interest in the subjects for which achievement levels have been developed.

A report has been developed in the form of a newspaper (The NAEP Reporter) to provide respondents information about the NAEP, and about the achievement levels. The "newspaper" report was developed as a means of providing information in a format that would be interesting to the respondent. Unlike actual newspaper articles that have reported on the recently-released results of the NAEP, this account does not judge the outcomes regarding student performances. That is, this report is objective and neither applauds nor decries the performance of students on the NAEP.

A brief questionnaire elicits responses to questions regarding the usefulness and informativeness of the achievement levels for reporting NAEP results. The survey is printed on a postage-paid, self-mailer card.

No third party notification or public disclosure burden is associated with this collection.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on December 20, 1995.

Burden Statement: The estimated total respondent burden is 924 hours, and the average burden per respondent is .44 hours. This is a one-time survey. Individuals included in the survey will not be contacted for follow-up comments. This burden estimate includes .33 hours to read the stimulus piece (newspaper) and .11 hours to read and respond to the questionnaire.

No small businesses nor other small entities are included in the survey.

Respondents/Affected Entities: Parties affected by this information collection are persons included in a broadly representative sample including persons identified as nominators of achievement levels-setting (ALS) panelists for pilot studies and ALS, as well as samples of subscribers to The Smithsonian magazine (for U.S. History) and The National Geographic for geography.

Estimated Number of Respondents: 2100 in this collection.

Estimated Total Annual Burden of Respondents: 924 hours for this collection.

Frequency of Collection: One time only.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to the following address. Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Wendy Taylor, Desk Officer for NAGB, 725 17th Street, NW., Washington, DC 20503.

Dated: March 18, 1996.

Roy Truby,

Executive Director.

[FR Doc. 96–6830 Filed 3–21–96; 8:45 am]

BILLING CODE 4000–01–M

Notice of Waivers Granted by the U.S. Secretary of Education Under the Authority of the Elementary and Secondary Education Act and the Goals 2000: Educate America Act

SUMMARY: States and communities have new opportunities for flexibility in the use of Federal education funds in order to improve school effectiveness and academic achievement. The Improving America's Schools Act (Pub. L. 103–382), (which reauthorized the Elementary and Secondary Education Act (ESEA)), the Goals 2000: Educate America Act (Pub. L. 103–227) (Goals 2000), and the School-to-Work Opportunities Act (Pub. L. 103–239) provide States, school districts, and other eligible waiver applicants with significant new opportunities to seek waivers of certain requirements of Federal education programs in order to improve teaching and learning.

As of December 31, 1995, 85 waiver requests had been approved by the U.S. Department of Education and 11 waiver requests had been denied. This notice identifies the 71 waiver requests approved by the U.S. Department of Education under the above waiver authorities from July 1, 1995 through December 31, 1995. (The other 14 were described in a previous notice.) This notice also identifies the three additional States that have had their Education Flexibility (Ed-Flex) Partnership Demonstration Program applications approved and been delegated the Secretary's waiver authority under the Goals 2000: Educate America Act during this time period.

Notably, in addition to the waivers of targeting and within district allocation provisions described in the earlier notice, this notice includes, among others, waivers that have been approved regarding provisions governing the statutory poverty thresholds for implementing schoolwide programs under Title I, the proportions of funds devoted to professional development in core subject areas under the Eisenhower Professional Developmnent Program, the formation of consortia under the Perkins Vocational and Applied Technology Education Act, and the Public Charter Schools Program. Copies of revised draft Waiver Guidance, which provides examples of waivers and explains the waiver authorities in detail, are available from the U.S. Department of Education at (202) 401–7801.

Application Approvals: From July 1, 1995 through December 31, 1995, the Secretary approved 71 applications for waivers and three applications for Ed-Flex. The successful applications are listed in this notice, which is published as provided for in section 14401(g) of the ESEA and section 311(g) of Goals 2000. Each waiver application is reviewed and evaluated based on its individual merits in accordance with the statutory criteria.

(A) Waivers Approved Under the General Waiver Authority in Section 14401 of the ESEA

(1) Name of Applicant: Monmouth Public Schools, Monmouth, IL.
Requirements Waived: Sections 1113(b)(1)(A) and 1113(c)(2) of the ESEA.
Duration of Waiver: One year.
Date Granted: July 2, 1995.

(2) Name of Applicant: Franklin Area School District, Franklin, PA.
Requirement Waived: Section 1113(a)(2)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: July 11, 1995.

(3) Name of Applicant: Tri-Valley School District, Valley View, PA.
Requirement Waived: Section 1113(a)(2)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: July 12, 1995.

(4) Name of Applicant: Blount County Schools, Maryville, TN.
Requirement Waived: Section 1113(c)(1) of the ESEA.

Duration of Waiver: One year.
Date Granted: July 27, 1995.

(5) Name of Applicant: Mifflin County School District, Yeagertown, PA.
Requirement Waived: Section 1113(a)(2)(B) of the ESEA.
Duration of Waiver: Three Years.
Date Granted: July 27, 1995.

(6) Name of Applicant: Edgecombe County Schools, Tarboro, NC.
Requirement Waived: Section 1113(c)(1) of the ESEA.
Duration of Waiver: Three years.
Date Granted: July 30, 1995.

(7) Name of Applicant: Montebello Unified School District, Montebello, CA.
Requirement Waived: Section 1113(c)(1) of the ESEA.
Duration of Waiver: One year.
Date Granted: July 30, 1995.

(8) Name of Applicant: Windber Area School District, Windber, PA.
Requirement Waived: Section 1113(a)(2)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: July 30, 1995.

(9) Name of Applicant: Tamaqua Area School District, Tamaqua, PA.
Requirement Waived: Section 1113(c)(2) of the ESEA.
Duration of Waiver: One year.
Date Granted: August 3, 1995.

(10) Name of Applicant: Puerto Rico Department of Education, San Juan, PR.
Requirement Waived: Section 1113(a)(5) of the ESEA.
Duration of Waiver: Three years.
Date Granted: August 4, 1995.

(11) Name of Applicant: DuBois Area School District, DuBois, PA.
Requirement Waived: Section 1113(a)(2)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: August 5, 1995.

(12) Name of Applicant: Greene County School District, Greeneville, TN.
Requirement Waived: Section 1113(c)(1) of the ESEA.
Duration of Waiver: Two years.
Date Granted: August 5, 1995.

(13) Name of Applicant: Hempfield School District, Landisville, PA.
Requirement Waived: Section 1113(a)(2)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: August 5, 1995.

(14) Name of Applicant: Kentucky Department of Education.
Requirement Waived: Section 14601(b) of the ESEA only with respect to date of enactment of State law.
Duration of Waiver: Until July 1, 1996.
Date Granted: August 5, 1995.

(15) Name of Applicant: Manitowoc Public School District, Manitowoc, WI.
Requirement Waived: Section 1113(a)(2)(B) of the ESEA.
Duration of Waiver: One year.
Date Granted: August 5, 1995.

(16) Name of Applicant: North Schuylkill School District, Ashland, PA.
Requirements Waived: Sections 1113(a)(2)(B) and 1113(c)(1) of the ESEA.
Duration of Waiver: One year.
Date Granted: August 5, 1995.

(17) Name of Applicant: Northwestern Lehigh School District, New Tripoli, PA.
Requirement Waived: Section 1113(a)(2)(B) of the ESEA.
Duration of Waiver: One year.
Date Granted: August 5, 1995.

(18) Name of Applicant: Belle Vernon Area School District, Belle Vernon, PA.
Requirements Waived: Sections 1113(a)(2)(B), 1113(c)(1), and 1113(c)(2) of the ESEA.
Duration of Waiver: Three years.
Date Granted: August 22, 1995.

(19) Name of Applicant: Jefferson County Public Schools, Louisville, KY.
Requirement Waived: Section 1113(c)(1) of the ESEA.
Duration of Waiver: One year.
Date Granted: August 22, 1995.

(20) Name of Applicant: Belleville Township High School District, Belleville, IL.
Requirements Waived: Sections 1113(a)(2)(B) and 1113(c)(2) of the ESEA.
Duration of Waiver: Three years.
Date Granted: August 23, 1995.

(21) Name of Applicant: Gadsden County School District, Quincy, FL.
Requirement Waived: Section 1113(a)(3) of the ESEA.
Duration of Waiver: One year.
Date Granted: August 23, 1995.

(22) Name of Applicant: Northwest Tri-County Intermediate Unit 5 Title II Consortium, Edinboro, PA.
Requirement Waived: Section 2206(b) of the ESEA.
Duration of Waiver: Three years.
Date Granted: August 23, 1995.

(23) Name of Applicant: Riverview Intermediate Unit 6 Title II Consortium, Shippenville, PA.
Requirement Waived: Section 2206(b) of the ESEA.
Duration of Waiver: Three years.
Date Granted: August 24, 1995.

(24) Name of Applicant: Trinity Area School District, Washington, PA.
Requirement Waived: Section 1113(a)(2)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: August 31, 1995.

(25) Name of Applicant: Berwick Area School District, Berwick, PA.
Requirement Waived: Section 1113(a)(2)(B) of the ESEA.
Duration of Waiver: One year.
Date Granted: September 5, 1995.

(26) Name of Applicant: Campbell County Board of Education, Jacksboro, TN.
Requirement Waived: Section 1113(c)(1) of the ESEA.
Duration of Waiver: Three years.
Date Granted: September 10, 1995.

(27) Name of Applicant: Puerto Rico Department of Education, San Juan, PR.
Requirement Waived: Section 1113(a)(3) of the ESEA.
Duration of Waiver: One year.
Date Granted: September 11, 1995.

(28) Name of Applicant: Warwick School District, Lititz, PA.
Requirement Waived: Section 1113(a)(2)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: September 11, 1995.

(29) Name of Applicant: Clarkston School District, Clarkston, WA.
Requirement Waived: Section 1114(a)(1)(A) of the ESEA.
Duration of Waiver: One year.
Date Granted: September 15, 1995.

(30) Name of Applicant: Octorara Area School District, Atglen, PA.
Requirement Waived: Section 1113(c)(2) of the ESEA.
Duration of Waiver: Three years.
Date Granted: September 15, 1995.

(31) Name of Applicant: Santa Maria Joint Union High School District, Santa Maria, CA.
Requirements Waived: Section 1113(a)(2)(B) and 1113(c)(2) of the ESEA.
Duration of Waiver: Three years.
Date Granted: September 15, 1995.

(32) Name of Applicant: Chula Vista Elementary School District, Chula Vista, CA.
Requirement Waived: Section 1113(c)(1) of the ESEA.
Duration of Waiver: One year.
Date Granted: September 25, 1995.

(33) Name of Applicant: Columbia Heights Public Schools, Columbia Heights, MN.
Requirement Waived: Section 1113(a)(2)(B) of the ESEA.
Duration of Waiver: One year.
Date Granted: September 25, 1995.

(34) Name of Applicant: Kutztown Area School District, Kutztown, PA.
Requirement Waived: Section 1113(c)(1) of the ESEA.
Duration of Waiver: Three years.
Date Granted: September 25, 1995.

(35) Name of Applicant: Northern Lehigh School District, Slatington, PA.
Requirement Waived: Section 1113(a)(2)(B) of the ESEA.

Duration of Waiver: Three years.
Date Granted: September 25, 1995.
(36) Name of Applicant: Juniata County School District, Mifflintown, PA.
Requirements Waived: Sections 1113(a)(2)(B), 1113(c)(1) and 1113(c)(2) of the ESEA.
Duration of Waiver: Three years.
Date Granted: September 27, 1995.
(37) Name of Applicant: Orland School District, Orland Park, IL.
Requirements Waived: Sections 1113(a)(2)(B) and 1113(c)(1) of the ESEA.
Duration of Waiver: Three years.
Date Granted: September 27, 1995.
(38) Name of Applicant: Punxsatawney Area School District, Punxsatawney, PA.
Requirement Waived: Section 1113(a)(2)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: September 27, 1995.
(39) Name of Applicant: Conestoga Valley School District, Leola, PA.
Requirements Waived: Sections 1113(a)(2)(B) and 1113(c)(2) of the ESEA.
Duration of Waiver: Three years.
Date Granted: September 28, 1995.
(40) Name of Applicant: Oil City School District, Oil City, PA.
Requirements Waived: Sections 1113(a)(2)(B) and 1113(c)(2) of the ESEA.
Duration of Waiver: One year.
Date Granted: September 28, 1995.
(41) Name of Applicant: White Mountains Regional School District, Whitefield, NH.
Requirements Waived: Sections 1113(a)(2)(B) and 1113(c)(2).
Duration of Waiver: Three years.
Date Granted: September 28, 1995.
(42) Name of Applicant: Wyalusing Area School District, Wyalusing, PA.
Requirement Waived: Section 1113(a)(2)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: September 28, 1995.
(43) Name of Applicant: Federal Way Public Schools, Federal Way, WA.
Requirement Waived: Section 1114(a)(1)(A) of the ESEA.
Duration of Waiver: One year.
Date Granted: October 2, 1995.
(44) Name of Applicant: Scranton School District, Scranton, PA.
Requirements Waived: Sections 1113(a)(2)(B), 1113(c)(1) and 1113(c)(2) of the ESEA.
Duration of Waiver: Three years.
Date Granted: October 2, 1995.
(45) Name of Applicant: East Moline School District, East Moline, IL.
Requirements Waived: Sections 1113(a)(2)(B) and 1113(c)(2) of the ESEA.
Duration of Waiver: Three years.
Date Granted: October 3, 1995.
(46) Name of Applicant: Cincinnati Public Schools, Cincinnati, OH.
Requirement Waived: Section 1113(c)(1) of the ESEA.
Duration of Waiver: Three years.
Date Granted: October 4, 1995.
(47) Name of Applicant: Alexandria Public Schools, School District 206, Alexandria, Minnesota.
Requirement Waived: Section 1113(a)(2)(B) of the ESEA.
Duration of Waiver: One year.
Date Granted: October 5, 1995.
(48) Name of Applicant: Lehighton Area School District, Lehighton, PA.
Requirement Waived: Section 1113(a)(2)(B).
Duration of Waiver: Three years.
Date Granted: October 11, 1995.
(49) Name of Applicant: Modesto City Schools, Modesto, CA.
Requirement Waived: Section 1113(c)(1) of the ESEA.
Duration of Waiver: One year.
Date Granted: October 12, 1995.
(50) Name of Applicant: Coatesville Area School District, Coatesville, PA.
Requirement Waived: Section 1113(a)(2)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: October 25, 1995.
(51) Name of Applicant: Goldendale Public Schools, Goldendale, WA.
Requirement Waived: Section 1114(a)(1)(A) of the ESEA.
Duration of Waiver: One year.
Date Granted: October 25, 1995.
(52) Name of Applicant: Jersey Shore Area School District, Jersey Shore, PA.
Requirements Waived: Sections 1113(a)(2)(B) and 1113(c)(1) of the ESEA.
Duration of Waiver: One year.
Date Granted: October 25, 1995.
(53) Name of Applicant: Meriwether County School System, Greenville, GA.
Requirement Waived: Section 1113(c)(1) of the ESEA.
Duration of Waiver: Three years.
Date Granted: October 25, 1995.
(54) Name of Applicant: Jefferson County Public Schools, Golden, CO.
Requirements Waived: Sections 1113(c)(1) and 1113(c)(2) of the ESEA.
Duration of Waiver: Three years.
Date Granted: October 27, 1995.
(55) Name of Applicant: Laurel Highlands School District, Uniontown, PA.
Requirements Waived: Sections 1113(a)(2)(B) and 1113(c)(2) of the ESEA.
Duration of Waiver: Three years.
Date Granted: October 27, 1995.
(56) Name of Applicant: Northampton Area School District, Northampton, PA.
Requirements Waived: Sections 1113(a)(2)(B) and 1113(c)(1) of the ESEA.
Duration of Waiver: Three years.
Date Granted: October 27, 1995.
(57) Name of Applicant: Worth Schools, Worth, IL.
Requirement Waived: Section 1113(a)(2)(B) of the ESEA.
Duration of Waiver: One year.
Date Granted: October 27, 1995.
(58) Name of Applicant: Kiski Area School District, Vandergrift, PA.
Requirement Waived: Section 1113(a)(2)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: November 22, 1995.
(59) Name of Applicant: Burbank School District 111, Burbank, IL.
Requirements Waived: Sections 1113(a)(2)(B) and 1113(c)(2) of the ESEA.
Duration of Waiver: Three years.
Date Granted: December 1, 1995.
(60) Name of Applicant: Highlands School District, Natrona Heights, PA.
Requirement Waived: Section 1113(a)(2)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: December 1, 1995.
(61) Name of Applicant: Lake-Lehman School District, Lehman, PA.
Requirement Waived: Section 1113(a)(2)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: December 1, 1995.
(62) Name of Applicant: Maine School Administrative District #57, Waterboro, ME.
Requirements Waived: Sections 1113(a)(2)(B), 1113(c)(1), and 1113(c)(2) of the ESEA.
Duration of Waiver: One year.
Date Granted: December 1, 1995.
(63) Name of Applicant: Nebraska Department of Education on behalf of the Nebraska Coordinating Commission for Postsecondary Education, Lincoln, NE.
Requirement Waived: Section 2206(b) of the ESEA.
Duration of Waiver: Three years.
Date Granted: December 1, 1995.
(64) Name of Applicant: Palmdale School District, Palmdale, CA.
Requirements Waived: Sections 1113(b)(1)(A) and 1113(c)(2) of the ESEA.
Duration of Waiver: Two years.
Date Granted: December 1, 1995.
(65) Name of Applicant: Placerville Union School District, Placerville, CA.
Requirements Waived: Sections 1113(a)(2)(B) and 1113(c)(2) of the ESEA.
Duration of Waiver: One year.
Date Granted: December 1, 1995.

(B) Waivers Approved Under the Special Waiver Authority in Section 1113(a)(7) of the ESEA

(1) Name of Applicant: Omaha School District, Omaha, NE.
Requirements Waived: Sections 1113(a)(2)(B) and 1113(c)(2) of the ESEA.
Duration of Waiver: ESEA reauthorization period.
Date Granted: September 12, 1995.
(2) Name of Applicant: Woodland Hills School District, Pittsburgh, PA.
Requirements Waived: Sections 1113(a)(2)(B) and 1113(c)(1) of the ESEA.
Duration of Waiver: Three years.
Date Granted: September 28, 1995.
(3) Name of Applicant: Lynchburg City Schools, Lynchburg, Va.
Requirements Waived: Sections 1113(a)(2)(B) and 1113(c)(2) of the ESEA.
Duration of Waiver: One year (in part) and three years (in part).
Date Granted: October 2, 1995.
(4) Name of Applicant: New Kensington-Arnold School District, Arnold, PA.
Requirement Waived: Section 1113(a)(2)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: October 17, 1995.

(C) Waiver Approved Under the Public Charter Schools Waiver Authority in Section 10304(e) of the ESEA

(1) Name of Applicant: Massachusetts Department of Education.
Requirement Waived: Section 10302(a) of Title X, Part C of the ESEA.
Duration of Waiver: Three years.
Date Granted: July 31, 1995.

(D) Waivers Approved Under the Waiver Authority in Section 311 of the Goals 2000: Educate America Act

(1) Name of Applicant: Oregon Department of Education.
Requirements Waived: Carl D. Perkins Vocational and Applied Technology Education Act at 34 CFR Sections 403.190 and 403.116(c)(1).
Duration of Waiver: Four years.
Date Granted: August 3, 1995.

(E) States Designated Ed-Flex States Under the Education Flexibility Partnership Demonstration Program in section 311(e) of the Goals 2000: Educate America Act

(1) Name of Applicant: Massachusetts.
Duration of Ed-Flex Authority: Five years.
Date Granted: August 19, 1995.
(2) Name of Applicant: Kansas.
Duration of Ed-Flex Authority: Five years.
Date Granted: August 20, 1995.
(3) Name of Applicant: Ohio.
Duration of Ed-Flex Authority: Five years.
Date Granted: September 27, 1995.

(F) Correction to Previous Federal Register Notice

In the description of the Lancaster School District, PA waiver, 60 FR 44391 (August 25, 1995) described two of the district's elementary schools as otherwise ineligible for Title I funds. These two schools have poverty levels below the district average, but are eligible to receive Title I funds irrespective of the waiver.

FOR FURTHER INFORMATION CONTACT: Collette Roney at the Department's Waiver Assistance Line, (202) 401–7801. Copies of Waiver Guidance are also available at this number.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Dated: February 16, 1996.

Marshall S. Smith,

Under Secretary.

[FR Doc. 96–6879 Filed 3–21–96; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[FE Docket No. EA–113]

Application to Export Electricity Destec Power Services, Inc.

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: Destec Power Services, Inc. (Destec) has requested authorization to export electric energy to Mexico. Destec is a marketer of electric energy. It does not own or control any electric generation or transmission facilities.

DATES: Comments, protests, or requests to intervene must be submitted on or before April 22, 1996.

ADDRESSES: Comments, protests, or requests to intervene should be addressed as follows: Office of Coal & Electricity (FE–52), Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0350.

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202–586–9624 or Michael T. Skinker (Program Attorney) 202–586–6667.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. § 824a(e)).

On March 11, 1995, Destec filed an application with the Office of Fossil Energy (FE) of the Department of Energy (DOE) for authorization to export electric energy to Mexico pursuant to section 202(e) of the FPA. Destec neither owns nor controls any facilities for the transmission or distribution of electricity, nor does it have a franchised retail service area. Rather, Destec is a power marketer authorized by the Federal Energy Regulatory Commission (FERC) to engage in the wholesale sale of electricity in interstate commerce at negotiated rates pursuant to its filed rate schedules.

In its application, Destec proposes to sell electric energy to Mexico. The electric energy Destec proposes to transmit to Mexico would be purchased from electric utilities and Federal power marketing agencies in the United States. Destec asserts that such energy would be surplus to the requirements of the entities from which it would be purchased. Destec would arrange for the exported energy to be wheeled from the selling entities, over existing domestic transmission facilities, and delivered to the foreign purchaser over one or more of the following international transmission lines for which Presidential permits (PP) have been previously issued: San Diego Gas and Electric Company's (SDG&E) 230-kilovolt (kV), Miguel-Tijuana transmission line (PP–68); the SDG&E 230-kV line at Imperial Valley (PP–79); El Paso Electric Company's 115-kV lines at Diablo, New Mexico (PP–92) and Ascarate, Texas (PP–48–A); Central Power and Light Company's 138-kV and 69-kV transmission lines at Brownsville, Texas (PP–94); and the 138-kV transmission lines permitted to Mexico's Comision Federal de Electricidad at Eagle Pass (PP–50), Loredo (PP–57), and Falcon Dam (PP–57) in Texas.

Procedural Matters

Any persons desiring to be heard or to protest this application should file a petition to intervene or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the Rules of Practice and Procedure (18 CFR 385.211, 385.214). Fifteen copies of such petitions and protests should be filed with the DOE on or before the date listed above. Additional copies are to be

filed directly with: Mr. John J. Stauffacher, Director, Public Affairs, Destec Energy, Inc. 2500 CityWest Blvd., Suite 150, Houston, Texas 77042 and W. Eric Dennison, Attorney, at the same address.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969 (NEPA), and a determination is made by the DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above.

Issued in Washington, DC, on March 18, 1996.

Anthony J. Como,

Director, Office of Coal & Electricity, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 96–7023 Filed 3–21–96; 8:45 am]

BILLING CODE 6450–01–P

Office of Fossil Energy

[Docket No. FE C&E 96–02—Certification Notice—150]

Clark Public Utilities; Notice of Filing of Coal Capability Powerplant and Industrial Fuel Use Act

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of filing.

SUMMARY: On March 6, 1996, Clark Public Utilities submitted a coal capability self-certification pursuant to section 201 of the Powerplant and Industrial Fuel Use Act of 1978, as amended.

ADDRESSES: Copies of self-certification filings are available for public inspection, upon request, in the Office of Fuels Programs, Fossil Energy, Room 3F–056, FE–52, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Ellen Russell at (202) 586–9624.

SUPPLEMENTARY INFORMATION: Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended (42 U.S.C. 8301 *et seq.*), provides that no new baseload electric powerplant may be constructed or operated without the capability to use coal or another alternate fuel as a primary energy, source. In order to meet the requirement of coal capability, the owner or operator of such facilities proposing to use natural gas or petroleum as its primary energy source shall certify, pursuant to FUA section 201(d), to the Secretary of Energy prior to construction, or prior to operation as a base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) as of the date filed with the Department of Energy. The Secretary is required to publish a notice in **Federal Register** that a certification has been filed. The following owner/operator of a proposed new baseload powerplant has filed a self-certification in accordance with section 201(d).

Owner: Clark Public Utilities
Operator: Cogentrix of Vancouver, Inc.
Location: Vancouver, Washington
Plant Configuration: Combined cycle
Capacity: 248 megawatts
Fuel: Natural gas
Purchasing Entities: Clark Public Utilities
In-Service Date: September, 1997

Issued in Washington, D.C., March 15, 1996.

Anthony J. Como,

Director, Office of Coal & Electricity, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 96–7021 Filed 3–21–96; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulation Commission

[Docket No. ER96–1040–000]

CoEnergy Trading Company; Notice of Issuance of Order

March 18, 1996.

On February 8, 1996, CoEnergy Trading Company (CoEnergy) submitted for filing a rate schedule under which CoEnergy will engage in wholesale electric power and energy transactions as a marketer. CoEnergy also requested waiver of various Commission regulations. In particular, CoEnergy requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by CoEnergy.

On March 14, 1996, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by CoEnergy should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, CoEnergy is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of CoEnergy's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is April 15, 1996.

Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 96–6909 Filed 3–21–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–176–000]

Columbia Gas Transmission Corporation; Notice of Filing of Calculations of Excess Revenues

March 18, 1996.

Take notice that on March 13, 1996, Columbia Gas Transmission Corporation (Columbia), filed its Calculations of Excess Revenues.

Columbia states that prior to February 1, 1996, in accordance with the former Section 37 (Crediting of Excess Revenues) of the General Terms and Conditions (GTC) of Columbia's FERC Gas Tariff, Second Revised Volume No. 1, Columbia credited Excess Revenues from certain rate schedules to applicable Firm Transportation Customers. Pursuant to GTC Section 37.3, Columbia was required to calculate the Excess Revenues for each Applicable Rate Schedule at the earlier of the end of each 12-month period such rates were in effect, or as of the date such rates were superseded by a subsequent rate proceeding. Moreover, within 60 days after the end of each such period, Columbia was required to return the Excess Revenues through dollar credits to Firm Transportation Customer bills. Finally, GTC Section 37.3 required the concurrent filing of Excess Revenues calculations for each Applicable Rate Schedule with the Commission.

On August 1, 1995, Columbia filed a Section 4(e) general rate proceeding in Docket No. RP95–408, proposing, inter alia, termination of Excess Revenues crediting and deletion of Section 37 of the GTC. By order dated August 31, 1995, the Commission allowed Columbia to terminate GTC Section 37 effective February 1, 1996.

Consistent with the former GTC Section 37, Columbia states that it is returning such Excess Revenues concurrently with the filing of this report through dollar credits to Firm Transportation Customer bills. Columbia also states that it did not meet the revenue threshold for Rate Schedule ITS, nor did it collect any revenues under Rate Schedule ISS during the three-month period of November 1, 1995, through January 31, 1996. Columbia further states that it is crediting $181,186 of Excess Revenues attributable to Rate Schedule SIT. Columbia further reserves its right to make a subsequent filing to reflect adjustments applicable to prior Excess Revenues crediting periods.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's rules and Regulations. All such motions or protests must be filed on or before March 25, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room

Lois D. Cashell,

Secretary.

[FR Doc. 96–6906 Filed 3–21–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER95–1751–001]

ConAgra Energy Services, Inc.; Notice of Filing

March 18, 1996.

Take notice that on February 23, 1996, ConAgra Energy Services, Inc. tendered for filing a Notice of Succession notifying FERC that ConAgra Energy Services was incorporated on December 29, 1995.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before March 28, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–6913 Filed 3–21–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM96–7–23–000]

Eastern Shore Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

March 18, 1996.

Take Notice that on March 13, 1996 Eastern Shore Natural Gas Company (ESNG) tendered for filing certain revised tariff sheets in the above captioned docket as part of its FERC Gas Tariff, First Revised Volume No. 1, with a proposed effective date of April 1, 1996.

ESNG states that the purpose of this filing is twofold: (1) to "track" Transcontinental Gas Pipe Line Corporation's (Transco) revised fuel retention percentages for injecting gas into storages (see Transco's Fifth Revised Sheet No. 29) effective April 1, 1996; and (2) to "track" changes in ESNG's pipeline suppliers' storage service rates, also effective April 1, 1996.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rule 211 and Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR Section 385.211 and Section 385.214). All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–6904 Filed 3–21–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–719–001]

MidAmerican Energy Company; Notice of Filing

March 18, 1996.

Take notice that MidAmerican Energy Company on March 11, 1996 tendered for filing proposed changes in its FERC Electric Tariff, First Revised Volume No. 3 and Original Volume No. 4. The proposed changes consist of the following:

1. First Revised Sheet No. 16 of Network Transmission Tariff, FERC Electric Tariff, First Revised Volume No. 3 superseding Original Sheet No. 16; and
2. First Revised Sheet No. 16 of Point-to-Point Transmission Tariff, FERC Electric Tariff, Original Sheet No. 26.
3. First Revised Sheet No. 33 of Point-to-Point Transmission Tariff, FERC Electric Tariff, Original Volume No. 4, superseding Original Sheet No. 33.
4. First Revised Sheet No. 34 of Point-to-Point Transmission Tariff, FERC Electric Tariff, Original Volume No. 4, superseding Original Sheet No. 34.
5. First Revised Sheet No. 38 of Point-to-Point Transmission Tariff, FERC Electric Tariff, Original Volume No. 4, superseding Original Sheet No. 38.

MidAmerican states that it is submitting these changes in compliance with the Commission's February 27, 1996, order in Docket No. ER96–719–000 and to conform the number of yearly extensions a customer may obtain for commencement of service under Section 7.9 of its Point-to-Point Transmission Tariff to the Commission's Open Access NOPR's pro forma tariffs.

Copies of the filing were served upon MidAmerican's jurisdictional customers under the applicable tariffs and the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Any person desiring to the heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211

and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before March 26, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–6911 Filed 3–21–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–174–000]

Pacific Interstate Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

March 18, 1996.

Take notice that on March 14, 1996, Pacific Interstate Transmission Company (PITCO) tendered for filing and acceptance additional tariff sheets revising its Rate Schedule CQS-1. PITCO requests an effective date of May 1, 1996.

PITCO states that its proposed tariff changes would allow PITCO to credit its cost-of-service billings to its sole current customer, Southern California Gas Company (SoCalGas), (1) amounts it receives for releases of capacity on the Pacific Gas Transmission Company and Northwest Pipeline Corporation systems as a Part 284 shipper on such systems up to the maximum liability SoCalGas may have to PITCO for such released capacity, and (2) amounts attributable to the reservation charge portion of sales by PITCO of any gas deemed excess by SoCalGas and which is above any minimum take-or-pay obligations of SoCalGas to PITCO.

Any person desiring to be heard or protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–6905 Filed 3–21–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER95–1096–001]

PacifiCorp; Notice of Filing

March 18, 1996.

Take notice that on February 22, 1996, PacifiCorp tendered for filing in compliance with the Commission's Order dated February 16, 1996 in docket No. ER95–1096–000 a proposed revision to PacifiCorp's FERC Electric Tariff, Original Volume No. 9 (Network Tariff).

PacifiCorp proposes to revise the Network Tariff by removing from the definition of "Eligible Customers" the phrase "any retail customer of PacifiCorp or any entity for which the Commission may not order the provision of transmission service under the Federal Power Act." PacifiCorp proposes no other changes to the Network Tariff by this filing. PacifiCorp's Point-to-Point Transmission Service Tariff does not contain the above cited language.

PacifiCorp requests waiver of prior notice and that an effective date of August 7, 1995 be assigned.

Copies of this filing were served on the Wyoming Public Service Commission, the Public Service Commission of Utah, the Public Utility Commission of Oregon, the Idaho Public Utilities Commission, the Montana Public Service Commission, the Public Utilities Commission of California and the Washington Utilities and Transportation Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before March 28, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–6906 Filed 3–21–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–553–000]

QST Energy Trading, Inc.; Notice of Issuance of Order

March 18, 1996.

On December 8, 1995, as completed on January 25, 1996, QST Energy Trading, Inc. (QST Trading) filed an application for authorization to see energy and capacity at market-based rates, and for certain waivers and authorizations. In particular, QST Trading requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by QST Trading. On March 14, 1996, the Commission issued an Order Conditionally Accepting For Filing Market-Based Rates And Granting And Denying Requests For Waivers And Authorizations (Order), in the above-docketed proceeding.

The Commission's March 14, 1996 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (F), (G), and (I):

(F) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of the securities or assumptions of liabilities by QST Trading should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(G) Absent a request to be heard within the period set forth in Ordering Paragraph (F) above, QST Trading is hereby authorized, pursuant to section 204 of the FPA, to issue securities and to assume obligations or liabilities as guarantor, endorser, surety, or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of QST Trading, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(I) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of QST Trading's issuances of securities or assumptions of liabilities * * *

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is April 15, 1996.

Copies of the full test of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 96–6912 Filed 3–21–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–175–000]

Williams Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

March 18, 1996.

Take notice that on March 13, 1996 Williams Natural Gas Company (WNG) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to be effective April 13, 1996:

First Revised Sheet No. 6B
Second Revised Sheet No. 250A
First Revised Sheet No. 250B

WNG states that it proposes to be permitted to discount its fuel and loss reimbursement percentage applicable to transportation on the Rawlins-Hesston line from the receipt points to the delivery points specified in proposed Article 13.3. WNG will grant fuel and loss reimbursement percentage discounts in competitive situations on a non-discriminatory basis to any party utilizing the designated receipt and delivery points.

WNG states that a copy of its filing was served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–6914 Filed 3–21–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP96–173–000 and RP89–183–050]

Williams Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

March 18, 1996.

Take notice that on March 13, 1996, Williams Natural Gas Company (WNG), tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, with the proposed effective date of April 13, 1996:

First Revised Sheet Nos. 8A and 8B

WNG states that this filing is being made pursuant to Article II, Section 10 of the Stipulation and Agreement dated November 24, 1992 (November 24 S & A), approved by Commission Order dated March 12, 1993 (61 FERC ¶ 61,240) and Article 14 of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1. WNG hereby submits a further report of take-or-pay buyout, buydown and contract reformation costs and gas supply related transition costs, and the application or distribution of those costs and refunds.

WNG states that a copy of its filing was served on all participants listed on the service lists maintained by the Commission in the dockets referenced above and on all of WNG's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Rules and Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–6915 Filed 3–21–96; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 2569–004 Project No. 2538–001 New York]

Niagara Mohawk Power Corporation, Beebee Island Corporation; Notice of Availability of Draft Environmental Assessment

March 18, 1996.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the applications for a new licenses for the Black River and Beebee Island Projects located in Jefferson County, New York, and has prepared a Draft Environmental Assessment (DEA) for the projects. In the DEA, the Commission's staff has analyzed the potential environmental impacts of the existing projects and has concluded that approval of the projects, with appropriate environmental protection or enhancement measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the DEA are available for review in the Public Reference Branch,

Room 2A of the Commission's offices at 888 First Street, N.E., Washington, D.C. 20426.

Any comments should be filed within 30 days from the date of this notice and should be addressed to Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. Please affix "Black River Project No. 2569–004" and/or "Beebee Island Project No. 2538–001" to all comments. For further information, please contact Tom Camp at (202) 219–2832.

Lois D. Cashell,

Secretary.

[FR Doc. 96–6907 Filed 3–21–96; 8:45 am]

BILLING CODE 6717–01–M

[Project Nos. P–2660, et al.]

Hydroelectric Applications [Georgia-Pacific Corporation, et al.]; Notice of Applications

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1 a. Type of filing: Notice of Intent to File an Application for a New License.

b. Project No.: 2660.

c. Date filed: August 21, 1995.

d. Submitted By: Georgia-Pacific Corporation, current licensee.

e. Name of Project: Forest City.

f. Location: On Forest City Stream, East Branch of the St. Croix River, in Aroostook and Washington Counties, Maine.

g. Filed Pursuant to: 18 CFR 16.6 of the Commission's regulations.

h. Effective date of original license: April 1, 1962.

i. Expiration date of original license: August 31, 2000.

j. The licensed project consists of: (1) the United States portion of a 500-foot-long dam having a 110-foot-long western embankment section, a 45-foot-long timber-crib spillway section containing two hand-operated wooden 8.3-foot-wide, 10-foot-high gates, and the western half of a 7-foot-wide center pier section; (2) the United States portion of a reservoir having a 17,040 acre surface area at normal pool elevation 434.94 feet m.s.l.; and (3) appurtenant facilities.

The unlicensed project works consist of: (1) the Canadian portion of a 500-foot-long dam having a 324-foot-long eastern embankment section, a pool and weir type fishway section containing six 6.5-foot-wide, 4.0-foot-deep pools, a hand-operated 8.3-foot-wide, 10.0-foot-high wooden gate, and the eastern half of a 7-foot-wide center pier section; and (2) the Canadian portion of a reservoir having a 17,040 acre surface area at normal pool elevation 434.94 feet m.s.l.

The project has no installed generating capacity.

k. Pursuant to 18 CFR 16.7, information on the project is available at: Woodland Mill, Main Street, Woodland, Maine 04694, (207) 427–3311.

l. FERC contact: Charles T. Raabe (202) 219–2811.

m. Pursuant to 18 CFR 16.11 and 16.19 each application for a new or subsequent license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by August 31, 1998.

2 a. Type of Application: Preliminary Permit.

b. Project No.: 11490–000.

c. Date Filed: July 11, 1994.

d. Applicant: Fall Line Hydro Company, Inc.

e. Name of Project: Augusta Canal Water Power Project.

f. Location: On the Savannah River, Richmond County, Georgia.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. Applicant Contact: Mr. Robert A. Davis III, Fall Line Hydro Company, Inc., P.O. Box 957265, Duluth, GA 30136, (404) 938–7769.

i. FERC Contact: Michael Dees (202) 219–2807.

j. Comment Date: May 17, 1996.

k. Description of Project: The proposed project would consist of: (1) an existing stone masonry dam approximately 1,600 feet long; (2) an existing 119-acre reservoir with a normal maximum surface elevation of 155 feet msl; (3) an existing section of the Augusta Canal; (4) a proposed intake structure; (5) a proposed powerhouse containing four 3.0 MW hydropower units; (6) a proposed tailrace structure approximately 150 feet long; (7) a proposed transmission line 1,600 feet long; and (8) appurtenant facilities. The applicant estimates that the annual energy generation would be 65,000 Mwh and that the cost of the studies to be performed under the permit would be $25,000. Project energy would be sold to Oglethorpe Power Corporation or another utility. The dam and canal are owned by the City of Augusta, GA.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

3 a. Type of filing: Notice of Intent to File An Application for a New License.

b. Project No.: 3030.

c. Date filed: February 27, 1996.

d. Submitted By: Antrim County, Michigan, current licensee.

e. Name of Project: Elk Rapids.

f. Location: On the Elk River, in the Village of Elk Rapids, Antrim County, MI.

g. Filed Pursuant to: 18 CFR 16.6(b) of the Commission's regulations.

h. Effective date of original license: February 28, 1981.

i. Expiration date of original license: February 27, 2001.

j. The project consists of: (1) a forebay; (2) an 87-foot-long, 23.5-foot-high concrete and brick powerhouse and integral dam structure containing two 350-kW generating units for a total installed capacity of 700-kW; (3) a concrete spillway having stoplog control located on the Elk River about 450 feet southwest of the powerhouse; (4) a reservoir having a 34,000 acre surface area and a 75,000 acre-foot storage capacity at normal summer pool elevation 588.26 feet IGLD; (5) a tailrace to Grand Traverse Bay; (6) a 50-foot-long, 4,160-volt underground transmission line; and (7) appurtenant facilities.

k. Pursuant to 18 CFR 16.7, information on the project is available at: Antrim County Board of Commissioners, P.O. Box 520, Bellaire, MI 49615, (616) 533–6265.

l. FERC contact: Charles T. Raabe (202) 219–2811.

m. Pursuant to 18 CFR 16.19 and 16.20, each application for a new or subsequent license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by February 27, 1999.

4 a. Type of Application: New Major License.

b. Project No.: 2616–004.

c. Date Filed: December 18, 1991.

d. Applicant: Niagara Mohawk Power Corporation.

e. Name of Project: Hoosic River Hydroelectric Project.

f. Location: Hoosic River, Rensselaer and Washington counties, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Jerry Sabattis, Hydro Licensing Coordinator, Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, NY 13202, (315) 474–1511.

i. FERC Contact: Edward R. Meyer (202) 208–7998.

j. Deadline Date: The Director, Office of Hydropower Licensing, is waiving that part of section 4.34(b) of the

regulations (see Order No. 533 issued May 8 1991, 56 FR 23108 (May 20, 1991)), that sets the deadlines. Therefore, all comments, recommendations, terms and conditions, and prescriptions concerning this application must be filed with the Commission by May 24, 1996. All reply comments must be filed with the Commission by July 8, 1996.

Also see paragraph D10.

k. Status of Environmental Analysis: The application and the response to the Commission's additional information request have been accepted for filing and the application is ready for environmental analysis. See attached paragraph D10.

l. Description of Project: The Hoosic River Project is located in Rensselaer and Washington counties, New York. The project consists of two developments, Johnsonville and Schaghticoke, which are located on the Hoosic River approximately 13.3 and 7.1 miles, respectively, from its confluence with the Hudson River. The applicant currently operates both developments as storage-and-release peaking facilities. The Johnsonville Dam creates a 450 acre impoundment at a normal maximum water surface elevation of 346 feet above mean sea level, a usable storage capacity of 1,790 acre-feet, and a gross maximum storage capacity of 6,430 acre-feet. The normal maximum vertical fluctuation of the Johnsonville impoundment is 4 feet. The Schaghticoke Dam creates a 198 acre impoundment at a normal maximum water surface elevation of 267 feet above mean sea level, a usable storage capacity of 190 acre-feet, and a gross maximum storage capacity of 1,150 acre-feet. The normal maximum vertical fluctuation of the Schaghticoke impoundment is 1 foot.

Schaghticoke Development

The Schaghticoke development includes: (a) a concrete gravity dam with 2.5-foot-high wooden flashboards; (b) a waste gate structure containing two steel timber gates; (c) a canal that leads to the pipeline intake structure containing an ice sluice; (d) one steel pipeline that leads to a steel surge tank; (e) five steel penstocks that exit the surge tank and lead to the powerhouse; and (f) a powerhouse containing four vertical Francis turbine-generator units and associated controls and equipment.

The total installed capacity of the Schaghticoke development is 15.1 megawatts (MW) with an annual average energy generation of 68,300 megawatt-hours (MWh) and a hydraulic capacity of 240 to 1,640 cubic feet per second (cfs). The facility creates a 1.96 mile bypass reach between the dam and powerhouse tailrace. The bypass reach currently receives no minimum flows. The powerhouse operates under a gross head of 153 feet. There are no transmission lines included in the existing development.

The applicant proposes to change the operation of the Schaghticoke development from storage-and-release peaking to storage-and-release pulsing. The applicant also proposes to repair and upgrade the plant facilities and automate operations via remote controls.

The applicant proposes to release a minimum flow of 10 cfs to the bypass reach and a base flow of 40 cfs downstream of the powerhouse. Impoundment fluctuations would be limited to 1 foot below the top of the flashboards or spillway crest.

The applicant proposes to replace the existing waterwheel exciters with two 150-kilowatt, 15 cfs fixed discharge propeller turbines. The installed capacity of the development would increase to 16.4 MW and, because of generator restrictions, the hydraulic capacity would decrease to 1,470 cfs.

Johnsonville Development

The Johnsonville development includes: (a) a concrete gravity dam with 2.5-foot-high wooden flashboards; (b) a gatehouse containing four iron sluice gates; (c) a concrete intake structure containing two bays; and (d) a powerhouse containing two horizontal double runner Francis turbines, two synchronous plant generators and associated controls and equipment.

The total installed capacity of the Johnsonville development is 4.8 MW with an annual average energy generation of 14,350 MWh and a hydraulic capacity of 380 to 1288 cfs. There is no substantial bypassed reach associated with the facility. The powerhouse operates under a gross head of 38 feet. There are no transmission lines included in the existing development.

The applicant proposes to change the operation of the Johnsonville development from storage-and-release peaking to storage-and-release pulsing. The applicant would also repair and upgrade the plant facilities and automate operations via remote controls. The applicant proposes to reduce the normal fluctuations in the impoundment from 4 feet to 1 foot. The applicant would release a base flow of 40 cfs downstream of the powerhouse.

The applicant proposes to enhance recreational facilities by: providing a recreational/educational trail system along the north shore downstream of the Buskirk Bridge (including an observation deck, interpretive signs, picnic area, fishing access points, and parking area); constructing car-top boat launch sites with picnic facilities on the southeast shore near the dam; constructing a canoe portage around the dam; and constructing a car-top boat launch near the Buskirk Bridge for access to the Johnsonville impoundment.

m. Purpose of Project: Project power would be utilized by the applicant for sale to its customers.

n. This notice also consists of the following standard paragraphs: A4 and D10.

o. Available Location of Application: A copy of this application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 First Street, N.E., Room 2A, Washington, D.C., 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, NY 13202, or by calling (315) 474–1511.

5 a. Type of filing: Notice of Intent to File An Application for a New (Subsequent) License.

b. Project No.: 2585.

c. Date filed: July 28, 1995.

d. Submitted By: Duke Power Company, current licensee.

e. Name of Project: Idols.

f. Location: On the Yadkin River, in Forsyth County, NC.

g. Filed Pursuant to: 18 CFR 16.6 of the Commission's regulations.

h. Effective date of original license: April 1, 1962.

i. Expiration date of original license: July 31, 2000.

j. The project consists of: (1) a 15-foot-high, 660-foot-long rubble masonry dam having an ungated spillway; (2) a 1-mile-long reservoir having a 35 acre surface area and no appreciable storage at normal pool elevation; (3) an integral stone masonry and wood powerhouse containing six generating units with a total installed capacity of 1,411-kW; and (4) appurtenant facilities.

k. Pursuant to 18 CFR 16.7, information on the project is available at: Duke Power Company, 422 South Church Street, Charlotte, NC 28242, (704) 382–8104.

l. FERC contact: Charles T. Raabe (202) 219–2811.

m. Pursuant to 18 CFR 16.19 and 16.20, each application for a new or subsequent license and any competing license applications must be filed with the Commission at least 24 months prior

to the expiration of the existing license. All applications for license for this project must be filed by July 31, 1998.

6 a. Type of Application: Minor License.

b. Project No.: 11574–000.

c. Date filed: February 23, 1996.

d. Applicant: City of Norwich, Department of Public Utilities.

e. Name of Project: Occum Project.

f. Location: on the Shetucket River, near the City of Norwich, New London County, Connecticut.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. §§ 791 (a)–825(r).

h. Applicant Contact: Mr. Peter Polubiatko, Electric Division Manager, City of Norwich, Department of Utilities, 16 Golden Street, Norwich, CT 06360, (203) 823–4153.

i. FERC Contact: Michael Dees (202) 219–2807.

j. Comment Date: 60 days from the filing date in paragraph c.

k. Description of Project: The project would consist of the following features: (1) An existing dam, (2) a 90 acre reservoir, (3) a forebay, (4) an intake structure, (5) an existing powerhouse housing a hydropower unit with a capacity of 800 Kw; (6) a proposed fish passage facility; (7) an existing 4.8 Kv transmission line; and (8) appurtenant facilities.

l. With this notice, we are initiating consultation with the Connecticut State Historic Preservation Officer (SHPO), as required by section 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

m. Pursuant to Section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the filing date and serve a copy of the request on the applicant.

In addition to filing under the above paragraph, requests for additional studies may be submited on a 3½-inch diskette formatted for MS–DOS based computers. In light of our ability to translate MS–DOS based materials, the text need only be submitted in the format and version that it was generated (i.e., MS Word, Wordperfect 5.1/5.2, ASCII, etc.). It is not necessary to reformat word processor generated text to ASCII. For Macintosh users, it would be helpful to save the documents in Macintosh word processor format and then write them to files on a diskette formatted for MS–DOS machines.

7 a. Type of Application: Transfer of License.

b. Project No.: 10468–015.

c. Date Filed: February 28, 1996.

d. Applicant: Marsh Valley Hydroelectric Company Marsh Valley Development, Inc.

e. Name of Project: Marsh Valley.

f. Location: On the Portneuf River, in Bannock County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. Applicant Contact: Ted S. Sorenson, President, Marsh Valley Development, Inc., 5203 South 11th East, Idaho Falls, ID 83404, (208) 522–8069.

i. FERC Contact: Regina Saizan, (202) 219–2673.

j. Comment Date: May 3, 1996.

k. Description of Request: Marsh Valley Hydroelectric Company (MVHC), licensee, and Marsh Valley Development, Inc. (MVDI) request that the license for the Marsh Valley Project be transferred from MVHC to MVDI.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

Standard Paragraphs

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by

the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D10. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to Section 4.34(b) of the Regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice (May 13, 1996 for Project No. 2616–004). All reply comments must be filed with the Commission within 105 days from the date of this notice (June 26, 1996 for Project No. 2616–004).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

Dated: March 18, 1996, Washington, D.C.

Lois D. Cashell,

Secretary.

[FR Doc. 96–6966 Filed 3–21–96; 8:45 am]

BILLING CODE 6717–01–P

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy announces the procedures for disbursement of $721,973.05 (plus accrued interest) in alleged or adjudicated crude oil overcharges obtained by the DOE from Brio Petroleum, Inc. (Case No. VEF–0017), Merit Petroleum Company (Case No. VEF–0018), Transcontinental Energy Corp. (VEF–0020) and Utex Oil Co. (Case No. VEF–0021). The OHA has determined that the funds obtained from these firms, plus accrued interest, will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, 51 FR 27899 (August 4, 1986).

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue, S.W., Washington, D.C. 20585–0107, (202) 586–2860.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set forth below. The Decision and Order sets forth the procedures that the DOE has tentatively formulated to distribute a total of $721,973.05, plus accrued interest, remitted to the DOE by Brio Petroleum, Inc., Merit Petroleum, Inc., Transcontinental Energy Corp., and Utex Oil Co. The DOE is currently holding these funds in interest bearing escrow accounts pending distribution.

The OHA will distribute these funds in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, 51 FR 27899 (August 4, 1986) (the MSRP). Under the MSRP, crude oil overcharge monies are divided among the federal government, the states, and injured purchasers of refined petroleum products. Refunds to the states will be distributed in proportion to each state's consumption of petroleum products during the price control period. Refunds to eligible purchasers will be based on the volume of petroleum products that they purchased and the extent to which they can demonstrate injury.

Because the June 30, 1995, deadline for crude oil refund applications has passed, no new applications from purchasers of refined petroleum products will be accepted for the 20 percent of these funds allocated to individual claimants.

Dated: March 14, 1996.

Thomas O. Mann,

Acting Director, Office of Hearings and Appeals.

Implementation of Special Refund Procedures

Names of Firms:
Brio Petroleum, Inc.
Merit Petroleum Company
Transcontinental Energy Corporation
Utex Oil Company

Date of Filings:
September 1, 1995

Case Numbers:
VEF–0017
VEF–0018
VEF–0020
VEF–0021

In accordance with the procedural regulations of the Department of Energy (DOE), 10 CFR Part 205, Subpart V, the Office of General Counsel, Regulatory Litigation (OGC) (formerly the Economic Regulatory Administration (ERA), Office of Enforcement Litigation), filed four Petitions for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA) on September 1, 1995. The Petitions request that OHA formulate and implement procedures to distribute funds received by the DOE from Brio Petroleum, Inc. (Brio), Merit Petroleum Company (Merit), Transcontinental Energy Corp. (Transcontinental), and Utex Oil Company (Utex), as a result of enforcement proceedings against the firms.

On January 16, 1996, we issued a Proposed Decision and Order (PDO) that tentatively established refund procedures for the distribution of crude oil overcharge funds obtained from these four firms.[1] *Brio Petroleum, Inc.*, Case Nos. VEF–0017 *et al.*, 61 FR 1919 (January 24, 1996). We provided a period of 30 days from the date of the PDO's publication in the **Federal Register** in which the public could comment on the tentative refund procedures. More than 30 days have elapsed, and the OHA has received no comments concerning the proposed procedures. Accordingly, this Decision and Order sets forth the OHA's plan to distribute these funds received from the four firms.

I. Background

As indicated by the following summaries of the relevant enforcement proceedings, all of the funds that are subject to this Decision were obtained through enforcement actions involving alleged or adjudicated crude oil overcharges.

A. Brio

Brio [2] was a reseller of crude oil during the period May 1, 1978 through December 31, 1979 (the audit period), and was subject to the crude oil reseller regulations set forth at 10 CFR Part 212, Subpart L. As the result of an ERA audit of Brio's operations, on November 20, 1984, the ERA issued a Proposed Remedial Order (PRO) to the firm alleging that it had engaged in layered crude oil transactions in violation of 10 C.F.R. 212.186, by charging prices for crude oil in excess of actual purchase prices without providing any service or other function traditionally and historically associated with the resale of crude oil during the audit period. After denying a Statement of Objections filed by White, Brio was issued a Remedial Order (RO) by the OHA on April 16, 1987. *Brio Petroleum, Inc.*, 15 DOE ¶ 83,033 (1987).[3]

Subsequently, the matter was referred to the U.S. Department of Justice (DOJ) for enforcement of the RO. Although judgment was entered against Brio, the firm had previously filed for bankruptcy. The firm possessed assets insufficient to satisfy claims of general unsecured creditors, including the DOE. On July 14, 1993, the DOJ compromised the claim against White for $5,000. As of February 29, 1996, the Brio Consent Order fund contained $5,000 in principal plus $613.86 in accrued interest.

B. Merit

Merit [4] was a reseller of crude oil, and was subject to the crude oil reseller regulations set forth at 10 CFR Part 212, Subpart L. As the result of an ERA audit of Merit's operations, on October 20, 1986, the ERA issued a PRO to the firm alleging that during the period November 1978 through December 1980, the firm engaged in layered crude oil transactions in violation of 10 CFR Part 212.186, by charging prices for crude oil in excess of actual purchase prices without providing any service or other function traditionally and historically associated with the resale of crude oil. Merit submitted a Statement of Objections to the PRO. After considering and rejecting Merit's objections, the OHA issued an RO to Merit on January 31, 1990. *Merit Petroleum, Inc.*, 20 DOE ¶ 83,002 (1990). The RO found that Merit's layered transactions resulted in overcharges amounting to $48,290,793.17. The RO was affirmed by the Federal Energy Regulatory Commission (FERC). *Merit Petroleum, Inc.*, 65 FERC ¶ 61,175. During the course of a subsequent federal district court proceeding, Merit and the DOE stipulated to an Agreed Judgment, which resolved the Merit enforcement proceeding. Pursuant to the Agreed Judgment, Merit agreed to pay to the DOE the sum of $64,715. Merit has fulfilled its financial obligation to the DOE. As of February 29, 1996, the Merit Consent Order fund contained $64,715 in principal plus $3,766.80 in accrued interest.

C. Transcontinental

Transcontinental was a producer of crude oil during the period of January 1975 through December 1980, and was subject to the Federal petroleum price and allocation regulations. On March 30, 1979, the ERA issued a Notice of Probable Violation to Transcontinental alleging $372,151.67 in crude oil overcharge violations from several properties it operated. Transcontinental had filed a petition in bankruptcy on October 14, 1977, and had been adjudicated bankrupt on October 5, 1978. The trustee appointed by the Bankruptcy Court opposed DOE's claim, but the United States District Court in Nevada on appeal ruled in favor of the DOE. *In re Transcontinental Energy Corp.* v. *United States Department of Energy*, 3 Fed. Energy Guidelines ¶ 26,638 (D. Nev. 1990), *aff'd*, 950 F.2d 733 (Temp. Emer. Ct. App. 1991). Transcontinental's estate was insufficient to satisfy completely the claims of unsecured creditors, including the DOE. As a result, DOE received $231,335.32. As of February 29, 1996, the Transcontinental settlement fund contained $231,335.32 in principal plus $18,696.40 in accrued interest.

D. Utex

During the period of Federal petroleum price controls, Utex was engaged in producing and selling crude oil. Utex was therefore subject to the regulations governing the pricing of crude oil set forth at 10 C.F.R. Parts 205, 210, 211, and 212 of the Mandatory Petroleum Price and Allocation Regulations. On June 16, 1982, the ERA issued a PRO to the firm in which it alleged that during the period from July 1, 1975 through April 30, 1980, Utex improperly classified and priced crude oil produced from several properties it operated. In addition, the PRO also alleged that Utex disregarded the current cumulative deficiency rule, erroneously computed the base production control level, and erroneously applied the stripper well lease exemption to certain properties. As a result of these violations, the PRO alleged that Utex overcharged its customers by $502,833.21. Utex filed a Statement of Objections to the PRO on September 29, 1982. On February 19, 1985, the OHA issued the PRO as a RO. *Utex Oil Co.*, 12 DOE ¶ 83,031 (1985). The RO was affirmed by the FERC. *Utex Oil Co.*, 36 FERC ¶ 61,099 (1986). In the course of an appeal to the United States District Court in Utah, Utex and the DOE entered into a Stipulation for Withdrawal of Appeal and Judgment on Counterclaim and Order (Stipulation). Accepting the Stipulation, the Court granted DOE a judgment against Utex of $884,794.01. The judgment provided the basis for DOE's claim in the bankruptcy proceeding initiated by Utex on August 1, 1986. Utex's estate was insufficient to satisfy completely the claims of general unsecured creditors, including the DOE. As a result, DOE received distributions totalling $420,922.73. As of February 29, 1996, the Utex settlement fund contained $420,922.73 in principal plus $117,473.37 in accrued interest.

II. Jurisdiction and Authority

The Subpart V regulations set forth general guidelines which may be used by the OHA in formulating and implementing a plan of distribution of funds received as a result of an enforcement proceeding. The DOE policy is to use the Subpart V process to distribute such funds. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, *see Petroleum Overcharge Distribution and Restitution Act of 1986*, 15 U.S.C. §§ 4501 *et seq.*; *see also Office of Enforcement*, 9 DOE ¶ 82,508 (1981), and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981).

III. The Refund Procedures

A. Crude Oil Refund Policy

We adopt the tentative determination of the PDO to distribute the funds obtained from the four enforcement proceedings in accordance with DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases (MSRP), 51 Fed. Reg. 27899 (August 4, 1986), which was issued as a result of the Settlement Agreement approved by the court in *In re The Department of Energy Stripper Well Exemption Litigation*, 653 F. Supp. 108 (D. Kan. 1986). Shortly after the issuance of the MSRP, the OHA issued an Order that announced that this policy would be applied in all Subpart V proceedings involving alleged crude oil violations. Order Implementing the MSRP, 51 Fed. Reg. 29689 (August 20, 1986) (the August 1986 Order).

Under the MSRP, 40 percent of crude oil overcharge funds will be disbursed to the federal government, another 40 percent to the states, and up to 20 percent may initially be reserved for the payment of claims to injured parties. The MSRP also specified that any funds remaining after all valid claims by injured purchasers are paid will be disbursed to the federal government and the states in equal amounts.

In April 1987, the OHA issued a Notice analyzing the numerous comments received in response to the August 1986 Order. 52 Fed. Reg. 11737 (April 10, 1987) (April 10 Notice). This Notice provided guidance to claimants that anticipated filing refund applications for crude oil monies under the Subpart V regulations. In general, we stated that all claimants would be required to (1) document their purchase volumes of petroleum products during the August 19, 1973 through January 27, 1981 crude oil price control period, and (2) prove that they were injured by the alleged crude oil overcharges. Applicants who were end-users or ultimate consumers of petroleum products, whose businesses are unrelated to the petroleum industry, and who were not subject to the DOE price regulations would be presumed to have been injured by any alleged crude oil overcharges. In order to receive a refund, end-users would not need to submit any further evidence of injury beyond the volume of petroleum products purchased during the period of price controls. See *City of Columbus Georgia*, 16 DOE ¶ 85,550 (1987).

B. Refund Claims

The amount of money subject to this Decision is $721,973.05 plus accrued interest. In accordance with the MSRP, we shall initially reserve 20 percent of those funds ($144,394.61 plus accrued interest) for direct refunds to applicants who claim that they were injured by crude oil overcharges. We shall base refunds to claimants on a volumetric amount which has been calculated in accordance with the description in the April 10 Notice. That volumetric refund amount is currently $0.0016 per gallon. See 60 FR 15562 (March 24, 1995).

Applicants who have executed and submitted a valid waiver pursuant to one of the escrows established by the Stripper Well Settlement Agreement have waived their rights to apply for a crude oil refund under Subpart V. See *Mid-America Dairyman Inc.* v. *Herrington*, 878 F.2d 1448, 3 Fed. Energy Guidelines ¶ 26,617 (Temp. Emer. Ct. App. 1989); *In re Department of Energy Stripper Well Exemption Litigation*, 707 F. Supp. 1267, 3 Fed. Energy Guidelines ¶ 26,613 (D. Kan 1987). Because the June 30, 1995, deadline for crude oil refund applications has passed, we shall not accept any new applications for these funds. See *Western Asphalt Service, Inc.*, 25 DOE ¶ 85,047 (1995). Instead, these funds will be added to the general crude oil overcharge pool used for direct restitution.[5]

C. Payments to the States and Federal Government

Under the terms of the MSRP, the remaining 80 percent of the alleged crude oil violation amounts subject to this Decision, or $577,578.44 plus accrued interest, should be disbursed in equal shares to the states and federal government, for indirect restitution. Refunds to the states will be in proportion to the consumption of petroleum products in each state during the period of price controls. The share or ratio of the funds which each state will receive is contained in Exhibit H of the Stripper Well Settlement Agreement. When disbursed, these funds will be subject to the same limitations and reporting requirements as all other crude oil monies received by the states under the Stripper Well Agreement.

Accordingly, we will direct the DOE's Office of the Controller to transfer one-half of that amount, or $288,789.22, plus interest, into an interest bearing subaccount for the states, and one-half or $288,789.22, plus interest, into an interest bearing subaccount for the federal government. In accordance with previous practice, when the amount available for distribution to the states reaches $10 million, we will direct the DOE's Office of the Controller to make the appropriate disbursement to the individual states.

It is therefore ordered That:

(1) The Director of Special Accounts and Payroll, Office of Departmental Accounting and Financial Systems Development, Office of the Controller of the Department of Energy shall take all steps necessary to transfer the consent order funds shown in the Appendix to this Decision and Order, plus all accrued interest from the escrow accounts of the firms listed in the Appendix, pursuant to Paragraphs (2), (3), and (4) of this Decision.

(2) The Director of Special Accounts and Payroll shall transfer $288,789.22 plus accrued interest, of the funds referenced in Paragraph (1) above, into the subaccount denominated "Crude Tracking-States," Number 999DOE0003W.

(3) The Director of Special Accounts Payroll shall transfer $288,789.22, plus

[1] One other firm, Texas American Oil Corporation (Texas American), was included in the PDO. However, because of additional information that we have received concerning the Texas American proceeding, that firm has been omitted from the present Decision and instead will be the subject of a new Proposed Decision.

[2] References to Brio in this Decision include L.B. White, President, Treasurer, and a Director (White), who maintained a controlling interest in the firm during the price control period.

[3] The RO found that the firm alone was liable for refunding $1,093,546, plus accrued interest, for the layering violations that occurred from May through July 1978. White and the firm were jointly liable for the layering violations which occurred after August 1, 1978, that resulted in overcharges amounting to $849,570.

[4] References to Merit in this Decision include Thomas H. Battle, President and a Director of Merit, and Anton E. Meduna, Vice President, a Director, General Manager and Secretary of Merit.

[5] A crude oil refund applicant is only required to submit one application for its share of all available crude oil overcharge funds. See, *e.g.*, *Ernest A. Allerkamp*, 17 DOE ¶ 85,079 at 88,176 (1988).

accrued interest, of the funds referenced in Paragraph (1) above, into the subaccount denominated "Crude Tracking-Federal," Number 999DOE002W.

(4) The Director of Special Accounts and Payroll shall transfer $144,394.16, plus accrued interest, of the funds referenced in Paragraph (1) above, into the subaccount denominated Crude Tracking-Claimants 4," Number 999DOE0010Z.

(5) This is a final Order of the Department of Energy.

Dated: March 14, 1996.

Thomas O. Mann for George B. Breznay,

Director, Office of Hearings and Appeals.

APPENDIX

Case No.	Firm and consent order No.	Principal
VEF–0017	Brio Petroleum, Inc., 6A0X00283W	55,000.00
VEF–0018	Merit Petroleum Company, 650X00288W	64,715.00
VEF–0020	Transcontinental Energy Corp., 940C00224W	231,335.32
VEF–0021	Utex Oil Company, 810C00336W	420,922.73
Total		721,973.05

[FR Doc. 96–7022 Filed 3–21–96; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

Sunshine Act Meeting

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: March 27, 1996—10:00 a.m.

PLACE: 888 First Street, N.E., Room 2C, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 208–0400. For a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the reference and information center.

Consent Agenda—Hydro, 649th Meeting—March 27, 1996, Regular Meeting (10:00 a.m.)

CAH–1.
Docket# P–9974, 023, Rough and Ready Hydro Company
CAH–2.
Docket# P–2343, 033, The Potomac Edison Company
CAH–3.
Docket# P–2445, 004, OMYA, Inc.
Other#S P–2445, 005, OMYA, Inc.
CAH–4.
Docket# P–2486, 005, Wisconsin Electric Power Company
CAH–5.
Docket# P–5276, 034, Niagara Mohawk Power Corporation and Northern Electric Power Company, L P
CAH–6.
Docket# P–6032, 028, Niagara Mohawk Power Corporation
Other#S EL95–49, 000, Fourth Branch Associates v. Niagara Mohawk Power Corporation

Consent Agenda—Electric

CAE–1.
Docket# ER96–640, 000, PECO Energy Company
Other#S ER96–641, 000, PECO Energy Company
CAE–2.
Omitted
CAE–3.
Docket# ER96–930, 000, Pennsylvania Power & Light Company
Other#S ER96–931, 000, Pennsylvania Power & Light Company
ER96–932, 000, Pennsylvania Power & Light Company
ER96–933, 000, Pennsylvania Power & Light Company
CAE–4.
Docket# ER95–1269, 000, E Prime Inc.
Other#S ER96–939, 000, Public Service Company of Colorado and Cheyenne Light, Fuel and Power Company
CAE–5.
Docket# ER96–979, 000, Illinova Power Marketing, Inc.
CAE–6.
Docket# EF95–5171, 000, United States Department of Energy—Western Area Power Administration Salt Lake City Area Integrated Project
CAE–7.
Docket# ER76–205, 016, Southern California Edison Company
Other#S ER79–150, 024, Southern California Edison Company
ER81–177, 019, Southern California Edison Company
ER82–427, 014, Southern California Edison Company
ER84–75,020, Southern California Edison Company
ER86–271,007, Southern California Edison Company
ER87–483,006, Southern California Edison Company
FA85–67,006, Southern California Edison Company
CAE–8.
Docket# ER95–625, 000, Cincinnati Gas & Electric Company
Other#S EC93–6, 001, Cincinnati Gas & Electric Company
EL95–39, 000, Cincinnati Gas & Electric Company
ER94–1015, 000, Cincinnati Gas & Electric Company
CAE–9.
Docket# ER95–1542, 001, Midamerican Energy Company
Other#S EL96–38, 000, Midamerican Energy Company
ER95–188, 002, Midamerican Energy Company
CAE–10.
Docket# EG96–42, 000, FTM Energy Inc.
CAE–11.
Docket# EL95–81, 000, New York Mercantile Exchange

Consent Agenda—Gas and Oil

CAG–1.
Docket# RP95–396, 007, Tennessee Gas Pipeline Company
Other#S RP96–160, 000, Tennessee Gas Pipeline Company
CAG–2.
Docket# RP96–123, 000, Florida Gas Transmission Company
Other#S RP96–123, 001, Florida Gas Transmission Company
CAG–3.
Docket# RP96–140, 000, Columbia Gas Transmission Corporation
CAG–4.
Docket# RP96–148, 000, National Fuel Gas Supply Corporation
Other#S RP96–148, 001, National Fuel Gas Supply Corporation
CAG–5.
Docket# RP96–151, 000, Florida Gas Transmission Company
Other#S RP96–151, 001, Florida Gas Transmission Company
CAG–6.

Docket# RP96–152, 000, Southern Natural Gas Company
CAG–7.
Docket# RP96–154, 000, ANR Pipeline Company
CAG–8.
Omitted
CAG–9.
Docket# RP96–158, 000, Southern Natural Gas Company
CAG–10.
Docket# RP96–161, 000, ANR Pipeline Company
CAG–11.
Docket# RP96–165, 000, Columbia Gas Transmission Corporation
Other#S RP96–165, 001, Columbia Gas Transmission Corporation
CAG–12.
Docket# SA96–1, 000, Montana Power Company
CAG–13.
Omitted
CAG–14.
Omitted
CAG–15.
Omitted
CAG–16.
Docket# TM96–3–48, 000, ANR Pipeline Company
CAG–17.
Omitted
CAG–18.
Omitted
CAG–19.
Omitted
CAG–20.
Omitted
CAG–21.
Docket# RP96–163, 000, Northern Natural Gas Company
CAG–22.
Docket# RP96–164, 000, Northern Natural Gas Company
CAG–23.
Omitted
CAG–24.
Docket# RP96–167, 000, Noram Gas Transmission Company
CAG–25.
Docket# TM96–2–33, 000, El Paso Natural Gas Company
CAG–26.
Docket# TM96–3–37, 000, Northwest Pipeline Corporation
CAG–27.
Omitted
CAG–28.
Omitted
CAG–29.
Omitted
CAG–30.
Docket# PR96–2, 000, Transok Inc.
CAG–31.
Docket# PR96–3, 000, Equitable Storage Company
CAG–32.
Omitted
CAG–33.
Docket# RP95–196, 001, Columbia Gas Transmission Corporation
Other#S RP94–157, 004, Columbia Gas Transmission Corporation
RP95–196, 002, Columbia Gas Transmission Corporation
RP95–392, 000, UGI Utilities, Inc. v. Columbia Gulf Transmission Company
CAG–34.
Docket# RP95–449, 000, Trunkline Gas Company
Other#S RP95–449, 001, Trunkline Gas Company
CAG–35.
Omitted
CAG–36.
Docket# PR95–2, 000, Southeastern Natural Gas Company
Other#S PR95–2, 001, Southeastern Natural Gas Company
CAG–37.
Docket# RP95–447, 003, Williams Natural Gas Company
CAG–38.
Docket# RP94–394, 003, Panhandle Eastern Pipe Line Company
CAG–39.
Omitted
CAG–40.
Omitted
CAG–41.
Docket# RP94–425, 006, Tennessee Gas Pipeline Company
CAG–42.
Docket# RP94–294, 006, Panhandle Eastern Pipe Line Company
CAG–43.
Docket# RP94–296, 007, Williams Natural Gas Company
CAG–44.
Omitted
CAG–45.
Docket# RP92–137, 033, Transcontinental Gas Pipe Line Corporation
CAG–46.
Docket# RP91–26, 014, El Paso Natural Gas Company
Other#S RP91–162, 005, El Paso Natural Gas Company
CAG–47.
Docket# GP91–6, 006, Jack J. Grynberg, et al., v. Rocky Mountain Natural Gas Co., a division of KN Energy Inc.
Other#s GP91–10, 006, Rocky Mountain Natural Gas Company, a division of KN Energy Inc. v. Jack J. Grynberg, et al.
CAG–48.
Docket# IS94–10, 005, Amerada Hess Pipeline Corporation
Other#s IS94–10, 006, Amerada Hess Pipeline Corporation
IS94–11, 005, ARCO Transportation Alaska, Inc.
IS94–11, 006, ARCO Transportation Alaska, Inc.
IS94–12, 005, BP Pipeline (Alaska) Inc.
IS94–12, 006, BP Pipeline (Alaska) Inc.
IS94–13, 005, Mobil Alaska Pipeline Company
IS94–14, 005, Exxon Pipeline Company
IS94–14, 006, Exxon Pipeline Company
IS94–15, 005, Mobil Alaska Pipeline Company
IS94–15, 006, Mobil Alaska Pipeline Company
IS94–16, 005, Phillips Alaska Pipeline Company
IS94–16, 006, Philips Alaska Pipeline Company
IS94–17, 005, Unocal Pipeline Company
IS94–17, 006, Unocal Pipeline Company
IS94–31, 005, Unocal Pipeline Company
IS94–31, 006, Unocal Pipeline Company
IS94–34, 003, ARCO Transportation Alaska, Inc.
IS94–34, 004, ARCO Transportation Alaska, Inc.
IS94–38, 004, Philips Alaska Pipeline Corporation
IS94–38, 006, Phillips Alaska Pipeline Corporation
OR94–2, 001, Amerada Hess Pipeline Corporation and ARCO Transportation Alaska, Inc., BP Pipeline (Alaska) Inc., et al.
CAG–49.
Docket# OR89–2, 000, Trans Alaska Pipeline System
Other#s IS89–7, 000, Amerada Hess Pipeline Corporation
IS89–8, 000, ARCO Pipeline Company
IS89–9, 000, BP Pipelines (Alaska) Inc.
IS89–10, 000, Exxon Pipeline Company
IS89–11, 000, Mobil Alaska Pipeline Company
IS89–12, 000, Phillips Alaska Pipeline Corporation
IS89–13, 000, Unocal Pipeline Company et al.
CAG–50.
Docket# RM95–4, 000, Revisions to Uniform System of Accounts, Forms, Statements, and Reporting Requirements for Natural Gas Co.
CAG–51.
Docket# RP96–155, 000, CNG Transmission Corporation
CAG–52.
Omitted
CAG–53.
Docket# RP96–169, 000, CNG Transmission Corporation
CAG–54.
Docket# CP93–505, 006, Panhandle Eastern Pipe Line Company
CAG–55.
Docket# CP93–613, 005, Northwest Pipeline Corporation
Other#S CP93–673, 005, Northwest Pipeline Corporation
RP95–413, 001, Northwest Pipeline Corporation
CAG–56.
Docket# CP95–543, 001, Northern Natural Gas Company
Other#S CP95–547, 001, Highlands Gathering and Processing Company
CAG–57.
Docket# CP95–636, 001, Transcontinental Gas Pipe Line Corporation
CAG–58.
Docket# CP94–329, 001, El Paso Natural Gas Company
Other#S CP94–329, 000, El Paso Natural Gas Company
CAG–59.
Omitted
CAG–60.
Docket# CP96–145, 000, Lawrenceburg Gas Company
CAG–61.
Docket# CP96–26, 000, Greeley Gas Company, a Division of Atmos Energy Corporation
CAG–62.
Docket# CP95–588, 000, Pacific Interstate Offshore Company
CAG–63.

Docket# CP96–81, 000, Western Gas Interstate Company and Norteno Pipeline Company
Other#S CP96–83, 000, Norteno Pipeline Company
CP96–84, 000, Norteno Pipeline Company
CAG–64.
Docket# RP96–157, 000, Wyoming Interstate Company, Ltd.
Other#S TM96–2–76, 000, Wyoming Interstate Company, Ltd.
CAG–65.
Docket# PR93–3, 001, Montana Power Company
CAG–66.
Docket# TM96–10–29, 000, Transcontinental Gas Pipe Line Corporation
CAG–67.
Docket# RP96–85, 001, Tennessee Gas Pipeline Company
CAG–68.
Docket# RP95–374, 003, Gas Research Institute

Hydro Agenda

H–1.
Reserved

Electric Agenda

E–1.
Reserved

Oil and Gas Agenda

I. Pipeline Rate Matters

PR–1.
Reserved

II. Pipeline Certificate Matters

PC–1.
Reserved
Dated: March 20, 1996.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7196 Filed 3–20–96; 3:52 pm]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[AD–FRL–5444–9]

Agency Information Collection Activities: Proposed Collection; Comment Request; Renewal for Application Requirements for the Approval and Delegation of Federal Air Toxics Programs to State and Local Agencies

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3506 (c)(2)), this notice announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Renewal for Application Requirements for the Approval and Delegation of Federal Air Toxics Programs to State and Local Agencies, OMB No. 2060–0264 (ICR # 1643.02), expiration date July 31, 1996. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before May 21, 1996.

ADDRESSES: U.S. Environmental Protection Agency, Office of Air and Radiation, Office of Air Quality Planning and Standards, Information Transfer and Program Integration Division, Integrated Implementation Group, MD–12, Research Triangle Park, North Carolina 27711. Interested persons may obtain a copy of the ICR without charge by contacting Pamela J. Smith, at (919) 541–5319. Electronic copies of the ICR can be obtained from the Technology Transfer Network (TTN) Bulletin Board under "Recently Signed Rules".

FOR FURTHER INFORMATION CONTACT: Mr. Gil Wood, (919) 541–5272 (phone)/(919) 541–4028 (fax).

SUPPLEMENTARY INFORMATION: Affected Entities: Entities potentially affected by this action are State and local agencies participating in this voluntary program.

Title: Renewal for Application Requirements for the Approval and Delegation of Federal Air Toxics Programs to State and Local Agencies, OMB No. 2060–0264 (ICR # 1643.02), Expiration date July 31, 1996.

Abstract: The rule was developed in accordance with section 112(l)(2) of the Clean Air Act, as amended in 1990, which calls for the U.S. Environmental Protection Agency (EPA) to "publish guidance that would be useful to the States in developing programs. . . allowing for delegation of the Administrator's authorities and responsibilities to implement and enforce emissions standards and prevention requirements." Affected entities include State and local agencies choosing to participate in this voluntary program. No industries are included among respondents. The approval process consists of selecting one or any combination of three options that allow the respondent to adjust or substitute for a Federal rule or program. These three options include (1) approval of a rule which adjusts a section 112 rule, (2) approval of a rule which substitutes for a section 112 rule, and (3) approval of a program which substitutes for some or all of section 112 emission standards. These three approval options vary in the types of changes allowed and in the level of demonstrations required for approval. Respondents interested in utilizing this program are required to submit an application package to the reviewing agency. The contents of each submission varies with the option(s) chosen. Criteria applicable to all options include a letter from the State Attorney General assuring delegation authority, a copy of State statutes, resource demonstration, implementation schedule, compliance plan, and enforcement procedures. All submissions are voluntary on the part of the State or local agency and, therefore, the information collection requirements apply only to those agencies that voluntarily submit applications for delegation of authority. All application packages are submitted to the Administrator for approval. The information is needed to determine if a State or local agency submitting a request has met the criteria established in the 40 CFR part 63, subpart E rule. Certain information is necessary for the Administrator to determine acceptability of approving State rules or programs in lieu of Federal rules or programs. This collection is a one-time collection of information in the application package for the purpose of determining that the State or local agency has met the criteria specified in the rule. Resubmission is only required in instances where the State rule or program has been revised or if the approval has been withdrawn. The collection of information is authorized under 42 U.S.C. 7401–7671q. Information obtained by EPA is safeguarded according to the Agency policies set forth in Title 40, Chapter 1, part 2, subpart B, Confidentiality of Business Information. See 40 CFR 2; 41 FR 36902, September 1, 1976; amended by 43 FR 39999, September 8, 1978; 43 FR 42251, September 28, 1978; 44 FR 17674, March 23, 1979.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

The EPA would like to solicit comments to:

(i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: As a part of this ICR renewal, the Agency will evaluate this rulemaking's burden and cost. "Burden" means the total time and effort expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency, including the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. "Cost" means the value of resources expended to accomplish the tasks listed above, including the cost of labor and capital expenditures.

States, Tribal entities, and local entities will be the only affected entities for this rulemaking. Out of 54 States and Territories, the Agency estimates 40 percent (or 22) States will submit applications under this program. The Agency also expects each participating State will submit two applications under Options 1 and 2 during a 1-year period following promulgation of the rule and will submit a one-time application under Option 3.

Out of 80 local agencies, Indian tribes, etc., the Agency estimates 25 percent (or 20) local agencies, Indian tribes, etc. will submit applications under this program. It also estimates each participating agency will submit two applications under Options 1 and 2 during a 1-year period following promulgation of the rule and submit a one-time application under Option 3.

The Agency believes these submission estimates establish an upper bound to the potential scope of this rulemaking since State and local agencies may choose any combination of the three options and since reports for approval are expected to decrease in later years.

The Agency estimates the annual burden for the General criteria common to all options to be 39,608 person-hours per year. The estimated cost to State and local agencies is $1,269,232 per year.

The annual burden for Option #1, Adjusting a section 112 Rule, is estimated to be 4,367 person-hours per year. The Agency estimates the associated cost to State and local agencies is $148,599 per year.

The annual burden for Option #2, Substituting a section 112 rule, is estimated to be 26,082 person-hours per year. The Agency expects Option #2 will cost $835,858 per year.

The annual burden and cost for Option #3, Substituting a section 112 program, is estimated to be 8,936 person-hours and $286,354 per year.

The Agency estimates the annual burden for Review and Withdrawal at 621 person-hours per year, at a cost of $19,899 per year.

The total estimated cost for the three approval options including General criteria and Review and Withdrawal cost is $2.6 million; or $60 thousand per affected entity. The total burden for all options totals 80 thousand person-hours per year or two thousand person-hours per year for each affected entity. There may be variations in the annual bottom line since this is a one-time submittal. Periodic audits may occur at the discretion of the compliance and enforcement authorities.

Use of this rulemaking allows State and local agencies to gain approval of State air toxics rules and programs, which they can implement at a lower costs, thus providing them with a net decrease in terms of overall program expenditure. Because the above burdens and costs are based upon the *voluntary* participation of affected entities, it is believed that the use of this rulemaking will result in a net reduction in burden and costs to States, Tribal entities, and local entities. Additionally, the Agency believes this rulemaking is not significant because its cost is less than the $25 million significance level established under Executive Order 12866.

Send comments regarding these matters, or any other aspect of the information collection, including suggestions for reducing the burden, to the address listed above.

Dated: March 13, 1996.

Karen Blanchard,

Acting Director, Information Transfer and Program, Integration Division.

[FR Doc. 96–7005 Filed 3–21–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5444–2]

Agency Information Collection Activities; Ecosystem Monitoring Survey

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following proposed Information Collection Request (ICR) to the Office of Management and Budget (OMB): Ecosystem Monitoring Survey. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before May 21, 1996.

ADDRESSES: Pacific Northwest Ecorisk Assessment Research Program, Western Ecology Division, National Health and Environmental Effects Laboratory, Office of Research and Development, U.S. Environmental Protection Agency, 200 SW 35th St., Corvallis, OR 97333. A copy of the ICR may be obtained without charge from the contact identified below.

FOR FURTHER INFORMATION CONTACT: Paul L. Ringold, Ph.D., (503) 754–4565, FAX (503) 754–4716, EMail: ringold@heart.cor.epa.gov.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those which are involved with the use of monitoring data to support natural resource-related decisions in the Pacific Northwest.

Title: Ecosystem Monitoring Survey.

Abstract: The primary goal of the survey is to obtain information regarding the possible future requirements and applications of natural resources monitoring data in the Pacific Northwest. The survey will contribute to the process of designing monitoring programs for ecosystem management in the region, and will advance the ability of scientific and regulatory entities in the region to make informed decisions regarding resource management. Results of the survey will be used by the EPA in developing an integrated monitoring plan for the region. The survey will identify strengths and weaknesses of monitoring data, and suggest areas of broad data gaps in monitoring data specific to future regional natural resource management issues. The survey is targeted at monitoring issues which have not been specifically addressed by

FEMAT. There are three explicit objectives of the survey:

1. Identify the strengths and weaknesses of monitoring programs or data used in conjunction with one past natural resource-related decision.

2. Identify two of the most important future issues or decisions that could substantially affect natural resources in the region and identify monitoring data needs pertinent to each decision.

3. Identify the strengths and weaknesses of existing monitoring programs and data available to support these future decisions.

The survey is exploratory, and is not designed for statistical analysis of how monitoring data is used, or a critical evaluation of any specific monitoring program or system. The survey is voluntary, and although a list of interviewed individuals will accompany the published report, these individuals or organizations which they represent will not be associated with specific comments. The survey involves one and one-half hour interviews with approximately 30 persons representing State and local governments or other resource management entities in western Oregon and Washington. The information collection method will be personal interviews to maximize the likelihood of frank, informal perceptions of future resource issues and evaluations of monitoring programs, and longer responses containing valuable anecdotal information in regards to monitoring data supporting past decisions. The basic assumption is that the length and complexity of responses will be maximized in an interview situation where someone will be there to listen to respondent's ideas rather than read them later at some undetermined time, although respondents are encouraged to bring supporting materials to the interview if desired. Interviews will be tape recorded to minimize use of the respondent's time, and respondents will be offered the opportunity to review a summary of the interview before publication. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The EPA would like to solicit comments to:

(i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Estimates of the projected cost and hour burdens for this ICR are as follows.:

Hour burden (survey respondents): The public reporting burden (no recordkeeping is involved) for this one-time collection of information is estimated to average 2 hours and 40 minutes, comprised of the following components:

(i) 10 minute telephone contact to set up interviews (using a response rate of 50%, 60 persons will be contacted to arrange 30 interviews);

(ii) 30 minute review of background information and interview script;

(iii) 1.5 hour interview for 30 individuals; and

(iv) 30 minute review of interview summary (this is optional).

Total hour burden for survey: 2 hours and 40 minutes per respondent x 30 respondents = 80 hours, plus 5 hours (10 minutes x 30 persons) for persons who are contacted but choose not to participate in a personal interview, for a total of 85 hours.

Cost burden: There is no additional financial burden to respondents in the disclosure of information for this survey.

Dated: March 5, 1996.

Paul L. Ringold,

Ecologist, Regional Ecology Branch.

[FR Doc. 96–7028 Filed 3–21–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5444–1]

Agency Information Collection Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following proposed and/or continuing Information Collection Requests (ICRs) to the Office of Management and Budget (OMB). Before submitting the ICRs to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collections as described below.

DATES: Comments must be submitted on or before May 15, 1996.

ADDRESSES: Office of Grants and Debarment, 401 M Street SW., Washington, D.C. 20460, Mailstop 3903F.

FOR FURTHER INFORMATION CONTACT: Remit comments to: William G. Hedling, (202) 260–8269/Fax: (202) 401–2350/ hedling.william@epamail.epa.gov

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those which apply for EPA assistance.

Title: GENERAL ADMINISTRATIVE REQUIREMENTS FOR ASSISTANCE PROGRAMS. EPA ICR #0938.05, OMB Control #2030–0020, Expiration 6/30/ 96.

Abstract: The information is collected from applicants/recipients of EPA assistance and is used to make awards, pay recipients and collect information on how Federal funds are being spent. EPA needs the information to meet its Federal stewardship. This Information Collection Request (ICR) renewal request authorizes the collection of information under EPA's General Regulations for Assistance Programs that establishes minimum management requirements for all recipients of EPA grants or cooperative agreements (assistance agreements). 40 CFR Part 30 "Grants with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations" includes the management requirements for these potential grantees. 40 CFR Part 31 "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments" includes the management requirements for these potential grantees. These regulations include only those provisions mandated by statute, required by OMB Circulars or added by EPA to ensure sound and effective financial assistance management. This SF–83 combines all of these requirements under OMB Control Number 2030–0020. The information required by these regulations will be used by the EPA award official to make assistance awards, to make assistance payments, and to verify that the recipient is using Federal funds appropriately to comply with OMB Circulars. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9.

The EPA would like to solicit comments to:

(i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The annual record keeping burden for this collection is estimated to average 32 hours per application. The estimated annual number of respondents is approximated 4,474. The estimated total burden hours on respondents: 143,168. The frequency of collection: as required.

Send comments regarding these matters, or any other aspect of information collection, including suggestions for reducing the burden, to the address listed above.

Dated: March 14, 1996.

Gary M. Katz,

Director, Grants Administration Division.

[FR Doc. 96–7033 Filed 3–21–96; 8:45 am]

BILLING CODE 6560–60–P

[FRL–5445–2]

Acid Rain Program: Notice of Draft Written Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of draft written exemptions.

SUMMARY: The U.S. Environmental Protection Agency is issuing draft written exemptions from Acid Rain permitting and monitoring requirements to 11 utility units at 5 plants in accordance with the Acid Rain Program regulations (40 CFR part 72). Because the Agency does not anticipate receiving adverse comments, the exemptions are also being issued as a direct final action in the notice of written exemptions published elsewhere in today's **Federal Register**.

DATES: Comments on the exemptions proposed by this action must be received on or before April 22, 1996 or 30 days after publication of a similar notice in a local newspaper.

ADDRESSES: *Administrative Records.* The administrative record for the exemptions, except information protected as confidential, may be viewed during normal operating hours at the following locations: For plants in New York: EPA Region 2, 290 Broadway, New York, NY 10007–1866; for plants in Texas: EPA Region 6, First Interstate Bank Tower, 1445 Ross Avenue, Dallas, TX, 75202–2733; and for plants in Kansas and Missouri: EPA Region 7, 726 Minnesota Ave., Kansas City, KS, 66101.

Comments. Send comments to: For plants in New York, Conrad Simon, Director, Air and Waste Management Division, EPA Region 2, (address above); for plants in Texas, Samuel Coleman, P.E., Director, Compliance Assurance and Enforcement Division, EPA Region 6, (address above); and for plants in Kansas and Missouri, William Spratlin, Director, Air and Toxics Division, EPA Region 7, (address above).

Submit comments in duplicate and identify the exemption to which the comments apply, the commenter's name, address, and telephone number, and the commenter's interest in the matter and affiliation, if any, to the owners and operators of the unit covered by the exemption.

FOR FURTHER INFORMATION CONTACT: For plants in New York, Gerry DeGaetano, 212–637–4020; for plants in Texas, Dan Meyer, 214–665–7233, and for plants in Kansas and Missouri, Lisa Hanlon, 913–551–7599.

SUPPLEMENTARY INFORMATION: If no significant, adverse comments are timely received, no further activity is contemplated in relation to these draft written exemptions and the exemptions issued as a direct final action in the notice of written exemptions published elsewhere in today's **Federal Register** will automatically become final on the date specified in that notice. If significant, adverse comments are timely received on any exemption, that exemption in the notice of written exemptions will be withdrawn and all public comment received on that exemption based on the relevant exemption in this notice of draft written exemptions. Because the Agency will not institute a second comment period on this notice of draft written exemptions, any parties interested in commenting should do so during this comment period.

For further information and a detailed description of the exemptions, see the information provided in the notice of written exemptions elsewhere in today's **Federal Register**.

Dated: March 19, 1996.

Brian J. McLean,

Director, Acid Rain Division, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 96–7031 Filed 3–21–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5445–1]

Acid Rain Program: Notice of Direct Final Written Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of written exemptions.

SUMMARY: The U.S. Environmental Protection Agency is issuing, as a direct final action, written exemptions from the Acid Rain permitting and monitoring requirements to 11 utility units at 5 plants in accordance with the Acid Rain Program regulations (40 CFR part 72). Because the Agency does not anticipate receiving adverse comments, the exemptions are being issued as a direct final action.

DATES: Each of the exemptions issued in this direct final action will be final on May 1, 1996 or 40 days after publication of a similar notice in a local newspaper, whichever is later, unless significant, adverse comments are received by April 22, 1996 or 30 days after publication of a similar notice in a local newspaper, whichever is later. If significant, adverse comments are timely received on any exemption in this direct final action, that exemption will be withdrawn through a notice in the **Federal Register**.

ADDRESSES: *Administrative Records.* The administrative record for the exemptions, except information protected as confidential, may be viewed during normal operating hours at the following locations. For plants in New York: EPA Region 2, 290 Broadway, New York, NY 10007–1866; for plants in Texas: EPA Region 6, First Interstate Bank Tower, 1445 Ross Avenue, Dallas, TX, 75202–2733; and for plants in Kansas and Missouri: EPA Region 7, 726 Minnesota Ave., Kansas City, KS, 66101.

FOR FURTHER INFORMATION CONTACT: For plants in New York, Gerry DeGaetano, 212–637–4020; for plants in Texas, Dan Meyer, 214–665–7233, and for plants in Kansas and Missouri, Lisa Hanlon, 913–551–7599.

SUPPLEMENTARY INFORMATION: All public comment received on any exemption in this direct final action on which significant, adverse comments are timely received will be addressed in a subsequent issuance or denial of exemption based on the relevant draft exemption in the notice of draft written exemptions that is published elsewhere in today's **Federal Register** and that is identical to this direct final action.

Under the Acid Rain Program regulations (40 CFR 72.7), utilities may petition EPA for an exemption from permitting and monitoring requirements for any new utility unit that serves one or more generators with total nameplate capacity of 25 MW or less and burns only fuels with a sulfur content of 0.05 percent or less by weight. On the earlier of the date a unit exempted under 40 CFR 72.7 burns any fuel with a sulfur content in excess of 0.05 percent by weight or 24 months prior to the date the exempted unit first serves one or more generators with total nameplate capacity in excess of 25 MW, the unit shall no longer be exempted under 40 CFR 72.7 and shall be subject to all permitting and monitoring requirements of the Acid Rain Program.

EPA is issuing written exemptions to the following new units, effective from January 1, 1996 through December 31, 2000:

Wamego units 1920–3, 1920–4, and 1920–5 in Kansas, operated by the City of Wamego. The designated representative for Wamego is Larry Fechter.

Malden units 2, 3, and 4 in Missouri, operated by the City of Malden. The designated representative for Malden is Gary Youngquist.

Vandalia units 4 and 5 in Missouri, operated by the City of Vandalia. The designated representative for Vandalia is Todd Hileman.

Additionally under the Acid Rain Program regulations (40 CFR 72.8), utilities may petition EPA for an exemption from Phase II permitting requirements for units that are retired prior to the issuance of a Phase II Acid Rain permit. Units that are retired prior to the deadline for continuous emissions monitoring system (CEMS) certification may also petition for an exemption from monitoring requirements.

While the exempt retired units have been allocated allowances under 40 CFR part 73, units exempted under 40 CFR 72.8 must not emit any sulfur dioxide or nitrogen oxides on or after the date the units are exempted, and the units must not resume operation unless the designated representative submits an application for an Acid Rain permit and installs and certifies its monitors by the applicable deadlines.

EPA is issuing written exemptions from Phase II permitting requirements and monitoring requirements, effective from January 1, 1996, through December 31, 2000, to the following retired units:

Waterside units 51 and 52 in New York, operated by Consolidated Edison. The designated representative for Waterside is M. Peter Lanahan, Jr.

Victoria unit 5 in Texas, operated by Central and Southwest Services, Inc. The designated representative for Victoria is E. Michael Williams.

Dated: March 19, 1996.

Brian J. McLean,

Director, Acid Rain Division, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 96–7032 Filed 3–21–96; 8:45 am]

BILLING CODE 6560–50–P

[ER–FRL–5414–6]

Environmental Impact Statements; Notice of Availability

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 564–7167 or (202) 564–7153.

Weekly receipt of Environmental Impact Statements Filed March 11, 1996 through March 15, 1996, Pursuant to 40 CFR 1506.9.

EIS No. 960123, Draft EIS, AFS, CA, Emigrant Wilderness Management Direction, Implementation, Stanislaus National Forest, Tuolumne County, CA, Due: May 21, 1996, Contact: Steve Brougher (209) 965–3434.

EIS No. 960124, Final EIS, AFS, AK, Northwest Baranof Timber Sale(s), Implementation, NPDES, Coast Guard Bridge, COE Section 10 and 404 Permits, Tongass National Forest, Sitka Ranger District, Baranof Island, AK, Due: April 22, 1996, Contact: James M. Thomas (907) 747–6671.

EIS No. 960125, Draft EIS, USN, FL, Programmatic EIS—Mayport Naval Station, to Evaluate Facilities Development Necessary to Support Potential Aircraft Carrier Homporting, Duval County, FL, Due: May 6, 1996, Contact: Ronnie Lattimore (803) 820–5888.

EIS No. 960126, Final EIS, GSA, CA, San Diego—United States Courthouse, Site Selection and Construction within a portion of the Central Business District (CBD), City of San Diego, San Diego County, CA, Due: April 22, 1996, Contact: Rosanne Nieto (415) 444–8111.

EIS No. 960127, Draft EIS, AFS, MT, Boulder and Wyman Gulch Vegetation Management Timber Sale and Prescribed Burning, Implementation, Beaverhead-Deerlodge National Forests, Philipsburg Ranger District, Granite County, MT, Due: May 06, 1996, Contact: Ed Casey (406) 859–3211.

EIS No. 960128, Final EIS, FHW, OH, US 50 Highway Improvements between the City of Athens to the Village of Coolville, US 50 18.58 from 4 km (2.5 miles) west of OH–690 to OH–7, US Coast Guard Permit and COE Section 10 and 404 Permits, Athens County, OH, Due: April 22, 1996, Contact: Dale E. Wilken (708) 283–3500.

EIS No. 960129, Draft EIS, DOE, NY, West Valley Demonstration Project for Completion and Western New York Nuclear Service Center Closure or Long-Term Management, Appalachian Plateau, City of Buffalo, NY, Due: September 22, 1996, Contact: Dan Sullivan (800) 633–5280.

Dated: March 18, 1996.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 96–7002 Filed 3–21–96; 8:45 am]

BILLING CODE 6560–50–U

[ER–FRL–5414–7]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared March 4, 1996 through March 8, 1996 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 14, 1996 (60 FR 19047).

Draft EISs

ERP No. D–AFS–J65243–MT Rating LO, Castle Mountians Allotment Management Plan, Implementation, Lewis and Clark National Forest, Musselshell and King Hill Ranger Districts, White Sulphur Springs, Meagher County, MT.

Summary: EPA expressed lack of objections and recommended that additional information including improved descriptions of State Water Quality Standards and linkages to State lists of water quality limited streams be included in the FEIS.

ERP No. D–BLM–K67032–NV Rating EO2, Round Mountain Mine Mill and Tailings Facility, Construction and Operation for the Smoke Valley Operation, Plan of Operations Amendment Approval, Nye County, NV.

Summary: EPA expressed environmental objections to the proposed project because it could result in significant adverse cumulative impacts to waterfowl attracted to the pit lake which could exceed water quality standards for wildlife. We also recommended additional information in the Final Environmental Impact Statement (FEIS) regarding mitigation measures; impacts to soil, vegetation, wildlife, livestock, and springs and seeps; and monitoring.

ERP No. D–SFW–G64012–00 Rating LO, Mexican Wolf (Canis lupus baileyi) Reintroduction within the Historic Range, Implementation, in the Southwestern United States, Catron, Dona Ana, Grant and Lincoln Counties, NM and Apache and Greenlee Counties, AZ.

Summary: EPA had no objections to the proposed action and concurs with the Fish and Wildlife Service's selection of Alternative A as the environmentally preferred alternative.

Final EISs

ERP No. F–NPS–K61128–CA Santa Rosa Island Development Concept Plan, Implementation and Funding, Channel Islands National Park, Santa Barbara County, CA.

Summary: EPA requested that the NEPA Record of Decision contain a commitment to implement the water quality protection measures contained in the FEIS.

Dated: March 18, 1996.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 96–7003 Filed 3–21–96; 8:45 am]

BILLING CODE 6560–50–U

[ER–FRL–5414–5]

Intent To Prepare a Supplemental Environmental Impact Statement (SEIS) for the Alaska–Juneau (AJ) Mine Project, Juneau, AK

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to prepare an SEIS.

SUMMARY: In accordance with Section 511(c)(1) of the Clean Water Act (CWA) and Section 102(2)(c) of the National Environmental Policy Act (NEPA) EPA has identified a need to prepare an SEIS and publishes this Notice of Intent in accordance with 40 CFR 1501.7.

FOR FURTHER INFORMATION OR TO SEND SCOPING COMMENTS: William Riley, Office of Water Mining Coordinator OW–135, EPA, 1200 Sixth Avenue, Seattle, WA 98101, phone (206) 553–1412. Local contact is Steve Torok, EPA's Juneau office, phone (907) 586–7619.

SUPPLEMENTARY INFORMATION: The proposed AJ Mine Project is subject to EPA authorization through CWA Section 402, including the National Pollutant Discharge Elimination System (NPDES) permit program. The project is a new source (40 CFR 122.2 and 122.29), and under CWA Section 511(c)(1) is subject to NEPA prior to the NPDES permit decision (40 CFR Part 6, Subpart F). The AJ Mine is an underground gold mine, located south of Juneau, Alaska, which closed in 1944. In 1988, Echo Bay, Alaska (Echo Bay) filed necessary permit applications to reopen the mine and an EIS was completed by the Bureau of Land Management in 1992. During the permitting phase, EPA completed a technical assistance report which concluded there was a high potential for significant degradation of the waters of the United States. Echo Bay proposed modifications to address concerns raised and filed new permit applications. EPA also commenced a rule-making that would allow consideration of submarine tailings disposal. New field studies to characterize marine and other resources are ongoing.

Project Description—The reopened AJ Mine would produce 15,000 tons per day of ore, and 80 million tons during the 13-year project life. Gold recovery would be by means of gravity separation and froth flotation processes in an underground mill. No cyanide would be used. Surface facilities would be located at the Rock Dump area south of Juneau. The tailings would be pumped through a pipeline in Gastineau Channel for discharge at depth in Stephens Passage. Power would be supplied by diesel-gas turbine generators. Staffing is estimated at 400 personnel.

Project alternatives currently considered include: (1) Douglas Island Dry Tailings—the tailings would be piped across Gastineau Channel, dewatered and conveyed to a dry tailings disposal area on Douglas Island, (2) Sheep Creek Subaqueous Tailings—similar to the proposed action in the 1992 FEIS except the impoundment would hold less tailings, no cyanide would be used, and the flows of Sheep Creek would be partially diverted around the impoundment, (3) Powerline Gulch Subaqueous Tailings—similar to an option in the 1992 FEIS, except the impoundment would hold less tailings, no cyanide would be used, and surface runoff would be diverted around the impoundment, (4) Mine Backfill and Douglas Island Dry Tailings—combining backfilling of cemented tailings with surface disposal at a reduced dry tailings site on Douglas Island, (5) Submarine Tailings Disposal Upland Pipeline—similar to the proposal, except the tailings pipeline would follow an upland route along Gastineau Channel and to Stephens Passage for discharge.

SCOPING MEETING DATE AND COMMENT DEADLINE: On April 17, 1996, EPA will host an SEIS scoping open house at Centennial Hall in Juneau from 3:00 to 9:00 p.m. Scoping comments from the public will be welcomed that day, or they may be submitted to EPA in writing. The scoping period comment deadline is April 30, 1996.

ESTIMATED DATE OF DRAFT SEIS RELEASE: September, 1996.

Dated: March 20, 1996.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 96–7004 Filed 3–21–96; 8:45 am]

BILLING CODE 6560–50–U

[FRL–5445–6]

Underground Injection Control Program Hazardous Waste Land Disposal Restrictions; Petition for Exemption—Class I Hazardous Waste Injection Well, American Ecology Environmental Services Corporation (AEESC)

AGENCY: Environmental Protection Agency.

ACTION: Notice of Final Decision on Exemption Modification.

SUMMARY: Notice is hereby given that a petition for modification to an exemption to the land disposal restrictions under the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act has been granted to AEESC, for the Class I injection wells located at the Winona, Texas facility. As required by 40 CFR Part 148, the company has adequately demonstrated to the satisfaction of the Environmental Protection Agency by petition and supporting documentation that, to a reasonable degree of certainty, there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. This final decision allows the underground injection by AEESC of the specific restricted hazardous waste identified in the petition modification, into the Class I hazardous waste injection wells at the Winona, Texas facility specifically identified in the petition for as long as the basis for granting an approval of this petition remains valid, under provisions of 40 CFR 148.24. As required by 40 CFR 124.10, a public notice was issued on May 17, 1995. The public comment period ended on July 7, 1995, was re-opened on August 10, 1995 and closed on September 8, 1995. This decision constitutes final Agency action and there is no Administrative appeal.

DATES: This action is effective as of March 14, 1996.

ADDRESSES: Copies of the petition for modification and all pertinent information relating thereto are on file at the following location: Environmental Protection Agency, Region 6, Water Quality Protection Division, Source Water Protection Branch (6WQ–S), 1445 Ross Avenue, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Larry Wright, Chief, Ground Water/UIC Section, EPA—Region 6, telephone (214) 665–7165.

William B. Hathaway,

Director, Water Quality Protection Division.

[FR Doc. 96–7034 Filed 3–21–96; 8:45 am]

BILLING CODE 6560–50–P

[OPP–50816; FRL–5352–7]

Receipt of a Notification to Conduct Small-Scale Field Testing of a Genetically-Engineered Microbial Pesticide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received from American Cyanamid Company of New Jersey a notification (241-NMP-G) of intent to conduct small-scale field testing involving a baculovirus *Autographa californica* Multiple Nuclear Polyhedrosis Virus (ACMNPV) which has been genetically engineered to contain a gene which encodes for an insect-specific protein toxin from the venom of the scorpion *Androctonus australis*. American Cyanamid intends to test this microbial pesticide on cotton, tobacco, and leafy vegetables in 12 states. Target pests for these field trials include the cabbage looper (*Trichoplusia ni*) and the tobacco budworm (*Heliothis virescens*). The Agency has determined that the application may be of regional and national significance. Therefore, in accordance with 40 CFR 172.11(a), the Agency is soliciting public comments on this application.

DATES: Written comments should be submitted to EPA by April 22, 1996.

ADDRESSES: Comments in triplicate, must bear the docket control number OPP–50816 and be submitted to: Public Docket and Freedom of Information Section, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington DC 20460.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted in ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by docket number OPP–50816. No CBI should be submitted through e-mail. Electronic comments on this action may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found under the SUPPLEMENTARY unit of this document.

FOR FURTHER INFORMATION CONTACT: Linda Hollis, Biopesticides and Pollution Prevention Division (7501W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: 5th Floor, CS #1, 2805 Jefferson Davis Hwy., Arlington, VA, (703)308–8733; e-mail: hollis.linda@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: A notification of intent to conduct small-scale field testing pursuant to EPA's Statement of Policy entitled, "Microbial Products Subject to the Federal Insecticide, Fungicide, and Rodenticide Act and the Toxic Substances Control Act," published in the **Federal Register** of June 26, 1986 (51 FR 23313), has been received from American Cyanamid Company of New Jersey (NMP No. 241-NMP-E). The proposed small-scale field trial involves the introduction of a genetically-engineered isolate of the baculovirus *Autographa californica* Multiple Nuclear Polyhedrosis Virus (AcMNPV). The strain to be tested (vEGTDEL-AaIT) has been genetically modified with approximately 1 kilobase internal deletion in the ecdysteroid UDP-glucosyltransferase gene and an inserted gene which encodes an insect-specific toxin protein from the venom of the scorpion *Androctonus australis*.

The purpose of the proposed testing will be to evaluate the efficacy of this genetically-altered AcMNPV (relative to the gene-deleted construct and a commercial *Bacillus thuringiensis* insecticide) against certain lepidopteran species (*Trichoplusia ni* (cabbage looper) and *Heliothis virescens* (tobacco budworm) on tobacco, cotton and leafy vegetables.

The proposed program consists of a total of 20 field trials to be conducted in spring 1996 thru fall 1996. Testing will occur in 12 states: Alabama, Arkansas, California, Florida, Georgia, Illinois, Louisiana, Mississippi, New Jersey, North Carolina, Texas, and Virginia. For each crop to to be treated, the following number of trials and treatments are proposed: Leafy vegetables/6 trials, 5 total treatments; cotton/11 trials, 10 total treatments; and tobacco/3 trials, 6 total treatments. All sites will be located on secured research or commercial farmland with limited public access.

There will be a maximum of four plots per treatment and a maximum of six applications per treatment. The maximum size of a given treatment plot in each test will be 0.02 acres (4 rows wide x 75ft. long). The total acreage treated with the genetically modified construct will consist of 7.4 acres. The total amount of active ingredient to be used will be 98.25g.

Treated plots will be buffered on either side by an untreated row. Alleyways (6') will be cut between replicates. Entire trials will be surrounded by a 10' crop-free buffer zone. Small-scale ground-based spray equipment will be used. Equipment will be cleaned with hypochlorite after applications with construct. Upon completion of the trials, crops will remain standing for at least 2 weeks to maximize the natural degradation of the remaining Polyhedral Inclusion Bodies (PIBs) before being shredded and interred into the soil.

Weekly monitoring of target insects and those non-target insects will take place within treated plots. Following review of American Cyanamid Company's application and any comments received in response to this notice, EPA will decide whether or not an experimental use permit is required.

EPA has established a record for this notice under docket number OPP–50816 (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as (CBI), is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

The official record for this document, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the "ADDRESSES" unit at the beginning of this document.

List of Subjects

Environmental protection and Genetically-engineered microbial pesticides.

Dated: March 11, 1996.

Janet L. Andersen,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 96–7043 Filed 3–21–96; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Parts 153 and 159

[OPP–250114; FRL–5354–2]

RIN No. 2070–AB50

Reporting Requirements for Risk/Benefit Information; Notification to the Secretary of Agriculture

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification to the Secretary of Agriculture.

SUMMARY: Notice is given that the Administrator of EPA has forwarded to the Secretary of Agriculture a final regulation under section 6(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The rule defines the obligations of pesticide registrants under section 6(a)(2) to report to the Agency information indicating their products may cause unreasonable adverse effects. This action is required by FIFRA section 25(a)(2).

FOR FURTHER INFORMATION CONTACT: By mail: James V. Roelofs, Policy and Special Projects Staff (7501C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington DC 20460. Office location and telephone number: Rm. 1113, CM #2, 1921 Jefferson Davis Highway, Arlington, VA., telephone: 703–308–2964, e-mail: roelofs.james@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Section 25(a)(2) of FIFRA provides that the Administrator shall provide the Secretary of Agriculture with a copy of any final regulation at least 30 days before signing it for publication in the **Federal Register**. If the Secretary comments in writing regarding the final regulation within 15 days after receiving it, the Administrator shall issue for publication in the **Federal Register**, with the final regulation, the comments of the Secretary, if requested by the Secretary, and the response of the Administrator concerning the Secretary's comments. If the Secretary does not comment in writing within 15 days after receiving the final regulation, the Administrator may sign the regulation for publication in the **Federal Register** anytime thereafter.

Authority: 7 U.S.C. 136 et seq.

Dated: March 13, 1996.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

[FR Doc. 96–7042 Filed 3–21–96; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

[WT Docket 96–41; FCC 96–85]

Hearing Designation Order; Liberty Cable Co., Inc.

AGENCY: Federal Communications Commission.

ACTION: Notice of Hearing Designation Order and Notice of Opportunity for Hearing.

SUMMARY: Fifteen applications for operational fixed microwave service (OFS) facilities filed by Liberty Cable Co., Inc. (Liberty) are designated for hearing. The Commission has determined that substantial and material questions of fact exist as to whether Liberty possesses the requisite qualifications to be a Commission licensee.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Joseph Weber, Enforcement Division, Wireless Telecommunications Bureau, (202) 418–1317.

SUPPLEMENTARY INFORMATION: This is a summary of Hearing Designation Order and Notice of Opportunity for Hearing in WT Docket 96–41, adopted March 4, 1996, and released March 5, 1996.

The full text of Commission decisions are available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, N.W., Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, N.W., Suite 140, Washington, D.C. 20037, (202) 857–3800.

Summary of Hearing Designation Order and Notice of Opportunity for Hearing

The Commission has designated 15 OFS applications filed by Liberty for hearing. Liberty is a multichannel video programming distributor and provides video services to customers in New York City using OFS facilities. The Commission has learned that Liberty has been providing service to non-commonly owned buildings which Liberty has interconnected with hardwire without a cable franchise. At the time Liberty was interconnecting these buildings, the Communications Act defined the interconnection of non-commonly owned buildings a operating a cable system. The Act requires in order to be a cable operator, a cable franchise must first be obtained. Because Liberty never obtained a cable franchise, Liberty is in apparent

violation of the Communications Act. Several of the applications Liberty has filed were to replace the hardwire connection with an OFS path. Those applications were designated to determine whether the facts and circumstances surrounding Liberty's interconnecting of non-commonly owned buildings without a franchise bears on its qualifications to be a Commission licensee.

Second, Liberty has admitted to commencing operation of several facilities prior to being granted authority to do so. In some instances, Liberty commenced operation prior to applying for such authority. The Commission determined that this raises a substantial and material question of fact regarding Liberty's qualifications to be a licensee. Accordingly, all of the applications for facilities which Liberty commenced operation without prior authority were designated for hearing.

Finally, one Liberty official, who at the time certain statements were made was Liberty's chief of engineering, filed contradictory statement with the Commission and the U.S. District Court for the Southern District of New York. The statements concerned the reasons for the premature operation of the facilities. Because the Commission could not resolve the discrepancy between the two statements, the Commission found that material and substantial questions of fact exist regarding Liberty's truthfulness before the Commission, and an appropriate issue was designated.

Pursuant to Section 309(e) of the Communications Act of 1934, as amended, 15 of Liberty's applications for operational fixed microwave services facilities have been designated for hearing upon the following issues listed below:

(1) (a) To determine the facts and circumstances surrounding Liberty Cable Co., Inc.'s operation of hardwired interconnected, non-commonly owned buildings, without first obtaining a franchise. *See* 47 U.S.C. 541(b)(1), 47 U.S.C. Title VI and 47 CFR § *76* et seq.

(b) To determine whether Liberty Cable Co., Inc. has violated Section 1.65 of the Commission's Rules, 47 CFR § 1.65, by failing to notify the Commission of its provision of service to interconnected, non-commonly owned buildings.

(c) To determine whether, based on (1)(a) and (b) above, Liberty is qualified to be granted the above-captioned private operational fixed microwave authorizations.

(2) (a) To determine the facts and circumstances surrounding Liberty Cable Co., Inc.'s admitted violations of Section 301 of the Communications Act and Section 94.23 of the Commission's Rules, 47 U.S.C. 301, 47 CFR § 94.23, by operating certain private operational fixed microwave facilities without first obtaining Commission authorization.

(b) To determine whether Liberty Cable Co., Inc. has violated Section 1.65 of the Commission's Rules, 47 CFR 1. § 1.645, by failing to notify the Commission of its premature operation of service in either its underlying applications or its requests for special temporary authority.

(c) To determine whether, based on (2)(a) and (b) above, Liberty is qualified to be granted the above-captioned private operational fixed microwave authorizations.

(3) (a) To determine whether Liberty Cable Co., Inc., in relation to its interconnection of non-commonly owned buildings and its premature operation of facilities, misrepresented facts to the Commission, lacked candor in its dealings with the Commission, or attempted to mislead the Commission, and in this regard, whether Liberty Cable Co., Inc. has violated Section 1.17 of the Commission's Rules, 47 CFR § 1.17.

(b) To determine whether, based on (3)(a), above, Liberty is qualified to be granted the above-captioned private operational fixed microwave authorizations.

(4) To determine, based on the evidence adduced in issues (1) through (3) above, whether Liberty Cable Co., Inc. possesses the requisite character qualifications to be granted the above-captioned private operational fixed microwave authorizations for which it has applied and, accordingly, whether grant of its applications would serve the public interest, convenience and necessity.

The Commission has further placed Liberty on notice that the presiding administrative law judge may find that Liberty has violated any provision of the Communications Act or any Commission rule and impose a forfeiture up to the statutory maximum.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–6523 Filed 3–21–96; 8:45 am]

BILLING CODE 6712–01–M

Low Power Television and Television Translator Filing Window From April 22, Through April 26, 1996

AGENCY: Federal Communications Commission.

ACTION: Notice of Filing Window.

SUMMARY: This action gives notice of an application filing window for the tendering of applications for major changes in existing facilities for low power television and television translator stations. This notice sets forth the filing procedures, including when and where to file and the applicable application form to be used, and information concerning application filing fees.

DATES: April 22, 1996 through April 26, 1996.

FOR FURTHER INFORMATION CONTACT: Hossein Hashemzadeh, Low Power Television Branch, Mass Media Bureau, (202) 418–1650.

SUPPLEMENTARY INFORMATION:

Notice of Low Power Television/ Television Translator "Major Change Only" Filing Window From April 22, 1996 Through April 26, 1996

Released: March 18, 1996.

Commencing April 22, 1996, and continuing to and including April 26, 1996, the Commission will permit the filing of applications for MAJOR CHANGES ONLY in existing facilities for low power television and television translator stations (LPTV).

Major Change Limitation

As set forth in Section 73.3572 of the Commission's Rules, a major change in facilities for a LPTV station includes any change in frequency (output channel) assignment, transmitting antenna system, antenna height or authorized operating power. Any change in antenna location exceeding 200 meters also constitutes a major change. Section 73.3572 does not explicitly limit the distance by which a major change applicant may propose to move its station's antenna location. In previous LPTV filing windows, which were open generally to applicants for new station construction permits, as well as major change applicants, we have seen major change applicants that proposed to change antenna locations well beyond 200 meters, resulting in cessation of service in the current viewing area and movement to an entirely new community. In all significant respects, those applications were the equivalent of applications for new station construction permits. In view of our decision to proscribe the filing of new LPTV construction permit applications at this time, some geographic limitation on antenna relocations must be imposed. Accordingly, applications to change antenna locations will not be accepted in this filing window if they propose to move the location of the antenna more than 64.4 kilometers (40 miles) from the presently authorized location. This limitation should afford applicants ample flexibility to relocate transmitting facilities and improve their existing operations.

New Station Prohibition

The filing of applications for new construction permits for LPTV stations will not be permitted at this time. In previous filing windows, the Commission has allowed the filing of applications for new LPTV stations that specify transmitter site coordinates (geographic latitude and longitude) located more than 161 kilometers (100 miles) from reference coordinates of 36 urban areas. These geographic restrictions were necessitated by the Commission's proceeding on Advanced Television Systems (ATV) and the large number of low power television and television translator stations already authorized in and around these metropolitan areas. Because it is possible that some of these stations would be displaced in channel, if and when the spectrum is needed by full-service stations for ATV use, the geographic restriction against additional new stations in and around these urban areas was intended to minimize the extent to which LPTV service to the public could be disrupted. Limiting this window to the filing of certain major change applications, pending further action in the ATV proceeding, will further minimize possible disruption of low power television and television translator service to the public.

Filing Locations

All LPTV applications that are subject to the payment of a fee must be filed at the Pittsburgh, Pennsylvania locations specified herein. Those LPTV applicants that are fee exempt, as explained later in this Public Notice, must file their applications directly with the Federal Communications Commission at the location specified herein.

Applications Requiring a Fee

Generally, applicants seeking to make a major change in the facilities of an existing low power television or television translator station are required to pay and submit a fee with the filing of the application. The March 1996 edition of FCC Form 346, which is to be used during this window period, contains instructions for providing the fee information called for in Section I, Questions 1 and 2 of the application. Applicants should complete those questions, specifying "MOL" as the Fee Type Code and attaching (but not stapling) their $490.00 remittance for the requisite fee.

Payment of the required fee can be made by check, bank draft, money order or credit card. If paying by check, bank draft or money order, your remittance must be denominated in U. S. dollars, drawn upon a U.S. financial institution and made payable to the Federal Communications Commission. No postdated, altered or third-party check will be accepted. DO NOT SEND CASH. Checks dated six months or older will not be accepted for filing.

Applicants who wish to pay their filing fee by money order or credit card must submit FCC Form 159 (Remittance Advice), together with their application. Applicants who wish to pay for more than one major change application with a single payment must also submit FCC Form 159, listing each application as a separate item on FCC Form 159. If additional entries are necessary, FCC Form 159C (Continuation Sheet) is to be used. Those applicants electing to pay in a manner that requires the submission of FCC Form 159 must still complete Section I, Question 1 of FCC Form 346 (March 1996 edition). Question 2 of Section I need not be completed, but FCC Form 159 must be submitted instead. If other than the March 1996 edition of FCC Form 346 is utilized, FCC Form 159 MUST be used regardless of the manner of payment.

The March 1996 edition of FCC Form 346, as well as FCC Forms 159 and 159C, can be obtained by calling the FCC's Forms Distribution Center at Telephone Number (202) 418–3676 or 1–800–418–3676 and leaving your request on the answering machine provided for this purpose. These forms are also available by using the FCC's Fax-On-Demand system. Copies may be ordered via fax 24-hours a day by calling Telephone Number (202) 418–0177 from the handset of any fax machine. For the March 1996 edition of FCC Form 346, the document retrieval number is 000346, whereas the document retrieval number for FCC Form 159 and 159C is 000159. Callers should follow the system voice prompts and enter the document retrieval numbers when requested. Due to the limited number of telephone lines into the FCC's Fax-On-Demand system, callers may wish to call during non-business hours. If callers have any difficulty with transmission of their fax, they should contact Dorothy Conway at Telephone Number (202) 418–0217.

For applications requiring a fee, the Commission will utilize the facilities of a Treasury Department lockbox bank. These filings can be made, either by mail or by person, at the following locations ONLY:

If mailed—Federal Communications Commission, Low Power Television Window Filing, P.O. Box 358992, Pittsburgh, PA 15251–5992

If hand-delivered—Federal Communications Commission, Low Power Television Window Filing, Three Mellon Bank Center, 525 William Penn Way, Pittsburgh, PA 15259, Attn: Wholesale Lockbox Shift Supervisor.

Mailed applications must be *actually received* no later than Friday, April 26, 1996. Hand-carried or couriered applications can be delivered at the Three Mellon Bank Center location at any time during the window period up through 11:59 p.m. on Friday, April 26, 1996. Submissions tendered after 11:59 p.m. on Friday, April 26, 1996, will not be accepted. Detailed instructions to get to this location are included in this Public Notice as Attachment I.

An original and two copies of the application and all required exhibits must be filed. To facilitate the initial processing of these applications, all applicants are requested to enclose in a single envelope the original and duplicate copies of the application, with each duplicate copy clearly denoted by the applicant. Where more than one major change application is being filed, separate envelopes enclosing the individual application (*i.e.*, an original and two copies) can be mailed in a single package. Receipts will not be provided by the lockbox bank facility. However, a "stamp receipted copy" will be furnished by the lockbox bank facility *provided* the applicant clearly identifies the copy to be stamped, and the filing is submitted with the "stamp receipted copy" on top of the original application package. Requests for "stamp receipted copies" must include a stamped, self-addressed envelope of sufficient size to accommodate the stamp receipted copy to be returned. If the "stamp receipted copy" is submitted in any other format or the envelope is not of sufficient size, it will not be stamped and returned. For hand-carried or couriered applications delivered to the Three Mellon Bank Center location, bank personnel, if requested in person, will date stamp as received a proffered copy of the application and return it to the requester. Only one piece of paper per individual application will be stamped for receipt purposes.

Applications submitted without a FCC Form 159, if required, with insufficient or inappropriate payments, or without any payments will be dismissed and returned to the applicant

without processing. See Section 1.1107 of the Commission's Rules. Following the fee review process, applications that are found to be patently defective or not "substantially complete," will be rejected and returned to the applicant. See Section 73.3564 of the Commission's Rules.

Applications Not Requiring a Fee

Governmental entities are exempt from the $490.00 fee. As defined by the Commission's rules, governmental entities include "any possession, state, city, county, town, village, municipal corporation or similar political organization or subpart thereof controlled by publicly elected and/or duly appointed public officials exercising sovereign direction and control over their respective communities or programs." Also exempted from this fee are noncommercial educational FM and full-service television broadcast station licensees seeking to make major changes in the facilities of their existing low power television or television translator stations, *provided* those stations operate or will be operated on a noncommercial educational basis. A licensee or permittee of a low power television or television translator station, which is filing a major change application and which earlier obtained either a fee refund because of a NTIA facilities grant for that station or a fee waiver because of demonstrated compliance with the eligibility and service requirements of Section 73.621 of the Commission's Rules, is similarly exempt from payment of the $490.00 fee. *See* Section 1.1112 of the Commission's Rules. To avail itself of any fee exemption an applicant must indicate its eligibility by checking the most appropriate box in Question 2, Section I of FCC Form 346 (March 1996 edition). Again, the March 1996 edition of FCC Form 346 can be obtained by calling the FCC Forms Distribution Center or the FCC's Fax-On-Demand system.

Filing of LPTV window applications not requiring the payment of a fee can be made either by mail or by person, at the following locations ONLY:

If mailed—Federal Communications Commission, Low Power Television Window Filing, Room 222, 1919 M Street NW., Washington, D.C. 20554

If hand-delivered—Federal Communications Commission, Secretary's Office, Room 222, 1919 M Street NW., Washington, D.C. 20554.

Mailed applications must be *actually received* no later than April 26, 1996. Hand-carried or couriered applications can be delivered daily during the filing window at the Secretary's Office from 8:00 a.m. to 5:30 p.m. Applications tendered after 5:30 p.m. on Friday, April 26, 1996, will not be accepted.

For further information concerning the filing window, contact Hossein Hashemzadeh, Low Power Television Branch, Mass Media Bureau at Telephone Number (202) 418–1650.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Attachment—Directions to Three Mellon Bank Center

From Greater Pittsburgh International Airport and Interstate 79

Proceed east on Parkway (Interstate 279) towards downtown Pittsburgh. Go through the Fort Pitt tunnels and across the Fort Pitt Bridge. Follow signs to Parkway East (Monroeville). Travel approximately 1/4 of a mile to the Grant Street Exit (Exit 3). Proceed on Grant Street to 6th Street. Make a left on 6th Street, go one block, make another left onto William Penn Way. The street address is 525 William Penn Way. Enter building at designated entrance and follow signs.

From Pennsylvania Turnpike

Take Exit 6 (Monroeville) to Parkway (Interstate 376). Go west on Parkway to the Grant Street Exit (Exit 3). Proceed on Grant Street to 6th Street. Make a left on 6th Street, go one block, make another left onto William Penn Way. The street address is 525 William Penn Way. Enter building at designated entrance and follow signs.

Parking

Parking is available in several parking garages which are within two blocks of Three Mellon Bank Center. Kaufman Department Store garage is located on Smithfield Street; and Mellon Square Garage is on 6th Avenue (across from the Alcoa Building). There is also a loading area located behind One Mellon Bank Center on Ross Street.

[FR Doc. 96–6880 Filed 3–21–96; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed new, revised, or continuing information collections. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), this notice seeks comments concerning the proposed extension to an existing information collection previously approved and assigned OMB Control Number 3067–0248. The current approval expires April 30, 1996.

Title: Emergency Management Exercise Report System (EMERS).

Type of Review: Extension of a currently approved information collection.

Form Numbers: FEMA Form 95–44. An automated reporting system that mirrors the form is also being used.

Abstract: EMERS is an annual exercise/training reporting system that identifies emergency functions that are major components of an effective emergency management preparedness, response and recovery program. the functions are: alert notification; communications; coordination and control; emergency public information (effectiveness); damage assessment; health and medical; individual/family assistance; public safety; public works; resource management; warning; and effectiveness of warning. The completed EMERS form is submitted by States to FEMA Headquarters, through the appropriate Regional Office. Headquarters staff uses the information to evaluate the effectiveness of program elements and sub-elements as demonstrated in an actual disaster response. The data be useful in determining annual program emphasis, budgetary levels, or changes in or initiation of new policies and guidance; determining necessary changes, improvements or initiatives in training programs required to support State and local emergency managers; identifying potential problem areas that could be expected to arise in State and local jurisdictions, and improving Federal, State, and local disaster relief and assistance relationships; and supporting FEMA's annual budget request.

The process of completing an EMERS form is useful to the State and local jurisdictions affected by disaster. It provides a format for reviewing actual response capability and noting those areas where some remedial actions may be required, serving as the basis for a post-disaster critique. States and local governments may also request exercise credit for actual response operations in Presidentially declared or undeclared disasters.

Affected Public: State, local or tribal governments.

Number of Respondents: States—56; Local jurisdictions—3,200.

Estimated Total Annual Burden Hours: 3,000.

COMMENTS: Written comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Comments should be received within 60 days of the date of this notice.

ADDRESSES: Direct all comments to Muriel B. Anderson, FEMA Information Collections Officer, Federal Emergency Management Agency, 500 C Street, SW., Room 311, Washington, DC 20472. Telephone number (202) 646–2625. FAX number (202) 646–3524.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection can be obtained by contacting the person listed in the "Addressee" section of this notice.

Dated: March 1, 1996.

Mike Bozzelli,

Acting Director, Program Services Division, Operations Support Directorate.

[FR Doc. 96–6973 Filed 3–21–96; 8:45 am]

BILLING CODE 6718–01–P

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed new, revised, or continuing information collections. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), this notice seeks comments concerning the proposed extension to an existing information collection previously approved and assigned OMB Control Number 3067–0001. The current approval expires May 31, 1996. There is no change in burden.

Title: National Defense Executive Reserve Personal Qualifications Statement.

Type of Review: Extension of a currently approved information collection.

Form Number: FEMA Form 85–3.

Abstract: The National Defense Executive Reserve (NDER) is a Federal Government program coordinated by the Federal Emergency Management Agency. The program provides a reserve of highly qualified individuals from industry, organized labor, professional groups, and academia to serve in executive positions in time of emergency. Such individuals must use FEMA Form 85–3 to apply for the NDER program. FEMA uses the form to ensure that individuals are qualified to perform in assigned emergency positions and are eligible for membership in the Executive Reserve.

Affected Public: Individuals.

Number of Respondents: 100.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 50.

Frequency of Response: One-time.

COMMENTS: Written comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. Comments should be received within 60 days of the date of this notice.

ADDRESSES: Direct all comments to Muriel B. Anderson, FEMA Information Collections Officer, Federal Emergency Management Agency, 500 C Street, SW, Room 311, Washington, DC 20472. Telephone number (202) 646–2625. FAX number (202) 646–3524.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection can be obtained by contacting the person listed in the **ADDRESSES** section of this notice.

Dated: February 26, 1996.

Mike Bozzelli,

Acting Director, Program Services Division, Operations Support Directorate.

[FR Doc. 96–6974 Filed 3–21–96; 8:45 am]

BILLING CODE 6718–01–P

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduced paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed new, revised, or continuing information collections. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), this notice seeks comments concerning the proposed extension to an existing information collection previously approved and assigned OBM Control Number 3067–0163. The current approval expires April 30, 1996.

Title: Individual and Family (IFG) Grant Program Information.

Type of Review: Extension of a currently approved information collection.

Form Numbers: FEMA Form 76–27, 76–28, 76–29, 76–30, 76–32, 76–34, 76–35, 76–38.

Abstract: Individual and Family Grant (IFG) Program Information is essential to the effective monitoring and management of the State-administered IFG program by FEMA Regional office staff. FEMA Regions have oversight responsibility for ensuring that the States perform and adhere to FEMA regulations and policy guidance.

This collection of information is a series of forms and reports which assist the FEMA Regional office staff in monitoring program delivery to disaster applicants and complying with other Federal requirements (flood insurance, environmental assessments, and floodplain management). FEMA Forms included in this collection are as follows:

(1) FEMA Form 76–27, DARIS Entry Document, Initial Report. This report is initiated by FEMA Regional Offices based on the data provided by States.

States provides FEMA preliminary information on the IFG program for staffing and management purposes. This report is completed once for each disaster, and establishes a DARIS report for each new IFG program.

(2) FEMA Form 76–28, DARIS Entry Document, Status Report. This report is completed by State IFG staff and provided to the FEMA Regional Director. It serves as the framework for reviewing, analyzing, and monitoring the progress of the program. The report tracks the number of dollar amount of applications approved by the State, the number and dollar amounts of grants disbursed, and the number of grant appeals. The data carried on this report is used to make determinations on the need for additional allocation and obligation of funds for program activity.

(3) FEMA Form 76–29, DARIS Entry Document, Final Statistical Report. This report captures the funding history by category of each IFG program. The information reveals the total IFG Program cost, and is used to prepare reports to OMB and the Congress. The report is also used as a management tool to check on the State's record of accuracy in estimating IFG Program costs and in requesting advances. States are responsible for completing the form, and the FEMA Regional Offices are responsible for entering the information into DARIS.

(4) FEMA Form 76–30, Environmental Review, IFG Program. The National Environmental Policy Act (NEPA) requires an environmental review process before certain IFG assistance in the housing category can be approved. When the review is conducted, the State is required to use the form to record the necessary information.

(5) FEMA Form 76–32, Worksheet for Case File Reviews. FEMA requires States to keep IFG program information and, on occasion, requests the States to provide such information, as needed.

(6) FEMA Form 76–34, Checklist for IFG Program Review. The checklist is used during the interview stage of the IFG Mid-Program Review of the State's administration of the program. It covers all items that must be monitored by FEMA to ensure effective management of the IFG program.

(7) FEMA Form 76–35, Worksheet for Preparing and Reviewing State Administrative Plans. The worksheet is used to develop or update State Administrative Plans that must be approved by FEMA. The plans are used by State IFG personnel to administratively manage the IFG Program.

(8) FEMA Form 76–38, Floodplain Management Analysis. Executive Orders 11988, Floodplain Management Analysis, and 11990, Protection of Wetlands, place a responsibility on FEMA and States to perform reviews before certain IFG assistance in the housing category can be approved. The review involves an eight-step decision-making process if the action could affect a floodplain or wetland.

Burden Estimates per Response.

FEMA Form No.	No. of Respondents	Hours per response
76–27	25	15 minutes.
76–28	25	30 minutes.
76–29	25	30 minutes.
76–30	1	1 hour.
76–32	25	30 minutes.
76–34	25	4 hours.
76–35	25	2.5 hours.
76–38	2	2 hours.

Estimated Total Annual Burden Hours: 2,700.

Affected Public: State, local or tribal governments.

COMMENTS: Written comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. Comments should be received within 60 days of the date of this notice.

ADDRESSES: Direct all comments to Muriel B Anderson, FEMA Information Collections Officer, Federal Emergency Management Agency, 500 C Street, SW., Room 311, Washington, DC 20472. Telephone number (202) 646-2625. FAX number (202) 646-3524.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection can be obtained by contacting the person listed in the "Addresses" section of this notice.

Dated: March 1, 1996.

Mike Bozzelli,

Acting Director, Program Services Division, Operations Support Directorate.

[FR Doc. 96–6975 Filed 3–21–96; 8:45 am]

BILLING CODE 6718–01–M

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed new, revised, or continuing information collections. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), this notice seeks comments concerning the proposed extension to an existing information collection previously approved and assigned OMB Control Number 3067–0195. The current approval expires April 30, 1996. There are two information collections associated with this clearance package. There are no changes in burden estimates for either of the information collections.

Title 1: Community Rating System (CRS) Program—Application Worksheets and Commentary.

Forms: Application Worksheets; and Commentary.

Title 2: NFIP Repetitive Loss Correction Worksheet.

FEMA Form: 81–83

Type of Review: Extension of a currently approved information collection.

Abstract: The Community Rating System (CRS) was designed by the Federal Insurance Administration to encourage, through the use of flood insurance premium discounts, communities and States to undertake activities that will mitigate flooding and flood damage beyond the minimum standards for National Flood Insurance Program participation. Communities use the NFIP/CRS Coordinator's Manual which includes the schedule, commentary and application worksheets. The application worksheets, requisite documentation, and certification are submitted to the appropriate FEMA Regional Office. The NFIP Repetitive Loss Correction Worksheet is used to correct/update property location/address, dates of loss, total number of losses per property, community name community number, and reason for change.

Affected Public: State, local or tribal government.

Number of Respondents: 255.

Estimated Time per Respondent: 33 hours.

Estimated Total Annual Burden and Recordkeeping Hours: 8,425.

Frequency of Response: Other—once per respondent with annual updates regarding participation.

COMMENTS: Written comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. Comments should be received within 60 days of the date of this notice.

ADDRESSES: Direct all comments to Muriel B. Anderson, FEMA Information Collections Officer, Federal Emergency Management Agency, 500 C Street, SW, Room 311, Washington, DC 20472. Telephone number (202) 646–2625. FAX number (202) 646–3524.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection can be obtained by contacting the person listed in the "Addressee" section of this notice.

Dated: February 26, 1996.

Mike Bozzelli,

Acting Director, Program Services Division, Operations Support Directorate.

[FR Doc. 96–6976 Filed 3–21–96; 8:45 am]

BILLING CODE 6718–01–P

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed new, revised, or continuing information collections. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), this notice seeks comments concerning the proposed extension to an existing information collection previously approved and assigned OMB Control Number 3067–0033. The current approval expires May 31, 1996.

Title: Notice of Interest/Private Non-Profit Checklist.

Type of Review: Extension of a currently approved information collection.

Form Numbers: FEMA Form 90–49.

Abstract: Section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act authorizes the President to make contributions to State and local governments and private non-profit organizations (PNP's) for repair, restoration, reconstruction, or replacement of a public or private non-profit facility damaged or destroyed by a major disaster and for associated expenses incurred by the applicant. FEMA regulation 44 CFR section 202.202(c) requires applicants applying for Federal disaster assistance to submit a completed Notice of Interest in Applying for Federal Disaster Assistance, FEMA Form 90–49. Applicants use the form to list damages to property and facilities so that inspections may be appropriately assigned for formal surveys. The form is signed by the applicant and submitted to the Governor's Authorized Representative. The Private Non-Profit Checklist documents the applicant's private non-profit eligibility status and facilitates the processing of the applicant's application for assistance.

Affected Public: State, local or tribal governments.

Burden Estimates Per Response:

FEMA Form 90–49	No. of Respondents	Hours Per response
Notice of Interest	3,000	30 minutes.
Private Non-Profit Checklist.	1,000	15 minutes.

Estimated Total Annual Burden Hours: 1,750.

COMMENTS: Written comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. Comments should be received within 60 days of the date of this notice.

ADDRESSES: Direct all comments to Muriel B. Anderson, FEMA Information Collections Officer, Federal Emergency Management Agency, 500 C Street, SW, Room 311, Washington, DC 20472. Telephone number (202) 646–2625. FAX number (202) 646–3524.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection can be obtained by contacting the person listed in the "Addressee" section of this notice.

Dated: March 1, 1996.

Mike Bozzelli,

Acting Director, Program Services Division, Operations Support Directorate.

[FR Doc. 96–6977 Filed 3–21–96; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 5, 1996.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Kenneth Erie, Benidji, Minnesota; to acquire an additional 35.62 percent, for a total of 55.87 percent, of the voting shares of MEDR Bankshares, Inc., Erskine, Minnesota, and thereby indirectly acquire American State Bank of Erskine, Erskine, Minnesota, and Twin Valley State Bank, Twin Valley, Minnesota.

Board of Governors of the Federal Reserve System, March 18, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–6917 Filed 3–21–96; 8:45 am]

BILLING CODE 6210–01–F

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices" (12 U.S.C. 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 15, 1996.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Absarokee Bancorporation, Absarokee, Montana; to acquire 100 percent of the voting shares of United Bank of Columbus, N.A., Columbus, Montana, a *de novo* bank.

Board of Governors of the Federal Reserve System, March 18, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–6918 Filed 3–21–96; 8:45 am]

BILLING CODE 6210–01–F

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.25 of Regulation Y (12 CFR 225.25) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act, including whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices" (12 U.S.C. 1843). Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 5, 1996.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Heritage Bancshares Group, Inc., Minneapolis, Minnesota; to engage in making and servicing loans, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, March 18, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–6919 Filed 3–21–96; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 93N–0008]

John W. Bushlow; Denial of Hearing; Final Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is denying a hearing for and is issuing a final order under the Federal Food, Drug, and Cosmetic Act (the act) permanently debarring Mr. John W. Bushlow, 9704 Tartuffe Dr., Richmond, VA 23233, from providing services in any capacity to a person that has an approved or pending drug product application. FDA bases this order on a finding that Mr. Bushlow was convicted of a felony under Federal law for conduct relating to the regulation of a drug product under the act. Mr. Bushlow has failed to file with the agency information and analyses sufficient to create a basis for a hearing concerning this action.

EFFECTIVE DATE: March 22, 1996.

ADDRESSES: Application for termination of debarment to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Tamar S. Nordenberg, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–2041.

SUPPLEMENTARY INFORMATION:

I. Background

On February 21, 1992, the United States District Court for the District of Maryland entered judgment against Mr. John W. Bushlow, former Vice President of Manufacturing and plant manager of Vitarine Pharmaceuticals, Inc., for one count of failing to establish and maintain records, with the intent to mislead, a Federal felony offense under 21 U.S.C. 331(e) and 333(a)(2). As a result of this conviction, FDA served Mr. Bushlow by certified mail on April 9, 1993, a notice proposing to permanently debar him from providing services in any capacity to a person that has an approved or pending drug product application, and offered him an opportunity for a hearing on the proposal. The proposal was based on a finding, under section 306(a)(2)(B) of the act (21 U.S.C. 335a(a)(2)(B)), that Mr. Bushlow was convicted of a felony under Federal law for conduct relating to the regulation of a drug product.

The certified letter informed Mr. Bushlow that his request for a hearing could not rest upon mere allegations or denials, but must present specific facts showing that there was a genuine and substantial issue of fact requiring a hearing. The letter also notified Mr. Bushlow that if it conclusively appeared from the face of the information and factual analyses in his request for a hearing that there was no genuine and substantial issue of fact which precluded the order of debarment, FDA would enter summary judgment against him and deny his request for a hearing.

In a letter dated May 4, 1993, Mr. Bushlow requested a hearing. The letter in its entirety is as follows:

> In accordance with the requirements of 21 U.S.C. 335a(i), I set forth below the information relied upon to justify a hearing on the Food and Drug Administration's Proposed Notice to Debar, dated February 5, 1993.
>
> I. The Proposal to Permanently Debar Violates the Double Jeopardy Clause of the Fifth Amendment
>
> II. The Proposed Notice to Permanently Debar violates the Ex Post Facto Clause of the Constitution
>
> III. The Proposed Notice to Permanently Debar violates the Constitution in that it is too broad, too vague and too unspecific.
>
> In accordance, and within the required 60 days from receipt of the Proposal to Debar Notice, additional information will be filed to justify a hearing.

Despite his stated intention, Mr. Bushlow did not follow up with additional information to justify a hearing.

The Deputy Commissioner for Operations has considered Mr. Bushlow's letter and concludes that it is unpersuasive and fails to raise a genuine and substantial issue of fact requiring a hearing. The constitutional claims that Mr. Bushlow offers do not create a basis for a hearing because hearings are not granted on matters of policy or law, but only on genuine and substantial issues of fact (21 CFR 12.24(b)(1)). The constitutional arguments are, in any event, unconvincing, for the reasons discussed below.

II. Mr. Bushlow's Arguments in Support of a Hearing

Mr. Bushlow states that the debarment proposal violates the Ex Post Facto Clause and Double Jeopardy Clause of the U.S. Constitution. Mr. Bushlow was convicted on February 21, 1992, prior to the enactment of the Generic Drug Enforcement Act (GDEA) on May 13, 1992.

An ex post facto law is one that reaches back to punish acts that occurred before enactment of the law or that adds a new punishment to one that was in effect when the crime was committed. (*Ex Parte Garland*, 4 Wall. 333, 377, 18 L. Ed. 366 (1866); *Collins* v. *Youngblood*, 497 U.S. 37 (1990).)

The Double Jeopardy Clause states that no person shall "be subject for the same offense to be twice put in jeopardy of life or limb."

In determining whether a statutory provision such as the one being challenged is unconstitutional under the Ex Post Facto Clause or Double Jeopardy Clause, the critical consideration is whether the provision is remedial or punitive in nature. The intent of debarment under the GDEA is not to punish, but rather to remedy the past fraud and corruption in the drug industry. In upholding the GDEA against an ex post facto challenge, the court in *Bae* v. *Shalala* stated,

> Without question, the GDEA serves compelling governmental interests unrelated to punishment. The punitive effects of the GDEA are merely incidental to its overriding purpose to safeguard the integrity of the generic drug industry while protecting public health.

(*Bae* v. *Shalala*, 44 F.3d 489, 493 (7th Cir. 1995); see also, *Manocchio* v. *Kusserow*, 961 F.2d 1539, 1542 (11th Cir. 1992); *Hawker* v. *New York*, 170 U.S. 189, 190 (1898); *DeVeau* v. *Braisted*, 373 U.S. 154 (1960).)

Therefore, Mr. Bushlow's claim that the GDEA violates the Ex Post Facto Clause and Double Jeopardy Clause is unpersuasive.

Mr. Bushlow also asserts that the proposal to debar him is unconstitutional because it is "too broad, too vague, and too unspecific." Such an argument does not provide the basis for a hearing.

Neither the proposal to debar nor the act's debarment provisions, on which the proposal to debar was based, are vague or unspecific. The debarment proposal sets forth expressly the conduct on which the proposal is based, the findings of FDA, the agency's proposed action, and the procedure for requesting a hearing. Section 306(a)(2)(B) of the act clearly mandates the debarment of an individual who has been convicted of a Federal felony for conduct relating to the regulation of any drug product. The act defines the conduct and felony conviction that lead to debarment. The period of debarment is also set forth in section 306(c)(2) of the act, which states that the debarment is permanent.

Finally, Mr. Bushlow does not explain his argument that the debarment proposal is over broad. In fact, the debarment provisions are narrowly drawn to accomplish the legitimate government purposes of ensuring the integrity of the drug regulatory process and protecting the public health. The debarment provisions further the compelling governmental interest of "restor[ing] consumer confidence in generic drugs by eradicating the widespread corruption in the generic drug approval process." (*Bae* v. *Shalala*, 44 F.3d 489, 493 (7th Cir. 1995).)

Mr. Bushlow does not dispute the fact that he was convicted as alleged by FDA in its proposal to debar him, and he has raised no genuine and substantial issue of fact regarding this conviction. Also, Mr. Bushlow's legal arguments do not create a basis for a hearing and, in any event, are unpersuasive. Accordingly, the Deputy Commissioner for Operations denies Mr. Bushlow's request for a hearing.

III. Findings and Order

Therefore, the Deputy Commissioner for Operations, under section 306(a) of the act, and under authority delegated to him (21 CFR 5.20), finds that Mr. John W. Bushlow has been convicted of a felony under Federal law for conduct relating to the regulation of a drug product (21 U.S.C. 335a(a)(2)(B)).

As a result of the foregoing findings, Mr. John W. Bushlow is permanently debarred from providing services in any capacity to a person with an approved or pending drug product application under sections 505, 507, 512, or 802 of the act (21 U.S.C. 355, 357, 360b, or 382), or under section 351 of the Public Health Service Act (42 U.S.C. 262), effective March 22, 1996, (21 U.S.C. 335a(c)(1)(B) and (c)(2)(A)(ii) and 21 U.S.C. 321(dd)). Any person with an approved or pending drug product application who knowingly uses the

services of Mr. Bushlow, in any capacity, during his period of debarment, will be subject to civil money penalties (section 307(a)(6) of the act (21 U.S.C. 335b(a)(6)). If Mr. Bushlow, during his period of debarment, provides services in any capacity to a person with an approved or pending drug product application, he will be subject to civil money penalties (section 307(a)(7) of the act). In addition, FDA will not accept or review any abbreviated new drug applications from Mr. Bushlow during his period of debarment.

Any application by Mr. Bushlow for termination of debarment under section 306(d)(4) of the act should be identified with Docket No. 93N–0008 and sent to the Dockets Management Branch (address above). All such submissions are to be filed in four copies. The public availability of information in these submissions is governed by 21 CFR 10.20(j). Publicly available submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 3, 1996.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 96–6941 Filed 3–21–96; 8:45 am]

BILLING CODE 4160–01–F

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

FDA has established an Advisory Committee Information Hotline (the hotline) using a voice-mail telephone system. The hotline provides the public with access to the most current information on FDA advisory committee meetings. The advisory committee hotline, which will disseminate current information and information updates, can be accessed by dialing 1–800–741–8138 or 301–443–0572. Each advisory committee is assigned a 5-digit number. This 5-digit number will appear in each individual notice of meeting. The hotline will enable the public to obtain information about a particular advisory committee by using the committee's 5-digit number. Information in the hotline is preliminary and may change before a meeting is actually held. The hotline will be updated when such changes are made.

MEETINGS: The following advisory committee meetings are announced:

Vaccines and Related Biological Products Advisory Committee

Date, time, and place. April 10 and 11, 1996, 8 a.m., Holiday Inn—Bethesda, Versailles Ballrooms III and IV, 8120 Wisconsin Ave., Bethesda, MD.

Type of meeting and contact person. Open committee discussion, April 10, 1996, 8 a.m. to 8:15 a.m.; open public hearing, 8:15 a.m. to 8:30 a.m., unless public participation does not last that long; open committee discussion, 8:30 a.m. to 10:45 a.m.; closed committee deliberations, 10:45 a.m. to 3 p.m.; open public hearing, 3 p.m. to 3:30 p.m., unless public participation does not last that long; open committee discussion, 3:30 p.m. to 6 p.m.; open committee discussion, April 11, 1996, 8 a.m. to 10:30 a.m.; open public hearing, 10:30 a.m. to 11 a.m., unless public participation does not last that long; open committee discussion, 11 a.m. to 11:30 a.m.; closed committee deliberations, 11:30 a.m. to 1 p.m.; open committee discussion, 1 p.m. to 2:30 p.m.; closed committee deliberations, 2:30 p.m. to 3:30 p.m.; Nancy T. Cherry or Sandy M. Salins, Center for Biologics Evaluation and Research (HFM–21), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–0314, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Vaccines and Related Biological Products Advisory Committee, code 12388.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of vaccines intended for use in the diagnosis, prevention, or treatment of human diseases.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before April 3, 1996, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On April 10, 1996, the committee will discuss data issues pertaining to pediatric studies using vaccines for the prevention of Lyme disease. The committee will also review safety and efficacy data pertaining to a Bacille Calmette-Guerin (BCG) vaccine from Connaught Laboratories, Ltd., for the prevention of tuberculosis. On April 11, 1996, the committee will: (1) Discuss vaccine safety issues, (2) review a research program in the Division of Viral Products, and (3) hear a briefing on reverse transcriptase in avian cells.

Closed committee deliberations. On April 10 and 11, 1996, the committee will review trade secret and/or confidential commercial information relevant to pending investigational new drug applications, product licensing applications, or approved products. These portions of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)). On April 11, 1996, the committee will also discuss personal information concerning an individual associated with a research program at the center, disclosure of which would constitute a clearly unwarranted invasion of personal privacy. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(6)).

Anesthetic and Life Support Drugs Advisory Committee

Date, time, and place. April 29 and 30, 1996, 8:30 a.m., Holiday Inn—Bethesda, Versailles Ballroom, 8120 Wisconsin Ave., Bethesda, MD.

Type of meeting and contact person. Open public hearing, April 29, 1996, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 5 p.m.; open committee discussion, April 30, 1996, 8:30 a.m. to 2 p.m.; closed committee deliberations, 2 p.m. to 5 p.m.; Stephen P. Pollitt, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Anesthetic and Life Support Drugs Advisory Committee, code 12529.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational human drugs for use in the field of anesthesiology and surgery.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before April 20, 1996, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss the new drug application (NDA) 20–630, Remifentanyl, Glaxo Welcome, for use as a general anesthetic, and a report of the post-market experience and phase IV commitments of NDA 20–478, Ultane® (sevoflurane), Abbott Laboratories.

Closed committee deliberations. On April 30, 1996, the committee will review trade secret and/or confidential commercial information. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

The Commissioner has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA) (5 U.S.C. app. 2, 10(d)), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, deliberation to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: March 15, 1996.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 96–6960 Filed 3–21–96; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 96D–0071]

1995 Revision of the National Shellfish Sanitation Program Manual of Operations, Part I "Sanitation of Shellfish Growing Areas" and Part II "Sanitation of the Harvesting, Processing, and Distribution of Shellfish;" Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the 1995 revision of the

National Shellfish Sanitation Program (NSSP) Manual of Operations, part I, "Sanitation of Shellfish Growing Areas," and part II, "Sanitation of the Harvesting, Processing, and Distribution of Shellfish." This revision was initiated in cooperation with the Interstate Shellfish Sanitation Conference (ISSC) to help assure that only safe and sanitary shellfish are offered for sale in interstate commerce.

ADDRESSES: Submit written requests for single copies of the manual (free of charge) from the contact person in the nearest Regional Office listed in the table below:

Addresses	Contact Person
FDA, Stoneham District Office, State Programs Branch, One Montvale Ave., Stoneham, MA 02180.	David Field
FDA, New York Regional Office, 850 Third Ave., Brooklyn, NY 11232–1593	Jerry Mulnick
FDA, Baltimore District Office, Investigations Branch, 900 Madison Ave., Baltimore, MD 21201	Al Ondis
FDA, Atlanta Regional Office, State Cooperative Programs, 60 Eighth St. NE., Atlanta, GA 30309	Robert Creasy
FDA, Charleston Resident Post, 334 Meeting St., rm. 505, P.O. Box 21077, Charleston, SC 29413	Donald M. Hesselman
FDA, Tallahassee Resident Post, Hobbs Federal Bldg., 227 North Bronough St., suite 4150 Tallahassee, FL 32301	Marc Glatzer
FDA, Baton Rouge Resident Post, 5353 Essen Lane, suite 220, Baton Rouge, LA 70809	John Veazey
FDA, Detroit District Resident Post, 1560 East Jefferson Ave., Detroit, MI 48207	Nicholas Majerus
FDA, Dallas Regional Office, 7920 Elmbrook Dr., suite 102, Dallas, TX 75247	Linda Collins
FDA, Seattle District Office, 100 Second Ave., suite 2400, Seattle, WA 98104	Tim Sample
FDA, Shellfish Program Implementation Branch (HFS–628), 200 C St. SW., Washington, DC 20204	Stanley Ratcliffe

Requests should be identified with the docket number found in brackets in the heading of this document. Send two self-addressed adhesive labels to assist in processing your requests. The manual is available for public examination in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Paul W. DiStefano, Office of Seafood, Center for Food Safety and Applied Nutrition (HFS–417), 200 C St. SW., Washington, DC 20204, 202–418–3177.

SUPPLEMENTARY INFORMATION: FDA is responsible for the Federal administration of the NSSP, which is a voluntary program involving State shellfish control agencies, the shellfish industry, FDA, and other Federal agencies. Five foreign countries also actively participate in the NSSP through international bilateral agreements.

The NSSP is concerned with the sanitary control of fresh and frozen molluscan shellfish (oysters, clams, mussels, and scallops) offered for sale in interstate commerce. The program has been in existence since 1925. In the interest of assuring uniform administration and technical controls, the NSSP has developed and maintained recommended shellfish control practices. These control practices have been published in the form of a Manual of Operations, parts I and II.

In 1982, interested State officials and members of the shellfish industry formed the Interstate Shellfish Sanitation Conference (ISSC) to provide a formal structure wherein State regulatory authorities could establish regularly updated and uniform guidelines for improving shellfish sanitation and safety. Those persons interested in obtaining additional information about the ISSC should contact: Kenneth Moore, Interstate Shellfish Sanitation Conference, 115 Atrium Way, suite 117, Columbia, SC 29223.

FDA and the ISSC entered into a Memorandum of Understanding (MOU) that was published in the **Federal Register** of March 30, 1984 (49 FR 12751), agreeing, among other things, that FDA would provide technical assistance to the ISSC and participate in the cooperative program of the Conference to develop or revise program criteria and guidelines.

Based on the MOU, FDA developed draft revisions of the NSSP Manual of Operations, parts I and II, in cooperation with the ISSC. FDA announced the availability of the 1986 revision of part I in the **Federal Register** of June 5, 1987 (52 FR 21375). An initial working draft of part II was made available for comment in the **Federal Register** of September 11, 1985 (50 FR 37055), with a revised second draft being made available for further comment in the **Federal Register** of July 11, 1986 (51 FR 25261). Based on the comments received, and in consideration of later comments expressed by State regulatory officials, industry representatives, and other interested parties at the ISSC's 1987 and 1988 annual meetings in Austin, TX, and Denver, CO, respectively, FDA announced the availability of the 1988 revision of the manual in the **Federal Register** of February 17,1989 (54 FR 7281). Subsequent revisions were announced in the **Federal Register** of April 25, 1990 (55 FR 17503), December 13, 1990 (55 FR 51341), and January 13, 1993 (58 FR 4174).

The 1995 manual revision contains changes and improvements to the NSSP that were considered and passed at the ISSC's 1994 and 1995 annual meetings in Tacoma, WA and Orlando, FL, respectively. Noteworthy changes include: (1) A detailed shellfish laboratory evaluation checklist for State and Federal laboratory evaluation officers to use for certifying that laboratories are operated in compliance with criteria of the National Shellfish Sanitation Program; (2) new time temperature controls to prevent excessive post harvest increases in the levels of *Vibrio vulnificus* bacteria in shellfish harvested from the waters confirmed as an original source of product associated with two or more *V. vulnificus* illnesses. Matrix controls establish times for shellfish to be under refrigeration following harvest. The time from harvest until shellfish are placed under refrigeration needs to decrease as water temperatures rise. Matrix time/temperature controls are recommended for use with shellfish that are harvested from waters with a *Vibrio* problem and then sold for raw consumption; and (3) new tagging procedures to improve the traceability of wet-stored shellstock to its original harvest site. These procedures include a recommendation to use a shipping tag that identifies the certified wet-storage facility and the storage dates for shellstock that has entered interstate commerce and then been wet stored for 90 days or less.

Dated: March 15, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–6959 Filed 3–21–96; 8:45 am]

BILLING CODE 4160–01–F

National Institutes of Health

A Comprehensive Alcohol Education Program for Pre-Adolescents Using Interactive Multimedia

Proposed Data Collection

In compliance with Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995, the National Institute on Alcohol Abuse and Alcoholism (NIAAA), National Institutes of Health (NIH) is publishing this notice to solicit public comment on the data collection proposed for the study on "A Comprehensive Alcohol Education Program for Pre-Adolescents Using Interactive Multimedia." To request copies of the data collection plans and interview instruments, call Dr. Kendall Bryant, (301) 443–8820 (not a toll-free number).

Comments are invited on: (a) Whether the proposed collection is necessary, including whether the information has a practical use; (b) ways to enhance the clarity, quality, and use of the information to be collected; (c) the accuracy of the agency estimate of burden of the proposed collection; (d) ways to minimize the collection burden of the respondents. Written comments are requested within 60 days of the publication of this notice. Send comments to Dr. Kendall Bryant, Prevention Research Branch, Division of Clinical and Prevention Research (DCPR), NIAAA, NIH, Building 6000, Room 505, 6000 Executive Boulevard, MSC 7003, Bethesda, Maryland 20892–7003.

Proposed Project

The Prevention Research Branch (PRB), intends to conduct the study for "A Comprehensive Alcohol Education Program for Pre-Adolescents Using Interactive Multimedia." The PRB is authorized by Section 452 of Part G of Title IV of the Public Health Service Act (42 U.S.C. 288) as amended by the NIH Revitalization Act of 1993 (Public Law 103–43).

The information proposed for collection will be used by the NIAAA to determine the efficacy of interactive multimedia for delaying the onset of drinking among 7th and 8th grade males and females. Interactive multimedia enables the combination of the elements of television and movies that engage and motivate the target population with computer-based interaction, simulations, and games to (1) increase information about the negative consequences of teen drinking and (2) teach practical skills for avoiding and refusing alcohol. Subject participation will involve (1) focus groups, during development of the multimedia program, and (2) post-development behavioral trials.

The annual burden estimates are as follows:

Type and No. of respondents	Responses per respondent	Total responses	Hours	Total hours
Focus Group Subjects: 40	1	40	0.5	20
Trial Subjects: 268	4	1072	0.5	536
Total Number of Repondents: 308. Total Number of Responses: 1112. Total Hours: 556.				

Dated: March 12, 1996.

Martin K. Truscy,

Executive Officer, NIAAA.

[FR Doc. 96–7014 Filed 3–21–96; 8:45 am]

BILLING CODE 4140–01–M

Proposed Data Collections Available for Public Comment and Recommendations

Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires that Federal Agencies provide a 60-day notice in the **Federal Register** concerning each proposed collection of information. The National Institutes of Health (NIH) is publishing this notice to solicit public comment on a proposed data collection for the Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds (UGSP). To request copies of the data collection plans and instruments, call Mr. Marc Horowitz on (301) 402–5666 (not a toll-free number).

Comments are invited on: (a) Whether the proposed collection is necessary, including whether the information has practical use; (b) ways to enhance the clarity, quality, and use of the collection; (c) the accuracy of the agency's estimate of burden of the proposed collection; and (d) ways to minimize the collection burden of the respondents. Written comments are requested within 60 days of the publication of this notice. Send comments to Marc S. Horowitz, J.D., Director, Loan Repayment and Scholarship Programs, Office of Science Education, NIH, 7550 Wisconsin Avenue, Room 604, Bethesda, MD 20892–9015.

Proposed Project

The NIH intends to make available scholarships to undergraduate students under the NIH Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds (UGSP). The UGSP is authorized by § 487D of the Public Health Service

(PHS) Act (42 USC 288–2), as amended by the NIH Revitalization Act of 1993 (Pub. L. 103–43). This program intends to provide scholarships, in an amount not to exceed $20,000 per academic year, toward expenses associated with full-time attendance at an accredited undergraduate institution, including tuition and reasonable education and living expenses. For each year of scholarship support from the NIH, the recipient agrees to two service obligations or pay-back requirements: (1) Ten consecutive weeks of pay-back as a full-time NIH employee during the months of June–August during the academic year (in-school service obligation) and (2) one year (12 months) of pay-back as a full-time NIH employee after graduation from the undergraduate institution (post-graduation service obligation). The post-graduation service obligation or pay-back requirement may be deferred, at the request of the scholarship recipient and with the approval of the Secretary, Department of Health and Human Services, during continuous periods of graduate or medical/dental/veterinarian school training.

The UGSP is designed to provide an incentive to undergraduate students from disadvantaged backgrounds to pursue studies which will prepare them for careers in biomedical research at the NIH.

The information proposed for collection will be used by the OSE to determine an applicant's eligibility for participation in the UGSP. The UGSP application consists of two parts: Part I (Information About the Applicant) is completed by the applicant; and Part II (Verification) is completed by the Undergraduate Institution.

The annual burden estimates are as follows:

	No. respondents	No. responses per respondent	Avg. burden per response (Hrs)
Applicant	500	1	3.0
Undergraduate institution	500	1	0.5

Dated March 13, 1996.

Ruth Kirschstein,

Deputy Director, NIH.

[FR Doc. 96–7016 Filed 3–21–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Environmental Health Sciences: Opportunity for a Cooperative Research and Development Agreement (CRADA) for the Application of Highly Potent and Ultraselective δ Opioidmimetic Peptide Antagonists for Biochemical, Pharmacological, Clinical and Therapeutic Studies

AGENCY: National Institute of Environmental Health Sciences, National Institutes of Health, PHS, DHHS.

ACTION: Notice.

SUMMARY: The National Institutes of Health (NIH) seeks an agreement with a company(s) which can pursue commercial development of highly selective δ opioid dipeptide antagonists (U.S. Patent Application Serial No. 08/347,531). The National Institute of Environmental Health Sciences has also determined that the developed technology can be utilized in several scientific areas, including development of a radiochemically labelled ligand, production of gram quantities of the dipeptide, application in the treatment of many clinical syndromes with therapeutic application to numerous health problems. A CRADA for the application of these compounds will be granted to the awardee(s).

ADDRESSES: Proposals and questions about this opportunity may be addressed to Dr. Lawrence H. Lazarus, NIEHS, Mail Drop C3–04, P.O. Box 12233, Research Triangle Park, NC 27709; Telephone 919/541–3238; Fax 919/541–0626; Email Lazarus@niehs.nih.gov

Requests to view the patent application and questions related to licensing this technology should be addressed to Leopold J. Luberecki, Jr., J.D., Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804 (Telephone: 301/496–7735 ext. 223; Fax: 301/402–0220).

Respondees interested in submitting a CRADA proposal should be aware that it may be necessary to secure a license to the above patent rights in order to commercialize products arising from a CRADA agreement.

DATES: Capability statements must be received by NIH on, or before May 21, 1996.

SUPPLEMENTARY INFORMATION: The National Institute of Environmental Health Sciences has determined the specific chemical structure, high potency and selectivity of a series of unique opiod di- and tripeptide antagonists. The most active dipeptide exhibited an affinity for the δ opioid receptor of 0.022 nM and a δ selectivity of 150,000 (relative to the μ receptor); affinity toward κ receptors was negligible (> 20 μM). the tripeptide had δ selectivity of 20,000 and was similarly without effect on κ receptors (> 50 μM). Pharmacological functional bioassays *in vitro* indicated antagonistic activity at δ receptors without activity toward μ receptors (> 10 μM), which makes these compounds more utilitarian than the commonly employed δ antagonist naltrindole. Similarly, *in vivo* data in mice confirmed the antagonistic behavior of these peptides. Furthermore, the molecular model of the low energy conformer indicated a unique solution topography of a universal antagonist.

The commercial advantage of these substances is manifold:

1. The preparation of radiolabelled ligands for the biochemical characterization of the δ opioid receptor, localization of this receptor in animal tissues by various immunohistochemical methods, and body distribution/compartmentalization kinetics, such as in determining the extend of transit across the blood-brain barrier. Current radioactive opioid ligands generally have lower affinities and are considerably less selective by orders of magnitude than our opioid dipeptide.

2. The preparation of large quantities of highly pure peptide for pharmacological and physiological studies in the laboratory, and their availability for animal and clinical trials, and eventually for therapeutic applications in medical orientated facilities. For example, the potential for treatment of alcohol dependency and narcotic addition, obesity, and suppression of the immune response in organ transplants, in addition to other numerous clinical situations. These proposed studies would eventually necessitate multigram quantities of the dipeptide in spite of its high affinity and selectivity.

3. Production of monoclonal antibodies to these peptides would provide science with high affinity substances that could be effectively used in both the laboratory and clinical settings.

The CRADA awardees will have an option to negotiate for an exclusive license to market and commercialize any new technology developed within the scope of the research plan for the ultraselective δ opioid dipeptide antagonists. This CRADA may be directed toward the preparation of radioligands, synthesis of gram quantities of peptide, its application in animal model studies, as well as in clinical and therapeutic situations, and in the formation of monoclonal antibodies.

Roles of NIEHS

1. Provide design and specifications of synthesizing the opioid dipeptide and assist in beta testing both the labeled and unlabled ligands, and monoclonal antibodies.

2. Work cooperatively with the company(s) to determine the market potential for these opioidmimetic peptides.

Roles of the CRADA Partner

1. Provide expertise in application and commercial-oriented production of large quantities of opioid peptides.

2. Provide knowledge on the formation, purification, and stabilization of radioactive substances.

3. Provide the expertise for the production of high affinity, high specific monoclonal antibodies.

4. Develop a plan for the production, testing and commercialization of the dipeptide, radiolabeled compounds and monoclonal antibodies.

Selection criteria for choosing the CRADA partner(s) will include, but will not be limited to the following:

1. Experience in peptide synthesis.

2. Capability to produce stable radiolabeled peptides with high specific activity.

3. Ability to develop, implement and manage the product commercialization so as to ensure the dissemination of the substances of research or health care services.

4. Capacity to test labeled peptides and monoclonal antibodies.

Dated: March 13, 1996.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 96–7015 Filed 3–21–96; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Heart, Lung, and Blood Special Emphasis Panel (SEP) meetings:

Name of SEP: Family Heart Study.

Date: April 8–9, 1996.

Time: 7:30 p.m.

Place: Holiday Inn, Bethesda, Maryland.

Contact Person: Anthony M. Coelho, Jr., Ph.D., Rockledge II, Room 7182, 6701 Rockledge Drive, Bethesda, Maryland 20892–7924, (301) 435–0277.

Purpose/Agenda: To review and evaluate grant applications.

This notice is being published less than fifteen days prior to this meeting due to the urgent need to meet limitations imposed by the grant review cycle.

Name of SEP: The Etiology of Excess Cardiovascular Disease in Diabetes Mellitus.

Date: April 15–16, 1996.

Time: 8:00 a.m.

Place: Ramada Inn, Bethesda, Maryland.

Contact Person: S. Charles Selden, Ph.D., Rockledge II, Room 7196, 6701 Rockledge Drive, Bethesda, Maryland 20892–7924, (301) 435–0288.

Purpose/Agenda: To review and evaluate grant applications.

These meetings will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: March 19, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–7008 Filed 3–21–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

Purpose: To review grant applications.

Committee Name: National Institute of General Medical Sciences Special Emphasis Panel—Anesthesiology.

Date: March 19, 1996.

Time: 9 a.m.–11 a.m. (Teleconference).

Place: 45 Center Drive, Conference Room 1AS–13, Bethesda, Maryland 20892–6200.

Contact Person: Dr. Arthur L. Zachery, Scientific Review Administrator, NIGMS, 45 Center Drive, Room 1AS–13, Bethesda, MD 20892–6200.

This meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. The discussions of these applications could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to the above meeting due to the partial shutdown of the Federal Government and the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Nos. 93.821, Biophysics and Physiological Sciences; 93.895, Pharmacological Sciences; 93.862, Genetics Research; 93.863, Cellular and Molecular Basis of Disease Research; 93.880, Minority Access Research Careers [MARC]; and 93.375, Minority Biomedical Research Support [MBRS])

Dated: March 18, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–7006 Filed 3–21–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Allergy and Infectious Diseases; Notice of Meeting: AIDS Research Advisory Committee, NIAID

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the AIDS Research Advisory Committee, National Institute of Allergy and Infectious Diseases, on May 21, 1996 in Conference Room E1 & 2 of the Natcher Conference Center (Building 45) at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland.

The entire meeting will be open to the public from 8:30 a.m., until adjournment. The AIDS Research Advisory Committee (ARAC) advises and makes recommendations to the Director, National Institute of Allergy and Infectious Diseases, on all aspects of research on HIV and AIDS related to the mission of the Division of AIDS (DAIDS).

The Committee will provide advice on scientific priorities, policy, and program balance at the Division level. The Committee will review the progress and productivity of ongoing efforts, and identify critical gaps/obstacles to progress. Attendance by the public will be limited to space available.

Ms. Rona L. Siskind, Executive Secretary, AIDS Research Advisory Committee, DAIDS, NIAID, NIH, Solar Building, Room 2A21, telephone 301–496–0545, will provide a summary of the meeting and a roster of committee members upon request. Individuals who plan to attend and need special

assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Siskind in advance of the meeting.

(Catalog of Federal Domestic Assistance Program Nos. 93.855, Immunology, Allergic and Immunologic Diseases Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: March 19, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–7009 Filed 3–21–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Child Health and Human Development; Notice of Meeting of the National Advisory Board on Medical Rehabilitation Research

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Board on Medical Rehabilitation Research, National Institute of Child Health and Human Development, April 18, 1996, Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, Maryland 20814.

The meeting will be open to the public from 8:30 a.m. to 5:00 p.m. on April 18. Attendance by the public will be limited to space available. Board topics will include: (1) a report on fiscal issues concerning the National Center for Medical Rehabilitation Research (Center) and the Institute; (2) reports on program activities of the Center; (3) a discussion of general priority areas of research for the Center; and (4) a discussion of support for medical rehabilitation research by government agencies.

Ms. Debbie Welty, Board Secretary, NICHD, 6100 Building, Room 2A03, National Institutes of Health, Bethesda, Maryland 20892, Area Code 301–402–2242, will provide a summary of the meeting and a roster of Advisory Board members as well as substantive program information. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Welty.

Dated: March 19, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–7010 Filed 3–21–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting of the National Institute of Mental Health Special Emphasis Panel:

Agenda/Purpose: To review and evaluate grant applications.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: April 5, 1996.

Time: 1 p.m.

Place: Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Phyllis L. Zusman, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone 301; 443–1340.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets of commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: March 19, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–7011 Filed 3–21–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting of the National Institute of Mental Health Special Emphasis Panel:

Agenda Purpose: To review and evaluate grant applications.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: April 4, 1996.

Time: 2 p.m.

Place: Parklawn, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Donna Ricketts, Parklawn, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–3936.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: March 19, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–7012 Filed 3–21–96; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Clinical Sciences.

Date: March 27, 1996.

Time: 6:00 p.m.

Place: Holiday Inn Olde Towne, Alexandria, VA.

Contact Person: Dr. Priscilla Chen, Scientific Review Administrator, 6701 Rockledge Drive, Room 4104, Bethesda, Maryland 20892, (301) 435–1787.

Name of SEP: Chemistry and Related Sciences.

Date: April 3, 1996.

Time: 1:30 p.m.

Place: NIH, Rockledge 2, Room 4193, Telephone Conference.

Contact Person: Dr. Nancy LaMontagne, Scientific Review Administrator, 6701 Rockledge Drive, Room 4193, Bethesda, Maryland 20892, (301) 435–1726.

Name of SEP: Biological and Physiological Sciences.

Date: April 5, 1996.

Time: 3:00 p.m.

Place: NIH, Rockledge 2, Room 4208, Telephone Conference.

Contact Person: Dr. Anita Weinblatt, Scientific Review Administrator, 6701 Rockledge Drive, Room 4208, Bethesda, Maryland 20892, (301) 435–1224.

Name of SEP: Biological and Physiological Sciences.

Date: April 8, 1996.

Time: 1:00 p.m.

Place: NIH, Rockledge 2, Room 4208, Telephone Conference.

Contact Person: Dr. Anita Weinblatt, Scientific Review Administrator, 6701 Rockledge Drive, Room 4208, Bethesda, Maryland 20892, (301) 435–1224.

Name of SEP: Clinical Sciences.

Date: April 8, 1996.

Time: 1:00 p.m.

Place: NIH, Rockledge 2, Room 4216, Telephone Conference.

Contact Person: Dr. Harold Davidson, Scientific Review Administrator, 6701 Rockledge Drive, Room 4216, Bethesda, Maryland 20892, (301) 435–1776.

Name of SEP: Clinical Sciences.

Date: April 8, 1996.

Time: 2:15 p.m.

Place: NIH, Rockledge 2, Room 4216, Telephone Conference.

Contact Person: Dr. Harold Davidson, Scientific Review Administrator, 6701 Rockledge Drive, Room 4216, Bethesda, Maryland 20892, (301) 435–1776.

This notice is being published less than 15 days prior to the above meetings due to the partial shutdown of the Federal Government and the urgent need to meet timing limitations imposed the grant review and funding cycle.

Name of SEP: Clinical Sciences.

Date: April 10, 1995

Time: 1:00 p.m.

Place: NIH, Rockledge 2, Room 4216, Telephone Conference.

Contact Person: Dr. Harold Davidson, Scientific Review Administrator, 6701 Rockledge Drive, Room 4216, Bethesda, Maryland 20892, (301) 435–1776.

Name of SEP: Clinical Sciences.

Date: April 15, 1996.

Time: 10:30 a.m.

Place: Holiday Inn Olde Towne, Alexandria, VA.

Contact Person: Dr. Priscilla Chen, Scientific Review Administrator, 67901 Rockledge Drive, Room 4104, Bethesda, Maryland 20892, (301) 435–1787.

Name of SEP: Biological and Physiological Sciences.

Date: April 16, 1996.

Time: 1:30 p.m.

Place: NIH, Rockledge 2, Room 4192, Telephone Conference.

Contact Person: Dr. Lynwood Jones, Scientific Review Administrator, 6701 Rockledge Drive, Room 4192, Bethesda, Maryland 20892, (301) 435–1153.

Name of SEP: Clinical Sciences.

Date: April 16, 1996.

Time: 11:00 a.m.

Place: NIH, Rockledge 2, Room 4104, Telephone Conference.

Contact Person: Dr. Priscilla Chen, Scientific Review Administrator, 67901 Rockledge Drive, Room 4104, Bethesda, Maryland 20892, (301) 435–1787.

Name of SEP: Clinical Sciences.

Date: April 17, 1996.

Time: 11:00 a.m.

Place: NIH, Rockledge 2, Room 4104, Telephone Conference.

Contact Person: Dr. Priscilla Chen, Scientific Review Administrator, 6701 Rockledge Drive, Room 4104, Bethesda, Maryland 20892, (301) 435–1787.

Name of SEP: Biological and Physiological Sciences.

Date: April 17, 1996.

Time: 1:30 p.m.

Place: NIH, Rockledge 2, Room 4192, Telephone Conference.

Contact Person: Dr. Lynwood Jones, Scientific Review Administrator, 6701 Rockledge Drive, Room 4192, Bethesda, Maryland 20892, (301) 435–1153.

Name of SEP: Biological and Physiological Sciences.

Date: April 18, 1996.

Time: 1:30 p.m.

Place: NIH, Rockledge 2, Room 4192, Telephone Conference.

Contact Person: Dr. Lynwood Jones, Scientific Review Administrator, 6701 Rockledge Drive, Room 4192, Bethesda, Maryland 20892, (301) 435–1153.

Name of SEP: Clinical Sciences.

Date: April 19, 1996.

Time: 1:00 p.m.

Place: DoubleTree Hotel, Rockville, MD.

Contact Person: Dr. Harold Davidson, Scientific Review Administrator, 6701 Rockledge Drive, Room 4216, Bethesda, Maryland 20892, (301) 435–1776.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance program Nos. 93.306, 93.333, 93.337, 93.393, 93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 19, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–7013 Filed 3–21–96; 8:45 am]

BILLING CODE 4140–01–M

Office of Research on Women's Health; Notice of Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Advisory Committee on Research on Women's Health (ACRWH) to be held April 11 and 12, 1996 in Conference Room 10, C Wing, 6th Floor, Building 31, 9000 Rockville Pike, Bethesda, Maryland 20892. The meeting will be held from 8:30 am to 5:00 pm on April 11 and from 8:30 am to 5:00 pm on April 12. The meeting is open to the public, with attendance limited to space available.

The purpose of the meeting will be for the Committee to provide advice to the Office of Research on Women's Health (ORWH) on its research agenda and to provide recommendations regarding ORWH activities. The agenda will include an update on ORWH activities and programs to meet the mandates of the Office and discussion of scientific issues.

Anne R. Bavier, M.N., F.A.A.N., Executive Secretary, ACRWH, and Deputy Director, Office of Research on Women's Health, OD, NIH, Building 1, Room 209, Bethesda, Maryland 20892, (301) 402–1770, (301) 402–1798 (Fax), will furnish the meeting agenda, roster of Committee members, and substantive program information upon request. Individuals who plan to attend the meeting and need special assistance, such as sign language interpretation or other special accommodations, should contact Ms. Bavier by April 4, 1996.

Dated: March 19, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–7007 Filed 3–21–96; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–3917–N–54]

Office of the Assistant Secretary for Housing; Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: May 21, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing and Urban Development, 451–7th Street SW., Room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Oliver Walker, Telephone number (202) 708–1694 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to MOB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to

be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Title I Property Improvement and Manufactured Home Loan Programs (24 CFR Part 201).

OMB Control Number: 2502–0328.

Description of the need for the information and the proposed use: Title I loans are made by private lenders, and HUD insures the lender against loss from borrower defaults. These information collections are needed by HUD to evaluate individual lender and overall program performance, and to determine whether claims are eligible for payment.

Agency form numbers: HUD–92802, 56001, 56001–MH, 56004, 55013, 55014, 27029, 27030 and 637.

Members of affected public: Individuals or households.

An estimation of the total numbers of hours needed to prepare the information collection is 263,822 number of respondents is 404,995 frequency response is dependent upon the occasion of the application process and the hour of response varies.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 6, 1996.

Nicolas P. Retsinas,

A/S Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 96–6883 Filed 3–21–96; 8:45 am]

BILLING CODE 4210–27–M

[Docket No. N–FR–3917–N–53]

Office of the Assistant Secretary for Housing; Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary of Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: May 21, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing and Urban Development, 451–7th Street SW., Room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Oliver Walker, Telephone number (202) 708–1694 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Mortgagee's Application for Partial Settlement (Multifamily Mortgage).

OMB Control Number: 2502–0427.

Description of the need for the information and the proposed use: The form provides required data to process a partial claim payment within 24 to 48 hours after assignment or conveyance.

Agency form numbers: HUD–2537.

Members of affected public: Business or other for-profit.

An estimation of the total numbers of hours needed to prepare the information collection is 100 number of respondents is 600 frequency response is dependent upon the occasion of the application process and the hour of response varies.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 6, 1996.

Nicolas P. Retsinas,

A/S Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 96–6884 Filed 3–21–96; 8:45 am]

BILLING CODE 4210–27–M

Office of the Assistant Secretary for Housing

[Docket No. FR–3917–N–52]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reducation Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: May 21, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing and Urban Development, 451–7th Street SW., Room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Barbara D. Hunter, Telephone number (202) 708-3944 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Flexible Subsidy Program.

OMB Control Number: 2502-0492.

Description of the need for the information and proposed use: Section 201 of the Housing and Community Development Amendments of 1978 (Public Law 95-557) authorizes the provision of assistance to some HUD assisted projects. These include projects assisted under Section 236, Section 221(d)(3), and some Section 202 and Section 8 projects. This assistance is provided under the Flexible Subsidy Program. HUD form 9826 is used by owners when applying for Flexible Subsidy assistance under this program.

An estimation of the total numbers of hours needed to prepare the information collection is 75, the number of respondents is 150, frequency of response is 1, and the hours of response is 75.

Status of the proposed information collection: Extension without change.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 11, 1996.

Nicolas P. Retsinas,

A/S Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 96–6885 Filed 3–21–96; 8:45 am]

BILLING CODE 4210–27–M

[Docket No. FR–3917–N–56]

Office of the Assistant Secretary for Policy Development and Research; Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: May 21, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street SW., Room 8226, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Contact Ronald J. Sepanik at (202) 708–1060, Ext. 334 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Survey of Market Absorption of New Apartment Buildings (SOMA).

Description of the need for the information and proposed use: The Survey of Market Absorption provides the data necessary to measure the rate at which new rental apartments and new condominium apartments are absorbed, that is, taken off the market, usually by being rented or sold, over the course of the first twelve months following completion of a building. The data are collected at quarterly intervals until the twelve months expire or until the units in a building are completely absorbed. The survey also provides estimates of certain characteristics, i.e., asking rent/price, number of bedrooms, of apartments being absorbed, which provides a basis for analyzing the degree to which new apartment construction is meeting the present and future needs of the public.

Members of affected public: Business firms (builders) Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

Number of respondents: 12,000 (maximum).

Frequency of response: four times (maximum).

Time per respondent: .3 hours.

Total hours to respond: 3,600.

Status of the proposed information collection: Pending OMB approval.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 15, 1996.

Michael A. Stegman,

Assistant Secretary, Office of Policy, Development and Research.

[FR Doc. 96–6887 Filed 3–21–96; 8:45 am]

BILLING CODE 4210–62–M

[Docket No. FR–3917–N–55]

Office of the Assistant Secretary for Public and Indian Housing; Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: May 21, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Mildred M. Hamman, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW, Room 4255, Washington, D.C. 20410–5000.

FOR FURTHER INFORMATION CONTACT: Mildred M. Hamman, (202)–708–0846, (This is not a toll-free number.) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have

practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Public and Indian Housing-Resident Satisfaction and Management Needs Survey for the Chicago Housing Authority.

OMB Control Number:

Description of the need for the information and proposed use: HUD is in the process of assessing management needs at the CHA, and as part of that effort, has planned a survey of CHA residents to obtain their perceptions of living conditions in CHA developments and their satisfaction with CHA services. It is HUD's intent that this survey capture a baseline of resident satisfaction that can be used to measure changes in satisfaction one year after the initial survey. There are three instruments which will be used in this study: Building Level Data form, Record of Contact Sheet, and the CHA Resident Satisfaction and Management Needs Survey. The Building Level form will be completed for each building in the survey sample. The information collected includes size of the building, history of modernization activities, and type of CHA management. The Contact Sheet is a record of the interviewer's attempts to contact residents in a particular unit. The final study instrument is the CHA Resident Satisfaction and Management Needs Survey. The survey will be administered face-to-face by trained interviewers who will record each resident's answers. The questions on the survey cover the following topics: perceptions of maintenance of residents' apartments and buildings, CHA management performance, perceptions of crime and safety, use of services on-site, effect of HUD takeover, and basic demographic data.

Agency forms numbers, if applicable: 2577–

Members of affected public: Chicago Housing Authority Residents Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: 1,175 respondents, on occasion, 15 average minutes per response, 2 responses per respondent, 588 hours for a total reporting burden.

Status of the proposed information collection: New.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 18, 1996.

Michael B. Janis,

General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 96–6889 Filed 3–21–96; 8:45 am]

BILLING CODE 4210–33–M

[Docket No. FR–3235–N–04]

Office of Housing; Submission for OMB Review: Comment Request

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for emergency review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: April 1, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within seven-ten (7–10) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, D.C. 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Notice of Funding Availability for the Federally Assisted Low-Income Housing Drug Elimination Grant Program—FY 1996 (FR–3235).

OMB Control Number: 2502–0476.

Description of the need for the information and proposed use: This information collection is required in connection with HUD's proposed issuance of a Notice of Funding Availability (NOFA) that will announce the availability of $10,000,000 in grant funds authorized under Chapter 2, Subtitle C, Title V of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 et seq.), as amended by Section 581 of the National Affordable Housing Act of 1990 (NAHA) approved November 28, 1990, Public Law 101–625. The requirements of the Notice of Funding Availability will provide guidance for applicants that will implement the funding while the rulemaking is pending.

Housing owners are eligible to apply for Drug Elimination Grants for drug elimination activity in federally assisted low-income housing projects. Unlike drug elimination grants made by HUD to Public Housing Authorities, grant funds to private owners are limited to the following activities: Systems designed to limit building access to project residents, the installations of barriers, lighting systems, fence bolts, locks; the landscaping or reconfiguration of common areas to discourage drug-related crime; and other physical improvements designed to enhance security and discourage drug-related activity. In particular, HUD is seeking plans that provide successful, proven and cost effective drug crime deterrents designed to address the realities of low-income assisted housing environments.

Information provided by the housing owner will be reviewed by HUD to determine that it meets the requirements of the Notice of Funding Availability and to assign points in accordance with the selection criteria.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for emergency review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

March 27, 1996 is requested for OMB approval.

The Notice lists the information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: March 18, 1996.

David S. Cristy,

Director, IRM Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Title of Proposal: Notice of Funding Availability for the Federal Assisted Low-Income Housing Drug Elimination Grant Program—FY 1996 (FR–3235).

Office: Office of the Assistant Secretary Housing-Federal Housing Commissioner.

OMB Approval Number: 2502–0476.

Description of the Need for the Information and its Proposed Use: Drug Elimination Grant Housing owners must apply for grants to use in eliminating drug-related crime in Federally assisted low-income housing. The application process includes developing a plan, seeking tenant comments, certifying compliance with HUD requirements and outlining a comprehensive drug prevention program.

Form Number: SF–424, 424A, LLL, HU–50070 and 2880.

Respondents: 1,000.

Frequency of Submission: One time plan and application.

Reporting Burden:

Number of respondents	x	Frequency of responses	x	Hours per response	=	Burden hours
1,000		1		40		40,000

Total Estimated Burden Hours: 40,000.

Status: Reinstatement.

Contact: Michael Diggs, HUD, (202) 708–0614; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: March 18, 1996.

[FR Doc. 96–6888 Filed 3–21–96; 8:45 am]

BILLING CODE 4210–27–M

[Docket No. FR–3778–N–77]

Office of the Assistant Secretary for Community Planning and Development; Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: March 22, 1996.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, Department of Housing and Urban Development, Room 7256, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1226; TDD number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: March 15, 1996.

Jacquie M. Lawing,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 96–6790 Filed 3–21–96; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of Final Environmental Impact Statement for Proposed Issuance of a Permit to Allow Incidental Take of Golden-cheeked Warbler, Black-capped Vireo, and Six Karst Invertebrates in Travis County, Texas

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Availability of a Final Environmental Impact Statement (EIS) for the proposed issuance of a section 10(a)(1)(B) permit to allow the incidental take of golden-cheeked warblers, black-capped vireos, and six karst invertebrates for land development on private lands in Travis County, Texas.

SUMMARY: The City of Austin and Travis County have applied for a permit from the U.S. Fish and Wildlife Service to allow for incidental take of Federally listed endangered species black-capped vireo, golden-cheeked warbler, and six karst invertebrates under section (10)(a)(1)(B) of the Endangered Species Act. This will be incidental to otherwise lawful activities that would occur as a result of clearing of vegetation and grading or other earth-moving activities necessary for residential, commercial, and industrial construction and infrastructure projects within Travis County, Texas.

The proposed permit will allow approved incidental take outside of proposed preserve lands within the proposed permit boundaries. In general, this area includes all of the lands within Travis County, excluding that portion of Balcones Canyonlands National Wildlife Refuge that falls within Travis County, and the city limits and planning jurisdictions of municipalities not participating in the Balcones Canyonlands Conservation Plan. The permit period is 30 years. Potential development for this time period is estimated to affect between 30,000 and 60,000 acres within the permit area. Of the approximately 2,000 acres of known occupied black-capped vireo habitat located within Travis County, 933 acres

will be preserved within the Conservation Plan area and approximately 1,000 acres will be subject to incidental take in the permit area. For the golden-cheeked warbler, approximately 26,753 acres of potential habitat is located within the permit area and may be subject to incidental take. This potential warbler habitat could support from 1,605 to 3,210 pairs of warblers. Of the 45,368 acres of potential karst invertebrate habitat occurring in the permit area, approximately 38,349 acres will be unprotected by the proposed Conservation Plan.

To minimize and mitigate the impacts of take, the applicants propose to conserve a minimum of 30,428 acres of black-capped vireo and golden-cheeked warbler habitat in a preserve system; provide for the ongoing maintenance, patrol, and biological management of the conserved habitat; conduct the biological monitoring and research activities in support of the Conservation Plan; and provide funds to implement the habitat Conservation Plan. Alternatives considered include no action; issuance of the permit with the submitted Balcones Canyonlands Conservation Plan and a 30,428 acre preserve; and issuance of the permit with the submitted Balcones Canyonlands Conservation Plan and a 35,428 acre preserve.

DATES: Comments will be accepted until April 22, 1996.

ADDRESSES: Comments should be sent to the U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200; Austin Texas 78758.

FOR FURTHER INFORMATION CONTACT: Joseph E. Johnston, U.S. Fish and Wildlife Service, Ecological Services, Austin Field Office, 10711 Burnet Road, Suite 200; Austin, Texas 78758, telephone: (512) 490–0063; facsimile (505) 490–0974.

SUPPLEMENTARY INFORMATION: A limited number of individual copies of the Final EIS/Habitat Conservation Plan (HCP) may be obtained by Notices of Availability of the Final EIS/HCP will be sent to everyone currently on the U.S. Fish and Wildlife Service's mailing list for information on the Balcones Canyonlands Conservation Plan.

Copies of the final EIS/HCP are available for inspection at Travis County Precinct offices; City of Austin Municipal Building, Town Lake Center on Barton Springs Road, and Two Commodore Plaza; and the U.S. Fish and Wildlife Service at the above Address.

Dated: March 12, 1996.

Nancy M. Kaufman,

Regional Director, Fish and Wildlife Service.

[FR Doc. 96–6804 Filed 3–21–96; 8:45 am]

BILLING CODE 4310–55–M

Geological Survey

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

A request extending the collection of information listed below will be submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the bureau clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the bureau clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1032–0004), Washington, D.C. 20503, telephone 202–395–7340.

Title: Nonferrous Metals Surveys.

OMB approval number: 1032–0004.

Abstract: Respondents supply the U.S. Geological Survey (USGS) with domestic production and consumption data on nonfuel mineral commodities. This information is published in USGS publications including the Mineral Industry Surveys, Volumes I, II, and III of the Minerals Yearbook, and Mineral Commodity Summaries for use by private organizations and other Government agencies.

Bureau form number: 6–1151–MA et al (29 forms).

Frequency: Monthly, Quarterly, and Annual.

Description of respondents: Producers and Consumers of Nonferrous Metals.

Annual responses: 8,505.

Annual burden hours: 9,494.

Bureau clearance officer: Alice J. Floyd 703 648–4918.

Dated: March 11, 1996.

John H. DeYoung, Jr.,

Chairman, Minerals Information Management Council.

[FR Doc. 96–6890 Filed 3–21–96; 8:45 am]

BILLING CODE 4310–31–M

Bureau of Land Management

[WO–330–1030–2–24 1A]

Extension of Approved Information Collection, OMB Number 1004–0001

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is announcing its intention to request renewal of existing approval to collect certain information from those requesting a free-use permit for timber or other plant material when product sale is either not feasible or in the best interest of the Government. BLM needs this information to: 1) determine whether the timber or plant material requested qualifies for free use, 2) determine if disposal is consistent with local land use plans, and 3) ensure that the appropriate office is issuing the permit.

DATES: Comments on the proposed information collection must be received by May 21, 1996 to be assured of consideration.

ADDRESSES: Comments may be mailed to: Regulatory Management Team (420), Bureau of Land Management, 1849 C Street NW, Room 401LS, Washington, D.C. 20240.

Comments may be sent via Internet to: !WO140@attmail.com. Please include "ATTN: 1004–0001" and your name and return address in your Internet message.

Comments may be hand-delivered to the Bureau of Land Management Administrative Record, Room 401, 1620 L Street, NW, Washington, DC.

Comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Bill Torgersen, (202) 452–7759.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.12(a), BLM is required to provide 60-day notice in the **Federal Register** concerning a collection of information contained in a published current rule to solicit comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. BLM will receive and analyze any comments sent in response to this notice and include them with its request for approval from the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

BLM grants free use of timber and other vegetative resources on public lands through authority provided by the Acts of June 3, 1878 (20 Stat. 88, 16 U.S.C. 604–606) and March 3, 1891 (26 Stat. 1093, 16 U.S.C. 607), as supplemented by the Act of January 11, 1921 (41 Stat. 1088, 16 U.S.C 604, 612), to settlers, citizens, residents of States, and corporations. The implementing regulations are found at 43 CFR Subpart 5510—Free Use of Timber; General. The regulations were issued on June 13, 1970 (35 FR 10012) and last amended on September 29, 1995 (60 FR 50448). Applicants for free-use permits for timber or other plant material must provide the information listed at 43 CFR 5511.1–1(f). BLM collects the applicant's name and post-office address, and the name and address of any agent or agents who may be employed to procure the material, and the intended purpose of the free-use material using BLM Form 5510–1. The type of material, quantity, legal description of the location, and State and County are completed by the issuing office.

BLM uses the information provided by the applicant to: 1) determine whether the timber or plant material requested qualifies for free use, 2) determine if disposal is consistent with local land use plans, and 3) ensure that the appropriate office is issuing the permit. If BLM did not collect this information, it could not ensure proper authorization of free-use material in accordance with the law. If the ability to regulate use is not ensured, unauthorized degradation of the environment could occur, including unauthorized cutting or collection of plants on non-Public land.

The collection of information is short, simple and not inconvenient to the applicant. Valuable dialogue normally occurs at the time a permit is issued concerning location of the material, collection methods, and any required mitigation measures. Based on BLM's experience administering the activities described above, the public reporting burden for the information collected is estimated to average one-half hour per response. The respondents are settlers, citizens, residents of States and corporations. The type of information collected is already maintained by the respondents for their own recordkeeping purposes and needs only be entered on the application form. The frequency of response is once, upon applying for a one year free-use permit. The number of responses per year is estimated to be about 160. The estimated total annual burden on new respondents is about 80 hours.

Any interested member of the public may request and obtain, without charge, a copy of Form 5510–1 by contacting the person identified under **FOR FURTHER INFORMATION CONTACT.**

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will also become a matter of public record.

Dated: March 18, 1996.

Dr. Annetta L. Cheek,

Chief, Regulatory Management Team.

[FR Doc. 96–6902 Filed 3–21–96; 8:45 am]

BILLING CODE 4310–84–P

[WO–350–1430–01–24 1A]

Extension of Currently Approved Information Collection; OMB Approval Number 1004–0012

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is announcing its intention to request extension of approval for the collection of information from States and local government agencies, and from qualified nonprofit corporations and associations, who seek to obtain public lands and benefits under the Recreation and Public Purpose Act of 1926, for recreational and public purposes. The BLM uses the information to determine if an applicant meets the requirements of the Act.

DATES: Comments on the proposed information collection must be received by May 21, 1996 to be considered.

ADDRESSES: Comments may be mailed to: Regulatory Management Team (420), Bureau of Land Management, 1849 C Street NW., Room 401LS, Washington, D.C. 20240.

Comments may be sent via Internet to: !WO140@attmail.com. Please include "Attn: 1004–0012" and your name and address in your Internet message.

Comments may be hand delivered to the Bureau of Land Management Administrative Record, Room 401 L Street NW., Washington, D.C.

Comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Alzata L. Ransom, Realty Use Group, at (202) 452–7772.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.12(a), BLM is required to provide 60-day notice in the **Federal Register** concerning a collection of information contained in a published current rule to solicit comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or technological collection techniques or other forms of information technology.

The Recreation and Public Purpose Act (R&PP), as amended (43 U.S.C. 869 *et seq.*), authorizes the Secretary of the Interior to lease or convey certain public lands to States and local government agencies, and to qualified nonprofit corporations and associations, for recreational and public purposes under specified conditions. The regulations in 43 CFR Part 2740 provide guidelines and procedures for the lease or conveyance of public lands under the Act. The regulations were last revised on July 23, 1992 (57 FR 32732).

The term "public purpose" means for the purpose of providing facilities or services for the benefit of the public in connection with, but not limited to, public health, safety, or welfare. Use of lands or facilities for habitation, cultivation, trade, or manufacturing is permissible only when necessary for and integral to, i.e., essential part of, the public purpose.

The Act applies to all public lands, except lands within national forests, national parks and monuments, national wildlife refuges, Indian lands, and acquired lands. Revested Oregon and California Railroad grant lands and

reconveyed Coos Bay Wagon Road grant lands in western Oregon may only be leased to State and Federal instrumentalities and political subdivisions and to municipal corporations.

Lease periods may be for any length, but shall not exceed 20 years for nonprofit entities, and 25 years for Federal, State, and local governmental entities. Leases are issued subject to appropriate environmental and legal stipulations, and contain provisions for compliance with: (a) Nondiscrimination based on race, color, sex, age, religion, or national origin; (b) an approved plan of management and development upon which the lease was considered and issued (Leases may be canceled for nonuse or a use other than that for which the lease was issued without prior consent of the BLM.); (c) under certain conditions, the Federal Government may reserve the standing timber, use of water, or place other limitations on the use of natural resources; and (d) other reasonable stipulations as may be required as part of the consideration for the moderate charge being made for land.

Patents issued under the Act convey a restricted title since they contain provisions or clauses which, if not complied with, may result in reversion of the title to the United States. These provisions are: (a) Nondiscrimination clauses providing that the patentee may not restrict or permit restriction of the use of the lands conveyed or facilities thereon because of race, color, sex, age, religion, or national origin; (b) a provision that, if the patentee or its successor in interest attempts to transfer title or control over the land to another, or the land is devoted to a use other that for which it was conveyed without the consent of the BLM, title will revert to the United States; (c) the patent will stipulate that the lands will be used in perpetuity for the purposes for which they are acquired (The lease or patent may stipulate that certain provisions of the development program, including the management plan, may be subject to review by the Secretary of the Interior or his delegate.); and (d) all minerals will be reserved to the United States.

The information collected on Form 2740–1 is required by the regulations in 43 CFR Subpart 2741 to process requests for public lands under the provisions of the R&PP Act. Based on its reviews and evaluation, the BLM may approve or disapprove any application in whole or in part, or require its revision. The following information is collected on the form: (a) Applicant's name and address (home and business telephone number); (b) proposed use, and type of authorization requested; (c) description of the proposed use of the land; (d) State or political subdivision, and applicant's statutory authority to hold lands for the purpose requested; (e) copy of the applicant's authority to file the application and to take actions necessary to fulfill the requirements of the R&PP Act; (f) applicant's compliance with nondiscrimination as to access to the lands and facilities based on race, color, religion, sex, age or national origin in accordance with Title VI of the Civil Rights Act of 1964 (78 Stat. 241). In addition, the form instructs the applicant to submit: (a) A copy of their charter, a copy of their articles of incorporation, and a copy of their authority to operate in the State where the lands applied for are located; (b) a plan of development, use, and maintenance that includes a statement of proposed use of the lands, description of the proposed project, anticipated expenditure for development, source of funds to be used for development, and a statement describing administration of the tract; (c) maps showing the nature and location of facilities, land ownership of the entire project, and access routes; (d) timetable for development; and (e) explanation of proposed maintenance responsibilities and procedures.

After receiving the form, BLM will: (a) Determine if the applicants proposal is in conformance with land use planning, review land status to determine if the lands are subject to application, and determine if the application meets all requirements of the law and regulations; (b) review the development and management plans to determine their adequacy and effectiveness, and evaluate the construction schedule and estimated financing to ensure they are realistic and practicable; (c) secure the views of other agencies that may have an interest in the lands, including State and local planning and zoning departments; (d) check for the presence of unpatented mining claims (R&PP leases and conveyances cannot be issued where mining claims are present, and if it is necessary to determine the validity of a mining claim in order to allow the lease, the cost of the determination will be the responsibility of the applicant.); (e) conduct a field examination and other investigations to gather information and data on the environmental considerations and proper classification of the lands; and (f) publish a notice to solicit views and comments from the public concerning the proposal. Potential applicants should contact the appropriate District Office of the BLM well in advance of the anticipated submission of Form 2740–1. Early consultation with the BLM is needed to familiarize a potential applicant with management responsibilities, and terms and conditions which may be required in a lease or conveyance.

BLM estimates that approximately 55 R&PP applications (Form 2740–1) are received annually. Based on its experience administering this program, BLM estimates it takes an average of 40 hours for a applicant to supply the requested information. The estimate also includes the time required for assembling the information, as well as the time of clerical personnel, if needed. The information is collected once for each application. Based on the number of applications BLM receives annually and the average time it takes an applicant to supply the requested information, the total annual burden is collectively 2,200 hours.

Any interested member of the public may request and obtain, without charge, a copy of the R&PP application (Form 2740–1) by contacting the person identified under **FOR FURTHER INFORMATION CONTACT.** All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will also become part of the public record.

Dated: March 18, 1996.

Dr. Annetta L. Cheek,

Chief, Regulatory Management Team.

[FR Doc. 96–6903 Filed 3–21–96; 8:45 am]

BILLING CODE 4310–84–P

[ID–016–06–1220–00]

Shooting Closures and Restrictions in Ada, Canyon, Elmore, and Owyhee Counties, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Public lands within and immediately adjacent to a portion of the Snake River Birds of Prey National Conservation Area (NCA) are hereby closed to the discharge of firearms as outlined below:

1. The following described public lands are closed year-round to the discharge of rifles and pistols:

A. All public lands lying south of the Union Pacific Railroad within the following townships:

T. 2 N., R. 1 W.,
T. 1 N., R. 1 W.,
T. 1 N., R. 1 E.,
T. 1 N., R. 2 E.,
T. 1 N., R. 3 E.,

B. All public lands within T. 1 S., R. 2 W. lying within the NCA north of the Snake River Canyon.

C. All public lands within T. 1 S., R. 1 W. lying north of the Snake River Canyon and west of Swan Falls Road. Also within the same township, all of Section 1 and that portion of Sections 12 and 13 lying north of the Pacific Power and Light Company 500 KV electric transmission line.

D. All public lands within T. 1 S., R. 1 E. lying north of the Pacific Power and Light Company 500 KV electric transmission line.

E. All public lands within T. 2 S., R. 1 W. and T. 2 S., R. 1 E. lying west of Swan Falls Road and east of the Snake River Canyon.

2. The following described public lands are closed from February 15 to August 31 to the discharge of shotguns and muzzleloaders, and closed year-round to the discharge of rifles and pistols, with the exception that rifles may be used during established deer hunting seasons in Hunting Unit 40.

All public lands from Grandview, Idaho downstream to Guffey Bridge, lying within ½ mile of either side of the Snake River or 100 yards back from the canyon rim, whichever is the greater distance.

SUPPLEMENTARY INFORMATION: The NCA was established on August 4, 1993 to protect and enhance raptors, their habitat, and associated natural and scientific resources. The NCA encompasses 484,873 acres of public land in southwest Idaho, extending along 80 miles of the Snake River. The above-described closures and restrictions are effective immediately, and will continue in effect until specifically revoked or modified.

This order is issued pursuant to the authority of 43 CFR 8364.1. The order implements decisions in the 1995 Snake River Birds of Prey National Conservation Area Management Plan to improve safety for persons visiting the NCA, and is consistent with land use plan decisions found in the Bruneau, Kuna, and Owyhee Management Framework Plans. Violation of this order is punishable by a fine not to exceed $1000 and/or imprisonment not to exceed 12 months.

FOR FURTHER INFORMATION CONTACT: Contact John Sullivan, National Conservation Area Manager, Bureau of Land Management, Lower Snake River District, 3948 Development Avenue, Boise, Idaho 83705.

Rodger E. Schmitt,

District Resource Coordinator.

[FR Doc. 96–6891 Filed 3–21–96; 8:45 am]

BILLING CODE 4310–GG–P

[ID–016–06–1220–00]

Vehicle Management Area Designation and Road Closure Order; Ada, Elmore, Canyon, and Owyhee Counties, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Effective immediately, the Snake River Birds of Prey National Conservation Area (NCA) is declared a Designated Vehicle Management Area except for those portions of the NCA currently included within the Owyhee Front Special Recreation Management Area and the Fossil Creek Off-Highway Motor Vehicle Management Unit. Also excepted from this order is military training maneuvers within the Orchard Training Area. Operation of motorized vehicles within the Designated Vehicle Management Area will be restricted to designated roads and trails. In addition, the following described roads and trails are closed to motorized vehicles:

1. The unimproved dirt road extending downstream along the north side of the Snake River from the Initial Butte Farms pump station in Section 35, T. 1 S., R. 1 W. to where the road enters private land in Section 36, T. 1 S., R. 2 W.

2. The unimproved dirt road, known as Priest Grade, that traverses the wall of the Snake River Canyon in Section 33, T. 1 S., R. 1 W.

3. The trail that extends along the south side of the Snake River from near the pump station at the end of Con Shea Basin Road in Section 6, T. 1 S., R. 1 W. downstream to Guffey Bridge.

4. The trail on the south side of the Snake River extending downstream from the lower end of the old Priest Ranch.

5. The Cabin Draw road in Section 11, T. 4 S., R. 2 E. Except for the above-described road closures, visitors to the NCA may drive on existing roads or trails unless or until they are designated as "closed". As road inventories are completed, designated vehicle routes will be signed as "open". Roads or trails designated as "closed" will be signed, blocked where necessary, and rehabilitated as needed to reduce soil erosion and improve wildlife habitat.

The Bureau of Land Management retains the right to use or authorize use of roads and trails, or authorize specific off-road travel for administrative or emergency purposes. This vehicle management area designation and closure order shall remain in effect until specifically revoked or modified.

SUPPLEMENTARY INFORMATION: The NCA was established on August 4, 1993 to protect and enhance raptors, their habitat, and associated natural and scientific resources. The NCA encompasses 484,873 acres of public land in southwest Idaho, extending along 80 miles of the Snake River. This order is issued pursuant to the authority of 43 CFR 8364.1, and is consistent with decisions in the 1995 Snake River Birds of Prey National Conservation Area Management Plan, the Bruneau, Kuna, and Owyhee Management Framework Plans, and the Jarbidge Resource Management Plan. Violation of this order is punishable by a fine not to exceed $1000 and/or imprisonment not to exceed 12 months.

FOR FURTHER INFORMATION CONTACT: John Sullivan, National Conservation Area Manager, Bureau of Land Management, Lower Snake River District, 3948 Development Avenue, Boise, Idaho 83705.

Rodger E. Schmitt,

District Resource Coordinator.

[FR Doc. 96–6892 Filed 3–21–96; 8:45 am]

BILLING CODE 4310–GG–P

[NM–017–1430–00]

Shooting Closure on Public Lands in Placitas, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Shooting closure.

SUMMARY: The Bureau of Land Management (BLM), Rio Puerco Resource Area is closing approximately 2,499.09 acres of public lands in the Rio Puerco Resource Area, located in Sandoval County, New Mexico, to the discharge of firearms (including black powder and antique arms). This action will provide the necessary public safety and will also decrease potential conflicts with recreational users by keeping a logical shooting area open. Unrestricted discharge of firearms in this area has lead to a public health and safety issue with recreational users including hikers, bicyclists, horseback riders, bird watching groups, and others.

The public lands closed to discharging of firearms under this closure will be posted with signs at the most prominent points of public access as well as being displayed on a map available for public information at the area office.

EFFECTIVE DATE: Notice is hereby given that effective March 22, 1996, shooting on public lands is prohibited on approximately ten sections of public lands in Sandoval County, New Mexico.

SUPPLEMENTARY INFORMATION: The public lands affected by this closure are described as follows:

New Mexico Principal Meridian

T. 13 N., R. 4 E.,
Secs. 14, Lots 13 to 15, inclusive, NE¼SE¼; S½SE¼;
15, Lot 10;
22, Lots 7, 8, SE¼NE¼;
23, N½, NE¼SW¼, SE¼;
24, N½.
T. 13 N., R. 5 E.,
Secs. 19, Lots 1, 3, N½;
20, NW¼NW¼, E½NW¼, NE¼, NE¼SW¼, SE¼;
29, Lots 1, 2, 3, 4;
30, SE¼;
30, SE¼;
31, NE¼NE¼.
Aggregating approximately 2,499.09 acres.

The areas not included in the shooting closure are described as follows:

T. 13 N., R. 4 E.,
Sec. 13, Lots 6 to 9, S½;
Sec. 14, Lot 12, SE¼SE¼, S½SE¼;
Sec. 23, NE¼NE¼NE¼.
T. 13 N., R. 5 E.,
Sec. 18, Lots 1 to 6, inclusive, S½SE¼;
Sec. 17, Lots 1 to 4, inclusive, S½S½.
Aggregating approximately 1,092.27 acres.

The Public Service Company of New Mexico powerline will serve as the south boundary for the Open Area and the north boundary for the Closure Area with an exception in NE¼NE¼NE¼ of section 23, T. 13 N., R. 4 E., NMPM. (The westerly bank of Las Huertas Creek and the easterly of the PNM substation will serve as the boundary for this exception.) The BLM will be posting signs on the southerly boundary of the exemption area.

The purpose of this action is to enhance visitor safety on public lands, to minimize conflict, and adhere to the concept of multiple use. This designation remains in effect until further notice. The purpose of this shooting closure is to ensure public safety on public lands. This closure order is in accordance with the provisions of 43 CFR 8364.1, and applies to all persons.

FOR FURTHER INFORMATION CONTACT: Joe Jaramillo, Realty Specialist, Bureau of Land Management, Rio Puerco Resource Area, 435 Montano NE., Albuquerque, New Mexico 87107, (505) 761–8779.

Michael R. Ford,
District Manager.
[FR Doc. 96–6898 Filed 3–21–96; 8:45 am]
BILLING CODE 4310–FB–M

[UT–040–1020]

Environmental Statements; Cedar City District, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: The Bureau of Land Management, Cedar City District, Dixie Resource Area, has completed an Environmental Analysis (EA)/Finding of No Significant Impact (FONSI) of the Proposed Plan Amendment to the Virgin River Management Framework Plan. The Proposed Amendment involves the addition of five new land exchange criteria.

DATES: The protest period for this Proposed Plan Amendment will commence with the date of publication of this notice and last for 30 days. Protests must be received on or before April 22, 1996.

ADDRESSES: Protests must be addressed to the Director (480), Bureau of Land Management, Resource Planning Team, Box 10, 1620 L Street, N.W., Washington, D.C. 20036 within 30 days after the date of publication of this Notice of Availability.

FOR FURTHER INFORMATION CONTACT: Jim Crisp, Area Manager, Dixie Resource Area, Cedar City District at 345 East Riverside Drive, St. George, Utah 84770, (801) 673–4654. Copies of the proposed Plan Amendment are available for review at the Dixie Resource Area.

SUPPLEMENTARY INFORMATION: This action is announced pursuant to Section 202(a) of the Federal Land Management Act (1976) and 43 CFR Part 1610. This Proposed Amendment is subject to protests by any party who has participated in the planning process. Protest must be specific and contain the following information:

—The name, mailing address, phone number, and interest of the person filing the protest.
—A statement of the issue(s) being protested.
—A statement of the part(s) of the proposed amendment being protested and citing pages, paragraphs, maps etc., of the Proposed Plan Amendment.
—A copy of all documents addressing the issue(s) submitted by the protestor during the planning process or a reference to the date when the protester discussed the issue(s) for the record.
—A concise statement as to why the protester believes the BLM State Director is incorrect.

Dated: March 14, 1996.

G. William Lamb,
State Director, Utah.
[FR Doc. 96–6897 Filed 3–21–96; 8:45 am]
BILLING CODE 4310–DQ–P

[CO–930–1430–01; COC 58542]

Notice of Realty Action; Non-Competitive Sale of Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Designation of public lands located in Archuleta County, Colorado, as being suitable for disposal out of federal ownership through sale.

SUMMARY: The following described public lands have been determined to be suitable for disposal by sale utilizing non-competitive procedures, at not less than the fair market value as determined by an appraisal completed by a Federal or independent appraiser using the principles contained in the "Uniform Appraisal Standards for Federal Land Acquisitions". Authority for the sale is Section 203 of Public Law 94–597, the Federal Land Policy and Management Act of 1976.

New Mexico Principal Meridian, Colorado

T. 32 N., R. 2 W.,
Sec. 2, lot 7,
Containing 3.48 acres.

The lands will not be offered for sale until at least 60 days after the date of publication of this notice in the **Federal Register**. This land is being offered as a direct non-competitive sale to Navajo River Ranch, L.C.C. BLM has determined a direct sale is necessary to protect existing equities in the land and to resolve an unauthorized occupancy of the land.

In the event of sale, the mineral interests shall be conveyed simultaneously with the surface interest. The mineral interests being offered for conveyance have no known mineral value. Upon acceptance of a direct sale offer, the purchaser shall be required to make application for conveyance of those mineral interests.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all forms of appropriation under the public land laws, including the general mining law. This segregation will terminate upon issuance of a patent or 270 days from the date of this publication. The patent, when issued, will contain a reservation for a right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391, 443 U.S.C. 945.

FOR FURTHER INFORMATION: Additional information about this sale is available for review at the Bureau of Land Management, San Juan Resource Area Office, 701 Camino del Rio, Durango, Colorado 81301. Comments shall be submitted by May 6, 1996, to the San Juan Resource Area Manager, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior.

Dated: March 11, 1996.

Jenny L. Saunders,
Realty Officer, Division of Resource Services, Colorado State Office.
[FR Doc. 96–6813 Filed 3–21–96; 8:45 am]
BILLING CODE 4310–JB–M

[CO–956–96–1420–00]

Colorado: Filing of Plats of Survey

March 15, 1996.

The plats of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10:00 am., March 15, 1996.

The plat, in 12 sheets, representing the dependent resurvey of the west and north boundaries, a portion of the subdivisional lines, certain mineral claims, or portions thereof, certain segregated mineral portions, or portions thereof, and a portion of the subdivision of section 6 in Township 1 North, Range 72 West, Sixth Principal Meridian, Group 875, Colorado, was accepted January 31, 1996.

The plat representing the dependent resurvey of a portion of the Georgetown Townsite and a portion of M.S. No. 17365, Sentinel Lode, in Township 4 South, Range 74 West, Sixth Principal Meridian, Colorado, Group 1074, was accepted February 6, 1996.

These surveys were executed to meet certain administrative needs of this Bureau.

The plat representing the dependent resurvey of portions of the south and east boundaries, the subdivisional lines, and the subdivision of certain sections in Township 35 North, Range 3 West, New Mexico Principal Meridian, Colorado, Group 1007, was accepted January 24, 1996.

The plat representing the dependent resurvey of portions of the Second Standard Parallel South (south boundary T. 10 S., R. 70 W.), a portion of the subdivisional lines, and the subdivision of section 34, in Township 10 South, Range 70 West, Sixth Principal Meridian, Colorado, Group 1050, was accepted January 9, 1996.

The plat representing the dependent resurvey of portions of the west boundary, a portion of west boundary of T. 50 N., R. 5 W., and a portion of the subdivisional lines, and the subdivision of certain sections, in Township 50 North, Range 5½ West, New Mexico Principal Meridian, Colorado, Group 969, was accepted January 24, 1996.

These surveys were executed to meet certain administrative needs of the U.S. Forest Service, Rocky Mountain Region.

The plat representing the dependent resurvey of portions of the subdivisional lines and the subdivision of a portion of sections 18 and 19 in Township 33 North, Range 9 West, New Mexico Principal Meridian, Colorado, Group 1041, was accepted January 12, 1996.

The plat representing the dependent resurvey of portions of the east boundary, subdivisional lines, and the subdivision of a portions of sections 13 and 24 in Township 33 North, Range 10 West, New Mexico Principal Meridian, Colorado, Group 1041, was accepted January 12, 1996.

The plat representing the metes and bounds survey of a Southern Ute Home Site number SUHS–23–78 in the N ½ of the NW ¼ of the NE ¼ in Section 9, Township 33 North, Range 7 West, New Mexico Principal Meridian, Group 980, Colorado, accepted on September 14, 1995, *was cancelled* on January 12, 1996. A new plat was accepted January 29, 1996.

The plat representing the metes and bounds survey of a Southern Ute Home Site number SUHS–34–78 in the SE ¼ of the NE ¼ in Section 13U, Township 34 North, Range 7 West, South of the Ute Line, New Mexico Principal Meridian, Group 1036, Colorado, accepted on September 14, 1995, *was cancelled* effective March 5, 1996, 1996. A new plat was accepted March 5, 1996, 1996.

The plat representing the metes and bounds survey of a Southern Ute Home Site number SUHS–33–78 in the NW ¼ of the SW ¼ in Section 3, Township 32 North, Range 7 West, New Mexico Principal Meridian, Group 970, Colorado, accepted on September 14, 1995, *was cancelled* effective March 5, 1996. A new plat was accepted March 5, 1996.

These surveys were executed to meet certain administrative needs of the Southern Ute Indian Reservation.

The following plats, accepted September 14, 1995, were found to have errors requiring corrections:

The three plats representing the dependent surveys, and metes and bounds surveys for Southern Ute Tribe Homesites, in sections 6, 27, and 33 in Township 33 North, Range 7 West, New Mexico Principal Meridian, Group 980, Colorado and the plat representing the dependent resurvey and metes and bounds surveys for Southern Ute Tribe Homesites, in section 23 in Township 34 North, Range 7 West (South of the Ute Line), New Mexico Principal Meridian, Group 1036, Colorado. 1995.

Proper notations were made upon the plats and they were accepted January 12, 1996.

All inquiries should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215.

Darryl A. Wilson,
Chief Cadastral Surveyor for Colorado.
[FR Doc. 96–6894 Filed 3–21–96; 8:45 am]
BILLING CODE 4310–JB–P

[ID–957–1420–00]

Idaho: Filing of Plats of Survey

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m., March 15, 1996.

The plat representing the corrective dependent resurvey of portion a portion of the subdivisional lines and of the subdivision of section 12, T. 48 N., R. 2 E., Boise Meridian, Idaho, Group No. 933, was accepted, March 15, 1996.

This survey was executed to meet certain administrative needs of the Bureau of Land Management. All inquiries concerning the survey of the above described land must be sent to the Chief, Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706–2500.

Dated: March 15, 1996.

Duane E. Olsen,
Chief Cadastral Surveyor for Idaho.
[FR Doc. 96–6893, Filed 3–21–96; 8:45 am]
BILLING CODE 4310–GG–M

[WY–989–1050–00–P]

Filing of Plats of Survey; Wyoming

AGENCY: Bureau of Land Managment, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Wyoming State Office, Cheyenne, Wyoming, thirty (30) calendar days from the date of this publication.

Sixth Principal Meridian Wyoming

T. 47 N., R. 69 W., Accepted March 7, 1996.
T. 49 N., R. 69 W., Accepted March 7, 1996.
T. 30 N., R. 97 W., Accepted March 15, 1996.
T. 31 N., R. 97 W., Accepted March 15, 1996.

If protests against a survey, as shown on any of the above plats, are received prior to the official filing, the filing will be stayed pending consideration of the protest(s) and or appeal(s). A plat will not be officially filed until after disposition of protest(s) and or appeal(s). These plats will be placed in the open files of the Wyoming State Office, Bureau of Land Management, 5353 Yellowstone Road, Cheyenne, Wyoming, and will be available to the public as a matter of information only. Copies of the plats will be made available upon request and prepayment of the reproduction fee of $1.10 per copy.

A person or party who wishes to protest a survey must file with the State Director, Bureau of Land Management, Cheynne, Wyoming, a notice of protest prior to thirty (30) calendar days from the date of this publication. If the protest notice did not include a statement of reasons for the protest, the protestant shall file such a statement with the State Director within thirty (30) calendar days after the notice of protest was filed.

The above-listed plats represent dependent resurveys, subdivision of sections.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, P.O. Box 1828, 5353 Yellowstone Road, Cheyenne, Wyoming 82003.

Dated: March 15, 1996.

John P. Lee,

Chief, Cadastral Survey Group.

[FR Doc. 96–6896 Filed 3–21–96; 8:45 am]

BILLING CODE 4310–22–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that a proposed consent decree embodying a partial settlement in *United States* versus *Allied-Signal, Inc.*, Civil Action No. 93–6490 MRP, was lodged on March 14, 1996, with the United States District Court for the Central District of California. The decree resolves the liability of the settling defendants for reimbursement of response costs incurred pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601 *et seq.*, by the United States Environmental Protection Agency at the North Hollywood Operable Unit ("NHOU") of the San Fernando Valley Basin Superfund Site ("SFVB"), in the greater Los Angeles Area. The settling defendants, Lockheed Martin Corporation, Airport Group International, Inc., Waste Management Recycling & Disposal Services of California, Inc., CalMat Co., Pick-Your-Part Auto Wrecking, Pacific Steel Treating Company, Inc., Fleetwood Machine Products, Inc., the Erik and Else Bruun-Andersen Trust, and the Amended Cooke Family Trust, have agreed to pay a total of $4.75 million to the United States to resolve their liability for past and future NHOU response costs and past SFVB Basin-wide costs through April 30, 1992.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Allied-Signal, Inc.*, DOJ Ref. #90–11–3–1149.

The proposed consent decree may be examined at the office of the United States Attorney, Central District of California, Federal Building, Room 7516, 300 North Los Angeles Street, Los Angeles, California; the Region IX Office of the Environmental Protection Agency, 75 Hawthorne Street, San Francisco, California; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $12.00 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 96–6934 Filed 3–21–96; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Stipulation and Settlement Under the Clean Water Act

In accordance with Departmental policy, 28 CFR § 50.7, notice is hereby given that a proposed Stipulation and Settlement in *U.S.* v. *Caribe Tuna, Inc.*, Civ. No. 91–1926 (D.P.R.), was lodged on March 13, 1996 with the United States District Court for the District of Puerto Rico. The complaint in this action seeks injunctive relief and civil penalties under Section 301 of the Clean Water Act ("the Act"), 33 U.S.C. 1311, in connection with Caribe Tuna, Inc.'s ("CTI") operation of a tuna processing plant located in Ponce, Puerto Rico.

The proposed Stipulation and Settlement provides for CTI to pay a civil penalty to the United States of $300,000.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Stipulation and Settlement. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044–7611, and should refer to *U.S.* v. *Caribe Tuna, Inc.*, DOJ Ref. No. 90–5–1–3638.

The proposed consent decree may be examined at the Office of the United States Attorney, Federal Office Building, Room 452, Carlos E. Chardon Avenue, Hato Rey, Puerto Rico 00918; the Region II Office of the Environmental Protection Agency, Region II Records Center, 290 Broadway, New York, New York 10007–1866; and at the Consent Decree Library, 1120 G Street, N.W., Fourth Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G. Street, Fourth Floor, N.W. Washington D.C. 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $2.00 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 96–6935 Filed 3–21–96; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental policy, 28 C.F.R. § 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Lone Star Industries, Inc.*, Civil Action No. 1:96CV33SNL, was lodged on March 14, 1996, with the United States District Court for the Eastern District of Missouri.

In its complaint, which was filed along with the Consent Decree, the United States alleges that defendant Lone Star Industries Inc. ("Lone Star") failed to comply with Section 113(b) of the Clean Air Act ("Act"), 42 U.S.C. §§ 7413. In particular, the United States contends that Lone Star violated the New Source Performance Standards ("NSPS") for Nonmetallic Mineral Processing Plants, 40 C.F.R. Part 60, Subpart 000, promulgated pursuant to Section 111 of the Act, 42 U.S.C. § 7411, in that the defendant failed to comply with certain reporting and testing requirements at its nonmetallic mineral processing plant located in Cape Girardeau, Missouri.

Under the Consent Decree, Lone Star will pay a civil penalty in the amount of $40,000 to the United States. In addition, Lone Star will implement a Supplemental Environmental Project ("SEP") at its Cape Girardeau plant designed to control fugitive dust emissions by paving certain roads within the plant at an estimated cost of $150,000 by no later than December 31, 1996.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Lone Star Industries, Inc.*, DOJ Ref. No. 90–5–2–1–1938.

The proposed Consent Decree may be examined at the office of the United States Attorney, U.S. Courthouse, 1114 Market Street, St. Louis, Missouri 63101–2075; the Region 7 Office of the Environmental Protection Agency, 726 Minnesota, Kansas City, Kansas 66101; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $4.50 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 96–6933 Filed 3–21–96; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

[Docket No. 94–42]

William P. Jerome, M.D.; Grant of Restricted Registration

On March 29, 1994, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to William P. Jerome, M.D., (Respondent) of Davenport, Iowa, notifying him of an opportunity to show cause as to why DEA should not deny his application for registration as a practitioner under 21 U.S.C. 823(f), as being inconsistent with the public interest. Specifically, the Order to Show Cause alleged in substance that the Respondent (1) between December 1988 and February 1990, prescribed and dispensed controlled substances to individuals in exchange for money, cocaine and/or sexual favors; (2) allowed an individual to grow marijuana on his property; (3) falsified the names of individuals on prescriptions that he issued for controlled substances; (4) on February 7 and 8, 1990, dispensed 316 dosage units of controlled substances to an undercover officer for no legitimate medical reason; (5) on February 22, 1990, was indicted in the U.S. District Court for the Southern District of Iowa on nine felony counts related to the unlawful distribution and prescription of controlled substances; (6) pled guilty on April 26, 1990, to one count of conspiracy to distribute controlled substances, and as a condition of the plea agreement, voluntarily surrendered his DEA registration, was sentenced to twelve months imprisonment with a five year term of supervised release probation, and fined $15,000.00; and (7) on November 29, 1990, as a result of the criminal conviction, the Iowa Board of Medical Examiners (Medical Board) revoked his medical license, which was subsequently reinstated on October 13, 1992, subject to certain terms and conditions.

On April 21, 1994, the Respondent, through counsel, filed a timely request for a hearing, and following prehearing procedures, a hearing was held in Des Moines, Iowa, on February 8 and 9, 1995, before Administrative Law Judge Mary Ellen Bittner. At the hearing, both parties called witnesses to testify and introduced documentary evidence, and after the hearing, counsel for both sides submitted proposed findings of fact, conclusions of law and argument. On August 22, 1995, Judge Bittner issued her Opinion and Recommended Ruling, recommending that the Respondent's application be granted with specified restrictions. Neither party filed exceptions to her decision, and on September 25, 1995, Judge Bittner transmitted the record of these proceedings to the Deputy Administrator.

The Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts, in full, the Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law and Decision of the Administrative Law Judge, and his adoption is in no manner diminished by any recitation of facts, issues and conclusions herein, or of any failure to mention a matter of fact or law.

The Deputy Administrator finds that in November of 1989, a DEA diversion investigator (Investigator) received information from a special agent of the Iowa Division of Narcotics Enforcement (Special Agent) that the Respondent gave prescription drugs and prescriptions written under fictitious names to a Ms. M. in exchange for sexual favors. On January 16, 1990, the Investigator interviewed Ms. M., and she stated that she had received controlled substance samples and prescriptions from the Respondent in exchange for sexual favors, that the Respondent had written prescriptions for her, using about twenty names other than her own, and that she had taken the prescriptions to a number of different pharmacies to be filled. The Investigator testified before Judge Bittner, stating that Ms. M. also had provided the name of another individual (Mr. S.) who had received prescriptions from the Respondent for controlled substances intended for her use, and that this individual had filled the prescriptions and had given the substances to her in exchange for sexual favors, all with the Respondent's knowledge. Further, Ms. M. provided the name of an individual (Mr. D.) who had supplied cocaine to the Respondent. Ms. M. also told the Investigator that the respondent had provided her with cocaine, and that she had witnessed him use cocaine.

Ms. M. testified before a grand jury the same day that the Investigator

interviewed her, and the grand jury testimony basically corroborated the information she had provided to the Investigator. Ms. M. also testified that she was a drug addict and had used cocaine and narcotic pain medication.

The Investigator testified that, at the end of January and the beginning of February of 1990, she, another DEA diversion investigator, and an investigator from the Iowa Board of Pharmacy Examiners, had conducted a survey of approximately 15 to 20 area pharmacies to obtain prescriptions issued by the Respondent. The prescription survey showed that (1) between March 11 and September 28, 1989, Ms. M. had received 16 prescriptions totaling 450 dosage units of drugs containing propoxyphene, a Schedule IV controlled substance, which she had filled at nine different pharmacies; (2) between November 1, 1988, and April 14, 1989, the Respondent had issued Mr. S. 15 prescriptions totaling 500 dosage units of drugs containing propoxyphene, which Mr. S. had filled at three different pharmacies; (3) on December 3, 1988, and May 19, 1989, the Respondent had issued prescriptions to Mr. D. for 30 Ativan, a brand name for a drug containing lorazepam, a Schedule IV controlled substance, and for 30 Percocet, a brand name for a drug containing oxycodone, a Schedule II controlled substance; and (4) on February 15, 1989, the Respondent had issued a prescription for 20 Darvocet-N, a brand name for a drug containing propoxyphene, to Ms. M.'s husband, in the name of "Mike Barnes." However, the Investigator also testified that these prescriptions probably constituted no more than five percent of the Respondent's total number of prescriptions reviewed. The survey also showed that Ms. M. had received numerous prescriptions for controlled substances in false names between March of 1989 and September of 1989.

In February of 1990, the Special Agent arranged a controlled substance buy from the Respondent, and the Respondent, seeking cocaine, provided the Special Agent, among other substances, 60 Xanax .5 mg. tablets, 30 Xanax 1 mg. tablets, and 39 Vicodin tablets. Vicodin is a brand name product containing hydrocodone and is listed in Schedule III, and Xanax is a brand name drug containing the Schedule IV substance alprazolam. The Special Agent gave the Respondent $300.00 in cash and promised to bring cocaine the next day. The Special Agent also testified before Judge Bittner that during this transaction the Respondent was intoxicated.

The next evening the Special Agent again met with the Respondent, and prior to the meeting he had agreed to provide the Respondent with cocaine in return for double the quantity of pharmaceutical controlled substances he had received the previous night. According to the Special Agent's testimony, the Respondent appeared completely sober, and he tried to return the $300.00 received from the Special Agent the previous night, but the Special Agent told him to keep the money. The Special Agent asked the Respondent if he could obtain Percodan or Dilantin, but the Respondent had refused, stating that acquiring Schedule II drugs would be too difficult to make the effort worthwhile. Dilantin is not a controlled substance, but Percodan contains oxycodone, a Schedule II controlled substance. Ultimately, the Respondent gave the Special Agent three envelopes, each containing 25 Vicodin, and he again asked for the cocaine. However, he was then arrested.

After his arrest, the Investigator interviewed the Respondent, who stated that he thought controlled substance samples were his to use as he pleased and that he was not required to keep any records of them. The Respondent also told the Investigator that he had given away drugs, but that he had not sold them. He also admitted that on two occasions he had traded controlled substance samples for cocaine. With the Respondent's consent, the Investigator searched his office, where she found patient records for Ms. M. and Mr. S., but not for Mr. D.

Subsequently, in February of 1990, the Investigator interviewed Mr. D., who stated that the Respondent had obtained cocaine from him once or twice a month, that the Respondent sometimes had provided him with unused syringes, and that he had grown marijuana on the Respondent's property. Further, Mr. D. testified before the grand jury on February 20, 1990, stating that for approximately two years beginning in October of 1987, he had provided at least one and three-quarters grams of cocaine per week to the Respondent, and that the Respondent never had written him prescriptions for controlled substances. Rather, the Respondent had traded controlled substances such as Xanax, Valium Librium, Vicodin, or Lortab, for the cocaine. Mr. D. also testified that he had grown marijuana on the Respondent's property with his knowledge and consent.

On February 22, 1990, an indictment against the Respondent was filed in the United States District Court for the Southern District of Iowa, and on April 26, 1990, the Respondent entered into a plea agreement, specifying that he would plead guilty to one count of conspiracy to distribute controlled substances in violation of 21 U.S.C. 846, and that he would surrender his DEA registration. In exchange, the government agreed to dismiss the other counts, to include six counts of unlawful distribution of controlled substances, and one count of unlawful prescribing. On July 31, 1990, the court accepted the Respondent's guilty plea and sentenced him to twelve months incarceration to be followed by five years supervised probation, to include a program of testing and treatment for drug and alcohol abuse, and a fine of $15,000.00.

On September 13, 1990, the Medical Board filed a complaint, seeking action against the Respondent's medical license based on his felony conviction "for a crime related to his profession." On December 31, 1990, the Medical Board issued an Order revoking the Respondent's license to practice medicine.

Testifying before Judge Bittner, the Respondent denied ever trading prescriptions for sexual favors, and stated that he had terminated his client and prostitute relationship with Ms. M. after she had discovered that he was a physician. The Respondent also asserted that he had issued some prescriptions to Ms. M. in an attempt to help her, and that other call-in prescriptions were written in different names, but that he had assumed he had patients with those names, or that when he was covering for other physicians, that they had patients with those names. He testified that "[s]ome of those prescriptions I wrote under duress, with the threats of extortion, under the circumstances of my addiction." However, the Respondent also testified that he had falsified prescriptions for Ms. M. "[o]n one or two occasions * * * at her request." He also stated that Ms. M. had continued to demand drugs from him, that she had called him at night, and that she had demanded money and had threatened to expose him to his family and the medical community. The Respondent testified that in May or June of 1989, he told Ms. M. that he would no longer see or speak with her.

The Respondent also testified about the undercover operation, stating, "I was a desperate man trying to score my fix, and I was desperately trying to negotiate a deal. And at the time I would have done whatever it took to get it." The Respondent also stated that he did not use marijuana, that he had nothing to do with the marijuana grown on his property, that when he found out about it, he "repeatedly asked that it be removed," and that ultimately it was removed.

A United States Probation Officer (Officer) testified that, following the Respondent's incarceration, he was placed on supervised release on August 5, 1991, for a term of five years. The Officer testified that she had been the Respondent's probation officer since December of 1991, and she was responsible for monitoring his compliance with the terms of his supervised release. She stated that the Respondent had accomplished everything she asked of him, had arrived promptly for meetings with her, and submitted required monthly reports in a timely manner, and "has done his best to comply with all the conditions." The Officer also testified that the Respondent was eligible for early parole and that, conditioned upon the Respondent's paying his fine, she planned to recommend early termination to the court.

On March 9, 1992, the Respondent petitioned the Medical Board for reinstatement of his Iowa medical license. On August 19, 1992, the Medical Board held a hearing on that petition, and on October 13, 1992, the Medical Board issued an Order adopting the recommendation of a panel and reinstating the Respondent's license, subject to a five-year probation. The terms of probation included, among other things, that the Respondent (1) abstain from the use of alcohol and illicit drugs, (2) obtain psychiatric counseling and attend meetings of Alcoholics Anonymous or a similar organization twice weekly, (3) submit quarterly reports of his controlled substance prescriptions to the Medical Board, and (4) associate with at least one other physician in his practice. A Medical Board Investigator testified that he was responsible for monitoring the Respondent on behalf of the Medical Board, and that to the best of his knowledge, the Respondent was in complete compliance with the terms of his probation.

By letter dated November 19, 1992, the Respondent's eligibility to participate in Medicare was reinstated. On February 22, 1993, the Respondent applied for a DEA Certificate of Registration as a practitioner, disclosing information about his prior conviction and subsequent surrender of his prior DEA registration. Also, by letter dated September 22, 1993, the Iowa Board of Pharmacy Examiners notified counsel for the Respondent that the Respondent's application for a state controlled substance registration was approved.

The Program Manager of the Start InPatient Program for the Center for Alcohol and Drug Services (Center) in Davenport, testified that the Respondent had been evaluated at the Center in July of 1991, and that a treatment program had been established for him. The Program Manager testified that the Respondent had undergone urinalysis examinations at frequencies ranging from once to six times per month between August of 1991 and June of 1993, and that none of the tests were positive. Beginning again in September of 1994, through January of 1995, the Respondent was tested from one to three times per month, with no adverse test results. The Program Manager also stated that, had the Respondent been using cocaine, these urinalysis tests would have detected it.

The Program Manager also testified that he had been in both individual and group counseling sessions with the Respondent from 1991 until 1993, and that the Respondent had expressed remorse about the effects of his chemical abuse on his family, other physicians in the area, and about the loss of his medical practice. The Program Manager also stated that he believed that:

> [A]t this point in time * * * Mr. Jerome has successfully completed the process that's been required in terms of treatment for rehabilitation for his chemical dependency. I think that he has worked under some supervision of numerous qualified other physicians who have maintained contact with him on a regular basis. My understanding is that he has contact in terms of support units with other physicians who are recovering in Iowa. * * *. I think that Mr. Jerome has gained enough skills during treatment and recovery to be able to seek help if he has urges, * * *. Those are specifically what he's been trained to react to in different fashion than he has in the past.

A psychiatrist (Psychiatrist), testified that he had known the Respondent since 1980, and that in November of 1989, the Respondent became his patient. He testified that, as of the date of the hearing before Judge Bittner, he saw the Respondent monthly, that the Respondent had shown remorse for his actions, and that he has had to deal with the consequences of his misconduct. The Psychiatrist testified that the Respondent had become more mature and better able to see how his behavior affected others.

The Psychiatrist further testified that there was a shortage of internists in Davenport, and that the Respondent's lack of a DEA registration hampered his ability to treat his patients. He also stated that the Respondent was a competent physician, and that he would not hesitate to refer a patient to the Respondent for treatment.

The Respondent testified before Judge Bittner concerning his personal rehabilitation, stating that, while he was in prison, he thought about the people he had hurt, including his patients, his friends, his family, and himself. Also while he was incarcerated, the Respondent enrolled in a chemical dependency program and "learned through treatment that about all I can do is try to make my amends to the people that I have hurt, to do the best job I can to move forward, and to make sure it doesn't happen again." The Respondent stated that he felt tremendous regret for his past actions, and that as of the hearing, he felt that he was a "more caring, [calm[er], a little more rational individual who doesn't use drugs or alcohol."

The Respondent testified that after he was transferred to a halfway house, he continued outpatient treatment, with individual counseling sessions once or twice per week, that he also attended Narcotics Anonymous and Alcoholics Anonymous meetings twice per week, and that in June of 1991, he was transferred to a work release program in Davenport, where he resumed seeing a psychiatrist he had seen there prior to his arrest. According to the Respondent, he has learned how to prevent relapse, has continued to regularly attend twelve-step meetings, and has developed some insight into his own behavior. The Respondent also testified that he did not want to put either himself or his family "through this again."

The Director of the Iowa Department of Public Health (Director) testified that studies have indicated that the Iowa Medical Board is the second strictest in the United States in terms of penalties imposed on physicians who have been disciplined. He also testified that he was familiar with the disciplinary proceedings involving the Respondent, and that to the best of his knowledge, the Respondent had satisfied the conditions imposed upon him. The Director also testified that he believed that reinstatement of the Respondent's DEA registration would be in the public interest, for the Medical Board had also considered the best interest of the public, as well as the Respondent's professional credentials and compliance with the requirements it imposed, in deciding to restore his license to practice medicine.

The Respondent also offered into evidence letters from various physicians, one of whom was a patient of his, attesting to the Respondent's expertise, compassion, and concern for

his patients. The Respondent also submitted letters from physicians to United States Senator Charles E. Grassley, seeking his support for the Respondent's application, and letters to the Medical Board from various patients, colleagues, and friends, all supporting reinstatement of the Respondent's medical license. Also, the Respondent submitted letters written to the Administrator of DEA from Governor Branstad of Iowa, and from United States Representative James A. Leach of Iowa.

It is undisputed that the United States Department of Health and Human Services has designated Scott County, Iowa, which includes Davenport, as an area with a shortage of primary care physicians willing and able to treat Medicaid patients. The Respondent testified that as of the date of the hearing, he was practicing in a clinic in the inner city of Davenport, and that his patients were older, sicker, had less access to medical care, and were more likely to be on Medicaid than those he treated prior to the revocation of his medical license. The Respondent stated that he believed that granting his application for a DEA registration would be in the public interest, because he felt that the lack of authority to handle controlled substances severely handicapped his ability to treat his patients. Without such a registration, he had had great difficulty obtaining either hospital staff privileges or professional liability insurance, and he was ineligible to participate in several managed care plans. In addition, the Respondent testified that he had been offered a position as assistant director for the Center of Alcohol and Drug Services, but that the offer was contingent on having a DEA registration.

Pursuant to 21 U.S.C. 823(f), the Deputy Administrator may deny an application for a DEA Certificate of Registration, if he determines that registration would be inconsistent with the public interest. Section 823(f) requires that the following factors be considered:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health or safety.

These factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration denied. See *Henry J. Schwarz, Jr., M.D.*, Docket No. 88–42, 54 FR 16422 (1989).

In this case, all five factors are relevant in determining whether the Respondent's registration would be inconsistent with the public interest. As to factor one, "recommendation of the appropriate State licensing board * * *", as a result of the Respondent's misconduct resulting in a felony conviction, the Medical Board revoked his medical license on December 31, 1990. Although his license was reinstated on October 13, 1992, it was subject to five-year's probation with significant conditions to be met.

As to factor two, the Respondent's "experience in dispensing * * * controlled substances," uncontroverted evidence was presented that, on two occasions in February of 1990, the Respondent distributed controlled substances to the Special Agent without a legitimate medical purpose. The record also contains evidence that the Respondent misused samples of controlled substances by trading them for cocaine or by improperly giving them away.

As to factor three, the Respondent's "conviction record under Federal * * * laws relating to the * * * distribution, or dispensing of controlled substances," and factor four, the Respondent's [c]ompliance with applicable State, Federal, or local laws relating to controlled substances," uncontroverted evidence demonstrated that the Respondent was convicted in Federal court of conspiracy to distribute controlled substances in violation of 21 U.S.C. 846. Further, the Respondent admitted he engaged in the unlawful possession and use of cocaine prior to his conviction.

As to factor five, "[s]uch other conduct which may threaten the public health or safety," the Deputy Administrator agrees with Judge Bittner's observations regarding the Respondent's testimony concerning his writing of prescriptions under duress or as a result of threats of extortion linked with his drug addiction, referencing his prior relationship with Ms. M. Specifically, Judge Bittner wrote: "I also note, however, that I find disturbing Respondent's contention that he issued prescriptions in false names either by mistake or under duress. A physician obviously should not issue a controlled substance prescription to a patient he is not sure is under his treatment and care." Such prescribing practices are not consistent with the responsibilities inherent in receiving a DEA Certificate of Registration. Therefore, the Deputy Administrator agrees with Judge Bittner, that the Respondent's past misconduct "constitutes sufficient grounds to deny his application for DEA registration."

However, the Respondent has also submitted extensive evidence of his rehabilitation. Specifically, the Respondent has demonstrated that his ability to participate in Medicare was reinstated on November 19, 1992, and his application for a state controlled substances registration was approved on September 22, 1993. Further, as Judge Bittner noted, the record established that at the time the Respondent engaged in the misconduct at issue, he was actively addicted to alcohol and cocaine. Yet, the record also demonstrates that he has actively participated in, and successfully completed, a rehabilitation program for his chemical dependency. Although he has submitted to urinalysis testing periodically since 1991, all results have been negative.

As Judge Bittner noted, "as of the date of the hearing[,] Respondent had maintained his sobriety for nearly five years."

Also, the Respondent submitted extensive favorable evidence from colleagues and patients, attesting to his professional expertise, as well as to the community's need for his specialty as a primary care physician. Finally, the Respondent testified as to his remorse for his past misconduct and his determination that he will not engage in such conduct in the future. Although none of his remedial activities justifies the grievous nature of his past misconduct, the Deputy Administrator agrees with Judge Bittner's conclusion that, "on balance I conclude that the Government has not established by a preponderance of the credible evidence that [the] Respondent's registration would be inconsistent with the public interest." However, also on balance, the Deputy Administrator agrees that a registration subject to the following conditions would best serve the public's interest:

(1) The Respondent's controlled substance handling authority shall be limited to writing of prescriptions only, and he shall not dispense, possess, or store any controlled substance, except that the Respondent may administer controlled substances in a hospital, and may possess controlled substances which are medically necessary for his own use and which he has obtained pursuant to a written prescription from another licensed practitioner (unless the substance is legitimately obtainable without a prescription); and

(2) the Respondent shall submit, every calendar quarter, a log of all controlled substance prescriptions he has written during the previous quarter to the Special Agent in Charge of the nearest DEA office, or his designee. These restrictions will run for a period of three years from the effective date of the Respondent's registration.

Therefore, the Deputy Administrator finds that the public interest is best served by granting the Respondent's application with the above conditions. The Respondent submitted extensive evidence demonstrating the need for the DEA Certificate of Registration in his current practice, as well as evidence of the community's need for a physician of his speciality with full prescribing capabilities. Given these needs, the Deputy Administrator has determined that the public interest will be better served in making this final order effective upon publication, rather than thirty days from the date of publication.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824, and 28 CFR 0.100(b) and 0.104, hereby orders that the application for a DEA Certificate of Registration submitted by William P. Jerome, M.D., be, and it hereby is, granted, subject to the above conditions. This order is effective upon publication in the **Federal Register**.

Dated: March 18, 1996.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 96–6979 Filed 3–21–96; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 94–43]

Ekambaram Parameswaran, M.D.; Denial of Application

On March 31, 1994, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Ekambaram Parameswaran, M.D. (Respondent) of Inez, Kentucky, notifying him of an opportunity to show cause as to why DEA should not deny his application for registration as a practitioner under 21 U.S.C. 825(f), as being inconsistent with the public interest.

The Respondent filed a timely request for a hearing, and the matter was docketed before Administrative Law Judge Paul A. Tenney. After numerous delays at the request of the Respondent, the hearing was scheduled to commence on September 26, 1995. However, prior to that date, the Government filed a Motion for Summary Disposition, noting that the Respondent's license to practice medicine had been revoked by the Kentucky State Board of Medical Licensure (Medical Board) by final order dated July 20, 1995, a copy of which was attached to the motion. The Respondent was afforded an opportunity to respond to the Government's motion, on or before August 16, 1995, but no response was filed. On August 29, 1995, Judge Tenney issued his Conclusions of Law and Recommended Ruling, in which he found that the Respondent lacked authorization to handle controlled substance in Kentucky, granted the Government's Motion for Summary Disposition, and recommended that the Respondent's application of a DEA Certificate of Registration be denied. Neither party filed exceptions to his decision, and on September 28, 1995, Judge Tenney transmitted the record of these proceedings and his opinion to the Deputy Administrator.

The Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts, in full, the decision of the Administrative Law Judge.

Specifically, the Deputy Administrator finds that by final order dated July 20, 1995, the Medical Board revoked the Respondent's license to practice medicine. From this fact, Judge Tenney inferred that since the Respondent was not authorized to practice medicine, he also was not authorized to handle controlled substances. The Deputy Administrator agrees with Judge Tenney's inference, and he also notes that the Respondent has not filed an exception to this portion of his decision.

The Drug Enforcement Administration cannot register or maintain the registration of a practitioner who is not duly authorized to handle controlled substances in the state in which he conducts his business. 21 U.S.C. 802(21), 832(f), and 824(a)(3). The prerequisite has been consistently upheld. See Dominick A. Ricci, M.D., 58 FR 51,104 (1993); James H. Nickens, M.D., 57 FR 59,847 (1992); Roy E. Hardman, M.D. 57 FR 49,195 (1992); Myong S. Yi, M.D., 54 FR 30,618 (1989); Bobby Watts, M.D., 53 FR 11,919 (1988). Therefore, because the Respondent lacks state authority to handle controlled substances, he currently is not entitled to a DEA registration.

Judge Tenney also properly granted the Government's motion for summary disposition. Here, the parties did not dispute that the Respondent was unauthorized to handle controlled substances in Kentucky, the state in which he proposed to conduct his practice. Therefore, it is well-settled that when no question of fact is involved, a plenary, adversary administrative proceeding involving evidence and cross-examination of witnesses is not obligatory. See Dominick A. Ricci, M.D., 58 FR at 51,104 (finding it well settled that where there is no question of material fact involved, a plenary, adversarial administrative hearing was not required); see also Phillip E. Kirk, M.D., 48 FR 32,887 (1983), aff'd sub nom Kirk V. Mullen, 749 F.2d 297 (6th Cir. 1984); *Alfred Tennyson Smurthwaite, M.D.*, 43 FR 11,873 (1978); NLRB v. International Association of Bridge, Structural and Ornamental Ironworkers, AFL–CIO, 549 F.2d 634 (9th Cir. 1977).

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824, and 28 CFR 0.100(b) and 0.104, hereby orders that the Respondent's application for a DEA Certificate of Registration be, and it hereby is, denied. This order is effective April 22, 1996.

Dated: March 18, 1996.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 96–6978 Filed 3–21–96; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Employment and Training Administration

Unemployment Compensation for Federal Employees Excepted Employee Program; Unemployment Insurance Program Letters Implementing the Unemployment Compensation for Federal Employees Excepted Employee Program

On January 6, 1996, Public Law 104–92 was enacted. Section 312 of Title III of the Act created the Unemployment Compensation for Federal Employees Excepted Employee Program (UCFE–EEP) effective January 2, 1996. Under the UCFE–EEP, Federal employees excepted from furlough and who are not being paid due to a lapse in appropriations shall be deemed to be totally separated from Federal service and eligible for unemployment

compensation under the regular UCFE program with no waiting period to accrue for eligibility.

In its role as principal in the UCFE–EEP, the Department of Labor issued controlling guidance for the States and cooperating State agencies in the operating instructions set forth in Unemployment Insurance Program Letter (UIPL) No. 7–96, dated January 24, 1996, and UIPL 7–96, Change 1, dated March 8, 1996. The States administer the UCFE Program pursuant to agreements between the States and the Secretary of Labor. Since the UCFE–EEP is a sub-program of the UCFE Program, the same agreement applies.

The States and cooperating State agencies may not vary from the operating instructions provided in UIPL 7–96 or UIPL 7–96, Change 1, (or any subsequent or supplemental operating instructions), without the prior approval of the Department of Labor. Therefore, UIPLs No. 7–96 and 7–96, Change 1, are published below assuring public notification of the required procedures.

Signed at Washington, DC on March 14, 1996.

Timothy M. Barnicle,

Assistant Secretary.

Directive: Unemployment Insurance Program Letter No. 7–96

To: All State Employment Security Agencies

From: Mary Ann Wyrsch, Director, Unemployment Insurance Service

Subject: Unemployment Compensation for Federal Employees (UCFE)—Federal Employees Excepted from Furlough (UCFE-Excepted Employees Program)

1. *Purpose.* To advise State Employment Security Agencies (SESAs) of the provisions of Section 312 of Title III of P.L. 102–94 (Continuing Resolution) concerning eligibility for UCFE for Federal civilian employees excepted from furlough and to provide instructions for implementing the legislation to ensure the timely and accurate payment of benefits under the UCFE-Excepted Employee Program (UCFE–EEP) and to provide fiscal and reporting instructions.

2. *References.* Title III of P.L. 102–94 (H.R. 1643) enacted January 6, 1996; Subchapter I of chapter 85, title 5 of the United States Code (5 U.S.C. 8501 *et seq.*) (UCFE law); 20 CFR Part 609 (UCFE regulations); Secretary of Labor's Agreement with States to administer the UCFE and Unemployment Compensation for Ex-servicemembers (UCX) Programs.

3. *Background.* Generally, whenever there is a lapse in appropriations to fund a Federal government agency, the agency must shut down activities and furlough its employees. However, there are exceptions that permit certain employees to remain working to continue selected functions. This includes those functions which the failure to perform would result in an imminent threat to the safety of human life or the protection of property, or where there is an implied authority by statute that the function should continue.

Rescissions

None.

Expiration Date: January 31, 1997.

Unless there are special provisions enacted after the furlough which retroactively provide a different outcome, furloughed employees may be eligible for UCFE under subchapter I of chapter 85 of title 5 of the United States Code. However, employees excepted from such furloughs would neither be compensated (because of the laps in appropriations) nor eligible for UCFE because they perform services during the furlough period and would not be considered unemployed or otherwise eligible for benefits in accordance with State and Federal laws governing the payment of unemployment compensation.

Section 312 of P.L. 102–94 changes and suspends some UCFE eligibility requirements, through September 30, 1996, to convey UCFE eligibility to employees excepted from furlough who are not being paid due to a lapse in appropriations. These changes have, in effect, created a sub-program of the regular UCFE program which will be known as the UCFE-Excepted Employees Program (UCFE–EEP).

The purpose of the UCFE–EEP is to provide a weekly payment to unpaid workers who are excepted from furlough through September 30, 1996, similar to that paid under the UCFE program to furloughed individuals. To the extent possible these instructions so provide; however, in certain instances provisions have had to be changed or new provisions added in order to provide a weekly benefit amount to individuals not otherwise eligible for UCFE in the absence of Section 312.

This document provides the Department's interpretation of the requirements of Section 312 and sets forth operating instructions prescribed by the Department to guide the States in implementing the provisions of the UCFE–EEP.

4. *Legal Requirements of Section 312 of P.L. 102–94.*

Section 312 provides—

Eligibility for Unemployment Compensation.— Nothwithstanding any other provisions of law, beginning on January 2, 1996, any Federal employee who is excepted from furlough and is not being paid due to lapse in appropriations shall be deemed to be totally separated from Federal service and eligible for unemployment compensation benefits under subchapter I of chapter 85 of title 5 of the United States Code with no waiting period for such eligibility to accrue.

Section 8502(b) of 5 U.S.C. 8501 *et seq.*, as implemented by 20 CFR 609.9(a) of the Secretary's regulations implementing the UCFE program, relative to State law applicability, provides that—

Except where the result would be inconsistent with the provisions of the Act or this part or the procedures thereunder prescribed by the Department, the terms and conditions of the applicable State law which apply to claims for, and the payment of, State unemployment compensation shall apply to claims for, and the payment of, UCFE and claims for waiting period credit.

To effectuate the provisions of Section 312 of P.L. 102–94, it is necessary to differ, in part, from the State and Federal laws normally governing the payment of UCFE. The exceptions to the laws and regulations necessitated by this section are described in section 7. below.

5. *Effective Dates.* Section 312, the UCFE–EEP provisions, are effective beginning January 2, 1996 and remain in effect through the end of Federal Fiscal Year (FY) 1996 (September 30, 1996). However, it has been determined that only weeks of unemployment beginning on or after January 27, 1996 are compensable under the provisions of Section 312 as the Continuing Resolution provided for retroactive pay for excepted employees from December 16, 1995 through January 6, 1996.

The Continuing Resolution which provided funding for Federal agencies that are without FY 1996 appropriations expires on January 26, 1996. In the absence of another Continuing Resolution or FY 1996 appropriations for Federal agencies not funded, the UCFE–EEP will become operations for UCFE–EEP claims filed for a week beginning on or after January 27, 1996 and thereafter as long as such conditions exist, through a week ending on or before September 30, 1996.

6. *Policy.* The instructions in this document are issued to the States and the cooperating State agencies and constitute controlling guidance provided by the Department of Labor in its role as the principal in the UCFE program. As agents of the United States, the States and the cooperating State agencies may not vary from the operating instructions in this directive (or any subsequent or supplemental operating instructions) without the prior approval of the Department of Labor.

7. *The Department's Interpretation of the Requirements of Section 312 of P.L. 102–94 and Controlling Implementation Guidance.*

The Department's interpretation is that all State and Federal laws and regulations applicable to UCFE claims are applicable to UCFE–EEP claims, except where the result of such application would be inconsistent with the provisions of Section 312 of P.L. 102–94, as described below.

Section 312 deems all excepted employees to be totally unemployed with respect to Federal service and eligible for unemployment compensation "under" the UCFE law for as long as such excepted states continues (but not beyond September 30, 1996) without having to serve any waiting week. Thus, even excepted employees having insufficient wages under the State law base period must be determined eligible, as well as excepted employees outside the United States (i.e., outside the States of the United States, District of Columbia, Puerto Rico and the Virgin Islands).

a. Notwithstanding the requirements governing the determination of entitlement under the UCFE/State UI laws, a weekly benefit amount for UCFE–EEP claimants must be established for all Federal employees excepted from furlough who are not being paid due to a lapse in appropriations and who file such claims. (This includes excepted employees who would otherwise have insufficient base period employment and wages to establish monetary entitlement and excepted employees performing excepted services outside the United States). The weekly benefit amount so determined could potentially be paid through a week ending on or before September 30k 1996. Therefore, the State law or Federal law maximum total benefit amount does not apply, since, potentially, an individual could receive UCFE–EEP for a number of weeks that exceed any State's maximum.

b. Monetary entitlement for UCFE–EEP claims must be determined under the qualifying requirements for regular UCFE claims by the State in which the excepted employee's official duty station is located or deemed located for purposes of UCFE–EEP. To effect this requirement, all base period wages covered under any State or Federal law will be used in computing UCFE–EEP entitlement under the State law.

The official duty station of an excepted employee who is performing services outside of the United States is deemed to be the State in which the headquarters of the Federal agency is located.

c. Charges resulting from the payment of UCFE–EEP benefits must be charges to the Federal agency that designated the individual filing such claim as a Federal excepted employee.

d. Section 312 of P.L. 102–94 does not apply to weeks of unemployment during which an individual is not in excepted employee status. Therefore, UCFE–EEP benefits are not payable for weeks during which the individual is not in excepted employee status. In order to receive benefits for such weeks, an individual must establish or have a separate claim in existence with a remaining balance under any of the other unemployment programs and meet all the eligibility conditions for the receipt of regular benefits.

3. Section 312 prohibits the application of any State or Federal law requiring availability for work or active work search to UCFE–EEP claims, including weeks claimed during which the excepted employee performed no excepted services because of annual or sick leave.

f. UCFE–EEP benefit eligibility will be determined in accordance with UCFE/UI requirements defining total unemployment and deductible earnings with respect to any services other than excepted Federal service performed by an excepted employee during a week claimed since Section 312 provides only that excepted service is treated as being totally unemployed.

g. The pension deduction provisions of State law applies to benefits payable under the UCFE–EEP.

h. Section 312 prohibits the application of any State or Federal law requiring an unpaid waiting week or period as a condition to receiving compensation for a week claimed by an excepted employee.

8. *UCFE–EEP Implementation Instructions Based on the Department's Interpretation of Section 312 of P.L. 102–94.* Operating procedures to implement the requirements of Section 312 of P.L. 102–94 as prescribed by the Department are set forth below.

a. *UCFE–EEP Claims Filing Procedures.* Most excepted employees will be performing full-time excepted services, during the weeks involved in the furlough period. Since most excepted employees will be working during the normal workday, SESAs should utilize methods for filing claims that will allow an excepted employee to remain at his/her job site.

If a State agency waives regular reporting provisions with respect to excepted employees, no issue will arise with respect to 20 CFR 609.9.

b. *Initial Claims.*

(1) *New.* When a UCFE–EEP claim is filed, the State agency will issue a UCFE–EEP monetary determination based on all employment and wages during the base period applicable to the claim, without regard to separate monetary entitlement under any State or Federal law, including UCFE.

c. *Monetary Entitlement.*

(1) *Excepted Employee has Sufficient Base Period Wages to Qualify.* Monetary entitlement for UCFE–EEP claims will be determined by the State in which the excepted employee's official duty station is located or deemed located, based on all base period employment covered under any State or Federal law to establish the weekly benefit applicable to the UCFE–EEP claim.

The Federal agency that designates the individual as an excepted employee has been instructed to furnish the State agency, of the State in which the excepted employee's official duty Station is located or deemed located, with the excepted employee's name, social security number, annual Federal salary, base period employment and wage information, home address, and effective date of excepted designation, within the first week of the Federal agency furlough, in accordance with the format and procedures established with the State agency prior to the beginning of such furlough. In the event of a delay of submittal of required information by such Federal agency or if it is deemed to be more expeditious, the SESA may utilize an affidavit to determine entitlement as outlined in *ET Handbook 391*, Chapter XIII, page XIII–2.

To obtain information pertaining to employment and wages covered under another State's law, the State agency should follow its regular procedures to obtain information pertaining to such wages, including using the Request for Wage Transfer procedures (TC–IB4) (or the Interstate Inquiry, IBIQ, via the ICON). However, if the TC–IB4 is used, such use must not interfere with the processing of a regular claim and the employment and wages must be returned as unused.

(2) *Excepted Employee has Insufficient Base Period Wages to Qualify.* If the excepted employee has insufficient employment and wages in the base period to qualify, the State agency will prorate the individual's annual salary, as reported by the Federal agency that designated the individual as a Federal excepted employee, in terms of quarters or weeks of wages in the base period, as appropriate, and issue a monetary determination, accordingly. In addition, the excepted worker's most recent earnings and leave statement will reflect the excepted employee's annual and weekly salary and may be utilized for the projection utilizing the affidavit procedure.

d. *UCFE–EEP Weeks Claimed.* When an employee is designated as an excepted employee, even for a portion of a week, such individual shall be determined eligible for UCFE–EEP for the entire week. This includes excepted employees who may be on leave during an entire week or portion thereof.

e. *Overpayments.* Should an appropriation or continuing resolution occur that retroactively provides for the payment of salary to excepted employees, State and Federal laws governing overpayments will need to be applied to weeks paid under the UCFE–EEP program (20 CFR 609.11).

f. *Relationship to Other Programs.* Eligibility for UCFE–EEP has no effect on unemployment compensation payable under any other State or Federal law. Benefits under this program are payable only to an excepted employee. If an excepted employee's status changes for any week during the furlough period, UCFE–EEP benefits are not payable and the individual must establish eligibility under the regular requirements for such week.

9. *Instructions for Reporting UCFE–EEP Transactions on Form ETA 2112.* Advances and expenditures under the Excepted Employee Program are to be reported on the ETA 2112 in the same manner as transactions for the regular UCFE program.

Drawdowns: On line 23, include in columns C and E, amounts which have been received as advances or reimbursements from the Federal Employees Compensation Account (FECA) for payment of benefits to Federal civilians under provisions of the UCFE–EEP. Disbursements: On line 43, include in columns C and F, net benefit payments made to Federal civilians under the UCFE–EEP with funds received from the FECA.

10. *Fiscal Requirements.* All UCFE–EEP paid to an excepted employee during the furlough period will be billed to the Federal agency placing the individual in excepted employee status. Administrative costs for the workload associated with UCFE–EEP claims will be paid from contingency funds at the Fiscal Year 1996 allocated MPU level.

11. *Reporting Instructions.* While counts of UCFE–EEP claims will be incorporated in the existing UCFE reporting, separate counts for three items of data are required to track the UCFE–EEP claimants. Separate counts should be reported weekly on: (a) the number of individuals who file new and additional initial claims for UCFE–EEP benefits; (b) the number of weeks of UCFE–EEP benefits that were compensated during the report week; and (c) the amount of UCFE–EEP benefits paid for those weeks.

Because this should be a temporary situation, this data is to be reported electronically on the Quick Response Report. The Quick Response Report is a blank report found in the UI Required Reports (UIRR) electronic entry system. Once in the UIRR system, "Access Reports" should be chosen, followed by "Special Programs" and then "arQuick Response Report". This is a blank report where 12 unlabeled items may be

reported. Items 1 through 3 are already being used for Self Employment data reporting in those few States which have that program. Therefore, items 6, 7 and 8 will be used for UCFE-Expected Employee claimant data reporting.

Fill in the report date item using the Saturday week ending date of the week in which the activity occurred. Report in item 6 the total number of initial claims, both new and additional, filed by UCFE–EEP claimants during the report week. Report in item 7 the total number of weeks compensated for UCFE–EEP claimants during the report week. Report in item 8 the total amount of benefits paid for the weeks reported in item 7. Please note in comments that the data is for UCFE–EEP claimants. No edits are available on the Quick Response Report.

This report will be due the Friday following the week in which the activity took place. Reporting will continue as long as there is activity. These reporting requirements have been submitted to the Office of Management and Budget (OMB) for approval under the Paperwork Reduction Act of 1995. States are not required to report until that approval is received. When the approval is received, States will be notified and provided the OMB approval number and expiration data.

12. *Action Required.*

a. *Department of Labor.* The Department of Labor has instructed affected Federal agencies, directly and through the Office of Personnel Management (OPM), to furnish SESAs with the list of each agency's excepted employees, including the employee's home address, Social Security Number, annual Federal salary rate, effective date of designation, and base period qualifying wage and employment information. Also, Federal agencies are being instructed to furnish an on-going list of employee changes to and from excepted employee status if applicable. Once the State agency has been provided with all of the information pertaining to an excepted employee, the Federal agency will furnish only the pertinent information for changes.

In addition, Federal agencies are being advised to establish a liaison person(s) to work with each SESA in administering the UCFE program for excepted workers. This may be the same person already assigned UCFE program liaison responsibilities.

To the extent possible, the Department of Labor National Office and Regional Offices will work with the affected Federal agencies to provide information to the SESAs that will expedite and administratively ease the establishment of UCFE–EEP by the SESAs.

b. *State Agencies.* SESA Administrators shall:

(1) Provide the above guidance in this UIPL to appropriate staff.

(2) Ensure that appropriate staff perform all actions necessary to provide for the proper payment of UCFE–EEP to excepted employees for a program that could begin as early as January 27, 1996. This will include—

(A) When contacted by the Federal agency liaison, coordinating with such individual(s) actions necessary to receive the information, described in section a. above and any other actions determined necessary by the State agency, that will enable UCFE–EEP claims to be processed. The claims filing procedures that excepted employees are to follow should also be explained to the Federal agency;

(B) Establishing UCFE–EEP claims for excepted employees in a prompt manner, minimizing any in-person reporting by such employees. For example, the State could send appropriate claims forms to individuals identified by the Federal agency as excepted employees in order for such individuals to file claims;

(C) Promptly determining monetary eligibility for UCFE–EEP claims based on base period qualifying employment and earnings or the annual salary figure supplied by the Federal agency and/or the earnings and leave statement furnished by the applicant through the use of the ES–935 affidavit process in the absence of base period wages reported by the Federal agency;

(D) Making prompt payment of UCFE–EEP benefits to excepted employees including payment for what would otherwise be a waiting period;

(E) Developing any other procedures with Federal agencies that will ease administration of this special program;

(F) Adhering to the fiscal guidelines set forth in this document and furnishing required reports in a timely manner.

13. *Inquiries.* Questions should be directed to the appropriate Regional Office.

Directive: Unemployment Insurance Program Letter No. 7–96, Change 1
To: All State Employment Security Agencies
From: Mary Ann Wyrsch, Director, Unemployment Insurance Service
Subject: Unemployment Compensation for Federal Employees (UCFE) Excepted Employee Program (UCFE–EEP)

1. *Purpose.* To inform States of Office of Management and Budget approval of the reporting on the UCFE–EEP and to correct the reference to Public Law (P.L.) 104–92 in UIPL 7–96.

2. *Reference.* UIPL 7–96.

3. *OMB Approval.* Reporting requirements set forth in the referenced UIPL are approved by OMB under the Paperwork Reduction Act of 1995. The OMB number is 1205–0364 with an expiration date of April 30, 1996. States are not required to respond to this collection of information unless it displays a currently valid OMB control number.

4. *Burden Estimate.* Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Labor, Office of Unemployment Insurance, 200 Constitution Avenue NW., Room S–4519, Washington, D.C. 20210 (Paperwork Reduction Project 1205–0364).

5. *Correction to UIPL 7–96.* All referenced to P.L. 102–94 in UIPL 7–96 should be changed to read P.L. 104–92.

6. *Action Required.* States are now required to report UCFE-Excepted Employee data, when appropriate as outlined in the referenced UIPL.

7. *Questions.* Inquiries should be directed to the appropriate Regional Office.

Rescissions
None.

Expiration date:

[FR Doc. 96–6989 Filed 3–21–96; 8:45 am]
BILLING CODE 4510–30–M

Employment Standards Administration

Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailng by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210.

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I:

Massachusetts
MA960001 (Mar. 15, 1996)
New Jersey
NJ960002 (Mar. 15, 1996)

Volume II:

Virginia
VA960003 (Mar. 15, 1996)
VA960005 (Mar. 15, 1996)
VA960039 (Mar. 15, 1996)
VA960046 (Mar. 15, 1996)
VA960055 (Mar. 15, 1996)
VA960069 (Mar. 15, 1996)
VA960084 (Mar. 15, 1996)
VA960085 (Mar. 15, 1996)

Volume III:

Kentucky
KY960001 (Mar. 15, 1996)
KY960004 (Mar. 15, 1996)
KY960007 (Mar. 15, 1996)
KY960025 (Mar. 15, 1996)
KY960027 (Mar. 15, 1996)
KY960029 (Mar. 15, 1996)
KY960030 (Mar. 15, 1996)
KY960038 (Mar. 15, 1996)
KY960047 (Mar. 15, 1996)
KY960049 (Mar. 15, 1996)
KY960054 (Mar. 15, 1996)

Volume IV:

Illinois
IL960026 (Mar. 15, 1996)

Volume V:

Kansas
KS960005 (Mar. 15, 1996)
New Mexico
NM960001 (Mar. 15, 1996)
NM960002 (Mar. 15, 1996)

Volume VI:

Colorado
CO960025 (Mar. 15, 1996)
Wyoming
WY960023 (Mar. 15, 1996)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at (703) 487–4630.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, D.C., this 15th day of March 1996.

Philip J. Gloss,
Chief, Branch of Construction Wage Determinations.

[FR Doc. 96–6652 Filed 3–21–96; 8:45 am]
BILLING CODE 4510–27–M

Pension and Welfare Benefits Administration

[[Prohibited Transaction Exemption 96–17; Exemption Application No. D–09930, et al.]

Grant of Individual Exemptions; General Motors Hourly-Rate Employees Pension Plan; General Motors Retirement Program for Salaried Employees; Saturn Individual Retirement Plan for Represented Team Members; Saturn Personal Choices Retirement Plan for Non-Represented Team Members; Employees' Retirement Plan for GMAC Mortgage Corporation; National Car Rental System, Inc. Salaried Employees Pension Plan; and National Car Rental System, Inc. Hourly Paid Employees Pension Plan (Collectively, the Plans), et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition, the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

General Motors Hourly-Rate Employes Pension Plan; General Motors Retirement Program for Salaried Employes; Saturn Individual Retirement Plan for Represented Team Members; Saturn Personal Choices Retirement Plan for Non-Represented Team Members; Employees' Retirement Plan for GMAC Mortgage Corporation; National Car Rental System, Inc. Salaried Employees Pension Plan; and National Car Rental System, Inc. Hourly Paid Employees Pension Plan (collectively, the Plans) Located in New York, New York

[Prohibited Transaction Exemption 96–17; Exemption Application Nos. D–09930, D–09931]

Exemption

(a) *General Exemption.* The restrictions of section 406(a)(1)(A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to any transaction arising in connection with the acquisition, ownership, management, development, leasing, financing, or sale of real property (including the acquisition, ownership or sale of any joint venture or partnership interest in such property) or the borrowing or lending of money in connection therewith, between a party in interest and the Plans, provided that the following conditions are satisfied:

(1) The terms of the transaction are negotiated on behalf of the Plans by, or under the authority and general direction of, General Motors Investment Management Corporation (GMIMCo), as described in the summary of facts in the notice of proposed exemption, and GMIMCo makes the decision to invest the assets of the Plans in such transaction. Notwithstanding the foregoing, a transaction involving an amount of $20 million or more, which has been negotiated on behalf of a Plan by GMIMCo will not fail to meet the requirements of this section (a)(1) solely because General Motors Corporation or its designee retains the right to veto or approve such transaction;

(2) Any such party in interest is not—

(i) GMIMCo or any person directly or indirectly controlling, controlled by, or under common control with GMIMCo, any officer, director or employee of GMIMCo or any of its subsidiaries, or any partnership in which GMIMCo is a 10 percent or more (directly or indirectly in capital or profits) partner;

(ii) General Motors Corporation (GM) or any of its subsidiaries, any officer or director of GM or any of its subsidiaries;

(iii) any named fiduciary of any Plan, or any person who has discretionary authority in the selection, supervision or operation of GMIMCo or any of its officers, directors or employees;

(iv) a sponsor of any of the Plans (Plan Sponsor) or any subsidiary of a Plan Sponsor, or a ten percent or more shareholder, partner, or joint venturer of a Plan Sponsor, or any officer or director of any of them;

(v) any person who exercises discretionary authority, responsibility or control, or who provides investment advice [within the meaning of 29 CFR 2510.3–21(c)], with respect to the investment of Plan assets involved in the transaction;

(3) The transaction is not part of an agreement, arrangement or understanding designed to benefit a party in interest;

(4) At the time the transaction is entered into, and at the time of any subsequent renewal or modification thereof that requires the consent of GMIMCo, the terms of the transaction are at least as favorable to the Plans as the terms generally available in arm's-length transactions between unrelated parties;

(4) GM or GMIMCo shall maintain for a period of six years from the date of each transaction mentioned above the records necessary to enable the persons described in subparagraph (5) of this section (a) to determine whether the conditions of this exemption have been met, except that (i) a prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of GM and GMIMCo, the records are lost or destroyed prior to the end of the six-year period, and (ii) no party in interest except GM and GMIMCo shall be subject to the civil penalty which may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by subparagraph (5) below;

(5)(i) Except as provided in subsection (ii) of this subparagraph (5) and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in subparagraph (4) of this section (a) are unconditionally available at GM's headquarter offices, or, upon prior arrangement with GM, at any other customary location for the maintenance and/or retention of such records, for examination during normal business hours by:

(A) Any duly authorized employee or representative of the Department of Labor or the Internal Revenue Service,

(B) Any fiduciary of a Plan or any duly authorized employee or representative of such fiduciary, and

(C) Any participant or beneficiary of any Plan or any duly authorized representative of such participant or beneficiary.

(ii) None of the persons described in subdivisions (i)(B) and (i)(C) of this subparagraph (5) shall be authorized to examine GM's trade secrets or commercial or financial information which is privileged, confidential or of a proprietary nature.

(b) *Specific exemption.* The restrictions of sections 406(a)(1) (A) through (D) and sections 406(b)(1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the furnishing of services, facilities, and any goods incidental thereto by a place of public accommodation which is or may be considered an asset of a Plan if the services, facilities or incidental goods are furnished on a comparable basis to the general public, and if the requirements of subparagraphs (a)(4) and (5) of this exemption are met.

For a more complete statement of the facts and representations supporting this exemption, refer to the notice of proposed exemption published on November 28, 1995 at 60 FR 58662.

EFFECTIVE DATE: This exemption is effective as of July 1, 1994.

TEMPORARY NATURE OF THE EXEMPTION: This exemption is temporary in nature and will expire on the date of

publication by the Department of the final class exemption for plan asset transactions determined by in-house asset managers, which was proposed by the Department on March 24, 1995 at 60 FR 15597 (application no. D–09602).

WRITTEN COMMENTS: The Department received one written comment and no requests for a hearing. The comment, which was submitted by the applicant, General Motors Corporation, informed the Department that two additional pension plans (the New Plans) became participants in the General Motors Hourly-Rate Employees Pension Trust effective August 1, 1995: (1) the National Car Rental System, Inc. Salaried Employees Pension Plan, plan no. 001, with 1,439 participants as of December 31, 1994, and (2) the National Car Rental System, Inc. Hourly Paid Employees Pension Plan, plan no. 002, with 2,363 participants as of December 31, 1994. The applicant requested that the New Plans be included among the Plans to which the exemption is applicable.

In response to the comment, the Department has added the New Plans to the Plans identified in the heading of the exemption.

After consideration of the entire record, the Department has determined to grant the exemption.

FOR FURTHER INFORMATION CONTACT: Ronald Willett of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

H.E.B. Investment and Retirement Plan (the Plan) Located in San Antonio, Texas

[Prohibited Transaction Exemption 96–18; Application No. D–10035]

Exemption

The restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed cash sale by the Plan to H.E. Butt Grocery Company (the Company), a party in interest with respect to the Plan, of an interest in a certain parcel of improved real property (the Property) known as the South Congress Shopping Center in Austin, Texas, provided that the following conditions are met:

(a) The sale is a one-time transaction for cash;

(b) The Plan will receive an amount equal to the greater of either: (1) $2,975,666, or (2) the fair market value of the Property at the time of the transaction, as determined by a qualified, independent appraiser;

(c) The Plan will not pay any commissions or other expenses with respect to the sale; and

(d) The Plan's trustees determine that the sale of the Property to the Company is appropriate for the Plan and in the best interests of the Plan and its participants and beneficiaries at the time of transaction.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on January 31, 1996, at 61 FR 3474.

WRITTEN COMMENTS: The Department received one written comment on the notice of proposed exemption, which was from a former employee and Plan participant who is now retired (the Commenter). The Commenter indicated that he was familiar with the Property and supported the granting of an exemption for the sale of the Property to the Company.

No other written comments, and no requests for a hearing, were received by the Department.

Accordingly, the Department has determined to grant the exemption.

FOR FURTHER INFORMATION CONTACT: Mr. E.F. Williams of the Department, telephone (202) 219–8194. (This is not a toll-free number.)

Rose's Stores, Inc., Retirement Savings 401(k) Plan, (the Retirement Savings Plan), Located in Henderson, NC

[Prohibited Transaction Exemption 96–19; Exemption Application No. D–10062]

Exemption

The restrictions of sections 406(a), 406 (b)(1) and (b)(2), and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to (1) the past acquisition and holding by the Rose's Stores, Inc. Variable Investment Plan (the Variable Investment Plan) of subscription rights (the Subscription Rights) offered by Rose's Stores, Inc. (the Employer) to purchase shares of new common stock (the New Stock) upon the emergence of the Employer from bankruptcy; (2) the past acquisition and continued holding by the Variable Investment Plan and subsequently, the Retirement Savings Plan, of warrants (the Warrants) to purchase shares of the Employer's New Stock; and (3) the proposed acquisition of shares of the New Stock by the Retirement Savings Plan upon the exercise of the Warrants.

This exemption is subject to the following conditions:

(a) The acquisition and holding of the Subscription Rights and the Warrants by the Variable Investment Plan occurred in connection with the Employer's bankruptcy proceeding pursuant to which all holders of the old common stock of the Employer were treated in the same manner.

(b) The Variable Investment Plan had little, if any, ability to affect the negotiation of the Employer's plan of reorganization with respect to the bankruptcy proceeding.

(c) The Subscription Rights and the Warrants were acquired automatically and without any action on the part of the Variable Investment Plan.

(d) The Variable Investment Plan did not pay any fees or commissions in connection with the receipt and holding of the Subscription Rights and the Warrants, nor will the Retirement Savings Plan pay any fees or commissions in connection with the holding and exercise of the Warrants.

(e) Any decision to exercise the Warrants now held by the Retirement Plan will be made by participants in accordance with the terms of such Plan.

EFFECTIVE DATE: This exemption will be effective February 7, 1995 with respect to the acquisition and holding by the Variable Investment Plan of the Subscription Rights and April 28, 1995 with respect to the acquisition and holding by the Variable Investment Plan (and subsequently the Retirement Savings Plan) of the Warrants.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on January 31, 1996 at 61 FR 3485.

Comments

The Department received one written comment with respect to the proposed exemption and no requests for a public hearing. In the comment, the commentator requested assurance that her pension benefits would not be jeopardized in the event future problems affected the Employer's business. Following a discussion of the comment with a Department representative, the commentator decided to withdraw the comment.

Thus, after giving full consideration to the entire record, the Department has decided to grant the subject exemption. The comment letter has been included as part of the public record of the exemption application. The complete application file, including all supplemental submissions received by the Department, is made available for public inspection in the Public Documents Room of the Pension and

Welfare Benefits Administration, Room N–5638, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady, Department of Labor, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, D.C., this 19th day of March, 1996.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 96–6990 Filed 3–21–96; 8:45 am]

BILLING CODE 4510–29–P

[Application No. D–09410, et al.]

Proposed Exemptions; RREEF USA Fund-I (The Trust)

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restriction of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

Unless otherwise stated in the Notice of Proposed Exemption, all interested persons are invited to submit written comments, and with respect to exemptions involving the fiduciary prohibitions of section 406(b) of the Act, requests for hearing within 45 days from the date of publication of this **Federal Register** Notice. Comments and request for a hearing should state: (1) the name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

RREEF USA Fund-I (The Trust) Located in San Francisco, California

[Application No. D–09410]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990.) If the exemption is granted, the restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed receipt by RREEF America L.L.C., the investment manager of the Trust (the Manager), of a certain performance compensation fee (the Performance Fee) in connection with the liquidation of the Trust, provided that the following conditions are satisfied:

(a) The terms and the payment of the Performance Fee shall be approved in writing, through approval of an amendment to the Group Trust Agreement (the Group Trust Agreement), by independent fiduciaries of the plans that participate in the Trust (the Participating Plans);

(b) The terms of the Performance Fee shall be at least as favorable to the Participating Plans as those obtainable in an arm's-length transaction between unrelated parties;

(c) The total fees paid to the Manager by the Participating Plans that have invested in the Trust, shall constitute no more than reasonable compensation;

(d) The Performance Fee will be payable only when all of the assets of the Trust have been completely liquidated;

(e) The Performance Fee received by the Manager will be based on distributions, adjusted for inflation and present value, and will be calculated using two real hurdle rates of return (the Hurdle Rates). The Performance Fee will equal 10% after the Participating Plans have earned a 5% real return on the initial value of their investment and 20% after the Participating Plans have earned an 8% real return on the initial value of their investment;

(f) In the event of the Manager's resignation or termination as the investment manager to the Trust, the Investment Management Agreement would also terminate [1] and the Manager will not receive a Performance Fee.

(g) The Manager or its affiliates shall maintain, for a period of six years, the records necessary to enable the persons described in paragraph (2) of this Section (g) to determine whether the conditions of this exemption have been met, except that:

(1)(a) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of the Manager or its affiliates, the records are lost or destroyed prior to the end of the six year period; and (b) no party in interest, other than the Manager, shall be subject to the civil penalty that may be assessed under section 502(i) of the Act or the taxes imposed by section 4975 (a) and (b) of the Code if the records are not maintained or are not available for the examinations required from (2) below.

(2)(a) Except as provided in paragraph (3) and notwithstanding any provisions of section 504(a)(2) and (b) of the Act, the records referred to in paragraph (1) of this Part (g) shall be unconditionally available at their customary location for examination during normal business hours by:

(i) Any duly authorized employee or representative of the Department or the Internal Revenue Service;

(ii) Any fiduciary of a Participating Plan or any duly authorized employee or representative of such fiduciary;

(iii) Any contributing employer to a Participating Plan or any duly authorized employee or representative of such employer; and

(iv) Any participant or beneficiary of a Participating Plan or any duly authorized employee or representative of such participant or beneficiary.

(3) None of the persons described above in paragraph (2)(a)(ii)–(iv) shall be authorized to examine the trade secrets of the Manager and its affiliates or any commercial or financial information which is privileged or confidential.

EFFECTIVE DATE: If granted this exemption will be effective as of January 1, 1993.

Summary of Facts and Representations

1. The assets of the Trust consist of direct or indirect [2] ownership interests in commercial or industrial real property (the Properties). Currently, there are six Properties held by the Trust which are located in California, Pennsylvania, New Jersey, New York and Illinois. The Trust is a closed-end real estate tax-exempt group trust organized in 1979 in the State of California pursuant to the IRS Revenue Ruling 81–100. The Trust was organized to allow the Participating Plans to pool their assets to purchase income-producing real property for investment. The Trust was created and is operated in accordance with the terms of the Group Trust Agreement dated September 7, 1979, with certain amendments thereto (the Amendments). Initially, the Trust provided for a ten year holding period of the Properties with additional extensions of two years if consented to by more than sixty percent of outstanding beneficiaries. The end of the initial holding period of the Trust was 12/31/92. As of December 31, 1992, the net asset value of the Trust was $325,040 million. It is represented that this figure was based on the most recent independent annual appraisals obtained prior to December 31, 1992, and it is also the "base" amount against which the Manager's asset management fee (the Base Fee) is determined, as discussed further in paragraph 5 below.

2. The Participating Plans are seven large ERISA plans (including one or more master or group trusts holding assets of multiple ERISA plans) and one governmental plan (as defined in section 3(32) of ERISA), each with assets in excess of $1 billion.

3. RREEF America L.L.C. is the investment manager to the Trust (the Manager) and the trustees of the Trust are principals and officers of the Manager (the Trustees), (the Manager and the Trustees, collectively; the Fiduciaries). The Trustees and the Manager have entered into an Investment Management Agreement, also dated September 7, 1979. Pursuant to that Investment Management Agreement, the Manager has the authority to acquire and dispose of any and all properties on behalf of the Trust; perform day-to-day investment and administrative operations of the Trust; and prepare the financial and other reports as provided in the Group Trust Agreement. The Investment Management Agreement is terminable by the Trustees or by a vote or written consent of the Participating Plans holding sixty percent of the outstanding units in the Trust at any time upon not less than sixty days written notice.

4. Pursuant to the Group Trust Agreement, the Trust was scheduled to terminate on December 31, 1992, whereupon an orderly liquidation of the Trust was to begin as soon as practicable. On September 11, 1991, the Participating Plans' representatives and the Fiduciaries held a conference to discuss the pending expiration of the Trust and liquidation of its assets. Due to a downturn in the real estate market, the Participating Plans' representatives proposed to the Fiduciaries that the Trust's liquidation period (the Liquidation Period) be extended for a period of up to six years to avoid "fire sale" prices. This extension of the Liquidation Period also involved restructuring of the fees payable to the Manager so as to provide further incentives to maximize sales prices while liquidating the Trust's real estate assets as soon as practicable. Accordingly, as of December 31, 1992, subject to the unanimous consent of the Participating Plans, the Trustees adopted Amendment #7 to the Group Trust Agreement in order to: (1) Extend the period for liquidating the Trust's real property assets up to six years from its scheduled expiration date; (2) reduce the annual Base Fee payable to the Manager during the Liquidation Period as discussed more fully below; (3) add a performance component (the Performance Fee) to the Base Fee.

5. Until December 31, 1992, the annual investment management fee (the Base Fee) under the Group Trust

[1] Unless termination was in bad faith wherein the Manager may seek legal recourse.

[2] Several of the real properties of the Trust are held indirectly through wholly owned Code section 501(c)(2) or 501(c)(25) corporations.

Agreement remained at 1% of the net asset value of the Trust as of the preceding December 31 (based on annual independent appraisals), and was payable 1/12th monthly in advance.

However, effective January 1, 1993, pursuant to the unanimous consent of the Participating Plans, and conditioned upon the grant of this proposed exemption, the Base Fee was reduced from 1% to .45% of "the adjusted December 31, 1992, net asset value of the Trust", also payable 1/12th monthly in advance. The "adjusted December 31, 1992 net asset value of the Trust" is the net asset value determined pursuant to the most recent independent appraisals of the Trust's properties at or before December 31, 1992. The net asset value is the base amount on which the Base Fee is determined, and it can be reduced (*not increased*) at the time the Base Fee is calculated to reflect any subsequent material changes in the value of the Trust's properties as evidenced by the Manager's subsequent quarterly internal appraisals. The net asset value and any subsequent reductions to it, if required by the Manager's internal appraisals, will be used by the Manager solely for the determination of the Base Fee. With respect to the Liquidation Period, the Participating Plans determined that continuing to obtain annual appraisals by independent qualified appraisers was too costly and inconsistent with their goal of maximizing their returns. It is represented, however, that the Manager will obtain independent appraisals every three years, and will compare them to the Manager's quarterly internal appraisals.

6. The Performance Fee was proposed by the Participating Plans as an incentive for the Manager to liquidate the assets of the Trust as quickly as possible while achieving the best possible sales prices for the Trust's assets. However, in the event this proposed exemption is not granted, the Base Fee will be calculated on the basis of .60% of the adjusted December 31, 1992 net asset value of the Trust; this resulting increase in the Base Fee will be payable retroactive from January 1, 1993 (without interest); and no Performance Fee will be paid.

7. For the purpose of the Performance Fee, the initial value of the Trust's assets is based on the greater of the Trust's value on December 31, 1991 or December 31, 1992. The Performance Fee will reflect all gains and losses of the Trust with respect to the Properties [3] and will be calculated as a cash flow fee with two real (inflation-adjusted) hurdle rates of 5% and 8% (the Hurdle Rates) of the initial value of the Trust's assets. It is represented that the payment of the Performance Fee to the Manager is dependent upon distribution to the Participating Plans' of such initial value plus interest at the real Hurdle Rates.

The Performance Fee is calculated with respect to the cash flow. The applicant represents that prior to the Trust's liquidation, cash flow is all cash actually distributed by the Trust to the Participating Plans, either from operations or capital events. The major sources of cash are rents, interest or dividends on invested reserves, and proceeds of sale, net of all expenses. Upon the liquidation of the Trust, cash flow means all cash available for distribution to the Participating Plans after payment of (or reservation for) all remaining liabilities of the Trust, but before the payment of the Performance Fee.

8. The Performance Fee is payable to the Manager in cash as of the date the last real property asset in the Trust is liquidated and the Trust is fully terminated. The calculation of the Performance Fee is accomplished by converting the annual distributions to the Participating Plans into 1993 dollars (January 1, 1993 is the effective date of the addition of the Performance Fee component to the fees paid by the Trust to the Manager). The annual distributions include, among other things, proceeds from capital events and rents. First, the annual distributions are discounted for inflation using the CPI index. Second, the inflation adjusted annual distributions are discounted to the present value using appropriate discount rates of 5% or 8%, which are identical to the Hurdle Rates to arrive at the discounted distributions (the Discounted Distributions). The amounts by which the Discounted Distributions exceed the initial value of the Trust as of January 1, 1993 are then calculated (the Excess Distributions).

For purposes of the Performance Fee calculation, these Excess Distributions are converted into the current value (i.e., value during the year when the Manager is paid the Performance Fee). This conversion is calculated as follows. The Excess Distributions are divided first by the inflation CPI index for the year when the Performance Fee is paid, and second, they are divided by the appropriate 5% or 8% discount rates. The result is current excess distributions (Current Excess Distributions).

The Performance Fee paid to the Manager is ten percent (10%) of the Current Excess Distributions when the Participating Plans earn a 5% real Hurdle Rate on the initial value of their investment in the Trust and *until* the Participating Plans earn an 8% real Hurdle Rate return on the initial value of their investment in the Trust. When the Participating Plans earn an 8% real Hurdle Rate return on the initial value of their investment in the Trust, the Performance Fee paid to the Manager is twenty percent (20%) of the Current Excess Distributions in the 8% real Hurdle Rate context *after* they have been *reduced* by 10% Performance Fee amount.

9. In this regard, the applicant submitted a numerical example of how the Performance Fee will work under certain assumptions if the inflation rate is 4% annually. Under these assumptions the Trust holds a single real property with an initial value of $100,000 as of December 31, 1992, and this property generates distributable (before fees) cash flow of $10,000 a year for three years. At the end of the third year the property is sold for $110,000.

At a 5% real Hurdle Rate, the Discounted Distributions are as follows:

	Year 1	Year 2	Year 3	Total
Nominal $	$10,000+	$10,000+	$120,000=	$140,000
CPI	*.9615=	*.9246=	*.8890=	
Discount	$9,615	$9,246	$106,680	
5% Discount	*.9524	*.9070	*.8638	
Adjusted $	$9,157+	$8,386+	$92,150=	$109,693

The present value of the Excess Distributions, at a 5% real Hurdle Rate, is $109,693−$100,000=$9,693.

Converting the Excess Distributions to current value, the excess is $12,622. This is calculated as follows: 9,693/.8890=10,903 then 10,903/.8638=$12,622 (the Current Excess Distributions).

At an 8% real Hurdle Rate, the Discounted Distributions are as follows:

	Year 1	Year 2	Year 3	Total
Nominal $	$10,000+	$10,000+	$120,000=	$140,000
CPI	*.9615=	*.9246=	*.8890=	
Discount	$9,615	$9,246	$106,680	
8% Discount	*.9259	*.8573	*.7938	
Adjusted $	$8,903+	$7,927+	$84,683=	$101,513

The present value of the Excess Distributions at an 8% real Hurdle Rate, is $101,513−$100,00=$1,513. Converting the Excess Distributions to current value, the excess is $2,144. This is calculated as follows: 1,513/.8890=1701.9 then 1701.9/.7938=$2,144 (Current Excess Distributions).

For Current Excess Distributions above the 5% real Hurdle Rate and *until* the 8% Hurdle Rate, the Performance Fee is 10%:

$12,622−$2,144=$10,478 * 10%=$1,048

This fee payment reduces the remaining amount available for distribution. Accordingly, after subtracting the 10% fee, the remaining Current Excess Distributions are subject to a 20% Performance Fee:

$2,144−$1,048=$1,096 * 20%=$219

As such, in this example the total Performance Fee paid is $1,048 +$219=$1,267.

The applicant represents that the cash flow will not be reinvested and the Performance Fee would not be determined and paid until all of the Trust's assets have been liquidated and the Trust is terminated.

10. In the event that the Manager is terminated [4] or resigns with respect to the Trust, the Manager will not receive a Performance Fee, and the Investment Management Agreement, including all obligations of the Trustees to continue to compensate the Manager thereunder, would also terminate. If, however, the Manager is terminated in bad faith, the Manager may seek legal recourse. Also, whether a replacement investment manager would receive a performance fee is dependent solely upon whether a performance fee was negotiated as part of the investment management agreement of the replacement manager.

11. The applicant represents that the interests of the Participating Plans are fully aligned by the Performance Fee because the Performance Fee is calculated as a "share" in all distributions after the Plans have received the initial value of their investment plus earnings at the designated real Hurdle Rates. Furthermore, the Performance Fee will reflect all gains and losses of the Trust with respect to the Properties and will be payable only at a pre-established point, i.e., the liquidation of all of the Trust's Properties. It is also represented that the Manager cannot use its discretion to accelerate sales to benefit itself without equally benefitting the Participating Plans, and the Manager cannot use its discretion over the timing of sales to the detriment of the Participating Plans without causing itself a similar detriment. If the Trust distributes a real return of at least 5%, the Manager would receive 10% of all distributions in excess of a 5% real return until the Participating Plans have received a real return of at least 8%. If the Trust distributes a real return of at least 8%, the Manager would receive 20% of all distributions in excess of an 8% real return. It is represented that the Performance Fee component will allow the Manager to potentially offset some or all of the reduction in the Base Fee and to provide other incentives to maximize the value and dispose of the Properties. If the Trust is completely liquidated earlier than the six year period, the Performance Fee will become payable at that time. The applicant also represents that making the payment of the Performance Fee contingent upon the complete liquidation of the Trust would prevent the Fiduciaries from causing the Trust to acquire assets with a view toward increasing the Performance Fee (e.g., by increasing risk).

12. In summary, the applicant represents that the transaction satisfies the statutory criteria of section 408(a) of the Act and section 4975(c)(2) of the Code because:

(a) The terms and the payment of the Performance Fee shall be approved in writing, through an amendment to the Group Trust Agreement, by independent fiduciaries of the Participating Plans;

(b) The terms of the Performance Fee shall be at least as favorable to the Participating Plans as those obtainable in an arm's-length transaction between unrelated parties;

(c) The total fees paid to the Manager by the Participating Plans that have invested in the Trust, shall constitute no more than reasonable compensation;

(d) The Performance Fee will be payable only when all of the assets of the Trust have been completely liquidated;

(e) The Performance Fee received by the Manager will be based on distributions, adjusted for inflation and present value, and will be calculated using two real Hurdle Rates of return. The Performance Fee will equal 10% after the Participating Plans have earned a 5% real return on the initial value of their investment and 20% after the Participating Plans have earned an 8% real return on the initial value of their investment;

(f) In the event of the Manager's resignation or termination as the investment manager to the Trust, the Investment Management Agreement would also terminate and the Manager will not receive a Performance Fee. However, if the Manager is terminated in bad faith, the Manager may seek legal recourse;

(g) The Performance Fee is a one-time payment to the Manager upon complete liquidation of the Trust within six years and upon final distribution of its assets; and

(h) The Participating Plans have proposed the Performance Fee as being in their interest because it would encourage the goal of the Participating

[3] By definition, all gains and losses with respect to the Properties will be realized prior to calculation of the Performance Fee, i.e., there will be no unrealized gains or losses.

[4] The Manager can be terminated by the Trustees, or by a vote or written consent of the Participating Plans holding sixty percent (60%) of the outstanding units in the Trust at any time upon not less than sixty days written notice.

Plans to liquidate the Properties as quickly as practicable while maximizing their sales prices.

Notice to Interested Persons

Those persons who may be interested in the pendency of this exemption include the fiduciaries who are responsible for directing the investment of the Participating Plans' assets in the Trust. The applicant represents that it proposes to notify the interested persons within ten (10) days of the publication of the notice of the proposed exemption in the **Federal Register**. Such notice will contain a copy of the notice of the proposed exemption published in the **Federal Register** and a statement advising interested persons of their right to comment and to request a hearing on the proposed exemption. Accordingly, comments and hearing requests on the proposed exemption are due forty (40) days after the date of publication of this proposed exemption in the **Federal Register**.

For Further Information Contact: Ekaterina A. Uzlyan, U.S. Department of Labor, telephone (202) 219–8883. (This is not a toll-free number.)

PaineWebber Incorporated (PaineWebber) Located in New York, NY

[Application No. D–09818]

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, August 10, 1990).[5]

Section I. Covered Transactions

If the exemption is granted, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply, effective August 18, 1995, to the purchase or redemption of shares by an employee benefit plan, an individual retirement account (the IRA) or a retirement plan for a self-employed individual (the Keogh Plan) (collectively referred to herein as the Plans) in the PaineWebber Managed Accounts Services Portfolio Trust (the Trust) established in connection with such Plans' participation in the PaineWebber PACE Program (the PACE Program).

In addition, the restrictions of section 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (E) and (F) of the Code, shall not apply, effective August 18, 1995, to (a) the provision, by PaineWebber Managed Accounts Services (PMAS), a division of PaineWebber, of asset allocation and related services to an independent fiduciary of a Plan (the Independent Fiduciary) or to a directing participant (the Directing Participant) in a Plan that is covered under the provisions of section 404(c) of the Act (the Section 404(c) Plan), which may result in the selection by the Independent Fiduciary or the Directing Participant of portfolios of the Trust (the Portfolios) in the PACE Program for the investment of Plan assets; and (b) the provision of investment management services by Mitchell Hutchins Asset Management, Inc. (Mitchell Hutchins) to the PACE Money Market Investments Portfolio of the Trust.

This proposed exemption is subject to the conditions set forth below in Section II.

Section II. General Conditions

(a) The participation of each Plan in the PACE Program is approved by an Independent Fiduciary or, if applicable, Directing Participant.

(b) As to each Plan, the total fees paid to PMAS and its affiliates constitute no more than reasonable compensation and do not include the receipt of fees pursuant to Rule 12b–1 under the Investment Company Act of 1940 (the '40 Act) by PMAS and its affiliates in connection with the transactions.

(c) No Plan pays a fee or commission by reason of the acquisition or redemption of shares in the Trust.

(d) The terms of each purchase or redemption of Trust shares remain at least as favorable to an investing Plan as those obtainable in an arm's length transaction with an unrelated party.

(e) PMAS provides written documentation to an Independent Fiduciary or a Directing Participant of its recommendations or evaluations based upon objective criteria.

(f) Any recommendation or evaluation made by PMAS to an Independent Fiduciary or Directing Participant is implemented only at the express direction of such fiduciary or participant.

(g) PMAS provides investment advice in writing to an Independent Fiduciary or Directing Participant with respect to all available Portfolios.

(h) With the exception of the PACE Money Market Investments Portfolio, any sub-adviser (the Sub-Adviser) appointed by Mitchell Hutchins to exercise investment discretion with respect to a Portfolio is independent of PaineWebber and its affiliates.

(i) The quarterly fee that is paid by a Plan to PMAS for asset allocation and related services rendered to such Plan under the PACE Program (i.e., the outside fee) is offset by such amount as is necessary to assure that Mitchell Hutchins retains 20 basis points as a management fee from any Portfolio (with the exception of the PACE Money Market Investments Portfolio from which Mitchell Hutchins retains an investment management fee of 15 basis points) containing investments attributable to the Plan investor. However, the quarterly fee of 20 basis points that is paid to Mitchell Hutchins for administrative services is retained by Mitchell Hutchins and is not offset against the outside fee.

(j) With respect to its participation in the PACE Program prior to purchasing Trust shares,

(1) Each Independent Fiduciary receives the following written or oral disclosures from PaineWebber:

(A) A copy of the prospectus (the Prospectus) for the Trust discussing the investment objectives of the Portfolios comprising the Trust; the policies employed to achieve these objectives; the corporate affiliation existing between PaineWebber, PMAS, Mitchell Hutchins and their affiliates; the compensation paid to such entities; any additional information explaining the risks of investing in the Trust; and sufficient and understandable disclosures relating to rebalancing of investor accounts.

(B) Upon written or oral request to PaineWebber, a Statement of Additional Information supplementing the Prospectus, which describes the types of securities and other instruments in which the Portfolios may invest, the investment policies and strategies that the Portfolios may utilize and certain risks attendant to those investments, policies and strategies.

(C) An investor questionnaire.

(D) A written analysis of PMAS's asset allocation decision and recommendation of specific Portfolios.

(E) A copy of the agreement between PMAS and such Plan relating to participation in the PACE Program.

(F) Upon written request to Mitchell Hutchins, a copy of the respective investment advisory agreement between Mitchell Hutchins and the Sub-Advisers.

(G) Copies of the proposed exemption and grant notice describing the exemptive relief provided herein.

(2) In the case of a Section 404(c) Plan, the Independent Fiduciary will—

(A) Make copies of the foregoing documents available to Directing Participants.

(B) Allow Directing Participants to interact with PaineWebber Investment Executives and receive information relative to the services offered under the PACE Program, including the rebalancing feature, and the operation and objectives of the Portfolios.

(3) If accepted as an investor in the PACE Program, an Independent Fiduciary of an IRA or Keogh Plan, is required to acknowledge, in writing to PMAS, prior to purchasing Trust shares that such fiduciary has received copies of the documents described in paragraph (j)(1) of this Section II.

(4) With respect to a Section 404(c) Plan, written acknowledgement of the receipt of such documents is provided by the Independent Fiduciary (i.e., the Plan administrator, trustee, investment manager or named fiduciary, as the recordholder of Trust shares). Such Independent Fiduciary will be required to represent in writing to PMAS that such fiduciary is—

(A) Independent of PaineWebber and its affiliates;

(B) Knowledgeable with respect to the Plan in administrative matters and funding matters related thereto, and;

(C) Able to make an informed decision concerning participation in the PACE Program.

(5) With respect to a Plan that is covered under Title I of the Act, where investment decisions are made by a trustee, investment manager or a named fiduciary, such Independent Fiduciary is required to acknowledge, in writing, receipt of such documents and represent to PMAS that such fiduciary is—

(A) Independent of PMAS and its affiliates;

(B) Capable of making an independent decision regarding the investment of Plan assets;

(C) Knowledgeable with respect to the Plan in administrative matters and funding matters related thereto; and

(D) Able to make an informed decision concerning participation in the PACE Program.

(k) As applicable, subsequent to its participation in the PACE Program, each Independent Fiduciary receives the following written or oral disclosures with respect to its ongoing participation in the PACE Program:

(1) Written confirmations of each purchase or redemption transaction by the Plan with respect to a Portfolio.

(2) Telephone quotations from PaineWebber of such Plan's account balance.

(3) A monthly statement of account from PaineWebber specifying the net asset value of the Plan's investment in such account. Such statement is also anticipated to include cash flow and transaction activity during the month, unrealized gains or losses on Portfolio shares held; and a summary of total earnings and capital returns on the Plan's PACE Portfolio for the month and year-to-date.

(4) The Trust's semi-annual and annual report which will include financial statements for the Trust and investment management fees paid by each Portfolio.

(5) A written quarterly monitoring report that includes a record of the Plan's PACE Program portfolio for the quarter and since inception, showing the rates of return relative to comparative market indices (illustrated in a manner that reflects the effect of any fees for participation in the PACE Program actually incurred during the period); an investment outlook summary containing market commentary; and the Plan's actual PACE Program portfolio with a breakdown, in both dollars and percentages, of the holdings in each portfolio. The quarterly monitoring report will also contain an analysis and an evaluation of a Plan investor's account to ascertain whether the Plan's investment objectives have been met and recommending, if required, changes in Portfolio allocations.

(6) A statement, furnished at least quarterly or annually, specifying—

(A) The total, expressed in dollars, of each Portfolio's brokerage commissions that are paid to PaineWebber and its affiliates;

(B) The total, expressed in dollars, of each Portfolio's brokerage commissions that are paid to unrelated brokerage firms;

(C) The average brokerage commissions per share by the Trust to brokers affiliated with PaineWebber, expressed as cents per share; and

(D) The average brokerage commissions per share by the Trust to brokers unrelated to PaineWebber and its affiliates, expressed as cents per share for any year in which brokerage commissions are paid to PaineWebber by the Trust Portfolios in which a Plan's assets are invested.

(7) Periodic meetings with a PaineWebber Investment Executive by Independent Fiduciaries to discuss the quarterly monitoring report or any other questions that may arise.

(l) In the case of a Section 404(c) Plan where the Independent Fiduciary has established an omnibus account in the name of the Plan (the Undisclosed Account) with PaineWebber, the information noted above in subparagraphs (k)(1) through (k)(7) of this Section II may be provided directly by PaineWebber to the Directing Participants or to the Independent Fiduciary for dissemination to the Directing Participants, depending upon the arrangement negotiated by the Independent Fiduciary with PMAS.

(m) If previously authorized in writing by the Independent Fiduciary, the Plan investor's account is automatically rebalanced on a periodic basis to the asset allocation previously prescribed by the Plan or participant, as applicable, if the quarterly screening reveals that one or more Portfolio allocations deviates from the allocation prescribed by the investor by the agreed-upon formula threshold.

(n) The books and records of the Trust are audited annually by independent, certified public accountants and all investors receive copies of an audited financial report no later than 60 days after the close of each Trust fiscal year.

(o) PaineWebber maintains, for a period of six years, the records necessary to enable the persons described in paragraph (p) of this Section II to determine whether the conditions of this exemption have been met, except that—

(1) A prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of PaineWebber and/or its affiliates, the records are lost or destroyed prior to the end of the six year period; and

(2) No party in interest other than PaineWebber shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (p)(1) of this Section II below.

(p)(1) Except as provided in subparagraph (p)(2) of this paragraph and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (o) of this Section II are unconditionally available at their customary location during normal business hours by:

(A) Any duly authorized employee or representative of the Department, the Internal Revenue Service (the Service) or the Securities and Exchange Commission (the SEC);

[5] For purposes of this proposed exemption, reference to provisions of Title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

(B) Any fiduciary of a participating Plan or any duly authorized representative of such fiduciary;

(C) Any contributing employer to any participating Plan or any duly authorized employee representative of such employer; and

(D) Any participant or beneficiary of any participating Plan, or any duly authorized representative of such participant or beneficiary.

(p)(2) None of the persons described above in paragraphs (p)(1)(B)–(p)(1)(D) of this paragraph (p) are authorized to examine the trade secrets of PaineWebber or Mitchell Hutchins or commercial or financial information which is privileged or confidential.

Section III. Definitions

For purposes of this proposed exemption:

(a) The term "PaineWebber" means PaineWebber Incorporated and any affiliate of PaineWebber, as defined in paragraph (b) of this Section III.

(b) An "affiliate" of PaineWebber includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with PaineWebber.

(2) Any officer, director or partner in such person, and

(3) Any corporation or partnership of which such person is an officer, director or a 5 percent partner or owner.

(c) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(d) The term "Independent Fiduciary" means a Plan fiduciary which is independent of PaineWebber and its affiliates and is either

(1) A Plan administrator, trustee, investment manager or named fiduciary, as the recordholder of Trust shares of a Section 404(c) Plan;

(2) A participant in a Keogh Plan;

(3) An individual covered under a self-directed IRA which invests in Trust shares;

(4) An employee, officer or director of PaineWebber and/or its affiliates covered by an IRA not subject to Title I of the Act;

(5) A trustee, Plan administrator, investment manager or named fiduciary responsible for investment decisions in the case of a Title I Plan that does not permit individual direction as contemplated by Section 404(c) of the Act; or

(e) The term "Directing Participant" means a participant in a Plan covered under the provisions of section 404(c) of the Act, who is permitted under the terms of the Plan to direct, and who elects to so direct, the investment of the assets of his or her account in such Plan.

(f) The term "Plan" means a pension plan described in 29 CFR 2510.3–2, a welfare benefit plan described in 29 CFR 2510.3–1, a plan described in section 4975(e)(1) of the Code, and in the case of a Section 404(c) Plan, the individual account of a Directing Participant.

Effective Date: If granted, this proposed exemption will be effective as of August 18, 1995.

Summary of Facts and Representations

1. The parties to the transactions are as follows:

(a) *Paine Webber Group (Paine Webber Group),* located in New York, New York, is the parent of PaineWebber.

Paine Webber Group is one of the leading full-line securities firms servicing institutions, governments and individual investors in the United States and throughout the world. Paine Webber Group conducts its businesses in part through PMAS, a division of PaineWebber and Mitchell Hutchins, a wholly owned subsidiary of PaineWebber. Paine Webber Group is a member of all principal securities and commodities exchanges in the United States and the National Association of Securities Dealers, Inc. In addition, it holds memberships or associate memberships on several principal foreign securities and commodities exchanges. Although Paine Webber Group is not an operating company and, as such, maintains no assets under management, as of September 30, 1994, Paine Webber Group and its subsidiaries rendered investment advisory services with respect to $36.1 billion in assets.

(b) *PaineWebber,* whose principal executive offices are located in New York, New York, provides investment advisory services to individuals, banks, thrift institutions, investment companies, pension and profit sharing plans, trusts, estates, charitable organizations, corporations and other business and government entities. PaineWebber is also responsible for securities underwriting, investment and merchant banking services and securities and commodities trading as principal and agent. PaineWebber serves as the dealer of Trust shares described herein.

(c) *PMAS,* located in Weehawken, New Jersey is responsible for individual investor account management and investor consulting services. PMAS provides such services to the investors involved in various PaineWebber investment programs by providing asset allocation recommendations and related services with respect to their investments. PMAS provides investment consulting and advisory services to more than 40,000 accounts, with account sizes ranging from institutional accounts in excess of $650 million in assets to individual accounts with $100,000 minimum investments. PMAS provides investors in the Trust with asset allocation recommendations and related services with respect to investments in the Trust Portfolios.

(d) *Mitchell Hutchins,* which is located in New York, New York, is a registered investment adviser under the Investment Adviser's Act of 1940 (the Advisers Act) and a wholly owned subsidiary of PaineWebber. Mitchell Hutchins provides investment advisory and asset management services to investors and develops and distributes investment products, including mutual funds and limited partnerships. Mitchell Hutchins also provides financial services to over $24.8 billion in client assets representing twenty-eight investment companies with fifty-five separate portfolios. Mitchell Hutchins is providing investment management and administrative services with respect to the Trust and investment advisory services with respect to one of the Trust's Portfolios.

(e) *State Street Bank and Trust Company (State Street),* located in North Quincy, Massachusetts, serves as the custodian of assets for the Trust. State Street is not affiliated with PaineWebber and its affiliates. It provides a full array of integrated banking products, focusing on servicing financial assets (i.e., asset custody, cash management, securities lending, multi-currency accounting and foreign exchange), managing assets and commercial lending. As of September 30, 1994, State Street rendered custodian services with respect to approximately $1.6 trillion in assets and provided investment management services to approximately $155 billion in assets.

(f) *PFPC, Inc. (PFPC),* a subsidiary of PNC Bank, National Association, and whose principal address is in Wilmington, Delaware, serves as the Trust's transfer and dividend disbursing agent. PFPC is not affiliated with PaineWebber and its affiliates. PFPC provides a complete range of mutual fund administration and accounting services to a diverse product base of domestic and international investment portfolios. PFPC is also one of the nation's leading providers of transfer and shareholder servicing services to mutual funds and asset management accounts. As of September 30, 1994, PFPC rendered accounting and administration services to over 400 mutual funds and provided transfer agency, dividend disbursing and/or shareholder servicing services with respect to more than 3.1 million shareholder accounts.

2. The Trust is a no load, open-end, diversified management investment company registered under the '40 Act. The Trust was organized as a Delaware business trust on September 9, 1994 and it has an indefinite duration. As of November 6, 1995, the Trust had $184 million in net assets. The Trust presently consists of twelve different portfolios which will pay dividends to investors. The composition of the Portfolios will cover a spectrum of investments ranging from foreign and U.S. Government-related securities to equity and debt securities issued by foreign and domestic corporations. Although a Portfolio of the Trust is permitted to invest its assets in securities issued by PaineWebber and/or its affiliates, the percentage of that Portfolio's net assets invested in such securities will never exceed one percent. With the exception of the PACE Money Market Investments Portfolio, shares in each of the Portfolios are being initially offered to the public at a net asset value of $10 per share. Shares in the PACE Money Market Investments Portfolio are being initially offered to the public at a net asset value of $1.00 per share.

3. Mitchell Hutchins serves as the distributor of Trust shares and PaineWebber serves as the dealer with respect to shares of the Portfolios.[6] Such shares are being offered by PaineWebber at no load, to participants in the PACE Program. The PACE Program is an investment service pursuant to which PMAS provides participants in the PACE Program with asset allocation recommendations and related services with respect to the Portfolios based on an evaluation of an investor's investment objectives and risk tolerances. As stated above, State Street will serve as the custodian of each Portfolio's assets and PFPC serves as the Portfolio's transfer and dividend disbursing agent.

To participate in the PACE Program, each investor must open a brokerage account with PaineWebber.[7] The minimum initial investment in the PACE Program is $10,000.

Although PaineWebber anticipates that investors in the Trust will initially consist of institutions and individuals, it is proposed that prospective investors will include Plans for which PaineWebber may or may not currently maintain investment accounts. A majority of these Plans may be IRAs or Keogh Plans. In addition, it is proposed that Plans for which PaineWebber or an affiliate serves as a prototype sponsor and/or a nondiscretionary trustee or custodian be permitted to invest in the Trust.[8]

The applicants represent that the initial purchase of shares in the Trust by a Plan participating in the PACE Program may give rise to a prohibited transaction where PaineWebber, or an affiliate thereof, is a party in interest with respect to the Plan. PaineWebber also acknowledges that a prohibited transaction could arise upon a subsequent purchase or redemption of shares in the Trust by a participating Plan inasmuch as the party in interest relationship between PaineWebber and the Plan may have been established at that point.

Accordingly, the applicants have requested retroactive exemptive relief from the Department with respect to the purchase and redemption of shares in the Trust by a Plan participating in the PACE Program where PaineWebber does not (a) sponsor the Plan (other than as prototype sponsor) or (b) have discretionary authority over such Plan's assets.[9] No commissions or fees will be paid by a Plan with respect to the sale and redemption transactions or a Plan's exchange of shares in a Portfolio for shares of another Portfolio. If granted, the proposed exemption will be effective as of August 18, 1995.

4. Overall responsibility for the management and supervision of the Trust and the Portfolios rests with the Trust's Board of Trustees (the Trustees). The Trustees will approve all significant agreements involving the Trust and the persons and companies that provide services to the Trust and the Portfolios.

5. Mitchell Hutchins also serves as the investment manager to each Portfolio. Under its investment management and administration agreement with the Trust, Mitchell Hutchins will provide certain investment management and administrative services to the Trust and the Portfolios that, in part, involve calculating each Portfolio's net asset value[10] and, with the exception of the PACE Money Market Investments Portfolio (for which Mitchell Hutchins will exercise investment discretion), making recommendations to the Board of Trustees of the Trust regarding (a) the

[6] As distributor or principal underwriter for the Trust, Mitchell Hutchins will use its best efforts, consistent with its other businesses, to sell shares of the Portfolios. Pursuant to a separate dealer agreement with Mitchell Hutchins, PaineWebber will sell Trust shares to investors. However, neither Mitchell Hutchins nor PaineWebber will receive any compensation for their services as distributor or dealer of Trust shares. According to the applicants, Mitchell Hutchins and PaineWebber may be regarded as having an indirect economic incentive by virtue of the fact that Mitchell Hutchins and PaineWebber will be paid for the services they provide to the Trust in their respective capacities as investment manager and administrator of the Trust (Mitchell Hutchins) and as the provider of asset allocation and related services (PaineWebber, through PMAS).

[7] According to the Statement of Additional Information that accompanies the Prospectus for the PACE Program, shares in the Trust are not certificated for reasons of economy and convenience. However, PFPC maintains a record of each investor's ownership of shares. Although Trust shares are transferable and accord voting rights to their owners, they do not confer pre-emptive rights (i.e., the privilege of a shareholder to maintain a proportionate share of ownership of a company by purchasing a proportionate share of any new stock issues). PaineWebber represents that in the context of an open-end investment company that continuously issues and redeems shares, a pre-emptive right would make the normal operations of the Trust impossible.

As for voting rights, PaineWebber states that they are accorded to recordholders of Trust shares. PaineWebber notes that a recordholder of Trust shares may determine to seek the submission of proxies by Plan participants and vote Trust shares accordingly. In the case of individual account plans such as Section 404(c) Plans, PaineWebber believes that most Plans will pass the vote through to Directing Participants on a pro-rata basis.

[8] The Department notes that the general standards of fiduciary conduct promulgated under the Act would apply to the participation in the PACE Program by an Independent Fiduciary. Section 404 of the Act requires that a fiduciary discharge his duties respecting a plan solely in the interest of the plan's participants and beneficiaries and in a prudent fashion. Accordingly, an Independent Fiduciary must act prudently with respect to the decision to enter into the PACE Program with PMAS as well as with respect to the negotiation of services that will be performed thereunder and the compensation that will be paid to PaineWebber and its affiliates. The Department expects that an Independent Fiduciary, prior to entering into the PACE Program, to understand fully all aspects of such arrangement following disclosure by PMAS of all relevant information.

[9] PaineWebber represents that to the extent employee benefit plans that are maintained by PaineWebber purchase or redeem shares in the Trust, such transactions will meet the provisions of Prohibited Transaction Exemption (PTE) 77–3 (42 FR 18734, April 8, 1977). PaineWebber further represents that, although the exemptive relief proposed above would not permit PaineWebber or an affiliate (while serving as a Plan fiduciary with discretionary authority over the management of a Plan's assets) to invest those assets over which it exercises discretionary authority in Trust shares, a purchase or redemption of Trust shares under such circumstances would be permissible if made in compliance with the terms and conditions of PTE 77–4 (42 FR 18732, April 8, 1977). The Department expresses no opinion herein as to whether such transactions will comply with the terms and conditions of PTEs 77–3 and 77–4.

[10] The net asset value of each Portfolio's shares, except for the PACE Money Market Investments Portfolio, fluctuates and is determined as of the close of regular trading on the New York Stock Exchange (the NYSE) (currently, 4:00 p.m. Eastern Time) each business day. The net asset value of shares in the PACE Money Market Investments Portfolio is determined as of 12:00 p.m. each business day. Each Portfolio's net asset value per share is determined by dividing the value of the securities held by the Portfolio plus any cash or other assets minus all liabilities by the total number of Portfolio shares outstanding.

investment policies of each Portfolio and (b) the selection and retention of the Sub-Advisers who will exercise investment discretion with respect to the assets of each Portfolio.[11]

The Sub-Advisers will provide discretionary advisory services with respect to the investment of the assets of the respective Portfolios (other than the PACE Money Market Investments Portfolio) on the basis of their performance in their respective areas of expertise in asset management. With the exception of the PACE Money Market Investments Portfolio which will be advised by Mitchell Hutchins, PaineWebber represents that all of the Sub-Advisers, will be independent of, and will remain independent of PaineWebber and/or its affiliates. The Sub- Advisers will be registered investment advisers under the Advisers Act and maintain their principal executive offices in various regions of the United States.

The administrative services for which Mitchell Hutchins will be responsible include the following: (a) supervising all aspects of the operations of the Trust and each Portfolio (e.g., oversight of transfer agency, custodial, legal and accounting services; (b) providing the Trust and each Portfolio with corporate, administrative and clerical personnel as well as maintaining books and records for the Trust and each Portfolio; (c) arranging for the periodic preparation, updating, filing and dissemination of the Trust's Registration Statement, proxy materials, tax returns and required reports to each Portfolio's shareholders and the SEC, as well as other federal or state regulatory authorities; (d) providing the Trust and each Portfolio with, and obtaining for it, office space, equipment and services; (e) providing the Trustees with economic and investment analyses and reports, and making available to the Trustees, upon request, any economic, statistical and investment services. These administrative services do not include any management services that might be performed by Mitchell Hutchins. As noted in Representations 17 and 18, Mitchell Hutchins is separately compensated for management services rendered to the Trust.

6. Through the PACE Program, PMAS is providing a Plan investor with non-binding, asset allocation recommendations with respect to such investor's investments in the Portfolios. In order to make these evaluations, PMAS will furnish copies of an investor questionnaire, designed to elicit information about the specific investment needs, objectives and expectations of the investor, to an Independent Fiduciary of a Title I Plan that does not permit individually-directed investments, to an Independent Fiduciary of an IRA or a Keogh Plan, or to a Directing Participant of a Section 404(c) Plan. Although the contents of the questionnaire may vary somewhat depending upon the type of Plan investing in the PACE Program, for a particular Plan, the same questionnaire will be given to each participant.

In the case of a Section 404(c) Plan where an Independent Fiduciary has established an Undisclosed Account with PaineWebber in the name of the Plan, PMAS will provide investor questionnaires to each Directing Participant through PaineWebber Investment Executives (who are registered representatives of PaineWebber), via the Plan's benefits personnel or independent recordkeeper (the Recordkeeper), or by other means requested by the Independent Fiduciary. The applicants recognize that Section 404(c) Plans typically employ a Recordkeeper to assist the Independent Fiduciary with maintaining Plan-related data which is used to generate benefit status reports, regulatory compliance reports and participant- and Plan-level investment performance reports. Therefore, the Undisclosed Account arrangement is intended to coordinate with the functions traditionally provided to Section 404(c) Plans by their Recordkeepers.[12]

7. Based upon data obtained from the investor questionnaire, PMAS will evaluate the investor's risk tolerances and investment objectives. PMAS will then recommend, in writing, an appropriate allocation of assets among suitable Portfolios that conforms to these tolerances and objectives.

PaineWebber represents that PMAS will not have any discretionary authority or control with respect to the allocation of an investor's assets among the Portfolios. In the case of an IRA or Keogh Plan, PaineWebber represents that all of PMAS's recommendations and evaluations will be presented to the Independent Fiduciary and will be implemented only if accepted and acted upon by such fiduciary.

In the case of a Section 404(c) Plan, PaineWebber represents that Directing Participants in such Plan will be presented with recommendations and evaluations that are tailored to the responses provided by that Directing Participant in his or her questionnaire. PMAS's recommendations will be disseminated to Directing Particpants in accordance with procedures established for the Plan.

After receipt of PMAS's initial recommendations, which may or may not be adopted, the Independent Fiduciary or Directing Participant, as applicable, will select the specific Portfolios. PMAS will continue to recommend to Independent Fiduciaries or Directing Participants asset allocations among the selected Portfolios.

8. Aside from the investor questionnaire, in order for a Plan to participate in the PACE Program, PaineWebber or PMAS will provide an Independent Fiduciary with a copy of the Trust Prospectus discussing (a) the investment objectives of the Portfolios comprising the Trust, (b) the policies employed to achieve these objectives, (c) the corporate affiliation existing between PaineWebber, PMAS, Mitchell Hutchins and their subsidiaries, and (d) the compensation paid to such entities by the Trust and information explaining the risks attendant to investing in the Trust. In addition, upon written or oral request to PaineWebber, the Independent Fiduciary will be given a Statement of Additional Information supplementing the Prospectus which describes, in further detail, the types of securities and other instruments in which the Portfolios may invest, the investment policies and strategies that the Portfolios may utilize and certain risks attendant to those investments, policies and strategies. Further, each Independent Fiduciary will be given a copy of the investment advisory agreement between PMAS and such Plan relating to participation in the PACE Program, including copies of the notice of proposed exemption and grant notice for the exemptive relief provided herein. Upon oral or written request to the Trust, PaineWebber will also provide an Independent Fiduciary with a copy of the respective investment advisory agreements between Mitchell Hutchins and the Sub-Advisers.

In the case of a Section 404(c) Plan, depending on the arrangement negotiated with the Independent Fiduciary, PaineWebber represents that the Independent Fiduciary will make available copies of the foregoing documents to Directing Participants.

In addition, Independent Fiduciaries and, if applicable, Directing Participants, will receive introductory documentation regarding the PACE Program in marketing materials and in other communications. Further, depending upon the arrangement negotiated between PMAS and the Independent Fiduciary, a PaineWebber Investment Executive will meet with a Directing Participant, upon oral or written request, to discuss the services offered under the PACE Program, including the rebalancing feature described in Representation 12, as well as the operation and objectives of the Portfolios.[13]

9. If accepted as an investor in the PACE Program, an Independent Fiduciary will be required by PMAS to acknowledge, in writing, prior to purchasing Trust shares, that such fiduciary has received copies of the documents referred to in Representation 8. With respect to a Plan that is covered by Title I of the Act (e.g., a defined contribution plan), where investment decisions will be made by a trustee, investment manager or a named fiduciary, PMAS will require that such Independent Fiduciary acknowledge in writing receipt of such documents and represent to PaineWebber that such fiduciary is (a) independent of PaineWebber and its affiliates, (b) capable of making an independent decision regarding the investment of Plan assets, (c) knowledgeable with respect to the Plan in administrative matters and funding matters related thereto, and (d) able to make an informed decision concerning participation in the PACE Program.

With respect to a Section 404(c) Plan, written acknowledgement of the receipt of such documents will be provided by the Independent Fiduciary (i.e., the Plan administrator, trustee, investment manager or named fiduciary, as the recordholder of Trust shares). Such Independent Fiduciary will be required to represent, in writing, to PMAS that such fiduciary is (a) independent of PaineWebber and its affiliates, (b) knowledgeable with respect to the Plan in administrative matters and funding matters related thereto, and (c) able to make an informed decision concerning participation in the PACE Program.

10. After the selection of specific Portfolios by an Independent Fiduciary or a Directing Participant,[14] PMAS will continue to provide recommendations to such persons relating to asset allocations among the selected Portfolios. However, with respect to a Section 404(c) Plan in which at least three Portfolios may be selected by the Independent Fiduciary, PMAS's initial asset allocation recommendation to Directing Participants will be limited to the suggested Portfolios offered under the Plan. PMAS anticipates that it may also work with the Independent Fiduciary of a Section 404(c) Plan to assist the fiduciary in (a) identifying and drafting investment objectives, (b) selecting suitable investment categories or actual Portfolios to be offered to Directing Participants or (c) recommending appropriate long-term investment allocations to a Directing Participant, if this individual receives such advice.

An Independent Fiduciary or a Directing Participant will be permitted to change his or her investment allocation by specifying the new allocation in writing or by other means authorized by the Plan (e.g., by use of a kiosk). Although PaineWebber currently imposes no limitation on the frequency with which an Independent Fiduciary or a Directing Participant may change his or her prescribed asset allocation, PaineWebber reserves the right to impose reasonable limitations.

11. Depending on the arrangement negotiated with PMAS, PaineWebber will provide each Independent Fiduciary with the following information: (a) Written confirmations of each purchase and redemption of shares of a Portfolio; (b) daily telephone quotations of such Plan's account balance; (c) a monthly statement of account specifying the net asset value of a Plan's assets that are invested in such account; and (d) a quarterly, written investment performance monitoring report.

The monthly account statement will include, among other information: (a) cash flow and transaction activity during the month, including purchase, sale and exchange activity and dividends paid or reinvested; (b) unrealized gains or losses on Portfolio shares held; and (c) a summary of total earnings and capital returns on the Plan's PACE Program Portfolio for the month and year-to-date. The quarterly investment performance report will include, among other information, the following: (a) a record of the performance of the Plan's PACE Program portfolio for the quarter and since inception showing rates of return relative to comparative market indices (illustrated in a manner that reflects the effect of any fees for participation in the PACE Program actually incurred during the period)[15]; (b) an investment outlook summary containing market commentary; and (c) the Plan's actual PACE Program portfolio with a breakdown, in both dollars and percentages, of the holdings in each Portfolio. In addition, to the extent required by the arrangement negotiated with the Independent Fiduciary, the quarterly performance monitoring report will (a) contain an analysis and an evaluation of a Plan investor's account to assist the investor to ascertain whether the investment objectives are being met, and (b) recommend, from time to time, changes in Portfolio allocations. The quarterly performance monitoring report is described in the summary of the PACE Program contained in the Trust Prospectus.

With respect to a Section 404(c) Plan, the quarterly investment performance report transmitted to the Independent Fiduciary will include the following aggregate information relative to the Undisclosed Account as well as market commentary: (a) a record of the performance of the Plan's assets and rates of return as compared to several

[11] Subject to the supervision and direction of the Trustees, Mitchell Hutchins will provide to the Trust investment management evaluation services principally by performing initial review on prospective Sub-Advisers for each Portfolio and thereafter monitoring each Sub-Adviser's performance. In evaluating prospective Sub-Advisers, Mitchell Hutchins will consider, among other factors, each Sub-Adviser's level of expertise, consistency of performance and investment discipline or philosophy. Mitchell Hutchins will have the responsibility for communicating performance expectations and evaluations to the Sub-Advisers and ultimately recommending to the Trustees whether a Sub-Adviser's contract should be continued.

[12] The applicants wish to emphasize that the PACE Program can currently be provided to participants in Section 404(c) Plans on either an Undisclosed Account or a disclosed account (the Disclosed Account) basis (i.e., where the Independent Fiduciary opens a separate PACE Program account with PaineWebber for each Directing Participant). In this regard, the applicants note that PaineWebber presently offers the PACE Program on a Disclosed Account arrangement to IRAs and Keogh Plans. However, for other Section 404(c) Plans such as those that are covered under the provisions of section 401(k) of the Code, PaineWebber prefers not to establish Disclosed Accounts for individual participants because of servicing and other administrative matters typically undertaken by such Plans' Recordkeepers. The applicants note that from the participant's perspective, there is no difference in the nature of the services provided under the PACE Program regardless of whether the participant's investment is held through a "Disclosed" or "Undisclosed" Account arrangement. The applicants state that these designations are primarily internal distinctions relating to whether the participant's name appears in the account set-up and reflects differences in the applicable sub-accounting functions.

Notwithstanding the above, the Department wishes to point out that, regardless of the arrangement negotiated with PaineWebber, an Independent Fiduciary of a Section 404(c) Plan has the responsibility to disseminate all information it receives to each Directing Participant investing in the PACE Program.

[13] The Department is expressing no opinion as to whether the information provided under the PACE Program is sufficient to enable a Directing Participant to exercise independent control over assets in his or her account as contemplated by section 404(c) of the Act.

[14] In the case of a Section 404(c) Plan, PMAS will receive electronically from the Recordkeeper each participant's investment selections.

[15] The comparative index is a blended index of the individual Portfolio indices that are weighted by the allocation percentages corresponding to those holdings that make up the investor's total investment in the PACE Program.

appropriate market indices (illustrated in a manner that reflects the effect of any fees for participation in the PACE Program actually incurred during the period); and (b) the Plan's actual investment portfolio with a breakdown of investments made in each Portfolio. As to each Directing Participant, PMAS will provide information to be contained in the quarterly performance monitoring report to such participants.

In addition, on both a quarterly and annual basis, commencing with the first quarterly report due after this notice of proposed exemption is issued, PaineWebber will provide, as applicable, an Independent Fiduciary or a Directing Participant with written disclosures of (a) the total, expressed in dollars, of each Portfolio's brokerage commissions that are paid to PaineWebber and its affiliates; (b) the total, expressed in dollars, of each Portfolio's brokerage commissions that are paid to unrelated brokerage firms; (c) the average brokerage commissions per share by the Trust to brokers affiliated with the PaineWebber, expressed as cents per share; and (d) the average brokerage commissions per share by the Trust to brokers unrelated to the PaineWebber and its affiliates, expressed as cents per share for any year in which brokerage commissions are paid to PaineWebber by the Trust Portfolios in which a Plan's assets are invested.

Further, the Independent Fiduciary or Directing Participant, as applicable, will have access to a PaineWebber Investment Executive for the discussion of the quarterly performance monitoring reports, the rebalancing feature described below in Representation 12 or any questions that may arise.

12. Depending on the arrangement negotiated with PMAS, for any investor who so directs PMAS, the investor's Trust holdings will be automatically rebalanced on a periodic basis to maintain the investor's designated allocation among the Portfolios. PMAS will receive no additional compensation to provide this service. At both the Independent Fiduciary and Directing Participant levels, the rebalancing election will be made in writing or in any manner permitted by the Plan (e.g., in the case of a Section 404(c) Plan, electronic transmission by the Recordkeeper to PMAS of the Directing Participant's election). The election will be accompanied by a disclosure that is designed to provide the Independent Fiduciary and the Directing Participant, as applicable, with an understanding of the rebalancing feature. Disclosure of the rebalancing feature is included in the Prospectus for the PACE Program which will be provided to each Independent Fiduciary and Directing Participant.

It is currently anticipated that screening will be performed quarterly with respect to the PACE Program accounts for which the investor has elected the rebalancing service and that rebalancing will be performed for each such account where any Portfolio allocation deviates from the allocation prescribed by the investor by the agreed-upon uniform threshold.[16] The threshold for triggering rebalancing is a percentage (presently, 2½ percent) that has been established by PaineWebber and is applied uniformly to all accounts subject to rebalancing. If PaineWebber were, in the future, to determine that this uniform threshold should be changed, PMAS would notify all investors (including Independent Fiduciaries and Directing Participants) who had elected the rebalancing feature. Then, in order to continue to provide this service, PMAS would need to obtain the consent of each such investor.

The applicants note that rebalancing is a feature that an investor chooses to apply indefinitely until the investor notifies PaineWebber that it wishes to have this service discontinued. After rebalancing has been discontinued, an investor may reactivate the rebalancing service by notifying PaineWebber in writing.

13. PaineWebber notes that not all of the services described above will be provided to every Plan. The services that will be provided will depend on what is decided upon by the Independent Fiduciary. Assuming the Independent Fiduciary requests a reduction in the level of services, there will be no corresponding reduction in the fee that the fiduciary pays PMAS. This is due to the bundled nature of the services provided in the PACE Program. For example, if the Independent Fiduciary were to limit the number of Portfolios available as investment options for its Plan participants, this might be deemed a reduction in the services available under the PACE Program that would not result in any reduction in the applicable Program fee. Similarly, under the PACE Program, an Independent Fiduciary of a Section 404(c) Plan may decide for its own reasons not to make the automatic rebalancing service available to Directing Participants. Under such circumstances, PMAS will not reduce its fees to reflect the absence of the provision of rebalancing services to the Plan. Further, under the particular arrangement which it has negotiated with PMAS, the Independent Fiduciary may or may not request PaineWebber Investment Executives to make presentations or be available to meet with Directing Participants.

Thus, an Independent Fiduciary may choose all, some or none of the PACE Program's optional services. If an Independent Fiduciary selects all of these services, the Plan will incur no greater an annual fee than had that Independent Fiduciary selected some or none of these services. The absence of a reduction in fees in the event not all services are requested is an issue that should be considered by the Independent Fiduciary.[17] Nonetheless, the Applicants represent that the reduction in the types of services provided will not cause the fees paid to PaineWebber by a Plan under the PACE Program to violate section 408(b)(2) of the Act.

14. Plans wishing to redeem their Trust shares may communicate their requests in writing or by telephone to PMAS. Redemption requests received in proper form prior to the close of trading on the NYSE will be effected at the net asset value per share determined on that day. Redemption requests received after the close of regular trading on the NYSE will be effected at the net asset value at the close of business of the next day, except on weekends or holidays when the NYSE is closed. A Portfolio will be required to transmit redemption proceeds for credit to an investor's account with PaineWebber within 5 business days after receipt of the redemption request.[18] In the case of an IRA or Keogh Plan investor, PaineWebber will not hold redemption proceeds as free credit balances and will, in the absence of receiving investment instructions, place all such assets in a money market fund (other than the PACE Money Market Investments Portfolio) that may be affiliated with PaineWebber.[19] In the case of Plans that are covered by Title I of the Act, the redemption proceeds will be invested by PaineWebber in accordance with the investment directions of the Independent Fiduciary responsible for the management of the Plan's assets. With respect to a Section 404(c) Plan, the treatment of such investment will depend upon the arrangement for participant investment instructions selected by the Plan sponsor. In the event that the Independent Fiduciary does not give other investment directions, such assets will be swept into a no-load money market fund that may be affiliated with PaineWebber. No brokerage charge or commission is charged to the participant for this service.

Due to the high costs of maintaining small PACE Program (Plan) accounts, the Trust may redeem all Trust shares held in a PACE Program account in which the Trust shares have a current value of $7,500 or less after the investor has been given at least thirty days in which to purchase additional Trust shares to increase the value of the account to more than the $7,500 amount. Proceeds of an involuntary redemption will be deposited in the investor's brokerage account unless PaineWebber is otherwise instructed.[20]

15. Through the PACE Program, shares of a Portfolio may be exchanged by an investor for shares of another Portfolio at their respective net asset values and without the payment of an exchange fee. However, Portfolio shares are not exchangeable with shares of other PaineWebber group of funds or portfolio families.

With respect to brokerage transactions that are entered into under the PACE Program for a Portfolio, such transactions may be executed through PaineWebber and other affiliated broker-dealers, if in the judgment of Mitchell Hutchins or the Sub-Adviser, as applicable, the use of such broker-dealer is likely to result in price and execution at least as favorable, and at a commission charge comparable to those of other qualified broker-dealers.

16. Each Portfolio will bear its own expenses, which generally include all costs that are not specifically borne by PaineWebber, Mitchell Hutchins or the Sub-Advisers. Included among a Portfolio's expenses will be costs incurred in connection with the Portfolio's organization, investment management and administration fees, fees for necessary professional and brokerage services, fees for any pricing service, the costs of regulatory compliance and costs associated with maintaining the Trust's legal existence and shareholder relations. No Portfolio, however, will impose sales charges on purchases, reinvested dividends, deferred sales charges, redemption fees; nor will any Portfolio incur distribution expenses. Investment management fees payable to Mitchell Hutchins and the Sub-Advisers will be disclosed in the Trust Prospectus.

17. As to each Plan, the total fees that are paid to PMAS and its affiliates will constitute no more than reasonable compensation.[21] In this regard, for its services under the PACE Program, PMAS charges an investor a quarterly fee for asset allocation and related services. This "outside fee," will not be more than 1.50 percent on an annual basis of the maximum annual value of the assets in the investor's PACE Program account. Such fee may be paid either from the assets in the account or by separate check. A smaller outside fee may be charged depending on such factors as the size of the PACE Program account (e.g., PACE Program accounts in excess of $100,000), the number of Plan participants or the number of PACE Program accounts. The outside fee is charged directly to an investor and is neither affected by the allocation of assets among the Portfolios nor by whether an investor follows or ignores PMAS's advice.[22] In the case of Plans, the outside fee may be paid by the Plan or the Plan sponsor or, in the case of IRAs only, the fee may be paid by the IRA owner directly.

For Plan investors, the outside fee will be payable in full within five business days (or such other period as may be required under applicable law or regulation) after the trade date for the initial investment in the Portfolios and will be based on the value of assets in the PACE Program on the trade date of the initial investment. The initial fee payment will cover the period from the initial investment trade date through the last calendar day of the subsequent calendar quarter, and the fee will be pro-rated accordingly. Thereafter, the quarterly fee will cover the period from the first calendar day through the last calendar day of the current calendar quarter. The quarterly fee will be based on the value of assets in the PACE Program measured as of the last calendar day of the previous quarter, and will be payable on the fifth business day of the current quarter.

If additional funds are invested in the Portfolios during any quarter, the applicable fee, pro-rated for the number of calendar days then remaining in the quarter and covering the amount of such additional funds, shall be charged and be payable five business days later. In the case of redemptions during a quarter, the fee shall be reduced accordingly, pro-rated for the number of calendar days then remaining in the quarter. If the 'net fee increase or decrease to an investor for additional purchases and/or redemptions during any one quarter is less than $20, the fee increase or decrease will be waived.

In addition, for investment management and administrative services provided to the Trust, Mitchell Hutchins will be paid, from each Portfolio, a fee which is computed daily and paid monthly at an annual rate ranging from .35 percent to 1.10 percent,

[16] Currently, with regard to investors who have elected the rebalancing feature, rebalancing is effected by an automated, mechanical system that, as to each account: (a) Calculates the current allocation for each Portfolio based on the quarter-end net asset value; (b) compares the current allocation for each Portfolio with the allocation prescribed by the investor; (c) identifies for rebalancing all accounts with one or more Portfolios whose current allocation deviates by the agreed-upon threshold from the allocation prescribed by the investor; and (d) for each account which has been identified for rebalancing pursuant to (a)–(c), (1) calculates the dollar difference between the current allocation and the allocation prescribed by the investor, (2) reduces each Portfolio whose current allocation exceeds the allocation prescribed by the investor by an amount equal to the dollar difference between the two allocations, and (3) increases each Portfolio whose current allocation is less than the allocation prescribed by the investor by an amount equal to the dollar difference between the two allocations. This rebalancing is accomplished by automatically exchanging, in the order of the Portfolio's respective CUSIP numbers, a dollar-equivalent number of shares of each Portfolio to be reduced for the corresponding number of shares of a Portfolio to be increased until the current allocation is equal to the allocation prescribed by the investor. Valuation of the Portfolios is done as of the close of regular trading on the NYSE each business day.

[17] In this regard, the Department emphasizes that it expects the Independent Fiduciary to consider prudently the relationship of the fees to be paid by the Plan to the level of services to be provided by PaineWebber. In response to the Department's concern over this matter, PaineWebber represents that it will amend the Trust Prospectus to include the following statement: "Investors who are fiduciaries or otherwise, in the process of making investment decisions with respect to Plans, should consider, in a prudent manner, the relationship of the fees to be paid by the Plan along with the level of services provided by PaineWebber."

[18] PaineWebber will provide clearance (on a fully disclosed basis), settlement and other back office services to other broker-dealers.

[19] The applicants are not requesting, nor is the Department proposing, exemptive relief with respect to the investment, by PaineWebber, of redemption proceeds in an affiliated money market fund where the Plan investor has not given investment instructions. The applicants represent that to the extent PaineWebber is considered a fiduciary, such investments will comply with the terms and conditions of PTE 77–4. However, the Department expresses no opinion herein on whether such transactions are covered by this class exemption.

[20] The thirty day limit does not restrict a Plan's ability to redeem its interest in the Trust. The thirty day notice period is provided to give a Plan an opportunity to increase the value of the assets in its Plan account with PaineWebber to an amount in excess of $7,500. If desired, the Plan may still follow the redemption guidelines described above.

[21] The applicants represent that PMAS and its affiliates will not receive 12b–1 Fees in connection with the transactions.

[22] PaineWebber represents that the outside fee will not be imposed on the accounts of the Paine Webber Group and its subsidiaries, including PaineWebber, PMAS, Mitchell Hutchins or their subsidiaries, accounts of their immediate families and IRAs and certain employee pension benefit plans for these persons. The applicants state that this fee will be waived to encourage employees to invest in PaineWebber, although PaineWebber reserves the right to impose such fees. However, with respect to IRAs or Plans maintained by PaineWebber or its affiliates for their employees, the applicants assert that such waiver would be required by PTE 77–3.

of which the management fee component ranges from .15 percent to .90 percent on an annual basis, of each Portfolio's average daily net assets depending upon the Portfolio's objective.[23] From these management fees, Mitchell Hutchins will compensate the applicable Sub-Adviser. This "inside fee," which is the difference between the individual Portfolio's total management fee and the fee paid by Mitchell Hutchins to the Sub-Adviser, will vary from the annual rate of .15 percent to .40 percent depending on the Portfolio. With the exception of the PACE Money Market Investments Portfolio from which Mitchell Hutchins is paid a management fee of 15 basis points, Mitchell Hutchins is retaining 20 basis points as a management fee from each remaining single Portfolio on investment assets attributable to the Plans. Pursuant to Transfer Agency and Service Agreements with the Trust, PFPC and State Street will be paid annual fees of $350,000 and $650,000, respectively, for transfer agent and custodial services.

18. The management fees that are paid at the Portfolio level to Mitchell Hutchins and the Sub-Advisers are set forth in the following table. For purposes of the table, Mitchell Hutchins and a Sub-Adviser are referred to as "MH" and "SA," respectively. As noted in the table, the sum of the management fees retained by Mitchell Hutchins and the Sub-Adviser with respect to a Portfolio will equal the total management fee paid by that Portfolio.

Portfolio	MH management fee (percent)	SA retained fee (percent)	MH retained fee (percent)
PACE Money Market Investments	.15	.00	.15
PACE Government Securities Fixed Income Investments	.50	.25	.25
PACE Intermediate Fixed Income Investments	.40	.20	.20
PACE Strategic Fixed Income Investments	.50	.25	.25
PACE Municipal Fixed Income Investments	.40	.20	.20
PACE Global Fixed Income Investments	.60	.35	.25
PACE Large Company Value Equity Investments	.60	.30	.30
PACE Large Company Growth Equity Investments	.60	.30	.30
PACE Small/Medium Company Value Equity Investments	.60	.30	.30
PACE Small/Medium Company Growth Equity Investments	.60	.30	.30
PACE International Equity Investments	.70	.40	.30
PACE International Emerging Markets Investments	.90	.50	.40

PMAS is offsetting, quarterly, against the outside fee such amounts as is necessary to ensure that Mitchell Hutchins retains no more than 20 basis points as a management fee from any Portfolio on investment assets attributable to any Plan.[24]

The administrative services fee payable to Mitchell Hutchins is not being offset against the outside fee. Instead, that fee is being retained by Mitchell Hutchins.

19. The following example demonstrates the operation of the fee offset mechanism, the calculation of the net inside fee, and the calculation of the total of a Plan investor's net outside fee and share of the investment management fees paid by the Portfolios in a given calendar quarter or year:

Assume that as of September 30, 1995, the net asset value of Trust Portfolio shares held by a Plan investor was $1,000. Investment assets attributable to the Plan were distributed among five Trust Portfolios: (1) PACE Money Market Investments in which the Plan made a $50 investment and from which Mitchell Hutchins would retain an inside fee of .15 percent; (2) PACE Intermediate Fixed Income Investments in which the Plan made a $200 investment and from which Mitchell Hutchins would retain an inside fee of .20 percent; (3) PACE Large Company Value Equity Investments in which the Plan made a $250 investment and Mitchell Hutchins would retain an inside fee of .30 percent; (4) PACE Small/Medium Company Growth Equity Investments in which the Plan made a $250 investment and Mitchell Hutchins would be entitled to receive an inside fee of .30 percent; and (5) PACE International Equity Investments in which the Plan made a $250 investment and Mitchell Hutchins would be entitled to receive an inside fee of .30 percent.

Assume that the Plan investor pays an outside fee of 1.50 percent so that the total outside fee for the calendar quarter October 1 through December 31, prior to the fee offset, would be as follows:

Portfolio	Amount invested	Maximum outside quarterly fee	Outside quarterly fee
PACE Money Market Investments	$50	1.50% (.25)	$0.1875
PACE Intermediate Fixed Income Investments	200	1.50% (.25)	.7500
PACE Large Company Value Equity Investments	250	1.50% (.25)	.9375
PACE Small/Medium Company Growth Equity Investments	250	1.50% (.25)	.9375
PACE International Equity Investments	250	1.50% (.25)	.9375
Total Outside Fee Per Quarter	1,000	.....	3.7500

Under the proposed fee offset, the outside fee charged to the Plan must be reduced by a Reduction Factor to ensure that Mitchell Hutchins retains an inside fee of no more than 20 basis points from each of the Portfolios on investment assets attributable to the Plan. The following table shows the Reduction Factor as applied to each of the Portfolios comprising the Trust:

Portfolio	MH retained fee (percent)	Maximum MH fee (percent)	Reduction factor (percent)
PACE Money Market Investments	.15	.15	.00
PACE Government Securities Fixed Income Investments	.25	.20	.05
PACE Intermediate Fixed Income Investments	.20	.20	.00
PACE Strategic Fixed Income Investments	.25	.20	.05
PACE Municipal Fixed Income Investments	.20	.20	.00
PACE Global Fixed Income Investments	.25	.20	.05
PACE Large Company Value Equity Investments	.30	.20	.10
PACE Large Company Growth Equity Investments	.30	.20	.10
PACE Small/Medium Company Value Equity Investments	.30	.20	.10
PACE Small/Medium Company Growth Equity Investments	.30	.20	.10
PACE International Equity Investments	.30	.20	.10
PACE International Emerging Markets Investments	.40	.20	.20

Under the proposed fee offset, a Reduction Factor of .10 percent is applied against the quarterly outside fee with respect to the value of Plan assets that have been invested in PACE Large Company Value Equity Investments, PACE Small/Medium Company Growth Equity Investments and PACE International Equity Investments. As noted above, the PACE Money Market Investments Portfolio and the PACE Intermediate Fixed Income Investments Portfolio do not require the application of a Reduction Factor because the management fee retained by Mitchell Hutchins for managing these Portfolios does not exceed 20 basis points. Therefore, the quarterly offset for the plan investor is computed as follows:

(.25) [($250).10% + ($250).10% + ($250).10%] = $0.1875 or $.19.

In the foregoing example, if the Plan investor elects to receive an invoice directly, the Plan investor would be mailed a statement for its PACE Program account on or about October 15, 1995. This statement would show the outside fee to be charged for the calendar quarter October 1 through December 31, as adjusted by subtracting the quarterly offset from the quarterly outside fee as determined above. The net quarterly outside fee that would be paid to PMAS would be determined as follows:

$3.75 − $.19 = $3.56.

The Plan investor that elects to receive an invoice directly would be asked to pay the outside fee for that quarter within 30 days of the date on which the statement was mailed (e.g., November 15, 1995). If the outside fee were not paid by that date, PMAS would debit the account of the Plan investor (as with other investors) for the amount of the outside fee (pursuant to the authorization contained in the PACE Program Investment Advisory Agreement, and as described in the PACE Program Description appended to the Prospectus).[25] A Plan investor that elects to have the outside fee debited from its account would receive, in November, a statement as of October 31 reflecting the outside fee and the quarterly offset therefrom.

Assuming the Plan investor's investment in and allocation among the Portfolios remains constant throughout the quarter, (a) the Plan investor's fees for the quarter for asset allocation and related services provided by PMAS (net outside fee) and (b) the fees paid by the Portfolios for investment management services provided by Mitchell Hutchins (inside fee) would be as follows:

$3.56 (net outside fee)+(.25) [($50+$200+$250+$250+$250).20%] (administrative services fee)+(.25) [($50).15% + ($200).20% + ($250 + $250 + $250).30%] (inside fee) = $4.74.

Assuming the Plan investor's investment in and allocation among the Portfolios remains constant throughout the year, the total net outside fee and inside fee borne by the Plan investor for the year would be as follows:

4[($4.74) = $18.96 or 1.89% per $1,000 invested.

20. PaineWebber notes that a potential conflict may exist by reason of the variance in retained inside fees between the different Portfolios. For example, Mitchell Hutchins will retain a lower inside fee with respect to assets invested in the PACE Money Market Investments Portfolio than all other Portfolios. PaineWebber recognizes that this factor could result in the recommendation of a higher fee-generating Portfolio to an investing Plan. Nonetheless, PMAS will be subject to and intends to comply fully with the standards of fiduciary duty that require that it act solely in the best interest of the Plan when making investment recommendations.

21. The books of the Trust will be audited annually by independent, certified public accountants selected by the Trustees and approved by the investors. All investors will receive copies of an audited financial report no later than sixty days after the close of each Trust fiscal year. All Trust financial statements will be prepared in accordance with generally accepted accounting principles and relevant provisions of the federal securities laws. The books and financial records of the Trust will be open for inspection by any investor, including the Department, the Service and SEC, at all times during regular business hours.

22. In summary, it is represented that the transactions will satisfy the statutory criteria for an exemption under section 408(a) of the Act because:

(a) The investment of a Plan's assets in the PACE Program will be made and approved by a Plan fiduciary or participant that is independent of PaineWebber and its affiliates such that the Independent Fiduciary or Directing Participant will maintain complete discretion with respect to participating in the PACE Program.

(b) An Independent Fiduciary or Directing Participant will have full discretion to redeem his or her shares in the Trust.

(c) No Plan will pay a fee or commission by reason of the acquisition or redemption of shares in the Trust and PMAS nor will its affiliates receive 12b-1 Fees in connection with the transactions.

(d) Prior to making an investment in the PACE Program, each Independent Fiduciary or Directing Participant will receive offering materials and disclosures from PMAS which disclose all material facts concerning the purpose, fees, structure, operation, risks and participation in the PACE Program.

(e) PMAS will provide written documentation to an Independent Fiduciary or Directing Participant of its

[23] The fees payable to Mitchell Hutchins under its investment management and administration agreement with the Trust are comprised of two components. One component is for administrative services provided to each Portfolio at the annual rate of .20 percent of each Portfolio's net assets. The second component is for investment management and related services provided to each Portfolio. The annualized fee range here is from .15 percent to .90 percent of the Portfolio's average daily net assets.

[24] PaineWebber asserts that it chose 20 basis points as the maximum net fee retained for management services rendered to the Portfolios because this amount represents the lowest percentage management fee charged by PaineWebber among the Portfolios (excluding the PACE Money Market Investments Portfolio for which a fee of 15 basis points will be charged).

[25] PaineWebber explains that the foregoing example illustrates the fact that Plan investors will get the benefit of the fee offset contemporaneously upon the payment of the outside fee. Because the inside fee is paid monthly and the fee offset is computed quarterly, the applicants also explain that PMAS does not receive the benefit of a "float" as a result of such calculations because the fee offset will always be realized no later than the time that the outside fee is paid. Since the inside fee is paid at the end of each calendar month, the applicants further explain that Plan investors will realize the full benefit of the offset before the time that the inside fee is paid for the second and third months of the calendar quarter.

recommendations or evaluations based upon objective criteria.

(f) With the exception of Mitchell Hutchins which will manage the PACE Money Market Investments Portfolio, any Sub- Adviser appointed to exercise investment discretion over a Portfolio will always be independent of PaineWebber and its and its affiliates.

(g) The quarterly investment advisory fee that is paid by a Plan to PMAS for investment advisory services rendered to such Plan will be offset by such amount as is necessary to assure that Mitchell Hutchins retains 20 basis points from any Portfolio (with the exception of the PACE Money Market Investments Portfolio) on investment assets attributable to the Plan investor. However, the quarterly fee paid to Mitchell Hutchins for administrative services will be retained by Mitchell Hutchins and will not be offset against the outside fee.

(h) Each participating Plan will receive copies of the Trust's semi-annual and annual report which will include financial statements for the Trust that have been prepared by independent, certified public accountants and investment management fees paid by each Portfolio.

(i) On a quarterly and annual basis, PaineWebber will provide written disclosures to an Independent Fiduciary or, if applicable, Directing Participant, with respect to (1) the total, expressed in dollars, of each Portfolio's brokerage commissions that are paid to PaineWebber and its affiliates; (2) the total, expressed in dollars, of each Portfolio's brokerage commissions that are paid to unrelated brokerage firms; (3) the average brokerage commissions per share by the Trust to brokers affiliated with the PaineWebber, expressed as cents per share; and (4) the average brokerage commissions per share by the Trust to brokers unrelated to the PaineWebber and its affiliates, expressed as cents per share for any year in which brokerage commissions are paid to PaineWebber by the Trust Portfolios in which a Plan's assets are invested.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Herzog, Heine, Geduld, Inc., Located in New York, New York

[Application No. D–10018]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to the extension of credit between Herzog, Heine, Geduld, Inc. (HHG) and various individual retirement accounts for which HHG serves as passive trustee or custodian (the HHG IRA or HHG IRAs) resulting from the proposed in-kind transfer to HHG IRAs at the direction of the owners of such HHG IRAs of certain senior subordinated notes (the Notes) issued by HHG, and thereafter the holding of such Notes by the HHG IRAs; provided that: (1) officers, directors, and employees in HHG who are also owners of HHG IRAs do not participate in the proposed transactions; (2) the owners of the HHG IRAs have exclusive responsibility and control over the investment of the assets of such accounts; (3) HHG has no discretionary authority or control with respect to the investment of the assets of the HHG IRAs involved in the proposed transactions, nor does HHG render investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to those assets; (4) a separate accounting of the assets in the HHG IRAs, including the Notes which have been acquired by such accounts, will be maintained by HHG; (5) the value of the Notes in each HHG IRA will at no time exceed 25 percent (25%) of the value of the assets of each HHG IRA; (6) the HHG IRAs will pay no fees or commissions in connection with the transactions; and (7) the combined total of all fees received by HHG for the provision of services to the HHG IRAs is not in excess of "reasonable compensation" within the meaning of section 4975(d)(2) of the Code.[26]

Summary of Facts and Representations

1. HHG is a full service broker/dealer, registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934. HHG also provides fully disclosed clearing services to other broker/dealers. HHG is a member of the New York Stock Exchange (NYSE) and is a leading market maker in NASDAQ and over-the-counter securities. As of September 29, 1995, HHG had total liabilities of $746.1 million, shareholders' equity of $107.5 million and $31.9 million in liabilities subordinated to the claims of general creditors.

2. It is represented that HHG has for many years offered individual retirement accounts to its customers. In this regard, HHG has been approved, since February 11, 1982, by the Internal Revenue Service to serve as a passive trustee or custodian for individual retirement accounts, Keoghs, and custodial accounts established under section 403(b)(7) of the Code. In its capacity as a custodian, HHG is a disqualified person with respect to the HHG IRAs, pursuant to section 4975(e)(2) of the Code.

It is represented that HHG has considerable experience in dealing with individual retirement accounts that contain investments of all types, including debt instruments. As of January 25, 1995, HHG maintained approximately 8,000 individual retirement accounts for its customers representing approximately $365 million dollars in assets.

3. In 1992 and 1993, HHG issued the Notes which are the subject of this proposed exemption in minimum face amounts on each of the Notes of $250,000. The Notes issued in 1992 pay interest quarterly at the annual rate of 11 percent (11%) on an aggregate principal amount of $7,500,000. The Notes issued in 1993 pay interest quarterly at the annual rate of 10 percent (10%) on an aggregate principal amount of $7,500,000. It is represented, as of February 19, 1996, that HHG had made all interest payments to the holders of the Notes. The Notes were issued for a term of five (5) years each. In this regard, the maturity date for the Notes issued in 1992 is January 1, 1997, and the maturity date for the Notes issued in 1993, is April 1, 1998. The Notes will pay principal in a balloon payment at maturity. The Notes are described as Senior Subordinated Notes of HHG. In this regard, the Notes are unsecured, rank equally with all other outstanding subordinated debt of HHG, and are subordinate to any senior claim of present or future creditors of HHG. A senior claim is defined as any present or future obligation of HHG, except those obligations which are the subject of subordination agreements.

The Notes were only offered for sale to investors who met the "accredited investor" net worth and income standards described in Regulation D, promulgated under the Securities Act of 1933.[27] It is represented that the Notes were acquired by all investors at face value, and were purchased in the same manner and on the same terms by all investors. It is represented that potential investors in the Notes received certain disclosures prior to making the investment. Such disclosures included, among other things, an outline of the nature of the Notes, a description of the risk factors involved in investing in the Notes, and detailed financial disclosures about HHG. It is represented that each investor acknowledged receipt of these disclosures in writing. In addition, it is represented that prior to acquiring the Notes, each purchaser certified in writing that the "accredited investor" net worth and income standards had been satisfied.

It is represented that the entirety of the Notes has been issued and are being held by individual investors and by individual retirement accounts unrelated to HHG. In this regard, approximately 90 percent (90%) of the Notes were sold to customers other than owners of individual retirement accounts, and at least 50 percent (50%) of the Notes are held by persons independent of HHG and/or the HHG IRAs.

There is no public trading market for the Notes. The Notes are not registered under the Securities Act of 1933, because the Notes are issued to "accredited investors;" and therefore, are exempt from registration, pursuant to an exemption described in section 4(2) and/or section 3(b) of the Securities Act of 1933 and by Regulation D. The Notes may not be sold or transferred, except in a transaction exempt from the registration requirements of federal and state securities laws. In addition, the Notes may not be sold or transferred, unless HHG is furnished with a satisfactory opinion of counsel to the effect that an exemption from the registration requirements of federal and state securities laws is available. Further, any proposed sale to another member of the NYSE is subject to a right of first refusal by HHG.

4. In 1992 and 1993 when the Notes were issued, HHG offered them for purchase by certain of its customers. However, the owners of HHG IRAs who met the "accredited investor" standards were not permitted to acquire the Notes, because HHG believed that prohibited transactions would arise, if the owners of such accounts were to direct HHG, the custodian of such HHG IRAs, to purchase the Notes on behalf of the HHG IRAs with funds from such HHG IRAs. Instead, HHG suggested that the owners of HHG IRAs who were interested in purchasing the Notes for their accounts set up other individual retirement accounts with other custodians or trustees (the Non-HHG IRAs or the Non-HHG IRA) and then arrange for these Non-HHG IRAs to purchase the Notes. Accordingly, it is represented that some owners of HHG IRAs transferred funds from their HHG IRAs into Non-HHG IRAs at other brokerage firms or banks and directed the trustees or custodians of such Non-HHG IRAs to purchase the Notes.[28]

HHG believes that the HHG IRAs which transferred funds from their HHG IRAs to Non-HHG IRAS in order to purchase the Notes contained assets with an aggregate fair market value of $4,400,000. It is estimated that for the average owner of a Non-HHG IRA the Notes constituted less than 30 percent (30%) of the total assets of such owner's account.

5. HHG seeks to permit the acquisition and holding of the Notes by the HHG IRAs. In order to accomplish this goal, the owners of the Non-HHG IRAs would transfer assets that include the Notes from the Non-HHG IRAs into the HHG IRAs. It is anticipated that the Notes would be transferred in kind at the direction of the owners of the Non-HHG IRAs from the current trustee of the Non-HHG IRAs to HHG. It is represented that such transfers will be direct custodian to custodian transfers. In this regard, each holder of a Non-HHG IRA who wishes to transfer the assets in such account to the custodianship of HHG will complete and sign a customer account transfer form, and direct that the assets be transferred in kind from the former custodian of the Non-HHG IRA to HHG.

6. HHG believes the transactions described in the paragraph above may be prohibited, pursuant to section 4975(c) of the Code in that such transactions may result in a direct or indirect lending of money or other extension of credit between a plan and a disqualified person with respect to such plan. Accordingly, HHG seeks exemptive relief from the prohibited transaction provisions, as set forth in section 4975(c)(1) (A) through (D) of the Code.

7. It is represented that the proposed transactions would be in the interest of the affected HHG IRAs, in that owners of the HHG IRAs would not need, solely for the purpose of acquiring and holding the Notes, to incur the additional custodial fees and other expenses related to maintaining the Non-HHG IRAs. In this regard, it is represented that HHG charges for an HHG IRA a custodial fee of $25 annually,[29] which HHG maintains is considerable less than the amount charged by trustees or custodians of the Non-HHG IRAs which currently hold the Notes.

8. It is represented that the proposed transactions would be protective of the rights of participants in the HHG IRAs and their beneficiaries, in that the percentage of the assets of the HHG IRAs involved in the Notes will at no time exceed 25 percent (25%) of the value of the assets of such accounts.

Further, it is represented that HHG has no discretion to direct any investment of any HHG IRA which will be involved in the proposed transactions. Under the terms of the HHG IRAs, the owners of such accounts, as fiduciaries, have exclusive responsibility for and control over the investment of the assets of such accounts. In this regard, it is represented that the owners of the Non-HHG IRAs which purchased the Notes are sophisticated investors who, in most cases, are long standing customers of HHG and are familiar with the firm. It is represented that the owners of the Non-HHG IRAs made the original decision to purchase the Notes with the assets in the Non-HHG IRAs, and, if the proposed exemption is granted, the same individuals who are also the owners of the HHG IRAs will make the decision to transfer all or a portion of the assets in the Non-HHG IRA, including the Notes, into an HHG IRA. It is estimated, as of the date of the application, that eleven (11) participants and beneficiaries may be affected by the requested exemption, as they may be

[26] Pursuant to 29 CFR 2510.3–2(d), the HHG IRAs are not within the jurisdiction of Title I of the Act. However, there is jurisdiction under Title II of the Act, pursuant to section 4975 of the Code.

[27] In general, the "accredited investor" net worth and income standards described in Regulation D promulgated under the Securities Act of 1933 provide that an "accredited investor" is one of the following: (a) an individual with a net worth (or joint net worth with a spouse) in excess of $1,000,000; (b) an individual who had an individual income in excess of $200,000 in each of the two most recent years or joint income with that person's spouse in excess of $300,000 in each of those years, and has a reasonable expectation of reaching the same income level in the current year; or (c) a trust with total assets in excess of $5,000,000.

[28] The Department expresses no opinion herein, as to whether the prohibited transactions provisions, as set forth in section 4975 of the Code, have been violated in connection with the purchase of the Notes by the Non-HHG IRAs at the direction of the owners of such accounts who are also officers, directors, or employees of HHG and the subsequent holding of the Notes in such Non-HHG IRAs by trustees or custodians other than HHG. The Department notes that the proposed relief is limited to the transactions described herein, and no relief has been provided in connection with the acquisition and holding of the Notes by the Non-HHG IRAs.

[29] The Department, herein, expresses no opinion as to whether the provision of services by HHG to the HHG IRAs and the compensation received therefor satisfies the terms and conditions of the statutory exemption, as set forth in section 4975(d)(2) of the Code. To the extent that such provision of services to the HHG IRAs by HHG does not satisfy the requirements of section 4975(d)(2) of the Code, the Department, herein, is offering no relief.

given the opportunity to transfer Notes from Non-HHG IRAs to HHG IRAs, but will not be obligated to make such a transfer. Of these eleven (11), two individuals are officers of HHG who are employed in the securities trading department of HHG. Under the terms of this proposed exemption, officers, directors and employees of HHG who are also owners of HHG IRAs will not be permitted to participate in the proposed transactions.

9. It is represented that the requested exemption is administratively feasible in that HHG already maintains an individual retirement program, is approved by the IRS to serve as a custodian for individual retirement accounts, and has experience dealing with such accounts. HHG believes that the owners of HHG IRAs would prefer to hold their investments in the Notes in HHG IRA custodial accounts, because it would be less expensive and would be administratively less awkward for both HHG and the owners of the HHG IRAs. In this regard, it is represented that HHG will maintain a separate accounting of all of the holdings in the HHG IRAs, including the Notes that may be acquired, for each owner of an HHG IRA. Further, it is represented that the HHG IRAs will not pay commissions as a result of the transfer of the Notes into the custodianship of HHG.

10. In summary, HHG, the applicant, represents that the proposed transactions meet the statutory criteria of section 4975(c)(2) of the Code because:

(a) officers, directors, or employees in HHG who are also owners of HHG IRAs will not be permitted to participate in the proposed transactions;

(b) the owners of the HHG IRAs have exclusive responsibility and control over the investment of the assets of such accounts;

(c) HHG has no discretionary authority or control with respect to the investment of the assets of the HHG IRAs to be involved in the proposed transaction, nor does HHG render investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to those assets;

(d) a separate accounting of the assets in the HHG IRAs, including the Notes which have been acquired by such accounts, will be maintained by HHG;

(e) the percentage of the assets of the HHG IRAs involved in the Notes will at no time exceed 25 percent (25%) of the value of the assets of such accounts;

(f) the HHG IRAs will pay no fees or commissions in connection with the transactions;

(g) the combined total of all fees received by HHG for the provision of services to the HHG IRAs are not in excess of "reasonable compensation" within the meaning of section 4975(d)(2) of the Code; and

(h) the owners of the HHG IRAs will avoid the administrative burden and expense of maintaining the Non-HHG IRAs.

FOR FURTHER INFORMATION CONTACT: Angelena C. Le Blanc of the Department (202) 219–8883. (This is not a toll-free number.)

Pierre W. Mornell, M.D., A Sole Proprietorship, Defined Benefit Plan (the Plan) Located in Mill Valley, California

[Application No. D–10170]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 C.F.R. Part 2570, Subpart B (55 F.R. 32836, 32847, August 10, 1990). If the exemption is granted the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed sale of certain unimproved real property located in Mill Valley, California (the Property) by the Plan to Pierre W. Mornell and Linda C. Mornell, parties in interest with respect to the Plan; provided that the following conditions are satisfied:

(A) All terms and conditions of the transaction are no less favorable to the Plan than those which the Plan could obtain in an arm's-length transaction with an unrelated party;

(B) The Plan receives a cash purchase price for the Property in the amount of the fair market value of the Property; and

(C) The Plan does not incur any expenses or suffer any loss with respect to the transaction.

Summary of Facts and Representations

1. The Plan is a defined benefit pension plan with one participant and total assets of $287,585 as of November 1, 1995. The Plan is sponsored by the medical practice of Pierre W. Mornell, M.D. (Dr. Mornell), which is a sole proprietorship (the Employer) located in Mill Valley, California. The Plan's sole participant is Dr. Mornell, who also serves as the Plan's trustee and administrator.[30]

2. The Property is a vacant parcel of 3,420 square feet of land located in Mill Valley, California at 19 Park Avenue, zoned for multi-family residential development. Dr. Mornell represents that the Property was purchased by the Plan in 1989 from parties unrelated to himself, his medical practice, and his spouse, and that the terms and conditions of that transaction were negotiated at arm's length with the sellers. The Plan paid a purchase price of $225,000, of which $90,000 was represented by a five-year promissory note (the Note) payable to the seller, secured by a first deed of trust on the Property, due on or before August 1, 1994. Dr. Mornell represents that the Note was timely paid in full by the Plan.

3. Dr. Mornell represents that as Plan trustee he caused the Plan to purchase the Property in 1989, and to invest a large percentage of the Plan's assets therein, for a variety of reasons, summarized as follows: During 1989, the value of real estate in the market in which the Property is situated was appreciating rapidly, and Dr. Mornell believed that the Property's value would continue to appreciate after purchase by the Plan. The Property is situated adjacent to a corner lot along a main thoroughfare in an affluent suburban community, and Dr. Mornell, as trustee, represents that he believed that the risk of a significant decline in the Property's value was small, due to these factors. Dr. Mornell notes that he was and is the sole participant in the Plan, and was aware that he would be the only person who would be adversely affected if the Property did not prove to be a favorable investment. Dr. Mornell represents that it had been his intention that the Property be developed by the construction of income-producing improvements thereon, but the value of the Property ceased to appreciate. Instead, Dr. Mornell represents that the Property's value commenced to decline before any improvements had been added to the Property, and the Property has never produced any income of any kind. Since the Property has proven to be an unfavorable investment, Dr. Mornell desires that the Plan divest of the Property and reinvest in other, more diversified assets with more potential for favorable return. Accordingly, Dr. Mornell and his spouse, Linda C. Mornell (together, the Mornells) propose to purchase the Property from the Plan and are requesting an exemption to permit this transaction under the terms and conditions described herein.

4. It is proposed that the Mornells will make a single cash payment to the Plan for the Property in the amount of no less than the fair market value of the Property, and in no event less than $215,000. The Property has been appraised by T.B. Combs (Combs), a professional real estate appraiser in Mill Valley, California. Combs represents that as of October 15, 1996, the Property had a fair market value of $215,000. The Plan will not incur any expenses related to the transaction. Dr. Mornell represents that the proposed transaction is in the best interests and protective of the Plan because it will enable the Plan to dispose of an non-income-producing asset and will receive a cash purchase price representing the Property's fair market value, which can be reinvested in more diverse assets with better prospects for favorable returns.

5. In summary, the applicant represents that the proposed transaction satisfies the criteria of section 4975(c)(2) of the Code for the following reasons: (a) The Plan, in which Dr. Mornell is the sole participant, will receive cash for the Property for reinvestment in more diverse assets; (b) The purchase price will be the fair market value of the Property as determined by Combs' appraisal; (c) the Plan will not incur any expenses related to the proposed transaction; and (d) Dr. Mornell is the only participant affected by the transaction, and he desires that the transaction be consummated.

Notice to Interested Persons

Since Dr. Mornell is the only Plan participant to be affected by the proposed transaction, the Department has determined that there is no need to distribute the notice of proposed exemption to interested persons. Comments and requests for a hearing are due within 30 days from the date of publication of this notice of proposed exemption in the **Federal Register**.

For Further Information Contact: Ronald Willett of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Gail L. Belt Self Employed Retirement Plan (the Plan) Located in Vienna, Virginia

[Application No. D–10219]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed sale of a parcel of real property (the Property) by the Plan to Ms. Gail L. Belt, a disqualified person with respect to the Plan for $115,000, provided the following conditions are satisfied: a) the sale is a one-time transaction for cash; b) the Plan pays no commissions or expenses in connection with the transaction; c) the Plan receives not less than the greater of the fair market value of the Property or its cost in acquiring the Property; d) the fair market value of the Property has been determined by a qualified, independent appraiser; and e) Ms. Belt is the only Plan participant to be affected by the transaction, and she desires that the transaction be consummated.[31]

Summary of Facts and Representations

1. Ms. Belt is a self-employed real estate agent in Northern Virginia. Her primary business is facilitating the buying and selling of residential real estate. She is a realtor for Coldwell Banker, Stevens Realtors, located in Vienna, Virginia. Ms. Belt is the sole trustee and sole participant in the Plan, which is a defined contribution Plan with current assets of approximately $1,080,597.

2. In August, 1993, Ms. Belt, in her capacity as sole trustee for the Plan, acquired the Property as a Plan investment. The Property was purchased from Edward and Edith Schultz, parties unrelated to Ms. Belt and the Plan, for a purchase price of $110,000. The Property consists of an unimproved plot of land located at 1747 Lockerbie Lane, Vienna, Virginia.

3. The Plan now wishes to sell the Property to Ms. Belt. The applicant represents that the Property is not increasing in value in the current real estate market, and the Plan has ongoing administrative expenses for the Property. In addition, the Plan has been unable to procure liability insurance to cover any possible injuries on the site. Finally, the Plan would be disposing of an illiquid asset.

4. Mr. Douglas S. Waldron of Residential Appraisal Group, Inc., an independent licensed residential real estate appraiser in Annandale, Virginia, has appraised the Property as having a fair market value of $115,000 as of February 5, 1996. The applicant represents that Ms. Belt will pay this amount to the Plan since it exceeds the Plan's purchase price for the Property, plus expenses.

5. In summary, the applicant represents that the proposed transaction satisfies the criteria of section 4975(c)(2) of the Code because: a) the sale is a one-time transaction for cash; b) the Plan will pay no commissions or other expenses in connection with the transaction; c) the Plan will receive the greater of its acquisition price for the Property plus expenses, or the current fair market value of the Property as determined by a qualified, independent appraiser; and d) Ms. Belt is the sole participant in the Plan to be affected by the transaction, and she desires that the transaction be consummated.

Notice to Interested Persons

Since Ms. Belt is the only Plan participant to be affected by the proposed transaction, the Department has determined that there is no need to distribute the notice of proposed exemption to interested persons. Comments and requests for a hearing are due within 30 days from the date of publication of this notice of proposed exemption in the **Federal Register**.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

[30] Since Dr. Mornell is the sole proprietor and the only participant in the Plan, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3–3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

[31] Since Ms. Belt is the sole owner of the Plan sponsor and the only participant in the Plan, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3–3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, DC, this 19th day of March, 1996.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 96–6991 Filed 3–21–96; 8:45 am]

BILLING CODE 4510–29–P

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 96–2 CARP–CRA]

Adjustment of Cable Compulsory License Royalty Rates

AGENCY: Copyright Office, Library of Congress.

ACTION: Announcement of negotiation period; filing Notice of Intent to Participate.

SUMMARY: The Copyright Office of the Library of Congress is announcing the 30-day negotiation period to allow interested parties to the cable rate adjustment proceeding to settle their differences. The Office is also announcing, in the event that settlement negotiations are unsuccessful, the date by which parties wishing to participate in the rate adjustment proceeding before a Copyright Arbitration Royalty Panel (CARP) must file their Notice of Intent to Participate.

EFFECTIVE DATES: The 30-day negotiation period begins on April 15, 1996, and ends on May 15, 1996. Notices of Intent to Participate are due no later than May 20, 1996.

ADDRESSES: If sent by mail, an original and five copies of the Notice of Intent to Participate should be addressed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024. If hand delivered, an original and five copies of the Notice of Intent to Participate should be brought to: Office of the Copyright General Counsel, James Madison Memorial Building, Room 407, First and Independence Avenue, S.E., Washington, DC 20540.

FOR FURTHER INFORMATION CONTACT: Marilyn Kretsinger, Acting General Counsel, or William Roberts, Senior Attorney, Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024. Telephone (202) 707–8380. Telefax (202) 707–8366.

SUPPLEMENTARY INFORMATION:

I. Background

Section 111 of the Copyright Act, 17 U.S.C., grants a compulsory copyright license to cable television systems for the retransmission of over-the-air broadcast stations to their subscribers. In exchange for the license, cable operators submit royalty payments, along with statements of account detailing their retransmissions, to the Copyright Office on a semi-annual basis. The Office then deposits the royalties with the United States Treasury for later distribution to copyright owners of broadcast programming. Royalties collected by the Office in recent years for the cable compulsory license have amounted to approximately $175 million annually.

A cable system calculates its royalty payments in accordance with the statutory formula described in 17 U.S.C 111(d). The cable system then makes a payment based upon its gross receipts from subscribers for the retransmission of broadcast signals. Section 111(d) subdivides cable systems, based on the amount of their gross receipts, into three categories: small, medium and large. Small systems pay a fixed amount without regard to the number of broadcast signals they retransmit, while medium-sized systems pay a royalty within a specified range, with a maximum amount, based on the number of signals they retransmit. Large cable systems calculate their royalties according to the number of distant broadcast signals which they retransmit to their subscribers.[1] Under this formula, a large cable system is required to pay a specified percentage of its gross receipts for each distant signal that it retransmits.

Congress established the gross receipts limitations that determine a cable system's size, and provided the gross receipts percentages (rates) for distant signals. 17 U.S.C. 111(d)(1). It also provided for adjustment of both the gross receipts limitations and the distant signal rates. 17 U.S.C 801(b)(2). The limitations and rates can be adjusted to reflect national monetary inflation, changes in the average rates charged by cable systems for retransmission of broadcast signals, or changes in certain cable rules of the Federal Communications Commission in effect on April 15, 1976. 17 U.S.C. 801(b)(2)(A), (B), (C) and (D). Prior rate adjustments of the Copyright Royalty Tribunal (CRT) made under section 801(b)(2) (B) and (C) may also be reconsidered at five year intervals. 17 U.S.C. 803(b). The current gross receipts limitations and rates are set forth in 37 CFR 256.2. Originally, the CRT performed the rate adjustment, but in 1993, Congress abolished the CRT and vested the rate adjustment authority in the Copyright Arbitration Royalty Panels (CARPs) as administered by the Library of Congress and the Copyright Office.

Section 803 of the Copyright Act, 17 U.S.C., provides that the gross receipts limitations and rates of the cable compulsory license may be adjusted in 1995, and every subsequent fifth calendar year, upon filing a petition with the Library of Congress requesting an adjustment during these window years. If the Library determines that the petitioner has a "significant interest" in the royalty rate or rates in which adjustment is requested, the Library must convene a CARP to determine the adjustment. 17 U.S.C. 803(a)(1). Section 251.63 of the Library's rules provides that "[t]o allow time for the parties to settle their differences regarding rate adjustments, the Librarian of Congress shall * * * designate a 30-day period for consideration of their settlement. The Librarian shall cause notice of the dates for that period to be published in the **Federal Register**." 37 CFR 251.63.

II. Petitions

Last year was a window year for filing cable rate adjustment petitions and the Copyright Office received two such petitions on December 29, 1995. The first, filed by the National Cable Television Association, Inc. ("NCTA") on behalf of its member cable companies, requests an upward adjustment of the gross receipts limitations to reflect national monetary inflation, and a downward adjustment of "the rates currently specified in 37 CFR 256.2 (c) and (d)(the "3.75 percent" rate and the "syndex surcharge")." NCTA petition at 1. NCTA asserts that it has a "significant interest" in the proposed adjustments as the trade association of cable systems serving over 80 percent of all cable subscribers. *Id.* at 1–2.

The second petition was filed by Program Suppliers, Joint Sports Claimants, the National Association of Broadcasters, Music Claimants (the American Society of Composers, Authors and Publishers, Broadcast Music, Inc., and SESAC, Inc.), Canadian Claimants, Devotional Claimants, the Public Broadcasting Service and National Public Radio (collectively, the "Copyright Owners"). The Copyright Owners request an upward adjustment of the rates specified in 37 C.F.R. 256.2, and claim that they have a "significant interest" in such adjustment as representatives of the major claimant categories entitled to distribution of cable royalty funds. Copyright Owners' petition at 1.

III. Negotiation Period and Notices of Intent to Participate

As discussed above, the Library of Congress rules provide a 30-day negotiation period prior to the filing of rate adjustment petitions to enable the parties to settle their differences. 37 C.F.R. 251.63(a). In accordance with this rule, the Library is designating the thirty day period to commence on April 15, 1996, and close on May 15, 1996. If settlement is not reached during this time period, those parties wishing to participate in a rate adjustment proceeding before a CARP must file a Notice of Intent to Participate no later than close of business on May 20, 1996. Failure to file a timely Notice of Intent to Participate will preclude a party from participating in the proceeding.

Dated: March 18, 1996.

Marybeth Peters,

Register of Copyrights.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 96–7027 Filed 3–21–96; 8:45 am]

BILLING CODE 1410–33–P

[1] For cable systems which retransmit only local broadcast signals, there is still a minimum royalty fee which must be paid. This minimum fee is not applied, however, once the cable system carries one or more distant signals.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 96–031]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that the Science and Technology Corporation, of Hampton, Virginia 23666–1340, has applied for a partially exclusive license to practice the inventions disclosed in NASA Case No. LAR–15, 317–1–CU entitled, "Oxidation Catalyst Promoter," and NASA Case No. LAR–15, 327–1–CU entitled, "Process for Coating Substrates With Catalytic Materials," both for which U.S. Patent Applications were filed on March 6, 1996, and assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objection to the prospective grant of a license should be sent to Mr. George F. Helfrich, Patent Counsel, Langley Research Center.

DATES: Responses to this notice must be received by May 21, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. George F. Helfrich, Patent Counsel, Langley Research Center, Mail Code 212, Hampton, VA 23681–0001; telephone (804) 864–9260.

Dated: March 13, 1996.

Edward A. Frankle,

General Counsel.

[FR Doc. 96–6922 Filed 3–21–96; 8:45 am]

BILLING CODE 7510–01–M

[Notice 96–032]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that Veatronics Corporation, of Charlotte, North Carolina 28205, has applied for a partially exclusive license to practice the invention disclosed in NASA Case No. LAR–14,240–1, entitled "Vacuum Holding Fixture For fabricating Piezoelectric Polymer Acoustic Sensors," for which a U.S. Patent Application was filed on October 4, 1994, and assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Ms. Kimberly A. Chasteen, Patent Attorney, Langley Research Center.

DATE: Responses to this notice must be received by May 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Kimberly A. Chasteen, Patent Attorney, Langley Research Center, Mail Code 212, Hampton, VA 23681–0001; telephone (804) 864–3227.

Dated: March 13, 1996.

Edward A. Frankle,

General Counsel.

[FR Doc. 96–6921 Filed 3–21–96; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL CREDIT UNION ADMINISTRATION

Information Collection Under Review

March 22, 1996.

The National Credit Union Administration (NCUA) has submitted the following public information collection requests to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). The proposed information collections are published to obtain comments from the public. Public comments are encouraged and will be accepted for thirty days from the date listed at the top of this page in the **Federal Register**.

Copies of these individual information collection requests, with applicable supporting documentation, may be obtained by calling the NCUA Clearance Officer, Suzanne Beauchesne, at (703) 518–6412. Written comments and/or suggestions regarding the information collection requests listed below should be directed to Ms. Beauchesne, Office of Administration, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314, within 30 days from the date of this publication in the **Federal Register**. Comments should also be sent to the OMB Desk Officer indicated below at the following address: OMB Reports Management Branch, New Executive Office Building, Room 10202, Washington, D.C. 20530. Attn: Milo Sunderhauf.

National Credit Union Administration

OMB Number:

Form Number: None.

Type of Review: Existing collection in use without an OMB control number.

Title: Loan Participation.

Description: As authorized by 12 U.S.C. § 1757(5)(E) and implemented by Section 701.22 of NCUA's Rules and

Regulations, federal credit unions that wish to engage in participation loans must establish a written loan participation policy and enter into a written loan participation agreement. Credit unions use the information to ensure that loan participation agreements are entered into in accordance with Board policy. NCUA uses the information during examinations to evaluate the safety and soundness of the Board's participation policy and to ensure that the participation agreements are in compliance with the policy.

Respondents: Federal credit unions.

Estimated Number of Respondents/Recordkeepers: 1,000.

Estimated Burden Hours per Response: 4 hours.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 4,000 total annual burden hours.

Estimated Total Annual Cost: $1,000.

OMB Number:

Form Number: None

Type of Review: New collection.

Title: Organization and Operations of Federal Credit Unions.

Description: NCUA has authorized federally insured credit unions to offer lending-related incentive pay plans, provided they establish written policies regarding such plans. 12 CFR 701.21(c)(8). NCUA believes written policies are necessary to ensure a plan is fully considered before being adopted and for the examination process. The information will be used by NCUA examiners in reviewing credit union lending policies for safety and soundness.

Respondents: Federally insured credit unions.

Estimated Number of Respondents/Recordkeepers: 1,000.

Estimated Burden Hours per Response: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1,000 total annual burden hours.

Estimated Total Annual Cost: $25,000.

By the National Credit Union Administration Board on March 18, 1996.

Becky Baker,

Secretary of the Board.

[FR Doc. 96–7024 Filed 3–21–96; 8:45 am]

BILLING CODE 7535–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Notice of Subcommittee Meeting on Severe Accidents

The ACRS Subcommittee on Severe Accidents will hold a meeting on April 8, 1996, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows: *Monday, April 8, 1996—8:30 a.m. until the conclusion of business.*

The Subcommittee will discuss the NRC severe accident codes (e.g., MELCOR, SCDAP/RELAP5, CONTAIN, and VICTORIA). The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the cognizant ACRS staff engineer, Mr. Noel Dudley (telephone 301/415–6888) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Date: March 18, 1996.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 96–6937 Filed 3–21–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–029; License No. DPR–3]

Yankee Atomic Electric Company; Issuance of Supplemental Director's Decision Under 10 CFR 2.206

Notice is hereby given that by a Director's Decision (DD 96–02), dated March 18, 1996, the Director, Office of Nuclear Reactor Regulation, denied a supplemental Petition submitted by Citizens Awareness Network and New England Coalition on Nuclear Pollution (Petitioners) and dated February 9, 1996. Petitioners requested that the Nuclear Regulatory Commission (NRC) take action with regard to operation by Yankee Atomic Energy Company (YAEC or Licensee) of its Nuclear Power Station at Rowe, Massachusetts (Yankee Rowe).

Petitioners request that the NRC comply with *Citizens Awareness Network Inc.* v. *United States Nuclear Regulatory Commission and Yankee Atomic Electric Company,* 59 F.3d 284 (1st Cir. 1995) (*CAN* v. *NRC*). Specifically, Petitioners request that the Commission prohibit the licensee from conducting six activities prior to approval of a decommissioning plan. These activities are: (1) Consolidation of sediment in the reactor vessel; (2) removal of miscellaneous Safety Injection Building equipment; (3) installation of a temporary electrical system; (4) removal of pipe on the exterior of the Vapor Container; (5) removal of Main Coolant System insulation; and (6) installation of a temporary waste processing system. Petitioners state that none of these activities constitute minor alterations to the facility, and thus are not permitted.

The NRC staff also evaluated five other ongoing or planned activities at Yankee Rowe that were identified in the licensee's letters of January 29, 1996, February 16, 1996, and February 28, 1996. These activities are: (1) Preparation for decontamination of the Main Coolant System—removal of spool pieces; (2) removal of miscellaneous equipment outside the Vapor Container bioshield wall; (3) removal of Primary Auxiliary Building tanks; (4) removal of Turbine Building insulation; and (5) removal of spent fuel pool upender.

The staff concluded that the eleven activities are permissible, prior to approval of a decommissioning plan, under the pre-1993 interpretation of the Commission's decommissioning regulation, as explained in the "Director's Decision Pursuant to 10 CFR 2.206" (DD 96–02), the complete text of which follows this notice and is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC and at the local public document room located at the Greenfield Community College Library, 1 College Drive, Greenfield, Massachusetts, 01301.

A copy of the decision will be filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206(c) of the Commission's regulations. As provided by this regulation, the Decision will constitute the final action of the Commission 25 days after the date of issuance unless the Commission, on its own motion, institutes a review of the Decision in that time.

Dated at Rockville, Maryland, this 18th day of March 1996.

For the Nuclear Regulatory Commission.

William T. Russell, Director, Office of Nuclear Reactor Regulation.

Attachment to Issuance of Supplemental Director's Decision Under 10 C.F.R. § 2.206

I. Introduction

On January 17, 1996, Citizens Awareness Network and New England Coalition on Nuclear Pollution (Petitioners) submitted an "EMERGENCY MOTION FOR COMPLIANCE WITH CIRCUIT COURT OPINION" (Petition). Petitioners requested that the United States Nuclear Regulatory Commission (NRC or Commission) take action with respect to activities conducted by Yankee Atomic Electric Company (YAEC or Licensee) at the Yankee Nuclear Power Station in Rowe, Massachusetts (Yankee Rowe or the facility). In particular, Petitioners requested that the NRC comply with *Citizens Awareness Network Inc.* v. *United States Nuclear Regulatory Commission* and *Yankee Atomic Electric Company,* 59 F. 3d 284 (1st Cir. 1995) (*CAN* v. *NRC*), and that the Commission immediately order YAEC not to undertake and the staff not to approve, and YAEC to cease, further major dismantling activities or other decommissioning activities, unless such activities are necessary to assure the protection of occupational and public health and safety. Petitioners requested that the Commission prohibit five of nine activities which the Licensee proposed to conduct prior to approval of a decommissioning plan, which activities were evaluated by the staff in a letter dated November 2, 1995.

By letter dated February 2, 1996, the NRC staff declined to take emergency action to prohibit the Licensee's shipment of low-level radioactive waste, and found that Petitioners' request to prohibit four other activities was moot.

By a Supplemental Petition, Petitioners requested the Commission to reverse the NRC staff's February 2, 1996 decision on the emergency aspects of the Petition, and contended that the staff had implicitly approved six additional activities, which the Licensee identified for the first time as under consideration in its January 29, 1996 response to the Petition, although the activities are not minor alterations to the facility. (A seventh activity was mentioned, but not contested). See Citizens Awareness Network's and New England Coalition on Nuclear Pollution's Motion for Exercise of Plenary Commission Authority to Reverse NRC Staff 2.206 Opinion (February 9, 1996).

By Order dated February 15, 1996, the Commission directed the Licensee to provide the NRC with at least two weeks advance notice before engaging in any of the seven new activities identified at page 13 of the Supplemental Petition, and directed the staff to address the arguments advanced by Petitioners at page 13 of the Supplemental Petition in a supplementary 10 CFR 2.206 decision.

By letter dated February 16, 1996, the Licensee notified the NRC staff and Petitioners that YAEC intended to commence five activities between March 1, 1996 and March 25, 1996.

On February 22, 1996, the staff issued a Director's Decision (DD 96–01) on the Petition as a whole. The staff denied Petitioners' request to prohibit the Licensee's shipments of low-level radioactive waste, and found four other activities contested by Petitioners to be moot.

By letter dated February 27, 1996, the NRC staff requested the Licensee to supply information regarding the seven activities identified by the Supplemental Petition, plus information regarding four other activities identified as ongoing in the Licensee's January 29, 1996 response to the Petition. The Licensee responded by letter dated February 28, 1996, providing information regarding the eleven activities plus an additional activity, removal of the Spent Fuel Pool Upender. Three activities were ongoing, and the remaining nine were scheduled to commence between March 1, 1996 and April 22, 1996.

By letter dated March 1, 1996, the staff notified the Licensee that three activities scheduled to commence March 1, 1996, are permissible, before approval of a decommissioning plan, under the pre-1993 interpretation of the Commission's decommissioning regulations, and thus, that there was no reason to take emergency action to prevent YAEC from starting or to order discontinuance of the ongoing activities. Additionally, the staff found no health or safety reason for immediate NRC action.

The staff has evaluated the six ongoing and planned activities contested by the Supplemental Petition and the five additional activities identified in the Licensee's letters of January 29, 1996, February 16, 1996, and February 28, 1996. Two activities, removal of miscellaneous equipment outside the Vapor Container bioshield wall and preparation for decontamination [1] of the Main Coolant System (removal of spool pieces) were completed in February 1996. For the reasons discussed below, the staff has concluded that the activities are permissible, prior to approval of a decommissioning plan, under the pre-1993 interpretation of the Commission's decommissioning regulations. Accordingly, Petitioners' request that the NRC prohibit YAEC from undertaking or continuing the six contested activities identified at page 13 of the Supplemental Motion is denied.

II. Background

As explained in detail in DD 96–01, Petitioners sought judicial review of certain NRC actions, related to the Licensee's Component Removal Project (CRP). Petitioners challenged the CRP as an impermissible activity, before the approval of a decommissioning plan, under the pre-1993 interpretation of the Commission's decommissioning regulations.

On July 20, 1995, the United States Court of Appeals held, in part, that the Commission had: (1) Failed to provide an opportunity for hearing to CAN, as required by Section 189 of the Atomic Energy Act, in connection with the Commission's decision to permit the CRP decommissioning activities; and (2) changed its pre-1993 interpretation of its decommissioning regulations without notice to the public and in violation of the Administrative

[1] Decontamination at a nuclear plant is the flushing of pipes, pumps, pressure vessels etc., with fluids to remove materials that are contaminated with radiation from the inner surfaces of these components.

Procedure Act. *Citizens Awareness Network* versus *NRC and Yankee Atomic Electric Company*, 59 F. 3d 284, 291–2, and 292–3 (lst Cir. 1995). The court remanded the matter to the Commission for proceedings consistent with the court's opinion.

The Commission implemented *CAN* versus *NRC*, in part, by issuing *Yankee Atomic Electric Company* (Yankee Nuclear Power Station), CLI–95–14, 42 NRC 130 (1995). In CLI–95–14, the Commission reinstated its pre-1993 interpretation of its decommissioning policy, required the issuance of a notice of opportunity for an adjudicatory hearing on the Yankee Rowe decommissioning plan,[2] held that YAEC may not conduct further "major" decommissioning activities at Yankee Rowe until approval of a decommissioning plan after completion of any required hearing, and directed YAEC to inform the Commission within 14 days of the steps it is taking to come into compliance with the reinstated interpretation of the Commission's decommissioning regulations. *Yankee Atomic Electric Company*, CLI–95–14, 42 NRC 130 (1995).

III. Discussion

A. *The licensee's planned and ongoing activities are permissible, prior to approval of a decommissioning plan, under the Commission's pre-1993 interpretation of its decommissioning regulations, and thus are permissible under CAN v. NRC and CLI 95–14.*

Petitioners contest six of the seven activities they mention in the Supplemental Petition on the ground that they do not constitute minor alterations to the facility, and thus are not permissible before approval of a decommissioning plan under the pre-1993 interpretation of the Commission's decommissioning regulations. Specifically, Petitioners object to: (1) Consolidation of sediment in the reactor vessel; (2) removal of miscellaneous Safety Injection Building equipment; (3) installation of a temporary electrical system; (4) removal of pipe on the exterior of the Vapor Container; (5) removal of Main Coolant System insulation; and (6) installation of a temporary waste processing system. Petitioners do not object to decontamination of the Main Coolant System. The staff has also evaluated the following five activities identified by the Licensee in its letters of January 29, 1996, February 16, 1996, and February 28, 1996: (1) Preparation for decontamination of the Main Coolant System—removal of spool pieces; (2) removal of miscellaneous equipment outside the Vapor Container bioshield wall; (3) removal of Primary Auxiliary Building tanks; (4) removal of Turbine Building insulation; and (5) removal of spent fuel pool upender.

Under the Commission's pre-1993 interpretation of its decommissioning regulations, a licensee "may proceed with some activities such as decontamination, minor component disassembly, and shipment and storage of spent fuel if the activities are permitted by the operating license and/or § 50.59" prior to final approval of a licensee's decommissioning plan,[3] as long as the activity does not involve major structural or other changes and does not materially and demonstrably affect the methods or options available for decommissioning or substantially increase the costs of decommissioning. *Long Island Lighting Company* (Shoreham Nuclear Power Station, Unit 1), CLI–90–8, 32 NRC 201, 207 n.3 (1990); *Long Island Lighting Company* (Shoreham Nuclear Power Station, Unit 1), CLI–91–2, 33 NRC 61, 73 n.5 (1991); and *Sacramento Municipal Utility District* (Rancho Seco Nuclear Generating Station), CLI–92–2, 35 NRC 47, 61 n. 7 (1992).

Activities such as normal maintenance and repairs, removal of small radioactive components for storage or shipment, and removal of components similar to that for maintenance and repair also were permitted prior to approval of a decommissioning plan under the Commission's pre-1993 interpretation of the Commission's decommissioning regulations. See NRC Inspection Manual, Chapter 2561, Section 06.06. (Issue Date: 03/20/92).[4]

Under the pre-1993 interpretation of the Commission's decommissioning regulations, examples of activities which were conducted at various facilities under a possession-only license, and which the staff considered permissible before approval of a decommissioning plan included:

Shoreham[5]

a. Core borings in biological shield wall.

b. Core borings of the reactor pressure vessel.

c. Regenerative heat exchanger removal and disassembly.

d. Various sections of reactor water clean-up system piping cut out and removed to determine effectiveness of chemical decontamination processes being used.

e. Removal of approximately half of reactor pressure vessel insulation and preparation for disposal.

f. Removal of fuel support castings and peripheral pieces removed and shipment offsite for disposal at Barnwell, South Carolina.

g. Reactor water clean-up system recirculation holding pump removed and shipped to James A. FitzPatrick Nuclear Power Plant.

h. Control rod drive pump shipped to Brunswick Nuclear Station.

i. One full set of control rod blade guides sold to Carolina Power and Light Company.

j. Control rod drives removed, cleaned, and stored in boxes for salvage.

k. Process initiated for segmenting and removing reactor pressure vessel cavity shield blocks.

l. Process initiated for removal of instrument racks, tubing, conduits, walkways, and pipe insulation presenting interferences for decommissioning activities and/or removal of salvageable equipment.

Fort St. Vrain[6]

a. Control rod drive and orifice assemblies and control rods removed from core during defueling and shipped offsite for processing or disposal as low-level waste.

b. All helium circulators removed and shipped offsite for disposal.

c. Core region constraint devices (internals) removed and approximately one-half shipped offsite for disposal.

d. About 50 core metal-clad reflector blocks (top layer of core) removed and stored in fuel storage wells.

e. Removal of remaining hexagonal graphite reflector elements, defueling elements, and metal-clad reflector blocks begun.

f. Pre-stressed concrete reactor vessel (PCRV) top cross-head tendons and some circumferential tendons detensioned.

g. Some detensioned tendons removed from PCRV.

h. Work initiated to cut and remove PCRV liner cooling system piping presenting interferences to detensioning of PCRV tendons, and

i. Asbestos insulation completely removed from piping under PCRV.

In its letter of November 2, 1995, the NRC staff identified certain activities, although not proposed by the Licensee, which may not be conducted before reapproval of a decommissioning plan. Those activities include dismantlement of systems such as the main reactor coolant system, the lower neutron shield tank, vessels that have significant radiological contamination, pipes, pumps and other such components and the vapor container (containment). The staff also identified segmentation or removal of the reactor vessel from its support structure as a major dismantlement not to be conducted until after the decommissioning plan is reapproved.

Upon review of the Supplemental Petition and the Licensee's letters of January 29, 1996, February 16, 1996, and February 28, 1996, the staff concludes that the eleven planned and ongoing activities are permissible, prior to approval of a decommissioning plan, under the pre-1993 interpretation of the Commission's decommissioning regulations.

(1) *Consolidation of sediment in the reactor vessel.*

This item is a decontamination activity. It involves flushing loose radioactive material from the bottom of the reactor vessel (RV) and binding it in a solid mass inside the RV, in a centralized volume and, thus, displacing the contamination from the lower head of the vessel. This activity results in a large reduction of external dose during later removal and shipping of the vessel, and in a reduction of external dose to personnel who must perform day-to-day maintenance and monitoring activities.

In view of the above, this activity is permissible, before approval of a decommissioning plan, under the pre-1993 interpretation of the Commission's decommissioning regulations.

(2) *Removal of miscellaneous Safety Injection Building equipment.*

This activity entails the removal of mechanical and electrical equipment and some seismic reinforcement that is no longer required in the Safety Injection Building. The components involved in this activity are small, and constitute a minor decommissioning activity. Similar activities were conducted at the Shoreham plant prior to decommissioning plan approval. See items c, d, and g, above. Accordingly, this activity is permissible prior to approval of a decommissioning plan under the pre-1993 interpretation of the Commission's decommissioning regulations.

(3) *Installation of a new electrical system.*

This activity is not decommissioning. This activity is part of the Licensee's overall project to enhance the safety of the Spent Fuel Pool by establishing independent systems dedicated to Spent Fuel Pool reliability, and is consistent with NRC Bulletin 94–01, "Potential Fuel Pool Draindown Caused by Inadequate Maintenance Practice at Dresden Unit 1" (April 14, 1994). Installation of the new electrical system involves installation of power supply and switching capability to the previously installed electrical conduit, which conduit installation the staff found to be permissible prior to approval of a decommissioning plan. *See* DD 96–01, Section III. A(7).

Accordingly, this activity is permissible before approval of a decommissioning plan under the pre-1993 interpretation of the Commission's decommissioning regulations.

(4) *Removal of pipe on the exterior of the Vapor Container.*

These pipe lines are located outdoors beneath the Vapor Container and are in secondary-side systems, such as piping carrying steam from the secondary side of the steam generator to the turbine. Because this involves the removal of piping from the secondary side, it is not a major decommissioning activity. Similar activities were conducted at the Shoreham plant, see items d and g, above, and at the Fort St. Vrain plant, see item b, above, prior to approval of the decommissioning plans.

In view of the above, this activity is permissible, before approval of a decommissioning plan, under the pre-1993 interpretation of the Commission's decommissioning regulations.

(5) *Removal of Main Coolant System insulation.*

This insulation will not be removed until after the decontamination of the Main Coolant System. This insulation is not a major component and its removal is, therefore, not a major decommissioning activity. Similar activities were conducted at the Shoreham plant, see item e, above, and at the Fort St. Vrain plant, see item i, above, prior to approval of the decommissioning plans.

In view of the above, this activity is permissible, before approval of a decommissioning plan, under the pre-1993 interpretation of the Commission's decommissioning regulations.

(6) *Installation of a temporary waste processing system.*

This activity is not decommissioning. It is permitted by the Defueled Technical Specifications, an appendix to the POL. The activity involves installation of a liquid waste processing system designed to process spent fuel pool water by removing contaminants. The activity will increase assurance of satisfactory long-term operation of the spent fuel pool and is, therefore, a safety enhancement.

In view of the above, this activity is permissible, before approval of a decommissioning plan, under the pre-1993 interpretation of the Commission's decommissioning regulations.

(7) *Preparation for decontamination of the Main Coolant System-removal of spool pieces.*

This is a decontamination activity which involved the removal of eight spool pieces, and was completed in February 1996. It was part of an ongoing project, preparation of pipe flanges for the chemical decontamination of the Main Coolant System.

Because this action is in preparation for decontamination and without which decontamination could not proceed, this activity is permissible. Decontamination is permissible, before approval of a decommissioning plan, under the pre-1993 interpretation of the Commission's decommissioning regulations. In any event, the Petition, insofar as it can be inferred to request action in this matter, is moot.

(8) *Removal of miscellaneous equipment outside the Vapor Container bioshield wall.*

This activity involved the removal of heating and ventilating equipment from the Vapor Container, and was completed in mid-February 1996. The components removed are minor and do not constitute a major decommissioning activity. Similar activities were conducted at the Shoreham plant prior to approval of the decommissioning plan. *See* items c and d, above.

Accordingly, this activity is permissible, before approval of a decommissioning plan, under the pre-1993 interpretation of the Commission's decommissioning regulations. In any

[2] Pursuant to CLI–95–14, a proceeding was commencad to offer an opportunity for hearing on the Licensee's decommissioning plan for Yankee Rowe. Petitioners sought intervention and a hearing. By an Order dated March 1, 1996, the Atomic Safety and Licensing Board denied the request for intervention and dismissed the proceeding. Yankee Atomic Electric Company, LBP–96–2. By Order dated February 27, 1996, the Commission stayed any order of the Board insofar as it may have the affect of authorizing decommissioning activities which were prohibited prior to approval of a decommissioning plan.

[3] Statement of Consideration, "General Requirements for Decommissioning Nuclear Facilities", 53 FR 24018, 24025–26 (June 27, 1988).

[4] "Examples of modifications and activities, that are allowed during the post-operational phase [the interval between permanent shutdown and the NRC's approval of the licensee's decommissioning plan] are (1) those that could be performed under normal maintenance and repair activities, (2) removal of certain, relatively small radioactive components, such as control rod drive mechanism, control rods, and core internals for disassembly, and storage or shipment, (3) removal of non-radioactive components and structures not required for safety in the post-operational phase, (5) shipment of reactor fuel offsite, and (6) activities related to site and equipment radiation and contamination characterization." *Id.*

[5] See letter dated December 11, 1991, from John D. Leonard, Jr., Long Island Lighting Company, to U.S. Nuclear Regulatory Commission, Docket No. 50–322.

[6] *See* letter dated September 4, 1992, from Donald M. Warembourg, Public Service Company of Colorado, to the U.S. Nuclear Regulatory Commission, Docket No. 50–267.

event, the Petition, insofar as it can be inferred to request action in this matter, is moot.

(9) *Removal of Primary Auxiliary Building tanks.*

This activity involves the removal of four low pressure or drain tanks from the Primary Auxiliary Building, because they are not needed to support operation of the spent fuel pool. Two of the tanks were removed during February 1996. Similar activities were conducted at the Shoreham plant prior to approval of the decommissioning plan. *See* items c, d, and g, above. This is not a major decommissioning activity because the removed equipment involves minor components.

In view of the above, this activity is permissible, before approval of a decommissioning plan, under the pre-1993 interpretation of the Commission's decommissioning regulations.

(10) *Removal of Turbine Building insulation.*

This is an ongoing activity involving the removal of non-radioactive material from a non-contaminated area of the plant. This is not a decommissioning activity.

Accordingly, this activity is permissible, before approval of a decommissioning plan, under the pre-1993 interpretation of the Commission's decommissioning regulations.

(11) Removal of spent fuel pool upender.

This device was used during reactor operations to transfer fuel, during reload outages, into the Vapor Container. The upender is not needed to support storage of fuel in the spent fuel pool. The upender is not a major component or structure and, therefore, this is not a major decommissioning activity. Similar activities were conducted at the Shoreham plant, see items d and f, above and at Fort St. Vrain, see item a above, prior to approval of the decommissioning plan.

In view of the above, this activity is permissible, before approval of a decommissioning plan, under the pre-1993 interpretation of the Commission's decommissioning regulations.

B. *The eleven ongoing and planned activities will neither individually nor collectively substantially increase the costs of decommissioning.*

YAEC estimates the cost of the six activities contested by Petitioners and the five additional planned and ongoing activities to be approximately $6.0 million.[7] YAEC estimates the cost of the previously contested five activities to be $6.5 million. See DD 96–01, Section III.B. The total cost of all activities which have been evaluated by the staff is approximately $12.5 million or 3.4% of the estimated $368.8 million total decommissioning cost. It would be speculative to conclude that the decommissioning method proposed by Petitioners, SAFSTOR, would be less expensive. Moreover, there is no evidence that the combined activities will give rise to consequences that will increase the total cost of decommissioning. Thus, the staff concludes that there is no evidence the combined activities will substantially increase the costs of decommissioning.

C. *The activities contested by Petitioners will neither individually nor collectively demonstrably affect the methods or options available for decommissioning.*

As the staff explained in *Yankee Atomic Electric Company*, DD 96–01 (1996), the criteria for determining whether the Licensee's planned and ongoing activities will demonstrably affect the methods or options available for decommissioning have not been well-defined. During review of the Petition and the Supplemental Petition, the NRC staff has continued to examine the question of whether the Licensee's activities will demonstrably affect the methods or options available for decommissioning. In this case, the staff has now also compared the radiation dose involved in the contested activities with the radiation doses estimated for decommissioning of the Licensee's facility. This is because, under Petitioners' theory regarding the choice of the decommissioning option, as we understand it, it seems that adoption of a different decommissioning option would most likely be required to reduce dose.

The Licensee estimates that the radiation dose involved in the six activities contested by the Supplemental Petition is 23.6 person-rem.[8] The Licensee estimates that the radiation dose involved in shipment of low-level radioactive waste, contested in the Petition, is 17 person-rem.[9] The Licensee estimates that the radiation dose involved in the other four activities contested by the Petition is 24.7 person-rem.[10] Accordingly, the radiation dose involved in all activities contested by Petitioners is approximately 65.3 person-rem. Thus, the estimated dose from the contested activities is less than 10% of the total 755 person-rem estimate for total radiation exposure from decommissioning Yankee Rowe.[11] The staff estimates that the remaining estimated dose from decommissioning activities at Yankee Rowe is, at the most, approximately 358 person-rem.[12] Thus the estimated dose from the activities contested by Petitioners is approximately 18.3% of the remaining dose from decommissioning the facility.[13] Accordingly, the staff concludes that the contested activities will not demonstrably affect the methods and options available for decommissioning.

It is not possible to determine with precision how much of the 65.3 person-rem involved in the contested activities might be avoidable by using the SAFSTOR option, i.e., by delaying completion of those activities for several decades to allow for radioactive decay. But even if the entire 65.3 person-rem could be counted as part of the potential SAFSTOR dose savings (an unlikely situation), the SAFSTOR dose savings still available is substantially more than the 65.3 person-rem "lost" by carrying out the contested activities now. Thus, even in an unlikely worst case, the SAFSTOR option would be substantially preserved. Accordingly, the staff concludes that the contested activities will not demonstrably affect the methods and options available for decommissioning.

In sum, the NRC staff will not take action to halt relatively minor YAEC activities, many of which are closely similar to ones allowed at Shoreham and Ft. St. Vrain, where there is no evidence that these activities are consuming a significant portion of the remaining radioactive dose at Yankee Rowe. In the staff's judgment, the prohibition against dismantling major systems, such as the reactor vessel and other reactor components with substantial contamination,[14] sufficiently preserves the possibility of ultimately moving to the SAFSTOR option, should that be the result of the still-pending challenge to YAEC's decommissioning plan.

IV. Conclusion

For the reasons given above, Petitioner's request to prohibit six activities is denied. Those activities, plus an additional five activities identified by the Licensee as planned or ongoing, are permissible prior to approval of a decommissioning plan under the pre-1993 interpretation of the Commission's decommissioning regulations.

As provided by 10 CFR 2.206(c), a copy of this Decision will be filed with the Secretary of the Commission for the Commission's review. The Decision will become the final action of the Commission 25 days after issuance, unless the Commission on its own motion institutes review of the Decision within that time.

Dated at Rockville, Maryland, this 18th day of March 1996.

For the Nuclear Regulatory Commission.

William. T. Russell,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 96–6936 Filed 3–21–96; 8:45 am]

BILLING CODE 7590–01–P

[7] *See* NRC letter from Russell A. Mellor, YAEC, to Morton B. Fairtile, NRC, dated February 28, 1996.

[8] The Licensee estimates the radiation dose to be 13.8 person-rem for consolidation of sediment in the Reactor Vessel; 0.4 person-rem for removal of miscellaneous Safety Injection Building equipment; 0.5 person-rem for installation of a temporary electrical system; 0.4 person-rem for removal of pipe on the exterior of the Vapor Container; 7.7 person-rem for removal of Main Coolant system insulation; and 0.8 person-rem for installation of a temporary waste processing system. *See* letter dated February 28, 1996, from Russell A. Mellor, YAEC, to Morton B. Fairtile, NRC.

[9] *See* letter dated February 21, 1996, from K. J. Heider, YAEC, to Morton B, Fairtile, NRC.

[10] The Licensee estimates the radiation dose to be 4 person-rem for Fuel Chute Isolation and negligible for Spent Fuel Pool Electrical Conduit Installation. *See* letter dated February 21, 1996, from K. J. Heider, YAEC, to Morton B. Fairtile, NRC. The staff estimates the radiation dose to be 19.7 person-rem from completion of removal of the remaining portions of the Upper Neutron Shield Tank, and 1.0 person-rem from removal of Component Cooling Water System pipes and components and Spent Fuel Cooling System pipes and components based on a telephone conversation with the licensee on March 15, 1996.

[11] *See* Order Approving the Decommissioning Plan and Authorizing Decommissioning of Facility (Yankee Nuclear Power Station), "Environmental Assessment by the U.S. Nuclear Regulatory Commission Related to the Request to Authorize Facility Decommissioning", p. 22.

[12] To estimate the remaining dose from decommissioning, the staff subtracted, from the 755 person-rem estimate for total allotted dose, the personnel exposures reported for calendar years 1993, 1994 and 1995, or 163, 156 and 78 person-rem, respectively. *See* "Personnel Exposure Report by duty Function and 10 CFR 20.407 Personnel Monitoring Report", dated December 31, 1993, December 31, 1994, and December 31, 1995. The resulting estimate of approximately 358 person-rem may be an underestimate of the remaining available exposure. Some of the dose from 1993 includes non-decommissioning activities and some of the dose from the contested activities was incurred during calendar year 1995, but should not be counted as expended for purposes of estimating remaining dose.

[13] DD–96–01 compared the dose from the contested shipping activity to the total radiation exposure from decommissioning, see Section III.B.(9). It is, however, preferable to use the more sophisticated approach of comparing dose from contested activities to the remaining radiation exposure from decommissioning. Nonetheless, under both approaches the staff concludes that the contested activities will not demonstrably affect the options and methods available for decommissioning.

[14] *See letter dated November 2, 1995, from Morton B. Fairtile, NRC, to James A. Kay, YAEC.*

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

March 1, 1996.

This report is submitted in fulfillment of the requirement of Section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93–344). Section 1014(e) requires a monthly report listing all budget authority for the current fiscal year for which, as of the first day of the month, a special message had been transmitted to Congress.

This report gives the status, as of March 1, 1996, of seven rescission proposals and six deferrals contained in three special messages for FY 1996. These messages were transmitted to Congress on October 19, 1995, and February 21 and 23, 1996.

Rescissions (Attachments A and C)

As of March 1, 1996, seven rescission proposals totaling $960 million had been transmitted to the Congress. Attachment C shows the status of the FY 1996 rescission proposals.

Deferrals (Attachments B and D)

As of March 1, 1996, $2,760.4 million in budget authority was being deferred from obligation. Attachment D shows the status of each deferral reported during FY 1996.

Information From Special Message

The special messages containing information on the rescission proposals and deferrals that are covered by this cumulative report are printed in the editions of the **Federal Register** cited below:

60 FR 55154, Friday, October 27, 1995
61 FR 8691, Tuesday, March 5, 1996

Alice M. Rivlin,

Director.

Attachments

Attachment A

STATUS OF FY 1996 RESCISSIONS

[In millions of dollars]

	Budgetary resources
Rescissions proposed by the President	960.0
Rejected by the Congress	
Currently before the Congress	960.0

Attachment B

STATUS OF FY 1996 DEFERRALS

[In millions of dollars]

	Budgetary resources
Deferrals proposed by the President	3,639.0
Routine Executive releases through March 1, 1996 (OMB/Agency releases of $878.7 million, partially offset by cumulative positive adjustment of $4 thousand.)	878.7
Overturned by the Congress	
Currently before the Congress	2,760.4

BILLING CODE 3110–01–P

ATTACHMENT C
Status of FY 1996 Rescission Proposals - As of March 1, 1996
(Amounts in thousands of dollars)

Agency/Bureau/Account	Rescission Number	Amounts Pending Before Congress: Less than 45 days	Amounts Pending Before Congress: More than 45 days	Date of Message	Previously Withheld and Made Available	Date Made Available	Amount Rescinded	Congressional Action
DEPARTMENT OF DEFENSE								
Procurement								
Missile procurement, Air Force	R96-1	310,000		2-21-96				
Other procurement, Air Force	R96-2	265,000		2-21-96				
Research, Development, Test, and Evaluation								
Research, development, test, and evaluation Army	R96-4	19,500		2-23-96				
Research, development, test, and evaluation Navy	R96-5	35,000		2-23-96				
Research, development, test, and evaluation Air Force	R96-3	245,000		2-21-96				
	R96-6	44,900		2-23-96				
Research, development, test, and evaluation Defense-wide	R96-7	40,600		2-23-96				
TOTAL RESCISSIONS		**960,000**	**0**		**0**		**0**	

03/06/96

ATTACHMENT D
Status of FY 1996 Deferrals - As of March 1, 1996
(Amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amounts Transmitted: Original Request	Amounts Transmitted: Subsequent Change (+)	Date of Message	Releases(-): Cumulative OMB/ Agency	Releases(-): Congressionally Required	Congressional Action	Cumulative Adjustments (+)	Amount Deferred as of 3-1-96
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Economic support fund and International Fund for Ireland	D96-1	75,000		10-19-95					
	D96-1A		1,942,076	2-23-96	878,700			4	1,138,380
Foreign military financing program	D96-4	1,385,140		2-23-96					1,385,140
Foreign military financing loan program	D96-5	64,400		2-23-96					64,400
Agency for International Development									
International disaster assistance, Executive	D96-6	124,625		2-23-96					124,625
DEPARTMENT OF STATE									
Other									
United States emergency refugee and migration assistance fund	D96-3	40,486		10-19-95					40,486
SOCIAL SECURITY ADMINISTRATION									
Limitation on administrative expenses	D96-2	7,321		10-19-95					7,321
TOTAL, DEFERRALS		**1,696,972**	**1,942,076**		**878,700**			**4**	**2,760,352**

03/06/96

[FR Doc. 96-6744 Filed 3-21-96; 8:45 am]
BILLING CODE 3110-01-C

UNITED STATES POSTAL SERVICE

Board of Governors; Addition to Closed Sunshine Act Meeting Agenda

By telephone vote on March 19, 1996, a majority of the members contacted and voting, the Board of Governors voted to add to the agenda of its April 1, 1996, meeting, closed to public observation (see 61 FR 10406, March 13, 1996), consideration of the Postal Rate Commission Opinion and Recommended Decision in Docket No. MC96–1, Experimental First-Class and Priority Mail, Small Parcel Automation Rate Category.

The Board determined that pursuant to section 552b(c)(3) of Title 5, United States Code, and section 7.3(c) of Title 39, Code of Federal Regulations, this portion of the meeting is exempt from the open meeting requirement of the Government in the Sunshine Act [5 U.S.C. 552b(b)] because it is likely to disclose information in connection with proceedings under Chapter 36 of Title 39, United Stated Code (having to do with postal ratemaking, mail classification and changes in postal services), which is specifically exempted from disclosure by section 410(c)(4) of Title 39, United States Code.

The Board has determined further that pursuant to section 552b(c)(10) of Title 5, United States Code, and section 7.3(j) of Title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern participation of the Postal Service in a civil action or proceeding involving a determination on the record after opportunity for a hearing.

The Board further determined that the public interest does not require that the Board's discussion of these matters be open to the public.

In accordance with section 552b(f)(1) of Title 5, United States Code, and section 7.6(a) of Title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in her opinion the meeting may properly be closed to public observation pursuant to section 552b(c) (3) and (10) of Title 5, and section 410(c)(4) of Title 39, United States Code; and section 7.3 (c) and (j) of Title 39, Code of Federal Regulations.

Requests for information about the meeting should be addressed to the Secretary of the Board, Thomas J. Koerber, at (202) 268–4800.

Thomas J. Koerber,

Secretary.

[FR Doc. 96–7159 Filed 3–20–96; 1:35 pm]

BILLING CODE 7710–12–M

Board of Governors; Notice of a Sunshine Act Meeting

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR Section 7.5) and the Government in the Sunshine Act (5 U.S.C. Section 552b), hereby gives notice that it intends to hold a meeting at 1:00 p.m. on Monday, April 1, 1996, and at 9:00 a.m. on Tuesday, April 2, 1996, in Scottsdale, Arizona.

The April 1 meeting is closed to the public (see 61 FR 10406, March 13, 1996). The filing with the Postal Rate Commission for classification reform of special services has been deferred. The April 2 meeting is open to the public and will be held at the Scottsdale Princess Hotel, 7575 East Princess Drive, Scottsdale, in Ballrooms B and C. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, Thomas J. Koerber, at (202) 268–4800.

Agenda

Monday Session, April 1—1:00 p.m. (Closed)

1. Consideration of the Postal Rate Commission Opinion and Recommended Decision in Docket No. MC96–1, Experimental First-Class and Priority Mail Small Parcel Automation Rate Category. (John H. Ward, Vice President, Marketing Systems).

2. Consideration of a Filing with the Postal Rate Commission on Classification Reform for Nonprofits. (John H. Ward, Vice President, Marketing Systems).

Tuesday Session, April 2—9:00 a.m. (Open)

1. Minutes of the Previous Meeting, March 4–5, 1996.

2. Remarks of the Postmaster General/ Chief Executive Officer. (Marvin Runyon)

3. Report on the Phoenix District. (George L. Lopez, Phoenix District Manager, Customer Service and Sales)

4. Tentative Agenda for the May 6–7, 1996, meeting in Washington, D.C.

Thomas J. Koerber,

Secretary.

[FR Doc. 96–7160 Filed 3–20–96; 1:35 pm]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–21827; File No. 812–9902]

Connecticut Mutual Life Insurance Company, et al.

March 15, 1996.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Connecticut Mutual Life Insurance Company ("CML"), C.M. Life Insurance Company ("C.M. Life"), CML Accumulation Annuity Account E ("Account E"), Panorama Separate Account ("Panorama Account"), Connecticut Mutual Variable Life Separate Account I ("CML VLI Account"), Panorama Plus Separate Account ("Plus Account") and C.M. Life Variable Life Separate Account I ("C.M. Life VLI Account").

RELEVANT 1940 ACT SECTIONS: Order requested pursuant to Section 26(b) of the 1940 Act approving the proposed substitution of securities and pursuant to Section 17(b) of the 1940 Act exempting the proposed transaction from the provisions of Section 17(a) of the 1940 Act.

SUMMARY OF THE APPLICATION: Applicants seek an order approving the substitution of securities issued by certain management investment companies and held by Account E, Panorama Account, CML VLI Account, Plus Account and C.M. Life VLI Account (collectively, the "Accounts," and individually, an "Account") to support variable life insurance contracts and/or variable annuity contracts (collectively, the "Contracts") issued by CML or C.M. Life. Applicants also seek an order exempting them and Massachusetts Mutual Life Insurance Company ("MassMutual"), Connecticut Mutual Financial Services Series Fund I, Inc. ("CMFS Series Fund"), and Oppenheimer Variable Account Funds ("Oppenheimer Series Fund") (together, the "Funds," and indiyidually, a "Fund") from Section 17(a) of the 1940 Act to the extent necessary to permit C.M. Life and either CML or MassMutual to carry out the above referenced substitution of securities by redeeming securities issued by CMFS Series Fund in kind (or partly in kind) and using the redemption proceeds to purchase securities issued by Oppenheimer Series Fund.

FILING DATE: December 18, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 9, 1996, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, Richard M. Howe, Esq., Second Vice President and Associate General Counsel, Massachusetts Mutual Life Insurance Company, 1295 State Street, Springfield, Massachusetts 01111; Michael A. Chong, Esq., and Bernard S. Carrey, Esq., Connecticut Mutual Life Insurance company, 140 Garden Street, Hartford, Connecticut 06154.

FOR FURTHER INFORMATION CONTACT: Mark C. Amorosi, Attorney, or Wendy Finck Friedlander, Deputy Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from the Public Reference Branch of the Commission.

Applicants' Representations

1. CML, a mutual life insurance company, is principally engaged in the offering of life insurance, annuity and disability income contracts and is authorized to conduct business in all 50 states, the District of Columbia and Puerto Rico. CML is the depositor and sponsor of Account E. Panorama Account and CML VLI Account.

2. C.M. Life, a stock life insurance company and wholly-owned subsidiary of CML, is principally engaged in the sale of life insurance and annuity contracts. It is authorized to conduct business in all states except New York. C.M. Life is the depositor and sponsor of Plus Account and C.M. Life VLI Account.

3. MassMutual, a mutual life insurance company, is currently licensed to transact life, accident, and health insurance business in all states, the District of Columbia and certain provinces of Canada. MassMutual is the depositor and sponsor of a number of variable life insurance and variable annuity separate accounts registered as investment companies.

4. Each of the Accounts is registered under the 1940 Act as a unit investment trust. The assets of each Account support either variable annuity contracts or variable life insurance contracts. Interests in each of the Accounts offered through such Contracts have been registered under the Securities Act of 1933 (the "1933 Act") on either Form S–6 or Form N–4.

5. Account E invests exclusively in shares of the Income Portfolio of CMFS Series Fund. CML has not sold Contracts offered through Account E since February, 1982.

6. The Panorama Account is divided into eight subaccounts: four holding assets supporting Contracts issued in connection with employee benefit plans or retirement programs receiving favorable treatment under the Internal Revenue Code of 1986, as amended, and four holding assets supporting Contracts issued to the general public. Two subaccounts invest exclusively in shares of each of the following investment portfolios of CMFS Series Fund: Money Market Portfolio, Income Portfolio, Total Return Portfolio and Growth Portfolio.

7. The CML VLI Account is currently divided into seven subaccounts, four of which invest exclusively in shares of one of the following investment portfolios of CMFS Series Fund: Income Portfolio, Total Return Portfolio, Growth Portfolio and Government Securities Portfolio. The other three subaccounts each invest in shares of open-end management investment companies that are not affiliated persons of CML or MassMutual.

8. The Plus Account is currently divided into six subaccounts, each of which invests in shares of one of the following investment portfolios of CMFS Series Fund: Money Market Portfolio, Income Portfolio, Total Return Portfolio, Growth Portfolio, Government Securities Portfolio and International Equity Portfolio.

9. The C.M. Life VLI Account is currently divided into eleven subaccounts, eight of which invest exclusively in shares of one of the following investment portfolios of the CMFS Series Fund: Government Securities Portfolio, Income Portfolio, Total Return Portfolio, Growth Portfolio, International Equity Portfolio, LifeSpan Capital Appreciation Portfolio, LifeSpan Balanced Portfolio and LifeSpan Diversified Portfolio. The remaining three subaccounts each invest in shares of open-end management investment companies that are not affiliated persons of CML or MassMutual.

10. The CMFS Series Fund was organized as a Maryland corporation on August 17, 1981 and is registered under the 1940 Act as an open-end management investment company. CMFS Series Fund is a series investment company as defined by Rule 18f–2 under the 1940 Act and is currently comprised of nine investment portfolios: Money Market Portfolio, Government Securities Portfolio, Income Portfolio, Total Return Portfolio, Growth Portfolio, International Equity Portfolio, LifeSpan Capital Appreciation Portfolio, LifeSpan Balanced Portfolio and LifeSpan Diversified Portfolio. CMFS Series Fund issues a separate series of shares in connection with each portfolio and has registered these shares under the 1933 Act on Form N–1A. G.R. Phelps & Co., Inc., a wholly-owned subsidiary of CML, is the investment adviser to CMFS Series Fund.

11. The Money Market Portfolio seeks as high a level of current income as is consistent with preservation of capital and maintenance of liquidity by investing in money market instruments. The Government Securities Portfolio seeks a high level of current income with a high degree of safety of principal by investing primarily in U.S. Government securities and U.S. Government-related securities. The Income Portfolio seeks high current income consistent with prudent investment risk and preservation of capital by investing primarily in corporate debt securities and securities issued by the U.S. Government and by U.S. Government agencies and instrumentalities.

12. Oppenheimer Series Fund was organized as a Massachusetts business trust on August 28, 1984 and is registered under the 1940 Act as an open-end management investment company. Oppenheimer Series Fund is a series investment company as defined by Rule 18f–2 under the 1940 Act and is currently comprised of nine investment portfolios: Oppenheimer Money Fund, Oppenheimer High Income Fund, Oppenheimer Bond Fund, Oppenheimer Capital Appreciation Fund, Oppenheimer Growth Fund, Oppenheimer Multiple Strategies Fund, Oppenheimer Growth & Income Fund, Oppenheimer Global Securities Fund and Oppenheimer Strategic Bond Fund. Oppenheimer Series Fund issues a separate series of shares of beneficial interest in connection with each portfolio and has registered these shares under the 1933 Act on Form N–1A. Oppenheimer Management Corporation, a subsidiary of MassMutual, is the investment adviser of Oppenheimer Series Fund.

13. The Oppenheimer Money Fund seeks the maximum current income from investments in "money market" securities consistent with low capital risk and the maintenance of liquidity. The Oppenheimer Bond Fund seeks a high level of current income from investments in high-yield, fixed-income securities rated "Baa" or better by Moody's or "BBB" or better by Standard & Poor's. As a secondary investment objective, the Oppenheimer Bond Fund seeks capital growth when consistent with its primary objective.

14. The Contracts income a variety of variable life insurance and variable annuity contracts issued by CML and C.M. Life. Applicants state that although considerable variation exists among the provisions of the various Contracts, all of the Contracts (except those issued through Account E which provides only one investment option) permit, subject to certain limitations, at least 4 transfers per Contract year of cash value among and between the subaccounts available as investment options without the imposition of a transfer charge. All of the Contracts that permit transfers of cash values among and between subaccounts reserve for CML or C.M. Life the right to eliminate or further restrict transfer privileges.

15. In order to achieve certain business purposes, CML and MassMutual signed a merger agreement dated September 13, 1995, pursuant to which CML would merge with and into MassMutual, leaving MassMutual as the surviving company. The merger agreement provided, among other things, that C.M. Life would become a wholly-owned subsidiary of MassMutual but that the Plus Account and C.M. Life VLI Account would remain intact and unchanged by the merger and that C.M. Life would remain the depositor of each.

16. The merger agreement also provided that the merger would operate to transfer the CML separate accounts, including Account E, the Panorama Account and the CML VLI Account (the "CML Accounts"), to MassMutual. MassMutual would then be the legal owner of the assets of the CML Accounts and thereby become the depositor of each. Applicants state that the merger agreement did not provide for the merger or consolidation of the CML Accounts with any other separate account of CML or MassMutual in connection with the merger. Except as contemplated by the proposed substitution, the merger agreement provided that the CML Accounts would continue to maintain the subaccounts that currently comprise each of the CML Accounts, and would continue to hold in each such subaccount shares of the same management investment company that each currently holds. The merger agreement also provided that no charges would be imposed upon owners of Contracts or other deductions made in connection with the transfer of the CML Accounts to MassMutual nor would such transfers affect the net asset value of any subaccount of the CML Accounts.

17. Applicants state that, in an effort to reduce expenses, the management of CML and MassMutual are seeking to consolidate the assets of a number of smaller management investment companies which are advised by affiliated persons of CML with those of larger management investment companies having substantially identical or very similar investment objectives advised by MassMutual or affiliated persons of MassMutual. Applicants state that the Money Market Portfolio, Government Securities Portfolio and Income Portfolio of CMFS Series Fund are relatively small when compared with many other similar investment portfolios of open-end management investment companies. As a result, the annual expense ratios of these portfolios have generally been higher than the ratios of most similar but larger portfolios. Applicants also state that although the past performance of these three portfolios has not been poor in recent years, neither has it been outstanding for any of them. The Money Fund an Bond Fund of Oppenheimer Series Fund are somewhat larger than their counterparts among the three portfolios of CMFS Series Fund.

18. By supplements to the various prospectuses for the Contracts and the Accounts, all current and prospective Contract owners were notified of the intent of CML, C.M. Life and MassMutual to substitute shares of Oppenheimer Money Fund and Oppenheimer Bond Fund (the "substitute funds") for those of the Money Market Portfolio, Government Securities Portfolio and Income Portfolio (the "removed funds") of CMFS Series Fund. The supplements advise current and prospective Contract owners that they will remain able to allocate net purchase payments to or transfer cash values to the subaccounts of the Accounts corresponding to each of the removed funds until the consummation of the merger but that sometime after the merger, the substitute funds will replace the removed funds as the underlying investment for such subaccounts. The supplements further apprise current and prospective Contract owners that from the date of the supplements until the date of the proposed substitution, Contract owners will be permitted to make one transfer of all cash value under a Contract invested in any one of the affected subaccounts on the date of the supplement to another subaccount other than one of the other affected subaccounts without that transfer counting as one of a limited number of transfers permitted in a Contract year or as one of a limited number of transfers permitted in a Contract year free of charge. In addition, the supplements inform current and prospective Contract owners that CML, C.M. Life and MassMutual will not exercise any rights reserved by CML or C.M. Life under any of the Contracts to impose additional restrictions on transfers (or discontinue transfer privileges entirely) until at least 30 days after the proposed substitution.

The Proposed Substitution

1. Applicants propose that C.M. Life and either CML or MassMutual substitute (1) shares of the Money Fund of Oppenheimer Series Fund for shares of the Money Market Portfolio of CMFS Series Fund held by corresponding subaccounts of the Accounts, (2) shares of the Bond Fund of Oppenheimer Series Fund for shares of the Government Securities Portfolio of CMFS Series Fund held by corresponding subaccounts of the Accounts, and (3) shares of the Bond Fund of Oppenheimer Series Fund for shares of the Income Portfolio of CMFS Series Fund held by corresponding subaccounts of the Accounts. Applicants propose to have C.M. Life and either CML or MassMutual redeem shares of each removed fund in kind (or partly in kind) and purchase with the proceeds shares of the corresponding substitute fund.

2. Applicants state that the proposed substitutions will take place at relative net asset value with no change in the amount of any Contract owner's cash value or death benefit or in the dollar value of his or her investment in any of the Accounts. Contract owners will not incur any fees or charges as a result of the proposed substitutions nor will their rights or MassMutual's or C.M. Life's obligations under the Contracts be altered in any way. Applicants state that all expenses incurred in connection with the proposed substitutions, including legal, accounting and other fees and expenses, will be paid by CML or MassMutual. Applicants also state that the proposed substitutions will not impose any tax liability on Contract owners. Furthermore, the proposed substitutions will not cause the Contract fees and charges currently being paid by existing Contract owners to be greater after the proposed substitutions than before the proposed substitutions.

3. Applicants state that in addition to the prospectus supplements distributed to current and prospective Contract owners, within 5 days after the proposed substitutions, any Contract owners who were affected by the substitutions will be sent a written notice informing them that the substitutions carried out and that they may make one transfer of all cash value under a Contract invested in any one of the affected subaccounts on the date of the notice to another subaccount without that transfer counting as one of a limited number of transfers permitted in a Contract year or as one of a limited number of transfers permitted in a Contract year free of charge.

4. Applicants state that CML and MassMutual are also seeking approval of the proposed substitutions from the Massachusetts Insurance Department and such other state insurance regulators as may be necessary or appropriate.

Applicants' Legal Analysis

Request for an Order Under Section 26(b)

1. Section 26(b) of the 1940 Act provides in pertinent part that "[i]t shall be unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the Commission shall have approved such substitution." The purpose of Section 26(b) is to protect the expectation of investors in a unit investment trust that the unit investment trust will accumulate the shares of a particular issuer and to prevent unscrutinized substitutions which might, in effect, force shareholders dissatisfied with the substituted security to redeem their shares, thereby incurring either a loss of the sales load deducted from initial proceeds, an additional sales load upon reinvestment of the redemption proceeds, or both. Section 26(b) affords this protection to investors by preventing a depositor or trustee of a unit investment trust holding shares of one issuer from substituting for those shares the shares of another issuer, unless the Commission approves that substitution.

2. Applicants represent that the proposed substitutions are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act. Applicants assert that, after the proposed substitutions, the substitute funds will provide Contract owners with more favorable or comparable overall investment results than would be the case if the proposed substitutions do not take place. In support of this, Applicants state that the proposed substitutions would effectively consolidate the assets of the substitute funds with those of the removed funds resulting, in most cases, in a larger fund with lower anticipated future expense ratios than the past expense ratios of the removed fund. Each of the three substitute funds is larger (and after it receives the assets of the removed fund(s) will be substantially larger) than the removed fund that it would replace. The Money Fund of Oppenheimer Series Fund has had more favorable expense ratios over the last three years than the Money Market Portfolio of CMFS Series Fund. The Bond Fund has had more favorable expense ratios over the last three years than the Government Securities Portfolio of CMFS Series Fund. The Bond Fund has had only somewhat less favorable expense ratios over the last three years than the Income Portfolio of CMFS Series Fund. Applicants also state that each of the substitute funds has had somewhat more favorable investment performance over the past three years than the removed fund that it would replace.

3. Applicants also maintain that each of the substitute funds is a suitable and appropriate investment vehicle for Contract owners. Except for the proposed substitution of shares of the Bond Fund of Oppenheimer Series Fund for those of CMFS Series Fund Government Securities Portfolio, each of the substitute funds has substantially identical investment objectives to the removed fund that it would replace. The Bond Fund has investment objectives that are similar to and compatible with those of the Government Securities Portfolio.

Request for an Order Under Section 17(b)

1. Section 17(a)(1) of the 1940 Act prohibits any affiliated person of a registered investment company, or an affiliated person of an affiliated person, acting as principal, from selling any security or other property to such registered investment company. Section 17(a)(2) of the 1940 Act prohibits any of such affiliated persons, acting as principal, from purchasing any security or other property from such registered investment company.

2. The proposed substitution may be deemed to entail one or more purchases or sales of securities between and among affiliated persons as a result of the purchase by the subaccounts of the Accounts of shares of the Money Fund and Bond Fund of the Oppenheimer Series Fund with proceeds from the redemption of shares in kind (or partly in kind) of the Money Market Portfolio, Government Securities Portfolio and Income Portfolio of the CMFS Series Fund. Applicants state that the proposed substitutions could come within the scope of Section 17(a) of the 1940 Act. In addition, the proposed substitution would not be exempt from Section 17 of the 1940 Act pursuant to Rule 17a–7 thereunder because (1) the affiliations among the Accounts, the Oppenheimer Series Fund and the CMFS Series Fund do not arise solely by reason of having common investment advisers, common directors, and/or common officers, and (2) the transaction will not satisfy the condition in Rule 17a–7 which requires that the transaction be a purchase or sale for no consideration other than cash payment against prompt delivery or a security for which market quotations are readily available. The proposed purchase of Oppenheimer Series Funds shares with portfolio investment securities entails the purchase and sale of securities for securities. Therefore, the proposed substitution requires an exemption from Section 17(a) of the 1940 Act, pursuant to Section 17(b) of the 1940 Act.

3. Section 17(b) of the 1940 Act provides that the Commission may grant an order exempting the transactions prohibited by Section 17(a) upon application if evidence establishes that: (a) The terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the investment policy of each registered investment company concerned, as recited in its registration statement and reports filed under the 1940 Act; and (c) the proposed transaction is consistent with the general purposes of the 1940 Act.

4. Applicants assert that the terms of the proposed transaction are reasonable and fair and do not involve overreaching. The boards of directors of both CMFS Series Fund and Oppenheimer Series Fund have adopted procedures pursuant to which each of the Funds may purchase and sell securities to and from its affiliates. Applicants also state the proposed substitutions will be carried out in conformity with all of the requirements of Rule 17a–7 and each Fund's procedures thereunder, except that the consideration paid for the securities being purchased or sold may not be entirely cash. Applicants state that although the transaction may not be

entirely for cash, each will be effected based upon (1) the independent market price of the portfolio securities valued as specified in paragraph (b) of Rule 17a–7, and (2) the net asset value per share of Oppenheimer Series Fund's Money Fund or Bond Fund or CMFS Series Fund's Money Market Portfolio, Income Portfolio or Government Securities Portfolio valued in accordance with the procedures disclosed in the respective Fund's registration statement and as required by Rule 22c–1 under the 1940 Act. Applicants state that no brokerage commission, fee or other remuneration will be paid to any party in connection with the proposed transaction. In addition, the boards of directors of both Funds will subsequently review the proposed substitutions and make the determinations required by paragraph (e)(3) of Rule 17a–7.

5. Applicants also assert that the proposed transaction is consistent with the investment policy of each investment company concerned. Applicants state the proposed redemption of CMFS Series Fund shares is consistent with the investment policy of the Fund and its Money Market Portfolio, Income Portfolio and Government Securities Portfolio, as recited in the Fund's registration statement, provided that the shares are redeemed at their net asset value in conformity with Rule 22c–1 under the 1940 Act. In addition, the sale of Oppenheimer Series Funds shares for investment securities is consistent with the investment policy of the Fund and its Money Fund and Board Fund as recited in the Fund's registration statement, provided that (1) the shares are sold at their net asset value, and (2) the portfolio securities are of the type and quality that the Money Fund and Bond Fund each would have acquired with the proceeds from share sales had the shares been sold for cash. Applicants state that to assure that the second of these conditions is met, the Oppenheimer Series Fund's investment adviser will examine the portfolio securities being offered to that Fund and accept only those securities as consideration for shares that it would have acquired for the Money Fund or the Bond Fund, as the case may be, in a cash transaction.

6. Applicants maintain that the proposed transaction is consistent with the general purposes of the Act. Applicants state the proposed transaction does not present any of the conditions or abuses that the 1940 Act was designed to prevent.

Applicants' Conclusion

For the reasons discussed above, Applicants represent that the terms of the proposed substitution, including the consideration to be paid and received, are reasonable and fair to: (1) Oppenheimer Series Fund, including its Money Fund and Bond Fund, (2) investors in the Money Fund and Bond Fund, (3) CMFS Series Fund, including its Money Market Portfolio, Income Portfolio and Government Securities Portfolio, and (4) Contract owners invested in the Money Market Portfolio, Income Portfolio and Government Securities Portfolio; and do not involve overreaching on the part of any person concerned. Furthermore, Applicants represent that the proposed substitutions will be consistent with the policies of Oppenheimer Series Fund and of its Money Fund and Bond Fund and with the policies of CMFS Series Fund and its Money Market Portfolio, Income Portfolio and Government Securities Portfolio as stated in the current registration statement and reports filed under the 1940 Act by each Fund and with the general purposes of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–6969 Filed 3–21–96; 8:45am]

BILLING CODE 8010–01–M

[Release No. 35–26495]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

March 15, 1996.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by April 8, 1996, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

American Electric Power Co., (70–5943, 70–6126, 70–8429) AEP Resources, Inc.

American Electric Power Company, Inc. ("AEP"), a registered holding company, and AEP Resources, Inc. ("Resources"), a non-utility subsidiary company of AEP, both of 1 Riverside Plaza, Columbus, Ohio 43215, have filed a post-effective amendment to three application-declarations previously filed under sections 6(a), 7, 9(a), 10, 12(b), 32 and 33 of the Act and rules 45 and 53 thereunder.

By order dated December 22, 1994 (HCAR No. 26200) ("Order"), the Commission authorized AEP and Resources to issue and sell up to $300 million ("Investment Limit") in debt and/or equity securities through June 30, 1997 and to invest the proceeds in "exempt wholesale generators" ("EWGs"), as defined in section 32 of the Act, and in "foreign utility companies" ("FUCOs"), as defined in section 33 of the Act. The Order also authorized AEP and Resources to acquire the securities of one or more companies ("Project Parents") that directly or indirectly, but exclusively, hold the securities of one or more FUCOs or EWGs ("Power Projects").

The Order also authorized AEP to guarantee the debt securities and other commitments of Resources, AEP and Resources to guarantee the securities of one or more Project Parents or Power Projects, and Project Parents to guarantee the securities of their Power Projects, through June 30, 1997, in an aggregate amount which, with the securities issued, will never exceed the Investment Limit. Finally, the Order reserved jurisdiction over the terms of the issuance and sale by AEP of up to 10 million additional shares of its common stock ("Stock"), par value $6.50 per share, which are authorized but are unissued or are treasury shares. The gross proceeds from the sale of the Stock would not exceed the Investment Limit.

AEP proposes to increase the Investment Limit to an amount that, when added to its other direct or indirect investments in EWGs or FUCOs, is equal to 50% of the consolidated retained earnings of AEP determined in accordance with rule 53 ("New Investment Limit"). AEP also proposes to extend its authority to issue and sell debt and equity securities, to extend the authority of Resources and the Project Parents to acquire the securities of new Project Parents, and to extend the authority of AEP, Resources and the Project Parents to guarantee securities, to December 31, 2000. Finally, AEP proposes that the Commission release its reservation of jurisdiction over the issuance and sale by AEP of the Stock.

By orders dated December 1, 1993 and December 6, 1993 (HCAR No. 25936 and HCAR No. 25939) ("1993 Orders"), the Commission authorized AEP to issue and sell authorized but unissued common stock under its Dividend Reinvestment and Stock Purchase Plan or the American Electric Power Employees Savings Plan ("Plans"). The Orders stated that AEP would not use the proceeds of sales of its common stock under the Plans to acquire interests in EWGs or FUCOs.

AEP now proposes that it be authorized, subject to the New Investment Limit, to issue and sell common stock under the Plans through December 31, 2000 and to use the proceeds thereof to invest in EWGs and FUCOs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–6900 Filed 3–21–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36977; File No. SR–CBOE–95–65]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 Thereto by the Chicago Board Options Exchange, Inc. Relating to Joint Account Participant Trading in Equity Options

March 15, 1996.

On October 20, 1995, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to revise its policy regarding joint account participation in equity options. Notice of the proposal was published for comment and appeared in the **Federal Register** on December 7, 1995.[3] No comment letters were received on the proposal. On February 28, 1996 the Exchange filed Amendment No. 1 to the proposal.[4] This order approves the CBOE's proposal as amended.

I. Description of the Proposal

The purpose of this rule change is to revise that provision of the Exchange's policy governing joint account participant trading in equity options that currently prohibits the simultaneous representation in a trading crowd by more than one member of a joint account.[5] Under the proposed regulatory circular, a joint account may be simultaneously represented in a trading crowd but only by participants trading in-person. All other provisions of the current regulatory circular would remain unchanged, including a prohibition against orders being entered in the crowd via a floor broker when a joint account participant is trading in the crowd in-person. The change in policy is also reflected in a deletion of one sentence from, and the addition of another sentence to, paragraph (a)(ii) of Rule 8.16, RAES Eligibility in Equity Options.

There are two reasons why the Exchange has determined to propose this change, which has been recommended by the Exchange's Equity Floor Procedure Committee. First, the change will make the policy governing joint account trading in equity options more consistent with the current policy governing index option trading, where multiple representation of orders for the same joint account is permitted by participants in the joint account trading in-person at the trading post, or by floor brokers representing the orders at the post.[6] The policy proposed for equity options nonetheless will remain more restrictive than the policy for index options, in that it will only permit joint representation by participants trading in-person, and will not permit multiple representation of orders for the same joint account if one or more of the orders is represented by a floor broker. The policy for index options reflects that, as a practical matter, floor broker representation is often required in index option trading crowds, where special trading practices and procedures have been adopted to deal with the special needs of these very large crowds. Since a trader from another crowd may be unfamiliar with these practices, he may need to use the services of a floor broker who is regularly present at the index crowd and who understands its trading practices. Smaller equity option trading posts do not present the same practical need for the services of floor brokers, which is why the proposed policy permitting joint account representation at equity option posts is limited to in-person representation of orders by market-makers.

A second reason why the Exchange has chosen to institute this policy is to ensure that member organizations that choose to employ a joint account for their Exchange trading, rather than using individual market-maker accounts, are not disadvantaged in participating in trades vis-a-vis those member organizations that do employ individual market-maker accounts. Some member organizations choose to have their various market-makers trade in a joint account so that the member organization's positions can be more easily monitored and managed. Under the current equity policy regarding joint accounts, however, these member organizations would only be able to be represented by one joint account participant in a trading crowd at one time. On the other hand, the member organization using the individual market-maker accounts would be able to be represented by each market-maker's individual account. The proposed change would eliminate the disadvantage currently suffered by member organizations using joint account structures.

In addition to revising the regulatory circular, one sentence will be deleted from, and another sentence added to, Rule 8.16(a)(ii). This rule currently prohibits more than one joint account participant from using the joint account for trading on RAES in a particular option class unless the Exchange's

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4

[3] *See* Securities Exchange Act Release No. 36534 (November 30, 1995), 60 FR 62913 (December 7, 1995).

[4] In Amendment No. 1 the CBOE revises the proposed regulatory circular to make clear that it will be a member's responsibility to ensure that they do not trade in-person or enter orders through floor brokers such that a trade occurs in which the buyer and seller are representing the same joint account and are on opposite sides of the transaction. *See* Letter from Timothy Thompson, Senior Attorney, CBOE to James McHale, Attorney, Office of Market Supervision ("OMS"), Division of Market Regulation ("Division"), Commission, dated February 28, 1996 ("Amendment No. 1").

[5] This policy is set forth in Regulatory Circular RG 93–50, which is a reissuance of RG 91–68, File No. SR–CBOE–91–46, noticed in Securities Exchange Act Release No. 30334 (February 4, 1992), 57 FR 4900 (February 10, 1992).

[6] *See* Regulatory Circular RG 95–64, which is a reissuance of Regulatory Circular RG 91–57, approved in Securities Exchange Act Release No. 31174 (September 10, 1992), 57 FR 42789 (September 16 1992).

Market Performance Committee ("MPC") provides an exemption. However, because any joint account participant trading in-person would be entitled to participate in the same side of a trade with his fellow joint account participants in the same trading crowd as a result of the proposed regulatory circular,[7] the Exchange believes it is appropriate to no longer require an exemption from the MPC to have more than one participant use the joint account for trading on RAES. In any event, to participate on RAES, a member must be present in the trading crowd.

II. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5)[8] in that it will help remove impediments to a free and open securities market and facilitate transactions in securities, while protecting investors and the public interest.

Specifically, the Commission believes that it is appropriate for the CBOE to modify certain joint account trading policies for equity options while keeping restrictions in place that are designed to ensure market integrity. First, the rule change will make the policy governing joint account trading in equity options more consistent with the current policy regarding index option trading. The Commission notes that the CBOE's policy regarding equity option trading will continue to be more restrictive than that governing index option trading in that only joint representation by participants trading in person will be permitted in equity option trading crowds. Multiple representation of orders for the same joint account in equity option trading crowds will not be permitted if one or more of the orders is represented by a floor broker.

Second, the change in policy will eliminate the disparity in treatment between member organizations that choose to employ a joint account for their exchange trading, and those member organizations which use individual market-maker accounts. Member organizations which choose to have their various market-makers trade in a joint account so that the member organization's positions can be more easily monitored and managed, would no longer be disadvantaged by only having a single joint account represented in a trading crowd at one time. Thus, by eliminating a distinction that currently exists between member organizations that manage their positions differently, the rule change furthers the objectives of Section 6(b)(5) of the Act by providing rules that perfect the mechanisms of a free and open market.

With respect to protecting investors and the public interest, the Commission notes that the CBOE's proposed regulatory circular contains provisions designed to ensure that joint account participants do not engage in abusive or illegal trading, thereby ensuring the maintenance of fair and orderly markets and market integrity. As mentioned above, the proposed circular provides that members are prohibited from entering orders in a particular crowd with floor brokers for their individual or joint account whenever they are trading in-person in that crowd; this applies even though the orders are for an account they are not then actively trading. Additionally, the regulatory circular states that "[i]t is a member's responsibility to ensure that they do not trade in-person or enter orders with floor brokers such that any of the following results: (1) A trade occurs between a joint account participant's individual account and the joint account of which he or she is a participant, (b) a trade occurs between two joint accounts that have common participants, or (c) a trade occurs in which the buyer and seller are representing the same joint account and are on opposite sides of the transaction."[9] Finally, the Commission notes that the CBOE has surveillance procedures designed to detect and deter abusive trading by joint account participants.[10]

Accordingly, the Commission believes that expanding the ability of joint account participants to trade in equity options classes in limited circumstances will not threaten the integrity of CBOE's market.

The Commission finds food cause for approving Amendment No. 1 to the proposal prior to the thirtieth day after the date of publication of the notice of filing thereof in the **Federal Register**. Specifically, Amendment No. 1 merely clarifies the regulatory circular to highlight that members must ensure that they do not trade in-person or enter orders with floor brokers such that a trade occurs in which the buyer and seller are representing the same joint account and are on opposite sides of the transaction. The Commission believes that emphasizing this requirement in the regulatory circular clarifies the responsibilities of joint account participants trading in equity options and strengthens the market integrity aspects of the proposal.

Based on the above, the Commission finds good cause for approving Amendment No. 1 to the proposed rule change on an accelerated basis and believes that the proposal, as amended, is consistent with Sections 6(b)(5) and 19(b)(2) of the Act.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to the File No. SR–CBOE–95–65 and should be submitted by April 12, 1996.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change (SR–CBOE–95–65), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–6899 Filed 3–21–96; 8:45 am]

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[7] Pursuant to Interpretation .06 to CBOE Rule 8.9 ("Securities Accounts and Orders of Market Makers"), joint account participant trading on opposite sides of a transaction is prohibited.

[8] 15 U.S.C. 78f(b)(5).

[9] *See* Amendment No. 1, *supra* note 4.

[10] Based on conversations with its Equity Floor Procedure Committee, the Exchange believes that the change in policy is not likely to result in one joint account dominating, or "packing," an equity option trading crowd through the use of multiple joint account participants. Telephone conversation between Patricia L. Carey, Director, Market Regulation, CBOE and James McHale, Attorney, OMS, Division, Commission, on March 14, 1996.

[11] 15 U.S.C. 78s(b)(2).

[12] 17 CFR. 200.30–3(a)(12).

[Release No. 34–36982; File Nos. SR–MCC–96–03]

Self-Regulatory Organizations; Midwest Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to the Pass-Through of Certain Fees and Charges and the Elimination of All Other Charges

March 18, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on March 1, 1996, the Midwest Clearing Corporation ("MCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR–MCC–96–03) as described in Items I, II, and III below, which items have been prepared primarily by MCC. MCC amended the filing on March 7, 1996.[2] The Commission is publishing this notice to solicit comments from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

MCC proposes to add a provision to its Services and Schedule of Charges that will permit MCC to pass-through at cost to Sponsored Participants ("SPs") and Temporary Sponsored Participants ("TSPs")[3] fees and other charges assessed MCC by the National Securities Clearing Corporation ("NSCC"). MCC also proposes to eliminate the remainder of its existing fee schedule.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, MCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. MCC has prepared summaries, set forth in section (A), (B), and (C) below, of the most significant aspects of such statements.[4]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to permit MCC to charge SPs and TSPs at cost the fees and charges assessed on MCC by NSCC in connection with SPs' and TSPs' use of NSCC's services. The proposed rule change also eliminates all other existing MCC fees.

MCC proposes to eliminate its existing fee schedule in its entirety and replace it with the following schedule.

Sponsored Participants and Temporary Sponsored Participants

Fees and charges assessed on MCC by the National Securities Clearing Corporation

Charge: Rebilled at Cost

MCC believes the proposed rule change is consistent with Section 17A of the Act and the rules and regulations thereunder because it provides for the equitable allocation of reasonable fees and other charges among participants using its facilities.

(B) Self-Regulatory Organization's Statement on Burden on Competition

MCC does not believe the proposed rule change will impose a burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Purposed Rule Change Received From Members, Participants or Others

Written comments on the proposals have not been solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which MCC consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington D.C. 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communication relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552 will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of MCC. All submissions should refer to the file number SR–MCC–96–03 and should be submitted by April 12, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–6966 Filed 3–21–96; 8:45 am]

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[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] MCC originally filed the proposed rule change under Section 19(b)(3)(A) of the Act. On March 7, 1996, MCC requested that the proposal be considered filed under Section 19(b)(2) of the Act. Telephone conversation between David T. Rusoff, Foley and Lardner [counsel to MCC], and Jerry W. Carpenter, Assistant Director, Peter R. Geraghty, Senior Counsel, and Cheryl O. Tumlin, Attorney, Division of Market Regulation, Commission (March 7, 1996).

[3] For a detailed discussion of the clearing arrangements for SPs and TSPs, refer to Securities Exchange Act Release No. 36740 (January 19, 1996) 61 FR 2553 [File No. SR–MCC–95–05] (notice of filing and order granting accelerated approval of a proposed rule change relating to a contingency plan for participants in connection with MCC's decision to withdraw from the securities clearing business). Release No. 36740 (January 19, 1996) 61 FR 2553 [File No. SR–MCC–95–05] (notice of filing and order granting accelerated approval of a proposed rule change relating to a contingency plan for participants in connection with MCC's decision to withdraw from the securities clearing business).

[4] The Commission has modified the text of the summaries prepared by MCC.

[5] 17 CFR 200.30–3(a)(12) (1995).

[1] 15 U.S.C. 78s(b)(1).

[Release No. 34–36980; File No. SR-NASD–95–63]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Regulating the Conduct of Broker/Dealers Operating on the Premises of a Financial Institution

March 15, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("1934 Act"),[1] notice is hereby given that on December 28, 1995, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items

have been prepared by the NASD. The filing was subsequently amended on January 24, January 29 and March 7, 1996.[2] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing to add a new section specifying requirements for broker/dealer conduct on the premises of a financial institution. Below is the text of the proposed rule change.

RULES OF FAIR PRACTICE

Broker/Dealer Conduct on the Premises of Financial Institutions

Sec. _____.

(a) Applicability

This section shall apply exclusively to those broker/dealer services conducted by members on the premises of a financial institution where retail deposits are taken. This section does not alter or abrogate members' obligations to comply with other applicable NASD rules, regulations, and requirements, nor those of other regulatory authorities that may govern members operating on the premises of financial institutions.

(b) Definitions

(1) For purposes of this section, the term "financial institution" shall mean federal and state-chartered banks, savings and loan associations, savings banks, credit unions, and the service corporations required by law of such institutions.

(2) "Networking arrangement" and "brokerage affiliate arrangement" shall mean a contractual arrangement between a member and a financial institution pursuant to which the member conducts broker/dealer services for customers of the financial institution and the general public on the premises of such financial institution where retail deposits are taken.

(3) "Affiliate" shall mean a company which controls, is controlled by or is under common control with a member as defined in Schedule E of the By-Laws.

(4) "Broker/dealer services" shall mean the investment banking or securities business as defined in Paragraph (l) of Article I of the By-Laws.

(5) "Confidential financial information" shall not include:

(A) customers' names, addresses, and telephone numbers, unless a customer specifies otherwise; or

(B) information that can be obtained from unaffiliated credit bureaus or similar companies in the ordinary course of business.

(c) Standards for Member Conduct

No member shall conduct broker/dealer services on the premises of a financial institution unless the member complies initially and continuously with the following requirements:

Setting

(1) Wherever possible, the member's broker/dealer services shall be conducted in a physical location distinct from the area where the financial institution's retail deposits are taken. In all situations, members shall identify the member's broker/dealer services in a manner that is clearly distinguished from the financial institution's retail deposit-taking activities. The member's name shall be clearly displayed in the area in which the member conducts its broker/dealer services.

Networking and Brokerage Affiliate Agreements

(2) Networking and brokerage affiliate arrangements between a member and a financial institution must be governed by a written agreement that sets forth the responsibilities of the parties and the compensation arrangements. The member must ensure the agreement stipulates that:

(A) supervisory personnel of the member and representatives of the Securities and Exchange Commission and the Association will be permitted access to the financial institution's premises where the member conducts broker/dealer services in order to inspect the books and records and other relevant information maintained by the member with respect to its broker/dealer services;

(B) unregistered employees of the financial institution will not receive any compensation, cash or non-cash, that is conditioned on whether a referral of a customer of the financial institution to the member results in a transaction; and

(C) the member will notify the financial institution if any associated person of the member who is employed by the financial institution is terminated for cause by the member.

Compensation of Registered/Unregistered Persons

(3) The member shall not provide cash or non-cash compensation to employees of the financial institution who are not registered with an NASD member in connection with, but not limited to, locating, introducing, or referring customers of the financial institution to the member.

Customer Disclosure and Written Acknowledgment

(4) (A) When a customer account is opened by a broker/dealer on the premises of a financial institution where retail deposits are taken, the member shall disclose, orally and in writing, that the securities products purchased or sold in a transaction with the member:

(i) are not insured by the Federal Deposit Insurance Corporation ("FDIC") or other applicable deposit insurance;

(ii) are not deposits or other obligations of the financial institution and are not guaranteed by the financial institution; and

(iii) are subject to investment risks, including possible loss of the principal invested.

(B) For all accounts opened by a broker/dealer on the premises of a financial institution where retail deposits are taken, the member shall make reasonable efforts to obtain from each customer during the account opening process a written acknowledgement of the disclosures required by Subsections (c)(4)(A) (i) through (iii).

Use of Confidential Financial Information

(5) The member shall not use confidential financial information provided by the financial institution regarding its customer unless prior written approval has been granted by the customer to release the information.

Communications With the Public

(6) (A) All member communications regarding customers' securities transactions and long and short positions, including confirmations and account statements, must indicate clearly that the broker/dealer services are provided by the member. Communications that include information regarding non-deposit-insured transactions and positions with the member and deposit-insured transactions and positions or accounts with the financial institution should distinguish clearly between the two. Securities transactions conducted by the member should be introduced with the member's identity and, at a minimum, the member must disclose that

[2] *See* Letters from Elliott R. Curzon, Associate General Counsel, NASD, to Mark P. Barracca, Branch Chief, Division of Market Regulation, SEC (January 24, 1996 and March 7, 1996) and Letter from Suzanne E. Rothwell, Associate General Counsel, NASD, to Mark P. Barracca, Branch Chief, Division of Market Regulation, SEC (January 29, 1996). This notice reflects those amendments. The text of the amendments may be examined in the Commission's Public Reference Room.

securities products: are not insured by the FDIC or other applicable deposit insurance; are not deposits or other obligations of the financial institution and are not guaranteed by the financial institution; are subject to investment risks, including possible loss of the principal invested.

(B) Advertisements, sales literature, and other similar materials issued by the member that relate exclusively to its broker/dealer services will be deemed to be the materials of the member and must indicate prominently the identity of the member providing the broker/dealer services. The financial institution may be referenced in a nonprominent manner in advertising or promotional materials for the purpose of identifying the location where broker/dealer services are available and, where appropriate, to disclose a material relationship between the member and the financial institution, for example, where the member is affiliated with a financial institution that serves as investment adviser to an open-end investment company ("mutual fund").

(C) Advertisements, sales literature, and other similar materials jointly issued by the member and a financial institution that discuss services or products offered by both entities must distinguish clearly the products and services offered by the financial institution from those offered by the member. The name of the member must be displayed prominently in the section of the materials that describes the broker/dealer services offered by the member, which section will be deemed materials of the member.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Background

In recent years, banks, savings and loan associations, credit unions and similar financial institutions not registered as a broker/dealer under the 1934 Act ("financial institutions") have expanded their business into retail securities sales. These institutions generally conduct such activities through affiliated broker/dealers or non-affiliated broker/dealers operating under a brokerage affiliate or networking arrangement. In addition, however, banks are exempt from the definitions of the terms "broker" and "dealer" in Sections 3(a)(4) and 3(a)(5), respectively, of the 1934 Act, and thus are not required to register as broker/dealers when selling securities.

As these securities activities have expanded and financial institutions have placed securities sales facilities in their retail deposit taking areas, customers of the financial institutions have become increasingly confused about the distinction between the insured deposit products of the financial institution and the uninsured securities products of the broker/dealer operating in the same location.

In order to address this customer confusion problem, the NASD has published several notices reminding members of their obligations under the federal securities laws and the NASD's rules when selling securities products to customers who may have little or no experience with unmsured, non-depository products. In Notice to Members 91–74 (November 1991) and Notice to Members 93–87 (December 1993), the NASD reminded members of their obligations to customers who were reinvesting maturing certificates of deposit. In addition, in Notice to Members 94–16 (March 1994) the NASD reminded members of their sales practice obligations in connection with mutual fund sales and noted that the growth of bank-affiliated and networking broker/dealers had focused attention on the issue. Finally, in Notice to Members 95–80 (September 26, 1995) the NASD addressed additional concerns regarding member obligations and responsibilities regarding mutual fund sales practices.

In Notice to Members 94–47 (June 1994) the NASD published the SEC's November 24, 1993 no-action letter to the Chubb Securities Corporation (the "Chubb Letter") concerning broker/dealer activity on the premises of a financial institution. The Chubb Letter set forth the requirements for networking broker/dealers as they related to customer disclosure, compensation of employees of the financial institution, promotional materials of the broker/dealer, location of the securities activities of the broker/dealer, and inspection of books and records with respect to financial institutions that are subject to broker/dealer registration under Section 15(a) of the 1934 Act.

In addition, on February 15, 1994, the various financial institution regulators[3] issued a joint statement titled the "Interagency Statement on Retail Sales of Nondeposit Investment Products" (the "Interagency Statement"). The Interagency Statement established guidelines for financial institutions that sell securities products to their customers, either directly or through networking or affiliated broker/dealers. It is the NASD's understanding that, to the extent securities are being sold by broker/dealers operating on financial institution premises, NASD members are observing the requirements of the Interagency Statement even though such broker/dealers are not directly subject to the jurisdiction of the financial institution regulators.

The NASD has been concerned that the activities of member firms operating on the premises of financial institutions and related customer protection issues are not adequately addressed by existing NASD rules and, because the Interagency Statement has no jurisdictional reach to broker/dealers, there is no basis for NASD disciplinary action against member firms that do not comply with the terms of the Interagency Statement. Accordingly, the NASD is proposing to add a new section to the Rules of Fair Practice to govern the conduct of broker/dealers on the premises of financial institutions.

(2) Description of Proposed Rule

Applicability. Subsection (a) of the proposed rule provides that the new section applies exclusively to broker/dealer services being conducted by NASD members on the premises of a financial institution where retail deposits are taken.

Subsection (a) specifies that the proposed rule covers financial institutions that have an area "where retail deposits are taken." The NASD intends that the phrase "where retail deposits are taken" will have its ordinary meaning; i.e., a financial institution with an area where, with minimal limitations, the public (or members, in the case of a credit union) can access the services of the institution. It would not include financial institutions that do not generally provide access to the public without an appointment, e.g., financial

[3] The Board of Governors of the Federal Reserve System ("FRB"), the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency ("OCC"), and the Office of Thrift Supervision ("OTS") ("financial institution regulators").

institutions which solely provide trust services or private banking services.

Subsection (a) also provides that the section only applies to situations where broker/dealer services are conducted "*on the premises* of a financial institution where retail deposits are taken" (emphasis added). The proposed rule will apply to broker/dealer services provided (including all accounts opened) in person by broker/dealer personnel on the premises of the financial institution, as well as broker/dealer services provided by telephone or other means of communication (including computer terminals) by broker/dealer personnel on the premises of the financial institution. The proposed rule change will also apply to broker/dealer services provided by a broker/dealer via the telephone or other means of communication to customers who are on the premises of a financial institution even if the broker/dealer personnel themselves may not be on the premises of the financial institution.

If the broker/dealer is conducting business in a physically separate location from the retail facility of the financial institution and is not otherwise present on the premises of the financial institution via computer terminal or other electronic communication, the rule does not apply. For example, a broker/dealer operating in separate office space on another floor or in another part of the same building, even if the building is owned or primarily occupied by the financial institution, and where the entrance to the broker/dealer's office space is through the building lobby or an exterior entrance and not through the financial institution's retail facility, the broker/dealer will be considered to be conducting its services in a physically separate location.

Subsection (a) also expressly states that the proposed rule does not alter or abrogate the member's obligation to comply with other NASD rules or the rules of other financial institution regulatory authorities with respect to the member's operations on the premises of a financial institution.

(3) Definitions

Subsection (b) of the proposed rule defines several terms used in the proposed rule, such as, "financial institution," "networking arrangement" and "brokerage affiliate arrangement," "affiliate," "broker/dealer services," and "confidential financial information." Each of the definitions are discussed below in connection with the provisions of the proposed rule where they are used. The definition of "financial institution" applies only to the proposed rule change; not to other provisions of the NASD's rules.

(4) Standards for Member Conduct

Subsection (c) of the proposed rule sets forth the specific requirements for members doing business on the premises of a financial institution as they relate to:

1. Setting;
2. Networking and brokerage affiliate agreements;
3. Compensation of registered and unregistered persons;
4. Customer disclosure and written acknowledgement;
5. Use of confidential financial information; and
6. Communications with the public.

The introduction to subsection (c) provides that no member shall conduct broker/dealer services on the premises of a financial institution [4] unless the member complies initially and continuously with the requirements of the proposed rule.

Setting. Subsection (c)(1) states that, wherever possible, broker/dealer services [5] shall be conducted in an area physically distinct from the retail deposit taking area of the financial institution. In all situations, the broker/dealer services must be identified in a manner that clearly distinguishes them from the activities of the financial institution. Finally, a member must clearly display its name in the area where broker/dealer services are provided.

The NASD recognizes that physical limitations in the space occupied by some financial institutions may prevent ideal physical distinctions of broker/dealer activities from the retail deposit-taking area of the financial institution from being maintained. Accordingly, the NASD has qualified the physical distinction requirement in this provision by the phrase "wherever possible."

In addition, the provision requires members to identify and clearly distinguish their activities from those of the financial institution, and to clearly display the member's name in the area where broker/dealer services are provided. The NASD expects that the three requirements in this provision, working in combination, will achieve the desired result, that is, the elimination of confusion among customers of the financial institution over which entity they are doing business with. The NASD expects that members unable to achieve ideal physical distinction of their broker/dealer activities from the financial institution's retail deposit taking area will pay particular attention to the other provisions of subsection (c)(1) in order to eliminate customer confusion and misidentification.

Finally, the NASD is aware of circumstances where financial institutions conduct business from walkup windows, kiosks or desks in public places, such as supermarkets or similar locations, many of which are operated by a single person. While the NASD cannot anticipate how the proposed rule would apply in all possible scenarios, the NASD believes it may be particularly difficult to adequately distinguish between the activities of the financial institution and the member as required by subsection (c)(1) in a setting such as a walkup window, kiosk or desk operated by a single person. Some of the difficulties with such settings could be resolved if the member exercises exceptional caution and adopts specific operational controls designed to avoid customer confusion and adequately distinguish its operations from those of the financial institution. However, the NASD expects members to be aware that there may be certain business settings of financial institutions where the member will not be able to comply with the requirements of subsection (c)(1), and may, therefore, be prevented from conducting business in such a location.

Networking and Brokerage Affiliate Agreements. Subsection (c)(2) of the proposed rules specifies that networking [6] and brokerage affiliate [7] arrangements between a member and a financial institution must be governed by a written agreement that sets forth the responsibilities of the parties and the compensation arrangements, including: (1) Access by broker/dealer supervisory and regulatory persons to the financial institution's premises to inspect the member's books and records; (2) a prohibition on transaction-related cash or non-cash compensation to unregistered employees of the financial institution for referrals of financial institution customers to the member; and, (3) the member's obligations to notify the financial institution if any associated person of the member is terminated for cause. The proposed rule explicitly contemplates that members will not be able to conduct a securities business on the premises of a financial institution unless a written agreement that complies with subsection (c)(2) is in place.

The requirement that the agreement provide for access by the member's supervisory and NASD and SEC regulatory personnel to the financial institution's premises is intended to ensure that the existing right of such persons and entities to examine the books and records of the member, are not affected by the fact that the member is located on the premises of a financial institution.

Compensation of Registered/Unregistered Persons. Proposed subsection (c)(3) prohibits members from providing cash or non-cash compensation to employees of the financial institution who are not registered with an NASD member. Activities for which members may not compensate unregistered persons include, but are not limited to, those activities which, under the 1934 Act, may only be conducted by a registered broker/dealer or a person associated with a registered broker/dealer: the activities include, but are not limited to, locating, introducing, or referring customers of the financial institution to the member.

Customer Disclosure and Written Acknowledgment. Proposed subsection (c)(4) specifies the disclosures that a member must make to a customer when the customer opens an account with the member on the premises of a financial institution. Members must disclose, orally and in writing, that securities products sold in a transaction with the member: (1) Are not insured by the Federal Deposit Insurance Corporation ("FDIC") or other applicable deposit insurance; (2) are not deposits or obligations of, nor are they guaranteed by, the financial institution; and (3) are subject to investment risks, including loss of principal invested. The proposed disclosures are consistent with the disclosure provisions in the Interagency Statement.

The NASD is proposing these disclosure provisions to address and eliminate customer assumptions and confusion that the securities they are purchasing from broker/dealers operating on the premises of financial institutions are either insured or guaranteed against loss of principal. Such beliefs apparently arise because customers mistakenly assume that the same insurance and guarantees that cover the deposit-type products of the financial institution also cover the securities products of the broker/dealer.

Subsection (c)(4) also requires members to make reasonable efforts to obtain a written acknowledgement of the required disclosures during the account opening process. This provision is intended to complement the oral and written disclosures members are required to give to customers opening new accounts on the premises of a financial institution. At the time the account is opened the member will provide the disclosures, both orally and in writing, and then seek to have the customer acknowledge the disclosures in writing. Because some customers may be reluctant to provide the written acknowledgement at the time the account is opened (or, indeed, at any time), the NASD is not mandating that the acknowledgement be obtained, just that the member make reasonable efforts to obtain it.[8]

Use of Confidential Financial Information. Proposed subsection (c)(5) prohibits members conducting business on the premises of a financial institution from using confidential financial information provided by the financial institution unless prior written approval has been granted by the financial institution customer to release the information. Proposed subsection (b)(5) defines "confidential financial information" [9] in terms of what it is not: i.e., it is not lists of customer names, addresses and telephone numbers, unless the customer has specified otherwise; and it is not information that could be obtained from unaffiliated credit bureaus [10] or similar companies in the ordinary course of business. Therefore, information concerning a customer that a member obtains from a financial institution with which it has a networking or brokerage affiliate arrangement (other than the name, address, and telephone numbers of the customer, or that the member could obtain on its own from an unaffiliated credit bureau) may not be used unless the customer has granted prior written approval to the financial institution to release the information. Moreover, a member must satisfy itself that the customer has granted permission to release the information, either by obtaining copies of the written release from the financial institution, or by obtaining approval directly from the customer to release the information, before the member is permitted to use such information. In accordance with the intent of this provision, a member may not, for example, use a customer list sorted by the financial institution according to a field of information that would be confidential if released as individual customer information; e.g., lists of customers with expiring Certificates of Deposits or net worth in excess of $100,000.

Communications With the Public. Proposed subsection (c)(6) sets forth requirements for all communications with customers of members operating on the premises of a financial institution, including, account statements, confirmations, advertisements and sales literature. Paragraph (c)(6)(A) requires that all communications regarding the securities transactions of customers of members doing business on the premises of a financial institution clearly indicate that the broker/dealer services are provided by the member. Moreover, communications that include information about non-deposit-insured transactions and positions with the member and deposit-insured transactions and positions or accounts with the financial institution should be clearly distinguished from each other. The NASD also notes that if members issue account statements jointly with a financial institution, the member must

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[4] The term "financial institution" is defined in proposed subsection (b)(1) as federal and state chartered banks, savings and loans, savings banks, credit unions and the service corporations required by law of such institutions.

[5] The term "broker/dealer services" is defined in proposed subsection (b)(4) as meaning investment banking or securities business as defined in paragraph (l) of Article I of the By-Laws. Paragraph (l) of Article I reads:

(l) "investment banking or securities business" means the business, carried on by a broker, dealer, or municipal securities dealer (other than a bank or department or division of a bank), or government securities broker or dealer of underwriting or distributing issues of securities, or of purchasing securities and offering the same for sale as a dealer, or of purchasing and selling securities upon the order and for the account of others.

[6] The terms "networking arrangement" and "brokerage affiliate arrangement" are defined in proposed subsection (b)(2) as a contractual arrangement between a member and a financial institution permitting the member to provide brokerage services on the premises of the financial institution.

[7] The term "affiliate" is defined in proposed subsection (b)(3) as a company which controls, is controlled by or is under common control with a member as defined in Schedule E of the NASD By-Laws. The formulation of this definition is consistent with definitions elsewhere in the securities laws, principally Section 20 of the 1934 Act. The NASD is also making express reference to the more detailed definition of affiliate in Schedule E, Section 2(a), in order to provide additional guidance to members about what constitutes an affiliate.

[8] The approach taken by the NASD in this provision is consistent with the approach adopted by the NASD in connection with obtaining suitability information under Article III, Sections 2(b) and 21 of the Rules of Fair Practice.

[9] The NASD states that the definition of "confidential information" is based on the language of HR 1062 pending in the U.S. House of Representatives and the "credit bureau" exception is intended to except from the provision information regarding a customer that the member can obtain in the ordinary course of its business.

[10] NASD staff believes that standard information maintained by a credit bureau relates to credit history events, such as liens, loans outstanding, lines of credit, and credit cards, as opposed to net worth information that would include the value of customer assets, such as property, depository accounts, certificates of deposit, securities, and other investments.

ensure that the account statement complies with Article III, Section 45 of the Rules of Fair Practice, which requires members to periodically send account statements to their customers, as well as with the proposed new provision.

Finally, communications about securities transactions conducted by the member should be introduced to the customer in such communications with the identity of the member, and disclose to the customer that securities products are not insured by the FDIC or other applicable deposit insurance, are not deposits or obligations of the financial institution, are not guaranteed by the financial institution, and are subject to investment risks, including possible loss of principal invested. This provision is intended to provide the same disclosures in all communications with the customer as are provided when the account is opened.

Proposed paragraph (c)(6)(B) provides that advertisements, sales literature and other similar materials issued by the member which relate exclusively to its broker/dealer services will be deemed the materials of the member and must indicate prominently the identity of the member providing the services. The material may include non-prominent references to the financial institution where the broker/dealer is conducting business in order to identify the location where broker/dealer services are available. In addition, such a non-prominent reference to the financial institution may be included to disclose a material relationship between the member and financial institution, such as that of an investment adviser to an investment company.

Proposed paragraph (c)(6)(C) provides that advertisements, sales literature and other similar materials jointly issued by the member and a financial institution that discuss services or products offered by both entities must clearly distinguish the products and services offered by the broker/dealer from those offered by the financial institution. The member's name must appear prominently in the portion of the materials that describes the broker/dealer services and products offered by the member. That section of the materials will be deemed to be the materials of the member. In addition, the NASD intends to review the entire contents of all joint advertisements, sales literature and similar material to determine if the context within which the member's material appears complies with the NASD's advertising rules. For example, if a member's joint advertising material with a financial institution, when read in the context of the joint advertisement, fails to comply with the NASD's rules, the NASD may ask the member to seek modification of any part of the joint advertisement or require that the member not participate in the joint advertisement. In the event the member is unable to or chooses not to modify the joint advertisement, the member may, nevertheless, publish its portion of the advertisement separately (provided the advertisement complies with the NASD's rules).

The intent of subsection (c)(6) in general, and of paragraphs (c)(6)(B) and (c)(6)(C) in particular, is to prevent investor confusion between the products and services offered by the broker/dealer and the products and services offered by the financial institution, as well as to establish that advertising and sales literature promoting the products and services of the member conducting business on the premises of a financial institution are subject to the regulatory oversight of the NASD. With respect to such materials, the member must comply with all provisions of the NASD's rules including, but not limited to, the NASD's advertising rules, Article III, Section 35 of the Rules of Fair Practice.

Effective Date

The NASD will announce the effective date of the proposed rule change in a Notice to Members to be published no later than 60 days following Commission approval. The effective date will be no more than 60 days following the publication of the Notice to Members announcing Commission approval.

The NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act[11] in that regulating the conduct of broker/dealers on the premises of financial institutions will alleviate customer confusion in dealing with such entities and provide a regulatory framework for regulating such broker/dealer activities with the result that investors will be able to make more informed investment decisions with a better understanding of the distinctions between the securities industry and other segments of the financial services industry, in furtherance of the requirement that the Association's rules promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, and protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

In response to NASD Notice to Members 94–94, a number of commentators[12] noted that the proposed rule language in that Notice required members to disclose to customers that securities products purchased or sold by the member are not insured by the Securities Investor Protection Corporation ("SIPC").[13] The commentators noted that because such disclosures would apply only to broker/dealers operating on the premises of a financial institution, it would unnecessarily discriminate among broker/dealers when customers of all broker/dealers are subject to the same potential confusion about the nature of SIPC insurance.[14] The commentators argued that if there was going to be such a requirement at all, the disclosures should apply to all member firms whether they operate on the premises of a financial institution or not. Moreover, the commentators argued that limiting SIPC disclosure to financial institution broker/dealers is not only anti-competitive but misleading because customers who are already susceptible to confusion about the nature of SIPC insurance would have their attention drawn to SIPC without a requirement that SIPC insurance be explained to eliminate customer misperceptions.

In response to the commentators, the NASD has determined to eliminate the SIPC disclosure requirement from the proposed rule change, and rely instead on the disclosures that remain in the proposed rule change which are consistent with provisions contained in the Interagency Statement issued by the four bank regulators. The provisions that remain in the proposed rule change require members to disclose to customers that securities products sold by the member (1) Are not deposit insured, (2) are not deposits of or other obligations of the financial institution and are not guaranteed by the financial institution, and (3) are subject to investment risks, including possible loss of principal invested.

Some commentators have argued that the other disclosure requirements that were contained in the proposed rules that were published in Notice to Members 94–94 (that remain in the proposed rule change) are discriminatory and burdensome on the class of broker/dealers that conduct broker/dealer activities on the premises of a financial institution. The NASD believes that the provisions of the proposed rule change as revised are necessary to address a specific problem (customer confusion) that the NASD has identified in connection with the activities of members conducted on the premises of a financial institution and has, in general, narrowly tailored the proposed rule change to address the problem.

Therefore, the NASD does not believe that these provisions or any other provisions of the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The proposed rule change was published for comment in Notice to Members 94–94 (December 1994) (hereinafter referred to as "original proposed rule change" or "original proposed rules"). 284 comments were received in response thereto. Of the 284 comment letters received, 54 were in favor of the proposed rule change, 51 of which requested modifications, 209 were opposed, and 21 were neither in favor nor opposed.

I. General Comments

A. Jurisdiction of the NASD in the Proposed Rules. Several commentators, including the American Bankers Association ("ABA"), the Bank Securities Association ("BSA"), and the Consumer Bankers Association ("CBA"), expressed their belief that certain provisions of the original proposed rules would subject the activities of banks to NASD regulation.[15] The commentators stated that by subjecting banks to regulation as broker/dealers, the proposed rules fail to recognize the exemption from broker/dealer registration that is afforded to banks under Section 3(a)(6) of the 1934 Act. The commentators maintained that the proposed rules also ignore the well-settled authority of banks to provide securities brokerage services directly to their customers under the Glass-Steagall Act, and cited *American Bankers Association* v. *Securities and Exchange Commission*, 804 F.2d 739 (D.C. Cir. 1986) in support.

In considering the NASD's jurisdictional reach, the ABA, BSA, CBA, and several other commentators also argued that the NASD has incorrectly interpreted the Securities and Exchange Commission's no-action letter to Chubb Securities Corporation (the "Chubb Letter"). Because the Chubb Letter was intended to govern thrift institutions that are not exempt from broker/dealer registration under the 1934 Act, the commentators stated that it is inappropriate to extend the requirements of the Chubb Letter to banks which are otherwise exempt from broker/dealer registration by means of the device of the proposed rule change.[16] Because the Chubb Letter is neither legislation nor regulation, the commentators stated that it does not give the NASD the authority to disregard the bank exemption in the 1934 Act in order to regulate banks.

The NASD never intended to, and the proposed rule change does not, extend its jurisdictional reach to banks and other financial institutions that are not members of the Association, nor to their employees. Accordingly, the NASD has amended subsection (a) to clarify that the proposed rule change applies only to NASD members providing broker/dealer services on the premises of a financial institution.

Comments about the jurisdictional reach of specific provisions of the original proposed rules are addressed in more detail below.

B. Regulatory Duplication. Several commentators said that the proposed rule change duplicates existing regulations. One group of commentators argued that the Interagency Statement issued by the financial institution regulators on February 15, 1994, and other existing financial institution regulations adequately address the activity governed by the proposed rule change.[17] In general, these commentators maintained that the activity addressed by the original proposed rules should be governed by financial institution regulations, as opposed to rules promulgated by the SEC or the NASD. In addition, another group of commentators, which included the ABA, BSA, and CBA, argued that some of the provisions of the original proposed rules were redundant of existing NASD, SEC and financial institution regulations. With respect to NASD rules, the commentators referenced existing branch office registration requirements, supervisory requirements, and personnel registration/associated persons provisions of the NASD rules. While these commentators recognized that additional regulation of financial institution broker/dealer[18] activities are appropriate, they argued that additional regulations are already in place in the form of the Interagency Statement and financial institution regulations, the Chubb Letter and existing NASD rules. The commentators believed that these guidelines, interpretations and rules adequately address the activities that would be governed by the proposed rules.[19]

The NASD agrees that some of the provisions of the original proposed rules duplicated existing NASD rules. Accordingly, the NASD has amended the proposed rules to eliminate such duplication as described in more detail below. With respect to arguments that the proposed rules duplicate the rules of other regulatory entities (e.g., the Interagency Statement), the NASD notes that many of the rules, policies and guidelines of other agencies do not directly or indirectly apply to NASD members. The NASD believes it is imperative to adopt a set of rules that establishes clear standards of conduct governing the practices of member firms operating on the premises of financial institutions that are enforceable by the NASD.

C. Discriminatory Impact and Anti-Competitive Effects. The ABA, BSA, CBA and many other commentators believe that it is inappropriate to establish separate regulations to govern

[11] 15 U.S.C. 78o–3.

[12] Copies of comment letters received by the NASD on this previous proposal are available for inspection and copying at the NASD and in the Commission's Public Reference Room.

[13] *See*, Notice to Members 94–94 (December 1994), proposed subsection (c)(9)(D).

[14] *See*, comment letters 1, 3, 4, 7, 8, 17, 18, 22, 23, 25, 27, 37, 40, 47, 48, 50, 52, 54, 56, 63, 64, 77, 81, 84, 88, 92, 94, 99, 100, 104, 107, 109, 110, 115, 119, 121, 122, 123, 129, 130, 140, 142, 147, 153, 155, 167, 168, 169, 174, 177, 184, 186, 189, 190, 193, 197, 204, 207, 208, 212, 216, 225, 226, 227, 230, 236, 239, 240, 242, 256, 258, 266, 269, 270, 271 and 279.

[15] *See*, comment letters 1, 5, 7, 8, 17, 19, 21, 22, 23, 27, 28, 30, 37, 40, 48, 51, 54, 56, 62, 63, 65, 67, 77, 80, 84, 90, 92, 99, 102, 107, 108, 111, 115, 118, 122, 123, 126, 127, 129, 131, 138, 141, 147, 148, 156, 158, 173, 179, 186, 188, 189, 190, 192, 195, 204, 207, 208, 209, 212, 214, 216, 225, 226, 227, 229, 233, 234, 236, 242, 266, 269, 270 and 271.

[16] *See*, comment letters 1, 8, 17, 19, 27, 80, 84, 89, 103, 115, 122, 123, 134, 138, 180, 209, 210 and 242.

[17] *See*, comment letters 1, 5, 8, 18, 21, 22, 31, 37, 38, 40, 47, 53, 54, 56, 58, 62, 65, 70, 75, 78, 91, 94, 99, 100, 101, 107, 108, 111, 126, 127, 130, 133, 138, 141, 145, 147, 151, 158, 169, 170, 179, 184, 186, 188, 190, 196, 211, 216, 218, 220, 225, 226, 227, 229, 230, 232, 236, 238, 241, 242, 245, 255, 266, 268, 269, 270, 271, 275 and 282.

[18] As used in this rule filing, the term "financial institution broker/dealer" refers to broker/dealers affiliated with financial institutions (as defined in the proposed rule the term "financial institution" means "federal and state-chartered banks, savings and loan associations, savings banks, credit unions, and the service corporations required by law of such institutions") or conducting business with financial institutions under networking arrangements. The term "non-financial institution broker/dealer" refers to broker/dealers not affiliated with, or conducting business under a networking arrangement with, financial institutions.

[19] *See*, comment letters 2, 7, 9, 10, 11, 17, 19, 23, 24, 25, 27, 28, 29, 30, 32, 33, 34, 35, 36, 37, 41, 42, 43, 44, 45, 48, 49, 52, 53, 55, 59, 60, 61, 63, 64, 66, 67, 68, 69, 71, 74, 76, 77, 82, 84, 87, 90, 92, 97, 102, 105, 114, 115, 116, 117, 118, 119, 120, 121, 122, 124, 128, 129, 131, 132, 148, 149, 153, 156, 157, 160, 161, 162, 163, 165, 166, 168, 169, 172, 173, 174, 175, 177, 178, 184, 189, 194, 195, 197, 201, 204, 207, 208, 209, 224, 225, 228, 231, 235, 242, 243, 246, 247, 248, 249, 250, 257, 258, 259, 261, 262, 263, 273, 279, 280, 281 and 283.

broker/dealers operating on financial institution premises than those in existence for other NASD members.[20] In general, these commentators believe that the proposed rules unfairly discriminate against a class of broker/dealers in violation of Section 15A(b)(6) of the 1934 Act. The commentators argued that the 1934 Act provides no basis for a classification of broker/dealers based on location.

The NASD has identified circumstances associated with conducting broker/dealer services on the premises of a financial institution that are unique to that location and that require rules which specifically address the conduct of members engaging in such business. The principal circumstance noted is the enhanced likelihood that customers of the financial institution may not be aware of the differences between the insured depository products of the financial institution and the uninsured securities products of the broker/dealer operating in the same location. Accordingly, the NASD has determined that it is in the public interest to propose rules to address these unique circumstances. The NASD believes, therefore, that it is acting in furtherance of the 1934 Act in proposing rules to regulate the activities of broker/dealers on the premises of financial institutions in order to address on-going problems of customer confusion and the adequacy of the disclosures made.

These commentators also asserted their view that the NASD has not provided statistical data to support its contention that financial institution broker/dealers should be subject to a "higher standard of regulation." These commentators believe that the proposed rules are anti-competitive because, in their view, they create an uneven regulatory scheme favoring non-financial institution broker/dealers over financial institution broker/dealers. The NASD does not believe that the proposed rule change is anti-competitive in that the revised rule filed herein is, in general, narrowly structured to address its concern of customer confusion and investor protection.

In addition, two commentators speculated that the proposed rules are a reflection of the NASD's on-going battle with the financial institution regulators.[21] One commentator expressed its belief that the proposed rules are a reflection of competitive pressures from NASD members who fear financial institution incursions into the securities industry.[22] Finally, one commentator expressed the opinion that the rules are punitive of members who are seeking to do business with financial institutions.[23]

The NASD regrets that any commentators believe that there is a non-regulatory motivation to the proposed rules, but there is no basis for such comments. The NASD has responded to commentators by modifying the rules to clarify their jurisdictional reach, provide for greater flexibility of compliance in certain cases, and narrow the provisions to those most clearly applicable to addressing the potential for customer confusion in connection with the conduct of broker/dealer services on the premises of a financial institution.

D. Conflicting Banking and NASD Regulations. The ICI, the OCC, the FRB, the ABA, BSA, CBA, and other commentators expressed concern about requiring financial institution broker/dealers to comply with potentially conflicting requirements of the NASD and financial institution regulators.[24] The ICI stated that in the absence of functional regulation of securities activities of various entities, the financial institution broker/dealer regulations of the various regulators must be coordinated and harmonized in order to reduce burdens on industry participants. These commentators cited inconsistencies between the proposed rule change and the Interagency Statement as an example. To the extent that the proposed rule change differs from the Interagency Statement, these commentators asserted that member firm compliance will be both challenging and expensive. In addition, a few commentators requested that the proposed rule change be amended to provide a regulatory conflict resolution process.[25]

To resolve these concerns, the NASD has amended the original proposed rules to eliminate, to the degree possible, inconsistencies and conflicts between the proposed rules and existing rules and guidelines of financial institution regulators, as discussed in more detail below. Unless regulatory conflicts arise, which the NASD is not currently aware of, it is unnecessary to institute a conflict resolution process. The NASD agrees that the regulations of various regulators must be consistent and intends to continue communications with the financial institution regulators in order to coordinate interpretations and application of common provisions to avoid such problems before they develop.

E. Rationale for the New Rules. Some commentators questioned the rationale for the proposed rule change: The need to address issues of investor confusion and to provide clear guidance through rules or regulations addressing the activities of financial institution-affiliated and networking broker/dealers operating on the premises of financial institutions.[26]

As discussed above, the NASD has business practice and investor protection concerns that it believes justify the adoption of the proposed rules. The NASD believes the proposed rule change is a measured response to the concerns that have been identified and the unique circumstances present with respect to broker/dealers operating on the premises of a financial institution.

F. Disparate Treatment of Investors. Some commentators argued that financial institution customers should not be treated as a separate class of investors for purposes of customer protection.[27] These commentators said that such disparate treatment suggests that financial institution customers are less sophisticated than those who deal with separate, full service, broker/dealers.

The NASD disagrees that the proposed rule change suggests that financial institution customers are less sophisticated than customers of full service broker/dealers. As discussed above, the NASD has identified circumstances associated with conducting broker/dealer services on the premises of a financial institution that appear to be unique to that location. The principal circumstance noted is the enhanced likelihood that customers of the financial institution may not be aware of the differences between the insured depository products of the financial institution and the uninsured securities products of the broker/dealer operating in the same location. Accordingly, the NASD has determined that it is the public interest to propose rules to address these unique circumstances.

[20] *See*, comment letters 1, 2, 5, 7, 8, 9, 11, 17, 19, 21, 23, 24, 25, 27, 29, 30, 31, 32, 33, 34, 35, 36, 43, 48, 49, 52, 54, 55, 56, 59, 61, 63, 64, 66, 67, 68, 69, 71, 74, 76, 77, 82, 84, 86, 87, 88, 89, 91, 92, 97, 98, 102, 104, 105, 107, 108, 115, 116, 118, 119, 121, 122, 123, 124, 125, 126, 127, 128, 129, 131, 132, 139, 141, 142, 147, 149, 157, 159, 162, 163, 164, 165, 168, 173, 175, 178, 179, 184, 189, 194, 195, 197, 204, 206, 209, 213, 219, 218, 220, 225, 226, 227, 228, 229, 230, 236, 235, 240, 243, 242, 244, 249, 250, 257, 258, 259, 261, 262, 263, 264, 265, 273, 276, 279, 280, 281 and 283.

[21] *See*, comment letters 127 and 258.

[22] *See*, comment letter 235.

[23] *See*, comment letter 66.

[24] *See*, comment letters 1, 3, 4, 6, 7, 8, 9, 10, 11, 12, 16, 17, 23, 25, 27, 28, 30, 32, 47, 48, 63, 64, 65, 81, 82, 83, 84, 89, 92, 99, 100, 101, 102, 103, 104, 107, 108, 109, 110, 113, 115, 119, 120, 123, 129, 133, 135, 145, 147, 151, 153, 154, 156, 163, 166, 167, 172, 173, 180, 182, 183, 184, 188, 190, 191, 192, 196, 206, 209, 210, 211, 212, 213, 215, 216, 224, 230, 234, 237, 239, 252, 266, 236, 269, 270, 271, 272, 275, 279 and 282.

[25] See, comment letters 135, 146, 156 and 239.

[26] *See*, comment letters 53, 66, 67, 115, 127, 150, 185, 190, 214, 235 and 258.

[27] *See*, comment letters 10, 53, 78, 102, 115, 136, 204, 207 and 258.

II. Specific Comments

A. Applicability. Subsection (a) of the original proposed rules provided that the section would apply exclusively to the activities of members that conduct broker/dealer services on the premises of a financial institution where retail deposits are taken.

The ICI, BSA, CBA, and a number of other commentators asked that the NASD amend subsection (a) of the proposed rules to clarify that the rules apply only to financial institution sales activities that could confuse retail customers about the uninsured nature of the securities products that are being offered.[28] The commentators noted that the Interagency Statement only applies to retail sales of non-deposit investment products. The NASD believes that the proposed rules are generally consistent with the Interagency Statement in that they apply to all non-deposit investment products sold by a member that is conducting business on the premises of a retail deposit-taking institution.

The ICI, BSA, CBA, and several other commentators also requested that the NASD clarify the phrase "on the premises" in subsection (a) to enable members to determine the applicability of the rules under various scenarios, such as, where a member is located within a financial institution building but on a separate floor.[29] Commentators also asked whether the proposed rules apply where a member leases space in a building owned by a financial institution, but the member is not in a networking arrangement with the financial institution nor is the member a financial institution affiliate.

Subsection (a) has been clarified to specify that the provisions apply only to "those broker/dealer services being conducted by NASD members on the premises of a financial institution where retail deposits are taken." It is intended that, generally, broker/dealer services will be considered separate from the retail deposit taking area of a financial institution if the broker/dealer's facilities can be entered without going through the retail facility of the financial institution. Thus, the proposed rules would not apply where the member and the financial institution are located in physically separate and separately identified offices.

Finally, the BSA recommended that subsection (a) be amended to include within the coverage of the proposed rule non-financial institution broker/dealers that offer deposit-insured financial institution products directly. The BSA expressed the opinion that such an amendment was warranted because the investor protection concerns addressed by the proposed rule change are equally as relevant with respect to non-financial institution broker/dealers that sell financial institution products.

The NASD does not agree and has no evidence that similar investor protection concerns are present with respect to customers of non-financial institution broker/dealers that sell financial institution products. The NASD believes that if such broker/dealer customers are confused about the nature and risks of securities products they are likely to believe that none of the products they purchase are insured when, in fact, the customer may acquire an insured product. Thus, any customer confusion would appear to have benign results. The NASD will, however, continue to monitor this area.

B. Definitions. Subsection (b) of the original proposed rules included definitions of the terms "financial institution," "networking arrangement," "brokerage affiliate of a financial institution," "dual employees," and "broker/dealer services." The definitions of "financial institution" and "broker/dealer services" are retained in the revised rule and discussed below. The definitions of "networking arrangement" (which has been amended to add "brokerage affiliate arrangement") and "brokerage affiliate of a financial institution" (which has been amended to, simply, "affiliate") did not generate any comments and are, therefore, discussed later in connection with the provisions where the terms appear. The term "dual employees" was deleted from the proposed rule change in connection with the NASD's revision of the original proposed rules, but not in response to a particular comment. Therefore, it is not discussed here. Finally, a definition of the term "confidential financial information" was added to subsection (b). That term is discussed below in connection with the provision where it occurs.

1. "Financial Institution." The BSA, CBA, the FRB, and First Fidelity expressed the concern that the definition of the term "financial institution" set forth in paragraph (b)(1) of the original proposed rule change inappropriately combines financial institutions and non-financial institution entities such as savings associations and credit unions within the same defined term.[30] These commentators also expressed their view that it is inappropriate to include service corporations within the definition of financial institution because service corporations themselves may be registered as broker/dealers. The NASD notes that the language of this definition is drawn from the Chubb Letter and is necessary for the proper operation and application of the proposed rule. The NASD has, however, amended the definition to ensure that it applies only to the proposed rule and not to any other NASD rule.

The FRB also suggested that the NASD consider expanding the definition of financial institution to include foreign financial institutions given that a number of foreign financial institutions have established branches in the United States, and several of these institutions have broker/dealer affiliates. The NASD believes that it is not appropriate to include within the scope of the rule foreign financial institutions not required to register as a bank, savings and loan or credit union.

2. "Broker/dealer Services." The ABA, BSA, CBA , and several commentators expressed concerns about the scope of the term "broker/dealer services" as defined in paragraph (b)(4) of the original proposed rule change.[31] The commentators stated that the proposed definition improperly limits the activities of unregistered financial institution employees. Accordingly, the commentators have recommended that the definition be amended to state that nothing in the proposed rules is intended to limit the ability of financial institutions and their employees to engage in securities transactions pursuant to the exemption from broker/dealer registration that is granted to banks by Section 3(a)(6) of the 1934 Act.

Further, the ABA and BSA raised the concern that it was unclear whether or not the proposed rule is intended to reach investment banking services offered by bank trust departments where services are offered by individuals who hold NASD licenses. Because the term "investment banking and securities business" has a settled meaning within the broker/dealer industry, the BSA

[28] *See*, comment letters 11, 27, 29, 75, 84, 94, 121, 159, 167, 172, 186, 206, 210, 211 and 274.

[29] *See*, comment letters 17, 21, 27, 29, 52, 63, 84, 106, 110, 115, 121, 129, 148, 167, 172, 177, 186, 192, 207, 208, 242, 245 and 260.

[30] *See*, comment letters 27, 84, 103 and 199.

[31] *See*, comment letters 4, 8, 17, 19, 21, 25, 27, 28, 29, 54, 62, 63, 80, 84, 106, 115, 121, 131, 129, 192, 173, 186, 207, 208, 242, 257, 260, and 281.

recommends that the NASD adopt the "investment banking" definition in paragraph (h) of Article I of the NASD By-Laws to address the problems raised with regard to the proposed broker/dealer services definition.

In this regard, it was never the intent of the NASD to extend its jurisdictional reach to banks and other financial institutions. In response to these comments, the NASD sought to clarify its intent by amending the definition of "broker/dealer services," to reference the definition of "investment banking and securities business" contained in Article I, Paragraph (l) of the NASD By-Laws. The definition in Article I of the By-Laws excludes investment banking and securities activities carried on by banks, including bank trust departments. In addition, as discussed above, the NASD has amended subsection (a) to clarify that the proposed rule change applies only to broker/dealer services conducted on the premises of a retail-deposit-taking financial institution. The NASD believes that these changes clarify that the proposed rule change does not seek to regulate the securities activities of banks that are exempt from broker/dealer registration.

C. Specific Provisions Relating to Activities of Members Operating on the Premises of a Financial Institution. 1. Physical Location. Subsection (c)(1) of the original proposed rules provided that a member's broker/dealer services shall be conducted in a physical location distinct from the area where the financial institution's retail deposits are taken. Several commentators requested clarification about the definition of "where retail deposits are taken" in subsection (c)(i) and to the term "deposit-taking area" [32] used in other provisions (i.e., is it the teller area of a financial institution?)

Many commentators criticized subsection (c)(i) as not providing adequate flexibility for financial institution locations with severe physical constraints.[33] These commentators asked the NASD to address the problem by adopting the Interagency Statement standard which, in relevant part states, "in the limited situation where physical considerations prevent sales of non-deposit products from being conducted in a distinct area, the institution has a heightened responsibility to ensure appropriate measures are in place to minimize customer confusion." [34]

Finally, the BSA and four other commentators asked whether dual employees would be required to have two separate offices for conducting activities on behalf of the financial institution and the broker/dealer.[35] These commentators maintained that customers could be confused if a dual employee were required to lead customers back and forth between two locations within the financial institution. To address this potential for customer confusion, the BSA suggested that the proposed rule change be amended to permit the use of one desk for deposit and non-deposit activities. Indeed, the BSA expressed the view that appropriately qualified dual employees should be permitted to offer customers a "menu" of retail financial products, including insured deposits and uninsured investment products, from the same location.

In response to the commentators, subsection (c)(1) of the proposed rule change was revised to require the member to operate in a distinct area "wherever possible," consistent with the Interagency Statement. In addition, the proposed rule change has been amended to require that the member "distinguish" its broker/dealer services from the services of the financial institution as opposed to "segregating" its services as required by the original proposed rule change.

With regard to the commentators' concerns regarding consistency in regulation, the NASD has amended the physical location and signage requirements and the proposed risk disclosures to ensure consistency with the Interagency Statement's standards for these matters. (See, new paragraphs (c)(1) and (c)(4), respectively.) These amendments are also discussed in greater detail below.

2. Signage. Subsection (c)(2) of the original proposed rule change stated, "in no event shall signs regarding the broker/dealer services appear in the deposit-taking area." Many commentators, including the ABA, ICI, BSA, and CBA, asked whether the proposed rules would prohibit signage in the teller window or the lobby areas.[36] The commentators argued that this requirement could interfere with directional signage pointing toward the location of the broker/dealer, ordinary brochure stands, mounted lists of affiliated companies, and other signage relating to the general availability of products and services of the broker/dealer. Rather than create confusion, the BSA argued that directional signs can help avoid customer confusion by clarifying that a deposit-taking area, such as a teller window, is not the place to obtain securities products. These commentators asserted that broker/dealer signage with appropriate disclosures should be permitted to appear anywhere on the financial institution's premises.

Other commentators expressed concerns about the potential impact of the signage requirements in the case of small financial institutions.[37] These commentators noted that signage restrictions are particularly difficult for small financial institutions and small branch offices to deal with because practically all public areas could be regarded as deposit-taking areas. Further, the commentators noted that small branches may not reserve one desk solely for investment services thus preventing the segregation desired by the original proposed rules. The commentators also observed that signage restrictions, when combined with the physical location requirements, would prevent one-desk branch locations. Accordingly, these commentators recommended that the proposed rules be amended to permit signage that would facilitate dual usage of a service desk by broker/dealer and financial institution employees.

One commentator stated that, in its view, the proposed signage restrictions would interfere with the financial institution's commercial speech which is protected by the First Amendment of the U.S. Constitution.[38] This commentator also stated that this interference with the financial institution's rights resulted in the NASD's assertion of jurisdiction over the financial institution.

The NASD disagrees and does not believe that the proposed rule change infringes on the limited First Amendment protection on commercial speech because the U. S. Constitution acts as a restraint on governmental action and the First Amendment's free speech guarantee is a limitation on Congress' ability to enact laws abridging freedom of speech. The NASD's actions as a private, non-governmental, securities industry, self-regulatory organization (actions that include adopting rules or enforcing standards of business conduct) are not governmental actions subject to Constitutional restraint. Nevertheless, the NASD applies a standard of fundamental fairness in its dealings with its members and its rules, including the rule change proposed herein, are narrowly tailored to achieve legitimate regulatory purposes. The NASD also notes that even if the NASD's regulatory proposals were constrained by the Constitutional protection on commercial speech, those protections are limited to the extent that reasonable regulations of commercial speech are necessary to protect the public interest and the proposed rule change is a reasonable regulation of commercial speech.

Nevertheless, in response to the commentators, the NASD has amended the proposed rule change to delete the separate provision relating to signage, including the provisions prohibiting signs regarding broker/dealer services in the financial institution's deposit-taking area. The requirement in the deleted provision that a member clearly display its name in the area where brokerage services are being conducted has been consolidated with Subsection (c)(1) of the proposed rules. Thus, as long as signage meets the other requirements of the proposed rule change, as well as existing NASD rules requiring accurate information that is not misleading under the circumstances in which it is used, there are no other limitations.

3. Branch Office Registration Requirements. Subsection (c)(3) of the original proposed rules restated an already existing NASD rule requirement that the member must register as a branch office any of its offices which operates on the premises of a financial institution. Most commentators, including, among others, the ICI, ABA, BSA, and CBA, asked that the provision be amended to exempt from branch registration requirements locations where a broker/dealer meets a client in a financial institution office for purposes of customer convenience, but where the financial institution office is not permanently staffed by the NASD member, nor is the location held out as a branch of the NASD member.[39] These commentators expressed significant concerns regarding the cost of registering locations serviced by so-called "circuit riders" if the NASD does not amend the rule to provide an exception for meetings between a member's registered representative and financial institution customers that occur on an appointment basis at financial institutions.

In addition, the BSA expressed the opinion that, if the NASD has determined to publish an interpretation of what is a "branch office" under Section 27(g)(2) of the Rules of Fair Practice, it should be done in a uniform manner applicable to all NASD members and not as a formal NASD rule applicable only to financial institution broker/dealers. The ABA and the CBA also argued that there was no justification for treating financial institution branches any differently than other retail outlets for purposes of branch office registration.

Further, commentators observed that requiring registration of every location at which a representative meets with a customer could limit the ability of members to service customers where states do not permit a registered representative to work out of more than one registered location.[40]

Finally, the Independent Bankers Association of America ("IBAA") and two other commentators argued that the branch office registration requirements would result in compliance problems with respect to the books and records maintained at the financial institution location.[41] To address this concern, the IBAA asked that the rules be amended to provide limited relief to allow financial institution broker/dealers to maintain books and records at a more central location, for example, the main office of the financial institution.

The NASD appreciates the concerns expressed by these commentators and, accordingly, has amended the proposed rules to delete the branch office registration requirements and, instead, rely on the branch office registration requirements currently in effect under existing NASD rules. Therefore, members doing business on the premises of a financial institution will be expected to comply with the branch office requirements in the NASD's rules that currently apply to all other members.

4. Networking and Brokerage Affiliate Agreements. Subsection (c)(4) of the original proposed rules provided that relationships between financial institutions and members (whether network or affiliate) be governed by an agreement that sets forth the responsibilities of the parties.

Regulatory Access—Paragraph (c)(4)(A) provided that the written agreement between the broker/dealer and the financial institution, among other things, specify that the SEC and the NASD must be granted access to the financial institution premises to inspect the books and records of the broker/dealer and other relevant information maintained by the member with respect to its broker/dealer services. With respect to this requirement, the North American Securities Administrators Association Inc. ("NASAA") and the State of Iowa urged the NASD to amend the provision to grant such access to state regulators. [42] The NASD formulated this provision to be consistent with the Chubb Letter. It is believed that state regulators currently have appropriate authority to have access to the premises of financial institutions to inspect the books and records of broker/dealers. The BSA stated that the SEC will use this right of access provision to indirectly regulate any desired activity of a financial institution.[43] The NASD believes that the concerns of the BSA are more appropriately directed to the SEC.

Periodic Reviews—Paragraph (c)(2)(C) of the original proposed rules required that the financial institution agree to permit the member to conduct periodic reviews to assure that the financial institution and its unregistered employees comply with the limits on their activities with respect to securities transactions and non-deposit broker/dealer services. One commentator stated that the provision could be interpreted to require that an unaffiliated network member be granted access to the books and records of its partner financial institution for periodic reviews.[44] This commentator also stated that, if the financial institution and the networking member compete in several lines of business, the requirement would have had the net effect of discouraging a financial institution's participation in networking arrangements in order to avoid disclosing confidential business information.

Further, with regard to a member conducting periodic reviews to assure that the financial institution and its unregistered employees comply with the limits on their activities, the ICI, BSA, CBA, and several other commentators argued that it is inappropriate for an NASD member to serve in the role of an auditor. They

[32] *See*, comment letters 6, 8, 12, 16, 17, 27, 29, 30, 52, 58, 63, 64, 77, 80, 83, 86, 110, 129, 153, 155, 167, 177, 186, 193, 207, 208, 213, 239, 244, 260 and 282.

[33] *See*, comment letters 1, 4, 8, 11, 16, 17, 19, 21, 25, 26, 27, 29, 30, 31, 47, 54, 76, 84, 88, 90, 94, 103, 107, 112, 118, 119, 121, 123, 127, 129, 130, 131, 140, 153, 154, 156, 166, 167, 176, 181, 182, 184, 189, 192, 193, 196, 204, 208, 210, 212, 215, 230, 233, 234, 237, 242, 244, 255, 267, 276, 279 and 282.

[34] *See*, comment letters 27, 40, 86, 96, 181, 206, 239, 245, 256 and 283.

[35] *See* comment letters 27, 110, 182, 193, 207 and 233.

[36] *See*, comment letters 4, 8, 9, 10, 11, 17, 21, 23, 25, 27, 28, 30, 48, 59, 81, 83, 84, 104, 115, 119, 120, 121, 123, 129, 134, 140, 154, 156, 167, 170, 192, 204, 207, 208, 213, 232, 233, 236, 242, 244, 245, 276, 279 and 281.

[37] *See*, comment letters 4, 12, 21, 29, 40, 47, 52, 54, 107, 113, 133, 156, 167, 181, 184, 196, 198, 210, 234, 242, 255, 256, 279 and 282.

[38] *See*, comment letter 30.

[39] *See*, comment letters 3, 7, 8, 14, 15, 19, 23, 27, 28, 29, 30, 32, 37, 39, 40, 48, 54, 63, 75, 82, 84, 91, 96, 101, 104, 108, 109, 110, 115, 119, 121, 125, 127, 129, 140, 144, 145, 166, 167, 173, 177, 181, 189, 192, 204, 205, 207, 208, 213, 215, 230, 236, 239, 244, 251, 256, 264 and 267.

[40] *See*, comment letters 23, 108 and 236.

[41] *See*, comment letters 101, 122 and 154.

[42] *See*, comment letters 203 and 254.

[43] *See*, comment letter 27.

[44] *See*, comment letter 211.

argued that this responsibility is more appropriately handled by the financial institution.[45] The commentators also asserted that the financial institution should be responsible for conducting its own supervision, training, investigations, and compliance as it relates to the activities of its own employees who are not registered with a broker/dealer. The commentators stated that it is impractical for a small number of broker/dealer employees to monitor the activities of all unregistered financial institution employees.

Additionally, one commentator asked what actions a member could take against a financial institution if it believes the financial institution has not complied with the limits on its activities with respect to securities transactions and non-deposit broker/dealer services.[46] Another commentator argued that the contractual obligations of proposed Paragraph (c)(4)(C) would create broker/dealer liability for financial institution employees over whom the broker/dealer has no control.[47]

The ICI urged the NASD to revise the paragraph to require that members only obtain a commitment from the financial institution such that the financial institution agrees that it will promulgate and implement procedures reasonably designed to ensure compliance with the limits on the activities of unregistered financial institution employees rendered in connection with the member's broker/dealer services.

In response to the foregoing comments, the NASD has amended the proposed rule change to delete paragraph (c)(4)(C).

Dual Employees—Paragraph (c)(4)(D) of the original proposed rules provided that the written networking or brokerage affiliate agreement must require that any dual employee who is suspended from association with the member, or who the SEC, the NASD, or any other regulatory or self-regulatory organization bars or suspends from association with the member or any other broker/dealer, will be terminated or suspended, respectively, from all securities activities conducted directly by the financial institution. Many commentators strongly objected to the jurisdictional reach of this provision.[48] The commentators stated that financial institutions must retain the discretion to determine what situations justify an employee's termination or suspension.

One commentator stated that there may be a multitude of NASD, SEC or other regulatory reasons for which an employee may be suspended. The commentator maintained that some of these reasons may by regulation require a financial institution to suspend or terminate the employee's activities. However, the financial institution may not in the exercise of its independent judgment consider certain other reasons as justification for barring the employee from engaging in securities activities conducted by the financial institution.[49]

Further, one commentator stated that requiring the financial institution to agree to terminate or suspend employees would result in the creation of a "black list" of employees that could potentially expose the financial institution to lawsuits by such black-listed employees.[50] Rather than adopting the proposed contractual agreement of the financial institution to terminate or suspend employees, one commentator proposed that financial institutions be provided access to the Form U–5 for terminated employees.[51]

In response to the foregoing comments, the NASD has amended the proposed rule change to delete paragraph (c)(4)(D).

Competition—Paragraph (C)(4)(E) of the original proposed rules required that a contractual agreement with the financial institution provide that "unregistered employees of the financial institution will not receive any compensation, cash or non-cash, that is based on the effectiveness or success of referrals * * *." Many commentators, including the ABA, BSA and OCC, urged the NASD to define the terms "success" and "effectiveness of referrals" arguing that a prohibition based on the effectiveness of sales rather than a transactional nexus is too ambiguous.[52] The commentators asked how the provision would apply where the financial institution provides payment for referrals that result in an appointment with a broker/dealer rather than a transaction.

The ABA also stated that a standard based on the success or effectiveness of referrals is stricter than existing NASD and financial institution standards that permit a referral payment where it is not tied to the success of a sale or opening of a broker/dealer account.[53]

Other commentators, including the ABA and the BSA, challenged the NASD's authority to regulate the compensation paid by a financial institution to its employees through contractual obligations of an NASD member.[54] These commentators stated that, as a general matter, financial institution regulations provide adequate investor protection safeguards with regard to the financial institution's payment of referral fees and, accordingly, NASD regulation of such payments was not required.

In response to the foregoing comments, the NASD has amended this provision to prohibit compensation that is conditioned on whether a referral results in a transaction, which is consistent with comparable provisions of the Interagency Statement. *See*, paragraph (c)(2)(B) of the proposed rule change.

Notification—Paragraph (c)(5) of the original proposed rules provided that the networking or brokerage affiliate agreement must require that the member notify the financial institution if any dual employee who is associated with the member is terminated for cause by the member. Three commentators asserted that the provision would lead to civil penalties because the disclosure of the reasons for a suspension and/or termination raises privacy issues which, absent permission from the associated person, may subject the broker/dealer to civil liabilities.[55] One commentator suggested that should the NASD determine to address the civil liability issues, it would be more appropriate to require the broker/dealer to notify the financial institution that it would no longer utilize the services of a financial institution employee and, thereafter, direct the financial institution to review the employee's Form U–5.[56]

The NASD has determined to retain this provision as paragraph (c)(2)(C) substantially unchanged. The NASD believes the financial institution should have this information in order for it to review and determine its own regulatory obligations with respect to the terminated individual.

5. Personnel Registration/Associated Person. Subsection (c)(6) of the original proposed rule change provided that broker/dealer services offered by the member could be provided only by persons associated with the member, except that unregistered dual employees of the member and financial institution could provide "clerical and ministerial assistance." Several commentators requested clarification of the phrase "clerical and ministerial assistance,"[57] and observed that limiting employees activities to "clerical and ministerial" duties could be viewed as ignoring the exemption from broker/dealer registration afforded banks under Section (3)(a)(6) of the 1934 Act. In addition, the commentators asked that subsection (c)(6) be clarified to focus on the participation of unregistered financial institution employees in a member's sales activities, rather than participation of unregistered financial institution employees in a financial institution's direct sales efforts.

In response to the comments, the NASD has determined that subsection (c)(6) is redundant of other provisions of the securities laws and, therefore, is unnecessary. Bank employees may engage in direct securities activities pursuant to the exemption from broker/dealer registration contained in Section 3(a)(6) of the 1934 Act, subject only to the restrictions on bank securities activities in federal banking law. To the extent the employees of all other types of financial institutions engage in securities activities, they must be registered as associated persons of a registered broker/dealer. Accordingly, the NASD has amended the proposed rule change to delete subsection (c)(6).

6. Compensation of Registered/Unregistered Personnel.

Paragraph (c)(7)(A) of the original proposed rules provided that transaction-related compensation of a member's registered representatives, including dual employees, must be determined solely by the member. In response, the BSA, CBA, and several other commentators have advised the NASD that this requirement conflicts with existing financial institution regulations that require the financial institution to ensure that compensation does not influence sales of unsuitable products.[58] In addition, commentators maintained that this provision would compromise the ability of a financial institution to meet its overall company goals.

Paragraph (c)(7)(B) of the original proposed rule provided that employees of the financial institution who are not registered with the NASD member may not receive any compensation from the member, cash or non-cash, in connection with, but not limited to, the referral of customers of the financial institution to the member. Many commentators, including the ICI, BSA, CBA, and the FRB, argued that the provision is inappropriate and unwarranted because referral fees provide an appropriate incentive to increase customer awareness of all types of deposit and non-deposit products that are available to financial institution customers.[59] Moreover, commentators argued that banning such referral payments would create a competitive disadvantage for financial institution broker/dealers because members who do not operate on the premises of a financial institution have more leeway under SEC no-action letters and enforcement decisions in providing compensation to unregistered persons.

The commentators also argued that the referral fees prohibition is inconsistent with the Interagency Statement and the Chubb No-action Letter, among others. Finally, the commentators stated that the prohibitions regarding referral fees are inconsistent with the NASD's long-standing position that "one-time fees not tied to the completion of a transaction or the opening of an account" are permitted.[60] Several commentators were also confused about whether the financial institution and the broker/dealer were both prohibited from paying referral fees to unregistered employees.[61]

Paragraph (c)(7)(B) previously published for comment referred only to compensation paid by an NASD member. It would not have regulated the compensation a financial institution may provide to its own employees. The NASD's longstanding position regarding referral fees has been that if one-time payments by a member to an unregistered individual occur on a regular, on-going basis, the recipient is required to register as an associated person.[62] In addition, an NASD member may not do indirectly what it is prohibited from doing directly, i.e., an NASD member may not compensate employees of the financial institution for referrals through payments made directly to the employee or by payments directed in the first instance to the financial institution.

The NASD also believes the commentators misunderstand the meaning of the "one-time payment exception" that has previously been the policy of the NASD and was reflected in the provision published for comment. As stated above, the exception does not permit a series of "one-time payments" because such a series of payments would become part of the employee's regular course of business, a circumstance that would require registration. To meet the requirements of the exception that has previously been the policy of the NASD, a payment must be a singularly unusual event; i.e., so infrequent that it cannot be regarded as part of the regular business or activity of the employee.

In response to the comments received, however, the NASD has substantively amended the provisions of the original proposed rule change by clarifying and consolidating them into a single provision, subsection (c)(3), that prohibits a member from providing compensation to the employees of a financial institution who are not registered as associated persons of a member in connection with, but not limited to, locating, introducing, or referring customers of the financial institution to the member.

7. Supervision and Responsibility. Paragraph (c)(8)(A) of the original proposed rules provided that a designated principal of the member shall supervise registered personnel at the member's location at the financial

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[45] *See*, comment letters 1, 4, 10, 17, 21, 23, 27, 28, 30, 37, 48, 59, 62, 63, 77, 80, 84, 104, 107, 121, 128, 134, 140, 142, 148, 153, 156, 181, 186, 207, 208, 234, 236, 242, 274, 281 and 282.

[46] *See*, comment letter 59.

[47] *See*, comment letter 30.

[48] *See*, comment letters 1, 4, 10, 17, 21, 23, 27, 28, 30, 37, 48, 59, 62, 63, 77, 80, 84, 104, 107, 121, 128, 134, 140, 142, 148, 153, 156, 181, 186, 207, 208, 234, 236, 242, 274, 281 and 282.

[49] *See*, comment letter 21.

[50] *See*, comment letter 128.

[51] *See*, comment letter 28.

[52] *See*, comment letters 7, 16, 19, 23, 27, 28, 37, 48, 59, 84, 86, 104, 107, 108, 110, 115, 129, 140, 142, 173, 181, 183, 186, 192, 236, 240, 244, 260, 274 and 282.

[53] *See*, comment letter 8.

[54] *See*, comment letters 1, 11, 17, 19, 28, 62, 63, 64, 83, 84, 104, 115, 121, 128, 131, 138, 153, 192, 202, 208, 216, 224, 233, 251, 281 and 282.

[55] *See*, comment letters 28, 40 and 177.

[56] *See*, comment letters 28.

[57] *See*, comment letters 6, 16, 27, 64, 84, 104, 110, 119, 130, 142, 172, 192, 206, 208, 213, and 233.

[58] *See*, comment letters 7, 10, 11, 16, 17, 21, 22, 23, 25, 26, 27, 28, 37, 47, 48, 88, 94, 100, 107, 108, 110, 112, 121, 122, 123, 129, 134, 135, 140, 147, 153, 154, 166, 186, 188, 190, 192, 207, 233, 234, 236, 237, 239, 240, 242, 260, 266, 269, 270, 271 and 282.

[59] *See*, comment letters 1, 3, 7, 8, 16, 18, 21, 22, 23, 25, 26, 27, 28, 29, 40, 44, 46, 59, 63, 75, 84, 88, 92, 93, 95, 98, 99, 100, 108, 111, 112, 115, 121, 123, 127, 129, 130, 135, 142, 143, 147, 153, 156, 166, 167, 168, 172, 188, 189, 191, 193, 204, 207, 210, 212, 213, 214, 230, 232, 235, 236, 239, 240, 244, 252, 255, 256, 265, 266, 269, 270, 272, 277, 279 and 284.

[60] In support of its argument that paying referral fees is acceptable and consistent with the NASD's long-standing position, the ICI cites NASD Notice to Members 89–3 (January 1993), in which the NASD proposed, but never adopted, a rule to restrict the payment of referral fees. The rule change proposed in NTM 89–3 would have permitted the payment by a member of a small fixed fee for a referral where the payment is occasional, not part of a practice of such payments to the recipient, not determined by the outcome of the referral, and where the recipient does not regularly engage in activity that might reasonably be expected to result in continued referrals.

The NASD believes the ICI is incorrect in its assertion that paying referral fees is acceptable and consistent with the NASD's longstanding position. Quite to the contrary, the rule change proposed herein is consistent with that position. The rule proposed in NTM 89–3 was a codification of the NASD's position that the payment of referral fees is not permitted, except in very narrow circumstances. Permitting the payment of referral fees for activity described in this proposed rule change would not have met the exception proposed in NTM 89–3.

[61] *See*, comment letters 4, 9, 14, 15, 16, 18, 21, 27, 29, 30, 39, 50, 64, 77, 80, 83, 84, 85, 86, 92, 94, 107, 108, 109, 122, 125, 144, 145, 152, 154, 155, 187, 203, 204, 205, 207, 213, 215, 220, 221, 222, 223, 237, 242, 258, 267, 275 and 277.

[62] *See*, NASD Guide to Rule Interpretations, 1994 Net Capital and Customer Protections Rules, p. 108.

institution. Several commentators urged the NASD to amend this provision to clarify that the designated principal deemed to be responsible for supervising registered personnel at the member's location at the financial institution is not required to be physically present at the financial institution location.[63] Further, commentators argued that the provision duplicates existing supervisory requirements applicable to all NASD members, as set forth in Article III, Section 27 of the Rules of Fair Practice.

The ICI argued that the NASD should delete paragraph (c)(8)(C) of the original proposed rules which required a member to supply financial institutions with written procedures that specify the limits of the permissible activities of unregistered persons.[64]

In response to the commentators, the NASD has determined to delete paragraph (c)(8) of the original proposed rules in its entirety as generally redundant of the member's obligations under already existing NASD rules.

8. Customer Disclosure and Written Acknowledgment. Subsection (c)(9) of the original proposed rules required a member to obtain a separate written acknowledgment at the time an account is opened that the securities products purchased or sold by the member through offices located on the premises of a financial institution: (1) Are not insured by the FDIC; (2) are not deposits or other obligations of the financial institution and are not guaranteed by the financial institution; (3) are subject to investment risks, including possible loss of the principal invested; and, (4) are not insured by the Securities Investor Protection Corporation ("SIPC") as to the loss of principal amounts invested.

Several commentators argued that the disclosures required in the proposed separate written acknowledgment should be made by all broker/dealers because, as the BSA asserted, investors who purchase securities through non-financial institution broker/dealers would benefit equally from these required disclosures, especially non-financial institution broker/dealers offering insured products.[65]

Other commentators stated that a requirement to obtain written acknowledgment of the disclosures prior to conducting business with a customer who opens an account by telephone would have an adverse impact on members that service the financial institution's customers because many of these accounts are opened by telephone and written documentation is usually sent to the customer by the broker/dealer after the account is opened. These commentators proposed that the rule be amended to permit a member's registered representative to state the disclosure over the telephone and subsequently forward the written documentation for execution.[66]

Some commentators, including the CBA and BSA, opposed the concept of requiring a "separate" written acknowledgment of the required disclosures based on their belief that the Interagency Statement permits these disclosures to appear in the customer agreement or account application.[67] Accordingly, the BSA, the CBA, and other commentators proposed that the disclosures be a part of a new account form/account application.[68]

A number of the commentators, including the OCC, expressed concerns about competing disclosures of the NASD and financial institution regulators, especially when the expenses associated with printing disclosure documents are considered.[69] One commentator, Citicorp Investment Services, noted that compliance costs for the Interagency disclosures were in excess of one million dollars, yet the proposed rule change would require existing materials to be reprinted.[70] The commentators urged the NASD to coordinate with financial institution regulators to adopt one standard disclosure.

Many commentators, including the ICI, OCC, and the FRB, said that the proposed SIPC disclosure would cause greater confusion than existing disclosure requirements.[71] The commentators argued that the SIPC disclosure is confusing because it stands alone with no explanation of SIPC. The OCC and a number of other commentators recommended that, in the alternative, the NASD should amend the proposed rule change to require the SIPC disclosure only where sales activities include representations regarding SIPC. A number of commentators also expressed their view that the proposed SIPC disclosure is technically incorrect because the loss of principal amounts invested is protected where a broker/dealer becomes insolvent.[72] One commentator suggested that the SIPC disclosure be amended to state that "losses due to market fluctuation are not protected by SIPC."[73]

A large number of commentators also noted that the proposed SIPC disclosures discriminate among broker/dealers. They argued that if the SIPC disclosure requirement is to be adopted at all, the disclosures should apply to all member firms whether operating on financial institution premises or not; limiting SIPC disclosure to financial institution broker/ dealers is not only anti-competitive but misleading.[74]

In response to these comments, the NASD has determined to delete the proposed SIPC disclosure in paragraph (c)(9)(D). The required disclosure set forth in subsection (c)(4) of the proposed rule change is now substantively identical to that contained in the Interagency Statement.

9. Solicitation. Subsection (c)(10) of the original proposed rules prohibited members from using confidential financial information maintained by the financial institution to solicit customers for its broker/dealer services.[75] Many of the commentators argued that, to the extent there are special concerns when a financial institution provides confidential financial information, the concerns are properly the subject of financial institution regulation and existing federal privacy laws, not NASD rulemaking.

Some commentators who opposed the limitations advised the NASD that prohibitions on a member's use of confidential financial information should apply equally to all broker/dealers. The commentators argued that there is no public policy reason why customer information possessed by affiliates of non-financial institution broker/dealers on real estate holdings, consumer finance loans, insurance, or other financial matters should be treated differently than customer information provided by a financial institution.

The commentators asked, however, if the NASD determines to retain this aspect of the proposed rule change, that the provision be amended to allow a member's use of confidential financial information where a customer has approved of such use. In addition, the OCC recommended that the provision be amended to require members to establish policies and procedures regarding the use of confidential financial information instead of banning the use of such information. Many commentators asked that the term "confidential financial information" be defined, if the NASD retains the provision in the proposed rule change.[76]

Finally, some commentators asked how a member could restrict the use of confidential information where dual employees have access to the information.[77] Another commentator asked that the rule be amended to permit the financial institution to control abusive use of confidential financial information where a wholly-owned broker/dealer subsidiary is involved.[78] Another commentator also urged that sharing confidential information should be permitted where the financial institution and the broker/dealer are affiliates.[79]

In response to the comments, the proposed rule change has been amended in subsection (c)(5) under a new heading entitled "Use of Confidential Information" to allow the use of confidential financial information with the prior written approval of the customer. In addition, a definition of the term "confidential financial information" has been added to the proposed rule change which provides that information will not be regarded as confidential if it can be obtained from unaffiliated credit bureaus or similar companies in the ordinary course of business.[80] Further, a customer's name, address and telephone number are not confidential information unless the customer specifies otherwise.

10. Communications with the Public. Paragraph (c)(11)(B) of the original proposed rule change required that all communications regarding securities transactions and long and short positions, including confirmations and account statements, must clearly indicate that the broker/dealer services are provided by the member and not by the financial institution, and must be sent directly to the customer by the member. Commentators, including the ICI, ABA, BSA, CBA, FRB, and the OCC, asked that this provision be amended to permit combined account statements of a broker/dealer and a financial institution as a customer service.[81] These commentators argued that requiring a separate statement would increase costs, reduce efficiencies and frustrate consumers. These commentators also noted that the prohibition is particularly problematic with respect to "sweep accounts" and individual retirement accounts at financial institutions which allow for investments in securities products offered through an NASD member.

Paragraph (c)(11)(B) of the original proposed rule change also required that all communications sent by the member to a customer must clearly indicate that the broker/dealer services are provided by the member and not by the financial institution. Several commentators asserted that requiring the member to disclose that the financial institution is not the broker/dealer may lead to customer confusion.[82] These commentators also asked whether the requirement that the communication "clearly indicate that the broker/dealer services are provided by the member" requires an affirmative statement to that effect. Finally, one commentator argued that identifying a specific financial institution in the disclosure is burdensome where a member is networking with more than one financial institution.[83]

Finally, paragraph (c)(11)(B) of the original proposed rules also required the member to ensure that any documentation regarding securities transactions sent directly to a member's customer by an issuer, transfer agent, or principal underwriter is in compliance with the federal securities laws and NASD rules. Several commentators argued that the member should not be responsible for correspondence from the issuer, transfer agent, or underwriter, particularly in the absence of SEC rules requiring these entities to submit such communications to the NASD member firm for review prior to dissemination.[84]

One commentator also argued that smaller members may not have the economic clout to require the issuer, underwriter, and others to submit such documentation to the member in order to ensure that they comply with the rules.[85] Another commentator asserted that ensuring that documents sent by third parties comply with SEC and NASD rules would impose strict liability upon members for matters that are often beyond their knowledge or control.[86] Another commentator stated that the rule would make the member liable for misrepresentations appearing in prospectuses and offering circulars about which the member has no knowledge.[87]

In response to the comments received, the proposed rule change has been amended to permit a joint account statement where the member's securities products are clearly distinguished from FDIC-insured products of the financial institution, which is included as paragraph (c)(6)(A) of the proposed rule change. In addition, the provision has been amended to delete the requirement for members to ensure the accuracy of communications sent by third parties.

Paragraph (c)(11)(C) of the original proposed rules provided that any advertisement or sales literature, as defined in Article III, Section 35 of the NASD Rules of Fair Practice, used to describe or promote the availability of broker/dealer services of the member on the premises of a financial institution

[63] See, comment letters 17, 21, 27, 28, 64, 77, 121, 129, 138, 140, 156, 177, 181, 192, 234, 242, 245, 267, and 276.

[64] See, comment letter 167.

[65] See, comment letters 1, 6, 17, 21, 27, 61, 94, 104, 136, 173, 189, 217, 219 and 230.

[66] See, comment letters 17, 172 and 242.

[67] See, comment letters 10, 27, 84, 101, 102, 104, 115, 166, 172, 173, 192, 207, 212, 239, 250, 279 and 282.

[68] See, comment letters 10, 27, 84, 101, 192 and 230.

[69] See, comment letters 3, 4, 11, 28, 40, 50, 63, 64, 67, 75, 81, 104, 115, 120, 121, 128, 129, 130, 180, 208, 213, 234, 237, 252 and 279.

[70] See, comment letter 67.

[71] See, comment letters 1, 7, 9, 11, 12, 16, 19, 30, 37, 50, 54, 75, 76, 80, 81, 84, 90, 92, 93, 103, 107, 112, 113, 115, 121, 122, 123, 129, 137, 140, 143, 167, 172, 173, 177, 183, 204, 207, 210, 211, 224, 230, 234, 236, 244, 252 and 282.

[72] See, comment letters 20, 21, 22, 25, 27, 75, 76, 85, 94, 99, 104, 133, 137, 142, 147, 148, 156, 167, 168, 170, 178, 183, 186, 188, 190, 196, 210, 211, 216, 233, 266, 269, 270, 271 and 272.

[73] See, comment letter 233.

[74] See, comment letters 1, 3, 4, 7, 8, 17, 18, 22, 23, 25, 27, 37, 40, 47, 48, 50, 52, 54, 56, 63, 64, 77, 81, 84, 88, 92, 94, 99, 100, 104, 107, 109, 110, 115, 119, 121, 122, 123, 129, 130, 140, 142, 147, 153, 155, 167, 168, 169, 174, 177, 184, 186, 189, 190, 193, 197, 204, 207, 208, 212, 216, 225, 226, 227, 230, 236, 239, 240, 242, 256, 258, 266, 269, 270, 271 and 279.

[75] See, comment letters 1, 3, 8, 9, 10, 11, 12, 16, 17, 18, 19, 21, 22, 25, 26, 27, 28, 29, 30, 37, 40, 41, 44, 46, 52, 59, 60, 61, 62, 63, 64, 67, 72, 73, 75, 76, 82, 83, 84, 86, 88, 90, 91, 92, 95, 99, 100, 102, 104, 106, 110, 111, 112, 113, 115, 119, 121, 122, 123, 127, 129, 130, 131, 133, 136, 137, 138, 141, 142, 145, 147, 153, 154, 156, 166, 167, 168, 169, 170, 172, 173, 174, 176, 177, 178, 180, 183, 184, 186, 189, 190, 191, 192, 193, 197, 202, 204, 208, 209, 210, 211, 212, 216, 220, 224, 225, 226, 227, 230, 232, 233, 234, 236, 237, 239, 240, 242, 244, 255, 256, 258, 265, 266, 272, 274, 278, 281, 282 and 294.

[76] See, comment letters 13, 16, 17, 18, 21, 22, 24, 26, 29, 31, 32, 37, 38, 39, 45, 47, 54, 56, 72, 74, 79, 80, 81, 85, 108, 110, 111, 112, 118, 119, 121, 127, 128, 129, 130, 131, 132, 135, 138, 144, 146, 147, 148, 151, 157, 165, 169, 182, 183, 187, 188, 189, 190, 192, 193, 194, 198, 201, 205, 206, 216, 220, 221, 224, 231, 239, 240, 241, 243, 246, 251, 259, 263, 271, 276 and 280.

[77] See, comment letters 6, 10, 59, 193 and 244.

[78] See, comment letter 136.

[79] See, comment letter 94.

[80] The NASD has indicated that credit bureaus obtain and report information concerning the creditworthiness of individuals such as loan payment histories, checking and savings account activity, available credit, and total debt information. Similarly, the NASD staff has stated its belief that credit bureaus do not maintain net worth information including the value of the customer assets such as property, depository accounts, certificates of deposits, securities and other investments. See Letters from Elliott R. Curzon and Suzanne E. Rothwell, Assistant General Counsel, NASD, to Mark Barracca, Branch Chief, SEC, note 2, *supra*.

[81] See, comment letters 15, 23, 26, 28, 30, 31, 35, 39, 40, 42, 43, 46, 47, 48, 53, 54, 56, 58, 69, 71, 75, 76, 77, 78, 80, 83, 86, 110, 115, 116, 117, 119, 122, 123, 124, 126, 127, 128, 129, 131, 135, 136, 140, 143, 145, 146, 148, 152, 156, 158, 159, 162, 163, 167, 184, 186, 187, 188, 189, 190, 192, 194, 199, 200, 201, 205, 207, 224, 233, 239, 241, 243, 245, 246, 248, 251, 276, 279, 280 and 281.

[82] See, comment letters 7, 23, 37, 75, 107, 108, 115, 137, 142, 155, 167, 208, 212, 213, 236, 267 and 270.

[83] See, comment letter 213.

[84] See, comment letters 7, 17, 21, 25, 27, 63, 64, 84, 110, 121, 129, 140, 156, 181, 207, 234, 242, 276 and 282.

[85] See, comment letter 7.

[86] See, comment letter 25.

[87] See, comment letter 63

must be approved by the member prior to distribution, in compliance with Article III, Section 35(b)(1) and, where required, filed with the NASD Advertising Regulation Department. Several commentators asserted that this provision would expand the filing requirements of members because it would require that all advertisements issued by a financial institution that mention the member be filed with the NASD.[88] The FRB asserted that the NASD does not need to review financial institution advertisements that describe products and services offered by an NASD member because such materials are reviewed by financial institution regulators to ensure that the materials are accurate and not misleading.[89]

In response to the comments received, the NASD has deleted this provision and substituted more general requirements in paragraphs (c)(6)(B) and (C) to require that the financial institution may only be referenced by a member in a non-prominent manner in advertisements, sales literature or similar materials, and that such material, if jointly issued by the member and the financial institution, must distinguish clearly between the products and services offered by the member and the financial institution.

Paragraph (c)(11)(D) of the original proposed rule provided that advertisements and sales materials issued by the member which relate exclusively to its broker/dealer services must indicate prominently that the broker/dealer services are being provided by the member and not the financial institution; that the financial institution is not a registered broker or dealer; and whether the member is or is not affiliated with the financial institution. The ICI and other commentators asserted that requiring a member to reference the financial institution for the sole purpose of complying with this provision, although the financial institution is not otherwise affirmatively mentioned, may lead to customer confusion.[90] The BSA and other commentators also argued that stating that the bank is not a broker/dealer ignores the fact that the bank may be operating as a broker/dealer exempt from registration under of the 1934 Act. Indeed, one commentator suggested that stating that the bank is not a broker/dealer connotes inferiority and misleads the public by implying that the bank is required to be registered.[91] Another commentator noted that stating that the bank is not a broker/dealer would be inaccurate with respect to its particular arrangement because the financial institution in its case operates a bond department which is in fact a registered broker/dealer.[92]

Some commentators, including the ABA and CBA, stated that no disclosures should be required beyond what is presently required by the Interagency Statement (i.e., deposits are not FDIC insured, obligations of the financial institution or guaranteed by the financial institution, and involve risks.)[93]

In response to the commentators, the NASD has amended this provision, now set forth in paragraph (c)(6)(B), to delete the requirements that members disclose that the financial institution is not a registered broker/dealer, and whether the member is or is not affiliated with the financial institution. The provision now requires disclosure of any material relationship between the member and the financial institution.

Paragraph (c)(11)(D) of the original proposed rules also permits advertisements and sales literature issued by the member which relate exclusively to its broker/dealer services to reference the financial institution in a non-prominent manner solely for the purpose of identifying the location where broker/dealer services are available. The ICI, BSA, CBA, and the FRB said that restrictions on references to the financial institution may be misleading where the financial institution acts as an investment adviser to proprietary funds.[94] These commentators believe that the restrictions on references to the financial institution may prevent truthful advertising of the affiliation between the financial institution and the broker/dealer. The NASD has modified this requirement, which is now set forth in paragraph (c)(6)(B) of the proposed rule change, consistent with the provisions of the Chubb Letter.

Other commentators stated that the limitations on references to the financial institution set forth in paragraph (c)(11)(D) are inconsistent with Article III, Section 35, which allows a member to use a "generic name," provided that the identity of the member firm and its relationship to the name are conspicuously set forth.[95] The NASD does not intend for the proposed rule change to modify the ability of members to rely on Article III, subsection 35(f)(3)(B) to use a generic name.

Paragraph (c)(11)(E) of the original proposed rule change permitted jointly issued material if the name of the member is displayed prominently in the section of the materials that describes the broker/dealer services offered by the member, which section will be deemed material of the member. This concept of segregated advertising, according to the ICI, the FRB, and other commentators, will prove to be problematic in practice because it is difficult to physically separate the discussion of broker/dealer services when the product offered includes services from both the depository institution and the broker/dealer.[96] In response to these comments, the NASD has amended the provision set forth in paragraph (c)(6)(C) of the proposed rule change to require that joint sales materials "distinguish" the products of the member from those of the financial institution.

Some commentators suggested that the NASD amend paragraph (c)(11)(E) to provide for introductory letters permitting the financial institution to introduce financial institution customers to the broker/dealer.[97] The NASD has determined not to amend the proposed rule change as requested, because it does not believe the proposed rules currently prohibit such letters.

Finally, paragraph (c)(11)(D) of the original proposed rules provided that the financial institution must appear in a non-prominent manner in advertising relating exclusively to broker/dealer services, while paragraph (c)(11)(E) of the original proposed rules states that the name of the member must be displayed prominently in the section of jointly issued material that describes broker/dealer services offered by the member. Some commentators asked that the term "prominently" be defined.[98] Further, some of these commentators maintained that the provisions are inherently inconsistent with one another in that they require the financial institution to appear in a non-prominent manner, while also requiring the member to disclose that the financial institution is not a broker/dealer and broker/dealer services are not offered by the financial institution.[99] The NASD has amended these provisions which are set forth in paragraph (c)(6)(B) and (C) by eliminating the provisions which create the apparent inconsistency.

Some commentators asserted that communications with the public should be uniform among all broker/dealers if eliminating customer confusion is truly the NASD's goal.[100] The NASD agrees and believes the proposed rule change advances that goal.

D. Financial Institution Logos. While the proposed rule change does not specifically address the issue of the use of financial institution logos in advertisements and sales literature, several commentators, including the FRB, asked the NASD to clarify its position on the use on financial institution logos by NASD members to dispel any confusion about the permissibility of using financial institution holding company family logos. The FRB urged the NASD to permit the broker/dealer to use an affiliated financial institution logo to advertise its services.[101] Subsequent to the publication of Notice to Members 94–94, the NASD issued Notice to Members 95–49 to clarify its previous statements on the use of logos of financial institutions in advertisements and sales literature of members in a manner consistent with the Chubb Letter. The Notice stated that the logo of a non-member (representative only of the non-member) may only be used in member communications to identify the non-member entity.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The NASD consents to an extension of the time for Commission action to 30 days from the end of the comment period specified in Item IV below. At such time, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by May 21, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[102]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–6970 Filed 3–21–96; 8:45 am]

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[88] *See*, comment letters 30, 115, 129 and 211.

[89] *See*, comment letter 103.

[90] *See*, comment letters 7, 23, 37, 75, 107, 108, 115, 137, 142, 154, 167, 208, 212 and 279.

[91] *See*, comment letter 121.

[92] *See*, comment letter 90.

[93] *See*, comment letters 3, 7, 40, 92, 94, 166, 184, 204 and 239.

[94] *See*, comment letters 19, 25, 27, 29, 52, 67, 68, 81, 84, 104, 114, 115, 119, 129, 172, 192, 196, 212 and 245.

[95] *See*, comment letters 17, 21 and 242.

[96] *See*, comment letters 63, 80, 103, 104, 115, 233, 279 and 167.

[97] *See*, comment letters 9, 154, 180 and 213.

[98] *See*, comment letters 80, 135, 140, 181, 213 and 215.

[99] *See*, comment letters 1, 27, 84 and 208.

[100] *See*, comment letters 48, 63, 66, 84, 129 and 208.

[101] *See*, comment letters 11, 85, 103, 121, 140, 184, 189, 191, 216, 234, and 282.

[102] 17 CFR 200.30–3(a)(12).

[Release No. 34–36981; File No. SR–PSE–95–28]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 1, 2, and 3 to the Proposed Rule Change by the Pacific Stock Exchange, Inc., Relating to Establishing a Hedge Exemption for Narrow-Based Index Options

March 15, 1996.

On November 1, 1995, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend PSE Rule 7.6, "Position Limits for Index Options," to establish a hedge exemption from industry (narrow-based) index option position and exercise limits.[3]

The proposed rule change was published for comment in the **Federal Register** on December 6, 1995.[4] On January 31, 1996, on February 29, 1996, and on March 15, 1996, the PSE amended its proposal.[5] No comments were received on the proposed rule change.

The PSE proposes to amend its rules to provide that industry index option positions may be exempt from established position and exercise limits for each contract "hedged" by an equivalent dollar amount of the underlying component securities or securities convertible into such components, provided that each option position to be exempted is hedged by a position in at least 75% of the number of component securities underlying the index, and that the underlying value of the option position does not exceed the value of the underlying portfolio. The value of the portfolio is: (a) The total market value of the net stock position, less (b) the value of (1) any offsetting calls and puts in the respective index option; (2) any offsetting positions in related stock index futures or options; and (3) any economically equivalent positions.[6] The values of any such index option position or related futures position are determined by aggregating the notional value[7] of each option contract comprising the position. Under the proposed exemption, position and exercise limits for any hedged industry

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1995).

[3] Position limits impose a ceiling on the number of option contracts which an investor or group of investors acting in concert may hold or write in each class of options on the same side of the market (*i.e.*, aggregating long calls and short puts or long puts and short calls). Exercise limits prohibit an investor or group of investors acting in concert from exercising more than a specified number of puts or calls in a particular class within five consecutive business days.

[4] *See* Securities Exchange Act Release No. 36526 (November 29, 1995), 60 FR 62517.

[5] On January 31, 1996, the PSE amended its proposal to indicate that the requirements of subsections (a), (b), (c), (f), (g), (h), and (i) of Commentary .02, "Broad-Based Index Hedge Exemption," will apply to narrow-based index option hedge exemptions. In addition, the PSE clarified its rules by indicating that exercise limits will correspond to position limits under both the narrow-based and broad-based index hedge exemptions. Finally, the PSE stated that whenever the Exchange grants a narrow-based index option hedge exemption, it will monitor the equity position used as a hedge on a daily basis. *See* Letter from Michael D. Pierson, Senior Attorney, Market Regulation, PSE, to Yvonne Fraticelli, Attorney, Office of Market Supervision ("OMS"), Division of Market Regulation ("Division"), Commission, dated January 30, 1996 ("Amendment No. 1"). On February 29, 1996, the PSE amended its proposal to indicate that economically equivalent positions must be deducted from the market value of the net stock position in order to determine the value of the underlying portfolio. The amendment also provides examples of the number of contracts that a market participant may hold and exercise pursuant to the exemption. *See* Letter from Michael Pierson, Senior Attorney, Market Regulation, PSE, to Yvonne Fraticelli, Attorney, OMS, Division, Commission, dated February 29, 1996 ("Amendment No. 2"). On March 15, 1996, the PSE clarified the test of its rule by indicating that the position in a narrow-based index option may not exceed the total of: (a) the limit established under PSE Rule 7.6, plus (b) two times that limit (for hedged positions). *See* Letter from Michael D. Pierson, Senior Attorney, Market Regulation, PSE, to Yvonne Fraticelli, Attorney, OMS, Division, Commission, dated March 14, 1996 ("Amendment No. 3").

[6] *See* Amendment No. 2, *supra* note 5.

[7] Notional values are determined by adding the number of contracts and multiplying the total by the multiplier, expressing that number in dollar terms.

index option may not exceed two times the limits established under PSE Rule 7.6(a).[8]

Members, member organizations, and public customers seeking to use the proposed exemption must obtain prior Exchange approval. In addition, the exemption requires that both the option and stock positions be initiated and liquidated in an orderly manner. Specifically, a reduction of the option position must occur at or before the corresponding reduction in the stock portfolio position.

Under the proposal, exercise limits will correspond to position limits, so that investors may exercise the number of contracts set forth as the position limit, as well as those contracts exempted by the proposal, during five consecutive business days.[9]

The Exchange believes it is appropriate to expand the availability of the proposed narrow-based index option position limit exemption beyond public customers.[10] According to the PSE, because customers rely, for the most part, on a limited number of proprietary traders to facilitate large-sized orders, not including such traders in the exemption effectively reduces the benefit of the exemption to customers.

The Exchange believes that its proposed narrow-based index option hedge exemption should not increase the potential for disruption or manipulation in the markets for the stocks underlying each index. The PSE notes that the proposal incorporates several surveillance safeguards, which the Exchange will employ to monitor the use of the exemption. Specifically, the Exchange will require that member firms and their customers who seek exemptions file a form with the PSE, in lieu of granting an automatic exemption similar to that for equity options. The PSE's Options Surveillance Department will monitor trading activity in PSE-traded index options and the stocks underlying those indexes to detect potential frontrunning and manipulation abuses, as well as review to ensure that the closing of positions subject to an exemption is conducted in a fair and orderly manner. In addition, the PSE will monitor the equity position used as a hedge on a daily basis.[11]

And lastly, the PSE notes that the provision itself contains several built-in safeguards. First, the hedge must consist of a position in at least 75% of the stocks underlying the index, so that the "basket" of stocks constituting the hedge will resemble the underlying index.[12] Second, hedged positions may not exceed two times the limit established under PSE Rule 7.6(a).[13] This places a ceiling on the maximum size of the option position. Third, both the options and stock positions must be initiated and liquidated in an orderly manner, such that a reduction of the options position must occur at or before the corresponding reduction in the stock portfolio position. Lastly, the value of the industry index option position may not exceed the dollar value of the underlying portfolio. The purpose of this requirement is to ensure that stock transactions are not used to manipulate the market in a manner benefitting the option position. In addition, these safeguards prevent the increased positions from being used in a leveraged manner by ensuring that the options position subject to the increased hedge position limit is properly "covered" by the hedge.

For the above reasons, the Exchange believes that the proposed narrow-based index option hedge exemption should increase the depth and liquidity of narrow-based index option markets and allow more effective hedging with underlying stock portfolios, without increasing the potential for market manipulation or disruption, consistent with the purposes of position limits. For the same reasons, the Exchange believes that exercise limits should correspond to the position limit exemption granted by this proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5) thereunder.[14] The Commission concludes that providing for increased position and exercise limits for narrow-based index options in circumstances where those excess positions are fully hedged with offsetting stock positions will provide greater depth and liquidity to the market and will allow investors to hedge their stock portfolios more effectively, without significantly increasing concerns regarding intermarket manipulations or disruptions of either the options market or the underlying stock market.

Specifically, the PSE proposal contains safeguards that should make it difficult to use the exempted positions to disrupt or manipulate the market. First, requests for the exemption must be approved by the PSE, which should ensure that the hedges are appropriate for the position being taken and are in compliance with PSE rules. Second, the stock portfolio must consist of at least 75% of the number of component securities underlying the index, and must correspond in value to the value of the options position hedged, so that the increased positions are less likely to be used in a leveraged manner in any manipulative scheme. As noted above, the value of the hedging portfolio is equal to (a) the total market value of the net stock position, less (b) the value of (1) any offsetting calls and puts in the respective index option; (2) any offsetting positions in related stock index futures or options; and (3) any economically equivalent positions. Third, both the options and the stock positions must be initiated and liquidated in an orderly manner. Moreover, a reduction of the options position must occur at or before the corresponding reduction in the stock portfolio position, thereby helping to ensure that the stock transactions are not used to impact the market so as to benefit the options positions. Fourth, the PSE must be notified of any material change in the portfolio or futures positions which materially affects the unhedged value of the qualified portfolio. Fifth, the maximum hedge exemption position is two times the existing limit.[15] The "two times the limit" is not automatic and the PSE has the authority to approve a hedge limit for less than that amount.

The Commission notes that the PSE's surveillance procedures are designed to detect as well as deter manipulation and market disruptions. In particular, the PSE will monitor the equity position of a person utilizing the hedge exemption on a daily basis to ensure that each option contract is hedged by the equivalent dollar amount of component securities.[16] In addition, the PSE's Options Surveillance Department will monitor trading activity in PSE-traded index options and their underlying component stocks to detect potential frontrunning and manipulation, and to ensure that the closing of positions subject to the exemption is conducted in a fair and orderly manner. Violation of any of the provisions of the industry index hedge exemption, absent reasonable justification or excuse, will result in the withdrawal of the hedge exemption and subsequent denial of an application for a hedge exemption thereunder.

The Commission believes that it is reasonable for the PSE to allow firm and proprietary traders, as well as public customers, to utilize the proposed hedge exemption. The Commission believes that extending the narrow-based index option hedge exemption to firm and proprietary traders may help to increase the depth and liquidity of the market for industry index options and may help to ensure that public customers receive the full benefit of the exemption. Moreover, the PSE's monitoring procedures, as described above, should be able to detect any abuses and ensure that the options position, whether firm, proprietary trader, or customer, is properly hedged.

Finally, the commission believes that it is reasonable for the PSE to amend the text of its broad-based index hedge exemption, and to clarify its narrow-based hedged index hedge exemption, by indicating that exercise limits under the hedge exemptions will correspond to position limits. In this regard, the Commission notes that it has approved previously an identical amendment to the Chicago Board Options Exchange, Inc.'s ("CBOE") broad-based index Chicago Board Options Exchange, Inc.'s ("CBOE") broad-based index hedge exemption.[17] In addition, the equity and index hedge exemptions of other options exchanges provide for corresponding position and exercise limits.[18]

The Commission finds good cause for approving Amendment Nos. 1, 2, and 3 to the proposed rule change prior to the thirtieth day after the date of publication of the notice thereof in the **Federal Register**. Specifically, Amendment No. 1 is designed to protect investors and the public interest by providing additional requirements and surveillance procedures which the Exchange will use in monitoring the narrow-based index option hedge exemption. In addition, Amendment No. 1 indicates that, under the PSE's broad-based and narrow-based hedge exemptions, position limits will correspond to exercise limits. As noted above, position limits correspond to exercise limits under the hedge exemption rules of the other options exchanges.[19] Accordingly, the Commission does not believe that the PSE's proposal to provide corresponding position and exercise limits under its hedge exemptions raises new regulatory issues. Amendment No. 2 strengthens the Exchange's proposal providing that economically equivalent positions must be deducted when calculating the value of the hedging portfolio. Amendment No. 3 clarifies the text of the Exchange's proposal by indicating that the hedged position may not exceed two times the limit established under PSE Rule 7.6. Accordingly, the Commission believes that there is good cause, consistent with Sections 6(b)(5) and 19(b)(2) of the Act, to approve Amendment Nos. 1, 2, and 3 to the proposal on an accelerated basis.

Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment Nos. 1, 2, and 3. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by April 12, 1996.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[20] that the proposed rule change (SR–PSE–95–28), as amended is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[21]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–6967 Filed 3–21–96; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2836]

Idaho; Declaration of Disaster Loan Area (Amendment #1)

The above-numbered Declaration is hereby amended to establish the incident period for this disaster as beginning on February 6, 1996 and continuing through February 23, 1996.

All other information remains the same; i.e., the termination date for filing applications for physical damage is April 11, 1996, and for loans for economic injury the deadline is November 12, 1996.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

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[8] PSE Rule 7.6(a) provides that option contracts on an industry index are subject to the following position limits: 6,000 contracts if the Exchange determines, during its semi-annual review, that any single stock in the group accounted, on average, for 30% or more of the index value during the 30-day period immediately preceding the review; 9,000 contracts if the Exchange determines, at the time of its semi-annual review, that any single stock in the group accounted, on average, for 20% or more of the index value or that any five stocks in the group together accounted, on average, for more than 50% of the index value, but that no single stock in the group accounted, on average, for 30% or more of the index value during the 30-day period immediately preceding the review; or 12,000 contracts, if the Exchange determines that the conditions specified above have not occurred. *See* Securities Exchange Act Release No. 36537 (November 30, 1995), 60 FR 62916 (December 7, 1995) (order approving File Nos. SR–Amex–95–45 and SR–PSE–95–30) (increasing position and exercise limits for industry index options to 6,000, 9,000, or 12,000 contracts). Narrow-based index hedge exemption will allow a member organization to maintain an option position in that issue of up to 18,000 contracts on the same side of the market, provided that 12,000 of the contracts are "hedged," as provided in the proposal. *See* Amendment Nos. 2 and 3, *supra* note 5.

[9] *See* Amendment No. 1, *supra* note 5.

[10] The Exchange proposes to apply only the proposed narrow-based industry index option hedge exemption, and not the existing broad-based index option hedge exemption, to firms and proprietary traders as well as public customers. Telephone conversation between Michael Pierson, Senior Attorney, Market Regulation, PSE, and Yvonne Fraticelli, Attorney, OMS, Division, Commission, on November 14, 1995.

[11] *See* Amendment No. 1, *supra* note 5.

[12] To determine the share amount of each component required to hedge an index option position: index value x index multiplier x component's weighting = dollar amount of component. That amount divided by price = number of shares of component. Conversely, to determine how many options can be purchased based on a certain portfolio, divide the dollar amount of the basket by the index value x the index multiplier.

[13] *See* Amendment No. 3, *supra* note 5.

[14] 15 U.S.C. § 78f(b)(5) (1988 & Supp. V. 1993).

[15] *See* Amendment No. 3, *supra* note 5.

[16] *See* Amendment No. 1, *supra* note 5. Market participants granted a hedge exemption are also required to keep their application forms for the hedge exemption current and promptly provide the PSE with any information requested concerning the dollar value and composition of their stock portfolio or its equivalent, the current hedged and aggregate options positions, and any stock index futures positions.

[17] *See* Securities Exchange Act Release No. 30944 (July 21, 1992), 57 FR 33376 (July 28, 1992) (order approving File No. SR–CBOE–92–09) ("CBOE" Approval Order").

[18] *See* Securities Exchange Act Release No. 35738 (May 18, 1995), 60 FR 27573 (May 24, 1995) (order approving File Nos. SR-Amex-95–13, SR–CBOE–95–13, SR–NYSE–95–04, SR–PSE–95–05, and SR–PHLX–95–10) (order granting permanent approval to hedge exemption pilot programs) ("Hedge Exemption Order").

[19] *See* CBOE Approval Order, *supra* note 17 and Hedge Exemption Order, *supra* note 18.

[20] 15 U.S.C. § 78s(b)(2) (1982).

[21] 17 CFR 200.30–3(a)(12) (1994).

Dated: March 15, 1996.
Bernard Kulik,
Associate Administrator for Disaster Assistance.
[FR Doc. 96–6870 Filed 3–21–96; 8:45 am]
BILLING CODE 8025–01–P

[Declaration of Disaster Loan Area #2825]

Maryland; Declaration of Disaster Loan Area (Amendment #1)

The above numbered Declaration is hereby amended to expand the incident type to include damage resulting from severe storms and flooding which occurred January 19 through January 31, 1996.

All other information remains the same; i.e., the deadline for filing applications for physical damages is March 22, 1996 and for economic injury the deadline is October 23, 1996.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: March 14, 1996.
Bernard Kulik,
Associate Administrator for Disaster Assistance.
[FR Doc. 96–6873 Filed 3–21–96; 8:45 am]
BILLING CODE 8025–01–P

[Declaration of Disaster Loan Area #2836]

Oregon; Declaration of Disaster Loan Area (Amendment #1)

In accordance with notices from the Federal Emergency Management Agency dated February 23 and 26, and March 7, 1996, the above-numbered Declaration is hereby amended to include Coos, Deschutes, Gilliam, and Morrow Counties and the Confederated Tribes of Umatilla Indian Reservation in the State of Oregon as a disaster area due to damages caused by high winds, severe storms, and flooding, and to establish the incident period for this disaster as beginning on February 4, 1996 and continuing through February 21, 1996.

In addition, applications for economic injury loans from small businesses located in the contiguous Oregon counties of Harney and Lake may be filed until the specified date at the previously designated location.

All other information remains the same, i.e., the termination date for filing applications for physical damage is April 11, 1996, and for loans for economic injury the deadline is November 12, 1996.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: March 15, 1996.
Bernard Kulik,
Associate Administrator for Disaster Assistance.
[FR Doc. 96–6868 Filed 3–21–96; 8:45 am]
BILLING CODE 8025–01–P

[Declaration of Disaster Loan Area #2824]

Pennsylvania; Declaration of Disaster Loan Area (Amendment #1)

The above numbered Declaration is hereby amended to expand the incident type to include damage resulting from severe storms and flooding which occurred January 19 through February 1, 1996.

All other information remains the same; i.e., the deadline for filing applications for physical damages is March 21, 1996 and for economic injury the deadline is October 21, 1996.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: March 12, 1996.
Bernard Kulik,
Associate Administrator for Disaster Assistance.
[FR Doc. 96–6872 Filed 3–21–96; 8:45 am]
BILLING CODE 8025–01–P

[Declaration of Disaster Loan Area #2837]

Washington; Declaration of Disaster Loan Area (Amendment #1)

In accordance with notices from the Federal Emergency Management Agency dated February 26, March 4, and March 6, 1996, the above-numbered Declaration is hereby amended to include Kitsap, Lincoln, and Skagit Counties in the State of Washington as a disaster area due to damages caused by high winds, severe storms, and flooding beginning on January 26, 1996 and continuing.

In addition, applications for economic injury loans from small businesses located in the contiguous Washington counties of Ferry, Okanogan, San Juan, Stevens, and Whatcom may be filed until the specified date at the previously designated location.

All other information remains the same, i.e., the termination date for filing applications for physical damage is April 11, 1996, and for loans for economic injury the deadline is November 12, 1996.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: March 15, 1996.
Bernard Kulik,
Associate Administrator For Disaster Assistance.
[FR Doc. 96–6869 Filed 3–21–96; 8:45 am]
BILLING CODE 8025–01–P

[Declaration of Disaster Loan Area #2823]

Washington Declaration of Disaster Loan Area (Amendment #1)

The above numbered Declaration is hereby amended to extend the deadline for filing applications for physical damages until April 11, 1996.

All other information remains the same; i.e., the termination date for filing applications for economic injury is July 29, 1996.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: March 12, 1996.
Bernard Kulik,
Associate Administrator for Disaster Assistance.
[FR Doc. 96–6871 Filed 3–21–96; 8:45 am]
BILLING CODE 8025–01–P

[Declaration of Disaster Loan Area #2827]

West Virginia; Declaration of Disaster Loan Area (Amendment #1)

The above-numbered Declaration is hereby amended to include Raleigh County in the State of West Virginia as a disaster area due to damages caused by flooding which occurred January 19 through February 2, 1996.

In addition, applications for economic injury loans from small businesses located in the contiguous West Virginia counties of Boone and Kanawha may be filed until the specified date at the previously designated location.

All other information remains the same, i.e., the termination date for filing applications for physical damage is March 25, 1996, and for loans for economic injury the deadline is October 25, 1996.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: March 14, 1996.
Bernard Kulik,
Associate Administrator for Disaster Assistance.
[FR Doc. 96–6874 Filed 3–21–96; 8:45 am]
BILLING CODE 8025–01–P

Honolulu District Advisory Council Meeting; Public Meeting

The U.S. Small Business Administration, Boston District Advisory Council will hold a public meeting on Thursday, April 11, 1996 at 9:30 am at the Business Information and Counseling Center, 130 Merchant Street, Suite 1030, Honolulu, HI 96813; to discuss matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. Andrew K. Poepoe, District Director, U.S. Small Business Administration, 300 Ala Moana Boulevard, Room 2314, Honolulu, Hawaii 96850, (808) 541–2965.

Dated: March 18, 1996.
Bill Combs,
Associate Administrator for Office of Communication and Public Liaison.
[FR Doc. 96–6875 Filed 3–21–96; 8:45 am]
BILLING CODE 8025–01–P

Boston District Advisory Council Meeting; Public Meeting

The U.S. Small Business Administration, Boston District Advisory Council will hold a public meeting on Thursday, April 18, 1996 at 9:30 am at the SBA, 10 Causeway Street, Room 265, Boston, Massachusetts 02222; to discuss matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Ms. Mary E. McAleney, District Director, U.S. Small Business Administration, 10 Causeway Street, Room 265, Boston, Massachusetts 02222–1093, (617) 565–5560.

Dated:
March 18, 1996.
Bill Combs,
Associate Administrator for Office of Communication and Public Liaison.
[FR Doc. 96–6877 Filed 3–21–96; 8:45 am]
BILLING CODE 8025–01–P

Buffalo District Advisory Council Meeting; Public Meeting

The U.S. Small Business Administration, Boston District Advisory Council will hold a public meeting on Wednesday, April 17, 1996 at 10:00 am at the Marine Midland Bank, N.A., One Marine Midland Center, 24th floor dining room, Buffalo, New York; to discuss matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. Franklin J. Sciortino, District Director, U.S. Small Business Administration, 111 West Huron Street, Room 1311, Buffalo, New York 14202, (716) 551–4301.

Dated: March 18, 1996.
Bill Combs,
Associate Administrator for Office of Communication and Public Liaison
[FR Doc. 96–6876 Filed 3–21–96; 8:45 am]
BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 28420]

Airspace and Flight Operations Requirements for the 1996 Summer Olympic Games, Atlanta, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: On February 12 1996, SFAR No. 74, Airspace and Flight Operations Requirements for the 1996 Summer Olympic Games, Atlanta, Georgia, was published as a final rule. The provisions of the Paperwork Reduction Act of 1995, and 5 CFR Part 1320, Reporting and Recordkeeping Requirements, provide for public comment of any reporting or recordkeeping burden associated with a rule. When the SFAR was published as a Notice of Proposed Rulemaking on December 29, 1995, it was incorrectly published as not having a burden covered under the Paperwork Reduction Act of 1995. There is a small reporting burden associated with this rule. This action notifies the public that the FAA will receive comments on the information collection burden association with SFAR No. 74.

DATES: Comments on this Notice must be received on or before May 21, 1996.

ADDRESSES: Comments on this collection may be mailed or delivered in duplicate to the FAA at the following address: Ms. Judith Street, Federal Aviation Administration, Corporate Information Division, ABC–100, 800 Independence Ave., SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Ms. Judith Street at the above address or on (202) 267–9895.

SUPPLEMENTARY INFORMATION: The information collection requirement of SFAR No. 74 requires operators to notify the FAA of their planned operations at the specified airports from July 17 through August 6, 1996 for two categories of operations (February 12, 1996; 61 FR 5492). The categories are: (1) Non-scheduled opertions—foreign and domestic charters and cargo operations not published in the Official Airline Guide (OAG) as of June 30, 1996, and/or not operated on a routine consistent basis during the same time, day and number of days per week, excluding helicopters; and (2) Other—all operations conducted by operators that do not hold either an air carrier certificate for common carriage issued under SFAR 38–2 or Part 119 of the Federal Aviation Regulations or any operations conducted under Part 129 of the Federal Aviation Regulations. These operations exclude helicopters and include, but are not limited to, general aviation and business operations conducted under Part 91.

Non-scheduled and Other operations must notify the FAA of: (1) Destination or arrival airport; (2) estimated time of arrival/departure; (3) call sign; (4) aircraft type; and (5) direction of arrival to the Atlanta area, or first fix after departure. The estimated number of respondents is 3832 at 3 minutes or less per response for a total burden of 192 hours.

Issued in Washington, DC., on March 13, 1996.
Steve Hopkins,
Acting Manager, Corporate Information Division, ABC–100.
[FR Doc. 96–6997 Filed 3–21–96; 8:45 am]
BILLING CODE 4910–13–M

Approval of the Noise Compatibility Program Revision; Charlotte/Douglas International Airport; Charlotte, NC

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its finding on the revision to the noise compatibility program that was submitted for Charlotte/Douglas International Airport under the provisions of Title I of the Aviation Safety and Noise Act of 1979 (Pub. L. 96–193) (hereinafter referred to as "the Act") and 14 CFR Part 150 by the City of Charlotte. This revised program was submitted subsequent to a determination by the FAA that associated noise exposure maps submitted under 14 CFR Part 150 for Charlotte/Douglas International Airport were in compliance with applicable requirements effective July 11, 1989.

Upon acceptance of the Noise Exposure Maps, the FAA received the initial noise compatibility program on November 20, 1989. It was approved May 18, 1990.

EFFECTIVE DATE: The effective date of FAA's approval of the Charlotte/Douglas

International Airport revision to the noise compatibility program is February 16, 1996.

FOR FURTHER INFORMATION CONTACT: Thomas M. Roberts, Program Manager, Atlanta Airports District Office, Campus Building, 1701 Columbia Avenue, Suite 2–260, College Park, Georgia 30337–2747, Telephone (404) 305–7153. Documents reflecting this FAA action may be reviewed at this location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program revision for Charlotte/Douglas International Airport effective February 16, 1996.

The revision adds Churches within the definitions of "public buildings" under the approved noise compatibility program *Land-Use Corrective Measure No. 2* paragraph entitles "Soundproofing of Public Buildings."

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) Part 150 is a local program, not a Federal program. The FAA does not substitute its judgement for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR Part 150 program recommendations is measured according to the standards expressed in part 150 and the Act and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR Part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR Part 150, section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for project grants must be submitted to the FAA Airports District Office in Atlanta, Georgia.

Charlotte/Douglas International Airport submitted the noise exposure maps to the FAA on June 9, 1989. The Charlotte/Douglas International Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on July 11, 1989. Notice of this determination was published in the **Federal Register** on August 1, 1989.

The Charlotte/Douglas International Airport study contains a revised noise compatibility program comprised of actions designed for phased implementation by airport management. It was requested that the FAA evaluate and approve this material as revision to the noise compatibility as described in section 104(b) of the Act. The FAA began its review of the program on August 23, 1995, and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted revised program contained one proposed action for noise mitigation off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. The revised program, therefore, was approved by the Administrator effective February 16, 1996.

The determination is set forth in detail in a Record of Approval endorsed by the Administrator on February 16, 1996. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of the Charlotte/Douglas International Airport.

Issued in Southern Region, Atlanta, Georgia, March 4, 1996.

Dell T. Jernigan,

Manager, Atlanta Airports District Office.

[FR Doc. 96–6999 Filed 3–21–96; 8:45 am]

BILLING CODE 4910–13–M

Maritime Administration

[Docket No. M–014]

Information Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intention to request extension of approval for three years of a currently approved information collection.

DATES: Comments should be submitted on or before May 21, 1996.

FOR FURTHER INFORMATION CONTACT: Edmond J. Fitzgerald, Director Office of Subsidy and Insurance, Maritime Administration, MAR–570, Room 8117, 400 Seventh Street, S.W., Washington, D.C. 20590. Telephone (202) 366–2400 or fax (202) 366–7901. Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION:

Title of Collection: War Risk Insurance, Applications and Related Information.

Type of Request: Extension of currently approved information collection.

OMB Control Number: 2133–0011.

Form Number: MA–355, MA–528, MA–828, MA–942.

Expiration Date of Approval: June 30, 1996.

Summary of Collection of Information: As authorized by Section 1202, Title XII, Merchant Marine Act, 1936, as amended, (46 U.S.C. App. 1282) (Act), the Secretary of U.S. Department of Transportation may provide war risk insurance for the needs of the waterborne commerce of the United States. This collection is required for participation in the program. It consists of forms MA–355, MA–528, MA–828, and MA–942 and related information.

Need and Use of the Information: To determine the eligibility of the applicant and the vessel for participation in the war risk insurance program.

Description of Respondents: Vessel's owner or charterer interested in participation in MARAD's war risk insurance program.

Annual Responses: 1,730.

Annual Burden: 930 hours.

Comments: Send all comments regarding this information collection to Joel C. Richard, Department of Transportation, Maritime Administration, MAR–120, Room 7210, 400 Seventh Street, S.W., Washington, D.C. 20590. Send comments regarding whether this information collection is necessary for proper performance of the function of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance quality, utility, and clarity of the information to be collected.

By Order of the Maritime Administrator.

Dated: March 19, 1996.

Joel C. Richard,

Secretary.

[FR Doc. 96–6964 Filed 3–21–96; 8:45 am]

BILLING CODE 4910–81–P

Federal Aviation Administration

Notice of Extension of Draft Clean Air Act General Conformity Determination; Comment Period for Seattle-Tacoma International Airport Seattle, WA

ACTION: The Federal Aviation Administration, Airports Division, Northwest Mountain Region and the Port of Seattle, Seattle, Washington, announce a two week extension (to April 1, 1996) of the public and agency comment period associated with the Draft General Conformity Determination prepared as specified in Section 176(c) (42 U.S.C. 7506c) of the Clean Air Act Amendments of 1990. The Draft General Conformity Determination, and supporting documentation is contained in the February 1996, Final Environmental Impact Statement, Master Plan Update, Seattle-Tacoma International Airport.

This comment period extension applies only to comments pertaining exclusively to the Draft General Conformity Determination and no other issues. Comments on other issues will not be accepted or addressed.

PUBLIC REVIEW: The public is invited to review and comment on the Draft Conformity Determination. Copies of the FEIS are available for review at the following locations:

Federal Aviation Administration, Airports Regional Office, Room 540, 1601 Lind Avenue, SW., Renton, WA

Port of Seattle, Aviation Planning, 3rd floor—Room 301, Terminal Building, Sea-Tac Airport, and Pier 69 Bid Office, 2711 Alaskan Way, Seattle

Puget Sound Regional Council, Information Center, 1011 Western Avenue, Seattle

Beacon Hill Library, 2519 1st Avenue, South, Seattle

Boulevard Park Library, 12015 Roseberg South, Seattle

Seattle Public Library, 1000 4th Avenue, Seattle

Magnolia Library, 2801 34th Ave W., Seattle

Rainier Beach Library, 9125 Rainier Avenue S., Seattle

Bothell Regional Library, 9654 NE 182nd, Bothell

Burien Library, 14700 6th SW., Burien

Des Moines Library, 21620 11th South, Des Moines

Federal Way Regional Library, 34200 1st South, Federal Way

Foster Library, 4205 South 142nd, Tukwila

Kent Regional Library, 212 2nd Ave N., Kent

Vashon Ober Park, 17210 Vashon Highway, Vashon

Tacoma Public Library, 1102 Tacoma Ave S., Tacoma

University of Washington, Suzallo Library, Government Publications, Seattle

Valley View Library, 17850 Military Road South, SeaTac

West Seattle Library, 2306 42nd Ave SW., Seattle

Bellevue Regional Library, 1111 110th Ave NE., Bellevue

Comments may be directed to: Mr. Dennis Ossenkop, Northwest Mountain Region, Airports Division, Federal Aviation Administration, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments must be received by April 1, 1996.

Issued in Renton, Washington on March 18, 1996.

Lowell H. Johnson,

Manager, Airports Division, Federal Aviation Administration, Northwest Mountain Region, Renton, Washington.

[FR Doc. 96–6995 Filed 3–21–96; 8:45 am]

BILLING CODE 4910–13–M

Air Traffic Procedures Advisory Committee

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public that a meeting of the Federal Aviation Administration Air Traffic Procedures Advisory Committee (ATPAC) will be held to review present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures.

DATES: The meeting will be held from April 15 through April 18, 1996, from 9 a.m. to 5 p.m. each day.

ADDRESSES: The meeting will be held at the Helicopter Association International, 1635 Prince Street, Alexandria, VA.

FOR FURTHER INFORMATION CONTACT: Mr. W. Frank Price, Executive Director, ATPAC Air Traffic Rules and Procedures, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–3725.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 2), notice is hereby given of a meeting of the ATPAC to be held April 15 through April 18, 1996, at the Helicopter Association International, 1635 Prince Street, Alexandria, VA.

The agenda for this meeting will cover: A continuation of the Committee's review of present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures. It will also include:

1. Approval of Minutes.
2. Submission and Discussion of Areas of Concern.
3. Discussion of Potential Safety Items.
4. Report from Executive Director.
5. Items of Interest.
6. Discussion and agreement of location and dates for subsequent meetings.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting. Persons desiring to attend and persons desiring to present oral statements should notify the person listed above not later than April 12, 1996. The next quarterly meeting of the FAA ATPAC is planned to be held from July 15–18, 1996, in New York.

Any member of the public may present a written statement to the Committee at any time at the address given above.

Issued in Washington, DC, on March 11, 1996.

W. Frank Price,

Executive Director, Air Traffic Procedures Advisory Committee.

[FR Doc. 96–6998 Filed 3–21–96; 8:45 am]

BILLING CODE 4910–13–M

RTCA, Inc.; Joint Special Committee 181/EUROCAE WG–13 Standards of Navigation Performance

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for Joint Special Committee 181/EUROCAE WG–13 meeting to be held April 15–19, 1996, starting at 9 a.m. The meeting will be held at the Hyatt Regency Monterey, One Old Golf Course Road, Monterey, CA.

The agenda for Monday, April 15, will include the following: 9–10:30 a.m. Plenary (1) Introductions; (2) Review of Agenda; (3) Review and Approval of Minutes of Previous Meeting; (4) Chairman's Report; (5) Letter to ICAO re: RNP Terminology; (6) Working Group (WG) Reports: WG–1; Report on the February 19–20 Editorial Committee Meeting; WG–2; WG–3. 10:45 a.m.–5 p.m. WG–1 Final Review of the MASPS; WG–2 Review of DO–201A; WG–3 Review of DO–200A.

The agenda for Tuesday and Wednesday, April 16 and 17, will be a continuation of the working group sessions. On Thursday, April 18, the WG–1 Final Review of the MASPS is scheduled from 9 a.m. to 5 p.m.

On Friday, April 19, the Plenary agenda will include: (1) Final Review of MASPS; (2) Working Group Reports; (3) Future Meeting Schedule; (4) New Business; (5) Adjourn.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036; (202) 833–9339 (phone) or (202) 833–9434 (fax); or Rudy Kalafus, Trimble Navigation, Ltd., (408) 481–2087 (phone) or (408) 481–8600 (fax). For hotel reservations, phone 1–800–233–1234 (U.S.) or +1–408–372–1234 (International). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on March 15, 1996.

Janice L. Peters,

Designated Official.

[FR Doc. 96–6996 Filed 3–21–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent to Rule on Application to Impose and Use the Revenue From a Passenger Facility Charge (FCC) at Charlottesville-Albermarle Airport, Charlottesville, Virginia

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Charlottesville-Albermarle Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before April 22, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Mr. Robert Mendez, Manager, Washington Airports District Office, 101 West Broad Street, Suite 300, Falls Church, Virginia 22046.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Bryan O. Elliott, Airport Manager of the Charlottesville-Albermarle Airport at the following address: Charlottesville-Albermarle Airport, 201 Bowen Loop, Charlottesville, Virginia 22901.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Charlottesville-Albermarle Airport Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Mendez, Manager, Washington Airports District Office, 101 West Broad Street, Suite 300, Falls Church, Virginia, 22046 (703–285–2570). The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Charlottesville-Albermarle Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On February 14, 1996, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Charlottesville-Albermarle Airport Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than May 29, 1996.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: February 1, 2002.

Proposed charge expiration date: October 1, 2004.

Total estimated PFC revenue: $1,347,359.

Brief description of proposed projects:

—Retire allowable project cost and associated debt services for the construction of the air carrier terminal building.

—PFC Administrative expenses.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operator Filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports office located at: Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Charlottesville-Albermarle Airport Authority.

Issued in Jamaica, New York on March 14, 1996.

Anthony P. Spera,

Manager, Airports Division, Eastern Region.

[FR Doc. 96–7001 Filed 3–21–96; 8:45 am]

BILLING CODE 4910–13–M

Federal Railroad Administration

[Docket No. RSAC–96–2]

Railroad Safety Advisory Committee; Notice of First Meeting

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of first meeting of the Railroad Safety Advisory Committee ("RSAC").

SUMMARY: As required by Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), and 41 CFR 101–6.1015(b), the Federal Railroad Administration (FRA) gives emergency notice of the first meeting of the Railroad Safety Advisory Committee ("RSAC"). The purpose of the meeting is to address prerequisite organizational issues necessary for full operational activity to commence. The RSAC will be briefed on FRA's current regulatory agenda, will discuss possible tasks to be assigned, and will estimate a timetable for the completion of any tasks accepted.

DATES: The first meeting of the RSAC is scheduled for 9:00 a.m. on both Monday, April 1, 1996 and Tuesday, April 2, 1996. Decisions with respect to future meetings will be made at the first meeting and from time to time thereafter. Notice of future meetings will be published in the **Federal Register.**

ADDRESSES: The first meeting of the RSAC will be held in Room 2230 of the Nassiff Building, U.S. DOT, 400 Seventh Street, S.W., Washington, D.C. 20590. The meeting is open to the public on a first-come, first-served basis and is accessible to individuals with disabilities. Sign language interpreters will be available for individuals with hearing impediments. Subsequent meetings will be held at locations to be announced.

FOR FURTHER INFORMATION CONTACT: Grady Cothen, Deputy Associate Administrator for Safety Standards Program Development, FRA, 400 7th Street, SW., Washington, D.C. 20590, (202)-366–0897, Lisa Levine, Office of Chief Counsel, FRA, 400 7th Street, SW., Washington, D.C. 20590, (202)-366–0621, or Vicky McCulley, FRA, 400 7th Street, SW., Washington, D.C. 20590, (202)-366–6569.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), FRA is giving emergency notice of the first meeting of the Railroad Safety Advisory Committee ("RSAC"). This notice is being published less than fifteen days prior to the date of the announced meetings due to recent railroad safety exigencies. The meeting is scheduled for 9:00 a.m. on both Monday April 1, 1996 and Tuesday, April 2, 1996 and will be held in Room 2230 of the Nassiff Building, U.S. Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590. All times noted are Eastern Time.

RSAC was established to provide advice and recommendations to the FRA on railroad safety matters. The Committee consists of 48 individual representatives, drawn from among 27 organizations representing various rail industry perspectives, and 2 associate non-voting representatives from the agencies with railroad safety regulatory responsibility in Canada and Mexico.

During this first meeting, the RSAC will primarily be concerned with the prerequisite organizational issues necessary for full operational activity to commence. The RSAC will be briefed on FRA's current regulatory agenda, will discuss possible tasks to be assigned, and will estimate a timetable for the completion of any tasks accepted. Please refer to the notice published in the **Federal Register** on March 11, 1996 (61 FR 9740) for more information about the RSAC.

Issued in Washington, D.C., on March 18, 1996.

Jolene M. Molitoris,

Administrator.

[FR Doc. 96–6992 Filed 3–21–96; 8:45 am]

BILLING CODE 4910–06–P

Maritime Administration

[Docket No. M–015]

Information Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intention to request extension of approval for three years of a currently approved information collection.

DATES: Comments should be submitted on or before May 21, 1996.

FOR FURTHER INFORMATION CONTACT: Robert J. Patton, Jr., Deputy Chief Counsel, Maritime Administration, MAR–220.1, Room 7232, 400 Seventh Street, S.W., Washington, D.C. 20590. Telephone (202) 366–5712 or fax (202) 366–7485. Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION:

Title of Collection: Requirements for Establishing U.S. Citizenship under 46 CFR Part 355.

Type of Request: Extension of currently approved information collection.

OMB Control Number: 2133–0012.

Form Number: Special Format.

Expiration Date of Approval: June 30, 1996.

Summary of Collection of Information: Applicants that receive benefits and continue to receive benefits under the Merchant Marine Act, 1936, as amended, must be citizens of the United States within the meaning of section 2 of the Shipping Act, 1916, as amended (46 App. U.S.C. 802). This collection gathers the information on citizenship of individuals, etc. covered by the requirements.

Need and Use of the Information: To determine compliance with the statutory requirements.

Description of Respondents: Participating financial institutions, ships owners, charterers, and equity owners within the United States.

Annual Responses: 300.

Annual Burden: 1,500 hours.

Comments: Send all comments regarding this information collection to Joel C. Richard, Department of Transportation, Maritime Administration, MAR–120, Room 7210, 400 Seventh Street, S.W., Washington, D.C. 20590. Send comments regarding whether this information collection is necessary for proper performance of the function of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance quality, utility, and clarity of the information to be collected.

By Order of the Maritime Administrator.

Dated: March 19, 1996.

Joel C. Richard,

Secretary.

[FR Doc. 96–6963 Filed 3–21–96; 8:45 am]

BILLING CODE 4910–81–P

Federal Aviation Administration

Approval of Revision No. 1 to the Approved Noise Compatibility Program for Reno/Tahoe International Airport, Reno, NV

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation (FAA) announces its findings on Revision No. 1 to the Approved Noise Compatibility Program for the Reno/Tahoe International Airport, submitted by the Airport Authority of Washoe County, Nevada, under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) (hereinafter referred to as "the Act") and 14 CFR Part 150. These findings are made in recognition of the description of Federal and non-Federal responsibilities in Senate Report No. 96–52 (1980). On February 22, 1991, the FAA determined that the Noise Exposure Maps, submitted by the Airport Authority of Washoe County under 14 CFR Part 150, were in compliance with applicable requirements. On September 1, 1993, the Associate Administrator for Airports approved the Noise Compatibility

Program for Reno/Tahoe International Airport. On December 8, 1995, the Associate Administrator for Airports approved Revision Number 1 to the Approved Noise Compatibility Program for Reno/Tahoe International Airport. The two (2) modifications to existing approved measures and one additional measure to the approved program were approved.

EFFECTIVE DATE: The effective date of the FAA's approval of the Noise Compatibility Program for Reno/Tahoe International Airport is December 8, 1995.

FOR FURTHER INFORMATION CONTACT: Joseph R. Rodriguez, Planning/Programming Section Supervisor, Federal Aviation Administration, Airports District Office, 831 Mitten Road, Burlingame, California 94010–1303, Telephone (415) 876–2805. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to Revision No. 1 to the Approved Noise Compatibility Program for Reno/Tahoe International Airport, effective December 8, 1995. Under Section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as the "Act"), an airport operator who has previously submitted a Noise Exposure Map may submit to the FAA a Noise Compatibility Program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the Noise Exposure Maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport Noise Compatibility Program developed in accordance with Federal Aviation Regulations (FAR) Part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport sponsor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR Part 150 program recommendations is measured according to the standards expressed in Part 150 and the Act, and is limited to the following determinations:

a. The Noise Compatibility Program was developed in accordance with the provisions and procedures of FAR Part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal government and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of navigable airspace and air traffic control responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an Airport Noise Compatibility Program are delineated in FAR Part 150, Section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, State or local law. Approval does not, by itself, constitute an FAA implementation action. A request for Federal action or approval to implement specific Noise Compatibility Measures may be required and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA under the Airport and Airway Improvement Act of 1982, as amended. Where Federal funding is sought, requests for project grants must be submitted to the FAA Airports District Office in Burlingame, California.

The Airport Authority of Washoe County, Nevada submitted to the FAA on July 31, 1990, the Noise Exposure Maps, descriptions, and other documentation produced during the Noise Compatibility Planning study conducted from July 1983 through July 1990. The Reno/Tahoe International Airport Noise Exposure Maps were determined by FAA to be in compliance with applicable requirements on February 22, 1991. Notice of this determination was published in the **Federal Register** on March 11, 1991.

The Reno/Tahoe International Airport study contained a proposed Noise Compatibility Program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to or beyond, the year 1996. It was requested that the FAA evaluated and approve this material as a Noise Compatibility Program as described in Section 104(b) of the Act. The FAA began its review of the program on March 5, 1993 and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). The Noise Compatibility Program was approved by the FAA on September 1, 1993. On June 13, 1995, the FAA began its review of Revision No. 1 to the approved program and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed an approval of such program.

The submitted revision to the approved program contained three (3) proposed actions for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. Revision Number 1 to the Approved Noise Compatibility Program, was therefore approved by the Associate Administrator for Airports effective December 8, 1995.

Outright approval was granted for the following three (3) specific revision measures: A. The approved measures included modification of approved NCP Measure No. 4 to encourage the Nevada Air National Guard to convert their existing fleet of F–4 aircraft to F–16 or any other quieter aircraft. B. Modification of approved NCP measure No. 14 to add to the designated areas the remainder of two neighborhoods and include the voluntary acquisition of property interests such as navigation easements, development rights and deed restrictions and purchase assurance for homeowners within the 65 DNL noise contour, and C. Addition of a new NCP Measure No. 17 to make eligible for voluntary acquisition three residential parcels north of the airport within the 65 DNL contour.

This determination is set forth in detail in a Record of Approval endorsed by the Associate Administrator for Airports on December 8, 1995. The Record of Approval, as well as other evaluation materials, and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of the Airport Authority of Washoe County, Reno, Nevada.

Issued in Hawthorne, California on March 13, 1996.

Robert C. Bloom,

Acting Manager, Airports Division, AWP–600, Western-Pacific Region.

[FR Doc. 96–6994 Filed 3–21–96; 8:45 am]

BILLING CODE 4910–13–M

Surface Transportation Board [1]

[STB Finance Docket No. 32864]

Dakota, Minnesota & Eastern Railroad Corporation; Acquisition and Operation; Colony Segment of the Union Pacific Railroad Company, Inc.

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of extension of time for filing comments.

SUMMARY: Pursuant to 49 U.S.C. 10902 and section 327 of Public Law No. 104–88, the Dakota, Minnesota & Eastern Railroad Company (DME) has filed an application to acquire and operate an approximately 203-mile rail line currently owned by Union Pacific Railroad Company, Inc. (UP) located in Wyoming, South Dakota, and Nebraska, commonly referred to as the Colony Line. The Colony Line runs in a north-south direction from Colony, WY, to Crawford, NE, the majority of which is located in South Dakota. By notice served March 8, 1996, the Board invited written comments on this application by interested parties to be filed no later than March 18, 1996.

Senator Tom Daschle and Congressman Tim Johnson of South Dakota have jointly requested an extension of the comment period. We will grant a 10-day extension of the comment period so that all interested persons will have a sufficient opportunity to review DME's proposal and to comment. This brief time extension will still allow us to accommodate DME's request for expedited action. Written comments must be filed no later than March 28, 1996.

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (ICCTA), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to the Board's jurisdiction pursuant to 49 U.S.C. 10902.

ADDRESSES: An original and 10 copies of all comments must refer to STB Finance Docket No. 32864 and must be sent to: Office of the Secretary, Case Control Branch, Surface Transportation Board, 1201 Constitution Avenue, N.W., Washington, DC 20423. In addition, one copy of all documents must be sent to applicant's representative: Kevin V. Schieffer, Schieffer, Cutler & Donahoe, P.C., Suite 300, Falls Center, 431 North Phillips Avenue, Sioux Falls, SD 57102.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927–5660. [TDD for the hearing impaired: (202) 927–5721.]

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Decided: March 19, 1996.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams,

Secretary.

[FR Doc. 96–7097 Filed 3–21–96; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Financial Management Service

Privacy Act of 1974; System of Records

AGENCY: Financial Management Service, Treasury.

ACTION: Notice of alteration of Privacy Act system of records.

SUMMARY: The Department of the Treasury, Financial Management Service (FMS), gives notice of a proposed alteration to the system of records entitled "Debt Collection Operations System—Treasury/FMS .014," which is subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a). The system notice was last published in its entirety in the **Federal Register** Vol. 60, page 56776, November 9, 1995.

DATES: Comments must be received no later than April 22, 1996. The proposed system of records will be effective May 1, 1996, unless FMS receives comments which would result in a contrary determination.

ADDRESS: Comments must be submitted to the Debt Management Services, Financial Management Service, 401 14th Street, SW, Room 151, Washington, DC 20227. Comments received will be available for inspection at the same address between the hours of 9:00 a.m. and 4:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Gerry Isenberg, Debt Management Services, (202) 874–6859.

SUPPLEMENTARY INFORMATION: FMS has been designated by the Office of Management and Budget as the lead agency in credit management and debt collection for the Federal Government. The original publication of this system of records concerned the collection of debts owed to the Federal Government where collection efforts were to be undertaken by FMS in accordance with agreements with Federal agencies which are initially responsible for collecting the debts. FMS is altering this system of records to clarify that records in the system include records involving the collection of delinquent Federal debts arising from FMS' own operations, where initial responsibility for collection rests with FMS.

For the reasons set forth in the preamble, FMS proposes to alter system of records Treasury/FMS .014, "Debt Collection Operations System—Treasury/Financial Management Service", as follows:

Treasury/FMS .014

SYSTEM NAME:

Debt Collection Operations System—Treasury/Financial Management Service.

* * * * *

PURPOSE(S):

Description of change: The first sentence is revised to read:"The purpose of this system is to maintain records of individuals and entities that are (1) indebted to the Financial Management Service (FMS), and (2) indebted to the various Federal Government departments and agencies and whose accounts are being serviced or collected by FMS, in accordance with written agreements reached between the relevant agency ("client") and FMS."

* * * * *

Dated: March 13, 1996.

Alex Rodriguez,

Deputy Assistant Secretary (Administration).

[FR Doc. 96–6980 Filed 3–21–96; 8:45 am]

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federal register

Friday
March 22, 1996

Part II

Department of Housing and Urban Development

Office of the Assistant Secretary for Policy Development and Research

Community Development Work Study Program; Notice of Funding Availability for FY 1996

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Policy Development and Research

[Docket No. FR–4016–N–01]

Community Development Work Study Program; Notice of Funding Availability—FY 1996

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice of Funding Availability (NOFA) for Fiscal Year (FY) 1996.

SUMMARY: This notice invites applications from institutions of higher education, area-wide planning organizations, and States for grants under the Community Development Work Study Program (CDWSP). The CDWSP, authorized by the Housing and Community Development Act of 1974, as amended, assists economically disadvantaged and minority students participating in work study programs in such institutions. This notice announces HUD's intention to award up to $3 million from FY 1996 appropriations (plus any additional funds recaptured from prior appropriations) to fund work study programs to be carried out from August, 1996 to September, 1998.

Note: The Congress has not yet enacted FY 1996 appropriation for HUD. However, HUD is publishing this notice to give potential applicants adequate time to prepare applications. The amount of funds announced in this NOFA is an estimate of amounts that may be made available in FY 1996, and is based on the level of funding available for FY 1995. HUD is not bound by the estimate set forth in this notice. The estimated amount may be adjusted based on the enacted FY 1996 appropriation.

DATES: Applications may be requested beginning April 1, 1996. Applications must be physically received by the Office of University Partnerships, in care of the Division of Budget, Contracts, and Program Control, in Room 8230 by 4:30 p.m. Eastern Time on May 31, 1996. This deadline is firm as to date, hour, and place. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submissions of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

FOR FURTHER INFORMATION CONTACT: John Hartung, Office of University Partnerships, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, Telephone (202) 708–3061, extension 261 (Voice). The TTY number for the hearing impaired is (202) 708–1455. (These are not toll-free numbers.) Mr. Hartung can also be reached via the Internet at jhartung@hud.gov.

Application packages (requests for grant application) may be obtained by written request from the following address: HUD USER, ATTN: Community Development Work Study Program, P.O. Box 6091, Rockville, MD 20850. Requests for application kits may be faxed to: 301–251–5747 (this is not a toll-free number). Requests for application kits must include the applicant's name, mailing address (including zip code), telephone number (including area code), and must refer to "Document FR–4016." The application kit is also available on the Internet from the Office of University Partnerships Clearinghouse. The Clearinghouse can be accessed from the World Wide Web at: http://oup.aspensys.com:89; or from a Gopher Server at: gopher://oup.aspensys.com:77.

SUPPLEMENTARY INFORMATION:

A. Background

Section 107(c) of the Housing and Community Development Act of 1974, as amended, (the Act) authorizes the CDWSP. Under this section, HUD is authorized to provide grants to institutions of higher education, either directly or through area-wide planning organizations or States, for the purpose of providing assistance to economically disadvantaged and minority students, including students with disabilities, who participate in community development work study programs and are enrolled in full-time graduate or undergraduate programs in community or economic development, community planning, or community management. Two-year institutions are not eligible applicants for funding under this program. This notice announces HUD's intention to award up to $3 million from FY 1996 appropriations (plus any additional funds recaptured from prior appropriations). Awards will be made under the HUD implementing regulations at 24 CFR 570.400 and 570.415 and the provisions of this Notice.

Note: The Congress has not yet enacted FY 1996 appropriation for HUD. However, HUD is publishing this notice to give potential applicants adequate time to prepare applications. The amount of funds announced in this NOFA is an estimate of amounts that may be made available in FY 1996, and is based on the level of funding available for FY 1995. HUD is not bound by the estimate set forth in this notice. The estimated amount may be adjusted based on the enacted FY 1996 appropriation.

B. Eligible Applicants

The following are eligible to apply for assistance under the program subject to the conditions noted below:

1. Institutions of higher education offering graduate degrees in a community development academic program.

2. Institutions of higher education offering undergraduate degrees in a community development academic program if no institutions of higher education in the standard metropolitan statistical area (SMSA) or non-SMSA area in which they are located offer graduate degrees in a community development academic program.

Note: Two-year institutions of higher education are not eligible applicants for funding under this program.

3. Area-wide planning organizations (APOs) which apply on behalf of two or more institutions of higher education located in the same SMSA or non-SMSA area as the APO.

4. States which apply on behalf of two or more institutions of higher education located in the State. If a State is approved for funding, institutions of higher education located in the State are not eligible recipients. If an APO is approved for funding, institutions of higher education located in the SMSA or non-SMSA non-metropolitan area served by the APO are not eligible recipients.

C. Threshold Requirements

To be eligible for ranking, applications must meet each of the following threshold requirements:

1. The application must be filed in the application form prescribed by HUD, and within the required time prescribed by the Request For Grant Application (RFGA) released pursuant to this notice.

2. The application must demonstrate that the applicant is eligible to participate.

3. The applicant must demonstrate that each institution of higher education participating in the program as a recipient has the required academic programs and faculty to carry out its activities under CDWSP. Each work placement agency must have the required staff and community development work study program to carry out its activities under CDWSP.

4. Institutions of higher education, APOs, and States must maintain at least a 50 percent rate of graduation of students from the FY 1993 funding round which covered school years September 1993 to September 1995 in order to participate in the current round of CDWSP funding. Institutions of higher education, APOs, and States funded under the FY 1993 CDWSP funding round which did not maintain such a rate will be excluded from participating in the FY 1996 funding round. Such institutions, APOs, and States are eligible to participate in the 1997 round.

D. Selection Factors for Institutions of Higher Education (110 Points)

The following factors will be considered by the Department in evaluating applications received from institutions of higher education in response to the solicitation.

1. *Academic Program (53 points, as allocated below).*

Each application will be reviewed for evidence of the school's commitment to administering a CDWSP and the overall strength of its commitment to meeting the needs of minority and economically disadvantaged individuals, including students with disabilities. This commitment will be evaluated in the following areas:

a. Relative quality of the academic program offered by the institution of higher education.

(1) Quality of the academic program in terms of community and economic development course offerings and academic requirements for students. (8 points)

(2) Appropriateness of the curriculum to prepare students for careers in the community and economic development field. (8 points)

(3) Qualifications of the faculty and the percentage of time they will teach in the academic area. (6 points)

b. Quality of academic supervision - Qualifications of the academic supervisor and the percentage of time they will commit to the students. (7 points)

c. Amount of resources to be committed by the institution to the CDWSP.

(1) Appropriateness and adequacy of the applicant's plan for the use of its facilities, equipment and financial resources in support of the CDWSP. (2 points)

(2) The degree to which the applicant is able to contribute funds to support the total cost of the project. (5 points)

(3) The degree to which the applicant will utilize faculty and staff administrators on staff. (7 points)

d. Applicant's success rate in graduating students previously enrolled in the HUD CDWSP or similar work study program. (10 points)

2. *Student Work Placement Assignment* (9 points, as allocated below)

a. The extent to which the participating students will receive a sufficient number and variety of work placement assignments. (3 points)

b. The extent to which the assignments will provide practical and useful experience to students participating in the program. (3 points)

c. The extent to which the assignments will further the participating students' preparation for professional careers in community or economic development, community planning, or community management. (3 points)

3. *Seminars* (4 points)

The degree to which the proposed seminars will (a) relate the experience provided under the work placement assignments with the educational experience provided under the academic programs and (b) address career planning and permanent job placement. (4 points)

4. *Placement Opportunities* (13 points, as allocated below)

a. Extent to which the institution's educational program (based on past experience) leads directly and immediately to career opportunities in the community and economic development fields. (6 points)

b. The applicant's success in assisting graduates of the HUD CDWSP or similar work study program to find permanent employment in community development funded agencies. (7 points)

5. *Program Coordination and Administration* (16 points, as allocated below)

a. The degree to which the Program Director has clear responsibility, ample percentage of time, and sufficient institutional or academic authority to coordinate the overall administration of the program. (8 points)

b. The applicant's ability to track and monitor the progress of the students previously enrolled in the HUD or similar work study program, including the students who drop out of the program. (4 points)

c. The adequacy of the applicant's plan for placing students on rotating assignments in community development work placement assignments and keeping track of students during the two-year academic period and the internship. (4 points)

6. *Institution's Commitment* (15 points, as allocated below)

a. The extent to which the applicant has a recruitment program that demonstrates an active, aggressive, and imaginative effort to identify and attract qualified minorities and economically disadvantaged students, including students with disabilities. (2 points)

b. The success of past and current efforts in preparing these students for careers in community and economic development. (6 points)

c. The extent to which the CDWSP award will result in a net increase of these students in each academic area. (3 points)

d. The extent to which the CDWSP award will not result in a decrease in the amount of the institution's own financial support available for minority and economically disadvantaged students, including students with disabilities, in the academic areas or the institution as a whole. (2 points)

e. The extent to which the applicant has provided reasonable accommodations for students with disabilities to enable them to participate in the college/university's academic and work-study programs. (2 points)

E. Selection Factors for Area-Wide Planning Organizations and States (110 Points)

The following factors will be considered by the Department in evaluating applications received from area-wide planning organizations and States in response to this NOFA. Each application must contain sufficient technical information to be reviewed for its technical merit.

1. *Academic Program* (53 points, as allocated below)

a. Relative quality of the academic program offered by the institutions of higher education.

(1) Quality of the academic program in terms of community and economic development course offerings and academic requirements for students. (8 points)

(2) Appropriateness of the curriculum to prepare students for careers in the community and economic development field. (8 points)

(3) Qualifications of the faculty at each college/university listed in the submission and the percentage of time they will teach in the academic area. (6 points)

b. Qualifications of the academic area supervisor at each college/university listed in the submission and the percentage of time they will commit to the students. (7 points)

c. Amount of resources to be committed to the CDWSP.

(1) Appropriateness and adequacy of the applicant's and each institution's plan for the use of its facilities, equipment and financial resources in support of the CDWSP. (2 points)

(2) The degree to which each college/university listed in the application is

able to contribute funds to support the total cost of the project. (5 points)

(3) The degree to which each college/university listed in the application will utilize faculty and staff administrators on staff. (7 points)

d. The success rate of each institution of higher education applying under the applicant in graduating students previously enrolled in the HUD CDWSP or similar work study program. (10 points)

2. *Student Work Placement Assignment* (9 points, as allocated below)

a. The extent to which the participating students will receive a sufficient number and variety of work placement assignments. (3 points)

b. The extent to which the assignments will provide practical and useful experience to students participating in the program. (3 points)

c. The extent to which the assignments will further the participating students' preparation for professional careers in community or economic development, community planning, or community management. (3 points)

3. *Seminars.* (4 points)

The degree to which the proposed seminars will (a) relate to the experience provided under the work placement assignments with the educational experience provided under the academic program and (b) address career planning and permanent job placement. (4 points)

4. *Placement Opportunities* (13 points, as allocated below)

a. The extent to which the educational program for each college/university listed in the application (based on past experience) leads directly and immediately to career opportunities in the community and economic development fields. (6 points)

b. The applicant's success in assisting graduates of the HUD Community Development Work Study Program (CDWSP) or similar work study program to find permanent employment in community development funded agencies. (7 points)

5. *Program Coordination and Administration* (16 points, as allocated below)

a. The extent to which the applicant has established a committee to coordinate activities between program participants to advise the recipient on policy matters, to assist the recipient in ranking and selection of participating students, and to review disputes concerning compliance with program agreements and performance. (8 points)

b. The applicant's ability to track and monitor progress of students enrolled in the program and those who drop out. (4 points)

c. The adequacy of the applicant's plan for placing students in work placement assignments and keeping track of students during the two-year academic period and during the internship, respectively. (4 points)

6. *Institution's Commitment* (15 points, as allocated below)

a. The extent to which the applicant has a recruitment program that demonstrates an active, aggressive, and imaginative effort to identify and attract qualified minorities and economically disadvantaged students, including students with disabilities. (2 points)

b. The success of past and current efforts of colleges/universities listed in the application in preparing these students for careers in community and economic development. (6 points)

c. The extent to which the CDWSP award will result in a net increase of these students in each academic area. (3 points)

d. The extent to which the CDWSP award will not result in a decrease in the amount of the institutions's own financial support available for minority and economically disadvantaged students, including students with disabilities, in the academic areas or the institution as a whole. (2 points)

e. The extent to which the applicant has provided reasonable accommodations for students with disabilities to enable them to participate in the college/university academic and work-study program. (2 points)

F. Program Policy Factors

HUD may provide assistance to support a number of students that is less than the number requested under applications in order to provide assistance to as many highly rated applications as possible. In addition, HUD might award a lower funding level than the requested amount for tuition, work stipend, books and additional support.

In the event two or more applications have the same number of points, the application with the most points for selection factor (1) will be selected. If there is still a tie, the application with the most points for selection factor (5) will be selected.

G. Obtaining Application

For an application kit, contact HUD USER, ATTN: Community Development Work Study Program, P.O. Box 6091, Rockville, Maryland 20850. Applications may be requested beginning April 1, 1996.

Requests for application kits must be in writing, but may be faxed to 301–251–5747. (This is not a toll-free number.) Please refer to FR–4016, and provide your name, address (including zip code) and telephone number (including area code).

H. Submitting Applications and Deadline Date

Applications for funding under this NOFA must be complete and must be physically received in the place designated in the application kit for receipt, by 4:30 p.m. Eastern Time on May 31, 1996. The deadline date and time will be firm as to date and hour. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery related problems.

Following the expiration of the application submission deadline, HUD will review and rank applications in a manner consistent with the procedures described in this Notice and the provisions of the program regulations at 24 CFR 570.425.

1. Application Content

Applicants must complete and submit applications in accordance with instructions contained in the application kit. The following is a checklist of the application content that will be specified in the RFGA:

(a) Transmittal letter, identifying the agency accrediting the institutions of higher education on whose behalf the application is filed and further stating that such accrediting agency(ies) are recognized by the U.S. Department of Education.

(b) A completed and signed Standard Form 424, Application For Federal Assistance.

(c) Abstract.

(d) Table of Contents.

(e) Proposal narrative statement addressing the factors for award.

(f) Sample copy of student/recipient binding agreement.

(g) Sample copy of recipient/student work placement agreement.

(h) Management/Workplan.

(i) Resumes of Key staff and faculty.

(j) Budget for resident and non-resident students.

(k) Tuition and fee Schedule.

(l) Audit/financial management system information.

(m) Certification by IPA or cognizant audit agency of applicant's financial management system.

(n) If applicable, document verifying a 50 per cent rate of graduation of students from the FY 1993 funding round.

2. Certifications and Exhibits

Applications must also include the following:

(a) Drug-Free Workplace Certification.

(b) Certification prohibiting excessive force against nonviolent civil rights demonstrators, pursuant to 42 U.S.C. 5304 (applies only to applicants that are units of general local government).

(c) Certification on HUD Form 2880, Applicant/Recipient Disclosure, Update Report, disclosing receipt of at least $200,000 in covered assistance during the fiscal year, pursuant to 24 CFR part 12, subpart C, Accountability in the Provision of HUD Assistance.

(d) Disclosure of Lobbying Activities on SF-LLL must be used to disclose lobbying with other than Federally appropriated funds at the time of application if the applicant deems it applicable.

J. Corrections to Deficient Applications

After the submission deadline date, HUD will screen each application to determine whether it is complete. If an application lacks certain technical items or contains a technical error, such as an incorrect signatory, HUD will notify the applicant in writing that it has 14 calendar days from the date of HUD's written notification to cure the technical deficiency. If the applicant fails to submit the missing material within the 14-day cure period, HUD may disqualify the application.

This 14-day cure period applies only to non-substantive deficiencies or errors. Any deficiency capable of cure will involve only items not necessary for HUD to assess the merits of an application against the factors specified in this NOFA.

K. Other Matters:

1. *Federalism Impact* The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies and procedures contained in this notice will not have substantial direct effects on States or their political subdivisions, or the relationship between the federal government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the notice is not subject to review under the Order.

2. *Impact on the Family* The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that this notice will likely have a beneficial impact on family formation, maintenance, and general well-being. Accordingly, since the impact on the family is beneficial, no further review is considered necessary.

3. Accountability in the Provision of HUD Assistance

HUD has promulgated a final rule to implement section 102 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act). The final rule is codified at 24 CFR part 12. Section 102 contains a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD.

On January 16, 1992, HUD published at 57 FR 1942, additional information that gave the public (including applicants for, and recipients of, HUD assistance) further information on the implementation, public access, and disclosure requirements of section 102. The documentation, public access, and disclosure requirements of section 102 are applicable to assistance awarded under this NOFA as follows:

a. *Documentation and Public Access.* HUD will ensure documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these requirements.)

b. *HUD responsibilities—disclosures.* HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than three years. All reports, both applicant disclosures and updates, will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. (See 24 CFR part 12, subpart C, and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.)

c. *State and unit of general local government responsibilities—disclosures.* States and units of general government receiving assistance under this NOFA must make all applicant disclosure reports available to the public for three years. Required update reports must be made available along with the applicant disclosure reports, but in no case for a period less than three years. Each State and unit of general local government may use HUD Form 2880 to collect the disclosures, or may develop its own form. (See 24 CFR part 12, subpart C, and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942) for further information on these disclosure requirements.)

4. Prohibition Against Advance Information on Funding Decisions

HUD's regulation implementing section 103 of the HUD Reform Act, codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants.

HUD employees involved in the review of applications and in the making of funding decisions are restrained by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Office of Ethics (202) 708–3815 (voice), (202) 708–1112 (TTY). (These are not toll-free numbers.) For HUD employees who have specific program questions, such as whether particular subject matter can be discussed with persons outside the Department, the employee should contact the appropriate Field Office Counsel or Headquarters Counsel for the program to which the question pertains.

5. Prohibition Against Lobbying Activities

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of Section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990

(31 U.S.C. 1352) and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of federal contracts, grants, or loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients, and subrecipients of assistance exceeding $100,000 must certify that no federal funds have been or will be spent on lobbying activities in connection with the assistance.

7. The information collection requirements contained in this NOFA have been approved by the Office of Management and Budget (OMB), under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB control number 2535–0084.

8. The assistance under this NOFA is categorically excluded from review under the National Environmental Policy Act, pursuant to 24 CFR 50.20(b).

L. The Catalog of Federal Domestic Assistance Program

The Catalog of Federal Domestic Assistance Number is 14.234.

Authority: 42 U.S.C. 5301–5320; 42 U.S.C. 3535(d); 24 CFR 570.402.

Dated: March 13, 1996.

Michael A. Stegman,

Assistant Secretary for Policy Development and Research.

[FR Doc. 96–6886 Filed 3–21–96; 8:45 am]

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federal register

Friday
March 22, 1996

Part III

Department of Housing and Urban Development

24 CFR Part 885, et al.

Supportive Housing for the Elderly and Persons With Disabilities; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 885, 889, 890, and 891

[Docket No. FR–3941–F–01]

RIN 2502–AG51

Office of the Assistant Secretary for Housing—Federal Housing Commissioner; Supportive Housing for the Elderly and Persons With Disabilities

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This rule represents the final rulemaking for HUD's Section 202 Program of Supportive Housing for the Elderly and the Section 811 Program of Supportive Housing for Persons with Disabilities, both of which HUD has previously implemented through several interim rules. As part of President Clinton's regulatory reinvention initiative, this final rule also consolidates and streamlines the regulations for these two programs in order to make them easier to use and understand. This rule also eliminates obsolete regulations from 24 CFR part 885 regarding the Loans for Housing for the Elderly or Handicapped Program, and moves the remaining provisions to a subpart within the consolidated supportive housing regulations. Furthermore, information that is also in the statute or that should be more appropriately placed in the program handbook or in Notices of Funding Availability (NOFAs) has been deleted from the regulations.

EFFECTIVE DATE: April 22, 1996.

FOR FURTHER INFORMATION CONTACT: Linda Cheatham, Director, Office of Multifamily Housing Development, Department of Housing and Urban Development, 451 Seventh Street SW., Room 6134, Washington, DC 20410, telephone (202) 708–3000. (This number is not toll-free.) Hearing- or speech-impaired persons may access that number by calling toll-free the Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

A. Loans for Housing for the Elderly or Handicapped; Part 885

Under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and the regulations at 24 CFR part 885, HUD provided direct Federal loans to assist private, nonprofit corporations and nonprofit consumer cooperatives in the development of housing projects serving elderly or handicapped families and individuals. Loans made under part 885 were used to finance the construction or substantial rehabilitation of projects for elderly or handicapped families, or to finance the acquisition with or without moderate rehabilitation of existing housing and related facilities for group homes for nonelderly handicapped individuals.

HUD published two interim rules in the **Federal Register** on June 12, 1991 (56 FR 27070, 27104) establishing the Section 811 Program of Supportive Housing for Persons with Disabilities (24 CFR part 890) and the Section 202 Program of Supportive Housing for the Elderly (24 CFR part 889). The interim rule for the Section 202 Program (56 FR 27104) also amended part 885 and provided that part 885 would continue to apply to projects for which Section 202 loan reservations were made in Fiscal Year (FY) 1990 and prior years. The rule further provided, however, that projects for the elderly selected for funding in FY 1991 and subsequent years would be covered by part 889. Since no new projects are being funded under the regulations in part 885, many of the provisions in that part that do not apply to the continued management of the projects are unnecessary, and HUD can remove them from the Code of Federal Regulations.

Therefore, this final rule removes several definitions from § 885.5. Second, this rule eliminates §§ 885.200 through 885.405 and § 885.415 regarding projects that received reservations under section 202 of the Housing Act of 1959 and housing assistance under section 8 of the United States Housing Act of 1937 (202/8 projects). No new 202/8 projects will be funded, and all of the projects have either closed or been converted to capital advances under either part 889 or part 890. Third, this rule eliminates many sections in subpart C of part 885 regarding projects for nonelderly handicapped families receiving reservations under section 202 and project assistance payments under section 202(h) of the Housing Act of 1959 (202/162 projects). No new 202/162 projects will be funded, and all existing 202/162 projects have closed or have been converted to capital advances under part 890. Fourth, this rule will also remove other definitions and provisions from part 885 that are merely explanatory or duplicative. Lastly, this rule moves the remaining provisions from part 885 to subpart E of the new streamlined regulations for the supportive housing programs.

B. June 12, 1991 Interim Rules

On June 12, 1991, HUD published in the **Federal Register** two interim rules, one for the Section 202 Program of Supportive Housing for the Elderly (56 FR 27104) and one for the Section 811 Program of Supportive Housing for Persons with Disabilities (56 FR 27070). The interim rule for the Section 202 Program (56 FR 27104) provided for the continued applicability of part 885 to projects for which Section 202 loan reservations had been made in fiscal year (FY) 1990 and prior years, and to add part 889 establishing the new Section 202 Program of Supportive Housing for the Elderly and enabling FY 1991 funding for the program. The interim rule for the Section 811 Program (56 FR 27070) added a new part 890 establishing the new program for persons with disabilities. These two interim rules contained very similar provisions. As stated in the preambles to both rules (56 FR 27070, 27104), HUD intended to establish additional requirements for the supportive housing programs in separate rules.

HUD received 19 comments on the interim rule for the Section 202 Program, and 24 comments on the interim rule for the Section 811 Program. HUD responded to some objections raised by commenters by changing the program requirements in the subsequent interim rules discussed below. The following discussion summarizes the other comments and provides HUD's responses to those comments.

1. Definition of "Acquisition"

One commenter objected to the definition of "acquisition" in the interim rule for the Section 811 Program (§ 890.105 of the interim rule; § 891.305 of this final rule). This definition provides that property other than from the Resolution Trust Corporation (RTC) is only eligible for acquisition if at least three years have elapsed from the completion of the project or the beginning of occupancy to the date of application. The commenter argued that HUD should eliminate this limitation, since it is beyond the intent of the statute and it denies the opportunity for acquisition of newer properties except through the RTC.

HUD Response: HUD agrees and is removing the three year requirement. Furthermore, HUD is removing the prohibition against acquiring property to use as independent living facilities. Previously, acquisition without rehabilitation was limited to group homes and property from the Resolution Trust Corporation.

2. Definition of "Independent Living Facility"

Three commenters objected to the definition of "independent living facility" in § 890.105 of the interim rule for the Section 811 Program. The definition limits projects for persons with chronic mental illness to occupancy by 20 such persons. The commenters argued that the statutory definition allows 24 persons, and makes no distinction between persons with chronic mental illness and other persons with disabilities. Some of the commenters argued that such a distinction by HUD is a violation of the Fair Housing Act and section 504 of the Rehabilitation Act of 1973. One of the commenters also objected to allowing projects up to 40 persons, arguing that this is an "inappropriately large upper limit" that will result in the segregation of persons with disabilities. However, the other commenter argued that the smaller number of persons permitted in facilities for persons with chronic mental illness will increase costs and make it more difficult to develop such facilities in large urban areas.

HUD Response: Congress originally set the project size limit for independent living facilities at 20 persons. Although an amendment to the statute increased the project size limit to 24 persons (Pub. L. 102–27; approved April 10, 1991) (42 U.S.C. 8013(k)(4)), HUD chose to retain the 20 person limit for independent living facilities for persons with chronic mental illness. In FYs 1993, 1994, and 1995, however, HUD decided that the project size limit for independent living facilities would be 24 persons regardless of the disabled population being served. HUD intends to retain this limit in future funding cycles. In response to the commenter who objected to allowing projects up to 40 persons, HUD intends to remove the upper limit on exceptions to the project size limits in the next Notice of Funding Availability to allow this determination to be made at the local level.

3. Definition of "Person With Disabilities"

One commenter objected to the definition of "person with disabilities" in the interim rule for the Section 811 Program (§ 890.105 of the interim rule; § 891.305 of this final rule), which excludes persons whose sole impairment is alcoholism or drug addiction. This commenter argued that this definition is contrary to the Fair Housing Act, which protects persons disabled by alcoholism or substance abuse (although not those who currently and illegally use or are addicted to controlled substances).

HUD Response: HUD has consistently used a definition of "person with disabilities" for the Section 811 Program and its predecessor, the Section 202 Program, that excludes persons whose sole impairment is alcoholism or drug addiction. In other words, drug or alcohol addiction alone is not a qualifying condition for occupancy in Section 811 housing. Alcohol or drug addiction would not disqualify a person, however, as long as the person meets the required three-pronged test for eligibility as a person with a disability (i.e., physical, mental, or emotional impairment is of long-continued and indefinite duration, the impairment substantially impedes the person's ability to live independently, and the person's ability to live independently could be improved by more suitable housing conditions).

4. Definition of "Sponsor"; Prohibited Relationships

One commenter suggested that the regulations for these programs be changed to allow management contracts between the Owner and the Sponsor or its nonprofit affiliate or wholly-owned for-profit subsidiary. This commenter, who sponsors Section 202 and Section 811 projects, asserts that the for-profit nature of its subsidiary has meant that the housing needs of more people are fulfilled, since the net profits of the subsidiary go back into the nonprofit Sponsor.

This commenter also objects to the provisions in the interim rules that no officer or director of the Sponsor is permitted to have any financial interest in any contract with the Owner in connection with the rendition of services. This commenter describes a situation in which the Owner's attorney is also an unpaid board member. This arrangement is desirable because it allows the organizations to take advantage of the attorney's unique expertise. However, under the definition of "Sponsor," the attorney's fees can no longer be paid from project funds.

Another commenter asserted that these regulations make it virtually impossible for Sponsors to pay for project management costs, eliminating the benefits of repeat participation by experienced nonprofit developers. Specifically, this commenter suggests that HUD allow Sponsors to receive consultant fees, so that qualified Sponsors that perform such services can be compensated accordingly.

HUD Response: The handbooks for the Section 202 and Section 811 Programs provide exceptions to these provisions by permitting the Sponsor or its nonprofit affiliate to contract for a fee with the Owner to provide management services and/or supportive services. Furthermore, attorney's fees can be paid from project funds, unless the attorney is an officer or board member of the Sponsor or Owner. The same restriction that applies to other development team members also applies to attorneys. As part of HUD's efforts to simplify the Section 202/811 development process, this rule eliminates the housing consultant's fee in lieu of a developer's fee from which the Owner can pay the Sponsor for consulting services.

5. Project Standards for Group Homes

With regard to § 890.210(b) of the interim rule for the Section 811 Program (§ 891.310(a) of this final rule), one commenter remarked that it may be impossible to meet the space per resident requirements within the development cost limits. Another commenter requested clarification on the provision requiring that a project involving acquisition comply with applicable State requirements. In the absence of such requirements, the project must comply with standards as described in the interim rule (§ 890.210(b) of the interim rule; § 891.310(a) of this final rule). This commenter asked whether HUD's standards apply if they are greater than the State's standards, and if so this commenter requested HUD to state this clearly in the regulations. The commenter also requested HUD to state clearly that in no case must a project comply with State standards in violation of the Fair Housing Act.

HUD Response: During the past five years of program operation, HUD is not aware of Sponsors having difficulty in meeting the space per resident requirements within the development cost limits. In the near future, HUD will be closely examining the development cost limits to ensure that they are reflective of their respective localities. Previously, if the fund reservation was not adequate to support the development of the project, an amendment to the fund reservation would be made for HUD-approved expenses up to the maximum amount allowable. Although there will still be amendments to the fund reservation, with this final rule, amendments will be available only after initial closing. In response to the commenter asking for clarification regarding whether HUD's standards apply to acquisition projects if they are greater than applicable State requirements, § 891.310 of this final rule requires that the project at least meet applicable State requirements if they

exist, and if they do not, the project must meet the HUD requirements. The purpose of this provision is to permit flexibility in the group home standards when complying with the HUD requirements may prove to be cost prohibitive. In regard to the request from the same commenter for a statement that in no case must a project comply with State standards in violation of the Fair Housing Act, HUD feels that such a statement is unnecessary since participation in the program requires a Sponsor to certify that it will comply with the requirements of the Fair Housing Act and implementing regulations.

6. Limits on Number of Units

Three commenters objected to the provision of the interim rule for the Section 202 Program limiting to 10 percent of the national allocation the number of units for which national organizations can apply (§ 889.215 of the interim rule; § 891.215 of this final rule). The commenters argued that this limitation is arbitrary, not required by statute, and contrary to the goal of producing the highest quality housing. Applications should be funded on merit and local need. One commenter suggested that if limits are absolutely necessary, this section should be revised so that the limit only applies if there are at least 10,000 units being allocated for the program that year. Furthermore, HUD should base the limits on the number of units awarded, rather than the number of units for which the Sponsor is applying. Finally, HUD should waive this requirement if there are no suitable competing applicants in a particular region.

HUD Response: The limit on the number of Section 202 units for which national organizations can apply was established to ensure that organizations that are not national in scope would have a more equitable opportunity to participate in the program. Contrary to the opinion of the commenter, applications are funded based on merit and local need. However, without a limit on the number of units that national organizations can apply for, these organizations have a competitive edge over qualified non-national organizations. This results in a possible tendency to dominate the program. Although HUD intends to continue placing a limit on the number of Section 202 units a national organization can apply for, the requirement will be in the Notice of Funding Availability published in the **Federal Register** once Congress appropriates Section 202 funds to HUD. Therefore, this final rule deletes the limit from the regulations.

7. Project Eligibility and Size Limits

Seven commenters requested additional guidance with regard to the interim rule for the Section 811 Program, under which eligible projects include dwelling units in multifamily housing developments, condominiums, and cooperatives (§ 890.215(a)(3) of the interim rule). These commenters argued that one of the core goals of the National Affordable Housing Act was to expand available housing options beyond group homes and independent living facilities. Therefore, HUD should provide guidance as to the applicability of the requirements of each section of the interim rule to the newly available options. One commenter specifically asked for guidance with regard to limits on the number of dwelling units within multifamily developments and limits on the number of persons who may reside in such units.

Another commenter suggested that, in order to encourage independent and integrated housing for persons with disabilities, the regulations should not require the Sponsor to notify the municipality in the case of acquisition of individual dwelling units in multifamily developments, condominiums, and cooperatives.

Three commenters suggested that HUD develop strict guidelines for waiving the project size limits of the Section 811 rule (§ 890.215(c) of the interim rule). Several commenters asserted that allowing the development of larger facilities through a waiver of the size limits is contrary to the goal of providing quality services and an integrated living environment. The other commenter suggested that HUD require Sponsors to demonstrate thoroughly the necessity for such an exception to the size limits. For instance, HUD should require the Sponsor to demonstrate that there is no other residential site within a reasonable distance that would make a smaller project feasible. However, one commenter argued that rather than making these waivers harder to obtain, HUD should make them easier to obtain by expediting its review and approval of such waivers.

HUD Response: In response to the seven commenters that requested guidance as to the applicability of each section of the interim rule to the newly available options of dwelling units in multifamily housing developments, condominiums, and cooperatives, HUD has determined that detailed information concerning these housing options would be more appropriate in a handbook and intends to issue a revised handbook in the near future.

In response to the commenter that suggested that the Sponsor not be required to notify the municipality when acquiring dwelling units in multifamily developments, condominiums, and cooperatives in order to encourage independent and integrated housing for persons with disabilities, HUD does not find that notifying the municipality will have any negative impact on integrating persons with disabilities. The units will be dispersed within the structure and thus will be difficult to identify as housing for disabled persons.

In response to the comments on exceptions to project size limits, HUD has decided to eliminate from the regulation the section on project size limits and exceptions. This information will appear in the annual Notice of Funding Availability (NOFA). However, since HUD published the last interim rule, HUD has expanded the criteria required for Sponsors to request a waiver of the project size limits by adding that the Sponsor must demonstrate why the site was selected, as well as how the size of the project is consistent with State and/or local policies governing similar facilities for the proposed population. Furthermore, HUD intends to remove the upper limits on the number of units that can be requested so that the size of the project can be determined more appropriately at the local level.

8. Design and Cost Standards

This provision of the interim rules (§ 891.120(c) of this final rule) provided that HUD would not fund certain amenities, such as washers and dryers in individual units. One commenter objected, arguing that easily accessible washers and dryers do not represent excessive costs, but rather are especially important for older and frailer persons. This commenter also noted that the failure to provide individual laundry facilities may increase service costs for those unable to carry their laundry to distant facilities. Several other commenters remarked that features such as washers and dryers are considered standard features in most new housing today, and many of the excluded amenities can materially contribute to the independence of a person with disabilities. These commenters argued that Sponsors should be allowed to provide these amenities if they can do so within the cost limits.

HUD Response: Section 202 and Section 811 projects must be modest in design. Therefore, there are certain amenities such as atriums, bowling alleys, and swimming pools, that are considered excessive and are not eligible to be paid for out of the capital advance (§ 891.120(c)). However, there is no prohibition against the Sponsor including certain excess amenities as long as they pay for them from other sources.

One commenter also objected to § 890.220(b) in the interim rule for the Section 811 Program, which provides that HUD will establish limits on unit sizes and number of bathrooms for independent living facilities. This commenter remarked that such specifications have caused costly delays in construction, and that HUD should be more flexible and result-oriented. HUD should focus on enforcing the development cost limits and the incentives for savings, as well as the minimum construction and space standards, rather than on design and cost standards.

HUD Response: If the project is to be newly constructed and designed from the beginning according to the maximum unit sizes and number of bathrooms, HUD disagrees with the commenter that this requirement could cause costly delays in construction. If the project is to be rehabilitated, there is flexibility in meeting this requirement when complying with the limitations would be too costly. Also, if the Sponsor can develop the project with larger sized units and more bathrooms within the appropriate development cost limit the Sponsor is permitted to do so. The Sponsor can also pay for the extra space and the associated operating cost with funds from other sources. The reference to unit size and number of bathrooms for independent living facilities will be in the handbook and not in the regulation.

9. Site and Neighborhood Standards

Two commenters objected to the provision of the interim rule for the Section 811 Program (§ 890.230(g) of the interim rule; § 891.320(b) of this final rule) that prohibits developing projects adjacent to certain types of facilities, such as schools or other housing primarily for persons with disabilities. One of these commenters argued that persons with disabilities might need to be close to such supportive services, and developing a project on a site near such services would decrease the cost of service delivery. This commenter noted that HUD considers the proximity or accessibility of such services as a selection criterion for funding (§ 890.300(c)(6)(i)(A) of the interim rule). The other commenter warned that this requirement contradicts the Fair Housing Amendments Act of 1988, and that it fuels potential community opposition by allowing opponents to protest that their area is "concentrated" with other facilities for persons with disabilities.

HUD Response: HUD has determined that the location of the project should be decided at the local level, and therefore has relaxed the requirement in § 891.320(b) of this final rule by indicating that projects "should" rather than "must" be located in neighborhoods where other family housing is located, and "should not" rather than "may not" be located adjacent to certain facilities. However, the statute still prohibits more than one group home from being located on one site, as well as a group home from being located on a site contiguous to another site containing such a home.

10. Development Cost Limits

HUD received many comments on this provision of both interim rules. One commenter remarked that the development cost limits are "woefully inadequate." Three commenters objected to the calculation of the development cost limits under the interim rules. These commenters asserted that HUD offices are instructed not to add an additional 10 percent for Costs Not Attributable, and this will result in lower maximum cost limits. They reminded HUD to ensure that the High Cost Factors are truly reflective of costs in the area, as is required by the conference report on the National Affordable Housing Act.

Three commenters objected to the development cost limits for the acquisition without rehabilitation of properties from the Resolution Trust Corporation (RTC). The interim rules provided that in the case of RTC properties that require no rehabilitation, the cost limits are reduced to 85 percent of the limits listed in the rule. These commenters asserted that there is no statutory basis for this reduction and that the reduction will effectively eliminate these properties as viable options.

Five commenters remarked that the interim rule for the Section 811 Program provides no guidance on development cost limits for dwelling units in multifamily housing, condominiums, or cooperatives.

HUD Response: HUD will review the development cost limits, which have been deleted from this final rule, to ensure that they adequately reflect the cost of developing similar housing in the locality. HUD will establish the development cost limits and all future changes to them through a notice in the **Federal Register**.

Although there is no statutory basis for the lower development cost limit for properties acquired from the RTC that will not need any rehabilitation, the 85 percent limit is justified since properties can be obtained less expensively from the RTC than they can from the private market.

The reason that the interim rule for the Section 811 Program did not provide guidance on development cost limits for dwelling units in multifamily housing, condominiums, or cooperatives is that these housing types are considered independent living units, and therefore would use the appropriate development cost limit based upon the number and size of the units and whether or not the structure has an elevator.

In this section (§ 891.140 of this final rule), HUD has provided incentives for savings by providing that Owners whose actual development costs are less than the initial fund reservation for the capital advance will retain 50 percent of this savings in their Replacement Reserve Account. The Owner will retain 75 percent of this savings by adding energy efficiency features. One commenter asked for further details concerning which energy efficiency features will satisfy this incentive.

Six commenters remarked on the retention of the savings in the Replacement Reserve Account, the funds in which may only be used for repairs or replacements in or capital improvements of the project. These commenters requested that HUD provide greater flexibility in the use of these savings. The commenters suggested HUD change the regulations in one of the following ways: relax the requirements for the use of at least a portion of the funds in the Replacement Reserve Account; retain the funds in the Residual Receipts Account; or split the funds between the two accounts, so that the funds can be used for resident services after all repair needs have been met. One commenter further recommended that HUD's share of the savings should be placed in a special account to provide needed repairs and modernization for those Section 202 projects with no reserves on which to draw.

HUD Response: HUD will give further details concerning which energy efficiency features will satisfy the incentive to retain 75 percent of the savings in the program handbook.

In response to the request that HUD allow more flexibility in the use of the savings, HUD believes that the appropriate account for any savings received is the Replacement Reserve Account since there are no other funds provided for needed repairs and maintenance. The Residual Receipts Account is used for other purposes. The

statute specifically states that if there are savings, HUD retains 50 percent; it does not permit HUD's share to be folded back into the project.

11. Term of Commitment

Two commenters expressed concern that although HUD requires that housing assisted under both programs remain available to very low-income elderly persons and persons with disabilities for 40 years (480 months), the initial contract for project rental assistance shall be for 240 months, with an extension of not less than 60 months. This commenter suggests that the regulations provide for contract extensions for not less than 240 months, since rental assistance will be required in order to ensure the housing is available.

HUD Response: HUD recognizes that project rental assistance funds will be necessary to keep the Section 202 and Section 811 projects viable for 40 years. However, in these times of uncertainty and extreme budget constraints, HUD is unable to extend contracts for project rental assistance for an additional 240 months. In fact, in the FY 1995 funding cycle, HUD was permitted to reserve project rental assistance contract (PRAC) funds for only 60 months as opposed to the usual 240 months. HUD will do all it can to assure that residents of Section 202 and Section 811 housing will continue to receive rental assistance as long as they remain eligible.

12. Other Financing Sources

Two commenters remarked on HUD's statement in the preamble to the interim rule for the Section 202 Program (56 FR 27105) that HUD would generally not accept borrowed funds from other sources. These commenters suggested that HUD remove this limitation and allow Owners to use such funds, since Congress intended to encourage mixed financing (17 U.S.C. 1701q(h)(6)). One commenter suggested that local HUD offices have the ability to approve such loans, especially "soft loans" or secured grants to ensure program compliance, and that the regulations should set general parameters on the loan terms.

HUD Response: Owners are permitted to use borrowed funds from other sources in the case of secondary financing. Field offices must review requests for approval of secondary financing, and provided the documents meet HUD requirements, they will be approved.

13. Owner Deposit (Minimum Capital Investment)

HUD received many comments on this provision of both interim rules (§ 891.145 of this final rule). These commenters remarked that this deposit requirement is a serious financial burden. The commenters further expressed concern that this provision penalizes Sponsors for delays that are often beyond the Sponsors' control or even HUD-related. Other delays are caused by having to obtain municipal approval, conduct archeological investigations, examine subsurface conditions for toxic leaks, conduct public hearings, and obtain a building permit.

The commenters offered several suggestions. One commenter suggested that HUD adopt an approval process that is more decentralized, more flexible, and result-oriented. Another commenter suggested that HUD should return the deposit once the project has closed and project viability is assured; such a provision would allow Sponsors to use the experience gained in previous projects in the development of subsequent projects. Another commenter suggested that HUD should treat the 18-month and 6-month time periods as targets, giving local offices the permission to extend the time periods based on determinations of individual circumstances. Two commenters suggested that any processing time by HUD offices in excess of the recommended times should be credited to the Sponsor as an extension. Another commenter suggested that if HUD is responsible for delaying the final closing beyond the 6-month time period (plus a 2-month extension), then HUD should return the full balance remaining in the Minimum Capital Investment. Finally, one commenter suggested that the funds that are returned should be placed in either the Replacement Reserve or Residual Receipts Accounts, at the Sponsor's option.

HUD Response: Although HUD appreciates the recommendations, HUD established the policies regarding the Minimum Capital Investment to provide an incentive for Owners to reach final closing early, and so far the policies are working. Therefore, HUD will not make any changes to these policies at this time.

14. Provision of Services

HUD received one comment requesting clarification on the provision in § 889.260(b)(3) of the interim rule for the Section 202 Program (§ 891.225 of this final rule) regarding the $15 per unit per month service cost allowance. This commenter inquired whether the funding for the service coordinator is different from or included in this $15 per unit per month service allowance. Three commenters expressed concern that $15 may be an insufficient service allowance for frail elderly persons. One of these commenters suggested that more money be allocated for service subsidies. The other commenter suggested that HUD revise the dollar amount if it should prove to be insufficient, and at least annually to reflect the changing cost of services. The third commenter recommended that a copayment by the tenant receiving the service should only be voluntary; since these tenants will have low incomes, they may not have sufficient funds for all their needs.

Two commenters encouraged HUD to allow a $15 per unit operating cost under the Section 811 Program as well as under the Section 202 Program, since operating costs for housing for persons with disabilities may often be equal to or greater than those for elderly persons.

HUD Response: The funding sources for service coordinators and the $15 per unit per month service allowance are separate. The amount of $15 per unit per month was determined based upon HUD's experience with the Congregate Housing Services Program. At this time HUD has not had sufficient experience with the service allowance in the Section 202 Program to determine whether the amount of $15 per unit per month is sufficient. The Section 811 statute does not provide for any HUD funding for supportive services.

15. Service Coordinator Funds in Housing for Frail Elderly Persons

Several commenters objected to HUD's decision that the only developments that can receive service coordinator funding under the Section 202 Program are those in which more than 50 percent of the residents are "frail." First, as one commenter asserted, the service coordinator is instrumental in assessing clients to determine frailty. Further, another commenter cited surveys indicating that approximately 25 percent of the residents in subsidized senior housing will require services. Requiring twice that number of frail elderly tenants will overwhelm management, even with a service coordinator. It will also lead to an undesirable balance of "well to frail" residents. The commenters argued that service coordinators are essential to every development, and therefore HUD should provide service coordinator funds for all developments regardless of the number of "frail" elderly tenants.

One commenter expressed concern regarding the assessment of the occupants' abilities (with regard to the "activities of daily living") at the time the Sponsor is developing its supportive services plan and the rest of its application. According to the nondiscrimination requirements, such as section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, this commenter asserts that it will be legally impossible to make such determinations in advance. The commenter suggested that HUD require a statement from the Sponsor certifying its intent to assess the physical characteristics and abilities of the tenants following initial rent-up. At that time the Sponsor would have a clear idea of the number of tenants needing services and how to deliver those services.

HUD Response: In response to the objection that only projects with at least 50 percent frail elderly persons are eligible for service coordinator funding, the actual requirement is that projects principally serving the frail elderly are eligible for service coordinator funding. Limited funds should be provided where there is the most need. In other projects that do not qualify for service coordinator funding, management assumes many of the same functions as a service coordinator.

The requirement to assess occupants' abilities with regard to the activities of daily living at the time the Sponsor is developing its supportive services plan and application does not violate section 504 or the Americans with Disabilities Act because the requirement is to assess in general the abilities of potential occupants from the general population.

16. Housing Only Independent Persons

With regard to the elderly program, one commenter objected that HUD has created a loophole by allowing Sponsors to provide no supportive services by housing all fully independent persons. This commenter cited a draft of HUD's training materials providing that "if the applicant is not going to provide services, it only needs to justify market demand for fully independent elderly." The commenter argued that this may violate section 504 of the Rehabilitation Act of 1973, and it is contrary to the purpose of the Section 202 Program. The commenter suggested that HUD require all Sponsors to anticipate housing some elderly persons requiring services and to plan for the delivery of such services.

HUD Response: At the outset, a Sponsor may serve all fully independent elderly people. However, eventually many occupants will require services as they get older. Sponsors proposing to serve all fully independent elderly people initially must describe in their applications how they will address the service needs of their residents as they "age in place."

17. Provision of Services to Nonresidents

With regard to the Section 202 Program, the statute provides that HUD may permit the provision of services to elderly persons who are not residents, as described in the preamble to that interim rule (56 FR 27106). However, one commenter urged HUD not to allow the provision of services to nonresidents unless these recipients are very low-income, there is available funding to assist these persons, and the needs of current residents are fully met.

HUD Response: The Section 202 statute allows the Secretary to permit the provision of services to elderly persons and persons with disabilities who are nonresidents only if doing so will not adversely affect the cost-effectiveness or operation of the program or add significantly to the need for assistance.

18. Application Contents

HUD received several comments on the application requirements in the interim rules. Several commenters on the elderly program suggested that since many Area Agencies on Aging will serve as the primary services liaisons with any new Section 202 housing development, the regulations should strongly encourage their coordinated efforts during the application process under the elderly program.

Another commenter objected to the requirement in the interim rule for the Section 811 Program that Sponsors submit a certification from the appropriate State or local agency that it has reviewed the supportive services plan (§ 890.265(c)(19) of the interim rule). One commenter asserted that some State and local agencies have a "bias" against nonprofit organizations operating housing for the populations they also serve. Therefore, this commenter suggested that HUD allow the waiver of this requirement upon sufficient documentation that the supportive services plan is adequate.

Several commenters remarked on the requirement that sponsors describe their "ties to the community" (§ 890.265(c) of the interim rule). While this requirement could include evidence that the sponsor is a viable part of the community and evidence of the sponsor's ability to carry out the project, its past experience, and its financial and programmatic capability, these commenters argued that HUD cannot require statements of support or approval of the application by members of the community. The commenters argued that this may be an unnecessary and illegal requirement in violation of the Fair Housing Amendments Act of 1988.

HUD Response: This final rule removes the application contents from the regulations. Instead, HUD will include them in the annual NOFAs published in the **Federal Register** for the programs, as well as in a self-contained application. The requirement that Sponsors submit a certification from the appropriate State or local agency with a determination as to whether the supportive services plan is well designed to meet the needs of persons with disabilities is statutory and cannot be waived.

In response to the commenters who argued that HUD cannot require statements of support or approval of the application by members of the community, HUD revised this requirement in the interim rule published in the **Federal Register** on May 5, 1993. Since the effective date of that rule, applicants have been required to include in their applications statements of support for the proposed project from nongovernmental organizations that are familiar with the needs of the population the project would serve. For example, an applicant proposing to develop housing for people with chronic mental illness could include in their application a letter of support for the project from a local service provider that offers mental health services. Such letters of support help HUD determine the Sponsor's ties to the community and the amount of local support for the project, both of which are indicators of the project's potential sucess.

19. Review of Applications for Fund Reservation

Four commenters objected to the ranking and selection process described in the interim rule for the Section 811 Program (§ 890.300 (d) and (e) of the interim rule). Using this selection process, HUD would fund all approvable applications that contain evidence of control of an approvable site before it would fund any applications in which the Sponsor had identified the site but did not yet have control of the site. The commenters argued that this process makes all other selection criteria subordinate to control of the site at the time of application. This unduly restricts Sponsors from developing innovative housing opportunities, and HUD should instead balance site control with the other criteria.

HUD Response: In this final rule, HUD has removed the provisions on the ranking and selection process from the

regulation. These provisions will appear in the annual NOFAs for the programs. The statute requires HUD to use, as a selection criterion for the Section 811 program, the extent to which the applicant has site control. In order to implement this requirement, HUD created two categories of applications; Category A for those applicants with satisfactory evidence of an approvable site, and Category B for applicants that had identified a site. Priority in selection was given to Category A applicants. For the FY 1995 program, HUD changed the procedures by eliminating the categories in favor of awarding bonus points to applicants with satisfactory evidence of an approvable site. HUD believes this procedure satisfies the statutory requirement without making all other selection criteria subordinate. It does not unduly restrict Sponsors from developing innovative housing opportunities, but rather provides an incentive for Sponsors to lock-in suitable sites that will result in much needed housing being available for persons with disabilities sooner.

20. Cancellation of Fund Reservation

Two commenters suggested that if a project is cancelled, HUD should reallocate the funds to another application in the same region in which HUD had originally allocated them. This will fulfill the goal of balancing housing opportunities across the country. Another commenter remarked that HUD should at least inform the public of how HUD will reallocate the funds by including this information in the regulations.

HUD Response: The appropriations act in effect for the year in which a project is cancelled governs HUD's ability to recapture and reuse Section 202 and Section 811 contract authority.

21. OMB Circular A–110

In the preamble to the interim rules (56 FR 27073, 27107), HUD specifically requested comments regarding the use of OMB Circular A–110 entitled "Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations—Uniform Administrative Requirements." Three commenters responded that the use of this circular should not be required. These commenters explained that the development team concept is more appropriate for this program than the competitive procurement process. Two of the commenters explained that bidding would make it difficult for Sponsors to use professionals who are experienced in the program and who are willing to defer fees because of their relationship with Sponsors. The other commenter asserted that competitive procurement is more costly and time-consuming.

HUD Response: The Office of Management and Budget (OMB) has determined that OMB Circular A–110 does not apply to the section 202 and section 811 Programs.

C. August 12, 1992 Interim Rules

On August 12, 1993, HUD published in the **Federal Register** two more interim rules, one for the section 202 Program of Supportive Housing for the Elderly (57 FR 36338), and one for the section 811 Program of Supportive Housing for Persons with Disabilities (57 FR 36330). The August 12, 1992 interim rules provided guidance on the development of supportive housing, elements of which include requests for capital advance financing, approval of such requests, and repayment of a capital advance. These interim rules also provided guidance regarding project rental assistance contracts.

HUD received one request for information and one comment in response to the August 12, 1992 interim rules. The commenter requested that HUD allow for-profit corporations, as well as nonprofit organizations, to participate in the programs.

HUD Response: The section 202 and 811 statutes prohibit participation in the programs by for-profit corporations.

D. May 5, 1993 Interim Rules

On May 5, 1993, HUD again published in the **Federal Register** two interim rules, one for the section 202 Program of Supportive Housing for the Elderly (58 FR 26836) and one for the section 811 Program of Supportive Housing for Persons with Disabilities (58 FR 26816). As HUD described in the preambles to these interim rules, the rules incorporated amendments to the programs made by the Housing and Community Development Act of 1992. The interim rules also clarified and simplified many of the requirements in the regulations, including substantial improvements to the selection process.

HUD received eight comments in response to the May 5, 1993 interim rules. Several of the comments consisted of inquiries about specific aspects of the regulations. Many of the other commenters commended HUD on its efforts to clarify and simplify the application and selection process. However, two commenters objected to the change in the processes for Notices of Funding Availability (NOFAs). In the May 5, 1993 interim rules, HUD changed the NOFA process so that field offices would no longer publish Invitations for Applications in newspapers; the field offices must only notify media for minority persons, as well as media for elderly persons and persons with disabilities, as applicable. The commenters argued that this limits the availability of information about relatively new programs that will provide urgently needed housing opportunities.

HUD Response: HUD decided to eliminate the requirement that HUD field offices publish Invitations for Applications in newspapers because HUD could not afford to continue paying the advertising costs. However, each field office keeps a mailing list of organizations that are current customers, as well as those that have expressed an interest in the programs but that have not yet participated, and mails to each of them a copy of the NOFA as soon as it is published in the **Federal Register**.

E. March 2, 1995 Interim Rules

On March 2, 1995, HUD published in the **Federal Register** two more interim rules, one for each program (60 FR 11828, 11836). These rules provided guidance on managing supportive housing for the elderly or persons with disabilities. Specifically, these rules contained provisions regarding Owner responsibilities, tenant responsibilities, leases, security deposits, utility allowances, vacancy payments, and HUD reviews.

HUD received two comments on this set of interim rules. One commenter requested that HUD provide funds under other programs for elderly housing.

HUD Response: HUD does provide funds under other programs such as the Public Housing Program, the section 8 Rental Certificate and Housing Voucher Program and the section 232 Program for elderly housing.

The other commenter expressed two main concerns regarding civil rights issues. First, this commenter emphasized that the required receipt of supportive services may violate an individual's civil rights. Therefore, this commenter urged HUD to include language throughout the rule stressing that the available services are voluntary and are not a condition of admission or continued occupancy. Second, this commenter objected to the provision of "diagnosis-specific" housing, or housing for persons with similar disabilities or who require a similar set of supportive services, under the section 811 Program. The commenter argued that this type of housing is contrary to the goal of integration and general occupancy housing, and it fails to affirmatively further fair housing goals. The commenter urged HUD to limit the circumstances under which it will approve such housing.

HUD Response: HUD has been working with consumer advocacy organizations on revisions to the Section 811 program. One of the major issues of concern to consumers and organizations advocating on their behalf is the delinking of housing and supportive services. Although the acceptance of supportive services has never been required as a condition of occupancy in a Section 811 project, HUD has discovered that, in reality, just the opposite occurs. Therefore, in the NOFA for the FY 1995 Section 811 program, HUD stated that the acceptance of supportive services shall not be a condition of occupancy. This statement shall continue to appear in the NOFA for the Section 811 program and it will also be added to the handbook.

In regard to the commenter objecting to the provision of "diagnosis-specific" housing or housing for persons with similar disabilities or who require a similar set of supportive services, HUD's policy is that a Sponsor may design a supportive services package that is targeted to persons with similar disabilities such as persons with physical disabilities, developmental disabilities or chronic mental illness. With the Secretary's approval a Sponsor may design a supportive services package targeted at any subset within these three main categories (e.g., persons with mental retardation). This provision is in the Section 811 statute. In any Section 811 project, however, the Sponsor must permit occupancy by any qualified person with a disability who could benefit from the housing and/or services provided regardless of the person's disability.

F. The Fiscal Year 1995 Rescissions Act

The Fiscal Year 1995 Rescission Act (Pub. L. 104–19; approved July 27, 1995) provides in relevant part that in allocating the rescission of $1.115 billion of FY 1995 funds, the Secretary may reduce the appropriations needs of HUD by waiving any provision of section 202 of the Housing Act of 1959 and section 811 of the National Affordable Housing Act that the Secretary determines is not necessary to achieve the objectives of these programs. On January 30, 1996 (61 FR 3047), HUD published a notice in the **Federal Register** advising the public of the impact of the rescissions on the Section 202 and Section 811 Programs. As described in the notice, for projects funded in FY 1995, the Secretary reserved PRAC funds at 75 percent of the estimated project's total operating expenses to take into consideration estimated tenant contributions. The Secretary also extended eligibility to low-income households (in addition to very low-income households), waived the Federal preferences for admission, and reduced the term of the PRAC to 5 years. The PRAC funds reserved for projects funded in FYs 1993 and 1994 that had not gone to initial closing or had an Addendum to the Agreement to Enter into the Project Rental Assistance Contract (Forms HUD–90172–A-CA and HUD–90172–B-CA) alerting the Owner of HUD's right to reduce the PRAC reserved for the project at a later time were also reduced by 25 percent. However, the authority in the FY 1995 Rescissions Act to waive statutory provisions is limited to achieving the $1.115 billion rescission. Therefore, since the effects of the Rescissions Act are temporary, this final rule does not change the regulations to reflect the changes described in the January 30, 1996 notice.

II. Regulatory Reinvention

In response to Executive Order 12866 and President Clinton's memorandum of March 4, 1995 to all Federal departments and agencies on the subject of regulatory reinvention, HUD has reviewed all its regulations to determine whether certain regulations can be eliminated, streamlined, or consolidated with other regulations. As part of this review, HUD determined that since the substance of the regulations in 24 CFR parts 885, 889, and 890 was very duplicative, these parts could be consolidated and streamlined into one set of regulations. Therefore, this final rule creates a new part 891 in title 24 of the Code of Federal Regulations that will contain all the provisions for HUD's Supportive Housing Programs. Subpart A of part 891 will contain all the requirements that are similar in the programs. Subparts B and C of part 891 will contain requirements that are unique to the Section 202 and Section 811 programs, respectively. Subpart D will contain the project management provisions for the Section 202 and Section 811 programs. Finally, subpart E will contain the regulations necessary for the continued management of projects under the Loans for Housing for the Elderly or Handicapped Program.

In addition to consolidating similar provisions, this rule also removes provisions that are redundant of statutes or would more appropriately appear in program handbooks or annual Notices of Funding Availability (NOFAs). For example, many of the definitions in the regulations come directly from section 202 of the Housing Act of 1959 and section 811 of the National Affordable Housing Act. The provisions for the Elder Cottage Housing Demonstration Program are also redundant of the statute (section 806 of the Cranston-Gonzalez National Affordable Housing Act (Pub. L. 101–625; approved November 28, 1990). This final rule removes the redundant provisions and replaces them, as appropriate, with references to the statute. This final rule also removes the sections on application requirements, review and approval of applications, and the ranking and selection process. This information will instead appear in the NOFAs published in the **Federal Register** for these programs. As a result of this rule's consolidation and streamlining, HUD will eliminate approximately 92 pages of unnecessary regulations.

III. Lead-Based Paint

HUD is taking the opportunity, in this final rule, to update technical aspects of its lead-based paint requirements to conform with new recommendations of the Centers for Disease Control. For example, in §§ 891.155(g) and 891.325, HUD is changing the childhood age of concern from under 7 years of age to under 6 years. In § 891.325(b)(2), HUD is changing the definition of "elevated blood-lead level (EBL)," with respect to blood lead levels that require environmental intervention, from 25 ug/dl (micrograms per deciliter) to 20 ug/dl for a single test or 15–19 ug/dl for two consecutive tests several months apart. (See U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control, Preventing Lead Poisoning in Young Children, A Statement by the Centers for Disease Control, October 1991.)

Analysis of the need for additional changes to the lead-based paint requirements is being deferred until the publication of a separate proposed rule that would implement sections 1012 and 1013 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 and revise the lead-based paint requirements for all HUD programs. This proposed rule is in its final stages of development.

IV. Other Matters

Environmental Impact

At the time of publication of the interim rules for these programs, Findings of No Significant Impact with respect to the environment were made in accordance with HUD regulations at 24 CFR part 50 implementing section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). Those interim rules are being adopted

by this final rule without significant change in terms of environmental impact. Accordingly, the initial Findings of No Significant Impact remain applicable, and are available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the Office of the Rules Docket Clerk, 451 Seventh Street S.W., Room 10276, Washington, DC 20410–0500.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), the undersigned hereby certifies that this final rule does not have a significant economic impact on a substantial number of small entities. The program will provide capital advances to private nonprofit organizations and nonprofit consumer cooperatives to expand the supply of supportive housing for the elderly and to nonprofit organizations to expand the supply of supportive housing for persons with disabilities. Although small entities will participate in the program, the rule will not have a significant impact on them.

Executive Order 12606, The Family

The General Counsel, as the Designated Official for Executive Order 12606, *The Family*, has determined that the provisions of this final rule will not have a significant impact on family formation, maintenance, or general well-being, and thus is not subject to review under the Order. No significant change in existing HUD policies or programs will result from promulgation of this rule, as those policies or programs relate to family concerns.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12611, *Federalism*, has determined that the policies contained in this rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the rule is not subject to review under the Order.

List of Subjects

24 CFR Part 885

Aged, Individuals with disabilities, Loan programs—housing and community development, Low and moderate income housing, Reporting and recordkeeping requirements.

24 CFR Part 889

Aged, Capital advance programs, Grant programs—housing and community development, Loan programs—housing and community development, Low and moderate income housing, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 890

Capital advance programs, Civil rights, Grant programs—housing and community development, Individuals with disabilities, Loan programs—housing and community development, Low and moderate income housing, Mental health programs, Reporting and recordkeeping requirements.

24 CFR Part 891

Aged, Capital advance programs, Civil rights, Grant programs—housing and community development, Individuals with disabilities, Loan programs—housing and community development, Low and moderate income housing, Mental health programs, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, under the authority of 42 U.S.C. 3535(d), for the reasons stated in the preamble, 24 CFR chapter VIII is amended as set forth below:

PART 885—[REMOVED]

1. Part 885 is removed.

PART 889—[REMOVED]

2. Part 889 is removed.

PART 890—[REMOVED]

3. Part 890 is removed.

4. A new part 891 is added to read as follows:

PART 891—SUPPORTIVE HOUSING FOR THE ELDERLY AND PERSONS WITH DISABILITIES

Subpart A—General Program Requirements

Sec.
891.100 Purpose and policy.
891.105 Definitions.
891.110 Allocation of authority.
891.115 Notice of funding availability.
891.120 Project design and cost standards.
891.125 Site and neighborhood standards.
891.130 Prohibited relationships.
891.135 Amount and terms of capital advances.
891.140 Development cost limits.
891.145 Owner deposit (Minimum Capital Investment).
891.150 Operating cost standards.
891.155 Other Federal requirements.
891.160 Audit requirements.
891.165 Duration of capital advance.
891.170 Repayment of capital advance.
891.175 Technical assistance.

Subpart B—Section 202 Supportive Housing for the Elderly

891.200 Applicability.
891.205 Definitions.
891.210 Special project standards.
891.215 Limits on number of units.
891.220 Prohibited facilities.
891.225 Provision of services.
891.230 Selection preferences.

Subpart C—Section 811 Supportive Housing for Persons With Disabilities

891.300 Applicability.
891.305 Definitions.
891.310 Special project standards.
891.315 Prohibited facilities.
891.320 Site and neighborhood standards.
891.325 Lead-based paint requirements.

Subpart D—Project Management

891.400 Responsibilities of Owner.
891.405 Replacement reserve.
891.410 Selection and admission of tenants.
891.415 Obligations of the household or family.
891.420 Overcrowded and underoccupied units.
891.425 Lease requirements.
891.430 Termination of tenancy and modification of lease.
891.435 Security deposits.
891.440 Adjustment of utility allowances.
891.445 Conditions for receipt of vacancy payments for assisted units.
891.450 HUD review.

Subpart E—Loans for Housing for the Elderly and Handicapped

891.500 Purpose and policy.
891.505 Definitions
891.510 Displacement, relocation, and real property acquisition.
891.515 Audit requirements.

Section 202—Projects for the Elderly or Handicapped—Section 8 Assistance

891.520 Definitions applicable to 202/8 projects.
891.525 Amount and terms of financing.
891.530 Prepayment privileges.
891.535 Requirements for awarding construction contracts.
891.540 Loan disbursement procedures.
891.545 Completion of project, cost certification, and HUD approvals.
891.550 Selection preferences.
891.555 Smoke detectors.
891.560 HAP contract.
891.565 Term of HAP contract.
891.570 Maximum annual commitment and project account.
891.575 Leasing to eligible families.
891.580 HAP contract administration.
891.585 Default by Borrower.
891.590 Notice upon HAP contract expiration.
891.595 HAP contract extension or renewal.
891.600 Responsibilities of Borrower.
891.605 Replacement reserve.
891.610 Selection and admission of tenants.
891.615 Obligations of the family.
891.620 Overcrowded and underoccupied units.
891.625 Lease requirements.
891.630 Termination of tenancy and modification of lease.
891.635 Security deposits.
891.640 Adjustment of rents.
891.645 Adjustment of utility allowances.
891.650 Conditions for receipt of vacancy payments for assisted units.

Section 202—Projects for the Nonelderly Handicapped Families and Individuals—Section 162 Assistance

891.655 Definitions applicable to 202/162 projects.
891.660 Project standards.
891.665 Project size limitations.
891.670 Cost containment and modest design standards.
891.675 Prohibited facilities.
891.680 Site and neighborhood standards.
891.685 Prohibited relationships.
891.690 Other Federal requirements.
891.695 Operating cost standards.
891.700 Prepayment of loans.
891.705 Project assistance contract.
891.710 Term of PAC.
891.715 Maximum annual commitment and project account.
891.720 Leasing to eligible families.
891.725 PAC administration.
891.730 Default by Borrower.
891.735 Notice upon PAC expiration.
891.740 Responsibilities of Borrower.
891.745 Replacement reserve.
891.750 Selection and admission of tenants.
891.755 Obligations of the family.
891.760 Overcrowded and underoccupied units.
891.765 Lease requirements.
891.770 Termination of tenancy and modification of lease.
891.775 Security deposits.
891.780 Adjustment of rents.
891.785 Adjustment of utility allowances.
891.790 Conditions for receipt of vacancy payments for assisted units.

Authority: 12 U.S.C. 1701q; 42 U.S.C. 1437f, 3535(d), and 8013.

Subpart A—General Program Requirements

§ 891.100 Purpose and policy.

(a) *Purpose.* The Section 202 Program of Supportive Housing for the Elderly and the Section 811 Program of Supportive Housing for Persons with Disabilities provide Federal capital advances and project rental assistance under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) (section 202) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013) (section 811), respectively, for housing projects serving elderly households and persons with disabilities. Section 202 projects shall provide a range of services that are tailored to the needs of the residents. Owners of Section 811 projects shall ensure that the residents are provided with any necessary supportive services that address their individual needs.

(b) *General policy.* (1) *Supportive Housing for the Elderly.* A capital advance and contract for project rental assistance provided under this program shall be used for the purposes described in Section 202 (12 U.S.C. 1701q(b)).

(2) *Supportive Housing for Persons with Disabilities.* A capital advance and contract for project rental assistance provided under this program shall be used for the purposes described in Section 811 (42 U.S.C. 8013(b)).

(c) *Use of capital advance funds.* No part of the funds reserved may be transferred by the Sponsor, except to the Owner caused to be formed by the Sponsor. This action must be accomplished prior to issuance of a commitment for capital advance funding.

(d) *Amendments.* Subject to the availability of funds, HUD may amend the amount of an approved capital advance only after initial closing has occurred.

§ 891.105 Definitions.

The following definitions apply, as appropriate, throughout this part. Other terms with definitions unique to the particular program are defined in §§ 891.205, 891.305, and 891.505, as applicable.

Affiliated entities means entities that the field office determines to be related to each other in such a manner that it is appropriate to treat them as a single entity. Such relationship shall include any identity of interest among such entities or their principals and the use by any otherwise unaffiliated entities of a single Sponsor or of Sponsors (or of a single Borrower or of Borrowers, as applicable) that have any identity of interest themselves or their principals.

Annual income is defined in part 813 of this chapter. In the case of an individual residing in an intermediate care facility for the developmentally disabled that is assisted under title XIX of the Social Security Act and this part, the annual income of the individual shall exclude protected personal income as provided under that Act. For the purposes of determining the total tenant payment, the income of such individuals shall be imputed to be the amount that the household would receive if assisted under title XVI of the Social Security Act.

Household (eligible household) means an elderly or disabled household (as defined in §§ 891.205 or 891.305, respectively), as applicable, that meets the project occupancy requirements approved by HUD and, if the household occupies an assisted unit, meets the very low-income requirements described in § 813.102 of this chapter, as modified by the definition of annual income in this section.

Housing and related facilities means rental housing structures constructed, rehabilitated, or acquired as permanent residences for use by elderly or disabled households, as applicable. The term includes necessary community space. Except for intermediate care facilities for individuals with developmental disabilities, this term does not include nursing homes, hospitals, intermediate care facilities, or transitional care facilities. For the Loans for the Elderly and Persons with Disabilities Program, see § 891.505.

Low-income families shall have the same meaning provided in section 3(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437a).

National Sponsor means a Sponsor that has one or more Section 202 or one or more Section 811 project(s) under reservation, construction, or management in two or more different HUD geographical regions.

Operating costs means HUD-approved expenses related to the provision of housing and includes:

(1) Administrative expenses, including salary and management expenses related to the provision of shelter and, in the case of the Section 202 Program, the coordination of services;

(2) Maintenance expenses, including routine and minor repairs and groundskeeping;

(3) Security expenses;

(4) Utilities expenses, including gas, oil, electricity, water, sewer, trash removal, and extermination services. The term *"operating costs"* excludes telephone services for households;

(5) Taxes and insurance;

(6) Allowances for reserves; and

(7) Allowances for services (in the Section 202 Program only).

Project rental assistance contract (PRAC) means the contract entered into by the Owner and HUD setting forth the rights and duties of the parties with respect to the project and the payments under the PRAC.

Project rental assistance payment means the payment made by HUD to the Owner for assisted units as provided in the PRAC. The payment is the difference between the total tenant payment and the HUD approved per unit operating expenses except for expenses related to items not eligible under design and cost provisions. An additional payment is made to a household occupying an assisted unit when the utility allowance is greater than the total tenant payment. A project rental assistance payment, known as a "vacancy payment," may be made to the Owner when an assisted unit is vacant, in accordance with the terms of the PRAC.

Rehabilitation means the improvement of the condition of a property from deteriorated or substandard to good condition. Rehabilitation may vary in degree from the gutting and extensive reconstruction to the cure of substantial accumulation of deferred maintenance. Cosmetic improvements alone do not qualify as rehabilitation under this definition. Rehabilitation may also include renovation, alteration, or remodeling for the conversion or adaptation of structurally sound property to the design and condition required for use under this part, or the repair or replacement of major building systems or components in danger of failure. Improvement of an existing structure must require 15 percent or more of the estimated development cost to rehabilitate the project to a useful life of 55 years.

Replacement Reserve Account means a project account into which specified funds are deposited. Such funds may be used only with the approval of the Secretary for repairs, replacement, and capital improvements to the project.

Section 202 means section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), as amended, or the Supportive Housing for the Elderly Program authorized by that section.

Section 811 means section 811 of the National Affordable Housing Act (42 U.S.C. 8013), as amended, or the Supportive Housing for Persons with Disabilities Program authorized by that section.

Start-up expenses mean necessary costs (to plan a Section 202 or Section 811 project, as applicable) incurred by the Sponsor or Owner prior to initial closing.

Tenant payment to Owner equals total tenant payment less utility allowance, if any.

Total tenant payment means the monthly amount defined in, and determined in accordance with part 813 of this chapter.

Utility allowance is defined in part 813 of this chapter and is determined or approved by HUD.

Very low-income families shall have the same meaning provided in section 3(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437a).

§ 891.110 Allocation of authority.

In accordance with 24 CFR part 791, the Assistant Secretary will separately allocate the amounts available for capital advances for the development of housing for elderly households and for disabled households, less amounts set aside by Congress for specific types of projects, and for amendments of fund reservations made in prior years, for technical assistance, and for other contracted services.

§ 891.115 Notice of funding availability.

Following an allocation of authority under § 891.110, HUD shall publish a separate Notice of Funding Availability (NOFA) for the Section 202 Program of Supportive Housing for the Elderly and for the Section 811 Program of Supportive Housing for Persons with Disabilities in the **Federal Register**. The NOFAs will contain specific information on how and when to apply for the available capital advance authority, the contents of the application, and the selection process.

§ 891.120 Project design and cost standards.

In addition to the special project standards described in §§ 891.210 and 891.310, as applicable, the following standards apply:

(a) *Property standards.* Projects under this part must comply with HUD Minimum Property Standards, unless otherwise indicated in this part.

(b) *Accessibility requirements.* Projects under this part must comply with the Uniform Federal Accessibility Standards (See 24 CFR 40.7 for availability), section 504 of the Rehabilitation Act of 1973 and HUD's implementing regulations (24 CFR part 8), and for new construction multifamily housing projects, the design and construction requirements of the Fair Housing Act and HUD's implementing regulations at 24 CFR part 100. For the Section 811 Program of Supportive Housing for Persons with Disabilities, see additional accessibility requirements in § 891.310(b).

(c) *Restrictions on amenities.* Projects must be modest in design. Amenities not eligible for HUD funding include individual unit balconies and decks, atriums, bowling alleys, swimming pools, saunas, jacuzzis, and dishwashers, trash compactors, and washers and dryers in individual units in supportive housing for the elderly or in independent living facilities for persons with disabilities. Sponsors may include certain excess amenities but they must pay for them from sources other than the section 202 or 811 capital advance. They must also pay for the continuing operating costs associated with any excess amenities from sources other than the Section 202 or 811 project rental assistance contract.

(d) *Smoke detectors.* After October 30, 1992, each dwelling unit must include at least one battery-operated or hard-wired smoke detector, in proper working condition, on each level of the unit.

§ 891.125 Site and neighborhood standards.

All sites must meet the following site and neighborhood requirements:

(a) The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed, and adequate utilities (water, sewer, gas, and electricity) and streets must be available to service the site.

(b) The site and neighborhood must be suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, the Fair Housing Act, Executive Order 11063 (27 FR 11527, 3 CFR, 1958–1963 Comp., p. 652); as amended by Executive Order 12259, (46 FR 1253, 3 CFR, 1980 Comp., p. 307)); section 504 of the Rehabilitation Act of 1973, and implementing HUD regulations.

(c) New construction sites must meet the following site and neighborhood requirements:

(1) The site must not be located in an area of minority concentration (or minority elderly concentration under the Section 202 Program) except as permitted under paragraph (c)(2) of this section, and must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to nonminority residents (or minority elderly to nonminority elderly residents, under the Section 202 Program) in the area.

(2) A project may be located in an area of minority concentration (or minority elderly concentration, under the Section 202 Program) only if:

(i) Sufficient, comparable opportunities exist for housing for minority elderly households or minority disabled households, as applicable (or minority families, for projects funded under §§ 891.655 through 891.790), in the income range to be served by the proposed project, outside areas of minority concentration (see paragraph (c)(3) of this section for further guidance on this criterion); or

(ii) The project is necessary to meet overriding housing needs that cannot be met in that housing market area (see paragraph (c)(4) of this section for further guidance on this criterion).

(3) (i) *Sufficient* does not require that in every locality there be an equal number of assisted units within and outside of areas of minority concentration. Rather, application of this standard should produce a reasonable distribution of assisted units each year which over a period of several years will approach an appropriate balance of housing opportunities within and outside areas of minority concentration. An appropriate balance in any jurisdiction must be determined in light of local conditions affecting the range of housing choices available for very low-income minority elderly or disabled households, as applicable (or low-income minority families, for projects funded under §§ 891 655 through 891.790), and in relation to the racial mix of the locality's population.

(ii) Units may be considered to be *comparable opportunities* if they have the same household type (elderly or disabled, as applicable) and tenure type (owner/renter); require approximately the same total tenant payment; serve the same income group; are located in the same housing market; and are in standard condition.

(iii) Application of this sufficient, comparable opportunities standard involves assessing the overall impact of HUD-assisted housing on the availability of housing choices for very low-income minority elderly or disabled households, as applicable (or low-income minority families, for projects funded under §§ 891.655 through 891.790), in and outside areas of minority concentration, and must take into account the extent to which the following factors are present, along with any other factor relevant to housing choice:

(A) A significant number of assisted housing units are available outside areas of minority concentration.

(B) There is significant integration of assisted housing projects constructed or rehabilitated in the past ten years, relative to the racial mix of the eligible population.

(C) There are racially integrated neighborhoods in the locality.

(D) Programs are operated by the locality to assist minority elderly or disabled households, as applicable (or minority families, for projects funded under §§ 891.655 through 891.790), that wish to find housing outside areas of minority concentration.

(E) Minority elderly or disabled households, as applicable (or minority families, for projects funded under §§ 891.655 through 891.790), have benefitted from local activities (e.g., acquisition and write-down of sites, tax relief programs for homeowners, acquisitions of units for use as assisted housing units) undertaken to expand choice for minority households (or families) outside of areas of minority concentration.

(F) A significant proportion of minority elderly or disabled households, as applicable (or minority households, for projects funded under §§ 891.655 through 891.790), have been successful in finding units in nonminority areas under the Section 8 Certificate and Housing Voucher programs.

(G) Comparable housing opportunities have been made available outside areas of minority concentration through other programs.

(4) Application of the *overriding housing needs* criterion, for example, permits approval of sites that are an integral part of an overall local strategy for the preservation or restoration of the immediate neighborhood and of sites in a neighborhood experiencing significant private investment that is demonstrably changing the economic character of the area (a "revitalizing area"). An *overriding housing need*, however, may not serve as the basis for determining that a site is acceptable if the only reason the need cannot otherwise be feasibly met is that discrimination on the basis of race, color, creed, sex, or national origin renders sites outside areas of minority concentration unavailable, or if the use of this standard in recent years has had the effect of circumventing the obligation to provide housing choice.

(d) The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate, unless there is actively in progress a concerted program to remedy the undesirable conditions.

(e) The housing must be accessible to social, recreational, educational, commercial, and health facilities and services, and other municipal facilities and services that are at least equivalent to those typically found in neighborhoods consisting largely of unassisted, standard housing of similar market rents.

(f) For the Section 811 Program of Supportive Housing for Persons with Disabilities, the additional site and neighborhood requirements in § 891.320 apply.

§ 891.130 Prohibited relationships.

This section shall apply to capital advances under the Section 202 Program and the Section 811 Program, as well as to loans financed under §§ 891.655 through 891.790.

(a) *Conflicts of interest.* (1) Officers and Board members of either the Sponsor or the Owner (or Borrower, as applicable) may not have any financial interest in any contract with the Owner or in any firm which has a contract with the Owner. This restriction applies so long as the individual is serving on the Board and for a period of three years following resignation or final closing, whichever occurs later.

(2) The following contracts between the Owner (or Borrower, as applicable) and the Sponsor or the Sponsor's nonprofit affiliate will not constitute a conflict of interest if no more than two persons salaried by the Sponsor or management affiliate serve as nonvoting directors on the Owner's board of directors:

(i) Management contracts (including associated management fees);

(ii) Supportive services contracts (including service fees) under the Supportive Housing for the Elderly Program; and

(iii) Developer (consultant) contracts.

(b) *Identity of interest.* An identity of interest between the Sponsor or Owner (or Borrower, as applicable) and any development team member or between development team members is prohibited until two years after final closing.

§ 891.135 Amount and terms of capital advances.

(a) *Amount of capital advances.* The amount of capital advances approved shall be the amount stated in the notification of fund reservation, including any adjustment required by HUD before the final closing. The amount of the capital advance may not exceed the appropriate development cost limit.

(b) *Estimated development cost.* The amount of the capital advance may not exceed the total estimated development cost of the project (as determined by HUD), less the incremental development cost associated with excess amenities and design features to be paid for by the Sponsor under § 891.120.

§ 891.140 Development cost limits.

(a) HUD shall use the development cost limits, established by Notice in the **Federal Register** and adjusted by locality, to calculate the fund reservation amount of the capital advance to be made available to individual Owners. Owners that incur actual development costs that are less than the amount of the initial fund reservation shall be entitled to retain 50 percent of the savings in a Replacement Reserve Account. Such percentage shall be increased to 75 percent for Owners that add energy efficiency features.

(b) The Replacement Reserve Account established under paragraph (a) of this section may only be used for repairs, replacements, and capital improvements to the project.

§ 891.145 Owner deposit (Minimum Capital Investment).

As a Minimum Capital Investment, the Owner must deposit in a special escrow account one-half of one percent (0.5%) of the HUD-approved capital advance, not to exceed $10,000, to assure the Owner's commitment to the housing. Under the Section 202 Program, if an Owner has a National Sponsor or a National Co-Sponsor, the Minimum Capital Investment shall be one-half of one percent (0.5%) of the HUD-approved capital advance, not to exceed $25,000.

§ 891.150 Operating cost standards.

HUD shall establish operating cost standards based on the average annual operating cost of comparable housing for the elderly or for persons with disabilities in each field office, and shall adjust the standard annually based on appropriate indices of increases in housing costs such as the Consumer Price Index. The operating cost standards shall be developed based on the number of units. However, under the Section 811 Program and for projects funded under §§ 891.655 through 891.790, the operating cost standard for group homes shall be based on the number of residents. HUD may adjust the operating cost standard applicable to an approved project to reflect such factors as differences in costs based on location within the field office jurisdiction. The operating cost standard will be used to determine the amount of the project assistance initially reserved for a project.

§ 891.155 Other Federal requirements.

In addition to the requirements set forth in 24 CFR part 5, the following requirements in this § 891.155 apply to the Section 202 and Section 811 Programs, as well as projects funded under §§ 891.655 through 891.790. Other requirements unique to a particular program are described in subparts B and C of this part, as applicable.

(a) *Affirmative fair housing marketing.* (1) The affirmative fair housing marketing requirements of 24 CFR part 200, subpart M and the implementing regulations at 24 CFR part 108; and

(2) The fair housing advertising and poster guidelines at 24 CFR parts 109 and 110.

(b) *Environmental.* The National Environmental Policy Act of 1969, HUD's implementing regulations at 24 CFR part 50, including the related authorities described in 24 CFR 50.4. For the purposes of Executive Order No. 11988, Floodplain Management (42 FR 26951, 3 CFR, 1977 Comp., p. 117); as amended by Executive Order 12148 (44 FR 43239, 3 CFR, 1979 Comp., p. 412)), and implementing regulations in 24 CFR part 55, all applications for intermediate care facilities for persons with developmental disabilities shall be treated as critical actions requiring consideration of the 500-year floodplain.

(c) *Flood insurance.* The Flood Disaster Protection Act of 1973 (42 U.S.C. 4001).

(d) *Labor standards.* (1) All laborers and mechanics (other than volunteers under the conditions set out in 24 CFR part 70) employed by contractors and subcontractors in the construction (including rehabilitation) of housing with 12 or more units assisted under this part shall be paid wages at rates not less than those prevailing in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 276a–276a–5). A group home for persons with disabilities is not covered by the labor standards.

(2) Contracts involving employment of laborers and mechanics shall be subject to the provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333).

(3) Sponsors, Owners, contractors, and subcontractors must comply with all related rules, regulations, and requirements.

(e) *Displacement, relocation, and real property acquisition.* (1) *Minimizing displacement.* Consistent with the other goals and objectives of this part, Sponsors and Owners (or Borrowers, if applicable) shall assure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of a project assisted under this part.

(2) *Relocation assistance for displaced persons.* A displaced person must be provided relocation assistance at the levels described in, and in accordance with the requirements of, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) (42 U.S.C. 4201–4655), as implemented by 49 CFR part 24.

(3) *Real property acquisition requirements.* The acquisition of real property for a project is subject to the URA and the requirements described in 49 CFR part 24, subpart B.

(f) *Intergovernmental review.* The requirements for intergovernmental review in Executive Order No. 12372 (47 FR 30959, 3 CFR, 1982 Comp., p. 197; as amended by Executive Order No. 12416 (48 FR 15587, 3 CFR, 1983 Comp., p. 186)) and the implementing regulations at 24 CFR part 52 are applicable to this program.

(g) *Lead-based paint.* (1) The requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846) and implementing regulations at 24 CFR part 35 apply to any dwellings (except zero-bedroom dwelling units) in section 811 housing that were:

(i) Constructed or substantially rehabilitated before 1978; and

(ii) In which any child under 6 years of age resides or is expected to reside.

(2) Under the Section 811 Program and projects funded under §§ 891.655 through 891.790, the lead-based paint requirements described in § 891.325 also apply.

§ 891.160 Audit requirements.

Nonprofits receiving assistance under this part are subject to the audit requirements in 24 CFR part 45.

§ 891.165 Duration of capital advance.

The duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

§ 891.170 Repayment of capital advance.

(a) *Interest prohibition and repayment.* A capital advance provided under this part shall bear no interest and its repayment shall not be required so long as the housing project remains available for very low-income elderly families or persons with disabilities, as applicable, in accordance with this part. The capital advance may not be repaid to extinguish the requirements of this part. To ensure its interest in the capital advance, HUD shall require a note and mortgage, use agreement, capital advance agreement and regulatory agreement from the Owner in a form to be prescribed by HUD.

(b) The transfer of physical and financial assets of any project under this part is prohibited, unless HUD gives prior written approval. Approval for transfer will not be granted unless HUD determines that the transfer to a private nonprofit corporation or consumer cooperative (under the Section 202 Program) or a nonprofit organization (under the Section 811 Program) is part of a transaction that will ensure the continued operation of the project for not less than 40 years (from the date of original closing) in a manner that will provide rental housing for very low-income elderly persons or persons with disabilities, as applicable, on terms at least as advantageous to existing and future tenants as the terms required by the original capital advance.

§ 891.175 Technical assistance.

For purposes of the Section 202 Program and the Section 811 Program, the Secretary shall make available appropriate technical assistance to assure that applicants having limited resources, particularly minority applicants, are able to participate more fully in the programs.

Subpart B—Section 202 Supportive Housing for the Elderly

§ 891.200 Applicability.

The requirements set forth in this subpart B apply to the Section 202 Program of Supportive Housing for the Elderly only, and to applicants, Sponsors, and Owners under that program.

§ 891.205 Definitions.

As used in this part in reference to the Section 202 Program, and in addition to the applicable definitions in § 891.105:

Acquisition means the purchase of (or otherwise obtaining title to) existing housing and related facilities from the Resolution Trust Corporation.

Activities of daily living (ADL) means eating, dressing, bathing, grooming, and household management activities, as further described below:

(1) *Eating*—May need assistance with cooking, preparing, or serving food, but must be able to feed self;

(2) *Bathing*—May need assistance in getting in and out of the shower or tub, but must be able to wash self;

(3) *Grooming*—May need assistance in washing hair, but must be able to take care of personal appearance;

(4) *Dressing*—Must be able to dress self, but may need occasional assistance; and

(5) *Home management activities*—May need assistance in doing housework, grocery shopping, laundry, or getting to and from activities such as going to the doctor and shopping, but must be mobile. The mobility requirement does not exclude persons in wheelchairs or those requiring mobility devices.

Congregate space (hereinafter referred to as community space) shall have the meaning provided in section 202 (12 U.S.C. 1701q(h)(1)). The term "*community spaces*" excludes offices, halls, mechanical rooms, laundry rooms, parking areas, dwelling units, and lobbies. Community space does not include commercial areas.

Elderly person means a household composed of one or more persons at least one of whom is 62 years of age or more at the time of initial occupancy.

Frail elderly means an elderly person who is unable to perform at least three activities of daily living as defined in this section. Owners may establish additional eligibility requirements acceptable to HUD based on the standards in local supportive services programs.

Owner means a single-purpose private nonprofit organization that may be established by the Sponsor that will receive a capital advance and project rental assistance payments to develop and operate supportive housing for the elderly as its legal owner. Owner does not mean a public body or the instrumentality of any public body. The purposes of the Owner must include the promotion of the welfare of the elderly. The Owner may not be controlled by or under the direction of persons or firms seeking to derive profit or gain therefrom.

Private nonprofit organization means any incorporated private institution or foundation:

(1) That has tax-exempt status under section 501(c)(3) or (c)(4) of the Internal Revenue Code of 1986 (26 U.S.C. 1 *et seq.*);

(2) No part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

(3) That has a governing board:

(i) The membership of which is selected in a manner to assure that there is significant representation of the views of the community in which such housing is located; and

(ii) That is responsible for the operation of the housing assisted under this part; and

(4) That is approved by HUD as to administrative and financial responsibility.

Services expenses means those costs needed to provide the necessary services for the elderly tenants, which may include, but are not limited to: health related activities, continuing education, welfare, informational, recreational, homemaking, meal and nutritional services, counseling, and referral services as well as transportation as necessary to facilitate access to these services.

Sponsor means any private nonprofit entity, including a consumer cooperative:

(1) No part of the net earnings of which inures to the benefit of any private shareholder, member, founder, contributor, or individual;

(2) That is not controlled by, or under the direction of, persons or firms seeking to derive profit or gain therefrom; and

(3) That is approved by the Secretary as to administrative and financial capacity and responsibility. The term "*Sponsor*" does not mean a public body or the instrumentality of a public body.

§ 891.210 Special project standards.

In addition to the applicable project standards in § 891.120, resident units in Section 202 projects are limited to efficiencies or one-bedroom units. If a resident manager is proposed for a project, up to two bedrooms could be provided for the resident manager unit.

§ 891.215 Limits on number of units.

(a) HUD may establish, through publication of a notice in the **Federal Register**, limits on the number of units that can be applied for by a Sponsor or Co-sponsor in a single geographical region and/or nationwide.

(b) Affiliated entities that submit separate applications shall be deemed to be a single entity for purposes of these limits.

(c) HUD may also establish, through publication of a notice in the **Federal Register**, the minimum size of a single project.

§ 891.220 Prohibited facilities.

Projects may not include facilities for infirmaries, nursing stations, or spaces for overnight care.

§ 891.225 Provision of services.

(a) In carrying out the provisions of this part, HUD shall ensure that housing assisted under this part provides services as described in section 202 (12 U.S.C. 1701q(g)(1)).

(b) (1) HUD shall ensure that Owners have the managerial capacity to perform the coordination of services described in 12 U.S.C. 1701q(g)(2).

(2) Any cost associated with this paragraph shall be an eligible cost under the contract for project rental assistance. Any cost associated with the employment of a service coordinator shall also be an eligible cost, except if the project is receiving congregate housing services assistance under section 802 of the National Affordable Housing Act. The HUD-approved service costs will be an eligible expense to be paid from project rental assistance, not to exceed $15 per unit per month. The balance of service costs shall be provided from other sources, which may include co-payment by the tenant receiving the service. Such co-payment shall not be included in the Total Tenant Payment.

§ 891.230 Selection preferences.

For purposes of the Section 202 Program, the selection preferences in 24 CFR part 5, subpart D apply.

Subpart C—Section 811 Supportive Housing for Persons With Disabilities

§ 891.300 Applicability.

The requirements set forth in this subpart C apply to the Section 811 Program of Supportive Housing for Persons with Disabilities only, and to applicants, Sponsors, and Owners under that program.

§ 891.305 Definitions.

As used in this part in reference to the Section 811 Program, and in addition to the applicable definitions in § 891.105:

Acquisition means the purchase of (or otherwise obtaining title to) existing structures to be used as housing for persons with disabilities, including housing and related facilities from the Resolution Trust Corporation. Capital advances are not available in connection with facilities owned and operated by the Sponsor as housing for persons with disabilities.

Congregate space (hereinafter referred to as community space) means space for multipurpose rooms, common areas, and other space necessary for the provision of supportive services. Community space does not include commercial areas.

Disabled household means a household composed of:

(1) One or more persons at least one of whom is an adult (18 years or older) who has a disability;

(2) Two or more persons with disabilities living together, or one or more such persons living with another person who is determined by HUD, based upon a certification from an appropriate professional (e.g., a rehabilitation counselor, social worker, or licensed physician) to be important to their care or well being; or

(3) The surviving member or members of any household described in paragraph (1) of this definition who were living in a unit assisted under this part, with the deceased member of the household at the time of his or her death.

Nonprofit organization means any institution or foundation:

(1) That has tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 1 *et seq.*);

(2) No part of the net earnings of which inures to the benefit of any Board member, founder, contributor, or individual;

(3) That has a governing board;

(i) The membership of which is selected in a manner to assure that there is significant representation of the views of the community in which such housing is located (including persons with disabilities); and

(ii) That is responsible for the operation of the housing assisted under this part; and

(4) That is approved by HUD as to financial responsibility.

Owner means a single-purpose nonprofit organization established by the Sponsor that will receive a capital advance and project rental assistance payments to develop and operate, as its legal owner, supportive housing for persons with disabilities under this part. The purposes of the Owner must include the promotion of the welfare of persons with disabilities. The Owner may not be controlled by or under the direction of persons or firms seeking to derive profit or gain therefrom.

Person with disabilities shall have the meaning provided in Section 811 (42 U.S.C. 8013(k)(2)). The term "*person with disabilities*" shall also include the following:

(1) A person who has a developmental disability, as defined in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(5)), i.e., if he or she has a severe chronic disability which:

(i) Is attributable to a mental or physical impairment or combination of mental and physical impairments;

(ii) Is manifested before the person attains age twenty-two;

(iii) Is likely to continue indefinitely;

(iv) Results in substantial functional limitation in three or more of the following areas of major life activity:

(A) Self-care;

(B) Receptive and expressive language;

(C) Learning;

(D) Mobility;

(E) Self-direction;

(F) Capacity for independent living;

(G) Economic self-sufficiency; and

(v) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.

(2) A person with a chronic mental illness, i.e., a severe and persistent mental or emotional impairment that seriously limits his or her ability to live independently, and which impairment could be improved by more suitable housing conditions.

(3) A person infected with the human acquired immunodeficiency virus (HIV) and a person who suffers from alcoholism or drug addiction, provided they meet the definition of "*person with disabilities*" in Section 811 (42 U.S.C. 8013(k)(2)). A person whose sole impairment is a diagnosis of HIV positive or alcoholism or drug addiction (i.e., does not meet the qualifying criteria in section 811 (42 U.S.C. 8013(k)(2)) will not be eligible for occupancy in a section 811 project.

Sponsor means any nonprofit entity:

(1) That has tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 1 *et seq.*);

(2) No part of the net earnings of which inures to the benefit of any private shareholder, member, founder, contributor or individual;

(3) That is not controlled by or under the direction of persons or firms seeking to derive profit or gain therefrom;

(4) That has a governing board the membership of which is selected in a manner to assure that there is significant representation of the views of persons with disabilities; and

(5) That is approved by HUD as to administrative and financial capacity and responsibility.

§ 891.310 Special project standards.

In addition to the applicable project standards in § 891.120, the following special standards apply to the Section 811 Program and to projects funded under §§ 891.655 through 891.790:

(a) *Minimum group home standards.* Each group home must provide a minimum of 290 square feet of prorated space for each resident, including a minimum area of 80 square feet for each resident in a shared bedroom (with no more than two residents occupying a shared bedroom) and a minimum area of 100 square feet for a single occupant bedroom; at least one full bathroom for every four residents; space for recreation at indoor and outdoor locations on the project site; and sufficient storage for each resident in the bedroom and other storage space necessary for the operation of the home. If the project involves acquisition (with or without rehabilitation), the structure must at least be in compliance with applicable State requirements. In the absence of such requirements, the above standards shall apply.

(b) *Additional accessibility requirements.* In addition to the accessibility requirements in § 891.120(b), the following requirements apply to the Section 811 Program and to projects funded under §§ 891.655 through 891.790:

(1) All entrances, common areas, units to be occupied by resident staff, and amenities must be readily accessible to and usable by persons with disabilities.

(2) In projects for chronically mentally ill individuals, a minimum of 10 percent of all dwelling units in an independent living facility (or 10 percent of all bedrooms and bathrooms in a group home, but at least one of each such space), must be designed to be accessible or adaptable for persons with disabilities.

(3) In projects for developmentally disabled or physically disabled persons, all dwelling units in an independent living facility (or all bedrooms and bathrooms in a group home) must be designed to be accessible or adaptable for persons with physical disabilities. A project involving acquisition and/or rehabilitation may provide a lesser number if:

(i) The cost of providing full accessibility makes the project financially infeasible;

(ii) Fewer than one-half of the intended occupants have mobility impairments; and

(iii) The project complies with the requirements of 24 CFR 8.23.

(4) For the purposes of paragraph (b) of this section, the following definitions apply:

(i) *Accessible* describes a site, building, facility, or portion thereof that complies with the Uniform Federal Accessibility Standards and that can be approached, entered, and used by physically disabled people;

(ii) *Adaptability* means the ability of certain building spaces and elements, such as kitchen counters, sinks, and grab bars, to be added or altered so as to accommodate the needs of either disabled or nondisabled persons, or to accommodate the needs of either disabled or nondisabled persons, or to accommodate the needs of persons with different types or degrees of disability.

§ 891.315 Prohibited facilities.

This section shall apply to capital advances under the Section 811 Program, as well as loans financed under subpart E of this part. Project facilities may not include infirmaries, nursing stations, spaces dedicated to the delivery of medical treatment or physical therapy, padded rooms, or space for respite care or sheltered workshops, even if paid for from sources other than the HUD capital advance or loan. Except for office space used by the Owner (or Borrower, if applicable) exclusively for the administration of the project, project facilities may not include office space.

§ 891.320 Site and neighborhood standards.

In addition to the requirements in § 891.125 and § 891.680, if applicable, the following site and neighborhood requirements apply to the Section 811 Program:

(a) Travel time and cost via public transportation or private automobile, from the neighborhood to places of employment providing a range of jobs for very low-income workers (or low-income workers, as applicable), must not be excessive.

(b) Projects should be located in neighborhoods where other family housing is located. Projects should not be located adjacent to the following facilities, or in areas where such facilities are concentrated: schools or day-care centers for persons with disabilities, workshops, medical facilities, or other housing primarily serving persons with disabilities. Not more than one group home may be located on any one site and no such home may be located on a site contiguous to another site containing such a home.

§ 891.325 Lead-based paint requirements.

In addition to the other Federal requirements described in § 891.155, the following lead-based paint requirements apply to the Section 811 Program and to projects funded under §§ 891.655 through 891.790:

(a) The requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846) and implementing regulations at 24 CFR part 35 (except as superseded in paragraph (b) of this section) apply to the dwellings (except zero-bedroom dwelling units or units that are certified by a qualified inspector to be free of lead-based paint or the lead-based paint hazards have been eliminated) in housing assisted under this subpart and to projects funded under §§ 891.655 through 891.790 that:

(1) Were constructed before 1978; and

(2) In which any child under 6 years of age resides or is expected to reside.

(b) (1) This paragraph (b) implements the provisions of the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4821 et seq., by establishing procedures to eliminate, as far as practicable, the hazards of lead-based paint poisoning with respect to covered structures for which assistance is provided under the Section 811 Program and under §§ 891.655 through 891.790. This paragraph (b) is promulgated under 24 CFR 35.24(b)(4) and supersedes, with respect to these programs, the requirements prescribed in subpart C of 24 CFR part 35.

(2) The following definitions apply to this section:

Applicable surface means all intact and nonintact painted interior and exterior surfaces of a residential structure.

Chewable surface means all protruding painted surfaces up to five feet from the floor or ground, that are readily accessible to children under 6 years of age, e.g., protruding corners, windowsills and frames, doors and frames, and other protruding woodwork.

Defective paint surfaces means a surface on which the paint is cracking, scaling, chipping, peeling, or loose.

Elevated blood lead level or EBL means excessive absorption of lead: that is, a confirmed concentration of lead in whole blood of 20 ug/dl (micrograms of lead per deciliter) for a single test or of 15–19 ug/dl in two consecutive tests 3–4 months apart.

Lead-based paint means a paint surface, whether or not defective, identified as having a lead content greater than or equal to 1 mg/cm2 (milligram per square centimeter) or .5 percent by weight or 5000 parts per million (PPM).

(3) In the case of a structure constructed before 1978, the Sponsor must inspect the structure for defective paint surfaces before it submits site information. If defective paint surfaces are found, treatment in accordance with paragraph (a)(5) of this section is required. Correction of defective surfaces found during the initial inspection must be completed before initial occupancy of the project. Correction of defective paint conditions discovered at periodic inspection must be completed within 30 calendar days of their discovery. When weather conditions prevent completion of repainting of exterior surfaces within the 30-day period, repainting may be delayed, but covering or removal of the defective paint must be completed within the prescribed period.

(4) In the case of a structure constructed before 1978, if the Owner (or Borrower, if applicable) is presented with test results that indicate that a child under the age of 6 years occupies the structure and has an elevated blood lead level (EBL), the Owner (or Borrower, if applicable) must cause the unit to be tested for lead-based paint on chewable surfaces. Testing must be conducted by a State or local health or housing agency, by an inspector certified or regulated by a State or local health or housing agency, or an organization recognized by HUD. Lead content shall be tested by using an X-ray fluorescence analysis (XRF) or by laboratory analysis of paint samples. Where lead-based paint on chewable surfaces is identified, covering or removal of the paint surface in accordance with paragraph (a)(5) of this section is required and treatment shall be completed within the time limits in paragraph (b)(3) of this section.

(5) Treatment of defective paint surfaces and chewable surfaces must consist of covering or removal of the

paint in accordance with the following requirements:

(i) A defective paint surface shall be treated if the total area of defective paint on a component is:

(A) More than 10 square feet on an exterior wall;

(B) More than 2 square feet on an interior or exterior component with a large surface area, excluding exterior walls and including, but not limited to, ceilings, floors, doors, and interior walls; or

(C) More than 10 percent of the total surface area on an interior or exterior component with a small surface area, including, but not limited to, window sills, baseboards and trim.

(ii) Acceptable methods of treatment are: removal by wet scraping, wet sanding, chemical stripping on or off site, replacing painted components, scraping with infra-red or coil type heat gun with temperatures below 1100 degrees, HEPA vacuum sanding, HEPA vacuum needle gun, contained hydroblasting or high pressure wash with HEPA vacuum, and abrasive sandblasting with HEPA vacuum. Surfaces must be covered with durable materials with joints and edges sealed and caulked as needed to prevent the escape of lead contaminated dust.

(iii) Prohibited methods of removal are: open flame burning or torching; machine sanding or grinding without a HEPA exhaust; uncontained hydroblasting or high pressure wash; and dry scraping except around electrical outlets or except when treating defective paint spots no more than two square feet in any one interior room or space (hallway, pantry, etc.) or totalling no more than twenty square feet on exterior surfaces.

(iv) During exterior treatment, soil and playground equipment must be protected from contamination.

(v) All treatment procedures must be concluded with a thorough cleaning of all surfaces in the room or area of treatment to remove fine dust particles. Cleanup must be accomplished by wet washing surfaces with a lead solubilizing detergent such as trisodium phosphate or an equivalent solution.

(vi) Waste and debris must be disposed of in accordance with all applicable Federal, State and local laws.

(6) In lieu of the procedures set forth in the preceding clause, the Owner (or Borrower, if applicable) may, at its discretion, abate all interior and exterior chewable surfaces in accordance with the methods set out paragraph (a)(5) of this section.

(7) The Owner (or Borrower, if applicable) must take appropriate action to protect tenants from hazards associated with abatement procedures.

(8) The Owner (or Borrower, if applicable) must keep a copy of each inspection report for at least three years. If a unit requires testing, or treatment of chewable surfaces based on the testing, the Owner must keep the test results, and, if applicable, the certification of treatment indefinitely. The records must indicate which chewable surfaces in the units have been tested or treated. If records establish that certain chewable surfaces were tested, or tested and treated, in accordance with the standards prescribed in this section, these surfaces do not have to be tested or treated at any subsequent time.

Subpart D—Project Management

§ 891.400 Responsibilities of Owner.

(a) *Marketing.* (1) The Owner must commence and continue diligent marketing activities not later than 90 days before the anticipated date of availability of the first unit or occupancy of the group home. Market activities shall include the provision of notices of the availability of housing under the program to operators of temporary housing for the homeless in the same housing market.

(2) Marketing must be done in accordance with a HUD-approved affirmative fair housing marketing plan and all Federal, State or local fair housing and equal opportunity requirements. The purpose of the plan and requirements is to achieve a condition in which eligible households of similar income levels in the same housing market area have a like range of housing choices available to them regardless of discriminatory considerations such as their race, color, creed, religion, familial status, disability, sex or national origin.

(3) At the time of PRAC execution, the Owner must submit to HUD a list of leased and unleased assisted units (or in the case of a group home, leased and unleased residential spaces) with a justification for the unleased units or residential spaces, in order to qualify for vacancy payments for the unleased units or residential spaces.

(b) *Management and maintenance.* The Owner is responsible for all management functions. These functions include selection and admission of tenants, required reexaminations of incomes for households occupying assisted units or residential spaces, collection of tenant payments, termination of tenancy and eviction, and all repair and maintenance functions (including ordinary and extraordinary maintenance and replacement of capital items). All functions must be performed in compliance with equal opportunity requirements.

(c) *Contracting for services.* (1) With HUD approval, the Owner may contract with a private or public entity for performance of the services or duties required in paragraphs (a) and (b) of this section. However, such an arrangement does not relieve the Owner of responsibility for these services and duties. All such contracts are subject to the restrictions governing prohibited contractual relationships described in § 891.130. (These prohibitions do not extend to management contracts entered into by the Owner with the Sponsor or its nonprofit affiliate.)

(2) Consistent with the objectives of Executive Order No. 11625 (36 FR 19967, 3 CFR, 1971–1975 Comp., p. 616; as amended by Executive Order No. 12007 (42 FR 42839, 3 CFR, 1977 Comp., p. 139)); Executive Order No. 12432 (48 FR 32551, 3 CFR, 1983 Comp., p. 198); and Executive Order No. 12138 (44 FR 29637, 3 CFR, 1979 Comp., p. 393; as amended by Executive Order No. 12608 (52 FR 34617, 3 CFR, 1987 Comp., p. 245)), the Owner will promote awareness and participation of minority and women's business enterprises in contracting and procurement activities.

(d) *Submission of financial and operating statements.* The Owner must submit to HUD:

(1) Within 60 days after the end of each fiscal year of project operations, financial statements for the project audited by an independent public accountant and in the form required by HUD; and

(2) Other statements regarding project operation, financial conditions and occupancy as HUD may require to administer the PRAC and to monitor project operations.

(e) *Use of project funds.* The Owner shall maintain a separate interest bearing project fund account in a depository or depositories which are members of the Federal Deposit Insurance Corporation or National Credit Union Share Insurance Fund and shall deposit all tenant payments, charges, income and revenues arising from project operation or ownership to this account. All project funds are to be deposited in Federally insured accounts. All balances shall be fully insured at all times, to the maximum extent possible. Project funds must be used for the operation of the project (including required insurance coverage), and to make required deposits to the replacement reserve under § 891.405, in accordance with HUD-approved budget.

Any remaining project funds in the project funds account (including earned interest) following the expiration of the fiscal year shall be deposited in a Federally-insured residual receipts account within 60 days following the end of the fiscal year. Withdrawals from this account may be made only for project purposes and with the approval of HUD. If there are funds remaining in the residual receipts account when the mortgage is satisfied, such funds shall be returned to HUD.

(f) *Reports.* The Owner shall submit such reports as HUD may prescribe to demonstrate compliance with applicable civil rights and equal opportunity requirements. See § 891.410(a).

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§ 891.405 Replacement reserve.

(a) *Establishment of reserve.* The Owner shall establish and maintain a replacement reserve to aid in funding extraordinary maintenance and repair and replacement of capital items.

(b) *Deposits to reserve.* The Owner shall make monthly deposits to the replacement reserve in an amount determined by HUD.

(c) *Level of reserve.* The reserve must be built up to and maintained at a level determined by HUD to be sufficient to meet projected requirements. Should the reserve reach that level, the amount of the deposit to the reserve may be reduced with the approval of HUD.

(d) *Administration of reserve.* Replacement reserve funds must be deposited with HUD or in a Federally-insured depository in an interest-bearing account(s) whose balances(s) are fully insured at all times. All earnings including interest on the reserve must be added to the reserve. Funds may be drawn from the reserve and used only in accordance with HUD guidelines and with the approval of, or as directed by, HUD.

§ 891.410 Selection and admission of tenants.

(a) *Written procedures.* The Owner shall adopt written tenant selection procedures that ensure nondiscrimination in the selection of tenants and that are consistent with the purpose of improving housing opportunities for very low-income elderly persons and persons with disabilities (as applicable); and reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. Owners shall promptly inform in writing any rejected applicant of the grounds for any rejection. Additionally, Owners shall maintain a written, chronological waiting list showing the name, race, gender, ethnicity, and date of each person applying for the program.

(b) *Application for admission.* The Owner must accept applications for admission to the project in the form prescribed by HUD, and (under the Section 202 Program only) is obligated to confirm all information provided by applicant families on the application. Applicant households applying for assisted units (or residential spaces in a group home) must complete a certification of eligibility as part of the application for admission. Applicant households must meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 5, subpart B. Applicant families must sign and submit consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by 24 CFR part 5, subpart B. Both the Owner and the applicant household must complete and sign the application for admission. On request, the Owner must furnish copies of all applications for admission to HUD.

(c) *Determination of eligibility and selection of tenants.* (1) The Owner is responsible for determining whether applicants are eligible for admission and for the selection of households. To be eligible for admission, an applicant must be an elderly person or a person with disabilities, as applicable (as defined in §§ 891.205 and 891.305, respectively); must meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 5, subpart B; must sign and submit consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by 24 CFR part 5, subpart B; and must be a very low-income family, as defined in § 891.105.

(2) Under the Section 811 Program:

(i) In order to be eligible for admission, the applicant must also meet any project occupancy requirements approved by HUD.

(ii) Owners shall make selections in a nondiscriminatory manner without regard to considerations such as race, religion, color, sex, national origin, familial status, or disability. An Owner may, with the approval of the Secretary, limit occupancy within housing developed under this part 891 to persons with disabilities who have similar disabilities and require a similar set of supportive services in a supportive housing environment. However, the Owner must permit occupancy by any qualified person with a disability who could benefit from the housing and/or services provided regardless of the person's disability.

(d) *Unit assignment.* If the Owner determines that the household is eligible and is otherwise acceptable and units (or residential spaces in a group home) are available, the Owner will assign the household a unit or residential space in a group home. If the household will occupy an assisted unit, the Owner will assign the household a unit of the appropriate size in accordance with HUD's general occupancy guidelines. If no suitable unit (or residential space in a group home) is available, the Owner will place the household on a waiting list for the project and notify the household when a suitable unit or residential space may become available. If the waiting list is so long that the applicant would not be likely to be admitted for the next 12 months, the Owner may advise the applicant that no additional applications for admission are being considered for that reason.

(e) *Ineligibility determination.* If the Owner determines that an applicant is ineligible for admission or the Owner is not selecting the applicant for other reasons, the Owner will promptly notify the applicant in writing of the determination, the reasons for the determination, and the applicant's right to request a meeting to review the rejection, in accordance with HUD requirements. The review, if requested, may not be conducted by a member of the Owner's staff who made the initial decision to reject the applicant. The applicant may also exercise other rights (e.g., rights granted under Federal, State or local civil rights laws) if the applicant believes he or she is being discriminated against on a prohibited basis.

(f) *Records.* Records on applicants and approved eligible households, which provide racial, ethnic, gender and place of previous residency data required by HUD, must be retained for three years. See § 891.410(a).

(g) *Reexamination of household family income and composition.* (1) *Regular reexaminations.* The Owner must reexamine the income and composition of the household at least every 12 months. Upon verification of the information, the Owner must make appropriate adjustments in the total tenant payment in accordance with part 813 of this chapter, as modified by § 891.105, and must determine whether the household's unit size is still appropriate. The Owner must adjust tenant payment and the project rental assistance payment, and must carry out any unit transfer in accordance with HUD standards. At the time of reexamination under paragraph (g)(1) of

this section, the Owner must require the household to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 5, subpart B. For requirements regarding the signing and submitting of consent forms by families for obtaining of wage and claim information from State Wage Information Collection Agencies, see 24 CFR part 5, subpart B.

(2) *Interim reexaminations.* The household must comply with the provisions in its lease regarding interim reporting of changes in income. If the Owner receives information concerning a change in the household's income or other circumstances between regularly scheduled reexaminations, the Owner must consult with the household and make any adjustments determined to be appropriate. See 24 CFR part 5, subpart B for the requirements for the disclosure and verification of Social Security Number at interim reexaminations involving new household members. For requirements regarding the signing and submitting of consent forms by families for the obtaining of wage and claim information from State Wage Information Collection Agencies, see 24 CFR part 5, subpart B. Any change in the household's income or other circumstances that result in an adjustment in the total tenant payment, tenant payment, and project rental assistance payment must be verified.

(3) *Continuation of project rental assistance payment.* (i) A household shall remain eligible for project rental assistance payment until the total tenant payment equals or exceeds the gross rent (or a pro rata share of the gross rent in a group home). The termination of subsidy eligibility will not affect the household's other rights under its lease. Project rental assistance payment may be resumed if, as a result of changes in income, rent or other relevant circumstances during the term of the PRAC, the household meets the income eligibility requirements of 24 CFR part 813 (as modified in § 891.105) and project rental assistance is available for the unit or residential space under the terms of the PRAC. The household will not be required to establish its eligibility for admission to the project under the remaining requirements of paragraph (c) of this section.

(ii) A household's eligibility for project rental assistance payment may be terminated in accordance with HUD requirements for such reasons as failure to submit requested verification information, including information related to disclosure and verification of Social Security Numbers, as provided by 24 CFR part 5, subpart B or failure to sign and submit consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies (as provided by 24 CFR part 5, subpart B).

(h) *Selection preferences.* Under the Section 202 Program, the selection preferences in 24 CFR part 5, subpart D apply.

§ 891.415 Obligations of the household or family.

This section shall apply to capital advances under the Section 202 Program and the Section 811 Program, as well as loans financed under subpart E of this part.

(a) *Requirements.* The household (or family, as applicable) shall:

(1) Pay amounts due under the lease directly to the Owner (or Borrower, as applicable);

(2) Supply such certification, release of information, consent, completed forms or documentation as the Owner (or Borrower, as applicable) or HUD determines necessary, including information and documentation relating to the disclosure and verification of Social Security Numbers, as provided by 24 CFR part 5, subpart B, and the signing and submission of consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by 24 CFR part 5, subpart B;

(3) Allow the Owner (or Borrower, as applicable) to inspect the dwelling unit or residential space at reasonable times and after reasonable notice;

(4) Notify the Owner (or Borrower, as applicable) before vacating the dwelling unit or residential space; and

(5) Use the dwelling unit or residential space solely for residence by the household (or family, as applicable) and as the household's (or family's) principal place of residence.

(b) *Prohibitions.* The household (or family, as applicable) shall not:

(1) Assign the lease or transfer the unit or residential space; or

(2) Occupy, or receive assistance for the occupancy of, a unit or residential space governed under this part 891 while occupying, or receiving assistance for the occupancy of, another unit assisted under any Federal housing assistance program, including any section 8 program.

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§ 891.420 Overcrowded and underoccupied units.

If the Owner determines that because of change in household size, an assisted unit is smaller than appropriate for the eligible household to which it is leased, or that the assisted unit is larger than appropriate, project rental assistance payment with respect to the unit will not be reduced or terminated until the eligible household has been relocated to an appropriate alternate unit. If possible, the Owner will, as promptly as possible, offer the household an appropriate alternate unit. The Owner may receive vacancy payments for the vacated unit if the Owner complies with the requirements of § 891.445.

§ 891.425 Lease requirements.

This section shall apply to capital advances under the Section 202 Program and the Section 811 Program, as well as loans financed under subpart E of this part.

(a) *Term of lease.* The term of the lease may not be less than one year. Unless the lease has been terminated by appropriate action, upon expiration of the lease term, the household and Owner (or family and Borrower, as applicable) may execute a new lease for a term not less than one year, or may take no action. If no action is taken, the lease will automatically be renewed for successive terms of one month.

(b) *Termination by the household (or family, as applicable).* All leases may contain a provision that permits the household (or family) to terminate the lease upon 30 days advance notice. A lease for a term that exceeds one year must contain such provision.

(c) *Form.* The Owner (or Borrower, as applicable) shall use the lease form prescribed by HUD. In addition to required provisions of the lease form, the Owner (or Borrower) may include a provision in the lease permitting the Owner (or Borrower) to enter the leased premises at any time without advance notice when there is reasonable cause to believe that an emergency exists or that health or safety of a family member is endangered.

§ 891.430 Termination of tenancy and modification of lease.

The provisions of part 247 of this title apply to all decisions by an Owner to terminate the tenancy or modify the lease of a household residing in a unit (or residential space in a group home).

§ 891.435 Security deposits.

This section shall apply to capital advances under the Section 202 Program and the Section 811 Program, as well as loans financed under subpart E of this part. For loans financed under subpart E of this part, the requirements in § 891.635 also apply.

(a) *Collection of security deposits.* At the time of the initial execution of the lease, the Owner (or Borrower, as applicable) will require each household (or family, as applicable) occupying an assisted unit or residential space in a group home to pay a security deposit in an amount equal to one month's tenant payment or $50, whichever is greater. The household (or family) is expected to pay the security deposit from its own resources and other available public or private resources. The Owner (or Borrower) may collect the security deposit on an installment basis.

(b) *Security deposit provisions applicable to units.* (1) *Administration of security deposit.* The Owner (or Borrower, as applicable) must place the security deposits in a segregated interest-bearing account. The amount of the segregated, interest-bearing account maintained by the Owner (or Borrower) must at all times equal the total amount collected from the households (or families, as applicable) then in occupancy plus any accrued interest and less allowable administrative cost adjustments. The Owner (or Borrower) must comply with any applicable State and local laws concerning interest payments on security deposits.

(2) *Household (or family, as applicable) notification requirement.* In order to be considered for the refund of the security deposit, a household (or family) must provide the Owner (or Borrower, as applicable) with a forwarding address or arrange to pick up the refund.

(3) *Use of security deposit.* The Owner (or Borrower, as applicable), subject to State and local law and the requirements of paragraphs (b)(1) and (b)(3) of this section, may use the household's (or family's, as applicable) security deposit balance as reimbursement for any unpaid amounts that the household (or family) owes under the lease. Within 30 days (or shorter time if required by State or local law) after receiving notification under paragraph (b)(2) of this section, the Owner (or Borrower) must:

(i) Refund to a household (or family) that does not owe any amount under the lease the full amount of the household's (or family's) security deposit balance;

(ii) Provide to a household (or family) owing amounts under the lease a list itemizing each amount, along with a statement of the household's (or family's) rights under State and local law. If the amount that the Owner (or Borrower) claims is owed by the household (or family) is less than the amount of the household's (or family's) security deposit balance, the Owner (or Borrower) must refund the excess balance to the household (or family). If the Owner (or Borrower) fails to provide the list, the household (or family) will be entitled to the refund of the full amount of the household's (or family's) security deposit balance.

(4) *Disagreements.* If a disagreement arises concerning reimbursement of the security deposit, the household (or family, if applicable) will have the right to present objections to the Owner (or Borrower, if applicable) in an informal meeting. The Owner (or Borrower) must keep a record of any disagreements and meetings in a tenant file for inspection by HUD. The procedures of this paragraph do not preclude the household (or family) from exercising its rights under State or local law.

(5) *Decedent's interest in security deposit.* Upon the death of a member of a household (or family, as applicable), the decedent's interest, if any, in the security deposit will be governed by State or local law.

(c) *Reimbursement by HUD for assisted units.* If the household's (or family's, if applicable) security deposit balance is insufficient to reimburse the Owner (or Borrower, if applicable) for any amount that the household (or family) owes under the lease for an assisted unit or residential space, and the Owner (or Borrower) has provided the household (or family) with the list required by paragraph (b)(3)(ii) of this section, the Owner (or Borrower) may claim reimbursement from HUD for an amount not to exceed the lesser of:

(1) The amount owed the Owner (or Borrower); or

(2) One month's per unit operating cost (or contract rent, if applicable), minus the amount of the household's (or family's) security deposit balance. Any reimbursement under this section will be applied first toward any unpaid tenant payment (or rent, if applicable) due under the lease. No reimbursement may be claimed for any unpaid tenant payment (or rent) for the period after termination of the tenancy. The Owner (or Borrower) may be eligible for vacancy payments following a vacancy in accordance with the requirements of § 891.445 (or §§ 891.650 or 891.790, as applicable).

§ 891.440 Adjustment of utility allowances.

This section shall apply to projects funded under the Section 202 Program, to independent living complexes funded under Section 811 Program, and to projects financed with loans under subpart E of this part. The Owner (or Borrower, as applicable) must submit an analysis of any utility allowances applicable. Such data as changes in utility rates and other facts affecting utility consumption should be provided as part of this analysis to permit appropriate adjustments in the utility allowances for assisted units. In addition, when utility rate changes would result in a cumulative increase of 10 percent or more in the most recently approved utility allowances, the Owner (or Borrower) must advise HUD and request approval of new utility allowances. Whenever a utility allowance for an assisted unit is adjusted, the Owner (or Borrower) will promptly notify affected households (or families, as applicable) and make a corresponding adjustment of the tenant payment (or rent, as applicable) and the amount of the project rental assistance payment (or housing or project assistance payment, as applicable).

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§ 891.445 Conditions for receipt of vacancy payments for assisted units.

(a) *General.* Vacancy payments under the PRAC will not be made unless the conditions for receipt of these project rental assistance payments set forth in this section are fulfilled.

(b) *Vacancies during rent-up.* For each unit (or residential space in a group home) that is not leased as of the effective date of the PRAC, the Owner is entitled to vacancy payments in the amount of 50 percent of the per unit operating cost (or pro rata share of the group home operating cost) for the first 60 days of vacancy, if the Owner:

(1) Conducted marketing in accordance with § 891.400(a) and otherwise complied with § 891.400;

(2) Has taken and continues to take all feasible actions to fill the vacancy; and

(3) Has not rejected any eligible applicant except for good cause acceptable to HUD.

(c) *Vacancies after rent-up.* If an eligible household vacates an assisted unit (or residential space in a group home) the Owner is entitled to vacancy payments in the amount of 50 percent of the approved per unit operating cost (or pro rata share of the group home operating cost) for the first 60 days of vacancy if the Owner:

(1) Certifies that it did not cause the vacancy by violating the lease, the PRAC, or any applicable law;

(2) Notified HUD of the vacancy or prospective vacancy and the reasons for the vacancy upon learning of the vacancy or prospective vacancy;

(3) Has fulfilled and continues to fulfill the requirements specified in § 891.400(a) (2) and (3) and § 891.445(b) (2) and (3); and

(4) For any vacancy resulting from the Owner's eviction of an eligible household, certifies that it has complied with § 891.430.

(d) *Prohibition of double compensation for vacancies.* If the

Owner collects payments for vacancies from other sources (tenant payment, security deposits, payments under § 891.435(c), or governmental payments under other programs), the Owner shall not be entitled to collect vacancy payments to the extent these collections from other sources plus the vacancy payment exceed the approved per unit operating cost.

§ 891.450 HUD review.

HUD shall conduct periodic on-site management reviews of the Owner's compliance with the requirements of this part.

Subpart E—Loans for Housing for the Elderly and Handicapped

§ 891.500 Purpose and policy.

(a) *Purpose.* The program under subpart E of this part provides direct Federal loans under section 202 of the Housing Act of 1959 (42 U.S.C. 1701q) for housing projects serving elderly or handicapped families and individuals. The housing projects shall provide the necessary services for the occupants which may include, but are not limited to: Health, continuing education, welfare, informational, recreational, homemaking, meal and nutritional services, counseling, and referral services, as well as transportation where necessary to facilitate access to these services.

(b) *General policy.* A loan made under subpart E of this part shall be used to finance the construction or the substantial rehabilitation of projects for elderly or handicapped families, or for the acquisition with or without moderate rehabilitation of existing housing and related facilities for group homes for nonelderly handicapped individuals.

(c) *Applicability.* Subpart E of this part applies to all fund reservations made before October 1, 1990, except for loans not initially closed that were converted to capital advances. Specifically, § 891.520 through 891.650 of subpart E apply to projects for elderly or handicapped families that received reservations under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and housing assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437 *et seq*). Sections 891.655 through 891.790 of subpart E apply to projects for nonelderly handicapped families receiving reservations under section 202 and project assistance payments under section 202(h) of the Housing Act of 1959.

§ 891.505 Definitions.

For the purposes of this subpart E:

Act means section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q).

Borrower means a private nonprofit corporation or a nonprofit consumer cooperative that may be established by the Sponsor, which will obtain a Section 202 loan and execute a mortgage in connection therewith as the legal owner of the project. "*Borrower*" does not mean a public body or the instrumentality of any public body. The purposes of the Borrower must include the promotion of the welfare of elderly and/or handicapped families. No part of the net earnings of the Borrower may inure to the benefit of any private shareholder, contributor, or individual, and the Borrower may not be controlled by or under the direction of persons or firms seeking to derive profit or gain therefrom. Because of the nonprofit nature of the Section 202 program, no officer or director, or trustee, member, stockholder or authorized representative of the Borrower is permitted to have any financial interest in any contract in connection with the rendition of services, the provision of goods or supplies, project management, procurement of furnishings and equipment, construction of the project, procurement of the site or other matters whatsoever.

Elderly family means:

(1) Families of two or more persons the head of which (or his or her spouse) is 62 years of age or older;

(2) The surviving member or members of any family described in paragraph (1) of this definition living in a unit assisted under subpart E of this part with the deceased member of the family at the time of his or her death;

(3) A single person who is 62 years of age or older; or

(4) Two or more elderly persons living together, or one or more such persons living with another person who is determined by HUD, based upon a licensed physician's certificate provided by the family, to be essential to their care or well being.

Handicapped family means:

(1) Families of two or more persons the head of which (or his or her spouse) is handicapped;

(2) The surviving member or members of any family described in paragraph (1) of this definition living in a unit assisted under subpart E of this part with the deceased member of the family at the time of his or her death;

(3) A single handicapped person over the age of 18; or

(4) Two or more handicapped persons living together, or one or more such persons living with another person who is determined by HUD, based upon a licensed physician's certificate provided by the family, to be essential to their care or well being.

Handicapped person or individual means:

(1) Any adult having a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration, substantially impedes his or her ability to live independently, and is of a nature that such ability could be improved by more suitable housing conditions.

(2) A person with a developmental disability, as defined in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(5), i.e., a person with a severe chronic disability that:

(i) Is attributable to a mental or physical impairment or combination of mental and physical impairments;

(ii) Is manifested before the person attains age twenty-two;

(iii) Is likely to continue indefinitely;

(iv) Results in substantial functional limitation in three or more of the following areas of major life activity:

(A) Self-care;

(B) Receptive and expressive language;

(C) Learning;

(D) Mobility;

(E) Self-direction;

(F) Capacity for independent living;

(G) Economic self-sufficiency; and

(v) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated.

(3) A person with a chronic mental illness, i.e., if he or she has a severe and persistent mental or emotional impairment that seriously limits his or her ability to live independently, and whose impairment could be improved by more suitable housing conditions.

(4) Persons infected with the human acquired immunodeficiency virus (HIV) who are disabled as a result of infection with the HIV are eligible for occupancy in section 202 projects designed for the physically disabled, developmentally disabled, or chronically mentally ill depending upon the nature of the person's disability. A person whose sole impairment is alcoholism or drug addition (i.e., who does not have a developmental disability, chronic mental illness, or physical disability that is the disabling condition required for eligibility in a particular project) will not be considered to be disabled for the purposes of the section 202 program.

Housing and related facilities means rental or cooperative housing structures constructed or substantially rehabilitated as permanent residences for use by elderly or handicapped families, or acquired with or without moderate rehabilitation for use by nonelderly handicapped families as group homes. The term includes structures suitable for use by families residing in the project or in the area, such as cafeterias or dining halls, community rooms, or buildings, or other essential service facilities. In the case of acquisition with or without moderate rehabilitation, at least three years must have elapsed from the later of the date of completion of the project or the beginning of occupancy to the date of the application for a Section 202 fund reservation. Except for intermediate care facilities for the mentally retarded and individuals with related conditions, this term does not include nursing homes, hospitals, intermediate care facilities, or transitional care facilities.

Nonelderly handicapped family means a handicapped family in which the head of the family (and spouse, if any) is less than 62 years of age at the time of the family's initial occupancy of a project.

Section 8 Program means the housing assistance payments program that implements section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f note).

§ 891.510 Displacement, relocation, and real property acquisition.

(a) *Minimizing displacement.* Consistent with the other goals and objectives of subpart E of this part, Sponsors and Borrowers shall assure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of a project assisted under subpart E of this part.

(b) *Relocation assistance for displaced persons.* A displaced person (defined in paragraph (f) of this section) must be provided relocation assistance at the levels described in, and in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) (42 U.S.C. 4201–4655), as implemented by 49 CFR part 24. A displaced person shall be advised of his or her rights under the Fair Housing Act (42 U.S.C. 3601–3619). If the comparable replacement dwellings are located in areas of minority concentration, minority persons also must be given, if possible, referrals to suitable, decent, safe, and sanitary replacement dwellings not located in such areas.

(c) *Real property acquisition requirements.* The acquisition of real property for a project is subject to the URA and the requirements described in 49 CFR part 24, subpart B.

(d) *Appeals.* A person who disagrees with the Sponsor's/Borrower's determination concerning whether the person qualifies as a "*displaced person,*" or with the amount of relocation assistance for which the person is eligible, may file a written appeal of that determination with the Sponsor/Borrower. A low-income person who is dissatisfied with the Sponsor's/Borrower's determination on his or her appeal may submit a written request for review of that determination to the HUD field office.

(e) *Responsibility of Sponsor/Borrower.* The Sponsor/Borrower shall certify that it will comply (i.e., provide assurance of compliance, as required by 49 CFR part 24) with the URA, the regulations at 49 CFR part 24, and the requirements of this section, and shall ensure such compliance notwithstanding any third party's contractual obligation to comply with these provisions. The Sponsor/Borrower shall maintain records in sufficient detail to demonstrate compliance with the provisions of this section. The Sponsor/Borrower shall maintain data on the race, ethnic, gender, and handicap status of displaced persons.

(f) *Definition of a displaced person.*

(1) For purposes of this section, the term "*displaced person*" means a person (family, individual, business, nonprofit organization, or farm) that moves from real property, or moves personal property from real property, permanently, as a direct result of acquisition, rehabilitation, or demolition for a project assisted under this part. This includes any permanent, involuntary move for an assisted project including any permanent move from the real property that is made:

(i) After notice by the Sponsor/Borrower to move permanently from the property if the move occurs on or after:

(A) The date of the submission of an application to HUD that is later approved, if the Sponsor has control of an appropriate site; or

(B) The date that the Sponsor obtains control of an approvable site, if such control is obtained after the submission of an application to HUD:

(ii) Before the date described in paragraph (f)(1)(i) of this section, if the Sponsor, Borrower or HUD determines that the displacement resulted directly from acquisition, rehabilitation, or demolition for the project;

(iii) By a tenant-occupant of a dwelling unit, if any one of the following three situations occurs:

(A) The tenant moves after execution of the Agreement between the Sponsor/Borrower and HUD, and the move occurs before the tenant is provided written notice offering him or her the opportunity to lease and occupy a suitable, decent, safe, and sanitary dwelling in the same building/complex upon completion of the project under reasonable terms and conditions. Such reasonable terms and conditions include a monthly rent and estimated average monthly utility costs that do not exceed the greater of:

(*1*) The tenant's monthly rent and estimated average monthly utility costs before the Agreement; or

(*2*) The total tenant payment, as determined under 24 CFR 813.107, if the tenant is low-income, or 30 percent of gross household income, if the tenant is not low-income; or

(B) The tenant is required to relocate temporarily, does not return to the building/complex, and either:

(*1*) The tenant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation; or

(*2*) Other conditions of the temporary relocation are not reasonable; or

(C) The tenant is required to move to another dwelling in the same building/complex but is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move, or other conditions of the move are not reasonable.

(2) Notwithstanding the provisions of paragraph (f)(1) of this section, however, a person does not qualify as a "*displaced person*" (and is not eligible for relocation assistance at URA levels), if:

(i) The person has been evicted for cause based upon a serious or repeated violation of the terms and conditions of the lease or occupancy agreement, violation of applicable Federal, State, or local law, or other good cause, and HUD determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance.

(ii) The person moved into the property after the submission of the application and, before signing a lease and commencing occupancy, was provided written notice of the project, its possible impact on the person (e.g., displacement, temporary relocation or a rent increase) and the fact that he or she will not qualify as a displaced person as a result of the project;

(iii) The person is ineligible under 49 CFR 24.2(g)(2); or

(iv) HUD determines that the person was not displaced as a direct result of

acquisition, rehabilitation, or demolition for the project;

(3) The Sponsor/Borrower may request, at any time, a HUD determination of whether a displacement is or would be covered by this section.

§ 891.515 Audit requirements.

Nonprofits receiving assistance under this part are subject to the audit requirements in 24 CFR part 45.

Section 202 Projects for the Elderly or Handicapped—Section 8 Assistance

§ 891.520 Definitions applicable to 202/8 projects.

The following definitions apply to projects for eligible families receiving assistance under section 8 of the United States Housing Act of 1937 in addition to reservations under section 202 of the Housing Act of 1959 (202/8 projects):

Assisted unit means a dwelling unit eligible for assistance under a HAP contract.

Contract rent means the total amount of rent specified in the HAP contract as payable by HUD and the tenant to the Borrower for an assisted unit.

Family (eligible family) means an elderly or handicapped family that meets the project occupancy requirements approved by HUD and, if the family occupies an assisted unit, meets the requirements described in part 813 of this chapter.

Gross rent is defined in part 813 of this chapter.

HAP contract (housing assistance payments contract) means the contract entered into by the Borrower and HUD setting forth the rights and duties of the parties with respect to the project and the payments under the HAP contract.

Housing assistance payment means the payment made by HUD to the Borrower for assisted units as provided in the HAP contract. The payment is the difference between the contract rent and the tenant rent. An additional payment is made to a family occupying an assisted unit when the utility allowance is greater than the total tenant payment. A housing assistance payment, known as a "vacancy payment," may be made to the Borrower when an assisted unit is vacant, in accordance with the terms of the HAP contract.

Project account means a specifically identified and segregated account for each project that is established in accordance with § 891.570(b) out of the amounts by which the maximum annual commitment exceeds the amount actually paid out under the HAP contract each year.

Project occupancy requirements means that eligible populations to be served under the Section 202 program are qualified individuals or families whose head of household or spouse is elderly, physically handicapped, developmentally disabled, or chronically mentally ill. Projects are designed to meet the special needs of the particular tenant population that the Borrower was selected to serve. Individuals from one eligible group may not be accepted for occupancy in a project designed for a different tenant group. However, a Sponsor can propose to house eligible tenant groups other than the one it was selected to serve, but must apply to the HUD field office for permission to do so, based on a plan that demonstrates that it can adequately serve the proposed tenant group. Upon review and recommendation by the field office, HUD Headquarters will approve or disapprove the request.

Rent, in the case of a unit in a cooperative project, means the carrying charges payable to the cooperative with respect to occupancy of the unit.

Tenant rent means the monthly amount defined in, and determined in accordance with part 813 of this chapter.

Total tenant payment means the monthly amount defined in, and determined in accordance with part 813 of this chapter.

Utility allowance is defined in part 813 of this chapter and is determined or approved by HUD.

Utility reimbursement is defined in part 813 of this chapter.

Vacancy payment means the housing assistance payment made to the Borrower by HUD for a vacant assisted unit if certain conditions are fulfilled, as provided in the HAP contract. The amount of the vacancy payment varies with the length of the vacancy period and is less after the first 60 days of any vacancy.

§ 891.525 Amount and terms of financing.

(a) The amount of financing approved shall be the amount stated in the Notice of Section 202 Fund Reservation, including any increase approved by the field office prior to the final closing of a loan; provided, however, that the amount of financing provided shall not exceed the lesser of:

(1) The dollar amounts stated in paragraphs (b) through (f) of this section; or

(2) The total development cost of the project as determined by the field office.

(b) For such part of the property or project attributable to dwelling use (excluding exterior land improvements, as defined by the Assistant Secretary) the maximum loan amount, depending on the number of bedrooms, may not exceed:

(1) $28,032 per family unit without a bedroom.

(2) $32,321 per family unit with one bedroom.

(3) $38,979 per family unit with two bedrooms.

(c) In order to compensate for the higher costs incident to construction of elevator type structures of sound standards of construction and design, the field office may increase the dollar limitations per family unit, as provided in paragraph (b) of this section, to not to exceed:

(1) $29,500 per family unit without a bedroom.

(2) $33,816 per family unit with one bedroom.

(3) $41,120 per family unit with two bedrooms.

(d) *Reduced loan amount—leaseholds.* In the event the loan is secured by a leasehold estate rather than a fee simple estate, the allowable cost of the property upon which the loan amount is based shall be reduced by the value of the leased fee.

(e) *Adjusted loan amount—rehabilitation projects.* A loan amount that involves a project to be rehabilitated shall be subject to the following additional limitations:

(1) *Property held in fee.* If the Borrower is the fee simple owner of the project not encumbered by a mortgage, the maximum loan amount shall not exceed 100 percent of the cost of the proposed rehabilitation.

(2) *Property subject to existing mortgage.* If the Borrower owns the project subject to an outstanding indebtedness, which is to be refinanced with part of the Section 202 loan, the maximum loan amount shall not exceed the cost of rehabilitation plus such portion of the outstanding indebtedness as does not exceed the fair market value of such land and improvements prior to the rehabilitation, as determined by the field office.

(3) *Property to be acquired.* If the project is to be acquired by the Borrower and the purchase price is to be financed with a part of the Section 202 loan, the maximum loan amount shall not exceed the cost of the rehabilitation plus such portion of the purchase price as does not exceed the fair market value of such land and improvements prior to the rehabilitation, as determined by the field office.

(f) *Increased Mortgage Limits—High Cost Areas.* (1)(i) The Assistant Secretary may increase the dollar amount limitations in paragraphs (b) and (c) of this section:

(A) By not to exceed 110 percent in any geographical area in which the Assistant Secretary finds that cost levels so require; and

(B) By not to exceed 140 percent where the Assistant Secretary determines it necessary on a project-by-project basis.

(ii) In no case, however, may any such increase exceed 90 percent, where the Assistant Secretary determines that there is involved a mortgage purchased or to be purchased by the Government National Mortgage Association (GNMA) in implementing its Special Assistance Functions under section 305 of the National Housing Act (as section 305 existed immediately before its repeal on November 30, 1983).

(2) If the Assistant Secretary finds that because of high costs in Alaska, Guam, or Hawaii it is not feasible to construct dwellings without the sacrifice of sound standards of construction, design, and livability within the limitations of maximum loan amounts provided in this section, the principal amount of mortgages may be increased by such amounts as may be necessary to compensate for such costs, but not to exceed in any event the maximum, including high cost area increases, if any, otherwise applicable by more than one-half thereof.

(g) *Loan interest rate.* Loans shall bear interest at a rate determined by HUD in accordance with this section.

(1) *Annual interest rate.* Except as provided under paragraph (g)(2), loans shall bear interest at the rate in effect at the time the loan is made. The loan interest rate shall not exceed:

(i) The average yield on the most recently issued 30-year marketable obligations of the United States during the 3-month period immediately preceding the fiscal year in which the loan is made (adjusted to the nearest one-eighth of one percent), plus an allowance to cover administrative costs and probable losses under the program; and

(ii) Any applicable statutory ceiling on the loan interest rate including the allowance to cover administrative costs and probable losses.

(2) *Optional interest rate.* The Borrower may elect an optional loan interest rate. To elect the optional rate, the Borrower must request that HUD determine the loan interest rate at the time of the Borrower's request for conditional or firm commitment for direct loan financing.

(i) If the Borrower elects the optional loan interest rate, the loan interest rate shall not exceed:

(A) The average yield on the most recently issued 30-year marketable obligations of the United States during the 3-month period immediately preceding the fiscal year in which the request for commitment is submitted (adjusted to the nearest one-eighth of one percent), plus an allowance to cover administrative costs and probable losses under the program;

(B) The average yield on the most recently issued 30-year marketable obligations of the United States during the 1-month period immediately preceding the month in which the request for commitment is submitted (adjusted to the nearest one-eighth of one percent), plus an allowance to cover the administrative costs and probable losses under the program; and (C) Any applicable statutory ceiling on the loan interest rate including an allowance to cover administrative costs and probable losses under the program.

(ii) The date of submission of a request for conditional or firm commitment is the date that the Borrower submits the complete and acceptable request to HUD. The date of the submission of a request for commitment will not be affected by any subsequent resubmission of the request by the Borrower or by any reprocessing of the request by HUD.

(iii) The Borrower may withdraw its election of the optional interest rate at any time before initial loan closing. If the Borrower elected the optional interest rate with its request for conditional commitment and withdraws its election, the loan will bear interest at the rate determined under paragraph (g)(1) of this section, unless the Borrower elects an optional interest rate with its request for firm commitment. If the Borrower withdraws its election after the date of submission of its request for firm commitment, the loan will bear interest at the rate determined under paragraph (g)(1) of this section.

(iv) If initial loan closing has not occurred within 18 months after the Notice of Section 202 Fund Reservation is issued, the Borrower's election of the optional rate will be cancelled and the loan will bear interest at the rate determined under paragraph (g)(1) of this section.

(3) *Allowance for administrative costs and probable losses.* For the purpose of computing the loan interest rate under paragraphs (g) (1) and (2) of this section, the allowance to cover administrative costs and probable losses under the program is one-fourth of one percent (.25%) per annum for both the construction and permanent loan periods.

(h) *Announcement of interest rates.* (1) HUD will annually announce the loan interest rate determination under paragraph (g)(1) of this section by publishing notice of the rate in the **Federal Register**. The **Federal Register** notice will include a statement explaining the basis for the interest rate determination.

(2) Upon the Borrower's request, HUD will provide available current information concerning the determination of the interest rate under paragraph (g)(2) of this section.

(i) The loan shall be secured by a first mortgage on real estate in fee simple or long term leasehold. The mortgage shall be repayable during a term not to exceed 40 years and shall be subject to such terms and conditions as shall be determined by the Assistant Secretary.

(j) In order to assure HUD of the Borrower's continued commitment to the development, management, and operation of the project, a minimum capital investment is required of Section 202 Borrowers of one-half of one percent (0.5%) of the mortgage amount committed to be disbursed, not to exceed the amount of $10,000. Section 106(b) loans made pursuant to section 106 of the Housing Act of 1968 may not be utilized to meet the minimum capital investment requirement. Such minimum capital investment shall be placed in escrow at the initial closing of the Section 202 loan and shall be held by HUD or other escrow agent acceptable to the field office for not less than a 3-year period from the date of initial occupancy and may be used for operating expenses or deficits as may be directed by the field office. Any unexpended balance remaining in the minimum capital investment account at the end of the escrow period shall be returned to the Borrower.

§ 891.530 Prepayment privileges.

(a) The prepayment (whether in whole or in part) or the assignment or transfer of physical and financial assets of any Section 202 project is prohibited, unless the Secretary gives prior written approval.

(b) The Secretary may not grant approval unless he or she has determined that the prepayment or transfer of the loan is part of a transaction that will ensure the continued operation of the project, until the original maturity date of the loan, in a manner that will provide rental housing for the elderly and handicapped on terms at least as advantageous to existing and future tenants as the terms required by the original Section 202 loan agreement and any other loan agreements entered into under other provisions of law.

§ 891.535 Requirements for awarding construction contracts.

(a) Awards shall be made only to responsible contractors that possess the potential ability to perform successfully under the terms and conditions of a proposed construction contract. Consideration shall be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

(b) Each Borrower is permitted to use either competitive bidding (formal advertising) in selecting a construction contractor or the negotiated noncompetitive method of contract award under paragraph (c) of this section. In competitive bidding, sealed bids are publicly solicited and a firm, fixed-price contract is awarded (in accordance with the requirements of this paragraph (b)) to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is lowest in price. Regardless of which method a Borrower uses, there should be an opportunity for minority owned and women owned businesses to be awarded a contract.

(1) Bids shall be solicited from an adequate number of known contractors a reasonable time prior to the date set forth for opening of bids. In addition, the invitation shall be publicly advertised.

(2) The invitation for bids shall specify:

(i) The name of the Borrower;

(ii) A brief description of the proposed project and the proposed construction contract;

(iii) A preliminary estimate of cost;

(iv) That bids will be received at a specified place until a specified time at which time and place all bids will be publicly opened;

(v) The location where the proposed forms of contract and bid documents, including plans and specifications, are on file and may be obtained on payment of a specified returnable deposit;

(vi) That a certified check or bank draft or satisfactory bid bond in the amount of 5 percent of the bid shall be submitted with the bid;

(vii) That the successful bidder will be required to provide assurance of completion in the form of a performance and payment bond or cash escrow; and

(viii) That the Borrower reserves the right to reject any or all bids and to waive any informality.

(3) The bid form, which must be submitted by all bidders, must specify:

(i) The name of the project;

(ii) The name and address of the bidder;

(iii) That the bidder proposes to furnish all labor, materials, equipment and services required to construct and complete the project, as described in the invitation for bids (including the contents of all documents on file), for a specified lump-sum price;

(iv) That the security specified in paragraph (b)(2)(vi) of this section accompanies the bid;

(v) The period after the bid opening during which the bid shall not be withdrawn without the consent of the Borrower;

(vi) That the bidder will, if notified of acceptance of such bid within a specified period after the opening, execute and deliver a contract in the prescribed form and furnish the required bond within ten days thereafter;

(vii) That the bidder acknowledges any amendments to the invitation for bids; and

(viii) That the bidder certifies that the bid is in strict accordance with all terms of the invitation for bids (including the contents of all documents on file) and that the bid is signed by a person authorized to bind the bidder.

(4) Bidding shall be open to all general contractors who furnish the security guaranteeing their bid, as described in paragraph (b)(2)(vi) of this section.

(5) All bids shall be opened publicly at the time and place stated in the invitation for bids, in the presence of the HUD Regional Administrator or his designee.

(6) A firm, fixed-price contract award shall be made by written notice to the responsible bidder whose bid, conforming to the invitation for bids, is lowest. The contract may provide for an incentive payment to the contractor for an early completion.

(c) A Sponsor or Borrower may award a negotiated, noncompetitive construction contract.

§ 891.540 Loan disbursement procedures.

(a) Disbursements of loan proceeds shall be made directly by HUD to or for the account of the Borrower and may be made through an approved lender, mortgage servicer, title insurance company, or other agent satisfactory to the Borrower and HUD.

(b) All disbursements to the Borrower shall be made on a periodic basis in an amount not to exceed the HUD-approved cost of portions of construction or rehabilitation work completed and in place (except as modified in paragraph (d) of this section), minus the appropriate holdback, as determined by the field office.

(c) Requisitions for loan disbursements shall be submitted by the Borrower on forms to be prescribed by the Assistant Secretary and shall be accompanied by such additional information as the field office may require in order to approve loan disbursements under subpart E of this part, including but not limited to evidence of compliance with the Davis-Bacon Act, Department of Labor regulations, all applicable zoning, building, and other governmental requirements, and such evidence of continued priority of the mortgage of the Borrower as the Assistant Secretary may prescribe.

(d) In loan disbursements for building components stored off-site, the term "*building component*" shall mean any manufactured or preassembled part of a structure as defined by HUD and that the Assistant Secretary has designated for off-site storage because it is of such size or weight that storage of the components required for timely construction progress at the construction site is impractical, or weather damage or other adverse conditions prevailing at the construction site would make storage at the site impractical or unduly costly. Each building component must be specifically identified for incorporation into the property as provided under paragraph (d)(1)(ii) of this section.

(1) *Storage.* (i) A loan disbursement may be made for up to 90 percent of the invoice value (to exclude costs of transportation and storage) of the building components stored off-site if the components are stored at a location approved by HUD.

(ii) Each building component shall be adequately marked so as to be readily identifiable in the inventory of the off-site location. It shall be kept together with all other building components of the same manufacturer intended for use in the same project for which loan disbursements have been made and separate and apart from similar units not for use in the project.

(iii) Storage costs, if any, shall be borne the general contractor.

(2) *Responsibility for transportation, storage and insurance of off-site building components.* The general contractor of the project shall have the responsibility for:

(i) Insuring the components in the name of the Borrower while in transit and storage; and

(ii) Delivering or contracting for the delivery of the components to the storage area and to the construction site, including payment of freight.

(3) *Loan disbursements.* (i) Before a loan disbursement for a building component stored off-site is made, the Borrower shall:

(A) Obtain a bill of sale for the component;

(B) Provide HUD with a security agreement pledged by a first lien on the building components with the exception of such other liens or encumbrances as may be approved by HUD; and

(C) File a financing statement in accordance with the Uniform Commercial Code.

(ii) Before each loan disbursement for building components stored off-site is made the manufacturer and the general contractor shall certify to HUD that the components, in their intended use, comply with HUD-approved contract plan and specifications.

(iii) Loan disbursements may be made only for components stored off-site in a quantity required to permit uninterrupted installation at the site.

(iv) At no time shall the invoice value of building components being stored off-site, for which advances have been insured, represent more than 25 percent of the total estimated construction costs for the insured mortgaged project as specified in the construction contract. Notwithstanding the preceding sentence and other regulatory requirements that set bonding requirements, the percentage of total estimated construction costs insured by advances under this section may exceed 25 percent but not 50 percent if the mortgagor furnishes assurance of completion in the form of a corporate surety bond for the payment and performance each in the amount of 100 percent of the amount of the construction contract. In no event will insurance of components stored off-site be made in the absence of a payment and performance bond.

(v) No single loan disbursement which is to be made shall be in an amount less than ten thousand ($10,000) dollars.

§ 891.545 Completion of project, cost certification, and HUD approvals.

(a) The Borrower must satisfy the requirements for completion of construction and substantial rehabilitation and approvals by HUD before submission of a final requisition for disbursement of loan proceeds.

(b) The Borrower shall submit to the field office all documentation required for final disbursement of the loan, including:

(1) A Borrower's/Mortgagor's Certificate of Actual Cost, showing the actual cost to the mortgagor of the construction contract, architectural, legal, organizational, offsite costs, and all other items of eligible expense. The certificate shall not include as actual cost any kickbacks, rebates, trade discounts, or other similar payments to the mortgagor or to any of its officers, directors, or members.

(2) A verification of the Certificate of Actual Cost by an independent Certified Public Accountant or independent public accountant acceptable to the field office.

(3) In the case of projects not subject to competitive bidding, a certification of the general contractor (and of such subcontractors, material suppliers, and equipment lessors as the Assistant Secretary or field office may require), on a form prescribed by the Assistant Secretary, as to all actual costs paid for labor, materials, and subcontract work under the general contract exclusive of the builder's fee and kickbacks, rebates, trade discounts, or other similar payments to the general contractor, the mortgagor, or any of its officers, directors, stockholders, partners, or members.

(c) In lieu of the requirements set forth in paragraphs (c)(1) and (3) of this section, a simplified form of cost certification prescribed by the Secretary may be completed and submitted by the Borrower for projects with mortgages of $500,000 or less. The simplified cost certification shall be verified by an independent Certified Public Accountant or an independent public accountant in a manner acceptable to the Secretary.

(d) If the Borrower's certified costs provided in accordance with paragraph (c) or (d) of this section and as approved by HUD are less than the loan amount, the contract rents will be reduced accordingly.

(e) If the contract rents are reduced pursuant to paragraph (e) of this section, the maximum annual HAP Contract commitment will be reduced. If contract rents are reduced based on cost certification after HAP Contract execution, any overpayment after the effective date of the Contract will be recovered from the Borrower by HUD.

(Approved by the Office of Management and Budget under control number 2502–0044.)

§ 891.550 Selection preferences.

For purposes of projects assisted under §§ 891.520 through 891.650, the selection preferences in 24 CFR part 5, subpart D apply.

§ 891.555 Smoke detectors.

(a) *Performance requirement.* After October 30, 1992, each dwelling unit must include at least one battery-operated or hard-wired smoke detector, in proper working condition, on each level of the unit. If the unit is occupied by hearing-impaired persons, smoke detectors must have an alarm system designed for hearing-impaired persons in each bedroom occupied by a hearing-impaired person.

(b) *Acceptability criteria.* The smoke detector must be located, to the extent practicable, in a hallway adjacent to a bedroom, unless the unit is occupied by a hearing-impaired person, in which case each bedroom occupied by a hearing-impaired person must have an alarm system connected to the smoke detector installed in the hallway.

§ 891.560 HAP contract.

(a) *HAP contract.* The housing assistance payments contract sets forth rights and duties of the Borrower and HUD with respect to the project and the housing assistance payments.

(b) *HAP contract execution.* (1) Upon satisfactory completion of the project, the Borrower and HUD shall execute the HAP contract on the form prescribed by HUD.

(2) The effective date of the HAP contract may be earlier than the date of execution, but no earlier than the date of HUD's issuance of the permission to occupy.

(3) If the project is completed in stages, the procedures of paragraph (b) of this section shall apply to each stage.

(c) *Housing assistance payments to owners under the HAP contract.* The housing assistance payments made under the HAP contract are:

(1) *Payments to the Borrower to assist eligible families leasing assisted units.* The amount of the housing assistance payment made to the Borrower for an assisted unit leased to an eligible family is equal to the difference between the contract rent for the unit and the tenant rent payable by the family.

(2) *Payments to the Borrower for vacant assisted units (vacancy payments).* The amount of and conditions for vacancy payments are described in § 891.650. The housing assistance payments are made monthly by HUD upon proper requisition by the Borrower, except payments for vacancies of more than 60 days, which are made semiannually by HUD upon requisition by the Borrower.

(d) *Payment of utility reimbursement.* As applicable, a utility reimbursement will be paid to a family occupying an assisted unit as an additional housing assistance payment. The HAP contract will provide that the Borrower will make this payment on behalf of HUD. Funds will be paid to the Borrower in trust solely for the purpose of making the additional payment. The Borrower may pay the utility reimbursement jointly to the family and the utility company, or, if the family and utility

company consent, directly to the utility company.

§ 891.565 Term of HAP contract.

The term of the HAP contract for assisted units shall be 20 years. If the project is completed in stages, the term of the HAP contract for assisted units in each stage shall be 20 years. The term of the HAP contract for all assisted units in all stages of a project shall not exceed 22 years.

§ 891.570 Maximum annual commitment and project account.

(a) *Maximum annual commitment.* The maximum annual amount that may be committed under the HAP contract is the total of the contract rents and utility allowances for all assisted units in the project.

(b) *Project account.* (1) HUD will establish and maintain a specifically identified and segregated project account for each project. The project account will be established out of the amounts by which the maximum annual commitment exceeds the amount actually paid out under the HAP contract each year. HUD will make payments from this account for housing assistance payments as needed to cover increases in contract rents or decreases in tenant income and other payments for costs specifically approved by the Secretary.

(2) If the HUD-approved estimate of required annual payments under the HAP contract for a fiscal year exceeds the maximum annual commitment for that fiscal year plus the current balance in the project account, HUD will, within a reasonable time, take such steps authorized by section 8(c)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437f note), as may be necessary, to assure that payments under the HAP contract will be adequate to cover increases in contract rents and decreases in tenant income.

§ 891.575 Leasing to eligible families.

(a) *Availability of assisted units for occupancy by eligible families.* (1) During the term of the HAP contract, a Borrower shall make available for occupancy by eligible families the total number of units for which assistance is committed under the HAP contract. For purposes of this section, making units available for occupancy by eligible families means that the Borrower:

(i) Is conducting marketing in accordance with § 891.600(a);

(ii) Has leased or is making good faith efforts to lease the units to eligible and otherwise acceptable families, including taking all feasible actions to fill vacancies by renting to such families;

(iii) Has not rejected any such applicant family except for reasons acceptable to HUD.

(2) If the Borrower is temporarily unable to lease all units for which assistance is committed under the HAP contract to eligible families, one or more units may, with the prior approval of HUD, be leased to otherwise eligible families that do not meet the income eligibility requirements of part 813 of this chapter. Failure on the part of the Borrower to comply with these requirements is a violation of the HAP contract and grounds for all available legal remedies, including an action for specific performance of the HAP contract, suspension or debarment from HUD programs, and reduction of the number of units under the HAP contract as set forth in paragraph (b) of this section.

(b) *Reduction of number of units covered by the HAP contract.* HUD may reduce the number of units covered by the HAP contract to the number of units available for occupancy by eligible families if:

(1) The Borrower fails to comply with the requirements of paragraph (a) of this section; or

(2) Notwithstanding any prior approval by HUD, HUD determines that the inability to lease units to eligible families is not a temporary problem.

(c) *Restoration.* HUD will agree to an amendment of the HAP contract to provide for subsequent restoration of any reduction made under paragraph (b) of this section if:

(1) HUD determines that the restoration is justified by demand;

(2) The Borrower otherwise has a record of compliance with the Borrower's obligations under the HAP contract; and

(3) Contract and budget authority is available.

(d) *Applicability.* In accordance with section 555 of the Cranston-Gonzalez National Affordable Housing Act of 1990, paragraphs (a) and (b) of this section apply to all contracts. An owner who had leased an assisted unit to an ineligible family consistent with the regulations in effect at the time will continue to lease the unit to that family. However, the owner must make the unit available for occupancy by an eligible family when the ineligible family vacates the unit.

(e) *Occupancy by families that are not elderly or handicapped.* HUD may permit units in the project to be leased to other than elderly or handicapped families if:

(1) The Borrower has made reasonable efforts to lease assisted and unassisted units to eligible families;

(2) The Borrower has been granted HUD approval under paragraph (a) of this section; and

(3) The Borrower is temporarily unable to achieve or maintain a level of occupancy sufficient to prevent financial default and foreclosure under the Section 202 loan documents. HUD approval under paragraph (e)(3) of this section will be of limited duration. HUD may impose terms and conditions to this approval that are consistent with program objectives and necessary to protect its interest in the Section 202 loan.

§ 891.580 HAP contract administration.

HUD is responsible for the administration of the HAP contract.

§ 891.585 Default by Borrower.

(a) *HAP contract provisions.* The HAP contract will provide:

(1) That if HUD determines that the Borrower is in default under the HAP contract, HUD will notify the Borrower of the actions required to be taken to cure the default and of the remedies to be applied by HUD including an action for specific performance under the HAP contract, reduction or suspension of housing assistance payments and recovery of overpayments, where appropriate; and

(2) That if the Borrower fails to cure the default, HUD has the right to terminate the HAP contract or to take other corrective action.

(b) *Loan provisions.* Additional provisions governing default under the section 202 loan are included in the regulatory agreement and other loan documents.

§ 891.590 Notice upon HAP contract expiration.

(a) *Notice required.* The HAP contract will provide that the Borrower will, at least one year before the end of the HAP contract term, notify each family leasing an assisted unit of any increase in the amount the family will be required to pay as rent as a result of the expiration.

(b) *Service requirements.* The notice under paragraph (a) of this section shall be accomplished by sending a letter by first class mail, properly stamped and addressed, to the family at its address at the project, with a proper return address; and serving a copy of the notice on any adult person answering the door at the leased dwelling unit, or if no adult responds, by placing the notice under or through the door, if possible, or else by affixing the notice to the door. Service shall not be considered to be effective until both required notices have been accomplished. The date on which the notice shall be considered to be received by the family shall be the date on which the Borrower mails the first class letter provided for in paragraph (b) of this section, or the date on which the notice provided for in paragraph (b) of this section is properly given, whichever is later.

(c) *Contents of notice.* The notice shall advise each affected family that, after the expiration date of the HAP contract, the family will be required to bear the entire cost of the rent and that the Borrower may, subject to requirements and restrictions contained in the regulatory agreement, the lease, and State or local law, change the rent. The notice also shall state:

(1) The actual (if known) or the estimated rent that will be charged following the expiration of the HAP contract;

(2) The difference between the new rent and the total tenant payment toward rent under the HAP contract; and

(3) The date the HAP contract will expire.

(d) *Certification to HUD.* The Borrower shall give HUD a certification that families have been notified in accordance with this section and shall attach to the certification an example of the text of the notice.

(e) *Applicability.* This section applies to all HAP contracts entered into under an agreement to enter into a housing assistance payments contract executed on or after October 1, 1981, or entered into under such an agreement executed before October 1, 1981 but renewed or amended after February 9, 1995.

(Approved by the Office of Management and Budget under control number 2502–0371.)

§ 891.595 HAP contract extension or renewal.

Upon expiration of the term of the HAP contract, HUD and the Borrower may agree (subject to available funds) to extend the term of the HAP contract or to renew the HAP contract. The number of assisted units under the extended or renewed HAP contract shall equal the number of assisted units under the original HAP contract, except that:

(a) HUD and the Borrower may agree to reduce the number of assisted units by the number of assisted units that are not occupied by eligible families at the time of the extension or renewal; and

(b) HUD and the Borrower may agree to permit reductions in the number of assisted units during the term of the extended or renewed HAP contract as assisted units are vacated by eligible families. Nothing in this section shall prohibit HUD from reducing the number of units covered under the extended or renewed HAP contract in accordance with § 891.575(b).

§ 891.600 Responsibilities of Borrower.

(a) *Marketing.* (1) The Borrower must commence and continue diligent marketing activities not later than 90 days before the anticipated date of availability for occupancy of the first unit of the project. Market activities shall include the provision of notices of availability of housing under the program to operators of temporary housing for the homeless in the same housing market.

(2) Marketing must be done in accordance with the HUD-approved affirmative fair housing marketing plan and all Federal, State, or local fair housing and equal opportunity requirements. The purpose of the plan and requirements is to achieve a condition in which eligible families of similar income levels in the same housing market have a like range of housing choices available to them regardless of discriminatory considerations, such as their race, color, creed, religion, familial status, disability, sex or national origin. Marketing must also be done in accordance with the communication and notice requirements of Section 504 at 24 CFR 8.6 and 24 CFR 8.54.

(3) At the time of HAP contract execution, the Borrower must submit to HUD a list of leased and unleased assisted units, with a justification for the unleased units, in order to qualify for vacancy payments for the unleased units.

(b) *Management and maintenance.* The Borrower is responsible for all management functions. These functions include selection and admission of tenants, required reexaminations of incomes for families occupying assisted units (or residential spaces, as applicable), collection of rents, termination of tenancy and eviction, and all repair and maintenance functions (including ordinary and extraordinary maintenance and replacement of capital items). All functions must be performed in compliance with equal opportunity requirements.

(c) *Contracting for services.* (1) With HUD approval, the Borrower may contract with a private or public entity for performance of the services or duties required in paragraphs (a) and (b) of this section. However, such an arrangement does not relieve the Borrower of responsibility for these services and duties. All such contracts are subject to the restrictions governing prohibited contractual relationships described in §§ 891.130 and 891.505, if applicable. (These prohibitions do not extend to management contracts entered into by the Borrower with the Sponsor or its nonprofit affiliate).

(2) Consistent with the objectives of Executive Order No. 11625 (36 FR 19967, 3 CFR, 1971–1975 Comp., p. 616; as amended by Executive Order No. 12007 (42 FR 42839, 3 CFR, 1977 Comp., p. 139; unless otherwise noted); Executive Order No. 12432 (48 FR 32551, 3 CFR, 1983 Comp., p. 198; unless otherwise noted); and Executive Order No. 12138 (44 FR 29637, 3 CFR, 1979 Comp., p. 393; unless otherwise noted), the Borrower will promote awareness and participation of minority and women's business enterprises in contracting and procurement activities.

(d) *Submission of financial and operating statements.* The Borrower must submit to HUD:

(1) Within 60 days after the end of each fiscal year of project operations, financial statements for the project audited by an independent public accountant and in the form required by HUD; and

(2) Other statements regarding project operation, financial conditions and occupancy as HUD may require to administer the housing assistance payments contract (HAP contract) or the project assistance contract (PAC), as applicable, and to monitor project operations.

(e) *Use of project funds.* The Borrower shall maintain a separate project fund account in a depository or depositories that are members of the Federal Deposit Insurance Corporation or National Credit Union Share Insurance Fund and shall deposit all rents, charges, income and revenues arising from project operation or ownership to this account. All project funds are to be deposited in Federally-insured accounts. All balances shall be fully insured at all times, to the maximum extent possible. Project funds must be used for the operation of the project (including required insurance coverage), to make required principal and interest payments on the Section 202 loan, and to make required deposits to the replacement reserve under §§ 891.605 and 891.745 (as applicable), in accordance with a HUD-approved budget. Any project funds in the project funds account (including earned interest) following the expiration of the fiscal year shall be deposited in a Federally-insured residual receipts account within 60 days following the end of the fiscal year. Withdrawals from this account may be made only for project purposes and with the approval of HUD. If there are funds remaining in the residual receipts account when the

mortgage is satisfied, such funds shall be returned to HUD.

(f) *Reports.* The Borrower shall submit such reports as HUD may prescribe to demonstrate compliance with applicable civil rights and equal opportunity requirements.

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§ 891.605 Replacement reserve.

(a) *Establishment of reserve.* The Borrower shall establish and maintain a replacement reserve to aid in funding extraordinary maintenance, and repair and replacement of capital items.

(b) *Deposits to reserve.* The Borrower shall make monthly deposits to the replacement reserve in an amount determined by HUD. Further requirements regarding the amount of the deposits for projects funded under §§ 891.655 through 891.790 are provided in § 891.745.

(c) *Level of reserve.* The reserve must be built up to and maintained at a level determined by HUD to be sufficient to meet projected requirements. Should the reserve reach that level, the amount of the deposit to the reserve may be reduced with the approval of HUD.

(d) *Administration of reserve.* Replacement reserve funds must be deposited with HUD or in a Federally-insured depository in an interest-bearing account(s) whose balances are fully insured at all times. All earnings including interest on the reserve must be added to the reserve. Funds may be drawn from the reserve and used only in accordance with HUD guidelines and with the approval of, or as directed by, HUD.

§ 891.610 Selection and admission of tenants.

(a) *Written procedures.* The Owner shall adopt written tenant selection procedures that ensure nondiscrimination in the selection of tenants and that are consistent with the purpose of improving housing opportunities for very low-income elderly or handicapped persons; and reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. Owners shall promptly notify in writing any rejected applicant of the grounds for any rejection. Additionally, owners shall maintain a written, chronological waiting list showing the name, race, gender, ethnicity and date of each person applying for the program.

(b) *Application for admission.* The Borrower must accept applications for admission to the project in the form prescribed by HUD and is obligated to confirm all information provided by the applicant families on the application. Applicant families must be requested to complete a release of information consent for verification of information. Applicants applying for assisted units must complete a certification of eligibility as part of the application for admission. Applicant families must meet the disclosure and verification requirements for Social Security Numbers, and sign and submit consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by 24 CFR part 5, subpart B. Both the Borrower and the applicant must complete and sign the application for admission. On request, the Borrower must furnish copies of all applications for admission to HUD.

(c) *Determination of eligibility and selection of tenants.* The Borrower is responsible for determining whether applicants are eligible for admission and for the selection of families. To be eligible for admission, an applicant must be an elderly or handicapped family as defined in § 891.505; meet any project occupancy requirements approved by HUD; meet the disclosure and verification requirements for Social Security Numbers and sign and submit consent forms for obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by 24 CFR part 5, subpart B; and, if applying for an assisted unit, be eligible for admission under part 813 of thia chapter.

(d) *Unit assignment.* If the Borrower determines that the family is eligible and is otherwise acceptable and units are available, the Borrower will assign the family a unit. The Borrower will assign the family a unit of the appropriate size in accordance with HUD's general occupancy guidelines. If no suitable unit is available, the Borrower will place the family on a waiting list for the project and notify the family of when a suitable unit may become available. If the waiting list is so long that the applicant would not be likely to be admitted within the next 12 months, the Borrower may advise the applicant that no additional applications for admission are being considered for that reason, except that the Borrower may not refuse to place an applicant on the waiting list if the applicant is otherwise eligible for assistance and claims that he or she qualifies for a Federal preference as provided in 24 CFR part 5, subpart D.

(e) *Ineligibility determination.* If the Borrower determines that an applicant is ineligible for admission or the Borrower is not selecting the applicant for other reasons, the Borrower will promptly notify the applicant in writing of the determination, the reasons for the determination, and that the applicant has a right to request a meeting with the Borrower or managing agent to review the rejection, in accordance with HUD requirements. The review, if requested, may not be conducted by a member of the Borrower's staff who made the initial decision to reject the applicant. The applicant may also exercise other rights (e.g., rights granted under Federal, State, or local civil rights laws) if the applicant believes he or she is being discriminated against on a prohibited basis. The informal review provisions for the denial of a Federal preference are provided in § 5.410(g) of this title.

(f) *Records.* Records on applicants and approved eligible families, which provide racial, ethnic, gender, handicap status, and place of previous residency data required by HUD, must be retained for three years.

(g) *Reexamination of family income and composition.* (1) *Regular reexaminations.* The Borrower must reexamine the income and compgsition of the family at least every 12 months. Upon verification of the information, the Borrower shall make appropriate adjustments in the total tenant payment in accordance with part 813 of this chapter and determine whether the family's unit size is still appropriate. The Borrower must adjust tenant rent and the housing assistance payment and must carry out any unit transfer in accordance with the administrative instructions issued by HUD. At the time of reexamination under paragraph (g)(1) of this section, the Borrower must require the family to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 5, subpart B.

(2) *Interim reexaminations.* The family must comply with the provisions in its lease regarding interim reporting of changes in income. If the Borrower receives information concerning a change in the family's income or other circumstances between regularly scheduled reexaminations, the Borrower must consult with the family and make any adjustments determined to be appropriate. Any change in the family's income or other circumstances that results in an adjustment in the total tenant payment, tenant rent and housing assistance payment must be verified.

(3) *Continuation of housing assistance payments.* (i) A family shall remain eligible for housing assistance payments until the total tenant payment equals or exceeds the gross rent. The termination of subsidy eligibility will not affect the family's other rights under its lease. Housing assistance payments may be resumed if, as a result of changes in income, rent or other relevant circumstances during the term of the HAP contract, the family meets the income eligibility requirements of part 813 of this chapter and housing assistance is available for the unit under the terms of the HAP contract. The family will not be required to establish its eligibility for admission to the project under the remaining requirements of paragraph (c) of this section.

(ii) A family's eligibility for housing assistance payments may be terminated in accordance with HUD requirements for such reasons as failure to submit requested verification information, including information related to disclosure and verification of Social Security Numbers, or failure to sign and submit consent forms for the obtaining of wage and claim information from State wage information collection agencies, as provided by 24 CFR part 5, subpart B.

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§ 891.615 Obligations of the family.

The obligations of the family are provided in § 891.415.

§ 891.620 Overcrowded and underoccupied units.

If the Borrower determines that because of change in family size, an assisted unit is smaller than appropriate for the eligible family to which it is leased, or that the assisted unit is larger than appropriate, housing assistance payments or project assistance payments (as applicable) with respect to the unit will not be reduced or terminated until the eligible family has been relocated to an appropriate alternate unit. If possible, the Borrower will, as promptly as possible, offer the family an appropriate alternate unit. The Borrower may receive vacancy payments for the vacated unit if the Borrower complies with the requirements of § 891.650.

§ 891.625 Lease requirements.

The lease requirements are provided in § 891.425.

§ 891.630 Termination of tenancy and modification of lease.

The provisions of part 247 of this title apply to all decisions by a Borrower to terminate the tenancy or modify the lease of a family residing in a unit.

§ 891.635 Security deposits.

The general requirements for security deposits on assisted units are provided in § 891.435. For purposes of subpart E of this part, the additional requirements apply:

(a) The Borrower may require each family occupying an unassisted unit (or residential space in a group home) to pay a security deposit equal to one month's rent payable by the family.

(b) The Borrower shall maintain a record of the amount in the segregated interest-bearing account that is attributable to each family in residence in the project. Annually for all families, and when computing the amount available for disbursement under § 891.435(b)(3), the Borrower shall allocate to the family's balance the interest accrued on the balance during the year. Unless prohibited by State or local law, the Borrower may deduct for the family, from the accrued interest for the year, the administrative cost of computing the allocation to the family's balance. The amount of the administrative cost adjustment shall not exceed the accrued interest allocated to the family's balance for the year.

§ 891.640 Adjustment of rents.

(a) *Contract rents.* (1) *Adjustment based on approved budget.* If the HAP contract provides, or has been amended to provide, that contract rents will be adjusted based upon a HUD-approved budget, HUD will calculate contract rent adjustments based on the sum of the project's operating costs and debt service (as calculated by HUD), with adjustments for vacancies, the project's nonrental income, and other factors that HUD deems appropriate. The calculation will be made on the basis of information provided by the Borrower on a form acceptable to the Secretary. The automatic adjustment factor described in part 888 of this chapter is not used to adjust contract rents under paragraph (a)(1) of this section, except to the extent that the amount of the replacement reserve deposit is adjusted under § 880.602 of this chapter.

(2) *Annual and special adjustments.* If the HAP contract provides that contract rents will be adjusted based on the application of an automatic adjustment factor and by special additional adjustments:

(i) Consistent with the HAP contract, contract rents may be adjusted in accordance with part 888 of this chapter;

(ii) Special additional adjustments will be granted, to the extent determined necessary by HUD, to reflect increases in the actual and necessary expenses of owning and maintaining the assisted units that have resulted from substantial general increases in real property taxes, assessments, utility rates or similar costs (i.e., assessments and utilities not covered by regulated rates), and that are not adequately compensated for by an annual adjustment. The Borrower must submit to HUD required supporting data, financial statements, and certifications for the special additional adjustment.

(b) *Rent for unassisted units.* The rent payable by families occupying units that are not assisted under the HAP contract shall be equal to the contract rent computed under paragraph (a) of this section.

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§ 891.645 Adjustment of utility allowances.

In connection with adjustments of contract rents as provided in § 891.640(a), the requirements for the adjustment of utility allowances provided in § 891.440 apply.

§ 891.650 Conditions for receipt of vacancy payments for assisted units.

(a) *General.* Vacancy payments under the HAP contract will not be made unless the conditions for receipt of these housing assistance payments set forth in this section are fulfilled.

(b) *Vacancies during rent-up.* For each unit that is not leased as of the effective date of the HAP contract, the Borrower is entitled to vacancy payments in the amount of 80 percent of the contract rent for the first 60 days of vacancy, if the Borrower:

(1) Complied with § 891.600;

(2) Has taken and continues to take all feasible actions to fill the vacancy; and

(3) Has not rejected any eligible applicant except for good cause acceptable to HUD.

(c) *Vacancies after rent-up.* If an eligible family vacates a unit, the Borrower is entitled to vacancy payments in the amount of 80 percent of the contract rent for the first 60 days of vacancy if the Borrower:

(1) Certifies that it did not cause the vacancy by violating the lease, the HAP contract, or any applicable law;

(2) Notified HUD of the vacancy or prospective vacancy and the reasons for the vacancy immediately upon learning of the vacancy or prospective vacancy;

(3) Has fulfilled and continues to fulfill the requirements specified in § 891.600(a)(2) and (3), and in paragraphs (b)(2) and (3) of this section; and

(4) For any vacancy resulting from the Borrower's eviction of an eligible family, certifies that it has complied with § 891.630.

(d) *Vacancies for longer than 60 days.* If a unit continues to be vacant after the 60-day period specified in paragraph (b) or (c) of this section, the Borrower may

apply to receive additional vacancy payments in an amount equal to the principal and interest payments required to amortize that portion of the debt service attributable to the vacant unit for up to 12 additional months for the unit if:

(1) The unit was in decent, safe, and sanitary condition during the vacancy period for which payment is claimed;

(2) The Borrower has fulfilled and continues to fulfill the requirements specified in paragraph (b) or (c) of this section, as appropriate; and

(3) The Borrower has demonstrated to the satisfaction of HUD that:

(i) For the period of vacancy, the project is not providing the Borrower with revenues at least equal to project expenses (exclusive of depreciation) and the amount of payments requested is not more than the portion of the deficiency attributable to the vacant unit; and

(ii) The project can achieve financial soundness within a reasonable time.

(e) *Prohibition of double compensation for vacancies.* If the Borrower collects payments for vacancies from other sources (tenant rent, security deposits, payments under § 891.435(c), or governmental payments under other programs), the Borrower shall not be entitled to collect vacancy payments to the extent these collections from other sources plus the vacancy payment exceed contract rent.

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Section 202 Projects for the Nonelderly Handicapped Families and Individuals—Section 162 Assistance

§ 891.655 Definitions applicable to 202/162 projects.

The following definitions apply to projects for eligible families receiving project assistance payments under section 202(h) of the Housing Act of 1959 in addition to reservations under section 202 (202/162 projects):

Annual income is defined in part 813 of this chapter. In the case of an individual residing in an intermediate care facility for the mentally retarded that is assisted under Title XIX of the Social Security Act and subpart E of this part, the annual income of the individual shall exclude protected personal income as provided under that Act. For the purposes of determining the total tenant payment, the income of such individuals shall be imputed to be the amount that the family would receive if assisted under Title XVI of the Social Security Act.

Assisted unit means a dwelling unit that is eligible for assistance under a project assistance contract (PAC).

Contract rent means the total amount of rent specified in the PAC as payable by HUD and the family to the Borrower for an assisted unit or residential space.

Family (eligible family) means a handicapped family (as defined in § 891.505) that meets the project occupancy requirements approved by HUD and, if the family occupies an assisted unit, meets the low-income requirements described in § 813.102 of this chapter, as modified by the definition of "*annual income*" in this section.

Gross rent is defined in part 813 of this chapter.

Group home means a single family residential structure designed or adapted for occupancy by nonelderly handicapped individuals.

Housing for handicapped families means housing and related facilities occupied by handicapped families that are primarily nonelderly handicapped families.

Independent living complex means a project designed for occupancy by nonelderly handicapped families in separate dwelling units where each dwelling unit includes a kitchen and a bath.

Operating costs means expenses related to the provision of housing and excludes expenses related to administering, or managing the provision of, supportive services. Operating costs include:

(1) Administrative expenses, including salary and management expenses related to the provision of shelter;

(2) Maintenance expenses, including routine and minor repairs and groundskeeping;

(3) Security expenses;

(4) Utilities expenses, including gas, oil, electricity, water, sewer, trash removal, and extermination services. Operating costs exclude telephone services for families;

(5) Taxes and insurance; and

(6) Allowances for reserves.

PAC (project assistance contract) means the contract entered into by the Borrowor and HUD setting forth the rights and duties of the parties with respect to the project and the payments under the PAC.

Project account means a specifically identified and segregated account for each project which is established in accordance with § 891.715(b) out of the amounts by which the maximum annual commitment exceeds the amount actually paid out under the PAC each year.

Project assistance payment means the payment made by HUD to the Borrower for assisted units as provided in the PAC. The payment is the difference between the contract rent and the tenant rent. An additional payment is made to a family occupying an assisted unit in an independent living complex when the utility allowance is greater than the total tenant payment. A project assistance payment, known as a "vacancy payment," may be made to the Borrower when an assisted unit (or residential space in a group home) is vacant, in accordance with the terms of the PAC.

Rent is defined in § 891.505.

Tenant rent means the monthly amount defined in, and determined in accordance with part 813 of this chapter.

Total tenant payment means the monthly amount defined in, and determined in accordance with part 813 of this chapter.

Utility allowance is defined in part 813 of this chapter and is determined or approved by HUD.

Utility reimbursement is defined in part 813 of this chapter.

Vacancy payment means the project assistance payment made to the Borrower by HUD for a vacant assisted unit (or residential space in a group home) if certain conditions are fulfilled, as provided in the PAC. The amount of the vacancy payment varies with the length of the vacancy period and is less after the first 60 days of any vacancy.

§ 891.660 Project standards.

(a) *Property standards.* The property standards for 202/162 projects are provided in § 891.120(a).

(b) *Minimum group home standards.* The minimum group home standards for 202/162 projects are provided in § 891.310(a).

(c) *Accessibility requirements.* The accessibility requirements for 202/162 projects are provided in §§ 891.120(b) and 891.310(b).

(d) *Smoke detectors.* The requirements for smoke detectors for 202/162 projects are provided in § 891.120(d).

§ 891.665 Project size limitations.

(a) *Maximum project size.* Projects funded under §§ 891.655 through 891.790 are subject to the following project size limitations:

(1) Group homes may not be designed to serve more than 15 persons on one site;

(2) Independent living complexes for chronically mentally ill individuals may not be designed to serve more than 20 persons on one site; and

(3) Independent living complexes for handicapped families in the developmental disability or physically handicapped occupancy categories may not have more than 24 units nor more than 24 households on one site. For the purposes of this section, "*household*" has the same meaning as "*handicapped family,*" except that unrelated handicapped individuals sharing a unit (other than a handicapped person living with another person who is essential to the handicapped person's well-being) are counted as separate households. For independent living complexes for handicapped families in the developmental disability or physically handicapped occupancy categories, units with three or more bedrooms may only be developed to serve handicapped families of one or two parents with children.

(b) *Additional limitations.* Based on the amount of loan authority appropriated for a fiscal year, HUD may have imposed additional limitations on the number of units or residents that may be proposed under an application for Section 202 loan fund reservation, as published in the annual notice of funding availability or the invitation for Section 202 fund reservation.

(c) *Exemptions.* On a case-by-case basis, HUD may approve independent living complexes that do not comply with the project size limitations prescribed in paragraphs (a)(2), (a)(3), or (b) of this section. HUD may approve such projects if the Sponsor demonstrates:

(1) The increased number of units is necessary for the economic feasibility of the project;

(2) A project of the size proposed is compatible with other residential development and the population density of the area in which the project is to be located;

(3) A project of the size proposed can be successfully integrated into the community; and

(4) A project of the size proposed is marketable in the community.

§ 891.670 Cost containment and modest design standards.

(a) *Restrictions on amenities.* Projects must be modest in design. Except as provided in paragraph (d) of this section, amenities must be limited to those amenities, as determined by HUD, that are generally provided in unassisted decent, safe, and sanitary housing for low-income families in the market area. Amenities not eligible for HUD funding include balconies, atriums, decks, bowling alleys, swimming pools, saunas, and jacuzzis. Dishwashers, trash compactors, and washers and dryers in individual units will not be funded in independent living complexes. The use of durable materials to control or reduce maintenance, repair, and replacement costs is not an excess amenity.

(b) *Unit sizes.* For independent living complexes, HUD will establish limitations on the size of units and number of bathrooms, based on the number of bedrooms that are in the unit.

(c) *Special spaces and accommodations.* (1) The costs of construction of special spaces and accommodations may not exceed 10 percent of the total cost of construction, except as provided in paragraph (d) of this section. Special spaces and accommodations include multipurpose rooms, game rooms, libraries, lounges, and, in independent living complexes, central kitchens and dining rooms.

(2) Special spaces and accommodations exclude offices, halls, mechanical rooms, laundry rooms, and parking areas; dwelling units and lobbies in independent living complexes; and bedrooms, living rooms, dining and kitchen areas, shared bathrooms, and resident staff dwelling units in group homes.

(d) *Exceptions.* HUD may approve a project that does not comply with the cost containment and modest design standards of paragraphs (a) through (c) of this section if:

(1) The Sponsor demonstrates a willingness and ability to contribute the incremental development cost and continuing operating costs associated with the additional amenities or design features; or

(2) The proposed project involves substantial rehabilitation or acquisition with or without moderate rehabilitation, the additional amenities or design features were incorporated into the existing structure before the submission of the application, and the total development cost of the project with the additional amenities or design features does not exceed the cost limits.

§ 891.675 Prohibited facilities.

The requirements for prohibited facilities for 202/162 projects are provided in § 891.315, except that Section 202/162 projects may not include commercial spaces.

§ 891.680 Site and neighborhood standards.

The general requirements for site and neighborhood standards for 202/162 projects are provided in §§ 891.125 and 891.320. In addition to the requirements in §§ 891.125 and 891.320, the following requirements apply to 202/162 projects:

(a) The site must promote greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons.

(b) Projects must be located in neighborhoods where other family housing is located. Except as provided below, projects may not be located adjacent to the following facilities, or in areas where such facilities are concentrated: schools or day care centers for handicapped persons, workshops, medical facilities, or other housing primarily serving handicapped persons. Projects may be located adjacent to other housing primarily serving handicapped persons if the projects together do not exceed the project size limitations under § 891.665(a).

§ 891.685 Prohibited relationships.

The requirements for prohibited relationships for 202/162 projects are provided in § 891.130.

§ 891.690 Other Federal requirements.

In addition to the Federal requirements set forth in 24 CFR part 5, other Federal requirements for the 202/162 projects are provided in §§ 891.155 and 891.325.

§ 891.695 Operating cost standards.

The requirements for the operating cost standards are provided in § 891.150.

§ 891.700 Prepayment of loans.

(a) *Prepayment prohibition.* The prepayment (whether in whole or in part) or the assignment or transfer of physical and financial assets of any Section 202 project is prohibited, unless the Assistant Secretary gives prior written approval.

(b) *HUD-approved prepayment.* Approval for prepayment or transfer will not be granted unless HUD determines that the prepayment or transfer of the loan is a part of a transaction that will ensure the continued operation of the project until the original maturity date of the loan in a manner that will provide rental housing for the handicapped families on terms at least as advantageous to existing and future tenants as the terms required by the original Section 202 loan agreement and any other loan agreements entered into under other provisions of law.

§ 891.705 Project assistance contract.

(a) *Project assistance contract (PAC).* The PAC sets forth rights and duties of the Borrower and HUD with respect to the project and the project assistance payments.

(b) *PAC execution.* (1) Upon satisfactory completion of the project, the Borrower and HUD shall execute the PAC on the form prescribed by HUD.

(2) The effective date of the PAC may be earlier than the date of execution, but no earlier than the date of HUD's issuance of the permission to occupy.

(3) If the project is completed in stages, the procedures of paragraph (b) of this section shall apply to each stage.

(c) *Project assistance payments to owners under the PAC.* The project assistance payments made under the PAC are:

(1) Payments to the Borrower to assist eligible families leasing assisted units. The amount of the project assistance payment made to the Borrower for an assisted unit (or residential space in a group home) that is leased to an eligible family is equal to the difference between the contract rent for the unit (or pro rata share of the contract rent in a group home) and the tenant rent payable by the family.

(2) Payments to the Borrower for vacant assisted units ("vacancy payments"). The amount of and conditions for vacancy payments are described in § 891.790. HUD makes the project assistance payments monthly upon proper requisition by the Borrower, except payments for vacancies of more than 60 days, which HUD makes semiannually upon requisition by the Borrower.

(d) *Payment of utility reimbursement.* If applicable, a utility reimbursement will be paid to a family occupying an assisted unit in an independent living complex as an additional project assistance payment. The PAC will provide that the Borrower will make this payment on behalf of HUD. Funds will be paid to the Borrower in trust solely for the purpose of making the additional payment. The Borrower may pay the utility reimbursement jointly to the family and the utility company, or, if the family and utility company consent, directly to the utility company.

§ 891.710 Term of PAC.

The term of the PAC shall be 20 years. If the project is completed in stages, the term of the PAC for each stage shall be 20 years. The term of the PAC for stages of a project shall not exceed 22 years.

§ 891.715 Maximum annual commitment and project account.

(a) *Maximum annual commitment.* The maximum annual amount that may be committed under the PAC is the total of the initial contract rents and utility allowances for all assisted units in the project.

(b) *Project account.* (1) HUD will establish and maintain a specifically identified and segregated project account for each project. The project account will be established out of the amounts by which the maximum annual commitment exceeds the amount actually paid out under the PAC each year. HUD will make payments from this account for project assistance payments as needed to cover increases in contract rents or decreases in tenant income and other payments for costs specifically approved by the Secretary.

(2) If the HUD-approved estimate of required annual payments under the PAC for a fiscal year exceeds the maximum annual commitment for that fiscal year plus the current balance in the project account, HUD will, within a reasonable time, take such steps authorized by section 202(h)(4)(A) of the Housing Act of 1959, as may be necessary, to assure that payments under the PAC will be adequate to cover increases in contract rents and decreases in tenant income.

§ 891.720 Leasing to eligible families.

(a) *Availability of assisted units for occupancy by eligible families.* During the term of the PAC, a Borrower shall make all units (or residential spaces in a group home) available for eligible families. For purposes of this section, making units or residential spaces available for occupancy by eligible families means that the Borrower:

(1) Is conducting marketing in accordance with § 891.740(a);

(2) Has leased or is making good faith efforts to lease the units or residential spaces to eligible and otherwise acceptable families, including taking all feasible actions to fill vacancies by renting to such families; and (3) Has not rejected any such applicant family except for reasons acceptable to HUD. If the Borrower is temporarily unable to lease all units or residential spaces to eligible families, one or more units or residential spaces may, with the prior approval of HUD, be leased to otherwise eligible families that do not meet the income requirements of part 813 of this chapter, as modified by § 891.505. Failure on the part of the Borrower to comply with these requirements is a violation of the PAC and grounds for all available legal remedies, including an action for specific performance of the PAC, suspension or debarment from HUD programs, and reduction of the number of units (or in the case of group homes, reduction of the number of residential spaces) under the PAC as set forth in paragraph (b) of this section.

(b) *Reduction of number of units covered by the PAC.* HUD may reduce the number of units (or in the case of group homes, the number of residential spaces) covered by the PAC to the number of units or residential spaces available for occupancy by eligible families if:

(1) The Borrower fails to comply with the requirements of paragraph (a) of this section; or

(2) Notwithstanding any prior approval by HUD, HUD determines that the inability to lease units or residential spaces to eligible families is not a temporary problem.

(c) *Restoration.* HUD will agree to an amendment of the PAC to provide for subsequent restoration of any reduction made under paragraph (b) of this section if:

(1) HUD determines that the restoration is justified by demand;

(2) The Borrower otherwise has a record of compliance with the Borrower's obligations under the PAC; and

(3) Contract and budget authority is available.

(d) *Occupancy by families that are not handicapped.* HUD may relieve the Borrower of the requirement that all units in the project (or residential spaces in a group home) must be leased to handicapped families if:

(1) The Borrower has made reasonable efforts to lease to eligible families;

(2) The Borrower has been granted HUD approval under paragraph (a) of this section; and

(3) The Borrower is temporarily unable to achieve or maintain a level of occupancy sufficient to prevent financial default and foreclosure under the Section 202 loan documents. HUD approval under this paragraph will be of limited duration. HUD may impose terms and conditions to this approval that are consistent with program objectives and necessary to protect its interest in the Section 202 loan.

§ 891.725 PAC administration.

HUD is responsible for the administration of the PAC.

§ 891.730 Default by Borrower.

(a) *PAC provisions.* The PAC will provide:

(1) That if HUD determines that the Borrower is in default under the PAC, HUD will notify the Borrower of the actions required to be taken to cure the default and of the remedies to be applied by HUD, including an action for specific performance under the PAC, reduction or suspension of project assistance payment and recovery of overpayments, as appropriate; and

(2) That if the Borrower fails to cure the default, HUD has the right to terminate the PAC or to take other corrective action.

(b) *Loan provisions.* Additional provisions governing default under the Section 202 loan are included in the regulatory agreement and other loan documents.

§ 891.735 Notice upon PAC expiration.

The PAC will provide that the Borrower will, at least 90 days before the end of the PAC contract term, notify each family occupying an assisted unit (or residential space in a group home) of any increase in the amount the family will be required to pay as rent as a result of the expiration. The notice of expiration will contain such information and will be served in such manner as HUD may prescribe.

§ 891.740 Responsibilities of Borrower.

(a) *Marketing.* (1) The Borrower must commence and continue diligent marketing activities not later than 90 days before the anticipated date of availability for occupancy of the group home or the anticipated date of availability of the first unit in an independent living complex. Market activities shall include the provision of notices of the availability of housing under the program to operators of temporary housing for the homeless in the same housing market.

(2) Marketing must be done in accordance with the HUD-approved affirmative fair housing marketing plan and all fair housing and equal opportunity requirements. The purpose of the plan and requirements is to achieve a condition in which eligible families of similar income levels in the same housing market have a like range of housing choices available to them regardless of their race, color, creed, religion, sex, or national origin.

(3) At the time of PAC execution, the Borrower must submit to HUD a list of leased and unleased assisted units (or in the case of a group home, leased and unleased residential spaces) with a justification for the unleased units or residential spaces, in order to qualify for vacancy payments for the unleased units or residential spaces.

(b) *Management and maintenance.* The responsibilities of the Borrower with regard to management and maintenance are provided in § 891.600(b).

(c) *Contracting for services.* The responsibilities of the Borrower with regard to contracting for services are provided in § 891.600(c).

(d) *Submission of financial and operating statements.* The responsibilities of the Borrower with regard to the submission of financial and operating statements are provided in § 891.600(d).

(e) *Use of project funds.* The responsibilities of the Borrower with regard to the use of project funds are provided in § 891.600(e).

(f) *Reports.* The responsibilities of the Borrower with regard to reports are provided in § 891.600(f).

§ 891.745 Replacement reserve.

The general requirements for the replacement reserve are provided in § 891.605. For projects funded under §§ 891.655 through 891.790, the amount of the deposits for the initial year of operation shall be an amount equal to 0.6 percent of the cost of the total structures (for new construction projects), 0.4 percent of the cost of the initial mortgage amount (for all other projects), or such higher rate as required by HUD. For the purposes of this section, total structures include main buildings, accessory buildings, garages, and other buildings. The amount of the deposits will be adjusted each year by the amount of the annual adjustment factor as described in part 888 of this chapter.

§ 891.750 Selection and admission of tenants.

(a) *Application for admission.* The Borrower must accept applications for admission to the project in the form prescribed by HUD. Applicant families applying for assisted units (or residential spaces in a group home) must complete a certification of eligibility as part of the application for admission. Applicant families must meet the disclosure and verification requirements for Social Security Numbers, and sign and submit consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by 24 CFR part 5, subpart B. Both the Borrower and the applicant family must complete and sign the application for admission. On request, the Borrower must furnish copies of all applications for admission to HUD.

(b) *Determination of eligibility and selection of tenants.* The Borrower is responsible for determining whether applicants are eligible for admission and for the selection of families. To be eligible for admission, an applicant family must be a handicapped family (as defined in § 891.505); meet any project occupancy requirements approved by HUD; meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 5, subpart B; and be a low-income family, as defined in § 813.102 of this chapter (as modified by § 891.505). Under certain circumstances, HUD may permit the leasing of units (or residential space in a group home) to ineligible families under § 891.720.

(1) *Local residency requirements are prohibited.* Local residency preferences may be applied in selecting tenants only to the extent that they are not inconsistent with affirmative fair housing marketing objectives and the Borrower's HUD-approved affirmative fair housing marketing plan. Preferences may not be based on the length of time the applicant has resided in the jurisdiction. With respect to any residency preference, persons expected to reside in the community as a result of current or planned employment will be treated as residents.

(2) If the Borrower determines that the family is eligible and is otherwise acceptable and units (or residential spaces in a group home) are available, the Borrower will assign the family a unit or residential space in a group home. If the family will occupy an assisted unit the Borrower will assign the family a unit of the appropriate size in accordance with HUD standards. If no suitable unit (or residential space in a group home) is available, the Borrower will place the family on a waiting list for the project and notify the family when a suitable unit or residential space may become available. If the waiting list is so long that the applicant would not be likely to be admitted within the next 12 months, the Borrower may advise the applicant that no additional applications for admission are being considered for that reason.

(3) If the Borrower determines that an applicant is ineligible for admission or the Borrower is not selecting the applicant for other reasons, the Borrower will promptly notify the applicant in writing of the determination, the reasons for the determination, and that the applicant has a right to request a meeting to review the rejection, in accordance with HUD requirements. The review, if requested, may not be conducted by the member of the Borrower's staff who made the initial decision to reject the applicant. The applicant may also exercise other rights if the applicant believes the applicant is being discriminated against on the basis of race, color, creed, religion, sex, handicap, or national origin.

(4) Records on applicants and approved eligible families, which provide racial, ethnic, gender and place of previous residency data required by HUD, must be maintained and retained for three years.

(c) *Reexamination of family income and composition* (1) *Regular reexaminations.* If the family occupies an assisted unit (or residential space in a group home), the Borrower must reexamine the income and composition

of the family at least every 12 months. Upon verification of the information, the Borrower shall make appropriate adjustments in the total tenant payment in accordance with part 813 of this chapter, as modified by § 891.505, and determine whether the family's unit size is still appropriate. The Borrower must adjust tenant rent and the project assistance payment and must carry out any unit transfer in accordance with HUD standards. At the time of the annual reexamination of family income and composition, the Borrower must require the family to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 5, subpart B.

(2) *Interim reexamination.* If the family occupies an assisted unit (or residential space in a group home) the family must comply with provisions in the lease regarding interim reporting of changes in income. If the Borrower receives information concerning a change in the family's income or other circumstances between regularly scheduled reexaminations, the Borrower must consult with the family and make any adjustments determined to be appropriate. Any change in the family's income or other circumstances that results in an adjustment in the total tenant payment, tenant rent, and project assistance payment must be verified.

(3) *Continuation of project assistance payment.* (i) A family occupying an assisted unit (or residential space in a group home) shall remain eligible for project assistance payment until the total tenant payment equals or exceeds the gross rent (or a pro rata share of the gross rent in a group home). The termination of subsidy eligibility will not affect the family's other rights under its lease. Project assistance payment may be resumed if, as a result of changes in income, rent, or other relevant circumstances during the term of the PAC, the family meets the income eligibility requirements of part 813 of this chapter (as modified in § 891.505) and project assistance is available for the unit or residential space under the terms of the PAC. The family will not be required to establish its eligibility for admission to the project under the remaining requirements of paragraph (b) of this section.

(ii) A family's eligibility for project assistance payment may also be terminated in accordance with HUD requirements for such reasons as failure to submit requested verification information, including failure to meet the disclosure and verification requirements for Social Security Numbers, or failure to sign and submit consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by 24 CFR part 5, subpart B.

(Approved by the Office of Management and Budget under control number 2502–0204 and 2505–0267.)

§ 891.755 Obligations of the family.

The obligations of the family are provided in § 891.415.

§ 891.760 Overcrowded and underoccupied units.

The requirements for overcrowded and underoccupied units are provided in § 891.620.

§ 891.765 Lease requirements.

The lease requirements are provided in § 891.425.

§ 891.770 Termination of tenancy and modification of lease.

The provisions of part 247 of this title apply to all decisions by a Borrower to terminate the tenancy or modify the lease of a family residing in a unit (or residential space in a group home).

§ 891.775 Security deposits.

The general requirements for security deposits on assisted units are provided in § 891.435. For purposes of subpart E of this part, the additional requirements in § 891.635 apply.

§ 891.780 Adjustment of rents.

(a) *Contract rents.* HUD will calculate contract rent adjustments based on the sum of the project's operating costs and debt service (as calculated by HUD), with adjustments for vacancies, the project's nonrental income, and other factors that HUD deems appropriate. The calculation will be made on the basis of information provided by the Borrower on a form prescribed by HUD.

(b) *Rent for unassisted units.* The rent payable by families occupying units or residential spaces that are not assisted under the PAC shall be equal to the contract rent computed under paragraph (a) of this section.

§ 891.785 Adjustment of utility allowances.

In connection with adjustments of contract rents as provided in § 891.780(a), the requirements for the adjustment of utility allowances provided in § 891.440 apply.

§ 891.790 Conditions for receipt of vacancy payments for assisted units.

(a) *General.* Vacancy payments under the PAC will not be made unless the conditions for receipt of these project assistance payments set forth in this section are fulfilled.

(b) *Vacancies during rent-up.* For each unit (or residential space in a group home) that is not leased as of the effective date of the PAC, the Borrower is entitled to vacancy payments in the amount of 80 percent of the contract rent (or pro rata share of the contract rent for a group home) for the first 60 days of vacancy, if the Borrower:

(1) Complied with § 891.740;

(2) Has taken and continues to take all feasible actions to fill the vacancy; and

(3) Has not rejected any eligible applicant except for good cause acceptable to HUD.

(c) *Vacancies after rent-up.* If an eligible family vacates an assisted unit (or residential space in a group home) the Borrower is entitled to vacancy payments in the amount of 80 percent of the contract rent (or pro rata share of the contract rent in a group home) for the first 60 days of vacancy if the Borrower:

(1) Certifies that it did not cause the vacancy by violating the lease, the PAC, or any applicable law;

(2) Notified HUD of the vacancy or prospective vacancy and the reasons for the vacancy immediately upon learning of the vacancy or prospective vacancy;

(3) Has fulfilled and continues to fulfill the requirements specified in § 891.740(a)(2) and (3), and in paragraphs (b)(2) and (3) of this section; and

(4) For any vacancy resulting from the Borrower's eviction of an eligible family, certifies that it has complied with § 891.770.

(d) *Vacancies for longer than 60 days.* If an assisted unit (or residential space in a group home) continues to be vacant after the 60-day period specified in paragraph (b) or (c) of this section, HUD may approve additional vacancy payments for 60-day periods up to a total of 12 months in an amount equal to the principal and interest payments required to amortize that portion of the debt service attributable to the vacant unit (or, in the case of group homes, the residential space). Such payments may be approved if:

(1) The unit was in decent, safe, and sanitary condition during the vacancy period for which payment is claimed;

(2) The Borrower has fulfilled and continues to fulfill the requirements specified in paragraph (b) or (c) of this section, as appropriate; and

(3) The Borrower has demonstrated to the satisfaction of HUD that:

(i) For the period of vacancy, the project is not providing the Borrower with revenues at least equal to project expenses (exclusive of depreciation) and the amount of payments requested is not more than the portion of the deficiency attributable to the vacant unit (or residential space in a group home); and

(ii) The project can achieve financial soundness within a reasonable time.

(e) *Prohibition of double compensation for vacancies.* If the Borrower collects payments for vacancies from other sources (tenant rent, security deposits, payments under § 891.435(c), or governmental payments under other programs), the Borrower shall not be entitled to collect vacancy payments to the extent these collections from other sources plus the vacancy payment exceed contract rent.

Dated: March 7, 1996.

Nicolas P. Retsinas,

Assistant Secretary for Housing Federal Housing Commissioner.

[FR Doc. 96–6312 Filed 3–21–96; 8:45 am]

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Friday
March 22, 1996

Part IV

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Proposed 1996–1997 Migratory Game Bird Hunting Regulations (Preliminary) With Requests for Indian Tribal Proposals; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018-AD89

Migratory Bird Hunting; Proposed 1996–1997 Migratory Game Bird Hunting Regulations (Preliminary) With Requests for Indian Tribal Proposals

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rulemaking.

SUMMARY: The U.S. Fish and Wildlife Service (hereinafter the Service) proposes to establish annual hunting regulations for certain migratory game birds. The Service also requests proposals from Indian tribes that wish to establish special migratory bird hunting regulations. These regulations will permit the taking of the designated species during the 1996–97 season. The Service annually prescribes outside limits (frameworks) within which States may select hunting seasons. The Service has also employed guidelines to establish special migratory bird hunting regulations on Federal Indian reservations and ceded lands. These seasons provide hunting opportunities for recreation and sustenance; aid Federal, State, and tribal governments in the management of migratory game birds; and are designed to permit harvests at levels compatible with migratory bird population status and habitat conditions.

DATES: Tribal proposals and related comments should be submitted by June 3, 1996. The comment period for proposed early-season frameworks will end on July 25, 1996; and for proposed late-season frameworks on September 3, 1996. The public hearing for early-season frameworks will be held on June 27, 1996, at 9 a.m. The public hearing for late-season frameworks will be held on August 2, 1996, at 9 a.m.

ADDRESSES: Both public hearings will be held in the Auditorium, Department of the Interior Building, 1849 C Street NW., Washington, DC. Written comments on the proposals and notice of intention to testify at either hearing may be mailed to the Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms 634—ARLSQ, 1849 C Street, NW., Washington, DC 20240. Comments received will be available for public inspection during normal business hours in room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: For further information contact Ron W. Kokel at: Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms 634—ARLSQ, 1849 C Street, NW., Washington, DC 20240 (703) 358–1714.

SUPPLEMENTARY INFORMATION: For administrative purposes, this document consolidates the notice of intent and request for tribal proposals with the preliminary proposals for the annual regulations-development process. The remaining proposed and final rulemaking documents will be published separately. For inquiries on tribal guidelines and proposals, please contact the following personnel.

—Region 1 - Brad Bortner, U.S. Fish and Wildlife Service, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181; (503) 231–6164.

—Region 2 - Jeff Haskins, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103; (505) 248–7885.

—Region 3 - Steve Wilds, U.S. Fish and Wildlife Service, Federal Building, One Federal Drive, Fort Snelling, Minnesota 55111–4056; (612) 725–3313.

—Region 4 - Frank Bowers, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Room 324, Atlanta, Georgia 30345; (404) 679–4000.

—Region 5 - George Haas, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, Massachusetts 01035–9589; (413) 253–8576.

—Region 6 - John Cornely, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225; (303) 236–8145.

—Region 7 - Robert Leedy, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99503; (907) 786–3423.

Notice of Intent to Establish Open Seasons

This notice announces the intention of the Director, U.S. Fish and Wildlife Service, to establish open hunting seasons and daily bag and possession limits for certain designated groups or species of migratory game birds for 1996–1997 in the contiguous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands, under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K of 50 CFR part 20.

"Migratory game birds" are those bird species so designated in conventions between the United States and several foreign nations for the protection and management of these birds. All other birds designated as migratory (under 10.13 of Subpart B of 50 CFR Part 10) in the aforementioned conventions may not be hunted. For the 1996–97 hunting season, regulations will be proposed for certain designated members of the avian families Anatidae (ducks, geese, and swans); Columbidae (doves and pigeons); Gruidae (cranes); Rallidae (rails, coots, moorhens, and gallinules); and Scolopacidae (woodcock and snipe). These proposals are described under Proposed 1996–97 Migratory Game Bird Hunting Regulations (Preliminary) in this document. Definitions of waterfowl flyways and mourning dove management units, as well as a description of the data used in and the factors affecting the regulatory process, were published in the March 14, 1990, **Federal Register** (55 FR 9618).

Regulatory Schedule for 1996–1997

This is the first in a series of proposed and final rulemaking documents for migratory game bird hunting regulations. Proposals relating to the harvest of migratory game birds that may be initiated after publication of this proposed rulemaking will be made available for public review in supplemental proposed rulemakings to be published in the **Federal Register**. Also, additional supplemental proposals will be published for public comment in the **Federal Register** as population, habitat, harvest, and other information become available.

Because of the late dates when certain portions of these data become available, it is anticipated that comment periods on some proposals will necessarily be abbreviated. Special circumstances that limit the amount of time which the Service can allow for public comment are involved in the establishment of these regulations. Specifically, two considerations compress the time in which the rulemaking process must operate: the need, on one hand, to establish final rules at a time early enough in the summer to allow resource agencies to select and publish season dates and bag limits prior to the hunting seasons and, on the other hand, the lack of current data on the status of most migratory game birds until later in the summer.

Because the process is strongly influenced by the times when information is available for consideration, the overall regulations process is divided into two segments. Early seasons are those seasons that generally open prior to October 1, and include seasons in Alaska, Hawaii, Puerto Rico, and the Virgin Islands. Late seasons are those seasons opening in the remainder of the United States about October 1 and later, and include most of the waterfowl seasons.

Major steps in the 1996–1997 regulatory cycle relating to public hearings and **Federal Register** notifications are illustrated in the accompanying diagram. Dates shown relative to publication of **Federal Register** documents are target dates.

Sections of this and subsequent documents which outline hunting frameworks and guidelines are organized under numbered headings. These headings are:

1. Ducks
2. Sea Ducks
3. Mergansers
4. Canada Geese
5. White-fronted Geese
6. Brant
7. Snow and Ross's (Light) Geese
8. Swans
9. Sandhill Cranes
10. Coots
11. Moorhens and Gallinules
12. Rails
13. Snipe
14. Woodcock
15. Band-tailed Pigeons
16. Mourning Doves
17. White-winged and White-tipped Doves
18. Alaska
19. Hawaii
20. Puerto Rico
21. Virgin Islands
22. Falconry
23. Other

Later sections of this and subsequent documents will refer only to numbered items requiring attention. Therefore, items requiring no attention will be omitted and the remaining numbered items will be discontinuous and appear incomplete.

Public Hearings

Two public hearings pertaining to 1996–1997 migratory game bird hunting regulations are scheduled. Both hearings will be conducted in accordance with 455 DM 1 of the Departmental Manual. On June 27, a public hearing will be held at 9 a.m. in the Auditorium of the Department of the Interior Building, 1849 C Street NW., Washington, DC. This hearing is for the purpose of reviewing the status of migratory shore and upland game birds. Proposed hunting regulations will be discussed for these species plus regulations for migratory game birds in Alaska, Hawaii, Puerto Rico, and the Virgin Islands; special September waterfowl seasons in designated States; special sea duck seasons in the Atlantic Flyway; and extended falconry seasons. On August 2, a public hearing will be held at 9 a.m. in the Auditorium of the Department of the Interior Building, address above. This hearing is for the purpose of reviewing the status and proposed regulations for waterfowl not previously discussed at the June 27 public hearing. The public is invited to participate in both hearings. Persons wishing to make a statement at these hearings should write to the address indicated under the caption **ADDRESSES**.

Requests for Tribal Proposals

Background

Beginning with the 1985-86 hunting season, the Service has employed guidelines described in the June 4, 1985, **Federal Register** (50 FR 23467) to establish special migratory bird hunting regulations on Federal Indian reservations (including off-reservation trust lands) and ceded lands. The guidelines were developed in response to tribal requests for Service recognition of their reserved hunting rights, and for some tribes, recognition of their authority to regulate hunting by both tribal and nontribal members throughout their reservations. The guidelines include possibilities for: (1) on-reservation hunting by both tribal and nontribal members, with hunting by nontribal members on some reservations to take place within Federal frameworks, but on dates different from those selected by the surrounding State(s); (2) on-reservation hunting by tribal members only, outside of usual Federal frameworks for season dates and length, and for daily bag and possession limits; and (3) off-reservation hunting by tribal members on ceded lands, outside of usual framework dates and season length, with some added flexibility in daily bag and possession limits. In all cases, the regulations established under the guidelines would have to be consistent with the annual March 10 to September 1 closed season mandated by the 1916 Convention Between the United States and Great Britain (for Canada) for the Protection of Migratory Birds (Convention). The guidelines are capable of application to those tribes that have reserved hunting rights on Federal Indian reservations (including off-reservation trust lands) and ceded lands. They also apply to the establishment of migratory bird hunting regulations for nontribal members on all lands within the exterior boundaries of reservations where tribes have full wildlife management authority over such hunting, or where the tribes and affected States otherwise have reached agreement over hunting by nontribal members on non-Indian lands.

Tribes usually have the authority to regulate migratory bird hunting by nonmembers on Indian-owned reservation lands, subject to Service approval. The question of jurisdiction is more complex on reservations that include lands owned by non-Indians, especially when the surrounding States have established or intend to establish regulations governing hunting by non-Indians on these lands. In such cases, the Service encourages the tribes and States to reach agreement on regulations that would apply throughout the reservations. When appropriate, the Service will consult with a tribe and State with the aim of facilitating an accord. The Service also will consult jointly with tribal and State officials in the affected States where tribes may wish to establish special hunting regulations for tribal members on ceded lands. As explained in previous rulemaking documents, it is incumbent upon the tribe and/or the State to put forward a request for consultation as a result of the proposal being published in the **Federal Register**. The Service will not presume to make a determination, without being advised by a tribe or a State, that any issue is/is not worthy of formal consultation.

One of the guidelines provides for the continuation of harvest of migratory game birds by tribal members on reservations where it is a customary practice. The Service does not oppose this harvest, provided it does not take place during the closed season required by the Convention, and it is not so large as to adversely affect the status of the migratory bird resource. For several years, the Service has reached annual agreement with tribes (for example, in Minnesota, the Mille Lacs Band of Chippewa Indians) for hunting by tribal members on their lands or on lands where they have reserved hunting rights. The Service will continue to consult with tribes that wish to reach a mutual agreement on hunting regulations for on-reservation hunting by tribal members.

The guidelines should not be viewed as inflexible. Nevertheless, the Service believes that they provide appropriate opportunity to accommodate the reserved hunting rights and management authority of Indian tribes while ensuring that the migratory bird resource receives necessary protection. The conservation of this important international resource is paramount. Use of the guidelines is not required if a tribe wishes to observe the hunting regulations established by the State(s) in which the reservation is located.

Details Needed in Tribal Proposals

Tribes that wish to use the guidelines to establish special hunting regulations for the 1996-97 hunting season must submit a proposal that includes: (1) the requested hunting season dates and other details regarding regulations to be observed; (2) harvest anticipated under

the requested regulations; (3) methods that will be employed to measure or monitor harvest (mail-questionnaire survey, bag checks, etc.); (4) steps that will be taken to limit level of harvest, where it could be shown that failure to limit such harvest would seriously impact the migratory bird resource; and (5) tribal capabilities to establish and enforce migratory bird hunting regulations.

A tribe that desires the earliest possible opening of the waterfowl season should specify this in the proposal, rather than request a date that might not be within the final Federal frameworks. Similarly, unless a tribe wishes to set more restrictive regulations than Federal regulations will permit, the proposal should request the same daily bag and possession limits and season length for ducks and geese that Federal regulations are likely to permit the States in the Flyway in which the reservation is located.

Tribal Proposal Procedures

Pertinent details in proposals received from tribes will be published for public review in later **Federal Register** documents. Because of the time required for Service and public review, Indian tribes that desire special migratory bird hunting regulations for the 1996–97 hunting season should submit their proposals as soon as possible, but no later than June 3, 1996. Tribal inquiries regarding the guidelines and proposals should be directed to the appropriate Service Regional Office listed under the caption **SUPPLEMENTARY INFORMATION**. Tribes that request special hunting regulations for tribal members on ceded lands should send a courtesy copy of the proposal to officials in the affected State(s).

Public Comments Solicited

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons are invited to submit written comments, suggestions, or recommendations regarding the proposed regulations. Promulgation of final migratory game bird hunting regulations will take into consideration all comments received by the Service. Such comments, and any additional information received, may lead to final regulations that differ from these proposals. Interested persons are invited to participate in this rulemaking by submitting written comments to the address indicated under the caption **ADDRESSES**.

Comments received on the proposed annual regulations will be available for public inspection during normal business hours at the Service's office in room 634, 4401 North Fairfax Drive, Arlington, Virginia. Specific comment periods will be established for each series of proposed rulemakings. All relevant comments will be accepted through the closing date of the comment period on the particular proposal under consideration. The Service will consider, but possibly may not respond in detail to, each comment. As in the past, the Service will summarize all comments received during the comment period and respond to them after the closing date.

Flyway Council Meetings

Departmental representatives will be present at the following winter meetings of the various Flyway Councils:

DATE: March 23, 1996

—National Waterfowl Council, 3:30 p.m.

DATE: March 24, 1996

—Atlantic Flyway Council, 8:00 a.m.

—Mississippi Flyway Council, 8:30 a.m.

—Central Flyway Council, 8:00 a.m.

—Pacific Flyway Council, 1:00 p.m.

The Council meetings will be held at the Adams Mark Hotel, Tulsa, Oklahoma.

NEPA Consideration

NEPA considerations are covered by the programmatic document, "Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88-14)," filed with the Environmental Protection Agency on June 9, 1988. Notice of Availability was published in the **Federal Register** on June 16, 1988 (53 FR 22582). The Service's Record of Decision was published on August 18, 1988 (53 FR 31341).

In addition, an August 1985 environmental assessment entitled "Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands" is available from the Service at the address indicated under the caption **ADDRESSES**.

Endangered Species Act Consideration

Prior to issuance of the 1996–97 migratory game bird hunting regulations, consideration will be given to provisions of the Endangered Species Act of 1973, as amended, (16 U.S.C. 1531-1543; hereinafter the Act) to ensure that hunting is not likely to jeopardize the continued existence of any species designated as endangered or threatened or modify or destroy its critical habitat and is consistent with conservation programs for those species. Consultations under Section 7 of this Act may cause changes to be made to proposals in this and future supplemental proposed rulemaking documents.

Regulatory Flexibility Act and the Paperwork Reduction Act

This document has been reviewed by the Office of Management and Budget under Executive Order 12866.

These regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The economic impacts of the annual hunting regulations on small business entities were analyzed in detail and a Small Entity Flexibility Analysis (Analysis) was issued by the Service in 1995. The Analysis documented the significant beneficial economic effect on a substantial number of small entities. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The Analysis utilized the 1991 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns from which it was estimated that migratory bird hunters would spend between $258 and $586 million at small businesses in 1995.

Copies of the Analysis are available upon request from the Office of Migratory Bird Management. The address is indicated under the caption **ADDRESSES**.

These regulations have been examined under the Paperwork Reduction Act of 1995 and have been found to contain no information collection requirements.

Authorship

The primary author of this proposed rule is Ron W. Kokel, Office of Migratory Bird Management, (703) 358–1714.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

The rules that eventually will be promulgated for the 1996-97 hunting season are authorized under 16 U.S.C. 703–711, 16 U.S.C. 712, and 16 U.S.C. 742 a-j.

Dated: May 13, 1996

George T. Frampton, Jr.

Assistant Secretary for Fish and Wildlife and Parks

Proposed 1996–1997 Migratory Game Bird Hunting Regulations (Preliminary)

Pending current information on populations, harvest, and habitat conditions, and receipt of recommendations from the four Flyway Councils; specific framework proposals (including opening and closing dates, seasons lengths, and bag limits) may be deferred. Unless otherwise specified, no change from the final 1995–96 frameworks of August 29 and September 27, 1995, (60 FR 45020 and 50042) is proposed. Specific preliminary proposals that vary from the 1995–96 frameworks and issues requiring early discussion, action, or the attention of the States or tribes are contained below:

1. Ducks

A. Harvest Strategy Considerations

In 1992, a technical working group comprised of representatives from the Service and the four Flyway Councils was established to develop recommendations for improving the regulation of duck harvests. In 1993, the group embraced the concept of Adaptive Harvest Management (AHM), which subsequently received strong support from a broad array of conservation interests. In general terms, AHM involves: (1) choices of harvest regulation based on resource status and expected harvest impacts; (2) follow-up monitoring and assessment of population dynamics; and (3) use of the monitoring and assessment information to improve future decision-making abilities. Benefits of AHM include: (1) maximum hunting opportunity consistent with long-term waterfowl conservation and North American Waterfowl Management Plan (NAWMP) goals; (2) less contentiousness in the annual regulation-setting process; (3) more objective, data-based decisions; and (4) more efficient use of data collected from large-scale monitoring programs. Perhaps the greatest benefit of AHM, however, is its potential to resolve questions about how much hunting opportunity can be provided while maintaining healthy waterfowl populations.

Implementation of AHM began in 1995 with a focus on mid-continent mallards. Based on favorable comments by the Flyway Councils, State wildlife agencies, non-governmental organizations, and the public, the Service is seeking to continue its application of AHM for regulating the harvest of ducks. The technical working group continues to play an important role in this effort by developing AHM procedures, stimulating dialogue among stakeholders, conducting technical assessments to inform decision makers, formulating information and education strategies, and recommending timetables for implementation. The working group's function is, however, strictly technical in nature.

Application of AHM continues to highlight many complex issues in duck harvest management. Issues identified as high priorities for further assessment include: (1) hunter dynamics and how regulations affect hunter activity and success; (2) factors affecting duck reproduction on a continental scale; (3) relative costs and benefits of species, population, and sex-specific harvest management; (4) allocation of harvest opportunities among countries, Flyways, and States; and (5) public information and education needs.

The technical working group has recognized that additional time will be necessary to address these issues in a more comprehensive and coherent manner. Schedules for clarifying issues, receiving input from stakeholders, and conducting the necessary assessments are currently being developed by the working group so that expectations for progress are realistic. Implementation of AHM will require periodic review of all technical specifications, including management objectives, hunting-season options, and theories (or models) of population dynamics.

Based on a review of public comments received about AHM in 1995, the technical working group has made the following recommendations for the 1996 regulatory process:

(1) Population goals of the NAWMP should continue to be recognized to reflect broad resource values; this should be accomplished by a proportional decrease in the value of harvest opportunity if the mallard population were expected to fall below the NAWMP goal of 8.1 million;

(2) Pending further review, use of the restrictive, moderate, and liberal regulatory options considered in 1995 should be continued; the only exception might be the addition of one bird to the daily bag limit under the liberal option for the Pacific Flyway;

(3) Pending further assessment, use of the mallard population models from 1995, which incorporate the competing hypotheses of additive and compensatory harvest mortality and strongly and weakly density-dependent reproduction should be continued;

(4) Pending development of AHM strategies for individual species and populations, existing technical and administrative procedures for regulating the harvests of stocks other than mallards should be used, with the recognition that: (a) potential regulatory changes should be considered early in the annual process; and (b) proposals should include potential effects of various regulatory options and criteria for future regulatory changes;

(5) Outreach efforts should be continued.

One of the distinguishing features of AHM is a formal recognition that technical experts have legitimate disagreements about the particular population model that should be used to guide harvest management. Perhaps the greatest strength of AHM is its method for determining which model best describes the impacts of harvest and habitat conditions on mallard abundance. Once a regulatory decision is made, each model predicts whether population size will go up or down, and by how much. Then, after data from the spring population survey are available, AHM allows managers to see how well each model predicted the change in population size that actually occurred. In subsequent years, those models that prove to be good predictors will have greater influence on regulatory decisions.

Survey data providing current population and habitat status, and for evaluating performance of last year's mallard models, should be available in June 1996. Specific regulatory alternatives for the 1996 duck hunting season will be considered at that time.

F. Zones and Splits

In 1990, the Service established guidelines for the use of zones and split seasons for duck hunting (**Federal Register** 55 FR 38901). These guidelines were based upon a cooperative review and evaluation of the historical use of zone/split options. The Service reiterated the 1977 criteria that the primary purpose of these options shall be to provide more equitable distribution of harvest opportunity for hunters throughout a State. In 1977, the Service also stated that these regulations should not substantially change the pattern of harvest distribution among States within a Flyway, nor should these options detrimentally change the harvest distribution pattern among species or populations at either the State or Flyway level. The 1990 review did not show that the proliferation of these options had increased harvest pressure; however, the ability to detect the impact of zones/split configurations was poor

because of poorly chosen response variables, the lack of statistical tests to differentiate between real and perceived changes, and the absence of adequate experimental controls. Therefore, the existing policy was intended to provide a framework for controlling the proliferation of changes in zone/split options and limited changes to 5-year intervals. The first open season for changes was in 1991 and the second will occur this year when zone/split configurations will be established for the 1996–2000 period.

As required by existing guidelines, States that made changes during the last open season (except going to the basic option) should provide the Service a review of pertinent data by the 1995–96 Winter/Spring Technical Committee Meetings. At a minimum, State reports should contain a summary of zone harvest estimates compared to previous configurations. The Service reiterates that this review does not have to be the result of a rigorous experimental design, but nonetheless should assist the Service in ascertaining whether major changes in harvest or hunter activity occurred as a result of zone/split regulations.

For the 1996 open season, the Service will use the existing 1990 guidelines, with an exception for the handling of special management units. The Service proposes to delete the following provision from the 1990 guidelines:

Special Management Unit Limitation: Within existing Flyway boundaries, States may not zone and/or use a 3-way split season simultaneously within a special management unit and the remainder of the State.

The zone/split season guidelines apply only for the *regular* duck season. The Service is proposing this change with the understanding that the additional days for a management unit must be consecutive and, for the Central Flyway, be held both after the Saturday nearest December 10 and after the regular duck season.

The proposed guidelines include several definitions and interpretations developed in response to questions during and following the first open season in 1991. For clarification, these are reiterated:

1. A zone is defined as a geographic area or portion of a State, with a contiguous boundary, for which independent dates (at least 1 day difference) can be selected for the regular duck season.

2. Consideration of changes for management-unit boundaries are not subject to the guidelines and provisions governing the use of zones and split seasons for ducks.

3. Only minor (less than a county in size) boundary changes will be allowed for any grandfather arrangement and changes are limited to the open season.

4. Any State may change its zone/split arrangement to the Basic Option at any time during the 5 years between open seasons. If such a change is made, the Basic Option must be continued for the remainder of the 5-year period.

For the 1996-2000 period, any State may continue the configuration used in 1991–1995. If changes are made, the zone/split configuration must conform to one of the following options:

1. *Basic Option:* The Basic Option, available at any time to any State, would allow the regular duck season to be split into two segments with no zones.

2. *Alternative Options:* Where the Basic Option is deemed undesirable, States may choose one of the following:

a. No more than three zones with no splits,

b. A 3-way split with no zones, or

c. Two zones with the option for 2-way split seasons in one or both zones.

At the end of 5 years after any changes in splits or zones (except conversions to the Basic Option), States will be required to provide the Service with a review of pertinent data (e.g., estimates of harvest, hunter numbers, hunter success, etc.). This review does not have to be the result of a rigorous experimental design, but nonetheless should assist the Service in ascertaining whether major undesirable changes in harvest or hunter activity occurred as a result of split and zone regulations. The next open season for changes in zone/split configurations will be 2001.

G. Special seasons/species management

i. Canvasback Management

Since 1994, the Service has followed a harvest-management strategy for canvasbacks which considers population levels, potential for recruitment, and expected harvest by hunters. The plan permits an open season on canvasbacks with a 1-bird daily bag limit nationwide when the above factors are sufficient to maintain a spring population size of 500,000 birds. Each year the Service reviews harvest and production information to evaluate the effectiveness of the harvest strategy. Thus, the Service will defer a decision on canvasback hunting until the 1995–96 harvest and 1996 spring population-status information are available. The Service proposes no change in the process employed for deciding on regulations governing the harvest of canvasbacks.

ii. September Teal Seasons

In 1990, the Service established a strategy for the use of shooting hours which stated that shooting hours would begin at sunrise unless States could demonstrate that the impact of presunrise shooting hours on nontarget duck species was negligible. During the 1993–94 teal seasons, several Mississippi and Central Flyway States conducted evaluations of shooting hours for teal seasons. The Central Flyway has completed a final report of its evaluation, which indicated that the attempted harvest of non-target species was no different between pre- and post-sunrise periods in those States. Therefore, the Service proposes that those Central Flyway States be allowed to continue pre-sunrise shooting hours during their teal seasons. The Service notes that it has not received a final report from the Mississippi Flyway, but is aware that the report will be discussed at the February Technical Committee Meeting. The Service believes that completion of this report is critical to evaluating the appropriateness of presunrise shooting hours during teal seasons within the Mississippi Flyway.

iii. September Teal/Wood Duck Seasons

In general, the Service continues to stress the importance of improving wood duck population monitoring programs. Such programs are necessary to ensure maintenance of our regular season approach to managing this species. The Wood Duck Population Monitoring Initiative, scheduled to be completed in July 1996, will provide managers with an assessment of the geographic scale at which we can adequately monitor population levels or trends, productivity, and survival and recovery rates.

Regarding the appropriateness of September teal/wood duck seasons, a decision will be made in cooperation with the the Flyway Councils after the assessment of wood duck monitoring programs is completed. Until such time, the Service does not propose to discontinue these seasons in Kentucky, Tennessee, and Florida or expand such seasons elsewhere. The Service has received draft updates of reports that summarize wood duck survival and recovery rates, harvest estimates, and derivations of banded birds harvested during these seasons.

iv. Special Management Units

High Plains Mallard Management Unit

The Service reminds the Central Flyway Council that the report on the High Plains Mallard Management Unit should be completed. Prompt completion of the report is encouraged and the Service requests an update on the status of the report including a projected completion date.

4. Canada Geese

A. Special Seasons

In response to the Atlantic Flyway Council's request to increase harvests of resident Canada geese in light of the closed regular season during 1995–96, the Service is considering extensions to the special early- and late-seasons criteria in the Atlantic Flyway. The Service believes that some changes in the existing season frameworks, particularly during the early seasons, may be possible in designated areas without causing undue harvest impacts on migrant Canada geese. However, less flexibility is expected in expanding late-season harvest opportunities in the Flyway without a comprehensive look at the existing neck-collar data. The Service does not propose to increase the composition of migrants in the harvest beyond that which is currently identified in the criteria for these seasons.

B. Regular Seasons

The Service acknowledges the interest expressed by several Flyway Councils to permit 3-way splits in regular goose seasons. The Service will work with the Flyway Councils during the coming year to develop an experimental protocol to evaluate the impact of such an option on a Flyway-specific basis. Any experimental designs resulting from this effort must insure adequate protection for goose populations of management concern.

In the Atlantic Flyway, the Service continues to be concerned about the status of the Atlantic Population (AP) of Canada geese. During this year, the Service will work closely with Canada and the Atlantic Flyway Council to monitor the 1996 spring breeding-pair estimates and reevaluate its status. The Service encourages the Atlantic Flyway Council to begin updating the AP Management Plan and consider revising population objectives and establishing appropriate harvest strategies. Key population parameters will be reviewed during the annual regulations-development process, but the recovery period for this population is expected to take several years.

The Service also remains concerned about the status of the Southern James Bay and Dusky Canada goose populations, and will carefully review all harvest regulations to ensure that these populations are not impacted.

7. Snow and Ross' Geese

The Service requests that the Atlantic, Mississippi, and the Central Flyway Councils work with the Service to examine criteria established for those areas with a framework closing date of March 10. If there is a need to refine the northern boundary established for the 1995–96 seasons, the Service recommends the development of biological criteria to guide the boundary refinement. Further, it is suggested that these criteria should include an assessment of the frequency, timing and magnitude of goose use in areas proposed to be designated as wintering areas. Finally, the Service reminds States that proposed boundary adjustments should be approved by their respective Flyway Councils.

The Service is also concerned about the growing evidence of serious habitat degredation caused by high white goose population levels at several major breeding areas in the central and eastern Canadian Arctic. The Service proposes to work with the Arctic Goose Joint Venture, the Flyway Councils and other concerned agencies and organizations to investigate possible management alternatives to address this problem.

9. Sandhill Cranes

The Service requests the assistance of the Central and Pacific Flyway Councils in the development and implementation of improved techniques to monitor the annual population status of the Rocky Mountain Population of Greater Sandhill Cranes. In the interim, the Service recommends that the Flyway Councils continue to use the population, recruitment, and permit-allocation procedures in the cooperative management plan to set crane seasons in 1996–97.

14. Woodcock

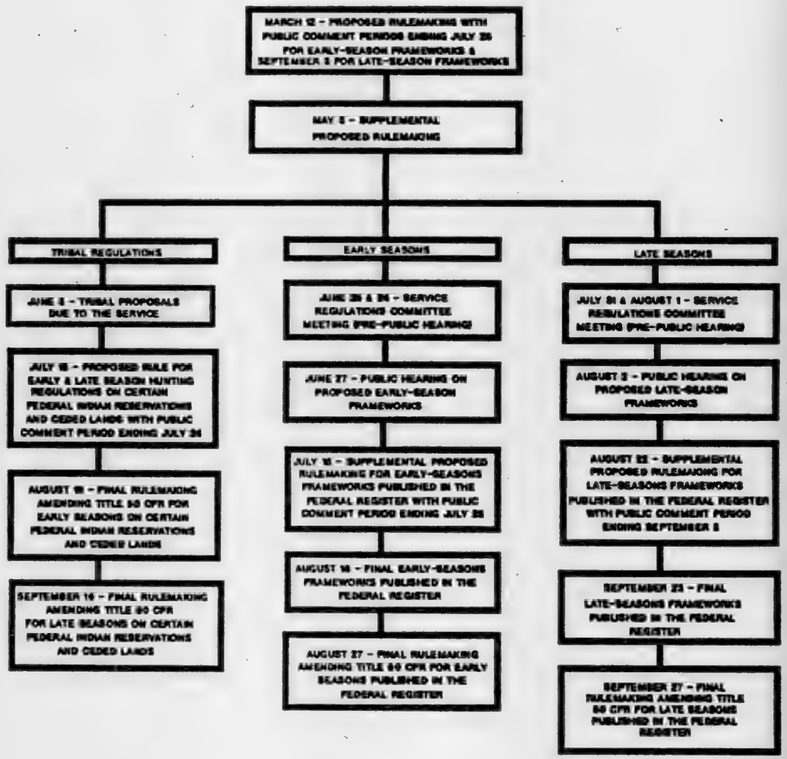
The Service remains concerned about the gradual long-term declines in woodcock populations in both the Eastern and Central Management Regions. The primary causes of the declines appear to be degradation and loss of suitable habitat on both the breeding and wintering grounds. Available data suggest that woodcock are harvested at a relatively low rate and that hunting mortality comprises a relatively small proportion of overall annual mortality. The Service will continue to work with the Atlantic and Mississippi Flyway Councils to review the status of woodcock and cooperatively develop a harvest-management strategy.

15. Band-tailed Pigeons

The Service supports the continuation of hunting seasons on both the Coastal and Interior Populations. The Service remains concerned, however, about the long-term decline in the Coastal Population and supports the continuation of restrictive harvest regulations. As in 1995, all States having band-tailed pigeon hunting seasons must again require either participation in the nationwide Migratory Bird Harvest Information Program or require band-tailed pigeon hunters to obtain mandatory State permits to provide sampling frames for obtaining more precise estimates of band-tailed pigeon harvest. Those States not participating in the Harvest Information Program will be required to conduct a harvest survey and provide the results to the Service by June 1 of each year. The Service will continue to closely monitor population and harvest information from both populations and will evaluate this information in June prior to making any decisions regarding the 1996–97 seasons. Indian tribes also should consider this situation when proposing harvest regulations for this species.

BILLING CODE 4310–31–F

1996 SCHEDULE OF REGULATIONS MEETINGS AND FEDERAL REGISTER PUBLICATIONS



[FR Doc. 96–6981 Filed 3–21–96; 8:45 am]
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federal register

Friday
March 22, 1996

Part V

Environmental Protection Agency

40 CFR Part 185
Revocation of Pesticide Food Additive Regulations; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 185

[OPP–300335A; FRL–5357–7]

Revocation of Pesticide Food Additive Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA has made a final determination regarding 26 food additive regulations (FARs) for 7 pesticides that were previously proposed for revocation on the grounds that the FARs violated the Delaney clause in section 409 of the Federal Food, Drug and Cosmetic Act (FFDCA). Today, EPA is revoking 13 FARs because they violate the Delaney clause and the remaining 13 FARs because they are not needed to prevent adulterated food.

EFFECTIVE DATE: This final rule is effective May 21, 1996.

ADDRESSES: Written objections, requests for a hearing, and/or requests for stays identified by the document control number OPP–300335A (FRL–5357–7), must be submitted by April 22, 1996, to the Hearing Clerk, EPA, 401 M Street, SW., Washington, DC 20460, with a copy to the OPP docket. Comments on objections, requests for a hearing, and/or requests for stays must be submitted by May 6, 1996 to the OPP docket: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. Hand deliver to: Rm. 1132, CM 2, 1921 Jefferson Davis Hwy., Arlington, VA.

Information submitted as a filing concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the filings that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written (non-CBI) filings will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Niloufar Nazmi, Special Review Branch (7508W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Crystal Mall #2, Room 1113, 1921 Jefferson Davis Highway, Arlington, VA (703) 308–8028; e-mail: nazmi.niloufar@epamail.epa.gov.

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I. Introduction

A. Statutory Background

The Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 *et seq.*, authorizes the establishment by regulation of maximum permissible levels of pesticides in foods. Such regulations are commonly referred to as "tolerances." Without such a tolerance or an exemption from the requirement of a tolerance, a food containing a pesticide residue is "adulterated" under section 402 of the FFDCA and may not be legally moved in interstate commerce. 21 U.S.C. 331, 342. EPA was authorized to establish pesticide tolerances under Reorganization Plan No. 3 of 1970. 5 U.S.C. App. at 1343 (1988). Monitoring and enforcement of pesticide tolerances are carried out by the U.S. Food and Drug Administration (FDA) and the U.S. Department of Agriculture (USDA). EPA can establish a tolerance in response to a petition (FFDCA section 408(d)(1), 409(b)(1)), or on its own initiative (FFDCA sections 408(e), 409(d)).

The FFDCA has separate provisions for tolerances for pesticide residues on raw agricultural commodities (RACs) and tolerances on processed food. For pesticide residues in or on RACs, EPA establishes tolerances, or exemptions from tolerances when appropriate, under section 408. 21 U.S.C. 346a. EPA regulates pesticide residues in processed foods under section 409, which pertains to "food additives." 21 U.S.C. 348. Maximum residue regulations established under section 409 are commonly referred to as food additive regulations (hereafter referred to as "FARs"). Section 409 FARs are needed, however, only for certain pesticide residues in processed food. Under section 402(a)(2) of the FFDCA, a pesticide residue in processed food generally will not render the food adulterated if the residue results from application of the pesticide to a RAC and the residue in the processed food when ready to eat is below the RAC tolerance. This exemption in section 402(a)(2) is commonly referred to as the "flow-through" provision because it allows the section 408 raw food tolerance to flow through to the processed food forms. Thus, a section 409 FAR is only necessary to prevent foods from being deemed adulterated when the level of the pesticide residue in a processed food when ready to eat is greater than the tolerance prescribed for the RAC, or if the processed food itself is treated or comes in contact with a pesticide.

If a food additive regulation must be established, section 409 of the FFDCA requires that the use of the pesticide will be "safe" (21 U.S.C. 348(c)(3)). Relevant factors in this safety determination include (1) the probable consumption of the pesticide or its metabolites; (2) the cumulative effect of the pesticide in the diet of man or animals, taking into account any related substances in the diet; and (3) appropriate safety factors to relate the animal data to the human risk evaluation. Section 409 also contains the Delaney clause, which specifically provides that "no additive shall be deemed safe if it has been found, after tests which are appropriate for the evaluation of the safety of food additives, to induce cancer when ingested by man or animal."

B. Regulatory Background

1. *Les* v. *Reilly*

On May 25, 1989, the State of California, the Natural Resources Defense Council, Public Citizen, the AFL-CIO, and several individuals filed a petition requesting that EPA revoke several FARs. The petitioners argued that these FARs should be revoked because they violated the Delaney clause.

EPA responded to the petition by revoking certain FARs, but retained several others on the grounds that the Delaney clause provides an exception for pesticide residues posing *de minimis* risk; EPA denied the petition with respect to the FARs determined to fall under this exception. EPA's response was challenged by the petitioners in the U.S. Court of Appeals, Ninth Circuit. On July 8, 1992, the court ruled in *Les* v. *Reilly*, 968 F.2d 985 (9th Cir.), *cert. denied*, 113 S.Ct. 1361 (1993), that the Delaney clause barred the establishment of a FAR for pesticides which "induce cancer" no matter how infinitesimal the risk.

In response to the court's decision in *Les* v. *Reilly*, EPA has taken steps to identify and revoke all section 409 FARs for pesticides which "induce cancer." On March 30, 1994, EPA issued a list of pesticide uses which potentially could be affected by the court's decision (59 FR 14980). (Note that, for the purpose of today's document, this list has been superseded by appendices to the court-approved settlement in *California* v. *Browner*, discussed below.)

After revoking certain FARs of six pesticides that were the subject of the original NRDC petition, EPA decided to evaluate the remaining pesticide uses in phases. The first phase of proposed revocations was announced on July 1, 1994, and involved 26 FARs for seven pesticides (59 FR 33941; July 1, 1994). In today's notice, EPA is making final determinations regarding these 26 FARs.

2. *California* v. *Browner*

In a court-approved settlement, entered on February 9, 1995, in the case of *California* v. *Browner*, EPA agreed to make decisions regarding pesticides that may be affected by the Delaney clause. This settlement agreement includes a timetable for making the decisions. This document is consistent with the timeframes in that settlement.

C. Actions Since Proposed Rule

The National Food Processors' Association (NFPA) filed a petition with the EPA in September 1993. This petition challenged a number of policies under which EPA administers its tolerance-setting program. In the **Federal Register** of June 14, 1995 (60 FR 31300), EPA issued a partial response to the NFPA petition. In that document, EPA concluded that some changes were warranted to its policies concerning application of the Delaney clause, in particular the concentration and "ready-to-eat" (RTE) policies. On January 25, 1996, EPA completed its response to the NFPA petition by announcing its coordination policy and its interpretation of what constitutes a RAC (61 FR 2378). Section II of this preamble contains a summary of these policy changes.

D. Today's Action

The FAR revocations being made final in this notice were proposed on July 1, 1994 (59 FR 33941), before EPA had responded to the NFPA petition and adopted its new policies. In addition, EPA has received many petitions from the registrants of these pesticides requesting revocation of many of the FARs, on the basis that they are not needed. For each of these petitions, EPA has published a "Notice of Availability and Request for Comments", in the **Federal Register**. Today's final rule is consistent with EPA's new policies and, where appropriate, the decisions are based on the petitions rather than the proposed rule of July 1, 1994.

II. EPA's Policy Changes Since the Proposal

A. Concentration and Ready-to-Eat Policies

To determine whether the use of a pesticide on a growing crop needs a section 409 FAR in addition to a section 408 tolerance, EPA looks at the likelihood that the residue levels in the processed food when ready to eat will exceed the section 408 tolerance level. In the past, EPA applied this policy focusing almost exclusively on the results of processing studies using treated crops. In response to the NFPA petition, EPA announced new policies on how it would determine whether a pesticide needs a section 409 FAR (60 FR 31300, July 1, 1994). EPA stated that it would consider a greater range of information in determining the likelihood of residues in processed food exceeding the section 408 tolerance. EPA also adopted a definition of RTE as it applies to human food and animal feed. Whether a food is RTE or not is critical to application of the concentration policy. If a food is not RTE, EPA considers the degree of dilution that occurs in producing a RTE food from the not-RTE food in determining the likelihood that residues in RTE food will exceed the section 408 tolerance.

Perhaps the most significant new information that EPA stated it would consider is information bearing on the average residue value from crop field trials. The data from field residue trials show that it is possible to obtain significantly different residue values from multiple field trials. EPA's old policy was to use the highest field trial sample value to calculate expected residues in the processed food. However, in response to the NFPA petition, EPA concluded that where a crop is mixed or blended during processing, it is appropriate to use an average of the residue levels from field trials, rather than the highest sample value in estimating the potential level of residue in processed food. As EPA noted, EPA believes that generally the most appropriate average value to use is the "highest average field trial" (HAFT) value, or the average of the highest values found in each of the field trials. Consequently, EPA revised its procedures and is now using the HAFT as the basis for determining whether a section 409 FAR is needed. Use of the HAFT for food commodities that are likely to be mixed or blended decreases the likelihood that residues in processed food will exceed the section 408 tolerance.

In addition EPA has revised its policies for the use of multiple processing studies. EPA may receive several processing studies for a crop, with each showing a different concentration factor. When different concentration factors result from multiple processing studies, EPA will now use the average concentration factor to determine the expected level of concentration. In addition, EPA is examining processing studies to ensure that they reflect typical commercial practices. If a study does not include a step (e.g., washing) that is considered typical practice in processing a RAC, EPA may decide not to include that study in the calculation of the average concentration factor.

In response to the NFPA petition, EPA stated it would interpret the phrase RTE food as meaning food ready for consumption "as is" without further preparation. For instance, EPA has determined that cottonseed oil is not RTE, while oat bran is.

B. Updated Residue Chemistry Guidelines

In a notice issued September 21, 1995 (60 FR 49150), EPA announced the availability of its updated table II of the Pesticide Assessment Guidelines, Subdivision O, Residue Chemistry. This table, commonly referred to "Residue Chemistry Table II" provides a listing of all significant food and feed commodities, both raw and processed, for which residue data are collected and tolerances or FARs are established. In the latest update of this table, criteria were established for inclusion of feed items, and, based on those criteria, a number of feed items were eliminated as significant animal feeds. If a commodity is not listed in table II as a significant

food or feed, a tolerance is not necessary for pesticide residues in that commodity.

C. RAC Interpretation

On January 25, 1996 (61 FR 2386), EPA published its interpretation of the term RAC as applied to dried commodities under the FFDCA. This notice explained EPA's interpretation of which dried commodities qualify as RACs. EPA based its interpretation on the purpose of drying, such that commodities dried for the purpose of creating a new marketable commodity are treated as processed food, while those dried for storage or transportation needs are treated as raw foods. This interpretation is consistent with EPA's current practice and therefore no commodities were reclassified as either RAC or processed as a result of the interpretation.

III. Decision Framework

In analyzing whether the 26 FARs addressed in this document should be revoked, EPA has used the following decision framework. First, EPA determined whether a section 409 FAR was necessary to prevent adulteration, given the revisions to the concentration, RTE, and RAC policies as well as to table II. If application of new policies showed no FAR was needed, this document revokes the FAR on that ground. However, if the analysis showed that a FAR is still needed, then the FAR's consistency with the Delaney clause was analyzed. Contrary to the opinion expressed in some comments on the proposed rule (see comments of American Crop Protection Association, and EPA's response in Unit VI of this preamble), EPA does not believe that this approach is legally required under the FFDCA. EPA has chosen this approach in its discretion.

In examining whether a FAR was needed, EPA followed a stepwise process involving a series of questions. In brief, the questions are:

1. Do processing data show that there is actual concentration of residues during processing? If processing studies demonstrate that the level of residues in the processed food is less than or equal to the level of residues in the precursor crop (i.e., no "concentration in fact"), residues in the processed food would not be expected to exceed the section 408 tolerance.

2. Does use of the average of concentration factors from multiple processing studies show that there is concentration of residues during processing?

3. Is the commodity mixed or blended during processing, such that use of the HAFT value is appropriate?

4. Using the HAFT, do residues in processed food exceed the section 408 tolerance?

5. If a processed food item is not eaten "as is," is the dilution that occurs during preparation of RTE food sufficient to reduce pesticide residues below the section 408 tolerance? EPA will evaluate the expected residue level in RTE food containing the processed food item. If the dilution of residues resulting from RTE food preparation is greater than the concentration of residues resulting from processing (the dilution factor is greater than the concentration factor), it is likely that the residues in the finished RTE food will be less than the section 408 tolerance. In this case, no FAR would be necessary for the RTE food.

If, after consideration of the above factors, a FAR was determined to be necessary, EPA then examined whether the existing FAR for the pesticide chemical violates the Delaney clause.

IV. Analysis of the FARs

EPA originally proposed to revoke all 26 FARs on the basis that they violate the Delaney clause. EPA has since determined that under its revised concentration and RTE policies, 13 FARs are not needed to prevent adulterated food. For the 13 FARs that are needed, EPA next examined their consistency with the "induce cancer" standard of the Delaney clause in section IV.B. of this preamble.

A. Is a FAR needed?

Under current policy, a FAR is needed when the appropriate field trial residue value multiplied by the appropriate concentration factor significantly exceeds the section 408 tolerance in the ready to eat commodity. The extent to which EPA will allow residues in the processed food to exceed the section 408 tolerance is determined on a case by case basis, taking into account the sensitivity of the analytical method used to detect the residues. In analyzing the need for section 409 FARs, EPA has taken into account not only existing section 408 tolerances but also available residue data bearing on whether the current section 408 tolerance should be revised under existing tolerance-setting policies. EPA has received large amounts of residue data as part of the pesticide reregistration program of section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Review of these data in several instances shows that the existing section 408 tolerance is set either too high or too low. Tolerance adjustments would normally be accomplished through the reregistration program.

EPA, however, sees no reason to wait until these tolerances are formally revised to determine whether the pesticide concentrates for the purpose of applying the coordination policy. EPA has decided that it should base its concentration decision upon the most recent data on residues in raw crops. If those data indicate that section 408 tolerances should be adjusted, EPA has used the adjusted section 408 tolerance level as the basis for its determination of whether a section 409 FAR is needed because the pesticide concentrates. The basis for EPA's determination that a section 408 tolerance should be adjusted is in the docket for this rulemaking.

Captan on raisins. EPA proposed to revoke FARs for captan both from pre-harvest use on grapes and direct treatment to raisins.

On January 31, 1996, EPA published notice in the **Federal Register** (61 FR 3401) of a petition filed by the Captan Task Force requesting revocation of the section 409 FAR for raisins. The petition claims that good manufacturing practice for producing raisins requires that the raisins are washed before they are ready-to-eat and that washing raisins substantially eliminates remaining captan residues. The petition claims that because captan residues do not concentrate in washed raisins above the established residue levels on treated grapes, the FAR should be revoked.

EPA has reviewed the public comments and reconsidered the available grape/raisin processing studies. EPA agrees that washing is standard practice in raisin production, Accordingly, EPA has determined that only those studies which involve washing the raisins reflect current processing practices. When only those data which include a washing step are used to evaluate the need for a section 409 FAR for raisins, the average concentration factor for residues of captan per se on washed raisins is less than one. Therefore, no section 409 FAR is needed for residues from pre-harvest treatment.

In regard to direct post-harvest application to grapes (drying raisins), the petition claims that the section 409 FAR is not needed because there are no registered products containing captan which include label directions for post-harvest use on raisins. EPA has reviewed all labels of products containing captan, and agrees with the petitioner that there are no labels which allow postharvest use of captan on drying grapes/raisins. Therefore, the section 409 FAR is not needed for residues resulting from post-harvest treatment of the fruit.

Ethylene oxide on ground spices. Since ethylene oxide is directly applied to processed ground spices, the existing section 409 FAR is necessary to prevent adulterated food. EPA policies on concentration and dilution in RTE foods are not relevant to a processed commodity treated directly with a pesticide.

Mancozeb on brans of oats, barley and rye; flours of oats, barley, rye and wheat. On May 19, 1993, EPA published notice in the **Federal Register** (58 FR 29318) of a petition filed by the Mancozeb Task Force. This petition sought the revocation of the section 409 FAR for the flours and brans of barley, oats, rye and wheat. The petitioner argued that residues do not concentrate in the brans and flours of these grains over the section 408 RAC tolerances. EPA has reviewed the available data in accordance with the new Agency policies and made the following determinations in regard to the residues of Mancozeb on brans of oats, barley and rye, and flours of oats, barley, rye and wheat.

Oat bran. The current section 408 tolerance for mancozeb on oat grain is 5 ppm (40 CFR 180.176). Evaluation of new residue data indicates that the tolerance should be reduced to 1 ppm. Based on the HAFT of 0.98 ppm for oat grain and an average concentration factor of 2.0 in oat bran, the expected residue in oat bran is calculated as 2.0 ppm. The HAFT multiplied by the concentration factor is 0.98 X 2.0=2.0 ppm. (This calculation is used throughout the document to calculate expected residue levels.) EPA believes that it is likely that some oat bran will contain residues exceeding the adjusted RAC tolerance level of 1 ppm. Oat bran is a RTE processed food and needs a section 409 FAR.

Barley and rye bran. The current section 408 tolerance for mancozeb on barley and rye grains are 5 ppm (40 CFR 180.176). Evaluation of new residue data indicate that this tolerance should be reduced to 1 ppm. Based on the HAFT of 0.98 ppm for barley and rye grain and an average concentration factor of 2.0 in the brans, the expected residues in barley and rye brans are calculated as 2.0 ppm. EPA has determined that both rye and barley bran are not RTE foods and that once they are prepared to their RTE forms, mancozeb residues are unlikely to exceed the adjusted section 408 tolerances of 1 ppm for rye and barley grains. Therefore, the section 409 FARs for mancozeb on brans of barley and rye are not needed and will be revoked on these grounds. EPA will propose to establish a Maximum Residue Limit (MRL) under section 701 of FFDCA in or on barley bran. Moreover, EPA has determined that rye bran is not a significant human food and does not require pesticide residue tolerances. A memo to this effect is in OPP docket 300415.

Flours of oat, barley, rye and wheat. The current FAR for flours of oat, barley, rye and wheat is 1 ppm (40 CFR 185.6300). EPA has determined that the average concentration factor for wheat flour is less than one, and has used it for other grains. Residues in processed flours are not expected to exceed the adjusted RAC tolerance of 1 ppm for the grains. Therefore, no section 409 FAR is needed for the flours of oat, barely, rye and wheat.

Oxyfluorfen on spearmint, peppermint, soybean and cottonseed oils. On December 14, 1994, EPA published notice in the **Federal Register** (59 FR 64405) of a petition filed by the Rohm and Haas Company which sought to revoke these section 409 FARs because they are not needed. The petitioner claimed that all processed oil data from processing studies show that residue levels in oils are below the section 408 tolerance levels. The petitioner also argued that these oils are not RTE commodities.

Spearmint and peppermint oils. The current section 408 tolerance for oxyfluorfen on mint hay is 0.1 ppm (40 CFR 180.381). Evaluation of new residue data indicates that the tolerance should be reduced to 0.05 ppm. Based on the HAFT of 0.03 ppm for mint hay, and an average concentration factor of 2.4, the expected residues in mint oils are calculated as 0.072 ppm. The residue level for mint oils is not appreciably higher than the adjusted mint RAC tolerance of 0.05 ppm, taking into account the sensitivity of the analytical method used to detect oxyfluorfen residues. In addition, peppermint and spearmint oils are not RTE commodities, and the Agency has determined that they are diluted by a factor of 120 and 160 respectively in RTE foods. Therefore, a section 409 FAR is not needed. EPA will propose to establish Maximum Residue Limits under section 701 of FFDCA for oxyfluorfen in or on mint oils.

Soybean oil. Dry soybean seeds treated at 5 times the maximum application rate did not have quantifiable oxyfluorfen residues, thus processing data are not able to show the degree of concentration in soybean oil. The maximum theoretical concentration factor for soybean oil is 5. Since this is the same as the application exaggeration in the residue study, oxyfluorfen residues in soybean oil, are not expected to exceed the section 408 tolerance of .05 ppm. Therefore, a section 409 FAR is not needed.

Cottonseed oil. The current section 408 tolerance for oxyfluorfen on cottonseed is 0.05 ppm (40 CFR 180.381). Evaluation of new residue data indicates that the tolerance should be reduced to .02 ppm. Based on the HAFT of 0.01 ppm for cottonseed and a concentration factor of 3.3, the expected residue in cottonseed oil is .04 ppm. Cottonseed oil is not a RTE processed food and once diluted by a factor of 11, which accounts for the minimum level of dilution of cottonseed oil in preparing RTE food, the residues in the RTE food items are not expected to exceed the adjusted section 408 RAC tolerance of .02 ppm. Therefore a section 409 FAR is not needed. EPA will propose to establish Maximum Residue Limits under section 701 of FFDCA for oxyfluorfen in or on cottonseed oil.

Propargite on raisins, dried figs, and tea. On September 7, 1994, EPA published a notice in the **Federal Register** (59 FR 46250) of a petition filed by Uniroyal Chemical Company which sought to revoke the section 409 FAR on raisins because it is not needed. The petitioner claimed that propargite residues are susceptible to release through mechanical or washing processes and therefore do not concentrate in raisins.

Raisins. Based on the HAFT of 4.7 ppm for grapes and an average concentration factor of 1.7, the expected residue in raisins is calculated at 8.0 ppm, which is less than the established section 408 RAC tolerance of 10 ppm for grapes. Therefore, a section 409 FAR is not needed for raisins.

Dried figs. Based on a HAFT of 1.8 ppm for figs and an average concentration factor of 2.7 for dried figs, the expected residue level in dried figs is 4.9 ppm. EPA believes that it is likely that some dried figs will contain propargite residues exceeding the established RAC tolerance level of 3 ppm. Since dried figs are RTE, a section 409 FAR is needed.

Dried tea. Tea is a processed food item even though it is not considered a RTE food. EPA has determined that the degree of dilution from dried tea to brewed RTE tea will exceed any concentration from fresh green tea to dried tea.

Under the circumstances where: (1) There is a section 408 tolerance for the RAC; and (2) residues in the RTE food are below the section 408 tolerance, EPA normally would determine that the

section 409 FAR is not necessary. Residues would be covered by the section 408 tolerance under the flow-through provision of section 402, and EPA would revoke the FAR on that ground.

Tea presents a unique situation, because the FAR is established primarily for import purposes. However, because only the dried tea is imported into the United States, there is no section 408 tolerance for fresh tea. Without a section 408 tolerance, the flow-through provision does not apply. Revocation of the section 409 FAR would leave no tolerance to cover residues in tea, potentially resulting in adulterated tea. Therefore, the section 409 FAR for dried tea is necessary.

Propylene oxide on glace fruit, cocoa, gums, dried prunes, processed nutmeats (except peanuts), starch and processed spices. Since propylene oxide is directly applied to these commodities, the "flow through" provision of section 402 does not apply and the existing section 409 FAR is necessary to prevent adulterated food.

Simazine on Sugarcane molasses and syrup. Molasses is a RTE food item. The average concentration factor in the processing of molasses is 10. A determination of the HAFT has not been made since the concentration factor is so large that the HAFT multiplied by that number is certain to appreciably exceed the section 408 tolerance (.25 ppm). EPA expects that in most cases the HAFT will not be lower than the tolerance by a factor of two. This conclusion is based on EPA's experience with setting 408 tolerances (i.e., how they are derived based on the highest residue values) and with the relationships between average residues in field trials and either tolerances or maximum field trial residues, which are usually close to the tolerance. In most cases average residues across all field trials for a given crop are 2–6 times less than a tolerance or maximum field trial value. The highest average field trial (HAFT) will be higher than the average residue across all trials. Therefore, in this particular case the Agency is confident that ten times the HAFT will be appreciably higher than the 408 tolerance. Examples of the relationships between average residues and tolerances or maximum field trial residues are available in the docket for this notice. EPA's conclusion regarding the level of simazine residues in sugarcane molasses is confirmed by a processing study in which sugarcane treated at the maximum application rate showed total residues of 0.63 ppm in molasses, well above the 0.25 ppm sugarcane tolerance. Therefore, EPA believes that it is likely that some molasses will contain residues exceeding the tolerance.

According to Residue Chemistry Table II, sugarcane syrup is not considered a significant human food item. The Agency has determined that no section 409 FAR is required.

Simazine in potable water. Even though EPA no longer sets section 409 FARs under the FFDCA for residues in potable water, this FAR for simazine exists. Therefore, EPA will apply the same analysis to it as to the other section 409 FARs addressed in this notice.

B. Induce Cancer Determination

If a FAR is necessary to prevent adulterated food, as in the case of the 13 FARs of the five chemicals discussed above, EPA must determine whether the pesticide induces cancer within the meaning of the Delaney clause. In the proposal for this final rule (59 FR 33941; July 1, 1994), EPA determined that all of the following five chemicals "induce cancer" within the meaning of the Delaney clause: Ethylene oxide, mancozeb, propargite, propylene oxide and simazine. (OPP docket 300335.)

In construing the "induce cancer" standard as to animals, EPA follows a weight-of-the-evidence approach. In regard to animal carcinogenicity, EPA, in general, interprets "induces cancer" to mean:

The carcinogenicity of a substance in animals is established when administration in an adequately designed and conducted study or studies results in an increase in the incidence of one or more types of malignant (or, where appropriate, benign or a combination of benign and malignant) neoplasms in treated animals compared to untreated animals maintained under identical conditions except for exposure to the test compound. Determination that the incidence of neoplasms increases as the result of exposure to the test compound requires a full biological, pathological, and statistical evaluation. Statistics assist in evaluating the biological significance of the observed responses, but a conclusion on carcinogenicity is not determined on the basis of statistics alone. Under this approach, a substance may be found to "induce cancer" in animals despite the fact that increased tumor incidence occurs only at high doses, or that only benign tumors occur, and despite negative results in other animal feeding studies. (See 58 FR 37863, July 14, 1993; 53 FR 41108, October 19, 1988; and 52 FR 49577, December 31, 1987.)

EPA has considered the comments submitted on the proposed rule, and has applied this interpretation to the 5 chemicals addressed above. Based on this analysis, EPA concludes that ethylene oxide, mancozeb, propargite, propylene oxide and simazine induce cancer within the meaning of the Delaney clause. Because EPA has determined that the section 409 FARs for captan and oxyfluorfen should be revoked on grounds other than the Delaney clause, the Agency is not issuing a final finding in this action that these chemicals induce cancer within the meaning of the Delaney clause. Full copies of EPA's reviews of each chemical and other references in this document are available in the OPP docket 300335, the location of which is given in the "ADDRESSES" section of this preamble.

V. EPA's Decisions

A. FARs That Are Not Needed

Captan. EPA is revoking the FAR for the fungicide captan in or on raisins (50 ppm). This FAR is codified at 40 CFR 185.500. EPA is revoking this regulation because the Agency has determined that this FAR is not needed to prevent adulterated food. This final rule is based on the grounds discussed in the petition of January 31, 1996, discussed in Unit IV of this preamble.

Mancozeb. EPA is revoking the FARs for mancozeb (expressed as the zinc ion and maneb coordination product) for residues in the brans of barley and rye (20 ppm) and in the flours of barley, oats, rye and wheat (1 ppm). These FARs are codified at 40 CFR 185.6300. EPA is revoking these FARs because they are not needed to prevent adulterated food. This final rule is based on the grounds discussed in the petition of May 19, 1993, discussed in Unit IV of this preamble.

Oxyfluorfen. EPA is revoking the FARs for residues of oxyfluorfen on cottonseed oil, peppermint oil, spearmint oil and soybean oil (.25 ppm). These FARs are codified at 40 CFR 185.4600. EPA is revoking these FARs because the Agency has determined that these FARs are not needed to prevent adulterated foods. This final rule is based on the grounds discussed in the petition of December 14, 1994, discussed in Unit IV of this preamble.

Propargite. EPA is revoking the FAR for residues of propargite on raisins (25 ppm). This FAR is codified at 40 CFR 185.5000. EPA is revoking this FAR because the Agency has determined that it is not needed to prevent adulterated food. This final rule is based on the grounds discussed in the petition of September 7, 1994, discussed in Unit IV of this preamble.

Simazine. EPA is revoking the FAR for residues of simazine in sugarcane syrup (1 ppm). This FAR is codified at 40 CFR 185.5350. EPA is revoking this FAR because EPA has determined that it is not needed to prevent adulterated food. This final rule is based on updated Agency guidelines which dictate when a FAR is needed.

TABLE 1.—13 FARS THAT ARE NOT NEEDED

Pesticide	CFR citation	Commodity	Food additive regulation level
Captan	185.500	raisins	50.0 ppm
Mancozeb	185.6300	bran of barley, rye	20 ppm
		flours of oats, barley, rye, wheat	1 ppm
Oxyfluorfen	185.4600	peppermint, spearmint, soybean, and cottonseed oils	0.25 ppm
Propargite	185.5000	raisins	25 ppm
Simazine	185.5350	sugarcane syrup	1 ppm

B. Food Additive Regulations That Violate the Delaney Clause

Ethylene oxide. EPA is revoking the FAR for residues resulting from the direct application of ethylene oxide to ground spices (50 ppm). This FAR is codified at 40 CFR 185.2850. Ethylene oxide has been found to induce cancer in animals based on tests which are appropriate for the evaluation of the safety of food additives. Thus, this regulation violates the Delaney clause in section 409 of the FFDCA.

Mancozeb. EPA is revoking the FAR for mancozeb (expressed as the zinc ion and maneb coordination product) for residues in oat bran (20 ppm). This FAR is codified at 40 CFR 185.6300. Since mancozeb induces cancer when ingested by animals, this regulation violates the Delaney clause in section 409 of the FFDCA.

Propargite. EPA is revoking the FARs for residues of propargite on dried figs (9 ppm) and dried tea (10 ppm). These FARs are codified at 40 CFR 185.5000. Since propargite induces cancer when ingested by animals, these regulations violate the Delaney clause in section 409 of the FFDCA.

Propylene oxide. EPA is revoking the FARs for residues of propylene oxide on cocoa (300 ppm), glace fruit (700 ppm), gums (300 ppm), processed nutmeats (except peanuts) (300 ppm), dried prunes (700 ppm), processed spices (300 ppm), and starch (300 ppm). These FARs are codified at 40 CFR 185.5150. Since propylene oxide induces cancer in animals in tests appropriate for the evaluation of the safety of food additives, these regulations violate the Delaney clause in section 409 of the FFDCA.

Simazine. EPA is revoking the FARs for residues of simazine on sugarcane molasses (1 ppm) and in potable water (.01 ppm). These FARs are codified at 40 CFR 185.5350. Since simazine induces cancer when ingested by animals, these FARs violate the Delaney clause in section 409 of the FFDCA.

TABLE 2.—13 FARS THAT VIOLATE THE DELANEY CLAUSE

Pesticide	CFR citation	Commodity	Food additive regulation level
Ethylene oxide	185.2850	ground spices	50 ppm
Mancozeb	185.6300	bran of oats	20 ppm
Propargite	185.5000	dried figs	9 ppm
		dried tea	10 ppm
Propylene oxide	185.5150	glace fruit	700 ppm
		cocoa	300 ppm
		gums	300 ppm
		processed nutmeats (except peanuts)	300 ppm
		dried prunes	700 ppm
		starch	300 ppm
		processed spices	300 ppm
Simazine	185.5350	sugarcane molasses	1 ppm
		potable water	.01 ppm

VI. Consideration of Comments

EPA's proposed revocation of these FARs was published prior to EPA's response to the NFPA petition. Many comments that were submitted in response to the proposed rule urged EPA to reconsider many of its tolerance setting policies, including the coordination, concentration, RTE and RAC policies. As explained in the earlier units of this notice, EPA has adopted new policies and used them in making the determinations for this final rule. Because of these new policies, only 13 of the 26 FARs which EPA proposed to revoke on July 1, 1994, are being revoked because they violate the Delaney clause. In addition, most commenters also raised chemical specific issues, primarily concerning whether the chemical induces cancer within the meaning of the Delaney clause. EPA's response to chemical specific comments is summarized below. Full responses to comments are in the docket.

American Crop Protection Association (ACPA)

Comments: ACPA submitted extensive comments on the proposal.

Many of ACPA's comments seem to suggest that EPA has incorrectly applied the legal standard "induce cancer" because EPA failed to duplicate prior FDA practice. ACPA admits that EPA announced it would use FDA's "induce cancer" standard and would follow the weight of the evidence approach used by FDA but ACPA contends that EPA's application of the standard was not sufficiently thorough and that EPA has failed to consider various categories of relevant evidence. ACPA alleges that one particular type of evidence ignored by EPA is biologic and mechanistic data. Further, ACPA argues that EPA has wrongly interpreted the Delaney clause because EPA has failed to take into account the relevance of the results of animal studies to humans. ACPA also asserts that EPA failed to take account of the fact that an "induce cancer" finding is appropriate only where the evidence is "conclusive." Finally, ACPA argues that EPA is legally required to determine whether a section 409 FAR is legally necessary to prevent the adulteration of food before revoking it on Delaney clause grounds.

EPA's response: EPA believes its application of the "induce cancer" standard and the weight of the evidence approach has sufficiently addressed all relevant evidence. Where ACPA or other commenters have raised questions concerning how specific data were considered for specific chemicals, EPA has in this notice or in the docket responded to those comments. ACPA's comments regarding the role of the relevance of animal studies to humans under the Delaney clause, the relevance of biologic and mechanistic data, the degree of certainty required for a Delaney clause finding, and the need for a determination as to the necessity of a FAR are addressed below.

Relevance to humans. ACPA asserts that a substance does not induce cancer within the meaning of the Delaney clause even if it produces cancer when fed to experimental animals if the results of the experiment are not relevant to human carcinogenicity. To support this conclusion, ACPA first notes that the Delaney clause contains two clauses separated by the conjunction "or."

> [N]o additive shall be deemed to be safe if it is found to induce cancer when ingested by man or animal or if it is found, after tests which are appropriate for the evaluation of the safety of food additives, to induce cancer in man or animal * * *.

21 U.S.C. 348(c)(3)(A) (emphasis added). According to ACPA, the first clause is limited to evidence gathered through epidemiological studies on humans or animals and the second clause addresses evidence gathered from experiments. ACPA bases this conclusion on the inclusion of the word "tests" in the second clause but not in the first. Further, ACPA argues that the requirement that the tests be "appropriate for the evaluation of the safety of food additives" mandates that EPA must consider the relevance of both the test design and the test results to human carcinogenicity. For example, ACPA asserts that if the test produces cancer in the animals but that cancer would not be produced in humans then the substance does not induce cancer in animals under the Delaney clause because the test was inappropriate for an evaluation of human carcinogenicity. A failure to consider the relevance of test results to humans, ACPA contends, would make the focus of the Delaney clause protection of the health of experimental animals, not humans.

EPA disagrees with each step of ACPA's analysis. First, EPA believes that the feeding studies with experimental animals fall within the first clause of the Delaney clause. It is a difficult stretch to suggest that a substance that has produced cancer in an animal feeding study has not been "found to induce cancer when ingested by * * * animal[s]." This is especially the case when the alternative interpretation is that this phrase refers to a type of study—an epidemiological study of animals—which is rarely if ever used to evaluate carcinogenicity.

Moreover, the legislative history refutes ACPA's proposed interpretation. The second half of the Delaney clause concerning appropriate tests was included in the anti-cancer provision because of a concern that tests other than feeding studies might be deemed controlling under the Delaney clause. At the same time the "appropriate" tests clause was added, the original clause was amended to add a reference to ingestion, thus signaling a special status for ingestion studies.

Congressman Delaney's anti-cancer clause as initially drafted stated: "The Secretary shall not approve for use in food any chemical additive found to induce cancer in man, or, after tests, found to induce cancer in animals." H.R. 7798, 85th Cong., 1st Sess., section 409 (d), reprinted in XIV A Legislative History of the Federal Food, Drug, and Cosmetic Act at 97 [hereinafter cited as Leg. Hist.]. At first, the Department of Health, Education and Welfare (HEW) objected to a specific mention of cancer in the Food Additive Amendments but relented and proposed the anti-cancer language which was enacted. HEW explained in detail the reason for revising the initial anti-cancer clause:

> It would be important, also to use language that would provide the intended safeguards without creating unintended and unnecessary complications. For example, the language suggested by some to bar carcinogenic additives would, if read literally, forbid the approval for use in food of any substance that causes any type of cancer in any test animal by any route of administration. This could lead to undesirable results which obviously were not intended by those who suggested the language. Concentrated sugar solution, lard, certain edible vegetable oils, and even cold water have been reported to cause a type of cancer at the site of injection when injected repeatedly by hypodermic needle into the same spot in a test animal. But scientists have not suggested that these same substances cause cancer when swallowed by mouth.
>
> The enactment of a law which would seem to bar such common materials from the diet would place the agency that administered it in an untenable position. The agency would either have to try to enforce the law literally so as to keep these items out of the diet—evidently an impossible task—or it would have to read between the lines of the law an intent which would make the law workable, without a clear guide from Congress as to what was meant.
>
> This difficulty could readily be avoided, if there is still a desire to make specific mention of cancer in the bill, by providing that "no additive shall be deemed to be safe if it is found to induce cancer when ingested by man or animal, or if it is found, after tests which are appropriate to the evaluation of the safety of food additives, to induce cancer in animals."

104 Cong. Rec. 17415 (1958), XIV Leg. Hist. at 869 (reprinting a letter from Elliot L. Richardson, Assistant Secretary, Department of HEW). If HEW had intended that HEW be granted discretion to decide whether any test was appropriate for evaluating the safety of food additives, even ingestion studies, the word "appropriate" could have simply been inserted before "tests" in Congressman Delaney's draft. However, the proposed revision not only added language modifying the word "test" but rewrote the opening language of the anticancer provision by inserting a reference to ingestion and animals. This creates the clear inference that the appropriateness of ingestion studies was not open to question.

This was certainly the contemporaneous interpretation of the Delaney clause. In 1960, when the addition of a Delaney clause to the Color Additive Amendments was fully debated in Congress, the House Report on the Amendments described the Delaney clause as follows:

> This clause provides that a color additive shall be deemed unsafe and shall not be listed for any use which will or may result in ingestion of any part of such additive, if the additive is found to induce cancer when ingested by man or animal, or if it is found to induce cancer in man or animal by other tests, *not involving ingestion*, which are considered to be appropriate for the evaluation of the safety of additives for use in food.

H. Rep. No. 1761, 86th Cong., 2d Sess. 11 (1960), XVI Leg. Hist. at 680. Similarly, the Secretary of HEW indicated at hearings on the Color Additive Amendments that HEW interpreted the "ingestion" part of the Delaney clause as requiring the use of scientific tests:

> The conclusion that an additive "is found to induce cancer when ingested by man or animal" is a scientific one. The conclusion is reached by competent scientists using widely accepted scientific testing methods and critical judgment.

Color Additives: Hearings on H.R. 7624 and S. 2197 Before the Comm. on Interstate and Foreign Commerce, 86th Cong., 2d Sess. 62 (1960), XVI Leg. Hist. at 67 (statement of HEW Secretary Flemming). Finally, that the "ingestion" half of the Delaney clause was interpreted as covering feeding studies and thus as being the principal operative phrase in the Delaney clause is confirmed by HEW's reaction to a proposal to delete the first half of the Delaney clause. HEW objected arguing that this change "is obviously designed to weaken the anticancer clause and to allow room for the contention that our Department should establish tolerances to permit chemicals in food even though they had been found to induce cancer *when fed*." H. Rep. No. 1761, 86th Cong., 2d Sess. 83 (1960), XVI Leg. Hist. at 752 (reprinting letter to the Committee from HEW Secretary Flemming) (emphasis added). Following HEW's objections, this amendment was not further pursued.[1]

Second, even assuming for the sake of argument that feeding studies only fall within the second half of the Delaney clause, EPA still does not accept ACPA's suggestion that the "appropriate" tests language allows or requires EPA to consider the relevance to humans of the results of an animal study in determining whether a pesticide induces cancer in animals. Just as in the first half of the Delaney clause, the second half requires a finding of whether a substance induces cancer "in man *or* animal." The appropriate tests language does not override the clear intent of the statutory "or" but merely insures that the tests relate to the safety of food additives. As the legislative history quoted above shows, the appropriate tests language was designed to give the government the discretion to take into account the "route of administration" in determining whether the substance would cause cancer when "swallowed by mouth." Accordingly, EPA believes an "appropriate" test for the evaluation of the safety of food additives is one that yields information bearing on whether the substance will induce cancer in humans or animals when ingested. Clearly, an animal feeding study meets this criterion in all regards as to animals. Indeed, it would be strange to suggest otherwise. The very stimulus for the Delaney clause was that "[l]aboratory experiments have shown that a number of substances when added to the diet of test animals have produced cancer." H. Rep. No. 1761, 86th Cong., 2d Sess. 11 (1960), XVI Leg. Hist. at 680.

Contrary to ACPA's contention, a focus on the potential of a substance to cause cancer in animals without considering the relevance of this cancer to humans does not make the goal of the Delaney clause the protection of laboratory animals. The underlying rationale of the Delaney clause is that science cannot establish for humans a safe dose of a substance that induces cancer in animals. As explained by HEW:

> [The Delaney clause] allows the Department and its scientific people full discretion and judgment in deciding whether a substance has been shown to produce cancer when added to the diet of test animals. But once this decision is made, the limits of judgment have been reached and there is no reliable basis on which discretion could be exercised in determining a safe threshold dose for the established carcinogen.

H. Rep. No. 1761, 86th Cong., 2d Sess. 14 (1960), XVI Leg. Hist. at 683 (the Committee report adopted the statement of HEW Secretary Flemming). Thus, by enacting the Delaney clause, Congress concluded that barring substances based on findings in animals alone was the most practicable way to protect humans. ACPA may find this approach misguided but that does not make it not the law.

At bottom, ACPA's argument seeks to give EPA the discretion to set safe doses for substances found to induce cancer when fed to animals. That discretion, however, was removed by the Delaney clause. *Les* v. *Reilly*, 968 F.2d 985, 988 (9th Cir. 1992), cert. denied, 113 S.Ct. 1361 (1993). Once a finding of animal carcinogenicity is made, the operation of the Delaney clause is "automatic." *Public Citizen* v. *Young*, 831 F.2d 1108, 1121 (D.C. Cir. 1987), *cert. denied*, 485 U.S. 1006 (1988). The D.C. Circuit has previously concluded that the Delaney clause indicates that "Congress did not intend the FDA to be able to take a finding that a substance causes only trivial risk in humans and work back from that to a finding that the substance does not 'induce cancer in * * * animals.'" Id. Similarly, EPA may not work back from a conclusion that the results of an animal study are irrelevant to humans to a finding that the substance does not induce cancer in animals. "[T]he agency may not, once a color [or food] additive is found to induce cancer in test animals in the conventional sense of the term, undercut the statutory consequence." Id. at 1122.

Mechanistic and biologic information. EPA believes that mechanistic and biologic information is relevant to the Delaney clause determination on animal carcinogenicity to the extent such information bears on the question of whether a substance induces cancer in the test animal. Mechanistic and biologic information may have particular relevance to the issue of causation. However, having said that, EPA recognizes that proper evaluation under the Delaney clause of mechanistic and biologic information poses difficult questions. For example, ACPA contends that if a substance induces cancer through a secondary mechanism (e.g., the substance causes the growth of urinary tract stones and the stones irritate the urinary tract causing cancer), then the substance does not induce cancer within the meaning of the Delaney clause.

EPA does not believe that EPA or FDA has ever squarely decided this legal question in taking final action on a substance under the Delaney clause. Nor does EPA believe that question needs to be addressed in this notice. Although secondary mechanism arguments have been raised as to several of the pesticides at issue in this notice, as discussed elsewhere in this notice, EPA has decided either as a factual matter that those arguments are not adequately supported or that there exists other evidence showing cancer induction independent from any cancer produced through a secondary mechanism.

"Conclusive" evidence of carcinogenicity. Citing a prior FDA decision involving cyclamates and the Delaney clause, ACPA has contended that findings of carcinogenicity under

[1] To the extent any statement in the notice published at 58 FR 37802 (July 14, 1993) implies that ingestion studies fall within the "appropriate tests" half of the Delaney clause, that implication was inadvertent and is inconsistent with the statute and with prior EPA precedent (50 FR 20373, May 15, 1985).

the Delaney clause must meet some unusually high level of certainty. Other commenters also made this argument. EPA disagrees. Neither the statute, nor FDA precedent for that matter, support using any other than the general administrative standard of proof which is generally described as a preponderance of the evidence. The relevant words of the statute bar the establishment of a regulation for a food additive "found to induce cancer when ingested by man or animal * * *." The straightforward requirement to make a finding certainly does not impose some extraordinary level of proof.

Further, EPA does not believe the FDA decision on cyclamates requires a higher standard of proof. That decision does use the word "conclusive" in connection with the Delaney clause, but that is a factor of FDA having classified the studies involved in that case into one of three categories: (1) Conclusive or positive; (2) inconclusive but suggestive; or (3) negative (45 FR 61474, 61481–61482, September 16, 1980). This breakdown was made so as to explicate whether the proper showing of safety could be made under the section 409 safety standard excluding the requirements of the Delaney clause. FDA concluded that inconclusive but suggestive studies would have to be addressed by a petitioner attempting to show a compound was "safe" (45 FR 61477). FDA described a positive study as a study which "contains results that establish that a test substance causes cancer" (45 FR 61481). EPA has found nothing in this precedent to suggest that any standard other than a preponderance of the evidence applies to the Delaney clause finding.

Determination on the need for section 409 FARs. ACPA as well as several other commenters argued that EPA is legally required to determine if a section 409 FAR is necessary to prevent the adulteration of food prior to revoking such a FAR on Delaney clause grounds. Where there are grounds for revocation of a section 409 FAR unconnected to safety, EPA generally would, as a policy matter, rely on those grounds to revoke the FAR prior to revoking finally under the Delaney clause. However, as EPA has recently explained in the Coordination Policy statement (61 FR 2377, January 31, 1996), EPA is under no legal obligation to subordinate the Delaney clause to other grounds in a revocation proceeding.

EtO

Comment: The American Spice Trade Association (ASTA) submitted a panel report which concluded that EtO is not likely to induce cancer in animals or humans when ingested as a residue on spices. The panel contends that it is inappropriate to conclude that EtO causes cancer through ingestion based on inhalation data. Therefore the revocation of the section 409 FAR because of the Delaney clause is inappropriate.

EPA's response: EPA has concluded that it is appropriate to use inhalation data to evaluate the safety of EtO as a food additive. This conclusion is based on the finding of multiple benign and malignant tumors distant from the site of exposure, which suggests that EtO has tumor inducing potential independent of route of administration. Inhalation exposure to EtO was associated with multiple benign and malignant tumors in F344 rats and B6C3F1 mice. EtO was also associated with tumor formation following oral gavage administration to Fischer rats and subcutaneous administration to NMRI mice. In addition, EtO is a genotoxic agent *in vivo* and *in vitro*. The large *in vivo* genetic toxicity database shows that EtO produces effects distant from the site of exposure. Genetic effects noted *in vivo* include micronuclei, sister chromatid exchange, germ cell effects (dominant lethal), and heritable translocations; these effects were associated with intravenous or intraperitoneal injection and inhalation exposure (Dellarco et al. 1990). These genetic toxicity data provide further support for the conclusion that EtO induces cancer.

Comment: ASTA had a number of comments regarding exposure. These comments claim that:

(1) EtO is unstable in the acid pH of the stomach based on *in vitro* hydrolysis data.

(2) Ingested EtO is likely to be detoxified by glutathione present in the gastric mucosa and epithelial cells.

(3) EtO exposure via ingestion of treated spices is expected to be significantly lower than levels associated with tumors in rodents.

(4) Consumers are unlikely to be exposed to EtO via consumption of treated spices based on residue persistence studies submitted to EPA. The study allegedly showed EtO levels in spices at or below the limit of quantification within 60 days.

EPA's response: The issue central to the Delaney clause is whether EtO induces cancer in man or animals when ingested or in a study which is appropriate to evaluate the safety of a food additive. EtO is associated with cancer in animals following inhalation, oral, and subcutaneous administration. As explained above, EPA has determined that these studies are appropriate for the evaluation of the safety of EtO as a food additive. No data have been submitted which would establish affirmatively that all EtO residues in food would break down or be "detoxified" in the stomach. Therefore, EPA does not believe that it should reconsider the determination that inhalation data are appropriate for evaluating EtO as a food additive on these grounds. Further, as explained above, EtO is associated with genetic toxicity, including heritable mutation, *in vivo* following oral, inhalation, intraperitoneal, and intravenous administration.

The level of human exposure to EtO residues in treated spices is not relevant to the Delaney clause. As stated above, the critical issue is that EtO has been found to induce cancer in animals. The Delaney clause does not allow EPA to consider exposure levels. Although residue chemistry data submitted to the Agency show that EtO residues in spices dissipate over time, the data also show that sufficient residues remain so that a tolerance is needed for spices treated with EtO.

Comment: ASTA commented that the EPA Office of Pesticide Programs (OPP) should conduct a peer review of the carcinogenicity of EtO, and should not rely on a Health Assessment Document developed by the EPA Office of Research and Development (ORD) to establish the carcinogenicity of EtO.

EPA's response: The ORD Health Assessment Document cited in the proposal for this rule is an EPA document which reflects the position of the Agency on the carcinogenicity of EtO. This document was subjected to peer review, both internal and external, prior to publication. In addition, the content of the document was independently peer-reviewed in a public session by the Environmental Health Committee of EPA's Science Advisory Board. Therefore, the Agency does not believe that additional peer review of this finding is needed at this time.

Comment: ASTA stated its position that revocation of the FAR for EtO is a *de facto* cancellation of EtO's registration under FIFRA, and that therefore due process requires that FIFRA section 6 procedures be followed in this action. ASTA also suggested that EPA refer the matter of whether EtO induces cancer to the Scientific Advisory Panel (SAP).

EPA's response: EPA has clearly stated its policy on coordination between FFDCA and FIFRA. Congress has charged EPA with administering two statutes with different procedural schemes. As discussed in EPA's

Coordination Policy, EPA has taken an approach which harmonizes the two statutory standards to the extent possible. FIFRA does not require EPA to take action under FIFRA before acting under the FFDCA. EPA does not believe that the rulemaking procedures in the FFDCA violate Constitutional due process. With respect to ASTA's suggestion that EPA consult the SAP, there is no requirement that EPA refer FFDCA tolerance revocations to the SAP prior to taking action. The Agency has reviewed all the available information on EtO and has made its determination that EtO induces cancer within the meaning of the Delaney Clause. In addition, as noted above, the EPA Health Assessment Document for EtO, which included an evaluation of the chemical's carcinogenicity, was peer-reviewed in a public session by the Environmental Health Committee of EPA's Science Advisory Board.

Comment: The National Food Processors' Association (NFPA) and Grocery Manufacturers Association (GMA) commented that EPA should withdraw the proposed section 409 revocation of EtO pending a detailed reexamination of the data.

EPA's response: EPA has made the findings in this notice with respect to EtO after reviewing all available information, and sees no reason to withdraw the proposal based on the speculation that other information might become available someday which would disprove this finding. If interested persons submit new information on the carcinogenicity of EtO in the future, EPA will review it and consider then whether additional regulatory action is warranted.

Mancozeb

Comment: The Mancozeb Task Force (MTF) objected to EPA's conclusions that exposure to mancozeb causes an increased incidence of benign and malignant thyroid tumors in rats and an increasing trend of tumors at the highest dose tested (HDT). The MTF believes that these tumors resulted from exposure to ETU formed metabolically from mancozeb.

EPA's response: The Agency is aware that ETU is a contaminant and degradation product present in mancozeb, and that ETU is a plant and animal metabolite of mancozeb which is present in food treated with mancozeb. Exposure to either mancozeb or ETU results in induction of the same tumor type (thyroid tumors) in rats (ETU also induced thyroid and liver tumors in mice). Consistent with prior FDA decisions, EPA believes that the Delaney clause applies to metabolites of a food additive as well as the parent compound. (See, e.g., 56 FR 41902, 41909, August 23, 1991.)

Comment: The MTF also argued that the rat thyroid lesions resulted from overstimulation of the thyroid and the development of proliferative lesions when the threshold for thyroid-pituitary feedback is exceeded on a chronic basis.

EPA's response: This may be a plausible mechanism for the thyroid tumors in rats. However, EPA has not received sufficient evidence to show the mechanism through which mancozeb induces cancer. Moreover, as noted in EPA's response to ACPA's comments, EPA has not determined the legal relevance of secondary mechanism claims to the Delaney clause finding.

In the Agency's Draft Policy Document on Thyroid Follicular Carcinogenesis: Mechanistic and Science Policy Considerations, SAB Review Draft, May 1988, EPA explained a mechanism through which a substance could cause thyroid cancer:

> Studies over the last several decades in multiple laboratories and using a number of different treatment regimens (e.g., iodine deficiency) have demonstrated the significance of long-term thyroid-pituitary hormonal imbalance in thyroid carcinogenesis. A consistent progression of events is noted: reduction in thyroid hormone concentrations, elevation in thyroid stimulating hormone (TSH) levels, cellular hypertrophy and hyperplasia, nodular hyperplasia, and neoplasia. Hyperplasia and sometimes neoplasia of the pituitary may also be seen * * *. A block in any of the early steps act as a block for subsequent steps including tumor development, and cessation of treatment at an early stage in the progression results in regression toward normal thyroid structure and function.

Two basic questions must be addressed before this draft policy is applied. The MTF has not submitted data establishing that the neoplasms found in the mancozeb studies are due to thyroid-pituitary imbalance, or that other carcinogenic mechanisms can be discounted. Specifically, the MTF has not submitted data to demonstrate any of the following six points:

(a) Goitrogenic activity *in vivo*;

(b) Clinical chemistry changes (e.g., reduced thyroid hormone and increased TSH serum concentrations);

(c) Specific evidence of reduced hormone synthesis (e.g., inhibited iodine uptake) or increased thyroid hormone clearance (e.g., enhanced biliary excretion);

(d) Evidence of progression (e.g., hypertrophy/hyperplasia, nodular hyperplasia–neoplasia);

(e) Reversibility of effects after exposure is terminated; and

(f) Structure Activity Relationships (SAR) to other thyroid tumorigens.

Comment: The MTF also commented that the FAR for mancozeb in or on brans and flours is not necessary because residues do not concentrate in RTE foods above the level of the RAC tolerance, and that EPA should complete action on the Task Force's petition to revoke the FAR for brans and flours on that basis.

EPA's response: As discussed above in EPA's coordination policy, EPA does not have any obligation to determine whether or not a FAR is necessary before proceeding to revoke it. However, EPA has reviewed the Task Force's petition, and, as discussed in Unit V.A. of this preamble, where EPA agrees with the petition, EPA is revoking the FAR on grounds that the residues do not concentrate above the level of the RAC tolerance. The FARs for mancozeb in or on flours of oat, barley, rye and wheat, and for brans of barley and rye are not needed, and are being revoked on that basis. EPA did not agree with the petition with respect to oat bran, which is a RTE food. Therefore, the FAR for oat bran is being revoked because it violates the Delaney clause.

Propargite

Comment: Uniroyal Chemical Co., Inc. commented that the Agency has not performed a weight of the evidence review of all available data and information on propargite, including mechanistic considerations. Uniroyal also asserted that EPA's "induces cancer" determination does not reflect that one mutagenic study was negative and ignores all other mutagenicity studies. Based on one negative mutagenicity study and strong evidence for a secondary mechanism for tumors in rats, Uniroyal argued that propargite cannot be said to induce cancer.

EPA's response: After a full evaluation of all the data and supporting information regarding animal carcinogenicity, EPA concludes that exposure to propargite results in an increased incidence of undifferentiated sarcoma of the jejunum in both sexes of Sprague-Dawley rats. This rare (unusual site) and malignant tumor was produced with a high incidence and is fatal. The mutagenicity data support the carcinogenicity of propargite.

The commenter argues that the jejunal tumors were caused by a secondary mechanism involving cell proliferation. In support, the commenter submitted a study purporting to show that propargite only causes cell proliferation at high doses. The theory that cancer can be caused by cell proliferation, and that proliferation is subject to a

threshold, is just that—a theory. The Agency has yet to validate the cell proliferation model as it tentatively has done with regard to the mechanism involving thyroid-pituitary hormonal imbalance in thyroid carcinogenicity (see EPA's response to secondary mechanism comment on mancozeb, above). Important basic science data are needed, like those developed for the thyroid, before EPA can even consider this model.

With respect to the comment regarding mutagenicity data, propargite was demonstrated to be mutagenic in a Chinese hamster ovary cell gene mutation study in the absence, but not presence of metabolic activation; this indicates that propargite is a direct-acting mutagen. Propargite produced positive and negative results in two replicate experiments for micronuclei in mouse bone marrow. Propargite was negative in an older, unclassified Salmonella gene mutation assay and for unscheduled DNA synthesis. Overall, these data provide evidence for mutagenicity that would support a finding of carcinogenicity.

Comment: Uniroyal also commented that revocation of the FARs for propargite may increase dietary risk to consumers and raise the cost and lower the quality of food. Finally, Unireyal commented that raisins and dried tea should be classified as RACs rather than as processed foods.

EPA's response: The concerns raised by Uniroyal regarding relative dietary risks and cost or quality of food are not relevant to the analysis of FARs under the Delaney clause. The Delaney clause contains no provision for consideration of exposure levels, relative risks, or cost impacts. See *Les* v. *Reilly*, 968 F.2d 985 (9th Cir. 1992), *cert. denied*, 113 S.Ct. 1361 (1993).

With regard to whether raisins and dried tea are RACs or processed foods, EPA recently issued an interpretive ruling defining RACs. Under this ruling, commodities which are routinely dried for storage or transportation purposes are considered RACs, while commodities which are dried for the purpose of creating a distinct commodity are considered processed. As specifically discussed in that ruling, raisins are produced by a drying process that converts one distinct commodity (i.e. grapes) into another distinct commodity (i,e. raisins). Therefore, raisins are a processed food.

EPA has found that dried tea is also a processed food, but for a slightly different reason. Tea leaves are not only dried prior to storage and transport; some varieties constituting a significant amount, if not the majority, of tea imported into this country, are fermented to various degrees prior to drying. Fermenting is certainly within the meaning of "processing," therefore the status of dried tea as a processed food was not affected by the RAC interpretation of drying. Although there are some varieties of tea which are not fermented prior to the drying process, the propargite tea FAR applies to dried tea generally, and thus must be revoked.

Propyline Oxide

Comment: The Warren Chemical Co. (Warren) commented that inhalation studies should not be used to determine carcinogenicity because propylene oxide converts to propylene glycol in the stomach.

EPA's response: The Agency believes that inhalation studies are appropriate for evaluating the safety of propylene oxide due to the appearance of tumors in both mice and rats at a site distant (e.g. in the mammary gland) from the route of exposure (inhalation). EPA does not have sufficient data to establish that ingestion of propylene oxide residues in foods would only result in exposure to propylene glycol, as the commenter asserts. Therefore, the Agency believes that the inhalation data are appropriate for the evaluation of propylene oxide.

Comment: Warren also commented that EPA's finding that female mice showed a significant dose related trend of mammary gland adenocarcinomas relative to controls did not consider a statement in the study report. The authors of the study stated that the tumor incidence was within the range found in historical untreated controls, and that they did not consider the incidence of this tumor to be related to exposure to propylene oxide.

EPA's response: For comparisons of tumor incidence in treated and control animals, it is the concurrent control which is the primary reference. The following excerpt is from EPA's "Guidelines for Carcinogen Risk Assessment" (51 FR 33992–34003, September 24, 1986)

> To evaluate carcinogenicity, the primary comparison is tumor response in dosed animals as compared with that in contemporary matched control animals. Historical control data are often valuable, however, and could be used along with concurrent control data in the evaluation of carcinogenicresponses.

Thus, comparisons with historical controls are secondary to those with concurrent controls. Historical control data when it is from the same laboratory and same time period as that in which the study was performed may be used to determine if the concurrent control response is within the normal range. EPA often disagrees with authors of studies regarding the significance of certain observations. In this case, the EPA review considered the concurrent controls a more appropriate reference for comparing the tumor incidence in treated animals. In any event, there were tumors found in the rat study as well, which fact also forms part of the basis for EPA's finding that propylene oxide induces cancer.

Comment: Warren also commented that EPA should not consider fibroadenomas when applying the Delaney clause because a fibroadenoma could possibly disappear without becoming malignant.

EPA's response: A fibroadenoma is a benign neoplastic lesion. Adenocarcinomas are malignant and can arise within fibroadenomas. A fibroadenoma may or may not progress to a carcinoma. As discussed above, an increase in the incidence of malignant tumors or, where appropriate, benign tumors or a combination of benign and malignant tumors, satisfy the "induce cancer" standard under the Delaney clause. In any event, adenocarcinomas were also found in the study where fibroadenomas occurred.

Comment: Warren also argued that EPA should not rely on the rat gavage study for each of the following reasons:

(a) It showed tumors only in the forestomach, an organ humans do not have.

(b) EPA's peer review did not take into account the fact that propylene oxide converts in the stomach to propylene glycol.

(c) The study went on for three years instead of two, which is improper because older rats are more susceptible to cancer.

(d) Human stomachs have a protective lining which rat forestomachs do not have.

(e) Gavage, or pipetting substance into an animal's stomach, is not what "ingested" means in the context of the Delaney clause.

EPA's response: (a) The commenter points out that humans do not have forestomachs, and argues that tumors in this organ should be disregarded by EPA in assessing the carcinogenicity of propylene oxide. However, it is not always possible to draw a direct site to site correlation between tumors in different species. Just because humans do not have forestomachs does not mean that there could not be any tumorigenic response in another organ. In any event, the absence of a forestomach in humans does not affect the fact that cancer was induced in the rat forestomach.

(b) EPA addressed the issue of conversion of propylene oxide to propylene glycol in the stomach in its response to a prior comment above.

(c) The commenter argues that because the study lasted three years instead of two, the Q^* or cancer potency factor assigned to propylene oxide should have been revised. The fact that the study lasted three years instead of two does not necessarily mean that its findings were not valid. Although older rats may tend to get more cancer than younger rats, the concurrent control animals also aged, and their chance of developing tumors increased with that of the treated animals. Whether or not the Q^* should account for this element of the study is not relevant to the determination that tumors were produced in the study, and therefore propylene oxide induces cancer. An "induces cancer" finding under the Delaney clause does not depend on relative potency.

(d) The commenter speculates that the protective lining of the human stomach would protect it from any tumor-causing effects of exposure to propylene oxide, therefore rat forestomach tumors cannot be relevant to whether propylene oxide residues in food would cause cancer in humans. However, there is no data to support the commenter's theory that such a protective lining would have prevented the forestomach tumors in the rat study. As noted above, there is not necessarily a direct site to site correlation between species. EPA does not believe that this speculation forms any basis to disregard the rat gavage study.

(e) The Agency believes that studies where test compounds are administered to treated animals by gavage are "ingestion" studies within the meaning of the Delaney clause. EPA also believes that gavage studies are generally appropriate for the evaluation of the safety of food additives. See EPA's response to comments of Grocery Manufacturers' Association, below.

Comment: Finally, Warren commented that there is no alternative sterilant for cocoa or for nutmeats. The commenter noted that irradiation is not appropriate for treatment of cocoa powder because irradiated cocoa tends to turn rancid. The commenter also noted that irradiation is not a viable alternative for all spices because it degrades the oils and flavor of some spices (like chili powder). Finally, the commenter stated that irradiation would impose high costs on production of these commodities.

EPA's response: As noted earlier regarding costs of food, availability of pesticide alternatives is not relevant to the Agency's decisions on FARs under the Delaney clause. EPA can only consider whether the substance at issue induces cancer when ingested by man or animals, or when tested in a test which is appropriate for evaluating the safety of a food additive.

Comment: John A. Todhunter commented on behalf of Aberco, Inc., a registrant of pesticides containing propylene oxide. With regard to cocoa, Dr. Todhunter commented that there will be no propylene oxide residues in foods made with treated cocoa powder because the cocoa is incorporated into foods which are processed at high temperatures (i.e. baked or cooked foods). With regard to gums and spices, Dr. Todhunter commented that propylene oxide is not a pesticide under the FFDCA when it is used to sterilize gums and spices. The commenter argued that FDA has listed gums and spices as "generally regarded as safe" (GRAS), and that therefore anything which becomes a constituent of a GRAS substance through good manufacturing practices (GMP) cannot be regulated under section 409. The commenter cited FDA regulations at 21 CFR 182.10 (spices) and 184.1330 through 184.1351 (gums). With regard to starch, Dr. Todhunter commented that propylene oxide is not a pesticide under the FFDCA when it is used to sterilize starch because starch is not a RAC. The commenter also stated that there will be no propylene oxide residues on foods made with treated starch because the starch is later incorporated into foods and beverages which are all processed at high temperatures. Dr. Todhunter also recommended that EPA establish tolerances for propylene oxide on cocoa powder, gums and starch under section 406 of the FFDCA. Dr. Todhunter further commented that the nuts on which propylene oxide is used are not "processed nutmeats" but are RACs, and therefore propylene oxide should be regulated under FFDCA section 408 rather than 409.

EPA's response: EPA disagrees with most of these comments. First, propylene oxide, when used to sterilize these processed foods, is a pesticide as defined under FIFRA because it is used to destroy or mitigate pests. See 7 U.S.C. 136(u). Cocoa powder is a processed food which is treated before it moves in commerce, therefore propylene oxide is a food additive when used to treat cocoa powder. Whether residues would remain in the cocoa after it is incorporated into other foods is not relevant to whether or not a FAR is necessary for propylene oxide residues on cocoa powder.

Edible gums and spices are processed foods which are treated with propylene oxide before they move in commerce, therefore propylene oxide is a food additive when used to sterilize them. Whether or not use of propylene oxide is part of GMP for production of these foods is not relevant to whether or not a FAR is necessary for propylene oxide residues. The regulations cited are simply the FDA's listing of the gums and spices themselves as GRAS. The FDA regulations are not intended to make anything which may become part of the foods (such as a sterilant) GRAS.

Starch is a processed food which is treated before it moves in commerce, therefore propylene oxide is a food additive when used to treat starch. Whether residues would remain in a food made from treated starch after it is incorporated into other foods is not relevant to whether or not a FAR is necessary for propylene oxide residues on starch.

The notion that EPA should regulate pesticides in processed foods under FFDCA section 406 was raised by NFPA in their second petition submitted in July 1995. EPA responded to this issue in the notice issuing the Coordination Policy (61 FR 2377, January 25, 1996). To the extent that Congress left EPA with discretion to regulate pesticides under either sections 406 or 409, EPA has declined to change from its current practice.

With regard to nutmeats, EPA agrees that nutmeats per se are a RAC that should have a raw food tolerance established under FFDCA section 408. See Pesticide Assessment Guidelines, Subdivision O: Residue Chemistry Table II (October 1982, amended September 1995).

The current FAR for propylene oxide on processed nutmeats was established more than 25 years ago. EPA determined in 1982 that nuts were a RAC, and since then, has established raw food tolerances for nuts under FFDCA section 408. Although the FAR was established for "processed" nutmeats, it has been viewed by the industry as covering the current use of propylene oxide on nutmeats, regardless of whether they were considered raw or processed.

EPA has not yet reviewed propylene oxide in its pesticide reregistration program, at which time the discrepancy in the tolerance situation would have been addressed routinely. In light of the strict standard of the *Les* v. *Reilly* court decision, however, EPA has focused its attention more carefully on each of the statutory provisions affecting its decisions relating to tolerances. For instance, EPA has articulated or refined its policies in a number of areas, including its concentration, ready-to-eat

and raw/processed policies, discussed in Unit II of this preamble.

EPA has received a petition from SRS International corporation, on behalf of Aberco, Inc., to establish a 408 tolerance for propylene oxide on raw nutmeats. A notice of filing of this petition was published in the Federal Register on February 1, 1996 (61 FR 3696). The Agency is currently reviewing the petition and the toxicology and residue databases for propylene oxide, and will act on the petition as soon as practicable.

Simazine

Comment: Ciba-Geigy Corp. (Ciba) commented that the results of studies relied upon by EPA for its determination that simazine induces cancer are not appropriate for evaluation of the human safety of simazine as a food additive and do not demonstrate that simazine "induces cancer" within the meaning of Delaney Clause. Ciba's first argument for this premise was based on the fact that no increased incidence of any tumor type was observed in male or female mice which were fed simazine.

EPA's response: EPA has found that simazine induces cancer in animals when ingested within the meaning of the Delaney clause. As such, EPA was precluded from considering relevance of this finding to humans. (See response to ACPA's comments.) In construing the "induce cancer" standard as to animals, EPA follows a weight-of-the-evidence approach. After a full evaluation of all the data and supporting information regarding animal carcinogenicity, EPA concluded that exposure to simazine by ingestion results in increased incidence of malignant mammary gland carcinomas and malignant pituitary gland carcinomas in female Sprague-Dawley rats. The study's tumor incidence results were statistically significant when compared with concurrent controls and exceeded the upper limit of the historical control range of the testing laboratory. The pituitary tumors were fatal with a possibly accelerated onset at both the mid- and highest dose, and the mammary tumors also contributed to the increased mortality at the highest dose. There was equivocal evidence of kidney tubule tumors (an uncommon tumor type) in both sexes. The structural analogs are strongly supportive as these compounds mostly induced malignant mammary gland tumors in Sprague-Dawley rats. There was some evidence of genotoxicity for simazine, as well as for some of the analogs.

The Agency agrees that there was no increased incidence of tumors associated with Simazine exposure in the CD-1 mouse study. However, this negative study in mice does not convince EPA that simazine did not induce cancer in the study on rats.

Comment: Ciba also argued that the mid-dose level (100 ppm) in the Sprague-Dawley rat study exceeded the Maximum Tolerated Dose (MTD), based on significant reductions in survival at this dose. Based on this argument, Ciba asserted that increased incidence of mammary gland carcinomas resulted only at doses that exceeded the MTD, i.e., the mid- and high doses.

EPA's response: The Agency is not convinced that the mid-dose in female rats exceeded the MTD, because the pituitary tumors contributed to the mortality. There were statistically significant increases in mammary gland carcinomas and in pituitary adenomas and combined adenoma/carcinoma at both the mid-and highest-doses.

The study authors reported that the pituitary tumors (adenomas and carcinomas) in female rats were considered to be fatal "by virtue of their size and compression of the mid-brain" and thus contributed to the decreased survivability of both the mid- and highest-dose group females. In addition, their onset was 4–15 weeks earlier in the mid- and highest-dose groups as compared to the control and low dose groups.

Comment: Ciba also commented that atrazine, a structurally similar compound, while displaying a similar oncogenic profile in S-D rats and in mice, did not induce mammary tumors in the Fisher 344 female rat.

EPA's response: Simazine is one of several s-triazine compounds used in agriculture as herbicides. It is structurally related to atrazine, cyanazine, and propazine, among others. Although atrazine did not induce mammary tumors in Fisher 344 female rats, these structural analogs provide much evidence from other studies to support EPA's finding regarding simazine. Atrazine was associated with increased mammary gland tumors (primarily malignant tumors) in female Sprague-Dawley rats; early onset of mammary tumors was also observed. Cyanazine was also associated with increased mammary gland tumors (primarily malignant tumors in female Sprague-Dawley rats.) Propazine was associated with increased mammary gland tumors (primarily benign) in female Sprague-Dawley rats. The structural analogs are strongly supportive as these compounds mostly induced malignant mammary gland tumors in Sprague-Dawley rats.

Comment: Ciba asserted that simazine is not genotoxic, although the commenter admitted that a few positive genotoxicity results have been reported in the public literature. Ciba argued that potent genotoxic oncogens usually induce mammary tumors in almost one hundred percent of animals, while mammary tumor incidence with simazine was far short of one hundred percent.

EPA's response: Simazine was found negative in the Salmonella assay for gene mutations; this is consistent with other tested s-triazines. However, it is reported that simazine is positive for gene mutations in the mouse lymphoma assay, the Drosophila sex-linked recessive lethal assay, the cell transformation assay in Syrian hamster embryo cells, and plant cytogenetic assays. Simazine is also reported negative in several other assays including yeast assays, unscheduled DNA synthesis (UDS), sister chromatid exchanges, and for aneuploidy. Overall, these data suggest a possible mutagenic action for simazine. The Agency believes that the evidence of simazine's genotoxicity provides additional support for the finding that it induces cancer.

In addition, structural analogs of simazine have shown genotoxic actions as well. For example, cyanazine has evidence of positive genotoxic activity in the mouse lymphoma assay for gene mutations and for UDS in rat hepatocytes, and propazine induces gene mutations in the cultured V79 cell assay for gene mutations.

Comment: Ciba argued that Sprague-Dawley rats have a high spontaneous background rate of mammary tumors, and that any mammary tumors induced by simazine are hormonally-mediated and therefore have a threshold. Ciba asserted that therefore simazine's carcinogenicity should be regulated qualitatively with a safety factor and not quantitatively.

EPA's response: Simazine induced increased incidence of malignant mammary gland carcinomas and malignant pituitary gland carcinomas in female Sprague-Dawley rats. Mammary tumor incidence was as high as 78%, and was outside the historical control incidence of the testing laboratory. The pituitary and mammary tumors also contributed to the observed increased mortality. There was equivocal evidence of kidney tubule tumors (an uncommon tumor type) in both sexes. The structural analogs are strongly supportive as these compounds mostly induced malignant mammary gland tumors in Sprague-Dawley rats. There was some evidence of genotoxicity for Simazine as well as for some of the analogs.

Although a hormonal mechanistic argument for the mammary tumors was proposed by the commenter, neither the Agency nor the scientific community at large has yet developed or identified protocols which could provide data to demonstrate such a mechanism. No agreed upon experimental model has been identified, and the critical step associated with the mode of action has not been identified. As discussed with respect to cell proliferation and jejunal tumors in EPA's response to comments on propargite, important basic science data must be developed, as were developed for the thyroid mechanism, before the Agency can evaluate the validity of the claim that simazine induces cancer through a hormonal mechanism. (See also EPA's response to ACPA regarding secondary mechanisms in general.)

Other Comments

Comment: GMA commented that FDA determined in 1974 that the term "ingestion" in the Delaney clause does not include gavage studies, and therefore the results of a gavage study would invoke the Delaney clause only if this type of study is found to be scientifically "appropriate" as a model for dietary exposure. The commenter submitted an excerpt of FDA's "Study of the Delaney Clause and Other Anti-Cancer Clauses," (Agriculture, Environmental and Consumer Protection Appropriations for 1975: Hearings before a Subcommittee on Appropriations, House of Representatives, 93rd Cong., 2nd Sess., part 8, 1974).

EPA's response: EPA disagrees with this comment. Gavage is merely one of several different techniques for administering a test compound to animal orally. Gavage is sometimes used instead of incorporating the substance into an animal's food because a more precise dose can be given by gavage. EPA could not find any reference, other than the report cited, where FDA stated that a gavage study must be evaluated under the "appropriate test" prong of the Delaney clause rather than the "ingestion" prong. Moreover, there is no explanation in the report as to why a gavage study should not be considered an ingestion study. In any event, it is not necessary to determine whether gavage is ingestion for purposes of this notice because EPA believes that gavage studies are generally appropriate for the evaluation of the safety of a food additive because they involve dietary exposure to the test substance, albeit by forced feeding.

VII. Procedural Matters

A. Filing of Objections and Requests for Hearings

Any person adversely affected by this final rule may file written objections to the final rule, and may include with any such objection a written request for an evidentiary hearing on the objection. Such objections must be submitted to the Hearing Clerk on or before April 22, 1996. A copy of the objections and hearing requests filed with the Hearing Clerk shall be submitted to the Office of Pesticide Programs Docket Room. Regulations applicable to objections and requests for hearings are set out at 40 CFR parts 178 and 179. Those regulations require, among other things, that objections specify with particularity the provisions of the final rule objected to, the basis for the objections, and the relief sought. Additional requirements as to the form and manner of the submission of objections are set out at 40 CFR 178.25. The Administrator will respond as set forth in 40 CFR 178.30, 178.35 and/or 178.37 to objections that are not accompanied by a request for evidentiary hearing.

A person may include with any objection a written request for an evidentiary hearing on the objection. A hearing request must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on each such issue, and a summary of any evidence relied upon by the requestor. Additional requirements as to the form and manner of submission of requests for an evidentiary hearing are set out at 40 CFR 178.27. Under 40 CFR 178.32(c), the Administrator, where appropriate, will make rulings on any issues raised by an objection if such issues must be resolved prior to determining whether a request for an evidentiary hearing should be granted. The Administrator will respond to requests for evidentiary hearings as set forth in 40 CFR 178.30, 178.32, 178.35, 178.37, and/or 179.20. Under 40 CFR 178.32(b), a request for an evidentiary hearing on an objection will be granted if the objection and request have been properly submitted and if the Administrator determines that the material submitted show:

(1) There is a genuine and substantial issue of fact for resolution at a hearing.

(2) There is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor.

(3) Resolution of one or more of the factual issues in the manner sought by the person requesting the hearing would be adequate to justify the action requested.

Any person wishing to comment on any objections or requests for a hearing may submit such comments to the Hearing Clerk on or before May 6, 1996.

B. Effective Date

EPA is making this final rule effective May 21, 1996. In addition, if EPA does not receive objections to this order, this order and the factual and legal basis for this order, become final and are not judicially reviewable. See section 409(g)(1), 21 U.S.C. 348 (g)(1) and *Nader v. EPA*: 859 F.2d 747 (9th Cir. 1988), *cert. denied*, 490 U.S. 1931 (1989). For example, if an interested person disagrees with a necessary finding in this order but agrees with the outcome, that person must file timely objections to that finding in this order; if no objection to the finding is made, the finding will become final for purposes of any future proceedings to which that finding is relevant.

C. Request for Stays of Effective Date

A person filing objections to this final rule may submit with the objections a petition to stay the effective date of this final rule. Such stay petitions must be submitted to the Hearing Clerk on or before April 22, 1996. A copy of the stay request filed with the Hearing Clerk shall be submitted to the Office of Pesticide Programs Docket Room. A stay may be requested for a specific time period or for an indefinite time period. The stay-petition must include a citation to this final rule, the length of time for which the stay is requested, and a full statement of the factual and legal grounds upon which the petitioner relies for the stay. In determining whether to grant a stay, EPA will consider the criteria set out in the Food and Drug Administration's regulations regarding stays of administrative proceedings at 21 CFR 10.35. Under those rules, a stay will be granted if it is determined that:

(1) The petitioner will otherwise suffer irreparable injury.

(2) The petitioner's case is not frivolous and is being pursued in good faith.

(3) The petitioner has demonstrated sound public policy grounds supporting the stay.

(4) The delay resulting from the stay is not outweighed by public health or other public interests.

Under FDA's criteria, EPA may also grant a stay if EPA finds such action is

in the public interest and in the interest of justice.

Any person wishing to comment on any stay request may submit such comments and objections to a stay request, to the Hearing Clerk, on or before May 6, 1996. Any subsequent decisions to stay the effect of this order, based on a stay request filed, will be published in the **Federal Register**, along with EPA's response to comments on the stay request.

VIII. Regulatory Requirements

A. Executive Order 12866

EPA submitted this action to the Office of Management and Budget (OMB) for review and any changes made during that review have been documented in the public record.

EPA has estimated the following economic impacts on the affected pesticide use sites:

1. Spices

EtO may currently be used either on whole spices under its raw food tolerance (40 CFR 180.151), which are then ground (processed), or directly on ground spices under the processed food tolerance being revoked today. Sixty to eighty percent of the American spice supply is imported, and an estimated 22% of those imported spices are treated with EtO.

EPA does not have information on what portion of EtO treatments are made to whole as opposed to ground spices. If EtO were unavailable for use on all spices (both whole and ground), there would be an estimated impact of $18 million to $27 million per year in increased costs of alternative treatments and loss of some untreated product. Impacts are unlikely to be this high, because only the tolerance on ground spices is being revoked. The section 408 tolerance will remain, thus allowing continued use of EtO on whole spices. To the extent that spices are currently treated whole, a portion of the above estimated impacts will not be incurred.

Moreover, EPA believes that some portion, possibly a substantial portion, of spices currently treated in ground form can be shifted to treatment in whole form. If a change to treating them whole would cost less than substitution of alternatives, impacts would be further reduced.

Alternatives to EtO treatment are limited to irradiation treatment and heat-based technologies, both of which have practical limitations. There is currently insufficient capacity of contract irradiation facilities to handle all spices currently treated with EtO. The majority of these facilities' business comes from the sterilization of medical devices which have rigorous hygienic specifications causing most facilities to not accept spices. Current heat-based technologies have an adverse effect on the color and flavor of some spices. However these limitations are expected to be reduced over time by the industry.

Only about one percent of the total U.S. spice supply is treated with propylene oxide and its loss is not expected to cause significant economic impacts.

2. Nutmeats

Propylene oxide is used to reduce microbial contamination of raw nutmeats (except peanuts) which are to be used in other food products such as ice cream, cheese, ready-to-eat cereals, some baked goods and some confections. It is used because these foods are not processed at high enough temperatures to reduce microbial contamination to acceptable levels. There appear to be no viable alternatives to propylene oxide for nutmeats used in these foods.

The section 409 FAR being revoked today does not authorize propylene oxide residues in raw nutmeats, only processed nutmeats. At the time of proposal there was no section 408 tolerance covering use of propylene oxide on raw nutmeats. The proposed revocation of the processed nutmeat tolerance would have left no tolerance covering any use of propylene oxide on nutmeats. As a result, EPA received considerable comment on the potential economic impacts of the loss of propylene oxide.

Information on the impacts of the loss of propylene oxide for nutmeats is limited, and quantifying these impacts is complicated. U.S. nut production is nearly 1 billion pounds annually. According to commenters, about 10 to 20 percent of all nutmeats are currently treated with propylene oxide. At a value of approximately $1.60 per pound, the farm value of the 10–20% of nutmeats that are treated is $160–320 million. Commenters suggested that this 10–20 percent segment of the nutmeat industry would be a total loss if propylene oxide became unavailable for use. EPA believes that this estimate is high because it assumes that there are no alternative uses of the nuts.

Untreated nuts currently are roasted or salted or added to other foods that are processed under conditions that effectively reduce microbial contaminants to acceptable levels. EPA believes that nuts that cannot be treated with propylene oxide will not be a total loss, but will be diverted into alternative uses. EPA cannot estimate with current information how much this would reduce the overall impacts on the nutmeat industry, nor can EPA estimate the impacts on the food industries whose nut supply could be severely curtailed. EPA believes that there would be substantial incentive for the affected industries to develop alternative practices or treatments to reduce microbial contamination in raw nutmeats.

EPA has received a petition to establish a section 408 raw food tolerance for propylene oxide on nutmeats. If a section 408 tolerance is granted, propylene oxide could continue to be used on nutmeats, and there would be no impacts.

3. Cocoa

Impacts to the cocoa industry of losing the use of propylene oxide are expected to be minor or insignificant. There are no chemical alternatives to propylene oxide for use on cocoa. However, with proper handling and processing techniques cocoa powder can be safely produced without propylene oxide. The U.S. imports all of its cocoa, and generally, only that cocoa which comes from relatively unsanitary processing plants (50 percent or less) is treated with propylene oxide. Without propylene oxide, switching to markets with higher quality cocoa beans and better processing plant management techniques may cause slightly higher prices to consumers for products containing cocoa powder. In 1994, the U.S. imported over 650,000 metric tons of cocoa, valued at $1 billion.

4. Dried Tea

Insignificant impacts are expected on the dried tea industry from the loss of the propargite FAR. Propargite is not registered for use in the U.S. on dried tea and is not the miticide of choice in tea exporting countries. Dicofol is the preferred miticide on tea and its FAR currently remains in effect.

5. No impacts

No impacts are expected from revocation of the FARs for the following processed foods:

Propylene oxide is no longer registered for use on the following: Glace fruit, gums, dried prunes, and starch.

EPA no longer establishes FARs in potable water. Therefore, no impact is expected due to this FAR revocation.

For the 13 FARs that are not needed (listed in table I) the section 408 tolerances and registered uses will remain effective. Therefore, no impact is expected.

Three of the section 409 FARs being revoked today also have section 408 tolerances which were proposed for revocation in the **Federal Register** on March 1, 1996 (61 FR 8174). The estimated impacts from the loss of these three pesticide uses are included in that notice. These FARs are mancozeb/oat bran, propargite/dried figs, and simazine/sugarcane molasses.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354; 94 Stat. 1164, 5 U.S.C. 601 *et seq.*) requires EPA to analyze regulatory options to assess the economic impact on small businesses, small governments and small organizations.

In general, regulating pesticide residues and FARs in food is indiscriminate with respect to the size of the farm or business that was the source or processor of the food. The existence or absence of FARs, and the levels at which FARs are set must logically apply to all food available to U.S. consumers. In this instance, there is unlikely to be a regulatory option that would treat small businesses differently than large businesses with respect to pesticide FARs. In any event, under the Delaney clause, the Agency is compelled to take this action without regard to the economic impacts on either large or small entities.

C. Paperwork Reduction Act

This order does not contain any information collection requirements subject to review by Office of Management and Budget under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

D. Unfunded Mandates Reform Act and Executive Order 12875

Under Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), this action does not result in the expenditure of $100 million or more by any State, local or tribal governments, or by anyone in the private sector, and will not result in any "unfunded mandates" as defined by Title II. The costs associated with this action are described in the Executive Order 12866 section of this preamble.

Under Executive Order 12875 (58 FR 58093, October 28, 1993), EPA must consult with representatives of affected State, local, and tribal governments before promulgating a discretionary regulation containing an unfunded mandate. This action does not contain any mandates on States, localities or tribes and is therefore not subject to the requirements of Executive Order 12875.

List of Subjects in 40 CFR Part 185

Environmental protection, Food additives, Pesticides and pests.

Dated: March 15, 1996.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR part 185 is amended as follows:

PART 185—[AMENDED]

1. The authority citation for part 185 continues to read as follows:

Authority: 21 U.S.C. 346a and 348.

§ 185.500 [Removed]

2. By removing § 185.500.

§ 185.2850 [Removed]

3. By removing § 185.2850.

§ 185.4600 [Removed]

4. By removing § 185.4600.

§ 185.5000 [Amended]

5. By removing from the table in § 185.5000 the entries for "Figs, dried", "Raisins" and "Tea, dried."

§ 185.5150 [Removed]

6. By removing § 185.5150.

§ 185.5350 [Removed]

7. By removing § 185.5350.

§ 185.6300 [Removed]

8. By removing § 185.6300.

[FR Doc. 96–7026 Filed 3–21–96; 8:45 am]

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Friday
March 22, 1996

Part VI

Environmental Protection Agency

Consumer Labeling Initiative; Notice of Project Initiation; Notice

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–00169; FRL–4956–8]

Consumer Labeling Initiative; Notice of Project Initiation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is launching a voluntary Consumer Labeling Initiative (CLI) pilot project to invite ideas from its customers, including consumers, industry, and health and safety professionals, on ways to improve the environmental, health, and safe use information appearing on household product labels, specifically home and garden pesticides and household hard surface cleaners. The project goal is to ensure that consumers have and understand the information they need in order to make responsible product choices based on their own needs and values, and to use chosen products safely as directed. This voluntary project is not intended to produce new regulations or mandatory requirements.

DATES: Written submissions must be received on or before April 22, 1996.

ADDRESSES: All nonconfidential submissions should be sent to: OPPT Document Control Officer (7407), AR-139 - Consumer Labeling Initiative, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Nonconfidential submissions will be placed in the Administrative Record, file number AR-139, for public inspection. Persons interested in reviewing the record should contact the TSCA Nonconfidential Information Center (NCIC), NE Mall Rm. B-607, 401 M St., SW., Washington, DC 20460, (202) 260-7099. The TSCA NCIC is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. See the SUPPLEMENTARY INFORMATION unit of this document for information on submitting comments containing confidential business information (CBI).

Information may also be submitted electronically by sending electronic mail (e-mail) to: ncic@epamail.epa.gov. Electronic communications must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Submissions will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All submissions in electronic form must be identified by the file number "AR-139." No CBI should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in the SUPPLEMENTARY INFORMATION unit of this document.

FOR FURTHER INFORMATION CONTACT: Mary F. Dominiak, CLI Task Force Co-Chair, Chemical Control Division (7405), Office of Pollution Prevention and Toxics, Rm. E-209B, 401 M St., SW., Washington, DC 20460, (202) 260-3068.

SUPPLEMENTARY INFORMATION: EPA is interested in improving the labeling of products used in the home. Of particular concern are labels of pesticide products which are often difficult to understand and inconsistent with non-pesticide products of similar composition, such as cleaners. EPA is proposing that the CLI examine labeling of certain non-pesticide household products to instruct this effort, and to seek ways in which the consumer can be better served by the way information is presented on like kinds of products. EPA is not proposing to duplicate efforts of the Consumer Product Safety Commission (CPSC), and in fact has included CPSC in the CLI Task Force to both learn from the Agency's experience, and to avoid any potential unnecessary overlap between EPA and CPSC. Specifically, EPA is not planning to propose regulatory changes to non-pesticide household product labeling which is already under the purview of CPSC. The CLI is a voluntary, partnership effort in the spirit of reinventing government to find better ways to serve industry and consumer customers. The CLI is intended to make it easier for consumers to find and understand environmental, health, and safe use information on household chemical product labels. The CLI pilot project will focus on home and garden pesticides and on household hard surface cleaners, including disinfectant and antimicrobial cleaning products.

EPA has formed a special State and Federal CLI Task Force including representatives from the CPSC, the Federal Trade Commission (FTC), the Food and Drug Administration (FDA), the Vermont Agency of Natural Resources, the California Office of Environmental Health and Hazard Assessment, the American Association of Pest Control Officials (AAPCO), and the Forum of State and Tribal Toxic Actions (FOSTTA). Through the CLI Task Force, EPA will closely coordinate with other regulatory agencies responsible for consumer labeling in order to learn from their experiences and to avoid duplicating or interfering with their existing regulatory programs and requirements. The Task Force will seek voluntary approaches for achieving its goals and will cooperate across Federal and State programs and with international, industry, consumer, and environmental groups. New regulations and mandatory requirements are not the intended outcome of the CLI, but the project may recommend subsequent rulemaking to amend existing FIFRA regulations in order to remove barriers to label improvements suggested by the CLI for household pesticide products.

The pilot project will focus on assessing consumer needs regarding labeling as it relates to the use and disposal of home and garden pesticides and household hard surface cleaners, including disinfectant and antimicrobial products. The Task Force will assist EPA in: (1) Identifying and inviting input from the diverse stakeholders who are interested in the issues, including companies and organizations interested in becoming partners in exploring the issues of label improvement; (2) conducting focus groups to ask consumers directly how to improve both the content and presentation of environmental, health, and safe use information on labels; and (3) conducting a review of the existing literature to update and expand the current understanding of consumer-related product labeling. This information will be used by EPA to generate options and recommendations to the Administrator for future private and Agency action to bring about label improvement.

Additional details and descriptive materials on this project can be obtained by calling the number appearing in FOR FURTHER INFORMATION CONTACT. Interested parties are invited to help by providing information regarding existing research on consumer labeling issues. Producers of household consumer products who are interested in becoming industry partners in this project are invited to call and identify themselves. Industry partners may be asked to share their knowledge of the scientific, marketing, economic, and other factors affecting product labeling, and to take leadership roles, e.g., piloting potential labeling improvements.

An administrative record has been established for this project under file number "AR-139." A public version of this record, including printed, paper versions of electronic submissions, which does not include any information claimed as CBI, is available for inspection from noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center, Rm. NE-B607, 401 M St., SW., Washington, DC 20460.

Electronic submissions can be sent directly to EPA at:

ncic@epamail.epa.gov

Electronic information must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this project, as well as the public version, as described above, will be kept in paper form. Accordingly, EPA will transfer all submissions received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all information submitted directly in writing. The official record is the paper record maintained at the address in ADDRESSES at the beginning of this document.

Any person who submits written information containing CBI must mark the submission as "Confidential Business Information." Submissions not claimed as confidential at the time of submission will be placed in the public file. Any submissions marked as "Confidential Business Information" will be treated in accordance with the procedures in 40 CFR part 2. Any party submitting information claimed to be CBI must prepare and separately submit a public version of the information that EPA can place in the public file. CBI information should be submitted in triplicate to Document Control Office (7407), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. CBI submissions should be mailed in a double envelope with "CBI" and the Administrative Record file number AR-139 marked on the inner envelope, and the submission should be marked with Administrative Record file number AR-139.

Dated: March 5, 1996.

Lynn R. Goldman,

Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. 96–7041 Filed 3–21–96; 8:45 am]

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This is a list of public bills from the 104th Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–2470).

H.R. 2778/P.L. 104–117

To provide that members of the Armed Forces performing services for the peacekeeping efforts in Bosnia and Herzegovina, Croatia, and Macedonia shall be entitled to tax benefits in the same manner as if such services were performed in a combat zone, and for other purposes. (Mar. 20, 1996; 110 Stat. 827)

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Monday
March 25, 1996

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Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

FARM CREDIT ADMINISTRATION

12 CFR Part 615

RIN 3052–AB66

Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Global Debt

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration (FCA) adopts as final without change an interim rule that clarifies the Federal Farm Credit Banks Funding Corporation's (Funding Corporation) statutory authority to use more than one fiscal agent to facilitate the sale of Systemwide debt securities. The rule permits the Funding Corporation to employ fiscal agents other than Federal Reserve Banks (FRBs) for issuance of dollar denominated Systemwide debt securities in foreign capital markets. The rule recognizes the authority of the Funding Corporation to issue, sell, and distribute Systemwide debt securities on behalf of the Farm Credit banks (banks) on a global basis and allows the banks to engage in debt marketing practices used by other Government-Sponsored Enterprises (GSEs).

EFFECTIVE DATE: January 2, 1996.

FOR FURTHER INFORMATION CONTACT:
Laurie A. Rea, Policy Analyst, Office of Examination, Farm Credit Administration, McLean, VA 22102–5090, (703)883–4498;

or

William L. Larsen, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703)883–4020, TDD (703)883–4444.

SUPPLEMENTARY INFORMATION: On November 24, 1995, the FCA published an interim rule with a request for public comments (60 FR 57916). The interim rule clarified the Funding Corporation's statutory authority to employ fiscal agents other than FRBs for issuance of dollar-denominated Systemwide debt securities in foreign capital markets and required the Funding Corporation Board of Directors to approve each prospective global agent. The interim rule also established a new subpart that differentiates Systemwide debt securities distributed outside the United States from those issued through the FRBs under existing Funding Corporation programs. In adopting the interim rule, the FCA noted that marketing debt internationally may broaden the investor base for Systemwide debt securities and lead to lower funding costs.

The FCA received one comment on the interim rule. In its comment letter, the Funding Corporation supported the interim rule as essential for the successful issuance of securities under a global debt program. The Funding Corporation also requested clarification on the reference in the preamble to "* * * the requirement that the Funding Corporation Board of Directors approve each prospective global agent *and clearing system*" (60 FR 57919) (emphasis added). The Funding Corporation pointed out that, in contrast, the interim rule does not refer to Funding Corporation board approval of clearing systems but only to approval of "each global agent" (§ 615.5502(b)).

The preamble was designed to emphasize the significant role a global agent plays in global debt offerings rather than place an additional requirement on the Funding Corporation Board of Directors. The intent of the regulation is only to require the Funding Corporation Board of Directors to approve each prospective global agent. The preamble broadly contrasts the operational risks of using a global agent and international clearing system(s) with the operational risks of using the FRBs as fiscal agent and the FRBs' book-entry system and recognizes that the global agent will have significant influence on the determination of which international clearing system(s) are used.

As a practical matter, the Funding Corporation, global agent, and dealers will agree on the clearing system(s) that will be made available for clearance and settlement of transactions in advance of any primary distribution of global debt securities. Therefore, information concerning the clearance and settlement procedures and the responsibilities of program participants can be provided in either the offering circular or pricing supplement.

With this clarification, the FCA Board adopts the interim rule amending 12 CFR part 615, which was published at 60 FR 57916 on November 24, 1995, as final without change.

List of Subjects in 12 CFR Part 615

Accounting, Agriculture, Banks, banking, Government securities, Investments, Rural areas.

Dated: March 19, 1996.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 96–7107 Filed 3–22–96; 8:45 am]
BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–48–AD; Amendment 39–9549; AD 96–07–01]

Airworthiness Directives; McDonnell Douglas Model DC–10–10, –15, –30, and –40 Series Airplanes, and KC–10A (Military) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–10 series airplanes and KC–10A (military) airplanes, that requires visual inspections to detect failure of the attachments located in the banjo No. 4 fitting of the vertical stabilizer. This amendment also requires an eddy current inspection to detect cracking of the flanges and bolt holes of that fitting, and repair or replacement of attachments. This amendment is prompted by reports of failed attachments of the vertical stabilizer; the failures are attributed to fatigue. The actions specified by this AD are intended to prevent loss of the fail safe capability of the vertical stabilizer due to cracking of its attachments.

DATES: Effective April 24, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of April 24, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the **Federal Register**, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: John Cecil, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5322; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–10 series airplanes and KC–10A (military) airplanes was published in the **Federal Register** on July 18, 1995 (60 FR 36749). That action proposed to require repetitive visual inspections to detect failure of the attachments located in the banjo No. 4 fitting of the vertical stabilizer. That action also proposed to require an eddy current inspection to detect cracking of the flanges and bolt holes of that fitting, and repair or replacement of attachments.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Two commenters request that the proposed compliance time for the repetitive inspections be revised to coincide with routine maintenance visits. One commenter, the manufacturer, requests that the initial compliance time and the repetitive inspection interval of one year be expressed as 1,500 landings. The manufacturer points out that since the failures of the attachments are fatigue related, it would be appropriate to specify the compliance time in terms of landings.

The FAA concurs with the commenters' request to revise the compliance time. The FAA agrees with the manufacturer that the compliance times are more appropriately expressed in terms of landings. Accordingly, the FAA has revised paragraphs (a) and (a)(1) of the AD to reflect a revised initial compliance time and repetitive inspection interval of 1,500 landings.

Two commenters request clarification concerning the proposed visual inspections of the attachments. The commenters ask whether that inspection is to be accomplished from the exterior or the interior surface of the airplane (i.e., an external or an internal visual inspection). The FAA finds that clarification is necessary. Paragraphs (a) and (a)(1) of the final rule have been revised to reflect the FAA's intent that the inspection to be performed is an external visual inspection.

One commenter, the manufacturer, requests that paragraph (b) of the proposed rule be revised to specify that accomplishment of the replacement prior to December 17, 1993, in accordance with the original issue of McDonnell Douglas DC–10 Service Bulletin 55–23, dated December 17, 1992, is considered acceptable as terminating action for the requirements of the proposed AD, provided that an eddy current surface inspection of the forward and aft flanges is accomplished in accordance with Revision 1 of that service bulletin. The commenter states that several operators have already accomplished the replacement in accordance with the original issue of the service bulletin.

The FAA concurs. The FAA agrees that paragraph (b)(1) of the proposed rule should be revised to allow credit for replacements accomplished prior to December 17, 1993, in accordance with the original issue of McDonnell Douglas DC–10 Service Bulletin 55–23, provided that an eddy current surface inspection of the forward and aft flanges is accomplished in accordance with McDonnell Douglas DC–10 Service Bulletin 55–23, Revision 1, dated December 17, 1993.

Additionally, the FAA finds that the type of inspection required by paragraph (b) requires clarification. That paragraph has been revised to specify that the type of inspection required for the forward and aft flanges is an "eddy current surface inspection." In addition, the FAA has determined that certain bolt holes of the banjo No. 4 fitting do not require eddy current inspections, provided that the attachments of that fitting have been replaced in accordance with McDonnell Douglas DC–10 Service Bulletin 55–23, dated December 17, 1992. A note has been added to the final rule to clarify that eddy current inspection of the bolt holes is not required in that case.

The FAA also has revised paragraph (b)(1) of the final rule to specify that the replacement required by that paragraph may be accomplished in accordance with the original issue of the service bulletin or Revision 1, dated December 17, 1993. That paragraph has also been revised to specify that accomplishment of the replacement in accordance with the original issue of the service bulletin constitutes terminating action for the requirements of the AD, provided that the eddy current surface inspection of the forward and aft flanges is accomplished in accordance with Revision 1 of the service bulletin. Additionally, accomplishment of the replacement in accordance with Revision 1 of the service bulletin constitutes terminating action for the requirements of the AD, provided that the eddy current surface inspection of the forward and aft flanges and the eddy current bolt hole inspection of the bolt holes of the banjo No. 4 fitting are accomplished in accordance with Revision 1 of the service bulletin.

One commenter, the manufacturer, requests that the FAA revise paragraph (b)(2) of the proposed rule to reference the repair procedures described in Figure 6 or Figure 7, as applicable, of Chapter 55–20–00, Volume 1, of the DC–10 Structural Repair Manual (SRM) as an alternative method of compliance. The commenter states that repair procedures for cracking detected in the No. 4 banjo fitting have been developed and incorporated into the SRM. The FAA concurs. The FAA has determined that those repair procedures incorporated into the SRM are acceptable as an alternate method of compliance. The FAA has revised paragraph (b)(2) of the final rule accordingly.

One commenter states that there is a lack of available parts, which will not allow operators to perform the replacement of the attachments as required by paragraph (b)(1) of the proposed rule. From that comment, the FAA infers that the commenter is requesting that the compliance time be extended to allow time for the manufacture of replacement parts. The FAA does not concur. The FAA has verified with the manufacturer that parts will be available to operators before the required compliance time. However, paragraph (c) of the final rule does provide affected operators the opportunity to require an adjustment of the compliance time if data are presented to justify such an extension.

The FAA notes that a statement in the Summary section of the preamble to the notice, indicated that failures of the attachments of the vertical stabilizer were attributed to "stress corrosion fatigue." The FAA finds that revision is necessary in order to clarify the fact that the failures of the attachments of the vertical stabilizer were attributed to "fatigue."

Additionally, the manufacturer has notified the FAA that, while McDonnell Douglas DC–10 Service Bulletin 55–23 describes procedures for performing an eddy current inspection to detect cracking of the forward and aft flanges and bolt holes of the banjo No. 4 fitting and the pylon carry-through cap, the correct description would entail deleting the words "pylon carry-through cap." The manufacturer noted that the pylon carry through cap is not directly inspected by eddy current inspections. Therefore, references to the "pylon carry-though cap" have been deleted in paragraph (b) of the final rule, and elsewhere in the Supplementary information section of this preamble to the final rule.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 420 Model DC–10–10, –15, –30, –40 series airplanes and KC–10A (military) airplanes of the affected design in the worldwide fleet. The FAA estimates that 237 airplanes of U.S. registry will be affected by this AD.

The FAA estimates that it will take approximately 1 work hour per airplane to accomplish the visual inspections, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the visual inspections on U.S. operators is estimated to be $14,220, or $60 per airplane, per inspection cycle.

The FAA estimates that it will take approximately 2 work hours per airplane to accomplish the eddy current inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the eddy current inspection on U.S. operators is estimated to be $28,440, or $120 per airplane.

The FAA estimates that it will take approximately 6 work hours per airplane to accomplish the replacement of the 12 attachments located at the banjo No. 4 fitting, at an average labor rate of $60 per work hour. Required parts cost approximately $250 per airplane. Based on these figures, the total cost impact of the replacement on U.S. operators is estimated to be $144,570, or $610 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–07–01 McDonnell Douglas: Amendment 39–9549. Docket 95–NM–48–AD.

Applicability: Model DC–10–10, –15, –30, –40 series airplanes and KC–10A (military) airplanes; as listed in McDonnell Douglas DC–10 Service Bulletin 55–23, Revision 1, dated December 17, 1993; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously. To prevent loss of fail safe capability of the vertical stabilizer due to cracking of its attachments, accomplish the following:

(a) Within 1,500 landings after the effective date of this AD, perform an external visual inspection, using a minimum 5X power magnifying glass, to detect failure of the 12 attachments located in the banjo No. 4 fitting of the vertical stabilizer (as depicted in McDonnell Douglas DC–10 Service Bulletin 55–23, Revision 1, dated December 17, 1993). Perform this inspection in accordance with procedures specified in McDonnell Douglas Nondestructive Testing Manual Chapter 20–10–00 or McDonnell Douglas Nondestructive Testing Standard Practice Manual, Part 09.

(1) If no failure is detected, repeat the external visual inspection thereafter at intervals not to exceed 1,500 landings until the requirements of paragraph (b) of this AD are accomplished.

(2) If any failure is detected, prior to further flight, accomplish the requirements of paragraph (b) of this AD.

(b) Except as required by paragraph (a)(2) of this AD: Within 5 years after the effective date of this AD, perform an eddy current surface inspection to detect cracking of the forward and aft flanges; and an eddy current bolt hole inspection of the bolt holes of the banjo No. 4 fitting; in accordance with McDonnell Douglas DC–10 Service Bulletin 55–23, Revision 1, dated December 17, 1993.

Note 2: Paragraph (b) of this AD does not require that eddy current bolt hole inspections be accomplished for the bolt holes of the banjo No. 4 fitting if the attachments were replaced, prior to the effective date of this AD, in accordance with McDonnell Douglas DC–10 Service Bulletin 55–23, dated December 17, 1992.

(1) If no cracking is detected, prior to further flight, replace the 12 attachments

located on the banjo No. 4 fitting, in accordance with McDonnell Douglas DC–10 Service Bulletin 55–23, dated December 17, 1992, or Revision 1, dated December 17, 1993. Accomplishment of this replacement terminates the requirements of this AD, provided that the eddy current surface inspection of the forward and aft flanges; and the eddy current bolt hole inspection of the bolt holes of the banjo No. 4 fitting, if applicable; are accomplished in accordance with Revision 1 of the service bulletin.

(i) Accomplishment of the replacement in accordance with the original issue of the service bulletin constitutes terminating action for the requirements of this AD, provided that the eddy current surface inspection of the forward and aft flanges is accomplished in accordance with Revision 1 of the service bulletin.

(ii) Accomplishment of the replacement in accordance with Revision 1 of the service bulletin constitutes terminating action for the requirements of this AD, provided that the eddy current surface inspection of the forward and aft flanges; and the eddy current bolt hole inspection of the bolt holes of the banjo No. 4 fitting are accomplished in accordance with Revision 1 of the service bulletin.

(2) If any cracking is detected, prior to further flight, repair either in accordance with Figure 6 or Figure 7, as applicable, of Chapter 55–20–00, Volume 1, of the DC–10 Structural Repair Manual (SRM); or in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office, (ACO), FAA, Transport Airplane Directorate.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(d) The actions shall be done in accordance with McDonnell Douglas DC–10 Service Bulletin 55–23, dated December 17, 1992, and McDonnell Douglas DC–10 Service Bulletin 55–23, Revision 1, dated December 17, 1993. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on April 24, 1996.

Issued in Renton, Washington, on March 18, 1996.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–6932 Filed 3–22–96; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 95–CE–13–AD; Amendment 39–9550; AD 95–17–09 R1]

Airworthiness Directives; Fairchild Aircraft SA226 and SA227 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule

SUMMARY: This amendment revises Airworthiness Directive (AD) 95–17–09, which requires relocating the left-hand (LH) and right-hand (RH) essential bus current limiters (225 amp) to the battery bus (main bus tie) on certain Fairchild Aircraft SA226 and SA227 series airplanes. The Federal Aviation Administraton (FAA) has determined that the applicability of the current AD should be changed to reflect a different serial number range and model designation of certain SA227 series airplanes. This action retains the essential bus current limiter relocations required by AD 95–17–09, and revises the Applicability section of that AD. The actions specified by this AD are intended to prevent failure of the LH and RH essential bus when engine failure results in a blown generator current limiter, which could result in loss of airplane electrical power.

DATES: Effective May 13, 1996.

The incorporation by reference of certain publications listed in the regulations was previously approved by the Director of the **Federal Register** as of October 3, 1995.

ADDRESSES: Service information that applies to this AD may be obtained from Fairchild Aircraft, P.O. Box 790490, San Antonio, Texas 78279–0490; telephone (210) 824–9421. This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–CE–13–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Ingrid D. Knox, Aerospace Engineer, FAA, Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone (817) 222–5190; facsimile (817) 222–5960.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Fairchild Aircraft SA226 and SA227 series airplanes that utilize a DC generator was published in the **Federal Register** on October 13, 1995 (60 FR 53309). The action proposed to revise AD 95–17–09 by retaining the requirement of relocating the LH and RH essential bus current limiters (225 amp) to the battery bus (main bus tie); and revising the Applicability section to reflect correct serial numbers and incorporating the correct airplane model designation in paragraph (a) of AD 95–17–09. Accomplishment of the proposed modification would be in accordance with Fairchild Aircraft Engineering Kit Drawing 27K82376, "Current Limiter Rebusing Kit," as referenced in Fairchild Service Bulletin (SB) 226–24–034, SB 227–24–015, and SB CC7–24–002, all Issued: September 29, 1994.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments have been received regarding the proposal or the FAA's estimate of the cost impact upon the public.

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

The FAA estimates that 622 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 4 workhours per airplane to accomplish the required action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $98 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $210,236 or $338 per airplane. This figure is based on the assumption that no affected airplane owner/operator has incorporated the required modification. Fairchild Aircraft has informed the FAA that parts have not been distributed to any owner/operator of the affected airplanes.

The required action only corrects a model designation and certain serial numbers of certain SA227 series airplanes that are affected by AD 95–17–09. The cost impact upon the public specified in this AD is exactly the same as that currently required by AD 95–17–09.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Airworthiness Directive (AD) 95–17–09, Amendment 39–9339 (60 FR 43361, August 21, 1995), and by adding a new AD to read as follows:

95–17–09 R1 Fairchild Aircraft: Amendment 39–9550; Docket No. 95–CE–13–AD. Revises AD 95–17–09, Amendment 39–9339.

Applicability: The following model and serial number airplanes, certificated in any category, that utilize a direct current (DC) generator:

Models	Serial Nos.
SA226–T, SA226–AT, SA226–TC, and SA226–T(B).	All.
SA227–AC, SA227–AT, SA227–BC, and SA227–TT.	420 through 783, and 785 through 789.
SA227–CC and SA227–DC.	784, and 790 through 883.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 2,000 hours time- in-service after the effective date of this AD, unless already accomplished (compliance with AD 95–17–09).

To prevent failure of the left hand (LH) and right hand (RH) essential bus when engine failure results in a blown generator current limiter, which could result in loss of airplane electrical power, accomplish the following:

(a) Relocate the LH and RH essential bus current limiters (225 amp) to the battery bus (main bus tie) in accordance with Fairchild Aircraft Engineering Kit Drawing 27K82376, "Current Limiter Rebusing Kit," as referenced in the following service bulletins (SB):

SB	Date	Models affected
226–24–034	September 29, 1994.	All affected SA226 models.
227–24–015	September 29, 1994.	SA227–AC, SA227–AT, SA227–BC, and SA227–TT.
CC7–24–002	September 29, 1994.	SA227–CC and SA227–DC.

(b) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Fort Worth Airplane Certification Office (ACO), FAA, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Fort Worth ACO.

(d) Alternative methods of compliance approved for AD 95–17–09 are approved as alternative methods of compliance for this AD.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Fort Worth ACO.

(e) The modification required by this AD shall be done in accordance with Fairchild Aircraft Engineering Kit Drawing 27K82376, "Current Limiter Rebusing Kit," as referenced in Fairchild Aircraft Service Bulletins 226–24–034, 227–24–015, and CC7–24–002, all Issued: September 29, 1994. This incorporation by reference was previously approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fairchild Aircraft, P.O. Box 790490, San Antonio, Texas 78279–0490. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., 7th Floor, suite 700, Washington, DC.

(f) This amendment (39–9950) revises AD 95–17–09, Amendment 39–9339.

(g) This amendment (39–9550) becomes effective on May 13, 1996.

Issued in Kansas City, Missouri, on March 19, 1996.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–7149 Filed 3–22–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 71

[Airspace Docket No. 96–ASO–2]

Amendment to Class E Airspace; Brunswick, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment modifies the Class E airspace area at Brunswick, GA, to accommodate a VOR or GPS–A Standard Instrument Approach Procedure (SIAP) for the Jekyll Island Airport. Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate this SIAP and for instrument flight rules (IFR) operations at the airport.

EFFECTIVE DATE: 0901 UTC, June 20, 1996.

FOR FURTHER INFORMATION CONTACT: Benny L. McGlamery, System Management Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5570.

SUPPLEMENTARY INFORMATION:

History

On January 23, 1996, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by modifying Class E airspace at Brunswick, GA (61 FR 1724). This action would provide adequate Class E airspace for IFR operations at the Jekyll Island Airport.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Designations for Class E airspace extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) modifies Class E airspace at Brunswick, GA, to accommodate a VOR or GPS–A SIAP and for IFR operations at the Jekyll Island Airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet above the surface of the earth.

* * * * *

ASO GA E5 Brunswick, GA [Revised]

Brunswick/Malcolm-McKinnon Airport, GA
(lat. 31°09'06" N, long. 81°23'29" W)
Brunswick/Glynco Jetport Airport
(lat. 31°15'33" N, long. 81°27'59" W)
Jekyll Island Airport
(lat. 31°04'28" N, long. 81°25'40" W)

That airspace extending upward from 700 feet above the surface within 7-mile radius of the Malcolm-McKinnon Airport and within a 7-mile radius of the Glynco Jetport Airport and within a 6.3-mile radius of the Jekyll Island Airport and within 2.4 miles each side of the Brunswick VOR 217° radial, extending from the 6.3-mile radius to 7 miles southwest of the VOR.

* * * * *

Issued in College Park, Georgia, on March 15, 1996.

Benny L. McGlamery,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 96–7167 Filed 3–22–96; 8:45 am]

BILLING CODE 4910–13–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 211

[Release No. SAB 96]

Staff Accounting Bulletin No. 96

AGENCY: Securities and Exchange Commission.

ACTION: Publication of Staff Accounting Bulletin.

SUMMARY: The interpretations in this staff accounting bulletin express certain views of the staff regarding treasury stock acquisitions following a business combination accounted for as a pooling-of-interests.

EFFECTIVE DATE: March 19, 1996.

FOR FURTHER INFORMATION CONTACT: Mary Tokar or Brian Heckler, Office of the Chief Accountant (202–942–4400), or Kurt Hohl, Division of Corporation Finance (202–942–2960), Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The statements in staff accounting bulletins are not rules or interpretations of the Commission nor are they published as bearing the Commission's official approval. They represent interpretations and practices followed by the Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the Federal securities laws.

Dated: March 19, 1996.

Margaret H. McFarland,

Deputy Secretary.

Accordingly, Part 211 of Title 17 of the Code of Federal Regulations is amended by adding Staff Accounting Bulletin No. 96 to the table found in Subpart B.

PART 211—[AMENDED]

Staff Accounting Bulletin No. 96

The staff hereby adds Section F to Topic 2 of the Staff Accounting Bulletin Series. Topic 2–F provides guidance regarding the effect of treasury stock acquisitions following consummation of a business combination accounted for as a pooling-of-interests.

Topic 2–F: Treasury Stock Acquisitions Following Consummation of a Business Combination Accounted for as a Pooling-of-Interests

Facts: An issuer, concurrently with the development of a plan for a business combination, formulates a plan to reacquire treasury stock after the consummation date of the combination. The treasury stock will not be reacquired directly from former shareholders of the combining company.

Question 1: Does the staff believe that an intention to reacquire treasury stock precludes accounting for a business combination as a pooling-of-interests?

Interpretive Response: Yes, except in certain limited circumstances. The staff believes that an intention to reacquire treasury stock is part of the plan of combination (a "planned transaction") if the intention is formulated concurrently with the development of the plan of combination. However, the staff does not believe that planned transactions that merely defer actions that would be permitted prior to consummation preclude the application of pooling-of-interests accounting to the combination. Accordingly, the staff has not objected to planned transactions involving reacquisitions of either untainted treasury stock (as discussed in Accounting Series Release Numbers 146 and 146–A) or tainted treasury stock up to the limits permitted under paragraph 47 of APB Opinion 16, *Business Combinations.*

Paragraph 48 of APB Opinion 16 provides that some planned transactions preclude accounting for a combination as a pooling-of-interests. This prohibition extends not only to transactions explicitly agreed to, but also to intended transactions.[1] Specifically, paragraph 48(a) of APB Opinion 16 identifies the intention to reacquire the common stock issued to effect the combination as a planned transaction that is inconsistent with a pooling-of-interests. Paragraph 48(a) of APB Opinion 16 does not specify a period after which an otherwise prohibited reacquisition of treasury stock is permitted. However, based on related planned transaction guidance in paragraph 48(c) of APB Opinion 16, which precludes application of pooling-of-interests accounting if a company plans to make significant dispositions of assets within two years of consummation, the staff has not required a period longer than two years for other prohibited planned transactions.

In applying the 90% test of paragraph 47 of APB Opinion 16 at the consummation date, the staff believes that, unless the shares to be reacquired would be untainted, the maximum number of shares that may be reacquired within two years of consummation of the combination pursuant to any planned transaction should be aggregated with other "paragraph 47 exceptions." If the total paragraph 47 exceptions exceed 10% of any combining company's outstanding shares, the staff believes that application of pooling-of-interests accounting to the combination would not be appropriate.[2]

Question 2: Does the staff believe that an intention to reacquire treasury stock should be considered part of the plan of combination if the intention is not announced until after consummation of the business combination?

Interpretive Response: Yes. The staff believes that the formulation of an intention to reacquire treasury stock, and not the announcement of that intention, is the action that precludes application of pooling-of-interests accounting. Further, it is difficult to conclude that an action that occurs shortly after a business combination is consummated is not evidence of an intention formulated concurrently with development of the plan of combination. Accordingly, the staff considers whether a registrant's actions, both prior to and following consummation of a business combination, provide evidence of an intention to reacquire shares after the combination.[3]

In applying this interpretive guidance, the staff presumes that reacquisitions of treasury stock within six months following consummation of a business combination are planned transactions that are part of the combination plan. Other actions that may occur less than six months after consummation of a business combination provide persuasive evidence of a prior intention that was part of the combination plan. For example, the staff believes that the announcement of an intention to reacquire shares made within six months following consummation of a business combination provides persuasive evidence of an intention that was part of the combination plan.

The staff generally has not questioned the use of pooling-of-interests accounting as a result of reacquisitions of treasury stock made more than six months after the combination is consummated in circumstances in which there is no evidence that the reacquisitions of treasury stock were planned transactions.

Question 3: Prior to initiation of a business combination, a company announced a plan to reacquire tainted treasury stock, but suspended reacquisitions pursuant to that plan prior to consummation of the combination. Does the staff believe that an intention to resume reacquisitions of treasury stock after consummation of the combination pursuant to a pre-existing plan can be distinguished from other intentions to reacquire treasury stock after the combination?

Interpretive Response: No. The staff believes that an intention to resume reacquiring tainted treasury stock pursuant to a pre-existing plan cannot be distinguished from an intention to reacquire treasury stock formulated concurrently with development of the plan of combination. As the Commission commented in ASR 146, it is difficult to separate reasons for reacquiring treasury stock from intentions to reacquire shares that are part of the plan of combination, even if the reason for the acquisition of such shares is reissuance for recurring distributions.[4] Unless treasury stock reacquired will be untainted treasury stock, the assertion that those shares were acquired for reasons other than the business combination is not sufficient to separate the intention to resume reacquiring treasury stock from other planned transactions to reacquire shares issued to effect the combination.[5]

Question 4: Paragraph 48(a) of APB Opinion 16 prohibits application of pooling-of-interests accounting when there is an intention to reacquire, either directly or indirectly, the common stock issued to effect the combination. In the opinion of the staff, does an intention to reacquire treasury stock from parties other than former shareholders of the combining company after consummation of a business combination represent an intention to reacquire shares issued to effect the combination?

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[1] Paragraph 48 of APB Opinion 16, captioned "*Absence of planned transactions,*" states, "Some transactions after a combination is consummated are inconsistent with the combining of entire existing interests of common stockholders: Including those transactions in the negotiations and terms of the combination, either explicitly or by intent, counteracts the effect of combining stockholder interests" [emphasis added].

[2] *See* the computational guidance provided by the FASB's Emerging Issues Task Force, in its discussion of Issue 87–16, regarding how tainted treasury shares (net of shares "cured" through reissuance) should be aggregated with other "paragraph 47 exceptions" (e.g., dissenters' shares) when testing for satisfaction of the requirements of paragraph 47 of APB Opinion 16. The 10% limitation described above normally is computed by reference to the number of shares issued to effect the combination. In some circumstances, such as those where the smaller of the combining companies is the issuer, the 10% limitation might be further constrained.

Additionally, while an issuer may cure tainted treasury stock acquired prior to consummation, issuing shares to effect the pooling would not cure tainted treasury stock.

[3] Actions that the staff has determined provide evidence of an intention to reacquire shares after consummation of a combination include use of projections or forecasts reflecting post-consummation acquisitions of treasury stock or decisions to reacquire treasury stock where those decisions were made by management having the requisite authority to commit the enterprise to such a plan. Any statement made prior to consummation of a business combination that a company intends to reacquire treasury stock after consummation of that combination also is evidence of a planned transaction. These examples are illustrative only and do not include all instances in which the staff may conclude that a company has formulated an intention to reacquire treasury stock.

[4] ASR 146 comments that, "in determining the purpose of treasury stock acquisitions, it is ordinarily appropriate to focus on the intended subsequent distribution of common shares rather than on the business reasons for acquiring treasury shares [emphasis added]. For example, shares may be reacquired because management believes the company is overcapitalized or considers that "the price is right," but such reasons do not overcome the presumption that they were acquired in contemplation of effecting business combinations to be accounted for as poolings of interests."

[5] ASR 146 states that "the mere assertion that common shares are acquired for such purposes [as stock option or purchase plans or stock dividends] even where the assertion is formalized by action of the board of directors reserving the treasury shares, does not provide persuasive evidence [that the acquisition of treasury stock is unrelated to a business combination]. * * * Accordingly, the Commission concludes that treasury shares acquired in the restricted period for recurring distributions should be considered "tainted" unless they are acquired in a [seasoned] systematic pattern of reacquisition * * *"

Interpretive Response: Yes. The staff believes that the identity of the seller of the treasury stock is not the deciding factor in determining whether the issuer has reacquired stock issued to effect the combination. For example, the staff believes that a reacquisition of treasury stock in an open market transaction results in an indirect reacquisition of shares issued to effect the combination.[6]

[FR Doc. 96–7071 Filed 3–22–96; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 645

RIN 2125–AD31

Utilities; Technical Correction

AGENCY: Federal Highway Administration (FHWA), DOT.

SUMMARY: This document amends the FHWA's regulation on accommodation of utilities to remove the reference to a paragraph citation that no longer exists. On July 5, 1995, at 60 FR 34846, 34850, in FR Doc. 95–16403, the FHWA removed the paragraph designations from the definitions in the utilities regulation. Inadvertently, one of the paragraph designations within the text of the definition of *private lines* was not removed. This document corrects the definition by removing such reference and revising the language accordingly.

EFFECTIVE DATE: March 25, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Scott, Office of Engineering, (202) 366–4104; or Mr. Wilbert Baccus, Office of the Chief Counsel, (202) 366–0780, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

List of Subjects in 23 CFR Part 645

Grant programs—transportation, Highways and roads.

In consideration of the foregoing, the FHWA hereby amends title 23, Code of Federal Regulations, part 645, subpart B as set forth below:

[6] See, for example, paragraph 47(b) of APB Opinion 16, which notes that the choice of an issuer in a combination is a matter of convenience. This interpretive response also recognizes the fungible nature of common stock. The Commission has commented on the fungibility of shares of common stock when addressing cures of tainted treasury stock in ASR 146, noting that there is no substantive difference between treasury stock and newly-issued stock.

PART 645—UTILITIES

1. The authority citation for part 645 continues to read as follows:

Authority: 23 U.S.C. 101, 109, 111, 116, 123, and 315; 23 CFR 1.23 and 1.27; 49 CFR 1.48(b); and E.O. 11990, 42 FR 26961 (May 24, 1977).

2. In § 645.207, the definition of *private lines* is revised to read as follows:

§ 645.207 Definitions.

* * * * *

Private lines—privately owned facilities which convey or transmit the commodities outlined in the definition of *utility facility* of this section, but devoted exclusively to private use.

* * * * *

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: March 15, 1996.

Edward V.A. Kussy,

Acting Chief Counsel.

[FR Doc. 96–7147 Filed 3–22–96; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 260

RIN 1010–AC14

Deepwater Royalty Relief for New Leases

AGENCY: Minerals Management Service, Interior.

ACTION: Interim rule.

SUMMARY: The Outer Continental Shelf Deep Water Royalty Relief Act (Act) authorizes the Secretary of the Interior (Secretary) to offer Outer Continental Shelf tracts for lease with suspension of royalties for a volume, value, or period of production. The Act requires the Secretary to use this bidding system on tracts offered for lease in water depths of 200 meters or more in parts of the Gulf of Mexico through November 28, 2000. The Minerals Management Service (MMS) intends to hold a lease sale in April 1996. This interim rule specifies the royalty suspension terms under which the Secretary will make tracts available for that sale.

DATES: *Effective Date:* This interim rule is effective April 24, 1996.

Comments: We will consider all comments we receive by April 24, 1996. We will begin review of comments at that time and may not fully consider comments we receive after April 24, 1996.

ADDRESSES: Mail or hand-carry comments to the Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, Virginia 22070–4817, Attention: Chief, Engineering and Standards Branch.

FOR FURTHER INFORMATION CONTACT: Walter Cruickshank, Offshore Minerals Analysis Division, telephone (202) 208–3822.

SUPPLEMENTARY INFORMATION:

I. Background on the New Legislation

On November 28, 1995, President Clinton signed Public Law 104–58, which included the Act. The Act contains four major provisions concerning new and existing leases. New leases are tracts leased during a sale held after the Act's enactment on November 28, 1995. Existing leases are defined as all other leases.

First, section 302 of the Act clarifies the Secretary's pre-existing authority in 43 U.S.C. 1337(a)(3) to reduce royalty rates on existing leases in order to promote development, increase production, and encourage production of marginal resources on producing or non-producing leases. This provision applies only to leases in the Gulf of Mexico west of 87 degrees, 30 minutes west longitude.

Second, section 302 also provides that "new production" from existing leases in water depths of 200 meters or greater qualifies for royalty suspensions if the Secretary determines that the new production would not be economic in the absence of royalty relief. The Secretary must then determine the appropriate royalty suspension volume on a case-by-case basis, subject to specified minimums for leases not in production prior to the date of enactment. This provision also applies only to leases in the Gulf of Mexico west of 87 degrees, 30 minutes west longitude.

Third, section 303 establishes a new bidding system that allows the Secretary to offer tracts with royalty suspensions for a period, volume, or value the Secretary determines. On February 2, 1996, we published a final rule modifying the regulations governing the bidding systems we use to offer OCS tracts for lease (61 FR 3800). New § 260.110(a)(7) addresses the new bidding system mandated by section 303 of the Act.

Fourth, section 304 provides that all tracts offered within 5 years of the date of enactment in water depths of 200 meters or greater in the Gulf of Mexico west of 87 degrees, 30 minutes west longitude, must be offered under the new bidding system. The following

minimum volumes of production are not subject to a royalty obligation:

- 17.5 million barrels of oil equivalent (mmboe) for leases in 200 to 400 meters of water,
- 52.5 mmboe for leases in 400 to 800 meters of water, and
- 87.5 mmboe for leases in more than 800 meters.

II. The Proposed April 1996 Lease Sale and the Need for an Interim Rule

The Act requires the Secretary to issue implementing regulations within 180 days of enactment. We published an advance notice of proposed rulemaking (ANPR) in the **Federal Register** on February 23, 1996 (61 FR 6958), and informed the public of our intent to develop comprehensive regulations implementing the Act. It sought comments and recommendations to assist us in that process. We continue to collect comments and conducted a public meeting in New Orleans on March 12–13, 1996, about the matters the ANPR addressed.

In accordance with the current 5-year OCS program, which provides for annual lease sales in the Central and Western Gulf of Mexico, we have scheduled a lease sale for April 24, 1996, for tracts in the Central Gulf of Mexico. Many of these tracts are in water depths of 200 meters or more. Therefore, before we proceed with the sale, we must issue regulations to implement section 304 of the Act.

We estimate that bonus bids at this sale could be as much as $300 million. Thus, delay of this sale would be contrary to the public interest.

Also, a significant delay of the lease sale could seriously disrupt investment activity important to both the national and regional economies. The natural gas and oil industry relies on regularly-scheduled lease sales in the Gulf of Mexico to enable it to conduct its annual land acquisition and exploration activities in an orderly and predictable manner.

A full notice and comment rulemaking could not be completed prior to the proposed April 1996 sale. Since the Act does apply to Central and Western Gulf of Mexico lease sales for the next 5 years, we are publishing this interim rule to allow the sale of deep-water tracts in the Central Gulf of Mexico to proceed with a minimum of delay from the original sale date established under the current 5-year OCS program. We invite comments on this interim rule, and we also will consider them as part of our review of responses to the ANPR mentioned above. Based on comments received and experience gained at the upcoming sale, we may include changes to the matters this interim rule addresses in the comprehensive rulemaking that implements the remaining provisions of the Act.

III. How To Implement Section 304 of the Act

Section 304 of the Act does not provide specific guidance on how to apply the royalty suspension volumes to leases issued during sales after November 28, 1995. The primary question is how to apply the minimum royalty suspension volumes laid out in the statute. There are several possibilities. One is to apply the royalty suspension volumes on a unitary basis, so that there would be only one royalty suspension volume in each water depth category in the entire area of the Gulf subject to section 304. A second possibility is to apply the royalty suspension volumes on the basis of geological fields, so that all tracts producing from a single field collectively would receive the royalty suspension volume. A third possibility is to apply the full royalty suspension volume to each qualifying lease.

Ultimately, the choice among these alternatives is dictated by the meaning of the statute. Unfortunately, the statutory language, as discussed further below, does not unambiguously resolve this issue.

Turning first to the statutory text, section 304 is quite indistinct. The first thing to note is that it is framed in the passive voice ("suspension of royalties shall be set at [the following volumes]"). This fails to make clear against what the royalty suspension volumes should be applied. The section does speak in the plural or multiple, referring to "all tracts" and "any lease sale." This suggests that the royalty suspension volumes were not to be applied on an individual lease basis. In section 302, by contrast, Congress specified quite clearly that the owner(s) of each individual lease could apply for a royalty suspension. (E.g., "Such application may be made on the basis of an individual lease or unit.")

The legislative history helps clarify the meaning of the statutory language. In bringing before the full Senate for vote the language that eventually became law, Senator Johnston, the bill's primary sponsor, explained that it was intended only to provide incentives for drilling leases that would not otherwise be drilled and to bring new fields on production:

> It is only with respect to *those leases that would not otherwise be drilled, either existing or future leases, that this amendment would provide that incentive.*
>
> * * * The Secretary of the Interior wanted the incentive to be sufficient but not too much. That took a lot of negotiating. * * * [The legislation] should bring on at least two new fields with approximately 150 million barrels of oil equivalent from existing leases and *it significantly improves the economics of 10 to 12 possible and probable fields.*

_____ Cong. Rec. S. 6731 (daily ed., May 16, 1995) [emphasis added].

This statement by the bill's prime sponsor, the most pertinent in the legislative record, strongly suggests that the legislation was not intended to provide each new lease in deep water the full royalty suspension volume. If the legislation were interpreted to apply the full royalty suspension volume to each lease, each new deep-water lease issued for the next 5 years in fields already in production on the date of enactment (November 28, 1995) would be entitled to the full royalty suspension volume. That hardly would further the Act's purpose of providing an economic incentive to develop new fields and "leases that otherwise would not be drilled." It might also skew production because producers could slow development of existing leases to await new leases in the field that would have royalty suspension volumes.

Legislators' statements in committee hearings sounded the same theme—that the purpose was to bring new fields into production. Senate Energy Committee Chairman Murkowski noted that the development of OCS deep-water areas "are dependent on the economics of the field * * *" and Senator Johnston emphasized that "the volumes [the royalty suspension volumes specified in the legislation] were based on assumptions of the economic field size relative to cost." Hearing on S. 158 Before the Committee on Energy and Natural Resources, 104th Cong., 1st Sess. 7, 39 (March 23, 1995).

In fact, the royalty suspension volumes set forth in section 304 for new tracts offered for lease originated with MMS. They were developed out of technical analyses conducted by MMS of the royalty suspension volumes needed for capital cost recovery in developing unproduced oil and gas fields at various water depths in the Gulf of Mexico. This helps explain the fact that the chief congressional sponsor, Senator Johnston, expressly linked the royalty suspension volumes in the Act to the cost of developing a field. It also counsels that section 304 should, in order to be faithful to its proponents' intent, be applied to make royalty suspension volumes available on a field basis, rather than giving each and every individual lease the full royalty suspension volume.

For the same reasons, section 304 should be read more broadly than simply providing one royalty suspension volume at each specified depth range (e.g., 200 to 400 meters) across the entire area of the Gulf eligible for royalty relief. Such an application, done without regard for fields or numbers of leases at those depth ranges, would not grant sufficient incentive for any more than one new field at each water depth. Such a reading, while possible to fit within the statutory language, is clearly not in accord with the purposes of the Act.

The middle ground, applying the royalty suspension volumes in section 304 on a field basis, is the most reasonable approach. In the words of the bill's sponsor, only it fulfills what the Secretary wanted, i.e., sufficient incentive to bring new fields into production.

Two other considerations support this outcome. First, as Congress was doubtless aware when it enacted deepwater royalty relief, section 8(b), of the Outer Continental Shelf Lands Act (OSCLA) (43 U.S.C. 1337(b)) contains no fixed maximum tract size for a single lease. Instead, it authorizes the Secretary to aggregate a large acreage into a single tract for leasing if the Secretary "finds a larger area is necessary to comprise a reasonable economic production unit." Even if section 304 were interpreted to mandate the Secretary to apply royalty suspension volumes on an individual lease basis, the Secretary would nevertheless retain the discretion, by virtue of section 8(b), to choose a larger tract size for a single lease. Rather than going that route, we have determined that section 304 is best interpreted to apply royalty suspension volumes on a field basis. If royalty suspension volumes were to be mandated on a lease basis, the Secretary would have to seriously examine whether to lease larger tracts.

Second, as Congress was also doubtless aware when it enacted deepwater royalty relief, the OCSLA sets no maximum royalty on Federal oil and gas leases. Instead, it authorizes the Secretary to set an initial royalty rate of "*no less than* 12½ per centum" (emphasis added) per unit of production for new leases issued under the new bidding system established by section 303 and mandated for use for the next 5 years. If section 304 required the Secretary to provide a full royalty suspension volume to each and every lease, the Secretary would still have the discretion to set an initial royalty rate above the statutory minimum or the rate traditionally used for Gulf of Mexico leases. This higher royalty would kick in after the royalty-free volumes for new leases in deep water terminated. This approach would allow the Secretary to ensure that the development incentive provided in the Act is consistent with giving the public a fair return on the oil and gas resources that it owns. Once again, the interim rule, by adopting the approach of applying the royalty suspension volumes on a field basis, may avoid the need for including a higher royalty in the lease at this time.

As these considerations illustrate, Congress preserved the Secretary's broad discretion over tract size and royalty rate when it came to enact deepwater royalty relief. By doing so, it in effect preserved the authority of the Secretary to apply the royalty relief volumes to fields rather than individual leases. This comports with what we believe is the best and most reasonable interpretation of the statutory language.

Based on our careful consideration of the Act, and its history, the Secretary has settled upon this regulation. It provides for a suspension of royalty payments for any one lease or several leases in a field that finds and produces first the royalty-exempt volume of oil equivalent from a new field. Thus, one lease may receive the whole suspension volume or several leases may share it depending on which lease(s) first produces the volume from the field.

IV. What the Interim Rule Provides

For the purposes of this rule, an "eligible" lease is a lease that results from a sale held after November 28, 1995; is located in the Gulf of Mexico in water depths 200 meters or deeper; lies wholly west of 87 degrees, 30 minutes west longitude; and is offered subject to a royalty suspension volume authorized by statute. We will add this definition to 30 CFR 260.102.

The rule implementing section 304 of the Act will be in 30 CFR 260.110. As explained above, under § 206.110(d)(1), we will allow only one royalty suspension volume per new field (i.e., a field not producing prior to November 28, 1995). That suspension volume is available to the eligible leases in a new field based on which lease or leases first produce the oil or gas until the suspension volume is reached.

As an example, for eligible leases in a new field in 850 meters of water, no royalties will be due from the first 87.5 mmboe of production from all eligible leases producing from that field. [For the purpose of this preamble, the Act's minimum royalty suspension volumes for each water depth are assumed to apply although, for any particular lease sale, we could increase the volume specified in the Act.] That production could come from only one eligible lease, several eligible leases, or all eligible leases in the field. In any event, only a total of 87.5 mmboe will be allowed royalty free for that new field. Under this rule, any lease-use production that otherwise is not subject to royalty does not count toward the royalty suspension volume.

Under § 206.110(d)(2), in each Final Notice of Sale, we will specify the water depth of each tract offered for lease that is in at least 200 meters of water. Once the lease is issued, our determination of water depth is final. This rule applies even if the lease could be shown actually to be in deeper water. We will not change the depth determination and the applicable royalty suspension volume since one factor we consider in determining the adequacy of the bonus bid is the water depth specific royalty suspension volume that could apply to the lease. As a result, the interim rule provides that the depth classification by MMS is final and unappealable upon bid acceptance, lease issuance, and lease acceptance by the high bidder for a tract. To allow otherwise significantly alters the nature of the property right offered at the lease sale, renders the lease auction and bid adequacy process unreliable, and unfairly conveys an excessive benefit to the successful bidder (or to the Federal Government if the water depth later were determined to be shallower). It also would encourage endless administrative and judicial litigation and appeals over varying measurements of water depths. The Final Notice of Sale will also specify the royalty suspension volumes for each of the prescribed water depths, subject to the minimums stated in the Act.

Since all eligible leases in a field could share the royalty suspension volume, each eligible lease must be assigned to a new or existing field by the time production from that lease begins. In accordance with our practice for over 20 years, we will assign a lease to a field when a well on a lease qualifies as capable of producing in paying quantities under the regulations at 30 CFR 250.11. If a well does not qualify under the rule, we will assign the lease to a field when hydrocarbons are first produced from the lease or the lease is allocated production under an approved unit agreement.

We will either assign the lease to an existing field or designate a new field. This interim rule includes the definition of field for this purpose in 30 CFR 260.102. The definition is based on geology. We issue the *OCS Operations Field Names Master List* each quarter, with monthly updates, which lists all the tracts in each field on the OCS.

Fields in deep water may consist of one or more leases, including leases issued before and after November 28, 1995, and leases in different water depths. Therefore, we must specify how to determine the royalty suspension volume in many different circumstances. The simplest factual case would be where a single eligible lease produces a new field. The lessee would receive the entire royalty suspension volume if that lease produces it. (See § 206.110(d)(5).)

However, other cases will arise. Accordingly, in determining individual lease eligibility for, and the volume of, royalty suspensions, this is how the rule applies:

1. Under § 206.110(d)(2), the Final Notice of Sale will specify the royalty suspension volume for new fields in each of the specified water depth ranges. Under § 206.110(d)(3), at the time of first production (not including test production) from an eligible lease in a field, we will determine the royalty suspension volume available to eligible lease(s) in that field based on the volumes specified in the Final Notice of Sale.

2. If a new field consists of leases in different water depth categories, the royalty suspension volume associated with the deepest eligible lease applies. This is set forth in § 206.110(d)(4).

3. If an eligible lease is designated as part of a field where any current lease produced prior to November 28, 1995, that eligible lease will not receive a royalty suspension volume from that field. Under these circumstances, Congress certainly recognized that it is not necessary to encourage production.

4. If an eligible lease is designated as part of a field where no production from any current lease occurred prior to November 28, 1995, a royalty suspension volume will apply to the eligible lease(s). The royalty suspension volume will equal the volume specified for the relevant water depth in the Final Notice of Sale. In this case, we view the specified royalty suspension volume as the amount Congress determined is needed to make a field economic to produce.

5. If a field did not produce before November 28, 1995, and consists of more than one lease, no royalty is due on the first production from any eligible leases in that field until they have cumulatively produced the royalty suspension volume specified in the Final Notice of Sale. Under § 260.110(d)(6), the suspension volume attributable to each lease depends upon which lease produces it first. For example, if two eligible leases are producing from a new field in 300 meters of water, their royalty suspension would end when production from those leases reaches 17.5 mmboe, the royalty suspension volume for that water depth. If one lease had produced 10.0 mmboe and the second lease had produced 7.5 mmboe, that would determine their respective suspension volumes.

6. The addition of an eligible lease to a field that has an established royalty suspension volume will not change the field's royalty suspension volume, even if the added lease is in deeper water. Under § 260.110(d)(7), the added lease will benefit from the field's royalty suspension only to the extent of its production before cumulative production from all eligible leases in the field equals the field's previously established royalty suspension volume.

7. Under § 260.110(d)(8), if we reassign a well on an eligible lease to another field, the past production from that well will count toward the royalty suspension volume, if any, specified for the new field to which it is assigned. The past production will not be counted toward the suspension volume, if any, for the first field.

8. Section 260.110(d)(9) provides that you may receive the royalty relief only if your entire lease is west of 87 degrees, 30 minutes west longitude. This requirement is expressly provided in the Act. A new field that lies on both sides of this meridian will receive a royalty suspension volume only for those new leases lying west of the meridian and in 200 meters of water or more.

9. The Act provides royalty suspension volumes only to leases in at least 200 meters of water. We will establish the water depth for each lease in the Final Notice of Sale. If a field includes leases in both less than 200 meters and more than 200 meters of water, only those eligible leases in water depths of at least 200 meters may share in the royalty suspension volume.

10. Under § 260.110(d)(10), a lease may obtain more than one royalty suspension volume. If a new field is discovered on an eligible lease that already benefits from the royalty suspension volume for another field, production from that new field receives a separate royalty suspension. For example, assume an eligible lease already receives up to 17.5 mmboe of royalty-free production from a field in 300 meters of water. If another new field is discovered under that lease, the lease may obtain a second royalty suspension of up to 17.5 mmboe on production prescribed for that second field. Your royalty suspension volume for the second field depends upon whether other eligible leases produce in that second field. This second royalty suspension volume may occur even if the same production facilities develop both fields. However, the royalty suspension volumes are specific to the individual fields. Thus, for example, if the lease eventually produces 10 mmboe from wells in one field and 50 mmboe from wells in the other, and there are no other eligible leases in either field, the total royalty-free production will be 27.5 mmboe (i.e., 10 plus 17.5 mmboe).

We understand that other factual situations may arise under this rule. Those situations must be resolved consistent with the principles described above.

V. Additional Examples

The following examples further clarify the situations listed above.

1. If a field consists only of two eligible leases, one in 750 meters of water and one in more than 800 meters, the field will have a royalty suspension volume of 87.5 mmboe. The first 87.5 mmboe produced from either or both leases in the field would be royalty-free.

2. If an eligible lease in 300 meters of water is added to a field consisting of leases issued from a sale held prior to November 28, 1995, and that field begins production after that eligible lease is added, the field's suspension volume would be 17.5 mmboe. The eligible lease may produce up to 17.5 mmboe royalty-free. However, if that lease only produces 10 mmboe over its productive life and no other eligible leases are part of the field, that field will receive only 10 mmboe of relief.

3. If an eligible lease in 600 meters of water is added to a producing field consisting of leases issued from sales held prior to November 28, 1995, and there are no other eligible leases in the field, and that field started continuous production (other than test production) after November 28, 1995, the lease could receive 52.5 mmboe of royalty suspension regardless of the previous production. However, if the new lease only produces 10 mmboe over its productive life and no other eligible lease is added to the field, that field will receive only 10 mmboe of relief under this provision.

4. If an eligible lease in 850 meters of water is added to a field that already has an established royalty suspension volume from other eligible leases in the field in shallower water, the field's royalty suspension volume will not change. For example, if production from the field already amounts to 30 mmboe of its 52.5 mmboe royalty suspension volume when the additional lease

begins production, that lease may share in the field's remaining 22.5 mmboe of royalty-free production to the extent that it first produces some portion of the remaining 22.5 mmboe. This example also shows that even though the added lease was in deeper water, it does not increase the royalty suspension volume already established for that field by a shallower lease.

VI. Technical Issues Related to Royalty Suspension Volumes

For purposes of accounting for production accruing to the royalty suspension volume, 5.62 thousand cubic feet of natural gas equal one barrel of oil equivalent, as measured at 15.025 pounds per square inch (psi) pressure, 60 degrees Fahrenheit, and fully saturated (§ 260.110(d)(11)). This is the conversion factor which has been used traditionally in the Gulf of Mexico.

A royalty suspension will continue until the end of the month in which the cumulative production from eligible leases in the field reaches the royalty suspension volume for the field.

When a field is not being jointly developed, lessees may not know when the field has produced all of its royalty suspension volume. We will provide monthly field production data to all lessees in a field. However, this data may not become available until shortly after a field's production exceeds the royalty suspension volume. In such cases, royalties still will be due on the last day of the second month following the month in which cumulative production from the field reaches the royalty suspension volume. Any royalties paid late will be subject to interest pursuant to 30 CFR 218.54.

Nothing in this interim rule affects the eligibility of a lessee to apply for royalty relief under the other provisions of the Act or under existing regulatory authority. Lessees of leases issued as the result of a lease sale held before November 28, 1995, whether or not they are part of a field that produced prior to that date, may apply for a royalty suspension volume under section 302 of the Act. Content, supporting documentation, and procedures for submission and review of such applications will be addressed in the comprehensive rulemaking mentioned above. Further, any OCS lessee may apply for a reduction or elimination of its lease royalty rate or net profit share under section 8(a)(3) of the OCSLA (as amended by the Act with respect to leases in parts of the Gulf of Mexico).

VII. Administrative Matters

Executive Order (E.O.) 12866

The interim rule is significant due to novel policy issues arising out of legal mandates, and the Office of Management and Budget (OMB) has reviewed this rule. A copy of this determination is available from MMS.

Offering tracts subject to royalty suspension volumes should result in accelerated investment on the OCS. In deep water, exploration wells can cost more than $30 million, and field development can cost as much as $1 billion. However, the best assumption is that most of this investment would eventually occur under any royalty terms; the royalty suspension tends to make this activity occur earlier.

We analyzed two alternatives for implementing section 304 of the Act. The approach in this interim rule (MMS approach) is where there is a single suspension volume for each field at the volumes designated in the legislation. The alternative approach is where the full royalty suspension volume applies to each lease.

For scheduled 1996 lease sales in the deep-water Gulf of Mexico, the alternative approach results in more resources being leased (905 mmboe versus 680 mmboe) and higher bonuses ($261 million versus $113 million) than the MMS approach. However, the MMS approach generates higher royalty payments over the productive life of the lease ($352 million versus $40 million) than the alternative approach. On a net present value basis, the MMS approach also collects more revenue for the Treasury ($284 million versus $277 million). On the basis of revenues-per-boe, the MMS approach generates more than twice the nominal revenues and 35 percent more revenues-per-boe in net present value than the alternative approach.

We chose the approach embodied in this interim rule because:

- The Act's primary author stated that he intended the Act to encourage production from new fields without providing too much relief,
- The MMS approach provides a substantial incentive for new investment and production in deep water while still ensuring a reasonable return to the Treasury, and
- The minimum suspension volumes specified in the Act were derived from an analysis of fields, not individual leases.

Regulatory Flexibility Act

The Department of the Interior (DOI) has determined that this interim rule will not have a significant effect on a substantial number of small entities. In general, the entities that engage in offshore activities in the deep waters of the Gulf of Mexico are not considered small due to the technical and financial resources and experience necessary to safely conduct such activities.

Administrative Procedure Act

We have determined, in accordance with 5 U.S.C. 553(b)(3)(B) of the Administrative Procedure Act, that a notice of proposed rulemaking is not required and is impracticable in the issuance of this rule. The comment period associated with a proposed rulemaking would require that we delay the upcoming lease sale in the Central Gulf of Mexico for a significant period. The public interest is best served by collecting the sale revenues for the Treasury in a timely manner and avoiding direct detrimental effects on the offshore industry's investment plans. We invite comments on this interim rule so changes can be made in the future, if warranted.

Paperwork Reduction Act

The rule contains no new reporting and recordkeeping requirements.

Takings Implication Assessment

The DOI certifies that this rule does not represent a governmental action capable of interference with constitutionally protected property rights. A Takings Implication Assessment prepared pursuant to E.O. 12630, Government Action and Interference with Constitutionally Protected Property Rights, is not required.

E.O. 12988

The DOI has certified to the OMB that this regulation meets the applicable standards provided in section 3(b)(2) of E.O. 12988.

National Environmental Policy Act

The MMS has examined the interim rulemaking and have determined that this rule does not constitute a major Federal action significantly affecting the quality of the human environment pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

List of Subjects in 30 CFR Part 260

Continental shelf, Government contracts, Minerals royalties, Oil and gas exploration, Public lands—mineral resources.

Dated: March 13, 1996.

Bob Armstrong,

Assistant Secretary, Land and Minerals Management.

For the reasons set forth in the preamble, the Minerals Management Service amends 30 CFR part 260, Subpart B—Bidding Systems, as follows:

PART 260—[AMENDED]

1. The authority citation for part 260 continues to read as follows:

Authority: 43 U.S.C. 1331 and 1337.

2. Section 260.102 is amended by adding in alphabetical order the definitions for "Eligible Lease" and "Field" which read as follows:

§ 260.102 Definitions.

* * * * *

Eligible lease means a lease that results from a sale held after November 28, 1995; is located in the Gulf of Mexico in water depths 200 meters or deeper; lies wholly west of 87 degrees, 30 minutes west longitude; and is offered subject to a royalty suspension volume authorized by statute.

Field means an area consisting of a single reservoir or multiple reservoirs all grouped on, or related to, the same general geological structural feature and/or stratigraphic trapping condition. There may be two or more reservoirs in a field that are separated vertically by intervening impervious strata, or laterally by local geologic barriers, or by both.

* * * * *

3. In § 260.110, paragraph (d) is added to read as follows:

§ 260.110 Bidding systems.

* * * * *

(d) This paragraph explains how the royalty suspension volumes in section 304 of the Outer Continental Shelf Deep Water Royalty Relief Act, Pub. L. 104–58, apply to eligible leases. For purposes of this paragraph, any volumes of production that are not royalty bearing under the lease or the regulations in this chapter do not count against royalty suspension volumes. Also, for the purposes of this paragraph, production includes volumes allocated to a lease under an approved unit agreement.

(1) Your eligible lease may receive a royalty suspension volume only if your lease is in a field where no current lease produced oil or gas (other than test production) before November 28, 1995. Paragraph (d) of this section applies only to eligible leases in fields meeting this condition.

(2) The Final Notice of Sale will specify the water depth for each eligible lease. Our determination of water depth for each lease is final once we issue the lease. The Notice also will specify the royalty suspension volume applicable to each water depth. The minimum royalty suspension volumes for fields are:

(i) 17.5 mmboe in 200 to 400 meters of water;

(ii) 52.5 mmboe in 400 to 800 meters of water; and

(iii) 87.5 mmboe in more than 800 meters of water.

(3) When production (other than test production) first occurs from any of the eligible leases in a field, we will determine what royalty suspension volume applies to the eligible lease(s) in that field. The determination is based on the royalty suspension volumes specified in paragraph (d)(2) of this section.

(4) If a new field consists of eligible leases in different water depth categories, the royalty suspension volume associated with the deepest eligible lease applies.

(5) If your eligible lease is the only eligible lease in a field, you do not owe royalty on the production from your lease up to the applicable royalty suspension volume.

(6) If a field consists of more than one eligible lease, payment of royalties on the eligible leases' initial production is suspended until their cumulative production equals the field's established royalty suspension volume. The royalty suspension volume for each eligible lease is equal to each lease's actual production (or production allocated under an approved unit agreement) until the field's established royalty suspension volume is reached.

(7) If an eligible lease is added to a field that has an established royalty suspension volume, the field's royalty suspension volume will not change even if the added lease is in deeper water. The additional lease may receive a royalty suspension volume only to the extent of its production before the cumulative production from all eligible leases in the field equals the field's previously established royalty suspension volume.

(8) If we reassign a well on an eligible lease to another field, the past production from that well will count toward the royalty suspension volume, if any, specified for the new field to which it is assigned. The past production will not be counted toward the suspension volume, if any, from the first field.

(9) You may receive a royalty suspension volume only if your entire lease is west of 87 degrees, 30 minutes west longitude. A field that lies on both sides of this meridian will receive a royalty suspension volume only for those eligible leases lying entirely west of the meridian.

(10) Your lease may obtain more than one royalty suspension volume. If a new field is discovered on your eligible lease that already benefits from the royalty suspension volume for another field, production from that new field receives a separate royalty suspension.

(11) You must measure natural gas production subject to the royalty suspension volume as follows: 5.62 thousand cubic feet of natural gas equals one barrel of oil equivalent, as measured at 15.025 psi, 60 degrees Fahrenheit, and fully saturated.

[FR Doc. 96–7038 Filed 3–22–96; 8:45 am]

BILLING CODE 4310–MR–P

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 920

[MD–039–FOR]

Maryland Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving a proposed amendment to the Maryland regulatory program (hereinafter referred to as the "Maryland program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Maryland proposed revisions and additions to rules and statutes pertaining to remined areas. The amendment is intended to revise the Maryland program to be consistent with the corresponding Federal regulations and SMCRA.

EFFECTIVE DATE: March 25, 1996.

FOR FURTHER INFORMATION CONTACT: George Rieger, Program Manager, OSM, Appalachian Regional Coordinating Center, 3 Parkway Center, Pittsburgh, PA 15220. Telephone: (412) 937–2849.

SUPPLEMENTARY INFORMATION:

I. Background on the Maryland Program
II. Submission of the Proposed Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background on the Maryland Program

On December 1, 1980, the Secretary of the Interior conditionally approved the Maryland program. Background information on the Maryland program, including the Secretary's findings, the

disposition of comments, and the conditions of approval can be found in the December 1, 1980, **Federal Register** (45 FR 79449). Subsequent actions concerning conditions of approval and program amendments can be found at 30 CFR 920.12, 920.15, and 920.16.

II. Submission of the Proposed Amendment

By letter dated October 26, 1995 (Administrative Record No. MD–573.00), Maryland submitted a proposed amendment to its program pursuant to SMCRA at its own initiative. Maryland proposed to revise the remining provisions of the Annotated Code of Maryland (Code) at sections 7–501, 7–505, and 7–511 and add to the Code of Maryland Regulations (COMAR) at section 08.20.14.14. In response to two communications by OSM, by letters dated January 31, 1996 and February 16, 1996 (Administrative Record No. MD–573.05), Maryland clarified certain provisions of the proposed amendment. Because the information was explanatory in nature and did not constitute a major revision of the original submission, OSM did not reopen the comment period.

OSM announced receipt of the proposed amendment in the November 27, 1995, **Federal Register** (60 FR 58319), and in the same document opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on December 27, 1995.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment. Revisions not specifically discussed below concern nonsubstantive wording changes and paragraph notations to reflect organizational changes resulting from this amendment.

Annotated Code of Maryland—Chapter 0469—Lands Eligible for Remining

At sections 7–501(m) and (w), Maryland proposes to delete the terms "net project construction cost" and "project construction cost." There are no Federal counterparts to these terms, nor are they used in the Maryland Code for anything related to the Maryland program. Therefore, the Director finds that the proposed deletions at sections (m) and (w) do not render the Maryland program less effective than the Federal regulations. At section 7–501(m), Maryland proposes to add the term "lands eligible for remining" and define it as any land that would otherwise be eligible for expenditures under subtitle 9. Subtitle 9 of the Maryland statute is the State's counterpart to Title IV of SMCRA. The Director finds that the proposed definition at section (m) is substantively identical to and therefore no less stringent than the Federal definition at section 701(34) of SMCRA.

At section 7–505(i)(2), Maryland proposes to prohibit the issuance of a permit on slopes of 20 degrees or more from the horizontal. Certain measurement requirements are specified. A permit may be issued for lands eligible for remining when, in the opinion of the Land Reclamation Committee, the land could be restored to its original contour. OSM conducted a technical review of the proposed revision on February 8, 1996 (Administrative Record No. MD–573.06), and concluded that Maryland's proposal is feasible and technically acceptable. Maryland has stated in its January 31, 1996, letter that it will allow this mining when the remining will result in the reclamation that is in compliance with present requirements. Since the area must be reclaimed in accordance with the Maryland regulatory program, the Director finds that the proposed revision is not inconsistent with the requirements of SMCRA and the Federal regulations.

At section 7–511(b)(2), Maryland proposes to revise subsection (I) to reference the requirements of subsections (II) and (III) and to add new subsections (II) and (III). Subsection (II) requires that on land eligible for remining, the period of operator responsibility is 2 full years after the approval of the backfilling and planting report. The authority expiration dates are specified as September 30, 2004 or on any later date authorized under SMCRA. Section 515(b)(2)(B) of SMCRA requires that on lands eligible for remining, the operator must assume responsibility for successful revegetation for a period of 2 full years after the last year of augmented seeding, fertilizing, irrigation or other work to comply with applicable standards. Maryland's backfilling and planting report is filed after the backfilling, regarding and seeding is completed. Pursuant to COMAR 08.20.29.06, bond release may occur no sooner than two years after the last augmented seeding. Therefore, the Director finds that the proposed revisions at subsections (I) and (II) are no less stringent than the revegetation provisions of section 515(b)(2)(B) of SMCRA and the termination of authority provisions of section 510(e). Subsection (III) requires that for any reported area other than land eligible for remining, the period of operator responsibility is 5 full years after the approval of the report. The Director finds that the proposed revisions at subsection III are no less stringent than the provisions of section 515(b)(20)(A) of SMCRA.

COMAR 08.20.14.14—Release of Bonds on Remining Areas

Maryland proposes to add new section 08.20.14.14. At section (A), Maryland requires that the criteria and procedures of this chapter apply to the release of bonds for remining areas, except as modified. At section (B), Maryland specifies that the portion of the bond submitted in accordance with section .03C may be released upon completion of all Reclamation Phase I work on the remining areas. Phase I work, as defined in COMAR 08.20.14.08, is achieved when the permittee completes the following conditions: backfilling, regarding, topsoil replacement, seeding, mulching, and draining control in accordance with the reclamation plan. These conditions include the requirements of 30 CFR 800.40(c)(1), which is the Federal regulatory subsection on Phases I bond release. Since section (B) requires the completion of Phases I work before bond release, section (B) is consistent with 30 CFR 800.40(c)(1). At section (C), Maryland specifies that the portion of the bond submitted in accordance with section .03D may be released if the permittee demonstrates and Maryland finds that (1) the permittee has met certain revegetation standards and the requirements of the Maryland regulatory program, (2) with respect to prime farmlands, soil productivity has been returned to the required level of yield, (3) the Maryland Department of the Environment has released the permittee from NPDES Coal Remining Permit obligations in accordance with COMAR 26.08.03F, (4) all temporary draining control structures not authorized to remain on the remining area have been removed and the affected area has been regarded, seeded, and mulched, (5) all permanent drainage control structures have been inspected and any deficiencies repaired by the operator, (6) the provisions of an approved plan for the sound future management of any permanent impoundment for the permittee or landowner have been satisfactorily implemented, and (7) the applicable liability period for remining areas has been met. Section 08.20.14.14 continues to include criteria and procedures of Chapter 08.20.14 unless modified by COMAR 08.20.14.14. In response to a question, Maryland clarified that COMAR section

08.20.14.08 (E) (2) and (3), applies to these areas. COMAR 08.20.14.08 (E) (2) and (3) require the completion of Phase II and Phase III work before bond release. This is consistent with 7–511(b)(5) of the Maryland Code which requires that no bond shall be fully released until all the reclamation requirements are fully met.

Phase II work, as defined in COMAR 08.20.14.08, is achieved when the permittee completes the following conditions: revegetation is established in accordance with the approved plan, lands are not contributing suspended solids in excess of program requirements, soil productivity is returned to required level of yield with respect to prime farmlands, permanent impoundment management provisions are implemented, and designated temporary drainage control structures are removed and permanent structures inspected. Phase III work, as defined in COMAR 08.20.14.08, is achieved when the permittee completes mining and reclamation operations in accordance with the approved plan and achieves compliance with the requirements of the regulatory program, the permit, and the liability period has expired. These conditions include the requirements of 30 CFR 800.40(c) (2) and (3), which are the Federal regulatory subsections on Phase II and III bond release. Since section (c), read in conjunction with COMAR 08.20.14.08, requires the completion of Phase II and III work before bond release, the Director finds that section (C) is consistent with 30 CFR 800.40(c) (2) and (3). At section (D), Maryland requires that it will retain sufficient bond on any area disturbed to remove temporary drainage control structures until certain requirements at C(1), C(5), and C(6) have been met. In its letter dated January 31, 1996, Maryland stated that a typographical error was made in the original submission and that the correct references should be C(1), C(2), and C(7). There is no direct Federal counterpart to Section D. Section D is an additional prerequisite to 7–511(b)(5) of the Maryland Code which requires that no bond shall be fully released until all the reclamation requirements are fully met. Therefore, the Director finds section D is not inconsistent with the requirements of SMCRA and the Federal regulations.

IV. Summary and Disposition of Comments

Public Comments

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. By letter dated November 22, 1995, the Maryland Historical Trust concurred without objection or comment. Because no one requested an opportunity to speak at a public hearing, no hearing was held.

Federal Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), the Director solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Maryland program. None were received.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*).

On November 1, 1995, OSM solicited EPA's concurrence with the proposed amendment (Administrative Record No. MD–573.01). On December 5, 1995, EPA gave its written concurrence (Administrative Record No. MD–573.04).

The Federal regulations at 30 CFR Part 920, codifying decisions concerning the Maryland program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of this section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

List of Subjects in 30 CFR 920

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 13, 1996.

Tim L. Dieringer,

Acting Regional Director, Appalachian Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 920—MARYLAND

1. The authority citation for Part 920 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 920.15 is amended by adding paragraph (cc) to read as follows:

§ 920.15 Approval of regulatory program amendments.

* * * * *

(cc) The following rules and statutes, as submitted to OSM on October 26, 1995, and supplemented with explanatory information on January 31, 1996 and February 16, 1996 are approved effective March 25, 1996:

Rule or statute No.	Topic
Annotated Code of Maryland:	
Section 7–501(m), (w).	Definitions.
Section 7–505(i)(2)	Permitting.
Section 7–511(b)(2)(I), (II), (III).	Revegation.
COMAR 08.20.14.14.	Release of Bonds on Remining Areas.

[FR Doc. 96–7059 Filed 3–22–96; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL18–8; FRL–5445–5]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule; withdrawal.

SUMMARY: On January 26, 1996 (61 FR 2423), the United States Environmental Protection Agency (USEPA) approved Illinois' October 21, 1993 and March 4, 1994, requests to incorporate rules to control volatile organic compounds in the Chicago Ozone nonattainment area and thereby complete the replacement of the federally promulgated Chicago Ozone Federal Implementation Plan with federally approved State adopted rules as a part of the Illinois State Implementation Plan (SIP). The USEPA is withdrawing this final rule due to the adverse comments received on these actions. In a subsequent final rule USEPA will summarize and respond to the comments received and announce final rulemaking action on this requested Illinois SIP revision.

EFFECTIVE DATE: March 25, 1996.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 5, Air Programs Branch, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Telephone: (312) 886–6036.

SUPPLEMENTARY INFORMATION:

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Ozone, Volatile organic compounds.

Dated: March 13, 1996.

David A. Ullrich,

Acting Regional Administrator.

[FR Doc. 96–7064 Filed 3–22–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[MI48–01–7251; FRL–5445–3]

State Implementation Plan for Michigan: Withdrawal of Direct Final Action

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: On February 2, 1996, the USEPA published a proposed rule (61 FR 3891) and a direct final rule (61 FR 3815) approving State Implementation Plan (SIP) revision for the State of Michigan which was submitted pursuant to the USEPA general conformity rules set forth at 40 ozone maintenance part 51, subpart W—Determining Conformity of General Federal Actions to State or Federal Implementation Plans. The EPA is withdrawing the final rule due to adverse comments and will summarize and address all public comments received in a subsequent final rule (based upon the proposed rule cited above).

EFFECTIVE DATE: This withdrawal of the direct final rule will be effective March 25, 1996.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

FOR FURTHER INFORMATION CONTACT: Michael G. Leslie, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604. Telephone: (312) 353–6680.

SUPPLEMENTARY INFORMATION:

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, General conformity, Hydrocarbons, Intergovernmental relations, Oxides of Nitrogen, Ozone, Particulate matter, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: March 14, 1996.

David A. Ullrich,

Acting Regional Administrator.

[FR Doc. 96–7065 Filed 3–22–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 80

[AMS–FRL–5444–7]

RIN 2060–AG17

Regulation of Fuels and Fuel Additives: Revision to the Oxygen Maximum Standard for Reformulated Gasoline

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA or the Agency) today revises the regulations for reformulated gasoline in two ways. These changes only apply to reformulated gasoline certified using the Simple Model, which applies until January 1, 1998. First, the maximum allowed level of oxygen in reformulated gasoline is set at 3.2 percent by weight ("wt%"), where a state notifies the Administrator that a limit is needed for various air quality concerns. Second, absent such a state notification, the maximum limit on oxygen content for reformulated gasoline certified using the Simple Model would be that set by the valid range limits of the Simple Model. In addition, the provisions of section 211(f) of the Clean Air Act ("CAA" or "the Act") continue to apply to reformulated as well as other gasolines. These provisions independently set a maximum oxygen content for motor vehicle gasoline.

EFFECTIVE DATE: This rule will be effective on March 18, 1996.

ADDRESSES: Materials relevant to this FRM are contained in Public Docket No. A–95–29. Materials relevant to the reformulated gasoline final rule are contained in Public Dockets A–91–02 and A–92–12. Public Docket A–93–49 contains materials relevant to the renewable oxygenate requirement for reformulated gasoline; some of these materials may also be relevant to today's action. These dockets are located at Room M–1500, Waterside Mall (ground floor), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. The docket may be inspected from 8:00 a.m. until 5:00 p.m. Monday through Friday. A reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Christine M. Brunner, U.S. EPA, Fuels and Energy Division, 2565 Plymouth Road, Ann Arbor, MI 48105. Telephone: (313) 668–4287. To request copies of this document, contact Delores Frank, U.S. EPA, Fuels and Energy Division, 2565 Plymouth Road, Ann Arbor, MI 48105. Telephone: (313) 668–4295.

SUPPLEMENTARY INFORMATION:

I. Electronic Copies of Rulemaking Documents Through the Technology Transfer Network Bulletin Board System (TTNBBS)

A copy of this notice is also available electronically on the EPA's Office of Air Quality Planning and Standards (OAQPS) Technology Transfer Network Bulletin Board System (TTNBBS). The service is free of charge, except for the cost of the phone call. The TTNBBS can be accessed with a dial-in phone line and a high-speed modem per the following information:

TTN BBS: 919–541–5742
(1200–14400 bps, no parity, 8 data bits, 1 stop bit)
Voice Help-line: 919–541–5384
Accessible via Internet: TELNET ttnbbs.rtpnc.epa.gov
Off-line: Mondays from 8:00 AM to 12:00 Noon ET

A user who has not called TTN previously will first be required to answer some basic informational questions for registration purposes. After completing the registration process, proceed through the following menu choices from the Top Menu to access information on this rulemaking.

<T> GATEWAY TO TTN TECHNICAL AREAS (Bulletin Boards)
<M> OMS—Mobile Sources Information
<K> Rulemaking and Reporting
<3> Fuels
<9> File Area #9 * * * Reformulated gasoline

At this point, the system will list all available files in the chosen category in reverse chronological order with brief descriptions. These files are compressed (i.e., ZIPed). Today's notice can be identified by the following title: OXCPFRM.ZIP. To download this file, type the instructions below and transfer according to the appropriate software on your computer:

<D>ownload, <P>rotocol, <E>xamine, <N>ew, <L>ist, or <H>elp Selection or <CR> to exit: D filename.zip

You will be given a list of transfer protocols from which you must choose one that matches with the terminal software on your own computer. The software should then be opened and directed to receive the file using the same protocol. Programs and instructions for de-archiving compressed files can be found via <S>ystems Utilities from the top menu, under <A>rchivers/de-archivers. After getting the files you want onto your computer, you can quit the TTNBBS with the <G>oodbye command. Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc., may occur.

II. Introduction

A. Background

As stated in the proposal (NPRM) to this rule (60 FR 52135, October 5, 1995), 40 CFR 80.41 contains the standards for certification under the reformulated gasoline program. Paragraph (g) of section 80.41 specified that reformulated gasoline designated as VOC-controlled (i.e. for sale during the summertime ozone season) must have no more than 2.7 wt% oxygen per gallon. The regulations further specified that if a state notifies the Administrator that it wishes to have the oxygen standard increased for VOC-controlled reformulated gasoline, a higher cap of 3.5 wt% would be approved by the Administrator, provided that there have been no occasions within the three preceding years when the ozone ambient air quality standard was exceeded within any covered area within the state. The requirements of this paragraph (g) apply to reformulated gasoline certified under the Simple Model, which is applicable until January 1, 1998.

In reexamining this reformulated gasoline provision, EPA determined that the maximum oxygen content for VOC-controlled reformulated gasoline generally was an unnecessary regulatory burden on gasoline and oxygenate producers, and that the requirements for a state to choose a higher oxygen level were also too rigid.

Therefore, EPA proposed to raise the maximum oxygen content of VOC-controlled reformulated gasoline to a higher oxygen level than was allowed by the regulation. Additionally, EPA proposed that upon request of the Governor to the Administrator, the maximum oxygen content of reformulated gasoline sold in that state would be capped at a lower level on the basis of air quality concerns. These two changes would make the maximum oxygen content provisions for VOC-controlled reformulated gasoline similar to those for non-VOC-controlled reformulated gasoline.

Today's action promulgates the provisions contained in the NPRM, with the exception that the references to the maximum oxygen content allowed under section 211(f) of the Act are deleted as unnecessary. This deletion does not change the substantive effect of the regulation. The maximum oxygen content allowed under section 211(f) continues to apply to reformulated gasoline and does not need to be referenced in this regulatory provision. There are a number of benefits to be gained by these changes to the regulation. These benefits include the potential for reduced burden on the states and industry, reduced cost of compliance with the reformulated gasoline requirements, and reduced costs to consumers. Discussion of the changes promulgated today, comments received on the proposal, and EPA's responses to these comments are presented below.

B. Final Rule

The maximum cap on oxygen content is deleted from section 80.41(g), so that the maximum amount of oxygen allowed in reformulated as well as other gasolines would be that allowed under section 211(f) of the Act subject to the limits of the valid range for use of the Simple Model.[1] There is an exception to this general rule. Where a state notifies the Administrator that the use of an oxygenate will interfere with attainment or maintenance of an ambient air quality standard or will contribute to an air quality problem, then the maximum amount of oxygen shall not exceed 3.2 wt% oxygen from ethanol.[2] The state

[1] The maximum amount allowed under section 211(f) of the Act is the amount that is substantially similar to gasoline used in the motor vehicle certification process, or allowed under a waiver granted under section 211(f)(4). In 1991, EPA issued an interpretive rule increasing the maximum amount of oxygen that EPA believes is allowed under the substantially similar criteria of section 211(f)—from 2.0 to 2.7 wt% oxygen. See 56 FR 5352 (February 11, 1991). In addition, the valid range of the Simple Model sets a maximum of 4.0 wt% oxygen. See 40 CFR 80.42(c).

[2] The maximum content is phrased as a limit on the amount of oxygen from ethanol because that is the only oxygenate that currently may be blended

Continued

may request this maximum for either VOC-controlled or non-VOC-controlled reformulated gasoline.

This is in effect the same revision that EPA proposed. It revises the current regulation in the following ways: (1) It treats VOC-controlled and non-VOC-controlled reformulated gasoline the same, under the Simple Model, as far as the maximum oxygen standard, (2) it deletes the oxygen cap in the regulation except where a state notifies EPA of air quality problems, (3) it revises the criteria for imposing an oxygen cap on request from a state, and (4) it changes the oxygen cap to 3.2 wt% oxygen from ethanol where a state requests a cap.

III. Summary of and Response to Comments

A. General

EPA received over 50 comments on this proposal. Over half of the comments were from individual citizens supporting the proposal and thanking EPA and the Administration for their continued efforts to enhance ethanol's usage in the reformulated gasoline program. EPA agrees that the use of ethanol in reformulated gasoline is an important issue of public policy. From the remaining comments, the substantive remarks applicable to this rulemaking are addressed here. Several commenters also remarked on issues not related to this rulemaking, for example, suggestions for other rules and other aspects of the reformulated gasoline program they would like modified. These remarks are not addressed here.

Several commenters that supported the rule indicated that EPA had not addressed many of the benefits of higher oxygenate and/or specifically ethanol use, such as reducing U.S. dependence on imported oil; stabilizing greenhouse gas emissions; benefits if the oxygenate is from a renewable feedstock; benefits to the rural economy; and development of alternative energy sources.

EPA had proposed that today's rule would be effective 60 days after publication in the **Federal Register**. However, commenters suggested making the rule effective immediately since VOC-controlled reformulated gasoline can be certified/used anytime prior to the beginning of the ozone season and a delay in the effective date would disrupt marketing plans and perpetuate the burden which EPA was attempting to reduce. EPA agrees with the commenter and thus is making today's action effective immediately upon signature of the Administrator.

lawfully above approximately 2.7 wt% oxygen, under section 211(f) of the Act.

B. Reformulated Gasoline Regulatory Negotiation

In developing the reformulated gasoline rulemaking, EPA participated in a regulatory negotiation (RegNeg) with interested parties. The result of this process was an agreement in principle (AIP) which contained an outline of the proposed reformulated gasoline rules. As a signatory to the AIP, EPA agreed to draft proposed rules consistent with the AIP outline and to give serious consideration to the outline in developing the final rule.

The AIP states that reformulated gasoline under the Simple Model would be deemed to result in no increase in NO_X emissions if it contained no more than 2.1 wt% oxygen or 2.7 wt% oxygen solely from MTBE. The AIP also states that other oxygenates may be approved at 2.7 wt% if no adverse NO_X impacts can be shown. As discussed in the NPRM, in the February 26, 1993 proposal (58 FR 11722) EPA proposed to allow all oxygenates to be used up to a 2.7 wt% oxygen contribution. At that point, EPA believed that increasing oxygen content to 3.5 wt% might increase NO_X emissions, so it limited use of the higher oxygen content to those states which requested a higher oxygen content and could provide supportive test data. In the December 1993 final rule (59 FR 7716, February 16, 1994), EPA maintained the 2.7 wt% cap, but allowed a state to request a higher cap of 3.5 wt% if it had had no ozone exceedances for the previous three years.

Only a few commenters addressed this issue. One commenter stated that during RegNeg, 2.7 wt% oxygen was deemed to not increase NO_X emissions. The commenter stated that that conclusion was subject to reassessment, and thus it was appropriate to consider modifying that portion of the rule at this time. Two other commenters, however, stated that the proposal was a breach of RegNeg which specifically limited the maximum summertime oxygen content. One commenter indicated they could only support this change if all RegNeg participants approved.

EPA does not believe that today's rulemaking to increase the maximum oxygen content of summertime reformulated gasoline is a breach of the RegNeg agreement. EPA did follow the AIP by drafting proposed rules consistent with the AIP outline and seriously considering the outline when developing the final reformulated gasoline rule. In fact, the 2.7 wt% summertime oxygen cap was part of that rule. In any case, EPA's regulatory actions at this time, several years after the AIP, must be based on a current exercise of discretion, taking into account present facts and circumstances. For example, EPA's Complex Model, one of the models used to certify reformulated gasoline, shows no increase in NO_X emissions with increased fuel oxygen content. Second, EPA believes that other factors (such as increasing base gasoline levels for sulfur and other fuel parameters in anticipation of lower levels in the final gasoline blend due to dilution when oxygenate is added) will not occur and thus will not increase NO_X emissions when higher oxygen contents are allowed. Additionally, today's rule simply modifies the final reformulated gasoline rule which contained provisions (which were not part of the AIP) allowing the higher oxygen content under certain circumstances.

C. Substantially Similar

Today's rule allows all oxygenates to be used in summertime reformulated gasoline (which is certified under the Simple Model) up to the limits in oxygen and/or oxygenate content specified for that oxygenate or combination of oxygenates under the substantially similar requirements of section 211(f) of the Act, or up to the limits which have been granted a waiver under that section, subject to the valid range limits of the Simple Model. Realistically, because of compliance requirements and oxygenate/gasoline economics, EPA expects only a few oxygenates to be used in reformulated gasoline.

A few commenters expressed concern that raising the maximum oxygen cap for all oxygenates to the highest allowable levels could potentially have negative effects on vehicles. One commenter stated that EPA should consider the American Automobile Manufacturer's Association's (AAMA's) recommended oxygenate limits. AAMA's fuel specifications (which also address other fuel components) are based on automotive requirements for optimum performance and maximum durability. In some cases, as with ethanol, the AAMA limits agree with the limits specified or waivered under section 211(f), but for other oxygenates, like isopropyl alcohol, they do not. Additionally, the commenter stated that under AAMA's fuel specification, use of certain oxygenates, e.g., methanol, at waivered or substantially similar levels is undesirable. Finally, one commenter stated that EPA should clarify specific oxygenate/maximum oxygen content values.

Although EPA understands the intent of the AAMA fuel specification, and the desire to have the most optimum fuel for automotive use, today's rule will not result in a fuel which is significantly different from fuels already in the marketplace or which could be in the marketplace. This rulemaking simply allows summertime reformulated gasoline to have a slightly higher maximum oxygen content, under the Simple Model, than it did last summer. Currently, all conventional gasoline and wintertime reformulated gasoline, with the exception of California gasoline, could contain oxygenates up to those levels specified or waivered under section 211(f). The "substantially similar" or waivered limits of section 211(f) apply to all gasoline in the country, conventional and reformulated gasoline. Additionally, it would not be technically sound, and could result in anti-competitive effects, to allow the "substantially similar" definitions to be valid for one fuel but not for another. For these reasons, EPA is retaining the intent of its proposal language on this aspect, namely that for summertime reformulated gasoline the maximum oxygen content shall be the maximum allowed under the provisions of section 211(f). This includes fuels with oxygen/oxygenate contents deemed "substantially similar" under 211(f) and fuels which contain oxygen/oxygenates at levels which have been waivered under 211(f).

EPA also proposed to increase the maximum oxygen content of non-VOC-controlled reformulated gasoline from the current 3.5 wt% oxygen (which was meant to be akin to 10 vol% ethanol) to the maximum allowed under the section 211(f) "substantially similar" provision and any waivers granted under that section. All comments received on this issue supported this change.

Today's rulemaking does not change the maximum oxygen and/or oxygenate contents allowed for the various oxygenates under the "substantially similar" and waiver provisions, and as a result these provisions are not addressed here.

D. Environmental Impacts

Some comments supported the proposal as having no significant environmental impact. One commenter stated that, assuming that this proposal results primarily in increased ethanol use, ethanol production is both energy-efficient and environmentally sound. Several other commenters opposed the proposal based on expected environmental harm, and questioned EPA's environmental assessment. One commenter stated that it opposes the rule until EPA can demonstrate, with more appropriate analyses, that no detrimental environmental impacts result. These commenters were particularly concerned with increases in NO_X and VOC emissions. Their comments are discussed in more detail below. One commenter questioned the use of models to estimate environmental impact, asserting that it is scientifically dishonest to draw conclusions from a scientific model, since model output is a mathematical reflection of model input. This commenter felt that EPA should draw its conclusions solely from measured data. One commenter said that concerns about water and soil implications of increased corn farming for ethanol production do not reflect the increasing use of sustainable agricultural practices which save money and better protect the environment.

EPA has examined the environmental impacts of modifying the oxygen cap requirements under the Simple Model, and those impacts are expected to be minimal. As will be discussed (section E), EPA stands by its use of the Simple and Complex Models to estimate environmental impact, as they are the basis of the reformulated gasoline program.

1. NO_X Emissions Impacts

As stated in the NPRM, EPA has clearly determined that changing the oxygen content of reformulated gasoline is unlikely to have any negative impact on NO_X emissions, regardless of the type of oxygenate under consideration, for purposes of compliance with the no NO_X increase requirements for reformulated gasoline [3]. In addition, an increase in the maximum oxygen content is not expected to increase NO_X emissions from reformulated gasoline compared to a gasoline with a lesser oxygen content when viewed from the perspective of the entire in-use fleet.

Some commenters disagree with EPA's determination that an increase in the maximum oxygen content would not be expected to increase NO_X emissions. These commenters feel that EPA has not provided adequate justification that environmental detriment will not occur, and that EPA does not adequately justify the expected impact on NO_X emissions. One commenter pointed out that the Auto-Oil research studies show increased NO_X with increased oxygenate use, and even that all data sets show the same or increased NO_X emissions. Theoretically, oxygenated fuels are used to reduce CO by enleaning the air/fuel mixture and should therefore increase NO_X emissions. Further, this commenter pointed to EPA's 1989 Guidance, and other Agency studies, which conclude that ethanol blends increase NO_X.

The MOBILE model is EPA's best model available for predicting emissions from the in-use fleet because it accounts for the current in-use technology distribution as well as the mix of normal and high-emitting vehicles, i.e., vehicles of different ages. EPA believes that accounting for both normal-emitters and high-emitters is crucial in the estimation of in-use emissions. The current MOBILE model shows no increase in NO_X emissions with increased fuel oxygen content.

EPA recognizes that much of the currently available data suggests that increases in oxygen content will increase NO_X emissions. However, most of this data was collected on normal-emitting, properly maintained vehicles representing a subset of the technologies available in-use. EPA has concluded that robust conclusions concerning the in-use fleet cannot be drawn from such data. Both the MOBILE model and the Complex Model, which is essentially a major subset of the MOBILE model because it represents 1990 technology, include emission estimates for both normal-emitting and high-emitting vehicles, and thus may provide more accurate estimates of the effects of oxygen on NO_X. For example, the high-emitter portion of the Complex Model indicates that increases in oxygen content decrease NO_X emissions. Such an effect might be due to the cooler burn that oxygenates effect on combustion, or a suppression of preignition by the high octane value of the oxygenate. Regardless, a weighted representation of normal-emitter and high-emitter effects in the Complex Model results in oxygen having essentially no effect on NO_X overall. The MOBILE model, which is designed to represent the in-use distribution of vehicle technologies and emission levels, concurs with the Complex Model in this respect.

Conversely, other commenters agreed that increased oxygenate use would not result in increased NO_X emissions. Assuming that ethanol use would increase, one commenter stated that ethanol displaces other gasoline components which have greater NO_X impacts. Additionally, as noted in the NPRM, increased E200 does increase NO_X, but the overall effect is decreased NO_X. This commenter included data which showed no statistically significant NO_X emissions increase from splash-blending ethanol to get 3.5 wt% oxygen. Another commenter pointed out that preliminary data show that the

[3] Under section 211(k)(2), reformulated gasoline is not allowed to increase NO_X emissions from baseline vehicles when compared to the statutory baseline gasoline.

summer 1995 reformulated gasoline program reduced NO_X emissions somewhat. In general, this commenter believed that NO_X emissions will be lower and sulfur, olefins and aromatics will not increase (supported by the 1995 data), but stated that this cannot be concluded for all batches.

EPA has concluded, on the basis of results generated by the Complex Model, that the use of greater levels of oxygen would not by itself increase NO_X emissions (although the associated higher levels of oxygenates could theoretically increase emissions due to the unpredictable impacts of dilution—as discussed below). As will be discussed, use of the Complex Model in determining the emissions impacts of reformulated gasoline is appropriate and correct. However, EPA recognizes that, in-use, individual states may still have some concerns about the impact of increased oxygen levels on NO_X emissions from the in-use fleet. EPA is retaining an option whereby states could elect to maintain the currently promulgated lower maximum oxygen content.

One commenter pointed out that a no NO_X increase is specified in the Clean Air Act. This commenter believes that oxygen use in gasoline leads to increased NO_X emissions and that this regulation is in violation of the Act by allowing any oxygenation of reformulated gasoline. This commenter feels that allowing 10% ethanol, which results in the highest NO_X increases, would seem to compound the "marginally legal" interpretation of the Act.

As stated above, EPA has determined that increased oxygen does not result in increased NO_X emissions when evaluated with the Complex Model. Therefore this action in no way violates section 211(f) of the Act.

2. VOC Emissions Impacts

Several commenters were opposed to the proposal to increase the maximum oxygen content because it would result in increased summertime VOCs, at a time when those emissions present the greatest problem. One commenter pointed out that a result of this proposal could be to displace MTBE with ethanol, increasing the market-share of ethanol-containing reformulated gasoline and increasing VOC emissions in those areas. Another commenter felt that EPA's argument that most of the VOC reductions are due to RVP incorrectly suggests that the reactivity of the VOC emissions has little to do with ozone formation. However, other commenters agreed that, as long as there is no RVP allowance for 10% ethanol blends, increases in evaporative VOC emissions should be minimal. A final commenter felt that the proposal would result in beneficial VOC impacts.

EPA continues to believe that increased maximum oxygen content is unlikely to negatively affect VOC emissions, and could have slightly positive impacts. Although ethanol does slightly increase the RVP of gasoline to which it is added, there is no potential for an increase in RVP in a VOC-controlled reformulated gasoline under the Simple Model because the RVP specifications are not being changed. A fuel producer would have to use other means to reduce RVP when ethanol is added.

Two commenters noted apparent inconsistencies in the assumption of ethanol use and potential increases in evaporative emissions. Specifically, commenters pointed out that in the December 1993 final rule, EPA had stated that a 1 psi RVP allowance for ethanol blends could forfeit all VOC emissions reductions of the reformulated gasoline program. Yet, they say, in this proposal, EPA stated that ethanol "slightly" increases the RVP of gasoline to which it is added. They suggest that EPA should correctly characterize the RVP impact.

The statements are not inconsistent. As stated above, while ethanol does increase RVP if RVP is not otherwise controlled, the reformulated gasoline standards limit RVP for all reformulated gasolines.

E. Complex Model

Several commenters thought EPA had inappropriately used the Complex Model to estimate the impact of higher oxygen content on NO_X emissions from reformulated gasoline. They stated that the Complex Model was designed for reformulated gasoline certification and that it was not an air quality or emissions inventory model. Most of these commenters stated that EPA's MOBILE model is the most appropriate tool for forecasting emissions and demonstrating air quality impacts. Other commenters said that the MOBILE model, the Complex Model and the CARB Predictive Model should all be used in any evaluation of NO_X emissions impacts. One commenter said that neither the Complex Model nor the CARB model is directly applicable to EPA's analysis regarding this rulemaking.

The Complex Model is not an air quality or emissions inventory model, and EPA did not propose using the Complex Model for such purposes. Improved air quality is the purpose of the reformulated gasoline program, and significant reductions in ozone-forming VOC emissions and toxics emissions will be realized because of the program. The MOBILE model is a valuable tool for estimating the air quality impacts of fuels for an in-use fleet, as it includes a wide variety of vehicle ages and technologies. The impact of Federal reformulated gasoline (but not California Phase 2 reformulated gasoline at this point) on in-use emissions can be estimated using the MOBILE model. However, for certification purposes, the effects of the reformulated gasoline program must be determined relative to 1990 technology vehicles run on 1990 baseline gasoline. This rulemaking is aimed at establishing the requirements for certification of gasoline as meeting the reformulation requirements established under the CAA, including compliance with the oxygen content and no NO_X increase requirements. For this reason and the reasons discussed in section D, EPA believes that the Complex Model is the most appropriate tool for estimating changes in NO_X emissions due to this rulemaking, for purposes of compliance with the no NO_X increase requirement for reformulated gasoline under section 211(k)(2) of the Act. EPA did evaluate the air quality impacts of this rulemaking, which are addressed in section D. As indicated there, both the Complex Model and the MOBILE model show no increase in NO_X emissions with increased oxygen content.

EPA certifies fuels as meeting the reformulated gasoline requirements on the basis of a comparison to 1990 technology vehicles. Both the Simple and Complex Models are tools through which this certification is carried out. There are no oxygen caps under the Complex Model other than the upper limits for the valid range of the model, set at 4.0 wt% oxygen. For reformulated gasoline, the Complex Model results must show no increase in NO_X emissions over statutory baseline levels. As discussed, the Complex Model shows no increase in NO_X emissions when oxygen content is increased. EPA has made and continues to make a variety of decisions, including setting the Phase II reformulated gasoline standards, based on the Complex Model, again, because that it is the basis for reformulated gasoline certification.

Several commenters indicated that EPA's finding that increased oxygen will not increase NO_X emissions is due to statutory constraints placed on the model and certain key assumptions. EPA agrees that certain statutory requirements and certain assumptions have affected the emission effects estimated by the Complex Model.

Commenters expressed concern about the size of the high-emitter database and the fact that the Complex Model represents only a portion of the in-use fleet, which could make it an inappropriate tool for estimating emissions impacts of the overall fleet. EPA's conclusions regarding oxygen effects on NO_X are based on test data from 1986 and later closed-loop, adaptive-learning vehicles with 3-way or 2-way plus oxidation catalysts (i.e., 1990 technology), and would apply to much of the fleet. EPA acknowledges that the results of the Complex Model do not automatically apply to the entire in-use fleet, but nonetheless believes that it is not inappropriate, especially given the agreement between the Complex Model and the MOBILE model with regard to the impact of oxygen content on NO_X emissions.

Several commenters indicated that, theoretically, due to air/fuel enleanment and combustion theory, NO_X emissions should increase with increased oxygen content. EPA believes however, that NO_X emissions increases due to increased oxygen content would not necessarily occur. The fundamental science behind closed-loop, adaptive-learning designs (i.e., the 1990 technology contained in the Complex Model) argues that enleanment due to oxygenate addition would be offset by reduced air intake. Because of the offset enleanment effects, NO_X emissions will not necessarily increase with increased oxygen content. The test data on which the Complex Model is based supports this.

One commenter stated that numerous studies, including Auto-Oil studies, have shown increased NO_X emissions with increased fuel oxygen content. EPA does not refute these studies—vehicle technologies and ages certainly affect emissions results, and EPA recognizes that in these instances, NO_X increases were observed. However, as discussed earlier in section D, the Complex Model, which is the basis of EPA's analysis for this rulemaking, has both a normal-emitter portion and a high-emitter portion. The effect of oxygen on NO_X emissions for these two emitter groups, when weighted, yields essentially no negative change in NO_X emissions with increased oxygen content.

One commenter stated that the normal emitter part of the Complex Model is consistent with theory but the high emitter part is not, and therefore, overall, the model is incorrect. EPA does not believe that simply because one part of the model "disagrees" with theory and another part of the model "agrees" with theory that the model is incorrect. Many factors affect the emission results predicted by the Complex Model, and it is inappropriate to discount those results simply because they do not agree with theory. The Complex Model was adopted after rigorously analyzing a broad spectrum of empirical test data. The commenters objections fail to show the invalidity of this test data or the analysis leading to the Complex Model.

Unlike the Complex Model, the CARB Predictive Model, also a fuel certification model, shows that NO_X emissions increase with increased fuel oxygen content. According to most commenters on this issue, the difference in NO_X predictions between the models is due to differences in approach to model development. Commenters mentioned that the CARB model contains more data, represents more of the in-use fleet and differs in its treatment of high emitters. For these reasons, commenters say, the CARB model is more appropriate for estimating emissions impacts in California associated with oxygen changes. EPA agrees that the difference in NO_X predictions between the two models is due to different approaches to model development. Factors such as vehicle technologies, vehicle age, and quality control during testing all affect predicted emissions results. Because of the manner in which normal-emitting and high-emitting vehicles are included in the Complex Model, EPA believes that the Complex Model is the more appropriate tool for estimating NO_X impacts due to fuel changes, for certification of reformulated gasoline. Together with the MOBILE model, the Complex Model is also appropriate for in-use evaluation purposes, from a national perspective.

In contrast with most of the comments on this issue, one commenter stated that EPA's suggestion that the Complex Model was not representative of the in-use fleet is unfounded. The reformulated gasoline program is meant to reduce ozone through VOC (and NO_X) emissions reductions. Based on the Complex Model, these reductions should occur. EPA believes that the Complex Model and the MOBILE model are sound tools for predicting the impact on in-use NO_X emissions from the regulatory change adopted today from the perspective of the fleet nationwide. It may not be the most appropriate tool for predicting local in-use emissions, however, given differences in local fleets versus the fleet on which the Complex Model is based. That is one of the reasons EPA is providing states with an option that would lower the oxygen maximum to 3.2 wt % oxygen from ethanol.

F. Dilution

In the proposal, EPA stated that it expected no NO_X increases due to this rulemaking because (1) the Complex Model shows no increase in NO_X emissions with increased oxygen content, (2) the addition of oxygenate to a base gasoline dilutes other fuel parameters which overall should yield a net reduction in NO_X emissions, and (3) EPA does not expect fuel producers to offset the dilution effects, i.e., to purposely take fuel parameters back toward their original value in the base gasoline. Several commenters agreed with EPA. In fact one commenter stated that the argument that dilution effects should result in net decrease in NO_X can be strengthened by reviewing California data and the outstanding performance of reformulated gasoline during the summer of 1995.

One commenter stated that the proposal relies heavily on "expected" fuel changes. Because these changes are not guaranteed, the commenter stated that they should not be counted in estimating NO_X emissions. This commenter also stated that EPA does not allow such latitude (i.e., the use of "expected" fuel changes) with state implementation plans (SIPs) and should not take advantage of it in this case. The focus of this rulemaking is determining what regulatory controls, if any, are appropriate to implement the Act's requirement that reformulated gasoline not increase NO_X emissions compared to baseline gasoline. In that context, expected fuel changes are quite relevant. Fuel producers must determine for themselves the most cost-effective means for complying with the reformulated gasoline requirements. When complying under the Simple Model, which is all that is affected by today's rulemaking, refiners must meet the Simple Model RVP and toxics requirements, oxygen and benzene content requirements and ensure that the finished gasoline and reformulated gasoline blendstock for oxygenate blending, or RBOB, (plus oxygenate) they produce will not exceed their baseline values for sulfur, olefins and T90. The values of these latter three fuel parameters then, on average, should be less than or equal to the baseline values, and reductions in these values have been shown to reduce NO_X emissions. It is possible but highly unlikely that E200 could increase (aside from the increase due to dilution), and no data to refute EPA's assumption on this matter has been submitted. Thus EPA is highly confident that the expected fuel changes will occur, on average, and that there will be no net increase in NO_X

emissions. An additional maximum cap on oxygen is not reasonably needed to achieve this result.

It is not possible, nor necessary, for EPA to know exactly what fuel changes each refiner will make, as long as the requirements of the reformulated gasoline program are met. The overall premise of this rule is that the Complex Model shows—even without the effects of other fuel changes—no increase in NO_X emissions with increased oxygen. Any other fuel changes will either increase or decrease NO_X emissions, and EPA is simply saying that it believes, given the other requirements of the program, that the net effect of these other fuel changes will be to further reduce NO_X. EPA's discussion of "expected" fuel changes are based on refinery studies as well as discussions with the industry, have been discussed in other works and rules related to the reformulated gasoline program and have not been significantly refuted.

G. Ethanol Market Share

Several comments were received regarding how this change to the reformulated gasoline regulation would impact ethanol use. Several felt that this change would result in increased ethanol use. However, one commenter felt that since EPA is not changing RVP standards for reformulated gasoline, summer 10 vol % ethanol blends would be produced only by using sub-RVP blendstock, which is in short supply.

Assuming that ethanol use would increase, commenters cited many benefits that would be realized by this change. One commenter stated that even a modest increase in the use of ethanol would provide associated energy gains and environmental benefits. Another commenter felt a potential effect of the change may be to shift ethanol use from conventional areas, and most likely would reduce ethanol exports. Other commenters noted that increased ethanol use would benefit rural America by increasing grain production.

One commenter felt that an expanded market opportunity for ethanol would not necessarily harm the domestic MTBE/methanol market. This commenter pointed out that domestic MTBE is not able to meet reformulated gasoline demand. As much as 895 million gallons of MTBE could be imported to satisfy reformulated gasoline demand, and this deficit is 30 times the potential demand this change will create for ethanol. This commenter also pointed out that this change creates a demand for ethanol which is only a fraction of that which would have been created by the renewable oxygenate standard.

EPA recognizes that this change in the maximum oxygen content allowed in reformulated gasoline may result in slightly increased ethanol use. This increase in the ethanol market could well result in the benefits these commenters have mentioned. However, today's action does not guarantee an increase or decrease in marketshare for any oxygenate. EPA today is simply removing a regulatory burden, the current oxygen content cap. Ultimate use of any oxygenate, including ethanol, will depend on the economic situation of each fuel producer.

H. Commingling

One commenter stated that the commingling concern discussed in the proposal was exaggerated. However, many commenters on this issue disagreed with EPA's comment that there may be a slight commingling benefit due to this rule if (under an assumption of constant ethanol volume) there are fewer gallons of reformulated gasoline at the 10 vol% ethanol rather than more gallons at 7.8 vol%. Most believed that summertime VOC emissions in nonattainment areas would increase, due to commingling, as a result of this rule. Commenters said that if ethanol use increases (or MTBE market share decreases) during the summer, there will be more gallons of ethanol-containing reformulated gasoline, and more instances of commingling. One commenter stated that commingling effects are complex and dependent on a number of factors—oxygenate market share, consumer purchase patterns, etc. This commenter stated that EPA's analysis cannot justify a conclusion that commingling impacts are improved or worsened by the proposed rule. Another commenter stated that EPA should evaluate the persistence of the commingling RVP boost. This commenter stated that the persistence will be increased since there will be a higher concentration of ethanol in the tank.

EPA agrees with the commenter's statement that a reduction or increase in commingling impacts cannot be concluded. In the proposal, EPA discussed some scenarios under which the impact of today's rule could increase or decrease the commingling effects. However, as indicated in the Regulatory Impact Analysis (RIA) to the December 1993 final rule, commingling is affected by several factors including ethanol marketshare and ethanol content. This rulemaking may result in changes in ethanol marketshare in reformulated gasoline and/or conventional gasoline areas, or in changes in the ethanol content of reformulated gasoline and/or conventional gasoline, compared to last year. Depending on whether such changes occur, and their magnitude, it is possible that VOC emissions could increase or decrease, due to commingling, as a result of this rule. EPA believes, however, that it would be difficult to quantify or compare the commingling impact of ethanol at 7.8 vol% (as in 1995) to the 10 vol% which is allowed by today's action.

Several commenters indicated that EPA appeared to be contradicting itself not only in the proposal, but in conflict with earlier work not directly related to this rulemaking. For instance, one commenter stated that EPA was inconsistent with its expected change (or no change) in ethanol use—"should contribute to ethanol increase" and "* * * total ethanol volume remains the same". EPA does not agree with commenters in this regard. EPA cannot be assured of any one outcome, e.g., whether ethanol marketshare increases or decreases, whether more ethanol is used in fewer gallons of reformulated gasoline compared to last year, or whether ethanol volumes will shift from conventional to reformulated gasoline areas or from one reformulated gasoline area to another. These factors will be resolved in the marketplace after promulgation of this rule. The language contained in the proposal represented EPA's thoughts about possible outcomes for given scenarios.

One commenter mentioned that in the Renewable Oxygenate proposal, EPA excluded ethanol as a renewable oxygenate when used in VOC-controlled reformulated gasoline because the commingling VOC increase were unacceptable. In that proposal, commingling VOC increases were deemed unacceptable because the increased use of ethanol could approach a 30% marketshare. An ethanol marketshare of that magnitude would certainly have unacceptable increases in VOC emissions due to commingling. However, although the effect of today's action on oxygenate marketshare cannot be definitively determined, it almost certainly will not approach the 30% level (for ethanol) discussed in the Renewable Oxygenate proposal. For this reason, EPA's commingling concerns regarding that proposal are not applicable to today's rulemaking.

A few commenters were concerned that any commingling benefits would occur in attainment areas—where it's not needed. Again, as stated above, EPA can only estimate the commingling impact of today's rule. Marketplace dynamics will determine, among other things, whether more ethanol is produced, whether it is used in conventional or reformulated gasoline areas, and whether ethanol volumes shift geographically. One commenter expressed concern that by referring to a national basis, EPA has lost sight of the specificity of reformulated gasoline to nonattainment areas. EPA has not lost sight of the area specificity of the reformulated gasoline program but again was attempting to estimate potential impacts of today's rule.

I. Energy Impacts

One commenter stated that EPA was underestimating the potential energy benefits, including benefits for increased displacement of gasoline and imported MTBE (energy security, trade balance). A few commenters questioned the DOE study mentioned in the proposal—one mentioned that the cited study was draft—and provided a copy of the final report which had a more positive energy balance attributable to ethanol production. It showed that ethanol production is 25% more energy efficient than gasoline. Another commenter indicated that recent USDA studies have shown a positive energy balance for the production of ethanol.

EPA agrees that use of ethanol has some positive energy implications, depending on various circumstances, including whether it is used in VOC-controlled or non-VOC-controlled reformulated gasoline. However, because the additional ethanol use allowed by today's rule will be only be roughly 2.2 vol% (per gallon) over 1995 levels, EPA does not expect the energy impacts of the overall reformulated gasoline program to change significantly due to this rulemaking.

J. Economic Impacts

As stated in the NPRM, the largest part of the cost associated with Phase I reformulated gasoline is the oxygen content required by the Act. Lifting the oxygen cap may provide an economic advantage by allowing some refiners to use ethanol during the ozone season when they would not otherwise be able to do so. However, as discussed in the NPRM, refiners must consider a variety of factors when selecting an oxygenate for reformulated gasoline (or any other fuel).

Several commenters supported EPA's economic assessment of the impact of today's action. Some suggested that further economic benefit may occur due to an expanded industrial base and additional jobs from increased domestic oxygenate production. Additional positive economic impacts suggested by commenters include reduced consumer reformulated gasoline cost and increased farm income. One commenter felt the higher oxygen cap would allow refiners to maximize the displacement value of ethanol, reducing the cost of RBOB and ethanol-containing reformulated gasoline. This commenter also stated that since ethanol costs are lower than MTBE costs, additional use of ethanol would increase market penetration of ethanol and provide greater savings for consumers. One commenter explained that the current cap denies refiners the dilution benefits of higher ethanol blends to meet the reformulated gasoline toxics requirements cost-effectively. This commenter indicated that to use ethanol now, refiners must produce a blendstock lower in RVP and aromatics.

One commenter was concerned that EPA's economic assessment ignored the effect of this rule on alkylates. This commenter stated that both alkylates and oxygenates (ethers) use olefins as a feedstock, are high octane blending components, and can contribute to emissions reductions. If olefin feedstocks are limited, by maximizing oxygenates, alkylate feedstocks will also be limited, therefore limiting the emissions benefits of alkylates. A refiner's lowest cost option will likely be to substitute oxygenates for alkylates, leaving olefins and aromatics in gasoline. According to this commenter, the California reformulated gasoline program regulates out olefins and aromatics by increasing alkylates and oxygenates while the Federal reformulated gasoline program has shifted gasoline from alkylates to oxygenates with questionable improvement in emissions. Further, this commenter states that by replacing alkylates with oxygenates, consumers will be paying substantially more per mile driven, since alkylates increase fuel economy. This commenter concludes that EPA neglected these issues in its economic analysis and only superficially addressed economic burden, without regard for actual impact on consumers. This commenter suggests that the Agency review what has actually occurred in the marketplace, and consider the economic burden on consumers.

EPA did not intend to evaluate the impact of oxygenate as a whole, but merely the impact of slightly increased oxygenate use, as this rulemaking seeks only to increase the maximum allowable oxygen content, one limited aspect of the oxygen content requirements in the reformulated gasoline program. EPA believes increasing the maximum allowable oxygen content increases flexibility in oxygenate choice for refiners, which can only be economically beneficial for fuel producers and consumers. As most of this increased oxygenate use is likely to be ethanol, this provision will have little impact on the refinery trade-off between alkylate and oxygenate production.

K. Compliance Burden

As stated in the NPRM, EPA expects today's action will reduce the regulatory burden on gasoline and oxygenate producers, and will simplify the requirements for a state to choose a different maximum oxygen level. Several commenters agreed that this change in the regulation would reduce the burden on fuel producers and on the states. This change would provide increased flexibility in meeting the reformulated gasoline requirements and maximize the efficiency of oxygenate use. One commenter pointed out that it would also reduce the burden for blenders, simplifying logistics and inventory management by eliminating the need to change ethanol blending volumes on a seasonal basis. However, some commenters felt that this change could increase the burden on the states by requiring them to request a lower cap. These commenters felt that estimating a reduced burden on the states assumes that the states want to increase oxygenates. Finally, one commenter felt that when proposing these changes, EPA must address actual or potential regulatory conflicts between technical changes and fuel changes, and not focus solely on attempts to reduce administrative burden.

EPA continues to believe that this regulatory change in the maximum oxygen content of reformulated gasoline will reduce the regulatory burden on gasoline and oxygenate producers and blenders, and on the states. Even if the majority of states prefer to keep the lower oxygen cap, the requirements for doing so are minimal. The Complex Model has revealed that there is no technical reason to limit the oxygen content of gasoline certified as reformulated gasoline, hence the reduction in burden is justified.

L. California

Several commenters felt that California should be exempt from the requirements of this regulation for a variety of environmental and regulatory reasons. First, California has unique air quality problems. One commenter stated that the higher maximum oxygen content allowed under today's action could have a detrimental effect on California's ability to meet the National Ambient Air Quality Standards (NAAQS). Additionally, California retains its authority to regulate fuels.

See section 211(c)(4)(B) of the CAA. Under this authority, California has limited the oxygen content of gasoline sold in the state to 2.7 wt%. Commenters felt that, for these reasons, California should not be required to go through the bureaucratic opt-out hurdle and should be specifically exempted from the rule.

EPA recognizes California's unique environmental problems and regulatory authority. While the Federal standards for reformulated and conventional gasoline do apply in California, if California has imposed its own more stringent regulations, as it has regarding oxygen content, then fuel producers must abide by California's more stringent standards. Thus, because California's oxygen maximum is more stringent than EPA's, that maximum would be the controlling maximum in the state, and the Governor of California would not be required to request a lower oxygen maximum.

M. State Requests for Lower Oxygen Maximum (Cap)

In the NPRM, EPA proposed that the maximum oxygen content of reformulated gasoline sold in a state will be limited to a lower level upon the request of the state on the basis of local air quality concerns. EPA expects that such a request would come from the Governor of the state or their authorized representative. To obtain the lower maximum oxygen content, the state must notify the Administrator that the use of an oxygenate at higher levels would interfere with attainment or maintenance of an ambient air quality standard, or will contribute to an air quality problem. EPA proposed that the lower oxygen cap would become effective 30 days after the Administrator announced the lower standard in the **Federal Register**.

Some commenters had concerns regarding the procedures and requirements for the lowering of the maximum oxygen content by the Governor. One commenter stated that the EPA must include notice and comment rulemaking procedures for any change to an reformulated gasoline rule, per section 307(d)(1), including states requesting a lower cap. EPA disagrees with this comment. EPA does not agree that a separate rulemaking must be conducted in response to each state's request for a lower oxygen maximum. Through this rulemaking, EPA is establishing a petition-based process that will address, on a case-by-case basis, future individual state requests for a lower oxygen maximum standard under the Simple Model. The regulations establish a clear and objective criteria for EPA to apply in these future non-rulemaking, adjudication actions. These criteria specify that a state's notification to the Administrator must include a notification that the use of an oxygenate will interfere with attainment or maintenance of an ambient air quality standard or will contribute to an air quality problem. This application of regulatory criteria on a case-by-case basis to future individual situations does not require notice and comment rulemaking, either under section 307(d) of the Clean Air Act or the Administrative Procedure Act.

It is not uncommon for the Agency to establish such a petition-based process within its regulations as a way to apply the criteria established in a regulation to a wide variety of individual cases. The reformulated gasoline regulations, for example, include a petition process for approval of individual baseline, augmentations of the Complex Model, exemptions, alternative test procedures, and the like. EPA believes that approach is most appropriate here as well, as it will allow for expeditious and consistent Agency action on the individual request presented by states.

The provision allowing a Governor to request a lower maximum oxygen content is the same as allowed for non-VOC-controlled reformulated gasoline in the December 1993 rule. No notice and comment procedures were specified in that situation, and similarly, none are required under today's rulemaking. This commenter also objected to the proposed 30 days from publication (in the **Federal Register**) effective date for the lower cap. This commenter felt that refiners would need at least 90 days to sell off stocks of 10 vol% ethanol reformulated gasoline. Another commenter supported the states rights to have a lower cap, but suggested that it become effective in 60 days rather than 30 days. A third commenter felt that as much as 6 months would be needed before a new, lower oxygen maximum took effect. A final commenter suggested that if a request would take effect 30 days after publication, the announcement should be published within 15 days of EPA's receipt of the request. These timing concerns were supported by another commenter who could not support allowing states to impose different oxygen caps, suggesting that this could strain gasoline distribution bulk storage capacity.

EPA agrees with commenters that 30 days may be too short a transition for fuel producers. Therefore the period has been extended to 60 days. A longer extension would not be practical, since this change only applies to the Simple Model during the summer seasons of 1996 and 1997. Based upon information previously supplied to the Agency,[4] EPA believes that 60 days will be sufficient to use the higher-oxygen content reformulated gasoline, thus minimizing storage and distribution problems. While this provision could potentially add another layer of fuel distinction to the reformulated gasoline program, the impact is expected to be small, primarily because the use of specific oxygenates tends to occur in geographic pockets. Use of ethanol (in reformulated gasoline) for instance, is prevalent in certain areas of the country and is very limited in other areas. Those states where it is widely used are not likely to request a lower oxygen maximum, because in those states, ethanol likely provides significant economic benefits. In states which request a lower maximum, it is likely that ethanol use in that state has always been minimal. For clarification purposes, states are not allowed to choose any lower maximum oxygen content. The lower oxygen maximum would be 3.2 wt% oxygen for ethanol for all cases where a lower maximum is requested by a state.

Comments were mixed regarding the requirements which states must fulfill when requesting the lower oxygen maximum. One commenter stated that EPA needed to verify in the final rule that a state would merely have to notify EPA of its intent to have a lower cap. Those commenters opposed to allowing states to request a lower maximum oxygen cap felt that a state should be required to demonstrate "to the satisfaction of the Administrator" that unique localized circumstances exist which require the lower oxygen. According to these commenters, states should be required to include specific modeling and test data.

Another commenter felt that states should be allowed to use models more appropriate to their region (than the Complex Model) to make demonstrations for the lower oxygen maximum.

EPA believes that each state should retain the greatest flexibility in addressing local concerns over increased oxygenate use. This will minimize the risk that increased oxygenate use will interfere with local air quality problems. Thus, EPA is retaining its proposed language on this issue. This provisions will maintain

[4] U.S. EPA, "Final Regulatory Impact Analysis and Summary and Analysis of Comment For: Renewable Oxygenate Requirement for Reformulated Gasoline," June 29, 1994.

EPA's intent of increased flexibility and reduced burden for the states, as well as other parties which may benefit by today's action.

Several commenters questioned the need for a lower cap at all. These commenters felt that EPA's technical findings on the air quality effects of higher ethanol reformulated gasoline blends shows no adverse impact and are technically sound. Additionally, these commenters felt that many stakeholders have participated in the research, and the conclusions should therefore be difficult to challenge. While EPA is confident of its technical findings, it recognizes that general modelling will not apply to all regions of the country, and that there may exist unique regions that may be negatively impacted by the increased oxygen content. Therefore the option of requesting the lower standard is appropriate.

Finally, some commenters were concerned that a state's request for a lower maximum oxygen content be to control average oxygen content, and not to discriminate against a particular oxygenate. They did not want the lower cap to be a marketplace barrier to ethanol. States must request a lower maximum oxygen content based on air quality concerns. Regardless of which oxygen maximum a state has, the reformulated gasoline program is neutral with respect to the type of oxygenate used to satisfy the oxygen requirement.

N. Performance

In the proposal, EPA did not address potential engine or vehicle performance problems that might occur as a result of this rulemaking, primarily because none attributable solely to this rulemaking are expected. Although this rule will essentially allow a slightly higher ethanol content in summertime reformulated gasoline than was allowed last summer, the increase will not result in gasoline ethanol contents which are greater than those currently in the marketplace in conventional gasoline and wintertime reformulated gasoline. Additionally, if a refiner was determining compliance based on the Complex Model, he could have produced reformulated gasoline containing 10 vol% ethanol last summer. Thus, since this rulemaking does not allow a significantly different fuel into the marketplace, no performance problems are expected, and thus the issue was not addressed in the proposal. A few comments were, however, received on this issue.

One commenter expressed concern that an increase in allowable ethanol content will increase compatibility problems for consumer vehicles, resulting in higher maintenance costs. This commenter also stated that truck mixing, typically how ethanol blends are produced, can be insufficient—stratification can occur with one layer having a higher (than 10 vol%) alcohol content. Although it is possible that fuels containing greater than 10 vol% ethanol could result in vehicle or engine performance problems, and that truck mixing could result in a non-complying fuel, such concerns are not directly or solely applicable to this rulemaking. As discussed above, the maximum oxygen content of summertime reformulated gasoline allowed by today's rule is limited to the maximum ethanol content allowed under section 211(f), namely 10 vol%. The potential performance and mixing problems cited could occur with any gasoline containing up to the maximum amount of ethanol allowed under section 211(f).

Another commenter expressed concern about the impact of this regulation on small engines, particularly nonroad engines. This commenter stated that EPA had not considered the effects of this rulemaking on small engines. The commenter was concerned that increased oxygenates would lead to deterioration in the condition and performance of small two-cycle engines, and cited several potential performance problems. The performance problems included vapor lock; warm start; increased fuel consumption; deposition problems; separation of mixing oil; swelling of rubber parts; corrosion; extraction of rubber material and deposition at other locations. Although the commenter claimed that some of these problems had occurred recently in tests with 10 vol% ethanol blends, no data was provided to support this claim. The commenter noted that with present levels of allowable oxygenates, some performance problems have been noted and was concerned that increasing the allowed level would cause more serious performance problems. Of particular concern were enleanment-related problems which can occur with oxygenated fuels. As stated by the commenter, small engines without oxygen sensors cannot compensate for changing oxygen levels.

EPA understands the concerns expressed by this commenter regarding oxygenated fuels and small, particularly nonroad, engines. EPA evaluated the impact of oxygenated fuels with regard to potential performance and other related problems in its April 1995 "Technical Overview of the Effects of Reformulated Gasoline on Automotive and Non-Automotive Engine Performance" (EPA420–R–95–001) and concluded that "Reformulated gasolines are expected to have little or no influence on the incidence of many engine performance concerns * * *." Regarding enleanment-related problems, EPA did state that, as with any oxygenated fuel, minor adjustments to the fuel intake system may be required to compensate for an enleanment effect. Nonetheless, as stated before, since today's rulemaking does not result in a fuel which is significantly different than other oxygenated fuels currently available, EPA does not expect new or unique performance problems, for either automotive or non-automotive engines, due to the higher oxygen content allowed by today's action.

This same commenter also stated that EPA had not considered the impact of increased oxygenate levels on other EPA rulemakings involving small engine technology and emission levels. The commenter stated that several regulatory programs for small nonroad engines were in the development process, e.g., Phase 2 exhaust emission regulations for small gasoline engines. These programs may require significant changes in technology, and today's rulemaking may undermine the purpose and effect of those regulatory programs and create regulatory conflict between fuel and technology changes.

As stated earlier, EPA did not address potential performance problems in the proposal to today's FRM because none were expected. The fuel changes that might occur as a result of today's rule will not create a significantly different fuel than is already in commerce. In any case, today's regulatory changes only apply under the Simple Model which may not be used to certify reformulated gasoline after December 31, 1997. EPA has reviewed the upcoming nonroad engine regulations. Phase 1 of the nonroad regulatory program was promulgated on July 3, 1995 (60 FR 34582), and the program takes effect in 1997. Engine certification began about January 1996. Because the fuels allowed under today's rule are not significantly different than current fuels, EPA does not believe that engine design changes would have occurred for engines designed to meet the Phase 1 nonroad regulations. Additionally, the final Phase 2 nonroad regulations will not take effect until some model years after 1997. Today's rulemaking is therefore not expected to affect compliance under either Phase 1 or 2 of this nonroad program.

The commenter also expressed concern about the possible increased use of methanol, particularly with regard to material deterioration and phase separation. Methanol use in

reformulated gasoline or any other gasoline is limited to those methanol blends which have received a waiver under section 211(f). Today's rulemaking does not change this requirement in any way.

O. Alternatives

In the notice of proposed rulemaking, EPA requested comment on two alternatives to the proposal. The first alternative was to remove the oxygen cap entirely, allowing up to the maximum oxygen content permitted under section 211(f), (including up to 10 vol% ethanol, roughly 3.5–4.0 wt% oxygen, or 15 vol% MTBE, roughly 2.7—3.2 wt% oxygen), year-round for both VOC- and non-VOC-controlled reformulated gasoline. Under this option, the regulations would not limit the oxygen content of reformulated gasoline even if a state notifies EPA of the environmental reasons for such a limit.

The comments received on this first alternative were mixed. One commenter opposed the alternative because they felt it eliminated flexibility for the states in meeting their air quality needs. In addition, the commenter stated that this alternative plan could create uncertainty in the marketplace for areas with programs which currently limit reformulated gasoline's oxygen content. Two other commenters supported this alternative to remove the oxygen cap entirely, and not allow states to restore the cap simply by notifying the Agency. They felt this approach would provide incentives to use ethanol in non-traditional markets, such as the East Coast. A final commenter stated that the proposal was preferable to either of the alternatives suggested by EPA.

The second alternative presented by EPA in the NPRM would maintain the oxygen cap at 2.7 wt% in the summertime, but allow states to request a higher maximum oxygen content, up to the maximum allowed under section 211(f). Currently states may request a higher cap, but must show that no ozone exceedances had occurred in a covered area during the previous three years. This alternative would remove the "no ozone exceedances" requirement.

This alternative was not opposed by commenters, though it was felt that the proposal was the better option. Those supporting this second alternative felt it would be far less disruptive to the reformulated gasoline program than the first alternative would be.

EPA is proceeding with the original proposal, and did not choose to implement either of these alternatives. EPA believes it is important to maintain flexibility for the states in meeting their air quality goals, and thus does not desire to implement the first alternative. Since there was little support for the second alternative, and since it does less to accomplish the goals of the proposal, EPA has also rejected the second alternative.

IV. Compliance With the Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 requires federal agencies to examine the effects of their regulations and to identify any significant adverse impacts of those regulations on a substantial number of small entities. Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities. In fact, today's proposals are designed to remove overly burdensome regulations and make it easier for refiners to use ethanol in reformulated gasoline, and thus to ensure market access for ethanol in reformulated gasoline.

V. Administrative Designation

Pursuant to Executive Order 12866, (58 FR 51735 (October 4, 1993)) the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the executive order. The Order defines "significant regulatory action as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this notice of proposed rulemaking is not a "significant regulatory action".

VI. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq., and implementing regulations, 5 CFR Part 1320, do not apply to this action as it does not involve the collection of information as defined therein.

VII. Unfunded Mandates Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in expenditure by state, local, and tribal governments, in the aggregate; or by the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the action proposed today does not include a Federal mandate that may result in estimated costs of $100 million or more to either state, local or tribal governments in the aggregate, or to the private sector. This action has the net effect of reducing burden of the reformulated gasoline program on regulated entities, as well as the states. Therefore, the requirements of the Unfunded Mandates Act do not apply to this action.

VIII. Statutory Authority

The statutory authority for the actions proposed today is granted to EPA by Sections 211(c), (k) and 301 of the Clean Air Act, as amended: 42 U.S.C. 7545(c),(k), and 7601.

List of Subjects in 40 CFR Part 80

Environmental protection, Air pollution control, Fuel additives, Gasoline, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: March 18, 1996.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, part 80 of title 40 of the Code of Federal Regulations is amended as follows:

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

1. The authority citation for part 80 continues to read as follows:

Authority: Sections 114, 211, and 301(a) of the Clean Air Act as amended (42 U.S.C. 7414, 7545 and 7601(a)).

2. Section 80.41 is amended by revising paragraph (g) to read as follows:

§ 80.41 Standards and requirements for compliance.

* * * * *

(g) Oxygen maximum standard.

(1) The per-gallon standard for maximum oxygen content, which applies to reformulated gasoline subject to the simple model per-gallon or average standards, is as follows:

(i) Oxygen content shall not exceed 3.2 percent by weight from ethanol within the boundaries of any state if the state notifies the Administrator that the use of an oxygenate will interfere with attainment or maintenance of an ambient air quality standard or will contribute to an air quality problem.

(ii) A state may request the standard specified in paragraph (g)(1)(i) of this section separately for reformulated gasoline designated as VOC-controlled and reformulated gasoline not designated as VOC-controlled.

(2) The standard in paragraph (g)(1)(i) of this section shall apply 60 days after the Administrator publishes a notice in the **Federal Register** announcing such a standard.

* * * * *

[FR Doc. 96–7162 Filed 3–22–96; 8:45 am]

BILLING CODE 6560–50–P

LEGAL SERVICES CORPORATION

45 CFR Part 1611

Eligibility: Income Level for Individuals Eligible for Assistance

AGENCY: Legal Services Corporation.

ACTION: Final rule.

SUMMARY: The Legal Services Corporation ("Corporation") is required by law to establish maximum income levels for individuals eligible for legal assistance. This document updates the specified income levels to reflect the annual amendments to the Federal Poverty Guidelines as issued by the Department of Health and Human Services.

EFFECTIVE DATE: March 25, 1996.

FOR FURTHER INFORMATION CONTACT: Victor M. Fortuno, General Counsel, Legal Services Corporation, 750 First Street NE., Washington, DC 20002–4250; 202–336–8800.

SUPPLEMENTARY INFORMATION: Section 1007(a)(2) of the Legal Services Corporation Act ("Act"), 42 U.S.C. 2996f(a)(2), requires the Corporation to establish maximum income levels for individuals eligible for legal assistance, and the Act provides that other specified factors shall be taken into account along with income.

Section 1611.3(b) of the Corporation's regulations establishes a maximum income level equivalent to one hundred and twenty-five percent (125%) of the official Federal Poverty Income Guidelines.

Responsibility for revision of the official Federal Poverty Income Guidelines was shifted in 1982 from the Community Services Administration to the Department of Health and Human Services. The revised figures for 1996 set out below are equivalent to 125% of the current official Poverty Guidelines as set out at 61 FR 8286 (March 4, 1996).

List of Subjects in 45 CFR Part 1611

Legal services.

PART 1611—ELIGIBILITY

1. The authority citation for Part 1611 continues to read as follows:

Authority: Secs. 1006(b)(1); 1007(a)(1) Legal Services Corporation Act of 1974, 42 U.S.C. 2996e(b)(1), 2996f(a)(1), 2996f(a)(2).

2. Appendix A of Part 1611 is revised to read as follows:

Appendix A of Part 1611—Legal Services Corporation 1996 Poverty Guidelines*

Size of family unit	All States but Alaska and Hawaii [1]	Alaska [2]	Hawaii [3]
1	$9,675	$12,075	$11,138
2	12,950	16,175	14,900
3	16,225	20,275	18,663
4	19,500	24,375	22,425
5	22,775	28,475	26,188
6	26,050	32,575	29,950
7	29,325	36,675	33,713
8	32,600	40,775	37,475

[1] For family units with more than eight members, add $3,275 for each additional member in a family.

[2] For family units with more than eight members, add $4,100 for each additional member in a family.

[3] For family units with more than eight members, add $3,763 for each additional member in a family.

Dated: March 29, 1996.

Victor M. Fortuno,

General Counsel.

[FR Doc. 96–7092 Filed 3–22–96; 8:45 am]

BILLING CODE 7050–01–P

*The figures in this table represent 125% of the poverty guidelines by family size as determined by the Department of Health and Human Services.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 960129019–6019–01; I.D. 031996A]

Groundfish of the Bering Sea and Aleutian Islands Area; Pacific Ocean Perch in the Western Aleutian District

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for Pacific ocean perch in the Western Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the specification of Pacific ocean perch in this area.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), March 20, 1996, until 12 midnight, A.l.t., December 31, 1996.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907–586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

In accordance with § 675.20(a)(7)(ii), the Final 1996 Specifications of Groundfish (61 FR 4311, February 5, 1996) for the BSAI established 5,143 metric tons (mt) as the initial total allowable catch of Pacific ocean perch for the Western Aleutian District.

The Director, Alaska Region, NMFS (Regional Director), has determined, in accordance with § 675.20(a)(8), that the Pacific ocean perch initial total allowable catch in the Western Aleutian District will soon be reached. Therefore, the Regional Director has established a directed fishing allowance of 4,945 mt after determining that 200 mt will be taken as incidental catch in directed fishing for other species in the Western Aleutian District. NMFS is prohibiting directed fishing for Pacific ocean perch in the Western Aleutian District to prevent exceeding the directed fishing allowance.

Maximum retainable bycatch amounts for applicable gear types may be found in the regulations at § 675.20(h).

Classification

This action is taken under § 675.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 19, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–7110 Filed 3–20–96; 3:57 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 61, No. 58
Monday, March 25, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 711

Management Official Interlocks

AGENCY: National Credit Union Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The National Credit Union Administration (NCUA) is proposing to revise its rules regarding management interlocks between credit unions and other financial institutions. The proposal conforms the interlocks rules to recent statutory changes, modernizes and clarifies the rules, and reduces unnecessary regulatory burdens where feasible, consistent with statutory requirements.

DATES: Comments must be received by May 24, 1996.

ADDRESSES: Comments should be directed to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428. Fax comments to (703) 518–6319. Post comments on NCUA's electronic bulletin board by dialing (703) 518–6480. Please send comments by one method only.

FOR FURTHER INFORMATION CONTACT: Jeffrey Mooney, Staff Attorney (703/518–6563), Office of General Counsel, or Kimberly Iverson, Program Officer (703/518–6375), Office of Examination and Insurance.

SUPPLEMENTARY INFORMATION:

Background

Summary of Statutory Changes

The Depository Institution Management Interlocks Act (12 U.S.C. 3201 *et seq.*) (Interlocks Act) prohibits certain management interlocks between depository institutions. The Interlocks Act exempts interlocking arrangements between credit unions and therefore, in the case of credit unions, only restricts interlocks between credit unions and other institutions—banks and thrifts.

The Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI Act) amended the Interlocks Act by removing the NCUA's and the other banking agencies'[1] broad authority to exempt otherwise impermissible interlocks and replacing it with the authority to exempt interlocks under more narrow circumstances. The CDRI Act also required a depository organization with a "grandfathered" interlock to apply for an extension of the grandfather period if the organization wanted to keep the interlock in place.[2]

After the changes made by the CDRI Act, a person subject to the Interlocks Act's restrictions seeking an exemption from those restrictions must qualify either for a "regulatory standards" exemption or an exemption under a "management official consignment program" (the Management Consignment exemption). An applicant seeking a regulatory standards exemption must submit a board resolution certifying that no other candidate from the relevant community has the necessary expertise to serve as a management official, is willing to serve, and is not otherwise prohibited by the Interlocks Act from serving. Before granting the exemption request, the NCUA must find that the individual is critical to the institution's safe and sound operations, that the interlock will not produce an anticompetitive effect, and that the management official meets any additional requirements imposed by the agency. Under the Management Consignment exemption, the NCUA or appropriate agency may permit an interlock that otherwise would be prohibited by the Interlocks Act if the agency determines that the interlock would improve the provision of credit to low- and moderate-income areas, increase the competitive position of a minority- or woman-owned institution, or strengthen the management of a newly chartered institution or an institution that is in an unsafe or unsound condition. (*See* text following "Management Consignment exemption" in this preamble for a discussion regarding interlocks involving newly chartered institutions or institutions that are in an unsafe or unsound condition).

The proposal reflects these statutory changes, and streamlines and clarifies the interlocks regulations in various respects. These changes are discussed in the text that follows. The NCUA invites comments on all aspects of this proposal.

The following is a section-by-section discussion of the proposed rule changes.

Authority, Purpose, and Scope

This section identifies the Interlocks Act as the statutory authority for the management interlocks regulation. There are no significant changes from the current authority, purpose and scope rule. It also states that the purpose of the rules governing management interlocks is to foster competition between unaffiliated institutions. Finally, this section currently identifies the types of institutions to which NCUA's regulation applies.

Definitions

The NCUA's current regulation sets forth definitions of key terms used in the regulation. The proposed regulation changes some of the current definitions. A discussion of the substantive differences between the current rule and proposal follows.

Anticompetitive Effect

The current regulation neither uses nor defines the term "anticompetitive effect." The proposed regulation defines the term to mean "a monopoly or substantial lessening of competition." This term is used in the regulatory standards exemption. Under that exemption, the NCUA may approve a request for an exemption to the Interlocks Act if, among other things, the NCUA finds that continuation of service by the management official does not produce an anticompetitive effect with respect to the affected credit union. The statute does not define the term "anticompetitive effect," nor does the legislative history to the CDRI Act point to a particular definition.

[1] The NCUA participated in an interagency effort to revise the management interlocks regulations. The other banking agencies, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Reserve Board and the Federal Deposit Insurance Corporation have already published proposed revisions to their respective management interlocks regulations in a joint notice of proposed rulemaking. (See 60 FR 67424, December 29, 1995).

[2] The NCUA did not receive any requests for extensions, therefore, the provision regarding extending the grandfather period is moot for purposes of this regulation.

The context of the regulatory standards exemption suggests, however, that the NCUA and other agencies should apply the term "anticompetitive effect" in a manner that permits interlocks that present no substantial lessening of competition. By prohibiting an interlock that would result in a monopoly or substantial lessening of competition, the proposed definition preserves the free flow of credit and other banking services that the Interlocks Act is designed to protect. While the proposed definition is familiar to the banking industry since it is derived from the Bank Merger Act (12 U.S.C. 1828(c)), it is not used by the credit union industry. Therefore, NCUA requests comment on whether another definition would be more appropriate for interlocks between credit unions and other types of depository institutions.

Area Median Income

The current regulation does not use the term "area median income," and, therefore, does not define this term. The proposed regulation defines "area median income" as the median family income for the metropolitan statistical area (MSA) in which an institution is located or the statewide nonmetropolitan median family income if an institution is located outside an MSA. This term is used in the definition of "low- and moderate-income areas," which in turn is used in the implementation of the Management Consignment exemption.

Contiguous or Adjacent Cities, Towns, or Villages

The current regulation defines "adjacent cities, towns, or villages" as cities, towns, or villages whose borders are within 10 road miles from each other. It also defines "contiguous cities, towns, or villages" as cities, towns, or villages whose borders touch. The statute and regulation apply these terms to prohibit interlocks involving small institutions that are located in contiguous or adjacent cities, towns, or villages. The proposed regulation combines these two definitions, given that contiguous cities, towns, or villages necessarily are within 10 miles of each other.

Critical

The current regulation neither uses nor defines "critical." The proposed regulation defines the term in connection with the regulatory standards exemption. Under that exemption, the NCUA must find that a proposed management official is critical to the safe and sound operations of the affected institution. 12 U.S.C. 3207(b)(2)(A).

Neither the statute nor its legislative history define "critical." The NCUA is concerned that a narrow interpretation of this term would nullify the regulatory standards exemption. If someone were "critical" to the safe and sound operations of an institution only if the institution would fail but for the service of the person in question, the exemption would have little relevance because the standard would be practically impossible to meet. Given that Congress clearly intended for the regulatory standards exemption to permit interlocks under some circumstances, the question thus becomes how to define those circumstances.

This proposal addresses the issue by stating that the NCUA will consider a person to be critical to a depository organization if the person will play an important role in helping the institution either address current problems or maintain safe and sound operations going forward. The NCUA believes that this approach is consistent with the legislative intent by insuring that only persons of demonstrated expertise and importance to the institution will be allowed to serve pursuant to a regulatory standards exemption.

Low- and Moderate-Income Areas

The current regulation permits interlocks under certain circumstances involving a depository organization located "in a low income or other economically depressed area." However, the current rule does not define "low income" or "economically depressed."

Section 209(c)(1)(A) of the Interlocks Act (12 U.S.C. 3207(c)(1)(A)) authorizes the NCUA to permit interlocks pursuant to the Management Consignment exemption if the NCUA determines that the proposed service would "improve the provision of credit to low- and moderate-income areas." The proposed regulation defines "low- and moderate-income areas" as areas where the median family income is less than 100 percent of the area median income. This definition is consistent with Title I, Subtitle A of the CDRI Act (the Community Development Banking and Financial Institutions Act of 1994) (12 U.S.C. 4701–4718), which, like the Management Consignment exemption affecting institutions in low- and moderate-income areas, is intended to assist the flow of credit into economically depressed areas. Section 103(17) of the CDRI Act (12 U.S.C. 4702(17)) defines "low income" to mean not more than 80 percent of the area median income. The NCUA believes that Congress, by using the term "low- and moderate-income" in the Management Consignment exemption, intended for that term to apply to an area where the median family income exceeds 80 percent of the median income for the area. The NCUA has selected 100 percent of the area median income as the cutoff for defining "low- and moderate-income areas" based on the belief that a higher threshold would permit interlocks that would not improve the provision of credit to low- and moderate-income areas.

Management Official

The current regulation defines "management official" to include an employee or officer "with management functions" (including a branch manager), a director, a trustee of an organization under the control of trustees, or any person who has a representative or nominee serving in such capacity. The definition excludes (1) A person whose management functions relate either exclusively to the business of retail merchandising or manufacturing or principally to business outside the United States of a foreign commercial bank and (2) a person excluded by section 202(4) of the Interlocks Act (12 U.S.C. 3201(4)).

The proposed regulation adopts the definition of "management official" set forth in the current rule, except that the phrase "an employee or officer with management functions" is removed. It is replaced by the term "senior executive officer" as defined by the NCUA's regulation pertaining to the prior notice of changes in senior executive officers, which implements section 212 of the Federal Credit Union Act (FCU Act) (12 U.S.C. 1790a) as added by section 914 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA).

The NCUA is proposing this change to eliminate the uncertainty and attendant compliance burden created by the ambiguous term "management functions." The proposal incorporates specific illustrative examples of positions at credit unions that will be treated as senior executive officers. *See* 12 CFR 701.14. The NCUA believes that these definitions will allow credit unions to identify impermissible interlocks with greater certainty and thus will enhance compliance. The NCUA requests comment on the advisability of defining "management official" by using "senior executive officer" rather than "employee or officer with management functions."

The current definition of "management official" exempts those individuals whose management functions relate to retail merchandising or manufacturing. Stated another way, the current exemption applies to a category of persons whose responsibilities are unrelated to the business of a deposit-taking institution.

The NCUA specifically asks commenters to address whether the NCUA should exempt a broader category of management officials whose duties are unrelated to the provision of financial services by a depository institution or depository holding company, and if so, how the NCUA should define that category of excluded officials.

Relevant Metropolitan Statistical Area (RMSA)

The current regulation defines "relevant metropolitan statistical area" as an MSA, a primary MSA, or a consolidated MSA that is not comprised of designated primary MSAs as defined by the Office of Management and Budget (OMB). This definition is derived from section 203(1) of the Interlocks Act (12 U.S.C. 3202(1)).

The proposed regulation defines "relevant metropolitan statistical area (RMSA)" as an MSA, a primary MSA, or a consolidated MSA that is not comprised of designated primary MSAs, to the extent that the OMB defines and applies these terms. This change reflects the fact that the OMB defines "consolidated MSA" to include two or more primary MSAs. Given that consolidated MSAs, by the OMB's definition, are comprised of primary MSAs, the reference to consolidated MSAs in the Interlocks Act and the NCUA's regulation is inappropriate. The proposed change enables the NCUA to implement the statute in a way that complies with both the spirit and the letter of the Interlocks Act.

Representative or Nominee

The current regulation defines "representative or nominee" as a person who serves as a management official and has an express or implied obligation to act on behalf of another person with respect to management responsibilities. The current definition goes on to state that the determination of whether someone is a representative or nominee depends on the facts of a particular case and that certain relationships (such as family, employment, and so on) may evidence an express or implied obligation to act.

The proposed regulation also defines "representative or nominee" as someone who serves as a management official and has an obligation to act on behalf of someone else. The proposed definition deletes the rest of the current definition, however, and inserts in lieu thereof a statement that the NCUA will find that someone has an obligation to act on behalf of someone else *only* if there is an agreement (express or implied) to act on behalf of another. The NCUA proposes this change to clarify that the determination that a representative or nominee situation exists will depend on whether there is a basis to conclude that an agreement exists to act on someone's behalf. The NCUA notes that the current definition provides specific guidance for determining when a representative or nominee relationship might be found to exist, and requests comment on whether the current definition, the proposed definition, or another definition is preferable.

Prohibitions

The current regulation prohibits interlocks in the following three instances. First, no two unaffiliated depository organizations may have an interlock if they (or their depository institution affiliates) have offices in the same community. Second, a depository organization may not have an interlock with any unaffiliated depository organization if either depository organization has assets exceeding $20 million and the depository organizations (or depository institution affiliates of either) have offices in the same RMSA.[3] Third, if a depository organization has total assets exceeding $1 billion, it (and its affiliates) may not have an interlock with any depository organization with total assets exceeding $500 million (or affiliate thereof), regardless of location.

The proposed regulation amends the rule as it applies to institutions with assets of less than $20 million to better conform to the purposes of the Interlocks Act. Whereas the current rule prohibits interlocks in an RMSA if *one* of the organizations has total assets of $20 million or more, the proposed rule would apply the RMSA-wide prohibition only if *both* organizations have total assets of $20 million or more. Interlocks within a community involving unaffiliated depository organizations would continue to be prohibited.

The NCUA believes that this proposed change is consistent with both the language and the intent of the Interlocks Act. While the statute uses the plural "depository institutions" when referring to the community-wide prohibition, in context, neither the statute nor its legislative history compels the conclusion that the interlock must involve two institutions with less than $20 million in assets before the less restrictive prohibition applies.

The Interlocks Act seeks to prohibit interlocks that could enable two institutions to engage in anticompetitive behavior. However, an institution with less than $20 million is likely to derive most of its business from the community in which it is located and unlikely to compete with institutions that do not have offices in that community. Therefore, interlocks involving one institution with assets under $20 million and another institution with assets of at least $20 million not in the same community are not likely to lead to the anticompetitive conduct that the Interlocks Act is designed to prohibit.

The NCUA believes, moreover, that the proposed change will promote rather than inhibit competition. Expanding the pool of managerial talent for institutions with assets under $20 million could enhance the ability of smaller institutions to compete by improving the management of these institutions.

The proposed regulation reflects the change affecting depository organizations with less than $20 million in total assets. It also sets forth the prohibition against interlocks involving large depository organizations but does not change the substance of that prohibition. The proposed regulation changes the wording of all three prohibitions in order to make them easier to understand.

The NCUA invites comment on any aspect of this proposed section. The NCUA specifically seeks comment on whether the proposed reinterpretation of 12 U.S.C. 3202(1) might result in anticompetitive effects and thus run counter to the legislative intent of the Interlocks Act. For example, could the proposed change enable a large depository organization to engage in anticompetitive conduct by creating interlocks with one or more smaller depository institutions located in the same RMSA but not in the same community (a "hub and spokes" interlock)? The NCUA also seeks comment on whether the final rule should specifically address such situations.

Interlocking Relationships Expressly Permitted by Statute

The current regulation restates most of the exemptions that are expressly permitted by the Interlocks Act as well as listing those exemptions that the NCUA has permitted by regulation pursuant to the broad exemptive

[3] A community as that term is defined in the proposal is smaller than RMSA. There may be several communities in one RMSA.

authority that applied before the enactment of the CDRI Act. The proposal deletes the exemptions authorized by NCUA's regulations and states the exemptions found in 12 U.S.C. 3204(1)–(8). The proposed regulation reorders the exemptions set forth in the current regulations in order to conform the list of exemptions to the list set forth in the Interlocks Act.

Regulatory Standards Exemption

The current rule contains no regulatory standards exemption. The proposed rule sets forth the standards that a credit union must satisfy in order to obtain a regulatory standards exemption. The proposal implements the requirement regarding certification by allowing a credit union's board of directors (or the organizers of a credit union that is being formed) to certify to the NCUA that it located no other qualified candidates after undertaking reasonable efforts to locate other qualified candidates who are not prohibited from service under the Interlocks Act. If read narrowly, the Interlocks Act could require a credit union to evaluate every person in a given locale that might be qualified and interested. This would create a requirement that, in practice, would be impossible to satisfy. Given that Congress would not have included an exemption that would have no practical application, the NCUA believes that the proposed "reasonableness" standard is consistent with the legislative intent.

The proposed regulation also sets forth a presumption that the NCUA will apply when reviewing an application for a regulatory standards exemption. NCUA will presume that a person is critical to a credit union's safe and sound operations if the NCUA also approves that individual under section 914 of FIRREA and the credit union in question either was a newly chartered institution, or was in a "troubled condition" as defined in § 701.14(b)(3) of NCUA's regulations at the time the section 914 filing was approved.

The NCUA invites comment on the utility of the proposed presumption and on whether other presumptions also should apply.[4]

[4] The other banking agencies have proposed a presumption that an interlock will not have an anticompetitive effect if it involves institutions that, if merged, would not trigger a challenge from the agencies on competitive grounds. The agencies will use the Herfindahl-Hirschman Index ("HHI") (*See* Department of Justice Merger Guidelines (49 FR 26823, June 29, 2984)) to determine whether the potential interlock has an anticompetitive effect since banks and savings associations frequently use the HHI as an initial indicator of the effects a transaction is likely to have on competition in a given market. NCUA does not propose implementing this presumption because there is no statutory authority for credit unions to merge with other types of depository institutions, and the typical HHI analysis does not reflect the shares/deposits held by credit unions, therefore, any HHI analysis involving credit unions would be meaningless.

The proposed regulation also addresses the duration of an interlock permitted under the regulatory standards exemption. The statute does not require that these interlocks terminate. In light of this open-ended grant of authority, the NCUA is not proposing a specific term for a permitted exemption. Instead, the NCUA may require a credit union to terminate the interlock if the NCUA determines that the management official in question either no longer is critical to the safe and sound operations of the affected organization or that continued service will produce an anticompetitive effect. The NCUA will provide affected organizations an opportunity to submit information before they make a final determination to require termination of an interlock.

Grandfathered Interlocking Relationships—Removed

The current regulation restates the grandfather provisions set forth in section 206 of the Interlocks Act (12 U.S.C. 3205). Section 338(a) of the CDRI Act authorizes the NCUA to extend a grandfathered interlock for an additional five years if the management official in question satisfied the statutory criteria for obtaining an extension. Individuals who wished to extend their dual service had until March 23, 1995, to apply to the NCUA. The proposed regulation removes the section addressing the grandfather exemption because it is unnecessary and redundant in light of the statute.

Management Consignment Exemption

The current regulation sets forth a number of instances in which the NCUA may permit an exemption to the Interlocks Act. However, the statutory provisions authorizing the NCUA to grant exemptions have been amended, thereby requiring that the current regulation be amended as well. The Management Consignment exemption set forth in section 209(c) of the Interlocks Act (12 U.S.C. 3207(c)) is modeled after certain exemptions that appear in the NCUA's current regulation.

The proposed regulation implements the Management Consignment exemption, and restates the statutory criteria, with three clarifications. First, the proposed rule states that the NCUA considers a "newly chartered institution" to be an institution that has been chartered for less than two years at the time it files an application for exemption. This standard is consistent with NCUA's threshold for determining when a credit union is considered newly chartered (*See* 12 CFR 701.14(c)(1)).

Second, the proposal clarifies that the exemption available for "minority- and women-owned institutions" is available for an institution that is owned either by minorities or women. In noting the types of exemptions that the Federal banking agencies have approved, the House Conference Report to the CDRI Act (H.R. Conf. Rep. No. 652, 103d Cong., 2d Sess. 181 (1994)) (Conference Report) states that the types of institutions that have received exemptions include those that are "owned by women or minorities." These exemptions ultimately were codified in the Interlocks Act. Accordingly, the NCUA, along with the other banking agencies have concluded that Congress intended the Management Consignment exemption to assist institutions owned by women and/or by minorities, but did not intend to require the institution to be owned by both.

Third, the proposal permits an interlock if the interlock would strengthen the management of *either* a newly chartered institution or an institution that is in an unsafe or unsound condition. Section 209(c)(1)(C) of the Interlocks Act (12 U.S.C. 3207(c)(1)(C)) permits an exemption if the interlock would "strengthen the management of newly chartered institutions that are in an unsafe or unsound condition." However, this provision contains what appears on its face to be an error, given that an exemption limited to situations involving newly chartered institutions that also are in an unsafe and unsound condition would have no practical utility. The NCUA does not approve an application for a credit union charter unless the applicant seeking a charter can demonstrate that the proposed new credit union will operate in a safe and sound manner for the foreseeable future. While there may be an extraordinary instance where a newly chartered credit union immediately experiences unforeseen problems so severe that they threaten the safety and soundness of that institution, there is nothing in the legislative history to suggest that Congress intended to limit the Management Consignment exemption to such rare instances.

Moreover, the legislative history of the CDRI Act suggests that the NCUA is to apply the Management Consignment exemption in cases involving either newly chartered institutions or institutions that are in an unsafe or unsound condition. The Conference Report notes that the Federal banking agencies have used their exemptive authority to grant exemptions in limited cases where institutions "are particularly in need of management guidance and expertise to operate in a safe and sound manner." *Id.* The Conference Report goes on to state that "Examples of exceptions permissible under an agency management official consignment program include improving the provision of credit to low- and moderate-income areas, increasing the competitive position of minority- and women-owned institutions, and strengthening he [sic] management of newly chartered institutions or institutions that are in an unsafe or unsound condition." *Id.* at 182 (emphasis added).

Finally, Congress used the exemptions in the agencies' current rules as the model for the Management Consignment exemption. See id. at 181–182. These exemptions distinguish newly chartered institutions from institutions that are in an unsafe or unsound condition. The reference in the CDRI Act's legislative history to the current regulatory exemptions suggests that Congress intended to codify these exemptions.

For these reasons, the NCUA proposes to permit exemptions pursuant to the Management Consignment exemption if the management official will strengthen either a newly chartered institution or an institution that is in an unsafe or unsound condition. Commenters are requested to address this approach.

The proposal sets forth two presumptions that the NCUA will apply in connection with an application for an exemption under the Management Consignment exemption. First, the NCUA will presume that an individual is capable of strengthening the management of a credit union that has been chartered for less than two years if the NCUA approved the individual to serve as a management official of that credit union pursuant to section 914 of FIRREA. Second, the NCUA will presume that an individual is capable of strengthening the management of a credit union that is in an unsafe or unsound condition if the NCUA approved the individual to serve under section 914 as a management official of an institution at a time when that institution was in a "troubled condition."

The NCUA believes that presumptions of suitability are less valid when applied to the other Management Consignment exemptions because there is no reason to conclude that a management official approved under section 914 necessarily will improve the flow of credit to low- and moderate-income areas or increase the competitive position of minority- or woman-owned institutions. No presumption regarding effects on competition is proposed, given that this is not a factor to be considered by the NCUA when reviewing an application for a Management Consignment exemption.

The NCUA seeks comment on the utility of the proposed presumptions and on whether additional presumptions should apply as well.

The proposed regulation sets forth the limits on the duration of a Management Consignment exemption. The Interlocks Act limits a Management Consignment exemption to two years, with a possible extension for up to an additional two years if the applicant satisfies at least one of the criteria for obtaining a Management Consignment exemption. The proposed regulation implements this limitation by requiring interested parties to submit an application for an extension at least 30 days before the expiration of the initial term of the exemption and by clarifying that the presumptions and procedures that apply to initial applications also apply to extension applications.

Change in Circumstances

The current regulation provides a 15-month grace period for nongrandfathered interlocks that become impermissible due to a change in circumstances. This period may be shortened by the NCUA under appropriate circumstances. The proposed regulation revises the wording of this section in the current regulations but not its substance. The NCUA specifically seeks comment on the proposed continued availability of a grace period.

Enforcement

The current regulations set forth the jurisdiction of the NCUA to enforce the Interlocks Act. The proposed regulations simplify the wording of this section in the current regulations but not its substance.

Regulatory Procedures

Regulatory Flexibility Act

It is hereby certified that this proposal will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

The Board has determined that the requirements of the Paperwork Reduction Act do not apply.

Executive Order 12612

This proposed rule, like the current 12 CFR part 711 it would replace, will apply to all Federally insured credit unions. The NCUA Board, pursuant to Executive Order 12612, has determined, however, that this proposed rule will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among various levels of government. Further, this proposed rule will not preempt provisions of State law or regulations.

List of Subjects in 12 CFR Part 711

Antitrust, Credit unions, Holding companies.

By the National Credit Union Administration Board on March 13, 1996.

Becky Baker,

Secretary of the Board.

For the reasons set out in the preamble, the NCUA proposes to revise part 711 of chapter VII of title 12 of the Code of Federal Regulations to read as follows:

PART 711—MANAGEMENT OFFICIAL INTERLOCKS

Sec.

711.1 Authority, purpose, and scope.
711.2 Definitions.
711.3 Prohibitions.
711.4 Interlocking relationships permitted by statute.
711.5 Regulatory Standards exemption.
711.6 Management Consignment exemption.
711.7 Change in circumstances.
711.8 Enforcement.

Authority: 12 U.S.C. 1766 and 3201–3208.

§ 711.1 Authority, purpose, and scope.

(a) *Authority.* This part is issued under the provisions of the Depository Institution Management Interlocks Act (Interlocks Act) (12 U.S.C. 3201 *et seq.*), as amended, and the NCUA's general rulemaking authority in 12 U.S.C. 1766.

(b) *Purpose.* The purpose of the Interlocks Act and this part is to foster competition by generally prohibiting a management official from serving two nonaffiliated depository organizations in situations where the management interlock could have an anticompetitive effect.

(c) *Scope.* This part applies to management officials of federally insured credit unions and their affiliates.

§ 711.2 Definitions.

For purposes of this part, the following definitions apply:

(a) *Affiliate.* (1) The term *affiliate* has the meaning given in section 202 of the Interlocks Act (12 U.S.C. 3201). For purposes of section 202, shares held by an individual include shares held by members of his or her immediate family. "Immediate family" includes spouse, mother, father, child, grandchild, sister, brother, or any of their spouses, whether or not any of their shares are held in trust.

(2) For purposes of section 202(3)(B) of the Interlocks Act (12 U.S.C. 3201(3)(B)), an affiliate relationship involving common ownership does not exist if the NCUA determines, after giving the affected persons the opportunity to respond, that the asserted affiliation was established in order to avoid the prohibitions of the Interlocks Act and does not represent a true commonality of interest between the depository organizations. In making this determination, the NCUA considers, among other things, whether a person owns a nominal percentage of the shares of one of the organizations and the percentage is substantially disproportionate with that person's ownership of shares in the other organization.

(b) *Anticompetitive effect* means a monopoly or substantial lessening of competition.

(c) *Area median income* means:

(1) The median family income for the metropolitan statistical area (MSA), if a depository organization is located in an MSA; or

(2) The statewide nonmetropolitan median family income, if a depository organization is located outside an MSA.

(d) *Community* means city, town, or village, and contiguous or adjacent cities, towns, or villages.

(e) *Contiguous or adjacent cities, towns, or villages* means cities, towns, or villages whose borders touch each other or whose borders are within 10 road miles of each other at their closest points. The property line of an office located in an unincorporated city, town, or village is the boundary line of that city, town, or village for the purpose of this definition.

(f) *Credit union* means a federal or state-chartered credit union that is insured by the National Credit Union Share Insurance Fund.

(g) *Critical* means important in helping a depository organization either address current problems or maintain safe and sound operations going forward.

(h) *Depository holding company* means a bank holding company or a savings and loan holding company (as more fully defined in section 202 of the Interlocks Act (12 U.S.C. 3201)) having its principal office located in the United States.

(i) *Depository institution* means a commercial bank (including a private bank), a savings bank, a trust company, a savings and loan association, a building and loan association, a homestead association, a cooperative bank, an industrial bank, or a credit union, chartered under the laws of the United States and having a principal office located in the United States. Additionally, a United States office, including a branch or agency, of a foreign commercial bank is a depository institution.

(j) *Depository institution affiliate* means a depository institution that is an affiliate of a depository organization.

(k) *Depository organization* means a depository institution or a depository holding company.

(l) *Low- and moderate-income areas* means areas where the median family income is less than 100 percent of the area median income.

(m) *Management official.* (1) The term *management official* includes:

(i) A director;

(ii) An advisory or honorary director of an institution with total assets of $100 million or more;

(iii) A senior executive officer as that term is defined in 12 CFR 701.14(b)(2), or a person holding an equivalent position, regardless of title;

(iv) A branch manager;

(v) A trustee of a depository organization under the control of trustees; and

(vi) Any person who has a representative or nominee serving in any of the above capacities.

(2) The term *management official* does not include:

(i) A person whose management functions relate exclusively to the business of retail merchandising or manufacturing;

(ii) A person whose management functions relate principally to the business outside the United States of a foreign commercial bank; or

(iii) A person described in the provisos of section 202(4) of the Interlocks Act (12 U.S.C. 3201(4)) (referring to an officer of a State-chartered savings bank, cooperative bank, or trust company that neither makes real estate mortgage loans nor accepts savings).

(n) *Office* means a principal or branch of a depository institution located in the United States. *Office* does not include a representative office of a foreign commercial bank, electronic terminal, or a loan production office.

(o) *Person* means a natural person, corporation, or other business entity.

(p) *Relevant metropolitan statistical area (RMSA)* means an MSA, a primary MSA, or a consolidated MSA that is not comprised of designated primary MSAs to the extent that these terms are defined and applied by the Office of Management and Budget.

(q) *Representative or nominee* means a natural person who serves as a management official and has an obligation to act on behalf of another person with respect to management responsibilities. The NCUA will find that a person has an obligation to act on behalf of another person only if the first person has agreed to act on behalf of the second person with respect to management responsibilities. The NCUA will determine, after giving the affected person an opportunity to respond, whether a person is a "representative or nominee."

(r) *Total assets.* (1) The term *total assets* means assets measured on a consolidated basis as of the close of the organization's last fiscal year.

(2) The term *total assets* does not include:

(i) Assets of a diversified savings and loan holding company as defined by section 10(a)(1)(F) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)(1)(F)) other than the assets of its depository institution affiliate;

(ii) Assets of a bank holding company that is exempt from the prohibitions of section 4 of the Bank Holding Company Act of 1956 pursuant to an order issued under section 4(d) of that Act (12 U.S.C. 1843(d)) other than the assets of its depository institution affiliate; or

(iii) Assets of offices of a foreign commercial bank other than the assets of its United States branch or agency.

(s) *United States* includes any State or territory of the United States of America, the District of Columbia, Puerto Rico, Guam, American Samoa, and the Virgin Islands.

§ 711.3 Prohibitions.

(a) *Community.* A management official of a depository organization may not serve at the same time as a management official of an unaffiliated depository organization if the depository organizations in question (or a depository institution affiliate thereof) have offices in the same community.

(b) *RMSA.* A management official of a depository organization may not serve at the same time as a management official of an unaffiliated depository organization if the depository organizations in question (or a depository institution affiliate thereof) have offices in the same RMSA and each depository organization has total assets of $20 million or more.

(c) *Major assets.* A management official of a depository organization with total assets exceeding $1 billion (or any affiliate thereof) may not serve at the same time as a management official of an unaffiliated depository organization with total assets exceeding $500 million (or any affiliate thereof), regardless of the location of the two depository organizations.

§ 711.4 Interlocking relationships permitted by statute.

The prohibitions of § 711.3 do not apply in the case of any one or more of the following organizations or to a subsidiary thereof:

(a) A depository organization that has been placed formally in liquidation, or which is in the hands of a receiver, conservator, or other official exercising a similar function;

(b) A corporation operating under section 25 or section 25A of the Federal Reserve Act (12 U.S.C. 601, *et seq.* and 12 U.S.C. 611 *et seq.*, respectively) (Edge Corporations and Agreement Corporations);

(c) A credit union being served by a management official of another credit union;

(d) A depository organization that does not do business within the United States except as an incident to its activities outside the United States;

(e) A State-chartered savings and loan guaranty corporation;

(f) A Federal Home Loan Bank or any other bank organized solely to serve depository institutions (a bankers' bank) or solely for the purpose of providing securities clearing services and services related thereto for depository institutions, and securities companies;

(g) A depository organization that is closed or is in danger of closing as determined by the appropriate Federal depository institutions regulatory agency and is acquired by another depository organization. This exemption lasts for five years, beginning on the date the depository organization is acquired; and

(h)(1) A diversified savings and loan holding company (as defined in section 10(a)(1)(F) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)(1)(F)) with respect to the service of a director of such company who also is a director of an unaffiliated depository organization if:

(i) Both the diversified savings and loan holding company and the unaffiliated depository organization notify their appropriate Federal depository institutions regulatory agency at least 60 days before the dual service is proposed to begin; and

(ii) The appropriate regulatory agency does not disapprove the dual service before the end of the 60-day period.

(2) The NCUA may disapprove a notice of proposed service if it finds that:

(i) The service cannot be structured or limited so as to preclude an anticompetitive effect in financial services in any part of the United States;

(ii) The service would lead to substantial conflicts of interest or unsafe or unsound practices; or

(iii) The notificant failed to furnish all the information required by the NCUA.

(3) The NCUA may require that any interlock permitted under this paragraph (h) be terminated if a change in circumstances occurs with respect to one of the interlocked depository organizations that would have provided a basis for disapproval of the interlock during the notice period.

§ 711.5 Regulatory Standards exemption.

(a) *Criteria.* The NCUA may permit an interlock that otherwise would be prohibited by the Interlocks Act and § 711.3 if:

(1) The board of directors of the depository organization (or the organizers of a depository organization being formed) that seeks the exemption provides a resolution to the NCUA certifying that the organization, after the exercise of reasonable efforts, is unable to locate any other candidate from the community or RMSA, as appropriate, who:

(i) Possesses the level of expertise required by the depository organization and who is not prohibited from service by the Interlocks Act; and

(ii) Is willing to serve as a management official; and

(2) The NCUA, after reviewing an application submitted by the depository organization seeking the exemption, determines that:

(i) The management official is critical to the safe and sound operations of the affected depository organization; and

(ii) Service by the management official will not produce an anticompetitive effect with respect to the depository organization.

(b) *Presumptions.* The NCUA applies the following presumption when reviewing any application for a Regulatory Standards exemption: A proposed management official is critical to the safe and sound operations of a credit union if that official is approved by the NCUA to serve as a director or senior executive officer of that credit union pursuant to 12 CFR 701.14 or pursuant to conditions imposed on a newly chartered credit union and the institution has operated for less than two years, or otherwise was in a "troubled condition" as defined in 12 CFR 701.14 at the time the service under 12 CFR 701.14 is approved.

(c) *Duration of interlock.* An interlock permitted under this section may continue until the NCUA notifies the affected organizations otherwise. The NCUA may require a credit union to terminate any interlock permitted under this section if the NCUA concludes, after giving the affected persons the opportunity to respond, that the determinations under paragraph (a)(2) of this section no longer may be made.

§ 711.6 Management Consignment exemption.

(a) *Criteria.* The NCUA may permit an interlock that otherwise would be prohibited by the Interlocks Act and § 711.3 if the NCUA determines that the interlock would:

(1) Improve the provision of credit to low- and moderate-income areas;

(2) Increase the competitive position of a minority- or woman-owned depository organization;

(3) Strengthen the management of an institution that has been chartered for less than two years at the time an application is filed under this part; or

(4) Strengthen the management of an institution that is in an unsafe or unsound condition as determined by the NCUA on a case-by-case basis.

(b) *Presumptions.* The NCUA applies the following presumptions when reviewing any application for a Management Consignment exemption:

(1) A proposed management official is capable of strengthening the management of a depository institution described in paragraph (a)(3) of this section if that official is approved by the NCUA to serve as a director or senior executive officer of that institution pursuant to 12 CFR 701.14 or pursuant to conditions imposed on a newly chartered credit union and the institution has operated for less than two years at the time the service under 12 CFR 701.14 is approved.

(2) A proposed management official is capable of strengthening the management of a depository institution described in paragraph (a)(4) of this section if that official is approved by the NCUA to serve as a director or senior executive officer of that institution pursuant to 12 CFR 701.14 and the institution was in a "troubled condition" as defined under 12 CFR 701.14 at the time service under 12 CFR 701.14 is approved.

(c) *Duration of interlock.* An interlock granted under this section may continue

for a period of two years from the date of approval. The NCUA may extend this period for one additional two-year period if the depository organization applies for an extension at least 30 days before the current exemption expires and satisfies one of the criteria specified in paragraph (a) of this section. The provisions set forth in paragraph (b) of this section also apply to applications for extensions.

§ 711.7 Change in circumstances.

(a) *Termination.* A management official shall terminate his or her service or apply for an exemption to the Interlocks Act if a change in circumstances causes the service to become prohibited under that Act. A change in circumstances may include, but is not limited to, an increase in asset size of an organization, a change in the delineation of the RMSA or community, the establishment of an office, an acquisition, a merger, a consolidation, or any reorganization of the ownership structure of a depository organization that causes a previously permissible interlock to become prohibited.

(b) *Transition period.* A management official described in paragraph (a) of this section may continue to serve the credit union involved in the interlock for 15 months following the date of the change in circumstances. The NCUA may shorten this period under appropriate circumstances.

§ 711.8 Enforcement.

The NCUA administers and enforces the Interlocks Act with respect to credit unions, and their affiliates, and may refer any case of a prohibited interlocking relationship involving these institutions to the Attorney General of the United States to enforce compliance with the Interlocks Act and this part.

[FR Doc. 96–6703 Filed 3–22–96; 8:45 am]

BILLING CODE 7535–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–ANE–19]

Airworthiness Directives; General Electric Company CF34 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to General Electric Company (GE) CF34 series turbofan engines. This proposal would reduce the allowable operating cyclic life limit for affected fan disks. This proposal is prompted by an updated stress and life analysis. The actions specified by the proposed AD are intended to prevent fan disk rupture, engine failure, and damage to the aircraft.

DATES: Comments must be received by May 24, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–ANE–19, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Eugene Triozzi, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7148, fax (617) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–ANE–19." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–ANE–19, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

The Federal Aviation Administration (FAA) has reviewed and approved an updated stress and life analysis for fan disks installed in General Electric Company (GE) CF34 series turbofan engines. Although the FAA has not received any reports of cracked or failed fan disks, the stress and life analysis was performed using new, improved methodology. This analysis revealed that the published cyclic life limits were higher than updated calculated lives, which could result in the operation of a fan disk beyond its cyclic life. This condition, if not corrected, could result in fan disk rupture, engine failure, and damage to the aircraft.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would reduce the allowable operating cyclic life limit for affected fan disks.

There are approximately 440 engines of the affected design in the worldwide fleet. The FAA estimates that 150 engines installed on aircraft of U.S. registry would be affected by this proposed AD, that it would take approximately zero additional work hours per engine to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $106,320 per engine, based on the estimated current part cost, prorated downward by a factor equal to the quotient of the difference between the original cyclic life limit (38,280 cycles) and the revised cyclic life limit (9,000 cycles) divided by the original cyclic life limit. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $15,950,000.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

General Electric Company: Docket No. 95–ANE–19.

Applicability: General Electric Company (GE) Model CF34–1A, –3A, and –3A2 turbofan engines, with fan disk part numbers (P/N's) 6020T62G04, 6020T62G05, 6078T00G01, or 5921T54G01 installed. These engines are installed on but not limited to Canadair Limited Model CL–600–2A12 and CL–600–2B16 aircraft.

Note: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) to request approval from the Federal Aviation Administration (FAA). This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any engine from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent fan disk rupture, engine failure, and damage to the aircraft, accomplish the following:

(a) Remove from service fan disks, P/N's 6020T62G04, 6020T62G05, 6078T00G01, and 5921T54G01, prior to accumulating 9,000 cycles in service (CIS) since new, and replace with a serviceable part.

(b) For the purpose of this AD, a serviceable part is defined as a fan disk with less than 9,000 CIS.

(c) This AD defines a new life limit of 9,000 CIS for fan disks, P/N's 6020T62G04 6020T62G05, 6078T00G01, and 5921T54G01.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

Issued in Burlington, Massachusetts, on March 11, 1996.

James C. Jones,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 96–7142 Filed 3–22–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–CE–44–AD]

Airworthiness Directives; Jetstream Aircraft Limited HP137 Mk1, Jetstream Series 200, and Jetstream Models 3101 and 3201 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); Reopening of the comment period.

SUMMARY: This document proposes to revise an earlier proposed airworthiness directive (AD) that would have required the following on Jetstream Aircraft Limited (JAL) HP137 Mk1, Jetstream series 200, and Jetstream Models 3101 and 3201 airplanes: repetitively inspecting the main landing gear (MLG) pintle to cylinder interface for cracks, and replacing any MLG cylinder that has a crack exceeding certain limits. Reports of MLG cracks in the area of the pintle to cylinder interface on three of the affected airplanes prompted the proposal. Since publication of that proposal, the Federal Aviation Administration (FAA) has determined that the proposed action is still a valid safety issue, but that the MLG cylinder should be replaced if any cracks are found regardless of the length. This proposed action revises the previous proposal by incorporating this change. The actions specified by the proposed AD are intended to prevent failure of the MLG caused by cracks in the pintle to cylinder interface area, which, if not detected and corrected, could result in loss of control of the airplane during landing operations. Since the comment period for the original proposal has closed and the change described above goes beyond the scope of what was originally proposed, the FAA is allowing additional time for the public to comment.

DATES: Comments must be received on or before May 24, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel Attention: Rules Docket No. 95–CE–44–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Jetstream Aircraft Limited, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, telephone (44–292) 79888; facsimile (44–292) 79703; or Jetstream Aircraft Inc., Librarian, P.O. Box 16029, Dulles International Airport, Washington, D.C. 20041–6029; telephone (703) 406–1161; facsimile (703) 406–1469. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Ms. Dorenda Baker, Program Manager, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B–1000 Brussels, Belgium; telephone (32 2) 508.2715; facsimile (32 2) 230.6899; or Mr. Jeffrey Morfitt, Project Officer, Small Airplane Directorate, Aircraft Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64105; telephone (816) 426–6932; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as

they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this supplemental notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this supplemental notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 95–CE–44–AD." The postcard will be date stamped and returned to the commenter.

Availability of Supplemental NPRM's

Any person may obtain a copy of this supplemental NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–CE–44–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain JAL HP137 Mk1, Jetstream series 200, and Jetstream Models 3101 and 3201 airplanes was published in the **Federal Register** on September 19, 1995 (60 FR 48429). The action proposed to require repetitively inspecting (using non-destructive testing eddy current methods) the MLG pintle to cylinder interface for cracks, and replacing any MLG cylinder that has a crack exceeding certain limits. Accomplishment of the proposed inspections would be in accordance with Jetstream Alert Service Bulletin 32–A–JA 941245, Revision 2, dated March 28, 1995, and AP Precision Hydraulics Ltd. Service Bulletin 32–56, Revision 3, dated February 1995.

Interested persons have been afforded an opportunity to participate in the making of this amendment. One comment was received in favor of the proposed rule and no comments were received regarding the FAA's determination of the cost to the public.

Since publication of the proposal, the FAA has re-examined all information related to this subject and determined that the MLG cylinder should be replaced if any cracks are found, and not merely if cracks are found that exceed certain limits. The FAA has determined that no airplane should be allowed to operate with cracks in a single-load path primary structure element (the MLG is considered a single-load path primary structure element), and should be repaired or replaced immediately.

Since the comment period for the original proposal has closed and revision of the NPRM to require immediate MLG cylinder replacement if any crack is found in the MLG pintle to cylinder interface for the JAL HP137 Mk1, Jetstream series 200, and Jetstream Models 3101 and 3201 airplanes proposes actions that go beyond the scope of what was already proposed, the FAA is allowing additional time for the public to comment.

The FAA estimates that 250 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 6 workhours per airplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. Based on these figures, the total cost impact of the proposed inspection on U.S. operators is estimated to be $90,000. This figure does not take into account the cost of repetitive inspections or the cost of replacement MLG cylinders if cracks are found that exceed certain limits. The FAA has no way of determining the number of repetitive inspections each owner/operator would incur over the life of the airplane or the number of MLG cylinders that may be found cracked during the inspections proposed by this action.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

Jetstream Aircraft Limited: Docket No. 95–CE–44–AD.

Applicability: HP 137 Mk1, Jetstream series 200, and Jetstream Models 3101 and 3201 airplanes (all serial numbers), certificated in any category, that are equipped with one of the following main landing gear (MLG) part numbers: 1863, 1863/4A, 1863/4B, 1863/4C, 1864, 1864/4A, 1864/4B, 1864/4C, BOOA702850A, BOOA702851A, BOOA702925A, BO1A702925A, BOOA703065A, BO1A703065A, BOOA703030A, BOOA702926A, BO1A702926A, BOOA703066A, BO1A703066A, BOOA703031A.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required initially upon the accumulation of 8,500 landings on an affected MLG or within the next 100 landings after the effective date of this AD, whichever occurs later, unless already accomplished, and thereafter at intervals not to exceed 4,000 landings accumulated on an affected MLG.

Note 2: If the number of landings is unknown, hours time-in-service (TIS) may be used by multiplying the number of hours TIS by 0.75. If hours TIS are utilized to calculate the number of landings, this would make the AD effective "initially upon the accumulation of 11,333 hours TIS on an affected MLG or within the next 133 hours TIS after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed to 5,333 hours TIS accumulated on an affected MLG."

To prevent failure of the MLG caused by cracks in the pintle to cylinder interface area, which, if not detected and corrected, could result in loss of control of the airplane during landing operations, accomplish the following:

(a) Using non-destructive testing (NDT) eddy current methods, inspect the MLG pintle to cylinder interface for cracks in accordance with the following:

(1) Jetstream Alert Service Bulletin 32–A–JA 941245, Revision 2, dated March 28, 1995; and

(2) AP Precision Hydraulics Ltd. Service Bulletin 32–56, Revision 3, dated February 1995.

(b) If any crack is found during any inspection required by this AD, prior to further flight, replace the MLG cylinder with a new part. Replacing the MLG cylinder does not eliminate the repetitive inspection requirement of this AD.

Note 3: The "prior to further flight" compliance time required by this AD if a MLG cylinder is cracked is different from the compliance time referenced in Jetstream Alert Service Bulletin 32–A–JA 941245, Revision 2, dated March 28, 1995; and AP Precision Hydraulics Ltd. Service Bulletin 32–56, Revision 3, dated February 1995. This AD takes precedence over the service information.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the initial and repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Brussels Aircraft Certification Office (ACO), Europe, Africa, Middle East office, FAA, c/o American Embassy, B–1000 Brussels, Belgium. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Brussels ACO.

(e) All persons effected by this directive may obtain copies of the documents referred to herein upon request to Jetstream Aircraft Limited, Manager Product Support, Prestwick Airport, Ayrshire, KA9 2RW Scotland; or Jetstream Aircraft Inc., Librarian, P.O. Box 16029, Dulles International Airport, Washington, DC, 20041- 6029; or may examine these documents at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on March 19, 1996.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–7150 Filed 3–22–96; 8:45 am]

BILLING CODE 4910–13–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 89, 90, and 91

[FRL–5445–9]

RIN 2060–AE54

Control of Air Pollution; Emission Standards for New Gasoline Spark-Ignition and Diesel Compression-Ignition Marine Engines; Exemptions for Nonroad Compression-Ignition Engines at or Above 37 Kilowatts and New Nonroad Spark-Ignition Engines at or Below 19 Kilowatts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period.

SUMMARY: EPA is allowing more time for comments from the public on its proposals in the Supplementary Notice of Proposed Rulemaking (SNPRM) February 7, 1996 (61 FR 4600). This extension of time is limited to comments concerning its proposal to reduce emissions from marine compression-ignition engines.

DATES: The comment period on the SNPRM proposals concerning marine compression-ignition engines will remain open until April 24, 1996.

ADDRESSES: Interested parties may submit written comments (in duplicate, if possible) for EPA consideration by addressing them as follows: EPA Air Docket (LE–131), Attention: Docket Number A–92–28, room M–1500, 401 M Street, S.W., Washington, D.C. 20460. Materials relevant to this rulemaking are contained in this docket and may be reviewed at this location from 8:00 a.m. until 5:30 p.m. Monday through Friday. As provided in 40 CFR part 2, a reasonable fee may be charged by EPA for photocopying.

FOR FURTHER INFORMATION CONTACT: Deanne R. North, Office of Mobile Sources, Engine Programs and Compliance Division, (313) 668–4283, or James A. Blubaugh, Office of Mobile Sources, Engine Programs and Compliance Division, (202) 233–9244.

SUPPLEMENTARY INFORMATION:

I. Extension of Comment Period

On February 7, 1996, EPA published a Supplemental Notice of Proposed Rulemaking (SNPRM) (61 FR 4600) proposing provisions to regulate emissions from marine gasoline spark-ignition and diesel compression-ignition engines. The SNPRM requested comments no later than March 8, 1996. EPA is now extending the comment period for the compression-ignition portion of the SNPRM, specifically, those portions of the rulemaking that concern revisions to 40 CFR Part 89. The Agency is taking this action in response to a request from EUROMOT to extend the comment period because the International Maritime Organization had a major meeting on February 27 and 28, 1996, in Hamburg, Germany, that made it difficult for their members and other affected parties to comment on EPA's SNPRM before March 8, 1996

II. Obtaining Information on This Rulemaking

The SNPRM preamble, proposed regulatory language, and supporting data are available to the public through several sources. Electronic copies (on 3.5" diskettes) of the proposed regulatory language may be obtained free of charge by visiting, writing, or calling the Environmental Protection Agency, Engine Programs and Compliance Division, 2565 Plymouth Road, Ann Arbor, MI 48105, (313) 668–4288. Refer to Docket A–92–28. A copy is also available for inspection in the docket (see **ADDRESSES**).

The SNPRM preamble, proposed regulatory language, and some supporting information are also available electronically on the Technology Transfer Network (TTN), which is an electronic bulletin board system (BBS) operated by EPA's Office of Air Quality Planning and Standards. The service is free of charge, except for the cost of the phone call. Users are able to access and download TTN files on their first call using a personal computer and modem per the following information.

TTN BBS: 919–541–5742 (1200–14400 bps, no parity, 8 data bits, 1 stop bit) Voice Helpline: 919–541–5384 Also accessible via Internet: TELNET ttnbbs.rtpnc.epa.gov Off-line: Mondays from 8:00 AM to 12:00 Noon ET

A user who has not called TTN previously will first be required to answer some basic informational questions for registration purposes. After completing the registration process, proceed through the following

menu choices from the Top Menu to access information on this rulemaking.

<T> GATEWAY TO TTN TECHNICAL AREAS (Bulletin Boards)
<M> OMS—Mobile Sources Information
<K> Rulemaking & Reporting
<6> Non-Road
<1> File area #1. Non-Road Marine Engines

At this point, the system will list all available files in the chosen category in chronological order with brief descriptions. To download a file, select a transfer protocol that is supported by the terminal software on your own computer, then set your own software to receive the file using that same protocol.

If unfamiliar with handling compressed (that is, ZIP'ed) files, go to the TTN top menu, System Utilities (Command: 1) for information and the necessary program to download in order to unZIP the files of interest after downloading to your computer. After getting the files you want onto your computer, you can quit the TTN BBS with the <G>oodbye command.

Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc. may occur.

Dated: March 19, 1996.

Mary Nichols,

Assistant Administrator.

[FR Doc. 96–7165 Filed 3–22–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Parts 148, 261, 268, 271

[FRL–5447–4]

RIN 2050–AE05

Land Disposal Restrictions, Supplemental Proposal to Phase IV Rule: Clarification of Bevill Exclusion for Mining Wastes, Changes to the Definition of Solid Waste for Mineral Processing Wastes, and Associated Issues—Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period.

SUMMARY: EPA is extending the public comment period on the mineral processing sections of the supplemental Phase IV proposal (61 FR 2338, January 25, 1996) for 30 days beyond the original 60-day comment period. Public comments must be submitted to EPA by April 24, 1996.

DATES: Comments must be submitted by April 24, 1996.

ADDRESSES: To submit comments, the public must send an original and two copies to Docket Number F–95–PH4A-FFFFF, located at the RCRA Docket. The mailing address is: RCRA Information Center, U.S. Environmental Protection Agency (5305W), 401 M Street, S.W., Washington, D.C. 20460. The RCRA Information Center is located at 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia. The RCRA Information Center is open for public inspection and copying of supporting information for RCRA rules from 9:00 am to 4:00 pm Monday through Friday, except for Federal holidays. The public must make an appointment to review docket materials by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory document at no cost. Additional copies cost $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information or to order paper copies of this **Federal Register** document, call the RCRA Hotline. Callers within the Washington, Metropolitan Area must dial 703–412–9810 or TDD 703–412–3323 (hearing impaired). Long-distance callers may call 1–800–424–9346 or TDD 1–800–553–7672. The RCRA Hotline is open Monday-Friday, 9:00 a.m. to 6:00 p.m., Eastern Standard Time. For information on mineral processing issues, contact Van Housman at (703) 308–8419 or Steven Hoffman at (703) 308–8413. For other information on this notice, contact Sue Slotnick at (703) 308–8462.

SUPPLEMENTARY INFORMATION:

Paperless Office Effort

EPA is asking prospective commenters to voluntarily submit one additional copy of their comments on labeled personal computer diskettes in ASCII (TEXT) format or a word processing format that can be converted to ASCII (TEXT). It is essential to specify on the disk label the word processing software and version/edition as well as the commenter's name. This will allow EPA to convert the comments into one of the word processing formats utilized by the Agency. Please use mailing envelopes designed to physically protect the submitted diskettes. EPA emphasizes that submission of comments on diskettes is not mandatory, nor will it result in any advantage or disadvantage to any commenter. This expedited procedure is in conjunction with the Agency "Paperless Office" campaign. For further information on the submission of diskettes, contact Sue Slotnick of the Waste Treatment Branch at (703) 308–8462.

This **Federal Register** notice is available on the Internet System through EPA Public Access Server at gopher.epa.gov.or through WWW.epa.gov. For the text of the notice, choose: Rules, Regulations, and Legislation; the FR-Waste; finally, Year/Month/Day.

Extension of Comment Period

On August 22, 1995, EPA proposed the Phase IV Land Disposal Restrictions rule (60 FR 43654) containing proposed treatment standards for newly listed and characteristic wastes, among other issues. In a supplemental proposal (61 FR 2338, January 25, 1996), EPA proposed treatment standards for hazardous mineral processing wastes, changes to the definition of solid waste for mineral processing wastes, related issues regarding mineral processing wastes, and several unrelated issues. The two proposals will form the basis for a single final rule due to be promulgated later this year, referred to as the Phase IV rule.

EPA has received requests from the Environmental Defense Fund, the National Mining Association, ASARCO Incorporated, Kennecott Corporation, Barrick Goldstrike Mines Incorporated, and the Precious Metals Producers for an extension of the 60-day public comment period due to the broad scope and complexity of the proposal. The additional time requested ranged from 30 to 90 days. EPA is today extending the comment period an additional 30 days, resulting in a 90-day comment period, on the supplemental rule. Comments must be submitted by April 24, 1996. EPA is not extending the comment period beyond the extra 30 days because it believes that a 90-day comment period is adequate. Furthermore, EPA had provided major interested parties with a copy of the signed rule and one of the major background documents 38 days prior to publication in the **Federal Register**, i.e. before the comment period began. In addition, EPA held several meetings with major interested parties during the development of the proposal. In those meetings, EPA presented the positions it eventually proposed on mineral processing issues, and received feedback from the public which was used in EPA's decision-making.

In letters to EPA, the National Mining Association and ASARCO Incorporated stated that one reason for requesting additional time for the comment period was because the docket was incomplete. In several of the technical background documents prepared for this rule, which have been in the docket since the proposal was signed, EPA listed as secondary references certain other sources. Most of these documents are publicly available in other EPA rulemaking dockets and in the public literature, while some are not. The latter include, for example, correspondence from EPA's contractors. EPA has now placed these referenced documents (except those already publicly available) in the docket to provide more complete access to them. EPA does not view these reference documents as critical to the decision-making process for the rulemaking, and does not believe that additional time is warranted for response.

At the time of publication, EPA indvertently omitted from the docket a document concerning the proposed exclusion of processed scrap metal and shredded circuit boards. The document is entitled, "Scrap Metal Management: Assessment of Environmental and Human Health Damages Attributable to Scrap Metals: Technical Memorandum," dated February 28, 1995. EPA has now placed it in the docket and it is available for public review.

Dated: March 21, 1996.

Michael Shapiro,

Director, Office of Solid Waste.

[FR Doc. 96–7273 Filed 3–22–96; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 640

RIN 0648–AI15

[Docket No. 960314075–6075–01; I.D. 030896A]

Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic; Removal of Regulations

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to withdraw approval of the Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic (FMP) and remove its implementing regulations. Virtually the entire commercial and recreational fisheries for spiny lobsters occur off Florida's coast and State regulations are adequate to protect and manage the resource. Accordingly, removal of the Federal regulations eliminates duplication of effort, reduces costs of enforcement and data collection, and is in accordance with the President's Regulatory Reinvention Initiative intended to reform Federal regulations.

DATES: Written comments must be received on or before May 9, 1996.

ADDRESSES: Send comments on the proposed rule and requests for copies of the Environmental Assessment/Regulatory Impact Review on this action to the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Georgia Cranmore, 813–570–5305.

SUPPLEMENTARY INFORMATION: The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and was implemented in 1982 through regulations at 50 CFR part 640 under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

The spiny lobster fishery managed under the FMP is located primarily off the coast of Florida. The majority of harvest is from Florida's waters (0–3 nautical miles (0–5.6 km) off the Atlantic coast and 0–9 nautical miles (0–16.7 km) off the Gulf coast), and virtually all of the harvest is landed in Florida's ports. The principal harvest area is the Florida Keys reef tract. Consequently, the great preponderance of landings have occurred in Dade and Monroe Counties, the southernmost counties of Florida. In 1995, 97 percent of the commercial landings of spiny lobster were in these two counties and 92 percent of those spiny lobster were harvested in Florida's waters. A Florida license is required for all commercial landings in Florida. The FMP, as implemented in 1982, and subsequently amended, complemented the State's management regime. By adopting Florida's rules, the Council and NMFS accommodated Florida's leading role in regulating this fishery.

The regulations to implement Amendment 4 to the FMP (60 FR 21493, May 2, 1995) for the first time established management measures other than Florida's for the spiny lobster fishery off the states of Georgia, South Carolina, and North Carolina. These regulations opened the fishery year-round in the exclusive economic zone (EEZ) off those states, but established a daily bag or possession limit of two spiny lobsters per person in or from the EEZ in both the commercial and recreational fisheries.

Recent commercial landings of spiny lobster off the southern Atlantic states north of Florida are negligible—not exceeding 45 lb (20 kg) per year in the years 1990 through 1994. Recreational landings north of Florida are not known. However, a recent NMFS survey indicated that only a small number of recreational divers harvested spiny lobster north of Florida. In addition, scientific debate continues regarding the biological status and population dynamics of spiny lobsters in waters north of Florida, including the issues of recruitment and the fate of larvae from the adult population in this area. Commercial landings in Gulf states other than Florida are sporadic and minimal, not exceeding 507 lb (230 kg) in any of the years 1990 through 1994. The level of recreational fishing for lobsters in these Gulf states is unknown. For these reasons, lack of Federal management of this fishery is unlikely to have any significant effect on the status of the resource or on the conduct of the fishery.

Section 303(a)(1) of the Magnuson Act (16 U.S.C. 1853 (a)(1)) requires that a fishery management plan contain the measures that are "necessary and appropriate for the conservation and management of the fishery to prevent overfishing, and to protect, restore, and promote the long-term health and stability of the fishery," and that are "consistent with the national standards." NMFS has concluded that Florida's regulations are adequate to protect and manage the spiny lobster resource off its coast and that the removal of Federal regulations for the spiny lobster fishery in the EEZ off the other states should have no significant regulatory or biological effects. If necessary, other states may implement regulations that will protect and manage the resource off their coasts. Therefore, NMFS has determined that Federal regulations for this fishery are not "necessary and appropriate." Furthermore, continuation of Federal regulations would not be consistent with the Magnuson Act's National Standard 7 that requires that "conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication."

The FMP also includes a management measure applicable to slipper lobsters, *Scyllarides* spp., which are a minor component of the incidental catch in bottom trawl fisheries. The FMP prohibits taking of egg-bearing female slipper lobsters but includes no further management measures for these species. There is no known directed fishery for slipper lobsters and slipper lobsters are so broadly and sparsely distributed over the range of the management unit that insufficient information is available either to monitor their abundance or assess their status relative to

overfishing. It is believed that their principal or preferred habitats are areas of rough and irregular bottom where trawling is not possible; this may afford them adequate protection against overfishing.

For the reasons summarized above, and in accordance with the President's Regulatory Reinvention Initiative, NMFS proposes to withdraw approval of the FMP and to remove its implementing regulations. If approval of the FMP is withdrawn, a notice establishing a control date governing entry into the Gulf of Mexico and South Atlantic spiny lobster fishery under any future limited entry program (51 FR 5713, February 18, 1986) would no longer be relevant.

NMFS recognizes the states' authority under section 306(a)(3) of the Magnuson Act (16 U.S.C. 1856(a)(3)) to regulate vessels registered under its laws when such vessels harvest spiny lobsters in the EEZ. If fishing practices outside the authority of a state should constitute an emergency situation that jeopardizes effective management of the spiny lobster fishery or resource in the EEZ, NMFS would consider promulgating emergency regulations to address the emergency, as authorized by section 305(c)(1) of the Magnuson Act (16 U.S.C. 1855(c)(1)).

Classification

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. As a result, a regulatory flexibility analysis was not prepared. Since Florida's regulations on the spiny lobster fishery are not substantively different from the Federal regulations that would be removed, conduct of the fishery off Florida would not be significantly affected. The number of vessels in the spiny lobster fishery off other states is not a substantial number.

List of Subjects in 50 CFR Part 640

Fisheries, Fishing, Incorporation by reference, Reporting and recordkeeping requirements.

Dated: March 19, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, under the authority of 16 U.S.C. *et seq.*, part 640 is proposed to be removed.

[FR Doc. 96–7111 Filed 3–22–96; 8:45 am]
BILLING CODE 3510–22–F

50 CFR Part 654

RIN 0648–AI16

[Docket No. 960314075–6076–02; I.D. 031196C]

Stone Crab Fishery of the Gulf of Mexico; Removal of Regulations

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to withdraw approval of the Fishery Management Plan for the Stone Crab Fishery of the Gulf of Mexico (FMP) and remove its implementing regulations. The stone crab fishery takes place entirely off Florida's coast and State regulations are adequate to protect and manage the resource. Accordingly, removal of the Federal regulations eliminates duplication of effort, reduces costs of enforcement and data collection, and is in accordance with the President's Regulatory Reinvention Initiative intended to reform Federal regulations.

DATES: Written comments must be received on or before May 9, 1996.

ADDRESSES: Send comments on the proposed rule and requests for copies of the Environmental Assessment/Regulatory Impact Review to the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Georgia Cranmore, 813–570–5305.

SUPPLEMENTARY INFORMATION: The FMP was prepared by the Gulf of Mexico Fishery Management Council (Council) and was implemented in 1979 through regulations at 50 CFR part 654 under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

The stone crab fishery managed under the FMP is located entirely off the coast of Florida. The majority of harvest is from Florida's waters (0–9 nautical miles (0–16.7 km) from shore on the Gulf coast and 0–3 nautical miles (0–5.6 km) from shore on the Atlantic coast), and virtually all of the harvest is landed in Florida's ports, principally in the southwestern Florida counties of Monroe through Lee. In 1995, almost 75 percent of stone crab landings were in these counties and 78 percent of the entire harvest was from Florida's waters. NMFS believes that all vessels in this fishery are registered in Florida. A Florida license is required for all commercial landings in Florida. For these reasons, lack of Federal management of this fishery is unlikely to have any significant effect on the status of the resource or on the conduct of the fishery.

Florida has actively managed the fishery since 1929. The FMP was intended to resolve gear conflicts between shrimp fishermen with vessels registered in states other than Florida and Florida stone crab fishermen. Other FMP objectives include managing the stone crab resource for optimum yield, conserving the stocks while attaining full utilization, establishing an effective reporting system, and promoting uniformity of the regulations throughout the management area. The FMP, as amended, adopted Florida's rules for stone crab in the exclusive economic zone (EEZ). By adopting Florida's rules, the Council and NMFS accommodated Florida's leading role in regulating this fishery.

Section 303(a)(1) of the Magnuson Act (16 U.S.C. 1853 (a)(1)) requires that a fishery management plan contain the measures that are "necessary and appropriate for the conservation and management of the fishery to prevent overfishing, and to protect, restore, and promote the long-term health and stability of the fishery," and that are "consistent with the national standards." NMFS has concluded that Florida's regulations are adequate to protect and manage the stone crab resource throughout its range. Therefore, NMFS has determined that Federal regulations for this fishery are not "necessary and appropriate." Furthermore, continuation of Federal regulations would not be consistent with the Magnuson Act's National Standard 7 that requires that "conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication."

For the reasons summarized above, and in accordance with the President's regulatory reform initiative, NMFS proposes to withdraw approval of the FMP and to remove its implementing regulations. If approval of the FMP is withdrawn, an advance notice of proposed rulemaking (60 FR 37868, July 24, 1995), which announced that the Council was considering measures to limit entry into the fishery and established a control date if a limited entry program were implemented, would no longer be relevant.

NMFS recognizes Florida's authority under section 306(a)(3) of the Magnuson Act (16 U.S.C. 1856(a)(3)) to regulate vessels registered under its laws when such vessels harvest stone crab in the EEZ. If fishing practices outside Florida's authority should constitute an emergency situation that jeopardizes effective management of the stone crab fishery in the EEZ, NMFS would consider issuing emergency regulations to address the emergency, as authorized by section 305(c)(1) of the Magnuson Act (16 U.S.C. 1855(c)(1)). Additionally, Federal shrimping regulations will prevent gear conflicts by maintaining shrimp/stone crab separation zones in the EEZ.

Classification

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. As a result, a regulatory flexibility analysis was not prepared. Since Florida's regulations on the stone crab fishery are not substantively different from the Federal regulations that would be removed, conduct of the fishery would not be significantly affected.

List of Subjects in 50 CFR Part 654

Fisheries, Fishing, Incorporation by reference.

Dated: March 19, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, under the authority of 16 U.S.C. 1801 *et seq.*, part 654 is proposed to be removed.

[FR Doc. 96–7112 Filed 3–22–96; 8:45 am]
BILLING CODE 3510–22–F

Notices

Federal Register

Vol. 61, No. 58

Monday, March 25, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

[Docket No. 96–016–1]

Declaration of Extraordinary Emergency Because of Karnal Bunt

An exotic fungal disease, Karnal bunt, has been detected in the United States. The disease was detected in Arizona, and potentially contaminated seed was sent to New Mexico and Texas. The disease had not previously been detected in the United States.

Karnal bunt (*Tilletia indica*) is a serious disease of wheat, durum wheat, and triticale, a hybrid of wheat and rye. The disease affects both yield and grain quality. It adversely affects the color, odor, and palatability of flour and other foodstuffs made from wheat. It does not present a risk to human health.

If Karnal bunt is allowed to spread, the overall crop loss and impact on quality may be significant. The disease could affect United States grain exports. The United States is the world's leading wheat exporter, accounting for one-third of the world wheat exports. Wheat exports from the United States were valued at $4.9 billion in Fiscal Year 1995. At least 21 countries are known to regulate or prohibit grain movement on the basis of Karnal bunt.

Control and eradication of Karnal bunt is difficult. Management of the disease is through quarantine and containment of regulated articles. Initial emergency action was taken by the Arizona Department of Agriculture (ADA) and the Animal and Plant Health Inspection Service (APHIS). APHIS and ADA have instituted emergency quarantines on the infected premises and are regulating the movement of seed, farm equipment, and soil associated with the infected wheat.

This infection of Karnal bunt represents a threat to United States wheat crops. It constitutes a real danger to the national economy and seriously burdens interstate and foreign commerce. Therefore, the U.S. Department of Agriculture (the Department) has determined that an extraordinary emergency exists because of the existence of Karnal bunt in Arizona and possibly New Mexico and Texas.

The Department has reviewed the measures being taken by the States of Arizona, New Mexico, and Texas to survey, regulate, and control Karnal bunt and has consulted with the Governors of Arizona, New Mexico, and Texas. Based on such review and consultation, the Department has determined that measures being taken by the States of Arizona, New Mexico, and Texas are inadequate because these States are unable to take all of the measures required to obtain and maintain the cooperation of the owners of wheat crops necessary to effectively and efficiently control Karnal bunt.

Therefore, in accordance with 7 U.S.C. 150dd, this declaration of extraordinary emergency authorizes the Secretary to: (1) seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of, in such manner as the Secretary deems appropriate, any product or article of any character whatsoever, or means of conveyance that the Secretary has reason to believe is infected by or contains Karnal bunt; (2) quarantine, treat, or apply other remedial measures to, in such manner as the Secretary deems appropriate, any premises, including articles on such premises, that the Secretary has reason to believe are infected by Karnal bunt. The Governors of Arizona, New Mexico, and Texas have been informed of these facts.

EFFECTIVE DATE: This declaration of extraordinary emergency shall become effective March 20, 1996.

Dan Glickman,

Secretary of Agriculture.

[FR Doc. 96–7217 Filed 3–21–96; 9:27 am]

BILLING CODE 3410–34–P

Food and Consumer Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Adolescent WIC Participants Study

AGENCY: Food and Consumer Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, Pub. L. 104–13, this notice announces the Food and Consumer Service's (FCS) intention to request OMB approval of the Adolescent WIC Participants Study.

DATES: Comments on this notice must be received by May 24, 1996.

ADDRESSES: Send comments and requests for copies of this information collection to: Michael E. Fishman, Acting Director, Office of Analysis and Evaluation, Food and Consumer Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Michael E. Fishman, (703) 305–2117.

SUPPLEMENTARY INFORMATION:

Title: Adolescent WIC Participants Study.

OMB Number: Not yet assigned.

Expiration Date: N/A.

Type of Request: New collection of information.

Abstract: The Adolescent WIC Participants Study will determine whether adolescent WIC participants have needs that (a) set them apart from other WIC clients, and (b) require special program measures. The needs of adolescent participants will be assessed for each of the following WIC program benefits:

- Knowledge of nutrition,
- Adoption of healthy dietary practices,
- Knowledge of available health care services, and
- Access to available services.

Surveys of WIC clinic directors and adolescent participants will identify unique needs and determine the extent to which they are met by WIC.

A nationally representative sample of 150 local WIC agencies will be scientifically selected and divided into two subsamples, one containing 100 agencies and the other containing 50 agencies. An average of two clinics will be sampled from each of the 150 WIC agencies in the combined sample. The resulting 300 clinics will support a national survey of 300 WIC clinic directors. Clinic directors will be asked about the needs of adolescent clients, and whether special measures have been taken to meet such needs. The 100 clinics in the larger of the two subsamples will support a national survey of 3,000 adolescent WIC participants. This survey will assess needs of adolescent WIC participants.

Estimate of Burden: Public reporting burden is estimated to average 30 minutes for each WIC clinic director and 30 minutes for each adolescent WIC participant.

Respondents: WIC clinic directors will respond to a telephone survey. Adolescent WIC participants will respond to an audio computer assisted self-interviewing system.

Estimated Number of Respondents: 300 directors of WIC clinics and 3,000 adolescent WIC participants.

Estimated Number of Responses per Respondent: one.

Estimated Total Annual Burden on Respondents: 1,650 hours.

dated: March 18, 1996.

William E. Ludwig,

Administrator, Food and Consumer Service.

[FR Doc. 96–7158 Filed 3–22–96; 8:45 am]

BILLING CODE 3410–30–P

Forest Service

Southwest Washington Provincial Advisory Committee Meeting Notice

AGENCY: Forest Service, USDA.

ACTION: Notice of Meeting.

SUMMARY: The Southwest Washington Provincial Advisory Committee will meet on April 18, 1996, at the Red Lion Inn in Kelso, Washington. The meeting will begin at 9 a.m. and continue until 4:30 p.m. The purpose of the Advisory Committee meeting is to utilize the Province Health Matrix to advise on proposed Timber sales for the Cowlitz, Lewis, Wind River, and White Salmon Basins. Agenda items to be covered include: (1) 1996 and 1997 Timber Sale Program, (2) Updates from Subcommittees on the Social and Economic Indicators of Basin Health and Forest Monitoring Program, (3) Cispus AMA Update, (4) Replacements for vacated seats, (5) Flood damage report, and (6) Public Open Forum. The purpose of the Monitoring Subcommittee meeting is to develop a proposal on components of the forest Monitoring Program. All Southwest Washington Provincial Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend. The "open forum" provides opportunity for the public to bring issues, concerns, and discussion topics to the Advisory Committee. The "open forum" is scheduled as part of agenda item (1) for this meeting. Interested speakers will need to register prior to the open forum period. The committee welcomes the public's written comments on committee business at any time.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Sue Lampe, Public Affairs, at (360) 750–5091, or write Forest Headquarters Office, Gifford Pinchot National Forest, 6926 E. Fourth Plain Blvd., PO Box 8944, Vancouver, WA 98668–8944.

Dated: March 18, 1996.

Ted. C. Stubblefield,

Forest Supervisor.

[FR Doc. 96–7139 Filed 3–22–96; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 22–96]

Foreign-Trade Zone 43, Battle Creek, Michigan, Application for Subzone Status; Abbott Manufacturing, Inc./ Ross Products, Plant (Infant Formula, Adult Nutritional Products), Sturgis, MI

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of Battle Creek Michigan, grantee of FTZ 43, requesting special-purpose subzone status for export activity at the infant formula and adult nutritional products manufacturing plant of Abbott Manufacturing, Inc. (AMI) (a subsidiary of Abbott Laboratories, Inc.), located in Sturgis, Michigan. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on March 12, 1996.

The plant (624,000 sq.ft. on 76 acres), known as the Ross Products facility, is located at 901 N. Centreville Road, Sturgis (St. Joseph County), Michigan, approximately 45 miles southwest of Battle Creek. The facility (500 employees) is used to produce milk and sugar-based infant formula and adult nutritional products for export and the domestic market; however, zone procedures would be used only for production for export. The production process involves blending foreign, ex-quota milk powder and foreign, ex-quota sugar with domestically-sourced oils, soy isolates, vitamins and minerals, and EZO ends. Other foreign-sourced items that may be used in the export-blending activity include: cocoa powder, pharmaceutical grade fat emulsions, vitamins and minerals, and caseinates (up to 14% of finished product value). All foreign-origin milk and sugar would be re-exported as ingredients in finished blended products.

Zone procedures would exempt AMI from quota requirements and Customs duty payments on the foreign milk and sugar products used in the export activity and from Customs duty payments on the other foreign ingredients involved. The application indicates that subzone status would help improve the plant's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is May 24, 1996. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to June 10, 1996).

A copy of the application and the accompanying exhibits will be available for public inspection at each of the following locations:

Office of the Port Director, U.S. Customs Service, 4950 West Dickman Road, Battle Creek, MI 49015

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th Street & Pennsylvania Avenue NW., Washington, DC 20230–0002.

Dated: March 14, 1996.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–7049 Filed 3–22–96; 8:45 am]

BILLING CODE 3510–DS–P

[Docket 21–96]

Foreign-Trade Zone 40, Cleveland, Ohio; Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Cleveland-Cuyahoga County Port Authority (Port Authority), grantee of FTZ 40, requesting authority to expand its zone in Cleveland, Ohio, within the Cleveland Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on March 12, 1996.

FTZ 40 was approved on September 29, 1978 (Board Order 135, 43 FR 46886; 10/11/78), and expanded in June 1982 (Board Order 194, 47 FR 27579; 6/25/82) and April 1992 (Board Order 574, 57 FR 13694; 4/17/92). The zone project currently consists of two sites in the Cleveland, Ohio, area: *Site 1:* (94 acres)—Port of Cleveland complex on Lake Erie at the mouth of the Cuyahoga River in Cleveland; and, *Site 2:* (175 acres)—the IX Center (formerly, the "Cleveland Tank Plant"), in Brook Park, Ohio, adjacent to Cleveland Hopkins International Airport.

The applicant is now requesting authority to expand the zone to include 2 sites within the City of Cleveland: *Proposed Site 3* (1,900 acres)—Cleveland Hopkins International Airport complex; *Proposed Site 4* (450 acres)—Burke Lakefront Airport, located at 1501 North Marginal Road. Both airports are owned and operated by the City of Cleveland.

No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment (original and 3 copies) is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is May 24, 1996. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to June 10, 1996).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, District Office, Bank One Center, 600 Superior Avenue, Suite 700, Cleveland, Ohio 44114.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th & Pennsylvania Avenue NW., Washington, DC 20230.

Dated: March 14, 1996.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–7050 Filed 3–22–96; 8:45 am]

BILLING CODE 3510–DS–P

[Docket 23–96]

Foreign-Trade Zone 207, Richmond, Virginia, Application for Subzone Status; Abbott Manufacturing, Inc., Plant (Infant Formula, Adult Nutritional Products), Altavista, VA

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Capital Region Airport Commission, grantee of FTZ 207, requesting special-purpose subzone status for export activity at the infant formula and adult nutritional products manufacturing plant of Abbott Manufacturing, Inc. (AMI) (a subsidiary of Abbott Laboratories, Inc.), located in Altavista, Virginia. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on March 12, 1996.

The AMI plant (1,000,000 sq. ft. on 215 acres) is located at U.S. Highway 29 North and State Route 711 in the City of Altavista (Campbell County), Virginia, approximately 20 miles south of Lynchburg, Virginia. The facility (650 employees) is used to produce milk and sugar-based infant formula and adult nutritional products for export and the domestic market; however, zone procedures would be used only for production for export. The production process involves blending foreign, ex-quota milk powder and foreign, ex-quota sugar with domestically-sourced oils, soy isolates, vitamins and minerals, and EZO ends. Other foreign-sourced items that may be used in the export-blending activity include: cocoa powder, pharmaceutical grade fat emulsions, vitamins and minerals, and caseinates (up to 14% of finished product value). All foreign-origin milk and sugar would be re-exported as ingredients in finished blended products.

Zone procedures would exempt AMI from quota requirements and Customs duty payments on the foreign milk and sugar products used in the export activity, and they would also exempt the company from Customs duty payments on the other foreign ingredients involved. The application indicates that subzone status would help improve the plant's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is May 24, 1996. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to June 10, 1996).

A copy of the application and the accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, District Office, 700 Centre, Suite 550, 704 East Franklin Street, Richmond, VA 23219.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th Street & Pennsylvania Avenue NW., Washington, DC 20230–0002.

Dated: March 14, 1996.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–7048 Filed 3–22–96; 8:45 am]

BILLING CODE 3510–DS–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

TIME AND DATE: 10:00 a.m., Wednesday, March 27, 1996.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the Public.

Matter To Be Considered

Charcoal Labeling

The staff will brief the Commission on a draft final rule that would revise the label currently required by the Commission's regulations for packages of charcoal. The label addresses the hazard of inhalation of carbon monoxide that collects when charcoal is burned in confined areas.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: March 19, 1996.

Sadye E. Dunn,

Secretary.

[FR Doc. 96–7287 Filed 3–21–96; 1:46 pm]

BILLING CODE 6355–01–M

DEPARTMENT OF EDUCATION

Intent To Compromise Two Audit Claims Against Connecticut State Board of Education

AGENCY: Department of Education.

ACTION: Notice of intent to compromise two audit claims.

SUMMARY: The U.S. Department of Education (the Department) intends to compromise two audit claims against the Connecticut State Board of Education (Connecticut) now pending before the Office of Administrative Law Judges (OALJ). Docket Nos. 92–53–R and 94–68–R (20 U.S.C. 1234a(j)).

DATES: Interested persons may comment on the proposed action by submitting written data, views, or arguments May 9, 1996.

ADDRESSES: Comments should be addressed to Effie Forde, Office of the General Counsel, U.S. Department of Education, 600 Independence Avenue, SW., (Room 5200, FB 10), Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Effie Forde, Esq., Telephone (202) 401–8292. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The claims in question arose from two separate audits of the financial affairs and operations of Connecticut for fiscal years 1988 through 1991. The audits were performed by the State of Connecticut Auditor of Public Accounts to fulfill the requirements of Office of Management and Budget (OMB) Circular A–128. The audits included the evaluation of the internal control systems, including applicable internal administrative controls used in administering Federal financial assistance programs. Among the systems examined, the auditors reviewed Connecticut's procedures for allocating among programs costs for individual employees who had multi-program responsibilities.

Department officials issued two separate program determination letters (PDLs) to Connecticut. The first PDL was issued on March 31, 1992 demanding a refund in the amount of $575,329 (Connecticut I) for violations of the requirements in OMB Circular A–87 relating to recordkeeping for employees with multi-program responsibilities. Funds were disallowed for the following programs: Bilingual Education State Grant ($94,134); Education Consolidation and Improvement Act (ECIA) Migrant Education State Formula Grant ($108,358); Chapter 1 of the ECIA, Education for the Disadvantaged, State Administration ($36,120); Chapter 2 of the ECIA ($263,605); Part B of the Education of the Handicapped Act ($29,272); and Preschool Grants for Children with Disabilities ($43,910). Based on documentation submitted by Connecticut during the course of its appeal before the OALJ, the Department has withdrawn its claims relating to Chapter 2 of the ECIA ($263,605) and the Bilingual Education State Grant ($94,134). With the withdrawal of these two claims, the funds remaining at issue in Connecticut I have been reduced from $575,329 to $217,590.

The Department issued the second PDL on March 25, 1994 (Connecticut II) disallowing a total of $558,162 for similar recordkeeping violations relating to the following Federal programs: Bilingual Education State Grant program ($100,566); Carl D. Perkins Vocational Education Act ($3,133); Chapter 1 Handicapped ($201,438); Chapter 2 of the Elementary and Secondary Education Act (ESEA) ($234,640); and Handicapped Special Studies ($18,385). Based on documentation submitted by Connecticut after it filed its application for review with the OALJ, the Department has withdrawn its claims relating to Chapter 2 of the ESEA ($234,640) and the Bilingual Education State Grant ($100,566). As a result, the amount of funds remaining at issue in Connecticut II is $222,956.

Connecticut filed timely requests for review of the two PDLs with the OALJ. Thereafter, the Administrative Law Judge assigned to the appeals granted the parties' joint motion to enter into settlement negotiations.

The Department proposes to compromise the amount remaining at issue in Connecticut I ($217,590) for $82,500 and the amount at issue in Connecticut II ($222,956) for $64,260. Under the proposed compromise, Connecticut therefore would repay a total principal amount of $147,760, plus accrued interest, in three equal installments. Although Connecticut I and II are being resolved together through one settlement agreement, they involve separate PDLs and claims for purposes of the dollar limitation in 20 U.S.C. 1234a(j)(1) on the Secretary's authority to compromise claims.

During settlement negotiations, Connecticut provided substantial additional documentation and information relating to the individual employees at issue, their job duties, and how they spent their time. Furthermore, Connecticut raised additional legal and factual issues that could reduce or eliminate the remaining amounts at issue.

Given the amount that would be repaid by Connecticut under the settlement agreement, the additional documentation submitted during settlement discussions, and the litigation risks and costs of proceeding through the appeal process for both appeals, the Department has determined that it would not be practical or in the public interest to continue these proceedings. Rather, under the authority provided in 20 U.S.C. 1234a(j)(1), the Department has determined that compromise of these claims for $146,760 would be appropriate.

The public is invited comment on the Department's intent to compromise these claims. Additional information may be obtained by writing to Effie Forde at the address given at the beginning of this notice.

Program Authority: 20 U.S.C. 1234a(j).

Dated: March 19, 1996.

Donald R. Wurtz,

Chief Financial Officer.

[FR Doc. 96–7161 Filed 3–22–96; 8:45 am]

BILLING CODE 4000–01–P

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before April 24, 1996.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs,

Attention: Wendy Taylor, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U. S. C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: March 19, 1996.

Gloria Parker,

Director, Information Resources Group.

Office of the Under Secretary

Type of Review: NEW.
Title: Case Studies for Direct Loan Evaluation.
Frequency: On occasion.
Affected Public: Business or other for-profit; Not-for-profit institutions.
Reporting Burden:
Responses: 1.
Burden Hours: 363.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: Contractor will conduct site visits of institutions participating in the Federal Direct Student Loan Program to capture information about successful practices, required resources, and experiences with ED administration of the program.

[FR Doc. 96–7091 Filed 3–22–96; 8:45 am]

BILLING CODE 4000–01–P

National Institute on Disability and Rehabilitation Research

AGENCY: Department of Education.

ACTION: Notice of Proposed Funding Priority for Fiscal Years 1996 and 1997 for a Research and Demonstration Project.

SUMMARY: The Secretary proposes a funding priority for Research and Demonstration (R&D) projects under the National Institute on Disability and Rehabilitation Research (NIDRR) for fiscal years 1996–1997. The Secretary takes this action to focus research attention on areas of national need consistent with NIDRR's long-range planning process. This priority is intended to assist in the solutions to problems encountered by individuals with disabilities in their daily activities.

DATES: Comments must be received on or before April 24, 1996.

ADDRESSES: All comments concerning this proposed priority should be addressed to David Esquith, U.S. Department of Education, 600 Independence Avenue, S.W., Switzer Building, Room 3424, Washington, D.C. 20202–2601.

FOR FURTHER INFORMATION CONTACT: David Esquith. Telephone: (202) 205–8801. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–8133. Internet: David—Esquith@ed.gov

SUPPLEMENTARY INFORMATION: This notice contains a proposed priority on universal design. Authority for the R&D program of NIDRR is contained in section 204(a) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 760–762).

Under this program the Secretary makes awards to public agencies and private agencies and organizations, including institutions of higher education, Indian tribes, and tribal organizations. This program is designed to assist in the development of solutions to the problems encountered by individuals with handicaps in their daily activities, especially problems related to employment (see 34 CFR 351.1). Under the regulations for this program (see 34 CFR 351.32), the Secretary may establish research priorities by reserving funds to support the research activities listed in 34 CFR 351.10.

This proposed priority supports the National Education Goal that calls for all Americans to possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

The Secretary will announce the final funding priority in a notice in the **Federal Register**. The final priority will be determined by responses to this notice, available funds, and other considerations of the Department. Funding of particular projects depends on the final priority, the availability of funds, and the quality of the applications received. The publication of this proposed priority does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only this priority, subject to meeting applicable rulemaking requirements.

Note: This notice of a proposed priority does not solicit applications. A notice inviting applications under this competition will be published in the **Federal Register** concurrent with or following publication of the notice of the final priority.

Priority:

Under 34 CFR 75.105(c)(3) the Secretary proposes to give an absolute preference to applications that meet the following priority. The Secretary proposes to fund under this program only applications that meet this absolute priority:

Emerging Disability Populations

Background

Demographic and social trends indicate that the prevalence and distribution of various types of disability are changing, and that new populations of individuals are emerging to create unique demands on social policy and service systems. These new populations frequently result from such factors as: (1) Changing etiologies for existing disabilities; (2) growth in segments of the population with higher prevalence rates for certain disabilities, including the aging of the population in general and the population of individuals with disabilities in particular; (3) the unintended consequences of changes in public policy; or (4) the introduction of new disabilities.

The first category includes, for example, mental retardation that results from high-risk births, (President's Committee on Mental retardation, *The New Morbidity,* 1993) or spinal cord injury resulting from interpersonal violence (Stover, unpublished communique to NIDRR, 1994). The second category is exemplified by higher incidence and prevalence of activity limitations due to impairments typically correlated with increased age. (LaPlante, 1995) Examples include the onset of sensory loss in older persons, or certain strength-limiting musculoskeletal or neuromuscular diseases. A subset of this category is represented by the acquisition of secondary disabilities or new exacerbations of existing disabilities among individuals with disabilities as they age, for example post-polio syndrome or deterioration of stressed joints. The third category of emerging disabilities may have iatrogenic causes or may result from inappropriate societal interventions such as institutionalization or segregation during which the acquisition of social skills and learning opportunities are forfeited. Social policies such as deinstitutionalization into inadequately supportive environments, while not necessarily creating new disabilities, has led to different manifestations of problems associated with long-term mental illness, including homelessness, abuse, involvement in the criminal justice system, and the acquisition of additional disabilities and health problems. Other disabilities, particularly secondary disabilities, may result from policy decisions that result in inadequate preventive services. The final category includes persons with newly emergent disabilities, most clearly illustrated by persons living with HIV disease and AIDS, and by environmental or workplace disabilities such as repetitive motion syndrome, environmental allergies, and various hidden disabilities.

The causes of each of these categories of disabilities are such that emergent disabilities tend to be differentially distributed throughout the population in ways that are not typical of other common disabilities. While there is a strong correlation between disability and poverty generally. (LaPlante, 1995; *The New Morbidity,* 1993; McNeil, 1995; Aday, 1993) these emergent disabilities appear to be inordinately concentrated among the poor, minorities, youth, the aged, the poorly educated, and those who already have other disabilities.

The underlying causes of these emergent disabilities may be socio-behavioral, environmental, or socio-economic, but are most often a combination of these elements. Among the most important factors creating this "emerging universe of disability" are interpersonal violence, such as shootings, battery, or child abuse; low-birthweight and other high-risk births, often to mothers who are young teenagers, substance abusers, HIV-positive, or with poor prenatal care; aging, with or without prior existing disabilities; high risk behaviors involving substance abuse or sexual activities; and secondary conditions, often resulting from inadequate acute or long-term care.

The nation lacks a clear understanding of the existence of these disabilities, which are closely related to an individual's position in the social structure, and certainly does not comprehend the possible consequences for the disability service systems of a new population of disabled persons from among what one author calls "the vulnerable." (Aday, 1993) There are many gaps in the knowledge base about risk factors associated with the emergence of disability, as there are no comprehensive surveillance systems or epidemiological studies.

Priority:

The Secretary proposes to establish a research and demonstration project to: (1) Define and characterize the emerging universe of disability; (2) assess the incidence and prevalence of these "new universe" disabilities; (3) identify etiologies associated with these disabilities; and (4) evaluate the implications of these emerging disabilities for service systems and social policy. In addition to activities proposed by the applicant to carry out these purposes, the proposed R&D project shall carry out the following activities:

- Determine and test methods, using a range of existing databases, to estimate and describe the emerging universe of disability both for the present and in the future, and assess the feasibility of using existing, or establishing new, surveillance systems to predict and characterize future emerging disabilities;
- Assess the particular needs of the emerging universe, both now and for the future, for vocational rehabilitation, special education, medical and psychosocial rehabilitation, independent living services, and assistive technology services, as well as for community-based supports, income supports, and medical assistance;
- Analyze the implications for the selection, preparation, and training of personnel, including professionals and peers, to provide services to the emerging universe, and for the ways in which services should be delivered;
- Design a practical and prioritized agenda for a future research program to develop interventions and policy approaches to address the disability-related problems of various segments of the emerging universe; and
- Convene a conference of individuals both within and outside of the disability field to discuss the Center's findings and their implications.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding these proposed priorities.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in Room 3423, Mary Switzer Building, 330 C Street S.W., Washington, D.C., between the hours of 8:00 a.m. and 3:30 p.m., Monday through Friday of each week except Federal holidays.

Applicable Program Regulations: 34 CFR Parts 350 and 351.

Program Authority: 29 U.S.C. 760–762.

(Catalog of Federal Domestic Assistance Number 84.133A, Research and Demonstration Projects)

Dated: February 7, 1996.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 96–7074 Filed 3–22–96; 8:45 am]

BILLING CODE 4000–01–P

National Institute on Disability and Rehabilitation Research

AGENCY: Department of Education.

ACTION: Notice of Proposed Funding Priorities for Fiscal Years 1996–1997 for Rehabilitation Research and Training Centers.

SUMMARY: The Secretary proposes funding priorities for Rehabilitation Research and Training Centers (RRTCs) under the National Institute on Disability and Rehabilitation Research (NIDRR) for fiscal years 1996–1997. The Secretary takes this action to focus research attention on areas of national need identified through NIDRR's long-range planning process. These proposed priorities are intended to improve outcomes for individuals with disabilities.

DATES: Comments must be received on or before April 24, 1996.

ADDRESSES: All comments concerning these proposed priorities should be addressed to David Esquith, U.S. Department of Education, 600 Independence Avenue, S.W., Switzer

Building, Room 3424, Washington, D.C. 20202–2601.

FOR FURTHER INFORMATION CONTACT: David Esquith. Telephone: (202) 205–8801. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–8133. Internet: David__Esquith@ed.gov

SUPPLEMENTARY INFORMATION: This notice contains two proposed priorities under the RRTC program. The proposed priorities are for research related to vocational rehabilitation services to individuals who are blind or visually impaired and vocational rehabilitation services to individuals who are deaf or hard of hearing.

Authority for the RRTC program of NIDRR is contained in section 204(b)(2) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 760–762). Under this program the Secretary makes awards to public and private organizations, including institutions of higher education and Indian tribes or tribal organizations for coordinated research and training activities. These entities must be of sufficient size, scope, and quality to effectively carry out the activities of the Center in an efficient manner consistent with appropriate State and Federal laws. They must demonstrate the ability to carry out the training activities either directly or through another entity that can provide such training.

The Secretary may make awards for up to 60 months through grants or cooperative agreements. The purpose of the awards is for planning and conducting research, training, demonstrations, and related activities leading to the development of methods, procedures, and devices that will benefit individuals with disabilities, especially those with the most severe disabilities.

These proposed priorities support the National Education Goal that calls for all Americans to possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

Under the regulations for this program (see 34 CFR 352.32) the Secretary may establish research priorities by reserving funds to support particular research activities.

NIDRR is in the process of developing a revised long-range plan. The priorities proposed in this notice are consistent with the long-range planning process.

Description of the Rehabilitation Research and Training Center Program

RRTCs are operated in collaboration with institutions of higher education or providers of rehabilitation services or other appropriate services. RRTCs serve as centers of national excellence and national or regional resources for providers and individuals with disabilities and the parents, family members, guardians, advocates or authorized representatives of the individuals.

RRTCs conduct coordinated and advanced programs of research in rehabilitation targeted toward the production of new knowledge to improve rehabilitation methodology and service delivery systems, alleviate or stabilize disabling conditions, and promote maximum social and economic independence of individuals with disabilities.

RRTCs provide training, including graduate, pre-service, and in-service training, to assist individuals to more effectively provide rehabilitation services. They also provide training including graduate, pre-service, and in-service training, for rehabilitation research personnel and other rehabilitation personnel.

RRTCs serve as informational and technical assistance resources to providers, individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of these individuals through conferences, workshops, public education programs, in-service training programs and similar activities.

NIDRR encourages all Centers to involve individuals with disabilities and minorities as recipients in research training, as well as clinical training.

Applicants have considerable latitude in proposing the specific research and related projects they will undertake to achieve the designated outcomes; however, the regulatory selection criteria for the program (34 CFR 352.31) state that the Secretary reviews the extent to which applicants justify their choice of research projects in terms of the relevance to the priority and to the needs of individuals with disabilities. The Secretary also reviews the extent to which applicants present a scientific methodology that includes reasonable hypotheses, methods of data collection and analysis, and a means to evaluate the extent to which project objectives have been achieved.

The Department is particularly interested in ensuring that the expenditure of public funds is justified by the execution of intended activities and the advancement of knowledge and, thus, has built this accountability into the selection criteria. Not later than three years after the establishment of any RRTC, NIDRR will conduct one or more reviews of the activities and achievements of the Center. In accordance with the provisions of 34 CFR 75.253(a), continued funding depends at all times on satisfactory performance and accomplishment.

General: The Secretary proposes that the following requirements will apply to all of the RRTCs pursuant to the priorities:

Each RRTC must conduct an integrated program of research to develop solutions to problems confronted by individuals with disabilities.

Each RRTC must conduct a coordinated and advanced program of training in rehabilitation research, including training in research methodology and applied research experience, that will contribute to the number of qualified researchers working in the area of rehabilitation research.

Each Center must disseminate and encourage the use of new rehabilitation knowledge. They must publish all materials for dissemination or training in alternate formats to make them accessible to individuals with a range of disabling conditions.

Each RRTC must involve individuals with disabilities and, if appropriate, their family members, as well as rehabilitation service providers in planning and implementing the research and training programs, in interpreting and disseminating the research findings, and in evaluating the Center.

Priorities: Under 34 CFR 75.105(c)(3) the Secretary proposes to give an absolute preference to applications that meet one of the following proposed priorities. The Secretary would fund under these competitions only applications that meet one of these absolute priorities:

Proposed Priority 1: Vocational Rehabilitation Services for Individuals Who are Blind or Visually Impaired

Background

In 1990, approximately 17 out of every 1,000 persons in the civilian noninstitutionalized population of the United States were unable to see to read ordinary newspaper print even when wearing glasses. Of these 4.3 million individuals approximately 515,000 were blind in both eyes (K.A. Nelson and E. Dimitrova, Severe Visual Impairment in the United States and in Each State, 1990, Journal of Visual Impairment and Blindness, March 1993, 80). The number of persons with a visual impairment that substantially limits one or more major life activity is estimated to be 1.3 million (M. Laplante and D. Carlson, Disability in the United States: Prevalence and Causes, 1992, Disability Statistics Rehabilitation Research and Training Center, University of California, San Francisco, October, 1995). These individuals are the primary target audience for this RRTC.

For the years 1991 and 1992, of the 4.57 million persons 21 to 64 years old who had some functional limitation seeing words or letters, 2.086 million individuals or 45.6 percent were employed, while 144,000 individuals, or 25.6 percent of those who were totally unable to see words or letters, were employed. By comparison, for the same age group, 80.5 percent of all individuals without a disability were employed (J. McNeil, Americans with Disabilities: 1991–1992, Household Economic Studies, P70–33, December 1993). Among the cases closed by State vocational rehabilitation agencies as non-rehabilitated or rehabilitated in 1993, 25,488 individuals were blind or visually impaired. Of those individuals, 18,273 or 71.7 percent, were rehabilitated (Rehabilitation Services Administration (RSA), Caseload Services data, 1993).

In order to improve the employment status of individuals who are blind and visually impaired, there is a need to identify barriers to achieving employment outcomes and to develop new and improved rehabilitation techniques that rehabilitation service providers can use to address these barriers. In addition, rehabilitation service providers and employers must be knowledgeable about job accommodations. Rehabilitation service providers and employers should have the ability to assist individuals who are blind or visually impaired to overcome not only physical barriers, but also technological barriers to the emerging electronic information infrastructure.

Since 1936 the Randolph-Sheppard Act program has been a source of employment for individuals who are blind. The program enables individuals who are blind to become licensed facility managers and operate vending facilities on Federal property. According to RSA, in fiscal year 1994, 3,524 blind vendors operated 3,419 vending facilities under the Randolph-Sheppard Act program. The program generated $401 million in gross earnings with vendors averaging an annual income of $26,478.

In order to ensure that the vending facilities are competitive, an assessment should be undertaken to identify areas of the program that may be improved by training State Business Enterprise program counselors and licensed facility managers.

Proposed Priority 1

The Secretary proposes to establish an RRTC on vocational rehabilitation services for individuals who are blind or visually impaired that will: (1) investigate and document the employment status of individuals who are blind or visually impaired; (2) identify the barriers to employment that can be addressed by rehabilitation service providers or employers, and develop or identify rehabilitation techniques or reasonable accommodations that address these barriers; (3) train rehabilitation professionals on new and effective rehabilitation techniques and accommodations; (4) develop a national information and resource referral data base for rehabilitation professionals and employers; and (5) identify the training needs of State Business Enterprise program counselors and licensed facility managers that will enable the vending facilities to be competitive, develop and deliver training programs to meet the identified needs, and evaluate the efficacy of the training.

In carrying out the purposes of the priority, the RRTC shall:

- Solicit and utilize input from individuals who are blind or severely visually impaired in the planning, development, and implementation of the activities of the RRTC as much as possible; and
- Coordinate its research efforts with other NIDRR grantees that address vocational rehabilitation in general, as well as those that address the needs of individuals who are blind or visually impaired.

Proposed Priority 2: Vocational Rehabilitation Services for Individuals Who are Deaf or Hard of Hearing

Background

In 1991–1992 there were approximately 10.9 million persons age 15 and older with a "functional limitation hearing normal conversation" and an additional 924,000 persons who were "unable to hear normal conversation" (J. McNeil, Americans with Disabilities: 1991–1992, Household Economic Studies, P70–33, December 1993). The number of persons with a hearing impairment that substantially limits one or more major life activity is estimated to be 1.2 million (M. Laplante and D. Carlson, Disability in the United States: Prevalence and Causes, 1992, Disability Statistics Rehabilitation Research and Training Center, University of California, San Francisco, October, 1995). These individuals are the primary target audience for this RRTC.

For the years 1991 and 1992, of all persons 21 to 64 years old who had some functional limitation hearing normal conversation, 3,335,000 individuals or 63.6 percent were employed, while 189,000 individuals, or 58.2 percent of those who were totally unable to hear normal conversation, were employed. By comparison, for the same age group, 80.5 percent of all individuals without a disability were employed (J. McNeil, 1993). Among the cases closed by State vocational rehabilitation agencies as non-rehabilitated or rehabilitated in 1993, 21,888 individuals were deaf or hard of hearing. Of those individuals, 15,901, or 72.6 percent, were rehabilitated (Rehabilitation Services Administration (RSA), Caseload Services data, 1993). Although the Federal vocational rehabilitation system successfully serves and rehabilitates significant numbers of individuals who are deaf or hard of hearing, new knowledge is needed to address the vocational rehabilitation needs of specific subgroups within this population such as late-deafened adults, individuals who have limited English proficiency, individuals who are functionally illiterate, and individuals with co-existing disabilities, including psychiatric disabilities and mental retardation.

"Low-functioning" deaf individuals often do not have comprehensive rehabilitation training and related services accessible and available to them. This segment of the deaf population—sometimes called "low achieving," "multiply disabled deaf," or "traditionally underserved deaf"—requires long-term and intensive habilitative and rehabilitative services. These individuals exhibit deficits in vocational skills, independent living skills, manual and oral communication skills, social skills, and academic skills, and many have significant secondary disabilities. Many are from socioeconomically and culturally disadvantaged backgrounds, and many are from ethnic or linguistic minorities. Services to this population are scarce and fragmented. In addition to understanding the social, vocational, and educational implications of the disability, vocational rehabilitation service providers must also be able to communicate with the individuals, often through less than optimal means, such as rudimentary sign language.

The application of emerging technology is expected to play a pivotal role in improving the vocational rehabilitation and employment status of persons who are deaf or hard of hearing. This new technology will address a wide-range of workplace

accommodation issues including, but not limited to, communication, safety, and literacy.

Proposed Priority 2

The Secretary proposes to establish an RRTC on the vocational rehabilitation of individuals who are deaf or hard of hearing that will: (1) investigate and document the employment status of individuals who are deaf or hard of hearing by age, gender, ethnic or linguistic background, education, level of impairment, age at on-set of impairment (particularly late-deafened adults), and co-existing conditions; (2) identify the barriers to entering or maintaining employment that can be addressed by vocational rehabilitation service providers or employers, and identify or develop vocational rehabilitation techniques or reasonable accommodations that address these barriers, including those using emerging assistive technology such as assistive listening devices, telecommunications equipment, and remote access technology; (3) train rehabilitation professionals, including peer advocates, on new and effective rehabilitation techniques and accommodations; (4) develop a national information and resource referral data base for rehabilitation professionals and employers; and (5) identify the range of vocational rehabilitation services and service resources required to meet the needs of low-functioning deaf individuals.

In carrying out the purposes of the priority, the RRTC shall:

- Examine patterns of vocational rehabilitation service usage by low-functioning deaf individuals with specific attention to those from diverse cultural backgrounds;
- Solicit and utilize input from individuals who are deaf or hard of hearing in the planning, development, and implementation of the activities of the grant as much as possible; and
- Coordinate its research efforts with other NIDRR grantees that address vocational rehabilitation in general, as well as those that address the needs of individuals who are deaf or hard of hearing.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed priorities. All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in Room 3423, Mary Switzer Building, 330 C Street SW., Washington, D.C., between the hours of 8:00 a.m. and 3:30 p.m., Monday through Friday of each week except Federal holidays.

Applicable Program Regulations

34 CFR Parts 350 and 352.

Program Authority: 29 U.S.C. 760–762.

(Catalog of Federal Domestic Assistance Number 84.133B, Rehabilitation Research and Training Centers)

Dated: February 7, 1996.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 96–7075 Filed 3–22–96; 8:45 am]

BILLING CODE 4000–01–P

National Institute on Disability and Rehabilitation Research

AGENCY: Department of Education.

ACTION: Notice of Proposed Funding Priority for Fiscal Years 1996–1997 for a Rehabilitation Engineering Research Center.

SUMMARY: The Secretary proposes a funding priority for a new Rehabilitation Engineering Research Center (RERC) under the National Institute on Disability and Rehabilitation Research (NIDRR) for fiscal years 1996–1997. The Secretary takes this action to focus research attention on areas of national need. This priority is intended to improve rehabilitation services and outcomes for individuals with disabilities.

DATES: Comments must be received on or before April 24, 1996.

ADDRESSES: All comments concerning this proposed priority should be addressed to David Esquith, U.S. Department of Education, 400 Maryland Avenue, S.W., Switzer Building, Room 3424, Washington, D.C. 20202–2601.

FOR FURTHER INFORMATION CONTACT: David Esquith. Telephone: (202) 205–8801. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–5516. Internet: David__Esquith@ed.gov

SUPPLEMENTARY INFORMATION: This notice contains a proposed priority under the RERC program for research on technology for older persons with disabilities.

Authority for the RERC program of NIDRR is contained in section 204(b)(3) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 760–762). Under this program the Secretary makes awards to public and private agencies and organizations, including institutions of higher education, Indian tribes, and tribal organizations, to conduct research, demonstration, and training activities regarding rehabilitation technology in order to enhance opportunities for meeting the needs of, and addressing the barriers confronted by, individuals with disabilities in all aspects of their lives. An RERC must be operated by or in collaboration with an institution of higher education or a nonprofit organization.

This proposed priority supports the National Education Goal that calls for every adult American to possess the skills necessary to compete in a global economy.

Under the regulations for this program (see 34 CFR 353.32) the Secretary may establish research priorities by reserving funds to support particular research activities.

The Secretary will announce the final priority in a notice in the **Federal Register**. The final priority will be determined by responses to this notice, available funds, and other considerations of the Department. Funding of a particular project depends on the final priority, the availability of funds, and the quality of the applications received. The publication of this proposed priority does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only this priority, subject to meeting applicable rulemaking requirements.

Note: This notice of proposed priority does not solicit applications. A notice inviting applications under this competition will be published in the **Federal Register** concurrent with or following the notice of final priority.

Description of the Rehabilitation Engineering Research Center Program

RERCs carry out research or demonstration activities by: (1) developing and disseminating innovative methods of applying advanced technology, scientific achievement, and psychological and social knowledge to (a) solve rehabilitation problems and remove environmental barriers, and (b) study new or emerging technologies, products, or environments; (2) demonstrating and disseminating (a) innovative models for the delivery of cost-effective rehabilitation technology services to rural and urban areas, and (b) other scientific research to assist in meeting the employment and independent living needs of individuals with severe disabilities; or (3) facilitating service delivery systems change through (a) the development, evaluation, and dissemination of consumer-responsive and individual and family centered innovative models for the delivery to both rural and urban areas of innovative cost-effective rehabilitation technology services, and (b) other scientific research to assist in meeting the employment and independent needs of individuals with severe disabilities.

Each RERC must provide training opportunities to individuals, including individuals with disabilities, to become researchers of rehabilitation technology and practitioners of rehabilitation technology in conjunction with institutions of higher education and nonprofit organizations.

General: The Secretary proposes that the following requirements apply to this RERC pursuant to this absolute priority unless noted otherwise:

The RERC must have the capability to design, build, and test prototype devices and assist in the transfer of successful solutions to the marketplace. The RERC must evaluate the efficacy and safety of its new products, instrumentation, or assistive devices.

The RERC must provide graduate-level research training to build capacity for engineering research in the rehabilitation field and to provide training in the applications of new technology to service providers and to individuals with disabilities and their families.

The RERC must develop all training materials in formats that will be accessible to individuals with various types of disabilities and communication modes, and widely disseminate findings and products to individuals with disabilities and their families and representatives, service providers, manufacturers and distributors, and other appropriate target populations.

The RERC must involve individuals with disabilities and, if appropriate, their family members in planning and implementing the research, development, and training programs, in interpreting and disseminating the research findings, and in evaluating the Center.

The RERC must share information and data, and, as appropriate, collaborate on research and training with other NIDRR-supported grantees including, but not limited to, the Americans with Disabilities Act (ADA) Disability and Business Technical Assistance Centers and other related RERCs and RRTCs. The RERC must work closely with the RERC on Technology Evaluation and Transfer at the State University of New York at Buffalo.

Priority: Under 34 CFR 75.105(c)(3) the Secretary proposes to give an absolute preference to applications that meet the following priority. The Secretary proposes to fund under this competition only applications that meet this absolute priority.

Proposed Priority: Assistive Technology for Older Persons With Disabilities

In 1991–1992, of 30.68 million persons who were 65 years old and over, 16.54 million or 53.9 percent had a disability. Of those 16.54 million with a disability, 15.21 million persons had a "functional limitation" performing activities such as seeing, hearing, reaching, or walking (J. McNeil, Americans with Disabilities: 1991–1992, Household Economic Studies, P70–33, December 1993). The prevalence of medical, neurological and orthopedic impairments increases with the age of the population. It is estimated that over half of all Americans over seventy years of age have one or more disabilities (McNeil, 1993). Also, as a result of improved life-long health care and expanded employment and educational opportunities, increased numbers of persons with severe disabilities will become part of our elderly population and experience new or changed assistive technology needs.

While assistive technology has been used in rehabilitation to help reduce the adverse effects of disability, it is only beginning to be used effectively to address problems in geriatric rehabilitation. An RERC on assistive technology for older persons with disabilities will address the application of technology to meet the special needs of older persons with disabilities and their caregivers.

Many devices or techniques aimed at ameliorating specific disabilities are designed to augment or take advantage of compensatory abilities. However, multiple and gradual changes related to aging may leave older persons without one or more areas of strength with which to compensate for other functional losses. For example, an older person requiring a wheelchair, because of gradual loss of muscle mass, may not have, or may not be able to develop, the requisite arm strength to use grab bars to assist them in transferring in and out of their wheelchair.

Efforts to develop and disseminate technological aids to older persons with functional limitations must be conducted in the context of using effective information dissemination strategies to reach older persons. It is also necessary to deliver effective training in the use and maintenance of the technology that is prescribed. It is particularly important to make information on assistive technology for older persons with disabilities available in relation to the major activities of work, personal and health care, and leisure.

Assistive technology can address the physical stress that is problematic for caregivers of older persons with disabilities. Many of these caregivers are spouses who are elderly themselves. Premature admission to institutional care is commonly caused by a crisis of the caregiver rather than by a sudden deterioration in the health or abilities of the older persons with a disability. Typically, the caregiver becomes injured or sick and finds it impossible to continue to do the lifting and other demanding physical tasks. Assistive technology that can assist the caregiver can have a major impact on eliminating the need or delaying the time for institutional placement of an older person with a disability.

Proposed Priority

The Secretary proposes to establish an RERC on assistive technology for older persons with disabilities for the purposes of: (1) Identifying the needs for assistive technology by older persons with disabilities; (2) developing design modifications to existing assistive technology devices and disseminating these modifications to developers of assistive technology; (3) developing and evaluating unique assistive technology devices that otherwise will not be developed by the field; (4) identifying the problems of assistive technology service delivery utilization, including maintenance, and developing and testing service delivery models to address those problems; and (5) developing and delivering training and technical assistance to rehabilitation service providers, providers of general services to older persons, and consumers, on sources and uses of assistive technology for older persons with disabilities and caregivers.

In addition to activities proposed by the applicant to carry out these purposes, the RERC shall:

- Develop and implement an information dissemination initiative to address utilization problems, including targeting disability and elderly organizations as well as assistive technology service providers;
- Coordinate and share information with NIDRR-funded RRTCs on Rehabilitation and Aging, and with programs funded under the Technology-Related Assistance for Individuals with Disabilities Act of 1988; and
- Establish a collaborative relationship with the RERC on Technology Evaluation and Transfer and the RERC on Accessible Housing and Universal Design.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding this proposed priority. All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in Room 3424, Switzer Building, 330 C Street SW., Washington, DC, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday of each week except Federal holidays.

Applicable Program Regulations

34 CFR Parts 350 and 353.

Program Authority: 29 U.S.C. 760–762.

(Catalog of Federal Domestic Assistance Number 84.133E, Rehabilitation Engineering Research Centers)

Dated: February 12, 1996.

Howard R. Moses,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 96–7076 Filed 3–22–96; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–136–002]

Algonquin Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

March 19, 1996.

Take notice that on March 15, 1996, Algonquin Gas Transmission Company (Algonquin), filed revised tariff sheets in compliance with the February 29, 1996, Order accepting certain tariff sheets and rejecting other tariff sheets concerning Algonquin's proposed lateral line policy. The following tariff sheets have been revised:

Fourth Revised Volume No. 1

Sub Third Revised Sheet No. 105
Sub Second Revised Sheet No. 106
Sub Third Revised Sheet No. 120
Sub First Revised Sheet No. 121
Sub Third Revised Sheet No. 140
Sub Third Revised Sheet No. 157
Sub First Revised Sheet No. 174
Sub First Revised Sheet No. 175
Third Revised Sheet No. 654
Sub Second Revised Sheet No. 701
Sub Original Sheet No. 713
Eighth Revised Sheet No. 1100
Tenth Revised Sheet No. 1101
Eighth Revised Sheet No. 1102
Eighth Revised Sheet No. 1103
Eighth Revised Sheet No. 1104
Ninth Revised Sheet No. 1105
Eighth Revised Sheet No. 1106
Eighth Revised Sheet No. 1107
Eighth Revised Sheet No. 1108
Seventh Revised Sheet No. 1109

Algonquin states that the purpose of this filing is to conform to the Commission's updated Regulations set forth in the Order No. 582 (Final Rule) pertaining to the form and composition of an interstate pipeline company's tariff. Algonquin respectfully requests that these tariff sheets be accepted effective April 15, 1996.

Algonquin states that copies of this tariff filing were mailed to all firm customers of Algonquin and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7079 Filed 3–22–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. FR 96–841–000]

Blandin Paper Company; Notice of Filing

March 19, 1996.

Take notice that on March 14, 1996 and March 15, 1996 Blandin Paper Company tendered for filing additional information to its January 16, 1996 filing in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before March 29, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7078 Filed 3–22–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–165–001]

Columbia Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

March 19, 1996.

Take notice that on March 14, 1996, Columbia Gas Transmission Corporation (Columbia) tendered the filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to become effective April 1, 1996.

Sub 3rd Sub Eleventh Rev Sheet No. 26
Sub 3rd Sub Eleventh Rev Sheet No. 27
Sub 3rd Sub Twelfth Rev Sheet No. 28

On March 1, 1996, Columbia filed with the Commission revised rates for its annual Transportation Costs Rate Adjustment (TCRA) to be effective April 1, 1996. It has since come to Columbia's attention that certain rates set forth on its tariff sheets are incorrect due to inadvertent clerical errors. Those tariff sheets must be withdrawn and replaced. Therefore, the instant filing is being made to correct certain errors. The calculation of the rates as set forth in the March 1, 1996 filing is correct and is not being revised herein. Certain of the rates were simply not brought to the tariff sheets correctly.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, Dockets Room, 888 First Street NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7088 Filed 3–22–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–586–001]

Entergy Services, Inc.; Notice of Filing

March 19, 1996.

Take notice that on February 29, 1996, Entergy Services, Inc. tendered for filing revised pages of its Network Integration Service Transmission Tariff.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before April 1, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7087 Filed 3–22–96; 8:45 am]

BILLING CODE 6717–01–M

Equitrans, L.P.; Notice of Proposed Changes in FERC Gas Tariff

March 19, 1996.

Take notice that on March 15, 1996, Equitrans, L.P. (Equitrans) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following proposed tariff sheets, with a proposed effective date of March 1, 1996:

Substitute Second Revised Sheet No. 200
Substitute First Revised Sheet No. 250
Original Sheet No. 268
Sheet Nos. 269–299

Equitrans states that on January 23, 1996 it filed revised tariff sheets, proposing to: (1) correct certain minor errors in its existing Tariff; (2) make tariff modification required to comport with changes in Commission regulations; and (3) incorporate tariff changes which are advisable based on Equitrans' experience in a restructured environment. By unpublished letter Order dated February 29, 1996 the Commission accepted the tariff sheets for filing effective March 1, 1996. The Commission noted that Equitrans had neglected to include tariff provisions setting forth its policy on the construction of new facilities, and further that one of the filed tariff sheets contained an incorrect Section reference. The Commission required Equitrans to file revised tariff sheets to address these issues within 15 days.

Equitrans states that it is making this filing in compliance with the Commission's Order. Equitrans has revised Sheet No. 250 to incorporate the correct section reference and has provided a new Section 34 to its general terms setting forth its policy on the construction of new facilities.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7081 Filed 3–22–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. OR96–11–000]

Express Pipeline Partnership; Notice of Petition for Declaratory Order and Request for Waiver

March 19, 1996.

Take notice that on March 8, 1996, Express Pipeline Partnership (Express), pursuant to Rules 207(a)(2) and 212 of the Commission's Rules of Practice and Procedure, 18 CFR 387.207(a) and 212, filed a request for declaratory order and certain waivers of the Commission's regulations.

Express states that it is a general partnership formed by affiliates of Alberta Energy Company Ltd. (AEC) and TransCanada Pipelines Limited (TransCanada), proposing to construct and operate a new, 515 mile, 24 inch diameter, common carrier crude oil pipeline to transport Western Canadian crude in interstate commerce from the U.S./Canadian international border near Wild Horse, Alberta through Montana to Casper, Wyoming. The U.S. pipeline will interconnect at the International Border with the Canadian pipeline (also owned by affiliates of AEC and TransCanada) which will originate at Hardisty, Alberta and run to the border. Express also states that it has acquired control of Platte Pipe Line Company, which extends from Bryon, Wyoming, through Casper to Wood River, Illinois, thus ensuring transportation service to Guernsey, Wyoming, and Wood River.

Express states that its proposed new pipeline is a competitive response to meet the needs of U.S. crude oil markets and that a key component of the project is the ability to provide superior transportation service at rates that are competitive with other pipelines. In order to proceed with the project, Express required a reasonable level of up front support from prospective shippers in the form of contractual commitments from transportation service. Express conducted an open season and received commitments from prospective shippers for 5, 10, and 15 year terms representing approximately 85 percent of the initial system capacity of 172,000 BPD. Express proposes to establish progressively lower rates for each class of term shippers in proportion to the length of the contractual commitment. Express is also proposing to offer service to the class of shippers that did not make contractual commitments, at a specified initial rate. Express also proposed specific surcharges for heavy and medium grades of crude oil and an agreed-to-adjustment mechanism for term shipper rates. Express claims that the proposed rates and waivers requested are lawful under the Interstate Commerce Act and relevant Commission regulations.

Express requests that the Commission issue a declaratory order confirming the lawfulness of its proposal, and that it issue any appropriate waivers of the Commission's regulations.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, D.C. 20426, in accordance with Section 385.214 [18 CFR 385.214] and Section 385.211 [18 CFR 385.211] of the Commission's Rules and Regulations. All such motions or protests should be filed on or before April 8, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7086 Filed 3–22–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–41–001]

Kern River Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

March 19, 1996.

Take notice that on March 14, 1996, Kern River Gas Transmission Company (Kern River) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets:

Second Revised Sheet No. 436
Second Revised Sheet No. 437

Kern River requests waiver of the 30-day notice requirement in Section 154.207 and proposes a March 15, 1996, effective date. Kern River states that good cause exists to support waiver because these sheets are submitted only to reflect a change of address Kern River's administrative offices from Houston, Texas to Salt Lake City, Utah, and to reflect that change in the choice of law provision of the Form of License Agreement from Texas to Utah for Kern River's RAPIDS II electronic bulletin board service. Kern River also states that it is reserving the right to move these tariff sheets into effect after the effective date so that it can place all the RAPIDS II tariff sheets into effect upon completion of the RAPIDS II test program.

Kern River also requests, to the extent necessary, waiver of 18 CFR 154.205 governing changes to suspended tariff sheets. Kern River states that waiver may be unnecessary because these revised tariff sheets propose to replace tariff sheets that were accepted and suspended by the Commission in a December 28, 1995, order, but the suspension period terminated on March 1, 1996.

Kern River states that copies of the filing were served upon Kern River's jurisdictional customers and all affected state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. All protests filed with the Commission will be considered in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7082 Filed 3–22–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–442–001]

Northwest Pipeline Corporation; Notice of Compliance Filing

March 19, 1996.

Take notice that on March 14, 1996, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to become effective April 1, 1996:

Substitute First Revised Sheet No. 204
Substitute First Revised Sheet No. 205
Original Sheet No. 205–A

Northwest states that the purpose of this filing is to submit revised tariff sheets to comply with the Commission's directives in its Order Following Technical Conference issued March 4, 1996 in Docket No. RP95–442–000. The Commission found the December 15, 1995 modifications to Northwest's gas quality specification revisions to be acceptable, subject to Northwest specifying that it will notify receipt point operators by both telephone and electronic bulletin board when a remedy will be required to alleviate a gas quality problem.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7083 Filed 3–22–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–132–001]

Southern Natural Gas Company; Notice of Proposed Changes to FERC Gas Tariff

March 19, 1996.

Take notice that on March 14, 1996, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheet become effective March 1, 1996:

First Substitute Original Sheet No. 141a

Southern states that the purpose of this filing is to clarify the determination of high and low prices under the cashout mechanism of its imbalance resolution procedures. Under the new cashout mechanism, the high and low prices are defined as the highest and lowest prices, respectively, of those prices (a monthly index price and weekly average prices) used to calculate the monthly index price. Southern has requested that this sheet be made effective as of March 1, 1996.

Southern states that copies of the filing will be served upon its shippers and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR Section 385.211). All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7080 Filed 3–22–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–206–004]

Tennessee Gas Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

March 19, 1996.

Take notice that on March 14, 1996, Tennessee Gas Pipeline Company (Tennessee) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, to become effective on April 13, 1996.

First Revised Sheet No. 156
Second Revised Sheet No. 304
Third Revised Sheet No. 337
Second Revised Sheet No. 350
Second Revised Sheet No. 351
First Revised Sheet No. 351A
First Revised Sheet No. 618
First Revised Sheet No. 619
First Revised Sheet No. 620
Second Revised Sheet No. 621
First Revised Sheet No. 621A

Tennessee states that it is filing the proposed changes to eliminate its current Umbrella Service because its Supply Aggregation (SA) service, which was implemented for all shippers as of January 1, 1996 in Docket No. RP95–206, provides all of the services heretofore provided by the Umbrella Service. Thus, Tennessee states that the Umbrella Service is duplicative of SA Service and is no longer necessary.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7084 Filed 3–22–95; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 1951–037]

Georgia Power Company; Notice of Availability of Final Environmental Assessment

March 19, 1996.

By letter to the Commission dated November 19, 1993, Georgia Power Company proposed to prepare and file an environmental assessment with their license application for the Sinclair Hydroelectric Project, as provided for by the Energy Policy Act of 1992.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the applicant prepared environmental assessment and application for major license for the existing Sinclair Hydroelectric Project, located on the Oconee River, Baldwin County, Georgia, and has prepared a Final Environmental Assessment (FEA) for the project. In the FEA, the Commission's staff has analyzed the potential environmental impacts of the existing project and has concluded that approval of the project, with appropriate mitigation measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the FEA are available for review in the Public Reference Branch, Room 2–A, of the Commission's offices at 888 First Street NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7085 Filed 3–22–96; 8:45 am]

BILLING CODE 6717–01–M

Notice of Amendment of License

March 20, 1996.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Type of Application: Amendment of license.

b. Project No: 2365–011.

c. Date Filed: March 6, 1996.

d. Applicant: Madison Paper Industries.

e. Name of Project: Anson.

f. Location: On the Kennebec River, in the Towns of Anson and Madison, Somerset County, Maine.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Michael Kurman, Esq., Arent, Fox, Kintner, Plotkin & Kahn, 1050 Connecticut Avenue NW., Washington, DC 20036–5339, Tel: (202) 857–6345.

I. FERC Contact: Mohamad Fayyad, (202) 219–2665.

j. Comment Date: April 22, 1996.

k. Description of Amendment: Licensee proposes to reconfigure the permanent crest of the dam, raising the elevation from 241.67 feet to 242.62 feet (except for a 50-foot section which will be lowered to 242.62 feet) in order to install an inflatable flashboard system. The inflatable flashboard system would replace the existing wooden flashboards and would increase the normal headpond elevation by 1.5 feet. The change in headpond elevation would extend the upstream limit of the impoundment about 2,000 feet further up the Kennebec River and 400 feet up the Carrabassett River, and will increase the impoundment's surface area by about 80 acres.

1. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7102 Filed 3–22–96; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5446–5]

Notice of Renewal of the Environmental Financial Advisory Board (EFAB)

The Environmental Protection Agency's (EPA) Environmental Financial Advisory Board (EFAB) has been renewed for a two-year period, as a necessary committee which is in the public interest, in accordance with the provisions of the Federal Advisory

Committee Act (FACA). The purpose of EFAB is provided authoritative analysis and advice to the EPA Administrator regarding environmental finance issues to assist EPA in carrying out its environmental mandates. EFAB will strive to increase the total investment in environmental protection by facilitating greater leverage of public and private environmental resources to help ease the environmental financing challenge facing our nation.

Dated: March 22, 1996.

George F. Ames,

Acting Director, Resource Management Division.

[FR Doc. 96–7164 Filed 3–22–96; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Submitted to OMB for Review and Approval

March 18, 1996.

SUMMARY: The Federal Communications, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commissions burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before April 24, 1996. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Dorothy Conway, Federal Communications, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to dconwayfcc.gov and Timothy Fain, OM Desk Officer, 10236 NEOB 725 17th Street, N.W., Washington, DC 20503 or fain—t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT:

For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval No.: 3060–0444.

Title: 220 and 800 MHZ Construction Letter.

Form No.: 800A.

Type of Review: Revision of currently approved collection.

Respondents: Business or other-for-profit; individuals or households.

Number of Respondents: 11,500.

Estimated Time Per Response: 1 hour.

Total Annual Burden: 11,500 hours.

Total Annualized Cost per respondent: There are no start up or operational and maintenance costs associated with this collection.

Needs and Uses: The commission requests this collection of information as a method for licensees to provide information to verify a station has been placed into operation and to notify the Commission of the actual number of mobile units placed in operation after license grant. From this data, the Commission is able to determine full capacity channel loading, making frequencies available for assignment and modifying or cancelling licenses. The data collected ensures licensees are not authorized for more mobiles than they are actually using. The data collected is required by the Communications Act and FCC Rules 90.155, 90.313, 90.495, 90.496, 90.631, 90.633, 90.651, 90.725 and 90.737. The entities identified in the current 800A letter, such as trunked, convention, etc., have been re-named as CMRS and PMRS. The current 800A letter requests a breakdown in the types of mobiles and control stations, while the proposed 800A letter asks for a total number of mobiles and the number of parties affiliated with, controlled by, or related to the provider. The number of responses and estimated burden remains unchanged.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–7100 Filed 3–22–96; 8:45 am]

BILLING CODE 6712–01–M

Public Information Collection Approved by Office of Management and Budget

March 19, 1996.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collection pursuant to the Paperwork Reduction Act of 1995, Pub. L. 96–511. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Not withstanding any other provisions of law, no person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Questions concerning the OMB control numbers and expiration dates should be directed to Dorothy Conway, Federal Communications Commission, (202) 418–0217.

Federal Communications Commission

OMB Control No.: 3060–0520.

Expiration Date: 2/28/99.

Title: Section 90.127(e) Submission and Filing of Applications.

Estimated Annual Burden: 9,100 hours annual burden; average 5 minutes per respondent; 109,200 respondents.

Description: Section 90.127(e) requires licensees to report the number of mobiles and pagers when a license is modified or renewed. This information is used for frequency coordination and licensing.

OMB Control No.: 3060–0693.

Expiration Date: 5/31/96.

Title: Amendment of Part 90 of the Commission's Rules to Provide for the Use of 220–222 MHz Band by the Private Land Mobile Radio Service.

Estimated Annual Burden: 1,900 total annual hours; average 3.8 hours per respondent; 500 respondents.

Description: The information is used by the Commission to verify licensee compliance with the Commission rules and regulations and to ensure the integrity of the 220 MHz service and to ensure that licensees continue to fulfill their statutory responsibilities in accordance with the Communications Act of 1934. This is a certification that will accompany the form 600 which notifies the Commission that an applicant has reached the decision to relocate and will be filing FCC Form 600 on or before May 1, 1996.

OMB Control No.: 3060–0110.

Expiration Date: 5/31/96.

Title: Application for Renewal of License for AM, FM, TV, Translator or LPTV Station. FCC Form 303–S.

Estimated Annual Burden: 6,230 total annual hours; average 1.3 hours per respondent; 4,658 respondents.

Description: FCC From 303–S is used in applying for renewal of license for a commercial or noncommercial AM, FM or TV broadcast station and FM translator, TV translator or low power TV broadcast station. It can also be used in seeking joint renewal of licenses for FM or TV translator station and its co-owned primary FM, TV or LPTV station. The Telecommunications Act of 1996 requires that renewal applicants submit an exhibit summarizing the written comments and suggestions received from the public that "comment on applicant's programming, if any, and that are characterized by the commentor as constituting violent programming."

OMB Control No.: 3060–0623.

Expiration Date: 2/28/99.

Title: Application for Mobile Radio Service Authorization for Rural Radiotelephone Service Authorization FCC Form 600.

Estimated Annual Burden: 779,076 total annual hours; average 4 hours per respondent; 194,769 respondents.

Description: FCC Form 600 is filed by applicants applying for new or modified authorization to provide service in commercial private, or fixed services. The data is used to determine eligibility, for rulemaking proceedings, and enforcement purposes. The OMB collection was revised to include additional applicants.

OMB Control No.: 3060–0174.

Expiration Date: 3/31/99.

Title: Section 73.1212 Sponsorship identification; list retention; related requirements.

Estimated Annual Burden: 45,376 total annual hours; average 1.3 hours per respondent; 34,026 respondents.

Description: Section 73.1212 requires a broadcast station to identify the sponsors of any matter for which consideration is provided. For matters advertising commercial products or services, generally the mention of the name of the product or service constitutes sponsorship identification. In addition, when an entity rather than an individual sponsors the broadcast of a matter that is of a political or controversial nature, the licensee is required to retain a list of the executive officers, or board of directors, or executive committee, etc., of the organization payng for such matter. Sponsorship announcements are waved with respect to the broadcast of "want ads" sponsored by an individual but the licensee shall maintain a list showing the name, address and telephone number of each such advertiser. These lists shall be made available for public inspection. The data is used by the public so that they may know by whom they are being persuaded.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–7101 Filed 3–22–96; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 800 North Capitol Street NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in section 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 203–011389–001.

Title: Caribbean Maritime Services Agreement

Parties:

Tropical Shipping & Construction Co., Ltd.

Compagnie Generale Maritime, S.A.

Synopsis: The proposed amendment permits the parties to (1) add Caribbean General Maritime, Ltd. as a party; (2) change the name of the Agreement from Caribbean Maritime Services Agreement to Caribbean Feeder Services Agreement; (3) change the name of Compagnie General Maritime, S.A. to CGM–Sud, S.A.; and (4) expand the scope of the Agreement to include Puerto Rico, the Caribbean, Central America and the North Coast of South America (French Guiana, Suriname, Guyana, Venezuela and Colombia). It also provides for the addition of certain vessels to be operated in the U.S. trades to Trinidad, Jamaica and Barbados.

Dated: March 20, 1996.

By Order of the Federal Maritime Commission.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 96–7130 Filed 3–22–96; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices" (12 U.S.C. 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 19, 1996.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *CFX Corporation*, Keene, New Hampshire; to acquire 100 percent of

the voting shares of The Safety Fund Corporation, Fitchburg, Massachusetts, and thereby indirectly acquire Safety Fund National Bank, Fitchburg, Massachusetts.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Macon Bancorp, Franklin, North Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of Macon Savings Bank, SSB, Franklin, North Carolina.

Board of Governors of the Federal Reserve System, March 19, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–7053 Filed 3–22–96; 8:45 am]

BILLING CODE 6210–01–F

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.25 of Regulation Y (12 CFR 225.25) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act, including whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices" (12 U.S.C. 1843). Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 9, 1996.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Boatmen's Bancshares, Inc., St. Louis, Missouri; to engage *de novo* through its proposed subsidiary, BIS, Inc., Des Moines, Iowa, in insurance agency activities, which include the sales and servicing of personal lines (including but not limited to home, auto, health and general liability insurance), commercial lines of insurance, life insurance, health insurance and various bonding products, pursuant to § 225.23(b)(8)(iv) of the Board's Regulation Y. These activities will be conducted throughout Iowa, in each of the states surrounding Iowa, and in any other state in which insurance agency activities were conducted by the Marengo Agency, Des Moines, Iowa (a subsidiary of Boatmen's Bank Iowa, N.A., Des Moines, Iowa), on May 1, 1982.

Board of Governors of the Federal Reserve System, March 19, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–7052 Filed 3–22–96; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[INFO–96–13]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques for other forms of information technology. Send comments to Wilma Johnson, CDC Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Projects

1. The HIV Epidemic in Small Cities and Rural Areas of the South—New—The HIV epidemic is increasingly spreading to small cities and rural areas of the South where little is known about the epidemic. Unlike other regions in the U.S., AIDS in the future is likely to be particularly severe in the South because STDs remain at epidemic levels in women and minorities in southern rural areas. Because funding is based on place of residence at diagnosis and because many patients with AIDS live in large metroplitan areas at diagnosis and then move to smaller cities and rural areas, resources may not be adequate for these patients after moving.

HIV-infected persons living in small cities and rural areas of the South will be interviewed to learn more about the circumstances of how they became infected and to determine what HIV-related health care services and prevention messages have been available to them before and after they became infected. Specific objectives include to: (1) Describe the demographics and modes of HIV transmission, (2) describe and compare high risk behaviors before and after being aware of their HIV infection, (3) determine in HIV-infected persons with a history of a sexually transmitted disease, the HIV/STD prevention services and messages that were offered when they were diagnosed with an STD at the visited health care sites, (4) determine the reasons for being HIV tested and the site and location of the HIV counseling and testing when the person first became HIV-positive and to describe the content of the counseling, (5) describe and compare HIV-related barriers to health care that HIV-infected persons have experienced in small MSAs and rural areas, (6) describe and compare characteristics of persons who acquired HIV infection in the area of current residence versus those who acquired HIV before moving to their current residence, and (7) describe and compare the extent of and reasons for this migration in HIV-infected persons currently living in small cities and rural areas of the South. The total cost to respondents is estimated at $7,000.

Respondents	No. of respondents	No. of responses/respondent	Average burden/response (in hrs.)	Total burden (in hrs.)
HIV-infected adults receiving HIV care	700	.....	1	700
Total	.....	.....	.....	700

Dated: March 19, 1996.

Wilma G. Johnson,

Acting Associate Director for Policy Planning and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–7137 Filed 3–22–96; 8:45 am]

BILLING CODE 4163–18–P

Food and Drug Administration

[Docket No. 96F–0092]

Asahi Denka Kogyo K.K.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Asahi Denka Kogyo K.K. has filed a petition proposing that the food additive regulations be amended to provide for the expanded safe use of phosphorous acid, cyclic neopentanetetrayl bis(2,6-di-*tert*-butyl-4-methylphenyl)ester as an antioxidant and/or stabilizer at a level not to exceed 0.05 percent by weight in olefin copolymers intended for use in contact with food.

DATES: Written comments on petitioner's environmental assessment by April 24, 1996.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 6B4498) has been filed by Asahi Denka Kogyo K.K., 2–13 Shirahata 5–Chome, Urawa City, Saitama 336, Japan. The petition proposes to amend the food additive regulations in § 178.2010 *Antioxidants and/or stabilizers in polymers* (21 CFR 178.2010) to expand the safe use of phosphorous acid, cyclic neopentanetetrayl bis(2,6-di-*tert*-butyl-4-methylphenyl)ester for use as an antioxidant and/or stabilizer at levels not to exceed 0.05 percent by weight of olefin polymers complying with 21 CFR 177.1520 intended for use in contact with food.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before April 24, 1996, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: March 7, 1996.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 96–7105 Filed 3–22–96; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 96D–0065]

"Medical Device Design Control Guidance" and "Do It By Design;" Draft Guidance; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of two draft guidance documents entitled, "Medical Device Design Control Guidance" and "Do It By Design." The "Medical Device Design Control Guidance" draft document is intended to provide a general understanding of design control theory, principles, and methods, and to update a previous guidance document on the subject of preproduction quality assurance. The "Do It By Design" draft guidance document is intended to provide a general understanding of the human factors theory as it relates to designing a medical device. Both draft guidance documents, once finalized, are intended to be basic educational tools for industry and FDA field investigators, and they will be used to aid implementation of the new "quality system regulation," now in the final stages of development.

DATES: Written comments by April 30, 1996.

ADDRESSES: Submit written requests for single copies of the draft guidances to the Division of Small Manufacturers Assistance (DSMA), Center for Devices and Radiological Health (HFZ–220) Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist the office in processing your request. Copies of a facsimile of the draft guidances are available from CDRH Facts on Demand (1–800–899–0381). Copies of the draft guidances may also be obtained from the Electronic Docket administered by DSMA and are available to anyone with a video terminal or personal computer (1–800–252–1366).

Submit written comments to the Dockets Management Branch (HFA–

305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Comments for the two draft guidance documents should be kept separate and identified by their respective titles. Requests and comments should be identified with the docket number found in brackets in the heading of this document. A copy of the draft guidances and received comments are available for public examination in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Kimberly A. Trautman, Office of Compliance, Center for Devices and Radiological Health (HFZ–341), Food and Drug Administration, 2098 Gaither Rd., Rockville, MD 20850, 301–594–4648.

SUPPLEMENTARY INFORMATION:

I. Background

The Safe Medical Devices Act of 1990 (the SMDA) (Pub. L. 101–629), enacted on November 28, 1990, amended section 520(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j (f)), providing FDA with the authority to add preproduction design controls to the current good manufacturing practice (CGMP) regulation part 820 (21 CFR part 820). This change in law was based on findings that a significant proportion of device recalls were attributed to faulty product design. FDA found that approximately 44 percent of the quality problems that led to voluntary recall actions during a 6-year period were attributed to errors or deficiencies that had been designed into particular devices and that may have been prevented by adequate design controls. These design-related defects involved both noncritical devices (e.g., patient chair lifts, in vitro diagnostics, and administration sets) and critical devices (e.g., pacemakers and ventilators). Also in 1990, the Department of Health and Human Services' Inspector General conducted a study which reached similar conclusions.

FDA undertook the revision of the CGMP regulation to add the design controls authorized by the SMDA to the CGMP regulation and because the agency believed that it would be beneficial to the public and the medical device industry for the CGMP regulation to be consistent, to the extent possible, with the requirements for quality systems contained in international standards. The agency's extensive efforts to revise the CGMP regulation included making publicly available a working draft of a final rule in July 1995, followed by a public workshop on August 23, 1995 (see 60 FR 37856, July 24, 1995), and an open public GMP Advisory Committee meeting on September 13 and 14, 1995 (see 60 FR 44037, August 24, 1995). The final regulation, generally referred to as the quality system regulation, is now in the final stages of development.

The "Medical Device Design Control Guidance" and "Do It By Design" draft guidance documents are intended to provide assistance in understanding what design controls are and provide recommendations on how to establish design controls, which would be consistent with the new design control requirements. The draft guidance "Medical Device Design Control Guidance" updates the Center for Devices and Radiological Health's "Preproduction Quality Assurance Planning: Recommendations for Medical Device Manufacturers," announced as a final document in the **Federal Register** of October 5, 1989 (54 FR 41165). The draft guidance documents are projected to be finalized later this year, soon after the new quality system regulation is published.

II. Significance of a Guidance

A guidance document does not bind FDA or the public, and does not create or confer any rights, privileges, or benefits for or on any person; however, it does represent the agency's current thinking on the subjects discussed therein. The draft guidance documents announced in this notice represent the agency's tentative thinking on design controls and the relationship of human factors with design controls.

III. Request for Comments

Interested persons may, on or before April 30, 1996, submit to the Dockets Management Branch (address above) written comments regarding the draft guidances. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified by the title of the respective draft guidance and with the docket number found in brackets in the heading of this document. The two draft guidance documents and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Received comments will be considered in revising the draft guidance documents.

Dated: March 15, 1996.

Joseph A. Levitt,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 96–7047 Filed 3–22–96; 8:45 am]

BILLING CODE 4160–01–F

Health Resources and Services Administration

Special Project Grants and Cooperative Agreements; Maternal and Child Health Services; Federal Set-Aside Program; Comprehensive Hemophilia Centers, Genetic Services, and Maternal and Child Health Improvement Projects

AGENCY: Health Resources and Services Administration (HRSA), PHS.

ACTION: Notice of availability of funds.

SUMMARY: The HRSA announces that applications will be accepted for fiscal year (FY) 1996 funds for grants and cooperative agreements for the following activities: Maternal and Child Health (MCH) Special Projects of Regional and National Significance (SPRANS), including comprehensive hemophilia diagnostic and treatment centers; genetic disease testing, counseling and information services; and special MCH improvement projects (MCHIP) which contribute to the health of mothers, children, and children with special health care needs (CSHCN). All awards will be made under the program authority of section 502(a) of the Social Security Act, the MCH Federal Set-Aside Program. A revised regulation implementing the Federal Set-Aside Program (42 CFR part 51a) was published in the July 19, 1994, issue of the **Federal Register** at 59 FR 36703. Within the HRSA, SPRANS grants are administered by the Maternal and Child Health Bureau (MCHB). Awards are made for grant periods which generally run from 1 up to 5 years in duration. Grants for SPRANS research and training are being announced in a separate notice.

This program announcement is subject to the appropriation of funds. Applicants are advised that this program announcement is a contingency action being taken to assure that should funds become available for this purpose, they can be awarded in a timely fashion consistent with the needs of the program as well as to provide for even distribution of funds throughout the fiscal year. At this time, given a continuing resolution and the absence of FY 1996 appropriations for the MCH Federal Set-Aside Program, the amount of available funding for this specific grant program cannot be estimated.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. The MCH Block Grant Federal Set-Aside Program addresses issues related to the Healthy People 2000 objectives of improving maternal, infant, child and adolescent health and developing service systems for children with special health care needs. Potential applicants may obtain a copy of Healthy People 2000 (Full Report: Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report: Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office Washington, DC 20402–9325 (telephone: 202 783–3238).

The PHS strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care or early childhood development services are provided to children.

ADDRESSES: Grant applications for MCH SPRANS hemophilia, genetics, and MCHIP grants must be obtained from and submitted to: Chief, Grants Management Branch, Office of Operations and Management, Maternal and Child Health Bureau, Health Resources and Services Administration, Room 18–12, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1440. Applicants will use revised PHS form #5161–1, approved by the Office of Management and Budget (OMB) under control number 0937–0189. You must obtain application materials in the mail. Written requests should specify the category or categories of activities for which an application is requested so that the appropriate materials may be provided.

Federal Register notices and application guidance for MCHB programs are available on the World Wide Web via the Internet at address: http://www.os.dhhs.gov/hrsa/mchb. Click on the file name you want to download to your computer. It will be saved as a self-extracting (Macintosh or) Wordperfect 5.1 file. To decompress the file once it is downloaded, type in the file name followed by a <return>. The file will expand to a Wordperfect 5.1 file. If you have difficulty accessing the MCHB Home Page via the Internet and need technical assistance, please contact Linda L. Schneider at 301–443–0767 or "lschneider@hrsa.ssw.dhhs.gov".

DATES: Potential applicants are invited to request application packages for the specific program category in which they are interested, and to submit their applications for funding consideration. Deadlines for receipt of applications differ for the several categories of grants. These deadlines may be found in Section 5, below, for each category covered by this notice.

Applications will be considered to have met the deadline if they are either: (1) Received on or before the deadline date, or (2) postmarked on or before the deadline date and received in time for orderly processing. Applicants should request a legibly dated receipt from a commercial carrier or the U.S. Postal Service, or obtain a legibly dated U.S. Postal Service postmark. Private metered postmarks will not be accepted as proof of timely mailing. Late applications or those sent to an address other than specified in the **ADDRESS** section will be returned to the applicant.

FOR FURTHER INFORMATION CONTACT: Requests for technical or programmatic information should be directed to the contact persons identified below for each category covered by this notice. Requests for information concerning business management issues should be directed to: Acting Grants Management Officer (GMO), MCHB, at the address specified in the **ADDRESS** section.

SUPPLEMENTARY INFORMATION: To facilitate the use of this announcement, information in this section has been organized, as outlined in the Table of Contents below, into a discussion of: Program Background, Special Concerns, Evaluation Protocol, Project Review and Funding, SPRANS Project Grants, Public Comment, Eligible Applicants, and Public Health System Reporting Requirements. In addition, for each research and training funding category or subcategory, information is presented under the following headings:

- Application Deadline.
- Purpose.
- Priorities.
- Special Eligibility Considerations.
- Project Period.
- Contact.

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1. Program Background and Objectives

Under Section 502 of the Social Security Act, as amended by the Omnibus Budget Reconciliation Act (OBRA) of 1989, 12.75 percent of amounts appropriated for the MCH Block Grant in excess of $600 million are set aside by the Secretary of Health and Human Services (HHS) for special Community Integrated Service Systems projects under Section 501(a)(3) of the Act. Of the remainder of the total appropriation, 15 percent of the funds are to be retained by the Secretary to support (through grants, contracts, or otherwise) special projects of regional and national significance, research, and training with respect to maternal and child health and children with special health care needs (including early intervention training and services development); for genetic disease testing, counseling, and information development and dissemination programs; for grants (including funding for comprehensive hemophilia diagnostic treatment centers) relating to hemophilia without regard to age; and for the screening of newborns for sickle cell anemia, and other genetic disorders and follow-up services. The MCH SPRANS set-aside was established in 1981. Support for projects covered by this announcement will come from the SPRANS set-aside. Applications for FY 1996 funds for MCH research and training grants are being solicited separately from other SPRANS grants this year in order to reduce confusion to potential applicants from

announcement of grants in very large numbers of SPRANS categories and subcategories.

2. Special Concerns

In its administration of the MCH Services Block Grant, the MCHB places special emphasis on improving service delivery to women and children from racial and ethnic minority populations who have had limited access to accessible care. This means that SPRANS projects are expected to serve and appropriately involve in project activities individuals from the populations to be served, unless there are compelling programmatic or other justifications for not doing so. The MCHB's intent is to ensure that project interventions are responsive to the cultural and linguistic needs of special populations, that services are accessible to consumers, and that the broadest possible representation of culturally distinct and historically underrepresented groups is supported through programs and projects sponsored by the MCHB. This same special emphasis applies to improving service delivery to children with special health care needs.

In keeping with the goals of advancing the development of human potential, strengthening the Nation's capacity to provide high quality education by broadening participation in MCHB programs of institutions that may have perspectives uniquely reflecting the Nation's cultural and linguistic diversity, and increasing opportunities for all Americans to participate in and benefit from Federal public health programs, HRSA will place a funding priority on projects from Historically Black Colleges and Universities (HBCU) or Hispanic Serving Institutions (HSI) in all categories and subcategories in this notice for which applications from academic institutions are encouraged. This is in conformity with the Federal Government's policies in support of White House Initiatives on Historically Black Colleges and Universities (Executive Order 12876) and Educational Excellence for Hispanic Americans (Executive Order 12900). An approved proposal from a HBCU or HSI will receive a 0.5 point favorable adjustment of the priority score in a 4 point range before funding decisions are made.

3. Evaluation Protocol

With the exception of SPRANS hemophilia projects—which have an alternative assessment mechanism in place—an MCH discretionary grant project, including a SPRANS, is expected to incorporate a carefully designed and well planned evaluation protocol capable of demonstrating and documenting measurable progress toward achieving the project's stated goals. The protocol should be based on a clear rationale relating the grant activities, the project goals, and the evaluation measures. Wherever possible, the measurements of progress toward goals should focus on health outcome indicators, rather than on intermediate measures such as process or outputs. A project lacking a complete and well-conceived evaluation protocol as part of the planned activities will not be funded.

4. Project Review and Funding

Within the limit of funds determined by the Secretary to be available for the activities described in this announcement, the Secretary will review applications for funds under the specific project categories in section 4, below, as competing applications and may award Federal funding for projects which will, in her judgment, best promote the purpose of title V of the Social Security Act, with special emphasis on improving service delivery to women and children from culturally distinct populations; best address achievement of Healthy Children 2000 objectives related to maternal, infant, child and adolescent health and service systems for children at risk of chronic and disabling conditions; and otherwise best promote improvements in maternal and child health.

4.1 Criteria for Review

The criteria which follow are used, as pertinent, to review and evaluate applications for awards under all SPRANS grants and cooperative agreement project categories announced in this notice. Further guidance in this regard is supplied in application guidance materials, which may specify other criteria.

—The quality of the project plan or methodology.
—The need for the research or training.
—The extent to which the project will contribute to the advancement of maternal and child health and/or improvement of the health of children with special health care needs.
—The extent to which the project is responsive to policy concerns applicable to MCH grants and to program objectives, requirements, priorities and/or review criteria for specific project categories, as published in program announcements or guidance materials.
—The extent to which the estimated cost to the Government of the project is reasonable, considering the anticipated results.
—The extent to which the project personnel are well qualified by training and/or experience for their roles in the project and the applicant organization has adequate facilities and personnel.
—The extent to which, insofar as practicable, the proposed activities, if well executed, are capable of attaining project objectives.
—The strength of the project's plans for evaluation.
—The extent to which the project will be integrated with the administration of the MCH Block Grant, State primary care plans, public health, and prevention programs, and other related programs in the respective State(s).
—The extent to which the application is responsive to the special concerns and program priorities specified in this notice.

4.2 Funding of Approved Applications

Final funding decisions for SPRANS grants are the responsibility of the Director, MCHB. In considering scores for the ranking of approved applications for funding, preferences may be exercised for groups of applications; for example, new projects may be funded ahead of competing continuations, or vice versa. Within any category of approved projects, the score of an individual project may be favorably adjusted, as noted in the notice or in guidance for that category, if the project addresses specific identified priorities. In addition, special consideration in assigning scores may be given by reviewers to individual applications that address areas identified in this notice as special concerns.

5. Special Projects of Regional and National Significance

Three categories of SPRANS grants are discussed below: Comprehensive Hemophilia Diagnostic and Treatment Centers; Genetic Disease Testing, Counseling and Information; and Maternal and Child Health Improvement Projects.

5.1 Grants

Three major categories of SPRANS grants are discussed below: Comprehensive Hemophilia Diagnostic and Treatment Centers; Genetic Disease Testing, Counseling and Information; and Maternal and Child Health Improvement Projects (in 5 sub-categories):

5.1.1. Comprehensive Hemophilia Diagnostic and Treatment Centers

• Application Deadline: June 17, 1996.

• Purpose: To provide comprehensive hemophilia diagnostic and treatment services to individuals with hemophilia and other congenital bleeding disorders through a regional network of approximately 140 comprehensive hemophilia diagnostic and treatment centers and for regional coordination.

• Priorities: The following overall program goals are priorities; to be eligible for consideration, proposals must address all of these:

—Access to comprehensive care for hemophilia and HIV as described in "Standards and Criteria for the Care of Persons with Congenital Bleeding Disorders" as published by the National Hemophilia Foundation (NHF).
—Fostering development of comprehensive care systems that provide culturally sensitive, family-centered care, coordinated through a regional system of hemophilia diagnostic and treatment centers.
—Outreach and increased access to comprehensive care, especially to the underserved and minorities.
—Emphasis on prevention to reduce complications and morbidity associated with hemophilia.
—Provision of services to women with congenital bleeding disorders.
—Collaboration and coordination of services with State Title V Maternal and Child Health programs; Ryan White Titles I, II, and III; community based organizations; State and local health agencies; Ryan White Title IV Pediatric HIV projects funded by the MCHB; and education and peer support activities of the NHF, such as Men's Advocacy Network of NHF (MANN), Women's Outreach Network of NHF (WONN) and Chapter Outreach Development Program (CODP); and with the Centers for Disease Control and Prevention (CDC) regarding the provision of HIV prevention, risk reduction, and counseling services, especially those targeted to adolescents and their sexual partners.
—Evidence of formal patient choice and grievance policies and procedures.

Preference for funding will be given to existing MCHB-supported comprehensive hemophilia diagnostic and treatment centers that have demonstrated high performance in development and coordination of regional services.

• Project Period: The project period is 3 years.

• Contact: For programmatic or technical information, contact Patrick McGuckin, on (301) 443–9051.

5.1.2. Genetic Disease Testing, Counseling and Information

• Application deadline: April 29, 1996.

• Purpose: To support projects that demonstrate increased access to effective genetic information, education, testing, and counseling services.

• Priorities: Applicants are invited to submit proposals to broaden access to genetic services through the following:

—A council of regional networks for genetic services. To coordinate activities and facilitate collaboration of ten regional genetic services networks supported by MCHB, and to address issues of genetic services in public health programs at the national level.
—Four regional genetic services networks. To develop and maintain infrastructures for genetic services in the Midwest/Great Plains, Mid-Atlantic, New England, and Southeast regions of the United States.
—An alliance of genetic support groups. To maintain a national coalition of genetics support groups, consumers, and professionals to improve responsiveness of genetic services to concerns of individuals and families affected by genetic disorders.

Preference for funding will be given to existing MCHB-supported comprehensive genetic projects that have demonstrated high performance in fulfilling the above priorities.

• Project Period: Project periods are up to 3 years.

• Contact: For programmatic or technical information, contact Jane S. Lin-Fu, M.D., telephone 301/443–1080.

5.1.3. Maternal and Child Health Improvement Projects

Maternal and Child Health Improvement Projects (MCHIP) are divided into five subcategories: State Systems Development Initiative; Transition Services in Adolescent Health; Universal Newborn Hearing Screening; Data Utilization and Enhancement; and Healthy Tomorrows Partnerships for Children

5.1.3.1. State Systems Development Initiative.

Application Deadline: July 15, 1996.

Purpose: To assist State Agency Maternal and Child Health and Children with Special Health Care Need programs in the development of a State and community infrastructure that results in comprehensive, community-based systems of care for all children and their families. Projects must: (1) support systems development activities identified in the Title V MCH Block Grant application; (2) collaborate with CISS, Healthy Start, and the Primary Care Cooperative Agreement; (3) collaborate with other system development initiatives, such as, mental health and education; (4) build on systems already in place; (5) and make an effort to sustain systems development activities in the Title V agency.

Priorities: Priority for funding will be given to projects in the following areas:

—Establishing an integrated data management system which meets user needs at the local, State, and national levels and is electronically accessible.
—Supporting community-level planning for establishing priorities, policies, and strategies for systems development.
—Improving collaborative partnerships for integrating health services.
—Initiating collaborative partnerships for integrating health with other services, e.g., education, mental health, and social services.
—Promoting service systems that are family-centered and culturally competent.
—Developing a mechanism for assuring quality performance and utilization of community systems.
—Strengthening the skills, knowledge, and ability of state and community leaders to develop comprehensive community systems of care.

Special Eligibility Considerations Eligibility for funding is limited to the Title V agencies in the 50 States and 9 Jurisdictions.

Project Period: Three years.

Contact: Kay K. Guirl, R.N., M.N., Senior Public Health Analyst, Division of Services for Children with Special Health Needs, 301 443–2350.

5.1.3.2. Transition Services in Adolescent Health.

• Application Deadline: May 15, 1996.

• Purpose: To fund two categories of SPRANS projects which support ongoing efforts to develop comprehensive, culturally competent, community-based, family-centered, coordinated care systems for adolescents with special health care needs and their families. The funds are intended to help these adolescents achieve a successful transition to community-based, comprehensive care and to maximize potential for employment. The MCHB has identified the need for public and private partnerships to improve the coordination of services to assist and

support adolescents with disabilities. These efforts are based, in part, on the work of the Federal SSI/CSHCN Workgroup, a collaborative effort of the MCHB, the Social Security Administration (SSA), and State Title V CSHCN Programs, which has identified barriers faced by adolescents with special health needs; and the National Commission on Childhood Disability, which, in its October, 1995, Report to Congress, identified changes needed in the SSI Program to more effectively promote self sufficiency of SSI child beneficiaries.

Another excellent example of ongoing collaboration, the CHOICES Project is a public/private partnership jointly funded by the MCHB and the Shriners Hospitals. CHOICES has strengthened cooperation between Title V CSNCN programs, Shriners Hospitals, and Vocational Rehabilitation programs and maximized services available to adolescents with disabilities. The MCHB is seeking to build on the past efforts of CHOICES, to strengthen systems of care for adolescents and preadolescents with special health needs and encourage them to grow, develop and make a successful transition to comprehensive care, work and self sufficiency. Utilizing the resources of a broad spectrum of health and social services providers, vocational training and rehabilitation agencies, education and private employers, the initiative will: (1) Identify and increase the understanding of the needs and special problems of adolescents with disabilities in making successful transitions to adult care, to be "healthy and ready to work" and to achieve self sufficiency; (2) foster the development of public and private partnerships and collaborative relationships that will maximize the availability of and access to comprehensive, community-based, coordinated care systems for adolescents with special health needs and their families; and (3) improve the ability of adolescents with disabilities to lead productive lives and maximize financial independence.

• Priorities/Funding Categories: Applications are being accepted for two categories of projects in FY 1996. Applications which do not fall within these program categories will not be considered.

—The Priority 1 funding category will support community-based planning and initial development grants to strengthen community-based systems that help adolescents with disabilities make successful transitions to self sufficiency and work. The emphasis of this category is on support for community level infrastructures of agencies, providers, community organizations, business and families. Projects will focus on needs assessment and local capacity-building, identifying and making maximum use of all available public and private resources for reaching and providing services to the target population. Services to transition adolescents from child-centered to adult-based care are expected to include primary, preventive, and specialty care that also addresses psychosocial needs. Projects must involve targeted adolescents and their families in needs assessment, as well as ongoing project planning and development. Funding will support local capacity building for planning, coordination of services, and care and financing systems development. Collaboration must be evident with key public programs within the community responsible for serving adolescents with special needs and disabilities funded under Title V Maternal and Child Health programs, vocational rehabilitation, education, mental health, social services agencies, and the State's SSI Action Plan.

—The Priority 2 funding category will expand already established regional and/or national efforts to support adolescents in making successful transitions from hospital to ambulatory care, to be "healthy and ready to work" and to achieve independence. Priority 2 projects will have the same general goals as those defined in Priority 1; however Priority 2 applicants must have already completed planning and initial development and have an existing infrastructure to achieve project goals and objectives. This infrastructure must, at a minimum, include selected State Title V CSHCN programs, Shriners Hospitals, and Vocational Rehabilitation programs. Applicants must represent a public/private partnership of Title V and a national hospital network which serves significant numbers of adolescents with disabilities. In addressing the goal of preparing adolescents to make transitions to adult comprehensive care and independent living, the project must involve community resources, including Vocational Rehabilitation, education, and employers in order to identify appropriate work opportunities and assure that adolescents have ongoing comprehensive and coordinated health care coverage.

• Special Eligibility Considerations: In keeping with the September 15, 1995, report of the U.S. Senate Appropriations Committee (S. Rep. 104–145), which urged continued MCHB support for the CHOICES Project, special preference for Priority 2 grants will be given to projects of similar scope and organization.

• Project Period: One to two year awards for Priority 1 projects; one to three years for Priority 2 projects.

• Contact: For programmatic or technical information, contact Beth D. Roy, telephone 301 443–2370. A pre-application conference call will be held on Thursday, April 18, at 2:00 p.m., EST. Persons interested in participating should send a letter of interest, including a brief description of their proposal and any issues they wish to have addressed during the call, by Friday, April 5, to Beth Roy, Room 18A–27, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

5.1.3.3. Universal Newborn Hearing Screening.

• Application Deadline: May 17, 1996.

• Purpose: To promote the establishment of statewide universal newborn hearing screening programs in the United States through a national network which (a) increases awareness of the feasibility of newborn hearing screening, (b) provides technical assistance on program establishment, maintenance, and coordination, and (c) maintains and analyzes data to monitor and evaluate the impact of universal newborn hearing screening programs. This priority responds to the Healthy People 2000 objective (17.16) which calls for the reduction in the average age at which children with significant hearing impairment are identified to no more than 12 months.

• Priorities: Priority for funding will be given to those applications which address the following factors:

—Coordination of screening programs emphasizing linkages between hospital screening programs, pediatricians, audiologists, state agencies, and community services providers.

—Sustainability beyond the grant period emphasizing utilization of local funding to establish and institutionalize programs as part of the ongoing provision of health care services.

—Ongoing support and technical assistance for emerging programs utilizing valid, cost effective, and feasible strategies and instrumentation for the conduct of universal hearing screening.

—Impact of early screening, emphasizing outcome evaluation which includes both quantitative and qualitative data on identification, intervention, cost, and developmental outcomes for young children.

• Project Period: The project period is four years.

• Contact: For programmatic or technical information, contact Bonnie Strickland, Ph.D., 301/443–1080.

4.1.3.4. Data Utilization and Enhancement.

• Application Deadline: June 17, 1996.

• Purpose: To enhance the use of information and information technologies within State and local MCH/CSHCN agencies and within the MCH community in the development of policies, programs and evaluation of services to improve the health and well being of mothers and all children as outlined in the "MCH Strategy Statement: Data Systems and Enhancement." Activities in this initiative may include:

—Development of retrievable and usable information and model data systems. The systems will be used in the collection, management, and analysis of data to facilitate needs assessment, planning, program implementation, monitoring, and evaluation of the health status of mothers and children and the delivery of comprehensive health care to that population.

—Linkage of and/or improvement of access to information among various service and data systems. These may include administrative, clinical, educational, communities and population information.

—Analysis of economic cost, benefits and effectiveness of services and systems on the well being of the MCH community, particularly the high risk and underserved portions of the population, including a compilation of service cost impacts related to health outcomes, cost benefit analysis of major MCH services, and dissemination of economic information to the MCH community.

Work products may take a variety of forms, such as papers, models, software, information services, stipends, and reports. Work products will be directed to the MCH community, including all mothers and children, and the service and system providers integral to providing them with comprehensive, family centered, culturally competent, community services.

• Priorities: Proposals in this MCHIP subcategory are invited in the following program areas:

—Development of model information systems with data that can be retrieved, integrated, and used by others at national and State levels.

—Enhancement of information collection and analysis capabilities of national, State and local health agencies using the models developed, training, and peer consultation.

—Collection, management, and analysis of data, and development and application of analytic and information management techniques focusing on national MCH issues.

—Networking, coordination, and integration of existing and proposed resources and data information technologies and analysis systems developed by other States or organizations.

—Increasing national, State and local analytical and information system capacity to respond to and implement changes in the organization of health care resources.

—Dissemination of relevant programmatic and population information and developed models to enhance access and utility for the MCH populations.

—Provision of direction and incentives to individuals in carrying out the purpose of this initiative through partnerships with educational institutions and State and local MCH agencies.

—Monitoring and assessing information and information technology requirements parallel to organizational changes in delivery of health care services to all mother and children.

• Grants/Amounts: Up to 3 years, with declining Federal funding and escalating local funding.

• Contact: For programmatic or technical information, contact Russ Scarato, telephone: 301 443–8041.

5.1.3.5. Healthy Tomorrows Partnerships for Children.

• Application Deadline: May 13, 1996.

• Purpose: To support projects for mothers and children that improve access to health services and utilize preventive strategies. The initiative encourages additional support from the private sector and from foundations to form community-based partnerships to coordinate health resources for pregnant women, infants and children.

• Priorities: Proposals in this MCHIP category are invited in the following program areas:

—Local initiatives that are community-based, family-centered, comprehensive and culturally relevant and improve access to health services for infants, children, adolescents, or CSHCN.

—Initiatives which show evidence of a capability to meet cost participation goals by securing funds for the second and sequential years of the project.

• Special Eligibility Considerations: In the interest of equitable geographic distribution, special consideration for funding will be given to projects from States without a currently funded project in this category. These States are cited in the application guidance.

• Project Period: Five years.

• Contact: For programmatic or technical information, contact Latricia Robertson, M.S.N., M.P.H., telephone: 301 443–8041.

5.2. Cooperative Agreements

Cooperative agreements will be awarded in four categories: Maternal and Child Health Providers Partnership; Partnership for Information and Communication; Fetal/Infant Mortality Review Program Support Center; and Partnership for Adolescent Health.

There will be substantial Federal programmatic involvement in these cooperative agreements. This means that after award, awarding office staff provide technical assistance and guidance to, or coordinate and participate in, certain programmatic activities of award recipients beyond their normal stewardship responsibilities in the administration of grants. Federal involvement may include, but is not limited to, planning, guidance, coordination and participation in programmatic activities. Periodic meetings, conferences, and/or communications with the award recipient are held to review mutually agreed upon goals and objectives and to assess progress. Additional details on the scope of Federal programmatic involvement in cooperative agreements, consistent with HRSA grants administration policy, will be included in the application guidance for these cooperative agreements.

5.2.1. Maternal and Child Health Providers Partnership

• Application Deadline: June 1, 1996.

• Purpose: To support activities which improve access and the delivery of maternal and child health services through governmental and professional partnerships. Specifically, the program is designed to promote problem-solving approaches which enhance community and provider participation. This provider partnership will encourage private sector and other support for improved coordination of and access to health resources at the community-level for pregnant women, infants and children.

Any national membership organization able to demonstrate that it represents a group(s) of providers of pediatric services will be considered for funding.

Specific program requirements include:

—Analysis of the obstacles (issues and contributing factors) to provider participation in the delivery of maternal and child health services to low-income pregnant women and children, as well as involvement in problem solving at the community level.

—Development of strategies to improve maternal and child health status and systems through collaboration with the Federal MCHB which promote problem solving at the community level; encourage provider participation; and encourage private sector and other support for improved coordination of and access to health resources at the community level.

—Dissemination and effective communication of concerns and information pertaining to the issues and strategies employed to their members and other national organizations.

• Project Period: Up to 5 years.

• Contact: For programmatic or technical information, contact Latricia Robertson, M.S.N., M.P.H., telephone: 301–443–8041.

5.2.2. Partnership for Information and Communication (PIC)

• Application Deadline: June 15, 1996.

• Purpose: To facilitate dissemination of new maternal and child health-related information to policy and decision makers in a format most useful to them and provide those individuals with a means of communicating issues directly to each other and to MCHB. This is a continuous Bureau activity with a single priority—to enhance communication between the MCHB and governmental, professional and private organizations representing leaders and policy makers concerned with issues related to maternal and child health. Organizations currently receiving support as part of this cooperative agreement represent State governors and their staffs; State Title V programs; State legislators; private business, particularly self-insured businesses; philanthropic organizations; and parent organizations, as well as national membership organizations representing groups or constituencies listed below.

To ensure continuity, membership for the organizations participating in PIC is rotated so that not all project periods coincide. For this year, only national membership organizations representing the following groups will be considered for funding:

—County health policymakers.

—Municipal health policymakers.

• Project Period: Up to 5 years.

• Contact: For programmatic or technical information, contact David Heppel, M.D., telephone: 301–443–2250.

5.2.3. Fetal/Infant Mortality Review Program Support Center

• Application Deadline: June 14, 1996.

• Purpose: To provide technical support to States and communities as they develop and implement community-based fetal/infant mortality review process. Fetal/Infant Mortality Review (F/IMR) is a process that identifies, through use of a community multidisciplinary team, community health care system, economic and social factors that may have contributed to an infant death. These findings are then used by the community to address the identified contributing factors and to promote local program development.

The Center will be responsible for working with the MCHB to promote the F/IMR process, provide assistance in setting up the process, share pertinent information among communities and States, develop refinements and new approaches to the F/IMR process to make it more responsive and efficient, and expand the use of this problem-solving to other mortality and morbidity events impacting the MCH population.

• Project Period: Up to five years.

• Contact: For programmatic or technical information, contact David Heppel, M.D., telephone: 301–443–2250.

5.2.4. Partnership for Adolescent Health

• Application Deadline: June 14, 1996.

Purpose: To collaborate with membership organizations having an historic interest in adolescent health in seeking policy guidance from and providing programmatic information to their memberships. This cooperative agreement stems from Congress's mandate to the Department, in section 1708 of the Public Health Service Act, to create an Office of Adolescent Health (OAH). The functions of the OAH are delegated to the MCHB. Fulfilling the need for a focal point for adolescent health, the OAH is responsible for assisting private and other public organizations to develop a collaborative approach to planning, implementing, monitoring and evaluating national programs to promote, improve and maintain the health status of pre-adolescents and adolescents.

Priorities: For purposes of this competition, only membership organizations representing the following disciplines will be considered for funding:

—Law.

—Social Work.

—Psychology.

—Medicine.

Future competitions will be focused on other professional disciplines.

Project Period: Up to 5 years.

Contact: For programmatic or technical information contact Juanita C. Evans, LCSW, telephone: 301 443–4026.

6. Public Comment

The categories, priorities, special considerations and preferences described above are not being proposed for public comment this year. In July 1993, following publication of the Department's Notice of Proposed Rulemaking to revise the MCH special project grant regulations at 42 CFR part 51a, the public was invited for a 60-day period to submit comments regarding all aspects of the SPRANS application and review process. In responding to those comments, the Department noted the practical limits on Secretarial discretion in establishing SPRANS categories and priorities owing to the extensive prescription in both the statute and annual Congressional directives.

Comments on this SPRANS notice which members of the public wish to make are welcome at any time and may be submitted to: Director, MCHB, at the address listed in the **ADDRESS** section. Suggestions will be considered when priorities are developed for the next solicitation.

7. Eligible Applicants

Any public or private entity, including an Indian tribe or tribal organization (as defined at 25 U.S.C. 450b), is eligible to apply for grants or cooperative agreements for project categories covered in this announcement.

8. Public Health System Reporting Requirements

This program is subject to the Public Health System Reporting Requirements (approved under OMB No. 0937–0195). Under these requirements, the community-based nongovernmental applicant must prepare and submit a Public Health System Impact Statement (PHSIS). The PHSIS is intended to provide information to State and local health officials to keep them apprised of proposed health services grant applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental applicants are required to submit the following information to the head of the appropriate State and local health agencies in the area(s) to be impacted no later than the Federal application receipt due date:

(a) A copy of the face page of the application (SF 424).

(b) A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State and local health agencies.

The project abstract may be used in lieu of the one-page PHSIS, if the applicant is required to submit a PHSIS.

9. Executive Order 12372

The MCH Federal set-aside program has been determined to be a program which is not subject to the provisions of Executive Order 12372 concerning intergovernmental review of Federal programs.

The OMB Catalog of Federal Domestic Assistance number is 93.110.

Dated: March 19, 1996.

Ciro V. Sumaya,

Administrator.

[FR Doc. 96–7106 Filed 3–22–96; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Application

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of application.

The following applicant has applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

PRT–812539

Applicant: Dr. Rolf O. Peterson, Michigan Technological University, Houghton, Michigan.

The applicant requests a permit to take (capture, handle and release) gray wolves (*Canis lupus lycaon*) in Isle Royale National Park, Michigan, for the purpose of enhancement of survival of the species through scientific research.

Written data or comments should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Division of Endangered Species, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, and must be received within 30 days of the date of this publication.

Documents and other information submitted with this application are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, division of Endangered Species, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056. Telephone: (612/725–3536 x250); FAX: (612/725–3526).

Dated: March 19, 1996.

Mamie A. Parker,

Acting Assistant Regional Director, Ecological Services, Region 3, Fish and Wildlife Service, Fort Snelling, Minnesota.

[FR Doc. 96–7136 Filed 3–22–96; 8:45 am]

BILLING CODE 4310–65–M

Endangered and Threatened Species Permit Application

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of application.

The following applicants have applied for amendments to their permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

PRT–809630

Applicant: Dr. Allen Kurta, Eastern Michigan University, Ypsilanti, Michigan.

The applicant requests an amendment to his scientific take permit for Indiana Bats (*Myotis sodalis*) to add Indiana, Ohio, and Illinois to the scope of permitted activities. Take activities are currently authorized in Michigan and include capture, handling, radio-tagging, and release of specimens.

PRT–809227

Applicant: 3D/Environmental, Cincinnati, Ohio, Dr. Virgil Brack, President.

Applicant requests an amendment to their scientific take permit for Indiana Bats (*Myotis sodalis*) and Gray Bats (*Myotis grisescens*) to include the following states within the scope of permitted activities: Alabama, Arkansas, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

Written data or comments on either of these amendment requests should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Division of Endangered Species, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, and must be received within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Division of Endangered Species, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056. Telephone: (612/725–3536 x250); FAX: (612/725–3526).

Dated: March 19, 1996.

Mamie A. Parker,

Acting Assistant Regional Director, Ecological Services, Region 3, Fish and Wildlife Service, Fort Snelling, Minnesota.

[FR Doc. 96–7138 Filed 3–22–96; 8:45 am]

BILLING CODE 4310–55–M

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior

ACTION: Notice of Receipt of Applicatior for Permit.

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*):

PRT–812350

Applicant: Mr. Phillip Sacco, CH2M HILL, Atlanta, Georgia.

The applicant requests a permit to take (capture for presence/absence survey) the endangered Indiana bat, *Myotis sodalis*, and gray bat, *Myotis grisescens*, at a proposed landfill expansion site, Sullivan County, Tennessee for the purpose of enhancement of survival of the species.

PRT–812346

Applicant: Ms. Kimberly M. Elliott, Antioch, Tennessee.

The applicant requests a permit to take (capture, mark, and release) the endangered Nashville crayfish, *Orconectes shoupi*, in Davidson County, Tennessee, for the purpose of enhancement of survival of the species.

PRT-812344

Applicant: Mr. Wendell Pennington, Pennington and Associates, Inc., Cookeville, Tennessee.

The applicant requests a permit to take (capture, relocate from a construction site, and release) the endangered Nashville crayfish, *Orconectes shoupi*, in Davidson County, Tennessee, for the purpose of enhancement of survival of the species.

PRT-812339

Applicant: Mr. Billy J. Grantham, Troy State University, Troy, Alabama.

The applicant requests a permit to take (salvage remains) federally listed threatened and endangered species from throughout the southeast for the purpose of enhancement of survival of the species.

PRT-812348

Applicant: Dr. Ronald L. Mumme, Aiken, South Carolina.

The applicant requests a permit to take (capture and translocate) the threatened Florida scrub jay, *Aphelocoma coerulescens coerulescens*, in Highlands and Collier Counties, Florida for the purpose of enhancement of survival of the species.

PRT-812342

Applicant: Dr. R. Wayne Tyndall, Maryland Natural Heritage Program, Annapolis, Maryland.

The applicant requests a permit to take (collect leaves for isozyme analyses) the threatened seabeach amaranth, *Amaranthus pumilus*, throughout the species range in the southeast for the purpose of enhancement of survival of the species.

Written data or comments on these applications should be submitted to: Regional Permit Coordinator, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345. All data and comments must be received within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: David Dell, Permit Biologist). Telephone: 404/679-7313; Fax: 404/679-7081.

Dated: March 18, 1996.

Noreen K. Clough,

Regional Director.

[FR Doc. 96-7140 Filed 3-22-96; 8:45 am]

BILLING CODE 4310-55-P

Availability of Draft Recovery Plan

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability and public comment period.

SUMMARY: The U.S. Fish and Wildlife Service announces the availability for public review of a revised draft recovery plan for the wood stork. Wood storks occur in Florida, Georgia and coastal South Carolina. The Service solicits review and comments from the public on this draft plan.

DATES: Comments on the draft recovery plan must be received on or before May 24, 1996 to ensure consideration by the Service.

ADDRESSES: Copies can be obtained by contacting the Acting Field Supervisor, U.S. Fish and Wildlife Service, 6620 Southpoint Drive, South, Suite 310, Jacksonville, Florida 32216 or calling (904) 232-2580. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Linda D. Finger at above address.

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service prepares recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, establish criteria for the recovery levels for reclassifying them from endangered to threatened status or removing them for the list, and estimate the time and cost for implementing the needed recovery measures.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. *et seq.*) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised Recovery Plan. The Service and other Federal agencies will take these comments into account in the course of implementing approved recovery plans.

Wood storks are large, white, long-legged wading birds that use a variety of freshwater and estuarine wetlands for nesting feeding and roosting. They are found throughout Florida, Georgia and coastal South Carolina. The Service listed the wood stork as an endangered species on February 28, 1984. Wood storks were listed as endangered because of loss of feeding habitat, human disturbance and man-made changes in water levels that affected the natural drainage patterns of Florida. Since the 1960's, the wood stork population has shown substantial declines in southern Florida, and substantial increases in northern Florida, Georgia and South Carolina. Over the last 12 years, the U.S. population has ranged between 5,500 and 6,500 pairs.

The Service completed the recovery pan for this species in 1986 to identify actions necessary to recover the population. Since that time, many tasks identified in the original plan have been accomplished and more information is now available on the biology and distribution of storks throughout the southeast. This revised recovery plan updates the original information as well as addresses new threats and needs.

Public Comments Solicited

The Service solicits written comments on the Recovery plan described. All comments received by the date specified above will be considered prior to approval of the plan.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: March 11, 1996.

Michael M. Bentzien,

Acting Field Supervisor.

[FR Doc. 96-7104 Filed 3-22-96; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Land Management

[AK-962-1410-00-P; F-40315]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(h)(8) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(h)(8), will be issued to Bering Straits Native Corporation for approximately 40 acres. The lands involved are in the vicinity of Marys Igloo, Alaska, within T. 2 S., R. 30 W., Kateel River Meridian, Alaska.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Anchorage Daily News. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513-7599 ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal Government or regional corporation, shall have until April 24, 1996 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Heather A. Coats,

Land Law Examiner, ANCSA Team, Branch of (962) Adjudication.

[FR Doc. 96-7134 Filed 3-22-96; 8:45 am]

BILLING CODE 4310-JA-P

[CA-930-06-1020-00, 4000/1790]

Notice of Intent To Prepare an Environmental Impact Statement for the Development of Standards for Rangeland Health and Guidelines for Grazing Management on Public Lands in California and Northwestern Nevada, and To Amend Land Use Plans Pursuant to the Planning Regulations

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent.

SUMMARY: The Bureau of Land Management (BLM) in California intends to develop a statewide Environmental Impact Statement (EIS) to address Standards for Rangeland Health and Guidelines for Grazing Management as provided in the BLM's new grazing regulations (43 CFR Part 4100) and to amend, as necessary, existing Land Use Plans (LUP) in the State. The EIS is being prepared in compliance with section 102(2)(C) of the National Environmental Policy Act (NEPA). This notice invites public input on the development of the Standards and Guidelines, issues to be addressed, planning criteria, and the alternatives to be considered in the EIS.

DATES: Comments concerning the scope of the EIS and Plan Amendment must be received by April 24, 1996. No public scoping meetings are anticipated. However, other opportunities for public involvement will be provided during the NEPA/Plan Amendment process.

ADDRESSES: Any scoping comments or requests to be placed on the mailing list should be sent to Rangeland Health Coordinator, Bureau of Land Management, 2800 Cottage Way, Sacramento, CA 95825.

FOR FURTHER INFORMATION CONTACT: Jim Morrison at (916) 979-2830.

SUPPLEMENTARY INFORMATION: The BLM's new grazing administration regulations (43 CFR Part 4100), which became effective August 21, 1995, provide for the development of state Standards for Rangeland Health and Guidelines for Grazing Management. A national programmatic EIS was completed by BLM in 1993 in support of the new regulations. This EIS for California and northwestern Nevada will be tiered to the national EIS, and will incorporate applicable information from previously prepared BLM grazing EISs.

These Standards and Guidelines are to be developed through BLM's planning process (43 CFR part 1600), with input from Resource Advisory Councils as well as the public. The analysis will be conducted using an interdisciplinary team of specialists. All existing LUPs for public lands in the California and northwestern Nevada will be examined for conformance with the proposed standards and guidelines. Approval of the standards and guidelines by the Secretary of Interior will also constitute approval of an amendment to the existing LUP's.

Description of Possible Alternatives

At this time two preliminary reasonable alternatives have been identified: (1) the application of fallback Standards and Guidelines contained in the regulations at 43 CFR 4180(f) (1) and (2) the adoption of Standards and Guidelines developed locally and in consultation with California's Resource Advisory Councils and the public. Additional alternatives may be added as a result of scoping or subsequent public or agency input.

Anticipated Issues

Issues anticipated during the NEPA analysis include, but may not be limited to, the following: the effect that adoption of Standards will have on resource conditions, uses, and users of public land, and the effect that adoption of Guidelines will have on livestock operations.

Dated: March 11, 1996.

Ed Hastey,

State Director.

[FR Doc. 96-6815 Filed 3-22-96; 8:45 am]

BILLING CODE 4310-84-M

[WY-921-41-5700; WYW131557]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

Pursuant to the provisions of 30 U.S.C. 188 (d) and (e), and 43 CFR 3108.2-3 (a) and (b)(1), a petition for reinstatement of oil and gas lease WYW131557 for lands in Carbon County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination. The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW131557 effective May 1, 1994, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Pamela J. Lewis,

Chief, Leasable Minerals Section.

[FR Doc. 96-7103 Filed 3-22-96; 8:45 am]

BILLING CODE 4310-22-M

[ID-943-1430-01; IDI-07135]

Public Land Order Revocation of Public Land Order No. 6010; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes in its entirety a public land order which withdrew 3.50 acres of public land for the Bureau of Land Management—s Idaho Falls Administrative Site. The

land is no longer needed for this purpose, and the revocation is needed to permit disposal of the land to the State of Idaho through exchange. This action will open the land to surface entry and mining. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: April 24, 1996.

FOR FURTHER INFORMATION CONTACT: Larry R. Lievsay, BLM Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706–2500, 208–384–3166.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Public Land Order No. 6010, which withdrew the following described public land for the Bureau of Land Management's Idaho Falls Administrative Site, is hereby revoked in its entirety:

Boise Meridian

T. 2 N., R. 38 E.,
Sec. 8, that part of the S½SE¼ described as follows:
Beginning at a point from which the South Quarter Corner of said Section 8 bears South, 41.5 ft. and West, 897 ft.;
Thence E. 224 ft. along the Utah-Idaho Sugar Company right-of-way;
N. 28° 17′ E., 617 ft. along the Idaho Irrigation District West right-of-way canal;
S. 69° 08′ W., 566.7 ft.;
S. 2° 12′ E., 341.7 ft. to the point of beginning.

The area described contains 3.50 acres in Bonneville County.

2. At 9 a.m. on April 24, 1996, the land described above will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on April 24, 1996, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

3. At 9 a.m. on April 24, 1996, the land will be opened to location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of any of the land described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1988), shall vest no rights against the United States. Acts required to establish a location and initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: March 13, 1996.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 96–7056 Filed 3–22–96; 8:45 am]

BILLING CODE 4310–GG–P

[AK–050–06–1430–01; AA–77388]

Lease of Public Land; Tonsina Lake, AK

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: This notice of realty action involves a proposal for a 20 year renewable commercial lease to Jeff Chadd, Majestic Mountain Alaskan Adventures. The lease is intended to authorize the construction, maintenance, and operation of commercial recreational facilities related to guiding and outfitting activities on public.

DATES: Comments and an application must be received on or before May 9, 1996.

ADDRESSES: Comments and an application must be submitted to the Glennallen District Management Team, P.O. Box 147, Glennallen, Alaska 99588–0147.

FOR FURTHER INFORMATION CONTACT: David Mushovic, (907) 822–3217.

SUPPLEMENTARY INFORMATION: The site examined and found suitable for leasing under the provisions of Sec. 302 of the Federal Land Policy and Management Act of 1976, and 43 CFR 2920, is described as within:

Sec. 23, T. 4S., R. 2 W., Copper River Meridian.

An application will only be accepted from Jeff Chadd, who owns Majestic Mountain Alaskan Adventures. The comments and application must include a reference to this notice. Fair market rental as determined by appraisal will be collected for the use of these lands, and reasonable administrative and monitoring costs for processing the lease. A final determination will be made after completion of an environmental assessment.

Dated: March 18, 1996.

David Mushovic,

Realty Specialist.

[FR Doc. 96–7099 Filed 3–22–96; 8:45 am]

BILLING CODE 4310–JA–M

Minerals Management Service

Outer Continental Shelf, Central Gulf of Mexico; Notice of Leasing Systems, Sale 157

Section 8(a)(8) (43 U.S.C. 13378(a)(8)) of the Outer Continental Shelf Lands Act (OCSLA) requires that, at least 30 days before any lease sale, a Notice be submitted to the Congress and published in the **Federal Register**:

1. identifying the bidding systems to be used and the reasons for such use; and

2. designating the tracts to be offered under each bidding system and the reasons for such designation.

This Notice is published pursuant to these requirements.

1. *Bidding systems to be used.* In the Outer Continental Shelf (OCS) Sale 157, blocks will be offered under the following four bidding systems as authorized by section 8(a)(1) (43 U.S.C. 1337(a)(1)), as amended: (a) Bonus bidding with a fixed 16⅔-percent royalty on all unleased blocks in less than 200 meters of water; (b) bonus bidding with a fixed 16⅔-percent royalty on all unleased blocks in 200 and 400 meters of water with a royalty suspension volume of up to 17.5 million barrels of oil equivalent; (c) bonus bidding with a fixed 12½-percent royalty on all unleased blocks in 400 to 800 meters of water with a royalty suspension volume of up to 52.5 million barrels of oil equivalent; and (d) bonus bidding with a fixed 12½-percent royalty on all unleashed blocks in water depths of 800 meters or more with a royalty suspension volume of up to 87.5 million barrels of oil equivalent.

For bidding systems (b), (c), and (d), the royalty suspension volumes apply on a one per field basis. The royalty suspension allocation rules are described in the Interim Rule (30 CFR Part 260) addressing royalty relief for new leases that will be published in the **Federal Register** in late March 1996.

a. *Bonus Bidding with a 16⅔-percent Royalty.* This system is authorized by section (8)(a)(1)(A) of the OCSLA. This system has been used extensively since the passage of the OCSLA in 1953 and imposes greater risks on the lessee than systems with higher contingency payments but may yield more rewards if a commercial field is discovered. The relatively high front-end bonus payments may encourage rapid exploration.

b. *Bonus Bidding with a 16⅔-Percent Royalty and a Royalty Suspension Volume (17.5 million barrels of oil equivalent).* This system is authorized by section (8)(a)(1)(H) of the OCSLA, as amended. This system complies with Sec. 304 of the Outer Continental Shelf Deep Water Royalty Relief Act (DWRRA). An incentive for development and production in water depths of 200 to 400 meters is provided through allocating royalty suspension volumes of 17.5 million barrels of oil equivalent to eligible fields.

c. *Bonus Bidding with a 12½-Percent Royalty and a Royalty Suspension Volume (52.5 million barrels of oil equivalent).* This system is authorized by section (8)(a)(1)(H) of the OCSLA, as amended. It has been chosen for blocks in water depths of 400 to 800 meters proposed for the Central Gulf of Mexico (Sale 157) to comply with Sec. 304 of the DWRRA. The 12½-percent royalty rate is used in deeper water because these blocks are expected to require substantially higher exploration, development, and production costs, as well as longer times before initial production, in comparison to shallow-water blocks. The use of a royalty suspension volume of 52.5 million barrels of oil equivalent for eligible fields provides an incentive for development and production appropriate for this water depth category.

d. *Bonus Bidding with a 12½-percent Royalty and a Royalty Suspension Volume (87.5 million barrels of oil equivalent).* This system is authorized by section (8)(a)(1)(H) of the OCSLA, as amended. It has been chosen for blocks in water depths of 800 meters or more proposed for the Central Gulf of Mexico (Sale 157) to comply with Sec. 304 of the DWRRA. The use of a royalty suspension volume of 87.5 million barrels of oil equivalent for eligible fields provides an incentive for development and production appropriate for these deep water depths.

2. *Designation of Blocks.* The selection of blocks to be offered under the four systems was based on the following factors:

a. Royalty rates on adjacent, previously leased tracts were considered to enhance orderly development of each field.

b. Blocks in deep water were selected for the 12½-percent royalty system based on the favorable performance of this system in these high-cost areas in past sales.

c. The royalty suspension volumes were based on the water depth specific volumes mandated by the DWRRA.

The specific blocks to be offered under each system are shown on the "Stipulations, Lease Terms, and Bidding Systems" and "Royalty Suspension Areas for the Central Gulf of Mexico" maps for Central Gulf of Mexico Lease Sale 157. These maps are available from the Public Information Unit, Minerals Managements Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394.

Dated: March 18, 1996.

Cynthia Quarterman,

Director, Minerals Management Service.

Approved:

Bob Amstrong,

Assistant Secretary, Land and Minerals Management.

[FR Doc. 96–7131 Filed 3–22–96; 8:45 am]

BILLING CODE 4310–MR–M

Outer Continental Shelf, Central Gulf of Mexico, Oil and Gas Lease Sale 157—Final

1. Authority

This Notice is published pursuant to the Outer Continental Shelf (OSC) Lands Act (43 U.S.C. 1331–1356, (1988)), and the regulations issued thereunder (30 CFR Part 256).

2. Filing of Bids

(a) Sealed bids will be received by the Regional Director (RD), Gulf of Mexico Region, Minerals Management Service (MMS), 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394. Bids may be delivered in person to that address during normal business hours (8 a.m. to 4 p.m., Central Standard Time (c.s.t.)) until the Bid Submission Deadline at 10 a.m. Tuesday, April 23, 1996. Hereinafter, all times cited in this Notice refer to c.s.t. unless otherwise stated. Bids received by the RD later than the submission deadlines specified above will be returned unopened to the bidders. Bids may not be modified or withdrawn unless written modification or written withdrawal request is received by the RD prior to the Bid Submission Deadline specified above. Bid Opening Time will be 9 a.m., Wednesday, April 24, 1996, at the Hyatt Regency Hotel, 500 Poydras Plaza, New Orleans, Louisiana. All bids must be submitted and will be considered in accordance with applicable regulations, including 30 CFR Part 256. The list of restricted joint bidders which applies to this sale appeared in the **Federal Register** on October 16, 1995, at 60 FR 53642.

(b) In the event a natural disaster (such as widespread flooding) or other occurrence causes the MMS Gulf of Mexico Regional Office to be closed on Tuesday, April 23, 1996, bids will be accepted until 9 a.m. Wednesday, April 24, 1996, at the site of bid opening specified above. Under these conditions, bids may be modified or withdrawn upon written notification up until 9 a.m. Wednesday, April 24, 1996. Closure of the office may be determined by calling (504) 736–0557 and hearing a recorded message to that effect.

3. Method of Bidding

(a) *Submission of Bids.* A separate signed bid in a sealed envelope labeled "Sealed Bid for Oil and Gas Lease Sale 157, not to be opened until 9 a.m., c.s.t., Wednesday, April 24, 1996" must be submitted for each tract bid upon. The sealed envelope and the bid should contain the following information: the company name, Gulf of Mexico Company Name (GOM Company Number), area number and/or name (abbreviations acceptable), and the block number of the tract bid upon. In addition, the total amount bid to be considered by MMS must be in whole dollar amount. Any cent amount above the whole dollar will be ignored by MMS.

Bidders must submit with each bid ⅕th of the cash bonus, in cash or by cashier's check, bank draft, or certified check, payable to the order of the U.S. Department of the Interior—Minerals Management Service. For identification purposes, the following information must appear on the check or draft: company name, GOM Company Number, and the area and block bid on (abbreviation acceptable). No bid for less than all of the unleased portion(s) of a block will be considered.

All documents must be executed in conformance with signatory authorizations on file in the Gulf of Mexico regional office. Partnerships also need to submit or have on file a list of signatories authorized to bind the partnership. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to a maximum of five decimal places, e.g., 33.33333 percent. Other documents may be required of bidders under 30 CFR 256.46. Bidders are warned against violation of 18 U.S.C. 1860 prohibiting unlawful combination or intimidation of bidders.

(b) *Submission of Statement(s) Regarding Certain Geophysical Data.* Each company submitting a bid, or participating as a joint bidder in such a bid, shall submit, prior to the Bid

Submission Deadline specified in paragraph 2 of this Notice, a statement or statements identifying any processed or reprocessed pre and post stack depth migrated geophysical data in their possession or control pertaining to each and every block on which they are participating as a bidder. The existence, extent, type of such data, and identification of specific lines or 3D surveys must be clearly stated. In addition, the statement shall certify that no such data are in their possession for any other blocks on which they participate as a bidder. The statement shall be submitted in an envelope separate from those containing bids and shall be clearly marked; an example of a preferred format for the statement and the envelope is included in the document titled "Trial Procedures for Access to Certain Geophysical Data in the Gulf of Mexico." Only one statement per bidder is required for each sale, but more than one may be submitted if desired, provided that all tracts bid on by that company are covered in the one or more statements.

Paragraph 14(1), *Information to Lessees*, contains additional information pertaining to this requirement.

4. Bidding, Yearly Rental, and Royalty Systems

The following bidding, yearly rental, and royalty systems apply to this sale:

(a) *Bidding Systems.* All bids submitted at this sale must provide for a cash bonus in the amount of $25.00 or more per acre or fraction thereof.

(b) *Yearly Rental.* All leases awarded on tracts in water depths of 200 meters and greater as depicted on the map "Royalty Suspension Areas For The Central Gulf Of Mexico" provided with this Notice (i.e., tracts in any of the three royalty suspension areas) will provide for a yearly rental payment of $7.50 per acre or fraction thereof until initial production is obtained.

All leases awarded on other tracts (i.e., those in water depths of less than 200 meters) will provide for a yearly rental payment of $5 per acre or fraction thereof until initial production is obtained.

(c) *Royalty Systems.* After initial production is obtained, leases will provide for a minimum royalty of the amount per acre or fraction thereof as specified as the yearly rental in paragraph 4(b) above, except during periods of royalty suspension as discussed in paragraph 4(c)(3) of this Notice. The following royalty systems will be used in this sale:

(1) *Leases with a 12½-Percent Royalty.* This royalty rate applies to tracts in water depths of 400 meters or greater; this area is shown on the Stipulations, Lease Terms, and Bidding Systems Map applicable to this Notice (see paragraph 13). Leases issued on the tracts offered in this area will have a fixed royalty rate of 12½ percent, except during periods of royalty suspension (see paragraph 4(c)(3) of this Notice).

(2) *Leases with a 16⅔-Percent Royalty.* This royalty rate applies to tracts in water depths of less than 400 meters (see aforementioned map). Leases issued on the tracts offered in this area will have a fixed royalty rate of 16⅔ percent, except during periods of royalty suspension for leases in water depths 200 meters or greater (see paragraph 4(c)(3) of this Notice).

(3) *Royalty Suspension.* In accordance with Public Law 104–58, signed by the President on November 28, 1995, MMS has developed procedures providing for the suspension of royalty payments on production from eligible leases issued as a result of this sale. MMS will allow only one royalty suspension volume per field regardless of the number of eligible leases producing the field. For purposes of this paragraph, an eligible lease is one that: is located in the Gulf of Mexico in water depths 200 meters or deeper; lies wholly west of 87 degrees, 30 minutes West longitude; and is offered subject to a royalty suspension volume authorized by statute.

An eligible lease from this sale may receive a royalty suspension volume only if it is in a field where no currently active lease produced oil or gas (other than test production) before November 28, 1995. The following applies only to eligible leases in fields meeting this condition.

(i) The royalty suspension volumes are:

—17.5 million barrels of oil equivalent (mmboe) in 200 to 400 meters of water;

—52.5 mmboe in 400 to 800 meters of water; and

—87.5 mmboe in 800 meters of water and greater.

A map titled "Royalty Suspension Areas For The Central Gulf Of Mexico" (March 1996) depicting blocks in which such suspensions may apply is currently available from the MMS GOM Regional Office (see paragraph 14(a) of this Notice).

(ii) When production first occurs from any of the eligible leases in a field (not including test production), MMS will determine the royalty suspension volume applicable to eligible lease(s) in that field. The determination is based on the royalty suspension volumes and the map specified in paragraph 4(c)(3)(i) above.

(iii) If a new field consists of eligible leases in different water depth categories, the royalty suspension volume associated with the deepest eligible lease applies.

(iv) If an eligible lease is the only eligible lease in a field, royalty is not owed on the production from the lease up to the amount of the applicable royalty suspension volume.

(v) If a field consists of more than one eligible lease, payment of royalties on the eligible leases' initial production is suspended until their cumulative production equals the field's established royalty suspension volume. The royalty suspension volume for each eligible lease is equal to each lease's actual production (or production allocated under an approved unit agreement) until the field's established royalty suspension volume is reached.

(vi) If an eligible lease is added to a field that has an established royalty suspension volume, the field's royalty suspension volume will not change even if the added lease is in deeper water. The additional lease may receive a royalty suspension volume only to the extent of its production before the cumulative production from all eligible leases in the field equals the field's previously established royalty suspension volume.

(vii) If MMS reassigns a well on an eligible lease to another field, the past production from that well will count toward the royalty suspension volume, if any, specified for the new field to which it is assigned. The past production will not be counted toward the suspension volume, if any, from the first field.

(viii) An eligible lease may receive a royalty suspension volume only if the entire lease is west of 87 degrees, 30 minutes West longitude. A field that lies on both sides of this meridian will receive a royalty suspension volume only for those eligible leases lying entirely west of the meridian.

(ix) An eligible lease may obtain more than one royalty suspension volume. If a new field is discovered on an eligible lease that already benefits from the royalty suspension volume for another field, production from that new field receives a separate royalty suspension.

(x) A lessee must measure natural gas production subject to the royalty suspension volume as follows: 5.62 thousand cubic feet of natural gas equals one barrel of oil equivalent, as measured fully saturated at 15.025 psi, 60 degrees F.

(xi) In any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for light sweet crude oil exceeds $28.00 per barrel, royalties on the production of oil must be paid at the lease stipulated royalty rate (see paragraphs 4(c)(1) and (2) above), and production during such years counts toward the royalty suspension volume.

In any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for natural gas exceeds $3.50 per million British thermal units, royalties on the production of natural gas must be paid at the lease stipulated royalty rate (see paragraphs 4(c)(1) and (2) above), and production during such years counts toward the royalty suspension volume.

These prices for oil and natural gas are as of the end of 1994 and must be adjusted for subsequent years by the percentage by which the implicit price deflator for the gross domestic product changed during the preceding calendar year.

(xii) A royalty suspension will continue until the end of the month in which the cumulative production from eligible leases in the field reaches the royalty suspension volume for the field.

Paragraph 14(n), *Information to Lessees*, contains additional information pertaining to royalty suspension matters.

5. Equal Opportunity

The certification required by 41 CFR 60–1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form MMS–2033 (June 1985), and the Affirmative Action Representation Form, Form MMS–2032 (June 1985) must be on file in the Gulf of Mexico regional office prior to lease award (see paragraph 14(e)).

6. Bid Opening

Bid opening will begin at the bid opening time stated in paragraph 2. The opening of the bids is for the sole purpose of publicly announcing bids received, and no bids will be accepted or rejected at that time.

7. Deposit of Payment

Any cash, cashier's checks, certified checks, or bank drafts submitted with a bid may be deposited by the Government in an interest-bearing account in the U.S. Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

8. Withdrawal of Tracts

The United States reserves the right to withdraw any tract from this sale prior to issuance of a written acceptance of a bid for the tract.

9. Acceptance, Rejection, or Return of Bids

The United States reserves the right to reject any and all bids. In any case, no bid will be accepted, and no lease for any tract will be awarded to any bidder, unless:

(a) The bidder has complied with all requirements of this Notice and applicable regulations;

(b) The bid is the highest legal bid; and

(c) The amount of the bid has been determined to be adequate by the authorized officer.

No bonus bid will be considered for acceptance unless it provides for a cash bonus in the amount of $25.00 or more per acre or fraction thereof. Any bid submitted which does not conform to the requirements of this Notice, the OCS Lands Act, as amended, and other applicable regulations may be returned to the person submitting that bid by the RD and not considered for acceptance.

To ensure that the Government receives a fair return for the conveyance of lease rights for this sale, the MMS has modified its two-phased process for bid adequacy determination. The MMS will not automatically accept legal high bids on confirmed and wildcat tracts which receive three or more bids. Such tracts will be evaluated in accordance with the remaining elements of the MMS bid adequacy procedures. A copy of the revised bid adequacy procedures ("Summary of Procedures for Determining Bid Adequacy at Offshore Oil and Gas Lease Sales: Effective April 1996, with Sale 157") is available from the MMS GOM Regional Office (see paragraph 14(a) of this Notice).

10. Successful Bidders

The following requirements apply to successful bidders in this sale:

(a) *Lease Issuance.* Each person who has submitted a bid accepted by the authorized officer will be required to execute copies of the lease (Form MMS–2005 (March 1986) as amended), pay the balance of the cash bonus bid along with the first year's annual rental for each lease issued, by electronic funds transfer in accordance with the requirements of 30 CFR 218.155, and satisfy the bonding requirements of 30 CFR 256, Subpart I, as amended.

Paragraphs 14 (o) and (p), *Information to Lessees*, contain additional information pertaining to this matter.

(b) *Certification Regarding Nonprocurement Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions.* Each person involved as a bidder in a successful high bid must submit, prior to lease award, a certification that the person is not excluded from participation in primary covered transactions under Federal nonprocurement programs and activities. Persons submitting such certifications should review the requirements of 43 CFR, Part 12, Subpart D, as amended in the **Federal Register** of June 26, 1995, at 60 CFR 33035.

Copies of the certification form are available from the MMS GOM Regional Office Public Information Unit. See Paragraph 14(a) of this Notice for directions on how to obtain the forms.

11. Leasing Maps and Official Protection Diagrams.

Tracts offered for lease may be located on the following Leasing Maps or Official Protraction Diagrams which may be purchased from the MMS GOM Regional Office Public Information Unit (see paragraph 14(a)):

(a) Outer Continental Shelf (OCS) Leasing Maps—Louisiana Nos. 1 through 12. This is a set of 30 maps which sells for $32.

(b) Outer Continental Shelf Official Protraction Diagrams. These diagrams sell for $2.00 each.

NH 15–12 Ewing Bank (rev. 12/02/76).
NH 16–4 Mobile (rev. 02/23/93).
NH 16–7 Viosca Knoll (rev. 12/02/76).
NH 16–10 Mississippi Canyon (rev. 12/02/76).
NG 15–3 Green Canyon (rev. 12/02/76).
NG 15–6 Walker Ridge (rev. 12/02/76).
NG 15–9 (No Name) (rev. 04/27/89).
NG 16–1 Atwater Valley (rev. 11/10/83).
NG 16–4 Lund (rev. 08/22/86).
NG 16–7 (No Name) (rev. 04/27/89).

(c) A complete set of all the above OCS Leasing Maps and Official Protraction Diagrams is available on microfiche for $5.00 per set.

12. Description of the Areas Offered for Bids

(a) Acreage of blocks is shown on Leasing Maps and Official Protraction Diagrams. Some of these blocks, however, may be partially leased, or transected by administrative lines such as the Federal/State jurisdictional line. Information on the unleased portions of such blocks, including the exact acreage, is included in the following document as a part of this Notice and is currently available from the MMS GOM Regional Office:

Central Gulf of Mexico Lease Sale 157—Final—Unleased Split Blocks and Unleased Acreage of Blocks with Aliquots and Irregular Portions Under Lease.

(b) **Tracts not available for leasing:** The areas offered for leasing include all those blocks shown on the OCS Leasing Maps and Official Protraction Diagrams listed in paragraph 11(a) and (b), except for those blocks or partial blocks already under lease and those blocks or partial blocks under appeal as listed in the following paragraph. A list of Central Gulf of Mexico tracts currently under active lease is included at the end of this Notice.

Although currently unleased, the following tracts are currently appeal and therefore unavailable for leasing: Main Pass, South and East Addition, Blocks 253 and 254.

Note: Tracts or portions or tracts beyond the United States Exclusive Economic Zone are offered based upon provisions of the 1982 Law of the Sea Convention, and could be subject to a continental shelf delimitation agreement between the United States and Mexico.

13. Lease Terms and Stipulations

(a) Leases resulting from this sale will have initial terms as shown on the Stipulations, Lease Terms, and Bidding Systems Map applicable to this Notice. Copies of the map and lease form are available from the MMS GOM Regional Office (see paragraph 14(a)).

(b) The applicability of the stipulations which follow is as shown on the map described in paragraph 13(a and as supplemented by references in this Notice.

Stipulation No. 1—Topographic Features

(This stipulation will be included in leases located in the areas so indicated in the Biological Stipulation Map Package associated with this Notice which is available from the Gulf of Mexico Regional Office (see paragraph 14(a)).

The banks that cause this stipulation to be applied to blocks of the Central Gulf are:

Bank name	No activity zone defined by isobath (meters)
McGrail Bank	85
Bouma Bank	85
Rezak Bank	85
Sidner Bank	85
Rankin Bank	85
Sackett Bank[2]	85
Ewing Bank	85
Diaphus Bank[2]	85
Parker Bank	85
Jakkula Bank	85
Sweet Bank[1]	85
Bright Bank	85
Geyer Bank[3]	85
MacNeil Bank[3]	82
Alderdice Bank	80
Fishnet Bank[2]	76
29 Fathom Bank	64
Sonnier Bank	55

[1] Only paragraph (a) of the stipulation applies.

[2] Only paragraphs (a) and (b) apply.

[3] Western Gulf of Mexico bank with a portion of its "3-Mile Zone" in the Central Gulf of Mexico.

(a) No activity including structures, drilling rigs, pipelines, or anchoring will be allowed within the listed isobath ("No Activity Zone" as shown in the aforementioned Biological Stipulation Map Package) of the banks as listed above.

(b) Operations within the area shown as "1,000-Meter Zone" in the aforementioned Biological Stipulation Map Package shall be restricted by shunting all drill cuttings and drilling fluids to the bottom through a downpipe that terminates an appropriate distance, but no more than 10 meters, from the bottom.

(c) Operations within the area shown as "1-Mile Zone" in the aforementioned Biological Stipulation Map Package shall be restricted by shunting all drill cuttings and drilling fluids to the bottom through a downpipe that terminates an appropriate distance, but no more than 10 meters, from the bottom. (Where there is a "1-Mile Zone" designated, the "1,000-Meter Zone" in paragraph (b) is not designated.)

(d) Operations within the area shown as "3-Mile Zone" in the aforementioned Biological Stipulation Map Package shall be restricted by shunting all drill cuttings and drilling fluids from development operations to the bottom through a downpipe that terminates an appropriate distance, but no more than 10 meters, from the bottom.

Stipulation No. 2—Live Bottoms

(To be included only on leases in the following blocks: Main Pass Area, South and East Addition, Blocks 190, 194, 198, 219–226, 244–266, 276–290; Viosca Knoll, Blocks 473–476, 521, 522, 564, 565, 566, 609, 610, 654, 692–698, 734, 778.)

For the purpose of this stipulation, "live bottom areas" are defined as seagrass communities; or those areas which contain biological assemblages consisting of such sessile invertebrates as sea fans, sea whips, hydroids, anemones, ascidians, sponges, bryozoans, or corals living upon and attached to naturally occurring hard or rocky formations with rough, broken, or smooth topography; or areas whose lithotope favors the accumulation of turtles, fishes, and other fauna.

Prior to any drilling activities or the construction or placement of any structure for exploration or development on this lease, including, but not limited to, anchoring, well drilling, and pipeline and platform placement, the lessee will submit to the Regional Director (RD) a live bottom survey report containing a bathymetry map prepared utilizing remote sensing techniques. The bathymetry map shall be prepared for the purpose of determining the presence or absence of live bottoms which could be impacted by the proposed activity. This map shall encompass such an area of the seafloor where surface disturbing activities, including anchoring, may occur.

It if is determined that the live bottoms might be adversely impacted by the proposed activity, the RD will require the lessee to undertake any measure deemed economically, environmentally, and technically feasible to protect the pinnacle area. These measures may include, but are not limited to, the following:

(a) the relocation of operations; and

(b) the monitoring to assess the impact of the activity on the live bottoms.

Stipulation No. 3—Military Areas

(This stipulation will be included in leases located within the Warning Areas and Eglin Water Test Areas 1 and 3, as shown on the map described in paragraph 13(a)).

(a) *Hold and Save Harmless.* Whether compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise, the lessee assumes all risks of damage or injury to persons or property, which occur in, on, or above the Outer Continental Shelf (OCS), to any persons or to any property of any person or persons who are agents, employees, or invitees of the lessee, its agents, independent contractors, or subcontractors doing business with the lessee in connection with any activities being performed by the lessee in, on, or above the OCS, if such injury or damage to such person or property occurs by reason of the activities of any agency of the United States Government, its contractors or subcontractors, or any of its officers, agents or employees, being conducted as a part of, or in connection with, the programs and activities of the command headquarters listed in the following table.

Notwithstanding any limitation of the lessee's liability in Section 14 of the lease, the lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of its officers, agents, or employees. The lessee further agrees to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the agents, employees, or invitees of the lessee, its agents, or any independent contractors or subcontractors doing business with the lessee in connection with the programs and activities of the aforementioned military installation, whether the same be caused in whole or in party by the negligence or fault of the United States, its contractors, or subcontractors, or any of its officers, agents, or employees and whether such claims might be sustained under a theory of strict or absolute liability or otherwise.

(b) *Eelctromagnetic Emissions.* The lessee agrees to control its own electromagnetic emissions and those of its agents, employees, invitees, independent contractors or subcontractors emanating from individual designated defense warning areas in accordance with requirements specified by the commander of the command headquarters listed in the following table to the degree necessary to prevent damage to, or unacceptable interference with, Department of Defense flight, testing, or operational activities, conducted within individual designated warning areas. Necessary monitoring control, and coordination with the lessee, its agents, employees, invitees, independent contractors or subcontractors, will be effected by the commander of the appropriate onshore military installation conducting operations in the particular warning area; provided, however, that control of such electromagnetic emissions shall in no instance prohibit all manner of electromagnetic communication during any period of time between a lessee, its agents, employees, invitees, independent contractors or subcontractors and onshore facilities.

(c) *Operational.* The lessee, when operating or causing to be operated on its behalf, boat, ship, or aircraft traffic into the individual designated warning areas shall enter into an agreement with the commander of the individual command headquarters listed in the following list, upon utilizing an individual designated warning area prior to commencing such traffic. Such an agreement will provide for positive control of boats, ships, and aircraft operating into the warning areas at all times.

W–155A and B (For Agreement)—Chief, Naval Air Training, Naval Air Station, Office No. 206, Corpus Christi, Texas 78419–5100, Telephone: (512) 939–3862/2621

W–155A and B (For Operational Control)—Fleet Area Control & Surveillance Facility (FACSFAC), Operations, Naval Air Station, Pensacola, Florida 32508, Telephone: (904) 452–2735/4671

W–92—Naval Air Station, Air Operations Department, Air Traffic Division/Code 52, New Orleans, Louisiana 70146–5000, Telephone: (504) 393–3100/3101

W–453—Air National Guard—CRTC, Gulfport/ACMI, Scheduling Office, Gulfport, Mississippi 39507, Telephone: (601) 867–2433

Eglin Water Test Areas 1 and 3—Air Force Development Test Center, Strategic Plans Division AFDTC/DRP, 101 West "D" Avenue, Suite 125, Eglin AFB, Florida 32542–5495, Telephone: (904) 882–3899/4188

14. Information to Lessees

(a) *Supplemental Documents.* For copies of the various documents identified as available from the MMS Gulf of Mexico Regional Office, prospective bidders should contact the Public Information Unit, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, either in writing or by telephone at (504) 736–2519 or (800) 200–GULF. For additional information, contact the Regional Supervisor for Leasing and Environment at that address or by telephone at (504) 736–2759.

(b) *Navigation Safety.* Operations on some of the blocks offered by lease may be restricted by designation of fairways, precautionary zones, anchorages, safety zones, or traffic separation schemes established by the U.S. Coast Guard pursuant to the Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.), as amended, and the Deepwater Port Act (33 U.S.C. 1501–1524). Bidders are advised to review U.S. Coast Guard regulations (particularly 33 CFR Part 150, Appendix A; see also 59 FR 17480 published on April 13, 1994) regarding the safety zone around the Louisiana Offshore Oil Port (LOOP).

U.S. Army Corps of Engineers (COE) permits are required for construction of any artificial islands, installations, and other devices permanently or temporarily attached to the seabed located on the OCS in accordance with section 4(e) of the OCS Lands Act, as amended.

For additional information, prospective bidders should contact Lt. Commander Ken Parris, Assistant Marine Port Safety Officer, 8th Coast Guard District, Hale Boggs Federal Building, New Orleans, Louisiana 70130, (504) 589–6901. For COE information, prospective bidders should contact Mr. Ron Ventola CELMN–OD–S, Post Office Box 60267, New Orleans, Louisiana 70160–0267, (504) 862–2255.

(c) *Offshore Pipelines.* Bidders are advised that the Department of the Interior and the Department of Transportation have entered into a Memorandum of Understanding, dated May 6, 1976, concerning the design, installation, operation, and maintenance of offshore pipelines. Bidders should consult both Departments for regulations applicable to offshore pipelines.

(d) *8-Year Leases.* Bidders are advised that any lease issued for a term of 8 years will be cancelled shortly after the end of the fifth year, following notice pursuant to the OCS Lands Act, as amended, if within the initial 5-year period of the lease, the drilling of an exploratory well has not been initiated; or if initiated, the well has not been drilled in conformance with the approved exploration plan criteria; or if there is not a suspension of operations in effect. Furthermore, a rental payment for the sixth year will be due despite the cancellation. Bidders are referred to 30 CFR 256.37 and the MMS GOM Region's Letter to Lessees and Operators of February 13, 1995.

(e) *Affirmative Action.* Revision of Department of Labor regulations on affirmative action requirements for Government contractors (including lessees) has been deferred, pending review of those regulations (see **Federal Register** of August 25, 1981, at 46 FR 42865 and 42968). Should changes become effective at any time before the issuance of leases resulting from this sale, section 18 of the lease form (Form MMS–2005, March 1986), would be deleted from leases resulting from this sale. In addition, existing stocks of the affirmative action forms described in paragraph 5 of this Notice contain language that would be superseded by the revised regulations at 41 CFR 60–1.5(a)(1) and 60–1.7(a)(1). Submission of Form MMS–2032 (June 1985) and Form MMS–2033 (June 1985) will not

invalidate an otherwise acceptable bid, and the revised regulations' requirements will be deemed to be part of the existing affirmative action forms.

(f) *Ordnance Disposal Areas.* Bidders are cautioned as to the existence of two inactive ordnance disposal areas in the Mississippi Canyon area, shown on the map described in paragraph 13(a). These areas were used to dispose of ordnance of unknown quantity and composition. Water depths range from approximately 750 to 1,525 meters. Bottom sediments in both areas are soft, consisting of silty clays. Exploration and development activities in these areas require precautions commensurate with the potential hazards.

The U.S. Air Force has released an indeterminable amount of unexploded ordnance throughout Eglin Water Test Areas 1 and 3. The exact location of the unexploded ordnance is unknown, and lessees are advised that all lease blocks included in this sale within these water test areas should be considered potentially hazardous to drilling and platform and pipeline placement.

(g) *Communications Towers.* The Department of Defense, U.S. Air Force, has installed seven military communications towers in the Chandeleur/Mobile/Viosca Knoll area which support Air Combat Maneuvering Instrumentation (ACMI). This project may impose certain restrictions on oil and gas activities in that area since no activity can take place within 500 feet of a tower site, and unobstructed lines of sight must be maintained between towers. The seven towers are located within Mobile, Blocks 769, 819, and 990; Viosca Knoll, Block 116; Chandeleur Area, Blocks 33 and 61; and Chandeleur Area, East Addition, Block 39. Information and maps of the specific locations and line of sight crossings for ACMI towers may be obtained from Mr. Wallace Williams, Minerals Management Service, (504) 736–2772.

(h) *Archaeological Resources.* Bidders are advised that a Final Rule regarding archaeological resources was published in the **Federal Register** on October 21, 1994 (59 FR 53091), granting specific authority to each MMS Regional Director to require archaeological surveys and reports (under 30 CFR 250, 256, 260, and 281) and the submission of these reports to the Regional Director prior to exploration, development and production, or installation of lease-term or right-of-way pipelines. MMS Notice to Lessees (NTL) 91–02 (Outer Continental Shelf Archaeological Resources Requirements for the Gulf of Mexico OCS Region) published in the **Federal Register** on December 20, 1991 (56 FR 66078) effective February 17, 1992, specifies survey methodology, linespacing, and archaeological report writing requirements for lessees and operators in the Gulf of Mexico Region.

Two additional documents are available from the MMS Gulf of Mexico Region Public Information Unit (see paragraph 14(a)):

"List of Lease Blocks Within The High-Probability Area For Historic Period Shipwrecks On The OCS" dated January 30, 1995. This list supersedes the list promulgated by the MMS Letter to Lessees (LTL) of November 30, 1990.

"List of Lease Blocks Within The High-Probability Area For Pre-Historic Archaeological Resources On The OCS" dated January 30, 1995.

Implementation of this Final Rule and NTL 91–02 obviates the need for the Protection of Archaeological Resources Stipulation required in previous leases.

(i) *Proposed Rigs to Reefs.* Bidders are advised that there are OCS artificial reef sites and planning sites for the Gulf of Mexico. These are generally located in water depths of less than 200 meters. While all existing and proposed sites require a permit from the U.S. Army Corps of Engineers, this "Rigs to Reefs" program is implemented through State sponsorship through the following State Coordinators:

Alabama Mr. Walter M. Tatum, (205) 968–7577
Louisiana Mr. Rick Kasprzac, (504) 765–2375
Mississippi Mr. Mike Buchanan, (601) 385–5850
Texas Ms. Jan Coulbertson, (713) 474–2811

For more information on artificial reef sites, prospective bidders should contact the above listed State Artificial Reef Coordinators for their areas of interest.

(j) *Right of Use and Easement for Chandeleur Blocks 27 and 30.* Bidders are advised that a right of use and easement has been granted for portions of Chandeleur Area Blocks 27 and 30 for gas storage purposes. The area is generally on the southernmost quarter of the federal portion of Chandeleur Area, Block 27 and the W½ NW¼; NW¼ SW¼ portion of Chandeleur Area, Block 30. For additional information, contact the MMS Gulf of Mexico Regional Supervisor for Production and Development at (504) 736–2675.

(k) *Proposed Lightering Zones.* Bidders are advised that the U.S. Coast Guard has proposed designating certain areas of the Gulf of Mexico (60 FR 1958 of January 5, 1995), as lightering zones for the purpose of permitting single hull vessels to off-load oil within the U.S. Exclusive Economic Zone. Such designation may have implications for oil and gas operatons in the areas. Additional information may be obtained from Lieutenant Commander Stephen Kantz, Project Manager, Oil Pollution Act (OPA 90) Staff, at (202) 267–6740.

(l) *Statement Regarding Certain Geophysical Data.* Pursuant to Sections 18 and 26 of the OCS Lands Act, as amended, and the regulations issued thereunder, MMS has a right of access to certain geophysical data and information obtained or developed as a result of operations on the OCS. MMS is sensitive to the concerns expressed by industry regarding the confidentiality of individual company work products and client lists and the potential burden of responding to a myriad of requests from MMS pertaining to the existence and availability of these types of reprocessed geophysical data. To resolve the concerns of both industry and MMS with respect to such cases, MMS has worked with industry to develop the requirements contained within paragraph 3(b) *Method of Bidding* above. MMS is modifying the previous procedure to require that bidders who are in possession of the requested data, now identify the specific data by line name or 3D phase. This will help MMS in identifying time data that may already be in our data base and at the same time not impose undue burden on industry by rerequesting it. These requirements are being imposed on a trial basis to determine their effectiveness and are subject to modification in future sales.

The details of this requirement are specified in the document "Trial Procedures for Access to Certain Geophysical Data in the Gulf of Mexico," which is provided in this Sale Notice package and which is available upon request from the MMS Gulf of Mexico Region Public Information Unit (see paragraph 14(a)). In brief, these requirements include:

(1) In the period for ninety (90) days after the sale, bidders will allow MMS to inspect such data within seven (7) days of a written request from MMS, and upon further written request will transmit to MMS, within ten (10) working days, such data. After this ninety day period, a response time of thirty (30) days following an MMS written request will be considered adequate.

(2) Successful bidders must retain such data for three (3) years after the sale, and unsuccessful bidders must retain such data for six (6) months after the sale, for possible acquisition by MMS.

For the six (6) month period after the sale, based on a review of the allowable cost of data reproduction to MMS for three-dimensional and two-dimensional data sets, the company providing the reprocessed data will be reimbursed at a rate of $480 per block or part thereof for three-dimensional data and $2 per line mile for two-dimensional data. Afterwards, reimbursement will be subject to the terms and conditions of 30 CFR 251.13(a).

All geophysical data and information obtained and reviewed by MMS pursuant to these procedures shall be held in the strictest confidence and treated as proprietary in accordance with the applicable terms of 30 CFR 251.14.

For additional information, contact the MMS Gulf of Mexico Regional Office of Resource Evaluation at (504) 736–2720.

(m) *Information about Indicated Hydrocarbons.* Bidders are advised that MMS makes available, about 3 months prior to a lease sale, a list of unleased tracts having well bores with indicated hydrocarbons. Basic information relating to production, well bores, and pay range for each tract is included in the list. The list is available from the MMS Gulf of Mexico Region Public Information Unit (see paragraph 14(a)).

(n) *Royalty Relief.* The Outer Continental Shelf (OCS) Deep Water Royalty Relief Act authorizes the Secretary of the Interior to offer certain deepwater OCS tracts in the Central and Western Gulf of Mexico for lease with suspension of royalties for a volume, value, or period of production the Secretary determines. On or near the date of this Final Notice of Sale 157, an interim rule has been published in the **Federal Register** that specifies the royalty suspension terms under which the Secretary will make tracts available for this sale. Bidders are advised to review that document for additional details on this matter. For further information, bidders may contact Walter Cruickshank of the MMS Offshore Minerals Analysis Division at (202) 208–3822.

A map titled "Royalty Suspension Areas For The Central Gulf of Mexico" depicting blocks in which such suspensions may apply is currently available from the MMS GOM Regional Office (see paragraph 14(a) of this Notice).

The publication "OCS Operations Field Names Master List" depicts currently established fields in the Gulf of Mexico. This document is updated monthly and reprinted quarterly. Copies may be obtained from the MMS GOM Regional Office (see paragraph 14(a) of this Notice).

(o) *Lease Instrument.* Bidders are advised that the lease instrument will include royalty relief provisions (paragraph 4(c)(3) of this Notice) and 8-year lease cancellation provisions (paragraph 14(d) of this Notice) where applicable. Leases will continue to be issued on Form MMS–2005 (March 1986) as amended.

(p) *Electronic Funds Transfer.* Bidders are advised that the 4/5ths and first year rental EFT instructions for lease payoff have been revised and updated by MMS Royalty Management. Companies may now use either the Fedwire Deposit System or the Automated Clearing House (overnight payments). See paragraph 10(a) of this Notice.

Approved: March 18, 1996.

Cynthia Quarterman,
Director, Minerals Management Service.

Bob Armstrong,
Assistant Secretary, Land and Minerals Management.

Central Gulf of Mexico Leased Lands

March 11, 1996

Descriptions of blocks listed represent all Federal acreage leased unless otherwise noted.

Sabine Pass

3, 6, 7, 9, 10, 11, 12, 13, 15, 16

West Cameron

17, 18, 19, 20, 22, 23, 24, 33, 34, 35, 36, 39, 41, 42, 44 (Seaward of 8(g) line), 45, 47, 48, 49, 53, 54, 55, 56, 57, 58, 60, 61, 63, 64, 65, 66, 67, 68, (S½), 70, 71, 74, 75, 76, 77, 78, 81, 82, 83, 90, 91, 92, 94, 95, 96, 98, 99, 100, 102, 103, 105, 106, 107, 108, 110, 111 (SE¼), 112, 113, 114, 116, 117, 118, 128, 130, 131, 132 (S½), 133, 134, 136, 137, 138, 139, 141, 142, 143, 144, 146, 147, 149, 150, 151, 153, 165, 166, 167, 168, 170, 171, 172, 173, 174, 175, 176, 177, 178, 180, 181, 182, 183, 184, 186, 187, 188, 192, 193, 194, 196, 197, 198, 199, 200, 201, 202, 204, 205, 206, 212, 213, 215, 216, 221, 222, 224, 225, 226, 227, 229, 231, 236, 237, 238, 240, 241, 242, 244, 245, 247, 248, 249, 250, 252, 253, 254, 256, 261, 262, 263, 264, 265, 266, 269, 270, 275, 276, 277, 279, 280, 281, 282, 284, 285

West Cameron, West Addition

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[FR Doc. 96–7132 Filed 3–22–96; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

Notice of Availability of the Revised Draft Development Concept Plan/ Environmental Impact Statement for South Side Denali, Alaska

AGENCIES: National Park Service, Interior.

ACTION: Notice of Availability of the Revised Draft Development Concept Plan/Environmental Impact Statement for South Side Denali, Alaska.

SUMMARY: The National Park Service announces the availability of a Revised Draft Development Concept Plan/ Environmental Impact Statement (DCP/ EIS) for South Side Denali, Alaska. The document describes and analyzes the environmental impacts of a proposed action and two action alternatives for visitor facilities and services on the south side. A no action alternative also is evaluated. This notice announces the dates and locations of public hearings to solicit comments on the revised draft DCP/EIS.

DATES: Comments on the revised draft DCP/EIS must be received no later than May 21, 1996. Hearing dates, times, and locations are listed under Supplementary Information, below.

ADDRESSES: Comments on the revised draft DCP/EIS should be submitted to the Superintendent, Denali National Park and Preserve, Post Office Box 9, Denali Park, Alaska 99755. Copies of the Revised Draft South Side Denali DCP/ EIS are available by request from the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Nancy Swanton, Park Planner, Denali National Park and Preserve. Telephone: (907) 257–2651 Fax: (907) 257–2485.

SUPPLEMENTARY INFORMATION: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (P.L. 91–190, as amended), the National Park Service, as lead federal agency, in cooperation with the State of Alaska, Matanuska-Susistna Borough, and Denali Borough, has prepared a DCP/EIS for proposed visitor facilities and services on the south side of Denali National Park and Preserve in Alaska. Information meetings and public hearings are scheduled in Alaska on the dates and at the times and locations indicated below.

- April 16—Fairbanks, John A. Carlson Center, Pioneer Room, 2010 Second Avenue. Information meeting (5:30–6:30 p.m.); Hearing (6:30–8:30 p.m.)
- April 17—Healy, Tri-Valley Community Center, Windjammer Room, First Floor. Information meeting (6:30–7:30 p.m.); Hearing (7:30–9:30 p.m.)
- April 18—Cantwell, Community Hall. Information meeting (6:30–7:30 p.m.); Hearing (7:30–9:30 p.m.)
- April 23—Trapper Creek, Trapper Creek Elementary School, Mile 2.5 Petersville Road. Information meeting (6:30–7:30 p.m.); Hearing (7:30–9:30 p.m.)
- April 24—Talkeetna, Talkeetna Elementary School, Mile 14 Talkeetna Spur Road. Information meeting (6:30–7:30 p.m.); Hearing (7:30–9:30 p.m.)
- April 25—Anchorage, William A. Egan Civic and Convention Center, Board Room, Second Floor, 555 West Fifth Avenue. Information meeting (5:30–6:30 p.m.); Hearing (6:30–8:30 p.m.)

The first hour of each meeting will be a discussion session. Representatives of the South Side Denali Cooperative Planning Team will be available to answer questions and hear your comments in a more informal setting. The rest of the meeting will be a public hearing; a brief introduction by the planning team will be followed by public testimony on the plan.

The revised draft DCP/EIS represents a cooperative planning effort that builds

on previous planning for the region, including a draft DCP/EIS issued in 1993. The south side refers to an area that includes Denali National Park and Preserve land, Denali State Park land, and other lands to the south of the national park and preserve boundaries. This revised draft DCP/EIS describes and analyzes the environmental impacts of a proposed action, two other action alternatives, and a no action alternative. The proposed action is based on south side recommendations made by the Denali Task Force, a group formed in 1994 at the request of Secretary of the Interior Bruce Babbitt, to provide recommendations through the National Park System Advisory Board regarding visitor facilities and services in and near Denali National Park and Preserve, including the south side. Other sections of the document, including alternatives to the proposed action, are based on the 1993 draft DCP/EIS, with modifications made in response to public comments and environmental and economic considerations.

The proposed action includes a new visitor center (up to 13,000 square feet), picnic area, campground, public use cabins, and short interpretive/hiking trails in the Tokositna area at the western end of Denali State Park. Some of the hiking trails would lead into Denali National Park and Preserve. The Petersville Road would be upgraded and extended to provide improved access to this area. In cooperation and, where desirable, partnership between the National Park Service, local government, Alaska Native Claims Settlement Act Native Corporations, and the State of Alaska would develop visitor facilities and services at Talkeetna, Broad Pass, and the central development zone of Denali State Park when the need and opportunity to do so are established. For the central development zone of Denali State Park, this would entail constructing up to a 3,000 square foot visitor center. The Byers Lake campground would be expanded by up to 25 sites or a new campground of up to 50 sites would be built elsewhere in the central development zone of the state park. Up to five primitive fly-in only campsites would be constructed at Chelatna Lake, along with two public use cabins and a short hiking/interpretive trail and trailhead interpretive sign. The Dunkle Hills road could provide new access opportunities in the Dunkle Hills/Broad Pass area, including access into Denali National Park and Preserve, pending resolution of land status/access issues. These actions would be phased in practical and achievable steps over the 15 to 20-year life of the plan, under the guidance of an intergovernmental implementation team.

The focus of the two other action alternatives is to provide visitor facilities and services within easy access from the George Parks Highway. No facilities would be constructed in the Tokositna area, in the Dunkle Hills, or near Chelatna Lake. No public use cabins would be constructed. In one alternative, a new visitor center (up to 13,000 square feet) would be located at either the northern, central, or southern development zone of Denali State park, with short hiking/interpretive trails established near the visitor center. The Byers Lake campground would be expanded by up to 25 sites or a new campground of up to 50 sites would be built elsewhere in the central development zone of the state park. In the other action alternative, a new visitor center (up to 1,500 square feet) would be located at either the northern, central, or southern development zone of the state park, with short hiking/interpretive trails established near the visitor center.

With the no action alternative, management activity and the current level of backcountry visitation would continue. A 320 square foot visitor contact station would be built near the Vietnam Veteran's Memorial in Denali State Park, and a short trail to the Chulitna River would be developed in the central development zone of the state park. The Matanuska-Susitna Borough likely would construct snowmachine and all-terrain vehicle (ATV) trails and facilities near the Forks Roadhouse along the Petersville Road. An existing privately built (trespass) cabin near Chelatna Lake would be converted to public use. No campgrounds or other visitor facilities would be developed by the state, the National Park Service, or boroughs on the south side. Certain policies and actions would be implemented under each action alternative (some actions also would apply under the no-action alternative). The policies would call for locating commercial facilities (e.g., lodging) primarily on private lands; protecting the wild character of the south side; minimizing impacts on existing uses; adhering to the Alaska National Interest Lands Conservation Act, sections 1306 and 1307, and phasing development. The following actions would be taken (those applying to the no action alternative are noted with an asterisk):

- Developing up to five additional roadside exhibits along the George Parks Highway
- identifying and establishing watchable wildlife areas
- developing self-guiding interpretive brochures
- implementing state highway right-of-way restrictions and conducting selective brushing and vista clearing along the George Parks Highway
- reviewing and revising the Matanuska-Susitna Borough's Special Land Use District in Denali State Park to improve implementation and enforcement*
- completing corridor management plans for the George Parks Highway and implementing management guidelines*
- working cooperatively to manage uses on the south side
- seeking designation of the George Parks Highway within Denali State Park as a state scenic byway *
- conducting research on the natural and cultural resources and human uses in the area in advance of development on the south side *
- formally establishing a Denali South Side Plan Implementation Partnership to continue the cooperative partnership approach in implementing the DCP.

The DCP/EIS is the result of a collaborative process that takes a regional rather than a jurisdictional approach to planning. The cooperative planning team is comprised of representatives from the National Park Service, State of Alaska, Matanuska-Susitna Borough, Denali Borough, and two Native Regional Corporations (Ahtna, Incorporated and Cook Inlet Region Incorporated). All six partners in this cooperative effort have land management authorities on the south side. In compliance with the National Environmental Policy Act of 1969, as amended, the National Park Service is the lead federal agency responsible for the environmental impact statement; the state and the two boroughs are cooperating agencies. The two Native Corporations are not cooperating agencies but are considered planning partners in accordance with National Park Service guidelines and the Federal Advisory Committee Act.

Dated: March 15, 1996.

Robert D. Barbee,

Field Director, Alaska Field Office.

[FR Doc. 96–7108 Filed 3–22–96; 8:45 am]

BILLING CODE 4310–70–P

Notice of Intent to Repatriate Cultural Items in the Possession of the Science Museum of Minnesota, St. Paul, MN

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 25 U.S.C. 3005 (a)(2), of the intent to repatriate cultural items in the possession of the Science Museum of Minnesota, St. Paul, MN which meet the definition of "sacred object" and "object of cultural patrimony" as defined in Section 2 of the Act.

Between 1963 and 1977, the Science Museum of Minnesota accessioned eight carved wooden masks and one cornhusk mask into its collections.

In 1963, the Science Museum purchased two masks from W.G. Spittal. One mask is a woven cornhusk mask. The second mask is black-painted basswood in an elongated oval shape, with a carved face, horsetail hair, and copper eye plates. The cornhusk mask was made by an Onondaga Nation member, and the basswood mask was made by a Cayuga Nation member. Both of these masks were made at the Six Nations Reserve, Ontario, Canada.

In 1977, the Science Museum purchased seven masks from W. Bailey. The first mask is dark brown- stained wood in an elongated oval shape, horsetail hair, carved face, and copper eye plates. Information with this mask indicates it was made by the Seneca. The second mask is red-painted wood in an elongated oval shape, carved face, horsetail hair, and white eye plates. The third mask is black-painted wood in an elongated oval shape, carved face, horsetail hair, and tin eye plates. The fourth mask is black-painted wood in a narrowed oval shape, carved face, horsetail hair, and copper eye plates. The fifth mask is red-painted wood in an elongated oval shape, carved face, horsetail hair, and white eye plates. The sixth mask is red painted wood in a narrowed oval shape, horsetail hair, and white eye plates. The seventh mask is black-painted wood in an oval shape, carved face, horsetail hair, and white eye plates.

Consultation was conducted with representatives of the Haudenosaunee Standing Committee on Burial Rules and Regulations representing the Cayuga Nation, the Mohawk Nation, the Onondaga Nation, the Seneca Nation of Indians, the Tonawanda Band of Seneca, and the Tuscarora Nation. Consultation was also conducted with representatives of the Oneida Nation of New York, the Oneida Tribe of Wisconsin, and the Seneca-Cayuga Tribe of Oklahoma.

Consultation evidence indicates these items are medicine or false face masks. Such masks represent the power of particular medicine beings. Representatives of the Haudenosaunee Standing Committee on Burial Rules and Regulations affirm that these false face masks are needed by the traditional religious leaders of all the nations of the Iroquois Confederacy for the practice of traditional ceremonies by present-day adherents. Representatives of the Haudenosaunee Standing Committee on Burial Rules and Regulations have indicated that false face masks are owned collectively by the members of the False Face Society common to all nations of the Iroquois Confederacy and no individual had the right to sell or otherwise alienate the masks.

Consultation, anthropological literature, and ethnographic evidence all indicate these masks are used by a traditional religious society (the False Face Society) common to all nations of the Iroquois Confederacy. With the exception of the one mask known to be Cayuga, the one mask known to be Onondaga, and the mask noted as Seneca, these masks are common to all extant False Face Societies.

Based on the above-mentioned information, officials of the Science Museum of Minnesota have determined that, pursuant to 25 U.S.C. 3001(3)(C), the nine masks are specific ceremonial objects which are needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present day adherents. Officials of the Science Museum of Minnesota have also determined that, pursuant to 25 U.S.C. 3001(3)(D), the nine masks have ongoing historical, traditional, and cultural importance central to the Native American group or culture itself, rather than property owned by an individual Native American, and which, therefore, could not be alienated, appropriated, or conveyed by any individual. Finally, officials of the Science Museum of Minnesota have determined that, pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity with can be reasonably traced between these items and the Cayuga Nation, the Mohawk Nation, the Onondaga Nation, the Seneca Nation of Indians, the Tonawanda Band of Seneca, and the Tuscarora Nation, the Oneida Nation of New York, the Oneida Tribe of Wisconsin, the Seneca-Cayuga Tribe of Oklahoma.

This notice has been sent to representatives of the Haudenosaunee Standing Committee on Burial Rules and Regulations, the Cayuga Nation, the Mohawk Nation, the Onondaga Nation, the Seneca Nation of Indians, the Tonawanda Band of Seneca, and the Tuscarora Nation, the Oneida Nation of New York, the Oneida Tribe of Wisconsin, the Seneca-Cayuga Tribe of Oklahoma. Representatives of any other Indian tribe which believes itself to be culturally affiliated with these objects should contact Ms. Faith G. Bad Bear, NAGPRA Project Manager, Science Museum of Minnesota, 30 East 10th Street, St. Paul, MN 55101, telephone (612) 221–9432 before April 24, 1996. Repatriation of these objects to the Haudenosaunee Standing Committee on Burial Rules and Regulations, representing the interests of the Cayuga Nation, the Mohawk Nation, the Onondaga Nation, the Seneca Nation of Indians, the Tonawanda Band of Seneca, and the Tuscarora Nation may begin after that date if no additional claimants come forward.

Dated: March 19, 1996

Francis P. McManamon

Departmental Consulting Archeologist

Chief, Archeology and Ethnography Program

[FR Doc. 96–7051 Filed 3–22–96; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF JUSTICE

Immigration Related Employment Discrimination Public Education Grants

AGENCY: Office of Special Counsel for Immigration Related Unfair Employment Practices, Civil Rights Division, U.S. Department of Justice.

ACTION: Notice of availability of funds and solicitation for grant applications.

SUMMARY: The Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC) announces the availability of up to $1.3 million for grants to conduct public education programs about the rights afforded potential victims of employment discrimination and the responsibilities of employers under the antidiscrimination provisions of the Immigration and Nationality Act (INA), 8 U.S.C. § 1324b.

It is anticipated that a number of grants will be competitively awarded to applicants who can demonstrate a capacity to design and successfully implement public education campaigns to combat immigration-related employment discrimination. Grants will range in size from $50,000 to $150,000.

OSC will accept proposals from applicants who have access to potential victims of discrimination or whose experiences qualifies them to educate employers about the antidiscrimination provisions of INA. OSC welcomes proposals from diverse nonprofit organizations such as local, regional or national ethnic and immigrants' rights advocacy organizations, trade

associations, industry groups, professional organizations, or other nonprofit entities providing information services to potential victims of discrimination and/or employers. Applications will not be accepted from individuals or public entities, including state and local government agencies, and public educational institutions.

APPLICATION DUE DATE: May 9, 1996.

FOR FURTHER INFORMATION CONTACT: Patita McEvoy, Public Affairs Specialist, Office of Special Counsel for Immigration Related Unfair Employment Practices, 1425 New York Avenue NW., Suite 9000, P.O. Box 27728, Washington, DC 20038–7728. Tel. (202) 616–5594, or (202) 616–5525. (TDD for the hearing impaired).

SUPPLEMENTARY INFORMATION: The Office of Special Counsel for Immigration Related Unfair Employment Practices of the Civil Rights Division of the Department of Justice announces the availability of funds to conduct public education programs concerning the antidiscrimination provisions of INA. Funds will be awarded to selected applicants who propose cost-effective ways of educating employers and/or members of the protected class, or to those who can fill a particular need not currently being met.

Background

On November 6, 1986, President Reagan signed into law the Immigration Reform and Control Act of 1986 (IRCA), Pub. L. No. 99–603, which amended the INA. Additional provisions were signed into law by President Bush in the Immigration Act (IMMACT 90) on November 29, 1990. IRCA and subsequently, IMPACT 90, makes hiring aliens without work authorization unlawful, and requires employers to verify the identify and work authorization of all new employees. Employers who violate this law are subject to sanctions, including fines and possible criminal prosecution.

During the debate on IRCA, Congress foresaw the possibility that employers, fearful of sanctions, would refuse employment to individuals simply because they looked or sounded foreign. Consequently, Congress enacted Section 102 of IRCA, an antidiscrimination provision. Section 102 prohibits employers of four or more employees from discriminating on the basis of citizenship status or national origin in hiring, firing, recruitment or referral for a fee, and prohibits employers from engaging in document abuse in the employment eligibility verification process.

Citizens and certain classes of work authorized individuals are protected from *citizenship status discrimination*. Protected non-citizens include permanent residents, temporary residents under this amnesty, the Special Agricultural Workers (SAWs) or the Replenishment Agricultural Workers (RAWs) programs, refugees and asylees who apply for naturalization within six months of being eligible to do so. Citizens and *all* work authorized individuals are protected from *discrimination on the basis of national origin*. However, this prohibition applies to employers with four to fourteen employees. National origin discrimination complaints against employers with fifteen or more employees remain under the jurisdiction of the Equal Employment Opportunity Commission under Title VII of the Civil Rights Act of 1964.

In addition, under the *document abuse provision* of the law, employers must accept all forms of work authorization and proof of identity allowed by the Immigration and Naturalization Service (INS) for completion of the Employment Eligibility Verification (I–9) Form. Employers may not prefer or require one form of documentation over another for hiring purposes. Requiring more or specific documents to prove identity and work authorization constitutes document abuse.

Congress created the OSC to enforce Section 102. OSC is responsible for receiving and investigating discrimination charges and, when appropriate, filing complaints with a specially designated administrative tribunal. OSC also initiates independent investigations of possible Section 102 violations.

While OSC has established a record of vigorous enforcement, studies by the U.S. General Accounting Office and other sources have shown that there is an extensive lack of knowledge on the part of protected individuals and employers about the antidiscrimination provisions. Enforcement cannot be effective if potential victims of discrimination are not aware of their rights. Moreover, discrimination can never be eradicated so long as employers are not aware of their responsibilities.

Purpose

OSC seeks to educate both potential victims of discrimination about their rights and employers about their responsibilities under the antidiscrimination provisions of INA. Because previous grantees have developed a wealth of materials (*e.g.*, brochures, posters, booklets, information packets, and videos) to educate these groups, OSC has determined that the focus of the program should be on the *actual delivery* of said education. More specifically, in keeping with the purpose of the grant program, OCS seeks proposals that will use *existing materials* effectively to educate large numbers of workers or employers about exercising their rights or fulfilling their obligations under the antidiscrimination provisions.

Program Description

The program is designed to develop and implement cost effective approaches to educate potential victims of employment discrimination about their rights and to educate employers about their responsibilities under INA's antidiscrimination provisions. Applications may propose to educate potential victims only, employers only, or both in a single campaign. *Program budgets must include the travel, lodging and other expenses necessary for at least one, but not more than two, program staff members to attend the mandatory OSC grantee training (2 days) held in Washington, DC, at the beginning of the grant period (late Autumn).* Proposals should outline the following key elements of the program:

Part I: Targeted Population

The educational efforts under the grant should be directed to (1) work authorized non-citizens who are protected individuals, since this group is especially vulnerable to employment discrimination; (2) those citizens who are most likely to become victims of employment discrimination; and/or to (3) employers. The proposals should define the characteristics of the work authorized population or the employer group(s) targeted for the educational campaign, and the applicant's qualifications to credibly and effectively reach large segments of the campaign targets.

The proposals should also detail the reasons for targeting each group of protected individuals or employers by describing particular needs or other factors to support the selection. In defining the campaign targets and supporting the reasons for the selection, applicants may use studies, surveys, or any other sources of information of generally accepted reliability.

Part II: Campaign Strategy

We encourage applicants to devise effective and creative means of public education and information dissemination that are specifically designed to reach the widest possible targeted audience. Those applicants proposing educational campaigns addressing potential victims of discrimination should keep in mind that some of the traditional methods of public communication may be less than optimal for education members of national or linguistic groups that have limited community-based support and communication networks.

Some grantees who are implementing citizenship campaigns, have, in the past, combined those efforts and resources with the INA antidiscrimination education campaigns in order to maximize the scope and breadth of the project and to reach a larger number of individuals in the targeted population. If an applicant proposes to combine these efforts, please discuss how the programs will interact and how the budgets will be administered.

Proposals should discuss the components of the campaign strategy, detail the reasons supporting the choice of each component, and explain how each component will effectively contribute to the overall objective of cost-effective dissemination of useful and accurate information to a wide audience of protected individuals or employers. Discussions of the campaign strategies and supporting rationale should be clear, concise, and based on sound evidence and reasoning.

Since there presently exists a wealth of materials for use in educating the public, proposals should include in their budgets the costs for printing from camera-ready materials received from OSC or from current/past OSC grantees. To the extent that applicants believe the development of original materials particularly suited to their campaign is necessary, their proposal should articulate in detail the circumstances requiring the development of such materials. All such materials *must* be approved by OSC to ensure legal accuracy and proper emphasis prior to production. It should be noted that proposed revisions/translations of OSC approved materials must also be submitted for clearance. All information distributed should also include mention of the OSC as a source of assistance, information and action, and the correct address and telephone numbers of the OSC (including the toll-free and TDD toll-free numbers for the hearing impaired).

Part III: Evaluation of the Strategy

One of the central goals of this program is determining what public education strategies are most effective and thus, should be included in future public education efforts. Therefore, it is crucial that the methods of evaluating the campaign strategy and public education materials and their results be carefully detailed. A full evaluation of a project's effectiveness is due within 60 days of the conclusion of a campaign.

Selection Criteria

The final selection of grantees for award will be made by the Special Counsel for Immigration Related Unfair Employment Practices.

Proposals will be submitted to a peer review panel. OSC anticipates seeking assistance from sources with specialized knowledge in the areas of employment and immigration law, as well as in evaluating proposals, including the agencies that are members of the Antidiscrimination Outreach Task Force: the Department of Labor, the Equal Employment Opportunity Commission, the Small Business Administration, and the Immigration and Naturalization Service. Each panelist will evaluate proposals for effectiveness and efficiency with emphasis on the various factors enumerated below. The panel's results are advisory in nature and not binding on the Special Counsel. Letters of support, endorsement, or recommendation will not be accepted or considered.

In determining which applications to fund, OSC will consider the following (based on a one-hundred point scale):

1. Program Design (50 points)

Sound program design and cost effective strategies for educating the targeted population are imperative. Consequently, areas that will be closely examined include the following:

a. Evidence of in-depth knowledge of the goals and objectives of the project. (15 points)

b. Selection and definition of the target group(s) for the campaign, and the factors that support the selection, including special needs, and the applicant's qualifications to effectively reach the target. (10 points)

c. A cost effective campaign strategy for educating targeted employers and/or members of the protected class, with a justification for the choice of strategy. (15 points)

d. The evaluation methods proposed by the applicant to measure the effectiveness of the campaign and their precision in indicating to what degree the campaign is successful. (10 points)

2. Administrative Capability (20 points)

Proposals will be rated in terms of the capability of the applicant to implement the targeting, public education and evaluation components of the campaign:

a. Evidence of proven ability to provide high quality results. (10 points)

b. Evidence that the applicant can implement the campaign, and complete the evaluation component within the time lines provided. Note: OSC's experience during previous grant cycles has shown that a number of applicants choose to apply as a consortium of individual entities; or, if applying individually, propose the use of subcontractors to undertake certain limited functions. It is essential that these applicants demonstrate the proven management capability and experience to ensure that, as lead agency, they will be directly accountable for the successful implementation, completion, and evaluation of the project. (10 points)

3. Staff Capability (10 points)

Applications will be evaluated in terms of the degree to which:

a. The duties outlined for grant-funded positions appear appropriate to the work that will be conducted under the award. (5 points)

b. The qualifications of the grant-funded positions appear to match the requirements of these positions. (5 points)

Note: If the grant project manager or other member of the professional staff is to be hired later as part of the grant, or should there be any change in professional staff during the grant period, hiring is subject to review and approval by OSC at that time.

4. Previous Experience (20 points)

The proposals will be evaluated on the degree to which the applicant demonstrates that it has successfully carried out programs or work of a similar nature in the past.

Eligible Applicants

This grant competition is open to nonprofit organizations that serve potential victims of discrimination and/or employers. Applications will not be accepted from individuals or public entities, including state and local government agencies, and public educational institutions.

Grant Period and Award Amount

It is anticipated that several grants will be awarded and will range in size from $50,000 to $150,000.

During evaluation, the panel will closely examine those proposals that guarantee maximum exposure and penetration in the employer or potential victims target populations. Thus, a campaign designed to reach a very large proportion of employers (or potential victims) in the state of Texas would take precedence over a campaign designed to reach a more limited number of

employers (or potential victims) nationwide.

Publication of this announcement does not require OSC to award any specific number of grants, to obligate the entire amount of funds available, or to obligate any part thereof. The period of performance will be twelve months from the date of the grant award. Those grantees who successfully achieve their goals may be considered for supplementary funding for a second year based on the availability of funds.

Application Deadline

All applications must be received by 6:00 p.m. EDT, May 9, 1996 at the Office of Special Counsel for Immigration Related Unfair Employment Practices, 1425 New York Ave., N.W., Suite 9000, P.O. Box 27728, Washington, DC 20038–7728. Applications submitted via facsimile machine will not be accepted or considered.

Application Requirements

Applicants should submit an original and two (2) copies of their completed proposal by the deadline established above. All submissions must contain the following items in the order listed below:

1. A completed and signed Application for Federal Assistance (Standard Form 424) and Budget Information (Standard Form 424A).

2. OJP Form 4061/6 (Certification Regarding Lobbying; Department, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements).

3. An abstract of the full proposal, not to exceed one page.

4. A program narrative of not more than fifteen (15) double-spaced typed pages which include the following:

a. A clear statement describing the approach and strategy to be utilized to complete the tasks identified in the program description;

b. A clear statement of the proposed goals and objectives, including a listing of the major events, activities, products and timetables for completion;

c. The proposed staffing plan (NOTE: If the grant project manager or other professional staff member is to be hired later as part of the grant, or should there be a change in professional staff during the grant period, hiring is subject to review and approval by OSC at that time); and

d. Description of how the project will be evaluated.

5. A proposed budget outlining all direct and indirect costs for personnel, fringe benefits, travel, equipment, supplies, subcontracts, and a short narrative justification of each budgeted line item cost. If an indirect cost rate is used in the budget, then a copy of a current fully executed agreement between the applicant and the Federal cognizant agency must accompany the budget.

Note: Program budgets must include the travel, lodging and other expenses necessary for at least one, but not more than two, program staff members to attend the mandatory OSC grantee training (2 days) held in Washington, D.C. at the beginning of the grant period (late Autumn).

6. Copies of resumes for the professional staff proposed in the budget.

7. Detailed technical materials that support or supplement the description of the proposed effort should be included in the appendix.

In order to facilitate handling, please do not use covers, binders or tabs.

Application forms may be obtained by writing or telephoning: Office of Special Counsel for Immigration Related Unfair Employment Practices, 1425 New York Ave., N.W., Suite 9000, P.O. Box 27728, Washington, DC 20038–7728. Tel. (202) 616–5594, or (202) 616–5525 (TDD for the hearing impaired).

Approved: Dated: March 20, 1996.

James S. Angus,

Acting Special Counsel, Office of Special Counsel for Immigration Related Unfair Employment Practices.

[FR Doc. 96–7095 Filed 3–22–95; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of March, 1996.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) that sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W31,901; Anchor Glass Container, Cliffwood, NJ
TA–W31,826; Lantz Lenses, Inc., St. Cloud, MN
TA–W31,957; Textron, Inc., Textron Lycoming Div., Williamsport, PA
TA–W32,021; Spartan Printing Co., Sparta, IL

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W31,898; Tandy Electronics Design (TED), Ft Worth, TX
TA–W31,894; Inland Container Corp., Macon, GA

Increased imports did not contribute importantly to worker separations at the firm.

TA–W31,760; Windsor Textile Processing, Inc., Newburgh, NY
TA–W31,925; Grow Group., Inc., New York, NY

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W31,765; EIS Brake Parts, Div. of Standard Motor Products, Inc., Rural Retreat, VA

The investigations revealed that criterion (2) and (3) have not been met. Sales or production did not decline during the relevant period as required for certification. Increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have not contributed importantly to the separations or threat thereof, and the absolute decline in sales or production.

TA–W31,833; Young Stuff Apparel Group, Inc., New York, NY

The investigation revealed that criterion (1) & criterion (2) have not been met. A significant number or proportion of the workers did not become totally or partially separated as required for certification. Sales or production did not decline during the relevant period as required for certification.

Affirmative Determination for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name & location for each determination references the impact date for all workers for such determination.

TA–W31,923; Sanfatex, Inc., Red Springs, NC: January 26, 1995.
TA–W31,946; J & J Lingerie Co., Glen Falls, NY: February 6, 1995.
TA–W31,882; American Contract Sewing Corp., Eufaula, OK: January 2, 1995.
TA–W31,885; Warnaco, Warner's Div., Sylvania, GA: January 3, 1995.
TA–W31,974; Krone, Inc., Englewood CO: February 16, 1995.
TA–W31,832; Spring Town Knitwear, Inc., AKA Spring City Knitting, Carterville, GA
TA–W31,862; TA–W–31.887; Healthtex, Inc., Warrenton, GA and Luverne, AL: January 18, 1995
TA–W31,977; Omak Wood Products, Inc., Omak, WA February 8, 1995.
TA–W31,989; Oneita Industries, Inc., Andrews Sewing Plant, Andrews, SC: February 26, 1995.
TA–W31,861; W.E. Stephens Manufacturing Co., Inc., Pulaski, TN: January 19, 1995.
TA–W31,859; Standard Textile Contractor, Inc., Knoxville, TN: January 19, 1995.
TA–W31,788; Martin Blouse Co., Inc., Shenandoah, PA: December 20, 1994.
TA–W31,944; Eaton Corp., Forge Div., Marion, OH: January 31, 1995
TA–W31,786; Lauderdale Mills, Lauderdale, MS: December 12, 1994.
TA–W31,771; Buster Brown Apparel, Inc., Lafayette, GA: December 29, 1994.
TA–W31,777; Communications & Power Industries (CPI)—Eimac Div. (Formerly Varian), Salt Lake City, UT: December 12, 1994.
TA–W–31,920; Doranco, Inc., Attleboro Falls, MA: January 31, 1995.
TA–W–31,840; Tektronix, Inc., CRT Operation, Beaverton, OR: January 9, 1995.
TA–W–31,866; Hughes/JVC Technoligy Corp., Carlsbad, CA: December 15, 1994.
TA–W–31,930; Quality Stitching, Inc., Seluda Plant, Saluda, SC: February 1, 1995.
TA–W–31,852; Anne Rashel Sportswear, Inc., Albany, KY: January 26, 1995.
TA–W–31,693; Pent-House Sales, Franklin, MA: January 24, 1995.
TA–W–31,854; Tri-Lakes, Ltd, Houston, MS: January 15, 1995.
TA–W–31,772, TA–W–31, 773; Buster Brown Apparel, Inc., Ider, AL and Marion, VA: December 18, 1994.
TA–W–31,970; Henry I. Siegel Co., Inc., Hohenwald, TN: February 5, 1995.
TA–W–31,972; US JVC Corp., Manufacturing Co., Elmwood Park, NJ: February 13, 1995.
TA–W–31,961; American Meters Co., Erie, PA: February 16, 1995.
TA–W–31,978; Philips Consumer Electronics Co., Arden, NC: February 6, 1995.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a) Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of March, 1996.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) that sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) that imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases in imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) that there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–00826; Textron, Inc., Textron Lycoming Div., Williamsport, PA
NAFTA–TAA–00791; Spartan Printing Co., Sparta, IL
NAFTA–TAA–00807; Inland Container Corp., Macon, GA
NAFTA–TAA–00788; Imperial Metal and Chemical Co., Philadelphia, PA
NAFTA–TAA–00796; Pent-House Sales Corp., Franklin, MA
NAFTA–TAA–00808; Quality Stitching, Inc., Saluda Plant, Saluda, SC
NAFTA–TAA–00814; Howard Manufacturing Co., Kent, WA
NAFTA–TAA–00737; Anchor Glass Container, Cliffwood, NJ
NAFTA–TAA–00824; Wotco, Inc., Mils, WY
NAFTA–TAA–00795; Christian Brothers Logging, Inc., Cascade, ID
NAFTA–TAA–00840; Hill Co., Inc., Fort Smith AR

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

NAFTA–TAA–00815; Smith's Home Furnishings, Bellingham, WA
NAFTA–TAA–00785; Burlington Industries, Inc., Burlington Menswear Div., New York, NY
NAFTA–TAA–00822; Watson Agency, Inc., Coeur D'Alene, ID

The investigation revealed that the workers of the subject firm did not produce an article with in the meaning of Section 250(a) of the Trade Act, as amended.

Affirmative Determinations NAFTA–TAA

The following certifications have been issued; the date following the company name & location for each determination references the impact date for all workers for such determination.

NAFTA–TAA–00806; Blue Mesa Forest Products, Inc., Montrose, CO: January 31, 1995.
NAFTA–TAA–00752 & A; Lasevilla Fashions, Inc., Mangham Plant, Mangham, LA & Laundry Div., Columbia, LA: January 12, 1995.
NAFTA–TAA–00793 & A, B; W.E. Stephens Manufacturing Co., Inc., Pulaski, TN, Nashville, TN & Cadiz, KY: January 19, 1995.
NAFTA–TAA–00819; Thomas & Betts Corp., Electrical Dept., Montgomeryville, PA: February 8, 1995.
NAFTA–TAA–00797; Phillips Consumer Electronics Co., Arden, NC: January 30, 1995.

NAFTA–TAA–00790; WTD Industries, Inc., Morton Forest Products, Morton, WA: January 26, 1995.
NAFTA–TAA–00833; Mission Packaging, Inc., Tigard, OR: February 12, 1995.
NAFTA–TAA–00842; Krone, Inc., Englewood, CO: February 20, 1995.
NAFTA–TAA–00856; Oneita Industries, Inc., Andrews Sewing Plant, Andrews, SC: Feburary 19, 1995.
NAFTA–TAA–00784; Standard Textile Contractors, Inc., Knoxville, TN
NAFTA–TAA–00805; PMI Food Equipment Group, Plants 11 & 12, Troy, OH: January 30, 1995.
NAFTA–TAA–00817; Alphabet, Div of Stoneridge, Inc., Nappanee, IN: February 5, 1995.
NAFTA–TAA–00803; Union Special Corp., Huntley, IL: January 4, 1995.
NAFTA–TAA–00799; Warnaco, Warner's Div., Sylvania, GA: January 29, 1995.
NAFTA–TAA–00778; M.B.C.A. Manufacturing, Inc., El Paso, TX: January 17, 1995.

I hereby certify that the aforementioned determinations were issued during the month of March 1996. Copies of these determinations are available for inspection in Room C–4318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC. 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: March 14, 1996.

Russell Kile,

Acting Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–7129 Filed 3–22–96; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have bee filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Program Manager of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Program Manager, Office of Trade Adjustment Assistance, at the address show below, not later than April 4, 1996.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Program Manager, Office of Trade Adjustment Assistance, at the address shown below, not later than April 4, 1996.

The petitions filed in this case are available for inspection at the Office of the Program Manager, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 11th day of March, 1996.

Russell Kile,

Acting Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 03/11/96]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
31,993	Aeroil Products Co., Inc (Wkrs)	S. Hackensack, NJ	02/28/96	Equipment for Road and Roof Repair.
31,994	Silgan Can Co. (Wkrs)	Hillsboro, OR	02/22/96	Tin Can Ends.
31,995	ABC Rail (UAW)	Anderson, IN	02/22/96	Steel Castings.
31,996	Dutchess Lingerie, Inc. (Co.)	Sylvester, GA	02/28/96	Lingerie, Infants Wear.
31,997	Morton International (Wkrs)	Danvers, MA	02/12/96	Powdered Sodium Borohydride.
31,998	Farrel Corporation (USWA)	Ansonia, CT	02/27/96	Machinery to Process Rubber and Plastics.
31,999	BECO Well Service Co. (Wkrs)	Cement, OK	02/29/96	Oil Well Services.
32,000	Red Kap Industries (Wkrs)	Booneville, MS	02/22/96	Shirts—Work and Dress.
32,001	Royal Mills (Wkrs)	Carteret, NJ	02/10/96	Bedspreads, Comforters, Sheets.
32,002	Mission Packaging, Inc. (Wkrs)	Tigard, OR	02/12/96	Pet Reforms and Bottles.
32,003	Inland Steel Company (Co.)	Chicago, IL	01/04/96	Hot Rolled Coils, Cold Processed Plate.
32,004	Wrangler Menswear (Wkrs)	El Paso, TX	01/10/96	Women's Jeans.
32,005	McGraw-Hill Company (The) (Wkrs)	Blue Ridge Sum., PA	02/26/96	Administrative Functions (Books, Etc).
32,006	Kendall Healthcare Prod. (Wkrs)	Cumberland, RI	02/15/96	Disposable Medical Supplies.
32,007	Gerber Childrenswear, Inc (Wkrs)	Fort Kent, ME	02/26/96	Children's Blanket Sleepers.
32,008	Fun Tees, Inc. (Co.)	Dadeville, AL	02/28/96	Men's Tee Shirts and Tank Tops.
32,009	Chevron USA, Inc. (Wkrs)	San Ramon, CA	02/21/96	Managerial, Scientific Admin. Services.
32,010	Northrop Grumman Corp. (Wkrs)	El Segundo, CA	01/22/96	Military Aircraft.
32,011	C & C Garment Finishers (Wkrs)	Sparta, TN	02/20/96	Men's Pants.
32,012	Hybritax Automotive Co. (Wkrs)	El Paso, TX	02/19/96	Rectifiers-Packing-Machines.
32,013	Troy Shirtmakers Guild (UNITE)	Glens Falls, NY	02/16/96	Men's Shirts.
32,014	ABB Power T & D Company (Wkrs)	Bloomington, IN	02/19/96	Protective Equip. and Outdoor Equip.
32,015	Fremont Sawmill (Co.)	Lakeview, OR	02/22/96	Lumber.
32,016	Fremont Sawmill (Co.)	Paisley, OR	02/22/96	Lumber.
32,017	SBS Contracting Corp. (Wkrs)	Long Island Cty, NY	02/19/96	Leather Belts.
32,018	SKF USA, Inc. (UAW)	Shippensburg, PA	02/22/96	Bearing Assemblies.
32,019	Simpson Paper Company (AWPPW)	West Linn, OR	02/20/96	Paper Mill Production.
32,020	Holliston (Wkrs)	Kingsport, TN	02/12/96	Book Cover Materials, Ta and Labels.
32,021	Spartan Printing Company (GCIU)	Sparta, IL	02/26/96	Printed Magazines and Periodicals.
32,022	Campbell and Dann Mfg. Co (Co.)	Tullahoma, TN	02/22/96	Wooden Chairs.
32,023	Cleo, Inc. (Wkrs)	McAllen, TX	02/20/96	Christmas Gift Tags.
32,024	JEM II, Inc. (Co.)	Florala, AL	02/22/96	Flannel Shirts.

APPENDIX—Continued

[Petitions instituted on 03/11/96]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
32,025	Berwick Knitwear (Comp)	Berwick, PA	02/26/96	Knitted Outerwear.
32,026	Cassemco, Inc. (Comp)	Cookeville, TN	02/29/96	Automotive Pouches.
32,027	Parsons Footwear (U)	Parsons, WV	02/29/96	Canvas Shoes.
32,028	General Electric Co. (IUE)	Bucyrus, OH	02/14/96	Fluorescent Lamps.
32,029	Western Reserve Products (Wkrs)	Jasper, TX	02/27/96	Leaded Glass Panels.

[FR Doc. 96–7116 Filed 3–22–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,711]

Alcoa Fujikura Ltd., Alcoa Fujikura Ltd. West, a/k/a Electro-Wire Products, a/k/a Circuit Assembly Services, Inc. (C.A.S.I.), El Paso, Texas; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on February 27, 1996, applicable to all workers of Aloca Fujikura Ltd., Alcoa Fujikura Ltd. West located in El Paso, Texas. The notice will soon be published in the **Federal Register**.

At the request of the company, the Department reviewed the certification for workers of the subject. The workers produce wire harnesses. The company reports that some of the workers separated from employment had their unemployment insurance (UI) taxes paid to the former company names Electro-Wire Products or Circuit Assembly Services, Inc. (C.A.S.I.). The Department is amending the certification to include these workers. The intent of the Department's certification is to include all workers of the subject firm adversely affected by increased imports.

The amended notice applicable to TA–W–31,711 is hereby issued as follows:

All workers of Alcoa Fujikura Ltd., Alcoa Fujikura Ltd. West, a/k/a Electro-Wire Products, a/k/a Circuit Assembly Services, Inc. (C.A.S.I.), El Paso, Texas, engaged in employment related to the production of wire harnesses who became totally or partially separated from employment on or after November 20, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 14th day of March 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–7117 Filed 3–22–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,500 South Boston, Virginia and TA–W–31,500A Pisgah, Alabama]

Andover Togs, Incorporated; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on October 18, 1995, applicable to all workers of Andover Togs, Incorporated located in South Boston, Virginia. The notice was published in the **Federal Register** on November 9, 1995 (60 FR 56619).

At the request of petitioners, the Department reviewed the certification for workers of the subject firm. New information provided by the company shows that the subject firms' Pisgah, Alabama production facility closed February 12, 1996. All workers have been separated. The workers were engaged in the production of children's apparel.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by increased imports of apparel. Accordingly, the Department is amending the certification to cover the workers of Andover Togs, Incorporated, Pisgah, Alabama.

The amended notice applicable to TA–W–31,500 is hereby issued as follows:

"All workers of Andover Togs, Incorporated, South Boston, Virginia (TA–W–31,500), and Pisgah, Alabama (TA–W–31–500A) engaged in employment related to the production of children's apparel who became totally or partially separated from employment on or after September 15, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, DC this 7th day of March 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–7125 Filed 3–22–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,941]

Andover Togs, Incorporated, Pisgah, Alabama; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on February 26, 1996 in response to a worker petition which was filed January 26, 1996 on behalf of workers at Andover Togs, Incorporated, Pisgah, Alabama (TA–W–31,941).

The petitioning group of workers are covered under an existing Trade Adjustment Assistance certification (TA–W–31,500A). Consequently, further investigation in this case would service no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 4th day of March 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–7127 Filed 3–22–96; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Program Manager of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Program Manager, Office of Trade Adjustment Assistance, at the address shown below, not later than April 4, 1996.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Program Manager, Office of Trade Adjustment Assistance, at the address shown below, not later than April 4, 1996.

The petitions filed in this case are available for inspection at the Office of the Program Manager, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 4th day of March, 1996.

Russell Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 3/04/96]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
31,960	Bausch & Lomb (Comp)	Rochester, NY	02/23/96	Sunglasses Frames and Parts.
31,961	American Meter Company (IUE)	Erie, PA	02/16/96	Gas Meter Regulators.
31,962	Blue Chip Products (Wkrs)	Morrisville, PA	02/13/96	Automobile Alternators Clutch.
31,963	Converse Inc. (Comp)	Lumberton, NC	02/13/96	Sneakers—Stichers.
31,964	D & A Textiles (Wkrs)	Fairview, NJ	02/09/96	Sportswear.
31,965	Delsey Luggage, Inc. (Wkrs)	Denton, MD	02/12/96	Luggage.
31,966	Dreher Inc. (Wkrs)	Newark, NJ	01/29/96	Leather Tanning and Processing.
31,967	G.E. Corporate Computer (Wkrs)	Schenectady, NY	02/09/96	Computer Services.
31,968	Harman Automotive, Inc. (Comp)	Sevierville, TN	02/16/96	Outside Rear-View Mirrors.
31,969	Hasbro Manufacturing (Wkrs)	El Paso, TX	01/31/96	Tonka Truck.
31,970	Henry I. Siegel Co. (Comp)	Hohenwald, TN	02/05/96	Ladies' and Mens' Jeans.
31,971	J.E. Morgan Knitting Mill (Wkrs)	New Market, VA	02/13/96	Thermal Underwear.
31,972	JVC Manufacturing Co. (Wkrs)	Elmwood Park, NJ	02/13/96	Television Sets.
31,973	Key Tronic Corp. (Comp)	Spokane, WA	02/21/96	Computer Keyboards.
31,974	Krone, Inc. (Comp)	Englewood, CO	02/16/96	Telecommunication Wire Termination Prod.
31,975	Modine Manufacturing Co. (Comp)	Clinton, TN	02/07/96	Auto Air Conditioning Condensers.
31,976	Neptune Swimsuits Co. (UNITE)	Neptune, NJ	02/07/96	Swimwear.
31,977	Omak Wood Products (Wkrs)	Omak, WA	02/08/96	Lumber.
31,978	Philips Consumer Elec. (IUE)	Arden, NC	02/06/96	Plastic TV Cabinets.
31,979	Quality Aluminum Casting (UAW)	Waukesha, WI	02/12/96	Aluminum Castings.
31,980	Santana, Inc. (Comp)	West Blocton, AL	02/15/96	Work Pants.
31,981	Sealright Packaging Co. (UPIU)	Desoto, KS	01/30/96	Ice Cream Containers.
31,982	Treibacher Schleifmittel (Wkrs)	Niagara Falls, NY	02/08/96	Abrasive Grains.
31,983	Whisper Woods (Comp)	Redmond, OR	02/13/96	Veneer's and Laminated Doors.
31,984	U.S. Can (Comp)	Saddle Brook, NJ	01/29/96	Steel Containers.
31,985	United Technologies (Wkrs)	Mesa, AZ	01/31/96	Valves and Starters—Aircrafts.
31,986	Almeda Equipment Co. (Wkrs)	Amhurst, NY	01/31/96	Construction Equipment.
31,987	Daniel Greene Co. (Wkrs)	Dolgerville, NY	02/16/96	Slippers, Racing Boots, Work Boots.
31,988	Osage Hot Oil Company (Comp)	Newcastle, WY	02/08/96	Oilfield Services.
31,989	Oneita Industies (UNITE)	Andrews, SC	02/26/96	Fleece Wear Apparel.
31,990	L. Bonfanti (Wkrs)	Salem, MA	01/06/96	Leather Finishing.
31,991	General Railway Signal (IUE)	Rochester, NY	02/07/96	Railroad Signing Lights and Systems.
31,992	Decaturville Mfg. (Wkrs)	Decaturville, TN	02/20/96	Jeans & Skirts.

[FR Doc. 96–7128 Filed 3–22–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31, 750]

California Microwave Telecon Transmission Systems; Bloomingdale, IL; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on December 18, 1995, in response to a worker petition which was filed on that date on behalf of workers at California Microwave/Telecon Transmission Systems, Bloomingdale, Illinois.

The petitioners have requested that the petition withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 13th day of March, 1996.

Russell Kile,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–7115 Filed 3–22–96; 8:45 am]

BILLING CODE 4510–13–M

[TA–W–31,527]

M&M/Mars, Incorporated; Burr Ridge, Illinois; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Program Manager of the Office of Trade Adjustment Assistance for workers at M&M/Mars, Incorporated, Burr Ridge, Illinois. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–31,527; M&M/Mars, Incorporated, Burr Ridge, Illinois (March 12, 1996)

Signed at Washington, DC this 12th day of March, 1996.

Russell T. Kile,

Acting Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–7124 Filed 3–22–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,359 Milwaukie, Oregon and TA–W–31,359A Portland, Oregon]

Pendleton Woolen Mills, Inc.; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 13, 1995, applicable to workers at Pendleton Woolen Mills, Inc., Milwaukie, Oregon, engaged in employment related to the production of women's blouses. The certification was amended on October 25, 1995 to expand coverage to all workers of the subject firm. The amended notice was published in the **Federal Register** on November 7, 1995 (60 FR 56174).

At the request of the union, the Department reviewed the certification for workers of the subject firm. New findings show that worker separations have occurred at the subject firm's production facility in Portland, Oregon. The workers produce a variety of men's and women's apparel, including ladies' blazers and men's jackets. The articles manufactured by the subject firm have been impacted importantly by the high import penetration ratio of these articles in the domestic market place.

The ratio of U.S. imports to domestic shipments of women's, girl's, men's and boys' coats and jackets was over 200 percent in 1993, 1994 and 1995.

The intent of the Department's certification is to include all workers of Pendleton Woolen Mills adversely affected by imports of apparel. Accordingly, the Department is amending the certification to cover the workers of the subject firm in Portland, Oregon.

The amended notice applicable to TA–W–31,359 is hereby issued as follows:

"All workers of Pendleton Woolen Mills, Inc., Milwaukie, Oregon (TA–W–31,359) and Portland, Oregon (TA–W–31,359A) who became totally or partially separated from employment on or after August 9, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, D.C. this 13th day of March 1996.

Russel T. Kile,

Acting Program manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–7121 Filed 3–22–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,368 Roxanne of New Jersey; Neptune, New Jersey and TA–W–31,369 Artsan Corporation; Neptune, New Jersey]

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Correction

This notice corrects the notice for petition numbers TA–W–31,368 and TA–W–31,369 which was published in the **Federal Register** on September 11, 1995 (60 FR 47185) in FR Document 95–22481.

This revises the subject firm name (petitioners) on the first and second lines in the appendix table on page 47185. On the first line in the second column, the subject firm (petitioners) should read Roxanne of New Jersey (UNITE). On the second line, in the second column, the subject firm (petitioners) should read Art San Corporation (UNITE); in the fourth column, date of petition should read 8/17/95; and in the fifth column product(s) should read Women's Swimwear.

Signed in Washington, D.C., this 13th day of March 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–7122 Filed 3–22–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,537]

The SERO Company, Inc. Cordele, Georgia; Notice of Negative Determination Regarding Application for Reconsideration

By an application dated February 9, 1996, former workers of the subject firm requested administrative reconsideration of the Department's negative determination regarding worker eligibility to apply for trade adjustment assistance. The denial notice was signed on January 24, 1996 and published in the **Federal Register** on February 6, 1996 (61 FR 4486).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The former workers of The Sero Company Inc. requesting reconsideration claim that the major customer of the subject firm has given its contract to an overseas manufacturing company. Also, petitioners claim Sero expanded its company in the Dominican Republic because it was more economical for them to produce there. Additionally, the petitioners claim that workers were also producing men's sport shirts.

Findings of the investigation show that workers of the subject firm performed contract sewing work on men's dress shirts. Sero now cuts a reduced level of its own dress shirts in Cordele but sewing work is contracted out to another domestic firm.

Company officials report an insignificant amount of production of men's sports shirts in 1995 at Cordele. All production of that product has been transferred to an affiliated plant in the Dominican Republic. Since the predominant portion of the sewing operations encompassed men's dress shirts, the shift in production of men's sports shirts to a foreign facility would not form the basis for worker certification.

Finding show that the contract sewing work at the Cordele plant, was for a single customer. The Department surveyed the customer regarding its contract work and imports of men's dress shirts. The customer reported that foreign contract work declined in 1995 compared with 1994 and finished shirts were not imported. The customer reports that contract sewing work previously performed by Sero was awarded to another domestic facility.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of

Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, D.C. this 12th day of March 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–7120 Filed 3–22–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,522]

Transco Energy Corporation Including Transcontinental Gas Pipe Line Corporation and Transco Gas Marketing Company Houston, Texas; Notice of Negative Determination Regarding Application for Reconsideration

By applications dated February 6 and February 8, 1996, former workers of the subject firm requested administrative reconsideration of the Department's negative determination regarding worker eligibility to apply for trade adjustment assistance. The denial notice was signed on December 6, 1995 and published in the **Federal Register** on January 26, 1996 (61 FR 2573).

Pursuant to 29 CFR 90.18(C) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous:

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The requests for reconsideration by the former workers of Transcontinental Gas Pipe Line Corporation (TGPL) and Transco Gas Marketing Company (TGMC) claim that Transco has produced products that constitute articles within the meaning of the Trade Act. Workers also claim that the Department's decision focussed too narrowly on products that it currently produces.

Findings of the investigation show that workers of the subject firm are engaged in employment related to natural gas services, which include purchasing, transport and marketing of natural gas.

In an earlier TAA determination for workers at Transco Energy Company (TA–W–27,462), the company was engaged in the production of exploration of crude oil and natural gas. Workers were issued a certification of eligibility to apply for TAA because all criteria of the Trade Act were met. At the time the service employees were included in the certification because they were engaged in employment related to the exploration and production of crude oil and natural gas. In the same investigation, workers at TGPL were denied eligibility for TAA because criterion (2) of the Trade Act was not met. Revenues increased during the time period relevant to the investigation.

The findings of this investigation show that the reduction in employment at Transcontinental Gas Pipe Line was due to a reorganization as a result of Transco's acquisition by another company. Other findings show that Transco Gas Marketing Company was transferred to another domestic location. Neither action would form the basis for a certification.

In order to be certified eligible for TAA, workers of TGPL and TGMC would have to be engaged in the exploration or drilling for natural gas. Worker groups performing a service, including the transmission of natural gas, can be certified only if their separation was caused importantly by a reduced demand for services from a parent firm, a firm otherwise related to the subject firm by ownership, or a firm related by control.

The worker adjustment assistance program was not intended to provide TAA to workers who are in some way related to import competition but only for those workers who produce an articles and are adversely affected by increased imports of like or directly competitive articles which contributed importantly to sales or production and employment declines at the workers' firm.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC this 5th day of March 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–7126 Filed 3–22–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,858]

Wilkes Mill & Feed Co., Inc.; Washington, Georgia; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on November 27, 1996 in response to a worker petition which was filed on November 10, 1996 on behalf of workers at Wilkes Mill & Feed Co., Inc., Washington, Georgia.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C. this 12th day of March, 1996.

Russell T. Kile,

Acting Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 96–7123 Filed 3–22–96; 8:45 am]

BILLING CODE 4510–30–M

[NAFTA–00712]

Alcoa Fujikura Ltd., Alcoa Fujikura Ltd. West a/k/a Electro-Wire Products, a/k/a Circuit Assembly Services, Inc. (C.A.S.I.) El Paso, Texas; Amendment Certification Regarding Eligibility to Apply for NAFTA Transitional Adjustment Assistance

In accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on February 27, 1996, applicable to all workers of Alcoa Fujikura Ltd, Alcoa Fujikura Ltd. West location in El Paso, Texas. The notice will soon be published in the **Federal Register**.

At the request of the company, the Department reviewed the certification for workers of the subject firm. The workers produce wire harnesses for the automotive industry. The company reports that some of the workers separated from employment had their unemployment insurance (UI) taxes paid to the former company names Electro-Wire Products or Circuit Assembly Services, Inc. (C.A.S.I.). Accordingly, the Department is amending the certification to reflect this matter. The intent of the Department's certification is to include all workers of the subject firm adversely affected by increased imports.

The amended notice applicable to NAFTA–00712 is hereby issued as follows:

"All workers of Alcoa Fujikura Ltd., Alcoa Fujikura Ltd. West, a/k/a Electro-Wire Products, a/k/a Circuit Assembly Services, Inc. (C.A.S.I.), El Paso, Texas, engaged in employment related to the production wire harnesses who became totally or partially separated from employment on or after November 20, 1994 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974."

Signed at Washington, D.C. this 14th day of March 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services Office of Trade Adjustment Assistance.

[FR Doc. 96–7118 Filed 3–22–96; 8:45 am]

BILLING CODE 4510–30–M

[NAFTA–00777]

Eagle Pitcher Industries, Eagle Pitcher, Construction Equipment Division, Lubbock, Texas; Amended Certification Regarding Eligibility To Apply for NAFTA Transitional Adjustment Assistance

In accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on February 26, 1996, applicable to all workers of Eagle Pitcher, Construction Equipment Division, located in Lubbock, Texas. The notice will soon be published in the **Federal Register.**

At the request of the company, the Department reviewed the certification for workers of the subject firm. The company and State Agency report that some of the workers have had their wages reported under the tax account of Eagle Pitcher Industries. Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by imports.

The amended notice applicable to NAFTA–00777 is hereby issued as follows:

"All workers at Eagle Pitcher Industries, Eagle Pitcher, Construction Equipment Division, Lubbock, Texas who became totally or partially separated from employment on or after January 11, 1995 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974."

Signed at Washington, D.C. this 13th day of March 1996.

Russel T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–7119 Filed 3–22–96; 8:45 am]

BILLING CODE 4510–30–M

Amended Certification Regarding Eligibility To Apply for NAFTA Transitional Adjustment Assistance

In accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on March 5, 1996, applicable to all workers of LaSevilla Fashions, Incorporated, Mangham Plant, located in Mangham, Louisiana. The notice will soon be published in the **Federal Register**.

At the request of the State Agency, the Department reviewed the certification for worker of the subject firm. The company reports worker separations at its Winnsboro, Louisiana location. The workers provide administrative support services related to the production of pants and jeans at LaSevilla's Mangham, Louisiana plant. The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by imports. Accordingly, the Department is amending the certification to cover the affected workers at LaSevilla's Winnsboro location.

The amended notice applicable to NAFTA—00752 is hereby issued as follows:

"All workers at LaSevilla Fashions, Incorporated, Mangham Plant, Mangham, Louisiana (NAFTA–00752) and Winnsboro, Louisiana who became totally or partially separated from employment on or after January 12, 1995 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974."

Signed at Washington, DC this 16th day of March 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–7114 Filed 3–22–96; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 96–033]

NASA Advisory Council, Technology and Commercialization Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting change.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Technology and Commercialization Advisory Committee.

DATES: Thursday, March 28, 1996, 8:30 a.m. to 5:00 p.m.; and Friday, March 29, 1996, 8:30 a.m. to 2:00 p.m.

ADDRESSES: National Aeronautics and Space Administration, Room MIC–6, 300 E Street SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Matthew M. Crouch, Code XM, National Aeronautics and Space Administration, Washington, DC 20546 (202/358–1500).

CHANGE IN SUPPLEMENTARY INFORMATION: The meeting will be closed to the public on Thursday, March 28, 11:00 a.m. to 3:00 p.m., in accordance with U.S.C. 522b(c)(4), to discuss proprietary information on technology development of the reusable launch vehicle partner companies.

The remainder of the meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Office of Space Access and Technology Update and Comments
—Reusable Launch Vehicle Briefings
—Space Technology Enterprise Strategic Plan/Metrics

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: March 18, 1996.

Leslie M. Nolan,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 96–7096 Filed 3–22–96; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Cooperative Agreement for an Artists' Health Insurance Project

AGENCY: National Endowment for the Arts.

ACTION: Notification of availability.

SUMMARY: The National Endowment for the Arts requests proposals leading to the award of a Cooperative Agreement for a project to create and establish a National Health Care and Insurance Information Center for the Arts that would provide a wide variety of detailed and current information to assist artists and arts organizations in obtaining the best and most economical health insurance and health care. The

recipient of the Cooperative Agreement will house (i.e. provide space, computer equipment etc.) and manage the National Health Care and Insurance Information Center for the Arts. Funding from the National Endowment for the Arts is limited to $50,000. A minimum of a one-to-one match is required. Those interested in receiving the Solicitation should reference Program Solicitation PS 96–02 in their written request and include two (2) self-addressed labels. Verbal requests for the Solicitation will not be honored.

DATES: Program Solicitation PS 96–02 is scheduled for release approximately April 9, 1996 with proposals due on May 9, 1996.

ADDRESSES: Requests for the Solicitation should be addressed to National Endowment for the Arts, Grants & Contracts Office, Room 618, 1100 Pennsylvania Avenue NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: William I. Hummel, Grants and Contracts Office, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, D.C. 20506 (202/682–5482).

William I. Hummel,

Coordinator, Cooperative Agreements and Contracts.

[FR Doc. 96–7058 Filed 3–22–96; 8:45 am]

BILLING CODE 7537–01–M

Meeting of Humanities Panel

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, as amended), notice is hereby given that the following meeting of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Sharon I. Block, Advisory Committee Management Officer, National Endowment for the Humanities. Washington, D.C. 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meeting is for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meeting will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; or (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that this meeting will be closed to the public pursuant to subsections (c) (4), and (6) of section 552b of Title 5, United States Code.

1. Date: April 1, 1996
   Time: 9:00 a.m. to 5:30 p.m.
   Room: 415
   Program: This meeting will review applications for Humanities Projects in Media submitted to the Division of Public Programs for projects with January 12, 1996, deadline.
2. Date: April 12, 1996
   Time: 9:00 a.m. to 5:30 p.m.
   Room: 430
   Program: This meeting will review applications for Humanities Projects in Media submitted to the Division of Public Programs for projects with January 12, 1996, deadline.
3. Date: April 15, 1996
   Time: 9:00 a.m. to 5:30 p.m.
   Room: 415
   Program: This meeting will review applications for Humanities Projects in Museums and Historical Organizations submitted to the Division of Public Programs for projects with January 12, 1996, deadline.
4. Date: April 15, 1996
   Time: 9:00 a.m. to 5:30 p.m.
   Room: 430
   Program: This meeting will review applications for Special Projects submitted to the Division of Public Programs for projects with January 12, 1996, deadline.
5. Date: April 19, 1996
   Time: 9:00 a.m. to 5:30 p.m.
   Room: 415
   Program: This meeting will review applications for Humanities Projects in Media submitted to the Division of Public Programs for projects with January 12, 1996, deadline.
6. Date: April 19, 1996
   Time: 9:00 a.m. to 5:30 p.m.
   Room: 430
   Program: This meeting will review applications for Humanities Projects in Museums and Historical Organizations submitted to the Division of Public Programs for projects with January 12, 1996, deadline.
7. Date: April 22, 1996
   Time: 9:00 a.m. to 5:30 p.m.
   Room: 415
   Program: This meeting will review applications for Humanities Projects in Libraries and Archives submitted to the Division of Public Programs for projects with January 12, 1996, deadline.
8. Date: April 26, 1996
   Time: 9:00 a.m. to 5:30 p.m.
   Room: 415
   Program: This meeting will review applications for Humanities Projects in Media submitted to the Division of Public Programs for projects with January 12, 1996, deadline.
9. Date: April 26, 1996
   Time: 9:00 a.m. to 5:30 p.m.
   Room: 430
   Program: This meeting will review applications for Humanities Projects in Museums and Historical Organizations submitted to the Division of Public Programs for projects with January 12, 1996, deadline.

Michael S. Shapiro,

Acting, Advisory Committee Management Officer.

[FR Doc. 96–7113 Filed 3–22–96; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL SCIENCE FOUNDATION

Submission for OMB Review; Collection of Information

Comments requested by May 3, 1996.

Title of Proposed Collection, "Advanced Technological Education (ATE) Faculty and Teacher Enhancement Workshops Survey."

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, on May 30, 1995, Federal Register 60 FR 28178, the National Science Foundation (NSF) published, for public comment, a proposed generic clearance for collection of information, "Education and Human Resources Impact Database." No public comments were received. A proposed collection to be considered under that generic clearance is being forwarded to the Office of Management and Budget for consideration. Comments on the proposed data collection plans and instruments may be directed to OMB at the following address: Office of Management and Budget, IRA, ATTN.: Jonathan Winer, New Executive Office Building, Room 3208, Washington, DC 20503.

Written comments should be received by May 3, 1996.

Abstract: This proposed collection will become a part of an integrated data system that will contain data for all programs managed by the NSF's Directorate for Education and Human Resources (EHR). Data will be used to support programs studies and evaluations and also for effective program assessments and evaluations throughout the Directorate.

The Advanced Technological Education (ATE) Program is a major effort by NSF to improve science, mathematics, engineering, and technology education or technicians being educated for the high performance workplace. The program was initiated in 1993 and has resulted thus far in three rounds of competition. Since the workshops are conducted at various sites across the country, a mechanism is needed to determine in a timely fashion when the workshops are actually conducted, their enrollment, the nature of the individuals who benefited, the characteristics of the activities, and professional expertise of the instructors.

A part of the on-going annual review, ATE projects which have faculty and teacher enhancement components are asked to provide, along with other documentation, responses to an annual program survey. This data collection format, the subject of the OMB Review Request, requests information on the numbers and types of teachers and faculty served by the ATE programs in workshops. It is the only instrument that is designed to collect comparable data from all ATA projects and Centers.

The data collection format address questions asked internally about the ATE Program by NSF program officers in their program planning and in conjunction with the development of the EHR Directorate Impact Database. It also addresses questions asked by the Congress and other interested parties. The ATE program will use these data to establish influence on faculty and teachers of the ATE program. It will also show other sources of income and support received by the project for faculty and teacher enhancement.

Respondents and burden hours: 70 respondents at approximately 30 minutes per response.

Dated: March 18, 1996.

Herman G. Fleming,

NSF Clearance Officer.

[FR Doc. 96–7094 Filed 3–22–96; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SKILL STANDARDS BOARD

Request for Comments; Notice of Public Hearings

AGENCY: National Skill Standards Board.

ACTION: Request for comments; Notice of public hearings.

SUMMARY: This Notice is designed to: (1) Notify the public of the dates, locations, and times of public hearings to be held by the National Skill Standards Board (NSSB) around the country to solicit oral and written statements on the Board's work; and (2) solicit public comment on key questions the Board is addressing. This is the first of a series of public hearings to foster a public dialogue. The second series of hearings, tentatively scheduled for Summer 1996, will solicit public input on the future work of the Board, including the identification of occupational clusters. The Board will continue to use public hearings as a way to inform its decision-making.

DATES: A. *Hearing Dates:* The dates of the first set of public hearings are as follows:

Tuesday, April 9, 1996: Kansas City, MO

Thursday, April 11, 1996: Phoenix, AZ

Monday, April 15, 1996: Miami, FL

B. *Comment Dates for Public Hearings:* Comments and notices of intent to present oral and/or written statements at the hearings must be received 10 business days before the date of the hearing at which they will be presented. The requirements for comments are set forth in the "Supplementary Information" section below. We welcome responses to the Questions for Public Comment.

ADDRESSES: The locations of the three public hearings are as follows:

Kansas City: Kansas City Marriott Downtown, 200 West 12th Street, Kansas City, MO 64105, (816) 421–6800.

Phoenix: Crown Plaza Phoenix, 100 North First Street, Phoenix, AZ 85004, (602) 257–1525.

Miami: Crown Plaza Biscayne, Biscayne Boulevard at 16th Street, Miami, FL 33132, (305) 374–0000.

Notice of intent to present oral statements or written statements must be mailed to NSSB Public Hearing Coordinator at the address below.

FOR FURTHER INFORMATION CONTACT: Judy Gray, Executive Director, NSSB Public Hearing Coordinator, National Skill Standards Board, 1441 L Street, NW, Suite 9000, Washington, DC 20005–3512, (202) 254–8628, (202) 254–8646 (fax).

SUPPLEMENTARY INFORMATION:

Form of Public Comment

The hearings will begin at 9:30 a.m. and adjourn at 3:30 p.m. To assist the NSSB in appropriately scheduling speakers, the written notice of intent to present oral comments should include the following information: (1) The name, address, and telephone number of each person to appear; (2) affiliation; and (3) the specific questions, issues or concerns that will be addressed.

Individuals who do not register in advance will be permitted to register and speak at each hearing in order of registration, if time permits. Speakers should limit their oral remarks to no more than 10 minutes. Although it is anticipated that all persons desiring to do so will have an opportunity to speak, time limits may not allow this to occur. However, all written statements will be accepted and incorporated into the public record. The proceedings will be audiotaped and transcribed.

Meeting Procedure and Objectives

The hearing panel will be comprised of members of the NSSB. A designated member of the NSSB will preside at each of the hearings. The Presiding Board Member will:

(1) regulate the course of the meeting, including the order of appearance of persons presenting oral statements;

(2) dispose of procedural matters; and

(3) limit the presentations to matters pertinent to the issues raised in this notice.

Background on the Mission of the National Skill Standards Board

The National Skill Standards Board was created by The National Skill Standards Act of 1994 (108 Stat 192, 20 U.S.C. 5933), signed into law by President Clinton on March 31, 1994. The Board's purpose as stated in the Act is "to serve as a catalyst in stimulating the development and adoption of a voluntary national system of skill standards and of assessment and certification of attainment of skill standards: (1) That will serve as a cornerstone of the national strategy to enhance workforce skills; (2) that will result in increased productivity, economic growth, and American

economic competitiveness; and (3) that can be used consistent with civil rights laws" by the stakeholders enumerated in the Act: the nation, industries, employers, labor organizations, workers, students, entry-level workers, training providers, educators and government.

The Act also states that this voluntary national system of skill standards will serve: (1) to facilitate the transition to high performance work organizations; (2) to increase opportunities for minorities and women; and (3) to facilitate linkages between other components of the national strategy to enhance workforce skills.

NSSB Mission Statement

The mission of the National Skill Standards Board is to encourage the creation and adoption of a national system of skill standards which will enhance the ability of the United States to compete effectively in a global economy. These voluntary skill standards will be developed by industry in full partnership with education, labor and community stakeholders, and will be flexible, portable and continuously updated and improved. This national skill standards system is intended to do the following:

- Promote the growth of high performance work organizations in the private and public sectors that operate on the basis of productivity, quality and innovation, and in the private sector, profitability;
- Raise the standard of living and economic security of American workers by improving access to high skill, high wage employment and career opportunities for those currently in, entering, or re-entering the workforce;
- Encourage the use of world-class academic, occupational and employability standards to guide continuous education and training for current and future workers.

Skill Standards Purposes and Characteristics

This section provides contextual and background information for the questions posed in the next section. We want to know if our operating assumptions make sense to you. This information also summarizes key sections of the authorizing legislation and the NSSB's discussions to date.

The National Skill Standards Board envisions its work as stimulating the industry-led development of voluntary skill standards that embody the academic, occupational and employability components of work. The skill standards will pertain to broad clusters of major occupations that involve one or more industries and that share common skill requirements. One of the areas on which the NSSB is soliciting public comment is the characteristics that should be used by NSSB as endorsement criteria for skill standards. (Skill Standards development is the responsibility of industry-led voluntary partnerships as described below, not the NSSB.) As described in the legislation and in the NSSB mission statement, the skill standards should:

(1) take into account relevant skill standards used by other countries;

(2) meet or exceed the highest applicable skill standards used in the United States;

(3) take into account academic standards;

(4) take into account the requirements of high performance work organizations;

(5) be in a form that permits regular updating;

(6) promote portability of credentials and facilitate worker mobility within an occupational cluster or industry, among industries, as well as mobility from state to state or from one locale to another; and

(7) not discriminate by race, color, gender, age, religion, ethnicity, disability or national origin, consistent with Federal civil rights law.

The skill standards should be flexible, portable, and continuously updated and improved. The skill standards must be future-focused, and be based on competencies. The skill standards and the means to meet those standards should be available in a variety of settings to anyone who is interested in them.

The skill standards should reflect the skill requirements and the performance levels necessary for our workers to be at least as well-prepared to compete in the global economy as workers elsewhere in the world. To achieve this goal, the skill standards should reflect the requirements of high performance enterprises, that is, enterprises that compete not only on price, but on the basis of quality, timeliness, customization, and variety. Such competition requires workers who are highly skilled. The skill standards should increase the supply of qualified workers to high performance enterprises, and improve an individual's access to the jobs needed in today's and tomorrow's global economy.

We hope that a voluntary system of skill standards will offer a framework to employers, employees, labor organizations, educators, training providers, states and local communities as they create, refine and re-create their programs and systems to improve the preparation of the people in their communities for the highly demanding jobs of the modern economy. Skill standards should serve those who are trying to assure their long-term employability: students leaving our colleges and high schools; workers who have been laid off; displaced homemakers, public assistance recipients and others who are entering or reentering the labor force; and currently employed workers. Our hope is that voluntary national skill standards will support efforts of states, organizations, firms and communities to develop and build innovative solutions to workforce preparation issues. We also hope that our work will support and guide innovative industry programs such as worker certification programs and skill-based compensation programs that are designed to enhance the portability and transferability of work skills.

Through these hearings, we hope to hear and learn from the work of regional and local communities, the states, employer and labor efforts to create and implement skill standards and to understand their successes and failures and the processes they used. We also want to hear how the work of the NSSB can best support these innovative efforts.

Occupational Clusters

The first function of the NSSB (enumerated in Section 504 of the legislation) is to identify "broad clusters of major occupations that involve one or more than one industry in the United States and that share characteristics that are appropriate for the development of common skill standards." The skill standards endorsed by NSSB will not address every segment of the U.S. economy. Instead, they will focus on those segments of the economy that will enhance the ability of the United States to compete in the global economy. Consistent with the National Skill Standards Act, the NSSB intends to meet this challenge by promoting the growth of high performance enterprises within these significant economic segments.

The National Skill Standards Act charges the Board with stimulating the development of skill standards (as described in the previous section) for occupational clusters. The Board views the development of skill standards for those jobs which are specific to one company as outside the Board's scope. And although the Board hopes to be involved in the dialogue of what would be helpful for people to know and be able to do for success at work, the actual development of such foundation or academic standards is also beyond the purview of the NSSB's mission.

One of the approaches we are considering would be to focus on encouraging industry to lead partnerships of key stakeholders to identify and set voluntary skill standards for cross industry clusters. These clusters could cut across multiple industries and could be defined by the work people do. Skill standards would be defined by the way work is done in an organization striving for high performance from its employees. Within each cluster, the skill standard would reflect multiple levels of performance, each higher level representing a progression in responsibility from the one preceding it. For each cluster, there may be multiple industry standards, each of these industry standards incorporating the cluster standard on which it is based. This process would be dynamic, needing constant reexamination of the clusters and the industry standards derived from them, so that the skill standards would reflect the continually changing demands of the economy. Only if the voluntary standards have value for the employer and the worker, will they be used.

Voluntary Partnerships

The Board itself will not develop skill standards. Instead, the legislation calls for the NSSB to encourage the formation of industry-led voluntary partnerships to develop the skill standards, and to endorse skill standards produced by voluntary partnerships. The NSSB must decide on the criteria, their definition, and how a partnership will demonstrate it meets these endorsement criteria. The NSSB welcomes the input of the public on these topics to inform our decisions.

The legislation requires that the voluntary partnerships have the following composition:

- Representatives of large and small businesses who have expertise in the area of workforce skill requirements and who are recommended by national business organizations or trade associations in the occupation or industry for which a standard is being developed;
- Representatives of trade associations that have received grants from the Department of Labor or the Department of Education to establish skill standards prior to enactment of the National Skill Standards Act;
- Employees who have expertise in the area of workforce skill development and who shall be:

—Individuals recommended by organized labor organizations representing employees in the occupation or industry for which a standard is being developed; and

—Such other individuals who are non-managerial employees with significant experience and tenure in such occupation or industries as are appropriate given the nature and structure of employment in the occupation or industry;

- Representatives of educational institutions; community-based organizations; and state and local agencies involved in education, vocational-technical education, or employment and training;
- Representatives of other policy development organizations with expertise in the area of workforce skill requirements;
- Representatives of non-governmental organizations with a demonstrated history of successfully protecting the rights of racial, ethnic, or religious minorities, women, individuals with disabilities, or older persons; and
- Individuals with expertise in measurement and assessment, including relevant experience in designing unbiased assessments and performance-based assessments.

The foregoing information on the NSSB's mission, and its views on the purpose and characteristics of skill standards, occupational clusters, the focus of the Board's work, and the composition of the voluntary partnerships are intended to serve as background and a context for public response to the questions below. The Board strongly encourages your comments; they will help shape and inform its decision making process.

Questions for Public Comment

1. What constructive advice can you offer the board as it works towards its mission?
2. Are the characteristics of skill standards as described in the section "Skill Standards' Purposes and Characteristics" important? Would you add or delete characteristics?
3. How do you see your efforts benefiting from a voluntary skill standards framework?
4. What models might we learn from and what guidance can you provide on the process NSSB uses for building a framework of voluntary skill standards?
5. What guidance would you give the board as it develops criteria for endorsing voluntary partnerships?
6. What skill sets are most necessary to assure the success of your group or enterprise and the employability of workers, now and long term?
7. Do you agree that the focus of NSSB's work should be on setting skill standards for broad clusters of jobs or occupations that could cut across multiple industries? If not, what do you think our focus should be and why?
8. Does the emphasis on encouraging the development of skill standards for highly skilled jobs needed in the modern economy make sense?
9. Does it make sense for the board to encourage the growth of organizations who wish to become high performance?
10. What principles should guide the identification of occupational clusters?

A copy of the authorizing legislation will be available at the hearing. Interested parties may call (202)–254–8628 to request a copy.

Signed at Washington, DC, this 18th day of March, 1996.

Judy Gray,

Executive Director, National Skill Standards Board.

[FR Doc. 96–6988 Filed 3–22–96; 8:45 am]

BILLING CODE 4510-23-P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission:* Revision.
2. *The title of the information collection:* 48 CFR 20, U.S. Nuclear Regulatory Commission Acquisition Regulation.
3. *The form number if applicable:* Not applicable.
4. *How often the collection is required:* On occasion; one time.
5. *Who is required or asked to report:* Offerors responding to NRC solicitations and contractors receiving contract awards from NRC.
6. *An estimate of the number of responses:* 11,311.
7. *The estimated number of annual respondents:* 750.
8. *An estimate of the total number of hours needed annually to complete the*

requirement or request: 120,449 hours (10.6 hours per response).

9. *An indication of whether Section 3507(d), Public Law 104–13 applies:* Not applicable.

10. *Abstract:* The mandatory requirements of the NRCAR implement and supplement the governmentwide Federal Acquisition Regulation, and ensure that the regulations governing the procurement of goods and services within the NRC satisfy the needs of the agency.

A copy of the submittal may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW., (lower level), Washington, DC. Members of the public who are in the Washington, DC, area can access the submittal via modem on the Public Document Room Bulletin Board (NRC's Advanced Copy Document Library), NRC subsystem at FedWorld at 703–321–3339. Members of the public who are located outside the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608. Additional assistance in locating the document is available from the NRC Public Document Room, nationally at 1–800–397–4209, or within the Washington, DC, area at 202–634–3273.

Comment and questions should be directed to the OMB reviewer by April 24, 1996. Peter Francis, Office of Information and Regulatory Affairs (3150–0169), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo Shelton, (301) 415–7233.

Dated at Rockville, Maryland, this 19th day of March, 1996.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resource Management.

[FR Doc. 96–7145 Filed 3–22–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–483]

Union Electric Company Callaway Plant, Unit 1; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–30 to Union Electric Company (the licensee) for the Callaway Plant, Unit 1 located in Callaway County, Missouri.

Environmental Assessment

Identification of the Proposed Action.

By letter dated September 6, 1995, (ULNRC–03264) the licensee proposed to change the Technical Specifications (TSs) to allow an increase in fuel enrichment (Uranium 235) from 4.45 to 5.0 weight percent for fuel with integral fuel burnable absorbers (IFBAs) and from 3.85 to 4.10 weight percent for fuel without IFBAs. In addition, the licensee proposed to change the maximum reference K_∞ from 1.455 to 1.480 for storage of fuel in Region 1 of the spent fuel pool and to change the maximum initial enrichment for fuel storage in Region 2 of the spent fuel pool to 5.0 weight percent.

Need for Proposed Action

The licensee intends to load fuel into the core during Refuel 8 and subsequent refueling outages which does not currently meet the TSs. By increasing the fuel enrichment, the licensee will implement the fuel strategies developed for the Callaway Plant.

Environmental Impact of the Proposed Action

The Commission has completed its evaluation of the proposed revision to the TSs and concludes that storage and use of Vantage 5 fuel enriched with U–235 up to 4.10 weight percent for fuel without IFBAs and up to 5.0 weight for fuel with IFBAs at the Callaway Plant, Unit 1 is acceptable. The safety considerations associated with higher enrichments have been evaluated by the NRC staff and the staff has concluded that such changes would not adversely affect plant safety. The proposed changes have no adverse effect on the probability of any accident. As a result, there is no increase in individual or cumulative radiation exposure.

The environmental impacts of transportation resulting from the use of higher enrichment and extended irradiation are discussed in the staff assessment entitled "NRC Assessment of the Environmental Effects of Transportation Resulting from Extended Fuel Enrichment and Irradiation." This assessment was published in the **Federal Register** on August 11, 1988 (53 FR 30355) as corrected on August 24, 1988 (53 FR 32322) in connection with the Shearon Harris Nuclear Power Plant, Unit I: Environmental Assessment and Finding of No Significant Impact. As indicated therein, the environmental cost contribution of an increase in fuel enrichment of up to 5 weight percent U–235 and irradiation limits of up to 60 Gigawatt Days per Metric Ton (GWD/MT) are either unchanged, or may in fact be reduced from those summarized in Table S–4 as set forth in 10 CFR 51.52(c). These findings are applicable to the proposed amendment for the Callaway Plant, Unit 1. Accordingly, the Commission concludes that this proposed action would result in no significant radiological environmental impact.

With regard to potential nonradiological impacts, the proposed changes involve systems located within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed amendment.

The Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing in connection with this action was published in the **Federal Register** on November 8, 1995 (60 FR 56372).

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternative with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for Callaway Plant, Unit 1, dated January 1982 (NUREG–0813).

Agencies and Persons Contacted

In accordance with its stated policy, on March 18, 1996, the staff consulted with the Missouri State official, Mr. David A. Shorr, Director, Department of Natural Resources, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to this action, see the application for license amendment dated September 6, 1995. Copies are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room located at the Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251.

Dated at Rockville, Maryland, this 18th day of March 1996.

For the Nuclear Regulatory Commission.

Kristine M. Thomas,

Project Manager, Project Directorate IV–2, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 96–7144 Filed 3–22–96; 8:45 am]

BILLING CODE 7590–01–P

Advisory Committee on Reactor Safeguards, Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on April 11–13, 1996, in Conference Room T–2B3, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Monday, November 27, 1995 (60 FR 58393).

Thursday, April 11, 1996

8:30 a.m.–8:45 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding conduct of the meeting and comment briefly regarding items of current interest. During this session, the Committee will discuss priorities for preparation of ACRS reports.

8:45 a.m.–10:45 A.M.: Proposed Final Revisions to 10 CFR part 50 and 10 CFR part 100, "Reactor Site Criteria" (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed final revisions to 10 CFR part 50 and 10 CFR part 100, new appendix S to part 50, and associated Regulatory Guides and Standard Review Plan sections. These proposed revisions include relocation of plant design criteria, and source term and dose calculations from 10 CFR part 100 to 10 CFR part 50.

Representatives of the nuclear industry will participate, as appropriate.

11 a.m.–12:30 p.M.: Severe Accident Research (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the domestic and foreign research activities in the severe accident area, NRC severe accident codes (e.g., MELCOR, SCDAP/RELAP5, CONTAIN, and VICTORIA), and related matters.

Representatives of the nuclear industry will participate, as appropriate.

11:30 p.m.–3 p.m.: Graded Quality Assurance Program (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the Graded Quality Assurance Program and related matters.

Representatives of the nuclear industry will participate, as appropriate.

3:15 p.m.–4 p.m.: Report of the Planning and Procedures Subcommittee (Open/Closed)—The Committee will hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business, and organizational and personnel matters relating to the ACRS staff.

A portion of this session may be closed to discuss qualifications of candidates nominated for appointment to the ACRS, organizational and personnel matters that relate solely to the internal personnel rules and practices of this Advisory Committee, and matters the release of which would constitute a clearly unwarranted invasion of personal privacy.

4 p.m.–7 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports on matters considered during this meeting as well as proposed ACRS reports on PRA Framework Document and Use of PRA in the Regulatory Process, and Resolution of the Multiple System Responses Program (MSRP) Issues.

Friday, April 12, 1996

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding conduct of the meeting.

8:35 a.m.–10 a.m.: Meeting with the Director of the NRC Office for Analysis and Evaluation of Operational Data (AEOD) (Open)—The Committee will hear presentations by and hold discussions with Mr. Edward Jordan, AEOD Director, on items of mutual interest, including:

- AEOD activities associated with the development of risk-informed and performance-based regulations
- Risk-Based Performance Indicators
- AEOD study on spent fuel pools
- Recent interaction with INPO (training, event analysis, etc.)
- Update on Technical Training Center programs, e.g., Digital I&C, and specialized training of inspection personnel in support of current risk-based methods applications:

—Implementation of Maintenance Rule
—Inservice Inspection
—Inservice Testing

10:15 a.m.–11:15 a.m.: Spent Fuel Project Office Activities (Open)—The Committee will hear a report by the Subcommittee Chairman concerning the matters discussed during the March 26, 1996 joint ACRS/ACNW Subcommittee meeting, including the Spent Fuel Project Office activities, decommissioning, and health effects of low-level radiation. The Committee will also hear presentations by and hold discussions with representatives of the NRC staff regarding activities of the Spent Fuel Project Office, including the proposed Standard Review Plan for dry cask storage systems.

11:15 a.m.–11:45 a.m.: Future ACRS Activities (Open)—The Committee will discuss recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the full Committee during future meetings.

11:45 a.m.–12 Noon: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations (EDO) to comments and recommendations included in recent ACRS reports. The EDO responses are expected to be provided to the ACRS prior to the meeting.

1 p.m.–2:15 p.m.: Westinghouse COBRA/TRAC Best-Estimate ECCS Thermal Hydraulic Code (Open/Closed)—The Committee will hear presentations by and hold discussions with representatives of the Westinghouse Electric Corporation and the NRC staff regarding response to ACRS concerns related to the Westinghouse COBRA/TRAC Best-Estimate ECCS Thermal Hydraulic Code.

A portion of this session may be closed to discuss Westinghouse proprietary information applicable to this matter.

2:15 p.m.–2:45 p.m.: Use of RuleNet in the Rulemaking Process (Open)—The Committee will hear presentations by and hold discussions with representatives of the Nuclear Energy Institute regarding the experience gained through the use of RuleNet in the rulemaking process.

Representatives of the NRC staff will participate, as appropriate.

3 p.m.–7 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports on matters considered during this meeting as well as proposed ACRS reports on PRA Framework Document and Use of PRA in the Regulatory Process, and Resolution of the Multiple System Responses Program (MSRP) Issues.

Saturday, April 13, 1996

8:30 a.m.–11:30 a.m.: Preparation of ACRS Reports (Open)—The Committee will continue discussion of proposed ACRS reports on matters considered during this meeting as well as the proposed reports on other matters noted above.

11:45 a.m.–1 p.m.: Strategic Planning (Open)—The Committee will discuss items that are of significant importance to NRC, including rebaselining of the Committee activities for FY 96–97.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on September 27, 1995 (60 FR 49925). In accordance with these procedures, oral or written statements may be presented by members of the public, electronic recordings will be permitted only during the open portions of the meeting, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify Mr. Sam Duraiswamy, Chief, Nuclear Reactors Branch, at least five days before the meeting, if possible, so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the Chief of the Nuclear Reactors Branch prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Chief of the Nuclear Reactors Branch if such rescheduling would result in major inconvenience.

In accordance with subsection 10(d) Pub. L. 92–463, I have determined that it is necessary to close portions of this meeting noted above to discuss matters that relate solely to the internal personnel rules and practices of this Advisory Committee per 5 U.S.C. 552b(c)(2), to discuss Westinghouse proprietary information per 5 U.S.C. 552b(c)(4), and to discuss matters the release of which would constitute a clearly unwarranted invasion of personal privacy per 5 U.S.C. 552b(c)(6).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting Mr. Sam Duraiswamy, Chief, Nuclear Reactors Branch (telephone 301/415–7364), between 7:30 A.M. and 4:15 P.M. EST.

ACRS meeting notices, meeting transcripts, and letter reports are now available on FedWorld from the "NRC MAIN MENU." Direct Dial Access number to FedWorld is (800) 303–9672; the local direct dial number is 703–321–3339.

The 432nd ACRS meeting date has been changed to June 12–15, 1996.

Date: March 19, 1996.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 96–7143 Filed 3–22–96; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Meeting of the President's Committee of Advisors on Science and Technology

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and summary agenda for a meeting of the President's Committee of Advisors on Science and Technology (PCAST), and describes the functions of the Committee. Notice of this meeting is required under the Federal Advisory Committee Act.

DATES AND PLACE: April 18–19, 1996. The White House Conference Center, Truman Room, Third Floor, 726 Jackson Place NW, Washington, DC 20500.

TYPE OF MEETING: Open.

PROPOSED SCHEDULE AND AGENDA: The PCAST will meet in open session on Thursday, April 18, 1996, at approximately 9:00 AM on current activities of the Office of Science and Technology Policy (OSTP) and the National Science and Technology Council (NSTC). This session will end at approximately 12:00 Noon. The Committee will reconvene in open session at approximately 1:30 PM to discuss science and technology policies of national importance. This session will end at approximately 5:00 PM.

The Committee will meet again in open session on Friday, April 19, 1996, at approximately 9:00 AM, for a general discussion among Committee members and other Executive Office staff about future PCAST activities. This session will end at approximately 12:00 Noon.

Any of the morning or afternoon sessions may be interrupted for the PCAST to gather at the White House to be introduced to the President and/or Vice President of the United States.

FOR FURTHER INFORMATION: For information regarding time, place, and agenda, please call Evelyn Diaz, at (202) 456–6100, prior to 3:00 PM on Friday, April 12, 1996. Other questions may be directed to Angela Phillips Diaz, Executive Secretary of PCAST, or Elizabeth M. Gunn, Senior Policy Analyst for PCAST, at (202) 456–6100. Please note that public seating for this meeting is limited, and is available on a first-come, first-served basis.

SUPPLEMENTARY INFORMATION: The President's Committee of Advisors on Science and Technology was established on November 23, 1993, by Executive Order 12882, as amended, and continued through September 30, 1997, by Executive Order 12974. The purpose of PCAST is to advise the President on matters of national importance that have significant science and technology content, and to assist the President's National Science and Technology Council in securing private sector participation in its activities. The Committee members are distinguished individuals appointed by the President from non-Federal sectors. The PCAST is co-chaired by John H. Gibbons, Assistant to the President for Science and Technology, and by John Young, former President and CEO of Hewlett-Packard Company.

Dated: March 4, 1996.

Barbara Ann Ferguson,

Assistant Director for Budget and Administration, Office of Science and Technology Policy.

[FR Doc. 96–5569 Filed 3–22–96; 8:45 am]

BILLING CODE 3170–01–P

PEACE CORPS

Information Collection Requests Under OMB Review

AGENCY: Peace Corps.

ACTION: Notice of public use form review request to the Office of Management and Budget.

SUMMARY: Pursuant to the Paperwork Reduction Act (44 U.S.C. chapter 35) this notice announces that the information collection requests abstracted below have been forwarded to the Office of Management and Budget for emergency clearance and for review and comment. A copy of the information collection may be obtained from Stuart Moran, Office of Volunteer Recruitment and Selection, United States PEACE CORPS, 1990 K Street, NW., Washington, DC 20526. Mr. Moran may be contacted by telephone at (202) 606–2080. Comments on these forms should be addressed to Victoria Becker Wassner, Desk Officer, Office of Management and Budget, NEOB, Washington, DC 20503.

Information Collection Abstract

Title: Peace Corps Reference Form.

Need for and Use of this Information: Peace Corps needs this information in order to process applicants for Volunteer service. The information is used to determine suitability of applicants.

Respondents: Individuals who voluntarily agree to serve as references for Peace Corps applicants.

Respondents Obligation to Reply: Voluntary.

Burden on the Public:

a. Annual reporting burden: 13,692
b. Annual record keeping burden: 0 hr
c. Estimated average burden per response: 30 minutes
d. Frequency of response: one time
e. Estimated number of likely respondents: 27,384.

This notice is issued in Washington, DC on March 19, 1996.

Stanley D. Suyat,

Associate Director for Management.

Brian Sutherland,

Certifying Officer, Peace Corps.

[FR Doc. 96–7066 Filed 3–22–96; 8:45 am]

BILLING CODE 6051–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–21830; File No. 812–9858]

National Integrity Life Insurance Company, et al.

March 18, 1996.

AGENCY: The Securities and Exchange Commission (the "Commission").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 ("1940 Act").

APPLICANTS: National Integrity Life Insurance Company ("National Integrity"), Separate Account I of National Integrity Life Insurance Company ("Separate Account I"), Separate Account II of National Integrity Life Insurance Company ("Separate Account II," and together with Separate Account I, the "Separate Accounts") and SBM Financial Services, Inc. ("SBM").

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) of the 1940 Act granting exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act.

SUMMARY OF THE APPLICATION: Applicants seek an order under Section 6(c) of the 1940 Act granting exemptions from Sections 26(a)(2)(C) and 27(c)(2) to the extent necessary to permit the deduction of a mortality and expense risk charge from the assets of the Separate Accounts or other separate accounts established by National Integrity ("Other Separate Accounts") to support certain flexible premium variable annuity contracts ("Contracts") as well as other variable annuity contracts that are substantially similar in all material respects to the Contracts ("Future Contracts"). In addition, Applicants request that such exemptive relief extend to any broker-dealer other than SBM which may serve in the future as principal underwriter in respect of the Contracts or of Future Contracts offered by National Integrity and made available through the Separate Accounts or the Other Separate Accounts.

FILING DATES: The application was filed on November 21, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the SEC and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 12, 1996, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requestor's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Applicants, Kevin L. Howard, Esq., National Integrity Life Insurance Company, 239 S. Fifth Street, 12th Floor, Louisville, Kentucky 40202.

FOR FURTHER INFORMATION CONTACT: Mark C. Amorosi, Attorney, or Patrice M. Pitts, Special Counsel, Office of Insurance Products (Division of Investment Management), at (202) 942–0670.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from the Public Reference Branch of the SEC.

Applicants' Representations

1. National Integrity, a stock life insurance company, is organized in New York and is licensed to sell life insurance and annuities in eight states and the District of Columbia and variable contracts in six states and the District of Columbia. National Integrity is an indirect wholly-owned subsidiary of ARM Financial Group, Inc. ("ARM Financial").

2. Separate Account I, formerly known as Separate Account NIA, and Separate Account II, formerly known as Separate Account SFN, were established on May 19, 1986, and May 21, 1992, respectively, as separate accounts under New York insurance law to fund the Contracts. The Separate Accounts are registered under the 1940 Act as unit investment trusts. Interests in the Contracts are registered as securities under the Securities Act of 1933. Each Separate Account is divided into ten investment divisions ("Divisions"), each of which invests solely in shares of a registered open-end management investment company.

3. Integrity Financial Services, Inc. ("IFS"), currently the principal underwriter of the Contracts, is registered with the Commission under the Securities Exchange Act of 1934 (the "1934 Act") as a broker-dealer and is a member of the NASD.[1] Applicants now seek to substitute SBM for IFS as the principal underwriter for the Contracts. Upon issuance of the requested order, National Integrity, the Separate Accounts, and SBM will enter into an agreement under which SBM will become principal underwriter for the Contracts. SBM, a wholly-owned subsidiary of ARM Financial, is registered with the Commission under the 1934 Act as a broker-dealer and is a member of the NASD.

4. The Contracts are flexible premium variable annuity contracts. Contract owners ("Participants") may allocate premium payments to one or more of the Separate Accounts' Divisions, or to

[1] Applicants state that the Commission has previously granted relief to National Integrity, Separate Account NIA and IFS permitting the deduction of mortality and expense risk charges from the assets of Separate Account NIA in connection with the Contracts. See Investment Company Act Release Nos. 15355 (Oct. 10, 1986) (notice) and 15406 (Nov. 7, 1986) (order). In addition, Applicants state that the Commission has previously granted similar relief to National Integrity, Separate Account SFN and IFS. See, Investment Company Act Release Nos. 19052 (Oct. 26, 1992) (notice) and 19121 (Nov. 24, 1992) (order). Applicants are not requesting that the order sought herein amend or supercede the orders referenced above.

one or more of National Integrity's guarantee periods, or both. Amounts allocated to guarantee periods accumulate on a fixed basis, except as adjusted for any applicable market value adjustment.

5. A death benefit is available under the Contracts if a Participant dies prior to his or her retirement date. The amount of the death benefit is equal to the greatest of: (1) the Participant's annuity value; (2) the minimum death benefit, which equals total contributions less the sum of the market value adjusted withdrawals: and (3) the Participant's highest annuity value at the beginning of any participation year, plus subsequent contributions and minus subsequent withdrawals ("Enhanced Death Benefit").

6. Retirement benefits under the Contracts may take the form of a lump sum payment or an annuity. The retirement benefits are calculated as of the retirement date selected by the Participant. If no annuity payment option is elected by the retirement date, National Integrity will deem the retirement date to have been extended, and the values under the Participant's Contract in the Divisions or in the guarantee periods will remain invested in those Divisions or guarantee periods until National Integrity receives the Participant's written instructions at its administrative office.

7. Certain charges and fees are assessed under the Contracts. Until annuity payments begin, Participants may transfer their Contract values among Divisions of the relevant Separate Account and the relevant guarantee periods, except that transfers to any guarantee period must be to a newly elected guarantee period at the current guaranteed interest rate. No fee currently is imposed for a Participant's first twelve transfers per participation year. National Integrity reserves the right to impose a fee of up to $25 for each transfer in excess of twelve per participation year. The transfer fee will be paid to National Integrity to compensate it for the anticipated actual administrative expenses relating to transfers and is guaranteed not to increase during the life of the Contracts. In addition, Applicants reserve the right to impose a transfer fee in connection with Future Contracts of up to $25 on transfers beginning with the first transfer of Contract values in any participation year. No charges will be assessed for transfers made under National Integrity's dollar cost averaging program.

8. A contingent deferred sales charge ("CDSC") may be imposed on certain withdrawals. Applicants state that contributions withdrawn will be subject to a CDSC of up to 7% of the total amount of the withdrawal requested, as adjusted for any applicable market value adjustment made in respect of withdrawals from the general account, plus the CDSC itself. Withdrawals made in the current participation year are subject to a CDSC of 7% of the amounts withdrawn or surrendered. Thereafter, the applicable CDSC decreases by 1% per year until reaching 0% after the fifth prior participation year. No CDSC will be applied to partial withdrawals made during any participation year that do not exceed the free corridor amount. National Integrity may waive the CDSC in certain circumstances.

9. If a Participant's Contract value is less than $50,000 on the last day of any participation year prior to the Participant's retirement date, National Integrity charges an annual administrative charge of $30. All Contracts are subject to a daily charge equal, on an annual basis, to 0.15% of the net asset value of the relevant Separate Account to cover Contract administration expenses. These daily and annual fees are guaranteed for the life of the Contracts and will not exceed the cost of services to be provided over the life of the Contract, defined in accordance with the standards in Rule 26a-1 under the 1940 Act.

10. National Integrity imposes charges as compensation fro bearing certain mortality and expense risks under the Contracts. The amount of the mortality and expense risk charges under the Contracts is equal, on an annual basis, to 1.20% (of which 0.35% is attributable to mortality risks and 0.85% to expense risks) of the daily net asset value of the relevant Separate Account. For the Future Contracts, the annual mortality and expense risk charge will not exceed an effective annual rate of 1.20% of the daily net asset value of a Separate Account, or of Other Separate Accounts, attributable to such Future Contracts.

11. The mortality risk assumed by National Integrity under the Contracts arises from its obligation to make annuity payments (determined in accordance with the annuity tables and other provisions contained in the relevant Contract) where a life annuity is selected, regardless of how long an annuitant may live. The mortality risk under the Contracts is the risk that, upon selection of an annuity option that has life contingencies, annuitants will live longer than National Integrity's actuarial projections, resulting in higher than expected income payments. National Integrity is also assuming a mortality risk as a result of its promise to pay a minimum death benefit and the Enhanced Death Benefit. The expense risk assumed by National Integrity is that the administrative charges will be insufficient to cover the actual cost of administering the Contracts.

Applicants' Legal Analysis

1. Section 6(c) of the 1940 Act authorizes the Commission, by order upon application, to conditionally or unconditionally grant an exemption from any provision, rule or regulation of the 1940 Act to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

2. Section 26(a)(2)(C) and 27(c)(2) of the 1940 Act, in relevant part, prohibit a registered unit investment trust, its depositor or principal underwriter, from selling periodic payment plan certificates unless the proceeds of all payments, other than sales loads, are deposited with a qualified bank and held under arrangements which prohibit any payment to the depositor or principal underwriter except a reasonable fee, as the Commission may prescribe, for performing bookkeeping and other administrative duties normally performed by the bank itself.

3. Applicants request an order under Section 6(c) exempting them from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to the extent necessary to permit the deduction of the mortality and expense risk charge from the assets of the Separate Accounts or Other Separate Accounts that issue the Contracts or Future Contracts. Applicants also propose that SBM replace IFS as principal underwriter for the Contracts, and that the relief requested in this application extend to any broker-dealer other than SBM which may serve in the future as principal underwriter in respect of the Contracts or of Future Contracts offered by National Integrity and made available through the Separate Accounts or the Other Separate Accounts. Any such principal underwriter will be wholly-owned, directly or indirectly, by ARM Financial.

4. Applicants submit that their request for an order is appropriate in the public interest. Such an order would promote competitiveness in the variable annuity contract market by eliminating the need for National Integrity to file redundant exemptive applications, thereby reducing National Integrity's administrative expenses and maximizing the efficient use of its resources. The delay and expense involved in repeatedly having to seek exemptive relief would impair National Integrity's ability effectively to take advantage of business opportunities as these opportunities arise. Applicants further submit that the requested relief is consistent with the purposes of the 1940 Act and the protection of investors for the same reasons. If National Integrity were required repeatedly to seek exemptive relief with respect to the same issues addressed in this application, investors would not receive any benefit or additional protection thereby.

5. Applicants represent that they have reviewed publicly-available information regarding the aggregate level of the mortality and expense risk charges under variable annuity contracts comparable to the Contracts currently being offered in the insurance industry, taking into consideration such factors as current charge levels, the manner in which charges are imposed, the presence of charge level or annuity rate guarantees and the markets in which the Contracts will be offered. Based upon the foregoing, Applicants represent that the mortality and expense risk charges under the Contracts are within the range of industry practice for comparable contracts. Applicants will maintain at the headquarters of Arm Financial and make available to the Commission, upon request, a memorandum outlining the methodology underlying this representation. Similarly, prior to making available any Future Contracts through the Separate Accounts or Other Separate Accounts, Applicants will represent that the mortality and expense risk charges under any such contracts will be within the range of industry practice for comparable contracts. Applicants will maintain at the headquarters of Arm Financial and make available to the Commission, upon request, a memorandum outlining the methodology under lying such representation.

6. Applicants do not believe that the CDSC under the Contracts will necessarily cover the expected costs of distribution the Contracts. Any shortfall will be made up from National Integrity's general account assets which will include amounts derived from mortality and expense risk charges. National Integrity has concluded that there is a reasonable likelihood that the distribution financing arrangement being used in connection with the Contracts will benefit the Separate Accounts and the Participants. National integrity will maintain at the headquarters of Arm Financial and make available to the Commission, upon request, a memorandum setting forth the basis for this representation. Similarly, National Integrity will maintain at the headquarters of Arm Financial and make available to the Commission, upon request, a memorandum setting forth the basis for the same representation with respect to Future Contracts offered by the Separate Accounts or by Other Separate Accounts.

7. Applicants represent that the Separate Accounts and Other Separate Accounts will invest only in a management investment company which has undertaken, in the event such company adopts a plan under Rule 12b-1 under the 1940 Act to finance distribution expenses, to have a board of directors or trustees, a majority of whom are not "interested persons" of the company within the meaning of Section 2(a)(19) of the 1940 Act, formulate and approve any plan under Rule 12b-1 to finance distribution expenses.

Conclusion

Applicants assert that, for the reasons and upon the facts set forth above, the requested exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to deduct the mortality and expense risk charge under the Contracts are necessary and appropriate in the public interest and consistent with the protection of investors and the policies and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96-7155 Filed 3-22-96; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-21831; File No. 812-9784]

Princor Balanced Fund, Inc., et al.

March 19, 1996.

AGENCY: Securities and Exchange Commission ("Commission" or "SEC").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Princor Balanced Fund, Inc., Princor Blue Chip Fund, Inc., Princor Capital Accumulation Fund, Inc., Princor Emerging Growth Fund, Inc., Princor Growth Fund, Inc., Princor World Fund, Inc., Princor Bond Fund, Inc., Princor Cash Management Fund, Inc., Princor Government Securities Income Fund, Inc., Princor High Yield Fund, Inc., Princor Utilities Fund, Inc. (collectively, the "Funds"), Princor Financial Services Corporation ("Princor") and Principal Mutual Life Insurance Company ("Principal Mutual").

RELEVANT 1940 ACT SECTIONS: An order of the Commission is requested under Section 11(a) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an order approving the terms of an offer of exchange by the Funds and Princor to certain holders of participation certificates under variable annuity contracts (the "Contracts") issued by Separate Account B ("Account B") and Separate Account C ("Account C," and together with Account B, the "Accounts") of Principal Mutual.

FILING DATE: The application was filed on September 27, 1995, and amended on March 13, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 15, 1996, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, Michael D. Roughton, Esq., The Principal Financial Group, Des Moines, Iowa 50392-0300.

FOR FURTHER INFORMATION CONTACT: Mark C. Amorosi, Attorney, or Patrice M. Pitts, Special Counsel, Office of Insurance Products (Division of Investment Management), at (202) 942-0670.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from the Public Reference Branch of the Commission.

Applicants' Representations

1. Each Fund was organized by Principal Mutual as a Maryland corporation and is registered under the 1940 Act as an open-end, diversified, management investment company. Each Fund has two classes of shares, "A Shares" (which are sold with a front-end sales load of up to 4.75%) and "B Shares" (which, for the Funds other than the Princor Cash Management Fund, are sold with a deferred sales load of up to 4% that declines to 0% after the sixth year). The Funds have a wide range of investment objectives.

2. Princor is an indirect, wholly-owned subsidiary of Principal Mutual. Princor is registered with the Commission as a broker-dealer and is a member of the NASD. Princor is the principal underwriter for each of the Funds and for the variable annuity contracts issued by the Accounts.

3. The investment adviser of each of the Funds is Princor Management Corporation ("PMC"), an indirect wholly-owned subsidiary of Principal Mutual. The investment sub-adviser of each Fund other than the Princor Bond Fund, the Princor Cash Management Fund and the Princor High Yield Fund is Invista Capital Management, Inc., which is also an indirect wholly-owned subsidiary of Principal Mutual.

4. The Funds' expense ratios for their last fiscal year ranged from a low of 0.70% [1] for the Princor Cash Management Fund to a high of 1.74% for the Princor Emerging Growth Fund and the Princor World Fund.

5. The Contracts are group variable annuity contracts issued by Account B and Account C of Principal Mutual, a mutual life insurance company. The Contracts issued by Account B are designed for use in connection with tax-deferred retirement plans, including plans or programs adopted by public school systems or other agencies of a state or its subdivisions or certain tax exempt organizations pursuant to Section 403(b) of the Internal Revenue Code of 1986, as amended (the "Code"), and individual retirement annuity plans or programs adopted pursuant to Section 408 of the Code. The Contracts issued by Account C are designed for use in conjunction with qualified plans adopted pursuant to Section 401(a) of the Code. Applicants state that the Contracts are not being offered to new groups but continue to be offered to participants in existing group contracts, including new participants.

6. The Contracts have a contingent deferred sales load ("CDSL") that declines from 7% to 0% of the amount withdrawn over a period of ten years. In no case will the CDSL exceed 9% of payments relating to the amounts withdrawn.

7. Applicants state that the Contracts have an administration charge of $25 per year for each participant and an asset-based administrative charge. That asset-based administrative charge is 0.50% of the first $50,000 of Contract value of a participant. If payments for a participant under a Contract are made as part of a retirement plan sponsored by, or program of, the employer of a participant and Principal Mutual receives all of that portion of the payments under such a plan or program which is directed to annuity contracts for all employees participating in the plan or program, then the percentage of the asset-based administration charge will be computed by dividing 0.50% of the first $50,000 of Contract value of a participant by the total Contract value of all that employer's participants. In some cases, employers pay all or a portion of those administration charges for their participants.

8. A mortality and expense risk charge of up to 2.00% of the assets of the issuing Account may be deducted under the Contracts. Currently, Applicants state that this charge is 1.4965% (1.0001% for a rollover individual retirement annuity). An increase to more than 1.75% would require approval of the Commission.

9. There is no charge for transfers under the Contracts, but such transfers are limited to two per twelve month period, absent consent of Principal Mutual. State premium taxes are deducted at annuitization or from payments, in accordance with applicable state laws.

10. The expense ratios of the three underlying funds which serve as the investment vehicle for the Accounts were 0.51%, 0.55% and 0.60% on an annual basis in their last fiscal year. Applicants state that when the underlying fund expenses are added to the 1.4965% current mortality and expense risk charge of the Contract, the ongoing expense of the Contracts ranges from 2.0065% to 2.0965%, excluding the $25 per year administration fee and any applicable asset-based administration charges, and disregarding the possibility of an increase in the mortality and expense risk charge to 1.75% without Commission approval or to 2.00% with Commission approval. For Contracts sold as rollover individual retirement annuities, the range of such expenses is 1.5101% to 1.6001%, also excluding administration charges and disregarding the possibility of increases in the mortality and expense risk charge.

11. Class A Shares of the Funds will be offered to holders of participation certificates issued under the Contracts. Any exchange pursuant to the offer will be at relative net asset value (i.e., immediately after an exchange, the aggregate value of the shares of the Fund or Funds acquired will be identical to the participant's cash value under the Contract immediately prior to the exchange). Applicants state that no administrative fee or any other charge will be imposed for effecting the exchange. However, Principal Mutual reserves the right to deduct the annual $25 Contract administration fee due at the time an exchange is effected. The CDSL on the Contracts exchanged for Fund shares will not be imposed, and no front-end load of a Fund will be deducted from the proceeds exchanged for Fund shares.

12. Applicants state that the exchange offer will be conveyed to offerees by written materials and by telephone contact by registered representatives of Princor. Each offeree who expresses interest in the exchange offer will be mailed a combined prospectus for the Funds. Accompanying the prospectus will be sales literature that has been approved by the NASD and a cover letter. The sales literature and cover letter will highlight the differences between the Principal Mutual Contracts and shares of the Funds and the terms of the exchange offer. Interested offerees will then be contacted again by telephone by registered representatives of Princor who will be compensated by a payment of 1% of the amounts exchanged, but that compensation will be paid entirely by Princor and not by any holder of a Contract who accepts the exchange offer.

13. The exchanges will be effected as direct transfers and direct rollovers and will not have adverse tax consequences for offerees who accept the exchange offer.

Applicants' Legal Analysis

1. Section 11(a) of the 1940 Act makes it unlawful for a registered open-end investment company or any principal underwriter for such a company to make or cause to be made an offer to the holder of a security of such company or of any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission or are in accordance with such rules and regulations as the Commission may have prescribed in respect of such offers which are in effect at the time such offer is made.

2. Section 11(c) of the 1940 Act provides that, irrespective of the basis of exchange, subsection (a) shall be applicable to any type of offer of exchange of the securities of registered unit investment trusts for the securities of any other investment company.

3. Applicants maintain, for the reasons set forth below, that the terms of the proposed offer of exchange do not involve any of the "switching" (i.e., offer of exchange made solely for the purpose of assessing additional selling charges) abuses that led to the adoption of Section 11 of the 1940 Act.

4. Applicants state that the exchange will be made on the basis of relative net asset value (i.e., immediately after an exchange, the cash value of the Fund shares acquired will be identical to the participant's cash value under the Contract immediately prior to the exchange). Further, no CDSL will be applicable to Fund shares acquired as part of the exchange, and no administrative fee or sales load will be deducted at the time of the exchange. Applicants state that the exchanges will not have adverse tax consequences for offerees who accept the exchange offer because the exchanges proposed would be made as direct rollovers or direct transfers.

5. Applicants state that Funds with investment objectives comparable to those of the investment options under the Contracts will be available through the exchange offer. In addition, Funds with a much wider variety of investment objectives will be available through the exchange offer than are currently available under the Contracts. Furthermore, Applicants state that the expenses of the Funds are generally lower than the combined expenses and fees of the Accounts and the investment companies in which the Accounts invest. Accordingly, those who accept the exchange offer should incur lower expenses as Fund shareholders than as Contract participants.

6. Applicants assert that compensation by Princor to its registered representatives for successfully soliciting exchanges under the terms and circumstances, which includes no payment of additional sales loads or charges by those accepting the exchange offer, does not adversely affect the public interest or impair investor protection in any way.

7. Applicants have consented to the following conditions:

(a) No redemption or administrative fee will be imposed in connection with the proposed exchanges unless the fee would be permissible under Rules 11a–2 and 11a–3 for exchanges authorized by these Rules.

(b) At the commencement of the exchange offer, and at all times thereafter, the prospectus or the statement of additional information, as appropriate, of the offering Fund will disclose:

(i) The amount of any administrative or redemption fee, if any, imposed in connection with the exchange transaction; and

(ii) that the exchange offer is subject to termination and its terms are subject to change.

(c) Whenever the exchange offer is to be terminated or its terms are to be amended materially, any holder of a security subject to that offer shall be given prominent notice of the impending termination or amendment at least 60 days prior to the date of termination or the effective date of the amendment, provided that no notice need be given if, under extraordinary circumstances, either:

(i) there is either a suspension of the redemption of the exchanged security under Section 22(e) of the 1940 Act and the rules and regulations thereunder, or

(ii) the offering Fund temporarily delays or ceases the sale of the security to be acquired because it is unable to invest amounts effectively in accordance with applicable investment objectives, policies and restrictions.

Other than in the circumstances set forth in (c)(i) and (c)(ii) above, Applicants will dispense with the 60 days notice requirement only upon obtaining further relief from the Commission authorizing them to do so.

Conclusion

For the reasons set forth above, Applicants submit that the proposed offer of exchange is consistent with the intent and purpose of Section 11 of the 1940 Act, and that none of the abuses which Section 11 was enacted to prevent are present.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–7156 Filed 3–22–96; 8:45 am]

BILLING CODE 8010–01–M

[1] Applicants state that this ratio reflects the impact of a voluntary waiver of advisory fees by PMC. The expense ratio without that waiver during the last fiscal year would have been 0.90%.

[Investment Company Act Release No. 21828; 811–6615]

Prudential Adjustable Rate Securities Fund, Inc.

March 18, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Prudential Adjustable Rate Securities Fund, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on February 7, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 12, 1996 and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, One Seaport Plaza, New York, New York 10292.

FOR FURTHER INFORMATION CONTACT: Sarah A. Buescher, Staff Attorney, at (202) 942–0573, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end management investment company organized as a Maryland corporation. On March 25, 1992, applicant filed a registration statement pursuant to section 8(b) of the act on Form N–1A. The registration statement became effective on June 1, 1992, and the initial public offering commenced on June 10, 1992. Applicant has two classes of shares, Class A and Class B.

2. On May 15, 1995, applicant's board of directors approved an Agreement and Plan of Reorganization and Liquidation (the "Agreement"). The Agreement provided that applicant would transfer its assets to Prudential Government Securities Trust-Short-Intermediate Term Series ("Term Series"), in exchange for shares of Term Series.

3. In order to comply with rule 17a–8, which provides an exemption for mergers of certain affiliated investment companies, applicant's directors determined that the reorganization was in the best interest of applicant and applicant's shareholders and that the interests of existing shareholders would

not be diluted as a result of the reorganization.[1]

4. A proxy statement was filed with the SEC and distributed to applicant's shareholders on or about June 30, 1995. Applicant's shareholders approved the Agreement on August 15, 1995.

5. On November 24, 1995, the reorganization was consummated. Applicant transferred its assets to Term Series and Term Series assumed all of applicant's liabilities in exchange for shares of Term Series based on the relative net asset value per Class A share and Class B share of applicant and a share of Term Series. Following the exchange, applicant liquidated and distributed the Term Series shares to each of its shareholders *pro rata*.

6. The expenses applicable to the reorganization are estimated to be approximately $114,600. Applicant and Term Series agreed that they would pay the expenses in proportion to their respective asset levels. Since all of applicant's assets have been transferred to Term Series and Term Series has assumed all of applicant's liabilities, these expenses will be satisfied from the assets of Term Series.

7. At the time of filing the application, applicant had no assets, and no outstanding debts or liabilities. Applicant has no shareholders and is not a party to any litigation or administrative proceeding. Applicant is not presently engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding-up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–7070 Filed 3–22–96; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21829; 811–5185]

Target Unit Investment Trust; Notice of Application

March 18, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Target Unit Investment Trust.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATES: The application was filed on November 6, 1995 and amended on March 12, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 12, 1996, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 60 Broad Street, New York, New York 10004.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 942–0572, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a unit investment trust that was organized under the laws of New York. Applicant consists of five series, S–6 for Corporate High Yield Series 1 through 5 ("Trust Series 1 through 5"). On May 15, 1987, applicant registered under the Act as an investment company. On May 15, 1987, September 24, 1987, February 2, 1988, April 20, 1988, and October 31, 1988, applicant filed registration statements to register its shares under the Securities Act of 1933 for Trust Series 1, 2, 3, 4, and 5, respectively. The registration statements were declared effective on June 24, 1987 January 21, 1988, April 13, 1988, and October 27, 1988 for Trust Series 1, 2, 3, and 4, respectively. Applicant began a public offering for each series after that particular series was declared effective. No initial public offering was commenced for Trust Series 5. Investors Bank and Trust Company ("IBT") and the First National Bank of Chicago serve as co-trustees for applicant. IBT held applicant's assets and performed all administrative and ministerial services.

2. Pursuant to the indenture for each Trust Series, applicant's sponsor Kidder Peabody & Co. Inc. (the "Sponsor"), had the power to terminate a Trust Series whenever the value of the Trust Series was less than 50% of the aggregate principal amount of the securities held by the Trust Series on the initial date of deposit. The value of the securities held by each Trust Series dropped below this value.

3. Upon instructions provided by the Sponsor to IBT, termination notices were sent to unitholders. IBT made a *pro rata* disposition of net assets of each Trust Series to unitholders of record as of the termination date of the respective Trust Series who tendered their units in response to the termination notice. Liquidation payments were made available by IBT within two business days following each Trust Series' termination date.

4. As of March 12, 1996, all assets have been distributed except for those assets relating to 25,438 units in Trust Series 1. Such assets in the amount of $11,829.94 are being held by IBT pending distribution. IBT will continue to hold such assets and will mail a final notice to the unitholders on July 1, 1996. If still unclaimed, the remaining assets, if any, will escheat to the Commonwealth of Massachusetts pursuant to the provisions of state law, and IBT will turn the assets over to the Commonwealth on October 21, 1996. Thereafter, the unitholders must proceed directly against the Commonwealth to make good their claims.

5. Securities held in each Trust Series were liquidated pursuant to the terms of the indenture for each Trust Series at the direction of the Sponsor, who made the trades and provided trade instructions to IBT. With two exceptions, the price received by IBT was in excess of the par value of the securities sold (corporate bonds). There were no commissions or brokerage charges.

6. Pursuant to the provisions of the indenture governing each Trust Series, IBT deducted the amount of expenses and amounts owing from the trust corpus prior to making liquidating payments to unitholders. These expenses were: production and mailing of a final annual report, production of a final tax return, and production

[1] Although purchases and sales between affiliated persons generally are prohibited by section 17(a) of the Act, rule 17a–8 provides an exemption for certain purchases and sales among investment companies that are affiliated persons of each other solely by reason of having a common investment adviser, common directors, and/or common officers.

mailing of termination notices to unitholders.

7. Applicant has no debts or other liabilities that remain outstanding. Applicant is not a party to any litigation or administrative proceeding.

8. Each Trust Series has been terminated under New York law.

9. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–7069 Filed 3–22–96; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21833; 812–10018]

TCW Mid-Cap Growth Stocks Limited Partnership, et al.; Notice of Application

March 20, 1996

AGENCY: Security and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: TCW Mid-Cap Growth Stocks Limited Partnership (the "Partnership"), TCW Galileo Funds, Inc. (the "Company"), TCW Asset Management Company ("TAMCO"), and TCW Funds Management, Inc. (the "Adviser").

RELEVANT ACT SECTIONS: Order requested under section 17(b) of the Act for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit the Partnership to transfer substantially all of its assets and liabilities to a series of the Company in exchange for the series' shares, which then would be distributed *pro rata* to partners of the Partnership.

FILING DATE: The application was filed on February 28, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 15, 1996, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 865 South Figueroa Street, Suite 1800, Los Angeles, California 90017.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 942–0572, or Alison E. Baur, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Partnership is a California limited partnership with an investment objective of seeking long-term growth of capital through investment in publicly-traded equity securities of medium capitalization companies. Investors may purchase and redeem Partnership interests (the "Units") at net asset value on a monthly basis. The Partnership is not registered under the Act in reliance on section 3(c)(1) of the Act. The Units are offered as private placements under section 4(2) of the Securities Act of 1933 and Regulation D promulgated thereunder, and are sold to institutional investors and high net worth individuals.

2. TAMCO and the Adviser are wholly-owned subsidiaries of The TCW Group, Inc. TAMCO serves as the sole general partner and administrator of the Partnership. TAMCO also manages the Partnership's investments.

3. The Company, a Maryland corporation, is a registered open-end investment company formed as a series company. Currently, the Company offers eleven portfolios. The Company proposes to offer a new investment portfolio (the "Fund"), whose investment objectives and policies will be substantially similar to those of the partnership. The Company has entered into an advisory agreement with the Adviser, which will provide investment management services to the Fund that are substantially the same as the services that TAMCO currently provides to the Partnership.

4. Applicants propose that, pursuant to an agreement and plan of exchange, the fund will acquire substantially all of the assets and assume substantially all of the liabilities of the Partnership in exchange for Fund shares (the "Exchange"). Prior to the Exchange, information concerning the Exchange will be delivered to the Partnership's limited partners.

5. Fund shares received by the Partnership will have an aggregate net asset value equivalent to the net asset value of the assets transferred by the Partnership (except for the effect of organizational expenses paid by the Fund). Upon consummation of the Exchange, the partnership will distribute the Fund shares to its partners, with each partner receiving shares having an aggregate net asset value equivalent to the net asset value of the Units held by such partner prior to the Exchange (except for the effect of organizational expenses paid by the Fund). The Partnership may retain assets needed to pay any accrued expenses. The Partnership also may retain assets that the Fund is not permitted to purchase, or that would be unsuitable for the Fund. Assets retained by the Partnership that are not needed to pay accrued expenses will be distribute *pro rata* to the partners of the Partnership. The Partnership will be liquidated and dissolved following the distribution.

6. The agreement governing the Partnership provides that the Partnership may be converted into a registered investment company if the general partner determines that a conversion is in the best interest of the partnership. The agreement expressly provides that no further approval or consent of the limited partners is required for such conversion, so long as at least 60 days' advance written notice is provided to the limited partners. Limited partners who do not wish to participate in the conversion of the Partnership will have adequate opportunity to redeem their Partnership interests before the conversion occurs.

7. The expenses of the Exchange will be borne by TAMCO. No brokerage commission, fee, or other remuneration will be paid in connection with the Exchange. Fund organizational expenses, up to a maximum of $50,000, will be paid by the Fund and amortized over five years. Fund organizational expenses in excess of $50,000 will be paid by the Adviser. Any unamortized organizational expenses associated with the organization of a Fund at the time the Adviser withdraws its initial investment in the Company will be borne by the Adviser and not the Fund.

8. The management fees for the Fund will not exceed the maximum fees currently paid by the Partnership. As of December 31, 1995, there were three limited partners in the Partnership who had an investment of a sufficient

magnitude to qualify for lower advisory fees than those to be charged by the Fund. These limited partners will be given the opportunity to withdraw from the Partnership prior to the Exchange. Applicants expect that other Fund expenses will be relatively higher than Partnership expenses. This is primarily because of the increased operating costs of a registered investment company and compliance with additional regulatory requirements. Through the end of calendar 1996, however, the Adviser will limit annual Fund expenses with the intention of capping Fund expense ratios at levels which would have been incurred during 1996 by the Partnership.

9. Prior to the Exchange, certain limited partners may withdraw from the Partnership and participate in a new limited partnership with similar investment objectives. The new limited partnership will not be registered under the Act in reliance on section 3(c)(1) thereof, and the new partnership interests will not be registered under the Securities Act of 1933 in reliance on section 4(2) thereof.

10. The Fund's board of directors and TAMCO have considered whether the Exchange will be in the best interests of the Company and the Partnership, respectively. All of the members of the Fund's board and TAMCO have approved the Exchange and have concluded that: (a) The Exchange is desirable as a business matter for both the Company and the Partnership; (b) the Exchange is in the best interests of the Company and the Partnership; (c) the Exchange is reasonable and fair, does not involve overreaching, and is consistent with the policies of the Act; (d) the Exchange is consistent with the policies of the Company and the Partnership; and (e) the interests of existing shareholders in the company and existing partners will not be diluted as a result of the Exchange. The Exchange will not effected until the Company has received a favorable opinion of counsel with respect to the tax consequences of the Exchange and the SEC has issued the requested order.

Applicants' Legal Analysis

1. Section 17(a) prohibits affiliated persons of a registered investment company, or affiliated persons of such persons, from selling to or purchasing from such company any security or other property. Section 2(a)(3) of the Act defines an "affiliated person" as, among other things, any person directly or indirectly controlling, controlled by, or under common control with another. The Partnership may be an affiliated person of an affiliated person of the Company because TAMCO is the general partner of the Partnership and because TAMCO and the Adviser are under common control. Thus, the proposed Exchange may be prohibited by section 17(a).

2. Section 17(b) of the Act permits the SEC to exempt a proposed transaction from section 17(a) if evidence establishes that (a) the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policy of the registered investment company concerned; and (c) the proposed transaction is consistent with the general purposes of the Act.

3. The Exchange will permit partners to pursue the same investment objectives and policies as shareholders of the Fund without sacrificing the pass-through tax features of the Partnership. In addition, shareholders of the Partnership. In addition, shareholders of the Fund will be able to purchase and redeem shares on each business day, as opposed to only once per month as is currently provided under the Partnership agreement. Shareholders of the Fund also will be able to shift investments among the eleven existing series of the Company at no charge. The Fund expects that operating as a registered investment company will help encourage net asset growth. For these reasons, among others, applicants believe that the proposed Exchange meets the section 17(b) standards.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–7190 Filed 3–22–96; 8:45 am]

BILLING CODE 8015–01–M

[Release No. 34–36985; File No. S7–24–89]

Joint Industry Plan; Solicitation of Comments on Amendment No. 9 to, and Order Granting Request To Extend Effectiveness of, Reporting Plan for Nasdaq/National Market Securities Traded on an Exchange on an Unlisted or Listed Basis, Submitted by the National Association of Securities Dealers, Inc., and the Boston, Chicago, and Philadelphia Stock Exchanges

March 18, 1996.

On March 15, 1996, the National Association of Securities Dealers, Inc., and the Boston, Chicago, and Philadelphia Stock Exchanges (collectively, "Participants")[1] submitted to the Commission proposed Amendment No. 9 to a joint transaction reporting plan ("Plan") for Nasdaq/National Market securities traded on an exchange on an unlisted or listed basis.[2] Amendment No. 9 would provide for cost allocation and revenue sharing under the Plan among the Participants. By letter attached to the filing, the National Association of Securities Dealers, on behalf of all the Participants, also requests that the Commission extend the effectiveness of the pilot approval of the Plan for an additional six months.[3] This notice and order solicits comment on proposed Amendment No. 9 to the Plan and on certain substantive matters identified below, and extends the effectiveness of the Plan through September 15, 1996.

I. Background

The Commission originally approved the Plan on June 26, 1990.[4] The Plan governs the collection, consolidation, and dissemination of quotation and transaction information for Nasdaq/National Market securities listed on an exchange or traded on an exchange pursuant to UTP. The Commission has extended the effectiveness of the Plan eight times since then to allow the Participants to trade pursuant to the Plan while they finalize their

[1] The signatories to the Plan, i.e., the National Association of Securities Dealers, Inc. ("NASD"), the Chicago Stock Exchange, Inc. ("Chx") (previously, the Midwest Stock Exchange, Inc.), Philadelphia Stock Exchange, Inc. ("Phlx"), and the Boston Stock Exchange, Inc. ("BSE"), are the "Participants." The BSE, however, joined the Plan as a "Limited Participant," and reports quotation information and transaction reports only in Nasdaq/National Market (previously referred to as "Nasdaq/NMS") securities listed on the BSE. Originally, the American Stock Exchange, Inc., was a Participant to the Plan, but did not trade securities pursuant to the Plan, and withdrew from participation in the Plan in August 1994.

[2] Section 12 of the Act generally requires an exchange to trade only those securities that the exchange lists, except that Section 12(f) of the Act permits unlisted trading privileges ("UTP") under certain circumstances. For example, Section 12(f), among other things, permits exchanges to trade certain securities that are traded over-the-counter ("OTC/UTP"), but only pursuant to a Commission order or rule. The present order fulfills this Section 12(f) requirement. For a more complete discussion of this Section 12(f) requirement, *see* November 1995 Extension Order, *infra* note 5, at n. 2.

[3] *See* letter from Robert E. Aber, Vice President, General Counsel and Secretary, Nasdaq, to Mr. Jonathan G. Katz, Secretary, Commission, dated March 15, 1996.

[4] *See* Securities Exchange Act Release No. 28146 (June 26, 1990), 55 FR 27917 ("1990 Approval Order"). For a detailed discussion of the history of UTP in OTC securities, and the events that led to the present plan and pilot program, *see* 1994 Extension Order, *infra* note 5.

negotiations for revenue sharing under the Plan.[5]

As originally approved by the Commission, the Plan required the Participants to complete their negotiations regarding revenue sharing during the one-year pilot period. Recently, the Participants concluded those negotiations, as evidenced by the present filing. The substance of the agreement, as described by the NASD in its March 15 letter,[6] is below.

II. Description of the Proposal

A. Proposed Revenue Sharing Agreement

Under the proposed Revenue Sharing Plan, Exchange Participants will receive annual payments in quarterly installments out of total net distributable operating revenue based on their percentage of total Nasdaq volume,[7] subject to certain specified minimum and maximum payments for an initial period of four-and-one-half years ("buy-in period"). Thereafter, once the "buy-in" period elapses with respect to a particular Exchange Participant, that exchange will receive annual payments in quarterly installments out of total net distributable operating revenue proportional to its percentage of total Nasdaq volume, without regard to any minimum or maximum payment amounts. Plan Participants would not be eligible to receive revenue under the Plan until they have established an automated interface with Nasdaq for the transmission of quotations and transaction information. Once an Exchange Participant is eligible to receive revenue under the Revenue Sharing Plan, that Exchange Participant also will be eligible to receive revenue based on its volume for the preceding twelve-month period, up to the maximum payment amount discussed below.[8]

Specifically, the maximum payment amount for any Exchange Participant will be an amount based on total net distributable operating revenue under the Plan for 1995. This maximum payment amount figure will be calculated and furnished to all Exchange Participants by the NASD by April 30, 1996. Based on revenue calculations performed by the NASD in the last quarter of 1995, it is expected that the maximum payment amount will be somewhere in the range of $820,000 and $880,000, but this figure could be higher or lower depending on the eventual revenue for 1995. Over time, this maximum payment amount will be adjusted upward or downward depending on fluctuations in net operating revenue relative to revenue in 1995. The minimum payment amount for the Chx would be $250,000 and likewise would be adjusted upward or downward depending on fluctuations in net operating revenue relative to revenue in 1995. The minimum payment for other exchanges becoming eligible to receive revenue under the Plan would be set relative to the trading volume of the Exchange Participant with the highest trading volume among Exchange Participants during the year before the Participant became eligible to receive revenue under the Plan. The minimum payment amount to other Exchange Participants also would be adjusted annually in the same manner as that of the Chx. Accordingly, for a period of four-and-one-half years, if an Exchange Participant's share of distributable revenue is less than its minimum payment amount, it would receive the minimum payment amount; if its share is equal to or greater than its minimum payment amount but less than its maximum payment amount, it would receive that share of revenue; and, if its share is greater than the maximum payment amount, it would receive the maximum payment amount. The interim plan found in the proposal for the buy-in period also contains provisions for the pro rata diminution of the minimum payment amount in the event that an Exchange Participant becomes eligible or ineligible to receive revenue during a calendar year. After this initial buy-in period, an Exchange Participant would receive a relative proportion of net distributable operating revenue based on its trading volume.[9]

B. Extension of the Operation of the Plan and Certain Exemptive Relief

First, the Participants request that the Commission extend the operation of the Plan for an additional six months. The NASD, in its letter on behalf of all the Participants, states that the extension of the Plan will afford the Participants an opportunity collectively and cooperatively to address two outstanding issues identified by the Plan Participants and the Commission concerning the operation of the Plan. Specifically, the NASD states that the Plan Participants intend cooperatively to address and resolve: (1) Whether the best bid and offer calculation for the Nasdaq securities subject to the Plan should be based on a price/time/size algorithm (as currently is the case) or a price/size/time methodology; and (2) whether there is a need for an intermarket linkage for routing and executing orders in Nasdaq securities subject to the Plan and an accompanying trade-through rule.

Second, in conjunction with the Plan, on a temporary basis scheduled to expire on March 15, 1996, the Commission granted an exemption from Rule 11Ac1–2 under the Act regarding the calculated best bid and offer ("BBO"), and granted the BSE an exemption from the provision of Rule 11Aa3–1 under the Act that requires transaction reporting plans to include market identifiers for transaction reports and last sale data.

This order extends the operation of the Plan and the above exemptive relief through September 15, 1996. The Commission believes it is appropriate to grant these extensions so that the Participants may conclude their

[5] *See* Securities Exchange Act Release No. 34371 (July 13, 1994), 59 FR 37103 ("1994 Extension Order"). *See also* Securities Exchange Act Release No. 35221 (January 11, 1995), 60 FR 3886 ("January 1995 Extension Order"), Securities Exchange Act Release No. 36102 (August 14, 1995), 60 FR 43626 ("August 1995 Extension Order"), Securities Exchange Act Release No. 36226 (September 13, 1995), 60 FR 49029 ("September 1995 Extension Order"), Securities Exchange Act Release No. 36368 (October 13, 1995), 60 FR 54091 ("October 1995 Extension Order"), Securities Exchange Act No. 36481 (November 13, 1995), 60 FR 58119 ("November 1995 Extension Order"), Securities Exchange Act Release No. 36589 (December 13, 1995), 60 FR 65696 ("December 13, 1995 Extension Order"), Securities Exchange Act Release No. 36650 (December 28, 1995), 60 FR 358 ("December 28, 1995 Extension Order"), and Securities Exchange Act Release No. 36934 (March 6, 1996), 61 FR 10408 ("March 6, 1996 Extension Order").

[6] *See supra* note 3.

[7] An Exchange Participant's percentage of total Nasdaq volume will be based on the average of that Exchange's proportion of total Nasdaq *trade* volume reported to Nasdaq and disseminated to securities information vendors, and total Nasdaq *share* volume reported to Nasdaq and disseminated to securities information vendors.

[8] Because the Chx is the only Exchange Participant that has implemented and maintained an automated interface with Nasdaq for the reporting of transaction and quotation information pursuant to the Plan, the Chx will receive a lump-sum payment of $444,525 payable thirty days after the effective date of the Revenue Sharing Plan. The Commission notes that this amount is based on the following payments for previous periods: (1) For the six-month period ending December 1993, $50,000; (2) for the one-year period ending December 1994, $100,000; and (3) for the period between January 1, 1995 and March 5, 1996, $294,525. For the period March 6 to December 31, 1996, the NASD is scheduled to pay the Chx a pro rata amount of its payment for 1996.

[9] The Commission notes that the NASD, in its letter attached to the present proposed amendment to the Plan, states its strong belief that Participants should address the fact that, absent an additional amendment to the Plan, Participants would have the right to receive revenue for late trade reports. The NASD "believes it is improper to reward a market center for transmitting stale transactions that, at best, have questionable, if any, redeeming economic value to market participants and, at worse, are potentially disruptive to the marketplace." The NASD also notes the numerous benefits that it believes would be derived from limiting Participant's revenues to those associated with timely-reported transactions. *Supra* note 3.

negotiations concerning the above items, and so the Commission will have sufficient opportunity to review any comments it receives on the present notice. Finally, as with previous extensions of this pilot program, this extension will remain in effect only if the Plan continues in effect through that date pursuant to a Commission order.[10] In this regard, the Commission continues to believe that the above extension of exemptive relief is appropriate through September 15, 1996.

III. Comments on the Operation of the Plan

In the January 1995, August 1995, September 1995, October 1995, November 1995, December 13, 1995, December 28, 1995, and March 6, 1996 Extension Orders, the Commission solicited, among other things, comment on: (1) Whether the BBO calculation for the relevant securities should be based on price and time only (as currently is the case) or if the calculation should include size of the quoted bid or offer; and (2) whether there is a need for an intermarket linkage for order routing and execution and an accompanying trade-through rule. The Commission continues to solicit comment on these matters.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the Submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room. All submissions should refer to File No. S7–24–89 and should be submitted by April 15, 1996.

[10] In the March 6 Extension Order, the Commission extended these exemptions through March 15, 1996. Pursuant to a request made by the NASD, this order further extends the effectiveness of the relevant exemptions through September 15, 1996. *See supra*, note 3.

V. Conclusion

The Commission finds that an extension of temporary approval of the operation of the Plan through September 15, 1996, is appropriate and in furtherance of Section 11A of the Act. The Commission finds further that extension of the exemptive relief through September 15, 1996, as described above, also is consistent with the Act and the Rules thereunder. Specifically, the Commission believes that these extensions should serve to provide the Participants with more time to conclude their review of the BBO calculation and make appropriate recommendations concerning the need for an intermarket linkage and/or a trade-through rule now that the Participants have agreed on revenue sharing. This, in turn, should further the objectives of the Act in general, and specifically those set forth in Sections 12(f) and 11A of the Act and in Rules 11Aa3–1 and 11Aa3–2 thereunder.

It is therefore ordered, pursuant to Sections 12(f) and 11A of the Act and (c)(2) of Rule 11Aa3–2 thereunder, that the Participants' request to extend the effectiveness of the Joint Transaction Reporting Plan for Nasdaq/National Market securities traded on an exchange on an unlisted or listed basis and certain exemptive relief through September 15, 1996, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(29).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–7153 Filed 3–22–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36883; File No. SR–OCC–96–01]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change Concerning Choice of Law Provisions in Connection With Amendments to Articles 8 and 9 of the Uniform Commercial Code

March 18, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on January 16, 1996, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments from interested persons.

[1] 15 U.S.C. 78s(b)(1) (1988).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will change the choice of law provisions and other provisions in OCC's by-laws and rules in connection with Illinois' adoption of the 1994 amendments to Articles 8 and 9 of the Uniform Commercial Code ("UCC").

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In 1994, The American Law Institute and the National Conference of Commissioners on Uniform State Laws promulgated amendments to Articles 8 and 9 of the UCC ("1994 amendments"). To a significant degree, the 1994 amendments were adopted in response to the views of the Commission and others that the shortcomings in the provisions of the 1977 version of Articles 8 and 9 of the UCC contributed to the liquidity problems associated with the October 1987 stock market decline. The 1994 amendments were intended to reduce legal uncertainty and to facilitate the transfer of ownership of and creation of security interests in securities as well as other financial assets and investment property, including futures and futures options, through a set of rules designed to apply to the modern securities and futures holding systems.

OCC participated in certain aspects of the drafting process and believes that revised Articles 8 and 9 provide a framework of rules more appropriate to the special characteristics of OCC-cleared securities and for the holding of securities deposited with OCC for margin and for clearing fund purposes. OCC also believes the creation and

[2] The Commission has modified the text of the summaries prepared by OCC.

perfection of security interests arising in connection with cross-margining will be facilitated.[3] Accordingly, OCC believes that the 1994 amendments should govern its operations to the fullest extent possible even though the amendments have not been adopted in all jurisdictions.

Without this rule change, OCC will not receive the benefits of the application of the 1994 amendments despite its adoption in Illinois because OCC's by-laws and rules contain choice of law provisions that select Delaware as the governing law. Although the 1994 amendments have been adopted in Illinois, they have not been adopted in many other jurisdictions, including Delaware, the state of OCC's incorporation. OCC originally adopted the Delaware choice of law provisions to reinforce the provisions of the 1977 version of the UCC under which OCC options were deemed uncertificated securities. Under the conflict of laws rules in the 1977 version of the UCC, the law of the jurisdiction of incorporation of the issuer of uncertificated securities governs the perfection of security interests therein.

Under the 1994 amendments, OCC will function as a "securities intermediary" rather than an issuer of uncertificated securities. Under the new choice of law provisions in the 1994 amendments, the applicable law will be the law of the securities intermediary's jurisdiction, which may be selected by agreement between OCC and its clearing members. In absence of a contrary agreement, OCC believes that Illinois law will apply because under the choice of law rules found in the 1994 amendments, Illinois would be deemed the securities intermediary's jurisdiction. As discussed above, OCC's present choice of law rules were adopted solely to reinforce the choice of law provisions of the 1977 version of the UCC. However, in light of the 1994 amendments, OCC believes that Delaware law no longer has any special relevance. Accordingly, the present rule change will replace those provisions with Illinois choice of law provisions and makes certain other changes intended to create conformity with or a nexus between the terminology of OCC's by-laws and rules and the terminology of the 1994 amendments.

Notwithstanding the adoption of the Illinois choice of law provisions as set forth in this proposed rule change, there still will be situations in which the 1977 version of the UCC will be applicable. This could occur whenever UCC issues arise in a jurisdiction that has not adopted the 1994 amendments and a tribunal in that jurisdiction applies its own choice of law rules. Because the choice of law provisions in the 1977 version of the UCC are mandatory and cannot be altered by agreement, OCC's choice of law rules would not likely be enforceable and therefore Delaware law would be controlling.

Because this possibility exists, OCC is proposing to retain the provisions in its by-laws and rules that were deemed necessary or desirable to manage the application of Delaware law to options transactions. OCC's by-laws and rules presently contain interpretations to alert clearing members and others to the fact that Delaware law will not always govern notwithstanding the choice of law provisions. These interpretations will be adapted to reflect the proposed choice of law change from Delaware law to Illinois law. The effect of this change will be to alert members and others that now Illinois law, instead of Delaware law, may not always govern notwithstanding the choice of law provisions contained in OCC's by-laws.

To accommodate Illinois' adoption of the 1994 amendments, OCC proposes to make the following specific changes in its by-laws and rules. Article I, Section 1 of OCC's by-laws will be amended to add definitions of the terms "lien" and "pledge" to make it clear that these terms refer to a security interest within the meaning of the 1994 amendments. Even though the likelihood of misinterpretation on this point may be remote, OCC believes that the addition of these definitions seems prudent because lien and pledge no longer appear in the provisions of UCC Articles 8 and 9 under the 1994 amendments that are applicable to OCC. Section 1–201(37) of the UCC defines "security interest" broadly but without reference to such common law concepts as lien and pledge, which are subsumed within the amended definition of security interest.

Article 1, Section 1 will be amended further to modify OCC's definition of "rules." In effect, Section 8–111 of the 1994 amendments provides that a rule adopted by a clearing corporation supersedes contrary provisions of the UCC. In order to take full advantage of this provision, OCC has proposed that the definition of rules be amended to make it clear that for purposes of Articles 8 and 9 the term "rules of a clearing agency" as applied to OCC will mean anything deemed to be a rule of a clearing agency under the Act.

Article VI, Section 9(c) of OCC's by-laws will be amended to replace the basic choice of law provision applicable to option holders and writers with respect to cleared securities. Subparagraph 1 of Section 9(c) will contain statements indicating how revised Articles 8 and 9 will apply to OCC and its clearing members with regard to ownership of and security interests in cleared securities. These statements are not intended to alter the substantive operation of Articles 8 and 9 but are intended merely to provide a guide to proper interpretation of Articles 8 and 9. However, UCC Section 8–111 does permit OCC to supersede provisions of the UCC with its own rules. Accordingly, Section 9(c)(1) as proposed sets forth that all cleared securities will be deemed financial assets without the need to consider whether a particular cleared security is a similar obligation to an option as would be required under the regular definition of financial asset set forth in Section 8–102 of the 1994 amendments. Subparagraph 2 of Section 9(c), which essentially is the prior OCC choice of law provision, will remain in place to cover situations where the 1977 version of the UCC is applicable.

OCC Rule 610(g) involves the use of depository receipts and electronic confirmations in connection with specific or bulk deposits made to OCC in lieu margin payments. As proposed in the current filing (File No. SR–OCC–96–01), OCC does not intend to amend Rule 610(g), if the Commission approves SR–OCC–95–17 prior to the current filing.[4] However, if the current rule filing is approved prior to SR–OCC–95–17, OCC has proposed in the current filing certain amendments to Rule 610(g), and OCC will be required to amend SR–OCC–95–17 to reflect the

[3] Currently, there is a two to three week delay before OCC members that also are members of the Chicago Mercantile Exchange ("CME") or the Kansas City Board of Trade ("KCBOT") ("joint members") are eligible to participate in the cross-margining arrangements OCC has with CME and KCBOT ("cross-margining participants"). Prior to participation in these cross-margining arrangements, OCC requires that security interests be created and perfected in securities held by the joint member prior to such member's eligibility as a cross-margining participant. Under the 1977 version of the UCC, one option to perfect a security interest in securities requires the filing of the appropriate financing statements. Filing of the appropriate financing statements and confirmation thereof typically can take from two to three weeks. However, under the 1994 amendments, OCC believes that financing statements no longer will be necessary for perfection purposes. As a result, joint members can become cross-margining participants in a matter of days instead of weeks. Telephone Conversation between Michael G. Vitek, Staff Counsel, OCC, and Mark Steffensen, Attorney, Division of Market Regulation, Commission (February 12, 1996).

[4] On November 2, 1995, OCC filed a proposed rule change (File No. SR–OCC–95–17) to amend OCC Rule 610(g).

changes made to this rule by the current rule filing.[5]

Finally, OCC Rule 614(m) concerning OCC's obligations to pledges under OCC's pledge program will be revised to make clear that certain provisions of this rule which relate to the 1977 version of Articles 8 and 9 will apply only if the 1977 version of the UCC is otherwise applicable.

OCC believes the proposed rule change is consistent with the purposes and requirements of Section 17A of the Act[6] because it will promote the protection of investors by enhancing OCC's ability to safeguard the securities and funds in its possession or subject to its control.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not and are not intended to be solicited by OCC with respect to the proposed rule change and none were received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which OCC consents, the Commission will:

(a) By order approve such proposed rule change or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filings will also be available for inspection and copying at the principal office of OCC. All submissions should refer to the file number SR–OCC–96–01 and should be submitted by April 15, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–7068 Filed 3–22–96; 8:45 am]

BILLING CODE 8010–01–M

[5] SR–OCC–95–17 will amend Rule 610(g) to eliminate the requirement that in certain circumstances a depository has to acknowledge that securities transfers or pledges were effected through book-entry. This requirement arose because in order to effect a securities pledge and the corresponding perfection of a security interest therein or to deposit securities in favor of OCC, the 1977 version of Article 8 required that the pledgor or depositor "transfer" the security to OCC. In order to effect this transfer, Section 8–313 of the 1977 version of the UCC required an acknowledgement by the depository if the securities were delivered by book-entry. Under the 1994 amendments, a transfer pursuant to Section 8–313 is no longer required to effect a securities deposit or pledge. In fact, the entire concept of a transfer requirement in connection with a securities pledge or deposit previously embodied in Section 8–313 of the 1977 version of the UCC has been removed from the 1994 amendments. Under Sections 9–115 and 8–106 of the 1994 amendments, a securities deposit or pledge in favor of OCC with the corresponding perfection of a security interest therein is effected once the transferee or pledge obtains control over the securities. Therefore, depository acknowledgement no longer is required in connection with securities deposits or pledges in favor of OCC involving book-entry delivery of securities.

[6] 15 U.S.C. 78q–1 (1988).

[7] 17 CFR 200.30–3(a)(12) (1995).

[Release No. 34–36984; File No. SR–PSE–96–02]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 to the Proposed Rule Change by the Pacific Stock Exchange, Inc., Relating to the Composition of the Exchange's Options Listing Committee

March 18, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 16, 1996, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Currently, Commentary .01 to PSE Rule 11.10(d) provides that the OLC shall be comprised of (i) four floor brokers; (ii) five market makers or lead market makers; and (iii) one member of the PSE or a general partner or officer of a member organization, or any other person who is considered to be qualified. The PSE proposes to amend PSE Rule 11.10(d), Commentary .01, to provide that the Exchange will attempt, but will not be required, to maintain the composition of the OLC as provided currently under Commentary .01.

The text of the proposed rule change is available at the Office of the Secretary, PSE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Purpose

The PSE proposes to amend PSE Rule 11.10(d), Commentary .01, Commentary .01 currently provides that the OLC shall be comprised of (i) four floor brokers; (ii) five market makers or lead market makers; and (iii) one member of the PSE or a general partner or officer of a member organization, or any other person who is considered to be qualified.

The Exchange proposes to amend Commentary .01 by eliminating the phrase "shall be comprised of" and replacing it with a provision stating that "attempts shall be made" in order for the OLC to have a composition that includes those currently specified in subsections (i) through (iii).

The Exchange believes that Commentary .01 is overly restrictive and that the proposal is appropriate in order to allow for greater flexibility in the committee selection procedure and the process for replacing committee members who resign or change their floor status. The proposal is designed to make Commentary .01 easier to follow and to prevent members from appealing decisions of the OLC on the grounds that the OLC was not authorized to act because its composition did not conform to the requirements of Commentary .01. The PSE represents that the Exchange will make every effort to ensure that the OLC maintains the composition specified in Commentary .01. The Exchange expects that, under the proposal, the composition of the OLC will remain as specified currently in Commentary .01 in virtually all circumstances.[2]

Statutory Basis

the PSE believes that the proposal is consistent with Section 6(b) of the Act, in general, and with Section 6(b)(5), in particular, in that it promotes just and equitable principles of trade, and with Section 6(b)(4), in particular, in that it assures a fair representation of members in the administration of the affairs of the Exchange.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The PSE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by April 15, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

[1] On March 11, 1996, the PSE provided additional information concerning the purpose of the proposal. Specifically, the PSE explained that the proposal is designed to make Commentary .01 to PSE Rule 11.10(d), "Options Listing Committee," easier to follow and to prevent legal appeals of Options Listing Committee ("OLC") decisions on the technical argument that the OLC was not authorized to act because its composition did not conform to the rigid requirements of PSE Rule 11.10(d), Commentary .01. According to the PSE, such an appeal could be made currently if, for example, a non-floor broker is placed in one of the floor broker slots on the OLC because of a shortage of floor brokers willing to serve on the OLC, or if a floor broker on the OLC becomes a market marker mid-year and the OLC decides to retain that member on the OLC. The PSE expects that, under the proposal, the OLC will be composed as specified in Commentary .01 under virtually all circumstances. The Exchange represents that it intends to comply with the spirit of the Commentary and anticipates departures from this general rule only in exceptionally rare circumstances. *See* Letter from Michael D. Pierson, Senior Attorney, Market Regulation, PSE, to Michael Walinskas, Branch Chief, Options Regulation, Division of Market Regulation, Commission, dated March 11, 1996 ("Amendment No. 1").

[2] See Amendment No. 1, *supra* note 1.

[3] 17 CFR 200.30–3(a)(12) (1995).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–7067 Filed 3–22–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36972; File No. SR–Philadep–96–05]

Self-Regulatory Organizations; the Philadelphia Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Making a Technical Correction To Renumber Its Rule Regarding the Release of Clearing Data From Rule 32 to Rule 33

March 14, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on March 8, 1996, The Philadelphia Depository Trust Company ("Philadep") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by Philadep. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to renumber its rule governing the release of clearing data from Rule 32 to Rule 33.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Philadep included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Philadep has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to make a technical amendment to Philadep's rules. On

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] The Commission has modified the text of the summaries prepared by Philadep.

January 19, 1996, the Commission approved a proposed rule change filed by Philadep to adopt a rule governing its authorization to release clearing data.[3] Pursuant to the proposed rule change, Philadep designated the new rule as Rule 32. Because Philadep has designated another rule as Rule 32, Philadep proposes to renumber the foregoing rule governing the release of clearing data as Rule 33.

Philadep believes the proposed rule change is consistent with Section 17A of the Act[4] and the rules and regulations thereunder because the proposal will help to provide clarity with regard to Philadep's rules which should promote the efficient clearance and settlement of securities transactions and the safeguarding of securities and funds in Philadep's custody or control or for which it is responsible.

(B) Self-Regulatory Organization's Statement on Burden on Competition

Philadep does not believe the proposed rule change will impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments were neither solicited nor received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Sections 19(b)(3)(A)(iii)[5] of the Act and pursuant to Rules 19b–4(e)(3)[6] promulgated thereunder because the proposal is concerned solely with the administration of Philadep. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of Philadep. All submissions should refer to File No. SR–Philadep–96–05 and should be submitted by April 15, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–7154 Filed 3–22–96; 8:45 am]

BILLING CODE 8010–01–M

[3] For a complete description of the rule, refer to Securities Exchange Act Release No. 36743 (January 19, 1996), 61 FR 2551 [File No. SR–Philadep–95–06] (order approving a proposed rule change authorizing the release of clearing data.

[4] 15 U.S.C. 78q–1 (1988).

[5] 15 U.S.C. 78s(b)(3)(A)(iii) (1988).

[6] 17 CFR 240.19b–4(e)(3) (1995).

[7] 17 CFR 200.30–3(a)(12) (1995).

DEPARTMENT OF STATE

[Public Notice No. 2360]

Defense Trade Advisory Group; Renewal of Charter and Notice of Upcoming Partially Closed Meeting

The updated Charter of the Defense Trade Advisory Group (DTAG) has been renewed for a two-year period. The Charter was revised for clarification.

The DTAG will meet beginning at 10:00 A.M. on Thursday, May 16, 1996 in the Loy Henderson Conference Room, U.S. Department of State, 2201 C Street, N.W., Washington, D.C. 20520. This advisory committee consists of private sector defense trade specialists who advise the Department on policies, regulations, and technical issues affecting defense trade.

The DTAG will first meet in open session. The open session will include a speaker from the Department of Defense, as well as reports on DTAG Working Group progress, accomplishments, and future projects. Members of the public may attend the open session as seating capacity allows, and will be permitted to participate in the discussion in accordance with the Chairman's instructions.

As access to the Department of State is controlled, persons wishing to attend the meeting must notify the DTAG Executive Secretariat by COB Monday, May 6, 1996. If you notify the DTAG Secretariat after this date, the DTAG Secretariat cannot guarantee that State's Bureau of Diplomatic Security can complete the necessary background checks necessary for you to attend the May 16 plenary.

Each person should provide his/her name, company or organizational affiliation, date of birth, and social security number to the DTAG Secretariat at telephone number (202) 647–4231 or fax number (202) 647–4232 (*Attention:* Unita Williams). A list will be made up for Diplomatic Security and the Reception Desk at the C–Street diplomatic entrance. Attendees must carry a valid photo ID with them. They should enter the building through the C–Street diplomatic entrance (22nd and C Streets, N.W.), where Department personnel will direct them to the Loy Henderson auditorium.

Following the open portion of the meeting, briefings that the Department of State will arrange for DTAG members will involve discussions of classified and/or proprietary information pursuant to Executive Order 12958. The disclosure of classified and/or proprietary information essential to formulating U.S. defense trade policies would substantially undermine U.S. defense trade relations with foreign competitors. Therefore, these segments of the meeting will be closed to the public, pursuant to section 10(d) of the Federal Advisory Committee Act (FACA), 5 U.S.C. Appendix and 5 U.S.C. 552b(c)(1), and 5 U.S.C. 552b(c)(9)(B).

For further information, contact Linda Lum of the DTAG Secretariat, U.S. Department of State, Office of Arms Transfer and Export Control Policy (PM/ATEC), Room 2422 Main State, Washington, D.C. 20520–2422. She may be reached at telephone number (202) 647–0137 or fax number (202) 647–4232.

Dated: March 8, 1996.

Martha C. Harris,

Deputy Assistant Secretary for Export Controls, Bureau of Political-Military Affairs.

[FR Doc. 96–7057 Filed 3–22–96; 8:45 am]

BILLING CODE 4710–25–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

WTO Dispute Settlement Proceedings Concerning U.S. Restrictions on Cotton and Manmade Fiber Underwear from Costa Rica

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; Request for comments.

SUMMARY: Pursuant to section 127(b)(1) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. § 3537(b)(1)), the Office of the United States Trade Representative (USTR) is providing notice that a dispute settlement panel convened under the Agreement Establishing the World Trade Organization (WTO) at the request of Costa Rica will examine a U.S. transitional safeguard restriction on cotton and man-made fiber underwear imports from Costa Rica (category 352/652) applied pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC). USTR also invites written comments from the public concerning the issues raised in the dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before April 22, 1996 in order to be assured of timely consideration by USTR in preparing its first written submission to the panel.

ADDRESSES: Comments may be submitted to the Office of the General Counsel, Attn: Costa Rica Underwear Dispute, Room 223, Office of the U.S. Trade Representative, 600 17th Street, N.W. Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Alicia Greenidge, Special Counsel, at (202) 395–3026 or Demetri Boutris, Associate General Counsel, at (202) 395–3150, Office of the U.S. Trade Representative, 600 17th Street, N.W. Washington, DC 20506.

SUPPLEMENTARY INFORMATION: At the request of Costa Rica, a WTO dispute settlement panel will examine whether the United States application of a transitional safeguard on Costa Rican imports of cotton and man-made fiber underwear is consistent with U.S. obligations under the ATC. Effective June 23, 1995, the United States applied a restriction on imports of cotton and man-made fiber underwear from Costa Rica (category 352/652) (60 FR 32653, June 23, 1995). The U.S. took this action because it determined that such imports were contributing to serious damage or actual threat thereof to the U.S. industry. The U.S. applied the restriction in accordance with Article 6.10 of the ATC, which provides that members taking unilateral action must do so within 30 days after a 60 day consultation period, which did not result in agreement. Pursuant to Article 6.10 of the ATC, the WTO Textiles Monitoring Body (TMB) automatically reviewed the case. After its examination of the case, the TMB determined that there was no serious damage to U.S. industry. However, the TMB reached a deadlock on the issue of threat of serious damage, it recommended further consultations between the U.S. and Costa Rica. No mutual solution was reached in those consultations and upon examination of the reports of the two countries, the TMB confirmed its earlier findings. Costa Rica requested consultations under Articles 4 of the WTO Dispute Settlement Understanding (DSU) and Article XXIII of GATT 1994. Consultations were held on January 18, 1996 and February 1, 1996. No mutual solution was reached during those consultations and Costa Rica requested panel review under the DSU on February 22, 1996.

Members of the panel are currently being selected. The panel will meet with the parties to the dispute twice at WTO headquarters in Geneva, Switzerland to examine the dispute. The panel is expected to issue a report detailing its findings and recommendations in six to nine months.

Major Issues Raised by Costa Rica and Alleged Legal Basis of the Complaint

Costa Rica has asserted that U.S. safeguard action is incompatible with the ATC, particularly Articles 2, 6, and 8; that the action directly or indirectly nullifies or impairs Costa Rica's WTO benefits, particularly under the ATC; and therefore, the U.S. must rescind the measure.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the dispute. The provisions of 15 CFR 2006.13 (a) and (c) providing that comments received will be open to public inspection) and 2006.15 will apply to comments received. Comments must be in English and provided in fifteen copies. Pursuant to 15 CFR 2006.15, confidential business information must be clearly marked "BUSINESS CONFIDENTIAL" in a contrasting color ink at the top of each page.

Pursuant to section 127(e) of the URAA, USTR will maintain a public file on this dispute settlement proceeding, which will include a list of comments received, in the USTR Reading Room: Room 101, Office of the United States Trade Representative, 600 17th Street, N.W., Washington, DC 20506. An appointment to review the docket (Docket WTO/D/96–1, "Costa Rica-United States: U.S. Safeguard Restrictions on Underwear") may be made by calling Brenda Webb, (202) 395–6186. The USTR Reading Room is open to the public from 10 a.m. to 12 noon and 1 p.m. to 4 p.m. Monday through Friday.

Irving Williamson,

Acting General Counsel.

[FR Doc. 96–7093 Filed 3–22–96; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 96–025; Notice 1]

Notice of Receipt of Petition for Decision that Nonconforming 1990 Mercedes-Benz 500SEL Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1990 Mercedes-Benz 500SEL passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that a 1990 Mercedes-Benz 500SEL that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is April 24, 1996.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9:30 am to 4 pm].

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i)(I) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

G&K Automotive Conversion, Inc. of Santa Ana, California ("G&K") (Registered Importer No. R–90–007) has petitioned NHTSA to decide whether 1990 Mercedes-Benz 500SEL passenger cars are eligible for importation into the United States. The vehicle which G&K believes is substantially similar is the 1990 Mercedes-Benz 560SEL. G&K has submitted information indicating that Daimler-Benz A.G., the company that manufactured the 1990 Mercedes-Benz 560SEL, certified that vehicle as conforming to all applicable Federal motor vehicle safety standards and offered it for sale in the United States.

The petitioner contends that it carefully compared the 1990 Mercedes-Benz 500SEL to the 1990 Mercedes-Benz 560SEL, and found the two models to be substantially similar with respect to compliance with most applicable Federal motor vehicle safety standards.

G&K submitted information with its petition intended to demonstrate that the 1990 Mercedes-Benz 500SEL, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as the 1990 Mercedes-Benz 560SEL that was offered for sale in the United States, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the 1990 Mercedes- Benz 500SEL is identical to the certified 1990 Mercedes-Benz 560SEL with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence.* * * *, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 107 *Reflecting Surfaces*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 203 *Impact Protection for the Driver From the Steering Control System*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 211 *Wheel Nuts, Wheel Discs and Hubcaps*, 212 *Windshield Retention*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, and 302 *Flammability of Interior Materials*.

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp; (b) placement of the appropriate symbol on the seat belt warning lamp; (c) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) installation of U.S.-model headlamp assemblies and front sidemarkers; (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarkers; (c) installation of a high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims:* Installation of a tire information placard.

Standard No. 111 *Rearview Mirrors:* replacement of the passenger side rear view mirror, which is convex, but lacks the required warning statement.

Standard No. 114 *Theft Protection:* installation of a buzzer microswitch in the steering lock assembly, and a warning buzzer.

Standard No. 115 *Vehicle Identification Number:* installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 118 *Power Window Systems:* rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection:* installation of a seat belt warning buzzer. The petitioner states that the vehicle is equipped with a driver's side air bag and knee bolster, with Type 2 seat belts in the front and rear outboard designated seating positions, and with a Type 1 seat belt in the rear center designated seating position, which are all identical to components found on the U.S.-certified 1990 Mercedes-Benz 560SEL.

Standard No. 214 *Side Impact Protection:* installation of reinforcing beams.

Standard No. 301 *Fuel System Integrity:* installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

Additionally, the petitioner states that the bumpers on the 1990 Mercedes-Benz 500SEL must be reinforced to comply with the Bumper Standard found in 49 CFR Part 581.

The petitioner also states that before any 1990 Mercedes-Benz 500SEL may be imported, its 17 digit VIN must be inscribed on 14 major car parts and a theft prevention certification label must be installed to comply with the Theft Prevention Standard found in 49 CFR Part 541.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, S.W., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: March 20, 1996.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 96–7148 Filed 3–22–96; 8:45 am]

BILLING CODE 4910–59–P

[Docket No. 96–026; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming 1990 Mercedes-Benz 500SE Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1990 Mercedes-Benz 500SE passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that a 1990 Mercedes-Benz 500SE that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is April 24, 1996.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9:30 am to 4 pm]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202) 366–5306.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i)(I) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR § 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

G&K Automotive Conversion, Inc. of Santa Ana, California ("G&K") (Registered Importer No. R–90–007) has petitioned NHTSA to decide whether 1990 Mercedes-Benz 500SE passenger cars are eligible for importation into the United States. The vehicle which G&K believes is substantially similar is the 1990 Mercedes-Benz 300SE. G&K has submitted information indicating that Daimler Benz A.G., the company that manufactured the 1990 Mercedes-Benz 300SE, certified that vehicle as conforming to all applicable Federal motor vehicle safety standards and offered it for sale in the United States.

The petitioner contends that it carefully compared the 1990 Mercedes-Benz 500SE to the 1990 Mercedes-Benz 300SE, and found the two models to be substantially similar with respect to compliance with most applicable Federal motor vehicle safety standards.

G&K submitted information with its petition intended to demonstrate that the 1990 Mercedes-Benz 500SE, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as the 1990 Mercedes-Benz 300SE that was offered for sale in the United States, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the 1990 Mercedes- Benz 500SE is identical to the certified 1990 Mercedes-Benz 300SE with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence.* * * *, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 107 *Reflecting Surfaces*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 203 *Impact Protection for the Driver From the Steering Control System*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 211 *Wheel Nuts, Wheel Discs and Hubcaps*, 212 *Windshield Retention*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, and 302 *Flammability of Interior Materials*.

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp; (b) placement of the appropriate symbol on the seat belt warning lamp; (c) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) installation of U.S.-model headlamp assemblies and front sidemarkers; (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarkers; (c) installation of a high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 111 *Rearview Mirrors:* replacement of the passenger side rear view mirror, which is convex, but lacks the required warning statement.

Standard No. 114 *Theft Protection:* installation of a buzzer microswitch in the steering lock assembly, and a warning buzzer.

Standard No. 115 *Vehicle Identification Number:* installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 118 *Power Window Systems:* rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection:* installation of a seat belt warning buzzer. The petitioner states that the vehicle is equipped with an automatic restraint system consisting of a driver's side air bag and knee bolster, with Type 2 seat belts in its front and rear outboard seating positions, and with a Type 1 seat belt in the rear center seating position, and that all of these components are identical to those found on the U.S. certified 1990 Mercedes-Benz 300SE.

Standard No. 214 *Side Impact Protection:* installation of reinforcing beams.

Standard No. 301 *Fuel System Integrity:* installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

Additionally, the petitioner states that the bumpers on the 1990 Mercedes-Benz 500SE must be reinforced to comply with the Bumper Standard found in 49 CFR part 581.

The petitioner also states that before any 1990 Mercedes-Benz 500SE may be imported, its 17 digit VIN must be inscribed on 14 major car parts and a theft prevention certification label must be installed to comply with the Theft Prevention Standard found in 49 CFR part 541.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, S.W., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: March 20, 1996.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 96–7151 Filed 3–22–96; 8:45 am]

BILLING CODE 4910–59–P

Petition for Exemption From the Federal Motor Vehicle Theft Prevention Standard; General Motors

AGENCY: National Highway Traffic Safety Administration (NHTSA) Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This notice grants in full the petition of General Motors Corporation (GM) for an exemption of a high-theft line, the Chevrolet Cavalier, from the parts-marking requirements of the Federal Motor Vehicle Theft Prevention Standard. This petition is granted because the agency has determined that the antitheft device to placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard. GM requested confidential treatment for some of the information and attachments submitted in support of its petition. In a letter to GM dated January 18, 1996, the agency granted the petitioner's request for confidential treatment of most aspects of its petition.

DATES: The exemption granted by this notice is effective beginning with model year (MY) 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalind Proctor, Office of Planning and Consumer Programs, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590. Ms. Proctor's telephone number is (202) 366–0846. Her fax number is (202) 493–2739.

SUPPLEMENTARY INFORMATION: In a petition dated December 15, 1995, General Motors Corporation (GM), requested exemption from the parts-marking requirements of the Theft Prevention Standard (49 CFR Part 541) for the Cavalier car line. The petition is pursuant to 49 CFR Part 543, Exemption From Vehicle Theft Prevention Standard, based on the installation of an antitheft device as standard equipment for the entire line.

GM's submittal is considered a complete petition, as required by 49 CFR Part 543.7, in that it met the general requirements contained in § 543.5 and the specific content requirements of § 543.6.

In its petition, GM provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the new line. GM will install its PASSLOCK antitheft device as standard equipment on its MY 1997 Chevrolet Cavalier car line. GM states that this device will provide the same kind of functionality and protection as its "PASS-Key" and "PASS-Key II" systems. GM utilizes a coded lock cylinder on its PASSLOCK device rather than the electronically coded ignition key previously used on in its PASS-Key device. The ignition key in the PASSLOCK device is cut to provide only a mechanical code. The device is activated by turning off the ignition and removing the key.

In order to ensure the reliability and durability of the device, GM conducted tests, based on its own specified standards. GM provided a detailed list of the tests conducted. GM stated its belief that the device is reliable and durable since the device complied with GM's specified requirements for each test. Additionally, GM stated that it will continue to monitor warranty data and make further changes, as necessary, to improve system reliability.

GM compared the PASSLOCK device proposed for the Cavalier car line with its first generation "PASS-Key" and "PASS-Key II" devices which the agency has determined to be as effective in reducing and deterring motor vehicle theft as would compliance with the part-marking requirements. GM stated that the PASSLOCK device provides the same kind of functionality and protection as its predecessors. The new PASSLOCK device was introduced as optional equipment on the MY 1995 Cavalier Z24 and the Pontiac Sunfire GT models. It became standard equipment on all Cavalier and Sunfire models beginning with the 1996 model year. GM believes that its third generation passive antitheft device will be at least as effective as the "PASS-Key" and "PASS-Key II" devices.

GM stated that the thefts as reported by the Federal Bureau of Investigation's National Crime Information Center, are lower for GM "PASS-Key" equipped models having partial exemptions from the parts-marking requirements of 49 CFR Part 541, than the thefts for earlier models with similar appearance and construction, which were parts-marked. Therefore, GM concluded that the "PASS-Key" device was at least as effective in deterring motor vehicle theft as the parts-marking requirements of 49 CFR Part 541. Based on the system performance of "PASS-Key" on other models and the similarity of design and functionality of the PASSLOCK antitheft device to the "PASS-Key" and "PASS-Key II" devices, GM believes that the agency should determine that the PASSLOCK device will be at least as effective in reducing and deterring motor vehicle theft as the parts-marking requirements of the Theft Prevention Standard (49 CFR Part 541).

The agency notes that the reason that the vehicle lines whose theft data GM cites in support of its petition received only a partial exemption from parts-marking was that the agency did not believe that that antitheft system on these vehicles (PASS-Key and PASS-Key II) by itself would be as effective as parts-marking in deterring theft because it lacked an alarm system. On that basis, it decided to require GM to mark the vehicle's most interchangeable parts (the engine and the transmission), as a supplement to the antitheft device. Like those earlier antitheft systems GM used, the new PASSLOCK system on which this petition is based also lacks an alarm system. Accordingly, it cannot perform one of the functions listed in 49 CFR § 542.6(a)(3), that is, to call attention to unauthorized attempts to enter or move the vehicle.

Since deciding those petitions, however, the agency became aware that theft data shows declining theft rates for GM vehicles equipped with either

version of the PASS-Key system. Based on that data, it concluded that the lack of a visual or audio alarm had not prevented the antitheft system from being effective protection against theft and granted two GM petitions for full exemptions for car lines equipped with PASS-Key II. *See* 60 FR 25939 (May 15, 1995) (grant in full of petition for Chevrolet Lumina and Buick Regal car lines equipped with PASS-Key II); and 58 FR 44874 (grant in full of petition for exemption of Buick Riviera and Oldsmobile Aurora car lines of confidential model year equipped with PASS-Key II). In both of those instances, the agency concluded that a full exemption was warranted because PASS-Key II had shown itself as likely as parts-marking to be effective protection against theft despite the absence of a visual or audio alarm.

The agency concludes that, given the similarities between the PASSLOCK system and the PASS-Key and PASS-Key II systems, it is reasonable to assume that PASSLOCK, like those systems, will be as effective as parts-marking in deterring theft. Accordingly, it has granted this petition for exemption in full and will not require any parts to be marked on the Chevrolet Cavalier car line beginning with MY 1997.

The agency believes that the device will provide the types of performance listed in 49 CFR 543.6(a)(3): promoting activation; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

As required by 49 U.S.C. 33106 and 49 CFR 543.6(a)(4) and (5), the agency finds that GM has provided adequate reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information GM provided about its antitheft device. This confidential information included a description of reliability and functional tests conducted by GM for the antitheft device and its components.

For the foregoing reasons, the agency hereby grants in full GM's petition for exemption for the MY 1997 Cavalier car line from the parts-marking requirements of 49 CFR Part 541.

If GM decides not to use the exemption for this line, it must formally notify the agency, and, thereafter, the line must be fully marked as required by 49 CFR 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if GM wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Part 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, § 543.9(c)(2) provides for the submission of petitions "to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption." The agency wishes to minimize the administrative burden with § 543.9(c)(2) could place on exempted vehicle manufacturers and itself.

The agency did not intend in drafting Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis*. Therefore, NHTSA suggests that if the manufacturer contemplates making any changes the effects of which might be characterized as *de minimis*, it should consult the agency before preparing and submitting a petition to modify.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: March 19, 1996.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96–7146 Filed 3–22–96; 8:45 am]

BILLING CODE 4910–59–P

Surface Transportation Board [1]

[STB Docket No. AB–55 (Sub-No. 524X)]

CSX Transportation, Inc.—Abandonment Exemption—In Harlan County, KY

CSX Transportation, Inc. (CSXT) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon approximately 3.23 miles of its line of railroad between milepost WC–262.3 at Cumberland and milepost WC–265.53 at the end of CSXT ownership near Lynch, in Harlan County, KY

CSXT has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to use of this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on April 24, 1996, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29[4] must be filed by April 4, 1996. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by April 15, 1996, with: Office of the Secretary, Case Control Branch, Surface Transportation Board, 1201 Constitution Avenue, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Charles M. Rosenberger, Senior Counsel, CSX Transportation, Inc., 500 Water Street J150, Jacksonville, FL 32202.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

CSXT has filed an environmental report which addresses the abandonments effects, if any, on the environment and historic resources. The Section of Environmental Analysis

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (the Act), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10903.

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[4] The Board will accept late-filed trail use requests so long as the abandonment has not been consummated and the abandoning railroad is willing to negotiate an agreement.

(SEA) will issue an environmental assessment (EA) by March 29, 1996. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Surface Transportation Board, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: March 18, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–7152 Filed 3–22–96; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF VETERANS AFFAIRS

Disciplinary Appeals Board Panel

AGENCY: Department of Veterans Affairs.

ACTION: Notice with request for comments.

SUMMARY: Section 203 of the Department of Veterans Affairs Health Care Personnel Act of 1991 (Pub. L. 102–40), dated May 7, 1991, revised the disciplinary, grievance and appeal procedures for employees appointed under 38 U.S.C. 7401(1). It also required the periodic designation of employees of the Department who are qualified to serve on Disciplinary Appeals Boards. These employees constitute the Disciplinary Appeals Board Panel from which Board members in a case are appointed. This notice announces that the roster of employees on the panel is available for review and comment. Employees, employee organizations, and other interested parties shall be provided (without charge) a list of the names of employees on the panel upon request and may submit comments concerning the suitability for service on the panel of any employee whose name is on the list.

DATES: Names that appear on the panel may be selected to serve on a Board or as a grievance examiner until April 24, 1996.

ADDRESSES: Send requests for the list of the names of employees on the panel and written comments to: Secretary of Veterans Affairs (058A), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, or fax your request to (202) 565–4026.

FOR FURTHER INFORMATION CONTACT:

Jennifer Long or Caren Eirkson, Employee Relations Specialist (058A), Office of Human Resources Management, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 565–8884.

SUPPLEMENTARY INFORMATION: Pub. L. 102–40 requires that the availability of the roster be posted in the **Federal Register** periodically, and not less than annually.

Approved: March 12, 1996.

Jesse Brown

Secretary of Veterans Affairs.

[FR Doc. 96–7090 Filed 3–22–96; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register
Vol. 61, No. 58
Monday, March 25, 1996

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 960223046–6046–1; I.D. 020696E]

RIN 0648–ZA09

Financial Assistance for Research and Development Projects to Strengthen and Develop the U.S. Fishing Industry

Correction

In notice document 96–6490 beginning on page 11190 in the issue of Tuesday, March 19, 1996, make the following correction:

On page 11194, in the first column, the date above the signature "April 12, 1996" should read "March 12, 1996".

BILLING CODE 1505–01–D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–040–06–1230–00]

Fourmile Canyon Campground Use Fee and Supplementary Rules

Correction

In notice document 96–4650 appearing on page 7803, in the issue of Thursday, February 29, 1996, make the following correction:

On page 7803, in the second column, in the second from the last paragraph, in the eighth line, "campsite" should read "campfire".

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8641]

RIN 1545–AN71

Treatment of Acquisition of Certain Financial Institutions; Certain Tax Consequences of Federal Financial Assistance to Financial Institutions

Correction

In rule document 95–30827 beginning on page 66091 in the issue of Thursday, December 21, 1995, make the following correction:

§ 1.597–2 [Corrected]

On page 66097, in the first column, in § 1.597–2(d)(4)(iv), in the third line, remove "9".

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 8657]

Regulations on Effectively Connected Income and the Branch Profits Tax

Correction

In rule document 96–5261 beginning on page 9336 in the issue of Friday, March 8, 1996, make the following correction:

§ 1.884–4 [Corrected]

On page 9341, in the third column, in amendatory instruction 3. to § 1.884–4, "removed" should read "revised".

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

[TD 8537]
RIN 1545–AT76

Backup Withholding, Statement Mailing Requirements, and Due Diligence

Correction

In rule document 95–30733 beginning on page 66105 in the issue of Thursday, December 21, 1995, make the following corrections:

§ 31.3406(b)(2)–2 [Corrected]

1. On page 66116, in the second column, in § 31.3406(b)(2)–2 paragraph (d), in the fourth line, "*obligation*" should read "*obligations*".

§ 31.3406(d)–4 [Corrected]

2. On page 66125, in the first column, in § 31.3406(d)–4, paragraph (a)(4)(i), in the eighth line, at the end insert "1" after the dash.

§ 31.3406(h)–1 [Corrected]

3. On page 66130, in the second column, in § 31.3406(h)–1:

(a) In paragraphs (d), (e) and (f), in the first line, remove the dash.

(b) In paragraph (d), the next paragraph designated (l) should read (1).

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 602

[TD 8644]
RIN 1545–AJ11; 1545–AL75; 1545–AO89

Generation-Skipping Transfer Tax

Correction

In rule document 95–30873 beginning on page 66898 in the issue of Wednesday, December 27, 1995, make the following correction:

§ 602.101 [Corrected]

On page 66926, in the first column, in 602.102(c), in the table, in the first column, the second entry should read "26.2632–1".§

BILLING CODE 1505–01–D

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federal register

Monday
March 25, 1996

Part II

Department of Commerce

Bureau of Export Administration

15 CFR Part 730, et al.
Export Administration Regulation; Simplification of Export Administration Regulations; Final Rule

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 730, 732, 734, 736, 738, 740, 742, 744, 746, 748, 750, 752, 754, 756, 758, 760, 762, 764, 766, 768, 770, 772, and 774, 768A, 769A, 770A, 771A, 772A, 773A, 774A, 775A, 776A, 777A, 778A, 779A, 785A, 786A, 787A, 788A, 789A, 790A, 791A, 799A

[Docket No. 950407094–6022–02]

RIN 0694–AA57

Export Administration Regulation; Simplification of Export Administration Regulations

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Interim rule.

SUMMARY: This interim rule restructures and reorganizes the Export Administration Regulations (EAR), the regulatory regime through which the Bureau of Export Administration imposes export and reexport controls on those items and activities within its jurisdiction. This interim rule clarifies the language of the EAR, simplifies their application, and generally makes the export control regulatory regime more user-friendly.

DATES: Effective Dates: This interim rule is effective April 24, 1996, except part 752, which shall be effective March 25, 1996. Removal of newly designated §771A.25(d) shall be effective March 25, 1996. Removal of newly designated parts 768A through 779A, 785A through 791A, and 799A will be effective November 1, 1996.

COMMENTS: Comments on this rule must be received on or before May 24, 1996.

USE OF FORMS: On June 15, 1996 BXA will begin requiring applicants to submit certain new forms to implement this interim rule. The new Form BXA–748P, Multipurpose Application will be effective June 15, 1996. Before June 15, 1996 BXA will not accept Form BXA–748P. After June 15, 1996 BXA will not accept existing Forms BXA–622P or BXA–699P. See **SUPPLEMENTARY INFORMATION** for guidance on which forms to use before June 15, 1996, and which forms to use after that date.

ADDRESSES: Written comments should be sent to Cecil Hunt, Deputy Chief Counsel for Export Administration, United States Department of Commerce, Bureau of Export Administration, Fourteenth Street and Constitution Avenue, N.W., Room 3839, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Larry E. Christensen, Director, Regulatory Policy Division, Bureau of Export Administration, (202) 482–2440.

SUPPLEMENTARY INFORMATION:

Background

On September 30, 1993, the Secretary of Commerce submitted to the Congress a report of the Trade Promotion Coordinating Committee (TPCC), entitled Toward a National Export Strategy. The report included the following among its goals:

> Undertake a comprehensive review of the Export Administration Regulations to simplify, clarify, and make the regulations more user-friendly.

In November 1993, BXA organized a Task Group, drawn from several of its offices, to carry out the TPCC recommendation. The Task Group launched its review project by publishing an advance notice of proposed rulemaking (ANPRM) in the **Federal Register** on February 10, 1994 (59 FR 6528). This notice was designed to solicit comments from industry and the interested public. The ANPRM asked for suggestions concerning improvements BXA could make to the EAR and described several specific issues on which BXA was particularly interested in receiving public input.

Over seven months during the development of a proposed rule with request for comments that was published in the **Federal Register** on May 11, 1995, titled "Export Administration Regulations; Simplification of Export Administration Regulations" (60 FR 25268) (hereafter referred to as proposed rule), BXA shared four discussion packages with and sought comments from the Regulations & Procedures Technical Advisory Committee (RPTAC), an advisory committee consisting of industry representatives intimately familiar with the private sector's role in using the EAR. The packages were also made available to other interested members of the public, with the last two being made available electronically on FedWorld. The four discussion packages were dated August 2, 1994, September 29, 1994, January 12, 1995, and February 28, 1995.

The May 11 proposed rule reflected several new features based upon the comments received from the public pursuant to the ANPRM, and the RPTAC, and BXA's own assessment of how the EAR could be improved. Such features include:

- No license or other authorization would be required for any transaction under BXA jurisdiction unless the regulations affirmatively state the requirement. (Existing regulations state that all exports are prohibited unless an applicable general license has been established or a validated license or other authorization has been granted by BXA.)
- The terms "general" license and "validated" license would be dropped. The term "license" would be used to refer only to authorization issued by BXA upon application. The proposed regulations would convert the many existing general licenses into a smaller number of "exceptions" to require the obligation to seek a license when the Commerce Control list indicates that the particular item going to the stated country generally requires a license.
- The parts of the EAR would be arranged to give the reader a logical path to follow.
- The affirmative statements of the need to obtain a license, scattered throughout various parts of the existing EAR, would be consolidated into ten general prohibitions and described in a separate part. One part would contain the license review policy for all list-based license requirements; another part would provide for the requirements and review policies of licenses based on the end-use or end-user involved in a proposed export or reexport; and the list-based license requirements would be contained in the Commerce Control List (CCL) indicating the reason for control and the Country Chart indicating the country scope of each reason for control.
- The Country Groups used in the existing regulations would be revised in favor of Groups which better reflect post-Cold War circumstances.
- The CCL would be redesigned to state the reasons for control more specifically within each Export Control Classification Number (ECCN).
- The redesigned CCL would be used in tandem with a new Country Chart that would indicate whether a license is required for any ECCN to any country in the world and the reason or reasons for control.

Over 80 commenters responded to the proposed rule. Many commenters recommended that BXA take sufficient time to draft an interim rule to ensure ample opportunity to review and discuss with industry their comments on the May 11 proposed rule, and incorporate them into an interim rule. BXA has taken the time necessary to thoroughly review, analyze, and discuss industry comments on the proposed rule. In addition, BXA conducted 18 town-hall style fora (hereafter referred to as town-hall fora) that reached over 1,000 industry representatives, and met with the RPTAC and other interested public to discuss their comments and concerns in more detail.

Following is a detailed part-by-part description of this interim rule, and a review of comments received pursuant to the May 11 proposed rule:

Implementation

This interim rule will become effective April 24, 1996; however, final compliance with this interim rule is not compelled until November 1, 1996. During the period between the effective date and the final compliance date of this interim rule, you must comply with the provisions of either the existing Export Administration Regulations (EAR) (redesignated 15 CFR 768A through 799A by this interim rule) including any amendments thereto that are published in the **Federal Register** or the provisions of this interim rule including any amendments thereto that are published in the **Federal Register**.

Notwithstanding the general effective date of this interim rule, the repeal of the importer statement requirement for General License GCT is effective immediately, and the Special Comprehensive License provisions in part 752 are effective immediately. For up to March 25, 1997, holders of issued and outstanding special licenses may continue to use those special licenses according to their terms and conditions and according to the special license provisions of the existing EAR.

The majority of the commenters requested a 90 day delayed effective date plus an additional six to twelve months during which one must comply with either the existing Export Administration Regulations or this interim rule. The cost of changes to internal information systems and the time to train personnel on the new system were the main reasons cited for requesting a delayed effective date and a transition period. Several large companies said that their computer systems will require substantial reprogramming for the new License Exception group symbols, the new Destination Control Statement (DCS), and the renumbering of entries on the Commerce Control List in part 774 to conform to the European Union numbering system.

Some firms indicated that implementation costs would be reduced if they were allowed a span of time in which to implement the changes made by this interim rule. Costs would be higher if a single implementation date were required because their information systems departments would not have flexibility regarding scheduling and might be required to hire additional temporary employees or pay overtime. Many large firms cannot implement the computer changes on one given day. After receiving the above comments in writing and during the town-hall fora, BXA made additional contacts with several firms. All acknowledge that they can efficiently implement the changes required by this interim rule within six months. Since those discussions, BXA has determined to modify the Destination Control Statement (DCS) as noted below to closely following the existing DCS widely used by many firms. BXA is hopeful that this decision will further reduce the costs of implementation of this interim rule.

BXA is sensitive to the costs of implementation, and that is the reason this interim rule provides for a rather long implementation period. Through this mechanism, BXA hopes to reduce the marginal costs of implementation by reducing necessary overtime, contracting, and training beyond that regularly scheduled. BXA will also assist the business community in training for this interim rule. BXA has already announced a substantial program to conduct training sessions around the United States to make it convenient for firms to train their personnel.

The new Multipurpose Application Form, BXA–748P, will replace the Application for Export License (BXA–622P) and the Request for Reexport Authorization (BXA–699P). It will also serve as an application for the Special Comprehensive License. Additionally, the BXA–748P will accommodate Commerce Classification Requests, thus allowing item classifications to be handled electronically.

BXA will not accept the new forms listed in this paragraph for applications and requests received before June 15. BXA will not accept existing forms listed in this paragraph for applications and requests received on or after June 15. The existing Form BXA–622P Application for Export License, existing Form BXA–685P, Request for Amendment Action, and existing Form BXA–699P, Request for Reexport Authorization will all be replaced by new Form BXA 748P, Multipurpose Application. The existing Form BXA–622P–A, Commodity Description Supplement will be replaced by new Form BXA–748P–A, Item Appendix. Existing Form 622P–B, End-user Supplement will be replaced by new Form 748P–B, End-user Appendix. Form BXA–6052P, Statement by Foreign Consignee in Support of Special License Application will be replaced by Form BXA–752P, Statement by Consignee in Support of Special Comprehensive License.

Existing Form BXA–629P, Statement by Ultimate Consignee and Purchaser will be replaced by new Form BXA–711, Statement by Ultimate Consignee and Purchaser. However, Form BXA–629P may be used until November 1, 1996.

Use of Existing Form BXA 686–P, Statement by Foreign Importer of Aircraft or Vessel Repair Parts and Form BXA 6026–P, Service Supply (SL) Statement by U.S. Exporter will be discontinued on March 25, 1996, because the Aircraft and Vessel Repair Station Procedure at §773A.8 and the Service Supply (SL) Procedure at §773A.7 of the existing EAR will be replaced by the Special Comprehensive License in part 752 of this interim rule.

BXA will stop issuing BXA Form-648P, Notification of Delivery Verification Requirement on June 15, 1996. For licenses issued on or after that date, the delivery verification requirement will be printed on the license itself.

The Knowledge Standard

One step is being taken in this interim rule that changes language in many parts of the EAR, but without changing the intended meaning. Several commenters noted that the proposed rule continued use in the EAR of differing expressions as to knowledge, such as "know" or "know or have reason to know". Three commenters called for the removal of the term "reason to know" and one commenter requested a uniform adoption of "know or have reason to know". BXA has decided to adopt the term "knowledge" (together with variants, such as "know" or "knowing") as the standard usage and defines this term in the EAR. This definition is added to part 772—Definitions. Variants, such as "reason to believe" are being retained in the EAR where they are used to follow statutory wording. This definition confirms the intention of BXA that "know" and terms such as "know or have reason to know" be given the same meaning and that this meaning include more than positive knowledge. This definition is not being applied to part 760—Restrictive Practices and Boycotts, leaving the interpretation of such terms in this distinct part of the EAR to be independent of export control usage.

Part-by-Part Analysis

Part 730—General Information

Part 730 provides a general introduction to the EAR. It is intended for the first-time reader and is not regulatory.

Seven of the public comments referred to part 730. There was broad

support for the listing of other control agencies, together with telephone and fax numbers for obtaining information. Four commenters noted that similar information was provided in a supplement to the scope part of the proposed rule, with duplication and some inconsistency. BXA has eliminated that supplement and includes the agency information in this part 730. Three commenters requested that the listing be broadened, and noted the absence of reference to certain controls of other agencies listed in the existing EAR. This listing has been updated and extended. BXA is not, however, acting on requests to add more detailed information on controls administered by other agencies, nor on areas of possible overlap, as this would unduly complicate this brief introduction to the EAR.

Three commenters called for combining part 730 with the Steps part in some way. BXA concluded that a merger of the two parts is not advisable, as the amount of detail needed in steps would obscure the more general introductory information offered in part 730. Many comments on the two parts called for flow charts and wiring diagrams. BXA has recently received authorization from the Office of the Federal Register to include such additional aids, and BXA will develop those materials for inclusion in the EAR at a later date.

Two commenters questioned the basic, non-regulatory, approach taken in part 730, citing such elements as the § 730.6 reference to the benefits from multilateral controls and the § 730.8 explanation of why the EAR are lengthy and detailed. BXA continues to believe that this kind of introduction to the EAR will be helpful to persons new to the field.

Part 732—Steps

By cross-references to the relevant provisions, part 732 describes the suggested steps for you to determine applicability of (1) the scope of the EAR described in part 734, (2) each of the general prohibitions in part 736, (3) the License Exceptions in part 740, and (4) other requirements such as clearing the U.S. Customs Service, keeping records, and completing license applications. This part 732 describes the organization of the EAR, informs you of the relationship among the parts and provisions, and describes the appropriate order in which to consider the various provisions of the EAR by cross-referencing those provisions.

Supplement No. 1 to this part 732, contains the "Know Your Customer" Guidance, which has been moved from part 744—Control Policy—End-user and End-use Based Control. In this interim rule, BXA has also added examples of Red Flags referred to in the "Know Your Customer" Guidance.

Over thirty commenters referred to the part on steps in the proposed rule, and all but one supported the inclusion of steps to guide the reader. Of these commenters, more than half stated that the steps part should be relocated so that it could serve as a type of road-map in the use of the entire EAR. The proposed rule provided for steps at part 736 after the parts on scope and general prohibitions. BXA agrees that the steps part is more useful if relocated closer to the beginning of the EAR. Therefore, in this interim rule, the steps part is renumbered as part 732; and it precedes the part on scope that is renumbered as part 734 and the part on prohibitions that is renumbered as part 736.

About one quarter of the commenters on this part urged some type of restructuring or reordering of the steps within the part; however, the comments were varied. Based upon these written comments and a substantial number of oral comments made during the town-hall fora, BXA believes that it is useful to organize the steps in categories regarding the scope of the EAR, the ten general prohibitions, the License Exceptions, and additional requirements such as keeping records, documentation for clearing the U.S. Customs Service, and completing license applications. In addition, one commenter urged that the steps regarding prohibitions at part 736 make clear the distinction between the first three prohibitions that are shaped by product parameters on the Commerce Control List versus the last seven prohibitions that address certain types of activities without regard to the product parameters on the Commerce Control List. Another common suggestion was to give greater prominence and clarity to the determination of the proper ECCN for items, a process referred to as classification. This interim rule adopts those recommendations.

One commenter suggested that the steps part in the proposed rule included too many cross-references to the other parts and required the reader to flip too many pages. Several other commenters recommended additional cross-references in the EAR. BXA believes that the part on steps should continue to contain cross-references for fundamental reasons. The part on steps is not a substitute for the language of other parts of the EAR and the part on steps would be much too long if it contained a complete explanation or repetition of every other provision of the EAR. Rather, it is a type of road-map, guide, or written decision tree that helps the reader understand the order in which to read the various provisions and to determine which provisions are relevant to a given transaction or activity. By this means, the part on steps serves the purpose of describing the relationship among the provisions of the EAR, something that was not done in the EAR before the proposed rule. When these steps are followed in the proper order, the reader will consider those provisions of the EAR necessary to determine his or her rights and duties.

It would be impossible to develop a useful series of steps without use of cross-references to the various provisions of the EAR; however, BXA is sensitive to a reader's understandable desire for steps that may be read with an easy flow and with no more cross-referencing than necessary to specify the language that creates regulatory rights and obligations. To this end, where possible, we have inserted brief explanatory references that give the reader an indication of the substance of the referenced provision. One comment made often by the public is that the steps part must contain guidance and not create additional regulatory duties. BXA agrees that part 732 is not controlling for purposes of describing the requirements of the EAR; the parts of the EAR referenced in the steps are controlling. For this reason, part 732 must reference the regulatory provisions in the other parts of the EAR.

An organization of trade associations, supported by several other commenters, suggested several additional drafting changes to improve the part on steps. Nearly all of those recommendations are included in this interim rule.

Part 734—Scope

This part establishes the rules for determining whether commodities, software, technology, software and activities of U.S. and foreign persons are subject to the EAR. "Subject to the EAR" is a term used to identify the items and activities that BXA regulates under the EAR. Those items and activities not so identified are not regulated under the EAR.

The term "subject to the EAR" does not imply that a license is required for any particular item or activity. Licensing requirements are spelled out in other parts of the EAR. The term does define the bounds of the authority that BXA has exercised under the EAR. The term is particularly useful to define the limits of the recordkeeping requirements, certain denial orders, and the end use and end user obligations related to proliferation controls.

This part also provides certain key terms and principles used throughout this interim rule. These include definitions for the terms "export" and "reexport." A comprehensive listing of definitions is included in part 772.

In addition to a change in designation from part 732 in the proposed rule to part 734 in this interim rule, this interim rule makes substantial changes in part 734 as a result of comments received on the proposed rule. BXA received 31 comments on this part. BXA has adopted many of the recommendations contained in the public comments and they are reflected in the interim rule.

Section 734.1 has been substantially revised. The proposed rule included a list of all the contents to part 734 with specificity. One commenter urged that this listing amounted to a table of contents and recommended deletion. This interim rule follows this recommendation and, and includes an introduction that explains the contents of this part and how it fits into the overall structure of the EAR.

Certain commenters recommended that definitions be included in part 772, Definitions, rather than in this part. This interim rule removes the definitions for the terms "item" and "you", and moves them to part 772. Because the terms "export" and "reexport" are so key to the EAR, these terms have been retained in this section, with certain modifications. Section 732.2(d) of the proposed rule defined exports and reexports of technology and software, but did not include a definition of exports and reexports of commodities. This interim rule amends the definition of "export" and "reexport" to apply to commodities, technology, and software.

A number of commenters also noted that, as written in the proposed rule, the reexport in a foreign country of technology by release by one foreign national to another foreign national could be read to include release of foreign-origin technology, with no United States nexus. This interim rule limits this provision to "items subject to the EAR" and thereby limits the provision to U.S.-origin technology.

This interim rule adds three additional provisions to part 734. Section 734.2(d)(5) reflects the principle that exports that will transit a country on their way to a third country or are intended to be reexported to a third country are deemed under the EAR to be exports to the third country. This principle was not included in the proposed rule, except as it relates to Canada (§ 732.12 of the proposed rule). Section 734.2(d)(6) reflects the principle that appeared in § 732.15 of the proposed rule that an export to a territory, possession, or department of a country is deemed under the EAR to be an export to that country. Finally § 734.2(d)(7) clarifies that shipments among the states of the United States and its territories, dependencies, and possessions do not constitute exports or reexports.

A significant number of commenters indicated that the provision regarding Canada in § 732.15 of the proposed rule was misleading and tended to confuse the distinction between the scope of the EAR and licensing requirements with respect to Canada. BXA agrees, and this interim rule omits this provision. The minimal number of instances where licenses are required for Canada is reflected on the CCL and does not need to be recited in this part. As noted above, the in-transit and intended reexport principles contained in the Canada provision are retained in this interim rule and are made applicable to all destinations. Finally, any License Exceptions that apply to Canada are reflected in part 740, License Exceptions.

In the proposed rule, BXA invited comments on the implementation of a *de minimis* rule for software and technology. In particular, BXA said that we were considering a requirement for a one-time report on calculations under the *de minimis* rule. Throughout the comment period, BXA made clear at the town-hall fora that there are three criteria of concern in carrying out the proposal without a reporting requirement. First, for transfers between related parties, the export price of the software or technology exported from the United States must reflect an arms-length price or fair market value. Second, estimates of future sales of foreign-made software must be reasonable. Third, selection of the scope of foreign technology for measuring U.S.-content must be reasonable.

BXA sought comments and suggestions on a one-time report. This was to determine how to avoid the potential misuse of the above criteria without requiring a one-time report. BXA also sought comments on whether the calculations should be made only under United States-based generally accepted accounting principles. From the outset, BXA concluded that strict accounting standards would be useful to prevent misuse of the rule through unreasonably low transfer prices for U.S. software or technology transferred to related parties. BXA also believed there is no need to create a new U.S. accounting standard for implementation of this rule.

No commenter offered a solution to avoid misuses in the choice amortization assumptions for software and the selection of an appropriate universe to measure U.S.-content in foreign commingled technology. All comments on the report opposed its requirement. Commenters supported the rule with the hope that the *de minimis* exclusion might be granted by BXA without requiring a report. However, many of these same firms acknowledge that they and foreign parents, subsidiaries and customers will invariably make *de minimis* calculations on valuation assumptions most likely to result in a finding that U.S. content is below the relevant *de minimis* level. The tenor of the comments also suggests that most commenters did not fully appreciate that the *de minimis* relief could not likely be granted without either a one-time report or some other means to avoid the potential misuses of the criteria.

Some commenters called the report a burden almost as heavy as the license requirement. Some of those commenters stated expresses a belief that the existing rule is simply not enforced and likely is not enforceable. They also concluded that compliance with the existing commingled rule is weak. However, some commenters acknowledged that without a report requirement in this interim rule, they would nonetheless submit advisory requests before relying on the *de minimis* exclusions. Such advisory requests would require the same information as the report required by this interim rule. Therefore for such companies, the report roquirement of this interim rule does not add costs for use of the relief granted by this interim rule.

Almost all foreign commenters on the *de minimis* rule opposed a requirement for U.S. accounting standards. They argued that they should be permitted to use their home-country accounting standards and that use of U.S. accounting standards would be too costly.

BXA has determined to require a one-time report and to permit various accounting standards so long as the export price is not depreciated or otherwise reduced by accounting conventions. With the requirement of a one-time report, there is far less need for a single, strict accounting standard.

The report will require a description of the nature and export price of the item exported from the United States, the estimate of future software sales in units and value along with the basis for those estimates within the relevant market category, and a description of the technology and its value for

purposes of determining the U.S.-content of technology. The report will not require information regarding destinations and end-users for reexport.

BXA has concluded after interagency consultations and review of all the comments that the so-called amortization problem exists for software and does not exist for commodities. Several commenters have asked why.

Unlike parts incorporated into end products, the cost of U.S. software code will be attributed or allocated to the future sales of foreign-made software incorporating the U.S. code. In making this calculation for foreign software, you must make an estimate of future software sales of that software if it is commingled with or incorporated with the U.S. code. Unless there is a one-time report revealing the assumptions of such calculations, foreign firms may misuse the *de minimis* rule and make unrealistic assumptions of large future sales. Such a misuse can result in U.S.-content that is unfairly estimated to be below the *de minimis* level.

BXA has concluded after interagency consultations and review of all the comments that the so-call universe problem exists for technology and not for commodities. Several commenters have asked why.

There is the risk that foreign firms will select excessively large categories of foreign technology for division into the U.S.-origin technology content. There is no regulatory criteria or standard that is sufficient to describe the scope of foreign technology that must be divided into the U.S. technology to determine the percentage of U.S.-content. The possible choices of a universe by the reexporter are many and varied.

Some commenters wanted BXA to select one U.S. transfer pricing standard such as the standard of the Internal Revenue Service found in section 482 of the Internal Revenue Code. One software producer indicated that it will have very difficult decisions to make in the calculation of U.S.-content for purposes of foreign-made software and asked BXA how it would be done. In this interim rule, we indicate that accepted accounting standards such as section 482, its implementing rules, and related ruling provide one option the exporter or reexport may follow. The Organization for Economic Cooperation and Development (OECD) is considering uniform transfer pricing rules, and such international standards would present an attractive option in the future. However, it will likely be at least a year before they put such OECD standards in place. Other commenters said that their firms do not maintain adequate records to perform calculations of U.S.-content. Of course, for such firms, any value-based *de minimis* rule will not relieve existing burdens regardless of the report requirement.

For decades, all reexport controls under the EAR extended to foreign software and technology incorporating any level of U.S.-content. BXA refers to this as the commingled rule. In 1988, BXA proposed giving some relief from the commingled rule with a type of shifting of presumptions regarding country of origin after a period of time. With one exception, commenters opposed that proposed rule and urged a value-based *de minimis* exclusion. BXA addressed the issue in its February 1994 proposed renewal of the Export Administration Act. That proposal would have compelled a *de minimis* exclusion from the commingled rule and reserved the authority of the Executive Branch to require a one-time report.

BXA believes that it is appropriate to put reasonable limits on the reach of U.S. reexport controls for foreign-made software and technology. This is to recognize the sensitivities of other nations and to put some outer limits on the obligations of foreign firms doing business with U.S. firms. However, it is not the purpose of this exercise to eliminate reexport controls on software and technology. Reexport controls remain tools of the EAR to prevent diversion contrary to vital national security, nonproliferation, and foreign policy interests of the United States.

BXA understands that some foreign firms will benefit from the relief offered in this interim rule and will use this relief by filing the necessary report. For such firms, the *de minimis* rule and related report is not a new licensing requirement. Rather, it is a means for BXA to assure that the above described three criteria are not misused in a given set of calculations and assumptions. The report is required under a "report and wait" procedure. If the reporting firm does not hear from BXA within thirty days, then the reporting firm may thereafter rely upon its reported calculations, and its foreign technology or software described in the filed report is not subject to the EAR.

For those reexporters without the desire or ability to take advantage of the *de minimis* rule, their position under the EAR remains unchanged in any respect by this interim rule. The commingled rule continues to apply as it has for decades. One commenter said that the report requirement would make enforcement easier for BXA than under the existing rule. BXA does not believe that to be true. The existing rule is clear.

Reexporters should also be mindful that many authorities for permissive reexports remain available to overcome reexport prohibitions. The *de minimis* exclusion from the commingle rule determines whether foreign technology or software is subject to the EAR. If certain commingled foreign technology or software is subject to the EAR, then the general prohibitions and License Exceptions define the obligations of the holder of that technology and software.

This interim rule also makes several changes to § 734.3, Items Subject to the EAR. In the proposed rule, foreign made products subject to the EAR were separately in § 732.4. These provisions dealing with foreign made products are now included in § 734.3, together with other items subject to the EAR. This interim rule consolidates all related principles in one section.

A number of commenters questioned whether BXA intended to limit the coverage of items subject to the EAR only to "U.S.-origin" items as reflected in § 732.2(a) of the proposed rule. This interim rule clarifies the intent of the proposed rule and the BXA practice related to this issue. Specifically, this interim rule has asserted jurisdiction over all items subject to the EAR exported from the United States, whether of U.S. or foreign origin, but in practice has limited other controls, such as reexport controls, over EAR-controlled items to those of U.S. origin. Section 734.3(a) of this interim rule reflects these provisions. Section 734.3 also applies to all covered items in the United States, and to all such items that are of U.S.-origin, wherever located.

This interim rule also specifically states that foreign origin items in-transit through the United States and in U.S. foreign trade zones are subject to the EAR. For any special licensing treatment that may be accorded such shipments on their export from the United States, exporters should look at the License Exceptions in part 740.

This interim rule makes five changes to the proposed rule that are reflected in the provisions of § 734.3(b), which lists the exclusions from items subject to the EAR.

1. In proposed § 732.3(a)(1), BXA excluded items exclusively controlled for export or reexport by other agencies which maintain controls for national security or foreign policy purposes. The agencies were identified in Supplement No. 2 to proposed part 732. To reduce cross-referencing, the agencies are now listed in part 734, and the Supplement has been removed.

2. This interim rule also adds a new provision that excludes from the definition of "items subject to the EAR" items included in ECCN 0A98 in the existing EAR, such as films, records, books, and periodicals. This provision was not included in the proposed rule. Under the existing EAR, items included in that ECCN do not require authorization to any destination. This interim rule has the same result.

3. Section 732.2(a)(3) of the proposed rule excluded security-classified technology and software from the coverage of items "subject to the EAR." This provision was based on the theory that classified items are controlled by the Nuclear Regulatory Commission and the Department of State's Office of Defense Trade Controls. One commenter observed that because these agencies control the export of classified items as part of their "exclusive" jurisdiction, no specific provision needs to appear for classified items. To avoid confusion, this interim rule omits the reference to classified items. The provision is already implicitly included in part 734 because items controlled exclusively for export by another agency are not subject to the EAR (§ 734.3(b)(1)).

4. This interim rule also adopts the term "publicly available information" to refer to all information included in General License GTDA of the existing EAR. Such information is listed in § 734.3(b)(3). In the proposed rule, the term "publicly available" applied solely to information that was "generally accessible to the interested public in any form". This interim rule adopts the term "published information" to represent such generally accessible information.

5. A number of commenters objected to the use of the term "Not on List" or "NOL" to designate and clear for export those items which are subject to the EAR but which do not appear on the CCL. This interim rule drops this term, which will be discussed in greater detail under part 758, General Export Clearance Requirements. However, in response to written comments and audience comments at the town-hall fora, BXA will designate such items under "EAR99." This designation, discussed in § 734.3(c) of this interim rule, will be used for classification and reference purposes only, and will not be required for clearing exports.

One commenter recommended that items subject to the EAR be specifically limited to exports and reexports because BXA's statutory authority relates to controlling exports and reexports. This interim rule does not adopt this recommendation because the term "subject to the EAR" defines the scope of EAR jurisdiction. The prohibition on exports and reexports of such items based on BXA's statutory authority is reflected in part 736, Prohibitions.

Finally, this interim rule expands Supplement No. 2 to include a requirement for the submission of a report to be submitted to BXA if an exporter uses the *de minimis* for technology or software.

Part 736—General Prohibitions

Part 736 includes ten general prohibitions. These are the prohibitions that may apply to items subject to the scope of the EAR as described in part 734, Scope. General Prohibitions One, Two, and Three are product controls. The Commerce Control List in Supplement No. 1 to part 774 and the Country Chart in Supplement No. 1 to part 738 are used together to define the product scope and destinations for the license requirements of General Prohibitions One, Two, and Three. General Prohibitions Four through Ten describe certain activities that are not permitted without authorization from BXA.

Several commenters recommended liberalization of the existing reexport controls. For example, one commenter suggested a license free zone for all members of the former Coordinating Committee on Export Controls (COCOM), the Missile Technology Control Regime (MTCR), the Nuclear Suppliers Group (NSG), and the Australia Group (AG). BXA notes that a provision in the Export Administration Act of 1979 compels individual validated licenses for items controlled cooperatively by members of the MTCR. BXA is aware of the interest of the exporting community in the further expansion of license free zones. However, this interim rule is not intended to address such fundamental policy decisions and is not an appropriate vehicle to make such changes.

Some commenters urged BXA to create a separate part for reexport controls or a separate guideline for reexports. Others supported this view and indicated that it was convenient for them to photocopy newly designated part 774A and send this to firms abroad. BXA believes that part 774A of the EAR does not describe all the duties of reexporters; and reliance upon a reading of only that portion of the regulations could well lead to violations of other portions of the EAR. In response to these comments, BXA has taken care in this interim rule to indicate which requirements of the EAR apply to reexporters and which requirements do not. Part 732, Steps contains explicit indications of applicability of various provisions to reexporters. As suggested by several commenters, part 732, Steps has been substantially expanded to present a road map for the use of these provisions by reexporters.

The foreign-produced direct product control described in General Prohibition Three reflects a policy prompted by the Cold War. The Regulations and Procedures Technical Advisory Committee (RPTAC) recommended that BXA not revise this policy during the drafting period that led to the proposed rule. After publication of this interim rule, BXA will initiate a policy review of the foreign-produced direct product rule.

All ten general prohibitions in this part 736 apply to firms abroad under some circumstances. Part 734, Scope defines the scope of the regulations for foreign as well as domestic firms. The key factors that make all ten general prohibitions applicable to foreign firms are the scope of the parts and components rule, the foreign-produced direct product rule, and the general prohibition regarding reexports of U.S.-origin items. These are described in detail in part 732, Steps; part 734, Scope; and part 736, General Prohibitions with specific references to reexporters.

One commenter asked if we would add a provision regarding the applicability of License Exceptions to General Prohibition Eight concerning the unlading of goods in certain countries. The structure of this prohibition is that it applies only to exports and reexports that require a license. By definition, if you properly use a License Exception authorized by the EAR, General Prohibition Eight does not apply. Rather, it is a prohibition against unlading items that are shipped under a license. Exporters and carriers should note that BXA plans to conduct a policy review of the country scope of General Prohibition Eight following the publication of this interim rule.

Several commenters stated that the proposed rule continued to present a complex set of requirements, and many commenters suggested fundamental decontrols and elimination of longstanding regulatory requirements. Such recommendations would necessary entail changes to the general prohibitions. However, the Regulation Reform exercise was not intended to address such fundamental policy decisions, and this interim rule is not an appropriate vehicle to make such changes.

Supplement No. 1 to part 736 on General Prohibitions provides for certain General Orders. At this time, Supplement No. 1 is reserved. Supplement No. 2 to part 736 provides

for three Administrative Orders. These Administrative Orders continue polices of the existing regulations regarding the technical advisory committees, business conduct before BXA, and certain confidentiality provisions.

Part 738—Commerce Control List Overview and Country Chart

Part 738 provides an overview of the Commerce Control List (CCL) and the Country Chart. The complete CCL is contained in Supplement No. 1 to part 774, while the Country Chart is contained in this part.

A significant change to the proposed rule as it relates to the CCL is the modification of the numbering system used to identify Export Control Classification Numbers (ECCNs) to conform with the European Union (EU) numbering system as described in the supplementary information regarding the CCL. This part provides an overview of the new CCL structure and ECCN numbering system along with a thorough discussion of the components that make up an ECCN.

This interim rule eliminates the use of the term "License Alternative" and the "Special Comprehensive License" reference as described in the proposed rule. In addition, this interim rule adopts the revised reasons for control as identified in the proposed rule (i.e., use of the broad term "FP" has been discontinued). New "Related Definition" and "Related Controls" sections contained in the proposed rule have also been adopted in this interim rule.

Several commenters described use of the Country Chart column identifier in the "License Requirement" section of each ECCN as a rational model and fundamental to simplifying the task of determining licensing requirements. This interim rule retains this very valuable tool with few modifications.

The Country Chart, as described in the proposed rule, has been modified to incorporate columns for destinations eligible for General License GCT and GNSG under the existing EAR. General License GCT eligibility is now determined by NS Column 2, while NP Column 1 now reflects General License GNSG eligibility. NP Column 2 is retained in its original format as reflected in the proposed rule. Accordingly, references to License Exceptions CSR and NSG in the "License Exceptions" section within each entry on the Commerce Control List do not appear in this interim rule.

A few commenters noted that the proposed title to part 738, Commerce Control List and Country Chart implies that the entire CCL is contained in part 738. The title to this part has been modified to state this part contains an overview of the CCL structure and its relationship to the Country Chart, rather than the actual CCL.

Two commenters noted that the cross-reference to part 742, Control Policy—CCL Based Controls should be clarified. This interim rule contains a more descriptive cross-reference to part 742 and is placed in a more appropriate location.

A few commenters expressed confusion over the use of UN Column 1. This interim rule removes UN Column 1, because of its limited scope of control and for added clarity. In addition, this interim rule revises the two instances in which the Country Chart is not consulted to determine license requirements. This interim rule expands the proposed list of ECCNs in which the Country Chart cannot be used from 5A80D (5A980) to include 1A988, 2A994, 2D994, 2E994, 2B985, 0A983, 0A986, and 0A988.

This interim rule does not adopt the request made by a few commenters that the Country Chart be expanded to incorporate the Country Group identification as described in part 740, License Exceptions. These two lists were developed for separate purposes and allow for systematic licensing determinations (e.g., Country Groups are not reviewed unless a license is required by the Country Chart). In addition, incorporation increases the possibility that readers will make incorrect license determinations.

This interim rule expands the example for using the CCL and Country Chart to illustrate more complex fact patterns, as requested by a commenter.

Part 740—License Exceptions

Part 740 provides for exceptions from license requirements similar to the General Licenses contained in the existing regulations. In addition to License Exceptions for commodities, this part contains License Exceptions for software and technology and permissive reexports. Previously, both technical data and reexports had separate parts. License Exceptions for short supply commodities appear in part 754.

Eligibility for License Exceptions may be based on the item to be exported or reexported, the country of ultimate destination, the end-use of the item, or the end-user. If a License Exception is available for a particular transaction, the exporter or reexporter may proceed with the export or reexport without a license. However, the exporter or reexporter is required to meet all the terms of the License Exception; in using a License Exception, the exporter or reexporter will be certifying that all terms, conditions, and provisions for the use of that License Exception have been met.

The most significant departure in this interim rule from the proposed rule is the changed relationship between the determination of the applicability of a License Exception to a particular transaction and the documenting of that transaction for export clearance purposes. Previously, each License Exception bore a three-character symbol that transferred directly to shipping documents to certify that the transaction did not require a license and that it met the terms and condition of the stated License Exception. In this interim rule, each three-character symbol that will be used on shipping documents represents a group of License Exceptions rather than a single License Exception. This change means that a few symbols will cover a large percentage of shipments from the United States. Each symbol bears an intuitive relationship to its group of License Exceptions; for example, those based on the Commerce Control List bear the symbol "LST." Some commenters wished to retain the old General License symbols, but a preponderance of exporters preferred intuitive symbols and expressed that preference at the numerous town-hall fora held around the country.

Many commenters on the proposed rule protested that certain existing General Licenses—specifically GLR and GTDU—had been needlessly fragmented. In this interim rule, these License Exceptions have been consolidated into Servicing and Replacement (RPL) and Technology and Software—Unrestricted (TSU), respectively. General Licenses GCT and GNSG in the existing EAR, which appeared as License Exceptions CSR and NSG in the proposed rule, have in this interim rule been incorporated into the Country Chart in part 738.

Changes made in General Licenses in the intervening period between publication of the proposed rule and this interim rule, including G–BETA for beta test software, G–CTP for computers, and a modification of GCG (shipments to cooperating governments), are reflected in part 740. The former Humanitarian License Procedure, which was included in the Embargo part of the proposed rule, has become a License Exception for humanitarian donations.

Part 742—Control Policy—CCL-Based Controls

If you have determined that a license application must be filed after reviewing the Country Chart in part 738 and the Commerce Control List (CCL) in part 774, this part 742 provides the licensing policy that BXA will apply in reviewing your application. This part contains licensing review policies for all items listed on the CCL except items controlled for "short supply" reasons or to implement "U.N. Sanctions." It consolidates most of newly designated part 785A, Special Country Policies, portions of newly designated part 776A, Special Commodity Policies and all the CCL-based controls described in newly designated part 778A, Proliferation Controls. It also includes control policies for items included on the CCL but not reflected in the Country Chart. Specifically, these items are high performance computers, implements of torture, and communications intercepting devices.

Part 742 does not include controls and licensing polices that apply to exports and reexports to embargoed destinations (currently, Cuba, Libya, North Korea, Iraq, Iran, and the Bosnian-Serb controlled areas of Bosnia-Herzegovina), except a description of anti-terrorism controls applicable to Iran (§ 742.8) and other terrorist-designated countries (Supplement No. 2 to part 742). Part 746, Embargoes and Other Special Controls, covers the licensing policies for embargoed destinations.

This part is structured to assist exporters to easily retrieve licensing information related to the reason for control for each item listed on the CCL. Each "Reason for Control" column on the Country Chart in part 738 has a counterpart section in part 742. The sections in this part appear consecutively in the same order as the columns on the chart, reading from left to right. In addition, each section is similarly structured:

—Paragraph (a) lists the licensing requirements as stated on the CCL;
—Paragraph (b) provides the licensing policy for specific controls on the CCL;
—Paragraph (c) describes any contract sanctity dates that apply to particular controls; and
—paragraph (d) provides information concerning any multilateral cooperation that may apply to a particular control.

BXA believes that the structure and organization of this part is a significant improvement over the existing EAR. It enables an exporter to retrieve specific licensing information relevant to each ECCN on the CCL without having to review extraneous material.

Changes were made in § 742.1, Introduction, to accurately describe the structure of this interim rule. Paragraph (c) was added to make clear that controls on embargoed destinations, other than anti-terrorism controls, are covered in part 746, Embargoes and Other Special Controls and do not appear in this part 742. Paragraph (d) generally describes anti-terrorism controls maintained by BXA. Paragraph (e) reminds the reader that items not listed on the CCL are nonetheless subject to the end-use and end-user provisions described in part 744, Control Policy—End-user/End-use Based.

In addition, this interim rule contains changes that implement regulations which were issued by BXA but were not reflected in the proposed rule. The interim rule also reflects changes made in response to public comments on the proposed rule.

On May 6, 1995, the President issued Executive Order 12959, imposing a virtual embargo on exports of any goods, technology or devices to Iran and on certain reexports of U.S.-origin goods or technology. (The Treasury Department, Office of Foreign Assets Control (OFAC), has principal responsibility for implementing E.O. 12959.) Because of the virtual embargo on exports to Iran, provisions dealing with Iran, except anti-terrorism controls, have been shifted to part 746, Embargoes and Other Special Controls. In this interim rule, § 742.8 describes anti-terrorism controls on exports and reexports to Iran that BXA continues to maintain while the comprehensive embargo administered by OFAC is in effect.

This interim rule also includes new anti-terrorism controls on Sudan, described in § 742.10 and in Supplement No. 2 to part 742. The Department will also publish these controls in the format of newly designated part 785A and related parts. The items controlled for anti-terrorism reasons to Sudan include explosive device detectors, which have been moved into a new ECCN. The anti-terrorism control on explosive device detectors also applies to Syria and Iran.

Since the publication of the proposed rule, the Department has issued a new regulation on exports of specially designed implements of torture (60 FR 58512). This regulation moved specially designed implements of torture from Export Commerce Control Number (ECCN) 0A82C to a new ECCN, 0A83D, and required a license to all destinations, including Canada. The changes made by that regulation are reflected in the interim rule. Proposed § 742.7 (Crime Control) is revised to eliminate references to implements of torture, and a new § 742.11 (Specially Designed Implements of Torture) is added to this interim rule.

The President announced a revision of U.S. export controls on computers on October 6, 1995 that affects the supercomputer controls contained in part 742 (§ 742.12) of the proposed rule. The Department published the revised regulations on January 25, 1996 (61 FR 2099). Section 742.12 has been retitled "High performance computers" in this interim rule and describes the license requirements and licensing policies applicable to four "tiers" of countries. Supplement No. 3 to part 742 describes licensing safeguard conditions that may be imposed on exports of high performance computers to certain destinations.

Twelve commenters included comments on part 742 in their submissions. A number of commenters pointed out technical mistakes and omissions in part 742. These are corrected in this interim rule. Following is a discussion of other comments submitted.

Two commenters questioned the appropriateness of continuing controls on exports to members of a given multilateral control regime of items controlled by that regime. No License Exceptions are available for items controlled for missile technology reasons because a provision in the Export Administration Act requires individual validated licenses to all destinations. Section 742.2(a)(2) of this interim rule states that licenses are not required for exports of the listed chemicals to Australia Group member countries. This interim rule revises § 742.3(a)(1) to inform the exporter that no license is required for exports of certain nuclear proliferation controlled items to Nuclear Suppliers Group (NSG) member countries. Finally, this interim rule describes, in § 742.4(a), a new national security control level, denoted by "NS Column 2" in the Country Chart, which indicates that no license is required for exports to Country Group A:1 and cooperating countries.

One commenter noted that proposed Supplement No. 2, listing countries that are party to the Treaty on the Nonproliferation of Nuclear Weapons and to the Treaty for the Prohibition of Nuclear Weapons in Latin America, required updating. Because the list of countries party to these treaties is constantly changing, BXA decided to remove this Supplement rather than risk publishing an inaccurate or outdated list. BXA will maintain and make available to interested persons a current list of the countries party to these treaties.

One commenter suggested that part 738, Commerce Control List Overview; part 742, Control Policy—CCL Based

Controls; and part 774, The Commerce Control List be combined, since they all concern the Commerce Control List. BXA did not adopt this recommendation. Each of the three parts provides a view of controls from a different vantage point: Part 738 by country; part 742 by type of control; and part 774 by type of item. BXA believes that consolidating the three parts into one would make the interim rule more unwieldy and difficult to use.

Two commenters recommended that contract sanctity provisions be established for nuclear nonproliferation, national security, regional stability, crime control or computer controls. BXA did not establish contract sanctity in this interim rule. Decisions on contract sanctity dates are made when new controls are imposed. This interim rule does not impose any new controls. Accordingly, no changes have been made in contract sanctity provisions.

Two commenters stated that § 742.2(d) (chemical and biological weapons), § 742.4(d) (national security) and § 742.5(d) (missile technology) incorrectly state that U.S. controls are consistent with multilateral agreements. BXA does not agree with this comment. The only change that BXA is making in this interim rule is to reserve § 742.4(d). On December 19, 1995, the United States and twenty-seven other countries, including its NATO allies and Russia, agreed to establish a new multilateral export control arrangement. The Wassenaar Arrangement for Export Controls for Conventional Arms and Dual-use Goods and Technologies ("Wassenaar Arrangement") is expected to be operational later in 1996. Any EAR changes that may be needed to carry out the Wassenaar Arrangement will be made at the appropriate time.

A commenter suggested that License Exception NSG be extended to South Korea, Taiwan and Mexico. License Exception NSG has been removed in this interim rule. Instead, items on the CCL with "NP Column 1" in the Country Chart column of the "License Requirements" section of an ECCN do not require a license to NSG member countries. The commenter's suggestion has not been adopted by BXA for Taiwan and Mexico because the regulations simplification initiative was not intended to make substantive changes in license requirements. However, recent regulatory changes have extended such treatment to South Korea, and that change is incorporated into this interim rule.

One commenter questioned why ECCN 5A80 (communications intercepting devices) of the proposed rule is not included in § 742.7 (Crime Control). These items are regulated under separate statutory authority and licensing criteria. Items controlled under § 742.7 are those agreed to pursuant to section 6(n) of the Export Administration Act. Controls on communications intercepting devices are maintained in accordance with the Omnibus Crime Controls and Safe Streets Act of 1968, and are therefore separately controlled under § 742.13.

Part 744—Control Policy—End-User/ End-Use Based

This part contains prohibitions against exports, reexports, and activities related to certain end-uses and end-users. Specifically, § 744.2 prohibits exports and reexports of items subject to the EAR, without a license, if at the time of the export or reexport you know that the item will be used in nuclear explosive, or other safeguarded or unsafeguarded nuclear activities. Section 744.3 prohibits the export or reexport, without a license, of certain items to be used for missile end-uses. Similarly, § 744.4 prohibits the export or reexport of items with certain chemical and biological weapon end-uses. Next, § 744.5 prohibits the export or reexport of items to be used for specified nuclear maritime end-uses.

Section 744.6 places restrictions on certain proliferation-related activities of U.S. persons. For purposes of this prohibition the term "U.S. person" means citizens, permanent resident aliens, or protected individuals as defined in the immigration laws; any juridical person organized under the laws of the United States or any U.S. jurisdiction; and any person physically in the United States. This part also contains prohibitions against exports, reexports, and certain transfers to specified end-users. Section 744.7 imposes restrictions on certain exports to and for the use of certain foreign vessels or aircraft, and § 744.8 places restrictions on certain exports to all countries for Libyan aircraft.

Commenters urged BXA to publish a positive list of items and limit the applicability of the nonproliferation related end-use restrictions to items on such a positive list. In addition, commenters asked BXA to publish certain names of end-users as to which individual exporters have been "informed" that a license is required by reason of § 744.2(b), § 744.3(b), § 744.4(b), and § 744.6(b). BXA is working within the Administration toward these objectives; however, these are major policy initiatives, they are not part of this interim rule, and they are not necessary to achieve the goals of the Regulations Reform exercise.

Commenters suggested that under § 744.2(b) the discretion of BXA to inform an exporter of the trustworthiness of certain end users should be a duty of BXA rather than an option of BXA. The U.S. Government will retain this discretion because of the overriding interests in protecting sources and methods of intelligence gathering and the interests in law enforcement objectives that on occasion require flexibility on the part of the government.

One commenter urged BXA to make clearer the treatment of technology that historically was authorized for export under General License GTDA. In the proposed rule, BXA excluded such information from the scope of the EAR. That approach is retained in this interim rule and clarified in the steps that have been added to part 732, Steps to suggest methods for using part 734, Scope of the EAR. Items not subject to the scope of the EAR are not subject to any prohibition of the EAR.

Section 744.2(b) contains provisions designed to standardize the procedure for informing exporters that a particular party may present an unacceptable risk of diversion contrary to nuclear policies. Some commenters applauded this addition, and one opposed it. BXA will maintain this provision because the procedural discipline it provides should prove useful for both BXA and exporters. This provision does not change BXA's substantive authorities under the EAR.

One commenter suggested additional cross-references to the license review policies for items subject to, for example, missile technology controls identified on the CCL based upon product parameters rather than a prohibited end-use. In the proposed rule and in this interim rule, the license review standard for applications required by reason of the product parameters designated on the CCL are listed in part 742, Control Policy—CCL Based Controls. The license review standards for license requirements defined by end-uses described in part 744 are contained in part 744. Because of the criticism of some commenters that the proposed rule contained too many cross-references, BXA has concluded in this instance that additional cross-references are not advisable.

This interim rule continues existing policy regarding the country scope of the nuclear end-use prohibition. A new Supplement No. 3 is added to the part and referenced at § 744.2(a) to exempt designated countries from this prohibition, and those are the same countries that are exempt under the existing EAR. This is a change from the proposed rule.

One commenter suggested that BXA remove from § 744.6 words that indicate defined activities are prohibited in the United States. This interim rule accepts this recommendation. One commenter complained that § 744.6 applies to less than all countries in Country Group D:1. The exclusion of Romania and China is consistent with current policy, and is maintained in this interim rule. BXA recognizes that such policy decisions make the use of the Country Groups and the EAR itself more complex. BXA hopes reviewing of provisions of the EAR in the order recommended by the steps in part 732 will minimize this problem. BXA intends to further address such issues in the future. However, policy making in export controls will always present trade offs for exporters when petitioning the government for fairness and precision of export control policy on the one hand versus simplicity and ease of administration for the public on the other.

The proposed § 744.6(a)(2) prohibited certain U.S. person activities related to nuclear explosives devices. It was removed from this interim rule because such activity is prohibited under the International Traffic in Arms Regulations (22 CFR 120–130), which regulate defense services for all destinations.

Part 746—Embargoes and Other Special Controls

Part 746 of the proposed rule contained controls for Cuba, Libya, Iraq, North Korea, and the Federal Republic of Yugoslavia (Serbia and Montenegro), indicating where jurisdiction was divided between BXA and the Department of the Treasury's Office of Foreign Assets Control. It also contained controls implementing U.N. sanctions resulting in additional EAR controls on Rwanda.

Controls on Iran, embargoed because of Executive Order 12959 of May 6, 1995, have been added to part 746 in this interim rule. With the suspension of the embargo on the Federal Republic of Yugoslavia (Serbia and Montenegro), controls on that country, as well as on certain areas of Croatia and Bosnia-Herzgovina, have been shifted to a Supplement to part 746. Commenters pointed out that ECCN 0A95, which released food and medical supplies to Libya from reexport control, was unaccounted for in the proposed rule; that oversight has been corrected. The former Humanitarian License Procedure, which was included in the Embargo part of the proposed rule, has become a License Exception for humanitarian donations and is in part 740 of this interim rule.

Finally, this part includes Supplements containing general information on embargoes and sanctions administered by other federal agencies.

Part 748—Applications (Classification, Advisory, and License) and Documentation

Part 748 describes the procedures for submitting license applications, classification requests and advisory opinions. This interim rule places information from throughout the existing EAR into one part. It is intended to provide the reader with all information necessary to submit an application to BXA.

This interim rule adopts use of the new Form BXA–748P for the submission of license applications and classification requests, but not advisory opinions. Most commenters favored the use of one form for both exports and reexports. This interim rule clarifies the definition of advisory opinions and states they must be submitted in writing via letter. Commenters were evenly split regarding the proposal to require use of Form BXA–748P for advisory opinions. One commenter proposed adopting the form for use when submitting end-user requests. This suggestion along with one recommending the elimination of unit and total price boxes are not adopted in this interim rule. A number of commenters also queried whether BXA intends to republish the Forms Supplement contained in the existing loose leaf EAR subscription. BXA will republish the Forms Supplement in the subscription to the EAR offered by the National Technical Information Service (NTIS). The Forms Supplement is not published in the Code of Federal Regulations.

Sections in part 748 have been redesignated to better describe each section's contents. The addresses in § 748.2 and § 748.14 have been placed in one section. Procedures for submitting applications electronically have been placed in a separate section for easier access. For continuity, the unique license requirements for specific items or transactions have been placed in a separate Supplement No. 2 to this part. This change will allow readers to determine quickly whether the unique requirements apply to their transaction, and if not, to continue quickly with sections relating to support documents. Instructions for completing Form BXA–748P contained in Supplement No. 1 to part 748 have been clarified in response to comments posed by both the public and BXA employees.

On the suggestion of one commenter, a reminder that information submitted under the Export Administration Act will be treated in accordance with provisions stated in section 12(c) of the act has been added in this interim rule in § 748.1(c).

The section on license application support documents has been revised to eliminate one step in the decision tree. The questions contained in § 748.10(a)(3) in the proposed rule have been combined into one question in this interim rule. Some commenters noted that exceptions for obtaining support documents have decreased in certain circumstances. The changes announced in the proposed rule were due largely to the changing export control environment and proliferation credentials of various countries. Accordingly, this interim rule adopts the requirements contained in the proposed rule with a few modifications. This interim rule also adopts the two year validity period for the Statement by Ultimate Consignee and Purchaser.

A few commenters noted that though the development of decision trees will assist in determining support document requirements, BXA should consider the development of a matrix or chart similar to that contained in part 775 of the existing rule. Though a chart has not been included in this interim rule, BXA will explore development of a new matrix/chart based on the support document decision tress in this part. This interim rule also eliminates the last letter in the Export Control Classification Number contained in the existing rule. This letter had been used previously to designate support document requirements, but is no longer necessary.

A few commenters requested additional guidance on what constitutes an emergency and clarification of validity periods as they relate to licenses approved under emergency processing. This interim rule clarifies the validity period by cross-referencing the appropriate section in part 750, but does not provide additional language to be used by applicants when submitting emergency requests. In order to retain the emergency nature of these requests, this interim rule does not adopt the suggestion by one commenter to increase the validity period from 30 to 60 days for applications involving reexports.

Commenters were evenly split regarding the elimination of Form BXA–685P for amendments with a few stating the elimination of this form is long overdue. This interim rule adopts the intent to eliminate Form BXA–685P along with Form BXA–648. Changes not

listed in § 750.7(c) will require the submission of a Replacement application. One commenter stated the time period for the return of Delivery Verifications to BXA was reduced with elimination of Form BXA–648. The existing rule states the time frame as "a reasonable time after the last shipment" while the instructions contained in the existing Form BXA–648 stated the time frame as "90 days after the last shipment". This interim rule eliminates this inconsistency by establishing a 90 day time frame.

Form BXA–711 along with its written counterpart is adopted in this interim rule. Commenters stated the ability to use a form or letter was a good idea.

Part 750—Application Processing, Issuance and Denial

Part 750 describes the processing procedures and time frames for classification requests, advisory opinion requests and license applications. Once an applicant has prepared documents in accordance with part 748, this part describes how the application will be handled by BXA. The time frames detailed in this interim rule are drawn from Executive Order No. 12981 of December 6, 1995 and the draft 1994 Export Administration Act bill written by the Clinton Administration.

This interim rule provides a detailed description of the relationship between all agencies and departments involved in the license review process as well as a description of the interagency dispute resolution process. This part also addresses actual issuance, validity periods, denial, revocations, suspensions, transfers, duplicates, and shipping tolerances.

This interim rule also eliminates the proposed exceptions to the license processing time frames and limits all license applications to a 90 day processing time frame. A number of commenters made recommendations for revising the time frames for the processing of license applications as well as the types of applications subject to Congressional notification. This interim rule incorporates the processing time frames provided in Executive Order No. 12981. Accordingly, recommendations to establish different time frames have not been adopted. In addition, congressional notification requirements for crude oil and refined petroleum products have not been adopted since they no longer apply to the types of licenses reviewed by the Department.

Most commenters supported the clarification of the license processing system and time frames. These commenters agreed that BXA has met the goal of making the process more transparent for the exporter.

A number of commenters requested that applicants be given the opportunity to express their views during the license escalation process. These commenters also requested clarification of the term "registration" to include language that would require prompt action by BXA upon receipt of a license application. Both of these recommendations have been adopted in this interim rule.

One commenter suggested that part 756, Appeals, be combined with this part 750 since most appeals involve license applications. This recommendation was not adopted because the appeals process is open to all administrative actions, not only those relating to license applications.

One commenter recommended simplification in the provisions for shipping tolerances. While this recommendation has merit and may be considered at a later date, it was not adopted in this interim rule.

Part 752—Special Comprehensive License

Part 752 describes the provisions of the Special Comprehensive License (SCL). The SCL consolidates the activities authorized under the Project, Distribution, Service Supply, Service Facilities, Aircraft and Vessel Repair Station Procedure, and Special Chemical Licenses, and provides for additional flexibility to BXA in shaping appropriate SCLs and internal control programs (ICPs). For example, the Project License and Service Supply Procedure authorize exports and reexports to countries of the former Soviet Union, Eastern Europe, and the People's Republic of China, but the Distribution License, which includes an extensive mandatory ICP that is not required for the Project License or the Service Supply Procedure, does not allow exports and reexports for distribution in these countries. This interim rule conforms item and country eligibility under the SCL. All items subject to the EAR are also eligible for export and reexport under the SCL, except a few specified items. Form BXA–686P, Statement by Foreign Importer of Aircraft or Vessel Repair Parts, which was used for certain exports under the Aircraft and Vessel Repair Station Procedure, and Form BXA–6026P, Service Supply License Statement by U.S. Exporter, are not used under the SCL.

BXA received fourteen comments on part 752. Overall, several commenters stated that the SCL is a significant improvement over the existing special license eligibility because it provides broader authority to allow exports of items such as software and technology.

Five commenters suggested that existing special license holders retain the right to use existing special licenses until they expire, but apply for amendments to take advantage of the increased item and country scope of the SCL.

This interim rule makes the SCL effective March 25, 1996. All existing special licenses will expire on March 25, 1997, unless the special license expires before that time by its own terms. BXA will not grant extensions to existing special licenses. Existing special license holders who want to take advantage of the SCL benefits, must apply for an SCL according to part 752. BXA will not accept amendments to outstanding special licenses.

Eight commenters provided comments on item scope for the SCL. Most commenters stated that the proposed rule would not authorize exports under the SCL of items eligible for a License Exception. The proposed rule allowed exports under the SCL of all items subject to the EAR, including items eligible for a License Exception. However, to prevent confusion, the interim rule specifically states in § 752.1 that you may apply for an SCL, when appropriate, in lieu of a license described in part 748 or a License Exception described in part 740.

Two commenters stated that the SCL should not exclude any items because it defeats the purpose of the SCL, which is designed to allow greater flexibility in return for increased monitoring of each shipment by the SCL holder and consignees. One commenter added that other agencies have the right to review the applications for an SCL, and restrictions may be placed on a license on a case-by-case basis. However, two commenters stated that there should be no ad-hoc restrictions, adding that the only item restrictions should be those published in the **Federal Register**, which would be applicable to all companies.

This interim rule retains the list of items not eligible for the SCL in § 752.3 to ensure that potential applicants are aware of the few item restrictions before they consider applying for an SCL. If BXA determines that an item must be added to the list to protect national security, nonproliferation, or foreign policy interests, or determines that an item need no longer be prohibited under the SCL, BXA will publish a change in the **Federal Register**, at which time the change will become effective and apply to all SCL and potential SCL holders.

Another commenter was concerned about the general policy of denial for exports to destinations in Country Group D:2 of items controlled for nuclear nonproliferation reasons, and suggested that the SCL specifically state that items controlled for nuclear nonproliferation reasons be authorized on a case-by-case basis provided that the exporter has appropriate controls in place to screen for proscribed end-uses or end-users. The Internal Control Procedures (ICPs) required for most activities authorized under the SCL include screening elements for proliferation end-uses. This interim rule revises the policy of denial language found in § 752.3(b) of the proposed rule to a policy of case-by-case review. In addition, this rule retains the discretion to deny or limit the export or reexport of all items, including those controlled for nonproliferation reasons.

Most commenters applauded the expansion of country scope to include the newly independent states and Russia. However, several commenters requested clarification that the SCL is eligible for countries such as Slovenia, Rwanda, Bosnia, and Croatia, which are eligible under existing special licenses. One commenter stated that when BXA declares a country ineligible to receive items under the SCL, BXA should simultaneously list the country in the EAR, and remove it from all SCLs.

It is not BXA's intent to roll-back special license country eligibility. This interim rule therefore clarifies that all countries are eligible to receive items under the SCL except Cuba, Iran, Iraq, Libya, North Korea, Syria, and Sudan. If BXA determines that additional countries should become ineligible to receive items under the SCL, it will publish the change in the **Federal Register**, and notify all SCL holders.

Four commenters suggested consolidating § 752.2 into one generic paragraph that describes the representative activities. Another commenter stated that the SCL should not prohibit the export of service parts or upgrades as long as it does not exceed the limits of the SCL parameters. Section 752.2 is intended to provide illustrative examples of the types of activities that may be approved under the SCL. It is not intended to be an inclusive list, and other activities may be approved on a case-by-case basis. This interim rule revises § 752.2 to provide a general description of the types of activities that BXA may approve the under the SCL. These activities fall under the general categories of "service", "end-user", "distribution", and "other" activities.

Four commenters provided comments on the requirement for a letter of assurance for exports under the SCL of certain technology. One commenter stated that the SCL expands the scope of the existing letter of assurance required for exports under General License GTDR because it would require the letter of assurance from each new recipient overseas. One commenter specifically requested that the letter of assurance be required from only one party overseas. The proposed rule did not expand current policy. Under the existing EAR, any transfers of technical data covered by a letter of assurance would require such assurances from any new recipient of the technology. Two commenters indicated that assurances are not required for exports of technology under a validated license. But, if an assurance must be required, the assurance should be included in the SCL certifications.

This interim rule removes the letter of assurance requirement from § 752.5. BXA intends to review requests to export controlled software and technology under the SCL on a case-by-case basis, and impose conditions or restrictions as appropriate. Depending upon the level of software or technology requested for export under the SCL, this may include restrictions on reexport of software or technology, or exports of direct products of the technology.

Comments on § 752.5, steps you must follow to apply for an SCL, focused on the comprehensive narrative statement. Many commenters stated that much of the information required in the comprehensive narrative statement is already required on Form BXA–748P, Multipurpose Application, or Form BXA–752, Statement by Consignee in Support of Special Comprehensive License. Five commenters specifically requested that the requirement to state the ratio and dollar volumes of controlled items to those not subject to the EAR be removed, because it is impractical to calculate and fundamentally unreliable. BXA agrees that SCL applicants should not be required to repeat information in a comprehensive narrative statement that is also required on Form BXA–748P or Form BXA–752. Therefore, this interim rule includes major revisions to the comprehensive narrative statement requirements, limiting that statement to the information that is not required elsewhere. This interim rule also removes the requirement to list the items eligible for a License Exception that will be exported under the SCL because the ICP requirements assure that appropriate controls are in place to prevent diversion.

One commenter stated that the application stage was too early to provide BXA a copy of the proposed ICP, and to do so conflicts with the certification requirements that an ICP must be in place upon approval of the SCL. This interim rule retains, under § 752.5(c)(3), the requirement that applicants and consignees submit ICPs at the time of application. This information is necessary for BXA to determine whether to approve the items, activities, or countries requested on the SCL application, or to modify your proposed ICP depending upon the nature of the request.

One commenter stated that BXA should not require an SCL holder to inform all consignees of license conditions. Certain conditions may only have relevance to one or two consignees. BXA agrees, and has clarified in § 752.9(a)(4) to state that the SCL holder must inform all relevant consignees of all license conditions prior to making any shipments under the SCL. Four commenters objected to the language that refers to prior reporting of exports of certain items, which is was included in § 752.9(a)(4). This interim rule retains this language. Exporters should note that the list of the special conditions that may be placed on your SCL included in this section only provides examples, and such conditions may not be included on your SCL.

Section 752.11 describes the elements of the Internal Control Programs (ICPs) that the SCL holder and consignee must implement upon approval of the SCL to assure that exports and reexports are not made contrary to the EAR. Two commenters stated that the ICP requirements included in the proposed rule should be clear and defined, not generalized. Three commenters suggested that EPCI screening be limited to certain countries. Two commenters requested that BXA clarify when the parties to the application must submit the ICP to BXA. One commenter also requested that upon publication of the SCL, BXA publish guidelines that further define ICP requirements.

This interim rule also restructures § 752.11 to consolidate the elements of all three ICPs into one list, and to remove the different levels of ICPs. This simplifies the text, and makes it more user-friendly. This interim rule does not place country limits on screens against customers who are known to have, or suspected of having, unauthorized dealings with specially designated regions and countries for which nonproliferation controls apply. Any such limits must be approved by BXA, and are dependent upon the specific nature of your SCL request. This interim rule also includes information in § 752.11(a)(2) on where you may obtain

guidelines to assist you in developing an adequate ICP.

This interim rule also makes several other editorial changes to part 752 to consolidate provisions and simplify the text. Section 752.10, Changes to the SCL, has been revised to clearly define the requirements for changing an SCL. Detailed instructions on how to complete Forms BXA–748P, Multipurpose Application, and Form BXA–752, Statement by Consignee in Support of Special Comprehensive License, and other forms related to applying for an SCL are included in supplements to part 752. The servicing provision in § 752.4(b) has been revised to conform with the standard used throughout the EAR. This provision prohibits you from servicing, under the SCL, any item when you know that the item is owned or controlled by, or under the lease or charter of, entities in countries not eligible for the SCL, or any nationals of such countries. Finally, the recordkeeping provisions of § 752.12 have been clarified by providing the appropriate cross-references to part 762, which applies to all transactions subject to the EAR.

Part 754—Short Supply

This part implements section 7 of the EAA and similar provisions in other laws that authorize or require restrictions on exports for reasons dealing with adequacy of supply of commodities in the United States, as opposed to reasons based on foreign policy, national security, or nonproliferation considerations. Specifically, this part implements controls on exports of crude oil restricted under the EAA and a number of other laws; on exports of petroleum products produced or derived from the Naval Petroleum Reserves; on exports of western red cedar as required by provisions in the EAA; and on exports of horses by sea for the purpose of slaughter. It also provides information relating to two provisions contained in EAA section 7: The registration of agricultural commodities for exemption from short supply controls, and the filing of petitions for the imposition of controls on recyclable metallic materials.

Consistent with the revised structure of the proposed and interim rules, this part contains all of the requirements that apply uniquely to commodities controlled for short supply reasons. It sets forth all of the licensing requirements, licensing policy, License Exceptions, and other unique requirements that apply to commodities controlled for short supply reasons on the CCL. Short supply controlled commodities are identified with "SS" under "Reason for Control" in each relevant ECCN on the CCL. Other requirements of the EAR that are not unique to short supply controls, such as recordkeeping in part 762, also apply to items covered by this part.

Six commenters provided comments on this part. A number of revisions have been made to implement the recommendations contained in the comments. Additional revisions were made to incorporate the heavy California crude oil rule published in the **Federal Register** but not included in the proposed rule.

Commenters recommended that the definition of "crude oil" in § 754.2 be moved to the front of this section from paragraph (g). The definition of "crude oil" is now included in paragraph (a).

Section 754.2(b) deals with licensing policy for crude oil. It has been revised significantly to distinguish BXA's licensing policy for shipments of crude oil which have already been found to be in the national interest, by Presidential decision or otherwise, e.g., crude oil from Cook Inlet or California heavy crude, and those which will be approved if BXA makes the necessary findings on a case-by-case review of applications. In the proposed rule all crude oil applications would be reviewed by BXA and approved if the crude oil was not subject to certain statutory restrictions and BXA made a finding that the export was in the national interest and consistent with the purposes of the Energy Policy and Conservation Act. In this interim rule, paragraph (b)(1) of § 754.2 lists the exports that have already been found to be in the national interest and paragraph (b)(2) lists the exports for which BXA must make the necessary findings.

Section 754.2(b)(2) also reflects a revision relating to the kinds of transactions that BXA will find to be in the national interest. The proposed rule had cited examples of crude-for-crude and crude-for-product exchanges that would be found to be in the national interest. The language of the proposed rule, however, could have been interpreted as limiting the national interest to these examples. The interim rule makes clear that the cited exchanges are only examples.

This interim rule also adds a new paragraph (g) to § 754.2, reflecting regulations that were published in the **Federal Register** (60 FR 15669, March 27, 1995).

Finally, this interim rule creates two new License Exceptions which apply to the exports of crude oil. Section 754.2(h) implements a new License Exception SS–SPR, intended to permit the export of foreign origin oil stored for emergency use by a foreign government in the Strategic Petroleum Reserves (SPR). License Exception SS–SPR permits the export even if the foreign origin oil is commingled with other SPR oil, provided that the Department of Energy certifies that the crude oil being exported is of the same quantity and of comparable quality as the foreign origin oil imported by the foreign government for storage in the SPR.

Section 754.2(i) of this interim rule creates a new License Exception, SS–SAMPLE, to permit limited quantities of crude oil for analytical or testing purposes. This revision implements recommendations included in the public comments. Under this License Exception you may ship up to ten barrels of crude oil to any one end-user annually, up to a cumulative limit of 100 barrels per exporter annually. This License Exception codifies a BXA licensing policy for sample shipments that has been in effect for several years. This licensing policy has been included in BXA's annual report to the Congress, but has not been reflected in the EAR. Such *de minimis* sample shipments have no measurable effect on U.S. oil supplies.

Section 754.3 of this interim rule reflects a significant change in the way that the Naval Petroleum Reserves Production Act (NPRPA) restriction on non-crude oil products are implemented. The NPRPA prohibits the export of petroleum origination or derived from the Naval Petroleum Reserve (NPR), unless the President approves the export. Under existing EAR, licenses are required for all petroleum products, and General License G–NNR authorizes shipments of all such product of non-NPR origin or derivation. The proposed rule continued this approach and provided License Exception SS–NPR.

Commenters noted that if all NPR crude oil produced in fiscal year 1994 were refined, it would amount to less than one percent of all the crude oil refined in the United States. The commenters recommended that the existing approach be changed to require a license only for petroleum products which were NPR produced or derived. BXA adopted this recommendation and this provision reflects the change.

The relevant ECCNs on the CCL have been revised to apply only to petroleum products that were produced or derived from the NPR or became available for export as a result of an exchange of any NPR produced or derived commodities. With this change, General License SS–NNR is no longer necessary and is removed.

Section 754.4, unprocessed western red cedar, has been reorganized consistent with a recommendation included in the comments. In the proposed rule, § 754.4(a)(2) contained instructions for filing a license application, and preceded provisions on license policy and exceptions. A commenter noted that an exporter will first look for licensing policy and license exceptions before looking for information on how to fill out a license application. The commenter observed that there is no point in instructing the exporter how to complete a license application if subsequent text informs the exporter either that a license will not be approved or is not necessary. This interim rule adopts this comment and has restructured § 754.4 accordingly.

Part 756—Appeals

This part describes the procedures applicable to appeals from administrative actions taken by BXA. An administrative action is any action (not including an administrative enforcement proceeding) taken under the EAA or EAR with respect to a particular person, including denial of a license application, return of a license application for other than procedural deficiencies or additional information, or classification of an appellant's item. Essentially, any person directly and adversely affected by an administrative action would be allowed to appeal to the Under Secretary for Export Administration for reconsideration of that administrative action.

No substantial comments were received on this part 756. One commenter suggested the possibility of combining this part with part 748, Applications. This interim rule does not adopt the suggestion.

With the exception of minor editorial revisions and clarifications, the provisions of part 756 remain unchanged from the proposed rule.

Part 758—General Export Clearance Requirements

This part deals with requirements imposed on exporters and others regarding the movement of items subject of the Export Administration Regulations (EAR) out of the United States. The purpose of this part is to assure that the movement of items subject to these EAR conforms to the requirements of the export license or other authorization for their export.

This part imposes specific responsibilities on the different persons involved in export transactions to ensure compliance with other provisions of the EAR and of the Foreign Trade Statistics Regulations (FTSR) (15 CFR Part 30), including exporters, freight forwarders, exporters' agents, carriers and all other persons. It prohibits any person from engaging in certain proscribed conduct. This part governs some of the same conduct that is governed by the FTSR.

This part imposes specific responsibilities for assuring that Shipper's Export Declarations (SEDs), bills of lading and air waybills are accurately filled out and are consistent with the export license or other authorization for the export to which they correspond. It restricts the conduct of exporters, forwarders, carriers and others to assure that the delivery abroad of items subject to the EAR is in accordance with the terms of the export license, exception to the licensing requirement or other authorization. In some cases, it imposes duties on parties to the transaction to return the items to the United States or take steps to prevent them from entering the commerce of a foreign country.

The proposed rule made several changes to this part. Approximately 25 commenters made comments on the proposed part 758.

A majority of those who commented on part 758 recommended that we eliminate the requirement to place the symbol "NOL" on Shippers Export Declarations (SEDs) for transactions involving items not on the CCL. Most of those commenters suggested that we adopt a single symbol "NLR" for all transactions where the export does not require a license either because it is on the CCL but does not require a license to the destination in question or because it is not on the CCL. Several commenters went further and recommended that we authorize the use of the symbol "NLR" for transactions that are authorized by a License Exception instead of requiring that the License Exception symbol be listed on the SED. We adopted the suggestion to eliminate the symbol "NOL". However, this interim rule includes a designator (EAR99) for items that in the proposed rule were subject to the EAR but not on the CCL, that will be used by BXA in responding to classification requests and by exporters for their management systems. The designator will not be used on SEDs. We have also reduced the number of License Exception symbols from which parties filling out SEDs must choose. As noted above in the discussion of License Exceptions, we have created a small number of symbols for various groups of License Exceptions, and it is these symbols for groups of License Exceptions that must appear on the SED.

Several commenters suggested that the choice of Destination Control Statements (DCSs) in the proposed rule was unduly complex. In addition, some commenters suggested that the proposed rule on DCSs did not make it clear that the most restrictive DCS could be used for any transaction. This interim rule adopts a single simplified DCS.

A number of commenters raised the issue of what information should be shown on SEDs for items which in the proposed rule were not subject to the EAR, but which in the existing EAR are eligible for general license GTDA. In response to these comments this interim rule creates an optional designator TSPA which exporters may use on SEDs for software or technology that the proposed rule and this interim rule define as outside the scope of the EAR.

The proposed rule eliminated some information about authority and status of forwarding agents and procedures for correcting SEDs on the grounds that those points are covered in the FTSR (15 CFR part 30) and including them in the EAR was redundant of the FTSR. Some trade associations recommended that we retain these procedures. We did not adopt this suggestion because the FTSR applies to all exports from the United States including those subject to the EAR and those that are not. These procedures need to be in the FTSR because exporters who have no transactions subject to the EAR must follow them. Retaining duplicate language in a regulation that applies to only a portion of the exports from the United States would be redundant and creates the burden of keeping two different sets of regulations identical whenever amendments are adopted.

Two commenters suggested that proposed § 758.1 was too long and portions were redundant. They suggested breaking it up into several sections. We did not adopt this suggestion in this interim rule. The section has been shortened because of the elimination of the NOL provisions.

Several commenters suggested that the use of the word "you" in the proposed rule under § 758.1(a)(1) shifted responsibility from exporters to forwarders. This interim rule does not change that language. The proposed rule, by its terms makes those who obtain licenses from BXA or rely on License Exceptions in their export transactions responsible for the proper use of that license or License Exception. This is a reasonable policy and is retained in this interim rule.

Two commenters proposed that forwarding agents not be required to keep a record of the delegation of authority to them unless the

responsibility to do so was delegated by the exporter. This interim rule does not adopt this suggestion. The proposed rule and this interim rule conform with the existing EAR and with the FTSR on this issue.

Two commenters stated that the use of the phrase "exporter and the person submitting the document" in the proposed §§ 758.3(e) and 758.3(l)(1) expands the scope of the persons making representations to the U.S. Government to include forwarders in instances where the existing EAR does not impose responsibility on forwarders. We accepted this recommendation. This interim rule adopts language from the existing EAR. However, other sections of this interim rule, like the existing EAR, impose liability on forwarders who make misrepresentations to the government.

Two commenters recommended that the HTSUS numbers be permitted on SEDs in lieu of Schedule B numbers. We did not adopt this recommendation in this interim rule. The FTSR (15 CFR part 30) which govern all exports from the United States require Schedule B numbers. To the extent that there are differences between the HTSUS and the Schedule B numbers, errors in compiling foreign trade statistics would occur if either classification numbering system were permitted for exports subject to the EAR.

One commenter recommended that this rule eliminate the responsibility of exporters and forwarders who file summary monthly reports in lieu of SEDs to ensure that carriers place the destination control statement on bills of lading and air waybills. We did not adopt this suggestion. The proposed rule and this interim rule follow the existing EAR which was designed to assure that exports made under the privileged monthly procedure were totally in compliance with the EAR.

Two commenters recommended that the regulations impose a limit on the time that the Government may hold up export shipments for inspection. We did not adopt that suggestion because it was beyond the scope of the regulations reform exercise. Input from a number of other government agencies would be necessary to develop a rational time limit.

One commenter recommended that when the government orders a carrier to return or unload a shipment that the government be required to notify the exporter. We did not adopt this suggestion. In some cases the exporter may be the target of an investigation and a notification requirement could jeopardize legitimate law enforcement activities. More than one agency has authority to order return or unloading and developing a rule would require the coordinated input of several agencies. That coordination would be beyond the scope of the regulations reform exercise.

One commenter recommended that we require that exporters show the Export Control Classification Number (ECCN) on the SED for all exports. We did not adopt this suggestion. Although exporters need to determine the proper ECCN in order to determine whether they need an export license, requiring them to show that number on SED's for all exports would unduly increase the paperwork burden.

To assist in defining parties to an export transaction, one association recommended we adopt as a guide a Power of Attorney utilized by Customs. We did not adopt this recommendation. The EAR defines parties to a transaction in an adequate manner. Parties to transactions additionally are free to adopt any Power of Attorney arrangement that addresses pertinent roles and is not inconsistent with the EAR or other applicable regulations.

One commenter questioned the proposed requirement to place the various EAR authorizations for each item being exported under its corresponding line item description. This commenter pointed out that the FTSR requires that same information to be placed in blocks 21 and 22 on the SED form or continuation sheet. This interim rule adopts the FTSR procedure and eliminates the requirement to repeat the authorization under the line item description.

This same commenter also recommended that the "Conformity" provisions in § 758.4(c)(2)(iii) be changed to allow a name of a party other that the licensee/shipper on the SED to be shown on the bill of lading as shipper. We did not adopt this recommendation. These provisions are designed to assure that new parties are not introduced in transactions contrary to the EAR and that exports are completed in an orderly and legal manner. Additionally, the situation described may be appropriately addressed in the application for license process, by showing the foreign subsidiary as exporter/licensee and the United States affiliated/related company as agent for the exporter.

Two commenters recommended eliminating the proposed rule requirements concerning commodity descriptions on the SED (§ 758.3(g)(2)(ii)) and the requirement that a copy of the commercial invoice with a DCS be sent to the ultimate consignee (§ 758.6(c)(4)). They claimed that these were new requirements. We did not adopt the recommendations in this interim rule because the proposed rule merely retained the requirements of the existing EAR.

Part 760—Restrictive Trade Practices or Boycotts

This part revises the existing part 769. The recordkeeping requirement found in § 760.5(b)(8) of this interim rule requires the recipient of records relating to a reportable boycott request to keep those records for five years after receipt of the request. The existing EAR § 769.6(b)(8) requires the recipient of records relating to a reportable boycott request to keep those records for three years after receipt of the request.

Two sections that were reserved in the existing EAR (769.5 and 769.7) have been removed. As a result of this change, § 769.6 in the existing EAR has been renumbered as § 760.5 in this interim rule. In addition two grace period provisions in the existing EAR have been removed. They are; § 760.2(f)(11) (along with its accompanying example xi) in which certain actions to implement letters of credit prior to the expirations of grace periods and § 769.8 which established a grace period for agreements entered into on or before May 16, 1977 could be complied with. The last such grace period expired on December 31, 1978. Supplement No. 14 which relates to U.S. sanctions against South Africa that have been repealed has also been removed and subsequent supplements renumbered.

A new Supplement No. 16 interpreting antiboycott policy in light of recent developments in Jordan has been added by this interim rule.

None of the changes made to this part by this interim rule were published in the proposed rule.

Part 762—Recordkeeping

In this interim rule, this part has been reorganized and revised to eliminate the requirement that regulated persons obtain BXA approval prior to destroying original documents and replacing them with electronic, magnetic, photographic or other images. This interim rule also makes it clear that persons required to keep records may always keep the records in the form in which that person receives or creates it. It extends the recordkeeping period to five years to coincide with the applicable statute of limitations and sets standards of legibility and retrievability for reproductions that are kept in lieu of originals.

Several commenters objected to the extension of the recordkeeping requirement to five years in the proposed rule. This interim rule adopts the five year record retention period. A record retention period that coincides with the applicable statute of limitations is needed to promote effective enforcement. In addition, such a retention period benefits firms that comply with the regulations because the EAR require that those who export under a License Exception justify the use of that exception. Such persons will need the records of the transaction to do so.

Three commenters suggested that recordkeeping requirements be eliminated for certain categories of exports that do not require a license from BXA. We did not adopt this suggestion. Many transactions that are subject to the EAR do not require a license from BXA. Comprehensive records are necessary for effective enforcement and administration of the EAA and EAR.

One commenter objected to a requirement in the proposed rule that records which are the subject of a request for production of records by the government may not be destroyed even if the record retention period has otherwise expired. This provision is a requirement under the existing EAR and is retained in this interim rule. Enforcement and compliance efforts would be undermined if parties were allowed to destroy records after they have been notified that those records are wanted in connection with an audit or investigation.

Several commenters recommended that we eliminate the specific requirements for legibility and retrievability of reproduced records that are kept in lieu of originals that appeared in the proposed rule. We did not adopt this suggestion. This interim rule does not impose any requirements of legibility on original records. However, standards of legibility and retrievability are necessary when the originals are destroyed and copies are retained in lieu thereof. BXA will continue to review this issue to ascertain if the standards might be simplified without compromising record integrity.

Two commenters recommended that the EAR specifically state that records of certain activities of U.S. persons in connection with the proliferation controls described in §§ 734.2(b)(7) and 744.6 are subject to the recordkeeping requirement. Although the proposed rule stated that all transactions that are subject to the EAR are subject to these recordkeeping requirements, we adopted this suggestion to make more explicit the fact that activities subject to the proliferation controls are covered.

Part 764—Enforcement

Eleven of the commenters dealt with part 764. This interim rule makes numerous changes to the proposed rule based upon these comments.

This interim rule accepts the suggestion of one commenter and revises § 764.2(e) expressly to limit the offense of acting with knowledge of a violation to actions that are connected with an item that is the object of the violation of the EAA or EAR.

Section 764.2(j) is revised to remove from the list of violations a number of actions characterized as "trafficking and advertising export control documents". BXA accepted the suggestion that some of the restrictions on the creation of an interest in a licensed transaction are inconsistent with normal trade practice in financing and insuring exports. BXA is eliminating other parts of this section as unnecessary because limitations on license transfer and use are effectively covered by other EAR provisions, such as § 750.10, and concerns regarding disclosure of a person's relationship to a transaction are covered by provisions such as § 764.2(g). This interim rule limits § 764.2(j) to the offense of license, other export control documents or other alteration.

Some commenters called for distinguishing between "substantive" and "minor" violations. BXA did not adopt this suggestion. BXA concludes that such distinctions are not feasible or appropriate with respect to the type of activity covered by the EAR.

Some commenters urged BXA to list factors that would mitigate sanctions for violations. BXA did not adopt this suggestion. BXA notes that its practice shows that it is open to the consideration of a wide range of mitigating factors, and it does not believe that a listing of such factors is needed to enhance compliance or to ensure that sanctions will be appropriate.

Some commenters called for BXA to include in the EAR a comprehensive denial list that would include the names not only of persons denied export privileges by BXA, but of persons covered by denial orders or designations by other agencies. This interim rule does not contain such a list. BXA cannot make its regulations an official repository of legal action by other agencies. BXA will work with other agencies to try to improve coordination of and access to the lists.

This interim rule describes certain measures such as license suspensions and temporary denial orders and places them in a new § 764.6, entitled "protective administrative measures". These measures are not punitive, but are intended to protect against activity contrary to the purposes of the EAR. Although these measures were included in the existing EAR and in the proposed rule, they were not all in a single section. Placing these measures in a single section distinguishes them from the sanctions which are covered elsewhere in part 764.

Part 766—Administration Enforcement Proceedings

Five commenters specifically addressed part 766. Three of these commenters addressed substantially the same points.

Three commenters called for changes to protect the interests of persons BXA seeks to add to a denial order on the basis of relationship to the respondent. This interim rule makes three such changes. It revises § 766.23 to clarify that prevention of evasion is the basis for making an order applicable to a related person, to provide more specifically and uniformly for notice to persons that BXA seeks to have named as related, and provides that such persons may oppose or appeal not only the issue of relationship, but also whether the order is justified to prevent evasion. These commenters suggested, further, that related persons be allowed to challenge the order on the merits, that is, as to whether or not there has been a violation or a temporary denial order is necessary in the public interest in order to prevent an imminent violation. BXA did not adopt this suggestion. BXA believes that it is proper to limit contests on the merits to respondents, as it is the alleged conduct of respondents that is the basis for the order.

One commenter expressed concern that having the Under Secretary decide appeals from Administrative Law Judge (ALJ) decisions in enforcement proceedings raises doubts about impartiality, due process and fairness. This commenter called for direct appeal from the ALJ to the U.S. Court of Appeals. No such change has been made, as it would be contrary to specific EAA provisions and to general administrative law practice that makes final agency action subject to judicial review. An ALJ decision cannot be final agency action under 50 U.S.C. app. 2412(c) or (d). Moreover, BXA believes that its conduct of administrative proceedings has been marked by fairness and the careful observance of due process.

Three commenters called for stating that "clear and convincing evidence" is required to sustain an administrative enforcement case. BXA did not adopt this suggestion. The EAA (50 U.S.C.

app. 2412(c)) makes the Administrative Procedure Act (5 U.S.C. 556) evidence standard ("reliable, probative, and substantial") applicable. BXA does not believe that any different EAR standard is needed.

Three commenters called for detailed provisions on how much evidence is needed to support a summary decision under § 766.8.

BXA did not adopt this suggestion. BXA concludes that the use of the standard "there is no genuine issue as to any material fact" is proper and sufficient.

Another commenter stated that § 766.24(b) should be revised to define the "imminent violation" criterion for issuance of a temporary denial order as requiring a showing of imminence both in nearness of time and in likelihood of occurrence. BXA did not adopt this suggestion. BXA retains its longstanding definition from the existing EAR, consistent with the legislative history of the 1985 amendments to the EAA, that either time or probability imminence will support the issuance or renewal of a temporary denial order.

This interim rule adopts many improvements in drafting clarity and precision that were suggested in the comments, along with numerous others that BXA developed. This interim rule revises § 766.7 to make default procedures available in antiboycott proceedings. There were no public comments suggesting this change, but it makes the procedures for imposing administrative sanctions and other measures in antiboycott cases more consistent with other proceedings under the EAR. Finally, BXA decided to remove from this interim rule one provision that appeared in the proposed rule even though no comments on it were received. This interim rule eliminates a provision from § 766.18 of the proposed rule that would have barred reference in a settlement order to a finding of a violation, as the content of such an order is consensual. This deletion makes this interim rule consistent with the existing EAR.

Part 768—Foreign Availability

Part 768 reflects the provisions described in part 791A of the existing EAR. It implements section 5(h) of the Export Administration Act (EAA) and contains procedures and criteria relating to determinations of foreign availability for national security controlled items. It is substantively unchanged from the existing part 791A. This revised version contains several technical changes, such as use of the term "claimant" instead of "applicant," intended to make part 768 easier to read and understand.

Only three commenters mentioned this part in their submissions, possibly because the **Federal Register** notice soliciting comments had stated that BXA did not intend to make any significant changes in this part.

One commenter questioned why Cuba is included in the definition of "controlled countries" for foreign availability purposes under § 768.1(d) and not for general purposes by inclusion in Country Group D:1, as described in Supplement No. 1 to part 740. Cuba is a "controlled country" pursuant to determination made by BXA under section 5(b) of the EAA. (See Export Administration Annual Report 1994, at II–8.) Country Group D:1 does not include countries subject to broad based embargoes, such as Cuba and North Korea, even though they are controlled countries. This interim rule adds a clarifying notation stating that since virtually all exports to Cuba and North Korea currently are subject to an embargo, the foreign availability procedures do not apply to these two controlled countries. A similar notation is included in Supplement No. 1 to part 740.

Another commenter suggested that § 768.7(d) be revised to clearly reflect the provision of section 5(f)(3) of the EAA that "the Secretary shall accept the representations of applicants * * * supported by reasonable evidence, unless contradicted by reliable evidence * * *". BXA did not make any revisions because § 768.7 paragraphs (c), (d)(1), (d)(2), and (d)(3) of this interim Rule already implement this provision.

One comment suggested that the provision in § 768.7(f)((1)(i)(C) for submitting foreign availability determinations to COCOM or a successor regime was unnecessary and should be deleted. When COCOM ceased functioning on March 31, 1994, the United States and other member countries agreed to maintain the control lists that were in place at that time until a successor regime was in place. A change has been made in this interim rule to reflect BXA's intention to conduct any necessary consultations with former member countries.

Another commenter questioned why foreign availability procedures do not apply to foreign policy controlled items. Foreign availability is always taken into account whenever foreign policy controls are imposed, expanded, or extended. Because the purposes of foreign policy controls vary, strict procedures for conducting assessments have not been deemed to be warranted. Finally, one commenter suggested that part 768 be revised to reflect the expanded role of the Strategic Industries and Economic Security Office's Economic Analysis Division in considering unfair impact, effectiveness of controls, and foreign availability, and to discuss how exporters may contribute to this work and analysis. BXA will consider such an addition to the EAR in future revisions.

Part 770—Interpretations

Part 770 contains certain interpretations concerning commodities, software, technology, and *de minimis* exceptions for chemical mixtures. These are designed to clarify the scope of the controls. BXA intends to add interpretations to this part over time to aid you in interpreting the EAR. Since the publication of the proposed rule, BXA has issued certain interpretations on the application of the *de minimis* exclusion for certain mixtures of chemicals. Those interpretations are added to part 770 in this interim rule.

Some commenters suggested that the part numbers of this chapter and others will overlap with the part numbers of different chapters in earlier versions of the EAR and therefore BXA should use both odd and even numbers for the parts of this interim rule. BXA does not believe that using only even numbers for the parts of this interim rule will cause confusion. BXA further believes that is it useful to retain only even numbers in this interim rule so as to leave room for future parts that cannot now be anticipated.

Certain commenters urged BXA to add interpretations of certain issues; and BXA will review those recommendations for inclusion in the future.

Commenters also asked BXA to include an interpretation of the phrase "specially designed." BXA is not responding to this recommendation due to pending criminal enforcement action and for other reasons.

This part contains certain interpretations regarding the *de minimis* content of certain chemical mixtures. These reflect amendments to the EAR adopted after the publication of the proposed rule.

Part 772—Definitions

This part defines terms as used in the EAR.

In response to comments, this interim rule combines the definitions part from the proposed rule with the multilaterally-agreed definitions found on the Commerce Control List that are found in Supplement No. 3 to § 799A.1 of the existing EAR. These definitions may be distinguished from other definitions by the fact that they appear in quotation marks.

Part 774—The Commerce Control List

On May 11, 1995, BXA published an advance notice of public rulemaking in the **Federal Register**, (60 FR 25480), soliciting comments from industry and interested public on whether and how to conform the numbering system used to identify items controlled by the Export Administration Regulations, or Export Control Classification Numbers (ECCNs), with the numbering system used by the European Union (EU) to identify such items.

BXA received a total of eighteen responses to the May 11 notice. Ten commenters responded directly to this notice, while the remaining commenters included comments on the May 11 notice with their comments on the proposed rule. Additional verbal comments were also provided at the town-hall fora conducted throughout the United States by BXA.

Overall, industry supports harmonizing the U.S. ECCN system with the EU numbering system. The following is an analysis of the responses to the five questions posed by BXA in the **Federal Register** notice, followed by other general comments.

1. Should the U.S. Harmonize the ECCNs With the EC Numbers and Encourage Other Countries To Adopt a Uniform Numbering System?

Most commenters stated that they were very supportive of adopting the EU numbering system. Four stated that if such a change were to be made, there should be a grace period during which either the ECCN or EU number could be used. One of these commenters stated that the grace period should be six months, and another stated that a minimum of nine months should be allowed for a smooth transition to the new system. One compeny stated that it would be less costly to plan for such a change now rather than sometime in the "years ahead". Another commenter stated that although the initial computerization of the new numbers could be costly, they will be able to use the information to process export declarations electronically, which will make processing the information much more timely.

One foreign-based company stated that they do not support converting the ECCNs to the EU numbering system because the U.S.-based ECCN automatically shows that the item is U.S.-origin, and that there are just too many discrepancies between the items controlled by ECCNs and the corresponding EU numbers. Another commenter who does not support conversion to the EU numbering system stated that the use of a common ECCN has little benefit in the export documentation and should not be considered an advantage to exporters. This commenter further stated that it was only recently that they incurred costs of administering the changes BXA made to the ECCNs to implement the Coordinating Committee on Multilateral Export Control's (COCOM) "Core List" in 1991 (56 FR 42824, August 29, 1991), and would not want to do it again. Another commenter stated that the ECCN system is a good system that works and that they see no advantage of a world-wide system in this area.

One commenter, that supported the conversion of ECCNs to the EU system, stated that BXA should not require conversion to the EU system until the differences between the existing ECCNs and the numbering system used by the EU are resolved, and also until the COCOM successor regime and control lists are finalized and all export destinations agree to adopt the system. Another commenter echoed this opinion, and added that the new U.S. ECCNs should only be developed for U.S.-controlled items now controlled by the EU. One commenter stated that unless the U.S. and EU numbers are identical, there will still be a need for exporters to classify U.S. and EU separately.

BXA agrees that complete harmonization between the new ECCN system and the EU system is desirable. Without such harmonization, any resulting list may be confusing for industry and difficult to implement. For multilaterally controlled items, the new ECCNs described in this interim rule are renumbered according to the comparable entry on the EU list. The scope of such controls are generally the same on both lists, however the style of the text may be different.

It is important to note that the EU list provides guidance to member states on the control parameters for items controlled by on the Industrial List, the International Atomic Energy List, Missile Technology Control Regime Annex, the Nuclear Supplier's Group, and the list of items controlled by the Australia Group. Each EU member publishes its own national list to implement such controls and any other unilateral controls. Many national lists are therefore different from the EU list, except for the scope of multilateral controls. The U.S. also uses discretion in developing its national list, the CCL, for dual-use items. Certain entries on the CCL have been created for those items that are not controlled multilaterally on the EU list. Such items are identified an unilateral controls. In those few instances where the multilateral entries differ, the U.S. will ask its trading partners to adopt the CCL.

2. What are the Specific Implications If We Change the ECCNs To Conform With the EC Numbering System? For Example, if You Currently Have Computer Programs That Aid in Facilitating Exports and Reexports, What Will be the Programming Implications for Your Firm if We Make This Change?

Most of the commenters stated that the reprogramming of computer systems would be a significant undertaking to convert to a EU numbering system. One commenter stated that they estimate it would take approximately 2 person years of effort and $300,000 to change the data base and ancillary associated systems worldwide. The time for performing this effort would be approximately three to four months. Two commenters stated that consideration would need to be given to the diversion of human resources from current tasks to the review of entire product lines against the proposed new classification numbers. This would involve the review of several thousand product part numbers and the time required to enter each new EU-based number into the computer system. Three commenters remarked on the export control personnel retraining requirements requisite to use of the new numbering system. Another commenter stated that changes to their current system would be minimal, but they are now in the process of upgrading relevant programs and processes, and would like to see a change in numbering system now.

One commenter stated that they currently give dual classifications (ECCN and EU number) to items on their product matrices, and that the matrices are computerized. Changes to the matrices will be required for the implementation of the EAR simplification project, so it would be beneficial if the ECCN harmonization could be carried out at the same time.

BXA is sympathetic to the time and cost involved in implementing a new numbering system. However, as many companies have stated, the benefits of a global numbering system far outweigh the costs of implementing such a system. The new ECCNs identified in this interim rule implement the first steps toward a global control list.

3. What Problems Have You Had in the Past in Tracking Two or More Numbering Systems for Identical Items Controlled by Two or More Countries?

One commenter stated that a uniform numbering system would eliminate a potential area for misunderstanding or confusion in references to a specific item while another stated that the current need to track multiple numbering systems adds cost and unnecessary complexity to their compliance programs. This latter commenter also stated that there is added confusion caused by changes on different dates by different countries to the various lists. Another commenter stated that the lack of correlation between the various lists has made it all but impossible to develop a computerized correlation between the various numbers that may apply to one unique product. This commenter also stated there is no correlation in the EU numbering system for ECCNs designated for unilateral controls.

4. What Are the Specific Ways in Which a Uniform Numbering System Would Help Your Company?

Five commenters responded to this question. One commenter stated that it would simplify their product matrices, while another two stated that it would streamline their training procedures. One of these commenters also stated that it would also increase their ability to maintain high levels of export control compliance. Another commenter agreed that standardization would allow the company to avoid building and maintaining cross-reference tables as they communicate order requirements and status on U.S. export orders with importing foreign entities.

Another commenter also cited simplification as the major benefit of a uniform system, and highlighted the specific benefit of consistency in classification of items. Only one commenter stated that a uniform numbering system would not benefit their company, but provided no further explanation as to why it would not be beneficial.

5. Are There Numbering Systems of Other Countries That You Prefer to the EC System? If So, State Which Ones and Exactly How You Would Reconcile Any Differences in Scope?

Two of the ten commenters supported maintaining the current ECCN system. Of the seven commenters that specifically supported a unified numbering system, none identified a system other than the EU as preferable.

Four commenters provided additional comments other than those supporting the four specific questions posed in the May 11 **Federal Register** notice. One commenter, who did not support a conversion to the EU numbering system, stated that the fourth and fifth digits of the EU number do not provide any real benefit or added clarity. This commenter further stated that the alpha-character used at the end of the current ECCNs has been useful in internal control procedures. For example, an "A" at the end of a ECCN easily indicates a highly sensitive item, while a "G" indicates greater range of exportability.

Two commenters, who were supportive of the EU numbering system, also supported the elimination of basket categories. One of these commenters stated that the continued use of such categories would conflict with the objective of harmonizing the ECCNs with the EU list. Another commenter stated that elimination of the "G" level basket categories was not favorable.

One commenter also stated that there should be no interim or intermediate changes to the ECCN numbering system, and future changes to the control list should be effective on the same date in all countries that are a party to the control regimes using the list. The EU provides guidance to member states for drafting national control lists. Each state is responsible for implementing changes to multilateral control lists based upon agreements reached by the Wassenaar Arrangement, the Missile Technology Control Regime, the Nuclear Suppliers Group, and the Australia Group. BXA will continue to implement agreements reached by each of the regimes through prompt publication in the **Federal Register**.

Another commenter suggested that if the United States were to adopt the EU numbering system, BXA should clarify whether new control numbers (not included on the EU control list) represent new controls, and if so, what items are being suggested for control and the policy basis for such controls. A comprehensive cross-reference will be included in Supplement No. 3 to this part. The Supplement will provide cross-references for both new format to old format and old to new, so that readers will be able to locate new numbers based on their current ECCNs. In this manner, readers will be able to determine the origin of all numbers that do not currently appear on the EU list. Further, the revised CCL implements recent multilateral agreements that have not yet been incorporated in the EU list, such as the NSG revisions published February 1, 1996 (61 FR 3555).

Under the new numbering system adopted by this interim rule, it will be easy to identify whether an item is controlled multilaterally (e.g., for national security, missile technology, nuclear nonproliferation, or chemical and biological reasons) or unilaterally, based upon the third digit of the number. ECCNs having a "9" as their third digit (i.e., 5A980, surreptitious listening devices) are controls unique to the United States, just as other countries may have their own unique controls. Further, Category 10 has been renumbered, and will appear as Category 0 in conformance with the EU list. Titles of the various categories have also been revised in conformance with the EU.

This interim rule retains one "basket" entry (EAR99), referenced at the end of each category in the Commerce Control List, which contains all the items that used to be classified under those ECCNs ending with "96G" and were thus eligible for General License G–DEST to most destinations. Items classified as EAR99 are those items not specified on the CCL, but still subject to the EAR. Therefore, exporters first must determine that their items are not, in fact, on the CCL; only then may they classify their items as EAR99.

As in the existing EAR, terms enclosed in quotation marks (i.e., "aircraft" or "production") are those with multilaterally agreed definitions that appear throughout the CCL. These definitions, found in Supplement No. 3 to part 799A of the existing EAR, are in this interim rule integrated into part 772 (Definitions). By contrast, definitions or parameters not enclosed in quotation marks and identified by the *Related Definitions* header in individual ECCNs are unique to particular entries, and therefore appear only in those entries.

Administrative Exception Notes, denoting "favorable consideration" of licenses for certain items to certain destinations in the existing Supplement No. 1 to part 799A, became meaningless when COCOM disbanded, and they have been removed from the CCL in this interim rule.

With the harmonization of the CCL and the EU list, most items will need to be reclassified. Exporter and reexporters may submit requests for reclassification beginning on the effective date of this interim rule. BXA will publish a list of those ECCNs where reclassification is not necessary prior to November 1, 1996.

Forms Supplement

The new Multipurpose Application Form, BXA–748P, will replace the Application for Export License (BXA–622P) and the Request for Reexport Authorization (BXA–699P). It will also serve as an application for the Special Comprehensive License. Additionally, the BXA–748P will accommodate Commerce Classification Requests, thus allowing item classifications to be handled electronically.

The BXA–711P replaces BXA–629P, Statement by Ultimate Consignee and Purchaser. A letter from the ultimate consignee or purchaser may now be substituted for this form, provided the letter contains the same information. The BXA–752P will be required as support documentation for the Special Comprehensive License, replacing the Statement by Foreign Consignee in Support of Special License Application (BXA–6052P).

The International Import Certificate (BXA–645P/ATF–4522/DSP–53), the Delivery Verification Certificate (BXA–647P), and the Notification of Delivery Verification Requirement (BXA–648P) remain unchanged. Applicants will now submit replacement licenses rather than amendment requests when their situations change; therefore, the Request for Amendment Action (BXA–685P) will be discontinued.

Exporters and reexporters may find instructions for completing forms in part 748, while applicants for the Special Comprehensive License may find instructions in part 752.

Applicants must begin using the new forms as of June 15, 1996. Due to the requirements of electronic submission and processing systems, there will be no transition period during which either version of each form may be used. Old forms received after the changeover date will be returned without action to the applicant. Forms may be obtained from U.S. Department of Commerce District Offices or from: Exporter Counselling Division, Bureau of Export Administration, Room 1099, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230. Telephone (202) 482–4811.

Rulemaking Requirements

1. For purposes of Executive Order 12866, this interim rule has been determined to be significant.

2. Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. This interim rule contains five new collections of information subject to the requirements of the Paperwork Reduction Act, 44 U.S.C. ch. 35, which were cleared by the Office of Management and Budget. The new "Multipurpose Application" is cleared under OMB Control Number 0694–0088, the "Special Comprehensive License" is cleared under OMB Control Number 0694–0089, five year record retention is cleared under OMB Control Number 0694–0096, the one-time report on calculations under the *de minimis* rule for software and technology is cleared under OMB Control Number 0694–0101, requests for appointment of a Technical Advisory Committee is cleared under OMB Control Number 0694–0100, miscellaneous activities are cleared under OMB Control Number and 0694–0102. All other collections of information contained in the rulemaking have been previously approved by OMB. Supplement No. 2 to part 730 of the EAR contains a table of the current OMB Control Numbers. The public reporting burdens for the new collections of information are estimated to average 45 minutes for the Multipurpose Application, between 20 and 40 hours for the Special Comprehensive License, 10 seconds for recordkeeping, 25 hours for the one-time report, 5 hours for requests for appointment of Technical Advisory Committee, and 5 hours for petitions covered under miscellaneous activities. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing the burden, to Larry E. Christensen, Director, Regulatory Policy Division, Bureau of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230.

3. For purposes of Executive Order 12612, this interim rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism Assessment.

4. Pursuant to authority at 5 U.S.C. 553(a)(1) and section 13(a) of the Export Administration Act, 50 U.S.C. 2401–2420 *et seq.*, though prior notice and an opportunity for public comment are provided, such procedures are not required for this regulatory action. As such, no Initial or Final Regulatory Flexibility Analysis is required under sections 3 and 4 of the Regulatory Flexibility Act, 5 U.S.C. 603(a) and 604(a), and none has been prepared.

5. Although the Export Administration Act expired on August 20, 1994, the President invoked his authority under the International Emergency Economic Powers Act, through Executive Order 12924, August 19, 1994, as extended on August 15, 1995, and determined that, to the extent permitted by law, the provisions of the Export Administration Act shall be extended so as to continue in full force and effect and amend, as necessary, the export control system previously implemented, as the Export Administration Regulations, pursuant to the Export Administration Act.

However, because of the importance of the issues raised by these regulations, this rule is issued in interim form and comments will be considered in the development of final regulations. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views.

The period for submission of comments will close May 24, 1996. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting the comments and will not consider them in the development of final regulations. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form.

Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the Bureau of Export Administration Freedom of Information Records Inspection Facility, Room 4525, Department of Commerce, 14th Street and Pennsylvania Avenue, N.W., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations.

Information about the inspection and copying of records at the facility may be obtained from Margaret Cornejo, Bureau of Export Administration Freedom of Information Officer, at the above address or by calling (202) 482–5653.

List of Subjects

15 CFR Part 730

Administrative practice and procedure, Advisory committees, Exports, Foreign trade, Reporting and recordkeeping requirements, Strategic and critical materials.

15 CFR Part 732

Administrative practice and procedure, Exports, Foreign trade, Reporting and recordkeeping requirements.

15 CFR Part 734

Administrative practice and procedure, Exports, Foreign trade.

15 CFR Part 736

Exports, Foreign trade.

15 CFR Part 738

Exports, Foreign trade.

15 CFR Part 740

Administrative practice and procedure, Exports, Foreign trade, Reporting and recordkeeping requirements.

15 CFR Part 742

Exports, Foreign trade.

15 CFR Part 744

Exports, Foreign trade, Reporting and recordkeeping requirements.

15 CFR Part 746

Embargoes, Exports, Foreign trade, Reporting and recordkeeping requirements.

15 CFR Part 748

Administrative practice and procedure, Exports, Foreign trade, Reporting and recordkeeping requirements.

15 CFR Part 750

Administrative practice and procedure, Exports, Foreign trade, Reporting and recordkeeping requirements.

15 CFR Part 752

Administrative practice and procedure, Exports, Foreign trade, Reporting and recordkeeping requirements.

15 CFR Part 754

Exports, Foreign trade, Forests and forest products, Petroleum, Reporting and recordkeeping requirements.

15 CFR Part 756

Administrative practice and procedure, Exports, Foreign trade, Penalties.

15 CFR Part 758

Administrative practice and procedure, Exports, Foreign trade, Reporting and recordkeeping requirements.

15 CFR Part 760

Boycotts, Exports, Foreign trade, Reporting and recordkeeping requirements.

15 CFR Part 762

Administrative practice and procedure, Business and industry, Confidential business information, Exports, Foreign trade, Reporting and recordkeeping requirements.

15 CFR Part 764

Administrative practice and procedure, Exports, Foreign trade, Law enforcement, Penalties.

15 CFR Part 766

Administrative practice and procedure, Confidential business information, Exports, Foreign trade, Law enforcement, Penalties.

15 CFR Part 768

Administrative practice and procedure, Exports, Foreign trade, Reporting and recordkeeping requirements.

15 CFR Part 770

Exports, Foreign trade.

15 CFR Part 772

Exports, Foreign trade.

15 CFR Part 774

Exports, Foreign trade.

Under authority set forth at 50 U.S.C. 2401 *et seq.*, and for the reasons set forth in the preamble, Subchapter C, Chapter 7 of Title 15, Code of Federal Regulations is amended as follows:

1. In Subchapter C, the following parts are redesignated with an A as set forth in the table below:

Old part	New part
768	768A
769	769A
770	770A
771	771A
772	772A
773	773A
774	774A
775	775A
776	776A
777	777A
778	778A
779	779A
785	785A
786	786A
787	787A
788	788A
789	789A
790	790A
791	791A
799	799A

2. All internal references appearing in newly designated parts 768A through 779A, 785A through 791A, and 799A are revised as set forth in the redesignation table set forth above.

3. Effective November 1, 1996, the newly designated parts are removed.

4. Newly designated § 771A.25(d) is removed effective March 25, 1996.

5. Parts 730, 732, 734, 736, 738, 740, 742, 744, 746, 748, 750, 752, 754, 756, 758, 760, 762, 764, 766, 768, 770, 772, and 774 are added to read as follows:

PART 730—GENERAL INFORMATION

Sec.

730.1 What these regulations cover.
730.2 Statutory authority.
730.3 Dual use exports.
730.4 Other control agencies and departments.
730.5 Coverage of more than exports.
730.6 Control purposes.
730.7 License requirements and exceptions.
730.8 How to proceed and where to get help.
730.9 How the Bureau of Export Administration is organized.
730.10 Advisory information.

Supplement No. 1 to Part 730—Information Collection Requirements Under the Paperwork Reduction Act: OMB Control Numbers

Supplement No. 2 to Part 730—Technical Advisory Committees

Supplement No. 3 to Part 730—Other U.S. Government Departments and Agencies With Export Control Responsibilities

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; Sec. 201, Pub. L. 104–58, 109 Stat. 557 (30 U.S.C. 185(s)); 30 U.S.C. 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; E.O. 11912, 3 CFR, 1976 Comp., p. 114; E.O. 12002, 3 CFR, 1977 Comp., p. 133; E.O. 12058, 3 CFR, 1978 Comp., p. 179; E.O. 12214, 3 CFR, 1980 Comp., p. 256; E.O. 12851, 3 CFR, 1993 Comp., p. 608; E.O. 12867, 3 CFR, 1993 Comp., p. 649; E.O. 12918, 3 CFR, 1994 Comp., p. 899; E.O. 12924, 3 CFR, 1994 Comp., p. 917; E.O. 12938, 3 CFR, 1994 Comp., p. 950; Notice of August 15, 1995 (60 FR 42767, August 17, 1995); E.O. 12981, 60 FR 62981.

§ 730.1 What these regulations cover.

In this part, references to the Export Administration Regulations (EAR) are references to 15 CFR chapter VII, subchapter C. The EAR are issued by the United States Department of Commerce, Bureau of Export Administration (BXA) under laws relating to the control of certain exports, reexports, and activities. In addition, the EAR implement antiboycott law provisions requiring regulations to prohibit specified conduct by United States persons that has the effect of furthering or supporting boycotts fostered or imposed by a country against a country friendly to United States. Supplement No. 1 to part 730 lists the control numbers assigned to information collection requirements under the EAR by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995.

§ 730.2 Statutory authority.

The EAR have been designed primarily to implement the Export Administration Act of 1979, as amended, 50 U.S.C. app. 2401–2420 (EAA). There are numerous other legal authorities underlying the EAR. These are listed in the **Federal Register** documents promulgating the EAR and at the beginning of each part of the EAR in the Code of Federal Regulations (CFR). From time to time, the President has exercised authority under the International Emergency Economic Powers Act with respect to the EAR (50 U.S.C. 1701–1706 (IEEPA)). The EAA is not permanent legislation, and when it has lapsed, Presidential executive orders under IEEPA have directed and authorized the continuation in force of the EAR.

§ 730.3 Dual use exports.

The convenient term "dual use" is sometimes used to distinguish the types of items covered by the EAR from those that are covered by the regulations of certain other U.S. government departments and agencies with export licensing responsibilities. In general, the term dual use serves to distinguish EAR-controlled items that can be used both in military and other strategic uses (e.g., nuclear) and commercial applications. In general, the term dual use serves to distinguish EAR-controlled items that can be used both in military and other strategic uses and in civil applications from those that are weapons and military related use or design and subject to the controls of the Department of State or subject to the nuclear related controls of the Department of Energy or the Nuclear Regulatory Commission. Note, however, that although the shorthand term dual use may be employed to refer to the entire scope of the EAR, the EAR also apply to some items that have solely civil uses.

§ 730.4 Other control agencies and departments.

In addition to the departments and agencies mentioned in § 730.3 of this part, other departments and agencies have jurisdiction over certain narrower classes of exports and reexports. These include the Department of Treasury's Office of Foreign Assets Control (OFAC), which administers controls against certain countries that are the object of sanctions affecting not only exports and reexports, but also imports and financial dealings. For your convenience, Supplement No. 3 to part 730 identifies other departments and agencies with regulatory jurisdiction over certain types of exports and reexports. This is not a comprehensive list, and the brief descriptions are only generally indicative of the types of controls administered and/or enforced by each agency.

§ 730.5 Coverage of more than exports.

The core of the export control provisions of the EAR concerns exports from the United States. You will find, however, that some provisions give broad meaning to the term "export", apply to transactions outside of the United States, or apply to activities other than exports.

(a) *Reexports.* Commodities, software, and technology that have been exported from the United States are generally subject to the EAR with respect to reexport. Many such reexports, however, may go to many destinations without a license or will qualify for an exception from licensing requirements.

(b) *Foreign products.* In some cases, authorization to export technology from the United States will be subject to assurances that items produced abroad that are the direct product of that technology will not be exported to certain destinations without authorization from BXA.

(c) *Scope of "exports".* Certain actions that you might not regard as an "export" in other contexts do constitute an export subject to the EAR. The release of technology to a foreign national in the United States through such means as demonstration or oral briefing is deemed an export. Other examples of exports under the EAR include the return of foreign equipment to its country of origin after repair in the United States, shipments from a U.S. foreign trade zone, and the electronic transmission of non-public data that will be received abroad.

(d) *U.S. person activities.* To counter the proliferation of weapons of mass destruction, the EAR restrict the involvement of "United States persons" anywhere in the world in exports of foreign-origin items, or in providing services or support, that may contribute to such proliferation.

§ 730.6 Control purposes.

The export control provisions of the EAR are intended to serve the national security, foreign policy, nonproliferation, and short supply interests of the United States and, in some cases, to carry out its international obligations. Some controls are designed to restrict access to dual use items by countries or persons that might apply such items to uses inimical to U.S. interests. These include controls designed to stem the proliferation of weapons of mass destruction and controls designed to limit the military and terrorism support capability of certain countries. The effectiveness of many of the controls under the EAR is enhanced by their being maintained as part of multilateral control arrangements. Multilateral export control cooperation is sought through arrangements such as the Nuclear Suppliers Group, the Australia Group, and the Missile Technology Control Regime. The EAR also include some export controls to protect the United States from the adverse impact of the unrestricted export of commodities in short supply.

§ 730.7 License requirements and exceptions.

A relatively small percentage of exports and reexports subject to the EAR require an application to BXA for a license. Many items are not on the Commerce Control List (CCL) (Supplement No. 1 to § 774.1 of the EAR), or, if on the CCL, require a license to only a limited number of countries. Other transactions may be covered by one or more of the License Exceptions in the EAR. In such cases no application need be made to BXA.

§ 730.8 How to proceed and where to get help.

(a) *How the EAR are organized.* The Export Administration Regulations (EAR) are structured in a logical manner. In dealing with the EAR you may find it helpful to be aware of the overall organization of these regulations. In order to determine what the rules are and what you need to do, review the titles and the introductory sections of the parts of the EAR.

(1) *How do you go about determining your obligations under the EAR?* Part 732 of the EAR provides steps you may follow to determine your obligations under the EAR. You will find guidance to enable you to tell whether or not your transaction is subject to the EAR and, if it is, whether it qualifies for a License Exception or must be authorized through issuance of a license.

(2) *Are your items or activities subject to the EAR at all?* Part 734 of the EAR defines the items and activities that are subject to the EAR. Note that the definition of "items subject to the EAR" includes, but is not limited to, items listed on the Commerce Control List in part 774 of the EAR.

(3) *If subject to the EAR, what do the EAR require?* Part 736 of the EAR lists all the prohibitions that are contained in the EAR. Note that certain prohibitions (General Prohibitions One through Three) apply to items as indicated on the CCL, and others (General Prohibitions Four through Ten) prohibit certain activities and apply to all items subject to the EAR unless otherwise indicated.

(4) *Do you need a license for your item or activity? What policies will BXA apply if you do need to submit license application?* The EAR have four principal ways of describing license requirements:

(i) The EAR may require a license to a country if your item is listed on the CCL and the Country Chart in part 738 of the EAR tells that a license is required to that country. Virtually all Export Control Classification Numbers (ECCN) on the CCL are covered by the Country Chart in part 738 of the EAR. That part identifies the limited number of entries that are not included on the Chart. These ECCNs will state the specific countries that require a license or refer you to a self-contained section, i.e., Short Supply in part 754 of the EAR, or Embargoes in part 746 of the EAR. If a license is required, you should consult part 740 of the EAR which describes the License Exception that may be available for items on the CCL. Part 742 of the EAR describes the licensing policies that BXA will apply in reviewing an application you file. Note that part 754 of the EAR on short supply controls and part 746 on embargoes are self-contained parts that include the available exceptions and licensing policy.

(ii) A license requirement may be based on the end-use or end-user in a transaction, primarily for proliferation reasons. Part 744 of the EAR describes such requirements and relevant licensing policies and includes both restrictions on items and restrictions on the activities of U.S. persons.

(iii) A license is required for virtually all exports to embargoed destinations, such as Cuba. Part 746 of the EAR describes all the licensing requirements, license review policies and License Exceptions that apply to such destinations. If your transaction involves one of these countries, you should first look at this part. This part also describes controls that may be maintained under the EAR to implement UN sanctions.

(iv) In addition, under §§ 736.2(b)(9) and (10) of the EAR, you may not engage in a transaction knowing a violation is about to occur or violate any orders, terms, and conditions under the EAR. Part 764 of the EAR describes prohibited transactions with a person denied export privileges or activity that violates the terms or conditions of a denial order.

(5) *How do you file a license application and what will happen to the application once you do file it? What if you need authorization for multiple transactions?* Parts 748 and 750 of the EAR provide information on license submission and processing. Part 752 of the EAR provides for a Special Comprehensive License that authorizes multiple transactions. If your application is denied, part 756 of the EAR provides rules for filing appeals.

(6) *How do you clear shipments with the U.S. Customs Service?* Part 758 of the EAR describes the requirements for clearance of exports.

(7) *Where do you find the rules on restrictive trade practices and boycotts?* Part 760 of the EAR deals with restrictive trade practices and boycotts.

(8) *Where are the rules on recordkeeping and enforcement?* Part 762 of the EAR sets out your recordkeeping requirements, and parts 764 and 766 of the EAR deal with violations and enforcement proceedings.

(9) *What is the effect of foreign availability?* Part 768 of the EAR provides rules for determining foreign availability of items subject to controls.

(10) *Do the EAR provide definitions and interpretations?* Part 770 of the EAR contains interpretations and part 772 of the EAR lists definitions used.

(b) *Why the EAR are so detailed.* Some people will find the great length of the EAR and their extensive use of technical terms intimidating. BXA believes, however, that such detail and precision can and does serve the interests of the public. The detailed listing of technical parameters in the CCL establishes precise, objective criteria. This should, in most cases, enable you to ascertain the appropriate control status. Broader, more subjective criteria would leave exporters and reexporters more dependent upon interpretations and rulings by BXA officials. Moreover, much of the detail in the CCL is derived from multilaterally adopted lists, and the specificity serves to enhance the uniformity and effectiveness of international control practices and to promote a "level playing field". The detailed presentation of such elements as licensing and export clearance procedures enables you to find in one place what you need to know to comply with pertinent requirements. Of special importance is the detailed listing of License Exception criteria, as these will enable you to determine quickly, and with confidence, that you may proceed with a transaction without delay. Finally, some of the detail results from the need to draft the EAR with care in order to avoid loop-holes and to permit effective enforcement.

(c) *Where to get help.* Throughout the EAR you will find information on offices you can contact for various purposes and types of information. General information including; assistance in understanding the EAR, information on how to obtain forms, electronic services, publications, and information on training programs offered by BXA, is available from the Office of Exporter Services at the following locations:

Exporter Counselling Division, U.S. Department of Commerce, 14th and Pennsylvania Avenue, N.W., Room H1099D, Washington, D.C., 20230, Telephone number: (202) 482–4811, Facsimile number: (202) 482–3617
and
Western Regional Office, U.S. Department of Commerce, 3300 Irvine Avenue, Suite 345, Newport Beach, California 92660, Telephone number: (714) 660–0144, Facsimile number: (714) 660–9347
and
Santa Clara Branch Office, U.S. Department of Commerce, 5201 Great America Parkway, Suite 333, Santa Clara, California 95054, Telephone number: (408) 748–7450, Facsimile number: (408) 748–7470.

§ 730.9 How the Bureau of Export Administration is organized.

Functionally, the Bureau of Export Administration is divided into two branches, Export Administration and Export Enforcement. Also, BXA manages a number of Technical Advisory Committees consisting of industry and government representatives which advise and assist BXA and other agencies with respect to actions designed to implement the EAR.

(a) *Export Administration.* Export Administration implements and administers the export controls reflected in the EAR. Export Administration consists of five offices located in Washington D.C. and two field offices in California under the supervision of the Assistant Secretary for Export Administration:

(1) The Office of Nuclear and Missile Technology Controls is responsible for policy and technical issues and license applications related to the Nuclear Suppliers Group and the Missile Technology Control Regime. This office has responsibility for items associated with those regimes, and missile and nuclear related exports and reexports subject to the Enhanced Proliferation Control Initiative.

(2) The Office Chemical/Biological Controls and Treaty Compliance is responsible for implementing multilateral export controls under the Australia Group. This office has licensing responsibility for items associated with the Australia Group and related exports and reexports subject to the Enhanced Proliferation Control Initiative.

(3) The Office of Strategic Trade and Foreign Policy Controls is responsible for implementing multilateral export controls dealing with conventional arms and related dual use items. This office is also responsible for computer export control policies, and implements U.S. foreign policy controls (e.g., crime control, anti-terrorism, and regional stability). It also has licensing responsibility for items controlled for national security and foreign policy reasons.

(4) The Office of Exporter Services is responsible for the Special Comprehensive License, processing and routing all license applications, and preparing responses to requests for advisory opinions and commodity classifications. This office also provides counselling to exporters and reexporters, conducts educational seminars for the business community, maintains the Export Administration Regulations, and coordinates the operations of two field offices listed in § 730.8(c) of this part.

(5) The Office of Strategic Industries and Economic Security implements programs to ensure the continued health of the U.S. defense industrial base, facilitating diversification of U.S. defense related industries into civilian markets, and promoting the conversion of military enterprises. This office is also responsible for analyzing the economic impact of U.S. export controls on industrial competitiveness.

(b) *Export Enforcement.* Export Enforcement implements the enforcement provisions of the EAR, including part 760 of the EAR (Restrictive Trade Practices and Boycotts). This office also conducts outreach programs to assist members of the public in understanding their obligation under EAR. The Office of Export Enforcement is organized into three offices under the supervision of the Assistant Secretary for Export Enforcement.

(1) The Office of Export Enforcement (OEE) is comprised of an office in Washington, D.C. and eight field offices. OEE is staffed with criminal investigators and analysts. This office investigates allegations of violations and supports administrative and criminal enforcement proceedings. The addresses and telephone numbers of the eight field offices are listed in § 764.5(c)(7) of the EAR.

(2) The Office of Enforcement Support (OES) is located in Washington, D.C. OES supports BXA's preventive enforcement efforts, including conducting pre-license checks and post-shipment verifications. OES also provides administrative and analytical support for OEE.

(3) The Office of Antiboycott Compliance administers and enforces the provisions of part 760 of the EAR (Restrictive Trade Practices and Boycotts). It investigates and prepares cases on alleged violations of this part.

(c) *Technical Advisory Committees.* The Technical Advisory Committees (TACs) provide advice and assistance to BXA from U.S. industry regarding the creation and implementation of export controls. For further information regarding establishment of TACs and other information, see Supplement No. 2 to part 730. Existing TACs include the following:

(1) The Computer Systems Technical Advisory Committee;

(2) The Electronics Technical Advisory Committee;

(3) The Materials Technical Advisory Committee;

(4) The Materials Processing Equipment Technical Advisory Committee;

(5) The Regulations and Procedures Technical Advisory Committee;

(6) The Sensors Technical Advisory Committee;

(7) The Telecommunications Equipment Technical Advisory Committee; and

(8) The Transportation and Related Equipment Technical Advisory Committee.

§ 730.10 Advisory information.

The general information in this part is just that—general. To achieve brevity, so as to give you a quick overview, the information in this part is selective, incomplete, and not expressed with regulatory precision. The controlling language is the language of succeeding parts of the EAR and of any other laws or regulations referred to or applicable. The content of this part is not to be construed as modifying or interpreting any other language or as in any way, limiting the authority of BXA, any of its components or any other government department or agency. You should not take any action based solely on what you read in this part.

Supplement No. 1 to Part 730—Information Collection Requirements Under the Paperwork Reduction Act: OMB Control Numbers

This Supplement lists the control numbers assigned to the information collection requirements for the Bureau of Export Administration by the Office of Management and Budget (OMB), pursuant to the Paperwork Reduction Act of 1995. This Supplement complies with the requirements of section 3506(c)(1)(B)(i) of the Paperwork Reduction Act requiring agencies to display current control numbers assigned by the Director of OMB for each agency information collection requirement.

Current OMB control No.	15 CFR part or section where collections of information are identified or described
0694–0001	§ 748.12(d) of the EAR.
0694–0004	Part 768 of the EAR.
0694–0008	§ 748.13, Supplement No. 5 to part 748 of the EAR.
0694–0009	§ 748.10(e) of the EAR.
0694–0012	Part 760 and § 762.2(b) of the EAR.
0694–0013	Part 774 of the EAR.
0694–0015	§ 773.3 of the EAR.
0694–0016	§§ 748.13 and 762.2(b) of the EAR.
0694–0017	§ 748.10 of the EAR.
0694–0021	§§ 748.11 and 762.2(b) of the EAR.
0694–0023	§§ 740.3(d) and 740.4(c) of the EAR.
0694–0025	§§ 754.4 and 762.2(b) of the EAR.
0694–0026	§ 754.3 of the EAR.
0694–0027	§ 754.2 of the EAR.
0694–0029	§ 740.4(a) of the EAR.
0694–0030	Supplement No. 2 to part 748, paragraph (p) of the EAR.
0694–0031	§ 750.9 of the EAR.
0694–0032	§ 748.4(d)(2) of the EAR.
0694–0033	§§ 740.7(b) and 762.2(b) of the EAR.
0694–0038	§ 758.6(e)(2) of the EAR.
0694–0040	§§ 758.5(c)(2) and 758.8 of the EAR.
0694–0047	Supplement No. 2 to part 748, paragraph (o)(2) of the EAR.
0694–0048	§ 748.3 of the EAR.
0694–0050	§ 752.5(c)(5) of the EAR.

Current OMB control No.	15 CFR part or section where collections of information are identified or described
0694–0051	§750.10 of the EAR.
0694–0058	§§762.2(b) and 764.5 of the EAR.
0694–0064	§§748.9 and 762.2(b) of the EAR.
0694–0065	§754.4(c) of the EAR of the EAR.
0694–0073	§742.12, Supplement No. 3 to part 742, and §762.2(b) of the EAR.
0694–0078	Supplement No. 1 to part 774 of the EAR.
0694–0086	Supplement No. 1 to part 774 of the EAR.
0694–0088	Parts 746, 748, and 752; §762.2(b) of the EAR.
0694–0089	Part 752 and §762.2(b) of the EAR.
0694–0093	§§748.10 and 762.2(b) of the EAR.
0694–0094	Part 758 of the EAR of the EAR.
0694–0095	§§740.7(a)(3)(ii) and 758.1(d) of the EAR.
0694–0096	Part 760, §762.6(a) of the EAR.
0694–0097	§§752.15(b), 758.6, and 762.2(b) of the EAR.
0694–0102	§§754.6 and 754.7 of the EAR.
0694–0101	§734.4 of the EAR.
0694–0100	Supplement No. 1 to part 730.
0607–0001	§758.2(m) of the EAR.
0607–0018	§§740.1(d), 740.3(a)(3), 752.7(b), §752.15(a) of the EAR. §§754.2(h) and (i), 754.4(c) 758.1, §§758.2(m) and 758.3 of the EAR.
0607–0152	§§740.1(d), 740.3(a)(3), 752.7(b), §§752.15(a) of the EAR. §§754.2(h) and (i), 754.4(c), 758.1, §§758.2(m), and 758.3 of the EAR.

Supplement No. 2 to Part 730—Technical Advisory Committees

(a) *Purpose.* The purpose of this Supplement is to describe the procedures and criteria for the establishment and operation of Technical Advisory Committees.

(b) *Technical advisory committees.* Any producer of articles, materials, or supplies, including technology, software, and other information, that are subject to export controls, or are being considered for such controls because of their significance to the national security of the United States, may request the Secretary of Commerce to establish a technical advisory committee, under the provisions of section 5(h) of the Export Administration Act of 1979, as amended (EAA) to advise and assist the Department of Commerce and other appropriate U.S. Government agencies or officials with respect to questions involving technical matters; worldwide availability and actual utilization of production technology; licensing procedures that affect the level of export controls applicable to a clearly defined grouping of articles, materials, or supplies, including technology, software, or other information; and exports and reexports subject to all controls that the United States maintains including proposed revisions of any such controls. If producers of articles, materials, or supplies, including technology, software, and other information, that are subject to export controls because of their significance to the national security of the United States, wish a trade association or other representative to submit a written request on their behalf for the appointment to a TAC, such request shall be submitted in accordance with paragraph (b)(4) of this Supplement.

(1) *Form and substance of requests.* Each request for the appointment of a TAC shall be submitted in writing to: Assistant Secretary for Export Administration, P.O. Box 273, Washington, DC 20044.

The request shall include:

(i) A description of the articles, materials, or supplies including technology and software, in terms of a clear, cohesive grouping (citing the applicable Export Control Classification Numbers where practical);

(ii) A statement of the reasons for requesting the appointment of a TAC; and

(iii) Any information in support of any contention that may be made that the request meets the criteria described in paragraph (b)(2) of this Supplement.

(2) *Consideration of request for establishment of a TAC.* The Department of Commerce will review all requests for the establishment of a TAC to determine if the following criteria are met:

(i) That a substantial segment of the industry producing the specified articles, materials, or supplies including technology desires such a committee; and

(ii) That the evaluation of such articles, materials, or supplies including technology and software for export control purposes is difficult because of questions involving technical matters, worldwide availability and actual utilization of production and software technology, or licensing procedures.

(3) *Requests by a substantial segment of an industry.* In determining whether or not a substantial segment of any industry has requested the appointment of a TAC, the Department of Commerce will consider:

(i) The number of persons or firms requesting the establishment of a TAC for a particular grouping of commodities, software and technology in relation to the total number of U.S. producers of such items; and

(ii) The volume of annual production by such persons or firms of each item in the grouping in relation to the total U.S. production. Generally, a substantial segment of an industry (for purposes of this Supplement) shall consist of:

(A) Not less than 30 percent of the total number of U.S. producers of the items concerned; or

(B) Three or more U.S. producers who produce a combined total of not less than 30 percent of the total U.S. annual production, by dollar value of the items concerned; or

(C) Not less than 20 percent of the total number of U.S. producers of the items concerned, provided that the total of their annual production thereof is not less than 20 percent of the total U.S. annual production, by dollar value.

(iii) If it is determined that a substantial segment of the industry concerned has requested the establishment of a TAC concerning a specific grouping of items that the Department of Commerce determines difficult to evaluate for export control purposes, BXA will establish and use the TAC requested.

(4) *Requests from trade associations or other representatives.* Requests from trade associations or other representatives of U.S. producers for the establishment of a TAC must comply with the provisions of paragraphs (b) (1) through (3) of this Supplement. In addition, in order to assist BXA in determining whether the criteria described in paragraph (b)(3) of this Supplement have been met, a trade association or other representative submitting a request for the establishment of a TAC should include the following information:

(i) The total number of firms in the particular industry;

(ii) The total number of firms in the industry that have authorized the trade association or other representative to act in their behalf in this matter;

(iii) The approximate amount of total U.S. annual production by dollar value of the items concerned produced by those firms that have authorized the trade association or other representative to act in their behalf; and

(iv) A description of the method by which authorization to act on behalf of these producers was obtained.

(5) *Nominations for membership on TACs.* When the Department of Commerce determines that the establishment of a TAC is warranted, it will request nominations for membership on the committee among the producers of the items and from any other sources that may be able to suggest well-qualified nominees.

(6) *Selection of industry members of committee.* Industry members of a TAC will be selected by the Department of Commerce from a list of the nominees who have indicated their availability for service on the committee. To the extent feasible, the Department of Commerce will select a committee balanced to represent all significant facets of the industry involved, taking into consideration such factors as the size of the firms, their geographical distribution, and their product lines. No industry representative shall serve on a TAC for more than four consecutive years. The membership of a member who is absent from four consecutive meetings shall be terminated.

(7) *Government members.* Government members of a TAC will be selected by the Department of Commerce from the agencies having an interest in the subject matter concerned.

(8) *Invitation to serve on committee.* Invitations to serve on a TAC will be sent by letter to the selected nominees.

(9) *Election of Chair.* The Chair of each TAC shall be elected by a vote of the majority of the members of the committee present and voting.

(c) *Charter.* (1) No TAC established pursuant to this Supplement shall meet or take any action until an advisory committee charter has been filed with the Assistant Secretary for Export Administration of the Department of Commerce and with the standing committees of the Senate and of the House of Representatives having legislative jurisdiction over the Department. Such charter shall contain the following information:

(i) The committee's official designation;

(ii) The committee's objectives and the scope of its activities;

(iii) The period of time necessary for the committee to carry out its purposes;

(iv) The agency or official to whom the committee reports;

(v) The agency responsible for providing the necessary support for the committee;

(vi) A description of the duties for which the committee is responsible, and, if such duties are not solely advisory, a specification of the authority for such functions;

(vii) The estimated annual operating costs in dollars and years for such committee;

(viii) The estimated number and frequency of committee meetings;

(ix) The committee's termination date, if less than two years from the date of the committee's establishment; and

(x) The date the charter is filed.

(d) *Meetings.* (1) Each TAC established under the provisions of the EAA and paragraph (b) of this Supplement shall meet at least once every three months at the call of its Chair unless it is specifically determined by the Chair, in consultation with other members of the committee, that a particular meeting is not necessary.

(2) No TAC may meet except at the call of its Chair.

(3) Each meeting of a TAC shall be conducted in accordance with an agenda approved by a designated Federal government employee.

(4) No TAC shall conduct a meeting in the absence of a designated Federal government employee who shall be authorized to adjourn any advisory committee meeting, whenever the Federal government employee determines adjournment to be in the public interest.

(e) *Public notice.* Notice to the public of each meeting of a TAC will be issued at least 20 days in advance and will be published in the **Federal Register**. The notice will include the time and place of the meeting and the agenda.

(f) *Public attendance and participation.* (1) Any member of the public who wishes to do so may file a written statement with any TAC before or after any meeting of a committee.

(2) A request for an opportunity to deliver an oral statement relevant to matters on the agenda of a meeting of a TAC will be granted to the extent that the time available for the meeting permits. A committee may establish procedures requiring such persons to obtain advance approval for such participation.

(3) Attendance at meetings of TACs will be open to the public unless it is determined pursuant to section 10(d) of the Federal Advisory Committee Act to be necessary to close all, or some portion, of the meeting to the public. A determination that a meeting or portion thereof be closed to the public may be made if all or a specific portion of a meeting of a TAC is concerned with matters described in section 552(b) of Title 5, U.S.C.

(4) Participation by members of the public in open TAC meetings or questioning of committee members or other participants shall not be permitted except in accordance with procedures established by the committee.

(5) Every effort will be made to accommodate all members of the public who wish to attend.

(g) *Minutes.* (1) Detailed minutes of each meeting of each TAC will be kept and will contain a record of the persons present, a complete and accurate description of the matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the TAC.

(2) The accuracy of all the minutes will be certified to by the TAC Chair.

(h) *Records.* (1) Subject to section 552 of Title 5, U.S.C. and Department of Commerce Administrative Order 205–12, "Public Information," and "Public Information" regulations issued by the Department of Commerce that are contained in 15 CFR part 4, Subtitle A, the records, reports, transcripts, minutes, appendices, working papers, draft, studies, agenda, or other documents that were made available to or prepared for or by each TAC will be available for public inspection and copying.

(2) Each TAC will prepare once each year a report describing its membership, functions, activities, and such related matters as would be informative to the public consistent with the policy of section 552(b) of Title 5, U.S.C.

(3)(i) Requests for records should be addressed to: Bureau of Export Administration, Freedom of Information, Records Inspection Facility, U.S. Department of Commerce, Room 4513, Washington, DC 20230, Telephone (202) 482–2593.

(ii) Rules concerning the use of the Records Inspection Facility are contained in 15 CFR part 4, Subtitle A, or may be obtained from this facility.

(i) *Compensation.* If the Department of Commerce deems it appropriate, a member of a TAC may be reimbursed for travel, subsistence, and other necessary expenses incurred in connection with the member's duties.

(j) *Scope of advisory committee functions.* All TACs are limited to the functions described in their charters.

(k) *Duration of committees.* Each TAC will terminate at the end of two years from the date the committee was established or two years from the effective date of its most recent extension, whichever is later. Committees may be continued only for successive two-year periods by appropriate action taken by the authorized officer of the Department of Commerce prior to the date on which such advisory committee would otherwise terminate. TACs may be extended or terminated only after consultation with the committee.

(l) *Miscellaneous.* (1) TACs established in accordance with paragraph (b) of this supplement must conform to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463), Office of Management and Budget Circular A–63 (Revision of March 1974), "Advisory Committee Management," Department of Commerce Administrative Order 205–12, "Public Information," the applicable provisions of the EAA, and any other applicable Department of Commerce regulations or procedures affecting the establishment or operation of advisory committees.

(2) Whenever the Department of Commerce desires the advice or assistance of a particular segment of an industry with respect to any export control problem for which the service of a TAC, as described in paragraph (b) of this Supplement is either unavailable or impracticable, an advisory committee may be established pursuant to the provisions of section 9 of the Federal Advisory Committee Act. Such committees will be subject to the requirements of the Federal Advisory Committee Act, OMB Circular A–63 (Revision of March 1974), "Advisory Committee Management," Department of Commerce Administrative Order 205–12, "Public Information," and any other applicable Department of Commerce regulations or procedures affecting the establishment or operation of advisory committees.

(3) Nothing in the provisions of this Supplement shall be construed to restrict in any manner the right of any person or firm to discuss any export control matter with the Department of Commerce or to offer advice or information on export control matters. Similarly, nothing in these provisions shall be construed to restrict the Department of Commerce in consulting any person or firm relative to any export control matter.

Supplement No. 3 to Part 730—Other U.S. Government Departments and Agencies With Export Control Responsibilities

Note: The departments and agencies identified with an asterisk control exports for foreign policy or national security reasons and, in certain cases, such controls may overlap with the controls described in the EAR (see part 734 of the EAR).

Defense Services and Defense Articles

* Department of State, Office of Defense Trade Controls, Tel. (703) 875–6644, Fax: (703) 875–6647.

22 CFR parts 120 through 130.

Drugs, Chemicals and Precursors

Drug Enforcement Administration, International Chemical Control Unit, Tel. (202) 307–7202, Fax: (202) 307–8570.

21 CFR parts 1311 through 1313.

Controlled Substances: Drug Enforcement Administration, International Drug Unit, Tel. (202) 307–2414, Fax: (202) 307–8570.

21 CFR 1311 through 1313.

Drugs and Biologics: Food and Drug Administration, Import/Export, Tel. (301) 594–3150, Fax: (301) 594–0165.

21 U.S.C. 301 *et seq.*

Investigational drugs permitted: Food and Drug Administration, International Affairs, Tel. (301) 443–4480, Fax: (301) 443–0235.

21 CFR 312.1106.

Fish and Wildlife Controls; Endangered Species

Department of the Interior, Chief Office of Management Authority, Tel. (703) 358–2093, Fax: (703) 358–2280.

50 CFR 17.21, 17.22, 17.31, 17.32.

Foreign Assets and Transactions Controls

* Department of Treasury, Office of Foreign Assets Control, Licensing, Tel. (202) 622–2480, Fax: (202) 622–1657.

31 CFR parts 500 through 590.

Medical Devices

Food and Drug Administration, Office of Compliance, Tel. (301) 594–4699, Fax: (301) 594–4715.

21 U.S.C. 301 *et seq.*

Natural Gas and Electric Power

Department of Energy, Office of Fuels Programs, Tel. (202) 586–9482, Fax: (202) 586–6050.

10 CFR 205.300 through 205.379 and part 590.

Nuclear Materials and Equipment

* Nuclear Regulatory Commission, Office of International Programs, Tel. (301) 415–2344, Fax: (301) 415–2395.

10 CFR part 110.

Nuclear Technology; Technical Data for Nuclear Weapons/Special Nuclear Materials

* Department of Energy, Office of Arms Control and Non Proliferation, Export Control Division, Tel. (202) 586–2112, Fax: (202) 586–6977.

10 CFR part 810.

Ocean Freight Forwarders

Federal Maritime Commission, Office of Freight Forwarders, Tel. (202) 523–5843, Fax: (202) 523–5830.

46 CFR part 510.

Patent Filing Data Sent Abroad

* Department of Commerce, Patent and Trademark Office, Licensing and Review; Tel. (703) 308–1722, Fax: (703) 305–3603, 3604.

37 CFR part 5.

Prohibition of Movement of American Carriers and Prohibition on Transportation of Goods Destined for North Korea

Department of Transportation, Office of International Law, General Counsel, Tel. (202) 366–2972, Fax: (202) 366–9188.

44 CFR part 403.

U.S. Flagged or U.S. Manufactured Vessels Over 1,000 Gross Tons

U.S. Maritime Administration, Division of Vessel Transfer and Disposal, Tel. (202) 366–5821, Fax: (202) 366–3889.

46 CFR part 221.

PART 732—STEPS FOR USING THE EAR

Sec.

732.1 Steps overview.
732.2 Steps regarding scope of the EAR.
732.3 Steps regarding the ten general prohibitions.
732.4 Steps regarding License Exceptions.
732.5 Steps regarding Shipper's Export Declaration, Destination Control Statements, record keeping, license applications, and other requirements.
732.6 Steps for other requirements.
Supplement No. 1—BXA's "Know Your Customer" Guidance and Red Flags

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 3 CFR, 1994 Comp., p. 917; Notice of August 15, 1995 (60 FR 42767, August 17, 1995).

§ 732.1 Steps overview.

(a)(1) *Introduction.* In this part, references to the EAR are references to 15 CFR chapter VII, subchapter C. This part is intended to help you determine your obligations under the EAR by listing logical steps in § 732.2 through § 732.5 of this part that you can take in reviewing these regulations. By cross-references to the relevant provisions of the EAR, this part describes the suggested steps for you to determine applicability of the following:

(i) The scope of the EAR (part 734 of the EAR);

(ii) Each of the general prohibitions (part 736 of the EAR);

(iii) The License Exceptions (part 740 of the EAR); and

(iv) Other requirements such as clearing your export with the U.S. Customs Service, keeping records, and completing and documenting license applications.

(2) These steps describe the organization of the EAR, the relationship among the provisions of the EAR, and the appropriate order for you to consider the various provisions of the EAR.

(b) *Facts about your transaction.* The following five types of facts determine your obligations under the EAR and will be of help to you in reviewing these steps:

(1) *What is it?* What an item is, for export control purposes, depends on its *classification*, which is its place on the Commerce Control List (see part 774 of the EAR).

(2) *Where is it going?* The *country of ultimate destination* for an export or reexport also determines licensing requirements (see parts 738 and 774 of the EAR concerning the Country Chart and the Commerce Control List).

(3) *Who will receive it?* The *ultimate end-user* of your item cannot be a bad end-user. See General Prohibition Four (Denial Orders) in § 736.2(b)(4) and parts 744 and 764 of the EAR for a reference to the list of persons you may not deal with.

(4) *What will they do with it?* The *ultimate end-use* of your item cannot be a bad end-use. See General Prohibition Five (End-Use End-User) in § 736.2(b)(5) and part 744 of the EAR for general end-use and end-user restrictions.

(5) *What else do they do? Conduct* such as contracting, financing, and freight forwarding in support of a proliferation project (as described in § 744.6 of the EAR) may prevent you from dealing with someone.

(c) *Are your items and activities subject to the EAR?* You should first determine whether your commodity, software, or technology is subject to the EAR (see part 734 of the EAR concerning scope), and Steps 1 through 6 help you do that. For exports from the United States, only Steps 1 and 2 are relevant. If you already know that your item or activity is subject to the EAR, you should go on to consider the ten general prohibitions in part 736 of the EAR. If your item or activity is not subject to the EAR, you have no obligations under the EAR and may skip the remaining steps.

(d) *Does your item or activity require a license under one or more of the ten general prohibitions?*

(1) *Brief summary of the ten general prohibitions.* The general prohibitions are found in part 736 of the EAR and referred to in these steps. They consist, very briefly, of the following:

(i) General Prohibition One (Exports and Reexports): Export and reexport of controlled items to listed countries.

(ii) General Prohibition Two (Parts and Components Reexports): Reexport and export from abroad of foreign-made items incorporating more than a *de minimis* amount of controlled U.S. content.

(iii) General Prohibition Three (Foreign-produced Direct Product Reexports): Reexport and export from abroad of the foreign-produced direct product of U.S. technology and software.

(iv) General Prohibition Four (Denial Orders): Engaging in actions prohibited by a denial order.

(v) General Prohibition Five (End-Use End-User): Export or reexport to prohibited end-user or end-users.

(vi) General Prohibition Six (Embargo): Export or reexport to embargoed destinations.

(vii) General Prohibition Seven (U.S. Person Proliferation Activity): Support of proliferation activities.

(viii) General Prohibition Eight (In-Transit): In-transit shipments and items to be unladen from vessels and aircraft.

(ix) General Prohibition Nine (Orders, Terms and Conditions): Violation of any orders, terms, or conditions.

(x) General Prohibition Ten (Knowledge Violation to Occur): Proceeding with transactions with knowledge that a violation has occurred or is about to occur.

(2) *Controls on items on the Commerce Control List (CCL).* If your item or activity is subject to the EAR, you should determine whether any one or more of the ten general prohibitions require a license for your export, reexport, or activity. Steps 7 through 11 refer to classification of your item on the Commerce Control List (CCL) (part 774 of the EAR) and how to use the Country Chart (Supplement No. 1 to part 738 of the EAR) to determine whether a license is required based upon the classification of your item. These steps refer to General Prohibitions One (Exports and Reexports), Two (Parts and Components Reexports), and Three (Foreign-Produced Direct Product Reexports) for all countries except: Cuba, Iran, Iraq, Libya, and North Korea. For these countries, you may skip Steps 7 through 11 and go directly to Step 12.

(3) *Controls on activities.* Steps 12 through 18 refer to General Prohibitions Four through Ten. Those general prohibitions apply to all items subject to the EAR, not merely those items listed on the CCL in part 774 of the EAR. For example, they refer to the general prohibitions for persons denied export privileges, prohibited end-uses and end-users, embargoed countries (e.g., Cuba, Iran, Iraq, Libya, and North Korea), prohibited activities of U.S. persons in support of proliferation of weapons of mass destruction, prohibited unlading of shipments, compliance with orders, terms and conditions, and activities when a violation has occurred or is about to occur.

(4) *General prohibitions.* If none of the ten general prohibitions applies, you should skip the steps concerning License Exceptions and for exports from the United States, review Steps 27 through 29 concerning Shipper's Export Declarations to be filed with the U.S. Customs Service, Destination Control Statements for export control documents, and recordkeeping requirements.

(e) *Is a License Exception available to overcome the license requirement?* If you decide by reviewing the CCL in combination with the Country Chart that a license is required for your destination, you should determine whether a License Exception will except you from that requirement. Steps 20 through 24 help you determine whether a License Exception is available. Note that generally License Exceptions are not available to overcome General Prohibitions Four through Ten. However, selected License Exceptions for embargoed destinations are specified in part 746 of the EAR and License Exceptions for short supply controls are specified in part 754 of the EAR. If a License Exception is available and the export is from the United States, you should review Steps 26 through 28 concerning Shipper's Export Declarations to be filed with the U.S. Customs Service, Destination Control Statements for export control documents and recordkeeping requirements. If a License Exception is not available, go on to Steps 25 through 29.

(f) *How do you apply for a license?* If you must file a license application, you should review the requirements of part 748 of the EAR as suggested by Step 26. Then you should review Steps 27 through 29 concerning Shipper's Export Declarations to be filed with the U.S. Customs Service, Destination Control Statements for export control documents, and recordkeeping requirements.

§ 732.2 Steps regarding scope of the EAR.

Steps 1 through 6 aid you in determining the scope of the EAR.

(a) *Step 1: Items subject to the exclusive jurisdiction of another Federal agency.* This step is relevant for both exports and reexports. Determine whether your item is subject to the exclusive jurisdiction of another Federal Agency as provided in § 734.3 of the EAR.

(1) If your item is subject to the exclusive jurisdiction of another Federal agency, comply with the regulations of that agency. You need not comply with the EAR and may skip the remaining steps.

(2) If your item is not subject to the exclusive jurisdiction of another federal agency, then proceed to Step 2 in paragraph (b) of this section.

(b) *Step 2: Publicly available technology and software.* This step is relevant for both exports and reexports. Determine if your technology or software is publicly available as defined and explained at part 734 of the EAR. Supplement No. 1 to part 734 of the EAR contains several practical examples describing publicly available technology and software that is outside the scope of the EAR. The examples are illustrative, not comprehensive.

(1) If your technology or software is publicly available, and therefore outside the scope of the EAR, you may proceed with the export or reexport. You have no obligations under the EAR and need not comply with the EAR. You may skip the remaining steps.

(2) If your technology or software is not publicly available and you are exporting from the United States, skip to Step 7 in § 732.3(b) of this part concerning the general prohibitions.

(3) If you are exporting items from a foreign country, you should then proceed to Step 3 in paragraph (c) of this section and the other steps concerning the scope of the EAR.

(c) *Step 3: Reexport of U.S.-origin items.* This step is appropriate only for reexporters. For an item in a foreign country, you should determine whether the item is of U.S. origin. If it is of U.S.-origin, skip to Step 7 in § 732.3(b) of this part. If it is not of U.S. origin, then proceed to Step 4 in paragraph (d) of this section.

(d) *Step 4: Foreign-made items incorporating less than the de minimis level of U.S. parts, components, and materials.* This step is appropriate only for items that are made outside the United States.

(1) For an item made in a foreign country, you should determine whether controlled U.S.-origin parts, components, or materials are incorporated as provided in § 734.4 of the EAR. Also, determine the value of the U.S.-origin controlled content as provided in Supplement No. 2 to part 734 of the EAR.

(2) To determine the value of the U.S.-origin controlled content, you should classify the U.S.-origin content on the CCL, determine those items that would require a license from BXA for reexport to the ultimate destination of the foreign-made product if such parts, components, or materials were reexported to that destination in the form received, and divide the total value of the controlled U.S. parts, components, and materials incorporated into the foreign-made item by the sale price of the foreign-made item.

(3) If no U.S. parts, components, or materials are incorporated or if the incorporated U.S. parts, components, and materials are below the *de minimis* level described in § 734.4 of the EAR, then the foreign-made item is not subject to the EAR by reason of the parts and components rule, the classification of a foreign-made item is irrelevant in determining the scope of the EAR, and you should skip Step 4 and go on to consider Step 5 regarding the foreign-produced direct product rule.

(4) If controlled parts, components, or materials are incorporated and are above the *de minimis* level, then you should go on to Step 5.

(e) *Step 5: Foreign-made items incorporating more than the de minimis level of U.S. parts, components, or materials.* This step is appropriate only for foreign-made items incorporating certain U.S. parts. If the incorporated U.S. parts exceed the relevant *de minimis* level, then your export from abroad is subject to the EAR. You then should skip to Step 7 at § 732.3 of this part and consider the steps regarding all other general prohibitions, License Exceptions, and other requirements.

(f) *Step 6: Foreign-made items produced with certain U.S. technology for export to specified destinations.* This step is appropriate for foreign-made items in foreign countries.

(1) If your foreign-produced item is described in an entry on the CCL and the Country Chart requires a license to your export or reexport destination for national security reasons, you should determine whether your item is subject to General Prohibition Three (Foreign-Produced Direct Product Reexports) (§ 736.2(b)(3) of the EAR). Your item is subject to the EAR if it is captured by General Prohibition Three (Foreign-Produced Direct Product Reexports), and that prohibition applies if your transaction meets each of the following conditions:

(i) *Country scope of prohibition.* Your export or reexport destination for the direct product is Cuba, North Korea, Libya, or a destination in Country Group D:1 (see Supplement No. 1 to part 740 of the EAR) (reexports of foreign-produced direct products exported to other destinations are not subject to General Prohibition Three);

(ii) *Scope of technology or software used to create direct products subject to the prohibition.* Technology or software that was used to create the foreign-produced direct product, and such technology or software that was subject to the EAR and required a written assurance as a supporting document for a license or as a precondition for the use of License Exception TSR at § 740.3(d) of the EAR (reexports of foreign-produced direct products created with other technology and software are not subject to General Prohibition Three); and

(iii) *Scope of direct products subject to the prohibition.* The foreign-produced direct products are subject to national security controls as designated on the proper ECCN of the Commerce Control List in part 774 of the EAR (reexports of foreign-produced direct products not subject to national security controls are not subject to General Prohibition Three).

(2) *License Exceptions.* Each License Exception described in part 740 of the EAR overcomes this General Prohibition Three if all terms and conditions of a given License Exception are met by the exporter or reexporter.

(3) *Subject to the EAR.* If your item is captured by the foreign-produced direct product control at General Prohibition Three, then your export from abroad is subject to the EAR. You should next consider the steps regarding all other general prohibitions, License Exceptions, and other requirements. If your item is not captured by General Prohibition Three, then your export from abroad is not subject to the EAR. You have completed the steps necessary to determine whether your transaction is subject to the EAR, and you may skip the remaining steps. Note that in summary, items in foreign countries are subject to the EAR when they are:

(i) U.S.-origin commodities, software and technology unless controlled for export exclusively by another Federal agency or unless publicly available;

(ii) Foreign-origin commodities, software, and technology that are within the scope of General Prohibition Two (Parts and Components Reexports), or General Prohibition Three (Foreign-Produced Direct Product Reexports). (However, such foreign-made items are also outside the scope of the EAR if they are controlled for export exclusively by another Federal agency or unless publicly available.)

§ 732.3 Steps regarding the ten general prohibitions.

(a) *Introduction.* If your item or activity is subject to the scope of the EAR, you should then consider each of the ten general prohibitions listed in part 736 of the EAR. General Prohibitions One ((Exports and Reexports), Two (Parts and Components Reexports), and Three (Foreign-Produced Direct Product Reexports) (§ 736.2(b) (1), (2), and (3) of the EAR) are product controls that are shaped and limited by parameters specified on the CCL and Country Chart. General Prohibitions Four through Ten are prohibitions on certain activities that are not allowed without authorization from BXA, and these prohibitions apply to all items subject to the EAR unless otherwise specified (§ 736.2(b) (4) through (10) of the EAR).

(b) *Step 7: Classification.* (1) You should classify your items in the relevant entry on the CCL, and you may do so on your own without the assistance of BXA. You are responsible for doing so correctly, and your failure to correctly classify your items does not relieve you of the obligation to obtain a license when one is required by the EAR.

(2) You have a right to request the applicable classification of your item from BXA, and BXA has a duty to provide that classification to you. For further information on how to obtain classification assistance from BXA, see part 748 of the EAR.

(3) For items subject to the EAR but not listed on the CCL, the proper classification is EAR99. This number is a "basket" for items not specified under any CCL entry and appears at the end of each Category on the CCL.

(c) *Step 8: Country of ultimate destination.* You should determine the country of ultimate destination. The country of destination determines the applicability of several general prohibitions, License Exceptions, and other requirements. Note that part 754 of the EAR concerning short supply controls is self-contained and is the only location in the EAR that contains both the prohibitions and exceptions applicable to short supply controls.

(d) *Step 9: Reason for control and the Country Chart.* (1) *Reason for control and column identifier within the Export Control Classification Number (ECCN).* Once you have determined that your item is controlled by a specific ECCN, you must use information contained in the "License Requirements" section of that ECCN in combination with the Country Chart to decide whether a license is required under General Prohibitions One, Two, or Three to a particular destination. The CCL and the Country Chart are taken together to define these license requirements. The applicable ECCN will indicate the reason or reasons for control for items within that ECCN. For example, ECCN 6A007 is controlled for national security, missile technology, and anti-terrorism reasons.

(2) *Reason for control within the Country Chart.* With each of the applicable Country Chart column identifiers noted in the correct ECCN, turn to the Country Chart. Locate the correct Country Chart column identifier on the horizontal axis, and determine whether an "X" is marked in the cell next to the destination in question. Consult § 738.4 of the EAR for comprehensive instructions on using the Country Chart and a detailed example.

(i) An "X" in the cell or cells for the relevant country and reason(s) for control column indicates that a license is required for General Prohibitions One (Exports and Reexports in the Form Received), Two (Parts and Components Reexports), and Three (Foreign-Produced Direct Product Reexports). (See § 736.2 (b)(1), (b)(2), and (b)(3) of the EAR).

(ii) If one or more cells have an "X" in the relevant column, a license is required unless you qualify for a License Exception described in part 740 of the EAR. If a cell does not contain an "X" for your destination in one or more relevant columns, a license is not required under the CCL and the Country Chart.

(iii) Additional controls may apply to your export. You must go on to steps 12 through 18 described in paragraphs (g) to (m) of this section to determine whether additional limits described in General Prohibition Two (Parts and Components Reexports) and General Prohibition Three (Foreign-Produced Direct Product Reexports) apply to your proposed transaction. If you are exporting an item from the United States, you should skip Step 10 and Step 11. Proceed directly to Step 12 in paragraph (g) of this section.

(3) *License requirements not on the Country Chart.* There are two instances where the Country Chart cannot be used to determine if a license is required. Items controlled for short supply reasons are not governed by the Country Chart. Part 754 of the EAR contains license requirements and License Exceptions for items subject to short supply controls. A limited number of ECCNs contained on the CCL do not identify a Country Chart column identifier. In these instances, the ECCN states whether a license is required and for which destinations. See § 738.3(a) of the EAR for a list of the ECCNs for which you do not need to consult the Country Chart to determine licensing requirements.

(4) *Destinations subject to embargo provisions.* The Country Chart does not apply to Cuba, Iran, Iraq, Libya, and North Korea; and for those countries you should review the embargo provisions at part 746 of the EAR and may skip this step concerning the Country Chart. For Angola, Bosnia-Herzegovina, Croatia, Rwanda, and Serbia and Montenegro the Country Chart provides for certain license requirements, and part 746 of the EAR provides additional requirements.

(5) *Items subject to the EAR but not on the CCL.* Items subject to the EAR that are not on the CCL are properly classified EAR99. For such items, you may skip this step and proceed directly with Step 12 in paragraph (g) of this section.

(e) *Step 10: Foreign-made items incorporating U.S.-origin items and the de minimis rule.* (1) *Parts and components rule.* The following considerations are appropriate for items abroad and are the same steps necessary to determine whether a foreign-made item incorporating U.S. parts, components, or materials is subject to the EAR. If your foreign-made item is described in an entry on the CCL and the Country Chart requires a license to your export or reexport destination, you should determine whether the controlled U.S.-origin commodities, software, or technology incorporated into the foreign-made item exceeds the *de minimis* level applicable to the ultimate destination of the foreign-made item, as follows:

(i) A 10% *de minimis* level to embargoed and terrorist-supporting countries; or

(ii) A 25% *de minimis* level to all other countries.

(2) *Guidance for calculations.* For guidance on how to calculate the U.S.-controlled content, refer to Supplement No. 2 to part 734 of the EAR. Note that certain rules issued by the Office of Foreign Assets Control, certain exports from abroad by U.S.-owned or controlled entities may be prohibited notwithstanding the *de minimis* provisions of the EAR. In addition, the *de minimis* exclusions from the parts and components rule do not relieve U.S. persons of the obligation to refrain from supporting the proliferation of weapons of mass-destruction and missiles as provided in General Prohibition Seven (U.S. Person Proliferation Activity) described in § 736.2(b)(7) of the EAR.

(f) *Step 11: Foreign-produced direct product.* The following considerations are appropriate for items abroad and are the same considerations necessary to determine whether a foreign-produced direct product is subject to the EAR under Step 6 in § 732.2(f) of this part.

(1) If your foreign-produced item is described in an entry on the CCL and the Country Chart requires a license to your export or reexport destination for national security reasons, you must determine whether your item is subject to General Prohibition Three (Foreign-Produced Direct Product Reexports) (§ 736.2(b)(3) of the EAR). Your item is subject to this general prohibition if your transaction meets each of the following conditions:

(i) *Country scope of prohibition.* Your export or reexport destination for the direct product is Cuba, Libya, North Korea, or a destination in Country Group D:1 (see Supplement No. 1 to part 740 of the EAR) (reexports of foreign-produced direct products exported to other destinations are not subject to General Prohibition Three described in § 736.2(b)(3) of the EAR);

(ii) *Scope of technology or software used to create direct products subject to the prohibition.* Technology or software that was used to create the foreign-produced direct product, and such technology or software that was subject to the EAR and required a written assurance as a supporting document for a license or as a precondition for the use of License Exception TSR described § 740.19 of the EAR (reexports of foreign-produced direct products created with other technology and software are not subject to General Prohibition Three); and

(iii) *Scope of direct products subject to the prohibition.* The foreign-produced direct products are controlled for national security reasons indicated in an ECCN on the CCL (reexports of foreign-produced direct products not subject to national security controls are not subject to General Prohibition Three).

(2) *License Exceptions.* Each License Exception described in part 740 of the EAR overcomes General Prohibition Three (Foreign-Produced Direct Product Reexports) if all terms and conditions of a given License Exception are met by the exporter or reexporter.

(g) *Step 12: Persons denied export privileges.* (1) Determine whether your transferee, ultimate end-user, any intermediate consignee, or any other party to a transaction is a person denied export privileges. (See part 764 of the EAR). While it is not a violation of General Prohibition Four (Denial Orders) (§ 736.2(b)(4) of the EAR) to fail to check the Denied Persons List prior to a transfer, it is nonetheless a violation of the EAR to engage in any activity that violates the terms or conditions of a denial order. General Prohibition Four (Denial Orders) applies to all items subject to the EAR, i.e. both items on the CCL and within EAR99.

(2) There are no License Exceptions to General Prohibition Four (Denial Orders). The prohibition concerning persons denied export privileges may be overcome only by a specific authorization from BXA, something that is rarely granted.

(h) *STEP 13: Prohibited end-uses and end-users.* (1) Review the end-uses and end-users prohibited under General Prohibition Five (End-Use and End-User) (§ 736.2(b)(5) of the EAR) described in part 744 of the EAR. Part 744 of the EAR contains all the end-use and end-user license requirements, and those are in addition to the license requirements under General Prohibitions One (Exports and Reexports), Two (Parts and Components Reexports), and Three (Foreign-produced Direct Product Reexports). Unless otherwise indicated, the license requirements of General Prohibition Five (End-Use and End-User) described in part 744 of the EAR apply to all items subject to the EAR, i.e. both items on the CCL and within EAR99. Moreover, the requirements of General Prohibition Five (End-Use and End-User) are in addition to various end-use and end-user limitations placed on certain License Exceptions.

(2) There are no License Exceptions to General Prohibition Five (End-Use and End-User) (§ 736.2(b)(5) of the EAR) described in part 740 of the EAR.

(i) *Step 14: Embargoed countries and special destinations.* If your destination for any item is Bosnia-Herzegovina,

Croatia, Cuba, Iran, Iraq, Libya, North Korea, Rwanda, or Serbia and Montenegro, you must consider the requirements of part 746 of the EAR. Unless otherwise indicated, General Prohibition Six (Embargo) applies to all items subject to the EAR, i.e. both items on the CCL and within EAR99. You may not make an export or reexport contrary to the provisions of part 746 of the EAR without a license unless:

(1) You are exporting or reexporting only publicly available technology or software or other items outside the scope of the EAR, or

(2) You qualify for a License Exception referenced in part 746 of the EAR concerning embargoed destinations. You may not use a License Exception described in part 740 of the EAR to overcome General Prohibition Six (Embargo) (§ 736.2(b)(6) of the EAR) unless it is specifically authorized in part 746 of the EAR. Note that part 754 of the EAR concerning short supply controls is self-contained and is the only location in the EAR for both the prohibitions and exceptions applicable to short supply controls.

(j) *Step 15: Proliferation activity of U.S. persons unrelated to exports and reexports.* (1) Review the scope of activity prohibited by General Prohibition Seven (U.S. Person Proliferation Activity) (§ 736.2(b)(7) of the EAR) as that activity is described in § 744.6 of the EAR. Keep in mind that such activity is not limited to exports and reexports and is not limited to items subject to General Prohibition One (Exports and Reexports), Two (Parts and Components Reexports), and Three (Foreign-Produced Direct Product Reexports). Moreover, such activity extends to services and dealing in wholly foreign-origin items in support of the specified proliferation activity and is not limited to items listed on the CCL or included in EAR99.

(2) Review the definition of U.S. Person in part 744 of the EAR.

(k) *Step 16: In-transit.* Shippers and operators of vessels or aircraft should review General Prohibition Eight (In-Transit) to determine the countries in which you may not unladen or ship certain items in-transit. General Prohibition Eight applies to all items subject to the EAR, i.e. both items on the CCL and within EAR99.

(l) *Step 17: Review orders, terms, and conditions.* Review the orders, terms, and conditions applicable to your transaction. General Prohibition Nine (Orders, Terms, and Conditions) prohibits the violation of any orders, terms, and conditions imposed under the EAR. Terms and conditions are frequently contained in licenses. In addition, the ten general prohibitions (part 736 of the EAR) and the License Exceptions (part 740 of the EAR) impose terms and conditions or limitations on your proposed transactions and use of License Exceptions. A given license or License Exception may not be used unless each relevant term or condition is met.

(m) *Step 18: Review the "Know Your Customer" Guidance and General Prohibition Ten (Knowledge Violation to Occur).* License requirements under the EAR are determined solely by the classification, end-use, end-user, ultimate destination, and conduct of U.S. persons. Supplement No. 1 to part 732 of the EAR is intended to provide helpful guidance regarding the process for the evaluation of information about customers, end-uses, and end-users. General Prohibition Ten (Knowledge Violation to Occur) prohibits anyone from proceeding with a transaction with knowledge that a violation of the EAR has occurred or is about to occur. It also prohibits related shipping, financing, and other services. General Prohibition Ten applies to all items subject to the EAR, i.e. both items on the CCL and within EAR99.

(n) *Step 19: Complete the review of the general prohibitions.* After completion of Steps described in this section and review of all ten general prohibitions in part 736 of the EAR, including cross-referenced regulations in the EAR, you will know which, if any, of the ten general prohibitions of the EAR apply to you and your contemplated transaction or activity.

(1) If none of the ten general prohibitions is applicable to your export from the United States, no license from BXA is required, you do not need to qualify for a License Exception under part 740 of the EAR. You should skip the Steps in § 732.4 of this part regarding License Exceptions and proceed directly to the Steps in § 732.5 of this part regarding recordkeeping, clearing the U.S. Customs Service with the appropriate Shipper's Export Declaration, and using the required Destination Control Statement.

(2) If none of the ten general prohibitions is applicable to your reexport or export from abroad, no license is required and you should skip all remaining Steps.

(3) If one or more of the ten general prohibitions are applicable, continue with the remaining steps.

§ 732.4 Steps regarding License Exceptions.

(a) *Introduction to Steps for License Exceptions.* If your export or reexport is subject to the EAR and is subject to General Prohibitions One (Exports and Reexports), Two (Parts and Components Reexports), or Three (Foreign-Produced Direct Product Reexports), consider the steps listed in paragraph (b) of this section. If your export or reexport is subject to General Prohibitions Four (Denial Orders), Seven (U.S. Person Proliferation Activity), Eight (In-Transit), Nine (Orders, Terms, and Conditions), or Ten (Knowledge Violation to Occur), there are no License Exceptions available for your export or reexport. If your export is subject to General Prohibition Five (End-Use End-User), consult part 744 of the EAR. If your export or reexport is subject to General Prohibition Six (Embargo), consult part 746 of the EAR for applicable License Exceptions.

(b) Steps for License Exceptions. (1) *Step 20: Applicability of General Prohibitions.* Determine whether any one or more of the general prohibitions described in § 736.2(b) of the EAR apply to your export or reexport. If no general prohibition applies to your export or reexport, then you may proceed with your export or reexport and need not review part 740 of the EAR regarding License Exceptions. You are reminded of your recordkeeping obligations related to the clearance of the U.S. Customs Service provided in parts 762 and 758 of the EAR.

(2) *Step 21: Applicability of restrictions on all License Exceptions.* Determine whether any one or more of the restrictions in § 740.2 of the EAR applies to your export or reexport. If any one or more of these restrictions apply, there are no License Exceptions available to you, and you must either obtain a license or refrain from the export or reexport.

(3) *Step 22: Terms and conditions of the License Exceptions.* (i) If none of the restrictions in § 740.2 of the EAR applies, then review each of the License Exceptions to determine whether any one of them authorizes your export or reexport. Eligibility for License Exceptions is based on the item, the country of ultimate destination, the end-use, and the end-user, along with any special conditions imposed within a specific License Exception.

(ii) You may meet the conditions for more than one License Exception. Moreover, although you may not qualify for some License Exceptions you may qualify for others. Review the broadest License Exceptions first, and use any License Exception available to you. You are not required to use the most restrictive applicable License Exception. If you fail to qualify for the License Exception that you first consider, you may consider any other License Exception until you have determined that no License Exception is available.

(iii) License Exception groupings TMP, RPL, BAG, AVS, GOV, and TSU authorize exports notwithstanding the provisions of the CCL. License Exceptions in the list-based grouping (LST) are available only to the extent specified on the CCL. Part 740 of the EAR provides authorization for reexports only to the extent each License Exception expressly authorizes reexports. License Exception APR authorizes reexports only.

(4) *Step 23: Scope of License Exceptions.* Some License Exceptions are limited by country or by type of item.

(i) Countries are arranged in country groups for ease of reference. For a listing of country groups, please refer to Supplement No. 1 to part 740 of the EAR. Unless otherwise indicated in a License Exception, License Exceptions do not apply to any exports or reexports to embargoed destinations. If your export or reexport is subject to General Prohibition Six (Embargo) for embargoed destinations, License Exceptions are only available to the extent specifically provided in part 746 of the EAR concerning embargoed destinations.

(ii) Special commodity controls apply to short supply items. No License Exceptions described in part 740 of the EAR may be used for items listed on the CCL as controlled for Short Supply reasons. License Exceptions for short supply items are found in part 754 of the EAR.

(5) *Step 24: Compliance with all terms and conditions.* If a License Exception is available, you may proceed with your export or reexport. However, you must meet all the terms and conditions required by the License Exception that you determined authorized your export or reexport. You must also consult part 758 and 762 of the EAR to determine your recordkeeping and documentation requirements.

(6) *Step 25: License requirements.* If no License Exception is available, then you must either obtain a license before proceeding with your export or reexport or you must refrain from the proposed export or reexport.

(7) *Step 26: License applications.* If you are going to file a license application with BXA, you should first review the requirements at part 748 of the EAR. Exporters, reexporters, and exporters from abroad should review the instructions concerning applications and required support documents prior to submitting an application for a license.

§ 732.5 Steps regarding Shipper's Export Declaration, Destination Control Statements, record keeping, license applications, and other requirements.

(a) *Step 27—Shipper's Export Declaration.* You should review § 758.3 of the EAR to determine what notations you must enter on the Shipper's Export Declaration (SED). These steps should be reviewed by exporters. Reexporters and firms exporting from abroad may skip Steps 27 through 29 and proceed directly to § 732.6 of this part.

(1) *NLR.* The term "NLR" represents exports of listed items when no license is required. Such exports do not require that you qualify for a License Exception. The symbol "NLR" is required on the SED under two circumstances. First, NLR is the correct symbol when exporting an item subject to the EAR not listed on the CCL. Such items are classified EAR99. Secondly, certain items are listed on the CCL but do not require a license to all destinations under General Prohibitions One (Exports and Reexports in the Form Received), Two (Parts and Components Reexports), or Three (Foreign-Produced Direct Product Reexports) (§ 736.2 (b)(1), (b)(2), or (b)(3) of the EAR). Such items do not have an "X" in the appropriate cell on the Country Chart. If General Prohibitions Four through Ten (§ 736.2 (b)(4) of the EAR) through (b)(10) of the EAR) also do not apply, you must clear exports of such items by entering the symbol "NLR" in the appropriate place on the SED.

(2) *License Exception group symbol.* You must enter on any required SED the letter code (e.g., LST, TMP) of the group of License Exceptions under which you are exporting. In the case of License Exceptions grouped under LST, the ECCN of the item being exported must also be entered when an SED is required. Please refer to § 758.3 of the EAR for detailed information on use of SEDs.

(3) *License number.* If you are exporting under a license, enter the license number on the SED as required by § 758.3 of the EAR.

(b) *Step 28: Destination Control Statement.* You are required to enter an appropriate Destination Control Statement (DCS) on commercial documents in accordance with the DCS requirements of § 758.6 of the EAR. Exporters should review § 758.6 of the EAR and use the DCS as required. Reexporters and exporters from abroad should review § 752.6 for DCS requirements when using a Special Comprehensive License. Otherwise, DCS requirements do not apply to reexports and exports from abroad.

(c) *Step 29: Recordkeeping.* Records of transactions involving exports under any license or License Exception must be maintained in accordance with the recordkeeping requirements of part 762 of the EAR.

§ 732.6 Steps for other requirements.

Sections 732.1 through 732.4 of this part are useful in determining the license requirements that apply to you. Other portions of the EAR impose other obligations and requirements. Some of them are:

(a) Requirements relating to the use of a license in § 758.2 of the EAR.

(b) Obligations of carriers, forwarders, exporters and others to take specific steps and prepare and deliver certain documents to assure that items subject to the EAR are delivered to the destination to which they are licensed or authorized by a License Exception or some other provision of the regulations in § 758.4 through § 758.6 of the EAR.

(c) Duty of carriers to return or unload shipments at the direction of U.S. Government officials (see § 758.8 of the EAR).

(d) Specific obligations imposed on parties to Special Comprehensive licenses in part 752 of the EAR.

(e) Recordkeeping requirements imposed in part 762 of the EAR.

(f) Requirements of part 764 of the EAR to disclose facts that may come to your attention after you file a license application or make other statements to the government concerning a transaction or proposed transaction that is subject to the EAR.

(g) Certain obligations imposed by part 760 of the EAR on parties who receive requests to take actions related to foreign boycotts and prohibits certain actions relating to those boycotts.

Supplement No. 1—BXA's "Know Your Customer" Guidance and Red Flags

"Know Your Customer" Guidance

Various requirements of the EAR are dependent upon a person's knowledge of the end-use, end-user, ultimate destination, or other facts relating to a transaction or activity. These provisions include the nonproliferation-related "catch-all" sections and the prohibition against proceeding with a transaction with knowledge that a violation of the EAR has occurred or is about to occur.

(a) BXA provides the following guidance on how individuals and firms should act under this knowledge standard. This guidance does not change or interpret the EAR.

(1) *Decide whether there are "red flags".* Take into account any abnormal circumstances in a transaction that indicate that the export may be destined for an inappropriate end-use, end-user, or destination. Such circumstances are referred to as "red flags". Included among examples

of red flags are orders for items that are inconsistent with the needs of the purchaser, a customer declining installation and testing when included in the sales price or when normally requested, or requests for equipment configurations that are incompatible with the stated destination (e.g., 120 volts in a country with 220 volts). Commerce has developed lists of such red flags that are not all-inclusive but are intended to illustrate the types of circumstances that should cause reasonable suspicion that a transaction will violate the EAR.

(2) *If there are "red flags", inquire.* If there are no "red flags" in the information that comes to your firm, you should be able to proceed with a transaction in reliance on information you have received. That is, absent "red flags" (or an express requirement in the EAR), there is no affirmative duty upon exporters to inquire, verify, or otherwise "go behind" the customer's representations. However, when "red flags" are raised in information that comes to your firm, you have a duty to check out the suspicious circumstances and inquire about the end-use, end-user, or ultimate country of destination. The duty to check out "red flags" is not confined to the use of License Exceptions affected by the "know" or "reason to know" language in the EAR. Applicants for licenses are required by part 748 of the EAR to obtain documentary evidence concerning the transaction, and misrepresentation or concealment of material facts is prohibited, both in the licensing process and in all export control documents. You can rely upon representations from your customer and repeat them in the documents you file unless red flags oblige you to take verification steps.

(3) *Do not self-blind.* Do not cut off the flow of information that comes to your firm in the normal course of business. For example, do not instruct the sales force to tell potential customers to refrain from discussing the actual end-use, end-user, and ultimate country of destination for the product your firm is seeking to sell. Do not put on blinders that prevent the learning of relevant information. An affirmative policy of steps to avoid "bad" information would not insulate a company from liability, and it would usually be considered an aggravating factor in an enforcement proceeding.

(4) *Employees need to know how to handle "red flags".* Knowledge possessed by an employee of a company can be imputed to a firm so as to make it liable for a violation. This makes it important for firms to establish clear policies and effective compliance procedures to ensure that such knowledge about transactions can be evaluated by responsible senior officials. Failure to do so could be regarded as a form of self-blinding.

(5) *Reevaluate all the information after the inquiry.* The purpose of this inquiry and reevaluation is to determine whether the "red flags" can be explained or justified. If they can, you may proceed with the transaction. If the "red flags" cannot be explained or justified and you proceed, you run the risk of having had "knowledge" that would make your action a violation of the EAR.

(6) *Refrain from the transaction or advise BXA and wait.* If you continue to have reasons for concern after your inquiry, then you should either refrain from the transaction or submit all the relevant information to BXA in the form of an application for a validated license or in such other form as BXA may specify.

(b) Industry has an important role to play in preventing exports and reexports contrary to the national security and foreign policy interests of the United States. BXA will continue to work in partnership with industry to make this front line of defense effective, while minimizing the regulatory burden on exporters. If you have any question about whether you have encountered a "red flag", you may contact the Office of Export Enforcement at 1–800–424–2980 or the Office of Exporter Services at (202) 482–4532.

Red Flags

Possible indicators that an unlawful diversion might be planned by your customer include the following:

1. The customer or purchasing agent is reluctant to offer information about the end-use of a product.
2. The product's capabilities do not fit the buyer's line of business; for example, a small bakery places an order for several sophisticated lasers.
3. The product ordered is incompatible with the technical level of the country to which the product is being shipped. For example, semiconductor manufacturing equipment would be of little use in a country without an electronics industry.
4. The customer has little or no business background.
5. The customer is willing to pay cash for a very expensive item when the terms of the sale call for financing.
6. The customer is unfamiliar with the product's performance characteristics but still wants the product.
7. Routine installation, training or maintenance services are declined by the customer.
8. Delivery dates are vague, or deliveries are planned for out-of-the-way destinations.
9. A freight forwarding firm is listed as the product's final destination.
10. The shipping route is abnormal for the product and destination.
11. Packaging is inconsistent with the stated method of shipment or destination.
12. When questioned, the buyer is evasive or unclear about whether the purchased product is for domestic use, export or reexport.

PART 734—SCOPE OF THE EXPORT ADMINISTRATION REGULATIONS

Sec.

734.1 Introduction.
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Supplement No. 1 to Part 734—Questions and Answers—Technology and Software Subject to the EAR

Supplement No. 2 to Part 734—Calculation of Values for DE MINIMIS Rules

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 3 CFR, 1994 Comp., p. 917; Notice of August 15, 1995 (60 FR 42767, August 17, 1995).

§ 734.1 Introduction.

(a) In this part, references to the Export Administration Regulations (EAR) are references to 15 CFR chapter VII, subchapter C. This part describes the scope of the Export Administration Regulations (EAR) and explains certain key terms and principles used in the EAR. This part provides the rules you need to use to determine whether items and activities are subject to the EAR. This part is the first step in determining your obligations under the EAR. If your item or activity is not subject to the EAR, then you do not have any obligations under the EAR and you do not need to review other parts of the EAR. If you already know that your item or activity is subject to the EAR, you do not need to review this part and you can go on to review other parts of the EAR to determine your obligations. This part also describes certain key terms and principles used in the EAR. Specifically, it includes the following terms: "subject to the EAR," "items subject to the EAR," "export," and "reexport." These and other terms are also included in part 772 of the EAR, Definitions of Terms, and you should consult part 772 of the EAR for the meaning of terms used in the EAR. Finally, this part makes clear that compliance with the EAR does not relieve any obligations imposed under foreign laws.

(b) This part does not address any of the provisions set forth in part 760 of the EAR, Restrictive Trade Practices or Boycotts.

(c) This part does not define the scope of legal authority to regulate exports, including reexports, or activities found in the Export Administration Act and other statutes. What this part does do is set forth the extent to which such legal authority has been exercised through the EAR.

§ 734.2 Important EAR terms and principles.

(a) *Subject to the EAR—Definition.* (1) "Subject to the EAR" is a term used in the EAR to describe those items and activities over which BXA exercises regulatory jurisdiction under the EAR. Conversely, items and activities that are not subject to the EAR are outside the regulatory jurisdiction of the EAR and are not affected by these regulations. The items and activities subject to the EAR are described in § 734.2 through § 734.5 of this part. You should review the Commerce Control List (CCL) and any applicable parts of the EAR to determine whether an item or activity is subject to the EAR. However, if you need help in determining whether an item or activity is subject to the EAR, see § 734.6 of this part. Publicly available technology and software not subject to the EAR are described in § 734.7 through § 734.11 and Supplement No. 1 to this part.

(2) Items and activities subject to the EAR may also be controlled under export-related programs administered by other agencies. Items and activities subject to the EAR are not necessarily exempted from the control programs of other agencies. Although BXA and other agencies that maintain controls for national security and foreign policy reasons try to minimize overlapping jurisdiction, you should be aware that in some instances you may have to comply with more than one regulatory program.

(3) The term "subject to the EAR" should not be confused with licensing or other requirements imposed in other parts of the EAR. Just because an item or activity is subject to the EAR does not mean that a license or other requirement automatically applies. A license or other requirement applies only in those cases where other parts of the EAR impose a licensing or other requirement on such items or activities.

(b) *Export and reexport.* (1) *Definition of export.* "Export" means an actual shipment or transmission of items subject to the EAR out of the United States; or release of technology or software subject to the EAR to a foreign national in the United States, as described in paragraph (b)(2)(ii) of this section. See part 772 of the EAR for the definition that applies to exports of satellites subject to the EAR.

(2) *Export of technology or software.* "Export" of technology or software includes:

(i) Any release of technology or software subject to the EAR in a foreign country; or

(ii) Any release of technology or source code subject to the EAR to a foreign national. Such release is deemed to be an export to the home country or countries of the foreign national. This deemed export rule does not apply to persons lawfully admitted for permanent residence in the United States and does not apply to persons who are protected individuals under the Immigration and Naturalization Act (8 U.S.C. 1324b(a)(3)). Note that the release of any item to any party with knowledge a violation is about to occur is prohibited by § 736.2(b)(10) of the EAR.

(3) *Definition of "release" of technology or software.* Technology or software is "released" for export through:

(i) Visual inspection by foreign nationals of U.S.-origin equipment and facilities;

(ii) Oral exchanges of information in the United States or abroad; or

(iii) The application to situations abroad of personal knowledge or technical experience acquired in the United States.

(4) *Definition of reexport.* "Reexport" means an actual shipment or transmission of items subject to the EAR from one foreign country to another foreign country; or release of technology or software subject to the EAR to a foreign national outside the United States, as described in paragraph (b)(5) of this section. See part 772 of the EAR for the definition that applies to reexports of satellites subject to the EAR.

(5) *Reexport of technology or software.* Any release of technology or source code subject to the EAR to a foreign national of another country is a deemed reexport to the home country or countries of the foreign national. However, this deemed reexport definition does not apply to persons lawfully admitted for permanent residence. The term "release" is defined in paragraph (b)(3) of this section. Note that the release of any item to any party with knowledge or reason to know a violation is about to occur is prohibited by § 736.2(b)(10) of the EAR.

(6) For purposes of the EAR, the export or reexport of items subject to the EAR that will transit through a country or countries or be transshipped in a country or countries to a new country or are intended for reexport to the new country, are deemed to be exports to the new country.

(7) If a territory, possession, or department of a foreign country is not listed on the Country Chart in Supplement No. 1 to part 738 of the EAR, the export or reexport of items subject to the EAR to such destination is deemed under the EAR to be an export to the foreign country. For example, a shipment to the Cayman Islands, a dependent territory of the United Kingdom, is deemed to be a shipment to the United Kingdom.

(8) Export or reexport of items subject to the EAR does not include shipments among any of the states of the United States, the Commonwealth of Puerto Rico, or the Commonwealth of the Northern Mariana Islands or any territory, dependency, or possession of the United States. These destinations are listed in Schedules C & E, Classification of Country and Territory Designations for U.S. Export Statistics, issued by the Bureau of the Census.

§ 734.3 Items subject to the EAR.

(a) Except for items excluded in paragraph (b) of this section, the following items are subject to the EAR:

(1) All items in the United States, including in a U.S. Foreign Trade Zone or moving intransit through the United States from one foreign country to another;

(2) All U.S. origin items wherever located;

(3) U.S. origin parts, components, materials or other commodities incorporated abroad into foreign-made products, U.S. origin software commingled with foreign software, and U.S. origin technology commingled with foreign technology, in quantities exceeding *de minimis* levels as described in § 734.4 and Supplement No. 2 of this part;

(4) Certain foreign-made direct products of U.S. origin technology or software, as described in § 736.2(b)(3) of the EAR. The term "direct product" means the immediate product (including processes and services) produced directly by the use of technology or software; and

(5) Certain commodities produced by any plant or major component of a plant located outside the United States that is a direct product of U.S.-origin technology or software, as described in § 736.2(b)(3) of the EAR.

(b) The following items are not subject to the EAR:

(1) Items that are exclusively controlled for export or reexport by the following departments and agencies of the U.S. Government which regulate exports or reexports for national security or foreign policy purposes:

(i) *Department of State.* The International Traffic in Arms Regulations (22 CFR part 121) administered by the Office of Defense Trade Controls relate to defense articles and defense services on the U.S. Munitions List. Section 38 of the Arms Export Control Act (22 U.S.C. 2778).

(ii) *Treasury Department, Office of Foreign Assets Control (OFAC).* Regulations administered by OFAC implement broad controls and embargo transactions with certain foreign countries. These regulations include controls on exports and reexports to

certain countries (31 CFR chapter V). Trading with the Enemy Act (50 U.S.C. app. section 1 *et seq.*), and International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.*)

(iii) *U.S. Nuclear Regulatory Commission (NRC).* Regulations administered by NRC control the export and reexport of commodities related to nuclear reactor vessels (10 CFR part 110). Atomic Energy Act of 1954, as amended (42 U.S.C. part 2011 *et seq.*).

(iv) *Department of Energy (DOE).* Regulations administered by DOE control the export and reexport of technology related to the production of special nuclear materials (10 CFR part 810). Atomic Energy Act of 1954, as amended (42 U.S.C. section 2011 *et seq.*).

(v) *Patent and Trademark Office (PTO).* Regulations administered by PTO provide for the export to a foreign country of unclassified technology in the form of a patent application or an amendment, modification, or supplement thereto or division thereof (37 CFR part 5). BXA has delegated authority under the Export Administration Act to the PTO to approve exports and reexports of such technology which is subject to the EAR. Exports and reexports of such technology not approved under PTO regulations must comply with the EAR.

(2) Prerecorded phonograph records reproducing in whole or in part, the content of printed books, pamphlets, and miscellaneous publications, including newspapers and periodicals; printed books, pamphlets, and miscellaneous publications including bound newspapers and periodicals; children's picture and painting books; newspaper and periodicals, unbound, excluding waste; music books; sheet music; calendars and calendar blocks, paper; maps, hydrographical charts, atlases, gazetteers, globe covers, and globes (terrestrial and celestial); exposed and developed microfilm reproducing, in whole or in part, the content of any of the above; exposed and developed motion picture film and soundtrack; and advertising printed matter exclusively related thereto.

(3) Publicly available technology and software that:

(i) Are already published or will be published as described in § 734.7 of this part;

(ii) Arise during, or result from, fundamental research, as described in § 734.8 of this part;

(iii) Are educational, as described in § 734.9 of this part; or

(iv) Are included in certain patent applications, as described in § 734.10 of this part.

(4) Foreign made items that have *de minimis* U.S. content based on the principles described in § 734.4 of this part.

(c) "Items subject to the EAR" consist of the items listed on the Commerce Control List (CCL) in part 774 of the EAR and all other items which meet the definition of that term. For ease of reference and classification purposes, items subject to the EAR which are *not* listed on the CCL are designated as "EAR99."

§ 734.4 De minimis U.S. content.

(a) There is no *de minimis* level for the export from a foreign country of a foreign-made computer exceeding 7000 MTOPS containing U.S.-origin controlled semiconductors (other than memory circuits) classified under ECCN 3A001 or high speed interconnect devices (ECCN 4A003.g) to Computer Tier 3 and 4 countries described in § 742.12 of the EAR.

(b) Except as provided in paragraph (a) of this section for certain computers, for embargoed countries in part 746 of the EAR, and for countries named as terrorist-supporting countries in part 744 of the EAR, the following are not subject to the EAR:

(1) Reexports of a foreign-made commodity incorporating controlled U.S.-origin commodities valued at 10% or less of the total value of the foreign-made commodity;

(2) Reexports of foreign-made software incorporating controlled U.S.-origin software valued at 10% or less of the total value of the foreign-made software; or

(3) Reexports of foreign technology commingled with or drawn from controlled U.S. origin technology valued at 10% or less of the total value of the foreign technology.

(c) Except as provided in paragraph (a) of this section for certain computers, for all other countries not included in paragraph (b) of this section, the following are *not* subject to the EAR:

(1) Reexports of a foreign-made commodity incorporating controlled U.S.-origin commodities valued at 25% or less of the total value of the foreign-made commodity;

(2) Reexports of foreign-made software incorporating controlled U.S.-origin software valued at 25% or less of the total value of the foreign-made software; or

(3) Reexports of foreign technology commingled with or drawn from controlled U.S.-origin technology valued at 25% or less of the total value of the foreign technology.

(d) For purposes of determining *de minimis* levels, technology and source code used to design or produce foreign-made commodities or software are not considered to be incorporated into such foreign-made commodities or software. Commodities subject only to short supply controls are not included in calculating U.S. content.

(e) You are responsible for making the necessary calculations to determine whether the *de minimis* provisions apply to your situation. See Supplement No. 2 to part 734 for guidance regarding calculation of U.S. controlled content.

(f) See § 770.3 of the EAR for principles that apply to commingled U.S.-origin technology and software.

§ 734.5 Activities of U.S. and foreign persons subject to the EAR.

The following kinds of activities are subject to the EAR:

(a) Certain activities of U.S. persons related to the proliferation of chemical or biological weapons or of missile technology as described in § 744.6 of the EAR.

(b) Activities of U.S. or foreign persons prohibited by any order issued under the EAR, including a Denial Order issued pursuant to part 766 of the EAR.

§ 734.6 Assistance available from BXA for determining licensing and other requirements.

(a) If you are not sure whether a commodity, software, technology, or activity is subject to the EAR, or is subject to licensing or other requirements under the EAR, you may ask BXA for an advisory opinion, classification, or a determination whether a particular item or activity is subject to the EAR. In many instances, including those where the item is specially designed, developed, configured, adapted, or modified for military application, the item may fall under the licensing jurisdiction of the Department of State and may be subject to the controls of the International Traffic in Arms Regulations (22 CFR parts 120 through 130) (ITAR). In order to determine if the Department of State has licensing jurisdiction over an item, you should submit a request for a commodity jurisdiction determination to the Department of State, Office of Defense Trade Controls. Exporters should note that in a very limited number of cases, the categories of items may be subject to both the ITAR and the EAR. The relevant departments are working to eliminate any unnecessary overlaps that may exist.

(b) As the agency responsible for administering the EAR, BXA is the only agency that has the responsibility for determining whether an item or activity is subject to the EAR and, if so, what licensing or other requirements apply under the EAR. Such a determination only affects EAR requirements, and does not affect the applicability of any other regulatory programs.

(c) If you need help in determining BXA licensing or other requirements you may ask BXA for help by following the procedures described in § 748.3 of the EAR.

§ 734.7 Published information and software.

(a) Information is "published" when it becomes generally accessible to the interested public in any form, including:

(1) Publication in periodicals, books, print, electronic, or any other media available for general distribution to any member of the public or to a community of persons interested in the subject matter, such as those in a scientific or engineering discipline, either free or at a price that does not exceed the cost of reproduction and distribution (See Supplement No. 1 to this part, Questions A(1) through A(6));

(2) Ready availability at libraries open to the public or at university libraries (See Supplement No. 1 to this part, Question A(6));

(3) Patents and open (published) patent applications available at any patent office; and

(4) Release at an open conference, meeting, seminar, trade show, or other open gathering.

(i) A conference or gathering is "open" if all technically qualified members of the public are eligible to attend and attendees are permitted to take notes or otherwise make a personal record (not necessarily a recording) of the proceedings and presentations.

(ii) All technically qualified members of the public may be considered eligible to attend a conference or other gathering notwithstanding a registration fee reasonably related to cost and reflecting an intention that all interested and technically qualified persons be able to attend, or a limitation on actual attendance, as long as attendees either are the first who have applied or are selected on the basis of relevant scientific or technical competence, experience, or responsibility (See Supplement No. 1 to this part, Questions B(1) through B(6)).

(iii) "Publication" includes submission of papers to domestic or foreign editors or reviewers of journals, or to organizers of open conferences or other open gatherings, with the understanding that the papers will be made publicly available if favorably received. (See Supplement No. 1 to this part, Questions A(1) and A(3)).

(b) Software and information is published when it is available for general distribution either for free or at a price that does not exceed the cost of reproduction and distribution. See Supplement No. 1 to this part, Questions G(1) through G(3).

§ 734.8 Information resulting from fundamental research.

(a) *Fundamental research.* Paragraphs (b) through (d) of this section and § 734.11 of this part provide specific rules that will be used to determine whether research in particular institutional contexts qualifies as "fundamental research". The intent behind these rules is to identify as "fundamental research" basic and applied research in science and engineering, where the resulting information is ordinarily published and shared broadly within the scientific community. Such research can be distinguished from proprietary research and from industrial development, design, production, and product utilization, the results of which ordinarily are restricted for proprietary reasons or specific national security reasons as defined in § 732.10 of this part. (See Supplement No. 1 to this part, Question D(8)).

(b) *University based research.* (1) Research conducted by scientists, engineers, or students at a university normally will be considered fundamental research, as described in paragraphs (b) (2) through (6) of this section. ("University" means any accredited institution of higher education located in the United States.)

(2) Prepublication review by a sponsor of university research solely to insure that the publication would not inadvertently divulge proprietary information that the sponsor has furnished to the researchers does not change the status of the research as fundamental research. However, release of information from a corporate sponsor to university researchers where the research results are subject to prepublication review, is subject to the EAR. (See Supplement No. 1 to this part, Questions D(7), D(9), and D(10).)

(3) Prepublication review by a sponsor of university research solely to ensure that publication would not compromise patent rights does not change the status of fundamental research, so long as the review causes no more than a temporary delay in publication of the research results.

(4) The initial transfer of information from an industry sponsor to university researchers is subject to the EAR where the parties have agreed that the sponsor may withhold from publication some or all of the information so provided. (See Supplement No. 1 to this part, Question D(2).)

(5) University based research is not considered "fundamental research" if the university or its researchers accept (at the request, for example, of an industrial sponsor) other restrictions on publication of scientific and technical information resulting from the project or activity. Scientific and technical information resulting from the research will nonetheless qualify as fundamental research once all such restrictions have expired or have been removed. (See Supplement No. 1 to this part, Question D(7) and D(9).)

(6) The provisions of § 734.11 of this part will apply if a university or its researchers accept specific national security controls (as defined in § 732.11 of this part) on a research project or activity sponsored by the U.S. Government. (See Supplement No. 1 to this part, Questions E(1) and E(2).)

(c) *Research based at Federal agencies or FFRDCs.* Research conducted by scientists or engineers working for a Federal agency or a Federally Funded Research and Development Center (FFRDC) may be designated as "fundamental research" within any appropriate system devised by the agency or the FFRDC to control the release of information by such scientists and engineers. (See Supplement No. 1 to this part, Questions D(8) and D(11).)

(d) *Corporate research.* (1) Research conducted by scientists or engineers working for a business entity will be considered "fundamental research" at such time and to the extent that the researchers are free to make scientific and technical information resulting from the research publicly available without restriction or delay based on proprietary concerns or specific national security controls as defined in § 734.11 of this part.

(2) Prepublication review by the company solely to ensure that the publication would compromise no proprietary information provided by the company to the researchers is not considered to be a proprietary restriction under paragraph (d)(1) of this section. However, paragraph (d)(1) of this section does not authorize the release of information to university researchers where the research results are subject to prepublication review. (See Supplement No. 1 to this part, Questions D(8), D(9), and D(10).)

(3) Prepublication review by the company solely to ensure that prepublication would compromise no patent rights will not be considered a proprietary restriction for this purpose, so long as the review causes no more

than a temporary delay in publication of the research results.

(4) However, the initial transfer of information from a business entity to researchers is not authorized under the "fundamental research" provision where the parties have agreed that the business entity may withhold from publication some or all of the information so provided.

(e) *Research based elsewhere.* Research conducted by scientists or engineers who are not working for any of the institutions described in paragraphs (b) through (d) of this section will be treated as corporate research, as described in paragraph (d) of this section. (See Supplement No. 1 to this part, Question D(8).)

§ 734.9 Educational information.

"Educational information" referred to in § 734.3(b)(3)(iii) of this part is not subject to the EAR if it is released by instruction in catalog courses and associated teaching laboratories of academic institutions. Dissertation research is discussed in § 734.8(b) of this part. (See Supplement No. 1 to this part, Question C(1) through C(6).)

§ 734.10 Patent applications.

The information referred to in § 734.3(b)(3)(iv) of this part is:

(a) Information contained in a patent application prepared wholly from foreign-origin technical data where the application is being sent to the foreign inventor to be executed and returned to the United States for subsequent filing in the U.S. Patent and Trademark Office;

(b) Information contained in a patent application, or an amendment, modification, supplement or division of an application, and authorized for filing in a foreign country in accordance with the regulations of the Patent and Trademark Office, 37 CFR part 5; [1] or

(c) Information contained in a patent application when sent to a foreign country before or within six months after the filing of a United States patent application for the purpose of obtaining the signature of an inventor who was in the United States when the invention was made or who is a co-inventor with a person residing in the United States.

§ 734.11 Government-sponsored research covered by contract controls.

(a) If research is funded by the U.S. Government, and specific national security controls are agreed on to protect information resulting from the research, § 734.3(b)(3) of this part will not apply to any export or reexport of such information in violation of such controls. However, any export or reexport of information resulting from the research that is consistent with the specific controls may nonetheless be made under this provision.

(b) Examples of "specific national security controls" include requirements for prepublication review by the Government, with right to withhold permission for publication; restrictions on prepublication dissemination of information to non-U.S. citizens or other categories of persons; or restrictions on participation of non-U.S. citizens or other categories of persons in the research. A general reference to one or more export control laws or regulations or a general reminder that the Government retains the right to classify is not a "specific national security control". (See Supplement No. 1 to this part, Questions E(1) and E(2).)

§ 734.12 Effect on foreign laws and regulations.

Any person who complies with any of the license or other requirements of the EAR is not relieved of the responsibility of complying with applicable foreign laws and regulations. Conversely, any person who complies with the license or other requirements of a foreign law or regulation is not relieved of the responsibility of complying with U.S. laws and regulations, including the EAR.

Supplement No. 1 to Part 734—Questions and Answers—Technology and Software Subject to the EAR

This Supplement No. 1 contains explanatory questions and answers relating to technology and software that is subject to the EAR. It is intended to give the public guidance in understanding how BXA interprets this part, but is only illustrative, not comprehensive. In addition, facts or circumstances that differ in any material way from those set forth in the questions or answers will be considered under the applicable provisions of the EAR. This Supplement is divided into nine sections according to topic as follows:

Section A: Publication of technology and exports and reexports of technology that has been or will be published.

Section B: Release of technology at conferences.

Section C: Educational instruction.

Section D: Research, correspondence, and informal scientific exchanges.

Section E: Federal contract controls.

Section F: Commercial consulting.

Section G: Software.

Section H: Availability in a public library.

Section I: Miscellaneous.

Section A: Publication

Question A(1): I plan to publish in a foreign journal a scientific paper describing the results of my research, which is in an area listed in the EAR as requiring a license to all countries except Canada. Do I need a license to send a copy to my publisher abroad?

Answer: No. This export transaction is not subject to the EAR. The EAR do not cover technology that is already publicly available, as well as technology that is made public by the transaction in question (§§ 734.3 and 734.7 of this part). Your research results would be made public by the planned publication. You would not need a license.

Question A(2): Would the answer differ depending on where I work or where I performed the research?

Answer: No. Of course, the result would be different if your employer or another sponsor of your research imposed restrictions on its publication (§ 734.8 of this part).

Question (A)3: Would I need a license to send the paper to the editors of a foreign journal for review to determine whether it will be accepted for publication?

Answer: No. This export transaction is not subject to the EAR because you are submitting the paper to the editors with the intention that the paper will be published if favorably received (§ 734.7(a)(4)(iii) of this part).

Question A(4): The research on which I will be reporting in my paper is supported by a grant from the Department of Energy (DOE). The grant requires prepublication clearance by DOE. Does that make any difference under the Export Administration Regulations?

Answer: No, the transaction is not subject to the EAR. But if you published in violation of any Department of Energy controls you have accepted in the grant, you may be subject to appropriate administrative, civil, or criminal sanctions under other laws.

Question A(5): We provide consulting services on the design, layout, and construction of integrated circuit plants and production lines. A major part of our business is the publication for sale to clients of detailed handbooks and reference manuals on key aspects on the design and manufacturing processes. A typical cost of publishing such a handbook and manual might be $500; the typical sales price is about $15,000. Is the publication and sale of such handbooks or manuals subject to the EAR?

Answer: Yes. The price is above the cost of reproduction and distribution (§ 734.7(a)(1) of this part). Thus, you would need to obtain a license or qualify for a License Exception before you could export or reexport any of these handbooks or manuals.

Question A(6): My Ph.D. thesis is on technology, listed in the EAR as requiring a license to all destinations except Canada, which has never been published for general distribution. However, the thesis is available at the institution from which I took the degree. Do I need a license to send another copy to a colleague overseas?

Answer: That may depend on where in the institution it is available. If it is not readily available in the university library (e.g., by filing in open stacks with a reference in the catalog), it is not "publicly available" and the export or reexport would be subject to the EAR on that ground. The export or reexport would not be subject to the EAR if your Ph.D. research qualified as "fundamental research" under § 734.8 of this part. If not, however, you will need to obtain a license or qualify for a License Exception before you can send a copy out of the country.

Question A(7): We sell electronically recorded information, including software and databases, at wholesale and retail. Our products are available by mail order to any member of the public, though intended for specialists in various fields. They are priced to maximize sales to persons in those fields. Do we need a license to sell our products to foreign customers?

Answer: You would not need a license for otherwise controlled technology or software if the technology and software are made publicly available at a price that does not exceed the cost of production and distribution to the technical community. Even if priced at a higher level, the export or reexport of the technology or software source code in a library accessible to the public is not subject to the EAR (§ 734.7(a) of this part).

Section B: Conferences

Question B(1): I have been invited to give a paper at a prestigious international scientific conference on a subject listed as requiring a license under the EAR to all countries, except Canada. Scientists in the field are given an opportunity to submit applications to attend. Invitations are given to those judged to be the leading researchers in the field, and attendance is by invitation only. Attendees will be free to take notes, but not make electronic or verbatim recordings of the presentations or discussions. Some of the attendees will be foreigners. Do I need a license to give my paper?

Answer: No. Release of information at an open conference and information that has been released at an open conference is not subject to the EAR. The conference you describe fits the definition of an open conference (§ 734.7(d) of this part).

Question B(2): Would it make any difference if there were a prohibition on making any notes or other personal record of what transpires at the conference?

Answer: Yes. To qualify as an "open" conference, attendees must be permitted to take notes or otherwise make a personal record (although not necessarily a recording). If note taking or the making of personal records is altogether prohibited, the conference would not be considered "open".

Question B(3): Would it make any difference if there were also a registration fee?

Answer: That would depend on whether the fee is reasonably related to costs and reflects an intention that all interested and technically qualified persons should be able to attend (§ 734.7(d)(4)(ii) of this part).

Question B(4): Would it make any difference if the conference were to take place in another country?

Answer: No.

Question B(5): Must I have a license to send the paper I propose to present at such a foreign conference to the conference organizer for review?

Answer: No. A license is not required under the EAR to submit papers to foreign organizers of open conferences or other open gatherings with the intention that the papers will be delivered at the conference, and so made publicly available, if favorably received. The submission of the papers is not subject to the EAR (§ 734.7(d)(4)(iii) of this part).

Question B(6): Would the answers to any of the foregoing questions be different if my work were supported by the Federal Government?

Answer: No. You may export and reexport the papers, even if the release of the paper violates any agreements you have made with your government sponsor. However, nothing in the EAR relieves you of responsibility for conforming to any controls you have agreed to in your Federal grant or contract.

Section C: Educational Instruction

Question C(1): I teach a university graduate course on design and manufacture of very high-speed integrated circuitry. Many of the students are foreigners. Do I need a license to teach this course?

Answer: No. Release of information by instruction in catalog courses and associated teaching laboratories of academic institutions is not subject to the EAR (§ 734.9 of this part).

Question C(2): Would it make any difference if some of the students were from countries to which export licenses are required?

Answer: No.

Question C(3): Would it make any difference if I talk about recent and as yet unpublished results from my laboratory research?

Answer: No.

Question C(4): Even if that research is funded by the Government?

Answer: Even then, but you would not be released from any separate obligations you have accepted in your grant or contract.

Question C(5): Would it make any difference if I were teaching at a foreign university?

Answer: No.

Question C(6): We teach proprietary courses on design and manufacture of high-performance machine tools. Is the instruction in our classes subject to the EAR?

Answer: Yes. That instruction would not qualify as "release of educational information" under § 734.9 of this part because your proprietary business does not qualify as an "academic institution" within the meaning of § 734.9 of this part. Conceivably, however, the instruction might qualify as "release at an open * * * seminar, * * * or other open gathering" under § 734.7(d) of this part. The conditions for qualification of such a seminar or gathering as "open", including a fee "reasonably related to costs (of the conference, not of producing the data) and reflecting an intention that all interested and technically qualified persons be able to attend," would have to be satisfied.

Section D: Research, Correspondence, and Informal Scientific Exchanges

Question D(1): Do I need a license in order for a foreign graduate student to work in my laboratory?

Answer: Not if the research on which the foreign student is working qualifies as "fundamental research" under § 734.8 of this part. In that case, the research is not subject to the EAR.

Question D(2): Our company has entered into a cooperative research arrangement with a research group at a university. One of the researchers in that group is a PRC national. We would like to share some of our proprietary information with the university research group. We have no way of guaranteeing that this information will not get into the hands of the PRC scientist. Do we need to obtain a license to protect against that possibility?

Answer: No. The EAR do not cover the disclosure of information to any scientists, engineers, or students at a U.S. university in the course of industry-university research collaboration under specific arrangements between the firm and the university, provided these arrangements do not permit the sponsor to withhold from publication any of the information that he provides to the researchers. However, if your company and the researchers have agreed to a prohibition on publication, then you must obtain a license or qualify for a License Exception before transferring the information to the university. It is important that you as the corporate sponsor and the university get together to discuss whether foreign nationals will have access to the information, so that you may obtain any necessary authorization prior to transferring the information to the research team.

Question D(3): My university will host a prominent scientist from the PRC who is an expert on research in engineered ceramics and composite materials. Do I require a license before telling our visitor about my latest, as yet unpublished, research results in those fields?

Answer: Probably not. If you performed your research at the university, and you were subject to no contract controls on release of the research, your research would qualify as "fundamental research" (§ 734.8(a) of this part). Information arising during or resulting from such research is not subject to the EAR (§ 734.3(b)(3) of this part).

You should probably assume, however, that your visitor will be debriefed later about anything of potential military value he learns from you. If you are concerned that giving such information to him, even though permitted, could jeopardize U.S. security interests, the Commerce Department can put you in touch with appropriate Government scientists who can advise you. Write to Department of Commerce, Bureau of Export Administration, P.O. Box 273, Washington, DC 20044.

Question D(4): Would it make any difference if I were proposing to talk with a PRC expert in China?

Answer: No, if the information in question arose during or resulted from the same "fundamental research."

[1] Regulations issued by the Patent and Trademark Office in 37 CFR part 5 provide for the export to a foreign country of unclassified technical data in the form of a patent application or an amendment, modification, or supplement thereto or division thereof.

Question D(5): Could I properly do some work with him in his research laboratory inside China?

Answer: Application abroad of personal knowledge or technical experience acquired in the United States constitutes an export of that knowledge and experience, and such an export may be subject to the EAR. If any of the knowledge or experience you export in this way requires a license under the EAR, you must obtain such a license or qualify for a License Exception.

Question D(6): I would like to correspond and share research results with an Iranian expert in my field, which deals with technology that requires a license to all destinations except Canada. Do I need a license to do so?

Answer: Not as long as we are still talking about information that arose during or resulted from research that qualifies as "fundamental" under the rules spelled out in § 734.8(a) of this part.

Question D(7): Suppose the research in question were funded by a corporate sponsor and I had agreed to prepublication review of any paper arising from the research?

Answer: Whether your research would still qualify as "fundamental" would depend on the nature and purpose of the prepublication review. If the review is intended solely to ensure that your publications will neither compromise patent rights nor inadvertently divulge proprietary information that the sponsor has furnished to you, the research could still qualify as "fundamental." But if the sponsor will consider as part of its prepublication review whether it wants to hold your new research results as trade secrets or otherwise proprietary information (even if your voluntary cooperation would be needed for it to do so), your research would no longer qualify as "fundamental." As used in these regulations it is the actual and intended openness of research results that primarily determines whether the research counts as "fundamental" and so is not subject to the EAR.

Question D(8): In determining whether research is thus open and therefore counts as "fundamental," does it matter where or in what sort of institution the research is performed?

Answer: In principle, no. "Fundamental research" is performed in industry, Federal laboratories, or other types of institutions, as well as in universities. The regulations introduce some operational presumptions and procedures that can be used both by those subject to the regulations and by those who administer them to determine with some precision whether a particular research activity is covered. Recognizing that common and predictable norms operate in different types of institutions, the regulations use the institutional locus of the research as a starting point for these presumptions and procedures. Nonetheless, it remains the type of research, and particularly the intent and freedom to publish, that identifies "fundamental research," not the institutional locus (§ 734.8(a) of this part).

Question D(9): I am doing research on high-powered lasers in the central basic-research laboratory of an industrial corporation. I am required to submit the results of my research for prepublication review before I can publish them or otherwise make them public. I would like to compare research results with a scientific colleague from Vietnam and discuss the results of the research with her when she visits the United States. Do I need a license to do so?

Answer: You probably do need a license (§ 734.8(d) of this part). However, if the only restriction on your publishing any of that information is a prepublication review solely to ensure that publication would compromise no patent rights or proprietary information provided by the company to the researcher your research may be considered "fundamental research," in which case you may be able to share information because it is not subject to the EAR. Note that the information will be subject to the EAR if the prepublication review is intended to withhold the results of the research from publication.

Question D(10): Suppose I have already cleared my company's review process and am free to publish all the information I intend to share with my colleague, though I have not yet published?

Answer: If the clearance from your company means that you are free to make all the information publicly available without restriction or delay, the information is not subject to the EAR. (§ 734.8(d) of this part)

Question D(11): I work as a researcher at a Government-owned, contractor-operated research center. May I share the results of my unpublished research with foreign nationals without concern for export controls under the EAR?

Answer: That is up to the sponsoring agency and the center's management. If your research is designated "fundamental research" within any appropriate system devised by them to control release of information by scientists and engineers at the center, it will be treated as such by the Commerce Department, and the research will not be subject to the EAR. Otherwise, you would need to obtain a license or qualify for a License Exception, except to publish or otherwise make the information public (§ 734.8(c) of this part).

Section E: Federal Contract Controls

Question E(1): In a contract for performance of research entered into with the Department of Defense (DOD), we have agreed to certain national security controls. DOD is to have ninety days to review any papers we proposed before they are published and must approve assignment of any foreign nationals to the project. The work in question would otherwise qualify as "fundamental research" section under § 734.8 of this part. Is the information arising during or resulting from this sponsored research subject to the EAR?

Answer: Under § 734.11 of this part, any export or reexport of information resulting from government-sponsored research that is inconsistent with contract controls you have agreed to will not qualify as "fundamental research" and any such export or reexport would be subject to the EAR. Any such export or reexport that is consistent with the controls will continue to be eligible for export and reexport under the "fundamental research" rule set forth in § 734.8(a) of this part. Thus, if you abide by the specific controls you have agreed to, you need not be concerned about violating the EAR. If you violate those controls and export or reexport information as "fundamental research" under § 734.8(a) of this part, you may subject yourself to the sanctions provided for under the EAR, including criminal sanctions, in addition to administrative and civil penalties for breach of contract under other law.

Question E(2): Do the Export Administration Regulations restrict my ability to publish the results of my research?

Answer: The Export Administration Regulations are not the means for enforcing the national security controls you have agreed to. If such a publication violates the contract, you would be subject to administrative, civil, and possible criminal penalties under other law.

Section F: Commercial Consulting

Question F(1): I am a professor at a U.S. university, with expertise in design and creation of submicron devices. I have been asked to be a consultant for a "third-world" company that wishes to manufacture such devices. Do I need a license to do so?

Answer: Quite possibly you do. Application abroad of personal knowledge or technical experience acquired in the United States constitutes an export of that knowledge and experience that is subject to the Export Administration Regulations. If any part of the knowledge or experience your export or reexport deals with technology that requires a license under the EAR, you will need to obtain a license or qualify for a License Exception.

Section G: Software[2]

Question G(1): Is the export or reexport of software in machine readable code subject to the EAR when the source code for such software is publicly available?

Answer: If the source code of a software program is publicly available, then the machine readable code compiled from the source code is software that is publicly available and therefore not subject to the EAR.

Question G(2): Is the export or reexport of software sold at a price that does not exceed the cost of reproduction and distribution subject to the EAR?

Answer: Software in machine readable code is publicly available if it is available to a community at a price that does not exceed the cost of reproduction and distribution. Such reproduction and distribution costs may include variable and fixed allocations of overhead and normal profit for the reproduction and distribution functions either in your company or in a third party distribution system. In your company, such costs may not include recovery for development, design, or acquisition. In this case, the provider of the software does not receive a fee for the inherent value of the software.

[2] Exporters should note that these provisions do not apply to software controlled under the International Traffic in Arms Regulations (e.g., certain encryption software).

Question G(3): Is the export or reexport of software subject to the EAR if it is sold at a price BXA concludes in a classification letter to be sufficiently low so as not to subject it to the EAR?

Answer: In response to classification requests, BXA may choose to classify certain software as not subject to the EAR even though it is sold at a price above the costs of reproduction and distribution as long as the price is nonetheless sufficiently low to qualify for such a classification in the judgment of BXA.

Section H: Available in a Public Library

Question H(1): Is the export or reexport of information subject to the EAR if it is available in a library and sold through an electronic or print service?

Answer: Electronic and print services for the distribution of information may be relatively expensive in the marketplace because of the value vendors add in retrieving and organizing information in a useful way. If such information is also available in a library—itself accessible to the public—or has been published in any way, that information is "publicly available" for those reasons, and the information itself continues not to be subject to the EAR even though you access the information through an electronic or print service for which you or your employer pay a substantial fee.

Question H(2): Is the export or reexport of information subject to the EAR if the information is available in an electronic form in a library at no charge to the library patron?

Answer: Information available in an electronic form at no charge to the library patron in a library accessible to the public is information publicly available even though the library pays a substantial subscription fee for the electronic retrieval service.

Question H(3): Is the export or reexport of information subject to the EAR if the information is available in a library and sold for more than the cost of reproduction and distribution?

Answer: Information from books, magazines, dissertations, papers, electronic data bases, and other information available in a library that is accessible to the public is not subject to the EAR. This is true even if you purchase such a book at more than the cost of reproduction and distribution. In other words, such information is "publicly available" even though the author makes a profit on your particular purchase for the inherent value of the information.

Section I: Miscellaneous

Question I(1): The manufacturing plant that I work at is planning to begin admitting groups of the general public to tour the plant facilities. We are concerned that a license might be required if the tour groups include foreign nationals. Would such a tour constitute an export? If so, is the export subject to the EAR?

Answer: The EAR define exports and reexports of technology to include release through visual inspection by foreign nationals of U.S.-origin equipment and facilities. Such an export or reexport qualifies under the "publicly available" provision and would not be subject to the EAR so long as the tour is truly open to all members of the public, including your competitors, and you do not charge a fee that is not reasonably related to the cost of conducting the tours. Otherwise, you will have to obtain a license, or qualify for a License Exception, prior to permitting foreign nationals to tour your facilities (§ 734.7 of this part).

Question I(2): Is the export or reexport of information subject to the EAR if the information is not in a library or published, but sold at a price that does not exceed the cost of reproduction and distribution?

Answer: Information that is not in a library accessible to the public and that has not been published in any way, may nonetheless become "publicly available" if you make it both available to a community of persons and if you sell it at no more than the cost of reproduction and distribution. Such reproduction and distribution costs may include variable and fixed cost allocations of overhead and normal profit for the reproduction and distribution functions either in your company or in a third party distribution system. In your company, such costs may not include recovery for development, design, or acquisition costs of the technology or software. The reason for this conclusion is that the provider of the information receives nothing for the inherent value of the information.

Question I(3): Is the export or reexport of information contributed to an electronic bulletin board subject to the EAR?

Answer: Assume each of the following:

1. Information is uploaded to an electronic bulletin board by a person that is the owner or originator of the information;

2. That person does not charge a fee to the bulletin board administrator or the subscribers of the bulletin board; and

3. The bulletin board is available for subscription to any subscriber in a given community regardless of the cost of subscription.

Such information is "publicly available" and therefore not subject to the EAR even if it is not elsewhere published and is not in a library. The reason for this conclusion is that the bulletin board subscription charges or line charges are for distribution exclusively, and the provider of the information receives nothing for the inherent value of the information.

Question I(4): Is the export or reexport of patented information fully disclosed on the public record subject to the EAR?

Answer: Information to the extent it is disclosed on the patent record open to the public is not subject to the EAR even though you may use such information only after paying a fee in excess of the costs of reproduction and distribution. In this case the seller does receive a fee for the inherent value of the technical data; however, the export or reexport of the information is nonetheless not subject to the EAR because any person can obtain the technology from the public record and further disclose or publish the information. For that reason, it is impossible to impose export controls that deny access to the information.

Supplement No. 2 to Part 734—Calculation of Values for De Minimis Rules

(a) Use the following guidelines in determining values for establishing exemptions or for submission of a request for authorization:

(1) U.S. content value.

(i) U.S. content value is the delivered cost to the foreign manufacturer of the U.S. origin parts, components, or materials. (When affiliated firms have special arrangements that result in lower than normal pricing, the cost should reflect "fair market" prices that would normally be charged to similar, unaffiliated customers.)

(ii) In calculating the U.S. content value, do not include parts, components, or materials that, according to the CCL (part 774 of the EAR) and the Country Chart (part 738 of the EAR), could be exported from the United States to the new country of destination without a license (designated as "NLR") or under License Exception GBS (see part 740 of the EAR).

(2) The foreign-made product value is the normal selling price f.o.b. factory (excluding value added taxes or excise taxes).

(3) To determine the value of the U.S.-origin controlled content, you should classify the U.S.-origin content on the Commerce Control List, determine those items that would require a license from BXA for reexport to the ultimate destination of the foreign-made product if such parts, components, or materials were reexported to that destination in the form received, and divide the total value of the controlled U.S. parts, components, and materials incorporated into the foreign-made item by the sale price of the foreign-made item.

(4) If no U.S. parts, components or materials are incorporated or if the incorporated U.S. parts, components, and materials are below the *de minimis* level, then the foreign-made item is not subject to the EAR by reason of § 734.4 of this part, the classification of a foreign-made item is irrelevant in determining the scope of the EAR, and you should skip Step 4 in § 732.2(d) and go on to consider Step 6 in § 732.2(f) of the EAR regarding the foreign-produced direct product rule.

(b) One-time report prior to reliance upon the *de minimis* exclusion.

(1) *Report requirement.* Before you may rely upon the *de minimis* exclusion for foreign software and technology commingled with U.S. software or technology, you must file a one-time report for the foreign software or technology. The report must include the percentage of U.S.-content by value and a description of your calculations including relevant values, assumptions, and the basis or methodologies for making the percentage calculation. The three criteria important to BXA in its review of your report will be the export price of the U.S.-content, the assumption regarding future sales of software, and the choice of the scope of foreign technology. Your methodologies must be based upon the accounting standards used in the operation of your business, and you must specify that standard in your report. Regardless of the accounting systems,

standard, or conventions you use in the operation of your business, you may not depreciate the fair market values reported or otherwise reduce the fair market values by other accounting conventions such as depreciation. You may rely upon the *de minimis* exclusion from the commingled rule only to the extent you have reported the relevant calculations, values, assumptions, and the basis or methodologies for the calculations. These values may be historic or projected. You may rely on projected values only to the extent that and for so long as they remain consistent with your report or future values reduce the U.S.-content under your reported assumptions, basis, and methodologies. You are not required to file the above report if you do not choose to take advantage of the *de minimis* exclusion from the commingled rule.

(2) *Export price.* The report must include a description of the U.S.-content including its classification on the Commerce Control List, its performance characteristics and features, and the method of calculating its fair market value. The fair market value shall be the arms-length transaction price, if it is available. If an arms-length transaction price is unavailable, then the report will describe the valuation method chosen to calculate or derive the fair market value. Such methods may include comparable market prices or costs of production and distribution. This rule does not require calculations based upon any one accounting system or U.S. accounting standards. However, you must specify the accepted accounting standards you have chosen, and cost-based methods of valuation must be based upon records you maintain in the normal course of business. You should also indicate whether reported values are actual arms-length market prices or derived from comparable transactions or costs of production, overhead, and profit. For example, if you chose to make calculations under the transfer pricing rules of the United States Internal Revenue Code at section 482, your report should indicate that this is the source for your methodology, and you should also indicate which of the several methodologies in these transfer pricing rules you have chosen.

(3) *Future software sales.* For calculations of U.S.-content in foreign software, you shall include your estimate of future software sales in units and value along with the rationale and basis for those estimates in the report.

(4) *Foreign technology and software.* For calculations of U.S.-content in foreign technology and software, you shall include in the report a description of the foreign technology or software and a description of its fair market value along with the rationale and basis for the selection and valuation of such foreign software or technology. The report does not require information regarding destinations and end users for reexport. The purpose of the report is solely to permit the U.S. Government to evaluate the reasonableness of U.S.-content calculations.

(5) *Report and wait.* If you have not been contacted by BXA concerning your report within thirty days after filing the report with BXA, you may rely upon the calculations in your report and the *de minimis* exclusions for software and technology for so long as you are not contacted by BXA. BXA may contact you concerning your report to inquire of you further or to indicate that BXA does not accept the assumptions or rationale for your calculations. If you receive such a contact or communication from BXA, you may not rely upon the *de minimis* exclusions for software and technology in § 734.4 of this part until BXA has indicated whether or not you may do so in the future. You must include in your report the name, title, address, telephone number, and facsimile number of the person BXA may contact concerning your report.

PART 736—GENERAL PROHIBITIONS

Sec.

736.1 Introduction.
736.2 General prohibitions and determination of applicability.

Supplement No. 1—General Orders

Supplement No. 2—Administrative Orders

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 3 CFR, 1994 Comp., p. 917; E.O. 12938, 3 CFR, 1994 Comp., p. 950; Notice of August 15, 1995 (60 FR 42767, August 17, 1995).

§ 736.1 Introduction.

In this part, references to the EAR are references to 15 CFR chapter VII, subchapter C. A person may undertake transactions subject to the EAR without a license or other authorization, unless the regulations affirmatively state such a requirement. As such, if an export, reexport, or activity is subject to the EAR, the general prohibitions contained in this part and the License Exceptions specified in part 740 of the EAR must be reviewed to determine if a license is necessary. In the case of all exports from the United States, you must document your export as described in part 762 of the EAR regarding recordkeeping and clear your export through the U.S. Customs Service as described in part 758 of the EAR regarding export clearance requirements. Also note that for short supply controls all prohibitions and License Exceptions are in part 754 of the EAR.

(a) In this part we tell you:

(1) The facts that make your proposed export, reexport, or conduct subject to these general prohibitions, and

(2) The ten general prohibitions.

(b) Your obligations under the ten general prohibitions and under the EAR depend in large part upon the five types of information described in § 736.2(a) of this part and upon the general prohibitions described in § 736.2(b) of this part. The ten general prohibitions contain cross-references to other parts of the EAR that further define the breadth of the general prohibitions. For that reason, this part is not freestanding. In part 732, we provide certain steps you may follow in proper order to help you understand the general prohibitions and their relationship to other parts of the EAR.

(c) If you violate any of these ten general prohibitions, or engage in other conduct contrary to the Export Administration Act, the EAR, or any order, license, License Exception, or authorization issued thereunder, as described in part 764 of the EAR regarding enforcement, you will be subject to the sanctions described in that part.

§ 736.2 General prohibitions and determination of applicability.

(a) *Information or facts that determine the applicability of the general prohibitions.* The following five types of facts determine your obligations under the ten general prohibitions and the EAR generally:

(1) *Classification of the item.* The classification of the item on the Commerce Control List (see part 774 of the EAR);

(2) *Destination.* The country of ultimate destination for an export or reexport (see parts 738 and 774 of the EAR concerning the Country Chart and the Commerce Control List);

(3) *End-user.* The ultimate end-user (see General Prohibition Four (paragraph (b)(4) of this section) and parts 744 and 764 of the EAR for a reference to the list of persons you may not deal with);

(4) *End-use.* The ultimate end-use (see General Prohibition Five (paragraph (b)(5) of this section) and part 744 of the EAR for general end-use restrictions); and

(5) *Conduct.* Conduct such as contracting, financing, and freight forwarding in support of a proliferation project as described in part 744 of the EAR.

(b) *General prohibitions.* The following ten general prohibitions describe certain exports, reexports, and other conduct, subject to the scope of the EAR, in which you may not engage unless you either have a license from the Bureau of Export Administration (BXA) or qualify under part 740 of the EAR for a License Exception from each applicable general prohibition in this paragraph. The License Exceptions at part 740 of the EAR apply only to General Prohibitions One (Exports and Reexports in the Form Received), Two (Parts and Components Reexports), and Three (Foreign-Produced Direct Product Reexports); however, selected License Exceptions are specifically referenced and authorized in part 746 of the EAR concerning embargo destinations and in § 744.2(c) of the EAR regarding nuclear end-uses.

(1) *General Prohibition One—Export and reexport of controlled items to listed countries (Exports and Reexports).* You may not, without a license or License Exception, export any item subject to the EAR to another country or reexport any item of U.S.-origin if each of the following is true:

(i) The item is controlled for a reason indicated in the applicable Export Control Classification Number (ECCN), and

(ii) Export to the country of destination requires a license for the control reason as indicated on the Country Chart at part 738 of the EAR. (The scope of this prohibition is determined by the correct classification of your item and the ultimate destination as that combination is reflected on the Country Chart.)[1] Note that each License Exception described at part 740 of the EAR supersedes General Prohibition One if all terms and conditions of a given License Exception are met by the exporter or reexporter.

(2) *General Prohibition Two—Reexport and export from abroad of foreign-made items incorporating more than a de minimis amount of controlled U.S. content (Parts and Components Reexports).*

(i) You may not, without a license or License Exception, export, reexport or export from abroad any foreign-made commodity, software, or technology incorporating U.S.-origin commodities, software, or technology respectively that is controlled to the country of ultimate destination if the foreign-made item meets all three of the following conditions:

(A) It incorporates more than the *de minimis* amount of controlled U.S. content, as defined in § 734.4 of the EAR concerning the scope of the EAR;

(B) It is controlled for a reason indicated in the applicable ECCN; and

(C) Its export to the country of destination requires a license for that control reason as indicated on the Country Chart. (The scope of this prohibition is determined by the correct classification of your foreign-made item and the ultimate destination, as that combination is reflected on the Country Chart.)

(ii) Each License Exception described at part 740 of the EAR supersedes General Prohibition One if all terms and conditions of a given License Exception are met by the exporter or reexporter.

(3) *General Prohibition Three—Reexport and export from abroad of the foreign-produced direct product of U.S. technology and software (Foreign-Produced Direct Product Reexports).*

(i) *Country scope of prohibition.* You may not export, reexport, or export from abroad items subject to the scope of this General Prohibition Three to Cuba, North Korea, Libya, or a destination in Country Group D:1 (See Supplement No. 1 to part 740 of the EAR).

(ii) *Product scope of foreign-made items subject to prohibition.* This General Prohibition 3 applies if an item meets either the Conditions defining the direct product of technology or the Conditions defining the direct product of a plant in paragraph (b)(3)(ii)(A) of this section:

(A) *Conditions defining direct product of technology.* Foreign-made items are subject to this General Prohibition 3 if they meet both of the following conditions:

(*1*) They are the direct product of technology or software that requires a written assurance as a supporting document for a license or as a precondition for the use of License Exception TSR at § 740.3(d) of the EAR, and

(*2*) They are subject to national security controls as designated on the applicable ECCN of the Commerce Control List at part 774 of the EAR.

(B) *Conditions defining direct product of a plant.* Foreign-made items are also subject to this General Prohibition 3 if they are the direct product of a complete plant or any major component of a plant if both of the following conditions are met:

(*1*) Such plant or component is the direct product of technology that requires a written assurance as a supporting document for a license or as a precondition for the use of License Exception TSR at § 740.3(d) of the EAR, and

(*2*) Such foreign-made direct products of the plant or component are subject to national security controls as designated on the applicable ECCN of the Commerce Control List at part 774 of the EAR.

(iii) *License Exceptions.* Each License Exception described at part 740 of the EAR supersedes this General Prohibition Three if all terms and conditions of a given exception are met by the exporter or reexporter.

(4) *General Prohibition Four (Denial Orders)—Engaging in actions prohibited by a denial order.* (i) You may not take any action that is prohibited by a denial order issued under part 766 of the EAR, Administrative Enforcement Proceedings. These orders prohibit many actions in addition to direct exports by the person denied export privileges, including some transfers within a single country either in the United States or abroad by other persons. You are responsible for ensuring that any of your transactions in which a person who is denied export privileges is involved do not violate the terms of the order. The names of persons denied export privileges are published in the **Federal Register** and are also included on the Denied Persons List, which is referenced in Supplement No. 2 to part 764 of the EAR, Enforcement. The terms of the standard denial order are set forth in Supplement No. 1 to part 764. You should note that some denial orders differ from the standard denial order. BXA may, on an exceptional basis, authorize activity otherwise prohibited by a denial order. See § 764.3(a)(3) of the EAR.

(ii) There are no License Exceptions described in part 740 of the EAR that authorize conduct prohibited by this General Prohibition Four.

(5) *General Prohibition Five—Export or reexport to prohibited end-uses or end-users (End-Use End-User).* You may not, without a license, knowingly export or reexport any item subject to the EAR to an end-user of end-use that is prohibited by part 744 of the EAR.

(6) *General Prohibition Six—Export or reexport to embargoed destinations (Embargo).* (i) You may not, without a license or License Exception authorized under part 746, export or reexport any item subject to the EAR to a country that is embargoed by the United States or otherwise made subject to controls as both are described at part 746 of the EAR.

(ii) License Exceptions to this General Prohibition Six are described at part 746 of the EAR on Embargoes and Other Special Controls; and unless a License Exception is authorized in part 746 of the EAR, the License Exceptions at part 740 of the EAR are not available to overcome this general prohibition.

(7) *General Prohibition Seven—Support of Proliferation Activities (U.S. Person Proliferation Activity).* If you are a U.S. Person as that term is defined at § 744.6(c) of the EAR, you may not engage in any activities prohibited by § 744.6 (a) or (b) of the EAR which prohibits the performance, without a license from BXA, of certain financing, contracting, service, support, transportation, freight forwarding, or employment that you know will assist in certain proliferation activities described further at part 744 of the EAR. There are no License Exceptions to this General Prohibition Seven in part 740 of the EAR unless specifically authorized in that part.

(8) *General Prohibition Eight—In transit shipments and items to be*

[1] See part 738 of the EAR for selected controls that are not specified on the Country Chart.

unladen from vessels or aircraft (Intransit). (i) *Unlading and shipping in transit.* You may not export an item through or transit through a country listed in (b)(8)(ii) of this section unless a License Exception or license authorizes such an export directly to such a country of transit.

(ii) *Country scope.* This General Prohibition Eight applies to Albania, Armenia, Azerbaijan, Belarus, Bulgaria, Cambodia, Cuba, Estonia, Georgia, Kazakhstan, Kyrgyzstan, Laos, Latvia, Lithuania, Mongolia, North Korea, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan, Vietnam.

(9) *General Prohibition Nine—Violation of any order, terms, and conditions (Orders, Terms, and Conditions).* You may not violate terms or conditions of a license or of a License Exception issued under or made a part of the EAR, and you may not violate any order issued under or made a part of the EAR. There are no License Exceptions to this General Prohibition Nine in part 740 of the EAR. Supplements Nos. 1 and 2 to this part provide for certain General Orders and Administrative Orders.

(10) *General Prohibition Ten—Proceeding with transactions with knowledge that a violation has occurred or is about to occur (Knowledge Violation to Occur).* You may not sell, transfer, export, reexport, finance, order, buy, remove, conceal, store, use, loan, dispose of, transfer, transport, forward, or otherwise service, in whole or in part, any item subject to the EAR and exported or to be exported with knowledge that a violation of the Export Administration Regulations, the Export Administration Act or any order, license, License Exception, or other authorization issued thereunder has occurred, is about to occur, or is intended to occur in connection with the item. Nor may you rely upon any license or License Exception after notice to you of the suspension or revocation of that license or exception. There are no License Exceptions to this General Prohibition Ten in part 740 of the EAR.

Supplement No. 1 to Part 736—General Orders

[Reserved]

Supplement No. 2 to Part 736—Administrative Orders

Administrative Order One: Disclosure of License Issuance and Other Information. Consistent with section 12(c) of the Export Administration Act of 1979, as amended, information obtained by the U.S. Department of Commerce for the purpose of consideration of or concerning license applications, as well as related information, will not be publicly disclosed without the approval of the Secretary of Commerce. Shipper's Export Declarations also are exempt from public disclosure, except with the approval of the Secretary of Commerce, in accordance with § 301(g) of Title 13, United States Code.

Administrative Order Two: Conduct of Business and Practice in Connection with Export Control Matters.

(a) Conduct of business and practice in connection with export control matters.

(1) Exclusion of persons guilty of unethical conduct or not possessing required integrity and ethical standards.

(i) *Who may be excluded.* Any person, whether acting on his own behalf or on behalf of another, who shall be found guilty of engaging in any unethical activity or who shall be demonstrated not to possess the required integrity and ethical standards, may be excluded from (denied) export privileges on his own behalf, or may be excluded from practice before BXA on behalf of another, in connection with any export control matter, or both, as provided in part 764 of the EAR.

(ii) *Grounds for exclusion.* Among the grounds for exclusion are the following:

(A) Inducing or attempting to induce by gifts, promises, bribes, or otherwise, any officer or employee of BXA or any customs or post office official, to take any action with respect to the issuance of licences or any other aspects of the administration of the Export Administration Act, whether or not in violation of any regulation;

(B) Offering or making gifts or promises thereof to any such officer or employee for any other reason;

(C) Soliciting by advertisement or otherwise the handling of business before BXA on the representation, express or implied, that such person, through personal acquaintance or otherwise, possesses special influence over any officer or employee of BXA;

(D) Charging, or proposing to charge, for any service performed in connection with the issuance of any license, any fee wholly contingent upon the granting of such license and the amount or value thereof. This provision will not be construed to prohibit the charge of any fee agreed to by the parties; provided that the out-of-pocket expenditures and the reasonable value of the services performed, whether or not the license is issued and regardless of the amount thereof, are fairly compensated; and

(E) Knowingly violating or participating in the violation of, or an attempt to violate, any regulation with respect to the export of commodities or technical data, including the making of or inducing another to make any false representations to facilitate any export in violation of the Export Administration Act or any order or regulation issued thereunder.

(iii) *Definition.* As used in this Administration Order, the terms "practice before BXA" and "appear before BXA" include:

(A) The submission on behalf of another of applications for export licenses or other documents required to be filed with BXA, or the execution of the same;

(B) Conferences or other communications on behalf of another with officers or employees of BXA for the purpose of soliciting or expediting approval by BXA of applications for export licenses or other documents, or with respect to quotas, allocations, requirements or other export control actions, pertaining to matters within the jurisdiction of BXA;

(C) Participating on behalf of another in any proceeding pending before BXA; and

(D) Submission to a customs official on behalf of another of a license or Shipper's Export Declaration or other export control document.

(iv) *Proceedings.* All proceedings under this Administrative Order shall be conducted in the same manner as provided in part 766 of the EAR.

(2) *Employees and former employees.* Persons who are or at any time have been employed on a full-time or part-time, compensated or uncompensated, basis by the U.S. Government are subject to the provisions of 18 U.S.C. 203, 205, and 207 (Pub. L. 87–849, 87th Congress) in connection with representing a private party or interest before the U.S. Department of Commerce in connection with any export control matter.

PART 738—COMMERCE CONTROL LIST OVERVIEW AND THE COUNTRY CHART

Sec.

738.1 Introduction.
738.2 Commerce Control List (CCL) structure.
738.3 Commerce Country Chart structure.
738.4 Determining whether a license is required.
Supplement No. 1 to Part 738—Commerce Country Chart

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; Sec. 201, Pub. L. 104–58, 109 Stat. 557 (30 U.S.C. 185(s)); 30 U.S.C. 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; E.O. 12924, 3 CFR, 1994 Comp., p. 917; Notice of August 15, 1995 (60 FR 42767, August 17, 1995).

§ 738.1 Introduction.

(a) *Commerce Control List scope.* (1) In this part, references to the EAR are references to 15 CFR chapter VII, subchapter C. The Bureau of Export Administration (BXA) maintains the Commerce Control List (CCL) within the Export Administration Regulations (EAR), which includes items (i.e., commodities, software, and technology) subject to the export licensing authority of BXA. The CCL does not include those items exclusively controlled for export or reexport by another department or agency of the U.S. Government. In instances where agencies other than the Department of Commerce administer

controls over related items, entries in the CCL contain a reference to these controls.

(2) The CCL is contained in Supplement No. 1 to part 774 of the EAR. Supplement No. 2 to part 774 of the EAR contains the General Technology and Software Notes relevant to entries contained in the CCL.

(b) *Commerce Country Chart scope.* BXA also maintains the Commerce Country Chart. The Commerce Country Chart, located in Supplement No. 1 to part 738, contains licensing requirements based on destination and Reason for Control. In combination with the CCL, the Commerce Country Chart allows you to determine whether a license is required for items on the CCL to any country in the world.

§ 738.2 Commerce Control List (CCL) structure.

(a) *Categories.* The CCL is divided into 10 categories, numbered as follows:

0—Nuclear Materials, Facilities and Equipment and Miscellaneous
1—Materials, Chemicals, "Microorganisms," and Toxins
2—Materials Processing
3—Electronics
4—Computers
5—Telecommunications and Information Security
6—Lasers and Sensors
7—Navigation and Avionics
8—Marine
9—Propulsion Systems, Space Vehicles and Related Equipment

(b) *Groups.* Within each category, items are arranged by group. Each category contains the same five groups. Each Group is identified by the letters A through E, as follows:

A—Equipment, Assemblies and Components
B—Test, Inspection and Production Equipment
C—Materials
D—Software
E—Technology

(c) *Order of review.* In order to classify your item against the CCL, you should begin with a review of the general characteristics of your item. This will usually guide you to the appropriate category on the CCL. Once the appropriate category is identified, you should match the particular characteristics and functions of your item to a specific ECCN. If the ECCN contains a list under the "*Items*" heading, you should review the list to determine within which subparagraph(s) your items are identified.

(d) *Entries.* (1) *Composition of an entry.* Within each group, individual items are identified by an Export Control Classification Number (ECCN). Each number consists of a set of digits and a letter. The first digit identifies the general category within which the entry falls (e.g., 3A001). The letter immediately following this first digit identifies under which of the five groups the item is listed (e.g., 3A001). The second digit differentiates individual entries by identifying the type of controls associated with the items contained in the entry (e.g., 3A001). Listed below are the Reasons for Control associated with this second digit.

0: National Security reasons (including Dual Use and International Munitions List) and Items on the NSG Dual Use Annex and Trigger List
1: Missile Technology reasons
2: Nuclear Nonproliferation reasons
3: Chemical & Biological Weapons reasons
9: Anti-terrorism, Crime Control, Regional Stability, Short Supply, UN Sanctions, etc.

(i) Since Reasons for Control are not mutually exclusive, numbers are assigned in order of precedence. As an example, if an item is controlled for both National Security and Missile Technology reasons, the entry's third digit will be a "0". If the item is controlled only for Missile Technology the third digit will be "1".

(ii) The numbers in either the second or third digit (e.g., 3A*001*) serve to differentiate between multilateral and unilateral entries. An entry with the number "9" as the second digit, identifies the entire entry as controlled for a unilateral concern (e.g., 2B991 for anti-terrorism reasons). If the number "9" appears as the third digit, the item is controlled for unilateral purposes based on a proliferation concern (e.g., 2A292 is controlled for unilateral purposes based on nuclear nonproliferation concerns).

(2) *Reading an ECCN.* A brief description is provided next to each ECCN. Following this description is the actual entry containing "License Requirements," "License Exceptions," and "List of Items Controlled" sections. A brief description of each section and its use follows:

(i) *License Requirements.* This section contains a separate line identifying all possible Reasons for Control in order of precedence, and two columns entitled "Control(s)" and "Country Chart".

(A) The "Controls" header identifies all applicable Reasons for Control, in order of restrictiveness, and to what extent each applies (e.g., to the entire entry or only to certain subparagraphs). Those requiring licenses for a larger number of countries and/or items are listed first. As you read down the list the number of countries and/or items requiring a license declines. Since Reasons for Control are not mutually exclusive, items controlled within a particular ECCN may be controlled for more than one reason. The following is a list of all possible Reasons for Control:

AT Anti-Terrorism
CB Chemical & Biological Weapons
CC Crime Control
MT Missile Technology
NS National Security
NP Nuclear Nonproliferation
RS Regional Stability
SS Short Supply
XP Computers

(B) The "Country Chart" header identifies, for each applicable Reason for Control, a column name and number (e.g., CB Column 1). These column identifiers are used to direct you from the CCL to the appropriate column identifying the countries requiring a license. Consult part 742 of the EAR for an indepth discussion of the licensing requirements and policies applicable to each Country Chart column.

(ii) *License Exceptions.* This section provides a brief eligibility statement for each ECCN-driven License Exception that may be applicable to your transaction, and should be consulted only AFTER you have determined a license is required based on an analysis of the entry and the Country Chart. The brief eligibility statement in this section is provided to assist you in deciding which ECCN-driven License Exception related to your particular item and destination you should explore prior to submitting an application. The word "Yes" (followed in some instances by the scope of Yes) appears next to each available ECCN-driven License Exception. "N/A" will be noted for License Exceptions that are not available within a particular entry. If one or more License Exceptions appear to apply to your transaction, you must consult part 740 of the EAR to review the conditions and restrictions applicable to each available License Exception.

(iii) *List of Items Controlled.* (A) *Units.* The unit of measure applicable to each entry is identified in the "Units" header. Most measurements used in the CCL are expressed in metric units with an inch-pound conversion where appropriate. Note that in some ECCNs the inch-pound unit will be listed first. In instances where other units are in general usage or specified by law, these will be used instead of metric. Generally, when there is a difference

between the metric and inch-pound figures, the metric standard will be used for classification and licensing purposes.

(B) *Related definitions.* This header identifies, where appropriate, definitions or parameters that apply to all items controlled by the entry. The information provided in this section is unique to the entry, and hence not listed in the definitions contained in part 772 of the EAR.

(C) *Related controls.* If another U.S. government agency or department has export licensing authority over items related to those controlled by an entry, a statement is included identifying the agency or department along with the applicable regulatory cite. An additional cross-reference may be included in instances where the scope of controls differs between a CCL entry and its corresponding entry on list maintained by the European Union. This information is provided to assist readers who use both lists.

(D) *Items.* This header contains a positive list of all items controlled by a particular entry and must be reviewed to determine whether your item is controlled by that entry. In some entries, the list is contained within the entry heading. In these entries a note is included to direct you to the entry heading.

§ 738.3 Commerce Country Chart structure.

(a) *Scope.* The Commerce Country Chart (Country Chart) allows you to determine, based on the Reason(s) for Control associated with your item, if you need a license to export or reexport your item to a particular destination. There are only two instances where the chart cannot be used for this purpose:

(1) *Items controlled for short supply reasons.* Due to the unique nature of these controls, entries controlled for Short Supply reasons will send you directly to part 754 of the EAR. Part 754 of the EAR is self-contained and includes information on licensing requirements, licensing policies, and all available License Exceptions, for items controlled for Short Supply reasons.

(2) *Unique entries.* The following are unique entries where you do not need to consult the Country Chart to determine whether a license is required.

(A) *ECCNs 0A983 and 5A980.* A license is required for all destinations of items controlled under these entries. No License Exceptions apply. If your item is controlled by 0A983 or 5A980 you should proceed directly to part 748 of the EAR for license application instructions and § 742.11 or § 742.13 of the EAR for information on the licensing policy relevant to these types of applications.

(B) *ECCNs 0A986, 0A988, 1A988, 2A994, 2D994, 2E994 and 2B985.* A license is required for items controlled under these entries only to the specific countries identified within each entry.

(b) *Countries.* The first column of the Country Chart lists all countries in alphabetical order. There are a number of destinations that are not listed in the Country Chart contained in Supplement No. 1 to part 738. If your destination is not listed on the Country Chart and such destination is a territory, possession, or department of a country included on the Country Chart, the EAR accords your destination the same licensing treatment as the country of which it is a territory, possession, or department. For example, if your destination is the Cayman Islands, a dependent territory of the United Kingdom, consult the United Kingdom on the Country Chart for licensing requirements.

(c) *Columns.* Stretching out to the right are horizontal headers identifying the various Reasons for Control. Under each Reason for Control header are diagonal column identifiers capping individual columns. Each column identifier consists of the two letter Reason for Control and a column number. (e.g., CB Column 1). The column identifiers correspond to those listed in the "Country Chart" header within the "License Requirements" section of each ECCN.

(d) *Cells.* The symbol "X" is used to denote licensing requirements on the Country Chart. If an "X" appears in a particular cell, transactions subject to that particular Reason for Control/Destination combination require a license. There is a direct correlation between the number of "X"s applicable to your transaction and the number of licensing reviews your application will undergo.

§ 738.4 Determining whether a license is required.

(a) *Using the CCL and the Country Chart.* (1) *Overview.* Once you have determined that your item is controlled by a specific ECCN, you must use information contained in the "License Requirements" section of that ECCN in combination with the Country Chart to decide whether a license is required.

(2) *License decision making process.* The following decision making process must be followed in order to determine whether a license is required to export or reexport a particular item to a specific destination:

(i) *Examine the appropriate ECCN in the CCL.* Is the item you intend to export or reexport controlled for a single Reason for Control?

(A) If yes, identify the single Reason for Control and the relevant Country Chart column identifier (e.g., CB Column 1).

(B) If no, identify the Country Chart column identifier for each applicable Reason for Control (e.g., NS Column 1, NP Column 1, etc.).

(ii) *Review the Country Chart.* With each of the applicable Country Chart Column identifiers noted, turn to the Country Chart (Supplement No. 1 to part 738). Locate the correct Country Chart column identifier on the diagonal headings, and determine whether an "X" is marked in the cell next to the country in question for each Country Chart column identified in the applicable ECCN. If your item is subject to more than one reason for control, repeat this step using each unique Country Chart column identifier.

(A) If yes, a license application must be submitted based on the particular reason for control and destination, unless a License Exception applies. If "Yes" is noted next to any of the listed License Exceptions, you should consult part 740 of the EAR to determine whether you can use any of the available ECCN-drvien License Exceptions to effect your shipment, rather than applying for a license. Each affirmative license requirement must be overcome by a License Exception. If you are unable to qualify for a License Exception based on each license requirement noted on the Country Chart, you must apply for a license. Note that other License Exceptions, not related to the CCL, may also apply to your transaction (See part 740 of the EAR).

(B) If no, a license is not required based on the particular reason for control and destination. Provided General Prohibitions Four through Ten do not apply to your proposed transaction, you may effect your shipment using the symbol "NLR". Proceed to parts 758 and 762 of the EAR for information on export clearance procedures and recordkeeping requirements. Note that although you may stop after determining a license is required based on the first Reason for Control, it is best to work through each applicable Reason for Control. A full analysis of every possible licensing requirement based on each applicable Reason for Control is required to determine the most advantageous License Exception available for your particular transaction and, if a license is required, ascertain the scope of review conducted by BXA on your license application.

(b) *Sample analysis using the CCL and Country Chart.* (1) *Scope.* The following sample entry and related analysis is provided to illustrate the type of thought process you must complete in order to determine whether a license is required to export or reexport a particular item to a specific destination using the CCL in combination with the Country Chart.

(2) *Sample CCL entry.*

2A000: Entry heading.

License Requirements

Reason for Control: NS, NP, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
NP applies to 2A000.b	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $5,000
GBS: Yes
CIV: N/A

List of Items Controlled

Unit: Number
Related Definition: N/A
Related Controls: N/A
Items:

a. Having x.
b. Having z.

(3) *Sample analysis.* After consulting the CCL, I determine my item, valued at $10,000, is classified under ECCN 2A000.a. I read that the entire entry is controlled for national security, and anti-terrorism reasons. Since my item is classified under paragraph .a, and not .b, I understand that though nuclear nonproliferation controls apply to a portion the entry, they do not apply to my item. I note that the appropriate Country Chart column identifiers are NS Column 2 and AT Column 1. Turning to the Country Chart, I locate my specific destination, India, and see that an "X" appears in the NS Column 2 cell for India, but not in the AT Column 1 cell. I understand that a license is required, unless my transaction qualifies for a License Exception or Special Comprehensive License. From the License Exception LVS value listed in the entry, I know immediately that my proposed transaction exceeds the value limitation associated with LVS. Noting that License Exception GBS is "Yes" for this entry, I turn to part 740 of the EAR to review the provisions related to use of GBS.

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Supplement No. 1 to Part 738

Commerce Country Chart

Reason for Control

Countries	Chemical & Biological Weapons			Nuclear Nonproliferation		National Security		Missile Tech	Regional Stability		Crime Control			Anti-Terrorism	
	CB Column 1	CB Column 2	CB Column 3	NP Column 1	NP Column 2	NS Column 1	NS Column 2	MT Column 1	RS Column 1	RS Column 2	CC Column 1	CC Column 2	CC Column 3	AT Column 1	AT Column 2
Afghanistan	X	X	X	X		X	X	X	X	X	X		X		
Albania	X	X		X		X	X	X	X	X	X	X			
Algeria	X	X		X	X	X	X	X	X	X	X		X		
Andorra	X	X		X	X	X	X	X	X	X	X		X		
Angola[1]	X	X		X	X	X	X	X	X	X	X		X		
Antigua & Barbuda	X	X		X		X	X	X	X	X	X		X		
Argentina	X					X	X	X	X	X	X		X		
Armenia	X	X	X	X		X	X	X	X	X	X	X			
Australia	X					X		X	X						
Austria	X					X		X	X	X	X		X		
Azerbaijan	X	X	X	X		X	X	X	X	X	X	X			
Bahamas, The	X	X		X		X	X	X	X	X	X		X		
Bahrain	X	X	X	X		X	X	X	X	X	X		X		
Bangladesh	X	X		X		X	X	X	X	X	X		X		
Barbados	X	X		X		X	X	X	X	X	X		X		
Belarus	X	X	X	X		X	X	X	X	X	X	X			
Belgium	X					X		X	X						
Belize	X	X		X		X	X	X	X	X	X		X		
Benin	X	X		X		X	X	X	X	X	X		X		
Bhutan	X	X		X		X	X	X	X	X	X		X		
Bolivia	X	X		X		X	X	X	X	X	X		X		
Bosnia & Herzegovina[1]	X	X		X		X	X	X	X	X	X		X		
Botswana	X	X		X		X	X	X	X	X	X		X		
Brazil	X	X		X		X	X	X	X	X	X		X		
Brunei	X	X		X		X	X	X	X	X	X		X		

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Commerce Country Chart

Reason for Control

Countries	Chemical & Biological Weapons			Nuclear Nonproliferation		National Security		Missile Tech	Regional Stability		Crime Control			Anti-Terrorism	
	CB Column 1	CB Column 2	CB Column 3	NP Column 1	NP Column 2	NS Column 1	NS Column 2	MT Column 1	RS Column 1	RS Column 2	CC Column 1	CC Column 2	CC Column 3	AT Column 1	AT Column 2
Bulgaria	X	X	X			X	X	X	X	X	X	X			
Burkina Faso	X	X		X		X	X	X	X	X	X		X		
Burma	X	X	X	X		X	X	X	X	X	X		X		
Burundi	X	X		X		X	X	X	X	X	X		X		
Cambodia	X	X		X		X	X	X	X	X	X	X			
Cameroon	X	X		X		X	X	X	X	X	X		X		
Canada															
Cape Verde	X	X		X		X	X	X	X	X	X		X		
Central African Republic	X	X		X		X	X	X	X	X	X		X		
Chad	X	X		X		X	X	X	X	X	X		X		
Chile	X	X		X		X	X	X	X	X	X		X		
China	X	X	X	X		X	X	X	X	X	X		X		
Colombia	X	X		X		X	X	X	X	X	X		X		
Comoros	X	X		X	X	X	X	X	X	X	X		X		
Congo	X	X		X		X	X	X	X	X	X		X		
Costa Rica	X	X		X		X	X	X	X	X	X		X		
Cote d'Ivoire	X	X		X		X	X	X	X	X	X		X		
Croatia[1]	X	X		X		X	X	X	X	X	X		X		
Cuba	See part 746 of the EAR to determine whether a license is required in order to export or reexport to this destination.														
Cyprus	X	X		X		X	X	X	X	X	X		X		
Czech Republic	X					X	X	X	X	X	X		X		
Denmark	X					X		X	X						
Djibouti	X	X		X	X	X	X	X	X	X	X		X		
Dominica	X	X		X		X	X	X	X	X	X		X		
Dominican Republic	X	X		X		X	X	X	X	X	X		X		

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Commerce Country Chart

Reason for Control

Countries	Chemical & Biological Weapons			Nuclear Nonproliferation		National Security		Missile Tech	Regional Stability		Crime Control			Anti-Terrorism	
	CB Column 1	CB Column 2	CB Column 3	NP Column 1	NP Column 2	NS Column 1	NS Column 2	MT Column 1	RS Column 1	RS Column 2	CC Column 1	CC Column 2	CC Column 3	AT Column 1	AT Column 2
Ecuador						X	X	X	X	X	X		X	X	X
Egypt	X	X	X	X	X	X	X	X	X	X	X		X	X	X
El Salvador						X	X	X	X	X	X		X	X	X
Equatorial Guinea	X	X		X		X	X	X	X	X	X		X	X	X
Eritrea						X	X	X	X	X	X		X	X	X
Estonia	X	X		X		X	X	X	X	X	X		X	X	X
Ethiopia						X	X	X	X	X	X		X	X	X
Fiji						X	X	X	X	X	X		X	X	X
Finland															
France															
Gabon						X	X	X	X	X	X		X	X	X
Gambia, The						X	X	X	X	X	X		X	X	X
Georgia						X	X	X	X	X	X		X	X	X
Germany															
Ghana						X	X	X	X	X	X		X	X	X
Greece															
Grenada						X	X	X	X	X	X		X	X	X
Guatemala						X	X	X	X	X	X		X	X	X
Guinea						X	X	X	X	X	X		X	X	X
Guinea-Bissau						X	X	X	X	X	X		X	X	X
Guyana						X	X	X	X	X	X		X	X	X
Haiti						X	X	X	X	X	X		X	X	X
Honduras						X	X	X	X	X	X		X	X	X
Hong Kong						X	X	X	X	X	X		X	X	X
Hungary															

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Commerce Country Chart

Reason for Control

Countries	Chemical & Biological Weapons			Nuclear Nonproliferation		National Security		Missile Tech	Regional Stability		Crime Control			Anti-Terrorism	
	CB Column 1	CB Column 2	CB Column 3	NP Column 1	NP Column 2	NS Column 1	NS Column 2	MT Column 1	RS Column 1	RS Column 2	CC Column 1	CC Column 2	CC Column 3	AT Column 1	AT Column 2
Iceland						X	X	X	X	X		X	X	X	X
India	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Indonesia	X	X		X		X	X	X	X	X	X	X	X	X	X
See part 746 of the EAR to determine whether a license is required in order to export or reexport to this destination.															
Iran	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Iraq[1]	X			X		X	X	X	X	X	X	X	X	X	X
Ireland															
Israel	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Italy															
Jamaica	X	X		X		X	X	X	X	X	X	X	X	X	X
Japan															
Jordan	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Kazakhstan	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Kenya															
Kiribati	X	X		X		X	X	X	X	X	X	X	X	X	X
See part 746 of the EAR to determine whether a license is required in order to export or reexport to this destination.															
Korea, North	X	X		X		X[2]	X	X	X	X	X	X	X	X	X
Korea, South						X	X	X	X	X	X	X	X	X	X
Kuwait	X	X	X	X		X	X	X	X	X	X	X	X	X	X
Kyrgyzstan	X	X	X	X		X	X	X	X	X	X	X	X	X	X
Laos															
Latvia	X	X		X		X	X	X	X	X	X	X	X	X	X
Lebanon	X	X	X	X		X	X	X	X	X	X	X	X	X	X
Lesotho															
Liberia	X	X		X		X	X	X	X	X	X	X	X	X	X
Libya															
Liechtenstein	X	X		X		X	X	X	X	X	X	X	X	X	X

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Commerce Country Chart

Countries	Chemical & Biological Weapons			Nuclear Nonproliferation		Reason for Control: National Security		Missile Tech	Regional Stability		Crime Control			Anti-Terrorism	
	CB Column 1	CB Column 2	CB Column 3	NP Column 1	NP Column 2	NS Column 1	NS Column 2	MT Column 1	RS Column 1	RS Column 2	CC Column 1	CC Column 2	CC Column 3	AT Column 1	AT Column 2
Lithuania	X	X		X		X	X	X	X	X	X		X	X	
Luxembourg	X					X	X	X	X	X	X		X	X	
FYROM (Macedonia)	X	X		X		X	X	X	X	X	X		X	X	
Madagascar	X	X		X		X	X	X	X	X	X		X	X	
Malawi	X	X		X		X	X	X	X	X	X		X	X	
Malaysia	X	X		X		X	X	X	X	X	X		X	X	
Maldives	X	X		X		X	X	X	X	X	X		X	X	
Mali	X	X		X		X	X	X	X	X	X		X	X	
Malta	X	X		X		X	X	X	X	X	X		X	X	
Marshall Islands	X	X		X		X	X	X	X	X	X		X	X	
Mauritania	X	X		X		X	X	X	X	X	X		X	X	
Mauritius	X	X		X		X	X	X	X	X	X		X	X	
Mexico	X	X		X		X	X	X	X	X	X		X	X	
Micronesia	X	X		X		X	X	X	X	X	X		X	X	
Moldova	X	X	X	X	X	X	X	X	X	X	X		X	X	
Monaco	X	X		X		X	X	X	X	X	X		X	X	
Mongolia	X	X	X	X		X	X	X	X	X	X		X	X	
Morocco	X	X		X		X	X	X	X	X	X		X	X	
Mozambique	X	X		X		X	X	X	X	X	X		X	X	
Namibia	X	X		X		X	X	X	X	X	X		X	X	
Nauru	X	X		X		X	X	X	X	X	X		X	X	
Nepal	X	X		X		X	X	X	X	X	X		X	X	
Netherlands	X							X	X	X	X		X	X	
New Zealand	X							X	X	X	X		X	X	
Nicaragua	X	X		X		X	X	X	X	X	X		X	X	

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Commerce Country Chart

Countries	Chemical & Biological Weapons			Nuclear Nonproliferation		Reason for Control: National Security		Missile Tech	Regional Stability		Crime Control			Anti-Terrorism	
	CB Column 1	CB Column 2	CB Column 3	NP Column 1	NP Column 2	NS Column 1	NS Column 2	MT Column 1	RS Column 1	RS Column 2	CC Column 1	CC Column 2	CC Column 3	AT Column 1	AT Column 2
Niger	X	X		X		X	X	X	X	X	X		X	X	
Nigeria	X	X		X		X	X	X	X	X	X		X	X	
Norway	X							X	X	X	X		X	X	
Oman	X	X	X	X	X	X	X	X	X	X	X		X	X	
Pakistan	X	X	X	X	X	X	X	X	X	X	X		X	X	
Palau	X	X		X		X	X	X	X	X	X		X	X	
Panama	X	X		X		X	X	X	X	X	X		X	X	
Papua New Guinea	X	X		X		X	X	X	X	X	X		X	X	
Paraguay	X	X		X		X	X	X	X	X	X		X	X	
Peru	X	X		X		X	X	X	X	X	X		X	X	
Philippines	X	X		X		X	X	X	X	X	X		X	X	
Poland	X							X	X	X	X		X	X	
Portugal	X							X	X	X	X		X	X	
Qatar	X	X	X	X		X	X	X	X	X	X		X	X	
Romania	X							X	X	X	X		X	X	
Russia	X	X	X	X		X	X	X	X	X	X		X	X	
Rwanda[1]	X	X		X		X	X	X	X	X	X		X	X	
St. Kitts & Nevis	X	X	X	X		X	X	X	X	X	X		X	X	
St. Lucia	X	X		X		X	X	X	X	X	X		X	X	
St. Vincent & Grenadines	X	X		X		X	X	X	X	X	X		X	X	
San Marino	X	X		X		X	X	X	X	X	X		X	X	
Sao Tome & Principe	X	X		X		X	X	X	X	X	X		X	X	
Saudi Arabia	X	X	X	X		X	X	X	X	X	X		X	X	
Senegal	X	X		X		X	X	X	X	X	X		X	X	
Serbia & Montenegro[1]	X	X		X		X	X	X	X	X	X		X	X	

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Commerce Country Chart

Reason for Control

Countries	Chemical & Biological Weapons			Nuclear Nonproliferation		National Security		Missile Tech	Regional Stability		Crime Control			Anti-Terrorism	
	CB Column 1	CB Column 2	CB Column 3	NP Column 1	NP Column 2	NS Column 1	NS Column 2	MT Column 1	RS Column 1	RS Column 2	CC Column 1	CC Column 2	CC Column 3	AT Column 1	AT Column 2
Seychelles	X	X		X		X	X	X	X	X	X		X		
Sierra Leone	X	X		X		X	X	X	X	X	X		X		
Singapore	X	X		X		X	X	X	X	X	X		X		
Slovakia	X					X	X	X	X	X	X		X		
Slovenia	X	X		X		X	X	X	X	X	X		X		
Solomon Islands	X	X		X		X	X	X	X	X	X		X		
Somalia	X	X		X		X	X	X	X	X	X		X		
South Africa	X	X	X			X	X	X	X	X	X		X		
Spain	X					X		X	X						
Sri Lanka	X	X		X		X	X	X	X	X	X		X		
Sudan	X	X		X		X	X	X	X	X	X		X	X	X
Surinam	X	X		X		X	X	X	X	X	X		X		
Swaziland	X	X		X		X	X	X	X	X	X		X		
Sweden	X					X		X	X	X	X		X		
Switzerland	X					X		X	X	X	X		X		
Syria	X	X	X	X		X	X	X	X	X	X		X	X	
Taiwan	X	X	X	X		X	X	X	X	X	X		X		
Tajikistan	X	X	X	X		X	X	X	X	X	X	X			
Tanzania	X	X		X		X	X	X	X	X	X		X		
Thailand	X	X		X		X	X	X	X	X	X		X		
Togo	X	X		X		X	X	X	X	X	X		X		
Tonga	X	X		X		X	X	X	X	X	X		X		
Trinidad & Tobago	X	X		X		X	X	X	X	X	X		X		
Tunisia	X	X		X		X	X	X	X	X	X		X		
Turkey	X	X		X		X		X	X						

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Commerce Country Chart

Reason for Control

Countries	Chemical & Biological Weapons			Nuclear Nonproliferation		National Security		Missile Tech	Regional Stability		Crime Control			Anti-Terrorism	
	CB Column 1	CB Column 2	CB Column 3	NP Column 1	NP Column 2	NS Column 1	NS Column 2	MT Column 1	RS Column 1	RS Column 2	CC Column 1	CC Column 2	CC Column 3	AT Column 1	AT Column 2
Turkmenistan	X	X	X	X		X	X	X	X	X	X	X			
Tuvalu	X	X		X		X	X	X	X	X	X		X		
Uganda	X	X		X		X	X	X	X	X	X		X		
Ukraine	X	X	X	X		X	X	X	X	X	X	X			
United Arab Emirates	X	X	X	X	X	X	X	X	X	X	X		X		
United Kingdom	X					X		X	X						
Uruguay	X	X		X		X	X	X	X	X	X		X		
Uzbekistan	X	X	X	X		X	X	X	X	X	X	X			
Vanuatu	X	X		X	X	X	X	X	X	X	X		X		
Vatican City	X	X		X		X	X	X	X	X	X		X		
Venezuela	X	X		X		X	X	X	X	X	X		X		
Vietnam	X	X	X	X		X	X	X	X	X	X	X			
Western Sahara	X	X		X		X	X	X	X	X	X		X		
Western Samoa	X	X		X		X	X	X	X	X	X		X		
Yemen	X	X	X	X		X	X	X	X	X	X		X		
Zaire	X	X		X		X	X	X	X	X	X		X		
Zambia	X	X		X		X	X	X	X	X	X		X		
Zimbabwe	X	X		X		X	X	X	X	X	X		X		

[1] This country is subject to United Nations Sanctions. See part 746 of the EAR for additional OFAC licensing requirements that may apply to your proposed transaction.
[2] A license is required for only for computers controlled by 4A001, 4A002, & 4A003 if the CTP is greater than 10,000 Mtops. A license is NOT required for any other items subject to NS Column 2.

PART 740—LICENSE EXCEPTIONS

Sec.

740.1 Introduction.
740.2 Restrictions on all License Exceptions.
740.3 License Exceptions based on the Commerce Control List (LST).
740.4 Temporary imports, exports, and reexports (TMP).
740.5 Servicing and replacement of parts and equipment (RPL).
740.6 Governments and international organizations (GOV).
740.7 Gift parcels and humanitarian donations (GFT).
740.8 Technology and software—unrestricted (TSU).
740.9 Baggage (BAG).
740.10 Aircraft and vessels (AVS).
740.11 Additional Permissive Reexports (APR).

Supplement No. 1 to Part 740—Country Groups

Supplement No. 2 to Part 740—Items That May Be Donated to Meet Basic Human Needs Under the Humanitarian License Exception

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 3 CFR, 1994 Comp., p. 917; Notice of August 15, 1995 (60 FR 42767, August 17, 1995).

§ 740.1 Introduction.

In this part, references to the EAR are references to 15 CFR chapter VII, subchapter C.

(a) *Scope.* A "License Exception" is an authorization contained in this part that allows you to export or reexport, under stated conditions, items subject to the Export Administration Regulations (EAR) that would otherwise require a license under General Prohibitions One, Two, or Three, as indicated under one or more of the Export Control Classification Numbers (ECCN) in the Commerce Control List (CCL) in part 774 of the EAR. If your export or reexport is subject to General Prohibition Six for embargoed destinations, refer to part 746 of the EAR concerning embargoed destinations to determine the availability of any License Exception. Special commodity controls apply to short supply items. Exceptions for items listed on the CCL as controlled for Short Supply reasons are found in part 754 of the EAR. If your export or reexport is subject General Prohibition Seven, consult part 744 of the EAR. If your export or reexport is subject to General Prohibitions Four, Five, Eight, Nine, or Ten, then no License Exceptions apply.

(b) *Certification.* By using any of the License Exceptions you are certifying that the terms, provisions, and conditions for the use of the License Exception described in the EAR have been met. Please refer to part 758 of the EAR for clearance of shipments and documenting the use of License Exceptions.

(c) *License Exception groupings and symbols.* License Exceptions are grouped together; each grouping bears a three letter symbol that will be used for export clearance purposes (see paragraph (d) of this section). Additionally, each License Exception bears a separate designator, of three or four letters, for convenience in distinguishing between License Exceptions and for recordkeeping purposes.

(d) *Shipper's Export Declaration.* (1) *Clearing exports under License Exceptions.* You must enter on any required Shipper's Export Declaration (SED) the letter code (e.g., LST, TMP) of the grouping of License Exceptions under which you are exporting. In the case of License Exceptions available under LST, except License Exception TSR (Technology and Software under Restriction), the ECCN of the item being exported must also be entered. Please refer to § 758.3 of the EAR for the use of SEDs.

(2) *Clearing exports when no license is required (NLR).* Certain items are listed on the CCL but do not require a license to certain destinations under General Prohibitions One, (Exports and Reexports in the Form Received), Two (Parts and Components Reexports), or Three (Foreign Produced Direct Product Reexports) (§ 732.6 (b)(1), (b)(2), or (b)(3) of the EAR). (You will have determined this by consulting the Country Chart and finding no "X" in the box(es) at the intersection(s) of your country of destination and the column headings assigned to your item by the CCL.) If General Prohibitions Four through Ten (§ 732.6 (b)(4) through (b)(10) of the EAR) also do not apply, you must clear exports of such items by entering the symbol "NLR" in the appropriate place on the Shippers Export Declaration. The term "NLR" represents exports of listed items when no license is required. Such exports do not require that you qualify for a License Exception.

(e) *Destination Control Statement.* You may be required to enter an appropriate Destination Control Statement on commercial documents in accordance with the Destination Control Statement requirements of § 758.5 of the EAR.

(f) *Recordkeeping.* Records of transactions involving exports under any of the License Exceptions must be maintained in accordance with the recordkeeping requirements of part 762 of the EAR.

§ 740.2 Restrictions on all License Exceptions.

(a) You may not use any License Exception if any one or more of the following apply:

(1) Your authorization to use a License Exception has been suspended or revoked, or your intended export does not qualify for a License Exception.

(2) The export is contrary to a Denial Order. See part 764 of the EAR for a description of Denial Orders.

(3) You know that the item will be reexported and such reexport is subject to one of the ten General Prohibitions, is not eligible for a License Exception, and has not been authorized by BXA.

(4) You know that the export will be used for certain end-uses or is for certain end-users as provided and prohibited in part 744 of the EAR.

(5) The item is for surreptitious interception of wire or oral communications controlled under ECCN 5A980, unless you are a U.S. Government agency (see § 740.6(b)(2)(ii) of this part, Governments (GOVT)).

(6) The commodity you are shipping is a specially designed crime control and detection instrument or equipment as described in § 742.7 of the EAR and you are not shipping to Iceland, New Zealand, or countries listed in Country Group A:1 (see Supplement No. 1 to part 740), unless the shipment is authorized under License Exception BAG, § 740.9(e) of this part (shotguns and shotgun shells).

(b) All License Exceptions are subject to revision, suspension, or revocation, in whole or in part, without notice. It may be necessary for BXA to stop a shipment or an export transaction at any stage of its progress, e.g., in order to prevent an unauthorized export or reexport. If a shipment is already en route, it may be further necessary to order the return or unloading of the shipment at any port of call.

§ 740.3 License Exceptions based on the Commerce Control List (LST).

These License Exceptions are listed on the CCL. Each is designated by a three-letter symbol that appears both in the paragraph of this section describing its terms and on the CCL. All list-based License Exceptions use the symbol "LST" on shipping documentation for export clearance purposes.

(a) Shipments of Limited Value (LVS). (1) *Scope.* License Exception LVS authorizes the export and reexport in a single shipment of eligible commodities as identified by "LVS—$(value limit)" on the CCL.

(2) *Eligible Destinations.* This License Exception is available for all destinations in Country Group B (see Supplement No. 1 to part 740), provided that the net value of the commodities included in the same order and controlled under the same ECCN entry on the CCL does not exceed the amount specified in the LVS paragraph for that entry.

(3) *Definitions.* (i) *Order.* The term "order" as used in this § 740.3 means a communication from a person in a foreign country, or that person's representative, expressing an intent to import commodities from the exporter. Although all of the details of the order need not be finally determined at the time of export, terms relating to the kinds and quantities of the commodities to be exported, as well as the selling prices of these commodities, must be finalized before the goods can be exported under License Exception LVS.

(ii) *Net value: for LVS shipments.* The actual selling price of the commodities that are included in the same order and are controlled under the same entry on the CCL, less shipping charges, or the current market price of the commodities to the same type of purchaser in the United States, whichever is the larger. In determining the actual selling price or the current market price of the commodity, the value of containers in which the commodity is being exported may be excluded. The value for LVS purposes is that of the controlled commodity that is being exported, and may not be reduced by subtracting the value of any content that would not, if shipped separately, be subject to licensing. Where the total value of the containers and their contents must be shown on Shipper's Export Declarations under one Schedule B Number, the exporter, in effecting a shipment under this License Exception, must indicate the "net value" of the contained commodity immediately below the description of the commodity.

(iii) *Single shipment.* All commodities moving at the same time from one exporter to one consignee or intermediate consignee on the same exporting carrier even though these commodities will be forwarded to one or more ultimate consignees. Commodities being transported in this manner will be treated as a single shipment even if the commodities represent more than one order or are in separate containers.

(4) *Additional eligibility requirements and restrictions.* (i) *Eligible orders.* To be eligible for this License Exception, orders must meet the following criteria:

(A) *Orders must not exceed the applicable "LVS" dollar value limits.* An order is eligible for shipment under LVS when the "net value" of the commodities controlled under the same entry on the CCL does not exceed the amount specified in the "LVS" paragraph for that entry. An LVS shipment may include more than one eligible order because LVS eligibility is based on the "net value" of the commodities in each order, instead of the "net value" of the commodities in the shipment.

(B) *Orders may not be split to meet the applicable LVS dollar limits.* An order that exceeds the applicable LVS dollar value limit may not be misrepresented as two or more orders, or split among two or more shipments, to give the appearance of meeting the applicable LVS dollar value limit. However an order that meets all the LVS eligibility requirements, including the applicable LVS dollar value limit, may be split among two or more shipments.

(C) *Orders must be legitimate.* Exporters and consignees may not, either collectively or individually, structure or adjust orders to meet the applicable LVS dollar value limits.

(ii) *Restriction on annual value of LVS orders.* The total value of exports per calendar year to the same ultimate or intermediate consignee of commodities classified under a single ECCN may not exceed 12 times the LVS value limit for that ECCN. This annual value limit applies to shipments to the same ultimate consignee even though the shipments are made through more than one intermediate consignee. There is no restriction on the number of orders that may be included in a shipment, except that the annual value limit per ECCN must not be exceeded.

(iii) *Orders where two or more LVS dollar value limits apply.* An order may include commodities that are controlled under more than one entry on the CCL. In this case, the net value of the entire order may exceed the LVS dollar value for any single entry on the CCL. However, the net value of the commodities controlled under each ECCN entry shall not exceed the LVS dollar value limit specified for that entry.

Example to paragraph (iii): An order includes commodities valued at $8,000. The order consists of commodities controlled under two ECCN entries, each having an LVS value limit of $5000. Commodities in the order controlled under one ECCN are valued at $3,500 while those controlled under the other ECCN are valued at $4,500. Since the net value of the commodities controlled under each entry falls within the LVS dollar value limits applicable to that entry, the order may be shipped under this License Exception.

(iv) *Prohibition against evasion of license requirements.* Any activity involving the use of this License Exception to evade license requirements is prohibited. Such devices include, but are not limited to, the splitting or structuring of orders to meet applicable LVS dollar value limits, as prohibited by paragraphs (a)(4)(i) (B) *and (C) of this section.*

(5) *Reexports.* Commodities may be reexported under this License Exception, provided that they could be exported from the United States to the new country of destination under LVS.

(b) *Shipments to Country Group B countries (GBS).* License Exception GBS authorizes exports and reexports to Country Group B (see Supplement No. 1 to part 740) of those commodities controlled for national security reasons and identified by "GBS—Yes" on the CCL.

(c) *Civil end-users (CIV).* (1) *Scope.* License Exception CIV authorizes exports and reexports of national security controlled items identified by "CIV—Yes" on the CCL only to civil end-users for civil end-uses in Country Group D:1. (See Supplement No. 1 to part 740.) CIV may not be used for exports and reexports to military end-users or to known military uses. Such exports and reexports will continue to require a license. In addition to conventional military activities, military uses include any proliferation activities described and prohibited by part 744 of the EAR. A license is also required for transfer to military end-users or end-uses in eligible countries of items exported under CIV.

(d) *Technology and software under restriction (TSR).* (1) *Scope.* License Exception TSR permits exports and reexports of technology and software subject to national security controls and identified by "TSR—Yes" in entries on the CCL only to the destinations in Country Group B. (See Supplement No. 1 to part 740.) A written assurance is required from the consignee before exporting under this License Exception.

(i) *Required assurance for export of technology.* You may not export or reexport technology under this License Exception until you have received from the importer a written assurance that, without a BXA license or License Exception, the importer will not:

(A) Reexport or release the technology to a national of a country in Country Groups D:1 or E:2; or

(B) Export to Country Groups D:1 or E:2 the direct product of the technology, if such foreign produced direct product is subject to national security controls as identified on the CCL (See General Prohibition Three, § 736.2(b)(3) of the EAR); or

(C) If the direct product of the technology is a complete plant or any major component of a plant, export to Country Groups D:1 or E:2 the direct product of the technology, if such foreign produced direct product is subject to national security controls as identified on the CCL or is subject to State Department controls under the U.S. Munitions List (22 CFR part 121).

(ii) *Required assurance for export of software.* You may not export or reexport software under this License Exception until you have received from the importer a written assurance that, without a BXA license or License Exception, the importer will neither:

(A) Reexport or release the software or the source code for the software to a national of a country in Country Groups D:1 or E:2; nor

(B) Export to Country Groups D:1 or E:2 the direct product of the software, if such foreign produced direct product is subject to national security controls as identified on the CCL. (See General Prohibition Three, § 736.2(b)(3) of the EAR).

(iii) *Form of written assurance.* The required assurance may be made in the form of a letter or any other written communication from the importer, or the assurance may be incorporated into a licensing agreement that specifically includes the assurances. An assurance included in a licensing agreement is acceptable only if the agreement specifies that the assurance will be honored even after the expiration date of the licensing agreement. If such a written assurance is not received, License Exception TSR is not applicable and a license is required. The license application must include a statement explaining why assurances could not be obtained.

(iv) *Other License Exceptions.* The requirements in this License Exception do not apply to the export of technology or software under other License Exceptions, or to the export of technology or software included in an application for the foreign filing of a patent, provided the filing is in accordance with the regulations of the U.S. Patent Office.

(2) Reserved.

(e) *Computers (CTP).* (1) *Scope.* License Exception CTP authorizes exports and reexports of computers and specially designed components therefor, exported or reexported separately or as part of a system, and related equipment therefor when exported or reexported with these computers as part of a system, for consumption in Computer Tier countries as provided by this section. You may not use this License Exception to export or reexport items that you know will be used to enhance the CTP beyond the eligibility limit allowed to your country of destination. When evaluating your computer to determine License Exception CTP eligibility, use the CTP parameter to the exclusion of other technical parameters for computers classified under ECCN 4A003, except of parameters specified as Missile Technology (MT) concerns, 4A003.e (equipment performing analog-to-digital conversions exceeding the limits in ECCN 3A001.a.5), and graphic accelerators or graphic coprocessors exceeding a "3–D vector rate" of 10,000,000. This License Exception does not authorize export or reexport of such graphic accelerators or coprocessors, or of computers controlled for MT reasons.

(2) *Computer Tier 1.* (i) *Eligible countries.* The countries that are eligible to receive exports and reexports under this License Exception are Australia, Austria, Belgium, Denmark, Finland, France, Germany, Greece, the Holy See, Iceland, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Mexico, Monaco, Netherlands, New Zealand, Norway, Portugal, San Marino, Spain, Sweden, Switzerland, Turkey, and the United Kingdom.

(ii) *Eligible Computers.* The computers eligible for License Exception CTP are those with a CTP greater than 2,000 MTOPS.

(3) *Computer Tier 2.* (i) *Eligible countries.* The countries that are eligible to receive exports under this License Exception include Antigua and Barbuda, Argentina, Bahamas, Barbados, Bangladesh, Belize, Benin, Bhutan, Bolivia, Botswana, Brazil, Brunei, Burkina Faso, Burma, Burundi, Cambodia, Cameroon, Cape Verde, Central Africa, Chad, Chile, Colombia, Congo, Costa Rica, Cote d'Ivoire, Cyprus, Czech Republic, Dominica, Dominican Republic, Ecuador, El Salvador, Equatorial Guinea, Eritrea, Ethiopia, Fiji, Gabon, Gambia (The), Ghana, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Hong Kong, Hungary, Indonesia, Jamaica, Kenya, Kiribati, Korea (Republic of), Laos, Lesotho, Liberia, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Marshall Islands, Mauritius, Micronesia (Federated States of), Mozambique, Namibia, Nauru, Nepal, Nicaragua, Niger, Nigeria, Palau, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Rwanda, St. Kitts & Nevis, St. Lucia, St. Vincent and Grenadines, Sao Tome & Principe, Senegal, Seychelles, Sierra Leone, Singapore, Slovak Republic, Slovenia, Solomon Islands, Somalia, South Africa, Sri Lanka, Surinam, Swaziland, Taiwan, Tanzania, Togo, Tonga, Thailand, Trinidad and Tobago, Tuvalu, Uganda, Uruguay, Venezuela, Western Sahara, Western Samoa, Zaire, Zambia, and Zimbabwe.

(ii) *Eligible computers.* The computers eligible for License Exception CTP are those having a Composite Theoretical Performance (CTP) greater than 2000, but equal to or less than 10,000 Millions of Theoretical Operations Per Second (MTOPS).

(4) *Computer Tier 3.* (i) *Eligible countries.* The countries that are eligible to receive exports and reexports under this License Exception are Afghanistan, Albania, Algeria, Andorra, Angola, Armenia, Azerbaijan, Bahrain, Belarus, Bosnia & Herzegovina,[1] Bulgaria, China (People's Republic of), Comoros, Croatia,[2] Djibouti, Egypt, Estonia, Georgia, India, Israel, Jordan, Kazakhstan, Kuwait, Kyrgyzstan, Latvia, Lebanon, Lithuania, Macedonia (The Former Yugoslav Republic of), Mauritania, Moldova, Mongolia, Morocco, Oman, Pakistan, Qatar, Romania, Russia, Saudi Arabia, Serbia & Montenegro, Tajikistan, Tunisia, Turkmenistan, Ukraine, United Arab Emirates, Uzbekistan, Vanuatu, Vietnam, and Yemen.

(ii) *Eligible computers.* The computers eligible for License Exception CTP are those having a Composite Theoretical Performance (CTP) greater than 2,000 Millions of Theoretical Operations Per Second (MTOPS), but less than or equal to 7,000 MTOPS.

(iii) *Eligible exports.* Only exports and reexports to permitted end-users and end-uses located in countries in Computer Tier 3. License Exception CTP does not authorize exports and reexports to Computer Tier 3 for military end-users and end-uses and nuclear, chemical, biological, or missile end-users and end-uses defined in part 744 of the EAR. Exports and reexports under this License Exception may not be made to known military end-users or to known military end-uses or known proliferation end-uses or end-users defined in part 744 of the EAR. Such exports and reexports will continue to require a license and will be considered on a case-by-case basis. Retransfers to military end-users or end-uses and defined proliferation end-users and end-uses in eligible countries are strictly prohibited without prior authorization.

(5) *Restrictions.* (i) Computers eligible for License Exception CTP may not be accessed either physically or computationally by nationals of Cuba, Iran, Iraq, Libya, North Korea, Sudan or Syria, except that commercial consignees described in § 742.12 of the EAR are prohibited only from giving such nationals user-accessible programmability.

(ii) Computers, software and specially designed technology eligible for License Exception CTP may not be reexported/retransferred without prior authorization from BXA i.e., a license, a permissive reexport, another License Exception, or "No License Required". This restriction must be conveyed to the consignee, via the Destination Control Statement, see § 758.5 of the EAR.

(6) *Recordkeeping requirements.* In addition to the recordkeeping requirements in part 762 of the EAR, you must keep records of each export under License Exception CTP. These records will be made available to the U.S. Government on request. The records must include the following information:

(i) Date of shipment;

(ii) Name and address of the end-user and each intermediate consignee;

(iii) CTP of each computer in shipment;

(iv) Volume of computers in shipment;

(v) Dollar value of shipment; and

(vi) End-use.

[1] Except as provided in 31 CFR part 585.

[2] Except as provided in 31 CFR part 585.

§ 740.4 Temporary imports, exports, and reexports (TMP).

These License Exceptions authorize various temporary exports and reexports (TEMP); exports and reexports of items temporarily in the United States (TUS); and exports and reexports of beta test software (BETA). License Exceptions in § 740.4 of this part use the symbol "TMP" for export clearance purposes.

(a) *Temporary exports (TEMP).* (1) *Scope.* You may export and reexport commodities and software for temporary use abroad (including use in international waters) subject to the conditions and exclusions described in paragraph (a)(4) of this section. Commodities and software shipped under this License Exception must be returned to the country from which they were exported as soon as practicable but, except in circumstances described in this section, no later than one year from the date of export. This requirement does not apply if the commodities and software are consumed or destroyed in the normal course of authorized temporary use abroad or an extension or other disposition is permitted by the EAR or in writing by BXA.

(2) *Eligible commodities and software.* The following commodities and software are eligible to be shipped under this License Exception:

(i) *Tools of trade.* Usual and reasonable kinds and quantities of commodities and software for use by employees of the exporter in a lawful enterprise or undertaking of the exporter. Eligible commodities and software may include, but are not limited to, such equipment as is necessary to commission or service goods, provided that the equipment is appropriate for this purpose and that all goods to be commissioned or serviced are of foreign origin, or if subject to the EAR, have been legally exported or reexported. The commodities and software must remain under the effective control of the exporter or the exporter's employee. The shipment of commodities and software may accompany the individual departing from the United States or may be shipped unaccompanied within one month before the individual's departure from the United States, or at any time after departure. No tools of the trade may be taken to Country Group E:2, and only equipment necessary to commission or service goods may be taken as tools of trade to Country Group D:1. (See Supplement No. 1 to part 740.)

(ii) *Kits consisting of replacement parts.* Kits consisting of replacement parts may be exported or reexported under this section to all destinations, except Country Group E:2 (see Supplement No. 1 to part 740), provided that:

(A) The parts would qualify for shipment under paragraph (c) of this section if exported as one-for-one replacements;

(B) The kits remain under effective control of the exporter or an employee of the exporter; and

(C) All parts in the kit are returned, except that one-for-one replacements may be made in accordance with the requirements of License Exception RPL and the defective parts returned (see PTS, § 740.5(a) of this part).

(iii) *Exhibition and demonstration in Country Group B.* Commodities and software for exhibition or demonstration in Country Group B (see Supplement No. 1 to part 740) may be exported or reexported under this provision provided that the exporter maintains ownership of the commodities and software while they are abroad and provided that the exporter, an employee of the exporter, or the exporter's designated sales representative retains effective control over the commodities and software while they are abroad. The commodities and software may not be used for their intended purpose while abroad, except to the minimum extent required for effective demonstration. The commodities and software may not be exhibited or demonstrated at any one site more than 120 days after installation and debugging, unless authorized by BXA. However, before or after an exhibition or demonstration, pending movement to another site, return to the United States or the foreign reexporter, or BXA approval for other disposition, the commodities and software may be placed in a bonded warehouse or a storage facility provided that the exporter retains effective control over their disposition. The export documentation for this type of transaction must show the U.S. exporter as ultimate consignee, in care of the person who will have control over the commodities and software abroad.

(iv) *Inspection and calibration.* Commodities to be inspected, tested, calibrated or repaired abroad.

(v) *Containers.* Containers for which another License Exception is not available and that are necessary for export of commodities. However, this License Exception does not authorize the export of the container's contents, which, if not exempt from licensing, must be separately authorized for export under either a License Exception or a license.

(vi) *Broadcast material.* (A) Video tape containing program material recorded in the country of export to be publicly broadcast in another country.

(B) Blank video tape (raw stock) for use in recording program material abroad.

(vii) *Assembly in Mexico.* Commodities to be exported to Mexico under Customs entries that require return to the United States after processing, assembly, or incorporation into end products by companies, factories, or facilities participating in Mexico's in-bond industrialization program (Maquiladora), provided that all resulting end-products (or the commodities themselves) are returned to the United States.

(viii) *News media.* (A) Commodities necessary for news-gathering purposes (and software necessary to use such commodities) may accompany "accredited" news media personnel (i.e., persons with credentials from a news gathering or reporting firm) to Country Groups D:1 or E:2 (see Supplement No. 1 to part 740) if the commodities:

(*1*) Are retained under "effective control" of the exporting news gathering firm;

(*2*) Remain in the physical possession of the news media personnel. The term physical possession for purposes of this paragraph (a)(2)(viii), *news media,* is defined as maintaining effective measures to prevent unauthorized access (e.g., securing equipment in

locked facilities or hiring security guards to protect the equipment); and

(*3*) Are removed with the news media personnel at the end of the trip.

(B) When exporting under this paragraph (a)(2)(viii) from the United States, the exporter must send a copy of the packing list or similar identification of the exported commodities, to: U.S. Department of Commerce, Bureau of Export Administration, Office of Enforcement Support, Room H4069, 14th Street and Constitution Avenue, N.W., Washington, DC 20230, or any of its field offices, specifying the destination and estimated dates of departure and return. The Office of Export Enforcement (OEE) may spot check returns to assure that this License Exception is being used properly.

(C) Commodities or software necessary for news-gathering purposes that accompany news media personnel to all other destinations shall be exported or reexported under paragraph (a)(2)(i), *tools of trade*, of this section if owned by the news gathering firm, or if they are personal property of the individual news media personnel. Note that paragraphs (a)(2)(i), *tools of trade* and (a)(2)(viii), *news media*, of this section do not preclude independent "accredited" contract personnel, who are under control of news gathering firms while on assignment, from utilizing these provisions, provided that the news gathering firm designate an employee of the contract firm to be responsible for the equipment.)

(3) *Special restrictions.* (i) *Destinations.* (A) No commodity or software may be exported under this License Exception to Country Group E:2 (see Supplement No. 1 to part 740) except as permitted by paragraph (a)(2)(viii), news media, of this section;

(B) No commodity or software may be exported under this License Exception to Country Group D:1 (see Supplement No. 1 to part 740) except:

(*1*) Commodities and software exported under paragraph (a)(2)(viii), *news media*, of this section;

(*2*) Commodities and software exported under paragraph (a)(2)(i), *tools of trade*, of this section; and

(*3*) Commodities exported as kits of replacement parts, consistent with the requirements of paragraph (a)(2)(ii) of this section.

(C) These destination restrictions apply to temporary exports to and for use on any vessel, aircraft or territory under ownership, control, lease, or charter by any country in Country Group D:1 or E:2, or any national thereof. (See Supplement No. 1 to part 740.)

(ii) *Ineligible commodities or software.* Commodities or software that will be used outside of Country Group A:4 (Nuclear Suppliers Group) (see Supplement No. 1 to part 740) either directly or indirectly in any sensitive nuclear activity as described in § 744.2 of the EAR may not be exported or reexported to any destination under this License Exception.

(iii) *Use or disposition.* No commodity or software may be exported or reexported under this License Exception if:

(A) An order to acquire the commodity or software has been received before shipment;

(B) The exporter has prior knowledge that the commodity or software will stay abroad beyond the terms of this License Exception; or

(C) The commodity or software is for lease or rental abroad.

(4) *Return or disposal of commodities and software.* All commodities and software exported or reexported under this License Exception must, if not consumed or destroyed in the normal course of authorized temporary use abroad, be returned as soon as practicable but no later than one year after the date of export, to the United States or other country from which the commodities and software were exported under this License Exception, or shall be disposed of or retained in one of the following ways:

(i) *Permanent export or reexport.* If the exporter or the reexporter wishes to sell or otherwise dispose of the commodities or software abroad, except as permitted by this or other applicable License Exception, the exporter must request authorization by submitting a license application to BXA at the address listed in part 748 of the EAR. (See part 748 of the EAR for more information on license applications.) The request should comply with all applicable provisions of the EAR covering export directly from the United States to the proposed destination. The request must also be supported by any documents that would be required in support of an application for export license for shipment of the same commodities or software directly from the United States to the proposed destination. BXA will advise the exporter of its decision.

(ii) *Use of a license.* An outstanding license may also be used to dispose of commodities or software covered by the License Exception described in this section, provided that the outstanding license authorizes direct shipment of the same commodity or software to the same new ultimate consignee in the new country of destination.

(iii) *Authorization to retain abroad beyond one year.* If the exporter wishes to retain a commodity or software abroad beyond the 12 months authorized by paragraph (a) of this section, the exporter must request authorization by submitting Form BXA–748P, Multipurpose Application, 90 days prior to the expiration of the 12 month period. The request must be sent to BXA at the address listed in part 748 of the EAR and should include the name and address of the exporter, the date the commodities or software were exported, a brief product description, and the justification for the extension. If BXA approves the extension request, the exporter will receive authorization for a one-time extension not to exceed six months. BXA normally will not allow an extension for commodities or software that have been abroad more than 12 months, nor will a second six month extension be authorized. Any request for retaining the commodities or software abroad for a period exceeding 18 months must be made in accordance with the requirements of paragraph (a)(4)(i) of this section.

(5) *Reexports.* Commodities and software legally exported from the United States may be reexported to a new country(ies) of destination under this License Exception provided its terms and conditions are met and the commodities and software are returned to the country from which the reexport occurred.

(b) *Exports of items temporarily in the United States* (TUS).

Scope. License Exception TUS, describes the conditions for exporting foreign-origin items temporarily in the United States. Specifically, this License Exception includes the export of items moving in transit through the United States, imported for display at a U.S. exhibition or trade fair, returned because unwanted, or returned because refused entry.

Note 1 to paragraph (b) of this section: A commodity withdrawn from a bonded warehouse in the United States under a "withdrawal for export" customs entry is considered as "moving in transit". It is not considered as "moving in transit" if it is withdrawn from a bonded warehouse under any other type of customs entry or if its transit has been broken for a processing operation, regardless of the type of customs entry.

Note 2 to paragraph (b) of this section: Items shipped on board a vessel or aircraft and passing through the United States from one foreign country to another may be exported without a license provided that (a) while passing in transit through the United States, they have not been unladen from the vessel or aircraft on which they entered, and (b) they are not originally manifested to the United States.)

(1) *Items moving in transit through the United States.* Subject to the following conditions, this License Exception authorizes export of items moving in transit through the United States under a Transportation and Exportation (T. & E.) customs entry or an Immediate Exportation (I.E.) customs entry made at a U.S. Customs Office.

(i) Items controlled for national security, nuclear proliferation, missile technology, or chemical and biological weapons reasons may not be exported to Country Group D:1, 2, 3, or 4 (see Supplement No. 1 to part 740), respectively, under License Exception TUS.

(ii) Items may not be exported to Country Group E:2 under this License Exception.

(iii) The following may *not* be exported in transit from the United States under License Exception TUS:

(A) Commodities shipped to the United States under an International Import Certificate, Form BXA–645P;

(B) Chemicals controlled under ECCN 1C350; or

(C) Horses for export by sea (refer to short supply controls in part 754 of the EAR).

(iv) The provisions of this License Exception apply to all shipments from Canada moving in transit through the United States to any foreign destination, regardless of the nature of the commodities or software or their origin. For such shipments the customs office at the U.S. port of export will require a copy of Form B–13, Canadian Customs Entry, certified or stamped by Canadian customs authorities, except where the shipment is valued at less than $50.00. (In transit shipments originating in Canada that are exempt from U.S. licensing, or made under a U.S. license or applicable U.S. License Exception other than TUS do not require this form.) The commodity or software description, quantity, ultimate consignee, country of ultimate destination, and all other pertinent details of the shipment must be the same on a required Form B–13, as on Commerce Form 7513,[3] or when Form 7513 is not required, must be the same as on Customs Form 7512. When there is a material difference, a corrected Form B–13 authorizing the shipment is required.

(2) *Items imported for display at U.S. exhibitions or trade fairs.* Subject to the following conditions, License Exception TUS authorizes the export of items that were imported into the United States for display at an exhibition or trade fair *and* were either entered under bond or permitted temporary free import under bond providing for their export and are being exported in accordance with the terms of that bond.

(i) Items may be exported to the country from which imported into the United States. However, items originally imported from Cuba or North Korea may not be exported unless the U.S. Government had licensed the import from that country.

(ii) Items may be exported to any destination other than the country from which imported except:

(A) Items imported into the United States under an International Import Certificate;

(B) Exports to Country Group E:2 (see Supplement No. 1 to part 740); or

(C) Exports to Country Group D:1, 2, 3, or 4 (see Supplement No. 1 to part 740) of items controlled for national security, missile technology, chemical and biological weapons reasons, or nuclear proliferation, respectively.

(3) *Return of unwanted shipments.* A foreign-origin item may be returned under this License Exception to the country from which it was imported if its characteristics and capabilities have not been enhanced while in the United States. No foreign-origin items may be returned to Cuba, Libya, or North Korea.

(4) *Return of shipments refused entry.* Shipments of items refused entry by the U.S. Customs Service, the Food and Drug Administration, or other U.S. Government agency may be returned to the country of origin, except to:

(i) A destination in Cuba, Libya, or North Korea; or

(ii) A destination from which the shipment has been refused entry because of the Foreign Assets Control Regulations of the Treasury Department, unless such return is licensed or otherwise authorized by the Treasury Department, Office of Foreign Assets Control (31 CFR part 500).

(c) *Exports of beta test software (BETA).* (1) *Scope.* This License Exception authorizes exports and reexports to eligible countries of beta test software intended for distribution to the general public.

(2) *Eligible countries.* The countries that are eligible to receive exports and reexports under License Exception BETA are all countries except those Country Groups E:2.

(3) *Eligible software.* All software that is controlled by the CCL (part 774 of the EAR), and under Commerce licensing jurisdiction, is eligible for export and reexport under this License Exception, subject to the restrictions in this section.

(4) *Conditions for use.* Any beta test software program may be exported or reexported to eligible countries if all of the conditions under this section are met:

(i) The software producer intends to market the software to the general public after completion of the beta testing, as described in the General Software Note found in Supplement No. 2 to part 774 of the EAR;

(ii) The software producer provides the software to the testing consignee free-of-charge or at a price that does not exceed the cost of reproduction and distribution; and

(iii) The software is designed for installation by the end-user without further substantial support from the supplier.

(5) *Importer Statement.* Prior to shipping any eligible software under BETA, the exporter or reexporter must obtain the following statement from the festing consignee, which may be included in a contract, non-disclosure agreement, or other document that identifies the importer, the software to be exported, the country of destination, and the testing consignee.

We certify that this beta test software will only be used for beta testing purposes, and will not be rented, leased, sold, sublicensed, assigned, or otherwise transferred. Further, we certify that we will not transfer or export any product, process, or service that is the direct product of the beta test software.

(6) *Use limitations.* Only testing consignees that provide the importer statement required by paragraph (c)(5) of this section may execute any software received under this License Exception.

(7) *Return or disposal of software.* All beta test software exported under this License Exception must be destroyed abroad or returned to the exporter within 30 days of the end of the beta test period as defined by the software producer or, if the software producer does not define a test period, within 30 days of completion of the consignee's role in the test. Among other methods, this requirement may be satisfied by a software module that will destroy the software and all its copies at or before the end of the beta test period.

§ 740.5 Servicing and replacement of parts and equipment (RPL).

These License Exceptions authorize exports and reexports associated with one-for-one replacement of parts (PTS) or servicing and replacement of equipment (SNR). The symbol "RPL" is

[3] The complete names of these forms are: Commerce Form 7513, "Shipper's Export Declaration for Intransit Goods"; Customs Form 7512, "Transportation Entry and Manifest of Goods Subject to Customs Inspection and Permit."

used on shipping documentation for export clearance purposes.

(a) *Parts* (PTS). (1) *Scope.* This License Exception authorizes the export and reexport of one-for-one replacement parts for previously exported equipment.

(2) *One-for-one replacement of parts.* (i) The term "replacement parts" as used in this section means parts needed for the immediate repair of equipment, including replacement of defective or worn parts. (It includes subassemblies but does not include test instruments or operating supplies). (The term "subassembly" means a number of components assembled to perform a specific function or functions within a commodity. One example would be printed circuit boards with components mounted thereon. This definition does not include major subsystems such as those composed of a number of subassemblies.) Items that improve or change the basic design characteristics, e.g., as to accuracy, capability, performance or productivity, of the equipment upon which they are installed, are not deemed to be replacement parts. For kits consisting of replacement parts, consult § 740.4(a)(2)(ii) of this part (TEMP).

(ii) Parts may be exported only to replace, on a one-for-one basis, parts contained in commodities that were: legally exported from the United States; legally reexported; or made in a foreign country incorporating authorized U.S.-origin parts. The conditions of the original U.S. authorization must not have been violated. Accordingly, the export of replacement parts may be made only by the party who originally exported or reexported the commodity to be repaired, or by a party that has confirmed the appropriate authority for the original transaction.

(iii) The parts to be replaced must either be destroyed abroad or returned promptly to the person who supplied the replacement parts, or to a foreign firm that is under the effective control of that person.

(3) *Exclusions.* (i) No replacement parts may be exported under this License Exception to repair a commodity exported under a license if that license included a condition that any subsequent replacement parts must be exported only under a license.

(ii) No parts may be exported under this License Exception to be held abroad as spare parts or equipment for future use. Replacement parts may be exported to replace spare parts that were authorized to accompany the export of equipment, as those spare parts are utilized in the repair of the equipment. This will allow maintenance of the stock of spares at a consistent level as parts are used.

(iii) No parts may be exported under PTS to any destination except Iceland, New Zealand, or the countries listed in Country Group A:1 (see Supplement No. 1 to part 740) if the item is to be incorporated into or used in nuclear weapons, nuclear explosive devices, nuclear testing related to activities described in § 744.2(a) of the EAR, the chemical processing of irradiated special nuclear or source material, the production of heavy water, the separation of isotopes of source and special nuclear materials, or the fabrication of nuclear reactor fuel containing plutonium, as described in § 744.2(a) of the EAR.

(iv) No replacement parts shall be exported under this License Exception to Cuba, Iran, Iraq, Sudan, Syria, Libya, or North Korea (countries designated by the Secretary of State as supporting acts of international terrorism) if the commodity to be repaired is an "aircraft" (as defined in part 772 of the EAR) or national security controlled commodity.

(v) The conditions described in this paragraph (a)(3) relating to replacement of parts do not apply to reexports to a foreign country of parts as replacements in foreign-origin products, if at the time the replacements are furnished, the foreign-origin product is eligible for export to such country under any of the License Exceptions in this part or the exceptions in § 734.4(b)(2) (ii) and (iii) of the EAR.

(4) *Reexports.* Parts exported from the United States may be reexported to a new country of destination, provided that the restrictions described in paragraphs (a) (2) and (3) of this section are met. A party reexporting U.S.-origin one-for-one replacement parts shall ensure that the commodities being repaired were shipped to their present location in accordance with U.S. law and continue to be legally used, and that either before or promptly after reexport of the replacement parts, the replaced parts are either destroyed or returned to the United States, or to the foreign firm in Country Group B (see Supplement No. 1 to part 740) that shipped the replacement parts.

(b) Servicing and Replacement (SNR). (1) *Scope.* This License Exception SNR authorizes the export and reexport of items that were returned to the United States for servicing and the replacement of defective or unacceptable U.S.-origin commodities and software.

(2) *Commodities and software sent to a United States or foreign party for servicing.* (i) *Definition.* "Servicing" as used in this section means inspection, testing, calibration or repair, including overhaul and reconditioning. The servicing shall not have improved or changed the basic characteristics, e.g., as to accuracy, capability, performance, or productivity of the commodity or software as originally authorized for export or reexport.

(ii) *Return of serviced commodities and software.* When the serviced commodity or software is returned, it may include any replacement or rebuilt parts necessary to its repair and may be accompanied by any spare part, tool, accessory, or other item that was sent with it for servicing.

(iii) *Commodities and software imported from Country Group D:1 except the PRC.* Commodities and software legally exported or reexported to a consignee in Country Group D:1 (except the People's Republic of China (PRC)) (see Supplement No. 1 to part 740) that are sent to the United States or a foreign party for servicing may be returned under this License Exception to the country from which it was sent, provided that both of the following conditions are met:

(A) The exporter making the shipment is the same person or firm to whom the original license was issued; and

(B) The end-use and the end-user of the serviced commodities or software and other particulars of the transaction, as set forth in the application and supporting documentation that formed the basis for issuance of the license have not changed.

(iv) Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria. No repaired commodity or software may be exported or reexported to Cuba, Iran, Iraq, Libya, North Korea, Sudan, or Syria under this section.

(3) *Replacements for defective or unacceptable U.S.-origin equipment.*

(i) Subject to the following conditions, commodities or software may be exported or reexported to replace defective or otherwise unusable (e.g., erroneously supplied) items.

(A) The commodity or software to be replaced must have been previously exported or reexported in its present form under a license or authorization granted by BXA.

(B) No commodity or software may be exported or reexported to replace equipment that is worn out from normal use, nor may any commodity or software be exported to be held in stock abroad as spare equipment for future use.

(C) The replacement item may not improve the basic characteristic, e.g., as to accuracy, capability, performance, or productivity, of the equipment as originally approved for export or reexport under a license issued by BXA.

(D) No shipment may be made to Cuba, Iran, Iraq, Libya, North Korea, Sudan, or Syria, or to any other destination to replace defective or otherwise unusable equipment owned or controlled by, or leased or chartered to, a national of any of those countries.

(ii) *Special conditions applicable to exports to Country Group B and Country Group D:1.* (See Supplement No. 1 to part 740.) In addition to the general conditions in paragraph (b)(3)(i) of this section, the following conditions apply to exports or reexports of replacements for defective or unacceptable U.S.-origin commodities or software to a destination in Country Group B or Country Group D:1:

(A) By making such an export or reexport, the exporter represents that all the requirements of paragraph (c) of this section have been met and undertakes to destroy or return the replaced parts as provided in paragraph (b)(3)(ii)(C) of this section.

(B) The defective or otherwise unusable equipment must be replaced free of charge, except for transportation and labor charges. If exporting to the countries listed in Country Group D:1 (except the PRC), the exporter shall replace the commodity or software within the warranty period or within 12 months of its shipment to the ultimate consignee in the country of destination, whichever is shorter.

(C) The commodity or software to be replaced must either be destroyed abroad or returned to the United States, or to a foreign firm in Country Group B that is under the effective control of the U.S. exporter, or to the foreign firm that is providing the replacement part or equipment. The destruction or return must be effected before, or promptly after, the replacement item is exported from the United States.

(D) A party reexporting replacements for defective or unacceptable U.S.-origin equipment must ensure that the commodities or software being replaced were shipped to their present location in accordance with U.S. law and continue to be legally used.

§ 740.6 Governments and international organizations (GOV).

These Licenses Exceptions authorize exports and reexports for international nuclear safeguards (SAFE); U.S. government agencies or personnel, and agencies of cooperating governments (GOVT). The License Exceptions in § 740.6 of this part use the symbol "GOV" for export clearance purposes.

(a) *International Safeguards (SAFE).* (1) *Scope.* You may export and reexport commodities or software to the International Atomic Energy Agency (IAEA) and the European Atomic Energy Community (Euratom), and reexports by IAEA and Euratom for official international safeguard use, as follows:

(i) Commodities or software consigned to the IAEA at its headquarters in Vienna, or field offices in Toronto, Ontario, Canada or Tokyo, Japan for official international safeguards use. The IAEA is an international organization that establishes and administers safeguards designed to ensure that special nuclear materials and other related nuclear facilities, services, and information are not diverted from peaceful purposes to non-peaceful purposes.

(ii) Commodities or software consigned to the Euratom Safeguards Directorate in Luxembourg, Luxembourg for official international safeguards use. Euratom is an international organization of European countries with headquarters in Luxembourg. Euratom establishes and administers safeguards designed to ensure that special nuclear materials and other related nuclear facilities, services, and information are not diverted from peaceful purposes to non-peaceful purposes.

(iii) Commodities consigned to IAEA or Euratom may be reexported to any country for IAEA or Euratom international safeguards use provided that IAEA or Euratom maintains control of or otherwise safeguards the commodities and returns the commodities to the locations described in paragraphs (a)(1)(i) and (a)(1)(ii) of this section when they become obsolete, are no longer required, or are replaced.

(iv) Commodity or software shipments may be made by commercial companies under direct contract with IAEA or Euratom, or by Department of Energy National Laboratories as directed by the Department of State or the Department of Energy.

(v) The monitoring functions of IAEA and Euratom are not subject to the restrictions on prohibited safeguarded nuclear activities described in § 744.2(a)(3) of the EAR.

(vi) When commodities or software originally consigned to IAEA or Euratom are no longer in IAEA or Euratom official safeguards use, such commodities may only be disposed of in accordance with the regulations in the EAR.

(2) *Exclusions.* No computers with a CTP greater than 10,000 MTOPS may be exported or reexported to countries listed in Computer Tiers 3 or 4 under License Exception SAFE. See § 742.12 of the EAR for a complete list of the countries within Computer Tiers 3 and 4.

(b) *Governments* (GOVT). (1) *Scope.* License Exception (GOVT) authorizes exports and reexports of the items listed in paragraph (b)(2) of this section to personnel and agencies of the U.S. Government or agencies of cooperating governments.

(2) *Eligibility.* (i) *Items for personal use by personnel and agencies of the U.S. Government.* License Exception GOVT is available for items in quantities sufficient only for the personal use of members of the U.S. Armed Forces or civilian personnel of the U.S. Government (including U.S. representatives to public international organizations), and their immediate families and servants. Items for personal use include household effects, food, beverages, and other daily necessities.

(ii) *Items for official use by personnel and agencies of the U.S. Government.* This License Exception is available for items consigned to and for the official use of any agency of the U.S. Government.

(iii) *Items for official use within national territory by agencies of cooperating governments.* This License Exception is available for all items consigned to and for the official use of any agency of a cooperating government within the territory of any cooperating government, except:

(A) Computers with a CTP greater than 10,000 MTOPS when destined for Argentina, Hong Kong, South Korea, Singapore, or Taiwan;

(B) Items identified on the Commerce Control List as controlled for missile technology (MT), chemical and biological warfare (CB), or nuclear nonproliferation (NP) reasons; or

(C) Regional stability items controlled under Export Control Classification Numbers (ECCNs) 6A002, 6A003, 6D102, 6E001, 6E002, 7D001, 7E001, 7E002, and 7E101, as described in § 742.6(a)(1) of the EAR.

(iv) *Diplomatic and consular missions of a cooperating government.* This License Exception is available for all items consigned to and for the official use of a diplomatic or consular mission of a cooperating government located in any country in Country Group B (see Supplement No. 1 to part 740), except:

(A) Computers with a CTP greater than 10,000 MTOPS when destined for Argentina, Hong Kong, South Korea, Singapore, or Taiwan;

(B) Items identified on the Commerce Control List as controlled for missile technology (MT), chemical and biological warfare (CB), or nuclear nonproliferation (NP) reasons; or

(C) Regional stability items controlled under Export Control Classification Numbers (ECCNs) 6A002, 6A003, 6D102, 6E001, 6E002, 7D001, 7E001, 7E002, and 7E101, as described in § 742.6(a)(1) of the EAR.

(3) *Definitions.* (i) "Agency of the U.S. Government" includes all civilian and military departments, branches, missions, government-owned corporations, and other agencies of the U.S. Government, but does not include such national agencies as the American Red Cross or international organizations in which the United States participates such as the Organization of American States. Therefore, shipments may not be made under this License Exception to these non-government national or international agencies, except as provided in (b)(2)(i) of this section for U.S. representatives to these organizations.

(ii) "Agency of a cooperating government" includes all civilian and military departments, branches, missions, and other governmental agencies of a cooperating national government. Cooperating governments are the national governments of countries listed in Country Group A:1 (see Supplement No. 1 to part 740) and the national governments of Argentina, Austria, Finland, Ireland, Korea (Republic of), Singapore, Sweden, and Switzerland.

§ 740.7 Gift parcels and humanitarian donations (GFT).

(a) *Gift parcels (GIFT).* (1) *Scope.* This License Exception (GIFT) authorizes exports and reexports of gift parcels by an individual (donor) addressed to an individual, or a religious, charitable or educational organization (donee) located in any destination for the use of the donee or the donee's immediate family (and not for resale). The gift parcel must be provided free of charge to the donee. However, payment by the donee of any handling charges or of any fees levied by the importing country (e.g., import duties, taxes, etc.) is not considered to be a cost to the donee for purposes of this definition of "gift parcel."[4]

Note to paragraph (a) of this section: A gift parcel, within the context of this License Exception GIFT, does not include multiple parcels exported in a single shipment for delivery to individuals residing in a foreign country. Such multiple gift parcels, if subject to the General Prohibitions described in § 734.2(b) of the EAR, must be licensed by BXA. (See § 748.9(e) of the EAR for licensing of multiple gift parcels).

(2) *Commodity, value and other limitations.* (i) *Eligible commodities.* The commodities eligible for this License Exception are as follows:

(A) The commodity must not be controlled for chemical and biological weapons (CB), missile technology (MT), national security (NS), or nuclear proliferation (NP) (see Commerce Control List, part 774 of the EAR); and

(B) The commodity must be of a type and in quantities normally given as gifts between individuals.

(*1*) For Cuba, the only commodities that may be included in a gift parcel are the following items from Supplement No. 1 to part 746 of the EAR: food, vitamins, seeds, medicines, medical supplies and devices, hospital supplies and equipment, equipment for the handicapped, clothing, personal hygiene items, veterinary medicines and supplies, fishing equipment and supplies, soap-making equipment, and in addition receive-only radio equipment for reception of commercial/civil AM/FM and short wave publicly available frequency bands, and batteries for such equipment.

(*2*) For all other destinations, eligible commodities include all items described in paragraph (a)(2)(i)(B)(*1*) of this section as well as all other items normally sent as gifts. Gold bullion, gold taels, and gold bars are prohibited as are items intended for resale or reexport.

Example to paragraph (a) of this section. A watch or piece of jewelry is normally sent as a gift. However, multiple watches, either in one package or in subsequent shipments, would not qualify for such gift parcels because the quantity exceeds that normally given between individuals. Similarly, a sewing machine or bicycle, within the dollar limits of this License Exception, may be an appropriate gift. However, subsequent shipments of the same item to the same donee would not be a gift normally given between individuals.

(*3*) For purposes of paragraph (a)(2)(ii)(B) of this section, clothing is appropriate, except that export of military wearing apparel to Country Group D:1 or E:2 under this License Exception is specifically prohibited, regardless of whether all distinctive U.S. military insignia, buttons, and other markings are removed.

(ii) *Import requirements.* The commodities must be acceptable in type and quantity by the recipient country for import as gifts. Commodities exceeding the import limits may not be included in gift parcels.

(iii) *Frequency.* Except for gift parcels of food to Cuba, not more than one gift parcel may be sent from the same donor to the same donee in any one calendar month. Parties seeking authorization to exceed this limit due to compelling humanitarian concerns (e.g., gifts of medicine to relatives) should submit a license application (BXA–748P) with complete justification.

(iv) *Value.* The combined total domestic retail value of all commodities included in a gift parcel may not exceed $400, except for gift parcels to Cuba where the value of non-food items may not exceed $200. There is no dollar value limit on food contained in a gift parcel to Cuba.

(3) *How to export gift parcels.* (i) A gift parcel must be sent directly to the donee by the individual donor, or for such donor by a commercial or other gift-forwarding service or organization. Each gift parcel must show, on the outside wrapper, the name and address of the donor, as well as the name and address of the donee, regardless of whether sent by the donor or by a forwarding service.

(ii) Each parcel must have the notation "GIFT—Export License Not Required" written on the addressee side of the package and the symbol "GFT" written on any required customs declaration.

(b) *Humanitarian donations (NEED).* (1) *Scope.* License Exception NEED authorizes exports by groups or organizations of donations to meet basic human needs when those groups or organizations have experience in maintaining a verifiable system of distribution that ensures delivery to the intended beneficiaries.

(2) *Basic human needs.* Under License Exception NEED, basic human needs are defined as those requirements essential to individual well-being: health, food, clothing, shelter, and education. These needs are considered to extend beyond those of an emergency nature and those that meet direct needs for mere subsistence.

(3) *Eligible donors.* Eligible donors are U.S. charitable organizations that have an established record of involvement in donative programs and experience in maintaining and verifying a system of distribution to ensure delivery of commodities and software to the intended beneficiaries. Eligible distribution arrangements may consist of any one or more of the following:

(i) A permanent staff maintained in the recipient country to monitor the receipt and distribution of the donations to the intended beneficiaries;

(ii) Periodic spot-checks in the recipient country by members of the exporter's staff; or

(iii) An agreement to utilize the services of a charitable organization that has a monitoring system in place.

(4) *Donations.* To qualify for export under this License Exception, the items must be provided free of charge to the beneficiary. The payment by the beneficiary, however, of normal handling charges or fees levied by the importing country (e.g., import duties, taxes, etc.) is not considered to be a cost to the beneficiary for purposes of this section.

(5) *Ineligible commodities and software.* The following commodities and software are not eligible for this License Exception:

(i) Commodities and software controlled for national security, chemical or biological weapons, and nuclear non-proliferation, missile technology or crime control reasons (see supplement No. 1 to part 774 of the EAR);

(ii) Exports for large-scale projects of the kind associated with comprehensive economic growth, such as dams and hydroelectric plants; or

(iii) Exports to Cuba of medical items excluded by § 746.2(a)(3) of the EAR.

(6) *Eligible items.* Eligible commodities and software are those listed in Supplement No. 2 to part 740.

(7) *Additional recordkeeping requirements.* In addition to the recordkeeping requirements in part 762 of the EAR, donors must keep records containing the following information:

(i) The donor organization's identity and past experience as an exporter of goods to meet basic human needs;

(ii) Past and current countries to which the donative programs have been and are being directed, with particular reference to donative programs in embargoed destinations;

(iii) Types of projects and commodities involved in the donative programs;

(iv) Specific class(es) of beneficiaries of particular donated goods intended to be exported under this License Exception; and

(vi) Information concerning the source of funding for the donative programs and the projected annual value of exports under this License Exception.

§ 740.8 Technology and software—unrestricted (TSU).

(a) *Operating technology and software (OTS).* (1) *Scope.* This License Exception permits exports and reexports of operation technology and software. "Operation technology" is the minimum technology necessary for the installation, operation, maintenance (checking), and repair of those products that are lawfully exported or reexported under a license, a License Exception, or NLR. The "minimum necessary" operation technology does not include technology for development or production and includes use technology only to the extent required to ensure safe and efficient use of the product. Individual entries in the software and technology subcategories of the CCL may further restrict the export or reexport of operation technology under this License Exception.

(2) *Provisions and Destinations.* (i) *Provisions.* Operation software may be exported or reexported under this License Exception provided that both of the following conditions are met:

(A) The operation software is the minimum necessary to operate equipment authorized for export or reexport; and

(B) The operation software is in object code.

(ii) *Destinations.* Operation software and technology may be exported or reexported to any destination to which the equipment for which it is required has been or is being legally exported or reexported.

(b) *Sales technology (STS).* (1) *Scope.* This License Exception authorizes exports and reexports of sales technology. "Sales technology" is data supporting a prospective or actual quotation, bid, or offer to sell, lease, or otherwise supply any item.

(2) *Provisions and destinations.* (i) *Provisions.* Sales technology may be exported or reexported under this License Exception provided that:

(A) The technology is a type customarily transmitted with a prospective or actual quotation, bid, or offer in accordance with established business practice; and

(B) Neither the export nor the reexport will disclose the detailed design, production, or manufacture technology, or the means of reconstruction, of either the quoted item or its product. The purpose of this limitation is to prevent disclosure of technology so detailed that the consignee could reduce the technology to production.

(ii) *Destinations.* Sales technology may be exported or reexported to any destination.

Note: Neither this section nor its use means that the U.S. Government intends, or is committed, to approve a license application for any commodity, plant, software, or technology that may be the subject of the transaction to which such quotation, bid, or offer relates. Exporters are advised to include in any quotations, bids, or offers, and in any contracts entered into pursuant to such quotations, bids, or offers, a provision relieving themselves of liability in the event that a license (when required) is not approved by the Bureau of Export Administration.

(c) *Software updates (SUD).* This License Exception authorizes exports and reexports of software updates that are intended for and are limited to correction of errors ("fixes" to "bugs") in software lawfully exported or reexported (original software). Such software updates may be exported or reexported only to the same consignee to whom the original software was exported or reexported, and such software updates may not enhance the functional capacities of the original software. Such software updates may be exported or reexported to any destination to which the software for which they are required has been legally exported or reexported.

(d) *General Software Note (GSN): "mass market" software.* (1) *Scope.* This License Exception authorizes exports and reexports of "mass market" software subject to the General Software Note (see Supplement No. 2 to part 774 of the EAR; also referenced in this section).[5]

(2) *Provisions and destinations.*

(i) *Destinations.* This License Exception is available to all destinations except Cuba, Iran, Libya, North Korea, Sudan, and Syria.

(ii) *Provisions.* This License Exception is available for software that is generally available to the public by being:

(A) Sold from stock at retail selling points, without restriction, by means of:

(*1*) Over the counter transactions;

(*2*) Mail order transactions; or

(*3*) Telephone call transactions; *and*

(B) Designed for installation by the user without further substantial support by the supplier.

§ 740.9 Baggage (BAG).

(a) *Scope.* This License Exception authorizes individuals leaving the United States and crew members of exporting carriers to take to any destination, as personal baggage, the classes of commodities and software described in this section.

[4] Many foreign countries permit the entry, duty-free, of gift parcels that conform to regulations regarding contents and marking. To secure this advantage, the sender should show the words "U.S.A. Gift Parcel" on the addressee side of the package and on any required customs declarations. Information regarding the foreign postal regulations is available at local post offices. Senders of gift parcels who wish information regarding import duties of a foreign country should contact the nearest Commercial Office, Consulate or Embassy of the country concerned.

[5] "Mass market" software may fall under the classification of "general use" software for export clearance purposes. Exporters should consult the Census Bureau FTSR for possible SED requirements.

(b) *Eligibility.* Individuals leaving the United States may export and reexport any of the following commodities or software to any destination or series of destinations. Crew members may export and reexport only commodities and software described in paragraphs (b)(1) and (b)(2) of this section to any destination.

(1) *Personal effects.* Usual and reasonable kinds and quantities for personal use of wearing apparel, articles of personal adornment, toilet articles, medicinal supplies, food, souvenirs, games, and similar personal effects, and their containers.

(2) *Household effects.* Usual and reasonable kinds and quantities for personal use of furniture, household effects, household furnishings, and their containers.

(3) *Vehicles.* Usual and reasonable kinds and quantities of vehicles, such as passenger cars, station wagons, trucks, trailers, motorcycles, bicycles, tricycles, perambulators, and their containers.

(4) *Tools of trade.* Usual and reasonable kinds and quantities of tools, instruments, or equipment and their containers for use in the trade, occupation, employment, vocation, or hobby of the traveler.

(c) *Limits on eligibility.* The export of any commodity or software may be limited or prohibited, if the kind or quantity is in excess of the limits described in this section. In addition, the commodities or software must be:

(1) Owned by the individuals (or by members of their immediate families) or by crew members of exporting carriers on the dates they depart from the United States;

(2) Intended for and necessary and appropriate for the use of the individuals or members of their immediate families, or by the crew members of exporting carriers;

(3) Not intended for sale; and

(4) Not exported under a bill of lading as cargo if exported by crew members.

(d) *Special provision: unaccompanied baggage.* Individuals departing the United States may ship unaccompanied baggage, which is baggage sent from the United States on a carrier other than that on which an individual departs. Crew members of exporting carriers may not ship unaccompanied baggage. Unaccompanied shipments under this License Exception shall be clearly marked "BAGGAGE." Shipments of unaccompanied baggage may be made at the time of, or within a reasonable time before or after departure of the consignee or owner from the United States. Personal baggage controlled for chemical and biological weapons (CB), missile technology (MT), national security (NS) or nuclear nonproliferation (NP) must be shipped within 3 months before or after the month in which the consignee or owner departs the United States. However, commodities controlled for CB, MT, NS or NP may not be exported under this License Exception to Country Group D or Country Group E:2. (See Supplement No. 1 to part 740.)

(e) *Special provisions: shotguns and shotgun shells.* (1) A United States citizen or a permanent resident alien leaving the United States may export or reexport shotguns with a barrel length of 18 inches or over and shotgun shells under this License Exception, subject to the following limitations:

(i) Not more than three shotguns may be taken on any one trip.

(ii) The shotguns and shotgun shells must be with the person's baggage but they may not be mailed.

(iii) The shotguns and shotgun shells must be for the person's exclusive use for legitimate hunting or lawful sporting purposes, scientific purposes, or personal protection, and not for resale or other transfer of ownership or control. Accordingly, except as provided in (e)(2) of this section, shotguns may not be exported permanently under this License Exception. All shotguns and unused shotgun shells must be returned to the United States.

(2) A nonresident alien leaving the United States may export or reexport under this License Exception only such shotguns and shotgun shells as he or she brought into the United States under the provisions of Department of Treasury Regulations (27 CFR 178.115(d)).

§ 740.10 Aircraft and vessels (AVS).

These License Exceptions authorize departure from the United States of foreign registry civil aircraft on temporary sojourn in the United States and of U.S. civil aircraft for temporary sojourn abroad; the export of equipment and spare parts for permanent use on a vessel or aircraft; and exports to vessels or planes of U.S. or Canadian registry and U.S. or Canadian Airlines' installations or agents. Generally, no License Exception symbol is necessary for export clearance purposes; however, when necessary, the symbol "AVS" may be used.

(a) *Aircraft on temporary sojourn.* (1) *Foreign registered aircraft.* An operating civil aircraft of foreign registry that has been in the United States on a temporary sojourn may depart from the United States under its own power for any destination, provided that:

(i) No sale or transfer of operational control of the aircraft to nationals of Cuba, Iran, Iraq, Libya, North Korea, Sudan, or Syria has occurred while in the United States;

(ii) The aircraft is not departing for the purpose of sale or transfer of operational control to nationals of Cuba, Iran, Iraq, Libya, North Korea, Sudan, or Syria; and

(iii) It does not carry from the United States any item for which an export license is required and has not been granted by the U.S. Government.

(2) *U.S. registered aircraft.* (i) A civil aircraft of U.S. registry operating under an Air Carrier Operating Certificate, Commercial Operating Certificate, or Air Taxi Operating Certificate issued by the Federal Aviation Administration or conducting flights under operating specifications approved by the Federal Aviation Administration pursuant to 14 CFR part 129 of the regulations of the Federal Aviation Administration, may depart from the United States under its own power for any destination, provided that:

(A) The aircraft does not depart for the purpose of sale, lease or other disposition of operational control of the aircraft, or its equipment, parts, accessories, or components to a foreign country or any national thereof;

(B) The aircraft's U.S. registration will not be changed while abroad;

(C) The aircraft is not to be used in any foreign military activity while abroad; and

(D) The aircraft does not carry from the United States any item for which a license is required and has not been granted by the U.S. Government.

(ii) Any other operating civil aircraft of U.S. registry may depart from the United States under its own power for any destination, except to Cuba, Iran, Iraq, Sudan, Syria, Libya, and North Korea (flights to these destinations require a license), provided that:

(A) The aircraft does not depart for the purpose of sale, lease or other disposition of operational control of the aircraft, or its equipment, parts, accessories, or components to a foreign country or any national thereof;

(B) The aircraft's U.S. registration will not be changed while abroad;

(C) The aircraft is not to be used in any foreign military activity while abroad;

(D) The aircraft does not carry from the United States any item for which an export license is required and has not been granted by the U.S. Government; and

(E) The aircraft will be operated while abroad by a U.S. licensed pilot, except that during domestic flights within a foreign country, the aircraft may be operated by a pilot currently licensed by that foreign country.

(3) *Criteria.* The following nine criteria each must be met if the flight is to qualify as a temporary sojourn. To be considered a temporary sojourn, the flight must not be for the purpose of sale or transfer of operational control. An export is for the transfer of operational control unless the exporter retains each of the following indicia of control:

(i) *Hiring of cockpit crew.* Right to hire and fire the cockpit crew.

(ii) *Dispatch of aircraft.* Right to dispatch the aircraft.

(iii) *Selection of routes.* Right to determine the aircraft's routes (except for contractual commitments entered into by the exporter for specifically designated routes).

(iv) *Place of maintenance.* Right to perform or obtain the principal maintenance on the aircraft, which principal maintenance is conducted outside Cuba, Iran, Iraq, Libya, North Korea, Sudan, or Syria, under the control of a party who is not a national of any of these countries. (The minimum necessary in-transit maintenance may be performed in any country).

(v) *Location of spares.* Spares are not located in Cuba, Iran, Iraq, Libya, North Korea, Sudan, or Syria.

(vi) *Place of registration.* The place of registration is not changed to Cuba, Iran, Iraq, Libya, North Korea, Sudan, or Syria.

(vii) No transfer of technology. No technology is transferred to a national of Cuba, Iran, Iraq, Libya, North Korea, Sudan, or Syria, except the minimum necessary in transit maintenance to perform flight line servicing required to depart safely.

(viii) *Color and logos.* The aircraft does not bear the livery, colors, or logos of a national of Cuba, Iran, Iraq, Libya, North Korea, Sudan, or Syria.

(ix) *Flight number.* The aircraft does not fly under a flight number issued to a national of Cuba, Iran, Iraq, Libya, North Korea, Sudan, or Syria as such a number appears in the Official Airline Guide.

(4) *Reexports.* Civil aircraft legally exported from the United States may be reexported under this section, provided the restrictions described in this paragraph (a) are met.

(b) *Equipment and spare parts for permanent use on a vessel or aircraft, and ship and plane stores.* (1) *Vessel.* Equipment and spare parts for permanent use on a vessel, when necessary for the proper operation of such vessel, may be exported or reexported for use on board a vessel of any registry, except a vessel registered in Country Group D:1 (see Supplement No. 1 to part 740), Cuba, or North Korea, or owned or controlled by, or under charter or lease to any of these countries or their nationals. In addition, other equipment and services for necessary repair to fishing and fishery support vessels of Country Group D:1 or North Korea may be exported for use on board such vessels when admitted into the United States under governing international fishery agreements.

(2) *Aircraft.* Equipment and spare parts for permanent use on an aircraft, when necessary for the proper operation of such aircraft, may be exported or reexported for use on board an aircraft of any registry, except an aircraft registered in, owned or controlled by, or under charter or lease to a country included in Country Group D:1, Cuba, Libya, or North Korea, or a national of any of these countries.

(3) *Ship and plane stores.* Usual and reasonable kinds and quantities of the following commodities may be exported for use or consumption on board an aircraft or vessel of any registry during the outgoing and immediate return flight or voyage. (Note that fuel and related commodities that qualify as ship or plane stores as described in this License Exception must be exported under the short supply License Exception SPR (see § 754.2(h) of the EAR.)

(i) Deck, engine, and steward department stores, provisions, and supplies for both port and voyage requirements;

(ii) Medical and surgical supplies;

(iii) Food stores;

(iv) Slop chest articles;

(v) Saloon stores or supplies.

(c) *Shipments to U.S. or Canadian vessels, planes and airline installations or agents.* (1) *Exports to vessels or planes of U.S. or Canadian registry.* Export may be made of the commodities set forth in paragraph (c)(3) of this section, for use by or on a specific vessel or plane of U.S. or Canadian registry located at any seaport or airport outside the United States or Canada except a port in Cuba, North Korea or Country Group D:1 (excluding the PRC and Romania), (see Supplement No. 1 to part 740) provided that such commodities are all of the following:[6]

(i) Ordered by the person in command or the owner or agent of the vessel or plane to which they are consigned;

(ii) Intended to be used or consumed on board such vessel or plane and necessary for its proper operation;

(iii) In usual and reasonable kinds and quantities during times of extreme need; and

(iv) Shipped as cargo for which a Shipper's Export Declaration (SED) is filed with the carrier, except that an SED is not required when any of the commodities, other than fuel, is exported by U.S. airlines to their own aircraft abroad for their use.

(2) *Exports to U.S. or Canadian airline's installation or agent.* Exports of the commodities set forth in paragraph (c)(3) of this section, except fuel, may be made to a U.S. or Canadian airline's[7] installation or agent in any foreign destination except Cuba, North Korea, or Country Group D:1 (excluding the PRC and Romania), (see Supplement No. 1 to part 740) provided such commodities are all of the following:

(i) Ordered by a U.S. or Canadian airline and consigned to its own installation or agent abroad;

(ii) Intended for maintenance, repair, or operation of aircraft registered in either the United States or Canada, and necessary for the aircraft's proper operation, except where such aircraft is located in, or owned, operated or controlled by, or leased or chartered to, Cuba, North Korea or Country Group D:1 (excluding the PRC) (see Supplement No. 1 to part 740) or a national of such country;

(iii) In usual and reasonable kinds and quantities; and

(iv) Shipped as cargo for which a Shipper's Export Declaration (SED) is filed with the carrier, except that an SED is not required when any of these commodities is exported by U.S. airlines to their own installations and agents abroad for use in their aircraft operations.

(3) *Applicable commodities.* This paragraph (c) applies to the following commodities, subject to the provisions in paragraph (c)(1) and (c)(2) of this section:

Note to paragraph (c)(3) of this section: Fuel and related commodities for shipment to vessels or planes of U.S. or Canadian registry as described in this License Exception must be shipped under the short supply License Exception SPR (see § 754.2(h) of the EAR);

(i) Deck, engine, and steward department stores, provisions, and supplies for both port and voyage requirements;

(ii) Medical and surgical supplies;

(iii) Food stores;

(iv) Slop chest articles;

(v) Saloon stores or supplies; and

[6] Where a validated license is required, see §§ 748.2 and 748.4(g) of the EAR.

[7] See Part 772 of the EAR for definitions of United States and Canadian airlines.

(vi) Equipment and spare parts.

§ 740.11 Additional permissive reexports (APR).

This License Exception allows the following reexports:

(a) *Reexports from Country Group A:1 and cooperating countries.* Reexports may be made from Country Group A:1 or from cooperating countries, provided that:

(1) The reexport is made in accordance with the conditions of an export authorization from the government of the reexporting country;

(2) The commodities being reexported are not controlled for nuclear nonproliferation, missile technology or crime control reasons; and

(3) The reexport is destined to *either*:

(i) A country in Country Group B *that is not also included in Country Group D:2, D:3, or D:4;* Cambodia; or Laos; and the commodity being reexported is both controlled for national security reasons and not controlled for export to Country Group A:1; or

(ii) A country in Country Group D:1 *only* (National Security) (see Supplement No. 1 to part 740), other than Cambodia or Laos, and the commodity being reexported is controlled for national security reasons.

(b) *Reexports to and among Country Group A:1 and cooperating countries.* Reexports may be made to and among Country Group A:1 and cooperating countries, provided that eligible commodities are for use or consumption within a Country Group A:1 (see Supplement No. 1 to part 740) or cooperating country, or for reexport from such country in accordance with other provisions of the EAR. All commodities except the following are eligible for reexport to and among Country Group A:1 and cooperating countries:

(1) Computers with a CTP greater than 10,000 MTOPS to Hong Kong and South Korea;

(2) Commodities controlled for nuclear nonproliferation reasons.

(c) Reexports to a destination to which direct shipment from the United States is authorized under an unused outstanding license may be made under the terms of that license. Such reexports shall be recorded in the same manner as exports are recorded, regardless of whether the license is partially or wholly used for reexport purposes. (See part 762 of the EAR for recordkeeping requirements.)

(d) Reexports of any item from Canada that, at the time of reexport, may be exported directly from the United States to the new country of destination under any License Exception.

(e) Reexports (return) to the United States of any item. If the reexporting party requests written authorization because the government of the country from which the reexport will take place requires formal U.S. Government approval, such authorization will generally be given.

(f) Reexports from a foreign destination to Canada of any item if the item could be exported to Canada without a license.

(g) Reexports between Switzerland and Liechtenstein.

(h) Shipments of foreign-made products that incorporate U.S.-origin components may be accompanied by U.S.-origin controlled spare parts, provided that they do not exceed 10 percent of the value of the foreign-made product, subject to the restrictions in § 734.4 of the EAR.

(i) Reexport to Sudan of items controlled by ECCNs 2A994, 3A993, 5A992, 5A995, 6A990, 6A994, 7A994, 8A992, 8A994, 9A990, 9A992, and 9A994. In addition, items in these ECCNs are not counted as controlled U.S. content for purposes of determining license requirements for U.S. parts, components, and materials incorporated into foreign-made products.

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Supplement No. 1 to Part 740

Country Group A

Country	[A: 1]	[A: 2] Missile Technology Control Regime	[A: 3] Australia Group	[A: 4] Nuclear Suppliers Group
Argentina		X	X	X
Australia	X	X	X	X
Austria		X	X	X
Belgium	X	X	X	X
Brazil		X		
Bulgaria				X
Canada	X	X	X	X
Czech Republic			X	X
Denmark	X	X	X	X
Finland		X	X	X
France	X	X	X	X
Germany	X	X	X	X
Greece	X	X	X	X
Hong Kong				
Hungary		X	X	X
Iceland		X	X	
Ireland		X	X	X
Italy	X	X	X	X
Japan	X	X	X	X
Korea, South				X
Luxembourg	X	X	X	X
Netherlands	X	X	X	X
New Zealand		X	X	X
Norway	X	X	X	X
Poland			X	X
Portugal	X	X	X	X
Romania			X	X
Russia		X		X
Slovakia			X	X
South Africa		X		X
Spain	X	X	X	X
Sweden		X	X	X
Switzerland		X	X	X
Turkey	X			
United Kingdom	X	X	X	X
United States	X	X	X	X

[1] Cooperating Countries

Supplement No. 1 to Part 740

Country Group B

Countries

Afghanistan
Algeria
Andorra
Angola
Antigua
Argentina
Australia
Austria
Bahamas
Bahrain
Bangladesh
Barbados
Barbuda
Belgium
Belize
Benin
Bhutan
Bolivia
Bosnia & Herzegovina
Botswana
Brazil
Brunei
Burkina Faso
Burma
Burundi
Cameroon
Canada
Cape Verde
Central African Republic
Chad
Chile
Colombia
Comoros
Congo
Costa Rica
Cote d'Ivoire
Croatia
Cyprus
Czech Republic
Denmark
Djibouti
Dominica
Dominican Republic
Ecuador
Egypt
El Salvador
Equatorial Guinea
Eritrea
Ethiopia
Fiji
Finland
France
Gabon
Gambia, The
Germany
Ghana
Greece
Grenada
Guatemala
Guinea
Guinea-Bissau
Guyana
Haiti
Honduras
Hong Kong
Hungary
Iceland
India
Indonesia
Ireland
Israel
Italy
Jamaica
Japan
Jordan
Kenya
Kiribati
Korea, South
Kuwait
Lebanon
Lesotho
Liberia
Liechtenstein
Luxembourg
Macedonia, the Former Yugoslav Republic of
Madagascar
Malawi
Malaysia
Maldives
Mali
Malta
Marshall Islands
Mauritania
Mauritius
Mexico
Micronesia, Federated States of
Monaco
Morocco
Mozambique
Namibia
Nauru
Nepal
Netherlands
New Zealand
Nicaragua
Niger
Nigeria
Norway
Oman
Pakistan
Palau
Panama
Papua New Guinea
Paraguay
Peru
Philippines
Poland
Portugal
Qatar
Saint Kitts & Nevis
Saint Lucia
Saint Vincent
San Marino
Sao Tome & Principe
Saudi Arabia
Senegal
Seychelles
Sierra Leone
Singapore
Slovakia
Slovenia
Solomon Islands
Somalia
South Africa
Spain
Sri Lanka
Surinam
Swaziland
Sweden
Switzerland
Taiwan
Tanzania
Thailand
Togo
Tonga
Trinidad & Tobago
Tunisia
Turkey
Tuvalu
Uganda
United Arab Emirates
United Kingdom
United States
Uruguay
Vanuatu
Vatican City
Venezuela
Western Sahara
Western Samoa
Yemen
Zaire
Zambia
Zimbabwe

Supplement No. 1 to Part 740

Country Group C

[Reserved]

Supplement No. 1 to Part 740

Country Group D

Country	[D: 1] National Security	[D: 2] Nuclear	[D: 3] Chemical & Biological	[D: 4] Missile Technology
Afghanistan			X	
Albania	X			
Algeria		X		
Andorra		X		
Angola		X		
Armenia	X		X	
Azerbaijan	X		X	
Bahrain			X	X
Belarus	X		X	
Bulgaria	X		X	
Burma			X	
Cambodia	X			
China (PRC)	X		X	X[1]
Comoros		X		
Cuba		X	X	
Djibouti		X		
Egypt			X	X
Estonia	X			
Georgia	X		X	
India		X	X	X[1]
Iran		X	X	X[1]
Iraq		X	X	X
Israel		X	X	X
Jordan			X	X
Kazakhstan	X		X	
Korea, North		X	X	X[1]
Kuwait			X	X
Kyrgyzstan	X		X	
Laos	X			
Latvia	X			
Lebanon			X	X
Libya		X	X	X
Lithuania	X			
Micronesia, Federated States of		X		
Moldova	X		X	
Mongolia	X		X	
Oman		X	X	X
Pakistan		X	X	X[1]
Qatar			X	X
Romania	X			
Russia	X		X	
Saudi Arabia			X	X
South Africa			X	
Syria			X	X
Taiwan			X	
Tajikstan	X		X	
Turkmenistan	X		X	
Ukraine	X		X	
United Arab Emirates		X	X	X
Uzbekistan	X		X	
Vanuatu		X		
Vietnam	X		X	
Yemen			X	X

[1] Certain Missile Technology projects have been identified in the following countries:

China	M Series Missiles, CSS-2
India	Agni, Prithvi, SLV-3 Satellite Launch Vehicle, Augmented Satellite Launch Vehicle (ASLV), Polar Satellite Launch Vehicle (PSLV), Geostationary Satellite Launch Vehicle (GSLV).
Iran	Surface-to-Surface Missile Project, Scud Development Project
Korea, North	No Dong I, Scud Development Project
Pakistan	Hatf Series Missiles

Supplement No. 1 to Part 740

Country Group E

Country	[E:1] UN Embargo	[E:2] Unilateral Embargo
Angola	X	
Bosnia & Herzegovina	X	
Cuba		X
Iraq	X	
Korea, North		X
Libya	X	X
Rwanda	X	
Serbia & Montenegro	X	

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Supplement No. 2 to Part 740—Items That May Be Donated To Meet Basic Human Needs Under the Humanitarian License Exception

(a) Health

Equipment for the Handicapped
Hospital Supplies and Equipment
Laboratory Supplies and Equipment
Medical Supplies and Devices
Medicine-Processing Equipment
Medicines
Vitamins
Water Resources Equipment

Food
Agricultural Materials and Machinery Suited to Small-Scale Farming Operations
Agricultural Research and Testing Equipment
Fertilizers
Fishing Equipment and Supplies Suited to Small-Scale Fishing Operations

(b) Food

Insecticides
Pesticides
Seeds
Small-Scale Irrigation Equipment
Veterinary Medicines and Supplies

(c) Clothes and Household Goods

Bedding
Clothes
Cooking Utensils
Fabric
Personal Hygiene Items
Soap-Making Equipment
Weaving and Sewing Equipment

(d) Shelter

Building Materials
Hand Tools

(e) Education

Books
Individual School Supplies
School Furniture
Special Education Supplies and Equipment for the Handicapped

(f) Basic Support Equipment and Supplies Necessary To Operate and Administer the Donative Program

Audio-Visual Aids for Training
Generators
Office Supplies and Equipment

PART 742—CONTROL POLICY—CCL BASED CONTROLS

Sec.
742.1 Introduction.
742.2 Proliferation of chemical and biological weapons.
742.3 Nuclear nonproliferation.
742.4 National security.
742.5 Missile technology.
742.6 Regional stability.
742.7 Crime control.
742.8 Anti-Terrorism: Iran.
742.9 Anti-Terrorism: Syria.
742.10 Anti-Terrorism: Sudan.
742.11 Specially designed implements of torture.
742.12 High performance computers.
742.13 Communications intercepting devices.

Supplement No. 1 to Part 742—Nonproliferation of Chemical and Biological Weapons

Supplement No. 2 to Part 742—Anti-Terrorism Controls; Iran, Syria and Sudan Contract Sanctity Dates and Related Policies

Supplement No. 3 to Part 742—High Performance Computers; Safeguard Conditions and Related Information

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; E.O. 12058, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 3 CFR, 1993 Comp., p. 608; E.O. 12924, 3 CFR, 1994 Comp., p. 917; E.O. 12938, 3 CFR, 1994 Comp., p. 950; Notice of August 15, 1995 (60 FR 42767, August 17, 1995).

§ 742.1 Introduction. In this part, references to the Export Administration Regulations (EAR) are references to 15 CFR chapter VII, subchapter C.

(a) *Scope.* This part describes all the reasons for control reflected in the Country Chart in Supplement No. 1 to part 738 of the EAR. In addition, it includes licensing requirements and licensing policies for the following items that are not reflected on the Country Chart: specially designed implements of torture, high performance computers, and communications intercepting devices. This part is organized so that it lists each reason for control in the order (reading left to right) in which the control appears on the Country Chart. In addition to describing the reasons for control and licensing requirements and policies, this part describes any applicable contract sanctity provisions that may apply to specific controls and includes a description of any multilateral regime under which specific controls are maintained.

(b) *Reasons for control listed on the CCL not covered by this part.* This part describes the license requirements and the licensing policies for all the "Reasons for Control" that are listed on the Commerce Control List (CCL) except "Short Supply" and "U.N. Sanctions," which do not appear on the Country Chart.

(1) *Short Supply.* ECCNs containing items subject to short supply controls ("SS") refer the exporter to part 754 of the EAR. These ECCNs are: 0A980 (Horses for export by sea); 1C980 (certain inorganic chemicals); 1C981 (Crude petroleum, including reconstituted crude petroleum, tar sands, and crude shale oil); 1C982 (certain other petroleum products); 1C983 (Natural gas liquids and other natural gas derivatives); 1C984 (certain manufactured gas and synthetic natural gas (except when commingled with natural gas and thus subject to export authorization from the Department of Energy); and 1C988 (Western red cedar (thuja plicata) logs and timber, and rough, dressed and worked lumber containing wane).

(2) *U.N. Sanctions.* The United Nations imposes sanctions, short of complete embargoes, against certain countries which may result in controls that supplement those otherwise maintained under the EAR for that particular country. This part does not address license requirements and licensing policies for controls implementing U.N. sanctions. CCL entries containing items subject to U.N. sanctions will refer the exporter to part 746 of the EAR, Embargoes and Other Special Controls, for any supplemental controls that may apply to exports and reexports involving these countries.

(c) *Exports and reexports involving Cuba, Libya, North Korea, Iraq, Iran, and the Bosnian Serb-controlled areas of Bosnia-Herzegovina.* This part does not cover license requirements and licensing policies that apply to exports and reexports to embargoed destinations (Cuba, Libya, North Korea, Iraq, Iran and the Bosnian-Serb controlled areas of Bosnia-Herzegovina). These comprehensive embargoes cover a broader range of items than those reflected in the CCL. If you are exporting or reexporting to any of these destinations, you should first review part 746 of the EAR, Embargoes and Other Special Controls.

(d) *Anti-terrorism Controls on Cuba, Libya, Iran, Iraq, North Korea, Sudan and Syria.* Commerce maintains anti-terrorism controls on Iran, Syria and Sudan under section 6(a) of the Export Administration Act. Items controlled under section 6(a) to these three countries are described in Supplement No. 2 to part 742. Commerce also maintains controls under EAA section 6(j) of the EAA to Cuba, Libya, Iraq, Iran, North Korea, Sudan and Syria. Items controlled to these seven countries under EAA section 6(j) are also described in Supplement 2 to part 742. The Secretaries of Commerce and State are required to notify appropriate Committees of the Congress 30 days before issuing a license for an item controlled under section 6(j) to Cuba, Libya, North Korea, Iran, Iraq, Sudan or Syria. As noted in paragraph (c) of this section, if you are exporting or reexporting to Cuba, Libya, Iran, Iraq and North Korea, you should review Part 746 of the EAR, Embargoes and Other Special Controls.

(e) *End-user and end-use based controls.* This part does not cover prohibitions and licensing requirements for exports of items not included on the CCL that are subject to end-use and end-user controls: certain nuclear end-uses; certain missile end-uses; certain chemical and biological weapons end-uses; certain naval nuclear propulsion end-uses; certain activities of U.S. persons; certain exports to and for the use of certain foreign vessels or aircraft; and certain exports to all countries for Libyan aircraft. Licensing requirements and policies for these exports are contained in part 744 of the EAR.

(f) *Overlapping license policies.* Many items on the CCL are subject to more than one type of control (e.g., national security (NS), missile technology (MT), nuclear nonproliferation (NP), regional stability (RS)). In addition, applications for all items on the CCL, other than those controlled for short supply reasons, may be reviewed for missile technology (see § 742.5(b)(3) of this part), nuclear nonproliferation (see § 742.3(b)(2) of this part), or chemical and biological weapons (see § 742.3(b)(3) of this part), if the end-use or end-user may be involved in certain proliferation activities. Finally, many multilaterally controlled items are reviewed for anti-terrorism reasons if they are destined for a terrorism-supporting country (see paragraph (d) of this section). Your application for a license will be reviewed under all applicable licensing policies. A license will be issued only if an application can be approved under all applicable licensing policies.

§ 742.2 Proliferation of chemical and biological weapons.

(a) *License requirements.* The following controls are maintained in support of the U.S. foreign policy of opposing the proliferation and illegal use of chemical and biological weapons:

(1) If CB Column 1 of the Country Chart (Supplement No. 1 to part 738 of the EAR) is indicated in the appropriate ECCN, a license is required to all destinations except Canada for the following:

(i) Human pathogens, zoonoses, toxins, animal pathogens, genetically modified microorganisms and plant pathogens identified in ECCNs 1C351, 1C352, 1C353 and 1C354; and

(ii) Technology (ECCN 1E391) for the production and/or disposal of microbiological commodities described in paragraph (a)(1)(i) of this section.

(2) If CB Column 2 of the Country Chart (Supplement No. 1 to part 738 of the EAR) is indicated in the appropriate ECCN, a license is required to all destinations except countries in Country Group A:3 (see Supplement No. 1 to part 740 of the EAR) (Australia Group members) for the following:

(i) Chemicals identified in ECCN 1C350 (precursor and intermediate chemicals used in the production of chemical warfare agents).

(A) This licensing requirement includes chemical mixtures containing any chemicals identified in ECCN 1C350, except as specified in Note 2 to that ECCN.

(B) This licensing requirement does not include chemical compounds created with any chemicals identified in ECCN 1C350, unless those compounds are also identified in ECCN 1C350.

(ii) Software (ECCN 1D390) for process control that is specifically configured to control or initiate production of the chemical precursors controlled by ECCN 1C350.

(iii) Technology (ECCN 1E390) for the production and/or disposal of chemical precursors described in ECCN 1C350, and technology involving the following for facilities designed or intended to produce chemicals described in ECCN 1C350:

(A) Overall plant design;

(B) Design, specification, or procurement of equipment;

(C) Supervision of construction, installation, or operation of complete plant or components thereof;

(D) Training of personnel; or

(E) Consultation on specific problems involving such facilities.

(3) If CB Column 3 of the Country Chart (Supplement No. 1 to part 738 of the EAR) is indicated in the appropriate ECCN, a license is required to Country Group D:3 (see Supplement No. 1 to part 740 of the EAR) for the following:

(i) Equipment and materials identified in ECCNs 2B350 and 2B351 on the CCL, which can be used in the production of chemical weapons precursors or chemical warfare agents, and equipment and materials identified in ECCN 2B352, which can be used in the production of biological agents; and

(ii) Technology (ECCN 2E301) for production of the commodities covered in ECCNs 2B350, 2B351, 2B352, 2B353 and 2B354.

(b) *Licensing policy.* (1) License applications for the items described in paragraph (a) of this section will be considered on a case-by-case basis to determine whether the export or reexport would make a material contribution to the design, development, production, stockpiling, or use of chemical or biological weapons. When an export or reexport is deemed to make such a contribution, the license will be denied.

(2) The following factors are among those that will be considered to determine what action should be taken on individual license applications:

(i) The specific nature of the end-use;

(ii) The significance of the export and reexport in terms of its contribution to the design, development, production, stockpiling, or use of chemical or biological weapons;

(iii) The nonproliferation credentials of the importing country;

(iv) The types of assurances or guarantees against design, development, production, stockpiling, or use of chemical or biological weapons that are given in a particular case; and

(v) The existence of a pre-existing contract.

(3) BXA will review license applications in accordance with the licensing policy described in paragraph (b)(2) of this section for items not described in paragraph (a) of this section that:

(i) Require a license for reasons other than short supply;

(ii) Are destined to any country except countries in Country Group A:3 (see Supplement No. 1 to part 740 of the EAR) (Australia Group members); and

(iii) Could be destined for the design, development, production, stockpiling, or use of chemical or biological weapons, or for a facility engaged in such activities.

(c) *Contract sanctity.* Contract sanctity dates are set forth in Supplement No. 1 to part 742. Applicants who wish that a preexisting contract be considered in reviewing their license applications must submit documentation sufficient to establish the existence of such a contract.

(d) *Australia Group.* The Australia Group, a multilateral body that works to halt the spread of chemical and biological weapons, has developed common control lists of items specifically related to chemical and biological weapons. Australia Group members are listed in Country Group A:3 (see Supplement No. 1 to part 740 of the EAR). Controls on items listed in paragraph (a) of this section are consistent with lists agreed to in the Australia Group.

§ 742.3 Nuclear nonproliferation.

(a) *License requirements.* Section 309(c) of the Nuclear Non-Proliferation Act of 1978 requires BXA to identify items subject to the EAR that could be of significance for nuclear explosive purposes if used for activities other than those authorized at the time of export or reexport. ECCNs on the CCL that include the symbol "NP 1" or "NP 2" in the "Country Chart" column of the "License Requirements" section identify items that could be of significance for nuclear explosive purposes and are therefore subject to licensing

requirements under this part and under section 309(c) of the Nuclear Non-Proliferation Act of 1978. These items are referred to as "The Nuclear Referral List" and are subject to the following licensing requirements:

(1) If NP Column 1 of the Country Chart (Supplement No. 1 to part 738 of the EAR) is indicated in the appropriate ECCN, a license is required to all destinations except Nuclear Suppliers Group (NSG) member countries (Country Group A:4) (see Supplement No. 1 to part 740 of the EAR).

(2) If NP Column 2 of the Country Chart (Supplement No. 1 to part 738 of the EAR) is indicated in the applicable ECCN, a license is required to Country Group D:2 (see Supplement No. 1 to part 740 of the EAR).

(3) Other nuclear-related license requirements are described in §§ 744.2 and 744.5 of the EAR.

(b) *Licensing policy.* (1) To implement the controls in paragraph (a) of this section, the following factors are among those used to determine what action should be taken on individual applications:

(i) Whether the items to be transferred are appropriate for the stated end-use and whether that stated end-use is appropriate for the end-user;

(ii) The significance for nuclear purposes of the particular item;

(iii) Whether the items to be exported or reexported are to be used in research on, or for the development, design, manufacture, construction, operation, or maintenance of, any reprocessing or enrichment facility;

(iv) The types of assurances or guarantees given against use for nuclear explosive purposes or proliferation in the particular case;

(v) Whether any party to the transaction has been engaged in clandestine or illegal procurement activities;

(vi) Whether an application for a license to export or reexport to the end-user has previously been denied, or whether the end-user has previously diverted items received under a general license, a License Exception, or a validated license to unauthorized activities;

(vii) Whether the export or reexport would present an unacceptable risk of diversion to a nuclear explosive activity or unsafeguarded nuclear fuel-cycle activity described in § 744.2(a) of the EAR; and

(viii) The nonproliferation credentials of the importing country, based on consideration of the following factors:

(A) Whether the importing country is a party to the Nuclear Non-Proliferation Treaty (NPT) or to the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco) or to a similar international legally-binding nuclear nonproliferation agreement;

(B) Whether the importing country has all of its nuclear activities, facilities, or installations that are operational, being designed, or under construction under International Atomic Energy Agency (IAEA) safeguards or equivalent full scope safeguards;

(C) Whether there is an agreement for cooperation in the civil uses of atomic energy between the U.S. and the importing country;

(D) Whether the actions, statements, and policies of the government of the importing country are in support of nuclear nonproliferation and whether that government is in compliance with its international obligations in the field of non-proliferation;

(E) The degree to which the government of the importing country cooperates in non-proliferation policy generally (e.g., willingness to consult on international nonproliferation issues); and

(F) Information on the importing country's nuclear intentions and activities.

(2) In addition, BXA will review license applications in accordance with the licensing policy described in paragraph (b) of this section for items *not* on the Nuclear Referral List that:

(i) Require a license on the CCL for reasons other than "short supply;" and

(ii) Are intended for a nuclear related end-use or end-user.

(3) For the People's Republic of China, the general licensing policy for applications for those items that would make a direct and significant contribution to nuclear weapons and their delivery systems is extended review or denial.

(c) *Contract sanctity.* Contract sanctity provisions are not available for license applications reviewed under this section.

(d) *Nuclear Suppliers Group.* Most items on the Nuclear Referral List that require a license under NP Column No. 1 on the Country Chart (see Supplement No. 1 to part 738 of the EAR) are contained in the Annex to the "Guidelines for Transfers of Nuclear-Related Dual-Use Equipment, Material, and Related Technology" (the Annex), as published by the International Atomic Energy Agency in INFCIRC/254/Revision 1/Part 2. The adherents to INFCIRC/254/Revision 1/Part 2, which includes the Nuclear Suppliers Guidelines, have agreed to establish export licensing procedures for the transfer of items identified in the Annex. Items that are listed as requiring a license under NP Column No. 2 on the Country Chart (see Supplement No. 1 to part 738 of the EAR) are not included in the Annex and are controlled only by the United States.

§ 742.4 National security.

(a) *License requirements.* It is the policy of the United States to restrict the export and reexport of items that would make a significant contribution to the military potential of any other country or combination of countries that would prove detrimental to the national security of the United States. Accordingly, a license is required for exports and reexports to all destinations, except Canada, for all items in ECCNs on the CCL that include NS Column 1 in the Country Chart column of the "License Requirements" section. A license is required to all destinations except Country Group A:1 and cooperating countries (see Supplement No. 1 to part 740) for all items in ECCNs on the CCL that include NS Column 2 in the Country Chart column of the "License Requirements" section. The purpose of the controls is to ensure that these items do not make a contribution to the military potential of countries in Country Group D:1 (see Supplement No. 1 to part 740 of the EAR) that would prove detrimental to the national security of the United States. License Exception GBS is available for the export and reexport of certain national security controlled items to Country Group B (see § 740.3(b) and Supplement No. 1 to part 740 of the EAR).

(b) *Licensing policy.* (1) The policy for national security controlled items exported or reexported to any country except a country in Country Group D:1 (see Supplement No. 1 to part 740 of the EAR) is to approve applications unless there is a significant risk that the items will be diverted to a country in Country Group D:1.

(2) Except for those countries described in paragraphs (b)(5) through (b)(7) of this section, the general policy for exports and reexports of items to Country Group D:1 (see Supplement No. 1 to part 740 of the EAR) is to approve applications when BXA determines, on a case-by-case basis, that the items are for civilian use or would otherwise not make a significant contribution to the military potential of the country of destination that would prove detrimental to the national security of the United States.

(3) To permit such policy judgments to be made, each application is reviewed in the light of prevailing policies with full consideration of all aspects of the proposed transaction. The review generally includes:

(i) An analysis of the kinds and quantities of items to be shipped;

(ii) Their military or civilian uses;

(iii) The unrestricted availability abroad of the same or comparable items;

(iv) The country of destination;

(v) The ultimate end-users in the country of destination; and

(vi) The intended end-use.

(4) Although each proposed transaction is considered individually, items described in Advisory Notes on the Commerce Control List are more likely to be approved than others.

(5) In recognition of efforts made to adopt safeguard measures for exports and reexports, Bulgaria, Latvia, Kazakhstan, Lithuania, Mongolia, and Russia are accorded enhanced favorable consideration licensing treatment.

(6) The general policy for Cambodia and Laos is to approve license applications when BXA determines, on a case-by-case basis, that the items are for an authorized use in Cambodia or Laos and are not likely to be diverted to another country or use contrary to the national security or foreign policy controls of the United States.

(7) For the People's Republic of China, the general licensing policy is to approve applications, except that those items that would make a direct and significant contribution to electronic and anti-submarine warfare, intelligence gathering, power projection, and air superiority receive extended review or denial. Each application will be considered individually. Items may be approved even though they may contribute to Chinese military development or the end-user or end-use is military. Note that the Advisory Notes in the CCL headed "Note for the People's Republic of China" provide guidance on equipment likely to be approved more rapidly for China.

(c) *Contract sanctity.* Contract sanctity provisions are not available for license applications reviewed under this section.

(d) [Reserved]

§ 742.5 Missile technology.

(a) *License requirements.* (1) In support of U.S. foreign policy to limit the proliferation of missiles, a license is required to export and reexport items related to the design, development, production, or use of missiles. These items are identified in ECCNs on the CCL as MT Column No. 1 in the Country Chart column of the "License Requirements" section. Licenses for these items are required to all destinations, except Canada, as indicated by MT Column 1 of the Country Chart (see Supplement No. 1 to part 738 of the EAR).

(2) The term "missiles" is defined as rocket systems (including ballistic missile systems, space launch vehicles, and sounding rockets) and unmanned air vehicle systems (including cruise missile systems, target drones, and reconnaissance drones) capable of delivering at least 500 kilograms (kg) payload to a range of at least 300 kilometers (km).

(b) *Licensing policy.* (1) Applications to export and reexport items identified in ECCNs on the CCL as MT Column No. 1 in the Country Chart column of the "License Requirements" section will be considered on a case-by-case basis to determine whether the export or reexport would make a material contribution to the proliferation of missiles. Applications for exports and reexports of such items contained in Category 7A or described by ECCN 9A101 on the CCL will be considered more favorably if such exports or reexports are determined to be destined to a manned aircraft, satellite, land vehicle, or marine vessel, in quantities appropriate for replacement parts for such applications. When an export or reexport is deemed to make a material contribution to the proliferation of missiles, the license will be denied.

(2) The following factors are among those that will be considered in reviewing individual applications.

(i) The specific nature of the end-use;

(ii) The significance of the export and reexport in terms of its contribution to the design, development, production, or use of missiles;

(iii) The capabilities and objectives of the missile and space programs of the recipient country;

(iv) The nonproliferation credentials of the importing country;

(v) The types of assurances or guarantees against design, development, production, or use of missiles that are given in a particular case; and

(vi) The existence of a preexisting contract.

(3) *Controls on other items.* BXA will review license applications, in accordance with the licensing policy described in paragraph (b)(1) of this section, for items not described in paragraph (a) of this section that:

(i) Require a validated license for reasons other than short supply; and

(ii) Could be destined for the design, development, production, or use of missiles, or for a facility engaged in such activities.

(c) *Contract sanctity.* The following contract sanctity dates have been established:

(1) License applications for batch mixers specified in ECCN 1B115.a involving contracts that were entered into prior to January 19, 1990, will be considered on a case-by-case basis.

(2) License applications subject to ECCN 1B115.b or .c that involve a contract entered into prior to March 7, 1991, will be considered on a case-by-case basis.

(3) Applicants who wish that a pre-existing contract be considered in reviewing their license applications must submit documentation sufficient to establish the existence of a contract.

(d) *Missile Technology Control Regime.* Missile Technology Control Regime (MTCR) members are listed in Country Group A:2 (see Supplement No. 1 to part 740 of the EAR). Controls on items identified in paragraph (a) of this section are consistent with the list agreed to in the MTCR and included in the MTCR Annex.

§ 742.6 Regional stability.

(a) *License requirements.* The following controls are maintained in support of U.S. foreign policy to maintain regional stability:

(1) As indicated in the CCL and in RS Column 1 of the Country Chart (see Supplement No. 1 to part 738 of the EAR), a license is required to all destinations, except Canada, for items described on the CCL under ECCNs 6A002.a.1, a.2, a.3, or .c; 6A003.b.3 and b.4; 6D102 (only software for development of items in 6A002.a.1, a.2, a.3 or .c); 6E001 (only technology for development of items in 6A002.a.1, a.2, a.3, and .c, or 6A003.b.3 and b.4); 6E002 (only technology for production of items in 6A002.a.1, a.2, a.3, or .c, or 6A003.b.3 or b.4); 7D001 (only software for development or production of items in 7A001, 7A002, or 7A003); 7E001 (only technology for the development of inertial navigation systems, inertial equipment, and specially designed components therefor for civil aircraft); 7E002 (only technology for the production of inertial navigation systems, inertial equipment, and specially designed components therefor for civil aircraft).

(2) As indicated in the CCL and in RS Column 2 of the Country Chart (see Supplement No. 1 to part 738 of the EAR), a license is required to any destination except countries in Country Group A:1 (see Supplement No. 1 to part 740 of the EAR), Iceland and New Zealand for military vehicles and certain commodities (specially designed) used to manufacture military equipment, described on the CCL in ECCNs 0A018.c, 1B018.a, 2B018, and 9A018.a and .b.

(b) *Licensing policy.* (1) Applications to export and reexport items described in paragraph (a)(1) of this section will be reviewed on a case-by-case basis to determine whether the export or reexport could contribute directly or indirectly to any country's military capabilities in a manner that would alter or destabilize a region's military balance contrary to the foreign policy interests of the United States.

(2) Applications to export and reexport commodities described in paragraph (a)(2) of this section will generally be considered favorably on a case-by-case basis unless there is evidence that the export or reexport would contribute significantly to the destabilization of the region to which the equipment is destined.

(c) *Contract sanctity.* Contract sanctity provisions are not available for license applications reviewed under this section.

(d) *U.S. controls.* Although the United States seeks cooperation from like-minded countries in maintaining regional stability controls, at this time these controls are maintained only by the United States.

§ 742.7 Crime control.

(a) *License requirements.* In support of U.S. foreign policy to promote the observance of human rights throughout the world, a license is required to export and reexport crime control and detection equipment, related technology and software as follows:

(1) Crime control and detection instruments and equipment and related technology and software identified in the appropriate ECCNs on the CCL under CC Column No. 1 in the Country Chart column of the "License Requirements" section. A license is required to countries listed in CC Column 1 (Supplement No. 1 to part 738 of the EAR). Items affected by this requirement are identified on the CCL under the following ECCNs: 0A982, 0A984, 0A985, 0E984, 1A984, 3A980, 3A981, 3D980, 3E980, 4A003 (fingerprint computers only), 4A980, 4D001 (for fingerprint computers only), 4D980, 4E001 (for fingerprint computers only); 4E980, 6A002 (police-model infrared viewers only), 6E001 (for police-model infrared viewers only), 6E002 (for police-model infrared viewers only), and 9A980.

(2) Shotguns with a barrel length of 24 inches or more identified in ECCN 0A984 on the CCL under CC Column No. 2 in the Country Chart column of the "License Requirements" section regardless of end-user to countries listed in CC Column 2 (Supplement No. 1 to part 738 of the EAR).

(3) Shotguns with barrel length over 24 inches, identified in ECCN 0A984 on the CCL under CC Column No. 3 in the Country Chart column of the "License Requirements" only if for sale or resale to police or law enforcement entities to countries listed in CC Column 3 (Supplement No. 1 to part 738 of the EAR).

(b) *Licensing policy.* Applications for items controlled under this section will generally be considered favorably on a case-by-case basis unless there is evidence that the government of the importing country may have violated internationally recognized human rights and that the judicious use of export controls would be helpful in deterring the development of a consistent pattern of such violations or in distancing the United States from such violations.

(c) *Contract sanctity.* Contract sanctity provisions are not available for license applications reviewed under this section.

(d) *U.S. controls* . Although the United States seeks cooperation from like-minded countries in maintaining controls on crime control and detection items, at this time these controls are maintained only by the United States.

§ 742.8 Anti-Terrorism: Iran.

(a) *License requirements.* (1) If AT column 1 or AT column 2 of the Country Chart (Supplement No. 1 to Part 738 of the EAR) is indicated in the appropriate ECCN, a license is required for export to Iran for anti-terrorism purposes. In addition, portable electric power generators and related software and technology (ECCNs 2A994, 2D994 and 2E994) are controlled for export to Iran for anti-terrorism purposes. See paragraph (a)(5) of this section for controls maintained by the Department of the Treasury.

(2) If AT column 1 or AT column 2 of the Country Chart (Supplement No. 1 to part 738 of the EAR) is indicated in the appropriate ECCN, a license is required for reexport to Iran for anti-terrorism purposes, except for ECCNs 2A994, 3A993, 5A992, 5A995, 6A990, 6A994, 7A994, 8A992, 8A994, 9A990, 9A992 and 9A994. In addition, items in these ECCNs are not counted as controlled U.S. content for the purpose of determining license requirements for U.S. parts, componénts or materials incorporated into foreign-made products. However, the export from the United States to any destination with knowledge that they will be reexported directly or indirectly, in whole or in part to Iran is prohibited without a license. See § 740.9 of the EAR for additional information. See paragraph (a)(5) of this section for controls maintained by the Department of the Treasury.

(3) The Secretary of State has designated Iran as a country whose Government has repeatedly provided support for acts of international terrorism.

(4) In support of U.S. foreign policy on terrorism-supporting countries, BXA maintains two types of anti-terrorism controls on the export and reexport of items described in Supplement 2 to part 742.

(i) Items described in paragraphs (c)(1) through (c)(5) of Supplement No. 2 to part 742 are controlled under section 6(j) of the Export Administration Act, as amended (EAA), if destined to military, police, intelligence or other sensitive end-users.

(ii) Items described in paragraphs (c)(1) through (c)(5) of Supplement No. 2 to part 742 destined to non-sensitive end-users, as well as items described in paragraphs (c)(6) through (c)(39) to all end-users, are controlled to Iran under section 6(a) of the EAA. (See Supplement No. 2 to part 742 for more information on items controlled under sections 6(a) and 6(j) of the EAA and § 750.6 of the EAR for procedures for processing license applications for items controlled under EAA section 6(j).)

(5) Exports and certain reexports to Iran are subject to a comprehensive embargo administered by the Department of the Treasury's Office of Foreign Assets Control (OFAC). If you wish to export or reexport to Iran, the Government of Iran or any entity owned or controlled by that Government, you should review part 746 of the EAR and consult with OFAC. Please note that authorization from OFAC constitutes authorization under the EAR and no separate license or authorization from BXA is required.

(b) *Licensing policy.* (1) The Iran-Iraq Arms Non-Proliferation Act of October 23, 1992, requires BXA to deny licenses for items controlled to Iran for national security (section 5 of the 1979 EAA) or foreign policy reasons (section 6 of the 1979 EAA), absent contract sanctity or a Presidential waiver. License applications for which contract sanctity is established may be considered under policies in effect prior to the enactment of that Act. Otherwise, licenses for such items to Iran are subject to a general policy of denial.

(2) License applications for items controlled under section 6(a) of the EAA will also be reviewed to determine whether requirements of section 6(j) apply. Whenever the Secretary of State determines that an export or reexport could make a significant contribution to the military potential of Iran, including its military logistics capability, or could enhance Iran's ability to support acts of international terrorism, the Secretaries of State and Commerce will notify the Congress 30 days prior to the issuance of a license.

(c) *Contract sanctity.* Contract sanctity dates and related policies for Iran are listed in Supplement No. 2 to part 742. Applicants who wish a pre-existing contract to be considered must submit sufficient evidence to establish the existence of a contract.

(d) *U.S. controls.* Although the United States seeks cooperation from like-minded countries in maintaining anti-terrorism controls, at this time these controls are maintained only by the United States.

§ 742.9 Anti-terrorism: Syria.

(a) *License requirements.* (1) If AT Column 1 of the Country Chart (Supplement No. 1 to part 738 of the EAR) is indicated in the appropriate ECCN, a license is required for export and reexport to Syria for anti-terrorism purposes.

(2) The Secretary of State has designated Syria as a country whose government has repeatedly provided support for acts of international terrorism.

(3) In support of U.S. foreign policy against terrorism, BXA maintains two types of anti-terrorism controls on the export and reexport to Syria of items described in Supplement No. 2 to part 742.

(i) Items described in paragraphs (c)(1) through (c)(5) of Supplement No. 2 to part 742, if destined to military, police, intelligence or other end-users in Syria, are controlled under section 6(j) of the Export Administration Act, as amended (EAA).

(ii) Items listed in paragraphs (c)(1) through (c)(5) of Supplement No. 2 to part 742 destined to other end-users in Syria, as well as items to all end-users listed in (c)(6) through (c)(8), (c)(10) through (c)(14), (c)(16) through (c)(19), and (c)(22) through (c)(39) of Supplement No. 2 to part 742, are controlled to Syria under section 6(a) of the EAA.

(b) *Licensing policy.* (1) Applications for export and reexport to all end-users in Syria of the following items will generally be denied:

(i) Items that are controlled for chemical and biological weapons proliferation reasons to any destination. These are items that contain CB Column 1, CB Column 2, or CB Column 3 in the Country Chart column of the "License Requirements" section of an ECCN on the CCL.

(ii) Military-related items controlled for national security reasons to any destination. These are items that contain NS Column 1 in the Country Chart column of the "License Requirements" section in an ECCN on the CCL *and* is controlled by equipment or material entries ending in the number "18."

(iii) Items that are controlled for missile proliferation reasons to any destination. These are items that have an MT Column 1 in the Country Chart column of the "License Requirements" section of an ECCN on the CCL.

(iv) All aircraft (powered and unpowered), helicopters, engines, and related spare parts and components. These are items controlled to any destination for national security reasons and items controlled to Syria for anti-terrorism purposes. Such items contain an NS Column 1, NS Column 2, or AT Column 1 in the Country Chart column of the "License Requirements" section of an ECCN on the CCL. Note that, consistent with the general rule that applies to computing U.S. parts and components content incorporated in foreign made products, all aircraft-related items that require a license to Syria will be included as controlled US content for purposes of such license requirements.

(v) Cryptographic, cryptoanalytic, and cryptologic items controlled to any destination for national security reasons. Such items contain an AT Column 1 and an NS Column 1 or NS Column 2 in the Country Chart column of the "License Requirements" section of an ECCN on the CCL.

(vi) Explosive device detectors controlled under ECCN 2A993.

(2) Applications for export and reexport to Syria of all other items described in paragraph (a) of this section, and not described by paragraph (b)(1) of this section, will generally be denied if the export or reexport is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(3) Notwithstanding the provisions of paragraphs (b)(1) and (b)(2), of this section, applications for Syria will be considered on a case-by-case basis if:

(i) The transaction involves the reexport to Syria of items where Syria was not the intended ultimate destination at the time of original export from the United States, provided that the exports from the U.S. occurred prior to the applicable contract sanctity date (or, where the contract sanctity date is December 16, 1986, prior to June 18, 1987).

(ii) The U.S. content of foreign-produced commodities is 20% or less by value; or

(iii) The commodities are medical items.

Note to paragraph (b) of this section: Applicants who wish any of the factors described in paragraph (b) of this section to be considered in reviewing their license applications must submit adequate documentation demonstrating the value of the U.S. content, the specifications and medical use of the equipment, or the date of export from the United States.

(4) License applications for items reviewed under 6(a) controls will also be reviewed to determine the applicability of 6(j) controls to the transaction. When it is determined that an export or reexport could make a significant contribution to the military potential of Syria, including its military logistics capability, or could enhance Syria's ability to support acts of international terrorism, the Secretaries of State and Commerce will notify the Congress 30 days prior to issuance of a license.

(c) *Contract sanctity.* Contract sanctity dates and related licensing policies for Syria are set forth in Supplement No. 2 to part 742. Applicants who wish a pre-existing contract to be considered must submit sufficient documentation to establish the existence of a contract.

(d) *U.S. controls.* Although the United States seeks cooperation from like-minded countries in maintaining anti-terrorism controls, at this time these controls are maintained only by the United States.

§ 742.10 Anti-terrorism: Sudan.

(a) *License requirements.* (1) If AT column 1 or AT column 2 [1] of the Country Chart (Supplement No. 1 to part 738 of the EAR) is indicated in the appropriate ECCN, a license is required for export to Sudan for anti-terrorism purposes.

(2) If AT column 1 or AT column 2 of the Country Chart (Supplement No. 1 to part 738 of the EAR) is indicated in the appropriate ECCN, a license is required for reexport to Sudan for anti-terrorism purposes, except for ECCNs 2A994, 3A993, 5A992, 5A995, 6A990, 6A994, 7A994, 8A992, 8A994, 9A990, 9A992 and 9A994. In addition, items in these ECCNs are not counted as controlled U.S. content for the purpose

[1] AT column 1 refers to items controlled to Iran, Sudan, and Syria for anti-terrorism purposes. AT column 2 refers to additional items controlled to Iran and Sudan for anti-terrorism purposes. In addition, items included in ECCNs 2A994, 2D994 and 2E994 are controlled to Iran for anti-terrorism purposes.

of determining license requirements for U.S. parts, components or materials incorporated into foreign made products. However, the export from the United States to any destination with knowledge that they will be reexported directly or indirectly, in whole or in part to Sudan is prohibited without a license. See § 740.9 of the EAR for additional information.

(3) The Secretary of State has designated Sudan as a country whose government has repeatedly provided support for acts of international terrorism.

(4) In support of U.S. foreign policy against terrorism, BXA maintains anti-terrorism controls on the export and reexport to Sudan of items described in Supplement No. 2 to part 742.

(i) Items described in paragraph (c)(1) through (c)(5) of Supplement No. 2 to part 742 if destined to military, police, intelligence or other sensitive end-users in Sudan are controlled under section 6(j) of the Export Administration Act, as amended (EAA).

(ii) Items listed in paragraphs (c)(1) through (c)(5) of Supplement No. 2 to part 742 destined to other end-users in Sudan, as well as items to all end-users listed in (c)(6) through (c)(14) and (c)(16) through (c)(39) of Supplement No. 2 to part 742 are controlled to Sudan under section 6(a) of the EAA.

(b) *Licensing policy.* (1) Applications for export and reexport to all end-users in Sudan of the following items will generally be denied:

(i) Items that are controlled for chemical and biological weapons proliferation reasons to any destination. These are items that contain CB Column 1, CB Column 2, or CB Column 3 in the Country Chart column of the "License Requirements" section of an ECCN on the CCL.

(ii) Military-related items controlled for national security reasons to any destination. These are items that contain NS Column 1 in the Country Chart column of the "License Requirements" section of an ECCN on the CCL and is controlled by equipment or material entries ending in the number "18."

(iii) Items that are controlled for missile proliferation reasons to any destination. These are items that contain a MT Column 1 in the Country Chart column of the "License Requirements" section of an ECCN on the CCL.

(iv) All aircraft (powered and unpowered), helicopters, engines, and related spare parts and components. These are items controlled to any destination for national security reasons and items controlled to Sudan for anti-terrorism reasons. Such items contain an NS Column 1, NS Column 2, or AT Column 1 in the Country Chart column of the "License Requirements" section of an ECCN on the CCL. Note that, consistent with the general rule that applies to computing U.S. parts and components content incorporated in foreign made products, all aircraft-related items that require a license to Sudan will be included as controlled US content for purposes of such license requirements.

(v) Cryptographic, cryptoanalytic, and cryptologic items controlled to any destination. These are items that contain an NS Column 1, NS Column 2, AT Column 1 or AT Column 2 in the Country Chart column of the "License Requirements" section of an ECCN on the CCL.

(vi) Explosive device detectors controlled under ECCN 2A993.

(2) Applications for the export and reexport of all other items described in paragraph (a) of this section, and not described in paragraph (b)(1) of this section, will be denied if the export or reexport is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(3) Notwithstanding the provisions of paragraphs (b)(1) and (b)(2) of this section, applications for Sudan will be considered on a case-by-case basis if:

(i) The transaction involves the reexport to Sudan of items where Sudan was not the intended ultimate destination at the time of original export from the United States, provided that the exports from the U.S. occurred prior to the applicable contract sanctity date.

(ii) The U.S. content of foreign-produced commodities is 20% or less by value; or

(iii) The commodities are medical items.

Note to paragraph (b) of this section: Applicants who wish any of the factors described in paragraph (b)(4) of this section to be considered in reviewing their license applications must submit adequate documentation demonstrating the value of the U.S. content, the specifications and medical use of the equipment, or the date of export from the United States.

(4) License applications for items reviewed under 6(a) controls will also be reviewed to determine the applicability of 6(j) controls to the transaction. When it is determined that an export or reexport could make a significant contribution to the military potential of Sudan, including its military logistics capability, or could enhance Sudan's ability to support acts of international terrorism, the appropriate committees of the Congress will be notified 30 days before issuance of a license to export or reexport such items.

(c) *Contract sanctity.* Contract sanctity dates and related licensing information for Sudan are set forth in Supplement No. 2 to part 742. Applicants who wish a pre-existing contract to be considered must submit sufficient documentation to establish the existence of a contract.

(d) *U.S. controls.* Although the United States seeks cooperation from like-minded countries in maintaining anti-terrorism controls, at this time these controls are maintained only by the United States.

§ 742.11 Specially designed implements of torture.

(a) *License requirements.* In support of U.S. foreign policy to promote the observance of human rights throughout the world, a license is required to export specially designed implements of torture controlled by 0A983 to all destinations, including Canada.

(b) *Licensing policy.* Applications for such licenses will generally be denied to all destinations.

(c) *Contract sanctity.* The contract sanctity date is November 9, 1995. Contract sanctity will be a factor in considering only applications for export to the NATO countries, Japan, Australia, and New Zealand.

(d) *U.S. controls.* Although the United States seeks cooperation from like-minded countries in maintaining controls on implements of torture, at this time these controls are maintained only by the United States.

§ 742.12 High performance computers.

(a) *License and recordkeeping requirements.* (1) This section contains special provisions for exports, reexports, and certain intra-country transfers of high performance computers, including software, and technology. This section affects the following ECCNs: 4A001, 4A002, 4A003, 4D001, 4D002, and 4E001. It applies to computers with a Composite Theoretical Performance (CTP) greater than 2000, stated in Million Theoretical Operations Per Second (MTOPS). Licenses are required under this section for ECCN's having an "XP" under "Reason for Control" when License Exception CTP is not available (see § 740.3(e) of the EAR). License requirements reflected in this section are based on particular destinations, end-users, or end-uses. For the calculation of CTP, see the Technical Note that follows the Advisory Notes for Category 4 in the Commerce Control List. Note that License Exception CTP contains restrictions on access by nationals of certain countries, and on reexports and transfers of computers.

(2) In recognition of the strategic and proliferation significance of high performance computers, a license is required for the export or reexport of high performance computers to destinations, end-users, and end-uses, as specified in this section and on the CCL. These license requirements supplement requirements that apply for other control reasons, such as nuclear nonproliferation provided in § 742.3 of the EAR. The license requirements described in this § 742.12 are not reflected on the Country Chart (Supplement No. 1 to part 738 of the EAR). Four Computer Country Tiers have been established for the purposes of these controls. Countries included in Computer Tiers 1, 2, and 3 are listed in License Exception CTP in § 740.3(e) of the EAR. Computer Tier 4 consists of Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria.

(3) Exporters must keep accurate records of each export to any destination of a computer with a CTP equal to or greater than 2,000 MTOPS, irrespective of whether the export is made under License Exception or otherwise. These records will be made available to the U.S. Government upon request. The records will include the following information:

(i) Date of shipment;

(ii) Name and address of the end-user and each intermediate consignee;

(iii) CTP of each computer in shipment;

(iv) Volume of computers in shipment;

(v) Dollar value of shipment; and

(vi) End-Use.

(4) Exporters are hereby notified that consistent with the commitments reached with the Wassenaar Arrangement, exporters will be required to submit to BXA consolidated reports on exports to certain destinations every six months of computers with a CTP equal to or greater than 2,000 MTOPS. These reports will include for each such export all the information required to be kept pursuant to paragraph (3) of § 742.12(a). Exports of computers above 2,000 MTOPS to certain destinations will be subject to the reporting requirement once the initial elements of the Wassenaar Arrangement are adopted, and the first report will be due thereafter.

(b) *Licensing policy.* Licensing policies described in this section vary according to the country of destination, and the end-use or end-user involved in the transaction. Note that in addition, license applications for items covered by § 742.12 will also be reviewed under the nuclear nonproliferation licensing policy in § 742.3(b). In certain cases, licenses may be subject to safeguard conditions. The specific conditions that may be imposed by BXA will depend on the country of destination, and the end-use or end-user of the export. BXA may also require end-use certification which, in appropriate cases, is certified by the government of the importing country. The range of possible safeguard conditions and related information are provided in Supplement No. 3 to part 742.

(1) *Computer Tier 1.*

(i) *License requirement.* No license is required under this § 742.12 for exports or reexports of computers to and among countries listed in Computer Tier 1, for consumption in such countries or other disposition in accordance with the EAR.

(ii) *Licensing policy.* A license is not required under this § 742.12.

(2) *Computer Tier 2.*

(i) *License requirement.* A license is required to export or reexport a computer having a Composite Theoretical Performance (CTP) greater than 10,000 Millions of Theoretical Operations Per Second (MTOPS) to a country in Computer Tier 2.

(ii) *Licensing policy.* License applications for a country in Computer Tier 2 will generally be approved.

(3) *Computer Tier 3.*

(i) *License requirement.*

(A) A license is required to export or reexport computers with a CTP greater than 2,000 MTOPS to countries in Computer Tier 3 to military end-users and end-uses and to nuclear, chemical, biological, or missile end-users and end-uses defined in part 744 of the EAR in Computer Tier 3 countries.

(B) A license is required to export or reexport computers with a CTP greater than 7,000 MTOPS to all end-users and end-uses located in countries in Computer Tier 3.

(ii) *Licensing policy.* License applications for exports and reexports to military end-users and end-uses and nuclear, chemical, biological, or missile end-users and end-uses defined in part 744 of the EAR in countries in Computer Tier 3 will be reviewed on a case-by-case basis using the following criteria:

(A) The presence and activities of countries and end-users of national security and proliferation concern and the relationships that exist between the government of the importing country and such countries and end-users;

(B) The ultimate consignee's participation in, or support of, any of the following:

(1) Activities that involve national security concerns; or

(2) Nuclear, chemical, biological or missile proliferation activities described in part 744 of the EAR;

(C) The extent to which the importing country is involved in nuclear, chemical, biological, or missile proliferation activities described in part 744 of the EAR;

(D) The end-user, whether the end-use is single-purpose or multiple-purpose.

(iii) *Licensing policy for other end-uses and end-users.* License applications for exports and reexports to other end-users and end-uses located in countries in Computer Tier 3 will generally be approved.

(4) *Computer Tier 4.*

(i) *License requirement.* A license is required to export or reexport any items covered by this section to a country in Country Tier 4.

(ii) *Licensing policy.* The licensing policies for countries in Computer Tier 4 are the same as described in the following EAR sections: for Sudan see § 742.10(b); for Syria see § 742.9(b); for Cuba see § 746.2; for Iran see § 746.7; for Iraq see § 746.3; for Libya see § 746.4; and for North Korea see § 746.5.

(c) *Contract sanctity.* Contract sanctity provisions are not available for license applications involving exports and reexports of high performance computers.

(d) *High performance computer regime.* The United States and Japan participate in a high performance computer regime. Other countries are expected to join. The regime provides uniform and effective safeguards to protect high performance computers from unauthorized destinations, end-users and end-uses.

§ 742.13 Communications intercepting devices.

(a) *License requirement.* (1) As set forth in ECCN 5A980, a license is required for the export or reexport to any destination, including Canada, of any electronic, mechanical, or other device primarily useful for surreptitious interception of wire or oral communications. This control implements a provision of the Omnibus Crime Control and Safe Streets Act of 1968 (Public Law 90–361). This license requirement is not reflected on the Country Chart (Supplement No. 1 to part 738 of the EAR).

(2) Communications intercepting devices are electronic, mechanical, or other devices that can be used for interception of wire or oral communications if their design renders them primarily useful for surreptitious listening even though they may also have innocent uses. A device is not restricted merely because it is small or

may be adapted to wiretapping or eavesdropping. Some examples of devices to which these restrictions apply are: the martini olive transmitter; the infinity transmitter; the spike mike; and the disguised microphone appearing as a wristwatch, cufflink, or cigarette pack; etc. The restrictions do not apply to devices such as the parabolic microphone or other directional microphones ordinarily used by broadcasters at sports events, since these devices are not primarily useful for surreptitious listening.

(b) *Licensing policy.* (1) License applications will generally be approved for:

(i) A provider of wire or electronic communication services or an officer, agent, or employee of, or person under contract with, such a provider in the normal course of the business of providing that wire or electronic communication service; and

(ii) Officers, agents, or employees of, or person under contract with the United States, one of the 50 States, or a political subdivision thereof, when engaged in the normal course of government activities.

(2) Other applications will generally be denied.

(c) *Contract sanctity.* Contract sanctity provisions are not available for license applications involving exports and reexports of communications interception devices.

(d) *U.S. controls.* Controls on this equipment are maintained by the United States government in accordance with the Omnibus Crime Control and Safe Streets Act of 1968.

Supplement No. 1 to Part 742—Nonproliferation of Chemical and Biological Weapons

Note: Exports and reexports of items in performance of contracts entered into before the applicable contract sanctity date(s) will be eligible for review on a case-by-case basis or other applicable licensing policies that were in effect prior to the contract sanctity date. The contract sanctity dates set forth in this Supplement are for the guidance of exporters. Contract sanctity dates are established in the course of the imposition of foreign policy controls on specific items and are the relevant dates for the purpose of licensing determinations involving such items. If you believe that a specific contract sanctity date is applicable to your transaction, you should include all relevant information with your license application.

(1) The contract sanctity date for exports to Iran or Syria of dimethyl methylphosphonate, methyl phosphonyldifluoride, phosphorous oxychloride, thiodiglycol, dimethylamine hydrochloride, dimethylamine, ethylene chlorohydrin (2-chloroethanol), and potassium fluoride is April 28, 1986.

(2) The contract sanctity date for exports to Iran or Syria of dimethyl phosphite (dimethyl hydrogen phosphite), methyl phosphonyldichloride, 3-quinuclidinol, N,N-diisopropylamino-ethane-2-thiol, N,N-diisopropylaminoethyl-2-chloride, 3-hydroxy-1-methylpiperidine, trimethyl phosphite, phosphorous trichloride, and thionyl chloride is July 6, 1987.

(3) The contract sanctity date for exports to Iran or Syria of items in ECCNs 1C351, 1C352, 1C353 and 1C354 is February 22, 1989.

(4) The contract sanctity date for exports to Iran of dimethyl methylphosphonate, methylphosphonyl difluoride, phosphorus oxychloride, and thiodiglycol is February 22, 1989.

(5) The contract sanctity date for exports to Iran, Libya or Syria of potassium hydrogen fluoride, ammonium hydrogen fluoride, sodium fluoride, sodium bifluoride, phosphorus pentasulfide, sodium cyanide, triethanolamine, diisopropylamine, sodium sulfide, and N,N -diethylethanolamine is December 12, 1989.

(6) The contract sanctity date for exports to all destinations (except Iran or Syria) of phosphorus trichloride, trimethyl phosphite, and thionyl chloride is December 12, 1989. For exports to Iran or Syria, paragraph (2) of this Supplement applies.

(7) The contract sanctity date for exports to all destinations (except Iran, Libya or Syria) of 2-chloroethanol and triethanolamine is January 15, 1991. For exports of 2-chloroethanol to Iran or Syria, paragraph (1) of this Supplement applies. For exports of triethanolamine to Iran, Libya or Syria, paragraph (5) of this Supplement applies.

(8) The contract sanctity date for exports to all destinations (except Iran, Libya or Syria) of chemicals controlled by ECCN 1C350 is March 7, 1991, except for applications to export the following chemicals: 2-chloroethanol, dimethyl methylphosphonate, dimethyl phosphite (dimethyl hydrogen phosphite), methylphosphonyl dichloride, methylphosphonyl difluoride, phosphorus oxychloride, phosphorous trichloride, thiodiglycol, thionyl chloride triethanolamine, and trimethyl phosphite. (See also paragraphs (6) and (7) of this Supplement.) For exports to Iran, Libya or Syria, see paragraphs (1) through (6) of this Supplement.

(9) The contract sanctity date for exports and reexports of the following commodities and technical data is March 7, 1991:

(i) Equipment (for producing chemical weapon precursors and chemical warfare agents) described in ECCNs 2B350 and 2B351;

(ii) Equipment and materials (for producing biological agents) described in ECCN 2B352; and

(iii) Technology (for the production of equipment and materials described in 2B351 and 2B352) described in ECCN 2E301.

(10) The contract sanctity date for license applications subject to § 742.2(b)(3) of this part is March 7, 1991.

(11) The contract sanctity date for reexports of chemicals controlled under ECCN 1C350 is March 7, 1991, except that the contract sanctity date for reexports of these chemicals to Iran, Libya or Syria is December 12, 1989.

(12) The contract sanctity date for reexports of human pathogens, zoonoses, toxins, animal pathogens, genetically modified microorganisms and plant pathogens controlled by ECCNs 1C351, 1C352, 1C353 and 1C354 is March 7, 1991.

Supplement No. 2 to Part 742—Anti-Terrorism Controls; Iran, Syria, and Sudan Contract Sanctity Dates and Related Policies

Note: Exports and reexports of items in performance of contracts entered into before the applicable contract sanctity date(s) will be eligible for review on a case-by-case basis or other applicable licensing policies that were in effect prior to the contract sanctity date. The contract sanctity dates set forth in this Supplement are for the guidance of exporters. Contract sanctity dates are established in the course of the imposition of foreign policy controls on specific items and are the relevant dates for the purpose of licensing determinations involving such items. If you believe that a specific contract sanctity date is applicable to your transaction, you should include all relevant information with your license application. BXA will determine any applicable contract sanctity date at the time an application with relevant supporting documents is submitted.

(a) *Terrorist-supporting countries.* The Secretary of State has designated Cuba, Iran, Iraq, Libya, North Korea, Sudan and Syria as countries whose governments have repeatedly provided support for acts of international terrorism under section 6(j) of the Export Administration Act (EAA).

(b) *Items controlled under EAA sections 6(j) and 6(a).* Whenever the Secretary of State determines that an export or reexport to any of these countries could make a significant contribution to the military potential of such country, including its military logistics capability, or could enhance the ability of such country to support acts of international terrorism, the item is subject to mandatory control under section EAA 6(j) and the Secretaries of Commerce and State are required to notify appropriate Committees of the Congress 30 days before a license for such an item may be issued.

(1) On December 28, 1993, the Secretary of State determined that the export to Cuba, Libya, Iran, Iraq, North Korea, Sudan or Syria of items described in paragraphs (c)(1) through (c)(5) of this Supplement, if destined to military, police, intelligence or other sensitive end-users, are controlled under EAA section 6(j). Therefore, the 30-day advance Congressional notification requirement applies to the export or reexport of these items to sensitive end-users in any of these countries.

(2) License applications for items controlled to designated terrorist-supporting countries under EAA section 6(a) will also be reviewed to determine whether the Congressional notification requirements of EAA section 6(j) apply.

(3) Items controlled for anti-terrorism reasons under section 6(a) to Iran, Sudan and Syria are:

(i) items described in paragraphs (c)(1) through (c)(5) to non-sensitive end-users, and

(ii) the following items to all end-users: for Iran, items in paragraphs (c)(6) through (c)(39) of this Supplement; for Sudan, items in paragraphs (c)(6) through (c)(14), and (c)(16) through (c)(39) of this Supplement; for Syria, items in paragraphs (c)(6) through (c)(8), (c)(10) through (c)(14), (c)(16) through (c)(19), and (c)(22) through (c)(39) of this Supplement.

(c) The license requirements and licensing policies for items controlled for anti-terrorism reasons to Iran, Syria and Sudan are generally described in §§ 742.8, 742.9 and 742.10 of this part. This Supplement provides guidance on licensing policies for Syria and Sudan and related contract sanctity dates that may be available for transactions benefitting from pre-existing contracts involving Syria and Sudan. This supplement also provides information on licensing policies and contract sanctity dates for Iran. Exporters are advised that the Treasury Department's Office of Foreign Assets Control administers a comprehensive trade and investment embargo against Iran (See Executive Orders 12957 and 12959 of March 15, 1995 and May 6, 1995, respectively.) Exporters are further advised that exports and reexports to Iran of items that are listed on the CCL as requiring a license for national security or foreign policy reasons are subject to a policy of denial under the Iran-Iraq Arms Non-Proliferation Act of October 23, 1992 (50 U.S.C. 1701 note (1994)). Transactions involving Iran and benefitting from a contract that pre-dates October 23, 1992 may be considered under the applicable licensing policy in effect prior to that date.

(1) *All items subject to national security controls.*

(i) *Iran.* Applications for all end-users in Iran will generally be denied.

(A) Contract sanctity date for military end-users or end-uses of items valued at $7 million or more: January 23, 1984.

(B) Contract sanctity date for military end-users or end-uses of all other national security controlled items: September 28, 1984.

(C) Contract sanctity date for non-military end-users or end-uses: August 28, 1991, unless otherwise specified in paragraphs (c)(2) through (c)(39) of this Supplement.

(ii) *Syria.* Applications for military end-users or military end-uses in Syria will generally be denied. Applications for non-military end-users or end-uses will be considered on a case-by-case basis, unless otherwise specified in paragraphs (c)(2) through (c)(39) of this Supplement. No contract sanctity date is available for items valued at $7 million or more to military end-users or end-uses. The contract sanctity date for all other items for all end-users: December 16, 1986.

(iii) *Sudan.* Applications for military end-users or military end-uses in Sudan will generally be denied. Applications for non-military end-users or end-uses will be considered on a case-by-case basis. Contract sanctity date: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(2) *All items subject to chemical and biological weapons proliferation controls.* Applications for all end-users in Iran, Syria or Sudan of these items will generally be denied. See Supplement No. 1 to part 742 for contract sanctity dates for Iran and Syria. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993), or unless an earlier date for any item is listed in Supplement 1 to part 742.

(3) *All items subject to missile proliferation controls (MTCR).* Applications for all end-users in Iran, Syria or Sudan will generally be denied. Contract sanctity provisions for Iran and Syria are not available. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(4) *All items subject to nuclear weapons proliferation controls (NRL).*

(i) *Iran.* Applications for all end-users in Iran will generally be denied. No contract sanctity date is available.

(ii) *Syria.* Applications for military end-users or end-uses to Syria will generally be denied. Applications for non-military end-users or end-uses will be considered on a case-by-case basis. No contract sanctity date is available.

(iii) *Sudan.* Applications for military end-users or end-uses in Sudan will generally be denied. Applications for export and reexport to non-military end-users or end-uses will be considered on a case-by-case basis. No contract sanctity date is available.

(5) *All military-related items, i.e., applications for export and reexport of items controlled by CCL entries ending with the number "18".*

(i) *Iran.* Applications for all end-users in Iran will generally be denied. Contract sanctity date: see paragraph (c)(1)(i) of this Supplement.

(ii) *Syria.* Applications for all end-users in Syria will generally be denied. Contract sanctity date: see paragraph (c)(1)(ii) of this Supplement.

(iii) *Sudan.* Applications for all end-users in Sudan will generally be denied. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(6) *All aircraft (powered and unpowered), helicopters, engines, and related spare parts and components.*

(i) *Iran.* Applications for all end-users in Iran will generally be denied.

(A) Contract sanctity date for helicopters exceeding 10,000 lbs. empty weight or fixed wing aircraft valued at $3 million or more: January 23, 1984.

(B) Contract sanctity date for other helicopters and aircraft and gas turbine engines therefor: September 28, 1984.

(C) Contract sanctity date for helicopter or aircraft parts and components controlled by 9A994: October 22, 1987.

(ii) *Syria.* Applications for all end-users in Syria will generally be denied.

(A) There is no contract sanctity for helicopters exceeding 10,000 lbs. empty weight or fixed wing aircraft valued at $3 million or more; except that passenger aircraft, regardless of value, have a contract sanctity date of December 16, 1986, if destined for a regularly scheduled airline with assurance against military use.

(B) Contract sanctity date for helicopters with 10,000 lbs. empty weight or less: April 28, 1986.

(C) Contract sanctity date for other aircraft and gas turbine engines therefor: December 16, 1986.

(D) Contract sanctity date for helicopter or aircraft parts and components controlled by 9A994: August 28, 1991.

(iii) *Sudan.* Applications for all end-users in Sudan will generally be denied. Contract sanctity date: January 19, 1996.

(7) *Heavy duty, on-highway tractors.*

(i) *Iran.* Applications for all end-users in Iran will generally be denied. Contract sanctity date: August 28, 1991.

(ii) *Syria.* Applications for military end-users or for military end-uses in Syria will generally be denied. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis. Contract sanctity date: August 28, 1991.

(iii) *Sudan.* Applications for military end-users or for military end-uses in Sudan will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date: January 19, 1996.

(8) *Off-highway wheel tractors of carriage capacity 9t (10 tons) or more.*

(i) *Iran.* Applications for all end-users in Iran will generally be denied. Contract sanctity date: October 22, 1987.

(ii) *Syria.* Applications for military end-users or for military end-uses in Syria will generally be denied. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis. Contract sanctity date: August 28, 1991.

(iii) *Sudan.* Applications for military end-users or for military end-uses in Sudan will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date: January 19, 1996.

(9) *Large diesel engines (greater than 400 horsepower) and parts to power tank transporters.*

(i) *Iran.* Applications for all end-users in Iran will generally be denied. Contract sanctity date: October 22, 1987.

(ii) *Sudan.* Applications for military end-users or for military end-uses in Sudan will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date: January 19, 1996.

(10) *Cryptographic, cryptoanalytic, and cryptologic equipment.*

(i) *Iran.* Applications for all end-users in Iran will generally be denied.

(A) Contract sanctity date for military end-users or end-uses of cryptographic, cryptoanalytic, and cryptologic equipment that was subject to national security controls on October 22, 1987: see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity date for all other cryptographic, cryptoanalytic, and cryptologic equipment for all end-users: October 22, 1987.

(ii) *Syria.* A license is required for all national security-controlled cryptographic, cryptoanalytic, and cryptologic equipment to all end-users. Applications for all end-users in Syria will generally be denied. Contract sanctity date for cryptographic, cryptoanalytic, and cryptologic equipment that was subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(iii) *Sudan.* Applications for all end-users in Sudan of any such equipment will generally be denied. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(11) *Navigation, direction finding, and radar equipment.*

(i) *Iran.* Applications for all end-users in Iran will generally be denied.

(A) Contract sanctity date for military end-users or end-uses of navigation, direction finding, and radar equipment that was subject to national security controls on August 28, 1991: see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity date for all other navigation, direction finding, and radar equipment for all end-users: October 22, 1987.

(ii) *Syria.* Applications for military end-users or for military end-uses in Syria of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis.

(A) Contract sanctity date for exports of navigation, direction finding, and radar equipment that was subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other navigation, direction finding, and radar equipment: August 28, 1991.

(iii) *Sudan.* Applications for military end-users or for military end-uses in Sudan will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(12) *Electronic test equipment.*

(i) *Iran.* Applications for all end-users in Iran will generally be denied.

(A) Contract sanctity date for military end-users or end-uses of electronic test equipment that was subject to national security controls on October 22, 1987: see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity date for all other electronic test equipment for all end-users: October 22, 1987.

(ii) *Syria.* Applications for military end-users or for military end-uses in Syria of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis.

(A) Contract sanctity date for electronic test equipment that was subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other electronic test equipment: August 28, 1991.

(iii) *Sudan.* Applications for military end-users or for military end-uses in Sudan of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(13) *Mobile communications equipment.*

(i) *Iran.* Applications for all end-users in Iran of such equipment will generally be denied.

(A) Contract sanctity date for military end-users or end-uses of mobile communications equipment that was subject to national security controls on October 22, 1987: see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity date for all end-users of all other mobile communications equipment: October 22, 1987.

(ii) *Syria.* Applications for military end-users or for military end-uses in Syria of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis.

(A) Contract sanctity date for mobile communications equipment that was subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for exports of all other mobile communications equipment: August 28, 1991.

(iii) *Sudan.* Applications for military end-users or for military end-uses in Sudan of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(14) *Acoustic underwater detection equipment.*

(i) *Iran.* Applications for all end-users in Iran of such equipment will generally be denied.

(A) Contract sanctity date for military end-users or end-uses of acoustic underwater detection equipment that was subject to national security controls on October 22, 1987: see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity date for all other acoustic underwater detection equipment for all end-users: October 22, 1987.

(ii) *Syria.* A license is required for acoustic underwater detection equipment that was subject to national security controls on August 28, 1991, to all end-users. Applications for military end-users or for military end-uses in Syria will generally be denied. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis. Contract sanctity date for acoustic underwater detection equipment that was subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(iii) *Sudan.* Applications for military end-users or for military end-uses to Sudan of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(15) *Portable electric power generators.*

(i) *Iran.* Applications for all end-users in Iran of such equipment will generally be denied. Contract sanctity date: October 22, 1987.

(ii) Reserved.

(16) *Vessels and boats, including inflatable boats.*

(i) *Iran.* Applications for all end-users in Iran of these items will generally be denied.

(A) Contract sanctity date for military end-users or end-uses of vessels and boats that were subject to national security controls on October 22, 1987: see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity date for all other vessels and boats for all end-users: October 22, 1987.

(ii) *Syria.* A license is required for national security-controlled vessels and boats. Applications for military end-users or for military end-uses in Syria of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis. Contract sanctity date for vessels and boats that were subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(iii) *Sudan.* Applications for military end-users or for military end-uses in Sudan of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(17) *Marine and submarine engines (outboard/inboard, regardless of horsepower).*

(i) *Iran.* Applications for all end-users in Iran of these items will generally be denied.

(A) Contract sanctity date for military end-users or end-uses of marine and submarine engines that were subject to national security controls on October 22, 1987: See paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity date for outboard engines of 45 HP or more for all end-users: September 28, 1984.

(C) Contract sanctity date for all other marine and submarine engines for all end-users: October 22, 1987.

(ii) *Syria.* A license is required for all marine and submarine engines subject to national security controls to all end-users. Applications for military end-users or for military end-uses in Syria of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis. Contract sanctity date for marine and submarine engines that were subject to national security controls on August 28, 1991: See paragraph (c)(1)(ii) of this Supplement.

(iii) *Sudan.* Applications for military end-users or for military end-uses in Sudan of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(18) *Underwater photographic equipment.*

(i) *Iran.* Applications for all end-users in Iran of such equipment will generally be denied.

(A) Contract sanctity date for military end-users or end-uses of underwater photographic equipment that was subject to national security controls on October 22, 1987: See paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity date for all other underwater photographic equipment for all end-users: October 22, 1987.

(ii) *Syria.* Applications for military end-users or for military end-uses in Syria of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis.

(A) Contract sanctity date for underwater photographic equipment that was subject to national security controls on August 28, 1991: See paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other underwater photographic equipment: August 28, 1991.

(iii) *Sudan.* Applications for military end-users or for military end-uses in Sudan of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(19) *Submersible systems.*

(i) *Iran.* Applications for all end-users in Iran of such systems will generally be denied.

(A) Contract sanctity date for military end-users or end-uses of submersible systems that were subject to national security controls on October 22, 1987: See paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity date for all other submersible systems for all end-users: October 22, 1987.

(ii) *Syria.* Applications for military end-users or for military end-uses in Syria of such systems will generally be denied. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis.

(A) Contract sanctity date for submersible systems that were subject to national security controls on August 28, 1991: See paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other submersible systems: August 28, 1991.

(iii) *Sudan.* Applications for military end-users or for military end-uses in Sudan of such systems will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(20) *Scuba gear and related equipment.*

(i) *Iran.* Applications for all end-users in Iran of such equipment will generally be denied. No contract sanctity is available for such items to Iran.

(ii) *Sudan.* Applications for military end-users and end-uses in Sudan of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date: January 19, 1996.

(21) *Pressurized aircraft breathing equipment.*

(i) *Iran.* Applications for all end-users in Iran of such equipment will generally be denied. Contract sanctity date: October 22, 1987.

(ii) *Sudan.* Applications for military end-users or for military end-uses in Sudan of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date: January 19, 1996.

(22) *Computer numerically controlled machine tools.*

(i) *Iran.* Applications for all end-users in Iran of these items will generally be denied.

(A) Contract sanctity date for military end-users and end-uses of computer numerically controlled machine tools that were subject to national security controls on August 28, 1991: See paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity dates for all other computer numerically controlled machine tools for all end-users: August 28, 1991.

(ii) *Syria.* Applications for military end-users or for military end-uses in Syria of these items will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity date for computer numerically controlled machine tools that were subject to national security controls on August 28, 1991: See paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for exports of all other computer numerically controlled machine tools: August 28, 1991.

(iii) *Sudan.* Applications for military end-users or for military end-uses in Sudan of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(23) *Vibration test equipment.*

(i) *Iran.* Applications for all end-users in Iran of such equipment will generally be denied.

(A) Contract sanctity date for military end-users and end-uses of vibration test equipment that was subject to national security controls on August 28, 1991: See paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity dates for all other vibration test equipment for all end-users: August 28, 1991.

(ii) *Syria.* Applications for military end-users or for military end-uses in Syria of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity date for vibration test equipment that was subject to national security controls on August 28, 1991: See paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for exports of all other vibration test equipment: August 28, 1991.

(iii) *Sudan.* Applications for military end-users or for military end-uses in Sudan of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(24) *Digital computers with a CTP of 6 or above, assemblies, related equipment, equipment for development or production of magnetic and optical storage equipment, and materials for fabrication of head/disk assemblies.*

(i) *Iran.* Applications for all end-users in Iran of these items will generally be denied.

(A) Contract sanctity date for military end-users and end-uses of items that were subject to national security controls on August 28, 1991: See paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity date for all other items for all end-users: August 28, 1991.

(ii) *Syria.* Applications for military end-users or for military end-uses in Syria of

these items will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity dates for items that were subject to national security controls on August 28, 1991: See paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other items: August 28, 1991.

(iii) *Sudan.* Applications for military end-users or for military end-uses in Sudan of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(25) *Telecommunications equipment.*

(i) A license is required for the following telecommunications equipment:

(A) Radio relay systems or equipment operating at a frequency equal to or greater than 19.7 GHz or "spectral efficiency" greater than 3 bit/s/Hz;

(B) Fiber optic systems or equipment operating at a wavelength greater than 1000 nm;

(C) "Telecommunications transmission systems" or equipment with a "digital transfer rate" at the highest multiplex level exceeding 45 Mb/s.

(ii) *Iran.* Applications for all end-users in Iran of such equipment will generally be denied.

(A) Contract sanctity date for military end-users and end-uses of telecommunications equipment that was subject to national security controls on August 28, 1991: See paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity dates for all other vibration test equipment for all end-users: August 28, 1991.

(iii) *Syria.* Applications for military end-users or for military end-uses in Syria of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity date for exports of telecommunications equipment that was subject to national security controls on August 28, 1991: See paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for exports of all other telecommunications equipment: August 28, 1991.

(iv) *Sudan.* Applications for military end-users or for military end-uses in Sudan of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(26) *Microprocessors operating at a clock speed over 25 MHz.*

(i) *Iran.* Applications for all end-users in Iran of these items will generally be denied.

(A) Contract sanctity date for military end-users and end-uses of microprocessors that were subject to national security controls on August 28, 1991: See paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity dates for all other microprocessors for all end-users: August 28, 1991.

(ii) *Syria.* Applications for military end-users or for military end-uses in Syria of these items will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity date for microprocessors that were subject to national security controls on August 28, 1991: See paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other microprocessors: August 28, 1991.

(iii) *Sudan.*Applications for military end-users or for military end-uses in Sudan of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(27) *Semiconductor manufacturing equipment.* For Iran, Syria or Sudan, a license is required for all such equipment described in ECCNs 3B001 and 3B991.

(i) *Iran.* Applications for all end-users in Iran of such equipment will generally be denied.

(A) Contract sanctity date for military end-users and end-uses of semiconductor manufacturing equipment that was subject to national security controls on August 28, 1991: See paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity dates for all other microprocessors for all end-users: August 28, 1991.

(ii) *Syria.* Applications for military end-users or for military end-uses in Syria of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity date for such semiconductor manufacturing equipment that was subject to national security controls on August 28, 1991: See paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other semiconductor manufacturing equipment: August 28, 1991.

(iii) *Sudan.* Applications for military end-users or for military end-uses in Sudan of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(28) *Software specially designed for the computer-aided design and manufacture of integrated circuits.*

(i) *Iran.* Applications for all end-users in Iran of such software will generally be denied.

(A) Contract sanctity date for military end-users and end-uses of such software that was subject to national security controls on August 28, 1991: See paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity dates for all other such software for all end-users: August 28, 1991.

(ii) *Syria.* Applications for military end-users or for military end-uses in Syria of such software will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity date for such software that was subject to national security controls on August 28, 1991: See paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other such software: August 28, 1991.

(iii) *Sudan.* Applications for military end-users or for military end-uses in Sudan of such software will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(29) *Packet switches.* Equipment described in ECCNs 5A001.c and 5A994.

(i) *Iran.* Applications for all end-users in Iran of such equipment will generally be denied.

(A) Contract sanctity date for military end-users and end-uses in Iran of packet switches that were subject to national security controls on August 28, 1991: See paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity dates for all other packet switches for all end-users: August 28, 1991.

(ii) *Syria.* Applications for military end-users or for military end-uses in Syria of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity date for packet switches that were subject to national security controls on August 28, 1991: See paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other packet switches: August 28, 1991.

(iii) *Sudan.* Applications for military end-users or for military end-uses in Sudan of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(30) *Specially designed software for air traffic control applications that uses any digital signal processing techniques for automatic target tracking or that has a facility for electronic tracking.*

(i) *Iran.* Applications for all end-users in Iran of such software will generally be denied.

(A) Contract sanctity date for military end-users and end-uses of such software that was subject to national security controls on August 28, 1991: See paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity dates for all other such software for all end-users: August 28, 1991.

(ii) *Syria.* Applications for military end-users or for military end-uses in Syria of such software will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity date for such software that was subject to national security controls on August 28, 1991: See paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for exports of such software: August 28, 1991.

(iii) *Sudan.* Applications for military end-users or for military end-uses in Sudan of such software will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(31) *Gravity meters having static accuracy of less (better) than 100 microgal, or gravity meters of the quartz element (worden) type.*

(i) *Iran.* Applications for all end-users in Iran of these items will generally be denied.

(A) Contract sanctity date for military end-users and end-uses of gravity meters that were subject to national security controls on August 28, 1991: See paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity dates for all other such gravity meters for all end-users: August 28, 1991.

(ii) *Syria.* Applications for military end-users or for military end-uses in Syria of these items will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity date for gravity meters that were subject to national security controls on August 28, 1991: See paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for exports of all other such gravity meters: August 28, 1991.

(iii) *Sudan.* Applications for military end-users or for military end-uses in Sudan of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(32) *Magnetometers with a sensitivity lower (better) than 1.0 nt rms per square root Hertz.*

(i) *Iran.* Applications for all end-users in Iran of these items will generally be denied.

(A) Contract sanctity date for military end-users and end-uses of such magnetometers that were subject to national security controls on August 28, 1991: See paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity dates for all other such magnetometers for all end-users: August 28, 1991.

(ii) *Syria.* Applications for military end-users or for military end-uses in Syria of these items will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity date for such magnetometers that were subject to national security controls on August 28, 1991: See paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other such magnetometers: August 28, 1991.

(iii) *Sudan.* Applications for military end-users or for military end-uses in Sudan of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(33) *Fluorocarbon compounds described in ECCN 1C994 for cooling fluids for radar.*

(i) *Iran.* Applications for all end-users in Iran of such compounds will generally be denied.

(A) Contract sanctity date for military end-users and end-uses of such fluorocarbon compounds that were subject to national security controls on August 28, 1991: See paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity dates for all other such fluorocarbon compounds for all end-users: August 28, 1991.

(ii) *Syria.* Applications for military end-users or for military end-uses in Syria of such compounds will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity date for such fluorocarbon compounds that were subject to national security controls on August 28, 1991: See paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other such fluorocarbon compounds: August 28, 1991.

(iii) *Sudan.* Applications for military end-users or for military end-uses in Sudan of such compounds will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(34) *High strength organic and inorganic fibers (kevlar) described in ECCN 1C210.*

(i) *Iran.* Applications for all end-users in Iran of such fibers will generally be denied.

(A) Contract sanctity date for military end-users and end-uses of high strength organic and inorganic fibers (kevlar) described in 1C210 that were subject to national security controls on August 28, 1991: See paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity dates for all other high strength organic and inorganic fibers (kevlar) described in 1C210 for all end-users: August 28, 1991.

(ii) *Syria.* Applications for military end-users or for military end-uses in Syria of such fibers will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity date for high strength organic and inorganic fibers (kevlar) described in 1C210 that were subject to national security controls on August 28, 1991: See paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other high strength organic and inorganic fibers (kevlar) described in 1C210: August 28, 1991.

(iii) *Sudan.* Applications for military end-users or for military end-uses in Sudan of such fibers will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(35) *Machines described in ECCNs 2B003 and 2B993 for cutting gears up to 1.25 meters in diameter.*

(i) *Iran.* Applications for all end-users in Iran of these items will generally be denied.

(A) Contract sanctity date for military end-users and end-uses of such machines that were subject to national security controls on August 28, 1991: See paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity dates for all other such machines for all end-users: August 28, 1991.

(ii) *Syria.* Applications for military end-users or for military end-uses in Syria of these items will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity date for machines that were subject to national security controls on August 28, 1991: See paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other machines: August 28, 1991.

(iii) *Sudan.* Applications for military end-users or for military end-uses in Sudan of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(36) *Aircraft skin and spar milling machines.*

(i) *Iran.* Applications for all end-users in Iran of these items will generally be denied.

(A) Contract sanctity date for military end-users and end-uses of aircraft skin and spar milling machines that were subject to national security controls on August 28, 1991: See paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity dates for all other aircraft skin and spar milling machines to all end-users: August 28, 1991.

(ii) *Syria.* Applications for military end-users or for military end-uses in Syria of these items will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity date for aircraft skin and spar milling machines that were subject to national security controls on August 28, 1991: See paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other aircraft skin and spar milling machines: August 28, 1991.

(iii) *Sudan.* Applications for military end-users or for military end-uses in Sudan of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(37) *Manual dimensional inspection machines described in ECCN 2B992.*

(i) *Iran.* Applications for all end-users in Iran of these items will generally be denied.

(A) Contract sanctity date for military end-users or end-uses of manual dimensional inspection machines that were subject to national security controls on August 28, 1991: See paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity date for all other manual dimensional inspection machines for all end-users: August 28, 1991.

(ii) *Syria.* Applications for military end-users or for military end-uses in Syria of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis.

(A) Contract sanctity date for such manual dimensional inspection machines that were subject to national security controls on August 28, 1991: See paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other such manual dimensional inspection machines: August 28, 1991.

(iii) *Sudan.* Applications for military end-users or for military end-uses in Sudan of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(38) *Robots capable of employing feedback information in real time processing to generate or modify programs.*

(i) *Iran.* Applications for all end-users in Iran of these items will generally be denied.

(A) Contract sanctity date for military end-users or end-uses of such robots that were subject to national security controls on August 28, 1991: See paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity date for all other such robots: August 28, 1991.

(ii) *Syria.* Applications for military end-users or for military end-uses in Syria of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis.

(A) Contract sanctity date for such robots that were subject to national security controls on August 28, 1991: See paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other such robots: August 28, 1991.

(iii) *Sudan.* Applications for military end-users or for military end-uses in Sudan of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(39) *Explosive device detectors.*

(i) *Iran.* Applications for all end-users in Iran of these items will generally be denied. Contract sanctity date: January 19, 1996.

(ii) *Syria.* Applications for all end-users in Syria of these items will generally be denied. Contract sanctity date: January 19, 1996.

(iii) *Sudan.* Applications for all end-users in Sudan of these items will generally be denied. Contract sanctity date: January 19, 1996.

Supplement No. 3 to Part 742—High Performance Computers; Safeguard Conditions and Related Information

This Supplement sets forth the security conditions and safeguard plans for the export, reexport, or in-country transfer of high performance computers that may be imposed by BXA to certain destinations. The licensing policies for the export, reexport, or in-country transfer of high performance computers are set forth in § 742.12 of this part.

(a) *Safeguard conditions.* Following interagency review of the application; the Bureau of Export Administration (BXA) will instruct the exporter to submit a safeguard plan signed by the ultimate consignee and certified by the export control authorities of the importing country (see *Certification by export control authorities of importing country* in this Supplement). The safeguard plan must indicate that the ultimate consignee agrees to implement those safeguards required by the BXA as a condition of issuing the license. BXA will inform exporters concerning which of the following safeguards will be imposed as license conditions:

(1) The applicant will assume responsibility for providing adequate security against physical diversion of the computer during shipment (e.g., delivery by either attended or monitored shipment, using the most secure route possible—this precludes using the services or facilities of any country in Computer Tier 4).

(2) There will be *no* reexport or intra-country transfer of the computer without prior written authorization from BXA.

(3) The computer systems will be used only for those activities approved on the license or reexport authorization.

(4) There will be no changes either in the end-users or the end-uses indicated on the license without prior written authorization by BXA.

(5) Only software that supports the approved end-uses will be shipped with the computer system.

(6) The end-user will station security personnel at the computer using facility to ensure that the appropriate security measures are implemented.

(7) The exporter will station representatives at the computer using facility, or make such individuals readily available, to guide the security personnel in the implementation and operation of the security measures.

(8) The security personnel will undertake the following measures under the guidance of the exporter's representatives:

(i) The physical security of the computer using facility;

(ii) The establishment of a system to ensure the round-the-clock supervision of computer security;

(iii) The inspection, if necessary, of any program or software to be run on the computer system in order to ensure that all usage conforms to the conditions of the license;

(iv) The suspension, if necessary, of any run in progress and the inspection of any output generated by the computer to determine whether the program runs or output conform with the conditions of the license;

(v) The inspection of usage logs daily to ensure conformity with the conditions of the license and the retention of records of these logs for at least a year;

(vi) The determination of the acceptability of computer users to ensure conformity with the conditions of the license;

(vii) The immediate reporting of any security breaches or suspected security breaches to the government of the importing country and to the exporter's representatives;

(viii) The execution of the following key tasks:

(A) Establishment of new accounts;
(B) Assignment of passwords;
(C) Random sampling of data;
(D) Generation of daily logs;

(ix) The maintenance of the integrity and security of tapes and data files containing archived user files, log data, or system backups.

(9) The exporter's representatives will be present when certain key functions are being carried out (e.g., the establishment of new accounts, the assignment of passwords, the random sampling of data, the generating of daily logs, the setting of limits to computer resources available to users in the development mode, the certification of programs for conformity to the approved end-uses before they are allowed to run in the production mode, and the modification to previously certified production programs).

(10) The security personnel and the exporter's representatives will provide monthly reports on the usage of the computer system and on the implementation of the safeguards.

(11) The computer system will be housed in one secure building and protected against theft and unauthorized entry at all times.

(12) Restricted nationals, i.e., nationals of Computer Tier 4 countries, will not be allowed access to computers:

(i) No physical or computational access to computers may be granted to restricted nationals without prior written authorization from BXA, except that commercial consignees as described in this Supplement are prohibited only from giving such nationals user-accessible programmability without prior written authorization;

(ii) No passwords or IDs may be issued to restricted nationals;

(iii) No work may be performed on the computer on behalf of restricted nationals; and

(iv) No conscious or direct ties may be established to networks (including their subscribers) operated by restricted nationals.

(13) Physical access to the computer, the operator consoles, and sensitive storage areas of the computer using facility will be controlled by the security personnel, under the guidance and monitoring of the exporter's representatives, and will be limited to the fewest number of people needed to maintain and run the computer system.

(14) The computer will be equipped with the necessary software to: Permit access to authorized persons only, detect attempts to gain unauthorized access, set and maintain limits on usage, establish accountability for usage, and generate logs and other records of usage. This software will also maintain the integrity of data and program files, the accounting and audit system, the password or computational access control system, and the operating system itself.

(i) The operating system will be configured so that all jobs can be designated and tracked as either program development jobs or as production jobs.

(ii) In the program development mode, users will be free, following verification that their application conforms to the agreed end-use, to create, edit, or modify programs, to use utilities such as editors, debuggers, or compilers and to verify program operation. Programs in the development mode will be subject to inspection as provided by paragraph (a)(8)(iii) of this Supplement.

(iii) In the production mode, users will have access to the full range of computer resources, but will be prohibited from modifying any program or using utilities that could modify any program. Before being allowed to run in the production mode, a program will have to be certified for conformity to approved end-uses by the security personnel and the exporter's representatives.

(iv) Programs certified for execution in the production mode will be protected from unauthorized modification by appropriate software and physical security measures. Any modifications to previously certified production programs will be approved by the security personnel under the guidance and monitoring of the exporter's representatives.

(v) The computer will be provided with accounting and audit software to ensure that detailed logs are maintained to record all computer usage. A separate log of security-related events will also be kept.

(vi) For each job executed in the production mode, the operating system will record execution characteristics in order to permit generation of a statistical profile of the program executed.

(15) The source code of the operating system will be accessible only to the exporter's representatives. Only those individuals will make changes in this source code.

(16) The security personnel, under the guidance of the exporter's representatives, will change passwords for individuals frequently and at unpredictable intervals.

(17) The security personnel, under the guidance of the exporter's representatives, will have the right to deny passwords to anyone. Passwords will be denied to anyone whose activity does not conform to the conditions of the license.

(18) Misuse of passwords by users will result in denial of further access to the computer.

(19) The exporter's representatives will install a strict password system and provide guidance on its implementation.

(20) Only the exporter's representatives will be trained in making changes in the password system and only they will make such changes.

(21) No computer will be networked to other computers outside the computer center without prior authorization from BXA.

(22) Generally, remote terminals will not be allowed outside the computer using facility without prior authorization by BXA. If remote terminals are specifically authorized by the license:

(i) The terminals will have physical security equivalent to the safeguards at the computer using facility;

(ii) The terminals will be constrained to minimal amounts of computer resources (CPU time, memory access, number of input-output operations, and other resources);

(iii) The terminals will not be allowed direct computational access to the computer (i.e., the security personnel, under the guidance of the exporter's representatives, will validate the password and identity of the user of any remote terminals before any such user is permitted to access the computer); all terminals will be connected to the computer system by a dedicated access line and a network access controller.

(23) There will be no direct input to the computer from remote terminals. Any data originating from outside the computer using facility, except for direct input from terminals within the same compound as the computer using facility, will first be processed by a separate processor or network access controller in order to permit examination of the data prior to its entry into the computer.

(24) The exporter will perform all maintenance of the computer system.

(25) Spare parts kept on site will be limited to the minimum amount. Spares will be kept in an area accessible only to the exporter's representatives. These representatives will maintain a strict audit system to account for all spare parts.

(26) No development or production technology on the computer system will be sent with the computer to the ultimate consignee.

(27) The end-user must immediately report any suspicions or facts concerning possible violations of the safeguards to the exporter and to the export control authorities of the importing country.

(28) The exporter must immediately report any information concerning possible violations of the safeguards to BXA. A violation of the safeguards might constitute grounds for suspension or termination of the license, preventing the shipment of unshipped spare parts, or the denial of additional licenses for spare parts, etc.

(29) The end-user will be audited quarterly by an independent consultant who has been approved by the export control authorities of the importing and exporting countries, but is employed at the expense of the end-user. The consultant will audit the computer usage and the implementation of the safeguards.

(30) The installation and operation of the computer will be coordinated and controlled by the following management structure:

(i) *Steering Committee.* The Steering Committee will comprise nationals of the importing country who will oversee the management and operation of the computer.

(ii) *Security Staff.* The Security Staff will be selected by the end-user or the government of the importing country to ensure that the required safeguards are implemented. This staff will be responsible for conducting an annual audit to evaluate physical security, administrative procedures, and technical controls.

(iii) *Technical Consultative Committee.* This committee will comprise technical experts from the importing country and the exporting company who will provide guidance in operating and maintaining the computer. At least one member of the committee will be an employee of the exporter. The committee will approve all accounts and maintain an accurate list of all users. In addition, the committee will advise the Steering Committee and the Security Staff concerning the security measures needed to ensure compliance with the safeguards required by the license.

(31) An ultimate consignee who is a multiple-purpose end-user, such as a university, will establish a peer review group comprising experts who represent each department or application area authorized for use on the computer under the conditions of the license. This group shall have the following responsibilities:

(i) Review all requests for computer usage and make recommendations concerning the acceptability of all projects and users;

(ii) Submit these recommendations to the Security Staff and Technical Consultative Committee for review and approval (see paragraph (a)(28) of this Supplement);

(iii) Establish acceptable computer resource parameters for each project and

review the results to verify their conformity with the authorized end-uses, restrictions, and parameters; and

(iv) Prepare monthly reports that would include a description of any runs exceeding the established parameters and submit them to the security staff.

(32) The end-user will also cooperate with any post-shipment inquiries or inspections by the U.S. Government or exporting company officials to verify the disposition and/or use of the computer, including access to the following:

(i) Usage logs, which should include, at a minimum, computer users, dates, times of use, and amount of system time used;

(ii) Computer access authorization logs, which should include, at a minimum, computer users, project names, and purpose of projects.

(33) The end-user will also cooperate with the U.S. Government or exporting company officials concerning the physical inspection of the computer using facility, on short notice, at least once a year and will provide access to all data relevant to computer usage. This inspection will include:

(i) Analyzing any programs or software run on the computer to ensure that all usage complies with the authorized end-uses on the license. This will be done by examining user files (e.g., source codes, machine codes, input/output data) that are either on-line at the time of the inspection or that have been previously sampled and securely stored.

(ii) Checking current and archived usage logs for conformity with the authorized end-uses and the restrictions imposed by the license.

(iii) Verifying the acceptability of all computer users in conformity with the authorized end-uses and the restrictions imposed by the license.

(34) Usage requests that exceed the quantity of monthly CPU time specified on the license shall not be approved without prior written authorization from the BXA. Requests for computational access approval shall include a description of the intended purpose for which access is sought.

(35) In addition to, or in lieu of, the normal access by on-site exporting company staff or its representatives, the company, when required by the exporting government, will provide a separate remote electronic access capability to the computer for the purposes of maintenance, troubleshooting, inspection of work in progress, and auditing of all work performed on the computer. On-site and central exporting company hardware and software maintenance facilities, at the direction of the exporting company staff or its representatives, to gather information such as:

(i) Statistical profiles of production jobs;

(ii) Logs of jobs run in both production and development mode;

(iii) Logs and reports of security related events.

If such method is used, the remote maintenance facilities will be considered part of the operating system and protected accordingly, and will be available only to exporting company operational staff or its representatives. The maintenance hardware and software and associated communication links will be protected to ensure the integrity and authenticity of data and programs and to prevent tampering with hardware.

(36) The export company staff or its representatives will be required to provide personnel for a specified period of time at the computer facility for management, operation, and safeguarding of the computer.

(b) *Certification by export control authorities of importing country.*

(1) The following importing government certification may be required under § 742.12 of this part:

This is to certify that (*name of ultimate consignee*) has declared to (*name of appropriate foreign government agency*) that the computer (*model name*) will be used only for the purposes specified in the end-use statement and that the ultimate consignee will establish and adhere to all the safeguard conditions and perform all other undertakings described in the end-use statement.

The (*name of appropriate foreign government agency*) will advise the United States Government of any evidence that might reasonably indicate the existence of circumstances (e.g., transfer of ownership) that could affect the objectives of the security safeguard conditions.

(2) Other importing government assurances regarding prohibited activities may also be required on a case-by-case basis.

(c) *Commercial consignees.*

Exports or reexports of computers that are solely dedicated to the following non-scientific and non-technical commercial business uses will usually be eligible for a reduced set of security safeguard conditions:

(1) Financial services (e.g., banking, securities and commodity exchanges);

(2) Insurance;

(3) Reservation systems;

(4) Point-of-sales systems;

(5) Mailing list maintenance for marketing purposes;

(6) Inventory control for retail/wholesale distribution.

PART 744—CONTROL POLICY: END-USER AND END-USE BASED

Sec.

744.1 General provisions.
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Supplement No. 1 to Part 744—Missile Technology Projects
Supplement No. 2 to Part 744—[Reserved]
Supplement No. 3 to Part 744—Countries Not Subject to Certain Nuclear End-Use Restrictions in § 744.2(a)

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; E.O. 12058, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 3 CFR 1993 Comp., p. 608; E.O. 12924, 3 CFR, 1994 Comp., p. 917; E.O. 12938, 3 CFR, 1994 Comp., p. 950; Notice of August 15, 1995 (60 FR 42767, August 17, 1995).

§ 744.1 General provisions.

(a) *Introduction.* In this part, references to the EAR are references to 15 CFR chapter VII, subchapter C. This part contains prohibitions against exports, reexports, and selected transfers to certain end-users and end-uses as introduced under General Prohibition Four (Denial Orders) and prohibitions against exports or reexports to certain end-uses as introduced, under General Prohibition Five (End-use/End-users). Sections 744.2, 744.3, 744.4, and 744.5 prohibit exports and reexports of items subject to the EAR to defined nuclear, missile, chemical and biological weapons, and nuclear maritime end-uses. Section 744.6 prohibits certain activities by U.S. persons in support of certain nuclear, missile, chemical, or biological end-uses regardless of whether that support involves the export or reexport of items subject to the EAR. Sections 744.7 and 744.8 prohibit exports and reexports of certain items for certain aircraft and vessels. In addition, these sections include license review standards for export license applications submitted as required by these sections. It should also be noted that part 764 of the EAR prohibits exports, reexports and certain in-country transfers of items subject to the EAR to denied parties.

(b) *Steps.* The following are steps you should follow in using the provisions of this part:

(1) *Review end-use and end-user prohibitions.* First, review each end-use and end-user prohibition described in this part to learn the scope of these prohibitions.

(2) *Determine applicability.* Second, determine whether any of the end-use and end-user prohibitions described in this part are applicable to your planned export, reexport, or other activity. See Supplement No. 1 to part 732 for guidance.

§ 744.2 Restrictions on certain nuclear end-uses.

(a) *General prohibition.* In addition to the license requirements for items specified on the CCL, you may not export or reexport to any destination, other than countries in the Supplement No. 3 to this part, any item subject to the EAR without a license if at the time of the export or reexport you know[1] the item will be used directly or indirectly in any one or more of the following activities described in paragraphs (a)(1), (a)(2), and (a)(3) of this section:

(1) *Nuclear explosive activities.* Nuclear explosive activities, including research on or development, design, manufacture, construction, testing or maintenance of any nuclear explosive device, or components or subsystems of such a device.[2 3]

(2) *Unsafeguarded nuclear activities.* Activities including research on, or development, design, manufacture, construction, operation, or maintenance of any nuclear reactor, critical facility, facility for the fabrication of nuclear fuel, facility for the conversion of nuclear material from one chemical form to another, or separate storage installation, where there is no obligation to accept International Atomic Energy Agency (IAEA) safeguards at the relevant facility or installation when it contains any source or special fissionable material (regardless of whether or not it contains such material at the time of export), or where any such obligation is not met.

(3) *Safeguarded and unsafeguarded nuclear activities.* Safeguarded and unsafeguarded nuclear fuel cycle activities, including research on or development, design, manufacture, construction, operation or maintenance of any of the following facilities, or components for such facilities:[4]

(i) Facilities for the chemical processing of irradiated special nuclear or source material;

(ii) Facilities for the production of heavy water;

(iii) Facilities for the separation of isotopes of source and special nuclear material; or

(iv) Facilities for the fabrication of nuclear reactor fuel containing plutonium.

(b) *Additional prohibition on exporters or reexporters informed by BXA.* BXA may inform an exporter or reexporter, either individually by specific notice or through amendment to the EAR, that a license is required for export or reexport of specified items to specified end-users, because BXA has determined that there is an unacceptable risk of use in, or diversion to, any of the activities described in paragraph (a) of this section. Specific notice is to be given only by, or at the direction of, the Deputy Assistant Secretary for Export Administration. When such notice is provided orally, it will be followed by a written notice within two working days signed by the Deputy Assistant Secretary for Export Administration. The absence of any such notification does not excuse the exporter or reexporter from compliance with the license requirements of paragraph (a) of this section.

(c) *Exceptions.* Despite the prohibitions described in paragraph (a) and (b) of this section, you may export technology subject to the EAR under the License Exception provided in § 740.8(a) of the EAR for operating technology and software (OTS) and under the License Exception provided in § 740.8(b) of the EAR for sales technology (STS) but only to and for use in countries listed in Country Group A:1 (see Supplement No. 1 to part 740 of the EAR) and New Zealand. All the terms and conditions of License Exception 13 apply except that this exception may only be used for exports to the countries listed in Country Group A:1 and New Zealand notwithstanding the provisions of part 740 of the EAR.

(d) *License review standards.* The following factors are among those used by the United States to determine whether to grant or deny license applications required under this section:

(1) Whether the commodities, software, or technology to be transferred are appropriate for the stated end-use and whether that stated end-use is appropriate for the end-user;

(2) The significance for nuclear purposes of the particular commodity, software, or technology;

(3) Whether the commodities, software, or technology to be exported are to be used in research on or for the development, design, manufacture, construction, operation, or maintenance of any reprocessing or enrichment facility;

(4) The types of assurances or guarantees given against use for nuclear explosive purposes or proliferation in the particular case;

(5) Whether the end-user has been engaged in clandestine or illegal procurement activities;

(6) Whether an application for a license to export to the end-user has previously been denied, or whether the end-use has previously diverted items received under a license, License Exception, or NLR to unauthorized activities;

(7) Whether the export would present an unacceptable risk of diversion to a nuclear explosive activity or unsafeguarded nuclear fuel-cycle activity described in § 744.2 of this part; and

(8) The nonproliferation credentials of the importing country, based on consideration of the following factors:

(i) Whether the importing country is a party to the Nuclear Non-Proliferation Treaty (NPT) or to the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco) (see Supplement No. 2 to part 742 of the EAR), or to a similar international legally-binding nuclear nonproliferation agreement;

(ii) Whether the importing country has all of its nuclear activities, facilities or installations that are operational, being designed, or under construction, under International Atomic Energy Agency (IAEA) safeguards or equivalent full scope safeguards;

(iii) Whether there is an agreement for cooperation in the civil uses of atomic energy between the U.S. and the importing country;

(iv) Whether the actions, statements, and policies of the government of the importing country are in support of nuclear nonproliferation and whether that government is in compliance with its international obligations in the field of nonproliferation;

(v) The degree to which the government of the importing country cooperates in nonproliferation policy generally (e.g., willingness to consult on international nonproliferation issues);

(vi) Intelligence data on the importing country's nuclear intentions and activities.

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[1] Part 772 of the EAR defines "knowledge" for all of the EAR except part 760, Restrictive Trade Practices and Boycotts. The definition, which includes variants such as "know" and "reason to know", encompasses more than positive knowledge. Thus, the use of "know" in this section in place of the former wording "know or have reason to know" does not lessen or otherwise change the responsibilities of persons subject to the EAR.

[2] Nuclear explosive devices and any article, material, equipment, or device specifically designed or specially modified for use in the design, development, or fabrication of nuclear weapons or nuclear explosive devices are subject to export licensing or other requirements of the Office of Defense Trade Controls, U.S. Department of State, or the licensing or other restrictions specified in the Atomic Energy Act of 1954, as amended. Similarly, items specifically designed or specifically modified for use in devising, carrying out, or evaluating nuclear weapons tests or nuclear explosions (except such items as are in normal commercial use for other purposes) are subject to the same requirements.

[3] Also see §§ 744.5 and 748.4 of the EAR for special provisions relating to technical data for maritime nuclear propulsion plants and other commodities.

[4] Such activities may also require a specific authorization from the Secretary of Energy pursuant to § 57.b.(2) of the Atomic Energy Act of 1954, as amended, as implemented by the Department of Energy's regulations published in 10 CFR 810.

§ 744.3 Restrictions on certain missile end-uses.

(a) *General prohibition.* In addition to the license requirements for items specified on the CCL, you may not export or reexport an item subject to the EAR to any destination, including Canada, without a license if at the time of the export or reexport you know the item:

(1) Is destined to or for a project listed in the footnote to Country Group D:4 (see Supplement No. 1 to part 740 of the EAR); or

(2) Will be used in the design, development, production or use of missiles in or by a country listed in Country Group D:4, whether or not that use involves a listed project.

(b) *Additional prohibition on exporters informed by BXA.* BXA may inform the exporter or reexporter, either individually by specific notice or through amendment to the EAR, that a license is required for a specific export or reexport, or for exports or reexports of specified items to a certain end-user, because there is an unacceptable risk of use in or diversion to activities described in paragraph (a) of this section, anywhere in the world. Specific notice is to be given only by, or at the direction of, the Deputy Assistant Secretary for Export Administration. When such notice is provided orally, it will be followed by a written notice within two working days signed by the Deputy Assistant Secretary for Export Administration. However, the absence of any such notification does not excuse the exporter from compliance with the license requirements of paragraph (a) of this section. An illustrative list of projects is included in a footnote to Country Group D:4. Exporters and reexporters are deemed to have been informed that an individual license is required to export or reexport to these projects. Exporters should be aware that the list of projects in Country Group D:4 is not comprehensive; extra caution should be exercised when making any shipments to a country listed in Country Group D:4.

(c) *Exceptions.* No License Exceptions apply to the prohibitions described in paragraph (a) and (b) of this section.

(d) *License review standards for certain missile end-uses.* (1) Applications to export the items subject to this section will be considered on a case-by-case basis to determine whether the export would make a material contribution to the proliferation of missiles. When an export is deemed to make a material contribution, the license will be denied.

(2) The following factors are among those that will be considered to determine what action should be taken on an application required by this section:

(i) The specific nature of the end-use;

(ii) The significance of the export in terms of its contribution to the design, development, production, or use of missiles;

(iii) The capabilities and objectives of the missile and space programs of the recipient country;

(iv) The non-proliferation credentials of the importing country;

(v) The types of assurances or guarantees against design, development, production or use for missiles delivery purposes that are given in a particular case; and

(vi) The existence of a pre-existing contract.

§ 744.4 Restrictions on certain chemical and biological weapons end-uses.

(a) *General prohibition.* In addition to the license requirements for items specified on the CCL, you may not export or reexport an item subject to the EAR to any destination, including Canada, without a license if at the time of the export or reexport you know the item will be used in the design, development, production, stockpiling, or use of chemical or biological weapons in or by a country listed in Country Group D:3 (see Supplement No. 1 to part 740 of the EAR).

(b) *Additional prohibition on exporters informed by BXA.* BXA may inform the exporter or reexporter, either individually by specific notice or through amendment to the EAR, that a license is required for a specific export or reexport, or for export or reexport of specified items to a certain end-user, because there is an unacceptable risk of use in or diversion to such activities, anywhere in the world. Specific notice is to be given only by, or at the direction of, the Deputy Assistant Secretary for Export Administration. When such notice is provided orally, it will be followed by a written notice within two working days signed by the Deputy Assistant Secretary for Export Administration. However, the absence of any such notification does not excuse the exporter from compliance with the license requirements of paragraph (a) of this section.

(c) *Exceptions.* No License Exceptions apply to the prohibitions described in paragraphs (a) and (b) of this section.

(d) *License review standards.* (1) Applications to export or reexport items subject to this section will be considered on a case-by-case basis to determine whether the export or reexport would make a material contribution to the design, development, production, stockpiling, or use of chemical or biological weapons. When an export is deemed to make such a contribution, the license will be denied.

(2) The following factors are among those that will be considered to determine what action should be taken on an application required under this section:

(i) The specific nature of the end-use;

(ii) The significance of the export in terms of its contribution to the design, development, production, stockpiling, or use of chemical or biological weapons;

(iii) The non-proliferation credentials of the importing country;

(iv) The types of assurances or guarantees against design, development, production, stockpiling, or use of chemical or biological weapons that are given in a particular case; and

(v) The existence of a pre-existing contract.[5]

§ 744.5 Restrictions on certain maritime nuclear propulsion end-uses.

(a) *General prohibition.* In addition to the license requirements for items specified on the CCL, you may not export or reexport certain technology subject to the EAR to any destination, including Canada, without a license if at the time of the export or reexport you know the item is for use in connection with a foreign maritime nuclear propulsion project. This prohibition applies to any technology relating to maritime nuclear propulsion plants, their land prototypes, and special facilities for their construction, support, or maintenance, including any machinery, devices, components, or equipment specifically developed or designed for use in such plants or facilities.

(b) *Exceptions.* The exceptions provided in part 740 of the EAR do not apply to the prohibitions described in paragraph (a) of this section.

(c) *License review standards.* It is the policy of the United States Government not to participate in and not to authorize United States firms or individuals to participate in foreign naval nuclear propulsion plant projects, except under an Agreement for Cooperation on naval nuclear propulsion executed in accordance with § 123(d) of the Atomic Energy Act of 1954. However, it is the policy of the United States Government to encourage United States firms and individuals to participate in maritime (civil) nuclear propulsion plant projects in friendly foreign countries provided that United States naval nuclear propulsion information is not disclosed.

[5] See Supplement No. 1 to part 742 of the EAR for relevant contract sanctity dates.

§ 744.6 Restrictions on certain activities of U.S. persons.

(a) *General prohibitions*—(1) *Activities related to exports.* (i) No U.S. person as defined in paragraph (c) of this section may, without a license from BXA, export, reexport, or transfer to or in any country other country, any item where that person knows that such item:

(A) Will be used in the design, development, production, or use of nuclear explosive devices in or by a country listed in Country Group D:2 (see Supplement No. 1 to part 740 of the EAR).

(B) Will be used in the design, development, production, or use of missiles in or by a country listed in Country Group D:4 (see Supplement No. 1 to part 740 of the EAR); or

(C) Will be used in the design, development, production, stockpiling, or use of chemical or biological weapons in or by a country listed in Country Group D:3 (see Supplement No. 1 to part 740 of the EAR).

(ii) No U.S. person shall, without a license from BXA, knowingly support an export, reexport, or transfer that does not have a license as required by this section. Support means any action, including financing, transportation, and freight forwarding, by which a person facilitates an export, reexport, or transfer without being the actual exporter or reexporter.

(2) *Other activities unrelated to exports.* No U.S. person shall, without a license from BXA:

(i) Perform any contract, service, or employment that the U.S. person knows will directly assist in the design, development, production, or use of missiles in or by a country listed in Country Group D:4 (see Supplement No. 1 to part 740 of the EAR); or

(ii) Perform any contract, service, or employment that the U.S. person knows directly will directly assist in the design, development, production, stockpiling, or use of chemical or biological weapons in or by a country listed in Country Group D:3 (see Supplement No. 1 to part 740 of the EAR).

(3) *Whole plant requirement.* No U.S. person shall, without a license from BXA, participate in the design, construction, export, or reexport of a whole plant to make chemical weapons precursors identified in ECCN 1C350, in countries other than those listed in Country Group A:3 (Australia Group) (See Supplement No. 1 to part 740 of the EAR).

(b) *Additional prohibitions on U.S. persons informed by BXA.* BXA may inform U.S. persons, either individually or through amendment to the EAR, that a license is required because an activity could involve the types of participation and support described in paragraph (a) of this section anywhere in the world.

Specific notice is to be given only by, or at the direction of, the Deputy Assistant Secretary for Export Administration. When such notice is provided orally, it will be followed by a written notice within two working days signed by the Deputy Assistant Secretary for Export Administration. However, the absence of any such notification does not excuse the exporter from compliance with the license requirements of paragraph (a) of this section.

(c) *Definition of U.S. person.* For purposes of this section, the term U.S. person includes:

(1) Any individual who is a citizen of the United States, a permanent resident alien of the United States, or a protected individual as defined by 8 U.S.C. 1324b(a)(3);

(2) Any juridical person organized under the laws of the United States or any jurisdiction within the United States, including foreign branches; and

(3) Any person in the United States.

(d) *Exceptions.* No License Exceptions apply to the prohibitions described in paragraphs (a) and (b) of this section.

(e) *License review standards.* Applications to engage in activities otherwise prohibited by this section will be denied if the activities would make a material contribution to the design, development, production, stockpiling, or use of chemical or biological weapons, or of missiles.

§ 744.7 Restrictions on certain exports to and for the use of certain foreign vessels or aircraft.

(a) *General end-use prohibition.* In addition to the license requirements for items specified on the CCL, you may not export or reexport an item subject to the EAR to, or for the use of, a foreign vessel or aircraft, whether an operating vessel or aircraft or one under construction, located in any port including a Canadian port, unless a License Exception or NLR permits the shipment to be made:

(1) To the country in which the vessel or aircraft is located, and

(2) To the country in which the vessel or aircraft is registered, or will be registered in the case of a vessel or aircraft under construction, and

(3) To the country, including a national thereof, which is currently controlling, leasing, or chartering the vessel or aircraft.

(b) *Exception for U.S. and Canadian carriers.*

(1) Notwithstanding the general end-use prohibition in paragraph (a) of this section, export and reexport may be made of the commodities described in paragraph (b)(3) of this section, for use by or on a specific vessel or plane of U.S. or Canadian registry located at any seaport or airport outside the United States or Canada except a port in North Korea or Country Group D:1 (excluding the PRC and Romania), (see Supplement No. 1 to part 740) provided that such commodities are[6] all of the following:

(i) Ordered by the person in command or the owner or agent of the vessel or plane to which they are consigned;

(ii) Intended to be used or consumed on board such vessel or plane and necessary for its proper operation;

(iii) In usual and reasonable kinds and quantities during times of extreme need, except that usual and reasonable quantities of ship's bunkers or aviation fuel are considered to be only that quantity necessary for a single onward voyage or flight; and

(iv) Shipped as cargo for which a Shipper's Export Declaration (SED) is filed with the carrier, except that an SED is not required when any of the commodities, other than fuel, is exported by U.S. airlines to their own aircraft abroad for their use.

(2) *Exports to U.S. or Canadian Airline's Installation or Agent.* Exports and reexports of the commodities described in paragraph (a) of this section, except fuel, may be made to a U.S. or Canadian airline's installation or agent in any foreign destination except North Korea or Country Group D:1 (excluding the PRC and Romania), (see Supplement No. 1 to part 740) provided such commodities are all of the following:

(i) Ordered by a U.S. or Canadian airline and consigned to its own installation or agent abroad;

(ii) Intended for maintenance, repair, or operation of aircraft registered in either the United States or Canada, and necessary for the aircraft's proper operation, except where such aircraft is located in, or owned, operated or controlled by, or leased or chartered to, North Korea or Country Group D:1 (excluding the PRC) (see Supplement No. 1 to part 740) or a national of such country;

(iii) In usual and reasonable kinds and quantities; and

(iv) Shipped as cargo for which a Shipper's Export Declaration (SED) is filed with the carrier, except that an

[6] Where a license is required, see §§ 748.2 and 748.4(g) of the EAR.

SED is not required when any of these commodities is exported by U.S. airlines to their own installations and agents abroad for use in their aircraft operations.

(3) *Applicable commodities.* This § 744.7 applies to the commodities listed subject to the provisions in paragraph (b) of this section:

(i) Fuel, except crude petroleum and blends of unrefined crude petroleum with petroleum products, which is of non-Naval Petroleum Reserves origin or derivation (refer to short supply controls in part 754 of the EAR);

(ii) Deck, engine, and steward department stores, provisions, and supplies for both port and voyage requirements, except crude petroleum, provided that any commodities which are listed in Supplement No. 2 to part 754 of the EAR are of non-Naval Petroleum Reserves origin or derivation (refer to short supply controls in part 754 of the EAR);

(iii) Medical and surgical supplies;

(iv) Food stores;

(v) Slop chest articles;

(vi) Saloon stores or supplies; and

(vii) Equipment and spare parts.

§ 744.8 Restrictions on certain exports to all countries for Libyan aircraft.

(a) *General end-use prohibition for Libyan aircraft.* In addition to the license requirements for items specified on the CCL, you may not export or reexport to any destination such parts and accessories specified in paragraph (b) of this section if intended for use in the manufacture, overhaul, or rehabilitation in any country of aircraft that will be exported or reexported to Libya or Libyan nationals.

(b) *Scope of products subject to end-use prohibition for Libyan aircraft.* The general end-use prohibition in paragraph (a) of this section applies to items controlled by ECCNs 6A008, 6A108, 6A990, 7A001, 7A101, 7A002, 7A102, 7A003, 7A103, 7A004, 7A104, 7A006, 7A106, 7A115, 7A994, 9A001, 9A101, 9A003, 9A018.a, 9A991, and 9A994.

Supplement No. 1 to Part 744—Missile Technology Locations and Projects

Location	Projects
Bahrain	
Brazil	Sonda III, Sonda IV, SS–300, SS–1000, MB/EE Series Missile, VLS Space Launch Vehicle.
China	M Series Missiles, CSS–2.
Egypt	
India	Agni, Prithvi, SLV–3 Satellite Launch.
Iran	Vehicle, Augmented Satellite Launch. Vehicle (ASLV), Polar Satellite Launch. Vehicle (PSLV), Geostationary Satellite. Launch Vehicle (GSLV). Surface-to-Surface Missile Project, Scud Development Project.
Iraq	
Israel	
Jordan	
North Korea	No Dong I, Scud Development Project.
Kuwait	
Lebanon	
Libya	
Oman	
Pakistan	Haft Series Missiles.
Qatar	
Saudi Arabia	
South Africa	Surface-to-Surface Missile Project, Space Launch Vehicle.
Syria	
United Arab Emirates	
Yemen	

Supplement No. 2 to Part 744—[Reserved]

Supplement No. 3 to Part 744—Countries Not Subject to Certain Nuclear End-Use Restrictions in § 744.2(a)

Australia
Belgium
Denmark
France
Germany
Greece
Iceland
Italy (includes San Marino and Holy See)
Japan
Luxembourg
Netherlands
New Zealand
Norway
Portugal
Spain
Turkey
United Kingdom

PART 746—EMBARGOES AND OTHER SPECIAL CONTROLS

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Supplement No. 2 to Part 746—United Nations Arms Embargoes Administered by the Department of State: Liberia, Somalia and Countries of the Former Yugoslavia (Bosnia-Herzegovina, Croatia, Former Yugoslav Republic of Macedonia, Serbia and Montenegro, Slovenia)

Supplement No. 3 to Part 746—Controls on the Federal Republic of Yugoslavia (Serbia and Montenegro), Bosnia-Herzegovina, Croatia Administered by the Office of Foreign Assets Control

Authority: 50 U.S.C. app. 2401 et seq.; 50 U.S.C. 1701 et seq.; 22 U.S.C. 287c; 22 U.S.C. 6004; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; Notice of August 15, 1995 (60 FR 42767, August 17, 1995).

§ 746.1 Introduction.

In this part, references to the EAR are references to 15 CFR chapter VII, subchapter C. This part implements broad based controls for items and activities subject to the EAR imposed to implement or U.S. government policies. Two categories of controls are included in this part.

(a) *Comprehensive controls.* This part contains or refers to all the BXA licensing requirements, licensing policies, and License Exceptions for countries subject to general embargoes, currently Cuba, Libya, North Korea, Iran and Iraq. This part is the focal point for all the EAR requirements for transactions involving these countries.

(1) *Cuba, Libya, North Korea.* All the items on the Commerce Control List (CCL) require a license to Cuba, Libya, or North Korea. In addition, most other items subject to the EAR, but not included on the CCL, designated by the Number "EAR99", require a license to Cuba, Libya, and North Korea. Most items requiring a license to these destinations are subject to a general policy of denial. Because these controls extend to virtually all exports, they do not appear in the Country Chart in part 738 of the EAR, nor are they reflected in the Commerce Control List in part 774 of the EAR.

(2) *Iran and Iraq.* While BXA maintains controls on exports and reexports to Iran and Iraq, comprehensive embargoes on transactions involving these countries are administered by the Department of the Treasury's Office of Foreign Assets Control (OFAC).

(b) *Rwanda.* The second category of EAR controls apply to Rwanda included in this part are those that are supplemental to controls set forth in the Country Chart in part 738. Such controls are listed under each affected ECCN on the CCL in part 774 of the EAR.

(c) This part also contains descriptions of controls maintained by the Office of Foreign Assets Control in the Treasury Department and by Office of Defense Trade Controls in the Department of State. Comprehensive embargoes and supplemental controls implemented by BXA under the EAR usually also involve controls on items and activities maintained by these agencies. This part sets forth the allocation of licensing responsibilities between BXA and these other agencies. References to the requirements of other agencies are informational; for current, complete, and authoritative requirements, you should consult the appropriate agency's regulations.

(d) Supplement No. 1 to this part provides you with general information on United Nations sanctions administered by the Department of the Treasury's Office of Foreign Assets Control (OFAC) (31 CFR part 590) on UNITA in Angola.

(e) Supplement No. 2 to this part provides you with general information on United Nations arms embargoes administered by the Department of State (22 CFR parts 120 through 130) on all the countries of the former Yugoslavia (Bosnia-Herzegovina, Croatia, the Former Yugoslav Republic of Macedonia, Serbia, Montenegro, and Slovenia), Liberia and Somalia.

(f) Supplement No. 3 to this part provides you with information on embargoes on the Federal Republic of Yugoslavia (Serbia and Montenegro) and certain areas of Croatia and Bosnia-Herzegovina administered by OFAC (31 CFR part 585).

§ 746.2 Cuba.

(a) *License requirements.* As authorized by section 6 of the Export Administration Act of 1979, as amended (EAA) and by the Trading with the Enemy Act of 1917, as amended, you will need a license to export or reexport all items subject to the EAR (see part 734 of the EAR for the scope of items subject to the EAR) to Cuba, except as follows.

(1) *License Exceptions.* You may export without a license if your transaction meets all the applicable terms and conditions of any of the following License Exceptions. To determine the scope and eligibility requirements, you will need to turn to the sections or specific paragraphs of part 740 of the EAR (License Exceptions). Read each License Exception carefully, as the provisions available for embargoed countries are generally narrow.

(i) Temporary Exports (TEMP) by the news media (see § 740.4(a)(2)(viii) of the EAR).

(ii) Operating Technology and Software (OTS) for legally exported commodities (see § 740.8(a) of the EAR).

(iii) Sales Technology (STS) (see § 740.8(b) of the EAR).

(iv) Software Updates (SUD) for legally exported software (see § 740.8(c) of the EAR).

(v) Parts (PTS) for one-for-one replacement in certain legally exported commodities (see § 740.5(a) of the EAR).

(vi) Baggage (BAG) (see § 740.9 of the EAR).

(vii) Governments and international organizations (GOV) (see § 740.6 of the EAR).

(viii) Gift parcels and humanitarian donations (GFT) (see § 740.7 of the EAR).

(ix) Items in transit (TUS) from Canada through the U.S. (see § 740.4(b)(1)(iv) of the EAR).

(x) Aircraft and Vessels (AVS) for certain aircraft on temporary sojourn (see § 740.10(a) of the EAR).

(2) [Reserved.]

(b) *Licensing policy.* Items requiring a license are subject to a general policy of denial, except as follows:

(1) *Medicines, medical supplies, instruments and equipment.* Applications to export medicines, medical supplies, instruments and equipment will generally be approved, except:

(i) To the extent restrictions would be permitted under section 5(m) of the Export Administration Act of 1979, as amended (EAA), or section 203(b)(2) of the International Emergency Economic Powers Act;

(ii) If there is a reasonable likelihood that the item to be exported will be used for purposes of torture or other human rights abuses;

(iii) If there is a reasonable likelihood that the item to be exported will be reexported;

(iv) If the item to be exported could be used in the production of any biotechnological product; or

(v) If it is determined that the United States government is unable to verify, by on-site inspection or other means, that the item to be exported will be used for the purpose for which it was intended and only for the use and benefit of the Cuban people, but this exception shall not apply to donations of medicines for humanitarian purposes to a nongovernmental organization in Cuba.

(2) Telecommunications commodities may be authorized on a case-by-case basis, provided the commodities are part of an FCC-approved project and are necessary to provide efficient and adequate telecommunications services between the United States and Cuba.

(3) Exports from third countries to Cuba of non-strategic foreign-made products that contain an insubstantial proportion of U.S.-origin materials, parts, or components will generally be considered favorably on a case-by-case basis, provided all of the following conditions are satisfied:

(i) The local law requires, or policy favors, trade with Cuba;

(ii) The U.S.-origin content does not exceed 20 percent of the value of the product to be exported from the third country. Requests where the U.S.-origin parts, components, or materials represent more than 20 percent by value of the foreign-made product will generally be denied. See Supplement No. 3 to part 734 of the EAR for instructions on how to calculate value; and

(iii) You are not a U.S.-owned or -controlled entity in a third country as defined by OFAC regulations, 31 CFR part 515, or you are a U.S.-owned or controlled entity in a third country and one or more of the following situations applies:

(A) You have a contract for the proposed export that was entered into prior to October 23, 1992.

(B) Your transaction involves the export of foreign-produced medicine, or medical supplies, instruments, or equipment incorporating U.S.-origin parts, components or materials, in which case the application will be reviewed according to the provisions of paragraph (b)(1) of this section.

(C) Your transaction is for the export of foreign-produced telecommunications commodities incorporating U.S.-origin parts, components and materials, in which case the application will be reviewed under the licensing policy set forth in paragraph (b)(2) of this section.

(D) Your transaction is for the export of donated food to individuals or non-governmental organizations in Cuba and does not qualify for the humanitarian License Exception.

(c) Cuba has been designated by the Secretary of State as a country whose government has repeatedly provided support for acts of international terrorism. For anti-terrorism controls, see Supplement 2 to part 742 of the EAR.

(d) *Related controls.* OFAC maintains controls on the activities of persons subject to U.S. jurisdiction, wherever located, involving transactions with Cuba or any specially designated Cuban national, as provided in 31 CFR part 515.

§ 746.3 Iraq.

(a) *License requirements.* OFAC administers an embargo against Iraq under the authority of the International Emergency Economic Powers Act of 1977, as amended, and the United Nations Participation Act of 1945, as amended, and in conformance with United Nations Security Council Resolutions. The applicable OFAC regulations, the Iraqi Sanctions Regulations, are found in 31 CFR part 575. You should consult with OFAC for authorization to export or reexport items subject to U.S. jurisdiction to Iraq, or to any entity owned or controlled by, or specially designated as acting for or on behalf of, the Government of Iraq. Under the EAR, you need a license to export or reexport to Iraq any item on the CCL containing a CB Column 1, CB Column 2, CB Column 3, NP Column 1, NP Column 2, NS Column 1, NS Column 2, MT Column 1, RS Column 1, RS Column 2, CC Column 1, CC Column 2, CC Column 3 in the Country Chart Column of the License Requirements section of an ECCN, or classified under ECCNs 1C980, 1C981, 1C982, 1C983, 1C984, 5A980, 0A980, and 0A983; however, to avoid duplication, an authorization from OFAC constitutes authorization under the EAR, and no separate BXA authorization is necessary. Except as noted in § 746.3(a)(1) of this part, you may not use any BXA License Exception or other BXA authorization to export or reexport to Iraq.

(1) *License Exceptions.* You may export or reexport without a license if your transaction meets all the applicable terms and conditions of one of the following License Exceptions. Read each License Exception carefully, as the provisions available for embargoed countries are generally narrow.

(i) Baggage (BAG) (See § 740.9 of the EAR).

(ii) Governments and international organizations (GOV) (See § 740.6 of the EAR).

(2) *Exports for the official use of the United Nations, its personnel or agencies (excluding its relief or developmental agencies).* You must consult with OFAC to determine what transactions are eligible.

(b) Iraq has been designated by the Secretary of State as a country that has repeatedly provided support for acts of international terrorism. For anti-terrorism controls, see Supplement 2 to part 742 of the EAR.

(c) *Related controls.* OFAC maintains controls on the activities of U.S. persons, wherever located, involving transactions with Iraq or any specially designated Iraqi national, as provided in 31 CFR part 575.

§ 746.4 Libya.

(a) *Introduction.* The Department of the Treasury and the Department of Commerce maintain comprehensive controls on exports and reexports to Libya. OFAC maintains comprehensive controls on exports and transshipments to Libya under the Libyan Sanctions Regulations (31 CFR part 550). To avoid duplicate licensing procedures, OFAC and BXA have allocated licensing responsibility as follows: OFAC licenses direct exports and transshipments to Libya; BXA licenses reexports, exports of foreign-manufactured items containing U.S.-origin parts, components or materials, and exports of foreign-produced direct product of U.S. technology or software. Issuance of an OFAC license also constitutes authorization under the EAR, and no license from BXA is necessary. Exports and reexports subject to the EAR that are not subject to the Libyan Sanctions Regulations continue to require authorization from BXA.

(b) *License requirements*—(1) *Exports.* OFAC and BXA both require a license for virtually all exports (including transshipments) to Libya. Except as noted in paragraph (b) of this section or specified in OFAC regulation, you may not use any BXA License Exception or other BXA authorization to export or transship to Libya. You will need a license from OFAC for all direct exports and transshipments to Libya except those eligible for the following BXA License Exceptions:

(i) Baggage (BAG) (see § 740.9 of the EAR).

(ii) Governments and international organizations (GOV) (see § 740.6 of the EAR).

(iii) Gift parcels (GIFT) (see § 740.7(a) of the EAR).

(2) *Reexports.* You will need a license from BXA to reexport any U.S.-origin item from a third country to Libya, any foreign-manufactured item containing U.S.-origin parts, components or materials, as defined in § 734.2(b)(2) of the EAR, or any national security-controlled foreign-produced direct product of U.S. technology or software, as defined in § 734.2(b)(3) of the EAR, exported from the U.S. after March 12, 1982. You will need a license from BXA to reexport all items subject to the EAR (see part 734 of the EAR) to Libya, except:

(i) Food, medicines, medical supplies, and agricultural commodities;

(ii) Reexports eligible for the following License Exceptions (read each License Exception carefully, as the provisions available for embargoed countries are generally narrow):

(A) Temporary Exports (TEMP) reexports by the news media (see § 740.4(a)(2)(viii) of the EAR).

(B) Operating Technology and Software (OTS) for legally exported commodities (see § 740.8(a) of the EAR).

(C) Sales Technology (STS) (see § 740.8(b) of the EAR).

(D) Software Updates (SUD) for legally exported software (see § 740.8(c) of the EAR).

(E) Parts (PTS) for one-for-one replacement in certain legally exported commodities (§ 740.5(a) of the EAR).

(F) Baggage (BAG) (§ 740.9 of the EAR).

(G) Aircraft and Vessels (AVS) for vessels only (see § 740.10(c)(1) of the EAR).

(H) Governments and international organizations (GOV) (see § 740.6 of the EAR).

(I) Gift parcels and humanitarian donations (GFT) (see § 740.7 of the EAR).

(3) License applications submitted to BXA must provide specific answers to the following questions:

(i) How was the product received at its current location, and under what type of authorization;

(ii) On what date was it received; and

(iii) How are inventories maintained at the current site?

(c) *Licensing policy.* (1) You should consult with OFAC regarding licensing policy for transactions subject to OFAC regulation.

(2) The licensing policy for BXA controls is as follows. Licenses will generally be denied for:

(i) Items controlled for national security purposes and related technology and software, including controlled foreign produced products of U.S. technology and software exported from the United States after March 12, 1982; and

(ii) Oil and gas equipment and technology and software, if listed in paragraph (c)(2)(vii) of this section, or if determined by BXA not to be readily available from sources outside the United States; and

(iii) Commodities, software, and technology destined for the petrochemical processing complex at Ras Lanuf, if listed in paragraph (c)(2)(vii) of this section, or where such items would contribute directly to the development or construction of that complex (items destined for the township at Ras Lanuf, or for the public utilities or harbor facilities associated with that township, generally will not be regarded as making such a contribution where their functions will

be primarily related to the township, utilities or harbor);

(iv) Aircraft (including helicopters) or aircraft parts, components, or accessories to Libya or the provision of engineering and maintenance servicing of Libyan aircraft or aircraft components;

(v) Arms and related material of all types, including the sale or transfer of weapons and ammunition, military vehicles and equipment, paramilitary police equipment, spare parts for the aforementioned, and equipment or supplies for the manufacture or maintenance of the aforementioned.

(vi) Materials destined for the construction, improvement or maintenance of Libyan civilian or military airfields and associated facilities and equipment or any engineering or other services or components destined for the maintenance of any Libyan civil or military airfields or associated facilities and equipment, except emergency equipment and equipment and services directly related to civilian air traffic control; and

(vii) Items listed in paragraphs (c)(2)(vii) (A) through (E) and equipment and supplies for the manufacture or maintenance of such items:

(A) Pumps of medium or large capacity (equal to or larger than 3500 cubic meters per hour) and drivers (gas turbines and electric motors) designed for use in the transportation of crude oil and natural gas.

(B) Equipment designed for use in crude oil export terminals, as follows:

(*1*) Loading buoys or single point moorings;

(*2*) Flexible hoses for connection between underwater manifolds (plem) and single point mooring and floating loading hoses of large sizes (from 12–16 inches); or

(*3*) Anchor chains.

(C) Equipment not specially designed for use in crude oil export terminals, but which because of its large capacity can be used for this purpose, as follows:

(*1*) Loading pumps of large capacity (4000 m^3/h) and small head (10 bars);

(*2*) Boosting pumps within the same range of flow rates;

(*3*) Inline pipe line inspection tools and cleaning devices (i.e., pigging tools) (16 inches and above); or

(*4*) Metering equipment of large capacity (1000 m^3/h and above).

(D) Refinery equipment, as follows:

(*1*) Boilers meeting American Society of Mechanical Engineers 1 standards;

(*2*) Furnaces meeting American Society of Mechanical Engineers 8 standards;

(*3*) Fractionation columns meeting American Society of Mechanical Engineers 8 standards;

(*4*) Pumps meeting American Petroleum Institute 610 standards;

(*5*) Catalytic reactors meeting American Society of Mechanical Engineers 8 standards; or

(*6*) Prepared catalysts, including catalysts containing platinum and catalysts containing molybdenum.

(E) Spare parts for any of the items described in paragraph (c)(2)(vii) of this section.

(3) Notwithstanding the presumptions of denial in paragraphs (c)(2) (i) through (iii), licenses will generally be issued items not included in paragraph (c)(2)(iv) through (vii) when the transaction involves:

(i) The export or reexport of commodities or technology and software under a contract in effect prior to March 12, 1982, where failure to obtain a license would not excuse performance under the contract;

(ii) Reexport of items not controlled for national security purposes that had been exported from the United States prior to March 12, 1982 or exports of foreign products incorporating such items as components; or

(iii) Incorporation of U.S.-origin parts, components, or materials in foreign-manufactured products destined for Libya, where the U.S. content is 20 percent or less by value.

(4) Notwithstanding the presumption of denial in paragraph (c)(2) (iv) through (vii), applications for reexports under a contract pre-dating January 18, 1994, will be reviewed under the licensing policy in effect prior to that date.

(5) Licenses will generally be considered favorably on a case-by-case basis when the transaction involves the following items, provided such items are not included in paragraph (c)(2) (iv) through (vii):

(i) Reexports of items subject to national security controls that were exported prior to March 12, 1982 and exports of foreign products incorporating such U.S.-origin components, where the particular authorization would not be contrary to specific foreign policy objectives of the United States; or

(ii) Items destined for use in the development or construction of the petrochemical processing complex at Ras Lanuf, where the transaction could be approved but for the general policy of denial set out in paragraph (c)(2)(iii), and where either:

(A) The transaction involves a contract in effect before December 20, 1983 that requires export or reexport of the items in question; or

(B) The items had been exported from the U.S. before that date.

(iii) Other unusual situations such as transactions involving firms with contractual commitments in effect before March 12, 1982.

(6) Licenses will generally be considered favorably on a case-by-case basis for the reexport of reasonable quantities for civil use of off-highway wheel tractors of carriage capacity of 9t (10 tons) or more, as defined in ECCN 9A992, provided such tractors are not for uses described in paragraph (c)(2)(iv) through (vi) of this section.

(7) All other reexports not covered by United Nations resolutions will generally be approved, subject to any other licensing policies applicable to a particular transaction.

(e) Libya has been designated by the Secretary of State as a country whose government has repeatedly provided support for acts of international terrorism. For anti-terrorism controls, see Supplement 2 to part 742 of the EAR.

(f) *Related controls.* OFAC administers broad economic sanctions on Libya, and restricts participation by U.S. persons in transactions with Libya or specially designated Libyan nationals. The applicable OFAC regulations, the Libyan Sanctions Regulations, are found in 31 CFR part 550.

§ 746.5 North Korea.

(a) *License requirements.* As authorized by section 6 of the Export Administration Act of 1979, as amended (EAA) and by the Trading with the Enemy Act of 1917, as amended, you will need a license to export or reexport items subject to the EAR (see part 734 of the EAR) to North Korea, except as follows:

(1) *License Exceptions.* You may export without a license if your transaction meets all the applicable terms and conditions of any of the License Exceptions specified in this paragraph. To determine scope and eligibility requirements, you will need to turn to the sections or specific paragraphs of part 740 of the EAR (License Exceptions). Read each License Exception carefully, as the provisions available for embargoed countries are generally narrow.

(i) Temporary Exports (TEMP) by the news media (see § 740.4(a)(2)(viii) of the EAR).

(ii) Operating Technology and Software (OTS) for legally exported commodities (see § 740.8(a) of the EAR).

(iii) Sales Technology (STS) (see § 740.8(b) of the EAR).

(iv) Software Updates (SUD) for legally exported software (see § 740.8(c) of the EAR).

(v) Parts (PTS) for one-for-one replacement in certain legally exported commodities (§ 740.5(a) of the EAR).

(vi) Baggage (BAG) (§ 740.9 of the EAR).

(vii) Aircraft and Vessels (AVS) for fishing vessels under governing international fishery agreements and foreign-registered aircraft on temporary sojourn in the U.S.[1] (see § 740.10 (a) and (c)(1) of the EAR).

(viii) Governments and international organizations (GOV) (see § 740.15 of the EAR).

(ix) Gift parcels and humanitarian donations (GFT) (see § 740.7 of the EAR).

(2) *[Reserved]*

(b) *Licensing policy.* Items requiring a license are subject to a general policy of denial. Exceptions to the policy of denial are as follows:

(1) BXA will review on a case-by-case basis applications for export of donated human-needs items listed in Supplement No. 2 to Part 740 of the EAR that do not qualify for the License Exception NEED (see § 740.7(b) of the EAR). Such applications include single transactions involving exports to meet emergency needs.

(2) BXA will review on a case-by-case basis applications for commercial sales of human-needs items. Such applications must be for items listed in Supplement No. 2 to part 740 of the EAR, but are not limited solely to small scale projects at the local level.

(c) North Korea has been designated by the Secretary of State as a country whose government has repeatedly provided support for acts of international terrorism. For anti-terrorism controls, see Supplement 2 to part 742 of the EAR.

(d) *Related controls.* OFAC maintains controls on the activities of persons subject to U.S. jurisdiction, wherever located, involving transactions with North Korea or any specially designated North Korean national.

§ 746.6 [Reserved]

§ 746.7 Iran.

The Treasury Department's Office of Foreign Assets Control (OFAC) administers a comprehensive trade and investment embargo against Iran under the authority of the International Emergency Economic Powers Act of 1977, as amended, section 505 of the International Security and Development Cooperation Act of 1985, and Executive Orders 12957 and 12959 of March 15, 1995 and May 6, 1995, respectively. This embargo includes prohibitions on export and certain reexport transactions involving Iran, including transactions dealing with items subject to the EAR. (See OFAC's Iranian Transactions Regulations, 31 CFR part 560.) BXA continues to maintain licensing requirements on exports and reexports to Iran under the EAR as described in paragraph (a)(2) of this section. No person may export or reexport items subject to both the EAR and OFAC's Iranian Transactions Regulations without prior OFAC authorization.

(a) *License requirements.*

(1) *OFAC administered embargo.* You should consult with OFAC if:

(i) You seek authorization to export from the United States; or

(ii) You are a United States person (as defined in OFAC's Iranian Transactions Regulations, 31 CFR part 560) and seek authorization to export or reexport from a third country; or

(iii) You seek authorization to reexport U.S.-origin items that were subject to any export license application requirements prior to Executive Order 12959 of May 6, 1995.

(2) *BXA license requirements.* A license is required under the EAR:

(i) To export to Iran any item on the CCL containing a CB Column 1, CB Column 2, CB Column 3, NP Column 1, NP Column 2, NS Column 1, NS Column 2, MT Column 1, RS Column 1, RS Column 2, CC Column 1, CC Column 2, CC Column 3, AT Column 1 or AT Column 2 in the Country Chart Column of the License Requirements section of an ECCN, or classified under ECCNs 1C980, 1C981, 1C982, 1C983, 1C984, 5A980, 0A980, and 0A983; or

(ii) To reexport to Iran any of the items identified in § 746.7(a)(2)(i), except for ECCNs 2A994, 3A993, 5A992, 5A995, 6A990, 6A994, 7A994, 8A992, 8A994, 9A990, 9A992, or 9A994. However, the export of these items from the United States to any destination with knowledge that they will be reexported, in whole or in part, to Iran, is prohibited without a license; or

(iii) To export or reexport items subject to the general prohibitions, including proliferation end-use prohibitions (see part 736 of the EAR).

(3) *BXA authorization.* To avoid duplication, exporters or reexporters are not required to seek separate authorization from BXA for an export or reexport subject both to the EAR and to OFAC's Iranian Transactions Regulations. Therefore, if OFAC authorizes an export or reexport, no separate authorization from BXA is necessary.

(4) *Definitions.* For purposes of this section, the term "United States person" means any United States citizen, permanent resident alien, entity organized under the laws of the United States (including foreign branches), or any person in the United States; the term "foreign person" means those not defined as United States persons.

(b) Iran has been designated by the Secretary of State as a country that has repeatedly provided support for acts of international terrorism. For anti-terrorism controls, see § 742.8 of the EAR and Supplement 2 to part 742.

§ 746.8 Rwanda.

(a) *Introduction.* In addition to the controls on Rwanda reflected on the Country Chart in Supplement 1 to part 738 of the EAR, there are special controls on items that fall within the scope of a United Nations Security Council arms embargo.

(b) *License requirements.* (1) Under Executive Order 12918 of May 26, 1994, and in conformity with United Nations Security Council (UNSC) Resolution 918 of May 17, 1994, an embargo applies to the sale or supply to Rwanda of arms and related matériel of all types and regardless of origin, including weapons and ammunition, military vehicles and equipment, paramilitary police equipment, and spare parts for such items. You will therefore need a license for the sale, supply or export to Rwanda of embargoed items, as listed in paragraph (b)(1)(i) and (ii) of this section, from the territory of the United States by any person. You will also need a license for the export, reexport, sale or supply to Rwanda of such items by any United States person in any foreign country or other location. (Reexport controls imposed by this embargo apply only to reexports by U.S. persons.) You will also need a license for the use of any U.S.-registered aircraft or vessel to supply or transport to Rwanda any such items. These requirements apply to embargoed items, regardless of origin.

(i) Crime Control and Detection Equipment as identified on the CCL under CC Columns No. 1, 2 or 3 in the Country Chart column of the "License Requirements" section of the applicable ECCN.

(ii) Items described by any ECCN ending in "18," and items described by ECCNs 1A988, 2B985, 5A980, 6A002.a.1,a.2,a.3 and c, 6A003.b.3 and b.4, 6D102, 6E001, 6E002, 9A115, 9A991.a, 09A84, 0A986, and 0A988.

(2) This embargo became effective at 11:59 p.m. EDT on May 26, 1994.

[1] Export of U.S. aircraft on temporary sojourn or vessels is prohibited, 44 CFR Ch. IV, Part 403 "Shipping restrictions: North Korea (T–2)."

(3) *Definitions.* For the purposes of this section, the term:

(i) *Person* means a natural person as well as a corporation, business association, partnership, society, trust, or any other entity, organization or group, including governmental entities; and

(ii) *United States person* means any citizen or national of the United States, any lawful permanent resident of the United States, or any corporation, business association, partnership, society, trust, or any other entity, organization or group, including governmental entities, organized under the laws of the United States (including foreign branches).

(c) *Licensing policy.* Applications for export or reexport of all items listed in paragraphs (b)(1)(i) and (ii) of this section are subject to a general policy of denial. Consistent with United Nations Security Council Resolution 918 and the United Nations Participation Act, this embargo is effective notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any license or permit granted prior to that date, except to the extent provided in regulations, orders, directives or licenses that may be issued in the future under Executive Order 12918 or under the EAR.

(d) *Related controls.* The Department of State, Office of Defense Trade Controls, maintains controls on arms and military equipment under the International Traffic in Arms Regulations (22 CFR parts 120 through 130).

Supplement 1 to Part 746—Special Sanctions on Angola Administered by the Office of Foreign Assets Control

(a) *Angola.* BXA maintains controls on Angola as reflected on the Country Chart in Supplement 1 to part 738 of the EAR. (See also § 746.7 of this part.) In addition, OFAC administers sanctions against the National Union for the Total Independence of Angola (UNITA). Under Executive Order 12865 of September 26, 1993, and consistent with United Nations Security Council Resolution 864 of September 15, 1993, OFAC administers an embargo on the sale or supply of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment and spare parts, and petroleum and petroleum products to:

(1) UNITA; or

(2) The territory of Angola, other than through points of entry designated by the Secretary of the Treasury, in the following schedule:

(i) Airports:

(A) Luanda; or

(B) Katumbela, Benguela Province.

(ii) Ports:

(A) Luanda;

(B) Lobito, Benguela Province; or

(C) Namibe, Namibe Province.

(iii) Entry Points:

(A) Malongo, Cabinda.

(B) Reserved.

(b) Exporters should apply to OFAC for authorization to export embargoed items to UNITA or to points of entry not designated by the Secretary of the Treasury. Exports of embargoed items that are also controlled on the CCL to end-users other than UNITA and to points of entry designated by the Secretary of the Treasury continue to require a license from BXA. In addition, all other items controlled on the CCL to Angola continue to require a license from BXA.

Supplement 2 to Part 746—United Nations Arms Embargoes Administered by the Department of State: Liberia, Somalia, and Countries of the Former Yugoslavia (Bosnia-Herzegovina, Croatia, Former Yugoslav Republic of Macedonia, Serbia and Montenegro, Slovenia)

(a) *Former Socialist Federal Republic of Yugoslavia (Bosnia-Herzegovina, Croatia, the Former Yugoslav Republic of Macedonia, Serbia and Montenegro, and Slovenia).* The Department of State administers an embargo on all weapons and military equipment, consistent with United Nations Security Council Resolution 713 of September 25, 1991, to the countries of the former Socialist Federal Republic of Yugoslavia (Bosnia-Herzegovina, Croatia, the Former Yugoslav Republic of Macedonia, Serbia and Montenegro, and Slovenia). Exporters are advised to consult with the Department of State, Office of Defense Trade Controls (22 CFR parts 120 through 130), regarding exports of weapons and military equipment to these destinations.

(b) *Liberia.* The Department of State administers an embargo on all weapons and military equipment to Liberia, consistent with United Nations Security Council Resolution 788 of November 19, 1992. Exporters are advised to consult with the Department of State, Office of Defense Trade Controls (22 CFR parts 120 through 130), regarding exports of weapons and military equipment.

(c) *Somalia.* The Department of State administers an embargo on all weapons and military equipment to Somalia, consistent with United Nations Security Council Resolution 733 of February 23, 1992. Exporters are advised to consult with the Department of State, Office of Defense Trade Controls (22 CFR parts 120 through 130), regarding exports of weapons and military equipment.

Supplement No. 3 to Part 746—Controls on the Federal Republic of Yugoslavia (Serbia and Montenegro), Bosnia-Herzegovina, Croatia Administered by the Office of Foreign Assets Control

Note: OFAC administers a comprehensive embargo on the Federal Republic of Yugoslavia (Serbia and Montenegro), certain areas of Croatia, and Bosnian Serb-controlled areas of the Republic of Bosnia-Herzegovina. Effective January 16, 1996, OFAC suspended the application of sanctions on Croatia and Serbia and Montenegro. Therefore, exporters should consult the Country Chart in Supplement No. 1 to part 738 of the EAR for BXA controls. OFAC controls on Bosnian Serb-controlled area of Bosnia-Herzegovina remain in effect. (See amendment to the Federal Republic of Yugoslavia (Serbia and Montenegro) and Bosnian Serb-Controlled Areas of the Republic of Bosnia and Herzegovina Sanctions Regulations in the **Federal Register** of January 19, 1996 (61 FR 1282) (31 CFR part 585).) This suspension affects paragraphs (a) and (c) of this Supplement.

(a) *Federal Republic of Yugoslavia (Serbia & Montenegro).* OFAC administers an embargo on exports and reexports to the Federal Republic of Yugoslavia (Serbia and Montenegro) (FRY(S & M)). OFAC administers this embargo under Executive Orders 12808 of May 30, 1992, 12810 of June 5, 1992, 12831 of January 15, 1993, 12846 of April 25, 1993, and 12934 of October 25, 1994, and consistent with United Nations Security Council Resolutions 757 of May 30, 1992, 787 of November 16, 1992, 820 of April 17, 1993, and 942 of September 23, 1994. Under this embargo, no items subject to U.S. jurisdiction may be exported, directly or indirectly, to the FRY (S & M), or to any entity operated from the FRY (S & M), or owned or controlled by, or specially designated as acting for or on behalf of the Government of the FRY (S & M). The applicable OFAC regulations, the Federal Republic of Yugoslavia (Serbia and Montenegro) Sanctions Regulations, are found in 31 CFR part 585. Exporters should apply to OFAC for authorization to export or reexport items subject to the EAR to the FRY (S & M). An authorization from OFAC constitutes authorization under the EAR, and no BXA license is necessary.

(b) *Bosnia-Herzegovina.* (1) BXA maintains the controls reflected on the Country Chart in Supplement 1 to part 738 of the EAR on Bosnia-Herzegovina, except to the extent OFAC maintains controls on exports or reexports to that country.

(2) OFAC maintains a comprehensive embargo on trade, including exports from the United States or by U.S. persons to, or through, those areas of the Republic of Bosnia-Herzegovina under the control of the Bosnian Serb forces, or activity of any kind that promotes or is intended to promote such dealing. OFAC maintains this embargo under Executive Orders 12846 of April 25, 1993 and 12934 of October 25, 1994, and consistent with United Nations Security Council Resolutions 820 of April 17, 1993 and 942 of September 23, 1994. The applicable OFAC regulations, the Federal Republic of Yugoslavia (Serbia and Montenegro) Sanctions Regulations, are found in 31 CFR part 585. U.S. persons should apply to OFAC for authorization to engage in trade-related transactions involving those areas of the Republic of Bosnia-Herzegovina under the control of the Bosnian Serb forces. An authorization from OFAC constitutes authorization under the EAR, and no BXA license is necessary. You will need a license from BXA for items controlled on the CCL to

Bosnia-Herzegovina when the export or reexport is destined to areas in the Republic of Bosnia-Herzegovina not controlled by the Bosnian Serb forces. You may need a license from BXA to reexport U.S.-origin items from third countries to areas of the Republic of Bosnia-Herzegovina under the control of the Bosnian Serb forces.

(c) *Croatia.* (1) BXA maintains the controls reflected on the Country Chart in Supplement 1 to part 738 of the EAR on Croatia, except to the extent OFAC maintains controls on exports or reexports to that country.

(2) OFAC prohibits any dealing by a U.S. person relating to the export to, or transshipment through, the United Nations Protected Areas in the Republic of Croatia. OFAC maintains this embargo under Executive Order 12846 of April 25, 1993, and consistent with United Nations Security Council Resolution 820 of April 17, 1993. The applicable OFAC regulations, the Federal Republic of Yugoslavia (Serbia and Montenegro) Sanctions Regulations, are found in 31 CFR part 585. U.S. persons should apply to OFAC for authorization to engage in trade-related transactions involving the United Nations Protected Areas in the Republic of Croatia. An authorization from OFAC constitutes authorization under the EAR, and no BXA license is necessary. You will need a license from BXA for items controlled on the CCL to Croatia when the export or reexport is destined to areas other than the United Nations Protected Areas in the Republic of Croatia. Foreign persons may need a license from BXA to reexport U.S.-origin items from third countries to the United Nations Protected Areas in the Republic of Croatia.

PART 748—APPLICATIONS (CLASSIFICATION, ADVISORY, AND LICENSE) AND DOCUMENTATION

Sec.

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Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 3 CFR, 1994 Comp., p. 917; Notice of August 15, 1995 (60 FR 42767, August 17, 1995).

§ 748.1 General provisions.

(a) *Scope.* In this part, references to the EAR are references to 15 CFR chapter VII, subchapter C. The provisions of this part involve applications, whether submitted in writing or electronically, for classifications, advisory opinions or licenses subject to the Export Administration Regulations (EAR). All terms, conditions, provisions, and instructions, including the applicant and consignee certifications, contained in such form(s) are incorporated as part of the EAR. For the purposes of this part, the term "application" refers to the Form BXA–748P: Multipurpose Application or its electronic equivalent. If a provision contained in this part relates solely to a license application the term "license application" will appear.

(b) *BXA responses.* BXA will give a formal classification, advisory opinion or licensing decision only through the review of a properly completed application supported by all relevant facts and required documentation submitted in writing or electronically to BXA.

(c) *Confidentiality.* Consistent with section 12(c) of the Export Administration Act, as amended, information obtained for the purposes of considering license applications, and other information obtained by the U.S. Department of Commerce concerning license applications, will not be made available to the public without the approval of the Secretary of Commerce.

§ 748.2 Obtaining forms; mailing addresses.

(a) You may obtain the forms required by the EAR from any U.S. Department of Commerce District Office; or in person or by telephone or facsimile from the following BXA offices:

Export Counseling Division

U.S. Department of Commerce, 14th Street and Pennsylvania Ave., N.W., Room H1099D, Washington, D.C. 20230, Telephone Number: (202) 482–4811, Facsimile Number: (202) 482–3617,

Western Regional Offices:

3300 Irvine Avenue, Ste. 345, Newport Beach, CA 92660, Telephone Number: (714) 660–0144, Facsimile Number: (714) 660–9347,

5201 Great America Pkwy, Ste. 226, Santa Clara, CA 95054, Telephone Number: (408) 748–7450, Facsimile Number: (408) 748–7470

(b) For the convenience of foreign consignees and other foreign parties, certain BXA forms may be obtained at U.S. Embassies and Consulates throughout the world.

(c) All applications should be mailed to the following address, unless otherwise specified: Bureau of Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, D.C. 20044. If you wish to submit your application using an overnight courier, use the following address: Bureau of Export Administration, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue N.W., Room 2705, Washington, D.C. 20044, Attn: "Application Enclosed". BXA will not accept applications sent C.O.D.

§ 748.3 Classification and Advisory Opinions.

(a) *Introduction.* In light of your responsibility to classify your item, you may ask BXA to provide you with the correct Export Control Classification Number (ECCN) to the paragraph (or subparagraph if appropriate). BXA will advise you whether or not your item is subject to the EAR and, if applicable, the appropriate ECCN. This type of request is commonly referred to as a "Classification Request". If requested, for a given end-use, end-user, and/or destination, BXA will advise you whether a license is required, or likely to be granted, for a particular transaction. Note that these responses do not bind BXA to issuing a license in the future. This type of request, along with requests for guidance regarding other interpretations of the EAR are commonly referred to as "Advisory Opinions".

(b) *Classification requests.* You must submit your Classification Request using Form BXA–748P or its electronic equivalent. See the instructions contained in Supplement No. 1 to part 748 to complete the Blocks identified for this type of request. Classification Requests must be sent to BXA at one of the addresses listed in § 748.2(c) of this part or submitted electronically. Be certain that your request is complete and does not omit any essential information.

(1) Each Classification Request must be limited to 5 items. Exceptions may be granted by BXA on a case-by-case basis for several related items if the relationship between the items is satisfactorily substantiated in the request. Classification requests must be supported by any descriptive literature, brochures, precise technical specifications or papers that describe the items in sufficient technical detail to enable classification by BXA.

(2) You must complete Blocks 1 through 5, 14, 22(b)(c)(d) and (i) (enter your recommended classification information in these blocks), 24 and 25 on the application when submitting a Classification request. If you are requesting BXA to classify an item for which precise specifications are identified in § 748.8 of this part, these specifications must be addressed in, or attached to, your application. Consult § 738.2 of the EAR for guidance on classifying items on the Commerce Control List.

(c) *Advisory Opinions.* Advisory Opinions must be submitted in writing to the address listed in § 748.2(c) of the EAR. Both your letter and envelope must be marked "Advisory Opinion."

(1) Your letter must contain the following information if you are requesting guidance regarding interpretations of the EAR:

(i) The name, title, and telephone and facsimile numbers of the person to contact,

(ii) Your complete address comprised of street address, city, state, country, and postal code; and

(2) If you are requesting BXA to determine whether a license is required, or the licensing policy related to a particular end-use, end-user, and/or destination, in addition to the information required in § 748.3(c)(1) you must also include:

(i) All available information on the parties to the transaction and the proposed end-use or end-user,

(ii) The model number for each item, where appropriate,

(iii) The Export Control Classification Number, if known, for each item; and

(iv) Any descriptive literature, brochures, technical specifications or papers that describe the items in sufficient technical detail to enable BXA to verify the correct classification.

§ 748.4 Basic guidance related to applying for a license.

(a) *Disclosure and substantiation of facts on license applications.* You, as the applicant, are required to make the complete disclosure of all parties in interest to the transaction so that BXA may decide on the license application with the fullest knowledge of all relevant facts. If the license application is filed for an account other than that of the applicant, the agent, as applicant must disclose the name of the agent's principal. Where there is any doubt as to which of several persons should be named as a party to the license, you must disclose the names of all such persons and the functions to be performed by each in Block 24 on your application or an attachment to your license application.

(b) *Applications for the export of items from the United States.* A license application to export items from the United States may be made only by a person subject to the jurisdiction of the United States who is in fact the exporter, or by the applicant's duly authorized agent. This limitation does not apply to applications for the reexport of items previously exported. An application may be made on behalf of a person not subject to the jurisdiction of the United States by an authorized agent in the United States, who then becomes the applicant.

(c) *Prohibited from applying for a license.* No person convicted of a violation of any statute specified in section 11(h) of the Export Administration Act, as amended, at the discretion of the Secretary of Commerce, may apply for any license for a period up to 10 years from the date of the conviction. See § 766.25 of the EAR.

(d) *Prior action on a shipment.* If you have obtained a license without disclosure of the facts described in this section, the license will be deemed to have been obtained without disclosure of all facts material to the granting of the license and the license so obtained will be deemed void. See part 764 of the EAR for other sanctions that may result in the event a violation occurs.

(1) *Licenses for items subject to detention or seizure.* If you submit a license application for items that you know have been detained or seized by the Office of Export Enforcement or by the U.S. Customs Service, you must disclose this fact to BXA when you submit your license application.

(2) *Licenses for items previously exported.* You may not submit a license application to BXA covering a shipment that is already laden aboard the exporting carrier, exported or reexported. If such export or reexport should not have been made without first securing a license authorizing the shipment, you must send a letter of explanation to the Office of Export Enforcement, U.S. Department of Commerce, 14th and Pennsylvania Avenue, N.W., H4520, Washington, D.C., 20230. The letter must state why a license was not obtained and disclose all facts concerning the shipment that would normally have been disclosed on the license application. You will be informed of any action and furnished any instructions by the Office of Export Enforcement.

(e) *Multiple shipments.* Your license application need not be limited to a single shipment, but may represent a reasonable estimate of items to be shipped throughout the validity of the license. Do not wait until the license you are using expires before submitting a new application. You may submit a new application prior to the expiration of your current license in order to ensure uninterrupted shipping.

(f) *Second application.* You may not submit a second license application covering the same proposed transaction while the first is pending action by BXA.

(g) *Resubmission.* If a license application is returned without action to you by BXA or your application represents a transaction previously denied by BXA, and you want to resubmit the license application, a new license application must be completed in accordance with the instructions contained in Supplement No. 1 to part 748. Cite the Application Control Number on your original application in Block 24 on the new license application.

(h) *Emergency processing.* If you believe an emergency situation beyond your control necessitates expedited processing of your license application, you should contact BXA's Exporter Counseling Division of the Office of Exporter Services. This office may be reached by telephone on (202) 482–4811 or by facsimile on (202) 482–3617. These procedures do not apply to emergency handling of Special Comprehensive License applications.

(1) *How to request emergency handling.* If your license application is already pending with BXA, contact the Exporter Counseling Division directly on either number listed in paragraph (h) of this section. If you have not yet submitted your license application, include a written letter with the title "Emergency Handling Request" with your license application. The letter must include:

(i) A justification for the request, supported, where appropriate, with copies of orders, communications, or other documentation to substantiate that your request constitutes a valid emergency. You may be specifically requested to supply other documents not included with your submission.

(ii) An acknowledgement by you that any license issued under these emergency procedures will have a limited validity period as described in § 750.7(g) of the EAR, and that it generally will not be extended.

(2) *Prompt delivery of emergency handling requests.* You are responsible for prompt delivery of your request and license application to BXA. You may hand-carry your request and license application or use the services of an overnight courier to ensure prompt delivery. If you desire to hand-carry your request and license application, you may hand deliver it to the Exporter Counseling Division at the address stated in § 748.2(a) of this part. If you decide to use an overnight courier, use the address listed in § 748.2(c) of this part. The envelope containing your license application should be labeled "Attn: Exporter Counseling Division, Emergency Handling Request Enclosed".

(3) *Review of emergency handling requests.* BXA views an emergency as an unforeseeable situation over which you have no control. On the day of receipt, BXA will evaluate your license application and decide whether emergency handling is warranted. Frequent emergency request will be given particularly close scrutiny. This procedure is not designed to become a substitute for timely filing of license applications.

(4) *Action on license applications processed under emergency procedures.* If you have submitted an emergency request, you will be contacted by the Exporter Counseling Division informing you of whether or not your request for emergency processing has been granted. If your license is approved under emergency handling procedures, you will be notified by BXA of the approval by telephone or in person. You will be given the license number and verbal authorization to effect shipment immediately, without waiting for the actual license. Any license approved under these emergency handling procedures will have a limited validity period as described in § 750.7(g) of the EAR.

§ 748.5 Parties to the transaction on a license application.

(a) *Applicant.* (1) The "applicant" is defined as the person who, as the principal party in interest in the transaction, has the power and responsibility for determining and controlling the exporting or reexporting of the items. BXA is primarily concerned with the identity of the applicant and the applicant's role in the transaction, and not the terms of sale.

(2) Ordinarily, a seller who delivers items in the United States to a foreign buyer, or to the latter's forwarder or other agent, would not be in a position to assume responsibility for the export and would not be a proper applicant. This would normally be the situation where sale is made f.o.b. factory, although such terms of sale may relate only to price and are not necessarily inconsistent with the assumption by the seller of full responsibility for effecting the export or reexport. The seller can still be liable if the seller knows that the importer or its agent will not obtain the required license.

(3) If the seller intends to leave the responsibility for effecting an export or reexport in the hands of the foreign importer or the latter's forwarding or purchasing agent in the United States, the foreign importer should apply for the license in the foreign importer's own name if the foreign importer is subject to the jurisdiction of the United States at the time of export. Otherwise, the importer's forwarding or purchasing agent or other person subject to the jurisdiction of the U.S. must appear as applicant and exporter. In this situation you, as the applicant, must disclose your role as agent and the name of your principal.

(b) *Order party.* The order party is that person in the United States who conducted the direct negotiations or correspondence with the foreign purchaser or ultimate consignee and who, as a result of these negotiations, received the order from the foreign purchaser or ultimate consignee.

(c) *Purchaser.* The purchaser is that person abroad who has entered into the transaction with the applicant to purchase an item for delivery to the ultimate consignee. A bank, freight forwarder, forwarding agent, or other intermediary is not the purchaser. The purchaser and ultimate consignee may be the same entity.

(d) *Intermediate consignee.* The intermediate consignee is the bank, forwarding agent, or other intermediary (if any) who acts in a foreign country as an agent for the exporter or reexporter, the purchaser, or the ultimate consignee, for the purpose of effecting delivery of the export or reexport to the ultimate consignee.

(e) *Ultimate consignee.* The ultimate consignee is the person located abroad who is the true party in interest in actually receiving the export for the designated end-use. A bank, freight forwarder, forwarding agent, or other party, when acting as an intermediary, is not acceptable as the ultimate consignee.

§ 748.6 General instructions for license applications.

(a) *Form and instructions.* An application for license, whether to export or reexport, must be submitted on Form BXA–748P, Multipurpose Application (revised June 15, 1996 or later), and Form BXA–748P-A, Item Appendix, and Form BXA–748P–B, End-User Appendix. Facsimiles or copies of these forms are not acceptable. Instructions for preparing Form BXA–748P are contained in Supplement No. 1 to this part 748. See § 748.7(a) of this part for instructions on submitting license applications electronically.

(b) *Application Control Number.* Each application form includes a preprinted Application Control Number. The Application Control Number, consisting of a letter followed by six digits, is for use by BXA when processing applications, and by applicants when communicating with BXA concerning pending applications. This number is used for tracking purposes within the U.S. Government. The Application Control Number is not a license number.

(c) *Approval or denial in entirety.* License applications may be approved in whole or in part, denied in whole or in part, or returned without action. However, you may specifically request that your license application be considered as a whole and either approved or denied in its entirety.

(d) *Combining items on license applications.* Any items may be combined on a single application, however, if the items differ dramatically (e.g., computers and shotguns) the number of BXA offices to which a license application may be referred for review may increase significantly. Accordingly, it is recommended that you limit items on each license application to those that are similar and/or related.

(e) *Assembly and additional information.* All documents or correspondence accompanying your license application should bear the Application Control Number, and be stapled together. Where necessary, BXA may require you to submit additional information beyond that stated in the EAR confirming or amplifying information contained in your license application.

(f) *Changes in facts.* Answers to all items on the license application will be deemed to be continuing representations of the existing facts or circumstances. Any material or substantive change in the terms of the order, or in the facts relating to the transaction, must be promptly reported to BXA, whether a license has been granted or the license application is still

under consideration. If a license has been granted and such changes are not excepted in § 750.7(c) of the EAR, they must be reported immediately to BXA, even though shipments against the license may be partially or wholly completed, during the validity period of the license.

(g) *Request for extended license validity period.* An extended validity period will generally be granted if your transaction is related to a multi-year project, when production lead time will not permit export or reexport during the normal validity period or for other similar circumstances. A continuing requirement to supply spare or replacement parts will not normally justify an extended validity period. To request an extended validity period, include justification for your request in Block 24 on the application.

§ 748.7 Applying electronically for a license or Classification request.

(a) *Authorization.* You may apply electronically once you have been authorized to do so by BXA. An authorization to submit applications electronically may be limited or withdrawn by BXA at any time. There are no prerequisites for obtaining permission to submit electronically or limitations in terms of country eligibility. However, BXA may direct for any reason that any electronic application be resubmitted in writing, in whole or in part

(1) *Requesting approval to submit applications electronically.* To submit applications electronically, your company must submit a written request to BXA at one of the addresses identified in § 748.2(c) of this part. Both the envelope and letter must be marked "Attn: Electronic Submission Request". Your letter must contain your company's name, and the address, telephone number, and name of the principal contact person in your company. Before approving your request, BXA will provide you with language for a number of required certifications. Once you have completed the necessary certifications, you may be approved by BXA to submit applications electronically.

(2) *Assignment and use of company and personal identification numbers.* (i) Each company granted permission to submit applications electronically will be assigned a company identification number. Each person approved by BXA to submit applications electronically for the company will be assigned a personal identification number ("PIN") telephonically by BXA. A PIN will be assigned to you only if your company has certified to BXA that you are authorized to act for it in making electronic submissions under the EAR.

(ii) Your company may reveal the assigned company identification number only to the PIN holders, their supervisors, employees, or agents of the company with a commercial justification for knowing the company identification number.

(iii) An individual PIN holder may not:

(A) Disclose the PIN to anyone;

(B) Record the PIN either in writing or electronically;

(C) Authorize another person to use the PIN; or

(D) Use the PIN following termination by BXA or your company of your authorization or approval for PIN use.

(iv) To prevent misuse of the PIN:

(A) If a PIN is lost, stolen or otherwise compromised, the company and the PIN holder must report the loss, theft or compromise of the PIN immediately by telephoning BXA at (202) 482–0436. You must confirm this notification in writing within two business days to BXA at the address provided in § 748.2(c) of this part.

(B) Your company is responsible for immediately notifying BXA whenever a PIN holder leaves the employ of the company or otherwise ceases to be authorized by the company to submit applications electronically on its behalf.

(v) No person may use, copy, steal or otherwise compromise a PIN assigned to another person; and no person may use, copy, steal or otherwise compromise the company identification number where the company has not authorized such person to have access to the number.

(b) *Electronic submission of applications.* (1) All applications. Upon submission of the required certifications and approval of the company's request to use electronic submission, BXA will provide instructions both on the method to transmit applications electronically and the process for submitting required supporting documents and technical specifications. These instructions may be modified by BXA from time to time.

(2) License Applications. The electronic submission of an application for license will constitute an export control document. Such submissions must provide the same information as written applications and are subject to the recordkeeping provisions of part 762 of the EAR. The applicant company and PIN holder submitting the application will be deemed to make all representations and certifications as if the submission were made in writing by the company and signed by the submitting PIN holder. Electronic submission of a license application will be considered complete upon the transmittal of the application to BXA or to an entity under contract to receive such applications for BXA.

(c) *Maintenance of a log.* Your company must maintain a log, either manually or electronically, specifying the date and time of each electronic submission, the ECCNs of items on each electronic submission, and the name of the employee or agent submitting the license application. This log may not be altered. Written corrections must be made in a manner that does not erase or cover original entries. If the log is maintained electronically, corrections may only be made as notations.

(d) *Updating.* An applicant company must promptly notify BXA of any change in its name or address. If your company wishes to have an individual added as a PIN holder, your company must advise BXA and follow the instructions provided by BXA. Your company should conduct periodic reviews to ensure that PINs are held only by individuals whose current responsibilities make it necessary and appropriate that they act for the company in this capacity.

§ 748.8 Unique license application requirements.

In addition to the instructions contained in Supplement No. 1 to this part 748, you must also ensure that the additional requirements for certain items or types of transactions described in this section are addressed in your license application. See Supplement No. 2 to this part 748 if your application involves:

(a) *Chemicals, medicinals, and pharmaceuticals.*

(b) *Communications intercepting devices.*

(c) *Digital computers, telecommunications, and related equipment.*

(d) *Gift parcels; consolidated in a single shipment.*

(e) *Intransit shipments through the United States.*

(f) *Intransit shipments outside of the United States.*

(g) *Nuclear Nonproliferation items and end-uses.*

(h) *Numerical control devices, motion control boards, numerically controlled machine tools, dimensional inspection machines, direct numerical control systems, specially designed assemblies and specially designed software.*

(i) *Parts, components, and materials incorporated abroad into foreign-made products.*

(j) *Ship stores, plane stores, supplies, and equipment.*

(k) *Regional stability controlled items.*

(l) *Reexports.*

(m) *Robots.*
(n) *Short Supply controlled items.*
(o) *Technology.*
(p) *Temporary exports or reexports.*

§ 748.9 Support documents for license applications.

(a) *Exemptions.* If you plan to submit a license application involving one of the following situations, no support documentation is required. Simply submit the license application.

(1) All exports and reexports involving ultimate consignees located in any of the following destinations:

Bahamas
Barbados
Belize
Bermuda
Bolivia
Brazil
Canada
Chile
Colombia
Costa Rica
Dominican Republic
Ecuador
El Salvador
French West Indies
French Guiana
Greenland
Guatemala
Guyana
Haiti
Honduras
Jamaica
Leeward and Windward Islands
Mexico
Miquelon and St. Pierre Islands
Netherlands Antilles
Nicaragua
Panama
Paraguay
Peru
Surinam
Trinidad and Tobago
Uruguay
Venezuela

(2) The ultimate consignee or purchaser is a foreign government(s) or foreign government agency(ies). To determine whether the parties to your transaction meet the definition of "government agency" refer to the definition contained in part 772 of the EAR. Remember, if either the ultimate consignee or purchaser is not a foreign government or foreign government agency, a statement is required from the nongovernmental party. However, support documents are required from governments of the People's Republic of China, India, Bulgaria, Czech Republic, Hungary, Poland, Romania, and Slovakia.

(3) The license application is filed by, or on behalf of, a relief agency registered with the Advisory Committee on Voluntary Foreign Aid, U.S. Agency for International Development, for export to a member agency in the foreign country.

(4) The license application is submitted to export or reexport items for temporary exhibit, demonstration, or testing purposes.

(5) The license application is submitted for items controlled for short supply reasons (see part 754 of the EAR).

(6) The license application is submitted under the Special Comprehensive License procedure described in part 752 of the EAR.

(b) *Support document requirements.* License applications not exempt under paragraph (a) of this section generally must be supported by documents designed to elicit information concerning the disposition of the items intended for export or reexport. These support documents must be either submitted at the time the license application is filed or retained in the applicant's files in accordance with the recordkeeping provisions of part 762 of the EAR. The type of support documentation required is dependent on the item involved and the country of ultimate destination. To determine which type of support documentation is required, answer the following questions:

(1) Does your transaction involve items controlled for national security reasons?

(i) If yes, continue with question number 2 in paragraph (b)(2) of this section.

(ii) If no, your transaction may require a Statement by Ultimate Consignee and Purchaser.

(2) Does your transaction involve items controlled for national security reasons destined for one of the following countries? (This applies only to those overseas destinations specifically listed.)

Argentina
Australia
Austria
Belgium
Bulgaria
China (PRC)
Czech Republic
Denmark
Finland
France
Germany
Greece
Hong Kong
Hungary
India
Ireland, Republic of
Italy
Japan
Korea, Republic of
Liechtenstein
Luxembourg
Netherlands
New Zealand
Norway
Pakistan
Poland
Portugal
Romania
Singapore
Slovakia
Spain
Sweden
Switzerland
Taiwan
Turkey
United Kingdom

(i) If yes, your transaction may require an Import or End-User Certificate. Note that if the destination is the People's Republic of China, a Statement of Ultimate Consignee and Purchaser may be substituted for a PRC End-User Certificate under the following conditions:

(*1*) The item to be exported is described in an Advisory Note for Country Group D:1 (See Supplement No. 1 to part 740 of the EAR) on the CCL; or

(*2*) The item to be exported (i.e., replacement parts and sub-assemblies) is for servicing previously exported items and is valued at $75,000 or less; or

(*3*) The End-User is not a Chinese entity.

(ii) If no, your transaction may require a Statement by Ultimate Consignee or Purchaser.

(c) *License applications requiring support documents.* License applications requiring support by either a Statement by the Ultimate Consignee and Purchaser or an Import or End-User Certificate must indicate the type of support document obtained in Block 6 or 7 on your application with an "X" in the appropriate box. If the support document is an Import or End User Certificate, you must also identify the originating country and number of the Certificate in Block 13 on your application. If a license application is submitted without either the correct Block or Box marked on the application or the required support document, the license application will be immediately returned without action unless the satisfactory reasons for failing to obtain the document are supplied in Block 24 or in an attachment to your license application.

(1) *License applications supported by an Import or End User Certificate.* If submission of the original certificate is not required by § 748.10(g) of this part, you may submit your license application upon receipt of a facsimile or other legible copy of the Import or End User Certificate provided that no shipment is made against any license issued based upon the Import or End User Certificate prior to receipt and retention of the original statement by the applicant. If § 748.10(g) of this part requires submission of the original certificate with your license application, you must submit the original. Copies will not be accepted.

(2) *License applications supported by Ultimate Consignee and Purchaser statements.* These types of license applications may be submitted upon receipt of a facsimile or other legible copy of the original statement provided that the original manually-signed statement is retained by the ultimate consignee, and you retain a copy of the statement.

(d) *Exceptions to obtaining the required support document.* BXA will consider the granting of an exception to the requirement for supporting document where the requirements cannot be met due to circumstances beyond your control. An exception will not be granted contrary to the objectives of the U.S. export control laws and regulations. Refer to § 748.12(d) of this part for specific instructions on procedures for requesting an exception.

(e) *Validity period.* (1) When an Import or End-User Certificate or a Statement by Ultimate Consignee and Purchaser is required to support one or more license applications, you must submit the first license application within the validity period shown on the Certificate, or 6 months from the date the Certificate was issued or Statement signed, whichever is shorter.

(2) All subsequent license applications supported by the same Import or End-Use Certificate must be submitted to BXA within one year from the date that the first license application supported by the same Import or End-Use Certificate was submitted to BXA.

(3) All subsequent license applications supported by the same Statement by Ultimate Consignee and Purchaser must be submitted within two years of the first application if the statement was completed as a single transaction statement. If the statement was completed as a multiple transaction statement, all applications must be submitted within two years of signature by the consignee or purchaser, whichever was last.

(f) *English translation requirements.* All abbreviations, coded terms, or other expressions on support documents having special significance in the trade or to the parties to the transaction must be explained on an attachment to the document. Documents in a language other than English must be accompanied by an attachment giving an accurate English translation, either made by a translating service or certified by you to be correct. Explanations or translations should be provided on a separate piece of paper, and not entered on the support documents themselves.

(g) *Responsibility for full disclosure.* (1) Information contained in a support document cannot be construed as extending or expanding or otherwise modifying the specific information supplied in a license application or license issued by BXA. The license application covering the transaction discloses all facts pertaining to the transaction. The authorizations contained in the resulting license are not extended by information contained in an Import Certificate, End-User Certificate or Statement by Ultimate Consignee and Purchaser regarding reexport from the country of destination or any other facts relative to the transaction that are not reported on the license application.

(2) Misrepresentations, either through failure to disclose facts, concealing a material fact, or furnishing false information, will subject responsible parties to administrative action by BXA. Administrative action may include suspension, revocation, or denial of licensing privileges and denial of other participation in exports from the United States.

(3) In obtaining the required support document, you as the applicant are not relieved of the responsibility for full disclosure of any other information concerning the ultimate destination and end-use, end-user of which you know, even if inconsistent with the representations made in the Import Certificate, End-User Certificate, or Statement by Ultimate Consignee and Purchaser. You are responsible for promptly notifying BXA of any change in the facts contained in the support document that comes to your attention.

(h) *Effect on license application review.* BXA reserves the right in all respects to determine to what extent any license will be issued covering items for which an Import or End-User Certificate has been issued by a foreign government. BXA will not seek or undertake to give consideration to recommendations from the foreign government as to the action to be taken on a license application. A supporting document issued by a foreign government will be only one of the factors upon which BXA will base its licensing action, since end-uses and other considerations are important factors in the decision making process.

(i) *Request for return of support documents submitted to BXA.* If an applicant is requested by a foreign importer to return an unused or partially used Import or End-User Certificate submitted to BXA in support of a license application, the procedure provided in this paragraph (i) should be followed:

(1) The applicant must send a letter request for return of an Import or End-User Certificate to the address stated in § 748.2(c) of this part, "Attn: Import/ End-User Certificate Request".

(2) The letter request must include the name and address of the importer, the Application Control Number under which the original Import or End-User Certificate was submitted, the Application Control Numbers for any subsequent license applications supported by the same certificate, and one of the following statements, if applicable:

(i) If the certificate covers a quantity greater than the total quantity identified on the license application(s) submitted against it, a statement that the certificate will not be used in connection with another license application.

(ii) If you do not intend to make any additional shipments under a license covered by the certificate, or are in possession of an expired license covered by the certificate, a statement to this effect, indicating the unshipped items.

(j) *Recordkeeping requirements for returning certificates retained by the applicant.* (1) Though the recordkeeping provisions of the EAR require that all original support documents be retained for a period of five years, an unused or partially used certificate may be returned at the request of a foreign importer provided that you submit the original certificate, accompanied by a letter of explanation, a copy of each license covered by the certificate, and a list of all shipments made against each license to BXA at the address listed in § 748.2(c). BXA will notify you in writing whether your request has been granted. The following information must be contained in your letter of explanation:

(i) A statement citing the foreign importer's request for return of the certificate;

(ii) The license number(s) that have been issued against the certificate (including both outstanding and expired licenses); and

(iii) If the certificate covers a quantity greater that the total quantity stated on the license(s), you must include a statement that the certificate will not be used in connection with another license application.

(2) If your request is granted, BXA will return the certificate to you. You must make a copy of the certificate before you return the original to the importer. This copy must show all the information contained on the original certificate including any notation made on the certificate by BXA. The copies must be retained on file along with your correspondence in accordance with the recordkeeping provisions in part 762 of the EAR.

§ 748.10 Import and End-User Certificates.

(a) *Scope.* There are a variety of Import and End-User Certificates currently in use by various governments. The control exercised by the government issuing the Import or End-User Certificate is in addition to the conditions and restrictions placed on the transaction by BXA. The laws and regulations of the United States are in no way modified, changed, or superseded by the issuance of an Import or End-User Certificate. This section describes exceptions and relationships true for both Import and End-User Certificates, and applies only to transactions involving national security controlled items destined for one of the countries identified in § 748.9(b)(2) of this part.

(b) *Import or End-User Certificate.* An Import or End-User Certificate must be obtained, unless your transaction meets one of the exemptions stated in § 748.9(a) of this part, if:

(1) Any items on your license application are controlled for national security reasons (NS),

(2) The ultimate destination is a country listed in § 748.9(b)(2) of this part; and

(3) Your license application involves the export of items classified in a single entry on the CCL, the total value of which exceeds $5,000.

(i) Your license application may list several separate CCL entries. If any entry controlled for national security reasons exceeds $5,000, then an Import or End-User Certificate must be obtained covering all items controlled for national security reasons on your license application;

(ii) If your license application involves a lesser transaction that is part of a larger order for items controlled for national security reasons in a single ECCN exceeding $5,000, an Import or End-User Certificate must be obtained.

(iii) You may be specifically requested by BXA to obtain an Import Certificate for a transaction valued under $5,000.

(c) *How to obtain an Import or End-User Certificate.* (1) Applicants must request that the importer (e.g., ultimate consignee or purchaser) obtain the Import or End-User Certificate, and that it be issued covering only those items that are controlled for national security reasons. Importers should not be requested to obtain an Import or End-User Certificate for items that are controlled for reasons other than national security. Upon receipt, the importer must transmit the original document to the applicant.

(2) The applicant's name must appear on the Import or End-User Certificate submitted to BXA as either the applicant, supplier, or order party. The Import Certificate may be made out to either the ultimate consignee or the purchaser, even though they are different parties, as long as both are located in the same country.

Note to paragraph (c) of this section: You should furnish the consignee with the item description contained in the CCL to be used in applying for the Import or End-User Certificate. It is also advisable to furnish a manufacturer's catalog, brochure, or technical specifications if the item is new.

(3) If your transaction requires support of a PRC End-User Certificate, you must ensure the following information is included on the PRC End-User Certificate signed by an official of the Department of Science and Technology of the Ministry of Foreign Trade and Economic Cooperation (MOFTEC) with MOFTEC's seal affixed to it:

(i) Title of contract and contract number (optional);

(ii) Names of importer and exporter;

(iii) End-User and end-use;

(iv) Description of the item, quantity and dollar value; and

(v) Signature of the importer and date.

(d) *Where to obtain Import and End-User Certificates.* See Supplement No. 4 to this part for a list of the authorities administering the Import Certificate/Delivery Verification and End-User Certificate Systems in other countries.

(e) *Triangular symbol on International Import Certificates.*

(1) In accordance with international practice, the issuing government may stamp a triangular symbol on the International Import Certificate (IIC). This symbol is notification that the importer does not intend to import or retain the items in the country issuing the certificate, but that, in any case, the items will not be delivered to any destination except in accordance with the export regulations of the issuing country'.

(2) If you receive an IIC bearing a triangular symbol, you must identify all parties to the transaction on the license application, including those located outside the country issuing the IIC. If the importer declines to provide you with this information, you may advise the importer to provide the information directly to BXA, through a U.S. Foreign Commercial Service office, or in a sealed envelope to you marked "To be opened by BXA only".

(f) *Multiple license applications supported by one certificate.* An Import or End-User Certificate may cover more than one purchase order and more than one item. Where the certificate includes items for which more than one license application will be submitted, you must include in Block 24 on your application, or in an attachment to each license application submitted against the certificate, the following certification:

I (We) certify that the quantities of items shown on this license application, based on the Certificate identified in Block 13 of this license application, when added to the quantities shown on all other license applications submitted to BXA based on the same Certificate, do not total more than the total quantities shown on the above cited Certificate.

(g) *Submission of Import and End-User Certificates.* If a PRC End-User Certificate is required for your proposed transaction, you must submit the original certificate with your license application. Copies will not be accepted. All other certificates must be retained on file by the applicant in accordance with the recordkeeping provisions of part 762 of the EAR, and not submitted with the license application.

(h) *Alterations.* After an Import or End-User Certificate is issued by a foreign government, no corrections, additions, or alterations may be made on the Certificate by any person. If you desire to explain any information contained on the Certificate, you may attach a signed statement to the Certificate.

(i) *Request for Delivery Verification.* BXA will, on a selective basis, require Delivery Verification documents for shipments supported by Import Certificates. You will be notified if Delivery Verification is required at the time of issuance of the license. Please refer to § 748.13 of this part for detailed information on these procedures.

(j) *Retention procedures.* You must retain on file the original copy of any certificate issued in support of a license application submitted to BXA, unless the original is submitted with the license application. All recordkeeping provisions contained in part 762 of the EAR apply to this requirement, except that reproductions may not be substituted for the officially authenticated original in this instance.

§ 748.11 Statement by Ultimate Consignee and Purchaser.

(a) *Exceptions to completing a Statement by Ultimate Consignee and Purchaser.* A Statement by the Ultimate Consignee and/or Purchaser involved in a transaction must be completed unless:

(1) An International Import Certificate, a People's Republic of China End-User Certificate, an Indian Import Certificate, or a Bulgarian, Czech, Hungarian, Polish, Romanian or Slovak Import Certificate is required in support of the license application;

(2) The applicant is the same person as the ultimate consignee, provided the required statements are contained in Block 24 on the license application. This exemption does not apply where the applicant and consignee are separate entities, such as parent and subsidiary, or affiliated or associated firms;

(3) The application is valued at $5000 or less, and is not part of a larger transaction; or

(4) The transaction meets one of the exemptions stated in § 748.9(a) of this part.

(b) *Submission of the Statement by Ultimate Consignee and Purchaser.* A copy of the statement must be submitted with your license application if the country of ultimate destination is listed in either Country Group D:2, D:3, or D:4 (See Supplement No. 1 to part 740 of the EAR). The copy submitted by the applicant must be of sufficient quality to ensure all assertions made on the statement are legible and that the signatures are sufficiently legible to permit identification of the signature as that of the signer. The applicant must receive the manually-signed original within 60 days from the date the original is signed by the ultimate consignee. The applicant must, upon receipt, retain the manually-signed original, and both the ultimate consignee and purchaser should retain a copy of the statement in accordance with the recordkeeping provisions contained in part 762 of the EAR.

(c) *Form or letter.* The ultimate consignee and purchaser must complete either a statement on company letterhead in accordance with paragraph (e) of this section or Form BXA–711, Statement by Ultimate Consignee and Purchaser. If the consignee and purchaser elect to complete the statement on letterhead and both the ultimate consignee and purchaser are the same entity, only one statement is necessary. If the ultimate consignee and purchaser are separate entities, separate statements must be prepared and signed. If the ultimate consignee and purchaser elects to complete Form BXA–711, only one Form BXA–711 (containing the signatures of the ultimate consignee and purchaser) need be completed. Whether your ultimate consignee and purchaser sign a written statement or complete Form BXA–711, the following constraints apply:

(1) Responsible officials representing the ultimate consignee and purchaser must sign the statement. "Responsible official" is defined as someone with personal knowledge of the information included in the statement, and authority to bind the ultimate consignee or purchaser for whom they sign, and who has the power and authority to control the use and disposition of the licensed items.

(2) The authority to sign the statement may not be delegated to any person (agent, employee, or other) whose authority to sign is not inherent in his or her official position with the ultimate consignee or purchaser for whom he or she signs. The signing official may be located in the U.S. or in a foreign country. The official title of the person signing the statement must also be included.

(3) The consignee and/or purchaser must submit information that is true and correct to the best of their knowledge and must promptly send a new statement to the applicant if changes in the facts or intentions contained in their statement(s) occur after the statement(s) have been forwarded to the applicant. Once a statement has been signed, no corrections, additions, or alterations may be made. If a signed statement is incomplete or incorrect in any respect, a new statement must be prepared, signed and forwarded to the applicant.

(d) *Instructions for completing Form BXA–711.* Instructions on completing Form BXA–711 are contained in Supplement No. 3 to this part. The ultimate consignee and purchaser may sign a legible copy of Form BXA–711. It is not necessary to require your ultimate consignee and purchaser sign an original Form BXA–711, provided all information contained on the copy is legible.

(e) *Instructions for completing the statement on letterhead.* Information in response to each of the following criteria must be included in the statement. If any information is unknown, that fact should be disclosed in the statement. Preprinted information supplied on the statement, including the name, address, or nature of business of the ultimate consignee or purchaser appearing on the letterhead or order form is acceptable but will not constitute evidence of either the signer's identity, the country of ultimate destination, or end-use of the items described in the license application.

(1) *Paragraph 1.* One of the following certifications must be included depending on whether the statement is proffered in support of a single license application or multiple license applications:

(i) *Single.* This statement is to be considered part of a license application submitted by [name and address of applicant].

(ii) *Multiple.* This statement is to be considered a part of every license application submitted by [name and address of applicant] until one year from the date this statement is signed.

(2) *Paragraph 2.* One or more of the following certifications must be included. Note that if any of the facts related to the following statements are unknown, this must be clearly stated.

(i) The items for which a license application will be filed by [name of applicant] will be used by us as capital equipment in the form in which received in a manufacturing process in [name of country] and will not be reexported or incorporated into an end product.

(ii) The items for which a license application will be filed by [name of applicant] will be processed or incorporated by us into the following product(s) [list products] to be manufactured in [name of country] for distribution in [list name of country or countries].

(iii) The items for which a license application will be filed by [name of applicant] will be resold by us in the form in which received for use or consumption in [name of country].

(iv) The items for which a license application will be filed by [name of applicant] will be reexported by us in the form in which received to [name of country or countries].

(v) The items received from [name of applicant] will be [describe use of the items fully].

(3) *Paragraph 3.* The following two certifications must be included:

(i) The nature of our business is [possible choices include; broker, distributor, fabricator, manufacturer, wholesaler, retailer, value added reseller, original equipment manufacturer, etc.].

(ii) Our business relationship with [name of applicant] is [possible choices include; contractual, franchise, distributor, wholesaler, continuing and regular individual business, etc.] and we have had this business relationship for [number of years].

(4) *Paragraph 4.* The final paragraph must include all of the following certifications:

(i) We certify that all of the facts contained in this statement are true and

correct to the best of our knowledge and we do not know of any additional facts that are inconsistent with the above statements. We shall promptly send a replacement statement to [name of the applicant] disclosing any material change of facts or intentions described in this statement that occur after this statement has been prepared and forwarded to [name of applicant]. We acknowledge that the making of any false statement or concealment of any material fact in connection with this statement may result in imprisonment or fine, or both, and denial, in whole or in part, of participation in U.S. exports or reexports.

(ii) Except as specifically authorized by the U.S. Export Administration Regulations, or by written approval from the Bureau of Export Administration, we will not reexport, resell, or otherwise dispose of any items approved on a license supported by this statement:

(*1*) To any country not approved for export as brought to our attention by the U.S. exporter; or

(*2*) To any person if there is reason to believe that it will result directly or indirectly in disposition of the items contrary to the representations made in this statement or contrary to the U.S. Export Administration Regulations.

(iii) We understand that acceptance of this statement as a support document cannot be construed as an authorization by BXA to reexport the items in the form in which received even though we may have indicated the intention to reexport, and that authorization to reexport is not granted in an export license on the basis of information provided in the statement, but as a result of a specific request in a license application.

§ 748.12 Special provisions for support documents.

(a) *Grace periods.* Whenever the requirement for an Import or End-User Certificate or Statement by Ultimate Consignee or Purchaser is imposed or extended by a change in the regulations, the license application need not conform to the new support documentation requirements for a period of 45 days after the effective date of the regulatory change published in the **Federal Register**.

(1) Requirements are usually imposed or extended by virtue of one of the following:

(i) Addition or removal of national security controls over a particular item; or

(ii) Development of an Import Certificate/Delivery Verification or End-User Certificate program by a foreign country; or

(iii) Removal of an item from eligibility under the Special Comprehensive License described in part 752 of the EAR, when you hold such a special license and have been exporting the item under that license.

(2) License applications filed during the 45 day grace period must be accompanied by any evidence available to you that will support representations concerning the ultimate consignee, ultimate destination, and end use, such as copies of the order, letters of credit, correspondence between you and ultimate consignee, or other documents received from the ultimate consignee. You must also identify the regulatory change (including its effective date) that justifies exercise of the 45 day grace period. Note that an Import or End-User Certificate will not be accepted, after the stated grace period, for license applications involving items that are no longer controlled for national security reasons. If an item is removed from national security controls, you must obtain a Statement by Ultimate Consignee and Purchaser as described in § 748.11 of this part. Likewise, any item newly controlled for national security purposes requires support of an Import or End-User Certificate as described in § 748.10 of this part after expiration of the stated grace period.

(b) *Reexports.* If a support document would be required for an export, the same document would be required for reexport to Country Group D:1 and E:2 (See Supplement No. 1 to part 740 of the EAR).

(c) *Granting of exceptions to the support documentation requirement.* An exception to obtaining the required support documentation will be considered by BXA, however, an exception will not be granted contrary to the objectives of the U.S. export control program. A request for exception may involve either a single transaction, or where the reason necessitating the request is continuing in nature, multiple transactions. If satisfied by the evidence presented, BXA may waive the support document requirement and accept the license application for processing. Favorable consideration of a request for exception generally will be given in instances where the support document requirement:

(1) Imposes an undue hardship on you and/or ultimate consignee (e.g., refusal by the foreign government to issue an Import or End-User Certificate and such refusal constitutes discrimination against you); or

(2) Cannot be complied with (e.g., the items will be held in a foreign trade zone or bonded warehouse for subsequent distribution in one or more countries); or

(3) Is not applicable to the transaction (e.g., the items will not be imported for consumption into the named country of destination).

(d) *Procedures for requesting an exception.* (1) Requests for exception must be submitted with the license application to which the request relates. Where the request relates to more than one license application it should be submitted with the first license application and referred to in Block 24 on any subsequent license application. The request for exception must be submitted in writing on the applicant's letterhead.

(2) In instances where you are requesting exception from obtaining an Import or End-User Certificate, the request must be accompanied by a manually-signed original Statement by Ultimate Consignee and Purchaser as described in § 748.11 of this part.

(3) At a minimum, the letter request must include:

(i) Name and address of ultimate consignee;

(ii) Name and address of purchaser, if different from ultimate consignee;

(iii) Location of foreign trade zone or bonded warehouse if the items will be exported to a foreign trade zone or bonded warehouse;

(iv) Type of request, i.e., whether for a single transaction or multiple transactions;

(v) Full explanation of the reason(s) for requesting the exception;

(vi) Nature and duration of the business relationship between you and ultimate consignee and purchaser shown on the license application;

(vii) Whether you have previously obtained and/or submitted to BXA an Import or End-User Certificate issued in the name of the ultimate consignee and/or purchaser, and a list of the Application Control Number(s) to which the certificate(s) applied; and

(viii) Any other facts to justify granting an exception.

(4) *Action by BXA.* (i) *Single transaction request.* Where a single transaction is involved, BXA will act on the request for exception at the same time as the license application with which the request is submitted. In those instances where the related license application is approved, the issuance of the license will serve as an automatic notice to the applicant that the exception was approved. If any restrictions are placed on granting of the exception, these will appear on the approval. If the request for exception is not approved, BXA will advise you by letter.

(ii) *Multiple transactions request.* Where multiple transactions are involved, BXA will advise you by letter of the action taken on the exception request. The letter will contain any conditions or restrictions that BXA finds necessary to impose (including an exception termination date if appropriate). In addition, a written acceptance of these conditions or restrictions may be required from the parties to the transaction.

(e) *Availability of original.* The original certificate or statement must be kept on file, and made available for inspection in accordance with the provisions of part 762 of the EAR. To ensure compliance with this recordkeeping requirement, BXA will require applicants, on a random basis, to submit specific original certificates and statements that have been retained on file. Applicants will be notified in writing of any such request.

§ 748.13 Delivery Verification (DV).

(a) *Scope.* (1) BXA may request applicants to obtain verifications of delivery on a selective basis. A Delivery Verification Certificate (DV) is a document issued by the government of the country of ultimate destination after the export has taken place and the items have either entered the export jurisdiction of the recipient country or are otherwise accounted for by the importer to the issuing government. Governments that issue DVs are listed in Supplement No. 4 to this part.

(2) If BXA decides to request verification of delivery, the request will appear as a condition on the face of the license. If the license is sent directly to a party other than the applicant authorized to receive the license (e.g., agent, forwarder, broker, etc.), such party is responsible for notifying the licensee immediately in writing that a DV is required.

(b) *Exception to obtaining Delivery Verification.* The DV requirement for a particular transaction is automatically canceled if, subsequent to the issuance of a license, the item is no longer controlled for national security reasons. In this instance, the licensee must send a letter to BXA at the address listed in § 748.2(c) of this part, stating that the items on the license are no longer controlled for national security reasons, and accordingly, the request for DV will not be fulfilled by the licensee.

(c) *Procedure for obtaining Delivery Verification.* When notified that a DV is required by BXA, the licensee must transmit to the importer a written request for a DV at the time of making each shipment under the license (whenever possible, this request should be submitted together with the related bill of lading or air waybill). The request must include the number of the Import or End-User Certificate for the transaction referred to on the license, and notify the importer that this same Import or End-User Certificate number should be shown on the DV.

(1) The importer must obtain the DV from the appropriate government ministry identified in Supplement No. 4 to this part, and forward the completed DV to the licensee. The DV must cover the items described on the license that have been shipped. Note that BXA must be able to relate the description provided in the DV to the approved license. In order to ensure the same terminology is used, the licensee should provide the importer with the description as it appears on the license.

(2) The original copy of the DV must be sent to BXA within 90 days after the last shipment has been made against the license. If verification of delivery is required for items covered by a license against which partial shipments have been made, the licensee shall obtain the required DV for each partial shipment, and retain these on file until all shipments have been made against the license. Once all shipments against the license have been made (or the licensee has determined that none will be), the licensee must forward, in one package, all applicable DVs to BXA at the address listed in § 748.2(c) of this part.

(3) The documents must be forwarded with a dated letter giving the license number, the name, title and signature of the authorized representative, and one of the following statements:

(i) The total quantity authorized by license number _____ has been exported, and all delivery verification documents are attached.

(ii) A part of the quantity authorized by license number _____ will not be exported. Delivery verification documents covering all items exported are attached.

(iii) No shipment has been made against this license, and none is contemplated.

(d) *Inability to obtain Delivery Verification Certificates.* If a licensee is unable to obtain the required DV (within the time frame stated above, or at all) from the importer, the licensee must promptly notify BXA and, upon request, make available all information and records, including correspondence, regarding the attempt to obtain the DV.

Supplement No. 1 to Part 748 BXA–748P, BXA–748P–A; Item Appendix, and BXA–748P–B; End-User Appendix; Multipurpose Application Instructions

All information must be legibly typed within the lines for each Block or Box except where a signature is required. Where there is a choice of entering telephone numbers or facsimile numbers, and you wish to provide a facsimile number instead of a telephone number, identify the facsimile number with the letter "F" immediately after the number (e.g., 011–358–0–123456F).

Block 1: Contact Person. Enter the name of the person who can answer questions concerning the application.

Block 2: Telephone. Enter the telephone number of the person who can answer questions concerning the application.

Block 3: Facsimile. Enter the facsimile number, if available, of the person who can answer questions concerning the application.

Block 4: Date of Application. Enter the current date.

Block 5: Type of Application. *Export.* If the items are located within the United States, and you wish to export those items, mark the Box labeled "Export" with an (X). *Reexport.* If the items are located outside the United States, mark the Box labeled "Reexport" with an (X). *Classification Request.* If you are requesting BXA to classify your item against the Commerce Control List (CCL), mark the Box labeled "Classification Request" with an (X). *Special Comprehensive License.* If you are submitting a Special Comprehensive License application in accordance with procedures described in part 752 of the EAR, mark the Box labeled "Special Comprehensive License" with an (X).

Block 6: Attachments submitted with Application. Review the documentation you are required to submit with your application in accordance with the provisions of part 748 of the EAR, and mark all applicable Boxes with an (X).

Mark the Box "Foreign Availability" with an (X) if you are submitting an assertion of foreign availability with your license application. See part 768 of the EAR for instructions on foreign availability submissions.

Mark the "Tech. Specs." box with an (X) if you are submitting descriptive literature, brochures, technical specifications, etc. with your application.

Block 7: Documents on File with Applicant. Certify that you have retained on file all applicable documents as required by the provisions of part 748 by placing an (X) in the appropriate Box(es).

Block 8: Special Comprehensive License. Complete this Block only if you are submitting an application for a Special Comprehensive License in accordance with part 752 of the EAR.

Block 9: Special Purpose. Complete this box for certain items or types of transactions only if specifically required in Supplement No. 2 to this part.

Block 10: Resubmission Application Control Number. If your original application was returned without action, provide the Application Control Number for that application.

Block 11: Replacement License Number. If you have received a license for identical items to the same ultimate consignee, but would like to make a change to the license as originally approved not excepted in § 750.7(c) of the EAR, enter the license number here, and a statement in Block 24 regarding what changes you wish to make to the original license.

Block 12: Items Previously Exported. This Block should be completed only if you have marked the "Reexport" box in Block 5. Enter the license number, License Exception symbol (for exports under General Licenses, enter the appropriate General License symbol), or other authorization under which the items were originally exported, if known.

Block 13: Import/End-User Certificate. Enter the name of the country and number of the Import or End User Certificate obtained in accordance with provisions of this part.

Block 14: Applicant. Enter the applicant's name, street address, city, state/country, and postal code. Refer to § 748.5(a) of this part for a definition of "applicant". If you have marked "Export" in Block 5, you must include your company's Employer Identification Number unless you are filing as an individual or as an agent on behalf of the exporter. The Employer Identification Number is assigned by the Internal Revenue Service for tax identification purposes. Accordingly, you should consult your company's financial officer or accounting division to obtain this number.

Block 15: Other Party Authorized to Receive License. If you would like BXA to transmit the approved license to another party designated by you, complete all information in this Block, including name, street address, city, country, postal code and telephone number. Leave this space blank if the license is to be sent to the applicant. Designation of another party to receive the license does not alter the responsibilities of the applicant.

Block 16: Purchaser. Enter the purchaser's complete name, street address, city, country, postal code and telephone or facsimile number. Refer to § 748.5(c) of this part for a definition of "purchaser". If the purchaser is also the ultimate consignee, enter the words "same as Block 18".

Block 17: Intermediate Consignee. Enter the intermediate consignee's complete name, street address, city, country, postal code and telephone or facsimile number. Provide a complete street address, P.O. Boxes are not acceptable. Refer to § 748.5(d) of this part for a definition of "intermediate consignee". If this party is identical to that listed in Block 16, you may simply type the words "Same as Block 16". If your proposed transaction does not involve use of an intermediate consignee, enter "None". If your proposed transaction involves use of more than one intermediate consignee, provide the information in Block 24 for each additional Intermediate Consignee.

Block 18: Ultimate Consignee. Enter the ultimate consignee's complete name, street address, city, country, postal code and telephone or facsimile number. Provide a complete street address, P.O. Boxes are not acceptable. The ultimate consignee is the party who will actually receive the material for the end-use designated in Block 21.

Refer to § 748.5(e) of this part for the definition of "ultimate consignee". A bank, freight forwarder, forwarding agent, or other intermediary may not be identified as the ultimate consignee. Government purchasing organizations are the sole exception to this requirement. This type of entity may be identified as the government entity that is the actual ultimate consignee in those instances when the items are to be transferred to the government entity that is the actual end-user, provided the actual end-use and end-user is clearly identified in Block 21 or in additional documentation attached to the application.

If your application is for the reexport of items previously exported, enter the new ultimate consignee's complete name, street address, city, country, postal code and telephone or facsimile number. If your application involves a temporary export or reexport, the applicant should be shown as the ultimate consignee in care of a person or entity who will have control over the items abroad.

Block 19: End-User. Complete this Block only if the ultimate consignee identified in Block 18 is not the actual end-user. If there will be more than one end-user, enter the word "Various" in this Block, and use Form BXA–748P–B to identify each of the end-users. Enter each end user's complete name, street address, city, country, postal code and telephone or facsimile number. Provide a complete street address, P.O. Boxes are not acceptable.

Block 20: Original Ultimate Consignee. If your application involves the reexport of items previously exported, enter the original ultimate consignee's complete name, street address, city, country, postal code and telephone or facsimile number. The original ultimate consignee is the entity identified in the original application for export as the ultimate consignee or the party currently in possession of the items. Provide a complete street address, P.O. Boxes are not acceptable.

Block 21: Specific End-Use. Provide a complete and detailed description of the end-use intended by the ultimate consignee and/or end-user(s). If you are requesting approval of a reexport, provide a complete and detailed description of the end-use intended by the new ultimate consignee or end user(s) and indicate any other countries for which resale or reexport is requested. If additional space is necessary, use Block 21 on Form BXA–748P-A or B. Be specific, such vague descriptions as "research," "manufacturing," or "scientific uses" are not acceptable.

Block 22: For a license application you must complete each of the sub-blocks contained in this Block. If you are submitting a classification request, you need not complete Blocks (e), (f), (g), and (h). Enter "N/A" in these blocks. If you wish to export, reexport or have BXA classify more than one item, use Form BXA–748P-A for additional items.

(a) ECCN. Enter the Export Control Classification Number (ECCN) that corresponds to the item you wish to export or reexport. If you are asking BXA to classify your item, provide a recommended classification for the item in this Block.

(b) CTP. You must complete this Block if your application involves a digital computer or equipment containing a digital computer as described in Supplement No. 2 to this part.

Instructions on calculating the CTP are contained in a Technical Note at the end of Category 4 in the CCL. If your application does not involve these items, insert "N/A" in this Block.

(c) Model Number. Enter the correct model number for each item.

(d) CCATS Number. If you have received a classification for this item from BXA, provide the CCATS number shown on the classification issued by BXA. Otherwise, enter "N/A" in this Block.

(e) Quantity. Identify the quantity to be exported or reexported, in terms of the "Units" identified for the ECCN entered in Block 21(a). If the "Unit" for an item is "$ value," enter the quantity in units commonly used in the trade.

(f) Units. The "Unit" paragraph within each ECCN will list a specific "Unit" for those items controlled by the entry. The "Unit" must be entered on all license applications submitted to BXA. If an item is licensed in terms of "$ value", the unit of quantity commonly used in trade must also be shown on the license application. If the unit for your particular item is shown as "N/A" in the appropriate entry on the CCL, enter "N/A" in this Block.

(g) Unit Price. Provide the fair market value of the items you wish to export or reexport. Round all prices to the nearest whole dollar amount. Give the exact unit price only if the value is less than $0.50. If normal trade practices make it impractical to establish a firm contract price, state in Block 24 the precise terms upon which the price is to be ascertained and from which the contract price may be objectively determined.

(h) Total Price. Provide the total price of the item(s) described in Block 22(j).

(i) Manufacturer. Provide the name only of the manufacturer, if known, for each of the items you wish to export, reexport, or have BXA classify, if different from the applicant.

(j) Technical Description. Provide a description of the item(s) you wish to export, reexport, or have BXA classify. Provide details when necessary to identify the specific item(s), include all characteristics or parameters shown in the applicable ECCN using measurements identified in the ECCN (e.g., basic ingredients, composition, electrical parameters, size, gauge, grade, horsepower, etc.). These characteristics must be identified for the items in the proposed transaction when they are different than the characteristics described in promotional brochure(s).

Block 23: Total Application Dollar Value. Enter the total value of all items contained on the application in U.S. Dollars. The use of other currencies is not acceptable.

Block 24: Additional information. Enter additional data pertinent to the application as required in the EAR. Include special certifications, names of parties in interest not disclosed elsewhere, explanation of documents attached, etc. Do not include information concerning Block 22 in this space.

If your application represents a previously denied application, you must provide the Application Control Number for the original application.

If you are asking BXA to classify your product, use this space to explain why you believe the ECCN entered in Block 22(a) is appropriate. This explanation must contain an analysis of the item in terms of the technical control parameters specified in the appropriate ECCN. If you do not identify a recommended classification in Block 22(a), you must state the reason you cannot determine the appropriate classification, identifying any ambiguities or deficiencies in the regulations that precluded you from determining the correct classification.

If additional space is necessary, use Block 24 on Form BXA–748P-A or B.

Block 25: You, as the applicant or duly authorized agent of the applicant, must manually sign the application. If you are an agent of the applicant, in addition to providing your name and title in this Block you must enter your company's name in Block 24.

Note: Rubber-stamped or electronic signatures are not acceptable. Type both your name and title in the spaces provided.

Supplement No. 2 to Part 748—Unique License Application Requirements

In addition to the instructions contained in Supplement No. 1 to part 748, you must also ensure that the additional requirements for certain items or types of transactions described in this supplement are addressed in your license application. All other blocks not specifically identified in this supplement must be completed in accordance with the instructions contained in Supplement No. 1 to part 748. The term "Block" used in this supplement relates to Form BXA–748P, unless otherwise noted.

(a) *Chemicals, medicinals, and pharmaceuticals.* If you are submitting a license application for the export or reexport of chemicals, medicinals, and/or pharmaceuticals, the following information must be provided in Block 22.

(1) Facts relating to the grade, form, concentration, mixture(s), or ingredients as may be necessary to identify the item accurately, and;

(2) The Chemical Abstract Service Registry (C.A.S.) numbers, if they exist, must be identified.

(b) *Communications intercepting devices.* If you are required to submit a license application under § 742.13 of this part, you must enter the words "Communications Intercepting Device(s)" in Block 9. The item you are requesting to export or reexport must be specified by name in Block 22(j).

(c) *Digital computers, telecommunications, and related equipment.* If your license application involves items controlled by both Category 4 and Category 5, your license application must be submitted according to the principal function of the equipment. License applications involving computers controlled by Category 4 must identify a Composite Theoretical Performance (CTP) in Block 22(b). If the principal function is telecommunications, a CTP is not required. Computers, related equipment, or software performing telecommunication or local area network functions will be evaluated against the telecommunications performance characteristics of Category 5, while cryptographic, cryptoanalytic, certifiable multi-level security or certifiable user isolation functions, or systems that limit electromagnetic compatibility (EMC) will be evaluated against the information security performance characteristics of Category 5.

(1) *Requirements for license applications involving digital computers.* If you are submitting a license application to export or reexport "digital computers" or equipment containing digital computers to destinations in Country Group D:1 (See Supplement No. 1 to part 740 of the EAR), or to upgrade existing "digital computer" installations in those countries, you must include in addition to the CTP in Block 22(b) the following information:

(i) A configuration diagram of the entire system must be submitted if the equipment exceeds the limits of the Advisory Notes that indicate a likelihood of approval for Country Group D:1 for the appropriate ECCN in the Commerce Control List (CCL); and

(ii) Technical specifications and product brochures to corroborate the data supplied in your license application.

(2) *Additional requirements.* License applications to export or reexport computers or related equipment that are described in Advisory Note 4 to Category 4, or that exceed any of the limits specified in Advisory Notes 3 or 4 to Category 4, must include:

(i) A signed statement by a responsible representative of the end-user or the importing agency describing the end-use and certifying that the "digital" computers or related equipment:

(A) Will be used only for civil applications; and

(B) Will not be reexported or otherwise disposed of without prior written authorization from BXA;

(ii) A full description of the equipment and its intended application and workload; and

(iii) A complete identification of all end-users and their activities.

(d) *Gift parcels; consolidated in a single shipment.* If you are submitting a license application to export multiple gift parcels for delivery to individuals residing in a foreign country, you must include the following information in your license application. **Note:** Each gift parcel must meet the terms and conditions described in License Exception GFT (See § 740.16 of the EAR).

(1) In Block 16, enter the word "None";

(2) In Block 18, enter the word "Various" instead of the name and address of a single ultimate consignee;

(3) In Block 21, enter the phrase "For personal use by recipients".

(4) In Block 22(e), indicate a reasonable estimate of the number of parcels to be shipped during the validity of the license;

(5) In Block 22(j), enter the phrase "Gift Parcels";

(6) In Block 23, indicate a reasonable value approximation proportionate to the quantity of gift parcels identified in Block 22(e); and

(e) *Intransit through the United States.* If you are submitting a license application for items moving intransit through the United States that do not qualify for License Exception TUS (See § 740.9 of the EAR), you must provide the following information with your license application:

(1) In Block 9, enter the phrase "Intransit Shipment";

(2) In Block 24, enter the name and address of the foreign consignor who shipped the items to the United States and state the origin of the shipment;

(3) Any available evidence showing the approval or acquiescence of the exporting country (or the country of which the exporter is a resident) for shipments to the proposed ultimate destination. Such evidence may be in the form of a Transit Authorization Certificate; and

(4) Any support documentation required by § 748.9 of this part for the country of ultimate destination.

(f) *Intransit outside of the United States.* If you are submitting a license application based on General Prohibition No. 8 stated in § 734.2(b)(8) of the EAR and identification of the intermediate consignee in the country of unlading or transit is unknown at the time the license application is submitted, the country of unlading or transit must be shown in Block 17.

(g) *Nuclear Nonproliferation items and end-uses.*—(1) *Statement requirement.* If a license is required to export or reexport items under § 744.2 of the EAR, prior to submitting a license application you must obtain a signed written statement from the foreign importer certifying the following:

(i) The items to be exported or replicas thereof ("replicas" refers to items produced abroad based on physical examination of the item originally exported, matching it in all critical design and performance parameters), will not be used in any of the activities described in § 744.2(a) of the EAR; and

(ii) Written authorization will be obtained from the BXA prior to reexporting the items, unless they are destined to Canada or would be eligible for export from the United States to the new country of destination under NLR based on Country Chart NP Column 1.

(2) *License application requirements.* Along with the required certification, you must include the following information in your license application:

(i) In Block 6, place an (X) in the box titled "Nuclear Certification";

(ii) In Block 9, enter the phrase "NUCLEAR CONTROLS";

(iii) In Block 21, provide, if known, the specific geographic locations of any installations, establishments, or sites at which the items will be used;

(iv) In Block 22(j), if applicable, include a description of any specific features of design or specific modifications that make the item capable of nuclear explosive activities, or of safeguarded or unsafeguarded nuclear activities as described in § 744.2(a)(3) of the EAR; and

(v) In Block 24, if your license application is being submitted because you know that your transaction involves a nuclear end-use described in § 744.2 of the EAR, you must fully explain the basis for your knowledge that the items are intended for the purpose(s) described § 744.2 of the EAR. Indicate, if possible, the specific end-use(s) the items will have in designing, developing,

fabricating, or testing nuclear weapons or nuclear explosive devices or in designing, constructing, fabricating, or operating the facilities described in § 744.2(a)(3) of the EAR.

(h) *Numerical control devices, motion control boards, numerically controlled machine tools, dimensional inspection machines, direct numerical control systems, specially designed assemblies and specially designed software.* (1) If you are submitting a license application to export, reexport, or request BXA to classify numerical control devices, motion control boards, numerically controlled machine tools, dimensional inspection machines, and specially designed software you must include the following information in your license application:

(i) For numerical control devices and motion control boards:

(A) Make and model number of the control unit;

(B) Description and internal configuration of numerical control device. If the device is a computer with motion control board(s), then include the make and model number of the computer;

(C) Description of the manner in which a computer will be connected to the CNC unit for on-line processing of CAD data. Specify the make and model of the computer;

(D) Number of axes the control unit is capable of simultaneously controlling in a coordinated contouring mode, and type of interpolation (linear, circular, and other);

(E) Minimum programmable increment;

(F) A description and an itemized list of all software/firmware to be supplied with the control device or motion control board, including software/firmware for axis interpolation function and for any programmable control unit or device to be supplied with the control unit;

(G) Description of capabilities related to "real time processing" and receiving computer aided-design as described in ECCN 2B001.a.2.a and a.2.b and ECCN 2B001.b.2 and b.3;

(H) A description of capability to accept additional boards or software that would permit an upgrade of the electronic device or motion control board above the control levels specified in ECCN 2B001; and

(I) Specify if the electronic device has been downgraded, and if so can it be upgraded in future.

(ii) For numerically controlled machine tools and dimensional inspection machines:

(A) Name and model number of machine tool or dimensional inspection machine;

(B) Type of equipment, e.g., horizontal boring machine, machining center, dimensional inspection machine, turning center, water jet, etc.;

(C) Description of the linear and rotary axes capable of being simultaneously controlled in a coordinated contouring mode, regardless of the fact that the coordinated movement of the machine axis may be limited by the numerical control unit supplied by the machine tool;

(D) Maximum workpiece diameter for cylindrical grinding machines;

(E) Motion (camming) of the spindle axis measured in the axial direction in one revolution of the spindle, and a description of the method of measurement for turning machine tools only;

(F) Motion (run out) of the spindle axis measured in the radial direction in one revolution of the spindle, and a description of the method of measurement;

(G) Overall positioning accuracy in each axis, and a description of the method for measurement; and

(H) Slide motion test results if required as described in ECCN 2B001.c.1.b.6.

(i) *Parts, components, and materials incorporated abroad into foreign-made products.* BXA will consider license applications to export or reexport to multiple consignees or multiple countries when an application is required for foreign produced direct product containing parts and components subject to the EAR in § 732.4(b) of the EAR and to General Prohibition Two stated in § 734.2(b)(2) of the EAR. Such requests will not be approved for countries listed in Country Group E:2 (See Supplement No. 1 to part 740 of the EAR), and may be approved only in limited circumstances for countries listed in Country Group D:1.

(1) *License applications for the export of parts and components.* If you are submitting a license application for the export of parts, components, or materials to be incorporated abroad into products that will then be sent to designated third countries, you must enter in Block 21, a description of end-use including a general description of the commodities to be manufactured, their typical end-use, and the countries where those commodities will be marketed. The countries may be listed specifically or may be identified by Country Groups, geographic areas, etc.

(2) *License applications for the reexport of incorporated parts and components.* If you are submitting a license application for the reexport of parts, components, or materials incorporated abroad into products that will be sent to designated third countries you must include the following information in your license application:

(i) In Block 9, enter the phrase "Parts and Components";

(ii) In Block 18, enter the name, street address, city and country of the foreign party who will be receiving the foreign-made product. If you are requesting approval for multiple countries or consignees enter "Various" in Block 18, and list the specific countries, Country Groups, or geographic areas in Block 24;

(iii) In Block 20, enter the name, street address, city, and country of the foreign party who will be exporting the foreign-made product incorporating U.S. origin parts, components or materials;

(iv) In Block 21, describe the activity of the ultimate consignee identified in Block 18 and the end-use of the foreign-made product. Indicate the final configuration if the product is intended to be incorporated in a larger system. If the end-use is unknown, state "unknown" and describe the general activities of the end-user;

(v) In Block 22(e), specify the quantity for each foreign-made product. If this information is unknown, enter "Unknown" in Block 22(e);

(vi) In Block 22(h), enter the digit "0" for each foreign-made product;

(vii) In Block 22(j), describe the foreign-made product that will be exported, specifying type and model or part number. Attach brochures or specifications, if available. Show as part of the description the unit value, in U.S. dollars, of the foreign-made product (if more than one foreign-made product is listed on the license application, specify the unit value for each type/model/part number). Also include a description of the U.S. content (including the applicable Export Control Classification Number(s)) and its value in U.S. dollars. If more than one foreign-made product is identified on the license application, describe the U.S. content and specify the U.S. content value for each foreign-made product. Also, provide sufficient supporting information to explain the basis for the stated values. To the extent possible, explain how much of the value of the foreign-made product represents foreign origin parts, components, or materials, as opposed to labor, overhead, etc. When the U.S. content varies and cannot be specified in advance, provide a range of percentage and value that would indicate the minimum and maximum U.S. content;

(viii) Include separately in Block 22(j) a description of any U.S. origin spare parts to be reexported with the foreign-made product, if they exceed the amount allowed by § 740.10 of the EAR. Enter the quantity, if appropriate, in Block 22(e). Enter the ECCN for the spare parts in Block 22(a) and enter the value of the spare parts in Block 22(h);

(ix) In Block 23, enter the digit "0";

(x) If the foreign-made product is the direct product of U.S. origin technology that was exported or reexported subject to written assurance, a request for waiver of that assurance, if necessary, may be made in Block 24. If U.S. origin technology will accompany a shipment to a country listed in Country Group D:1 or E:2 (see Supplement No. 1 to part 740 of the EAR) describe in Block 24 the type of technology and how it will be used.

(j) *Ship stores, plane stores, supplies, and equipment.*—(1) *Vessels under construction.* If you are submitting a license application for the export or reexport of items, including ship stores, supplies, and equipment, to a vessel under construction you must include the following information in your license application:

(i) In Block 18, enter the name, street address, city, and country of the shipyard where vessel is being constructed;

(ii) In Block 22(j), state the length of the vessel for a vessel under 12 m (40 ft) in length. For a vessel 12 m (40 ft) in length or over, provide the following information (if this information is unknown, enter "Unknown" in this Block):

(A) Hull number and name of vessel;

(B) Type of vessel;

(C) Name and business address of prospective owner, and the prospective owner's nationality; and

(D) Country of registry or intended country of registry.

(2) *Aircraft under construction.* If you are submitting a license application for the export or reexport of items, including plane stores, supplies, and equipment, to an aircraft under construction you must include the following information in your license application:

(i) In Block 18, enter the name and address of the plant where the aircraft is being constructed;

(ii) In Block 22(j), enter the following information (if this information is unknown, enter "Unknown" in this Block):

(A) Type of aircraft and model number;

(B) Name and business address of prospective owner and his nationality; and

(C) Country of registry or intended country of registry.

(3) *Operating vessels and aircraft.* If you are submitting a license application for the export or reexport of items, including ship or plane stores, supplies, and equipment to an operating vessel or aircraft, whether in operation or being repaired, you must include the following information in your license application:

(i) In Block 18, enter the name of the owner, the name of the vessel, if applicable, and port or point where the items will be taken aboard;

(ii) In Block 18, enter the following statement if, at the time of filing the license application, it is uncertain where the vessel or aircraft will take on the items, but it is known that the items will not be shipped to a country listed in Country Group D:1 or E:2 (see Supplement No. 1 to part 740 of the EAR):

Uncertain; however, shipment(s) will not be made to Country Groups D:1 or E:2.

(iii) Provide information as described in paragraph (j)(1)(ii) of this supplement for vessels or information contained in paragraph (j)(2)(ii) of this supplement for aircraft.

(k) *Regional stability controlled items.* If you are submitting a license application for the export or reexport of items controlled for regional stability reasons and subject to licensing under RS Column 1 on the Country Chart, your license application must be accompanied by full technical specifications.

(l) *Reexports.* If you know that an item that requires a license to be exported from the United States to a certain foreign destination will be reexported to a third destination also requiring approval, such a request must be included on the license application. The license application must specify the country to which the reexport will be made in Block 24. If the export does not require a license but the reexport does, you may apply for a license for the reexport, or you may export without a license and notify the consignee of the requirement to seek a license to reexport.

(m) *Robots.* If you are submitting a license application for the export or reexport of items controlled by ECCNs 2B007 or 2D001 (including robots, robot controllers, end-effectors, or related software) the following information must be provided in Block 24:

(1) Specify if the robot is equipped with a vision system and its make, type, and model number;

(2) Specify if the robot is specially designed to comply with national safety standards for explosive munitions environments;

(3) Specify if the robot is specially designed for outdoor applications and if it meets military specifications for those applications;

(4) Specify if the robot is specially designed for operating in an electro-magnetic pulse (EMP) environment;

(5) Specify if the robot is specially designed or rated as radiation-hardened beyond that necessary to withstand normal industrial (i.e., non-nuclear industry) ionizing radiation, and its rating in grays (Silicon);

(6) Describe the robot's capability of using sensors, image processing or scene analysis to generate or to modify robot program instructions or data;

(7) Describe the manner in which the robot may be used in nuclear industry/manufacturing; and

(8) Specify if the robot controllers, end-effectors, or software are specially designed for robots controlled by ECCN 2B007, and why.

(n) *Short Supply controlled items.* If you are submitting a license application for the export of items controlled for short supply reasons, you must consult part 754 of the EAR for instructions on preparing your license application.

(o) *Technology—(1) License application instructions.* If you are submitting a license application for the export or reexport of technology you must check the box labeled "Letter of Explanation" in Block 6, enter the word "Technology" in Block 9, leave Blocks 22(e) and (i) blank, and include a general statement that specifies the technology (e.g., blueprints, manuals, etc.) in Block 22(j).

(2) *Letter of explanation.* Each license application to export or reexport technology must be supported by a comprehensive letter of explanation. This letter must describe all the facts for a complete disclosure of the transaction including, if applicable, the following information:

(i) The identities of all parties to the transaction;

(ii) The exact project location where the technology will be used;

(iii) The type of technology to be exported or reexported;

(iv) The form in which the export or reexport will be made;

(v) The uses for which the data will be employed;

(vi) An explanation of the process, product, size, and output capacity of all items to be produced with the technology, if applicable, or other description that delineates, defines, and limits the data to be transmitted (the "technical scope"); and

(vii) The availability abroad of comparable foreign technology.

(3) *Special provisions.*

(i) *Technology controlled for national security reasons.* If you are submitting a license application to export technology controlled for national security reasons to a country *not* listed in Country Group D:1 or E:2 (see Supplement No. 1 to part 740 of the EAR), you must obtain a written letter from the ultimate consignee assuring that, unless prior authorization is obtained from BXA, the consignee will not knowingly reexport the technology to any destination, or export the direct product of the technology to a country listed in Country Group D:1 or E:2 (See Supplement No. 1 to part 740 of the EAR). If you are unable to obtain this letter of assurance from your consignee, you must state in your license application why the assurances could not be obtained.

(ii) *Maritime nuclear propulsion plants and related items.* If you are submitting a license application to export or reexport technology relating to maritime nuclear propulsion plants and related items including maritime (civil) nuclear propulsion plants, their land prototypes, and special facilities for their construction, support, or maintenance, including any machinery, device, component, or equipment specifically developed or designed for use in such plants or facilities you must include the following information in your license application:

(A) A description of the foreign project for which the technology will be furnished;

(B) A description of the scope of the proposed services to be offered by the applicant, his consultant(s), and his subcontractor(s), including all the design data that will be disclosed;

(C) The names, addresses and titles of all personnel of the applicant, the applicant's consultant(s) and subcontractor(s) who will discuss or disclose the technology or be involved in the design or development of the technology;

(D) The beginning and termination dates of the period of time during which the technology will be discussed or disclosed and a proposed time schedule of the reports the applicant will submit to BXA, detailing the technology discussed or disclosed during the period of the license;

(E) The following certification:

I (We) certify that if this license application is approved, I (we) and any consultants, subcontractors, or other persons employed or retained by us in connection with the project licensed will not discuss with or disclose to others, directly or indirectly, any technology relating to U.S. naval nuclear propulsion plants. I (We) further certify that I (we) will furnish to the Bureau of Export Administration all reports and information it may require concerning specific transmittals or disclosures of technology under any license granted as a result of this license application.

(F) A statement of the steps that you will take to assure that personnel of the applicant, the applicant's consultant(s) and subcontractor(s) will not discuss or disclose to others technology relating to U.S. naval nuclear propulsion plants; and

(G) A written statement of assurance from the foreign importer as described in paragraph (o)(3)(i) of this Supplement.

(p) *Temporary exports or reexports.* If you are submitting a license application for the temporary export or reexport of an item (not eligible for License Exception TMP (See § 740.8 of the EAR)) you must include the following certification in Block 24:

The items described on this license application are to be temporarily exported (or reexported) for (state the purpose e.g., demonstration, testing, exhibition, etc.), used solely for the purpose authorized, and returned to the United States (or originating country) as soon as the temporary purpose has ended, but in no case later than one year of the date of export (or reexport), unless other disposition has been authorized in

writing by the Bureau of Export Administration.

Supplement No. 3 to Part 748—BXA-711, Statement by Ultimate Consignee and Purchaser Instructions

All information must be typed or legibly printed in each appropriate Block or Box.

Block 1: Ultimate Consignee. The Ultimate Consignee must be the person abroad who is actually to receive the material for the disposition stated in Block 2. A bank, freight forwarder, forwarding agent, or other intermediary is not acceptable as the Ultimate Consignee.

Block 2: Disposition or Use of Items by Ultimate Consignee named in Block 1. Place an (X) in "A.," "B.," "C.," "D.," and "E.," as appropriate, and fill in the required information.

Block 3: Nature of Business of Ultimate Consignee named in Block 1. Complete both "A" and "B".

Possible choices for "A" include: broker, distributor, fabricator, manufacturer, wholesaler, retailer, value added reseller, original equipment manufacturer, etc.

Possible choices for "B" include: contractual, franchise, distributor, wholesaler, continuing and regular individual business, etc.

Block 4: Additional Information. Provide any other information not appearing elsewhere on the form such as other parties to the transaction, and any other material facts that may be of value in considering license applications supported by this statement.

Block 5: Assistance in Preparing Statement. Name all persons, other than employees of the ultimate consignee or purchaser, who assisted in the preparation of this form.

Block 6: Ultimate Consignee. Enter the requested information and sign the statement in ink. (For a definition of ultimate consignee, see § 748.5(e) of this part.)

Block 7: Purchaser. This form must be signed in ink by the Purchaser, if the Purchaser is not the same as the Ultimate Consignee identified in Block 1. (For a definition of purchaser, see § 748.5(c) of this part.)

Block 8: Certification for U.S. Exporter. This Block must be completed to certify that no correction, addition, or alteration on this form was made subsequent to the signing by the Ultimate Consignee in Block 6 and Purchaser in Block 7.

Supplement No. 4 To Part 748—Authorities Administering Import Certificate/Delivery Verification (IC/DV) and End Use Certificate Systems in Foreign Countries

Country	IC/DV Authorities	System administered
Argentina	Secretaria Ejecutiva de la Comision Nacional de Control de Exportaciones Sensitivas y Material Belico Balcarce 362—ler. piso Capital Federal—CP 1064 Buenos Aires Tel. 334–0738, Fax 331–1618.	IC/DV.
Australia	Director, Technology Transfer and Analysis, Industry Policy and Operations Division, Department of Defense, Russell Office, Canberra, A.C.T. 2600.	IC/DV.
Austria	Bundesministerium fur Handel Gewerbe und Industrie Landstr. Haupstr. 55–57, Vienna 1031.	IC/DV.
Belgium	Ministere Des Affaires Economiques Office Central des Contingents et Licences 24–26 Rue De Mot, Bruxelles-1040.	IC/DV.
Bulgaria	Ministry of Trade 12 Al. Batenberg 1000 Sofia	IC/DV.
China, People's Republic of	Technology Import and Export Department MOFTEC No. 2 Dong Chang An Street Beijing, Telephone: 553031, Telex: 22478 MFERTCN.	PRC End-Uaer Certificate.
Czech Republic	Federal Ministry of Foreign Trade Head of Licensing Politickych Veznu 20 112 49 Praha 1.	IC/DV.
Denmark	Handelsministeriets Licenskontor Kampmannsgade 1, DK 1604, Copenhagen V ...	IC/DV.
	IC's also issued by Danmarks Nationalbank Holmens Kanal 17, Copenhagen K Custom-houses.	DV.
Finland	Hensingin Piiritullikamari, Kanavakatu 6 (or P.O. Box 168) 00161 Helsinki	IC/DV.
France	Ministere de l'Economie et des Finances Direction Generale des Douanes et Droita Indirects Division des Affaires Juridiques et Contentieuses 8, Rue de la Tour des Dames, Bureau D/3, 75436, Paris Codex 09.	IC/DV.
Germany	Bundesamt fur gewerbliche Wirtschaft Frankfurter Strasse 29–31 65760 Eschborn	IC/DV.
Greece	Banque de Greece, Direction des Transactions Commerciales avec l'Etranger Athens.	IC/DV.
Hong Kong	Trade Department, Ocean Centre, Canton Road, Tsimshatsui, Kowloon,	IC/DV.
Hungary	Ministry of International Economic Relations Export Control Office 1054 Budapest P.O. Box 728 H–1365, Hold Str. 17.	IC/DV.
India	Deputy Director General of Foreign Trade Udyog Bhawan, Maulana Azad Road New Delhi 11011.	Indian IC.
For small scale industries and entities, and those not elsewhere specified.		
	Directorate General of Technical Development, Udyog Bhawan, Maulana Azad Road, New Delhi 11011.	Indian IC
For the "organized" sector, except for computers and related equipment.		
	Defense Research and Development Organization Room No. 224, "B" Wing Sena Bhawan, New Delhi 110011.	Indian IC.
For Defense organizations.		
	Department of Electronics, Lok Nayak Bhawan, New Delhi 110003	Indian IC.
For computers and related electronic items.		
	Assistant Director, Embassy of India, Commerce Wing, 2536 Massachusetts Ave. NW, Washington D.C. 20008—.	Indian IC.
For any of the above.		
Ireland, Republic of	Department of Industry, Trade, Commerce and Tourism, Frederick House, South Frederick Street, Dublin 2.	IC/DV.
Italy	Ministero del Commercio con l'Estero Direzione Generale delle Importazioni e delle Esportazioni, Div. III, Rome Dogana Italiana (of the town import where takes place).	IC/DV.

Country	IC/DV Authorities	System administered
Japan	Ministered of International Trade and Industry in: Fukuoka, Hiroshima, Kanmon (Kitakyushu-shi), Kobe, Nagoya, Osaka, Sapporo, Sendai, Shikoku (Takamatsu-shi), Shimizu, Tokyo, and Yokohama Japanese Customs Offices.	IC/DV.
Korea, Republic of	Trade Administration Division Trade Bureau Ministry of Trade and Industry Jungang-Dong, Kyonggi-Do, Building 3 Kwachon.	IC.
	Republic of Korea Customs House	DV.
Liechtenstein	Swiss Federal Office for Foreign Economic Affairs, Import and Export Division Zieglerstrasse 30, CH–3003 Bern.	IC/DV.
Luxembourg	Office des Licences Avenue de la Liberte, 10	IC/DV.
Netherlands	Centrale Dienst voor In-an Uitvoer Engelse Kamp 2, Groningen	IC/DV.
New Zealand	Comptroller for Customs P.O. Box 2218, Wellington	IC/DV.
Norway	Handelsdepartmentet Direktoratet for Eksport-og-Importregulering Fr. Nansens plass 5, Oslo.	IC/DV.
Pakistan	Chief Controller of Imports and Exports 5, Civic Center Islamabad	IC.
	Joint Science Advisor, Ministry of Science and Technology, Secretariat Block 'S', Islamabad.	DV.
Poland	Ministry of Foreign Economic Relations Department of Commodities and Services Plac Trzech Krzyzy 5, Room 358 00–507 Warsaw.	IC/DV.
Portugal	Reparticao do Comercio Externo Direccao-Geral do Comercio Secretaria de Estado do Comercio Ministerio da Economia, Lisbon.	IC/DV.
Romania	National Agency for Control of Strategic Exports and Prohibition of Chemical Weapons, 13, Calea 13 Septembrie Casa (or P.O. Box 5–10) Republicii, Gate A 1, Bucharest, Sector 5, Phone: 401–311–2083, Fax: 401–311–1265.	IC/DV.
Singapore	Controller of Imports and Exports, Trade Development Board World Trade Centre, 1 Maritime Square, Telok Blangah Road,.	IC/DV.
Slovakia	Ministry of Foreign Affairs Licensing-Registration Department Spitalska 8, 813 15 Bratislava.	IC.
Spain	Secretary of State for Commerce Paseo la Cistellana 162, Madrid 28046	IC/DV.
Sweden	The Association of Swedish Chambers of Commerce & Industry P.O. Box 16050, S–103 22 Stockholm Office: Vastra Tradgardsgatan 9.	IC/DV.
Switzerland	Swiss Federal Office for Foreign Economic Affairs, Import and Export Division, Zieglerstrasse 30 CH–3003 Bern.	IC/DV.
Taiwan	Board of Foreign Trade Ministry of Economic Affairs 1 Hu-Kou Street, Taipei	IC/DV.
	Science-based Industrial Park Administration No. 2 Hsin Ann Road, Hsinchu.	
	Export Processing Zone Administration 600 Chiachang Road Nantz, Kaohsiung.	
Turkey	Ministry of Commerce, Department of Foreign Commerce, Ankara	IC.
	Head Customs Office at the point of entry	DV.
United Kingdom	Department of Trade and Industry Export Licensing Branch Millbank Tower Millbank London, SW1P 4QU.	IC.
	H.M. Customs and Excise, King's Beam House, Mark Lane London, E.C. 3	DV

Supplement No. 5 to Part 748—U.S. Import Certificate and Delivery Verification Procedure

The United States participates in an Import Certificate/Delivery Verification procedure. Under this procedure, U.S. importers are sometimes required to provide their foreign suppliers with an U.S. International Import Certificate that is validated by the U.S. Government. This certificate tells the government of the exporter's country that the items covered by the certificate will be imported into the U.S. Economy and will not be reexported except as authorized by U.S. export control regulations. In addition, in some cases, the exporter's government may require a delivery verification. Under this procedure, the U.S. Customs Service validates a certificate confirming that the items have entered the U.S. economy. The U.S. importer must return this certificate to the foreign exporter.

This supplement establishes the procedures and requirements of BXA with respect to both of these programs. Paragraph (a) of this Supplement contains the requirements and procedures of the U.S. International Import Certificate procedure. Paragraph (b) of this Supplement contains the requirements and procedures of the Delivery Verification procedure.

(a) U.S. International Import Certificates. If you are a U.S. importer, a foreign supplier may request you to obtain a U.S. import certificate. The reason for this request is that the exporter's government requires a U.S. import certificate as a condition to issuing an export license. To obtain such a certificate you will have to fill in and execute the U.S. International Import Certificate form (Form BXA–645P/ATF–4522/DSP–53) and submit it to the U.S. government agency that has jurisdiction over the items you are importing. In doing so, you will be making a representation to the United States Government that you will import the items described in the certificate into the United States or if not so imported, you will not divert, transship or reexport them to another destination with the explicit approval of the U.S. government agency that has jurisdiction over those items. (Representations that items will be entered into the U.S. do not preclude the temporary unloading of items in a foreign trade zone for subsequent entry into the economy of the U.S.) If the items described in the certificate are subject to U.S. Department of Commerce jurisdiction, the Department will validate the certificate and return it to you. You may then send the certificate to your foreign supplier. In this way the government of the exporting country is assured that the items will become subject to the export control laws of the United States.

(1) Items for which the U.S. Department of Commerce issues U.S. International Import Certificates and forms to use. The Department of Commerce issues U.S. International Import Certificates for the following types of items.

(i) Items controlled for National Security reasons. Items under the export licensing jurisdiction of BXA that are identified as controlled for national security reasons on the Commerce Control List (Supplement No. 1 to part 774 of the EAR). You will need to submit in triplicate a completed Form BXA–645P/ATF–4522/DSP–53;

(ii) Nuclear equipment and materials. Items subject to the export licensing jurisdiction of the Nuclear Regulatory Commission for nuclear equipment and materials. (see 10 CFR part 110). You will need to submit in quadruplicate a completed Form BXA–645P/ATF–4522/DSP–53; and

(iii) Munitions Items. Items listed on the U.S. Munitions List (see 22 CFR part 121) that do not appear on the more limited U.S.

Munitions Import List (27 CFR 47.21). You will need to submit in triplicate a completed Form BXA–645P. For triangular transactions (See paragraph (a)(5) of this Supplement) involving items on the U.S. Munitions List, you must contact the Department of State, Office of Defense Trade Controls and use Form BXA–645P/ATF–4522/DSP–53. You should contact the Treasury Department, Bureau of Alcohol, Tobacco and Firearms for items appearing on the U.S. Munitions Import List. You will need to use Form ATF–4522.

(2) Where to submit forms. U.S. International Import Certificates and requests to amend certificates may be presented for validation either in person or by mail at the following locations.

(i) By mail to the Bureau of Export Administration, P.O. Box 273, Washington D.C. 20044, Attn: Import Certificate Request; or

(ii) In person or by mail at one of the following Department of Commerce U.S. and Foreign Commercial Service District Offices:
Boston, MA
Buffalo, NY
Chicago, IL
Cincinnati, OH
Cleveland, OH
Dallas, TX
Detroit, Mi
Houston, TX
Kansas City, MO
Los Angeles, CA
Miami, FL
New Orleans, LO
New York, NY
Philadelphia, PA
Phoenix, AZ
Pittsburgh, PA
Portland, OR
St. Louis, MO
San Francisco, CA
Savannah, GA
Seattle, WA
Trenton, NJ

(3) U.S. International Import Certificate validity periods. The U.S. International Import Certificate must be submitted to the foreign government within six months from the date of certification by the U.S. Department of Commerce. The expiration of this six-month period in no way affects the responsibility of the importer to fulfill the commitments made in obtaining the certificate. If the certificate is not presented to the government of the exporting country before the expiration of its validity period, the exporter must apply for a new certificate. The original unused U.S. International Import Certificate must be returned to BXA at the address specified in paragraph (a)(2)(i) of this supplement.

(4) Statements on the certificate or amendments are representations to the U.S. Government which continue in effect.

(i) All statements and representations made in a U.S. International Import Certificate or an amendment thereto, will be deemed to be continuing in nature until the transaction described in the certificate is completed and the items are delivered into the economy of the importing country.

(ii) Any change of fact or intention in regard to the transaction described in the certificate shall be promptly disclosed to BXA by the U.S. importer by presentation of an amended certificate. The amended certificate must describe all of the changes and be accompanied by the original certificate bearing the certification of BXA. If the original certificate has been transferred to the foreign exporter, you must, where possible, attempt to obtain the original certificate prior to applying for an amendment. If the original certificate is unobtainable because the foreign exporter has submitted it to the appropriate foreign government, or for any other reason, then you must submit a written statement with your amendment giving the reasons for your failure to submit the original certificate.

(5) Certificates for Triangular transaction (items will not enter the U.S. or applicant is not sure that they will enter the United States).

(i) In accordance with international practice, BXA will, upon request, stamp the certificate with a triangular symbol as notification to the government of the exporting country that the U.S. importer is uncertain whether the items will be imported into the U. S. or knows that the items will not be imported into the U.S., but that, in any case, the items will not be delivered to any other destination except in accordance with the EAR.

(ii) The triangular symbol on a certificate U.S. International Import Certificate is not, in and of itself, an approval by BXA to transfer or sell items to a foreign consignee. Note that a triangular Certificate will not be issued covering foreign excess property sold abroad by the U.S. Department of Defense.

(6) Approval to export items to a foreign consignee prior to delivery under a U.S. International Import Certificate. The written approval of BXA is required before items covered by a U.S. International Import Certificate (whether or not bearing a triangular symbol) may be shipped to a destination other than the U.S. or Canada or sold to a foreign purchaser, and before title to or possession of such items may be transferred to a foreign transferee. This requirement does not apply after the items have been delivered in accordance with the undertaking set forth in the Certificate or if at the time of such shipment, sale, passage of possession or passage of title, a License Exception or a NLR provision of the EAR would authorize the transaction.

(i) If prior approval is required, a letter requesting authorization to release the shipment shall be submitted to BXA at the address listed in paragraph (a)(2)(i) of this supplement.

(ii) The letter must contain the certificate number; date issued; location of the issuing office; names, addresses, and identities of all parties to the complete transaction; and the quantity, dollar value, and description of the items. The letter must be accompanied by the U.S. International Import Certificate, and all other documentation required by the EAR for the item and country of ultimate destination, as identified in part 748 of the EAR. If requirements stated in part 748 of the EAR do not apply to your transaction, you must identify the intended end-use of the items in your letter.

(iii) Where the letter request is approved and is supported by a foreign import certificate, no further approval from BXA is required for the purchaser or transferee to resell or again transfer the items. However, where BXA approves a request that was not supported by a foreign import certificate, the person to whom approval is granted is required to inform the purchaser or transferee, in writing, that the items are to be shipped to the approved destination only and that no other disposition of the items is permitted without the approval of BXA.

(iv) If the transaction is approved, a validated letter of approval will be sent to the U.S. purchaser for retention in his records. Where a DV or other official government confirmation of delivery is required, the letter will so indicate.

(v) If the items covered by a certificate have been imported into a destination other than the U.S. and the foreign exporter of the items requests a Delivery Verification, the person who obtained the certificate must obtain a DV from the person to whom the items were delivered in the actual importing country. (If a DV is unobtainable, other official government confirmation of delivery must be obtained.) The DV or other official government confirmation of delivery must be submitted to BXA together with an explanatory letter giving the U.S. International Import Certificate number, date issued, and location of issuing office. BXA will then issue Form ITA–6008, Delivery Compliance Notice, in two copies, the original of which must be forwarded to the country of origin in order to serve as evidence to the exporting country that the requirements of the U.S. Government have been satisfied with respect to delivery of the items.

(vi) Delivery, sale, or transfer of items to another U.S. purchaser.

(A) Items covered by a U.S. International Import Certificate may not be sold, and title to or possession of such items may not be transferred, to another U.S. purchaser or transferee before the items are delivered to the U.S. (or to an approved foreign destination, as provided by paragraph (a)(5) of this Supplement), except in accordance with the provisions described in paragraph (a)(6) of this Supplement. The provisions of this paragraph do not apply after the items have been delivered in accordance with the undertaking set forth in the certificate.

(B) Resale or transfer to another U.S. purchaser or transferee requires the prior approval of BXA only in cases where the buyer or transferee is listed in Supplement No. 1 to part 766 of the EAR. However, you, as the person who obtained the certificate are required to notify BXA of any change in facts or intentions relating to the transaction, and in all cases you will be held responsible for the delivery of the items in accordance with the EAR. You are required in all cases to secure, prior to sale or transfer, and to retain in your files in accordance with the recordkeeping provisions contained in part 762 of the EAR, written acceptance by the purchaser or transferee of:

(*1*) All obligations undertaken by, and imposed under the EAR, upon the holder of the certificate; and

(*2*) An undertaking that all subsequent sales or transfers will be made subject to the same conditions.

(iii) The responsibility of the certificate holder for obtaining a DV also applies to those cases where the items are resold to a U.S. purchaser (See paragraph (b)(1) of this Supplement.

(vii) Reexport or transshipment of items after delivery to U.S. Items imported into the U.S. under the provisions of a U.S. International Import Certificate may not be reexported to any destination under the provisions of License Exception TUS (see § 740.4(c) of the EAR). However, all other provisions of the EAR applicable to items of domestic origin shall apply to the reexport of items of foreign origin shipped to the U.S. under a U.S. International Import Certificate.

(viii) Lost or destroyed U.S. International Import Certificates. If a U.S. International Import Certificate is lost or destroyed, a duplicate copy may be obtained by the person in the U.S. who executed the original U.S. International Import Certificate by submitting to any of the offices listed in paragraph (a)(2)(i) of this supplement new Form BXA–645P/ATF–4522/DSP–53 in the same way as an original request, except that the forms shall be accompanied by a letter detailing the circumstances under which the original certificate was lost or destroyed and certifying:

(A) That the original U.S. International Import Certificate No. _____, dated _____, issued to (name and address of U.S. importer) for import from (foreign exporter's name and address) has been lost or destroyed; and

(B) That if the original U.S. International Import Certificate is found, the applicant agrees to return the original or duplicate of the certificate to the Bureau of Export Administration.

(ix) Unused U.S. International Import Certificates. If the transaction will not be completed and the U.S. International Import Certificate will not be used, return the certificate for cancellation to BXA at the address listed in paragraph (a)(2)(i) of this supplement.

(b) Delivery Verification Certificate. U.S. importers may be requested by their foreign suppliers to furnish them with a certified Form BXA–647P, Delivery Verification Certificate, covering items imported into the U.S. These requests are made by foreign governments to assure that strategic items shipped to the U.S. are not diverted from their intended destination. In these instances, the issuance of an export license by the foreign country is conditioned upon the subsequent receipt of a Delivery Verification Certificate from the U.S. importer. Accordingly, your compliance with your foreign exporter's request for a Delivery Verification is necessary to ensure your foreign exporter fulfills its government obligations and is able to participate in future transactions with you. Failure to comply may subject your exporter to penalties that may prevent future trade.

(1) The responsibility of a person or firm executing a U.S. International Import Certificate for providing the foreign exporter with confirmation of delivery of the items includes instances where the items are resold or transferred to another U.S. person or firm prior to actual delivery to the U.S. or to an approved foreign destination. The person who executed the U.S. International Import Certificate shall secure in writing from the U.S. purchaser or transferee, and retain in your files in accordance with the recordkeeping provisions stated in part 762 of the EAR:

(i) Acceptance of the obligation to provide the purchaser or transferee with either the Delivery Verification (or other official government confirmation of delivery if a Delivery Verification is unobtainable) or assurance that this document was submitted to BXA; and

(ii) An undertaking that each succeeding U.S. transferee or purchaser will assume the same obligation or assurance. In each case the seller or transferor must transmit to the U.S. purchaser or transferee the U.S. International Import Certificate number covering the export from the foreign country and request that they pass it on to any other U.S. purchasers or transferees.

(2) Completion and certification of Delivery Verification Certificates. If you are requested by your foreign exporter to provide a Delivery Verification, you must obtain Form BXA–647P from a U.S. customs office or one of the offices listed in paragraph (a)(2) of this supplement and complete all blocks (except those below the line titled "To be completed by U.S. Customs Service") on the form. The language used in the block titled "Description of Goods" must describe the items in the same terms as those shown on the applicable U.S. International Import Certificate. Upon completion Form BXA–647P must be presented, in duplicate, to a U.S. customs office. The U.S. customs office will certify Form BXA–647P only where the import is made under a warehouse or consumption entry.

(3) Disposition of certified Delivery Verification Certificates. The importer must send the original certified Delivery Verification Certificate to the foreign exporter or otherwise dispose of it in accordance with the instructions of the exporting country. The duplicate copy will be retained by the U.S. customs office.

(4)(i) Issuance of a U.S. Delivery Compliance Notice in lieu of a Delivery Verification Certificate. If you are requested to provide a Delivery Verification Certificate but do not wish to disclose the name of your customer to the foreign exporter (e.g., in the event that the items are resold or transferred to another person or firm before the items enter the U.S.), you may submit an originally completed Form BXA–647P together with an explanatory letter requesting a Delivery Compliance Notice, to BXA at the address listed in (a)(2)(i) of this supplement.

(ii) BXA will provide you with a notice signifying that the items were imported into the U.S. and that a satisfactory DV has been submitted to BXA. You must then forward the original notice to your foreign exporter for submission to the foreign government. A copy of the notice should be retained in your files in accordance with the recordkeeping provisions stated in part 762 of the EAR.

(5)(i) Lost or destroyed Delivery Verification Certificate. When a Delivery Verification Certificate is lost or destroyed, the U.S. importer must submit a letter to BXA at the address listed in paragraph (a)(2)(i) of this supplement certifying that:

(A) The original Delivery Verification Certificate has been lost or destroyed;

(B) The circumstances under which it was lost or destroyed;

(C) The type of customs entry (warehouse or consumption), entry number, and date of entry; and

(D) The number and date of the related U.S. International Import Certificate.

(ii) BXA will, in applicable cases, notify the exporting government that a Delivery Verification Certificate been issued.

(c) Penalties and sanctions for violations. The enforcement provisions of part 764 and Supplement No. 2 to part 736 of the EAR apply to transactions involving imports into the U.S. covered by this supplement and to both foreign and U.S. parties involved in a violation of this supplement. Any provisions of part 764 and Supplement No. 2 to part 736 of the EAR which, by their terms, relate to "exports" or "exports from the U.S." are also deemed to apply and extend to imports into the U.S., applications for U.S. International Import Certificates (Forms BXA–645P presented to U.S. Department of Commerce for certification), U.S. International Import Certificates, and Delivery Verification Certificates, described in this supplement. (Applications the documents described in this supplement, are included within the definition of export control documents provided in part 772 of the EAR.) Refer to § 764.3 of the EAR for more information.

PART 750—APPLICATION PROCESSING, ISSUANCE OR AND DENIAL

Sec.
750.1 Scope.
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Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 3 CFR, 1994 Comp., p. 917; Notice of August 15, 1995 (60 FR 42767, August 17, 1995); E.O. 12981, 60 FR 62981.

§ 750.1 Scope.

In this part, references to the EAR are references to 15 CFR chapter VII, subchapter C. This part describes the Bureau of Export Administration's (BXA) process for reviewing your application for a license, including processing times, denials, revocations, issuance, duplicates, transfers, and

shipping tolerances on approved licenses. The processing times for Classification and Advisory Opinion requests are also provided along with directions on obtaining status on your pending application.

§ 750.2 Processing of Classification Requests and Advisory Opinions.

(a) *Classification requests.* All classification requests submitted in accordance with procedures described in § 748.3 (a) and (b) of the EAR will be answered within 14 calendar days after receipt. All responses will inform the person of the proper classification (e.g., whether or not the item is subject to the Export Administration Regulations (EAR) and, if applicable, the appropriate Export Control Classification Number [ECCN]).

(b) *Advisory Opinion requests.* All advisory opinions submitted in accordance with procedures described in § 748.3(a) and (c) of the EAR will be answered within 30 calendar days after receipt.

§ 750.3 Review of license applications by BXA and other government agencies and departments.

(a) *Review by BXA.* In reviewing specific license applications, BXA will conduct a complete analysis of the license application along with all documentation submitted in support of the application. In addition to reviewing the item and end-use, BXA will consider the reliability of each party to the transaction and review any available intelligence information. To the maximum extent possible, BXA will make licensing decisions without referral of license applications to other agencies, however, BXA may consult with other U.S. departments and agencies regarding any license application.

(b) *Review by other departments or agencies.* (1) The Departments of Defense, Energy, State, and the Arms Control and Disarmament Agency (ACDA) have the authority to review any license application submitted under the EAR. In addition, BXA may, where appropriate, refer license applications to other U.S. government departments or agencies. These agencies and departments will be referred to as "agencies" for the purposes of this part. Though these agencies have the authority to review any license application, they may determine that they do not need to review certain types of license applications. In these instances, the agency will provide BXA with a Delegation of Authority to process those license applications without review by that particular agency.

(2) The Departments of Defense, Energy, State, and ACDA are generally concerned with license applications involving items controlled for national security, missile technology, nuclear nonproliferation, and chemical and biological weapons proliferation reasons or destined for countries and/or end uses of concern. In particular, these agencies are concerned with reviewing license applications as follows:

(i) The Department of Defense is concerned primarily with items controlled for national security and regional stability reasons;

(ii) The Department of Energy is concerned primarily with items controlled for nuclear nonproliferation reasons;

(iii) The Department of State is concerned primarily with items controlled for regional stability, anti-terrorism, crime control reasons, and sanctions; and

(iv) ACDA is concerned primarily with items controlled for national security, nuclear nonproliferation, regional stability, and anti-terrorism reasons.

§ 750.4 Procedures for processing license applications.

(a) *Overview.* (1) All license applications will be resolved or referred to the President no later than 90 calendar days from the date of BXA's registration of the license application. Processing times for the purposes of this section are defined in calendar days. The procedures and time limits described in this part apply to all license applications registered on or after February 4, 1996. The procedures and time limits in effect prior to December 6, 1995 will apply to license applications registered prior to February 4, 1996.

(2) Properly completed license applications will be registered promptly upon receipt by BXA. Registration is defined as the point at which the application is entered into BXA's electronic license processing system. If your application contains deficiencies that prevent BXA from registering your application, BXA will attempt to contact you to correct the deficiencies, however, if BXA is unable to contact you, the license application will be returned without being registered. The specific deficiencies requiring return will be enumerated in a notice accompanying the returned license application. If a license application is registered, but BXA is unable to correct deficiencies crucial to processing the license application, it will be returned without action. The notice will identify the deficiencies and the action necessary to correct the deficiencies. If you decide to resubmit the license application, it will be treated as a new license application when calculating license processing time frames.

(b) *Actions not included in processing time calculations.* The following actions will not be counted in the time period calculations described in paragraph (a)(1) of this section for the processing of license applications:

(1) *Agreement by the applicant to the delay.* BXA may request applicants provide additional information in support of their license application, respond to questions arising during processing, or accept proposed conditions or riders on their license application. If BXA has provided the applicant with an intent to deny letter described in § 750.6 of this part, processing times may be suspended in order to negotiate modifications to a license application and obtain agreement to such modifications from the foreign parties to the license application.

(2) *Pre-license checks.* If a pre-license check, to establish the identity and reliability of the recipient of the controlled items, is conducted through government channels, provided that:

(i) The need for such a pre-license check is established by the Secretary, or by another agency, if the request for a pre-license check is made by such agency and the request is made in accordance with the following time frames;

(A) The pre-license check is requested within 5 days of the determination that it is necessary; and

(B) The analysis resulting from the pre-license check is completed within 5 days.

(3) *Government-to-Government assurances.* Requests for government-to-government assurances of suitable end-use of items approved for export or reexport when failure to obtain such assurances would result in rejection of the license application, provided that:

(i) The request for such assurances is sent to the Secretary of State within five days of the determination that the assurances are required;

(ii) The Secretary of State initiates the request of the relevant government within 10 days of receipt of the request for such assurances; and

(iii) The license is issued within 5 days of the Secretary's receipt of the requested assurances.

(4) *Consultations.* Consultation with other governments, if such consultation is provided for by a relevant bilateral arrangement or multilateral regime as a precondition for approving a license.

(5) *Multilateral reviews.* Multilateral review of a license application if such review is required by the relevant multilateral regime.

(6) *Congressional notification.* Under Section 6(j) of the Export Administration Act, as amended (EAA), the Secretaries of Commerce and State are required to notify appropriate Committees of the Congress 30 days prior to issuing a license to any country designated by the Secretary of State as being terrorist supporting for any items that could make a significant contribution to the military potential of such countries, or could enhance the ability of such countries to support acts of international terrorism. Accordingly, the issuance of any license subject to this requirement will be delayed for 30 days.

(i) *Designated countries.* The following countries have been designated by the Secretary of State as terrorist-supporting countries: Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria.

(ii) *Items subject to notification requirement.* License applications involving the export or reexport of the following items to the military, police, intelligence or other sensitive end-users are subject to this notification requirement:

(A) All items controlled for national security reasons, except digital computers with a Composite Theoretical Performance (CTP) less than 500 Mtops;

(B) All items controlled for chemical and biological weapons proliferation reasons;

(C) All items controlled for missile technology reasons;

(D) All items controlled for nuclear nonproliferation reasons; and

(E) All items controlled by the CCL where the entry heading identifies the items controlled as those contained in the International Munitions List.

(iii) *Additional notifications.* The Secretaries of Commerce and State must also notify the appropriate Congressional committees 30 days before a license is issued for the export or reexport of any item controlled on the CCL to a designated country if the Secretary of State determines that the export or reexport "could make a significant contribution to the military potential of such country, including its military logistics capability, or could enhance the ability of such country to support acts of international terrorism."

(c) *Initial processing.* Within 9 days of license application registration, BXA will, as appropriate:

(1) Contact the applicant if additional information is required, if the license application is improperly completed, or required support documents are missing, to request additional or corrected information;

(2) Assure the stated classification on the license application is correct;

(3) Return the license application if a license is not required with a statement notifying the applicant that a license is not required;

(4) Approve the license application or notify the applicant of the intent to deny the license application; or

(5) Refer the license application electronically along with all necessary recommendations and analysis concurrently to all agencies unless the application is subject to a Delegation of Authority. Any relevant information not contained in the electronic file will be simultaneously forwarded in paper copy.

(d) *Review by other agencies and/or interagency groups.*

(1) Within 10 days of receipt of a referral the reviewing agency must advise BXA of any information not contained in the referral as described in paragraph (c)(5) of this section. BXA will promptly request such information from the applicant. The time that elapses between the date the information is requested by the reviewing agency and the date the information is received by the reviewing agency will not be counted in processing time frames.

(2) Within 30 days of receipt of the initial referral, the reviewing agency will provide BXA with a recommendation either to approve (with or without conditions or riders) or deny the license application. As appropriate, such a recommendation may be made with the benefit of consultation and/or discussions in interagency groups established to provide expertise and coordinate interagency consultation. These interagency groups consist of:

(i) *The Missile Technology Export Control Group (MTEC).* The MTEC, chaired by the Department of State, reviews license applications involving items controlled for missile technology reasons. The MTEC also reviews license applications involving items not controlled for missile technology (MT) reasons, but destined for a country and/or end-use/end-user of MT concern.

(ii) *The SubGroup on Nuclear Export Coordination (SNEC).* The SNEC, chaired by the Department of State, reviews license applications involving items controlled for nuclear nonproliferation reasons. The SNEC also reviews license applications involving items not controlled for nuclear nonproliferation (NP) reasons, but destined for a country and/or end-use/end-user of NP concern.

(iii) *The Shield.* The Shield, chaired by the Department of State, reviews license applications involving items controlled for chemical and biological weapons reasons. The Shield also reviews license applications involving items not controlled for chemical and biological weapons (CBW) reasons, but destined for a country and/or end-use/end-user of CBW concern.

(e) *Recommendations by reviewing agencies.* Reviewing agencies recommending denial of a license application must provide a statement of reasons, consistent with the provisions of the EAA or EAR, and cite both the statutory and the regulatory basis for the recommendation to deny. A reviewing agency that fails to provide a recommendation within 30 days with a statement of reasons supported by the statutory and regulatory basis shall be deemed to have no objection to the final decision of BXA.

(f) *Interagency dispute resolution and escalation procedures*—(1) *Escalation to the Operating Committee (OC).* (i) In any instance where the reviewing agencies are not in agreement on final disposition of a license application, it will be escalated to the OC for resolution. The Chair of the OC will consider the recommendations of the reviewing agencies and any information provided by the applicant in person during an open OC session. Each agency will be informed of the Chair's decision on the license application within 14 days after the deadline for receiving agency recommendations.

(ii) If any agency disagrees with the OC Chair's decision, the agency may escalate the decision by appealing to the Chair of the Advisory Committee on Export Policy for resolution. If such a request for escalation is not made within 5 days of the decision of the OC Chair, the Chair's decision will be final.

(2) *Escalation to the Advisory Committee on Export Policy (ACEP).* Requests for escalation to the ACEP must be in writing from an official appointed by the President with the advice and consent of the Senate, or a person properly acting in such capacity, and cite both the statutory and the regulatory basis for the appeal. The ACEP will review all relevant information and recommendations. The Chair of the ACEP will inform the reviewing agencies of the majority vote decision of the ACEP within 11 days from the date of receipt of the escalation request. Within 5 days of the decision, any dissenting agency may appeal in writing the ACEP's decision to the

Secretary of Commerce in the Secretary's capacity as the Chair of the Export Administration Review Board. The written request must be made by the head of the agency requesting escalation and cite both the statutory and the regulatory basis for the appeal. Within the same period of time, the Secretary may initiate a meeting on his or her own initiative to consider a license application. In the absence of a timely appeal, the decision of the ACEP will be final.

(3) *Escalation to the Export Administration Review Board (EARB).* The EARB will review all relevant information and recommendations, and such other export control matters as may be appropriate. The Secretary of Commerce will inform the reviewing agencies of the majority vote decision of the EARB within 11 days from the date of receipt of the appeal. Within 5 days of the decision, any agency dissenting from the decision of the EARB may appeal the decision to the President. The appeal must be in writing from the head of the dissenting agency. In the absence of a timely appeal, the decision of the EARB will be final.

§ 750.5 Status of pending applications and other requests.

(a) *Information available.* You may contact BXA for status of your pending Classification Request, Advisory Opinion, or license application. For Advisory Opinion requests, telephone (202) 482–4905 or send a fax to (202) 219–9179. For license applications and Classification requests, telephone BXA's System for Tracking Export License Applications ("STELA") at (202) 482–2752. STELA is an automated voice response system, that upon request via any standard touch-tone telephone, will provide you with up to the minute status on any license application pending at BXA. Requests for status may be made only by the applicant or the applicant's agent.

(b) *STELA's hours.* STELA is operational Monday through Friday from 7:15am to 11:15pm and on Saturday from 8:00am to 4:00pm, Eastern Time. If you have any difficulty accessing STELA, contact during normal business hours, one of BXA's offices listed in § 748.2(a) of the EAR.

(c) *Procedures to access information on STELA.* Once you dial STELA you will be instructed to enter your Application Control Number using your push button telephone keys. After you enter the Application Control Number, STELA will provide you with the current status of your license application or Classification request.

§ 750.6 Denial of license applications.

(a) *Intent to deny notification.* If BXA intends to deny your license application, BXA will notify you in writing within 5 days of the decision. The notification will include:

(1) The intent to deny decision;

(2) The statutory and regulatory basis for the denial;

(3) To the extent consistent with the national security and foreign policy of the United States, the specific considerations that led to the decision to deny the license application;

(4) What, if any, modifications or restrictions to the license application would allow BXA to reconsider the license application;

(5) The name of the BXA representative in a position to discuss the issues with the applicant; and

(6) The availability of appeal procedures.

(b) *Response to intent to deny notification.* You will be allowed 20 days from the date of the notification to respond to the decision before the license application is denied. If you respond to the notification, BXA will advise you if, as a result of your response, the decision to deny has been changed. Unless you are so advised by the 45th day after the date of the notification, the denial will become final, without further notice. You will then have 45 days from the date of final denial to exercise the right to appeal under part 756 of the EAR.

§ 750.7 Issuance of licenses.

(a) *Scope.* A license authorizes only a specific transaction, or series of transactions, as described in the license application and any supporting documents. A license application may be approved in whole or in part or further limited by conditions or other restrictions appearing on the license itself or in the EAR. When a license application is approved by the BXA, a license is issued as described in paragraph (b) of this section.

(b) *Issuance of a license.* After a license application is approved, a computer generated license is issued by the Department of Commerce bearing the license number and a validation date. Where appropriate, the license will also show an expiration date. Where necessary, attachments to a license will also be validated with the Department of Commerce seal and the date of validation. Exporters must use the complete license number when preparing a Shipper's Export Declaration (SED) and other export control documents, and in communicating with the Department of Commerce concerning the license.

(c) *Changes to the license.* The following non-material changes do not require submission of a "Replacement" license or any other notification to BXA. (If you wish to make any change not identified in this paragraph, you will need to submit a "Replacement" license in accordance with the instructions contained in Supplement No. 1 to part 748 of the EAR, Block 11):

(1) Decrease in unit price or total value;

(2) Increase in price or quantity if permitted under the shipping tolerances in § 750.11 of this part;

(3) Increase in price that can be justified on the basis of changes in point of delivery, port of export, or as a result of transportation cost, drayage, port charges, warehousing, currency fluctuations, etc.;

(4) Establishment of unit or total price in conformance with a "price statement" on a license that permits price to be based on the market price at a specified date plus an exporter's mark-up, or like basis;

(5) Change in intermediate consignee if the new intermediate consignee is located in the country of ultimate destination as shown on the license, except a change in, or addition of, an intermediate consignee involving a consolidated shipment;

(6) Change in continuity of shipment by unloading from carrier at a country listed in Country Group B (see Supplement No. 1 to part 740 of the EAR) port not in the country of ultimate destination, without the designation of an intermediate consignee on the shipping documents and license, provided:

(i) The purpose is to transfer the shipment to another vessel, barge, or vehicle, solely for onforwarding to the country of destination shown on the shipping documents and the license;

(ii) The shipment is moving on a through bill of lading;

(iii) The carrier is not registered in, owned or controlled by, or under charter or lease to a country in Country Group D:1 or E:2 (see Supplement No. 1 to part 740 of the EAR), or a national of any of these countries;

(iv) The carrier retains custody of the shipment until it is delivered to the ultimate consignee; and

(v) The original bill of lading or air waybill first issued at the port of export is delivered with the shipment to the ultimate consignee;

(7) Change in address of purchaser or ultimate consignee if the new address is located within the same country shown on the license; or

(8) Change in ECCN, unit of quantity, unit price, or wording of the item

description (where necessary only for the purpose of conforming to an official revision in the CCL). This does not cover an actual change in the item to be shipped, or an increase in the price or quantity.

(d) *Responsibility of the licensee.* If a license is issued to you, you become the licensee. The licensee will be held accountable for use of the license, whether as a principal (exporting for your own account) or as an agent (including an agent acting for the account of a foreign principal who is not subject to the jurisdiction of the United States). You, as the licensee, assume responsibility for effecting the export or reexport, for proper use of the license, and for due performance of all of the license's terms and conditions. The obligations arising under the provisions of the EAA and the EAR are the same whether the license application is submitted and issued in writing or electronically.

(e) *Prohibited use of a license.* No person convicted of a violation of any statute specified in section 11(h) of the EAA, at the discretion of the Secretary of Commerce, may apply for any license for a period up to 10 years from the date of the conviction. See § 766.25 of the EAR.

(f) *Quantity of commodities authorized.* Unlike software and technology, commodities will be approved with a quantity or dollar value limit. The "Unit" paragraph within each CCL commodity entry will list a specific "Unit" for those commodities controlled by that entry. Any license resulting from a license application to export or reexport commodities will be licensed in terms of the specified "Unit". If a commodity is licensed in terms of "$ value", the unit of quantity commonly used in trade may also be shown on the license. Though this unit may be shown on the approved license, the quantity of commodities authorized is limited entirely by the total dollar value shown on the approved license.

(g) *License validity period.* Licenses involving the export or reexport of items will generally have a 24-month validity period, unless a different validity period has been requested and specifically approved by BXA. Exceptions from the 24-month validity period include, license applications reviewed and approved as an "emergency" (See § 748.5 (g) of the EAR), license applications for items controlled for short supply reasons, and Special Comprehensive Licenses.

Emergency licenses will expire no later than the last day of the calendar month following the month in which the emergency license is issued. Licenses for items controlled for short supply reasons will be limited to a 12-month validity period. The expiration date will be clearly stated on the face of the license. If the expiration date falls on a legal holiday (Federal or State), the validity period is automatically extended to midnight of the first day of business following the expiration date. (See part 752 of the EAR for validity periods for Special Comprehensive Licenses.)

(1) *Extended validity period.* Validity periods in excess of 24 months generally will not be granted. BXA will consider granting a validity period exceeding 24 months when extenuating circumstances warrant such an extension, however, no changes will be approved related to any other particular on the license (e.g., parties to the transaction, countries of ultimate destination, etc.). For example, an extended validity period will generally be granted where the transaction is related to a multi-year project, when production lead time will not permit an export or reexport during the original validity period of the license, when an unforeseen emergency prevents shipment within the 24-month validity of the license, or for other similar circumstances. A continuing requirement to supply spare or replacement parts will not normally justify an extended validity period. Licenses issued in accordance with the emergency clearance provisions contained in § 748.5(g) of the EAR will not be extended. See § 752.9 of the EAR for information relating to the extension of a Special Comprehensive License.

(2) *Request for extension.* (i) The applicant must submit a letter in writing to request an extension in the validity period of a previously approved license. The subject of the letter must be titled: "Request for Validity Period Extension" and contain the following information:

(A) The name, address, and telephone number of the requestor;

(B) A copy of the original license, with the license number, validation date, and current expiration date legible; and

(C) Justification for the extension;

(ii) It is the responsibility of the applicant to ensure that all applicable support documents remain valid and are in the possession of the applicant. If the request for extension is approved, BXA will provide the applicant with a written response.

(h) *Specific types of licenses*—(1) *Licenses for temporary exports or reexports.* If you have been granted a license for the temporary export or reexport of items and you decide not to return the items to the United States, you must submit a license application requesting authorization to dispose of the items. Except when the items are to be used on a temporary basis at a new destination (and returned to the United States after such use), you must ensure that your license application is accompanied by all documents that would be required if you had requested a license to export or reexport the same item directly to the new destination.

(2) *Intransit within the United States.* If you have been issued a license authorizing an intransit shipment (that does not qualify for License Exception TUS) through the United States, your license will be valid only for the export of the intransit shipment wholly of foreign origin and for which a Transportation and Exportation customs entry or an Immediate Exportation customs entry is outstanding.

(3) *Intransit outside the United States.* If you have been issued a license authorizing unlading or transit through a country listed in the General Prohibition Eight contained in § 736.2(b)(8) of the EAR, and you did not know the identity of the intermediate consignee at the time of the original license application, you must notify BXA in writing once you have ascertained the identity of the intermediate consignee. Your notification must contain the original license number, and the complete name, address, and telephone number of the intermediate consignee. The written request must be submitted to BXA at the address listed in § 748.2(c) of the EAR.

(4) *Replacement license.* If you have been issued a "replacement" license (for changes to your original license that were not covered in paragraph (c) of this section), you must attach the "replacement" license to the original, and retain both.

(i) *Records.* If you have been issued a license you must retain the license, and maintain complete records in accordance with part 762 of the EAR including any licenses (whether used or unused, valid or expired) and all supporting documents and shipping records.

§ 750.8 Revocation or suspension of licenses.

(a) *Revocation.* All licenses for exports or reexports are subject to revision, suspension, or revocation, in whole or in part, without notice whenever it is known that the EAR have been violated or that a violation is about to occur. BXA's Office of Exporter Services may revoke any license in which a person who has been convicted of one of the statutes specified in section 11(h) of the EAA, at the

discretion of the Secretary of Commerce, has an interest in the license at the time of the conviction. It may be necessary for BXA to stop a shipment or an export or reexport transaction at any stage in the process (e.g., in order to prevent an unauthorized export or reexport). If a shipment is already en route, it may be further necessary for BXA to order the return or unloading of such shipment at any port of call in accordance with the provisions of the EAA.

(b) *Return of revoked or suspended licenses.* If BXA revokes or suspends a license, the licensee shall return the license immediately upon notification that the license has been suspended or revoked. The license must be returned to BXA at the address listed in § 748.2(c) of the EAR, Attn:" Return of Revoked/ Suspended License". All applicable supporting documents and records of shipments must be retained by the licensee in accordance with the recordkeeping provisions of part 762 of the EAR. If the licensee fails to return a license immediately upon notification that it has been suspended or revoked, BXA may impose sanctions provided for in part 764 of the EAR.

§ 750.9 Duplicate licenses.

(a) *Lost, stolen or destroyed.* If a license is lost, stolen or destroyed, you, as the licensee, may obtain a duplicate of the license by submitting a letter to the BXA at the address listed in § 748.2(c) of the EAR, Attention: Duplicate License Request". You must certify in your letter:

(1) That the original license ([number] issued to [name and address of licensee]) has been lost, stolen or destroyed;

(2) The circumstances under which it was lost, stolen or destroyed; and

(3) If the original license is found, the licensee will return either the original or duplicate license to the BXA. Note that if shipment was made against the original license, those shipments must be counted against the duplicate license. If you are issued a duplicate license you must retain the duplicate license in accordance with the recordkeeping provisions of part 762 of the EAR.

(b) *Hong Kong Trade Department.* BXA will automatically issue a duplicate license whenever the license lists a party in Hong Kong as the intermediate consignee, or when Hong Kong is identified as the country from which the reexport will take place. The duplicate license will be labeled "Duplicate for Hong Kong Trade Department". This duplicate must be forwarded to the reexporter or intermediate consignee for submission to the Hong Kong Trade Department. The original license must be retained on file by the licensee in accordance with the recordkeeping provisions contained in part 762 of the EAR.

§ 750.10 Transfers of licenses for exports.

(a) *Authorization.* As the licensee, you may not transfer a license issued for the export of items from the United States to any other party, except with the prior written approval of BXA. BXA may authorize a transfer of a license for export to a transferee who is subject to the jurisdiction of the United States, is a principal party in interest, and will assume all powers and responsibilities under the license for the control of the shipment of the items out of the United States. BXA will approve only one transfer of the same license and only transfers of licenses to export items.

(b) *How to request the transfer of licenses*—(1) *Letter from licensee.* You, as the licensee, must submit a letter in writing to request a transfer of a license or licenses. The letter must contain the following information:

(i) The reasons for the requested transfer;

(ii) Either a list of the outstanding license numbers or a statement that all outstanding licenses in the name of the licensee are to be transferred, and the total number of such outstanding licenses;

(iii) A list of all license applications for export to be transferred that are pending with BXA, identifying the Application Control Number for each, or other information that will assist in identifying the pending license applications;

(iv) Name and address of the person you intend to transfer the licenses and license applications to;

(v) The facts necessitating transfer;

(vi) A statement as to whether or not any consideration has been, or will be, paid for the transfer; and

(vii) Identification by name of the legal document (certificate, agreement, etc.) or other authority by which the new firm name is legally established, the new corporation or firm created, or the assets transferred and showing the effective date of such document and the state where filed or recorded.

(2) *Information from transferee.* The person to whom you wish to transfer your license(s) must provide you a signed letter, that must be submitted with your request, containing the following:

(i) That the transferee is a principal party in interest in the transaction covered by the license, or is acting as agent for a principal party in interest;

(ii) That the transferee is subject to the jurisdiction of the United States;

(iii) That the transferee assumes all powers and responsibilities under the license for the control of the shipment of the items out of the United States;

(iv) Whether any consideration has been, has not been, or will be paid for the transfer;

(v) The name and address of the foreign principal in instances where the transferee will make the export as an agent on behalf of a foreign principal; and

(vi) If the license is to be transferred to a subsidiary or firm, or if you transfer to the transferee all, or a substantial portion, of your assets or business, the transferee must certify that the legal authority changing the exporter imposes on the transferee the responsibility to accept and fulfill the obligations of the transferor under the transactions covered by the license; and

(vii) The following certification:

The undersigned hereby certifies that, if license number(s) _____ is (are) transferred in accordance with my (our) request, any and all documents evidencing the order covered by this (these) license(s) will be retained and made available upon request in compliance with the recordkeeping provisions contained in Part 762 of the Export Administration Regulations. The undersigned further certifies compliance with all requirements of the Export Administration Regulations regarding these licenses.

(c) *Notification of transfer and recordkeeping.* Unless instructed otherwise by BXA, you must retain the license(s) pending notification by the BXA of the action taken. If the request is approved, you must forward the license(s) to the transferee and the validated letter received from BXA authorizing the transfer. If the transfer request is not approved, the license(s) must either be returned to BXA or used by you if you so choose and have retained the legal and operational capacity fully to meet the responsibilities imposed by the license(s). If your initial request is returned by BXA for additional information, after obtaining the necessary information you may resubmit your request.

§ 750.11 Shipping tolerances.

(a) *Applicability and use of shipping tolerances.* Under some circumstances, you may use a license issued for the export of items from the United States to export more than the quantity or value shown on that license. This additional amount is called a shipping tolerance. This section tells you, as the licensee, when you may take advantage of a shipping tolerance and the amount of shipping tolerance you are permitted to use.

(1) If you have already shipped the full amount approved on your license, you may not use this shipping tolerance provision. No further shipment may be made under the license.

(2) The amount of shipping tolerance you are permitted is based on the "Unit" specified for the item you want to export in the applicable ECCN on the CCL (see Supplement No. 1 to part 774 of the EAR). You must calculate shipping tolerance based on the applicable "Unit" whether that be Number, Dollar Value, or Area, Weight, or other Measure. You may not use any other unit that may appear on your license.

(b) *Calculating shipping tolerances.* There are three basic rules, one for items licensed by "Dollar Value", one for items licensed by "Number", and another for items licensed by "Area, Weight or other Measure".

(1) *Items licensed by "Dollar Value".* If the "Unit" paragraph in the ECCN applicable to your item reads "§ value" or "in § value", there is no shipping tolerance. You may not ship more than the total dollar value stated on your license.

(2) *Items licensed by "Number".* If the "Unit" paragraph in the ECCN applicable to your item reads "Number" or "in Number", there is no shipping tolerance with respect to the number of units. However, the value of all of your shipments under one license may exceed the total dollar value stated on that license by up to 25%.

(3) *Items licensed by "Area, Weight or Measure".* If the "Unit" paragraph in the ECCN applicable to your item reads "kilograms" or "square meters" or some other unit of area, weight or measure, your shipment may exceed the unshipped balance of the area, weight or other measure listed on your license by up to 10% and the total dollar value shown on your license by up to 25%, unless;

(i) Your license stipulates a specific shipping tolerance; or

(ii) Your item is controlled for short supply reasons and a smaller tolerance has been established. (See part 754 of the EAR).

(c) *Examples of shipping tolerances.*— (1) A license authorizes the export of 100,000 kilograms of an item controlled by an ECCN where the "Unit" is stated as "kilograms", the total cost of which is $1,000,000:

(i) *One shipment.* If one shipment is made, the quantity that may be exported may not exceed 110,000 kg (10% tolerance on the unshipped Area, Weight, or Measure balance), and the total cost of that one shipment may not exceed $1,250,000:

$1,000,000	(the total value shown on the license)
+250,000	(25% of the total value shown on the license)
$1,250,000	

(ii) *Two shipments.* If the first shipment is for 40,000 kg (valued at $400,000), the second shipment may not exceed 66,000 kg (10% of the unshipped balance of 60,000 kg (6,000 kg) plus the unshipped balance), and the total cost of the second shipment shall not exceed $850,000:

$600,000	(the value of the unshipped balance of 60,000 kg)
+250,000	(25% of the original total value shown on the license)
$850,000	

(iii) *Three shipments.* If the first shipment is for 40,000 kg (valued at $400,000) the second shipment is for 20,000 kg (valued at $200,000), the third shipment may not exceed 44,000 kg (10% of the unshipped balance of 40,000 kg (4,000 kg) plus the unshipped balance), and the total cost of the third shipment can not exceed $650,000:

$400,000	(the value of the unshipped balance of 40,000 kg)
+250,000	(25% of the original total value on the license)
$650,000	

(2) A license authorizes the export of an item controlled by an ECCN where the "Unit" is stated as "$ value", the total cost of which is $5,000,000. There is no shipping tolerance on this license because the items are controlled by an ECCN where "$ value" is the stated "Unit".

(3) A license authorizes the export of 10 pieces of equipment controlled by an ECCN where the "Unit" is stated as "Number", with a total value of $10,000,000 and the export of parts and accessories covered by that same entry valued at $1,000,000:

(i)(A) If one shipment is made, the quantity of equipment that may be exported may not exceed 10 pieces of equipment because there is no shipping tolerance on the "number" of units. That one shipment of equipment may not exceed $12,500,000:

$10,000,000	(the total value shown on the license)
+2,500,000	(25% of the total value shown on the license)
$12,500,000	

(B) If the one shipment includes parts and accessories, those parts and accessories may not exceed $1,000,000 because there is no shipping tolerance on any commodity licensed in terms of dollar value.

(ii)(A) If the first shipment is for 4 pieces of equipment valued at $4,000,000, the second shipment may not exceed 6 pieces of equipment (no tolerance on "number") valued at no more than $8,500,000:

$6,000,000	(the value of the unshipped 6 pieces).
+2,500,000	(25% of the original total value shown on the license).
$8,500,000	

(B) If the first shipment includes $300,000 of parts and accessories, the second shipment may not exceed $700,000 of parts and accessories because there is no shipping tolerance on any commodity licensed in terms of dollar value.

(iii)(A) If the first shipment is for 4 pieces of equipment valued at $4,000,000 and the second shipment is for 3 pieces of equipment valued at $3,000,000, the third shipment may not exceed 3 pieces of equipment (no tolerance on "number") valued at no more than $5,500,000:

$3,000,000	(the value of the unshipped 3 pieces).
+2,500,000	(25% of the original value shown on the license).
$5,500,000	

(B) If the first shipment includes $300,000 of parts and accessories and the second shipment includes another $300,000, the third shipment may not exceed $400,000 because there is no shipping tolerance on commodities licensed in terms of dollar value.

PART 752—SPECIAL COMPREHENSIVE LICENSE

Sec.

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Supplement No. 1 to Part 752: Instructions for Completing Form BXA–748P, Multipurpose Application, for Requests for Special Comprehensive Licenses

Supplement No. 2 to Part 752: Instructions for Completing Form BXA–748P–A, Item Annex

Supplement No. 3 to Part 752: Instructions for Completing Form BXA–752, Statement by Consignee in Support of Special Comprehensive License

Supplement No. 4 to Part 752: Instructions for Completing Form BXA–752–A, Reexport Territories

Supplement No. 5 to Part 752: Instructions for Completing Form BXA–748P–B End-User Appendix

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 3 CFR, 1994 Comp., p. 917; Notice of August 15, 1995 (60 FR 42767, August 17, 1995).

§ 752.1 Scope.

(a)(1) *Introduction.* In this part, references to the EAR are references to 15 CFR chapter VII, subchapter C. This part describes the provisions of the Special Comprehensive License (SCL). You may apply for an SCL, when appropriate, in lieu of a license described in part 748 of the EAR, or a License Exception described in part 740 of the EAR, for multiple exports and reexports of items subject to the EAR. The SCL provides authorization to make specified exports and reexports that are otherwise prohibited by General Prohibitions One, Two, and Three described in part 734 of the EAR. The existence of an SCL does not supersede an exporter's obligation to request a separate license as may be required by part 744 of the EAR. Because the Bureau of Export Administration (BXA) does not review each individual transaction authorized by an SCL, parties to the SCL must have the mechanisms in place to ensure that each export and reexport made under an SCL meets all the terms and conditions of the license and are in accordance with all applicable provisions of the EAR. It is through the design and effective implementation of an Internal Control Program (ICP) that the SCL holder and the SCL consignee (referred to as "consignee" for purposes of this part) assure that exports and reexports are not made contrary to the EAR.

(2) *Definitions.* (i) *SCL holder.* As used in this part, "SCL holder" is that party approved on an SCL to perform activities approved under the SCL.

(ii) *SCL consignee.* As used in this part, "SCL consignee" or "consignee" means any party authorized to receive items under the SCL and named as a consignee on an approved Form BXA–752, Statement by Consignee in Support of Special Comprehensive License.

(b) *ICP requirement.* To qualify for an SCL, you must develop an ICP. Section 752.11 of this part includes a general description of the elements of the ICP, and guidance on which elements your company must implement before making shipments under the SCL. The elements of the ICP your company will develop reflect the complexity of the activities authorized under the SCL, the countries and items involved, and the relationship between the SCL holder and the approved consignees. BXA may require you to include in your ICP any combination of elements, depending upon the nature of your SCL application. During your pre-application consultation required by § 752.5(a)(1), BXA will provide you guidance on which elements you must implement.

§ 752.2 Eligible activities.

(a) *Possible authorizations.* Under the SCL, BXA may authorize you to perform any number of activities, which can be grouped under the general categories of "service", "end-user", "distribution" and "other" activities. Examples of the general categories include:

(1) *Service activities.* Exporting items subject to the EAR as spare and replacement parts for servicing or stocking.

(2) *End-user activities.* Exporting and reexporting items subject to the EAR for use as capital equipment.

(3) *Distribution activities.* Exporting and reexporting items subject to the EAR for the purpose of resale and reexport by consignees.

(4) *Other activities.* Other activities not included in paragraphs (a)(1) through (a)(3) of this section may be authorized by BXA under the SCL on a case-by-case basis.

(b) *Prohibited activities.* The general prohibitions described in § 736.2(b)(4) through (10) of the EAR apply to all exports and reexports by, and conduct of, all parties approved on your SCL, unless you are specifically authorized under the SCL to perform such activities, or the particular activity otherwise qualifies for a License Exception described in part 740 of the EAR.

§ 752.3 Eligible items.

(a) All items subject to the EAR, including items eligible for License Exceptions described in part 740 of the EAR, are eligible for export and reexport under the SCL, except:

(1) Items controlled for missile technology reasons that are identified by the letters MT in the applicable "Reason for Control" paragraph on the Commerce Control List (CCL) (see Supplement No. 1 to part 774 of the EAR);

(2) Items controlled by ECCNs 1C351, 1C352, 1C353, 1C354, 1E001, 1E351, 1E391, 2B352, and 2E301 on the CCL that can be used in the production of biological weapons;

(3) Items controlled by ECCNs 1C350, 1D390, 1E001, 1E350, 1E391, 2B350, and 2B351 on the CCL that can be used in the production of chemical weapons precursors and chemical warfare agents, to destinations listed in Country Group D:3 (see Supplement No. 1 to part 740 of the EAR);

(4) Items controlled for short supply reasons that are identified by the letters "SS" in the applicable "Reason for Control" paragraph on the CCL;

(5) Maritime (civil) nuclear propulsion systems or associated design or production software and technology identified in § 744.5 of the EAR;

(6) Communications intercepting devices controlled by ECCN 5A980 on the CCL;

(7) Items specifically identified as ineligible by BXA on your approved SCL; and

(8) Additional items consistent with international commitments.

(b) Items controlled for nuclear nonproliferation reasons that are identified by the letters NP in the applicable "Reason for Control" paragraph on the CCL may be authorized on a case-by-case basis provided controls are in place to screen for proscribed end-users or end-uses.

§ 752.4 Eligible countries.

(a) *General provisions.* All countries are eligible under the SCL except:

(1) Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria.

(2) Other countries that BXA may designate on a case-by-case basis as ineligible to receive items under the SCL.

(b) *Servicing prohibitions.* Under the SCL, you may not service any item when you know that the item is owned or controlled by, or under the lease or charter of, entities in countries identified in paragraphs (a)(1) and (a)(2) of this section or any national of such countries.

§ 752.5 Steps you must follow to apply for an SCL.

(a) *Step One: Establish applicant reliability*—(1) *Pre-application consultation.* To apply for an SCL, BXA must determine your reliability as a potential SCL holder. BXA usually does this through consultation with company officials and a review of the criteria identified in paragraph (a)(2) of this section. To determine whether your company requires a consultation before you apply for an SCL, contact BXA at the address, phone, or telefacsimile numbers included in § 752.17 of this part.

(2) *Criteria for determining eligibility.* BXA will review the following criteria to help determine SCL holder eligibility:

(i) Evidence of past licensing history and projected, continuous large volume exports;

(ii) Reliability of all parties relative to their compliance with the EAR;

(iii) Commitment of all parties of the necessary resources to implement and maintain an adequate ICP; and

(iv) Evidence of all parties—knowledge of all provisions of the EAR.

(b) *Step Two: Establish consignee reliability*—(1) *Requirements.* You must make an initial determination of the reliability of all consignees that are listed on your application for an SCL, based upon the criteria described in paragraph (b)(2) of this section.

(2) *Determining reliability.* The criteria that you should take into consideration include, but are not limited to, the following:

(i) *Criteria.* (A) The proposed consignee has a satisfactory record established through BXA pre-license checks, or extensive experience as a consignee under any license issued by BXA;

(B) The proposed consignee is a wholly-owned subsidiary or a controlled-in-fact affiliate of the applicant or of a consignee that is already approved on an SCL. See part 772 of the EAR for a definition of controlled-in-fact; or

(C) You have evidence of an established, on-going business relationship with the proposed consignee.

(ii) *Exception.* The provisions of paragraph (b)(2)(i) of this section do not preclude the authority of BXA to determine the reliability and eligibility of a proposed consignee. BXA may, based upon any negative information on the proposed consignees, deny a proposed consignee.

(c) *Step Three: Prepare your documentation.* Complete Form BXA–748P, Multipurpose Application, Form BXA–748P–A, Item Appendix, Form BXA–748P–B, End-User Appendix, an ICP, a comprehensive narrative statement, Form BXA–752, Statement by Consignee in Support of Special Comprehensive License, Form BXA–752–A, Reexport Territories, and all applicable certifications. Submit this documentation to BXA at one of the addresses included in § 752.17 of this part.

(1) *Form BXA–748P, Multipurpose Application, and Form BXA–748P–A, Item Appendix.* You must complete Form BXA–748P and Form 748P–A according to the instructions found in Supplement Nos. 1 and 2 of this part.

(2) *Form BXA–748P–B, End-User Appendix.* You must identify end-users on Form BXA–748P–B if you are requesting approval to export or reexport items controlled for nuclear nonproliferation or chemical and biological control reasons.

(3) *ICP.* You must provide a copy of your proposed ICP as required by § 752.11 of this part. You must indicate whether any of the elements of the ICP will not be implemented and explain why these elements were deemed inapplicable. Existence of a properly constructed ICP will not relieve you of your responsibility to comply with requirements of all applicable regulations pertaining to your SCL;

(4) *Comprehensive narrative statement.* Prepare a comprehensive narrative statement on your company letterhead that includes the following information:

(i) An overview of the total business activity that will be performed by you and all other parties who will receive items under the authority of your SCL, including consignees, subcontractors, and vessels;

(ii) A description of the nature and anticipated volume of regular and repetitive transactions proposed by consignees under the license;

(iii) An explanation of the relationship between the parties to the application, such as affiliate, subsidiary, or parent, etc;

(iv) A certification that you will implement, upon approval of the application by BXA, an ICP that incorporates all applicable elements listed in § 752.11 of this part and any additional elements as required by BXA upon approval of the SCL; and

(v) Information on whether proposed consignees are end-users or will reexport the items received under your SCL. You must describe the proposed consignee's activities completely to determine the appropriate ICP elements that you and your consignees must implement.

(5) *Form BXA–752, Statement of Consignee in Support of Special Comprehensive License.* This Form is completed by each consignee. You must submit one completed, signed, original Form BXA–752 for each proposed consignee on your SCL application. See Supplement No. 3 to this part for instructions on completing Form BXA–752. Form BXA–752 is not required if the proposed consignee is both an end-user and a "foreign government agency" as defined in part 772 of the EAR.

(6) *Form BXA–752–A, Reexport Territories.* You must complete Form BXA–752–A, and attach it to the appropriate Form BXA–752, whenever Blocks 8B, 8C, 8E, and/or 8F are selected on Form BXA–752. See the instruction found in Supplement No. 3 to this part. Form BXA–752–A is not required if the proposed consignee is both an end-user and a foreign government agency (see part 772 of the EAR for a definition of foreign government agency).

(7) *Consignee certifications.* Each consignee must provide certain certifications on company letterhead that is signed by the consignee. Attach certifications to the appropriate Form BXA–752. Each consignee must certify that:

(i) They will implement, upon approval of the SCL by BXA, an ICP that incorporates all applicable elements listed in § 752.11 of this part and any additional elements as required by BXA upon approval of your SCL. If certain elements of an ICP will not be included, state the reasons for that determination;

(ii) They will comply with all provisions of the EAR, including the recordkeeping provisions of part 762 of the EAR, all applicable system review requirements of § 752.14 of this part, and the reexport restrictions of § 752.6 of this part; and

(iii) They will make available for inspection, upon request by BXA, all records required by § 752.12 of this part and part 762 of the EAR.

(8) *Additional certifications.* (i) *Temporary exports.* Proposed consignees that plan to exhibit or demonstrate items in countries other than those in which they are located or are authorized under an SCL, an approved Form BXA–752, or a License Exception described in § 740.4(a)(2)(iii) of the EAR may obtain permission to do so by including the following additional certification on company letterhead, and attaching it to Form BXA–752.

I (We) request authorization to reexport temporarily, for exhibit or demonstration in countries eligible to receive items under the Special Comprehensive License. The items exported will be retained under my (our) ownership and control, and will be returned by me (us) to (name destination) promptly after their exhibit or demonstration abroad, and in no case later than one year after the date of reexport, unless other disposition is authorized in writing by the Bureau of Export Administration.

(ii) *Chemicals and chemical and biological equipment certification.* If you are requesting authority to export chemicals or chemical and biological

equipment eligible for the SCL (items controlled by ECCNs 1C351, 1C352, 1C353, 1C354, 1D390, 1E001, 1E350, 1E351, 1E391, 2B350, 2B351, 2B352, and 2E301 (see Supplement No. 1 to part 774 of the EAR), all consignees not located in country group A:3 (see Supplement No. 1 to part 740 of the EAR) must include the following certification on company letterhead:

No chemicals or chemical or biological equipment received under this Special Comprehensive License will be transferred, resold, or reexported to a destination that requires a license, unless the new end-user has been approved by the Bureau of Export Administration, and in no case will the items be transferred, resold, or reexported to a party who is not the end-user.

(iii) *Nuclear proliferation certification.* If you are requesting the export or reexport under the EAR of items controlled for nuclear nonproliferation reasons described in § 744.2 of the EAR, prior to submitting an SCL application, you must obtain a signed written statement from the proposed consignee(s) and end-users certifying the following:

(A) The items to be exported or replicas thereof ("replicas" refer to items produced abroad based on physical examination of the items originally exported, matching it in all critical design and performance parameters), will not be used in any of the activities described in § 744.2 of the EAR; and

(B) Written authorization will be obtained from BXA prior to transferring or reexporting the items, unless they are destined to Canada or would not require a license to the new country of destination.

§ 752.6 Reexports.

(a) *Authorized reexports.* All consignees may reexport items without approval from BXA under any one of the following circumstances, unless otherwise specifically excluded by the provisions of the EAR or by a condition placed on your SCL.

(1) Reexports that qualify for a License Exception authorized by part 740 of the EAR;

(2) Reexports to destinations approved by BXA through validation of Form BXA–752 and/or Form BXA–752–A according to the terms stated on the Form BXA–752 or BXA–752–A; or

(3) Reexports of items approved under an SCL to and among other consignees approved on the same SCL, provided that the items are eligible to the new destination in accordance with your approved SCL and § 752.3 of this part.

(b) Prohibitions. You are prohibited from the following activities without specific authorization from BXA:

(1) Transferring, reselling, or reexporting under your SCL any chemicals or chemical and biological equipment (ECCNs identified with the letters CB in the applicable "Reason for Control" paragraph on the CCL (see Supplement No. 1 to part 774 of the EAR); and

(2) Reexporting under your SCL items identified by the letters NP in the applicable "Reason for Control" paragraph on the CCL to destinations not listed in country group A:4 (see Supplement No. 1 to part 740).

(c) *Sourcing.* Consignees who obtain U.S.-origin items abroad that are eligible for the SCL but that are subject to General Prohibitions One, Two, or Three (see part 734 of the EAR) may reexport them under the authority of your SCL, provided that they are reexported in accordance with the ICP required by § 752.11 of this part, and any other applicable conditions or reexport restriction placed on your SCL by BXA. Either the SCL holder or the consignee through the SCL holder must submit the sourcing request for reexport of items on Form BXA–752.

§ 752.7 Direct shipment to customers.

(a) *General authorization.* (1) Upon request by a consignee, an SCL holder or another consignee approved under the same SCL is authorized to deliver products directly to the requesting consignee's customer in either:

(i) The requesting consignee's country; or

(ii) Another country authorized to receive items under the requesting consignee's validated Form BXA–752–A.

(2) The SCL holder or consignee making direct shipments authorized by this section must implement an ICP containing procedures governing such shipments.

(3) SCL holders and consignees using the direct shipment provision may invoice the shipments directly to the requesting consignee's customers if copies of applicable invoices are maintained by both the shipping party and requesting consignee.

(b) *Procedures*—(1) *Exports by an SCL holder.* The SCL holder may make a direct shipment by entering on the Shipper's Export Declaration the name and address of the customer as ultimate consignee and adding the notation "by order of (name and address of consignee requesting the direct shipment)". The notation must appear below the item description and must cite the SCL number followed by the three digit number of the consignee requesting the "by order of" shipment.

(2) *Reexports by a consignee.* An approved consignee may make a direct reexport shipment to a customer of another approved consignee on the same SCL by showing on the commercial invoice the name and address of the customer as ultimate consignee and adding the notation "by order of (name and address of consignee requesting the direct shipment)."

§ 752.8 SCL application review process.

(a) *Scope.* Under an SCL, you are authorized to make multiple exports and reexports without review and approval of each individual transaction by BXA. To approve an SCL, BXA must be satisfied that the persons benefiting from this license will adhere to the conditions of the license and the EAR, and that approval of the application will not be detrimental to U.S. national security, nonproliferation, or foreign policy interests. In reviewing and approving a specific SCL request, BXA retains the right to limit the eligibility of items or to prohibit the export, reexport, or transfer of items under the SCL to specific firms, individuals, or countries.

(b) *Elements of review.* To permit BXA to make such judgments, BXA will thoroughly analyze your past export and reexport transactions, inspect your export and reexport documents, and interview company officials of both the applicant and the consignees, as necessary. If BXA cannot verify that an appropriate ICP will be implemented upon approval of the SCL by BXA, or establish the reliability of the proposed parties to the application, it may deny the application, or modify it by eliminating certain consignees, items, countries, or activities.

(c) *Order requirement.* You do not need to have in your possession an order from the proposed consignee at the time you apply for an SCL. However, evidence of a consignee's firm intention to place orders on a continuing basis is required.

(d) *Criteria for review.* BXA will consider the following factors during the processing of your SCL application:

(1) The specific nature of proposed end-use and end-uses;

(2) The significance of the export in terms of its contribution to the design, development, production, stockpiling, or use of nuclear or chemical or biological weapons, or missiles;

(3) The types of assurances against design, development, production, stockpiling, or use of nuclear or chemical and biological weapons, or missiles that are included in the ICP;

(4) The nonproliferation credentials of the importing country;

(5) Corporate commitment of the resources necessary to implement and maintain an adequate ICP;

(6) Evidence of past licensing history of the applicant and consignees, and projected, continuous large volume exports and/or reexports;

(7) Reliability of all parties;

(8) Information on all parties' compliance with the provisions of the EAR; and

(9) All parties' knowledge of the EAR.

(e) *Application processing time-frames.* Upon receiving an SCL application, BXA may review the application for up to two weeks to determine whether the SCL application is complete. When all documentation requirements are met, BXA will register the application. After the date of registration, the SCL application will be processed according to the procedures described in part 750 of the EAR.

§ 752.9 Action on SCL applications.

(a) *Approval of SCL applications.*—(1) *Validity period.* SCLs are valid for four years from the date of approval.

(2) *Extension of validity period.* You may request an extension of your valid SCL for an additional four years, but such requests must be received by BXA at least 30 days prior to the expiration of your SCL. If approved, Form BXA–748P and your letter requesting an extension will be validated and returned to you, extending the validity period for four years. No further extensions will be approved. A new application and support documentation is required at the end of that eight-year period. To apply for an extension, complete Form BXA–748P by completing Blocks 1, 2, 3 and 4. Mark "Special Comprehensive License" in Block 5 and "change" in Block 6. Include your SCL number in Block 9, and indicate in Block 24 that you are requesting an extension to your SCL. Submit the completed Form BXA–748P and a statement on company letterhead indicating:

(i) That you continue to abide by the provisions and conditions of the SCL; and

(ii) Any changes to the original SCL that you are requesting (see § 752.10 of this part for procedures on changed circumstances).

(3) *Support documentation.* (i) *General information.* BXA will validate all approved support documentation with the Department of Commerce seal and date of validation.

(ii) *Form BXA–752, Form BXA–752–A, and Form BXA–748P–B.* With the approved SCL, you will receive two validated copies of each approved Form BXA–752, Statement by Consignee in Support of Special Comprehensive License and, if applicable, Form BXA–752–A, Reexport Territories, and Form BXA–748P–B, End-User Appendix. You must retain one copy, and send one copy to the approved consignee. You must also attach a letter to each approved Form BXA–752 that includes each of the following elements:

(A) A description of all recordkeeping requirements of the EAR applicable to the activities of the consignee;

(B) Information on any applicable reexport restrictions on items received by the consignee under the SCL;

(C) A description or copy of § 752.16 of this part, listing administrative actions that may be taken for improper use of, or failure to comply with, the SCL and its required procedures;

(D) A description of any special conditions or restrictions on the license applicable to the consignee, including approved lists of customers, countries, and items, when required;

(E) A description of the elements of the SCL holder's ICP relevant to the SCL consignee;

(F) A copy of the high risk customer profile contained in § 752.11(c)(13)(i) of this part, when required;

(G) A copy of the Denied Persons List currently in effect and notification that you will send the consignee regular updates to this list;

(H) A notice that the consignee, in addition to other requirements, may not sell or otherwise dispose of any U.S. origin items when it knows that the items will be used in the activities prohibited by part 744 of the EAR;

(I) A requirement that the consignee acknowledge, in writing, receipt of this letter of transmittal outlining their obligations under the SCL, and certify that it will comply with all of the requirements, including implementation of an ICP if required by § 752.11 of this part; and

(J) A description of any special documentation requirements for consignees reexporting items to destinations having such requirements.

(4) *Special license conditions.* BXA may place special conditions on your SCL, such as restrictions on eligible items, countries, end-uses, end-users or activities, or a requirement that certain sales or transfers of items under the SCL are subject to prior reporting to BXA. Such special conditions will be listed on your SCL or in a letter from BXA to the SCL holder. You must inform all relevant consignees of all license conditions prior to making any shipments under the SCL.

(b) *Denial of SCL applications.* (1) If BXA intends to deny your SCL application, you will be notified and have opportunity to respond according to the procedures in § 750.6 of the EAR.

(2) BXA may at any time prohibit the sale or transfer of items under the SCL to specified individuals, companies, or countries. In such cases, the SCL holder must inform all consignees, and apply for a license described in part 748 of the EAR for subsequent transactions with such excluded parties.

(3) If a consignee is not approved, Form BXA–752 will be returned to the SCL holder with a letter explaining the reason for denial.

(4) If a particular destination is not approved, it will be removed from the appropriate Form BXA–752–A.

(c) *Return without action.* BXA may determine to return the SCL application without action. Under such circumstances, the application and all related documents will be returned to you along with a letter stating the reason for return of the license application, explaining the deficiencies or additional information required for reconsideration, or advising you to apply for a license described in part 748 of the EAR. BXA may return your entire application or merely documents pertaining to a specific consignee request.

§ 752.10 Changes to the SCL.

(a) *General information.* Certain changed circumstances regarding the SCL require prior approval from BXA before you make such changes, while others require only notification to BXA.

(b) *Changes requiring prior written approval from BXA.* The following circumstances require prior written approval by BXA. Such requests must be submitted by the SCL holder, and changes are not effective until BXA approves the request. Upon approval of a change described in this paragraph, BXA will return to the SCL holder a validated copy of the request, indicating any changes that may have been made to your request, or any special conditions that may have been imposed.

(1) *Change of SCL holder company name.* You must submit to BXA Form BXA–748P, Multipurpose Application, for any change in the name of the SCL holder company. Complete Blocks 1, 2, 3, and 4. Mark "Special Comprehensive License" in Block 5, and "change" in Block 8. In Block 9, include your SCL number, and briefly indicate the purpose of the change. Enter the new information in the relevant Blocks, and complete Block 25. The SCL holder must send a copy of the validated Form BXA–748P to each approved consignee, and advise them to attach the copy of

the validated form to their validated Form BXA–752.

(2) *Change in consignee name or address.* You must submit to BXA Form BXA–752, Statement by Consignee in Support of Special Comprehensive License, when requesting a change in consignee name, or if the consignee moves out of the country. The consignee must complete Block 2, mark "change an existing consignee" in Block 3, and provide the new consignee information in Block 4. Also complete Blocks 10 and 11.

(3) *Addition of new consignees.* You must submit to BXA Form BXA–752 for requests to add consignees to an SCL. Complete Form BXA–752 in accordance with the instructions in Supplement No. 1 to this part, marking "Add a New Consignee" in Block 3. Use Block 9 to describe the proposed consignee's role in the activities authorized by the SCL. Form BXA–752 is not required if the proposed new consignee is a foreign government agency and the items will not be reexported. If Form BXA–752 is not required, the SCL holder may submit the request to add the foreign government agency to the SCL on company letterhead. You must include the proposed consignee's complete street address.

(4) *Change in reexport territories.* You must submit to BXA Form BXA–752 and Form BXA–752–A to add a country to a consignee's approved reexport territory. Upon approval of change in reexport territory, BXA will return to the SCL holder two validated copies of Form BXA–752 and Form BXA–752–A, Reexport Territories, along with any special conditions that may have been imposed.

(i) *Form BXA–752.* Complete Block 3 by marking "Change an Existing Consignee". In Block 4, enter the consignee name and consignee number. In Block 5, enter the SCL number. In Block 9, enter "to add a country to the reexport territory". Complete Blocks 10 and 11.

(ii) *Form BXA–752–A.* Complete Blocks 2 and 3. Mark each country that you are adding to your reexport territory.

(5) *Adding items to your SCL.* The following procedures apply to requests to add items to your SCL. Upon approval, BXA will send you a validated Form BXA–752 and, if applicable, Form BXA–748P–A. The SCL holder must send a copy of each validated form to all applicable consignees and attach a copy to their Form BXA–752.

(i) *Adding one item.* You must submit to BXA Form BXA–748P to request the addition of a single item to your SCL. Complete Blocks 1, 2, 3 and 4. Mark "Special Comprehensive License" in Block 5, and "change" in Block 8. Include your SCL number in Block 9 and state either "add ECCN" or "delete ECCN". Complete items (a) and (j) in Block 22, and Block 25.

(ii) *More than one item.* You must submit to BXA Form BXA–748P and Form BXA–748P–A to request to add more than one item to your SCL. Complete Form BXA–748P according to the instructions in paragraph (b)(5)(i) of this section. Complete Form BXA 748P–A by including the "Application Control Number" (found on form BXA–748P) in Block 1. Complete Block 21 and Block 24, if needed, to describe any special circumstances (i.e. the new item will only be exported to specific consignees and will not be reexported).

(6) *Changes to end-users.* You must submit to BXA Form BXA–752 and Form BXA–748P–B to add end-users to consignee authorizations. Upon approval by BXA, BXA will return to the SCL holder two validated copies of Form BXA–752 and Form BXA–748P–B, which will include any special conditions that may have been imposed. You must send one copy of Forms BXA–752 and BXA–748P to the relevant consignee.

(i) *Form BXA–752.* On Form BXA–752, complete Block 3.B., "Change an Existing Consignee". Include the consignee number in Block 4. Include the SCL number in Block 5. In Block 9, type "To add an End-User". Complete Blocks 10 and 11.

(ii) *Form BXA–748P–B.* On Form BXA–748P–B, include the SCL consignee number in Block 1. Complete Block 19. Cite the end-user requirement or condition (i.e. "This end-user is requested in compliance with § 752.5(c)(8)(ii) of the EAR, which requires prior authorization to reexport chemicals under the SCL". Also list the items (by ECCN and description) that the end-user will receive and for what purpose, if approved by BXA.

(c) *Changes that do not require prior approval from BXA.* The following changes regarding your SCL do not require prior approval from BXA, however, such changes must be submitted on the appropriate forms no later than 30 days after the change has occurred. BXA will validate the forms, and return one copy to you for your records.

(1) *Change of SCL holder address, export contact information, or total value of license.* You must submit to BXA Form BXA–748P, Multipurpose Application, for any change in the SCL holder's address, export contact information, or total value of the license. Complete Blocks 1, 2, 3, and 4. Mark "Special Comprehensive License" in Block 5, and "change" in Block 8. In Block 9, include your SCL number, and briefly indicate the purpose of the change. Enter the new information in the relevant Blocks. Complete Block 25. The SCL holder must send a copy of the validated Form BXA–748P to each approved consignee, and advise them to attach the copy of the validated form to their validated Form BXA–752.

(2) *Deletion, suspension or revocation of consignees.* You must submit to BXA Form BXA–748P if you remove a consignee from your SCL. Complete Blocks 1, 2, 3 and 4, mark "Special Comprehensive License" in Block 5, and "change" in Block 8. Indicate your SCL number in Block 9, and complete Block 14. In Block 24, indicate that you are removing a consignee(s) from your SCL, and indicate the name and address of the consignee as it appears on the original Form BXA–752. Also include the consignee number that was assigned when your SCL was approved by BXA. You must notify all remaining consignees if any consignee is no longer eligible to receive items under the SCL.

(3) *Changes in ownership or control of the SCL holder or consignee.* (i) *SCL holder.* You must notify BXA of changes in ownership or control by submitting to BXA Form BXA–748P. Complete Blocks 1, 2, 3 and 4, mark "Special Comprehensive License" in Block 5, and indicate the SCL number in Block 9. Include the SCL holder information in Block 14, and describe the change in Block 24, indicating the circumstances necessitating the change (i.e., mergers), and changes in persons who have official signing authority. Also complete Block 25.

(ii) *Consignee.* You must notify BXA of changes in ownership or control of the consignee company by submitting to BXA Form BXA–752. Complete Block 2, mark "change an existing consignee" in Block 3.B., and complete Blocks 4 and 5. In Block 9, describe the change, indicating the circumstances necessitating the change (i.e. mergers), and changes in persons who have official signing authority. Complete Blocks 10 and 11.

(4) *Remove reexport territories.* If you remove a country from a consignee's approved reexport territory, you must submit to BXA Form BXA–752 and Form BXA–752–A. Upon review of the change in reexport territory, BXA will return to the SCL holder two validated copies of Form BXA–752 and Form BXA–752–A.

(i) *Form BXA–752.* Complete Block 3 by marking "Change an Existing Consignee". In Block 4, enter the consignee name and consignee number. In Block 5, enter the SCL number. In Block 9, enter "to remove a country from the reexport territory". Complete Blocks 10 and 11.

(ii) *Form BXA–752A.* Complete Blocks 2 and 3. Mark each country that you are removing from the reexport territory.

(5) *Remove items from your SCL.* The following procedures apply if you remove an item from your SCL. After review of the change by BXA, BXA will send you a validated Form BXA–752 and BXA–748P–A, if applicable. The SCL holder must send a copy of the each validated form to all applicable consignees and attach a copy to their BXA–752P.

(i) *Removing one item.* You must submit to BXA Form BXA–748P if you remove a single item from your SCL. Complete Blocks 1, 2, 3 and 4. Mark "Special Comprehensive License" in Block 5, and "change" in Block 8. Include your SCL number in Block 9 and state "delete ECCN". Complete item (a) and (j) in Block 22, and Block 25.

(ii) *Removing more than one item.* You must submit to BXA Form BXA–748P and Form BXA–748P–A if you remove more than one item from your SCL. Complete Form BXA–748P according to the instructions in paragraph (a)(5)(i) of this section. Complete Form BXA 748P–A by including the "Application Control Number" (found on form BXA–748P) in Block 1, and completing items (a) and (j) in Block 22 for each item you are removing from your SCL.

(6) *Remove end-users from your SCL.* You must submit to BXA Form BXA–752 and Form BXA–748P–B if you remove end-users from consignee authorizations. After review by BXA, BXA will return to the SCL holder two validated copies of Form BXA–752 and Form BXA–748P–B, which will include any special conditions that may have been imposed. You must send one copy of Forms BXA–752 and BXA–748P to the relevant consignee.

(i) *Form BXA–752.* On Form BXA–752, complete Block 3.B., "Change an Existing Consignee". Include the consignee number in Block 4. Include the SCL case number in Block 5. In Block 9, type "To remove an end-user". Complete Blocks 10 and 11.

(ii) *Form BXA–748P–B.* On Form BXA–748P–B, include the SCL consignee number in Block 1. Complete Block 19.

(d) *Changes made by BXA.* If BXA revises or adds an ECCN to the CCL, or a country's eligibility already covered by the SCL changes, BXA will publish the change in the **Federal Register**. The SCL holder is responsible for immediately complying with any changes to the scope of the SCL.

§ 752.11 Internal Control Programs.

(a) *Scope*—(1) *Introduction.* It is through Internal Control Programs (ICPs) that the SCL holder and the consignee assure that exports and reexports are not made contrary to the EAR. The elements of your ICP will reflect the complexity of the activities authorized under the SCL, the countries and items involved, and the relationship between the SCL holder and the approved consignees.

(2) *General requirements.* Prior to making any exports and reexports under an SCL, you and your consignees, when required, must implement an ICP that is designed to ensure compliance with the SCL and the EAR. This section provides an overview of the elements that comprise an ICP. You may obtain from BXA at the address found in § 752.17 of this part guidelines to assist you in developing an adequate ICP. You must submit with your application for an SCL a copy of your proposed ICP, along with any consignee ICPs, when required, incorporating the elements described in this section, as appropriate. BXA may require you to modify your ICP depending upon the activities, items, and destinations requested on your application for an SCL.

(b) *Requirements.* You may not make any shipments under an SCL until you and your consignees, when appropriate, implement all the elements of the required ICP. If there are elements that you consider inapplicable, you must explain the reasons for this determination at the time of application for an SCL. Existence of a properly constructed ICP will not relieve the SCL holder of liability for improper use or failure to comply with the requirements of the EAR.

(c) *Elements of an ICP.* Following is a list of ICP elements. The specific elements that should be included in your ICP depend upon the complexity of the activities authorized under your SCL, the countries and items involved, and the relationship between the SCL holder and the approved consignees.

(1) A clear statement of corporate policy communicated to all levels of the firm involved in exports and reexports, traffic, and related functions, emphasizing the importance of SCL compliance;

(2) Identification of positions (and maintenance of current list of individuals occupying the positions) in the SCL holder firm and consignee firms responsible for compliance with the requirements of the SCL procedure;

(3) A system for timely distribution to consignees and verification of receipt by consignees of the Denied Persons List (Supplement No. 2 to part 764 of the EAR) and other regulatory materials necessary to ensure compliance;

(4) A system for screening items, training and servicing transactions against Denied Persons List (Supplement No. 2 to part 764 of the EAR) and any relevant updates to the Denied Persons List;

(5) A system for assuring compliance with items and destination restrictions, including controls over reexports by consignees and direct exports to consignee customers;

(6) A compliance review program covering the SCL holder and extending to all consignees;

(7) A system for assuring compliance with controls on exports and reexports of nuclear items and to nuclear end-uses described in §§ 742.3 and 744.2 of the EAR;

(8) An on-going program for informing and educating employees responsible for processing transactions involving items received under the SCL about applicable regulations, limits, and restrictions of the SCL;

(9) A program for recordkeeping as required by the EAR;

(10) An order processing system that documents employee clearance of transactions in accordance with applicable elements of the company ICP;

(11) A system for monitoring in-transit shipments and shipments to bonded warehouses and free trade zones;

(12) A system for notifying BXA promptly if the SCL holder knows that a consignee is not in compliance with terms of the SCL;

(13) A system to screen against customers who are known to have, or are suspected of having, unauthorized dealings with specially designated regions and countries for which nonproliferation controls apply;

(i) The signs of potential diversion that you should take into consideration include, but are not limited to, the following:

(A) Your customer is little known (financial information unavailable from normal commercial sources and corporate principals unknown by trade sources);

(B) Your customer does not wish to use commonly available installation and maintenance services;

(C) Your customer is reluctant to provide end-use and end-user information;

(D) Your customer requests atypical payment terms or currencies;

(E) Customer order amounts, packaging, or delivery routing requirements do not correspond with normal industry practice.

(F) The performance/design characteristics of the items ordered are incompatible with customer's line of business or stated end-use;

(G) Your customer provides only a "P.O. Box" address or has facilities that appear inappropriate for the items ordered;

(H) Your customer's order is for parts known to be inappropriate, or for which the customer appears to have no legitimate need (e.g., there is no indication of prior authorized shipment of system for which the parts are sought); and

(I) Your customer is known to have, or is suspected of having, unauthorized dealings with parties and/or destinations in ineligible countries.

(ii) When any of the above characteristics have been identified, but through follow-up inquiries or investigation have not been satisfactorily resolved, the consignee should not transact any business with the customer under the SCL. Apply for a license according to part 748 of the EAR. You should explain the basis for the concern regarding the proposed customer, and state that you are an SCL consignee. Also, cite the SCL number, and your consignee number;

(14) A system for assuring compliance with controls over exports and reexports for missile-related end-uses and end-users described in § 744.3 of the EAR;

(15) A system for assuring compliance with control over exports and reexports of chemical precursors and biological agents and related items and end-uses described in §§ 742.2 and 744.4 of the EAR;

§ 752.12 Recordkeeping requirements.

(a) *SCL holder and consignees.* In addition to the recordkeeping requirements of part 762 of the EAR, the SCL holder and each consignee must maintain copies of manuals, guidelines, policy statements, internal audit procedures, reports, and other documents making up the ICP of each party included under an SCL. Also, all parties must maintain copies of the most current Denied Persons List (see Supplement No. 2 to part 764 of the EAR) as well as all updates, and all other regulatory materials necessary to ensure compliance with the SCL, such as relevant changes to the EAR, product classification, additions, deletions, or other administrative changes to the SCL, transmittal letters and consignee's confirmations of receipt of these materials.

(b) *Consignees.* All consignees must retain all records of the types of activities identified in § 752.2(a)(3) of this part. Records on such sales or reexports must include the following:

(1) Full name and address of individual or firm to whom sale or reexport was made;

(2) Full description of each item sold or reexported;

(3) Units of quantity and value of each item sold or reexported; and

(4) Date of sale or reexport.

§ 752.13 Inspection of records.

(a) *Availability of records.* You and all consignees must make available all of the records required by § 752.12 of this part and § 762.2 of the EAR for inspection, upon request, by BXA or by any other representative of the U.S. Government, in accordance with part 762 of the EAR.

(b) *Relationship of foreign laws.* Foreign law may prohibit inspection of records by a U.S. Government representative in the foreign country where the records are located. In that event, the consignee must submit with the required copies of Form BXA–752 an alternative arrangement for BXA to review consignee activities and determine whether or not the consignee has complied with U.S. export control laws and regulations, which must be approved by BXA.

(c) *Failure to comply.* Parties failing to comply with requests to inspect documents may be subject to orders denying export privileges described in part 764 of the EAR or to the administrative actions described in part 766 of the EAR.

§ 752.14 System reviews.

(a) *Post-license system reviews.* BXA may conduct system reviews of the SCL holder as well as any consignee. Generally, BXA will give reasonable notice to SCL holders and consignees in advance of a system review. The review will involve interviews with company officials, the inspection of records, and the review of ICPs. BXA may conduct special unannounced system reviews if BXA has reason to believe an SCL holder or consignee has improperly used or has failed to comply with the SCL.

(b) *Other reviews.* BXA may require an SCL holder or consignee to submit to its office a list of all sales made under the SCL during a specified time-frame. Also, BXA may request from any consignee a list of transactions during a specified period involving direct shipments of items received under SCLs to customers of other consignees and sales to customers in reexport territories authorized by BXA on the consignee's validated Form BXA–752.

§ 752.15 Export clearance.

(a) *Shipper's Export Declaration (SED).* The SED covering an export made under an SCL must be prepared in accordance with standard instructions described in § 758.3 of the EAR. If the SCL holder has implemented the Bureau of Census Monthly Reporting System, the SCL holder must comply with the Census requirements.

(1) *Item descriptions.* Item descriptions on the SED must indicate specifically the ECCN and item description conforming to the applicable CCL description and incorporating any additional information where required by Schedule B; (e.g., type, size, name of specific item, etc.).

(2) *Value of shipments.* There is no value limitation on shipments under the SCL; however, you must indicate the value of each shipment on the SED.

(3) *SCL number.* The SED must include the SCL number followed by a blank space, and then the consignee number identifying the SCL's approved consignee to whom the shipment is authorized.

(b) *Destination control statement.* The SCL holder must enter a destination control statement on all copies of the bill of lading or air way-bill, and the commercial invoice covering exports under the SCL, in accordance with the provisions of § 758.6 of the EAR. Use of a destination control statement does not preclude the consignee from reexporting to any of the SCL holder's other approved consignees or to other countries for which specific prior approval has been received from BXA. In such instances, reexport is not contrary to U.S. law and, therefore, is not prohibited. Another destination control statement may be required or approved by BXA on a case-by-case basis.

§ 752.16 Administrative actions.

(a)(1) If BXA is not satisfied that you or other parties to the SCL are complying with all conditions and requirements of the SCL, or that ICPs employed by parties to such licenses are not adequate, BXA may, in addition to any enforcement action pursuant to part 764 of the EAR, take any licensing action it deems appropriate, including the following:

(i) Suspend the privileges under the SCL in whole or in part, or impose other restrictions;

(ii) Revoke the SCL in whole or in part;

(iii) Prohibit consignees from receiving items authorized under the SCL, or otherwise restrict their activities under the SCL;

(iv) Restrict items that may be shipped under the SCL;

(v) Require that certain exports, transfers or reexports be individually authorized by BXA;

(vi) Restrict parties to whom consignees may sell under the SCL; and

(vii) Require that an SCL holder provide an audit report to BXA of selected consignees or overseas operations.

(2) Whenever necessary to protect the national interest of the U.S., BXA may take any licensing action it deems appropriate, without regard to contracts or agreements entered into before such administrative action, including those described in paragraphs (a)(1) (i) through (vii) of this section.

(b) *Appeals.* Actions taken pursuant to paragraph (a) of this section may be appealed under the provisions of part 756 of the EAR.

§ 752.17 BXA mailing addresses.

You should use the following addresses when submitting to BXA applications, reports, documentation, or other requests required in this part 752: Bureau of Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, D.C. 20044, "Attn: Special Licensing and Compliance Division". If you wish to send the required material via overnight courier, use the following address: Bureau of Export Administration, U.S. Department of Commerce, 14th and Pennsylvania Avenue, N.W., Room 2705, Washington D.C. 20230 "Attn: Special Licensing and Compliance Division". You may also reach the Special Licensing and Compliance Division by phone (202)482–0062, or telefacsmile on (202)501–6750.

Supplement No. 1 to Part 752—Instructions for Completing Form BXA–748P Multipurpose Application for Requests for Special Comprehensive Licenses

All information must be legibly typed within the lines for each Block or box, except where a signature is required. Where there is a choice of entering a telephone or telefacsimile number, and you choose a telefacsimile number, identify the number with the letter "F" immediately following the number.

Complete Blocks 1, 2, 3, and 4 according to the instructions in Supplement No. 1 to part 748.

Block 5: Type of Application. Enter an "X" in the Special Comprehensive License box.

Block 6: Documents Submitted with Application. Leave blank.

Block 7: Documents on File with Applicant. Leave blank.

Block 8: Special Comprehensive License. Complete by entering an "X" in the appropriate boxes to indicate which forms are attached.

Block 9: Special Purpose. This block should only be completed by previous special license holders. If you have had a special license in the past, enter that license number. A new SCL number will be assigned upon approval of your SCL application.

Blocks 10, 11, 12, and 13: Leave blank.

Block 14: Applicant. Complete according to the instructions in Supplement No. 1 to part 748.

Block 15: Other Party Authorized to Receive License. Complete, if applicable according to the instructions in Supplement no. 1 to part 748.

Blocks 16 and 17: Leave blank.

Block 18: Ultimate Consignee. Leave blank.

Blocks 19, 20, and 21: Leave blank.

Block 22: Leave (a)–(j) blank.

Block 23: Total Application Dollar Value. Enter the projected total dollar value of all transactions you anticipate making throughout the entire validity period of the SCL.

Block 24: Additional Information. Enter additional data pertinent to the transaction as required by part 752. Do not include information concerning block 22 in this space.

Block 25: Signature. Complete according to the instructions in Supplement No. 1 to part 748.

Supplement No. 2 to Part 752—Instructions for Completing Form BXA–748P–A, "Item Annex"

All information must be legibly typed within the lines for each block or box.

Block 1: Application Control No. Enter the application control number found on Form BXA–748P.

Block 2: Subtotal. Leave blank.

Block 21: Continuation of Specific End-Use Information. Leave blank. Block 22:

(a) ECCN. Enter the Export Control Classification Number that corresponds to the item you wish to export or reexport under the SCL.

(b) CTP. You must complete this block if you intend to export or reexport a digital computer. Instructions on calculating the CTP are contained in a Technical Note at the end of Category 4 in the CCL.

(c)–(i): Leave blank.

(j) Manufacturer's Description. Enter a detailed description of the item proposed for export or reexport. Brochures or product literature may be supplied at the option of the applicant. However, such information may expedite review and processing of your application.

Block 24: Continuation of Additional Information. Enter any identifying information that defines the scope of items you are requesting to export or reexport under the SCL. For example, "4A004 except items controlled for MT reasons".

Supplement No. 3 to Part 752—Instructions for Completing Form BXA–752 "Statement by Consignee in Support of Special Comprehensive License"

All information must be legibly typed within the lines for each block or box, except where a signature is required.

Block 1: *Application Control No.* Enter the "Control No." that is pre-printed on the Form BXA–748P, Multipurpose Application. You may obtain this information from the applicant.

Block 2: *Consignee ID Number.* Leave blank.

Block 3: *Type of Request.* For new applications, leave blank.

Block 4: *Consignee Information.* Enter the complete address where the consignee is located. A P.O. Box alone is NOT acceptable but may be included in Block 4 for mailing purposes, along with a complete address. If records required by § 752.12 of this part and part 762 of the EAR are maintained/stored at a separate address, indicate the address in Block 9. In the absence of a complete address, Form BXA–752 will be returned without action.

Block 5: *U.S. Exporter Information.* Enter the complete address of the U.S. exporter. Leave the SCL Case No. box blank.

Block 6: *Description of Items.* Provide a summary description of the items proposed for import and reexport under the SCL. Firms that will not receive the entire range of items under a particular ECCN identified on Form BXA–748P–A should describe only the items they will receive under the SCL. In some instances, consignee approval will be contingent on the nature of the item requested.

Block 7: *Consignee's Business and Relationship.*

(a) Identify the nature of your company's principal business as it affects the disposition of items to be imported and reexported under this license (e.g., manufacturer, manufacturer/ distributor, assembler/reseller, distributor, sales agent, warehouse, service facility).

(b) Indicate the relationship between your company and the applicant company (e.g., wholly owned subsidiary, independent company, joint venture company, controlled-in-fact affiliate of another consignee that is approved on an SCL).

(c) Enter number of years of relationship between your company and the applicant company.

(d) Enter the estimated dollar volume of sales or other transactions with the SCL holder during the last twelve months period before submission of the application for SCL.

(e) Enter an estimated dollar volume proposed under this application for the validity period of the SCL.

Block 8: *Disposition or Use of Items.*

(a) Complete this Block if your company is requesting involvement in end-user activities that involve importing items for the company's own use (e.g., as capital equipment).

(b) Complete this Block if your company is requesting involvement in end-user activities that incorporate items received under the

SCL into a new end-product that result in a change of identity of the U.S.-item (e.g., U.S.-origin semiconductor devices are included in a foreign origin test instrument). Under Block 9, Additional Information, describe the new end-product more specifically and state how and to what extent the U.S.-origin items will be used. Complete and attach Form BXA–752–A, Reexport Territories.

(c) Complete this Block if your company is requesting authorization to reexport items for service and/or repair. Complete and attach Form BXA–752–A. If you plan to reexport to end-users that require prior approval by BXA, also complete and attach Form BXA–748P–B, End-User Appendix.

(d) Complete this Block if your company plans to retransfer/resell within the country of import. State the end-use of your customers. If you plan to retransfer to end-users that require prior approval by BXA, complete and attach Form BXA–748P–B, End-User Appendix.

(e) Complete this Block if your company plans to reexport. Complete and attach Form BXA–752–A. If you plan to reexport to end-users that require prior approval by BXA, also complete and attach Form BXA–748P–B, End-User Appendix.

(f) This item should be completed for "other" activities that are not defined in Blocks 8(a) through (e). Describe the proposed activities fully in a letter attached to this Form, and complete and attach Form BXA–752–A, indicating countries to which the products derived from these activities are proposed export.

Block 9: *Additional Information.* In addition to any information that supports other Blocks, indicate whether your company is an active consignee under any other license issued by BXA. Indicate the license and consignee numbers.

Block 10: *Signature of Official of Ultimate Consignee.* Include an original signature. The authority to sign form BXA–752 may not be delegated to any person whose authority to sign is not inherent in his/her official position with the company. The signing official must include their official title with the signature. All copies must be co-signed by the applicant in Block 11 and submitted with the application to BXA.

Supplement No. 4 to Part 752—Instructions for Completing Form BXA–752–A Reexport Territories

All information must be legibly typed within the lines for each block or box.

Block 1: *Application Control No.* Insert the application control number from the relevant form BXA–748P.

Block 2: *SCL License No.* Leave blank for new SCL applications. For changes to existing SCLs, include the original SCL number.

Block 3: *Consignee No.* Leave blank for new SCL applications. For changes to existing SCLs, include the consignee number that was provided on the original license.

Block 4: *Continuation of BXA–752 Question No.* Mark an "X" in the box next to each country you want to select. Countries that are not eligible for the SCL are not included on this form. If the country that is not listed on this form becomes eligible to receive items under the SCL, you may request that country by marking an "X" in the "other" box and including the country name.

Supplement No. 5 to Part 752— . Instructions for Completing Form BXA–748P–B End-User Appendix

All information must be legibly typed within the lines for each block or box.

Block 1: *Application Control No.* Insert the application control number from the relevant Form BXA–748P.

Block 19: *End-user.* Enter each end-user's complete name, street address, city, country, postal code and telephone or facsimile number. P.O. Boxes are not acceptable.

Block 21: *Continuation of Specific End-Use Information.* Include any additional information that may help BXA in reviewing and making a determination on your application, such as the special safeguards that will be implemented to prevent diversion.

Block 24: *Continuation of Additional Information.* Enter additional data pertinent to the transaction as required by part 752 of the EAR.

PART 754—SHORT SUPPLY CONTROLS

Sec.

754.1 Introduction.
754.2 Crude oil.
754.3 Petroleum products not including crude oil.
754.4 Unprocessed western red cedar.
754.5 Horses for export by sea.
754.6 Registration of U.S. agricultural commodities for exemption from short supply limitations on export.
754.7 Petitions for the imposition of monitoring or controls on recyclable metallic materials; Public hearings.

Supplement No. 1 to Part 754—Petroleum and Petroleum Products

Supplement No. 2 to Part 754—Unprocessed Western Red Cedar

Supplement No. 3 to Part 754—Statutory Provisions Dealing With Exports of Crude Oil

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); Sec. 201, Pub. L. 104–58, 109 Stat. 557 (30 U.S.C. 185(s)); 30 U.S.C. 185(u); 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; E.O. 12924, 3 CFR, 1994 Comp., p. 917; Notice of August 15, 1995 (60 FR 42767, August 17, 1995).

§ 754.1 Introduction.

(a) *Scope.* In this part, references to the Export Administration Regulations (EAR) are references to 15 CFR chapter VII, subchapter C. This part implements the provisions of section 7, "Short Supply Controls," of the Export Administration Act (EAA) and similar provisions in other laws that are not based on national security and foreign policy grounds.

(b) *Contents.* Specifically, this part deals with the following:

(1) It sets forth the license requirements and licensing policies for commodities that contain the symbol "SS" in the "Reason for Control" part of "License Requirements" section of the applicable Export Control Classification Number (ECCN) identified on the Commerce Control List (Supplement No. 1 to part 774 of the EAR). In appropriate cases, it also provides for License Exceptions from the short supply licensing requirements described in this part. The license requirements and policies that are described in this part cover the following:

(i) Crude oil described by ECCN 1C981 (Crude petroleum, including reconstituted crude petroleum, tar sands, and crude shale oil listed in Supplement No. 1 to this part). For specific licensing requirements for these items, see § 754.2 of this part.

(ii) Petroleum products other than crude oil listed in Supplement No. 1 to this part, that were produced or derived from the Naval Petroleum Reserves (NPR) or became available for export as a result of an exchange of any NPR-produced or -derived commodities described by the following ECCNs. For specific licensing requirements for these items, see § 754.3 of this part.

(A) ECCN 1C980 (Inorganic chemicals);

(B) ECCN 1C982 (Other petroleum products);

(C) ECCN 1C983 (Natural gas liquids and other natural gas derivatives); and

(D) ECCN 1C984 (Manufactured gas and synthetic natural gas (except when commingled with natural gas and thus subject to export authorization from the Department of Energy).

(iii) Unprocessed western red cedar described by ECCN 1C988 (Western red cedar (thuja plicata) logs and timber, and rough, dressed and worked lumber containing wane listed in Supplement No. 2 to this part). For specific licensing requirements for these items, see § 754.4 of this part.

(iv) Horses exported by sea for slaughter covered by ECCN 0A980 (Horses for export by sea). For specific licensing requirements, see § 754.5 of this part.

(2) It incorporates statutory provisions for the registration of U.S. agricultural commodities for exemption from short supply limitations on export (see § 754.6 of this part); and

(3) It incorporates statutory provisions for the filing and review of petitions seeking the imposition of monitoring or controls on recyclable metallic materials and procedures for related public hearings (see § 754.7 of this part).

(c) *Reexports.* Reexports of items controlled by this part require a license only if such a requirement is specifically set forth in this part or is set forth on the license authorizing the export from the United States.

(d) *Additional requirements for embargoed destinations.* For exports involving embargoed destinations, you must satisfy the requirements of this part and also of part 746 of the EAR (Embargoes and Other Special Controls).

§ 754.2 Crude oil.

(a) *License requirement.* As indicated by the SS notation in the "License Requirements" section of ECCN 1C981 on the CCL (Supplement No. 1 to part 774 of the EAR), a license is required for the export of crude oil to all destinations, including Canada. See paragraph (h) of this section for a License Exception permitting the export of certain oil from the Strategic Petroleum Reserves and paragraph (i) of this section for a License Exception for certain shipments of samples. "Crude oil" is defined as a mixture of hydrocarbons that existed in liquid phase in underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities and which has not been processed through a crude oil distillation tower. Included are reconstituted crude petroleum, and lease condensate and liquid hydrocarbons produced from tar sands, gilsonite, and oil shale. Drip gases are also included, but topped crude oil, residual oil, and other finished and unfinished oils are excluded.

(b) *License policy.* (1) BXA will approve applications to export crude oil for the following kinds of transactions if BXA determines that the export is consistent with the specific requirements pertinent to that export:

(i) Exports from Alaska's Cook Inlet (see paragraph (d) of this section);

(ii) Exports to Canada for consumption or use therein (see paragraph (e) of this section);

(iii) Exports in connection with refining or exchange of strategic petroleum reserve oil (see paragraph (f) of this section);

(iv) Exports of heavy California crude oil up to an average volume not to exceed 25 MB/D (see paragraph (g) of this section);

(v) Exports that are consistent with international agreements as described in the statutes listed in paragraph (c) of this section;

(vi) Exports that are consistent with findings made by the President under an applicable statute, including the statutes described in paragraph (c) of this section; and

(vii) Exports of foreign origin crude oil where, based on written documentation satisfactory to BXA, the exporter can demonstrate that the oil is not of U.S. origin and has not been commingled with oil of U.S. origin. See paragraph (h) of this section for the provisions of License Exception SPR permitting exports of certain crude oil from the Strategic Petroleum Reserve.

(2) BXA will review other applications to export crude oil on a case-by-case basis and, except as provided in paragraph (c) of this section, generally will approve such applications if BXA determines that the proposed export is consistent with the national interest and the purposes of the Energy Policy and Conservation Act (EPCA). Although BXA will consider all applications for approval, generally, the following kinds of transactions will be among those that BXA will determine to be in the national interest and consistent with the purposes of EPCA.

(i) The export is part of an overall transaction:

(A) That will result directly in the importation into the United States of an equal or greater quantity and an equal or better quality of crude oil or of a quantity and quality of petroleum products listed in Supplement No. 1 to this part that is not less than the quantity and quality of commodities that would be derived from the refining of the crude oil for which an export license is sought;

(B) That will take place only under contracts that may be terminated if the petroleum supplies of the United States are interrupted or seriously threatened; and

(C) In which the applicant can demonstrate that, for compelling economic or technological reasons that are beyond the control of the applicant, the crude oil cannot reasonably be marketed in the United States.

(ii) Exports involving temporary exports or exchanges that are consistent with the exceptions from the restrictions of the statutes listed in paragraph (c) of this section.

(c) *Additional statutory controls.* (1) The following statutes provide controls on the export of domestically produced crude oil based on its place of origin or mode of transport. If such other statutory controls apply, an export may only be approved if the President makes the findings required by the applicable law.

(i) Section 201 of Public Law 104–58, entitled "Exports of Alaskan North Slope Oil," provides for exports of domestically produced crude oil transported by pipeline over rights-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652) ("TAPS crude oil").

(ii) The Mineral Leasing Act of 1920 restricts exports of domestically produced crude oil transported by pipeline over rights-of-way granted pursuant to section 28(u) of that Act (30 U.S.C. 185(u)) ("MLA").

(iii) The Outer Continental Shelf Lands Act restricts exports of crude oil produced from the outer Continental Shelf (29 U.S.C. 1354) ("OCSLA").

(iv) The Naval Petroleum Reserves Production Act restricts the export of crude oil produced from the naval petroleum reserves (10 U.S.C. 7430) ("NPRPA").

(2) Supplement No. 3 to this part describes the relevant statutory provisions. In cases where a particular statute applies, a Presidential finding is necessary before the export can be authorized. You should note that in certain cases it is possible that more than one statute could apply to a particular export of crude oil.

(d) *Exports from Alaska's Cook Inlet.* The licensing policy is to approve applications for exports of crude oil that was derived from the state-owned submerged lands of Alaska's Cook Inlet and has not been, or will not be, transported by a pipeline over a federal right-of-way subject to the MLA or the Trans-Alaska Pipeline Authorization Act.[1]

(e) *Exports to Canada for consumption or use therein.* (1) Except for TAPS crude oil, the licensing policy is to approve applications for exports of crude oil to Canada for consumption or use therein.

(2) The licensing policy for TAPS crude oil is to approve applications for an average of no more than 50,000 barrels of oil per day for consumption or use in Canada, subject to the following procedures and conditions:

(i) Any ocean transportation of the commodity will be made by vessels documented for United States coastwise trade under 46 U.S.C. 12106. Only barge voyages between the State of Washington and Vancouver, British Columbia, and comparable barge movements across waters between the U.S. and Canada may be excluded from this requirement. The Bureau of Export Administration will determine, in consultation with the Maritime

[1] On November 6, 1985, the Secretary of Commerce determined that the export of crude oil derived from State waters in Alaska's Cook Inlet is consistent with the national interest and the purposes of the Energy Policy and Conservation Act.

Administration, whether such transportation is "ocean" transportation; and

(ii) Authorization to export TAPS crude oil will be granted on a quarterly basis. Applications will be accepted by BXA no earlier than two months prior to the beginning of the calendar quarter in question, but must be received no later than the 25th day of the second month preceding the calendar quarter. For example, for the calendar quarter beginning April 1 and ending June 30, applications will be accepted beginning February 1, but must be received no later than February 25.

(iii) The quantity stated on each application must be the total number of barrels for the quarter, not a per-day rate. This quantity must not exceed 50,000 barrels times the number of calendar days in the quarter.

(iv) Each application must include support documents providing evidence that the applicant has either:

(A) Title to the quantity of barrels stated in the application; or

(B) A contract to purchase the quantity of barrels stated in the application.

(v) The quantity of barrels authorized on each license for export during the calendar quarter will be determined by the BXA as a prorated amount based on:

(A) The quantity requested on each license application; and

(B) The total number of barrels that may be exported by all license holders during the quarter (50,000 barrels per day multiplied by the number of calendar days during the quarter).

(vi) Applicants may combine their licensed quantities for as many as four consecutive calendar quarters into one or more shipments, provided that the validity period of none of the affected licenses has expired.

(vii) BXA will carry forward any portion of the 50,000 barrels per day quota that has not been allocated during a calendar quarter, except that no un-allocated portions will be carried over to a new calendar year. The un-allocated volume for a calendar quarter will be added, until expended, to the quotas available for each quarter through the end of the calendar year.

(f) *Refining or exchange of Strategic Petroleum Reserve Oil.* (1) Exports of crude oil withdrawn from the Strategic Petroleum Reserve (SPR) will be approved if BXA, in consultation with the Department of Energy, determines that such exports will directly result in the importation into the United States of refined petroleum products that are needed in the United States and that otherwise would not be available for importation without the export of the crude oil from the SPR.

(2) Licenses may be granted to export, for refining or exchange outside of the United States, SPR crude oil that will be sold and delivered, pursuant to a drawdown and distribution of the SPR, in connection with an arrangement for importing refined petroleum products into the United States.

(3) BXA will approve license applications subject to the following conditions:

(i) You must provide BXA evidence of the following:

(A) A title to the quantity of barrels of SPR crude stated in the application; or

(B) A contract to purchase, for importation, into the United States the quantity of barrels of SPR crude stated in the application.

(ii) The following documentation must be submitted to BXA no later than fourteen days following the date that the refined petroleum products are imported in the U.S. in exchange for the export of SPR crude:

(A) Evidence that the exporter of the SPR crude has title to or a contract to purchase refined petroleum product;

(B) A copy of the shipping manifest that identifies the refined petroleum products; and

(C) A copy of the entry documentation required by the U.S. Customs Service that show the refined petroleum products were imported into the United States, or a copy of the delivery receipt when the refined petroleum products are for delivery to the U.S. military outside of the United States.

(4) You must complete both the export of the SPR crude and the import of the refined petroleum products no later than 30 days following the issuance of the export license, except in the case of delivery to the U.S. military outside of the United States, in which case the delivery of the refined petroleum products must be completed no later than the end of the term of the contract with the Department of Defense.

(g) *Exports of certain California crude oil.* The export of California heavy crude oil having a gravity of 20.0 degrees API or lower, at an average volume not to exceed 25 MB/D, will be authorized as follows.

(1) Applicants must submit their applications on Form BXA–748 to the following address: Office of Exporter Services, ATTN: Short Supply Program—Petroleum, Bureau of Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, DC 20044.

(2) The quantity stated on each application must be the total number of barrels proposed to be exported under the license—not a per-day rate. This quantity must not exceed 25 percent of the annual authorized export quota. Potential applicants may inquire of BXA as to the amount of the annual authorized export quota available.

(3) Each application shall be accompanied by a certification by the applicant that the California heavy crude oil:

(i) Has a gravity of 20.0 degrees API or lower;

(ii) Was produced within the state of California, including its submerged state lands;

(iii) Was not produced or derived from a U.S. Naval Petroleum Reserve; and

(iv) Was not produced from submerged lands of the U.S. Outer Continental Shelf.

(4) Each license application must be based on an order, and be accompanied by documentary evidence of such an order (e.g., a letter of intent).

(5) BXA will adhere to the following procedures for licensing exports of California heavy crude oil:

(i) BXA will issue licenses for approved applications in the order in which the applications are received (date-time stamped upon receipt by BXA), with the total quantity authorized for any one license not to exceed 25 percent of the annual authorized volume of California heavy crude oil.

(ii) BXA will approve only one application per month for each company and its affiliates.

(iii) BXA will consider the following factors (among others) when determining what action should be taken on individual license applications:

(A) The number of licenses to export California heavy crude oil that have been issued to the applicant or its affiliates during the then-current calendar year;

(B) The number of applications pending in BXA that have been submitted by applicants who have not previously been issued licenses under this section to export California heavy crude oil during the then-current calendar year; and

(C) The percentage of the total amount of California heavy crude oil authorized under other export licenses previously issued to the applicant pursuant to this section that has actually been exported by the applicant.

(iv) BXA will approve applications contingent upon the licensee providing documentation meeting the requirements of both paragraphs(g)(5)(iv)(A) and (B) of this section prior to any export under the license:

(A) Documentation showing that the applicant has or will acquire title to the quantity of barrels stated in the application. Such documentation shall be either:

(*1*) An accepted contract or bill of sale for the quantity of barrels stated in the application; *or*

(*2*) A contract to purchase the quantity of barrels stated in the application, which may be contingent upon issuance of an export license to the applicant.

(B) Documentation showing that the applicant has a contract to export the quantity of barrels stated in the application. The contract may be contingent upon issuance of the export license to the applicant.

(v) BXA will carry forward any portion of the 25 MB/D quota that has not been licensed, except that no unallocated portions will be carried forward more than 90 days into a new calendar year. Applications to export against any carry-forward must be filed with BXA by January 15 of the carry-forward year.

(vi) BXA will return to the available authorized export quota any portion of the 25 MB/D per day quota that has been licensed, but not shipped, during the 90-day validity period of the license.

(vii) BXA will not carry over to the next calendar year pending applications from the previous year.

(6) License holders:

(i) Have 90 calendar days from the date the license was issued to export the quantity of California heavy crude oil authorized on the license. Within 30 days of any export under the license, the exporter must provide BXA with a certified statement confirming the date and quantity of California heavy crude oil exported.

(ii) Must submit to BXA, prior to any export under the license, the documentation required by paragraph (g)(5)(iv) of this section.

(iii) May combine authorized quantities into one or more shipments, provided that the validity period of none of the affected licenses has expired.

(iv) Are prohibited from transferring the license to another party without prior written authorization from BXA.

(7) BXA will allow a 10 percent tolerance on the unshipped balance based upon the volume of barrels it has authorized. BXA will allow a 25 percent shipping tolerance on the total dollar value of the license. See § 750.11 of the EAR for an explanation of shipping tolerances.

(h) *License Exception for certain shipments from the Strategic Petroleum Reserves (SPR).* Subject to the requirements set forth in this paragraph, License Exception SPR may be used to export without a license foreign origin crude oil imported and owned by a foreign government or its representative which is imported for storage in, and stored in, the United States Strategic Petroleum Reserves pursuant to an appropriate agreement with the U.S. Government or an agency thereof. If such foreign origin oil is commingled with other oil in the SPR, such export is authorized under License Exception SPR only if the crude oil being exported is of the same quantity and of comparable quality as the foreign origin crude oil that was imported for storage in the SPR and the Department of Energy certifies this fact to BXA.

(1) The requirements and restrictions described in §§ 740.1 and 740.2 of the EAR that apply to all License Exceptions also apply to the use of License Exception SPR.

(2) A person exporting crude oil pursuant to this License Exception must enter on any required Shipper's Export Declaration (SED) the letter code "SS–SPR."

(i) *License Exception for certain sample shipments.* Subject to the requirements set forth in this paragraph, License Exception SS–SAMPLE may be used to export crude oil for analytic and testing purposes.

(1) An exporter may ship up to 10 barrels of crude oil to any one end-user annually, up to an annual cumulative limit of 100 barrels per exporter.

(2) The requirements and restrictions described in §§ 740.1 and 740.2 of the EAR that apply to all License Exceptions also apply to the use of License Exception SPR.

(3) A person exporting crude oil pursuant to this License Exception must enter on any required Shipper's Export Declaration (SED) the letter code "SS-SAMPLE".

§ 754.3 Petroleum products not including crude oil.

(a) *License requirement.* As indicated by the letters "SS" in the "Reason for Control" paragraph in the "License Requirements" section of ECCNs 1C980, 1C982, 1C983, and 1C984 on the CCL (Supplement No. 1 to part 774 of the EAR), a license is required to all destinations, including Canada, for the export of petroleum products, excluding crude oil, listed in Supplement No. 1 to this part, that were produced or derived from the Naval Petroleum Reserves (NPR) or became available for export as a result of an exchange of any NPR produced or derived commodities.

(b) *License policy.* (1) Applications for the export of petroleum products listed in Supplement No. 1 to this part that were produced or derived from the Naval Petroleum Reserves, or that became available for export as a result of an exchange for a Naval Petroleum Reserves produced or derived commodity, other than crude oil, will be denied, unless the President makes a finding required by the Naval Petroleum Reserves Production Act (10 U.S.C. 7430).

(2) Applications that involve temporary exports or exchanges excepted from that Act will be approved.

§ 754.4 Unprocessed western red cedar.

(a) *License requirement.* As indicated by the letters "SS" in the "Reason for Control" paragraph in the "License Requirements" section of ECCN 1C988 on the CCL (Supplement No. 1 to part 774 of the EAR), a license is required to all destinations, including Canada, for the export of unprocessed western red cedar covered by ECCN 1C988 (Western red cedar (thuja plicata) logs and timber, and rough, dressed and worked lumber containing wane listed in Supplement No. 2 to this part). See paragraph (c) of this section for License Exceptions for timber harvested from public lands in the State of Alaska, private lands, or Indian lands, and see paragraph (d) of this section for relevant definitions.

(b) *Licensing policy.* (1) BXA will generally deny applications for licenses to export unprocessed western red cedar harvested from Federal or State lands under harvest contracts entered into after September 30, 1979.

(2) BXA will consider, on a case-by-case basis, applications for licenses to export unprocessed western red cedar harvested from Federal or State lands under harvest contracts entered into prior to October 1, 1979.

(3) BXA will approve license applications for unprocessed western red cedar timber harvested from public lands in Alaska, private lands, and Indian lands. Applications must be submitted in accordance with the procedures set forth in paragraph (a) of this section. See paragraph (c) of this section for the availability of a License Exception.

(c) *License Exception for western red cedar (WRC).* (1) Subject to the requirements described in paragraph (c) of this section, License Exception WRC may be used to export without a license unprocessed western red cedar timber harvested from Federal, State and other public lands in Alaska, all private lands,

and, lands held in trust for recognized Indian tribes by Federal or State agencies.

(2) Exporters who use License Exception WRC must obtain and retain on file the following documents:

(i) A statement by the exporter (or other appropriate documentation) indicating that the unprocessed western red cedar timber exported under this License Exception was not harvested from State or Federal lands outside the State of Alaska, and did not become available for export through substitution of commodities so harvested or produced. If the exporter did not harvest or produce the timber, the records or statement must identify the harvester or producer and must be accompanied by an identical statement from the harvester or producer. If any intermediate party or parties held title to the timber between harvesting and purchase, the exporter must also obtain such a statement, or equivalent documentation, from the intermediate party or parties and retain it on file.

(ii) A certificate of inspection issued by a third party log scaling and grading organization, approved by the United States Forest Service, that:

(A) Specifies the quantity in cubic meters or board feet, scribner rule, of unprocessed western red cedar timber to be exported; and

(B) Lists each type of brand, tag, and/or paint marking that appears on any log or unprocessed lumber in the export shipment or, alternatively, on the logs from which the unprocessed timber was produced.

(3) The requirements and restrictions described in §§ 740.1 and 740.2 of the EAR that apply to all License Exceptions also apply to the use of License Exception WRC.

(4) A person exporting any item pursuant to this License Exception must enter on any required Shipper's Export Declaration (SED) the letter code "SS-WRC".

(d) *License Applications.* (1) Applicants requesting to export unprocessed western red cedar must submit a properly completed Form BXA–748P, Multipurpose License Form, other documents as may be required by BXA, and a signed statement from an authorized representative of the exporter, reading as follows:

I, (Name) (Title) of (Exporter) HEREBY CERTIFY that to the best of my knowledge and belief the (Quantity) (cubic meters or board feed scribner) of unprocessed western red cedar timber that (Exporter) proposes to export was not harvested from State or Federal lands under contracts entered into after October 1, 1979,

(Signature)

(Date)

(2) For Items [16] and [18] on Form BXA–748P, "Various" may be entered when there is more than one purchaser or ultimate consignee.

(3) For each Form BXA–748P submitted, and for each export shipment made under a license, the exporter must assemble and retain for the period described in part 762 of the EAR, and produce or make available for inspection, the following:

(i) A signed statement(s) by the harvester or producer, and each subsequent party having held title to the commodities, that the commodities in question were harvested under a contract to harvest unprocessed western red cedar from State or Federal lands, entered into before October 1, 1979; and

(ii) A copy of the Shipper's Export Declaration.

(4) A shipping tolerance of 5 percent in cubic feet or board feet scribner is allowed on the un-shipped balance of a commodity listed on a license. This tolerance applies only to the final quantity remaining un-shipped on a license against which more than one shipment is made and not to the original quantity authorized by such license. See § 750.11 of the EAR for an explanation of shipping tolerances.

(e) *Definitions.* When used in this section, the following terms have the meaning indicated:

(1) *Unprocessed western red cedar* means western red cedar (thuja plicata) timber, logs, cants, flitches, and processed lumber containing wane on one or more sides, as defined in ECCN 1C988, that has not been processed into:

(i) Lumber of American Lumber Standards Grades of Number 3 dimension or better, or Pacific Lumber Inspection Bureau Export R-List Grades of Number 3 common or better grades, with a maximum cross section of 2,000 square centimeters (310 square inches) for any individual piece of processed western red cedar (WRC) being exported, regardless of grade;

(ii) Chips, pulp, and pulp products;

(iii) Veneer and plywood;

(iv) Poles, posts, or pilings cut or treated with preservative for use as such and not intended to be further processed; and

(v) Shakes and shingles.

(2) *Federal and State lands* means Federal and State lands, excluding lands in the State of Alaska and lands held in trust by any Federal or State official or agency for a recognized Indian tribe or for any member of such tribe.

(3) *Contract harvester* means any person who, on October 1, 1979, had an outstanding contractual commitment to harvest western red cedar timber from State and Federal lands and who can show by previous business practice or other means that the contractual commitment was made with the intent of exporting or selling for export in unprocessed form all or part of the commodities to be harvested.

(4) *Producer* means any person engaged in a process that transforms an unprocessed western red cedar commodity (e.g., western red cedar timber) into another unprocessed western red cedar commodity (e.g., cants) primarily through a saw mill.

§ 754.5 Horses for export by sea.

(a) *License requirement.* As indicated by the letters "SS" in the "Reason for Control" paragraph of the "License Requirements" section of ECCN 0A980 on the CCL (Supplement No. 1 to part 774 of the EAR) a license is required for the export of horses exported by sea to all destinations, including Canada.

(b) *License policy.* (1) License applications for the export of horses by sea for the purposes of slaughter will be denied.

(2) Other license applications will be approved if BXA, in consultation with the Department of Agriculture, determines that the horses are not intended for slaughter. You must provide a statement in the additional information section of the Form BXA–748P, certifying that no horse under consignment is being exported for the purpose of slaughter.

(3) Each application for export may cover only one consignment of horses.

§ 754.6 Registration of U.S. agricultural commodities for exemption from short supply limitations on export.

(a) *Scope.* Under the provisions of section 7(g) of the Export Administration Act of 1979 (EAA), agricultural commodities of U.S. origin purchased by or for use in a foreign country and stored in the United States for export at a later date may be registered with BXA for exemption from any quantitative limitations on export that may subsequently be imposed under section 7 of the EAA for reasons of short supply.

(b) *Applications for registration.* Applications to register agricultural commodities must be submitted by a person or firm subject to the jurisdiction of the United States who is acting as a duly authorized agent for the foreign purchaser.

(c) *Mailing address.* Submit applications pursuant to the provisions of section 7(g) of the EAA to: Bureau of Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, D.C. 20230.

§ 754.7 Petitions for the imposition of monitoring or controls on recyclable metallic materials; Public hearings.

(a) *Scope.* Section 7(c) of the Export Administration Act of 1979 (EAA) provides for the filing and review of petitions seeking the imposition of monitoring or controls on recyclable metallic materials.

(b) *Eligibility for filing petitions.* Any entity, including a trade association, firm or certified or recognized union or group of workers, which is representative of an industry or a substantial segment of an industry which processes metallic materials capable of being recycled with respect to which an increase in domestic prices or a domestic shortage, either of which results from increased exports, has or may have a significant adverse effect on the national economy or any sector thereof, may submit a written petition to BXA requesting the monitoring of exports, or the imposition of export controls, or both, with respect to such materials.

(c) *Public hearings.* The petitioner may also request a public hearing. Public hearings may also be requested by an entity, including a trade association, firm, or certified or recognized union or group of workers, which is representative of an industry or a substantial segment of an industry which processes, produces or exports the metallic materials which are the subject of a petition.

(d) *Mailing address.* Submit petitions pursuant to section 7(c) of the EAA to: Bureau of Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, D.C. 20230.

Supplement No. 1 to Part 754—Petroleum and Petroleum Products

This Supplement provides relevant Schedule B numbers and a commodity description of the items controlled by ECCNs 1C980, 1C981, 1C982, 1C983, and 1C984.

Schedule B No.	Commodity description [1]
	Crude Oil
2709.0710	Crude petroleum (including reconstituted crude petroleum), tar sands and crude shale oil.
2710.0710	Petroleum, partly refined for further refining.
	Petroleum Products
2804.29.0010	Helium.
2804.10.0000	Hydrogen.
2814.20.0000	Ammonia, aqueous.
2811.21.0000	Carbon dioxide and carbon monoxide.
2710.00.0550	Distillate fuel oils, having a Saybolt Universal viscosity at 100 °F. of less than 45 seconds.
2710.00.1007	Distillate fuel oils (No. 4 type) having a Saybolt Universal viscosity at 100 °F. of 45 seconds or more, but not more than 125 seconds.
2710.00.1050	Fuel oils, having a Saybolt Universal viscosity at 100 °F. of more than 125 seconds.
2711.11.0000	Natural gas, methane and mixtures thereof (including liquefied natural gas and synthetic or substitute natural gas).[2]
2711.14.0000	Ethane with a minimum purity of 95 liquid volume percent.
2711.12.0000	Propane with a minimum purity of 90 liquid volume percent.
2711.13.0000	Butane with a minimum purity of 90 liquid volume percent.
2711.19.0000	Other natural gases (including mixtures), n.s.p.f. and manufactured gas.
2710.00.1510	Gasoline, motor fuel (including aviation).
2710.00.1520	Jet fuel, naphtha-type.
2710.00.1530	Jet fuel, kerosene-type.
2710.00.1550	Other motor fuel (including tractor fuel and stationary turbine fuel).
2710.00.2000	Kerosene derived from petroleum, shale oil, natural gas, or combinations thereof (except motor fuel).
2710.00.2500	Naphthas derived from petroleum, shale oil, natural gas, or combinations thereof (except motor fuel).
2710.00.5030	Mineral oil of medicinal grade derived from petroleum, shale oil or both.
3819.00.0000	Hydraulic fluids, including automatic transmission fluids.
2710.00.3010	Aviation engine lubricating oil, except jet engine lubricating oil.
2710.00.3020	Jet engine lubricating oil 475.4520 Automotive, diesel, and marine engine lubricating oil.
2710.00.3030	Turbine lubricating oil, including marine.
2710.00.3040	Automotive gear oils.
2710.00.3050	Steam cylinder oils.
2710.00.5045	Insulating or transformer oils.
2710.00.3070	Quenching or cutting oils.
2710.00.3080	Lubricating oils, n.s.p.f., except white mineral oil.
2710.00.3700	Greases.
2710.00	Carbon black feedstock oil.
2712.10.0000	Petroleum jelly and petrolatum, all grades.
2710.00.5040	White mineral oil, except medicinal grade.
2710.00.5060	Other non-lubricating and non-fuel petroleum oils, n.s.p.f.
2814.10.0000	Ammonia, anhydrous.
2712.20.0000	Paraffin wax, crystalline, fully refined.
2712.90.0000	Paraffin wax, crystalline, except fully refined.
2712.90.0000	Paraffin wax, all others (including microcrystalline wax).
2517.30.0000	Paving mixtures, bituminous, based on asphalt and petroleum.
2713.12.0000	Petroleum coke, calcined.
2714	Petroleum asphalt.

Schedule B No.	Commodity description [1]
2713.11.0000	Petroleum coke, except calcined.

[1] The commodity descriptions provided in this Supplement for the most part reflect those found in the U.S. Department of Commerce, Bureau of the Census, (1990 Edition) Statistical Classification of Domestic and Foreign Commodities Exported from the United States (1990 Ed., as revised through Jan. 1994). In some instances the descriptions are expanded or modified to ensure proper identification of products subject to export restriction. The descriptions in this Supplement, rather than Schedule B Number, determine the commodity included in the definition of "Petroleum" under the Naval Petroleum Reserves Production Act.

[2] Natural gas and liquefied natural gas (LNG), and synthetic natural gas commingled with natural gas (Schedule B Nos. 2711.11.0000, 2711.14.0000, and 2711.19.0000) require export authorization from the U.S. Department of Energy.

Supplement No. 2 to Part 754—Unprocessed Western Red Cedar

This Supplement provides relevant Schedule B numbers and a commodity description of the items controlled by ECCN 1C988. The

Schedule B No. 1 [1]	Commodity description	Unit of quantity [2]
200.3516	Western red cedar (Thuja plicata) logs and timber	MBF
202.2820	Western red cedar lumber; rough, containing wane	MBF
202.2840	Western red cedar lumber; dressed or worked, containing wane	MBF

[1] Schedule B Numbers are provided only as a guide to proper completion of the Shipper's Export Declaration, Form No. 7525 V.

[2] For export licensing purposes, report commodities on Form BXA–748P in units of quantity indicated.

Supplement No. 3 to Part 754—Statutory Provisions Dealing With Exports of Crude Oil

[The statutory material published in this Supplement is for the information of the reader only. See the U.S. Code for the official text of this material.]

Public Law 104–58

SEC. 201. EXPORTS OF ALASKAN NORTH SLOPE OIL.

Section 28 of the Mineral Leasing Act (30 U.S.C. 185(s)) is amended by amending subsection(s) to read as follows:

"EXPORTS OF ALASKAN NORTH SLOPE OIL

(1) Subject to paragraphs (2) through (6) of this subsection and notwithstanding any other provision of this Act or any other provision of laws (including any regulation) applicable to the export of oil transported by pipeline over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652), such oil may be exported unless the President finds that exportation of this oil is not in the national interest. The President shall make his national interest determination within five months of the date of enactment of this subsection. In evaluating whether exports of this oil are in the national interest, the President shall at a minimum consider—

(A) whether exports of this oil would diminish the total quantity or quality of petroleum available to the United States;

(B) the results of an appropriate environmental review, including consideration of appropriate measures to mitigate any potential adverse effects of exports of this oil on the environment, which shall be completed within four months of the date of the enactment of this subsection; and

(C) whether exports of this oil are likely to cause sustained material oil supply shortages or sustained oil prices significantly above world market levels that would cause sustained material adverse employment effects in the United States or that would cause substantial harm to consumers, including noncontiguous States and Pacific territories.

If the President determines that exports of this oil are in the national interest, he may impose such terms and conditions (other than a volume limitation) as are necessary or appropriate to ensure that such exports are consistent with the national interest.

(2) Except in the case of oil exported to a country with which the United States entered into a bilateral international oil supply agreement before November 26, 1979, or to a country pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency, any oil transported by pipeline over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652) shall, when exported, be transported by a vessel documented under the laws of the United States and owned by a citizen of the United States (as determined in accordance with section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)).

(3) Nothing in this subsection shall restrict the authority of the President under the Constitution, the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), the National Emergencies Act ( ) U.S.C. 1601 et seq.), or Part B of title II of the Energy Policy and Conservation Act (42 U.S.C. 6271–76) to prohibit exports.

(4) The Secretary of Commerce shall issue any rules necessary for implementation of the President's national interest determination, including any licensing requirements and conditions, within 30 days of the date of such determination by the President. The Secretary of Commerce shall consult with the Secretary of Energy in administering the provisions of this subsection.

(5) If the Secretary of Commerce finds that exporting oil under authority of this subsection has caused sustained material oil supply shortage or sustained oil prices significantly above world market levels and further finds that these supply shortages or price increases have caused or are likely to cause sustained material adverse employment effects in the United States, the Secretary of Commerce, in consultation with the Secretary of Energy, shall recommend, and the President may take, appropriate action concerning exports of this oil, which may include modifying or revoking authority to export such oil.

(6) Administrative action under this subsection is not subject to sections 551 and 553 through 559 of title 5, United States Code.

MINERAL LANDS LEASING ACT

30 U.S.C. 185(u)

Limitations on Export

Any domestically produced crude oil transported by pipeline over rights-of-way granted pursuant to this section, except such crude oil which is either exchanged in similar quantity for convenience or increased efficiency of transportation with persons or the government of an adjacent foreign state, or which is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States, shall be subject to all of the limitations and licensing requirements of the Export Administration Act of 1979 (50 U.S.C. App. 2401 and following) and, in addition, before any crude oil subject this section may be exported under the limitations and licensing requirements and penalty and enforcement provisions of the Export Administration Act of 1979 the President must make and publish an express finding that such exports will not diminish the total quantity or quality of petroleum available to the United States, and are in the national interest and are in accord with the provisions of the Export Administration Act of 1979: *Provided*, That the President shall submit reports to the Congress containing findings made under this section, and after the date of receipt of such report Congress shall have a period of sixty calendar days, thirty days of which Congress must have been in session, to consider whether exports under the terms of this section are in the national interest. If the Congress within this time period passes a concurrent resolution of disapproval stating disagreement with the President's finding concerning the national interest, further exports made pursuant to the aforementioned Presidential finding shall cease.

NAVAL PETROLEUM RESERVES PRODUCTION ACT

10 § 7430(e)

Any petroleum produced from the naval petroleum reserves, except such petroleum which is either exchanged in similar quantities for convenience or increased efficiency of transportation with persons or the government of an adjacent foreign state, or which is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States, shall be subject to all of the limitations and licensing requirements of the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) and, in addition, before any petroleum subject to this section may be exported under the limitations and licensing requirement and penalty and enforcement provisions of the Export Administration Act of 1979, the President must make and publish an express finding that such exports will not diminish the total quality or quantity of petroleum available to the United States and that such exports are in the national interest and are in accord with the Export Administration Act of 1979.

OUTER CONTINENTAL SHELF LANDS ACT

43 U.S.C. 1354

(a) Application of Export Administration provisions.

Except as provided in subsection (d) of this section, any oil or gas produced from the outer Continental Shelf shall be subject to the requirements and provisions of the Export Administration Act of 1969. Note that the Export Administration Act of 1969, referred to in paragraphs (a) and (b) of the Supplement, terminated on September 30, 1979, pursuant to the terms of that Act.

(b) Condition precedent to exportation; express finding by President of no increase in reliance on imported oil or gas.

Before any oil or gas subject to this section may be exported under the requirements and provisions of the Export Administration Act of 1969, the President shall make and publish an express finding that such exports will not increase reliance on imported oil or gas, are in the national interest, and are in accord with the provisions of the Export Administration Act of 1969.

(c) Report of findings by President to Congress; joint resolution of disagreement with findings of President.

The President shall submit reports to Congress containing findings made under this section, and after the date of receipt of such reports Congress shall have a period of sixty calendar days, thirty days of which Congress must have been in session, to consider whether export under the terms of this section are in the national interest. If the Congress within such time period passes a concurrent resolution of disapproval stating disagreement with the President's finding concerning the national interest, further exports made pursuant to such Presidential findings shall cease.

(d) Exchange or temporary exportation of oil and gas for convenience or efficiency of transportation.

The provisions of this section shall not apply to any oil or gas which is either exchanged in similar quantity for convenience or increase efficiency of transportation with persons or the government of a foreign state, or which is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States, or which is exchanged or exported pursuant to an existing international agreement.

PART 756—APPEALS

Sec.

756.1 Introduction.
756.2 Appeal from an administrative action.

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 3 CFR, 1994 Comp., p. 917; Notice of August 15, 1995 (60 FR 42767, August 17, 1995).

§ 756.1 Introduction.

(a) *Scope.* This part 756 describes the procedures applicable to appeals from administrative actions taken under the Export Administration Act (EAA) or the Export Administration Regulations (EAR). (In this part, references to the EAR are references to 15 CFR chapter VII, subchapter C). Any person directly and adversely affected by an administrative action taken by the Bureau of Export Administration (BXA) may appeal to the Under Secretary for reconsideration of that administration action. The following types of administrative actions are not subject to the appeals procedures described in this part 756:

(1) Issuance, amendment, revocation, or appeal of a regulation. (These requests may be submitted to BXA at any time.)

(2) Denial or probation orders, civil penalties, sanctions, or other actions under parts 764 and 766 of the EAR.

(b) *Definitions.* Reserved.

§ 756.2 Appeal from an administrative action.

(a) *Review and appeal officials.* The Under Secretary may delegate to the Deputy Under Secretary for Export Administration or to another BXA official the authority to review and decide the appeal. In addition, the Under Secretary may designate any BXA official to be an appeals coordinator to assist in the review and processing of an appeal under this part. The responsibilities of an appeals coordinator may include presiding over informal hearings.

(b) *Appeal procedures*—(1) *Filing.* An appeal under this part must be received by the Under Secretary for Export Administration, Bureau of Export Administration, U.S. Department of Commerce, Room H–3886C, 14th Street and Pennsylvania Avenue, N.W., Washington, DC 20230, not later than 45 days after the date appearing on the written notice of administrative action.

(2) *Content of appeal.* The appeal must include a full written statement in support of appellant's position. The appeal must include a precise statement of why the appellant believes the administrative action has a direct and adverse effect and should be reversed or modified. The Under Secretary may request additional information that would be helpful in resolving the appeal, and may accept additional submissions. The Under Secretary will not ordinarily accept any submission filed more than 30 days after the filing of the appeal or of any requested submission.

(3) *Request for informal hearing.* In addition to the written statement submitted in support of an appeal, an appellant may request, in writing, at the time an appeal is filed, an opportunity for an informal hearing. The Under Secretary may grant or deny a request for an informal hearing. Any hearings will be held in the District of Columbia unless the Under Secretary determines, based upon good cause shown, that another location would be better.

(4) *Informal hearing procedures.* (i) *Presentations.* The Under Secretary shall provide an opportunity for the appellant to make an oral presentation based on the materials previously submitted by the appellant or made available by the Department in connection with the administrative action. The Under Secretary may require that any facts in controversy be covered by an affidavit or testimony given under oath or affirmation.

(ii) *Evidence.* The rules of evidence prevailing in courts of law do not apply, and all evidentiary material deemed by the Under Secretary to be relevant and material to the proceeding, and not unduly repetitious, will be received and given appropriate weight.

(iii) *Procedural questions.* The Under Secretary has the authority to limit the number of people attending the hearing, to impose any time or other limitations deemed reasonable, and to determine all procedural questions.

(iv) *Transcript.* A transcript of an informal hearing shall not be made,

unless the Under Secretary determines that the national interest or other good cause warrants it, or the appellant requests a transcript. If the appellant requests a transcript, the appellant will be responsible for paying all expenses related to production of the transcript.

(v) *Report.* When the Under Secretary designates another BXA official to conduct an informal hearing, that official will submit a written report containing a summary of the hearing and recommended action to the Under Secretary.

(c) *DecisionsT1(1)—Determination of appeals.* In addition to the documents specifically submitted in connection with the appeal, the Under Secretary shall consider any recommendations, reports, or relevant documents available to BXA in determining the appeal, but shall not be bound by any such recommendation, nor prevented from considering any other information, or consulting with any other person or groups, in making a determination. The Under Secretary may adopt any other procedures deemed necessary and reasonable for considering an appeal. The Under Secretary shall decide an appeal within a reasonable time after receipt of the appeal. The decision shall be issued to the appellant in writing and contain a statement of the reasons for the action.

(2) *Effect of the determination.* The decision of the Under Secretary shall be final.

(d) *Effect of appeal.* Acceptance and consideration of an appeal shall not affect any administrative action, pending or in effect, unless the Under Secretary, upon request by the appellant and with opportunity for response, grants a stay.

PART 758—EXPORT CLEARANCE REQUIREMENTS

Sec.

758.1 Export clearance requirements.
758.2 Use of export license.
758.3 Shipper's Export Declaration (SED).
758.4 Conformity of documents for shipments under export licenses.
758.5 General destination control requirements.
758.6 Destination control statement.
758.7 Authority of the Office of Export Enforcement, the Bureau of Export Administration, Customs offices and Postmasters in clearing shipments.
758.8 Return or unloading of cargo at direction of BXA, the Office of Export Enforcement or Customs Service.
758.9 Other applicable laws and regulations.

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 3 CFR, 1994 Comp., p. 917; Notice of August 15, 1995 (60 FR 42767, August 17, 1995).

§ 758.1 Export clearance requirements.

In this part, references to the EAR are references to 15 CFR chapter VII, subchapter C.

(a) *Responsibility of licensee, exporter and agent.* (1) If you are issued a BXA license, or you rely on a License Exception described in part 740 of the EAR, you are responsible for the proper use of that license or License Exception and for the performance of all of its terms and conditions.

(2) If you export without either a license issued by BXA or a License Exception, you are responsible for determining that the transaction is outside the scope of the EAR or the export is designated as "No License Required" as described in paragraph (a)(3) of this section.

(3)(i) *"No License Required".* Items that are listed on the Commerce Control List (CCL) (Supplement No. 1 to part 774 of the EAR) but that do not require a license by reason of the Country Chart contained in Supplement 1 to part 738 of the EAR, and items designated EAR99 (See § 734.3(c) of the EAR entitled "Scope of the EAR") must be designated as "NLR", or "no license required", on your shipping documents in accordance with the provisions of this part.

(ii) *NLR notation.* Entering the symbol NLR is a representation to the U.S. Government that the items being exported are listed on the CCL but do not require a license by reason of the Country Chart or that they are within the scope of EAR99 (See § 734.3(c) of the EAR entitled "Scope of the EAR"); that they do not require a license under General Prohibitions One (Exports and Reexports), Two (Parts and Components Reexports), or Three (Foreign-produced Direct Product Reexports); that General Prohibitions Four through Ten do not apply to the given export, reexport, or other activity; and that the items are subject to the EAR.

(4) *License Exception symbol.* Entering a License Exception symbol on an export control document is a representation to the U.S. Government that the transaction meets all of the terms and conditions of the License Exception cited. (See part 740 of the EAR for details regarding License Exceptions.)

(5) *Software and technology not subject to the EAR.* If you are exporting software or technology that is outside the scope of the EAR as described in §§ 734.7 through 734.11 of the EAR, you may use the symbol TSPA. Use of this symbol is optional; however, if you enter it on an export control document, you are making a representation to the U.S. Government that the technology or software is outside the scope of the EAR.

(b) *Forwarding agent.*—(1) *Authorizing a forwarding agent.* A forwarding agent is a person the exporter authorizes to perform services that facilitate the export described on the Shipper's Export Declaration (SED). The agent must be authorized to act on behalf of the exporter either for the specific transaction for which the agent is submitting the SED or under a general power of attorney. The Foreign Trade Statistics Regulations of the Bureau of the Census (15 CFR part 30) provide the specific requirements for obtaining authorization as a forwarding agent.

(2) *Forwarding agent as licensee.* If the forwarding agent is appointed at the suggestion of a foreign buyer, the seller may insist that the agent apply for the export license. See § 748.4(a)(1) of the EAR which defines parties to a transaction.

(3) *Record and proof of agent's authority.* The power-of-attorney or other authorization from the exporter must be retained on file in the forwarding agent's office while the authorization is in force and for a period of five years after the last action taken by the forwarding agent under the authority. During this retention period, the forwarding agent must make its delegation of authority from the exporter available for inspection on demand, in accordance with the provisions of § 762.6 of the EAR. This recordkeeping and inspection requirement also applies to any redelegation of the forwarding agent's authority and to any person to whom the forwarding agent redelegates its authority. (For further recordkeeping requirements see part 762 of the EAR).

(c) *Responsibility for compliance.* Acting through a forwarding agent, or other agent or delegation or redelegation of authority, does not relieve anyone of responsibility for compliance with the EAR. Forwarding agents, carriers and others who participate in transactions that are subject to the EAR are also responsible for complying with the EAR.

(d) *Exports by U.S. Mail.*—(1) *Exports made under a license issued by BXA.* Before making an export by U.S. Mail that is authorized by a license issued by BXA, you must enter the license number on the address side of the parcel and submit a properly executed SED to the post office at the place of mailing, when required by the regulations in this part and/or the Foreign Trade Statistics Regulations of the U.S. Bureau of the Census. [1]

(2) *Shipments without a license.* The requirements of this paragraph apply whenever you export items that do not require a license under the EAR. These requirements apply regardless of whether your transaction does not require a license because the item you are going to ship is encompassed with EAR99 (See § 734.3(c) of the EAR entitled "Scope of the EAR"), because the item, although on the list, does not require a license to be exported to the destination to which you intend to ship or because the transaction qualifies for a License Exception as described in part 740 of the EAR.

(i) *Shipments to Canada for consumption therein.* An SED is not required for exports of items to Canada if the items are for consumption in Canada and the export transaction does not require a license from BXA. Note that if the item you are exporting to Canada is controlled by another government agency, the regulations of that agency may require you to file a SED.

(ii) *Shipments to Puerto Rico or U.S. territories or possessions.* Exports of items to Puerto Rico or the U.S. territories or possessions do not require a license issued by BXA. However, the regulations of the Census Bureau (15 CFR part 30) may still require you to file a SED.

(iii) *Shipments valued over $500.* When mailing an item from one business concern to another where the total value of the items being shipped exceeds $500, you must present an executed SED to the post office at the place of mailing unless the EAR or the Bureau of the Census Foreign Trade Statistics Regulations specifically provide an exception to this requirement. If either the exporter or recipient is not a business concern, no SED is required.

(iv) *Designation on SED and/or parcel.* If you are exporting an item that is encompassed within EAR99 (See § 734.3(c) of the EAR entitled "Scope of the EAR"), or one that is listed on the CCL but no license is required to the destination to which you are shipping, or you are exporting pursuant to a License Exception, as described in part 740 of the EAR, you must enter the appropriate symbol indicating the absence of a license requirement either NLR, meaning "No License Required" or the applicable License Exception symbol, on the SED and on the address side of the parcel along with the phrase "Export License Not Required." If your transaction is one for which you are not required to file a SED, you must enter the appropriate symbol NLR, meaning no license required or of the applicable License Exception on the address side of the parcel along with the phrase "Export License Not Required." If you are exporting technology or software that is outside the scope of the EAR as described in § 734.7 through 734.11 you may enter the symbol TSPA.

(A) By entering the symbol NLR you are representing to the U.S. Government that the items you are exporting are listed on the CCL (See Supplement No. 1 to part 774 of the EAR) but do not require a license by reason of the Country Chart (Supplement No. 1 to part 738 of the EAR) or because they are encompassed within the EAR99 (See § 734.3(c) of the EAR entitled "Scope of the EAR"); that they do not require a license under General Prohibitions One (Exports and reexports of controlled items to listed countries), Two (Parts and Components Reexports), or Three (Foreign Produced Direct Product Reexports); that General Prohibitions Four through Ten do not apply to the given export, reexport, or other activity; and that the item is subject to the EAR.

(B) By entering a License Exception symbol, you are representing to the U.S. Government that your transaction meets all of the terms and conditions of the License Exception you are using. (See part 740 of the EAR for details regarding License Exceptions).

(C) By entering the symbol TSPA you are representing to the U.S. Government that the technology or software you are exporting is outside the scope of the EAR.

(v) *Gift parcels.* If you are sending a gift parcel pursuant to the requirements of § 746.16 of the EAR, you must enter the phrase "Gift—export license not required" on any customs declaration documents and on the address side of the parcel.

(vi) *Software and technology.* If you are exporting software or technology, the export of which is authorized under the License Exceptions in § 740.17 through § 740.21 of the EAR, you do not need to make any notation on the package. If you are exporting software or technology that is outside the scope of the EAR, check to see if any other agency's regulations require specific markings on the package.

(3) When you enter any of the symbols or phrases referred to in paragraph (d) of this section on the documents or packages, you are certifying to the post office and to BXA that you are exporting the package in compliance with all of the terms and provisions of an applicable License Exception or other authority to export.

(e) *Exports by means other than U.S. Mail.* (1) When SEDs are required to be submitted, the exporter or the exporter's agent must present a duly executed SED to the exporting carrier before the vessel, aircraft, or overland transport depart.

(i) Exemptions to SED. A SED is not required for:

(A) Any shipment, other than a shipment made under a license issued by BXA, to any country in Country Group B (See Supplement No. 1 to part 740 of the EAR) or to the People's Republic of China if the shipment is valued at $2,500 or less per Schedule B Number. The schedule B number of an item is that shown in the current edition of Schedule B, Statistical Classification of Domestic and Foreign Commodities Exported from the United States. In this § 758.1(e), "shipment" means all items classified under a single Schedule B Number, shipped on the same carrier, from one exporter to one importer. The Foreign Trade Statistics Regulations of the Bureau of the Census (15 CFR part 30) shall govern the valuation of items when determining whether a shipment meets the $2,500 threshold of this § 758.1(e)(1)(i)(A).

(B) Any shipment reported under the provisions of the Monthly Reporting Procedure (§ 758.3(o) of this part); or

(C) Any shipment made under any other exception to the SED requirements found in Subpart D of the Bureau of the Census' Foreign Trade Statistics Regulations. See Supplement No. 1 to this part 758.)

(ii) *Exceptions from SED requirements.* (A) *Statement on shipping documents.* If you are exempt by paragraph (e)(1) of this section from the requirement of filing a SED, the Bureau of the Census Foreign Trade Statistics Regulations (FTSR) (15 CFR 30.50), require you to make a statement on the bill of lading, air waybill, or other loading document describing the basis for the exemption and referencing the specific section of the FTSR where the exemption is provided, unless the exemption is based on value and destination. If the exemption is based on the value and destination of your shipment, you must state the basis for the exemption, but you do not have to cite a reference to the specific section of the FTSR containing the exemption.

[1] The Shipper's Export Declaration (U.S. Department of Commerce form 7525–V) may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or it may be privately printed. Form 7525–V-Alt (Intermodal), must be privately printed. Privately printed forms must strictly conform to the official form in all respects. Samples of these forms may be obtained from the Bureau of the Census, Washington, DC 20233, local Customs offices, and the U.S. Department of Commerce District Offices.

(B) *Monthly reporting procedures.* (*1*) All forwarders or brokers who use the monthly reporting procedures described in FTSR § 30.39 (15 CFR 30.39) on behalf of exporters who are not themselves exempt from the individual filing requirement must also include on the bill of lading, air waybill (including house air waybill), or other loading document either the number of and expiration date of an export license issued by BXA, or the appropriate symbol indicating the inapplicability of an export license requirement (either NLR, meaning "No License Required" or of the applicable License Exception, from part 740 of the EAR).

(*2*) The notation required by paragraph (e)(1)(ii)(B)(*1*) of this section applies to any bill of lading or other loading document, including one issued by a consolidator (indirect carrier) for an export included in a consolidated shipment. However, this requirement does not apply to a "master" bill of lading or other loading document issued by a carrier to cover a consolidated shipment. The bill of lading or other loading document must be available for inspection along with the goods or data prior to lading on the carrier.

(2) *Export carrier SED information.* The exporting carrier, or if none is utilized, the exporter or agent is responsible for the accuracy of the following items of information (where required) on the SED:

(i) Name of carrier (including flag of vessel),

(ii) U.S. Customs port of export,

(iii) Method of transportation,

(iv) Foreign port of unloading,

(v) Bill of lading or air waybill number, and

(vi) Whether or not containerized.

(3) *Exports not requiring a license.* Even if your shipment does not require a license from BXA, it may still require a SED. Before shipping, check the Bureau of the Census Foreign Trade Statistics Regulations for the complete SED requirements.

(f) *Shipments transiting Canada en route to other countries*—(1) *Shipments moving under individual SED.* When an export to a foreign country is made in transit through Canada, and the shipment is one for which an individual SED is required by this part 758, the U.S. exporter must submit to the Canadian Customs authorities at the Canadian port of entry a copy of the U.S. SED, Form 7525–V, certified by the exporter as "A True Copy" of the original SED.

(2) *Shipments for which individual SED are not required.* When an export to a foreign country is made in transit through Canada, and the shipment is one for which an individual SED is not required because:

(i) The forwarder or broker is authorized to report export information to Census by means other than an individual SED; or

(ii) The shipment qualifies for a specific exemption (listed in Subpart D of the Census Bureau Foreign Trade Statistics Regulations), the forwarder or broker must include the number of and expiration date of the license issued by BXA, or the appropriate symbol indicating the inapplicability of an export license requirement (either NLR, meaning "No License Required" of the applicable License Exception from part 740 of the EAR on the bill of lading or other loading document as directed in paragraph (e)(2) of this section). The bill of lading or other loading document properly annotated with respect to the FTSR SED exemption or exception, along with the license authorization, when required, must be displayed to the Canadian Customs authorities at the Canadian port of entry and a copy provided, if requested by the Canadian authorities.

§ 758.2 Use of export license.

(a) *License valid for shipment from any port.* A license issued by BXA authorizes exports from the United States from any U.S. port of export unless the license notes otherwise. Items that leave the United States at one port, cross adjacent foreign territory, and reenter the United States at another port before final export to a foreign country will be treated as an export from the last U.S. port of export.

(b) *Shipments against expiring license.* (1) Any item that has not departed from the last U.S. port of export by midnight of the expiration date of the license may not be exported under that license unless the shipment meets the requirements of paragraph (b)(1)(i) or (ii) of this section.

(i) BXA grants an extension; or

(ii) Prior to midnight of the expiration date of the license, the items:

(A) Were laden aboard the vessel; or

(B) Were located on a pier ready for loading and not for storage, and were booked for a vessel that was at the pier ready for loading; or

(2) When the vessel is expected to be available at the pier for loading before the license expires, but exceptional and unforeseen circumstances delay it, the items may be exported without an extension of the license, if in the judgment of the U.S. Customs Service or BXA, undue hardship would otherwise result.

(c) *Reshipment of undelivered items.* If the consignee does not receive an export made under a license because the carrier failed to deliver it, the exporter may reship the same or an identical item subject to the same limitations as to quantity or value as described on the license to the same consignee and destination under the same license. Before reshipping, the exporter must submit to the OEXS satisfactory evidence of the original export and of the delivery failure, together with a satisfactory explanation of the delivery failure. If an item is to be reshipped to any person other than the original consignee, the shipment is deemed to be a new export and is subject to all current EAR regarding the specific item and destination.

§ 758.3 Shipper's Export Declaration (SED).

(a) *SED presentation requirement.* Both the Foreign Trade Statistics Regulations of the Census Bureau (15 CFR part 30) and these Export Administration Regulations require that SED's be submitted to the U.S. Government. There are a few exceptions to this rule, but if you are required to submit a SED you must prepare it in accordance with the rules of the Foreign Trade Statistics Regulations (FTSR) and present the number of copies specified in the FTSR at the port of export.

(b) *SED is a statement to the U.S. Government.* Your SED is a statement to the U.S. Government in which you assert that all of the information shown on the SED is true. You may execute and submit the SED only if you are the exporter or the duly authorized forwarding agent of an exporter.

(c) *Limitation on time when SED may be used.* No one may use a SED to export, or facilitate or effect an export, after the expiration of the applicable license or after the termination of the applicable License Exception or provisions of the EAR that authorize export without a license, except as provided in § 750.7(f) (License validity period) of the EAR and § 758.2(b) (Shipments against expiring license) of this part.

(d) *Additional copies of the SED.* You are required to submit additional copes of the SED when:

(1) BXA or one of its component offices asks you to send it copies of the SED for exports:

(i) Authorized by a license (see paragraph (l) of this section);

(ii) Authorized by a Special Comprehensive License (see § 752.16(a)(5) of the EAR; or

(iii) The items are controlled for short supply reasons (see part 754 of the EAR); or

(iv) Required by § 758.1(f) (shipments transiting Canada) of this part.

(2) [Reserved]

(e) *Statements on SED.* Whenever a SED is presented to a carrier, a customs office, or a postmaster, the exporter represents that:

(1) All statements and information on the SED have been furnished by the exporter or on the exporter's behalf to effect an export under the provisions of the EAR;

(2) Export of the items described on the SED is authorized under the "No License Required" provisions of the EAR as described in § 758.1(a) of this part, a License Exception described in part 740 of the EAR or the license identified on the SED;

(3) Statements contained on the SED are consistent with the contents of the license or the terms, provisions, and conditions of the applicable License Exception or of the applicable "No License Required" provisions of the EAR as described in § 758.1(a) of this part; and

(4) All other terms, provisions, and conditions of the EAR applicable to the export have been met.

(f) *Items that may be listed on the same SED.* (1) *General.* Except as described in paragraph (f)(2) of this section, more than one item may be listed on the same SED provided they are contained in one shipment on board a single carrier and are going from the same exporter to the same consignee. Even if some of the items are being shipped under authority of a license and others under a License Exception or the "No License Required" provisions of the EAR (as described in § 758.1(a) of this part), they may still be shown on one SED. For the second and subsequent authorizations used, the applicable license number and expiration date, License Exception symbol, or the "No License Required" symbol (NLR) must be shown along with the descriptions (including quantity, if required, Schedule B Number, and value) to which each authorization applies, in the designated spaces on a separate SED Continuation Sheet. The following apply for notations made on SED:

(i) Entering the license number and expiration date is a representation to the U.S. Government that the transaction is authorized by the license cited.

(ii) Entering a License Exception symbol, or "NLR" is a representation to the U.S. Government that the shipment meets one of the applicable provisions of paragraph (a)(3) of § 758.1 of this part.

(2) *Exception.* Separate SED's must be prepared and presented for each vehicle when more than one vehicle is used to make the shipment. Customs Directors may waive this requirement if a shipment is made under a single bill of lading or other loading document and all the items listed on the SED are cleared simultaneously.

(g) *Schedule B number and item description*—(1) *Schedule B number.* You must enter the Schedule B number, as shown in the current edition of Schedule B, Statistical Classification of Domestic and Foreign Commodities Exported from the United States, in the designated column of the SED regardless of whether the shipment is being exported under authority of a license issued by BXA, a License Exception described in part 740 of the EAR, or the "No License Required" provisions of the EAR as described in § 758.1(a) of this part.

(2) *Item description for exports under a license.* (i) *General.* If your export is being made under the authority of a license issued by BXA, you must enter the item description shown on the license on the SED. However, if part of the description on the license is underlined, you need place only the underlined portions on the SED. The item description on the license will be stated in CCL terms, which may be inadequate to meet Census Bureau requirements. In this event, the item description you place on the SED must give enough additional detail to permit verification of the Schedule B number (e.g., size, material, or degree of fabrication).

(ii) *Distinguishing characteristics or specifications.* If a commodity classification in Schedule B has instructions such as "specify by name," "state species," etc., you must furnish that information in the column of the SED provided for the commodity description. When a single SED covers more than one item classifiable under a single classification carrying the "specify by name" or similar requirement, you must enter each item separately in this column. However, if more than five items are involved, all classifiable under one Schedule B number, only the five items of greatest value in the classification need be shown separately. Separate quantities, values, and shipping weights for individual items are not required in either case.

(3) *Item description for License Exception shipments or shipments for which no license is required.* For items that may be exported under the authority of a License Exception, or under the "No License Required" provisions of the EAR (as described in § 758.1(a) of this part), you must enter a description in sufficient detail to permit review by the U.S. Government and verification of the Schedule B number entered on the SED.

(h) *License number or other authorization designation. (1) Exports under authority of a license issued by BXA.* You must show the license number and expiration date, the Export Control Classification Number (ECCN) and the item description, in the designated spaces of a SED covering an export under a license issued by BXA (The space for the item description on the SED form may be headed "commodity description"). If you intend to include other items on the SED that may be exported under a License Exception, or under the "No License Required" provisions of the EAR, (as described in § 758.1(a) of this part) you must show the License Exception or "NLR" symbol, along with the specific description (quantity, Schedule B, value) of the item(s) to which the authorization applies in the designated spaces on a separate SED continuation sheet.

(2) *Exports not needing a license.* In addition to the item description, the appropriate License Exception symbol, or the "No License Required" symbol (NLR) must be shown in the appropriate column of each SED or SED continuation sheet covering a shipment under authority of a License Exception (see part 740 of the EAR), or "No. License Required" provisions of the EAR (as described in § 758.1(a) of this part). If several authorizations are to be listed on one SED, the SED and continuation sheets must be completed as described in paragraph (f)(1) of this section. If the item(s) will be exported under the provisions of LST (License Exceptions GBS, CIV, LVS) or under the "NLR" provisions of the EAR (as described in § 758.1(a) of this part) and the item(s) are covered by entries on the Commerce Control List that have the column identifier "NS Column 2" controlled for "NS" reasons, the ECCN must also be shown in the designated space on the SED or SED continuation sheet. The following apply for notations made on SED:

(i) Entering the license number and expiration date is a representation to the U.S. Government that the transaction is authorized by the license cited.

(ii) Entering a License Exception symbol, or "NLR" is a representation to the U.S. Government that the shipment meets one of the applicable provisions of paragraphs (a)(3) through (a)(4) of § 758.1 of this part.

(3) If you are exporting technology or software that is outside the scope of the EAR as described in §§ 734.7 through 734.11 of the EAR, you may enter the symbol TSPA on the SED. Use of this

symbol is optional, however, if you enter it, you are representing to the U.S. Government that the software or technology you are exporting is outside the scope of the EAR.

(i) *Optional ports of unlading.* (1) *Applicability.* If, prior to the departure of the exporting carrier, the exporter does not know at what port the shipment will be unloaded, the exporter may designate optional ports of unlading on the SED and bill of lading or air waybill in accordance with the provisions of this paragraph. There are restrictions on the countries in which these optional ports may be located. The restrictions depend on whether the export is authorized under the "No license Required" provisions of the EAR (as described in § 758.1(a) of this part), the License Exceptions described in part 740 of the EAR, or a license (See paragraph (j)(3) of this section).

(2) *Exemptions.* You may never designate an optional port of unlading for a shipment destined directly or indirectly to Country Group D:1 in Supplement No. 1 to part 740 of the EAR (except for the People's Republic of China), Libya, Cuba, or North Korea.

(3) *Shipments for which no license is required or which are authorized by a License Exception.* (i) For exports under the authority of the "No License Required" provisions of the EAR (as described in § 758.1(a) of this part), if the exporter does not know which of several countries in Country Group B or the People's Republic of China is the country of ultimate destination, the exporter may name optional ports of unlading in one or more of these countries.

(ii) When an export under any License Exception is shipped in transit through a country other than the country of ultimate destination, the exporter may designate optional ports of unlading in one or more countries, together with the name and address of the intermediate consignee in each country designated.

(4) *Restrictions on optional ports of unlading.* The optional ports of unlading, which the exporter designates on the SED pursuant to paragraph (i)(3)(i) of this section, must be in a country to which the item being unloaded may be exported directly from the United States under the same or another applicable "No License Required" provision of the EAR (described in § 758.1(a) of this part), or License Exception contained in the EAR.

(5) *Shipments under a license issued by BXA.* For exports under a license, optional ports of unlading are restricted to the country of ultimate destination, unless either the transaction complies with the provisions of § 750.7 of the EAR dealing with continuity of shipments, or the license designates intermediate consignees in other countries. In the latter case, the optional ports of unlading must be designated as optional intransit points on the SED, or if there is no SED, on the Shipper's Letter of Instructions, or, if there is neither, the optional port of unlading must appear on another document containing instructions that the exporter conveys (either directly or through an agent) to the carrier, and on the bill of lading or air waybill.

(6) *Correcting the SED.* As soon as the exporter, or the exporter's forwarding agent or carrier determines at which port the shipment is to be unloaded (whether in the country of ultimate destination or in a country of transit), that person must correct the SED to show the specific port of unloading and the name and address of the intermediate consignee to whom delivery is to be made. An intermediate consignee must be shown if the port of unloading is located in a country other than the country of destination. If the export is unloaded at more than one port, the quantity and value unloaded at each port and the name and address of each intermediate consignee must be given. The procedures for correcting and filing SEDs may be found in paragraph (n) of this section.

(j) *Signature on SED.* The exporter or the exporter's authorized forwarding agent, or an authorized employee of either, may sign the SED. In general, the requisite authority rests with employees who, by their official titles, are apparently vested with power to deal with exports, such as export managers or such corporate officers as the president, vice president, treasurer, and secretary of a corporation, any partner of a partnership, and any responsible head of any other form of private or quasi-governmental organization, and assistant officers. The signature of such person, whether that of the exporter or authorized agent or employee, constitutes a representation by the exporter that all statements and information in the SED are true and correct. In addition, if the signature is that of the forwarding agent, or the forwarding agent's duly authorized officer or employee, such signature constitutes a like representation by the forwarding agent.

(k) *Attachment to SED.* (1) If you need additional space for any information on the SED, you may use additional copies of the SED or copies of the continuation sheet. In such cases, only one SED need be signed. You must number the additional sheets in sequence and securely attach them to the executed SED. You must insert the following statement on the last line of the description line of the SED form itself:

This SED consists of this sheet and _____ continuation sheets.

(2) No portion of any form attached as a continuation sheet may be torn off or removed.

(l) *Special requirements for additional information and documents.* (1) A license may bear on its face a requirement to submit a SED or other documents (or information) to the Office of Export Enforcement in addition to that furnished when the application was filed. The exporter and the person submitting the documents represent that the documents are complete, truthful and accurate. The Export Administration Regulations prohibit the making of false representations to the U.S. Government in any export control matter (see § 764.2(g) of the EAR). The licensee must furnish the documents to: Office of Export Enforcement, Room H–4520, U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230.

(2) When required, the licensee must:

(i) Prepare one copy of the SED in addition to the number of copies otherwise required;

(ii) Enter the additional information called for by the license in the space between the column provided for marks and numbers of the shipment and the column provided for its value on all copies of the SED; and

(iii) Unless otherwise specified on the license, attach the required documents (either original or certified copy) to the extra copy of the SED.

(m) *SED for shipments moving in-transit.* (1) *Applicability.* Use the SED for In-transit Goods, Commerce Form 7513,[2] for the following types of transactions:

(i) Items departing the United States by vessel, which transited through, or transshipped in, ports of the United States, destined from one foreign country or area to another.

(ii) Foreign merchandise exported from a General Order Warehouse and the export of foreign-origin merchandise that was rejected after government inspection or examination. Shipments in bond transiting the United States being exported by means of any carrier other than a vessel may be cleared for export without presenting a Form 7513, unless a license is required for the export.

[2] Form 7513 may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, the local customs offices, or may be privately printed.

(2) *Exports from Foreign Trade Zones.* You may not use Form 7513 for any exports from Foreign Trade Zones. Such shipments require the filing of the SED (Form 7525–V), unless otherwise exempted, with the applicable zone number reported on the Document.

(3) *Additional information.* The following additional information must be entered on a SED for In-transit Goods:

(i) The name and address of the intermediate consignee in a foreign destination, if any, must be shown below the description of the items.

(ii) Underneath the name and address of the intermediate consignee, one of the following statements, whichever is appropriate, must be entered:

(A) For intransit shipments of foreign-origin merchandise (see part 772 of the EAR for a definition of "foreign-origin,"), enter the following statement:

The merchandise described herein is of foreign-origin.

(B) For intransit shipments of domestic (U.S.) merchandise, enter the following statement:

The merchandise described herein is of the growth, production, or manufacture of the United States.

(C) For intransit shipments of items of U.S.-origin eligible for License Exception TUS (See § 740.9 of the EAR), enter the following statement:

The merchandise described herein is of the growth, production, or manufacture of the United States, but has been so altered by further processing, manufacture, or assembly in a foreign country that it has either been substantially enhanced in value, or has lost its original identity with respect to form.

(iii) The items must be described in terms of Schedule B, including the appropriate Schedule B number.

(4) See § 30.8 of the Foreign Trade Statistics Regulations (15 CFR 30.8) for additional requirements concerning the information that must be placed on a SED for In-transit Goods.

(n) *Correction, change, alteration, or amendment of SED.* (1) *Methods of changing SED's.* The exporter or the exporter's agent must report corrections, cancellations, additions or amendments to information reported on SEDs to the Customs Director at the port of exportation (or, in the case of mail shipments, to the Postmaster at the post office where the shipment was mailed) as soon as the need for such changes is determined. See the Foreign Trade Statistics Regulations (15 CFR part 30) for additional information about how to correct SEDs and file the corrections. If you are required by paragraph (l) of this section to file a copy of the original SED with the Office of Export Enforcement (OEE), a copy of the changed SED should be sent to OEE at the address shown in paragraph (l) of this section with the words "Correction Copy" conspicuously shown in the upper right portion of the form.

(2) *Responsibility.* Nothing in this section relieves you or any person or firm making changes on the SED from responsibility for any such changes. Acceptance of a changed SED by the Customs office does not imply approval of any act involved in the shipment or acceptance of the truth or accuracy of the information provided.

(o) *Summary monthly reports in lieu of individual SED's.* (1) *Scope.* This paragraph contains only basic information about the monthly filing procedures for the SED. Details of the procedure may be found in § 30.39 of the Foreign Trade Statistics Regulations (FTSR) of the Bureau of the Census (15 CFR 30.39). Exporters interested in the procedure should consult § 30.39 of the FTSR to ascertain qualifications, how to apply for the privilege of participating, how to file electronically after approval is given, and other pertinent facts.

(2) *Applicability.* Approved parties may file monthly SEDs with the Bureau of the Census for export to destinations in Country Groups B and D:1 (see Supplement No. 1 to part 740 of the EAR).

(3) *How to request monthly reporting privileges.* (i) *Addresses.* (A) A request for the privilege of participating in monthly reporting procedures should be forwarded to: Foreign Trade Division, Bureau of the Census, Washington, D.C. 20233.

(B) A copy of all requests must be sent to: Office of Export Enforcement, Room H–4616, U.S. Department of Commerce, 14th St. and Constitution Ave., NW., Washington, DC 20230.

(ii) *Certification requirements.* The request must include the following certification by the applicant:

I (We) certify that I (we) have established adequate internal procedures and safeguards to assure compliance with the requirements set forth in the U.S. Department of Commerce Export Administration Regulations and Foreign Trade Statistics Regulations. Among other things, these procedures and safeguards assure:

(1) A proper determination as to whether a license is required for a particular export;

(2) Actual receipt of the export license, if required, before the shipment is exported;

(3) Compliance with all the terms of the license, License Exception, or NLR provisions of the EAR as applicable;

(4) Return of licenses to BXA in accordance with § 750.8(b) of the Export Administration Regulations, if requested;

(5) Compliance with the destination control statement provisions of §§ 758.5 and 758.6 of the Export Administration Regulations;

(6) Compliance with the prohibition against export transactions that involve persons who have been denied U.S. export privileges; and

(7) Compliance with the recordkeeping requirements of part 762 of the EAR and, in addition, I (we) agree that my (our) office records will be made available for inspection by the Bureau of the Census, BXA or the U.S. Customs Service, upon request, to verify that a given shipment was properly included in a particular monthly report.

(4) *Exporter's agent.* If the exporter intends to authorize a forwarding agent to file electronically on the exporter's behalf, the exporter's request must include the name and address of each such forwarding agent.

(5) *Authorization by Census to use monthly reporting procedure.* Any authorization to file summary monthly reports in lieu of individual SEDs may be granted only by the Bureau of the Census with the concurrence of BXA.

(6) *Export clearance.* (i) *Destination control statement.* In addition to the exporter's responsibility for assuring that the proper destination control statement is placed on the commercial invoice as required by § 758.6 of this part, the exporter or the exporter's forwarding agent is responsible for assuring that the carrier places the proper destination control statement on the related bill of lading or air waybill.

(ii) *Detention and examination.* Shipments being reported under the summary filing procedure described in this paragraph are subject to inspection, examination and detention, as provided in § 758.7 of this part, whenever an official of BXA, a customs officer, or a postmaster deems such action necessary to assure compliance with the EAR.

(7) *Revocation of authorization.* An authorization to file summary monthly reports in lieu of individual SED's, granted under the provisions of § 30.39 of the Foreign Trade Statistics Regulations (15 CFR 30.39) and this paragraph, may be revoked, suspended, or revised at any time.

(8) *Effect of other provisions.* Insofar as consistent with the provisions of this paragraph that relate specifically to filing electronically in lieu of individual SED's, the other provisions of this part 758 apply to exports reported under this procedure.

§ 758.4 Conformity of documents for shipments under export licenses

(a) *Applicability.* The rules of conformity in this section apply to shipping documents used in connection with any shipment under the authority

of a license issued by BXA except "master" air waybills issued by consolidators. These rules apply to any individual air waybill issued by a consolidator (indirect carrier) for an export included in a consolidated shipment and to any air waybill issued by anyone in connection with an export not included in a consolidated shipment.

(b) *Compliance.* You may not issue, prepare, or procure a bill of lading that is contrary to the provisions of this section. Officials of BXA and the U.S. Customs Service are authorized to require any document or to use any other appropriate methods to ensure compliance with the rules of conformity in this section.

(c) *Rules of conformity.* (1) *General.* The following documents must be consistent with each other:

(i) The license issued by BXA;

(ii) One of the following applicable documents:

(A) The SED;

(B) If there is no SED, the Shipper's Letter of Instructions; or

(C) If there is neither, another document containing instructions that the exporter conveys (either directly or through an agent) to the carrier; and

(iii) The outbound bill of lading (including a railroad through bill of lading) covering a particular export shipment must be consistent with one another.

(2) *Signs of inconsistent documents.* The bill of lading, whether in negotiable or nonnegotiable form, is not consistent with those other documents if:

(i) It does not provide for delivery of the shipment (cargo) at a port located in the country of either the ultimate or intermediate consignee named in the documents described in paragraph (c)(1)(ii) of this section;

(ii) It contains any indication that the shipment is intransit to a country of ultimate destination different from that named in the appropriate one of the documents described in paragraph (c)(1)(ii) of this section, or that the shipment is not for consumption in such country of ultimate destination. For example, it would be inconsistent to consign a shipment to the ultimate destination with a qualifying phrase indicating the shipment is "in transit" at that destination, or to consign the shipment to a free zone or free port;

(iii) It names as shipper any person other than the licensee (the person to whom a license is issued) or the licensee's duly authorized forwarding agent. Where shipments from more than one licensee are consolidated on a single bill of lading, the shipper named on the bill of lading must also appear as the authorized forwarding agent for each exporter on each document described in paragraph (c)(1)(ii) of this section.

(iv) The name and address of the ultimate consignee are not shown either in the space provided for "consignee" or in the body of the bill of lading under the caption "ultimate consignee and notify party" or, in the case of the air waybill, under the caption "also notify." However, where shipments to more than one ultimate consignee are consolidated on one bill of lading and not all are shown in the body of the bill of lading, the name of the intermediate consignee (customs broker or consolidator's agent in the foreign country) who will receive and distribute the items to the ultimate consignees must appear on the bill of lading, the export license(s), and documents listed in paragraph (c)(1)(ii) of this section.

(3) *Additional rules for negotiable bills of lading.* A negotiable bill of lading (an "order" bill of lading) is deemed consistent with the appropriate one of the documents described in paragraph (c)(1)(ii) of this section only if the consignee or order party named on the bill of lading is also named in the SED, the Shipper's Letter of Instructions or the other document.

(i) Sometimes "order" bills of lading consign the items they cover to the order of the shipper, to the order of an intermediate consignee such as a bank, foreign freight forwarder, or other intermediary, or to the order of a purchaser who is not the same person as the ultimate consignee. An "order" bill of lading issued in any of these forms constitutes a representation by the shipper that:

(A) The items covered by the appropriate one of the documents described in paragraph (c)(1)(ii) of this section and bill of lading are ultimately destined to the ultimate consignee stated on the license;

(B) The "order" bill of lading has not been used for the purpose of evading the terms and conditions of the license; and

(C) Pursuant to the contract of carriage, the items will be delivered at a port located in the country of the ultimate consignee or of the intermediate consignee named on the appropriate one of the documents described in paragraph (c)(1)(ii) of this section.

(ii) [Reserved]

(4) *Item description.* On the bill of lading the items may be described in terms of the freight tariff classification or other type of classification, but may not be inconsistent with the description shown on the appropriate one of the documents described in paragraph (c)(1)(ii). These documents must include the same item description as shown on the related license, and, in addition, it must include more detailed information where required by the Bureau of the Census.

(5) *Carrier's manifest.* If the carrier's outward foreign manifest filed with the U.S. customs office contains the names of shippers or consignees, these names must not be inconsistent with the names shown on the bill of lading and the appropriate one of the documents described in paragraph (c)(1)(ii) of this section.

§ 758.5 General destination control requirements

(a) *Scope.* This section sets forth some actions the parties to a transaction authorized by a license issued by BXA are prohibited from taking. The purpose of these prohibitions is to prevent items licensed for export from being diverted while in transit or thereafter. It also sets forth the duties of the parties when the goods are unloaded in a country other than that of the ultimate consignee or intermediate consignee as stated on the export license.

(b) *Destination on bill of lading or air waybill*—(1) *Requirements to prevent diversions.* (i) *Statements on bill of lading or air waybill.* (A) A carrier (or any other person on behalf of any carrier) may not issue a bill of lading or air waybill providing for delivery of cargo at any foreign port located outside the country of the ultimate consignee, or the intermediate consignee, named on the appropriate one of the documents described in § 758.4(c)(1)(ii) of this part.

(B) *Optional ports on bill of lading or air waybill.* No carrier may issue a bill of lading or air waybill providing for delivery of cargo at optional ports to the ultimate consignee named on one of the appropriate documents described in § 758.4(c)(1) (i) and (ii) of this part where one of such optional ports is not in the country of ultimate destination named on the license or SED, or if there is no SED, the Shipper's Letter of Instructions, or if there is neither, another document containing instructions that the exporter conveys (either directly or through an agent) to the carrier, without prior written authorization from BXA. However, where the appropriate document described in § 758.4(c)(1) (i) and (ii) of this part provide for delivery of cargo to optional intermediate consignees located in ports in different countries, the carrier may issue a bill of lading or air waybill providing for delivery at such optional ports.

(ii) [Reserved]

(2) *Delivery of cargo.* No carrier may deliver cargo to any country other than the country of the ultimate consignee, or the intermediate consignee, named on the appropriate one of the documents described in § 758.4(c)(1)(ii) of this part at the request or option of the shipper, consignor, exporter, purchaser, or ultimate consignee, or their agents, or any other person having custody or control of the shipment, without prior written authorization from BXA to the carrier or its agent.

(c) *Duties when items are unloaded in a unauthorized country.* If the items are unloaded in a country other than that of the intermediate or ultimate consignee as stated on the appropriate one of the documents described in § 758.4(c)(1)(ii) of this part, the procedures described in this paragraph must be followed.

(1) *Reasons beyond carrier's control.* Nothing contained in the EAR shall be deemed to prohibit a carrier from unloading cargo at a port outside the country of intermediate or ultimate destination shown on the appropriate one of the documents described in § 758.4(c)(1)(ii) of this part, where for reasons beyond the control of the carrier (as set forth in the standard provisions of the carrier's bill of lading or air waybill, such as acts of God, perils of the sea, damage to the carrier, strikes, war, political disturbances, or insurrections), it is not feasible to deliver the cargo at the licensed port of destination.

(2) *Required actions for unscheduled unloading.* (i) If the item is unloaded in a country to which that item may be exported without a license issued by BXA, no one is required to notify BXA of the unloading. The exporter may dispose of the items in that country without approval of BXA. When making such a disposition you must still comply with any conditions or requirements of the License Exception or other provisions of the EAR that would authorize the export of the item being unloaded to the country in which you are disposing of it, and any regulations of other government agencies that apply to the transaction. This paragraph does not authorize anyone to take any action with knowledge that a violation of the Export Administration Act, the EAR, or any order, license or authorization issued thereunder, has occurred, is about to occur or is intended to occur, or to deliver to a denied party or to take any other action prohibited by the EAR.

(ii) If a license issued by BXA would be required to export the item to the country in which it is unloaded:

(A) No person may take any steps to effect delivery or entry of the items into the commerce of the country where unloaded without prior approval of BXA;

(B) The carrier must take steps to assure that the items are placed in custody under bond or other guaranty not to enter the commerce of such country or any country other than the countries of the ultimate and intermediate consignees shown on the appropriate one of the documents described in § 758.4(c)(1)(ii) of this part, without prior approval of BXA;

(iii) The carrier, the carrier's agent located in the United States, and the exporter each have specific responsibilities to notify BXA regarding any unscheduled unloading. The specific responsibilities of each party are as follows:

(A) The carrier must, within 10 days after date of unloading, report the facts to the nearest American Consulate and to the agent of the carrier located in the United States. Within 10 days after receipt of such report, the agent must send a copy of the report to BXA. The report must include:

(*1*) A copy of the manifest of such diverted cargo;

(*2*) A statement of the place of unloading; and;

(*3*) The name and address of the person in whose custody the items were delivered.

(B) BXA will inform the exporter of the unloading. Within 10 days following receipt of this notice, the exporter must inform BXA of the proposed disposition of the items. The exporter may not dispose of the items without approval of BXA.

§ 758.6 Destination control statement

(a) *Requirement for destination control statement.* (1) The destination control statement shown in paragraph (b) of this section must be entered on all copies of the bill of lading, the air waybill and the commercial invoice covering any export from the United States if:

(i) The export is made under authority of a license, including the Special Comprehensive License;

(ii) The export is made under the authority of the following License Exceptions: LST (GBS, CIV, LVS), RPL (PTS, SNR), and TMP (TMP, TUS); or

(iii) The export is made under the "No License Required" provisions of the EAR (as described in § 758.1(a) of this part) if the reason for control of the item as stated in the entry on the CCL is NS or NP.

(2) An exporter or the exporter's agent may enter a destination control statement on the shipping documents for exports for which no destination control statement is required.

(b) *Text of destination control statement.*

These commodities, technology or software were exported from the United States in accordance with the Export Administration Regulations. Diversion contrary to U.S. law prohibited.

(c) *Additional destination information.* In addition to the destination control statement, an exporter or exporter's agent may supply additional information on the shipping documents, including the country(ies) to which export or reexport is authorized.

(d) *Permissive reexports.* If reexport or diversion from the original transaction is contemplated and the change from the original transaction is consistent with the license, License Exception, the NLR provisions of the EAR or other authorization and with all other requirements of the EAR, the exporter may so advise its foreign importer without obtaining further authorization from BXA.

(e) *Responsibility for assuring that the destination control statement is used*—(1) *Exporters.* The exporter is responsible for assuring entry of the destination control statement on the commercial invoice, regardless of whether the exporter actually prepares this document. The exporter has this responsibility even if the invoice is prepared by an order party or the exporter acts through an agent.

(2) *Agents of exporters (forwarding agents).* Agents of exporters are also responsible for assuring entry of the destination control statement on the commercial invoice.

(i) If the agent receives from the exporter a copy of a commercial invoice without the correct destination control statement, the agent must:

(A) Notify the exporter in writing;

(B) Request written assurance from the exporter that:

(*1*) The destination control statement has been properly entered on all other copies of the commercial invoice; and

(*2*) Any person who received an invoice without the statement has been informed in writing of the restrictions in the statement;

(ii) And either:

(A) Enter the appropriate statement on the agent's copy of the invoice; or

(B) Return it to the exporter for completion; and

(iii) Keep and make available for inspection, in accordance with part 762 of the EAR, a copy of that person's notification to the exporter and the original of the exporter's assurance required by paragraph (e)(2)(i) of this section. (For further recordkeeping requirements, see part 762 of the EAR.)

(iv) If the agent prepares the invoice, the agent's responsibilities are governed by paragraph (e)(3) of this section.

(3) *Forwarders, carriers and other parties who prepare invoices.* If a forwarder, a carrier acting as a forwarder, or any other party prepares, presents, and/or executes the invoice, the forwarder, carrier, or other party is also responsible for assuring that an appropriate statement is entered on the invoice.

(4) *Carriers and other parties who issue bills of lading or air waybills.* The carrier, or any other party that issues the bill of lading or air waybill, is responsible for assuring that the destination control statement appearing on the corresponding invoice also appears on the bill of lading or air waybill.

(f) *Responsibility for distributing copies of the invoice.* The exporter or other person issuing any invoice containing a destination control statement must send copies in a manner which assures their arrival either with or prior to arrival of the items being exported to:

(1) The ultimate consignee and the purchaser named in the SED;

(2) The intermediate consignee; and

(3) Any other persons named in the invoice who are located in a foreign country. Nothing contained in this part shall be construed to limit the persons or classes of persons to whom such invoices, bills of lading or air waybills are usually and customarily sent in the course of export trade. The shipper or other person issuing the commercial invoice may comply with the requirements of this section even if the copy of the invoice sent to any of the persons listed in paragraphs (f)(1) or (2) this section omits all reference to price or sales commission provided such invoice otherwise adequately identifies the shipment. As an alternative in lieu of a copy of the commercial invoice, such person may send a copy of the bill of lading or air waybill containing the destination control statement.

(g) *Requirements for bill of lading or air waybill.* (1) *General.* No carrier may issue (and no one may prepare or procure) a bill of lading or air waybill covering an export for which a destination control statement is required under the provisions of paragraph (a) of this section, unless all copies of such bill of lading or air waybill (including all non-negotiable and office copies) contain the destination control statement in clearly legible form.

(2) *Exception for "master" air waybills.* In the case of shipments by air (other than airmail or air parcel post), the requirement of paragraph (e)(2)(i) of this section applies to any air waybill, including one issued by a consolidator (indirect carrier) for an export included in a consolidated shipment. However, the provisions of paragraph (f) of this section do not apply to a "master" air waybill issued by a carrier to cover a consolidated shipment.

(h) *Requirements for the commercial invoice.* No licensee, shipper, consignor, exporter, agent, or any other person may prepare or issue a commercial invoice for a shipment for which a destination control statement is required under the provisions of paragraph (a) of this section, unless all copies of the invoice(s) contain the statement in clearly legible form.

(i) *Carrier's responsibility before releasing cargo.* No carrier may release custody of a shipment covered by the provisions of this section to any party without surrender by that party, to the carrier, of a copy of the bill of lading or air waybill bearing on its face the applicable destination control statement, unless either:

(1) Simultaneously with the release, the carrier delivers to such party a written copy of the destination control statement, contained in the carrier's copy of the bill of lading or air waybill for the shipment. The written copy must identify the shipment by bill of lading or air waybill number, name of carrier, voyage or flight number, date, and port of arrival. The carrier must also secure either a signed receipted copy of the written statement or other equivalent written evidence that the statement has been delivered by the carrier; or,

(2) The regulations of the importing country require the carrier to deliver the items directly into the physical possession and control of customs or other government agency for delivery to the consignee or the consignee's agent. In this case, the carrier need not give to, or receive from, the customs or other government agency, or the consignee or the consignee's agent, any document bearing the destination control statement.

§ 758.7 Authority of the Office of Export Enforcement, the Bureau of Export Administration, Customs offices and Postmasters in clearing shipments

(a) *Actions to assure compliance with the EAR.* Officials of BXA, the Office of Export Enforcement, the U.S. Customs Service and postmasters, including post office officials, are authorized and directed to take appropriate action to assure compliance with the EAR. This includes assuring that:

(1) Exports without a license issued by BXA are either outside the scope of the license requirements of the Export Administration Regulations or authorized by a License Exception; and

(2) Exports purporting to be authorized by licenses issued by BXA are, in fact, so authorized and the transaction complies with the terms of the license.

(b) *Types of actions.* The officials designated in paragraph (a) of this section are authorized to take the following types of actions:

(1) *Inspection of items.* (i) *Purpose of inspection.* All items declared for export are subject to inspection for the purpose of verifying the items specified in the SED, or if there is no SED, the bill of lading or other loading document covering the items about to be exported, and the value and quantity thereof, and to assure observance of the other provisions of the Export Administration Regulations. This authority applies to all exports within the scope of the Export Administration Act or Export Administration Regulations whether or not such exports require a license issued by BXA. The inspection may include, but is not limited to, item identification, technical appraisal (analysis), or both.

(ii) *Place of inspection.* Inspection shall be made at the place of lading or where officials authorized to make those inspections are stationed for that purpose.

(iii) *Technical identification.* Where, in the judgment of the official making the inspection, the item cannot be properly identified, a sample may be taken for more detailed examination or for laboratory analysis.

(A) *Obtaining samples.* The sample will be obtained by the official making the inspection in accordance with the provisions for sampling imported merchandise. The size of the sample will be the minimum representative amount necessary for identification or analysis. This will depend on such factors as the physical condition of the material (whether solid, liquid, or gas) and the size and shape of the container.

(B) *Notification to exporter and consignee.* When a sample is taken, the exporter (or the exporter's agent) and the ultimate consignee will be notified by letter from one of the official designated in paragraph (a) of this section, showing the port of export, date of sampling, export license number (if any) or other authorization, invoice number quantity of sample taken, description of item, marks and packing case numbers, and manufacturer's number for the item. The original letter will be sent to the exporter or the exporter's agent, the duplicate will be placed in the container that had been opened, and the triplicate will be retained by the inspecting office.

(C) *Disposal of samples.* Samples will be disposed of in accordance with the U.S. Customs Service procedure for imported commodities.

(2) *Inspection of documents.* (i) *General.* Officials designated in paragraph (a) of this section are authorized to require exporters or their agents, and owners and operators of exporting carriers or their agents, to produce for inspection or copying: invoices, orders, letters of credit, inspection reports, packing lists, shipping documents and instructions, correspondence, and any other relevant documents, as well as furnish other information bearing upon a particular shipment being exported or intended to be exported.

(ii) *Cartridge and shell case scrap.* When cartridge or shell cases are being exported as scrap (whether or not they have been heated, flame-treated, mangled, crushed, or cut) from the United States, the U.S. Customs Service is authorized to require the exporter to furnish information bearing on the identity and relationships of all parties to the transaction and produce a copy of the bid offer by the armed services in order to assure that the terms of the Export Administration Regulations are being met and that the material being shipped is scrap.

(3) *Questioning of individuals.* Officials designated in paragraph (a) of this section are authorized to question the owner or operator of an exporting carrier and the carrier's agent(s), as well as the exporter and the exporter's agent(s), concerning a particular shipment exported or intended to be exported.

(4) *Prohibiting lading.* Officials designated in paragraph (a) of this section are authorized to prevent the lading of items on an exporting carrier whenever those officials have reasonable cause to believe that the export or removal from the United States is contrary to the Export Administration Regulations.

(5) *Inspection of exporting carrier.* The U.S. Customs Service is authorized to inspect and search any exporting carrier at any time to determine whether items are intended to be, or are being, exported or removed from the United States contrary to the Export Administration Regulations. Officials of the Office of Export Enforcement may conduct such inspections with the concurrence of the U.S. Customs Service.

(6) *Seizure and detention.* Customs officers are authorized, under Title 22 of the United States Code, section 401, *et seq.*, to seize and detain any items whenever an attempt is made to export such items in violation of the Export Administration Regulations, or whenever they know or have probable cause to believe that the items are intended to be, are being, or have been exported in violation of the EAR. Seized items are subject to forfeiture. In addition to the authority of Customs officers to seize and detain items, both customs officials and officials of the Office of Export Enforcement are authorized to detain any shipment held for review of the SED, or if there is no SED, the bill of lading or other loading document covering the items about to be exported, or for physical inspection of the items, whenever such action is deemed to be necessary to assure compliance with the EAR.

(7) *Preventing departure of carrier.* The U.S. Customs Service is authorized under Title 22 of the U. S. Code, section 401, *et seq.*, to seize and detain, either before or after clearance, any vessel or vehicle or air carrier that has been or is being used in exporting or attempting to export any item intended to be, being, or having been exported in violation of the EAR.

(8) *Ordering the unloading.* The U.S. Customs Service is authorized to unload, or to order the unloading of, items from any exporting carrier, whenever the U.S. Customs Service has reasonable cause to believe such items are intended to be, or are being, exported or removed from the United States contrary to the EAR.

(9) *Ordering the return of items.* If, after notice that an inspection of a shipment is to be made, a carrier departs without affording the U.S. Customs Service, Office of Export Enforcement, or BXA personnel an adequate opportunity to examine the shipment, the owner or operator of the exporting carrier and the exporting carrier's agent(s) may be ordered to return items exported on such exporting carrier and make them available for inspection.

(10) *Designating time and place for clearance.* The U.S. Customs Service is authorized to designate times and places at which U.S. exports may move by land transportation to countries contiguous to the United States.

§ 758.8 Return or unloading of cargo at direction of BXA, the Office of Export Enforcement or Customs Service.

(a) *Exporting carrier.* As used in this section, the term "exporting carrier" includes a connecting or on-forwarding carrier, as well as the owner, charterer, agent, master, or any other person in charge of the vessel, aircraft, or other kind of carrier, whether such person is located in the United States or in a foreign country.

(b) *Ordering return or unloading of shipment.* Where there are reasonable grounds to believe that a violation of the Export Administration Regulations has occurred, or will occur, with respect to a particular export from the United States, BXA, the Office of Export Enforcement, or the U.S. Customs Service may order any person in possession or control of such shipment, including the exporting carrier, to return or unload the shipment. Such person must, as ordered, either:

(1) Return the shipment to the United States or cause it to be returned or;

(2) Unload the shipment at a port of call and take steps to assure that it is placed in custody under bond or other guaranty not to enter the commerce of any foreign country without prior approval of BXA. For the purpose of this section, the furnishing of a copy of the order to any person included within the definition of exporting carrier will be sufficient notice of the order to the exporting carrier.

(c) *Requirements regarding shipment to be unloaded.* The provisions of § 758.5(b) and (c) of this part, relating to reporting, notification to BXA, and the prohibition against unauthorized delivery or entry of the item into a foreign country, shall apply also when items are unloaded at a port of call, as provided in paragraph (b)(2) of this section.

(d) *Notification.* Upon discovery by any person included within the term "exporting carrier," as defined in paragraph (a) of this section, that a violation of the EAR has occurred or will occur with respect to a shipment on board, or otherwise in the possession or control of the carrier, such person must immediately notify both:

(1) The Office of Export Enforcement at the following address: Room H–4520, U.S. Department of Commerce, 14th Street and Constitution Ave., N.W., Washington D.C. 20230, Telephone: (202) 482 1208, Facsimile: (202) 482–0964; and

(2) The person in actual possession or control of the shipment.

§ 758.9 Other applicable laws and regulations.

The provisions of this part 758 apply only to exports regulated by BXA. Nothing contained in this part 758 shall relieve any person from complying with any other law of the United States or rules and regulations issued thereunder, including those governing SEDs and manifests, or any applicable rules and regulations of the U.S. Customs Service.

PART 760—RESTRICTIVE TRADE PRACTICES OR BOYCOTTS

Sec.
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Supplement No. 1 To Part 760—Interpretations

Supplement No. 2 To Part 760—Interpretation

Supplement No. 3 To Part 760—Interpretation

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Supplement No. 13 To Part 760—Interpretation

Supplement No. 14 To Part 760—Interpretation

Supplement No. 15 To Part 760—Interpretation

Supplement No. 16 To Part 760—Interpretation

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§ 760.1 Definitions.

In this part, references to the EAR are references to 15 CFR chapter VII, subchapter C.

(a) *Definition of Person.* For purposes of this part, the term "person" means any individual, or any association or organization, public or private, which is organized, permanently established, resident, or registered to do business, in the United States or any foreign country. This definition of person includes both the singular and plural and, in addition, includes:

(1) Any partnership, corporation, company, branch, or other form of association or organization, whether organized for profit or non-profit purposes;

(2) Any government, or any department, agency, or commission of any government;

(3) Any trade association, chamber of commerce, or labor union;

(4) Any charitable or fraternal organization; and

(5) Any other association or organization not specifically listed in paragraphs (a)(1) through (4) of this section.

(b) *Definition of "United States Person".* (1) This part applies to United States persons. For purposes of this part, the term United States person means any person who is a United States resident or national, including individuals, domestic concerns, and "controlled in fact" foreign subsidiaries, affiliates, or other permanent foreign establishments of domestic concerns. This definition of United States person includes both the singular and plural and, in addition, includes:

(i) The government of the United States or any department, agency, or commission thereof;

(ii) The government of any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any subdivision, department, agency, or commission of any such government;

(iii) Any partnership, corporation, company, association, or other entity organized under the laws of paragraph (b)(1)(i) or (ii) of this section;

(iv) Any foreign concern's subsidiary, partnership, affiliate, branch, office, or other permanent establishment in any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States; and

(v) Any domestic concern's foreign subsidiary, partnership, affiliate, branch, office, or other permanent foreign establishment which is controlled in fact by such domestic concern. (See paragraph (c) of this section on "Definition of 'Controlled in Fact'.")

(2) The term *domestic concern* means any partnership, corporation, company, association, or other entity of, or organized under the laws of, any jurisdiction named in paragraph (b)(1)(i) or (ii) of this section, or any permanent domestic establishment of a foreign concern.

(3) The term *foreign concern* means any partnership, corporation, company, association, or other entity of, or organized under the laws of, any jurisdiction other than those named in paragraph (b)(1)(i) or (ii) of this section.

(4) The term *United States person* does not include an individual United States national who is resident outside the United States and who is either employed permanently or temporarily by a non-United States person or assigned to work as an employee for, and under the direction and control of, a non-United States person.

Examples of "United States Person"

The following examples are intended to give guidance in determining whether a person is a "United States person." They are illustrative, not comprehensive.

(i) U.S. bank A has a branch office in foreign country P. Such branch office is a United States person, because it is a permanent foreign establishment of a domestic concern.

(ii) Ten foreign nationals establish a manufacturing plant, A, in the United States, incorporating the plant under New York law.

A is a United States person, because it is a corporation organized under the laws of one of the states of the United States.

(iii) A, a foreign corporation, opens an office in the United States for purposes of soliciting U.S. orders. The office is not separately incorporated.

A's U.S. office is a United States person, because it is a permanent establishment, in the United States, of a foreign concern.

(iv) A, a U.S. individual, owns stock in foreign corporation B.

A is a United States person. However, A is not a "domestic concern," because the term "domestic concern" does not include individuals.

(v) A, a foreign national resident in the United States, is employed by B, a foreign corporation.

A is a United States person, because he is resident in the United States.

(vi) A, a foreign national, who is resident in a foreign country and is employed by a foreign corporation, makes occasional visits to the United States, for purposes of exploring business opportunities.

A is not a United States person, because he is not a United States resident or national.

(vii) A is an association of U.S. firms organized under the laws of Pennsylvania for the purpose of expanding trade.

A is a United States person, because it is an association organized under the laws of one of the states of the United States.

(viii) At the request of country Y, A, an individual employed by U.S. company B, is transferred to company C as an employee. C is a foreign company owned and controlled by country Y. A, a U.S. national who will reside in Y, has agreed to the transfer provided he is able to retain his insurance, pension, and other benefits. Accordingly, company B has agreed to keep A as an employee in order to protect his employee benefits, and company C has agreed to pay for A's salary. At all times while he works for C, A will be under C's direction and control.

A is not a United States person while under C's direction and control, because he will be resident outside the United States and assigned as an employee to a non-United States person. The arrangement designed to protect A's insurance, pension, and other benefits does not destroy his status as an employee of C so long as he is under the direction and control of C.

(ix) A, a U.S. citizen, has resided in Europe for three years, where he is a self-employed consultant for United States and foreign companies in the communications industry.

A is a United States person, because he is a U.S. national and because he is not a resident outside the United States who is employed by other than a United States person.

(c) *Definition of "Controlled in Fact".* (1) This part applies to any domestic concern's foreign subsidiary, partnership, affiliate, branch, office, or other permanent foreign establishment which is *controlled in fact* by such domestic concern. *Control in fact* consists of the authority or ability of a domestic concern to establish the general policies or to control day-to-day operations of its foreign subsidiary, partnership, affiliate, branch, office, or other permanent foreign establishment.

(2) A foreign subsidiary or affiliate of a domestic concern will be presumed to be controlled in fact by that domestic concern, subject to rebuttal by competent evidence, when:

(i) The domestic concern beneficially owns or controls (whether directly or indirectly) more than 50 percent of the outstanding voting securities of the foreign subsidiary or affiliate;

(ii) The domestic concern beneficially owns or controls (whether directly or indirectly) 25 percent or more of the voting securities of the foreign subsidiary or affiliate, if no other person owns or controls (whether directly or indirectly) an equal or larger percentage;

(iii) The foreign subsidiary or affiliate is operated by the domestic concern pursuant to the provisions of an exclusive management contract;

(iv) A majority of the members of the board of directors of the foreign subsidiary or affiliate are also members of the comparable governing body of the domestic concern;

(v) The domestic concern has authority to appoint the majority of the members of the board of directors of the foreign subsidiary or affiliate; or

(vi) The domestic concern has authority to appoint the chief operating officer of the foreign subsidiary or affiliate.

(3) A brokerage firm or other person which holds simple record ownership of securities for the convenience of clients will not be deemed to control the securities.

(4) A domestic concern which owns, directly or indirectly, securities that are immediately convertible at the option of the holder or owner into voting securities is presumed to own or control those voting securities.

(5) A domestic concern's foreign branch office or other unincorporated permanent foreign establishment is deemed to be controlled in fact by such domestic concern under all circumstances.

Examples of "Controlled in Fact"

The following examples are intended to give guidance in determining the circumstances in which a foreign subsidiary, affiliate, or other permanent foreign establishment of a domestic concern is "controlled in fact." They are illustrative, not comprehensive.

(i) Company A is incorporated in a foreign country. Fifty-one percent of the voting stock of A is owned by U.S. company B.

A is presumed to be controlled in fact by B. This presumption may be rebutted by competent evidence showing that control does not, in fact, lie with B.

(ii) Company A is incorporated in a foreign country. Ten percent of the voting stock of A is owned by U.S. company B. A has an exclusive management contract with B pursuant to which A is operated by B.

As long as such contract is in effect, A is presumed to be controlled in fact by B. This presumption may be rebutted by competent evidence showing that control does not, in fact, lie with B.

(iii) Company A is incorporated in a foreign country. Ten percent of the voting stock of A is owned by U.S. company B. A has 10 persons on its board of directors. Six of those persons are also members of the board of directors of U.S. company B.

A is presumed to be controlled in fact by B. This presumption may be rebutted by competent evidence showing that control does not, in fact, lie with B.

(iv) Company A is incorporated in a foreign country. Thirty percent of the voting securities of A is owned by U.S. company B and no other person owns or controls an equal or larger share.

A is presumed to be controlled in fact by B. This presumption may be rebutted by competent evidence showing that control does not, in fact, lie with B.

(v) Company A is incorporated in a foreign country. In A's articles of incorporation, U.S. company B has been given authority to appoint A's board of directors.

A is presumed to be controlled in fact by B. This presumption may be rebutted by competent evidence showing that control does not, in fact, lie with B.

(vi) Company A is a joint venture established in a foreign country, with equal participation by U.S. company B and foreign company C. U.S. Company B has authority to appoint A's chief operating officer.

A is presumed to be controlled in fact by B. This presumption may be rebutted by competent evidence showing that control does not, in fact, lie with B.

(vii) Same as (vi), except that B has no authority to appoint A's chief operating officer.

B is not presumed to control A, absent other facts giving rise to a presumption of control.

(viii) Company A is incorporated in a foreign country. U.S. companies B, C, and D each own 20 percent of A's voting securities and regularly cast their votes in concert.

A is presumed to be controlled in fact by B, C, and D, because these companies are acting in concert to control A.

(ix) U.S. bank B located in the United States has a branch office, A, in a foreign country. A is not separately incorporated.

A is deemed to be controlled in fact by B, because A is a branch office of a domestic concern.

(x) Company A is incorporated in a foreign country. Fifty-one percent of the voting stock of A is owned by company B, which is incorporated in another foreign country. Fifty-one percent of the voting stock of B is owned by C, a U.S. company.

Both A and B are presumed to be controlled in fact by C. The presumption of C's control over B may be rebutted by competent evidence showing that control over B does not, in fact, lie with C. The presumption of B's control over A (and thus C's control over A) may be rebutted by competent evidence showing that control over A does not, in fact, lie with B.

(xi) B, a U.S. individual, owns 51 percent of the voting securities of A, a manufacturing company incorporated and located in a foreign country.

A is not "controlled in fact" under this part, because it is not controlled by a "domestic concern."

(d) *Definition of "Activities in the Interstate or Foreign Commerce of the United States".*

Activities Involving United States Persons Located in the United States

(1) For purposes of this part, the activities of a United States person located in the United States are in the interstate or foreign commerce of the United States if they involve the sale, purchase, or transfer of goods or services (including information) between:

(i) Two or more of the several States (including the District of Columbia);

(ii) Any State (including the District of Columbia) and any territory or possession of the United States;

(iii) Two or more of the territories or possessions of the United States; or

(iv) A State (including the District of Columbia), territory or possession of the United States and any foreign country.

(2) For purposes of this part, the export of goods or services from the United States and the import of goods or services into the United States are activities in United States commerce. In addition, the action of a domestic concern in specifically directing the activities of its controlled in fact foreign subsidiary, affiliate, or other permanent foreign establishment is an activity in United States commerce.

(3) Activities of a United States person located in the United States may be in United States commerce even if they are part of or ancillary to activities

outside United States commerce. However, the fact that an ancillary activity is in United States commerce does not, in and of itself, mean that the underlying or related activity is in United States commerce.

(4) Hence, the action of a United States bank located in the United States in providing financing from the United States for a foreign transaction that is not in United States commerce is nonetheless itself in United States commerce. However, the fact that the financing is in United States commerce does not, in and of itself, make the underlying foreign transaction an activity in United States commerce, even if the underlying transaction involves a foreign company that is a *United States person* within the meaning of this part.

(5) Similarly, the action of a United States person located in the United States in providing financial, accounting, legal, t ransportation, or other ancillary services to its controlled in fact foreign subsidiary, affiliate, or other permanent foreign establishment in connection with a foreign transaction is in United States commerce. But the provision of such ancillary services will not, in and of itself, bring the foreign transaction of such subsidiary, affiliate, or permanent foreign establishment into United States commerce.

Activities of Controlled in Fact Foreign Subsidiaries, Affiliates, and Other Permanent Foreign Establishments

(6) Any transaction between a controlled in fact foreign subsidiary, affiliate, or other permanent foreign establishment of a domestic concern and a person located in the United States is an activity in United States commerce.

(7) Whether a transaction between such a foreign subsidiary, affiliate, or other permanent foreign establishment and a person located outside the United States is an activity in United States commerce is governed by the following rules.

Activities in United States Commerce

(8) A transaction between a domestic concern's controlled in fact foreign subsidiary, affiliate, or other permanent foreign establishment and a person outside the United States, involving goods or services (including information but not including ancillary services) acquired from a person in the United States is in United States commerce under any of the following circumstances—

(i) If the goods or services were acquired for the purpose of filling an order from a person outside the United States;

(ii) If the goods or services were acquired for incorporation into, refining into, reprocessing into, or manufacture of another product for the purpose of filling an order from a person outside the United States;

(iii) If the goods or services were acquired for the purpose of fulfilling or engaging in any other transaction with a person outside the United States; or

(iv) If the goods were acquired and are ultimately used, without substantial alteration or modification, in filling an order from, or fulfilling or engaging in any other transaction with, a person outside the United States (whether or not the goods were originally acquired for that purpose). If the goods are indistinguishable as to origin from similar foreign-trade goods with which they have been mingled in a stockpile or inventory, the subsequent transaction involving the goods is presumed to be in United States commerce unless, at the time of filling the order, the foreign-origin inventory on hand was sufficient to fill the order.

(9) For purposes of this section, goods or services are considered to be acquired for the purpose of filling an order from or engaging in any other transaction with a person outside the United States where:

(i) They are purchased by the foreign subsidiary, affiliate, or other permanent foreign establishment upon the receipt of an order from or on behalf of a customer with the intention that the goods or services are to go to the customer;

(ii) They are purchased by the foreign subsidiary, affiliate, or other permanent foreign establishment to meet the needs of specified customers pursuant to understandings with those customers, although not for immediate delivery; or

(iii) They are purchased by the foreign subsidiary, affiliate, or other permanent foreign establishment based on the anticipated needs of specified customers.

(10) If any non-ancillary part of a transaction between a domestic concern's controlled foreign subsidiary, affiliate, or other permanent foreign establishment and a person outside the United States is in United States commerce, the entire transaction is in United States commerce. For example, if such a foreign subsidiary is engaged in filling an order from a non-United States customer both with goods acquired from the United States and with goods acquired elsewhere, the entire transaction with that customer is in United States commerce.

Activities Outside United States Commerce

(11) A transaction between a domestic concern's controlled foreign subsidiary, affiliate, or other permanent foreign establishment and a person outside the United States, not involving the purchase, sale, or transfer of goods or services (including information) to or from a person in the United States, is not an activity in United States commerce.

(12) The activities of a domestic concern's controlled foreign subsidiary, affiliate, or other permanent foreign establishment with respect to goods acquired from a person in the United States are not in United States commerce where:

(i) They were acquired without reference to a specific order from or transaction with a person outside the United States; and

(ii) They were further manufactured, incorporated into, refined into, or reprocessed into another product.

(13) The activities of a domestic concern's controlled foreign subsidiary, affiliate, or other permanent foreign establishment with respect to services acquired from a person in the United States are not in United States commerce where:

(i) They were acquired without reference to a specific order from or transaction with a person outside the United States; or

(ii) They are ancillary to the transaction with the person outside the United States.

(14) For purposes of this section, services are *ancillary services* if they are provided to a controlled foreign subsidiary, affiliate, or other permanent foreign establishment primarily for its own use rather than for the use of a third person. These typically include financial, accounting, legal,transportation, and other services, whether provided by a domestic concern or an unrelated entity.

(15) Thus, the provision of the project financing by a United States bank located in the United States to a controlled foreign subsidiary unrelated to the bank is an ancillary service which will not cause the underlying transaction to be in United States commerce. By contrast, where a domestic concern, on behalf of its controlled foreign subsidiary, gives a guaranty of performance to a foreign country customer, that is a service provided to the customer and, as such, brings that subsidiary's transaction with the customer into United States commerce. Similarly, architectural or engineering services provided by a domestic concern in connection with its controlled foreign subsidiary's construction project in a third country are services passed through to the subsidiary's customer and, as such, bring that subsidiary's foreign transaction into United States commerce.

General

(16) Regardless of whether the subsequent disposition of goods or services from the United States is in United States commerce, the original acquisition of goods or services from a person in the United States is an activity in United States commerce subject to this part. Thus, if a domestic concern's controlled foreign subsidiary engages in a prohibited refusal to do business in stocking its inventory with goods from the United States, that action is subject to this part whether or not subsequent sales from that inventory are.

(17) In all the above, goods and services will be considered to have been acquired from a person in the United States whether they were acquired directly or indirectly through a third party, where the person acquiring the goods or services knows or expects, at the time he places the order, that they will be delivered from the United States.

Letters of Credit

(18) Implementation of a letter of credit in the United States by a United States person located in the United States, including a permanent United States establishment of a foreign concern, is an activity in United States commerce.

(19) Implementation of a letter of credit outside the United States by a United States person located outside the United States is in United States commerce where the letter of credit (a) specifies a United States address for the beneficiary, (b) calls for documents indicating shipment from the United States, or (c) calls for documents indicating that the goods are of United States origin.

(20) See § 760.2(f) of this part on "Letters of Credit" to determine the circumstances in which paying, honoring, confirming, or otherwise implementing a letter of credit is covered by this part.

Examples of Activities in the Interstate or Foreign Commerce of the United States

The following examples are intended to give guidance in determining the circumstances in which an activity is in the interstate or foreign commerce of the United States. They are illustrative, not comprehensive.

United States Person Located in the United States

(i) U.S. company A exports goods from the United States to a foreign country. A's activity is in U.S. commerce, because A is exporting goods from the United States.

(ii) U.S. company A imports goods into the United States from a foreign country. A's activity is in U.S. commerce, because A is importing goods into the United States.

(iii) U.S. engineering company A supplies consulting services to its controlled foreign subsidiary, B. A's activity is in U.S. commerce, because A is exporting services from the United States.

(iv) U.S. company A supplies consulting services to foreign company B. B is unrelated to A or any other U.S. person.

A's activity is in U.S. commerce even though B, a foreign-owned company located outside the United States, is not subject to this part, because A is exporting services from the United States.

(v) Same as (iv), except A is a bank located in the United States and provides a construction loan to B.

A's activity is in U.S. commerce even though B is not subject to this part, because A is exporting financial services from the United States.

(vi) U.S. company A issues policy directives from time to time to its controlled foreign subsidiary, B, governing the conduct of B's activities with boycotting countries.

A's activity in directing the activities of its foreign subsidiary, B, is an activity in U.S. commerce.

Foreign Subsidiaries, Affiliates, and Other Permanent Foreign Establishments of Domestic Concerns

(i) A, a controlled foreign subsidiary of U.S. company B, purchases goods from the United States.

A's purchase of goods from the United States is in U.S. commerce, because A is importing goods from the United States. Whether A's subsequent disposition of these goods is in U.S. commerce is irrelevant. Similarly, the fact that A purchased goods from the United States does not, in and of itself, make any subsequent disposition of those goods an activity in U.S. commerce.

(ii) A, a controlled foreign subsidiary of U.S. company B, receives an order from boycotting country Y for construction materials. A places an order with U.S. company B for the materials.

A's transaction with Y is an activity in U.S. commerce, because the materials are purchased from the United States for the purpose of filling the order from Y.

(iii) A, a controlled foreign subsidiary of U.S. company B, receives an order from boycotting country Y for construction materials. A places an order with U.S. company B for some of the materials, and with U.S. company C, an unrelated company, for the rest of the materials.

A's transaction with Y is an activity in U.S. commerce, because the materials are purchased from the United States for the purpose of filling the order from Y. It makes no difference whether the materials are ordered from B or C.

(iv) A, a controlled foreign subsidiary of U.S. company B, is in the wholesale and retail appliance sales business. A purchases finished air conditioning units from the United States from time to time in order to stock its inventory. A's inventory is also stocked with air conditioning units purchased outside the United States. A receives an order for air conditioning units from Y, a boycotting country. The order is filled with U.S.-origin units in A's inventory.

A's transaction with Y is in U.S. commerce, because its U.S.-origin goods are resold without substantial alteration.

(v) Same as (iv), except that A is in the chemicals distribution business. Its U.S.-origin goods are mingled in inventory with foreign-origin goods.

A's sale to Y of unaltered goods from its general inventory is presumed to be in U.S. commerce unless A can show that at the time of the sale the foreign-origin inventory on hand was sufficient to cover the shipment to Y.

(vi) A, a foreign subsidiary of U.S. company B, receives an order from boycotting country Y for computers. A places an order with U.S. company B for some of the components; with U.S. company C, an unrelated company, for other components; and with foreign company D for the rest of the components. A then assembles the computers and ships them to Y.

A's transaction with Y is an activity in U.S. commerce, because some of the components are acquired from the United States for purposes of filling an order from Y.

(vii) Same as (vi), except A purchases all the components from non-U.S.sources.

A's transaction with Y is not an activity in U.S. commerce, because it involves no export of goods from the United States. It makes no difference whether the technology A uses to manufacture computers was originally acquired from its U.S. parent.

(viii) A, a controlled foreign subsidiary of U.S. company B, manufactures computers. A stocks its general components and parts inventory with purchases made at times from the United States and at times from foreign sources. A receives an order from Y, a boycotting country, for computers. A fills that order by manufacturing the computers using materials from its general inventory.

A's transaction with Y is not in U.S. commerce, because the U.S.-origin components are not acquired for the purpose of meeting the anticipated needs of specified customers in Y. It is irrelevant that A's operations may be based on U.S.-origin technology.

(ix) Same as (viii), except that in anticipation of the order from Y, A orders and receives the necessary materials from the United States.

A's transaction with Y is in U.S. commerce, because the U.S.-origin goods were acquired for the purpose of filling an anticipated order from Y.

(x) A, a controlled foreign subsidiary of U.S. company B, manufactures typewriters. It buys typewriter components both from the United States and from foreign sources. A sells its output in various places throughout the world, including boycotting country Y. Its sales to Y vary from year to year, but have averaged approximately 20 percent of sales for the past five years. A expects that its sales

to Y will remain at approximately that level in the years ahead although it has no contracts or orders from Y on hand.

A's sales of typewriters to Y are not in U.S. commerce, because the U.S. components are not acquired for the purpose of filling an order from Y. A general expectancy of future sales is not an "order" within the meaning of this section.

(xi) U.S. company A's corporate counsel provides legal advice to B, its controlled foreign subsidiary, on the applicability of this Part to B's transactions.

While provision of this legal advice is itself an activity in U.S. commerce, it does not, in and of itself, bring B's activities into U.S. commerce.

(xii) A, a controlled foreign subsidiary of U.S. company B, is in the general construction business. A enters into a contract with boycotting country Y to construct a power plant in Y. In preparing engineering drawings and specifications, A uses the advice and assistance of B.

A's transaction with Y is in U.S. commerce, because B's services are used for purposes of fulfilling the contract with Y. B's services are not ancillary services, because the engineering services in connection with construction of the power plant are part of the services ultimately provided to Y by A.

(xiii) Same as (xii), except that A gets no engineering advice or assistance from B. However, B's corporate counsel provides legal advice to A regarding the structure of the transaction. In addition, B's corporate counsel draws up the contract documents.

A's transaction with Y is not in U.S. commerce. The legal services provided to A are ancillary services, because they are not part of the services provided to Y by A in fulfillment of its contract with Y.

(xiv) A, a controlled foreign subsidiary of U.S. company B, enters into a contract to construct an apartment complex in boycotting country Y. A will fulfill its contract completely with goods and services from outside the United States. Pursuant to a provision in the contract, B guarantees A's performance of the contract.

A's transaction with Y is in U.S. commerce, because B's guaranty of A's performance involves the acquisition of services from the United States for purposes of fulfilling the transaction with Y, and those services are part of the services ultimately provided to Y.

(xv) Same as (xiv), except that the guaranty of A's performance is supplied by C, a non-U.S. person located outside the United States. However, unrelated to any particular transaction, B from time to time provides general financial, legal, and technical services to A.

A's transaction with Y is not in U.S. commerce, because the services acquired from the United States are not acquired for purposes of fulfilling the contract with Y.

(xvi) A, a foreign subsidiary of U.S. company B, has a contract with boycotting country Y to conduct oil drilling operations in that country. In conducting these operations, A from time to time seeks certain technical advice from B regarding the operation of the drilling rigs.

A's contract with Y is in U.S. commerce, because B's services are sought for purposes of fulfilling the contract with Y and are part of the services ultimately provided to Y.

(xvii) A, a controlled foreign subsidiary of U.S. company B, enters into a contract to sell typewriters to boycotting country Y. A is located in non-boycotting country P. None of the components are acquired from the United States. A engages C, a U.S. shipping company, to transport the typewriters from P to Y.

A's sales to Y are not in U.S. commerce, because in carrying A's goods, C is providing an ancillary service to A and not a service to Y.

(xviii) Same as (xvii), except that A's contract with Y calls for title to pass to Y in P. In addition, the contract calls for A to engage a carrier to make delivery to Y.

A's sales to Y are in U.S. commerce, because in carrying Y's goods, C is providing a service to A which is ultimately provided to Y.

(xix) A, a controlled foreign subsidiary of U.S. company B, has general product liability insurance with U.S. company C. Foreign-origin goods sold from time to time by A to boycotting country Y are covered by the insurance policy.

A's sales to Y are not in U.S. commerce, because the insurance provided by C is an ancillary service provided to A which is not ultimately provided to Y.

(xx) A, a controlled foreign subsidiary of U.S. company B, manufactures automobiles abroad under a license agreement with B. From time to time, A sells such goods to boycotting country Y.

A's sales to Y are not in U.S. commerce, because the rights conveyed by the license are not acquired for the specific purpose of engaging in transactions with Y.

(e) *"Intent".* (1) This part prohibits a United States person from taking or knowingly agreeing to take certain specified actions with intent to comply with, further, or support an unsanctioned foreign boycott.

(2) A United States person has the intent to comply with, further, or support an unsanctioned foreign boycott when such a boycott is at least one of the reasons for that person's decision whether to take a particular prohibited action. So long as that is at least one of the reasons for that person's action, a violation occurs regardless of whether the prohibited action is also taken for non-boycott reasons. Stated differently, the fact that such action was taken for legitimate business reasons does not remove that action from the scope of this part if compliance with an unsanctioned foreign boycott was also a reason for the action.

(3) Intent is a necessary element of any violation of this part. It is not sufficient that one take action that is specifically prohibited by this part. It is essential that one take such action with intent to comply with, further,or support an unsanctioned foreign boycott. Accordingly, a person who inadvertently, without boycott intent, takes a prohibited action, does not commit any violation of this part.

(4) Intent in this context means the reason or purpose for one's behavior. It does not mean that one has to agree with the boycott in question or desire that it succeed or that it be furthered or supported. But it does mean that the reason why a particular prohibited action was taken must be established.

(5) Reason or purpose can be proved by circumstantial evidence. For example, if a person receives a request to supply certain boycott information, the furnishing of which is prohibited by this part, and he knowingly supplies that information in response, he clearly intends to comply with that boycott request. It is irrelevant that he may disagree with or object to the boycott itself. Information will be deemed to be furnished with the requisite intent if the person furnishing the information knows that it was sought for boycott purposes. On the other hand, if a person refuses to do business with someone who happens to be blacklisted, but the reason is because that person produces an inferior product, the requisite intent does not exist.

(6) Actions will be deemed to be taken with intent to comply with an unsanctioned foreign boycott if the person taking such action knew that such action was required or requested for boycott reasons. On the other hand, the mere absence of a business relationship with a blacklisted person or with or in a boycotted country does not indicate the existence of the requisite intent.

(7) In seeking to determine whether the requisite intent exists, all available evidence will be examined.

Examples of "Intent"

The following examples are intended to illustrate the factors which will be considered in determining whether the required intent exists. They are illustrative, not comprehensive.

(i) U.S. person A does business in boycotting country Y. In selecting firms to supply goods for shipment to Y, A chooses supplier B because B's products are less expensive and of higher quality than the comparable products of supplier C. A knows that C is blacklisted, but that is not a reason for A's selection of B.

A's choice of B rather than C is not action with intent to comply with Y's boycott, because C's blacklist status is not a reason for A's action.

(ii) Same as (i), except that A chooses B rather than C in part because C is blacklisted by Y.

Since C's blacklist status is a reason for A's choice, A's action is taken with intent to comply with Y's boycott.

(iii) U.S. person A bids on a tender issued by boycotting country Y. A inadvertently fails to notice a prohibited certification which appears in the tender document. A's bid is accepted.

A's action in bidding was not taken with intent to comply with Y's boycott, because the boycott was not a reason for A's action.

(iv) U.S. bank A engages in letter of credit transactions, in favor of U.S. beneficiaries, involving the shipments of U.S. goods to boycotting country Y. As A knows, such letters of credit routinely contain conditions requiring prohibited certifications. A fails to take reasonable steps to prevent the implementation of such letters of credit. A receives for implementation a letter of credit which in fact contains a prohibited condition but does not examine the letter of credit to determine whether it contains such a condition.

Although Y's boycott may not be a specific reason for A's action in implementing the letter of credit with a prohibited condition, all available evidence shows that A's action was taken with intent to comply with the boycott, because A knows or should know that its procedures result in compliance with the boycott.

(v) U.S. bank A engages in letter of credit transactions, in favor of U.S. beneficiaries, involving the shipment of U.S. goods to boycotting country Y. As A knows, the documentation accompanying such letters of credit sometimes contains prohibited certifications. In accordance with standard banking practices applicable to A, it does not examine such accompanying documentation. A receives a letter of credit in favor of a U.S. beneficiary. The letter of credit itself contains no prohibited conditions. However, the accompanying documentation, which A does not examine, does contain such a condition.

All available evidence shows that A's action in implementing the letter of credit was not taken with intent to comply with the boycott, because A has no affirmative obligation to go beyond applicable standard banking practices in implementing letters of credit.

(vi) A, a U.S. company, is considering opening a manufacturing facility in boycotted country X. A already has such a facility in boycotting country Y. After exploring the possibilities in X, A concludes that the market does not justify the move. A is aware that if it did open a plant in X, Y might object because of Y's boycott of X. However Y's possible objection is not a reason for A's decision not to open a plant in X.

A's decision not to proceed with the plant in X is not action with intent to comply with Y's boycott, because Y's boycott of X is not a reason for A's decision.

(vii) Same as (vi), except that after exploring the business possibilities in X, A concludes that the market does justify the move to X. However, A does not open the plant because of Y's possible objections due to Y's boycott of X.

A's decision not to proceed with the plant in X is action taken with intent to comply with Y's boycott, because Y's boycott is a reason for A's decision.

(viii) A, a U.S. chemical manufacturer, receives a "boycott questionnaire" from boycotting country Y asking, among other things, whether A has any plants located in boycotted country X. A, which has never supported Y's boycott of X, responds to Y's questionnaire, indicating affirmatively that it does have plants in X and that it intends to continue to have plants in X.

A's responding to Y's questionnaire is deemed to be action with intent to comply with Y's boycott because A knows that the questionnaire is boycott-related. It is irrelevant that A does not also wish to support Y's boycott.

(ix) U.S. company A is on boycotting country Y's blacklist. In an attempt to secure its removal from the blacklist, A wishes to supply to Y information which demonstrates that A does at least as much business in Y and other countries engaged in a boycott of X as it does in X. A intends to continue its business in X undiminished and in fact is exploring and intends to continue exploring an expansion of its activities in X without regard to Y's boycott.

A may furnish the information, because in doing so it has no intent to comply with, further, or support Y's boycott.

(x) U.S. company A has a manufacturing facility in boycotted country X. A receives an invitation to bid on a construction project in boycotting country Y. The invitation states that all bidders must complete a boycott questionnaire and send it in with the bid. The questionnaire asks for information about A's business relationships with X. Regardless of whether A's bid is successful, A intends to continue its business in X undiminished and in fact is exploring and intends to continue exploring an expansion of its activities in X without regard to Y's boycott.

A may not answer the questionnaire, because, despite A's intentions with regard to its business operations in X, Y's request for completion of the questionnaire is for boycott purposes and by responding, A's action would betaken with intent to comply with Y's boycott.

(**Note:** Example (ix) is distinguishable from (x), because in (ix) A is not responding to any boycott request or requirement. Instead, on its own initiative, it is supplying information to demonstrate non-discriminatory conduct as between X and Y without any intent to comply with, further, or support Y's boycott.)

§ 760.2 Prohibitions.

(a) *Refusals to do business.*

Prohibition Against Refusals To Do Business

(1) No United States person may: refuse, knowingly agree to refuse, require any other person to refuse, or knowingly agree to require any other person to refuse, to do business with or in a boycotted country, with any business concern organized under the laws of a boycotted country, with any national or resident of a boycotted country, or with any other person, when such refusal is pursuant to an agreement with the boycotting country, or a requirement of the boycotting country, or a request from or on behalf of the boycotting country.

(2) Generally, a refusal to do business under this section consists of action that excludes a person or country from a transaction for boycott reasons. This includes a situation in which a United States person chooses or selects one person over another on a boycott basis or takes action to carry out another person's boycott-based selection when he knows or has reason to know that the other person's selection is boycott-based.

(3) Refusals to do business which are prohibited by this section include not only specific refusals, but also refusals implied by a course or pattern of conduct. There need not be a specific offer and refusal to constitute a refusal to do business; a refusal may occur when a United States person has a financial or commercial opportunity and declines for boycott reasons to consider or accept it.

(4) A United States person's use of either a boycott-based list of persons with whom he will not deal (a so-called "blacklist") or a boycott-based list of persons with whom he will deal (a so-called "whitelist") constitutes a refusal to do business.

(5) An agreement by a United States person to comply generally with the laws of the boycotting country with which it is doing business or an agreement that local laws of the boycotting country shall apply or govern is not, in and of itself, a refusal to do business. Nor, in and of itself, is use of a contractual clause explicitly requiring a person to assume the risk of loss of non-delivery of his products a refusal to do business with any person who will not or cannot comply with such a clause. (But see § 760.4 of this part on "Evasion.")

(6) If, for boycott reasons, a United States general manager chooses one supplier over another, or enters into a contract with one supplier over another, or advises its client to do so, then the general manager's actions constitute a refusal to do business under this section. However, it is not a refusal to do business under this section for a United States person to provide management, procurement, or other pre-award services for another person so long as the provision of such pre-award services is customary for that firm (or industry of which the firm is a part), without regard to the boycotting or non-boycotting character of the countries in which they are performed, and the United States person, in providing such services, does not act to exclude a person or country from the transaction for boycott reasons, or otherwise take actions that are boycott-based. For example, a United States person under

contract to provide general management services in connection with a construction project in a boycotting country may compile lists of qualified bidders for the client if that service is a customary one and if persons who are qualified are not excluded from that list because they are blacklisted.

(7) With respect to post-award services, if a client makes a boycott-based selection, actions taken by the United States general manager or contractor to carry out the client's choice are themselves refusals to do business if the United States contractor knows or has reason to know that the client's choice was boycott-based. (It is irrelevant whether the United States contractor also provided pre-award services.) Such actions include entering into a contract with the selected supplier, notifying the supplier of the client's choice, executing a contract on behalf of the client, arranging for inspection and shipment of the supplier's goods, or taking any other action to effect the client's choice. (But see § 760.3(c) of this part on "Compliance with Unilateral Selection" as it may apply to post-award services.)

(8) An agreement is not a prerequisite to a violation of this section since the prohibition extends to actions taken pursuant not only to agreements but also to requirements of, and requests from or on behalf of, a boycotting country.

(9) Agreements under this section may be either express or implied by a course or pattern of conduct. There need not be a direct request from a boycotting country for action by a United States person to have been taken pursuant to an agreement with or requirement of a boycotting country.

(10) This prohibition, like all others, applies only with respect to a United States person's activities in the interstate or foreign commerce of the United States and only when such activities are undertaken with intent to comply with, further, or support an unsanctioned foreign boycott. The mere absence of a business relationship with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with national(s) or resident(s) of the boycotted country, or with any other person does not indicate the existence of the required intent.

Examples of Refusals and Agreements To Refuse To Do Business

The following examples are intended to give guidance in determining the circumstances in which, in a boycott situation, a refusal to do business or an agreement to refuse to do business is prohibited. They are illustrative, not comprehensive.

Refusals To Do Business

(i) A, a U.S. manufacturer, receives an order for its products from boycotting country Y. To fill that order, A solicits bids from U.S. companies B and C, manufacturers of components used in A's products. A does not, however, solicit bids from U.S. companies D or E, which also manufacture such components, because it knows that D and E are restricted from doing business in Y and that their products are, therefore, not importable into that country.

Company A may not refuse to solicit bids from D and E for boycott reasons, because to do so would constitute a refusal to do business with those persons.

(ii) A, a U.S. exporter, uses company B, a U.S. insurer, to insure the shipment of its goods to all its overseas customers. For the first time, A receives an order for its products from boycotting country Y. Knowing that B is on the blacklist of Y, A arranges with company C, a non-blacklisted U.S. insurer, to insure the shipment of its goods to Y.

A's action constitutes a refusal to do business with B.

(iii) A, a U.S. exporter, purchases all its liability insurance from company B, a U.S. company that does business in boycotted country X. A wishes to expand its operations into country Y, the boycotting country. Before doing so, A decides to switch from insurer B to insurer C in anticipation of a request from Y that A sever its relations with B as a condition of doing business in Y.

A may not switch insurers for this reason, because doing so would constitute a refusal to do business with B.

(iv) U.S. company A exports goods to boycotting country Y. In selecting vessels to transport the goods to Y, A chooses only from among carriers which call at ports in Y.

A's action is not a refusal to do business with carriers which do not call at ports in Y.

(v) A, a U.S. bank with a branch office in boycotting country Y, sends representatives to boycotted country X to discuss plans for opening a branch office in X. Upon learning of these discussions, an official of the local boycott office in Y advises A's local branch manager that if A opens an office in X it will no longer be allowed to do business in Y. As a result of this notification, A decides to abandon its plans to open a branch in X.

Bank A may not abandon its plans to open a branch in X as a result of Y's notification, because doing so would constitute a refusal to do business in boycotted country X.

(vi) A, a U.S. company that manufactures office equipment, has been restricted from doing business in boycotting country Y because of its business dealings with boycotted country X. In an effort to have itself removed from Y's blacklist, A ceases its business in X.

A's action constitutes a refusal to do business in boycotted country X.

(vii) A, a U.S. computer company, does business in boycotting country Y. A decides to explore business opportunities in boycotted country X. After careful analysis of possible business opportunities in X, A decides, solely for business reasons, not to market its products in X.

A's decision not to proceed is not a refusal to do business, because it is not based on boycott considerations. A has no affirmative obligation to do business in X.

(viii) A, a U.S. oil company with operations in boycotting country Y, has regularly purchased equipment from U.S. petroleum equipment suppliers B, C, and D, none of whom is on the blacklist of Y. Because of its satisfactory relationship with B, C, and D, A has not dealt with other suppliers, including supplier E, who is blacklisted by Y.

A's failure affirmatively to seek or secure business with blacklisted supplier E is not a refusal to do business with E.

(ix) Same as (viii), except U.S. petroleum equipment supplier E, a company on boycotting country Y's blacklist, offers to supply U.S. oil company A with goods comparable to those provided by U.S. suppliers B, C, and D. A, because it has satisfactorily, established relationships with suppliers B, C, and D, does not accept supplier E's offer.

A's refusal of supplier E's offer is not a refusal to do business, because it is based solely on non-boycott considerations. A has no affirmative obligation to do business with E.

(x) A, a U.S. construction company, enters into a contract to build an office complex in boycotting country Y. A receives bids from B and C, U.S. companies that are equally qualified suppliers of electrical cable for the project. A knows that B is blacklisted by Y and that C is not. A accepts C's bid, in part because C is as qualified as the other potential supplier and in part because C is not blacklisted.

A's decision to select supplier C instead of blacklisted supplier B is a refusal to do business, because the boycott was one of the reasons for A's decision.

(xi) A, a U.S. general contractor, has been retained to construct a highway in boycotting country Y. A circulates an invitation to bid to U.S. manufacturers of road-building equipment. One of the conditions listed in the invitation to bid is that, in order for A to obtain prompt service, suppliers will be required to maintain a supply of spare parts and a service facility in Y. A includes this condition solely for commercial reasons unrelated to the boycott. Because of this condition, however, those suppliers on Y's blacklist do not bid, since they would be unable to satisfy the parts and services requirements.

A's action is not a refusal to do business, because the contractual condition was included solely for legitimate business reasons and was not boycott-based.

(xii) Company A, a U.S. oil company, purchases drill bits from U.S. suppliers for export to boycotting country Y. In its purchase orders, A includes a provision requiring the supplier to make delivery to A's facilities in Y and providing that title to the goods does not pass until delivery has been made. As is customary under such an arrangement, the supplier bears all risks of loss, including loss from fire, theft, perils of the sea, and inability to clear customs, until title passes.

Insistence on such an arrangement does not constitute a refusal to do business, because this requirement is imposed on all suppliers whether they are blacklisted or not. (But see § 760.4 of this part on "Evasion").

(xiii) A, a U.S. engineering and construction company, contracts with a government agency in boycotting country Y to perform a variety of services in connection with the construction of a large industrial facility in Y. Pursuant to this contract, A analyzes the market of prospective suppliers, compiles a suggested bidders list, analyzes the bids received, and makes recommendations to the client. The client independently selects and awards the contract to supplier C for boycott reasons. All of A's services are performed without regard to Y's blacklist or any other boycott considerations, and are the type of services A provides clients in both boycotting and non-boycotting countries.

A's actions do not constitute a refusal to do business, because, in the provision of pre-award services, A has not excluded the other bidders and because A customarily provides such services to its clients.

(xiv) Same as (xiii), except that in compiling a list of prospective suppliers, A deletes suppliers he knows his client will refuse to select because they are blacklisted. A knows that including the names of blacklisted suppliers will neither enhance their chances of being selected nor provide his client with a useful service, the function for which he has been retained.

A's actions, which amount to furnishing a so-called "whitelist", constitute refusals to do business, because A's pre-award services have not been furnished without regard to boycott considerations.

(xv) A, a U.S. construction firm, provides its boycotting country client with a permissible list of prospective suppliers, B, C, D, and E. The client independently selects and awards the contract to C, for boycott reasons, and then requests A to advise C of his selection, negotiate the contract with C, arrange for the shipment, and inspect the goods upon arrival. A knows that C was chosen by the client for boycott reasons.

A's action in complying with his client's direction is a refusal to do business, because A's post-award actions carry out his client's boycott-based decision. (Note: Whether A's action comes within the unilateral selection exception depends upon factors discussed in § 760.3(d) of this part).

(xvi) Same as (xv), except that A is building the project on a turnkey basis and will retain title until completion. The client instructs A to contract only with C.

A's action in contracting with C constitutes a refusal to do business, because it is action that excludes blacklisted persons from the transaction for boycott reasons. (Note: Whether A's action comes within the unilateral selection exception depends upon factors discussed in § 760.3(d) of this part).

(xvii) A, a U.S. exporter of machine tools, receives an order for drill presses from boycotting country Y. The cover letter from Y's procurement official states that A was selected over other U.S. manufacturers in part because A is not on Y's blacklist.

A's action in filling this order is not a refusal to do business, because A has not excluded anyone from the transaction.

(xviii) A, a U.S. engineering firm under contract to construct a dam in boycotting country Y, compiles, on a non-boycott basis, a list of potential heavy equipment suppliers, including information on their qualifications and prior experience. A then solicits bids from the top three firms on its list-B, C, and D-because they are the best qualified.

None of them happens to be blacklisted. A does not solicit bids from E, F, or G, the next three firms on the list, one of whom is on Y's blacklist.

A's decision to solicit bids from only B, C, and D, is not a refusal to do business with any person, because the solicited bidders were not selected for boycott reasons.

(xix) U.S. bank A receives a letter of credit in favor of U.S. beneficiary B. The letter of credit requires B to certify that he is not blacklisted. B meets all other conditions of the letter of credit but refuses to certify as to his blacklist status. A refuses to pay B on the letter of credit solely because B refuses to certify as to his blacklist status.

A has refused to do business with another person pursuant to a boycott requirement or request.

(xx) U.S. bank A receives a letter of credit in favor of U.S. beneficiary B. The letter of credit requires B to provide a certification from the steamship line that the vessel carrying the goods is not blacklisted. B seeks payment from A and meets all other conditions of the letter of credit but refuses or is unable to provide the certification from the steamship line about the vessel's blacklist status. A refuses to pay B on the letter of credit solely because B cannot or will not provide the certification.

A has required another person to refuse to do business pursuant to a boycott requirement or request by insisting that B obtain such a certificate. (Either A or B may request an amendment to the letter of credit substituting a certificate of vessel eligibility, however. See Example (xxi) below).

(xxi) U.S. bank A receives a letter of credit from a bank in boycotting country Y in favor of U.S. beneficiary B. The letter of credit requires B to provide a certification from the steamship line that the vessel carrying the goods is eligible to enter the ports in Y. B seeks payment from A and meets all other conditions of the letter of credit. A refuses to pay B solely because B cannot or will not provide the certification.

A has neither refused, nor required another person to refuse, to do business with another person pursuant to a boycott requirement or request because the vessel eligibility certificate is a common requirement for non-boycott purposes.

(xxii) U.S. bank A confirms a letter of credit in favor of U.S. beneficiary B. The letter of credit contains a requirement that B certify that he is not blacklisted. B presents the letter of credit to U.S. bank C, a correspondent of bank A. B does not present the certificate of blacklist status to bank C, but, in accordance with these rules, bank C pays B, and then presents the letter of credit and documentation to bank A for reimbursement. Bank A refuses to reimburse bank C because the blacklist certification of B is not included in the documentation.

A has required another person to refuse to do business with a person pursuant to a boycott requirement or request by insisting that C obtain the certificate from B.

(xxiii) U.S. bank A receives a letter of credit in favor of U.S. beneficiary B. The letter of credit requires B to certify that he is not blacklisted. B fails to provide such a certification when he presents the documents to A for payment. A notifies B that the certification has not been submitted.

A has not refused to do business with another person pursuant to a boycott requirement by notifying B of the omitted certificate. A may not refuse to pay on the letter of credit, however, if B states that B will not provide such a certificate.

(xxiv) U.S. bank A receives a letter of credit in favor of U.S. beneficiary B from the issuing bank for the purpose of confirmation, negotiation or payment. The letter of credit requires B to certify that he is not blacklisted. A notifies B that it is contrary to the policy of A to handle letters of credit containing this condition and that, unless an amendment is obtained deleting this condition, A will not implement the letter of credit.

A has not refused to do business with another person pursuant to a boycott requirement, because A has indicated its policy against implementing the letter of credit containing the term without regard to B's ability or willingness to furnish such a certificate.

Agreements To Refuse To Do Business

(i) A, a U.S. construction firm, is retained by an agency of boycotting country Y to build a primary school. The proposed contract contains a clause stating that A "may not use goods or services in the project that are produced or provided by any person restricted from having a business relationship with country Y by reason of Y's boycott against country X".

A's action in entering into such a contract would constitute an agreement to refuse to do business, because it is an agreement to exclude blacklisted persons from the transaction. A may, however, renegotiate this clause so that it does not contain terms prohibited by this part.

(ii) A, a U.S. manufacturer of commercial refrigerators and freezers, receives an invitation to bid from boycotting country Y. The tender states that the bidder must agree not to deal with companies on Y's blacklist. A does not know which companies are on the blacklist, and A's bid makes no commitment regarding not dealing with certain companies. A's bid in response to the tender is accepted.

At the point when A's bid is accepted, A has agreed to refuse to do business with blacklisted persons, because the terms of Y's tender are part of the contract between Y and A.

(iii) A, a U.S. construction firm, is offered a contract to perform engineering and construction services in connection with a project located in boycotting country Y. The contract contains a clause stating that, in the event of a contract dispute, the laws of Y will apply.

A may enter into the contract. Agreement that the laws of boycotting country Y will control in resolving a contract dispute is not an agreement to refuse to do business.

(iv) Same as (iii), except that the contract contains a clause that A and its employees will comply with the laws of boycotting country Y. A knows that Y has a number of boycott laws.

Such an agreement is not, in and of itself, an agreement to refuse to do business. If, however, A subsequently refuses to do business with someone because of the laws of Y, A's action would be a refusal to do business.

(v) Same as (iv), except that the contract contains a clause that A and its employees will comply with the laws of boycotting country Y, "including boycott laws".

A's agreeing, without qualification, to comply with local boycott laws constitutes an agreement to refuse to do business.

(vi) Same as (v), except that A inserts a proviso "except insofar as Y's laws conflict with U.S. laws", or words to that effect.

Such an agreement is not an agreement to refuse to do business.

(vii) A, a U.S. general contractor, is retained to construct a pipeline in boycotting country Y. A provision in the proposed contract stipulates that in purchasing equipment, supplies, and services A must give preference to companies located in host country Y.

A may agree to this contract provision. Agreeing to a "buy local" contract provision is not an agreement to refuse to do business, because A's agreement is not made for boycott reasons.

(viii) A, a U.S. exporter planning to sell retail goods to customers in boycotting country Y, enters into a contract to purchase goods wholesale from B, a U.S. appliance manufacturer. A's contract with B includes a provision stipulating that B may not use components or services of blacklisted companies in the manufacture of its appliances.

A's contract constitutes a refusal to do business, because it would require another person, B, to refuse to do business with other persons for boycott reasons. B may not agree to such a contract, because it would be agreeing to refuse to do business with other persons for boycott reasons.

(ix) Same as (viii), except that A and B reach an implicit understanding that B will not use components or services of blacklisted companies in the manufacture of goods to be exported to Y. In the manufacture of appliances to be sold to A for export to non-boycotting countries, B uses components manufactured by blacklisted companies.

The actions of both A and B constitute agreement to refuse to do business. The agreement is implied by their pattern of conduct.

(x) Boycotting country Y orders goods from U.S. company B. Y opens a letter of credit with foreign bank C in favor of B. The letter of credit specifies that negotiation of the letter of credit with a bank that appears on the country X boycott blacklist is prohibited. U.S. bank A, C's correspondent bank, advises B of the letter of credit. B presents documentation to bank A seeking to be paid on the letter of credit, without amending or otherwise taking exception to the boycott condition.

B has agreed to refuse to do business with blacklisted banks because, by presenting the letter of credit for payment, B has accepted all of its terms and conditions.

(b) *Discriminatory actions.*

Prohibition Against Taking Discriminatory Actions

(1) No United States person may:

(i) Refuse to employ or otherwise discriminate against any individual who is a United States person on the basis of race, religion, sex, or national origin;

(ii) Discriminate against any corporation or other organization which is a United States person on the basis of the race, religion, sex, or national origin of any owner, officer, director, or employee of such corporation or organization;

(iii) Knowingly agree to take any of the actions described in paragraph (b)(1)(i) and (ii) of this section; or

(iv) Require or knowingly agree to require any other person to take any of the actions described in paragraph (b)(1)(i) and (ii) of this section.

(2) This prohibition shall apply whether the discriminatory action is taken by a United States person on its own or in response to an agreement with, request from, or requirement of a boycotting country. This prohibition, like all others, applies only with respect to a United States person's activities in the interstate or foreign commerce of the United States and only when such activities are undertaken with intent to comply with, further, or support an unsanctioned foreign boycott.

(3) The section does not supersede or limit the operation of the civil rights laws of the United States.

Examples of Discriminatory Actions

The following examples are intended to give guidance in determining the circumstances in which the taking of particular discriminatory actions is prohibited. They are illustrative, not comprehensive.

(i) U.S. construction company A is awarded a contract to build an office complex in boycotting country Y. A, believing that employees of a particular religion will not be permitted to work in Y because of Y's boycott against country X, excludes U.S. persons of that religion from consideration for employment on the project.

A's refusal to consider qualified U.S. persons ot a particular religion for work on the project in Y constitutes a prohibited boycott-based discriminatory action against U.S. persons on the basis of religion.

(ii) Same as (i), except that a clause in the contract provides that "no persons of country X origin are to work on this project."

A's agreement constitutes a prohibited boycott-based agreement to discriminate against U.S. persons, among others, on the basis of national origin.

(iii) Same as (i), except that a clause in the contract provides that "no persons who are citizens, residents, or nationals of country X are to work on this project."

A's agreement does not constitute a boycott-based agreement to discriminate against U.S. persons on the basis of race, religion, sex, or national origin, because the clause requires exclusion on the basis of citizenship, residency, and nationality only.

(iv) U.S. construction company A enters into a contract to build a school in boycotting country Y. Y's representative orally tells A that no persons of country X origin are to work on the project.

A may not comply, because to do so would constitute discrimination on the basis of national origin.

It makes no difference that A learned of Y's requirement orally. It makes no difference how A learns about Y's discriminatory requirement.

(v) Boycotting country Y tenders an invitation to bid on a construction project in Y. The tender requires that the successful bidder's personnel will be interviewed and that persons of a particular religious faith will not be permitted to work on the project. Y's requirement is based on its boycott of country X, the majority of whose citizens are of that particular faith.

Agreement to this provision in the tender document by a U.S. person would constitute a prohibited agreement to engage in boycott-based discrimination against U.S. persons of a particular religion.

(vi) Same as (v), except that the tender specifies that "women will not be allowed to work on this project."

Agreement to this provision in the tender by a U.S. person does not constitute a prohibited agreement to engage in boycott-based discrimination, because the restriction against employment of women is not boycott-based. Such an agreement may, however, constitute a violation of U.S. civil rights laws.

(vii) A is a U.S. investment banking firm. As a condition of participating in an underwriting of securities to be issued by boycotting country Y, A is required to exclude investment banks owned by persons of a particular faith from participation in the underwriting. Y's requirement is based on its boycott of country X, the majority of whose citizens are of that particular faith.

A's agreement to such a provision constitutes a prohibited agreement to engage in boycott-based discrimination against U.S. persons on the basis of religion. Further, if A requires others to agree to such a condition, A would be acting to require another person to engage in such discrimination.

(viii) U.S. company A is asked by boycotting country Y to certify that A will not use a six-pointed star on the packaging of its products to be imported into Y. The requirement is part of the enforcement effort by Y of its boycott against country X.

A may not so certify. The six-pointed star is a religious symbol, and the certification by A that it will not use such a symbol constitutes a statement that A will not ship products made or handled by persons of that religion.

(ix) Same as (viii), except that A is asked to certify that no symbol of boycotted country X will appear on the packaging of its products imported into Y.

Such a certification conveys no statement about any person's religion and, thus, does not come within this prohibition.

(c) *Furnishing information about race, religion, sex, or national origin.*

Prohibition Against Furnishing Information About Race, Religion, Sex, or National Origin

(1) No United States person may:

(i) Furnish information about the race, religion, sex, or national origin of any United States person;

(ii) Furnish information about the race, religion, sex, or national origin of any owner, officer, director, or employee of any corporation or other organization which is a United States person;

(iii) Knowingly agree to furnish information about the race, religion, sex, or national origin of any United States person; or

(iv) Knowingly agree to furnish information about the race, religion, sex, or national origin of any owner, officer, director, or employee of any corporation or other organization which is a United States person.

(2) This prohibition shall apply whether the information is specifically requested or is offered voluntarily by the United States person. It shall also apply whether the information requested or volunteered is stated in the affirmative or the negative.

(3) Information about the place of birth of or the nationality of the parents of a United States person comes within this prohibition, as does information in the form of code words or symbols which could identify a United States person's race, religion, sex, or national origin.

(4) This prohibition, like all others, applies only with respect to a United States person's activities in the interstate or foreign commerce of the United States and only when such activities are undertaken with intent to comply with, further, or support an unsanctioned foreign boycott.

Examples of the Prohibition Against Furnishing Discriminatory Information

The following examples are intended to give guidance in determining the circumstances in which the furnishing of discriminatory information is prohibited. They are illustrative, not comprehensive.

(i) U.S. company A receives a boycott questionnaire from boycotting country Y asking whether it is owned or controlled by persons of a particular faith, whether it has any persons on its board of directors who are of that faith, and what the national origin of its president is. The information is sought for purposes of enforcing Y's boycott against country X, and A knows or has reason to know that the information is sought for that reason.

A may not answer the questionnaire, because A would be furnishing information about the religion and national origin of U.S. persons for purposes of complying with or supporting Y's boycott against X.

(ii) U.S. company A, located in the United States, is asked by boycotting country Y to certify that A has no persons of a particular national origin on its board of directors. A knows that Y's purpose in asking for the certification is to enforce its boycott against country X.

A may not make such a certification, because A would be furnishing information about the national origin of U.S. persons for purposes of complying with or supporting Y's boycott against X.

(iii) U.S. company A believes that boycotting country Y will select A's bid over those of other bidders if A volunteers that it has no shareholders, officers, or directors of a particular national origin. A's belief is based on its knowledge that Y generally refuses, as part of its boycott against country X, to do business with companies owned, controlled, or managed by persons of this particular national origin.

A may not volunteer this information, because it would be furnishing information about the national origin of U.S. persons for purposes of complying with or supporting Y's boycott against X.

(iv) U.S. company A has a contract to construct an airport in boycotting country Y. Before A begins work, A is asked by Y to identify the national origin of its employees who will work on the site. A knows or has reason to know that Y is seeking this information in order to enforce its boycott against X.

A may not furnish this information, because A would be providing information about the national origin of U.S. persons for purposes of complying with or supporting Y's boycott against X.

(v) Same as (iv), except that in order to assemble its work force on site in Y, A sends visa forms to its employees and asks that the forms be returned to A for transmittal to Y's consulate or embassy. A, itself, furnishes no information about its employees, but merely transmits the visa forms back and forth.

In performing the ministerial function of transmitting visa forms, A is not furnishing information about any U.S. person's race, religion, sex, or national origin.

(vi) Same as (iv), except that A is asked by Y to certify that none of its employees in Y will be women, because Y's laws prohibit women from working.

Such a certification does not constitute a prohibited furnishing of information about any U.S. person's sex, since the reason the information is sought has nothing to do with Y's boycott of X.

(vii) U.S. company A is considering establishing an office in boycotting country Y. In order to register to do business in Y, A is asked to furnish information concerning the nationalities of its corporate officers and board of directors.

A may furnish the information about the nationalities of its officers and directors, because in so doing A would not be furnishing information about the race, religion, sex, or national origin of any U.S. person.

(d) *Furnishing information about business relationships with boycotted countries or blacklisted persons.*

Prohibition Against Furnishing Information About Business Relationships With Boycotted Countries or Blacklisted Persons

(1) No United States person may furnish or knowingly agree to furnish information concerning his or any other person's past, present or proposed business relationships:

(i) With or in a boycotted country;

(ii) With any business concern organized under the laws of a boycotted country;

(iii) With any national or resident of a boycotted country; or

(iv) With any other person who is known or believed to be restricted from having any business relationship with or in a boycotting country.

(2) This prohibition shall apply:

(i) Whether the information pertains to a business relationship involving a sale, purchase, or supply transaction; legal or commercial representation; shipping or other transportation transaction; insurance; investment; or any other type of business transaction or relationship; and

(ii) Whether the information is directly or indirectly requested or is furnished on the initiative of the United States person.

(3) This prohibition does not apply to the furnishing of normal business information in a commercial context. Normal business information may relate to factors such as financial fitness, technical competence, or professional experience, and may be found in documents normally available to the public such as annual reports, disclosure statements concerning securities, catalogs, promotional brochures, and trade and business handbooks. Such information may also appear in specifications or statements of experience and qualifications.

(4) Normal business information furnished in a commercial context does not cease to be such simply because the party soliciting the information may be a boycotting country or a national or resident thereof. If the information is of a type which is generally sought for a legitimate business purpose (such as determining financial fitness, technical competence, or professional experience), the information may be furnished even if the information could be used, or without the knowledge of the person supplying the information is intended to be used, for boycott purposes. However, no information about business relationships with blacklisted persons or boycotted

countries, their residents or nationals, may be furnished in response to a boycott request, even if the information is publicly available. Requests for such information from a boycott office will be presumed to be boycott-based.

(5) This prohibition, like all others, applies only with respect to a United States person's activities in the interstate or foreign commerce of the United States and only when such activities are undertaken with intent to comply with, further, or support an unsanctioned foreign boycott.

Examples Concerning Furnishing of Information

The following examples are intended to give guidance in determining the circumstances in which the furnishing of information is prohibited. They are illustrative, not comprehensive.

(i) U.S. contractor A is considering bidding for a contract to build a dam in boycotting country Y. The invitation to bid, which appears in a trade journal, specifies that each bidder must state that he does not have any offices in boycotted country X. A knows or has reason to know that the requirement is boycott-based.

A may not make this statement, because it constitutes information about A's business relationships with X.

(ii) U.S. contractor A is considering bidding for a contract to construct a school in boycotting country Y. Each bidder is required to submit copies of its annual report with its bid. Since A's annual report describes A's worldwide operations, including the countries in which it does business, it necessarily discloses whether A has business relations with boycotted country X. A has no reason to know that its report is being sought for boycott purposes.

A, in furnishing its annual report, is supplying ordinary business information in a commercial context.

(iii) Same as (ii), except that accompanying the invitation to bid is a questionnaire from country Y's boycott office asking each bidder to supply a copy of its annual report.

A may not furnish the annual report despite its public availability, because it would be furnishing information in response to a questionnaire from a boycott office.

(iv) U.S. company A is on boycotting country Y's blacklist. For reasons unrelated to the boycott, A terminates its business relationships with boycotted country X. In exploring other marketing areas, A determines that boycotting country Y offers great potential. A is requested to complete a questionnaire from a central boycott office which inquires about A's business relations with X.

A may not furnish the information, because it is information about A's business relationships with a boycotted country.

(v) U.S. exporter A is seeking to sell its products to boycotting country Y. A is informed by Y that, as a condition of sale, A must certify that it has no salesmen in boycotted country X. A knows or has reason to know that the condition is boycott-based.

A may not furnish the certification, because it is information about A's business relationships in a boycotted country.

(vi) U.S. engineering company A receives an invitation to bid on the construction of a dam in boycotting country Y. As a condition of the bid, A is asked to certify that it does not have any offices in boycotted country X. A is also asked to furnish plans for other dams it has designed.

A may not certify that it has no office in X, because this is information about its business relationships in a boycotted country. A may submit plans for other dams it has designed, because this is furnishing normal business information, in a commercial context, relating to A's technical competence and professional experience.

(vii) U.S. company A, in seeking to expand its exports to boycotting country Y, sends a sales representative to Y for a one week trip. During a meeting in Y with trade association representatives, A's representative desires to explain that neither A nor any companies with which A deals has any business relationship with boycotted country X. The purpose of supplying such information is to ensure that A does not get blacklisted.

A's representative may not volunteer this information even though A, for reasons unrelated to the boycott, does not deal with X, because A's representative would be volunteering information about A's business relationships with X for boycott reasons.

(viii) U.S. company A is asked by boycotting country Y to furnish information concerning its business relationships with boycotted country X. A, knowing that Y is seeking the information for boycott purposes, refuses to furnish the information asked for directly, but proposes to respond by supplying a copy of its annual report which lists the countries with which A is presently doing business. A does not happen to be doing business with X.

A may not respond to Y's request by supplying its annual report, because A knows that it would be responding to a boycott-based request for information about its business relationships with X.

(ix) U.S. company A receives a letter from a central boycott office asking A to "clarify" A's operations in boycotted country X. A intends to continue its operations in X, but fears that not responding to the request will result in its being placed on boycotting country Y's blacklist. A knows or has reason to know that the information is sought for boycott reasons.

A may not respond to this request, because the information concerns its business relationships with a boycotted country.

(x) U.S. company A, in the course of negotiating a sale of its goods to a buyer in boycotting country Y, is asked to certify that its supplier is not on Y's blacklist.

A may not furnish the information about its supplier's blacklist status, because this is information about A's business relationships with another person who is believed to be restricted from having any business relationship with or in a boycotting country.

(xi) U.S. company A has a manufacturing plant in boycotted country X and is on boycotting country Y's blacklist. A is seeking to establish operations in Y, while expanding its operations in X. A applies to Y to be removed from Y's blacklist. A is asked, in response, to indicate whether it has manufacturing facilities in X.

A may not supply the requested information, because A would be furnishing information about its business relationships in a boycotted country.

(xii) U.S. bank A plans to open a branch office in boycotting country Y. In order to do so, A is required to furnish certain information about its business operations, including the location of its other branch offices. Such information is normally sought in other countries where A has opened a branch office, and A does not have reason to know that Y is seeking the information for boycott reasons.

A may furnish this information, even though in furnishing it A would disclose information about its business relationships in a boycotted country, because it is being furnished in a normal business context and A does not have reason to know that it is sought for boycott reasons.

(xiii) U.S. architectural firm A responds to an invitation to submit designs for an office complex in boycotting country Y. The invitation states that all bidders must include information concerning similar types of buildings they have designed. A has not designed such buildings in boycotted country X. Clients frequently seek information of this type before engaging an architect.

A may furnish this information, because this is furnishing normal business information, in a commercial context, relating to A's technical competence and professional experience.

(xiv) U.S. oil company A distributes to potential customers promotional brochures and catalogs which give background information on A's past projects. A does not have business dealings with boycotted country X. The brochures, which are identical to those which A uses throughout the world, list those countries in which A does or has done business. In soliciting potential customers in boycotting country Y, A desires to distribute copies of its brochures.

A may do so, because this is furnishing normal business information, in a commercial context, relating to professional experience.

(xv) U.S. company A is interested in doing business with boycotting country Y. A wants to ask Y's Ministry of Trade whether, and if so why, A is on Y's blacklist or is otherwise restricted for boycott reasons from doing business with Y.

A may make this limited inquiry, because it does not constitute furnishing information.

(xvi) U.S. company A is asked by boycotting country Y to certify that it is not owned by subjects or nationals of boycotted country X and that it is not resident in boycotted country X.

A may not furnish the certification, because it is information about A's business relationships with or in a boycotted country, or with nationals of a boycotted country.

(xvii) U.S. company A, a manufacturer of certain patented products, desires to register its patents in boycotting country Y. A receives a power of attorney form required to register its patents. The form contains a question regarding A's business relationships with or in boycotted country X. A has no business relationships with X and knows or has reason to know that the information is sought for boycott reasons.

A may not answer the question, because A would be furnishing information about its business relationships with or in a boycotted country.

(xviii) U.S. company A is asked by boycotting country Y to certify that it is not the mother company, sister company, subsidiary, or branch of any blacklisted company, and that it is not in any way affiliated with any blacklisted company.

A may not furnish the certification, because it is information about whether A has a business relationship with another person who is known or believed to be restricted from having any business relationship with or in a boycotting country. This interpretation became effective on June 22, 1978.

(e) *Information concerning association with charitable and fraternal organizations.*

Prohibition Against Furnishing Information About Associations With Charitable and Fraternal Organizations

(1) No United States person may furnish or knowingly agree to furnish information about whether any person is a member of, has made contributions to, or is otherwise associated with or involved in the activities of any charitable or fraternal organization which supports a boycotted country.

(2) This prohibition shall apply whether:

(i) The information concerns association with or involvement in any charitable or fraternal organization which (a) has, as one of its stated purposes, the support of a boycotted country through financial contributions or other means, or (b) undertakes, as a major organizational activity, to offer financial or other support to a boycotted country;

(ii) The information is directly or indirectly requested or is furnished on the initiative of the United States person; or

(iii) The information requested or volunteered concerns membership in, financial contributions to, or any other type of association with or involvement in the activities of such charitable or fraternal organization.

(3) This prohibition does not prohibit the furnishing of normal business information in a commercial context as defined in paragraph (d) of this section.

(4) This prohibition, like all others, applies only with respect to a United States person's activities in the interstate or foreign commerce of the United States and only when such activities are undertaken with intent to comply with, further, or support an unsanctioned foreign boycott.

Examples of Prohibition Against Furnishing Information About Associations With Charitable or Fraternal Organizations

The following examples are intended to give guidance in determining the circumstances in which the furnishing of information concerning associations with charitable or fraternal organizations is prohibited. They are illustrative, not comprehensive.

(i) U.S. engineering firm A receives an invitation to bid from boycotting country Y. The invitation includes a request to supply information concerning any association which A's officers have with charitable organization B, an organization which is known by A to contribute financial support to boycotted country X. A knows or has reason to know that the information is sought for boycott reasons.

A may not furnish the information.

(ii) U.S. construction company A, in an effort to establish business dealings with boycotting country Y, proposes to furnish information to Y showing that no members of its board of directors are in any way associated with charitable organizations which support boycotted country X. A's purpose is to avoid any possibility of its being blacklisted by Y.

A may not furnish the information, because A's purpose in doing so is boycott-based. It makes no difference that no specific request for the information has been made by Y.

(iii) A, a citizen of the United States, is applying for a teaching position in a school in boycotting country Y. In connection with his application, A furnishes a resume which happens to disclose his affiliation with charitable organizations. A does so completely without reference to Y's boycott and without knowledge of any boycott requirement of Y that pertains to A's application for employment.

The furnishing of a resume by A is not a boycott-related furnishing of information about his association with charitable organizations which support boycotted country X.

(f) *Letters of credit.*

Prohibition Against Implementing Letters of Credit Containing Prohibited Conditions or Requirements

(1) No United States person may pay, honor, confirm, or otherwise implement a letter of credit which contains a condition or requirement compliance with which is prohibited by this part, nor shall any United States person, as a result of the application of this section, be obligated to pay, honor or otherwise implement such a letter of credit.

(2) For purposes of this section, "implementing" a letter of credit includes:

(i) Issuing or opening a letter of credit at the request of a customer;

(ii) Honoring, by accepting as being a valid instrument of credit, any letter of credit;

(iii) Paying, under a letter of credit, a draft or other demand for payment by the beneficiary;

(iv) Confirming a letter of credit by agreeing to be responsible for payment to the beneficiary in response to a request by the issuer;

(v) Negotiating a letter of credit by voluntarily purchasing a draft from a beneficiary and presenting such draft for reimbursement to the issuer or the confirmer of the letter of credit; and

(vi) Taking any other action to implement a letter of credit.

(3) In the standard international letter of credit transaction facilitating payment for the export of goods from the United States, a bank in a foreign country may be requested by its customer to issue a revocable or irrevocable letter of credit in favor of the United States exporter. The customer usually requires, and the letter of credit provides, that the issuing (or a confirming) bank will make payment to the beneficiary against the bank's receipt of the documentation specified in the letter of credit. Such documentation usually includes commercial and consular invoices, a bill of lading, and evidence of insurance, but it may also include other required certifications or documentary assurances such as the origin of the goods and information relating to the carrier or insurer of the shipment.

Banks usually will not accept drafts for payment unless the documents submitted therewith comply with the terms and conditions of the letter of credit.

(4) A United States person is not prohibited under this section from advising a beneficiary of the existence of a letter of credit in his favor, or from taking ministerial actions to dispose of a letter of credit which it is prohibited from implementing.

(5) Compliance with this section shall provide an absolute defense in any action brought to compel payment of, honoring of, or other implementation of a letter of credit, or for damages resulting from failure to pay or otherwise honor or implement the letter of credit. This section shall not otherwise relieve any person from any obligations or other liabilities he may incur under other laws or regulations, except as may be explicitly provided in this section.

Letters of Credit to Which This Section Applies

(6) This prohibition, like all others, applies only with respect to a United States person's activities taken with intent to comply with, further, or support an unsanctioned foreign

boycott. In addition, it applies only when the transaction to which the letter of credit applies is in United States commerce and the beneficiary is a United States person.

Implementation of Letters of Credit in the United States

(7) A letter of credit implemented in the United States by a United States person located in the United States, including a permanent United States establishment of a foreign bank, will be presumed to apply to a transaction in United States commerce and to be in favor of a United States beneficiary where the letter of credit specifies a United States address for the beneficiary. These presumptions may be rebutted by facts which could reasonably lead the bank to conclude that the beneficiary is not a United States person or that the underlying transaction is not in United States commerce.

(8) Where a letter of credit implemented in the United States by a United States person located in the United States does not specify a United States address for the beneficiary, the beneficiary will be presumed to be other than a United States person. This presumption may be rebutted by facts which could reasonably lead the bank to conclude that the beneficiary is a United States person despite the foreign address.

Implementation of Letters of Credit Outside the United States

(9) A letter of credit implemented outside the United States by a United States person located outside the United States will be presumed to apply to a transaction in United States commerce and to be in favor of a United States beneficiary where the letter of credit specifies a United States address for the beneficiary and calls for documents indicating shipment from the United States or otherwise indicating that the goods are of United States origin. These presumptions may be rebutted by facts which could reasonably lead the bank to conclude that the beneficiary is not a United States person or that the underlying transaction is not in United States commerce.

(10) Where a letter of credit implemented outside the United States by a United States person located outside the United States does not specify a United States address for the beneficiary, the beneficiary will be presumed to be other than a United States person. In addition, where such a letter of credit does not call for documents indicating shipment from the United States or otherwise indicating that the goods are of United States origin, the transaction to which it applies will be presumed to be outside United States commerce. The presumption that the beneficiary is other than a United States person may be rebutted by facts which could reasonably lead the bank to conclude that the beneficiary is a United States person. The presumption that the transaction to which the letter of credit applies is outside United States commerce may be rebutted by facts which could reasonably lead the bank to conclude that the underlying transaction is in United States commerce.

Examples of the Prohibition Against Implementing Letters of Credit

The following examples are intended to give guidance in determining the circumstances in which this section applies to the implementation of a letter of credit and in which such implementation is prohibited. They are illustrative, not comprehensive.

Implementation of Letters of Credit in United States Commerce

(i) A, a U.S. bank located in the United States, opens a letter of credit in the United States in favor of B, a foreign company located outside the United States. The letter of credit specifies a non-U.S. address for the beneficiary.

The beneficiary is presumed to be other than a U.S. person, because it does not have a U.S. address. The presumption may be rebutted by facts showing that A could reasonably conclude that the beneficiary is a U.S. person despite the foreign address.

(ii) A, a branch of a foreign bank located in the United States, opens a letter of credit in favor of B, a foreign company located outside the United States. The letter of credit specifies a non-U.S. address for the beneficiary.

The beneficiary is presumed to be other than a U.S.person, because it does not have a U.S. address. The presumption may be rebutted by facts showing that A could reasonably conclude that the beneficiary is a U.S. person despite the foreign address.

(iii) A, a U.S. bank branch located outside the United States, opens a letter of credit in favor of B, a person with a U.S. address. The letter of credit calls for documents indicating shipment of goods from the United States.

The letter of credit is presumed to apply to a transaction in U.S. commerce and to be in favor of a U.S. beneficiary because the letter of credit specifies a U.S. address for the beneficiary and calls for documents indicating that the goods will be shipped from the United States. These presumptions may be rebutted by facts showing that A could reasonably conclude that the beneficiary is not a U.S. person or that the underlying transaction is not in U.S. commerce.

(iv) A, a U.S. bank branch located outside the United States, opens a letter of credit which specifies a beneficiary, B, with an address outside the United States and calls for documents indicating that the goods are of U.S.-origin. A knows or has reason to know that although B has an address outside the United States, B is a U.S. person.

The letter of credit is presumed to apply to a transaction in U.S. commerce, because the letter of credit calls for shipment of U.S.-origin goods. In addition, the letter of credit is presumed to be in favor of a beneficiary who is a U.S. person, because A knows or has reason to know that the beneficiary is a U.S. person despite the foreign address.

(v) A, a U.S. bank branch located outside the United States, opens a letter of credit which specifies a beneficiary with a U.S. address. The letter of credit calls for documents indicating shipment of foreign-origin goods.

The letter of credit is presumed to be in favor of a U.S. beneficiary but to apply to a transaction outside U.S. commerce, because it calls for documents indicating shipment of foreign-origin goods. The presumption of non-U.S. commerce may be rebutted by facts showing that A could reasonably conclude that the underlying transaction involves shipment of U.S.-origin goods or goods from the U.S.

Prohibition Against Implementing Letters of Credit

(i) Boycotting country Y orders goods from U.S. company B. Y opens a letter of credit with foreign bank C in favor of B. The letter of credit specifies as a condition of payment that B certify that it does not do business with boycotted country X. Foreign bank C forwards the letter of credit it has opened to U.S. bank A for confirmation.

A may not confirm or otherwise implement this letter of credit, because it contains a condition with which a U.S. person may not comply.

(ii) Same as (i), except U.S. bank A desires to advise the beneficiary, U.S. company B, of the letter of credit.

A may do so, because advising the beneficiary of the letter of credit (including the term which prevents A from implementing it) is not implementation of the letter of credit.

(iii) Same as (i), except foreign bank C sends a telegram to U.S. bank A stating the major terms and conditions of the letter of credit. The telegram does not reflect the boycott provision. Subsequently, C mails to A documents setting forth the terms and conditions of the letter of credit, including the prohibited boycott condition.

A may not further implement the letter of credit after it receives the documents, because they reflect the prohibited boycott condition in the letter of credit. A may advise the beneficiary and C of the existence of the letter of credit (including the boycott term), and may perform any essentially ministerial acts necessary to dispose of the letter of credit.

(iv) Same as (iii), except that U.S. company B, based in part on information received from U.S. bank A, desires to obtain an amendment to the letter of credit which would eliminate or nullify the language in the letter of credit which prevents A from paying or otherwise implementing it.

Either company B or bank A may undertake, and the other may cooperate and assist in, this endeavor. A could then pay or otherwise implement the revised letter of credit, so long as the original prohibited language is of no force or effect.

(v) Boycotting country Y requests a foreign bank in Y to open a letter of credit to effect payment for goods to be shipped by U.S. supplier B, the beneficiary of the letter of credit. The letter of credit contains prohibited boycott clauses. The foreign bank forwards a copy of the letter of credit to its branch office A, in the United States.

A may advise the beneficiary but may not implement the letter of credit, because it contains prohibited boycott conditions.

(vi) On November 1, 1977, boycotting country Y orders goods from U.S. company B. U.S. bank A is asked to implement, for the benefit of B, a letter of credit which contains a clause requiring documentation that the goods shipped are not of boycotted country X origin.

A may implement the letter of credit, but after June 21, 1978, may accept only a positive certificate of origin as satisfactory documentation. (See § 760.3(b) of this part on "Import and Shipping Document Requirements.")

(vii) Same as (vi), except that U.S. company B has a contract with Y to supply a certain quantity of goods each month over a two-year period. B's contract was entered into on May 15, 1977, and thus qualifies for grace period treatment until December 31, 1978. Each month, Y causes a letter of credit to be opened in favor of B in order to effect payment. Such letters of credit call for negative certificates of origin.

A may accept negative certificates of origin in fulfillment of the terms of the letter of credit through December 31, 1978, because the underlying contract is entitled to a grace period through that date. (See § 760.8 of this part on "Grace Period.")

(viii) B is a foreign bank located outside the United States. B maintains an account with U.S. bank A, located in the United States. A letter of credit issued by B in favor of a U.S. beneficiary provides that any negotiating bank may obtain reimbursement from A by certifying that all the terms and conditions of the letter of credit have been met and then drawing against B's account. B notifies A by cable of the issuance of a letter of credit and the existence of reimbursement authorization; A does not receive a copy of the letter of credit.

A may reimburse any negotiating bank, even when the underlying letter of credit contains a prohibited boycott condition, because A does not know or have reason to know that the letter of credit contains a prohibited boycott condition.

(ix) Same as (viii), except that foreign bank B forwards a copy of the letter of credit to U.S. bank A, which then becomes aware of the prohibited boycott clause.

A may not thereafter reimburse a negotiating bank or in any way further implement the letter of credit, because it knows of the prohibited boycott condition.

(x) Boycotting country Y orders goods from U.S. exporter B and requests a foreign bank in Y to open a letter of credit in favor of B to cover the cost. The letter of credit contains a prohibited boycott clause. The foreign bank asks U.S. bank A to advise and confirm the letter of credit. Through inadvertence, A does not notice the prohibited clause and confirms the letter of credit. A thereafter notices the clause and then refuses to honor B's draft against the letter of credit. B sues bank A for payment.

A has an absolute defense against the obligation to make payment under this letter of credit. (Note that paragraph (ix) of this section does not alter any other obligations or liabilities of the parties under appropriate law.)

(xi) [Reserved]

(xii) Boycotting country Y orders goods from U.S. company B. A letter of credit which contains a prohibited boycott clause is opened in favor of B by a foreign bank in Y. The foreign bank asks U.S. bank A to advise and confirm the letter of credit, which it forwards to A.

A may advise B that it has received the letter of credit (including the boycott term), but may not confirm the letter of credit with the prohibited clause.

(xiii) Same as (xii), except U.S. bank A fails to tell B that it cannot process the letter of credit. B requests payment.

A may not pay. If the prohibited language is eliminated or nullified as the result of renegotiation, A may then pay or otherwise implement the revised letter of credit.

(xiv) U.S. bank A receives a letter of credit in favor of U.S. beneficiary B. The letter of credit requires B to certify that he is not blacklisted.

A may implement such a letter of credit, but it may not insist that the certification be furnished, because by so insisting it would be refusing to do business with a blacklisted person in compliance with a boycott.

(xv) A, a U.S. bank located in the U.S. opens a letter of credit in favor of U.S. beneficiary B for B's sale of goods to boycotting country Y. The letter of credit contains no boycott conditions, but A knows that Y customarily requires the seller of goods to certify that it has dealt with no blacklisted supplier. A, therefore, instructs B that it will not make payment under the letter of credit unless B makes such a certification.

A's action in requiring the certification from B constitutes action to require another person to refuse to do business with blacklisted persons.

(xvi) A, a U.S. bank located in the U.S., opens a letter of credit in favor of U.S. beneficiary B for B's sale of goods to boycotting country Y. The letter of credit contains no boycott conditions, but A has actual knowledge that B has agreed to supply a certification to Y that it has not dealt with blacklisted firms, as a condition of receiving the letter of credit in its favor.

A may not implement the letter of credit, because it knows that an implicit condition of the credit is a condition with which B may not legally comply.

(xvii) Boycotting country Y orders goods from U.S. company B. Y opens a letter of credit with foreign bank C in favor of B. The letter of credit includes the statement, "Do not negotiate with blacklisted banks." C forwards the letter of credit it has opened to U.S. bank A for confirmation.

A may not confirm or otherwise implement this letter of credit, because it contains a condition with which a U.S. person may not comply.

§ 760.3 Exceptions to prohibitions.

(a) *Import requirements of a boycotting country.*

Compliance With Import Requirements of a Boycotting Country

(1) A United States person, in supplying goods or services to a boycotting country, or to a national or resident of a boycotting country, may comply or agree to comply with requirements of such boycotting country which prohibit the import of:

(i) Goods or services from the boycotted country;

(ii) Goods produced or services provided by any business concern organized under the laws of the boycotted country; or

(iii) Goods produced or services provided by nationals or residents of the boycotted country.

(2) A United States person may comply or agree to comply with such import requirements whether or not he has received a specific request to comply. By its terms, this exception applies only to transactions involving imports into a boycotting country. A United States person may not, under this exception, refuse on an across-the-board basis to do business with a boycotted country or a national or resident of a boycotted country.

(3) In taking action within the scope of this exception, a United States person is limited in the types of boycott-related information he can supply. (See § 760.2(d) of this part on "Furnishing Information About Business Relationships with Boycotted Countries or Blacklisted Persons" and paragraph (c) of this section on "Import and Shipping Document Requirements.")

Examples of Compliance With Import Requirements of a Boycotting Country

The following examples are intended to give guidance in determining the circumstances in which compliance with the import requirements of a boycotting country is permissible. They are illustrative, not comprehensive.

(i) A, a U.S. manufacturer, receives an order from boycotting country Y for its products, country X is boycotted by country Y, and the import laws of Y prohibit the importation of goods produced or manufactured in X. In filling this type of order, A would usually include some component parts produced in X.

For the purpose of filling this order, A may substitute comparable component parts in place of parts produced in X, because the import laws of Y prohibit the importation of goods manufactured in X.

(ii) Same as (i), except that A's contract with Y expressly provides that in fulfilling the contract A "may not include parts or

components produced or manufactured in boycotted country X."

A may agree to and comply with this contract provision, because Y prohibits the importation of goods from X. (NOTE: After June 21, 1978, A may not furnish negative certifications regarding the origin of components in response to import and shipping document requirements.)

(iii) A, a U.S. building contractor, is awarded a contract to construct a plant in boycotting country Y. A accepts bids on goods required under the contract, and the lowest bid is made by B, a business concern organized under the laws of X, a country boycotted by Y. Y prohibits the import of goods produced by companies organized under the laws of X.

For purposes of this contract, A may reject B's bid and accept another, because B's goods would be refused entry in to Y because of Y's boycott against X.

(iv) Same as (iii), except that A also rejects the low bid by B for work on a construction project in country M, a country not boycotted by Y.

This exception does not apply, because A's action is not taken in order to comply with Y's requirements prohibiting the import of products from boycotted country X.

(v) A, a U.S. management consulting firm, contracts to provide services to boycotting country Y. Y requests that A not employ residents or nationals of boycotted country X to provide those services.

A may agree, as a condition of the contract, not to have services furnished by nationals or residents of X, because importation of such services is prohibited by Y.

(vi) A, a U.S. company, is negotiating a contract to supply machine tools to boycotting country Y. Y insists that the contract contain a provision whereby A agrees that none of the machine tools will be produced by any business concern owned by nationals of boycotted country X, even if the business concern is organized under the laws of a non-boycotted country.

A may not agree to this provision, because it is a restriction on the import of goods produced by business concerns owned by nationals of a boycotted country even if the business concerns themselves are organized under the laws of a non-boycotted country.

(b) *Shipment of goods to a boycotting country.*

Compliance With Requirements Regarding the Shipment of Goods to a Boycotting Country

(1) A United States person, in shipping goods to a boycotting country, may comply or agree to comply with requirements of that country which prohibit the shipment of goods:

(i) On a carrier of the boycotted country; or

(ii) By a route other than that prescribed by the boycotting country or the recipient of the shipment.

(2) A specific request that a United States person comply or agree to comply with requirements concerning the use of carriers of a boycotted country is not necessary if the United States person knows, or has reason to know, that the use of such carriers for shipping goods to the boycotting country is prohibited by requirements of the boycotting country. This exception applies whether a boycotting country or the purchaser of the shipment:

(i) Explicitly states that the shipment should not pass through a port of the boycotted country; or

(ii) Affirmatively describes a route of shipment that does not include a port in the boycotted country.

(3) For purposes of this exception, the term *carrier of a boycotted country* means a carrier which flies the flag of a boycotted country or which is owned, chartered, leased, or operated by a boycotted country or by nationals or residents of a boycotted country.

Examples of Compliance With the Shipping Requirements of a Boycotting Country

The following examples are intended to give guidance in determining the circumstances in which compliance with import and shipping document requirements of a boycotting country is permissible. They are illustrative, not comprehensive.

(i) A is a U.S. exporter from whom boycotting country Y is importing goods. Y directs that the goods not pass through a port of boycotted country X.

A may comply with Y's shipping instructions, because they pertain to the route of shipment of goods being shipped to Y.

(ii) A, a U.S. fertilizer manufacturer, receives an order from boycotting country Y for fertilizer. Y specifies in the order that A may not ship the fertilizer on a carrier of boycotted country X.

A may comply with this request, because it pertains to the carrier of a boycotted country.

(iii) B, a resident of boycotting country Y, orders textile goods from A, a U.S. distributor, specifying that the shipment must not be made on a carrier owned or leased by nationals of boycotted country X and that the carrier must not pass through a port of country X enroute to Y.

A may comply or agree to comply with these requests, because they pertain to the shipment of goods to Y on a carrier of a boycotted country and the route such shipment will take.

(iv) Boycotting country Y orders goods from A, a U.S. retail merchant. The order specifies that the goods shipped by A "may not be shipped on a carrier registered in or owned by boycotted country X."

A may agree to this contract provision, because it pertains to the carrier of a boycotted country.

(v) Boycotting country Y orders goods from A, a U.S. pharmaceutical company, and requests that the shipment not pass through a port of country P, which is not a country boycotted by Y.

This exception does not apply in a non-boycotting situation. A may comply with the shipping instructions of Y, because in doing so he would not violate any prohibition of this part.

(c) *Import and shipping document requirements.*

Compliance With Import and Shipping Document Requirements of a Boycotting Country

(1) A United States person, in shipping goods to a boycotting country, may comply or agree to comply with import and shipping document requirements of that country, with respect to:

(i) The country or origin of the goods;

(ii) The name of the carrier;

(iii) The route of the shipment;

(iv) The name of the supplier of the shipment; and

(v) The name of the provider of other services.

(2) After June 21, 1978, all such information must be stated in positive, non-blacklisting, non-exclusionary terms except for information with respect to the names of carriers or routes of shipment, which may continue to be stated in negative terms in conjunction with shipments to a boycotting country, in order to comply with precautionary requirements protecting against war risks or confiscation. The purpose of this delayed effective date, which is provided by section 4A(a)(2)(B) of the Export Administration Act of 1969, as amended, is to allow time for persons to adjust their practices to the use of import and shipping documentation stated in positive rather than negative terms.

Examples of Compliance With Import and Shipping Document Requirements

The following examples are intended to give guidance in determining the circumstances in which compliance with the import requirements of a boycotting country is permissible. They are illustrative, not comprehensive.

(i) Boycotting country Y contracts with A, a U.S. petroleum equipment manufacturer, for certain equipment. Y requires that goods being imported into Y must be accompanied by a certification that the goods being supplied did not originate in boycotted country X.

Until June 21, 1978, A may comply with such import requirements in the terms requested. After June 21, 1978, A may not supply such a certification in negative terms but may identify instead the country of origin of the goods in positive terms only.

(ii) Same as (i), except that Y requires that the shipping documentation accompanying the goods specify the country of origin of the goods.

A may furnish the information.

(iii) On February 1, 1978, A, a U.S. distributor, enters into a two-year contract with boycotting country Y to make monthly shipments of goods to Y. A clause in the contract requires that all shipments into the country must be accompanied by a certification that the goods did not originate in X, a country boycotted by Y.

A may supply such a negative certification until June 21, 1978. After that date, A may state the origin of the goods on the shipping or import documents in positive terms only.

(iv) A, a U.S. apparel manufacturer, has contracted to sell certain of its products to B, a national of boycotting country Y. The form that must be submitted to customs officials of Y requires the shipper to certify that the goods contained in the shipment have not been supplied by "blacklisted" persons.

Until June 21, 1978, A may furnish the information required in the terms requested. After June 21, 1978, A may not furnish the information in negative terms but may certify, in positive terms only, the name of the supplier of the goods.

(v) Same as (iv), except the customs form requires certification that the insurer and freight forwarder used are not "blacklisted."

Until June 21, 1978, A may furnish the information required in the terms requested. After June 21, 1978, A may not comply with the request but may supply a certification stating, in positive terms only, the names of the insurer and freight forwarder.

(vi) A, a U.S. petrochemical manufacturer, executes a sales contract with B, a resident of boycotting country Y. A provision of A's contract with B requires that the bill of lading and other shipping documents contain certifications that the goods have not been shipped on a "blacklisted" carrier.

Until June 21, 1978, A may furnish the information required in the terms requested. After June 21, 1978, A may not agree to supply a certification that the carrier is not "blacklisted" but may certify the name of the carrier in positive terms only.

(vii) Same as (vi), except that the contract requires certification that the goods will not be shipped on a carrier which flies the flag of, or is owned, chartered, leased, or operated by boycotted country X, or by nationals or residents of X.

Such a certification, which is a reasonable requirement to protect against war risks or confiscation, may be furnished at any time.

(viii) Same as (vi), except that the contract requires that the shipping documents certify the name of the carrier being used.

A may, at any time, supply or agree to supply the requested documentation regarding the name of the carrier, either in negative or positive terms.

(ix) Same as (vi), except that the contract requires a certification that the carrier will not call at a port in boycotted country X before making delivery in Y.

Such a certification, which is a reasonable requirement to protect against war risks or confiscation, may be furnished at any time.

(x) Same as (vi), except that the contract requires that the shipping documents indicate the name of the insurer and freight forwarder.

A may comply at any time, because the statement is not required to be made in negative or blacklisting terms.

(xi) A, a U.S. exporter, is negotiating a contract to sell bicycles to boycotting country Y. Y insists that A agree to certify that the goods will not be shipped on a vessel which has ever called at a port in boycotted country X.

As distinguished from a certification that goods will not be shipped on a vessel which will call enroute at a port of boycotted country X, such a certification is not a reasonable requirement to protect against war risks or confiscation, and, hence, may not be supplied.

(xii) Same as (xi), except that Y insists that A agree to certify that the goods will not be shipped on a carrier that is ineligible to enter Y's waters.

Such a certification, which is not a reasonable requirement to protect against war risks or confiscation may not be supplied.

(xiii) A, a U.S. exporter, sells some of its products to boycotting country Y. A foreign bank located in Y opens a letter of credit to pay for the goods. The letter of credit requires that A supply documentation certifying that "the goods are not manufactured in boycotted country X."

A may make the required certification until June 21, 1978, because import and shipping document requirements of a boycotting country may be reflected in letters of credit.

(d) *Compliance with unilateral selection.*

Compliance With Unilateral and Specific Selection

(1) A United States person may comply or agree to comply in the normal course of business with the unilateral and specific selection by a boycotting country, a national of a boycotting country, or a resident of a boycotting country (including a United States person who is a bona fide resident of a boycotting country) of carriers, insurers, suppliers of services to be performed within the boycotting country, or specific goods, provided that with respect to services, it is necessary and customary that an insignificant part of the services be performed within the boycotting country, and with respect to goods, the items, in the normal course of business, are identifiable as to their source or origin at the time of their entry into the boycotting country by uniqueness of design or appearance or trademark, trade name, or other identification normally on the items themselves, including their packaging.

(2) This exception pertains to what is permissible for a United States person who is the recipient of a unilateral and specific selection of goods or services to be furnished by a third person. It does not pertain to whether the act of making such a selection is permitted; that question is covered, with respect to United States persons, in paragraph (g) of this section on "Compliance with Local Law." Nor does it pertain to the United States person who is the recipient of an order to supply its own goods or services. Nothing in this part prohibits or restricts a United States person from filling an order himself, even if he is selected by the buyer on a boycott basis (e.g., because he is not blacklisted), so long as he does not himself take any action prohibited by this part.

Unilateral and Specific Character of the Selection

(3) In order for this exception to apply, the selection with which a United States person wishes to comply must be unilateral and specific.

(4) A "specific" selection is one which is stated in the affirmative and which specifies a particular supplier of goods or services.

(5) A "unilateral" selection is one in which the discretion in making the selection is exercised by the boycotting country buyer. If the United States person who receives a unilateral selection has provided the buyer with any boycott-based assistance (including information for purposes of helping the buyer select someone on a boycott basis), then the buyer's selection is not unilateral, and compliance with that selection by a United States person does not come within this exception.

(6) The provision of so-called "pre-selection" or "pre-award" services, such as providing lists of qualified suppliers, subcontractors, or bidders, does not, in and of itself, destroy the unilateral character of a selection, provided such services are not boycott-based. Lists of qualified suppliers, for example, must not exclude anyone because he is blacklisted. Moreover, such services must be of the type customarily provided in similar transactions by the firm (or industry of which the firm is a part) as measured by the practice in non-boycotting as well as boycotting countries. If such services are not customarily provided in similar transactions or such services are provided in such a way as to exclude blacklisted persons from participating in a transaction or diminish their opportunity for such participation, then the services may not be provided without destroying the unilateral character of any subsequent selection.

Selection To Be Made by Boycotting Country Resident

(7) In order for this exception to be available, the unilateral and specific selection must have been made by a boycotting country, or by a national or resident of a boycotting country. Such a resident may be a United States person. For purposes of this exception, a United States person will be considered a resident of a boycotting country only if he is a bona fide resident. A United States person may be a bona fide

resident of a boycotting country even if such person's residency is temporary.

(8) Factors that will be considered in determining whether a United States person is a bona fide resident of a boycotting country include:

(i) Physical presence in the country;

(ii) Whether residence is needed for legitimate business reasons;

(iii) Continuity of the residency;

(iv) Intent to maintain the residency;

(v) Prior residence in the country;

(vi) Size and nature of presence in the country;

(vii) Whether the person is registered to do business or incorporated in the country;

(viii) Whether the person has a valid work visa; and

(ix) Whether the person has a similar presence in both boycotting and non-boycotting foreign countries in connection with similar business activities.

Note to paragraph (d)(8) of this section: No one of the factors is dispositive. All the circumstances will be examined closely to ascertain whether there is, in fact, a bona fide residency. Residency established solely for purposes of avoidance of the application of this part, unrelated to legitimate business needs, does not constitute bona fide residency.

(9) The boycotting country resident must be the one actually making the selection. If a selection is made by a non-resident agent, parent, subsidiary, affiliate, home office or branch office of a boycotting country resident, it is not a selection by a resident within the meaning of this exception.

(10) A selection made solely by a bona fide resident and merely transmitted by another person to a United States person for execution is a selection by a bona fide resident within the meaning of this exception.

Duty of Inquiry

(11) If a United States person receives, from another person located in the United States, what may be a unilateral selection by a boycotting country customer, and knows or has reason to know that the selection is made for boycott reasons, he has a duty to inquire of the transmitting person to determine who actually made the selection. If he knows or has reason to know that the selection was made by other than a boycotting country, or a national or resident of a boycotting country, he may not comply. A course or pattern of conduct which a United States person recognizes or should recognize as consistent with boycott restrictions will create a duty to inquire.

(12) If the United States person does not know or have reason to know that the selection it receives is boycott-based, its compliance with such a selection does not offend any prohibition and this exception is not needed.

Selection of Services

(13) This exception applies only to compliance with selections of certain types of suppliers of services-carriers, insurers, and suppliers of services to be performed "within the boycotting country." Services to be performed wholly within the United States or wholly within any country other than the boycotting country are not covered.

(14) For purposes of this part, services are to be performed "within the boycotting country" only if they are of a type which would customarily be performed by suppliers of those services within the country of the recipient of those services, and if the part of the services performed within the boycotting country is a necessary and not insignificant part of the total services performed.

(15) What is "customary and necessary" for these purposes depends on the usual practice of the supplier of the services (or the industry of which he is a part) as measured by the practice in non-boycotting as well as boycotting countries, except where such practices are instituted to accommodate this part.

Selection of Goods

(16) This exception applies only to compliance with selections of certain types of goods—goods that, in the normal course of business, are identifiable as to their source or origin at the time of their entry into the boycotting country. The definition of "specifically identifiable goods" is the same under this section as it is in paragraph (g) of this section on "Compliance with Local Law."

(17) Goods "specifically identifiable" in the normal course of business are those items which at the time of their entry into a boycotting country are identifiable as to source or origin by uniqueness of design or appearance; or trademark, trade name, or other identification normally on the items themselves, including their packaging. Goods are "specifically identifiable" in the normal course of business if their source or origin is ascertainable by inspection of the items themselves, including their packaging, regardless of whether inspection takes place. Goods are not considered to be "specifically identifiable" in the normal course of business if a trademark, trade name, or other form of identification not normally present is added to the items themselves, including their packaging, to accommodate this part.

General

(18) If a unilateral selection meets the conditions described in paragraph (d) of this section, the United States person receiving the unilateral selection may comply or agree to comply, even if he knows or has reason to know that the selection was boycott-based. However, no United States person may comply or agree to comply with any unilateral selection if he knows or has reason to know that the purpose of the selection is to effect discrimination against any United States person on the basis of race, religion, sex, or national origin.

Examples of Compliance With a Unilateral Selection

The following examples are intended to give guidance in determining what constitutes a unilateral selection and the circumstances in which compliance with such a selection is permissible. They are illustrative, not comprehensive.

Specific and Unilateral Selection

(i) A, a U.S. manufacturer of road-grading equipment, is asked by boycotting country Y to ship goods to Y on U.S. vessel B, a carrier which is not blacklisted by Y. A knows or has reason to know that Y's selection of B is boycott-based.

A may comply with Y's request, or may agree to comply as a condition of the contract, because the selection is specific and unilateral.

(ii) A, a U.S. contractor building an industrial facility in boycotting country Y is asked by B, a resident of Y, to use C as the supplier of air conditioning equipment to be used in the facility. C is not blacklisted by country Y. A knows or has reason to know that B's request is boycott-based.

A may comply with B's request, or may agree to comply as a condition of the contract, because the selection of C is specific and unilateral.

(iii) A, a U.S. manufacturer of automotive equipment, is asked by boycotting country Y not to ship its goods to Y on U.S. carriers, B, C, or D. Carriers B, C, and D are blacklisted by boycotting country Y. A knows or has reason to know that Y's request is boycott-based.

A may not comply or agree to comply with Y's request, because no specific selection of any particular carrier has been made.

(iv) A, a U.S. exporter shipping goods ordered by boycotting country Y, is provided by Y with a list of eligible U.S. insurers from which A may choose in insuring the shipment of its goods. A knows or has reason to know that the list was compiled on a boycott basis.

A may not comply or agree to comply with Y's request that A choose from among the eligible insurers, because no specific selection of any particular insurer has been made.

(v) A, a U.S. aircraft manufacturer, is negotiating to sell aircraft to boycotting country Y. During the negotiations, Y asks A to identify the company which normally manufactures the engines for the aircraft. A responds that they are normally manufactured by U.S. engine manufacturer B. B is blacklisted by Y. In making the purchase, Y specifies that the engines for the aircraft should be supplied by U.S. engine manufacturer C.

A may comply or agree to comply with Y's selection of C, because Y's selection is unilateral and specific.

(vi) A, a U.S. construction firm, is retained by an agency of boycotting country Y to build a pipeline. Y requests A to suggest qualified engineering firms to be used on-site in the construction of the pipeline. It is customary for A, regardless of where it conducts its operations, to identify qualified engineering firms to its customers so that its customers may make their own selection of the firm to be engaged. Choice of engineering firm is customarily a prerogative of the customer. A provides a list of five engineering firms, B–F, excluding no firm because it may be blacklisted, and then confers with and gives its recommendations to Y. A recommends C, because C is the best qualified. Y then selects B, because C is blacklisted.

A may comply with Y's selection of B, because the boycott-based decision is made by Y and is unilateral and specific. Since A's pre-award services are of the kind customarily provided in these situations, and since they are provided without reference to the boycott, they do not destroy the unilateral character of Y's selection.

(vii) A, a U.S. aircraft manufacturer, has an order to supply a certain number of planes to boycotting country Y. In connection with the order, Y asks A to supply it with a list of qualified aircraft tire manufacturers so that Y can select the tires to be placed on the planes. This is a highly unusual request, since, in A's worldwide business operations, choice of tires is customarily made by the manufacturer, not the customer. Nonetheless, A supplies a list of tire manufacturers, B, C, D, and E. Y chooses tire manufacturer B because B is not blacklisted. Had A, as is customary, selected the tires, company C would have been chosen. C happens to be blacklisted, and A knows that C's blacklist status was the reason for Y's selection of B.

A's provision of a list of tire manufacturers for Y to choose from destroys the unilateral character of Y's selection, because such a pre-selection service is not customary in A's worldwide business operations.

(viii) A, a U.S. aircraft manufacturer, receives an order from U.S. company C, which is located in the United States, for the sale of aircraft to company D, a U.S. affiliate of C. D is a bona fide resident of boycotting country Y. C instructs A that "in order to avoid boycott problems," A must use engines that are manufactured by company B, a company that is not blacklisted by Y. Engines built by B are unique in design and also bear B's trade name.

Since A has reason to know that the selection is boycott-based, he must inquire of C whether the selection was in fact made by D. If C informs A that the selection was made by D, A may comply.

(ix) Same as (viii), except that C initially states that the designation was unilaterally and specifically made by D.

A may accept C's statement without further investigation and may comply with the selection, because C merely transmitted D's unilateral and specific selection.

(x) Same as (ix), except that C informs A that it, C, has selected B on behalf of or as an agent of its affiliated company resident in the boycotting country.

A may not comply with this selection, because the decision was not made by a resident of the boycotting country.

(xi) A, a U.S. management consulting firm, is advising boycotting country Y on the selection of a contracting firm to construct a plant for the manufacture of agricultural chemicals. As is customary in its business, A compiles a list of potential contractors on the basis of its evaluation of the capabilities of the respective candidates to perform the job. A has knowledge that company B is blacklisted, but provides Y with the names of companies B, C, D, and E, listing them in order of their qualifications. Y instructs A to negotiate with C.

A may comply with Y's instruction, because Y's selection is unilateral and specific.

(xii) A, a U.S. exporter, is asked by boycotting country Y not to ship goods on carriers B, C, or D, which are owned by nationals of and are registered in country P, a country not boycotted by Y.

A may comply or agree to comply with Y's request even though the selection is not specific, because A does not know or have reason to know that the request is boycott-based.

(Note: In example (xii), A has violated no prohibition, because it does not know or have reason to know that Y's instruction is boycott-based. Therefore, A could not act with the requisite intent to comply with the boycott.)

(xiii) A, a U.S. construction company, receives a contract to construct a hotel in boycotting country Y. As part of the contract, A is required to furnish Y with lists of qualified suppliers of various specifically identifiable items. A compiles lists of various qualified suppliers wholly without reference to the boycott, and thereafter Y instructs A to negotiate with, enter into contracts with, and arrange for delivery from each of the suppliers which Y designates. A knows that Y's choices are made on a boycott basis.

A may comply with Y's selections and carry out these post-award services for Y, because Y's selections were unilateral and specific and A's pre-award services were provided without reference to Y's boycott.

Examples of Boycotting Country Buyer

(The factors in determining whether a United States person is a "bona fide resident" of a boycotting country are the same as in paragraph (g) of this section on "Compliance with Local Law." See also the examples in that section.)

(i) A, a U.S. exporter, is asked by B, a U.S. person who is a bona fide resident of boycotting country Y, to ship goods on U.S. carrier C. C is not blacklisted by Y, and A knows that B has chosen on a boycott basis in order to comply with Y's boycott laws.

A may comply or agree to comply with B's request, because B is a bona fide resident of Y.

(ii) A is a U.S. computer company whose subsidiary, B, is a bona fide resident of boycotting country Y. A receives an order from B for specific, identifiable products manufactured by company C in connection with a computer which B is installing in Y.

A may comply or agree to comply with B's unilateral and specific selection, so long as the discretion was in fact exercised by B, not A.

(Note: Unilateral selection transactions involving related United States persons will be scrutinized carefully to ensure that the selection was in fact made by the bona fide resident of the boycotting country.)

(iii) A, a U.S. engineering firm, has chief engineer B as its resident engineer on a dam construction site in boycotting country Y. B's presence at the site is necessary in order to ensure proper supervision of the project. In order to comply with local law, B selects equipment supplier C rather than D, who is blacklisted, and directs A to purchase certain specific equipment from C for use in the project.

A may comply with this unilateral selection, because the decision was made by a bona fide resident of Y.

(As noted above, unilateral selections involving related United States persons will be scrutinized carefully to ensure that the selection was in fact made by the bona fide resident of the boycotting country.)

(iv) B, a branch of U.S. bank A, is located in boycotting country Y. B is in need of office supplies and asks the home office in New York to make the necessary purchases. A contacts C, a U.S. company in the office supply business, and instructs C to purchase various items from certain specific companies and ship them directly to B. In order to avoid any difficulties for B with respect to Y's boycott laws, A is careful to specify only non-blacklisted companies or suppliers. C knows that that was A's purpose. C may not comply with A's instruction, because the selection of suppliers was not made by a resident of a boycotting country.

(v) Same as (iv), except that A has given standing instructions to B that whenever it needs office supplies, it should specify certain suppliers designated by A. To avoid running afoul of Y's boycott laws, A's designations consist exclusively of non-blacklisted firms. A receives an order from B with the suppliers designated in accordance with A's instructions.

A may not comply with B's selection, because the selection was not in fact made by a bona fide resident of the boycotting country, but by a person located in the United States.

Examples of Suppliers of Services

(i) A, a U.S. manufacturer, is asked by boycotting country Y to ship goods to Y on U.S. vessel B, a carrier which is not blacklisted by Y.

A may comply or agree to comply with Y's request, because compliance with the unilateral and specific selection of carriers is expressly permitted under this exception.

(ii) A, a U.S. exporter shipping goods ordered by C, a national of boycotting country Y, is asked by C to insure the shipment through U.S. insurer B.

A may comply or agree to comply with C's request, because compliance with the unilateral and specific selection of an insurer is expressly permitted under this exception.

(iii) A, a U.S. construction company, is hired by C, an agency of the government of boycotting country Y, to build a power plant in Y. C specifies that A should subcontract the foundation work to U.S. contractor B. Part of the foundation design work will be done by B in the United States.

A may comply or agree to comply with Y's designation, because a necessary and not insignificant part of B's services are to be performed within the boycotting country, and such services are customarily performed on-site.

(iv) A, a U.S. contractor, is engaged by boycotting country Y to build a power plant. Y specifies that U.S. architectural firm B should be retained by A to design the plant. In order to design the plant, it is essential that B's personnel visit and become familiar with the site, although the bulk of the design and drawing work will be done in the United States.

A may comply or agree to comply with Y's unilateral and specific selection of architectural firm B, because a necessary and not insignificant part of B's services are to be performed within Y, and such on-site work is customarily involved in the provision of architectural services. The fact that the bulk of the actual work may be performed in the United States is irrelevant since the part to be performed within Y is necessary to B's effective performance.

(v) Same as (iv), except that Y specifies that the turbine for the power plant should be designed by U.S. engineer C. It is neither customary nor necessary for C to visit the site in order to do any of his work, but C has informed A that he would probably want to visit the site in Y if he were selected for the job.

A may not comply or agree to comply with Y's request, because, in the normal course of business, it is neither customary nor necessary for engineer C's services to be performed in Y.

(vi) A, a U.S. aircraft manufacturer, receives a contract from boycotting country Y to manufacture jet engines for Y's use. Y specifies that the engines should be designed by U.S. industrial engineering firm B.

A may not comply or agree to comply with Y's request, because, in the normal course of business, the services will not be performed in Y.

(vii) U.S. company A has a contract to supply specially designed road graders to boycotting country Y. Y has instructed A that it should engage engineering firm B in the design work rather than engineering firm C, which A normally uses, because C is blacklisted. When A contacts B, B informs A that one of B's personnel customarily visits the location in which any equipment B designs is used after it is in use, in order to determine how good a design job B has done. Such visits are necessary from B's point of view to provide a check on the quality of its work, and they are necessary from Y's point of view because they make it possible for Y to discuss possible design changes should deficiencies be detected.

A may not comply with Y's selection of B, because the services which B would perform in Y are an insignificant part of the total services to be performed by B.

Examples of Specifically Identifiable Goods

(The test of what constitutes "specifically identifiable goods" under this exception also applies to the term "specifically identifiable goods" as used in paragraph (g) of this section on "Compliance with Local Law.")

(i) A, a U.S. contractor, is constructing an apartment complex, on a turnkey basis, for boycotting country Y. Y instructs A to use only kitchen appliances manufactured by U.S. company B in completing the project. The appliances normally bear the manufacturer's name and trademark.

A may comply with Y's selection of B, because Y's unilateral and specific selection is of goods identifiable as to source or origin in the normal course of business at the time of their entry into Y.

(ii) Same as (i), except that Y directs A to use lumber manufactured only by U.S. company C. In the normal course of business, C neither stamps its name on the lumber nor identifies itself as the manufacturer on the packaging. In addition, normal export packaging does not identify the manufacturer.

A may not comply with Y's selection, because the goods selected are not identifiable by source or origin in the normal course of business at the time of their entry into Y.

(iii) B, a U.S. contractor who is a bona fide resident of boycotting country Y, is engaged in building roads. B retains the services of A, a U.S. engineering firm, to assist it in procuring construction equipment. B directs A to purchase road graders only from manufacturer C because other road grader manufacturers which A might use are blacklisted. C's road graders normally bear C's insignia.

A may comply with B's selection of C, because the goods selected are identifiable by source or origin in the normal course of business at the time of their entry into Y.

(iv) A, a U.S. company, manufactures computer-operated machine tools. The computers are mounted on a separate bracket on the side of the equipment and are readily identifiable by brand name imprinted on the equipment. There are five or six U.S. manufacturers of such computers which will function interchangeably to operate the machine tools manufactured by A. B, a resident of boycotting country Y, contracts to buy the machine tools manufactured by A on the condition that A incorporate, as the computer drive, a computer manufactured by U.S. company C. B's designation of C is made to avoid boycott problems which could be caused if computers manufactured by some other company were used.

A may comply with B's designation of C, because the goods selected are identifiable by source or origin in the normal course of business at the time of their entry into Y.

(v) A, a U.S. wholesaler of electronic equipment, receives an order from B, a U.S. manufacturer of radio equipment, who is a bona fide resident of boycotting country Y. B orders a variety of electrical components and specifies that all transistors must be purchased from company C, which is not blacklisted by Y. The transistors requested by B do not normally bear the name of the manufacturer; however, they are typically shipped in cartons, and C's name and logo appear on the cartons.

A may comply with B's selection, because the goods selected by B are identifiable as to source or origin in the normal course of business at the time of their entry into Y by virtue of the containers or packaging used.

(vi) A, a U.S. computer manufacturer, receives an order for a computer from B, a university in boycotting country Y. B specifies that certain integrated circuits incorporated in the computer must be supplied by U.S. electronics company C. These circuits are incorporated into the computer and are not visible without disassembling the computer.

A may not comply or agree to comply with B's specific selection of these components, because they are not identifiable as to their source or origin in the normal course of business at the time of their entry into Y.

(vii) A, a U.S. clothing manufacturer, receives an order for shirts from B, a retailer resident in boycotting country Y. B specifies that the shirts are to be manufactured from cotton produced by U.S. farming cooperative C. Such shirts will not identify C or the source of the cotton.

A may not comply or agree to comply with B's designation, because the cotton is not identifiable as to source or origin in the normal course of business at the time of entry into Y.

(viii) A, a U.S. contractor, is retained by B, a construction firm located in and wholly-owned by boycotting country Y, to assist B in procuring construction materials. B directs A to purchase a range of materials, including hardware, tools, and trucks, all of which bear the name of the manufacturer stamped on the item. In addition, B directs A to purchase steel beams manufactured by U.S. company C. The name of manufacturer C normally does not appear on the steel itself or on its export packaging.

A may comply with B's selection of the hardware, tools, and trucks, because they are identifiable as to source or origin in the normal course of business at the time of entry into Y. A may not comply with B's selection of steel beams, because the goods are not identifiable as to source or origin by trade name, trademark, uniqueness or packaging at the time of their entry into Y.

Examples of Discrimination on Basis of Race, Religion, Sex, or National Origin

(i) A, a U.S. paper manufacturer, is asked by boycotting country Y to ship goods to Y on U.S. vessel B. Y states that the reason for its choice of B is that, unlike U.S. vessel C, B is not owned by persons of a particular faith.

A may not comply or agree to comply with Y's request, because A has reason to know that the purpose of the selection is to effect religious discrimination against a United States person.

(e) *Shipment and transshipment of exports pursuant to a boycotting country's requirements.*

Compliance With a Boycotting Country's Requirements Regarding Shipment and Transshipment of Exports

(1) A United States person may comply or agree to comply with the export requirements of a boycotting country with respect to shipments or transshipments of exports to:

(i) A boycotted country;

(ii) Any business concern of a boycotted country;

(iii) Any business concern organized under the laws of a boycotted country; or

(iv) Any national or resident of a boycotted country.

(2) This exception permits compliance with restrictions which a boycotting country may place on direct exports to a boycotted country; on indirect exports to a boycotted country (i.e., those that pass via third parties); and on exports to residents, nationals, or business concerns of, or organized under the laws of, a boycotted country, including those located in third countries.

(3) This exception also permits compliance with restrictions which a boycotting country may place on the route of export shipments when the restrictions are reasonably related to preventing the export shipments from coming into contact with or under the jurisdiction of the boycotted country. This exception applies whether a boycotting country or the vendor of the shipment:

(i) Explicitly states that the shipment should not pass through the boycotted country enroute to its final destination; or

(ii) Affirmatively describes a route of shipment that does not include the boycotted country.

(4) A United States person may not, under this exception, refuse on an across-the-board basis to do business with a boycotted country or a national or resident of a boycotted country.

Examples of Compliance With a Boycotting Country's Requirements Regarding Shipment or Transshipment of Exports

The following examples are intended to give guidance in determining the circumstances in which compliance with the export requirements of a boycotting country is permissible. They are illustrative, not comprehensive.

(i) A, a U.S. petroleum company, exports petroleum products to 20 countries, including the United States, from boycotting country Y. Country Y's export regulations require that products not be exported from Y to boycotted country X.

A may agree to and comply with Y's regulations with respect to the export of goods from Y to X.

(ii) Same as (i), except that Y's export regulations require that goods not be exported from boycotting country Y to any business concern organized under the laws of boycotted country X.

A may agree to and comply with Y's regulations with respect to the export of goods from Y to a business concern organized under the laws of X, even if such concern is located in a country not involved in Y's boycott of X.

(iii) B, the operator of a storage facility in country M, contracts with A, a U.S. carrier, for the shipment of certain goods manufactured in boycotting country Y. A's contract with B contains a provision stating that the goods to be transported may not be shipped or transshipped to boycotted country X. B informs A that this provision is a requirement of C, the manufacturer of goods who is a resident of boycotting country Y. Country M is not boycotted by Y.

A may agree to and comply with this provision, because such a provision is required by the export regulations of boycotting country Y in order to prevent shipment of Y-origin goods to a country boycotted by Y.

(iv) A, a U.S. petroleum refiner located in the United States, purchases crude oil from boycotting country Y. A has a branch operation in boycotted country X. Y requires, as a condition of sale, that A agree not to ship or transship the crude oil or products refined in Y to A's branch in X.

A may agree to and comply with these requirements, because they are export requirements of Y designed to prevent Y-origin products from being shipped to a boycotted country.

(v) A, a U.S. company, has a petrochemical plant in boycotting country Y. As a condition of securing an export license from Y, A must agree that it will not ship or permit transshipment of any of its output from the plant in Y to any companies which Y lists as being owned by nationals of boycotted country X.

A may agree to this condition, because it is a restriction designed to prevent Y-origin products from being exported to a business concern of boycotted country X or to nationals of boycotted country X.

(vi) Same as (v), except that the condition imposed on A is that Y-origin goods may not be shipped or permitted to be transshipped to any companies which Y lists as being owned by persons whose national origin is X.

A may not agree to this condition, because it is a restriction designed to prevent Y-origin goods from being exported to persons of a particular national origin rather than to residents or nationals of a particular boycotted country.

(vii) A, a U.S. petroleum company, exports petroleum products to 20 countries, including the United States, from boycotting country Y. Y requires, as a condition of sale, that A not ship the products to be exported from Y to or through boycotted country X.

A may agree to and comply with this requirement because it is an export requirement of Y designed to prevent Y-origin products from coming into contact with or under the jurisdiction of a boycotted country.

(viii) Same as (vii), except that boycotting country Y's export regulations require that products to be exported from Y not pass through a port of boycotted country X.

A may agree to and comply with Y's regulations prohibiting Y-origin exports from passing through a port at boycotted country X, because they are export requirements of Y designed to prevent Y-origin products from coming into contact with or under the jurisdiction of a boycotted country.

(ix) Same as (vii), except that Y's export regulations require that A not transship the exported products "in or at" boycotted country X.

A may agree to and comply with Y's regulations with respect to the transshipment of goods "in or at" X, because they are export requirements of Y designed to prevent Y-origin products from coming into contact with or under the jurisdiction of a boycotted country.

(f) *Immigration, passport, visa, or employment requirements of a boycotting country.*

Compliance With Immigration, Passport, Visa, or Employment Requirements of a Boycotting Country

(1) A United States individual may comply or agree to comply with the immigration, passport, visa, or employment requirements of a boycotting country, and with requests for information from a boycotting country made to ascertain whether such individual meets requirements for employment within the boycotting country, provided that he furnishes information only about himself or a member of his family, and not about any other United States individual, including his employees, employers, or co-workers.

(2) For purposes of this section, a *United States individual* means a person who is a resident or national of the United States. *Family* means immediate family members, including parents, siblings, spouse, children, and other dependents living in the individual's home..

(3) A United States person may not furnish information about its employees or executives, but may allow any individual to respond on his own to any request for information relating to immigration, passport, visa, or employment requirements. A United States person may also perform any ministerial acts to expedite processing of applications by individuals. These include informing employees of boycotting country visa requirements at an appropriate time; typing, translation, messenger and similar services; and assisting in or arranging for the expeditious processing of applications.

All such actions must be undertaken on a non-discriminatory basis.

(4) A United States person may proceed with a project in a boycotting country even if certain of its employees or other prospective participants in a transaction are denied entry for boycott reasons. But no employees or other participants may be selected in advance in a manner designed to comply with a boycott.

Examples of Compliance With Immigration, Passport, Visa, or Employment Requirements of a Boycotting Country

The following examples are intended to give guidance in determining the circumstances in which compliance with immigration, passport, visa, or employment requirements is permissible. They are illustrative, not comprehensive.

(i) A, a U.S. individual employed by B, a U.S. manufacturer of sporting goods with a plant in boycotting country Y, wishes to obtain a work visa so that he may transfer to the plant in Y. Country Y's immigration laws specify that anyone wishing to enter the country or obtain a visa to work in the country must supply information about his religion. This information is required for boycott purposes.

A may furnish such information, because it is required by Y's immigration laws.

(ii) Same as (i), except that A is asked to supply such information about other employees of B.

A may not supply this information, because it is not information about himself or his family.

(iii) A, a U.S. building contractor, has been awarded a construction contract to be performed in boycotting country Y. Y's immigration laws require that individuals applying for visas must indicate race, religion, and place of birth. The information is sought for boycott purposes. To avoid repeated rejections of applications for work visas by A's employees, A desires to furnish to country Y a list of its prospective and current employees and required information about each so that Y can make an initial screening.

A may not furnish such a list, because A would be furnishing information about the race, religion, and national origin of its employees.

(iv) Same as (iii), except that A selects for work on the project those of its current employees whom it believes will be granted work visas from boycotting country Y.

A may not make a selection from among its employees in a manner designed to comply with the boycott-based visa requirements of Y, but must allow all eligible employees to apply for visas. A may later substitute an employee who obtains the necessary visa for one who has had his application rejected.

(v) Same as (iii), except that A selects employees for the project and then allows each employee individually to apply for his own visa. Two employees' applications are rejected, and A then substitutes two other employees who, in turn, submit their own visa applications.

A may take such action, because in so doing A is not acting in contravention of any prohibition of this part.

(vi) Same as (v), except that A arranges for the translation, typing and processing of its employees' applications, and transmits all the applications to the consulate of boycotting country Y.

A may take such ministerial actions, because in so doing A is not itself furnishing information with respect to race, religion, sex, or national origin, but is merely transmitting information furnished by its individual employees.

(vii) A, a U.S. contractor, selects U.S. subcontractor B to perform certain engineering services in connection with A's project in boycotting country Y. The work visa application submitted by the employee B has proposed as chief engineer of this project is rejected by Y because his national origin is of boycotted country X. Subcontractor B thereupon withdraws.

A may continue with the project and select another subcontractor, because A is not acting in contravention of any prohibition of this part.

(g) *Compliance with local law.*

(1) This exception contains two parts. The first covers compliance with local law with respect to a United States person's activities exclusively within a foreign country; the second covers compliance with local import laws by United States persons resident in a foreign country. Under both parts of this exception, local laws are laws of the host country, whether derived from statutes, regulations, decrees, or other official sources having the effect of law in the host country. This exception is not available for compliance with presumed policies or understandings of policies unless those policies are reflected in official sources having the effect of law.

(2) Both parts of this exception apply only to United States persons resident in a foreign country. For purposes of this exception, a United States person will be considered to be a resident of a foreign country only if he is a bona fide resident. A United States person may be a bona fide resident of a foreign country even if such person's residency is temporary.

(3)(i) Factors that will be considered in determining whether a United States person is a bona fide resident of a foreign country include:

(A) Physical presence in the country;

(B) Whether residence is needed for legitimate business reasons;

(C) Continuity of the residency;

(D) Intent to maintain the residency;

(E) Prior residence in the country;

(F) Size and nature of presence in the country;

(G) Whether the person is registered to do business or incorporated in the country;

(H) Whether the person has a valid work visa; and

(I) Whether the person has a similar presence in both boycotting and non-boycotting foreign countries in connection with similar business activities.

(ii) No one of the factors in paragraph (g)(3) of this section is dispositive. All the circumstances involved will be closely examined to ascertain whether there is, in fact, bona fide residency. Residency established solely for purposes of avoidance of the application of this part, unrelated to legitimate business needs, does not constitute bona fide residency.

Examples of Bona Fide Residency

The following examples are intended to give guidance in determining the circumstances in which a United States person may be a bona fide resident of a foreign country. For purposes of illustration, each example discusses only one or two factors, instead of all relevant factors. They are illustrative, not comprehensive.

(i) A, a U.S. radio manufacturer located in the United States, receives a tender to bid on a contract to supply radios for a hotel to be built in boycotting country Y. After examining the proposal, A sends a bid from its New York office to Y.

A is not a resident of Y, because it is not physically present in Y.

(ii) Same as (i), except that after receiving the tender, A sends its sales representative to Y. A does not usually have sales representatives in countries when it bids from the United States, and this particular person's presence in Y is not necessary to enable A to make the bid.

A is not a bona fide resident of Y, because it has no legitimate business reasons for having its sales representative resident in Y.

(iii) A, a U.S. bank, wishes to establish a branch office in boycotting country Y. In pursuit of that objective, A's personnel visit Y to make the necessary arrangements. A intends to establish a permanent branch office in Y after the necessary arrangements are made.

A's personnel in Y are not bona fide residents of Y, because A does not yet have a permanent business operation in Y.

(iv) Same as (iii), except A's personnel are required by Y's laws to furnish certain non-discriminatory boycott information in order to establish a branch in Y.

In these limited circumstances, A's personnel may furnish the non-discriminatory boycott information necessary to establish residency to the same extent a U.S. person who is a bona fide resident in that country could. If this information could not be furnished in such limited circumstances, the exception would be available only to firms resident in a boycotting country before the effective date of this part.

(v) A, a U.S. construction company, receives an invitation to build a power plant in boycotting country Y. After receipt of the invitation, A's personnel visit Y in order to survey the site and make necessary analyses in preparation for submitting a bid. The invitation requires that otherwise prohibited boycott information be furnished with the bid.

A's personnel in Y are not bona fide residents of Y, because A has no permanent business operation in Y. Therefore, A's personnel may not furnish the prohibited information.

(vi) Same as (v), except that A is considering establishing an office in boycotting country Y. A's personnel visit Y in order to register A to do business in that country. A intends to establish ongoing construction operations in Y. A's personnel are required by Y's laws to furnish certain non-discriminatory boycott information in order to register A to do business or incorporate a subsidiary in Y.

In these limited circumstances, A's personnel may furnish non-discriminatory boycott information necessary to establish residency to the same extent a U.S. person who is a bona fide resident in that country could. If this information could not be furnished in such limited circumstances, the exception would be available only to firms resident in a boycotting country before the effective date of this part.

(vii) A, a subsidiary of U.S. oil company B, is located in boycotting country Y. A has been engaged in oil explorations in Y for a number of years.

A is a bona fide resident of Y, because of its pre-existing continuous presence in Y for legitimate business reasons.

(viii) Same as (vii), except that A has just been established in Y and has not yet begun operations.

A is a bona fide resident of Y, because it is present in Y for legitimate business reasons and it intends to reside continuously.

(ix) U.S. company A is a manufacturer of prefabricated homes. A builds a plant in boycotting country Y for purposes of assembling components made by A in the United States and shipped to Y.

A's personnel in Y are bona fide residents of Y, because A's plant in Y is established for legitimate business reasons, and it intends to reside continuously.

(x) U.S. company A has its principal place of business in the United States. A's sales agent visits boycotting country Y from time to time for purposes of soliciting orders.

A's sales agent is not a bona fide resident of Y, because such periodic visits to Y are insufficient to establish a bona fide residency.

(xi) A, a branch office of U.S. construction company B, is located in boycotting country Y. The branch office has been in existence for a number of years and has been performing various management services in connection with B's construction operations in Y.

A is a bona fide resident of Y, because of its longstanding presence in Y and its conduct of ongoing operations in Y.

(xii) U.S. construction company A has never done any business in boycotting country Y. It is awarded a contract to construct a hospital in Y, and preparatory to beginning construction, sends its personnel to Y to set up operations.

A's personnel are bona fide residents of Y, because they are present in Y for the purposes of carrying out A's legitimate business purposes; they intend to reside continuously; and residency is necessary to conduct their business.

(xiii) U.S. company A manufactures furniture. All its sales in foreign countries are conducted from its offices in the United States. From time to time A has considered opening sales offices abroad, but it has concluded that it is more efficient to conduct sales operations from the United States. Shortly after the effective date of this part, A sends a sales representative to boycotting country Y to open an office in and solicit orders from Y. It is more costly to conduct operations from that office than to sell directly from the United States, but A believes that if it establishes a residence in Y, it will be in a better position to avoid conflicts with U.S. law in its sales to Y.

A's sales representative is not a bona fide resident of Y, because the residency was established to avoid the application of this part and not for legitimate business reasons.

(xiv) Same as (xiii), except that it is in fact more efficient to have a sales office in Y. In fact, without a sales office in Y, A would find it difficult to explore business opportunities in Y. A is aware, however, that residency in Y would permit its sales representative to comply with Y's boycott laws.

A's sales representative is a bona fide resident of Y, because A has a legitimate business reason for establishing a sales office in Y.

(xv) U.S. company B is a computer manufacturer. B sells computers and related programming services tailored to the needs of individual clients. Because of the complex nature of the product, B must have sales representatives in any country where sales are made. B has a sales representative, A, in boycotting country Y. A spends two months of the year in Y, and the rest of the year in other countries. B has a permanent sales office from which A operates while in Y, and the sales office is stocked with brochures and other sales materials.

A is a bona fide resident of Y, because his presence in Y is necessary to carry out B's legitimate business purposes; B maintains a permanent office in Y; and B intends to continue doing business in Y in the future.

(xvi) A, a U.S. construction engineering company, is engaged by B, a U.S. general contracting company, to provide services in connection with B's contract to construct a hospital complex in boycotting country Y. In order to perform those services, A's engineers set up a temporary office in a trailer on the construction site in Y. A's work is expected to be completed within six months.

A's personnel in Y are bona fide residents of Y, because A's on-site office is necessary to the performance of its services for B, and because A's personnel are continuously there.

(xvii) A, a U.S. company, sends one of its representatives to boycotting country Y to explore new sales possibilities for its line of transistor radios. After spending several weeks in Y, A's representative rents a post office box in Y, to which all persons interested in A's products are directed to make inquiry.

A is not a bona fide resident of Y, because rental of a post office box is not a sufficient presence in Y to constitute residency.

(xviii) A, a U.S. computer company, has a patent and trademark registered in the United States. In order to obtain registration of its patent and trademark in boycotting country Y, A is required to furnish certain non-discriminatory boycott information.

A may not furnish the information, because A is not a bona fide resident of Y.

(h) *Activities exclusively within a foreign country.*

(1) Any United States person who is a bona fide resident of a foreign country, including a boycotting country, may comply or agree to comply with the laws of that country with respect to his activities exclusively within that country. These activities include:

(i) Entering into contracts which provide that local law applies or governs, or that the parties will comply with such laws;

(ii) Employing residents of the host country;

(iii) Retaining local contractors to perform work within the host country;

(iv) Purchasing or selling goods or services from or to residents of the host country; and

(v) Furnishing information within the host country.

(2) Activities exclusively within the country do not include importing goods or services from outside the host country, and, therefore, this part of the exception does not apply to compliance with import laws in connection with importing goods or services.

Examples of Permissible Compliance With Local Law With Respect to Activities Exclusively Within a Foreign Country

The following examples are intended to give guidance in determining the circumstances in which compliance with local law is permissible. They are illustrative, not comprehensive.

Activities Exclusively Within a Foreign Country

(i) U.S. construction company A, a bona fide resident of boycotting country Y, has a contract to build a school complex in Y. Pursuant to Y's boycott laws, the contract requires A to refuse to purchase supplies from certain local merchants. While Y permits such merchants to operate within Y, their freedom of action in Y is constrained because of their relationship with boycotted country X.

A may enter into the contract, because dealings with local merchants are activities exclusively within Y.

(ii) A, a banking subsidiary of U.S. bank B, is a bona fide resident of boycotting country Y. From time to time, A purchases office supplies from the United States.

A's purchase of office supplies is not an activity exclusively within Y, because it involves the import of goods from abroad.

(iii) A, a branch of U.S. bank B, is a bona fide resident of boycotting country Y. Under

Y's boycott laws, A is required to supply information about whether A has any dealings with boycotted country X. A compiles and furnishes the information within Y and does so of its own knowledge.

A may comply with that requirement, because in compiling and furnishing the information within Y, based on its own knowledge, A is engaging in an activity exclusively within Y.

(iv) Same as (iii), except that A is required to supply information about B's dealings with X. From its own knowledge and without making any inquiry of B, A compiles and furnishes the information.

A may comply with that requirement, because in compiling and furnishing the information within Y, based on its own knowledge, A is engaging in an activity exclusively within Y.

(v) Same as (iv), except that in making its responses, A asks B to compile some of the information.

A may not comply, because the gathering of the necessary information takes place partially outside Y.

(vi) U.S. company A has applied for a license to establish a permanent manufacturing facility in boycotting country Y. Under Y's boycott law, A must agree, as a condition of the license, that it will not sell any of its output to blacklisted foreign firms.

A may not comply, because the agreement would govern activities of A which are not exclusively within Y.

Discrimination Against United States Persons

(i) A, a subsidiary of U.S. company B, is a bona fide resident of boycotting country Y. A manufactures air conditioners in its plant in Y. Under Y's boycott laws, A must agree not to hire nationals of boycotted country X.

A may agree to the restriction and may abide by it with respect to its recruitment of individuals within Y, because the recruitment of such individuals is an activity exclusively within Y. However, A cannot abide by this restriction with respect to its recruitment of individuals outside Y, because this is not an activity exclusively within Y.

(ii) Same as (i), except that pursuant to Y's boycott laws, A must agree not to hire anyone who is of a designated religion.

A may not agree to this restriction, because the agreement calls for discrimination against U.S. persons on the basis of religion. It makes no difference whether the recruitment of the U.S. persons occurs within or without Y.

(Note: The exception for compliance with local law does not apply to boycott-based refusals to employ U.S. persons on the basis of race, religion, sex, or national origin even if the activity is exclusively within the boycotting country.)

(i) *Compliance with local import law.*

(1) Any United States person who is a bona fide resident of a foreign country, including a boycotting country, may, in importing goods, materials or components into that country, comply or agree to comply with the import laws of that country, provided that:

(i) The items are for his own use or for his use in performing contractual services within that country; and

(ii) In the normal course of business, the items are identifiable as to their source or origin at the time of their entry into the foreign country by:

(a) Uniqueness of design or appearance; or

(b) Trademark, trade name, or other identification normally on the items themselves, including their packaging.

(2) The factors that will be considered in determining whether a United States person is a bona fide resident of a foreign country are those set forth in paragraph (g) of this section. Bona fide residence of a United States company's subsidiary, affiliate, or other permanent establishment in a foreign country does not confer such residence on such United States company. Likewise, bona fide residence of a United States company's employee in a foreign country does not confer such residence on the entire company.

(3) A United States person who is a bona fide resident of a foreign country may take action under this exception through an agent outside the country, but the agent must act at the direction of the resident and not exercise his own discretion. Therefore, if a United States person resident in a boycotting country takes action to comply with a boycotting country's import law with respect to the importation of qualified goods, he may direct his agent in the United States on the action to be taken, but the United States agent himself may not exercise any discretion.

(4) For purposes of this exception, the test that governs whether goods or components of goods are specifically identifiable is identical to the test applied in paragraph (c) of this section on "Compliance With Unilateral Selection" to determine whether they are identifiable as to their source or origin in the normal course of business.

(5) The availability of this exception for the import of goods depends on whether the goods are intended for the United States person's own use at the time they are imported. It does not depend upon who has title to the goods at the time of importation into a foreign country.

(6) Goods are for the United States person's own use (including the performance of contractual services within the foreign country) if:

(i) They are to be consumed by the United States person;

(ii) They are to remain in the United States person's possession and to be used by that person;

(iii) They are to be used by the United States person in performing contractual services for another;

(iv) They are to be further manufactured, incorporated into, refined into, or reprocessed into another product to be manufactured for another; or

(v) They are to be incorporated into, or permanently affixed as a functional part of, a project to be constructed for another.

(7) Goods acquired to fill an order for such goods from another are not for the United States person's own use. Goods procured for another are not for one's own use, even if the furnishing of procurement services is the business in which the United States person is customarily engaged. Nor are goods obtained for simple resale acquired for one's own use, even if the United States person is engaged in the retail business. Likewise, goods obtained for inclusion in a turnkey project are not for one's own use if they are not customarily incorporated into, or do not customarily become permanently affixed as a functional part of the project.

(8) This part of the local law exception does not apply to the import of services, even when the United States person importing such services is a bona fide resident of a boycotting country and is importing them for his own use. In addition, this exception is available for a United States person who is a bona fide resident of a foreign country only when the individual or entity actually present within that country takes action through the exercise of his own discretion.

(9) Use of this exception will be monitored and continually reviewed to determine whether its continued availability is consistent with the national interest. Its availability may be limited or withdrawn as appropriate. In reviewing the continued availability of this exception, the effect that the inability to comply with local import laws would have on the economic and other relations of the United States with boycotting countries will be considered.

(10) A United States person who is a bona fide resident of a foreign country may comply or agree to comply with the host country's import laws even if he knows or has reason to know that particular laws are boycott-related. However, no United States person may comply or agree to comply with any host country law which would require him to discriminate against any United States person on the basis of race, religion, sex, or national origin, or to supply information about any United States person's race, religion, sex, or national origin.

Examples of Permissible Compliance With Local Import Law

The following examples are intended to give guidance in determining the circumstances in which compliance with local import law is permissible. They are illustrative, not comprehensive.

Compliance by a Bona Fide Resident

(i) A, a subsidiary of U.S. company B, is a bona fide resident of boycotting country Y and is engaged in oil drilling operations in Y. In acquiring certain large, specifically identifiable products for carrying out its operations in Y, A chooses only from non-blacklisted firms because Y's import laws prohibit the importation of goods from blacklisted firms. However, with respect to smaller items, B makes the selection on behalf of A and sends them to A in Y.

A may choose from non-blacklisted firms, because it is a U.S. person who is a bona fide resident in Y. However, because B is not resident in Y, B cannot make boycott-based selections to conform with Y's import laws prohibiting the importation of goods from blacklisted firms.

(ii) Same as (i), except that after making its choices on the larger items, A directs B to carry out its instructions by entering into appropriate contracts and making necessary shipping arrangements.

B may carry out A's instructions provided that A, a bona fide resident of Y, has in fact made the choice and B is exercising no discretion, but is acting only as A's agent.

(Note: Such transactions between related companies will be scrutinized carefully. A must in fact exercise the discretion and make the selections. If the discretion is exercised by B, B would be in violation of this part.)

(iii) U.S. construction company A has a contract to build a school in boycotting country Y. A's employees set up operations in Y for purposes of commencing construction. A's employees in Y advise A's headquarters in the United States that Y's import laws prohibit importation of goods manufactured by blacklisted firms. A's headquarters then issues invitations to bid only to non-blacklisted firms for certain specifically identifiable goods.

A's headquarters' choice of non-blacklisted suppliers is not a choice made by a U.S. person who is a bona fide resident of Y, because the discretion in issuing the bids was exercised in the United States, not in Y.

(iv) Same as (iii), except that A's employees in Y actually make the decision regarding to whom the bids should be issued.

The choices made by A's employees are choices made by U.S. persons who are bona fide residents of Y, because the discretion in choosing was exercised solely in Y.

(Note: Choices purportedly made by employees of U.S. companies who are resident in boycotting countries will be carefully scrutinized to ensure that the discretion was exercised entirely in the boycotting country.)

Specifically Identifiable Goods

The test and examples as to what constitutes specifically identifiable goods are identical to those applicable under paragraph (d) of this section on "Compliance With Unilateral Selection."

Imports for U.S. Person's Own Use

(i) A, a subsidiary of U.S. company B, is a bona fide resident of boycotting country Y. A plans to import computer operated machine tools to be installed in its automobile plant in boycotting country Y. The computers are mounted on a separate bracket on the side of the equipment and are readily identifiable by brand name. A orders the tools from U.S. supplier C and specifies that C must incorporate computers manufactured by D, a non-blacklisted company. A would have chosen computers manufactured by E, except that E is blacklisted, and Y's import laws prohibit the importation of goods manufactured by blacklisted firms.

A may refuse to purchase E's computers, because A is importing the computers for its own use in its manufacturing operations in Y.

(ii) A, a subsidiary of U.S. company B, is a bona fide resident of boycotting country Y. To meet the needs of its employees in Y, A imports certain specifically identifiable commissary items for sale, such as cosmetics; and canteen items, such as candy. In selecting such items for importation into Y, A chooses items made only by non-blacklisted firms, because Y's import laws prohibit importation of goods from blacklisted firms.

A may import these items only from non-blacklisted firms, because the importation of goods for consumption by A's employees is an importation for A's own use.

(iii) A, a U.S. construction company which is a bona fide resident of boycotting country Y, has a contract to build a hospital complex for the Ministry of Health in Y. Under the contract, A will be general manager of the project with discretion to choose all subcontractors and suppliers. The complex is to be built on a turnkey basis, with A retaining title to the property and bearing all financial risk until the complex is conveyed to Y. In choosing specifically identifiable goods for import, such as central air conditioning units and plate glass, A excludes blacklisted suppliers in order to comply with Y's import laws. These goods are customarily incorporated into, or permanently affixed as a functional part of, the project.

A may refuse to deal with blacklisted suppliers of specifically identifiable goods, because importation of goods by a general contractor to be incorporated into a construction project in Y is an importation of goods for A's own use.

(iv) Same as (iii), except that, in addition, in choosing U.S. architects and engineers to work on the project, A excludes blacklisted firms, because Y's import laws prohibit the use of services rendered by blacklisted persons.

A may not refuse to deal with blacklisted architectural or engineering firms, because this exception does not apply to the import of services. It is irrelevant that, at some stage, the architectural or engineering drawings or plans may be brought to the site in Y. This factor is insufficient to transform such services into "goods" for purposes of this exception.

(v) Same as (iii), except that the project is to be completed on a "cost plus" basis, with Y making progress payments to A at various stages of completion.

A may refuse to deal with blacklisted suppliers of specifically identifiable goods, because the importation of goods by A to be incorporated in a project A is under contract to complete is an importation of goods for its own use. The terms of payment are irrelevant.

(vi) A, a U.S. construction company which is a bona fide resident of boycotting country Y, has a contract for the construction of an office building in Y on a turnkey basis. In choosing goods to be used or included in the office complex, A orders wallboard, office partitions, and lighting fixtures from non-blacklisted manufacturers. A likewise orders desks, office chairs, typewriters, and office supplies from non-blacklisted manufacturers.

Because they are customarily incorporated into or permanently affixed as a functional part of an office building, the wallboard, office partitions, and lighting fixtures are for A's own use, and A may select non-blacklisted suppliers of these goods in order to comply with Y's import laws. Because they are not customarily incorporated into or permanently affixed to the project, the desks, office chairs, typewriters, and office supplies are not for A's own use, and A may not make boycott-based selections of the suppliers of these goods.

(vii) A, a U.S. company engaged in the business of selling automobiles, is a bona fide resident of boycotting country Y. In ordering automobiles from time to time for purposes of stocking its inventory, A purchases from U.S. manufacturer B, but not U.S. manufacturer C, because C is blacklisted. Retail sales are subsequently made from this inventory.

A's import of automobiles from B is not an import for A's own use, because the importation of items for general inventory in a retail sales operation is not an importation for one's own use.

(viii) A, a U.S. company engaged in the manufacture of pharmaceutical products, is a bona fide resident of boycotting country Y. In importing chemicals for incorporation into the pharmaceutical products, A purchases from U.S. supplier B, but not U.S. supplier C, because C is blacklisted.

A may import chemicals from B rather than C, because the importation of specifically identifiable items for incorporation into another product is an importation for one's own use.

(ix) A, a U.S. management company which is a bona fide resident of boycotting country Y, has a contract with the Ministry of Education in Y to purchase supplies for Y's school system. From time to time, A purchases goods from abroad for delivery to various schools in Y.

A's purchase of goods for Y's school system does not constitute an importation of goods for A's own use, because A is acting as a procurement agent for another. A, therefore, cannot make boycott-based selections of suppliers of such school supplies.

(x) A, a U.S. company which is a bona fide resident of boycotting country Y, has a contract to make purchases for Y in connection with a construction project in Y. A is not engaged in the construction of, or in any other activity in connection with, the project. A's role is merely to purchase goods for Y and arrange for their delivery to Y.

A is not purchasing goods for its own use, because A is acting as a procurement agent for Y. A, therefore, cannot make boycott selections of suppliers of such goods.

(xi) A, a U.S. company which is a bona fide resident of boycotting country Y, imports specifically identifiable goods into Y for exhibit by A at a trade fair in Y. In selecting goods for exhibit, A excludes items made by blacklisted firms.

A's import of goods for its exhibit at a trade fair constitutes an import for A's own use. However, A may not sell in Y those goods it imported for exhibit.

For Use Within Boycotting Country

A is a bona fide resident of boycotting countries Y and Z. In compliance with Y's boycott laws, A chooses specifically identifiable goods for its oil drilling operations in Y and Z by excluding blacklisted suppliers. The goods are first imported into Y. Those purchased for A's use in Z are then transshipped to Z.

In selecting those goods for importation into Y, A is making an import selection for its own use, even though A may use some of the imported goods in Z. Further, the subsequent shipment from Y to Z of those goods purchased for use in Z is an import into Z for A's own use.

§ 760.4 Evasion.

(a) No United States person may engage in any transaction or take any other action, either independently or through any other person, with intent to evade the provisions of this part. Nor may any United States person assist another United States person to violate or evade the provisions of this part.

(b) The exceptions set forth in § 760.3(a) through (g) of this part do not permit activities or agreements (express or implied by a course of conduct, including a pattern of responses) which are otherwise prohibited by this part and which are not within the intent of such exceptions. However, activities within the coverage and intent of the exceptions set forth in this part do not constitute evasion regardless of how often such exceptions are utilized.

(c) Use of any artifice, device or scheme which is intended to place a person at a commercial disadvantage or impose on him special burdens because he is blacklisted or otherwise restricted for boycott reasons from having a business relationship with or in a boycotting country will be regarded as evasion for purposes of this part.

(d) Unless permitted under one of the exceptions, use of risk of loss provisions that expressly impose a financial risk on another because of the import laws of a boycotting country may constitute evasion. If they are introduced after January 21, 1978, their use will be presumed to constitute evasion. This presumption may be rebutted by a showing that such a provision is in customary usage without distinction between boycotting and non-boycotting countries and that there is a legitimate non-boycott reason for its use. On the other hand, use of such a provision by a United States person subsequent to January 21, 1978 is presumed not to constitute evasion if the provision had been customarily used by that person prior to January 21, 1978.

(e) Use of dummy corporations or other devices to mask prohibited activity will also be regarded as evasion. Similarly, it is evasion under this part to divert specific boycotting country orders from a United States parent to a foreign subsidiary for purposes of complying with prohibited boycott requirements. However, alteration of a person's structure or method of doing business will not constitute evasion so long as the alteration is based on legitimate business considerations and is not undertaken solely to avoid the application of the prohibitions of this part. The facts and circumstances of an arrangement or transaction will be carefully scrutinized to see whether appearances conform to reality.

Examples

The following examples are intended to give guidance to persons in determining circumstances in which this section will apply. They are illustrative, not comprehensive.

(i) A, a U.S. insurance company, receives a request from boycotting country Y asking whether it does business in boycotted country X. Because furnishing such information is prohibited, A declines to answer and as a result is placed on Y's blacklist. The following year, A's annual report contains new information about A's worldwide operations, including a list of all countries in which A does business. A then mails a copy of its annual report, which has never before contained such information, to officials of the government of country Y.

Absent some business justification unrelated to the boycott for changing the annual report in this fashion, A's action constitutes evasion of this part.

(ii) A, a U.S. construction firm resident in boycotting country Y, orders lumber from U.S. company B. A unilaterally selects B in part because U.S. lumber producer C is blacklisted by Y and C's products are therefore not importable. In placing its order with B, A requests that B stamp its name or logo on the lumber so that A "can be certain that it is, in fact, receiving B's products." B does not normally so stamp its lumber, and A's purpose in making the request is to appear to fit within the unilateral selection exception of this part.

Absent additional facts justifying A's action, A's action constitutes evasion of this part.

(iii) A, a U.S. company, has been selling sewing machines to boycotting country Y for a number of years and routinely supplying negative certificates of origin. A is aware that the furnishing of negative certificates of origin will be prohibited after June 21, 1978 and, therefore, arranges to have all future shipments run through a foreign corporation in a third country which will affix the necessary certification before forwarding the machines on to Y.

A's action constitutes evasion of this part, because it is a device to mask prohibited activity carried out on A's behalf.

(iv) A, a U.S. company, has been selling hand calculators to boycotting country Y for a number of years and routinely supplies negative certificates of origin. A is aware that the furnishing of such negative certificates will be prohibited after June 21, 1978. A thereupon ceases all direct sales to Y, and instead arranges to make all future sales to distributor B in a third country. A knows B will step in and make the sales to Y which A would otherwise have made directly. B will make the necessary negative certifications. A's warranty, which it will continue to honor, runs to the purchaser in Y.

A's action constitutes evasion, because the diverting of orders to B is a device to mask prohibited activity carried out on A's behalf.

(v) A, a U.S. company, is negotiating a long-term contract with boycotting country Y to meet all Y's medical supply needs. Y informs A that before such a contract can be concluded, A must complete Y's boycott questionnaire. A knows that it is prohibited from answering the questionnaire so it arranges for a local agent in Y to supply the necessary information.

A's action constitutes evasion of this part, because it is a device to mask prohibited activity carried out on A's behalf.

(vi) A, a U.S. contractor which has not previously dealt with boycotting country Y, is awarded a construction contract by Y. Because it is customary in the construction industry for a contractor to establish an on-site facility for the duration of the project, A establishes such an office, which satisfies the requirements for bona fide residency. Thereafter, A's office in Y takes a number of actions permitted under the compliance with local law exception.

A's actions do not constitute evasion, because A's facility in Y was established for legitimate business reasons.

(vii) A, a controlled foreign subsidiary of U.S. company B, is located in non-boycotting country M. A and B both make machine tools for sale in their respective marketing regions. B's marketing region includes boycotting country Y. After assessing the requirements of this part, B decides that it can no longer make machines for sale in Y. Instead, A decides to expand its facilities in M in order to service the Y market.

The actions of A and B do not constitute evasion, because there is a legitimate business reason for their actions. It is irrelevant that the effect may be to place sales which would otherwise have been subject to this part beyond the reach of this part.

(viii) A, a U.S. manufacturer, from time to time receives purchase orders from boycotting country Y which A fills from its plant in the United States. A knows that it is about to receive an order from Y which contains a request for a certification which A is prohibited from furnishing under this part. In order to permit the certification to be made, A diverts the purchase order to its foreign subsidiary.

A's diversion of the purchase order constitutes evasion of this part, because it is a device to mask prohibited activity carried out on A's behalf.

(ix) A, a U.S. company, is engaged in assembling drilling rigs for shipment to boycotting country Y. Because of potential difficulties in securing entry into Y of materials supplied by blacklisted firms, A insists that blacklisted firms take a 15 percent discount on all materials which they supply to A. As a result, no blacklisted firms are willing to transact with A.

A's insistence on the discount for materials supplied by blacklisted firms constitutes evasion of this part, because it is a device or scheme which is intended to place a special burden on blacklisted firms because of Y's boycott.

(x) Same as (ix), except that shortly after the effective date of this part, A insists that its suppliers sign contracts which provide that even after title passes from the supplier to A, the supplier will bear the risk of loss and indemnify A if goods which the supplier has furnished are denied entry into Y for boycott reasons.

A's action constitutes evasion of this part, because it is a device or scheme which is intended to place a special burden on blacklisted persons because of Y's boycott.

(xi) Same as (x), except that A customarily insisted on such an arrangement with its supplier prior to the effective date of this part.

A's action is presumed not to constitute evasion, because use of this contractual arrangement was customary for A prior to the effective date of this part.

(xii) A, a U.S. company, has a contract to supply automobile sub-assembly units to boycotting country Y. Shortly after the effective date of this part, A insists that its suppliers sign contracts which provide that even after title passes to A, the supplier will bear the risk of loss and indemnify A if goods which the supplier has furnished are denied entry into boycotting country Y for whatever reason.

A's insistence on this arrangement is presumed to constitute evasion, because it is a device which is intended to place a special burden on blacklisted firms because of Y's boycott. The presumption may be rebutted by competent evidence showing that use of such an arrangement is customary without regard to the boycotting or non-boycotting character of the country to which it relates and that there is a legitimate non-boycott business reason for its use.

(xiii) Same as (vii), except that A requires that all suppliers make in-country delivery.

A's action does not constitute evasion, because it is an ordinary commercial practice to require in-country delivery of goods.

(xiv) Same as (xii), except that A requires that title remain with the supplier until delivery in Y has been made.

A's action does not constitute evasion, because it is ordinary commercial practice to require that title remain with the supplier until delivery has been made. This example is distinguishable from example (xii), because in example (xii) A had insisted on an extraordinary arrangement designed to require that the risk of loss remain with the supplier even after title had passed to A.

(xv) U.S. bank A is contacted by U.S. company B to finance B's transaction with boycotting country Y. Payment will be effected through a letter of credit in favor of B at its U.S. address. A knows that the letter of credit will contain restrictive boycott conditions which would bar its implementation by A if the beneficiary were a U.S. person. A suggests to B that the beneficiary should be changed to C, a shell corporation in non-boycotting country M. The beneficiary is changed accordingly.

A's action constitutes evasion of this part, because the arrangement is a device to mask prohibited activity on A's part.

(xvi) Same as (xv), except that U.S. company B, the beneficiary of the letter of credit, arranges to change the beneficiary to B's foreign subsidiary so that A can implement the letter of credit. A knows that this has been done.

A's implementation of the letter of credit in the face of its knowledge of B's action constitutes evasion of this part, because its action is part of a device to mask prohibited activity on A's part.

(xvii) U.S. bank A, located in the United States, is contacted by foreign company B to finance B's transaction with boycotting country Y. B is a controlled subsidiary of a U.S. company. The transaction which is to be financed with a letter of credit payable to B at its foreign address, requires B to certify that none of its board members are of a particular religious faith. Since B cannot legally furnish the certificate, it asks A to convey the necessary information to Y through A's bank branch in Y. Such information would be furnished wholly outside the letter of credit transaction.

A's action constitutes evasion of this part, because it is undertaken to assist B's violation of this part.

(xviii) U.S. bank A is asked by foreign corporation B to implement a letter of credit in favor of B so that B might perform under its long-term contract with boycotting country Y. Under the terms of the letter of credit, B is required to certify that none of its suppliers is blacklisted. A knows that it cannot implement a letter of credit with this condition, so it tells B to negotiate the elimination of this requirement from the letter of credit and instead supply the certification to Y directly.

A's suggestion to B that it provide the negative certification to Y directly constitutes evasion of this part, because A is taking an action through another person to mask prohibited activity on A's part.

§ 760.5 Reporting requirements.

(a) *Scope of reporting requirements.*

(1) A United States person who receives a request to take any action which has the effect of furthering or supporting a restrictive trade practice or boycott fostered or imposed by a foreign country against a country friendly to the United States or against any United States person must report such request to the Department of Commerce in accordance with the requirements of this section. Such a request may be either written or oral and may include a request to furnish information or enter into or implement an agreement. It may also include a solicitation, directive, legend or instruction that asks for information or that asks that a United States person take or refrain from taking a particular action. Such a request shall be reported regardless of whether the action requested is prohibited or permissible under this part, except as otherwise provided by this section.

(2) For purposes of this section, a request received by a United States person is reportable if he knows or has reason to know that the purpose of the request is to enforce, implement, or otherwise further, support, or secure compliance with an unsanctioned foreign boycott or restrictive trade practice.

(i) A request received by a United States person located in the United States is reportable if it is received in connection with a transaction or activity in the interstate or foreign commerce of the United States, as determined under § 760.1(d)(1) through (5) and (18) of this part.

(ii) A request received by a United States person located outside the United States (that is, a foreign subsidiary, partnership, affiliate, branch, office, or other permanent foreign establishment which is controlled in fact by any domestic concern, as determined under § 760.1(c) of this part) is reportable if it is received in connection with a transaction or activity in the interstate or foreign commerce of the United States, as determined under § 760.1(d)(6) through (17) and (19) of this part.

(iii) A request such as a boycott questionnaire, unrelated to a particular transaction or activity, received by any United States person is reportable when such person has or anticipates a business relationship with or in a boycotting country involving the sale, purchase or transfer of goods or services (including information) in the interstate or foreign commerce of the United States, as determined under § 760.1(d) of this part.

(3) These reporting requirements apply to all United States persons. They apply whether the United States person receiving the request is an exporter, bank or other financial institution,

insurer, freight forwarder, manufacturer, or any other United States person subject to this part.

(4) The acquisition of information about a boycotting country's boycott requirements through the receipt or review of books, pamphlets, legal texts, exporters' guidebooks and other similar publications does not constitute receipt of a reportable request for purposes of this section. In addition, a United States person who receives an unsolicited invitation to bid, or similar proposal, containing a boycott request has not received a reportable request for purposes of this section where he does not respond to the invitation to bid or other proposal.

(5) Because of the use of certain terms for boycott and non-boycott purposes; because of Congressional mandates to provide clear and precise guidelines in areas of inherent uncertainty; and because of the Department's commitment to minimize paperwork and reduce the cost of reporting where it will not impair the Department's ability to continue to monitor foreign boycotts, the following specific requests are not reportable:

(i) A request to refrain from shipping goods on a carrier which flies the flag of a particular country or which is owned, chartered, leased or operated by a particular country or by nationals or residents of a particular country, or a request to certify to that effect.

(ii) A request to ship goods via a prescribed route, or a request to refrain from shipping goods via a proscribed route, or a request to certify to either effect.

(iii) A request to supply an affirmative statement or certification regarding the country of origin of goods.

(iv) A request to supply an affirmative statement or certification regarding the name of the supplier or manufacturer of the goods shipped or the name of the provider of services.

(v) A request to comply with the laws of another country except where the request expressly requires compliance with that country's boycott laws.

(vi) A request to an individual to supply information about himself or a member of his family for immigration, passport, visa, or employment purposes.

(vii) A request to supply an affirmative statement or certification indicating the destination of exports or confirming or otherwise indicating that such cargo will be unloaded or discharged at a particular destination.

(viii) A request to supply a certificate by the owner, master, charterer, or any employee thereof, that a vessel, aircraft, truck or any other mode of transportation is eligible, otherwise eligible, permitted, or allowed to enter, or not restricted from entering, a particular port, country, or group of countries pursuant to the laws, rules, or regulations of that port, country, or group of countries.

(ix) A request to supply a certificate from an insurance company stating that the insurance company has a duly authorized agent or representative within a boycotting country and/or the name and address of such agent.

(x) A request to comply with a term or condition of a transaction that provides that the vendor bear the risk of loss and indemnify the purchaser if the vendor's goods are denied entry into a country for any reason ("risk of loss clause") if such clause was in use by the purchaser prior to January 18, 1978.

(6) No United States person may engage in any transaction or take any other action, either independently or through any other person, with intent to evade the provisions of this part.

(7) From time to time the Department will survey domestic concerns for purposes of determining the worldwide scope of boycott requests received by their controlled foreign subsidiaries and affiliates with respect to their activities outside United States commerce. This pertains to requests which would be reportable under this section but for the fact that the activities to which the requests relate are outside United States commerce. The information requested will include the number and nature of non-reportable boycott requests received, the action(s) requested, the actions(s) taken in response and the countries in which the requests originate. The results of such surveys, including the names of those surveyed, will be made public.

(b) *Manner of reporting.* (1) Each reportable request must be reported. However, if more than one document (such as an invitation to bid, purchase order, or letter of credit) containing the same boycott request is received as part of the same transaction, only the first such request need be reported. Individual shipments against the same purchase order or letter of credit are to be treated as part of the same transaction. Each different boycott request associated with a given transaction must be reported, regardless of how or when the request is received.

(2) Each United States person actually receiving a reportable request must report that request. However, such person may designate someone else to report on his behalf. For example, a United States company, if authorized, may report on behalf of its controlled foreign subsidiary or affiliates; a freight forwarder, if authorized, may report on behalf of the exporter; and a bank, if authorized, may report on behalf of the beneficiary of a letter of credit. If a person designated to report a request received by another receives an identical request directed to him in connection with the same transaction, he may file one report on behalf of himself and the other person.

(3) Where a person is designated to report on behalf of another, the person receiving the request remains liable for any failure to report or for any representations made on his behalf. Further, anyone reporting on behalf of another is not relieved of his own responsibility for reporting any boycott request which he receives, even if it is an identical request in connection with the same transaction.

(4) Reports must be submitted in duplicate to: Report Processing Staff, Office of Antiboycott Compliance, U.S. Department of Commerce, Room 6099C, Washington, D.C. 20230. Each submission must be made in accordance with the following requirements:

(i) Where the person receiving the request is a United States person located in the United States, each report of requests received through June 30, 1979, must be postmarked by the last day of the month following the month in which the request was received. Thereafter, each submission must be postmarked by the last day of the month following the calendar quarter in which the request was received (e.g., April 30 for the quarter consisting of January, February, and March).

(ii) Where the person receiving the request is a United States person located outside the United States, each report of requests received through June 30, 1979, must be postmarked by the last day of the second month following the month in which the request was received. Thereafter, each submission must be postmarked by the last day of the second month following the calendar quarter in which the request was received (e.g., May 31 for the quarter consisting of January, February, and March).

(5) At the reporting person's option, reports may be submitted on either a single transaction form (Form BXA–621P, Report of Restrictive Trade Practice or Boycott Request Single Transaction (revised 10–89)) or on a multiple transaction form (Form BXA–6051P, Report of Request for Restrictive Trade Practice or Boycott Multiple Transactions (revised 10–89)). Use of the multiple transaction form permits the reporting person to provide on one form all required information relating to as many as 75 reportable requests received within any single reporting period.

(6) Reports, whether submitted on the single transaction form or on the multiple transaction form, must contain entries for every applicable item on the form, including whether the reporting person intends to take or has taken the action requested. If the reporting person has not decided what action he will take by the time the report is required to be filed, he must later report the action he decides to take within 10 business days after deciding. In addition, anyone filing a report on behalf of another must so indicate and identify that other person.

(7) Each report of a boycott request must be accompanied by two copies of the relevant page(s) of any document(s) in which the request appears. Reports may also be accompanied by any additional information relating to the request as the reporting person desires to provide concerning his response to the request.

(8) Records containing information relating to a reportable boycott request, including a copy of any document(s) in which the request appears, must be maintained by the recipient for a five-year period after receipt of the request. The Department may require that these materials be submitted to it or that it have access to them at any time within that period. [See part 762 of the EAR for additional recordkeeping requirements.)

(c) *Disclosure of information.* (1) Reports of requests received on or after October 7, 1976, as well as any accompanying documents filed with the reports, have been and will continue to be made available for public inspection and copying, except for certain proprietary information. With respect to reports of requests received on or after August 1, 1978, if the person making the report certifies that a United States person to whom the report relates would be placed at a competitive disadvantage because of the disclosure of information regarding the quantity, description, or value of any articles, materials, and supplies, including related technical data and other information, whether contained in a report or in any accompanying document(s), such information will not be publicly disclosed except upon failure by the reporting entity to edit the public inspection copy of the accompanying document(s) as provided by paragraph (c)(2) of this section, unless the Secretary of Commerce determines that the disclosure would not place the United States person involved at a competitive disadvantage or that it would be contrary to the national interest to withhold the information. In the event the Secretary of Commerce considers making such a determination concerning competitive disadvantage, appropriate notice and an opportunity for comment will be given before any such proprietary information is publicly disclosed. In no event will requests of reporting persons to withhold any information contained in the report other than that specified in this paragraph be honored.

(2) Because a copy of any document(s) accompanying the report will be made available for public inspection and copying, one copy must be submitted intact and another copy must be edited by the reporting entity to delete the same information which it certified in the report would place a United States person at a competitive disadvantage if disclosed. In addition, the reporting entity may delete from this copy information that is considered confidential and that is not required to be contained in the report (e.g., information related to foreign consignee). This copy should be conspicuously marked with the legend "Public Inspection Copy." With respect to documents accompanying reports received by the Department on or after July 1, 1979, the public inspection copy will be made available as submitted whether or not it has been appropriately edited by the reporting entity as provided by this paragraph.

(3) Reports and accompanying documents which are available to the public for inspection and copying are located in the BXA Freedom of Information Records Inspection Facility, Room 4525, Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Requests to inspect such documents should be addressed to that facility.

(4) The Secretary of Commerce will periodically transmit summaries of the information contained in the reports to the Secretary of State for such action as the Secretary of State, in consultation with the Secretary of Commerce, may deem appropriate for carrying out the policies in section 8(b)(2) of the Export Administration Act of 1979.

Examples

The following examples are intended to give guidance in determining what is reportable. They are illustrative, not comprehensive.

(i) A, a U.S. manufacturer, is shipping goods to boycotting country Y and is asked by Y to certify that it is not blacklisted by Y's boycott office.

The request to A is reportable, because it is a request to A to comply with Y's boycott requirements.

(ii) A, a U.S. manufacturing company, receives an order for tractors from boycotting country Y. Y's order specifies that the tires on the tractors be made by B, another U.S. company. A believes Y has specified B as the tire supplier because otherwise A would have used tires made by C, a blacklisted company, and Y will not take shipment of tractors containing tires made by blacklisted companies.

A must report Y's request for tires made by B, because A has reason to know that B was chosen for boycott reasons.

(iii) Same as (ii), except A knows that Y's request has nothing to do with the boycott but simply reflects Y's preference for tires made by B.

Y's request is not reportable, because it is unrelated to Y's boycott.

(iv) Same as (ii), except A neither knows nor has reason to know why Y has chosen B.

Y's request is not reportable, because A neither knows nor has reason to know that Y's request is based on Y's boycott.

(v) A, a controlled foreign subsidiary of U.S. company B, is a resident of boycotting country Y. A is a general contractor. After being supplied by A with a list of competent subcontractors, A's customer instructs A to use subcontractor C on the project. A believes that C was chosen because, among other things, the other listed subcontractors are blacklisted.

The instruction to A by its customer that C be used on the project is reportable, because it is a request to comply with Y's boycott requirements.

(vi) A, a controlled foreign subsidiary of U.S. company B, is located in non-boycotting country P. A receives an order for washing machines from boycotting country Y. Y instructs A that a negative certificate of origin must accompany the shipment. The washing machines are made wholly in P, without U.S. components.

Y's instruction to A regarding the negative certificate of origin is not reportable, because the transaction to which it relates is not in U.S. commerce.

(vii) Same as (vi), except that A obtains components from the United States for the purpose of filling the order from Y. Y's instruction to A regarding the negative certificate of origin is reportable, because the transaction to which it relates is in U.S. commerce.

(viii) A, a U.S. construction company, receives in the mail an unsolicited invitation to bid on a construction project in boycotting country Y. The invitation to bid requires those who respond to certify that they do not have any plants or branch offices in boycotted country X. A does not respond.

A's receipt of the unsolicited invitation to bid is not reportable, because the request does not relate to any present or anticipated business of A with or in Y.

(ix) Same as (viii), except that A receives a boycott questionnaire from a central boycott office. A does not do business in any of the boycotting countries involved, and does not anticipate doing any business in those countries. A does not respond.

A's receipt of the boycott questionnaire is not reportable, because it does not relate to any present or anticipated business by A with or in a boycotting country.

(x) A, a U.S. manufacturer, is seeking markets in which to expand its exports. A

sends a representative to boycotting country Y to explore Y's potential as a market for A's products. A's representative discusses its products but does not enter into any contracts on that trip. A does, however, hope that sales will materialize in the future. Subsequently, A receives a boycott questionnaire from Y.

A's receipt of the boycott questionnaire is reportable, because the request relates to A's anticipated business with or in a boycotting country. For purposes of determining whether a report is required, it makes no difference whether A responds to the questionnaire, and it makes no difference that actual sales contracts are not in existence or do not materialize.

(xi) Same as (x), except that A's representative enters into a contract to sell A's products to a buyer in boycotting country Y. Subsequently, A receives a boycott questionnaire from Y.

A's receipt of the boycott questionnaire is reportable, because it relates to A's present business with or in a boycotting country. For purposes of determining whether a report is required, it makes no difference whether A responds to the questionnaire.

(xii) A, a U.S. freight forwarder, purchases an exporter's guidebook which includes the import requirements of boycotting country Y. The guidebook contains descriptions of actions which U.S. exporters must take in order to make delivery of goods to Y.

A's acquisition of the guidebook is not reportable, because he has not received a request from anyone.

(xiii) A, a U.S. freight forwarder, is arranging for the shipment of goods to boycotting country Y at the request of B, a U.S. exporter. B asks A to assume responsibility to assure that the documentation accompanying the shipment is in compliance with Y's import requirements. A examines an exporters' guidebook, determines that Y's import regulations require a certification that the insurer of the goods is not blacklisted and asks U.S. insurer C for such a certification.

B's request to A is reportable by A, because it constitutes a request to comply with Y's boycott as of the time A takes action to comply with Y's boycott requirements in response to the request. A's request to C is reportable by C.

(xiv) A, a U.S. freight forwarder, is arranging for the shipment of U.S. goods to boycotting country Y. The manufacturer supplies A with all the necessary documentation to accompany the shipment. Among the documents supplied by the manufacturer is his certificate that he himself is not blacklisted. A transmits the documentation supplied by the manufacturer.

A's action in merely transmitting documents received from the manufacturer is not reportable, because A has received no request to comply with Y's boycott.

(xv) Same as (xiv), except that A is asked by U.S. exporter B to assume the responsibility to assure that the necessary documentation accompanies the shipment whatever that documentation might be. B forwards to A a letter of credit which requires that a negative certificate of origin accompany the bill of lading. A supplies a positive certificate of origin.

Both A and B must report receipt of the letter of credit, because it contains a request to both of them to comply with Y's boycott.

(xvi) Same as (xiv), except that the manufacturer fails to supply a required negative certificate of origin, and A is subsequently asked by a consular official of Y to see to it that the certificate is supplied. A supplies a positive certificate of origin.

The consular official's request to A is reportable by A, because A was asked to comply with Y's boycott requirements by supplying the negative certificate of origin.

(xvii) A, a U.S. manufacturer, is shipping goods to boycotting country Y. Arrangements have been made for freight forwarder B to handle the shipment and secure all necessary shipping certifications. B notes that the letter of credit requires that the manufacturer supply a negative certificate of origin and B asks A to do so. A supplies a positive certificate of origin.

B's request to A is reportable by A, because A is asked to comply with Y's boycott requirements by providing the negative certificate.

(xviii) A, a controlled foreign subsidiary of U.S. company B, is a resident of boycotting country Y. A is engaged in oil exploration and drilling operations in Y. In placing orders for drilling equipment to be shipped from the United States, A, in compliance with Y's laws, selects only those suppliers who are not blacklisted.

A's action in choosing non-blacklisted suppliers is not reportable, because A has not received a request to comply with Y's boycott in making these selections.

(xix) A, a controlled foreign subsidiary of U.S. company B, is seeking permission to do business in boycotting country Y. Before being granted such permission, A is asked to sign an agreement to comply with Y's boycott laws.

The request to A is reportable, because it is a request that expressly requires compliance with Y's boycott law and is received in connection with A's anticipated business in Y.

(xx) A, a U.S. bank, is asked by a firm in boycotting country Y to confirm a letter of credit in favor of B, a U.S. company. The letter of credit calls for a certificate from B that the goods to be supplied are not produced by a firm blacklisted by Y. A informs B of the letter of credit, including its certification condition, and sends B a copy.

B must report the certification request contained in the letter of credit, and A must report the request to confirm the letter of credit containing the boycott condition, because both are being asked to comply with Y's boycott.

(xxi) Same as (xx), except that the letter of credit calls for a certificate from the beneficiary that the goods will not be shipped on a vessel that will call at a port in boycotted country X before making delivery in Y.

The request is not reportable, because it is a request of a type deemed by this section to be in common use for non-boycott purposes.

(xxii) A, a U.S. company, receives a letter of credit from boycotting country Y stating that on no condition may a bank blacklisted by Y be permitted to negotiate the credit.

A's receipt of the letter of credit is reportable, because it contains a request to A to comply with Y's boycott requirements.

(xxiii) A, a U.S. bank, receives a demand draft from B, a U.S. company, in connection with B's shipment of goods to boycotting country Y. The draft contains a directive that it is valid in all countries except boycotted country X.

A's receipt of the demand draft is reportable, because it contains a request to A to comply with Y's boycott requirements.

(xxiv) A, a U.S. exporter, receives an order from boycotting country Y. On the order is a legend that A's goods, invoices, and packaging must not bear a six-pointed star or other symbol of boycotted country X.

A's receipt of the order is reportable, because it contains a request to comply with Y's boycott requirements.

(xxv) Same as (xxiv), except the order contains a statement that goods exported must not represent part of war reparations to boycotted country X.

A's receipt of the order is reportable, because it contains a request to A to comply with Y's boycott requirements.

(xxvi) A, a U.S. contractor, is negotiating with boycotting country Y to build a school in Y. During the course of the negotiations, Y suggests that one of the terms of the construction contract be that A agree not to import materials produced in boycotted country X. It is A's company policy not to agree to such a contractual clause, and A suggests that instead it agree that all of the necessary materials will be obtained from U.S. suppliers. Y agrees to A's suggestion and a contract is executed.

A has received a reportable request, but, for purposes of reporting, the request is deemed to be received when the contract is executed.

(xxvii) Same as (xxvi), except Y does not accept A's suggested alternative clause and negotiations break off.

A's receipt of Y's request is reportable. For purposes of reporting, it makes no difference that A was not successful in the negotiations. The request is deemed to be received at the time the negotiations break off.

(xxviii) A, a U.S. insurance company, is insuring the shipment of drilling equipment to boycotting country Y. The transaction is being financed by a letter of credit which requires that A certify that it is not blacklisted by Y. Freight forwarder B asks A to supply the certification in order to satisfy the requirements of the letter of credit.

The request to A is reportable by A, because it is a request to comply with Y's boycott requirements.

(xxix) A, a U.S. manufacturer, is engaged from time-to-time in supplying drilling rigs to company B in boycotting country Y. B insists that its suppliers sign contracts which provide that, even after title passes from the supplier to B, the supplier will bear the risk of loss and indemnify B if goods which the supplier has furnished are denied entry into Y for whatever reason. A knows or has reason to know that this contractual provision is required by B because of Y's boycott, and that B has been using the provision since 1977. A receives an order from B which contains such a clause.

B's request is not reportable by A, because the request is deemed to be not reportable by these regulations if the provision was in use by B prior to the effective date of the regulations, January 18, 1978.

(xxx) Same as (xxix), except that A does not know when B began using the provision.

Unless A receives information from B that B introduced the term prior to the effective date of the regulations, January 18, 1978, A must report receipt of the request.

(xxxi) A, a U.S. citizen, is a shipping clerk for B, a U.S. manufacturing company. In the course of his employment, A receives an order for goods from boycotting country Y. The order specifies that none of the components of the goods is to be furnished by blacklisted firms.

B must report the request received by its employee, A, acting in the scope of his employment. Although A is a U.S. person, such an individual does not have a separate obligation to report requests received by him in his capacity as an employee of B.

(xxxii) U.S. exporter A is negotiating a transaction with boycotting country Y. A knows that at the conclusion of the negotiations he will be asked by Y to supply certain boycott-related information and that such a request is reportable. In an effort to forestall the request and thereby avoid having to file a report, A supplies the information in advance.

A is deemed to have received a reportable request.

(xxxiii) A, a controlled foreign affiliate of U.S. company B, receives an order for computers from boycotting country Y and obtains components from the United States for the purpose of filling the order. Y instructs A that a negative certificate of origin must accompany the shipment.

Y's instruction to A regarding the negative certificate of origin is reportable by A. Moreover, A may designate B or any other person to report on its behalf. However, A remains liable for any failure to report or for any representations made on its behalf.

(xxxiv) U.S. exporter A, in shipping goods to boycotting country Y, receives a request from the customer in Y to state on the bill of lading that the vessel is allowed to enter Y's ports. The request further states that a certificate from the owner or master of the vessel to that effect is acceptable.

The request A received from his customer in Y is not reportable if it was received after January 21, 1978, because it is a request of a type deemed to be not reportable by these regulations. (A may not make such a statement on the bill of lading himself, if he knows or has reason to know it is requested for a boycott purpose.

(xxxv) U.S. exporter A, in shipping goods to boycotting country Y, receives a request from the customer in Y to furnish a certificate from the owner of the vessel that the vessel is permitted to call at Y's ports.

The request A received from his customer in Y is not reportable if it was received after the effective date of these rules, because it is a request of a type deemed to be not reportable by these regulations.

(xxxvi) U.S. exporter A, in shipping goods to boycotting country Y, receives a request from the customer in Y to furnish a certificate from the insurance company indicating that the company has a duly authorized representative in country Y and giving the name of that representative.

The request A received from his customer in Y is not reportable if it was received after the effective date of these rules, because it is a request of a type deemed to be not reportable by these regulations.

Supplement No. 1 to Part 760—Interpretations

It has come to the Department's attention that some U.S. persons are being or may be asked to comply with new boycotting country requirements with respect to shipping and insurance certifications and certificates of origin. It has also come to the Department's attention that some U.S. persons are being or may be asked to agree to new contractual provisions in connection with certain foreign government or foreign government agency contracts. In order to maximize its guidance with respect to section 8 of the Export Administration Act of 1979, as amended (50 U.S.C. app. 2407) and part 760 of the EAR, the Department hereby sets forth its views on these certifications and contractual clauses.[1]

I. Certifications

§ 760.2(d) of this part prohibits a U.S. person from furnishing or knowingly agreeing to furnish:

"Information concerning his or any other person's past, present or proposed business relationships:

(i) With or in a boycotted country;

(ii) With any business concern organized under the laws of a boycotted country;

(iii) With any national or resident of a boycotted country; or

(iv) With any other person who is known or believed to be restricted from having any business relationship with or in a boycotting country."

This prohibition, like all others under part 760, applies only with respect to a U.S. person's activities in the interstate or foreign commerce of the United States and only when such activities are undertaken with intent to comply with, further, or support an unsanctioned foreign boycott. (§ 760.2(d)(5) of this part.)

This prohibition does not apply to the furnishing of normal business information in a commercial context. (§ 760.2(d)(3) of this part). Normal business information furnished in a commercial context does not cease to be such simply because the party soliciting the information may be a boycotting country or a national or resident thereof. If the information is of a type which is generally sought for a legitimate business purpose (such as determining financial fitness, technical competence, or professional experience), the information may be furnished even if the information could be used, or without the knowledge of the person supplying the information is intended to be used, for boycott purposes. (§ 760.2(d)(4) of this part).

The new certification requirements and the Department's interpretation of the applicability of part 760 thereto are as follows:

A. *Certificate of origin.* A certificate of origin is to be issued by the supplier or exporting company and authenticated by the exporting country, attesting that the goods exported to the boycotting country are of purely indigenous origin, and stating the name of the factory or the manufacturing company. To the extent that the goods as described on the certificate of origin are not solely and exclusively products of their country of origin indicated thereon, a declaration must be appended to the certificate of origin giving the name of the supplier/manufacturer and declaring:

"The undersigned, _____, does hereby declare on behalf of the above-named supplier/manufacturer, that certain parts or components of the goods described in the attached certificate of origin are the products of such country or countries, other than the country named therein as specifically indicated hereunder:

Country of Origin and Percentage of Value of Parts or Components Relative to Total Shipment

1. _____
2. _____
3. _____

Dated: _____

Signature _____

Sworn to before me, this _____ day of _____, 19 ____. Notary Seal."

Interpretation

It is the Department's position that furnishing a positive certificate of origin, such as the one set out above, falls within the exception contained in § 760.3(c) of this part for compliance with the import and shipping document requirements of a boycotting country. See § 760.3(c) of this part and examples (i) and (ii) thereunder.

B. *Shipping certificate.* A certificate must be appended to the bill of lading stating: (1) Name of vessel; (2) Nationality of vessel; and (3) Owner of vessel, and declaring:

"The undersigned does hereby declare on behalf of the owner, master, or agent of the above-named vessel that said vessel is not registered in the boycotted country or owned by nationals or residents of the boycotted country and will not call at or pass through any boycotted country port enroute to its boycotting country destination.

"The undersigned further declares that said vessel is otherwise eligible to enter into the ports of the boycotting country in conformity with its laws and regulations.

Sworn to before me, this _____ day of _____, 19 ____. Notary Seal."

Interpretation

It is the Department's position that furnishing a certificate, such as the one set out above, stating: (1) The name of the vessel, (2) The nationality of the vessel, and (3) The owner of the vessel and further declaring that the vessel: (a) Is not registered in a boycotted country, (b) Is not owned by nationals or

[1] The Department originally issued this interpretation pursuant to the Export Administration Amendments Act of 1979 (Public Law 95–52) and the regulations on restrictive trade practices and boycotts (15 CFR part 369) published on January 25, 1978 (43 FR 3508) and contained in the 15 CFR edition revised as of January 1, 1979.

residents of a boycotted country, and (c) Will not call at or pass through a boycotted country port enroute to its destination in a boycotting country falls within the exception contained in § 760.3(b) of this part for compliance with the import and shipping document requirements of a boycotting country. See § 760.3(b) of this part and examples (vii), (viii), and (ix) thereunder.

It is also the Department's position that the owner, charterer, or master of a vessel may certify that the vessel is "eligible" or "otherwise eligible" to enter into the ports of a boycotting country in conformity with its laws and regulations. Furnishing such a statement pertaining to one's own eligibility offends no prohibition under part 760. See § 760.2(f) of this part, example (xiv).

On the other hand, where a boycott is in force, a declaration that a vessel is "eligible" or "otherwise eligible" to enter the ports of the boycotting country necessarily conveys the information that the vessel is not blacklisted or otherwise restricted from having a business relationship with the boycotting country. See § 760.3(b) of this part, examples (vi), (xi), and (xii). Where a person other than the vessel's owner, charterer, or master furnishes such a statement, that is tantamount to his furnishing a statement that he is not doing business with a blacklisted person or is doing business only with nonblacklisted persons. Therefore, it is the Department's position that furnishing such a certification (which does not reflect customary international commercial practice) by anyone other than the owner, charterer, or master of a vessel would fall within the prohibition set forth in § 760.2(d) of this part unless it is clear from all the facts and circumstances that the certification is not required for a boycott reason. See § 760.2(d)(3) and (4) of this part. However, in accordance with the exception contained in § 760.3(c) of this part for compliance with the import and shipping document requirements of a boycotting country, such a United States person may furnish such a certification until June 21, 1978.

C. *Insurance certificate.* A certificate must be appended to the insurance policy stating: (1) Name of insurance company; (2) Address of its principal office; and (3) Country of its incorporation, and declaring:

"The undersigned, _____, does hereby certify on behalf of the above-named insurance company that the said company has a duly qualified and appointed agent or representative in the boycotting country whose name and address appear below:

Name of agent/representative and address in the boycotting country.

Sworn to before me this _____ day of _____, 19____. Notary Seal."

Interpretation

It is the Department's position that furnishing the name of the insurance company falls within the exception contained in § 760.3(c) of this part for compliance with the import and shipping document requirements of a boycotting country. See § 760.3(c)(1)(v) of this part and examples (v) and (x) thereunder. In addition, it is the Department's position that furnishing a certificate, such as the one set out above, stating the address of the insurance company's principal office and its country of incorporation offends no prohibition under part 760 unless the U.S. person furnishing the certificate knows or has reason to know that the information is sought for the purpose of determining that the insurance company is neither headquartered nor incorporated in a boycotted country. See § 760.2(d)(1)(i) of this part.

It is also the Department's position that the insurer, himself, may certify that he has a duly qualified and appointed agent or representative in the boycotting country and may furnish the name and address of his agent or representative. Furnishing such a statement pertaining to one's own status offends no prohibition under part 760. See § 760.2(f) of this part, example (xiv).

On the other hand, where a boycott is in force, a declaration that an insurer "has a duly qualified and appointed agent or representative" in the boycotting country necessarily conveys the information that the insurer is not blacklisted or otherwise restricted from having a business relationship with the boycotting country. See § 760.3(c) of this part, example (v). Therefore, it is the Department's position that furnishing such a certification by anyone other than the insurer would fall within the prohibition set forth in § 760.2(d) of this part unless it is clear from all the facts and circumstances that the certification is not required for a boycott reason. See § 760.2(d) (3) and (4) of this part. However, in accordance with the exception contained in § 760.3(c) of this part for compliance with the import and shipping document requirements of a boycotting country, such a U.S. person may furnish such a certification until June 21, 1978.

II. Contractual Clauses

The new contractual requirements and the Department's interpretation of the applicability of part 760 thereto are as follows:

A. *Contractual clause regarding import laws of boycotting country.* "In connection with the performance of this contract the Contractor/Supplier acknowledges that the import and customs laws and regulations of the boycotting country shall apply to the furnishing and shipment of any products or components thereof to the boycotting country. The Contractor/Supplier specifically acknowledges that the aforementioned import and customs laws and regulations of the boycotting country prohibit, among other things, the importation into the boycotting country of products or components thereof: (1) Originating in the boycotted country; (2) Manufactured, produced, or furnished by companies organized under the laws of the boycotted country; and (3) Manufactured, produced, or furnished by nationals or residents of the boycotted country."

Interpretation

It is the Department's position that an agreement, such as the one set out in the first sentence above, that the import and customs requirements of a boycotting country shall apply to the performance of a contract does not, in and of itself, offend any prohibition under Part 760. See § 760.2(a)(5) of this part and example (iii) under "Examples of Agreements To Refuse To Do Business." It is also the Department's position that an agreement to comply generally with the import and customs requirements of a boycotting country does not, in and of itself, offend any prohibition under part 760 of this part. See § 760.2(a)(5) of this part and examples (iv) and (v) under "Examples of Agreements To Refuse To Do Business." In addition, it is the Department's position that an agreement, such as the one set out in the second sentence above, to comply with the boycotting country's import and customs requirements prohibiting the importation of products or components: (1) Originating in the boycotted country; (2) Manufactured, produced, or furnished by companies organized under the laws of the boycotted country; or (3) Manufactured, produced, or furnished by nationals or residents of the boycotted country falls within the exception contained in § 760.3(a) of this part for compliance with the import requirements of a boycotting country. See § 760.3(a) of this part and example (ii) thereunder.

The Department notes that, after June 21, 1978, a United States person may not furnish a negative certification regarding the origin of goods or their components even though the certification is furnished in response to the import and shipping document requirements of the boycotting country. See § 760.3(c) of this part and examples (i), (ii), and (iii) thereunder, and § 760.3(a) of this part and example (ii) thereunder.

B. *Contractual clause regarding unilateral and specific selection.* "The Government of the boycotting country (or the First Party), in its exclusive power, reserves its right to make the final unilateral and specific selection of any proposed carriers, insurers, suppliers of services to be performed within the boycotting country, or of specific goods to be furnished in accordance with the terms and conditions of this contract."

Interpretation

It is the Department's position that an agreement, such as the one set out above, falls within the exception contained in § 760.3(d) of this part for compliance with unilateral selections. However, the Department notes that whether a U.S. person may subsequently comply or agree to comply with any particular selection depends upon whether that selection meets all the requirements contained in § 760.3(d) of this part for compliance with unilateral selections. For example, the particular selection must be unilateral and specific, particular goods must be specifically identifiable as to their source or origin at the time of their entry into the boycotting country, and all other requirements contained in § 760.3(d) of this part must be observed.

Supplement No. 2 to Part 760—Interpretation

The Department hereby sets forth its views on whether the furnishing of certain shipping and insurance certificates in compliance with boycotting country requirements violates the provisions of section 8 of the Export

Administration Act of 1979, as amended (50 U.S.C. app. 2407) and part 760 of the EAR,[1] as follows:

(i) "The owner, charterer or master of a vessel may certify that the vessel is 'eligible' or 'otherwise eligible' to enter into the ports of a boycotting country in conformity with its laws and regulations;"

(ii) "The insurer, himself, may certify that he has a duly qualified and appointed agent or representative in the boycotting country and may furnish the name and address of his agent or representative."

Furnishing such certifications by anyone other than:

(i) The owner, charterer or master of a vessel, or

(ii) The insurer would fall within the prohibition set forth in § 760.2(d) of this part, "unless it is clear from all the facts and circumstances that these certifications are not required for a boycott reason." See § 760.2(d) (3) and (4) of this part.

The Department has received from the Kingdom of Saudi Arabia a clarification that the shipping and insurance certifications are required by Saudi Arabia in order to:

(i) Demonstrate that there are no applicable restrictions under Saudi laws or regulations pertaining to maritime matters such as the age of the ship, the condition of the ship, and similar matters that would bar entry of the vessel into Saudi ports; and

(ii) Facilitate dealings with insurers by Saudi Arabian importers whose ability to secure expeditious payments in the event of damage to insured goods may be adversely affected by the absence of a qualified agent or representative of the insurer in Saudi Arabia. In the Department's judgment, this clarification constitutes sufficient facts and circumstances to demonstrate that the certifications are not required by Saudi Arabia for boycott reasons.

On the basis of this clarification, it is the Department's position that any United States person may furnish such shipping and insurance certificates required by Saudi Arabia without violating § 760.2(d) of this part. Moreover, under these circumstances, receipt of requests for such shipping and insurance certificates from Saudi Arabia is not reportable.

It is still the Department's position that furnishing such a certificate pertaining to one's own eligibility offends no prohibition under part 760. See § 760.2(f) of this part, example (xiv). However, absent facts and circumstances clearly indicating that the certifications are required for ordinary commercial reasons as demonstrated by the Saudi clarification, furnishing certifications about the eligibility or blacklist status of any other person would fall within the prohibition set forth in § 760.2(d) of this part, and receipt of requests for such certifications is reportable.

It also remains the Department's position that where a United States person asks an insurer or carrier of the exporter's goods to self-certify, such request offends no prohibition under this part. However, where a United States person asks anyone other than an insurer or carrier of the exporter's goods to self-certify, such requests will be considered by the Department as evidence of the requesting person's refusal to do business with those persons who cannot or will not furnish such a self-certification. For example, if an exporter-beneficiary of a letter of credit asks his component suppliers to self-certify, such a request will be considered as evidence of his refusal to do business with those component suppliers who cannot or will not furnish such a self-certification.

The Department wishes to emphasize that notwithstanding the fact that self-certifications are permissible, it will closely scrutinize the activities of all United States persons who provide such self-certifications, including insurers and carriers, to determine that such persons have not taken any prohibited actions or entered into any prohibited agreements in order to be able to furnish such certifications.

Supplement No. 3 to Part 760—Interpretation

Pursuant to Article 2, Annex II of the Peace Treaty between Egypt and Israel, Egypt's participation in the Arab economic boycott of Israel was formally terminated on January 25, 1980. On the basis of this action, it is the Department's position that certain requests for information, action or agreement which were considered boycott-related by implication now cannot be presumed boycott-related and thus would not be prohibited or reportable under the Regulations. For example, a request that an exporter certify that the vessel on which it is shipping its goods is eligible to enter Arab Republic of Egypt ports has been considered a boycott-related request that the exporter could not comply with because Egypt has a boycott in force against Israel (see 43 FR 16969, April 21, 1978 or the 15 CFR edition revised as of January 1, 1979). Such a request after January 25, 1980 would not be presumed boycott-related because the underlying boycott requirement/basis for the certification has been eliminated. Similarly, a U.S. company would not be prohibited from complying with a request received from Egyptian government officials to furnish the place of birth of employees the company is seeking to take to Egypt, because there is no underlying boycott law or policy that would give rise to a presumption that the request was boycott-related.

U.S. persons are reminded that requests that are on their face boycott-related or that are for action obviously in furtherance or support of an unsanctioned foreign boycott are subject to the Regulations, irrespective of the country or origin. For example, requests containing references to "blacklisted companies", "Israel boycott list", "non-Israeli goods" or other phrases or words indicating boycott purpose would be subject to the appropriate provisions of the Department's antiboycott regulations.

Supplement No. 4 to Part 760—Interpretation

The question has arisen how the definition of U.S. commerce in the antiboycott regulations (15 CFR part 760) applies to a shipment of foreign-made goods when U.S.-origin spare parts are included in the shipment. Specifically, if the shipment of foreign goods falls outside the definition of U.S. commerce, will the inclusion of U.S.-origin spare parts bring the entire transaction into U.S. commerce?

Section 760.1(d)(12) of this part provides the general guidelines for determining when U.S.-origin goods shipped from a controlled in fact foreign subsidiary are outside U.S. commerce. The two key tests of that provision are that the goods were (1) acquired without reference to a specific order, and (2) further manufactured, incorporated or reprocessed into another product. Because the application of these two tests to spare parts does not conclusively answer the U.S. commerce question, the Department is presenting this clarification.

In the cases brought to the Department's attention, an order for foreign-origin goods was placed with a controlled in fact foreign subsidiary of a United States company. The foreign goods contained components manufactured in the United States and in other countries, and the order included a request for extras of the U.S. manufactured components (spare parts) to allow the customer to repair the item. Both the foreign manufactured product and the U.S. spare parts were to be shipped from the general inventory of the foreign subsidiary. Since the spare parts, if shipped by themselves, would be in U.S. commerce as that term is defined in the Regulations, the question was whether including them with the foreign manufactured item would bring the entire shipment into U.S. commerce. The Department has decided that it will not and presents the following specific guidance.

As used above, the term "spare parts" refers to parts of the quantities and types normally and customarily ordered with a product and kept on hand in the event they are needed to assure prompt repair of the product. Parts, components or accessories that improve or change the basic operations or design characteristics, for example, as to accuracy, capability or productivity, are not spare parts under this definition.

Inclusion of U.S.-origin spare parts in a shipment of products which is otherwise outside U.S. commerce will not bring the transaction into U.S. commerce if the following conditions are met:

(I) The parts included in the shipment are acquired from the United States by the controlled in fact foreign subsidiary without reference to a specific order from or transaction with a person outside the United States;

(II) The parts are identical to the corresponding United States-origin parts which have been manufactured, incorporated into or reprocessed into the completed product;

(III) The parts are of the quantity and type normally and customarily ordered with the completed product and kept on hand by the

[1] The Department originally issued this interpretation on April 21, 1978 (43 FR 16969) pursuant to the Export Administration Amendments Act of 1977 (Public Law 95–52) and the regulations on restrictive trade practices and boycotts (15 CFR part 369) published on January 25, 1978 (43 FR 3508) and contained in the 15 CFR edition revised as of January 1, 1979.

firm or industry of which the firm is a part to assure prompt repair of the product; and

(iv) The parts are covered by the same order as the completed product and are shipped with or at the same time as the original product.

The Department emphasizes that unless each of the above conditions is met, the inclusion of United States-origin spare parts in an order for a foreign-manufactured or assembled product will bring the entire transaction into the interstate or foreign commerce of the United States for purposes of part 760.

Supplement No. 5 to Part 760—Interpretation

A. Permissible Furnishing of Information

The information outlined below may be furnished in response to boycott-related requests from boycotting countries or others. This information is, in the view of the Department, not prohibited by the Regulations. Thus, a person does not have to qualify under any of the exceptions to be able to make the following statements. Such statements can be made, however, only by the person indicated and under the circumstances described. These statements should not be used as a point of departure or analogy for determining the permissibility of other types of statements. The Department's view that these statements are not contrary to the prohibitions contained in antiboycott provisions of the Regulations is limited to the specific statement in the specific context indicated.

1. A U.S. person may always provide its own name, address, place of incorporation ("nationality"), and nature of business.

2. A U.S. person may state that it is not on a blacklist, or restricted from doing business in a boycotting country. A company may not make that statement about its subsidiaries or affiliates—only about itself. A U.S. person may not say that there is no reason for it to be blacklisted. To make that statement would provide directly or by implication information that may not be provided. A U.S. person may inquire about the reasons it is blacklisted if it learns that it is on a blacklist (see § 760.2(d) of this part example (xv)).

3. A U.S. person may describe in detail its past dealings with boycotting countries; may state in which boycotting countries its trademarks are registered; and may specify in which boycotting countries it is registered or qualified to do business. In general, a U.S. person is free to furnish any information it wishes about the nature and extent of its commercial dealings with boycotting countries.

4. A U.S. person may state that many U.S. firms or individuals have similar names and that it believes that it may be confused with a similarly named entity. A U.S. person may not state that it does or does not have an affiliation or relationship with such similarly named entity.

5. A U.S. person may state that the information requested is a matter of public record in the United States. However, the person may not direct the inquirer to the location of that information, nor may the U.S. person provide or cause to be provided such information.

B. Availability of the Compliance With Local Law Exception to Establish a Foreign Branch

Section 760.3(f) of this part, the Compliance With Local Law exception, permits U.S. persons, who are bona fide residents of a boycotting country, to take certain limited, but otherwise prohibited, actions, if they are required to do so in order to comply with local law.

Among these actions is the furnishing of non-discriminatory information. Examples (iv) through (vi) under "Examples of Bona Fide Residency" indicate that a company seeking to become a bona fide resident within a boycotting country may take advantage of the exception for the limited purpose of furnishing information required by local law to obtain resident status. Exactly when and how this exception is available has been the subject of a number of inquiries. It is the Department's view that the following conditions must be met for a non-resident company to be permitted to furnish otherwise prohibited information for the limited purpose of seeking to become a bona fide resident:

1. The company must have a legitimate business reason for seeking to establish a branch or other resident operation in the boycotting country. (Removal from the blacklist does not constitute such a reason.)

2. The local operation it seeks to establish must be similar or comparable in nature and operation to ones the company operates in other parts of the world, unless local law or custom dictates a significantly different form.

3. The person who visits the boycotting country to furnish the information must be the official whose responsibility ordinarily includes the creation and registration of foreign operations (i.e., the chairman of the board cannot be flown in to answer boycott questions unless the chairman of the board is the corporate official who ordinarily goes into a country to handle foreign registrations).

4. The information provided must be that which is ordinarily known to the person establishing the foreign branch. Obviously, at the time of establishment, the foreign branch will have no information of its own knowledge. Rather, the information should be that which the responsible person has of his own knowledge, or that he would have with him as incidental and necessary to the registration and establishment process. As a general rule, such information would not include such things as copies of agreements with boycotted country concerns or detailed information about the person's dealings with blacklisted concerns.

5. It is not necessary that documents prepared in compliance with this exception be drafted or executed within the boycotting country. The restrictions on the type of information which may be provided and on who may provide it apply regardless of where the papers are prepared or signed.

Supplement No. 6 to Part 760—Interpretation

The antiboycott regulations prohibit knowing agreements to comply with certain prohibited requests and requirements of boycotting countries, regardless of how these terms are stated. Similarly, the reporting rules require that a boycott related "solicitation, directive, legend or instruction that asks for information or that asks that a United States person take or refrain from taking a particular action" be reported. Questions have frequently arisen about how particular requirements in the form of directive or instructions are viewed under the antiboycott regulations, and we believe that it will add clarity to the regulations to provide a written interpretation of how three of these terms are treated under the law. The terms in question appear frequently in letters of credit, but may also be found on purchase orders or other shipping or sale documents. They have been brought to the attention of the Department by numerous persons. The terms are, or are similar to, the following: (1) Goods of boycotted country origin are prohibited; (2) No six-pointed stars may be used on the goods, packing or cases; (3) Neither goods nor packing shall bear any symbols prohibited in the boycotting country.

(a) *Goods of boycotted country origin prohibited.* This term is very common in letters of credit from Kuwait and may also appear from time-to-time in invitations to bid, contracts, or other trade documents. It imposes a condition or requirement compliance with which is prohibited, but permitted by an exception under the Regulations (see § 760.2(a) and § 760.3(b) of this part). It is reportable by those parties to the letter of credit or other transaction that are required to take or refrain from taking some boycott related action by the request. Thus the bank must report the request because it is a term or condition of the letter of credit that it is handling, and the exporter-beneficiary must report the request because the exporter determines the origin of the goods. The freight forwarder does not have to report this request because the forwarder has no role or obligation in this part of the transaction. See § 760.5, examples (xiii)-(xv) of this part.

(b) *No six-pointed stars may be used on the goods, packing or cases.* This term appears from time-to-time on documents from a variety of countries. The Department has taken the position that the six-pointed star is a religious symbol. See § 760.2(b), example (viii) of this part. Agreeing to this term is prohibited by the Regulations and not excepted because it constitutes an agreement to furnish information about the religion of a U.S. person. See § 760.2(c) of this part. If a person proceeds with a transaction in which this is a condition at any stage of the transaction, that person has agreed to the condition in violation of the Regulations. It is not enough to ignore the condition. Exception must affirmatively be taken to this term or it must be stricken from the documents of the transaction. It is reportable by all parties to the transaction that are restricted by it. For example, unlike the situation described in (a) above, the freight forwarder would have to report this request because his role in the transaction would involve preparation of the packing and cases. The bank and exporter would both have to report, of course, if it were a term in a letter of credit. Each party would be obligated affirmatively to seek an amendment or deletion of the term.

(c) *Neither goods nor packaging shall bear any symbols prohibited in the boycotting country.* This term appears from time-to-time in letters of credit and shipping documents from Saudi Arabia. In our view, it is neither prohibited, nor reportable because it is not boycott-related. There is a wide range of symbols that are prohibited in Saudi Arabia for a variety of reasons, many having to do with that nation's cultural and religious beliefs. On this basis, we do not interpret the term to be boycott related. See § 760.2(a)(5) and § 760.5(a)(5)(v) of this part.

Supplement No. 7 to Part 760—Interpretation

Prohibited Refusal To Do Business

When a boycotting country rejects for boycott-related reasons a shipment of goods sold by a United States person, the United States person selling the goods may return them to its inventory or may re-ship them to other markets (the United States person may not return them to the original supplier and demand restitution). The U.S. person may then make a non-boycott based selection of another supplier and provide the goods necessary to meet its obligations to the boycotting customer in that particular transaction without violating § 760.2(a) of this part. If the United States person receives another order from the same boycotting country for similar goods, the Department has determined that a boycott-based refusal by a United States person to ship goods from the supplier whose goods were previously rejected would constitute a prohibited refusal to do business under § 760.2(a) of this part. The Department will presume that filling such an order with alternative goods is evidence of the person's refusal to deal with the original supplier.

The Department recognizes the limitations this places on future transactions with a boycotting country once a shipment of goods has been rejected. Because of this, the Department wishes to point out that, when faced with a boycotting country's refusal to permit entry of the particular goods, a United States person may state its obligation to abide by the requirements of United States law and indicate its readiness to comply with the unilateral and specific selection of goods by the boycotting country in accordance with § 760.3(c) of this part. That section provides, in pertinent part, as follows:

A United States person may comply or agree to comply in the normal course of business with the unilateral and specific selection by a boycotting country _____ of _____ specific goods, _____ provided that _____ with respect to goods, the items, in the normal course of business, are identifiable as to their source or origin at the time of their entry into the boycotting country by (a) uniqueness of design or appearance or (b) trademark, trade name, or other identification normally on the items themselves, including their packaging.

The United States person may also provide certain services in advance of the unilateral selection by the boycotting country, such as the compilation of lists of qualified suppliers, so long as such services are customary to the type of business the United States person is engaged in, and the services rendered are completely non-exclusionary in character (i.e., the list of qualified suppliers would have to include the supplier whose goods had previously been rejected by the boycotting country, if they were fully qualified). See § 760.2(a)(6) of this part for a discussion of the requirements for the provision of these services.

The Department wishes to emphasize that the unilateral selection exception in § 760.3(d) of this part will be construed narrowly, and that all its requirements and conditions must be met, including the following:

—Discretion for the selection must be exercised by a boycotting country; or by a national or resident of a boycotting country;

—The selection must be stated in the affirmative specifying a particular supplier of goods;

—While a permissible selection may be boycott based, if the United States person knows or has reason to know that the purpose of the selection is to effect discrimination against any United States person on the basis of race, religion, sex, or national origin, the person may not comply under any circumstances.

The Department cautions United States persons confronted with the problem or concern over the boycott-based rejection of goods shipped to a boycotting country that the adoption of devices such as "risk of loss" clauses, or conditions that make the supplier financially liable if his or her goods are rejected by the boycotting country for boycott reasons are presumed by the Department to be evasion of the statute and regulations, and as such are prohibited by § 760.4 of this part, unless adopted prior to January 18, 1978. See § 760.4(d) of this part.

Supplement No. 8 to Part 760—Interpretation

Definition of Interstate or Foreign Commerce of the United States

When United States persons (as defined by the antiboycott regulations) located within the United States purchase or sell goods or services located outside the United States, they have engaged in an activity within the foreign commerce of the United States. Although the goods or services may never physically come within the geographic boundaries of the several states or territories of the United States, legal ownership or title is transferred from a foreign nation to the United States person who is located in the United States. In the case of a purchase, subsequent resale would also be within United States commerce.

It is the Department's view that the terms "sale" and "purchase" as used in the regulations are not limited to those circumstances where the goods or services are physically transferred to the person who acquires title. The EAR define the activities that serve as the transactional basis for U.S. commerce as those involving the "sale, purchase, or transfer" of goods or services. In the Department's view, as used in the antiboycott regulations, "transfer" contemplates physical movement of the goods or services between the several states or territories and a foreign country, while "sale" and "purchase" relate to the movement of ownership or title.

This interpretation applies only to those circumstances in which the person located within the United States buys or sells goods or services for its own account. Where the United States person is engaged in the brokerage of foreign goods, i.e., bringing foreign buyers and sellers together and assisting in the transfer of the goods, the sale or purchase itself would not ordinarily be considered to be within U.S. commerce. The brokerage service, however, would be a service provided from the United States to the parties and thus an activity within U.S. commerce and subject to the antiboycott laws. See § 760.1(d)(13) of this part.

The Department cautions that United States persons who alter their normal pattern of dealing to eliminate the passage of ownership of the goods or services to or from the several states or territories of the United States in order to avoid the application of the antiboycott regulations would be in violation of § 760.4 of this part.

Supplement No. 9 to Part 760—Interpretation

Activities Exclusively Within a Boycotting Country—Furnishing Information

§ 760.3(h) of this part provides that a United States person who is a bona fide resident of a boycotting country may comply with the laws of that country with respect to his or her activities exclusively within the boycotting country. Among the types of conduct permitted by this exception is "furnishing information within the host country" § 760.3(h)(1)(v) of this part. For purposes of the discussion which follows, the Department is assuming that the person in question is a bona fide resident of the boycotting country as defined in § 760.3(f) of this part, and that the information to be provided is required by the laws or regulations of the boycotting country, as also defined in § 760.3(g) of this part. The only issue this interpretation addresses is under what circumstances the provision of information is "an activity exclusively within the boycotting country."

The activity of "furnishing information" consists of two parts, the acquisition of the information and its subsequent transmittal. Under the terms of this exception, the information may not be acquired outside the country for the purpose of responding to the requirement for information imposed by the boycotting country. Thus, if an American company which is a bona fide resident of a boycotting country is required to provide information about its dealings with other U.S. firms, the company may not ask its parent corporation in the United States for that information, or make any other inquiry outside the boundaries of the boycotting country. The information must be provided to the boycotting country authorities based on information or knowledge available to the company and its personnel located within the boycotting country at the time the inquiry is received. See § 760.3, (h) of this part, examples (iii), (iv), and (v). Much of the information in the company's possession (transaction and corporate records) may have

actually originated outside the boycotting country, and much of the information known to the employees may have been acquired outside the boycotting country. This will not cause the information to fall outside the coverage of this exception, if the information was sent to the boycotting country or acquired by the individuals in normal commercial context prior to and unrelated to a boycott inquiry or purpose. It should be noted that if prohibited information (about business relations with a boycotted country, for example) has been forwarded to the affiliate in the boycotting country in anticipation of a possible boycott inquiry from the boycotting country government, the Department will not regard this as information within the knowledge of the bona fide resident under the terms of the exception. However, if the bona fide resident possesses the information prior to receipt of a boycott-related inquiry and obtained it in a normal commercial context, the information can be provided pursuant to this exception notwithstanding the fact that, at some point, the information came into the boycotting country from the outside.

The second part of the analysis of "furnishing information" deals with the limitation on the transmittal of the information. It can only be provided within the boundaries of the boycotting country. The bona fide resident may only provide the information to the party that the boycotting country law requires (directly or through an agent or representative within the country) so long as that party is located within the boycotting country. This application of the exception is somewhat easier, since it is relatively simple to determine if the information is to be given to somebody within the country.

Note that in discussing what constitutes furnishing information "exclusively within" the boycotting country, the Department does not address the nature of the transaction or activity that the information relates to. It is the Department's position that the nature of the transaction, including the inception or completion of the transaction, is not material in analyzing the availability of this exception.

For example, if a shipment of goods imported into a boycotting country is held up at the time of entry, and information from the bona fide resident within that country is legally required to free those goods, the fact that the information may relate to a transaction that began outside the boycotting country is not material. The availability of the exception will be judged based on the activity of the bona fide resident within the country. If the resident provides that information of his or her own knowledge, and provides it to appropriate parties located exclusively within the country, the exception permits the information to be furnished.

Factual variations may raise questions about the application of this exception and the effect of this interpretation. In an effort to anticipate some of these, the Department has set forth below a number of questions and answers. They are incorporated as a part of this interpretation.

1. Q. Under this exception, can a company which is a U.S. person and a bona fide resident of the boycotting country provide information to the local boycott office?

A. Yes, if local law requires the company to provide this information to the boycott office and all the other requirements are met.

2. Q. If the company knows that the local boycott office will forward the information to the Central Boycott Office, may it still provide the information to the local boycott office?

A. Yes, if it is required by local law to furnish the information to the local boycott office and all the other requirements are met. The company has no control over what happens to the information after it is provided to the proper authorities. (There is obvious potential for evasion here, and the Department will examine such occurrences closely.)

3. Q. Can a U.S. person who is a bona fide resident of Syria furnish information to the Central Boycott Office in Damascus?

A. No, unless the law in Syria specifically requires information to be provided to the Central Boycott Office the exception will not apply. Syria has a local boycott office responsible for enforcing the boycott in that country.

4. Q. If a company which is a U.S. person and a bona fide resident of the boycotting country has an import shipment held up in customs of the boycotting country, and is required to provide information about the shipment to get it out of customs, may the company do so?

A. Yes, assuming all other requirements are met. The act of furnishing the information is the activity taking place exclusively within the boycotting country. The fact that the information is provided corollary to a transaction that originates or terminates outside the boycotting country is not material.

5. Q. If the U.S. person and bona fide resident of the boycotting country is shipping goods out of the boycotting country, and is required to certify to customs officials of the country at the time of export that the goods are not of Israeli origin, may he do so even though the certification relates to an export transaction?

A. Yes, assuming all other requirements are met. See number 4 above.

Supplement No. 10 to Part 760—Interpretation

(a) The words "Persian Gulf" cannot appear on the document.

This term is common in letters of credit from Kuwait and may be found in letters of credit from Bahrain. Although more commonly appearing in letters of credit, the term may also appear in other trade documents.

It is the Department's view that this term reflects a historical dispute between the Arabs and the Iranians over geographic place names which in no way relates to existing economic boycotts. Thus, the term is neither prohibited nor reportable under the Regulations.

(b) Certify that goods are of U.S.A. origin and *contain no foreign parts.*

This term appears periodically on documents from a number of Arab countries. It is the Department's position that the statement is a positive certification of origin and, as such, falls within the exception contained in § 760.3(c) of this part for compliance with the import and shipping document requirements of a boycotting country. Even though a negative phrase is contained within the positive clause, the phrase is a non exclusionary, non blacklisting statement. In the Department's view, the additional phrase does not affect the permissible status of the positive certificate, nor does it make the request reportable § 760.5(a)(5)(iii) of this part.

(c) Legalization of documents by any Arab consulate except Egyptian Consulate permitted.

This term appears from time to time in letters of credit but also may appear in various other trade documents requiring legalization and thus is not prohibited, and a request to comply with the statement is not reportable. Because a number of Arab states do not have formal diplomatic relations with Egypt, they do not recognize Egyptian embassy actions. The absence of diplomatic relations is the reason for the requirement. In the Department's view this does not constitute an unsanctioned foreign boycott or embargo against Egypt under the terms of the Export Administration Act. Thus the term is not prohibited, and a request to comply with the statement is not reportable.

Supplement No. 11 to Part 760—Interpretation

Definition of Unsolicited Invitation to Bid

§ 760.5(a)(4) of this part states in part:

In addition, a United States person who receives an unsolicited invitation to bid, or similar proposal, containing a boycott request has not received a reportable request for purposes of this section where he does not respond to the invitation to bid or other proposal.

The Regulations do not define "unsolicited" in this context. Based on review of numerous situations, the Department has developed certain criteria that it applies in determining if an invitation to bid or other proposal received by a U.S. person is in fact unsolicited.

The invitation is not unsolicited if, during a commercially reasonable period of time preceding the issuance of the invitation, a representative of the U.S. person contacted the company or agency involved for the purpose of promoting business on behalf of the company.

The invitation is not unsolicited if the U.S. person has advertised the product or line of products that are the subject of the invitation in periodicals or publications that ordinarily circulate to the country issuing the invitation during a commercially reasonable period of time preceding the issuance of the invitation.

The invitation is not unsolicited if the U.S. person has sold the same or similar products to the company or agency issuing the invitation within a commercially reasonable period of time before the issuance of the current invitation.

The invitation is not unsolicited if the U.S. person has participated in a trade mission to or trade fair in the country issuing the invitation within a commercially reasonable period of time before the issuance of the invitation.

Under § 760.5(a)(4) of this part, the invitation is regarded as not reportable if the U.S. person receiving it does not respond. The Department has determined that a simple acknowledgment of the invitation does not constitute a response for purposes of this rule. However, an acknowledgment that requests inclusion for future invitations will be considered a response, and a report is required.

Where the person in receipt of an invitation containing a boycott term or condition is undecided about a response by the time a report would be required to be filed under the regulations, it is the Department's view that the person must file a report as called for in the Regulations. The person filing the report may indicate at the time of filing that he has not made a decision on the boycott request but must file a supplemental report as called for in the regulations at the time a decision is made (§ 760.5(a)(6) of this part).

Supplement No. 12 to Part 760—Interpretation

The Department has taken the position that a U.S. person as defined by § 760.1(b) of this part may not make use of an agent to furnish information that the U.S. person is prohibited from furnishing pursuant to § 760.2(d) of this part.

Example (v) under § 760.4 of this part (Evasion) provides:

A, a U.S. company, is negotiating a long-term contract with boycotting country Y to meet all of Y's medical supply needs. Y informs A that before such a contract can be concluded, A must complete Y's boycott questionnaire. A knows that it is prohibited from answering the questionnaire so it arranges for a local agent in Y to supply the necessary information.

A's action constitutes evasion of this part, because it is a device to mask prohibited activity carried out on A's behalf.

This interpretation deals with the application of the Regulations to a commercial agent registration requirement recently imposed by the government of Saudi Arabia. The requirement provides that nationals of Saudi Arabia seeking to register in Saudi Arabia as commercial agents or representatives of foreign concerns must furnish certain boycott-related information about the foreign concern prior to obtaining approval of the registration.

The requirement has been imposed by the Ministry of Commerce of Saudi Arabia, which is the government agency responsible for regulation of commercial agents and foreign commercial registrations. The Ministry requires the agent or representative to state the following:

Declaration: I, the undersigned, hereby declare, in my capacity as (blank) that (name and address of foreign principal) is not presently on the blacklist of the Office for the Boycott of Israel and that it and all its branches, if any, are bound by the decisions issued by the Boycott Office and do not (1) participate in the capitel of, (2) license the manufacture of any products or grant trademarks or tradeware license to, (3) give experience or technical advice to, or (4) have any other relationship with other companies which are prohibited to be dealt with by the Boycott Office. Signed (name of commercial agent/representative/distributor).

It is the Department's view that under the circumstances specifically outlined in this interpretation relating to the nature of the requirement, a U.S. person will not be held responsible for a violation of this part when such statements are provided by its commercial agent or representative, even when such statements are made with the full knowledge of the U.S. person.

Nature of the requirement. For a boycott-related commercial registration requirement to fall within the coverage of this interpretation it must have the following characteristics:

1. The requirement for information imposed by the boycotting country applies to a national or other subject of the boycotting country qualified under the local laws of that country to function as a commercial representative within that country;

2. The registration requirement relates to the registration of the commercial agent's or representative's authority to sell or distribute goods within the boycotting country acquired from the foreign concern;

3. The requirement is a routine part of the registration process and is not applied selectively based on boycott-related criteria;

4. The requirement applies only to a commercial agent or representative in the boycotting country and does not apply to the foreign concern itself; and

5. The requirement is imposed by the agency of the boycotting country responsible for regulating commercial agencies.

The U.S. person whose agent is complying with the registration requirement continues to be subject to all the terms of the Regulations, and may not provide any prohibited information to the agent for purposes of the agent's compliance with the requirement.

In addition, the authority granted to the commercial agent or representative by the U.S. person must be consistent with standard commercial practices and not involve any grants of authority beyond those incidental to the commercial sales and distributorship responsibilities of the agent.

Because the requirement does not apply to the U.S. person, no reporting obligation under § 760.5 of this part would arise.

This interpretation, like all others issued by the Department discussing applications of the antiboycott provisions of the Export Administration Regulations, should be read narrowly. Circumstances that differ in any material way from those discussed in this notice will be considered under the applicable provisions of the Regulations. Persons are particularly advised not to seek to apply this interpretation to circumstances in which U.S. principals seek to use agents to deal with boycott-related or potential blacklisting situations.

Supplement No. 13 to Part 760—Interpretation

Summary

This interpretation considers boycott-based contractual language dealing with the selection of suppliers and subcontractors. While this language borrows terms from the "unilateral and specific selection" exception contained in § 760.3(c) of this part, it fails to meet the requirements of that exception. Compliance with the requirements of the language constitutes a violation of the regulatory prohibition of boycott-based refusals to do business.

Regulatory Background

Section 760.2(a) of this part prohibits U.S. persons from refusing or knowingly agreeing to refuse to do business with other persons when such refusal is pursuant to an agreement with, requirement of, or request of a boycotting country. That prohibition does not extend to the performance of management, procurement or other pre-award services, however, notwithstanding knowledge that the ultimate selection may be boycott-based. To be permissible such services: (1) Must be customary for the firm or industry involved and (2) must not exclude others from the transaction or involve other actions based on the boycott. See § 760.2(a)(6) of this part, "Refusals to Do Business", and example (xiii).

A specific exception is also made in the Regulations for compliance (and agreements to comply) with a unilateral and specific selection of suppliers or subcontractors by a boycotting country buyer. See § 760.3(d) of this part. In Supplement No. 1 to part 760, the following form of contractual language was said to fall within that exception for compliance with unilateral and specific selection:

The Government of the boycotting country (or the First Party), in its exclusive power, reserves its right to make the final unilateral and specific selection of any proposed carriers, insurers, suppliers of services to be performed within the boycotting country, or of specific goods to be furnished in accordance with the terms and conditions of this contract.

The Department noted that the actual steps necessary to comply with any selection made under this agreement would also have to meet the requirements of § 760.3(c) of this part to claim the benefit of that exception. In other words, the discretion in selecting would have to be exercised exclusively by the boycotting country customer and the selection would have to be stated in the affirmative, naming a particular supplier. See § 760.3(d) (4) and (5) of this part.

Analysis of the New Contractual Language

The Office of Antiboycott Compliance has learned of the introduction of a new contractual clause into tender documents issued by boycotting country governments. This clause is, in many respects, similar to that dealt with in Supplement No. 1 to part 760, but several critical differences exist.

The clause states:

Boycott of Boycotted Country

In connection with the performance of this Agreement, Contractor acknowledges that the import and customs laws and regulations of boycotting country apply to the furnishing and shipment of any products or components thereof to boycotting country. The Contractor specifically acknowledges that the

aforementioned import and customs laws and regulations of boycotting country prohibit, among other things, the importation into boycotting country of products or components thereof: (A) Originating in boycotted country; (B) Manufactured, produced and furnish by companies organized under the laws of boycotted country; and (C) Manufactured, produced or furnished by Nationals or Residents of boycotted country.

The Government, in its exclusive power, reserves its right to make the final unilateral and specific selection of any proposed Carriers, Insurers, Suppliers of Services to be performed within boycotting country or of specific goods to be furnished in accordance with the terms and conditions of this Contract.

To assist the Government in exercising its right under the preceding paragraph, Contractor further agrees to provide a complete list of names and addresses of all his Sub-Contractors, Suppliers, Vendors and Consultants and any other suppliers of the service for the project.

The title of this clause makes clear that its provisions are intended to be boycott-related. The first paragraph acknowledges the applicability of certain boycott-related requirements of the boycotting country's laws in language reviewed in part 760, Supplement No. 1, Part II.B. and found to constitute a permissible agreement under the exception contained in § 760.3(a) of this part for compliance with the import requirements of a boycotting country. The second and third paragraphs together deal with the procedure for selecting subcontractors and suppliers of services and goods and, in the context of the clause as a whole, must be regarded as motivated by boycott considerations and intended to enable the boycotting country government to make boycott-based selections, including the elimination of blacklisted subcontractors and suppliers.

The question is whether the incorporation into these paragraphs of some language from the "unilateral and specific selection" clause approved in Supplement No. 1 to part 760 suffices to take the language outside § 760.2(a) of this part's prohibition on boycott-based agreements to refuse to do business. While the first sentence of this clause is consistent with the language discussed in Supplement No. 1 to part 760, the second sentence significantly alters the effect of this clause. The effect is to draw the contractor into the decision-making process, thereby destroying the unilateral character of the selection by the buyer. By agreeing to submit the names of the suppliers it plans to use, the contractor is agreeing to give the boycotting country buyer, who has retained the right of final selection, the ability to reject, for boycott-related reasons, any supplier the contractor has already chosen. Because the requirement appears in the contractual provision dealing with the boycott, the buyer's rejection of any supplier whose name is given to the buyer pursuant to this provision would be presumed to be boycott-based. By signing the contract, and thereby agreeing to comply with all of its provisions, the contractor must either accept the buyer's rejection of any supplier, which is presumed to be boycott-based because of the context of this provision, or breach the contract.

In these circumstances, the contractor's method of choosing its subcontractors and suppliers, in anticipation of the buyer's boycott-based review, cannot be considered a permissible pre-award service because of the presumed intrusion of boycott-based criteria into the selection process. Thus, assuming all other jurisdictional requirements necessary to establish a violation of part 760 are met, the signing of the contract by the contractor constitutes a violation of § 760.2(a) of this part because he is agreeing to refuse to do business for boycott reasons.

The apparent attempt to bring this language within the exception for compliance with unilateral and specific selections is ineffective. The language does not place the discretion to choose suppliers in the hands of the boycotting country buyer but divides this discretion between the buyer and his principal contractor. Knowing that the buyer will not accept a boycotted company as supplier or subcontractor, the contractor is asked to use his discretion in selecting a single supplier or subcontractor for each element of the contract. The boycotting country buyer exercises discretion only through accepting or rejecting the selected supplier or contractor as its boycott policies require. In these circumstances it cannot be said that the buyer is exercising right of unilateral and specific selection which meets the criteria of § 760.3(c) of this part. For this reason, agreement to the contractual language discussed here would constitute an agreement to refuse to do business with any person rejected by the buyer and would violate § 760.2(a) of this part.

Supplement No. 14 to Part 760—Interpretation

(a) *Contractual clause concerning import, customs and boycott laws of a boycotting country.*

The following language has appeared in tender documents issued by a boycotting country:

Supplier declares his knowledge of the fact that the import, Customs and boycott laws, rules and regulations of [name of boycotting country] apply in importing to [name of boycotting country].

Supplier declares his knowledge of the fact that under these laws, rules and regulations, it is prohibited to import into [name of the boycotting country] any products or parts thereof that originated in [name of boycotted country]; were manufactured, produced or imported by companies formed under the laws of [name of boycotted country]; or were manufactured, produced or imported by nationals or residents of [name of boycotted country].

Agreeing to the above contractual language is a prohibited agreement to refuse to do business, under § 760.2(a) of this part. The first paragraph requires broad acknowledgment of the application of the boycotting country's boycott laws, rules and regulations. Unless this language is qualified to apply only to boycott restrictions with which U.S. persons may comply, agreement to it is prohibited. See § 760.2(a) of this part, examples (v) and (vi) under "Agreement to Refuse to Do Business."

The second paragraph does not limit the scope of the boycott restrictions referenced in the first paragraph. It states that the boycott laws include restrictions on goods originating in the boycotted country; manufactured, produced or supplied by companies organized under the laws of the boycotted country; or manufactured, produced or supplied by nationals or residents of the boycotted country. Each of these restrictions is within the exception for compliance with the import requirements of the boycotting country (§ 760.3(a) of this part). However, the second paragraph's list of restrictions is not exclusive. Since the boycott laws generally include more than what is listed and permissible under the antiboycott law, U.S. persons may not agree to the quoted clause. For example, a country's boycott laws may prohibit imports of goods manufactured by blacklisted firms. Except as provided by § 760.3(g) of this part, agreement to and compliance with this boycott restriction would be prohibited under the antiboycott law.

The above contractual language is distinguished from the contract clause determined to be permissible in supplement 1, Part II, A, by its acknowledgment that the boycott requirements of the boycotting country apply. Although the first sentence of the Supplement 1 clause does not exclude the possible application of boycott laws, it refers only to the import and customs laws of the boycotting country without mentioning the boycott laws as well. As discussed fully in Supplement No. 1 to part 760, compliance with or agreement to the clause quoted there is, therefore, permissible.

The contract clause quoted above, as well as the clause dealt with in Supplement No. 1 to part 760, part II, A, is reportable under § 760.6(a)(1) of this part.

(b) *Letter of credit terms removing blacklist certificate requirement if specified vessels used.*

The following terms frequently appear on letters of credit covering shipment to Iraq:

Shipment to be effected by Iraqi State Enterprise for Maritime Transport Vessels or by United Arab Shipping Company (SAB) vessels, if available.

If shipment is effected by any of the above company's [sic] vessels, black list certificate or evidence to that effect is not required.

These terms are not reportable and compliance with them is permissible.

The first sentence, a directive to use Iraqi State Enterprise for Maritime Transport or United Arab Shipping vessels, is neither reportable nor prohibited because it is not considered by the Department to be boycott-related. The apparent reason for the directive is Iraq's preference to have cargo shipped on its own vessels (or, as in the case of United Arab Shipping, on vessels owned by a company in part established and owned by the Iraqi government). Such "cargo preference" requirements, calling for the use of an importing or exporting country's own ships, are common throughout the world and are imposed for non-boycott reasons. (See § 760.2(a) of this part, example (vii)

AGREEMENTS TO REFUSE TO DO BUSINESS.)

In contrast, if the letter of credit contains a list of vessels or carriers that appears to constitute a boycott-related whitelist, a directive to select a vessel from that list would be both reportable and prohibited. When such a directive appears in conjunction with a term removing the blacklist certificate requirement if these vessels are used, the Department will presume that beneficiaries, banks and any other U.S. person receiving the letter of credit know that there is a boycott-related purpose for the directive.

The second sentence of the letter of credit language quoted above does not, by itself, call for a blacklist certificate and is not therefore, reportable. If a term elsewhere on the letter of credit imposes a blacklist certificate requirement, then that other term would be reportable.

(c) *Information not related to a particular transaction in U.S. commerce.*

Under § 760.2 (c), (d) and (e), of this part U.S. persons are prohibited, with respect to their activities in U.S. commerce, from furnishing certain information. It is the Department's position that the required nexus with U.S. commerce is established when the furnishing of information itself occurs in U.S. commerce. Even when the furnishing of information is not itself in U.S. commerce, however, the necessary relationship to U.S. commerce will be established if the furnishing of information relates to particular transactions in U.S. commerce or to anticipated transactions in U.S. commerce. See, e.g. § 760.2(d), examples (vii), (ix) and (xii) of this part.

The simplest situation occurs where a U.S. person located in the United States furnishes information to a boycotting country. The transfer of information from the United States to a foreign country is itself an activity in U.S. commerce. See § 760.1(d)(1)(iv) of this part. In some circumstances, the furnishing of information by a U.S. person located outside the United States may also be an activity in U.S. commerce. For example, the controlled foreign subsidiary of a domestic concern might furnish to a boycotting country information the subsidiary obtained from the U.S.-located parent for that purpose. The subsidiary's furnishing would, in these circumstances, constitute an activity in U.S. commerce. See § 760.1(d)(8) of this part.

Where the furnishing of information is not itself in U.S. commerce, the U.S. commerce requirement may be satisfied by the fact that the furnishing is related to an activity in U.S. foreign or domestic commerce. For example, if a shipment of goods by a controlled-in-fact foreign subsidiary of a U.S. company to a boycotting country gives rise to an inquiry from the boycotting country concerning the subsidiary's relationship with another firm, the Department regards any responsive furnishing of information by the subsidiary as related to the shipment giving rise to the inquiry. If the shipment is in U.S. foreign or domestic commerce, as defined by the regulations, then the Department regards the furnishing to be related to an activity in U.S. commerce and subject to the antiboycott regulations, whether or not the furnishing itself is in U.S. commerce.

In some circumstances, the Department may regard a furnishing of information as related to a broader category of present and prospective transactions. For example, if a controlled-in-fact foreign subsidiary of a U.S. company is requested to furnish information about its commercial dealings and it appears that failure to respond will result in its blacklisting, any responsive furnishing of information will be regarded by the Department as relating to all of the subsidiary's present and anticipated business activities with the inquiring boycotting country. Accordingly, if any of these present or anticipated business activities are in U.S. commerce, the Department will regard the furnishing as related to an activity in U.S. commerce and subject to the antiboycott regulations.

In deciding whether anticipated business activities will be in U.S. commerce, the Department will consider all of the surrounding circumstances. Particular attention will be given to the history of the U.S. person's business activities with the boycotting country and others, the nature of any activities occurring after a furnishing of information occurs and any relevant economic or commercial factors which may affect these activities.

For example, if a U.S. person has no activities with the boycotting country at present but all of its other international activities are in U.S. commerce, as defined by the Regulations, then the Department is likely to regard any furnishing of information by that person for the purpose of securing entry into the boycotting country's market as relating to anticipated activities in U.S. commerce and subject to the antiboycott regulations. Similarly, if subsequent to the furnishing of information to the boycotting country for the purpose of securing entry into its markets, the U.S. person engages in transactions with that country which are in U.S. commerce, the Department is likely to regard the furnishing as related to an activity in U.S. commerce and subject to the antiboycott regulations.

Supplement No. 15 to Part 760—Interpretation

Section 760.2 (c), (d), and (e) of this part prohibits United States persons from furnishing certain types of information with intent to comply with, further, or support an unsanctioned foreign boycott against a country friendly to the United States. The Department has been asked whether prohibited information may be transmitted—that is, passed to others by a United States person who has not directly or indirectly authored the information—without such transmission constituting a furnishing of information in violation of § 760.2 (c), (d), and (e) of this part. Throughout this interpretation, "transmission" is defined as the passing on by one person of information initially authored by another. The Department believes that there is no distinction in the EAR between transmitting (as defined above) and furnishing prohibited information under the EAR and that the transmission of prohibited information with the requisite boycott intent is a furnishing of information violative of the EAR. At the same time, however, the circumstances relating to the transmitting party's involvement will be carefully considered in determining whether that party intended to comply with, further, or support an unsanctioned foreign boycott.

The EAR does not deal specifically with the relationship between transmitting and furnishing. However, the restrictions in the EAR on responses to boycott-related conditions, both by direct and indirect actions and whether by primary parties or intermediaries, indicate that U.S. persons who simply transmit prohibited information are to be treated the same under the EAR as those who both author and furnish prohibited information. This has been the Department's position in enforcement actions it has brought.

The few references in the EAR to the transmission of information by third parties are consistent with this position. Two examples, both relating to the prohibition against the furnishing of information about U.S. persons' race, religion, sex, or national origin (§ 760.2(c) of this part), deal explicitly with transmitting information. These examples (§ 760.2(c) of this part, example (v), and § 760.3(f) of this part, example (vi)) show that, in certain cases, when furnishing certain information is permissible, either because it is not within a prohibition or is excepted from a prohibition, transmitting it is also permissible. These examples concern information that may be furnished by individuals about themselves or their families. The examples show that employers may transmit to a boycotting country visa applications or forms containing information about an employee's race, religion, sex, or national origin if that employee is the source of the information and authorizes its transmission. In other words, within the limits of ministerial action set forth in these examples, employees' actions in transmitting information are protected by the exception available to the employee. The distinction between permissible and prohibited behavior rests not on the definitional distinction between furnishing and transmitting, but on the excepted nature of the information furnished by the employee. The information originating from the employee does not lose its excepted character because it is transmitted by the employer.

The Department's position regarding the furnishing and transmission of certificates of one's own blacklist status rests on a similar basis and does not support the contention that third parties may transmit prohibited information authored by another. Such self-certifications do not violate any prohibitions in the EAR (see Supplement Nos. 1(l)(B), 2, and 5(A)(2); § 760.2(f), example (xiv)). It is the Department's position that it is not prohibited for U.S. persons to transmit such self-certifications completed by others. Once again, because furnishing the self-certification is not prohibited, third parties who transmit the self-certifications offend no prohibition. On the other hand, if a third party authored information about another's blacklist status, the act of transmitting that information would be prohibited.

A third example in the EAR (§ 760.5, example (xiv) of this part), which also concerns a permissible transmission of

boycott-related information, does not support the theory that one may transmit prohibited information authored by another. This example deals with the reporting requirements in § 760.5 of this part—not the prohibitions—and merely illustrates that a person who receives and transmits a self-certification has not received a reportable request.

It is also the Department's position that a U.S. person violates the prohibitions against furnishing information by transmitting prohibited information even if that person has received no reportable request in the transaction. For example, where documents accompanying a letter of credit contain prohibited information, a negotiating bank that transmits the documents, with the requisite boycott intent, to an issuing bank has not received a reportable request, but has furnished prohibited information.

While the Department does not regard the suggested distinction between transmitting and furnishing information as meaningful, the facts relating to the third party's involvement may be important in determining whether that party furnished information with the required intent to comply with, further, or support an unsanctioned foreign boycott. For example, if it is a standard business practice for one participant in a transaction to obtain and pass on, without examination, documents prepared by another party, it might be difficult to maintain that the first participant intended to comply with a boycott by passing on information contained in the unexamined documents. Resolution of such intent questions, however, depends upon an analysis of the individual facts and circumstances of the transaction and the Department will continue to engage in such analysis on a case-by-case basis.

This interpretation, like all others issued by the Department discussing applications of the antiboycott provisions of the EAR, should be read narrowly. Circumstances that differ in any material way from those discussed in this interpretation will be considered under the applicable provisions of the Regulations.

Supplement No. 16 to Part 760—Interpretation

Pursuant to Articles 5, 7, and 26 of the Treaty of Peace between the State of Israel and the Hashemite Kingdom of Jordan and implementing legislation enacted by Jordan, Jordan's participation in the Arab economic boycott of Israel was formally terminated on August 16, 1995.

On the basis of this action, it is the Department's position that certain requests for information, action or agreement from Jordan which were considered boycott-related by implication now cannot be presumed boycott-related and thus would not be prohibited or reportable under the regulations. For example, a request that an exporter certify that the vessel on which it is shipping its goods is eligible to enter Hashemite Kingdom of Jordan ports has been considered a boycott-related request that the exporter could not comply with because Jordan has had a boycott in force against Israel. Such a request from Jordan after August 16, 1995 would not be presumed boycott-related because the underlying boycott requirement/basis for the certification has been eliminated. Similarly, a U.S. company would not be prohibited from complying with a request received from Jordanian government officials to furnish the place of birth of employees the company is seeking to take to Jordan because there is no underlying boycott law or policy that would give rise to a presumption that the request was boycott-related.

U.S. persons are reminded that requests that are on their face boycott-related or that are for action obviously in furtherance or support of an unsanctioned foreign boycott are subject to the regulations, irrespective of the country of origin. For example, requests containing references to "blacklisted companies", "Israel boycott list", "non-Israeli goods" or other phrases or words indicating boycott purpose would be subject to the appropriate provisions of the Department's antiboycott regulations.

PART 762—RECORDKEEPING

Sec.
762.1 Scope.
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762.7 Producing and inspecting records.

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 3 CFR, 1994 Comp., p. 917; Notice of August 15, 1995 (60 FR 42767, August 17, 1995).

§ 762.1 Scope.

In this part, references to the EAR are references to 15 CFR chapter VII, subchapter C.

(a) *Transactions subject to this part.* The recordkeeping provisions of this part apply to the following transactions:

(1) Transactions involving restrictive trade practices or boycotts described in part 760 of the EAR;

(2) Exports of commodities, software, or technology from the United States and any known reexports, transshipment, or diversions of items exported from the United States;

(3) Exports to Canada, if, at any stage in the transaction, it appears that a person in a country other than the United States or Canada has an interest therein, or that the item involved is to be reexported, transshipped, or diverted from Canada to another foreign country; or

(4) Any other transactions subject to the EAR, including, but not limited to, the prohibitions against servicing, forwarding and other actions for or on behalf of end-users of proliferation concern contained in §§ 734.2(b)(7) and 744.6 of the EAR. This part also applies to all negotiations connected with those transactions, except that for export control matters a mere preliminary inquiry or offer to do business and negative response thereto shall not constitute negotiations, unless the inquiry or offer to do business proposes a transaction that a reasonably prudent exporter would believe likely to lead to a violation of the EAA, the EAR or any order, license or authorization issued thereunder.

(b) *Persons subject to this part.* Any person subject to the jurisdiction of the United States who, as principal or agent (including a forwarding agent), participates in any transaction described in paragraph (a) of this section, and any person in the United States or abroad who is required to make and maintain records under any provision of the EAR, shall keep and maintain all records described in § 762.2 of this part that are made or obtained by that person and shall produce them in a manner provided by § 762.6 of this part.

§ 762.2 Records to be retained.

(a) *Records required to be retained.* The records required to be retained under this part 762 include the following:

(1) Export control documents, as defined in part 772 of the EAR;
(2) Memoranda;
(3) Notes;
(4) Correspondence;
(5) Contracts;
(6) Invitations to bid;
(7) Books of account;
(8) Financial records;
(9) Restrictive trade practice or boycott documents and reports, and
(10) Other records pertaining to the types of transactions described in § 762.1(a) of this part, which are made or obtained by a person described in § 762.1(b) of this part.

(b) *Records retention references.* Paragraph (a) of this section describes records that are required to be retained. Other parts, sections, or supplements of the EAR which require the retention of records or contain recordkeeping provisions, include, but are not limited to the following:

(1) Part 736, General Prohibitions;
(2) § 732.6, Steps for other requirements;
(3) § 740.1, Introduction (to License Exceptions);
(4) § 742.12(a)(3), High Performance Computers;
(5) Supplement No. 3 to part 742 High Performance Computers, Safeguards and Related Information;
(6) § 740.7, Humanitarian donations (NEED);
(7) § 748.4(a), Disclosure and substantiation of facts on license applications;

(8) § 748.6, General instructions for license applications;
(9) § 748.9, Support documents for license applications;
(10) § 748.10, Import and End-user Certificates;
(11) § 748.11, Statement by Ultimate Consignee and Purchaser;
(12) § 748.13, Delivery Verification (DV);
(13) § 748.2(c), Obtaining forms; mailing addresses;
(14) § 750.7, Issuance of license;
(15) § 750.8, Revocation or suspension of license;
(16) § 750.9, Duplicate licenses;
(17) § 750.10, Transfer of licenses for export;
(18) § 752.7, Direct shipment to customers;
(19) § 752.9, Action on SCL applications;
(20) § 752.10, Changes to the SCL;
(21) § 752.11, Internal Control Programs;
(22) § 752.12, Recordkeeping requirements;
(23) § 752.13, Inspection of records;
(24) § 752.14, System reviews;
(25) § 752.15, Export clearance;
(26) § 754.4, Unprocessed western red cedar;
(27) § 758.1(b)(3), Record and proof of agent's authority;
(28) § 758.3, Shipper's Export Declaration;
(29) § 758.6, Destination control statements;
(30) § 760.6, Restrictive Trade Practices and Boycotts;
(31) § 762.2, Records to be retained;
(32) § 764.2, Violations;
(33) § 764.5, Voluntary self-disclosure; and
(34) § 766.10, Subpoenas.

§ 762.3 Records exempt from recordkeeping requirements.

(a) The following types of records have been determined to be exempt from the recordkeeping requirement procedures:

(1) Export information page;
(2) Special export file list;
(3) Vessel log from freight forwarder;
(4) Inspection certificate;
(5) Warranty certificate;
(6) Guarantee certificate;
(7) Parking material certificate;
(8) Goods quality certificate;
(9) Notification to customer of advance meeting;
(10) Letter of indemnity;
(11) Financial release form;
(12) Financial hold form;
(13) Export parts shipping problem form;
(14) Draft number log;
(15) Expense invoice mailing log;
(16) Financial status report;
(17) Bank release of guarantees;
(18) Cash sheet;
(19) Commission payment back-up;
(20) Commissions payable worksheet;
(21) Commissions payable control;
(22) Check request forms;
(23) Accounts receivable correction form;
(24) Check request register;
(25) Commission payment printout;
(26) Engineering fees invoice;
(27) Foreign tax receipt;
(28) Individual customer credit status;
(29) Request for export customers code forms;
(30) Acknowledgement for receipt of funds;
(31) Escalation development form;
(32) Summary quote;
(33) Purchase order review form;
(34) Proposal extensions;
(35) Financial proposal to export customers;
and
(36) Sales summaries.
(b) [Reserved]

§ 762.4 Original records required.

The regulated person must maintain the original records in the form in which that person receives or creates them unless that person meets all of the conditions of § 762.5 of this part relating to reproduction of records. If the original record does not meet the standards of legibility and readability described in § 762.5 of this part and the regulated person intends to rely on that record to meet the recordkeeping requirements of the EAR, that person must retain the original record.

§ 762.5 Reproduction of original records.

(a) The regulated person may maintain reproductions instead of the original records provided all of the requirements of paragraph (b) of this section are met.

(b) In order to maintain the records required by § 762.2 of this part, the regulated persons defined in § 762.1 of this part may use any photographic, photostatic, miniature photographic, micrographic, automated archival storage, or other process that completely, accurately, legibly and durably reproduces the original records (whether on paper, microfilm, or through electronic digital storage techniques). The process must meet all of the following requirements, which are applicable to all systems:

(1) The system must be capable of reproducing all records on paper.

(2) The system must record and be able to reproduce all marks, information, and other characteristics of the original record, including both obverse and reverse sides of paper documents in legible form.

(3) When displayed on a viewer, monitor, or reproduced on paper, the records must exhibit a high degree of legibility and readability. (For purposes of this section, legible and legibility mean the quality of a letter or numeral that enable the observer to identify it positively and quickly to the exclusion of all other letters or numerals. Readable and readability mean the quality of a group of letters or numerals being recognized as complete words or numbers.)

(4) The system must preserve the initial image (including both obverse and reverse sides of paper documents) and record all changes, who made them and when they were made. This information must be stored in such a manner that none of it may be altered once it is initially recorded.

(5) The regulated person must establish written procedures to identify the individuals who are responsible for the operation, use and maintenance of the system.

(6) The regulated person must establish written procedures for inspection and quality assurance of records in the system and document the implementation of those procedures.

(7) The system must be complete and contain all records required to be kept by this part or the regulated person must provide a method for correlating, identifying and locating records relating to the same transaction(s) that are kept in other record keeping systems.

(8) The regulated person must keep a record of where, when, by whom, and on what equipment the records and other information were entered into the system.

(9) Upon request by the Office of Export Enforcement, the Office of Antiboycott Compliance, or any other agency of competent jurisdiction, the regulated person must furnish, at the examination site, the records, the equipment and, if necessary, knowledgeable personnel for locating, reading, and reproducing any record in the system.

(c) *Requirements applicable to systems based on the storage of digital images.* For systems based on the storage of digital images, the system must provide accessibility to any digital image in the system. With respect to records of transactions, including those involving restrictive trade practices or boycott requirements or requests. The system must be able to locate and reproduce all records relating to a particular transaction based on any one of the following criteria:

(1) The name(s) of the parties to the transaction;

(2) Any country(ies) connected with the transaction; or

(3) A document reference number that was on any original document.

(d) *Requirements applicable to a system based on photographic processes.* For systems based on photographic, photostatic, or miniature photographic processes, the regulated person must maintain a detailed index of all records in the system that is arranged in such a manner as to allow immediate location of any particular record in the system.

§ 762.6 Period of retention.

(a) *Five year retention period.* All records required to be kept by the EAR must be retained for five years from the latest of the following times:

(1) The export from the United States of the item involved in the transaction to which the records pertain or the provision of financing, transporting or other service for or on behalf of end-users of proliferation concern as described in §§ 736.2(b)(7) and 744.6 of the EAR;

(2) Any known reexport, transshipment, or diversion of such item;

(3) Any other termination of the transaction, whether formally in writing or by any other means; or

(4) In the case of records of pertaining to transactions involving restrictive trade practices or boycotts described in part 760 of the EAR, the date the regulated person receives the boycott-related request or requirement.

(b) *Destruction or disposal of records.* If the Bureau of Export Administration or any other government agency makes a formal or informal request for a certain record or records, such record or records may not be destroyed or disposed of without the written authorization of the agency concerned. This prohibition applies to records pertaining to voluntary disclosures made to BXA in accordance with § 765.5(c)(4)(ii) and other records even if such records have been retained for a period of time exceeding that required by paragraph (a) of this section.

§ 762.7 Producing and inspecting records.

(a) *Persons located in the United States.* Persons located in the United States may be asked to produce records that are required to be kept by any provision of the EAR, or any license, order, or authorization issued thereunder and to make them available for inspection and copying by any authorized agent, official, or employee of the Bureau of Export Administration, the U.S. Customs Service, or any other agency of the U.S. Government, without any charge or expense to such agent, official, or employee. The Office of Export Enforcement and the Office of Antiboycott Compliance encourage voluntary cooperation with such requests. When voluntary cooperation is not forthcoming, the Office of Export Enforcement and the Office of Antiboycott Compliance are authorized to issue subpoenas for books, records, and other writings. In instances where a person does not comply with a subpoena, the Department of Commerce may petition a district court to have a subpoena enforced.

(b) *Persons located outside of the United States.* Persons located outside of the United States that are required to keep records by any provision of the EAR or by any license, order, or authorization issued thereunder shall produce all records or reproductions of records required to be kept, and make them available for inspection and copying upon request by an authorized agent, official, or employee of the Bureau of Export Administration, the U.S. Customs Service, or a Foreign Service post, or by any other accredited representative of the U.S. Government, without any charge or expense to such agent, official or employee.

PART 764—ENFORCEMENT AND PROTECTIVE MEASURES

Sec.

764.1 Introduction.
764.2 Violations.
764.3 Sanctions.
764.4 Reporting of violations.
764.5 Voluntary self-disclosure.
764.6 Protective administrative measures.

Supplement No. 1 to Part 764—Standard Terms of Orders Denying Export Privileges

Supplement No. 2 to Part 764—Denied Persons List

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 3 CFR, 1994 Comp., p. 917; Notice of August 15, 1995 (60 FR 42767, August 17, 1995).

§ 764.1 Introduction.

In this part, references to the EAR are references to 15 CFR chapter VII, subchapter C. This part specifies conduct that constitutes a violation of the Export Administration Act (EAA) and/or the Export Administration Regulations (EAR) and the sanctions that may be imposed for such violations. Antiboycott violations are described in part 760 of the EAR, and the violations and sanctions specified in part 764 also apply to conduct relating to part 760, unless otherwise stated. This part describes administrative sanctions that may be imposed by the Bureau of Export Administration (BXA). This part also describes criminal sanctions that may be imposed by a United States court and other sanctions that are neither administrative nor criminal. Information is provided on how to report and disclose violations. Finally, this part identifies protective administrative measures that BXA may take in the exercise of its regulatory authority.

§ 764.2 Violations.

(a) *Engaging in prohibited conduct.* No person may engage in any conduct prohibited by or contrary to, or refrain from engaging in any conduct required by, the EAA, the EAR, or any order, license or authorization issued thereunder.

(b) *Causing, aiding, or abetting a violation.* No person may cause or aid, abet, counsel, command, induce, procure, or permit the doing of any act prohibited, or the omission of any act required, by the EAA, the EAR, or any order, license or authorization issued thereunder.

(c) *Solicitation and attempt.* No person may solicit or attempt a violation of the EAA, the EAR, or any order, license or authorization issued thereunder.

(d) *Conspiracy.* No person may conspire or act in concert with one or more persons in any manner or for any purpose to bring about or to do any act that constitutes a violation of the EAA, the EAR, or any order, license or authorization issued thereunder.

(e) *Acting with knowledge of a violation.* No person may order, buy, remove, conceal, store, use, sell, loan, dispose of, transfer, transport, finance, forward, or otherwise service, in whole or in part, any item exported or to be exported from the United States, or that is otherwise subject to the EAR, with knowledge that a violation of the EAA, the EAR, or any order, license or authorization issued thereunder, has occurred, is about to occur, or is intended to occur in connection with the item.

(f) *Possession with intent to export illegally.* No person may possess any item controlled for national security or foreign policy reasons under sections 5 or 6 of the EAA:

(1) With intent to export such item in violation of the EAA, the EAR, or any order, license or authorization issued thereunder; or

(2) With knowledge or reason to believe that the item would be so exported.

(g) *Misrepresentation and concealment of facts.* (1) No person may make any false or misleading representation, statement, or certification, or falsify or conceal any material fact, either directly to BXA, the United States Customs Service, or an official of any other United States agency, or indirectly through any other person:

(i) In the course of an investigation or other action subject to the EAR; or

(ii) In connection with the preparation, submission, issuance, use, or maintenance of any export control document or restrictive trade practice or boycott request report, as defined in § 760.6 of the EAR; or

(iii) For the purpose of or in connection with effecting an export, reexport or other activity subject to the EAR.

(2) All representations, statements, and certifications made by any person are deemed to be continuing in effect. Every person who has made any representation, statement, or certification must notify BXA and any other relevant agency, in writing, of any change of any material fact or intention from that previously represented, stated, or certified, immediately upon receipt of any information that would lead a reasonably prudent person to know that a change of material fact or intention has occurred or may occur in the future.

(h) *Evasion.* No person may engage in any transaction or take any other action with intent to evade the provisions of the EAA, the EAR, or any order, license or authorization issued thereunder.

(i) *Failure to comply with reporting, recordkeeping requirements.* No person may fail or refuse to comply with any reporting or recordkeeping requirement of the EAR or of any order, license or authorization issued thereunder.

(j) *License alteration.* Except as specifically authorized in the EAR or in writing by BXA, no person may alter any license, authorization, export control document, or order issued under the EAR.

(k) *Acting contrary to the terms of a denial order.* No person may take any action that is prohibited by a denial order. See § 764.3(a)(2) of this part.

§ 764.3 Sanctions.

(a) *Administrative.*[1] Violations of the EAA, the EAR, or any order, license or authorization issued thereunder are subject to the administrative sanctions described in this section and to any other liability, sanction, or penalty available under law. The protective administrative measures that are described in § 764.6 of this part are distinct from administrative sanctions.

(1) *Civil penalty.* (i) A civil penalty not to exceed $10,000 may be imposed for each violation, except that a civil penalty not to exceed $100,000 may be imposed for each violation involving national security controls imposed under section 5 of the EAA.

(ii) The payment of any civil penalty may be made a condition, for a period not exceeding one year after the imposition of such penalty, to the granting, restoration, or continuing validity of any export license, License Exception, permission, or privilege granted or to be granted to the person upon whom such penalty is imposed.

(iii) The payment of any civil penalty may be deferred or suspended in whole or in part during any probation period that may be imposed. Such deferral or suspension shall not bar the collection of the penalty if the conditions of the deferral, suspension, or probation are not fulfilled.

(2) *Denial of export privileges.* An order may be issued that restricts the ability of the named persons to engage in export and reexport transactions involving items subject to the EAR, or that restricts access by named persons to items subject to the EAR. An order denying export privileges may be imposed either as a sanction for a violation specified in this part or as a protective administrative measure described in § 764.6(c) or (d) of this part. An order denying export privileges may suspend or revoke any or all outstanding licenses issued under the EAR to a person named in the denial order or in which such person has an interest, may deny or restrict exports and reexports by or to such person of any item subject to the EAR, and may restrict dealings in which that person may benefit from any export or reexport of such items. The standard terms of a denial order are set forth in Supplement No. 1 to this part. A non-standard denial order, narrower in scope, may be issued. Authorization to engage in actions otherwise prohibited by a denial order may be given by the Office of Exporter Services, in consultation with the Office of Export Enforcement, following application by a person named in the denial order or by a person seeking permission to deal with a named person.

(3) *Exclusion from practice.* Any person acting as an attorney, accountant, consultant, freight forwarder, or in any other representative capacity for any license application or other matter before BXA may be excluded by order from any or all such activities before BXA.

(b) *Criminal.*[2] (1) *General.* Except as provided in paragraph (b)(2) of this section, whoever knowingly violates or conspires to or attempts to violate the EAA, the EAR, or any order or license issued thereunder, shall be fined not more than five times the value of the exports involved or $50,000, whichever is greater, or imprisoned not more than five years, or both.

(2) *Willful violations.* (i) Whoever willfully violates or conspires to or attempts to violate any provision of the EAA, the EAR, or any order or license issued thereunder, with knowledge that the exports involved will be used for the benefit of, or that the destination or intended destination of the items involved is, any controlled country or any country to which exports are controlled for foreign policy purposes, except in the case of an individual, shall be fined not more than five times the value of the export involved or $1,000,000, whichever is greater; and, in the case of an individual, shall be fined not more than $250,000, or imprisoned not more than 10 years, or both.

(ii) Any person who is issued a license under the EAA or the EAR for the export of any items to a controlled country and who, with knowledge that such export is being used by such controlled country for military or intelligence gathering purposes contrary to the conditions under which the license was issued, willfully fails to report such use to the Secretary of Defense, except in the case of an individual, shall be fined not more than five times the value of the exports involved or $1,000,000, whichever is greater; and, in the case of an individual, shall be fined not more than $250,000, or imprisoned not more than five years, or both.

(iii) Any person who possesses any item with intent to export such item in violation of an export control imposed under sections 5 or 6 of the EAA, the EAR, or any order or license issued thereunder, or knowing or having reason to believe that the item would be so exported, shall, in the case of a violation of an export control imposed under section 5 of the EAA (or the EAR, or any order or license issued

[1] In the event that any part of the EAR is not under the authority of the EAA, sanctions shall be limited to those provided for by such other authority, but the provisions of this part and of part 766 of the EAR shall apply insofar as not inconsistent with that other authority.

[2] In the event that any part of the EAR is not under the authority of the EAA, sanctions shall be limited to those provided for by such other authority or by 18 U.S.C. 3571, a criminal code provision that establishes a maximum criminal fine for a felony that is the greater of the amount provided by the statute that was violated, or an amount not more than $500,000 for an organization. The Federal Sentencing Guidelines found in § 2M5.1 of Appendix 4 to Title 18 of the United States Code apply, to the extent followed by the court, to sentencing for convictions for violating the EAA.

thereunder with respect to such control), be subject to the penalties set forth in paragraph (b)(2)(i) of this section and shall, in the case of a violation of an export control imposed under section 6 of the EAA (or the EAR, or any order or license issued thereunder with respect to such control), be subject to the penalties set forth in paragraph (b)(1) of this section.

(iv) Any person who takes any action with intent to evade the provisions of the EAA, the EAR, or any order or license issued thereunder, shall be subject to the penalties set forth in paragraph (b)(1) of this section, except that in the case of an evasion of an export control imposed under sections 5 or 6 of the EAA (or the EAR, or any order or license issued thereunder with respect to such control), such person shall be subject to the penalties set forth in paragraph (b)(2)(i) of this section.

(3) *Other criminal sanctions.* Conduct that constitutes a violation of the EAA, the EAR, or any order, license or authorization issued thereunder, or that occurs in connection with such a violation, may also be prosecuted under other provisions of law, including 18 U.S.C. 371 (conspiracy), 18 U.S.C. 1001 (false statements), 18 U.S.C. 1341, 1343, and 1346 (mail and wire fraud), and 18 U.S.C. 1956 and 1957 (money laundering).

(c) *Other sanctions.* Conduct that violates the EAA, the EAR, or any order, license or authorization issued thereunder, and other conduct specified in the EAA may be subject to sanctions or other measures in addition to criminal and administrative sanctions under the EAA or EAR. These include, but are not limited to, the following:

(1) *Statutory sanctions.* Statutorily-mandated sanctions may be imposed on account of specified conduct related to weapons proliferation. Such statutory sanctions are not civil or criminal penalties, but restrict imports and procurement (See section 11A of the EAA, Multilateral Export Control Violations, and section 11C of the EAA, Chemical and Biological Weapons Proliferation), or restrict export licenses (See section 11B of the EAA, Missile Proliferation Violations, and the Iran-Iraq Arms Non-Proliferation Act of 1992).

(2) *Other sanctions and measures.* (i) *Seizure and forfeiture.* Items that have been, are being, or are intended to be, exported or shipped from or taken out of the United States in violation of the EAA, the EAR, or any order, license or authorization issued thereunder, are subject to being seized and detained as are the vessels, vehicles, and aircraft carrying such items. Seized items are subject to forfeiture. (50 U.S.C. app. 2411(g); 22 U.S.C. 401.)

(ii) *Cross-debarment.* (A) The Department of State may deny licenses or approvals for the export or reexport of defense articles and defense services controlled under the Arms Export Control Act to persons indicted or convicted of specified criminal offenses, including violations of the EAA, or to persons denied export privileges by BXA or another agency. (22 CFR 126.7(a) and 127.11(a).)

(B) The Department of Defense, among other agencies, may suspend the right of any person to contract with the United States Government based on export control violations. (Federal Acquisition Regulations 9.407–2.)

§ 764.4 Reporting of violations.

(a) *Where to report.* If a person learns that an export control violation of the EAR has occurred or may occur, that person may notify:

Office of Export Enforcement, Bureau of Export Administration,U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Room H–4520, Washington, D.C. 20230, Tel: (202) 482–1208, Facsimile: (202) 482–0964

or, for violations of part 760 of the EAR:

Office of Antiboycott Compliance, Bureau of Export Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Room H–6099C, Washington, D.C. 20230, Tel: (202) 482–2381, Facsimile: (202) 482–0913.

(b) *Failure to report violations.* Failure to report potential violations may result in the unwarranted issuance of licenses or exports without the required licenses to the detriment of the interests of the United States.

(c) *Reporting requirement distinguished.* The reporting provisions in paragraph (a) of this section are not "reporting requirements" within the meaning of § 764.2(i) of this part.

§ 764.5 Voluntary self-disclosure.

(a) *General policy.* BXA strongly encourages disclosure to OEE if you believe that you may have violated the EAR, or any order, license or authorization issued thereunder. Voluntary self-disclosure is a mitigating factor in determining what administrative sanctions, if any, will be sought by OEE.

(b) *Limitations.*

(1) The provisions of this section do not apply to disclosures of violations relating to part 760 of the EAR.

(2) The provisions of this section apply only when information is provided to OEE for its review in determining whether to take administrative action under part 766 of the EAR for violations of the export control provisions of the EAR.

(3) The provisions of this section apply only when information is received by OEE for review prior to the time that OEE, or any other agency of the United States Government, has learned the same or substantially similar information from another source and has commenced an investigation or inquiry in connection with that information.

(4) While voluntary self-disclosure is a mitigating factor in determining what administrative sanctions, if any, will be sought by OEE, it is a factor that is considered together with all other factors in a case. The weight given to voluntary self-disclosure is solely within the discretion of OEE, and the mitigating effect of voluntary self-disclosure may be outweighed by aggravating factors. Voluntary self-disclosure does not prevent transactions from being referred to the Department of Justice for criminal prosecution. In such a case, OEE would notify the Department of Justice of the voluntary self-disclosure, but the consideration of that factor is within the discretion of the Department of Justice.

(5) A firm will not be deemed to have made a disclosure under this section unless the individual making the disclosure did so with the full knowledge and authorization of the firm's senior management.

(6) The provisions of this section do not, nor should they be relied on to, create, confer, or grant any rights, benefits, privileges, or protection enforceable at law or in equity by any person, business, or entity in any civil, criminal, administrative, or other matter.

(c) *Information to be provided.*

(1) *General.* Any person wanting to disclose information that constitutes a voluntary self-disclosure should, in the manner outlined below, initially notify OEE as soon as possible after violations are discovered, and then conduct a thorough review of all export-related transactions where violations are suspected.

(2) *Initial notification.*

(i) The initial notification should be in writing and be sent to one of the addresses in § 764.5(c)(7) of this part. The notification should include the name of the person making the disclosure and a brief description of the suspected violations. The notification should describe the general nature and extent of the violations. If the person making the disclosure subsequently completes the narrative account required by § 764.5(c)(3) of this part, the disclosure will be deemed to have been made on the date of the initial notification for purposes of § 764.5(b)(3) of this part.

(ii) OEE recognizes that there may be situations where it will not be practical to make an initial notification in writing. For example, written notification may not be practical if a shipment leaves the United States without the required license, yet there is still an opportunity to prevent acquisition of the items by unauthorized persons. In such situations, OEE should be contacted promptly at one of the offices listed in § 764.5(c)(7) of this part.

(3) *Narrative account.* After the initial notification, a thorough review should be conducted of all export-related transactions where possible violations are suspected. OEE recommends that the review cover a period of five years prior to the date of the initial notification. If your review goes back less than five years, you risk failing to discover violations that may later become the subject of an investigation. Any violations not voluntarily disclosed do not receive consideration under this section. However, the failure to make such disclosures will not be treated as a separate violation unless some other section of the EAR or other provision of law requires disclosure. Upon completion of the review, OEE should be furnished with a narrative account that sufficiently describes the suspected violations so that their nature and gravity can be assessed. The narrative account should also describe the nature of the review conducted and measures that may have been taken to minimize the likelihood that violations will occur in the future. The narrative account should include:

(i) The kind of violation involved, for example, a shipment without the required license or dealing with a party denied export privileges;

(ii) An explanation of when and how the violations occurred;

(iii) The complete identities and addresses of all individuals and organizations, whether foreign or domestic, involved in the activities giving rise to the violations;

(iv) License numbers;

(v) The description, quantity, value in U.S. dollars and ECCN or other classification of the items involved; and

(vi) A description of any mitigating circumstances.

(4) *Supporting documentation.*

(i) The narrative account should be accompanied by copies of documents that explain and support it, including:

(A) Licensing documents such as licenses, license applications, import certificates and end-user statements;

(B) Shipping documents such as Shipper's Export Declarations, air waybills and bills of lading; and

(C) Other documents such as letters, facsimiles, telexes and other evidence of written or oral communications, internal memoranda, purchase orders, invoices, letters of credit and brochures.

(ii) Any relevant documents not attached to the narrative account must be retained by the person making the disclosure until OEE requests them, or until a final decision on the disclosed information has been made. After a final decision, the documents should be handled in accordance with the recordkeeping rules in part 762 of the EAR.

(5) *Certification.* A certification must be submitted stating that all of the representations made in connection with the voluntary self-disclosure are true and correct to the best of that person's knowledge and belief. Certifications made by a corporation or other organization should be signed by an official of the corporation or other organization with the authority to do so. Section 764.2(g) of this part, relating to false or misleading representations, applies in connection with the disclosure of information under this section.

(6) *Oral presentations.* OEE believes that oral presentations are generally not necessary to augment the written narrative account and supporting documentation. If the person making the disclosure believes otherwise, a request for a meeting should be included with the disclosure.

(7) *Where to make voluntary self-disclosures.* The information constituting a voluntary self-disclosure or any other correspondence pertaining to a voluntary self-disclosure may be submitted to:

Office of Export Enforcement, Director, Intelligence Division, U.S. Department of Commerce, P.O. Box 70, Washington, D.C. 20044

Office of Export Enforcement, Director, Intelligence Division, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Room H–4520,Washington, D.C. 20230, Tel: (202) 482–1208, Facsimile: (202) 482–0964,

or to any of the following field offices:

Special Agent in Charge, Boston Field Office, Office of Export Enforcement, New Boston Federal Building, 10 Causeway Street, Room 350, Boston, Massachusetts 02222, Tel: (617) 565–6030, Facsimile: (617) 835–6039

Special Agent in Charge, Chicago Field Office, Office of Export Enforcement, 2400 East Devon, Suite 300, Des Plaines, Illinois 60018, Tel: (312) 353–6640, Facsimile: (312) 353–8008

Special Agent in Charge, Dallas Field Office, Office of Export Enforcement, 525 Griffin Street, Room 622, Dallas, Texas 75202, Tel: (214) 767–9294, Facsimile: (214) 729–9299

Special Agent in Charge, Los Angeles Field Office, Office of Export Enforcement, 2601 Main Street, Suite 310, Irvine, California 92714–6299, Tel: (714) 251–9001, Facsimile: (714) 791–9103

Special Agent in Charge, Miami Field Office, Office of Export Enforcement, 200 East Las Olas Boulevard, Suite 1260, Fort Lauderdale, Florida 33301, Tel: (954) 356–7540, Facsimile: (954) 356–7549

Special Agent in Charge, New York Field Office, Office of Export Enforcement, Teleport II, 2 Teleport Drive, Staten Island, New York 10311–1001, Tel: (718) 370–0070, Facsimile: (718) 370–8226

Special Agent in Charge, San Jose Field Office, Office of Export Enforcement, 96 North 3rd Street, Suite 250, San Jose, California 95112–5572, Tel: (408) 291–4204, Facsimile: (408) 291–4320

Special Agent in Charge, Washington, D.C. Field Office, Office of Export Enforcement, 8001 Forbes Place, Room 201, Springfield, Virginia 22151–0838, Tel: (703) 487–4950, Facsimile: (703) 487–4955.

(d) *Action by the Office of Export Enforcement.* After OEE has been provided with the required narrative and supporting documentation, it will acknowledge the disclosure by letter, provide the person making the disclosure with a point of contact, and take whatever additional action, including further investigation, it deems appropriate. As quickly as the facts and circumstances of a given case permit, OEE may take any of the following actions:

(1) Inform the person making the disclosure that, based on the facts disclosed, it plans to take no action;

(2) Issue a warning letter;

(3) Issue a proposed charging letter pursuant to § 766.18 of the EAR and attempt to settle the matter;

(4) Issue a charging letter pursuant to § 766.3 of the EAR if a settlement is not reached; and/or

(5) Refer the matter to the Department of Justice for criminal prosecution.

(e) *Criteria.* For purposes of determining what administrative action to take and what sanctions, if any, to

seek, the fact that a voluntary self-disclosure has been made will be a mitigating factor. OEE will take that factor into account along with other mitigating and aggravating factors when determining what, if any, administrative sanctions should be imposed. The factors that OEE will consider are in its sole discretion, but may include:

(1) The extent to which the purpose of the control is undermined by the transaction;

(2) Whether the transaction would have been authorized had proper application been made;

(3) The quantity and value of the items involved;

(4) Why the violations occurred. For example, OEE may consider whether the violations were intentional or inadvertent; the degree to which the person responsible for the violation making the disclosure was familiar with the EAR; and whether the violator has been the subject of prior administrative or criminal action under the EAA or the EAR;

(5) Whether, as a result of the information provided, OEE is able to prevent any items exported illegally from reaching unauthorized persons or destinations;

(6) The degree of cooperation with the ensuing investigation;

(7) Whether the person has instituted or improved an internal compliance program to reduce the likelihood of future violations.

(f) *Treatment of unlawfully exported items after voluntary self-disclosure.*

(1) Any person taking certain actions with knowledge that a violation of the EAA or the EAR has occurred has violated § 764.2(e) of this part. Any person who has made a voluntary self-disclosure knows that a violation may have occurred. Therefore, at the time that a voluntary self-disclosure is made, the person making the disclosure may request permission from BXA to engage in the activities described in § 764.2(e) of this part that would otherwise be prohibited. If the request is granted by the Office of Exporter Services in consultation with OEE, future activities with respect to those items that would otherwise violate § 764.2(e) of this part will not constitute violations. However, even if permission is granted, the person making the voluntary self-disclosure is not absolved from liability for any violations disclosed nor relieved of the obligation to obtain any required reexport authorizations.

(2) A license to reexport items that are the subject of a voluntary self-disclosure, and that have been exported contrary to the provisions of the EAA or the EAR, may be requested from BXA in accordance with the provisions of part 748 of the EAR. If the applicant for reexport authorization knows that the items are the subject of a voluntary self-disclosure, the request should state that a voluntary self-disclosure was made in connection with the export of the commodities for which reexport authorization is sought.

§ 764.6 Protective administrative measures.

(a) *License Exception limitation.* As provided in § 740.2(b) of the EAR, all License Exceptions are subject to revision, suspension, or revocation.

(b) *Revocation or suspension of licenses.* As provided in § 750.8 of the EAR, all licenses are subject to revision, suspension, or revocation.

(c) *Temporary denial orders.* BXA may, in accordance with § 766.24 of the EAR, issue an order temporarily denying export privileges when such an order is necessary in the public interest to prevent the occurrence of an imminent violation.

(d) *Denial based on criminal conviction.* BXA may, in accordance with § 766.25 of the EAR, issue an order denying the export privileges of any person who has been convicted of an offense specified in § 11(h) of the EAA.

Supplement No. 1 To Part 764—Standard Terms of Orders Denying Export Privileges

(a) *General.* Orders denying export privileges may be "standard" or "non-standard." This Supplement specifies terms of the standard order denying export privileges. All denial orders are published in the **Federal Register**. The failure by any person to comply with any denial order is a violation of the Export Administration Regulations (EAR). (See General Prohibition Four at § 736.2(b)(4) of the EAR; § 764.2(k) of this part.) All persons whose export privileges are denied by any form of denial order are identified on the Denied Persons List (Supplement No. 2 to this part), with an indication of whether an order is standard or non-standard denoted in the "Terms of order" column. The Denied Persons List also tells you where each denial order can be found in the **Federal Register**. Reference should be made to the text of the denial order, as published in the **Federal Register**, to learn the scope of any denial order, including any non-standard denial order.

Denial orders issued prior to March 25, 1996, are to be construed, insofar as possible, as having the same scope and effect as the standard denial order.

The introduction to each denial order shall be specific to that order, and shall include: (1) The name and address of any denied persons and any related persons subject to the denial order; (2) the basis for the denial order, such as final decision following charges of violation, settlement agreement, § 11(h) of the EAA, or temporary denial order request; (3) the period of denial, the effective date of the order, whether and for how long any portion of the denial of export privileges is suspended, and any conditions of probation; and (4) whether any or all outstanding licenses issued under the EAR to the person(s) named in the denial order or in which such person(s) has an interest, are suspended or revoked.

(b) Standard text.

The standard denial order shall provide:

"It is therefore ordered:

First, that [the denied person(s)] may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Export Administration Regulations (EAR), or in any other activity subject to the EAR, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR.

Second, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the denied person any item subject to the EAR;

B. Take any action that facilitates the acquisition or attempted acquisition by a denied person of the ownership, possession, or control of any item subject to the EAR that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby a denied person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the EAR that has been exported from the United States;

D. Obtain from the denied person in the United States any item subject to the EAR with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the EAR that has been or will be exported from the United States and which is owned, possessed or controlled by a denied person, or service any item, of whatever origin, that is owned, possessed or controlled by a denied person if such service involves the use of any item subject to the EAR that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, that, after notice and opportunity for comment as provided in § 766.23 of the EAR, any person, firm, corporation, or business organization related to the denied person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this order.

Fourth, that this order does not prohibit any export, reexport, or other transaction subject to the EAR where the only items involved that are subject to the EAR are the foreign-produced direct product of U.S.-origin technology.

This order, which constitutes the final agency action in this matter, is effective immediately."

Supplement No. 2 To Part 764—Denied Persons List

(a) *General.*

(1) The Denied Persons List identifies those persons denied export privileges by the Bureau of Export Administration (BXA) pursuant to the terms of an order. Part A of the Denied Persons List lists all denied persons in alphabetical order and provides supplementary information, while Part B lists all denied persons by geographic area. Part A of the Denied Persons List is organized into five columns, including the name and address of the denied person, the effective and expiration dates of the order, a brief description of the terms of the order, and a citation to the **Federal Register** where the terms of the order can be located. Reference should always be made to the text of a denial order when using the Denied Persons List.

(2) Denial orders issued subsequent to March 25, 1996, shall be identified in part A as being standard or non-standard, and denial orders issued prior to March 25, 1996, shall be construed, insofar as possible, as having the same scope and effect as the standard denial order. Non-standard orders are denoted by the phrase "non-standard" in the "Terms of order" column in part A, standard orders are denoted by the word "standard," and orders issued prior to March 25, 1996, are denoted by the same brief description entered at the time of issuance. Standard orders denying export privileges contain the standard terms set forth in Supplement No. 1 to part 764.

(3) You are responsible for ensuring that you take no action involving items subject to the Export Administration Regulations (EAR) that is contrary to the terms of a denial order.

(b) *Related persons.* Related persons who are denied export privileges subsequent to [the effective date of the interim EAR] shall appear in part A of the Denied Persons List with a note identifying the denied persons to whom they are related in the column entitled "Terms of order."

(c) *Publication.* New and amended denial orders are published in the **Federal Register** as they are issued. This publication constitutes official notice to the public.

(d) *Updates and availability.*

(1) As a convenience for the public, issuance of denial orders is announced in Export Administration Bulletins. Part A of the Denied Persons List is also available electronically on two bulletin boards of Department of Commerce agencies, Fedworld (National Technical Information Service) and the Economic Bulletin Board (Economics and Statistics Administration).

PART 766—ADMINISTRATIVE ENFORCEMENT PROCEEDINGS

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Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 3 CFR, 1994 Comp., p. 917; Notice of August 15, 1995 (60 FR 42767, August 17, 1995).

§ 766.1 Scope.

In this part, references to the EAR are references to 15 CFR chapter VII, subchapter C. This part describes the procedures for imposing administrative sanctions for violations of the Export Administration Act of 1979, as amended (the EAA), the Export Administration Regulations (EAR), or any order, license or authorization issued thereunder. Parts 760 and 764 of the EAR specify those actions that constitute violations, and part 764 describes the sanctions that apply. In addition to describing the procedures for imposing sanctions, this part describes the procedures for imposing temporary denial orders to prevent imminent violations of the EAA, the EAR, or any order, license or authorization issued thereunder. This part also describes the procedures for taking the discretionary protective administrative action of denying the export privileges of persons who have been convicted of violating any of the statutes, including the EAA, listed in section 11(h) of the EAA. Nothing in this part shall be construed as applying to or limiting other administrative or enforcement action relating to the EAA or the EAR, including the exercise of any investigative authorities conferred by the EAA. This part does not confer any procedural rights or impose any requirements based on the Administrative Procedure Act for proceedings charging violations under the EAA, except as expressly provided for in this part.

§ 766.2 Definitions.

As used in this part, the following definitions apply:

Administrative law judge. The person authorized to conduct hearings in administrative enforcement proceedings brought under the EAA or to hear appeals from the imposition of temporary denial orders. The term "judge" may be used for brevity when it is clear that the reference is to the administrative law judge.

Assistant Secretary. The Assistant Secretary for Export Enforcement, Bureau of Export Administration.

Bureau of Export Administration (BXA). Bureau of Export Administration, United States

Department of Commerce, and all of its component units, including, in particular for purposes of this part, the Office of Antiboycott Compliance, the Office of Export Enforcement, and the Office of Exporter Services.

Final decision. A decision or order assessing a civil penalty, denial of export privileges or other sanction, or otherwise disposing of or dismissing a case, which is not subject to further review under this part, but which is subject to collection proceedings or judicial review in an appropriate Federal district court as authorized by law.

Initial decision. A decision of the administrative law judge in proceedings involving violations relating to part 760 of the EAR, which is subject to appellate review by the Under Secretary for Export Administration, but which becomes the final decision in the absence of such an appeal.

Party. BXA and any person named as a respondent under this part.

Recommended decision. A decision of the administrative law judge in proceedings involving violations other than those relating to part 760 of the EAR, which is subject to review by the Under Secretary of Commerce for Export Administration, who issues a written order affirming, modifying or vacating the recommended decision.

Respondent. Any person named as the subject of a charging letter, proposed charging letter, temporary denial order, or other order proposed or issued under this part.

Under Secretary. The Under Secretary for Export Administration, United States Department of Commerce.

§ 766.3 Institution of administrative enforcement proceedings.

(a) *Charging letters.* The Director of the Office of Export Enforcement [1] (OEE) or the Director of the Office of Antiboycott Compliance (OAC), as appropriate, may begin administrative enforcement proceedings under this part by issuing a charging letter in the name of BXA. The charging letter shall constitute the formal complaint and will state that there is reason to believe that a violation of the EAA, the EAR, or any order, license or authorization issued thereunder, has occurred. It will set forth the essential facts about the alleged violation, refer to the specific regulatory or other provisions involved, and give notice of the sanctions available under part 764 of the EAR. The charging letter will inform the respondent that failure to answer the charges as provided in § 766.6 of this part will be treated as a default under § 766.7 of this part, that the respondent is entitled to a hearing if a written demand for one is requested with the answer, and that the respondent may be represented by counsel, or by other authorized representative who has a power of attorney to represent the respondent. A copy of the charging letter shall be filed with the administrative law judge, which filing shall toll the running of the applicable statute of limitations. Charging letters may be amended or supplemented at any time before an answer is filed, or, with permission of the administrative law judge, afterwards. BXA may unilaterally withdraw charging letters at any time, by notifying the respondent and the administrative law judge.

(b) *Notice of issuance of charging letter instituting administrative enforcement proceeding.* A respondent shall be notified of the issuance of a charging letter, or any amendment or supplement thereto:

(1) By mailing a copy by registered or certified mail addressed to the respondent at the respondent's last known address;

(2) By leaving a copy with the respondent or with an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process for the respondent; or

(3) By leaving a copy with a person of suitable age and discretion who resides at the respondent's last known dwelling.

(4) Delivery of a copy of the charging letter, if made in the manner described in paragraph (b)(2) or (3) of this section, shall be evidenced by a certificate of service signed by the person making such service, stating the method of service and the identity of the person with whom the charging letter was left. The certificate of service shall be filed with the administrative law judge.

(c) *Date.* The date of service of notice of the issuance of a charging letter instituting an administrative enforcement proceeding, or service of notice of the issuance of a supplement or amendment to a charging letter, is the date of its delivery, or of its attempted delivery if delivery is refused.

§ 766.4 Representation.

A respondent individual may appear and participate in person, a corporation by a duly authorized officer or employee, and a partnership by a partner. If a respondent is represented by counsel, counsel shall be a member in good standing of the bar of any State, Commonwealth or Territory of the United States, or of the District of Columbia, or be licensed to practice law in the country in which counsel resides if not the United States. A respondent personally, or through counsel or other representative, shall file a notice of appearance with the administrative law judge. BXA will be represented by the Office of Chief Counsel for Export Administration, U.S. Department of Commerce.

§ 766.5 Filing and service of papers other than charging letter.

(a) *Filing.* All papers to be filed shall be addressed to "EAR Administrative Enforcement Proceedings," U.S. Department of Commerce, Room H–6716, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, or such other place as the administrative law judge may designate. Filing by United States mail, first class postage prepaid, by express or equivalent parcel delivery service, or by hand delivery, is acceptable. Filing by mail from a foreign country shall be by airmail. In addition, the administrative law judge may authorize filing of papers by facsimile or other electronic means, provided that a hard copy of any such paper is subsequently filed. A copy of each paper filed shall be simultaneously served on each party.

(b) *Service.* Service shall be made by personal delivery or by mailing one copy of each paper to each party in the proceeding. Service by delivery service or facsimile, in the manner set forth in paragraph (a) of this section, is acceptable. Service on BXA shall be addressed to the Chief Counsel for Export Administration, Room H–3839, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Service on a respondent shall be to the address to which the charging letter was sent or to such other address as respondent may provide. When a party has appeared by counsel or other representative, service on counsel or other representative shall constitute service on that party.

(c) *Date.* The date of filing or service is the day when the papers are deposited in the mail or are delivered in person, by delivery service, or by facsimile.

(d) *Certificate of service.* A certificate of service signed by the party making service, stating the date and manner of service, shall accompany every paper, other than the charging letter, filed and served on parties.

(e) *Computing period of time.* In computing any period of time prescribed or allowed by this part or by order of the administrative law judge or the Under Secretary, the day of the act, event, or default from which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included unless it is a Saturday, a Sunday, or a legal holiday (as defined in Rule 6(a) of the Federal Rules of Civil Procedure), in which case the period runs until the end of the next day which is neither a Saturday, a Sunday, nor a legal holiday. Intermediate Saturdays, Sundays, and legal holidays are excluded from the computation when the period of time prescribed or allowed is seven days or less.

[1] By agreement with the Director of the Office of Strategic Industries and Economic Resource Administration, the Director of the Office of Export Enforcement enforces short supply controls imposed under section 7 of the EAA.

§ 766.6 Answer and demand for hearing.

(a) *When to answer.* The respondent must answer the charging letter within 30 days after being served with notice of the issuance of a charging letter instituting an administrative enforcement proceeding, or within 30 days of notice of any supplement or amendment to a charging letter, unless time is extended under § 766.16 of this part.

(b) *Contents of answer.* The answer must be responsive to the charging letter and must fully set forth the nature of the respondent's defense or defenses. The answer must admit or deny specifically each separate allegation of the charging letter; if the respondent is without knowledge, the answer must so state and will operate as a denial. Failure to deny or controvert a particular allegation will be deemed an admission of that allegation. The answer must also set forth any additional or new matter the respondent believes supports a defense or claim of mitigation. Any defense or partial defense not specifically set forth in the answer shall be deemed waived, and evidence thereon may be refused, except for good cause shown.

(c) *Demand for hearing.* If the respondent desires a hearing, a written demand for one must be submitted with the answer. Any demand by BXA for a hearing must be filed with the administrative law judge within 30 days after service of the answer. Failure to make a timely written demand for a hearing shall be deemed a waiver of the party's right to a hearing, except for good cause shown. If no party demands a hearing, the matter will go forward in accordance with the procedures set forth in § 766.15 of this part.

(d) *English language required.* The answer, all other papers, and all documentary evidence must be submitted in English, or translations into English must be filed and served at the same time.

§ 766.7 Default.

(a) *General.* Failure of the respondent to file an answer within the time provided constitutes a waiver of the respondent's right to appear and contest the allegations in the charging letter. In such event, the administrative law judge, on BXA's motion and without further notice to the respondent, shall find the facts to be as alleged in the charging letter and render an initial or recommended decision containing findings of fact and appropriate conclusions of law and issue or recommend an order imposing appropriate sanctions. The decision and order shall be subject to review by the Under Secretary in accordance with the applicable procedures set forth in § 766.21 or § 766.22 of this part.

(b) *Petition to set aside default.* (1) *Procedure.* Upon petition filed by a respondent against whom a default order has been issued, which petition is accompanied by an answer meeting the requirements of § 766.6(b) of this part, the Under Secretary may, after giving all parties an opportunity to comment, and for good cause shown, set aside the default and vacate the order entered thereon and remand the matter to the administrative law judge for further proceedings.

(2) *Time limits.* A petition under this section must be made within one year of the date of entry of the order which the petition seeks to have vacated.

§ 766.8 Summary decision.

At any time after a proceeding has been initiated, a party may move for a summary decision disposing of some or all of the issues. The administrative law judge may render an initial or recommended decision and issue or recommend an order if the entire record shows, as to the issue(s) under consideration:

(a) That there is no genuine issue as to any material fact; and

(b) That the moving party is entitled to a summary decision as a matter of law.

§ 766.9 Discovery.

(a) *General.* The parties are encouraged to engage in voluntary discovery regarding any matter, not privileged, which is relevant to the subject matter of the pending proceeding. The provisions of the Federal Rules of Civil Procedure relating to discovery apply to the extent consistent with this part and except as otherwise provided by the administrative law judge or by waiver or agreement of the parties. The administrative law judge may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense. These orders may include limitations on the scope, method, time and place of discovery, and provisions for protecting the confidentiality of classified or otherwise sensitive information.

(b) *Interrogatories and requests for admission or production of documents.* A party may serve on any party interrogatories, requests for admission, or requests for production of documents for inspection and copying, and a party concerned may apply to the administrative law judge for such enforcement or protective order as that party deems warranted with respect to such discovery. The service of a discovery request shall be made at least 20 days before the scheduled date of the hearing unless the administrative law judge specifies a shorter time period. Copies of interrogatories, requests for admission and requests for production of documents and responses thereto shall be served on all parties, and a copy of the certificate of service shall be filed with the administrative law judge. Matters of fact or law of which admission is requested shall be deemed admitted unless, within a period designated in the request (at least 10 days after service, or within such additional time as the administrative law judge may allow), the party to whom the request is directed serves upon the requesting party a sworn statement either denying specifically the matters of which admission is requested or setting forth in detail the reasons why the party to whom the request is directed cannot truthfully either admit or deny such matters.

(c) *Depositions.* Upon application of a party and for good cause shown, the administrative law judge may order the taking of the testimony of any person by deposition and the production of specified documents or materials by the person at the deposition. The application shall state the purpose of the deposition and set forth the facts sought to be established through the deposition.

(d) *Enforcement.* The administrative law judge may order a party to answer designated questions, to produce specified documents or things or to take any other action in response to a proper discovery request. If a party does not comply with such an order, the administrative law judge may make a determination or enter any order in the proceeding as the judge deems reasonable and appropriate. The judge may strike related charges or defenses in whole or in part or may take particular facts relating to the discovery request to

which the party failed or refused to respond as being established for purposes of the proceeding in accordance with the contentions of the party seeking discovery. In addition, enforcement by a district court of the United States may be sought under section 12(a) of the EAA.

§ 766.10 Subpoenas.

(a) *Issuance.* Upon the application of any party, supported by a satisfactory showing that there is substantial reason to believe that the evidence would not otherwise be available, the administrative law judge will issue subpoenas requiring the attendance and testimony of witnesses and the production of such books, records or other documentary or physical evidence for the purpose of the hearing, as the judge deems relevant and material to the proceedings, and reasonable in scope.

(b) *Service.* Subpoenas issued by the administrative law judge may be served in any of the methods set forth in § 766.5(b) of this part.

(c) *Timing.* Applications for subpoenas must be submitted at least 10 days before the scheduled hearing or deposition, unless the administrative law judge determines, for good cause shown, that extraordinary circumstances warrant a shorter time.

§ 766.11 Matter protected against disclosure.

(a) *Protective measures.* It is often necessary for BXA to receive and consider information and documents that are sensitive from the standpoint of national security, foreign policy, business confidentiality, or investigative concern, and that are to be protected against disclosure. Accordingly, and without limiting the discretion of the administrative law judge to give effect to any other applicable privilege, it is proper for the administrative law judge to limit discovery or introduction of evidence or to issue such protective or other orders as in the judge's judgment may be consistent with the objective of preventing undue disclosure of the sensitive documents or information. Where the administrative law judge determines that documents containing the sensitive matter need to be made available to a respondent to avoid prejudice, the judge may direct BXA to prepare an unclassified and nonsensitive summary or extract of the documents. The administrative law judge may compare the extract or summary with the original to ensure that it is supported by the source document and that it omits only so much as must remain classified or undisclosed. The summary or extract may be admitted as evidence in the record.

(b) *Arrangements for access.* If the administrative law judge determines that this procedure is unsatisfactory and that classified or otherwise sensitive matter must form part of the record in order to avoid prejudice to a party, the judge may provide the parties opportunity to make arrangements that permit a party or a representative to have access to such matter without compromising sensitive information. Such arrangements may include obtaining security clearances, obtaining a national interest determination under section 12(c) of the EAA, or giving counsel for a party access to sensitive information and documents subject to assurances against further disclosure, including a protective order, if necessary.

§ 766.12 Prehearing conference.

(a) The administrative law judge, on the judge's own motion or on request of a party, may direct the parties to participate in a prehearing conference, either in person or by telephone, to consider:

(1) Simplification of issues;

(2) The necessity or desirability of amendments to pleadings;

(3) Obtaining stipulations of fact and of documents to avoid unnecessary proof; or

(4) Such other matters as may expedite the disposition of the proceedings.

(b) The administrative law judge may order the conference proceedings to be recorded electronically or taken by a reporter, transcribed and filed with the judge.

(c) If a prehearing conference is impracticable, the administrative law judge may direct the parties to correspond with the judge to achieve the purposes of such a conference.

(d) The administrative law judge will prepare a summary of any actions agreed on or taken pursuant to this section. The summary will include any written stipulations or agreements made by the parties.

§ 766.13 Hearings.

(a) *Scheduling.* The administrative law judge, by agreement with the parties or upon notice to all parties of not less than 30 days, will schedule a hearing. All hearings will be held in Washington, D.C., unless the administrative law judge determines, for good cause shown, that another location would better serve the interests of justice.

(b) *Hearing procedure.* Hearings will be conducted in a fair and impartial manner by the administrative law judge, who may limit attendance at any hearing or portion thereof to the parties, their representatives and witnesses if the judge deems this necessary or advisable in order to protect sensitive matter (see § 766.11 of this part) from improper disclosure. The rules of evidence prevailing in courts of law do not apply, and all evidentiary material deemed by the administrative law judge to be relevant and material to the proceeding and not unduly repetitious will be received and given appropriate weight.

(c) *Testimony and record.* Witnesses will testify under oath or affirmation. A verbatim record of the hearing and of any other oral proceedings will be taken by reporter or by electronic recording, transcribed and filed with the administrative law judge. A respondent may examine the transcript and may obtain a copy by paying any applicable costs. Upon such terms as the administrative law judge deems just, the judge may direct that the testimony of any person be taken by deposition and may admit an affidavit or declaration as evidence, provided that any affidavits or declarations have been filed and served on the parties sufficiently in advance of the hearing to permit a party to file and serve an objection thereto on the grounds that it is necessary that the affiant or declarant testify at the hearing and be subject to cross-examination.

(d) *Failure to appear.* If a party fails to appear in person or by counsel at a scheduled hearing, the hearing may nevertheless proceed, and that party's failure to appear will not affect the validity of the hearing or any proceedings or action taken thereafter.

§ 766.14 Interlocutory review of rulings.

(a) At the request of a party, or on the judge's own initiative, the administrative law judge may certify to the Under Secretary for review a ruling that does not finally dispose of a proceeding, if the administrative law judge determines that immediate review may hasten or facilitate the final disposition of the matter.

(b) Upon certification to the Under Secretary of the interlocutory ruling for review, the parties will have 10 days to file and serve briefs stating their positions, and five days to file and serve replies, following which the Under Secretary will decide the matter promptly.

§ 766.15 Proceeding without a hearing.

If the parties have waived a hearing, the case will be decided on the record by the administrative law judge. Proceeding without a hearing does not relieve the parties from the necessity of proving the facts supporting their charges or defenses. Affidavits or declarations, depositions, admissions, answers to interrogatories and stipulations may supplement other documentary evidence in the record. The administrative law judge will give each party reasonable opportunity to file rebuttal evidence.

§ 766.16 Procedural stipulations; extension of time.

(a) *Procedural stipulations.* Unless otherwise ordered, a written stipulation agreed to by all parties and filed with the administrative law judge will modify any procedures established by this part.

(b) *Extension of time.* (1) The parties may extend any applicable time limitation, by stipulation filed with the administrative law judge before the time limitation expires.

(2) The administrative law judge may, on the judge's own initiative or upon application by any party, either before or after the expiration of any applicable time limitation, extend the time within which to file and serve an answer to a charging letter or do any other act required by this part.

§ 766.17 Decision of the administrative law judge.

(a) *Predecisional matters.* Except for default proceedings under § 766.7 of this part, the administrative law judge will give the parties reasonable opportunity to submit the following, which will be made a part of the record:

(1) Exceptions to any ruling by the judge or to the admissibility of evidence proffered at the hearing;

(2) Proposed findings of fact and conclusions of law;

(3) Supporting legal arguments for the exceptions and proposed findings and conclusions submitted; and

(4) A proposed order.

(b) Decision and order. After considering the entire record in the proceeding, the administrative law judge will issue a written decision.

(1) *Initial decision.* For proceedings charging violations relating to part 760 of the EAR, the decision rendered shall be an initial decision. The decision will include findings of fact, conclusions of law, and findings as to whether there has been a violation of the EAA, the EAR, or any order, license or authorization issued thereunder. If the administrative law judge finds that the evidence of record is insufficient to sustain a finding that a violation has occurred with respect to one or more charges, the judge shall order dismissal of the charges in whole or in part, as appropriate. If the administrative law judge finds that one or more violations have been committed, the judge may issue an order imposing administrative sanctions, as provided in part 764 of the EAR. The decision and order shall be served on each party, and shall become effective as the final decision of the Department 30 days after service, unless an appeal is filed in accordance with § 766.21 of this part.

(2) *Recommended decision.* For proceedings not involving violations relating to part 760 of the EAR, the decision rendered shall be a recommended decision. The decision will include recommended findings of fact, conclusions of law, and findings as to whether there has been a violation of the EAA, the EAR or any order, license or authorization issued thereunder. If the administrative law judge finds that the evidence of record is insufficient to sustain a recommended finding that a violation has occurred with respect to one or more charges, the judge shall recommend dismissal of any such charge. If the administrative law judge finds that one or more violations have been committed, the judge shall recommend an order imposing administrative sanctions, as provided in part 764 of the EAR, or such other action as the judge deems appropriate. The administrative law judge shall immediately certify the record, including the original copy of the recommended decision and order, to the Under Secretary for review in accordance with § 766.22 of this part. The administrative law judge shall also immediately serve the recommended decision on all parties. Because of the time limits established in the EAA for review by the Under Secretary, service upon parties shall be by personal delivery, express mail or other overnight carrier.

(c) *Suspension of sanctions.* Any order imposing administrative sanctions may provide for the suspension of the sanction imposed, in whole or in part and on such terms of probation or other conditions as the administrative law judge or the Under Secretary may specify. Any suspension order may be modified or revoked by the signing official upon application of BXA showing a violation of the probationary terms or other conditions, after service on the respondent of notice of the application in accordance with the service provisions of § 766.3 of this part, and with such opportunity for response as the responsible signing official in his/her discretion may allow. A copy of any order modifying or revoking the suspension shall also be served on the respondent in accordance with the provisions of § 766.3 of this part.

(d) *Time for decision.* Administrative enforcement proceedings not involving violations relating to part 760 of the EAR shall be concluded, including review by the Under Secretary under § 766.22 of this part, within one year of the submission of a charging letter, unless the administrative law judge, for good cause shown, extends such period. The charging letter will be deemed to have been submitted to the administrative law judge on the date the respondent files an answer or on the date BXA files a motion for a default order pursuant to § 766.7(a) of this part, whichever occurs first.

§ 766.18 Settlement.

(a) *Cases may be settled before service of a charging letter.* In cases in which settlement is reached before service of a charging letter, a proposed charging letter will be prepared, and a settlement proposal consisting of a settlement agreement and order will be submitted to the Assistant Secretary for approval and signature. If the Assistant Secretary does not approve the proposal, he/she will notify the parties and the case will proceed as though no settlement proposal had been made. If the Assistant Secretary approves the proposal, he/she will issue an appropriate order, and no action will be required by the administrative law judge.

(b) *Cases may also be settled after service of a charging letter.* (1) If the case is pending before the administrative law judge, the judge shall stay the proceedings for a reasonable period of time, usually not to exceed 30 days, upon notification by the parties that they have entered into good faith settlement negotiations. The administrative law judge may, in his/her discretion, grant additional stays. If settlement is reached, a proposal will be submitted to the Assistant Secretary for approval and signature. If the Assistant Secretary approves the proposal, he/she will issue an appropriate order, and notify the administrative law judge that the case is withdrawn from adjudication. If the Assistant Secretary does not approve the proposal, he/she will notify the parties and the case will proceed to adjudication by the administrative law judge as though no settlement proposal had been made.

(2) If the case is pending before the Under Secretary under § 766.21 or § 766.22 of this part, the parties may submit a settlement proposal to the Under Secretary for approval and signature. If the Under Secretary approves the proposal, he/she will issue an appropriate order. If the Under Secretary does not approve the proposal, the case will proceed to final

decision in accordance with § 766.21 or § 766.22 of this part, as appropriate.

(c) Any order disposing of a case by settlement may suspend the administrative sanction imposed, in whole or in part, on such terms of probation or other conditions as the signing official may specify. Any such suspension may be modified or revoked by the signing official, in accordance with the procedures set forth in § 766.17(c) of this part.

(d) Any respondent who agrees to an order imposing any administrative sanction does so solely for the purpose of resolving the claims in the administrative enforcement proceeding brought under this part. This reflects the fact that BXA has neither the authority nor the responsibility for instituting, conducting, settling, or otherwise disposing of criminal proceedings. That authority and responsibility are vested in the Attorney General and the Department of Justice.

(e) Cases that are settled may not be reopened or appealed.

§ 766.19 Reopening.

The respondent may petition the administrative law judge within one year of the date of the final decision, except where the decision arises from a default judgment or from a settlement, to reopen an administrative enforcement proceeding to receive any relevant and material evidence which was unknown or unobtainable at the time the proceeding was held. The petition must include a summary of such evidence, the reasons why it is deemed relevant and material, and the reasons why it could not have been presented at the time the proceedings were held. The administrative law judge will grant or deny the petition after providing other parties reasonable opportunity to comment. If the proceeding is reopened, the administrative law judge may make such arrangements as the judge deems appropriate for receiving the new evidence and completing the record. The administrative law judge will then issue a new initial or recommended decision and order, and the case will proceed to final decision and order in accordance with § 766.21 or § 766.22 of this part, as appropriate.

§ 766.20 Record for decision and availability of documents.

(a) *General.* The transcript of hearings, exhibits, rulings, orders, all papers and requests filed in the proceedings and, for purposes of any appeal under § 766.21 of this part or review under § 766.22 of this part, the decision of the administrative law judge and such submissions as are provided for by §§ 766.21 and 766.22 of this part, will constitute the record and the exclusive basis for decision. When a case is settled after the service of a charging letter, the record will consist of any and all of the foregoing, as well as the settlement agreement and the order. When a case is settled before service of a charging letter, the record will consist of the proposed charging letter, the settlement agreement and the order.

(b) *Restricted access.* On the judge's own motion, or on the motion of any party, the administrative law judge may direct that there be a restricted access portion of the record for any material in the record to which public access is restricted by law or by the terms of a protective order entered in the proceedings. A party seeking to restrict access to any portion of the record is responsible for submitting, at the time specified in § 766.20(c)(2) of this part, a version of the document proposed for public availability that reflects the requested deletion. The restricted access portion of the record will be placed in a separate file and the file will be clearly marked to avoid improper disclosure and to identify it as a portion of the official record in the proceedings. The administrative law judge may act at any time to permit material that becomes declassified or unrestricted through passage of time to be transferred to the unrestricted access portion of the record.

(c) *Availability of documents.* (1) *Scope.* (i) For proceedings started on or after October 12, 1979, all charging letters, answers, initial and recommended decisions, and orders disposing of a case will be made available for public inspection in the BXA Freedom of Information Records Inspection Facility, U.S. Department of Commerce, Room H–6624, 14th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20230. The complete record for decision, as defined in paragraphs (a) and (b) of this section will be made available on request. In addition, all decisions of the Under Secretary on appeal pursuant to § 766.22 of this part and those final orders providing for denial, suspension or revocation of export privileges shall be published in the **Federal Register**.

(ii) For proceedings started before October 12, 1979, the public availability of the record for decision will be governed by the applicable regulations in effect when the proceedings were begun.

(2) *Timing.* (i) *Antiboycott cases.* For matters relating to part 760 of the EAR, documents are available immediately upon filing, except for any portion of the record for which a request for segregation is made. Parties that seek to restrict access to any portion of the record under paragraph (b) of this section must make such a request, together with the reasons supporting the claim of confidentiality, simultaneously with the submission of material for the record.

(ii) *Other cases.* In all other cases, documents will be available only after the final administrative disposition of the case. In these cases, parties desiring to restrict access to any portion of the record under paragraph (b) of this section must assert their claim of confidentiality, together with the reasons for supporting the claim, before the close of the proceeding.

§ 766.21 Appeals.

(a) *Grounds.* For proceedings charging violations relating to part 760 of the EAR, a party may appeal to the Under Secretary from an order disposing of a proceeding or an order denying a petition to set aside a default or a petition for reopening, on the grounds:

(1) That a necessary finding of fact is omitted, erroneous or unsupported by substantial evidence of record;

(2) That a necessary legal conclusion or finding is contrary to law;

(3) That prejudicial procedural error occurred, or

(4) That the decision or the extent of sanctions is arbitrary, capricious or an abuse of discretion. The appeal must specify the grounds on which the appeal is based and the provisions of the order from which the appeal is taken.

(b) *Filing of appeal.* An appeal from an order must be filed with the Office of the Under Secretary for Export Administration, Bureau of Export Administration, U.S. Department of Commerce, Room H–3898, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, within 30 days after service of the order appealed from. If the Under Secretary cannot act on an appeal for any reason, the Under Secretary will designate another Department of Commerce official to receive and act on the appeal.

(c) *Effect of appeal.* The filing of an appeal shall not stay the operation of any order, unless the order by its express terms so provides or unless the Under Secretary, upon application by a party and with opportunity for response, grants a stay.

(d) *Appeal procedure.* The Under Secretary normally will not hold hearings or entertain oral argument on appeals. A full written statement in support of the appeal must be filed with the appeal and be simultaneously served on all parties, who shall have 30 days from service to file a reply. At his/her discretion, the Under Secretary may accept new submissions, but will not ordinarily accept those submissions filed more than 30 days after the filing of the reply to the appellant's first submission.

(e) *Decisions.* The decision will be in writing and will be accompanied by an order signed by the Under Secretary giving effect to the decision. The order may either dispose of the case by affirming, modifying or reversing the order of the administrative law judge or may refer the case back to the administrative law judge for further proceedings.

§ 766.22 Review by Under Secretary.

(a) *Recommended decision.* For proceedings not involving violations relating to part 760 of the EAR, the administrative law judge shall immediately refer the recommended decision and order to the Under Secretary. Because of the time limits provided under the EAA for review by the Under Secretary, service of the recommended decision and order on the parties, all papers filed by the parties in response, and the final decision of the Under Secretary must be by personal delivery, facsimile, express mail or other overnight carrier. If the Under Secretary cannot act on a recommended decision and order for any reason, the Under Secretary will designate another Department of Commerce official to receive and act on the recommendation.

(b) *Submissions by parties.* Parties shall have 12 days from the date of issuance of the recommended decision and order in which to submit simultaneous responses. Parties thereafter shall have eight days from receipt of any response(s) in which to submit replies. Any response or reply must be received within the time specified by the Under Secretary.

(c) *Final decision.* Within 30 days after receipt of the recommended decision and order, the Under Secretary shall issue a written order affirming, modifying or vacating the recommended decision and order of the administrative law judge. If he/she vacates the recommended decision and order, the Under Secretary may refer the case back to the administrative law judge for further proceedings. Because of the time limits, the Under Secretary's review will ordinarily be limited to the written record for decision, including the transcript of any hearing, and any submissions by the parties concerning the recommended decision.

(d) *Delivery.* The final decision and implementing order shall be served on the parties and will be publicly available in accordance with § 766.20 of this part.

(e) *Appeals.* The charged party may appeal the Under Secretary's written order within 15 days to the United States Court of Appeals for the District of Columbia pursuant to 50 U.S.C. app. § 2412(c)(3).

§ 766.23 Related persons.

(a) *General.* In order to prevent evasion, certain types of orders under this part may be made applicable not only to the respondent, but also to other persons then or thereafter related to the respondent by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business. Orders that may be made applicable to related persons include those that deny or affect export privileges, including temporary denial orders, and those that exclude a respondent from practice before BXA.

(b) *Procedures.* If BXA has reason to believe that a person is related to the respondent and that an order that is being sought or that has been issued should be made applicable to that person in order to prevent evasion of the order, BXA shall, except in an *ex parte* proceeding under § 766.24(a) of this part, give that person notice in accordance with § 766.5(b) of this part and an opportunity to oppose such action. If the official authorized to issue the order against the respondent finds that the order should be made applicable to that person in order to prevent evasion of the order that official shall issue or amend the order accordingly.

(c) *Appeals.* Any person named by BXA in an order as related to the respondent may file an appeal with the administrative law judge. The sole issues to be raised and ruled on in any such appeal are whether the person so named is related to the respondent and whether the order is justified in order to prevent evasion. The recommended decision and order of the administrative law judge shall be reviewed by the Under Secretary in accordance with the procedures set forth in § 766.22 of this part.

§ 766.24 Temporary denials.

(a) *General.* The procedures in this section apply to temporary denial orders issued on or after July 12, 1985. For temporary denial orders issued on or before July 11, 1985, the proceedings will be governed by the applicable regulations in effect at the time the temporary denial orders were issued. Without limiting any other action BXA may take under the EAR with respect to any application, order, license or authorization issued under the EAA, BXA may ask the Assistant Secretary to issue a temporary denial order on an *ex parte* basis to prevent an imminent violation, as defined in this section, of the EAA, the EAR, or any order, license or authorization issued thereunder. The temporary denial order will deny export privileges to any person named in the order as provided for in § 764.3(a)(2) of the EAR.

(b) *Issuance.* (1) The Assistant Secretary may issue an order temporarily denying to a person any or all of the export privileges described in part 764 of the EAR upon a showing by BXA that the order is necessary in the public interest to prevent an imminent violation of the EAA, the EAR, or any order, license or authorization issued thereunder.

(2) The temporary denial order shall define the imminent violation and state why it was issued without a hearing. Because all denial orders are public, the description of the imminent violation and the reasons for proceeding on an *ex parte* basis set forth therein shall be stated in a manner that is consistent with national security, foreign policy, business confidentiality, and investigative concerns.

(3) A violation may be "imminent" either in time or in degree of likelihood. To establish grounds for the temporary denial order, BXA may show either that a violation is about to occur, or that the general circumstances of the matter under investigation or case under criminal or administrative charges demonstrate a likelihood of future violations. To indicate the likelihood of future violations, BXA may show that the violation under investigation or charges is significant, deliberate, covert and/or likely to occur again, rather than technical or negligent, and that it is appropriate to give notice to companies in the United States and abroad to cease dealing with the person in U.S.-origin items in order to reduce the likelihood that a person under investigation or charges continues to export or acquire abroad such items, risking subsequent disposition contrary to export control requirements. Lack of information establishing the precise time a violation may occur does not preclude a finding that a violation is imminent, so long as there is sufficient reason to believe the likelihood of a violation.

(4) The temporary denial order will be issued for a period not exceeding 180 days.

(5) Notice of the issuance of a temporary denial order on an *ex parte* basis shall be given in accordance with § 766.5(b) of this part upon issuance.

(c) *Related persons.* A temporary denial order may be made applicable to related persons in accordance with § 766.23 of this part.

(d) *Renewal.* (1) If, no later than 20 days before the expiration date of a temporary denial order, BXA believes that renewal of the denial order is necessary in the public interest to prevent an imminent violation, BXA may file a written request setting forth the basis for its belief, including any additional or changed circumstances, asking that the Assistant Secretary renew the temporary denial order, with modifications, if any are appropriate, for an additional period not exceeding 180 days. BXA's request shall be delivered to the respondent, or any agent designated for this purpose, in accordance with § 766.5(b) of this part, which will constitute notice of the renewal application.

(2) *Non-resident respondents.* To facilitate timely notice of renewal requests, a respondent not a resident of the United States may designate a local agent for this purpose and provide written notification of such designation to BXA in the manner set forth in § 766.5(b) of this part.

(3) *Hearing.* (i) A respondent may oppose renewal of a temporary denial order by filing with the Assistant Secretary a written submission, supported by appropriate evidence, to be received not later than seven days before the expiration date of such order. For good cause shown, the Assistant Secretary may consider submissions received not later than five days before the expiration date. The Assistant Secretary ordinarily will not allow discovery; however, for good cause shown in respondent's submission, he/she may allow the parties to take limited discovery, consisting of a request for production of documents. If requested by the respondent in the written submission, the Assistant Secretary shall hold a hearing on the renewal application. The hearing shall be on the record and ordinarily will consist only of oral argument. The only issue to be considered on BXA's request for renewal is whether the temporary denial order should be continued to prevent an imminent violation as defined herein.

(ii) Any person designated as a related person may not oppose issuance or renewal of the temporary denial order, but may file an appeal in accordance with § 766.2(3)(c) of this part.

(iii) If no written opposition to BXA's renewal request is received within the specified time, the Assistant Secretary may issue the order renewing the temporary denial order without a hearing.

(4) A temporary denial order may be renewed more than once.

(e) *Appeals.* (1) *Filing.* (i) A respondent may, at any time, file an appeal of the initial or renewed temporary denial order with the administrative law judge.

(ii) The filing of an appeal shall stay neither the effectiveness of the temporary denial order nor any application for renewal, nor will it operate to bar the Assistant Secretary's consideration of any renewal application.

(2) *Grounds.* A respondent may appeal on the grounds that the finding that the order is necessary in the public interest to prevent an imminent violation is unsupported.

(3) *Appeal procedure.* A full written statement in support of the appeal must be filed with the appeal together with appropriate evidence, and be simultaneously served on BXA, which shall have seven days from receipt to file a reply. Service on the administrative law judge shall be addressed to the Office of the Administrative Law Judge, U.S. Department of Commerce, Room H–6716, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Service on BXA shall be as set forth in § 766.5(b) of this part. The administrative law judge normally will not hold hearings or entertain oral argument on appeals.

(4) *Recommended Decision.* Within 10 working days after an appeal is filed, the administrative law judge shall submit a recommended decision to the Under Secretary, and serve copies on the parties, recommending whether the issuance or the renewal of the temporary denial order should be affirmed, modified or vacated.

(5) *Final decision.* Within five working days after receipt of the recommended decision, the Under Secretary shall issue a written order accepting, rejecting or modifying the recommended decision. Because of the time constraints, the Under Secretary's review will ordinarily be limited to the written record for decision, including the transcript of any hearing. The issuance or renewal of the temporary denial order shall be affirmed only if there is reason to believe that the temporary denial order is required in the public interest to prevent an imminent violation of the EAA, the EAR, or any order, license or other authorization issued under the EAA. The Under Secretary's written order is final and is not subject to judicial review, except as provided in paragraph (g) of this section.

(f) *Delivery.* A copy of any temporary denial order issued or renewed and any final decision on appeal shall be published in the **Federal Register** and shall be delivered to BXA and to the respondent, or any agent designated for this purpose, and to any related person in the same manner as provided in § 766.5 of this part for filing for papers other than a charging letter.

(g) *Judicial review.* A respondent temporarily denied export privileges by order of the Under Secretary may appeal to the United States Court of Appeals for the District of Columbia pursuant to 50 U.S.C. app. § 2412(d)(3).

§ 766.25 Administrative action denying permission to apply for or use export licenses.

(a) *General.* The Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny permission to apply for or use any license, including any License Exception, to any person who has been convicted of a violation of the EAA, the EAR, or any order, license or authorization issued thereunder; any regulation, license or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778).

(b) *Procedure.* Upon notification that a person has been convicted of a violation of one or more of the provisions specified in paragraph (a) of this section, the Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, will determine whether to deny permission to apply for or use any export license, including any License Exception, to any such person. The Director of the Office of Exporter Services will notify each person denied under this section by letter stating that permission to apply for or use export licenses has been denied.

(c) *Criteria.* In determining whether and for how long to deny U.S. export privileges to a person previously convicted of one or more of the statutes set forth in paragraph (a) of this section, the Director of the Office of Exporter Services may take into consideration any relevant information, including, but not limited to, the seriousness of the offense involved in the criminal prosecution, the nature and duration of the criminal sanctions imposed, and whether the person has undertaken any corrective measures.

(d) *Duration.* Any denial of permission to apply for or use export licenses, including any License Exception, under this section shall not exceed 10 years from the date of the conviction of the person who is subject to the denial.

(e) *Effect.* Any person denied permission to apply for and use licenses under this section will be considered a "person denied export privileges" for purposes of § 736.2(b)(4) (General Prohibition 4—Engage in actions prohibited by a denial order) and § 764.2(k) of the EAR.

(f) *Publication.* The name and address(es) of any person denied permission to apply for or use export licenses under this section will be published as described in Supplement No. 2 to part 764 of the EAR, noting that such action was taken pursuant to this section and section 11(h) of the EAA.

(g) *Appeal.* An appeal of an action under this section will be pursuant to part 756 of the EAR.

(h) *Applicability to related person.* The Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may take action in accordance with § 766.23 of this part to make applicable to related persons an order that is being sought or that has been issued under this section.

PART 768—FOREIGN AVAILABILITY DETERMINATION PROCEDURES AND CRITERIA

§ 768.1 Introduction.
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Supplement No. 1 to Part 768—Evidence of Foreign Availability

Supplement No. 2 to Part 768—Items Eligible For Expedited Licensing Procedures

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 3 CFR, 1994 Comp., p. 917; Notice of August 15, 1995 (60 FR 42767, August 17, 1995).

§ 768.1 Introduction.

In this part, references to the Export Administration Regulations (EAR) are references to 15 CFR chapter VII, subchapter C.

(a) *Authority.* Pursuant to sections 5(f) and 5(h) of the Export Administration Act (EAA), the Under Secretary of Commerce for Export Administration directs the Bureau of Export Administration (BXA) in gathering and analyzing all the evidence necessary for the Secretary to determine foreign availability.

(b) *Scope.* This part applies only to the extent that items are controlled for national security purposes.

(c) *Types of programs.* There are two general programs of foreign availability:

(1) *Foreign availability to controlled countries.* In this category are denied license assessments (see §§ 768.4(b) and 768.7 of this part) and decontrol assessments (see §§ 768.4(c) and 768.7 of this part).

(2) *Foreign availability to non-controlled countries.* In this category are denied license assessments, decontrol assessments, and evaluations of eligibility for expedited licensing (see § 768.8 of this part).

(d) *Definitions.* The following are definitions of terms used in this part 768:

Allegation. See foreign availability submission.

Assessment. An evidentiary analysis that BXA conducts concerning the foreign availability of a given item based on the assessment criteria, data gathered by BXA, and the data and recommendations submitted by the Departments of Defense and State and other relevant departments and agencies, TAC committees, and industry.

Assessment criteria. Statutorily established criteria that must be assessed for the Secretary to make a determination with respect to foreign availability. They are, available-in-fact, from a non-U.S. source, in sufficient quantity so as to render the control ineffective, and of comparable quality. (See § 768.6 of this part).

Available-in-fact. An item is available-in-fact to a country if it is produced within the country or if it may be obtained by that country from a third country. Ordinarily, items will not be considered available-in-fact to non-controlled countries if the items are available only under a validated national security license or a comparable authorization from a country that maintains export controls on such items cooperatively with the United States.

Claimant. Any party who makes a foreign availability submission, excluding TACs.

Comparable quality. An item is of comparable quality to an item controlled under the EAR if it possesses the characteristics specified in the Commerce Control List (CCL) for that item and is alike in key characteristics that include, but are not limited to: (1) Function; (2) technological approach; (3) performance thresholds; (4) maintainability and service life; and (5) any other attribute relevant to the purpose for which the control was placed on the item.

Controlled countries. Albania, Armenia, Azerbaijan, Belarus, Bulgaria, Cambodia, Cuba, Estonia, Georgia, Kazakhstan, Kyrgystan, Laos, Latvia, Lithuania, Moldova, Mongolia, North Korea, Romania, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan, Vietnam and the People's Republic of China.

Decontrol. Removal of license requirements under the EAR.

Decontrol assessment. An assessment of the foreign availability of an item to a country or countries for purposes of determining whether decontrol is warranted. Such assessments may be conducted after BXA receives a foreign availability submission or a TAC certification, or by the Secretary's own initiative.

Denied license assessment. A foreign availability assessment conducted as a result of a claimant's allegation of foreign availability for an item (or items) that BXA has denied or has issued a letter of intent to deny a license. If the Secretary determines that foreign availability exists, BXA's approval of a license will be limited to the items, countries, and quantities in the allegation.

Determination. The Secretary's decision that foreign availability within the meaning of the EAA does or does not exist. (See § 768.7 of this part).

Expedited licensing procedure eligibility evaluation. An evaluation that BXA initiates for the purpose of determining whether an item is eligible for the expedited licensing procedure. (See § 768.8 of this part).

Expedited licensing procedures. Under expedited licensing procedures, BXA reviews and processes a license application for the export of an eligible item to a non-controlled country within statutory time limits. Licenses are deemed approved unless BXA denies within the statutory time limits (See § 768.8 of this part).

Foreign availability submission (FAS). An allegation of foreign availability a claimant makes, supported by reasonable evidence, and submits to BXA. (See § 768.5 of this part).

Item. Any commodity, software, or technology.

Items eligible for non-controlled country expedited licensing procedures. The items described in Supplement No. 2 to this part 768 are eligible for the

expedited license procedures (See § 768.8 of this part).

National Security Override (NSO). A Presidential decision to maintain export controls on an item notwithstanding its foreign availability as determined under the EAA. The President's decision is based on his/her determination that the absence of the controls would prove detrimental to the national security of the United States. Once the President makes such a decision, the President must actively pursue negotiations to eliminate foreign availability with the governments of the sources of foreign availability. (See § 768.7 of this part).

Non-controlled countries. Any country not defined as a controlled country by this section.

Non-U.S. source/foreign source. A person located outside the jurisdiction of the United States (as defined in part 772 of the EAR).

Reasonable evidence. Relevant information that is credible.

Reliable evidence. Relevant information that is credible and dependable.

Secretary. As used in this part, the Secretary refers to the Secretary of Commerce or his/her designee.

Similar quality. An item is of similar quality to an item that is controlled under the EAR if it is substantially alike in key characteristics that may include, but are not limited to: (1) Function; (2) technological approach; (3) performance thresholds; (4) maintainability and service life; and (5) any other attribute relevant to the purpose for which the control was placed on the item.

Sufficient quantity. The amount of an item that would render the U.S. export control, or the denial of the license in question, ineffective in achieving its purpose. For a controlled country, it is the quantity that meets the military needs of that country so that U.S. exports of the item to that country would not make a significant contribution to its military potential.

Technical Advisory Committee (TAC). A Committee created under section 5(h) of the EAA that advises and assists the Secretary of Commerce, the Secretary of Defense, and any other department, agency, or official of the Government of the United States to which the President delegates authority under the EAA on export control matters related to specific areas of controlled items.

TAC certification. A statement that a TAC submits to BXA, supported by reasonable evidence, documented as in a FAS, that foreign availability to a controlled country exists for an item that falls within the TAC's area of technical expertise.

§ 768.2 Foreign availability described.

(a) *Foreign availability.* Foreign availability exists when the Secretary determines that an item is comparable in quality to an item subject to U.S. national security export controls, and is available-in-fact to a country, from a non-U.S. source, in sufficient quantities to render the U.S. export control of that item or the denial of a license ineffective. For a controlled country, such control or denial is "ineffective" when maintaining such control or denying a specific license would not restrict the availability of items that would make a significant contribution to the military potential of the controlled country or combination of countries detrimental to the national security of the United States (see sections 5(a) and 3(2)(A) of the EAA.)

(b) *Types of foreign availability.* There are two types of foreign availability:

(1) Foreign availability to a controlled country; and

(2) Foreign availability to a non-controlled country.

(Note to paragraph (b) of this section: See § 768.7 of this part for delineation of the foreign availability assessment procedures, and § 768.6 of this part for the criteria used in determining foreign availability)

§ 768.3 Foreign availability assessment.

(a) *Foreign availability assessment.* A foreign availability assessment is an evidentiary analysis that BXA conducts to assess the foreign availability of a given item according to the assessment criteria, based on data submitted by a claimant, the data gathered by BXA, and the data and recommendations submitted by the Departments of Defense and State and other relevant departments and agencies, TAC committees, and industry. BXA uses the results of the analysis in formulating its recommendation to the Secretary on whether foreign availability exists for a given item. If the Secretary determines that foreign availability exists, the Secretary will decontrol the item for national security reasons or approve the license in question if there is no foreign policy reason to deny the license, unless the President exercises a National Security Override (see § 768.7 of this part).

(b) *Types of assessments.* There are two types of foreign availability assessments:

(1) Denied license assessment; and

(2) Decontrol assessment.

(c) *Expedited licensing procedures.* See § 768.8 of this part for the evaluation of eligibility of an item for the expedited licensing procedures.

§ 768.4 Initiation of an assessment.

(a) *Assessment request.* To initiate an assessment, each claimant or TAC must submit a FAS or a TAC Certification to BXA. TACs are authorized to certify foreign availability only to controlled countries. Claimants can allege foreign availability for either controlled or non-controlled countries.

(b) *Denied license assessment.* A claimant whose license application BXA has denied, or for which it has issued a letter of intent to deny on national security grounds, may request that BXA initiate a denied license assessment by submitting a Foreign Availability Submission (FAS) within 90 days after denial of the license. As part of its submission, the claimant must request that the specified license application be approved on the grounds of foreign availability. The evidence must relate to the particular export as described on the license application and to the alleged comparable item. If foreign availability is found, the Secretary will approve the license for the specific items, countries, and quantities listed on the application. The denied license assessment procedure, however, is not intended to result in the removal of the U.S. export control on an item by incrementally providing a country with amounts that, taken together, would constitute a sufficient quantity of an item. The Secretary will not approve on foreign availability grounds a denied license if the approval of such license would itself render the U.S. export control ineffective in achieving its purpose. In the case of a positive determination, the Secretary will determine whether a decontrol assessment is warranted. If so, then BXA will initiate a decontrol assessment.

(c) *Decontrol assessment.* (1) Any claimant may at any time request that BXA initiate a decontrol assessment by a FAS to BXA alleging foreign availability to any country or countries.

(2) A TAC may request that BXA initiate a decontrol assessment at any time by submitting a TAC Certification to BXA that there is foreign availability to a controlled country for items that fall within the area of the TAC's technical expertise.

(3) The Secretary, on his/her own initiative, may initiate a decontrol assessment.

(d) *BXA mailing address.* All foreign availability submissions and TAC certifications should be submitted to: Department of Commerce, Bureau of Export Administration, 14th Street and Pennsylvania Avenue, NW, Room 3877, Washington, DC 20230.

§ 768.5 Contents of foreign availability submissions and Technical Advisory Committee certifications.

(a) All foreign availability submissions must contain, in addition to information on product or technology alleged to be available from foreign sources, at least:

(1) The name of the claimant;

(2) The claimant's mailing and business address;

(3) The claimant's telephone number; and

(4) A contact point and telephone number.

(b) Foreign availability submissions and TAC certifications should contain as much evidence as is available to support the claim, including, but not limited to:

(1) Product names and model designations of the items alleged to be comparable;

(2) Extent to which the alleged comparable item is based on U.S. technology;

(3) Names and locations of the non-U.S. sources and the basis for claiming that the item is a non-U.S. source item;

(4) Key performance elements, attributes, and characteristics of the items on which a qualitative comparison may be made;

(5) Non-U.S. source's production quantities and/or sales of the alleged comparable items and marketing efforts;

(6) Estimated market demand and the economic impact of the control;

(7) Product names, model designations, and value of U.S. controlled parts and components incorporated in the items alleged to be comparable; and

(8) The basis for the claim that the item is available-in-fact to the country or countries for which foreign availability is alleged.

(c) Supporting evidence of foreign availability may include, but is not limited to, the following:

(1) Foreign manufacturers' catalogs, brochures, operation or maintenance manuals;

(2) Articles from reputable trade and technical publications;

(3) Photographs;

(4) Depositions based on eyewitness accounts; and

(5) Other credible evidence.

Note to paragraph (c) of this section: See Supplement No. 1 to part 768 for additional examples of supporting evidence.

(d) Upon receipt of a FAS or TAC certification, BXA will review it to determine whether there is sufficient evidence to support the belief that foreign availability may exist. If BXA determines the FAS or TAC certification is lacking in supporting evidence, BXA will seek additional evidence from appropriate sources, including the claimant or TAC. BXA will initiate the assessment when it determines that it has sufficient evidence that foreign availability may exist. Claimant and TAC certified assessments will be deemed to be initiated as of the date of such determination.

(e) Claimants and TACs are advised to review the foreign availability assessment criteria described in § 768.6 of this part and the examples of evidence described in Supplement No. 1 to part 768 when assembling supporting evidence for inclusion in the FAS or TAC certification.

§ 768.6 Criteria.

BXA will evaluate the evidence contained in a FAS or TAC certification and all other evidence gathered in the assessment process in accordance with certain criteria that must be met before BXA can recommend a positive determination to the Secretary. The criteria are defined in § 768.1(d) of this part. In order to initiate an assessment, each FAS and TAC certification should address each of these criteria. The criteria are statutorily prescribed and are:

(a) Available-in-fact;

(b) Non-U.S. source;

(c) Sufficient quantity; and

(d) Comparable quality.

§ 768.7 Procedures.

(a) *Initiation of an assessment.* (1) Once BXA accepts a FAS or TAC certification of foreign availability, BXA will notify the claimant or TAC that it is initiating the assessment.

(2) BXA will publish a **Federal Register** notice of the initiation of any assessment.

(3) BXA will notify the Departments of Defense and State, the intelligence community, and any other departments, agencies and their contractors that may have information concerning the item on which BXA has initiated an assessment. Each such department, agency, and contractor shall provide BXA all relevant information concerning the item. BXA will invite interested departments and agencies to participate in the assessment process (See paragraph (e) of this section).

(b) *Data gathering.* BXA will seek and consider all available information that bears upon the presence or absence of foreign availability, including but not limited to that evidence described in § 768.5 (b) and (c) of this part. As soon as BXA initiates the assessment, it will seek evidence relevant to the assessment, including an analysis of the military needs of a selected country or countries, technical analysis, and intelligence information from the Departments of Defense and State, and other U.S. agencies. Evidence is particularly sought from: industry sources worldwide; other U.S. organizations; foreign governments; commercial, academic and classified data bases; scientific and engineering research and development organizations; and international trade fairs.

(c) *Analysis.* BXA will conduct its analysis by evaluating whether the reasonable and reliable evidence that is relevant to each of the foreign availability criteria provides a sufficient basis to recommend a determination that foreign availability does or does not exist.

(d) *Recommendation and determination.* (1) Upon completion of each assessment, BXA, on the basis of its analysis, will recommend that the Secretary make a determination either that there is or that there is not foreign availability, whichever the evidence supports. The assessment upon which BXA bases its recommendation will accompany the recommendation to the Secretary.

(2) BXA will recommend on the basis of its analysis that the Secretary determine that foreign availability exists to a country when the available evidence demonstrates that an item of comparable quality is available-in-fact to the country, from non-U.S. sources, in sufficient quantity so that continuation of the existing national security export control, or denial of the license application in question on national security grounds, would be ineffective in achieving its purpose. For a controlled country, such control or denial is "ineffective" when comparable items are available-in-fact from foreign sources in sufficient quantities so that maintaining such control or denying a license would not be effective in restricting the availability of items that would make a significant contribution to the military potential of any country or combination of countries detrimental to the national security of the United States.

(3) The Secretary will make the determination of foreign availability on the basis of the BXA assessment and recommendation; the Secretary's determination will take into account the evidence provided to BXA, the recommendations of the Secretaries of Defense and State and any other interested agencies, and any other information that the Secretary considers relevant.

(4) For all decontrol and denied license assessments (under section 5(f)(3) of the EAA) initiated by a FAS, the Secretary will make a determination within 4 months of the initiation of the assessment and will notify the claimant. The Secretary will submit positive determinations for review to the appropriate departments and agencies.

(5) The deadlines for determinations based on self-initiated and TAC-initiated assessments are different from the deadlines for claimant-initiated assessments (see paragraphs (f)(2) and (f)(3) of this section).

(e) *Interagency review.* BXA will notify all appropriate U.S. agencies and Departments upon the initiation of an assessment and will invite their participation in the assessment process. BXA will provide all interested agencies and departments an opportunity to review source material, draft analyses and draft assessments immediately upon their receipt or production. For claimant-initiated assessments, BXA will provide a copy of all positive recommendations and assessments to interested agencies and departments for their review following the Secretary's determination of foreign availability. For self-initiated and TAC-initiated assessments, BXA will provide all interested agencies an opportunity to review and comment on the assessment.

(f) *Notification.* (1) No later than 5 months after the initiation of an assessment based on a FAS (claimant assessments), the Secretary will inform the claimant in writing and will submit for publication in the **Federal Register** a notice that:

(i) Foreign availability exists, and

(A) The requirement of a license has been removed or the license application in question has been approved; or

(B) The President has determined that for national security purposes the export controls must be maintained or the license application must be denied, notwithstanding foreign availability, and that appropriate steps to eliminate the foreign availability are being initiated; or

(C) In the case of an item controlled multilaterally under the former COCOM regime, the U.S. Government will conduct any necessary consultations concerning the proposed decontrol or approval of the license with the former COCOM regime for a period of up to 4 months from the date of the publication of the determination in the **Federal Register** (the U.S. Government may remove the license requirement for exports to non-controlled countries pending completion of the former COCOM regime review process); or

(ii) Foreign availability does not exist.

(2) For all TAC certification assessments, the Secretary will make a foreign availability determination within 90 days following initiation of the assessment. BXA will prepare and submit a report to the TAC and to the Congress stating that:

(i) The Secretary has found foreign availability and has removed the license requirement; or

(ii) The Secretary has found foreign availability, but has recommended to the President that negotiations be undertaken to eliminate the foreign availability; or

(iii) The Secretary has not found foreign availability.

(3) There is no statutory deadline for assessments self-initiated by the Secretary or for the resulting determination. However, BXA will make every effort to complete such assessments and determinations promptly.

(g) *Foreign availability to controlled countries.* When the Secretary determines that an item controlled for national security reasons is available to a controlled country and the President does not issue a National Security Override (NSO), BXA will submit the determination to the Department of State, along with a draft proposal for the multilateral decontrol of the item or for the former COCOM regime approval of the license. The Department of State will submit the proposal or the license for former COCOM regime review. The former COCOM regime will have up to 4 months for review of the proposal.

(h) *Foreign availability to non-controlled countries.* If the Secretary determines that foreign availability to non-controlled countries exists, the Secretary will decontrol the item for export to all non-controlled countries where it is found to be available, or approve the license in question, unless the President exercises a National Security Override.

(i) *Negotiations to eliminate foreign availability.* (1) The President may determine that an export control must be maintained notwithstanding the existence of foreign availability. Such a determination is called a National Security Override (NSO) and is based on the President's decision that the absence of the control would prove detrimental to the United States national security. Unless extended (as described in paragraph (i)(7) of this section), an NSO is effective for 6 months. Where the President invokes an NSO, the U.S. Government will actively pursue negotiations with the government of any source country during the 6 month period to eliminate the availability.

(2) There are two types of National Security Overrides:

(i) An NSO of a determination of foreign availability resulting from an assessment initiated pursuant to section 5(f) of the EAA (claimant and self-initiated assessments); and

(ii) An NSO of a determination of foreign availability resulting from an assessment initiated pursuant to section 5(h) of the EAA (TAC-certification assessments).

(3) For an NSO resulting from an assessment initiated under section 5(f) of the EAA, the Secretary of any agency may recommend that the President exercise the authority under the EAA to retain the controls or deny the license notwithstanding the finding of foreign availability.

(4) For an NSO resulting from an assessment initiated under section 5(h) of the EAA, the Secretary of Commerce may recommend that the President exercise the authority under the EAA to retain the controls notwithstanding the finding of foreign availability.

(5) Under an NSO resulting from an assessment initiated under section 5(f) of the EAA, the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives will be notified of the initiation of the required negotiations. The notice will include an explanation of the national security interest that necessitates the retention of controls.

(6) Under an NSO resulting from an assessment initiated under section 5(f) of the EAA, BXA will publish notices in the **Federal Register** consisting of:

(i) The Secretary's determination of foreign availability;

(ii) The President's decision to exercise the NSO;

(iii) A concise statement of the basis for the President's decision; and

(iv) An estimate of the economic impact of the decision.

(7) The 6 month effective period for an NSO may be extended up to an additional 12 months if, prior to the end of the 6 months, the President certifies to Congress that the negotiations are progressing, and determines that the absence of the controls would continue to be detrimental to the United States national security.

(8) After the conclusion of negotiations, BXA will retain the control only to the extent that foreign availability is eliminated. If foreign availability is not eliminated, BXA will decontrol the item by removing the requirement for a license for the export of the item to the destinations covered by the assessment. To the extent that the negotiations are successful and the foreign availability is eliminated, BXA will remove the license requirement for the export of the item to any country that has agreed to eliminate foreign availability.

(j) *Changes in foreign availability.* If BXA becomes aware of conditions, including new evidence, that affect a previous determination that foreign availability exists or does not exist, BXA may review the conditions. If BXA finds that the foreign availability previously determined no longer exists, or that foreign availability not earlier found now does exist, BXA will make a recommendation to the Secretary of Commerce for the appropriate changes in the control. The Secretary of Commerce will make a determination, and BXA will publish a **Federal Register** notice of the determination.

§ 768.8 Eligibility of expedited licensing procedures for non-controlled countries.

(a) BXA determines the eligibility of an item for expedited licensing procedures on the basis of an evaluation of the foreign availability of the item. Eligibility is specific to the items and the countries to which they are found to be available.

(b) BXA will initiate an eligibility evaluation:

(1) On its own initiative;

(2) On receipt of a FAS; or

(3) On receipt of a TAC certification.

(c) Upon initiation of an eligibility evaluation following receipt of either a FAS or TAC certification, BXA will notify the claimant or TAC of the receipt and initiation of an evaluation and publish a **Federal Register** notice of the initiation of the evaluation.

(d) The criteria for determining eligibility for expedited licensing procedures are:

(1) The item must be available-in-fact to the specified non-controlled country from a foreign source;

(2) The item must be of a quality similar to that of the U.S.-controlled item; and

(3) The item must be available-in-fact to the specified non-controlled country without effective restrictions.

(e) Within 30 days of initiation of the evaluation, the Secretary of Commerce will make a determination of foreign availability on the basis of the BXA evaluation and recommendation, taking into consideration the evidence the Secretaries of Defense, State, and other interested agencies provide to BXA and any other information that the Secretary considers relevant.

(f) Within 30 days of the receipt of the FAS or TAC certification, BXA will publish the Secretary's determination in the **Federal Register**, that the item will or will not be eligible for expedited licensing procedures to the stated countries and, where appropriate, amend Supplement No. 2 to part 768.

(g) Following completion of a self-initiated evaluation, BXA will be notified of the Secretary's determination and, where appropriate, Supplement No. 2 to part 768 will be amended.

(h) Foreign availability submissions and TAC certifications to initiate an expedited licensing procedure evaluation must be clearly designated on their face as a request for expedited licensing procedure and must specify the items, quantities and countries alleged eligible. Submissions and certifications should be sent to: Department of Commerce, Bureau of Export Administration, 14th Street and Pennsylvania Avenue, NW., Room 3877, Washington, DC 20230.

§ 768.9 Appeals of negative foreign availability determinations.

Appeals of negative determinations will be conducted according to the standards and procedures described in part 756 of the EAR. A Presidential decision (NSO) to deny a license or continue controls notwithstanding a determination of foreign availability is not subject to appeal.

§ 768.10 Removal of controls on less sophisticated items.

Where the Secretary has removed national security controls on an item for foreign availability reasons, the Secretary will also remove controls on similar items that are controlled for national security reasons and whose functions, technological approach, performance thresholds, and other attributes that form the basis for national security export controls do not exceed the technical parameters of the item that BXA has decontrolled for foreign availability reasons.

Supplement No. 1 to Part 768—Evidence of Foreign Availability

This Supplement provides a list of examples of evidence that the Bureau of Export Administration (BXA) has found to be useful in conducting assessments of foreign availability. A claimant submitting evidence supporting a claim of foreign availability should review this list for suggestions as evidence is collected. Acceptable evidence indicating possible foreign availability is not limited to these examples, nor is any one of these examples, usually, in and of itself, necessarily sufficient to meet a foreign availability criterion. A combination of several types of evidence for each criterion usually is required. A Foreign Availability Submission (FAS) should include as much evidence as possible on all four of the criteria listed below. BXA combines the submitted evidence with the evidence that it collects from other sources. BXA evaluates all evidence, taking into account factors that may include, but are not limited to: Information concerning the source of the evidence, corroborative or contradictory indications, and experience concerning the reliability or reasonableness of such evidence. BXA will assess all relevant evidence to determine whether each of the four criteria has been met. Where possible, all information should be in writing. If information is based on third party documentation, the submitter should provide such documentation to BXA. If information is based on oral statements a third party made, the submitter should provide a memorandum of the conversation to BXA if the submitter cannot obtain a written memorandum from the source. BXA will amend this informational list as it identifies new examples of evidence.

(a) Examples of evidence of foreign availability:

The following are intended as examples of evidence that BXA will consider in evaluating foreign availability. BXA will evaluate all evidence according to the provisions in § 768.7(c) of this part in order for it to be used in support of a foreign availability determination. This list is illustrative only.

(1) *Available-in-fact:*

(i) Evidence of marketing of an item in a foreign country (e.g., an advertisement in the media of the foreign country that the item is for sale there);

(ii) Copies of sales receipts demonstrating sales to foreign countries;

(iii) The terms of a contract under which the item has been or is being sold to a foreign country;

(iv) Information, preferably in writing, from an appropriate foreign government official that the government will not deny the sale of an item it produces to another country in accordance with its laws and regulations;

(v) Information, preferably in writing, from a named company official that the company legally can and would sell an item it produces to a foreign country;

(vi) Evidence of actual shipments of the item to foreign countries (e.g., shipping documents, photographs, news reports);

(vii) An eyewitness report of such an item in operation in a foreign country, providing as much information as available, including where possible the

make and model of the item and its observed operating characteristics;

(viii) Evidence of the presence of sales personnel or technical service personnel in a foreign country;

(ix) Evidence of production within a foreign country;

(x) Evidence of the item being exhibited at a trade fair in a foreign country, particularly for the purpose of inducing sales of the item to the foreign country;

(xi) A copy of the export control laws or regulations of the source country, showing that the item is not controlled; or

(xii) A catalog or brochure indicating the item is for sale in a specific country.

(2) *Foreign (non-U.S.) source:*

(i) Names of foreign manufacturers of the item including, if possible, addresses and telephone numbers;

(ii) A report from a reputable source of information on commercial relationships that a foreign manufacturer is not linked financially or administratively with a U.S. company;

(iii) A list of the components in the U.S. item and foreign item indicating model numbers and their sources;

(iv) A schematic of the foreign item identifying its components and their sources;

(v) Evidence that the item is a direct product of foreign technology (e.g., a patent law suit lost by a U.S. producer, a foreign patent);

(vi) Evidence of indigenous technology, production facilities, and the capabilities at those facilities; or

(vii) Evidence that the parts and components of the item are of foreign origin or are exempt from U.S. licensing requirements by the parts and components provision § 732.4 of the EAR.

(3) *Sufficient quantity:*

(i) Evidence that foreign sources have the item in serial production;

(ii) Evidence that the item or its product is used in civilian applications in foreign countries;

(iii) Evidence that a foreign country is marketing in the specific country an item of its indigenous manufacture;

(iv) Evidence of foreign inventories of the item;

(v) Evidence of excess capacity in a foreign country's production facility;

(vi) Evidence that foreign countries have not targeted the item or are not seeking to purchase it in the West;

(vii) An estimate by a knowledgeable source of the foreign country's needs; or

(viii) An authoritative analysis of the worldwide market (i.e., demand, production rate for the item for various manufacturers, plant capacities, installed tooling, monthly production rates, orders, sales and cumulative sales over 5–6 years).

(4) *Comparable quality:*

(i) A sample of the foreign item;

(ii) Operation or maintenance manuals of the U.S. and foreign items;

(iii) Records or a statement from a user of the foreign item;

(iv) A comparative evaluation, preferably in writing, of the U.S. and foreign items by, for example, a western producer or purchaser of the item, a recognized expert, a reputable trade publication, or independent laboratory;

(v) A comparative list identifying, by manufacturers and model numbers, the key performance components and the materials used in the item that qualitatively affect the performance of the U.S. and foreign items;

(vi) Evidence of the interchangeability of U.S. and foreign items;

(vii) Patent descriptions for the U.S. and foreign items;

(viii) Evidence that the U.S. and foreign items meet a published industry, national, or international standard;

(ix) A report or eyewitness account, by deposition or otherwise, of the foreign item's operation;

(x) Evidence concerning the foreign manufacturers' corporate reputation;

(xi) Comparison of the U.S. and foreign end item(s) made from a specific commodity, tool(s), device(s), or technical data; or

(xii) Evidence of the reputation of the foreign item including, if possible, information on maintenance, repair, performance, and other pertinent factors.

Supplement No. 2 to Part 768—Items Eligible for Expedited Licensing Procedures—[Reserved]

PART 770—INTERPRETATIONS

Sec.

770.1 Introduction.
770.2 Commodity interpretations.
770.3 Interpretations related to exports of technology and software to destinations in Country Group D:1.
770.4 Interpretations related to chemical mixtures—*de minimis* exceptions examples.

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 3 CFR, 1994 Comp., p. 917; Notice of August 15, 1995 (60 FR 42767, August 17, 1995).

§ 770.1 Introduction.

In this part, references to the EAR are references to 15 CFR chapter VII, subchapter C. This part provides commodity, technology, and software interpretations. These interpretations clarify the scope of controls where such scope is not readily apparent from the Commerce Control List (CCL) (see Supplement No. 1 to part 774 of the EAR) and other provisions of the Export Administration Regulations.

§ 770.2 Commodity interpretations.

(a) *Interpretation 1: Anti-friction bearing or bearing systems and specially designed parts.* (1) Anti-friction bearings or bearing systems shipped as spares or replacements are classified under Export Control Classification Numbers (ECCNs) 2A001, 2A002, 2A003, 2A004, 2A005, and 2A006 (ball, roller, or needle-roller bearings and parts). This applies to separate shipments of anti-friction bearings or bearing systems and anti-friction bearings or bearing systems shipped with machinery or equipment for which they are intended to be used as spares or replacement parts.

(2) An anti-friction bearing or bearing system physically incorporated in a segment of a machine or in a complete machine prior to shipment loses its identity as a bearing. In this scenario, the machine or segment of machinery containing the bearing is the item subject to export control requirements.

(3) An anti-friction bearing or bearing system not incorporated in a segment of a machine prior to shipment, but shipped as a component of a complete unassembled (knocked-down) machine, is considered a component of a machine. In this scenario, the complete machine is the item subject to export license requirements.

(b) *Interpretation 2: Classification of "parts" of machinery, equipment, or other items.* (1) *An assembled machine or unit of equipment is being exported.* In instances where one or more assembled machines or units of equipment are being exported, the individual component parts that are physically incorporated into the machine or equipment do not require a license. The license or general exception under which the complete machine or unit of equipment is exported will also cover its component parts, provided that the parts are normal and usual components of the machine or equipment being exported, or that the physical incorporation is not used as a device to evade the requirement for a license.

(2) *Parts are exported as spares, replacements, for resale, or for stock.* In instances where parts are exported as spares, replacements, for resale, or for stock, a license is required only if the appropriate entry for the part specifies that a license is required for the intended destination.

(c) *Interpretation 3: Wire or cable cut to length.* (1) Wire or cable may be included as a component of a system or piece of equipment, whether or not the wire or cable is cut to length and whether or not it is fitted with connectors at one or both ends, so long as it is in normal quantity necessary to make the original installation of the equipment and is necessary to its operation.

(2) Wire or cable exported as replacement or spares, or for further manufacture is controlled under the applicable wire or cable ECCN only. This includes wire or cable, whether or not cut to length or fitted with connectors at one or both ends.

(d) *Interpretation 4: Telecommunications equipment and systems.* Control equipment for paging systems (broadcast radio or selectively signalled receiving systems) is defined as circuit switching equipment in Category 5 of the CCL.

(e) *Interpretation 5: Numerical control systems.* (1) *Classification of "Numerical Control" Units.* "Numerical control" units for machine tools, regardless of their configurations or architectures, are controlled by their functional characteristics as described in ECCN 2B001.a. "Numerical control" units include computers with add-on "motion control boards". A computer with add-on "motion control boards" for machine tools may be controlled under ECCN 2B001.a even when the computer alone without "motion control boards" is not subject to licensing requirements under Category 4 and the "motion control boards" are not controlled under ECCN 2B001.b.

(2) *Export documentation requirement.* (i) When preparing a license application for a numerical control system, the machine tool and the control unit are classified separately. If either the machine tool or the control unit requires a license, then the entire unit requires a license. If either a machine tool or a control unit is exported separately from the system, the exported component is classified on the license application without regard to the other parts of a possible system.

(ii) When preparing the Shipper's Export Declaration (SED), a system being shipped complete (i.e., machine and control unit), should be reported under the Schedule B number for each machine. When either a control unit or a machine is shipped separately, it should be reported under the Schedule B number appropriate for the individual item being exported.

(f) *Interpretation 6: Parts, accessories, and equipment exported as scrap.* Parts, accessories, or equipment that are being shipped as scrap should be described on the SED in sufficient detail to be identified under the proper ECCN. When commodities declared as parts, accessories, or equipment are shipped in bulk, or are otherwise not packaged, packed, or sorted in accordance with normal trade practices, the Customs Officer may require evidence that the shipment is not scrap. Such evidence may include, but is not limited to, bills of sale, orders and correspondence indicating whether the commodities are scrap or are being exported for use as parts, accessories, or equipment.

(g) *Interpretation 7: Scrap arms, ammunition, and implements of war.* Arms, ammunition, and implements of war, as defined in the U.S. Munitions List, and are under the jurisdiction of the U.S. Department of State (22 CFR parts 120 through 130), except for the following, which are under the jurisdiction of the Department of Commerce:

(1) Cartridge and shell cases that have been rendered useless beyond the possibility of restoration to their original identity by means of excessive heating, flame treatment, mangling, crushing, cutting, or by any other method are "scrap".

(2) Cartridge and shell cases that have been sold by the armed services as "scrap", whether or not they have been heated, flame-treated, mangled, crushed, cut, or reduced to scrap by any other method.

(3) Other commodities that may have been on the U.S. Munitions List are "scrap", and therefore under the jurisdiction of the Department of Commerce, if they have been rendered useless beyond the possibility of restoration to their original identify only by means of mangling, crushing, or cutting. When in doubt as to whether a commodity covered by the Munitions List has been rendered useless, exporters should consult the Office of Defense Trade Controls, U.S. Department of State, Washington, DC 20520, or the Exporter Counseling Division, Office of Exporter Services, Room 1099A, U.S. Department of Commerce, Washington, DC 20230, before reporting a shipment as metal scrap.

(h) *Interpretation 8: Military automotive vehicles and parts for such vehicles.* (1) *Military automotive vehicles.* (i) For purposes of U.S. export controls, military automotive vehicles "possessing or built to current military specifications differing materially from normal commercial specifications" may include, but are not limited to, the following characteristics:

(A) Special fittings for mounting ordnance or military equipment;

(B) Bullet-proof glass;

(C) Armor plate;

(D) Fungus preventive treatment;

(E) Twenty-four volt electrical systems;

(F) Shielded electrical system (electronic emission suppression); or

(G) Puncture-proof or run-flat tires.

(ii) *Automotive vehicles fall into two categories.*

(A) *Military automotive vehicles on the Munitions List, new and used.* Automotive vehicles in this category are primarily combat (fighting) vehicles, with or without armor and/or armament, "designed for specific fighting function." These automotive vehicles are licensed for export by the U.S. Department of State (22 CFR parts 120 through 130).

(B) *Military automotive vehicles not on the U.S. Munitions List, new and used.* Automotive vehicles in this category are primarily transport vehicles designed for non-combat military purposes (transporting cargo, personnel and/or equipment, and/or for to wing other vehicles and equipment over land and roads in close support of fighting vehicles and troops). These automotive vehicles are licensed for export by the U.S. Department of Commerce.

(iii) *Parts for military automotive vehicles.* Functional parts are defined as those parts making up the power train of the vehicles, including the electrical system, the cooling system, the fuel system, and the control system (brake and steering mechanism), the front and rear axle assemblies including the wheels, the chassis frame, springs and shock absorbers. Parts specifically designed for military automotive vehicles on the Munitions List are licensed for export by the U.S. Department of State (22 CFR parts 120 through 130).

(iv) *General instructions.* Manufacturers of non-Munitions List automotive vehicles and/or parts will know whether their products meet the conditions described in this paragraph (h). Merchant exporters and other parties who are not sure whether their products (automotive vehicles and/or parts) meet these conditions should check with their suppliers for the required information before making a shipment under general exception or submitting an application to BXA for a license.

(2) [Reserved]

(i) *Interpretation 9: Aircraft, parts, accessories and components.* Aircraft, parts, accessories, and components defined in Categories VIII and IX of the Munitions List are under the export licensing authority of the U.S. Department of State (22 CFR parts 120 through 130). All other aircraft, and parts, accessories and components therefor, are under the export licensing

authority of the U.S. Department of Commerce. The following aircraft, parts, accessories and components are under the licensing authority of the U.S. Department of Commerce:

(1) Any aircraft (except an aircraft that has been demilitarized, but including aircraft specified in paragraph (i)(2) of this section) that conforms to a Federal Aviation Agency type certificate in the normal, utility, acrobatic, transport, or restricted category, provided such aircraft has not been equipped with or modified to include military equipment, such as gun mounts, turrets, rocket launchers, or similar equipment designed for military combat or military training purposes.

(2) Only the following military aircraft, demilitarized (aircraft not specifically equipped, reequipped, or modified for military operations):

(i) Cargo, bearing designations "C–45 through C–118 inclusive," and "C–121";

(ii) Trainers, bearing a "T" designation and using piston engines;

(iii) Utility, bearing a "U" designation and using piston engines;

(iv) Liaison, bearing an "L" designation; and

(v) Observation, bearing an "O" designation and using piston engines.

(3) All reciprocating engines.

(4) Other aircraft engines not specifically designed or modified for military aircraft.

(5) Parts, accessories, and components (including propellers), designed exclusively for aircraft and engines described in paragraphs (i)(1), (i)(2), (i)(3), and (i)(4) of this section.

(6) General purpose parts, accessories, and components usable interchangeably on either military or civil aircraft.

(j) *Interpretation 10: Civil aircraft inertial navigation equipment.* (1) The Department of Commerce has licensing jurisdiction over exports and reexports to all destinations of inertial navigation systems, inertial navigation equipment, and specially designed components therefor for "civil aircraft".

(2) The Department of State, retains jurisdiction over all software and technology for inertial navigation systems and navigation equipment, and specially designed components therefor, for shipborne use, underwater use, ground vehicle use, spaceborne use or use other than "civil aircraft".

(k) *Interpretation 11: Precursor chemicals.* The following chemicals are controlled by ECCN 1C350. The appropriate Chemical Abstract Service Registry (C.A.S.) number and synonyms, (i.e., alternative names) are included to help you determine whether your chemicals are controlled by this entry. These chemicals require a license to all countries except Argentina, Australia, Austria, Belgium, Canada, Denmark, Czech Republic, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom.

(1) (C.A.S. #1341–49–7) Ammonium hydrogen bifluoride
Acid ammonium fluoride
Ammonium bifluoride
Ammonium difluoride
Ammonium hydrofluoride
Ammonium hydrogen bifluoride
Ammonium hydrogen difluoride
Ammonium monohydrogen difluoride

(2) (C.A.S. #7784–34–1) Arsenic trichloride
Arsenic (III) chloride
Arsenous chloride
Fuming liquid arsenic
Trichloroarsine

(3) (C.A.S. #76–93–7) Benzilic acid
.alpha.,.alpha.-Diphenyl-.alpha.-hydroxyacetic acid
Diphenylglycolic acid
.alpha.,.alpha.-Diphenylglycolic acid
Diphenylhydroxyacetic acid
.alpha.-Hydroxy-2,2-diphenylacetic acid
2-Hydroxy-2,2-diphenylacetic acid
.alpha.-Hydroxy-.alpha.-phenylbenzeneacetic acid
Hydroxydiphenylacetic acid

(4) (C.A.S. #107–07–3) 2-Chloroethanol
2-Chloro-1-ethanol
Chloroethanol
2-Chloroethyl alcohol
Ethene chlorohydrin
Ethylchlorohydrin
Ethylene chlorhydrin
Ethylene chlorohydrin
Glycol chlorohydrin
Glycol monochlorohydrin
2-Hydroxyethyl chloride

(5) (C.A.S. #78–38–6) Diethyl ethylphosphonate Ethylphosphonic acid diethyl ester

(6) (C.A.S. #15715–41–0) Diethyl methylphosphonite
Diethoxymethylphosphine
Diethyl methanephosphonite
0,0-Diethyl methylphosphonite
Methyldiethoxyphosphine
Methylphosphonous acid diethyl ester

(7) (C.A.S. #2404–03–7) Diethyl-N, N-dimethylphosphoro-amidate
N,N-Dimethyl-O,O'-diethyl phosphoramidate
Diethyl dimethylphosphoramidate
Dimethylphosphoramidic acid diethyl ester

(8) (C.A.S. #762–04–9) Diethyl phosphite
Diethoxyphosphine oxide
Diethyl acid phosphite
Diethyl hydrogen phosphite
Diethyo phosphonate
Hydrogen diethyl phosphite

(9) (C.A.S. #100–37–8) N, N-Diethylethanolamine
N,N-Diethyl-2-aminoethanol
Diethyl (2-hydroxyethyl) amine
N,N-Diethyl-N-(.beta.-hydroxyethyl) amine
N,N-Diethyl-2-hydroxyethylamine
Diethylaminoethanol
2-(Diethylamino) ethanol
2-(Diethylamino)ethyl alcohol
N,N-Diethylmonoethanolamine
(2-Hydroxyethyl) diethylamine
2-Hydroxytriethylamine

(10) (C.A.S. #5842–07–9) N,N-Diisopropyl-.beta.-aminoethane thiol
2-(Diisopropylamino) ethanethiol
Diisopropylaminoethanethiol
.beta.-Diisopropylaminoethanethiol
2-(bis(1-Methylethyl)amino) ethanethiol

(11) (C.A.S. #4261–68–1) N, N-Diisopropyl-.2-aminoethyl chloride hydrochloride

(12) (C.A.S. #96–80–0) N,N-Diisopropyl-.beta.-aminoethanol
N,N-Diisopropyl-2-aminoethanol
2-(Diisopropylamino) ethanol
(N,N-Diisopropylamino) ethanol
2-(Diisopropylamino) ethyl alcohol
N,N-Diisopropylethanolamine

(13) (C.A.S. #96–79–7) N,N-Diisopropyl-.beta.-aminoethyl chloride
2-Chloro-N,N-diisopropylethanamine
1-Chloro-N,N-diisopropylaminoethane
2-Chloro-N,N-diisopropylethylamine
N-(2-chloroethyl)-N-(1-methylethyl)-2-propanamine
N-(2-Chloroethyl) diisopropylamine
N,N-Diisopropyl-2-chloroethylamine
1-(Diisopropylamino)-2-cholorethane
2-(Diisopropylamino)ethyl chloride
Diisopropylaminoethyl chloride
.beta.-Diisopropylaminoethyl chloride

(14) (C.A.S. #108–18–9) Diisopropylamine
N,N-Diisopropylamine
N-(1-Methylethyl)-2-propanamine

(15) (C.A.S. #6163–75–3) Dimethyl ethylphosphonate
Dimethyl ethanephosphonate
Ethylphosphonic acid dimethyl ester

(16) (C.A.S. #756–79–6) Dimethyl methylphosphonate
Dimethoxymethyl phosphine oxide
Dimethyl methanephosphonate
Methanephosphonic acid dimethyl ester
Methylphosphonic acid dimethyl ester

(17) (C.A.S. #868–85–9) Dimethyl phosphite
Dimethoxyphosphine oxide
Dimethyl acid phosphite
Dimethyl hydrogen phosphite

Dimethyl phosphonate
Hydrogen dimethyl phosphite
Methyl phosphate

(18) (C.A.S. #124–40–3) Dimethylamine
N-Methyl methanamine

(19) (C.A.S. #506–59–2) Dimethylamine hydrochloride
Dimethylammonium chloride
N-Methyl methanamine hydrochloride

(20) (C.A.S. #57856–11–8) O-Ethyl-2-diisoprophylaminoethyl methylphosphonite (QL)
Methylphosphonous acid 2-(bis(1-methylethyl)amino)ethyl ethyl ester

(21) (C.A.S. #1498–40–4) Ethylphosphonous dichloride
Dichloroethylphosphine
Ethyl phosphonous dichloride
Ethyldichlorophosphine

(22) (C.A.S. #430–78–4) Ethylphosphonus difluoride
Ethyldifluorophosphine

(23) (C.A.S. #1066–50–8) Ethylphosphonyl dichloride
Dichloroethylphosphine oxide
Ethanephosphonyl chloride
Ethylphosphinic dichloride
Ethylphosphonic acid dichloride
Ethylphosphonic dichloride

(24) (C.A.S. #753–98–0) Ethylphosphonyl difluoride
Ethyl difluorophosphite
Ethyldifluorophosphine oxide
Ethylphosphonic difluoride

(25) (C.A.S. #7664–39–3) Hydrogen fluoride
Anhydrous hydrofluoric acid
Fluorhydric acid
Fluorine monohydride
Hydrofluoric acid gas

(26) (C.A.S. #3554–74–3) 3-Hydroxyl-1-methylpiperidine
3-Hydroxy-N-methylpiperidine
1-Methyl-3-hydroxypiperidine
N-Methyl-3-hydroxypiperidine
1-Methyl-3-piperidinol
N-Methyl-3-piperidonol

(27) (C.A.S. #76–89–1) Methyl benzilate
Benzilic acid methyl ester
.alpha.-Hydroxy-.alpha.-phenylbenzeneacetic acid methyl ester
Methyl .alpha.-phenylmandelate
Methyl diphenylglycolate

(28) (C.A.S. #676–83–5) Methylphosphonous dichloride
Dichloromethylphosphine
Methyldichlorophosphine
Methylphosphorus dichloride

(29) (C.A.S. #753–59–3) Methylphosphonous diflouride
Difluoromethylphosphine
Methyldifluorophosphine

(30) (C.A.S. #676–97–1) Methylphosphonyl dichloride
Dichloromethylphosphine oxide
Methanephosphonodichloridic acid
Methanephosphonyl chloride
Methylphosphonic acid dichloride
Methylphosphonic dichloride
Methylphosphonodichloridic acid
Methylphosphonyl chloride

(31) (C.A.S. #676–99–3) Methylphosphonyl difluoride
Difluoromethylphosphine oxide
Methyl difluorophosphite
Methylphosphonic difluoride

(32) (C.A.S. #10025–87–3) Phosphorus oxychloride
Phosphonyl trichloride
Phosphoric chloride
Phosphoric trichloride
Phosphoroxychloride
Phosphoroxytrichloride
Phosphorus chloride oxide
Phosphorus monoxide trichloride
Phosphorus oxide trichloride
Phosphorus oxytrichloride
Phosphorus trichloride oxide
Phosphoryl trichloride
Trichlorophosphine oxide
Trichlorophosphorus oxide

(33) (C.A.S. #10026–13–8) Phosphorus pentachloride
Pentachlorophosphorane
Pentachlorophosphorus
Phosphoric chloride
Phosphorus(V) chloride
Phosphorus perchloride

(34) (C.A.S. #1314–80–3) Phosphorus pentasulfide
Diphosphorus pentasulfide
Phosphoric sulfide
Phosphorus persulfide
Phosphorus sulfide

(35) (C.A.S. #7719–12–2) Phosphorus trichloride
Phosphorus chloride
Trichlorophosphine

(36) C.A.S. #75–97–8) Pinacolone
tert-Butyl methyl ketone
2,2-Dimethyl-3-butanone
3,3-Dimethyl-2-butanone
2,2-Dimethylbutanone
3,3-Dimethylbutanone
1,1-Dimethylethyl methyl ketone
Methyl tert-butyl ketone
Pinacolin
Pinacoline
1,1,1-Trimethylacetone

(37) (C.A.S. #464–07–3) Pinacolyl alcohol
tert-Butyl methyl carbinol
2,2-Dimethyl-3-butanol
3,3-Dimethyl-2-butanol
1-Methyl-2,2-dimethylpropanol

(38) (C.A.S. #151–50–8) Potassium cyanide

(39) (C.A.S. #7789–23–3) Potassium fluoride
Potassium monofluoride

(40) (C.A.S. #7789–29–9) Potassium hydrogen fluoride
Hydrogen potassium difluoride
Hydrogen potassium fluoride
Potassium acid fluoride
Potassium bifluoride
Potassium hydrogen difluoride
Potassium monohydrogen difluoride

(41) (C.A.S. #1619–34–7) 3-Quinuclidinol
1-Azabicyclo(2.2.2)octan-3-ol
3-Hydroxyquinuclidine

(42) (C.A.S. #3731–38–2) 3-Quinuclidinone
1-Azabicyclo(2.2.2)octan-3-one
3-Oxyquinuclidine
Quinuclidone

(43) (C.A.S.) #1333–83–1) Sodium bifluoride
Sodium hydrogen difluoride
Sodium hydrogen fluoride

(44) (C.A.S. #143–33–9) Sodium cyanide

(45) (C.A.S. #7681–49–4) Sodium fluoride
Sodium monofluoride

(46) (C.A.S. #1313–82–2) Sodium sulfide
Disodium monosulfide
Disodium sulfide
Sodium monosulfide
Sodium sulphide

(47) (C.A.S. #10025–67–9) Sulfur Monochloride

(48) (C.A.S. #10545–99–0) Sulfur dicholoride

(49) (C.A.S. #111–48–8) Thiodiglycol
Bis(2-hydroxyethyl) sulfide
Bis(2-hydroxyethyl) thioether
Di(2-hydroxyethyl) sulfide
Diethanol sulfide
2,2'-Dithiobis-(ethanol)
3-Thiapentane-1,5-diol
2,2'-Thiobisethanol
2,2'-Thiodiethanol
Thiodiethylene glycol
2,2'-Thiodiglycol

(50) C.A.S. #7719–09–7) Thionyl chloride
Sulfinyl chloride
Sulfinyl dichloride
Sulfur chloride oxide
Sulfur oxychloride
Sulfurous dichloride
Sulfurous oxychloride
Thionyl dichloride

(51) (C.A.S. #102–71–6) Triethanolamine
Alkanolamine 244
Nitrilotriethanol
2,2',2''-Nitrilotriethanol
2,2',2''-Nitrilotris(ethanol)
TEA
TEA (amino alcohol)
Tri (2-hydroxyethyl) amine
Triethanolamin
Tris (.beta.-hydroxyethyl) amine
Tris (2-hydroxyethyl) amine
Trolamine

(52) (C.A.S. #637–39–8) Triethanolamine hydrochloride

(53) (C.A.S. #122–52–1) Triethyl phosphite
Phosphorous acid triethyl ester
Triethoxyphosphine
Tris(ethoxy)phosphine

(54) (C.A.S. #121–45–9) Trimethyl phosphite
Phosphorus acid trimethyl ester
Trimethoxyphosphine

§ 770.3 Interpretations related to exports of technology and software to destinations in Country Group D:1.

(a) *Introduction.* This section is intended to provide you additional guidance on how to determine whether your technology or software would be eligible for a License Exception, may be exported under NLR, or require a license, for export to Country Group D:1.

(b) *Scope of licenses.* The export of technology and software under a license is authorized only to the extent specifically indicated on the face of the license. The only technology and software related to equipment exports that may be exported without a license is technology described in §§ 734.7 through 734.11 of the EAR; operating technology and software described in § 740.8(a) of the EAR; sales technology described in § 740.8(b) of the EAR; and software updates described in § 740.8(c) of the EAR.

(c) *Commingled technology and software.* (1) U.S.-origin technology does not lose its U.S.-origin when it is redrawn, used, consulted, or otherwise commingled abroad in any respect with other technology of any other origin. Therefore, any subsequent or similar technical data prepared or engineered abroad for the design, construction, operation, or maintenance of any plant or equipment, or part thereof, which is based on or utilizes any U.S.-origin technology, is subject to the EAR is the same manner as the original U.S.-origin technology, including license requirements, unless the commingled technology is not subject to the EAR by reason of the *de minimis* exclusions described at § 732.4 of the EAR.

(2) U.S.-origin software that is incorporated into or commingled with foreign-origin software does not lose its U.S.-origin. Such commingled software is subject to the EAR is the same manner as the original U.S.-origin software, including license requirements, unless the commingled software is not subject to the EAR by reason of the *de minimis* exclusions described at § 732.4 of the EAR.

(d) *Certain License Exception.* The following questions and answers are intended to further clarify the scope of technology and software eligible for a License Exception.

(1)(i) *Question 1.* (A) Our engineers, in installing or repairing equipment, use techniques (experience as well as proprietary knowledge of the internal componentry or specifications of the equipment) that exceed what is provided in the standard manuals or instructions (including training) given to the customer. In some cases, it is also a condition of the license that such information provided to the customer be constrained to the minimum necessary for normal installation, maintenance and operation situations.

(B) Can we send an engineer (with knowledge and experience) to the customer site to perform the installation or repair, under the provisions of License Exception for operating technology and software (OTS) described in § 740.8(a) of the EAR, if it is understood that he is restricted by our normal business practices to performing the work without imparting the knowledge or technology to the customer personnel?

(ii) *Answer 1.* Export of technology includes release of U.S.-origin data in a foreign country, and "release" includes "application to situations abroad of personal knowledge or technical experience acquired in the United States." As the release of technology in the circumstances described here would exceed that permitted under the License Exception for operating technology and software described in § 740.8(a) of the EAR, a license would be required even though the technician could apply the data without disclosing it to the customer.

(2)(i) *Question 2.* We plan, according to our normal business practices, to train customer engineers to maintain equipment that we have exported under a license, License Exception, or NLR. The training is contractual in nature, provided for a fee, and is scheduled to take place in part in the customer's facility and in part in the U.S. Can we now proceed with this training at both locations under a License Exception?

(ii) *Answer 2.* (A) Provided that this is your normal training, and involves technology contained in your manuals and standard instructions for the exported equipment, and meets the other requirements of License Exception for operating technology and software (OTS) described in § 740.8(a), the training may be provided within the limits of that License Exception. The location of the training is not significant, as the export occurs at the time and place of the actual transfer or imparting of the technology to the customer's engineers.

(B) Any training beyond that covered under the provisions of License Exception for operating technology and software (OTS) described in § 740.8(a), but specifically represented in your license application as required for this customer installation, and in fact authorized on the face of the license or a separate technology license, may not be undertaken while the license is suspended or revoked.

§ 770.4 Interpretations related to chemical mixtures—*de minimis* exceptions examples.

(a)(1) *Introduction:* The following are examples for applying the *de minimis* exceptions for chemical mixtures containing precursor and intermediate chemicals controlled under ECCN 1C350.

(2) In EGCN 1C350, Note 2, paragraphs (c) and (d) within the Mixtures Exemptions state that a validated license is required when at least one of the listed chemicals constitutes more than 10% or 25%, respectively, of the weight of the mixture on a solvent free basis.

(b)(1) *Example One.* A mixture contains the following components:

(i) 90% polymer polyol (a liquid raw material used to make polyurethane polymers); and

(ii) 10% Australia Group (AG)-controlled chemical eligible for 25% *de minimis* exemption.

Note to paragraph (b) of this section: The polymer does not dissolve the AG-controlled chemical.

(2) In this example, the polymer polyol does not dissolve the AG-controlled chemical (the only other component of the mixture). Therefore, the polyol is NOT considered a solvent, and the concentration of the polymer polyol is included in the concentration calculation. As a result, the AG-controlled chemical's concentration is 10% when calculated on a solvent-free basis (.10/1.00). Accordingly, this concentration is below the threshold concentration of 25% applicable to specific AG-controlled chemicals under the chemical mixtures rule and can be exported under NLR to all destinations except Iran, Sudan, Syria, and Country Group E:2 in Supplement No. 1 to part 740 of the EAR.

(3) To determine the classification of this mixture, it is necessary to determine whether the polymer is capable of functioning as a solvent for the other components of the mixture. If the polymer polyol is capable of functioning as a solvent for the controlled AG chemical, then the polymer component is omitted from the concentration calculation. If the polymer polyol is not capable of functioning as a solvent for the AG chemical, then the polymer component is included in the concentration calculation.

(c)(1) *Example Two:* An automotive coolant (antifreeze) is a mixture of the following components:
(i) 75% ethylene glycol;
(ii) 10% additive package; and
(iii) 15% water.

Note to paragraph (c) of this section: The "additive package" contains an AG-controlled chemical that is eligible for the 10% *de minimis* exemption. This chemical is added as a stabilizer and represents 9% of the total mixture. The remaining components of the additive package are various dyes and stabilizers that represent 1% of the total mixture. Ethylene glycol serves as the basic functional ingredient that prevents the engine block from freezing, and does not dissolve the other components of the mixture. The water is added to keep the mixture in solution.

(2) To determine if this mixture requires a license it is necessary to calculate the concentration of the AG-controlled chemical on a solvent-free basis. Since the water dissolves all of the other components of the mixture, water is considered a "solvent" and the quantity of water present is not included in the calculation of the AG-chemical concentration. Consequently, the concentration of the AG chemical is approximately 11% (.09/.85), and the mixture is classified under ECCN 1C350. Accordingly, since this concentration is above the threshold concentration of 10% applicable to this category of AG-controlled chemical under the chemical mixtures rule, a license is required to all destinations except AG member countries.

(d)(1) *Example Three.* A pesticide formulation consists of an AG-controlled chemical that is eligible for the 25% *de minimis* exemption, and an active ingredient that is not AG-controlled. The formulation is diluted with water to allow safe, effective, and economic application. The resulting mixture is 15% AG chemical, 40% active ingredient and 45% water. Although the water is added as a diluent, it dissolves the other components of the mixture.

(2) Since the water dissolves all components in the mixture, it is considered a solvent even though it was added as a diluent. The percent concentration of the AG-controlled chemical calculated on a solvent free basis is .15/.55 = 27%, and the mixture is therefore classified under ECCN 1C350. Accordingly, since this concentration is above the threshold concentration of 25% applicable to this category of AG-controlled chemicals under the chemical mixtures rule, a license is required to all destinations except AG member countries.

(e)(1) *Example Four.* A mixture contains the following components:
(i) 10% water;
(ii) 22% Chemical A;
(iii) 21% Chemical B;
(iv) 20% Chemical C;
(v) 19% Chemical D; and
(vi) 8% Chemical E.

Note to paragraph (e) of this section: The water is added to dissolve the other components of the mixture. Chemicals A, B, C, and D are AG-controlled chemicals each eligible for 25% *de minimis* exemption. Chemical E is an AG-controlled chemical eligible for 10% *de minimis* exemption.

(2) In this example, water is considered a solvent since it dissolves all components in the mixture. Therefore, the quantity of water present in the mixture is not included in calculating the concentrations of the controlled chemicals on a solvent-free basis. The concentrations of the controlled chemicals are as follows: Chemical A 24%; Chemical B 23%; Chemical C 22%; Chemical D 21%; Chemical E 9%. It is important to note that in this example, even though the cumulative amount of the mixture (90%) consists of controlled chemicals, each one of the controlled chemicals is below the *de minimis* level for its category. Consequently, this mixture can be exported under NLR to all destinations except Iran, Sudan, Syria, and Country Group E:2 in Supplement No. 1 to part 740 of the EAR.

PART 772—DEFINITIONS OF TERMS

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; Notice of August 15, 1995 (60 FR 42767, August 17, 1995).

The following are definitions of terms as used in the Export Administration Regulations (EAR). In this part, references to the EAR are references to 15 CFR chapter VII, subchapter C. Those terms in quotation marks refer to terms used on the Commerce Control List (CCL) (Supplement No. 1 to part 774 of the EAR). Parenthetical references following the terms in quotation marks (i.e., (Cat 5)) refer to the CCL category in which that term is found.

"*ATM.*" (Cat 5)—See "Asynchronous Transfer Mode."

"*Accuracy.*" (Cat 2 and 6)—"Accuracy" is usually measured in terms of inaccuracy. It is defined as the maximum deviation, positive or negative, of an indicated value from an accepted standard or true value.

"*Active flight control systems.*" (Cat 7)—Function to prevent undesirable "aircraft" and "missile" motions or structural loads by autonomously processing outputs from multiple sensors and then providing necessary preventive commands to effect automatic control.

"*Active pixel.*" (Cat 6 and 8)—A maximum (single) element of the solid state array that has a photoelectric transfer function when exposed to light (electromagnetic) radiation.

"*Adaptive control.*" (Cat 2)—A control system that adjusts the response from conditions detected during the operation (Ref. ISO 2806–1980).

Advisory Committee on Export Policy (ACEP). The ACEP voting members include the Assistant Secretary of Commerce for Export Administration, and Assistant Secretary-level representatives from the Departments of State, Defense, Energy, and the Arms Control and Disarmament Agency. The appropriate representatives of the Joint Chiefs of Staff and the Director of the Nonproliferation Center of the Central Intelligence Agency are non-voting members. The Assistant Secretary of Commerce for Export Administration is the Chair. Appropriate acting Assistant Secretary, Deputy Assistant Secretary or equivalent of any agency or department may serve in lieu of the Assistant Secretary of the concerned agency or department. Such representatives, regardless of rank, will speak and vote on behalf of their agencies or departments. The ACEP may invite Assistant Secretary-level representatives of other Government agencies or departments (other than those identified above) to participate in the activities of the ACEP when matters of interest to such agencies or departments are under consideration. Decisions are made by majority vote.

"*Aircraft.*" (Cat 7 and 9)—A fixed wing, swivelwing, rotary wing (helicopter), tilt rotor or tilt-wing airborne vehicle. (See also "civil aircraft".)

Airline. Any person engaged primarily in the transport of persons or property by aircraft for compensation or hire, pursuant to authorization by the U.S. Government or a foreign government.

"*Angular position deviation.*" (Cat 2)—The maximum difference between angular position and the actual, very accurately measured angular position after the workpiece mount of the table has been turned out of its initial position. (Reference: VDI/VDE 2617, Draft: "Rotary tables on coordinate measuring machines").

Applicant. That person who, as the principal party in interest in the transaction, has the power and responsibility for determining and controlling the sending of the item out of the country and is thus, in reality, the exporter. (For additional information see § 748.4 of the EAR.) (See also "U.S. exporter".)

"Assembly." (Cat 3 and 4)—A number of electronic components (i.e.,"circuit elements", "discrete components", integrated circuits, etc.) connected together to perform (a) specific function(s), replaceable as an entity and normally capable of being disassembled.

Notes: 1. "Circuit element": a single active or passive functional part of an electronic circuit, such as one diode,one transistor, one resistor, one capacitor, etc.

2. "Discrete component": a separately packaged "circuit element" with its own external connections.

"Asynchronous transfer mode." (ATM) (Cat 5)—A transfer mode in which the information is organized into cells; it is asynchronous in the sense that the recurrence of cells depends on the required or instantaneous bit rate. (CCITT Recommendation I.113)

Australia Group. The members belonging to this group have agreed to adopt controls on dual-use chemicals, i.e., weapons precursors, equipment, and biological microorganisms and related equipment in order to prevent the proliferation of chemical and biological weapons. Member countries as of November 1, 1995 include: Argentina, Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovak Republic, Spain, Sweden, Switzerland, the United Kingdom, and the United States. See also § 742.2 of the EAR.

"Automatic target tracking." (Cat 6)—A processing technique that automatically determines and provides as output an extrapolated value of the most probable position of the target in real time.

"Bandwidth of one voice channel." (Cat 5)—In the case of data communication equipment designed to operate in one voice channel of 3,100 Hz, as defined in CCITT Recommendation G.151.

"Basic gate propagation delay time." (Cat 3)—The propagation delay time value corresponding to the basic gate utilized within a "family" of "monolithic integrated circuits". This may be specified, for a given "family", either as the propagation delay time per typical gate or as the typical propagation delay time per gate.

Note: "Basic gate propagation delay-time" is not to be confused with input/output delay time of a complex "monolithic integrated circuit".

"Basic Scientific Research." (GTN)—Experimental or theoretical work undertaken principally to acquire new knowledge of the fundamental principles of phenomena or observable facts, not primarily directed towards a specific practical aim or objective.

"Beat length." (Cat 6)—The distance over which two orthogonally polarized signals, initially in phase, must pass in order to achieve a 2 Pi radian(s) phase difference.

"Bias." (accelerometer) (Cat 7)—An accelerometer output when no acceleration is applied.

Bill of Lading. The contract of carriage and receipt for items, issued by the carrier. It includes an air waybill, but does not include an inland bill of lading or a domestic air waybill covering movement to port only.

CCL. See Commerce Control List.

CCL Group. The Commerce Control List (CCL) is divided into 10 categories. Each category is subdivided into five groups, designated by letters A through E: (A) Equipment, assemblies, and components; (B) Test, production, and inspection equipment; (C) Materials; (D) Software; and (E) Technology. See § 738.2(b) of the EAR.

"CE."—See "Computing Element."

"CTP."—See "Composite theoretical performance." This term may also appear without quotation marks.

"Camming." (axial displacement) (Cat 2)—Axial displacement in one revolution of the main spindle measured in a plane perpendicular to the spindle faceplate, at a point next to the circumference of the spindle faceplate (Ref.: ISO 230 Part 1–1986, paragraph 5.63).

Canadian airline. Any citizen of Canada who is authorized by the Canadian Government to engage in business as an airline. For purposes of this definition, a Canadian citizen is:

(a) A natural person who is a citizen of Canada; or

(b) A partnership of which each member is such an individual; or

(c) A Canadian firm incorporated or otherwise organized under the laws of Canada or any Canadian province, having a total foreign stock interest not greater than 40 percent and having the Chairman or Acting Chairman and at least two-thirds of the Directors thereof Canadian citizens.

"Capable of." (MTCR context)—See "usable in".

Category. The Commerce Control List is divided into 10 categories: (0) Nuclear Materials, Facilities, and Equipment, and Miscellaneous; (1) Materials, Chemicals, "Microorganisms," and Toxins; (2) Materials Processing; (3) Electronics; (4) Computers; (5) Telecommunications and Information Security; (6) Lasers and Sensors; (7) Navigation and Avionics; (8) Marine; and (9) Propulsion Systems, Space Vehicles, and Transportation Equipment. See § 738.2(a) of the EAR.

"Chemical laser." (Cat 6)—A "laser" in which the excited species is produced by the output energy from a chemical reaction.

"Circulation." (controlled, anti-torque direction control systems) (Cat 7)—Use air blown over aerodynamic surfaces to increase or control the forces generated by the surfaces.

"Civil aircraft." (Cat 7 and 9)—Only those "aircraft" listed by designation in published airworthiness certification lists by the civil aviation authorities to fly commercial civil internal and external routes or for legitimate civil, private or business use. (See also "aircraft")

COCOM (Coordinating Committee on Multilateral Export Controls). A multilateral organization that cooperated in restricting strategic exports to controlled countries. COCOM was officially disbanded on March 31, 1994. COCOM members included the NATO countries, except Iceland, plus Japan and Australia.

Commerce Control List (CCL). A list of items under the export control jurisdiction of the Bureau of Export Administration, U.S. Department of Commerce. Note that certain additional items described in part 732 of the EAR are also subject to the EAR. The CCL is found in Supplement No. 1 to part 774 of the EAR.

"Commingled." (Cat 1)—Filament to filament blending of thermoplastic fibers and reinforcement fibers in order to produce a fiber reinforcement/matrix mix in total fiber form.

"Comminution." (Cat 1)—A process to reduce a material to particles by crushing or grinding.

Commodity. Any article, material, or supply except technology and software.

"Common channel signalling." (Cat 5)—A signalling method in which a single channel between exchanges conveys, by means of labelled messages, signalling information relating to a multiplicity of circuits or calls and other information such as that used for network management.

"Communications channel controller." (Cat 5)—The physical interface that controls the flow of synchronous or asynchronous digital information. It is an assembly that can be integrated into computer or telecommunications equipment to provide communications access.

"Composite." (Cat 1, 6, 8, and 9)—A "matrix" and an additional phase or additional phases consisting of particles, whiskers, fibers or any combination thereof, present for a specific purpose or purposes.

"Composite theoretical performance." (CTP) (Cat 4)—A measure of computational performance given in millions of theoretical operations per second (Mtops), calculated using the aggregation of "computing elements (CE)". (See Category 4, Technical Note.) This term may also appear without quotation marks. The formula to calculate the CTP is contained in a technical note titled "Information on How to Calculate "Composite Theoretical Performance" at the end of Category 4 of the CCL.

"Compound rotary table." (Cat 2)—A table allowing the workpiece to rotate and tilt about two non-parallel axis that can be coordinated simultaneously for "contouring control".

"Computer using facility." (Cat 4)—The end-user's contiguous and accessible facilities:

(a) Housing the "computer operating area" and those end-user functions that are being supported by the stated application of the electronic computer and its related equipment; and

(b) Not extending beyond 1,500 meters in any direction from the center of the "computer operating area".

Note: "Computer operating area": the immediate contiguous and accessible area around the electronic computer, where the normal operating, support and service functions take place.

"Computing element." (CE) (Cat 4)—The smallest computational unit that produces an arithmetic logic result.

"Contouring control." (Cat 2)—Two or more numerically controlled motions operating in accordance with instructions that specify the next required position and the required feed rates to that position. These feed rates are varied in relation to each other so that a desired contour is generated (Ref. ISO/DIS 2806—1980).

Controlled country. A list of countries designated controlled for national security purposes found in Country Group D:1 (see Supplement No. 1 to part 740 of the EAR). This list was established under authority delegated to the Secretary of Commerce by Executive Order 12214 of May 2, 1980 pursuant to section 5(b) of the EAA, and including: Albania, Armenia, Azerbaijan, Belarus, Bulgaria, Cambodia, the People's Republic of China, Estonia, Georgia, Kazakstan, Kyrgyzstan, Laos, Latvia, Lithuania, Moldova, Mongolia, Romania, Russia, Tajikstan, Turkmenistan, Ukraine, Uzbekistan, and Vietnam. Cuba and North Korea are controlled countries, but they are listed in Country Group E:2 (unilateral embargoes) rather than Country Group D:1. This definition does not apply to part 768 of the EAR (Foreign Availability), which provides a dedicated definition.

Controlled in fact. For purposes of the Special Comprehensive License (part 752 of the EAR), controlled in fact is defined as it is under the Restrictive Trade Practices or Boycotts (§ 760.1(c) of the EAR).

Cooperating country. A country that cooperated with the former COCOM member countries in restricting strategic exports in accordance with COCOM standards. The "Cooperating Countries" are: Austria, Finland, Hong Kong, Ireland, Korea (Republic of), New Zealand, Sweden, and Switzerland.

Countries supporting international terrorism. In accordance with section 6(j) of the Export Administration Act of 1979, as amended (EAA), the Secretary of State has determined that the following countries' governments have repeatedly provided support for acts of international terrorism: Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria.

Country Chart. A chart, found in Supplement No. 1 to part 738 of the EAR, that contains certain licensing requirements based on destination and reason for control. In combination with the CCL, the Country Chart indicates when a license is required for any item on the CCL to any country in the world under General Prohibition One (Exports and Reexports in the Form Received), General Prohibition Two (Parts and Components Reexports), and General Prohibition Three (Foreign Produced Direct Product Reexports). See part 736 of the EAR.

Country Groups. For export control purposes, foreign countries are separated into five country groups designated by the symbols A, B, C, D, and E. (See Supplement No. 1 to part 740 of the EAR for a list of countries in each Country Group.)

"Critical temperature." (Cat 1, 3, and 6)—The "critical temperature" (sometimes referred to as the transition temperature) of a specific "superconductive" material is the temperature at which the material loses all resistance to the flow of direct electrical current.

"Cryptanalysis." (Cat 5)—The analysis of a cryptographic system or its inputs and outputs to derive confidential variables or sensitive data including clear text. (ISO 7498–2–1988(E), paragraph 3.3.18)

"Cryptography." (Cat 5)—The discipline that embodies principles, means and methods for the transformation of data in order to hide its information content, prevent its undetected modification or prevent its unauthorized use. "Cryptography" is limited to the transformation of information using one or more "secret parameters" (e.g., crypto variables) and/or associated key management.

Note: "Secret parameter": a constant or key kept from the knowledge of others or shared only within a group.

Customs officer. The Customs officers in the U.S. Customs Service and postmasters unless the context indicates otherwise.

"Data signalling rate." (Cat 5)—The rate, as defined in ITU Recommendation 53–36, taking into account that, for non-binary modulation, baud and bit per second are not equal. Bits for coding, checking and synchronization functions are to be included.

Notes: 1. When determining the "data signalling rate", servicing and administrative channels shall be excluded.

2. It is the maximum one-way rate, i.e., the maximum rate in either transmission or reception.

(a) Mirrors:

(1) Mirrors having a single continuous optical reflecting surface that is dynamically deformed by the application of individual torques or forces to compensate for distortions in the optical waveform incident upon the mirror; or

(2) Mirrors having multiple optical reflecting elements that can be individually and dynamically repositioned by the application of torques or forces to compensate for distortions in the optical waveform incident upon the mirror.

(b) Deformable mirrors are also known as adaptive optic mirrors.

"Datagram." (Cat 4 and 5)—A self-contained, independent entity of data carrying sufficient information to be routed from the source to the destination data terminal equipment without reliance on earlier exchanges between this source and destination data terminal equipment and the transporting network.

Defense Trade Control (DTC). The office at the Department of State, formerly known as the Office of Munitions Control, responsible for reviewing applications to export and reexport items on the U.S. Munitions List. (See 22 CFR parts 120 through 130.)

Denied Persons List. A list, referenced in Supplement No. 2 to part 764 of the EAR, of specific persons that have been denied export privileges, in whole or in part. The full text of each order denying export privileges is published in the **Federal Register**.

"Designed or modified." (MTCR context)—Equipment, parts, components, or "software" that, as a result of "development", or

modification, have specified properties that make them fit for a particular application. "Designed or modified" equipment, parts, components or "software" can be used for other applications. For example, a titanium coated pump designed for a "missile" may be used with corrosive fluids other than propellants.

"Development." (General Technology Note)—"Development" is related to all stages prior to serial production, such as: design, design research, design analyses, design concepts, assembly and testing of prototypes, pilot production schemes, design data, process of transforming design data into a product, configuration design, integration design, layouts.

"Diffusion bonding." (Cat 1, 2, and 9)—A solid-state molecular joining of at least two separate metals into a single piece with a joint strength equivalent to that of the weakest material.

"Digital computer." (Cat 4 and 5)—Equipment that can, in the form of one or more discrete variables:

(a) Accept data;

(b) Store data or instructions in fixed or alterable (writable) storage devices;

(c) Process data by means of a stored sequence of instructions that is modifiable; and

(d) Provide output of data.

Note: Modifications of a stored sequence of instructions include replacement of fixed storage devices, but not a physical change in wiring or interconnections.

"Digital transfer rate." (Cat 5)—The total bit rate of the information that is directly transferred on any type of medium.

"Direct-acting hydraulic pressing." (Cat 2)—A deformation process that uses a fluid-filled flexible bladder in direct contact with the workpiece.

"Drift rate." (gyro) (Cat 7)—The time rate of output deviation from the desired output. It consists of random and systematic components and is expressed as an equivalent input angular displacement per unit time with respect to inertial space.

Dual use. Items that have both commercial and military or proliferation applications. While this term is used informally to describe items that are subject to the EAR, purely commercial items are also subject to the EAR (see § 734.2(a) of the EAR).

"Dynamic adaptive routing." (Cat 5)—Automatic rerouting of traffic based on sensing and analysis of current actual network conditions.

Note: This does not include cases of routing decisions taken on predefined information.

"Dynamic signal analyzers." (Cat 3)—"Signal analyzers" that use digital sampling and transformation techniques to form a Fourier spectrum display of the given waveform including amplitude and phase information.

Effective control. For purposes of the Special Comprehensive License (SCL), effective control means the exercise of a right, under a contractual agreement between the SCL Holder and the consignee, to determine and control the export of items authorized under an SCL.

"Electronically steerable phased array antenna." (Cat 6)—An antenna that forms a beam by means of phase coupling, i.e., the beam direction is controlled by the complex excitation coefficients of the radiating elements and the direction of that beam can be varied in azimuth or in elevation, or both, by application, both in transmission and reception, of an electrical signal.

"End-effectors." (Cat 2)—"End-effectors" include grippers, "active tooling units" and any other tooling that is attached to the baseplate on the end of a "robot" manipulator arm.

Note: "Active tooling unit": a device for applying motive power, process energy or sensing to the workpiece.

"Equivalent Density." (Cat 6)—The mass of an optic per unit optical area projected onto the optical surface.

"Expert systems." (Cat 4)—Systems providing results by application of rules to data that are stored independently of the "program" and capable of any of the following:

(a) Modifying automatically the "source code" introduced by the user;

(b) Providing knowledge linked to a class of problems in quasi-natural language; or

(c) Acquiring the knowledge required for their development (symbolic training).

Export. Export means an actual shipment or transmission of items out of the United States. (See § 734.2(b) of the EAR.)

Export Administration Act (EAA). Export Administration Act of 1979, as amended, effective October 1, 1979.

Export Administration Regulations (EAR). Regulations set forth in parts 730–774, inclusive, of Title 15 of the Code of Federal Regulations.

Export Administration Review Board (EARB). EARB voting members are the Secretary of Commerce, the Secretary of State, the Secretary of Defense, the Secretary of Energy, and the Director of the Arms Control and Disarmament Agency. The Chairman of the Joint Chiefs of Staff and the Director of Central Intelligence are non-voting members. The Secretary of Commerce is the Chair of the EARB. No alternate EARB members may be designated, but the acting head or deputy head of any agency or department may serve in lieu of the head of the concerned agency or department. The EARB may invite the heads of other Government agencies or departments (other than those identified in this definition) to participate in the activities of the EARB when matters of interest to such agencies or departments are under consideration. Decisions are made by majority vote.

Export Control Classification Number (ECCN). The numbers used in Supplement No. 1 to part 774 of the EAR and throughout the EAR. The Export Control Classification Number consists of a set of digits and a letter. Reference § 738.2(c) of the EAR for a complete description of each ECCN's composition.

Export control document. A license; application for license; any and all documents submitted in accordance with the requirements of the EAR in support of, or in relation to, a license application; application for International Import Certificate; International Import Certificate; Delivery Verification Certificate or similar evidence of delivery; Shipper's Export Declaration (SED) presented in connection with shipments to any country; a Dock Receipt or bill of lading issued by any carrier in connection with any export subject to the EAR and any and all documents prepared and submitted by exporters and agents pursuant to the export clearance requirements of part 758 of the EAR; a U.S. exporter's report of request received for information, certification, or other action indicating a restrictive trade practice or boycott imposed by a foreign country against a country friendly to the United States, submitted to the U.S. Department of Commerce in accordance with the provisions of part 760 of the EAR; Customs Form 7512, Transportation Entry and Manifest of Goods, Subject to Customs Inspection and Permit, when used for Transportation and Exportation (T.& E.) or Immediate Exportation (I.E.); and any other document issued by a U.S. Government agency as evidence of the existence of a license for the purpose of loading onto an exporting carrier or otherwise facilitating or effecting an export from the United States or any reexport of any item requiring a license.

Export of satellites. The term export, as applied to satellites controlled by the Department of Commerce, includes the physical movement of a satellite from the United States to another country for any purpose, or the transfer of registration of a satellite or operational control over a satellite from a person resident in the United States to a person resident in another country. Under the Commercial Space Launch Act, a launch of a launch vehicle and payload is not an export for purposes of controlling export.

Exporter. See U.S. exporter.

Exporting carrier. Any instrumentality of water, land, or air transportation by which an export is effected, including any domestic air carrier on which any cargo for export is laden or carried.

"FMU."—See "flexible manufacturing unit"

"Family." (Cat 3)—Consists of microprocessor or microcomputer microcircuits that have:

(a) The same architecture;

(b) The same basic instruction set; and

(c) The same basic technology (e.g., only NMOS or only CMOS).

"Fast select." (Cat 4 and 5)—A facility applicable to virtual calls that allows data terminal equipment to expand the possibility to transmit data in call set-up and clearing "packets" beyond the basic capabilities of a virtual call.

Note: "Packet": a group of binary digits including data and call control signals that is switched as a composite whole. The data, call control signals, and possible error control information are arranged in a specified format.

"Fault tolerance." (Cat 4)—The capability of a computer system, after any malfunction of any of its hardware or "software" components, to continue to operate without human intervention, at a given level of service that provides: continuity of operation, data integrity, and recovery of service within a given time.

"Fibrous or filamentary materials." (Cat 1 and 8)—The term "fibrous and filamentary materials" includes:

(a) Continuous monofilaments;

(b) Continuous yarns and rovings;

(c) Tapes, fabrics, random mats and braids;

(d) Chopped fibers, staple fibers and coherent fiber blankets;

(e) Whiskers, either monocrystalline or polycrystalline, of any length;

(f) Aromatic polyimide pulp.

"Film type integrated circuit." (Cat 3)—An array of "circuit elements" and metallic interconnections formed by deposition of a thick or thin film on an insulating "substrate".

Note: "Circuit element": a single active or passive functional part of an electronic circuit, such as one diode, one transistor, one resistor, one capacitor, etc.

Firm. A corporation, partnership, limited partnership, association, company, trust, or any other kind of organization or body corporate, situated, residing, or doing business in the United States or any foreign country, including any government or agency thereof.

"Fixed." (Cat 5)—The coding or compression algorithm cannot accept externally supplied parameters (e.g., cryptographic or key variables) and cannot be modified by the user.

"Flexible manufacturing unit." (FMU), (sometimes also referred to as 'flexible manufacturing system' (FMS) or 'flexible manufacturing cell' (FMC)) (Cat 2)—An entity that includes a combination of at least:

(a) A "digital computer" including its own "main storage" and its own "related equipment"; and

(b) Two or more of the following:

(1) A machine tool described in 2B001.c;

(2) A dimensional inspection machine described in Category 2, or another digitally controlled measuring machine controlled by an entry in Category 2;

(3) A "robot" controlled by an entry in Category 2 or 8;

(4) Digitally controlled equipment controlled by 1B003, 2B003, or 9B001;

(5) "Stored program controlled" equipment controlled by 3B001;

(6) Digitally controlled equipment controlled by 1B001;

(7) Digitally controlled electronic equipment controlled by 3A002.

"Fluoride fibers." (Cat 6)—Fibers manufactured from bulk fluoride compounds.

"Focal plane array." (Cat 6)—A linear or two-dimensional planar layer, or combination of planar layers, of individual detector elements, with or without readout electronics, that work in the focal plane.

N.B. This definition does not include a stack of single detector elements or any two, three, or four element detectors provided time delay and integration is not performed within the element.

Foreign government agency. For the purposes of exemption from support documentation (see § 748.9 of the EAR), a foreign government agency is defined as follows:

(a) National governmental departments operated by government-paid personnel performing governmental administrative functions; e.g. Finance Ministry, Ministry of Defense, Ministry of Health, etc. (municipal or other local government entities must submit required support documentation); or

(b) National government-owned public service entities; e.g., nationally owned railway, postal, telephone, telegraph, broadcasting, and power systems, etc. The term "foreign government agency" does not include government corporations, quasi-government agencies, and state enterprises engaged in commercial, industrial, and manufacturing activities, such as petroleum refineries, mines, steel mills, retail stores, automobile manufacturing plants, airlines, or steamship lines that operate between two or more countries, etc.

Foreign policy control. A control imposed under the EAR for any and all of the following reasons: chemical and biological weapons, nuclear nonproliferation, missile technology, regional stability, crime control, anti-terrorism, United Nations sanctions, and any other reason for control implemented under section 6 of the EAA or other similar authority.

Forwarding agent. The person authorized by an exporter to perform for that exporter services to facilitate the export of items. The forwarding agent need not be a person regularly engaged in the freight forwarding business. The forwarding agent must be designated by the exporter in writing in the power-of-attorney set forth on the Shippers' Export Declaration or in a general power-of-attorney, or other written form, subscribed and sworn to by a duly authorized officer or employee of the exporter.

"Frequency agility." (frequency hopping) (Cat 5)—A form of "spread spectrum" in which the transmission frequency of a single communication channel is made to change by discrete steps.

"Frequency agility." (radar) (Cat 6)—(see "Radar frequency agility")

"Frequency switching time." (Cat 3 and 5)—The maximum time (i.e., delay), taken by a signal, when switched from one selected output frequency to another selected output frequency, to reach:

(a) A frequency within 100 Hz of the final frequency; or

(b) An output level within 1 dB of the final output level.

"Frequency synthesizer." (Cat 3)—Any kind of frequency source or signal generator, regardless of the actual technique used, providing a multiplicity of simultaneous or alternative output frequencies, from one or more outputs, controlled by, derived from or disciplined by a lesser number of standard (or master) frequencies.

"Gas Atomization." (Cat 1)—A process to reduce a molten stream of metal alloy to droplets of 500-micrometer diameter or less by a high-pressure gas stream.

"Gateway." (Cat 5)—The function, realized by any combination of equipment and "software", to carry out the conversion of conventions for representing, processing or communicating information used on one system into the corresponding, but different conventions used in another system.

General prohibitions. The 10 prohibitions found in part 734 of the EAR that prohibit certain exports, reexports, and other conduct, subject to the EAR, absent a license, License Exception, or determination that no license is required ("NLR").

"Generic software." (Cat 5)—A set of instructions for a "stored program controlled" switching system that is the same for all switches using that type of switching system.

Note: The data base portion is not considered to be a part of the generic "software".

"Geographically dispersed." (Cat 6)—Sensors are considered geographically dispersed when each location is distant from any other more than 1,500 m in any direction. Mobile sensors are always considered geographically dispersed.

"Global interrupt latency time." (Cat 4)—The time taken by the computer system to recognize an interrupt due to the event, service the interrupt and perform a context switch to an alternate memory-resident task waiting on the interrupt.

Hold Without Action (HWA). License applications may be held without action only in the limited circumstances described in § 750.4(c) of the EAR.

"Hot isostatic densification." (Cat 2)—A process of pressurizing a casting at temperatures exceeding 375 K (102 °C) in a closed cavity through various media (gas, liquid, solid particles, etc.) to create equal force in all directions to reduce or eliminate internal voids in the casting.

"Hybrid computer." (Cat 4)—Equipment that can:

(a) Accept data;

(b) Process data, in both analog and digital representation; and

(c) Provide output of data.

"Hybrid integrated circuit." (Cat 3)—Any combination of integrated circuit(s), or integrated circuit with "circuit elements" or "discrete components" connected together to perform (a) specific function(s), and having all of the following criteria:

(a) Containing at least one unencapsulated device;

(b) Connected together using typical IC-production methods;

(c) Replaceable as an entity; and

(d) Not normally capable of being disassembled.

Notes: 1. "Circuit element": a single active or passive functional part of an electronic circuit, such as one diode, one transistor, one resistor, one capacitor, etc.

2. "Discrete component": a separately packaged "circuit element" with its own external connections.

"ISDN."—See "Integrated Services Digital Network".

"Image enhancement." (Cat 4)—The processing of externally derived information-bearing images by algorithms such as time compression, filtering, extraction, selection, correlation, convolution or transformations between domains (e.g., fast Fourier transform or Walsh transform). This does not include algorithms using only linear or rotational transformation of a single image, such as translation, feature extraction, registration or false coloration.

"Information security." (Cat 5)—All the means and functions ensuring the accessibility, confidentiality or integrity of information or communications, excluding the means and functions intended to safeguard against malfunctions. This includes "cryptography", "cryptanalysis", protection against compromising emanations and computer security.

N.B. "Cryptanalysis": the analysis of a cryptographic system or its inputs and outputs to derive confidential variables or sensitive data, including clear text. (ISO 7498–2–1988 (E), paragraph 3.3.18)

"Instantaneous bandwidth." (Cat 3)—The bandwidth over which output power remains constant within 3 dB without adjustment of other operating parameters.

"Instrumented range." (Cat 6)—The specified unambiguous display range of a radar.

"Integrated Services Digital Network." (ISDN) (Cat 5)—A unified end-to-end digital network, in which data originating from all types of communication (e.g., voice, text, data, still and moving pictures) are transmitted from one port (terminal) in the exchange (switch) over one access line to and from the subscriber.

Intent to Deny (ITD) letter. A letter informing the applicant:

(a) Of the reason for BXA's decision to deny a license application; and

(b) That the application will be denied 45 days from the date of the ITD letter, unless the applicant provides, and BXA accepts, a reason why the application should not be denied for the stated reason. See § 750.6 of the EAR.

"Interconnected radar sensors." (Cat 6)—Two or more radar sensors are interconnected when they mutually exchange data in real time.

Intermediate consignee. The intermediate consignee is the bank, forwarding agent, or other intermediary (if any) who acts in a foreign country as an agent for the exporter, the purchaser, or the ultimate consignee, for the purpose of effecting delivery of the items to the ultimate consignee.

"Intrinsic Magnetic Gradiometer." (Cat 6)—A single magnetic field gradient sensing element and associated electronics the output of which is a measure of magnetic field gradient. (See also "Magnetic Gradiometer")

"Isostatic presses." (Cat 2)—Equipment capable of pressurizing a closed cavity through various media (gas, liquid, solid particles, etc.) to create equal pressure in all directions within the cavity upon a workpiece or material.

Item. "Item" means "commodities, software, and technology." When the EAR intend to refer specifically to commodities, software, or technology, the text will use the specific reference.

Know. See "knowledge."

Knowledge. Knowledge of a circumstance (the term may be a variant, such as "know," "reason to know," or "reason to believe") includes not only positive knowledge that the circumstance exists or is substantially certain to occur, but also an awareness of a high probability of its existence or future occurrence. Such awareness is inferred from evidence of the conscious disregard of facts known to a person and is also inferred from a person's willful avoidance of facts. This definition does not apply to part 760 of the EAR (Restrictive Trade Practices or Boycotts).

"Laser." (Cat 2, 3, 5, 6, and 9)—An assembly of components that produce both spatially and temporally coherent light that is amplified by stimulated emission of radiation. See also: "Chemical laser"; "Q-switched laser"; "Super High Power Laser"; and "Transfer laser".

Law or regulation relating to export control. Any statute, proclamation, executive order, regulation, rule, license, or order applicable to any conduct involving an export transaction shall be deemed to be a "law or regulation relating to export control."

Legible or legibility. Legible and legibility mean the quality of a letter or numeral that enables the observer to identify it positively and quickly to the exclusion of all other letters or numerals.

License. Authority issued by the Bureau of Export Administration authorizing an export, reexport, or other regulated activity. The term "license" does not include authority represented by a "License Exception."

License application; application for license. License application and similar wording mean an application to BXA requesting the issuance of a license to the applicant.

License Exception. An authorization described in part 740 of the EAR that allows you to export or reexport, under stated conditions, items subject to the EAR that otherwise would require a license. Unless otherwise indicated, these License Exceptions are not applicable to exports under the licensing jurisdiction of agencies other than the Department of Commerce.

Licensee. The person to whom a license has been issued by BXA. See § 750.7(c) of the EAR for a complete definition and identification of a licensee's responsibilities.

"Linearity." (Cat 2)—"Linearity" (usually measured in terms of non-linearity) is the maximum deviation of the actual characteristic (average of upscale and downscale readings), positive or negative, from a straight line so positioned as to equalize and minimize the maximum deviations.

"Local area network." (Cat 4)—A data communication system that:

(a) Allows an arbitrary number of independent "data devices" to communicate directly with each other; and

(b) Is confined to a geographical area of moderate size (e.g., office building, plant, campus, warehouse).

Note: "Data device": equipment capable of transmitting or receiving sequences of digital information.

"MBTR".—See "maximum bit transfer rate".

MTCR. See Missile Technology Control Regime.

MTEC. See Missile Technology Export Control Group.

"Magnetic Gradiometers." (Cat 6)—Are designed to detect the spatial variation of magnetic fields from sources external to the instrument. They consist of multiple "magnetometers" and associated electronics the output of which is a measure of magnetic field gradient. (See also "Intrinsic Magnetic Gradiometer".)

"Magnetometers." (Cat 6)—Are designed to detect magnetic fields from sources external to the instrument. They consist of a single magnetic field sensing element and associated electronics the output of which is a measure of the magnetic field.

"Main storage." (Cat 4)—The primary storage for data or instructions for rapid access by a central processing unit. It consists of the internal storage of a "digital computer" and any hierarchical extension thereto, such as cache storage or non-sequentially accessed extended storage.

"Matrix." (Cat 1, 2, 8, and 9)—A substantially continuous phase that fills the space between particles, whiskers or fibers.

"Maximum bit transfer rate." (MBTR) (Cat 4)—Of solid state storage equipment: the number of data bits per second transferred between the equipment and its controller. Of a disk drive: the internal data transfer rate calculated as follows:

"MBTR" (bits per second)=B x R x T, where:

B=Maximum number of data bits per track available to read or write in a single revolution;

R=Revolutions per second;

T=Number of tracks that can be used or written simultaneously.

"Measurement uncertainty." (Cat 2)—The characteristic parameter that specifies in what range around the output value the correct value of the measurable variable lies with a confidence level of 95%. It includes the uncorrected systematic deviations, the uncorrected backlash, and the random deviations (Ref.: VDI/VDE 2617).

"Mechanical alloying." (Cat 1)—An alloying process resulting from the bonding, fracturing and rebonding of elemental and master alloy powders by mechanical impact. Non-metallic particles may be incorporated in the alloy by addition of the appropriate powders.

"Media access unit." (Cat 5)—Equipment that contains one or more communication interfaces ("network access controller", "communications channel controller", modem or computer bus) to connect terminal equipment to a network.

"Melt Extraction." (Cat 1)—A process to "solidify rapidly" and extract a ribbon-like alloy product by the insertion of a short segment of a rotating chilled block into a bath of a molten metal alloy.

Note: "Solidify rapidly": solidification of molten material at cooling rates exceeding 1,000 K/sec.

"Melt Spinning." (Cat 1)—A process to "solidify rapidly" a molten metal stream impinging upon a rotating chilled block, forming a flake, ribbon or rod-like product.

Note: "Solidify rapidly": solidification of molten material at cooling rates exceeding 1,000 K/sec.

"Microprocessor microcircuit." (Cat 3)—A "monolithic integrated circuit" or "multichip integrated circuit" containing an arithmetic logic unit (ALU) capable of executing a series of general purpose instructions from an external storage.

N.B. 1: The "microprocessor microcircuit" normally does not contain integral user-accessible storage, although storage present on-the-chip may be used in performing its logic function.

N.B. 2: This definition includes chip sets that are designed to operate together to provide the function of a "microprocessor microcircuit".

"Microprogram." (Cat 4 and 5)—A sequence of elementary instructions, maintained in a special storage, the execution of which is initiated by the introduction of its reference instruction into an instruction register.

Missile Technology Control Regime (MTCR). The United States and other nations in this multilateral control regime have agreed to guidelines for restricting the export and reexport of dual-use items that may contribute to the development of missiles. The MTCR Annex lists missile-related equipment and technology controlled either by the Department of Commerce or by the Department of State's Office of Defense Trade Controls (22 CFR parts 120 through 130).

Missile Technology Export Control Group (MTEC). Chaired by the Department of State, the MTEC primarily reviews applications involving items controlled for Missile Technology (MT) reasons. The MTEC also reviews applications involving items not controlled for MT reasons, but destined for a country and/or end-use/end-user of concern.

"Missiles." (All)—Rocket systems (including ballistic missile systems, space launch vehicles, and sounding rockets) and unmanned air vehicle systems (including cruise missile systems, target drones, and reconnaissance drones) "capable of" delivering at least 500 kilograms payload to a range of at least 300 kilometers.

"Monolithic integrated circuit." (Cat 3)—A combination of passive or active "circuit elements" or both that:

(a) Are formed by means of diffusion processes, implantation processes or deposition processes in or on a single semiconducting piece of material, a so-called 'chip';

(b) Can be considered as indivisibly associated; and

(c) Perform the function(s) of a circuit.

Note: "Circuit element": a single active or passive functional part of an electronic circuit, such as one diode, one transistor, one resistor, one capacitor, etc.

"Most immediate storage." (Cat 4)—The portion of the "main storage" most directly accessible by the central processing unit:

(a) For single level "main storage", the internal storage; or

(b) For hierarchical "main storage":

(1) The cache storage;

(2) The instruction stack; or

(3) The data stack.

"Motion control board." (Cat 2)—An electronic "assembly" specially designed to provide a computer system with the capability to coordinate simultaneously the motion of axes of machine tools for "contouring control".

"Multichip integrated circuit." (Cat 3)—Two or more "monolithic integrated circuits" bonded to a common "substrate".

"Multi-data-stream processing." (Cat 4)—The "microprogram" or equipment architecture technique that permits simultaneous processing of two or more data sequences under the control of one or more instruction sequences by means such as:

(a) Single Instruction Multiple Data (SIMD) architectures such as vector or array processors;

(b) Multiple Single Instruction Multiple Data (MSIMD) architectures;

(c) Multiple Instruction Multiple Data (MIMD) architectures, including those that are tightly coupled, closely coupled or loosely coupled; or

(d) Structured arrays of processing elements, including systolic arrays.

"Multilevel security." (Cat 5)—A class of system containing information with different sensitivities that simultaneously permits access by users with different security clearances and need-to-know, but prevents users from obtaining access to information for which they lack authorization.

Note: "Multilevel security" is computer security and not computer reliability that deals with equipment fault prevention or human error prevention in general.

"Multispectral Imaging Sensors." (Cat 6)—Are capable of simultaneous or serial acquisition of imaging data from two or more discrete spectral bands. Sensors having more than twenty discrete spectral bands are sometimes referred to as hyperspectral imaging sensors.

"N.E.S." N.E.S or n.e.s. is an abbreviation meaning "not elsewhere specified".

NLR. NLR ("no license required") is a symbol entered on the Shipper's Export Declaration, certifying that no license is required.

NSG. See Nuclear Suppliers Group.

NATO (North Atlantic Treaty Organization). A strategic defensive organization that consists of the following member nations: Belgium, Canada, Denmark, France, Germany, Greece, Iceland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Spain, Turkey, the United Kingdom, and the United States.

Net value. The actual selling price, less shipping charges or current market price, whichever is the larger, to the same type of purchaser in the United States.

"Network access controller." (Cat 4 and 5)—A physical interface to a distributed switching network. It uses a common medium that operates throughout at the same "digital transfer rate" using arbitration (e.g., token or carrier sense) for transmission. Independently from any other, it selects data packets or data groups (e.g., IEEE 802) addressed to it. It is an assembly that can be integrated into computer or telecommunications equipment to provide communications access.

"Neural computer." (Cat 4)—A computational device designed or modified to mimic the behavior of a neuron or a collection of neurons (i.e., a computational device that is distinguished by its hardware capability to modulate the weights and numbers of the interconnections of a multiplicity of computational components based on previous data).

"Noise level." (Cat 6)—An electrical signal given in terms of power spectral density. The relation between "noise level" expressed in peak-to-peak is given by $S^2pp=8N_o(f_2-f^1)$, where S_{pp} is the peak-to-peak value of the signal (e.g., nanoteslas), N_o is the power spectral density (e.g., (nanotesla)^2/Hz) and (f_2-f_1) defines the bandwidth of interest.

Nuclear Suppliers Group (NSG). The United States and other nations in this multilateral control regime have agreed to guidelines for restricting the export or reexport of items with nuclear applications. As of February 1, 1996, members include: Argentina, Australia, Austria, Belgium, Bulgaria, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Poland, Portugal, Republic of Korea, Romania, Russia, Slovak Republic, Spain, South Africa, Sweden, Switzerland, the United Kingdom, and the United States. See also § 742.3 of the EAR.

"Numerical control." (Cat 2)—The automatic control of a process performed by a device that makes use of numeric data usually introduced as the operation is in progress (Ref. ISO 2382).

"Object code." (or object language) (Cat 4)—An equipment executable form of a convenient expression of one or more processes ("source code" (or source language)) that has been converted by a programming system. (See also "source code")

Office of Foreign Assets Control (FAC) or (OFAC). The office at the Department of the Treasury responsible for blocking assets of foreign countries subject to economic sanctions, controlling participation by U.S. persons, including foreign subsidiaries, in transactions with specific countries or nationals of such countries, and administering embargoes on certain countries or areas of countries. (See 31 CFR parts 500 through 590.)

"Operate autonomously." (Cat 8)—Fully submerged, without snorkel, all systems working and cruising at minimum speed at which the submersible can safely control its depth dynamically by using its depth planes only, with no need for a support vessel or support base on the surface, sea-bed or shore, and containing a propulsion system for submerged or surface use.

Operating Committee (OC). The OC voting members include representatives of appropriate agencies in the Departments of Commerce, State, Defense, and Energy and the Arms Control and Disarmament Agency. The appropriate representatives of the Joint Chiefs of Staff and the Director of the Nonproliferation Center of the Central Intelligence Agency are non-voting members. The Department of Commerce representative, appointed by the Secretary, is the Chair of the OC and serves as the Executive Secretary of the Advisory Committee on Export Policy. The OC may invite representatives of other Government agencies or departments (other than those identified above) to participate in the activities of the OC when matters of interest to such agencies or departments are under consideration.

"Optical amplification." (Cat 5)—In optical communications, an amplification technique that introduces a gain of optical signals that have been generated by a separate optical source, without conversion to electrical signals, i.e., using semiconductor optical amplifiers, optical fiber luminescent amplifiers.

"Optical computer." (Cat 4)—A computer designed or modified to use light to represent data and whose computational logic elements are based on directly coupled optical devices.

"Optical fiber preforms." (Cat 5 and 6)—Bars, ingots, or rods of glass, plastic or other materials that have been specially processed for use in fabricating optical fibers. The characteristics of the preform determine the basic parameters of the resultant drawn optical fibers.

"Optical integrated circuit." (Cat 3)—A "monolithic integrated circuit" or a "hybrid integrated circuit", containing one or more parts designed to function as photosensor or photoemitter or to perform (an) optical or (an) electro-optical function(s).

"Optical switching." (Cat 5)—The routing of or switching of signals in optical form without conversion to electrical signals.

"Overall current density." (Cat 3)—The total number of ampere-turns in the coil (i.e., the sum of the number of turns multiplied by the maximum current carried by each turn) divided by the total cross-section of the coil (comprising the superconducting filaments, the metallic matrix in which the superconducting filaments are embedded, the encapsulating material, any cooling channels, etc.).

"PABX." (Cat 5)—(See "Private automatic branch exchange".)

"Part program." (Cat. 2)—An ordered set of instructions that is in a language and in a format required to cause operations to be effected under automatic control and that is either written in the form of a machine program on an input medium or prepared as input data for processing in a computer to obtain a machine program (Ref. ISO 2806–1980).

"Peak power." (Cat 6)—Energy per pulse in Joule divided by the pulse duration in seconds.

Person. A natural person, including a citizen or national of the United States or of any foreign country; any firm; any government, government agency, government department, or government commission; any labor union; any fraternal or social organization; and any other association or organization whether or not organized for profit. This definition does not apply to part 760 of the EAR (Restrictive Trade Practices or Boycotts).

"Personalized smart card." (Cat 5)—A smart card containing a microcircuit, in accordance with ISO/IEC 7816, that has been programmed by the issuer and cannot be changed by the user.

Port of export. The port where the cargo to be shipped abroad is laden aboard the exporting carrier. It includes, in the case of an export by mail, the place of mailing.

"Positioning accuracy." (Cat. 2)—The positioning accuracy of "numerically controlled" machine tools is to be determined and presented in accordance with ISO/DIS 230/2, paragraph 2.13, in conjunction with the following requirements:

(a) Test conditions:

(1) For 12 hours before and during measurements, the machine tool and accuracy measuring equipment will be kept at the same ambient temperature. During the pre-measurement time the slides of the machine will be continuously cycled in the same manner that the accuracy measurements will be taken;

(2) The machine shall be equipped with any mechanical, electronic, or software compensation to be exported with the machine;

(3) Accuracy of measuring equipment for the measurements shall be at least four times more accurate than the expected machine tool accuracy;

(4) Power supply for slide drives shall be as follows:

(i) Line voltage variation shall exceed ±10% of nominal rated voltage;

(ii) Frequency variation shall not exceed ±2 Hz of normal frequency;

(iii) Lineouts or interrupted service are not permitted.

(b) Test programs:

(1) Feed rate (velocity of slides) during measurement shall be the rapid traverse rate;

Note: In case of machine tools that generate optical quality surfaces, the feedrate shall be equal to or less than 50 mm per minute.

(2) Measurements shall be made in an incremental manner from one limit of the axis travel to the other without returning to the starting position for each move to the target position;

(3) Axes not being measured shall be retained at mid travel during the test of an axis.

(c) Presentation of test results: The results of the measurement must include:

(1) Position accuracy (A); and

(2) The mean reversal error (B).

"Power management." (Cat 7)—Changing the transmitted power of the altimeter signal so that received power at the "aircraft" altitude is always at the minimum necessary to determine the altitude.

"Principal element." (Cat 4)—An element is a "principal element" when its replacement value is more than 35% of the total value of the system of which it is an element. Element value is the price paid for the element by the manufacturer of the system, or by the system integrator. Total value is the normal international selling price to unrelated parties at the point of manufacture or consolidation of shipment.

"Private automatic branch exchange." (PABX) (Cat 5)—An automatic telephone exchange, typically incorporating a position for an attendant, designed to provide access to the public network and serving extensions in an institution such as a business, government, public service or similar organization.

"Production." (General Technology Note)—Means all production stages, such as: product engineering, manufacture, integration, assembly (mounting), inspection, testing, quality assurance.

Production facility. As defined by 10 CFR 110.2 of the Nuclear Regulatory Commission Regulations, production facility means any nuclear reactor or plant specially designed or used to produce special nuclear material through the irradiation of source material or special nuclear material, the separation of isotopes or the chemical reprocessing or irradiated source or special nuclear material.

"Program." (Cat 2, 4, and 5)—A sequence of instructions to carry out a process in, or convertible into, a form executable by an electronic computer.

"Proof test." (Cat 5)—On-line or off-line production screen testing that dynamically applies a prescribed tensile stress over a 0.5 to 3 m length of fiber at a running rate of 2 to 5 m/s while passing between capstans approximately 150 mm in diameter. The ambient temperature is a nominal 293 K (20° C) and relative humidity 40%.

Note: Equivalent national standards for executing the "proof test" may be used.

Publicly available information. Information that is generally accessible to the interested public in any form and, therefore, not subject to the EAR (See part 732 of the EAR).

Publicly available technology and software. Technology and software that are already published or will be published; arise during, or result from fundamental research; are educational; or are included in certain patent applications (see § 734.3(b)(3) of the EAR).

"Pulse compression." (Cat 6)—The coding and processing of a radar signal pulse of long time duration to one of short time duration, while maintaining the benefits of high pulse energy.

"Pulse duration." (Cat 6)—Duration of a "laser" pulse measured at Full Width Half Intensity (FWHI) levels.

Purchaser. The person abroad who has entered into a transaction with the applicant to purchase an item for delivery to the ultimate consignee. A bank, freight forwarder, forwarding agent, or other intermediary is not a purchaser.

"Q-switched laser." (Cat 6)—A "laser" in which the energy is stored in the population inversion or in the optical resonator and subsequently emitted in a pulse.

RWA. See Return Without Action.

"*Radar frequency agility.*" (Cat 6)—Any technique that changes, in a pseudo-random sequence, the carrier frequency of a pulsed radar transmitter between pulses or between groups of pulses by an amount equal to or larger than the pulse bandwidth.

"*Radar spread spectrum.*" (Cat 6)—Any modulation technique for spreading energy originating from a signal with a relatively narrow frequency band, over a much wider band of frequencies, by using random or pseudo-random coding.

"*Range.*" (Cat 8)—Half the maximum distance a submersible vehicle can cover.

Readable or readability. Readable and readability mean the quality of a group of letters or numerals being recognized as complete words or numbers.

"*Real-time bandwidth.*" (Cat 3)—For "dynamic signal analyzers", the widest frequency range that the analyzer can output to display or mass storage without causing any discontinuity in the analysis of the input data. For analyzers with more than one channel, the channel configuration yielding the widest "real-time bandwidth" shall be used to make the calculation.

"*Real-time Processing.*" (Cat 2 and 4)—The processing of data by a computer system providing a required level of service, as a function of available resources, within a guaranteed response time, regardless of the load of the system, when stimulated by an external event.

Reasons for Control. Reasons for Control are: Anti-Terrorism (AT), Chemical & Biological Weapons (CB), Crime Control (CC), High Performance Computer (XP), Missile Technology (MT), National Security (NS), Nuclear Nonproliferation (NP), Regional Stability (RS), Short Supply (SS), and United Nations sanctions (UN). Items controlled within a particular ECCN may be controlled for more than one reason.

Reexport. "Reexport" means an actual shipment or transmission of items subject to the EAR from one foreign country to another foreign country. For purposes of the EAR, the export or reexport of items subject to the EAR that will transit through a country or countries, or be transshipped in a country or countries to a new country, or are intended for reexport to the new country, are deemed to be exports to the new country. (See § 734.2(b)of the EAR.) In addition, for purposes of satellites controlled by the Department of Commerce, the term "reexport" also includes the transfer of registration of a satellite or operational control over a satellite from a party resident in one country to a party resident in another country.

Replacement license. An authorization by the Bureau of Export Administration revising the information, conditions, or riders stated on a license issued by BXA. See § 750.7 of the EAR.

"*Required.*"— As applied to "software", refers to only that portion of "software" that is peculiarly responsible for achieving or exceeding the control performance levels, characteristics or function. Such "required" "software" may be shared by different products. "Technology" "required" for the "development", "production", or "use" of a controlled product remains controlled even when applicable to a product controlled at a lower level (see the General Technology Note).

"*Resolution.*" (Cat 2)—The least increment of a measuring device; on digital instruments, the least significant bit (Ref.: ANSI B–89.1.12).

Return Without Action (RWA). An application may be RWA'd for one of the following reasons:

(a) The applicant has requested the application be returned;

(b) A License Exception applies;

(c) The items are not under Department of Commerce jurisdiction;

(d) Required documentation has not been submitted with the application; or

(e) The applicant cannot be reached after several attempts to request additional information necessary for processing of the application.

"*Robot.*" (Cat 2 and 8)—A manipulation mechanism, which may be of the continuous path or of the point-to-point variety, may use "sensors", and has all the following characteristics:

(a) Is multifunctional;

(b) Is capable of positioning or orienting material, parts, tools or special devices through variable movements in a three dimensional space;

(c) Incorporates three or more closed or open loop servo-devices that may include stepping motors; and

(d) Has "user-accessible programmability" by means of teach/playback method or by means of an electronic computer that may be a programmable logic controller, i.e., without mechanical intervention.

Note: This definition does not include the following devices:

(a) Manipulation mechanisms that are only manually/teleoperator controllable;

(b) Mixed sequence manipulation mechanisms that are automated moving devices, operating according to mechanically fixed programmed motions. The program is mechanically limited by fixed stops, such as pins or cams. The sequence of motions and the selection of paths or angles are not variable or changeable by mechanical, electronic or electrical means;

(c) Mechanically controlled variable sequence manipulation mechanisms that are automated moving devices, operating according to mechanically fixed programmed motions. The program is mechanically limited by fixed, but adjustable stops, such as pins or cams. The sequence of motions and the selection of paths or angles are variable within the fixed program pattern. Variations or modifications of the program pattern (e.g., changes of pins or exchanges of cams) in one or more motion axes are accomplished only through mechanical operations;

(d) Non-servo-controlled variable sequence manipulation mechanisms that are automated moving devices, operating according to mechanically fixed programmed motions. The program is variable, but the sequence proceeds only by the binary signal from mechanically fixed electrical binary devices or adjustable stops;

(e) Stacker cranes defined as Cartesian coordinate manipulator systems manufactured as an integral part of a vertical array of storage bins and designed to access the contents of those bins for storage or retrieval.

"*Rotary Atomization.*" (Cat 1)—A process to reduce a stream or pool of molten metal to droplets to a diameter of 500 micrometer or less by centrifugal force.

"*Run-out.*" (out-of-true running) (Cat 2)—Radial displacement in one revolution of the main spindle measured in a plane perpendicular to the spindle axis at a point on the external or internal revolving surface to be tested (Ref.: ISO 230 Part 1–1986, paragraph 5.61).

"*SDH.*"—See "synchronous digital hierarchy" Sensors (Cat. 6)—Detectors of a physical phenomenon, the output of which (after conversion into a signal that can be interpreted by a controller) is able to generate "programs" or modify programmed instructions or numerical program data. This includes "sensors" with machine vision, infrared imaging, acoustical imaging, tactile feel, inertial position measuring, optical or acoustic ranging or force or torque measuring capabilities.

SNEC. See Subgroup on Nuclear Export Coordination.

"*SONET.*"—See "synchronous optical network".

"*Scale factor.*" (gyro or accelerometer) (Cat 7)—The ratio of change in output to a change in the input intended to be measured. Scale factor is generally evaluated as the slope of the straight line that can be fitted by the method of least squares to input-output data obtained by varying the input cyclically over the input range.

Schedule B numbers. The commodity numbers appearing in the current edition of the Bureau of the Census publication, Schedule B Statistical Classification of Domestic and Foreign Commodities Exported from the United States. (See part 758 of the EAR for information on use of Schedule B numbers.)

"*Settling time.*" (Cat 3)—The time required for the output to come within one-half bit of the final value when switching between any two levels of the converter.

Shield. Chaired by the Department of State, the Shield primarily reviews applications involving items controlled for Chemical and Biological Weapons (CBW) reasons. The Shield also reviews applications involving items not controlled for CBW reasons, but destined for a country and/or end-use/end-user of concern. See § 750.4 of the EAR.

"*Signal analyzers.*" (Cat 3)—Apparatus capable of measuring and displaying basic properties of the single-frequency components of multi-frequency signals.

"*Signal analyzers.*" (dynamic) (Cat 3)—(See "Dynamic signal analyzers".)

"*Signal processing.*" (Cat 3, 4 and 5)—The processing of externally derived information-bearing signals by algorithms such as time compression, filtering, extraction, selection, correlation, convolution or transformations between domains (e.g., fast Fourier transform or Walsh transform).

"*Simple educational devices.*" (Cat 3)—Devices designed for use in teaching basic scientific principles and demonstrating the operation of those principles in educational institutions.

Single shipment. All items moving at the same time from one exporter to one consignee or intermediate consignee on the same exporting carrier, even if these items will be forwarded to one or more ultimate consignees. Items being transported in this manner shall be treated as a single shipment even if the items represent more than one order or are in separate containers.

"*Software.*" (Cat: all)—A collection of one or more "programs" or "microprograms" fixed in any tangible medium of expression.

"*Source code.*" (or source language) (Cat 4)—A convenient expression of one or more processes that may be turned by a programming system into equipment executable form ("object code" (or object language)).

"*Spacecraft.*" (Cat 7 and 9)—Active and passive satellites and space probes.

"*Space qualified.*" (Cat 3 and 6)—Products designed, manufactured and tested to meet the special electrical, mechanical or environmental requirements for use in the launch and deployment of satellites or high-altitude flight systems operating at altitudes of 100 km or higher.

Specially Designated National (SDN). Any person who is determined by the Secretary of the Treasury to be a specially designated national for any reason under regulations issued by the Office of Foreign Assets Control (see 31 CFR parts 500 through 590).

Specially Designated Terrorist (STN). Any person who is determined by the Secretary of the Treasury to be a specially designated terrorist under notices or regulations issued by the Office of Foreign Assets Control (see 31 CFR chapter V).

"*Specially designed.*" (MTCR context)—Equipment, parts, components or "software" that, as a result of "development", have unique properties that distinguish them for certain predetermined purposes. For example, a piece of equipment that is "specially designed" for use in a "missile" will only be considered so if it has no other function or use. Similarly, a piece of manufacturing equipment that is "specially designed" to produce a certain type of component will only be considered such if it is not capable of producing other types of components.

"*Specific modulus.*" (Cat 1)—Young's modulus in pascals, equivalent to N/m² divided by specific weight in N/m³, measured at a temperature of (296 ± 2) K ((23 ± 2)° C) and a relative humidity of (50 ± 5)%.

"*Specific tensile strength.*" (Cat 1)—Ultimate tensile strength in pascals, equivalent to N/m² divided by specific weight in N/m³, measured at a temperature of (296 ± 2) K ((23 ± 2)° C) and relative humidity of (50 ± 5)%.

"*Spectral efficiency.*" (Cat 5)—A figure of merit parametrized to characterize the efficiency of transmission system that uses complex modulation schemes such as QAM (quadrature amplitude modulation), Trellis coding, QSPK (Q-phased shift key), etc. It is defined as follows:

$$\text{Spectral efficiency} = \frac{\text{"Digital transfer rate"} \text{ (bits/second)}}{\text{6 dB spectrum bandwidth (Hz)}}.$$

"*Splat Quenching.*" (Cat 1)—A process to "solidify rapidly" a molten metal stream impinging upon a chilled block, forming a flake-like product.

Note: "Solidify rapidly": solidification of molten material at cooling rates exceeding 1,000 K/sec.

"*Spread spectrum.*" (Cat 5)—The technique whereby energy in a relatively narrow-band communication channel is spread over a much wider energy spectrum.

"*Spread spectrum radar.*" (Cat 6)—(see "Radar spread spectrum")

"*Sputtering.*" (Cat 4)—An overlay coating process wherein positively charged ions are accelerated by an electric field towards the surface of a target (coating material). The kinetic energy of the impacting ions is sufficient to cause target surface atoms to be released and deposited on the substrate.

Note: Triode, magnetron or radio frequency sputtering to increase adhesion of coating and rate of deposition are ordinary modifications of the process.

"*Stability.*" (Cat 7)—Standard deviation (1 sigma) of the variation of a particular parameter from its calibrated value measured under stable temperature conditions. This can be expressed as a function of time.

"*Stored program controlled.*" (Cat 2, 3, and 5)—A control using instructions stored in an electronic storage that a processor can execute in order to direct the performance of predetermined functions.

Note: Equipment may be "stored program controlled" whether the electronic storage is internal or external to the equipment.

Subgroup on Nuclear Export Coordination (SNEC). Chaired by the Department of State, the SNEC primarily reviews applications involving items controlled for nuclear nonproliferation (NP) reasons. The SNEC also reviews applications involving items not controlled for NP reasons, but destined for a country and/or end-use/end-user of NP concern.

Subject to the EAR. A term used in the EAR to describe those commodities, Software, technology, and activities over which the Bureau of Export Administration (BXA) exercises regulatory jurisdiction under the EAR (See § 734.2(a) of the EAR).

"*Substrate.*" (Cat 3)—A sheet of base material with or without an interconnection pattern and on which or within which "discrete components" or integrated circuits or both can be located.

Note: "Discrete component": a separately packaged "circuit element" with its own external connections.

"*Substrate blanks.*" (Cat 6)—Monolithic compounds with dimensions suitable for the production of optical elements such as mirrors or optical windows.

"*Superalloys.*" (Cat 2 and 9)—Nickel-, cobalt-, or iron-base alloys having strengths superior to any alloys in the AISI 300 series at temperatures over 922 K (694 degrees C) under severe environmental and operating conditions.

"*Superconductive.*" (Cat 1, 3, 6, and 8)—Materials, i.e., metals, alloys, or compounds that can lose all electrical resistance, i.e., that can attain infinite electrical conductivity and carry very large electrical currents without Joule heating.

Note: The "superconductive" state of a material is individually characterized by a "critical temperature", a critical magnetic field that is a function of temperature, and a critical current density that is a function of both magnetic field and temperature.

"*Super High Power Laser.*" (SHPL) (Cat 6)—A "laser" capable of delivering (the total or any portion of) the output energy exceeding 1 kJ within 50 ms or having an average or CW power exceeding 20 kW.

"*Superplastic forming.*" (Cat 1 and 2)—A deformation process using heat for metals that are normally characterized by low of elongation (less than 20%) at the breaking point as determined at room temperature by conventional tensile strength testing, in order to achieve elongations during processing that are at least 2 times those values.

"*Swept frequency network analyzers.*" (Cat 3)—Involve the automatic measurement of equivalent circuit parameters over a range of frequencies, involving swept frequency measurement techniques, but not continuous wave point-to-point measurements.

"*Switch fabric.*" (Cat 5)—That hardware and associated "software" that provides the physical or virtual connection path for in-transit message traffic being switched.

"*Synchronous digital hierarchy.*" (SDH) (Cat 5)—A digital hierarchy providing a means to manage, multiplex, and access various forms of digital traffic using a synchronous transmission format on different types of media. The format is based on the Synchronous Transport Module (STM) that is defined by CCITT Recommendation G.703, G.707, G.708, G.709 and others yet to be published. The first level rate of "SDH" is 155.52 Mbits/s.

"*Synchronous optical network.*" (SONET) (Cat 5)—A network providing a means to manage, multiplex and access various forms of digital traffic using a synchronous transmission format on fiber optics. The format is the North America version of "SDH" and also uses the Synchronous Transport Module (STM). However, it uses the Synchronous Transport Signal (STS) as the basic transport module with a first level rate of 51.81 Mbits/s. The SONET standards are being integrated into those of "SDH".

"*Systems tracks.*" (Cat 6)—Processed, correlated (fusion of radar target data to flight plan position) and updated aircraft flight position report available to the Air Traffic Control center controllers.

"*Systolic array computer.*" (Cat 4)—A computer where the flow and modification of the data is dynamically controllable at the logic gate level by the user.

"*Technology.*" (General Technology Note)—Specific information necessary for the "development", "production", or "use" of a product. The information takes the form of "technical data" or "technical assistance". Controlled "technology" is defined in the General Technology Note and in the Commerce Control List (Supplement No. 1 to part 774 of the EAR).

N.B.: Technical assistance—May take forms such as instruction, skills training, working knowledge, consulting services.

Note: "Technical assistance" may involve transfer of "technical data".

"*Technical data.*"—May take forms such as blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, manuals and instructions written or recorded on other media or devices such as disk, tape, read-only memories.

"*Telecommunication transmission equipment.*" (Cat 5)—

(a) Categorized as follows, or combinations thereof:

(1) Radio equipment (e.g., transmitters, receivers and transceivers);

(2) Line terminating equipment;

(3) Intermediate amplifier equipment;

(4) Repeater equipment;

(5) Regenerator equipment;

(6) Translation encoders (transcoders);

(7) Multiplex equipment (statistical multiplex included);

(8) Modulators/demodulators (modems);

(9) Transmultiplex equipment (see CCITT Rec. G701);

(10) "Stored program controlled" digital crossconnection equipment;

(11) "Gateways" and bridges;

(12) "Media" access units; and

(b) Designed for use in single or multi-channel communication via:

(1) Wire (line);

(2) Coaxial cable;

(3) Optical fiber cable;

(4) Electromagnetic radiation.

"*Terminal interface equipment.*" (Cat 4)—Equipment at which information enters or leaves the telecommunication systems, e.g., telephone, data device, computer, facsimile device.

"*Three dimensional Vector Rate.*" (Cat 4)—The number of vectors generated per second that have 10 pixel poly line vectors, clip tested, randomly oriented, with either integer or floating point X-Y-Z coordinate values (whichever produces the maximum rate).

"*Tilting spindle.*" (Cat 2)—A tool-handling spindle that alters, during the machining process, the angular position of its center line with respect to any other axis.

"*Time constant.*" (Cat 6)—The time taken from the application of a light stimulus for the current increment to reach a value of 1–1/e times the final value (i.e., 63% of the final value).

"*Total digital transfer rate.*" (Cat 5)—The number of bits, including line coding, overhead and so forth per unit time passing between corresponding equipment in a digital transmission system. (See also "digital transfer rate".)

Transfer. A transfer to any person of items subject to the EAR either within the United States or outside of the United States with the knowledge or intent that the items will be shipped, transferred, or transmitted to an unauthorized recipient.

"*Transfer laser.*" (Cat 6)—A "laser" in which the lasting species is excited through the transfer of energy by collision of a non-lasing atom or molecule with a lasing atom or molecule species.

"*Tunable.*" (Cat 6)—The ability of a "laser" to produce a continuous output at all wavelengths over a range of several "laser" transitions. A line selectable "laser" produces discrete wavelengths within one "laser" transition and is not considered "tunable".

"*Two dimensional Vector Rate.*" (Cat 4)—The number vectors generated per second that have 10 pixel poly line vectors, clip tested, randomly oriented, with either integer or floating point X-Y coordinate values (whichever produces the maximum rate).

U.S. exporter. That person who, as the principal party in interest in the export transaction, has the power and responsibility for determining and controlling the sending of the items out of the United States. (See also "applicant".)

U.S. person. (a) For purposes of § 744.6 of the EAR, the term U.S. person includes:

(1) Any individual who is a citizen of the United States, a permanent resident alien of the United States, or a protected individual as defined by 8 U.S.C. 1324b(a)(3);

(2) Any juridical person organized under the laws of the United States or any jurisdiction within the United States, including foreign branches; and

(3) Any person in the United States.

(b) See also parts 746 and 760 of the EAR for definitions of "U.S. person" that are specific to those parts.

Ultimate consignee. The person located abroad who is the true party in interest in actually receiving the export or reexport for the designated end-use. (See § 748.4(b)(5) of the EAR.)

United States. Unless otherwise stated, the 50 States, including offshore areas within their jurisdiction pursuant to section 3 of the Submerged Lands Act (43 U.S.C. 1311), the District of Columbia, Puerto Rico, and all territories, dependencies, and possessions of the United States, including foreign trade zones established pursuant to 19 U.S.C. 81A–81U, and also including the outer continental shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)).

United States airline. Any citizen of the United States who is authorized by the U.S. Government to engage in business as an airline. For purposes of this definition, a U.S. citizen is:

(a) An individual who is a citizen of the United States or one of its possessions; or

(b) A partnership of which each member is such an individual; or

(c) A corporation or association created or organized under the laws of the United States, or of any State, Territory, or possession of the United States, of which the president and two-thirds of the board of directors and other managing officers thereof are such individuals and in which at least 75 percent of the voting interest is owned or controlled by persons who are citizens of the United States or of one of its possessions.

"*Usable in or Capable of.*" (MTCR context)—Equipment, parts, components or "software" that are suitable for a particular purpose. There is no need for the equipment, parts, components or "software" to have been configured, modified or specified for the particular purpose. For example, any military specification memory circuit would be "capable of" operation in a guidance system.

"*Use.*" (General Technology Note)—Operation, installation (including on-site installation), maintenance (checking), repair, overhaul and refurbishing.

"*User-accessible programmability.*" (Cat 4, 5, and 6)—The facility allowing a user to insert, modify, or replace "programs" by means other than:

(a) A physical change in wiring or interconnections; or

(b) The setting of function controls including entry of parameters.

Utilization facility. (a) As defined by 10 CFR 110.2 of the Nuclear Regulatory Commission Regulations, utilization facility means a nuclear reactor, other than one that is a production facility, any of the following major components of a nuclear reactor: Pressure vessels designed to contain the core of a nuclear reactor, other than one that is a production facility, and the following major components of a nuclear reactor:

(1) Primary coolant pumps;

(2) Fuel charging or discharging machines; and

(3) Control rods.

(b) Utilization facility does not include the steam turbine generator portion of a nuclear power plant.

"*Vacuum Atomization.*" (Cat 1)—A process to reduce a molten stream of metal to droplets of a diameter of 500 micrometer or less by the rapid evolution of a dissolved gas upon exposure to a vacuum.

"*Variable geometry airfoils.*" (Cat 7)—Use trailing edge flaps or tabs, or leading edge slats or pivoted nose droop, the position of which can be controlled in flight.

"*Vector Rate.*" (Cat 4)—See: "Two dimensional Vector Rate"; "Three dimensional Vector Rate".

You. Any person, including a natural person, including a citizen of the United States or any foreign country; any firm; any government, government agency, government department, or government commission; any labor union; any fraternal or social organization; and any other association or organization whether or not organized for profit.

PART 774—THE COMMERCE CONTROL LIST

Sec.
774.1 Introduction.
774.2 [Reserved.]
Supplement No. 1 to Part 774—The Commerce Control List
Supplement No. 2 to Part 774—General Technology and Software Notes
Supplement No. 3 to Part 774—Cross-Reference List

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 *et seq.*; *22 U.S.C. 287c; 22 U.S.C. 3201 et seq.*; 22 U.S.C. 6004; Sec. 201, Pub. L. 104–58, 109 Stat. 557 (30 U.S.C. 185(s)); 30 U.S.C. 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; E.O. 12924, 3 CFR, 1994 Comp., p. 917; Notice of August 15, 1995, (60 FR 42767 August 17, 1995).

§ 774.1 Introduction.

In this part, references to the EAR are references to 15 CFR chapter VII, subchapter C. The Bureau of Export Administration (BXA) maintains the Commerce Control List (CCL) that includes items (commodities, software, and technology) subject to the authority of BXA. The CCL does not include those items exclusively controlled for export by another department or agency of the U.S. Government. In instances where other agencies administer controls over related items, entries in the CCL will contain a reference to these controls. Those items subject to the EAR but not specified on the CCL are identified by the designator "EAR99". See § 734.2(a) of the EAR for items that are "subject to the EAR". You should consult part 738 of the EAR for an explanation of the organization of the CCL and its relationship to the Country Chart.

The CCL is contained in Supplement No. 1 to this part, and Supplement No. 2 to this part contains the General Technology and Software Notes relevant to entries contained in the CCL.

Supplement No. 1 to Part 774—The Commerce Control List

Category 0—Nuclear Materials, Facilities & Equipment and Miscellaneous

A. Equipment, Assemblies and Components

0A018 Items on the International Munitions List.

License Requirements

Reason for Control: NS, RS, AT, UN

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 1.
RS applies to 0A918.c	RS Column 2.
AT applies to entire entry ..	AT Column 1.
UN applies to entire entry .	Rwanda.

License Exceptions

LVS: $5000 for 0A918.a and b; $3000 for 0A918.c; $1500 for 0A918.d through .f; and $0 for entire entry for Rwanda

GBS: N/A

CIV: N/A

List of Items Controlled

Unit: 0A918.a, .b, and .c in $ value; 0A18.d, .e, and .f in number

Related Controls: N/A

Related Definitions: N/A
Items:

a. Power controlled searchlights and control units therefor, designed for military use, and equipment mounting such units; and specially designed parts and accessories therefor;

b. Construction equipment built to military specifications, specially designed for airborne transport; and specially designed parts and accessories therefor;

c. Specially designed components and parts for ammunition, except cartridge cases, powder bags, bullets, jackets, cores, shells, projectiles, boosters, fuses and components, primers, and other detonating devices and ammunition belting and linking machines (all of which are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR parts 120 through 130.)

d. Bayonets;

e. Muzzle-loading (black powder) firearms;

Note: Antique small arms dating prior to 1890 and their reproductions are not controlled by this ECCN 0A918.

f. Military helmets, except:

f.1. Conventional steel helmets other than those described by 0A918f.2 below.

f.2. Helmets, made of any material, equipped with communications hardware, optional sights, siewing devices or mechanisms to protect against thermal flash or lasers.

Note: Helmets described in 0A918.f.1 are controlled by 0A988. Helmets described in 0A918.f.2 are controlled by the U.S. Department of State, Office of Defense Trade Controls (See 22 CFR part 121, Category X).

0A980 Horses by sea.

License Requirements

Reason for Control: SS

Control(s)	Country Chart
SS applies to entire entry. For licensing requirements (and possible License Exceptions), proceed directly to part 754 of the EAR. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for SS reasons.	

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

0A982 Saps; thumbcuffs, leg irons, shackles, and handcuffs; straight jackets, plastic handcuffs, police helmets and shields; and parts and accessories, n.e.s.

License Requirements

Reason for Control: CC

Control(s)	Country Chart
CC applies to entire entry	CC Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

0A983 Specially designed implements of torture and thumbscrews; and parts and accessories, n.e.s.

License Requirements

Reason for Control: CC

Control(s)	Country Chart
CC applies to entire entry. A license is required for ALL destinations, regardless of end-use. Accordingly, a column specific to this control does not appear on the Commerce Country Chart. (See part 742 of the EAR for additional information.).	

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items:

The list of items controlled is contained in the ECCN heading.

0A984 Shotguns, barrel length 18 inches (45.72 cm) inches or over; buckshot shotgun shells; except equipment used exclusively to treat or tranquilize animals, and except arms designed solely for signal, flare, or saluting use; and parts, n.e.s.

License Requirements

Reason for Control: CC, UN

Control(s)	Country Chart
CC applies to shotguns with a barrel length over 18 in. (45.72 cm) but less than 24 in. (60.96 cm) or buckshot shotgun shells controlled by this entry, regardless of end-user.	CC Column 1.
CC applies to shotguns with a barrel length over 24 in. (60.96 cm), regardless of end-user.	CC Column 2.
CC applies to shotguns with a barrel length over 24 in. (60.96 cm) if for sale or resale to police or law enforcement.	CC Column 3.
UN applies to entire entry	Rwanda.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: This entry does not control shotguns with a barrel length of less than 18 inches (45.72 cm). See 22 CFR part 121, Category I. These items are subject to the export licensing authority of the Department of State, Office of Defense Trade Controls.
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

0A985 Optical sighting devices for shotguns controlled by 0A984; discharge type arms (for example, stun guns, shock batons, electric cattle prods, immobilization guns and projectiles, etc.) except equipment used exclusively to treat or tranquilize animals, and except arms designed solely for signal, flare, or saluting use; and parts, n.e.s.

License Requirements

Reason for Control: CC, UN

Control(s)	Country Chart
CC applies to entire entry	CC Column 1.
UN applies to entire entry	Rwanda.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled:

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

0A986 Shotgun shells, except buckshot shotgun shells, and parts.

License Requirements

Reason for Control: UN

UN applies to entire entry. A license is required for items controlled by this entry to Cuba, Libya, North Korea and Rwanda. The Commerce Country Chart is not designed to determine licensing requirements for this entry. See part 746 of the EAR for additional information.

Note: Exports from the U.S. and transhipments to Iran must be licensed by the Department of Treasury, Office of Foreign Assets Control. (See § 746.7 of the EAR for additional information on this requirement.)

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

0A988 Conventional military steel helmets as described by 0A018.f.1; and machetes.

License Requirements

Reason for Control: UN

UN applies to entire entry. A license is required for items controlled by this entry to Cuba, Libya, North Korea and Rwanda. The Commerce Country Chart is not designed to determine licensing requirements for this entry. See part 746 of the EAR for additional information.

Note: Exports from the U.S. and transhipments to Iran must be licensed by the Department of Treasury, Office of Foreign Assets Control. (See to § 746.7 of the EAR for additional information on this requirement.)

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

B. Test, Inspection and Production Equipment

0B001 Valves, specially designed or prepared for gaseous diffusion separation process, that are wholly made of or lined with aluminum, aluminum alloys, nickel, or alloy containing 60 percent by weight or more nickel, 40 mm (1.6 in.) or more in diameter, with bellows seals, and specially designed parts and components therefor.

License Requirements

Reason for Control: NP, AT

Control(s)	Country chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: 1.) This CCL entry controls only a subset of the items contained on the corresponding EU List number (e.g., 0B001.b). The items not included in this CCL entry are subject to the export licensing authority of the Nuclear Regulatory Commission (see 10 CFR part 110.) 2.) Specially designed or prepared valves for gaseous diffusion separation process are also subject to the export licensing authority of the Nuclear Regulatory Commission. (See 10 CFR part 110.)
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

0B003 Plants for the production of uranium hexaflouride (UF_6) and specially designed or prepared equipment (including UF_6 purification equipment), and specially designed parts and accessories therefor.

License Requirements

Reason for Control: NP, AT

Control(s)	Country chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: This entry does not control nuclear plants (i.e., fuel fabrication facilities, enrichment facilities, reprocessing facilities, and heavy water production facilities). Nuclear plants are subject to the export licensing authority of the Nuclear Regulatory Commission. (See 10 CFR part 110.)
Related Definitions: N/A
Items:

a. Plants for the production of UF_6;

b. Equipment and components, as follows, specially designed or prepared for UF_6 production:

b.1. Fluorination and hydrofluorination screw and fluid bed reactors and flame towers;

b.2. Distillation equipment for the purification of UF_6.

0B008 Reactor and power plant simulators and analytical models for reactor and power plant simulators, models or mock-ups.

License Requirements

Reason for Control: NP, AT

Control(s)	Country chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: Nuclear equipment is also subject to the export licensing authority of the Nuclear Regulatory Commission. (See 10 CFR part 110.)
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

C. Materials

0C006 Nickel powder and porous nickel metal.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilogram
Related Controls: Nickel powders which are specially prepared for the manufacture of gaseous diffusion barriers are subject to the export licensing authority of the Nuclear Regulatory Commission. (See 10 CFR part 110.)
Related Definitions: N/A
Items:

a. Powder with a nickel purity content of 99.0% or greater and a mean particle size of less than 10 micrometers measured by the American Society for Testing and Materials (ASTM) B 330 standard, except filamentary nickel powders;

b. Porous nickel metal produced from materials controlled by 0C006.a except single porous nickel metal sheets not exceeding 1000 cm^2 per sheet.

Note: 0C006.b controls porous metal formed by compacting and sintering the material controlled by 0C006.a to form a metal material with fine pores interconnected throughout the structure.

D. Software

0D001 "Software" specially designed or modified for the "development", "production" or "use" of items controlled by 0B001, 0B003, 0B008 or 0C006.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

E. Technology

0E001 "Technology" according to the General Technology Note for the "development", "production" or "use" of items controlled by 0B001, 0B003, 0B008 or 0C006.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

0E018 "Technology" for the "development", "production", or "use" of items controlled by 0A018.b through 0A018.e.

License Requirements

Reason for Control: NS, AT, UN

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 1.
AT applies to entire entry ..	AT Column 1.
UN applies to entire entry .	Rwanda.

License Exceptions

CIV: N/A
TSR: Yes

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

0E984 "Technology" for the "development" or "production" of shotguns controlled by 0A984 and buckshot shotgun shells.

License Requirements

Reason for Control: CC, UN

Control(s)	Country Chart
CC applies to "technology" for shotguns with a barrel length over 18 in. (45.72 cm) but less than 24 in. (60.96 cm) and shotgun shells, regardless of end-user.	CC Column 1.
CC applies to "technology" for shotguns with a barrel length over 24 in. (60.96 cm), regardless of end-user.	CC Column 2.
CC applies to "technology" for shotguns with a barrel length over 24 in. (60.96 cm) if for sale or resale to police or law enforcement.	CC Column 3.
UN applies to entire entry .	Rwanda.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

EAR99 Items subject to the EAR that are not elsewhere specified in this CCL Category or in any other category in the CCL are designated by the number EAR99.

Category 1—Materials, Chemicals, "Microorganisms," and Toxins

A. Equipment, Assemblies and Components

1A001 Components made from fluorinated compounds.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: N/A
Items:

a. Seals, gaskets, sealants or fuel bladders specially designed for aircraft or aerospace use made from more than 50% of any of the materials controlled by 1C009.b or .c;

b. Piezoelectric polymers and copolymers made from vinylidene fluoride:

b.1. In sheet or film form; and

b.2. With a thickness exceeding 200 micrometer;

c. Seals, gaskets, valve seats, bladders or diaphragms made from fluoroelastomers containing at least one vinylether monomer, specially designed for aircraft, aerospace or missile use.

1A002 "Composite" structures or laminates.

License Requirements

Reason for Control: NS, MT, NP, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
MT applies to "composite" structures that are specially designed for missile applications (including specially designed subsystems and components).	MT Column 1.
NP applies to 1A002.b	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $1500
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definition: This entry does not control "composite" structures or laminates made from epoxy resin impregnated carbon "fibrous or filamentary materials" for the repair of aircraft structures of laminates, provided that the size does not exceed one square meter (1 m^2).
Items:

a. Having an organic "matrix" and made from materials controlled by 1C010.c, .d or .e; or

b. Having a metal or carbon "matrix" and made from:

b.1. Carbon "fibrous and filamentary materials" with:

b.1.a. A "specific modulus" exceeding 10.15×10^6 m; and

b.1.b. A "specific tensile strength" exceeding 17.7×10^4 m; or

b.2. Materials controlled by 1C010.c.

Technical Notes

1. Specific modulus: Young's modulus in pascals, equivalent to N/m^2 divided by specific weight in N/m^3, measured at a temperature of (296 ± 2) K ((23 ± 2)° C) and a relative humidity of (50 ± 5)%.

2. Specific tensile strength: ultimate tensile strength in pascals, equivalent to N/m^2 divided by specific weight in N/m^3, measured at a temperature of (296 ± 2) K ((23 ± 2)° C) and a relative humidity of (50 # 5)%.

1A003 Manufactures of non-fluorinated polymeric substances controlled by 1C008.a, in film, sheet, tape or ribbon form.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $200
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: N/A

Items:

a. With a thickness exceeding 0.254 mm; or

b. Coated or laminated with carbon, graphite, metals or magnetic substances.

1A102 Resaturated pyrolized carbon-carbon materials designed for systems controlled by 9A004.

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $1500
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: 1.) See 9A110 for controls on "composite" structures or laminates usable in missile systems. 2.) The corresponding EU number contains a reference to 9A104. Items controlled by the EU under 9A104 are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls (see 22 CFR part 121).
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1A202 "Composite" structures, other than those controlled by 1A002, in the form of tubes with an inside diameter of between 75 mm and 400 mm made with "fibrous or filamentary materials" controlled by 1C010.a or .b or 1C210.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1A225 Platinized catalysts specially designed or prepared for promoting the hydrogen isotope exchange reaction between hydrogen and water for the recovery of tritium from heavy water or for the production of heavy water.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1A226 Specialized packings for use in separating heavy water from ordinary water and made of phosphor bronze mesh (chemically treated to improve wettability) and designed for use in vacuum distillation towers.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: Nuclear equipment is also subject to the export licensing authority of the Nuclear Regulatory Commission. (See 10 CFR part 110.)
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1A227 High density (lead glass or other) radiation shielding windows greater than 0.09 m^2 on cold area and with a density greater than 3 g/cm^3 and a thickness of 100 mm or greater; and specially designed frames therefor.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1A290 Depleted uranium (any uranium containing less than 0.711% of the isotope U–235) in shipments of more than 1,000 kilograms in the form of shielding contained in X-ray units, radiographic exposure or teletherapy devices, radioactive thermoelectric generators, or packaging for the transportation of radioactive materials.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: 1.) This entry does not control depleted uranium in fabricated forms for use in munitions. See 22 CFR part 121 for depleted uranium subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. 2.) All forms of depleted uranium not specifically described in this entry, or in the above note, are subject to the export licensing authority of the Nuclear Regulatory Commission. (See 10 CFR part 110.)
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1A984 Chemical agents, including tear gas formulation containing 1 percent or less of orthochlorobenzalmalononitrile (CS), or 1 percent or less of chloroacetophenone (CN), except in individual containers with a net weight of 20 grams or less; smoke bombs; non-irritant smoke flares, canisters, grenades and charges; other pyrotechnic articles having dual military and commercial use; and fingerprinting powders, dyes and inks.

License Requirements

Reason for Control: CC

Control(s)	Country Chart
CC applies to entire entry .	CC Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1A988 Bulletproof and bullet resistant vests.

License Requirements

Reason for Control: UN

Control(s)	Country chart
UN applies to entire entry. A license is required for items controlled by this entry to Cuba, Libya, North Korea and Rwanda. The Commerce Country Chart is not designed to determine licensing requirements for this entry. See part 746 of the EAR for additional information.	

Note: Exports from the U.S. and transhipments to Iran must be licensed by the Department of the Treasury, Office of Foreign Assets Control. (See § 746.7 of the EAR for additional information on this requirement.)

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: Bulletproof and bullet resistant vests (body armor) are also subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR 121.1, Category X.)
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

B. Test, Inspection and Production Equipment

1B001 Equipment for the "production" of fibers, prepregs, preforms or "composites" controlled by 1A002 or 1C010, and specially designed components and accessories therefor.

License Requirements

Reason for Control: NS, MT, NP, AT

Control(s)	Country chart
NS applies to entire entry ..	NS Column 2.
MT applies to entire entry EXCEPT 1B001.d.4 and .f.	MT Column 1.
NP applies to filament winding machines described in 1B001.a that are capable of winding cylindrical rotors having a diameter between 75 mm (3 in) and 400 mm (16 in) and lengths of 600 mm (24 in) or greater; AND coordinating and programming controls and precision mandrels for these filament winding machines.	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A for 1B001.a; $5000 for all other items
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items:

a. Filament winding machines of which the motions for positioning, wrapping and winding fibers are coordinated and programmed in three or more axes, specially designed for the manufacture of "composite" structures or laminates from "fibrous and filamentary materials";

b. Tape-laying or tow-placement machines of which the motions for positioning and laying tape, tows or sheets can be coordinated and programmed in two or more axes, specially designed for the manufacture of "composite" airframe or "missile" structures;

c. Multi-directional, multidimensional weaving machines or interlacing machines, including adapters and modification kits, for weaving, interlacing or braiding fibers to manufacture "composite" structures, except textile machinery not modified for the above end-uses;

d. Equipment specially designed or adapted for the "production" of "fibrous or filamentary materials"; as follows:

d.1. Equipment for converting polymeric fibers (such as polyacrylonitrile, rayon, pitch or polycarbosilane) into carbon fibers or silicon carbide fibers, including special equipment to strain the fiber during heating;

d.2. Equipment for the chemical vapor deposition of elements or compounds on heated filamentary substrates to manufacture silicon carbide fibers;

d.3. Equipment for the wet-spinning of refractory ceramics (such as aluminum oxide);

d.4. Equipment for converting aluminum containing precursor fibers into alumina fibers by heat treatment;

e. Equipment for producing prepregs controlled by 1C010.e by the hot melt method;

f. Non-destructive inspection equipment capable of inspecting defects three dimensionally, using ultrasonic or X-ray tomography and specially designed for "composite" materials;

1B002 Systems and components therefor specially designed for producing metal alloys, metal alloy powder or alloyed materials controlled by 1C002.a.2, 1C002.b, or 1C002.c.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; components in $ value
Related Controls: N/A
Related Definitions: N/A
Items:

a. Airframe or aerospace structures;
b. Aircraft or aerospace engines; or
c. Specially designed components for those structures or engines.

1B018 Equipment on the International Munitions List.

License Requirements

Reason for Control: NS, MT, RS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 1.
MT applies to equipment for the "production" of rocket propellants.	MT Column 1.
RS applies to 1B018.a	RS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $3000 for 1B018.a for countries WITHOUT an "X" in RS Column 2 on the Country Chart contained in Supplement No. 1 to part 738 of the EAR; $5000 for 1B018.b
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: N/A
Related Definitions: N/A
Items:

a. Equipment for the "production" of military explosives and solid propellants.

a.1. Complete installations;

a.2. Specialized components (for example, dehydration presses; extrusion presses for the extrusion of small arms, cannon and rocket propellants; cutting machines for the sizing of extruded propellants; sweetie barrels (tumblers) 6 feet and over in diameter and having over 500 pounds product capacity; and continuous mixers for solid propellants); or

a.3. Nitrators, continuous types; and

a.4. Specially designed parts and accessories therefor.

b. Environmental chambers capable of pressures below (10^{-4}) Torr, and specially designed components therefor.

1B101 Equipment, other than that controlled by 1B001, for the production of structural composites and specially designed components and accessories thereof.

License Requirements

Reason for Control: MT, NP, AT

Control(s)	Country Chart
MT applies to entire entry .	MT Column 1.
NP applies to 1B101.a only	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: Components and accessories controlled by this entry include moulds, mandrels, dies, fixtures and tooling for the preform processing, curing, casting, sintering or bonding of composite structures, laminates and manufactures thereof.
Items:

a. Filament winding machines, of which the motions for positioning, wrapping and winding fibers can be coordinated and programmed in three or more axes, designed for the manufacture of "composite" structures or laminates from "fibrous or filamentary materials".

b. Tape-laying machines, of which the motions for positioning and laying tape or sheets can be coordinated and programmed in two or more axes, designed for the manufacture of "composite" airframe or "missile" structures.

c. Equipment designed or modified for the "production" of "fibrous or filamentary materials", as follows:

c.1. Equipment for converting polymeric fibers (such as polyacrylonitrile, rayon, or polycarbosilane) including special equipment to strain the fiber during heating;

c.2. Equipment for the chemical vapor deposition of elements or compounds on heated filament substrates; and

c.3. Equipment for the wet-spinning of refractory ceramics (such as aluminum oxide).

d. Equipment designed or modified for special fiber surface treatment or for producing prepregs and preforms, not controlled by 9A110.

Note: Equipment covered by 1B101.d includes but is not limited to rollers, tension stretchers, coating equipment, cutting equipment, and clicker dies.

1B115 Equipment for the "production", handling and acceptance testing of propellants or propellant constituents specified in 1C115.

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; components in $ value
Related Controls: 1.) For other equipment for "production", handling, mixing, curing, casting, pressing, machining, extruding or acceptance testing of solid propellants or propellant constituents, including but not limited to: equipment for the "production" of atomized or spherical metallic powder in a controlled environment; and fluid energy mills for grinding or milling ammonium perchlorate, RDX, or HMX; 2.) Equipment for "production", handling, or acceptance testing of liquid propellants or propellant constituents; and 3.) Specially designed components for the items described in 1B115.a is subject to the export licensing authority of the Department of State, Office of Defense Trade Controls. (See 22 CFR part 121.)
Related Definitions: N/A
Items:

a. Batch mixers and continuous mixers, as follows, capable of mixing solid propellants or propellant constituents under vacuum in the range from 0 kPa to 13.326 kPa, and with temperature control capability of the mixing chamber:

a.1. Batch mixers having:

a.1.a. A total volumetric capacity of 110 liters (30 gallons) or more; and

a.1.b. At least one mixing/kneading shaft mounted off center;

a.2. Continuous mixers having:

a.2.a. Two or more mixing/kneading shafts; and

a.2.b. Capability to open the mixing chamber.

1B116 Specially designed nozzles for producing pyrolitically derived materials formed on a mold, mandrel or other substrate from precursor gases that decompose in the 1573 K (1300° C) to 3,173 K (2900° C) temperature range at pressures of 130 Pa to 20 kPa.

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $1500
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1B201 Filament winding machines, other than those specified in 1B001 or 1B101, in which the motions for positioning, wrapping, and winding fibers are coordinated and programmed in two or more axes, specially designed to fabricate "composite" structures or laminates from "fibrous and filamentary materials" and capable of winding cylindrical rotors of diameters between 75 mm (3 in.) and 400 mm (16 in.) and lengths of 600 mm (24 in.) or greater; coordinating and programming controls therefor; and precision mandrels therefor.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1B225 Electrolytic cells for fluorine production with a production capacity greater than 250 g of fluorine per hour.

License Requirements

Reason for Control: NS, NP, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 1.
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1B226 Electromagnetic isotope separators designed for, or equipped with, single or multiple ion sources capable of providing a total ion beam current of 50 mA or greater.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: Isotope separators specially designed or prepared for separating uranium isotopes are subject to the export licensing authority of the Nuclear Regulatory Commission. (See 10 CFR part 110.)
Related Definitions: This entry controls: (a) separators capable of enriching stable isotopes; and, (b) seperators with the ion sources and collectors both in the magnetic field and those configurations in which they are external to the field.
Items: The list of items controlled is contained in the ECCN heading.

1B227 Ammonia synthesis converters or ammonia synthesis units in which the synthesis gas (nitrogen and hydrogen) is withdrawn from an ammonia/hydrogen high-pressure exchange column and the synthesized ammonia is returned to that column.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definition: N/A
Items: The list of items controlled is contained in the ECCN heading.

1B228 Hydrogen-cryogenic distillation columns having all of the following characteristics.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: (1.) This entry does not control columns specially designed or prepared for the production of heavy water controlled on the NSG Trigger List (INFCIRC/254/part 2). See 10 CFR part 110 for heavy water production equipment subject to the export licensing authority of the Nuclear Regulatory Commission.
Related Definition: (1.) 1B229 includes internal contactors of the columns are segmented trays with an effective assembled diameter of 1.8 m (6 ft.) or greater, are designed to facilitate countercurrent contacting and constructed of materials resistant to corrosion by hydrogen sulfide/water mixtures. These may be sieve trays, valve trays, bubble cap trays or turbogrid trays. (2.) Fine carbon steel in this entry is defined to be steel with the austenitic ASTM (or equivalent standard) grain size number of 5 or greater. (3.) Materials resistant to corrosion by hydrogen sulfide/water mixtures in this entry are defined to be stainless steels with a carbon content of 0.03% or less.
Items: The list of items controlled is contained in the ECCN heading.

1B230 Pumps circulating solutions of diluted or concentrated potassium amide catalyst in liquid ammonia (KNH_2/NH_3) having all of the following characteristics.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: Heavy water production equipment is also subject to the export licensing authority of the Nuclear Regulatory Commission. (See 10 CFR part 110.)
Related Definitions: N/A
Items:

a. Airtight (i.e., hermetically sealed);
b. For concentrated potassium amide solutions (1% or greater), operating pressure of 1.5 to 60 MPa (15 to 600 atmospheres [atm]); or for dilute potassium amide solution (less than 1%), operating pressure of 20 to 60 MPa (200 to 600 atm); and
c. A capacity greater than 8.5 m^3/h (5 cubic feet per minute).

1B231 Tritium facilities, plants and equipment.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: This entry does not control tritium, tritium compounds, and mixtures containing tritium, or products or devices thereof. See 10 CFR part 110 for tritium subject to the export licensing authority of the Nuclear Regulatory Commission.
Related Definitions: N/A
Items:

a. Facilities or plants for the production, recovery, extraction, concentration, or handling of tritium;
b. Equipment for tritium facilities or plants, as follows:
b.1. Hydrogen or helium refrigeration units capable of cooling to 23 K (−250°C) or less, with heat removal capacity greater than 150 watts; or
b.2. Hydrogen isotope storage and purification systems using metal hydrides as the storage, or purification medium.

1B232 Turboexpanders or turboexpander-compressor sets designed for operation below 35K and a throughput of hydrogen gas of 1000 kg/hr or greater.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: Heavy water production equipment is also subject to the export licensing authority of the Nuclear Regulatory Commission. (See 10 CFR part 110.)
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

C. Materials

1C001 Materials specially designed for use as absorbers of electromagnetic waves, or intrinsically conductive polymers.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 1.
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: N/A
Items:

a. Materials for absorbing frequencies exceeding 2×10^8 Hz but less than 3×10^{12} Hz, except materials as follows:
a.1. Hair type absorbers, constructed of natural or synthetic fibers, with non-magnetic loading to provide absorption;
a.2. Absorbers having no magnetic loss and whose incident surface is non-planar in shape, including pyramids, cones, wedges and convoluted surfaces;
a.3. Planar absorbers:
a.3.a. Made from:
a.3.a.1. Plastic foam materials (flexible or non-flexible) with carbon-loading, or organic materials, including binders, providing more than 5% echo compared with metal over a bandwidth exceeding ±15% of the center frequency of the incident energy, and not capable of withstanding temperatures exceeding 450 K (177° C); or
a.3.a.2. Ceramic materials providing more than 20% echo compared with metal over a bandwidth exceeding ± 15% of the center frequency of the incident energy, and not capable of withstanding temperatures exceeding 800 K (527° C);

Technical Note: Absorption test samples for 1C001.a.3.a should be a square at least 5 wavelengths of center frequency on a side and positioned in the far field of the radiating element.

a.3.b. Tensile strength less than 7×10^6N/m^2; and
a.3.c. Compressive strength less than 14×10^6N/m^2;
a.4. Planar absorbers made of sintered ferrite, with:
a.4.a. A specific gravity exceeding 4.4; and
a.4.b. A maximum operating temperature of 548 K (275 °C);

Note: Nothing in 1C001.a releases magnetic materials to provide absorption when contained in paint.

b. Materials for absorbing frequencies exceeding 1.5×10^{14} Hz but less than 3.7×10^{14} Hz and not transparent to visible light;
c. Intrinsically conductive polymeric materials with a bulk electrical conductivity exceeding 10,000 S/m (Siemens per meter) or a sheet (surface) resistivity of less than 100 ohms/square, based on any of the following polymers:
c.1. Polyaniline;
c.2. Polypyrrole;
c.3. Polythiophene;
c.4. Poly phenylene-vinylene;
c.5. Poly thienylene-vinylene;

Technical Note: Bulk electrical conductivity and sheet (surface) resistivity should be determined using ASTM D–257 or equivalents.

1C002 Metal alloys, metal alloy powder or alloyed materials.

License Requirements

Reason for Control: NS, NP, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
NP applies to 1C002.a.2.c or a.2.d if they exceed the parameters stated in 1C202.	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $3000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definition: This entry does not control metal alloys, metal alloy powder or alloyed materials for coating substrates.
Items:

a. Metal alloys, as follows:
a.1. Nickel or titanium-based alloys in the form of aluminides, as follows, in crude or semi-fabricated forms:
a.1.a. Nickel aluminides containing 10 weight percent or more aluminum;
a.1.b. Titanium aluminides containing 12 weight percent or more aluminum;
a.2. Metal alloys, as follows, made from metal alloy powder or particulate material controlled by 1C002.b:
a.2.a. Nickel alloys with:
a.2.a.1. A stress-rupture life of 10,000 hours or longer at 923 K (650 °C) and at a stress of 550 MPa; or
a.2.a.2. A low cycle fatigue life of 10,000 cycles or more at 823 K (550 °C) at a maximum stress of 700 MPa;
a.2.b. Niobium alloys with:
a.2.b.1. A stress-rupture life of 10,000 hours or longer at 1,073 K (800 °C) and at a stress of 400 MPa; or
a.2.b.2. A low cycle fatigue life of 10,000 cycles or more at 973 K (700 °C) at a maximum stress of 700 MPa;
a.2.c. Titanium alloys with:
a.2.c.1. A stress-rupture life of 10,000 hours or longer at 723 K (450 °C) and at a stress of 200 MPa; or
a.2.c.2. A low cycle fatigue life of 10,000 cycles or more at 723 K (450 °C) at a maximum stress of 400 MPa;
a.2.d. Aluminum alloys with a tensile strength of:
a.2.d.1. 240 MPa or more at 473 K (200 °C); or
a.2.d.2. 415 MPa or more at 298 K (25 °C);
a.2.e. Magnesium alloys with a tensile strength of 345 MPa or more and a corrosion rate of less than 1 mm/year in 3% sodium chloride aqueous solution measured in accordance with ASTM standard G–31 or equivalents;

Technical Notes: 1. The metal alloys in 1C002.a are those containing a higher percentage by weight of the stated metal than of any other element.

2. Stress-rupture life should be measured in accordance with ASTM standard E–139 or equivalents.

3. Low cycle fatigue life should be measured in accordance with ASTM Standard E–606 'Recommended Practice for Constant-Amplitude Low-Cycle Fatigue Testing' or equivalents. Testing should be axial with an average stress ratio equal to 1 and a stress-concentration factor (K_t) equal to 1. The average stress is defined as maximum stress minus minimum stress divided by maximum stress.

b. Metal alloy powder or particulate material for materials controlled by 1C002.a, as follows:
b.1. Made from any of the following composition systems:

Technical Note: X in the following equals one or more alloying elements.

b.1.a. Nickel alloys (Ni-Al-X, Ni-X-Al) qualified for turbine engine parts or components, i.e. with less than 3 non-metallic particles (introduced during the manufacturing process) larger than 100 micrometer in 10^9 alloy particles;
b.1.b. Niobium alloys (Nb-Al-X or Nb-X-Al, Nb-Si-X or Nb-X-Si, Nb-Ti-X or Nb-X-Ti);
b.1.c. Titanium alloys (Ti-Al-X or Ti-X-Al);
b.1.d. Aluminum alloys (Al-Mg-X or Al-X-Mg, Al-Zn-X or Al-X-Zn, Al-Fe-X or Al-X-Fe); or

b.1.e. Magnesium alloys (Mg-Al-X or Mg-X-Al); and

Technical Note: X equals one or more alloying elements.

b.2. Made in a controlled environment by any of the following processes:
b.2.a. "Vacuum atomization";
b.2.b. "Gas atomization";
b.2.c. "Rotary atomization";
b.2.d. "Splat quenching";
b.2.e. "Melt spinning" and "comminution";
b.2.f. "Melt extraction" and "comminution"; or
b.2.g. "Mechanical alloying";
c. Alloyed materials, in the form of uncomminuted flakes, ribbons or thin rods produced in a controlled environment by "splat quenching," "melt spinning" or "melt extraction", used in the manufacture of metal alloy powder or particulate material controlled by 1C002.b;

1C003 Magnetic metals, of all types and of whatever form, having any of the following characteristics.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $3000
GBS: N/A
CIV: N/A

List of Items Controlled:

Unit: Kilograms
Related Controls: N/A
Related Definitions: N/A
Items:

a. Initial relative permeability 120,000 or more and thickness 0.05 mm or less;

Technical Note: Measurement of initial permeability must be performed on fully annealed materials.

b. Magnetostrictive alloys with:
b.1. A saturation magnetostriction of more than 5×10^{-4}; or
b.2. A magnetomechanical coupling factor (k) of more than 0.8; or
c. Amorphous alloy strips with:
c.1. A composition having a minimum of 75 weight percent of iron, cobalt or nickel; and
c.2. A saturation magnetic induction (B_s) of 1.6 T or more, and:
c.2.a. A strip thickness of 0.02 mm or less; or
c.2.b. An electrical resistivity of 2×10^{-4} ohmcm or more.

1C004 Uranium titanium alloys or tungsten alloys with a "matrix" based on iron, nickel or copper.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $3000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: N/A
Items:

a. A density exceeding 17.5 g/cm³;
b. An elastic limit exceeding 1,250 MPa;
c. An ultimate tensile strength exceeding 1,270 MPa; and
d. An elongation exceeding 8%.

1C005 "Superconductive" "composite" conductors in lengths exceeding 100 m or with a mass exceeding 100 g.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions:

LVS: $1500
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: N/A
Items:

a. Multifilamentary "superconductive" "composite" conductors containing one or more niobium-titanium filaments:
a.1. Embedded in a "matrix" other than a copper or copper based mixed "matrix"; or
a.2. With a cross-section area less than 0.28×10^{-4}mm² (i.e., 6 micrometer in diameter for circular filaments);
b. "Superconductive" "composite" conductors consisting of one or more "superconductive" filaments other than niobium-titanium:
b.1. With a "critical temperature" at zero magnetic induction exceeding 9.85 K (−263.31° C) but less than 24 K (−249.16° C);
b.2. With a cross-section of less than 0.28×10^{-4}mm²; and
b.3. Which remain in the "superconductive" state at a temperature of 4.2 K (−268.96° C) when exposed to a magnetic field corresponding to a magnetic induction of 12 T.

1C006 Fluids and lubricating materials.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $3000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Barrels (55 U.S. gallons/ 209 liters)
Related Controls: N/A
Related Definitions: N/A
Items:

a. Hydraulic fluids containing, as their principal ingredients, any of the following compounds or materials:
a.1. Synthetic hydrocarbon oils or silahydrocarbon oils with:
a.1.a. A flash point exceeding 477 K (204° C);
a.1.b. A pour point at 239 K (−34° C) or less;
a.1.c. A viscosity index of 75 or more; and
a.1.d. A thermal stability at 616 K (343° C); or

Note: For the purpose of 1C006.a.1, silahydrocarbon oils contain exclusively silicon, hydrogen and carbon.

a.2. Chlorofluorocarbons with:
a.2.a. No flash point;
a.2.b. An autogenous ignition temperature exceeding 977 K (704° C);
a.2.c. A pour point at 219 K (−54° C) or less;
a.2.d. A viscosity index of 80 or more; and
a.2.e. A boiling point at 473 K (200° C) or higher;

Note: For the purpose of 1C006.a.2, chlorofluorocarbons contain exclusively carbon, fluorine and chlorine.

b. Lubricating materials containing, as their principal ingredients, any of the following compounds or materials:
b.1. Phenylene or alkylphenylene ethers or thio-ethers, or their mixtures, containing more than two ether or thio-ether functions or mixtures thereof; or
b.2. Fluorinated silicone fluids with a kinematic viscosity of less than 5,000 mm²/s (5,000 centistokes) measured at 298 K (25° C);
c. Damping or flotation fluids with a purity exceeding 99.8%, containing less than 25 particles of 200 micrometer or larger in size per 100 ml and made from at least 85% of any of the following compounds or materials:
c.1. Dibromotetrafluoroethane;
c.2. Polychlorotrifluoroethylene (oily and waxy modifications only); or
c.3. Polybromotrifluoroethylene;

Technical Note: For the purpose of 1C006:

a. Flash point is determined using the Cleveland Open Cup Method described in ASTM D–92 or equivalents.
b. Pour point is determined using the method described in ASTM D–97 or equivalents.
c. Viscosity index is determined using the method described in ASTM D–2270 or equivalents.
d. Thermal stability is determined by the following test procedure or equivalents: Twenty ml of the fluid under test is placed in a 46 ml type 317 stainless steel chamber containing one each of 12.5 mm (nominal) diameter balls of M–10 tool steel, 52100 steel and naval bronze (60% Cu, 39% Zn, 0.75% Sn). The chamber is purged with nitrogen, sealed at atmospheric pressure and the temperature raised to and maintained at 644 ±6 K (371 ±6° C) for six hours. The specimen will be considered thermally stable if, on completion of the above procedure, all of the following conditions are met:
1. The loss in weight of each ball is less than 10 mg/mm² of ball surface;
2. The change in original viscosity as determined at 311 K (38° C) is less than 25%; and
3. The total acid or base number is less than 0.40.
e. Autogenous ignition temperature is determined using the method described in ASTM E–659 or equivalents.

1C007 Ceramic base materials, non-"composite" ceramic materials, ceramic "matrix" "composite" materials and precursor materials.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
MT applies to items described in 1C007.d (dielectric constant less than 6 at frequencies from 100Hz to 10,000 MH_z) for use in missile radomes.	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $5000, except N/A for 1C007.e
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: N/A
Items:

a. Base materials of single or complex borides of titanium having total metallic impurities, excluding intentional additions, of less than 5,000 ppm, an average particle size equal to or less than 5 micrometer and no more than 10% of the particles larger than 10 micrometer;
b. Non-"composite" ceramic materials in crude or semi-fabricated form, composed of borides of titanium with a density of 98% or more of the theoretical density, except abrasives;
c. Ceramic-ceramic "composite" materials with a glass or oxide-"matrix" and reinforced with fibers from any of the following systems:
c.1. Si–N;
c.2. Si–C;
c.3. Si–Al–O–N; or
c.4. Si–O–N;
d. Ceramic-ceramic "composite" materials, with or without a continuous metallic phase, containing finely dispersed particles or phases of any fibrous or whisker-like material, where carbides or nitrides of silicon, zirconium or boron form the "matrix";
e. Precursor materials (i.e., special purpose polymeric or metallo-organic materials) for producing any phase or phases of the materials controlled by 1C007.c, as follows:
e.1. Polydiorganosilanes (for producing silicon carbide);
e.2. Polysilazanes (for producing silicon nitride); or
e.3. Polycarbosilazanes (for producing ceramics with silicon, carbon and nitrogen components).

1C008 Non-fluorinated polymeric substances.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $200
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: N/A
Items:

a.1. Bismaleimides;
a.2. Aromatic polyamide-imides;
a.3. Aromatic polyimides;
a.4. Aromatic polyetherimides having a glass transition temperature (T_g) exceeding 503 K (230° C) as measured by the wet method.

Note: 1C008.a does not control non-fusible compression molding powders or molded forms.

b. Thermoplastic liquid crystal copolymers having a heat distortion temperature exceeding 523 K (250° C) measured according to ASTM D–648, method A, or equivalents, with a load of 1.82 N/mm² and composed of:
b.1. Either of the following:
b.1.a. Phenylene, biphenylene or naphthalene; or
b.1.b. Methyl, tertiary-butyl or phenyl substituted phenylene, biphenylene or naphthalene; and
b.2. Any of the following acids:
b.2.a. Terephthalic acid;
b.2.b. 6-hydroxy-2 naphthoic acid; or
b.2.c. 4-hydroxybenzoic acid;
c. Polyarylene ether ketones, as follows:
c.1. Polyether ether ketone (PEEK);
c.2. Polyether ketone ketone (PEKK);
c.3. Polyether ketone (PEK);
c.4. Polyether ketone ether ketone ketone (PEKEKK);
d. Polyarylene ketones;
e. Polyarylene sulphides, where the arylene group is biphenylene, triphenylene or combinations thereof;
f. Polybiphenylenethersulphone.

1C009 Unprocessed fluorinated compounds.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: N/A
Items:

a. Copolymers of vinylidene fluoride having 75% or more beta crystalline structure without stretching;
b. Fluorinated polyimides containing 30% or more of combined fluorine;
c. Fluorinated phosphazene elastomers containing 30% or more of combined fluorine.

1C010 "Fibrous and filamentary materials" that may be used in organic "matrix", metallic "matrix" or carbon "matrix" "composite" structures or laminates.

License Requirements

Reason for Control: NS, NP, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
NP applies to 1C010.a, .b, .c, and e.1.	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $1500, except for 1C010.a, .b, .c and e.1
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: N/A
Items:

a. Organic "fibrous and filamentary materials" (except polyethylene) with:
a.1. A "specific modulus" exceeding 12.7×10^6m; and
a.2. A "specific tensile strength" exceeding 23.5×10^4m;
b. Carbon "fibrous and filamentary materials" with:
b.1. A "specific modulus" exceeding 12.7×10^6m; and
b.2. A "specific tensile strength" exceeding 23.5×10^4m;

Technical Note: Properties for materials described in 1C010.b should be determined using Suppliers of Advance Composite Materials Association (SACMA) recommended methods SRM 12 to 17, or equivalent tow tests, such as Japanese Industrial Standard JIS–R–7601, Paragraph 6.6.2., and based on lot average.

Note: 1C010.b does not control fabric made from "fibrous or filamentary materials" for the repair of aircraft structures or laminates,

in which the size of individual sheets does not exceed 50 cm×90 cm.

c. Inorganic "fibrous or filamentary materials" with:

c.1. A "specific modulus" exceeding 2.54×106 m; and

c.2. A melting, decomposition or sublimation point exceeding 1,922 K (1,649° C) in an inert environment; except

Note: 1C010.c does not control:

1. Discontinuous, multiphase, polycrystalline alumina fibers in chopped fiber or random mat form, containing 3 weight percent or more silica, with a "specific modulus" of less than 10×10⁶ m;

2. Molybdenum and molybdenum alloy fibers;

3. Boron fibers;

4. Discontinuous ceramic fibers with a melting, decomposition or sublimation point lower than 2,043 K (1,770° C) in an inert environment.

d. "Fibrous or filamentary materials":

d.1. Composed of any of the following:

d.1.a. Polyetherimides controlled by 1C008.a; or

d.1.b. Materials controlled by 1C008.b, .c, .d, .e, or .f; or

d.2. Composed of materials controlled by 1C010.d.1.a or .b and "commingled" with other fibers controlled by 1C010.a, b, or c;

e. Resin- or pitch-impregnated fibers (prepregs), metal or carbon-coated fibers (preforms) or "carbon fiber preforms", as follows:

e.1. Made from "fibrous or filamentary materials" controlled by 1C010.a, .b, or .c; or

e.2. Made from organic or carbon "fibrous or filamentary materials":

e.2.a. With a "specific tensile strength" exceeding 17.7×10⁴m;

e.2.b. With a "specific modulus" exceeding 10.15×10⁶m;

e.2.c. Not controlled by 1C010.a or .b; and

e.2.d. When impregnated with materials controlled by 1C008 or 1C009.b, or with phenolic or epoxy resins, having a glass transition temperature (T_g) exceeding 383 K (110° C).

Note: 1C010.e does not control epoxy resin matrix impregnated carbon "fibrous or filamentary materials" (prepregs) for the repair of aircraft structures or laminates, in which the size of individual sheets of prepreg does not exceed 50 cm×90cm.

1C018 Materials on the International Munitions List.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $3000
GBS: Yes for items listed in Advisory Note to 1C018
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: N/A
Items:

a. Ethyl and Methyl centralites.

b. NN-Diphenylurea (unsymmetrical diphenylurea).

c. Methyl-NN-diphenylurea (methyl unsymmetrical diphenylurea).

d. Ethyl-NN-diphenylurea (ethyl unsymmetrical diphenylurea).

e. Ethyl phenyl urethane.

f. Diphenyl urethane.

g. Diortho tolyl-urethane.

h. 2-Nitrodiphenylamine.

i. p-Nitromethylaniline.

j. 2,2' Dinitropropanol.

k. Bis(2,2' dinitropropyl) formal and acetal.

l. 3-Nitraza-1,5 pentane diisocyanate.

m. Guanidine nitrate.

n. Hydrogen peroxide in concentrations of 85%.

o. Charges specially designed for civilian applications, containing military explosives, except those items described in 1C992.

Technical Note: Military high explosives are solid, liquid or gaseous substances or mixtures of substances that, in their application as primary, booster, or main charges in warheads, demolition and other military applications, are required to detonate.

Advisory Note: Licenses are likely to be approved for export and reexport to satisfactory end-users in Country Group D:1 of certain explosive substances and mixtures in reasonable quantities for civilian or industrial purposes when made into cartridges or charges of an exclusively civilian or industrial nature, such as propellants for sporting purposes or shooting gallery practice; cartridges for riveting guns; and explosive charges for agricultural purposes, public works, mines, quarries or oil-well drilling. The following are the substances or mixtures to which this procedure applies:

a. Nitrate-based (40 percent or more) and provided they do not contain more than 40 percent nitroglycol/nitroglycerin or no more than 16 percent TNT;

b. Nitrocellulose with a nitrogen content of over 12.2 percent;

c. Nitroglycerin;

d. Single base nitrocellulose;

e. Sodium azide and other inorganic azides.

1C101 Materials and devices for reduced observables such as radar reflectivity, ultraviolet/infrared signatures and acoustic signatures other than those controlled by 1C001, usable in "missiles" and their subsystems.

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A

CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: Materials controlled by this entry include: (a) structural materials and coatings specially designed for reduced radar reflectivity; (b) coatings, including paints, specially designed for reduced or tailored reflectivity or emissivity in the microwave, infrared or ultraviolet spectra. This entry does not control coatings when specially used for the thermal control of satellites.
Items: The list of items controlled is contained in the ECCN heading.

1C107 Graphite and ceramic materials.

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: N/A
Items:

a. Fine grain recrystallized bulk graphites (with a bulk density of at least 1.72 g/cm³ measured at 288 K (15° C) and having a particle size of 100 micrometers or less), pyrolytic, or fibrous reinforced graphites usable for rocket nozzles and reentry vehicle nose tips; and

b. Ceramic "composite" materials (dielectric constant less than 6 at frequencies from 100 Hz to 10,000 MHz) for use in radomes, and bulk machinable silicon-carbide reinforced unfired ceramic, useable for nose tips.

1C115 Propellants and constituent chemicals for propellants.

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: The following materials, whether or not encapsulated in aluminum, beryllium, magnesium, or zirconium are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls: (See 22 CFR part 121, Category V): (a.) Spherical aluminum powder with particles of uniform diameter 60×10⁻⁶ m (60 micrometers) or less and an aluminum content of 97 percent or greater; (b.) Metal fuels in particle sizes less than 60×10⁻⁶m (60 microns), whether spherical, atomized, spheroidal, flaked or ground, manufactured from material consisting of 99 percent or more of: Boron; magnesium; zirconium; alloys of boron, magnesium or zirconium; beryllium; or iron powder with average particle size of 3×10⁻⁶ m (3 microns) or less produced by hydrogen reduction of iron oxide.
Related Definitions: N/A
Items:

a. Fuel substances:

a.1. Spherical aluminum powder, as follows:

a.1.a. Spherical aluminum powder with particles of uniform diameter less than 500×10⁻⁶ m (500 micrometers), but greater than 60×10⁻⁶ m (60 micrometers), and an aluminum content of 97 percent by weight or greater;

a.1.b. Spherical aluminum powder with particles of uniform diameter 60×10⁻⁶ m (60 micrometers) or less, and an aluminum content of 97 percent by weight or greater, but less than 99 percent;

a.2. Metal fuels containing beryllium, boron, magnesium, zirconium, or alloys of boron, magnesium, or zirconium, as follows:

a.2.a. Metal fuels in particle sizes less than 500×10⁻⁶ m (500 microns), but equal to or greater than 60×10⁻⁶ m (60 microns), whether spherical, atomized, spheroidal, flaked or ground, consisting of 97 percent by weight or more of beryllium, boron, magnesium, zirconium, and alloys of boron, magnesium, or zirconium;

a.2.b. Metal fuels in particle sizes less than 60×10⁻⁶ m (60 microns), whether spherical, atomized, spheroidal, flaked or ground, consisting of 97 percent by weight or more, but less than 99 percent, of beryllium, boron, magnesium, zirconium, and alloys of boron, magnesium, or zirconium;

a.3. Metal fuels in particle sizes less than 500×10⁻⁶ m (500 microns), whether spherical, atomized, spheroidal, flaked or ground, consisting of 97 percent by weight or more of alloys of beryllium.

a.4. Liquid oxidizer substances:

a.4.a. Dinitrogen trioxide;

a.4.b. Nitrogen dioxide/dinitrogen tetroxide;

a.4.c. Dinitrogen pentoxide;

b. Polymeric substances:

b.1. Carboxy-terminated polybutadiene (CTPB);

b.2. Commercial grade Hydroxy-terminated polybutadiene (HTPB);

Note: Military grade (i.e., Hydroxy-terminated polybutadiene (HTPB) with a hydroxyl functionality greater than or equal to 2.2 but less than or equal to 2.4, a hydroxyl value of less than 0.77 meq/g, and a viscosity at 30° C of less than 47 poise) is controlled by the Office of Defense Trade Controls, U.S. Department of State (see Category V of the USML (22 CFR part 121)).

b.3. Polybutadiene-acrylic acid (PBAA);

b.4. Polybutadiene-acrylic acid-acrylonitrile (PBAN).

c. Other propellant additives and agents:

c.1. Burning rate modifiers as follows: Butacene;

c.2. Nitrate esters and nitrated plasticizers as follows:

c.2.a. Triethylene glycol dinitrate (TEGDN);

c.2.b. Trimethylolethane trinitrate (TMETN);

c.2.c. Diethylene glycol dinitrate (DEGDN);

c.3. Stabilizers, as follows: 2-nitrodiphenylamine.

1C116 Maraging steels (steels generally characterized by high nickel, very low carbon content and the use of substitutional elements or precipitates to produce age-hardening), other than those controlled by 1C216, having an Ultimate Tensile Strength of 1500 MPa or greater measured at 293 K (20° C), in the form of sheet, plate, or tubing with a wall or plate thickness equal to or less than 5.0mm (0.2 inch).

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1C117 Tungsten, molybdenum, and alloys of these metals in the form of uniform spherical or atomized particles of 500 micrometer diameter or less with a purity of 97% or higher for fabrication of rocket motor components; i.e., heat shields, nozzle substrates, nozzle throats, and thrust vector control surfaces.

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1C202 Aluminum and titanium alloys in the form of tubes or cylindrical solid forms (including forgings) with an outside diameter of more than 75 mm (3 inches).

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls:
Related Definition: The phrase "alloys capable of" encompasses before and after heat treatment.
Items:

a. Aluminum alloys capable of an ultimate tensile strength of 460 MPa (.46×10⁹ N/m²) or more at 293 K (20° C);

b. Titanium alloys capable of an ultimate tensile strength of 900 MPa (0.9×10⁹ N/m²) (130,500 lbs./in²) or more at 293 K (20° C).

1C210 "Fibrous and filamentary materials" not controlled by 1C010.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: See 9A110 for fiber prepregs
Related Definitions: For the purpose of this entry, the term "fibrous or filamentary materials" means continuous monofilaments, yarns, rovings, tows or tapes.

Defintions for other terms used in this entry:

Filament or Monofilament is the smallest increment of fiber, usually several μm in diameter.

Strand is a bundle of filaments (typically over 200) arranged approximately parallel.

Roving is a bundle (typically 12–120) of approximately parallel strands.

Yarn is a bundle of twisted strands.

Tow is a bundle of filaments, usually approximately parallel.

Tape is a material constructed of interlaced or unidirectional filaments, strands, rovings, tows or yarns, etc., usually preimpregnated with resin.

Specific modulus is the Young's modulus in N/m² divided by the specific weight

in N/m², measured at a temperature of 23±2° C and a relative humidity of 50±5 percent.

Specific tensile strength is the ultimate tensile strength in N/m² divided by specific weight in N/m³, measured at a temperature of 23±2° C and a relative humidity of 50±5 percent.

Items:

a. Carbon and aramid "fibrous and filamentary materials" having:

a.1. A "specific modulus" of 12.7×10⁶ m or greater; or

a.2. A "specific tensile strength" of 23.5×10⁴ m or greater; or

Note: 1C210.a does not include aramid "fibrous or filamentary materials" having 0.25 percent or more by weight of an ester based fiber surface modifier.

b. Glass "fibrous and filamentary materials" having:

b.1. A "specific modulus" of 3.18×10⁶ m or greater; and

b.2. A "specific tensile strength" of 7.62×10⁴ m or greater; or

c. Thermoset resin impregnated continuous yarns, rovings, tows or tapes with a width no greater than 15 mm (prepregs), made from carbon or glass "fibrous or filamentary materials" described in 1C210.a or .b;

Note: The resin forms the matrix of the composite.

1C216 Maraging steel capable of an ultimate tensile strength of 2050 MPa (2.050 × 10⁸ N/m²) (300,000 lbs./in²) or more at 293 K (20° C), except forms in which no linear dimension exceeds 75 mm (3 inches).

License Requirements

Reason for Control: NP, MT, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
MT applies to maraging steels controlled by this entry that also meet the specifications of 1C116.	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definition: The phrase "maraging steel capable of" encompasses maraging steel before or after heat treatment.
Items: The list of items controlled is contained in the ECCN heading.

1C225 Boron and boron compounds, mixtures, and loaded materials in which the boron-10 isotope is more than 20% by weight of the total boron content.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1C226 Parts made of tungsten, tungsten carbide, or tungsten alloys (greater than 90% tungsten) having a mass greater than 20 kg and a hollow cylindrical symmetry (including cylinder segments) with an inside diameter greater than 100 mm (4 in.), but less than 300 mm (12 in.), except parts specially designed for use as weights or gamma-ray collimators.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1C227 Calcium (high purity) containing both less than 1,000 parts per million by weight of metallic impurities other than magnesium and less than 10 parts per million of boron.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1C228 Magnesium (high purity) containing both less than 200 parts per million by weight of metallic impurities other than calcium and less than 10 parts per million of boron.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1C229 High purity (99.99% or greater) bismuth with very low silver content (less than 10 parts per million).

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1C230 Beryllium.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: This entry does not control: a.) Metal windows for X-ray machines, or for bore-hole logging devices; b.) Oxide shapes in fabricated or semi-fabricated forms specially designed for electronic component parts or as substrates for electronic circuits; and, c.) Beryl (silicate of beryllium and aluminum) in the form of emeralds or aquamarines.

Items:

a. Beryllium metal;

b. Alloys containing more than 50% beryllium by weight;

c. Beryllium compounds;

d. Manufactures of beryllium metal, alloys, or compounds described in 1C230.a, .b, or .c; or

e. Waste and scrap from beryllium metal, alloys, compounds, or manufactures thereof described in 1C230.a, .b, .c or .d.

1C231 Hafnium.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: N/A
Items:

a. Hafnium metal;

b. Alloys and compounds of hafnium containing more than 60 percent hafnium by weight; or

c. Manufactures of hafnium metal, alloys, or compounds described in 1C231.a or .b.

1C232 Helium-3 or helium isotopically enriched in the helium-3 isotope, mixtures containing helium-3, and products or devices containing any of the foregoing, except; a product or device containing less than 1g of helium-3.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Liters
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1C233 Lithium.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies entire entry	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: N/A
Items:

a. Lithium enriched in the 6 isotope (^6Li) to greater than 7.5 atom percent, alloys, compounds or mixtures containing lithium enriched in the 6 isotope, and products or devices containing any of the foregoing; except thermoluminescent dosimeters.

Note: The natural occurrence of the 6 isotope in lithium is 7.5 atom percent.

b. Reserved.

1C234 Zirconium, with a hafnium content of less than 1 part hafnium to 500 parts zirconium by weight.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: Zirconium metal and alloys in the form of tubes or assemblies of tubes, specially designed or prepared for use in a reactor are subject to the export licensing authority of the Nuclear Regulatory Commission. (See 10 CFR part 110.)

This entry does not control zirconium in the form of foil or strip having a thickness not exceeding 0.10 mm (0.004 in.).

Items:

a. Zirconium metal;

b. Alloys containing more than 50% zirconium by weight;

c. Compounds;

d. Manufactures of zirconium metal, alloys, or compounds described in 1C234.a, .b, or .c; or

e. Waste and scrap from zirconium metal, alloys, compounds, or manufactures thereof controlled by 1C234.a, .b, .c, or .d;

Advisory Note: (Not eligible for License Exception GBS) Licenses are likely to be approved for export and reexport to satisfactory end-users in Country Group D:1 of the following:

a. Finished parts made of zirconium metal or alloys, specially designed for an identified civil research or power reactor facility, provided that:

a.1. None of the parts contains fissile materials; and

a.2. The importing country has agreed to the application of the Safeguards of the International Atomic Energy Agency (IAEA) in connection with the nuclear reactor facility;

b. Contained zirconium metal, or parts made therefrom, in individual shipments not exceeding 100 kg, when intended for use in, or in support of, an identified civil research or power reactor facility, in connection with which it is contemplated that IAEA Safeguards would be applied.

N.B.: The provisions of this Advisory Note notwithstanding, current law prohibits approval to nuclear production or utilization facilities in the People's Republic of China.

1C236 Alpha-emitting radionuclides having an alpha half-life of 10 days or greater, but less than 200 years, including compounds and mixtures containing these radionuclides with a total alpha activity of 1 curie per kilogram (37 GBq) or greater; except devices containing less than 3.7 GBq (100 millicuries) of alpha activity per device.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Millicuries
Related Controls: Alpha emitting radionuclides are subject to the export licensing authority of the Nuclear Regulatory Commission. (See 10 CFR part 110.)
Related Definition: N/A
Items: The list of items controlled is contained in the ECCN heading.

1C237 Radium-226, radium-226 compounds, or mixtures containing radium-226, and products or devices containing any of the foregoing; except medical applicators, or a product or device containing not more than 0.37 GBq (10 millicuries) of radium-226 in any form.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value

Related Controls: N/A
Related Definition: N/A
Items: The list of items controlled is contained in the ECCN heading.

1C238 Chlorine trifluoride (ClF_3).

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1C350 Chemicals, that may be used as precursors for toxic chemical agents.

License Requirements

Reason for Control: CB, AT

Control(s)	Country Chart
CB applies to entire entry ..	CB Column 2.
AT applies to entire entry ..	AT Column 1.

License Requirement Notes

1. *SAMPLE SHIPMENTS*: Certain sample shipments of chemicals controlled under ECCN 1C350 may be made without a license, as provided by the following:

a. Chemicals Not Eligible: The following chemicals are *not* eligible for sample shipments: 0-Ethyl-2-diisopropylaminoethyl methylphosphonite (QL) (C.A.S. #57856–11–8), Ethylphosphonyl difluoride (C.A.S. #753–98–0), and Methylphosphonyl difluoride (C.A.S. #676–99–3).

b. Countries Not Eligible: The following countries are *not* eligible to receive sample shipments: Cuba, Iran, Libya, North Korea, Sudan, Syria.

c. Sample Shipments: A license is not required for sample shipments when the cumulative total of these shipments does not exceed a 55-gallon container or 200 kg of each chemical to any one consignee per calendar year. Multiple sample shipments, in any quantity, not exceeding the totals indicated in this paragraph may be exported without a license, in accordance with the provisions of this NOTE 1.

d. The exporter is required to submit a quarterly written report for shipments of samples made under this Note 1. The report must be on company letterhead stationery (titled "Report of Sample Shipments of Chemical Precursors" at the top of the first page) and identify the chemical(s), Chemical Abstract Service Registry (C.A.S.) number(s), quantity(ies), the ultimate consignee's name and address, and the date exported. The report must be sent to the U.S. Department of Commerce, Bureau of Export Administration, Room 2705, Washington, DC 20230, Attn: "Report of Sample Shipments of Chemical Precursors".

2. *MIXTURES*: Mixtures controlled by this entry that contain certain concentrations of precursor and intermediate chemicals are subject to the following licensing requirements:

a. A license is required, regardless of the concentrations in the mixture, for the following chemicals: 0-Ethyl-2-diisopropylaminoethyl methylphosphonite (QL) (C.A.S.#57856–11–8), Ethylphosphonyl difluoride (C.A.S.#753–98–0) and Methylphosphonyl difluoride (C.A.S.#676–99–3);

b. A license is required when at least one of the following chemicals constitutes more than 10 percent of the weight of the mixture on a solvent free basis: Arsenic trichloride (C.A.S.#7784–34–1), Benzilic acid (C.A.S.#76–93–7), Diethyl ethylphosphonate (C.A.S.#78–38–6), Diethyl methylphosphonite (C.A.S.#15715–41–0), Diethyl-N,N-dimethylphosphoroamidate (C.A.S.#2404–03–7), N,N-Diisopropyl-beta-aminoethane thiol (C.A.S.#5842–07–9), N,N-Diisopropyl-2-aminoethyl chloride hydrochloride (C.A.S.#4261–68–1), N,N-Diisopropyl-beta-aminoethanol (C.A.S.#96–80–0), N,N-Diisopropyl-beta-aminoethyl chloride (C.A.S.#96–79–7), Dimethyl ethylphosphonate (C.A.S.#6163–75–3), Dimethyl methylphosphonate (C.A.S.#756–79–6), Ethylphosphonous dichloride [Ethylphosphinyl dichloride] (C.A.S.#1498–40–4), Ethylphosphonus difluoride [Ethylphosphinyl difluoride] (C.A.S.#430–78–4), Ethylphosphonyl dichloride (C.A.S.#1066–50–8), Methylphosphonous dichloride [Methylphosphinyl dicloride] (C.A.S.#676–83–5), Methylphosphonous difluoride [Methylphosphinyl difluoride] (C.A.S.#753–59–3), Methylphosphonyl dichloride (C.A.S.#676–97–1), Pinacolyl alcohol (C.A.S.#464–07–3), 3–Quinuclidinol (C.A.S.#1619–34–7), and Thiodiglycol (C.A.S.#111–48–8); (Related ECCN: 1C995)

c. A license is required when at least one of all other chemicals in the List of Items Controlled constitutes more than 25 percent of the weight of the mixture on a solvent free basis (related ECCN: 1C995); and

d. A license is not required under this entry for mixtures when the controlled chemical is a normal ingredient in consumer goods packaged for retail sale for personal use. Such consumer goods are controlled by ECCN EAR99.

e. Calculation of concentrations of AG-controlled chemicals.

1. Usual Commercial Purposes. In calculating the percentage of an AG controlled chemical in a mixture (solution), any other chemical must be excluded if it was not added for usual commercial purposes, but was added for the sole purpose of circumventing the Export Administration Regulations.

2. "Solvent Free Basis Requirement." When calculating the percentage, by weight, of components in a chemical mixture, you must exclude from the calculation any component of the mixture that acts as a solvent.

3. Solvent—For purposes of this ECCN "A substance capable of dissolving another substance to form a uniformly dispersed mixture (solution)".

- Solvents are liquids at standard temperature and pressure (STP).
- In no instance is an AG controlled chemical considered a "solvent".
- All ingredients of mixtures are expressed in terms of weight.
- The solvent component of the mixture converts it into a solution.

3. *Compounds:* A license is not required under this entry for chemical compounds created with any chemicals identified in this ECCN 1C350, unless those compounds are also identified in this entry.

4. *Special Comprehensive License:* See part 752 of the EAR for eligibility.

Technical Notes: 1. For purposes of this entry, a "mixture" is defined as a solid, liquid or gaseous product made up of two or more components that do not react together under normal storage conditions.

2. The scope of this control applicable to Hydrogen Fluoride (Item 25 in List of Items Controlled) includes its liquid, gaseous, and aqueous phases, and hydrates.

3. All *de minimis* exclusions of this entry extend to all mixtures including those that contain no solvents.

4. A Solvent is defined as a substance capable of dissolving another substance to form a uniformly dispersed mixture (solution). For examples and clarification of the term "solvent free" basis, see Supplement No. 3 to part 774 of the EAR.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Liters or kilograms, as appropriate
Related Controls: N/A
Related Definition: See part 770.2(k) of the EAR for synonyms for the chemicals listed in this entry.
Items:

a. Precursor Chemicals, as follows:
a.1. (C.A.S. #1341–49–7) Ammonium hydrogen fluoride;
a.2. (C.A.S. #7784–34–1) Arsenic trichloride;
a.3. (C.A.S. #76–93–7) Benzilic acid;
a.4. (C.A.S. #107–07–3) 2-Chloroethanol;
a.5. (C.A.S. #78–38–6) Diethyl ethylphosphonate;
a.6. (C.A.S. #15715–41–0) Diethyl methylphosphonite;
a.7. (C.A.S. #2404–03–7) Diethyl-N,N-dimethylphosphoroamidate;
a.8. (C.A.S. #762–04–9) Diethyl phosphite;
a.9. (C.A.S. #100–37–8) N,N-Diethylethanolamine;
a.10. (C.A.S. #5842–07–9) N,N-Diisopropyl-.beta.-aminoethanethiol;
a.11. (C.A.S. #4261–68–1) N,N-Diisopropyl-.2.-aminoethyl chloride hydrochloride;
a.12. (C.A.S. #96–80–0) N,N-Diisopropyl-.beta.-aminoethanol;
a.13. (C.A.S. #96–79–7), N,N-Diisopropyl-.beta.-aminoethyl chloride;
a.14. (C.A.S. #108–18–9) Diisopropylamine;
a.15. (C.A.S. #6163–75–3) Dimethyl ethylphosphonate;
a.16. (C.A.S. #756–79–6) Dimethyl methylphosphonate;
a.17. (C.A.S. #868–85–9) Dimethyl phosphite (dimethyl hyrogen phosphite);
a.18. (C.A.S. #124–40–3) Dimethylamine;
a.19. (C.A.S. #506–59–2) Dimethylamine hydrochloride;
a.20. (C.A.S. #57856–11–8) 0-Ethyl-2-diisopropylaminoethyl methylphosphonite (QL);
a.21. (C.A.S. #1498–40–4) Ethylphosphonous dichloride [Ethylphosphinyl dichloride];/c
a.22. (C.A.S. #430–78–4) Ethylphosphonus difluoride [Ethylphosphinyl difluoride];
a.23. (C.A.S. #1066–50–8) Ethylphosphonyl dichloride;
a.24. (C.A.S. #753–98–0) Ethylphosphonyl difluoride;
a.25. (C.A.S. #7664–39–3) Hydrogen fluoride;
a.26. (C.A.S. #3554–74–3) 3-Hydroxyl-1-methylpiperidine;
a.27. (C.A.S. #76–89–1) Methyl benzilate;
a.28. (C.A.S. #676–83–5) Methylphosphonous dichloride [Methylphosphinyl dicloride];
a.29. (C.A.S. #753–59–3) Methylphosphonous difluoride [Methylphosphinyl difluoride];
a.30. (C.A.S. #676–97–1) Methylphosphonyl dichloride;
a.31. (C.A.S. #676–99–3) Methylphosphonyl difluoride;
a.32. (C.A.S. #10025–87–3) Phosphorus oxychloride;
a.33. (C.A.S. #10026–13–8) Phosphorus pentachloride;
a.34. (C.A.S. #1314–80–3) Phosphorus pentasulfide;
a.35. (C.A.S. #7719–12–2) Phosphorus trichloride;
a.36. (C.A.S. #75–97–8) Pinacolone;
a.37. (C.A.S. #464–07–3) Pinacolyl alcohol;
a.38. (C.A.S. #151–50–8) Potassium cyanide;
a.39. (C.A.S. #7789–23–3) Potassium fluoride;
a.40. (C.A.S. #7789–29–9) Potassium hydrogen fluoride;
a.41. (C.A.S. #1619–34–7) 3–Quinuclidinol;
a.42. (C.A.S. #3731–38–2) 3–Quinuclidinone;
a.43. (C.A.S. #1333–83–1) Sodium bifluoride;
a.44. (C.A.S. #143–33–9) Sodium cyanide;
a.45. (C.A.S. #7681–49–4) Sodium fluoride;
a.46. (C.A.S. #1313–82–2) Sodium sulfide;
a.47. (C.A.S. #10025–67–9) Sulfur monochloride;
a.48. (C.A.S. #10545–99–0) Sulfur dichloride;
a.49. (C.A.S. #111–48–8) Thiodiglycol;
a.50. (C.A.S. #7719–09–7) Thionyl chloride;
a.51. (C.A.S. #102–71–6) Triethanolamine;
a.52. (C.A.S. #637–39–8) Triethanolamine hydrochloride;
a.53. (C.A.S. #122–52–1) Triethyl phosphite; and
a.54. (C.A.S. #121–45–9) Trimethyl phosphite.
b. Reserved.

1C351 Human pathogens, zoonoses, and "toxins".

License Requirements

Reason for Control: CB, AT

Control(s)	Country Chart
CB applies to entire entry ..	CB Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: All vaccines and "immunotoxins" are excluded from the scope of this entry. See ECCN 1C996.
Related Definition: (1) For the purposes of this entry "immunotoxin" is defined as an antibody-toxin conjugate intended to destroy specific target cells (e.g., tumor cells) that bear antigens homologous to the antibody. (2) For the purposes of this entry "subunit" is defined as a portion of the "toxin".
Items:

a. Viruses, as follows:
a.1. Chikungunya virus
a.2. Congo-Crimean haemorrhagic fever virus;
a.3. Dengue fever virus;
a.4. Eastern equine encephalitis virus;
a.5. Ebola virus;
a.6. Hantaan virus;
a.7. Japanese encephalitis virus;
a.8. Junin virus;
a.9. Lassa fever virus
a.10. Lymphocytic choriomeningitis virus;
a.11. Machupo virus;
a.12. Marburg virus;
a.13. Monkey pox virus;
a.14. Rift Valley fever virus;
a.15. Tick-borne encephalitis virus (Russian Spring-Summer encephalitis virus);
a.16. Variola virus;
a.17. Venezuelan equine encephalitis virus;
a.18. Western equine encephalitis virus;
a.19. White pox; or
a.20. Yellow fever virus.
b. Rickettsiae, as follows:
b.1. Bartonella quintana (Rochalimea quintana, Rickettsia quintana);
b.2. Coxiella burnetii;
b.3. Rickettsia prowasecki; or
b.4. Rickettsia rickettsii.
c. Bacteria, as follows:
c.1. Bacillus anthracis;
c.2. Brucella abortus;
c.3. Brucella melitensis;
c.4. Brucella suis;
c.5. Burkholderia mallei (Pseudomonas mallei);
c.6. Burkholderia pseudomallei (Pseudomonas pseudomallei);
c.7. Chlamydia psittaci;
c.8. Clostridium botulinum;
c.9. Francisella tularensis;
c.10. Salmonella typhi;
c.11. Shigella dysenteriae;
c.12. Vibrio cholerae;
c.13. Yersinia pestis.
d. "Toxins", as follows: and subunits thereof:
d.1. Botulinum toxins;
d.2. Clostridium perfringens toxins;
d.3. Conotoxin;
d.4. Microcystin (cyanogenosin);
d.5. Ricin;
d.6. Saxitoxin;
d.7. Shiga toxin;
d.8. Staphylococcus aureus toxins;
d.9. Tetrodotoxin; or
d.10. Verotoxin.

1C352 Animal pathogens.

License Requirements

Reason for Control: CB, AT

Control(s)	Country chart
CB applies to entire entry ..	CB Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: All vaccines are excluded from the scope of this entry. See ECCN 1C996.
Related Definition: N/A
Items:

List of Items Controlled

a. Viruses, as follows:
a.1. African swine fever virus;
a.2. Avian influenza virus that are;
a.2.a. Defined in EC Directive 92/40/EC as having high pathogenicity, as follows:
a.2.a.1. Type A viruses with an IVPI (intravenous pathogenicity index) in 6 week old chickens of greater than 1.2;
or
a.2.a.2. Type A viruses H5 or H7 subtype for which nucleotide sequencing has demonstrated multiple basic amino acids at the cleavage site of haemegglutinin.
a.2.b. Reserved.
a.3. Bluetongue virus;
a.4. Foot and mouth disease virus;
a.5. Goat pox virus;
a.6. Herpes virus (Aujeszky's disease);
a.7. Hog cholera virus;
a.8. Lyssa virus;
a.9. Newcastle disease virus
a.10. Peste des petits ruminants virus;
a.11. Porcine enterovirus type 9;
a.12. Rinderpest virus;
a.13. Sheep pox virus;
a.14. Teschen disease virus;
a.15. Vesicular stomatitis virus; and
b. Bacteria, as follows:
b.1. Mycoplasma mycoides;
b.2. Reserved.

1C353 Genetically modified "microorganisme".

License Requirements

Reason for Control: CB, AT

Control(s)	Country Chart
CB applies to entire entry ..	CB Column 1.

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: All vacines are excluded from the scope of this entry. See ECCN 1C996.
Related Definition: N/A
Items:

a. Genetically modified "microorganisms" or genetic elements that contain nucleic acid sequences associated with pathogenicity derived from organisms identified in ECCNs 1C351.a to .e, 1C352, or 1C354.

b. Genetically modified "microorganisms" or genetic elements that contain nucleic acid sequences coding for any of the "toxins", or their subunits, controlled by 1C351.,d

1C354 Plant pathogens.

License Requirements

Reason for Control: CB, AT

Control(s)	Country Chart
CB applies to entire entry ..	CB Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: All vaccines are excluded from the scope of this entry. See ECCN 1C996.
Related Definitions: N/A
Items:

a. Bacteria, as follows:
a.1. Xanthonomas albilineas;
a.2. Xanthonomas campestris pv. citri;
b. Fungi, as follows:
b.1. Colletotrichum coffeanum var. virulans;
b.2. Cochliobolus miyabeanus (Helminthosporium oryzae);
b.3. Microcyclus ulei (syn. Dothidella ulei);
b.4. Puccinia graminis (syn. Puccinia graminis f. sp. tritici);
b.5. Puccinia striiformis (syn. Puccinia glumarum); or
b.6. Pyricularia grisea/Pyricularia oryzae.

1C980 Inorganic chemicals listed in Supplement No. 1 to part 754 of the EAR that were produced or derived from the Naval Petroleum Reserves (NPR) or became available for export as a result of an exchange of any NPR produced or derived commodities.

License Requirements

Reason for Control: SS

Control(s)

SS applies to entire entry. For licensing requirements (and possible License Exceptions) proceed directly to part 754 of the EAR. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for SS reasons.

List of Items Controlled

Unit: Barrels/Liters
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1C981 Crude petroleum including reconstituted crude petroleum, tar sands & crude shale oil listed in Supplement No. 1 to part 754 of the EAR.

License Requirements

Reason for Control: SS

Control(s)

SS applies to entire entry. For licensing requirements (and possible License Exceptions) proceed directly to part 754 of the EAR. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for SS reasons.

List of Items Controlled

Unit: Barrels/Liters
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1C982 Other petroleum products listed in Supplement No. 1 to part 754 of the EAR that were produced or derived from the Naval Petroleum Reserves (NPR) or became available for export as a result of an exchange of any NPR produced or derived commodities.

License Requirements

Reason for Control: SS

Control(s)

SS applies to entire entry. For licensing requirements (and possible License Exceptions) proceed directly to part 754 of the EAR. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for SS reasons.

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1C983 Natural gas liquids and other natural gas derivatives listed in Supplement No. 1 to part 754 of the EAR that were produced or derived from the Naval Petroleum Reserves (NPR) or became available for export as a result of an exchange of any NPR produced or derived commodities.

License Requirements

Reason for Control: SS

Control(s)

SS applies to entire entry. For licensing requirements (and possible License Exceptions) proceed directly to part 754 of the EAR. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for SS reasons.

List of Items Controlled

Unit: Barrels/Liters
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1C984 Manufactured gas and synthetic natural gas (except when commingled with natural gas and thus subject to export authorization from the Department of Energy) listed in Supplement No. 1 to part 754 of the EAR that were produced or derived from the Naval Petroleum Reserves (NPR) or became available for export as a result of an exchange of any NPR produced or derived commodities.

License Requirements

Reason for Control: SS

Control(s)

SS applies to entire entry. For licensing requirements (and possible License Exceptions) proceed directly to part 754 of the EAR. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for SS reasons.

List of Items Controlled

Unit: Millions of cubic feet
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1C988 Western red cedar (thuja plicata), logs and timber, and rough, dressed and worked lumber containing wane listed in Supplement No. 2 to part 754 of the EAR.

License Requirements

Reason for Control: SS

Control(s)

SS applies to entire entry. For licensing requirements (and possible License Exceptions) proceed directly to part 754 of the EAR. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for SS reasons.

List of Items Controlled

Unit: Million board feet scribner
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1C991 Vaccines containing items controlled by ECCNs 1C351, 1C352, 1C353 and 1C354.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1C992 Oil well perforators.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Materials in number
Related Controls: N/A
Related Definitions: N/A
Items:

a. Shaped charges specially designed for oil well operations, utilizing one charge functioning along a single axis, that upon detonation produce a hole, and:
a.1. Contain any formulation of RDX, PYX, PETN, HNS, or HMX; and
a.2. Have only a uniformly shaped conical liner with an included angle of 90 degrees or less; and
a.3. Have a total explosive mass of no more than 90 grams; and
a.4. Have a diameter not exceeding three inches.

1C993 Fibrous and filamentary materials, not controlled by 1C010 or 1C210, for use in "composite" structures and with a specific modulus of 3.18 x 10^6 m or greater and a specific tensile strength of 7.62 x 10^4 m or greater.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definition: For calculation of *de minimis* quantities of controlled chemicals in mixtures, see ECCN 1C350 and [Supplement 3 to part 770].
Items: The list of items controlled is contained in the ECCN heading.

D. Software

1D001 "Software" specially designed or modified for the "development", "production", or "use" of items controlled by 1B001 to 1B003.

License Requirements

Reason for Control: NS, MT, NP, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 1.
MT applies to "software" for the "development", "production", or "use" of items controlled by 1B001 for MT reasons.	MT Column 1.
NP applies to "software" for the "development", "production" or "use" of items controlled by 1B001 for NP reasons.	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: Yes
TSR: Yes

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1D002 "Software" for the "development" of organic matrix, metal matrix or carbon matrix laminates or "composites".

License Requirements

Reason for Control: NS, MT, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 1.
MT applies to "software" specially designed or modified for the "development" of "composites" controlled by 1A, 1B or 1C entries for MT reasons.	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: Yes
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1D018 "Software" specially designed or modified for the "development", "production", or "use" of items controlled by 1B018.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 1.
MT applies to "software" for the "development", "production", or "use" of items controlled by 1B018 for MT reasons.	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A

Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1D101 Other "software" not controlled by 1D001, 1D002, 1D103, and 1D018 specially designed for the "development", "production", or "use" of items controlled by 1A, 1B, and 1C for MT reasons.

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1D201 "Software" specially designed or modified for the "use" of items controlled by 1B101 or 1B201 for NP reasons.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1D390 "Software" for process control that is specifically configured to control or initiate "production" of chemicals controlled by ECCN 1C350.

License Requirements

Reason for Control: CB, AT

Control(s)	Country Chart
CB applies to entire entry ..	CB Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
The list of items controlled is contained in the ECCN heading.

1D993 "Software" specially designed for the "development", "production", or "use" of equipment or materials controlled by 1C210.b, 1C993, 1C994.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

E. Technology

1E001 "Technology" according to the General Technology Note for the "development" or "production" of items controlled by 1A001.b, 1A001.c, 1A002, 1A003, 1A102, 1B or 1C (except 1C980 to 1C984, 1C988 and 1C991 to 1C995).

License Requirements

Reason for Control: NS, MT, NP, CB, AT

Control(s)	Country Chart
NS applies to "technology" for items controlled by 1A001.b and .c, 1A002, 1A003, 1B001 to 1B003, 1B018, 1B225, 1C001 to 1C010, 1C018, 1C230, 1C231, 1C233, or 1C234.	NS Column 1.
MT applies to "technology" for items controlled by 1A002, 1A102, 1B001, 1B018, 1B101, 1B115, 1B116, 1C001, 1C007, 1C101, 1C107, 1C115 to 1C117, or 1C216 for MT reasons.	MT Column 1.
NP applies to "technology" for items controlled by 1A002, 1B001, 1B101, 1B201, 1B225 to 1B232, 1C001, 1C010, 1C202, 1C210, 1C216, 1C225 to 1C234, 1C236 to 1C238 for NP reasons.	NP Column 1.
CB applies to "technology" for items controlled by 1C351, 1C352, 1C353, or 1C354.	CB Column 1.
CB applies to "technology" for materials controlled by 1C350.	CB Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: Yes

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: The corresponding EU number captures controls related to 1C235. This EU entry is not contained on the CCL and is subject to the export licensing authority of the Nuclear Regulatory Commission (See 10 CFR part 110.)
Items: The list of items controlled is contained in the ECCN heading.

1E002 Other "technology".

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: Yes

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items:
a. "Technology" for the "development" or "production" of polybenzothiazoles or polybenzoxazoles;
b. "Technology" for the "development" or "production" of fluoroelastomer compounds containing at least one vinylether monomer;
c. "Technology" for the design or "production" of the following base materials or non-"composite" ceramic materials:
c.1. Base materials having all the following characteristics:
c.1.a. Any of the following compositions:
c.1.a.1. Single or complex oxides of zirconium and complex oxides of silicon or aluminium;
c.1.a.2. Single nitrides of boron (cubic crystalline forms);
c.1.a.3. Single or complex carbides of silicon or boron; or

c.1.a.4. Single or complex nitrides of silicon;
c.1.b. Total metallic impurities, excluding intentional additions, of less than:
c.1.b.1. 1,000 ppm for single oxides or carbides; or
c.1.b.2. 5,000 ppm for complex compounds or single nitrides; and
c.1.c.1. Average particle size equal to or less than 5 micrometer and no more than 10% of the particles larger than 10 micrometer; or
N.B.: For zirconia, these limits are 1 micrometer and 5 micrometer respectively;
c.1.c.2.a. Platelets with a length to thickness ratio exceeding 5;
c.1.c.2.b. Whiskers with a length to diameter ratio exceeding 10 for diameters less than 2 micrometer; and
c.1.c.2.c. Continuous or chopped fibers less than 10 micrometer in diameter.
c.2. Non-"composite" ceramic materials, except abrasives, composed of the materials described in 1E002.c.1;
d. "Technology" for the "production" of aromatic polyamide fibers;
e. "Technology" for the installation, maintenance or repair of materials controlled by 1C001;
f. "Technology" for the repair of "composite" structures, laminates or materials controlled by 1A002, 1C007.c, or 1C007.d.

Note: 1E002.f does not control "technology" for the repair of "civil aircraft" structures using carbon "fibrous or filamentary materials" and epoxy resins, contained in aircraft manufacturers' manuals.

1E101 "Technology" according to the General Technology Note for the "use" of items controlled by 1A102, 1B001, 1B101, 1B115, 1B116, 1C001, 1C101, 1C107 or 1C115 to 1C117 for MT reasons.

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: This entry includes "technology" for the composition of precursor gasses, flow-rates and process control schedules and parameters.
Items: The list of items controlled is contained in the ECCN heading.

1E104 "Technology" for producing pyrolytically derived materials formed on a mould, mandrel, or other substrate from precursor gases that decompose at 1,300 °C to 2,900 °C temperature range at pressures of 130 Pa (1 mm Hg) to 20 kPa (150 mm Hg).

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1E201 "Technology" according to the General Technology Note for the "use" of items controlled by 1A002, 1A202, 1A225 to 1A227, 1A290, 1B001.a, 1B101, 1B201, 1B225 to 1B232, 1C002.a.2.c or a.2.d, 1C010.b, 1C202, 1C210, 1C216, 1C225 to 1C239 or 1D201 for NP reasons.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1E202 "Technology" according to the General Technology Note for the "development" or "production" of items controlled by 1A202 or 1A225 to 1A227, or 1A290.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1E203 "Technology" according to the General Technology Note for the "development" of "software" controlled by 1D201.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1E350 "Technology" for the "use" of chemicals controlled by 1C350 and for facilities designed or intended to produce chemicals controlled by 1C350.

License Requirements

Reason for Control: CB, AT

Control(s)	Country Chart
CB applies to entire entry ..	CB Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items:
a. Overall plant design;
b. Design, specification, or procurement of equipment;

c. Supervision of construction, installation, or operation of complete plant or components thereof;
d. Training of personnel; and
e. Consultation on specific problems involving such facilities.

1E351 "Technology" for the "use" of microbiological materials controlled by 1C351, 1C352, 1C353, or 1C354.

License Requirements

Reason for Control: CB, AT

Control(s)	Country Chart
CB applies to entire entry ..	CB Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1E391 "Technology" for the disposal of chemicals or microbiological materials controlled by 1C350, 1C351, 1C352, 1C353, or 1C354.

License Requirements

Reason for Control: CB, AT

Control(s)	Country Chart
CB applies to "technology" for the disposal of items controlled by 1C351, 1C352, 1C353, or 1C354.	CB Column 1.
CB applies to "technology" for the disposal of items controlled by 1C350.	CB Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1E994 "Technology" for the "development", "production", or "use" of fibrous and filamentary materials controlled by 1C993 or fluorocarbon electronic cooling fluids controlled by 1C994.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

EAR99 Items subject to the EAR that are not elsewhere specified in this CCL Category or in any other category in the CCL are designated by the number EAR99.

Category 2—Materials Processing

A. Equipment, Assemblies and Components

2A001 Ball bearings or solid roller bearings (except tapered roller bearings) having tolerances specified by the manufacturer in accordance with ABEC 7, ABEC 7P, or ABEC 7T or ISO Standard Class 4 or better (or equivalents) and having any of the following characteristics.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $3000
GBS: Yes
CIV: Yes

List of Items Controlled

Unit: $ value
Related Controls: Quiet running bearings are subject to the export licensing authority of the Department of State, Office of Defense Trade Controls. (See 22 CFR part 121, Category VI.)
Related Definitions: (*1.*) This entry does not control balls with tolerance specified by the manufacturer in accordance with ISO 3290 as grade 5 or worse. (*2.*) (a) DN is the product of the bearing bore diameter in mm and the bearing rotational velocity in rpm. (b) Operating temperatures include those temperatures obtained when a gas turbine engine has stopped after operation. (*3.*) Annular Bearing Engineers Committee (ABEC)
Items:
a. Rings, balls or rollers made from monel or beryllium;
b. Manufactured for use at operating temperatures above 573 K (300° C) either by using special materials or by special heat treatment; or
c. With lubricating elements or component modifications that, according to the manufacturer's specifications, are specially designed to enable the bearings to operate at speeds exceeding 2.3 million DN.

2A002 Other ball bearings or solid roller bearings (except tapered roller bearings) having tolerances specified by the manufacturer in accordance with ABEC 9, ABEC 9P or ISO Standard Class 2 or better (or equivalents).

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $3000
GBS: Yes
CIV: Yes

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: (*1.*) This entry does not control balls with tolerance specified by the manufacturer in accordance with ISO 3290 as grade 5 or worse. (*2.*) (a) DN is the product of the bearing bore diameter in mm and the bearing rotational velocity in rpm. (b) Operating temperatures include those temperatures obtained when a gas turbine engine has stopped after operation. (*3.*) Annular Bearing Engineers Committee (ABEC)
Items:
a. With lubricating elements or component modifications that, according to the manufacturer's specifications, are specially designed to enable the bearings to operate at speeds exceeding 2.3 million DN; or
b. Manufactured for use at operating temperatures below 219 K (−54°C) or above 423 K (150° C).

2A003 Solid tapered roller bearings, having tolerances specified by the manufacturer in accordance with ANSI/AFBMA Class 00 (inch) or Class A (metric) or better (or equivalents) and having either of the following characteristics.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $3000
GBS: Yes
CIV: Yes

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: (*1.*) This entry does not control balls with tolerance specified by the manufacturer in accordance with ISO 3290 as grade 5 or worse. (*2.*) (a) DN is the product of the bearing bore diameter in mm and the bearing rotational velocity in rpm. (b) Operating temperatures include those temperatures obtained when a gas turbine engine has stopped after operation. (*3.*) Annular Bearing Engineers Committee (ABEC)
Items: The list of items controlled is contained in the ECCN heading.

2A004 Gas-lubricated foil bearing manufactured for use at operating temperatures of 561 K (288° C) or higher and a unit load capacity exceeding 1 MPa.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $3000
GBS: Yes
CIV: Yes

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: (a) DN is the product of the bearing bore diameter in mm and the bearing rotational velocity in rpm. (b) Operating temperatures include those temperatures obtained when a gas turbine engine has stopped after operation.
Items: The list of items controlled is contained in the ECCN heading.

2A005 Active magnetic bearing systems.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $3000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: (a) DN is the product of the bearing bore diameter in mm and the bearing rotational velocity in rpm. (b) Operating temperatures include those temperatures obtained when a gas turbine engine has stopped after operation.
Items: The list of items controlled is contained in the ECCN heading.

2A006 Fabric-lined self-aligning or fabric-lined journal sliding bearings manufactured for use at operating temperatures below 219 K(−54 °C) or above 423 K (150 °C).

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $3000
GBS: Yes
CIV: Yes

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: (a) DN is the product of the bearing bore diameter in mm and the bearing rotational velocity in rpm. (b) Operating temperatures include those temperatures obtained when a gas turbine engine has stopped after operation.
Items: The list of items controlled is contained in the ECCN heading.

2A225 Crucibles made of materials resistant to liquid actinide metals.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items:
a. Crucibles with a volume between 150 ml and 8 liters, and made of or coated with any of the following materials having a purity of 98% or greater:
a.1. Calcium fluoride (CaF_2);
a.2. Calcium zirconate (metazirconate) ($CaZrO_3$);
a.3. Cerium sulfide (Ce_2S_3);
a.4. Erbium oxide (erbia) (Er_2O_3);
a.5. Hafnium oxide (hafnia) (HfO_2);
a.6. Magnesium oxide (MgO);
a.7. Nitrided niobium-titanium-tungsten alloy (approximately 50% Nb, 30% Ti, and 20% W);
a.8. Yttrium oxide (yttria) (Y_2O_3); or
a.9. Zirconium oxide (zirconia) (ZrO_2);
b. Crucibles with a volume between 50 ml and 2 liters, and made of or lined with tantalum, having a purity of 99.9% or greater;
c. Crucibles with a volume between 50 ml and 2 liters and made of or lined with tantalum (having a purity of 98% or greater) or coated with tantalum carbide, nitride, boride (or any combination of these).

2A226 Valves not controlled by 0B001 that are 5 mm (0.2 in.) or greater in nominal size, with a bellows seal, wholly made of or lined with aluminum, aluminum alloy, nickel, or alloy containing 60% or more nickel, either manually or automatically operated.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: Valves are also subject to the export licensing authority of the Nuclear Regulatory Commission. (See 10 CFR part 110.)
Related Definition: For valves with different inlet and outlet diameter, the nominal size parameter above refers to the smallest diameter.
Items: The list of items controlled is contained in the ECCN heading.

2A290 Generators and other equipment specially designed, prepared, or intended for use with nuclear plants.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: Nuclear equipment is also subject to the export licensing authority of the Nuclear Regulatory Commission. (See 10 CFR part 110.)
Related Definitions: N/A
Items:
a. Generators, turbine-generator sets, steam turbines, heat exchangers, and heat exchanger type condensers designed or intended for use in a nuclear reactor;
b. Process control systems intended for use with the equipment controlled by 2A290.a.

2A291 Equipment related to nuclear material handling and processing and to nuclear reactors.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: Nuclear equipment is also subject to the export licensing authority of the Nuclear Regulatory Commission. (See 10 CFR part 110.)
Related Definitions: N/A
Items:

a. Process control systems, except those controlled by 2A290.b, intended for use with nuclear reactors.

b. Casks that are specially designed for transportation of high-level radioactive material and that weigh more than 1,000 kg.

c. Commodities, parts and accessories specially designed or prepared for use with nuclear plants (e.g., snubbers, airlocks, reactor and fuel inspection equipment) except items licensed by the Nuclear Regulatory Commission, pursuant to 10 CFR part 110.

2A292 Piping, fittings and valves made of, or lined with, stainless steel, copper-nickel alloy or other alloy steel containing 10% or more nickel and/or chromium.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Pressure tubes, pipes, and fittings in kilograms; valves in number; parts and accessories in $ value
Related Controls: Piping, fittings, and valves are also subject to the export licensing authority of the Nuclear Regulatory Commission. (See 10 CFR part 110.)
Related Definitions: N/A
Items:

a. Pressure tube, pipe, and fittings of 200 mm (8 inches) or more inside diameter, and suitable for operation at pressures of 3.4 MPa (500 psi) or greater;

b. Pipe valves having all of the following characteristics:

b.1. A pipe size connection of 8 inches or more inside diameter;

b.2. Rated at 1,500 psi or more;

c. Parts, n.e.s.

2A293 Pumps designed to move molten metals by electromagnetic forces.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

2A993 Explosive detection systems, consisting of an automated device, or combination of devices, with the ability to detect the presence of different types of explosives, in passenger checked baggage, without need for human skill, vigilance, or judgment.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

2A994 Portable electric generators and specially designed parts.

License Requirements

Reason for Control: AT

Control(s)

AT applies to entire entry. A license is required for items controlled by this entry to Cuba, Iran, Libya, and North Korea. The Commerce Country Chart is not designed to determine licensing requirements for this entry. See part 746 of the EAR for additional information.

Note: Exports from the U.S. and transhipments to Iran must be licensed by the Department of Treasury, Office of Foreign Assets Control. (See § 742.8 and § 746.7 of the EAR for additional information on this requirement.)

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

B. Test, Inspection and Production Equipment

Note for Category 2B: 2B001 to 2B009 do not control measuring interferometer systems, without closed or open loop feedback, containing a "laser" to measure slide movement errors of machine-tools, dimensional inspection machines or similar equipment.

2B001 "Numerical control" units, "motion control boards", specially designed for "numerical control" applications on machine tools, machine tools, and specially designed components therefore.

License Requirements

Reason for Control: NS, NP, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
NP applies to entire entry .. Except as noted below: 2B001.a and .b unless controlled "software" in 2D001 or 2D002.b resides therein, 2B001.c.1.b.1 (turning machines only), c.1.b.2, c.1.b.3, c.1.b.4, c.1.b.5.b.2 (except bar machines (Swisstum), limited to machining only bar feed through, if maximum diameter is equal to or less than 42mm and there is no capability of mounting chucks. Machines may have drilling and/or milling capabilities for machining parts with diameters less than 42 mm), c.1.b.6, c.2. and c.4, turning machines with capacity ≤35 mm in diameter, milling machines with greater than 2 meters travel and worse than 30 micron accuracy, or crankshaft and camshaft grinding machines.	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: Yes, for items described in Advisory Note 1
CIV: Yes, for items described in Advisory Note 1

List of Items Controlled . .

Unit: Equipment in number; parts and accessories in $ value
Related Controls: N/A
Related Definitions: N/A
Items:

Technical Notes: 1. Secondary parallel contouring axes, e.g., the w-axis on horizontal boring mills or a secondary rotary axis the center line of which is parallel to the primary rotary axis, are not counted in the total number of contouring axes.

Note: Rotary axes need not rotate over 360°. A rotary axis can be driven by a linear device, e.g., a screw or a rack-and-pinion.

2. Axis nomenclature shall be in accordance with International Standard ISO 841, Numerical Control Machines—Axis and Motion Nomenclature.

a. "Numerical control" units for machine tools, as follows, and specially designed components therefor:

a.1. Having more than four interpolating axes that can be coordinated simultaneously for "contouring control"; or

a.2. Having two, three or four interpolating axes that can be coordinated simultaneously for "contouring control" and:

a.2.a. Capable of "real-time processing" of data to modify, during the machining operation, tool path, feed rate and spindle data by either:

a.2.a.1. Automatic calculation and modification of part program data for machining in two or more axes by means of measuring cycles and access to source data; or

a.2.a.2. "Adaptive control" with more than one physical variable measured and processing by means of a computing model (strategy) to change one or more machining instructions to optimize the process; or

a.2.b. Capable of receiving directly (on-line) and processing computer-aided-design (CAD) data for internal preparation of machine instructions; or

a.2.c. Capable, without modification, according to the manufacturer's technical specifications, of accepting additional boards which would permit an increase above the control levels specified in 2B001, in the number of interpolating axes that can be coordinated simultaneously for "contouring control", even if they do not contain these additional boards;

Note: 2B001.a does not control "numerical control" units if:

a. Modified for and incorporated in uncontrolled machines; or

b. Specially designed for uncontrolled machines.

b. "Motion control boards" specially designed for machine tools and having any of the following characteristics:

b.1. Interpolation in more than four axes;

b.2. Capable of "real time processing" as described in 2B001.a.2.a; or

b.3. Capable of receiving and processing CAD data as described in 2B001.a.2.b;

c. Machine tools, as follows, for removing or cutting metals, ceramics or composites, that, according to the manufacturer's technical specifications, can be equipped with electronic devices for simultaneous "contouring control" in two or more axes:

c.1. Machine tools for turning, grinding, milling or any combination thereof that:

c.1.a. Have two or more axes that can be coordinated simultaneously for "contouring control"; and

c.1.b. Have any of the following characteristics:

c.1.b.1. Two or more contouring rotary axes;

Technical Note: The c-axis on jig grinders used to maintain grinding wheels normal to the work surface is not considered a contouring rotary axis.

c.1.b.2. One or more contouring "tilting spindles";

Note: 2B001.c.1.b.2 applies to machine tools for grinding or milling only.

c.1.b.3. "Camming" (axial displacement) in one revolution of the spindle less (better) than 0.0006 mm total indicator reading (TIR);

Note: 2B001.c.1.b.3 applies to machine tools for turning only.

c.1.b.4. "Run out" (out-of-true running) in one revolution of the spindle less (better) than 0.0006 mm total indicator reading (TIR);

c.1.b.5. The "positioning accuracies", with all compensations available, are less (better) than:

c.1.b.5.a. 0.001° on any rotary axis; or

c.1.b.5.b.1. 0.004 mm along any linear axis (overall positioning) for grinding machines;

c.1.b.5.b.2. 0.006 mm along any linear axis (overall positioning) for turning or milling machines;

N.B.: 2B001.c.1.b.5 does not control milling or turning machine tools with a positioning accuracy along one axis, with all compensations available, equal to or greater (worse) than 0.005 mm.

Technical Note: The positioning accuracy of "numerically controlled" machine tools is to be determined and presented in accordance with ISO/DIS 230/2, paragraph 2.13, in conjunction with the requirements below:

a. Test conditions (paragraph 3):

1. For 12 hours before and during measurements, the machine tool and accuracy measuring equipment will be kept at the same ambient temperature. During the premeasurement time the slides of the machine will be continuously cycled in the same manner that the accuracy measurements will be taken;

2. The machine shall be equipped with any mechanical, electronic, or software compensation to be exported with the machine;

3. Accuracy of measuring equipment for the measurements shall be at least four times more accurate than the expected machine tool accuracy;

4. Power supply for slide drives shall be as follows:

a. Line voltage variation shall not exceed ±10% of nominal rated voltage;

b. Frequency variation shall not exceed ±2 Hz of normal frequency;

c. Lineouts or interrupted service are not permitted.

b. Test program (paragraph 4):

1. Feed rate (velocity of slides) during measurement shall be the rapid traverse rate;

Note: In the case of machine tools that generate optical quality surfaces, the feedrate shall be equal to or less than 50 mm per minute.

2. Measurements shall be made in an incremental manner from one limit of the axis travel to the other without returning to the starting position for each move to the target position;

3. Axes not being measured shall be retained at mid travel during test of an axis.

c. Presentation of test results (paragraph 2): The results of the measurement must include:

1. Positioning accuracy (A); and

2. The mean reversal error (B).

c.1.b.6.a A "positioning accuracy" less (better) than 0.007 mm; and

c.1.b.6.b. A slide motion from rest for all slides within 20% of a motion command input for inputs of less than 0.5 micrometer;

Technical Note: Minimum increment of motion test (slide motion from rest): The test is conducted only if the machine tool is equipped with a control unit the minimum increment of which is less (better) than 0.5 micrometer. Prepare the machine for testing in accordance with ISO 230.2 paragraphs 3.1, 3.2, 3.3. Conduct the test on each axis (slide) of the machine tool as follows:

1. Move the axis over at least 50% of the maximum travel in plus and minus directions twice at maximum feed rate, rapid traverse rate or jog control;

2. Wait at least 10 seconds;

3. With manual data input, input the minimum programmable increment of the control unit;

4. Measure the axis movement;

5. Clear the control unit with the servo null, reset or whatever clears any signal (voltage) in the servo loop;

6. Repeat steps 2 to 5 five times, twice in the same direction of the axis travel and three times in the opposite direction of travel for a total of six test points;

7. If the axis movement is between 80% and 120% of the minimum programmable input for four of the six test points, the machine is controlled. For rotary axes, the measurement is taken 200 mm from the center of rotation.

Note 1: 2B001.c.1 does not control cylindrical external, internal, and external-internal grinding machines having all of the following characteristics:

a. Not centerless (shoe-type) grinding machines;

b. Limited to cylindrical grinding;

c. A maximum workpiece capacity of 150 mm diameter or length;

d. Only two axes which can be coordinated simultaneously for "contouring control"; and

e. No contouring c axis.

Note 2: 2B001.c.1 does not control machines designed specifically as jig grinders having both of the following characteristics:

a. Axes limited to x, y, c and a, where the c-axis is used to maintain the grinding wheel normal to the work surface and the a-axis is configured to grind barrel cams; and

b. A spindle "run out" not less (not better) than 0.0006 mm.

Note 3: 2B001.c.1 does not control tool or cutter grinding machines having all of the following characteristics:

a. Shipped as a complete system with "software" specially designed for the production of tools or cutters;

b. No more than two rotary axes that can be coordinated simultaneously for "contouring control";

c. "Run out" (out-of-true running) in one revolution of the spindle not less (not better) than 0.0006 mm total indicator reading (TIR); and

d. The "positioning accuracies", with all compensations available, are not less (not better) than:

1. 0.004 mm along any linear axis for overall positioning; or

2. 0.001° on any rotary axis.

c.2. Electrical discharge machines (EDM) of the wire feed type that have five or more axes that can be coordinated simultaneously for "contouring control";

c.3. Electrical discharge machines (EDM) of the non-wire type that have two or more rotary axes that can be coordinated simultaneously for "contouring control";

c.4. Machine tools for removing metals, ceramics or composites:

c.4.a. By means of:

c.4.a.1. Water or other liquid jets, including those employing abrasive additives;

c.4.a.2. Electron beam; or

c.4.a.3. "Laser" beam; and

c.4.b. Having two or more rotary axes that:

c.4.b.1. Can be coordinated simultaneously for "contouring control"; and

c.4.b.2. Have a "positioning accuracy" of less (better) than 0.003°C.

Technical Note: Machines capable of being simultaneously coordinated for contouring control in two or more rotary axes or one or more "tilting spindles", remain controlled regardless of the number of simultaneously coordinated contouring axes that can be controlled by the "numerical control" unit attached to the machine.

2B002 Non-"numerically controlled" machine tools for generating optical quality surfaces.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $3000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number
Related Controls: N/A
Related Definitions: N/A
Items:

a. Turning machines using a single point cutting tool and having all of the following characteristics:

a.1. Slide "positioning accuracy" less (better) than 0.0005 mm per 300 mm of travel;

a.2. Bidirectional slide positioning "repeatability" less (better) than 0.00025 mm per 300 mm of travel;

a.3. Spindle "run out" and "camming" less (better) than 0.0004 mm total indicator reading (TIR);

a.4. Angular deviation of the slide movement (yaw, pitch and roll) less (better) than 2 seconds of arc, TIR, over full travel; and

a.5. Slide perpendicularity less (better) than 0.001 mm per 300 mm of travel;

Technical Note: The bidirectional slide positioning "repeatability" (R) of an axis is the maximum value of the repeatability of positioning at any position along or around the axis determined using the procedure and under the conditions specified in part 2.11 of ISO 230/2: 1988.

b. Fly cutting machines having both of the following characteristics:

b.1. Spindle "run out" and "camming" less (better) than 0.004 mm TIR; and

b.2. Angular deviation of slide movement (yaw, pitch and roll) less (better) than 2 seconds of arc, TIR, over full travel.

2B003 "Numerically controlled" or manual machine tools specially designed for cutting, finishing, grinding or honing either of the following classes of bevel or parallel axis hardened (R_c = 40 or more) gears, and specially designed components, controls and accessories therefor.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $5000
GBS: Yes for 2B003.a
CIV: Yes for 2B003.a

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: N/A
Related Definitions: N/A
Items:

a. Hardened bevel gears finished to a quality of better than American Gear Manufacturers Association (AGMA) 13 (equivalent to ISO 1328 class 4); or

b. Hardened spur, helical and double-helical gears with a pitch diameter exceeding 1,250 mm and a face width of 15% of pitch diameter or larger finished to a quality of AGMA 14 or better (equivalent to ISO 1328 class 3).

2B004 Hot "isostatic presses" and specially designed dies, molds, components, accessories and controls therefor.

License Requirements

Reason for Control: NS, MT, NP, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
MT applies to entire entry .	MT Column 1.
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: N/A
Related Definitions: N/A
Items:

a. Having a controlled thermal environment within the closed cavity and possessing a chamber cavity with an inside diameter of 406 mm or more; and

b. Having:

b.1. A maximum working pressure exceeding 207 MPa;

b.2. A controlled thermal environment exceeding 1,773 K (1,500° C); or

b.3. A facility for hydrocarbon impregnation and removal of resultant gaseous degradation products.

Technical Note: The inside chamber dimension is that of the chamber in which both the working temperature and the working pressure are achieved and does not include fixtures. That dimension will be the smaller of either the inside diameter of the pressure chamber or the inside diameter of the insulated furnace chamber, depending on which of the two chambers is located inside the other.

2B005 Equipment specially designed for deposition, processing and in-process control of inorganic overlays, coatings and surface modification, for non-electronic substrates, by processes shown in the Table and associated Notes following 2E003.d, and specially designed automated handling, positioning, manipulation and control components therefor.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $1000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items:

a. "Stored program controlled" chemical vapor deposition (CVD) production equipment with both of the following:

a.1. Process modified for one of the following:

a.1.a. Pulsating CVD;

a.1.b. Controlled nucleation thermal decomposition (CNTD); or

a.1.c. Plasma enhanced or plasma assisted CVD; and

a.2. Either of the following:

a.2.a. Incorporating high vacuum (equal to or less than 0.01 Pa) rotating seals; or

a.2.b. Incorporating *in situ* coating thickness control;

b. "Stored program controlled" ion implantation production equipment having beam currents of 5 mA or more;

c. "Stored program controlled" electron beam physical vapor deposition (EB–PVD) production equipment incorporating:

c.1. Power systems rated for over 80 kW;

c.2. A liquid pool level "laser" control system that regulates precisely the ingots feed rate; and

c.3. A computer controlled rate monitor operating on the principle of photo-luminescence of the ionized atoms in the evaporant stream to control the deposition rate of a coating containing two or more elements;

d. "Stored program controlled" plasma spraying production equipment having either of the following characteristics:

d.1. Operating at reduced pressure controlled atmosphere (equal to or less than 10 kPa measured above and within 300 mm of the gun nozzle exit) in a vacuum chamber capable of evacuation down to 0.01 Pa prior to the spraying process; or

d.2. Incorporating *in situ* coating thickness control;

e. "Stored program controlled" sputter deposition production equipment capable of current densities of 0.1 mA/mm² or higher at a deposition rate of 15 micrometer/hr or more;

f. "Stored program controlled" cathodic arc deposition production equipment incorporating a grid of electromagnets for steering control of the arc spot on the cathode;

g. "Stored program controlled" ion plating production equipment allowing for the *in situ* measurement of either:

g.1. Coating thickness on the substrate and rate control; or

g.2. Optical characteristics.

Note: 2B005.g does not control standard ion plating coating equipment for cutting or machining tools.

2B006 Dimensional inspection or measuring systems or equipment.

License Requirements

Reason for Control: NS, NP, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
NP applies to 2B006.a, b and .c.	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number
Related Controls: N/A
Related Definition: This entry does not control measuring interferometer systems, without closed or open loop feedback, containing a "laser" to measure slide movement errors of machine tools, dimensional inspection machines or similar equipment.
Items:

a. Computer controlled, "numerically controlled" or "stored program controlled" dimensional inspection machines, having both of the following characteristics:

a.1. Two or more axes; and

a.2. A one dimensional length "measurement uncertainty" equal to or less (better) than (1.25+L/1,000) micrometer tested with a probe with an "accuracy" of less (better) than 0.2 micrometer (L is the measured length in mm);

b. Linear and angular displacement measuring instruments, as follows:

b.1. Linear measuring instruments having any of the following characteristics:

b.1.a. Non-contact type measuring systems with a "resolution" equal to or less (better) than 0.2 micrometer within a measuring range up to 0.2 mm;

b.1.b. Linear voltage differential transformer systems with both of the following characteristics:

b.1.b.1. "Linearity" equal to or less (better) than 0.1% within a measuring range up to 5 mm; and

b.1.b.2. Drift equal to or less (better) than 0.1% per day at a standard ambient test room temperature ±1 K; or

b.1.c. Measuring systems having both of the following characteristics:

b.1.c.1. Containing a "laser"; and

b.1.c.2. Maintaining, for at least 12 hours, over a temperature range of ±1 K around a standard temperature and at a standard pressure:

b.1.c.2.a. A "resolution" over their full scale of 0.1 micrometer or less (better); and

b.1.c.2.b. A "measurement uncertainty" equal to or less (better) than (0.2+L/2,000) micrometer (L is the measured length in mm);

b.2. Angular measuring instruments having an "angular position deviation" equal to or less (better) than 0.00025°;

Note: 2B006.b.2 does not control optical instruments, such as autocollimators, using collimated light to detect angular displacement of a mirror.

c. Systems for simultaneous linear-angular inspection of hemishells, having both of the following characteristics:

c.1. "Measurement uncertainty" along any linear axis equal to or less (better) than 3.5 micrometer per 5 mm; and

c.2. "Angular position deviation" equal to or less (better) than 0.02°;

d. Equipment for measuring surface irregularities, by measuring optical scatter as a function of angle, with a sensitivity of 0.5 nm or less (better);

Notes: 1. Machine tools that can be used as measuring machines are controlled if they meet or exceed the criteria specified for the machine tool function or the measuring machine function.

2. A machine described in 2B006 is controlled if it exceeds the control threshold anywhere within its operating range.

Technical Notes: 1. The probe used in determining the "measurement uncertainty" of a dimensional inspection system shall be as described in VDI/VDE 2617 Parts 2, 3, and 4.

2. All measurement values in 2B006 represent permissible positive and negative deviations from the target value, i.e., not total band.

2B007 "Robots", and specially designed controllers and "end-effectors" therefor.

License Requirements

Reason for Control: NS, NP, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
NP applies to 2B007.b and .c and to specially designed controllers and "endeffectors" therefor.	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $5000, except 2B007.b and .c
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items:

a. Capable in real time of full three-dimensional image processing or full three-dimensional scene analysis to generate or modify "programs" or to generate or modify numerical program data;

Note: The scene analysis limitation does not include approximation of the third dimension by viewing at a given angle, or limited grey scale interpretation for the perception of depth or texture for the approved tasks (2½ D).

b. Specially designed to comply with safety standards applicable to explosive munitions environments (i.e.) meeting electrical code ratings for high explosives); or

c. Specially designed or rated as radiation hardened to withstand greater than 5×10^4 grays(Silicon) (5×10^6 rad(Silicon)) without operational degradation.

2B008 Assemblies, units or inserts specially designed for machine tools, or for equipment controlled by 2B006 or 2B007.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definition: This entry does not control measuring interferometer systems, without closed or open loop feedback, containing a laser to measure slide movement errors of machine-tools, dimensional inspection machines or similar equipment.
Items:

a. Spindle assemblies, consisting of spindles and bearings as a minimal assembly, with radial ("run out") or axial ("camming") axis motion in one revolution of the spindle less (better) than 0.0006 mm total indicator reading (TIR);

b. Linear position feedback units, e.g., inductive type devices, graduated scales, infrared systems or "laser" systems, having an overall "accuracy" less (better) than $(800 + (600 \times L \times 10^{-3}))$nm (L equals the effective length in mm);

c. Rotary position feedback units, e.g., inductive type devices, graduated scales, infrared systems or "laser" systems, having an "accuracy" less (better) than 0.00025°;

d. Slide way assemblies consisting of a minimal assembly of ways, bed and slide having all of the following characteristics:

d.1. A yaw, pitch or roll of less (better) than 2 seconds of arc TIR (reference: ISO/DIS 230/1) over full travel;

d.2. A horizontal straightness of less (better) than 2 micrometer per 300 mm length; and

d.3. A vertical straightness of less (better) than 2 micrometer per 300 mm length;

e. Single point diamond cutting tool inserts, having all of the following characteristics:

e.1. Flawless and chip-free cutting edge when magnified 400 times in any direction;

e.2. Cutting radius from 0.1 to 5 mm inclusive; and

e.3. Cutting radius out-of-roundness less (better) than 0.002 mm TIR.

2B009 Specially designed printed circuit boards with mounted components, or "compound rotary tables" or "tilting spindles", capable of upgrading, according to the manufacturer's specifications, "numerical control" units, machine tools or feed-back devices to or above the levels specified in ECCNs 2B001, 2B002, 2B003, 2B004, 2B005, 2B006, 2B007, or 2B008.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

2B018 Equipment on the International Munitions List.

License Requirements

Reason for Control: NS, MT, RS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 1.
MT applies to specialized machinery, equipment, and gear for producing rocket systems (including ballistic missile systems, space launch vehicles, and sounding rockets) and unmanned air vehicle systems (including cruise missile systems, target drones, and reconnaissance drones) usable in systems that are controlled for MT reasons including their propulsion systems and components, and pyrolytic deposition and densification equipment.	MT Column 1.
RS applies to entire entry ..	RS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $3000
GBS: Yes for Advisory Note in this entry to 2B018
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in § value
Related Controls: N/A
Related Definitions: N/A
Items:

Specialized machinery, equipment, gear, and specially designed parts and accessories therefor, including but not limited to the following, that are specially designed for the examination, manufacture, testing, and checking of arms, appliances, machines, and implements of war:

a. Armor plate drilling machines, other than radial drilling machines;

b. Armor plate planing machines;

c. Armor plate quenching presses;

d. Centrifugal casting machines capable of casting tubes 6 feet (183 cm) or more in length, with a wall thickness of 2 inches (5 cm) and over;

e. Gun barrel rifling and broaching machines, and tools therefor;

f. Gun barrel rifling machines;

g. Gun barrel trepanning machines;

h. Gun boring and turning machines;

i. Gun honing machines of 6 feet (183 cm) stroke or more;

j. Gun jump screw lathes;

k. Gun rifling machines;

l. Gun straightening presses;

m. Induction hardening machines for tank turret rings and sprockets;

n. Jigs and fixtures and other metal-working implements or accessories of the kinds exclusively designed for use in the manufacture of firearms, ordnance, and other stores and appliances for land, sea, or aerial warfare;

o. Small arms chambering machines;

p. Small arms deep hole drilling machines and drills therefor;

q. Small arms rifling machines;

r. Small arms spill boring machines;

s. Tank turret bearing grinding machines.

Advisory Note: Licenses are likely to be approved, as administrative exceptions, for export and reexport to Country Group D:1 of equipment used to determine the safety data of explosives, as required by the International Convention on the Transport of Dangerous Goods (C.I.M.) articles 3 and 4 in Annex 1 RID, provided that such equipment will be used only by the railway authorities of current C.I.M. members, or by the Government-accredited testing facilities in those countries, for the testing of explosives to transport safety standards, of the following description:

a. Equipment for determining the ignition and deflagration temperatures;

b. Equipment for steel-shell tests;

c. Drophammers not exceeding 20 kg in weight for determining the sensitivity of explosives to shock;

d. Equipment for determining the friction sensitivity of explosives when exposed to charges not exceeding 36 kg in weight.

2B104 Equipment and process controls designed or modified for densification and pyrolysis of structural composite rocket nozzles and reentry vehicle nose tips.

License Requirements

Reason for Control: MT, NP, AT

Control(s)	Country Chart
MT applies to entire entry .	MT Column 1.
NP applies to 2B104.a	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number
Related Controls: N/A
Related Definitions: N/A
Items: a. "Isostatic presses" other than those controlled by 2B004 having all of the following characteristics:

a.1. Capable of achieving a maximum working pressure of 10,000 psi (69 MPa) or greater;

a.2. Designed to achieve and maintain a controlled thermal environment of 873 K (600° C) or greater; and

a.3. Possessing a chamber cavity with an inside diameter of 254 mm or greater;

b. Chemical vapor deposition furnaces designed or modified for the densification of carbon-carbon composites.

2B115 Flow forming machines, and specially designed components therefor.

License Requirements

Reason for Control: MT, NP, AT

Control(s)	Country Chart
MT applies to entire entry .	MT Column 1.
NP applies to 2B115.a	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: N/A
Related Definition: This entry controls only spin-forming machines combining the functions of spin-forming and flow-forming.
Items: a. Flow-forming and spin-forming machines, and specially designed components therefor, that according to the manufacturer's technical specifications, can be equipped with "numerical control" units or a computer control; *and*

b. Having more than two axes that can be coordinated simultaneously for "contouring control".

2B116 Vibration test systems, equipment, and components therefor.

License Requirements

Reason for Control: MT, NP, AT

Control(s)	Country Chart
MT applies to entire entry .	MT Column 1.
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $3,000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: NOTE: The term "digital control" refers to equipment, the functions of which are, partly or entirely, automatically controlled by stored and digitally coded electrical signals.
Items: a. Vibration test systems employing feedback or closed loop techniques and incorporating a digital controler, capable of vibrating a system at 10 g RMS or more over the entire range 20 Hz to 2,000 Hz and imparting forces of 50 kN (11,250 lbs.), measured "bare table", or greater;

Note: NP controls in 2B116.a apply to electrodynamic vibration test systems, employing feedback or closed loop control techniques and incorporating a digital controller, capable of vibrating at 10 g RMS or more between 20 Hz and 2000 Hz and imparting forces of 50 kN (11,250 lbs.) measured "bare table," or greater.

b. Digital controllers, combined with specially designed vibration test "software", with a real-time bandwidth greater than 5 kHz and designed for use with vibration test systems described in 2B116.a;

c. Vibration thrusters (shaker units), with or without associated amplifiers, capable of imparting a force of 50 kN (11,250 lbs.), measured "bare table", or greater, and usable in vibration test systems described in 2B116.a;

d. Test piece support structures and electronic units designed to combine multiple shaker units into a complete shaker system capable of providing an effective combined force of 50 kN, measured "bare table", or greater, and usable in vibration test systems described in 2B116.a.

2B204 "Isostatic presses," not controlled by 2B004 or 2B104, capable of achieving a maximum working pressure of 10,000 psi (69 MPa) or greater and having a chamber cavity with an inside diameter in excess of 152 mm (6 inches) and specially designed dies and moulds, and controls therefor.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

2B207 "Robots", and "end-effectors", other than those controlled by 2B007, specially designed to comply with safety standards applicable to handling explosives (i.e., meeting electrical code ratings for high explosives) and specially designed controllers therefor.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

2B215 Flow-forming and spin-forming machines other than those controlled by 2B115, and rotor-forming mandrels.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: N/A
Related Definition: This entry controls only spin-forming machines combining the functions of spin-forming and flow-forming.
Items: a. Having three or more rollers (active or guiding); and

a.1. According to the manufacturer's technical specifications, can be equipped with "numerical control" units or a computer control;

b. Rotor-forming mandrels designed to form cylindrical rotors of inside diameter between 75 mm (3 in.) and 400 mm (16 in.).

Note: This entry includes machines which have only a single roller designed to deform metal plus two auxiliary rollers which support the mandrel, but do not participate directly in the deformation process.

2B225 Remote manipulators that can be used to provide remote actions in radiochemical seperation operations and hot cells.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definition: Remote manipulators provide translation of human operator actions to a remote operating arm and terminal fixture. They may be of a 'master/slave' type or operated by joystick or keypad.
Items:

a. Having a capability of penetrating 0.6 m or more of hot cell wall (through-the-wall operation); or

b. Having a capability of bridging over the top of a hot cell wall with a thickness of 0.6 m or more (over-the-wall operation)

2B226 Vacuum and controlled environment (inert gas) induction) furnaces capable of operating above 1,123 K (850°C) and having induction coils 600 mm or less in diameter and designed for power inputs of 5 kW or more, and power supplies specially designed therefor with a specified power output of 5 kW or more.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definition: This entry does not control furnaces designed for semiconductor wafer manufacturing or processing.
Items: The list of items controlled is contained in the ECCN heading.

2B227 Vacuum and controlled atmosphere metallurgical melting and casting furnaces, and specially configured computer control and monitoring systems therefor.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definition: Related Definition: This entry does not control furnaces designed for semiconductor wafer manufacturing or processing.
Items:

a. Arc remelt and casting furnaces with consumable electrode capacities between 1,000 cm^3 and 20,000 cm^3, and capable of operating with melting temperatures above 1,973 K (1,700° C);

b. Electron beam melting and plasma atomization and melting furnaces with a power of 50 kW or greater and capable of operating with melting temperatures above 1,473 K (1,200° C).

2B228 Rotor fabrication and assembly equipment and bellows-forming mandrels and dies.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definition: N/A
Items:

a. Rotor assembly equipment (e.g., precision mandrels, clamps, and shrink fit machines) for assembly of gas centrifuge rotor tube sections, baffles, and end caps.

b. Rotor straightening equipment for alignment of gas centrifuge rotor tube sections to a common axis;

Technical Note: Normally such equipment will consist of precision measuring probes linked to a computer that subsequently controls the action of, for example, pneumatic rams used for aligning the rotor tube sections.

c. Bellows-forming mandrels and dies for producing single-convolution bellows (bellows made of high-strength aluminum alloys, maraging steel, or high-strength filamentary materials) that have all of the following dimensions:

c.1. 75 mm to 400 mm (3 in. to 6 in.) inside diameter;

c.2. 12.7 mm (0.5 in) or more in length; *and*

c.3. Single convolution depth more than 2 mm (0.08 in.).

2B229 Centrifugal balancing machines, fixed or portable, horizontal or vertical.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: a. Designed for balancing flexible rotors having a length of 600 mm (24 in.) or more and having all of the following characteristics:

a.1. A swing or journal diameter of 75 mm (3 in.) or more;

a.2. Mass capability for 0.9 kg (2 lb.) to 23 kg (50 lb.); and

a.3. Capable of balancing speed of more than 5,000 rpm;

b. Designed for balancing hollow cylindrical rotor components, and having all of the following characteristics:

b.1. A journal diameter of 75 mm (3 in.) or more;

b.2. Mass capability from 0.9 kg (2 lb.) to 23 kg (50 lb.);

b.3. Capable of balancing to a residual imbalance of 0.010 kg-mm/kg per plane or better; and

b.4. Belt drive type.

2B230 Pressure transducers which are capable of measuring absolute pressure at any point in the range 0 to 13 kPa, with pressure sensing elements made of or protected by nickel, nickel alloys with more than 60% nickel by weight, aluminum or aluminum alloys.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: (1.)Pressure transducers are devices that convert pressure measurements into an electrical signal. (2.) For the purposes of this entry, "accuracy" includes non-linearity, hysteresis and repeatability at ambient temperature.
Items:

a. Transducers with a full scale of less than 13 kPa and an accuracy of better than ± 1% of full scale;

b. Transducers with a full scale of 13 kPa or greater and an accuracy of better than ± 130 Pa.

2B231 Vacuum pumps with an input throat size of 38 cm (15 in.) or greater with a pumping speed of 15,000 liters/second or greater and capable of producing an ultimate vacuum better than 10^{-4} Torr (1.33×10^{-4} mbar).

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: Vacuum pumps for gaseous diffusion separation process are subject to the export licensing authority of the Nuclear Regulatory Commission. (See 10 CFR part 110.)
Related Definition: (1.) The ultimate vacuum is determined at the input of the pump with the input of the pump blocked off. (2.) The pumping speed is determined at the measurement point with nitrogen gas or air.
Items: The list of items controlled is contained in the ECCN heading.

2B232 Multistage light gas guns or other high-velocity gun systems (coil, electromagnetic, electrothermal, or other advanced systems) capable of accelerating projectiles to 2 km/s or greater and specialized components therefor.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A

Items: The list of items controlled is contained in the ECCN heading.

2B290 "Numerically controlled" machine tools not controlled by 2B001.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: N/A
Related Definition: N/A
Items:

a. Turning machines or combination turning/milling machines that are capable of machining diameters greater than 2.5 meters.

b. Reserved.

2B350 Chemical manufacturing facilities and equipment.

License Requirements

Reason for Control: CB, AT

Control(s)	Country Chart
CB applies to entire entry ..	CB Column 3.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number
Related Controls: The controls in this entry do not apply to equipment that is; a.) specially designed for use in civil applications (e.g., food processing, pulp and paper processing, or water purification); AND b.) inappropriate, by the nature of its design, for use in storing, processing, producing or conducting and controlling the flow of chemical weapons precursors controlled by 1C350.
Related Definition: For purposes of this entry the term "chemical warfare agents" are those agents subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR Part 121, Category XIV)
Items:

a. Chemical processing equipment described in paragraph a.1 having any of the flow contact surfaces described in paragraph a.2:

a.1. Chemical processing equipment, as follows:

a.1.a. Reaction vessels or reactors, with or without agitators, with a total internal (geometric) volume greater than 0.1 m^3 (100 liters) and less than 20 m^3 (20,000 liters);

a.1.b Agitators for use in reaction vessels or reactors described in 2B350.a.1.a;

a.1.c. Storage tanks, containers or receivers with a total internal (geometric) volume greater than 0.1 m^3 (100 1);

a.1.d. Heat exchangers or condensers with a heat transfer surface area less than 20 m^2;

a.1.e. Distillation or absorption columns having a diameter greater than 0.1 m;

a.1.f. Multiple seal valves incorporating a leak detection port, bellows-seal valves, non-return (check) valves or diaphragm valves; or

a.1.g. Multi-walled piping incorporating a leak detection port;

a.2. Where all surfaces that come into direct contact with the chemical(s) being processed or contained are made from any of the following materials:

a.2.a. Nickel, or alloys with more than 40% nickel by weight;

a.2.b. Alloys with more than 25% nickel and 20% chromium by weight;

a.2.c. Fluoropolymers;

a.2.d. Glass or glass-lined (including vitrified or enamelled coating);

a.2.e. Graphite (for heat exchangers or condensers, distillation or absorption columns, or multi-walled piping only);

a.2.f. Tantalum or tantalum alloys;

a.2.g. Titanium or titanium alloys; or

a.2.h. Zirconium or zirconium alloys.

b. Remotely operated filling equipment in which all surfaces that come into direct contact with the chemical(s) being processed are made from any of the following materials:

b.1. Nickel, or alloys with more than 40% nickel by weight; or

b.2. Alloys with more than 25% nickel and 20% chromium by weight.

c. Multi-seal, canned drive, magnetic, bellows, or diaphragm pumps, with manufacturer's specified maximum flow-rate greater than 0.6m^3/h, or vacuum pumps with the manufacturer's specified maximum flow-rate greater than 5 m^3/h (under standard temperature (0°C) and pressure (101.30 kPa) conditions) in which all surfaces that come into direct contact with the chemical(s) being processed are made from any of the following materials:

c.1. Nickel, or alloys with more than 40% nickel by weight;

c.2. Alloys with more than 25% nickel and 20% chromium by weight;

c.3. Fluoropolymers;

c.4. Glass or glass-lined (including vitrified or enamelled coating);

c.5. Graphite;

c.6. Tantalum or tantalum alloys;

c.7. Titanium or titanium alloys;

c.8. Zirconium or zirconium alloys;

c.9. Ceramics; or

c.10. Ferrosilicon.

d. Incinerators that are designed to destroy chemical warfare agents, or chemical weapons precursors controlled by ECCN 1C350, having specially designed waste supply systems, special handling facilities with an average combustion chamber temperature greater than 1000°C in which all surfaces in the waste supply system that come into direct contact with the waste products are made from or lined with any of the following materials:

d.1. Nickel, or alloys with more than 40% nickel by weight;

d.2. Alloys with more than 25% nickel and 20% chromium by weight; or

d.3. Ceramics.

2B351 Toxic gas monitoring system; and dedicated detectors therefor.

License Requirements

Reason for Control: CB, AT

Control(s)	Country Chart
CB applies to entire entry ..	CB Column 3.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number
Related Controls: N/A
Related Definitions: N/A
Items:

a. Designed for continuous operation and usable for detecting chemical warfare agents controlled on the U.S. Munitions List (See 22 CFR part 121) or chemical weapons precursors controlled by ECCN 1C350, or detecting organic compounds containing phosphorus, sulphur, fluorine, or chlorine, or their compounds, at a concentration less than 0.3 mg/m^3; and

b. Designed for the detection of chemical compounds having a cholinesterase-inhibiting activity.

2B352 Biological equipment.

License Requirements

Reason for Control: CB, AT

Control(s)	Country Chart
CB applies to entire entry ..	CB Column 3.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number
Related Controls: N/A
Related Definitions: N/A
Items:

a. Complete containment facilities at P3 or P4 containment level;

Technical Note: P3 or P4 (BL3, BL4, L3, L4) containment levels are as specified in the WHO Laboratory Biosafety Manual (Geneva, 1983).

b. Fermenters capable of cultivation of pathogenic micro-organisms, viruses or for toxin production, without the propagation of aerosols, having a capacity equal to or greater than 100 liters.

Technical Note: Fermenters include bioreactors, chemostats, and continuous-flow systems.

c. Centrifugal separators capable of the continuous separation of pathogenic microorganisms, without the propagation of aerosols, and having all of the following characteristics:

c.1. A flow rate greater than 100 liters per hour;

c.2. Components of polished stainless steel or titanium;

c.3. Double or multiple sealing joints within the stream containment area;

c.4. Capable of *in situ* stream sterilization in a closed state.

Technical Note: Centifugal separators include decanters.

d. Cross-flow filtration equipment capable of continuous separation of pathogenic microorganisms, viruses, toxins, and cell cultures without the propagation of aerosols, having all of the following characteristics:

d.1. Equal to or greater than 5 square meters;

d.2. Capable of *in situ* sterilization.

e. Steam sterilizable freeze-drying equipment with a condenser capacity greater than 50 kgs. but less than 1,000 kgs. of ice in 24 hours.

f. Equipment that incorporates or is contained in P3 or P4 containment housing, as follows:

f.1. Independently ventilated protective full or half suits; and

f.2. Class III biological safety cabinets or isolators with similar performance standards;

Note: In this entry, isolators include flexible isolators, dry boxes, anaerobic chambers and glove boxes.

g. Chambers designed for aerosol challenge testing with microorganisms, viruses, or toxins and having a capacity of 1 m^3 or greater.

2B985 Equipment specially designed for manufacturing shotgun shells; and ammunition hand-loading equipment for both cartridges and shotgun shells.

License Requirements

Reason for Control: UN

Control(s)

UN applies to entire entry. A license is required for items controlled by this entry to Cuba, Libya, North Korea and Rwanda. The Commerce Country Chart is not designed to determine licensing requirements for this entry. See part 746 of the EAR for additional information.

Note: Exports from the U.S. and transhipments to Iran must be licensed by the Department of Treasury, Office of Foreign Assets Control. (See to § 746.7 of the EAR for additional information on this requirement.)

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

2B991 Numerical control units for machine tools and "numerically controlled" machine tools, n.e.s

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number
Related Controls: N/A
Related Definitions: N/A
Items:

a. "Numerical control" units for machine tools:

a.1. Having four interpolating axes that can be coordinated simultaneously for "contouring control"; or

a.2. Having two or more axes that can be coordinated simultaneously for "contouring control" and a minimum programmable increment better (less) than 0.001 mm;

b. "Numerically controlled" machine tools that, according to the manufacturer's technical specifications, can be equipped with electronic devices for simultaneous "contouring control" in two or more axes and that have both of the following characteristics:

b.1. Two or more axes that can be coordinated simultaneously for contouring control; and

b.2. "Positioning accuracies", with all compensations available:

b.2.a. Better than 0.020 mm, but no better than 0.004 mm along any linear axis (overall positioning) for grinding machines;

b.2.b. Better than 0.020 mm, but no better than 0.006 mm along any linear axis (overall positioning) for milling machines; or

b.2.c. Better than 0.020 mm, but no better than 0.010 mm along any linear axis (overall positioning) for turning machines.

2B992 Manual dimensional inspection machines with two or more axes, and measurement uncertainty equal to or less (better) than (3 + L/300) micrometor in any axes (L measured length in mm).

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled:

Unit: Equipment in number
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

2B993 Gearmaking and/or finishing machinery not controlled by 2B003 capable of producing gears to a quality level of better than AGMA 11.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled:

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

2B994 "Robots" not controlled by 2B007 or 2B207 that are capable of employing feedback information in real-time processing from one or more sensors to generate or modify "programs" or to generate or modify numerical program data.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

C. Materials [Reserved]

D. Software

2D001 "Software" specially designed or modified for the "development", "production" or "use" of equipment controlled by 2A001 to 2A007 or 2B001 to 2B009.

License Requirements

Reason for Control: NS, MT, NP, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 1.
MT applies to "software" for equipment controlled by 2B004.	MT Column 1.
NP applies to "software" for equipment controlled by 2B001, 2B004, 2B006, 2B007 for NP reasons.	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: Yes

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

2D002 Specific "software."

License Requirements

Reason for Control: NS, NP, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 1.
NP applies to 2D002.b	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: Yes

List of Items Controlled

Unit: § value
Related Controls: N/A
Related Definitions: N/A
Items:

a. "Software" to provide "adaptive control" and having both of the following characteristics:

a.1. For "flexible manufacturing units" (FMUs) which consist at least of equipment described in b.1 and b.2 of the definition of "flexible manufacturing unit" contained in part 772 of the EAR; and

a.2. Capable of generating or modifying, in "real time processing", programs or data by using the signals obtained simultaneously by means of at least two detection techniques, such as:

a.2.a. Machine vision (optical ranging);

a.2.b. Infrared imaging;

a.2.c. Acoustical imaging (acoustical ranging);

a.2.d. Tactile measurement;

a.2.e. Inertial positioning;

a.2.f. Force measurement;

a.2.g. Torque measurement;

Note: 2D002.a does not control "software" which only provides rescheduling of functionally identical equipment within "flexible manufacturing units" using pre-stored part programs and a pre-stored strategy for the distribution of the part programs.

b. "Software" for electronic devices other than those described in 2B001.a or b, which provides the "numerical control" capability of the equipment controlled by 2B001.

2D018 "Software" for the "development", "production" or "use" of equipment controlled by 2B018.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 1.
MT applies to "software" for equipment controlled by 2B018 for MT reasons.	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: Yes

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

2D101 "Software" for the "development", "production", or "use" of items controlled by 2B104, 2B115 or 2B116.

License Requirements

Reason for Control: MT, NP, AT

Control(s)	Country Chart
MT applies to entire entry .	MT Column 1.
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

2D201 "Software" specially designed for the "development", "production" or "use" of items controlled by 2B204, 2B207, 2B215, 2B227 or 2B229.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

2D290 "Software" specially designed or modified for the "development", "production" or "use" of items controlled by 2A290, 2A291 or 2B290.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to "software" for equipment controlled by 2A291 or 2B290.	NP Column 1.
NP applies to "software" for equipment controlled by 2A290.	NP Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

2D992 "Software" specially designed for the "development" or "production" of equipment controlled by 2B992.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

2D993 "Software" specially designed for the "development", "production", or "use" of equipment controlled by 2B991, 2B993, or 2B994.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

2D994 "Software" specially designed for the "development" or "production" of portable electric generators controlled by 2A994.

License Requirements

Reason for Control: AT

Control(s)

AT applies to entire entry. A license is required for items controlled by this entry to Cuba, Iran, Libya, and North Korea. The Commerce Country Chart is not designed to determine licensing requirements for this entry. See part 746 of the EAR for additional information.

Note: Exports from the U.S. and transhipments to Iran must be licensed by the Department of Treasury, Office of Foreign Assets Control. (See § 742.8 and § 746.7 for additional information on this requirement.)

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

E. Technology

2E001 "Technology" according to the General Technology Note for the "development" of items controlled by 2A (except 2A993 and 2A994) or 2B (except 2B018, 2B991 to 2B994) 2D (except 2D018, 2D992 to 2D994)

License Requirements

Reason for Control: NS, MT, NP, CB, AT

Control(s)	Country Chart
NS applies to "technology" for items controlled by 2A001 to 2A006, 2B001 to 2B009, 2D001 or 2D002.	NS Column 1.
MT applies to "technology" for items controlled by 2B004, 2B018 or 2B116, 2D001 or 2D101 for MT reasons.	MT Column 1.
NP applies to "technology" for items controlled by 2A292, 2A293, 2B001, 2B004, 2B006, 2B007, 2B104, 2B215, 2B225, 2B226, 2B228, 2B229, 2B231, 2B290, 2D001, 2D002 or 2D201 for NP reasons.	NP Column 1.
NP applies to "technology" for equipment controlled by 2A290.	NP Column 2.
CB applies to "technology" for equipment controlled by 2B350 to 2B352.	CB Column 3.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: Yes

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

2E002 "Technology" according to the General Technology Note for the "production" of items controlled by 2A (except 2A993 and 2A994) or 2B (except 2B018, 2B991 to 2B994).

License Requirements

Reason for Control: NS, MT, NP, CB, AT

Control(s)	Country Chart
NS applies to "technology" for equipment controlled by 2A001 to 2A006, 2B001 to 2B009.	NS Column 1.
MT applies to "technology" for equipment controlled by 2B004, 2B018, and 2B116 for MT reasons.	MT Column 1.
NP applies to "technology" for equipment controlled by 2A292, 2A293, 2B001, 2B004, 2B006, 2B007, 2B104, 2B215, 2B225, 2B226, 2B228, 2B229, 2B231, 2B290 NP reasons.	NP Column 1.
NP applies to "technology" for equipment controlled by 2A290.	NP Column 2.
CB applies to "technology" for equipment controlled by 2B350 to 2b352.	CB Column 3.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: Yes

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

2E003 Other "technology".

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 1.
NP applies to "technology" controlled by 2E003.a.1 or a.3..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: Yes, except 2E003.a.1, a.3, .b, and .d

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items:

a. "Technology":

a.1 For the "development" of interactive graphics as an integrated part in "numerical control" units for preparation or modification of part programs;

a.2 For the "development" of generators of machine tool instructions (e.g., part programs) from design data residing inside "numerical control" units;

a.3 For the "development" of integration "software" for incorporation of expert systems for advanced decision support of shop floor operations into "numerical control" units;

b. "Technology" for metal-working manufacturing processes, as follows:

b.1. "Technology" for the design of tools, dies or fixtures specially designed for the following processes:

b.1.a. "Superplastic forming";
b.1.b. "Diffusion bonding";
b.1.c. "Direct-acting hydraulic pressing";

b.2. "Technology" consisting of process methods or parameters as listed below used to control:

b.2.a. "Superplastic forming" of aluminium alloys, titanium alloys or "superalloys":

b.2.a.1. Surface preparation;
b.2.a.2. Strain rate;
b.2.a.3. Temperature;
b.2.a.4. Pressure;

b.2.b. "Diffusion bonding" of "superalloys" or titanium alloys:

b.2.b.1. Surface preparation;
b.2.b.2. Temperature;
b.2.b.3. Pressure;

b.2.c. "Direct-acting hydraulic pressing" of aluminium alloys or titanium alloys:

b.2.c.1. Pressure;
b.2.c.2. Cycle time;

b.2.d. "Hot isostatic densification" of titanium alloys, aluminium alloys or "superalloys":

b.2.d.1. Temperature;
b.2.d.2. Pressure;
b.2.d.3. Cycle time;

c. "Technology" for the "development" or "production" of hydraulic stretch-forming machines and dies therefor, for the manufacture of airframe structures;

d. "Technology" for:

d.1 The application of inorganic overlay coatings or inorganic surface modification coatings, specified in column 3 of the following Table;

d.2 To non-electronic substrates, specified in column 2 of the following Table;

d.3 By processes specified in column 1 of the following Table and defined in the Technical Note;

Category 2E—Materials Processing Table; Deposition Techniques

1. Coating Process (1)	2. Substrate	3. Resultant Coating
A. Chemical Vapor Deposition (CDV)	"Superalloys"	Aluminides for internal passages.

Category 2E—Materials Processing Table; Deposition Techniques—Continued

1. Coating Process (1)	2. Substrate	3. Resultant Coating
	Ceramics and Low-expansion glasses (14)	Silicides. Carbides. Dielectric layers (15).
	Carbon-carbon, Ceramic, and Metal matrix composites.	Silicides. Carbides. Refractory metals. Mixtures thereof (4). Dielectric layers (15). Aluminides Alloyed aluminides (2).
	Cemented tungsten carbide (16), Silicon carbide.	Carbides. Tungsten. Mixtures thereof. (4) Dielectric layers (15).
	Molybdenum and Molybdenum alloys	Dielectric layers (15).
	Beryllium and Beryllium alloys	Dielectric layers (15).
	Sensor window materials (9)	Dielectric layers (15).
B. Thermal-Evaporation Physical Vapor Deposition (TE–PVD).		
1. Physical Vapor Deposition (PVD): Electron-Beam (EB–PVB).	"Superalloys"	Alloyed silicides. Alloyed aluminides (2). MCrAlx (5). Modified zirconia (12). Silicides. Aluminides. Mixtures thereof (4).
	Ceramics and Low-expansion glasses (14)	Dielectric layers (15).
	Corrosion resistant steel (7)	MCrAlx (5). Modified zirconia (12). Mixtures thereof (4).
	Carbon-carbon, Ceramic and Metal matrix composites.	Silicides. Carbides. Refractory metals. Mixtures thereof (4). Dielectric layers (15).
	Cemented tungsten carbide (16), Silicon carbide.	Carbides. Tungsten. Mixtures thereof (4) Dielectric layers (15).
	Molybdenum and Molybdenum alloys	Dielectric layers (15).
	Beryllium and Beryllium alloys	Dielectric layers (15).
	Sensor window materials (9)	Dielectric layers (15).
	Titanium alloys (13)	Borides. Nitrides.
2. Ion assisted resistive heating Physical Vapor Deposition (Ion Plating).	Ceramics and Low-expansion glasses (14)	Dielectric layers (15).
	Carbon-carbon, Ceramic and Metal matrix composites.	Dielectric layers (15).
	Cemented tungsten carbide (16), Silicon carbide.	Dielectric layers (15).
	Molybdenum and Molybdenum alloys	Dielectric layers (15).
	Beryllium and Beryllium alloys	Dielectric layers (15).
	Sensor window materials (9)	Dielectric layers (15).
3. Physical Vapor Deposition: "laser" evaporation.	Ceramics and Low-expansion glasses (14)	Silicides. Dielectric layers (15).
	Carbon-carbon, Ceramic and Metal matrix composites.	Dielectric layers (15).
	Cemented tungsten carbide (16), Silicon carbide.	Dielectric layers (15).
	Molybdenum and Molybdenum alloys	Dielectric layers (15).
	Beryllium and Beryllium alloys	Dielectric layers (15).
	Sensor window materials (9)	Dielectric layers (15).
4. Physical Vapor Deposition: cathodic arc discharge.	"Superalloys"	Alloyed silicides. Alloyed aluminides (2). MCrAlx (5).
	Polymers (11) and Organic matrix composites	Borides. Carbides. Nitrides.
C. Pack cementation (see A above for out-of-pack cementation) (10).	Carbon-carbon, Ceramic and Metal matrix composites.	Silicides. Carbides. Mixtures thereof (4).

Category 2E—Materials Processing Table; Deposition Techniques—Continued

1. Coating Process (1)	2. Substrate	3. Resultant Coating
	Titanium alloys (13)	Silicides. Aluminides. Alloyed aluminides (2).
	Refractory metals and alloys (8).	
D. Plasma spraying	Superalloys	MCrAlx (5). Modified zirconia (12). Mixtures thereof (4). Abradable. Nickel-Graphite. Abradable. Ni-Cr-Al-. Bentonite. Abradable. Al-Si-Polyester.
	Aluminum alloys (6)	Alloyed aluminides (2). MCrAlx (5). Modified zirconia (12). Silicides. Mixtures thereof (4).
	Refractory metals and alloys (8)	Aluminides. Silicides. Carbides.
	Corrosion resistant steel (7)	Modified zirconia (12). Mixtures thereof (4).
	Titanium alloys (13)	Carbides. Aluminides. Silicides. Alloyed aluminides (2). Abradable. Nickel-Graphite. Abradable. Ni-Cr-Al-. Bentonite. Abradable. Al-Si-Polyester.
E. Slurry Deposition	Refractory metals and alloys (8)	Fused silicides. Fused aluminides except for resistance heating elements.
	Carbon-carbon, Ceramic and Metal matrix composites.	Silicides. Carbides. Mixtures thereof (4).
F. Sputter Deposition	"Superalloys"	Alloyed silicides. Alloyed aluminides (2). Noble metal modified aluminides (3). MCrAlx (5). Modified zirconia (12). Platinum. Mixtures thereof (4).
	Ceramics and Low-expansion glasses (14)	Silicides. Platinum. Mixtures thereof. (4) Dielectric layers (15).
	Titanium alloys (13)	Borides. Nitrides. Oxides. Silicides. Aluminides. Alloyed aluminides (2).
	Carbon-carbon, Ceramic and Metal matrix composites.	Carbides. Silicides. Carbides. Refractory metals. Mixtures thereof (4). Dielectric layers (15).
	Cemented tungsten carbide (16), Silicon carbide.	Carbides. Tungsten. Mixtures thereof (4). Dielectric layers (15).
	Molybdenum and Molybdenum alloys	Dielectric layers (15).
	Beryllium and Beryllium alloys	Borides. Dielectric layers (15).
	Sensor window materials (9)	Dielectric layers (15).

Category 2E—Materials Processing Table; Deposition Techniques—Continued

1. Coating Process (1)	2. Substrate	3. Resultant Coating
	Refractory metals and alloys (8)	Aluminides. Silicides. Oxides. Carbides.
G. Ion Implantation	High temperature bearing steels	Additions of Chromium, Tantalum, or Niobium (Columbium).
	Titanium alloys (15)	Borides. Nitrides.
	Beryllium and Beryllium alloys	Borides.
	Cemented tungsten carbide (16)	Carbides. Nitrides.

Notes to Table on Deposition Techniques

1. The term "coating process" includes coating repair and refurbishing as well as original coating.

2. The term "alloyed aluminide" coating includes single or multiple-step coatings in which an element or elements are deposited prior to or during application of the aluminide coating, even if these elements are deposited by another coating process. It does not, however, include the multiple use of single-step pack cementation processes to achieve alloyed aluminides.

3. The term 'noble metal modified aluminide' coating includes multiple-step coatings in which the noble metal or noble metals are laid down by some other coating process prior to application of the aluminide coating.

4. Mixtures consist of infiltrated material, graded compositions, co-deposits and multilayer deposits and are obtained by one or more of the coating processes specified in the Table.

5. MCrAlX refers to a coating alloy where M equals cobalt, iron, nickel or combinations thereof and X equals hafnium, yttrium, silicon, tantalum in any amount or other intentional additions over 0.01 weight percent in various proportions and combinations, except:

a. CoCrAlY coatings which contain less than 22 weight percent of chromium, less than 7 weight percent of aluminium and less than 2 weight percent of yttrium;

b. CoCrAlY coatings which contain 22 to 24 weight percent of chromium, 10 to 12 weight percent of aluminium and 0.5 to 0.7 weight percent of yttrium; or

c. NiCrAlY coatings which contain 21 to 23 weight percent of chromium, 10 to 12 weight percent of aluminium and 0.9 to 1.1 weight percent of yttrium.

6. The term "aluminium alloys" refers to alloys having an ultimate tensile strength of 190 MPa or more measured at 293 K (20° C).

7. The term 'corrosion resistant steel' refers to AISI (American Iron and Steel Institute) 300 series or equivalent standard steels.

8. Refractory metals consist of the following metals and their alloys: niobium (columbium), molybdenum, tungsten and tantalum.

9. Sensor window materials, as follows: alumina, silicon, germanium, zinc sulphide, zinc selenide, gallium arsenide and the following metal halides: potassium iodide, potassium fluoride, or sensor window materials of more than 40 mm diameter for thallium bromide and thallium chlorobromide.

10. "Technology" for single-step pack cementation of solid airfoils is not controlled by this Category.

11. Polymers, as follows: polyimide, polyester, polysulfide, polycarbonates and polyurethanes.

12. Modified zirconia refers to additions of other metal oxides, e.g., calcia, magnesia, yttria, hafnia, rare earth oxides, etc., to zirconia in order to stabilize certain crystallographic phases and phase compositions. Thermal barrier coatings made of zirconia, modified with calcia or magnesia by mixing or fusion, are not controlled.

13. Titanium alloys refers to aerospace alloys having an ultimate tensile strength of 900 MPa or more measured at 293 K (20° C).

14. Low-expansion glasses refers to glasses which have a coefficient of thermal expansion of 1×10^{-7} K^{-1} or less measured at 293 K (20° C).

15. Dielectric layers are coatings constructed of multi-layers of insulator materials in which the interference properties of a design composed of materials of various refractive indices are used to reflect, transmit or absorb various wavelength bands. Dielectric layers refers to more than four dielectric layers or dielectric/metal composite layers.

16. Cemented tungsten carbide does not include cutting and forming tool materials consisting of tungsten carbide/(cobalt, nickel), titanium carbide/(cobalt, nickel), chromium carbide/nickel-chromium and chromium arbide/nickel.

Technical Note to Table on Deposition Techniques

Processes specified in Column 1 of the Table are defined as follows:

a. Chemical Vapor Deposition (CVD) is an overlay coating or surface modification coating process wherein a metal, alloy, composite, dielectric or ceramic is deposited upon a heated substrate. Gaseous reactants are decomposed or combined in the vicinity of a substrate resulting in the deposition of the desired elemental, alloy or compound material on the substrate. Energy for this decomposition or chemical reaction process may be provided by the heat of the substrate, a glow discharge plasma, or "laser" irradiation.

Note 1: CVD includes the following processes: directed gas flow out-of-pack deposition, pulsating CVD, controlled nucleation thermal decomposition (CNTD), plasma enhanced or plasma assisted CVD processes.

Note 2: Pack denotes a substrate immersed in a powder mixture.

Note 3: The gaseous reactants used in the out-of-pack process are produced using the same basic reactions and parameters as the pack cementation process, except that the substrate to be coated is not in contact with the powder mixture.

b. Thermal Evaporation-Physical Vapor Deposition (TE–PVD) is an overlay coating process conducted in a vacuum with a pressure less than 0.1 Pa wherein a source of thermal energy is used to vaporize the coating material. This process results in the condensation, or deposition, of the evaporated species onto appropriately positioned substrates. The addition of gases to the vacuum chamber during the coating process to synthesize compound coatings is an ordinary modification of the process. The use of ion or electron beams, or plasma, to activate or assist the coating's deposition is also a common modification in this technique. The use of monitors to provide in-process measurement of optical characteristics and thickness of coatings can be a feature of these processes. Specific TE-PVD processes are as follows:

1. Electron Beam PVD uses an electron beam to heat and evaporate the material which forms the coating;

2. Resistive Heating PVD employs electrically resistive heating sources capable of producing a controlled and uniform flux of evaporated coating species;

3. "Laser" Evaporation uses either pulsed or continuous wave "laser" beams to heat the material which forms the coating;

4. Cathodic Arc Deposition employs a consumable cathode of the material which forms the coating and has an arc discharge established on the surface by a momentary contact of a ground trigger. Controlled motion of arcing erodes the cathode surface creating a highly ionized plasma. The anode can be either a cone attached to the periphery of the cathode, through an insulator, or the chamber. Substrate biasing is used for non line-of-sight deposition.

Note: This definition does not include random cathodic arc deposition with non-biased substrates.

c. Ion Plating is a special modification of a general TE–PVD process in which a plasma

or an ion source is used to ionize the species to be deposited, and a negative bias is applied to the substrate in order to facilitate the extraction of the species to be deposited from the plasma. The introduction of reactive species, evaporation of solids within the process chamber, and the use of monitors to provide in-process measurement of optical characteristics and thicknesses of coatings are ordinary modifications of the process.

d. Pack Cementation is a surface modification coating or overlay coating process wherein a substrate is immersed in a powder mixture (a pack), that consists of:

1. The metallic powders that are to be deposited (usually aluminum, chromium, silicon or combinations thereof);

2. An activator (normally a halide salt); and

3. An inert powder, most frequently alumina. The substrate and powder mixture is contained within a retort which is heated to between 1,030 K (757° C) to 1,375 K (1,102° C) for sufficient time to deposit the coating.

e. Plasma Spraying is an overlay coating process wherein a gun (spray torch) which produces and controls a plasma accepts powder or wire coating materials, melts them and propels them towards a substrate, whereon an integrally bonded coating is formed. Plasma spraying constitutes either low pressure plasma spraying or high velocity plasma spraying carried out underwater.

Note 1: Low pressure means less than ambient atmospheric pressure.

Note 2: High velocity refers to nozzle-exit gas velocity exceeding 750 m/s calculated at 293 K (20° C) at 0.1 MPa.

f. Slurry Deposition is a surface modification coating or overlay coating process wherein a metallic or ceramic powder with an organic binder is suspended in a liquid and is applied to a substrate by either spraying, dipping or painting, subsequent air or oven drying, and heat treatment to obtain the desired coating.

g. Sputter Deposition is an overlay coating process based on a momentum transfer phenomenon, wherein positive ions are accelerated by an electric field towards the surface of a target (coating material). The kinetic energy of the impacting ions is sufficient to cause target surface atoms to be released and deposited on an appropriately positioned substrate.

Note 1: The Table refers only to triode, magnetron or reactive sputter deposition which is used to increase adhesion of the coating and rate of deposition and to radio frequency (RF) augmented sputter deposition used to permit vaporization of non-metallic coating materials.

Note 2: Low-energy ion beams (less than 5 keV) can be used to activate the deposition.

h. Ion Implantation is a surface modification coating process in which the element to be alloyed is ionized, accelerated through a potential gradient and implanted into the surface region of the substrate. This includes processes in which ion implantation is performed simultaneously with electron beam physical vapor deposition or sputter deposition.

Accompanying Technical Information to Table on Deposition Techniques

1. "Technology" for pretreatments of the substrates listed in the Table, as follows:
   a. Chemical stripping and cleaning bath cycle parameters, as follows:
   1. Bath composition;
   a. For the removal of old or defective coating corrosion product or foreign deposits;
   b. For preparation of virgin substrates;
   2. Time in bath;
   3. Temperature of bath;
   4. Number and sequences of wash cycles;
   b. Visual and macroscopic criteria for acceptance of the cleaned part;
   c. Heat treatment cycle parameters, as follows:
   1. Atmosphere parameters, as follows:
   a. Composition of the atmosphere;
   b. Pressure of the atmosphere;
   2. Temperature for heat treatment;
   3. Time of heat treatment;
   d. Substrate surface preparation parameters, as follows:
   1. Grit blasting parameters, as follows:
   a. Grit composition;
   b. Grit size and shape;
   c. Grit velocity;
   2. Time and sequence of cleaning cycle after grit blast;
   3. Surface finish parameters;
   e. Masking technique parameters, as follows:
   1. Material of mask;
   2. Location of mask;
   2. "Technology" for in situ quality assurance techniques for evaluation of the coating processes listed in the Table, as follows:
   a. Atmosphere parameters, as follows:
   1. Composition of the atmosphere;
   2. Pressure of the atmosphere;
   b. Time parameters;
   c. Temperature parameters;
   d. Thickness parameters;
   e. Index of refraction parameters;
   3. "Technology" for post deposition treatments of the coated substrates listed in the Table, as follows:
   a. Shot peening parameters, as follows:
   1. Shot composition;
   2. Shot size;
   3. Shot velocity;
   b. Post shot peening cleaning parameters;
   c. Heat treatment cycle parameters, as follows:
   1. Atmosphere parameters, as follows:
   a. Composition of the atmosphere;
   b. Pressure of the atmosphere;
   2. Time-temperature cycles;
   d. Post heat treatment visual and macroscopic criteria for acceptance of the coated substrates;
   4. "Technology" for quality assurance techniques for the evaluation of the coated substrates listed in the Table, as follows:
   a. Statistical sampling criteria;
   b. Microscopic criteria for:
   1. Magnification;
   2. Coating thickness uniformity;
   3. Coating integrity;
   4. Coating composition;
   5. Coating and substrates bonding;
   6. Microstructural uniformity.
   c. Criteria for optical properties assessment:
   1. Reflectance;
   2. Transmission;
   3. Absorption;
   4. Scatter;
   5. "Technology" and parameters related to specific coating and surface modification processes listed in the Table, as follows:
   a. For Chemical Vapor Deposition:
   1. Coating source composition and formulation;
   2. Carrier gas composition;
   3. Substrate temperature;
   4. Time-temperature-pressure cycles;
   5. Gas control and part manipulation;
   b. For Thermal Evaporation—Physical Vapor Deposition:
   1. Ingot or coating material source composition;
   2. Substrate temperature;
   3. Reactive gas composition;
   4. Ingot feed rate or material vaporization rate;
   5. Time-temperature-pressure cycles;
   6. Beam and part manipulation;
   7. "Laser" parameters, as follows:
   a. Wave length;
   b. Power density;
   c. Pulse length;
   d. Repetition ratio;
   e. Source;
   f. Substrate orientation;
   c. For Pack Cementation:
   1. Pack composition and formulation;
   2. Carrier gas composition;
   3. Time-temperature-pressure cycles;
   d. For Plasma Spraying:
   1. Powder composition, preparation and size distributions;
   2. Feed gas composition and parameters;
   3. Substrate temperature;
   4. Gun power parameters;
   5. Spray distance;
   6. Spray angle;
   7. Cover gas composition, pressure and flow rates;
   8. Gun control and part manipulation;
   e. For Sputter Deposition:
   1. Target composition and fabrication;
   2. Geometrical positioning of part and target;
   3. Reactive gas composition;
   4. Electrical bias;
   5. Time-temperature-pressure cycles;
   6. Triode power;
   7. Part manipulation;
   f. For Ion Implantation:
   1. Beam control and part manipulation;
   2. Ion source design details;
   3. Control techniques for ion beam and deposition rate parameters;
   4. Time-temperature-pressure cycles.
   g. For Ion Plating:
   1. Beam control and part manipulation;
   2. Ion source design details;
   3. Control techniques for ion beam and deposition rate parameters;
   4. Time-temperature-pressure cycles;
   5. Coating material feed rate and vaporization rate;
   6. Substrate temperature;
   7. Substrate bias parameters.

2E018 "Technology" for the "use" of equipment controlled by 2B018.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 1.
MT applies to "technology" for equipment controlled by 2B018 for MT reasons.	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: Yes

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

2E101 "Technology" according to the General Technology Note for the "use" of items or "software" controlled by 2B004, 2B104, 2B115, 2B116 or 2D101.

License Requirements

Reason for Control: MT, NP, AT

Control(s)	Country Chart
MT applies to entire entry .	MT Column 1.
NP applies to 2B004 and 2B104.a.	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

2E201 "Technology" according to the General Technology Note for the "use" of items or "software" controlled by 2A225, 2A226, 2B001, 2B006, 2B007, 2B204, 2B207, 2B215, 2B225 to 2B232 or 2D201 for NP reasons.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

2E290 "Technology" according to the General Technology Note for the "use" of items controlled by 2A290, 2A291, 2A292, 2A293, 2A294, 29295 and 2B290.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to "technology" for equipment controlled by 2A291 to 2A295 or 2B290.	NP Column 1.
NP applies to "technology" for equipment controlled by 2A290.	NP Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

2E301 "Technology" for "use" of items controlled by 2B350, 2B351 and 2B352.

License Requirements

Reason for Control: CB, AT

Control(s)	Country Chart
CB applies to entire entry ..	CB Column 3.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The lists of items controlled are contained in the ECCN headings.

2E993 "Technology" for the "use" of equipment controlled by 2B991, 2B992, 2B993, or 2B994.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

2E994 "Technology" for the "use" of portable electric generators controlled by 2A994.

License Requirements

Reason for Control: AT
Control(s): AT applies to entire entry. A license is required for items controlled by this entry to Cuba, Iran, Libya, and North Korea. The Commerce Country Chart is not designed to determine licensing requirements for this entry. See part 746 of the EAR for additional information.

Note: Exports from the U.S. and transshipments to Iran must be licensed by the Department of Treasury, Office of Foreign Assets Control. (See § 742.8 and § 746.7 of the EAR for additional information on this requirement.)

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

EAR99 Items subject to the EAR that are not elsewhere specified in this CCL Category or in any other category in the CCL are designated by the number EAR99.

Advisory Notes for Category 2

Advisory Note 1: Licenses are likely to be approved, as administrative exceptions, to satisfactory end-users in the People's Republic of China of machine tools for milling controlled by 2B001.c.1 to civil end-users other than nuclear and aerospace, provided that they are not controlled by 2B001.c.1.b.1, c.1.b.4, c.1.b.5, or c.1.b.6.

Advisory Note 2: Licenses are likely to be approved, as administrative exceptions, to satisfactory end-users in Country Group D:1 of equipment controlled by 2B006.b.1 to civil end-users not engaged in aerospace or nuclear activities.

Category 3—Electronics Design, Development and Production

A. Equipment, Assemblies and Components

Note 1: The control status of equipment, devices and components described in Category 3A, other than those described in 3A001.a.3 to a.10, or 3A001.a.12, that are specially designed for or that have the same functional characteristics as other equipment are determined by the control status of the other equipment.

Note 2: The control status of integrated circuits described in 3A001.a.3 to a.9 or 3A001.a.12 that are unalterably programmed or designed for a specific function for other equipment is determined by the control status of the other equipment.

N.B.: When the manufacturer or applicant cannot determine the control status of the other equipment, the control status of the integrated circuits is determined in 3A001.a.3 to a.9 or 3A001.a.12. If the

integrated circuit is a silicon-based "microcomputer microcircuit" or a microcontroller microcircuit described in 3A001.a.3 having an operand (data) word length of 8 bits or less, the control status of the integrated circuit is determined in 3A001.a.3.

3A001 Electronic devices and components.

License Requirements

Reason for Control: NS, MT, NP, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
MT applies to 3A001.a.1.a	MT Column 1.
NP applies to 3A001.e.5	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $1500: 3A001.c; $3000: 3A001.b.1, b.2, b.3, .d, .e and .f; $5000: 3A001.a, and .b.4 to b.7

GBS: Yes, except 3A001.a.1, b.1, b.3 to b.7, c to f

CIV: Yes, except 3A001.a.1, a.2, a.5, a.6, a.9, a.10, and a.12, .b, .c, .d, .e, and .f

List of Items Controlled

Unit: Number

Related Controls: N/A

Related Definitions: N/A

Items: a. General purpose integrated circuits, as follows:

Notes: 1. The control status of wafers (finished or unfinished), in which the function has been determined, is to be evaluated against the parameters of 3A001.a.

2. Integrated circuits include the following types:

"Monolithic integrated circuits";

"Hybrid integrated circuits";

"Multichip integrated circuits";

"Film type integrated circuits", including silicon-on-sapphire integrated circuits;

"Optical integrated circuits".

a.1. Integrated circuits, designed or rated as radiation hardened to withstand either of the following:

a.1.a. A total dose of 5×10^5 Rads (Si), or higher; or

a.1.b. A dose rate upset of 5×10^8 Rads (Si)/s or higher;

a.2. Integrated circuits described in 3A001.a.3 to a.10 or 3A001.a.12, as follow:

a.2.a. Rated for operation at an ambient temperature above 398 K (+125° C);

a.2.b. Rated for operation at an ambient temperature below 218 K (−55° C); or

a.2.c. Rated for operation over the entire ambient temperature range from 218 K (−55° C) to 398 K (+125° C);

Note: 3A001.a.2 does not apply to integrated circuits for civil automobile or railway train applications.

a.3. "Microprocessor microcircuits", "microcomputer microcircuits" and microcontroller microcircuits, having any of the following:

Note: 3A001.a.3 includes digital signal processors, digital array processors and digital coprocessors.

a.3.a An arithmetic logic unit with an access width of 32 bit or more and a "composite theoretical performance" ("CTP") of 80 million theoretical operations per second (Mtops) or more;

a.3.b. Manufactured from a compound semiconductor and operating a clock frequency exceeding 40 MHz; or

a.3.c. More than one data or instruction bus or serial communication port for external interconnection in a parallel processor with a transfer rate exceeding 2.5 Mbyte/s;

a.4. Electrically erasable programmable read-only memories (EEPROMs), static random-access memories (SRAMs), and storage integrated circuits manufactured from a compound semiconductor, as follows:

a.4.a. Electrically erasable programmable read-only memories (EEPROMs) with a storage capacity:

a.4.a.1. Exceeding 16 Mbit per package for flash memory types; or

a.4.a.2. Exceeding either of the following limits for all other EEPROM types:

a.4.a.2.a. 4 Mbit per package; or

a.4.a.2.b. 1 Mbit per package and having a maximum access time of less than 80 ns;

a.4.b. Static random-access memories (SRAMs) with a storage capacity:

a.4.b.1. Exceeding 4 Mbit per package; or

b.4.b.2. Exceeding 1 Mbit per package and having a maximum access time of less than 20 ns;

a.4.c. Storage integrated circuits manufactured from a compound semiconductor;

a.5. Analog-to-digital and digital-to-analog converter integrated circuits, as follows:

a.5.a. Analog-to-digital converters having any of the following:

a.5.a.1. A resolution of 8 bits or more, but less than 12 bits, with a total conversion time to maximum resolution of less than 10 ns;

a.5.a.2. A resolution of 12 bits with a total conversion time to maximum resolution of less than 200 ns; or

a.5.a.3. A resolution of more than 12 bits with a total conversion time to maximum resolution of less than 2 microseconds;

a.5.b. Digital-to-analog converters with a resolution of 12 bits or more, and a "settling time" of less than 10 ns;

a.6. Electro-optical or "optical integrated circuits" for "signal processing" having all of the following:

a.6.a. One or more internal "laser" diodes;

a.6.b. One or more internal light detecting elements; and

a.6.c. Optical waveguides;

a.7. Field programmable gate arrays having either of the following:

a.7.a. An equivalent usable gate count of more than 30,000 (2 input gates); or

a.7.b. A typical "basic gate propagation delay time" of less than 0.4 ns;

a.8. Field programmable logic arrays having either of the following:

a.8.a. An equivalent usable gate count of more than 30,000 (2 input gates); or

b. A toggle frequency exceeding 133 MHz;

a.9. Neural network integrated circuits;

a.10. Custom integrated circuits for which either the function is unknown, or the control status of the equipment in which the integrated circuits will be used is unknown to the manufacturer, having any of the following:

a.10.a. More than 144 terminals;

a.10.b. A typical "basic gate propagation delay time" of less than 0.4 ns; or

a.10.c. An operating frequency exceeding 3 GHz;

a.11. Digital integrated circuits, other than those described in 3A001.a.3 to a.10 or 3A001.a.12, based upon any compound semiconductor and having either of the following:

a.11.a. An equivalent gate count of more than 300 (2 input gates); or

a.11.b. A toggle frequency exceeding 1.2 GHz;

a.12. Fast Fourier Transform (FFT) processors having any of the following characteristics:

a.12.a. A rated execution time for a 1,024 point complex FFT of less than 1 ms;

a.12.b. A rated execution time for an N-point complex FFT of other than 1,024 points of less than N $\log_2$ N/10,240 ms, where N is the number of points; or

a.12.c. A butterfly throughput of more than 5.12 MHz;

b. Microwave or millimeter wave devices:

b.1. Electronic vacuum tubes and cathodes, as follows:

(Frequency agile magnetron tubes are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. See 22 CFR part 121, Category XI.)

Note: 3A001.b.1 does not control tubes designed or rated to operate in the Standard Civil Telecommunications Bands at frequencies not exceeding 31 GHz.

b.1.a. Traveling wave tubes, pulsed or continuous wave, as follows:

b.1.a.1 Operating at frequencies higher than 31 GHz;

b.1.a.2. Having a cathode heater element with a turn on time to rated RF power of less than 3 seconds;

b.1.a.3. Coupled cavity tubes, or derivatives thereof, with an "instantaneous bandwidth" of more than 7% or a peak power exceeding 2.5 kW;

b.1.a.4. Helix tubes, or derivatives thereof, with any of the following characteristics:

b.1.a.4.a. An "instantaneous bandwidth" of more than one octave, and average power (expressed in kW) times frequency (expressed in GHz) of more than 0.5;

b.1.a.4.b. An "instantaneous bandwidth" of one octave or less, and average power (expressed in kW) times frequency (expressed in GHz) of more than 1; or

b.1.a.4.c. "Space qualified";

b.1.b. Crossed-field amplifier tubes with a gain of more than 17 dB;

b.1.c. Impregnated cathodes for electronic tubes, with either of the following:

b.1.c.1. Having a turn on time to rated emission of less than 3 seconds; or

b.1.c.2. Producing a continuous emission current density at rated operating conditions exceeding 5 A/cm²;

b.2. Microwave integrated circuits or modules containing "monolithic integrated circuits" operating at frequencies exceeding 3 GHz;

Note: 3A001.b.2 does not control circuits or modules for equipment designed or rated to operate in the Standard Civil

Telecommunications Bands at frequencies not exceeding 31 GHz.

b.3. Microwave transistors rated for operation at frequencies exceeding 31 GHz;

b.4. Microwave solid state amplifiers, as follows:

b.4.a. Operating at frequencies exceeding 10.5 GHz and having an "instantaneous bandwidth" of more than half an octave; or

b.4.b. Operating at frequencies exceeding 31 GHz;

b.5. Electronically or magnetically tunable band-pass or band-stop filters having more than 5 tunable resonators capable of tuning across a 1.5:1 frequency band (f_{max}/f_{min}) in less than 10 microseconds with either:

b.5.a. A band-pass bandwidth of more than 0.5 % of center frequency; or

b.5.b. A band-stop bandwidth of less than 0.5 percent of center frequency;

b.6. Microwave assemblies capable of operating at frequencies exceeding 31 GHz;

b.7. Mixers and converters designed to extend the frequency range of equipment described in 3A002.c, 3A002.e or 3A002.f beyond the control limits stated therein;

c. Acoustic wave devices, as follows, and specially designed components therefor:

c.1. Surface acoustic wave and surface skimming (shallow bulk) acoustic wave devices (i.e., "signal processing" devices employing elastic waves in materials), having any of the following:

c.1.a. A carrier frequency exceeding 2.5 GHz;

c.1.b. A carrier frequency 2.5 GHz or less, and:

c.1.b.1. A frequency side-lobe rejection exceeding 55 dB;

c.1.b.2. A product of the maximum delay time and the bandwidth (time in microseconds and bandwidth in MHz) of more than 100; or

c.1.b.3. A dispersive delay of more than 10 microseconds; or

c.1.c. A carrier frequency exceeding 1 GHz and a bandwidth of 250 MHz or more;

c.2. Bulk (volume) acoustic wave devices (i.e., "signal processing" devices employing elastic waves) that permit the direct processing of signals at frequencies exceeding 1 GHz;

c.3. Acoustic-optic "signal processing" devices employing interaction between acoustic waves (bulk wave or surface wave) and light waves that permit the direct processing of signals or images, including spectral analysis, correlation or convolution;

d. Electronic devices or circuits containing components, manufactured from "superconductive" materials specially designed for operation at temperatures below the "critical temperature" of at least one of the "superconductive" constituents, with any of the following:

d.1. Electromagnetic amplification:

d.1.a. At frequencies equal to or less than 31 GHz with a noise figure of less than 0.5 dB; or

d.1.b. At frequencies exceeding 31 GHz;

d.2. Current switching for digital circuits using "superconductive" gates with a product of delay time per gate (in seconds) and power dissipation per gate (in watts) of less than 10^{-14} J; or

d.3. Frequency selection at all frequencies using resonant circuits with Q-values exceeding 10,000;

e. High energy devices, as follows:

e.1. Batteries, as follows:

Note: 3A001.e.1 does not control batteries with volumes equal to or less than 27 cm³ (e.g., standard C-cells or R 14 batteries).

e.1.a. Primary cells and batteries having an energy density exceeding 480 Wh/kg and rated for operation in the temperature range from below 243 K (−30° C) to above 343 K (70° C);

e.1.b. Rechargeable cells and batteries having an energy density exceeding 150 Wh/kg after 75 charge/discharge cycles at a discharge current equal to C/5 hours (C being the nominal capacity in ampere hours) when operating in the temperature range from below 253 K (−20° C) to above 333 K (60° C);

Technical Note: Energy density is obtained by multiplying the average power in watts (average voltage in volts times average current in amperes) by the duration of the discharge in hours to 75% of the open circuit voltage divided by the total mass of the cell (or battery) in kg.

e.1.c. "Space qualified" and radiation hardened photovoltaic arrays with a specific power exceeding 160 W/m² at an operating temperature of 301 K (28° C) under a tungsten illumination of 1 kW/m² at 2,800 K (2,527° C);

e.2. High energy storage capacitors, as follows:

e.2.a. Capacitors with a repetition rate of less than 10 Hz (single shot capacitors) having all of the following:

e.2.a.1. A voltage rating equal, to or more than 5 kV;

e.2.a.2. An energy density equal to or more than 250 J/kg; and

e.2.a.3. A total energy equal to or more than 25 kJ;

e.2.b. Capacitors with a repetition rate of 10 Hz or more (repetition rated capacitors) having all of the following:

e.2.b.1. A voltage rating equal to or more than 5 kv;

e.2.b.2. An energy density equal to or more than 50 J/kg;

e.2.b.3. A total energy equal to or more than 100 J; and

e.2.b.4. A charge/discharge cycle life equal to or more than 10,000;

e.3. "Superconductive" electromagnets or solenoids specially designed to be fully charged or discharged in less than one second, having all of the following:

e.3.a. Energy delivered during the discharge exceeding 10 kJ in the first second;

e.3.b. Inner diameter of the current carrying windings of more than 250 mm; and

e.3.c. Rated for a magnetic induction of more than 8 T or "overall current density" in the winding of more than 300 A/mm²;

Note: 3A001.e.3. does not control "superconductive" electromagnets or solenoids specially designed for Magnetic Resonance Imaging (MRI) medical equipment.

e.4. Circuits or systems for electromagnetic energy storage, containing components manufactured from "superconductive" materials specially designed for operation at temperatures below the "critical temperature of at least one of their "superconductive" constituents, having all of the following:

e.4.a. Resonant operating frequencies exceeding 1 MHz;

e.4.b. A stored energy density of 1 MJ/m³ or more; and

3.4.c. A discharge time of less than 1 ms;

e.5. Flash discharge type X-ray systems, and tubes therefor, having all of the following:

e.5.a. A peak power exceeding 500 MW;

e.5.b. An output voltage exceeding 500 kV; and

e.5.c. A pulse width of less than 0.2 microsecond;

f. Rotary input type shaft absolute position encoders having either of the following:

f.1. A resolution of better than 1 part in 265,000 (18 bit resolution) of full scale; or

f.2. An accuracy better than ± 2.5 seconds of arc.

3A002 General purpose electronic equipment.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $3000: 3A002.a, .e, .f, .g; $5000: 3A002.b to d, and 3A002.h

GBS: Yes for 3A002.a.1. 3A002.h and a.2, .b, d.2, as described in Advisory Note 1 to Category 3

CIV: Yes for 3A002.h, and a.1, a.2, .b, d.2, as described in Advisory Note 1 to Category 3

List of Items Controlled

Unit: Number

Related Controls: N/A

Related Definitions: N/A

Items:

a. Recording equipment, as follows, and specially designed test tape therefor:

a.1. Analog instrumentation magnetic tape recorders, including those permitting the recording of digital signals (e.g., using a high density digital recording (HDDR) module), having any of the following:

a.1.a. A bandwidth exceeding 4 MHz per electronic channel or track;

a.1.b. A bandwidth exceeding 2 MHz per electronic channel or track and having more than 42 tracks; or

a.1.c. A time displacement (base) error, measured in accordance with applicable Inter Range Instrumentation Group (IRIG) or Electronic Industries Association (EIA) documents, of less than ±0.1 microsecond;

a.2. Digital video magnetic tape recorders having a maximum digital interface transfer rate exceeding 180 Mbit/s, except those specially designed for television recording using a signal format as standardized or recommended by the International Radio Consultative Committee (CCIR) or the International Technical Commission (IEC) for civil television applications;

a.3. Digital instrumentation magnetic tape data recorders employing helical scan techniques or fixed head techniques, having either of the following characteristics:

a.3.a. A maximum digital interface transfer rate exceeding 175 Mbits/s; or

a.3. b. "Space qualified";

Note: 3A002.a.3 does not control analog magnetic tape recorders equipped with HDDR conversion electronics and configured to record only digital data.

a.4. Equipment, with a maximum digital interface transfer rate exceeding 175 Mbit/s, designed to convert digital video magnetic tape recorders for use as digital instrumentation data recorders;

a.5. Waveform digitizers and transient recorders with both of the following characteristics:

a.5.a. Digitizing rates equal to or more than 200 million samples per second and a resolution of 10 bits or more; and

a.5.b. A continuous throughput of 2 Gbits/s or more;

Technical Note: For those instruments with a parallel bus architecture, the continuous throughput rates the highest word rate multiplied by the number of bits in a word. Continuous throughput is the fastest data rate the instrument can output to mass storage without the loss of any information while sustaining the sampling rate and analog-to-digital conversion.

b. "Frequency synthesizer" "electronic assemblies" having a "frequency switching time" from one selected frequency to another of less than 1 ms;

c. "Signal analyzers", as follows:

c.1. Capable of analyzing frequencies exceeding 31 GHz;

c.2. "Dynamic signal analyzers" with a "real-time bandwidth" exceeding 25.6 kHz, except those using only constant percentage bandwidth filters (also known as octave or fractional octave filters);

d. Frequency synthesized signal generators producing output frequencies, the accuracy and short term and long term stability of which are controlled, derived from or disciplined by the internal master frequency, and having any of the following:

d.1. A maximum synthesized frequency exceeding 31 GHz;

d.2. A "frequency switching time" from one selected frequency to another of less than 1 ms; or

d.3. A single sideband (SSB) phase noise better than $-(126+20\log_{10}F-20\log_{10}f)$ in dBc/Hz, where F is the off-set from the operating frequency in Hz and f is the operating frequency in MHz;

Note: 3A002.d does not control equipment in which the output frequency is either produced by the addition or subtraction of two or more crystal oscillator frequencies, or by an addition or subtraction followed by a multiplication of the result.

e. Network analyzers with a maximum operating frequency exceeding 31 GHz;

Note: 3A002.e does not control "swept frequency network analyzers" with a maximum operating frequency not exceeding 40 GHz and that do not contain a data bus for remote control interfacing.

f. Microwave test receivers with both of the following:

f.1. A maximum operating frequency exceeding 31 GHz; and

f.2. Capable of measuring amplitude and phase simultaneously;

g. Atomic frequency standards having either of the following characteristics:

g.1. Long term stability (aging) less (better) than 1×10^{-11}/month; or

g.2. "Space qualified";

Note: 3A002.g.1 does not control non-"space qualified" rubidium standards.

h. Emulators for microcircuits controlled by 3A001.a.3 or 3A001.a.9.

Note: 3A002.h does not control emulators designed for a "family" that contains at least one device not controlled by 3A001.a.3 or 3A001.a.9.

3A101 Electronic equipment, devices and components, other than those specified in 3A001.

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $5,000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: The corresponding EU list number controls analog-to-digital converters, usable in "missiles", designed to meet military specifications for ruggedized equipment in 1A101.a. These items are not controlled by this CCL entry. These items are subject to the export licensing authority of the U.S. Departement of State, Office of Defense Trade Controls (See 22 CFR 121.16, Item 14—Category II).
Related Definitions: N/A
Items:

a. Reserved.

b. Accelerators capable of delivering electromagnetic radiation produced by bremsstrahlung from accelerated electrons of 2Mev or greater, and systems containing those accelerators, excluding that equipment specially designed for medical purposes.

3A201 Electronic components, other than those specified in 3A001.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls:
Related Definition: This entry does not control magnets that are specially designed for and exported as parts of medical nuclear magnetic resonance (NMR) imaging systems. Such parts may be exported in separate shipments from different sources, provided that the related export control documents clearly specify that the parts are for medical NMR imaging systems that are being exported.
Items:

a. Capacitors with the following characteristics:

a.1. Voltage rating greater than 1.4 kV, energy storage greater than 10J, capacitance greater than 500 nF and series inductance less than 50 nH; or

a.2. Voltage rating greater than 750 V, capacitance greater than 250 nF and series inductance less than 10 nH;

b. Superconducting solenoidal electromagnets with all of the following characteristics:

b.1. Capable of creating magnetic fields of more than 2 teslas (20 kilogauss);

b.2. With an L/D ratio (length divided by inner diameter) greater than 2;

b.3. With an inner diameter of more than 300 mm; *and*

b.4. With a magnetic field uniform to better than 1% over the central 50% of the inner volume;

c. Flash X-ray generators or pulsed electron accelerators with peak energy of 500 keV or greater, as follows; except: Accelerators that are component parts of devices designed for purposes other than electron beam or X-ray radiation (electron microscopy, for example) and those designed for medical purposes:

c.1. Having an accelerator peak electron energy of 500 keV or greater but less than 25 MeV and with a figure of merit (K) of 0.25 or greater, where K is defined as: $K=1.7\times10^{3}V^{2.65}Q$, where V is the peak electron energy in million electron volts and Q is the total accelerated charge in coulombs if the accelerator beam pulse duration is less than or equal to 1 microsecond; if the accelerator beam pulse duration is greater than 1 microsecond, Q is the maximum accelerated charge in 1 microsecond [Q equals the integral of i with respect to t, over the lesser of 1 microsecond or the time duration of the beam pulse (Q=[integral] idt), where i is beam current in amperes and t is time in seconds]; or

c.2. Having an accelerator peak electron energy of 25 MeV or greater and a peak power greater than 50 MW. [Peak power=(peak potential in volts)×(peak beam current in amperes)].

Technical Notes: a. Time duration of the beam pulse - In machines, based on microwave accelerating cavities, the time duration of the beam pulse is the lesser of 1 microsecond or the duration of the bunched beam packet resulting from one microwave modulator pulse.

b. Peak beam current—In machines based on microwave accelerating cavities, the peak beam current is the average current in the time duration of a bunched beam packet.

3A202 Oscilloscopes and transient recorders other than those controlled by 3A002.a.5, and specially designed components therefor.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: N/A
Related Definitions: Specially designed components specified in this item are the following, for analog oscilloscopes:
1. Plug-in units;
2. External amplifiers;
3. pre-amplifiers;
4. Sampling devices;
5. Cathode ray tubes.

Items:

a. Non-modular analog oscilloscopes having a bandwidth of 1 GHz or greater;

Technical Note: "Bandwidth" is defined as the band of frequencies over which the deflection on the cathode ray tube does not fall below 70.7% of that at the maximum point measured with a constant input voltage to the oscilloscope amplifier.

b. Modular analog oscilloscope systems having either of the following characteristics:

b.1. A mainframe with a bandwidth of 1 GHz or greater; or

b.2. Plug-in modules with an individual bandwidth of 4 GHz or greater;

c. Analog sampling oscilloscopes for the analysis of recurring phenomena with an effective bandwidth greater than 4 GHz;

d. Digital oscilloscopes and transient recorders using analog-to-digital conversion techniques, capable of storing transients by sequentially sampling one-shot input signals at successive intervals of less than 1 ns (greater than 1 giga-sample per second), digitizing to 8 bits or greater resolution, and storing 256 or more samples.

3A225 Frequency changers (also known as converters or inverters) or generators, having all of the following characteristics.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: Frequency changers (also known as converters or inverters) especially designed or prepared to supply motor stators and having the characteristics described in 3A225.b and .d, together with a total harmonic distortion of less than 2 percent and an efficiency of greater than 80 percent are subject to the export licensing authority of the Nuclear Regulatory Commission. (See 10 CFR part 110.)
Related Definition: Motor stators are especially designed or prepared ring-shaped stators for high-speed multiphase AC hysteresis (or reluctance) motors for synchronous operation within a vacuum in the frequency range of 600 Hz to 2,000 Hz, and a power range of 50 VA to 1,000 VA. The stators consist of multiphase windings on a laminated low-loss iron core comprising thin layers typically to 2.0 mm (.008 in) thick or less.
Items:

a. A multisphase output capable of providing power of 40 W or more;

b. Capable of operating in the frequency range between 600 and 2,000 Hz;

c. Total harmonic distortion below 10%; and

d. Frequency control better than 0.1%.

3A226 Direct current high-power supplies capable of continuously producing, over a time period of 8 hours, 100 V or greater with a current output of 500 A or greater and with a current or voltage regulation better than 0.1%.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

3A227 High-voltage direct current power supplies capable of continuously producing, over a time period of 8 hours, 20,000 V or greater with a current output of 1 A or greater and with a current or voltage regulation better than 0.1%.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

3A228 Switching devices.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: N/A
Related Definitions: N/A
Items:

a. Cold-cathode tubes (including gas krytron tubes and vacuum sprytron tubes), whether gas filled or not, operating similarly to a spark gap, containing three or more electrodes, and having all of the following characteristics:

a.1. Anode peak voltage rating of 2,500 V or more;

a.2. Anode peak current rating of 100 A or more; and

a.3. Anode delay time of 10 microseconds or less;

b. Triggered spark-gaps having an anode delay time of 15 microseconds or less and rated for a peak current of 500 A or more;

c. Modules or assemblies with a fast switching function having all of the following characteristics:

c.1. Anode peak voltage rating greater than 2,000 V;

c.2. Anode peak current rating of 500 A or more; and

c.3. Turn-on time of 1 microseconds or less.

3A229 Firing sets and equivalent high-current pulse generators (for detonators controlled by 3A232).

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: N/A
Related Definitions: N/A
Items:

a. Explosive detonator firing sets designed to drive multiple detonators of the type controlled by ECCN 3A232;

b. Modular electrical pulse generators (pulsers) designed for portable, mobile, or ruggedized use (including xenon flash-lamp drivers) having all the following characteristics:

b.1. Capable of delivering their energy in less than 15 microseconds;

b.2. Having an output greater than 100 A; and

b.3. Having a "rise time" of less than 10 microseconds into loads of less than 40 ohms.

Technical Note: "Rise time" is defined as the time interval from 10% to 90% current amplitude when driving a resistive load.

b.4. Enclosed in a dust-tight enclosure;

b.5. No dimension greater than 254 mm (10 in.);

b.6. Weight less than 25 kg (55 lb.); and

b.7. Specified for use over an extended temperature range (223 K [−50° C] to 373 K [100° C]) or specified as suitable for aerospace use.

3A230 High-speed pulse generators with output voltages greater than 6 volts into a less than 55 ohm resistive load, and with pulse transition times less than 500 picoseconds (defined as the time interval between 10% and 90% voltage amplitude).

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

3A231 Neutron generator systems, including tubes, designed for operation without an external vacuum system, and utilizing electrostatic acceleration to induce a tritium-deuterium nuclear reaction.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number, parts and accessories in $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

3A232 Detonators and multipoint initiation systems (exploding bridge wire, slapper, etc.).

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: N/A
Related Definition: Detonators using only primary explosives, such as lead azide, are not controlled by this entry.
Items:

a. Electrically driven explosive detonators, as follows:

a.1. Exploding bridge (EB);

a.2. Exploding bridge wire (EBW);

a.3. Slapper;

a.4. Exploding foil initiators (EFI)

b. Arrangements using single or multiple detonators designed to nearly simultaneously initiate an expolsive surface (over greater than 5,000 mm²) from a single firing signal (with an initiation timing spread over the surface of less than 2.5 microseconds).

Technical Note: The detonators controlled by 3A232 utilize a small electrical conductor (bridge, bridgewire, or foil) that explosively vaporizes when a fast, high-current electrical pulse is passed through it. In nonslapper types, the exploding conductor starts a chemical detonation in a contacting high-explosive material such as PETN (pentaerythritoltetranitrate). In slapper detonators, the explosive vaporization of the electrical conductor drives a flyer or slapper across a gap, and the impact of the slapper on an explosive starts a chemical detonation. The slapper in some designs is driven by magnetic force. The term exploding foil detonator may refer to either an EB or a slapper-type detonator. Also, the word initiator is sometimes used in place of the word detonator.

3A233 Mass spectrometers capable of measuring ions of 230 atomic mass units or greater and having a resolution of better than 2 parts in 230, and ion sources therefor.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: Specially designed or prepared magnetic or quadruple mass spectrometers that have the following characteristics and are capable of taking on-line samples of feed, product, or tails from UF_6 gas streams are subject to the export licensing authority of the Nuclear Regulatory Commission. (See 10 CFR part 110.): (a) Unit resolution for mass greater than 320; (b) Ion sources that are constructed of or lined with nichrome or that are monel or nickel-plated; (c) Electron bombardment ionization sources; (d) Having a collector system suitable for isotopic analysis.
Related Definitions: N/A
Items:

a. Inductively coupled plasma mass spectrometers (ICP/MS);

b. Glow discharge mass spectrometers (GDMS);

c. Thermal ionization mass spectrometers (TIMS);

d. Electron bombardment mass spectrometers that have a source chamber constructed from, or lined with or plated with materials resistent to UF_6;

e. Molecular beam mass spectrometers that:

e.1. Have a source chamber constructed from, or lined with or plated with stainless steel or molybdenum and have a cold trap capable of cooling to 193 K (−80° C) or less; or

e.2. Have a source chamber constructed from, or lined with or plated with materials resistant to UF_6; or

f. Mass spectrometers equipped with a microfluorination ion source designed for use with actinides or actinide fluorides.

3A980 Voice print identification and analysis equipment and parts, n.e.s.

License Requirements

Reason for Control: CC

Control(s)	Country Chart
CC applies to entire entry .	CC Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

3A981 Polygraphs (except biomedical recorders designed for use in medical facilities for monitoring biological and neurophysical responses); fingerprint analyzers, cameras and equipment, n.e.s.; automated fingerprint and identification retrieval systems, n.e.s.; psychological stress analysis equipment; electronic monitoring restraint devices; and specially designed parts and accessories, n.e.s.

License Requirements

Reason for Control: CC

Control(s)	Country Chart
CC applies to entire entry .	CC Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

3A992 Electronic devices and components not controlled by 3A001.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number
Related Controls: N/A
Related Definitions: N/A
Items:

a. "Microprocessor microcircuits", "microcomputer microcircuits", and microcontroller microcircuits having a clock frequency exceeding 25 MHz;

b. Storage integrated circuits not controlled by 3A001, as follows:

b.1. Electrical erasable programmable read-only memories (EEPROMs) with a storage capacity;

b.1.a. Exceeding 1 Mbit per package; or

b.1.b. Exceeding 256 kbit per package and a maximum access time of less than 80 ns;

b.2. Static random access memories (SRAMs) with a storage capacity:

b.2.a. Exceeding 1 Mbit per package; or

b.2.b. Exceeding 256 kbit per package and a maximum access time of less than 25 ns;

c. Field programmable logic arrays not controlled by 3A001 having either of the following:

c.1. An equivalent gate count of more than 5,000 (2 input gates); or

c.2. A toggle frequency exceeding 100 MHz;

d. Travelling wave tubes, pulsed or continuous wave, not controlled by 3A001, as follows:

d.1. Coupled cavity tubes, or derivatives thereof;

d.2. Helix tubes, or derivatives thereof, with any of the following:

d.a.1. An "instantaneous bandwidth" of half an octave or more; and

d.a.2. The product of the rated average output power (expressed in kW) and the maximum operating frequency (expressed in GHz) of more than 0.2;

d.2.b.1 An "instantaneous bandwidth" of less than half an octave; and

d.2.b.2. The product of the rated average output power (expressed in kW) and the maximum operating frequency (expressed in GHz) of more than 0.4;

e. Flexible waveguides designed for use at frequencies exceeding 40 GHz;

f. Surface acoustic wave and surface skimming (shallow bulk) acoustic wave devices (i.e., "signal processing" devices employing elastic waves in materials), not controlled by 3A001, having either of the following:

f.1. A carrier frequency exceeding 1 GHz; or

f.2. A carrier frequency of 1 GHz or less, and

f.2.a. A frequency side-lobe rejection exceeding 55 dB;

f.2.b. A product of the maximum delay time and bandwidth (time in microseconds and bandwidth in MHz) of more than 100; or

f.2.c. A dispersive delay of more than 10 microseconds.

g. Batteries not controlled by 3A001, as follows:

Note: 3A992.g does not control batteries with volumes equal to or less than 26 cm³ (e.g., standard C-cells or UM–2 batteries).

g.1. Primary cells and batteries having an energy density exceeding 350 Wh/kg and rated for operation in the temperature range from below 243 K (−30° C) to above 343 K (70° C);

g.2. Rechargeable cells and batteries having an energy density exceeding 150 Wh/kg after 75 charge/discharge cycles at a discharge current equal to C/5 hours (C being the nominal capacity in ampere hours) when operating in the temperature range from below 253 K (−20° C) to above 333 K (60° C);

Technical Note: Energy density is obtained by multiplying the average power in watts (average voltage in volts times average current in amperes) by the duration of the discharge in hours to 75 percent of the open circuit voltage divided by the total mass of the cell (or battery) in kg.

g.3. "Space qualified" or radiation hardened photovoltaic arrays with a specific power exceeding 160 W/m² at an operating temperature of 301 K (28° C) under a tungsten illumination of 1 kW/m² at 2,800 K (2,527° C);

h. "Superconductive" electromagnets or solenoids specially designed to be fully charged or discharged in less than one minute, not controlled by 3A001, having all of the following:

Note: 3A992.h does not control "superconductive" electromagnets or solenoids designed for Magnetic Resonance Imaging (MRI) medical equipment.

h.1. Maximum energy delivered during the discharge divided by the duration of the discharge of more than 500 kJ per minute;

h.2. Inner diameter of the current carrying windings of more than 250 mm; and

h.3. Rated for a magnetic induction of more than 8T or "overall current density" in the winding of more than 300 A/mm².

3A993 Electronic test equipment in Category 3A n.e.s.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $1000 for Syria only
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

3A994 General purpose electronic equipment not controlled by 3A002.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number
Related Controls: N/A
Related Definitions: N/A
Items:

a. Digital instrumentation magnetic tape data recorders not controlled by 3A002 having any of the following characteristics:

a.1. A maximum digital interface transfer rate exceeding 60 Mbit/s and employing helical scan techniques;

a.2. A maximum digital interface transfer rate exceeding 120 Mbit/s and employing fixed head techniques; or

a.3. "Space qualified";

b. Equipment, not controlled by 3A002, with a maximum digital interface transfer rate exceeding 60 Mbit/s, designed to convert digital video magnetic tape recorders for use as digital instrumentation data recorders;

c. Hydrogen/hydrogen-isotope thyratrons of ceramic-metal construction and rate for a peak current of 500A or more.

B. TEST, INSPECTION AND PRODUCTION EQUIPMENT

3B001 "Stored program controlled" equipment for epitaxial growth.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $500
GBS: Yes, except 3B001 .b and .c
CIV: Yes for equipment controlled by 3B001.a as described in Advisory Note 1.d

List of Items Controlled

Unit: Number
Related Controls: N/A
Related Definitions: N/A
Items:

a. Capable of producing a layer thickness uniform to less than ± 2.5% across a distance of 75 mm or more;

b. Metal organic chemical vapour deposition (MOCVD) reactors specially designed for compound semiconductor crystal growth by the chemical reaction between materials controlled by 3C003 or 3C004;

c. Molecular beam epitaxial growth equipment using gas sources.

3B002 "Stored program controlled" equipment designed for ion implanation, having the following characteristics.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $500
GBS: Yes
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: N/A
Related Definitions: N/A
Items:

a. An accelerating voltage exceeding 200 keV;

b. Specially designed and optimized to operate at accelerating voltages of less than 10 keV;

c. Direct write capability; or

d. Capable of high energy oxygen implant into a heated semiconductor material "substrate".

3B003 "Stored program controlled" anisotropic plasma dry etching equipment.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $500
GBS: Yes
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: N/A
Related Definitions: N/A
Items:

a. With cassette-to-cassette operation and load-locks, and having either of the following:

a.1. Magnetic confinement; or

a.1. Electron cyclotron resonance (ECR);

b. Specially designed for equipment controlled by 3B005 and having either of the following:

b.1. Magnetic confinement; or

b.2. Electron cyclotron resonance (ECR).

3B004 "Stored program controlled" plasma enchanced CVD equipment.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $500
GBS: Yes
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: N/A
Related Definitions: N/A
Items:

a. Align and expose step and repeat equipment for wafer processing using photo-optical or X-ray methods, having either of the following:

a.1. A light source wavelength shorter than 400 nm;

a.2. Capable of producing a pattern with a minimum resolvable feature size of 0.7 micrometers or less when calculated by the following formula:

$$MRF = \frac{(\text{wavelength in micrometer}) \times (\text{K factor})}{\text{numerical aperture}}$$

where:

MRF is the minimum resolvable feature size; the K factor = 0.7; and wavlength is the exposure light source wavelength;

b. Equipment specially designed for mask making or semiconductor device processing using deflected focussed electron beam, ion beam or "laser" beam, with any of the following:

b.1. A spot size smaller than 0.2 micrometer;

b.2. Capable of producing a pattern with a feature size of less than 1 micrometer; or

b.3. An overlay accuracy of better than ± 0.20 micrometer (3 sigma).

3B005 "Stored program controlled" automatic loading multi-chamber central wafer handling systems, having interfaces for wafer input and output, to which more than two pieces of semiconductor processing equipment are to be connected, to form an integrated system in a vacuum environment for sequential multiple wafer processing.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $500
GBS: Yes, except when connected with equipment controlled by 3B001.b and .c or 3B006
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: N/A
Related Definitions: This entry does not control automatic robotic wafer handling systems not designed to operate in a vacuum environment.
Items: The list of items controlled is contained in the ECCN heading.

3B006 "Stored program controlled" lithography equipment.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $500
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: N/A
Related Definitions: N/A
Items:

a. Align and expose step and repeat equipment for wafer processing using photo-optical or X-ray methods, having either of the following:

a.1. A light source wavelength shorter than 400 nm;

a.2. Capable of producing a pattern with a minimum resolvable feature size of 0.7 micrometers or less when calculated by the following formula:

where:

MRF is the minimum resolvable feature size; the K factor = 0.7; and wavlength is the exposure light source wavelength;

b. Equipment specially designed for mask making or semiconductor device processing using deflected focussed electron beam, ion beam or "laser" beam, with any of the following:

b.1. A spot size smaller than 0.2 micrometer;

b.2. Capable of producing a pattern with a feature size of less than 1 micrometer; or

b.3. An overlay accuracy of better than ± 0.20 micrometer (3 sigma).

3B007 Masks or reticles.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entiré entry ..	AT Column 1.

License Exceptions

LVS: $500
GBS: Yes
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: N/A
Related Definitions: N/A
Items:

a. For integrated circuits controlled by 3A001;

b. Multi-layer masks with a phase shift layer.

3B008 "Stored program controlled" test equipment, specially designed for testing semiconductor devices and unencapsulated dice.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $500
GBS: Yes
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: N/A
Related Definitions: N/A
Items:

a. For testing S-parameters of transistor devices at frequencies exceeding 31 GHz;

b. For testing integrated circuits, capable of performing functional (truth table) testing at a pattern rate of more than 40 MHz;

Note: 3B008.b does not control test equipment specially designed for testing:

1. "Electronic assemblies" or a class of "electronic assemblies" for home or entertainment applications;

2. Non-controlled electronic components, "electronic assemblies" or integrated circuits.

c. For testing microwave integrated circuits at frequencies exceeding 3 GHz;

Note: 3B008.c does not control test equipment specially designed for testing microwave integrated circuits operating solely in the Standard Civil Telecommunication Bands at frequencies not exceeding 31 GHz.

d. Electron beam systems designed for operation at or below 3 keV, or "laser" beam systems, for the non-contactive probing of powered-up semiconductor devices, with both of the following:

d.1. Stroboscopic capability with either beam-blanking or detector strobing; and

d.2. An electron spectrometer for voltage measurement with a resolution of less than 0.5 V.

Note: 3B008.d does not control scanning electron microscopes, except when specially designed and instrumented for the non-contactive probing of powered-up semiconductor devices.

3B991 Equipment not controlled by 3B001 for the manufacture or testing of electronic components and materials, and specially designed components and accessories therefor.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number
Related Controls: N/A
Related Definitions: N/A
Items:

a. Equipment specially designed for the manufacture or testing of electron tubes, optical elements and specially designed components therefor controlled by 3A001;

b. Equipment specially designed for the manufacture or testing of semiconductor devices, integrated circuits and "assemblies", as follows, and systems incorporating or having the characteristics of such equipment:

Note: 3B991.b also controls equipment used or modified for use in the manufacture or testing of other devices, such as imaging devices, electro-optical devices, acoustic-wave devices.

b.1. Equipment for the processing of materials for the manufacture of devices and components as specified in the heading of 3B991.b, as follows:

Note: 3B991 does not control quartz furnace tubes, furnace liners, paddles, boats (except specially designed caged boats), bubblers, cassettes or crucibles specially designed for the processing equipment controlled by 3B991.b.1.

b.1.a. Equipment for producing polycrystalline silicon and materials controlled by 3C001;

b.1.b. Equipment specially designed for purifying or processing III/V and II/VI semiconductor materials controlled by 3C001, 3C002, 3C003, or 3C004, except crystal pullers, for which see 3B991.b.1.c below;

b.1.c. Crystal pullers and furnaces, as follows:

Note: 3B991.b.1.c does not control diffusion and oxidation furnaces.

b.1.c.1. Annealing or recrystallizing equipment other than constant temperature furnaces employing high rates of energy transfer capable of processing wafers at a rate exceeding 0.005 m^2 per minute;

b.1.c.2. "Stored programme controlled" crystal pullers having any of the following characteristics:

b.1.c.2.a. Rechargeable without replacing the crucible container;

b.1.c.2.b. Capable of operation at pressures above 2.5 x 105 Pa; or

b.1.c.2.c. Capable of pulling crystals of a diameter exceeding 100 mm;

b.1.d. "Stored program controlled" equipment for epitaxial growth having any of the following characteristics:

b.1.d.1. Capable of producing a layer thickness uniformity across the wafer of equal to or better than +3.5%;

b.1.d.2. Rotation of individual wafers during processing; or

b.1.e. Molecular beam epitaxial growth equipment;

b.1.f. "Magnetically enhanced" "sputtering" equipment with specially designed integral load locks capable of transferring wafers in an isolated vacuum environment;

b.1.g. Equipment specially designed for ion implantation, ion-enhanced or photo-enhanced diffusion, having any of the following characteristics:

b.1.g.1. Patterning capability;

b.1.g.2. Accelerating voltage for more than 200 keV; or

b.1.g.3. Capable of high energy oxygen implant into a heated "substrate";

b.1.h. "Stored program controlled" equipment for the selective removal (etching) by means of anisotropic dry methods (e.g., plasma), as follows:

b.1.h.1. Batch types having either of the following:

b.1.h.1.a. End-point detection, other than optical emission spectroscopy types; or

b.1.h.1.b. Reactor operational (etching) pressure of 26.66 Pa or less;

b.1.h.2. Single wafer types having any of the following:

b.1.h.2.a. End-point detection, other than optical emission spectroscopy types;

b.1.h.2.b. Reactor operational (etching) pressure of 26.66 Pa or less; or

b.1.h.2.c. Cassette-to-cassette and load locks wafer handling;

Notes: 1. "Batch types" refers to machines not specially designed for production processing of single wafers. Such machines can process two or more wafers simultaneously with common process parameters, e.g., RF power, temperature, etch gas species, flow rates.

2. "Single wafer types" refers to machines specially designed for production processing of single wafers. These machines may use automatic wafer handling techniques to load a single wafer into the equipment for processing. The definition includes equipment that can load and process several wafers but where the etching parameters, e.g., RF power or end point, can be independently determined for each individual wafer.

b.1.i. "Chemical vapor deposition" (CVD) equipment, e.g., plasma-enhanced CVD (PECVD) or photo-enhanced CVD, for semiconductor device manufacturing, having either of the following capabilities, for deposition of oxides, nitrides, metals or polysilicon:

b.1.i.1. "Chemical vapor deposition" equipment operating below 105 Pa; or

b.1.i.2. PECVD equipment operating either below 60 Pa (450 millitorr) or having automatic cassette-to-cassette and load lock wafer handling;

Note: 3B991.b.1.i does not control low pressure "chemical vapor deposition" (LPCVD) systems or reactive "sputtering" equipment.

b.1.j. Electron beam systems specially designed or modified for mask making or semiconductor device processing having any of the following characteristics:

b.1.j.1. Electrostatic beam deflection;

b.1.j.2. Shaped, non-Gaussian beam profile;

b.1.j.3. Digital-to-analog conversion rate exceeding 3 MHz;

b.1.j.4. Digital-to-analog conversion accuracy exceeding 12 bit; or

b.1.j.5. Target-to-beam position feedback control precision of 1 micrometer or finer;

Note: 3B991.b.1.j does not control electron beam deposition systems or general purpose scanning electron microscopes.

b.1.k. Surface finishing equipment for the processing of semiconductor wafers as follows:

b.1.k.1. Specially designed equipment for backside processing of wafers thinner than 100 micrometer and the subsequent separation thereof; or

b.1.k.2. Specially designed equipment for achieving a surface roughness of the active surface of a processed wafer with a two-sigma value of 2 micrometer or less, total indicator reading (TIR);

Note: 3B991.b.1.k does not control single-side lapping and polishing equipment for wafer surface finishing.

b.1.l. Interconnection equipment which includes common single or multiple vacuum chambers specially designed to permit the integration of any equipment controlled by 3B991 into a complete system;

b.1.m. "Stored program controlled" equipment using "lasers" for the repair or trimming of "monolithic integrated circuits" with either of the following characteristics:

b.1.m.1. Positioning accuracy less than ±1 micrometer; or

b.1.m.2. Spot size (kerf width) less than 3 micrometer.

b.2. Masks, mask "substrates", mask-making equipment and image transfer equipment for the manufacture of devices and components as specified in the heading of 3B991, as follows:

Note: The term "masks" refers to those used in electron beam lithography, X-ray lithography, and ultraviolet lithography, as well as the usual ultraviolet and visible photo-lithography.

b.2.a. Finished masks, reticles and designs therefor, except:

b.2.a.1. Finished masks or reticles for the production of unembargoed integrated circuits; or

b.2.a.2. Masks or reticles, having both of the following characteristics:

b.2.a.2.a. Their design is based on geometries of 2.5 micrometer or more; and

b.2.a.2.b. The design does not include special features to alter the intended use by means of production equipment or "software";

b.2.b. Mask "substrates" as follows:

b.2.b.1. Hard surface (e.g., chromium, silicon, molybdenum) coated "substrates" (e.g., glass, quartz, sapphire) for the preparation of masks having dimensions exceeding 125 mm×125 mm; or

b.2.b.2. "Substrates" specially designed for X-ray masks;

b.2.c. Equipment, other than general purpose computers, specially designed for computer aided design (CAD) of semiconductor devices or integrated circuits;

b.2.d. Equipment or machines, as follows, for mask or reticle fabrication:

b.2.d.1. Photo-optical step and repeat cameras capable of producing arrays larger than 100 mm×100 mm, or capable of producing a single exposure larger than 6 mm×6 mm in the image (i.e., focal) plane, or capable of producing line widths of less than 2.5 micrometer in the photoresist on the "substrate";

b.2.d.2. Mask or reticle fabrication equipment using ion or "laser" beam lithography capable of producing line widths of less than 2.5 micrometer; or

b.2.d.3. Equipment or holders for altering masks or reticles or adding pellicles to remove defects;

Note: 3B991.b.2.d.1 and b.2.d.2 do not control mask fabrication equipment using photo-optical methods which was either commercially available before the 1st January, 1980, or has a performance no better than such equipment.

b.2.e. "Stored program controlled" equipment for the inspection of masks, reticles or pellicles with:

b.2.e.1. A resolution of 0.25 micrometer or finer; and

b.2.e.2. A precision of 0.75 micrometer or finer over a distance in one or two coordinates of 63.5 mm or more;

Note: 3B991.b.2.e does not control general purpose scanning electron microscopes except when specially designed and instrumented for automatic pattern inspection.

b.2.f. Align and expose equipment for wafer production using photo-optical methods, including both projection image transfer equipment and step and repeat equipment, capable of performing any of the following functions:

Note: 3B991.b.2.f does not control photo-optical contact and proximity mask align and expose equipment or contact image transfer equipment.

b.2.f.1. Production of a pattern size of less than 2.5 micrometer;

b.2.f.2. Alignment with a precision finer than ±0.25 micrometer (3 sigma); or

b.2.f.3. Machine-to-machine overlay no better than + 0.3 micrometer;

b.2.g. Electron beam, ion beam or X-ray equipment for projection image transfer capable of producing patterns less than 2.5 micrometer;

Note: For focussed, deflected-beam systems (direct write systems), see 3B91.b.1.j or b.10.

b.2.h. Equipment using "lasers" for direct write on wafers capable of producing patterns less than 2.5 micrometer.

b.3. "Stored program controlled" inspection equipment for the automatic detection of defects, errors or contaminants of 0.6 micrometer or less in or on processed wafers, "substrates", other than printed circuit boards or chips, using optical image acquisition techniques for pattern comparison;

Note: 3B991.b.3 does not control general purpose scanning electron microscopes, except when specially designed and instrumented for automatic pattern inspection.

b.4. Specially designed "stored program controlled" measuring and analysis equipment, as follows:

b.4.a. Specially designed for the measurement of oxygen or carbon content in semiconductor materials;

b.4.b. Equipment for line width measurement with a resolution of 1 micrometer or finer;

b.4.c. Specially designed flatness measurement instruments capable of measuring deviations from flatness of 10 micrometer or less with a resolution of 1 micrometer or finer.

b.5. Equipment for the assembly of integrated circuits, as follows:

b.5.a. "Stored program controlled" die bonders having all of the following characteristics:

b.5.a.1. Specially designed for "hybrid integrated circuits";

b.5.a.2. X–Y stage positioning travel exceeding 37.5×37.5 mm; and

b.5.a.3. Placement accuracy in the X–Y plane of finer than + 10 micrometer;

b.5.b. "Stored program controlled" equipment for producing multiple bonds in a single operation (e.g., beam lead bonders, chip carrier bonders, tape bonders);

b.5.c. Semi-automatic or automatic hot cap sealers, in which the cap is heated locally to a higher temperature than the body of the package, specially designed for ceramic microcircuit packages controlled by 3A001 and that have a throughput equal to or more than one package per minute.

Note: 3B991.b.5. does not control general purpose resistance type spot welders.

b.6. "Stored program controlled" wafer probing equipment having any of the following characteristics:

b.6.a. Positioning accuracy finer than 3.5 micrometer;

b.6.b. Capable of testing devices having more than 68 terminals; or

b.6.c. Capable of testing at a frequency exceeding 1 GHz;

b.7. Test equipment as follows:

b.7.a. "Stored program controlled" equipment specially designed for testing discrete semiconductor devices and unencapsulated dice, capable of testing at frequencies exceeding 18 GHz;

Technical Note: Discrete semiconductor devices include photocells and solar cells.

b.7.b. "Stored program controlled" equipment specially designed for testing integrated circuits and "assemblies" thereof, capable of functional testing:

b.7.b.1. At a pattern rate exceeding 20 MHz; or

b.7.b.2. At a pattern rate exceeding 10 MHz but not exceeding 20 MHz and capable of testing packages of more than 68 terminals;

Note: 3B991.b.7.b. does not control equipment specially designed for testing integrated circuits not controlled by 3A001 or 3A991.

Notes: 1. 3B991.b.7.b does not control test equipment specially designed for testing "assemblies" or a class of "assemblies" for home and entertainment applications.

2. 3B991.b.7.b does not control test equipment specially designed for testing electronic components, "assemblies" and integrated circuits not controlled by 3A001 or 3A991 provided such test equipment does not incorporate computing facilities with "user accessible programmability".

b.7.c. Equipment specially designed for determining the performance of focal-plane arrays at wavelengths of more than 1,200 nm, using "stored program controlled" measurements or computer aided evaluation and having any of the following characteristics:

b.7.c.1. Using scanning light spot diameters of less than 0.12 mm;

b.7.c.2. Designed for measuring photosensitive performance parameters and for evaluating frequency response, modulation transfer function, uniformity of responsivity or noise; or

b.7.c.3. Designed for evaluating arrays capable of creating images with more than 32 x 32 line elements;

b.8. Filters for clean rooms capable of providing an air environment of 10 or less particles of 0.3 micrometer or smaller per 0.02832 m 3 and filter materials therefor;

b.9. Electron beam test systems, capable of operating at or below 3,000 eV, for non-contactive probing of powered-up semiconductor devices having any of the following:

b.9.a. Stroboscopic capability with either beam blanking or detector strobing;

b.9.b. An electron spectrometer for voltage measurements with a resolution of less than 0.5 V; or

b.9.c. Electrical tests fixtures for performance analysis of integrated circuits;

Note: 3B991.b.9 does not control scanning electron microscopes, except when specially designed and instrumented for non-contactive probing of a powered-up semiconductor device.

b.10. "Stored program controlled" multifunctional focused ion beam systems specially designed for manufacturing, repairing, physical layout analysis and testing of masks or semiconductor devices and having either of the following characteristics:

b.10.a. Target-to-beam position feedback control precision of 1 micrometer or finer; or

b.10.b. Digital-to-analog conversion accuracy exceeding 12 bit;

b.11. Particle measuring systems employing "lasers" designed for measuring particle size and concentration in air having both of the following characteristics:

b.11.a. Capable of measuring particle sizes of 0.2 micrometer or less at a flow rate of 0.02832 m3 per minute or more; and

b.11.b. Capable of characterizing Class 10 clean air or better.

C. Materials

3C001 Hetero-epitaxial materials consisting of a "substrate" with stacked epitaxially grown multiple layers.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $3,000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items:

a. Silicon;
b. Germanium; or
c. III/V compounds of gallium or indium.

Technical Note: III/V compounds are polycrystalline or binary or complex monocrystalline products consisting of elements of groups IIIA and VA of Mendeleyev's periodic classification table (gallium arsenide, gallium-aluminium arsenide, indium phosphide, etc.).

3C002 Resist materials, and "substrates" coated with controlled resists.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $3000
GBS: Yes for 3C002.a as described in Advisory Note 1.e
CIV: Yes for 3C002.a as described in Advisory Note 1.e

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items:

a. Positive resists for semiconductor lithography specially adjusted (optimized) for use at wavelengths below 370 nm;

b. All resists, for use with electron beams or ion beams, with a sensitivity of 0.01 microcoulomb/mm2 or better;

c. All resists, for use with X-rays, with a sensitivity of 2.5 mJ/mm2 or better;

d. All resists optimized for surface imaging technologies, including silyated resists.

Technical Note: Silyation techniques are defined as processes incorporating oxidation of the resist surface to enhance performance for both wet and dry developing.

3C003 Organo-inorganic compounds.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $3,000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definition: This entry controls only compounds whose metallic, partly metallic or non-metallic element is directly linked to carbon in the organic part of the molecule.
Items:

a. Organo-metallic compounds of aluminum, gallium or indium having a purity (metal basis) better than 99.999%; or

b. Organo-arsenic, organo-antimony and organo-phosphorus compounds having a purity (inorganic element basis) better than 99.999% percent.

3C004 Hydrides of phosphorus, arsenic or antimony, having a purity better than 99.999%, even diluted in inert gases or hydrogen.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $3000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definition: This entry does not control hydrides containing less than 20% molar or more of inert gases or hydrogen.
Items: The list of items controlled is contained in the ECCN heading.

D. Software

3D001 "Software" specially designed for the "development" or "production" of equipment controlled by 3A001.a.1.a, 3A001.b to 3A001.f, 3A002, 3A101 or 3B (except 3B991).

License Requirements

Reason for Control: NS, MT, NP, AT

Control(s)	Country Chart
NS applies to "software" for equipment controlled by 3A001.b to 3A001.f, 3A002, and 3B001 to 3B008.	NS Column 1.
MT applies to "software" for equipment controlled by 3A001.a.1.a or 3A101.	MT Column 1.
NP applies to "software" for equipment controlled by 3A001.e.5.	NP Column 1.
At applies to entire entry ...	AT Column 1.

License Exceptions

CIV: N/A
TSR: Yes, except 3A001.e.5

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

3D002 "Software" specially designed for the "use" of "stored program controlled" items controlled by 3B (except 3B991).

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: Yes

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A Items: The list of items controlled is contained in the ECCN heading.

3D003 Computer-aided-design (CAD) "software" for semiconductor device or integrated circuits, having any of the following.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: Yes

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: (a) This entry does not control "software" specially designed for schematic entry, logic simulation, placing and routing, layout verification or pattern generation tape. (b) Libraries, design attributes or associated data for the design of semiconductor devices or integrated circuits are considered as "technology".
Items:

a. Design rules or circuit verification rules;
b. Simulation of the physically laid out circuits; or
c. Lithographic processing simulators for design.

Technical Note: A lithographic processing simulator is a "software" package used in the design phase to define the sequence of lithographic, etching and deposition steps for translating masking patterns into specific topographical patterns in conductors, dielectrics or semiconductor material.

3D101 "Software" specially designed for the "use" of items controlled by 3A101.b.

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A Items: The list of items controlled is contained in the ECCN heading.

3D980 "Software" specially designed for the "development", "production", or "use" of items controlled by 3A980 and 3A981.

License Requirements

Reason for Control: CC

Control(s)	Country Chart
CC applies to entire entry .	CC Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

3D994 "Software" specially designed for the "development", "production", or "use" of electronic devices or components controlled by 3A992, electronic test equipment controlled by 3A993, general purpose electronic equipment controlled by 3A994, or manufacturing and test equipment controlled by 3B991.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

E. Technology

3E001 "Technology" according to the General Technology Note for the "development" or "production" of items controlled by 3A (except 3A980, 3A981, and 3A992 to 3A994), 3B (except 3B991) or 3C.

License Requirements

Reason for Control: NS, MT, NP, AT

Control(s)	Country Chart
NS applies to "technology" for items controlled by 3A001, 3A002, 3B001 to 3B008 or 3C001 to 3C004.	NS Column 1.
MT applies to "technology" for equipment controlled by 3A001 or 3A101 for MT reasons.	MT Column 1.
NP applies to "technology" for equipment controlled by 3A001, 3A201, 3A202, 3A225 to 3A233 for NP reasons.	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: Yes, except 3A001.a.1.a and e.5

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definition: This entry does not control "technology" for the "development" or "production" of: (a) Microwave transistors operating at frequencies below 31 GHz; (b) Integrated circuits controlled by 3A001.a.3 to a.12, having both of the following characteristics using "technology" of one micrometer or more, AND not incorporating multi-layer structures. This does not preclude the export and reexport of multilayer "technology" for devices incorporating a maximum of two metal layers and two polysilicon layers.

Items: The list of items controlled is contained in the ECCN heading.

3E002 Other "technology" for the "development" or "production" of items described in this entry.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: Yes

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items:

a. Vacuum microelectronic devices;
b. Hetero-structure semiconductor devices such as high electron mobility transistors (HEMT), hetero-bipolar transistors (HBT), quantum well or super lattice devices;
c. "Superconductive" electronic devices;
d. "Substrates" of films of diamond for electronic components.

3E101 "Technology" according to the General Technology Note for the "use" of equipment controlled by 3A001.a.1.a or 3A101.

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

3E201 "Technology" according to the General Technology Note for the "use" of items controlled by 3A001.e.2, e.3, and e.5, 3A201, 3A202, 3A225 to 3A233.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

3E980 "Technology" specially designed for "development", "production", or "use" of items controlled by 3A980 and 3A981.

License Requirements

Reason for Control: CC

Control(s)	Country Chart
CC applies to entire entry .	CC Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

3E994 "Technology" for the "development", "production", or "use" of electronic devices or components controlled by 3A992, electronic test equipment controlled by 3A993, general purpose electronic equipment controlled by 3A994, or manufacturing and test equipment controlled by 3B991.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

EAR99 Items subject to the EAR that are not elsewhere specified in this CCL Category or in any other category in the CCL are designated by the number EAR99.

Advisory Notes for Category 3

Advisory Note 1: Licenses are likely to be approved, as administrative exceptions, for exports to satisfactory end-users in the People's Republic of China of:

a. Analog instrumentation magnetic tape recorders controlled by 3A002.a.1, provided that all of the following conditions are met:
1. Bandwidths do not exceed:
a. 4 MHz per track and have up to 28 tracks; or
b. 2 MHz per track and have up to 42 tracks;
2. Tape speed does not exceed 6.1 m/s;
3. They are not designed for underwater use;
4. They are not ruggedized for military use; and
5. Recording density does not exceed 653.2 magnetic flux sine waves per mm;
b. Video magnetic tape recorders specially designed for civil television recording;
c. Instrument "frequency synthesizers" or synthesized signal generators controlled by 3A002.b or 3A002.d.2, and specially designed components or accessories therefor, having:
1. A synthesized output frequency of 2.6 GHz or less; and
2. A "frequency switching time" of 0.3 ms or more;
d. Epitaxial reactors controlled by 3B001.a, except those also controlled by 3B001.b or 3B001.c;
e. Positive resists not optimized for photolithography at a wavelength of less than 365 nm, provided that they are not controlled by 3C002.b to 3C002.d.

Advisory Note 2: Licenses are likely to be approved, as administrative exceptions, for exports to satisfactory end-users in Country Group D:1 of items controlled by 3A001.a.4.a or a.4.b.

Advisory Note 3: Licenses are likely to be approved for exports and reexports to satisfactory end-uses in Country Group D:1 of items controlled by 3A231, including tubes, provided that they are for civil use.

N.B.: The provisions of this Advisory Note notwithstanding, current law prohibits approval to nuclear production or utilization facilities in the People's Republic of China.

Category 4—Computers

Note 1: Computers, related equipment or "software" performing telecommunications or "local area network" functions must also be evaluated against the performance characteristics in Category 5 (Part I. Telecommunications).

N.B. 1: Control units that directly interconnect the buses or channels of central processing units, "main storage" or disk controllers, are not regarded as telecommunications equipment described in Category 5 (Part I. Telecommunications).

N.B. 2: For the control status of "software" that provides routing or switching of "datagram" or "fast select" packets (i.e., packet by packet route selection) or for "software" specially designed for packet switching, see Category 5 (Part I. Telecommunications).

Note 2: Computers, related equipment or "software" performing cryptographic, cryptanalytic, certifiable multi-level security or certifiable user isolation functions, or that limit electronmagnetic compatibility (EMC), must also be evaluated against the performance characteristics in Category 5 (Part II. "Information Security").

A. Equipment, Assemblies and Components

4A001 Electronic computers and related equipment, and "electronic assemblies" and specially designed components therefor.

License Requirements

Reason for Control: NS, MT, AT, NP, XP

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
MT applies to 4A001.a	MT Column 1.
AT applies to entire entry ..	AT Column 1.

NP applies to all equipment controlled by this entry unless a License Exception is available. See § 742.3(b) of the EAR for information on applicable licensing review policies.

XP applies to all equipment controlled by this entry unless a License Exception is available. XP controls vary according to destination and end-user and end-use.

See § 742.12 of the EAR for additional information.

License Exceptions

LVS: $5,000 for 4A001.a; N/A for 4A001.b
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: Equipment designed or rated for transient ionizing radiation is subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121, Category XI.)
Related Definitions: N/A
Items:

a. Specially designed to have either of the following characteristics:

a.1. Rated for operation at an ambient temperature below 228 K (−45 °C) or above 358 K (85 °C);

Note: The temperature limits in 4A001.a.1. do not apply to computers specially designed for civil automobile and railway train applications.

a.2. Radiation-hardened to exceed any of the following specifications:

a.2.a. Total Dose: 5×10^5 Rads (Si);

a.2.b. Dose Rate Upset: 5×10^8 Rads (Si)/sec;

a.2.c. Single Event Upse: 1×10^{-7} Error/bit/day; or

b. Having characteristics or performing functions exceeding the limits in Category 5 (Part II. "Information Security").

4A002 "Hybrid computers", and "electronic assemblies" and specially designed components therefor.

License Requirements

Reason for Control: NS, MT, AT, NP, XP

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
MT applies to hybrid computers combined with specially designed "software", for modeling, simulation, or design integration of complete rocket systems and unmanned air vehicle systems that are usable in systems controlled for MT reasons.	MT Column 1.
AT applies to entire entry ..	AT Column 1.

NP applies to all equipment controlled by this entry unless a License Exception is available. See § 742.3(b) of the EAR for information on applicable licensing review policies.

XP applies to all equipment controlled by this entry unless a License Exception is available. XP controls vary according to destination and end-user and end-use. See § 742.12 of the EAR for additional information.

License Exceptions

LVS: $,5,000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: N/A
Related Definitions: N/A
Items:

a. Containing "digital computers" controlled by 4A003;

b. Containing analog-to-digital converters having both of the following characteristics:

b.1. 32 channels or more; and

b.2. A resolution of 14 bits (plus sign bit) or more with a conversion rate of 200,000 conversions/s or more.

4A003 "Digital computers", "electronic assemblies", and related equipment therefor, and specially designed components therefor.

License Requirements

Reason for Control: NS, MT, CC, AT, NP, XP

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
MT applies to digital computers used as ancillary equipment for test facilities and equipment that are controlled by 9B005 or 9B006.	MT Column 1.
CC applies to computers for computerized fingerprint equipment.	CC Column 1.
AT applies to entire entry (refer to 4A994 for controls on computers with a CTP ≥ 6 but ≤ to 260 Mtops).	AT Column 1.

NP applies to all equipment controlled by this entry unless a License Exception is available. See § 742.3(b) of the EAR for information on applicable licensing review policies.

XP applies to all equipment controlled by this entry unless a License Exception is available. XP controls vary according to destination and end-user and end-use. See § 742.12 of the EAR for additional information.

License Exceptions

LVS: $5,000
GBS: Yes, for computers with a CTP not exceeding 1,000 Mtops (500 Mtops for eligible countries in Country Group D:2) and specially designed components therefor, exported separately or as part of a system; and related equipment therefor when exported with these computers as part of a system. (GBS is not available for the export or reexport of items controlled by 4A003 if you know they will be used to: enhance the performance capability [i.e., CTP] of a computer to 2,000 Mtops. or greater, or enhance the performance capability of a computer with a CTP ≥2,000 Mtops.)
CTP: Yes
CIV: Yes, for 4A03.d (having a 3–D vector rate less that 3M vectors/sec) and .f (see Advisory Notes 2, 3 and 4 to Category 4)

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: N/A
Related Definitions: N/A
Items:

Note 1: 4A003 includes vector processors, array processors, digital signal processors, logic processors, and equipment for "image enhancement" or "signal processing".

Note 2: The control status of the "digital computers" or related equipment described in 4A003 is governed by the control status of other equipment or systems provided:

a. The "digital computers" or related equipment are essential for the operation of the other equipment or systems;

b. The "digital computers" or related equipment are not a "principal element" of the other equipment or systems; and

N.B.1: The control status of "signal processing" or "image enhancement" equipment specially designed for other equipment with functions limited to those required for the other equipment is determined by the control status of the other equipment even if it exceeds the "principal element" criterion.

N.B.2: For the control status of "digital computers" or related equipment for telecommunications equipment, see the telecommunications entries in Category 5.

c. The "technology" for the "digital computers" and related equipment is governed by 4E.

a. Designed or modified for "fault tolerance";

Note: For the purposes of 4A003.a, "digital computers" and related equipment are not considered to be designed or modified for "fault tolerance", if they use:

1. Error detection or correction algorithms in "main storage";

2. The interconnection of two "digital computers" so that, if the active central processing unit fails, an idling but mirroring central processing unit can continue the system's functioning;

3. The interconnection of two central processing units by data channels or by use of shared storage to permit one central processing unit to perform other work until the second central processing unit fails, at which time the first central processing unit takes over in order to continue the system's functioning; or

4. The synchronization of two central processing units by "software" so that one central processing unit recognizes when the other central processing unit fails and recovers tasks from the failing unit.

b. "Digital computers" having a "Composite Theoretical Performance" ("CTP") exceeding 260 million composite theoretical operations per second (Mtops);

c. "Electronic assemblies" specially designed or modified to be capable of enhancing performance by aggregation of "computing elements", so that the "CTP" of the aggregation exceeds the limit in 4A003.b.

Note 1: 4A003.c applies only to "electronic assemblies" and programmable interconnections not exceeding the limits in 4A003.b, when shipped as unintegrated "electronic assemblies". It does not apply to "electronic assemblies" inherently limited by nature of their design for use as related equipment controlled by 4A003.d to 4A003.f.

Note 2: 4A003.c does not control "electronic assemblies" specially designed for a product or family of products whose maximum configuration does not exceed the limits of 4A003.b.

d. Graphics accelerators or graphics coprocessors exceeding a "3–D Vector Rate" of 1,600,000;

e. Equipment performing analog-to-digital conversions exceeding the limits in 3A001.a.5;

f. Equipment containing "terminal interface equipment" exceeding the limits in 5A001.b.3;

Note: For the purposes of 4A003.f, "terminal interface equipment" includes "local area network" interfaces, modems and other communications interfaces. "Local area network" interfaces are evaluated as "network access controllers".

g. Equipment, specially designed to provide for the external interconnection of "digital computers" or associated equipment, that allows communications at data rates exceeding 80 Mbytes/s.

Note: 4A003.g does not control internal interconnection equipment (e.g., backplanes, buses) or passive interconnection equipment.

4A004 Computers, and specially designed related equipment, "electronic assemblies" and components therefor.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $5,000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: N/A
Related Definitions: N/A
Items:

a. "Systolic array computers";

b. "Neural computers"; and

c. "Optical computers".

4A101 Analog computers, "digital computers", or digital differential analyzers, other than those controlled by 4A001.a.1, designed or modified for use in missiles, having either of the following characteristics.

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number
Related Controls: N/A
Related Definitions: N/A
Items:

a. Rated for continuous operation at temperatures from below −45° C to above +55° C; or

b. Designed as ruggedized or "radiation hardened".

4A980 Computers for fingerprint equipment, n.e.s.

License Requirements

Reason for Control: CC

Control(s)	Country Chart
CC applies to entire entry .	CC Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

4A994 Computers, "electronic assemblies", and related equipment not controlled by 4A001, 4A002, or 4A003, and specially designed components therefor.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: N/A
Related Definitions: N/A
Items:

a. Electronic computers and related equipment, and "electronic assemblies" and specially designed components therefor, rated for operation at an ambient temperature above 343 K (70° C);

b. "Digital computers" having a "composite theoretical performance" ("CTP") equal to or greater than 6 million theoretical operations per second (Mtops);

c. "Assemblies" not controlled by 4A003 that are specially designed or modified to enhance performance by aggregation of "computing elements" ("CEs"), as follows:

c.1. Designed to be capable of aggregation in configurations of 16 or more "computing elements" ("CEs"); or

c.2. Having a sum of maximum data rates on all channels available for connection to associated processors exceeding 40 million Bytes/s;

Note 1: 4A994.c applies only to "electronic assemblies" and programmable interconnections with a "CTP" not exceeding the limits in 4A994.b, when shipped as unintegrated "electronic assemblies". It does not apply to "electronic assemblies" inherently limited by nature of their design for use as related equipment controlled by 4A994.

Note 2: 4A994.c does not control any "electronic assembly" specially designed for a product or family of products whose maximum configuration does not exceed the limits of 4A994.b.

d. Disk drives and solid state storage equipment:

d.1. Magnetic, erasable optical or magneto-optical disk drives with a "maximum bit transfer rate" exceeding 25 million bit/s;

d.2. Solid state storage equipment, other than "main storage" (also known as solid state disks or RAM disks), with a "maximum bit transfer rate" exceeding 36 million bit/s;

e. Input/output control units designed for use with equipment controlled by 4A994.d;

f. Equipment for "signal processing" or "image enhancement", not controlled by 4A003, having a "composite theoretical performance" ("CTP") exceeding 8.5 million theoretical operations per second (Mtops);

g. Graphics accelerators or graphics coprocessors, not controlled by 4A003, that exceeds a "3–D vector rate" of 400,000 or, if supported by 2–D vectors only, a "2–D vector rate" of 600,000;

Note 1: The provisions of 4A994.g do not apply to work stations designed for and limited to:

a. Graphic arts (e.g., printing, publishing); and

b. The display of two-dimensional vectors.

h. Color displays or monitors having more than 120 resolvable elements per cm in the direction of the maximum pixel density;

Note 1: 4A994.h does not control displays or monitors not specially designed for electronic computers.

Note 2: Displays specially designed for air traffic control (ATC) systems are treated as specially designed components for ATC systems under Category 6.

i. Equipment containing "terminal interface equipment" exceeding the limits in 5A991.

Note: For the purposes of 4A994.i, "terminal interface equipment" includes "local area network" interfaces, modems and other communications interfaces. "Local area network" interfaces are evaluated as "network access controllers".

B. Test, Inspection and Production Equipment

4B994 Equipment for the "development" and "production" of magnetic and optical storage equipment.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definition: This entry does not control general-purpose sputtering equipment.
Items:

a. Equipment specially designed for the application of magnetic coating to controlled non-flexible (rigid) magnetic or magneto-optical media;

b. "Stored program controlled" equipment specially designed for monitoring, grading, exercising or testing controlled rigid magnetic media;

c. Equipment specially designed for the "production" or alignment of heads or head/disk assemblies for controlled rigid magnetic and magneto-optical storage, and electro-mechanical or optical components therefor.

C. Materials

4C994 Materials specially formulated for and required for the fabrication of head/disk assemblies for controlled magnetic and magneto-optical hard disk drives.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

D. Software

4D001 "Software" specially designed or modified for the "development", "production" or "use" of equipment controlled by 4A001 to 4A004, 4A101, or "software" controlled by 4D001 to 4D003.

License Requirements

Reason for Control: NS, MT, CC, AT, NP, XP

Control(s)	Country Chart
NS applies to "software" for items controlled by 4A001 to 4A004, 4D001 or 4D003.	NS Column 1.
MT applies to "software" for equipment controlled by 4A001 to 4A003 or 4A101 for MT reasons.	MT Column 1.
CC applies to "software" for equipment controlled by 4A003 for CC reasons.	CC Column 1.
AT applies to entire entry ..	AT Column 1.

NP applies to all "software" controlled by this entry unless a License Exception is available. See § 742.3(b) of the EAR for information on applicable licensing review policies.

XP applies to all "software" controlled by this entry unless a License Exception is available. XP controls vary according to destination and end-user and end-use. See § 742.12 of the EAR for additional information.

License Exceptions

CIV: Yes, (see Advisory Notes 2 and 3 to Category 4)
TSR: Yes, except for computers requiring a license.

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

4D002 "Software" specially designed or modified to support "technology" controlled by 4E001 or 4E002.

License Requirements

Reason for Control: NS, MT, AT, NP, XP

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 1.
MT applies to "software" for equipment controlled by 4A001 to 4A003 or 4A101 for MT reasons.	MT Column 1.
AT applies to entire entry ..	AT Column 1.

NP applies to all "software" controlled by this entry unless a License Exception is available. See § 742.3(b) of the EAR for information on applicable licensing review policies.

XP applies to all "software" controlled by this entry unless a License Exception is available. XP controls vary according to destination and end-user and end-use. See § 742.12 of the EAR for additional information.

License Exceptions

CIV: N/A
TSR: Yes, except for computers requiring a license.

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

4D003 Specific "software", as described in this entry.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: Yes, except 4D003.c

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items:

a. Operating system "software", "software" "development" tools and compilers specially designed for "multi-data-stream processing" equipment, in "source code";

b. "Expert systems" or "software" for "expert system" inference engines providing both:

b.1. Time dependent rules; and

b.2. Primitives to handle the time characteristics of the rules and the facts;

c. "Software" having characteristics or performing functions exceeding the limits in the "information security" entries in Category 5;

d. Operating systems specially designed for "real time processing" equipment that guarantees a "global interrupt latency time" of less than 20 microseconds.

4D980 "Software" specially designed for the "development", "production", or "use" of items controlled by 4A980.

License Requirements

Reason for Control: CC

Control(s)	Country Chart
CC applies to entire entry .	CC Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

4D993 "Program" proof and validation "software", "software" allowing the automatic generation of "source codes", and operating systems not controlled by 4D003 that are specially designed for real time processing equipment.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items:

a. "Program" proof and validation "software" using mathematical and analytical techniques and designed or modified for "programs" having more than 500,000 "source code" instructions;

b. "Software" allowing the automatic generation of "source codes" from data acquired on line from external sensors described in the Commerce Control List;

c. Operating systems not controlled by 4D003 that are specially designed for "real time processing" equipment that guarantees a "global interrupt latency time" of less than 30 microseconds.

4D994 "Software" specially designed or modified for the "development", "production", or "use" of equipment controlled by 4A994, 4B994 and materials controlled by 4C994.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

E. Technology

4E001 "Technology" according to the General Technology Note, for the "development", "production" or "use" of equipment controlled by 4A001 to 4A004, 4A101 or "software" controlled by 4D (except 4A980, 4A993 or 4A994).

License Requirements

Reason for Control: NS, MT, CC, AT, NP, XP

Control(s)	Country Chart
NS applies to "technology" for items controlled by 4A001 to 4A004, 4D001 or 4D002.	NS Column 1.
MT applies to "technology" for items controlled by 4A001 to 4A003, 4A101 4D001 or 4D002 for MT reasons.	MT Column 1.
CC applies to "technology" for equipment controlled by 4A003 for CC reasons.	CC Column 1.
AT applies to entire entry ..	AT Column 1.

NP applies to all "technology" controlled by this entry unless a License Exception is available. See § 742.3(b) of the EAR for information on applicable licensing review policies.

XP applies to all "technology" controlled by this entry unless a License Exception is available. XP controls vary according to destination and end-user and end-use. See § 742.12 of the EAR for additional information.

License Exceptions

CIV: N/A
TSR: Yes, except "technology" for computers with a CTP > 2,000 Mtops.

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

4E002 Other "technology".

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: Yes

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items:

a. "Technology" for the "development" or "production" of equipment designed for "multi-data-stream processing" where the "CTP" exceeds 120 Mtops;

b. "Technology" "required" for the "development" or "production" of magnetic hard disk drives with a Maximum Bit Transfer Rate ("MBTR") exceeding 47 Mbits/s.

4E980 "Technology" for the "development", "production", or "use" of items controlled by 4A980.

License Requirements

Reason for Control: CC

Control(s)	Country Chart
CC applies to entire entry .	CC Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

4E992 "Technology" for the "development", "production", or "use" of equipment controlled by 4A994 and 4B994, materials controlled by 4C994, or "software" controlled by 4D992, 4D993, or 4D994.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

4E993 "Technology" for the "development" or "production" of graphics accelerators or equipment designed for "multi-data-stream processing" and "technology" "required" for the "development" or "production" of magnetic hard disk drives.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items:

a. "Technology" for the "development" or "production" of graphics accelerators not controlled by 4A003.d or 4A994.g;

b. "Technology", not controlled by 4E002.a, for the "development" or "production" of equipment designed for "multi-data-stream processing";

c. "Technology", not controlled by 4E002.b, "required" for the "development" or "production" of magnetic hard disk drives with a "maximum bit transfer rate" ("MBTR") exceeding 11 Mbit/s.

EAR99 Items subject to the EAR that are not elsewhere specified in this CCL Category or in any other category in the CCL are designated by the number EAR99.

Advisory Notes for Category 4

Advisory Note 1: Licenses are likely to be approved, as administrative exceptions, for exports and reexports to satisfactory end-users in Romania of the items controlled by Category 4 for national security reasons, except:

a. Computers controlled by 4A001 or 4A002;

b. "Digital computers" controlled by 4A003.b having a "composite theoretical performance ("CPT") exceeding 100 million theoretical operations per second (Mtops);

c. Computers controlled by 4A004, and specially related equipment, "electronic assemblies" and components therefor;

d. "Software" specially designed and "technology" "required" for the equipment described in this Advisory Note 1 .a, .b, or .c that are controlled by 4D or 4E.

Advisory Note 2: Licenses are likely to be approved, as administrative exceptions, for export and reexport to satisfactory end-users in the People's Republic of China of "digital computers", specially designed components and related equipment therefor, controlled by 4A003.b, .d, .e, .f, or "software" controlled by 4D001, provided that:

a. They will be operated by civil end-users for civil applications;

b. They are exported or reexported as complete systems or enhancements to previously exported systems up to the limits in this Advisory Note 2.d;

c. They have been primarily designed and used for non-strategic applications;

d. The "CTP" of the "digital computers" does not exceed 20 Mtops;

e. Equipment containing "terminal interface equipment" does not exceed:

1. The limits of Advisory Note 3 to Category 5, Section I (Telecommunications);

2. The limits of 5A002.c.2; or

3. A "digital transfer rate" of 100 Mbits/s on the common media for "network access controllers" and related equipment controlled by 5A002.c.3; and

f. Any controlled "software" is the minimum required for the "use" of the approved "digital computers" and related equipment.

Advisory Note 3: Licenses are likely to be approved, as administrative exceptions, for exports and reexports to satisfactory end-users in Country Group D:1 of "digital computers", "electronic assemblies" or related equipment controlled by 4A003, or specially designed components therefor, and "software" controlled by 4D001, provided that:

a. They will be operated by civil end-users for civil applications;

b. They have been primarily designed and used for non-strategic applications;

c. They do not exceed any of the following limits:

1. The "CTP" of the "digital computers" does not exceed 1,000 Mtops;

2. The "3–D vector rate" does not exceed 3 million;

3. The total data transfer rate of equipment controlled by 4A003.g does not exceed 400 MB/second;

d. When exported as enhancements, the enhanced "digital computer" does not exceed the limit in this Advisory Note 3.c;

e. Exports of items covered by this Advisory Note 3 shall be subject to the following restrictions:

1. The equipment will be used primarily for the specific non-strategic application for which the export or reexport has been approved; and

2. The equipment will not be used for the design, "development", or "production" of items controlled for national security reasons; and

3. The exporter or reexporter shall report promptly any evidence of the removal or diversion of the equipment from authorized purposes related to the specific license;

f. For systems where the "CTP" exceeds 520 Mtops, the following conditions apply:

1. The licensee or the designated representative of the licensee, who must be from a country other than that listed in Country Group D:1, must have the right of access to all the equipment and may carry out inspections;

2. The licensee, upon the request of the BXA, must carry out inspections to establish that all the equipment and systems exported or reexported under the provisions of this Advisory Note:

a. Are being used for the intended civil purposes; and

b. Are still located at the installation sites. The licensee shall report the findings from the inspection to the BXA (at P.O. Box 273, Washington, D.C. 20044) within one month after completing the inspection.

Advisory Note 4: Licenses are likely to be approved, as administrative exceptions, for exports and reexports to satisfactory end-users in Country Group D:1 of equipment controlled by 4A003.g, provided that it is exported or reexported for "use" in interconnecting peripheral equipment to "digital computers" not controlled by 4A003.b.

Information on How to Calculate "Composite Theoretical Performance" ("CTP"):

Technical Note: "Composite Theoretical Performance" (CTP).

Abbreviations Used in This Technical Note

CE "computing element" (typically an arithmetic logical unit)
FP floating point
XP fixed point
t execution time
XOR exclusive OR
CPU central processing unit
TP theoretical performance (of a single CE)
CTP "composite theoretical performance" (multiple CEs)
R effective calculating rate
WL word length
L word length adjustment
* multiply

Execution time 't' is expressed in microseconds, TP and "CTP" are expressed in Mtops (millions of theoretical operations per second) and WL is expressed in bits.

Outline of "CTP" Calculation Method

"CTP" is a measure of computational performance given in millions of theoretical operations per second (Mtops). In calculating the "Composite Theoretical Performance" ("CTP") of an aggregation of "Computing Elements" ("CEs"), the following three steps are required:

1. Calculate the effective calculating rate (R) for each "computing element" ("CE");

2. Apply the word length adjustment (L) to the effective calculating rate (R), resulting in a Theoretical Performance (TP) for each "computing element" ("CE");

3. If there is more than one "computing element" ("CE"), combine the Theoretical Performances (TPs), resulting in a "Composite Theoretical Performance" ("CTP") for the aggregation. Details for these steps are given in the following section.

Note 1: For aggregations of multiple "computing elements" ("CEs") that have both shared and unshared memory subsystems, the calculation of "CTP" is completed hierarchically, in two steps: first, aggregate the group of "computing elements" ("CEs") sharing memory, second calculate the "CTP" of the groups using the calculation method for multiple "computing elements" ("CEs") not sharing memory.

Note 2: "Computing elements" ("CEs") that are limited to input/output and peripheral functions (e.g., disk drive, communication and video display controllers) are not aggregated into the "CTP" calculation.

The following table shows the method of calculating the "Effective Calculating Rate" (R) for each "Computing Element" ("CE"):

Step 1: *The effective calculating rate R.* For Computing Elements (CEs) Implementing: Effective calculating Rate, R

Note: Every "CE" must be evaluated independently

XP only (R_{xp})

$$\frac{1}{3*(t_{xp\,add})}$$

If no add is implemented use:

$$\frac{1}{(t_{xp\,mult})}$$

If neither add nor multiply is implemented use the fastest available arithmetic operation as follows:

$$\frac{1}{(3\times t_{xp})}$$

See Notes X and Y.

FP only (R_{fp})

$$\text{Max}\frac{1}{t_{fp\,add}}, \frac{1}{t_{fp\,mult}}$$

See Notes X and Y.
Both FP and XP (R).
Calculate both R_{xp}, R_{fp}.

For simple logic processors not implementing any of the specified arithmetic operations.

$$\frac{1}{3\times t_{log}}$$

Where t_{log} is the execute time of the XOR, or for logic hardware not implementing the XOR, the fastest simple logic operation.

See Notes X and Z.

For special logic processors not using any of the specified arithmetic or logic operations. $R = R^t \times WL/64$

Where R is the number of results per second, WL is the number of bits upon which the logic operation occurs, and 64 is a factor to normalize to a 64 bit operation.

Note W: For a pipelined "CE" capable of executing up to one arithmetic or logic operation every clock cycle after the pipeline is full, a pipelined rate can be established.

The effective calculating rate (R) for such a "CE" is the faster of the pipelined rate or non-pipelined execution rate.

Note X: For a "CE" that performs multiple operations of a specific type in a single cycle (e.g., two additions per cycle or two identical logic operations per cycle), the execution time t is given by:

$$t = \frac{\text{cycle time}}{\text{the number of arithmetic operations per machine cycle}}$$

"Computing elements" ("CEs") that perform different types of arithmetic or logic operations in a single machine cycle are to be treated as multiple separate "computing elements" ("CEs") performing simultaneously (e.g., a "CE" performing an addition and a multiplication in one cycle is to be treated as two "CEs", the first performing an addition in one cycle and the second performing a multiplication in one cycle).

If a single "Computing element" ("CE") has both scalar function and vector function, use the shorter execution time value.

Note Y: For the "CE" that does not implement FP add or FP multiply, but that performs FP divide:

$$R_{fp} = \frac{1}{t_{fp\ divide}};$$

If the "CE" implements FP reciprocal, but not FP add, FP multiply or FP divide, then:

$$R_{fp} = \frac{1}{t_{fp\ reciprocal}}.$$

If the divide is not implemented, the fp reciprocal should be used.

If none of the specified instructions is implemented, the effective floating point (FP) rate is 0.

Note Z: In simple logic operations, a single instruction performs a single logic manipulation of no more than two operands of given lengths. In complex logic operations, a single instruction performs multiple logic manipulations to produce one or more results from two or more operands.

Rates should be calculated for all supported operand lengths considering both pipelined operations (if supported), and non-pipelined operations, using the fastest executing instruction for each operand length based on:

1. Pipelined or register-to-register operations. Exclude extraordinarily short execution times generated for operations on a predetermined operand or operands (for example, multiplication by 0 or 1). If no register-to-register operations are implemented, continue with (2).

2. The faster of register-to-memory or memory-to-register operations; if these also do not exist, then continue with (3).

3. Memory-to-memory.

In each case above, use the shortest execution time certified by the manufacturer.

Step 2: *TP for each supported operand length WL:*

Adjust the effective rate R (or R^i) by the word length adjustment L as follows:

$$TP = R \times L, \text{ where } L = \left(\tfrac{1}{3} + WL/96\right).$$

Note: The word length WL used in these calculations is the operand length in bits. (If an operation uses operands of different lengths, select the largest word length.)

The combination of a mantissa ALU and an exponent ALU of a floating point processor or unit is considered to be one "computing Element" ("CE") with a Word Length (WL) equal to the number of bits in the data representation (typically 32 or 64) for purposes of the "Composite Theoretical Performance" ("CTP") calculations.

This adjustment is not applied to specialized logic processors that do not use XOR instructions. In this case TP = R.

Select the maximum resulting value of TP for:

Each XP-only "CE" (R_{xp});

Each FP-only "CE" (R_{fp});

Each combined FP and XP "CE" (R);

Each simple logic processor not implementing any of the specified arithmetic operations; and

Each special logic processor not using any of the specified arithmetic or logic operations.

Step 3: *"CTP" for aggregations of "CEs", including CPU's:*

For a CPU with a single "CE", "CTP" = TP (for CEs performing both fixed and floating point operations, TP = max (TP_{fp}, TP_{xp})).

"CTP" for aggregations of multiple "CEs" operating simultaneously is calculated as follows:

Note 1: For aggregations that do not allow all of the "CEs" to run simultaneously, the possible combination of "CEs" that provides the largest "CTP" should be used. The TP of each contributing "CE" is to be calculated at its maximum value theoretically possible before the "CTP" of the combination is derived.

N.B.: To determine the possible combinations of simultaneously operating "CEs", generate an instruction sequence that initiates operations in multiple "CEs", beginning with the slowest "CE" (the one needing the largest number of cycles to complete its operation) and ending with the fastest "CE". At each cycle of the sequence, the combination of "CEs" that are in operation during that cycle is a possible combination. The instruction sequence must take into account all hardware and/or architectural constraints on overlapping operations.

Note 2: A single integrated circuit chip or board assembly may contain multiple "CEs".

Note 3: Simultaneous operations are assumed to exist when the computer manufacturer claims concurrent, parallel or simultaneous operation or execution in a manual or brochure for the computer.

Note 4: "CTP" values are not to be aggregated for "CE"-combinations (inter)connected by "Local Area Networks", Wide Area Networks, Input/Output shared connections/devices, I/O controllers and any communication interconnection implemented by "software".

Note 5: "CTP" values must be aggregated for multiple "CEs" specially designed to enhance performance by aggregation, operating simultaneously and sharing memory,— or multiple memory/"CE"— combinations operating simultaneously utilizing specially designed hardware. This aggregation does not apply to "electronic assemblies" controlled by 4A003.c.

"CTP" = $TP_1 + C_2 * TP_2 + . . . + C_n * TP_n$, where the TPs are ordered by value, with TP_1 being the highest, TP_2 being the second highest, . . . and TP_n being the lowest. C_i is a coefficient determined by the strength of the interconnection between "CEs", as follows:

For multiple "CEs" operating simultaneously and sharing memory:

$$C_2 = C_3 = C_4 = K = C_n = 0.75.$$

Note 1: When the "CTP" calculated by the above method does not exceed 194 Mtops, the following formula may be used to calculate C_i:

$$C_i = \frac{0.75}{m^{0.5}(i = 2, K\ n)}$$

where m = the number of "CEs" or groups of "CEs" sharing access.

Provided:

1. The TP_i of each "CE" or group of "CEs" does not exceed 30 Mtops;

2. The "CEs" or groups of "CEs" share access to main memory (excluding cache memory) over a single channel; and

3. Only one "CE" or group of "CEs" can have use of the channel at any given time.

N.B.: This does not apply to items controlled under Category 3.

Note 2: "CEs" share memory if they access a common segment of solid state memory. This memory may include cache memory, main memory, or other internal memory. Peripheral memory devices such as disk drives, tape drives, or RAM disks are not included.

For multiple "CEs" or groups of "CEs" not sharing memory, interconnected by one or more data channels:

C_i=0.75*k_i (i=2, . . ., 32) (see NOTE on k_i factor)
=0.60*k_i (i=33, . . ., 64)
=0.45*k_i (i=65, . . ., 256)
=0.30*k_i (i>256)

The value of C_i is based on the number of "CEs", not the number of nodes.

where k_i=min (S_i/K_r, 1), and
K_r=normalizing factor of 20 MByte/s.
S_i=sum of the maximum data rates (in units of MBytes/s) for all data channels connected to the i_{th} "CE" or group of "CEs" sharing memory.

When calculating a C_i for a group of "CEs", the number of the first "CE" in a group determines the proper limit for C_i. For example, in an aggregation of groups consisting of 3 "CEs" each, the 22nd group will contain "$CE"_{64}$, "$CE"_{65}$ and "$CE"_{66}$. The proper limit for C_i for this group is 0.60.

Aggregation (of "CEs" or groups of "CEs") should be from the fastest-to-slowest; i.e.: $TP_1 \geq TP_2 \geq TP_3$; and in the case of $TP_i = TP_{i+1}$, from the largest to smallest, i.e.: $C_i \geq C_{i+1}$

Note: The k_i factor is not to be applied to "CEs" to 2 to 12 if the TP i / of the "CE" or group of "CEs" is more than 50 Mtops; i.e., C_i for "CEs" 2 to 12 is 0.75.

Category 5—Telecommunications and Information Security

Notice: Category 5 entries are divided into two sections. (I) Telecommunications and (II) Information Security.

I. Telecommunications

Notes: 1. The control status of components, "lasers", test and "production" equipment, materials and "software" therefor that are specially designed for telecommunications equipment or systems is defined in the telecommunications entries in this Category.

2. "Digital computers", related equipment or "software", when essential for the operation and support of telecommunications equipment described by the telecommunications equipment in this Category, are regarded as specially designed components, provided they are the standard models customarily supplied by the manufacturer. This includes operation, administration, maintenance, engineering or billing computer systems.

A. Equipment, Assemblies and Components

5A001 Any type of telecommunications equipment having any of the following characteristics, functions or features:

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to 5A001.a.	NS Column 1.
NS applies to 5A001.b., c., d., .e, or .f.	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A for 5A001.a;
$5000 for 5A001.b, .c, .d, and .f;
$3000 for 5A001.e
GBS: Yes, except 5A001.a, b.8, and b.9
CIV: Yes, except 5A001.a, b.8, and b.9

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: N/A
Related Definitions: N/A
Items:

a. Any type of telecommunications equipment having any of the following characteristics, functions or features:

a.1. Specially designed to withstand transitory electronic effects or electromagnetic pulse arising from a nuclear explosion;

a.2. Specially hardened to withstand gamma, neutron or ion radiation;

a.3. Specially designed to operate outside the temperature range from 218 K (−55° C) to 397 K (124° C).

Note: 5A001.a.3 applies only to electronic equipment.

Note: 5A001.a.2 and a.3 do not apply to equipment on board satellites.

b. Telecommunication transmission equipment or systems and specially designed components and accessories therefor, having any of the characteristics, functions or features:

Note: Telecommunication transmission equipment:

a. Categorized as follows, or combinations thereof:

1. Radio equipment (e.g., transmitters, receivers and transceivers);
2. Line terminating equipment;
3. Intermediate amplifier equipment;
4. Repeater equipment;
5. Regenerator equipment;
6. Translation encoders (transcoders);
7. Multiplex equipment (statistical multiplex included);
8. Modulators/demodulators (modems);
9. Transmultiplex equipment (see CCITT Rec. G.70l);
10. "Stored program controlled" digital crossconnection equipment;
11. "Gateways" and bridges;
12. "Media access units"; and

b. Designed for use in single or multi-channel communication via:

1. Wire (line);
2. Coaxial cable;
3. Optical fiber cable;
4. Electromagnetic radiation; or
5. Underwater acoustic wave propagation.

b.1. Employing digital techniques, including digital processing of analog signals, and designed to operate at a "digital transfer rate" at the highest multiplex level exceeding 45 Mbit/s or a "total digital transfer rate" exceeding 90 Mbit/s.

Note: 5A001.b.1. does not control equipment specially designed to be integrated and operated in any satellite system for civil use.

b.2. Being "stored program controlled" digital cross connect equipment with a "digital transfer rate" exceeding 8.5 Mbit/s per port.

b.3. Being equipment containing:

b.3.a. Modems using the "bandwidth of one voice channel" with a "data signalling rate" exceeding 28,800 bits/s;

b.3.b. "Communication channel controllers" with a digital output having a "data signalling rate" exceeding 2.1 Mbit/s per channel; or

b.3.c. "Network access controllers" and their related common medium having a "digital transfer rate" exceeding 156 Mbit/s;

Note: If any non-controlled equipment contains a "network access controller", it cannot have any type of telecommunications interface except those described in, but not controlled by, 5A001.b.3.

b.4 Employing a "laser" and having any of the following characteristics:

b.4.a. Having a transmission wavelength exceeding 1,000 nm;

b.4.b. Employing analog techniques and having a bandwidth exceeding 45 MHz;

b.4.c. Employing coherent optical transmission or coherent optical detection techniques (also called optical heterodyne or homodyne techniques);

b.4.d. Employing wavelength division multiplexing techniques; or

b.4.e. Performing "optical amplification".

b.5. Radio equipment operating at input or output frequencies exceeding:

b.5.a. 31 GHz for satellite-earth station applications; or

b.5.b. 26.5 GHz for other applications;

Note: 5A001.b.5.b. does not control equipment for civil use when conforming with an International Telecommunications Union (ITU) allocated band between 26.5 GHz and 31 GHz.

b.6. Being radio equipment:

b.6.a. Employing quadrature-amplitude-modulation (QAM) techniques above level 4 if the "total digital transfer rate" exceeds 8.5 Mbit/s;

b.6.b. Employing quadrature-amplitude-modulation (QAM) techniques above level 16 if the "total digital transfer rate" is equal to or less than 8.5 Mbit/s; or

b.6.c. Employing other digital modulation techniques and having a "spectral efficiency" greater than 3 bit/sec/Hz;

Note 1: 5A001.b.6 does not control equipment specially designed to be integrated and operated in any satellite system for civil use.

Note 2: 5A001.b.6. does not control radio relay equipment for operation in an ITU allocated band:

a.1. Not exceeding 960 MHz; or

a.2. With a "total digital transfer rate" not exceeding 8.5 Mbit/s; and

b. Having a "spectral efficiency" not exceeding 4 bit/sec/Hz.

b.7 Being radio equipment operating in the 1.5 to 87.5 MHz band and having either of the following characteristics:

b.7.a.1. Automatically predicting and selecting frequencies and "total digital transfer rates" per channel to optimize the transmission; and

b.7.a.2. Incorporating a linear power amplifier configuration having a capability to support multiple signals simultaneously at an output power of 1 kW or more in the 1.5 to 30 Mhz frequency range or 250 W or more in the 30 to 87.5 MHz frequency range, over an "instantaneous bandwidth" of one octave or more and with an output harmonic and distortion content of better than −80 dB; or

b.7.b. Incorporating adaptive techniques providing more than 15 dB suppression of an interfering signal.

b.8. Being radio equipment employing "spread spectrum" or "frequency agility" (frequency hopping) techniques having any of the following characteristics:

b.8.a. User programmable spreading codes; or

b.8.b. A total transmitted bandwidth that is 100 or more times the bandwidth of any one information channel and in excess of 50 kHz.

b.9. Being digitally controlled radio receivers having more than 1,000 channels, that:

b.9.a. Search or scan automatically a part of the electromagnetic spectrum;

b.9.b. Identify the received signals or the type of transmitter; and

b.9.c. Have a "frequency switching time" of less than 1 ms;

b.10. Providing functions of digital "signal processing" as follows:

b.10.a. Voice coding at rates less than 2,400 bit/s;

b.10.b. Employing circuitry that incorporates "user-accessible programmability" of digital "signal processing" circuits exceeding the limits of 4A003.b;

b.11. Being underwater communications systems having any of the following characteristics:

b.11.a. An acoustic carrier frequency outside the range of 20 to 60 kHz;

b.11.b. Using an electromagnetic carrier frequency below 30 kHz; or

b.11.c. Using electronic beam steering techniques.

c. "Stored program controlled" switching equipment and related signalling systems having any of the following characteristics, functions or features; and specially designed components and accessories therefor:

Note: Statistical multiplexers with digital input and digital output that provide switching are treated as "stored program controlled" switches.

c.1. "Common channel signalling";

Note: Signalling systems in which the signalling channel is carried in and refers to no more than 32 multiplexed channels forming a trunk line of no more than 2.1 Mbit/s, and in which the signalling information is carried in a fixed, time division multiplexed channel without the use of labelled messages, are not considered to be "common channel signalling" systems.

c.2. Containing "Integrated Services Digital Network" (ISDN) functions and having either of the following:

c.2.a. Switch-terminal (e.g., subscriber line) interfaces with a "digital transfer rate" at the highest multiplex level exceeding 192,000 bit/s, including the associated signalling channel (e.g., 2B+D); or

c.2.b. The capability that a signalling message received by a switch on a given channel that is related to a communication on another channel may be passed through to another switch.

Note: 5A001.c.2. does not preclude:

a. The evaluation and appropriate actions taken by the receiving switch.

b. Unrelated user message traffic on a D channel of ISDN.

c.3. Multi-level priority and pre-emption for circuit switching;

Note: 5A001.c.3. does not control single-level call preemption.

c.4. "Dynamic adaptive routing";

c.5. Routing or switching of "datagram" packets;

c.6. Routing or switching of "fast select" packets;

Note: The restrictions in 5A001.c.5. and c.6. do not apply to networks restricted to using only "network access controllers" or to "network access controllers" themselves.

c.7. Designed for automatic hand-off of cellular radio calls to other cellular switches or automatic connection to a centralized subscriber data base common to more than one switch;

c.8. Being packet switches, circuit switches and routers with ports or lines exceeding either:

c.8.a. A "data signalling rate" of 64,000 bit/s per channel for a "communications channel controller"; or

Note: 5A001.c.8.a. does not preclude the multiplexing over a composite link of communications channels not controlled by 5A001.b.1.

c.8.b. A "digital transfer rate" of 33 Mbit/s for a "network access controller" and related common media.

c.9. "Optical switching";

c.10. Employing "Asynchronous Transfer Mode" (ATM) techniques;

c.11. Containing "stored program controlled" digital crossconnect equipment with "digital transfer rate" exceeding 8.5 Mbit/s per port;

d. Centralized network control having both of the following characteristics:

d.1. Receives data from the nodes; and

d.2. Processes these data in order to provide control of traffic not requiring operator decisions, and thereby performing "dynamic adaptive routing";

Note: 5A001.d. does not preclude control of traffic as a function of predictable statistical traffic conditions.

e. Optical fiber communication cables, optical fibers and accessories therefor, as follows:

e.1. Optical fiber or cable of more than 50 m in length having either of the following characteristics:

e.1.a. Designed for single mode operation; or

e.1.b. For optical fibers, specified by the manufacturer as being capable of withstanding a Proof Test tensile stress of 2×10^9 N/m^2 or more;

Technical Note: Proof Test: On-line or off-line production screen testing that dynamically applies a prescribed tensile stress over a 0.5 to 3 m length of fiber at a running rate of 2 to 5 m/s while passing between capstans approximately 150 mm in diameter. The ambient temperature is a nominal 293 K (20° C) and relative humidity of 40%.

N.B.: Equivalent national standards may be used for executing the Proof Test.

e.2. Optical fiber cables and accessories designed for underwater use (for fiber-optic hull penetrators or connectors, see 8A002.c);

f. Phased array antennae, operating above 10.5 GHz, containing active elements and distributed components, and designed to permit electronic control of beam shaping and pointing, except for landing systems with instruments meeting International Civil Aviation Organization (ICAO) standards (microwave landing systems (MLS)).

5A101 Telemetering and telecontrol equipment usable for "missiles".

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry . AT applies to entire entry ..	MT Column 1. AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

5A980 Communications intercepting devices; and parts and accessories therefor.

License Requirements

Reason for Control:
Controls on equipment described in this entry are maintained in accordance with the Omnibus Crime Control and Safe Streets Act of 1968 (Pub. L. 90–351). A license is required for ALL destinations, regardless of end-use. Accordingly, a column specific to this control does not appear on the Commerce Country Chart. (See § 742.13 of the EAR for additional information on the scope of this control.)

Note: These items are subject to the United Nations Security Council arms embargo against Rwanda described in § 746.8 of the EAR.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

5A990 Any type of telecommunications equipment, not controlled by 5A001.a, specially designed to operate outside the temperature range from 219 K (−54° C) to 397 K (124° C).

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

5A991 Transmission equipment, not controlled by 5A001.b.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items:
a. Modems using the "bandwidth of one voice channel" with a "data signalling rate" exceeding 9,600 bits per second;
b. "Communication channel controllers" with a digital output having a "data signalling rate" exceeding 64,000 bit/s per channel; or
c. "Network access controller" and their related common medium having a "digital transfer rate" exceeding 33 Mbit/s.

5A992 Mobile communications equipment, n.e.s., and assemblies and components therefor.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

5A993 Radio relay communications equipment designed for use at frequencies equal to or exceeding 19.7 GHz and assemblies and components therefor, n.e.s.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

5A994 "Data (message) switching" equipment or systems designed for "packet-mode operation" and assemblies and components therefor, n.e.s.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: Yes

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: N/A
Related Definition: This entry does not control optical fibers and "optical fiber preform" characterization equipment not using semiconductor "lasers".
Items:
a. Equipment and specially designed components and accessories therefor, specially designed for:
a.1. "Development" of equipment, materials, functions, or features controlled by 5A001, 5B001, 5C001, 5D001 or 5E001, including measuring or test equipment;
a.2. "Production" of equipment, materials, functions, or features controlled by 5A001, 5B001, 5C001, 5D001 or 5E001, including measuring, test or repair equipment;
a.3. "Use" of equipment, materials, functions, or features exceeding any of the least stringent control criteria applicable in 5A001, 5B001, 5C001, 5D001 or 5E001, including measuring, repair or test equipment.
b. Other equipment as follows:
b.1. Bit error rate (BER) test equipment designed or modified to test the equipment controlled by 5A001.b.1.;
b.2. Data communication protocol analyzers, testers and simulators for functions controlled by 5A001;
b.3. Stand alone "stored program controlled" radio transmission media simulators/channel estimators specially designed for testing equipment controlled by 5A001.b.5.

5B994 Telecommunications test equipment, n.e.s.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $1,000 for Syria; N/A to Iran
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

C. Materials

5C001 Preforms of glass or of any other material optimized for the manufacture of optical fibers controlled by 5A001.e.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry .. AT applies to entire entry ..	NS Column 2. AT Column 1.

License Exceptions

LVS: $5000
GBS: Yes
CIV: Yes

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: N/A
Related Definition: This entry does not control optical fibers and "optical fiber preform" characterization equipment not using semiconductor "lasers".
Items:
a. Equipment and specially designed components and accessories therefor, specially designed for:
a.1. "Development" of equipment, materials, functions, or features controlled by 5A001, 5B001, 5C001, 5D001 or 5E001, including measuring or test equipment;
a.2. "Production" of equipment, materials, functions, or features controlled by 5A001, 5B001, 5C001, 5D001 or 5E001, including measuring, test or repair equipment;
a.3. "Use" of equipment, materials, functions, or features exceeding any of the least stringent control criteria applicable in 5A001, 5B001, 5C001, 5D001 or 5E001, including measuring, repair or test equipment.
b. Other equipment as follows:
b.1. Bit error rate (BER) test equipment designed or modified to test the equipment controlled by 5A001.b.1.;
b.2. Data communication protocol analyzers, testers and simulators for functions controlled by 5A001;
b.3. Stand alone "stored program controlled" radio transmission media simulators/channel estimators specially designed for testing equipment controlled by 5A001.b.5.

5B994 Telecommunications test equipment, n.e.s.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $1,000 for Syria; N/A to Iran
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

C. Materials

5C001 Preforms of glass or of any other material optimized for the manufacture of optical fibers controlled by 5A001.e.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry .. AT applies to entire entry ..	NS Column 2. AT Column 1.

License Exceptions

LVS: $3000
GBS: Yes
CIV: Yes

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

D. Software

5D001: Telecommunications "Software".

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry .. AT applies to entire entry ..	NS Column 1. AT Column 1.

License Exceptions

CIV: Yes
TSR: Yes

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items:

a. "Software" specially designed or modified for the "development", "production" or "use" of equipment or materials controlled by 5A001, 5B001, or 5C001.

b. "Software" specially designed or modified to support "technology" controlled by 5E001.

c. Specific "software" as follows:

c.1. "Generic software", other than in machine-executable form, specially designed or modified for the "use" of "stored program controlled" digital switching equipment or systems;

c.2. "Software", other than in machine-executable form, specially designed or modified for the "use" of digital cellular radio equipment or systems;

c.3. "Software" specially designed or modified to provide characteristics, functions or features of equipment controlled by 5A001 or 5B001;

c.4. "Software" that provides capability of recovering "source code" of telecommunications "software" controlled by this Category.

c.5. "Software" specially designed for the "development" or "production" of "software" controlled by 5D001;

5D101 "Software" designed or modified for the "development", "production" or "use" of items controlled by 5A101.

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

5D990 "Software" specially designed or modified for the "development", "production", or "use" of equipment controlled by 5A990 and 5A991.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 2.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

5D991 "Software" specially designed or modified for the "development", "production", or "use" of telecommunications test equipment controlled by 5B994.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

5D992 "Software" specially designed or modified for the "development", "production" or "use" of mobile communications equipment controlled by 5A992.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

5D993 "Software" specially designed or modified for the "development", "production" or "use" of radio relay communication equipment controlled by 5A993.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

5D994 "Software" specially designed or modified for the "development", "production" or "use" of data (message) switching equipment controlled by 5A994.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

E. Technology

5E001 Telecommunications "technology".

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: Yes

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items:

a. "Technology" according to the General Technology Note for the "development", "production" or "use" (excluding operation) of equipment, systems, materials or "software" controlled by 5A001, 5B001, 5C001, or 5D001.

b. Specific technologies, as follows:

b.1. "Required" technology for the "development" or "production" of telecommunications equipment specially designed to be used on board satellites.

b.2. "Technology" for the "development" or "use" of laser communication techniques with the capability of automatically acquiring and tracking signals and maintaining communications through exoatmosphere or sub-surface (water) media;

b.3. "Technology" for the processing and application of coatings to optical fiber specially designed to make it suitable for underwater use;

b.4. "Technology" for the "development" or "production" of equipment employing "Synchronous Digital Hierarchy" (SDH) or "Synchronous Optical Network" (SONET) techniques;

b.5. "Technology" for the "development" or "production" of "switch fabric" exceeding 64,000 bits per second per information channel other than for digital cross connect integrated in the switch;

b.6. "Technology" for the "development" or "production" of centralized network control;

b.7. "Technology" for the "development" or "production" of digital cellular radio systems;

b.8. "Technology" for the "development" or "production" of "Integrated Services Digital Network" (ISDN).

b.9. "Technology" for the "development" of QAM techniques, for radio equipment, above level 4.

5E101 "Technology" according to the General Technology Note for the "development", "production" or "use" of equipment controlled by 5A101 or "software" controlled by 5D101.

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1 .

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

5E990 Technology for the "development", "production" or "use" of equipment controlled by 5A990 or 5A991 or "software" controlled by 5D990.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

5E991 "Technology" for the "development", "production", or "use" of telecommunications test equipment controlled by 5B994, or "software" controlled by 5D991.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

5E992 "Technology" for the "development", "production", or "use" of mobile communications equipment controlled by 5A992 or "software" controlled by 5D992.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

5E993 "Technology" for the "development", "production", or "use" of radio relay communication equipment controlled by 5A993, or "software" controlled by 5D993.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

5E994 "Technology" for the "development", "production" or "use" of data (message) switching equipment controlled by 5A994, or "software" controlled by 5D994.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value

Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

EAR99 Items subject to the EAR that are not elsewhere specified in this CCL Category or in any other category in the CCL are designated by the number EAR99.

Advisory Notes for Telecommunications

Advisory Note 1: Licenses are likely to be approved, as administrative exceptions, for exports and reexports to satisfactory end-users in Estonia, Latvia and Lithuania of equipment or systems controlled by 5A001.b, .c, .d, .e, and .f, and test equipment, "software" and "use" technology therefor, provided that:

a. The equipment or systems:

1. Are designed for and will be used for specific civil applications; and

2. Will be operated in the importing country by a civil end-user who has furnished to the supplier a Statement by Ultimate Consignee and Purchaser (Form BXA–711), or a statement on company letterhead described in § 748.11(e) of the EAR certifying that the equipment or systems will used only for the specific end-use;

b. The information to accompany each application will include:

1. End-use assurances provided by the importer and backed by the importing country;

2. Acceptance of on-site inspection of the equipment or system by the licensee or the designated representative of the licensee from a country other than that listed in Country Group D:1;

3. A full description of the equipment or systems to be provided; and

4. The end-use information clearly stated including the installation site and intended application.

Advisory Note 2: Licenses are likely to be approved, as administrative exceptions, for exports and reexports to satisfactory end-users in the People's Republic of China of the following communications, measuring or test equipment:

a. "Telecommunications transmission equipment" controlled by 5A001.b.1, b.2, b.4 provided that:

1. It is intended for general commercial traffic in a civil communication system;

2. It is designed for operation at a "digital transfer rate" at the highest multiplex level of 140 Mbit/s or less and at a "total digital transfer rate" of 168 Mbit/s or less;

N.B.: An additional 2 Mbit/s for operation, maintenance and service communications may be added to the "total digital transfer rate" of 168 Mbit/s.

3. For equipment controlled by 5A001.b.4, the transmission wavelength must not exceed 1,370 nm and optical fiber must be used as the communication medium;

4. It is to be installed under the supervision of the seller in a permanent circuit; and

5. It is to be operated by the civilian authorities of the importing country;

b. Measuring or test equipment controlled by 5B001.a.3, 5B001.b.1, 5B001.b.2, that is necessary for the "use" (i.e., installation, operation and maintenance) of equipment

exported under the conditions of this Advisory Note, provided that:

1. It is designed for "use" with communication transmission equipment operating at a "digital transfer rate" of 140 Mbit/s or less, and at a "total digital transfer rate" of 168 Mbit/s or less; and

2. It will be supplied in the minimum quantity required for the transmission equipment eligible for administrative exception treatment.

N.B.1: Where possible, built-in test equipment (BITE) will be provided for installation or maintenance of transmission equipment eligible for administrative exception treatment under this Advisory Note rather than individual test equipment.

N.B.2: The license application must include the locations of the connection points, types of equipment being connected and transmission rates.

Advisory Note 3: Licenses are likely to be approved, as administrative exceptions, for exports and reexports to satisfactory end-users in the People's Republic of China of "network access controllers" controlled by 5A001.b.3.c, when exported under the conditions of Advisory Note 2 to Category 4, with a "digital transfer rate" not exceeding 100 Mbits/s.

Advisory Note 4: Licenses are likely to be approved, as administrative exceptions, for exports and reexports to satisfactory end-users in the People's Republic of China of the following, provided that the associated multiplex equipment is designed for operation at a "digital transfer rate" at the highest multiplex level of 140 Mbit/s or less:

a. Digital microwave radio relay equipment controlled by 5A001.b.1 or 5B001.b.6, for fixed civil installations, operating at fixed frequencies not exceeding 23.6 GHz, with a "total digital transfer rate" not exceeding 168 Mbit/s;

b. Ground communication radio equipment for use with temporarily fixed services operated by civil authorities and designed to be used at fixed frequencies not exceeding 23.6 GHz;

c. Radio transmission medih simulators/channel estimators controlled by 5B001.b.3, designed for testing equipment described in this Advisory Note 4.a or .b.

Advisory Note 5: Licenses are likely to be approved, as administrative exceptions, for exports and reexports to satisfactory end-users in the People's Republic of China of equipment controlled by 5A001.c.1 or "software" for "common channel signalling" controlled by 5D001.a or 5D001.c.3, provided that:

a. The "common channel signalling" is restricted to quasi-associated or associated mode of operation according to CCITT Red Book, Volume X, fascicle X.1;

b. No functions, other than those described in the following recommendations in the Red Book of CCITT: Q.701 to Q.709, Q.721 to Q.725, Q.791 and Q.795, are included;

N.B.: Only functions described in paragraph 2 of Q.795 are to be included. These Q.795 functions may not provide centralized network control having all of the following characteristics:

a. Is based on a network management protocol; and

b. Does both of the following:

1. Receives data from the nodes; and

2. Processes these data in order to:

a. Control traffic; and

b. Directionalize paths;

c. No form of "Integrated Services Digital Network" (ISDN) is provided;

d. Equipment or "software" is restricted to that necessary for the operation within a city or, for "Private Automatic Branch Exchanges", within a radius of 100 km;

N.B.1: Where a recognized city contains more than one subordinate entity or city, the larger unified boundary prevails. In no case is the boundary larger than that of Beijing.

N.B.2: A suburban entity that does not belong to a city, but is located within a circle with a diameter of 50 km and with a city in the middle, can be considered as part of a city.

e. No means are provided that will allow "common channel signalling" via analog transmission links;

f. All the applicable conditions enumerated in this Advisory Note 5.a to .e are accomplished by:

1. Omission or physical removal of equipment or coding;

2. Over-writing with non-functioning statements; or

3. Reasonably non-reversible modifications.

Advisory Note 6: Licenses are likely to be approved, as administrative exceptions, for export to satisfactory end-users in the People's Republic of China of equipment controlled by 5B001.a.2, as follows:

a. Optical fiber or "optical fiber preform" characterization equipment using semiconductor "laser" with a wavelength not exceeding 1,370 nm;

b. Equipment for the manufacture of silica-based "optical fiber preforms", optical fibers or cables.

Advisory Note 7: Licenses are likely to be approved, as administrative exceptions, for exports and reexports to satisfactory end-users in the People's Republic of China of test and inspection equipment and specially designed components and accessories therefor controlled by 5B001.a or 5B001.b and "software" and technology for such equipment, components and accessories, for the repair of telecommunications equipment, provided that:

a. Such equipment, components, accessories, "software" and technology:

1. Are specially designed for repair;

2. Are to be used to repair controlled equipment authorized for export or equipment that is not controlled for national security reasons;

3. Are shipped in reasonable quantities necessary for the types and quantities of exported equipment being serviced;

4. Do not provide local production facilities;

5. Do not provide for testing of individual electronic components; and

6. Do not include "software" in "source code" controlled by 5D001.c.1;

b. The repair does not upgrade the equipment or "software";

c. All the records of repair activity are kept by a representative of the supplier located in a country other than that listed in Country Group D:1; and

d. The information to accompany each license application shall include:

1. A complete list of equipment to be provided; and

2. A clear identification of the users and their activities.

N.B.: Nothing in this Advisory Note 7 shall be construed as overriding controls in other ECCNs contained in the Commerce Control List.

Advisory Note 8: Licenses are likely to be approved, as administrative exceptions, for export to satisfactory end-users in the People's Republic of China of "optical fiber preforms" controlled by 5C001, specially designed for the manufacture of silica-based optical fibers, provided they are specially designed to produce non-militarized silica-based optical fibers that are optimized to operate at a wavelength not exceeding 1,370 nm.

Advisory Note 9: Licenses are likely to be approved, as administrative exceptions, for exports and reexports to the People's Republic of China of minimum quantities of semiconductor "lasers" designed and intended for use with a civil fiber optic communication system that would be either not controlled for national security reasons or eligible for administrative exceptions treatment under Advisory Note 2 (Notes for Telecommunications), having an output wavelength not exceeding 1,370 nm and a CW power output not exceeding 100 mW.

Advisory Note 10: Licenses are likely to be approved, as administrative exceptions, for exports and reexports to satisfactory end-users in Albania, Bulgaria, the People's Republic of China, Mongolia, Romania or Vietnam of telecommunication equipment for optical fibers controlled by 5A001.b.4.a, provided that the transmission wavelength does not exceed 1,370 nm.

Advisory Note 11: Licenses are likely to be approved, as administrative exceptions, for exports and reexports to satisfactory end-users in Albania, Bulgaria, the People's Republic of China, Mongolia, Romania or Vietnam of cables or fibers controlled by 5A001.e, provided that:

a. Quantities are normal for the envisaged end-use; and

b. They are for a specified civil end-use.

Advisory Note 12: Licenses are likely to be approved, as administrative exceptions, for exports and reexports to satisfactory end-users in Albania, Bulgaria, the People's Republic of China, Mongolia, Romania or Vietnam of optical fiber test equipment controlled by 5B001.a.3 using a transmission wavelength not exceeding 1,370 nm.

Advisory Note 13: Licenses are likely to be approved, as administrative exceptions, for exports and reexports to satisfactory end-users in Country Group D:1 of digital radio equipment or systems controlled by 5A001.b.1 or 5A001.b.6, provided that:

a. The equipment or system is intended for general commercial international traffic in an international civil telecommunication system, one end of which is in a country listed in Country Group A:1;

b. It is to be installed in a permanent circuit under the supervision of the licensee;

c. No means are to be provided for the transmission of traffic between points in a single country listed in Country Group D:1 other than Romania;

d. The "digital transfer rate" at the highest multiplex level does not exceed 156 Mbit/s;

e. The equipment does not employ either of the following:

1. Quadrature Amplitude Modulation (QAM) techniques above level 64; or

2. Other digital modulation techniques with a "spectral efficiency" exceeding 6 bit/s/Hz;

f. The equipment is not controlled by 5A001.b.4 or b.7 or by the "Information Security" entries in Category 5;

g. Spare parts shall remain under the control of the licensee or the licensee's designated representative;

Note: The supervision of the spare parts by the licensee may be effected by stock inventory procedures and does not require the permanent on-site presence of a representative of the licensee.

h. The licensee or the licensee's designated representative who shall be from a country other than that listed in Country Group D:1, shall have the right of access to all the equipment;

i. There will be no transfer of technology controlled for national security reasons;

j. Supervision of systems installation, operation and maintenance shall be performed by the licensee or the licensee's designated representative, who shall be from a country other than that listed in Country Group D:1, using only personnel from countries other than those listed in Country Group D:1;

N.B.1: Supervision of maintenance includes preventive maintenance at periodic intervals and intervention for major functions.

N.B.2: This does not mean that only nationals from the exporting country should install the system.

k. Upon request, the licensee shall carry out an inspection to establish that:

1. The system is being used for the intended civil purpose; and

2. All the equipment exported under the provisions of this Advisory Note is being used for the stated purpose and is still located at the installation sites. The licensee shall report the findings from the inspection to the BXA within one month after completing the inspection.

Advisory Note 14: Licenses are likely to be approved, as administrative exceptions, for exports and reexports to satisfactory end-users in Country Groups D:1 of fiber optic telecommunication transmission system or equipment controlled by 5A001.b.1 and 5A001.b.4.a, fiber optic cables controlled by 5A001.e, or coaxial cable telecommunications transmission systems controlled by 5A001.b.1, and the test equipment, specially designed components, accessories, "software" and technology, necessary for the "use" thereof, provided that:

a. They are intended for international telecommunications links dedicated to international civil traffic between the following locations:

1.a. *From the following countries:* Austria, Belgium, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Norway, Poland, Portugal, the Slovak Republic, Spain, Sweden, Switzerland, Turkey, or the United Kingdom;

b. *To the following cities as listed by country:* Albania (Tirana), Armenia (Yerevan), Azerbaijan (Baku), Bulgaria (Sophia, Varna), Belarus (Minsk), Georgia (Tbilissi), Kazakhstan (Alma-Ata), Kyrgyzstan (Bishkek), Moldova (Chisinau). Romania (Bucharest, Constanza), Russia (Moscow, Novorossiisk, Rostov-on-Don, St. Petersburg, Volgograd), Tajikistan (Dushanbe), Turkmenistan (Ashgabat), Ukraine (Kiev, Odessa, Sebastopol), Uzbekistan (Tashkent) or:

2.a. *From the following countries:* Australia, Canada, Hong Kong, Japan, New Zealand, South Korea, or the United States;

b. *To the following cities as listed by country:* People's Republic of China (Shanghai, Guangzhou), Russia (Khabarovsk, Nakhodka, Vladivostok, Yuzhno-Sadhalinsk), Vietnam (Hanoi, Ho Chi Minh City);

N.B.: No traffic shall be carried between points in countries listed in Country Group D:1, except in Estonia, Latvia, and Lithuania.

b. [Reserved]

c. They are designed to operate at a "digital transfer rate" at the highest multiplex level of 623 Mbit/s or less;

d. The "laser" transmission wavelength does not exceed 1,590 nm;

e. The equipment, if employing synchronous transmission techniques, must conform to one of the approved SONET or SDH standards or recommendations (i.e. ANSI or CCITT);

f. Supervision of systems installation and maintenance of controlled transmission equipment must be performed by the licensee or the licensee's designated representative, who must be from a country other than that listed in Country Group D:1. Any portion of the installation of controlled transmission equipment which would require the transfer of controlled technology must be performed by the licensee or the licensee's designated representative using only personnel from countries other than those listed in Country Group D:1;

N.B.1: Supervision of maintenance includes preventive maintenance at periodic intervals and intervention for major malfunctions.

N.B.2: This is not meant to require that only nationals from the exporting country should install the system.

g. Controlled test equipment and controlled spare parts must remain under the supervision of the licensee or the licensee's designated representative, who shall be from a country other than that listed in Country Group D:1;

N.B.: The supervision of the test equipment and spare parts by the licensee may be effected by stock inventory procedures and does not require the permanent on-site presence of a representative of the licensee.

h. The licensee or the licensee's designated representative who shall be from a country other than that listed in Country Group D:1, must have the right of access to all the equipment;

i. Upon request of the government of the exporting country, the licensee must carry out an inspection to establish that:

1. The system is being used for the intended civil purpose; and

2. All the equipment exported under the provisions of this Advisory Note is being used for the stated end purpose and is still located at the installation sites. The licensee shall report the findings from the inspection to the BXA (at P.O. Box 273, Washington D.C. 20044) within one month after completing the inspection.

j. The license application must include a system plan containing equipment quantities and approximate locations for the proposed system. After final installation, unless already provided, the applicant must provide to its licensing authorities the final location of the installed equipment to the greatest degree of precision available and a map of the final cable route.

Advisory Note 15: Licenses are likely to be approved, as administrative exceptions, for exports and reexports to satisfactory end-users in Country Group D:1 of fiber optic telecommunication transmission systems or equipment controlled by 5A001.b.1 and 5A001.b.4.a, digital radio equipment or systems controlled by 5A001.b.1 and 5A001.b.6.a, coaxial cable telecommunications transmission equipment or systems controlled by 5A001.b.1, or fiber optic cables controlled by 5A001.e and the test equipment, specially designed components, accessories, "software" and technology, necessary for the "use thereof, provided that:

a. They are intended for:

1. Intra-city or inter-city links within Albania, Armenia, Azerbaijan, Bulgaria, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Mongolia, Romania, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan, or Vietnam.

N.B.: Intra-city links provide service within a local service area which must not extend beyond a circle with a diameter of 50 km and with the city in the middle.

2. Inter-city links between cities in Albania, Armenia, Azerbaijan, Bulgaria, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Mongolia, Romania, Russia, Tajikistan, Turkmenistan, Ukraine, or Uzbekistan;

b. They are designed to operate at a "digital transfer rate" at the highest multiplex level of 156 Mbit/s or less;

c. The "laser" transmission wavelength does not exceed 1,590 nm;

d. The radio transmission system does not employ Quadrature Amplitude Modulation (QAM) techniques above level 16;

e. The equipment or systems are designed and intended to be used for fixed civil applications directly connected to the civilian network;

f. The equipment, if employing synchronous transmission techniques, must conform to one of the approved SONET or

SDH standards or recommendations (i.e., ANSI or CCITT);

g. Supervision of systems installation and of maintenance of controlled transmission equipment must be performed by the licensee or the licensee's designated representative, who must be from a country other than that listed in Country Group D:1. Any portion of the installation of controlled transmission equipment which would require the transfer of controlled technology must be performed by the licensee or the licensee's designated representative using only personnel from countries other than those listed in Country Group D:1;

N.B.1: Supervision of maintenance includes preventive maintenance at period intervals and intervention for major malfunctions.

N.B.2: This is not meant to require that only nationals from the exporting country should install the system.

h. Controlled test equipment and controlled spare parts must remain under the supervision of the Country Group A:1 member country licensee;

N.B.: The supervision of the test equipment and spare parts by the licensee may be effected by stock inventory procedures and does not require the permanent on-site presence of a representative of the licensee.

i. The Country Group A:1 country licensee or his designated representative, who must be from a country other than that listed in Country Group D:1, must have the right of access to all the equipment;

j. Upon request of the government of the exporting country, the licensee must carry out an inspection to establish that:

1. The system is being used for the intended civil purpose; and

2. All the equipment exported under the provisions of this Advisory Note is being used for the stated end purpose and is still located at the installation sites. The licensee shall report the findings from the inspection to the Bureau of Export Administration within one month after completing the inspection.

k. The license application must include a system plan containing equipment quantities and approximate locations for the proposed system. After final installation, unless already provided, the applicant must provide to its licensing authorities the final location of the installed equipment to the greatest degree of precision available and a map of the final cable route.

Advisory Note 16: Licenses are likely to be approved, as administrative exceptions, for exports and reexports to satisfactory end-users in Country Group D:1 of systems or equipment controlled by 5A001.c.1 or 5A001.c.2, or "software" for "common channel signalling" controlled by 5D001.a or 5D001.c.3, and test equipment, specially designed components, accessories and technology necessary for the "use" thereof, provided that:

a. They are intended for fiber optic, radio, or coaxial cable international telecommunication links fulfilling the provisions of Advisory Note l4.a and b.;

b. The "common channel signalling" (CCS) is restricted to associated mode of operation. Signalling channels and all related traffic channels must be carried on the same transmission system. Only international traffic between the locations listed in Advisory Note l4.a is permitted (i.e. calls originating in a country listed in Country Group D:1 will not be rerouted to any country listed in Country Group D:1;

c. No general service of "Integrated Service Digital Network" (ISDN) is provided by the country listed in Country Group D:1 gateway switch, except:

1. The ISDN user part (ISP) may be used on the international signalling link;

2. ISDN service may be provided for specified subscribers on the Country Group D:1 countries gateway switch;

d. Supervision of systems installation and of maintenance of controlled equipment and "software" must be performed by the licensee or the licensee's designated representative, who must be from a country other than that listed in Country Group D:1. Any portion of the installation of controlled equipment and "software" that would require the transfer of controlled technology must be performed by the licensee or the licensee's designated representative using only personnel from countries other than those listed in Country Group D:1;

N.B.1: Supervision of maintenance includes preventive maintenance at periodic intervals and intervention for major malfunctions:

N.B.2: This is not meant to require that only nationals from the exporting country should install the system.

e. Controlled test equipment and controlled spare parts must remain under the supervision of the Country Group A:1 country licensee;

N.B: The supervision of the test equipment and spare parts by the licensee may be effected by stock inventory procedures and does not require the permanent on-site presence of a representative of the licensee.

f. All "common channel signalling" equipment including spares, is operational in such a form that any removal from or manipulation on the end in a country listed in Country Group D:1 is immediately recognized (e.g. through remote maintenance and monitoring procedures) by the operator (i.e., an operator from one of the countries listed in Advisory Note l4.a.1.a or a.2.a);

g. The licensee or operator (i.e., an operator from one of the countries listed in Advisory Note l4.a.1.a or a.2.a) takes immediate action to ensure that non-operational equipment is repaired or replaced within a week of the failure;

h. The Country Group A:1 country licensee or the designated representative of the licensee, who must be from a country other than that listed in Country Group D:1, must have the right of access to all the equipment;

i. Nationals from countries listed in Country Group D:1 are not given tools or training allowing them to modify the approved configuration or divert equipment or "software" to non-approved uses;

j. Upon request of the government of the exporting country, the licensee or operator (i.e., an operator from one of the countries listed in Advisory Note l4.a.1.a or a.2.a) must carry out an inspection to establish that:

1. The system is being used for the intended civil purpose; and

2. All the equipment exported under the provisions of this Advisory Note is being used for the stated end purpose and is still located at the installation sites. The licensee shall report the findings from the inspection to the BXA (at P.O. Box 273, Washington, D.C. 20044) within one month after completing the inspection.

k. The operator (i.e., an operator from one of the countries listed in Advisory Note l4.a.1.a or a.2.a) informs the exporting government immediately of any sign of misuse or diversion of "common channel signalling" hardware or "software" on the other end of the international link, or of any failure of the operator at the other end (i.e, the operator from one of the countries) listed in Advisory Note l4.a.l.b or a.2.b) to allow the operator to comply with the terms of the license;

l. Contractual agreements between the licensee and the operators on both ends of the link require that the operator at the other end of the international link (i.e., the operator from one of the countries listed in Advisory Note l4.a.1.b or a.2.b) complies fully with all the conditions stipulated in the license and that, in the event of failure by the latter to comply, the operator who is from one of the countries listed in Advisory Note l4.a.l.a or a.2.a will inform the authorities of such country and the government of the exporting country.

Advisory Note 17: Licenses are likely to be approved, as administrative exceptions, for exports and reexports to satisfactory end-users in Country Group D:1 of equipment controlled by 5A001.c.4, 5A001.c.5 or 5A001.c.6, "software" controlled by 5D001.c.3 that provides features described in 5A001.c.4, 5A001.c.5, or 5A001.c.6, specially designed components and accessories therefor, and test equipment, "software" and technology necessary for the "use" thereof, provided that:

a. The equipment or "software" will be used for a specified civil end-use by a civil end-user only;

b. The equipment or "software" does not perform circuit switching or circuit switching functions;

c. Supervision of systems installation and of maintenance of controlled equipment or "software" must be performed by the licensee or the licensee's designated representative, who must be from a country other than that listed in Country Group D:1. Any portion of the installation of controlled equipment or "software" that would require the transfer of controlled technology must be performed by the licensee or the licensee's designated representative using only personnel from countries other than those listed in Country Group D:1.

N.B.1: Supervision of maintenance includes preventative maintenance at periodic intervals and intervention for major malfunctions.

N.B.2: This is not meant to require that only exporting country should install the system.

N.B.3: This does not apply if the equipment or "software" is designed for installation by the user without further substantial support by the supplier.

d. The Country Group A:1 country licensee or the designated representative of the licensee, who must be from a country other than that listed in Country Group D:1, must have the right of access to all the equipment and may carry out inspections;

e. Upon request of the government of the exporting country, the licensee must carry out an inspection to establish that:

1. The system is being used for the intended civil purpose; and

2. All the equipment exported under the provisions of this Advisory Note is being used for the stated end purpose and is still located at the installation site. The licensee shall report the findings from the inspection to the BXA (at P.O. Box 273, Washington, D.C. 20044) within one month after completing the inspection.

Advisory Note 18: Licenses are likely to be approved, as administrative exceptions, for exports and reexports to satisfactory end-users in Country Group D:1 of "software" controlled by 5D001.c.1, and related technology, "software" tools and test equipment necessary for the "development", "production" or "use" thereof, provided that:

a. The "software", technology, "software" tools and test equipment will be limited to those necessary for problem analysis and reporting or for local adaptation of the switching equipment such as for subscriber terminal interface, network interface, billing, administration or similar adaptations for local civilian telecommunications requirements, by a civil end-user;

b. No "software" or technology "required" for the "development", "production" or "use" of functions, features or equipment controlled by the telecommunications entries in 5A, 5B or 5E of Subcategory I to Category 5 shall be included;

Note: This Advisory Note does not release from control the "software" in "source code" comprising that "software" that controls the management and execution of programs, commonly referred to as the operating system.

c. Such "software", technology, "software" tools or test equipment do not provide the capability to decompile, disassemble or perform similar activities to "software" in "object code" or similar format and thereby reverse-engineer controlled characteristics, functions or features;

d. The licensee or the licensee's designated representative, who shall be from a country other than that listed in Country Group D:1, shall have the right of access to the site of, and computing equipment being used to perform, such adaptations so as to have access to:

1. The "software", technology, "software" tools and test equipment referred to in this Advisory Note; and

2. All "software" developed or derived from the "software" technology, "software" tools and test equipment licensed under this Advisory Note;

e. Upon request of the BXA, the licensee must carry out an inspection to establish that:

1. The "software", technology, "software" tools and test equipment referred to in this Advisory Note are being used for the intended civil purpose; and

2. All the "software", technology, "software" tools and test equipment exported under the provisions of this Advisory Note are being used for the stated end purpose and are still located at the installation sites. The licensee shall report the findings from the inspection to the Bureau of Export Administration within one month after completing the inspection.

Advisory Note 19: Licenses are likely to be approved, as Administrative exceptions, for exports and reexports to satisfactory end-users in Country Group D:1 of components, parts and materials, controlled for national security reasons by entries on the Commerce Control List, necessary for the "production" of telecommunication equipment or systems, provided that:

a. The "production" equipment and technology for the equipment concerned has been previously legally exported;

b. The quantity of components, parts and materials exported is normal for the stated end-use;

c. Authorization under this Advisory Note will cover a program of supplies up to two calendar years for the "production" by the same licensee of equipment authorized under this Advisory Note 19.a;

d. No technology or "software" "required" for "development", "production" or "use" shall be included;

e. The components, parts and materials exported will not be permitted to exceed the performance threshold or features of the equipment previously authorized;

f. The contract includes explicit conditions to ensure that:

1. The equipment manufactured with the exported components, parts and materials is not exported or reexported, either directly or indirectly, to another country listed in Country Group D:1;

2. The supplier or licensor may appoint a representative who is entitled to verify that the "production" technology and "production" equipment or systems serve their intended use;

3. Any modification of the capabilities or functions of the equipment produced must be approved by the supplier or licensor;

4. The supplier's or licensor's personnel have right of access to all the facilities directly involved in the production of the equipment or systems;

5. The equipment or systems produced will be for civil end-use only.

Advisory Note 20: Licenses are likely to be approved, as administrative exceptions, for exports and reexports to Albania, Armenia, Azerbaijan, Bulgaria, Belarus, Estonia, Georgia, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Mongolia, the People's Republic of China, Romania, Russia, Tajikistan, Turkmenistan, kraine, zbekistan, and Vietnam of telecommunications equipment or systems controlled by 5A001.b.1, 5A001.b.7, 5A001.c, 5A001.d or 5A001.e, measuring, test or repair equipment controlled by 5B001.a.3 or 5B001.b, and specially designed components and accessories, "software" and technology necessary for the "use" thereof, provided that:

a. Optical fiber telecommunication transmission equipment or systems:

1. Are designed to operate at a "digital transfer rate" of 623 Mbit/s or less at the highest multiplex level; and

2. Are designed to operate on a "laser" transmission wavelength not exceeding 1,500 nm.

b. Digital radio equipment or systems:

1. Are designed to operate at a "digital transfer rate" of 623 Mbit/s or less at the highest multiplex level;

2. Do not employ QAM techniques exceeding level 512 or other digital modulation techniques having a "spectral efficiency" exceeding 9 bit/s/Hz;

c. "CCS":

1. Is limited to the associated mode of operation;

2. Signalling and related speech/data channels are limited to two signalling points and must not be routed via different transmission media or different routes;

N.B.: A single route consists of one or more consecutive serial connection links that may use different transmission media.

3. Message Transfer Part (MTP) level 3 signalling routes are limited to two signalling points;

N.B.: MTP Level 3 is found in Q.704 and related recommendations of the IT–T Q series for "CCS".

4. For point-to-point inter-city "CCS" connectivity between two signalling points, where permitted by this Advisory Note 20.c.1, c.2, or c.3, the Originating Point Codes (OPC) and Destination Point Codes (DPC) for all signalling messages over such signalling links cannot be reinstalled or changed following the vendor's initial software installation without prior authorization, being available in object code only; all compilation mechanisms and administrative tools that allow for modification of the Point Codes are removed following installation;

d. The equipment or systems are designed and intended to be used for fixed civil applications directly connected to a civilian network;

e. The equipment or systems, if employing synchronous transmission techniques, conform to one of the ANSI or IT–T approved standards or recommendations for "SONET" or "SDH";

f. Measuring, test or repair equipment controlled by 5B001.a.3 or 5B001.b and controlled spare parts remain under the supervision of the licensee or the licensee's designated representative;

g. The licensee or the licensee's designated representative have the right of access to all the equipment or systems and may carry out inspections;

h. Upon the request of the BXA, the licensee must carry out inspections to establish that:

1. All the equipment or systems exported under the provisions of this Advisory Note are being used for the intended civil purpose; and

2. Are still located at the installation sites. The licensee shall report the findings from the inspection to the BXA (at P.O. Box 273, Washington DC 20044) within one month after completing the inspection;

i. Supervision of systems installation and maintenance of controlled transmission equipment is performed by the licensee or the licensee's designated representative. Any portion of the installation of controlled transmission equipment that would require the transfer of controlled technology is performed by the licensee or the licensee's designated representative;

N.B.1: Supervision of maintenance includes prevention maintenance at periodic intervals and intervention for major malfunctions.

j. License applications to export systems or equipment for "common channel signalling" identify the intended system routes and locations of signalling points.

II. Information Security

Note: The control status of "information security" equipment, "software", systems, application specific "electronic assemblies", modules, integrated circuits, components, or functions is defined in the "information security" entries in this Category even if they are components or "electronic assemblies" of other equipment.

Note: "Information security" equipment, "software", systems, application specific "assemblies", modules, integrated circuits, components, technology or functions that are excepted from control, not controlled, or eligible for licensing under an Advisory Note are under the licensing jurisdiction of the Department of Commerce. In addition, anti-virus software controlled under 5D002.c is also under the licensing jurisdiction of the Department of Commerce. For all other items, exporters requesting a license from the Bureau of Export Administration must provide a statement from the Department of State, Office of Defense Trade Controls, verifying that the equipment intended for export is under the licensing jurisdiction of the Department of Commerce.

A. Equipment, Assemblies and Components

5A002 Systems, equipment, application specific "electronic assemblies", modules or integrated circuits for "information security", and specially designed components therefor.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: Yes as described in Advisory Note 1 to Category 5—Information Security
CIV: Yes as described in Advisory Note 1 to Category 5—Information Security

List of Items Controlled

Unit: $value

a. Designed or modified to use "cryptography" employing digital techniques to ensure "information security";

b. Designed or modified to perform cryptanalytic functions;

c. Designed or modified to use "cryptography" employing analog techniques to ensure "information security", except:

c.1. Equipment using "fixed" band scrambling not exceeding 8 bands and in which the transpositions change not more frequently than once every second;

c.2. Equipment using "fixed" band scrambling exceeding 8 bands and in which the transpositions change not more frequently than once every ten seconds;

c.3. Equipment using "fixed" frequency inversion and in which the transpositions change not more frequently than once every second;

c.4. Facsimile equipment;

c.5. Restricted audience broadcast equipment;

c.6. Civil television equipment;

d. Designed or modified to suppress the compromising emanations of information-bearing signals;

Note: 5A002.d does not control equipment specially designed to suppress emanations for health or safety reasons.

e. Designed or modified to use cryptographic techniques to generate the spreading code for "spread spectrum" or hopping code for "frequency agility" systems;

f. Designed or modified to provide certified or certifiable "multilevel security" or user isolation at a level exceeding Class B2 of the Trusted Computer System Evaluation Criteria (TCSEC) or equivalent;

g. Communications cable systems designed or modified using mechanical, electrical or electronic means to detect surreptitious intrusion.

Note: 5A002 does not control:

a. "Personalized smart cards" using "cryptography" restricted for use only in equipment or systems, as follows:

1. Excluded from control under 5A002.c.1 to c.6;

2. Excluded from control under paragraphs b., c., or e. of this Note;

3.a. Access control equipment, such as automatic teller machines, self-service statement printers or point of sale terminals, that protects password or personal identification numbers (PIN) or similar data to prevent unauthorized access to facilities but does not allow for encryption of files or text, except as directly related to the password or PIN protection;

b. Data authentication equipment that calculates a Message Authentication Code (MAC) or similar result to ensure no alteration of text has taken place, or to authenticate users, but does not allow for encryption of data, text or other media other than that needed for the authentication;

c. Cryptographic equipment specially designed, developed or modified for use in machines for banking or money transactions, such as automatic teller machines, self-service statement printers, point of sale terminals, or equipment for the encryption of interbanking transactions, and intended for use only in such applications;

d. Portable (personal) or mobile radiotelephones for civil use (e.g., for use with commercial civil cellular radiocommunications systems, containing encryption;

b. Equipment containing "fixed" data compression or coding techniques;

c. Receiving equipment for radio broadcast, pay television or similar restricted audience television of the consumer type, without digital encryption and where digital decryption is limited to the video, audio or management functions;

d. Portable (personal) or mobile radiotelephones for civil use (e.g., for use with commercial civil cellular radiocommunications systems, containing encryption, when accompanying their users;

e. Decryption functions specially designed to allow the execution of copy-protected "software", provided the decryption functions are not user-accessible.

5A995: "Information security" equipment, n.e.s.; (e.g., cryptographic, cryptoanalytic, and cryptologic equipment, n.e.s.), and components therefor.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 2.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value

The list of items controlled is contained in the ECCN heading.

B. Test, Inspection and Production Equipment

5B002: Information Security—test, inspection and "production" equipment.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value

a. Equipment specially designed for:

a.1. The "development" of equipment or functions controlled by 5A002, 5B002, 5D002 or 5E002, including measuring or test equipment;

a.2. The "production" of equipment or functions controlled by 5A002, 5B002, 5D002, or 5E002, including measuring, test, repair or production equipment;

b. Measuring equipment specially designed to evaluate and validate the "information security" functions controlled by 5A002 or 5D002.

C. Materials

[Reserved]

D. Software

5D002: Information Security—"Software".

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: Yes as described in Advisory Note 2 to Category 5—Information Security
TSR: Yes for 5D002.a and .c as described in Advisory Note 2 to Category 5—Information Security

List of Items Controlled

Unit: $ value

a. "Software" specially designed or modified for the "development", "production" or "use" of equipment or "software" controlled by 5A002, 5B002 or 5D002.

b. "Software" specially designed or modified to support "technology" controlled by 5E002.

c. Specific "software" as follows:

c.1. "Software" having the characteristics, or performing or simulating the functions of the equipment controlled by 5A002 or 5B002;

c.2. "Software" to certify "software" controlled by 5D002.c.1;

c.3. "Software" designed or modified to protect against malicious computer damage, e.g., viruses;

Note: 5D002 does not control:

a. "Software" "required" for the "use" of equipment excluded from control under the Note to 5A002;

b. "Software" providing any of the functions of equipment excluded from control under the Note to 5A002.

5D995: "Software", n.e.s., specially designed or modified for the "development", "production", or use of information security or cryptologic equipment (e.g., equipment controlled by 5A995).

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 2.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value

The list of items controlled is contained in the ECCN heading.

E. Technology

5E002: "Technology" according to the General Technology Note for the "development", "production" or use of equipment controlled by 5A002 or 5B002 or "software" controlled by 5D11, 5D12, or entry 5D002.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A

The list of items controlled is contained in the ECCN heading.

5E995: "Technology", n.e.s., for the "development", "production", or "use" of "information security" or cryptologic equipment (e.g., equipment controlled by 5A995), or software controlled by 5D995.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 2.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A

The list of items controlled is contained in the ECCN heading.

EAR99 Items subject to the EAR that are not elsewhere specified in this CCL Category or in any other category in the CCL are designated by the number EAR99.

Advisory Notes For "Information Security"

Advisory Note 1: Licenses are likely to be approved, as administrative exceptions, for exports and reexports to satisfactory end-users in Country Group D:1 of the following cryptographic equipment, provided that the equipment is intended for civil use:

a. Access control equipment, such as automatic teller machines, self-service statement printers or point of sale terminals, that protects password or personal identification numbers (PIN) or similar data to prevent unauthorized access to facilities, but does not allow for encryption of files or text, except as directly related to the password of PIN protection;

b. Data authentication equipment that calculates a Message Authentication Code (MAC) or similar result to ensure no alteration of text has taken place, or to authenticate users, but does not allow for encryption of data, text or other media other than that needed for the authentication;

c. Cryptographic equipment specially designed, developed or modified for use in machines for banking or money transactions, such as automatic teller machines, self-service statement printers, point of sale terminals or equipment for the encryption of interbanking transactions, and intended for use only in such applications.

Advisory Note 2: (Eligible for TSR). Licenses are likely to be approved, as administrative exceptions, for exports and reexports to satisfactory end-users in Country Group D:1 of the following cryptographic "software":

a. "Software" required for the "use" of equipment eligible for administrative exceptions treatment under Advisory Note 1 (Notes for "Information Security").

b. "Software" providing any of the functions of equipment eligible for administrative exceptions treatment under Advisory Note 1 (Notes for "Information Security").

Category 6—Sensors

A. Equipment, Assemblies and Components

6A001 Acoustics.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $3000
GBS: Yes for 6A001.a.1.b.4 and 6A001.b
CIV: Yes for 6A001.a.1.b.4 and 6A001.b

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items:

a. Marine acoustic systems, equipment and specially designed components therefor, as follows:

a.1. Active (transmitting or transmitting-and-receiving) systems, equipment or specially designed components therefor, as follows:

Note: 6A001.a.1 does not control:

a.1.a Depth sounders operating vertically below the apparatus, not including a scanning function exceeding ±10°, and limited to measuring the depth of water, the distance of submerged or buried objects or fish finding.

a.1.b. Acoustic beacons, as follows:

a.1.b.1. Acoustic emergency beacons; or

a.1.b.2. Pingers specially designed for relocating or returning to an underwater position.

a.1.a. Wide-swath bathymetric survey systems for sea bed topographic mapping:

a.1.a.1. Designed:

a.1.a.1.a. To take measurements at an angle exceeding 10° from the vertical; and

a.1.a.1.b. To measure depths exceeding 600 m below the water surface; and

a.1.a.2. Designed:

a.1.a.2.a. To incorporate multiple beams any of which is less than 2°; or

a.1.a.2.b. To provide data accuracies of better than 0.5% of water depth across the swath averaged over the individual measurements within the swath;

a.1.b. Object detection or location systems having any of the following:

a.1.b.1. A transmitting frequency below 10 kHz;

a.1.b.2. Sound pressure level exceeding 224 dB (reference 1 micropascal at 1 m) for equipment with an operating frequency in the band from 10 kHz to 24 kHz inclusive;

a.1.b.3. Sound pressure level exceeding 235 dB (reference 1 micropascal at 1 m) for equipment with an operating frequency in the band between 24 kHz and 30 kHz;

a.1.b.4. Forming beams of less than 1° on any axis and having an operating frequency of less than 100 kHz;

a.1.b.5. Designed to withstand pressure during normal operation at depths exceeding 1,000 m and having transducers:

a.1.b.5.a. Dynamically compensated for pressure; or

a.1.b.5.b. Incorporating other than lead zirconate titanate as the transduction element; or

a.1.b.6. Designed to operate with an unambiguous display range exceeding 5,120 m;

a.1.c. Acoustic projectors, including transducers, incorporating piezoelectric, magnetostrictive, electrostrictive, electrodynamic or hydraulic elements operating individually or in a designed combination, having any of the following characteristics:

Note 1: The control status of acoustic projectors, including transducers, specially designed for other equipment is determined by the control status of the other equipment.

Note 2: 6A001.a.1.c does not control electronic sources that direct the sound vertically only, or mechanical (e.g., air gun or vapor-shock gun) or chemical (e.g., explosive) sources.

a.1.c.1. An instantaneous radiated acoustic power density exceeding 0.01 mW/mm ^{2}/Hz for devices operating at frequencies below 10 kHz;

a.1.c.2. A continuously radiated acoustic power density exceeding 0.001 mW/mm ^{2}/Hz for devices operating at frequencies below 10 kHz;

a.1.c.3. Designed to withstand pressure during normal operation at depths exceeding 1,000 m; or

a.1.c.4. Side-lobe suppression exceeding 22 dB.

Technical Note: Acoustic power density is obtained by dividing the output acoustic power by the product of the area of the radiating surface and the frequency of operation.

a.1.d. Acoustic systems, equipment and specially designed components for determining the position of surface vessels or underwater vehicles designed:

a.1.d.1. To operate at a range exceeding 1,000 m with a positioning accuracy of less than 10 m rms (root mean square) when measured at a range of 1,000 m; or

a.1.d.2. To withstand pressure at depths exceeding 1,000 m;

Note: 6A001.a.1.d.1 includes equipment using coherent "signal processing" between two or more beacons and the hydrophone unit carried by the surface vessel or underwater vehicle, or capable of automatically correcting speed-of-sound propagation errors for calculation of a point.

a.2. Passive (receiving, whether or not related in normal application to separate active equipment) systems, equipment or specially designed components therefor, as follows:

a.2.a. Hydrophones (transducers) with any of the following characteristics:

a.2.a.1. Incorporating continuous flexible sensors or assemblies of discrete sensor elements with either a diameter or length less than 20 mm and with a separation between elements of less than 20 mm;

a.2.a.2. Having any of the following sensing elements:

a.2.a.2.a. Optical fibers;

a.2.a.2.b. Piezoelectric polymers; or

a.2.a.2.c. Flexible piezoelectric ceramic materials;

a.2.a.3. Hydrophone sensitivity better than—180 dB at any depth with no acceleration compensation;

a.2.a.4. When designed to operate at depths not exceeding 35 m, hydrophone sensitivity better than—186 dB with acceleration compensation;

a.2.a.5. When designed for normal operation at depths exceeding 35 m hydrophone sensitivity better than—192 dB with acceleration compensation;

a.2.a.6. When designed for normal operation at depths exceeding 100 m hydrophone sensitivity better than—204 dB; or

a.2.a.7. Designed for operation at depths exceeding 1,000 m;

Technical Note: Hydrophone sensitivity is defined as twenty times the logarithm to the base 10 of the ratio of rms output voltage to a 1 V rms reference, when the hydrophone sensor, without a pre-amplifier, is placed in a plane wave acoustic field with an rms pressure of 1 micropascal. For example, a hydrophone of −160 dB (reference 1 V per micropascal) would yield an output voltage of 10^{-8} V in such a field, while one of −180 dB sensitivity would yield only 10^{-9} V output. Thus, −160 dB is better than −180 dB.

a.2.b. Towed acoustic hydrophone arrays with any of the following:

a.2.b.1. Hydrophone group spacing of less than 12.5 m;

a.2.b.2. Hydrophone group spacing of 12.5 m to less than 25 m and designed or able to be modified to operate at depths exceeding 35 m; or

Technical Note: "Able to be modified" in 6A001.a.2.b.2 means having provisions to allow a change of the wiring or interconnections to alter hydrophone group spacing or operating depth limits. These provisions are: spare wiring exceeding 10% of the number of wires, hydrophone group spacing adjustment blocks or internal depth limiting devices that are adjustable or that control more than one hydrophone group.

a.2.b.3. Hydrophone group spacing of 25 m or more and designed to operate at depths exceeding 100 m;

a.2.b.4. Heading sensors controlled by 6A001a.2.d;

a.2.b.5. Non-metallic strength members or longitudinally reinforced array hoses;

a.2.b.6. An assembled array of less than 40 mm in diameter;

a.2.b.7. Multiplexed hydrophone group signals; or

a.2.b.8. Hydrophone characteristics specified in 6A001.a.2.a;

a.2.c. Processing equipment specially designed for towed acoustic hydrophone arrays with either of the following:

a.2.c.1. A Fast Fourier or other transform of 1,024 or more complex points in less than 20 ms with no "user-accessible programmability"; or

a.2.c.2. Time or frequency domain processing and correlation, including spectral analysis, digital filtering and beamforming using Fast Fourier or other transforms or processes with "user accessible programmability";

a.2.d. Heading sensors having an accuracy of better than ±0.5°; and

a.2.d.1. Designed to be incorporated within the array hosing and to operate at depths exceeding 35 m or having an adjustable or removable depth sensing device in order to operate at depths exceeding 35 m; or

a.2.d.2. Designed to be mounted external to the array hosing and having a sensor unit capable of operating with 360o roll at depths exceeding 35 m;

b. Terrestrial geophones capable of conversion for use in marine systems, equipment or specially designed components controlled by 6A001.a.2.a;

c. Correlation-velocity sonar log equipment designed to measure the horizontal speed of the equipment carrier relative to the sea bed at distances between the carrier and the sea bed exceeding 500 m.

6A002 Optical sensors.

License Requirements

Reason for Control: NS, MT, CC, RS, AT, UN

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
MT applies to optical detectors in 6A002.a.1, a.3, and a.4 that are specially designed or rated as electromagnetic (including "lasers") and ionizedparticle radiation resistant..	MT Column 1.
RS applies to 6A002.a.1, a.2, a.3 and .c.	RS Column 1.
CC applies to police-model infrared viewers in 6A002.c.	CC Column 1.
AT applies to entire entry ..	AT Column 1.
UN applies to 6A002.a.1, a.2 a.3 and c.	Rwanda.

License Exceptions

LVS: $3000, *except* N/A for 6A002.a.1, a.2, a.3, and c

GBS: Yes, for 6A002.a.4
CIV: Yes, for 6A002.a.4

List of Items Controlled

Unit: parts and accessories in $ value
Related Controls: N/A
Related Definitions: Image intensifiers defined in 6A002.a.2 and focal plane arrays defined in 6A002.a.3 specially designed, modified, or configured for military use and not part of civil equipment are subject to the export licensing authority of U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121)
Items:

a. Optical detectors, as follows:

Note: 6A002.a does not control germanium or silicon photodevices.

a.1. "Space-qualified" solid-state detectors having any of the following:

a.1.a.1. A peak response in the wavelength range exceeding 10 nm but not exceeding 300nm; and

a.1.a.2. A response of less than 0.1% relative to the peak response at a wavelength exceeding 400 nm;

a.1.b.1. A peak response in the wavelength range exceeding 900 nm but not exceeding 1,200 nm; and

a.1.b.2. A response "time constant" of 95 ns or less; or

a.1.c. A peak response in the wavelength range exceeding 1,200 nm but not exceeding 30,000 nm;

a.2. Image intensifier tubes and specially designed components therefor, as follows:

a.2.a. Image intensifier tubes having all the following:

a.2.a.1. A peak response in wavelength range exceeding 400 nm, but not exceeding 1,050 nm;

a.2.a.2. A microchannel plate for electron image amplification with a hole pitch (center-to-center spacing) of less than 25 micrometers; and

a.2.a.3.a. An S–20, S–25 or multialkali photocathode; or

a.2.a.3.b. A GaAs or GaInAs photocathode;

a.2.b. Specially designed components as follows:

a.2.b.1. Fiber optic image inverters;

a.2.b.2. Microchannel plates having both of the following characteristics:

a.2.b.2.a. 15,000 or more hollow tubes per plate; and

a.2.b.2.b. Hole pitch (center-to-center spacing) of less than 25 micrometers; or

a.2.b.3. GaAs or GaInAs photocathodes;

a.3. Non-"space-qualified" "focal plane arrays", having any of the following:

Technical Note: Linear or two-dimensional multi-element detector arrays are referred to as "focal plane arrays".

a.3.a.1. Individual elements with a peak response within the wavelength range exceeding 900 nm, but not exceeding 1,050 nm; and

a.3.a.2. A response "time constant" of less than 0.5 ns;

a.3.b.1. Individual elements with a peak response in the wavelength range exceeding 1,050 nm, but not exceeding 1,200 nm; and

a.3.b.2. A response "time constant" of 95 ns or less; or

a.3.c. Individual elements with a peak response in the wavelength range exceeding 1,200 nm, but not exceeding 30,000 nm;

Note 1: 6A002.a.3 includes photoconductive arrays and photovoltaic arrays.

Note 2: 6A002.a.3 does not control silicon "focal plane arrays", multi-element (not to exceed 16 elements) encapsulated photoconductive cells or pyroelectric detectors using any of the following:

a. Lead sulphide;

b. Triglycine sulphate and variants;

c. Lead-lanthanum-zirconium titanate and variants;

d. Lithium tantalate;

e. Polyvinylidene fluoride and variants;

f. Strontium barium niobate and variants; or

g. Lead selenide.

a.4. Non-"space-qualified" single-element or non-focal-plane multi-element semiconductor photodiodes or phototransistors having both of the following:

a.4.a. A peak response at a wavelength exceeding 1,200 nm, but not exceeding 30,000 nm; and

a.4.b. A response "time constant" of 0.5 ns or less;

b. "Multispectral Imaging Sensors" designed for remote sensing applications, having either of the following characteristics:

b.1. An Instantaneous-Field-Of-View (IFOV) of less than 200 microradians; or

b.2. Specified for operation in the wavelength range exceeding 400 nm, but not exceeding 30,000 nm; and

b.2.a. Providing output imaging data in digital format; and

b.2.b.1. "Space-qualified"; or

b.2.b.2. Designed for airborne operation and using other than silicon detectors;

c. Direct view imaging equipment operating in the visible or infrared spectrum, incorporating either of the following:

c.1. Image intensifier tubes controlled by 6A002.a.2 or

c.2. "Focal plane arrays" controlled by 6A002.a.3;

Technical Note: Direct view refers to imaging equipment operating in the visible or infrared spectrum, that presents a visual image to a human observer without converting the image into an electronic signal for television display, and that cannot record or store the image photographically, electronically, or by any other means.

Note: 6A002.c does not control the following equipment incorporating other than GaAs or GaInAs photocathodes:

a. Industrial or civilian intrusion alarm, traffic or industrial movement control or counting systems;

b. Medical equipment;

c. Industrial equipment used for inspection, sorting or analysis of the properties of materials;

d. Flame detectors for industrial furnaces;

e. Equipment specially designed for laboratory use.

d. Special support components for optical sensors, as follows:

d.1. "Space-qualified" cryocoolers;

d.2. Non-"space-qualified" cryocoolers, with a cooling source temperature below 218 K (−55°C), as follows:

d.2.a. Closed cycle with a specified Mean-Time-To-Failure (MTTF), or Mean-Time-Between-Failures (MTBF), exceeding 2,500 hours;

d.2.b. Joule-Thomson (JT) self-regulating minicoolers with bore (outside) diameters of less than 8 mm;

d.3. Optical sensing fibers:

d.3.a. Specially fabricated either compositionally or structurally, or modified by coating, to be acoustically, thermally, inertially, electromagnetically or nuclear radiation sensitive; or

d.3.b. Modified structurally to have a "beat length" of less than 50 mm (high birefringence).

6A003 Cameras.

License Requirements

Reason for Control: NS, NP, RS, AT, UN

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
NP applies to items controlled in paragraphs 6A003.a.2, a.3 and a.4.	NP Column 1.
RS applies to items controlled in 6A003.b.3 and b.4.	RS Column 1.
AT applies to entire entry ..	AT Column 1.
UN applies to items controlled in 6A003.b.3 and b.4.	Rwanda.

License Exceptions

LVS: $1500, except N/A for 6A003.a.2 through a.5, b.1, b.3 and b.4
GBS: Yes for 6A003.a.1 and a.2 (see Advisory Note 3 to Category 6)
CIV: Yes for 6A003.a.1 and a.2 (see Advisory Note 3 to Category 6)

List of Items Controlled

Unit: Number
Related Controls: Reference ECCNs 8A002.d and .e for cameras specially designed for underwater use.
Related Definitions: N/A
Items:

a. Instrumentation cameras, as follows:

a.1. High-speed cinema recording cameras using any film format from 8 mm to 16 mm inclusive, in which the film is continuously advanced throughout the recording period, and that are capable of recording at framing rates exceeding 13,150 frames per second;

Note: 6A003.a.1 does not control cinema recording cameras for normal civil purposes.

a.2. Mechanical high speed cameras, in which the film does not move, capable of recording at rates exceeding 1,000,000 frames per second for the full framing height of 35 mm film, or at proportionately higher rates for lesser frame heights, or at proportionately lower rates for greater frame heights;

a.3. Mechanical or electronic streak cameras with writing speeds exceeding 10 mm/microsecond;

a.4. Electronic framing cameras having a speed exceeding 1,000,000 frames per second;

a.5. Electronic cameras having:

a.5.a. An electronic shutter speed (gating capability) of less than 1 microsecond per full frame; and

a.5.b. A read out time allowing a framing rate of more than 125 full frames per second;

b. Imaging cameras, as follows:

Note: 6A003.b does not control television or video cameras specially designed for television broadcasting.

b.1. Video cameras incorporating solid state sensors, having any of the following:

b.1.a. More than 4×10^6 "active pixels" per solid state array for monochrome (black and white) cameras;

b.1.b. More than 4×10^6 "active pixels" per solid state array for color cameras incorporating three solid state arrays; or

b.1.c. More than 12×10^6 "active pixels" for solid state array color cameras incorporating one solid state array;

b.2. Scanning cameras and scanning camera systems:

b.2.a. Incorporating linear detector arrays with more than 8,192 elements per array; and

b.2.b. Having mechanical scanning in one direction;

b.3. Incorporating image intensifiers controlled by 6A002.a.2.a;

b.4. Incorporating focal plane arrays controlled by 6A002.a.3.

6A004 Optics.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $3000

GBS: Yes for 6A004.a.1, a.2, a.4, b, d.1.a, e.2, e.4 and .f (See Advisory Note 4.1 to Category 6)

CIV: Yes for 6A004.f and items in Advisory Note 4.1 to Category 6

List of Items Controlled

Unit: Equipment in number; cable in meters/feet; components in $ value

Related Controls: N/A

Related Definitions: N/A

Items:

a. Optical mirrors (reflectors), as follows:

a.1. "Deformable mirrors" with either continuous or multi-element surfaces, and specially designed components therefor, capable of dynamically repositioning portions of the surface of the mirror at rates exceeding 100 Hz;

a.2. Lightweight monolithic mirrors with an average "equivalent density" of less than 30 kg/m², and a total weight exceeding 10 kg;

a.3. Lightweight "composite" or foam mirror structures with an average "equivalent density" of less than 30 kg/m², and a total weight exceeding 2 kg;

a.4. Beam steering mirrors more than 100 mm in diameter or length of major axis that maintain a flatness of lambda/2 or better (lambda is equal to 663nm) with a control bandwidth exceeding 100 Hz;

b. Optical components made from zinc selenide (ZnSe) or zinc sulphide (ZnS) with transmission in the wavelength range exceeding 3,000 nm but not exceeding 25,000 nm and either of the following:

b.1. Exceeding 100 cm³ in volume; or

b.2. Exceeding 80 mm in diameter or length of major axis and 20 mm in thickness (depth);

c. "Space-qualified" components for optical systems, as follows:

c.1. Lightweighted to less than 20% "equivalent density" compared with a solid blank of the same aperture and thickness;

c.2. Substrates, substrates with surface coatings (single-layer or multi-layer, metallic or dielectric, conducting, semiconducting or insulating) or with protective films;

c.3. Elements or assemblies of mirrors designed to be assembled in space into an optical system with a collecting aperture equivalent to or larger than a single optic 1 meter in diameter;

c.4. Manufactured from "composite" materials having a coefficient of linear thermal expansion equal to or less than 5×10^{-6} in any coordinate direction;

d. Optical filters, as follows:

d.1. For wavelengths longer than 250 nm, comprised of multi-layer optical coatings and having either of the following:

d.1.a. Bandwidths equal to or less than 1 nm Full Width Half Intensity (FWHI) and peak transmission of 90% or more; or

d.1.b. Bandwidths equal to or less than 0.1 nm FWHI and peak transmission of 50% or more;

Note: 6A004.d.1 does not control optical filters with fixed air gaps or Lyot-type filters.

d.2. For wavelengths longer than 250 nm, and having all of the following:

d.2.a. Tunable over a spectral range of 500 nm or more;

d.2.b. Instantaneous optical bandpass of 1.25 nm or less;

d.2.c. Wavelength resettable within 0.1 ms to an accuracy of 1 nm or better within the tunable spectral range; and

d.2.d. A single peak transmission of 91% or more;

d.3. Optical opacity switches (filters) with a field of view of 30° or wider and a response time equal to or less than 1 ns;

e. Optical control equipment, as follows:

e.1. Specially designed to maintain the surface figure or orientation of the "space-qualified" components controlled by 6A004.c.1 or c.3;

e.2. Having steering, tracking, stabilization or resonator alignment bandwidths equal to or more than 100 Hz and an accuracy of 10 microradians or less;

e.3. Gimbals having a maximum slew exceeding 5°, a bandwidth equal to or more than 100 Hz and either of the following:

e.3.a.1. Exceeding 0.15 m but not exceeding 1 m in diameter or major axis length;

e.3.a.2. Capable of angular accelerations exceeding 2 radians/s²; and

e.3.a.3. Having angular pointing errors equal to or less than 200 microradians; or

e.3.b.1. Exceeding 1 m in diameter or major axis length;

e.3.b.2. Capable of angular accelerations exceeding 0.5 radians/s²; and

e.3.b.3. Having angular pointing errors equal to or less than 200 microradians;

e.4. Specially designed to maintain the alignment of phased array or phased segment mirror systems consisting of mirrors with a segment diameter or major axis length of 1 m or more;

f. "Fluoride fiber" cable, or optical fibers therefor, having an attenuation of less than 4 dB/km in the wavelength range exceeding 1,000 nm but not exceeding 3,000 nm.

6A005 Lasers, components and optical equipment.

License Requirements

Reason for Control: NS, NP, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
NP applies to 6A005.a.1.c, a.2.a (with an output power > 40W), a.4.c, a.6, (argon ion lasers only), c.1.b (with an output power > 30W), c.2.c.2.a (with an output power > 40W), c.2.c.2.b (with an output power > 40W), c.2.d.2.b (with an output power > 40W), and d.2.c.	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $3000 for all other items; N/A for NP items

GBS: Yes, for items in Advisory Notes 5.1, 5.2 and 5.3 to Category 6

CIV: Yes, except for 6A005.c.2.a, .d (except d.2.c), .e and for items in Advisory Notes 5.1, 5.2 and 5.3 to Category 6

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value

Related Controls: Shared aperture optical elements, capable of operating in super-high power laser applications are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121, Category XII.)

Related Definitions: 1. Pulsed "lasers" include those that run in a continuous wave (CW) mode with pulses superimposed. 2. Pulse-excited "lasers" include those that run in a continuously excited mode with pulse excitation superimposed. 3. The control status of Raman "lasers" is determined by the parameters of the pumping source "lasers". The pumping source "lasers" can be any of the "lasers" described below.

Items:

a. Gas "lasers", as follows:

a.1. Excimer "lasers" having any of the following:

a.1.a. An output wavelength not exceeding 150 nm and:

a.1.a.1. An output energy exceeding 50 mJ per pulse; *or*

a.1.a.2. An average or CW output power exceeding 1 W;

a.1.b. An output wavelength exceeding 150 nm but not exceeding 190 nm and:

a.1.b.1. An output energy exceeding 1.5 J per pulse; or

a.1.b.2. An average or CW output power exceeding 120 W;

a.1.c. An output wavelength exceeding 190 nm but not exceeding 360 nm and:

a.1.c.1. An output energy exceeding 10 J per pulse; or

a.1.c.2. An average or CW output power exceeding 500 W; or

a.1.d. An output wavelength exceeding 360 nm and:

a.1.d.1. An output energy exceeding 1.5 J per pulse; or

a.1.d.2. An average or CW output power exceeding 30 W;

a.2. Metal vapour "lasers", as follows:

a.2.a. Copper (Cu) "lasers" with an average or CW output power exceeding 20 W;

a.2.b. Gold (Au) "lasers" with an average or CW output power exceeding 5 W;

a.2.c. Sodium (Na) "lasers" with an output power exceeding 5 W;

a.2.d. Barium (Ba) "lasers" with an average or CW output power exceeding 2 W;

a.3. Carbon monoxide (CO) "lasers" having either:

a.3.a. An output energy exceeding 2 J per pulse and a pulsed "peak power" exceeding 5 kW; or

a.3.b. An average or CW output power exceeding 5 kW;

a.4. Carbon dioxide (CO_2) "lasers" having any of the following:

a.4.a. A CW output power exceeding 10 kW;

a.4.b. A pulsed output with a "pulse duration" exceeding 10 microseconds and:

a.4.b.1. An average output power exceeding 10 kW; or

a.4.b.2. A pulsed "peak power" exceeding 100 kW; or

a.4.c. A pulsed output with a "pulse duration" equal to or less than 10 microseconds and:

a.4.c.1. A pulse energy exceeding 5 J per pulse and "peak power" exceeding 2.5 kW; or

a.4.c.2. An average output power exceeding 2.5 kW;

a.5. "Chemical lasers", as follows:

a.5.a. Hydrogen Fluoride (HF) "lasers";

a.5.b. Deuterium Fluoride (DF) "lasers";

a.5.c. "Transfer lasers":

a.5.c.1. Oxygen Iodine (O_2–I) "lasers";

a.5.c.2. Deuterium Fluoride-Carbon dioxide (DF-CO_2) "lasers";

a.6. Gas discharge and ion "lasers", i.e., krypton ion or argon ion "lasers", as follows:

a.6.a. An output energy exceeding 1.5 J per pulse and a pulsed "peak power" exceeding 50 W; or

a.6.b. An average or CW output power exceeding 50 W; or

a.7. Other gas "lasers", except nitrogen "lasers", having any of the following:

a.7.a. An output wavelength not exceeding 150 nm and:

a.7.a.1. An output energy exceeding 50 mJ per pulse and a pulsed "peak power" exceeding 1 W; or

a.7.a.2. An average or CW output power exceeding 1 W;

a.7.b. An output wavelength exceeding 150 nm but not exceeding 800 nm and:

a.7.b.1. An output energy exceeding 1.5 J per pulse and a pulsed "peak power" exceeding 30 W; or

a.7.b.2. An average or CW output power exceeding 30 W;

a.7.c. An output wavelength exceeding 800 nm but not exceeding 1,400 nm and:

a.7.c.1. An output energy exceeding 0.25 J per pulse and a pulsed "peak power" exceeding 10 W; or

a.7.c.2. An average or CW output power exceeding 10 W; or

a.7.d. An output wavelength exceeding 1,400 nm and an average or CW output power exceeding 1 W;

b. Semiconductor "lasers", as follows:

Technical Note: Semiconductor "lasers" are commonly called "laser" diodes.

Note: The control status of semiconductor "lasers" specially designed for other equipment is determined by the control status of the other equipment.

b.1. Individual, single-transverse mode semiconductor "lasers" having:

b.1.a. An average output power exceeding 100 mW; or

b.1.b. A wavelength exceeding 1,050 nm;

b.2. Individual, multiple-transverse mode semiconductor "lasers", or arrays of individual semiconductor "lasers", having:

b.2.a. An output energy exceeding 500 microjoules per pulse and a pulsed "peak power" exceeding 10 W;

b.2.b. An average or CW output power exceeding 10 W; or

b.2.c. A wavelength exceeding 1,050 nm;

c. Solid state "lasers", as follows:

c.1. "Tunable" "lasers" having any of the following:

Note: 6A005.c.1. includes titanium-sapphire (Ti: Al_2O_3), thulium-YAG (Tm: YAG), thulium-YSGG (Tm: YSGG), alexandrite (Cr: $BeAl_2O_4$) and color center "lasers".

c.1.a. An output wavelength less than 600 nm and:

c.1.a.1. An output energy exceeding 50 mJ per pulse and a pulsed "peak power" exceeding 1 W; or

c.1.a.2. An average or CW output power exceeding 1 W;

c.1.b. An output wavelength of 600 nm or more but not exceeding 1,400 nm and:

c.1.b.1. An output energy exceeding 1 J per pulse and a pulsed "peak power" exceeding 20 W; or

c.1.b.2. An average or CW output power exceeding 20 W; or

c.1.c. An output wavelength exceeding 1,400 nm and:

c.1.c.1. An output energy exceeding 50 mJ per pulse and a pulsed "peak power" exceeding 1 W; or

c.1.c.2.An average or CW output power exceeding 1 W;

c.2. Non-"tunable" "lasers", as follows:

Note: 6A005.c.2. includes atomic transition solid state "lasers".

c.2.a. Ruby "lasers" having an output energy exceeding 20 J per pulse;

c.2.b. Neodymium glass "lasers", as follows:

c.2.b.1. "Q-switched lasers" having:

c.2.b.1.a. An output energy exceeding 20 J but not exceeding 50 J per pulse and an average output power exceeding 10 W; or

c.2.b.1.b. An output energy exceeding 50 J per pulse;

c.2.b.2. Non-"Q-switched lasers" having:

c.2.b.2.a. An output energy exceeding 50 J but not exceeding 100 J per pulse and an average output power exceeding 20 W; or

c.2.b.2.b. An output energy exceeding 100 J per pulse;

c.2.c. Neodymium-doped (other than glass) "lasers", as follows, with an output wavelength exceeding 1,000 nm but not exceeding 1,100 nm:

Note: For Neodymium-doped (other than glass) "lasers" having an output wavelength not exceeding 1,000 nm or exceeding 1,100 nm, see 6A005.c.2.d.

c.2.c.1. Pulse excited, mode-locked, "Q-switched lasers" with a "pulse duration" of less than 1 ns and:

c.2.c.1.a. A "peak power" exceeding 5 GW;

c.2.c.1.b. An average output power exceeding 10 W; or

c.2.c.1.c. A pulsed energy exceeding 0.1 J;

c.2.c.2. Pulse-excited, "Q-switched lasers", with a pulse duration equal to or more than 1 ns, and:

c.2.c.2.a. A single-transverse mode output with:

c.2.c.2.a.1. A "peak power" exceeding 100 MW;

c.2.c.2.a.2. An average output power exceeding 20 W; or

c.2.c.2.a.3. A pulsed energy exceeding 2 J; or

c.2.c.2.b. A multiple-transverse mode output with:

c.2.c.2.b.1. A "peak power" exceeding 200 MW;

c.2.c.2.b.2. An average output power exceeding 50 W; or

c.2.c.2.b.3. A pulsed energy exceeding 2 J;

c.2.c.3. Pulse-excited, non-"Q-switched lasers", having:

c.2.c.3.a. A single-transverse mode output with:

c.2.c.3.a.1. A "peak power" exceeding 500 kW; or

c.2.c.3.a.2. An average output power exceeding 150 W; or

c.2.c.3.b. A multiple-transverse mode output with:

c.2.c.3.b.1. A "peak power" exceeding 1 MW; or

c.2.c.3.b.2. An average power exceeding 500 W;

c.2.c.4. Continuously excited "lasers" having:

c.2.c.4.a. A single-transverse mode output with:

c.2.c.4.a.1. A "peak power" exceeding 500 kW; or

c.2.c.4.a.2. An average or CW output power exceeding 150 W; or

c.2.c.4.b. A multiple-transverse mode output with:

c.2.c.4.b.1. A "peak power" exceeding 1 MW; or

c.2.c.4.b.2. An average or CW output power exceeding 500 W;

c.2.d. Other non-"tunable" "lasers", having any of the following:

c.2.d.1. A wavelength less than 150 nm and:

c.2.d.1.a. An output energy exceeding 50 mJ per pulse and a pulsed "peak power" exceeding 1 W; or

c.2.d.1.b. An average or CW output power exceeding 1 W;
c.2.d.2. A wavelength of 150 nm or more but not exceeding 800 nm and:
c.2.d.2.a. An output energy exceeding 1.5 J per pulse and a pulsed "peak power" exceeding 30 W; or
c.2.d.2.b. An average or CW output power exceeding 30 W;
c.2.d.3. A wavelength exceeding 800 nm but not exceeding 1,400 nm, as follows:
c.2.d.3.a. "Q-switched lasers" with:
c.2.d.3.a.1. An output energy exceeding 0.5 J per pulse and a pulsed "peak power" exceeding 50 W; or
c.2.d.3.a.2. An average output power exceeding:
c.2.d.3.a.2.a. 10 W for single-mode "lasers";
c.2.d.3.a.2.b. 30 W for multimode "lasers";
c.2.d.3.b. Non-"Q-switched lasers" with:
c.2.d.3.b.1. An output energy exceeding 2 J per pulse and a pulsed "peak power" exceeding 50 W; or
c.2.d.3.b.2. An average or CW output power exceeding 50 W; or
c.2.d.4. A wavelength exceeding 1,400 nm and:
c.2.d.4.a. An output energy exceeding 100 mJ per pulse and a pulsed "peak power" exceeding 1 W; or
c.2.d.4.b. An average or CW output power exceeding 1 W;
d. Dye and other liquid "lasers", having any of the following:
d.1. A wavelength less than 150 nm and:
d.1.a. An output energy exceeding 50 mJ per pulse and a pulsed "peak power" exceeding 1 W; or
d.1.b. An average or CW output power exceeding 1 W;
d.2. A wavelength of 150 nm or more but not exceeding 800 nm and:
d.2.a. An output energy exceeding 1.5 J per pulse and a pulsed "peak power" exceeding 20 W;
d.2.b. An average or CW output power exceeding 20 W; or
d.2.c. A pulsed single longitudinal mode oscillator with an average output power exceeding 1 W and a repetition rate exceeding 1 kHz if the "pulse duration" is less than 100 ns;
d.3. A wavelength exceeding 800 nm but not exceeding 1,400 nm and:
d.3.a. An output energy exceeding 0.5 J per pulse and a pulsed "peak power" exceeding 10 W; or
d.3.b. An average or CW output power exceeding 10 W; or
d.4. A wavelength exceeding 1,400 nm and:
d.4.a. An output energy exceeding 100 mJ per pulse and a pulsed "peak power" exceeding 1 W; or
d.4.b. An average or CW output power exceeding 1 W;
e. Free electron "lasers";
f. Components, as follows:
f.1. Mirrors cooled either by active cooling or by heat pipe cooling;

Technical Note: Active cooling is a cooling technique for optical components using flowing fluids within the subsurface (nominally less than 1 mm below the optical surface) of the optical component to remove heat from the optic.

f.2. Optical mirrors or transmissive or partially transmissive optical or electro-optical components specially designed for use with controlled "lasers";
g. Optical equipment, as follows:
g.1. Dynamic wavefront (phase) measuring equipment capable of mapping at least 50 positions on a beam wavefront with:
g.1.a. Frame rates equal to or more than 100 Hz and phase discrimination of at least 5% of the beam's wavelength; or
g.1.b. Frame rates equal to or more than 1,000 Hz and phase discrimination of at least 20% of the beam's wavelength;
g.2. "Laser" diagnostic equipment capable of measuring "Super-High Power Laser" (SHPL) system angular beam steering errors of equal to or less than 10 microradians;
g.3. Optical equipment, assemblies or components specially designed for a phased-array SHPL system for coherent beam combination to an accuracy of Lambda/10 at the designed wavelength, or 0.1 micrometer, whichever is the smaller;
g.4. Projection telescopes specially designed for use with SHPL systems.

6A006 "Magnetometers", "magnetic gradiometers", "intrinsic magnetic gradiometers" and compensation systems and specially designed components.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $1500
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: § value
Related Controls: N/A
Related Definition: This entry does not control instruments specially designed for biomagnetic measurements for medical diagnostics, unless they incorporate unembedded sensors controlled by 6A006.h.
Items:

a. "Magnetometers" using "superconductive", optically pumped or nuclear precession (proton/Overhauser) technology having a "noise level" (sensitivity) lower (better) than 0.05 nT rms per square root Hz;
b. Induction coil "magnetometers" having a "noise level" (sensitivity) lower (better) than:
b.1. 0.05 nT rms per square root Hz at frequencies of less than 1 Hz;
b.2. 1×10^{-3} nT rms per square root Hz at frequencies of 1 Hz or more but not exceeding 10 Hz; or
b.3. 1×10^{-4} nT rms per square root Hz at frequencies exceeding 10 Hz;
c. Fiber optic "magnetometers" having a "noise level" (sensitivity) lower (better) than 1 nT rms per square root Hz;
d. "Magnetic gradiometers" using multiple "magnetometers" controlled by 6A006.a, .b or .c;
e. Fiber optic "intrinsic magnetic gradiometers" having a magnetic gradient field "noise level" (sensitivity) lower (better) than 0.3 nT/m rms per square root Hz;
f. "Intrinsic magnetic gradiometers", using technology other than fiber-optic technology, having a magnetic gradient field "noise level" (sensitivity) lower (better) than 0.015 nT/m rms per square root Hz;
g. Magnetic compensation systems for magnetic sensors designed for operation on mobile platforms;
h. "Superconductive" electromagnetic sensors, containing components manufactured from "superconductive" materials, as follows:
h.1. Designed for operation at temperatures below the "critical temperature" of at least one of their "superconductive" constituents (including Josephson effect devices or "superconductive" quantum interference devices (SQUIDS));
h.2. Designed for sensing electromagnetic field variations at frequencies of 1 KHz or less, and:
h.3. Having any of the following characteristics:
h.3.a. Incorporating thin-film SQUIDS with a minimum feature size of less than 2 micrometers and with associated input and output coupling circuits;
h.3.b. Designed to operate with a magnetic field slew rate exceeding 1×10^{6} magnetic flux quanta per second;
h.3.c. Designed to function without magnetic shielding in the earth's ambient magnetic field; or
h.3.d. Having a temperature coefficient less (smaller) than 0.1 magnetic flux quantum/K;

6A007 Gravity meters (gravimeters) and gravity gradiometers.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
MT applies to 6A07.b and c when the accuracies in 6A07.b.1 and b.2 are met or exceeded.	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $3000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definition: N/A
Items:

a. Gravity meters for ground use having a static accuracy of less (better) than 10 microgal;

Note: 6A007.a does not control ground gravity meters of the quartz element (Worden) type.

b. Gravity meters for mobile platforms for ground, marine, submersible, space or airborne use having:
b.1. A static accuracy of less (better) than 0.7 milligal; and
b.2. An in-service (operational) accuracy of less (better) than 0.7 milligal with a time-to-steady-state registration of less than 2 minutes under any combination of attendant corrective compensations and motional influences;
c. Gravity gradiometers.

6A008 Radar systems, equipment and assemblies and specially designed components therefor.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
MT applies to items that are designed for airborne applications and that are usable in systems controlled for MT reasons..	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $5000
GBS: Yes, for 6A008.b, .c, and l.1 only
CIV: Yes, for 6A008.b, .c, and l.1 only

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definition: This entry does not control: 1.) Secondary surveillance radar (SSR); 2.) Car radar designed for collision prevention; 3.) Displays or monitors used for Air Traffic Control (ATC) having no more than 12 resolvable elements per mm; 4.) Meteorological (weather) radar.
Items:

a. Operating at frequencies from 40 GHz to 230 GHz and having an average output power exceeding 100mW;
b. Having a tunable bandwidth exceeding ±6.25% of the center operating frequency;

Technical Note: The center operating frequency equals one half of the sum of the highest plus the lowest specified operating frequencies.

c. Capable of operating simultaneously on more than two carrier frequencies;
d. Capable of operating in synthetic aperture (SAR), inverse synthetic aperture (ISAR) or sidelooking airborne (SLAR) radar mode;
e. Incorporating "electronically steerable phased array antennae";
f. Capable of heightfinding non-cooperative targets;

Note: 6A008.f does not control precision approach radar equipment (PAR) conforming to ICAO standards;

g. Designed specially for airborne (balloon or airframe mounted) operation and having Doppler signal processing for the detection of moving targets;
h. Employing processing of radar signals using:
h.1. "Radar spread spectrum" techniques; or
h.2. "Radar frequency agility" techniques;
i. Providing ground-based operation with a maximum "instrumented range" exceeding 185 km;

Note: 6A008.i does not control:
a. Fishing ground surveillance radar;
b. Ground radar equipment specially designed for enroute air traffic control and "software" specially designed for "use" thereof, provided:
1. It has a maximum "instrumented range" of 500 km or less
2. It is configured so that radar target data can be transmitted only one way from the radar site to one or more civil ATC centers;
3. It contains no provisions for remote control of the radar scan rate from the enroute ATC center; and
4. It is to be permanently installed;

N.B.: The "use" "software" must be limited to "object code" and the minimum amount of "source code" necessary for installation, operation or maintenance.

j. "Laser" radar or Light Detection and Ranging (LIDAR) equipment, having either of the following:
j.1. "Space-qualified"; or
j.2. Employing coherent heterodyne or homodyne detection techniques and having an angular resolution of less (better) than 20 microradians;

Note: 6A008.j does not control LIDAR equipment specially designed for surveying or for meteorological observation.

k. Having signal processing sub-systems using "pulse compression" with:
k.1. A "pulse compression" ratio exceeding 150; or
k.2. A pulse width of less than 200 ns;
l. Having data processing sub-systems with:
l.1. "Automatic target tracking" providing, at any antenna rotation, the predicted target position beyond the time of the next antenna beam passage;

Note: 6A008.l.1 does not control conflict alert capability in air traffic control systems, or marine or harbor radar.

l.2. Calculation of target velocity from primary radar having non-periodic (variable) scanning rates;
l.3. Processing for automatic pattern recognition (feature extraction) and comparison with target characteristic data bases (waveforms or imagery) to identify or classify targets; or
l.4. Superposition and correlation, or fusion, of target data from two or more "geographically dispersed" and "interconnected radar" sensors to enhance and discriminate targets.

Note: 6A008.l.4 does not control systems, equipment and assemblies used for marine traffic control.

6A018 Magnetic, pressure, and acoustic underwater detection devices specially designed for military purposes and controls and components therefor.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; components in $ value
Related Controls: N/A
Related Definition: N/A
Items: The list of items controlled is contained in the ECCN heading.

6A102 Radiation hardened detectors, other than those specified in 6A002, for use in protecting against nuclear effects (e.g., electromagnetic pulse (EMP), X-rays, combined blast and thermal effects) and usable for "missiles", designed or rated to withstand radiation levels which meet or exceed a total irradiation dose of 5×10^{5} rads (Si).

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry ..	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $3000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Components in number
Related Controls: N/A
Related Definition: In 6A102, a detector is defined as a mechanical, electrical, optical or chemical device that automatically identifies and records, or registers a stimulus such as an environmental change in pressure or temperature, an electrical or electromagnetic signal or radiation from a radioactive material.
Items: The list of items controlled is contained in the ECCN heading.

6A107 Specially designed components for gravity meters and gravity gradiometers specified in 6A007.b. and c.

License Requirements

Reason for Control: MT, AT

Control(s)	Country chart
MT applies to entire entry ..	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $3000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value

Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

6A108 Radar systems and tracking systems, other than those controlled by 6A008.

License Requirements

Reason for Control: MT, AT

Control(s)	Country chart
MT applies to entire entry . AT applies to entire entry ..	MT Column 1. AT Column 1.

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: This entry does not control airborne civil weather radar conforming to international standards for civil weather radars provided that they do not incorporate any of the following: (a) Phased array antennas; (b) Frequency agility; (c) Spread spectrum; or (d) Signal processing specially designed for the tracking of vehicles.

Laser radar systems are defined as those that embody specialized transmission, scanning, receiving and signal processing techniques for utilization of lasers for echo ranging, direction finding and discrimination of targets by location, radial speed and body reflection characteristics.

a. Radar and laser radar systems designed or modified for use in systems controlled by 9A004 (as provided in the Commerce Control List) and 9A104.

b. Precision tracking systems usable for "missiles", as follows:

b.1. Tracking systems that use a code translator in conjunction with either surface or airborne references or navigation satellite systems to provide real-time measurements of in-flight position and velocity;

b.2. Range instrumentation radars including associated optical/infrared trackers with all of the following capabilities:

b.2.a. Angular resolution better than 3 milliradians (0.5 mils);

b.2.b. Range of 30 km or greater, with a range resolution better than 10 meters rms; and

b.2.c. Velocity resolution better than 3 meters per second.

6A202 Photomultiplier tubes with a photocathode area of greater than 20cm² having an anode pulse rise time of less than 1 ns.

License Requirements

Reason for Control: NP, AT

Control(s)	Country chart
NP applies to entire entry .. AT applies to entire entry ..	NP Column 1. AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

6A203 Cameras and components not controlled by ECCN 6A003.

License Requirements

Reason for Control: NP, AT

Control(s)	Country chart
NP applies to entire entry .. AT applies to entire entry ..	NP Column 1. AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment and components in number; parts and accessories in $ value
Related Controls: N/A
Related Definitions: N/A
Items:

a. Mechanical rotating mirror cameras, as follows; and specially designed components therefor:

a.1 Framing cameras with recording rates greater than 225,000 frames per second;

a.2. Streak cameras with writing speeds greater than 0.5 mm per microsecond;

Technical Note: Components of such cameras include their synchronizing electronics units and rotor assemblies consisting of turbines, mirrors and bearings.

b. Electronic streak and framing cameras and tubes, as follows:

b.1. Electronic streak cameras capable of 50 ns or less time resolution and streak tubes therefor;

b.2. Electronic (or electrically shuttered) framing cameras capable of 50 ns or less frame exposure time;

b.3. Framing tubes and solid state imaging devices for use with cameras described in 6A203.b.2, as follows:

b.3.a. Proximity focused image intensifier tubes having a photocathode deposited on a transparent conductive coating to decrease photocathode sheet resistance;

b.3.b. Gated silicon intensifier target (SIT) vidicon tubes, where a fast system allows gating the photoelectrons from the photocathode before they impinge on the SIT plate;

b.3.c. Kerr or pockel cell electro-optical shuttering; or

b.3.d. Other framing tubes and solid-state imaging devices having a fast-image gating time of less than 50 ns specially designed for cameras controlled by 6A203.b.2;

c. Radiation-hardended television cameras, or lenses therefor, specially designed or rated as radiation-hardened to withstand greater than 5×10^4 grays (Silicon) (5×10^6 rad (Silicon)) without operational degradation.

6A205 Lasers, other than those specified in 6A005.

License Requirements

Reason for Control: NP, AT

Control(s)	Country chart
NP applies to entire entry .: AT applies to entire entry ..	NP Column 1. AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: N/A
Related Definitions: N/A
Items:

a. Argon ion lasers with greater than 40 W average output power operating at wavelengths between 400 nm and 515 nm;

b. Tunable pulsed single-mode dye oscillators capable of an average power output of greater than 1 W, a repetition rate greater than 1 kHz, a pulse less than 100 ns, and a wavelength between 300 nm and 800 nm;

c. Tunable pulsed dye laser amplifiers and oscillators with an average power output of greater than 30 W, a repetition rate greater than 1 kHz, a pulse width less than 100 ns, and a wavelength between 300 nm and 800 nm; *except:* Single mode oscillators;

d. Pulsed carbon dioxide lasers with a repetition rate greater than 250 Hz, an average power output of greater than 500 W, and a pulse of less than 200 ns operating at wavelengths between 9,000 nm and 11,000 nm;

Note: This specification is not intended to control the higher power (typically 1 to 5kW) industrial CO_2 lasers used in applications such as cutting and welding, as those latter lasers are either continuous wave or are pulsed with a pulse width more than 200 ns.

e. Para-hydrogen Raman shifters designed to operate at 16 micrometer output wavelength and at a repetition rate greater than 250 Hz.

6A225 Velocity interferometers for measuring velocities in excess of 1 km per second during time intervals less than 10 microseconds (e.g. VISAR's, Doppler laser interferometers, DLI's, etc.).

License Requirements

Reason for Control: NP, AT

Control(s)	Country chart
NP applies to entire entry .. AT applies to entire entry ..	NP Column 1. AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value

Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

6A226 Pressure sensors.

License Requirements

Reason for Control: NP, AT

Control(s)	Country chart
NP applies to entire entry .. AT applies to entire entry ..	NP Column 1. AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: N/A
Related Definitions: N/A
Items:

a. Manganin gauges for pressures greater than 100 kilobars; or

b. Quartz pressure transducers for pressures greater than 100 kilobars.

6A990 Airborne radar equipment, n.e.s., and specially designed components therefor.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items:

The list of items controlled is contained in the ECCN heading.

6A992 Gravity meters (gravimeters) for ground use, n.e.s.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items:

a. Having a static accuracy of less (better) than 100 microgal; or

b. Being of the quartz element (Worden) type.

6A993 "Magnetometers", n.e.s., having a "noise level" (sensitivity) lower (better) than 1.0 nT rms per square root Hz.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items:

The list of items controlled is contained in the ECCN heading.

6A994 Marine or terrestrial acoustic equipment, n.e.s., capable of detecting or locating underwater objects or features or positioning surface vessels or underwater vehicles; and specially designed components, n.e.s.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 2.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items:

The list of items controlled is contained in the ECCN heading.

B. Test, Inspection and Production Equipment

6B004 Optics.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry .. AT applies to entire entry ..	NS Column 2. AT Column 1.

License Exceptions

LVS: $5000
GBS: Yes for Advisory Note 4.2 to Category 6
CIV: Yes for Advisory Note 4.2 to Category 6

List of Items Controlled

Unit: Number
Related Controls: N/A
Related Definition: This entry does not control microscopes.

a. Equipment for measuring absolute reflectance to an accuracy of ±0.1% of the reflectance value;

b. Equipment other than optical surface scattering measurement equipment, having an unobscured aperture of more than 10 cm, specially designed for the non-contact optical measurement of a non-planar optical surface figure (profile) to an "accuracy" of 2 nm or less (better) against the required profile.

6B005 Specially designed or modified equipment, including tools, dies, fixtures or gauges, and other specially designed components and accessories therefor.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry .. AT applies to entire entry ..	NS Column 2. AT Column 1.

License Exceptions

LVS: $5000
GBS: Yes
CIV: Yes

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: N/A
Related Definitions: N/A
Items:

a. For the manufacture or inspection of:

a.1. Free electron "laser" magnet wigglers;

a.2. Free electron "laser" photo injectors;

b. For the adjustment, to required tolerances, of the longitudinal magnetic field of free electron "lasers".

6B007 Equipment to produce, align and calibrate land-based gravity meters with a static accuracy of better than 0.1 milligal.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry .. AT applies to entire entry ..	NS Column 2. AT Column 1.

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: N/A
Related Definitions: N/A
Items:

The list of items controlled is contained in the ECCN heading.

6B008 Pulse radar cross-section measurement systems having transmit pulse widths of 100 ns or less and specially designed components therefor.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: N/A
Related Definitions: N/A
Items:
The list of items controlled is contained in the ECCN heading.

6B108 Systems specially designed for radar cross section measurement usable for "missiles" and their subsystems.

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $3000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

C. Materials

6C002 Optical sensors.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $3000
GBS: Yes for 6C002.c
CIV: Yes for 6C002.c

List of Items Controlled

Unit: Number
Related Controls: N/A
Related Definitions: N/A
Items:

a. Elemental tellurium (Te) of purity levels equal to or more than 99.9995%;

b. Single crystals of cadmium telluride (CdTe) cadmium zinc telluride (CdZnTe) or mercury cadmium tellurium (HgCdTe) of any purity level, including epitaxial wafers thereof;

Technical Note: Purity verified in accordance with ASTM F574–83 standard or equivalents.

c. "Optical fiber preforms" specially designed for the manufacture of high birefringence fibers controlled by 6A002.d.3.

6C004 Optics.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $1500
GBS: Yes for 6C004.h and 6C004.a, e.2, and .f as described in Advisory Note 4.1 to Category 6
CIV: Yes for 6C004.h and 6C004.a, e.2, and .f as described in Advisory Note 4.1 to Category 6

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items:

a. Zinc selenide (ZnSe) and zinc sulphide (ZnS) "substrate blanks" produced by the chemical vapor deposition process:

a.1. Larger than 100 cm^3 in volume; or

a.2. Larger than 80 mm in diameter with a thickness equal to or more than 20 mm;

b. Boules of the following electro-optic materials:

b.1. Potassium titanyl arsenate (KTA);

b.2. Silver gallium selenide ($AgGaSe_2$);

b.3. Thallium arsenic selenide (Tl_3AsSe_3, also known as TAS);

c. Non-linear optical materials having:

c.1. Third order susceptibility (chi 3) equal to or less than 1 W/m^2; and

c.2. A response time of less than 1 ms;

d. "Substrate blanks" of silicon carbide or beryllium beryllium (Be/Be) deposited materials exceeding 300 mm in diameter or major axis length;

e. Low optical absorption materials, as follows:

e.1. Bulk fluoride compounds containing ingredients with a purity of 99.999% or better; or

Note: 6C004.e.1 controls fluorides of zirconium or aluminium and variants.

e.2. Bulk fluoride glass made from compounds controlled by 6C004.e.1;

f. Glass, including fused silica, phosphate glass, fluorophosphate glass, zirconium fluoride (ZrF_4) and hafnium fluoride (HfF_4) with:

f.1. A hydroxil ion (OH-) concentration of less than 5 ppm;

f.2. Integrated metallic purity levels of less than 1 ppm; and

f.3. High homogeneity (index of refraction variance) less than 5×10^{-6};

g. Synthetically produced diamond material with an absorption of less than 10^{-5} cm^{-1} for wavelengths exceeding 200 nm, but not exceeding 14,000 nm;

h. "Optical fiber preforms" made from bulk fluoride compounds containing ingredients with a purity of 99.999% or better, specially designed for the manufacture of "fluoride fibers" controlled by 6A004.f.

6C005 Synthetic crystalline "laser" host material in unfinished form.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $1500
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: N/A
Items:

a. Titanium doped sapphire;

b. Alexandrite.

D. Software

6D001 "Software" specially designed for the "development" or "production" of equipment controlled by 6A002, 6A003, 6A004, 6A005, 6A007, 6A008, 6A102, 6A108, 6B008 or 6B108.

License Requirements

Reason for Control: NS, MT, NP, RS, AT, UN

Control(s)	Country Chart
NS applies to "software" for equipment controlled by 6A004, 6A005, 6A008 or 6B008.	NS Column 1.
MT applies to "software" for equipment controlled by 6A002, 6A003, 6A007, 6A008 (that is designed for airborne applications and that are usable in systems controlled for MT reasons), 6A102, 6A108 or 6B108 for MT reasons.	MT Column 1.
NP applies to "software" for equipment controlled by 6A005 for NP reasons.	NP Column 1.
RS applies to "software" for equipment controlled by 6A002 or 6A003 for RS reasons.	RS Column 1.
AT applies to entire entry ..	AT Column 1.
UN applies to "software" for equipment controlled by 6A002 or 6A003 for UN reasons.	Rwanda.

License Exceptions

CIV: N/A

TSR: Yes

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

6D002 "Software" specially designed for the "use" of equipment controlled by 6A002.b, 6A008, or 6B008.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 1
MT applies to "software" for equipment controlled by 6A008 that is designed for airborne applications and that are usable in systems controlled for MT reasons.	MT Column 1
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
CIV: N/A
TSR: Yes

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

6D003 Other "software."

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
CIV: Yes for 6D003.d.1
TSR: Yes

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items:

a. Acoustics:

a.1. "Software" specially designed for acoustic beam forming for the "real-time processing" of acoustic data for passive reception using towed hydrophone arrays;

a.2. "Source code" for the "real-time processing" of acoustic data for passive reception using towed hydrophone arrays;

b. Magnetometers:

b.1. "Software" specially designed for magnetic compensation systems for magnetic sensors designed to operate on mobile platforms;

b.2. "Software" specially designed for magnetic anomaly detection on mobile platforms;

c. Gravimeters: "Software" specially designed to correct motional influences of gravity meters or gravity gradiometers;

d. Radar:

d.1. Air Traffic Control "software" application "programs" hosted on general purpose computers located at Air Traffic Control centers and capable of any of the following:

d.1.a. Processing and displaying more than 150 simultaneous "system tracks";

d.1.b. Accepting radar target data from more than four primary radars; or

d.1.c. Automatically handing over primary radar target data (if not correlated with secondary surveillance radar (SSR) data) from the host ATC center to another ATC center;

d.2. "Software" for the design or "production" of radomes that:

d.2.a. Are specially designed to protect the "electronically steerable phased array antennae" controlled by 6A008.e; and

d.2.b. Limit the average side-lobe level increase by less than 13 dB for frequencies equal to or higher than 2 GHz.

6D102 "Software" specially designed for the "use" of equipment controlled by 6A002, 6A003, 6A007, 6A102, 6A108 or 6B106.

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

6D103 "Software" that processes post-flight recorded data obtained from systems controlled by 6A108.b, enabling determination of vehicle position throughout its flight path.

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
The list of items controlled is contained in the ECCN heading.

6D990 "Software" specially designed for the "development", "production", or "use" of equipment controlled by 6A990, 6A992 or 6A993.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

6D994 "Software" specially designed for the "development", "production", or "use" of equipment controlled by 6A994.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 2.

License Exceptions

LVS: N/A
CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items:
The list of items controlled is contained in the ECCN heading.

E. Technology

6E001 "Technology" according to the General Technology Note for the "development" of equipment, materials or "software" controlled by 6A (except 6A018 6A990, 6A992 to 6A994), 6B, 6C, or 6D (except 6D990 or 6D994).

License Requirements

Reason for Control: NS, MT, NP, RS, CC, AT, UN

Control(s)	Country Chart
NS applies to "technology" for items controlled by 6A001 to 6A008, 6B004 to 6B006, 6C002 to 6C005, or 6D001 to 6D003.	NS Column 1.
MT applies to "technology" for items controlled by 6A002, 6A007, 6A008, 6A102, 6A107, 6A108, 6B108, 6D001, 6D002, 6D102 or 6D103 for MT reasons.	MT Column 1.

Control(s)	Country Chart
NP applies to "technology" for equipment controlled by 6A003, 6A005, 6A202, 6A203, 6A205, 6A225 or 6A226 for NP reasons.	NP Column 2.
RS applies to "technology" for equipment controlled by 6A002 or 6A003 for RS reasons.	RS Column 1.
CC applies to "technology" for equipment controlled by 6A002 for CC reasons.	CC Column 1.
AT applies to entire entry ..	AT Column 1.
UN applies to "technology" for equipment controlled by 6A002 or 6A003 for UN reasons.	Rwanda.

License Exceptions

CIV: N/A
TSR: Yes

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items:

The list of items controlled is contained in the ECCN heading.

6E002 "Technology" according to the General Technology Note for the "production" of equipment or materials controlled by 6A (except 6A018, 6A990, 6A992 to 6A994), 6B, or 6C.

License Requirements

Reason for Control: NS, MT, NP, RS, AT, CC, UN

Control(s)	Country Chart
NS applies to "technology" for equipment controlled by 6A001 to 6A008, 6B004 to 6B008, or 6C002 to 6C005.	NS Column 1.
MT applies to "technology" for equipment controlled by 6A002, 6A007, 6A008, 6A102, 6A107, 6A108, or 6B108 for MT reasons.	MT Column 1.
NP applies to "technology" for equipment controlled by 6A003, 6A005, 6A202, 6A203, 6A205, 6A225 or 6A226 for NP reasons.	NP Column 1.
RS applies to "technology" for equipment controlled by 6A002 or 6A003 for RS reasons.	RS Column 1.
CC applies to "technology" for equipment controlled by 6A002 for CC reasons.	CC Column 1.
AT applies to entire entry ..	AT Column 1.
UN applies to "technology" for equipment controlled by 6A002 or 6A003 for UN reasons.	Rwanda.

License Exceptions

CIV: N/A
TSR: Yes

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items:

The list of items controlled is contained in the ECCN heading.

6E003 Other "technology".

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: Yes

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items:

a. Optics.

a.1. Optical surface coating and treatment "technology" required to achieve uniformity of 99.5% or better for optical coatings 500 mm or more in diameter or major axis length and with a total loss (absorption and scatter) of less than 5×10^{-3};

a.2. Optical fabrication technologies, as follows:

a.2.a. For serially producing optical components at a rate exceeding 10 m^2 of surface area per year on any single spindle and with:

a.2.a.1. An area exceeding 1 m^2; and

a.2.a.2. A surface figure exceeding lambda/10 rms at the designed wavelength;

a.2.b. Single point diamond turning techniques producing surface finish accuracies of better than 10 nm rms on non-planar surfaces exceeding 0.5 m^2;

Note: See also ECCN 2E003.d in Category 2, Materials Processing.

b. Lasers.

b.1. "Technology" for optical filters with a bandwidth equal to or less than 10 nm, a field of view (FOV) exceeding 40° and a resolution exceeding 0.75 line pairs per milliradian;

b.2. "Technology" "required" for the "development", "production" or "use" of specially designed diagnostic instruments or targets in test facilities for Super High Power Lasers (SHPL) testing or testing or evaluation of materials irradiated by SHPL beams;

c. Magnetometers. "Technology" "required" for the "development" or "production" of fluxgate "magnetometers" or fluxgate "magnetometer" systems having a noise level:

c.1. Less than 0.05 nT rms per root Hz at frequencies of less than 1 Hz; or

c.2. 1×10^{-3} nT rms per square root Hz at frequencies of 1 Hz or more.

6E101 "Technology" according to the General Technology Note for the "use" of equipment or "software" controlled in 6A002.a.1, a.3 and a.4, 6A007.b. and .c, 6A008, 6A102, 6A107, 6A108, 6B108, 6D001, 6D002, 6D102 or 6D103 for MT reasons.

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

6E201 "Technology" for the "use" of equipment controlled by 6A003, 6A005, 6A202, 6A203, 6A205, 6A225 or 6A226 for NP reasons.

License Requirements

Reason for Control: NP, AT

Control(s)	Country Chart
NP applies to entire entry ..	NP Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A

6E990 "Technology" for the "development", "production" or "use" equipment controlled by 6A990, 6A992, or 6A993.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A

Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

6E994 "Technology" for the "development", "production", or "use" of equipment controlled by 6A994.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 2.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items:

The list of items controlled is contained in the ECCN heading.

EAR99 Items subject to the EAR that are not elsewhere specified in this CCL Category or in any other category in the CCL are designated by the number EAR99.

Advisory Notes for Category 6

Acoustics

Advisory Note 1: Licenses are likely to be approved, as administrative exceptions, for export and reexport to satisfactory end-users in Country Group D:1 of equipment controlled by 6A001.a.1.b.4 for use in civil research or civil exploration work.

Optical Sensors

Advisory Note 2.1: Licenses are likely to be approved, as administrative exceptions, for export and reexport to satisfactory end-users in the People's Republic of China of image intensifier tubes incorporating microchannel-plates, not specially designed for cameras controlled by 6A003.

N.B.: Advisory Note 2.1 does not apply to tubes incorporating a gallium arsenide (or similar semiconductor) photocathode.

Advisory Note 2.2: Licenses are likely to be approved, as administrative exceptions, for export and reexport to satisfactory end-users in Country Group D:1 of reasonable quantities of non-ruggedized image intensifier tubes controlled by 6A002.a.2.a.3.a for bona fide medical use.

Cameras

Advisory Note 3: Licenses are likely to be approved, as administrative exceptions, for export and reexport to satisfactory end-users in Country Group D:1 of mechanical framing cameras controlled by 6A003.a.2 designed for civil purposes (i.e., non-nuclear use) with a framing speed of not more than 2 million frames per second.

Optics

Advisory Note 4.1: Licenses are likely to be approved, as administrative exceptions, for export and reexport to satisfactory end-users in Country Group D:1 of the following items for installation and use at ground-based bona fide academic or civilian astronomical research sites or in international air- or space-based bona fide academic or civilian astronomical research projects. For the end-use stated in this Advisory Note, the following limits apply:

a. One optical mirror controlled by 6A004.a.1;

b. Three optical mirrors controlled by 6A004.a.2;

c. Three optical mirrors controlled by 6A004.a.4;

d. Three optical mirrors controlled by 6A004.b;

e. Ten optical filters controlled by 6A004.d.1.a;

f. One piece of optical control equipment controlled by 6A004.e.2 for each operational mirror;

g. Four pieces of optical control equipment controlled by 6A004.e.4;

h. Three "substrate blanks" controlled by 6C004.a;

i. A reasonable quantity of the bulk fluoride glass controlled by 6C004.e.2;

j. A reasonable quantity of the materials controlled by 6C004.f.

N.B.: The quantity limitations listed in Advisory Note 4.1 refer to specific projects.

Advisory Note 4.2: Licenses are likely to be approved, as administrative exceptions, for export and reexport to satisfactory end-users in Country Group D:1 of equipment controlled by 6B004.b for stated bona fide civil end-uses.

Lasers

Advisory Note 5.1: Licenses are likely to be approved, as administrative exceptions, for export and reexport to satisfactory end-users in the People's Republic of China of:

a. "Tunable" pulsed flowing-dye "lasers" having all of the following, and specially designed components therefor:

1. An output wavelength less than 800 nm;

2. A "pulse duration" not exceeding 100 ns; and

3. A peak output power not exceeding 15 MW;

b. CO_2 or CO/CO_2 "lasers" having an output wavelength in the range from 9,000 to 11,000 nm and having a pulsed output not exceeding 2 J per pulse and a maximum rated average single or multimode output power not exceeding 5 kW; or

c. CO "lasers" having a CW maximum rated single or multimode output power not exceeding 10 kW.

Advisory Note 5.2: Licenses are likely to be approved, as administrative exceptions, for export and reexport to satisfactory end-users in Country Group D:1 of "lasers", for civil applications, as follows:

a. Neodymium-doped (other than glass), pulse-excited, "Q-switched lasers" controlled by 6A005.c.2.c.2.b having:

1. A pulse duration equal to or more than 1 ns; and

2. A multiple-transverse mode output with a "peak power" not exceeding 400 MW;

b. Neodymium-doped (other than glass) "lasers" controlled by 6A005.c.2.c.3.b or 6A005.c.2.c.4.b:

1. Having:

a. An output wavelength exceeding 1,000 nm, but not exceeding 1,100 nm; and

b. An average or CW output power not exceeding 2 kW; and

2. Being:

a. Pulse-excited, non-"Q-switched" multiple-transverse mode; or

b. Continuously excited, multiple-transverse mode;

c. CO_2 "lasers" controlled by 6A005.e.4:

1. Being in CW multiple-transverse mode; and

2. Having a CW output power not exceeding 15 kW.

d. CO "lasers" having a CW maximum rated single or multimode output power not exceeding 10 kW.

Advisory Note 5.3: Licenses are likely to be approved, as administrative exceptions, for export and reexport to satisfactory end-users in Country Group D:1 of optical equipment controlled by 6A005.g when intended for use with "lasers" that are not controlled or controlled "lasers" that have been approved for export and reexport.

Radar

Advisory Note 6: Licenses are likely to be approved, as administrative exceptions, for export and reexport to satisfactory end-users in Country Group D:1 of Air Traffic Control (ATC) "software" application "programs" controlled by 6D03.d.1, provided that:

a. The number of "system tracks" does not exceed 700;

b. The number of primary radar inputs does not exceed 32; and

c. The "software" is further limited to "object code" and the minimum amount of "source code" necessary for installation, operation or maintenance.

Category 7—Navigation and Avionics

A. Equipment, Assemblies, and Components

7A001 Accelerometers designed for use in inertial navigation or guidance systems and having any of the following characteristics, and specially designed components therefor.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
MT applies to entire entry except accelerometers that are specially designed and developed as Measurement While Drilling (MWD) sensors for use in downhole well service applications.	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items:

a. A "bias" "stability" of less (better) than 130 micro g with respect to a fixed calibration value over a period of one year;

b. A "scale factor" "stability" of less (better) than 130 ppm with respect to a fixed calibration value over a period of one year; or

c. Specified to function at linear acceleration levels exceeding 100 g.

7A002 Gyros having any of the following characteristics, and specially designed components therefor.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items:

a. A "drift rate" "stability", when measured in a 1 g environment over a period of three months and with respect to a fixed calibration value, of:

a.1. Less (better) than 0.1° per hour when specified to function at linear acceleration levels below 10 g; or

a.2. Less (better) than 0.5° per hour when specified to function at linear acceleration levels from 10 g to 100 g inclusive; or

b. Specified to function at linear acceleration levels above 100 g.

7A003 Inertial navigation systems (gimballed and strapdown) and inertial equipment for attitude, guidance or control, having any of the following characteristics, and specially designed components therefor.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: Inertial navigation systems and inertial equipment, and specially designed components therefor specifically designed, modified or configured for military use are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121, Category VIII.)
Related Definitions: N/A
Items:

a. For "aircraft":

a.1. Navigation error (free inertial) of 0.8 nautical mile per hour (50% Circular Error Probable (CEP)) or less (better) subsequent to normal alignment;

a.2. Not certified for use on "civil aircraft" by "civil aviation authorities"; or

a.3. Specified to function at linear acceleration levels exceeding 10 g.

b. Reserved.

7A004 Gyro-astro compasses, and other devices that derive position or orientation by means of automatically tracking celestial bodies or satellites, with an azimuth accuracy of equal to or less (better) than 5 seconds of arc; and specially designed components therefor.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	Country Chart
NS applies to entire entry except specially designed components.	NS Column 2.
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

7A006 Airborne altimeters operating at frequencies other than 4.2 to 4.4 GHz inclusive, having either of the following characteristics, and specially designed components therefor.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	Country Chart
NS applies to entire entry except specially designed components.	NS Column 2.
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: See Category 8 of the Commerce Control List for controls on automatic pilots for underwater vehicles, and Category 6 for controls on radar. Inertial navigation equipment for ships and submersibles is subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121, Category VIII, paragraph (e).)
Related Definitions: N/A
Items:

a. "Power management"; or

b. Using phase shift key modulation.

7A101 Accelerometers, other than those specified in entry 7A001, with a threshold of 0.05 g or less, or a linearity error within 0.25% of full scale output, or both, that are designed for use in inertial navigation systems or in guidance systems of all types and specially designed components therefor.

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry except accelerometers that are specially designed and developed as Measurement While Drilling (MWD) sensors for use in downhole well service applications..	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definition: 7A101 does not specify accelerometers which are specially designed and developed as MWD (Measurement While Drilling) sensors for use in downhole well service operations.
Items: The list of items is included in the entry heading.

7A102 All types of gyros, other than those specified in 7A002, usable in "missiles", with a rated "drift rate" "stability" of less than 0.5° (1 sigma or rms) per hour in a 1 g environment and specially designed components therefor.

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: § value
Related Controls: N/A
Related Definitions: 1.) Drift rate is defined as the time rate of output deviation from the desired output. It consists of random and systematic components and is expressed as an equivalent angular displacement per unit time with respect to inertial space. 2.) Stability is defined as standard deviation (1 sigma) of the variation of a particular parameter from its calibrated value measured under stable temperature conditions. This can be expressed as a function of time.
Items:

The list of items controlled is contained in the ECCN heading.

7A103 Instrumentation, navigation equipment and systems, other than those specified in 7A003, and specially designed components therefor.

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: 1.) Items controlled in 7A103.b in the corresponding EU list number are not controlled in this CCL entry. Those items are subject to the export licensing jurisdiction of the U.S. Department of State, Office of Defense Trade Controls (See 22 CFR part 121, Category VIII.e) 2.) Inertial navigation systems and inertial equipment, and specially designed components therefor specifically designed, modified or configured for military use are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121, Category VIII.)
Related Definitions: N/A
Items:

a. Inertial or other equipment using accelerometers or gyros specified in 7A001, 7A002, 7A101 or 7A102 and systems incorporating such equipment.

b. Reserved.

7A104 Gyro-astro compasses and other devices, other than those specified in 7A004, that derive position or orientation by means of automatically tracking celestial bodies or satellites and specially designed components therefor.

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

7A105 Airborne equipment and components usable in missile systems.

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: Altimeters for missile systems controlled in the corresponding EU list number are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121, Category VIII, paragraph (e).)
Related Definitions: N/A
Items:

a. Terrain contour mapping equipment;

b. Scene mapping and correlation (both digital and analog) equipment;

c. Doppler navigation radar equipment;

d. Imaging sensor equipment (active).

7A115 Airborne passive sensors for determining bearing to specific electromagnetic sources (direction finding equipment) or terrain characteristics.

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: Airborne passive sensors designed or modified for use in missile systems controlled in the corresponding EU list number is subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121.)
Related Definitions: N/A
Items:

a. Scene mapping and correlation (both digital and analog) equipment;

b. Passive interferometer equipment; and,

c. Imaging sensor equipment (passive).

7A994 Other navigation direction finding equipment, airborne communication equipment, all aircraft, inertial navigation systems not controlled under 7A003 or 7A103, and other avionic equipment, including parts and components, n.e.s.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: Global Positioning Satellite receivers having the following characteristics are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls (22 CFR part 121, Category XV): (a) Designed for encryption or decryption (e.g., Y-code) or GPS precise positioning service (PPS) signal; (b) Designed for producing navigation results above 60,000 feet altitude and at 1,000 knots velocity or greater; (c) Specifically designed or modified for use with a null-steering antenna or including a null-steering antenna designed to reduce or avoid jamming signals; or (d) Designed or modified for use with unmanned air vehicle systems capable of delivering at least a 500 kg payload to a range of at least 300 km. (GPS receivers designed or modified for use with military unmanned air vehicle systems with less capability are considered to be specially designed, modified or configured for military use are controlled by 22 CFR part 121, Category XV, paragraph (c).
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

B. Test, Inspection and Production Equipment

7B001 Test, calibration or alignment equipment specially designed for equipment controlled by 7A, except equipment for Maintenance Level I or Maintenance Level II.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $3000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value

Related Controls: N/A
Related Definition: (1.) Maintenance Level I: The failure of an inertial navigation unit is detected on the aircraft by indications from the Control and Display Unit (CDU) or by the status message from the corresponding sub-system. By following the manufacturer's manual, the cause of the failure may be localized at the level of the malfunctioning line replaceable unit (LRU). The operator then removes the LRU and replaces it with a spare.
(2.) Maintenance Level II: The defective LRU is sent to the maintenance workshop (the manufacturer's or that of the operator responsible for level II maintenance). At the maintenance workshop, the malfunctioning LRU is tested by various appropriate means to verify and localize the defective shop replaceable assembly (SRA) module responsible for the failure. This SRA is removed and replaced by an operative spare. The defective SRA (or possibly the complete LRU) is then shipped to the manufacturer. Maintenance Level II does not include the removal of controlled accelerometers or gyro sensors from the SRA.
Items: The list of items controlled is contained in the ECCN heading.

7B002 Equipment specially designed to characterize mirrors for ring "laser" gyros.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $3000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items:

a. Scatterometers having a measurement accuracy of 10 ppm or less (better); or
b. Profilometers having a measurement accuracy of 0.5 nm (5 angstrom) or less (better).

7B003 Equipment specially designed for the "production" of equipment controlled by 7A, and specially designed components therefor.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $3000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items:

a. Inertial Measurement Unit (IMU Module) tester;
b. IMU platform tester;
c. IMU stable element handling fixture;
d. IMU platform balance fixture;
e. Accelerometer test station.

7B102 Reflectometers specially designed to characterize mirrors, for "laser" gyros, having a measurement accuracy of 50 ppm or less (better).

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $3000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

7B994 Other equipment for the test, inspection, or "production" of navigation and avionics equipment.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

C. Materials

[Reserved]

D. Software

7D001 "Software" specially designed or modified for the "development" or "production" of equipment controlled by 7A (except 7A994) or 7B (except 7B994).

License Requirements

Reason for Control: NS, MT, RS, AT

Control(s)	Country Chart
NS applies to "software" for equipment controlled by 7A001 to 7A004, 7A006, 7B001, 7B002 or 7B003.	NS Column 1.
MT applies to entire entry .	MT Column 1.
RS applies to "software" for inertial navigation systems inertial equipment, and specially designed components therefor, for "civil aircraft".	RS Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: (1.) The corresponding EU List number controls "software" relating to entries that do not appear on the CCL (e.g., 7A003.b, 7A005, 7A103.b, 7A105, 7A116, 7A117, 7B103). The "software" related to these entries is subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121.) (2.) "Software" for inertial navigation systems and inertial equipment, and specially designed components therefor, not for use on civil aircraft are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121, Category VIII, paragraph (e).)
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

7D002 "Source code" for the "use" of any inertial navigation equipment or Attitude Heading Reference Systems (AHRS) (except gimballed AHRS) including inertial equipment not controlled by 7A003 or 7A004.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 1.
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definition: AHRS generally differ from inertial navigation systems (INS) in that an AHRS provides altitude heading information and normally does not provide the acceleration, velocity and position information associated with INS.
Items: The list of items controlled is contained in the ECCN heading.

7D003 Other "software".

License Requirements

Reason for Control: NS, MT, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 1.
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: (1.) The corresponding EU List number controls "software" relating to entries that do not appear on the CCL (e.g., 7A003.b, 7A005, 7A103.b, 7A105, 7A116, 7A117, or 7B103). The "software" related to these entries is subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121.) (2.) "Software" for inertial navigation systems and inertial equipment, and specially designed components therefor, not designed for use on civil aircraft by civil aviation authorities of a country listed in Country Group A:1 is subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121, Category VIII.)
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

7D101 "Software" specially designed for the "use" of equipment controlled by 7A001 to 7A004, 7A006, 7A101 to 7A104, 7A106, 7A115, 7B001, 7B002, 7B003, 7B101, or 7B102.

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: (1.) The corresponding EU List number controls "software" relating to entries that do not appear on the CCL (e.g., 7A003.b, 7A005, 7A103.b, 7A105, 7A116, 7A117, or 7B103). The "software" related to these entries is subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121.) (2.) "Software" for inertial navigation systems and inertial equipment, and specially designed components therefor, not designed for use on civil aircraft by civil aviation authorities of a country listed in Country Group A:1 is subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121, Category VIII.)
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

7D102 Integration "software" for the equipment controlled by 7A003 or 7A103.

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions:

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: (1.) The corresponding EU List number controls "software" relating to entries that do not appear on the CCL (e.g., 7A003.b, 7A005, 7A103.b, 7A105, 7A116, 7A117, or 7B103). The "software" related to these entries is subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121.)
Related Definitions: N/A
Items:
The list of items controlled is contained in the ECCN heading.

7D994 "Software", n.e.s., for the "development", "production", or "use" of navigation, airborne communication and other avionics.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items:
The list of items controlled is contained in the ECCN heading.

E. Technology

7E001 "Technology" according to the General Technology Note for the "development" of equipment or "software" controlled by 7A (except 7A994), 7B (except 7B994), or 7D (except 7D994).

License Requirements

Reason for Control: MT, NS, RS, AT

Control(s)	Country Chart
NS applies to "technology for items controlled by 7A001 to 7A004, 7A006, 7B001 to 7B003, 7D001 to 7D003.	NS Column 1.
MT applies to entire entry .	MT Column 1.
RS applies to "technology" for inertial navigation systems, inertial equipment and specially designed components therefor, for civil aircraft.	RS Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: The corresponding EU List number controls "technology"

relating to entries that do not appear on the CCL (e.g., 7A003.b, 7A005, 7A103.b, 7A105, 7A116, 7A117, 7B103). The software related to these entries is subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Control (see 22 CFR part 121).
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

7E002 "Technology" according to the General Technology Note for the "production" of equipment controlled by 7A (except 7A994) or 7B (except 7B994).

License Requirements

Reason for Control: NS, MT, RS, AT

Control(s)	Country Chart
NS applies to "technology" for equipment controlled by 7A001 to 7A004, 7A006 or 7B001 to 7B003.	NS Column 1.
MT applies to entire entry .	MT Column 1.
RS applies to "technology" for inertial navigation systems, inertial equipment and specially designed components therefor, for civil aircraft.	RS Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: The corresponding EU List number controls "technology" relating to entries that do not appear on the CCL (e.g., 7A003.b, 7A005, 7A103.b, 7A105, 7A116, 7A117, 7B103). The software related to these entries is subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls (see 22 CFR part 121).
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

7E003 "Technology" according to the General Technology Note for the repair, refurbishing or overhaul of equipment controlled by 7A001 to 7A004, except for maintenance "technology" directly associated with calibration, removal or replacement of damaged or unserviceable line replaceable units (LRU) and shop replaceable units (SRA) of a "civil aircraft" as described in Maintenance Level I or Maintenance Level II.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 1.
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items:
a. "Technology" for the "development" or "production" of:
a.1. Airborne automatic direction finding equipment operating at frequencies exceeding 5 MHz;
a.2. Air data systems based on surface static data only, i.e., that dispense with conventional air data probes;
a.3. Raster-type head-up displays or three dimensional displays for "aircraft";
a.4. Inertial navigation systems or gyro-astro compasses containing accelerometers or gyros controlled by 7A001 or 7A002;
b. "Development" "technology", as follows, for "active flight control systems" (including fly-by-wire or fly-by-light);
b.1. Configuration design for interconnecting multiple microelectronic processing elements (on-board computers) to achieve "real time processing" for control law implementation;
b.2. Control law compensation for sensor location or dynamic airframe loads, i.e., compensation for sensor vibration environment or for variation of sensor location from the center of gravity;
b.3. Electronic management of data redundancy or systems redundancy for fault detection, fault tolerance, fault isolation or reconfiguration;
Note: 7E004.b.3 does not control "technology" for the design of physical redundancy.
b.4. Flight controls that permit inflight reconfiguration of force and moment controls for real time autonomous air vehicle control;
b.5. Integration of digital flight control, navigation and propulsion control data into a digital flight management system for flight path optimization, except "development" "technology" for aircraft flight instrument systems integrated solely for VOR, DME, ILS or MLS navigation or approaches;
b.6. Full authority digital flight control or multi sensor mission management systems incorporating knowledge-based expert systems;
Note: (For "technology" for Full Authority Digital Engine Control (FADEC), see 9E003.a.10)
c. "Technology" for the "development" of helicopter systems, as follows:
c.1. Multi-axis fly-by-wire or fly-by-light controllers that combine the functions of at least two of the following into one controlling element:
c.1.a. Collective controls;
c.1.b. Cyclic controls;
c.1.c. Yaw controls;
c.2. "Circulation-controlled anti-torque or circulation-controlled directional control systems";
c.3. Rotor blades incorporating "variable geometry airfoils" for use in systems using individual blade control.

7E004 Other "technology."

License Requirements

Reason for Control: NS, MT, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 1.
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls:
N/A
Related Definitions: N/A
Items:
a. "Technology" for the "development" or "production" of:
a.1. Airborne automatic direction finding equipment operating at frequencies exceeding 5 MHz;
a.2. Air data systems based on surface static data only, i.e., that dispense with conventional air data probes;
a.3. Raster-type head-up displays or three dimensional displays for "aircraft";
a.4. Inertial navigation systems or gyro-astro compasses containing accelerometers or gyros controlled by 7A001 or 7A002;
b. "Development" "technology", as follows, for "active flight control systems" (including fly-by-wire or fly-by-light);
b.1. Configuration design for interconnecting multiple microelectronic processing elements (on-board computers) to achieve "real time processing" for control law implementation;
b.2. Control law compensation for sensor location or dynamic airframe loads, i.e., compensation for sensor vibration environment or for variation of sensor location from the center of gravity;
b.3. Electronic management of data redundancy or systems redundancy for fault detection, fault tolerance, fault isolation or reconfiguration;
Note: 7E004.b.3 does not control "technology" for the design of physical redundancy.
b.4. Flight controls that permit inflight reconfiguration of force and moment controls for real time autonomous air vehicle control;
b.5. Integration of digital flight control, navigation and propulsion control data into a digital flight management system for flight path optimization, except "development" "technology" for aircraft flight instrument systems integrated solely for VOR, DME, ILS or MLS navigation or approaches;
b.6. Full authority digital flight control or multi sensor mission management systems incorporating knowledge-based expert systems;
Note: (For "technology" for Full Authority Digital Engine Control (FADEC), see 9E003.a.10)
c. "Technology" for the "development" of helicopter systems, as follows:
c.1. Multi-axis fly-by-wire or fly-by-light controllers that combine the functions of at least two of the following into one controlling element:
c.1.a. Collective controls;
c.1.b. Cyclic controls;
c.1.c. Yaw controls;
c.2. "Circulation-controlled anti-torque or circulation-controlled directional control systems";
c.3. Rotor blades incorporating "variable geometry airfoils" for use in systems using individual blade control.

7E101 "Technology" according to the General Technology Note for the "use" of equipment or "software" specified in 7A001 to 7A004, 7A006, 7A101 to 7A104, 7A106, 7A115, 7B002, 7B003, 7B101, 7B102, 7D101 or 7D102 for MT reasons.

License Requirements

Reason for Control: MT, RS, AT

Control(s)	Country Chart
MT applies to entire entry .	MT Column 1.
RS applies to "development" or "production" of inertial navigation systems, inertial equipment and specially designed components therefor, for civil aircraft..	RS Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: 1.) The corresponding EU List number controls "technology" relating to entries that do not appear on the CCL (e.g., 7A003.b, 7A005, 7A103.b, 7A105, 7A116, 7A117, 7B103). The software related to these entries is subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121.) 2.)
"Technology" for inertial navigation systems and inertial equipment, and specially designed components therefor, not for use on civil aircraft are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121, Category VIII.)
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

97E102 "Technology" for protection of avionics and electrical subsystems against electromagnetic pulse (EMP) and electromagnetic interference (EMI) hazards from external sources.

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items:
a. Design "technology" for shielding systems;
b. Design "technology" for the configuration of hardened electrical circuits and subsystems;
c. Design "technology" for the determination of hardening criteria of paragraph a and b above.

7E994 "Technology", n.e.s., for the "development", "production", or "use" of navigation, airborne communication, and other avionics equipment.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

EAR99 Items subject to the EAR that are not elsewhere specified in this CCL Category or in any other category in the CCL are designated by the number zEAR99.

Category 8—Marine

A. Equipment, Assemblies and Components

8A001 Submersible vehicles or surface vessels.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in § value
Related Controls: See other Categories, as appropriate, within the Commerce Control List for controls of equipment for submersible vehicles (e.g., for the control status of marine gas turbine engines, see Category 9).
Related Definitions: N/A
Items:
a. Manned, tethered submersible vehicles designed to operate at depths exceeding 1,000 m;
b. Manned, untethered submersible vehicles:
b.1. Designed to "operate autonomously" and having a lifting capacity of:
b.1.a. 10% or more of their weight in air; and
b.1.b. 15 kN or more;
b.2. Designed to operate at depths exceeding 1,000 m; or
b.2.a. Designed to carry a crew of 4 or more;
b.2.b. Designed to "operate autonomously" for 10 hours or more;
b.2.c. Having a "range" of 25 nautical miles or more; and
b.2.d. Having a length of 21 m or less;
c. Unmanned, tethered submersible vehicles designed to operate at depths exceeding 1,000 m:
c.1. Designed for self-propelled maneuver using propulsion motors or thrusters controlled by 8A002.a.2; or
c.2. Having a fiber optic data link;
d. Unmanned, untethered submersible vehicles:
d.1. Designed for deciding a course relative to any geographical reference without real-time human assistance;
d.2. Having an acoustic data or command link; or
d.3. Having a fiber optic data or command link exceeding 1,000 m;
e. Ocean salvage systems with a lifting capacity exceeding 5 MN for salvaging objects from depths exceeding 250 m and having either of the following:
e.1. Dynamic positioning systems capable of position keeping within 20 m of a given point provided by the navigation system; or
e.2. Seafloor navigation and navigation integration systems for depths exceeding 1,000 m with positioning accuracies to within 10 m of a predetermined point;
f. Surface-effect vehicles (fully skirted variety) with a maximum design speed, fully loaded, exceeding 30 knots in a significant wave height of 1.25 m (Sea State 3) or more, a cushion pressure exceeding 3,830 Pa, and a light-ship-to-full-load displacement ratio of less than 0.70;
g. Surface-effect vehicles (rigid sidewalls) with a maximum design speed, fully loaded, exceeding 40 knots in a significant wave height of 3.25 m (Sea State 5) or more;
h. Hydrofoil vessels with active systems for automatically controlling foil systems, with a maximum design speed, fully loaded, of 40 knots or more in a significant wave height of 3.25 m (See State 5) or more;
i. Small waterplane area vessels with:
i.1. A full load displacement exceeding 500 tons with a maximum design speed, fully loaded, exceeding 35 knots in a significant wave height of 3.25 m (See State 5) or more; or
i.2. A full load displacement exceeding 1,500 tons with a maximum design speed, fully loaded, exceeding 25 knots in a significant wave height of 4 m (Sea State 6) or more.
Technical Note: A small waterplane area vessel is defined by the following formula: waterplane area at an operational design draft less than 2 × (displaced volume at the operational design draft)$^{2/3}$.

8A002 Systems or equipment.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 2.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $5000
GBS: Yes for 8A002.i.2 as described in Advisory Note to Category 8 and 8A002.e.2
CIV: Yes for 8A002.i.2 as described in Advisory Note to Category 8 and 8A002.e.2

List of Items Controlled

Unit: Equipment in number
Related Controls: See other Categories, as appropriate, within the Commerce Control List for controls of equipment fo. submersible vehicles (e.g., for underwater communications systems, see Category 5).
Related Definitions: N/A
Items:
a. Systems or equipment, specially designed or modified for submersible vehicles, designed to operate at depths exceeding 1,000 m, as follows:
a.1. Pressure housings or pressure hulls with a maximum inside chamber diameter exceeding 1.5 m;
a.2. Direct current propulsion motors or thrusters;
a.3. Umbilical cables, and connectors therefor, using optical fiber and having synthetic strength members;
b. Systems specially designed or modified for the automated control of the motion of equipment for submersible vehicles controlled by 8A001 using navigation data and having closed loop servo-controls to:
b.1. Enable a vehicle to move within 10 m of a predetermined point in the water column;
b.2. Maintain the position of the vehicle within 10 m of a predetermined point in the water column; or
b.3. Maintain the position of the vehicle within 10 m while following a cable on or under the seabed;
c. Fiber optic hull penetrators or connectors;

d. Underwater vision systems, as follows:

d.1.a. Television systems (comprising camera, lights, monitoring and signal transmission equipment) having a limiting resolution when measured in air of more than 500 lines and specially designed or modified for remote operation with a submersible vehicle; or

d.1.b. Underwater television cameras having a limiting resolution when measured in air of more than 700 lines;

Technical Note: Limiting resolution in television is a measure of horizontal resolution usually expressed in terms of the maximum number of lines per picture height discriminated on a test chart, using IEEE Standard 208/1960 or any equivalent standard.

d.2. Systems, specially designed or modified for remote operation with an underwater vehicle, employing techniques to minimize the effects of back scatter, including range-gated illuminators or "laser" systems;

d.3. Low light level television cameras specially designed or modified for underwater use containing:

d.3.a. Image intensifier tubes controlled by 6A002.a.2.a; and

d.3.b. More than 150,000 "active pixels" per solid state area array;

e. Photographic still cameras specially designed or modified for underwater use, having a film format of 35 mm or larger, and:

e.1. Annotating the film with data provided by a source external to the camera;

e.2. Having autofocussing or remote focussing specially designed for underwater use;

e.3. Having automatic back focal distance correction; or

e.4. Having automatic compensation control specially designed to permit an underwater camera housing to be usable at depths exceeding 1,000 m;

f. Electronic imaging systems, specially designed or modified for underwater use, capable of storing digitally more than 50 exposed images;

g. Light systems, as follows, specially designed or modified for underwater use:

g.1. Stroboscopic light systems capable of a light output energy of more than 300 J per flash;

g.2. Argon arc light systems specially designed for use below 1,000 m;

h. "Robots" specially designed for underwater use, controlled by using a dedicated stored program computer, and:

h.1. Having systems that control the "robot" using information from sensors that measure force or torque applied to an external object, distance to an external object, or tactile sense between the "robot" and an external object; or

h.2. Capable of exerting a force of 250 N or more or a torque of 250 Nm or more and using titanium based alloys or "fibrous and filamentary" "composite" materials in their structural members;

i. Remotely controlled articulated manipulators specially designed or modified for use with submersible vehicles and having either of the following characteristics:

i.1. Having systems that control the manipulator using the information from sensors that measure the torque or force applied to an external object, or tactile sense between the manipulator and an external object; or

i.2. Controlled by proportional master-slave techniques or by using a dedicated stored program computer, and having 5 degrees of freedom of movement or greater;

Note: Only functions having proportional control using positional feedback or by using a dedicated stored program computer are counted when determining the number of degrees of freedom of movement.

j. Air-independent power systems, as follows, specially designed for underwater use:

j.1. Brayton, Stirling or Rankine cycle engine air independent power systems having any of the following:

j.1.a. Chemical scrubber or absorber systems specially designed to remove carbon dioxide, carbon monoxide and particulates from recirculated engine exhaust;

j.1.b. Systems specially designed to use a monoatomic gas;

j.1.c. Devices or enclosures specially designed for underwater noise reduction in frequencies below 10 kHz, or special mounting devices for shock mitigation; or

j.1.d. Systems specially designed:

j.1.d.1. To pressurize the products of reaction or for fuel reformation;

j.1.d.2. To store the products of the reaction; and

j.1.d.3. To discharge the products of the reaction against a pressure of 100 kPa or more;

j.2. Diesel cycle engine air independent systems, having all of the following:

j.2.a. Chemical scrubber or absorber systems specially designed to remove carbon dioxide, carbon monoxide and particulates from recirculated engine exhaust;

j.2.b. Systems specially designed to use a monoatomic gas;

j.2.c. Devices or enclosures specially designed for underwater noise reduction in frequencies below 10 kHz or special mounting devices for shock mitigation; and

j.2.d. Specially designed exhaust systems that do not exhaust continuously the products of combustion;

j.3. Fuel cell air independent power systems with an output exceeding 2 kW having either of the following:

j.3.a. Devices or enclosures specially designed for underwater noise reduction in frequencies below 10 kHz or special mounting devices for shock mitigation; or

j.3.b. Systems specially designed:

j.3.b.1. To pressurize the products of reaction or for fuel reformation;

j.3.b.2. To store the products of the reaction; and

j.3.b.3. To discharge the products of the reaction against a pressure of 100 kPa or more;

k. Skirts, seals and fingers, as follows:

k.1. Designed for cushion pressures of 3,830 Pa or more, operating in a significant wave height of 1.25 m (Sea State 3) or more and specially designed for surface effect vehicles (fully skirted variety) controlled by 8A001.f;

k.2. Designed for cushion pressures of 6,224 Pa or more, operating in a significant wave height of 3.25 m (Sea State 5) or more and specially designed for surface effect vehicles (rigid sidewalls) controlled by 8A001.g;

l. Lift fans rated at more than 400 kW specially designed for surface effect vehicles controlled by 8A001.f or 8A001.g;

m. Fully submerged subcavitating or supercavitating hydrofoils specially designed for vessels controlled by 8A001.h;

n. Active systems specially designed or modified to control automatically the sea-induced motion of vehicles or vessels controlled by 8A001.f, .g, .h or .i;

o.1. Water-screw propeller or power transmission systems, as follows, specially designed for surface effect vehicles (fully skirted or rigid sidewall variety), hydrofoils or small waterplane area vessels controlled by 8A001.f, .g, .h or .i:

o.1.a. Supercavitating, super-ventilated, partially-submerged or surface piercing propellers rated at more than 7.5 MW;

o.1.b. Contrarotating propeller systems rated at more than 15 MW;

o.1.c. Systems employing pre-swirl or post-swirl techniques for smoothing the flow into a propeller;

o.1.d. Light-weight, high capacity (K factor exceeding 300) reduction gearing;

o.1.e. Power transmission shaft systems, incorporating "composite" material components, capable of transmitting more than 1 MW;

o.2. Water-screw propeller, power generation or transmission systems for use on vessels.

o.2.a. Controllable-pitch propellers and hub assemblies rated at more than 30 MW;

o.2.b. Internally liquid-cooled electric propulsion engines with a power output exceeding 2.5 MW;

o.2.c. "Superconductive" propulsion engines, or permanent magnet electric propulsion engines, with a power output exceeding 0.1 MW;

o.2.d. Power transmission shaft systems, incorporating "composite" material components, capable of transmitting more than 2 MW;

o.2.e. Ventilated or base-ventilated propeller systems rated at more than 2.5 MW;

o.3. Noise reduction systems for use on vessels of 1,000 tons displacement or more, as follows:

o.3.a. Noise reduction systems that attenuate at frequencies below 500 Hz and consist of compound acoustic mounts for the acoustic isolation of diesel engines, diesel generator sets, gas turbines, gas turbine generator sets, propulsion motors or propulsion reduction gears, specially designed for sound or vibration isolation, having an intermediate mass exceeding 30% of the equipment to be mounted;

o.3.b. Active noise reduction or cancellation systems, or magnetic bearings, specially designed for power transmission systems, and incorporating electronic control systems capable of actively reducing equipment vibration by the generation of anti-noise or anti-vibration signals directly to the source;

p. Pumpjet propulsion systems with a power output exceeding 2.5 MW using divergent nozzle and flow conditioning vane techniques to improve propulsive efficiency or reduce propulsion-generated underwater-radiated noise.

8A018 Items on the International Munitions List.

License Requirements

Reason for Control: NS, AT

Control(s)	Country chart
NS applies to entire entry ..	NS Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items:

a. Closed and semi-closed circuit (rebreathing) apparatus for diving and underwater swimming, and specially designed components for use in the conversion of open-circuit apparatus to military use;

b. Naval equipment, as follows:

b.1. Diesel engines of 1,500 hp and over with rotary speed of 700 rpm or over specially designed for submarines;

b.2. Electric motors specially designed for submarines, i.e., over 1,000 hp, quick reversing type, liquid cooled, and totally enclosed;

b.3. Nonmagnetic diesel engines, 50 hp and over, specially designed for military purposes. (An engine shall be presumed to be specially designed for military purposes if it has nonmagnetic parts other than crankcase, block, head, pistons, covers, end plates, valve facings, gaskets, and fuel, lubrication and other supply lines, or its nonmagnetic content exceeds 75 percent of total weight.);

b.4. Marine boilers designed to have any of the following characteristics:

b.4.a. Heat release rate (at maximum rating) equal to or in excess of 190,000 BTU per hour per cubic foot of furnace volume; or

b.4.b. Ratio of steam generated in pounds per hour (at maximum rating) to the dry weight of the boiler in pounds equal to or in excess of 0.83;

b.5. Submarine and torpedo nets; and

b.6. Components, parts, accessories, and attachments for the above.

8A992 Other underwater camera equipment, n.e.s., other submersible systems, n.e.s.; and specially designed parts therefor.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

8A993 Self-contained underwater breathing apparatus (scuba gear) and related equipment.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 2.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items:

a. Self-contained underwater breathing apparatus (scuba gear);

b. Pressure regulators, air cylinders, hoses, valves and backpacks for the apparatus described in paragraph 8A993.a;

c. Life jackets, inflation cartridges, compasses, wetsuits, masks, fins, weight belts, and dive computers;

d. Underwater lights and propulsion equipment;

e. Air compressors and filtration systems specially designed for filling air cylinders; and

f. Other self-contained underwater breathing apparatus (scuba gear) and related equipment, n.e.s.

8A994 Boats, n.e.s., including inflatable boats, marine engines (both inboard and outboard) and submarine engines, n.e.s; and specially designed parts therefor, n.e.s.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry	AT Column 2.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

B. Test, Inspection and Production Equipment

8B001 Water tunnels, having a background noise of less than 100 dB (reference 1 microPascal, 1 Hz) in the frequency range from 0 to 500 Hz, designed for measuring acoustic fields generated by a hydro-flow around propulsion system models.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry	NS Column 2.
AT applies to entire entry	AT Column 1.

License Exceptions

LVS: $3000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

C. Materials

8C001: Syntactic foam for underwater use.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry	NS Column 2.
AT applies to entire entry	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definition: Syntactic foam consists of hollow spheres of plastic or glass embedded in a resin matrix.
Items:

a. Designed for marine depths exceeding 1,000 m; and

b. With a density less than 561 kg/m^3.

D. Software

8D001 "Software" specially designed or modified for the "development", "production" or "use" of equipment or materials controlled by 8A (except 8A018, 8A992 to 8A994), 8B, or 8C.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry	NS Column 1.
AT applies to entire entry	AT Column 1.

License Exceptions

CIV: N/A

TSR: Yes

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

8D002 Specific "software" specially designed or modified for the "development", "production", repair, overhaul or refurbishing (re-machining) of propellers specially designed for underwater noise reduction.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry	NS Column 1.
AT applies to entire entry	AT Column 1.

License Exceptions

CIV: N/A
TSR: Yes

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

8D992 "Software" specially designed or modified for the "development", "production" or "use" of equipment controlled by 8A992.

License Requirements

Reason for Control: AT

Control(s)	Country chart
AT applies to entire entry	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

8D993 "Software" specially designed or modified for the "development", "production" or "use" of equipment controlled by 8A993 and 8A994.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry	AT Column 2.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

E. Technology

8E001 "Technology" according to the General Technology Note for the "development" or "production" of equipment or materials controlled by 8A (except 8A018, 8A992 to 8A994), 8B, or 8C.

License Requirements

Reason for Control: NS, AT

Control(s)	Country chart
NS applies to entire entry	NS Column 1.
AT applies to entire entry	AT Column 1.

License Exceptions

CIV: N/A
TSR: Yes

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

8E002 Other technology.

License Requirements

Reason for Control: NS, AT

Control(s)	Country chart
NS applies to entire entry	NS Column 1.
AT applies to entire entry	AT Column 1.

License Exceptions

CIV: N/A
TSR: Yes

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items:

a. "Technology" for the "development", "production", repair, overhaul or refurbishing (re-machining) of propellers specially designed for underwater noise reduction;

b. "Technology" for the overhaul or refurbishing of equipment controlled by 8A001, 8A002.b, .j, .o, or .p.

8E992 "Technology" for the "development", "production" or "use" of equipment controlled by 8A992.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

8E993 "Technology" for the "development", "production" or "use" of items controlled by 8A993 and 8A994.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry	AT Column 2.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

EAR99 Items subject to the EAR that are not elsewhere specified in this CCL Category or in any other category in the CCL are designated by the number EAR99.

Advisory Notes for Category 8

Advisory Note: Licenses are likely to be approved, as administrative exceptions, for export and reexport to satisfactory end-users in Country Group D:1 of manipulators, for civil end-uses (e.g., underwater oil, gas or mining operations), that are controlled by 8A002.i.2 and have 5 degrees of freedom of movement.

Category 9—Propulsion Systems Space Vehicles and Related Equipment

A. Equipment, Assemblies and Components

9A001 Aero gas turbine engines incorporating any of the technologies controlled by 9E003.a and described in this entry.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	Country chart
NS applies to entire entry	NS Column 2.
MT applies to only to those engines that meet the characteristics listed in 9A101.	MT Column 1.
AT applies to entire entry	AT Column 1.

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: N/A
Related Definitions: N/A
Items:

a. Not certified for the specific "civil aircraft" for which they are intended;

Note: For the purpose of the "civil aircraft" certification process, a limited number of civil certified engines, assemblies or components may be authorized for export and reexport to Country Group D:1. This limited number is defined as the minimum required (up to 16, including spares) for civil certification.

b. Not certified for civil use by the civil aviation authorities in a country listed in Country Group A:1;

c. Designed to cruise at speeds exceeding Mach 1.2 for more than thirty minutes;

9A002 Marine gas turbine engines with an ISO standard continuous power rating of 24,245 kW or more and a specific fuel consumption of less than 0.219 kg/kWh at any point in the power range from 35 to 100%, and specially designed assemblies and components therefor.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry	NS Column 2.
AT applies to entire entry	AT Column 1.

License Exceptions

LVS: $5000
GBS: Yes, only as described in Advisory Note 1 to Category 9
CIV: Yes, only as described in Advisory Note 1 to Category 9

List of Items Controlled

Unit: Number
Related Controls: N/A
Related Definition: The term marine gas turbine engines includes those industrial, or aero-derivative, gas turbine engines adapted for marine propulsion or shipboard power generation.
Items: The list of items controlled is contained in the ECCN heading.

9A003 Specially designed assemblies and components, incorporating any of the technologies controlled by 9E003.a, for gas turbine engine propulsion systems.

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry	NS Column 2.
AT applies to entire entry	AT Column 1.

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls:
Related Definition: This entry does not control multiple domed combusters operating at average burner outlet temperatures equal to or less than 1,813 K (1,540 °C).
Items:

a. Assemblies and components specially designed for those gas turbine engine propulsion systems controlled by 9A001; or

b. Whose design or production origins are either countries listed in Country Group D:1 or unknown to the manufacturer;

9A004 "Spacecraft", (not including their payloads) and specially designed components therefore.

License Requirements

Reason for Control: NS, AT

Control(s)	Country chart
NS applies to entire entry	NS Column 1.
AT applies to entire entry	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; components, parts and accessories in $ value
Related Controls: (1.) The corresponding EU list number controls space launch vehicles (not including their payloads) and other "spacecraft" (not identified in this CCL entry). These items are subject to the export licensing authority of the U.S. Departement of State, Office of Defense Trade Controls (See 22 CFR part 121, Category XV). (2.) For the control status of products contained in "spacecraft" payloads, see the appropriate categories. (3.) All communication satellites identified in paragraphs a.1 through a.9 of this entry and specially designed components, parts, accessories, attachments, associated equipment, and ground support equipment therefor, are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121, Category XV.)
Related Definition: (1.) Transferring registration or operational control to any foreign person of any satellite controlled by this entry must be authorized on a license issued by the Bureau of Export Administration. This requirement applies whether the satellite is physically located in the United States or abroad. (2.) If you are requesting a license from BXA for items other than those specified in 9A004, you must provide a statement from the U.S. Department of State, Office of Defense Trade Controls, verifying that the item intended for export or reexport is under the export licensing jurisdiction of the U.S. Department of Commerce.
Items:

a. Commercial Communication Satellites, except those with the following characteristics:

a.1. Anti-jam capability: Antennas and/or antenna systems with the ability to respond to incoming interference by adaptively reducing antenna gain in the direction of the interference;

a.2. Antennas:

a.2.a. With aperture (overall dimension of the radiating portions(s) of the antennas) greater than 30 feet; or

a.2.b. With all sidelobes less than or equal to -35db; or

a.2.c. Designed, modified or configured to provide coverage area on the surface of the earth less than 200 nm in diameter, where "coverage area" is defined as that area on the surface of the earth that is illuminated by the main beam width of the antenna (which is the angular distance between half power points of the beam);

a.3. Designed, modified or configured for intersatellite data relay links that do not involve a ground relay terminal ("cross-links");

a.4. Spaceborne baseband processing equipment that uses any technique other than frequency translation which can be changed on a channel by channel basis among previously assigned fixed frequencies several times a day;

a.5. Employing any of the cryptographic items subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls under 22 CFR part 121, Category XIII, paragraph (b);

a.6. Employing radiation-hardened devices controlled elsewhere in 22 CFR 121.1 that are not "embedded" in the satellite in such a way as to deny physical access. (For purposes of this subparagraph, "embedded" means that the device cannot feasibly either be removed from the satellite or used for other purposes);

a.7. Having propulsion systems that permit acceleration of the satellite on-orbit (i.e., after mission orbit injection) at rates greater than 0.1 g;

a.8. Having attitude control and determination systems designed to provide spacecraft pointing determination and control better than 0.02 degrees per axis; or

a.9. Having orbit transfer engines ("kick motors") that remain permanently with the spacecraft and are capable of being restarted after achievement of mission orbit and providing acceleration greater than 1 g. (Orbit transfer engines that are not designed, built, and shipped as an integral part of the satellite subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls under 22 CFR part 121, Category IV.)

b. Other "spacecraft" not subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls under 22 CFR part 121, Category XV.)

Note: 9A004.b includes the international space station being developed, launched and operated under the supervision of the U.S. National Aeronautics and Space Administration.

9A018 Equipment on the International Munitions List.

License Requirements

Reason for Control: NS, RS, AT

Control(s)	Country Chart
NS applies to entire entry	NS Column 1.
RS applies to 9A018.a and b	RS Column 2.

Control(s)	Country Chart
AT applies to entire entry	AT Column 1.

License Exceptions

LVS: $1500
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: (a) Parachute systems designed for use in dropping military equipment, braking military aircraft, slowing spacecraft descent, or retarding weapons delivery; AND (b)Instrument flight trainers for combat simulation are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121, Category VIII.)
Related Definition: This entry controls parachute systems designed for use in dropping personnel only.
Items:
a. Military trainer aircraft bearing "T" designations:
a.1. Using reciprocating engines; or
a.2. Turbo prop engines with less than 600 horse power (h.p.);
a.3. T–37 model jet trainer aircraft; and
a.4. Specially designed component parts.
b. Vehicles specially designed or modified for military purposes. (See part 770 of the EAR, Interpretation 8)
c. Pressure refuelers, pressure refueling equipment, and equipment specially designed to facilitate operations in confined areas; and ground equipment, n.e.s, developed specially for military aircraft and helicopters, and specially designed parts and accessories, n.e.s.;
d. Pressurized breathing equipment specially designed for use in military aircraft and helicopters;
e. Military parachutes and complete canopies, harnesses, and platforms and electronic release mechanisms therefor, except such types as are in normal sporting use;
f. Military instrument flight trainers, except for combat simulation; and components, parts, attachments and accessories specially designed for such equipment.

9A101 Lightweight turbojet and turbofan engines (including turbocompound engines) usable in "missiles", other than those specified in 9A001, having both the following characteristics.

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry	MT Column 1.
AT applies to entire entry	AT Column 1.

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in § value
Related Controls: (1.) Items controlled in 9A101.b in the corresponding EU List number are not controlled in this CCL entry. Those items are subject to the export licensing jurisdiction of the U.S. Department of State, Office of Defense Trade Controls (See 22 CFR part 121, Category IV, paragraph (h) and Category VIII). *(2.)* Engines designed or modified for missiles (except engines for non-military unmanned air vehicles [UAVs) or remotely piloted vehicles [RPVs]), regardless of thrust or specific fuel consumption, are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121, Category VIII.)
Related Definitions: N/A
Items:
a. Maximum thrust value greater than 1000 N (achieved un-installed) excluding civil certified engines with a maximum thrust value greater than 8,890 N (achieved un-installed); *and*
b. Reserved.
c. Specific fuel consumption of 0.13kg/N/hr or less (at sea level static and standard conditions).

9A106 Systems or components, other than those controlled by 9A006, usable in "missiles," as follows, specially designed for liquid rocket propulsion systems.

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $1000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment and components in number; parts and accessories in $ value
Related Controls: Items controlled in 9A106.a, .b, and .c in the corresponding EU List number are not controlled in this CCL entry. Those items are subject to the export licensing jurisdiction of the U.S. Department of State, Office of Defense Trade Controls (See 22 CFR part 121, Category IV, paragraphs (f) and (h).)
Related Definitions: Only the following servo valves and pumps are controlled by this entry: (1.) Servo valves designed for flow rates of 24 liters per minute or greater, at an absolute pressure of 7 MPa (1,000 psi) or greater, have an actuator response time of less than 100 ms; (*2.*) Pumps, for liquid propellants, with shaft speeds equal to or greater than 8,000 rpm or with discharge pressures equal to or greater than 7 MPa (1,000 psi).
Items:
a. Reserved.
b. Reserved.
c. Reserved.
d. Liquid or slurry propellant (including oxidizers) control systems designed or modified to operate in vibration environments of more than 10 g RMS between 20 Hz and 2,000 Hz, and specially designed components therefor.

9A110 Composite structures, laminates, and manufactures thereof, and resin impregnated fiber prepregs and metal coated fiber preforms, therefor, made either with organic matrix or metal matrix utilizing fibrous or filamentary reinforcements having a specific tensile strength greater than 7.62×10^4 m (3×10^6 inches) and a specific modulus greater than 3.18×10^6 m (1.25×10^8 inches).

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $1500
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: The corresponding EU List number includes references to items that are not contained on the CCL (e.g., 9A005, 9A007, 9A010, 9A104, 9A105, 9A106.a, .b, and .c, 9A107, 9A108, 9A116 to 9A119). These items are not cross-referenced in the CCL since they are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls (see 22 CFR part 121) and do not appear on the CCL.
Related Definition: The only resin impregnated fiber prepregs specified in entry 9A110 are those using resins with a glass transition temperature (T_g), after cure, exceeding 418 K (145° C) as determined by ASTM D4065 or national equivalents.
Items: The list of items controlled is contained in the ECCN heading.

9A115 Launch support equipment designed or modified for systems controlled by 9A004 or 9A104.

License Requirements

Reason for Control: MT, UN, AT

Control(s)	Country Chart
MT applies to entire entry .	MT Column 1.
UN applies to entire entry .	Rwanda.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: (*1.*) Items controlled in 9A115.a in the corresponding EU List number are not controlled in this CCL entry. Those items are subject to the export licensing jurisdiction of the U.S. Department of State, Office of Defense Trade Controls (see 22 CFR part 121, Category VIII, paragraph (e)). (*2.*) This entry contains references to EU list numbers that are not contained on the CCL.
Related Definitions: N/A
Items:
a. Reserved.
b. Vehicles for transport, handling, control, activation or launching.

9A190 Non-military unmanned air vehicle systems (UAVs) and remotely piloted vehicles (RPVs) that are capable of a maximum range of at least 300 kilometers (km), regardless of payload.

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry .	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

9A980 Nonmilitary mobile crime science laboratories; and parts and accessories, n.e.s.

License Requirements

Reason for Control: CC

Control(s)	Country Chart
CC applies to entire entry .	CC Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

9A990 Diesel engines, n.e.s., for trucks, tractors, and automotive applications of continuous brake horsepower of 400 BHP (298 kW) or greater (performance based on SAE J1349 standard conditions of 100 kPa and 25°); pressurized aircraft breathing equipment, n.e.s.; and specially designed parts therefor, n.e.s.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 2.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

9A991 "Aircraft" and certain gas turbine engines, n.e.s.

License Requirements

Reason for Control: AT, UN

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.
UN applies to 9A991.a	Rwanda.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: N/A
Related Definitions: N/A
Items:
a. Military aircraft, demilitarized (not specifically equipped or modified for military operation), as follows:
a.1. Cargo, "C–45 through C–118" inclusive, and "C–121,"
a.2. Trainers, bearing a "T" designation and using piston engines,
a.3. Utility, bearing a "U" designation and using piston engines,
a.4. Liaison, bearing an "L" designation, and
a.5. Observation, bearing an "O" designation and using piston engines;
b. Other nonmilitary aircraft; and

Note: Specify make and model of aircraft and type of avionic equipment on aircraft.

c. Aero gas turbine engines not controlled by 9A001 or 9A101, and specially designed parts therefor.

Note: 9A991.c does not control aero gas turbine engines that are destined for use in civil "aircraft" and that have been in use in bona fide civil "aircraft" for more than eight years. (See 9A994.)

9A992 Off highway wheel tractors of carriage capacity 9mt (20,000 lbs) or more; and parts and accessories, n.e.s.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in § value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

9A993 On-Highway tractors, with single or tandem rear axles rated for 9mt per axel (20,000 lbs.) or greater and specially designed parts.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: N/A
Related Definition: This entry controls highway tractors only. It does not control solid chassis vehicles such as dump trucks, construction equipment, or panel/van type trucks.
Items: The list of items controlled is contained in the ECCN heading.

9A994 Aircraft parts and components, n.e.s.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

B. Test, Inspection and Production Equipment

9B001 Specially designed equipment, tooling or fixtures, as follows, for manufacturing or measuring gas turbine blades, vanes or tip shroud castings.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	Country Chart
NS applies to entire entry	NS Column 2.
MT applies to entire entry	MT Column 1.
AT applies to entire entry	AT Column 1.

License Exceptions

LVS: $5000
GBS: Yes, for 9B001.a, .b, .f and .h
CIV: Yes, for 9B001.a, .b, .f and .h

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items:

a. Automated equipment using non-mechanical methods for measuring airfoil wall thickness;

b. Tooling, fixtures or measuring equipment for the "laser", water jet or ECM/EDM hole drilling processes controlled by 9E003.c;

c. Directional solidification or single crystal casting equipment;

d. Ceramic cores or shells;

e. Ceramic core manufacturing equipment or tools;

f. Ceramic core leaching equipment;

g. Ceramic shell wax pattern preparation equipment;

h. Ceramic shell burn out or firing equipment.

9B002 On-line (real time) control systems, instrumentation (including sensors) or automated data acquisition and processing equipment, specially designed for the development of gas turbine engines, assemblies or components incorporating technologies controlled by 9E003.a.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	Country Chart
NS applies to entire entry	NS Column 2.
MT applies to entire entry	MT Column 1.
AT applies to entire entry	AT Column 1.

License Exceptions

LVS: $3000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

9B003 Equipment specially designed for the production or test of gas turbine brush seals designed to operate at tip speeds exceeding 335 m/s, and specially designed parts or accessories.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	Country Chart
NS applies to entire entry	NS Column 2.
MT applies to entire entry	MT Column 1.
AT applies to entire entry	AT Column 1.

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

9B004 Tools, dies or fixtures for the solid state joining of gas turbine "superalloy" or titanium components.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	Country Chart
NS applies to entire entry	NS Column 2.
MT applies to entire entry	MT Column 1.
AT applies to entire entry	AT Column 1.

License Exceptions

LVS: $3000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

9B005 On-line (real-time) control systems, instrumentation (including sensors) or automated data acquisition and processing equipment, specially designed for use with wind tunnels or devices.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	Country Chart
NS applies to entire entry	NS Column 2.
MT applies to entire entry	MT Column 1.
AT applies to entire entry	AT Column 1.

License Exceptions

LVS: $5000
GBS: N/A
CIV: Yes

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A

Items:

a. Wind tunnels designed for speeds of Mach 1.2 or more, except those specially designed for educational purposes and having a test section size (measured laterally) of less than 250 mm;

Technical Note: Test section size in 9B005.a means: the diameter of the circle, or the side of the square, or the longest side of the rectangle at the largest test section location.

b. Devices for simulating flow-environments at speeds exceeding Mach 5, including hot-shot tunnels, plasma arc tunnels, shock tubes, shock tunnels, gas tunnels and light gas guns;

c. Wind tunnels or devices, other than two-dimensional sections, capable of simulating Reynolds number flows exceeding 25 x 106.

9B006 Specially designed acoustic vibration test equipment capable of producing sound pressure levels of 160 dB or more, (reference to 20 micropascals) with a rated output of 4 kW or more at a test cell temperature exceeding 1273 K (1000°C), and specially designed transducers, strain gauges, accelerometers, thermocouples or quartz heaters therefor.

License Requirements:

Reason for Control: NS, AT

Control(s)	Country chart
NS applies to entire entry	NS Column 2.
AT applies to entire entry	AT Column 1.

License Exceptions:

LVS: $3000
GBS: Yes
CIV: Yes

List of Items Controlled

Unit: Number
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

9B007 Equipment specially designed for inspecting the integrity of rocket motors using non-destructive test (NDT) techniques other than planar X-ray or basic physical or chemical analysis.

License Requirements:

Reason for Control: NS, MT, AT

Control(s)	Country chart
NS applies to entire entry	NS Column 2.
MT applies to entire entry	MT Column 1.
AT applies to entire entry	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

9B008 Transducers specially designed for the direct measurement of the wall skin friction of the test flow with a stagnation temperature exceeding 833 K (560° C).

License Requirements

Reason for Control: NS, AT

Control(s)	Country chart
NS applies to entire entry	NS Column 2.
AT applies to entire entry	AT Column 1.

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

9B009 Tooling specially designed for producing turbine engine powder metallurgy rotor components capable of operating at stress levels of 60% of ultimate tensile strength (UTS) or more and metal temperatures of 873 K (600° C) or more.

License Requirements

Reason for Control: NS, AT

Control(s)	Country chart
NS applies to entire entry	NS Column 2.
AT applies to entire entry	AT Column 1.

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

9B105 Wind tunnels for speeds of Mach 0.9 or more usable for "missiles" and their subsystems.

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry	MT Column 1.
AT applies to entire entry	AT Column 1.

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

9B106 Environmental chambers and anechoic chambers.

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry	MT Column 1.
AT applies to entire entry	AT Column 1.

License Exceptions

LVS: $3000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items:

a. Environmental chambers capable of simulating the following flight conditions:

a.1. Vibration environments of 10 g rms or greater between 20 Hz and 2,000 Hz and imparting forces of 50 kN or greater; and

a.2. Altitudes of 15,000 m or greater; or

a.3. Temperature of at least 223 K (−50 °C) to 398 K (+ 125 °C)

b. Anechoic chambers capable of simulating the following flight conditions:

b.1. Acoustic environments at an overall sound pressure level of 140 dB or greater (referenced to 20 microPa) or with a rated power output of 4 kW or greater; and

b.2. Altitudes of 15,000 m or greater; or

b.3. Temperature of at least 223 K (−50 °C) to 398 K (+125 °C).

9B115 Specially designed "production equipment" for the systems, sub-systems, and components controlled by 9A004 to 9A009, 9A011, 9A101, 9A104 to 9A109, 9A111, 9A116 to 9A119.

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry	MT Column 1.
AT applies to entire entry	AT Column 1.

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: This entry contains references to EU list numbers that are not contained on the CCL. Though the items controlled by 9A004 to 9A009, 9A011, 9A101, 9A104 to 9A109, 9A111, 9A116 to 9A119 are not subject to the export licensing authority of BXA, the "production equipment" related to these items are controlled in this entry on the CCL.
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

9B116 Specially designed "production facilities" for the systems, sub-systems, and components controlled by 9A004 to 9A009, 9A011, 9A101, 9A104 to 9A109, 9A111, 9A116 to 9A119.

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry	MT Column 1.
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: This entry contains references to EU list numbers that are not contained on the CCL. Though the items controlled by 9A004 to 9A009, 9A011, 9A101, 9A104 to 9A109, 9A111, 9A116 to 9A119 are not subject to the export licensing authority of BXA, the "production facilities" related to these items are controlled in this entry on the CCL.
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

9B117 Test benches and test stands for solid or liquid propellant rockets or rocket motors, having either of the following characteristics.

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry	MT Column 1.
AT applies to entire entry	AT Column 1.

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items:

a. The capacity to handle more than 90 kN (20,000 lbs.) of thrust; *or*

b. Capable of simultaneously measuring the three axial thrust components.

9B994 Vibration test equipment and specially designed parts and components, n.e.s.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry	AT Column 1.

License Exceptions

LVS: N/A

GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

C. Materials

[Reserved]

D. "Software"

9D001 "Software" "required" for the "development" of equipment or "technology" controlled by 9A (except 9A018, 9A990 to 9A994), 9B (except 9B994) or 9E003.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	Country Chart
NS applies to "software" for items controlled by 9A001 to 9A003, 9B001 to 9B009, 9E003.	NS Column 1.
MT applies to "software" for equipment controlled by 9A001, 9A101, 9A106, 9A110, 9A115, 9A190, 9B001 to 9B005, 9B007, 9B105, 9B106, 9B115 to 9B117 for for MT reasons.	MT Column 1.
AT applies to entire entry	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: (1.) The corresponding EU List number controls "software" relating to entries that do not appear on the CCL (e.g., 9A004 to 9A011, 9A104, 9A105, 9A107 to 9A109, 9A111, 9A116 to 9A119). The "software" related to these entries is subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121.) *(2.)* "Software" "required" for the "development" of equipment controlled by 9A004 is subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121, Category XV.)
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

9D002 "Software" "required" for the "production" of equipment controlled by 9A (except 9A018, 9A990 to 9A994) or 9B (except 9B994).

License Requirements

Reason for Control: NS, MT, AT

Control(s)	Country Chart
NS applies to "software" for equipment controlled by 9A001 to 9A003 or 9B001 to 9B009.	NS Column 1.
MT applies to "software" for equipment controlled by 9A001, 9A101, 9A106, 9A110, 9A115, 9A190, 9B001 to 9B005, 9B007, 9B105, 9B106, 9B115 to 9B117 for for MT reasons.	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

Listed of Items Controlled

Unit: $ value
Related Controls: (1.) The corresponding EU List number controls "software" relating to entries that do not appear on the CCL (e.g., 9A005 to 9A011, 9A104, 9A105, 9A107 to 9A109, 9A111, 9A116 to 9A119). The "software" related to these entries is subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121.) *(2.)* "Software" "required" for the "production" of equipment controlled by 9A004 is subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121, Category XV.)
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

9D003 "Software" "required" for the "use" of full authority digital electronic engine controls (FADEC) for propulsion systems controlled by 9A (except 9A018, 9A990 to 9A994) or 9B (except 9B994).

License Requirements

Reason for Control: NS, MT, AT

Control(s)	Country Chart
NS applies to "software" for "use" of FADEC for equipment controlled by 9A001 to 9A003.	NS Column 1.
MT applies to "software" required for the "use" of FADEC for gas turbine aero engines controlled by 9A101, 9A106, 9A110, or 9A115.	MT Column 1.
AT applies to entire entry	AT Column 1.

Unit: $ value
Related Controls: (1.) The corresponding EU List number controls "software" relating to entries that do not appear on the CCL (e.g., 9A005 to 9A011, 9A105, 9A107 to 9A109, 9A111, 9A116 to 9A119). The "software" related to these entries is subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls (see 22 CFR part 121). *(2.)* "Software" "required" for "use" of FADEC for equipment controlled by 9A004 is subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121, Category XV.)
Related Definitions: N/A
Items:

a. "Software" in digital electronic controls for propulsion systems, aerospace test facilities or air breathing aero-engine test facilities;

b. Fault-tolerant "software" used in FADEC systems for propulsion systems and associated test facilities.

9D004 Other "software".

License Requirements

Reason for Control: NS, MT, AT

Control(s)	Country Chart
NS applies to entire entry	NS Column 1.
MT applies to entire entry	MT Column 1.
AT applies to entire entry	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items:

a. "Software" specially designed for vibration test equipment using real time digital controls with individual exciters (thrusters) with a maximum thrust exceeding 50 kN;

b. 2D or 3D viscous "software" validated with wind tunnel or flight test data "required" for detailed engine flow modelling;

c. "Software" "required" for the "development" or "production" of real time full authority electronic test facilities for engines or components controlled by 9A;

d. "Software" for testing aero gas turbine engines, assemblies or components, specially designed to collect, reduce and analyze data in real time, and capable of feedback control, including the dynamic adjustment of test articles or test conditions, as the test is in progress;

e. "Software" specially designed to control directional solidification or single crystal casting;

f. "Software" in "source code," "object code" or machine code "required" for the "use" of active compensating systems for rotor blade tip clearance control.

Note: 9D004.f does not control "software" embedded in uncontrolled equipment or "required" for maintenance activities associated with the calibration or repair or updates to the active compensating clearance control system.

9D101 "Software" specially designed for the "use" of items specified in 9A101, 9A106, 9A110, 9A115, 9A190, 9B105, 9B106, 9B116 or 9B117.

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry	MT Column 1.
AT applies to entire entry	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

9D018 "Software" for the "use" of equipment controlled by 9A018.

License Requirements

Reason for Control: NS, RS, AT

Control(s)	Country Chart
NS applies to entire entry	NS Column 1.
RS applies to 9A018.a and .b	RS Column 2.
AT applies to entire entry	AT Column 1.

License Exceptions

CIV: N/A
TSR: Yes for Australia, Japan, New Zealand, and NATO only

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

9D990 "Software", n.e.s., for the "development" or "production" of diesel engines and pressurized aircraft breathing equipment controlled by 9A990.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry	AT Column 2.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

9D991 "Software", n.e.s., for the "development" or "production" of aircraft and aero gas turbine engines controlled by 9A991 or aircraft parts and components controlled by 9A994.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

9D993 "Software" for the "production" or "development" of off-highway wheel tractors controlled by 9A992 or on-highway tractors controlled by 9A993.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

9D994 "Software" for the "development", "production", or "use" of equipment controlled by 9B994.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

E. Technology

9E001 "Technology" according to the General Technology Note for the "development" of equipment or "software" controlled by 9A001.c, 9B (except 9B994), or 9D (except 9D018, 9D990 to 9D994).

License Requirements

Reason for Control: NS, MT, AT

Control(s)	Country Chart
NS applies to "technology" for items controlled by 9A001.c, 9B001 to 9B009, 9D001 to 9D004.	NS Column 1.
MT applies to "technology" for items controlled by 9B001 to 9B005, 9B007, 9B105, 9B106, 9B115 to 9B117, 9D001 to 9D004 for MT reasons.	MT Column 1.
AT applies to entire entry	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: 1.) The corresponding EU List number controls "software" relating to entries that do not appear on the CCL (e.g., 9D103). The "software" related to these entries is subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls (see 22 CFR part 121). *2.)* "Technology" required for the "development" of equipment controlled by 9A004 is subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121, Category XV.)
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

9E002 "Technology" according to the General Technology Note for the "production" of equipment controlled by 9A001.c or 9B (except 9B994).

License Requirements

Reason for Control: NS, MT, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 1.
MT applies to "technology" for equipment controlled by 9B001 to 9B005, 9B007, 9B105, 9B106, 9B115 to 9B117 for MT reasons.	MT Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A

Related Controls: See 1E002.f for controls on "technology" for the repair of controlled structures, laminates or materials.
Related Definition: Development or production "technology" controlled by 9E for gas turbine engines remains controlled when used as "use" "technology" for repair, rebuild and overhaul. Excluded from control are: technology, drawings or documentation for maintenance activities directly associated with calibration, removal or replacement of damaged or unserviceable line replaceable units, including replacement of whole engines or engine modules.
Items: The list of items controlled is contained in the ECCN heading.

9E003 Other "technology".

License Requirements

Reason for Control: NS, AT

Control(s)	Country Chart
NS applies to entire entry ..	NS Column 1.
AT applies to entire entry ..	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items:

a. "Technology" "required" for the "development" or "production" of the following gas turbine engine components or systems:

a.1. Gas turbine blades, vanes or tip shrouds made from directionally solidified (DS) or single crystal (CS) alloys having (in the 001 Miller Index Direction) a stress-rupture life exceeding 400 hours at 1,273 K (1,000° C) at a stress of 200 MPa, based on the average property values;

a.2. Multiple domed combustors operating at average burner outlet temperatures exceeding 1,643 K (1370° C), or combustors incorporating thermally decoupled combustion liners, non-metallic liners or non-metallic shells;

a.3. Components manufactured from organic "composite" materials designed to operate above 588 K (315° C), or from metal "matrix" "composite", ceramic "matrix", intermetallic or intermetallic reinforced materials controlled by 1A002 or 1C007;

a.4. Uncooled turbine blades, vanes, tip-shrouds or other components designed to operate at gas path temperatures of 1,323 K (1,050° C) or more;

a.5. Cooled turbine blades, vanes or tip-shrouds, other than those described in 9E003.a.1, exposed to gas path temperatures of 1,643 K (1,370° C) or more;

a.6. Airfoil-to-disk blade combinations using solid state joining;

a.7. Gas turbine engine components using "diffusion bonding" "technology" controlled by 2E003.b;

a.8. Damage tolerant gas turbine engine rotating components using powder metallurgy materials controlled by 1C002.b;

a.9. Full authority digital electronic engine controls (FADEC) for gas turbine and combined cycle engines and their related diagnostic components, sensors and specially designed components;

a.10. Adjustable flow path geometry and associated control systems for:

a.10.a. Gas generator turbines;

a.10.b. Fan or power turbines;

a.10.c. Propelling nozzles;

Note 1: Adjustable flow path geometry and associated control systems do not include inlet guide vanes, variable pitch fans, variable stators or bleed valves for compressors.

Note 2: 9E003.a.10 does not control "development" or "production" "technology" for adjustable flow path geometry for reverse thrust.

a.11. Rotor blade tip clearance control systems employing active compensating casing "technology" limited to a design and development data base;

a.12. Gas bearings for gas turbine engine rotor assemblies;

a.13. Wide chord hollow fan blades without part-span support;

b. "Technology" "required" for the "development" or "production" of:

b.1. Wind tunnel aero-models equipped with non-intrusive sensors capable of transmitting data from the sensors to the data acquisition system;

b.2. "Composite" propeller blades or propfans capable of absorbing more than 2,000 kW at flight speeds exceeding Mach 0.55;

c. "Technology" "required" for the "development" or "production" of gas turbine engine components using "laser", water jet or ECM/EDM hole drilling processes to produce holes with:

c.1.a. Depths more than four times their diameter;

c.1.b. Diameters less than 0.76 mm; and

c.1.c. Incidence angles equal to or less than 25°; or

c.2.a. Depths more than five times their diameter;

c.2.b. Diameters less than 0.4 mm; and

c.2.c. Incidence angles of more than 25°;

Technical Note: For the purposes of 9E003.c, incidence angle is measured from a plane tangential to the airfoil surface at the point where the hole axis enters the airfoil surface.

d. "Technology" "required" for the "development" or "production" of helicopter power transfer systems or tilt rotor or tilt wing "aircraft" power transfer systems:

d.1. Capable of loss-of-lubrication operation for 30 minutes or more; or

d.2. Having an input power-to-weight ratio equal to or more than 8.87 kW/kg.

e.1. "Technology" for the "development" or "production" of reciprocating diesel engine ground vehicle propulsion systems having all of the following:

e.1.a. A box volume of 1.2 m^3 or less;

e.1.b. An overall power output of more than 750 kW based on 80/1269/EEC, ISO 2534 or national equivalents; and

e.1.c. A power density of more than 700 kW/m^3 of box volume;

Technical Note: Box volume: the product of three perpendicular dimensions measured in the following way:
Length: The length of the crankshaft from front flange to flywheel face;
Width: The widest of the following:
a. The outside dimension from valve cover to valve cover;
b. The dimensions of the outside edges of the cylinder heads; or
c. The diameter of the flywheel housing;
Height: The largest of the following:
a. The dimension of the crankshaft centerline to the top plane of the valve cover (or cylinder head) plus twice the stroke; or
b. The diameter of the flywheel housing.

e.2. "Technology" "required" for the "production" of specially designed components, as follows, for "high output diesel engines":

e.2.a. "Technology" "required" for the "production" of engine systems having all of the following components employing ceramics materials controlled by 1C007:

e.2.a.1. Cylinder liners;

e.2.a.2. Pistons;

e.2.a.3. Cylinder heads; and

e.2.a.4. One or more other components (including exhaust ports, turbochargers, valve guides, valve assemblies or insulated fuel injectors);

e.2.b. "Technology" "required" for the "production" of turbocharger systems, with single-stage compressors having all of the following:

e.2.b.1. Operating at pressure ratios of 4:1 or higher;

e.2.b.2. A mass flow in the range from 30 to 130 kg per minute; and

e.2.b.3. Variable flow area capability within the compressor or turbine sections;

e.2.c. "Technology" "required" for the "production" of fuel injection systems with a specially designed multifuel (e.g., diesel or jet fuel) capability covering a viscosity range from diesel fuel (2.5 cSt at 310.8 K (37.8 °C)) down to gasoline fuel (0.5 cSt at 310.8 K (37.8 °C)), having both of the following:

e.2.c.1. Injection amount in excess of 230 mm^3 per injection per cylinder;

e.2.c.2. Specially designed electronic control features for switching governor characteristics automatically depending on fuel property to provide the same torque characteristics by using the appropriate sensors;

e.3. "Technology" "required" for the "development" or "production" of "high output diesel engines" for solid, gas phase or liquid film (or combinations thereof) cylinder wall lubrication, permitting operation to temperatures exceeding 723 K (450 °C), measured on the cylinder wall at the top limit of travel of the top ring of the piston.

9E018 "Technology" for the "development", "production", or "use" of equipment controlled by 9A018.

License Requirements

Reason for Control: NS, RS, AT

Control(s)	Country Chart
NS applies to entire entry	NS Column 1.
RS applies to 9A018.a and .b	RS Column 2.
AT applies to entire entry	AT Column 1.

License Exceptions

CIV: N/A
TSR: Yes for Australia, Japan, New Zealand, and NATO only

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

9E101 "Technology" according to the General Technology Note for the "development" or "production" of equipment controlled by 9A101, 9A106, 9A110, or 9A115.

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry	MT Column 1.
AT applies to entire entry	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: The corresponding EU List number controls "software" relating to entries that do not appear on the CCL (e.g., 9A104, 9A105, 9A107 to 9A109, 9A111, 9A116 to 9A119). The "software" related to these entries is subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls (see 22 CFR part 121).
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

9E102 "Technology" according to the General Technology Note for the "use" of goods specified in 9A101, 9A106, 9A110, 9B105, 9B106, 9B115, 9B116, 9B117, or 9D101.

License Requirements

Reason for Control: MT, AT

Control(s)	Country Chart
MT applies to entire entry	MT Column 1.
AT applies to entire entry	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: The corresponding EU List number controls "software" relating to entries that do not appear on the CCL (e.g., 9A004 to 9A011, 9A104, 9A105, 9A107 to 9A109, 9A111, 9A116 to 9A119, or 9D103). The "software" related to these entries is subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls (see 22 CFR part 121).
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

9E990 "Technology", n.e.s., for the "development", "production", or "use" of diesel engines and pressurized aircraft breathing equipment controlled by 9A990.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry	AT Column 2.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

9E991 "Technology", n.e.s., for the "development", "production", or "use" of aircraft and aero gas turbine engines controlled by 9A991 or aircraft parts and components controlled by 9A994.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

9E993 "Technology" for the "development", "production", or "use" of off-highway wheel tractors controlled by 9A992 or on-highway tractors controlled by 9A993.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A

Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

9E994 "Technology" for "development", "production", or "use" of vibration test equipment controlled by 9B994.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

EAR99 Items subject to the EAR that are not elsewhere specified in this CCL Category or in any other category in the CCL are designated by the number EAR99.

Advisory Notes for Category 9

Advisory Note 1: Licenses are likely to be approved, as administrative exceptions, for export and reexport to satisfactory end-users in Country Group D:1 of marine gas turbine engines controlled by 9A002, for installation in civil marine vessels for civil end-use, provided that their specific fuel consumption exceeds 0.23 kg/kW–hr. and their continuous ISO rating is less than 20,000 kW.

Supplement No. 2 to Part 774—General Technology and Software Notes

1. *General Technology Note.* The export of "technology" that is "required" for the "development", "production", or "use" of items on the Commerce Control List is controlled according to the provisions in each Category.

"Technology" "required" for the "development", "production", or "use" of a controlled product remains controlled even when applicable to a product controlled at a lower level.

License Exception OTS is available for "technology" that is the minimum necessary for the installation, operation, maintenance (checking), and repair of those products that are eligible for License Exceptions or that are exported under a license.

N.B.: This does not allow release under a License Exception of the repair "technology" controlled by 1E002.e, 1E002.f, 7E003, or 8E002.a.

N.B.: The 'minimum necessary' excludes "development" or "production" technology and permits "use" technology only to the extent "required" to ensure safe and efficient use of the product. Individual ECCNs may further restrict export of "minimum necessary" information.

2. *General Software Note.* License Exception GSN is available to all destinations, except Cuba, Iran, Libya, North Korea, Sudan and Syria, for release of

software that is generally available to the public by being:

a. Sold from stock at retail selling points, without restriction, by means of:

1. Over the counter transactions;
2. Mail order transactions; or
3. Telephone call transactions; and

b. Designed for installation by the user without further substantial support by the supplier.

Supplement No. 3 to Part 774

Cross-Reference

Old ECCN	New ECCN
Sorted by "OLD" ECCN	
CAT 0	
0A18	0A018
0A80	0A980
0A82	0A982
0A82	0A983
0A84	0A984
0A84	0A985
0A86	0A986
0A88	0A988
0A95	§ 746.4(b)(2)(i)
0A96	EAR99
0A98	§ 734.3(b)(2)
0E18	0E018
0E84	0E984
0E96	EAR99
1B16	0B003
1C19.b	0C006
1D01	0D001
1E19	0E001
2A19.c	0B001
2A50.b	0B008
2D19	0D001
2D50	0D001
2E19	0E001
2E50	0E001
CAT 1	
...	1D103
...	1E202
...	1E203
1A01	1A001
1A02	1A002
1A03	1A003
1A22.b	1A102
1A27	1C116
1A45	1A226
1A46	1C202
1A47	1C216
1A48	1A290
1A50	1C226
1A84	1A984
1A88	1A988
1A96	EAR99
1B01	1B001
1B02	1B002
1B03	1B003
1B17	1B225
1B18	1B018
1B21	1B101
1B28	1B115
1B30.a	1B116
1B41	1B201
1B42	1B226
1B52	1B229
1B53	1B228
1B54	1B227
1B55	1B232
1B58	1B231
1B59	1B230
1B96	EAR99
1C01	1C001
1C02	1C002
1C03	1C003
1C05	1C005
1C06	1C006
1C07	1C007
1C08	1C008
1C09	1C009
1C10	1C010
1C18	1C018
1C19.a	1C234
1C19.c	1C233
1C19.d	1C230
1C19.e	1A225
1C19.f	1C231
1C21	1C101
1C22	1C117
1C27	1C107
1C31	1C115
1C49	1A225
1C50	1C210
1C50.c	1A202
1C51	1C229
1C52	1C227
1C53	1C228
1C54	1C236
1C55	1C232
1C56	1C238
1C57	1C225
1C58	1C237
1C60	1C350
1C61.a (partial), .b.c (partial), .f.	1C351
1C61.a (partial), .c (partial)	1C352
1C61.c.15,c.16, .d	1C354
1C61.e	1C353
1C80	1C980
1C81	1C981
1C82	1C982
1C83	1C983
1C84	1C984
1C88	1C988
1C91	1C991
1C92	1C992
1C93	1C993
1C94	1C994
1C95	1C995
1C96	EAR99
1CO4	1C004
1D01	1D018
1D01	1D001
1D02	1D002
1D23	1D101
1D41	1D201
1D60	1D390
1D93	1D993
1D94	1D993
1D96	EAR99
1E02	1E002
1E23	1E001
1E23	1E101
1E24	1E103
1E25	1E104
1E40	1E201
1E41	1E201
1E60	1E001
1E60	1E350
1E60	1E391
1E61	1E001
1E61	1E351
1E61	1E391
1E94	1E994
1E96	EAR99
2A50.c	1A227
CAT 2	
...	2A993
...	2B207
1A44	2A225
1B30.b	2B104
1B50.a	2B226
1B50.b	2B227
1B51	2B230
1B70.a through .d	2B350
1B70.e	2B351
1B71	2B352
1D50	2D201
1E41	2E201
1E70	2E301
2A01	2A001
2A02	2A002
2A03	2A003
2A04	2A004
2A05	2A005
2A06	2A006
2A48	2A226
2A49	2A290
2A50.b.d.f	2A291
2A50.e	2B225
2A51	2A292
2A52	2B231
2A53	2A293
2A94	2A994
2A96	EAR96
2B01	2B001
2B02	2B002
2B03	2B003
2B04	2B004
2B05	2B005
2B06	2B006
2B07	2B007
2B08	2B008
2B09	2B009
2B18	2B018
2B24	2B104
2B41	2B290
2B44	2B204
2B50	2B115
2B50	2B215
2B51	2B228
2B53	2B229
2B85	2B985
2B91	2B991
2B92	2B992
2B93	2B993
2B94	2B994
2B96	EAR99
2D01	2D001
2D02	2D002
2D18	2D018
2D24	2D101
2D41	2D290
2D49	2D290
2D50	2D290
2D92	2D994
2D93	2D992
2D94	2D993
2D96	EAR99
2E01	2E001
2E02	2E002
2E03	2E003
2E18	2E018

Old ECCN	New ECCN
2E20	2E201
2E24	2E001
2E24	2E002
2E24	2E101
2E40	2E201
2E40	2E290
2E41	2E001
2E41	2E002
2E41	2E201
2E41	2E290
2E44	2E001
2E44	2E002
2E44	2E201
2E44	2E290
2E48	2E001
2E48	2E002
2E48	2E201
2E49	2E001
2E49	2E002
2E49	2E290
2E50	2E001
2E50	2E002
2E50	2E201
2E50	2E290
2E51	2E001
2E51	2E002
2E51	2E201
2E51	2E290
2E52	2E001
2E52	2E002
2E52	2E201
2E53	2E001
2E53	2E002
2E53	2E201
2E53	2E290
2E93	2E994
2E94	2E993
2E96	EAR99
3A48	2B232
9B26.a	2B116
CAT 3	
2A19.b	3A231
3A01	3A001
3A02	3A002
3A22	3A101
3A41	3A201.a
3A42	3A201.b
3A43	3A228
3A44	3A230
3A46	3A229
3A49	3A232
3A50	3A225
3A51	3A233
3A52	3A202
3A53	3A227
3A54	3A226
3A55	3A201.c
3A80	3A980
3A81	3A981
3A92	3A992
3A93	3A993
3A94	3A994
3A96	EAR99
3B01.a	3B001
3B01.b	3B002
3B01.c	3B003
3B01.d	3B004
3B01.e	3B005
3B01.f	3B006
3B01.g	3B007
3B01.h	3B008
3B91	3B991
3B96	EAR99
3C01	3C001
3C02	3C002
3C03	3C003
3C04	3C004
3C96	EAR99
3D02	3D002
3D03	3D003
3D21	3D001
3D22	3D001
3D22	3D101
3D80	3D980
3D94	3D994
3D96	EAR99
3E02	3E002
3E22	3E001
3E22	3E101
3E40	3E001
3E40	3E201
3E41	3E201
3E80	3E980
3E94	3E994
3E96	EAR99
CAT 4	
4A01	4A001
4A02	4A002
4A03	4A003
4A04	4A004
4A21	4A101
4A80	4A980
4A94	4A994
4A96	EAR99
4B94	4B994
4B96	EAR99
4C94	4C994
4C96	EAR99
4D01	4D001
4D02	4D002
4D03	4D003
4D21	4D190
4D80	4D980
4D92	4D994
4D93	4D993
4D94	4D994
4D96	EAR99
4E01	4E001
4E02	4E002
4E80	4E980
4E92	4E994
4E93	4E993
4E94	4E994
4E96	EAR99
CAT 5	
2A19.a	Deleted
5A01	5A001.a
5A02	5A001.b
5A03	5A001.c
5A04	5A001.d
5A05	5A001.e
5A06	5A001.f
5A11	5A002
5A20	5A101
5A80	5A980
5A90	5A990
5A91	5A991
5A92	5A992
5A93	5A993
5A94	5A994
5A95	5A995
5A96	EAR99
5B01	5B001.a
5B02	5B001.b
5B11	5B002.a.1
5B12	5B002.a.2
5B13	5B002.b
5B94	5B994
5B96	EAR99
5C01	5C001
5C96	EAR99
5D01	5D001.a
5D02	5D001.b
5D03	5D001.c
5D11	5D002.a
5D12	5D002.b
5D13	5D002.c
5D20	5D101
5D20	5D190
5D90	5D990
5D91	5D991
5D92	5D992
5D93	5D993
5D94	5D994
5D95	5D995
5D96	EAR99
5E01	5E001.a
5E02	5E001.b
5E11	5E002
5E20	5E101
5E90	5E990
5E91	5E991
5E92	5E992
5E93	5E993
5E94	5E994
5E95	5E995
5E96	EAR99
CAT 6	
2A44.a	6A225
2A44.b.c	6A226
6A01	6A001
6A02	6A002
6A03	6A003
6A04	6A004
6A05	6A005
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6A07	6A107
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6A18	6A018
6A22	6A102
6A28	6A108
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6A43	6A203
6A44	6A202
6A50	6A205
6A90	6A990
6A92	6A992
6A93	6A993
6A94	6A994
6A96	EAR99
6B04	6B004
6B05	6B005
6B07	6B007
6B08	6B008
6B96	EAR99
6C02	6C002
6C04	6C004
6C05	6C005
6C96	EAR99

Old ECCN	New ECCN
6D01	6D001
6D02	6D002
6D03	6D003
6D21	6D001
6D22	6D102
6D29	6D103
6D90	6D990
6D92	6D990
6D93	6D990
6D94	6D994
6D96	EAR99
6E01	6E001
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6E21	6E001
6E22	6E002
6E23	6E101
6E40	6E201
6E41	6E001
6E41	6E002
6E41	6E201
6E94	6E994
6E96	EAR99

CAT 7

• • •	7D102
7A01	7A001
7A02	7A002
7A03	7A003
7A04	7A004
7A06	7A006
7A21	7A101
7A22	7A102
7A23	7A103
7A24	7A104
7A26	7A106
7A27	7A115
7A94	7A994
7B01	7B001
7B02	7B002
7B03	7B003
7B22.a	7B102
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7B94	7B994
7D01	7D001
7D02	7D002
7D03	7D003
7D24	7D001
7D24	7D101
7D94	7D994
7E01	7E001
7E02	7E002
7E03	7E003
7E04	7E004
7E21	7E001
7E21	7E002
7E21	7E101
7E22	7E102
7E94	7E994

CAT 8

8A01	8A001
8A02	8A002
8A18	8A018
8A92	8A992
8A93	8A993
8A94	8A994
8A96	EAR99
8B01	8B001
8B96	EAR99
8C01	8C001
8C96	EAR99
8D01	8D001
8D02	8D002
8D92	8D992
8D93	8D993
8D96	EAR99
8E01	8E001
8E02	8E002
8E92	8E992
8E93	8E993
8E96	EAR99

CAT 9

1A22.a	9A110
9A01	9A001
9A02	9A002
9A03	9A003
9A04	9A004
9A18	9A018
9A21	9A101
9A22	9A115
9A23	9A106
9A24	9A190
9A80	9A980
9A90	9A990
9A91	9A991
9A92	9A992
9A93	9A993
9A94	9A994
9A96	EAR99
9B01	9B001
9B02	9B002
9B03	9B003
9B04	9B004
9B05	9B005
9B06	9B006
9B07	9B007
9B08	9B008
9B09	9B009
9B21	9B115
9B21	9B116
9B25	9B105
9B26.b	9B106
9B27	9B117
9B94	9B994
9B96	EAR99
9D01	9D001
9D02	9D002
9D03	9D003
9D04	9D004
9D18	9D018
9D24	9D001
9D24	9D002
9D24	9D101
9D90	9D990
9D91	9D991
9D93	9D993
9D94	9D994
9D96	EAR99
9E01	9E001
9E02	9E002
9E03	9E003
9E18	9E018
9E21	9E101
9E21	9E102
9E90	9E990
9E91	9E991
9E93	9E993
9E94	9E994
9E96	EAR99

Sorted by "NEW" ECCN
CAT 0

0A18	0A018
0A80	0A980
0A82	0A982
0A82	0A983
0A84	0A984
0A84	0A985
0A86	0A986
0A88	0A988
2A19.c	0B001
1B16	0B003
2A50.b	0B008
1C19.b	0C006
1D01	0D001
2D19	0D001
2D50	0D001
1E19	0E001
2E19	0E001
2E50	0E001
0E18	0E018
0E84	0E984
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0A95	§ 746.4(b)(2)(i)
0A96	EAR99
0E96	EAR99

CAT 1

1A01	1A001
1A02	1A002
1A03	1A003
1A22.b	1A102
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1C19.e	1A225
1C49	1A225
1A45	1A226
2A50.c	1A227
1A48	1A290
1A84	1A984
1A88	1A988
1B01	1B001
1B02	1B002
1B03	1B003
1B18	1B018
1B21	1B101
1B28	1B115
1B30.a	1B116
1B41	1B201
1B17	1B225
1B42	1B226
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1B53	1B228
1B52	1B229
1B59	1B230
1B58	1B231
1B55	1B232
1C01	1C001
1C02	1C002
1C03	1C003
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1C92	1C992
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1C94	1C994
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1E61	1E391
1E94	1E994
1A96	EAR99
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1C96	EAR99
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1E96	EAR99

CAT 2

2A01	2A001
2A02	2A002
2A03	2A003
2A04	2A004
2A05	2A005
2A06	2A006
1A44	2A225
2A48	2A226
2A49	2A290
2A50.b.d.f	2A291
2A51	2A292
2A53	2A293
• • •	2A983
2A94	2A994
2B01	2B001
2B02	2B002
2B03	2B003
2B04	2B004
2B05	2B005
2B06	2B006
2B07	2B007
2B08	2B008
2B09	2B009
2B18	2B018
1B30.b	2B104
2B24	2B104
2B50	2B115
9B25.a	2B116
2B44	2B204
• • •	2B207
2B50	2B215
2A50.e	2B225
1B50.a	2B226
1B50.b	2B227
2B51	2B228
2B53	2B229
1B51	2B230
2A52	2B231
3A48	2B232
2B41	2B290
1B70.a through .d	2B350
1B70.e	2B351
1B71	2B352
2B85	2B985
2B91	2B991
2B92	2B992
2B93	2B993
2B94	2B994
2D01	2D001
2D02	2D002
2D18	2D018
2D24	2D101
1D50	2D201
2D41	2D290
2D49	2D290
2D50	2D290
2D93	2D992
2D94	2D993
2D92	2D994
2E01	2E001
2E24	2E001
2E41	2E001
2E44	2E001
2E48	2E001
2E49	2E001
2E50	2E001
2E51	2E001
2E52	2E001
2E53	2E001
2E02	2E002
2E24	2E002
2E41	2E002
2E44	2E002
2E48	2E002
2E49	2E002
2E50	2E002
2E51	2E002
2E52	2E002
2E53	2E002
2E03	2E003
2E18	2E018
2E24	2E101
1E41	2E201
2E20	2E201
2E40	2E201
2E41	2E201
2E44	2E201
2E48	2E201
2E50	2E201
2E51	2E201
2E52	2E201
2E53	2E201
2E40	2E290
2E41	2E290
2E44	2E290
2E49	2E290
2E50	2E290
2E51	2E290
2E53	2E290
1E70	2E301
2E94	2E993
2E93	2E994
2A96	EAR99
2B96	EAR99
2D96	EAR99
2E96	EAR99

CAT 3

3A01	3A001
3A02	3A002
3A22	3A101
3A41	3A201.a
3A42	3A201.b
3A55	3A201.c
3A52	3A202
3A50	3A225
3A54	3A226
3A53	3A227
3A43	3A228
3A46	3A229
3A44	3A230
2A19.b	3A231
3A49	3A232
3A51	3A233
3A80	3A980
3A81	3A981
3A92	3A992
3A93	3A993
3A94	3A994
3B01.a	3B001
3B01.b	3B002
3B01.c	3B003
3B01.d	3B004
3B01.e	3B005
3B01.f	3B006
3B01.g	3B007
3B01.h	3B008
3B91	3B991
3C01	3C001
3C02	3C002
3C03	3C003
3C04	3C004
3D21	3D001
3D22	3D001
3D02	3D002
3D03	3D003
3D22	3D101
3D80	3D980
3D94	3D994
3E22	3E001
3E40	3E001
3E02	3E002

Old ECCN	New ECCN
3E22	3E101
3E40	3E201
3E41	3E201
3E80	3E980
3E94	3E994
3A96	EAR99
3B96	EAR99
3C96	EAR99
3D96	EAR99
3E96	EAR99

CAT 4

4A01	4A001
4A02	4A002
4A03	4A003
4A04	4A004
4A21	4A101
4A80	4A980
4A94	4A994
4B94	4B994
4C94	4C994
4D01	4D001
4D02	4D002
4D03	4D003
4D21	4D190
4D80	4D980
4D93	4D993
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4E93	4E993
4E92	4E994
4E94	4E994
4A96	EAR99
4B96	EAR99
4C96	EAR99
4D96	EAR99
4E96	EAR99

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5A02	5A001.b
5A03	5A001.c
5A04	5A001.d
5A05	5A001.e
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5A11	5A002
5A20	5A101
5A80	5A980
5A90	5A990
5A91	5A991
5A92	5A992
5A93	5A993
5A94	5A994
5A95	5A995
5B01	5B001.a
5B02	5B001.b
5B11	5B002.a.1
5B12	5B002.a.2
5B13	5B002.b
5B94	5B994
5C01	5C001
5D01	5D001.a
5D02	5D001.b
5D03	5D001.c
5D11	5D002.a
5D12	5D002.b
5D13	5D002.c
5D20	5D101
5D20	5D190
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5D91	5D991
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5A96	EAR99
5B96	EAR99
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CAT 6

6A01	6A001
6A02	6A002
6A03	6A003
6A04	6A004
6A05	6A005
6A06	6A006
6A07	6A007
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6A18	6A018
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6A44	6A202
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6A50	6A205
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2A44.b.c	6A226
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6A93	6A993
6A94	6A994
6B04	6B004
6B05	6B005
6B07	6B007
6B08	6B008
6A30	6B108
6C02	6C002
6C04	6C004
6C05	6C005
6D01	6D001
6D21	6D001
6D02	6D002
6D03	6D003
6D22	6D102
6D29	6D103
6D90	6D990
6D92	6D990
6D93	6D990
6D94	6D994
6E01	6E001
6E21	6E001
6E41	6E001
6E02	6E002
6E22	6E002
6E41	6E002
6E03	6E003
6E23	6E101
6E40	6E201
6E41*	6E201
6E94	6E994
6A96	EAR99
6B96	EAR99
6C96	EAR99
6D96	EAR99
6E96	EAR99

CAT 7

7A01	7A001
7A02	7A002
7A03	7A003
7A04	7A004
7A06	7A006
7A21	7A101
7A22	7A102
7A23	7A103
7A24	7A104
7A26	7A106
7A27	7A115
7A94	7A994
7B01	7B001
7B02	7B002
7B03	7B003
7B22.b through .f	7B101
7B22.a	7B102
7B94	7B994
7D01	7D001
7D24	7D001
7D02	7D002
7D03	7D003
7D24	7D101
***	7D102
7D94	7D994
7E01	7E001
7E21	7E001
7E02	7E002
7E21	7E002
7E03	7E003
7E04	7E004
7E21	7E101
7E22	7E102
7E94	7E994

CAT 8

8A01	8A001
8A02	8A002
8A18	8A018
8A92	8A992
8A93	8A993
8A94	8A994
8B01	8B001
8C01	8C001
8D01	8D001
8D02	8D002
8D92	8D992
8D93	8D993
8E01	8E001
8E02	8E002
8E92	8E992
8E93	8E993
8A96	EAR99
8B96	EAR99
8C96	EAR99
8D96	EAR99
8E96	EAR99

Old ECCN	New ECCN

CAT 9

9A01	9A001
9A02	9A002
9A03	9A003
9A04	9A004
9A18	9A018
9A21	9A101
9A23	9A106
1A22.a	9A110
9A22	9A115
9A24	9A190
9A80	9A980
9A90	9A990
9A91	9A991
9A92	9A992
9A93	9A993
9A94	9A994
9B01	9B001
9B02	9B002
9B03	9B003
9B04	9B004
9B05	9B005
9B06	9B006
9B07	9B007
9B08	9B008
9B09	9B009
9B25	9B105
9B26.b	9B106
9B21	9B115
9B21	9B116
9B27	9B117
9B94	9B994
9D01	9D001
9D24	9D001
9D02	9D002
9D24	9D002
9D03	9D003
9D04	9D004
9D18	9D018
9D24	9D101
9D90	9D990
9D91	9D991
9D93	9D993
9D94	9D994
9E01	9E001
9E02	9E002
9E03	9E003
9E18	9E018
9E21	9E101
9E21	9E102
9E90	9E990
9E91	9E991
9E93	9E993
9E94	9E994
9A96	EAR99
9B96	EAR99
9D96	EAR99
9E96	EAR99

Dated: February 20, 1996

Iain S. Baird,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 96–4173 Filed 3–22–96; 8:45 am]

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The rules and proposed rules in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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- Horses from contagious equine metritis-affected countries; States authorized to receive; published 1-23-96

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- Heavy-duty vehicles; 1996 model year emission standards; nonconformance penalties; published 2-23-96

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- Denali National Park and Preserve, AK; Mount McKinley and Mount Foraker; mountain climbing registration requirements; published 2-23-96

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Surface Mining Reclamation and Enforcement Office
Permanent program and abandoned mine land reclamation plan submissions:
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  - Eurocopter Deutschland model EC135 helicopter; published 2-23-96

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  - Consultant contracts preaward review requirement elimination and lump sum agreements threshold increase; technical correction; published 3-25-96

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- Classification services to growers; user fees; comments due by 4-1-96; published 2-29-96

Nectarines and peaches grown in California; comments due by 4-3-96; published 3-4-96

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Grain Inspection, Packers and Stockyards Administration
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- Beans, whole dry peas, split peas, and lentils; grade standards removed from CFR; comments due by 4-1-96; published 2-29-96

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- Business and industrial loan program; comments due by 4-2-96; published 2-2-96

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- Business and industrial loan program; comments due by 4-2-96; published 2-2-96

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- Business and industrial loan program; comments due by 4-2-96; published 2-2-96

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National Oceanic and Atmospheric Administration
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- Mid-Atlantic Fishery Management Council; comments due by 4-2-96; published 2-22-96

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Debarment and suspension (procurement) and governmentwide debarment and suspension (nonprocurement); drug-free workplace requirements; comments due by 4-2-96; published 2-2-96

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- Synthetic organic chemical manufacturing industry and other processes subject to equipment leaks negotiated regulation; comments due by 4-1-96; published 2-29-96

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  - Motor vehicle air conditioners servicing; comments due by 4-5-96; published 3-6-96
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- Washington; comments due by 4-1-96; published 2-29-96

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
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  - National priorities list update; comments due by 4-1-96; published 3-1-96

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Federal-aid project agreement; contract procedures; comments due by 4-1-96; published 1-30-96

TRANSPORTATION DEPARTMENT
Federal Transit Administration
Capital leases; comments due by 4-1-96; published 1-31-96

TRANSPORTATION DEPARTMENT
National Highway Traffic Safety Administration
Motor vehicle safety standards, etc.:
Small volume manufacturers; regulatory problems; meeting; comments due by 4-4-96; published 2-5-96

TRANSPORTATION DEPARTMENT
Research and Special Programs Administration
Pipeline safety:
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Customs Service
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Duty deferral programs; collection and waiver or reduction of duty; comments due by 4-1-96; published 1-30-96

TREASURY DEPARTMENT
Internal Revenue Service
Income taxes:
Individual returns; filing extension; cross reference and hearing; comments due by 4-1-96; published 1-4-96

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*4	(869–028–00003–7)	5.50	Jan. 1, 1996
5 Parts:			
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1200–End, 6 (6 Reserved)	(869–026–00006–9)	23.00	Jan. 1, 1995
7 Parts:			
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53–209	(869–026–00011–5)	25.00	Jan. 1, 1995
210–299	(869–026–00012–3)	34.00	Jan. 1, 1995
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[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

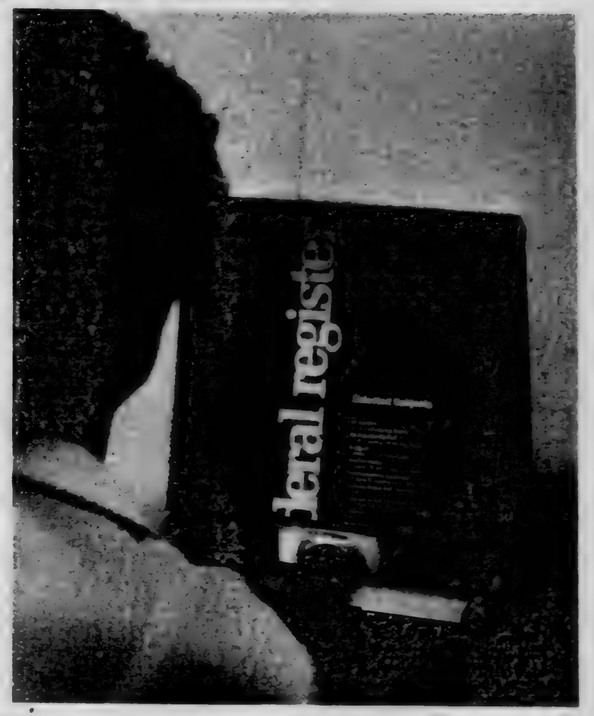
[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1995. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments to this volume were promulgated during the period July 1, 1991 to June 30, 1995. The CFR volume issued July 1, 1991, should be retained.

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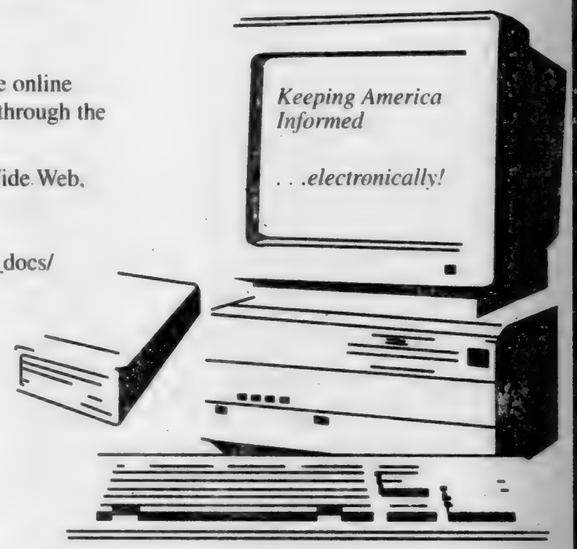
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Presidential Documents

Title 3—

The President

Executive Order 12993 of March 21, 1996

Administrative Allegations Against Inspectors General

Certain executive branch agencies are authorized to conduct investigations of allegations of wrongdoing by employees of the Federal Government. For certain administrative allegations against Inspectors General ("IGs") and, as explained below, against certain staff members of the Offices of Inspectors General ("OIGs"), it is desirable to authorize an independent investigative mechanism.

The Chairperson of the President's Council on Integrity and Efficiency ("PCIE") and the Executive Council on Integrity and Efficiency ("ECIE"), in consultation with members of the Councils, has established an Integrity Committee pursuant to the authority granted by Executive Order No. 12805.

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to ensure that administrative allegations against IGs and certain staff members of the OIGs are appropriately and expeditiously investigated and resolved, it is hereby ordered as follows:

Section 1. *The Integrity Committee.* (a) To the extent permitted by law, and in accordance with this order, the Integrity Committee shall receive, review, and refer for investigation allegations of wrongdoing against IGs and certain staff members of the OIGs.

(b) The Integrity Committee shall consist of at least the following members:

(1) The official of the Federal Bureau of Investigation ("FBI") serving on the PCIE, as designated by the Director of the FBI. The FBI member shall serve as Chair of the Integrity Committee.

(2) The Special Counsel of the Office of Special Counsel;

(3) The Director of the Office of Government Ethics;

(4) Three or more IGs, representing both the PCIE and the ECIE, appointed by the Chairperson of the PCIE/ECIE.

(c) The Chief of the Public Integrity Section of the Criminal Division of the Department of Justice, or his designee, shall serve as an advisor to the Integrity Committee with respect to its responsibilities and functions in accordance with this order.

Sec. 2. *Referral of Allegations.* (a) The Integrity Committee shall review all allegations of wrongdoing it receives against an IG who is a member of the PCIE or ECIE, or against a staff member of an OIG acting with the knowledge of the IG or when the allegation against the staff person is related to an allegation against the IG, except that where an allegation concerns a member of the Integrity Committee, that member shall recuse himself from consideration of the matter.

(b) An IG shall refer any administrative allegation against a senior staff member to the Integrity Committee when:

(1) review of the substance of the allegation cannot be assigned to an agency of the executive branch with appropriate jurisdiction over the matter; and

(2) the IG determines that an objective internal investigation of the allegation, or the appearance thereof, is not feasible.

(c) The Integrity Committee shall determine if there is a substantial likelihood that the allegation, referred to it under paragraphs (a) or (b) of this section, discloses a violation of any law, rule or regulation, or gross mismanagement, gross waste of funds or abuse of authority and shall refer the allegation to the agency of the executive branch with appropriate jurisdiction over the matter. However, if a potentially meritorious administrative allegation cannot be referred to an agency of the executive branch with appropriate jurisdiction over the matter, the Integrity Committee shall certify the matter to its Chair, who shall cause a thorough and timely investigation of the allegation to be conducted in accordance with this order.

(d) If the Integrity Committee determines that an allegation does not warrant further action, it shall close the matter without referral for investigation and notify the Chairperson of the PCIE/ECIE of its determination.

Sec. 3. *Authority to Investigate.* (a) The Director of the FBI, through his designee serving as Chairperson of the Integrity Committee, is authorized and directed to consider and, where appropriate, to investigate administrative allegations against the IGs and, in limited cases as described in sections 2(a) and 2(b) above, against other staff members of the OIGs, when such allegations cannot be assigned to another agency of the executive branch and are referred by the Integrity Committee pursuant to section 2(c) of this order.

(b) At the request of the Director of the FBI, through his designee serving as Chairperson, heads of agencies and entities represented in the PCIE and ECIE may, to the extent permitted by law, provide resources necessary to the Integrity Committee. Employees from those agencies and entities will be detailed to the Integrity Committee, subject to the control and direction of the Chairperson, to conduct an investigation pursuant to section 2(c): *Provided,* that such agencies or entities shall be reimbursed by the agency or entity employing the subject of the investigation. Reimbursement for any costs associated with the detail shall be consistent with applicable law, including but not limited to the Economy Act (31 U.S.C. 1535 and 1536), and subject to the availability of funds.

(c) Nothing in the above delegation shall augment, diminish, or otherwise modify any existing responsibilities and authorities of any other executive branch agency.

Sec. 4. *Results of Investigation.* (a) The report containing the results of the investigation conducted under the supervision of the Chair of the Integrity Committee shall be provided to the members of the Integrity Committee for consideration.

(b) With respect to those matters where the Integrity Committee has referred an administrative allegation to an agency of the executive branch with appropriate jurisdiction over the matter, the head of that agency shall provide a report to the Integrity Committee concerning the scope and results of the inquiry.

(c) The Integrity Committee shall assess the report received under (a) or (b) of this section and determine whether the results require forwarding of the report, with Integrity Committee recommendations, to the Chairperson of the PCIE/ECIE for resolution. If the Integrity Committee determines that the report requires no further referral or recommendations, it shall so notify the Chairperson of the PCIE/ECIE.

(d) Where the Chairperson of the PCIE/ECIE determines that dissemination of the report to the head of the subject's employing agency or entity is appropriate, the head of the agency or entity shall certify to the Chairperson of the PCIE/ECIE within sixty 60 days that he has personally reviewed the report, what action, if any, has been or is to be taken, and when any action taken will be completed. The PCIE/ECIE Chairperson may grant the head of the entity or agency a 30-day extension when circumstances necessitate such extension.

(e) The Chairperson of the PCIE/ECIE shall report to the Integrity Committee the final disposition of the matter, including what action, if any, has been

or is to be taken by the head of the subject's employing agency or entity. When the Integrity Committee receives notice of the final disposition, it shall advise the subject of the investigation that the matter referred to the Integrity Committee for review has been closed.

Sec. 5. *Procedures.* (a) The Integrity Committee, in conjunction with the Chairperson of the PCIE/ECIE, shall establish the policies and procedures necessary to ensure consistency in conducting investigations and reporting activities under this order.

(b) Such policies and procedures shall specify the circumstances under which the Integrity Committee, upon review of a complaint containing allegations of wrongdoing, may determine that an allegation is without merit and therefore the investigation is unwarranted. A determination by the Integrity Committee that an investigation is unwarranted shall be considered the Integrity Committee's final disposition of the complaint.

(c) The policies and procedures may be expanded to encompass other issues related to the handling of allegations against IGs and others covered by this order.

Sec. 6. *Records Maintenance.* All records created and received pursuant to this order are records of the Integrity Committee and shall be maintained by the FBI.

Sec. 7. *Judicial Review.* This order is intended only to improve the internal management of the executive branch and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

William J. Clinton

THE WHITE HOUSE,
March 21, 1996.

[FR Doc. 96-7460
Filed 3-25-96; 8:45 am]
Billing code 3195-01-P

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Presidential Documents

Executive Order 12994 of March 21, 1996

Continuing the President's Committee on Mental Retardation and Broadening Its Membership and Responsibilities

The President's Committee on Mental Retardation, established by Executive Order No. 11280 on May 11, 1966, as superseded by Executive Order No. 11776 on March 28, 1974, has organized national planning, stimulated development of plans, policies and programs, and advanced the concept of community participation in the field of mental retardation.

National goals have been established to:

(1) promote full participation of people with mental retardation in their communities;

(2) provide all necessary supports to people with mental retardation and their families for such participation;

(3) reduce the occurrence and severity of mental retardation by one-half by the year 2010;

(4) assure the full citizenship rights of all people with mental retardation, including those rights secured by such landmark statutes as the Americans with Disabilities Act of 1990, Public Law 101-336 (42 U.S.C. 12101 *et seq.*);

(5) recognize the right of all people with mental retardation to self-determination and autonomy, to be treated in a nondiscriminatory manner, and to exercise meaningful choice, with whatever supports are necessary to effectuate these rights;

(6) recognize the right of all people with mental retardation to enjoy a quality of life that promotes independence, self-determination, and participation as productive members of society; and

(7) promote the widest possible dissemination of information on models, programs, and services in the field of mental retardation.

The achievement of these goals will require the most effective possible use of public and private resources.

NOW, THEREFORE, by the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App. 2), it is hereby ordered as follows:

Section 1. *Committee Continued and Responsibilities Expanded.* The President's Committee on Mental Retardation (the "Committee"), with expanded membership and expanded responsibilities, is hereby continued in operation.

Sec. 2. *Composition of Committee.* (a) The Committee shall be composed of the following members:

(1) The Secretary of Health and Human Services;

(2) The Secretary of Education;

(3) The Attorney General;

(4) The Secretary of Labor;

(5) The Secretary of Housing and Urban Development;

(6) The Chief Executive Officer of the Corporation for National and Community Service (formerly ACTION);

(7) The Commissioner of Social Security;

(8) The Chair of the Equal Employment Opportunity Commission;

(9) The Chairperson of the National Council on Disability;

(10) No more than 21 other members who shall be appointed to the Committee by the President. These citizen members shall consist of individuals who represent a broad spectrum of perspectives, experience, and expertise on mental retardation, and shall include self-advocates with mental retardation and members of families with a child or adult with mental retardation, and persons employed in either the public or the private sector. Except as the President may from time to time otherwise direct, appointees under this paragraph shall have two-year terms, except that an appointment made to fill a vacancy occurring before the expiration of a term shall be made for the balance of the unexpired term.

(b) The President shall designate the Chair of the Committee from the 21 citizen members. The Chair shall advise and counsel the Committee and represent the Committee on appropriate occasions.

Sec. 3. *Functions of the Committee.* (a) The Committee shall provide such advice and assistance in the area of mental retardation as the President or Secretary of Health and Human Services may request, and particularly shall advise with respect to the following areas:

(1) evaluating and monitoring the national efforts to establish appropriate policies and supports for people with mental retardation;

(2) providing suggestions for improvement in the delivery of mental retardation services, including preventive services, the promulgation of effective and humane policies, and the provision of necessary supports;

(3) identifying the extent to which various Federal and State programs achieve the national goals in mental retardation described in the preamble to this order and have a positive impact on the lives of people with mental retardation;

(4) facilitating liaison among Federal, State, and local governments, foundations, nonprofit organizations, other private organizations, and citizens concerning mental retardation;

(5) developing and disseminating such information as will tend to reduce the incidence and severity of mental retardation; and

(6) promoting the concept of community participation and development of community supports for citizens with mental retardation.

(b) The Committee shall make an annual report, through the Secretary of Health and Human Services, to the President concerning mental retardation. Such additional reports may be made as the President may require or as the Committee may deem appropriate.

Sec. 4. *Cooperation by Other Agencies.* To assist the Committee in providing advice to the President, Federal departments and agencies requested to do so by the Committee shall designate liaison officers to the Committee. Such officers shall, on request by the Committee, and to the extent permitted by law, provide the Committee with information on department and agency programs that do contribute to or could contribute to achievement of the President's goals in the field of mental retardation.

Sec. 5. *Administration.* (a) The Department of Health and Human Services shall, to the extent permitted by law, provide the Committee with necessary staff, administrative services, and facilities and funding.

(b) Each member of the Committee, except any member who receives other compensation from the United States Government, may receive compensation for each day he or she is engaged in the work of the Committee, as authorized by law (5 U.S.C. 3109), and may also receive travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5701-5707), for persons employed intermittently in the Government service.

Committee members with disabilities may be compensated for attendant expenses, consistent with Government procedures and practices.

(c) The Secretary of Health and Human Services shall perform such other functions with respect to the Committee as may be required by the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App. 2), except that of reporting to the Congress.

Sec. 6. *Construction.* Nothing in this order shall be construed as subjecting any Federal agency, or any function vested by law in, or assigned pursuant to law to, any Federal agency, to the authority of the Committee or as abrogating or restricting any such function in any manner.

Sec. 7. *Superseded Authority.* Executive Order No. 11776 is hereby superseded.

William J. Clinton

THE WHITE HOUSE,
March 21, 1996.

[FR Doc. 96-7461
Filed 3-25-96; 8:45 am]
Billing code 3195-01-P

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Rules and Regulations

Federal Register
Vol. 61, No. 59
Tuesday, March 26, 1996

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

APPALACHIAN REGIONAL COMMISSION

5 CFR Part 1900

Repeal of Employee Responsibilities and Conduct Regulations for Appalachian Regional Commission Federal Employees (Federal Staff); Correction

AGENCY: Appalachian Regional Commission.

ACTION: Final rule; correction.

SUMMARY: The Appalachian Regional Commission is correcting one erroneous citation in its employee responsibilities and conduct regulation published on December 7, 1995.

EFFECTIVE DATE: This final rule is effective March 26, 1996.

FOR FURTHER INFORMATION CONTACT: Guy Paul Land, Counsel to the Federal Co-Chairman, Appalachian Regional Commission, 1666 Connecticut Avenue NW., Washington, D.C. 20235, 202–884–7660.

SUPPLEMENTARY INFORMATION: The Appalachian Regional Commission is correcting one erroneous citation to the Office of Government Ethics (OGE) executive branchwide standards of ethical conduct regulation which appeared in the ARC's revision to 5 CFR Part 1900, published in the **Federal Register** of Thursday, December 7, 1995, on page 62702. The OGE executive branchwide standards of ethical conduct regulation was erroneously cited as codified at CFR Part 3635. This final rule corrects that citation to read 5 CFR Part 2635.

Administrative Procedure Act

Pursuant to 5 U.S.C 553(b), the Appalachian Regional Commission finds good cause exists for waiving the general notice of proposed rulemaking as to this final rule. The notice is being waived because this rulemaking relating to ARC Federal employees concerns matters of agency organization, practice and procedure. Further, it is in the public interest that the citation be corrected as soon as possible.

Executive Order 12866

In promulgating this final regulation, the Appalachian Regional Commission has adhered to the regulatory philosophy and the applicable principles of regulation set forth in section 1 of Executive Order 12866, Regulatory Planning and Review. This final rule has not been reviewed by the Office of Management and Budget under that Executive order, since it deals with agency organization, management, and personnel matters and is not in any event deemed "significant" thereunder.

Regulatory Flexibility Act

The Appalachian Regional Commission has determined under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this regulation will not have a significant impact on small business entities because it affects only ARC Federal employees.

Paperwork Reduction Act

The Appalachian Regional Commission has determined that the Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because this regulation does not contain any information collection requirements that require the approval of the Office of Management and Budget.

List of Subjects in 5 CFR Part 1900

Conflict of interest, Government employees.

Approved: February 29, 1996.

Jesse L. White, Jr.,

Federal Co-Chairman, Appalachian Regional Commission.

For the reasons set forth in the preamble, the final rule published on December 7, 1995 (60 FR 62702) is corrected as follows:

§ 1900.100 [Corrected]

On page 62702, in the third column, in § 1900.100, "5 CFR part 3635" is corrected to read "5 CFR part 2635".

[FR Doc. 96–6607 Filed 3–25–96; 8:45 am]
BILLING CODE 6130–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 944, 980 and 999

[Docket Nos. FV93–944–3FIR, FV93–980–1FIR and FV93–999–1FIR]

Exemptions From Import Regulations for Specified Fruit, Vegetable and Specialty Crop Commodities

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule finalizes, with modifications, two interim final rules which exempt imported fresh fruit, vegetable and specialty crop commodities from grade, size, quality, and maturity requirements if those commodities are to be used in certain specified outlets. The exemptions correspond to exemptions in effect for the same commodities regulated under Federal marketing orders. This rule also finalizes, with modifications, safeguard procedures which were added to import regulations to assure that imported fresh commodities are utilized only in such specified exempt outlets. This rule also deletes import requirements for Tokay grapes. This rule is implemented in accordance with section 8e of the Agricultural Marketing Agreement Act of 1937 to make the import regulations more consistent with applicable domestic marketing order exemptions and with the North American Free Trade Agreement (NAFTA). Exempt uses include, but are not limited to, processing, livestock feed, and donation to charity.

EFFECTIVE DATE: May 28, 1996.

FOR FURTHER INFORMATION CONTACT: Barbara Schulke or Bill Addington, telephone (202) 720–4607 and (202) 720–2412 respectively, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, Fax (202) 720–5698.

SUPPLEMENTARY INFORMATION: This rule is issued under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674) (Act), which provides that whenever certain specified commodities, including avocados, grapefruit, kiwifruit, limes, olives, oranges, table grapes, potatoes, onions, tomatoes, dates

and walnuts, are regulated under a Federal marketing order, imports of those commodities must meet the same or comparable grade, size, quality, and maturity requirements as those in effect for the domestically produced commodities.

The Act further provides that when two or more marketing orders for the same commodity produced in different areas are in effect, the imported commodity must meet the same grade, size, quality, and maturity requirements as the commodity produced in the area with which the imported commodity is in most direct competition.

Some marketing orders provide exemptions for commodities sold at roadside stands, shipped directly to consumers, or exported. However, such exemptions are not issued for commodities offered for importation because such outlets are not applicable to import regulations.

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility. Import regulations issued under the Act are based on those established under Federal marketing orders.

The following are updated estimates of the number of importers who may be affected by this final rule: avocados—147, grapefruit—96, kiwifruit—110, limes—147, olives—15, oranges—96, table grapes—80, potatoes—74, onions—148, tomatoes—142, dates—164, and walnuts—6. Small agricultural service firms, which include importers and processors of these commodities, have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5 million. The majority of these importers may be classified as small entities.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

In accordance with section 8e, imported commodities destined for processing must be given the same or comparable treatment as that afforded domestic commodities destined for processing. The Federal marketing orders covering avocados, grapefruit, kiwifruit, limes, olives, oranges, table grapes, potatoes, onions and tomatoes provide exemptions from established quality and size requirements if the commodity is to be used in certain processing outlets. This final rule provides similar exemptions for imported products destined for processing.

Marketing Order No. 926 regulating Tokay Grapes Grown in San Joaquin County, California, has been terminated by the Department at the request of the order's Industry Committee. Thus, the import requirements for Tokay grapes established under section 8e of the Act are also terminated. This final rule removes all references to Tokay grapes that appeared in the interim final rule (58 FR 69182).

This rule finalizes exemptions for imported commodities to be utilized in other exempt outlets. These exemptions are consistent with section 8e of the Act which requires imported commodities to meet the same or comparable requirements established under the domestic marketing orders for the commodities. This rule finalizes, with modifications, amendments to the following 7 CFR sections:

944.28 Avocado import grade regulation,
944.31 Avocado import maturity regulation,
944.106 Grapefruit import regulation,
944.209 Lime import regulation,
944.312 Orange import regulation,
944.401 Olive regulation,
944.503 Table grape import regulation,
944.550 Kiwifruit import regulation,
980.1 Import regulations; Irish potatoes,
980.117 Import regulations; onions,
980.212 Import regulations; tomatoes,
999.1 Regulation governing the importation of dates, and
999.100 Regulation governing imports of walnuts.

Safeguard provisions, added by the interim final rules as §§ 944.350, 980.501, and 999.500, are modified in this final rule to provide that imported commodities not meeting grade, size, quality, and maturity requirements can be utilized in specified exempt outlets.

The two interim final rules were issued on December 23, 1993, and published in the **Federal Register** (58 FR 69182 and 69186, December 30, 1993) with an effective date of January 1, 1994. The two rules amended 7 CFR parts 944, 980 and 999 and provided a two-month comment period which ended February 28, 1994. A minor correction to part 944 was issued on January 31, 1994 (59 FR 4245). At the request of industry members, the Department reopened the comment period for one additional month (59 FR 11529, March 11, 1994) for both interim final rules. The reopened comment period closed April 11, 1994.

Thirty five comments were received. Thirty four comments opposed various aspects of the two interim final rules and one comment favored the interim final rules. The primary concern of most commenters was the use of exemptions by processors. Thirty comments were from members of, or on behalf of, the potato, onion and tomato industries in the United States. The one favorable comment was received from the Canadian Produce Marketing Association.

Several commenters questioned the Department's commitment to the safeguard program. They claimed that there is no plan to monitor exempt shipments and that the AMS lacks personnel to enforce compliance of the program.

The AMS is responsible for administering Federal fruit, vegetable, and specialty crop marketing order programs and the corresponding import regulations. A number of different resources are being utilized to implement and monitor the safeguard program, including the Fruit and Vegetable Division's (Division) Marketing Order Administration Branch (MOAB) (which monitors exempt entries), the inspection services of Fresh Products Branch and Processed Products Branch and the AMS Compliance Staff. The Department's Animal and Plant Health Inspection Service (APHIS), and the U.S. Customs Service (Customs Service) also must review and clear all agricultural shipments prior to entry into the United States. This rule does not supersede the Federal Plant Quarantine Act of 1912, the Federal Food, Drug, and Cosmetic Act, or any other applicable laws or food and sanitary regulations of city, county, state or Federal agencies.

Every attempt is made to keep importers, known processors, and other exempt receivers aware of these rules and the safeguard procedures. The interim final rules, exemption forms and updated import summary sheets for the affected commodities have been sent to all known importers and processors.

Additional exemption forms are sent immediately upon request.

A compliance plan has been developed utilizing follow-up telephone calls and spot compliance checks of exempt outlets. Division personnel currently make telephone calls to importers and customs brokers who initiate the FV–6 "Importer's Exempt Commodity Form" (FV–6 or FV–6 forms) and calls to exempt receivers who must certify receipt and disposition of the exempt shipments. The FV–6 was established under the interim final rule as an integral part of the safeguard reporting procedures. This final rule modifies the FV–6 (below).

Experience over the last year indicates that the notification process outlined in the interim final rules (58 FR pages 69182 and 69186, December 30, 1993) should be modified to ensure that the Department is aware of all shipments entered as exempt under 8e provisions. Under a Memorandum of Understanding between the AMS and the Customs Service, AMS will be provided import data on all entries of 8e commodities. The MOAB has worked with the fresh and processed products inspection offices and the Customs Service to coordinate efforts for an effective 8e compliance program. In addition, MOAB maintains an extensive and comprehensive list of importers, customs brokers and receivers for mailing and field audits. Division representatives attend regional and national importers and customs brokers meetings to educate importers and Customs Service officials on the requirements of the Act. MOAB enters and reconciles data from the FV–6 forms, Customs Service data, and the inspection service offices, and the PIERS report (Port, Import/Export Reporting Service) to identify lots which enter ports under the exemption rule.

Some commenters asked what penalties would be applied to those who violate the safeguard procedures. The compliance plan provides for on-the-spot inspections and checks of processors and other exempt outlet receivers to gather evidence of violations. Pursuant to section 8e of the Act, the Department can bring legal action against those who violate import regulations. Penalties may be assessed under section 608a(5). Upon conviction, penalties as prescribed in 608c(14)(A) also may be imposed. Section (14)(A) provides for fines from $50 to $5,000 per violation, per day, for those convicted of violating regulations, including import regulations. In addition, section 608c(14)(B) provides for administrative adjudication to issue civil penalties of up to $1,000 per day, per violation, against importers and exempt receivers who violate the import regulations, including safeguard procedures.

Further, using Customs Service regulatory authorities (19 CFR part 113), the AMS can also request the Customs Service to demand redelivery of a lot imported as exempt under section 8e if certification of exempt use has not been received by the AMS. Failure to redeliver the lot is punishable by a penalty of three times the value of the shipment. The AMS is developing a computerized data base to identify exempt shipments for which the reporting process has not been completed within specified time frames. This rule does not supersede or replace Customs Service entry procedures.

A few commenters, evidently referring to the $1,000 fine cited on the exemption form, stated that $1,000 is not a sufficient deterrent to prevent some from violating the safeguard procedures. However, the $1,000 fine is for making false statements on the form. False representation to any Federal agency on any matter within its jurisdiction, knowing it to be false, is a criminal offense and a violation of 18 U.S.C. 1001 which provides for a fine or imprisonment or both.

The Department is fully committed to enforcing the import regulations.

Most of the commenters questioned whether the safeguard procedures would prevent substandard product from entering fresh marketing channels. With modifications implemented in this final rule, the Department believes that the enhanced safeguard procedures represent practicable, aggressive, and effective procedures for monitoring exempt shipments. In addition, the management staffs of many marketing orders follow similar procedures in monitoring and enforcing special purpose shipment provisions relating to their respective commodities.

A few commenters suggested that the marketing order committees should be allowed to assist the Department with enforcement activities. The Department is responsible for enforcing import regulations and cannot delegate that compliance activity to committee managers. However, the Department encourages managers to notify the AMS of suspected violations of safeguard procedures or improper dispositions.

A few commenters contended that the reporting deadlines (15 days at the port of entry and 15 days after receipt by the exempt receiver) are too long for the Department to effectively monitor the disposition of lots. They stated that during the 15-day reporting period an exempt lot could easily be disposed of in fresh market channels and there would be no proof of such illegal activity. The Department agrees that a more timely notification of the release of exempt lots into the United States will enhance the Department's ability to enforce the safeguard procedures and ensure compliance with the import regulations. The time period should be short enough to enable the Department, when conducting on-site inspection of receivers' facilities, to determine ultimate disposition of exempt lots. The Department believes that a two-day reporting period will be sufficient for mailing reports of entry and exempt disposition. Thus, this final rule establishes that original copies of FV–6 forms must be submitted by importers, customs brokers, and exempt receivers, and such copies must be postmarked no later than two days after importation or receipt of the commodity shipment being reported. FV–6 forms must be mailed to the Marketing Order Administration Branch, USDA, AMS, P.O. Box 96456, room 2523–S, Washington, D.C. 20090–6456 (telephone (202) 720–4607. FV–6 forms submitted by fax must be followed by a mailed, original copy of the FV–6. Fax transmissions may be sent to the MOAB at (202) 720–5698.

One commenter suggested that the Act should be changed to allow for regulation of processors. Amendment of the Act would require Congressional action. In any event, the Food and Drug Administration of the Department of Health and Human Services is responsible for regulating the wholesomeness of processed peanut products.

One commenter claimed that the Department has reversed its long-standing position that section 8e requirements cannot be applied to pack and container requirements. However, section 8e of the Act states that imported commodities must meet the grade, size, quality and maturity requirements established under respective marketing orders. Because section 8e does not authorize pack and container requirements, those requirements cannot be applied to imported commodities. The Department has not changed its position on this issue.

Some commenters claimed that the exemptions for processing make it easier for imported culls to be used in local processing markets than domestic culls and that this would have a negative impact on economically depressed production areas that utilize domestically produced culls in processing. However, the objective of this rule is that section 8e import

regulations and the exemption provisions of domestic marketing orders be the same or comparable. An importer who properly files FV–6 forms when using imported culls in processing outlets does not violate the import regulation.

A few commenters stated that import barriers still exist in some countries and that the import exemption rule gives unfair advantage to foreign producers. However, the efficacy of this rule in the United States is not dependent on the absence of trade barriers in other countries. The exemption form may be used for exempt commodities imported from any country. The interim final rules were issued to be consistent with section 8e of the Act, and thus, may be applied to the specified commodities imported from any country.

One commenter, referring to Section A of Annex 703.2 of the NAFTA, stated that the Department "went beyond the specific requirements of the NAFTA by applying the rule to Canada." The Department did not intend to imply that Section A of Annex 703.2 applies to Mexico, Canada and other countries. Implementation of the NAFTA caused the Department to review all 8e provisions applicable to fruits and vegetables. After such review it became apparent that the regulations concerning the 8e commodities covered in this regulation needed to be amended to be consistent with marketing order regulations and requirements, as well as the NAFTA. Therefore, pursuant to Section 8e of the Act and the provisions of the NAFTA, the Department amended its regulations relating to these commodities.

One commenter suggested that new food technologies now tend to blur the distinction between fresh and "fresh processed" activities. To assist the importer or customs broker, specific processes that qualify for exemption are added to the regulatory text (e.g. canning, freezing, dehydrating, etc.) as appropriate for individual commodities. The listing of qualified processes for each commodity should assist importers and customs brokers in determining whether the process designated on the exemption form is considered to be an exempt process. The entries may be updated by future rulemaking, as necessary.

Several commenters suggested that the Department establish a "pre-approved processor" list for each commodity covered in parts 944, 980 and 999. According to the comments, a pre-approved processor list would contain the names of processor companies that have certified to the respective marketing order committee and to the Department that the processor agrees to dispose of exempt shipments only in approved processing operations. Commenters suggested that such lists be used to approve or reject exempt shipments at the port of entry, depending on whether the processor is on the approved list. Commenters suggested that the approval be granted either by the Customs Service, the respective marketing order committee manager, or the Department. However, the Customs Service cannot be expected to maintain a list of approved processors and to refer to it every time an exempt shipment is presented for importation. Oversight of import regulations cannot be delegated to marketing order managers. In response to comments, however, MOAB has obtained approved-processor lists for some commodity committees and is referring to the lists as part of MOAB's compliance procedures when reviewing FV–6 forms.

Some commenters cited phytosanitary concerns in opposing the import exemptions. The commenters believe that exempt shipments would enter the United States and not be subject to APHIS regulations or inspection. However, exempt shipments, including culls removed from reconditioned fresh shipments, continue to be subject to APHIS inspection and certification.

Several commenters complained that the rulemaking procedure used by the Department to issue the two interim final rules was abbreviated and did not provide for adequate industry input. The interim final rules were issued under informal rulemaking procedures used by the Department to implement regulations, and there was good cause not to postpone the effective date of the rule. More than three months were provided for comment on the two interim final rules. The lengthy comment period allowed interested persons time to comment on the interim final rules and also provided the Department with more opportunity to monitor and evaluate the safeguard procedures in operation.

Finally, customs brokers complained that they have no control over the ultimate disposition of exempt lots and, thus, should not be expected to certify as to the ultimate disposition of the lot. However, certification by either the importer or customs broker is needed to provide some validity to the safeguard procedure. Importers and customs brokers are responsible for seeking out and representing clients who will act in accordance with law. If a customs broker cannot, in good faith, certify as to the eventual exempt usage, then that person should not act as the agent of the importer.

On the basis of comments received, review of ongoing safeguard procedures, and review of the exemption form, the Department clarifies and modifies some requirements and procedures specified on the FV–6 form. These clarifications and modifications are intended to eliminate confusion when completing the exemption form, improve the functioning of the safeguard process, and improve the compliance capability of the Department.

This final rule establishes that the FV–6, Importer's Exempt Commodity Form will be sequentially numbered. Sequentially numbered forms will enable the Department to better monitor use of the form by importers and brokers and enhance compliance efforts by the Department. The new forms will be mailed to all known importers, customs brokers and inspection service offices serving major ports of entry. Use of the new forms must begin no later than 60 days after publication of this final rule in the **Federal Register**. During unforeseen or emergency situations, a special, sequentially numbered FV–6 form can be faxed to an importer or customs broker for one-time use. Additional copies of the new FV–6 form and single use copies are available on request by calling (202) 720–6585 or sending a fax to (202) 720–5698.

Under initial instructions, the white copy (#1) was to be retained by the Customs Service office at the port of entry upon entry. Under this final rule, the importer or customs broker must present the FV–6 to the Customs Service at the port of entry with Section I completed. The importer or customs broker then retains the white Copy 1 of the FV–6 as a record of the exempt entry. Further distribution of the form remains unchanged—the yellow Copy 2 is forwarded to the AMS and the pink Copy 3 is forwarded to the exempt outlet receiver with the exempt shipment.

The FV–6 is used when an entire lot (in bags or bulk) is imported exempt from quality requirements and shipped directly to an exempt outlet. An importer or customs broker usually arranges or facilitates the business transaction between a foreign producer (seller) and the domestic processor or other exempt entity. In these instances, the importer or customs broker is responsible for initiating the FV–6 form and the exempt user is the buyer.

An 8e commodity imported for fresh market use must be inspected and certified as meeting fresh market quality requirements. Prior to issuance of the two interim final rules in this rulemaking procedure, if an imported 8e commodity shipment failed to meet applicable quality requirements, the importer had three options: (1) Export; (2) destroy the lot under inspection supervision; or (3) recondition the lot and return or destroy the culls. This rule provides another option for the importer. The FV–6 may be used to ship a failing lot, or the culls from a reconditioned lot, to an exempt outlet.

The "Date and Place of Inspection" entry (Item 2 on the FV–6 form) is to be completed only when a lot imported for fresh market use is inspected and all or a portion of the lot is subsequently sent to an exempt outlet. Item 2 would include the fresh inspection certificate number of the inspection performed on the lot. Some importers and customs brokers have not completed item 2 with this information or provided a copy of the inspection certificate when using the FV–6 form to import a lot failing fresh market quality requirements. In addition to filing an FV–6 form, the importer should also file a copy of the inspection certificate applicable to the exempt lot.

One FV–6 may be used for multiple deliveries to the same exempt outlet, if the deliveries are made at the same time. In such instances, item 4, "Vehicle Identification," on the FV–6 must contain the license tag numbers or other identification for each vehicle delivering the exempt shipments. Also, item 7, "Total Quantity Imported," must show the total weight of all loads delivered from the imported lot to the exempt outlet. The receiver who signs Section II of the exemption form for the exempt outlet certifies as to the receipt of all loads listed on the FV–6, the total volume received, and that the disposition is consistent with exempt usage.

If a shipment is entered as exempt and shipped to two or more exempt outlets, an FV–6 must be completed for each exempt shipment and outlet. Each receiver who signs section II of the exemption form for an exempt outlet is certifying receipt of the shipment at that exempt outlet. In such cases, the combined volume of exempt shipments to each outlet must equal the total volume reported on the exemption form.

The quality of product shipped exempt is a business decision between the exporter, importer and processor or other exempt receiver. If an importer or processor receives exempt product below needed quality specifications, the importer or processor could discontinue use of the exemption form and require that further shipments be inspected against applicable import grade, size, quality, or maturity requirements.

An exempt receiver may reject a shipment, send it to an alternate exempt outlet, destroy it, return it to the importer, or export it. It is the responsibility of the importer to notify the MOAB of any such action and final disposition of the shipment. In such cases, a second exemption form must be completed in full and filed with the MOAB. The second FV–6 should be initiated by the exempt receiver and certified by a representative of the alternate exempt outlet or disposition outlet. If the shipment is exported, a copy of the Customs Service export document should be included with the second FV–6.

Under "Total Quantity Imported" (currently item 7), the importer or customs broker must enter, in pounds, the quantity of product being imported as exempt. Other terms of measurement common in some countries or commodity industries, such as kilograms, basket, container, or bulk, must be converted to pounds. This will provide the receiving exempt outlet with a common, measurable term on which to determine that all of the product has been delivered. The conversion to pounds will also assist the Department in its compliance efforts. The weight entered should be only the quantity imported as exempt. In instances where the exempt commodity is the culled sublot of a larger fresh market lot, the weight entered should be only the weight of the exempt sublot.

Under "Intended Use" (currently item 9) the importer or customs broker should enter the type of processing use or other exempt use for which the exempt product is intended. The type of processing should be entered on the line after the word "Type" in item 9. This change is made at the request of commenters and is a modification from the interim final rules which did not require designation of the type of processing or other exempt use. This modification of the form will help the Department monitor exempt shipments.

The Customs Service Entry Number (currently item 10a) and the Harmonized Tariff Code Number (currently item 10b) must be entered on each exemption form. These data enable the Department to obtain a baseline of exempt shipments released by the Customs Service and, thus, are essential to the Department's monitoring and compliance responsibilities.

After consideration of comments received and evaluation of safeguard procedures, the Department finalizes the two interim final rules and makes minor modifications and additions to individual commodity import regulations for consistency and clarity. Discussions regarding fruit crop import regulations under 7 CFR part 944 follow.

Avocados

The avocado import grade regulation (7 CFR 944.28) is based on those in effect for avocados grown in Florida under Marketing Order No. 915 throughout the year. Under Marketing Order No. 915 any person may handle avocados without regard to established grade, size, quality, or maturity requirements provided that such avocados are handled for (1) consumption by charitable institutions; (2) distribution by relief agencies; (3) commercial processing into products; (4) seed; or (5) individual shipments of up to 55 pounds. Prior to issuance of the interim final rule, the only exemption allowed under the avocado import regulation was for individual shipments of up to 55 pounds. This rule finalizes the addition of charitable institutions, distribution by relief agencies, seed, and commercial processing into products to the list of exemptions allowed under the avocado import regulation. Commercial processing includes canning, freezing, dehydrating, drying, the addition of chemical substances, or fermentation.

The Department suspended § 944.31 Avocado import maturity regulation on May 15, 1991 (56 FR 23009). The suspension was in place at the time of issuance of the import exemption interim final rule (58 FR 69182, December 23, 1993). Subsequently, the Department issued a proposed rule on April 4, 1994 (59 FR 15661) to lift the suspension. Because the avocado import maturity regulation was not in effect when the exemption interim final rule was issued, exemptions under § 944.31 were not included in the exemption interim final rule. However, a final rule removing the temporary suspension of avocado import maturity regulation was issued on June 16, 1994 (59 FR 30866). Because the exemptions for imported avocados under § 944.31 maturity regulations also apply to § 944.28 grade regulations, this rule finalizes the addition of charitable institutions, distribution by relief agencies, seed, and commercial processing into products to the list of exemptions allowed under the avocado import maturity regulation.

Grapefruit

The grapefruit import regulation (7 CFR 944.106) is based on those in effect for grapefruit grown in Florida under Marketing Order No. 905 throughout the year. Under Marketing Order No. 905, any person may handle grapefruit without regard to established grade, size, quality, or maturity requirements

provided that such grapefruit are handled for (1) consumption by charitable institutions; (2) distribution by relief agencies; (3) commercial processing into canned or frozen products or into a beverage base; (4) animal feed; or (5) individual shipments of up to 15 standard packed cartons (12 bushels). Prior to issuance of the interim final rule, the only exemption allowed under the grapefruit import regulation was that for individual shipments of up to 15 standard packed cartons (12 bushels). This rule finalizes the addition of charitable institutions, distribution by relief agencies, commercial processing into canned or frozen products or into a beverage base, and animal feed to the list of exemptions allowed under the grapefruit import regulation.

Limes

The lime import regulation (7 CFR 944.209) is based on those in effect for limes grown in Florida under Marketing Order No. 911 throughout the year. Under Marketing Order No. 911 any person may handle limes without regard to established grade, size, quality, or maturity requirements provided that such limes are handled for (1) consumption by charitable institutions; (2) distribution by relief agencies; (3) commercial processing into products; or (4) individual shipments of up to 55 pounds. Prior to issuance of the interim final rule, the only exemption allowed under the lime import regulation was that for individual shipments of up to 250 pounds. This rule finalizes the addition of charitable institutions, distribution by relief agencies, and commercial processing into products to the list of exemptions allowed under the lime import regulation. Commercial processing includes canning, freezing, dehydrating, drying, the addition of chemical substances, or fermentation. Limes imported for conversion into juice without further processing or preservative treatment are deemed fresh limes and may not be imported exempt from inspection requirements.

Oranges

The orange import regulation (7 CFR 944.312) is based on those in effect for oranges grown in Texas under Marketing Order No. 906 throughout the year. Under Marketing Order No. 906 any person may handle oranges without regard to established grade, size, quality, or maturity requirements provided that such oranges are handled for (1) consumption by charitable institutions; (2) distribution by relief agencies; (3) commercial processing into products; or (4) individual shipments of up to 400 pounds. Prior to issuance of the interim final rule, the only exemption allowed under the orange import regulation was that for individual shipments of up to ten 7/10 bushels (400 pounds). In addition, Marketing Order No. 906 requires handlers to certify to the order's committee that receiving processors have no facilities, equipment, or outlet to repack or sell fruit in fresh form (§ 906.123(b)(7)). This final rule adds a corresponding proviso to the orange import regulation that oranges, imported as exempt under this regulation, cannot be shipped to processors who have facilities, equipment, or outlets to repack or sell fruit in fresh form. This rule finalizes the addition of charitable institutions, distribution by relief agencies, and commercial processing into products to the list of exemptions allowed under the orange import regulation.

The minimum grade requirement for oranges under the orange import regulation (7 CFR 944.312) was suspended effective October 24, 1991 (56 FR 55983) but was not addressed in the interim final rule because the minimum grade requirement was not directly affected by the exemptions. That minimum grade requirement was reinstated on May 12, 1994 (59 FR 25791), at the same U.S. No. 2 grade that was effective for imported oranges prior to suspension in 1991. The reinstatement rule also amended the definition of the term "oranges" and changed the minimum quantity exemption from "ten 7/10 bushels," which is the equivalent of 420 pounds, to 400 pounds. This final rule reflects the changes established in the reinstatement action.

Olives

The olive import regulation (7 CFR 944.401) is based on those in effect for olives grown in California under Marketing Order No. 932 throughout the year. Under Marketing Order No. 932 any person may handle olives without regard to established grade, size, quality, or maturity requirements provided that such olives are handled for processing into oil or donated to charitable institutions. Although there is no minimum quantity exemption for olives regulated under Marketing Order No. 932, an exemption is allowed under the olive import regulation for individual shipments up to 100 pounds. This rule finalizes the addition of processing into oil and donations to charitable institutions to the list of exemptions allowed under the olive import regulation.

This rule also replaces the original text in paragraph (c) of § 944.401 concerning procedures for importing olives and the Department offices contacted prior to importation. The interim final rule published December 30, 1993 (58 FR 69186) inadvertently omitted the procedures and offices specified in the latter portion of paragraph (c). This rule replaces, without change, the procedures to be followed and updates the office addresses and numbers to be contacted prior to importation.

Table Grapes

The table grape import regulation (7 CFR 944.506) is based on those in effect for table grapes grown in southeastern California under Marketing Order No. 925 from April 20 through August 15. Under Marketing Order No. 925 any person may handle table grapes without regard to established grade, size, quality, or maturity requirements provided that such table grapes are handled for processing into products. Currently, no imported shipments of table grapes are exempt from the import regulations. This rule finalizes the addition of processing into products as an exemption allowed under the table grape import regulation.

Kiwifruit

The kiwifruit import regulation (7 CFR 944.550) is based on those in effect for kiwifruit grown in California under Marketing Order No. 920 throughout the year. Under Marketing Order No. 920 any person may handle kiwifruit without regard to established grade, size, quality, or maturity requirements provided that such kiwifruit is handled for (1) Consumption by charitable institutions; (2) distribution by relief agencies; (3) commercial processing into products; or (4) individual shipments of up to 200 pounds. Prior to issuance of the interim final rule, the only exemption allowed under the kiwifruit import regulation was that for individual shipments of up to 200 pounds. This rule finalizes the addition of charitable institutions, distribution by relief agencies, and commercial processing into products to the list of exemptions allowed under the kiwifruit import regulation. For the purposes of this section, *commercial processing into products* means that the kiwifruit is physically altered in form or chemical composition through freezing, canning, dehydrating, pulping, juicing, or heating of the product. The act of slicing, dicing, or peeling shall not be considered commercial processing into products.

This rule also makes minor modifications to the section titles of some fruit crop import regulations. In the past, the Department issued separate, annual import regulations that were sequentially numbered. However, the import regulations are now issued on a continuing basis and are amended only as necessary. The section number for each import regulation remains the same and, thus, the numerical designations at the end of the titles are no longer needed. Also, to be consistent with **Federal Register** guidelines, the titles are changed by removing the capitalization of some words. These changes have no material effect on the import regulations.

The following vegetable crop import regulations are covered under 7 CFR part 980.

Potatoes

The import grade regulation for potatoes (7 CFR 980.1) is based on marketing orders in effect for potatoes grown in five different potato production areas in Idaho and Oregon (MO 945), Washington (MO 946), Oregon-California (MO 947), Colorado (MO 948), and the Southeastern United States (MO 953). Under one or more of these orders, any person may handle potatoes exempt from established grade, size, quality, and maturity requirements, provided that such potatoes are used for (1) Processing, (2) livestock feed, (3) charity or relief, (4) certified seed, (5) export, or (6) limited quantity shipments ranging from 500 to 1,000 pounds, depending on the individual order. Processing includes canning, freezing, dehydration, chips, shoestrings, starch and flour. Processing does not include potatoes that are only peeled, or cooled, sliced, diced, or treated to prevent oxidation. The Department has determined that fresh use food service product, such as fresh use potato salad, is not processing. Potatoes made into canned product, such as canned potato salad, would be considered processing and thus, can be imported as exempt. Prior to issuance of the interim final rule, the potato import regulation provided exemptions only for certified seed and minimum quantity shipments of 500 pounds. This rule finalizes the addition of year-round exemptions, subject to certain safeguard provisions, for potatoes used for: (1) canning, freezing, or other processing, (2) livestock feed, and (3) charity or relief. The safeguard provisions are specified in § 980.501.

Onions

The import grade regulation for onions (7 CFR 980.117) is based on marketing orders in effect for onions grown in two different onion production areas in Idaho and Oregon (MO 958), and Texas (MO 959). Under one or both of these orders, any person may handle onions exempt from established grade, size, quality, and maturity requirements, provided that such onions are used for (1) processing, (2) livestock feed, (3) charity and relief, (4) plantings, or (5) limited quantity shipments ranging from 110 to 2,000 pounds, depending on the individual marketing order. Pearl onions not exceeding a maximum size may be imported exempt from all but size requirements. Inspection is required to determine that such onions do not exceed maximum size requirements. Processing includes canning, freezing, dehydration, extraction (juice) and pickling in brine. Processing does not include fresh chop, fresh cut, convenience food or other pre-packaged salad operations. Prior to issuance of the interim final rule, the onion import regulation provided exemptions for processed onions (dehydrated, canned, frozen and pickled in brine), green onions, onion sets (plantings), braided red onions, and for minimum quantity shipments of 110 pounds. This rule finalizes the addition of year-round exemptions, subject to certain safeguard provisions, for onions used for livestock feed, charity or relief, processing, and pearl onions. Marketing Order 958 exempts pearl onions which are smaller sized onions produced using specific cultural practices and are not larger than 1¾ inches in diameter. Because of the maximum size limitation, pearl onions imported exempt pursuant to these regulations must be inspected against the 1¾ inch diameter maximum size requirement prior to being released by the Customs Service. For clarity and consistency, this finalization also adds the size limit of pearl onions to the definition in paragraph (h), and other types of exempt onions to the definition for processing in paragraph (i). The safeguard provisions are specified in § 980.501.

Tomatoes

The import grade regulation for tomatoes (7 CFR 980.212) is based on the marketing order in effect for tomatoes grown in Florida (MO 966). Under that order, any person may handle tomatoes exempt from established grade, size, and maturity requirements, provided that such tomatoes are used for (1) processing, (2) charity, (3) relief, (4) export, (5) experimental purposes, (6) pear shaped (elongated), cherry, green house or hydroponic tomatoes, or (7) limited quantity shipments of 50 pounds per day. Prior to issuance of the interim final rule, the tomato import regulation provided exemptions for experimental purposes, shipments of 60 pounds, and pear shaped, cherry, hydroponic, and greenhouse tomatoes. This rule finalizes the addition of exemptions, subject to certain safeguard provisions, for tomatoes used for processing (canning and pickling), charity and relief. The safeguard provisions are specified in § 980.501.

The following specialty crop import regulations are covered under 7 CFR part 999.

Dates

The import regulation for dates (7 CFR 999.1) is based on the marketing order in effect for dates produced or packed in Riverside County, California (MO 987). Under that order, any person may handle dates exempt from established grade requirements, if such dates are donated to "needy persons, prisoners, or Native Americans on reservations." Prior to issuance of the interim final rule, the date import regulation provided exemptions for: (1) processing (preparing and preserving dates into confection, coating to alter color, chopping, slicing or other processing which alters the form), (2) denatured dates unfit for human consumption, and (3) minimum quantity shipments which in the aggregate do not exceed 70 pounds. This rule finalizes the addition of exemptions, subject to certain safeguard provisions, for dates donated to charity, prisoners, and Native Americans on reservations. The safeguard provisions are specified in § 999.500.

Walnuts

The import grade regulation for walnuts (7 CFR 999.100) is based on the marketing order in effect for walnuts grown in California (MO 984). Under that order, any person may handle walnuts exempt from established grade and size requirements, if such walnuts are: (1) Green (immature), (2) used by charitable institutions, relief agencies or government agencies for school lunch programs, or diverted for animal feed, or oil manufacture, or other noncompetitive outlets. Prior to issuance of the interim final rule, the walnut import regulation provided exemptions from grade and size requirements for minimum quantity shipments of 60 pounds shelled or 115 pounds inshell. This rule finalizes the addition of exemptions, subject to certain safeguard provisions, for green walnuts, and walnuts for charity, relief, school lunch programs, animal feed or oil. The safeguard provisions are specified in § 999.500.

Raisins

Exemptions for raisin imports specified under current import

regulations for raisins (7 CFR part 999.300) are consistent with exemptions under the raisin marketing order and are not affected by this final rule.

Filberts

Exemptions for filbert imports specified under current import regulations for filberts (7 CFR part 999.400) are consistent with exemptions under the filbert/hazelnut marketing order and are not affected by this final rule.

Dried Prunes

Exemptions for dried prune imports specified under current import regulations for prunes (7 CFR part 999.200) are consistent with exemptions under the dried prune marketing order and are not affected by this final rule.

The respective marketing order committees have developed methods to monitor the marketing of the domestically produced exempt commodities from handlers to points of final disposition. Safeguard procedures in the form of reporting requirements and committee management oversight ensure that domestically produced commodities are used in the intended exempt outlets.

Safeguards in domestic marketing orders include two different procedures. A "certificate of privilege" is issued by a committee upon application by a handler. The handler notifies the appropriate marketing order committee of the handler's intent to ship that commodity to a processor, livestock feeder, charity, or other exempted outlet. A "special purpose shipment report" is forwarded by a handler to the receiver. The receiver sends the form to the responsible committee, providing information about the shipment necessary to determine compliance.

Because of the ease with which imported commodities can enter fresh market channels of trade, this rule modifies and finalizes a process to monitor exempt, imported commodities from the port of entry to the point of final disposition.

To provide consistency and ease the reporting burden on importers that deal in several commodities, this rule finalizes a single set of safeguard procedures and a standardized form that can be used for imported avocados, grapefruit, limes, oranges, olives, table grapes, kiwifruit, potatoes, onions, tomatoes, dates and walnuts. The procedure is added in §§ 944.350, 980.501 and 999.500, and is referenced in individual commodity import regulations.

Exemption forms may be obtained from the Marketing Order Administration Branch, USDA, AMS, P.O. Box 96456, room 2523–S, Washington, D.C. 20090–6456 (telephone (202)–720–4607, fax (202)–720–5698).

The exempt form must be mailed within two days of importation and two days of receipt at an exempt outlet. Original copies of the FV–6 must be submitted. Information required on the Importer's Exempt Commodity Form includes: (1) the commodity and the variety (if known) being imported, (2) the date and place of inspection if used to enter failing product or culls as exempt, (include a copy of the inspection certificate), (3) identifying marks or numbers on the containers, (4) identifying numbers on the railroad car, truck or other transportation vehicle transporting product to the receiver, (5) the name and address of the importer, (6) the place and date of entry, (7) the quantity imported (in pounds), (8) the name and address of the intended receiver (processor, feeder, charity, or other exempt receiver), (9) intended use of the exempt commodity, (10) the U.S. Customs Service entry number and harmonized tariff code number, and (11) such other information as may be necessary to ensure compliance with this regulation.

The reporting burden on both importers and receiving entities is minimal and consistent with safeguard procedures imposed on the handling of domestically-produced exempt commodities. In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the information and collection requirements that are contained in this rule have been previously approved by the Office of Management and Budget (OMB) and have been assigned OMB No. 0581–0167.

This rule finalizes increases in the reporting burden on approximately 448 importers of avocados, grapefruit, limes, oranges, olives, table grapes, and kiwifruit and 534 importers of potatoes, onions, tomatoes, dates and walnuts who complete the exemption form. The estimated time for importers to complete the form is 10 minutes. The estimated time for receivers to sign the certification is 5 minutes.

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this final rule.

Based on the above, the Administrator of the AMS has determined that this final rule will not have a significant economic impact on a substantial number of small entities.

This final rule reflects the Department's appraisal of the need to relax the import requirements, with modification as hereinafter set forth, to comply with the terms of NAFTA and to effectuate the declared policy of the Act.

List of Subjects

7 CFR Part 944

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Kiwifruit, Limes, Olives, Oranges

7 CFR Part 980

Food grades and standards, Imports, Marketing agreements, Onions, Potatoes, Tomatoes

7 CFR Part 999

Dates, Filberts, Food grades and standards, Imports, Nuts, Prunes, Raisins, Reporting and recordkeeping requirements, Walnuts.

Accordingly, the two interim final rules amending 7 CFR parts 944, 980 and 999 which were published at 58 FR 69182 and 69186 on December 30, 1993, are adopted as a final rule with the following changes:

PART 944—FRUITS; IMPORT REGULATIONS

1. The authority citation for 7 CFR part 944 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. In § 944.31, paragraphs (f) and (g) are revised to read as follows:

§ 944.31 Avocado import maturity regulation.

* * * * *

(f) Any lot or portion thereof which fails to meet the import requirements, and is not being imported for purposes of consumption by charitable institutions, distribution by relief agencies, seed, or commercial processing into products; prior to or after reconditioning may be exported or disposed of under the supervision of the Federal or Federal-State Inspection Service with the costs of certifying the disposal of such lot borne by the importer.

(g) The maturity requirements of this section shall not be applicable to avocados imported for consumption by charitable institutions, distribution by relief agencies, seed, or commercial processing into products, but such avocados shall be subject to the safeguard provisions contained in § 944.350.

§ 944.209 [Amended]

3. In § 944.209, the last sentence in paragraph (c), the word "handled" is removed and the word "imported" is added in its place.

4. In § 944.312, paragraphs (c) and (h) are revised to read as follows:

§ 944.312 Orange import regulation.

* * * * *

(c) The term *importation* means release from custody of the United States Customs Service. The term *processing* means the manufacture of any orange product which has been converted into sectioned fruit or into fresh juice, or preserved by any commercial process, including canning, freezing, dehydrating, drying, and the addition of chemical substances, or by fermentation.

* * * * *

(h) The grade, size, quality, and maturity requirements of this section shall not be applicable to oranges imported for consumption by charitable institutions, distribution by relief agencies, or processing into products, but shall be subject to the safeguard provisions contained in § 944.350, *Provided that:* oranges, imported as exempt under this regulation, cannot be shipped to processors who have facilities, equipment, or outlets to repack or sell fruit in fresh form.

* * * * *

5. Section 944.350 is revised to read as follows:

§ 944.350 Safeguard procedures for avocados, grapefruit, kiwifruit, limes, olives, oranges, and table grapes exempt from grade, size, quality, and maturity requirements.

(a) Each person who imports:

(1) Avocados, grapefruit, kiwifruit, limes, olives, and oranges for consumption by charitable institutions or distribution by relief agencies;

(2) Avocados, grapefruit, kiwifruit, limes, oranges, and table grapes for processing;

(3) Olives for processing into oil;

(4) Grapefruit for animal feed; or

(5) Avocados for seed shall obtain an "Importer's Exempt Commodity Form" (FV–6 form) from the Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, and shall show the completed "Importer's Exempt Commodity Form" to the U.S. Customs Service Regional Director or District Director, as applicable, at the port at which the customs entry is filed. One copy shall be mailed to the Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA with a postmark no later than two days after the date of importation and a third copy shall accompany the lot to the exempt outlet specified on the form. Any lot offered for inspection and, all or a portion thereof, subsequently imported as exempt under this provision shall be reported on an "Importer's Exempt Commodity Form" and such form, accompanied by a copy of the applicable inspection certificate, shall be mailed to the Marketing Order Administration Branch.

(b) Each person who receives an exempt commodity for the purposes specified in paragraph (a) of this section shall also receive a copy of the same numbered Importer's Exempt Commodity Form filed by the importer or customs broker and shall certify, by completing and signing Section II of the form and mailing the form to the Marketing Order Administration Branch within two days of receipt of the exempt lot, that such lot has been received and will be utilized in the exempt outlet.

(c) It is the responsibility of the importer to notify the Marketing Order Administration Branch of any lot of exempt commodity rejected by a receiver, shipped to an alternative exempt receiver, exported, or otherwise destroyed. In such cases, a second "Importer's Exempt Commodity Form" must be filed by the importer providing sufficient information to determine ultimate disposition of the exempt lot and such disposition shall be so certified by the final receiver.

(d) All FV–6 forms and other correspondence regarding entry of 8e commodities must be mailed to the Marketing Order Administration Branch, USDA, AMS, P.O. Box 96456, room 2523–S, Washington, D.C. 20090–6456, telephone (202)–720–4607. FV–6 forms submitted by fax must be followed by a mailed, original copy of the FV–6 form. Fax transmissions may be sent to the MOAB at (202) 720–5698.

6. In § 944.401, paragraph (c) is revised to read as follows:

§ 944.401 Olive import regulation.

* * * * *

(c) The Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, is hereby designated as the governmental inspection service for the purpose of certifying the grade and size of processed olives from imported bulk lots for use in canned ripe olives and the grade and size of imported canned ripe olives. Inspection by said inspection service with appropriate evidence thereof in the form of an official inspection certificate, issued by the service and applicable to the particular lot of olives, is required. With respect to imported bulk olives, inspection and certification shall be completed prior to use as packaged ripe olives. With respect to canned ripe olives, inspection and certification shall be completed prior to importation. Any lot of olives which fails to meet the import requirements and is not being imported for purposes of contribution to a charitable organization or processing into oil may be exported or disposed of under the supervision of the Processed Products Branch, Fruit and Vegetable Division, AMS, USDA, with the cost of certifying the disposal borne by the importer. Such inspection and certification services will be available, upon application, in accordance with the applicable regulations governing the inspection and certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products (part 52 of this title). Application for inspection of canned ripe olives shall be made not less than 10 days prior to the time when the olives will be imported. Since inspectors are not located in the immediate vicinity of some of the small ports of entry, importers of canned ripe olives shall make arrangements for inspection through the following office at least 10 days prior to the time when the olives will be imported: Processed Products Branch, USDA, AMS, F&V Division, P.O. Box 96456, Room 0726–S, Washington, DC 20090–6456, telephone (202) 720–5021, fax (202) 690–1527. Application for inspection of processed bulk olives shall be made not less than 3 days prior to use in the production of canned ripe olives. Such application shall be made through one of the following offices: Regional Director, Eastern Regional Office, 800 Roosevelt Road, Building A, suite 380 Glen Ellyn, IL 60137, telephone (708) 790–6937/8/9, fax (708) 469–5162; or Regional Director, Western Regional Office, 2202 Monterey Street, suite 102–C, Fresno, CA 93721, telephone (209) 487–5891, fax (209) 487–5900.

* * * * *

7. In § 944.550, paragraph (d) is revised to read as follows:

§ 944.550 Kiwifruit import regulation.

* * * * *

(d) Any lot or portion thereof which fails to meet the import requirements and is not being imported for purposes of consumption by charitable institutions, distribution by relief agencies, or commercial processing into products may be reconditioned or exported. Any failed lot which is not reconditioned or exported shall be disposed of under supervision of the Federal or Federal-State Inspection Service with the costs of certifying the

disposal of said lot borne by the importer.

* * * * *

PART 980—VEGETABLES; IMPORT REGULATIONS

1. The authority citation for 7 CFR part 980 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. In § 980.1, paragraph (i) is revised to read as follows:

§ 980.1 Import regulations; Irish potatoes.

* * * * *

(i) *Exemptions.* The grade, size, quality and maturity requirements of this section shall not be applicable to potatoes imported for canning, freezing, other processing, livestock feed, charity, or relief, but such potatoes shall be subject to the safeguard provisions contained in § 980.501. Processing includes canning, freezing, dehydration, chips, shoestrings, starch and flour. Processing does not include potatoes that are only peeled, or cooled, sliced, diced, or treated to prevent oxidation, or made into fresh potato salad.

3. In § 980.117, paragraph (i) is revised to read as follows:

§ 980.117 Import regulations; onions.

* * * * *

(i) *Exemptions.* The grade, size, quality and maturity requirements of this section shall not be applicable to onions imported for processing, livestock feed, charity, or relief, and pearl onions not larger than 1¾ inches in diameter, onion sets (plantings), braided red onions, and minimum quantity shipments of 110 pounds, but such onions shall be subject to the safeguard provisions in § 980.501. Processing includes canning, freezing, dehydration, extraction (juice) and pickling in brine. Processing does not include fresh chop, fresh cut, convenience food or other pre-packaged salad operations. Pearl onions must be inspected for size prior to entry into the United States.

4. In § 980.212, paragraph (i) is revised to read as follows:

§ 980.212 Import regulations; tomatoes.

* * * * *

(i) *Exemptions.* The grade, size, quality and maturity requirements of this section shall not apply to tomatoes for charity, relief, canning or pickling, but such tomatoes shall be subject to the safeguard provisions contained in § 980.501. Processing includes canning and pickling.

5. Section 980.501 is revised to read as follows:

§ 980.501 Safeguard procedures for potatoes, onions, and tomatoes exempt from grade, size, quality, and maturity requirements.

(a) Each person who imports:

(1) Potatoes, onions or tomatoes for consumption by charitable institutions or distribution by relief agencies;

(2) Potatoes, onions, or tomatoes for processing;

(3) Potatoes or onions for livestock feed; or

(4) Pearl onions, shall obtain an "Importer's Exempt Commodity Form" (FV–6) from the Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, and shall show the completed "Importer's Exempt Commodity Form" to the U.S. Customs Service Regional Director or District Director, as applicable, at the port at which the customs entry is filed. One copy shall be mailed to the Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA with a postmark no later than two days after the date of importation and a third copy shall accompany the lot to the exempt outlet specified on the form. Any lot offered for inspection and, all or a portion thereof, subsequently imported as exempt under this provision shall be reported on an "Importer's Exempt Commodity Form" and such form, accompanied by a copy of the applicable inspection certificate, shall be mailed to the Marketing Order Administration Branch.

(b) Each person who receives an exempt commodity for the purposes specified in paragraph (a) of this section shall also receive a copy of the same numbered Importer's Exempt Commodity Form filed by the importer or customs broker and shall certify, by completing and signing Section II of the form and mailing the form to the Marketing Order Administration Branch within two days of receipt of the exempt lot, that such lot has been received and will be utilized in the exempt outlet.

(c) It is the responsibility of the importer to notify the Marketing Order Administration Branch of any lot of exempt commodity rejected by a receiver, shipped to an alternative exempt receiver, returned to the country of origin, or otherwise disposed of. In such cases, a second "Importer's Exempt Commodity Form" must be filed by the importer providing sufficient information to determine ultimate disposition of the exempt lot and such disposition shall be so certified by the final receiver.

(d) All FV–6 forms and other correspondence regarding entry of 8e commodities must be mailed to the Marketing Order Administration Branch, USDA, AMS, P.O. Box 96456, room 2523–S, Washington, D.C. 20090–6456, telephone (202) 720–4607. FV–6 forms submitted by fax must be followed by a mailed, original copy of the FV–6. Fax transmissions may be sent to the MOAB at (202) 720–5698.

PART 999—SPECIALTY CROPS; IMPORT REGULATIONS

1. The authority citation for 7 CFR part 999 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 999.500 is revised to read as follows:

§ 999.500 Safeguard procedures for walnuts and certain dates exempt from grade, size, quality, and maturity requirements.

(a) Each person who imports:

(1) Dates which are donated to needy persons, prisoners or Native Americans on reservations; or

(2) Walnuts which are: green walnuts (so immature that they cannot be used for drying and sale as dried walnuts); walnuts used in non-competitive outlets such as use by charitable institutions, relief agencies, governmental agencies for school lunch programs, and diversion to animal feed or oil manufacture shall obtain an "Importer's Exempt Commodity Form" (FV–6) from the Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, and shall show the completed "Importer's Exempt Commodity Form" to the U.S. Customs Service Regional Director or District Director, as applicable, at the port at which the customs entry is filed. One copy shall be mailed to the Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, with a postmark not later than two days after the date of importation and a third copy shall accompany the lot to the exempt outlet specified on the form. Any lot offered for inspection and, all or a portion thereof, imported as exempt under this provision shall be reported on an "Importer's Exempt Commodity Form" and such form, accompanied by a copy of the applicable inspection certificate, shall be mailed to the Marketing Order Administration Branch.

(b) Each person who receives an exempt commodity for the purposes specified in paragraph (a) of this section shall also receive a copy of the same numbered Importer's Exempt Commodity Form filed by the importer or customs broker and shall certify, by completing and signing Section II of the form and mailing the form to the Marketing Order Administration Branch within two days of receipt of the exempt lot, that such lot has been received and will be utilized in the exempt outlet.

(c) It is the responsibility of the importer to notify the Marketing Order Administration Branch of any lot of exempt commodity rejected by a receiver, shipped to an alternative exempt receiver, exported, or otherwise disposed of. In such cases, a second "Importer's Exempt Commodity Form" must be filed by the importer providing sufficient information to determine ultimate disposition of the exempt lot and such disposition shall be so certified by the final receiver.

(d) All FV–6 forms and other correspondence regarding entry of 8e commodities must be mailed to the Marketing Order Administration Branch, USDA, AMS, P.O. Box 96456, room 2523–S, Washington, D.C. 20090–6456, telephone (202) 720–4607. FV–6 forms submitted by fax must be followed by a mailed, original copy of the FV–6. Fax transmissions may be sent to the MOAB at (202) 720–5698.

Dated: February 23, 1996.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 96–7192 Filed 3–25–96; 8:45 am]

BILLING CODE 3410–02–P

7 CFR Part 1280

[No. LS–96–002]

Sheep Promotion, Research, and Information Program

AGENCY: Agricultural Marketing Service; USDA.

ACTION: Notice of Referendum Results

SUMMARY: The Agricultural Marketing Service (AMS) is announcing that sheep producers, sheep feeders, and importers of sheep and sheep products voting in a national referendum on February 6, 1996, have approved the Sheep and Wool Promotion, Research, Education, and Information Order (Order).

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief, Marketing Programs Branch, Livestock and Seed Division, AMS, USDA, Room 2606–S; P.O. Box 96456; Washington, D.C. 20090–6456.

SUPPLEMENTARY INFORMATION: Pursuant to the Sheep Promotion, Research, and Information Act of 1994, 7 U.S.C. 7101 *et seq.* (Act), the Department of Agriculture conducted a referendum on February 6, 1996, among eligible sheep producers, sheep feeders, and importers of sheep and sheep products to determine if an Order would become effective.

Of the 19,801 valid ballots cast, 10,707 (54.1 percent) favored and 9,094 (45.9 percent) opposed the implementation of the Order. Additionally, of those persons who cast valid ballots in the referendum, those who favored the Order account for 40 percent of the total production voted, and those opposed account for 60 percent of the total production voted. The Order could have been approved by either a majority of the producers, feeders, and importers voting in the referendum or by those voting in the referendum who accounted for at least two-thirds of the production represented.

Therefore, based on the referendum results, the Secretary of Agriculture has determined that the required majority of eligible producers, feeders, and importers who voted absentee or in person in the February 6, 1996, national referendum voted to implement the Order. As a result, a promotion, research, education, and information program will be funded by a mandatory assessment on domestic sheep producers, lamb feeders, and exporters of live sheep and greasy wool of 1 cent per pound on live sheep sold and 2 cents per pound on greasy wool sold. Importers will be assessed (1) 1 cent per pound on live sheep; (2) the equivalent of 1 cent per pound of live sheep for sheep products; and (3) 2 cents per pound of degreased wool or the equivalent of degreased wool for wool and wool products. Imported raw wool will be exempt from assessments. Each person who processes or causes to be processed sheep or sheep products of that person's own production and markets the processed products, will be assessed the equivalent of 1 cent per pound of live sheep sold or 2 cents per pound of greasy wool sold. All assessments may be adjusted in accordance with applicable provisions of the Act. The date when assessments will begin will be announced at a later date.

Dated: March 20, 1996.

Lon Hatamiya,

Administrator.

[FR Doc. 96–7191 Filed 3–25–96; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 103, 204, 205 and 216

[INS No. 1705–95]

RIN 1115–AE04

Petition to Classify Alien as Immediate Relative of a United States Citizen or as a Preference Immigrant; Self-Petitioning for Certain Battered or Abused Spouses and Children

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule amends the Immigration and Naturalization Service ("the Service") regulations to allow a spouse or child to seek immigrant classification if he or she has been battered by, or subjected to extreme cruelty committed by, the citizen or lawful permanent resident spouse or parent. It also permits a spouse to seek classification if his or her child has been battered by, or subjected to extreme cruelty committed by, the citizen or lawful permanent resident spouse. A qualified spouse or child who is living in the United States but is not a permanent resident may use the procedures established by this rule to self-petition for immigrant classification. The self-petition may be filed without the abuser's knowledge or consent, and may include the children of a self-petitioning spouse. A person who is granted immigrant classification under this provision may become eligible for lawful permanent resident status. A lawful permanent resident of the United States has legal permission to live and work in this country, and may later qualify for U.S. citizenship through naturalization.

DATES: This interim rule is effective March 26, 1996. Written comments must be received on or before May 28, 1996.

ADDRESSES: Please submit written comments, in triplicate, to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street NW., Room 5307, Washington, DC 20536, Attn: Public Comment Clerk. To ensure proper handling, please reference the INS number 1705–95 on your correspondence. Comments are available for public inspection at this location by calling (202) 514–3048 to arrange an appointment.

FOR FURTHER INFORMATION CONTACT:
Rita A. Arthur, Senior Adjudications Officer, Adjudications Division, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536, telephone (202) 514–5014.

SUPPLEMENTARY INFORMATION:

Background

The Immigration and Nationality Act ("the Act") allows certain relatives of a citizen or lawful permanent resident of the United States to be classified for immigration. These relatives are not automatically entitled to immigrate; the Service must approve a visa petition filed by the citizen or lawful permanent resident for the family member, and the relative must qualify for immigrant visa issuance abroad or adjustment of status in the United States.

Citizens and lawful permanent residents may choose whether and when to petition for a relative. Most citizens and lawful permanent residents seek permission to bring their family members to the United States as soon as possible. They file for all their qualified relatives, except family members who do not want to live in the United States and those with whom they do not care to be reunited.

Some abusive citizens or lawful permanent residents, however, misuse their control over the petitioning process. Instead of helping close family members to legally immigrate, they use this discretionary power to perpetuate domestic abuse of their spouses and minor children who have been living with them in the United States. Abusers generally refuse to file relative petitions for their closest family members because they find it easier to control relatives who do not have lawful immigration status. These family members are less likely to report the abuse or leave the abusive environment because they fear deportation or believe that only citizens and authorized immigrants can obtain legal and social services. An abuser may also coerce family members' compliance in other areas by threatening deportation or by promising to file a relative petition in the future.

Crime Bill

The plight of these domestic abuse victims, who are unable to leave the United States for financial, social, cultural, or other reasons, was addressed by the Violent Crime Control and Law Enforcement Act of 1994 ("the Crime Bill"), Public Law 103–322, dated September 13, 1994. Title IV of the Crime Bill, The Violence Against Women Act of 1994 ("the VAWA"), contains several provisions that limit the ability of an abusive citizen or lawful permanent resident to use the immigration laws to further violence against a spouse or child in the United States. Although the title of this portion of the Crime Bill reflects the fact that many abuse victims are women, abused spouses and children of either sex may benefit from these provisions. Section 40701 of the Crime Bill allows a qualified spouse or child to self-petition for immigrant classification based on the relationship to the abusive citizen or lawful permanent resident of the United States, without the abuser's participation or consent. This section also permits an eligible abused spouse to include his or her children in the petition, if the children have not petitioned separately. Section 40702 of the Crime Bill, which will be the subject of a separate rulemaking, provides guidelines for the acceptance and evaluation of credible evidence of abuse submitted with certain requests for removal of conditions on residency under section 216 of the Act. Section 40703 of the Crime Bill, which will also be addressed separately, allows certain abused spouses and children who have been continuously physically present in the United States for the past 3 years to apply for suspension of deportation.

Basic Self-Petitioning Eligibility Requirements

A spouse who is self-petitioning under section 40701 of the Crime Bill must show that he or she: (1) is the spouse of a citizen or lawful permanent resident of the United States; (2) is eligible for immigrant classification under section 201(b)(2)(A)(i) or 203(a)(2)(A) of the Act based on that relationship; (3) is residing in the United States; (4) has resided in the United States with the citizen or lawful permanent resident spouse; (5) has been battered by, or has been the subject of extreme cruelty perpetrated by, the citizen or lawful permanent resident during the marriage; or is the parent of a child who has been battered by, or has been the subject of extreme cruelty perpetrated by, the citizen or lawful permanent resident during the marriage; (6) is a person of good moral character; (7) is a person whose deportation would result in extreme hardship to himself, herself, or his or her child; and (8) entered into the marriage to the citizen or lawful permanent resident in good faith.

A child who is self-petitioning under section 40701 of the Crime Bill must show that he or she: (1) is the child of a citizen or lawful permanent resident of the United States; (2) is eligible for immigrant classification under section 201(b)(2)(A)(i) or 203(a)(2)(A) of the Act based on that relationship; (3) is residing in the United States; (4) has resided in the United States with the citizen or lawful permanent resident parent; (5) has been battered by, or has been the subject of extreme cruelty perpetrated by, the citizen or lawful permanent resident parent while residing with that parent; (6) is a person of good moral character; and (7) is a person whose deportation would result in extreme hardship to himself or herself.

Spouse of a Citizen or Lawful Permanent Resident

The Crime Bill's changes to section 204(a)(1) of the Act, which allow a self-petition to be filed, describe the spousal relationship between the self-petitioner and the abuser in the present tense. They characterize a self-petitioning spouse as a person who is the spouse of a citizen or lawful permanent resident of the United States, and include no provisions for filing a self-petition based on a former spousal relationship. This rule, therefore, requires the self-petitioning spouse to be legally married to the abuser when the petition is filed. It specifies that a spousal self-petition must be denied if the petitioner's marriage to the abuser legally ended by annulment, death, or divorce before that time. The rule also stipulates that the abuser be a citizen or lawful permanent resident of the United States when the self-petition is filed.

Although it does not allow a self-petition to be filed based on a former spousal relationship, section 40701 of the Crime Bill directs the Service not to revoke the approval of a self-petition solely because the marriage has legally ended. This statutory provision protects the self-petitioner against an abuser's attempt to regain control over the petitioning process through legal termination of the marriage. It also allows a qualified self-petitioner to make decisions concerning the abusive relationship without regard to immigration considerations. This rule reflects the legislative provision safeguarding the self-petitioner's control over the immigration classification process.

While section 40701 of the Crime Bill requires the marriage to be legally valid at the time of filing and specifies that its termination after approval will not be the sole basis for revocation, it does not address the effect of a legal termination occurring between the filing and the approval of the self-petition. In the absence of explicit legislative guidelines, the Service has determined that protections for spouses whose self-petitions have been approved should be extended to cover the entire period after the self-petition is filed. This rule, therefore, allows an otherwise approvable self-petition to be granted despite the legal termination of the marriage through annulment, divorce, or death while the self-petition was pending before the Service. It provides that the legal termination of the marriage after the self-petition has been properly filed with the Service will have not effect on the Service's decision concerning the self-petition.

The rule further provides, however, that a pending spousal self-petition will be denied or an approved spousal self-petition will be revoked if the self-petitioner chooses to remarry before becoming a lawful permanent resident. By remarrying, the self-petitioner has established a new spousal relationship and has shown that he or she no longer needs the protections of section 40701 of the Crime Bill to equalize the balance of power in the relationship with the abuser. If the new husband or wife is a citizen or lawful permanent resident of the United States, he or she may file for the former self-petitioner's classification as an immigrant. The self-petitioner also would not be precluded from filing a self-petition based on the new family relationship if the new spouse is an abusive citizen or lawful permanent resident of the United States. A self-petition filed on the basis of a new marriage will be assigned a priority date based on the date it was properly filed with the Service or based on the date a visa petition filed by the current abusive spouse was properly filed with the Service. This rule does not allow a priority date to be transferred from a self-petition or visa petition based on a prior marriage.

It also provides that changes in the abuser's citizenship or lawful permanent resident status will not affect the validity of an approved self-petition. This provision eliminates the possibility that an abuser could recapture control over the immigration classification process by changing his or her own immigration status. An approved self-petition will not be revoked solely because the abuser subsequently abandons lawful permanent resident status, renounces United States Citizenship, is deported, or otherwise changes immigration status. Similarly, a self-petition approved on the basis of a relationship to a lawful permanent resident will not be automatically upgraded to a petition for immediate relative classification if the abuser becomes a naturalized citizen of the United States. A spouse would not be precluded from filing a new self-petition for classification as an immediate relative after the abuser naturalizes, provided he or she continues to meet the self-petitioning requirements.

This rule requires a self-petitioning spouse to provide documentary evidence of his or her legal relationship to the abuser and evidence of the abuser's immigration or citizenship status. Self-petitioners are encouraged to submit primary evidence whenever possible, although the Service will consider any relevant credible evidence. The Service's regulations at 8 CFR 204.1 and 204.2 provide detailed information concerning primary and secondary supporting documentation of a spousal relationship to a citizen or lawful permanent resident.

Primary evidence of a marital relationship is a marriage certificate issued by civil authorities and proof of the termination of all prior marriages, if any, of both the self-petitioner and the abuser. Primary evidence of the abuser's U.S. citizenship or lawful permanent residence is: (1) a birth certificate issued by a civil authority establishing the abuser's birth in the United States; (2) the abuser's unexpired full-validity United States passports; (3) a statement issued by a U.S. consular officer certifying the abuser to be a U.S. citizen and the bearer of a currently valid U.S. passport; (4) the abuser's Certificate of Naturalization or Certificate of Citizenship; (5) a Department of State Form FS–240, Report of Birth Abroad of a Citizen of the United States, relating to the abuser; or (6) the abuser's Form I–151 or Form I–551 Alien Registration Receipt Card, or other proof given by the Service as evidence of lawful permanent residence.

If primary or secondary evidence of an abuser's immigration or citizenship status is not available, this rule provides that the Service will attempt to electronically verify the abuser's status from information contained in Service computerized records. Other Service records may also be reviewed at the discretion of the adjudicating officer. If the Service is unable to identify a record as relating to the abuser or the record does not establish the abuser's immigration or citizenship status, the self-petition will be adjudicated based on the information submitted by the self-petitioner.

Child of a Citizen or Lawful Permanent Resident

Section 40701 of the Crime Bill describes a self-petitioning child as a person who is the child of a citizen or lawful permanent resident of the United States. By again characterizing the relationship between the self-petitioner and the abuser in the present tense, these amendments to the Act clearly show that the required relationship must exist when the petition is filed.

The term "child" is defined in section 101(b)(1) of the Act as including certain children born in or out of wedlock, and certain legitimated, adopted, and stepchildren. This definition also requires a child to be unmarried and less than 21 years of age. The rule, therefore, requires a self-petitioning child to be unmarried, less than 21 years of age, and to otherwise qualify as the abuser's "child" when the self-petition is filed and when it is approved. It also requires the self-petitioning child's abusive parent to be a U.S. citizen or lawful permanent resident when the self-petition is filed and when it is approved.

This rule specifies that an approved self-petition for a child of a United States citizen, however, will be automatically converted to an approved petition for classification as the unmarried or married adult son or daughter of a United States citizen when the self-petitioner reaches 21 years of age or marries. Similarly, an approved self-petition for a child of a lawful permanent resident of the United States will be automatically converted to an approved petition for classification as the unmarried adult son or daughter of a lawful permanent resident when the unmarried self-petitioner reaches 21 years of age. The approval of a self-petition for the child of an abusive lawful permanent resident must be automatically revoked, however, when the son or daughter marries. There is no immigration category for a married son or daughter of a lawful permanent resident. An automatically converted self-petition will retain the self-petition's original priority date.

Under the provisions of this rule, a self-petitioning child must be the child of the abusive citizen or lawful permanent resident but need not be the child of a self-petitioning spouse. A self-petition may be approved although the child's other parent is unable or unwilling to self-petition. The rule also does not require the self-petitioning child to be in the abuser's legal custody. Termination of the abuser's parental rights or a change in legal custody does not alter the self-petitioning relationship, provided the self-petitioner meets the definition of "child" contained in section 101(b)(1) of the Act when the self-petition is approved, or met that definition at the time of approval.

As discussed previously under "Spouse of a citizen or lawful permanent resident," changes in the

abuser's citizenship or lawful permanent resident status will not affect the validity of an approved self-petition. This regulatory provision eliminates the possibility that an abuser could recapture control over the abused child's immigration classification by changing his or her own immigration status. An approved self-petition for a child will not be revoked solely because the abuser subsequently abandons lawful permanent resident status, renounces United States citizenship, is deported, or otherwise changes immigration status. Similarly, a self-petition approved on the basis of a parent-child relationship to a lawful permanent resident will not be automatically upgraded to a petition for immediate relative classification if the abuser becomes a naturalized citizen of the United States. The abused child would not be precluded from filing a new self-petition for classification as an immediate relative after the abuser naturalizes, provided the child continues to meet the self-petitioning requirements.

This rule requires a self-petitioning child to provide documentary evidence of his or her relationship to the abuser and evidence of the abuser's immigration or citizenship status. Self-petitioners are encouraged to submit primary evidence whenever possible, although the Service will consider any relevant credible evidence. The Service's regulations at 8 CFR 204.1 and 204.2 provide detailed information concerning primary or secondary supporting documentation of a parent-child relationship to a citizen or lawful permanent resident.

Primary evidence of the relationship between: (1) a child and an abusive biological mother is the child's birth certificate issued by civil authorities; (2) a child born in wedlock and an abusive biological father is the child's birth certificate issued by civil authorities, the marriage certificate of the child's parents, and evidence of legal termination of all prior marriages, if any; (3) a legitimated child and an abusive biological father is the child's birth certificate issued by civil authorities, and evidence of the child's legitimation; (4) a child born out of wedlock and an abusive biological father is the child's birth certificate issued by civil authorities showing the father's name, and evidence that a bona fide parent-child relationship has been established between the child and the parent; (5) a stepchild and a stepparent is the child's birth certificate issued by civil authorities, the marriage certificate of the child's parent and the stepparent showing marriage before the stepchild reached 18 years of age, and evidence of legal termination of all prior marriages of either parent, if any; (6) an adopted child and an abusive adoptive parent is an adoption decree showing that the adoption took place before the child reached 16 years of age, and evidence that the child has been residing with and in the legal custody of the abusive adoptive parent for at least 2 years.

Primary evidence of the abuser's U.S. citizenship or lawful permanent residence is: (1) a birth certificate issued by a civil authority establishing the abuser's birth in the United States; (2) the abuser's unexpired full-validity United States passport; (3) a statement issued by a U.S. consular officer certifying the abuser to be a U.S. citizen and the bearer of a currently valid U.S. passport; (4) the abuser's Certificate of Naturalization or Certificate of Citizenship; (5) a Department of State Form FS–240, Report of Birth Abroad of a Citizen of the United States, relating to the abuser; and (6) the abuser's Form I–151 or Form I–551 Alien Registration Receipt Card, or other proof given by the Service as evidence of lawful permanent residence.

If primary or secondary evidence of an abuser's immigration or citizenship status is not available, this rule provides that the Service will attempt to electronically verify the abuser's status from information contained in Service computerized records. Other Service records may also be reviewed at the discretion of the adjudicating officer. If the Service is unable to identify a record as relating to the abuser or the record does not establish the abuser's immigration or citizenship status, the self-petition will be adjudicated based on the information submitted by the self-petitioner.

Eligible for Immigrant Classification

Section 40701 of the Crime Bill requires a self-petitioning spouse or child to be eligible for classification as an immediate relative under section 201(b)(2)(A)(i) of the Act or for preference classification under section 203(a)(2)(A) of the Act. Eligibility as an immediate relative or for preference classification requires more than a mere showing of a legal relationship to a citizen or lawful permanent resident of the United States; other conditions must also be met. Section 40701 of the Crime Bill amended the Act to ensure that self-petitioners would be subject to certain provisions of the Immigration Marriage Fraud Amendments of 1986 (IMFA), Public Law 99–639, November 10, 1986, which were enacted by Congress to detect and deter immigration-related marriage fraud. This rule reflects these statutory requirements.

A petition must be denied under the provisions of section 204(c) of the Act if there is substantial and probative evidence that the self-petitioner has ever attempted or conspired to enter into a marriage for the purpose of evading the immigration laws. The self-petitioner does not need to have received a benefit through the attempt or conspiracy. He or she also need not have been convicted of, or even prosecuted for, the attempt or conspiracy. Evidence of the attempt or conspiracy, however, must be contained in the self-petitioner's immigration file.

Section 204(g) of the Act may also apply to a self-petition. It prohibits the approval of a self-petition if the marriage creating the relationship to the citizen or permanent resident took place while the self-petitioner was in deportation, exclusion, or related proceedings, unless the self-petitioner provides clear and convincing evidence that the marriage was not entered into for the purpose of obtaining immigration benefits. This limitation will not apply if the self-petitioner has lived outside the United States for at least 2 years after the marriage. The "clear and convincing" standard places a heavier burden on the petitioner than the "preponderance of evidence" criteria generally applicable to visa petitions and self-petitions. Although there may be no proof that the marriage was fraudulent, a self-petition subject to this restriction must be denied if the petitioner does not provide "clear and convincing" evidence that the marriage was entered into in good faith.

The provisions of section 204(a)(2) of the Act, which were amended by section 40701(b) of the Crime Bill to encompass certain self-petitions, may also preclude the approval of a self-petition. A self-petition must be denied if the lawful permanent resident abuser acquired permanent residence within the past 5 years based on a marriage to a citizen or lawful permanent resident, unless the petition is supported by clear and convincing evidence that the prior marriage was not entered into for the purpose of evading any provision of the immigration laws. This restriction will not apply if the earlier marriage ended because of the death of the spouse. As explained in the previous paragraph, the "clear and convincing" standard imposes a heavier burden of proof on the self-petitioner. Although there may be no proof that the marriage was fraudulent, a self-petition subject to this restriction must be denied if the petitioner does not provide "clear and convincing" evidence that the earlier marriage was bona fide.

Before determining that a self-petition must be denied under section 204(c), 204(g), or 204(a)(2) of the Act, the Service will allow a self-petitioner the opportunity to provide additional evidence or arguments concerning the case. A denial under section 204(g) or 204(a)(2) of the Act is without prejudice to the filing of a new self-petition when the spouse or child is able to comply with these requirements.

The Service has previously determined that a variety of evidence may be used to establish a good-faith marriage, and a self-petitioner should submit the best evidence available. Evidence of good faith at the time of marriage may include, but is not limited to, proof that one spouse has been listed as the other's spouse on insurance policies, property leases, income tax forms, or bank accounts; and testimony or other evidence regarding courtship, wedding ceremony, shared residence and experiences. *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983). Other types of readily available evidence might include the birth certificates of children born to the relationship; police, medical, or court documents providing information about the relationship; and affidavits of persons with personal knowledge of the relationship. Self-petitioners who submit affidavits are encouraged to submit affidavits from more than one person. Other types of evidence may also be submitted; the Service will consider any relevant credible evidence.

Residence in the United States and Residence With the Abuser

Section 40701 of the Crime Bill requires the self-petitioner to be residing in the United States and to have resided in the United States with the abuser. A self-petition will not be approved if the self-petitioner is not living in the United States or has never lived with the abuser in the United States. Under the provisions of this rule, however, the self-petitioner is not required to be residing with the abuser when the petition is filed. The rule also does not limit the time that may have elapsed since the self-petitioner last resided with the abuser.

"Residence" is defined in section 101(a)(33) of the Act as a person's general place of abode. It is also described as a person's principal, actual dwelling place in fact, without regard to intent. A self-petitioner cannot meet the residency requirements by merely visiting the United States or visiting the abuser's home in the United States while continuing to maintain a general place of abode or principal dwelling place elsewhere. This rule, however, does not require the self-petitioner to have lived in the United States or with the abuser in the United States for any specific length of time. It also does not mandate continuous physical presence in the United States. A qualified self-petitioner may have moved to the United States only recently, made any number of trips abroad, or resided with the abuser in the United States for only a short time.

Evidence of residency with the abuser in the United States may take many forms. Employment records, utility receipts, school records, hospital or medical records, birth certificates of children born to the spouses in the United States, deeds, mortgages, rental records, insurance policies, or similar documents have been accepted as evidence of residency. This rule allows the submission of one or more documents showing the self-petitioner and the abuser residing together. It also allows the submission of two or more documents that, when considered together, establish that the self-petitioner and the abuser were residing at the same location concurrently. A self-petitioner may also submit affidavits to establish residency with the abuser. Self-petitioners who file affidavits are encouraged to provide the affidavits of more than one person. Other types of evidence may also be submitted; the Service will consider any relevant credible evidence.

Battery or Extreme Cruelty

Section 40701 of the Crime Bill requires a self-petitioning spouse to have been battered by, or been the subject of extreme cruelty perpetrated by, the citizen or lawful permanent resident spouse; or to be the parent of a child who was battered by, or who was the subject of extreme cruelty perpetrated by, the citizen or lawful permanent resident during the marriage. It requires a self-petitioning child to have been battered by, or to have been the subject of extreme cruelty perpetrated by, the citizen or lawful permanent resident parent while the child was residing with that parent. This rule reflects the statutory requirements by specifying that only certain types of abuse will qualify a spouse or child to self-petition. "Qualifying abuse" under this rule is abuse that meets the criteria of section 40701 of the Crime Bill concerning when, by whom, to whom, and to what degree the domestic abuse occurred.

The qualifying abuse must have taken place during the statutorily specified time. A spousal self-petitioner must show that the abuse took place during the marriage to the abuser. A self-petitioning child must show that he or she was abused while residing with the abuser. Battery or extreme cruelty that happened at other times is not qualifying abuse. There is no limit on the time that may have elapsed since the last incident of qualifying abuse occurred.

The qualifying abuse also must have been committed by the abusive citizen or lawful permanent resident spouse or parent. Battery or extreme cruelty by any other person is not qualifying abuse, unless it can be shown that the citizen or lawful permanent resident willfully condoned or participated in the abusive act(s).

Only abuse perpetrated against the self-petitioning spouse, the self-petitioning child, or the self-petitioning spouse's child will be considered qualifying. Acts ostensibly aimed at some other person or thing may be considered qualifying only if it can be established that these acts were deliberately used to perpetrate extreme cruelty against the self-petitioner or the self-petitioning spouse's child. Battery or extreme cruelty committed solely against a third party and in no way directed at or used against the spouse or child is not qualifying abuse.

The qualifying abuse also must have been sufficiently aggravated to have reached the level of battery or extreme cruelty. Service regulations at 8 CFR 216.5(e)(3)(i) currently define the phrase "was battered by or was the subject of extreme cruelty." This definition was initially developed to facilitate the filing and adjudication of requests to waive certain requirements for removal of conditions on residency. These waivers are based on the applicant's claim of battery or extreme cruelty perpetrated by the citizen or lawful permanent resident spouse or parent. Since the regulatory definition has proven to be flexible and sufficiently broad to encompass all types of domestic battery and extreme cruelty, this rule adopts an identical definition for evaluating claims of battering or extreme cruelty under section 40701 of the Crime Bill. The definition reads as follows:

> For the purpose of this chapter, the phrase "was battered by or was the subject of extreme cruelty" includes, but is not limited to, being the victim of any act or threatened act of violence, including any forceful detention, which results or threatens to result in physical or mental injury. Psychological or sexual abuse or exploitation, including rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered acts of violence.

The acts mentioned in this definition—rape, molestation, incest if the victim is a minor, and forced prostitution—will be regarded by the Service as acts of violence whenever they occur. Many other abusive actions, however, may also be qualifying acts of violence under this rule. Acts that, in and of themselves, may not initially appear violent may be part of an overall pattern of violence. It is not possible to cite all perpetrations that could be acts of violence under certain circumstances. The Service does not wish to mislead a potentially qualified self-petitioner by establishing a partial list that may be subject to misinterpretation. This rule, therefore, does not itemize abusive acts other than those few particularly egregious examples mentioned in the definition of the phrase "was battered by or was the subject of extreme cruelty."

This rule requires a self-petitioner to provide evidence of qualifying abuse. If the self-petition is based on a claim that the self-petitioning spouse's child was battered or subjected to extreme cruelty committed by the citizen or lawful permanent resident spouse, this rule requires the self-petition to be accompanied by evidence of the abuse and evidence of the relationship between the self-petitioner and the abused child. Available relevant evidence will vary, and self-petitioners are encouraged to provide the best available evidence of qualifying abuse. A self-petitioner is not precluded from submitting documentary proof of non-qualifying abuse with the self-petition; however, that evidence can only be used to establish a pattern of abuse and violence and to bolster claims that qualifying abuse also occurred.

The rule provides that evidence of abuse may include, but is not limited to, reports and affidavits from police, judges and other court officials, medical personnel, school officials, clergy, social workers, and other social service agency personnel. Persons who have obtained an order of protection against the abuser or taken other legal steps to end the abuse are strongly encouraged to submit copies of the relating legal documents. Evidence that the abuse victim sought safe-haven in a battered women's shelter or similar refuge may be relevant, as may a combination of documents such as a photograph of the visibly injured self-petitioner supported by affidavits. This rule also provides that other forms of credible evidence will be accepted, although the Service will determine whether documents appear credible and the weight to be given to them.

Self-petitioners who can provide only affidavits are encouraged to submit the affidavits of more than one person. The Service is not precluded from deciding, however, that the self-petitioner's unsupported affidavit is credible and that it provides relevant evidence of sufficient weight to meet the self-petitioner's burden of proof.

Good Moral Character

Section 40701 of the Crime Bill requires all self-petitioners to be persons of good moral character, but does not specify the period for which good moral character must be established. This rule requires self-petitioning spouses and self-petitioning children who are 14 years of age or older to provide evidence showing that they have been persons of good moral character for the 3 years immediately preceding the date the self-petition is filed. It does not preclude the Service from choosing to examine the self-petitioner's conduct and acts prior to that period, however, if there is reason to believe that the self-petitioner may not have been a person of good moral character in the past. The rule provides that self-petitioning children who are less than 14 years of age are not required to submit evidence of good moral character when filing the self-petition. A self-petitioner who is less than 14 years of age will be presumed to be a person of good moral character. This presumption does not preclude the Service from requesting evidence of good moral character, however, if there is reason to believe that the self-petitioning child may lack good moral character. The rule provides that a self-petition filed by a person of any age may be denied or revoked if evidence establishing that the person lacks good moral character is contained in the Service file.

It also provides that the Service will evaluate claims of good moral character on a case-by-case basis, taking into account the provisions of section 101(f) of the Act and the standards of the average citizen in the community. Section 101(f) of the Act lists the classes of persons who cannot be found to be persons of good moral character, and specifies that persons not within any of those classes may also be found to be lacking good moral character. The Service cannot find a person to be of good moral character under section 101(f) if he or she: (1) is or was a habitual drunkard; (2) is or was engaged in prostitution during the past 10 years as described in section 212(a)(2)(D) of the Act; (3) is or was involved in the smuggling of a person or persons into the United States as described in section 212(a)(6)(E) of the Act; (4) is or was a practicing polygamist; (5) has been convicted or admits committing acts that constitute a crime involving moral turpitude other than a purely political offense, except for certain petty offenses or offenses committed while the person was less than 18 years of age as described in section 212(a)(2)(A)(ii) of the Act; (6) has committed two or more offenses for which the applicant was convicted and the aggregate sentence actually imposed was 5 years or more, provided that, if an offense was committed outside the United States, it was not a purely political offense; (7) has violated laws relating to a controlled substance, except for simple possession of 30 grams or less of marijuana; (8) earns his or her income principally from illegal gambling activities or has been convicted of two or more gambling offenses; (9) has given false testimony for the purpose of obtaining immigration benefits; (10) has been confined as a result of conviction to a penal institution for an aggregate period of 180 days or more; or (11) has been convicted of an aggravated felony.

The Service must conclude that a person who has been convicted of an offense falling within section 101(f) of the Act lacks good moral character. The Service may only look to the judicial records to determine whether the person has been convicted of the crime, and may not look behind the conviction to reach an independent determination concerning guilt or innocence. *Pablo v. INS*, 72 F.3d 110, 113 (9th Cir. 1995); *Gouveia v. INS*, 980 F.2d 814, 817 (1st Cir. 1992); and *Matter of Roberts*, Int. Dec. 3148 (BIA 1991).

Extenuating circumstances may be taken into account, however, if the person has not been convicted of the offense in a court of law but admits to the commission of an act or acts that could show a lack of good moral character. The Board of Immigration Appeals (BIA) has ruled that a person who admitted to having engaged in prostitution under duress but had no prostitution convictions was not excludable as a prostitute under section 212(a)(12) of the Act (currently section 212(a)(2)(D) of the Act) because she was involuntarily reduced to such a state of mind that she was actually prevented from exercising free will through the use of wrongful, oppressive threats, or unlawful means. *Matter of M–*, 7 I&N Dec. 251 (BIA 1956). A person who was subjected to abuse in the form of forced prostitution or who can establish that he or she was forced to engage in other behavior that could render the person excludable, therefore, would not be precluded from being found to be a person of good moral character if the person has not been convicted for the commission of the offense or offenses in a court of law.

This rule also provides that a person will be found to lack good moral character, unless he or she establishes extenuating circumstances, if he or she: (1) willfully failed or refused to support dependents; or (2) committed unlawful acts that adversely reflect upon his or her moral character, or was convicted or imprisoned for such acts, although the acts do not require an automatic finding of lack of good moral character.

Under this rule, primary evidence of good moral character is the self-petitioner's affidavit. The affidavit should be accompanied by a local police clearance or a state-issued criminal background check from each locality or state in the United States in which the self-petitioner resided for six or more months during the 3-year period immediately preceding the filing of the self-petition. Self-petitioners who lived outside the United States during this time should submit a police clearance, criminal background check, or similar report issued by the appropriate authority in each foreign country in which he or she resided for six or more months during the 3-year period immediately preceding the filing of the self-petition. If police clearances, criminal background checks, or similar reports are not available for some or all locations, the self-petitioner may include an explanation and submit other evidence with his or her affidavit. The Service will consider other credible evidence of good moral character, such as affidavits from responsible persons who can knowledgeably attest to the self-petitioner's good moral character.

The Service of the Department of State will conduct additional record checks before issuing an immigrant visa or granting a self-petitioner's application for adjustment of status. If the results of these record checks disclose that the self-petitioner is no longer a person of good moral character or that he or she has not been a period of good moral character in the past, a pending self-petition will be denied or the approval of a self-petition will be revoked.

Extreme Hardship

Section 40701 of the Crime Bill also requires a self-petitioning spouse to show that his or her deportation would cause extreme hardship to himself, herself, or his or her child. It similarly requires a self-petitioning child to show that his or her deportation would cause extreme hardship to himself or herself. The self-petitioner has the burden of proof; a self-petition must be denied if the petitioner does not show that his or here deportation would cause extreme hardship. Hardship to persons other than the self-petitioner or the child of a self-petitioning spouse, such as extended family members, cannot be the basis for a self-petition under this rule.

The phrase "extreme hardship" is not defined in the Act, and sections 40701 and 40703 of the Crime Bill provide no additional guidelines for the interpretation of this requirement. The phrase "extreme hardship" has acquired a settled judicial and administrative meaning, however, largely in the context of suspension of deportation cases under section 244 of the Act.

It has been found that the personal deprivation contemplated in a situation characterized by "extreme hardship" within the meaning of section 244 of the Act is not a definable term of fixed and inflexible content or meaning; it necessarily depends upon the facts and circumstances peculiar to each case. *Matter of Hwang*, 10 I&N Dec. 448 (BIA 1964). The hardship requirement encompasses more than the mere economic deprivation that might result from an alien's deportation for the United States. *Davidson* v. *INS*, 558 F.2d 1361 (9th Cir. 1977); and *Matter of Sipus*, 14 I&N Dec. 229 (BIA 1972). It has also been found that the loss of a job and the concomitant financial loss incurred is not synonymous with extreme hardship. *Lee* v. *INS*, 550 F.2d 554 (9th Cir. 1977). Similarly, readjustment to life in the native country after having spent a number of years in the United States is not the type of hardship that has been characterized as extreme, since most aliens who have spent time abroad suffer this kind of hardship. *Matter of Uy*, 11 I&N Dec. 159 (BIA 1965).

"Extreme hardship" must be evaluated on a case-by-case basis after a review of all the circumstances in the case. This rule, therefore, does not include a list of "factors" that would automatically establish an applicant's claim to extreme hardship. Each self-petitioner is encouraged to cite and document all the reasons that he or she believes that deportation would cause extreme hardship.

Some precedent suspension of deportation cases have discussed the reasons why a particular applicant was found to have established that his or her deportation would cause extreme hardship. These reasons include the: (1) age of the person; (2) age and number of the person's children and their ability to speak the native language and adjust to life in another country; (3) serious illness of the person or his or her child which necessitates medical attention not adequately available in the foreign country; (4) person's inability to obtain adequate employment in the foreign country; (5) person's and the person's child's length of residence in the United States; (6) existence of other family members who will be legally residing in the United States; (7) irreparable harm that may arise as a result of disruption of education opportunities; and (8) adverse psychological impact of deportation.

In some self-petitioning cases, the circumstances surrounding domestic abuse and the consequences of the abuse may cause the extreme hardship. These self-petitioners may wish to cite and provide evidence relating to some or all of the following areas, in addition to any other basis for believing that deportation would cause extreme hardship: (1) the nature and extent of the physical and psychological consequences of the battering or extreme cruelty; (2) the impact of the loss of access to the U.S. courts and criminal justice system (including, not limited to, the ability to obtain and enforce: orders of protection; criminal investigations and prosecutions; and family law proceedings or court orders regarding child support, maintenance, child custody and visitation); (3) the self-petitioner's and/or the self-petitioner's child's need for social, medical, mental health, or other supportive services which would not be available or reasonably accessible in the foreign country; (4) the existence of laws, social practices, or customs in the foreign country that would penalize or ostracize the self-petitioner or the self-petitioner's child for having been the victim of abuse, for leaving the abusive situation, or for actions taken to stop the abuse; (5) the abuser's ability to travel to the foreign country and the ability and willingness of foreign authorities to protect the self-petitioner and/or the self-petitioner's child from future abuse; and (6) the likelihood that the abuser's family, friends, or others acting on behalf of the abuser in the foreign country would physically or psychologically harm the self-petitioner and/or the self-petitioner's child.

The Service will develop and provide further interpretive guidance concerning the extreme hardship determination in self-petitioning cases to the Service officers who will adjudicate these self-petitions. This guidance is expected to be in the form of implementing directives, training courses, the field handbook currently under development by the Service, and other policy and procedural directives.

Good Faith Marriage

Section 40701 of the Crime Bill requires a self-petitioning spouse to show that he or she entered into the marriage to the abusive citizen or lawful permanent resident in good faith. This rule provides, therefore, that a self-petition cannot be approved if the self-petitioner married the abuser solely to obtain immigration benefits. A self-petitioning spouse who is not subject to the limitations imposed by IMFA need only provide a "preponderance" of evidence showing that he or she married in good faith. Persons who are subject to the IMFA restrictions may be required to meet a heavier burden of proof to establish that a marriage was entered into in good faith, as discussed previously in the section entitled "Eligibility for Immigrant Classification."

The Act does not define a "good-faith" marriage or provide guidelines for evaluating the bona fides of a marriage; however, persons applying for immigration benefits based on a marriage are generally required to establish that they entered into the marriage in good faith, and a significant body of case law has developed concerning the interpretation of this requirement. It has long been held that a marriage that is entered into for the primary purpose of circumventing the immigration laws, referred to as a fraudulent or sham marriage, cannot be recognized as enabling a spouse to obtain immigration benefits. *Lutwak* v. *United States*, 344 U.S. 604 (1953) and *Matter of Phillis*, 15 I&N Dec. 385 (BIA 1975). A spousal petition will not be denied, however, solely because the spouses are not living together and the marriage is no longer viable. *Matter of McKee*, 17 I&N Dec. 332 (BIA 1980). The key factor in determining whether a person entered into a marriage in good faith is whether he or she intended to establish a life together with the spouse at the time of the marriage. The person's conduct after marriage is relevant only to the extent that it bears upon his or her subjective state of mind at the time of the marriage. Separation from the other spouse, even shortly after the marriage took place, does not prove, by itself, that a marriage was not entered into in good faith. *Bark* v. *INS*, 511 F.2d 1200 (9th Cir. 1975).

This rule allows the submission of a variety of evidence to show a good-faith marriage. The self-petitioner should submit the best evidence available. Evidence of good faith at the time of marriage may include, but is not limited to, proof that one spouse has been listed as the other's spouse on insurance policies, property leases, income tax forms, or bank accounts; and testimony or other evidence regarding courtship, wedding ceremony, shared residence and experiences. *Matter of Laureano, supra.* Other types of readily available evidence might include the birth certificates of children born to the abuser and the spouse; police, medical, or court documents providing information about the relationship; and affidavits of persons with personal knowledge of the relationship.

Derivative Child Included in the Self-Petition

Section 40701 of the Crime Bill allows any child of a self-petitioning spouse to be derivatively included in the self-petition, if the child has not been classified as an immigrant based on his or her own self-petition. This rule allows a derivative child who has been included in a parent's petition to later file a self-petition, provided the child meets the self-petitioning requirements. It also allows a child who has been classified as an immigrant based on a petition filed by the abuser or another relative to be derivatively included in a parent's self-petition; including the child in the self-petition will not affect the validity of the petition submitted by the abuser or another relative.

No separate petition is necessary for derivative classification, and the child is not required to have been the victim of abuse. The derivative child also does not need to have lived in the United States or to otherwise satisfy the criteria for filing a self-petition. He or she, however, must meet the requirements for immigrant visa issuance abroad or adjustment of status in the United States. An eligible child, including a child born after the self-petition was approved, may be added to a self-petitioning spouse's petition when the self-petitioner applies for an immigrant visa abroad or adjustment of status in the United States. A new petition will not be required.

This rule further specifies that a derivative child need not be the child of the abuser, but must qualify as the self-petitioning spouse's child under the definition of "child" contained in section 101(b)(1) of the Act. The statutory definition includes certain children born in or out of wedlock, and certain legitimated, adopted, and stepchildren. It also requires a child to be unmarried and less than 21 years old. This rule requires a derivative child to continue to be a "child" until he or she becomes a lawful permanent resident based on the derivative classification. A derivative son or daughter who is married or more than 21 years old will not be issued an immigrant visa or granted adjustment of status as a derivative child.

Since derivative status is based solely on the relationship to the principal self-petitioner, the rule also provides that the derivative child can be granted lawful permanent residence only if the child is accompanying or following-to-join the self-petitioner. No derivative benefit can be granted if the principal self-petitioner does not become a lawful permanent resident.

This rule does not require the submission of documentary evidence of the derivative relationship with the self-petition. Such documents must be submitted, however, when the child applies for an immigrant visa abroad or adjustment of status to that of a lawful permanent resident of the United States based on the derivative relationship. Primary evidence of a parent-child relationship has been previously discussed under "Child of a Citizen or Lawful Permanent Resident." The Service's regulations at 8 CFR 204.1 and 204.2 provide additional information concerning primary or secondary supporting documentation of a parent-child relationship. Other types of evidence not specifically discussed in this rule or the Service regulations may also be submitted; the Service will consider any relevant credible evidence.

Evidence in General

In accordance with the provisions of section 40701 of the Crime Bill, this rule provides that the Service will consider all credible evidence submitted with the application before reaching a decision. It also states that the Service will determine what evidence is credible and what weight to give to this evidence.

Generally, more weight will be given to primary evidence and evidence provided in court documents, medical reports, police reports, and other official documents. Self-petitioners, therefore, are strongly encouraged to submit this type of evidence whenever possible. Self-petitioners who submit affidavits are urged, but not required, to provide affidavits from more than one person. Other forms of documentary evidence may also be submitted, including evidence that has not been discussed in this rule or identified in the Service regulations.

The Service's regulations at 8 CFR 103.2 and 204.1(f) provide detailed information about the requirements applicable to supporting documentation. An ordinary legible photocopy of any supporting document may be submitted with a petition, although the Service reserves the right to require presentation of the original document. An original document requested by the Service will be returned to the petitioner when it is no longer needed. Original documents submitted by the petitioner but not requested by the Service will remain a part of the record. Each foreign language document must be accompanied by an English translation that has been certified by a competent translator.

Proper Filing and Priority Dates

This rule requires self-petitioners to complete Form I–360, Petition for Amerasian, Widow(er) or Special Immigrant. As directed in 8 CFR 103.2(a)(2), the person filing the self-petition must sign the Form I–360. A parent or guardian, however, may sign the petition for a child who is less than 14 years of age. Any self-petitioner may be represented by an attorney or accredited representative as described in 8 CFR 103.2(a)(3), if he or she so chooses.

Each self-petition must be accompanied by the fee required by 8 CFR 103.7(b)(1). A self-petitioner who is unable to pay the prescribed fee may request a fee waiver under the provisions of 8 CFR 103.7(c). The self-petition should also be accompanied by the documentary evidence specified in this rule.

Under the provisions of this rule, a self-petition filed concurrently with a Form I–485, Application to Register Permanent Residence or Adjust Status, may be filed at the office having jurisdiction over the adjustment of status application. Other self-petitions should be filed at the INS Service Center having jurisdiction over the self-petitioner's place of residence as described in the instructions to Form I–360. Since section 40701 of the Crime Bill requires all self-petitioners to be residing in the United States when the self-petition is filed, a self-petition cannot be filed at a United States consulate or embassy abroad. A self-petition also cannot be filed at a Service office overseas. Consular officials and Service officers overseas have not been delegated the authority to approve a self-petition.

In accordance with standard procedures, a self-petition received in a Service office will be stamped to show the time and date of actual receipt. It will be regarded as properly filed on that date, provided it is properly signed and executed, the required fee is attached or a fee waiver is granted, and it otherwise complies with the provisions of 8 CFR 103.2. This rule provides that the priority date will be the date the self-petition is properly filed. A self-petitioner who has been the beneficiary of a visa petition filed by the abuser to accord the self-petitioner immigrant classification as his or her spouse or child, however, will be allowed to transfer the visa petition priority date to the self-petition. The earlier priority date may be assigned without regard to the current validity of the visa petition. The burden of proof to establish the filing of the visa petition lies with the self-petitioner, although the Service will attempt to verify a claimed filing through a search of the Service's computerized records or other records deemed appropriate by the adjudicating officer.

Decision

If the preliminary decision on a properly filed self-petition is adverse to the self-petitioner, the self-petitioner will be provided with written notice of this fact and offered an opportunity to present additional information or arguments before a final decision is rendered. If the preliminary decision is based on derogatory information of which the self-petitioner is unaware, the self-petitioner will also be offered an opportunity to rebut the derogatory information in accordance with the provisions of 8 CFR 103.2(b)(16).

Each self-petitioner will be sent a written notice of the final decision on his or her self-petition. If the petition is denied, he or she will be informed in writing of the basis for the denial and of the right to appeal. This rule allows an adverse decision on a self-petition to be appealed to the Associate Commissioner for Examinations in accordance with the provisions of 8 CFR 103.3.

Eligibility for Immigrant Visa Issuance or Adjustment of Status

Approval of a self-petition does not guarantee immediate eligibility for immigrant visa issuance or adjustment of status to that of a lawful permanent resident of the United States. The beneficiary of an approved self-petition must meet several additional requirements before he or she will be found eligible for lawful permanent residence in the United States.

Neither the Act nor this rule limits the overall number of self-petitions that may be accepted and approved by the Service. Some persons who are the beneficiaries of approved self-petitions, however, will be forced to delay filing their applications for immigrant visa issuance or adjustment of status because sections 201 and 202 of the Act place certain limits on the number of qualified persons who may be granted lawful permanent residence during any single year. Self-petitioners who are subject to these limitations are encouraged to file the self-petition and establish the earliest possible priority date, since the available immigrant visa numbers are allocated to qualified immigrant visa applicants and qualified adjustment of status applicants strictly in priority date order.

Under the provisions of the Crime Bill, any self-petitioner who qualifies for immigrant classification as the spouse or child of an abusive citizen of the Untied States is regarded as an immediate relative of a U.S. citizen under section 201(b) of the Act and is not subject to direct numerical limitations. A qualified derivative child of a self-petitioning spouse of an abusive citizen of the United States is also considered to be an immediate relative under section 201(b) of the Act and is also exempted from these limitations. These self-petitioners may apply for immigrant visa issuance abroad or adjustment of status to that of a lawful permanent resident of the United States without regard to numerical limitations.

A self-petitioner who is the spouse or child of an abusive permanent resident of the United States, however, is subject to immigrant visa number limitations, as are the qualified derivative children of spouses of abusive permanent residents. These self-petitioners and their derivative children are not eligible to apply for immigrant visa issuance or adjustment of status until their immigrant visa numbers have become immediately available. Visa numbers for these self-petitioners and their derivative children are considered immediately available only when the Department of State Bureau of Consular Affairs Visa Office Bulletin shows the priority date for the applicant's country of birth under the family-sponsored 2A second preference classification as "current" or lists a date that is earlier than the self-petitioner's priority date.

In addition to meeting requirements concerning visa number availability, a self-petitioner who is applying for an immigrant visa at a U.S. consulate or embassy abroad must prove that he or she is not included in any of the classes of persons who, by law, cannot be admitted to the United States, or that any basis for inadmissibility has been waived. A person seeking immigrant visa issuance abroad may also be subject to the provisions of section 212(o) of the Act. This provision requires a person who was not in lawful nonimmigrant status on the day he or she last left the United States to remain outside the country for at least 90 days before obtaining an immigrant visa. An immigrant may lawfully travel to the

United States immediately after the visa is issued. A qualified immigrant visa holder becomes a lawful permanent resident upon admission to the United States.

A self-petitioner who is seeking immigrant visa issuance abroad will be contacted by the Department of State's National Visa Center (NVC) when that office has received the approved self-petition from the Service and an immigrant visa number is available. Immigrant visa applicants should follow the instructions provided by NVC and the U.S. consulate or embassy processing their requests. Persons wishing further information about immigrant visa issuance abroad should contact the Department of State or a United States embassy or consulate abroad.

The Act also allows certain persons who are physically present in the United States to adjust status to that of a lawful permanent resident of the United States. Like immigrant visa applicants, adjustment of status applicants must prove that they are eligible for immigrant classification. Each applicant must also be exempt from immigrant visa number limitations or show that an immigrant visa number is immediately available for him or her. An applicant must further prove that he or she is not included in any of the classes of persons who, by law, cannot be admitted to the United States, or that any basis for inadmissibility has been waived. Persons seeking adjustment of status must also meet the applicable requirements of section 245 of the Act. A qualified adjustment applicant becomes a lawful permanent resident upon approval of the adjustment of status application.

Section 40701 of the Crime Bill does not provide adjustment of status benefits. Self-petitioners, however, may benefit from certain other provisions of the Act. One such provision is a recently enacted law that temporarily allows many previously ineligible persons to seek adjustment of status in the United States. This law, section 506(b) of the Department of Commerce, Justice, State, the Judiciary and Related Agencies Appropriations Act, 1995, Public Law 103–317, was enacted August 26, 1994. It lifts certain restrictions on adjustment of status under section 245 of the Act on applications granted before October 1, 1997. Persons seeking the adjustment of status benefits of Public Law 103–317 may be subject to a financial penalty, since the law requires most persons seeking adjustment of status under this provision to pay an additional sum in excess of the standard adjustment of status filing fee. Additional information concerning adjustment of status under Public Law 103–317 may be obtained by requesting Supplement A to Form I–485 from a local Service office.

Certain restrictions on adjustment of status have not been waived by section 40701 of the Crime Bill and cannot be waived under Public Law 103–317. These restrictions include those imposed by section 245(d) of the Act, which prohibit the adjustment of status of a person who is a conditional resident under section 216 or 216A of the Act. The adjustment of status of a person last admitted to the United States as a K–1 finance(e) is also barred, unless the person is seeking adjustment as a result of the marriage to the United States citizen who filed the finance(e) petition. Section 245(d) of the Act similarly prohibits the adjustment of status of a person who was last admitted as the K–2 child of a finance(e) parent, unless the person is seeking adjustment as a result of his or her parent's marriage to the citizen who filed the finance(e) petition. A self-petitioner who last entered in K–1 or K–2 nonimmigrant status would be subject to these restrictions, as would his or her derivative children who last entered in K–2 nonimmigrant status, unless the abuser is also the citizen who had filed the finance(e) petition. The statutory language of section 245(d) of the Act does not preclude a conditional resident, a person who last entered the United States with a finance(e) visa, or a person who last entered the country as a dependent child of a finance(e) from filing a self-petition and seeking immigrant visa issuance abroad.

An application for adjustment of status may be filed concurrently with the self-petition, if the self-petitioner is exempt from immigrant visa number limitations or if an immigrant visa number would be immediately available if the self-petition was approved. Other self-petitioners who wish to adjust status in the United States may file the self-petition separately and submit the adjustment of status application when their immigrant visa numbers become available. Self-petitioners who would like more information about the requirements for adjustment of status in the United States may request Form I–485 from the service office serving their local area.

Conditions on Residency Under Section 216 of the Act

Section 216 of the Act was enacted as part of IMFA to detect and deter immigration-related marriage fraud. It imposes conditions on the lawful permanent resident status of certain persons who obtain residency through marriage. A spouse or child may be subject to these restrictions if he or she becomes a lawful permanent resident based on a relationship created by a marriage entered into less than 2 years before residency is granted. The conditions on residency under section 216 of the Act may be removed only upon fulfillment of certain requirements. A conditional resident who does not file a joint petition with the citizen or permanent resident spouse during the 90 days prior to the second anniversary of the date residency was granted may have residency status terminated. Section 216 of the Act also provides three waivers of the joint petitioning requirement. One waiver exempts a conditional resident from filing a joint petition if he or she has been battered by, or subjected to extreme cruelty committed by, the citizen or lawful permanent resident; or if his or her child has been battered by, or subjected to extreme cruelty committed by, the citizen or lawful permanent resident. The Service has determined that no useful purpose would be served by imposing the conditional residency requirements of section 216 of the Act on any self-petitioner; all self-petitioners would necessarily be eligible for waivers of the joint petitioning requirement. This rule provides, therefore, that the conditional residence requirements of section 216 of the Act will not apply to a person who obtains lawful permanent resident status based on an approved self-petition, regardless of the date of the marriage.

Employment Authorization

Section 40701 of the Crime Bill does not direct the Service to provide employment authorization based solely on the filing or approval of a self-petition. A self-petitioner, however, may be eligible to apply for employment authorization under the existing provisions of 8 CFR 274a.12. Qualified applicants who wish to request employment authorization should complete and file Form I–765, Application for Employment Authorization, according to the instructions provided with the form. A self-petitioner who substantiates that he or she is unable to pay the Form I–765 application fee may be granted a fee waiver in accordance with the provisions of 8 CFR 103.7(c).

Many self-petitioners will qualify for employment authorization under 8 CFR 274a.12(c)(9). This provision allows a person who has properly filed an adjustment of status application under section 245 of the Act to request employment authorization while the adjustment application is pending before the Service.

Most other self-petitioners will be eligible to request voluntary departure prior to or after a deportation hearing for the reasons set forth in 8 CFR 242.5(a)(2)(v), (vi), or (viii), and may qualify for employment authorization based on the grant of voluntary departure. Voluntary departure may be granted under 8 CFR 242.5(a)(2)(v) to a person who lost his or her nonimmigrant student or exchange visitor status (F–1, F–2, J–1, or J–2 nonimmigrant classification) solely because a private bill had been introduced in his or her behalf. It may be granted under 8 CFR 242.5(a)(2)(vi) to a person who is admissible to the United States as an immigrant, and: (1) who is an immediate relative of a U.S. citizen; or (2) is otherwise exempt from the numerical limitation on immigrant visa issuance; or (3) has a priority date for an immigrant visa not more than 60 days later than the date shown in the latest Visa Office Bulletin and has applied for an immigrant visa at a United States Consulate which has accepted jurisdiction over the case; or (4) who is the beneficiary of an employment-based petition with a priority date earlier than August 9, 1978, and who meets certain other requirements outlined in 8 CFR 242.5(a)(2)(vi) (D) or (E). Also, voluntary departure may be granted under 8 CFR 242.5(a)(2)(viii) to a person in whose case the district director has determined there are compelling factors warranting a grant of voluntary departure. A person who has been granted voluntary departure for the reasons set forth in 8 CFR 242.5(a)(2) (v), (vi), or (viii) may be granted permission under 8 CFR 274a.12(c)(12) to be employed for the period of time prior to the date set for voluntary departure, if the person shows an economic need to work. Extensions of voluntary departure and employment authorization may also be requested. Requests for voluntary departure under 8 CFR 242.5(a)(2)(v), (vi), or (viii) may be made to the local Service office having jurisdiction over the applicant's place of residence. There is no application form or fee for requesting voluntary departure for these reasons, although a person requesting employment authorization on the basis of the voluntary departure grant will be required to file Form I–765 and to pay the Form I–765 application fee or to establish eligibility for a fee waiver.

A person who has been placed in deferred action status, an act of administrative convenience to the Government that assigns a lower priority to the alien's removal from the United States, may also request employment authorization under 8 CFR 274a.12(c)(14) if the person shows an economic need to work. There is no application process or fee for placement in deferred action status, although a person requesting employment authorization on the basis of deferred action placement will be required to file Form I–765 and to pay the Form I–765 application fee or to establish eligibility for a fee waiver.

Furthermore, a self-petitioner would not be precluded from requesting the employment authorization benefits of any other provision of 8 CFR 274a.12 under which he or she may qualify.

Other Regulatory Changes

In addition to making regulatory changes necessary to implement the provisions of section 40701 of the Crime Bill, this rule makes necessary grammatical and format changes to ensure consistency and clarity. It also makes technical changes by: (1) amending 8 CFR 103.1(f)(3)(iii) to update regulatory and statutory references; (2) amending 8 CFR 103.1(f)(3)(iii) to eliminate provisions concerning the appeal of a denial of a petition for a Replenishment Agricultural Worker (RAW) under part 210a of the Act, since that program expired at the end of fiscal year 1993 without allowing any such petitions to be filed; (3) revising the headings of 8 CFR 204.1 and 8 CFR 204.2 to more accurately reflect the contents of the sections; (4) correcting a typographical error by replacing "Form I–30" with "Form I–130" in 8 CFR 204.1(a); (5) removing 8 CFR 204.2(d), which discussed a program created by section 112 of the Immigration Act of 1990 to provide additional visa numbers to spouses and children of legalized aliens that ended September 30, 1994; and (6) amending 8 CFR 205.1 to reflect the requirements of 8 CFR 103.2(a)(7)(ii), which provides an automatic revocation of an approved petition when the remitter fails to pay the filing fee and associated service charge after the check or other financial instrument used to pay the filing fee is returned as not payable.

Family Well-Being

This regulation will enhance family well-being by allowing qualified family members of citizens and lawful permanent residents to self-petition for immigrant classification if they are living in this country. These family members were formerly precluded from obtaining this benefit because the abuser refused to file the necessary relative visa petition.

The Service's implementation of this rule as an interim rule, with provision for post-promulgation public comment, is based on the "good cause" exceptions found at 5 U.S.C. 553 (b)(3)(B) and (d)(3). *Methodist Hospital of Sacramento, et al.*, v. *Shalala*, 38 F.3d 1225 (D.C. Cir. 1994). The reasons and necessity for immediate implementation of this interim rule are as follows: The changes to the Act made by section 40701 of the Crime Bill became effective on January 1, 1995. Immediate implementation of this rule will allow a qualified spouse or child of an abusive citizen or lawful permanent resident to immediately self-petition for immigrant classification. Prompt implementation will also allow a spouse or child who is filing based on the relationship to an abusive lawful permanent resident of the United States to establish a more favorable place on the immigrant visa number waiting list. Qualified self-petitioners are all residing in this country and are persons of good moral character. They have been prevented from obtaining immigrant classification in the past solely because their abusive spouse or parent withdrew or refused to file the necessary immigrant visa petition for them.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that the rule will not have a significant economic impact on a substantial number of small entities because of the following factors. By permitting certain spouses and children to self-petition for immigrant classification, the rule will allow some individuals residing in the United States to be classified as immigrants based on the relationship to an abusive citizen or lawful permanent resident spouse or child. It will not affect small entities.

Executive Order 12866

This rule is not considered by the Department of Justice, Immigration and Naturalization Service to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, and the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

Executive Order 12612

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and

responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Paperwork Reduction Act

The information collection requirements contained in this rule have been cleared by the Office of Management and Budget under the provisions of the Paperwork Reduction Act.

List of Subjects

8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Fees, Forms, Freedom of information, Privacy, Reporting and recordkeeping requirements, Surety bonds.

8 CFR Part 204

Administrative practice and procedures, Aliens, Employment, Immigration, Petitions.

8 CFR Part 205

Administrative practice and procedures, Aliens, Immigration, Petitions.

8 CFR Part 216

Administrative practice and procedures, Aliens, Nonimmigrants, Passports and visas.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. The authority citation for part 103 continues to read as follows:

Authority: 5 U.S.C. 552, 552a; 8 U.S.C. 1101, 1103, 1201, 1252 note, 1252b, 1304, 1356; 31 U.S.C. 9701; E.O. 12356, 47 FR 1487, 15557, 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

§ 103.1 [Amended]

2. Section 103.1 is amended by:

a. Revising the reference in paragraph (f)(3)(iii)(C) to "§ 245.2 (a)(4) and (e) of this chapter" to read "section 103 of the Act of October 28, 1977";

b. Revising the reference in paragraph (f)(3)(iii)(K) to "§ 223.1 of this chapter" to read "8 CFR part 223";

c. Revising the reference in paragraph (f)(3)(iii)(L) to "§ 223a.4 of this chapter" to read "8 CFR part 223";

d. Revising the reference in paragraph (f)(3)(iii)(X) to "§ 204.1(b) of this chapter" to read "8 CFR 204.3";

e. Revising the reference in paragraph (f)(3)(iii)(Y) to "§ 204.1(b)(3) of this chapter" to read "8 CFR 204.3";

f. Revising the reference in paragraph (f)(3)(iii)(FF) to "as permanent resident under § 245.6 of this chapter" to read "of certain Cuban and Haitian nationals under section 202 of the Immigration Reform and Control Act of 1986"; and

g. Removing paragraph (f)(3)(iii)(GG).

3. Section 103.1 is amended by adding a new paragraph (f)(3)(iii)(GG), to read as follows:

§ 103.1 Delegations of authority.

* * * * *

(f) * * *

(3) * * *

(iii) * * *

(GG) A self-petition filed by a spouse or child based on the relationship to an abusive citizen or lawful permanent resident of the United States for classification under section 201(b)(2)(A)(i) of the Act or section 203(a)(2)(A) of the Act;

* * * * *

4. Section 103.2 is amended by adding a new paragraph (b)(2)(iii), to read as follows:

§ 103.2 Applications, petitions, and other documents.

* * * * *

(b) * * *

(2) * * *

(iii) *Evidence provided with a self-petition filed by a spouse or child of abusive citizen or resident.* The Service will consider any credible evidence relevant to a self-petition filed by a qualified spouse or child of an abusive citizen or lawful permanent resident under section 204(a)(1)(A)(iii), 204(a)(1)(A)(iv), 204(a)(1)(B)(ii), or 204(a)(1)(B)(iii) of the Act. The self-petitioner may, but is not required to, demonstrate that preferred primary or secondary evidence is unavailable. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Service.

* * * * *

5. Section 103.2 is amended by revising the heading of paragraph (b)(17) and by adding three new sentences at the end of paragraph (b)(17), to read as follows:

§ 103.2 Applications, petitions, and other documents.

* * * * *

(b) * * *

(17) *Verifying claimed citizenship or permanent resident status.* * * * If a self-petitioner filing under section 204(a)(1)(A)(iii), 204(a)(1)(A)(iv), 204(a)(1)(B)(ii), or 204(a)(1)(B)(iii) of the Act is unable to present primary or secondary evidence of the abuser's status, the Service will attempt to electronically verify the abuser's citizenship or immigration status from information contained in Service computerized records. Other Service records may also be reviewed at the discretion of the adjudicating officer. If the Service is unable to identify a record as relating to the abuser, or the record does not establish the abuser's immigration or citizenship status, the self-petition will be adjudicated based on the information submitted by the self-petitioner.

* * * * *

PART 204—IMMIGRANT PETITIONS

6. The authority citation for part 204 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1151, 1153, 1154, 1182, 1186a, 1255; 8 CFR part 2.

7. Section 204.1 is amended by revising the section heading, and by revising paragraph (a), to read as follows:

§ 204.1 General information about immediate relative and family-sponsored petitions.

(a) *Types of petitions.* Petitions may be filed for an alien's classification as an immediate relative under section 201(b) of the Act or as a preference immigrant under section 203(a) of the Act based on a qualifying relationship to a citizen or lawful permanent resident of the United States, as follows:

(1) A citizen or lawful permanent resident of the United States petitioning under section 204(a)(1)(A)(i) or 204(a)(1)(B)(i) of the Act for a qualifying relative's classification as an immediate relative under section 201(b) of the Act or as a preference immigrant under section 203(a) of the Act must file a Form I–130, Petition for Alien Relative. These petitions are described in § 204.2;

(2) A widow or widower of a United States citizen self-petitioning under section 204(a)(1)(A)(ii) of the Act as an immediate relative under section 201(b) of the Act must file a Form I–360, Petition for Amerasian, Widow, or Special Immigrant. These petitions are described in § 204.2;

(3) A spouse or child of an abusive citizen or lawful permanent resident of the United States self-petitioning under section 204(a)(1)(A)(iii), 204(a)(1)(A)(iv), 204(a)(1)(B)(ii), or 204(a)(1)(B)(iii) of the Act for classification as an immediate relative under section 201(b) of the Act or as a preference immigrant under section 203(a) of the Act must file a Form I–360, Petition for Amerasian, Widow, or Special Immigrant. These petitions are described in § 204.2;

(4) A citizen of the United States seeking advanced processing of an orphan petition must file Form I–600A, Application for Advanced Processing of Orphan Petition. A citizen of the United States petitioning under section 204(a)(1)(A)(i) of the Act for classification of an orphan described in section 101(b)(1)(F) of the Act as an immediate relative under section 201(b) of the Act must file Form I–600, Petition to Classify Orphan as an Immediate Relative. These applications and petitions are described in § 204.3; and

(5) Any person filing a petition under section 204(f) of the Act as, or on behalf of, an Amerasian for classification as an immediate relative under section 201(b) of the Act or as a preference immigrant under section 203(a)(1) or 203(a)(3) of the Act must file a Form I–360, Petition for Amerasian, Widow, or Special Immigrant. These petitions are described in § 204.4.

* * * * *

9. Section 204.1 is amended by revising paragraph (e)(1), to read as follows:

§ 204.1 General information about immediate relative and family-sponsored petitions.

* * * * *

(e) * * *

(1) *Petitioner or self-petitioner residing in the United States.* The petition or self-petition must be filed with the Service office having jurisdiction over the place where the petitioner or self-petitioner is residing. When the petition or self-petition is accompanied by an application for adjustment of status, the petition or self-petition may be filed with the Service office having jurisdiction over the beneficiary's or self-petitioner's place of residence.

* * * * *

9. Section 204.1 is amended by adding two new sentences at the end of paragraph (e)(2), to read as follows:

§ 204.1 General information about immediate relative and family-sponsored petitions.

* * * * *

(e) * * *

(2) * * * An overseas Service officer may not accept or approve a self-petition filed by the spouse or child of an abusive citizen or lawful permanent resident of the United States under section 204(a)(1)(A)(iii), 204(a)(1)(A)(iv), 204(a)(1)(B)(ii), or 204(a)(1)(B)(iii) of the Act. These self-petitions must be filed with the Service office in the United States having jurisdiction over the self-petitioner's place of residence in the United States.

* * * * *

10. Section 204.1 is amended by adding two new sentences at the end of paragraph (e)(3), to read as follows:

§ 204.1 General information about immediate relative and family-sponsored petitions.

* * * * *

(e) * * *

(3) * * * A consular official may not accept or approve a self-petition filed by the spouse or child of an abusive citizen or lawful permanent resident of the United States under section 204(a)(1)(A)(iii), 204(a)(1)(A)(iv), 204(a)(1)(B)(ii), or 204(a)(1)(B)(iii) of the Act. These self-petitions must be filed with the Service office in the United States having jurisdiction over the self-petitioner's place of residence in the United States.

* * * * *

11. Section 204.1 is amended by adding three new sentences at the end of paragraph (f)(1), to read as follows:

§ 204.1 General information about immediate relative and family-sponsored petitions.

* * * * *

(f) * * *

(1) * * * The Service will consider any credible evidence relevant to a self-petition filed by a qualified spouse or child of an abusive citizen or lawful permanent resident under section 204(a)(1)(A)(iii), 204(a)(1)(A)(iv), 204(a)(1)(B)(ii), or 204(a)(1)(B)(iii) of the Act. The self-petitioner may, but is not required to, demonstrate that preferred primary or secondary evidence is unavailable. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Service.

* * * * *

12. Section 204.1 is amended by adding a new paragraph (g)(3), to read as follows:

§ 204.1 General information about immediate relative and family-sponsored petitions.

* * * * *

(g) * * *

(3) *Evidence submitted with a self-petition.* If a self-petitioner filing under section 204(a)(1)(A)(iii), 204(a)(1)(A)(iv), 204(a)(1)(B)(ii), or 204(a)(1)(B)(iii) of the Act is unable to present primary or secondary evidence of the abuser's status, the Service will attempt to electronically verify the abuser's citizenship or immigration status from information contained in Service computerized records. Other Service records may also be reviewed at the discretion of the adjudicating officer. If the Service is unable to identify a record as relating to the abuser or the record does not establish the abuser's immigration or citizenship status, the self-petition will be adjudicated based on the information submitted by the self-petitioner.

* * * * *

13. Section 204.2 is amended by:

a. Revising the section heading;

b. Removing paragraph (d);

c. Redesignating paragraph (c) as paragraph (d); and by

d. Adding a new paragraph (c), to read as follows:

§ 204.2 Petitions for relatives, widows and widowers, and abused spouses and children.

* * * * *

(c) *Self-petition by spouse of abusive citizen or lawful permanent resident.* (1) *Eligibility.* (i) *Basic eligibility requirements.* A spouse may file a self-petition under section 204(a)(1)(A)(iii) or 204(a)(1)(B)(ii) of the Act for his or her classification as an immediate relative or as a preference immigrant if he or she:

(A) Is the spouse of a citizen or lawful permanent resident of the United States;

(B) Is eligible for immigrant classification under section 201(b)(2)(A)(i) or 203(a)(2)(A) of the Act based on that relationship;

(C) Is residing in the United States;

(D) Has resided in the United States with the citizen or lawful permanent resident spouse;

(E) Has been battered by, or has been the subject of extreme cruelty perpetrated by, the citizen or lawful permanent resident during the marriage; or is that parent of a child who has been battered by, or has been the subject of extreme cruelty perpetrated by, the citizen or lawful permanent resident during the marriage;

(F) Is a person of good moral character;

(G) Is a person whose deportation would result in extreme hardship to himself, herself, or his or her child; and

(H) Entered into the marriage to the citizen or lawful permanent resident in good faith.

(ii) *Legal status of the marriage.* The self-petitioning spouse must be legally married to the abuser when the petition is properly filed with the Service. A spousal self-petition must be denied if the marriage to the abuser legally ended through annulment, death, or divorce before that time. After the self-petition has been properly filed, the legal termination of the marriage will have no effect on the decision made on the self-

petition. The self-petitioner's remarriage, however, will be a basis for the denial of a pending self-petition.

(iii) *Citizenship or immigration status of the abuser.* The abusive spouse must be a citizen of the United States or a lawful permanent resident of the United States when the petition is filed and when it is approved. Changes in the abuser's citizenship or lawful permanent resident status after the approval will have no effect on the self-petition. A self-petition approved on the basis of a relationship to an abusive lawful permanent resident spouse will not be automatically upgraded to immediate relative status. The self-petitioner would not be precluded, however, from filing a new self-petition for immediate relative classification after the abuser's naturalization, provided the self-petitioner continues to meet the self-petitioning requirements.

(iv) *Eligibility for immigrant classification.* A self-petitioner is required to comply with the provisions of section 204(c) of the Act, section 204(g) of the Act, and section 204(a)(2) of the Act.

(v) *Residence.* A self-petition will not be approved if the self-petitioner is not residing in the United States when the self-petition is filed. The self-petitioner is not required to be living with the abuser when the petition is filed, but he or she must have resided with the abuser in the United States in the past.

(vi) *Battery or extreme cruelty.* For the purpose of this chapter, the phrase "was battered by or was the subject of extreme cruelty" includes, but is not limited to, being the victim of any act or threatened act of violence, including any forceful detention, which results or threatens to result in physical or mental injury. Psychological or sexual abuse or exploitation, including rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered acts of violence. Other abusive actions may also be acts of violence under certain circumstances, including acts that, in and of themselves, may not initially appear violent but that are a part of an overall pattern of violence. The qualifying abuse must have been committed by the citizen or lawful permanent resident spouse, must have been perpetrated against the self-petitioner or the self-petitioner's child, and must have taken place during the self-petitioner's marriage to the abuser.

(vii) *Good moral character.* A self-petitioner will be found to lack good moral character if he or she is a person described in section 101(f) of the Act. Extenuating circumstances may be taken into account if the person has not been convicted of an offense or offenses but admits to the commission of an act or acts that could show a lack of good moral character under section 101(f) of the Act. A person who was subjected to abuse in the form of forced prostitution or who can establish that he or she was forced to engage in other behavior that could render the person excludable under section 212(a) of the Act would not be precluded from being found to be a person of good moral character, provided the person has not been convicted for the commission of the offense or offenses in a court of law. A self-petitioner will also be found to lack good moral character, unless he or she establishes extenuating circumstances, if he or she willfully failed or refused to support dependents; or committed unlawful acts that adversely reflect upon his or her moral character, or was convicted or imprisoned for such acts, although the acts do not require an automatic finding of lack of good moral character. A self-petitioner's claim of good moral character will be evaluated on a case-by-case basis, taking into account the provisions of section 101(f) of the Act and the standards of the average citizen in the community. If the results of record checks conducted prior to the issuance of an immigrant visa or approval of an application for adjustment of status disclose that the self-petitioner is no longer a person of good moral character or that he or she has not been a person of good moral character in the past, a pending self-petition will be denied or the approval of a self-petition will be revoked.

(viii) *Extreme hardship.* The Service will consider all credible evidence of extreme hardship submitted with a self-petition, including evidence of hardship arising from circumstances surrounding the abuse. The extreme hardship claim will be evaluated on a case-by-case basis after a review of the evidence in the case. Self-petitioners are encouraged to cite and document all applicable factors, since there is no guarantee that a particular reason or reasons will result in a finding that deportation would cause extreme hardship. Hardship to persons other than the self-petitioner or the self-petitioner's child cannot be considered in determining whether a self-petitioning spouse's deportation would cause extreme hardship.

(ix) *Good faith marriage.* A spousal self-petition cannot be approved if the self-petitioner entered into the marriage to the abuser for the primary purpose of circumventing the immigration laws. A self-petition will not be denied, however, solely because the spouses are not living together and the marriage is no longer viable.

(2) *Evidence for a spousal self-petition.* (i) *General.* Self-petitioners are encouraged to submit primary evidence whenever possible. The Service will consider, however, any credible evidence relevant to the petition. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Service.

(ii) *Relationship.* A self-petition filed by a spouse must be accompanied by evidence of citizenship of the United States citizen or proof of the immigration status of the lawful permanent resident abuser. It must also be accompanied by evidence of the relationship. Primary evidence of a marital relationship is a marriage certificate issued by civil authorities, and proof of the termination of all prior marriages, if any, of both the self-petitioner and the abuser. If the self-petition is based on a claim that the self-petitioner's child was battered or subjected to extreme cruelty committed by the citizen or lawful permanent resident spouse, the self-petition should also be accompanied by the child's birth certificate or other evidence showing the relationship between the self-petitioner and the abused child.

(iii) *Residence.* One or more documents may be submitted showing that the self-petitioner and the abuser have resided together in the United States. One or more documents may also be submitted showing that the self-petitioner is residing in the United States when the self-petition is filed. Employment records, utility receipts, school records, hospital or medical records, birth certificates of children born in the United States, deeds, mortgages, rental records, insurance policies, affidavits or any other type of relevant credible evidence of residency may be submitted.

(iv) *Abuse.* Evidence of abuse may include, but is not limited to, reports and affidavits from police, judges and other court officials, medical personnel, school officials, clergy, social workers, and other social service agency personnel. Persons who have obtained an order of protection against the abuser or have taken other legal steps to end the abuse are strongly encouraged to submit copies of the relating legal documents. Evidence that the abuse victim sought safe-haven in a battered women's shelter or similar refuge may be relevant, as may a combination of documents such as a photograph of the visibly injured self-petitioner supported by affidavits. Other forms of credible relevant evidence will also be considered. Documentary proof of non-qualifying abuses may only be used to establish a pattern of abuse and violence and to support a claim that qualifying abuse also occurred.

(v) *Good moral character.* Primary evidence of the self-petitioner's good moral character is the self-petitioner's affidavit. The affidavit should be accompanied by a local police clearance or a state-issued criminal background check from each locality or state in the United States in which the self-petitioner has resided for six or more months during the 3-year period immediately preceding the filing of the self-petition. Self-petitioners who lived outside the United States during this time should submit a police clearance, criminal background check, or similar report issued by the appropriate authority in each foreign country in which he or she resided for six or more months during the 3-year period immediately preceding the filing of the self-petition. If police clearances, criminal background checks, or similar reports are not available for some or all locations, the self-petitioner may include an explanation and submit other evidence with his or her affidavit. The Service will consider other credible evidence of good moral character, such as affidavits from responsible persons who can knowledgeably attest to the self-petitioner's good moral character.

(vi) *Extreme hardship.* Evidence of extreme hardship may include affidavits, birth certificates of children, medical reports, protection orders and other court documents, police reports, and other relevant credible evidence.

(vii) *Good faith marriage.* Evidence of good faith at the time of marriage may include, but is not limited to, proof that one spouse has been listed as the other's spouse on insurance policies, property leases, income tax forms, or bank accounts; and testimony or other evidence regarding courtship, wedding ceremony, shared residence and experiences. Other types of readily available evidence might include the birth certificates of children born to the abuser and the spouse; police, medical, or court documents providing information about the relationship; and affidavits of persons with personal knowledge of the relationship. All credible relevant evidence will be considered.

(3) *Decision on and disposition of the petition.* (i) *Petition approved.* If the self-petitioning spouse will apply for adjustment of status under section 245 of the Act, the approved petition will be retained by the Service. If the self-petitioner will apply for an immigrant visa abroad, the approved self-petition will be forwarded to the Department of State's National Visa Center.

(ii) *Notice of intent to deny.* If the preliminary decision on a properly filed self-petition is adverse to the self-petitioner, the self-petitioner will be provided with written notice of this fact and offered an opportunity to present additional information or arguments before a final decision is rendered. If the adverse preliminary decision is based on derogatory information of which the self-petitioner is unaware, the self-petitioner will also be offered an opportunity to rebut the derogatory information in accordance with the provisions of 8 CFR 103.2(b)(16).

(iii) *Petition denied.* If the self-petition is denied, the self-petitioner will be notified in writing of the reasons for the denial and of the right to appeal the decision.

(4) *Derivative beneficiaries.* A child accompanying or following-to-join the self-petitioning spouse may be accorded the same preference and priority date as the self-petitioner without the necessity of a separate petition, if the child has not been classified as an immigrant based on his or her own self-petition. A derivative child who had been included in a parent's self-petition may later file a self-petition, provided the child meets the self-petitioning requirements. A child who has been classified as an immigrant based on a petition filed by the abuser or another relative may also be derivatively included in a parent's self-petition. The derivative child must be unmarried, less than 21 years old, and otherwise qualify as the self-petitioner's child under section 101(b)(1)(F) of the Act until he or she becomes a lawful permanent resident based on the derivative classification.

(5) *Name change.* If the self-petitioner's current name is different than the name shown on the documents, evidence of the name change (such as the petitioner's marriage certificate, legal document showing name change, or other similar evidence) must accompany the self-petition.

* * * * *

14. Section 204.2 is amended by redesignating paragraphs (e), (f), (g), and (h), as paragraphs (f), (g), (h), and (i), respectively; and by adding a new paragraph (e), to read as follows:

§ 204.2 Petitions for relatives, widows and widowers, and abused spouses and children.

* * * * *

(e) *Self-petition by child of abusive citizen or lawful permanent resident.* (1) *Eligibility.* (i) A child may file a self-petition under section 204(a)(1)(A)(iv) or 204(a)(1)(B)(iii) of the Act if he or she:

(A) Is the child of a citizen or lawful permanent resident of the United States;

(B) Is eligible for immigrant classification under section 201(b)(2)(A)(i) or 203(a)(2)(A) of the Act based on that relationship;

(C) Is residing in the United States;

(D) Has resided in the United States with the citizen or lawful permanent resident parent;

(E) Has been battered by, or has been the subject of extreme cruelty perpetrated by, the citizen or lawful permanent resident parent while residing with that parent;

(F) Is a person of good moral character; and

(G) Is a person whose deportation would result in extreme hardship to himself or herself.

(ii) *Parent-child relationship to the abuser.* The self-petitioning child must be unmarried, less than 21 years of age, and otherwise qualify as the abuser's child under the definition of child contained in section 101(b)(1) of the Act when the petition is filed and when it is approved. Termination of the abuser's parental rights or a change in legal custody does not alter the self-petitioning relationship provided the child meets the requirements of section 101(b)(1) of the Act.

(iii) *Citizenship or immigration status of the abuser.* The abusive parent must be a citizen of the United States or a lawful permanent resident of the United States when the petition is filed and when it is approved. Changes in the abuser's citizenship or lawful permanent resident status after the approval will have no effect on the self-petition. A self-petition approved on the basis of a relationship to an abusive lawful permanent resident will not be automatically upgraded to immediate relative status. The self-petitioning child would not be precluded, however, from filing a new self-petition for immediate relative classification after the abuser's naturalization, provided the self-petitioning child continues to meet the self-petitioning requirements.

(iv) *Eligibility for immigrant classification.* A self-petitioner is required to comply with the provisions of section 204(c) of the Act, section 204(g) of the Act, and section 204(a)(2) of the Act.

(v) *Residence.* A self-petition will not be approved if the self-petitioner is not residing in the United States when the self-petition is filed. The self-petitioner is not required to be living with the abuser when the petition is filed, but he or she must have resided with the abuser in the United States in the past.

(vi) *Battery or extreme cruelty.* For the purpose of this chapter, the phrase "was

battered by or was the subject of extreme cruelty" includes, but is not limited to, being the victim of any act or threatened act of violence, including any forceful detention, which results or threatens to result in physical or mental injury. Psychological or sexual abuse or exploitation, including rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered acts of violence. Other abusive actions may also be acts of violence under certain circumstances, including acts that, in and of themselves, may not initially appear violent but are a part of an overall pattern of violence. The qualifying abuse must have been committed by the citizen or lawful permanent resident parent, must have been perpetrated against the self-petitioner, and must have taken place while the self-petitioner was residing with the abuser.

(vii) *Good moral character.* A self-petitioner will be found to lack good moral character if he or she is a person described in section 101(f) of the Act. Extenuating circumstances may be taken into account if the person has not been convicted of an offense or offenses but admits to the commission of an act or acts that could show a lack of good moral character under section 101(f) of the Act. A person who was subjected to abuse in the form of forced prostitution or who can establish that he or she was forced to engage in other behavior that could render the person excludable under section 212(a) of the Act would not be precluded from being found to be a person of good moral character, provided the person has not been convicted for the commission of the offense or offenses in a court of law. A self-petitioner will also be found to lack good moral character, unless he or she establishes extenuating circumstances, if he or she willfully failed or refused to support dependents; or committed unlawful acts that adversely reflect upon his or her moral character, or was convicted or imprisoned for such acts, although the acts do not require an automatic finding of lack of good moral character. A self-petitioner's claim of good moral character will be evaluated on a case-by-case basis, taking into account the provisions of section 101(f) of the Act and the standards of the average citizen in the community. If the results of record checks conducted prior to the issuance of an immigrant visa or approval of an application for adjustment of status disclose that the self-petitioner is no longer a person of good moral character or that he or she has not been a person of good moral character in the past, a pending self-petition will be denied or the approval of a self-petition will be revoked.

(viii) *Extreme hardship.* The Service will consider all credible evidence of extreme hardship submitted with a self-petition, including evidence of hardship arising from circumstances surrounding the abuse. The extreme hardship claim will be evaluated on a case-by-case basis after a review of the evidence in the case. Self-petitioners are encouraged to cite and document all applicable factors, since there is no guarantee that a particular reason or reasons will result in a finding that deportation would cause extreme hardship. Hardship to persons other than the self-petitioner cannot be considered in determining whether a self-petitioning child's deportation would cause extreme hardship.

(2) *Evidence for a child's self-petition.* (i) *General.* Self-petitioners are encouraged to submit primary evidence whenever possible. The Service will consider, however, any credible evidence relevant to the petition. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Service.

(ii) *Relationship.* A self-petition filed by a child must be accompanied by evidence of citizenship of the United States citizen or proof of the immigration status of the lawful permanent resident abuser. It must also be accompanied by evidence of the relationship. Primary evidence of the relationship between:

(A) The self-petitioning child and an abusive biological mother is the self-petitioner's birth certificate issued by civil authorities;

(B) A self-petitioning child who was born in wedlock and an abusive biological father is the child's birth certificate issued by civil authorities, the marriage certificate of the child's parents, and evidence of legal termination of all prior marriages, if any;

(C) A legitimated self-petitioning child and an abusive biological father is the child's birth certificate issued by civil authorities, and evidence of the child's legitimation;

(D) A self-petitioning child who was born out of wedlock and an abusive biological father is the child's birth certificate issued by civil authorities showing the father's name, and evidence that a bona fide parent-child relationship has been established between the child and the parent;

(E) A self-petitioning stepchild and an abusive stepparent is the child's birth certificate issued by civil authorities, the marriage certificate of the child's parent and the stepparent showing marriage before the stepchild reached 18 years of age, and evidence of legal termination of all prior marriages of either parent, if any; and

(F) An adopted self-petitioning child and an abusive adoptive parent is an adoption decree showing that the adoption took place before the child reached 16 years of age, and evidence that the child has been residing with and in the legal custody of the abusive adoptive parent for at least 2 years.

(iii) *Residence.* One or more documents may be submitted showing that the self-petitioner and the abuser have resided together in the United States. One or more documents may also be submitted showing that the self-petitioner is residing in the United States when the self-petition is filed. Employment records, school records, hospital or medical records, rental records, insurance policies, affidavits or any other type of relevant credible evidence of residency may be submitted.

(iv) *Abuse.* Evidence of abuse may include, but is not limited to, reports and affidavits from police, judges and other court officials, medical personnel, school officials, clergy, social workers, and other social service agency personnel. Persons who have obtained an order of protection against the abuser or taken other legal steps to end the abuse are strongly encouraged to submit copies of the relating legal documents. Evidence that the abuse victim sought safe-haven in a battered women's shelter or similar refuge may be relevant, as may a combination of documents such as a photograph of the visibly injured self-petitioner supported by affidavits. Other types of credible relevant evidence will also be considered. Documentary proof of non-qualifying abuse may only be used to establish a pattern of abuse and violence and to support a claim that qualifying abuse also occurred.

(v) *Good moral character.* Primary evidence of the self-petitioner's good moral character is the self-petitioner's affidavit. The affidavit should be accompanied by a local police clearance or a state-issued criminal background check from each locality or state in the United States in which the self-petitioner has resided for six or more months during the 3-year period immediately preceding the filing of the self-petition. Self-petitioners who lived outside the United States during this time should submit a police clearance, criminal background check, or similar report issued by the appropriate authority in the foreign country in which he or she resided for six or more months during the 3-year period immediately preceding the filing of the self-petition. If police clearances, criminal background checks, or similar reports are not available for some or all locations, the self-petitioner may include an explanation and submit other evidence with his or her affidavit. The Service will consider other credible evidence of good moral character, such as affidavits from responsible persons who can knowledgeably attest to the self-petitioner's good moral character. A child who is less than 14 years of age is presumed to be a person of good moral character and is not required to submit affidavits of good moral character, police clearances, criminal background checks, or other evidence of good moral character.

(vi) *Extreme hardship.* Evidence of extreme hardship may include affidavits, medical reports, protection orders and other court documents, police reports, and other relevant credible evidence.

(3) *Decision on and disposition of the petition.* (i) *Petition approved.* If the self-petitioning child will apply for adjustment of status under section 245 of the Act, the approved petition will be retained by the Service. If the self-petitioner will apply for an immigrant visa abroad, the approved self-petition will be forwarded to the Department of State's National Visa Center.

(ii) *Notice of intent to deny.* If the preliminary decision on a properly filed self-petition is adverse to the self-petitioner, the self-petitioner will be provided with written notice of this fact and offered an opportunity to present additional information or arguments before a final decision is rendered. If the adverse preliminary decision is based on derogatory information of which the self-petitioner is unaware, the self-petitioner will also be offered an opportunity to rebut the derogatory information in accordance with the provisions of 8 CFR 103.2(b)(16).

(iii) *Petition denied.* If the self-petition is denied, the self-petitioner will be notified in writing of the reasons for the denial and of the right to appeal the decision.

(4) *Derivative beneficiaries.* A child of a self-petitioning child is not eligible for derivative classification and must have a petition filed on his or her behalf if seeking immigrant classification.

(5) *Name change.* If the self-petitioner's current name is different than the name shown on the documents, evidence of the name change (such as the petitioner's marriage certificate, legal document showing the name change, or other similar evidence) must accompany the self-petition.

* * * * *

§ 204.2 [Amended]

15. Section 204.2 is amended in newly designated paragraph (g)(2)(iv) by revising the reference to "paragraphs (f)(2)(ii) and (f)(2)(iii) of this section" to read "paragraphs (g)(2)(ii) and (g)(2)(iii) of this section".

16. Section 204.2 is amended by adding five new sentences at the end of the newly redesignated paragraph (h)(2), to read as follows:

§ 204.2 Petitions for relatives, widows and widowers, and abused spouses and children.

* * * * *

(h) * * *

(2) * * * A self-petition filed under section 204(a)(1)(A)(iii), 204(a)(1)(A)(iv), 204(a)(1)(B)(ii), 204(a)(1)(B)(iii) of the Act based on the relationship to an abusive citizen or lawful permanent resident of the United States will not be regarded as a reaffirmation or reinstatement of a petition previously filed by the abuser. A self-petitioner who has been the beneficiary of a visa petition filed by the abuser to accord the self-petitioner immigrant classification as his or her spouse or child, however, will be allowed to transfer the visa petition's priority date to the self-petition. The visa petition's priority date may be assigned to the self-petition without regard to the current validity of the visa petition. The burden of proof to establish the existence of and the filing date of the visa petition lies with the self-petitioner, although the Service will attempt to verify a claimed filing through a search of the Service's computerized records or other records deemed appropriate by the adjudicating officer. A new self-petition filed under section 204(a)(1)(A)(iii), 204(a)(1)(A)(iv), 204(a)(1)(B)(ii), or 204(a)(1)(B)(iii) of the Act will not be regarded as a reaffirmation or reinstatement of the original self-petition unless the prior and the subsequent self-petitions are based on the relationship to the same abusive citizen or lawful permanent resident of the United States.

* * * * *

17. Section 204.2 is amended by adding a new sentence at the end of the newly redesignated paragraph (i)(3), to read as follows:

§ 204.2 Petitions for relatives, widows and widowers, and abused spouses and children.

* * * * *

(i) * * *

(3) * * * A self-petition filed under section 204(a)(1)(B)(ii) or 204(a)(1)(B)(iii) of the Act based on the relationship to an abusive lawful permanent resident of the United States for classification under section 203(a)(2) of the Act will not be affected by the abuser's naturalization and will not be automatically converted to a petition for immediate relative classification.

PART 205—REVOCATION OF APPROVAL OF PETITIONS

18. The authority citation for part 205 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1151, 1153, 1154, 1155, 1182, and 1186a.

19. Section 205.1 is revised to read as follows:

§ 205.1 Automatic revocation.

(a) *Reasons for automatic revocation.* The approval of a petition or self-petition made under section 204 of the Act and in accordance with part 204 of this chapter is revoked as of the date of approval:

(1) If the Secretary of State shall terminate the registration of the beneficiary pursuant to the provisions of section 203(e) of the Act before October 1, 1991, or section 203(g) of the Act on or after October 1, 1994;

(2) If the filing fee and associated service charge are not paid within 14 days of the notification to the remitter that his or her check or other financial instrument used to pay the filing fee has been returned as not payable; or

(3) If any of the following circumstances occur before the beneficiary's or self-petitioner's journey to the United States commences or, if the beneficiary or self-petitioner is an applicant for adjustment of status to that of a permanent resident, before the decision on his or her adjustment application becomes final:

(i) *Immediate relative and family-sponsored petitions, other than Amerasian petitions.* (A) Upon written notice of withdrawal filed by the petitioner or self-petitioner with any officer of the Service who is authorized to grant or deny petitions.

(B) Upon the death of the beneficiary or the self-petitioner.

(C) Upon the death of the petitioner, unless the Attorney General in his or her discretion determines that for humanitarian reasons revocation would be inappropriate.

(D) Upon the legal termination of the marriage when a citizen or lawful permanent resident of the United States has petitioned to accord his or her spouse immediate relative or family-sponsored preference immigrant classification under section 201(b) or section 203(a)(2) of the Act. The

approval of a spousal self-petition based on the relationship to an abusive citizen or lawful permanent resident of the United States filed under section 204(a)(1)(A)(iii) or 204(a)(1)(B)(ii) of the Act, however, will not be revoked solely because of the termination of the marriage to the abuser.

(E) Upon the remarriage of the spouse of an abusive citizen or lawful permanent resident of the United States when the spouse has self-petitioned under section 204(a)(1)(A)(iii) or 204(a)(1)(B)(ii) of the Act for immediate relative classification under section 201(b) of the Act or for preference classification under section 203(a)(2) of the Act.

(F) Upon a child reaching the age of 21, when he or she has been accorded immediate relative status under section 201(b) of the Act. A petition filed on behalf of a child under section 204(a)(1)(A)(i) of the Act or a self-petition filed by a child of an abusive United States citizen under section 204(a)(1)(A)(iv) of the Act, however, will remain valid for the duration of the relationship to accord preference status under section 203(a)(1) of the Act if the beneficiary remains unmarried, or to accord preference status under section 203(a)(3) of the Act if he or she marries.

(G) Upon the marriage of a child, when he or she has been accorded immediate relative status under section 201(b) of the Act. A petition filed on behalf of the child under section 204(a)(1)(A)(i) of the Act or a self-petition filed by a child of an abusive United States citizen under section 204(a)(1)(A)(iv) of the Act, however, will remain valid for the duration of the relationship to accord preference status under section 203(a)(3) of the Act if he or she marries.

(H) Upon the marriage of a person accorded preference status as a son or daughter of a United States citizen under section 203(a)(1) of the Act. A petition filed on behalf of the son or daughter, however, will remain valid for the duration of the relationship to accord preference status under section 203(a)(3) of the Act.

(I) Upon the marriage of a person accorded status as a son or daughter of a lawful permanent resident alien under section 203(a)(2) of the Act.

(J) Upon legal termination of the petitioner's status as an alien admitted for lawful permanent residence in the United States unless the petitioner became a United States citizen. The provisions of 8 CFR 204.2(i)(3) shall apply if the petitioner became a United States citizen.

(ii) *Petition for Pub. L. 97–359 Amerasian.* (A) Upon formal notice of withdrawal filed by the petitioner with the officer who approved the petition.

(B) Upon the death of the beneficiary.

(C) Upon the death or bankruptcy of the sponsor who executed Form I–361, Affidavit of Financial Support and Intent to Petition for Legal Custody for Pub. L. 97–359 Amerasian. In that event, a new petition may be filed in the beneficiary's behalf with the documentary evidence relating to sponsorship and, in the case of a beneficiary under 18 years of age, placement. If the new petition is approved, it will be given the priority date of the previously approved petition.

(D) Upon the death or substitution of the petitioner if other than the beneficiary or sponsor. However, if the petitioner dies or no longer desires or is able to proceed with the petition, and another person 18 years of age or older, an emancipated minor, or a corporation incorporated in the United States desires to be substituted for the deceased or original petitioner, a written request may be submitted to the Service or American consular office where the petition is located to reinstate the petition and restore the original priority date.

(E) Upon the beneficiary's reaching the age of 21 when the beneficiary has been accorded classification under section 201(b) of the Act. Provided that all requirements of section 204(f) of the Act continue to be met, however, the petition is to be considered valid for purposes of according the beneficiary preference classification under section 203(a)(1) of the Act if the beneficiary remains unmarried or under section 203(a)(3) if the beneficiary marries.

(F) Upon the beneficiary's marriage when the beneficiary has been accorded classification under section 201(b) or section 203(a)(1) of the Act. Provided that all requirements of section 204(f) of the Act continue to be met, however, the petition is to be considered valid for purposes of according the beneficiary preference classification under section 203(a)(3) of the Act.

(iii) *Petitions under section 203(b), other than special immigrant juvenile petitions.* (A) Upon invalidation pursuant to 20 CFR Part 656 of the labor certification in support of the petition.

(B) Upon the death of the petitioner or beneficiary.

(C) Upon written notice of withdrawal filed by the petitioner, in employment-based preference cases, with any officer of the Service who is authorized to grant or deny petitions.

(D) Upon termination of the employer's business in an employment-based preference case under section 203(b)(1)(B), 203(b)(1)(C), 203(b)(2), or 203(b)(3) of the Act.

(iv) *Special immigrant juvenile petitions.* Unless the beneficiary met all of the eligibility requirements as of November 29, 1990, and the petition requirements as of November 29, 1990, and the petition for classification as a special immigrant juvenile was filed before June 1, 1994, or unless the change in circumstances resulted from the beneficiary's adoption or placement in a guardianship situation:

(A) Upon the beneficiary reaching the age of 21;

(B) Upon the marriage of the beneficiary;

(C) Upon the termination of the beneficiary's dependency upon the juvenile court;

(D) Upon the termination of the beneficiary's eligibility for long-term foster care; or

(E) Upon the determination in administrative or judicial proceedings that it is in the beneficiary's best interest to be returned to the country of nationality or last habitual residence of the beneficiary or of his or her parent or parents.

(b) *Notice.* When it shall appear to the director that the approval of a petition has been automatically revoked, he or she shall cause a notice of such revocation to be sent promptly to the consular office having jurisdiction over the visa application and a copy of such notice to be mailed to the petitioner's last known address.

20. Section 205.2 is amended by revising paragraph (b) and adding new paragraphs (c) and (d), to read as follows:

§ 205.2 Revocation on notice.

* * * * *

(b) *Notice of intent.* Revocation of the approval of a petition of self-petition under paragraph (a) of this section will be made only on notice to the petitioner or self-petitioner. The petitioner or self-petitioner must be given the opportunity to offer evidence in support of the petition or self-petition and in opposition to the grounds alleged for revocation of the approval.

(c) *Notification of revocation.* If, upon reconsideration, the approval previously granted is revoked, the director shall provide the petitioner or the self-petitioner with a written notification of the decision that explains the specific reasons for the revocation. The director shall notify the consular officer having jurisdiction over the visa application, if applicable, of the revocation of an approval.

(d) *Appeals.* The petitioner or self-petitioner may appeal the decision to revoke the approval within 15 days after the service of notice of the revocation. The appeal must be filed as provided in part 3 of this chapter, unless the Associate Commissioner for Examinations exercises appellate jurisdiction over the revocation under part 103 of this chapter. Appeals filed with the Associate Commissioner for Examinations must meet the requirements of part 103 of this chapter.

PART 216—CONDITIONAL BASIS OF LAWFUL PERMANENT RESIDENCE STATUS

21. The authority citation for part 216 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1154, 1184, 1186a, 1186b, and 8 CFR part 2.

22. Section 216.1 is amended by adding a new sentence at the end of the section, to read as follows:

§ 216.1 Definition of conditional permanent resident.

* * * The conditions of section 216 of the Act shall not apply to lawful permanent resident status based on a self-petitioning relationship under section 204(a)(1)(A)(iii), 204(a)(1)(A)(iv), 204(a)(1)(b)(ii), or 204(a)(1)(B)(iii) of the Act or based on eligibility as the derivative child of a self-petitioning spouse under section 204(a)(1)(A)(iii) or 204(a)(1)(B)(ii) of the Act, regardless of the date on which the marriage to the abusive citizen or lawful permanent resident occurred.

Dated: March 1, 1996.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 96–7219 Filed 3–25–96; 8:45 am]

BILLING CODE 4410–10–M

FEDERAL RESERVE SYSTEM

12 CFR Part 268

[Docket No. R–0797]

Rules Regarding Equal Opportunity; Correction

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; correcting amendments.

SUMMARY: This document contains technical corrections to the final rule that was published April 6, 1994 (59 FR 16096). The rule sets forth the requirements, policies and procedures with regard to discrimination in employment, and in agency programs and activities, at the Board of Governors of the Federal Reserve System.

EFFECTIVE DATE: March 26, 1996.

FOR FURTHER INFORMATION CONTACT: J. Mills Williams, Senior Attorney (202/452–3701), Legal Division, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC, 20551. For users of Telecommunications Device for the Deaf (TDD) only, please contact Dorothea Thompson (202/452–3544).

SUPPLEMENTARY INFORMATION:

Background

The final rule that is the subject of these corrections, revised an interim rule that was subject to public comment.

Need for Correction

As published, the final rule contained three technical, non-substantive errors that may prove to be misleading and are in need of clarification.

List of Subjects in 12 CFR Part 268

Administrative practice and procedure, Age, Civil rights, Equal employment opportunity, Federal buildings and facilities, Federal Reserve System, Government employees, Individuals with disabilities, Religious discrimination, Sex discrimination, Wages.

Accordingly, 12 CFR Part 268 is corrected by making the following correcting amendments:

PART 268—RULES REGARDING EQUAL OPPORTUNITY

1. The authority citation for Part 268 continues to read as follows:

Authority: 12 U.S.C. 244 and 248 (i), (k) and (l).

§ 268.301 [Corrected]

2. In § 268.301, paragraph (c)(3), the cite "§ 268.209(a)(8)" is revised to read "§ 268.209(b)(8)".

§ 268.305 [Corrected]

3. In § 268.305, paragraph (c)(1), the cite "§ 268.202(e)(3)" is revised to read "§ 268.202(f)(3)".

§ 268.506 [Corrected]

4. In § 268.506, remove the cite "(29 U.S.C. 225)" at the end of the first sentence.

By order of the Board of Governors of the Federal Reserve System under delegated authority, March 20, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–7174 Filed 3–25–96; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–ANE–21; Amendment 39–9547; AD 96–06–10]

Airworthiness Directives; AlliedSignal, Inc. LTS101 Series Turboshaft Engines Installed on Eurocopter France Model AS–350D and SA–366G1 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to AlliedSignal, Inc. (formerly Textron Lycoming) LTS101 series turboshaft engines installed on Eurocopter France (formerly Aerospatiale) Model AS–350D and SA–366G1 helicopters, that requires incorporation of design modifications to the power turbine (PT) rotor. This amendment is prompted by reports of PT disk failures after No. 3 bearing failures. The actions specified by this AD are intended to prevent an uncontained engine failure due to a PT disk failure.

DATES: Effective May 28, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 28, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from AlliedSignal Engines, 550 Main Street, Stratford, CT 06497. This information may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Eugene Triozzi, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7148, fax (617) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to AlliedSignal, Inc. (formerly Textron Lycoming) LTS101 series turboshaft engines installed on Eurocopter France (formerly Aerospatiale) Model AS–350D and SA–366G1 helicopters was published in the

Federal Register on June 30, 1995 (60 FR 21053). That action proposed to require incorporation of a modified power turbine (PT) rotor retention system at the next shop visit after the effective date of this AD, but not later than April 30, 1996, in accordance with Textron Lycoming Service Bulletin (SB) No. LTS101A–72–50–0134, Revision 1, dated June 17, 1991, and SB No. LTS101B–72–50–0128, Revision 1, dated June 17, 1991.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the one comment received.

The commenter states that the instructions for installation of the PT retention system should be revised to require installation of two parts, inadvertently omitted but necessary to enable the pneumatic portion of the PT retention system. These parts consist of a tee-fitting to replace an existing elbow fitting in the main fuel control, and a pressurization line. The FAA concurs, and has revised the accomplishment instructions of the final rule to refer to later revisions of the applicable SB's, which reflect installation of these additional parts. Consequently, the FAA has extended the compliance timetable for the final rule in order to provide sufficient opportunity for installation of the parts, and to ensure parts availability. The FAA has determined that installation of the additional parts will not have a substantial additional impact on accomplishment of the requirements of this AD.

Since publication of the NPRM, the manufacturer has issued the following revisions to the SB's, which are referenced in this final rule: AlliedSignal Engines SB No. LTS101A–72–50–0134, Revision 2, dated August 15, 1995; AlliedSignal Engines SB No. LTS101B–72–50–0128, Revision 2, dated August 15, 1995; and AlliedSignal Engines SB No. LTS101A–73–20–0166, Revision 2, dated August 1, 1995.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously.

The FAA estimates that 20 engines installed on aircraft of U.S. registry will be affected by the requirement to install the improved power turbine rotor assembly and the power turbine retention system required by this AD, that it will take approximately 10 work hours per engine to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $44,400 per engine. Based on these figures, the cost impact to install the improved power turbine rotor assembly and the power turbine retention system required by this AD on U.S. operators is estimated to be $900,000. The FAA estimates that 60 engines installed on aircraft of U.S. registry have previously installed the improved power turbine rotor assembly and the power turbine retention system, in addition to the 20 engines in the paragraph above. Therefore, a total of 80 engines will be affected by the requirement to enable the pneumatic portion of the PT retention system by installing the tee-fitting and pressurization line. The FAA estimates that it will take approximately 2.5 work hours per engine to accomplish the required action. Required parts will cost approximately $385 per engine. Based on these figures, the total cost impact of installing the tee-fitting and pressurization line required by the AD on U.S. operators is estimated to be $42,800. Therefore, the revised total cost impact of this AD on all U.S. operators is estimated to be $942,800.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air Transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–06–10 AlliedSignal, Inc.: Amendment 39–9547. Docket 95–ANE–21.

Applicability: AlliedSignal, Inc. (formerly Textron Lycoming) Models LTS101–600A–2 and –600A–3 turboshaft engines installed on Eurocopter France (formerly Aerospatiale) Model AS–350D helicopters; and LTS101–750B–2 turboshaft engines installed on Eurocopter France Model SA–366G1 helicopters.

Note: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) to request approval from the Federal Aviation Administration (FAA). This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any engine from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent an uncontained engine failure due to power turbine (PT) disk failure, accomplish the following at the next shop visit after the effective date of this airworthiness directive (AD) when the PT rotor is removed, but not later than July 1, 1996:

(a) For LTS101–600A–2 and –600A–3 turboshaft engines installed on Eurocopter France (formerly Aerospatiale) Model AS–350D helicopters, incorporate improved PT rotor retention system modifications in accordance with Section II., Accomplishment Instructions, Paragraphs A. through AT. of AlliedSignal Engines Service Bulletin (SB) No. LTS101A–72–50–0134, Revision 2, dated August 15, 1995, and concurrently replace elbow fitting in fuel control governor orifice cover Py port with tee-fitting assembly, P/N 2543854, in accordance with Section II., Accomplishment Instructions, Paragraphs C. (5) through C. (7) of AlliedSignal Engines SB No. LTS101A–73–20–166, Revision 2, dated August 1, 1995.

(b) For LTS101–750B–2 turboshaft engines installed on Eurocopter France Model SA–366G1 helicopters, incorporate improved PT rotor retention system modifications in accordance with Section II., Accomplishment Instructions, of AlliedSignal Engines SB No. LTS101B–72–50–0128, Revision 2, dated August 15, 1995.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

(f) The modification of the PT rotor retention system shall be done in accordance with the following AlliedSignal Engines SB's:

Document No.	Pages	Revision	Date
LTS101A72–50–0134 ..... Total pages: 11.	1–11	2	Aug. 15, 1995.
LTS101B72–50–0128 ..... Total pages: 11.	1–11	2	Aug. 15, 1995.
LTS101A73–20–0166 ..... Total pages: 11.	1–6	2	Aug. 1, 1995.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from AlliedSignal Engines, 550 Main Street, Stratford, CT 06497. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(e) This amendment becomes effective on May 28, 1996.

Issued in Burlington, Massachusetts, on March 11, 1996.

James C. Jones,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 96–7141 Filed 3–25–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–ANE–09; Amendment 39–9548; AD 96–06–11]

Airworthiness Directives; AlliedSignal Inc. TPE331 Series Turboprop Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain AlliedSignal Inc. (formerly Garrett Engine Division) TPE331 series turboprop engines, that establishes cyclic retirement lives for certain compressor components. This amendment is prompted by manufacturer's engine testing and analysis that indicate that if these compressor components continue in service without an established retirement life, accumulative cyclic effects may result in a fatigue failure. The actions specified by this AD are intended to prevent fatigue failure of engine compressor components and an inflight engine shutdown.

DATES: Effective May 28, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 28, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from AlliedSignal Aerospace, Data Distribution, M/S 64–03/2101–201, P.O. Box 29003, Phoenix, AZ 85038–9003; telephone (602) 365–2493, fax (602) 365–5577. This information may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Joseph Costa, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712–4137; telephone (310) 627–5246; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to AlliedSignal Inc. (formerly Garrett Engine Division) Models TPE331–14A, –14B, –14F, and –15AW turboprop engines was published in the **Federal Register** on June 19, 1995 (60 FR 31932). That action proposed to establish cyclic retirement lives for main shouldered shafts (tieshafts) and forward coupling shafts (stub shafts) in accordance with the following AlliedSignal Engines service documents: Alert Service Bulletins (ASB's): No. TPE331–A72–7128, dated June 10, 1994, No. TPE331–A72–7129, dated June 10, 1994, and No. TPE331–A72–7522, dated February 17, 1995, that describe main shouldered shaft (tieshaft) cyclic life limits; and Service Bulletins (SB's) No. TPE331–72–7130, dated June 17, 1994, No. TPE331–72–7131, dated June 17, 1994, and No. TPE331–72–7523, dated February 17, 1995, that describe forward coupling shaft (stub shaft) cyclic life limits.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 200 engines of the affected design in the worldwide fleet. The FAA estimates that 150 engines installed on aircraft of U.S. registry will be affected by this AD, that it will take approximately 80 work hours per engine to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $22,000 per engine for engines where tieshafts and stub shafts are not serviceable. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $4,020,000.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a

"significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–06–11 AlliedSignal Inc.: Amendment 39–9548. Docket 95–ANE–09.

Applicability: AlliedSignal Inc. (formerly Garrett Engine Division) Models TPE331–14A, –14B, –14F, and –15AW turboprop engines, installed on but not limited to the following aircraft: Piper Model PA–42–1000 and Grumman Model TS–2A (modified in accordance with Supplemental Type Certificate SA4837NM).

Note: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) to request approval from the Federal Aviation Administration (FAA). This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any engine from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue failure of engine compressor components and an inflight engine shutdown, accomplish the following:

(a) For main shouldered shafts (tieshafts), Part Number (P/N) 3105102–1, initiate a life limited part log card and remove from service in accordance with the following schedule and the following AlliedSignal Inc. Alert Service Bulletins (ASB's):

(1) Determine cycles in service (CIS) for the main shouldered shafts (tieshafts) as follows:

(i) For main shouldered shafts (tieshafts) installed in TPE331–14A and –14B engines, in accordance with ASB No. TPE331–A72–7128, dated June 10, 1994.

(ii) For main shouldered shafts (tieshafts) installed in TPE331–14F engines, in accordance with ASB No. TPE331–A72–7129, dated June 10, 1994.

(iii) For main shouldered shafts (tieshafts) installed in TPE331–15AW engines, in accordance with ASB No. TPE331–A72–7522, dated February 17, 1995.

(2) For main shouldered shafts (tieshafts) with greater than 5,600 CIS on the effective date of this airworthiness directive (AD), or if operating hours or cycles are unknown, remove from service within 400 CIS after the effective date of this AD.

(3) For main shouldered shafts (tieshafts) with 5,600 or less CIS on the effective date of this AD, remove from service prior to accumulating 6,000 CIS.

(b) For forward coupling shafts (stub shafts), P/N 3104281–2, initiate a life limited part log card, identify the P/N, serialize the forward coupling shaft (stub shaft), at the next major periodic inspection or complete disassembly of the compressor module after the effective date of this AD, whichever occurs first, in accordance with the following AlliedSignal Inc. Service Bulletins (SB's):

(1) For forward coupling shafts (stub shafts) installed in TPE331–14A and –14B engines, in accordance with SB No. TPE331–72–7130, dated June 17, 1994.

(2) For forward coupling shafts (stub shafts) installed in TPE331–14F engines, in accordance with SB No. TPE331–72–7131, dated June 17, 1994.

(3) For forward coupling shafts (stub shafts) installed in TPE331–15AW engines, in accordance with SB No. TPE331–72–7523, dated February 17, 1995.

(4) Remove from service forward coupling shafts (stub shafts) prior to accumulating 20,000 CIS.

Note: For guidance on the destruction or marking of parts no longer serviceable for aviation use, see Advisory Circular 21–38, dated July 5, 1994.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Los Angeles Aircraft Certification Office.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

(e) The actions required by this AD shall be done in accordance with the following AlliedSignal Engines service documents:

Document No.	Pages	Revision	Date
ASB No. TPE331–A72–7128 Total Pages: 4.	1–4	Original	June 10, 1994.
ASB No. TPE331–A72–7129 Total Pages: 4.	1–4	Original	June 10, 1994.
ASB No. TPE331–A72–7522 Total Pages: 2.	1–2	Original	Feb. 17, 1995.
SB No. TPE331–72–7130 Total Pages: 6.	1–6	Original	June 17, 1994.
SB No. TPE331–72–7131 Total Pages: 6.	1–6	Original	June 17, 1994.
SB No. TPE331–72–7523 Total pages: 6.	1–6	Original	Feb. 17, 1995.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from AlliedSignal Aerospace, Data Distribution, M/S 6403/2101–201, P.O. Box 29003, Phoenix, AZ 85038–9003; telephone (602) 365–2493, fax (602) 365–5577. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(f) This amendment becomes effective on May 28, 1996.

Issued in Burlington, Massachusetts, on March 12, 1996.

James C. Jones,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 96–7135 Filed 3–25–96; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 95–NM–99–AD; Amendment 39–9551; AD 96–07–02]

Airworthiness Directives; Fokker Model F28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Fokker Model F28 Mark 0100 series airplanes, that requires inspections to verify the correct operation of the main landing gear (MLG) downlock actuators, and replacement of any discrepant unit with a serviceable unit. This amendment also will require eventual replacement of the MLG downlock actuators with improved units. This amendment is prompted by reports of improper operation of the MLG downlock actuator due to jamming. The actions specified by this AD are intended to prevent such jamming of the downlock actuator, which could result in failure of the MLG downlock system, and a potential gear-up landing.

DATES: Effective April 25, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 25, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2141; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Fokker Model F28 Mark 0100 series airplanes was published in the **Federal Register** on December 11, 1995 (60 FR 63468). That action proposed to require repetitive inspections to verify the correct operation of the MLG downlock actuators; and replacement of any discrepant unit with a serviceable unit. For airplanes on which no discrepant unit is found, the AD also will require recording the accomplishment of each inspection on the unit nameplate. In addition, the AD will require eventual replacement of the MLG downlock actuators with improved units.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supports the proposed rule.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 119 airplanes of U.S. registry will be affected by this AD, that it will take approximately 21 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will be supplied by the vendor at no cost to operators. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $149,940, or $1,260 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–07–02 Fokker: Amendment 39–9551. Docket 95–NM–99–AD.

Applicability: Model F28 Mark 0100 series airplanes equipped with Dowty Aerospace Hydraulics main landing gear (MLG) downlock actuators having part number (P/N) 201218001, 201218002, 201218003, or 201218004, all serial numbers; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent jamming of the MLG downlock actuator and a potential gear-up landing, accomplish the following:

(a) Within 2 months after the effective date of this AD, and thereafter at intervals not to exceed 1,250 landings: Perform an inspection to verify correct operation of the MLG downlock actuator having P/N 201218001, 201218002, 201218003, or 201218004, all serial numbers, in accordance with Fokker Service Bulletin SBF100–32–072, dated March 30, 1993, and Dowty Aerospace Hydraulics Service Bulletin F100–32–505, Revision 1, dated April 16, 1993.

(1) If the MLG downlock actuator operates as specified in the inspection procedure contained in the Accomplishment Instructions of Dowty Aerospace Hydraulics Service Bulletin F100–32–505, Revision 1, dated April 16, 1993, prior to further flight, record the accomplishment of the inspection on the unit nameplate in accordance with the Dowty Aerospace Hydraulics service bulletin. Following accomplishment of each subsequent inspection required by this AD, record the accomplishment of the inspection in accordance with the requirement of this paragraph.

(2) If any MLG downlock actuator does not operate as specified in the inspection procedure contained in the Accomplishment Instructions of Dowty Aerospace Hydraulics Service Bulletin F100–32–505, Revision 1, dated April 16, 1993, prior to further flight, replace the downlock actuator with a serviceable unit, in accordance with Chapter 32–32–05 of the Aircraft Maintenance Manual. Thereafter, perform repetitive inspections of the replacement unit in accordance with paragraph (a) of this AD until the replacement required by paragraph (b) of this AD is accomplished.

(b) Within 9 months after the effective date of this AD, replace any MLG downlock actuator having P/N 201218001, 201218002, 201218003, or 201218004, any serial number, with an improved unit having P/N 201218005, 201218006, 201218007, or 201218008, respectively; in accordance with Fokker Service Bulletin SBF100–32–074, dated July 21, 1993, and Dowty Aerospace Hydraulics Service Bulletin F100–32–506, dated June 9, 1993. Accomplishment of this replacement constitutes terminating action for the repetitive inspections required by paragraph (a) of this AD.

(c) As of the effective date of this AD, no person shall install on any airplane a MLG downlock actuator having P/N 201218001, 201218002, 201218003, or 201218004, any serial number.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) The actions shall be done in accordance with Fokker Service Bulletin SBF100–32–072, dated March 30, 1993; Fokker Service Bulletin SBF100–32–074, dated July 21, 1993; Dowty Aerospace Hydraulics Service Bulletin F100–32–505, Revision 1, dated April 16, 1993; or Dowty Aerospace Hydraulics Service Bulletin F100–32–506, dated June 9, 1993, as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on April 25, 1996.

Issued in Renton, Washington, on March 19, 1996.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–7133 Filed 3–25–96; 8:45 am]

BILLING CODE 4910–13–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1500 and Part 1507

Large Multiple-Tube Fireworks Devices; Final Rule

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its fireworks regulations under the Federal Hazardous Substances Act. This final rule will require that large multiple-tube fireworks devices that have any tube with an inner diameter of 1.5 inches (3.8 cm) or greater pass a performance test for stability. Under the test, these devices may not tip over when inclined at an angle of 60 degrees from the horizontal. This requirement is intended to reduce the risk of injury posed when these fireworks devices tip over during firing. If they tip over, subsequent tubes may discharge in the direction of spectators or others in the vicinity.

DATES: The rule will take effect on March 26, 1997, and will apply to multiple-tube fireworks devices in which any tube has an inner diameter of 1.5 inches or greater and that first enter interstate commerce or are imported on or after that date.

Adversely affected persons have until April 25, 1996 to file objections to this rule, stating grounds therefor and requesting a public hearing on those objections. Objections and requests for hearings must be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, or delivered to the Office of the Secretary, Room 502, 4330 East-West Highway, Bethesda, Maryland 20814 telephone (301) 504–6800.

FOR FURTHER INFORMATION CONTACT: Samuel B. Hall, Office of Compliance, Consumer Product Safety Commission, Washington, DC 20207–0001; telephone (301) 504–0400, ext. 1371.

SUPPLEMENTARY INFORMATION:

A. Background

Multiple-tube mine and shell fireworks devices (also called "display racks" and referred to in this notice as "multiple-tube devices") are non-reloadable devices that fire multiple aerial shells, comets, or other effects into the air to produce visual and audible effects. These devices consist of several vertical tubes with a common fuse, either with or without a horizontal base. They are classified by the Department of Transportation ("DOT") as 1.4G explosive devices (formerly Class C common fireworks devices) which are suitable for use by consumers.

The devices are designed to fire sequentially. This creates the danger that the device's reaction to one shot may cause it to tip over. Subsequent shots may then fire horizontally or at an angle and hit the operator or spectators. The Commission is aware of two deaths to spectators involving multiple-tube devices that occurred in this manner. Both of these incidents involved devices with tubes larger than 1.5 inches in diameter.

The Commission regulates fireworks devices under the Federal Hazardous Substances Act ("FHSA"). 15 U.S.C. 1261–1278. Under its current regulations, the Commission has declared certain fireworks devices to be "banned hazardous substances." 16 CFR 1500.17(a) (3), (8) and (9). Other fireworks devices must meet specific requirements to avoid being classified as banned hazardous substances. 16 CFR Part 1507. Commission regulations also prescribe specific warnings required on various legal fireworks devices, 16 CFR 1500.14(b)(7), and designate the size and location of these warnings. 16 CFR 1500.121.

On July 1, 1994, the Commission issued an advance notice of proposed rulemaking ("ANPR") discussing the hazard presented by multiple-tube devices of all sizes, but noted that more severe incidents have occurred with large devices. 59 FR 33928. The ANPR used 1 inch (2.54 cm) as the cutoff between small and large devices. The ANPR explained that the Commission was considering the following regulatory alternatives: (1) ban all multiple-tube devices; (2) ban multiple-tube devices with an inside tube diameter of greater than 1 inch; (3) require additional labeling on all multiple-tube devices; (4) establish performance or design criteria to modify these devices; (5) pursue individual product recalls; and (6) take no mandatory action, but encourage development of a voluntary standard.

On July 5, 1995, the Commission issued a notice of proposed rulemaking ("NPR") in which it proposed a performance standard for multiple-tube devices with any tube inner diameter of 1.5 inches or more. 60 FR 34922. The Commission found that 1.5 inches is a more appropriate measure to distinguish between large and small devices than is 1 inch, and decided not to propose any further regulatory requirements for smaller devices.[1] The proposed performance standard provided that all large multiple-tube devices have a minimum tip angle greater than 60 degrees. With this notice, the Commission issues the performance standard as a final rule.

B. Statutory Authority

This proceeding is conducted under the FHSA. 15 U.S.C. 1261–1278. Fireworks are "hazardous substances" within the meaning of section 2(f)(1)(A) of the FHSA because they are flammable or combustible substances, or generate pressure through decomposition, heat, or other means, and "may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use * * *." 15 U.S.C. 1261(f)(1)(A).

Under section 2(q)(1)(B) of the FHSA, the Commission may classify as a "banned hazardous substance" any hazardous substance intended for household use which, notwithstanding the precautionary labeling that is or may be required by the FHSA, presents such a hazard that keeping the substance out of interstate commerce is the only adequate way to protect the public health and safety. Id. at 1261(q)(1)(B). A proceeding to classify a substance as a banned hazardous substance under section 2(q)(1) of the FHSA is governed by sections 3(f)–(i) of the FHSA, and by sections 701(e)–(g) of the Federal Food, Drug, and Cosmetic Act ("FDCA"), 21 U.S.C. 371(e)–(g). See 15 U.S.C. 1261(q)(2).

The July 1, 1994, ANPR was the required first step to declare the specified multiple-tube devices to be banned hazardous substances under section 2(q)(1). See 15 U.S.C. 1262(f). The proposed rule, published on July 5, 1995, continued the regulatory process in accordance with 15 U.S.C. 1262(h). To fulfill additional statutory requirements, this notice includes the text of the final rule and a final regulatory analysis. Id. at 1262(i)(1). As required by the FHSA, the Commission also makes findings here that: (1) compliance with any relevant voluntary standard is unlikely to adequately reduce the risk of injury, or substantial compliance by the industry with the voluntary standard is unlikely; (2) the expected benefits of the regulation bear a reasonable relationship to its expected costs; and (3) the regulation imposes the least burdensome requirement that would adequately reduce the risk of injury. Id. at 1262(i)(2).

C. Filing Objections Under Section 701(e) of the FDCA

The procedures established under section 701(e) of the FDCA also govern this rulemaking. 15 U.S.C. 1261(q)(2). These procedures provide that once the Commission issues a final rule, persons who would be adversely affected by the rule have 30 days in which to file objections with the Commission stating the grounds therefor, and to request a public hearing on those objections. 21 U.S.C. 371(e). If objections are filed, a hearing to receive evidence concerning the objections would be held. The presiding officer would then issue an order, based upon substantial evidence. Id. The Commission's procedural rules at 16 CFR Part 1502 would apply to such a hearing.

Any objections and requests for a hearing must be filed with the Commission's Office of the Secretary. They will be accepted for filing if they meet the following conditions: (1) they are submitted within the 30-day period specified; (2) each objection is separately numbered; (3) each objection specifies with particularity the provision(s) of the regulation to which the objection is directed; (4) each objection on which a hearing is requested specifically requests a hearing; and (5) each objection for which a hearing is requested includes a detailed description of the basis for the objection and the factual information or analysis in support thereof (failure to include this information constitutes a waiver of the right to a hearing on that objection). 16 CFR 1502.6.

The Commission will publish a notice in the **Federal Register** specifying any parts of the regulation that have been stayed by the filing of proper objections or, if no objections have been filed, stating that fact. Id. at § 1502.7. As soon as practicable, the Commission will review any objections and hearing requests that have been filed to determine whether the regulation should be modified or revoked, and whether a hearing is justified. Id. at § 1502.8.

D. The Product

As explained in the proposed rule, this rulemaking only applies to multiple-tube devices that have any tube equal to or greater than 1.5 inches in inner diameter (referred to below as "large devices"). Large devices were first introduced by domestic manufacturers around 1986. Generally, they consist of three or more tubes grouped together, sometimes on a wooden base, and fused in a series to fire sequentially. Bases, where used, come in a variety of sizes. The devices fire aerial shells, comets, or other effects from the tubes, producing visual and audible effects. These devices are among the largest fireworks available to consumers. [13][2]

The tubes may be individually labeled or have a single label surrounding them. Commission regulations require that all multiple-tube devices display the following conspicuous label:

Warning (or Caution) Emits Showers of Sparks (or Shoots Flaming Balls, if More Descriptive)
Use only under [close] adult supervision.[3]
For outdoor use only.
Place on a hard smooth surface (or place upright on level ground, if more descriptive).
Do not hold in hand.
Light fuse and get away.

16 CFR 1500.14(b)(7)(ix).

The National Fireworks Association ("NFA") reports that retail sales of large multiple-tube devices are between $24

[1] The Commission concluded that additional work would be needed to develop a standard that adequately addressed the tip-over hazard with small (less than 1.5 inch diameter) multiple-tube devices. For example, the Commission would need to test small devices to determine if the 60-degree tip angle is the proper criterion for this size device. Further, smaller devices are likely to produce less force on impact, and may be less likely to cause fatal injuries. Because not many small devices are marketed and the known incidents involve large devices, a performance standard for small multiple-tube devices may not be necessary. Accordingly, the Commission decided to apply the stability criterion only to large devices.

[2] Numbers in brackets refer to documents listed at the end of this notice.

[3] The word "close" is optional.

and $36 million annually, with an estimated 400,000 to 700,000 units sold per year. Prices range from $30 to $130 per unit, with most devices in the $50 to $60 range. The NFA also reports that domestic devices account for about 75 percent of the market by dollar volume and somewhat less by unit sales. Imported devices are manufactured primarily in China, and go through several wholesalers before reaching the retail vendor. [13] Some devices have tubes that are imported from China and then are inserted into larger tubes and assembled with bases in the United States. CPSC considers such devices to be imported.

E. Risk of Injury

The devices fire sequentially, and under some conditions the force from one shot can tip the device over, causing it to fall into a horizontal position. A subsequent shot can discharge as the device is falling or when it is horizontal. When this occurs, there is a risk that one of the projectiles may strike the operator of the device or spectators and cause serious injury, or even death.

The Commission is aware of two deaths involving large multiple-tube devices. In both incidents, the device tipped over while functioning. A projectile then fired horizontally from the device and struck the victim. In each case, the victim was a spectator.

The first fatality occurred in July of 1991. A 3-year-old boy was standing between his father's legs approximately 40 feet from an area where fireworks were being set off at a family reunion. The device had been placed on concrete blocks. The device tipped over after the third shot, and the fourth shell fired horizontally in the direction of the boy, striking him in the left ear. He died the next morning. [2, Tab A]

The second fatality occurred in July of 1992. The victim, a 65-year-old grandmother, was sitting at the end of a picnic table watching a family fireworks display approximately 40 feet away. Her son placed a large multiple-tube device on a piece of wafer board that extended about one foot over the end of a boat dock. He placed a 2x4 block of wood under the end of the board so that the device would shoot out over the lake. After lighting the device, he walked toward the shore and noticed that the device had tipped over after the third shot. The fourth shell discharged horizontally and struck his mother in the temple and eye. She died the next morning. [2, Tab A]

CPSC's compliance testing indicates that the tip-over risk evidenced by these two incidents continues to exist. In fiscal year 1994, all 24 samples of imported devices tested for the Commission's routine compliance program, and 1 of 8 samples of domestic devices, tipped over while functioning. In fiscal year 1995, 22 of 27 imported samples and 1 of 5 domestic samples tipped over. [19]

F. Commission Tests to Develop a Standard

1. Testing Prior to the ANPR

After the first fatality, several domestic manufacturers of large multiple-tube devices began developing a test for the potential of these devices to tip over while functioning. The test used a 2-inch (5 cm) thick block of medium-density (2 pounds per cubic foot or 0.032g/cm³) polyurethane upholstery foam to simulate uneven surfaces. When placed on this surface, if a device tipped over while functioning, it was deemed too unstable.

The American Fireworks Standards Laboratory ("AFSL") then began work to revise its standard for these devices to incorporate such a dynamic stability test. AFSL issued an interim revised voluntary standard in January 1993 and adopted it without changes on September 5, 1995. The Commission also collected samples of large multiple-tube devices and tested them for tip-over using the industry's dynamic stability test. [1 and 14]

2. CPSC's Dynamic Stability Testing

After issuing the ANPR, the Commission staff attempted to develop a dynamic stability test that could provide a reliable performance standard for multiple-tube devices. The staff's objective was to develop a test that could reliably distinguish between large multiple-tube devices that are dangerously unstable and those that do not present an unreasonable tip-over risk. The staff attempted to identify a test surface that would simulate grass (the surface believed to be commonly used for fireworks displays), and that would produce consistent results in repeated tests.

To accomplish this goal, the Commission had to identify a surface on which the devices would consistently tip over or remain upright in a manner corresponding to how the devices perform on grass. If the tip-over rate was substantially greater on the test surface than on grass, the standard might be too stringent, causing unnecessary changes to reasonably safe products. If the tip-over rate was substantially lower on the test surface than on grass, the standard might not adequately protect consumers.

As explained in detail in the **Federal Register** notice that published the proposed rule, the staff's testing did not yield sufficiently reliable results to propose a dynamic standard. 60 FR 34922, 34924. The staff tested devices on several types of foam. First it tested with 2-inch thick foams of three different densities. This thickness was chosen, in part, because the AFSL standard specifies 2-inch thick medium-density foam. However, the tip-over rates with all three densities of two-inch thick foam in this initial test were significantly greater than with grass (39 to 50 tip-overs out of 50 devices on foam compared with 4 out of 50 on grass). The staff then tested three high-density foams of smaller thicknesses (0.75, 1.0, and 1.5 inches), hoping to better match the tip-over rates on grass. [6, 8] However, none of the these three foams agreed consistently with grass for all three devices tested. The results of this phase of testing are summarized in Table 1.

TABLE 1.—PHASE I—INCIDENCE AND PERCENTAGE OF TIP-OVER WITH LARGE MULTIPLE-TUBE DEVICES ON GRASS OR HIGH DENSITY POLYURETHANE UPHOLSTERY FOAM

Device	Grass	Polyurethane foam		
		0.75 inch	1.0 inch	1.5 inch
1	4/50 8%	4/50 8%	14/50* 28%	40/50* 80%
2[a]	32/50 64%	9/50* 18%	25/50 50%	43/50* 86%
3[a]	27/50 54%	2/50* 4%	3/50* 6%	7/50* 14%

*Significantly different from grass, P<0.05.
[a]Device modified to increase tip-over rate.

TABLE 1.—PHASE I—INCIDENCE AND PERCENTAGE OF TIP-OVER WITH LARGE MULTIPLE-TUBE DEVICES ON GRASS OR HIGH DENSITY POLYURETHANE UPHOLSTERY FOAM—Continued

Device	Grass	Polyurethane foam		
		0.75 inch	1.0 inch	1.5 inch
	54%	4%	6%	14%

*Significantly different from grass, P<0.05.
[a]Device modified to increase tip-over rate.

Of the three foams, 1-inch foam appeared to offer the best overall relationship to grass, even though it produced inconsistent results. [6, 8] Therefore, the staff continued testing with this foam.

In phase II of the Commission's testing, six additional devices were tested on grass and on 1.0-inch thick high density foam. The results were then combined with the results from phase I. Once again, however, there was not consistent agreement between the tip-over rates on foam and on grass (see Table 2).

TABLE 2.—PHASE II—INCIDENCE AND PERCENTAGE OF TIP-OVER WITH LARGE MULTIPLE-TUBE DEVICES ON GRASS OR 1.0-INCH HIGH DENSITY POLYURETHANE UPHOLSTERY FOAM

Device	Grass	Foam
1[a]	4/50 8%	14/50* 28%
2[b]	32/50 64%	25/50 50%
3[b]	27/50 54%	3/50* 6%
4[b]	30/50 60%	36/50 72%
5	0/90 0%	0/50 0%
6[a]	10/50 20%	25/50* 50%
7	0/50 0%	0/50 0%
8	0/90 0%	0/50 0%
9	0/50 0%	0/50 0%

*Significantly different from grass, P<0.05.
[a]Device has no base.
[b]Device modified to increase tip-over rate.

The staff concluded that the dynamic stability test it attempted to develop could not reasonably form the basis for a standard addressing the tip-over hazard with large multiple-tube devices. Particularly problematic was the dynamic test's inconsistency. There were two cases (devices 1 and 6) in which foam significantly overpredicted the tip-over rate with grass. [6, 8] These tests showed a highly significant "interaction" between the device and test surface, so that one could not accurately predict, based on a device's performance on foam, how the device would behave on grass. An accurate test is needed to avoid unwarranted market disruption and, more importantly, because a tip-over can lead to a fatality.

3. The Tip-Angle Test

Since the Commission's testing on foam did not yield a reliable dynamic test, the staff looked to the physical properties of large multiple-tube devices to develop a static test. The staff measured the dimensions, mass, and static tip-over resistance ("tip angle") of all the devices tested. The angle at which a device will first tip over depends on its base-height ratio, mass, and center of gravity. A device's dynamic stability—its ability to remain upright when fired—depends on its tip angle and other factors, such as its lift force, the firing order, and the time between firings. The staff found that tip angle could predict whether a device would tip over while functioning and also be sufficiently sensitive for routine compliance testing. [9]

The staff measured the tip angle of devices by placing one edge of the device against a mechanical stop approximately 1/16-inch high (to prevent sliding) at the edge of a horizontal hinged platform. The platform was slowly raised from the horizontal until the device tipped over. The tip angle was considered to be the angle at which the device first tips over. The staff repeated the test for each edge of the device to determine its minimum tip angle. In this manner, the staff measured the tip angle for the nine large devices used in the dynamic tests. The staff then compared these measurements and the results of the dynamic tests to determine whether there was a relationship between the minimum tip angle of a device and its dynamic stability on grass (see Table 3). [9]

TABLE 3.—STATIC TIP-OVER RESISTANCE AND DYNAMIC TIP-OVER RATE OF LARGE MULTIPLE-TUBE DEVICES

Minimum tip angle (degrees)	Tip-over rate on grass		Device
	Percent	Incidence	
35, 42[b]	54	27/50	3[a]
37	64	32/50	2[a]
37	20	10/50	6
37	8	4/50	1
40	60	30/50	4[a]
61	0	0/90	5
64	0	0/50	7
65	2.5	1/40	4
68	0	0/40	2
69	0	0/50	9
70	0	0/40	3
78, 80[b]	0	0/90	8

[a]Device modified to increase tip-over rate.
[b]Different samples of same device.

The staff also tested several large devices other than those it had examined when considering a dynamic test. One device was a modified form of device 1, that originally had no base. The staff glued a 12-inch (30.5-cm) square particleboard base to the device. With this modification, the tip angle increased from 37 degrees to 68 degrees. The tip-over incidence on grass also decreased, from 4/50 to 0/50. This additional test demonstrates that a device's stability can be improved by adding a base. [9]

The second additional device that the staff tested, an imported one, had a square plastic base. The tip angle of this device ranged from 54 to 55 degrees (based on measurements of four individual samples), and it did not tip over in 50 dynamic tests on grass. [16] [4]

None of the seven devices originally tested had tip angles between 43 and 61 degrees. Therefore, the staff modified the base of a device that had a large particleboard base in order to obtain a tip angle near 50 degrees. The staff

[4]The staff had previously tested this type of device (tip angle: 52–55 degrees and tip-over rate: 2/40), but the bases of some of the devices in the earlier test were cracked. Therefore, the Commission does not consider the earlier tests to be reliable and has not considered them in determining an appropriate tip angle. [10 and 11]

trimmed 2 1/16 inches off each of the two long edges of the base. The minimum tip angle of the device then ranged from 50 to 51 degrees (based on measurements of eight individual samples). This modified device tipped over in 33 out of 51 tests on grass. [16] Table 4 shows the tip angles and tip-over rates of the three additional devices that the staff tested.

TABLE 4.—STATIC TIP-OVER RESISTANCE AND DYNAMIC TIP-OVER RATE OF ADDITIONAL LARGE MULTIPLE-TUBE DEVICES[a]

Minimum tip angle (degrees)	Tip-over rate on grass		Description of device
	Percent	Incidence	
50–51[b]	65	33/51	Four-tube device with base. Base trimmed to obtain 50 degree tip angle.
54–55[b]	0	0/50	Seven-tube device with plastic base.
68	0	0/50	Seven-tube device. Same as device 1, but with added 12 inch base.

[a] Does not include devices that the staff considered to present inconclusive results.
[b] Range of values for replicate samples.

The Commission proposed and now issues in final a standard requiring that large multiple-tube devices must have a minimum tip angle above 60 degrees. The Commission's data indicate that substantially all of the devices measuring a tip angle above 60 degrees did not tip over while functioning on grass. Among such devices, there was only one tip-over in 450 tests. On the other hand, devices with tip angles below 60 degrees had tip-over rates on grass as high as 65 percent. Among all devices tested with tip angles below 60 degrees, there were 136 tipovers in 351 tests.

The Commission believes that requiring devices to have minimum tip angles above 60 degrees offers an appropriate margin of safety. The fact that the staff observed no tip-overs with one device that had a tip angle of 54–55 degrees might appear to suggest that a tip angle of 54 degrees would be sufficient to protect against the tip-over hazard. However, a device that had a tip angle of 50–51 degrees had a very high incidence of tip-overs (33/51). This device had a small base, and would have been even less stable if, like a number of other devices on the market, it had no base extending outward from the tube configuration. Thus, it is likely that some devices with 55-degree tip angles would tip over when tested on grass. Furthermore, the tests were performed on level ground, and in actual use there probably will be significant variations from level in a number of cases. The Commission concludes that in order to adequately protect the public, it is appropriate to require that the minimum tip angle be above 60 degrees.

AFSL submitted comments on the NPR that included results from its testing of 43 units (13 different devices). AFSL reported that 35 percent of the units it tested met a 60-degree tip-angle test and that none of the devices it tested tipped in actual firing. As explained below in Section G of this notice, this limited testing does not show that a requirement for a tip angle above 60 degrees is too stringent a measure of whether a multiple-tube device is unlikely to tip over in use.

G. Comments Responding to the Proposed Rule

The Commission received eight comments in response to the proposed rule. Some commenters stated that they support the proposed rule. Significant issues raised by other comments, and the Commission's responses, are summarized below.

1. Scope of the Rule

AFSL stated that it agreed with the Commission's decision to limit the scope of the proposed rule to large multiple-tube devices and that the Commission was correct in concluding that devices with inside diameters greater than 1 inch, but less than 1.5 inches, are not common.

2. Need for a Rule

Some commenters stated that the need for a rule had not been demonstrated because the number of reported injuries is low or because the injuries are caused by consumer misuse. As explained below, the Commission disagrees with these contentions.

a. Injury Data

Comments: One commenter claimed that the number of multiple-tube devices has increased, but that the number of injuries associated with them has not. The commenter concludes that the small number of injuries and deaths associated with multiple-tube devices or Class C fireworks does not justify further regulation. This commenter also claimed that multiple-tube fireworks devices are no different from other fireworks with respect to the potential for injury.

One group of commenters stated that in their evaluation of injuries recorded in the state of Indiana, multiple-tube devices and other consumer fireworks either have not tipped over or have caused few or no injuries.

Response: Mine and shell devices (both single and multiple shot) are more powerful than most consumer fireworks. Although the number of deaths and injuries associated with mine and shell devices is relatively low, the severity of injuries is greater than with other devices. Any tip-over of large multiple-tube devices has the potential to cause death or serious injury. Two individuals are known to have been struck by large multiple-tube devices. Both suffered fatal injuries.

The yearly unit sales figures for fireworks are unknown. Therefore, the Commission cannot accurately assess any possible trends in exposure to large multiple-tube devices. However, the cases show that the potential for tip-over and serious injury or death is high under certain conditions of foreseeable use. Since, as explained below, there is no voluntary standard that can adequately reduce this risk, the mandatory standard proposed by the Commission is necessary.

Comment: The commenters on the Indiana data also requested that the Commission survey dealers to inquire about reported cases or instances of a problem with a multiple-tube mine and shell device.

Response: As noted above, a mandatory standard is appropriate despite the low number of reported deaths and injuries. In view of this, there is no need to perform the requested survey.

Comment: AFSL contends that the lack of any known serious injury attributed to large multiple-tube devices since the adoption of the AFSL standard in 1993 supports their view that the voluntary standard is adequate.

Response: These devices had been on the market for 6 years by the time the two known deaths occurred. Thus, the absence of any known deaths since 1993 is not statistically significant. The adequacy of AFSL's standard, and the extent to which it is adopted by industry, are discussed below under the responses to comments favoring a dynamic test and to comments favoring the alternative of a voluntary standard.

b. Possible Role of Misuse and Alcohol in Tip-Over Incidents

Comment: One commenter alleged that any increase in mortality related to these items is the direct result of misuse and the failure of consumers to follow the appropriate instructions. The same commenter stated that the fireworks industry cannot be held accountable for all injuries, particularly when the item is being blatantly misused. The commenter also claimed that many fireworks-related injuries involve some level of intoxication by the operator and that the correlation between alcohol use and injury should be considered in the hazard analysis for any product.

Response: The incident reports do not indicate that the fatalities involving large multiple-tube devices were a result of misuse. Rather, they appear to have occurred during reasonably foreseeable use of the product. The two fatalities occurred during family gatherings a day or two after the July 4th holiday.

The labels on multiple-tube devices generally state that the device should be placed on a solid level surface prior to firing. In one fatality, concrete blocks were stacked in the yard as a staging area. In the other fatality, the fireworks device had been placed on a board so that it would fire over a lake. The use of the devices on either of these surfaces appears to indicate concern with the appropriate placement of the fireworks device prior to firing.

Thus, the known cases involving fatalities support the conclusion that the users were attempting to follow the instructions for proper placement of the devices. In addition, there is no indication that alcohol was a factor in either of the deaths. Accordingly, the Commission disagrees with the commenter's contention that consumer misuse or intoxication was the cause of these accidents.

Comment: One commenter claimed that, based on a 1992 CPSC study of hospital emergency-room-treated injuries, "a major problem with fireworks injuries were the result of consumer misuse."

Response: The study cited does not support this proposition for the devices at issue here. In discussing the category of Shells and Mines (the major two types of devices included in the this rulemaking), the report states that "little can be said to characterize this category of fireworks due to the small sample size (five investigations). However, it appeared that the flight path of the projectile, particularly when tip-over was involved, may be a major concern." [23]

There may well have been misuse of the multiple shell devices associated with some of the injuries in the study. However, nothing in the report indicated that the injuries could be attributed to any such misuse, as opposed to erratic flight path, tip-over, or other problems with the devices.

c. Section 15 of the CPSA

Comment: One commenter stated that the proposed rule is unnecessary because existing regulations and section 15 of the Consumer Product Safety Act ("CPSA") are adequate. 15 U.S.C. 2064. Section 15 authorizes the Commission to take corrective actions regarding product defects that create a substantial risk of injury to the public. See 16 CFR 1115.4, 1115.12 (e) and (g).

Response: Existing fireworks regulations require only a base-to-height ratio of at least 1:3. 16 CFR 1507.4. All the devices tested by CPSC that tipped over during actual use complied with this standard. Therefore, this requirement does not adequately address the tip-over hazard.

In addition, the ongoing problem of numerous section 15 recalls of multiple-tube devices under section 15 of the CPSA due to tip-over indicates that existing regulations are not effective. Under these circumstances, a performance standard that effectively addresses the problem for all devices is more appropriate than case-by-case investigation and recall.

3. Selection of the Tip-Over Angle

Comment: One commenter stated that there is no logical or statistically valid reason for choosing any particular angle as the minimum angle required by the static test.

Response: In developing the proposed rule, the staff considered specifying minimum tip angles as low as 45 degrees. However, as noted above, the Commission concluded that, to provide a margin of safety and to address the likelihood that the devices will not be used on level ground, the static test should require that a device not tip at an angle of 60 degrees.

It is possible that a fireworks device might be constructed that would not tip over in a static test at 60 degrees but would tip over under foreseeable conditions on grass. In fact, 1 of the 450 devices tested by the Commission with a tip angle over 60 degrees did tip over when tested on grass. Increasing the stringency of the static test to address such hypothetical "outliers" would make the requirement unduly restrictive for the vast majority of designs that are likely to be marketed. If such easy-to-tip designs are marketed in the future, the Commission will consider action under section 15 of CPSA. 15 U.S.C. 2064.

Comment: One commenter suggested a more lenient tilt test for items that do not present as much of a tip-over hazard as other available designs. The commenter stated that a more lenient tilt test was especially appropriate for devices with tubes clustered in the center of the base. The commenter asserted that multiple-tube items with tubes clustered close to the center of the base will more likely fail the static test, but be more stable when tested on foam or grass than multiple-tube items with tubes near the edge of the base. The commenter provided sketches to illustrate this point, and also suggested a formula to determine the tilt angle based on the geometry of the devices relative to the geometry of the base:

$T=45+15\ (d/b)$, where:

T is the tip angle in degrees; d is the length of the diagonal of a square (or diameter of a circle) enclosing the tubes; and b is the length of the diagonal of a square base or diameter of a circular base.

The commenter stated that preliminary testing supports the formula, but provided no data and admits that further tests are needed.

Response: The staff of the Commission's Engineering Laboratory agrees that there are configurations that could provide greater or lesser stability for a fired multiple-tube device. The commenter lists base size, base thickness, lift charge, and size of the aerial load as relevant factors affecting stability. However, firing order and rate, as well as other variables, also affect the dynamic stability of multiple-tube devices.

The commenter supplied no data on which to evaluate the suggested formula. The Commission has very limited data on the tip-over characteristics of devices with tip angles in the range of 45 to 60 degrees. As explained above, the Commission selected the 60-degree tip angle criterion based on a device with a tip angle of 50 to 51 degrees that tipped over a large proportion of the time (33/51) when tested dynamically on grass. In addition, various combinations of the factors that affect tip-over could cause a device with

a similar configuration to tip over more readily than the tested device. The suggested formula does not account for these other factors—such as load, firing rate, etc. The Commission's criterion does account for these factors by correlating tip angle to dynamic tip-over on grass.

The commenter's formula is intended to be applied to devices with a square or circular base. The device with the 50–51 degree tip angle that had a high tip-over rate had a rectangular base. It is not clear how, if at all, the commenter would apply the formula in this case. However, it can be expected that the formula will produce tip-angle criteria ranging between 50 and 60 degrees, depending on the configuration. Available data do not show that such criteria would provide an adequate margin of safety. Accordingly, the Commission is not adopting this commenter's suggestion.

Comment: As explained above, the Commission selected the 60-degree criterion based on the performance on grass of a large number of tests of various large devices. Some comments questioned the adequacy of this testing. One commenter asked why the Commission did not test the devices that were recalled as a result of failing the 2-inch foam test and the device known to have been involved in the death of a 3-year-old boy. The same commenter suggested that CPSC conduct additional tests comparing the static test to the dynamic test with foam. Another commenter questioned why the Commission did not test a larger sampling of the various multiple-tube devices, including the W–800 inserts with a wooden base and a tube around the insert.

Response: In developing the proposed standard, the Commission selected devices that represented a cross section of the devices available at the time and that provided a range of tip-over rates. The Commission considered design characteristics such as base size, firing order, internal fuse-burn time, lift charge, shell mass, device shape, center of gravity, and quality of materials and construction. This cross-section of devices is sufficient to ensure that the test selected by the Commission is reasonable.

Devices that had been previously recalled—as well as the device involved in the death of the 3-year-old boy—were not available at the time that the CPSC conducted its tests. It is expected that had they been available for testing, they would have been among those devices found to be unstable. However, the Commission believes that it is more reasonable to test currently available devices, rather than devices that are no longer manufactured or available.

Comment: Some commenters stated that there are devices that are stable in actual use even though they do not comply with the proposed rule. AFSL submitted test data to support this view. These commenters asserted that the proposed rule unfairly penalizes such devices.

Response: As explained above, AFSL presented limited test data on 12 large multiple-tube devices (one device included in AFSL's testing was actually a small device). Seven of these did not meet the 60-degree tip angle, but did not tip over in AFSL's dynamic tests.

AFSL's testing was very limited—only one sample of each device on three surfaces (concrete, 2-inch foam, and grass), and one device was not even tested on grass. A single test is not sufficient to establish the dynamic stability of a device. For example, a device that tips over 1 in 10 times may present a serious risk of injury, but there is only a 1-in-10 chance of observing a tip-over in a single test. In CPSC's tests, the staff tested from 40 to 90 samples of each device. The Commission cannot conclude based on AFSL's limited data that the seven devices it tested are stable when operated on grass.

4. Static v. Dynamic Test

Introduction. As noted above, the Commission's requirement involves inclining the device at an angle of 60 degrees while it is prevented from sliding by a stop on the inclined supporting surface. If the device does not tip over further at that angle, it complies with the requirement. This is a static test; it is affected only by the location of the center of gravity of the device with respect to the edge of the device that is against the stop.

Comments: A number of commenters would prefer a dynamic test, which would involve actually firing the device while it rests on a specified supporting surface to see if the device tips over. The American Pyrotechnic Association ("APA") and AFSL stated that, although they support a requirement for static stability, a static requirement is not sufficient by itself to address the tip-over hazard. These two organizations and other commenters stated that, in addition to a static test, the proposed rule should require dynamic testing, either for all large devices or for those with tip angles between 45 and 60 degrees.

Response: Under the FHSA, manufacturers must consider whether their products pose a hazard during "reasonably foreseeable handling and use." The Commission considers operation of multiple-tube devices on grass to be "reasonably foreseeable." Further, the resilient and variable nature of grass makes it more likely that a device will tip over when fired from a grass surface than from other common supporting surfaces, such as dirt or pavement. Thus, an adequate test should address the hazard of tip-over of these devices when fired while sitting on grass as well as on more forgiving surfaces.

A substantial problem with dynamic testing of these devices is that grass is not a reproducible test surface. Even patches of grass that appear to be identical can react differently to the forces produced when a device is fired.

Foams of various characteristics have been suggested as suitable test surfaces for determining whether a device will tip over when fired. AFSL uses 2-inch thick medium-density foam in its tip-over testing.

The staff considered whether foam is an adequate surrogate for grass—that is, whether there is a consistent relationship between the tip-over behaviors on grass and foam for a variety of devices. Based on the CPSC's tests, however, there was no consistent relationship between the tip-over rates measured on grass and foam. In fact, the tests suggested that there may be cases where devices that do not tip over when tested on foam may tip over frequently on grass.

The Commission concludes that, because of the absence of any suitable test surface, the use of dynamic testing for devices, regardless of their tip angle, is not presently feasible. However, the results of any voluntary dynamic tests by industry may provide valuable information when considered in conjunction with a device's tip angle. And, as explained above, the Commission will examine whether devices that tip over when fired despite passing the 60-degree tip-angle test present a substantial product hazard under section 15 of the CPSA.

5. Dynamic Variations in Tip-Over Potential

Comment: One commenter noted that the potential for tip-over from multiple-tube mine and shell devices is not equal among all of the various shapes, sizes, and configurations of devices.

Response: The Commission agrees that the potential for dynamic tip-over from multiple-tube fireworks devices can differ among the various shapes, sizes, and configurations of devices with the same static tip angle. For example, devices that have larger or heavier bases or smaller lift (propellant) charges are less likely to tip over. Nevertheless, for the reasons explained above, the 60-degree tip-angle test is the best means available to determine whether a multiple-tube device is unreasonably likely to tip over when fired.

Comments on specific factors that may affect tip-over potential are discussed below.

Comment: One commenter stated that the rate of firing of the projectiles from the tubes can affect dynamic stability and that this should be examined.

Response: The Commission agrees that the rate of firing—the time between the firing of individual tubes—may affect the dynamic stability of multiple devices. A multiple-tube device can become less stable as a result of rapid sequential tube firings. In compliance testing, the Commission considers whether the firing rate may contribute to tip-over. The staff has discussed with AFSL the possibility of incorporating into their standard a minimum time between the firing of successive tubes. However, the rate of firing is only one of many variables that affect the dynamic stability of multiple-tube devices. The 60-degree tip-angle test requirement, which takes into account several factors, is the best known way to address the tip-over hazard.

Comment: Several commenters stated that, in addition to the static test, the proposed rule should limit the lift charge—i.e., the propellant powder weight—to 12 grams per tube. AFSL presented test data showing that increasing the lift charge above the 12-gram limit may decrease the dynamic stability of multiple-tube devices. A specially made device (not commercially available), with 20 grams of lift charge per tube, tipped over in one test on 2-inch foam. A similar device with 12 grams of lift charge did not tip over in one test on foam. Another specially-made device did not tip over in one test on foam, even though the lift charge was increased to 20 grams.

Several commenters asked why the CPSC did not study the effects on stability of the amount of lift charge in devices.

Response: U.S. Department of Transportation ("DOT") regulations permit a maximum of 20 grams of lift charge per tube. The AFSL voluntary standard limits the lift charge to 12 grams per tube. The proposed rule did not separately address lift charge. The DOT mandatory 20-gram upper limit and AFSL voluntary 12-gram upper limit are unaffected by this rulemaking.

The staff measured the lift charge in all the devices that were tested. The lift charges in the two devices that tipped over on grass (before they were modified) were 3.6 and 4.7 grams per tube. The lift charges in devices that did not tip over ranged from 4.7 to 11.6 grams per tube. [6] These results do not support limiting the lift charge. Devices with a lift charge greater than 12 grams per tube were not available to the staff.

The lift charge is only one of the variables that affect dynamic stability. Other variables include firing order, firing rate, weight, the configuration of the tubes, and base dimensions. Further, the lift force (or propellant force)—rather than the lift charge—relates more directly to dynamic stability. The lift force depends on factors in addition to the lift charge, such as the type of powder and the design of the product. Again, the staff's data show that the dynamic performance of the device is better predicted by a static test.

It may be possible to construct a device that will tip over in actual use, even though it passes the 60-degree static stability test. AFSL's tests suggest this may be the case. But, the small number of tests conducted by AFSL (two devices, one test each) and the mixed results it reported (one device with 20 grams of lift powder tipped over on foam while another did not) are not adequate to support a mandatory 12-gram limit on the lift charge.

Manufacturers, importers, and distributors must see that their products do not pose a substantial product hazard. Increasing the lift charge might increase the tendency of multiple-tube devices to tip over during operation. Devices developed in the future that exceed 12 grams of lift charge will be tested by the Commission. Any device that tips over while functioning, even though it complies with the static test, may present a substantial product hazard. As explained above, the Commission may take enforcement action in such a case under section 15 of the CPSA. Thus, although the Commission lacks data to warrant a mandatory limit at this time, the Commission encourages manufacturers and importers to continue compliance with the voluntary limit of 12 grams of lift charge per tube since the amount of lift charge may affect tip-over.

6. Other Advantages of a Static Test

Comment: The AFSL and the APA stated that they favor a static test, as in the proposed standard, because it is safer to perform than dynamic testing. One commenter stated that it appears that the Commission proposed a standard based on a static test, in part, because it is easier to perform than dynamic testing.

Response: The Commission proposed a mandatory standard based on the static test because it adequately addresses the hazard and a suitable dynamic test is not available. That the static test is easier and safer to perform are additional advantages.

7. Other Alternatives to the Proposed Rule

a. Additional Labeling

Comment: One commenter suggested requiring the warning label on multiple-tube devices to include a phrase such as, "PLACE UPRIGHT ON HARD, SMOOTH LEVEL SURFACE BEFORE IGNITING. DO NOT FIRE ON GRASS OR OTHER UNSTABLE SURFACE."

Response: The Commission's current labeling requirement for mine and shell devices includes the following statement: "Place on hard smooth surface (or place upright on level ground, if more descriptive)." 16 CFR 1500.14(a)(7)(ix). Except for the admonition not to fire on grass, the commenter's suggested label is equivalent to the Commission's current requirement. As to the statement "do not fire on grass," it is likely that users will place these devices on whatever surface is at the desired location, including grass. Thus, the Commission cannot conclude that there would be significant safety benefits from a label advising against use on grass. Furthermore, the longer label statement suggested by this commenter could reduce the extent to which the basic message is noticed and read by users. Although the Commission lacks the evidence to mandate the "do not fire on grass" statement, and questions its effectiveness, the Commission would not object if manufacturers voluntarily supply such a statement after the required label.

In addressing a product hazard, the most effective approach is to design the hazard out of the product. A warning does not remove the hazard; it only informs the consumer of the hazard. Some users may read and follow the information on a warning label. However, fireworks are frequently used at night when it is too dark for the user to read a warning label. Fireworks also are often used at a party or celebration in which users are unlikely to take the time to read and follow warning labels. And, spectators, like the two victims killed by multiple-tube devices that tipped over, probably will not have an opportunity to read the label.

Even if consumers read and follow a warning label, the device may tip over. In the two death incidents, the fireworks devices were placed on hard, smooth surfaces and they still tipped over. The Commission believes that the proposed

tip-over performance requirement for multiple-tube devices will result in less hazardous multiple-tube devices.

b. Defer to AFSL's Voluntary Standard

i. Adequacy of the Voluntary Standard

Comments: Several commenters supported AFSL's voluntary standard. One group of commenters stated that they would prefer that the Commission allow the industry to adopt a voluntary standard, rather than issue a mandatory standard. Specifically, one commenter referred to AFSL's standard—i.e., the 2-inch foam test—and asserted that foam is a standard, reproducible test surface, even though it is not an adequate surrogate for grass. Another commenter questioned CPSC's conclusion that the AFSL standard did not adequately address the tip-over hazard. AFSL commented that the foam test is intended to simulate a worst-case scenario and that, even though the foam test may not be suitable for a mandatory standard, it adequately addresses the tip-over hazard.

Response: AFSL's foam test has many substantial shortcomings. AFSL does not specify the properties of the foam—such as compressibility, resiliency, and density—that are essential for a reproducible test.[5] Neither does AFSL specify the environmental conditions, such as temperature and wind speed, that may affect the test results, or the number of devices to be tested. All of these parameters must be specified before the foam test could be considered a standard, reproducible test. And, perhaps most significantly, there is simply no evidence of a consistent relationship between tip-over rates on grass and foam. Thus, a test on foam would not be appropriate even if all the test parameters were specified.

AFSL has never released test results showing that 2-inch foam is a worst-case surface compared to grass. CPSC has only limited data from tests of devices on both 2-inch foam and grass. The Commission's initial tests showed that the 3 different densities of 2-inch foam tested had considerably higher tip-over rates than did grass.

The more extensive tests that the Commission performed on other thickness of foam show that, depending on the device tested, the tip-over rate on foam may be greater than, equal to, or less than that on grass. Furthermore, the Commission's compliance testing in 1995 showed a domestic device that tipped over on grass (1 of 5 tested), but not on 2-inch medium-density foam. Therefore, the Commission concludes that the currently available information does not support the conclusion that 2-inch foam (or foam in other thicknesses) is a worst-case test surface that is consistently more stringent than grass.

As regards tip angle, the AFSL standard requires a tip angle of only 18 degrees, whereas CPSC tests show that a tip angle of 60 degrees is needed to reasonably prevent tip-over. The Commission concludes that the AFSL standard's tip-angle provision does not adequately address the tip-over hazard with large multiple-tube fireworks devices.

ii. Likelihood of Compliance With the Voluntary Standard

Comment: AFSL commented that a domestic testing program to allow manufacturers to obtain certification for their products has not been established and that the decision to follow the voluntary standard rests solely with individual manufacturers. However, AFSL states that its recent testing of large multiple-tube mine and shell devices indicated that products received from known manufacturers "appeared to comply with the stability provisions of the AFSL standard." According to AFSL, under its China-based testing and certification program, all large multiple-tube mine and shell devices (with tubes larger than 1" inside diameter) from participating firms are tested for compliance with the voluntary standard. Any devices that fail to comply are "withheld from shipment to the participating U.S. importer."

Response: Even if using 2-inch thick medium-density foam were effective, the Commission concludes that AFSL's voluntary standard would not adequately reduce the risk of tip-over because it is unlikely that there will be substantial industry compliance with that standard.

The AFSL standard was adopted in January 1993. However, the results of CPSC's compliance testing indicate that these devices still tip over. In fiscal year 1994, all 24 imported devices tested by CPSC, and 1 of 8 domestic devices, tipped over on either grass or 2-inch thick medium density foam. Of the 32 devices tested on the foam, 25 tipped over, and 4 of these also tipped over when tested on grass. In fiscal year 1995, 22 of 27 imported devices and 1 of 5 domestic devices tipped over. Of the 32 devices tested that year on 2-inch medium-density foam, 21 tipped over, and 10 tipped over when tested on grass. If there were substantial compliance with the AFSL standard, these high rates of tip-over on foam would not likely occur.

There is no information to support a conclusion that the rates of compliance with the AFSL standard will improve. The Commission concludes, therefore, that there will not likely be substantial compliance with the AFSL standard.

c. A Ban of Large Devices

The Commission also considered whether large multiple-tube devices should be banned entirely.

Comment: The National Fire Protection Association ("NFPA") generally has taken the position that fireworks should be used only by licensed professionals. However, in this case, NFPA agreed with the Commission's conclusion that limiting multiple-tube devices to professionals would not eliminate the tip-over hazard. Some commenters stated that the performance standard is preferable to a total ban of large devices.

Response: The Commission agrees that a performance standard is the most appropriate option in this case.

8. Effective Date

Comment: One commenter stated that manufacturers need 1 year to redesign devices, use up current inventory, order new packaging, and obtain Department of Transportation ("DOT") approval for that packaging.

Response: The Commission proposed an effective date of 6 months after publication of a final rule. The rule will apply only to devices first introduced into commerce or imported on or after that date. The vast majority of fireworks are ordered by dealers from July to December and delivered from December to June. The Commission expects that most of the devices currently not complying with the standard can be modified to meet it—*e.g.*, by adding a base. Consequently, any devices still in manufacturers' or importers' inventories on the effective date would not be rendered useless.

According to the DOT official responsible for enforcing regulations on new packaging, it may take 6 to 12 months for firms to obtain DOT approval of changes to the devices, order new packaging, and obtain DOT approval for that packaging. Larger firms are likely to be the ones that will need the full 12-month period, due to the larger number of models that could be affected.

Therefore, a number of firms will need an effective date that is longer than the proposed date of 6 months, and up to 12 months, following publication of the final rule in the **Federal Register**. Accordingly, the Commission is extending the effective date to 12 months following publication. The final rule will thus become effective March 26, 1997.

As noted previously, fireworks deliveries are concentrated in the period December through June. The effective date falls within that period. Therefore, it is likely that some but not all large multiple-tube devices sold at retail for the 1997 summer season will comply with the tip-angle requirement.

9. The Costs of the Regulation

a. Portion of Existing Large Devices To Be Changed by the Rule

Comment: AFSL presented test data with large multiple-tube mine and shell devices from what it claims are all five domestic manufacturers.[6] Based on these tests, AFSL claimed that only 35 percent of domestic devices complied with the proposed rule (60-degree tilt test), although all were stable in dynamic testing. The Commission's preliminary regulatory analysis assumed that almost all domestic devices would comply with the proposed rule.

Response: AFSL's results contrast with CPSC staff's tests, in which all domestic large multiple-tube devices met the proposed 60-degree tip-angle test. Several aspects of AFSL's testing lead the Commission to question AFSL's conclusions about the anticipated level of compliance with the 60-degree tip-angle test.

AFSL presented test results for 13 models of multiple-tube mine and shell devices. Device number 7 had an inside tube diameter of only 1.25 inches, and is not subject to the rule (which applies only to devices with tube inner diameters measuring 1.5 inches or more). The devices numbered 1, 2, 3, 12, and 13 are essentially imported devices or "inserts" to which wooden bases have been added. Based on AFSL's test data, 5 of 7 (71 percent) large domestic multiple-tube devices will satisfy the rule. The only two domestic devices tested by AFSL that would fail to comply with the rule are devices 8 and 11, since their tip angles were about 57 degrees. Both are new devices that were not available at the time that the CPSC tests were conducted. Combining AFSL's test data with CPSC's, 11 of 13 (85 percent) of large domestic multiple-tube devices would comply with the rule.[7] Therefore, the Commission disagrees with AFSL's claim that only 35 percent of domestic devices will comply with the proposed rule.

b. Cost of Modifying Noncomplying Devices

Comment: One commenter argued that retail prices of the modified devices would increase by 35 to 45 percent. The commenter did not present any basis for this estimate.

Response: The Commission's cost estimates are based on an average per-unit increase of 25–30 percent. These estimates were provided by the National Fireworks Association (NFA). The NFA is the fireworks trade association with the largest number of members, and the only one with a large contingent of retailers. The NFA estimate is the best one available to the Commission's staff.

10. Environmental Impact

Comment: One commenter stated that there would be a significant environmental impact due to increased rubbish from the larger bases.

Response: The rule is expected to result in modifications to devices representing sales of 100,000-to-175,000 items per year. [21] Consequently, the rule will result in a similar number of larger or new bases, and added packaging, being discarded. Most of these devices are expected to be thrown away after use with other residential trash (as is currently being done). The added costs of disposing of the bases and packaging will be negligible. The environmental impact of disposing of the relatively small amount of additional material required to provide a base, or increase its size, will be negligible. The additional cost to landfills of handling the extra rubbish also will be negligible.

H. The Standard

The Commission is issuing a standard requiring that multiple-tube devices that have any tube measuring 1.5 inches (3.8 cm) or more in inner diameter must have a minimum tip angle greater than 60 degrees. Large multiple-tube devices that do not meet the tip-angle requirement will be banned. The tip angle may be measured by placing the device on a smooth, flat surface inclined at 60 degrees from the horizontal. The device must not tip over at the 60-degree angle when tested at any edge of the device.

An apparatus or "testing block" for testing multiple-tube devices is illustrated in Figure 1 to § 1507.12. The height and width of the inclined plane (not including the portion of the plane below the mechanical stop) must be at least 1 inch (2.54 cm) greater than the largest dimension of the base of the device to be tested. The test apparatus must be placed on a smooth, hard surface that is horizontal, as determined by a spirit level or equivalent instrument. The mechanical stop must be 1/16 inch (1.6 mm) in height and perpendicular to the inclined plane. The stop must be positioned parallel to the bottom edge of the inclined plane in such a way that no portion of the device to be tested or its base touches the horizontal surface.

Any device that cannot be tested using the apparatus described above, or that presents a tip-over hazard while functioning even though it complies with the static test, may be examined to determine whether it presents a "substantial product hazard" under section 15 of the CPSA. 15 U.S.C. 2064. If the Commission determines that a substantial product hazard exists, appropriate enforcement action may be taken. See 15 U.S.C. 2064.

J. Regulatory Analysis [22]

1. Introduction

The Commission is amending the FHSA fireworks regulations to establish new stability requirements for multiple-tube fireworks devices that have any tube with an inside tube diameter of 1.5 inches or greater. These devices present a tip-over hazard when firing that has resulted in an average of about one death every 3 years over the period for which data are available.

The amendment will reduce the risk of injury and death from tip-overs. Devices that do not remain stable at an angle 60 degrees or below in prescribed tests will be banned hazardous substances under the amendment. It is expected that devices that do not currently pass this test will be able to comply by adding or enlarging a base.

In the **Federal Register** of July 1, 1994, the Commission issued an ANPR to develop a mandatory requirement to address the tip-over hazard. Although the ANPR addressed both large and small multiple-tube fireworks devices, the notice of proposed rulemaking (NPR) published July 5, 1995, covered only large multiple-tube devices.

To issue this amendment under the FHSA, the Commission is required to publish preliminary and final regulatory analyses containing a discussion of various factors. These factors include a description of the potential benefits and potential costs of the rule, including any benefits and costs that cannot be quantified in monetary terms, and an identification of those most likely to receive the benefits or bear the costs. The FHSA also requires a description of any reasonable alternatives to the rule,

[5] Although AFSL specifies medium-density foam, the definition of "medium" may differ among foam suppliers.

[6] Although AFSL stated that all the devices tested were "domestically manufactured," some contained imported inserts. CPSC classifies these devices as imports.

[7] It appears that one device was tested by both AFSL and CPSC. In combining the data, this device was counted only once.

together with a summary description of their costs and benefits, and a brief explanation of why such alternatives were not chosen.

2. Background

Large multiple-tube devices became popular in the mid-1980's. These devices typically consist of three or more tubes fused in a series to fire sequentially; these tubes are grouped together, sometimes on top of a wooden base. The devices are designed to fire aerial shells, comets, or mines producing visual and audible effects from non-reloadable tubes. They are among the largest fireworks available for direct consumer use.

The National Fireworks Association (NFA) reports that retail sales of these devices are between $24 million and $36 million annually, with an estimated 400,000 to 700,000 units sold per year. Prices range from $30 to $130 per unit, with most devices priced in the $50–$60 range. The NFA reports that domestic devices account for about 75 percent of the market by dollar value, and somewhat less by unit sales. There may be hundreds of firms engaged in manufacturing, importing, and distributing these fireworks. Imported devices are primarily manufactured in China, and may go through several wholesalers before reaching the retail vendor.

To comply with the standard, devices that do not have a base would have to add one, and some currently used bases would have to be enlarged. However, consumers are not likely to perceive any significant loss of enjoyment as a result. While some devices may be discontinued, loss of consumer choice would be minimized by the availability of devices that do comply with the standard. Smaller (less than 1.5 inch ID) multiple-tube devices are not covered by the rule and would continue to be available without any change.

3. Regulatory Analysis of the Amendments

a. Potential Benefits. One of the potential risks of injury associated with large multiple-tube fireworks devices results from the tip-over hazard. The Commission's Directorate for Epidemiology and Health Sciences reports two deaths associated with the tip-over hazard from January 1, 1988, through December 1993. This averages to about 1 death every 3 years. The Commission has received no reports of injuries with the product.

The Commission is issuing a performance standard that will require these devices to have a minimum tip angle greater than 60 degrees. According to the Commission's tests, devices that do not tip over at this angle are not likely to tip while functioning. Thus, the Commission believes that devices meeting this requirement are not likely to fall over while firing, thereby minimizing this risk of death and injury to operators or spectators. The avoidance of these deaths and injuries represents the potential societal benefits of the proposed amendments.

The costs per life saved of this rule are estimated to be between $4.5 and $8 million. These costs are within the range of statistical values of life suggested in the recent professional literature. [22] Given that no significant substitution of more hazardous products is expected, no offsetting reduction in these safety benefits is anticipated. To the extent that nonfatal injuries are avoided, the potential benefits would be somewhat higher.

b. Potential Costs. Most devices that already have bases will not have to be modified to meet the amendments. The devices that are not expected to need to be modified are generally manufactured domestically and, according to the NFA, account for at least 75 percent of the retail dollar volume of the market. It is expected that most of the remaining devices (mainly imports) will be modified to meet the amendments, with a resulting increase in cost of between 25 to 30 percent per modified unit.[8]

In its comments responding to the NPR, AFSL reported that for the 43 units it examined, 65 percent did not meet the 60-degree tip-angle test. The Commission is not using AFSL's estimate of 35 percent compliance with the tip-angle test, since the Commission's staff raised several questions about the accuracy of AFSL's estimate. Thus, the Commission continues to use the industry-wide data provided by NFA to estimate the portion of devices that would require modification (25 percent).

Assuming costs are passed on to consumers (as expected), the total annual cost to consumers of modifying the affected devices would be between $1.5 million and $2.7 million. While certain devices may be discontinued, the loss of consumer choice would be minimized by the availability of close substitutes—i.e., other large multiple-tube devices that comply with the amendments. Additionally, since most suppliers of currently noncomplying devices are expected to maintain current sales levels and pass on costs to consumers, no significant adverse impact is expected in the suppliers' competitive positions.

If the changes eliminate all deaths associated with these devices, the cost per life saved would be between about $4.5 and $8 million. This is within the range of statistical values of life suggested in the recent professional literature. [22]

4. Alternatives to the Rule

The Commission considered several alternatives to the performance standard issued below, including a product ban, deferral to the voluntary standard, and additional labeling.

a. Product Ban. The expected benefits to society of banning all large multiple-tube devices would be one life saved every 3 years, the same as the potential benefits of the amendments. However, costs to society of a ban (as opposed to the performance standard) in terms of lost utility would be greater, because under a ban consumers would not be able to use large multiple-tube devices.

Large multiple-tube devices are unique with respect to the height and duration of their displays. There are no close substitutes for the product. Single-tube devices are available, but they do not provide the rapid sequential display of multiple-tube devices. The lost utility to consumers of not being able to use large multiple-tube devices cannot be measured precisely. However, the fact that consumers are willing to spend $24-$36 million annually to buy these devices suggests that the lost utility could be substantial.

The Commission believes that a ban of all large multiple-tube devices is not necessary, because a performance standard will likely achieve similar benefits with lower costs.

b. Defer to the Voluntary Standard. Another alternative is for the Commission to take no mandatory action, and to depend on a voluntary standard.

The AFSL revised its standard for mines and shells on an interim basis on January 29, 1993, and adopted it on September 5, 1995. In order to address the potential tip-over hazard associated with multiple-tube fireworks devices, AFSL's Voluntary Standard for Mines and Shells—Single or Multiple Shot requires that large multiple-tube devices not tip over (except as the result of the last shot) when fired on a 2-inch thick medium-density foam pad. [14] However, the Commission has concerns about the adequacy of the provisions of, and the level of conformance to, the AFSL standard.

[8] Trade and industry sources report that modifying the devices would add about 25 to 30 percent to production costs (although one commenter on the NPR stated that the per-unit cost increase would be 35 to 45 percent). Various sales catalogs also indicate that comparable devices without bases are significantly less expensive.

The Commission also does not believe that AFSL's existing voluntary standard adequately reduces the risk of injury due to large devices tipping over while functioning. The Commission's tests using polyurethane foam did not find sufficient agreement between tip-over performance on foam and on grass. The Commission has no data that would support AFSL's dynamic test. As explained in section G above, the test results AFSL submitted in response to the NPR were limited and the Commission does not believe they show that this dynamic test is reliable.

In addition, even if the AFSL standard were effective, the Commission concludes that compliance with the standard would not be adequate. The majority of large multiple-tube devices are domestic. In the NPR, the Commission stated that according to AFSL, not a single domestically manufactured device has been certified as complying with the AFSL standard. In comments responding to the NPR, AFSL stated that their standards are voluntary "and the decision to comply with the standards rests solely with individual manufacturers." However, the Commission must have assurance of an adequate level of compliance with a voluntary standard in order to depend on that standard to reduce a risk. AFSL's limited testing conducted in response to the NPR does not substitute for an ongoing and comprehensive testing program.

AFSL reports that some shipments of imported large multiple-tube devices have been tested and certified in China this year and that, since January 1994, 30 percent of the lots it tested were rejected for failure to comply with the AFSL standard. However, the results of CPSC's compliance testing indicate that multiple-tube devices still tip over while functioning in dynamic tests on grass. In fiscal year 1994, all 24 imported devices the Commission tested, and 1 of 8 domestic devices, tipped over while functioning. In fiscal year 1995, 22 of 27 imported devices and 1 of 5 domestic devices tipped over. [19]

c. Additional Labeling

The current product has extensive labeling. The text of the labels required by the Commission is quoted in section D above. One alternative available to the Commission is to add further warning or instructional labeling to large multiple-tube devices or to modify the existing warning. Although this may have less impact on manufacturers and importers than a performance standard, the Commission believes that any additional or altered labeling is unlikely to be effective in reducing the risk of injury.

Fireworks are frequently used at night, reducing the likelihood that warning labels will be read. The fact that fireworks are commonly used at parties or celebrations further reduces the likelihood that the user will read and follow a warning label. Moreover, tip-over may occur even if the user reads and follows the warning label. In both incidents involving large multiple-tube devices, the victims were spectators who were approximately 40 feet (12 meters) away from the device, which they probably believed was a safe distance. The devices were placed on smooth, hard surfaces, although one was angled to shoot over a lake. In light of these facts, it is unlikely that a warning label would have prevented these deaths. [1, Tab E]

K. Regulatory Flexibility Certification

Under the Regulatory Flexibility Act, 5 U.S.C. §§ 601–612, agencies generally are required to prepare proposed and final regulatory flexibility analyses describing the impact of the rule on small businesses and other small entities. However, these analyses are not required if the head of the agency certifies that the rule will not have a significant effect on a substantial number of small entities. As described below, the Commission has analyzed the potential effect of the amendment on industry.

The Commission has determined that the proposed standard will not have a significant impact on a substantial number of small businesses. The devices subject to the standard constitute less than 1 percent of the overall fireworks market. The foreign firms that make the types of devices subject to this rule that are likely to require modification in order to comply also make other types of fireworks. Only a small portion of the total production of these firms involves the large multiple-tube devices subject to the rule. Thus, the Commission certifies that no significant adverse impact on a substantial number of small firms, or other entities, will result from the amendment issued below.

L. Environmental Considerations

The Commission's regulations governing environmental review procedures state that the amendment of rules or safety standards establishing design or performance requirements for products normally have little or no potential for affecting the human environment. 16 CFR 1021.6(c)(1). The Commission does not foresee that this amendment to the existing fireworks regulations will involve any special or unusual circumstances that would alter this conclusion. The Commission determines, therefore, that no significant environmental effects will result from the standard. Accordingly, no environmental assessment or environmental impact statement is required in this proceeding.

M. Effective Date

The rule will take effect in 1 year and will apply to multiple-tube fireworks devices with any tube measuring 1.5 inches or more in inner diameter that first enter commerce or are imported on or after the effective date. However, provisions may be stayed by the filing of proper objections. Notice of the filing of any objections or lack thereof will be given by publication in the **Federal Register**.

List of Subjects in 16 CFR Part 1500

Consumer protection, Hazardous materials, Hazardous substances, Imports, Infants and children, Labeling, Law enforcement, and Toys.

Conclusion

For the reasons given above, the Commission finds that cautionary labeling required by the FHSA is not adequate for multiple-tube devices having any tube 1.5 inches (3.8 cm) or larger in inner diameter and having a minimum tip angle larger than 60 degrees. Further, in order to protect the public health and safety and due to the degree and nature of the tip-over hazard presented by these devices, it is necessary to keep them out of commerce if they fail to meet this standard. Thus, the Commission amends Parts 1500 and 1507 Title 16 of the Code of Federal Regulations as follows:

PART 1500—[AMENDED]

1. The authority for Part 1500 continues to read as follows:

Authority: 15 U.S.C. 1261–1278

2. Section 1500.17 is amended by adding a new paragraph (a)(12) to read as follows:

§ 1500.17 Banned hazardous substances.

* * * * * *

(a) * * *

(12) (i) *Large multiple-tube devices.* Multiple-tube mine and shell fireworks devices that first enter commerce or are imported on or after [insert date that is 1 year after publication], that have any tube measuring 1.5 inches (3.8 cm) or more in inner diameter, and that have a minimum tip angle greater than 60 degrees when tested in accordance with the procedure of § 1507.12 of this part.

(ii) *Findings.* (A) *General.* In order to issue a rule under the section 2(q)(1) of the FHSA, 15 U.S.C. 1261(q)(1), classifying a substance or article as a banned hazardous substance, the FHSA requires the Commission to make certain findings and to include these in the regulation. These findings are discussed in paragraphs (a)(12)(ii)(B) through (D) of this section.

(B) *Voluntary standard.* (*1*) One alternative to the tip-angle requirement that the Commission considered is to take no mandatory action, and to depend on a voluntary standard. The American Fireworks Safety Laboratory (AFSL) has a standard for mines and shells intended to address the potential tip-over hazard associated with multiple-tube fireworks devices. AFSL's Voluntary Standard for Mines and Shells—Single or Multiple Shot requires that large multiple-tube devices not tip over (except as the result of the last shot) when shot on a 2-inch thick medium-density foam pad. The Commission cannot conclude that AFSL's existing voluntary standard adequately reduces the risk of injury from large devices that tip over while functioning. The Commission's tests using polyurethane foam did not find sufficient agreement between performance on foam and on grass. No other data are available to show that this dynamic test is reliable.

(*2*) In addition, even if the AFSL standard is effective, the Commission does not believe that compliance with the standard will be adequate. AFSL reports that it has been testing in accordance with its standard since January 1994. However, the results of CPSC's compliance testing indicate that multiple-tube devices still tip over while functioning. In fiscal year 1994, all 24 imported devices the Commission tested, and 1 of 8 domestic devices, tipped over while functioning. In fiscal year 1995, 22 of 27 imported devices and 1 of 5 domestic devices tipped over during Commission testing. The Commission finds that there is unlikely to be substantial compliance with the voluntary standard applicable to multiple-tube devices.

(C) *Relationship of benefits to costs.* The Commission estimates that the 60-degree tip-angle standard will eliminate the unreasonable tip-over risk posed by these devices. This will provide benefits of saving one life about every 3 years, and preventing an unknown number of nonfatal injuries. The annual cost of modifying affected devices is estimated to be between $1.5 million and $2.7 million. The Commission finds that the benefits from the regulation bear a reasonable relationship to its costs.

(D) *Least burdensome requirement.* The Commission considered the following alternatives: a ban of all multiple-tube devices with inner tube diameters 1.5 inches or greater; a dynamic performance standard; additional labeling requirements; and relying on the voluntary standard. Although a ban of all large multiple-tube devices would address the risk of injury, it would be more burdensome than the tip-angle standard. The Commission was unable to develop a satisfactory dynamic standard that would reduce the risk of injury. Neither additional labeling requirements nor reliance on the voluntary standard would adequately reduce the risk of injury. Thus, the Commission finds that a standard requiring large multiple-tube devices to have a minimum tip angle greater than 60 degrees is the least burdensome requirement that would prevent or adequately reduce the risk of injury.

PART 1507—[AMENDED]

1. The authority for Part 1507 continues to read as follows:

Authority: Sec. 2(q)(1)(B), (2), 74 Stat. 374 as amended 80 Stat. 1304–1305; (15 U.S.C. 1261); sec. 701(e), 52 Stat. 1055 as amended; 21 U.S.C. 371(e)); sec. 30(a), 86 Stat. 1231; 15 U.S.C. 2079(a)).

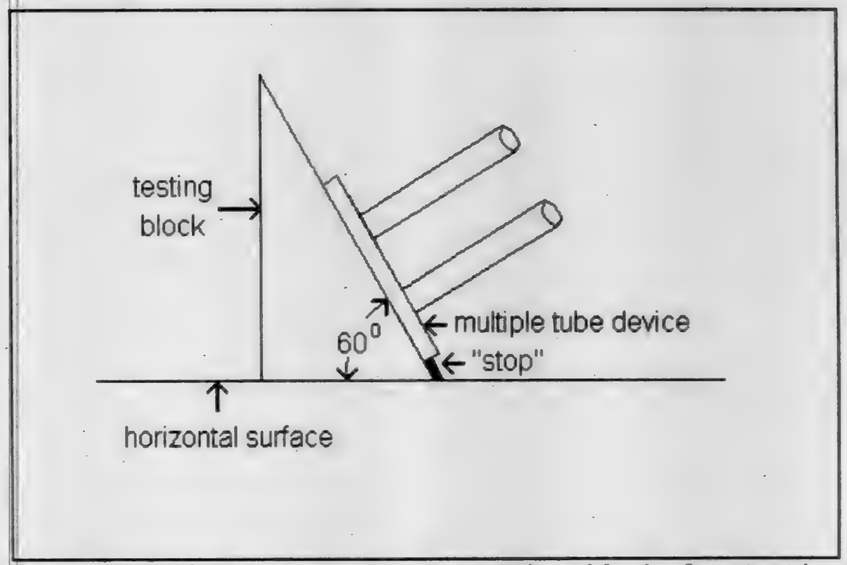
2. Part 1507 is amended by adding a new § 1507.12 to read as follows:

§ 1507.12 Multiple-tube Fireworks Devices.

(a) *Application.* Multiple-tube mine and shell fireworks devices with any tube measuring 1.5 inches (3.8 cm) or more in inside diameter and subject to § 1500.17(a)(12) of this part shall not tip over when subjected to the tip-angle test described in this section.

(b) *Testing procedure.* The device shall be placed on a smooth surface that can be inclined at 60 degrees from the horizontal, as shown in Figure 1 of this section. The height and width of the inclined plane (not including the portion of the plane below the mechanical stop) shall be at least 1 inch (2.54 cm) greater than the largest dimension of the base of the device to be tested. The test shall be conducted on a smooth, hard surface that is horizontal as measured by a spirit level or equivalent instrument. The mechanical stop on the inclined plane shall be 1/16 inches (1.6 mm) in height and perpendicular to the inclined plane. The stop shall be positioned parallel to the bottom edge of the inclined plane and so that no portion of the device to be tested or its base touches the horizontal surface. The device shall not tip over when the plane is inclined at 60-degrees from the horizontal. The procedure shall be repeated for each edge of the device. Figure 1 to § 1507.12

BILLING CODE 6355–01–P



Side view of an apparatus or testing block for testing compliance with the proposed 60-degree tilt angle standard.

BILLING CODE 6355–01–C

Dated: March, 18, 1996.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Reference Documents. (The following list of documents will not be printed in the Code of Federal Regulations.)

The following documents contain information relevant to this rulemaking proceeding and are available for inspection at the Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East-West Highway, Bethesda, Maryland 20814:

1. Multiple-tube Mine and Shell Fireworks Devices: Advance Notice of Proposed Rulemaking; Request for Comments and Information, 59 Fed. Reg. 33928 (July 1, 1994).

2. Briefing Package: Multiple-tube Mine and Shell Fireworks Devices, Consumer Product Safety Commission, May 31, 1994.

3. Briefing Memorandum on Multiple-tube Mine and Shell Fireworks Devices, from Ronald L. Medford, EXHR and Michael Babich, EHHE, to the Commission, June 8, 1995.

4. Memorandum from Michael Babich, Project Manager, HSHE, "Responses to Public Comments on Multiple-tube Mine and Shell Devices," May 22, 1995.

5. Memorandum from Leonard Schachter, EPHA, to Michael Babich, HSHE, "Annual Estimated Injuries Associated with Multiple-tube Mine and Shell Fireworks Devices," June 1, 1995.

6. Memorandum from James Carleton and Jay Sonenthal, LSHS, to Michael Babich, HSHE, "Results for Dynamic Stability Testing of Large Multiple-tube Mine and Shell Devices," May 18, 1995.

7. Memorandum from Thomas Caton, ESME, to Michael Babich, HSHE, "Fireworks Testing: Test Surface Roughness," May 22, 1995.

8. Report from Terry Kissinger, EPHA, to Michael Babich, HSHE, "A Comparison of the Tip-over Performances of Multiple-tube Mine and Shell Devices on Grass and Foam," January 1995.

9. Memorandum from George F. Sushinsky, LSEL, to Michael Babich, HSHE, "Dimensional and Stability Measurements of Fireworks," March 10, 1995.

10. Memorandum from George F. Sushinsky, LSEL, to Michael Babich, HSHE, "Tip Angle Measurements of a Device with a Plastic Base," April 13, 1995.

11. Memorandum from Jay Sonenthal, LSHL, to Michael Babich, HSHE, "Test of a Device with a Plastic Base," May 22, 1995.

12. Memorandum from Sam Hall, CERM, to Michael Babich, HSHE, "Acceptable Tipover Rate for Multiple-tube Devices," November 21, 1994.

13. Memorandum from Anthony Homan, ECPA, to Michael Babich, HSHE, "Multiple-tube Mine and Shell Fireworks Devices—Regulatory Analysis," May 18, 1995.

14. Memorandum from Sam Hall, CERM, to Michael Babich, HSHE, "AFSL's Interim Voluntary Standard for Large Multiple-tube Mine and Shell Devices and Staff's Proposed Mandatory Static Performance Standard, May 25, 1995.

15. Product and Performance Standard for Mines and Shells—Single or Multiple Shot," Version 1.1, American Fireworks Standards Laboratory, Bethesda, Maryland, January 28, 1993.

16. Memorandum from Neal Gasser, LSHL, to Michael Babich, HSHE, "Additional Tests of Multiple-tube Mine and Shell Devices," June 8, 1995.

17. Briefing Memorandum on Multiple-tube Mine and Shell Fireworks Devices—Final Rule, from Michael Babich, EHHE, and Ronald L. Medford, HIR, to the Commission, January 23, 1996.

18. Memorandum from Michael A. Babich, EHHE, "Responses to Comments on Multiple-tube Mine and Shell Devices," January 16, 1996.

19. Memorandum from Samuel B. Hall, CRM, to Michael Babich, HSHE, "Compliance Tests of Large Multiple-tube Mine and Shell Devices under FY 1994 and FY 1995 Fireworks Enforcement Programs," December 8, 1995.

20. Memorandum from Leonard Schacter, EHHA, to Michael Babich, HSHE, "Annual Estimated Injuries Associated with Multiple-tube Mine and Shell Fireworks Devices," November 1, 1995.

21. Memorandum from Anthony Homan, ECPA, to Michael Babich, HSHE, "Multiple-tube Mine and Shell Fireworks Devices—Final Regulatory Analysis," January 16, 1996.

22. Viscusi, W.K., "The Value of Risks to Life and Health," Journal of Economic Literature, December 1993.

23. Kissinger, T.L., Fireworks Injuries—results of a 1992 NEISS study. U.S. Consumer Product Safety Commission, Washington, DC 20207. September 1993.

[FR Doc. 96–6857 Filed 3–25–96; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD07–96–010]

Drawbridge Operation Regulations: Atlantic Intracoastal Waterway, FL

AGENCY: Coast Guard, DOT.

ACTION: Notice of deviation from regulations and request for comments.

SUMMARY: Notice is hereby given that the Coast Guard issuing a temporary deviation to the regulations governing the J.D. Butler (Hillsboro Boulevard, State Road 810) drawbridge, mile 1050.0, at Deerfield Beach, from March 1, 1996 through May 30, 1996. This deviation authorizes the bridge owner to open the draw on signal, except that, from 7 a.m. to 6 p.m., Monday through Thursday, the draw need open only on the hour, 20 minutes after the hour, and forty minutes after the hour; and from 7 a.m. to 6 p.m., Friday through Sunday and federal holidays, the draw need open only on the hour and half-hour. The purpose of this temporary change in opening schedule from Friday through Sunday and federal holidays is to test the feasibility of establishing a permanent change to the seasonal opening restrictions to reduce severe vehicular traffic congestion without unreasonably impacting navigation.

DATES: This deviation is effective from March 1, 1996 through May 30, 1996, unless sooner terminated. Comments on the alternate schedule must be received on or before May 30, 1996.

ADDRESSES: Comments may be mailed to Commander (oan), Seventh Coast Guard District, Brickell Plaza Federal Building, Room 406, 909 SE. 1st Avenue, Miami, Florida 33131–3050. The comments and other materials referenced in this notice will be available for inspection and copying at the above address. Normal office hours are between 7:30 a.m. and 4 p.m., Monday through Friday, except federal holidays. Comments may also be hand-delivered to the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Brodie Rich, Bridge Management Specialist, Seventh Coast Guard District, at 305–536–5117.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this evaluation of possible changes to the regulations governing the J.D. Butler Drawbridge over the Atlantic Intracoastal Waterway by submitting written data, or arguments for or against this deviation. Persons submitting comments should include their name, address, identify this rulemaking (CGD07–96–010) and give the reason for each comment. Persons wanting acknowledgment of receipt of comments should enclose a stamped self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period and determine whether to initiate a rulemaking to propose a permanent change to the drawbridge operation schedule. Persons may submit comments by writing to the Commander (oan), Seventh Coast Guard District listed under **ADDRESSES**.

Background and Purpose

The City of Deerfield Beach has requested a change from the current seasonal operating schedule in Title 33 CFR 117.261(bb) to a year-round hour and half-hour opening schedule. A Coast Guard analysis of highway traffic and bridge opening data provided by the Florida Department of Transportation which was completed on May 8, 1995, indicated the heavy traffic congestion is limited to weekends during the winter tourist season. This deviation will allow a test of the proposed hour and half-hour opening schedule during the heaviest highway and waterway traffic periods. If the test reduces highway traffic congestion without unreasonably impacting navigation, the Coast Guard plans to publish a Notice of Proposed Rulemaking which will request comments on a permanent change to the regulations.

Public vessels of the United States, tugs with tows, and vessels in a situation where a delay would endanger life or property shall, upon proper signal, be passed through the draw at any time.

This deviation from normal operating regulations (33 CFR 117.5) is authorized in accordance with the provisions of title 33 of the Code of Federal Regulations, § 117.43.

Dated: March 7, 1996.

P.J. Cardaci,

Captain U.S. Coast Guard, Commander, Seventh Coast Guard District, Acting.

[FR Doc. 96–7171 Filed 3–25–96; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Parts 154 and 155

46 CFR Parts 12, 13, 15, 30, 31, 35, 78, 90, 97, 98, 105, 151, 153, and 154

[Docket No. CGD–79–116]

RIN 2115–AA03

Qualifications for Tankermen, and for Persons in Charge of Transfers of Dangerous Liquids and Liquefied Gases

AGENCY: Coast Guard, DOT.

ACTION: Reopening of Comment Period on interim rule.

SUMMARY: The Coast Guard is reopening the period for public comment on its Interim Rule on the Qualifications for Tankermen, and for Persons in Charge of Transfers of Dangerous Liquids and Liquefied Gases. It would like public help in treating certain issues.

DATES: The effective date remains March 31, 1996. Written comments must be received not later than May 28, 1996.

ADDRESSES: Written comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA, 3406), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001, or may be delivered to room 3406 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments will become part of this docket and will be available for inspection or copying at room 3406, Coast Guard Headquarters, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Mark C. Gould, Project Manager, Marine Safety and Environmental Protection Directorate, Office of Maritime Personnel Qualifications (G–MOS–1), (202) 267–6890. This telephone is equipped to record messages on a 24-hour basis.

SUPPLEMENTARY INFORMATION: On Tuesday, April 4, 1995 [60 FR 17134], the Coast Guard issued an Interim Rule on the Qualifications for Tankermen, and for Persons in Charge of Transfers of Dangerous Liquids and Liquefied Gases. The deadline for written comments was June 30, 1995.

Comments submitted during the comment period by the public and further evaluation of the Interim Rule by the Coast Guard revealed certain issues that require further evaluation, clarification, or correction. The Coast Guard has, therefore, decided to reopen the comment period. There is no need to refile comments already submitted. The effective date of the Interim Rule remains March 31, 1996.

Although the Coast Guard invites comments on any feature of the Interim Rule, it specifically invites comments on the following:

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Section 155.710 Qualifications of person in charge.

Paragraphs (a)(2)(ii), (b)(2), and (g) allow the PIC of cargo-tank cleaning on a vessel at a tank-cleaning facility or shipyard to hold a marine chemist's certificate issued by the National Fire Protection Association instead of the appropriate Tankerman-PIC endorsement. Numerous comments on the Interim Rule objected to this alternative. They stated that no marine chemist is qualified to act as a Tankerman-PIC. The Coast Guard will compare the qualifications for marine chemists with those for Tankerman-PICs. It invites comments.

TITLE 46—SHIPPING

Section 13.107 Tankerman endorsement: General.

Section 15.860 Tankerman.

There appears to be some confusion and disagreement regarding the term *direct supervision* as used in these sections. The Coast Guard defines being under *direct supervision* to mean being within the unobstructed view of the supervisor. If the PIC assigns a person to turn a particular value, and if this person bends down so that either the hands or the valve is not visible to the PIC, this person is not under direct supervision of the PIC. A fair equivalent might be being in "direct line of sight of the supervisor, or in close proximity to the transfer and maintaining direct, continuous communications by a convenient, reliable means, such as a hand-held radio." The Coast Guard invites comments.

Section 13.111 Restricted endorsement.

This section lets an applicant apply for a tankerman endorsement restricted to specific cargoes or groups of cargoes, specific vessels, specific facilities, specific employers, or the like. The Coast Guard intended for this endorsement to benefit oil and chemical companies that handle only one or two cargoes or that employ a small number of tankerman, who conduct transfers at a small number of sites. This endorsement would relieve its holders of having to take the DL or LG course because those holders would have frequent opportunity to observe and participate in local transfers and would have no need to observe or participate in others. The Coast Guard did not intend that a large oil or chemical company could employ a large number of tankermen with restricted endorsements. It invites comments.

Section 13.113 Tankerman certified under prior regulations.

Paragraph (a) allows certain persons who have acted as Tankermen-PICs before March 31, 1996, to continue in that capacity. However, paragraph (d)(1)(iii)[A)(1) does not require any particular period of sea service, and paragraphs (d)(1)(iii)(A)(2) and (d)(1)(iii)(B) require only 30 days of sea service. None of these sections comply with the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW), as amended in 1994, which requires 90 days of sea service on tankers. Since the United States is signatory to STCW, the Coast Guard considers itself bound to amend paragraphs (d)(1)(iii)(A)(1), (d)(1)(iii)(A)(2), and (d)(1)(iii)(B) to require 90 days of sea service on tankers. It invites comments.

Section 13.115 Licensed engineer: Endorsement as Tankerman-Engineer based on service on tankships before March 31, 1996.

This section requires that a licensed person with service as chief, first assistant, or cargo engineer before March 31, 1996, obtain a Tankerman-Engineer endorsement to his or her MMD no later than the first renewal of the MMD after March 31, 1997, if he or she intends to continue in any of those capacities. The Coast Guard intends that the final rule will allow service by one carrying temporary proof of the tankerman's qualifications as § 13.113 did for Tankerman-PIC or Tankerman-PIC (Barge). But, as we have just seen, § 13.113 itself comes up short—60 days short—measured against STCW, as amended in 1994. Therefore, to provide for an orderly transition to a regime governed by STCW, as amended in 1994, as well as to square § 13.115 with § 13.113 in its STCW-compatible form, the Coast Guard considers itself bound to amend paragraphs (a) and (b) to require 90 days of sea service on tankers. It invites comments.

In addition, STCW, as amended in 1994, requires that an applicant for this endorsement satisfactorily complete the appropriate DL or LG course. The Coast Guard is inclined to amend this section to require satisfactory completion of a DL or LG course. However, the Coast Guard is willing to consider deferring the course requirement for a limited period of time, to give mariners a reasonable period of time to satisfactorily complete the course. It invites comments.

Section 13.117 Any person: Endorsement as Tankerman-Assistant based on unlicensed deck service before March 31, 1996.

This section requires that a person with unlicensed deck service before March 31, 1996, obtain a Tankerman-Assistant endorsement to his or her MMD no later than the first renewal of the MMD after March 31, 1997, if he or she intends to continue in that capacity. The Coast Guard intends that the final rule will allow service by one carrying temporary proof of the tankerman's qualifications as § 13.113 did for Tankerman-PIC or Tankerman-PIC (Barge). But, again as we have just seen, § 13.113 itself comes up short—60 days short—measured against STCW, as amended in 1994. Therefore, to provide for an orderly transition to a regime governed by STCW, as amended in 1994, as well as to square § 13.117 with § 13.113 in its STCW-compatible form, the Coast Guard considers itself bound to amend paragraphs (a) and (b) to require 90 days of sea service on tankers. It invites comments.

Further, STCW, as amended in 1994, allows an applicant for this endorsement to satisfactorily complete a tanker-familiarization course rather than satisfy paragraph (a) or (b). Therefore, the Coast Guard is inclined to amend this section to allow satisfactory completion of this course, too. It invites comments.

Further yet, STCW, as amended in 1994, requires that an application for this endorsement satisfactorily complete a firefighting course. The Coast Guard is included to amend this section to require satisfactory completion of this course, too. It invites comments.

For the Tankerman-Assistant endorsement, the Coast Guard will accept pumpman service as well as the deck service described in §§ 13.117 and 13.403. It invites comments.

Section 13.409 Eligibility requirements: Cargo course.

This section allows an applicant for an endorsement as Tankerman-Assistant to substitute sea service for satisfactory completion of a course in DL or LG. But STCW, as amended in 1994, requires the same applicants to either (1) satisfactorily complete a tanker-familiarization course or (2) prove 90 days of sea service on tankers. Therefore, the Coast Guard considers itself bound to amend this section to require either (1) satisfactory completion of a tanker-familiarization

course, rather than of a course in DL or LG, or (2) 90 days of sea service on tankers, rather than an unspecified amount of sea service of an unspecified kind. It invites comments.

Section 13.503 Eligibility requirements: Experience.

This section allows an applicant for an endorsement as Tankerman-Engineer to combine sea service and satisfactory completion of a DL or LG course for the requisite experience. But STCW, as amended in 1994, requires that the same applicant both satisfactorily complete the appropriate DL or LG course and prove 90 days of sea service on tankers. Therefore, the Coast Guard is inclined to amend this section to require both, rather than some blend of them. It invites comments.

Section 13.509 Eligibility requirements: Cargo course.

This section allows an applicant for an endorsement as Tankerman-Engineer to substitute sea service for satisfactory completion of a course in DL or LG. But STCW, as amended in 1994, requires that the same applicant both satisfactorily complete the appropriate DL or LG course and prove 90 days of sea service on tankers. Therefore, the Coast Guard is inclined to amend this section to require both, rather than some blend of them. It invites comments.

Dated: March 15, 1996.

J.C. Card,

Rear Admiral, U.S. Coast Guard Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 96–7169 Filed 3–25–96; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[CGD02–96–078]

RIN 2115–AA97

Safety Zone; Lower Mississippi River, Mile 631.0 to Mile 635.0

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the Lower Mississippi River between mile 631.0 and mile 635.0. This regulation is needed to restrict vessel traffic in the regulated area to prevent a collision with a sunken barge, surveying and salvage equipment and to provide a safe work area for survey and salvage personnel.

DATES: This regulation is effective from 11 p.m. on March 12, 1996, and terminates at 8 a.m. on September 31, 1996.

FOR FURTHER INFORMATION CONTACT:

LT Byron Black, Chief, Port Operations, Captain of the Port, 200 Jefferson Avenue, Suite 1301, Memphis, TN 38103, Phone: (901) 544–3941.

SUPPLEMENTARY INFORMATION:

Background and Purpose

At approximately 10:10 p.m. on March 12, 1996, the M/V ROBERT A KYLE reported that one iron barge had sunk at approximate mile 633.0 on the Lower Mississippi River. The sunken barge's exact location remains unknown and survey operations at Lower Mississippi River mile 633.0 will commence shortly. The navigable channel will be blocked during survey and salvage operations. A safety zone has been established on the Lower Mississippi River from mile 631.0 to mile 635.0 in order to facilitate safe vessel passage. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port.

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publication of a notice of proposed rulemaking and delay of effective date would be contrary to the public interest because immediate action is necessary. Specifically, immediate action is necessary to facilitate the survey for the sunken barge's exact location. Harm to the public or environment may result if vessel traffic is not controlled during the operations. As a result, the Coast Guard deems it to be in the public's best interest to issue a regulation immediately.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require and assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Collection of information

This rule contains no information collection requirements under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

Federalism

The Coast Guard has analyzed this under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

Teh Coast Guard considered the environmental impact of this rule and concluded that, under paragraph 2.B.2 of Commandant Instruction M16475.1B (as revised by 59 FR 38654; July 29, 1994), this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; and 49 CFR 1.46.

2. A new temporary section 165.T02–078 is added to read as follows:

§ 165.T02–078 Safety Zone; Lower Mississippi River.

(a) *Location.* The following area is a Safety Zone: Lower Mississippi River mile 631.0 to mile 635.0.

(b) *Effective dates.* This section is effective from 11 p.m. on March 12, 1996, and terminates at 8 a.m. on September 31, 1996.

(c) *Regulations.* In accordance with the general regulations in § 165.23, entry into this zone is prohibited except as authorized by the Captain of the Port. The Captain of the Port, Memphis, Tennessee, will notify the maritime community of conditions affecting the area covered by this safety zone by Marine Safety Information Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz).

Dated: March 12, 1996.

P.L. Mountcastle,

Lieutenant Commander, USCG, Acting Captain of the Port.

[FR Doc. 96–7305 Filed 3–25–96; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DE26–1–6940; FRL–5444–8]

Approval and Promulgation of Air Quality Implementation Plans; Delaware: Amendment of Final Rule Pertaining to Regulation 24—Control of Volatile Organic Compound Emissions, Section 47—Offset Lithographic Printing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Amendment of direct final rule.

SUMMARY: On January 26, 1996, EPA published approval of a State Implementation Plan (SIP) revision submitted by Delaware (61 FR 2419) pertaining to Delaware Regulation 24, Control of Volatile Organic Compound Emissions, sections 10, 11, 12, 44, 45, 47, 48, and 49, and Appendices I, K, L, and M, effective November 29, 1994. These sections of Regulation 24 establish additional emission standards that represent the application of reasonably available control technology (RACT) to categories of stationary sources of volatile organic compounds (VOCs). This action was published without prior proposal. Because EPA received adverse comments on a section of this action, EPA is withdrawing the reference pertaining to Regulation 24, section 47, Offset Lithographic Printing.

EFFECTIVE DATE: March 26, 1996.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 597–3164.

SUPPLEMENTARY INFORMATION: EPA approved this direct final rule without prior proposal because the agency viewed it as a noncontroversial amendment and anticipated no adverse comments. The direct final rule was published, without prior proposal, in the **Federal Register** (61 FR 2419) with a provision for a 30 day comment period. At the same time, EPA published a proposed rule which announced that this final rule would convert to a proposed rule in the event that adverse comments were submitted to EPA within 30 days of publication of the rule in the **Federal Register** (61 FR 2464). By publishing a document announcing withdrawal of the final rule action, this action would be withdrawn. EPA received adverse comments within the prescribed comment period on section 47, Offset Lithographic Printing. Therefore, EPA is withdrawing the reference pertaining to Regulation 24, section 47 only. All public comments received will be addressed in a subsequent rulemaking action based on the proposed rule.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon Monoxide, Hydrocarbons, Intergovernmental relations, Nitrogen Dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: March 14, 1996.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

Accordingly, 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7402–7671q.

§ 54.420 [Amended]

2. In § 54.420(c)(54)(i)(B), the number "47" is removed.

[FR Doc. 96–7063 Filed 3–25–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 70

[TN-CHAT–95–01; FRL–5445–8]

Clean Air Act Final Full Approval of Operating Permits Program; Hamilton County, Tennessee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final full approval.

SUMMARY: EPA is promulgating full approval of the title V operating permits program submitted by the State of Tennessee on behalf of the Chattanooga-Hamilton County Air Pollution Control Bureau (CHCAPCB). The CHCAPCB program was submitted for the purpose of complying with Federal requirements which mandate that states or local authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources.

EFFECTIVE DATE: April 25, 1996.

ADDRESSES: Copies of the CHCAPCB submittal and other supporting information used in developing the final full approval are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 4, 345 Courtland Street NE, Atlanta, Georgia 30365. Interested persons wanting to examine these documents, contained in EPA docket number TN-CHAT–95–01, should make an appointment at least 24 hours before the visiting day.

FOR FURTHER INFORMATION CONTACT: Kelly Fortin, Title V Program Development Team, Air Programs Branch, Air, Pesticides & Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 345 Courtland Street NE, Atlanta, Georgia 30365, (404) 347–3555, Ext. 4150.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

A. Introduction

Title V of the 1990 Clean Air Act Amendments (sections 501–507 of the Clean Air Act (the Act)) and the implementing regulations at 40 Code of Federal Regulations (CFR) part 70 require that states or authorized local agencies develop and submit operating permits programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within one year after receiving the submittal. If the permitting authority's submission is materially changed during the one-year period, 40 CFR 70.4(e)(2) allows EPA to extend the review period for no more than one year following the receipt of the additional materials.

EPA's operating permit program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval for a period of up to two years. If EPA has not fully approved a program by November 15, 1995, or by the end of an interim program, it must establish and implement a Federal operating permit program for that state or local agency.

On November 8, 1995, EPA proposed full approval, or in the alternative, interim approval of the operating permits program for CHCAPCB in the **Federal Register**. See 60 FR 56285. The **Federal Register** notice stated that, as a condition of full approval, certain revisions or clarifications were required in the insignificant activities list contained in CHCAPCB's program. The above-referenced **Federal Register** notice and the technical support document describe in detail the changes required for full program approval. The November 8, 1995, notice also proposed approval of CHCAPCB's interim mechanism for implementing section 112(g) and for delegation of section 112 standards as promulgated. EPA did not receive any comments on the proposal notice.

On March 14, 1996, the State of Tennessee submitted, on behalf of CHCAPCB, revisions to the operating

permits program that addressed the deficiencies discussed in the proposed full/interim approval **Federal Register** notice. These changes became locally effective on the following dates: February 7, 1996, in the unincorporated areas of Hamilton County and in the East Ridge municipality; March 6, 1996, in the City of Chattanooga; March 7, 1996, in the Soddy-Daisy municipality; March 11, 1996, in the Signal Mountain municipality; March 12, 1996, in the Lookout Mountain and Walden municipalities; March 18, 1996, in the Collegedale municipality; March 19, 1996, in the Red Bank municipality; and March 21, 1996, in the Lakesite municipality. The changes will become locally effective in the Ridgeside municipality on April 16, 1996. In this action, EPA is promulgating full approval of the CHCAPCB operating permits program, and approving the section 112(g) and section 112(l) mechanisms noted above.

II. Final Action and Implications

A. Title V Operating Permits Program

EPA is promulgating full approval of the operating permits program submitted by the State of Tennessee, on behalf of CHCAPCB, on November 22, 1993, and as supplemented on January 23, 1995, February 24, 1995, October 13, 1995, and March 14, 1995. The November 8, 1995, **Federal Register** notice established that CHCAPCB would receive full approval of its program if certain changes were made to the insignificant activities provisions of the program and submitted to EPA prior to EPA's final action. CHCAPCB has demonstrated that the program will be adequate to meet the minimum elements of a local operating permits program as specified in 40 CFR part 70.

The scope of the CHCAPCB program that EPA is approving in this action applies to all part 70 sources (as defined in the approved program) within Hamilton County, except any sources of air pollution over which an Indian Tribe has jurisdiction. *See, e.g.*, 59 FR 55813, 55815–18 (November 9, 1994). The term "Indian Tribe" is defined under the Act as "any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is Federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians." *See* section 302(r) of the CAA; *see also* 59 FR 43956, 43962 (August 25, 1994); 58 FR 54364 (October 21, 1993).

The Chattanooga-Hamilton County Air Pollution Control Board, operating under a certificate of exemption pursuant to Tennessee Code Annotated, Section 68–201–115, has authority to administer the operating permits program in all areas of Hamilton County, Tennessee, with the exception of Indian reservations and tribal lands. The CHCAPCB program is implemented and enforced through: (1) the Chattanooga Air Pollution Control Code (within the incorporated municipality of the City of Chattanooga, Tennessee); (2) the Hamilton County Air Pollution Control Regulation (in the unincorporated areas of Hamilton County, Tennessee); and (3) the air pollution control ordinances prepared for and enacted in the incorporated municipalities of East Ridge, Red Bank, Soddy-Daisy, Signal Mountain, Lakesite, Walden, Collegedale, Lookout Mountain, and Ridgeside.

B. Preconstruction Permit Program Implementing Section 112(g)

EPA is approving the use of CHCAPCB's preconstruction review program found in section 4–8 of the Chattanooga Code and the corresponding sections of the Hamilton County and local municipalities' regulations as the mechanism for implementing section 112(g) during the transition period between promulgation of EPA's section 112(g) rule and CHCAPCB's adoption of rules specifically designed to implement section 112(g). This approval is limited to the implementation of the 112(g) rule and is effective only during any transition time between the effective date of the 112(g) rule and the adoption of specific rules by CHCAPCB to implement section 112(g). The duration of this approval is limited to 18 months following promulgation by EPA of section 112(g) regulations, to provide Hamilton County, the City of Chattanooga, and the affected municipalities with adequate time to adopt regulations consistent with Federal requirements.

C. Program for Delegation of Section 112 Standards as Promulgated

Requirements for approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by EPA as they apply to part 70 sources. Section 112(l)(5) requires that CHCAPCB's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, EPA is also promulgating approval under section 112(l)(5) and 40 CFR 63.91 of CHCAPCB's program for receiving delegation of section 112 standards and programs that are unchanged from Federal rules as promulgated. In addition, EPA is approving the delegation of all existing standards and programs under 40 CFR parts 61 and 63. This program for delegation applies to both part 70 sources and non-part 70 sources.

III. Administrative Requirements

A. Docket

Copies of the CHCAPCB submittal and other information relied upon for this final full approval action are contained in docket number TN-CHAT–95–01 maintained at the EPA Region 4 office. The docket is an organized and complete file of all the information submitted to or otherwise considered by EPA in the development of this action. The docket is available for public inspection at the location listed previously in the **ADDRESSES** section of this document.

B. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

C. Regulatory Flexibility Act

EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act of 1995

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the final full approval promulgated in this document does not include a Federal mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: March 15, 1996.

Phyllis P. Harris,

Acting Regional Administrator.

Part 70, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

2. In appendix A to part 70 the entry for Tennessee is amended by redesignating paragraph (b) as (d), by adding and reserving paragraph (c), and by adding a new paragraph (b) to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Tennessee

(a) [Reserved]

(b) Chattanooga-Hamilton County Air Pollution Control Bureau, Hamilton County, State of Tennessee: submitted on November 22, 1993, and supplemented on January 23, 1995, February 24, 1995, October 13, 1995, and March 14, 1996; full approval effective on April 25, 1996.

* * * * *

[FR Doc. 96–7166 Filed 3–25–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 261

[FRL–5446–2]

RIN 2050–AE31

Identification and Listing of Hazardous Waste; Amendments to Definition of Solid Waste

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: EPA is correcting the text of a regulatory exclusion from the regulatory definition of solid waste for recovered oil which is inserted into the petroleum refining process. The current text of the exclusion contains a factual error as to the location in the refining process at which recovered oil can be inserted. The result of this error is to inappropriately restrict legitimate recycling of recovered oil. The corrected rule also in fact reflects the result EPA initially intended, which was to condition the exclusion of recovered oil on that oil being reinserted into the petroleum refining process at a point where that process removes or will remove at least some contaminants.

In the proposed rules Section of today's **Federal Register**, EPA is proposing this identical correction and soliciting public comment on this correction. If adverse comments are received, EPA will withdraw this direct final rule and address the comments in a subsequent final rule. EPA will not provide additional opportunity for comment on the correction.

DATES: This final action will become effective on May 28, 1996, unless EPA is notified by April 9, 1996, that any person wishes to submit adverse comment. If such notification is received and EPA withdraws this final rule, then timely notice will be published in the **Federal Register**.

ADDRESSES: Comments and materials supporting this rulemaking are contained in Public Docket No. F–96–SW2F-FFFFF and are located in the EPA RCRA docket, Crystal Gateway #1, 1st Floor, 1235 Jefferson Davis Highway, Arlington, VA. The docket is open from 9:00 to 4:00, Monday through Friday, except for Federal holidays. The public must make an appointment to review docket materials by calling (703) 603–9230. The public may copy a maximum of 100 pages from any one regulatory docket at no cost. Additional copies cost $.15 per page. Persons wishing to notify EPA of their intent to submit adverse comments on this action should contact Steven Silverman, Office of General Counsel (2366), 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Steven Silverman, (202) 260–7716, Office of General Counsel at the above address.

SUPPLEMENTARY INFORMATION:

Outline of Today's Action

I. Authority
II. Background
III. Clarification of Issues Discussed in the Preamble
A. Status of Recovered Oil from Refineries with Synthetic Organic Chemical Manufacturing Industry (SOCMI) Units
B. Status of Recovered Oil from Co-Located Petroleum Refineries and Petrochemical Facilities
C. Recycling of Secondary Materials Between Industries
IV. State Authority
V. 60–Day Effective Date
VI. Regulatory Requirements
A. Executive Order No. 12866
B. Regulatory Flexibility Act
C. Paperwork Reduction Act
D. Unfunded Mandates Reform Act

I. Authority

These regulations are issued under the authority of Sections 2002 and 3001 et seq. of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. 6912 and 6921 et seq.

II. Background

In this document, EPA is correcting a significant error in the text of a regulatory exclusion relating to recycling of recovered oil—oil that has been recovered from secondary materials such as wastewater generated from normal petroleum exploration, refining, and transport activities—back into the petroleum refining process. Although the genesis of this error requires some detailed explanation (which appears below), the ultimate resolution is straightforward: the Agency intended to exclude from the definition of solid waste, and RCRA Subtitle C authority, recovered oil that is inserted into a petroleum refining process at a point at which the process removes or will remove at least some contaminants. Today's document corrects the erroneous regulatory text to restore this intended result.

The rule at issue is an exclusion for recovered oil found at 40 CFR 261.4(a)(12) (promulgated at 59 FR 38545 (July 28, 1994)). That rule excludes recovered oil from the definition of solid waste, and RCRA Subtitle C authority, provided the recovered oil is reinserted into a petroleum refining process "prior to crude distillation or catalytic cracking." 40 CFR 261.4(a)(12). The purpose of the exclusion is to exclude from RCRA regulation recovered oil which is used as a feedstock in the petroleum refining process. 59 FR at 38538. Conditioning the exclusion on insertion into the refining process at a point where the process removes contaminants from the recovered oil also helps assure the legitimacy and safety of the activity. 59 FR at 38542.

However, the rule's limitation on the point of reinsertion is, in fact, erroneously restrictive. The correct formulation is that reinsertion should be at, or before, any point in the petroleum refining process where at least some

contaminants are removed (i.e. separated from the matrix). Crude distillation and catalytic cracking are examples of such points but are not the exclusive locations where the refining process removes contaminants. See, e.g., 50 FR at 28725 (July 15, 1985).

The regulatory history of this rule, although tangled, indicates that the Agency did not intend to impose the limiting condition (insertion before crude distillation or catalytic cracking only) in fact promulgated, but rather to condition the exclusion on insertion into any part of the refining process that removes contaminants. Since November 1985, EPA has exempted certain fuels resulting from refining of materials derived from oil-containing petroleum industry hazardous wastes. See 50 FR 49169, 49203 (Nov. 29, 1985) (codifying 40 CFR 261.6(a)(viii)(B)). The accompanying preamble explained that these exemptions were based on the waste being inserted into a part of the petroleum refining process "designed to remove contaminants in the normal operation of the refining process." 50 FR at 49169. The preamble further explained that the source of the test was a comparable statutory exemption from hazardous waste fuel labelling requirements for fuels produced from oil-bearing refining wastes that are inserted into the refining process at a point where "contaminants are removed." 50 FR at 49169, referring to RCRA sections 3004(r)(2)(B), and (r)(3). As set out in the legislative history to those provisions, the underlying principle is that "(r)efineries often take oily wastes and refining transportation wastes and reintroduce these wastes into the refining process where the oil component is incorporated into a product and contaminants are removed. Refineries should not automatically have to place a warning label on these fuels." S. Rep. No. 98–284, 98th Cong. 1st Sess. at 40.

The 1994 rule at issue here meant to retain this principle by requiring that the recovered oil be inserted into the refining process "at or before a point * * * designed to remove toxic metal and organic contaminants * * *." 59 FR at 38542 (July 28, 1994). The preamble then incorrectly stated that this means that insertion had to be "prior to crude distillation or catalytic cracking." *Id.* As noted above, this is factually incorrect. The refining process removes contaminants at a number of points after distillation and catalytic cracking, an example being in fractionation units located downstream of catalytic crackers. See letter from Ralph Colleli, Esq. to Ross Elliott, April 5, 1995; letter from Ralph Colleli, Esq. to Mr. Michael Shapiro, June 20, 1995.

The 1994 regulatory text is consequently factually wrong, and inappropriately reduces recycling opportunities for recovered oil without corresponding environmental benefit. For these reasons, EPA is correcting the text of the exclusion by revising the first sentence to state that insertion of recovered oil must be into the refining process "at or before a point where contaminants are removed."

There is also one further *caveat* about the regulatory language. EPA did not extend the scope of the exclusion to include situations where recovered oil is inserted into a petroleum coker. 59 FR at 38542. Instead, EPA deferred making a final decision on that issue until a later rulemaking. 59 FR at 38536, 38541, 38542. In fact, EPA has recently proposed that petroleum coking operations be expressly encompassed within the scope of an expanded exclusion. 60 FR 57747, 57796 (Nov. 20, 1995). EPA will take final action on that proposal as part of that separate rulemaking proceeding.

However, because a final decision on the status of petroleum cokers is being made in that other rulemaking, and because petroleum cokers do remove contaminants from incoming materials, at this time EPA is adding to the amended regulatory text the qualification that insertion be into or before a part of the process where contaminants are removed, but not direct insertion to petroleum cokers. In addition, EPA wishes to clarify that neither the July 28, 1994 rule nor this document is intended to change the current regulatory status of petroleum cokers.

III. Clarification of Issues Discussed in the Preamble

In addition to the correction discussed above, EPA wishes to clarify several issues discussed in the preamble to the July 28, 1994 recovered oil rule.

A. Status of Recovered Oil From Refineries With Synthetic Organic Chemical Manufacturing Industry (SOCMI) Units

The recovered oil rule, as corrected by today's document, provides an exclusion from RCRA regulation for oil that is recovered from "normal" petroleum refinery operations and inserted prior to points in the petroleum refining process, other than direct insertion into a coker, where contaminant removal occurs (§ 261.4(a)(12)). Under this provision, oil recovered from a petroleum refinery's wastewater treatment system is excluded from RCRA regulation if it is inserted into designated refinery process points. Since promulgation of the recovered oil rule, EPA has learned that a number of petroleum refineries also operate petrochemical processing units on-site and that wastewater from these units is discharged into the refinery's wastewater treatment system. The wastewater from these units represents 2%–12% of the total refinery wastewater volumes and rarely contains recoverable oil according to some petroleum industry sources. In response to questions from the regulated community regarding whether the recovered oil exclusion applies to oil recovered from petroleum refineries with SOCMI units on-site, EPA provides the following clarification.

While EPA did not specifically address this situation in the recovered oil rule, the Agency intended that the exclusion apply to refineries with on-site petrochemical processing units. EPA views these SOCMI units as part of the normal petroleum refining operation. Therefore, the presence of these units at a petroleum refining facility does not preclude the refinery's eligibility for the recovered oil exclusion.

B. Status of Recovered Oil From Co-Located Petroleum Refineries and Petrochemical Facilities

The recovered oil rule also failed to specifically address how the regulations apply in cases where co-located petroleum refineries and petrochemical facilities share the same wastewater treatment system. In these situations, the proximally located facilities are generally owned and operated by the same parent company. However, the facilities may be separately owned and operated in some instances. This situation presents essentially the same issue as that posed by the previous case involving on-site SOCMI units. The difference in this case is that the petrochemical processes are located off-site of the petroleum refining facility. In response to questions from the regulated community regarding whether the recovered oil exclusion applies to oil recovered from wastewater treatment systems that service both petrochemical and petroleum refining operations, EPA provides the following clarification.

The Agency's intent in crafting the recovered oil exclusion was to limit its applicability to oil recovered from petroleum industry sources for reasons explained in the preamble to the recovered oil rule. 51 FR 38539. Accordingly, the exclusion specifically does not apply to oil generated from non-petroleum industry operations. The exclusion does, however, apply broadly to recovered oil generated from both on- and off-site sources within the petroleum industry (e.g., the exclusion applies to recovered oil from petroleum exploration and production activities). It is EPA's position that, in cases where petrochemical and petroleum refining operations are co-located and share a common wastewater treatment system, the petrochemical operations are appropriately considered part of normal petroleum refining for purposes of the recovered oil exclusion. In these situations, given the common wastewater treatment system and the predominance of petroleum refining wastewater, the integration between the two facilities is such that the petrochemical facility falls within scope of the exclusion. The recovered oil exclusion therefore applies to oil recovered from a wastewater treatment system that a refinery shares with a co-located petrochemical facility. The exclusion does not, however, apply to recovered oil from a petrochemical facility that is sent to a petroleum refinery for recycling via any route other than a shared wastewater treatment system (e.g., via truck, rail, etc). However, in a separate document published in the **Federal Register** on November 20, 1995 (60 FR 57747), EPA is proposing to expand the exclusion to cover recovered oil that is sent from petrochemical facilities to co-located or commonly owned refineries for recycling by other means of transport.

C. Recycling of Secondary Materials Between Industries

With the above exceptions, the recovered oil exclusion does not extend to recovered oil from non-petroleum industries. As explained in the preamble to the July 28, 1994 rule, "such an extension is beyond the scope of the recovered oil rule. It is also beyond the scope of judicial decisions construing the definition of solid waste" which indicated that, "when one industry sends its residual materials to another industry for recycling, the initial industry *can* be considered to have discarded them." (emphasis added) 59 FR 38,539, July 28, 1994. EPA wishes to clarify that this preamble discussion was not intended to modify in any way the pre-existing state of law regarding EPA's regulatory jurisdiction over recycling. More specifically, EPA wishes to make clear that this discussion was not meant to imply that all secondary materials that are sent off-site for recycling must be considered to be discarded materials in all situations. Rather, the intent of this discussion was merely to: (1) explain the court's and EPA's position that recycling of secondary materials (on- or off-site) *may* involve an element of discard and *may* therefore be subject to regulation under RCRA subtitle C; and (2) make clear that the scope of the recovered oil rule is limited to determining the Agency's jurisdiction only over recycling that occurs within the petroleum refining industry.

IV. State Authority

Under Section 3006 of RCRA, EPA may authorize qualified States to administer and enforce the RCRA program within the State. Following authorization, EPA retains enforcement authority under Sections 3008, 3013, and 7003 of RCRA, although authorized States have primary enforcement responsibility. The standards and requirements for authorization are found in 40 CFR Part 271.

Today's amendments are not imposed pursuant to the Hazardous and Solid Waste Amendments of 1984 (HSWA). The rule changes, therefore, will become effective immediately only in those States without interim or final authorization, not in authorized States. The effect of the rule changes on authorized State programs is discussed next.

Today's direct final rule eliminates a factual error, an error that inappropriately restricts the location in the refining process at which recovered oil can be inserted for the legitimate recycling of the recovered oil. Therefore, today's rule restores the Agency's intended result to exclude from the definition of solid waste, and RCRA Subtitle C authority, recovered oil that is inserted into a petroleum refining process at a point at which the process removes or will remove at least some contaminants. The effect of today's direct final rule is therefore considered to be less stringent than the existing federal standards. Authorized States are only required to modify their programs when EPA promulgates federal regulations that are more stringent or broader in scope than the existing federal regulations. Therefore, States that are authorized for the July 28, 1994 rule are not required to modify their programs to adopt today's rule. However, EPA strongly urges States to do so. EPA's authorization guidance to States will link the July 28, 1994 rule and today's final amendments.

Given the minor scope of today's amendment, those States that are authorized for the July 28, 1994 rule may submit an abbreviated authorization revision application to the Region for today's amendment. This application should consist of a letter from the State to the appropriate Regional office, certifying that it has adopted provisions equivalent to and no less stringent than today's final rule (see the December 19, 1994, memorandum from Michael Shapiro, Director of the Office of Solid Waste, to the EPA Regional Division Directors that is in the docket for today's rule). The State should also submit a copy of its final rule or other authorizing authority. Revisions to the revised Program Description, Memorandum of Agreement, and Attorney General's statement are not necessary (see 40 CFR 271.21(b)(1)). EPA expects that this simplified process will expedite the review of the authorization submittal for this rule.

V. 60–Day Effective Date

Because the regulatory community does not need 6 months to come into compliance with this rule, EPA finds, pursuant to RCRA section 3010(b)(1), that this rule can be made effective in less than six months.

VI. Regulatory Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether this regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant" regulatory action as one that is likely to lead to a rule that may:

(1) have an annual effect on the economy of $100 million or more, or adversely and materially affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this amendment to the final rule is not a "significant regulatory action" under the terms of the Executive Order and is therefore not subject to OMB review.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601–602, requires that Federal agencies examine the impacts of their regulations on "small entities". If a

rulemaking will have a significant impact on a substantial number of small entities, agencies must consider regulatory alternatives that minimize economic impact.

EPA believes that this amendment will have negligible impact on any small entity because it expands the terms of an exclusion from regulation. In addition, the underlying rule itself was deregulatory and so did not have significant adverse economic impact on small entities. See 59 FR 38545. Therefore, the Administrator certifies pursuant to 5 U.S.C. 601 *et seq.*, that this rule will not have a significant impact on a substantial number of small entities because this amendment reduces the scope of the RCRA subtitle C regulatory program.

C. Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., EPA must consider the paperwork burden imposed by any information collection request in a proposed or final rule. This rule will not impose any new information collection requirements.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When a written statement is needed for an EPA rule, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector because it imposes no enforceable duties on any of these governmental entities or the private sector. The rule merely corrects a factual error in the regulatory text of the regulatory definition of solid waste. In any event, EPA has determined that this rule does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector in any one year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA. Similarly, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments.

List of Subjects in 40 CFR Part 261

Environmental protection, Hazardous waste, Solid waste, Petroleum, Recycling.

Dated: March 19, 1996.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, chapter I of title 40 of the Code of Federal Regulations is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912 (a), 6921, 6922 and 6938.

2. Section 261.4 is amended by revising paragraph (a)(12) to read as follows:

§ 261.4 Exclusions.

(a) * * *

(12) Recovered oil from petroleum refining, exploration and production, and from transportation incident thereto, which is to be inserted into the petroleum refining process (SIC Code 2911) at or before a point (other than direct insertion into a coker) where contaminants are removed. This exclusion applies to recovered oil stored or transported prior to insertion, except that the oil must not be stored in a manner involving placement on the land, and must not be accumulated speculatively, before being so recycled. Recovered oil is oil that has been reclaimed from secondary materials (such as wastewater) generated from normal petroleum refining, exploration and production, and transportation practices. Recovered oil includes oil that is recovered from refinery wastewater collection and treatment systems, oil recovered from oil and gas drilling operations, and oil recovered from wastes removed from crude oil storage tanks. Recovered oil does not include (among other things) oil-bearing hazardous waste listed in 40 CFR part 261 D (e.g., K048–K052, F037, F038). However, oil recovered from such wastes may be considered recovered oil. Recovered oil also does not include used oil as defined in 40 CFR 279.1.

* * * * *

[FR Doc. 96–7275 Filed 3–25–96; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

48 CFR Parts 225 and 252

Defense Federal Acquisition Regulation Supplement; Naval Vessel Components

AGENCY: Department of Defense (DoD).

ACTION: Interim rule with request for comment.

SUMMARY: The Director of Defense Procurement has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement additional statutory restrictions on the acquisition of anchor and mooring chain and totally enclosed lifeboats, when used as naval vessel components.

DATES: Effective date: April 1, 1996.

Comment date: Comments on the interim rule should be submitted in writing to the address shown below on or before May 28, 1996, to be considered in the formulation of the final rule.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax number (703) 602–0350. Please cite DFARS Case 96–D300 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, (703) 602–0131

SUPPLEMENTARY INFORMATION:

A. Background

This interim DFARS rule implements Section 806, paragraph (a), of the Fiscal Year 1996 Defense Authorization Act (Pub. L. 104–106), amending the restriction on anchor and mooring chain at 225.7012 and the restriction on totally enclosed lifeboat survival systems at 225.7022. The interim rule also removes outdated restrictions relating to anchor and mooring chain for fiscal years 1988 through 1990, at DFARS 225.7012–2, 225.7012–3, 225.7012–4(b) and (c), 252.225–7020, and 252.225–7021.

B. Regulatory Flexibility Act

This interim rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 602, *et seq.*, because the foreign source restrictions contained in the rule are not significantly different from existing foreign source restrictions. An Initial Regulatory Flexibility Analysis has therefore not been prepared. Comments from small entities concerning the affected DFARS subparts will be considered in accordance with Section 610 of the Act. Such comments must be submitted separately and cite DFARS Case 96–d300 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply. This interim rule does not impose any new information collection requirements which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense that compelling reasons exist to publish this interim rule prior to affording the public an opportunity to comment. This action is necessary to promptly implement Section 806, paragraph (a), of the Fiscal Year 1996 Defense Authorization Act (Pub. L. 104–106). Comments received in response to the publication of this interim rule will be considered in formulating the final rule.

List of Subjects in 48 CFR Parts 225 and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 225 and 252 are amended as follows:

1. The authority citation for 48 CFR Parts 225 and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 225—FOREIGN ACQUISITION

2. Sections 225.7012, 225.7012–1, 225.7012–2, and 225.7012–3 are revised to read as follows:

225.7012 Restrictions on anchor and mooring chain.

225.7012–1 Restrictions.

(a) Under Public Law 101–511, Section 8041, and similar sections in subsequent Defense appropriations acts, DoD appropriations for fiscal years 1991 and after may not be used to acquire welded shipboard anchor and mooring chain, four inches in diameter and under, unless—

(1) It is manufactured in the United States, including cutting, heat treating, quality control, testing, and welding (both forging and shot blasting process); and

(2) The cost of the components manufactured in the United States exceeds 50 percent of the total cost of components.

(b) Acquisition of welded shipboard anchor and mooring chain, four inches in diameter and under, when used as a component of a naval vessel, is also restricted under 10 U.S.C. 2534(a)(3)(ii). However, the more stringent restriction under 225.7012–1(a) takes precedence.

225.7012–2 Waiver.

The restriction in 225.7012–1(a) may be waived by the Secretary of the Department responsible for acquisition, on a case-by-case basis, where sufficient domestic suppliers are not available to meet DoD requirements on a timely basis and the acquisition is necessary to acquire capability for national security purposes.

(a) Document the waive in a written D&F containing—

(1) The factors supporting the waiver; and

(2) A certification that the acquisition must be made in order to acquire capability for national security purposes.

(b) Provide a copy of the D&F to the House and Senate Committees on Appropriations.

225.7012–3 Contract clauses.

Use the clause at 252.225–7019, Restriction on Acquisition of Foreign Anchor and Mooring Chain, in all solicitations and contracts—

(1) Using fiscal year 1991 or later funds; and

(2) Requiring welded shipboard anchor or mooring chain of four inches in diameter or less.

225.7012–4 [Removed]

3. Section 225.7012–4 is removed.

4. Sections 225.7022, 225.7002–1, and 225.7022–2 are revised to read as follows:

225.7002 Restrictions on totally enclosed lifeboat survival systems.

225.7022–1 Restrictions.

(a) In accordance with Section 8124 of the Fiscal Year 1994 Defense Appropriations Act (Public Law 103–139) and Section 8093 of the Fiscal Year 1995 Defense Appropriations Act (Public Law 103–335), do not purchase a totally enclosed lifeboat survival system, which consists of the lifeboat and associated davits and winches, unless 50 percent or more of the components are manufactured in the United States, and 50 percent or more of the labor in the final manufacture and assembly of the entire system is performed in the United States.

(b) In accordance with 10 U.S.C. 2534(a)(3)(B), do not purchase a totally enclosed lifeboat which is a component of a naval vessel, unless it is manufactured in the United States or Canada. In accordance with 10 U.S.C. 2534(h), this restriction may not be implemented through the use of a contract clause or certification. Implementation shall be effected through management and oversight techniques that achieve the objective of the restriction without imposing a significant management burden on the Government or the contractor involved.

225.7022–2 Exceptions.

The restriction in 225.7022–1(b) does not apply if—

(a) The acquisition is at or below the simplified acquisition threshold; or

(b) Spare or repair parts are needed to support totally enclosed lifeboats manufactured outside the United States or Canada.

5. Sections 225.7022–3 and 225.7022–4 are added to read as follows:

225.7022–3 Waiver.

The waiver criteria at 225.7004–4 apply only to the restriction of 225.7022–1(b).

225.7022–4 Contract clause.

Use the clause at 252.225–7039, Restriction on Acquisition of Totally Enclosed Lifeboat Survival Systems, in all solicitations and contracts which require delivery of totally enclosed lifeboat survival systems.

PART 252—SOLICITATION PROVISIONS AND CONTRACTS CLAUSES

252.225–7019 [Amended]

6. Section 252.225–7019 is amended in the introductory text by revising the citation "225.7012–4(a)" to read "225.7012–3".

225.225–7020 and 252.7021 [Removed and reserved]

7. Sections 252.225–7020 and 252.225–7021 are removed and reserved.

8. Section 252.225–7039 is amended by revising the introductory text, the clause date, and the introductory text of the clause to read as follows:

252.225–7039 Restriction on acquisition of Totally Enclosed Lifeboat Survival Systems.

As prescribed in 225.7022–4, use the following clause:

RESTRICTION ON ACQUISITION OF TOTALLY ENCLOSED LIFEBOAT SURVIVAL SYSTEMS (APR 1996)

For totally enclosed lifeboat survival systems furnished under this contract, which consist of lifeboat and associated davits and winches, the Contractor agrees that—

* * * * *

[FR Doc. 96–7218 Filed 3–25–96; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 74–14; Notice 98]

RIN 2127–AF30

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final Rule, correcting amendment.

SUMMARY: On May 23, 1995, NHTSA published a final rule allowing manufacturers the option of installing a manual device that motorists could use to deactivate the front passenger-side air bag in vehicles in which infant restraints can be used in the front seat only. As part of this final rule, NHTSA amended the air bag warning label required on vehicle sun visors. The amendments were effective June 22, 1995. Due to an error, the regulatory language of the final rule deleted an option to use the signal word "Warning" in place of the word "Caution" on the sun visor label. This notice corrects that error.

DATES: Effective Date: The amendments made in this rule are effective March 26, 1966.

Petition Date: Any petitions for reconsideration must be received by NHTSA no later than April 25, 1996.

ADDRESSES: Any petitions for reconsideration should refer to the docket and notice number of this notice and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Versailles, Office of the Chief Counsel, NCC–20, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590; telephone (202) 366–2992; facsimile (202) 366–3820; electronic mail "mversailles@nhtsa.dot.gov".

SUPPLEMENTARY INFORMATION: On May 23, 1995, NHTSA published a final rule amending 49 CFR 571.208 to allow manufacturers the option of installing a manual device that motorists could use to deactivate the front passenger-side air bag in vehicles in which infant restraints can be used in the front seat only. As part of this final rule, NHTSA amended the air bag warning label required on vehicle sun visors to specify that the caution against installing a rear-facing infant seat in a front seating position did not apply if the air bag were off. The amendments were effective June 22, 1995. Due to an error, the regulatory language of the final rule deleted language incorporating the provision in S5.4.1(b)(1) that permits the use of the signal word "Warning," in place of the word "Caution," on the sun visor label. This notice corrects that error.

NHTSA finds for good cause that this final rule can be made effective immediately. The stated purpose of the May 23, 1995, final rule was to affect only the cautionary statement concerning placement of a rear-facing infant seat in a front seating position, and not any other part of the label. This notice corrects an error which resulted in the unintentional amending of the options for the choice of the signal word to be used at the beginning of the label.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under E.O. 12866, "Regulatory Planning and Review." This document is part of an action that was determined to be not "significant" under the Department of Transportation's regulatory policies and procedures. This notice does not impose any new requirements on manufacturers. It simply corrects an error.

Regulatory Flexibility Act

NHTSA has also considered the impacts of this final rule under the Regulatory Flexibility Act. I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. Further, this final rule will not alter the economic impacts of the May 1995 final rule. As explained above, this rule will not have an economic impact on any manufacturers.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (P.L. 96–511), there are no requirements for information collection associated with this final rule.

National Environmental Policy Act

NHTSA has also analyzed this final rule under the National Environmental Policy Act and determined that it will not have a significant impact on the human environment.

Executive Order 12612 (Federalism)

NHTSA has analyzed this rule in accordance with the principles and criteria contained in E.O. 12612, and has determined that this rule will not have significant federalism implications to warrant the preparation of a Federalism Assessment.

Civil Justice Reform

This final rule does not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the State requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, 49 CFR Part 571 is amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for Part 571 of Title 49 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.208 is amended by revising section S4.5.1(b)(1) to read as follows:

§ 571.208 Standard No. 208, Occupant Crash Protection

* * * * *

S4.5.1 *Labeling and owner's manual information.*

* * * * *

(b) *Label on sun visor above front outboard seating positions equipped with inflatable restraint.*

(1) Each vehicle manufactured on or after September 1, 1994, shall comply with either S4.5.1(b)(1)(i) or S4.5.1(b)(1)(ii), except that the word "WARNING" may be used instead of "CAUTION".

(i) Each front outboard seating position that provides an inflatable restraint shall have a label permanently affixed to the sun visor for such seating position on either side of the sun visor, at the manufacturer's option. Except as provided in S5.4.1(b)(1) and S4.5.1(b)(3), this label shall read:

CAUTION

TO AVOID SERIOUS INJURY:

For maximum safety protection in all types of crashes, you must always wear your safety belt.

Do not install rearward-facing child seats in any front passenger seat position.

Do not sit or lean unnecessarily close to the air bag.

Do not place any objects over the air bag or between the air bag and yourself.

See the owner's manual for further information and explanations.

(ii) If the vehicle is equipped with a cutoff device permitted by S4.5.4 of this standard, each front outboard seating position that provides an inflatable restraint shall have a label permanently affixed to the sun visor for such seating position on either side of the sun visor, at the manufacturer's option. Except as provided in S5.4.1(b)(1), this label shall read:

CAUTION

TO AVOID SERIOUS INJURY:

For maximum safety protection in all types of crashes, you must always wear your safety belt.

Do not install rearward-facing child seats in any front passenger seat position, unless the air bag is off.

Do not sit or lean unnecessarily close to the air bag.

Do not place any objects over the air bag or between the air bag and yourself.

See the owner's manual for further information and explanations.

* * * * *

Issued on: March 18, 1996.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96–6965 Filed 3–25–96; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 960129019–6019–01; I.D. 032096A]

Groundfish of the Bering Sea and Aleutian Islands Area; Yellowfin Sole by Vessels Using Trawl Gear in Bycatch Limitation Zone 1

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for yellowfin sole by vessels using trawl gear in Bycatch Limitation Zone 1 (Zone 1) of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the first seasonal apportionment of the prohibited species catch (PSC) allowance of *C. bairdi* Tanner crab apportioned to the trawl yellowfin sole fishery category in Zone 1.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), March 20, 1996, until 12 noon, A.l.t., April 1, 1996.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907–586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

The 1996 PSC allowance of *C. bairdi* Tanner crab in Zone 1 for the trawl yellowfin sole fishery category, which is defined at § 675.21(b)(1)(iii)(B)(1), was established by the Final 1996 Harvest Specifications of Groundfish (61 FR 4311, February 5, 1996) as 250,000 crab. The first seasonal bycatch apportionment of that allowance is 50,000 crab.

The Director, Alaska Region, NMFS, has determined, in accordance with § 675.21(c)(1)(i), that the first seasonal apportionment of the PSC allowance of *C. bairdi* Tanner crab for the trawl yellowfin sole fishery in Zone 1 has been reached. Therefore, NMFS is prohibiting directed fishing for yellowfin sole by vessels using trawl gear in Zone 1 of the BSAI.

Maximum retainable bycatch amounts for applicable gear types may be found in the regulations at § 675.20(h).

Classification

This action is taken under § 675.21 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 20, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–7182 Filed 3–20–96; 3:57 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 61, No. 59
Tuesday, March 26, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–ANE–64]

Airworthiness Directives; CFM International CFM56–5C Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to CFM International (CFMI) CFM56–5C2/G, –5C3/G, and –5C4 series turbofan engines. This proposal would require a reduction of the low cycle fatigue (LCF) retirement lives for certain high pressure turbine rotor (HPTR) front shafts, HPTR front air seals, HPTR disks, booster spools, and low pressure turbine rotor (LPTR) stage 3 disks. This proposal is prompted by the results of a refined life analysis performed by the manufacturer which revealed minimum calculated LCF lives lower than published LCF retirement lives. The actions specified by the proposed AD are intended to prevent an LCF failure of the HPTR front shaft, HPTR front air seal, HPTR disk, booster spool, and LPTR stage 3 disk, which could result in an uncontained engine failure and damage to the aircraft.

DATES: Comments must be received by May 28, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95– ANE–64, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Robert J. Ganley, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7138, fax (617) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–ANE–64." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–ANE–64, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

This proposed airworthiness directive (AD) is applicable to CFM International (CFMI) CFM56–5C2/G, –5C3/G, and –5C4 series turbofan engines. The manufacturer performed a study using updated lifing analyses that revealed certain high pressure turbine rotor (HPTR) front shafts, HPTR front air seals, HPTR disks, booster spools, and low pressure turbine rotor (LPTR) stage 3 disks have minimum calculated low cycle fatigue (LCF) lives which are lower than published LCF retirement lives. These reduced LCF lives are due to changes in component operating environments, which are associated with the incorporation of the takeoff mach bump in the analysis. This condition, if not corrected, could result in an LCF failure of the HPTR front shaft, HPTR front air seal, HPTR disk, booster spool, and LPTR stage 3 disk, which could result in an uncontained engine failure and damage to the aircraft..

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require a reduction of the LCF retirement lives for certain HPTR front shafts, HPTR front air seals, HPTR disks, booster spools, and LPTR stage 3 disks.

There are approximately 10 engines of the affected design in the worldwide fleet. The manufacturer has advised the FAA that there are no engines installed on U.S. registered aircraft that would be affected by this AD. Therefore, there is no associated cost impact on U.S. operators as a result of this AD. However, should an affected engine be imported on an aircraft and placed on the U.S. registry in the future, it would not take any additional work hours per engine to accomplish the proposed actions. Assuming that the parts cost is proportional to the reduction of the LCF retirement lives, the required parts would cost approximately $25,736 per engine. Based on these figures, the total cost impact of the AD is estimated to be $25,736 per engine.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

CFM International: Docket No. 95–ANE–64.

Applicability: CFM International (CFMI) CFM56–5C2/G, –5C3/G, and –5C4 series turbofan engines, installed on but not limited to Airbus A340 series aircraft.

Note: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (h) to request approval from the Federal Aviation Administration (FAA). This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any engine from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent a low cycle fatigue (LCF) failure of the high pressure turbine rotor (HPTR) front shaft, HPTR front air seal, HPTR disk, booster spool, and low pressure turbine rotor (LPTR) stage 3 disk, which could result in an uncontained engine failure and damage to the aircraft, accomplish the following:

(a) Remove from service HPTR front shafts, Part Numbers (P/N's) 1498M40P03, 1498M40P05, and 1498M40P06, prior to accumulating 8,400 cycles since new (CSN), and replace with a serviceable part.

(b) Remove from service HPTR front air seals, P/N's 1523M34P02 and 1523M34P03, prior to accumulating 4,000 CSN, and replace with a serviceable part.

(c) Remove from service HPTR disks, P/N 1498M43P04, prior to accumulating 6,200 CSN, and replace with a serviceable part.

(d) Remove from service booster spools, P/N 337–005–210–0, prior to accumulating 13,800 CSN, and replace with a serviceable part.

(e) Remove from service LPTR stage 3 disks, P/N's 337–001–602–0 and 337–001–605–0, prior to accumulating 8,630 CSN, and replace with a serviceable part.

(f) This action establishes the new LCF retirement lives stated in paragraphs (a) through (e) of this AD, which are published in Chapter 05 of the CFM56 Engine Shop Manual, CFMI–TP.SM.8.

(g) For the purpose of this AD, a "serviceable part" is one that has not exceeded its respective new life limit as set out in this AD.

(h) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(i) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on March 12, 1996.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 96–7243 Filed 3–25–96; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 95–ANE–01]

Airworthiness Directives; AlliedSignal, Inc. AL5512 Series Turboshaft Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to AlliedSignal, Inc. (formerly Textron Lycoming) AL5512 series turboshaft engines. This proposal would require a one-time eddy current inspection of the second stage turbine disk, reduced service lives for the second, third, and fourth stage turbine disks, reduced service lives for the first and third through seventh stage compressor rotor disks, and a reduced service life for the gas producer turbine spacer. This proposal would also require a new, more conservative minor cycle counting factors table for repetitive heavy lift operations, and provides a method for prorating past utilization for all gas producer and compressor components based on the new cycle counting factors. For those components that exceed their new published life limits, this proposal would implement a drawdown for safe removal of time-expired components. This proposal is prompted by reports of cracks in certain AlliedSignal, Inc. ALF502R series turbofan engine disks, which are identical in design and construction to those within the AlliedSignal, Inc. AL5512 series turboshaft engines. The actions specified by the proposed AD are intended to prevent disk failure, which could result in an uncontained engine failure, inflight shutdown, or possible damage to the rotorcraft.

DATES: Comments must be received by May 28, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–ANE–01, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from AlliedSignal, Inc., 550 Main St., Stratford, CT 06497–7593. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Daniel Kerman, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA

01803–5299; telephone (617) 238–7130, fax (617) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–ANE–01." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–ANE–01, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

The Federal Aviation Administration (FAA) has received reports of cracks found in certain disks returned from service to the manufacturer and in certain factory tested disks installed on AlliedSignal, Inc. (formerly Textron Lycoming) ALF502R series turbofan engines. While no cracks have been found in AlliedSignal, Inc. AL5512 series turboshaft engine components, certain disks are identical in design and construction to those utilized in the ALF502R engine. The cracks in the ALF502R engines have been found in the bolt hole area of several second stage turbine disks. Cracks have also been discovered in the rim dovetail area of several first and third through seventh stage compressor rotor disks in the ALF502R engines. Subsequent analysis and testing of the current design of first and third through seventh stage compressor rotor disks; second, third, and fourth stage turbine disks; and the gas producer spacer have revealed a lower fatigue life than originally calculated. In addition, the FAA has determined the need to require a special, one-time eddy current inspection of the second stage turbine disk to discover possible bolt hole cracking. This condition, if not corrected, could result in disk failure, which could result in an uncontained engine failure, inflight shutdown, or possible damage to the rotorcraft.

The FAA has reviewed and approved the technical contents of Textron Lycoming Service Bulletin (SB) No. AL5512–0002, Revision 5, dated December 16, 1993, that describes reduced service lives for first and third through seventh stage compressor rotor disks; second, third, and fourth stage turbine disks; and the gas producer spacer. In addition this SB describes factors to be used for cyclic computation of components utilized in repetitive heavy lift (RHL) operation, and provides a method for prorating past component utilization based on the new cycle counting factors.

The FAA has also reviewed and approved the technical contents of the following SB's: Textron Lycoming SB No. AL5512–0041, dated December 16, 1993, and Textron Lycoming SB No. AL5512–0046, dated April 4, 1994. These SB's describe drawdown schedules for those components that exceed their new life limits.

In addition, the FAA has reviewed and approved the technical contents of Textron Lycoming SB No. AL5512–0042, dated December 16, 1993, that describes procedures for a one-time eddy current inspection of the second stage turbine disk bolt holes.

Since an unsafe condition has been identified that is likely to exist or develop on other engines of this same type design, the proposed AD would require a one-time eddy current inspection of the second stage turbine disk, reduced service lives for the second, third, and fourth stage turbine disks, reduced service lives for the first and third through seventh stage compressor rotor disks, and a reduced service life for the gas producer turbine spacer. This proposal would also require a new, more conservative minor cycle counting factors table for RHL operation and provides a method for prorating past utilization for all gas producer and compressor components based on the new cycle counting factors. For those components that exceed their new published life limits, this proposal would implement a drawdown for safe removal of time-expired components. The actions would be required to be accomplished in accordance with the service bulletins described previously.

There are approximately 33 engines of the affected design in the worldwide fleet. The FAA estimates that 20 engines installed on aircraft of U.S. registry would be affected by this proposed AD, that it would take approximately 60 work hours per engine to disassemble, assemble, and test each engine, that each engine would consume $2,000 per engine of fuel and disposable hardware, and that the average labor rate is $60 per work hour. The prorated life-expired components replacement cost would be approximately $74,530 per engine. Based on these figures, the cost impact of performing the actions described in Textron Lycoming SB No. AL5512–0002, Revision 5, dated December 16, 1993, is estimated to be $1,602,600.

In addition, the FAA also estimates that it would take approximately 16 work hours to perform a one-time eddy current inspection of the second stage turbine disk. The cost impact of performing the actions described in Textron Lycoming SB No. AL5512–0042, dated December 16, 1993, is estimated to be $19,200. Therefore, the total cost impact of the proposed AD on U.S. operators is estimated to be $1,621,800.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

AlliedSignal, Inc.: Docket No. 95–ANE–01.

Applicability: AlliedSignal, Inc. (formerly Textron Lycoming) AL5512 series turboshaft engines, installed on but not limited to Boeing Helicopter Model 234 rotorcraft.

Note: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (g) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any engine from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent disk failure, which could result in an uncontained engine failure, inflight shutdown, or possible damage to the rotorcraft, accomplish the following:

(a) Within 30 days after the effective date of this airworthiness directive (AD), conduct a revised operating cycle count (prorate) of all gas producer and compressor components in accordance with paragraph 2.D of Textron Lycoming Service Bulletin (SB) No. AL5512–0002, Revision 5, dated December 16, 1993.

(b) After the effective date of this AD, utilize the new, more conservative minor cycle counting methodology for repetitive heavy lift operation described in Textron Lycoming SB No. AL5512–0002, Revision 5, dated December 16, 1993

(c) Following implementation of the revised operating cycle count methodology (prorate) specified in paragraph (a) of this AD, replace those components that exceed their new life limits in accordance with the component removal schedules defined in Textron Lycoming SB No. AL5512–0041, dated December 16, 1993, and SB No. AL5512–0046, dated April 4, 1994, as applicable. Replacement components must have cyclic accumulation no greater than the reduced life limits as defined in Textron Lycoming SB AL5512–0002, Revision 5, dated December 16, 1993.

(d) Following implementation of the revised operating cycle count methodology (prorate) specified in paragraph (a) of this AD, installation of those components that exceed their life limit on the effective date of this AD is prohibited.

(e) Perform a one-time eddy current inspection of installed second stage turbine rotor disk, part number 2–121–058–18, bolt holes at the next shop visit that the disk assembly is removed from the engine or module after the effective date of this AD and after the part has accrued a minimum of 5,000 cycles in service, in accordance with the Accomplishment Instructions of Textron Lycoming SB No. AL5512–0042, dated December 16, 1993. Prior to further flight, remove from service disks that do not meet the return to service limits defined in the SB, and replace with serviceable parts.

(f) Prior to installation, but after accruing a minimum of 5,000 cycles in service, perform a one-time eddy current inspection of uninstalled second stage turbine rotor disk, part number 2–121–058–18, bolt holes in accordance with the Accomplishment Instructions of Textron Lycoming SB No. AL5512–0042, dated December 16, 1993. Installation of disks that do not meet the return to service limits defined in the SB is prohibited.

(g) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(h) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on March 11, 1996.

James C. Jones,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 96–7244 Filed 3–25–96; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 95–ANE–68]

Airworthiness Directives; AlliedSignal, Inc. TSCP700–4B, –4E, and –5 Auxiliary Power Units

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to AlliedSignal, Inc. (formerly Garrett) Models TSCP700–4B, –4E, and –5 auxiliary power units (APU's). This proposal would require removal from service of certain high pressure turbine (HPT) disks identified by serial number, and replacement with serviceable parts. This proposal is prompted by the discovery of a material defect in certain HPT disk forgings that may result in HPT disk rupture prior to reaching the disk cyclic life limit. The actions specified by the proposed AD are intended to prevent an HPT disk rupture.

DATES: Comments must be received by May 28, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–ANE–68, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from AlliedSignal Engines, P.O. Box 52181, Phoenix, AZ 85072–2181; telephone (800) 338–3378, fax (602) 231–4402. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Robert Baitoo, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712–4137; telephone (310) 627–5245; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications

should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–ANE–68." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–ANE–68, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

The Federal Aviation Administration (FAA) received a report from the manufacturer that a material defect exists in certain forgings of high pressure turbine (HPT) disks installed on AlliedSignal, Inc. (formerly Garrett) Models TSCP700–4B, –4E, and –5 auxiliary power units (APU's). Analysis indicates that HPT disks forged from this material may rupture prior to reaching the disk cyclic life limit of 30,000 cycles since new (CSN). This condition, if not corrected, could result in an HPT disk rupture.

The FAA has reviewed and approved the technical contents of AlliedSignal Aerospace Service Bulletin (SB) No. TSCP700–49–A7168, dated November 7, 1995, that identifies by serial number HPT disks that may have been forged with a material defect.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require removal from service of certain HPT disks identified by serial number, and replacement with serviceable parts, prior to accumulating 7,500 CSN, or 3 years after the effective date of this AD, whichever occurs first. The FAA determined this calendar end-date based upon the effect of the material defect on the HPT disks' cyclic life. In addition, the FAA considered the rate of cyclic accumulation on disks in service. The actions would be required to be accomplished in accordance with the SB described previously.

There are approximately 31 APU's of the affected design in the worldwide fleet. The FAA estimates that 20 APU's installed on aircraft of U.S. registry would be affected by this proposed AD, and that no additional work hours would be required if the disk is replaced during overhaul. The manufacturer has advised the FAA that they will supply required parts at no charge to the operator. The FAA has therefore determined that this AD would impose no additional cost on U.S. operators.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

AlliedSignal, Inc.: Docket No. 95–ANE–68.

Applicability: AlliedSignal, Inc. (formerly Garrett) Models TSCP700–4B, –4E, and –5 auxiliary power units (APU's), with high pressure turbine (HPT) disks identified by serial number in AlliedSignal Aerospace Service Bulletin (SB) No. TSCP700–49–A7168, dated November 7, 1995. These APU's are installed on, but not limited to, McDonnell Douglas DC–10, KC–10 (military), and MD–11 series, and Airbus A300 series aircraft.

Note: This airworthiness directive (AD) applies to each APU identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For APU's that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) to request approval from the Federal Aviation Administration (FAA). This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any APU from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent an HPT disk rupture, accomplish the following:

(a) Prior to accumulating 7,500 cycles since new (CSN), or 3 years after the effective date of this AD, whichever occurs first, remove from service affected HPT disks and replace with a serviceable part.

(b) The definition of a disk cycle may be found in the applicable AlliedSignal, Inc. APU Component Maintenance Manual.

(c) Auxiliary Power Unit maintenance records may be used to determine if the HPT disk installed in the APU has a serial number listed in AlliedSignal Aerospace SB No. TSCP700–49–A7168, dated November 7, 1995.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Los Angeles Aircraft Certification Office.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on March 12, 1996.

James C. Jones,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 96–7245 Filed 3–25–96; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 71

[Airspace Docket No. 96–ACE–02]

Proposed Amendment to Class E Airspace; Kaiser, MO, Camdenton, MO, Sedalia, MO, West Plains, MO, Point Lookout, MO, St. Charles, MO, Monett, MO, Butler, MO, Monroe City, MO, Farmington, MO, Fort Leavenworth, Sherman Army Airfield, KS, and Dodge City, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Class E airspace area at Kaiser, Lee C. Fine Memorial Airport, MO, Camdenton Memorial Airport, Camdenton, MO, Sedalia Memorial Airport, Sedalia, MO, West Plains Municipal Airport, West Plains, MO, M. Graham Clark Airport, Point Lookout, MO, St. Charles Co. Smartt Airport, St. Charles, MO, Monett Municipal Airport, Monett, MO, Butler Memorial Airport, Butler, MO, Monroe City Regional Airport, Monroe City, MO, Farmington Regional Airport, Farmington, MO, Fort Leavenworth, Sherman AAF, KS, and Dodge City Regional Airport, Dodge City, KS. The development of new Standard Instrument Approach Procedures (SIAP) based on the Global Positioning System (GPS) at the above locations has made the proposal necessary. The intended effect of this proposal is to provide additional controlled airspace for aircraft executing the SIAP at the above listed airports.

DATES: Comments must be received on or before May 1, 1996.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Operations Branch, ACE–530, Federal Aviation Administration, Docket No. 96–ACE–02, 601 East 12th Street, Kansas City, MO 64106.

The official docket may be examined in the Office of the Assistant Chief Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours in the office of the Manager, Air Traffic Operations Branch, Air Traffic Division, at the address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Air Traffic Operations Branch, ACE–530C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone number (816) 426–3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments as self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 96–ACE–02." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW, Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the procedures.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to provide additional controlled airspace for a new Instrument Flight Rules (IFR) procedure at the St. Charles Co. Smartt Airport, MO; Camdenton Memorial Airport, MO; Monett Municipal Airport, MO; West Plains Municipal Airport, MO; Butler Municipal Airport, MO; Point Lookout, M. Graham Clark Airport, MO; Sedalia Memorial Airport, MO; Monroe City Regional Airport, MO; Farmington Regional Airport, MO; Kaiser, Lee C. Fine Airport, MO; Fort Leavenworth, Sherman AAF, KS; and Dodge City Regional Airport, KS. The additional airspace would segregate aircraft operating under VFR conditions from aircraft operating under IFR procedures. The area would be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9C, dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE MO E5 Kaiser, MO

Kaiser, Lee E. Fine Memorial Airport, MO
(lat. 38°05'46" N., long. 92°32'59" W.)
Camdenton Memorial Airport, MO
(lat 37°58'29" N., long. 92°41'30" W.)
Osage Beach, Linn Creek-Grand Glaize Memorial Airport, MO
(lat 38°06'28" N., long. 92°40'50" W.)
Kaiser NDB
(lat. 38°05'48" N., long. 92°33'11" W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Lee C. Fine Memorial Airport and within 2.6 miles each side of the 045° bearing of the Kaiser NDB extending from the 6.5-mile radius of the Lee C. Fine Memorial Airport to 7.9 miles northeast of the airport and within a 6.3-mile radius of Camdenton Memorial Airport and within a 6.3-mile radius of Linn Creek-Grand Glaize Memorial Airport.

* * * * *

ACE MO E5 Sedalia, MO

Sedalia Memorial Airport, MO
(lat 38°42'25" N., long. 93°10'34" W.)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of Sedalia Memorial Airport and within 2.6 miles each side of the 011° bearing from Sedalia Memorial Airport extending from the 6.7-mile radius to 7 miles north of the airport and within 2.6 miles each side of the 178° bearing from Sedalia Memorial Airport extending from the 6.7-mile radius to 7 miles south of the airport.

* * * * *

ACE MO E5 West Plains, MO

West Plains Municipal Airport, MO
(lat. 36°52'41" N., long. 91°54'10" W.)
Pomona NDB
(lat. 36°52'42" N, long. 91°54'02" W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of West Plain Municipal Airport and within 2.6 miles each side of the 185° bearing from the Pomona NDB extending from the 6.4-mile radius of the West Plains Municipal Airport to 7.4 miles south of the NDB.

* * * * *

ACE MO E5 Point Lookout, MO

Point Lookout, M. Graham Clark Airport, MO
(lat. 36°37'33" N., long. 93°13'44" W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of M. Graham Clark Airport and within 2.6 miles each side of the 123° bearing from the M. Graham Clark Airport extending from the 6.5-mile radius to 7 miles southeast of the airport.

* * * * *

ACE MO E5 St. Louis, MO

Lambert-St. Louis International Airport
(lat. 38° 44'51" N., long. 90°21'36" W.)
Spirit of St. Louis Airport, MO
(lat. 38°39'43" N., long 90°39'00" W.)
St. Louis Regional Airport, Alton, IL
(lat 38°53'25" N., long. 90°02'45" W.)
St. Charles County Smartt Airport, St. Charles, MO
(lat. 38°55'47" N., long. 90°25'47" W.)
St. Louis VORTAC
(lat. 38°51'38" N., long. 90°28'57" W.)
Foristell VORTAC
(lat. 38°41'40" N., long. 90°58'17" W.)
ZUMAY LOM
(lat. 38°47'17" N., long. 90°16'44" W.)
OBLIO LOM
(lat. 38°48'01" N., long. 90°28'29" W.)
Civic Memorial NDB
(lat. 38°53'32" N., long. 90°03'23" W.)

That airspace extending upward from 700 feet above the surface within a 6.9-mile radius of the Lambert-St. Louis International Airport, and within 4 miles southeast and 7 miles northwest of the Lambert-St. Louis International Airport Runway 24 ILS localizer course extending from the airport to 10.5 miles northeast of the ZUMAY LOM, and within 4 miles southwest and 7.9 miles northeast of the Lambert-St. Louis Airport Runway 12R ILS localizer course extending from the airport to 10.5 miles northwest of the OBLIO LOM, and within 4 miles southwest and 7.9 miles northeast of the Lambert-St. Louis Airport Runway 30L ILS localizer southeast course extending from the airport to 8.7 miles southeast of the airport, and within a 6.6-mile radius of Spirit of St. Louis Airport and within 2.6 miles each side of the 098° radial of the Foristell VORTAC extending from the 6.6-mile radius area to 8.3 miles west of the airport, and within a 6.4-mile radius of St. Charles County Smartt Airport, and within a 6.7-mile radius of St. Louis Regional Airport, and within 4 miles each side of the 014° bearing from the Civic Memorial NDB extending from 6.7-mile radius to 7 miles north of the airport, and within 4.4 miles each side of the 190° radial of the St. Louis VORTAC extending from 2 miles south of the VORTAC to 22.1 miles south of the VORTAC.

* * * * *

ACE MO E5 Monett, MO

Monett Municipal Airport, MO
(lat. 36°54'39" N., long. 94°00'46" W.)
Neosho VORTAC
(lat. 36°50'33" N., long. 94° 26'08" W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Monett Municipal Airport and within 1.8 miles each side of the Neosho VORTAC 079° radial extending from the 6.5-mile radius to 7 miles west of the airport.

* * * * *

ACE MO E5 Butler, MO

Butler Memorial Airport, MO
(lat. 38°17'23" N, long. 94°20'25" W.)
Butler VORTAC
(lat 38°16'29" N., long. 94°29'18" W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Butler Memorial Airport and within 1.8 miles each side of the 082° radial of the Butler VORTAC extending from the 6.4-mile radius to the VORTAC.

* * * * *

ACE MO E5 Monroe City, MO

Monroe City Regional Airport, MO
(lat. 39°38'04" N., long. 91°43'38" W.)
Quincy VORTAC
(lat. 39°50'53" N., long. 91°16'44" W.)

That airspace extending upward from 700 feet above the surface within a 6.2-mile radius of Monroe City Regional Airport and within 3.5 miles each side of the Quincy VORTAC 239° radial extending from the 6.2-mile radius to 7 miles northeast of the airport.

* * * * *

ACE MO E5 Farmington, MO

Farmington Regional Airport, MO
(lat. 37°45'42" N., long. 90°25'41" W.)
Farmington VORTAC
(lat. 37°40'24" N., long. 90°14'03" W.)
Perrine NDB
(lat. 37°45'54" N., long. 90°25'45" W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Farmington Regional Airport and within 2.6 miles each side of the 034° bearing from the Perrine NDB extending from the 6.4 mile radius to 7.9 miles north of the airport, and within 2.6 miles each side of the 191° bearing from the Perrine NDB extending from the 6.4 mile radius to 7.9 miles south of the airport, and within 1.3 miles each side of the Farmington VORTAC 300° radial extending from the 6.4-mile radius to the VORTAC.

* * * * *

ACE MO E5 Kansas City International Airport, MO

Kansas City International Airport, MO
(lat. 39°17'57" N., long. 94°43'05" W.)
Kansas City Downtown Airport, MO
(lat. 39°07'24" N., long. 94°35'34" W.)
Fort Leavenworth, Sherman Army Airfield (AAF), KS
(lat. 39°22'06" N., long. 94°54'53" W.)
Kansas City VORTAC
(lat. 39°15'46" N., long. 94°35'28" W.)
DOTTE LOM
(lat. 39°13'15" N., long. 94°45'00" W.)
Riverside VOR/DME
(lat. 39°07'14" N., long. 94°35'48" W.)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Kansas City Downtown Airport and within 3 miles each side of the 210° radial of the Riverside VOR/DME extending from the 6-mile radius to 12.6 miles southwest of the Downtown Airport, and within a 6.5-mile radius of the Sherman AAF and within a 6-mile radius of the Kansas City International Airport, and within 4.4 miles each side of the Kansas City International Runway 19 ILS localizer north course extending from the 6-mile radius to 21.7 miles north of the DOTTE LOM, and within 4.4 miles each side of the 096° radial of the Kansas City VORTAC extending from the Kansas City International Airport 6-mile radius to 5 miles east of the Kansas City VORTAC, and within 2.5 miles each side of the Kansas City International Runway 1 ILS localizer south course extending from the 6-mile radius to 9.3 miles south of the DOTTE LOM.

* * * * *

ACE KS E5 Dodge City, KS

Dodge City Regional Airport, KS
(lat. 37°45'44" N., long. 99°57'54" W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Dodge City Regional Airport.

* * * * *

Issued in Kansas City, MO, on March 1, 1996.

Christopher R. Blum,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 96–7296 Filed 3–25–96; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 95N–0103]

Food Labeling; Nutrient Content Claims and Health Claims; Special Requirements; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; correction.

SUMMARY: The Food and Drug Administration (FDA), is correcting a proposed rule that appeared in the **Federal Register** of February 2, 1996 (61 FR 3885). The document proposed to require that, in certain circumstances, persons responsible for the labeling of foods with nutrient content and health claims maintain records that support the claims, and that they make those records available to appropriate regulatory officials upon request. The document was published with some errors. This document corrects those errors.

DATES: Written comments by April 17, 1996; except that comments regarding information collection requirements by March 4, 1996, but not later than April 2, 1996.

FOR FURTHER INFORMATION CONTACT: F. Edward Scarbrough, Center for Food Safety and Applied Nutrition (HFS–150), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4561.

In FR Doc. 96–2153, appearing on page 3885 in the **Federal Register** of Friday, February 2, 1996, the following corrections are made: On page 3888, in the third column, in footnote 1, in line 3, the second comma after "7" is removed; in the fourth line from the bottom, "FTS" is corrected to read "FTC"; and in the third line from the bottom, the phrase "F.2d 189, 193 (D.C. Cir. 1986), *cert. denied*, 479 U.S. 1086" is added after "791".

Dated: March 18, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–7173 Filed 3–25–96; 8:45 am]

BILLING CODE 4160–01–F

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2615

RIN 1212–AA77

Reportable Events Negotiated Rulemaking Advisory Committee; Meeting

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of meeting.

SUMMARY: This notice announces the time and place of the next meeting of the Reportable Events Negotiated Rulemaking Advisory Committee.

DATES: The Committee will meet at 10:00 a.m. on Wednesday, April 10, 1996.

ADDRESSES: The meeting will be held at the PBGC's offices at 1200 K Street, NW., Washington, DC 20005–4026.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, or James L. Beller, Attorney, Office of the General Counsel, PBGC, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024 (202–326–4179 for TTY and TTD).

SUPPLEMENTARY INFORMATION: On October 5, 1995, the PBGC announced the establishment of the Reportable Events Negotiated Rulemaking Advisory Committee (60 FR 52135). The ground rules for the Committee state that the deadline for negotiations, unless extended by the PBGC, is March 29, 1996. At the Committee's most recent meeting, held on March 13, 1996, the PBGC extended the deadline for negotiations to April 30, 1996.

The Committee agreed to meet again on April 10, 1996. The agenda for the April meeting includes reports from working groups and preparation of a consensus recommendation for the PBGC. The meeting will be open to the public.

Issued in Washington, DC, this 22 day of March, 1996.

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 96–7378 Filed 3–25–96; 8:45 am]

BILLING CODE 7708–01–P–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 931

[SPATS No. NM–037–FOR]

New Mexico Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of a proposed amendment to the New Mexico regulatory program (hereinafter, the "New Mexico program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to or additions of rules pertaining to permit application contents for contour maps of the permit area and operations exclusively under reclamation, permit approval or denial, contents of bond release applications, timeliness of backfilling and grading, approval of small depressions, performance standards for all roads and primary roads, and blaster examination and certification requirements. The amendment is intended to revise the New Mexico program to incorporate the additional flexibility afforded by the revised Federal regulations, as

amended, and improve operational efficiency.

DATES: Written comments must be received by 4:00 p.m., m.d.t., April 25, 1996. If requested, a public hearing on the proposed amendment will be held on April 22, 1996. Requests to present oral testimony at the hearing must be received by 4:00 p.m., m.d.t., on April 10, 1996.

ADDRESSES: Written comments should be mailed or hand delivered to Guy Padgett at the address listed below.

Copies of the New Mexico program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Albuquerque Field Office.

Guy Padgett, Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 505 Marquette Avenue, NW., Suite 1200, Albuquerque, New Mexico 87102

Mining and Minerals Division, New Mexico Energy and Minerals Department, 2040 South Pacheco Street, Santa Fe, New Mexico 87505, Telephone: (505) 827–5970

FOR FURTHER INFORMATION CONTACT: Guy Padgett, Telephone: (505) 248–5081.

SUPPLEMENTARY INFORMATION:

I. Background on the New Mexico Program

On December 31, 1980, the Secretary of the Interior conditionally approved the New Mexico program. General background information on the New Mexico program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the New Mexico program can be found in the December 31, 1980, **Federal Register** (45 FR 86459). Subsequent actions concerning New Mexico's program and program amendments can be found at 30 CFR 931.11, 931,15, 931.16, and 931.30.

II. Proposed Amendment

By letter dated March 11, 1996, New Mexico submitted a proposed amendment to its program pursuant to SMCRA (administrative record No. NM–773, 30 U.S.C. 1201 *et seq.*). New Mexico submitted the proposed amendment at its own initiative. The provisions of the Coal Surface Mining Commission (CSMC) rules that New Mexico proposes to revise or add are:

CSMC Rule 80–1–5–23(a), concerning general requirements for permit applications, by adding a reference to Part 15 for mines exclusively under reclamation;

CSMC Rule 80–1–8–25(k), concerning contour maps with a maximum of 5 foot contour intervals in permit applications, by deleting specific requirements at CSMC Rule 80–1–8–25(k) (1) through (3) for showing the existing land surface configuration for the proposed affected areas and adding the requirement that the existing land surface configuration be shown for the proposed permit area;

CSMC Rule 80–1–11–19(c), concerning criteria for permit approval or denial, by adding the word "hydrological" to the phrase "probable cumulative hydrological impacts" and the acronym "(CHIA)" following the phrase;

CSMC Rule 80–1–14–40(a), concerning bond release applications, by adding a new paragraph (a)(2) which summarizes the minimum contents of an application for a bond release and revising recodified paragraph (a)(3) to delete a bond release application content requirement that is now part of new paragraph (a)(2);

CSMC Rule 80–1–15, concerning minimum requirements for permit applications for coal mining operations exclusively under reclamation, by adding a new Part 15 which consists of requirements for: general information at 15–11, information concerning identification of interests at 15–12(a) through (j), compliance information at 15–13(a) through (d), right of entry and operation information at 15–14(a) and (b), permit term information at 15–15(a) and (b), personal injury and property damage insurance information at 15–16, identification of other licenses and permits at 15–17(a) through (d), identification of location of public office for filing of application at 15–18, newspaper advertisement and proof of publication at 15–19, general environmental resources information at 15–20(a) through (f), the operation plan at 15–21(a) and (b), the fish and wildlife plan at 15–22(a) and (b), the reclamation plan including protection of the hydrologic balance, postmining land uses, and ponds, impoundments, banks, dams, and embankments, at respectively, 15–23(a) and (b), 15–24(a) through (e), 15–25(a) and (b), and 15–26(a) through (e), and protection of public parks and historic places at 15–27;

CSMC 80–1–20–101(a), concerning backfilling and grading requirements for contour mining, open pit mining, and strip mining, by deleting from 20–101(a)(1) through (3) all time limits by which backfilling and grading must commence so that the existing distance limits are the only measure of when backfilling and grading must commence, and replacing the term "area strip mining" with the term "strip mining" at 20–101(a)(3);

CSMC 80–1–20–102(c), concerning backfilling and grading to create small depressions, to add the allowance for New Mexico to approval small depressions if they create and enhance wildlife habitat;

CSMC 80–1–20–150(b), concerning performance standards for all roads, to delete the requirement at 20–150(b)(9) that all roads have, at a minimum, a static safety factor of 1.3 for all embankments;

CSMC 80–1–20–151(a), concerning performance standards for primary roads, to add at 20–151(a)(5) the requirement that all primary roads have a static factor of safety of 1.3, at a minimum, for all embankments; and

CSMC 80–1–33–14 and 80–1–33–15, concerning examination and certification for blasters, by deleting the existing requirements and replacing them with new requirements for (1) examination at 33–14(a) and (b) that include a written exam to demonstrate competence and a minimum of one year of practical field experience and (2) certification at 33–15(a) through (e) that include requirements for certification every four years, suspension and revocation of certification, recertification (by reexamination, training, and demonstration), protection of certification, and conditions for maintaining certification.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the New Mexico program.

1. Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Albuquerque Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

2. Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., m.d.t., on April 10, 1996. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

3. Public Meeting

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the administrative record.

IV. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2: Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OMS will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 931

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 19, 1996.

Russell F. Price,

Acting Regional Director, Western Regional Coordinating Center.

[FR Doc. 96–7288 Filed 3–25–96; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD07–96–015]

RIN 2115–AE46

Special Local Regulations; Harborwalk Boat Race, Sampit River, Georgetown, SC

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish permanent special local regulations for the Harborwalk Boat Race. This event held annually on the last Sunday of June, between 12 p.m. and 5:30 p.m. Eastern Daylight Time. Historically, there have been approximately sixty participants racing 14 to 20 foot outboard power boats on a prescribed course on a portion of the Sampit River, Georgetown, SC. The nature of the event and the closure of the Sampit River creates an extra or unusual hazard in the navigable waters. These proposed regulations are necessary to provide for the safety of life on navigable waters during the event. By establishing these proposed permanent regulations, the Coast Guard expects to give better notice of requirements related to marine events, and also avoid the recurring costs of publication related with temporary regulations. However, the establishment of these proposed permanent regulations would not relieve the event organizers from applying for an annual marine event permit.

DATES: Comments must be received on or before May 28, 1996.

ADDRESSES: Comments may be mailed to Commander, U.S. Coast Guard Group Charleston, 196 Tradd Street, Charleston, SC 29401, or may be delivered to operations office at the same address between 7:30 a.m. and 3:30 p.m., Monday through Friday, except federal holidays. The telephone number is (803) 724–7621. Comments will become a part of the public docket and will be available for copying and inspection at the same address.

FOR FURTHER INFORMATION CONTACT: ENS M. J. DaPonte, Coast Guard Group Charleston at (803) 724–7621.

SUPPLEMENTARY INFORMATION:

Request for Comment

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names,

addresses, identify the notice (CGD07–96–015) and the specific section of this proposal to which their comments apply, and give reasons for each comment. The Coast Guard will consider all comments received during the comment period. The regulations may be changed in view of the comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal.

No public hearing is planned, but one may be held if the written requests for a hearing are received, and it is determined that the opportunity to make oral presentations will add to the rulemaking process.

Discussion of Proposed Regulations

The proposed regulations are needed to provide for the safety of life during the Harborwalk Boat Race. These proposed rules are intended to promote safe navigation on the waters off East Bay Park on the Sampit River during the race by controlling the traffic entering, exiting, and traveling within these waters. Historically, the anticipated concentration of spectator and participant vessels associated with the Harborwalk Boat Race has posed a safety concern, which is addressed in these proposed special local regulations. The proposed regulations would not permit movement of spectator vessels and other nonparticipating vessel traffic within the regulated area, bounded by a line drawn from

33°21.5′ N, 079°17.10′ W, thence to
33°21.7′ N, 079°16.8′ W, thence along the shore to
33°21.1′ N, 079°16.7′ W, thence to
33°21.1′ N, 079°16.9′ W, thence back to
33°21.5′ N, 079°17.10′ W.

from 7 a.m. to 5:30 p.m. annually during the last Sunday of June. All coordinates use Datum: NAD 83. The proposed regulations would permit the movement of spectator vessels and other nonparticipants after the termination of race, and during intervals between scheduled events at the discretion of the Captain of the Port.

Regulatory Evaluation

This proposal is not a significant regulatory action under Section 3(f) of the Executive Order 12866 and does not require an assessment of the potential costs and benefits under Section 6(a)(3) of that Order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The proposed regulation would last for only 5 and a half hours each day of the event.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under Section 3 of the Small Business Act (15 U.S.C. 632).

For reasons set forth in the above Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, would not have a significant economic impact on a substantial number of small entities.

Collection of Information

These proposed regulations contain no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rulemaking does not have sufficient Federalism implication to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this proposal consistent with Section 2.B.2. of Commandant Instruction M16475.1B. In accordance with that section, this proposed action has been environmentally assessed (EA completed), and the Coast Guard has concluded that it will not significantly affect the quality of the human environment. An environmental assessment and a finding of no significant impact have been prepared and are available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and record keeping requirements, Waterways.

Proposed Regulations

In consideration of the foregoing, Part 100 of Title 33. Code of Federal Regulations, is proposed to be amended as follows:

1. The authority citation for Part 100 continues to read as follows:

PART 100—[AMENDED]

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A new section 100.713 is added to read as follows:

§ 100.713 Harborwalk Boat Race, Sampit River, Georgetown, SC.

(a) *Regulated Area.* The regulated area is formed by a line from:

33° 21.5′ N, 079° 17.10′ W; thence to
33° 21.7′ N, 079° 16.8′ W; thence along the shore to
33° 21.1′ N, 079° 16.7′ W; thence to
33° 21.1′ N, 079° 16.9′ W; thence back to
33° 21.5′ N, 079° 17.10′ W.

All coordinates use datum: NAD 83.

(b) *Special local regulations.* (1) Entry into the regulated area is prohibited to all nonparticipants.

(2) After the termination of the Harborwalk Boat Race, and during intervals between scheduled events, at the discretion of the Captain of the Port, all vessels may resume normal operations.

(c) *Effective Dates.* This section is effective at 12 p.m. and terminate at 5:30 p.m. annually during the last Sunday of June. However, the requirements of this section may be waived by a Coast Guard Notice to mariners.

Dated: March 12, 1996.

Roger T. Rufe, Jr.,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 96–7307 Filed 3–25–96; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 100

[CGD07–96–014]

RIN 2115–AE46

Special Local Regulations; River Race Augusta; Augusta, GA

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish permanent special local regulations for the River Race Augusta. This event will be held annually on Friday, Saturday and Sunday during the second week of June, between 7 a.m. and 5 p.m. Eastern Daylight Time. Historically, there have been approximately sixty participants racing 16 to 18 foot outboard power boats on that portion of the Savannah River at Augusta, GA, between U.S. Highway 1 (Fifth St) Bridge at mile marker 199.45 and Eliot's Fish Camp at mile marker 197. The boats would be competing at high speeds and at close range on a prescribed course. The nature of the event and the closure of the Savannah River creates an extra or unusual hazard in the navigable waters. These proposed regulations are necessary to provide for the safety of life on navigable waters during the event. By establishing these proposed permanent regulations, the Coast Guard expects to give better notice of requirements related to marine events, and also avoid the recurring costs of publication related with temporary regulations. However, the establishment of these proposed permanent regulations would not relieve the event organizers from applying for an annual marine event permit.

DATES: Comments must be received on or before May 15, 1996.

ADDRESSES: Comments may be mailed to Commander, U.S. Coast Guard Group Charleston, 196 Tradd Street, Charleston, SC 29401, or may be delivered to operations office at the same address between 7:30 a.m. and 3:30 p.m., Monday through Friday, except federal holidays. The telephone number is (803) 724–7621. Comments will become a part of the public docket and will be available for copying and inspection at the same address.

FOR FURTHER INFORMATION CONTACT: ENS M.J. DaPonte, Coast Guard Group Charleston at (803) 724–7621.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names, addresses, identify the notice (CGD07–96–014) and the specific section of this proposal to which their comments apply, and give reasons for each comment. The Coast Guard will consider all comments received during the comment period. The regulations may be changed in view of the comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal.

No public hearing is planned, but one may be held if the written requests for a hearing are received, and it is determined that the opportunity to make oral presentations will add to the rulemaking process.

Discussion of Proposed Regulations

The proposed regulations are needed to provide for the safety of life during the River Race Augusta. These proposed regulations are intended to promote safe navigation on the waters off Augusta on the Savannah River during the races by controlling the traffic entering, exiting, and traveling within these waters. Historically, the anticipated concentration of spectator and participant vessels associated with the River Race has posed a safety concern, which is addressed in these proposed special local regulations. The proposed regulations would not permit the entry or movement of spectator vessels and other nonparticipating vessel traffic between the U.S. Highway Route 1 (Fifth Street) Bridge at mile marker 199.45 and Eliot's Fish Camp at mile marker 197 from 7 a.m. to 5 p.m. annually, Friday, Saturday and Sunday of the second week of June. The proposed regulations would permit the movement of spectator vessels and other non-participants after the termination of race each day, and during intervals between scheduled events at the discretion of the Coast Guard Patrol Commander.

Regulatory Evaluation

This proposal is not a significant regulatory action under Section 3(f) of the Executive Order 12866 and does not require an assessment of the potential costs and benefits under Section 6(a)(3) of that Order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The proposed regulation would last for only 10 hours each day of the event.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under Section 3 of the Small Business Act (15 U.S.C. 632).

For reasons set forth in the above Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605 (b) that this proposal, if adopted, would not have a significant economic impact on a substantial number of small entities.

Collection of Information

These proposed regulations contain no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rulemaking does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact on this proposal consistent with Section 2.B.2. of Commandant Instruction M16475.1B. In accordance with that section, this proposed action has been environmentally assessed (EA completed), and the Coast Guard has concluded that it will not significantly affect the quality of the human environment. An environmental assessment and a finding of no significant impact have been prepared and are available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and record keeping requirements, Waterways.

Proposed Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is proposed for amendment as follows:

1. The authority citation for Part 100 continues to read as follows:

PART 100—[AMENDED]

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35

2. A new section 100.712 is added to read as follows:

§ 100.712 Annual River Race Augusta; Savannah River, Augusta GA.

(a) *Definitions:* (1) *Regulated area.* The regulated area is formed by a line drawn directly across the Savannah River at the U.S. Highway 1 (Fifth Street) Bridge at mile marker 199.45 and directly across the Savannah River at Eliot's Fish Camp at mile marker 197. The regulated area would encompass

the width of the Savannah River between these two lines.

(2) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Group Charleston, South Carolina.

(b) *Special local regulations.* (1) Entry into regulated area is prohibited to all non-participants.

(2) After termination of the River Race Augusta each day, and during intervals between scheduled events, at the discretion of the Coast Guard Patrol Commander, all vessels may resume normal operations.

(c) *Effective Dates.* This section is effective at 7 a.m. and terminates at 5 p.m. annually on Friday, Saturday and Sunday of the second week of June. However, the requirements of this section may be waived by a Coast Guard Notice to mariners.

Dated: March 13, 1996.

Roger T. Rufe, Jr.,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 96–7306 Filed 3–25–96; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 100

[CGD07–96–018]

RIN 2115–AE46

Special Local Regulations; Miami Super Boat Race; Miami Beach, FL

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish permanent special local regulations for the Miami Super Boat Race. This event will be held annually on the second Sunday of June, between 12:30 p.m. and 3:30 p.m. Eastern Daylight Time. Historically, there have been approximately 35 participant and 200 spectator craft. The resulting congestion of navigable channels creates an extra or unusual hazard in the navigable waters. These proposed regulations are necessary to provide for the safety of life on navigable waters during the event. By establishing these proposed permanent regulations, the Coast Guard expects to give better notice of requirements related to marine events, and also avoid the recurring costs of publication related with temporary regulations. However, the establishment of these proposed permanent regulations would not relieve the event organizers from applying for an annual marine event permit.

DATES: Comments must be received on or before May 15, 1996.

ADDRESSES: Comments may be mailed to U.S. Coast Guard Group Miami, 100 Macarthur Causeway, Miami Beach, FL 33139–5101 or may be delivered to operations office at the same address between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (305) 535–4448. Comments will become a part of the public docket and will be available for copying and inspection at the same address.

FOR FURTHER INFORMATION CONTACT: QMC T. E. Kjerulff, Coast Guard Group Miami, FL at (305) 535–4448.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names, addresses, identify the notice (CGD07–96–018) and the specific section of this proposal to which their comments apply, and give reasons for each comment. The Coast Guard will consider all comments received during the comment period. The regulations may be changed in view of the comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal.

No public hearing is planned, but one may be held if the written requests for a hearing are received, and it is determined that the opportunity to make oral presentations will add to the rulemaking process.

Discussion of Proposed Regulations

The proposed regulations are needed to provide for the safety of life during the Miami Superboat Race. This event will be held annually on the second Sunday of June, between 12:30 p.m. and 3:30 p.m. Eastern Daylight Time. These regulations are intended to promote safe navigation on the waters off Miami Beach during the races by controlling the traffic entering, exiting, and traveling within these waters. Historically, there have been approximately 35 participant and 200 spectator craft during the race. The anticipated concentration of spectator and participant vessels associated with the Miami Super Boat Race poses a safety concern, which is addressed in these proposed special local regulations. The resulting congestion of navigable channels creates an extra or unusual hazard in the navigable waters. These regulations are intended to promote safe navigation on the waters off Miami Beach during the race by restricting vessels from entering the race area described below and permit anchoring only in the designated spectator area.

The proposed race area would be formed by a line joining the following points:

25°46.3′ N, 080°07.85′ W; thence to,
25°46.3′ N, 080°06.82′ W; thence to,
25°51.3′ N, 080°06.2′ W; thence to,
25°51.3′ N, 080°07.18′ W; thence along the shoreline to the starting point. All coordinates referenced use datum: NAD 1983.

A spectator area would be established in the regulated area for spectator traffic and would be defined by a line joining the following points, beginning from:

25°51.3′ N, 080°06.15′ W; thence to,
25°51.3′ N, 080°05.85′ W; thence to,
25°46.3′ N, 080°06.55′ W; thence to,
25°46.3′N, 080° 06.77′ W; and back to the starting point.

All coordinates referenced use datum: NAD 1983. The proposed regulation would also include a buffer zone of 300 feet between the race course and the spectator area defined above.

Entry into the proposed regulated area by other than event participants would be prohibited unless otherwise authorized by the Coast Guard Patrol Commander. However, the Coast Guard Patrol Commander could at his discretion permit traffic to resume normal operations between scheduled racing events.

The proposed regulations would also establish safety measures of 5 short whistle or horn blasts from a patrol vessel to signal any and all vessels to take immediate steps to avoid collision. The display of an orange distress smoke signal from a patrol vessel would be the signal for any and all vessels to stop immediately. All spectators not in the designated spectator areas above would be required to remain clear of the race area at all times.

Regulatory Evaluation

This proposal is not a significant regulatory action under Section 3(f) of the Executive Order 12866 and does not require an assessment of the potential costs and benefits under Section 6(a)(3) of that Order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The proposed regulation would last for only 4 hours each day of the event.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under Section 3 of the Small Business Act (15 U.S.C. 632).

For reasons set forth in the above Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, would not have a significant economic impact on a substantial number of small entities.

Collection of Information

These proposed regulations contain no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rulemaking does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this proposal and has concluded that preparation of an Environmental Impact Statement is not necessary. An Environmental Assessment and Finding of No Significant Impact are available in the docket for inspection or copying where indicated under **ADDRESSES**. The Coast Guard has concluded that this proposed action would not significantly affect the quality of the human environment.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and record keeping requirements, Waterways.

Proposed Regulations

in consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is proposed to be amended as follows:

1. The authority citation for Part 100 continues to read as follows:

PART 100—[AMENDED]

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A new section 100.714 is added to read as follows:

§ 100.714 Annual Miami Super Boat Race; Miami Beach, FL.

(a) *Definitions:* (1) *Regulated Areas.* The regulated area includes the race course area, the spectator area, and a buffer zone.

(i) The race course area is formed by a line joining the following points:

25°46.3′ N, 080°07.85′ W; thence to,
25°46.3′ N, 080°06.82′ W; thence to,
25°51.3′ N, 080°06.2′ W; thence to,
25°51.3′ N, 080°07.18′ W; thence along the shoreline to the starting point.
All coordinates referenced use datum: NAD 1983.

(ii) A spectator area is established in the regulated area for spectator traffic and is defined by a line joining the following points, beginning from:

25° 51.3′ N, 080° 06.15′ W; thence to,
25° 51.3′ N, 080° 05.85′ W; thence to,
25° 46.3′ N, 080° 06.55′ W; thence to,
25° 46.3′ N, 080° 06.77′ W; and back to the starting point.

All coordinates referenced use datum: NAD 1983.

(iii) A buffer zone of 300 feet is established between the race course and the spectator area.

(2) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Captain of the Port, Miami, Florida.

(b) *Special local regulations:* (1) Entry into the race course area by other than event participants is prohibited unless otherwise authorized by the Coast Guard Patrol Commander. At the completion of scheduled races and departure of participants from the regulated area, traffic may resume normal operations. At the discretion of the Coast Guard Patrol Commander, between scheduled racing events, traffic may be permitted to resume normal operations.

(2) A succession of not fewer than 5 short whistle or horn blasts from a patrol vessel will be the signal for any and all vessels to take immediate steps to avoid a collision. The display of an orange distress smoke signal from a patrol vessel will be the signal for any and all vessels to stop immediately.

(3) Spectators not in the designated spectator areas, defined in paragraph (a) of the regulated area, are required to maintain clear of the race course area at all times.

(c) *Effective Dates:* This section is effective at 12 p.m. and terminates at 4 p.m. Eastern Daylight Time annually during the second Sunday of June.

Dated: March 14, 1996.

Roger T. Rufe, Jr.,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 96–7303 Filed 3–25–96; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 183

[CGD 95–041]

Propeller Injury Prevention Aboard Rental Boats

AGENCY: Coast Guard, DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The purpose of this Advance Notice of Proposed Rulemaking (ANPRM) is to gather current, specific, and accurate information about the injuries involving propeller strikes and rented boats. In a request for comments published May 11, 1995, the Coast Guard solicited comments from all segments of the marine community and other interested persons on various aspects of propeller accident avoidance aboard houseboats and other displacement type recreational vessels. The information received was voluminous, but was too general to be helpful. Consistent with the President's Regulatory Reinvention Initiative, the Coast Guard is interested in obtaining maximum public involvement before it makes any decision that would impose a new burden on the regulated community. Information gathered in response to this ANPRM will supplement that which the Coast Guard received in response to the request for comments and will be used to determine the appropriate Federal and State roles in reducing propeller-strike incidents, whether governmental intervention is appropriate and, if so, whether it should be directed at the vessels, their manufacturers, their operators or owners, or the companies leasing such vessels. This ANPRM also announces one public meeting at Coast Guard Headquarters at which individuals and interested parties may make oral presentations about the propeller strike avoidance issue. The Coast Guard has also arranged four other opportunities, throughout the country, for those interested in this subject to express their views.

DATES: Comments must be received on or before September 1, 1996.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA/3406)(CGD95–041),

U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, or may be delivered to room 3406 at the above address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

The Executive Secretary maintains the public docket for this notice. Comments will become a part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters.

FOR FURTHER INFORMATION CONTACT: Mr. Randolph Doubt, Project Manager, Recreational Boating Product Assurance Division, (202) 267–0984.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to submit written data, views or arguments. Persons submitting comments should include their names and addresses and identify this notice (CGD 95–041). Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period.

Background Information

The Coast Guard published a request for comments on propeller accidents involving houseboats and other displacement type recreational vessels on May 11, 1995 [60 FR 25191]. In a second **Federal Register** notice published August 9, 1995, the Coast Guard reopened and extended the comment period until November 7, 1995. The Coast Guard received 1,994 responses. More than 1,800 of these were form letters from individuals who support the development of regulations to require the use of propeller guard technology or pump jet propulsion on vessels used in the rental houseboat industry. An additional 69 comments supporting the development of regulations to prevent the incidence of propeller-strike accidents were received from accident victims and their relatives, attorneys, physicians, State law enforcement agencies, manufacturers of devices designed to prevent propeller-strike accidents, and other individuals. Comments opposing regulations were received from 57 boaters, nine houseboat livery operators and marinas, members of 10 associations, committees, or councils, 13 boat and engine manufacturers, and six naval architects or marine consultants.

Solicitation of Views

While available data in the Coast Guard's regulatory docket on this subject does not fully support the costs or burdens that would be imposed by Federal regulation, the number of responses received to the request for comments indicates a great deal of public interest in whether and how the Federal Government should act to prevent propeller-strike accidents.

Persons submitting comments should do as directed under **REQUEST FOR COMMENTS** above, and reply to the following specific questions. Form letters simply citing anecdotal evidence or stating support for, or opposition to regulations, without providing substantive data or arguments do not supply support for regulations.

1. The Coast Guard is making an effort to improve its database of recreational boating accidents resulting in injuries which require medical treatment beyond first aid. Part of that effort consists in trying to determine the extent to which accidents involving propeller strikes by rented boats are a problem. What information is available regarding the incidence of propeller-strike injuries or fatalities involving individuals who rent boats, and what trends, if any, do the data indicate?

2. To what extent are data available to indicate whether the type of propulsion (e.g., outboard motor, inboard engine or inboard-outboard engine) contributes to the incidence of propeller-strike accidents involving rental boats?

3. In two fatal accidents during the last several years, one on Lake Shasta and one on Lake Havasu, the victim was in the water and was struck by the propeller when a rental houseboat was put in reverse and backed into them. Several other houseboat accidents have resulted in injuries. The Coast Guard is interested in determining whether accidents involving propeller strikes and rented houseboats occur nationwide, or are limited to a few States or bodies of water. If the latter is the case, do any particular hazardous local conditions contribute to the likelihood of such accidents? If so, the Coast Guard is interested in determining the nature and location of those conditions.

4. To what extent are data available on the relationship between the consumption of alcohol or the use of controlled substances and propeller-strike accidents involving rental boats?

5. Some States have laws requiring boat operators to complete a boating safety course.

a. To what extent do available data indicate whether boater behavior patterns, a lack of boating education, or a lack of boating law enforcement contribute to the incidence of propeller-strike accidents involving rental boats?

b. Do data indicate whether mandatory boating education for individuals renting boats with propellers significantly contribute to a reduction in the number of propeller-strike accidents?

c. If so, do data indicate what type of boating education would be the most effective?

d. What other vessel operator-oriented requirements might reduce the incidence of propeller-strike accidents involving rental boats?

e. What economic or other burdens would be imposed on companies leasing recreational boats if either the Federal or State Government was to require education of individuals renting propeller-driven boats?

6. The two fatal accidents mentioned above occurred when individuals were in the water astern of the vessels and the vessels were put in reverse. While limited operator visibility astern may have contributed to the accidents, the transom is also the usual location for swim platforms and boarding ladders for swimmers. Do available data indicate whether vessel design features contribute to the incidence of propeller-strike accidents involving rental boats? If so, what vessel design features might reduce the incidence of propeller-strike accidents involving rental boats?

7. Are there any proven technologies that would help reduce the risk of propeller-strike accidents involving rented boats? What technologies are unacceptable, and for what reasons?

8. The two fatal accidents mentioned above involved rental houseboats. If the Coast Guard developed regulations in this area, how should it define the term, "houseboat?" Are there any other vessel types the Coast Guard should consider regulating? If so, what vessels, if any, should be excepted from such regulations?

9. What, if any, types of information should be displayed on boats and/or motors leased, rented or chartered for noncommercial use for the purpose of alerting operators or passengers to the dangers of a propeller strike?

10. What are the economic and other impacts on companies renting boats or other entities if the Coast Guard were to require companies to retrofit such vessels with devices or methods of propulsion designed to reduce the incidence of propeller-strike accidents? In considering regulations, the Coast Guard must assess the potential adverse impacts on small business entities. To what extent are small entities engaged in leasing recreational boats?

11. a. How many companies are currently leasing propeller-driven boats for bareboat charters by the recreational boating public? How many vessels are involved and on which bodies of water?

b. How many companies are currently offering propeller-driven uninspected boats for charter by the recreational boating public? How many vessels are involved and on which bodies of water?

12. What adverse impacts might result from a regulation requiring livery companies to verbally brief individuals renting propeller-driven boats about the dangers of propeller-strike accidents, and requiring individuals chartering such vessels to acknowledge receiving the information?

13. Under current Federal statutes (46 U.S.C. 4306), the States do not have the authority to establish carriage requirements for associated equipment, such as a mechanical means for preventing propeller strikes, on vessels operated on waters where both the Coast Guard and the State have jurisdiction. However, a State may impose more stringent requirements on vessels such as rental boats on waters subject to the State's exclusive jurisdiction, so long as such a requirement is not imposed upon vessel manufacturers. What is the proper role for the States in reducing propeller-strike accidents involving rented boats? If the Coast Guard allowed the States to regulate the equipment carried, or the use of rental boats, how would interstate commerce be affected?

Open Meetings

A subcommittee of the National Boating Safety Advisory Council, and the National Association of State Boating Law Administrators are studying the propeller injury prevention issue. The Coast Guard invites interested parties and the public to make brief oral presentations about the propeller injury prevention issue during the following meetings or events:

From 5 to 7 p.m., Monday, April 22, 1996 at the National Water Safety Congress Professional Development Seminar at the Boardwalk Resort in Panama City, FL, (April 23–25, 1996).

From 3 to 5 p.m., Monday April 29, 1996 at the National Boating Safety Advisory Council Meeting at the Parc Fifty-Five Hotel in San Francisco, CA (April 27–29, 1996).

From 8:30 to 10:30 a.m., Wednesday May 1, 1996 at the Northeastern States Boating Law Administrators Conference in the Camden Room at the Samoset Resort in Rockland, ME (April 29–30, 1996).

From 1 to 4 p.m., Monday, May 6, 1996 in Room 2415 of Coast Guard Headquarters in Washington, DC.

From 10 a.m. to 12 p.m., Sunday, May 19, 1996 at the Southern States Boating Law Administrator Conference at the Royal Sonesta Hotel in New Orleans, LA (May 18–22, 1996).

Those wishing to give an oral presentation should submit their name, address, and organization represented (if any) at least seven days prior to the particular meeting or event, to COMMANDANT (G–NAB–6), room 1505, U.S. Coat Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, Attn: Mr. Jay Doubt. Individuals wishing to give an oral presentation who fail to notify the Coast Guard within seven days of a particular meeting or event will be allowed to do so if time permits.

Those giving oral presentations are reminded of the necessity to also furnish written comments, if those comments are intended for inclusion in the regulatory docket.

The Coast Guard will consider all relevant comments in determining what action may be necessary to address propeller accidents involving rented propeller-driven vessels.

Dated: March 15, 1996.

Rudy K. Peschel,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 96–7304 Filed 3–25–96; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–5446–8]

Proposed Requirements for Control Technology Determinations for Major Sources in Accordance With Clean Air Act (Act) Section 112(g)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of reopening of comment period; notice of availability of draft rule.

SUMMARY: The EPA is reopening the comment period for the proposed rule implementing section 112(g) of the Act and is announcing the availability of a revised draft of the proposal. Section 112(g) establishes requirements for owners or operators who intend to construct, reconstruct, or modify a major source of hazardous air pollutants (HAP). When no emission standard has been promulgated under section 112(d) of the Act, determinations concerning such sources must be made on a case-by-case basis. Today's notice announces the availability of a revised draft of the proposed rule which implements section 112(g)(2)(B) of the Act with respect to constructed or reconstructed major sources, and requests comment on the revised draft. The EPA does not intend at this time to issue a rule implementing the provisions of section 112(g) which concern modifications.

DATES: The revised draft of the proposed rule will be available in the public docket and on the EPA electronic bulletin board on the date this document is signed. Comments concerning this document or the revised draft rule must be received by EPA on or before April 25, 1996.

ADDRESSES: The revised draft rule and other information pertaining to the proposed rule are contained in Docket Number A–91–64. The docket is available for public inspection and copying from 8:30 a.m. to 12:00 p.m. and 1:00 p.m. to 3:00 p.m., Monday through Friday, at the EPA's Air Docket Section, Waterside Mall, Room M1500, EPA, 401 M Street, Southwest, Washington, DC 20460. A reasonable fee may be charged for copying. The draft rule is also available on the Office of Air Quality Planning and Standards (OAQPS) electronic bulletin board, the Technology Transfer Network (TTN), under Clean Air Act, Title III, Recently Signed Rules. For information on how to access the TTN, please call (919) 541–5384 between the hours of 1:00 p.m. and 5:00 p.m. eastern standard time.

Comments concerning this notice or the revised draft rule should be submitted (in duplicate if possible) to: Central Docket Section (6102), EPA, Attn: Air Docket No. A–91–64, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Ms. Gerri Pomerantz, telephone (919) 541–2371, or Ms. Kathy Kaufman, telephone (919) 541–0102, Information Transfer and Program Integration Division (MD–12), OAQPS, EPA, Research Triangle Park, NC, 27711.

SUPPLEMENTARY INFORMATION: The information in this notice is organized as follows:

I. Background and Major Differences between the Proposed Rule and Draft Final Rule
II. Definition of "Construct a Major Source"
III. Review of Applications for a maximum achievable control technology (MACT) Determination
IV. Extensions of Compliance Date for Subsequent Emission Standards

I. Background and Major Differences Between the Proposed Rule and Draft Final Rule

In designing a program to implement MACT requirements under section 112(g), the EPA is guided by the need to balance several, often competing, goals. Given a complex statutory mandate, the EPA has the difficult fask of designing a rule that is simultaneously environmentally protective, maintains consistency across Agency programs, minimizes the administrative burden on sources and States, provides flexibility to sources, and maintains enforceability—yet is not overly complex. The EPA's task is to create a coherent regulatory whole that strikes the right balance among a broad set of goals.

Section 112(g) is primarily a transitional program designed to operate until MACT standards issued under section 112(d) are in effect for all categories of major sources of HAP. To date, the EPA has issued 17 MACT standards covering 29 categories of major sources of HAP emissions, and has proposed five additional MACT standards covering 18 source categories. The EPA is currently developing all of the MACT standards that are due to be completed in 1997, as well as several of the standards due to be completed in 2000.

The EPA has concluded that the greatest benefits to be derived from section 112(g) would be from the control of major source construction and reconstruction in the period before these MACT standards go into effect. Therefore the EPA has determined that today's draft rule should implement only that portion of section 112(g) which requires new source MACT determinations for constructed and reconstructed major sources, but not that portion which requires existing source MACT determinations for modifications of existing sources. The EPA requests comment on this approach.

Under this approach, sources of toxic air pollution will be controlled at the time of construction or reconstruction, when controls are most cost-effective to install. This is a major streamlining and simplification step that will focus section 112(g) implementation where it will provide the greatest reduction in emissions to the environment, certainty to the regulated community, and reduce the overall administrative burden on both regulators and the regulated community.

The EPA's decision to implement only the construction and reconstruction provisions of section 112(g) is premised in part on the Agency's ability to issue the remaining MACT standards under section 112(d) in a timely way, and also in part on the assumption that where there are existing State air toxics programs that address modifications, they will continue to operate as they do currently. If there were substantial delays in issuance of MACT standards, or radical changes to existing State programs, increased exposure to emissions from unregulated sources of HAP could occur and threaten public health and the environment. If such delays were to occur, the EPA would reconsider whether to move forward to cover modifications under section 112(g).

The EPA believes that Congress's basic goal in adopting section 112(g) of the Act was to make use of the opportunity for environmental protection that exists when major sources of HAP undergo changes that would lead to significant emission increases. The opportunity to evaluate emission control technologies, or other beneficial ways to bring about environmental improvements, generally exists because the environmental improvements are more efficient when built as part of the initial design.

The EPA also recognizes that it is critical to the success of the program to ensure that its provisions are enforceable and provide the greatest possible incentive for compliance. At the same time, the EPA recognizes the need to minimize administrative delays and grant sources and permitting authorities the flexibility to seek environmentally beneficial alternative means of control.

Finally, the program must be as consistent as possible with other Federal air pollution control programs, and must be simple enough to ensure smooth implementation. Today's draft rule eliminates much of the complexity inherent in the portion of section 112(g) which covers modifications to existing sources. Among other things, under this simpler approach, it will not be necessary to proceed with development of de minimis emission values or the hazard ranking system necessary to support offset determinations. It will also not be necessary to address the multitude of issues and concerns, raised in the proposed rule, associated with defining the types of operations that would be considered "modifications."

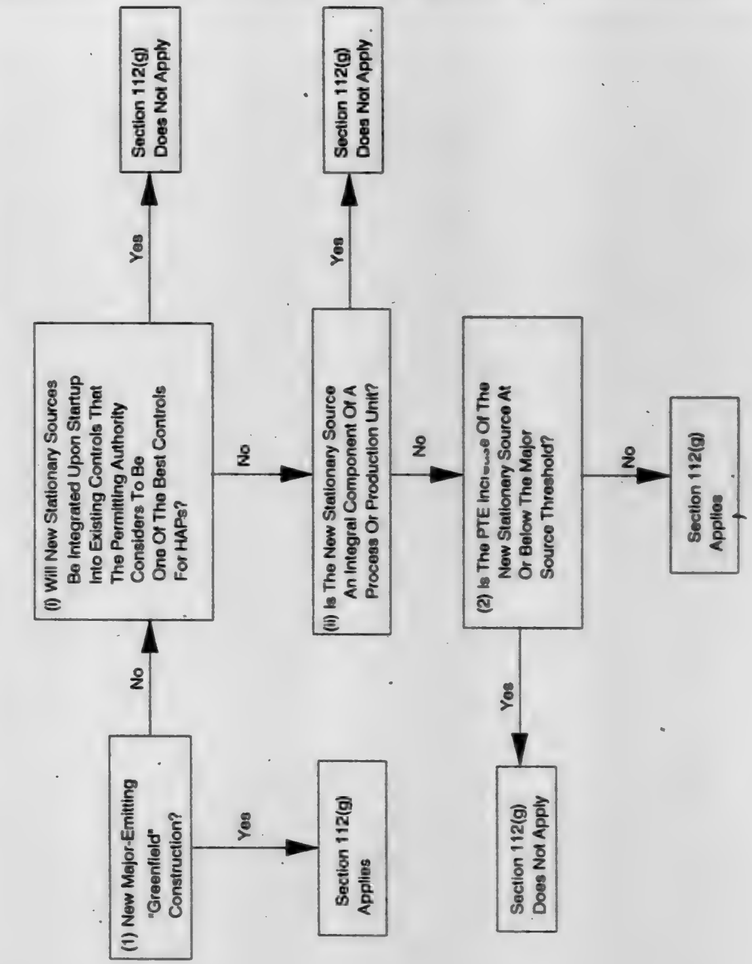
II. Definition of "Construct a Major Source"

Today's draft rule does require additional discussion to clarify the conditions under which a stationary source would require a new source MACT determination; i.e., what criteria must be met for new equipment to be considered construction or reconstruction of a major source. The new equipment which would meet these criteria is referred to as the "affected source." The EPA intends that either a major source constructed on a greenfield site, or a new major-emitting stationary source with a discrete function at an existing plant site, such as a new discrete process or production unit, should be considered construction of a major source, and thus require a new source MACT determination. The stationary source must also itself be inherently major-emitting; the EPA does not intend that a new process unit causing increased emissions at another unit downstream should be covered by today's draft rule. The EPA requests comment on this overall approach.

Figure (1) illustrates how the definition of "construct a major source" works.

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FIGURE 1: CONSTRUCT A MAJOR SOURCE



BILLING CODE 6560-50-C

If the stationary source is constructed on a greenfield site and is major-emitting, then the stationary source is an affected source under section 112(g), and must apply new source MACT. If the stationary source is being constructed at an existing plant site, then several other criteria will determine whether it is to be considered an affected source under section 112(g), and must apply new source MACT.

Box (i) (the box labels refer back to the sections of the "construct a major source" definition in the draft rule) asks: Will the stationary source be controlled by existing emission control equipment which the permitting authority has determined represents one of the best technologies for control of HAP? If a new source can be incorporated into such existing control technology without any reduction in the degree of control of HAP, the new source would not be considered "construction" under section 112(g)(2)(B). The state permitting authority will be responsible for determining whether these criteria apply, using those procedures it deems most appropriate.

The general purpose of this exclusion from the definition of "construct a major source" is to assure that facilities which have previously installed good control equipment with presently unutilized capacity will not be precluded from fully utilizing such equipment by any marginal differences in control effectiveness between such equipment and that required by new source MACT. Existing controls should be deemed satisfactory only where they are representative of the best technologies presently in use and the addition of new sources to existing control equipment will not impair its overall effectiveness. The rule also explicitly recognizes that some facilities have previously installed such controls to comply with a best available control technology (BACT) determination (that controls the HAP emitted by the stationary source) under the prevention of significant deterioration (PSD) program, a lowest-achievable emission rate (LAER) determination under the new source review (NSR) program, or a toxics-best available control technology (T-BACT) determination under a State or local air toxics control program. The EPA requests comment on this exclusion.

The EPA notes that the definition of a "green-field site" in the draft rule includes developed sites which do not presently emit major source quantities of HAP. EPA therefore requests comment concerning whether the exclusion for new sources that use existing emission controls should be applied to area sources that are within the definition of a "green-field site."

Box (ii) asks: Is the new stationary source an integral component of a larger process or production unit? If the source is a discrete process unit or production unit as defined in the rule, and emissions from the source exceed the major source threshold, it meets the definition of an "affected source" under section 112(g) and is subject to new source MACT control. The EPA requests comment on this exclusion.

What does it mean to be an integral component of a larger process or production unit? Today's rule defines "integral component of a larger process or production unit" to be a stationary source or group of stationary sources whose function, and the function of the process unit or production unit, are interdependent. In other words, the stationary source is the kind of component upon which the functioning of the process or production unit relies, and vice versa. Equipment which is an integral component of a process or production unit is part of the functioning of the overall process or production unit. Under the proposed definition, equipment which is not an integral component itself comprises a process or production unit.

The EPA acknowledges that there is some room for judgment in determining if a stationary source is an integral component of a larger unit. Each individual determination should be based on answers to the following questions: Is the new stationary source a component critical to the function of the larger process or production unit? Could the stationary source stand alone as an individually functioning unit if constructed elsewhere? Could the stationary source be reasonably controlled independently of the larger process? Reference documents such as AP–42 [1] describe examples of different groupings of stationary sources that should be considered to be separately-controlled processes, as well as those stationary sources, contained within such processes, which should be considered integral components. Examples in these reference documents, where relevant, should be used to define a process or production unit.

The following examples should help illustrate where section 112(g) should and should not apply. The EPA requests comment on these examples.

1. An electronics manufacturing facility replaces individual manufacturing equipment such as etching, plating, or photolithography equipment with next generation etching, plating or photolithography equipment. This equipment change would not trigger section 112(g), because the individual etching or plating or photolithography equipment is the kind of component upon which the functioning of the larger production process relies. Therefore the function of the new stationary source (the new etching, plating, or photolithography equipment) and the larger production process are interdependent.

2. An aluminum reduction plant has several potlines. Each potline consists of many pots, which are controlled using a common dry scrubbing system. The company replaces a few pots on each line. This equipment change would not trigger section 112(g), because the individual pots are the kind of component upon which the functioning of the larger production process relies. Therefore the function of the new stationary source (the new pots) and the larger production process are interdependent.

3. A chemical plant builds a new distillation column, to be added to a series of distillation columns, the emissions from which are collected at the end of the series and vented to a carbon absorber. This equipment change would not trigger section 112(g), because the individual distillation columns are the kind of component upon which the functioning of the larger production process relies. Therefore the function of the new stationary source (the new distillation column) and the larger production process are interdependent.

4. A composites manufacturer adds additional vacuum and/or in-mold coating capability to an existing mold, in order to improve surface quality. This equipment change would not trigger section 112(g), because the additional components of the mold are the kind of components upon which the functioning of the larger production process relies. Therefore the function of the new stationary source (the new components of the mold) and the larger production process are interdependent.

5. A glass manufacturer adds a new glass furnace and associated process line which will emit HAPs in amounts above the major source threshold. This is an example of a stationary source which is not an integral component of a process or production unit, because it is itself a production or process unit. Therefore the new furnace meets the definition of "affected source" under section 112(g) and should be controlled with new source MACT.

6. A composites manufacturer adds a new large molding line which will emit HAPs in amounts above the major source threshold. This is an example of a stationary source which is not an integral component of a process or production unit, because the molding line is itself a separately functioning process unit. Therefore the molding line meets the definition of "affected source" under section 112(g) and should be controlled with new source MACT.

7. An auto parts manufacturer adds a new automobile surface coating line (i.e., from body shop to trim shop) which will emit HAPs in amounts above the major source threshold. This is an example of a stationary source which is not an integral component of a process or production unit, because the line is itself a separately functioning process unit, as described in AP–42. Therefore the coating line meets the definition of "affected source" under section 112(g) and should be controlled with new source MACT.

8. An existing chemical plant builds a new nitric acid plant onsite which will emit HAPs in amounts above the major source threshold. This is an example of a stationary source or group of stationary sources which is not an integral component of a process or production unit. Therefore the nitric acid plant meets the definition of "affected source" under section 112(g) and should be controlled with new source MACT.

9. A manufacturer replaces an entire process which is similar to an entire process as it is described in AP–42. This is an example of a stationary source or group of stationary sources which is not an integral component of a process or production unit. Therefore the process meets the definition of "affected source" under section 112(g) and should be controlled with new source MACT, provided that it will emit HAPs in amounts above the major source threshold.

III. Review of Applications for a MACT Determination

Today's draft rule contains three options for preconstruction review procedures for constructed and reconstructed major sources. The permitting authority has discretion to prescribe those procedures to be used in making a case-by-case MACT determination for constructed or reconstructed major sources (except that the owner or operator of the source may elect to use the part 70 or part 71 permitting process). The proposed rule allowed use of either the part 70 or 71 permitting process or a process, described in the proposed rule and in today's draft rule, culminating in issuance of a "Notice of MACT Approval." Today's draft rule adds one more option, designed to provide flexibility to the permitting authority and the source. Proposed section 63.43(c)(2)(ii) provides that if a permitting authority establishes, or has already established, preconstruction review procedures for sources to follow, then these procedures may be used in lieu of any procedures prescribed by today's draft rule. The permitting authority's prescribed procedures may have been developed for other purposes beyond implementation of section 112(g), so long as they provide for public participation in the case-by-case MACT determination and ensure that a final MACT determination will be made prior to construction or reconstruction. The draft rule also provides that a final case-by-case MACT determination issued pursuant to any of these procedures will be deemed federally enforceable. The permitting authority need not obtain delegation under 40 CFR Part 63 subpart E in order to adopt its own review procedures for a case-by-case MACT determination. The EPA requests comment on this new provision.

The EPA also requests comment specifically on the presumption, in section 63.43(d)(iv), that the constructed or reconstructed major source should comply with the emission limitation set out in a relevant proposed MACT standard or presumptive MACT determination made by the EPA. The EPA believes that sources would be well-advised to comply with such emission limitations, as those limitations would be most likely to be consistent with the requirements of the eventual MACT standard.

IV. Extensions of Compliance Date for Subsequent Emission Standards

The EPA anticipates that new source MACT requirements adopted with respect to construction or reconstruction of a particular source under section 112(g)(2)(B) will normally be at least as stringent as any subsequent requirements for existing sources adopted as part of a MACT standard issued under section 112(d). However, should a subsequently promulgated MACT standard impose more stringent requirements, EPA believes that it may be appropriate in some instances for EPA to establish a later compliance date for those sources which have acted in reliance on a prior case-by-case MACT determination. The draft rule expressly provides that EPA may establish separate compliance dates for facilities which have notified EPA of such determinations in a timely manner. Specifically, EPA may establish, in the MACT standard, a later compliance date for those sources which have installed controls pursuant to section 112(g), and have provided the EPA with data on their section 112(g) control determination by the end of the public comment period on the subsequent Federal standard.

The EPA requests comment on this approach, and on whether such sources should be required to inform EPA, before proposal of the subsequent MACT standard, that they have installed section 112(g) controls.

In those instances where the subsequent MACT standard does not establish a compliance date for sources subject to a prior case-by-case MACT determination, the present draft rule retains the provision from the original proposal authorizing the permitting authority to grant up to eight years of additional time for the affected source to comply with the subsequent MACT standard. The EPA has previously explained that the structure of section 112 as a whole supports such a construction of section 112(g), and a source may also be afforded up to 8 years to comply with a MACT standard in instances where a prior emission limitation has been established by permit under section 112(j). The EPA requests comment on these provisions and this interpretation.

Dated: March 18, 1996.

Mary D. Nichols,

Assistant Administrator.

[FR Doc. 96–7277 Filed 3–25–96; 8:45 am]

BILLING CODE 6560–50–P

[1] U.S. EPA, AP–42, "Compilation of Air Pollutant Emission Factors," 5. ed., January 1995.

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40 CFR Part 261

[FRL–5446–3]

RIN 2050–AE31

Identification and Listing of Hazardous Waste; Amendments to Definition of Solid Waste

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA is proposing to correct the text of a regulatory exclusion from the regulatory definition of solid waste for recovered oil which is inserted into the petroleum refining process. The current text of the exclusion contains a factual error inappropriately limiting the location in the refining process at which recovered oil can be inserted. The result of this error is to restrict legitimate recycling of recovered oil. The proposed correction also in fact reflects the result EPA initially intended, which was to condition the

exclusion of recovered oil on that oil being reinserted into the petroleum refining process at a point where that process removes or will remove contaminants.

In the final rules Section of today's **Federal Register**, EPA is promulgating this amendment as a final rule without prior proposal because EPA views this as a noncontroversial action which corrects an unintended mistake, and so anticipates no adverse comments. A detailed rationale for the amendment is set forth in the final rule. If no adverse comments are received in response to this proposal, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, EPA will withdraw the final rule and all public comments received will be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action.

DATES: Comments on this proposed rule must be received on or before April 24, 1996, and notice of intent to file adverse comments must be received on or before April 9, 1996. An adverse comment will be considered to be any comment substantively criticizing the proposal on a basis not already provided to EPA in comment.

ADDRESSES: Comments and materials supporting this rulemaking are contained in Public Docket No. F–96–SW2P-FFFFF and are located in the EPA RCRA docket, Crystal Gateway #1, 1st Floor, 1235 Jefferson Davis Highway, Arlington, VA. The docket is open from 9:00 to 4:00, Monday through Friday, , except for Federal holidays. The public must make an appointment to review docket materials by calling (703) 603–9230. The public may copy a maximum of 100 pages from any one regulatory docket at no cost. Additional copies cost § .15 per page. Persons wishing to notify EPA of their intent to submit adverse comments on this action should contact Steven Silverman, Office of General Counsel (2366), 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Steven Silverman, (202) 260–7716, Office of General Counsel at the above address.

SUPPLEMENTARY INFORMATION:

Outline of Today's Action

I. Authority
II. Background
III. Additional Information
IV. Regulatory Requirements
A. Executive Order No. 12866
B. Regulatory Flexibility Act
C. Paperwork Reduction Act
D. Unfunded Mandates Reform Act

I. Authority

These regulations are being proposed under the authority of Sections 2002 and 3001 *et seq.* of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. 6912 and 6921 *et seq.*

II. Background

As set out in detail in the related direct final rule, EPA is proposing to correct an error in the text of a regulatory exclusion (found at 261.4(a)(12)), regarding the location in a petroleum refining process at which recovered oil can be inserted in order to be excluded from the authority of RCRA subtitle C. The test for point of insertion should be at or before any point in the process that removes contaminants from recovered oil.[1] The current regulatory text limiting insertion to locations before distillation and catalytic cracking is too restrictive because there are points in the petroleum process downstream of these unit operations (such as fractionation) which remove contaminants. The current terms of the exclusion impede legitimate recycling of recovered oil without providing any corresponding environmental benefit, and moreover are based on a factual error. Accordingly, EPA believes the rule should be amended.

III. Additional Information

For additional information, see the corresponding direct final rule published in the rules section of this **Federal Register**.

IV. Regulatory Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether this regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant" regulatory action as one that is likely to lead to a rule that may:

(1) have an annual effect on the economy of $100 million or more, or adversely and materially affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this amendment to the final rule is not a "significant regulatory action" under the terms of the Executive Order and is therefore not subject to OMB review.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601–602, requires that Federal agencies examine the impacts of their regulations on "small entities". If a rulemaking will have a significant impact on a substantial number of small entities, agencies must consider regulatory alternatives that minimize economic impact.

EPA believes that this amendment will have negligible impact on any small entity because it expands the terms of an exclusion from regulation. In addition, the underlying rule itself was deregulatory and so did not have significant adverse economic impact on small entities. See 59 FR at 38545. Therefore, the Administrator certifies pursuant to 5 U.S.C. 601 *et seq.*, that this rule will not have a significant impact on a substantial number of small entities because this amendment reduces the scope of the RCRA subtitle C regulatory program.

C. Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, EPA must consider the paperwork burden imposed by any information collection request in a proposed or final rule. This rule will not impose any new information collection requirements.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When a written statement is needed for an EPA rule, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector because it imposes no enforceable duties on any of these governmental entities or the private sector. The rule merely corrects a factual error in the regulatory text of the regulatory definition of solid waste. In any event, EPA has determined that this rule does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector in any one year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA. Similarly, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments.

[1] The issue of whether this should include insertion into petroleum cokers is being addressed in a separate rulemaking proceeding. 60 FR 57747 (November 20, 1995).

List of Subjects in 40 CFR Part 261

Environmental protection, Hazardous waste, Solid Waste, Petroleum, Recycling.

Dated: March 19, 1996.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, chapter I of title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912 (a), 6921, 6922 and 6938.

2. Section 261.4 in amended by revising paragraph (a)(12) to read as follows:

§ 261.4 Exclusions.

(a) * * *

(12) Recovered oil from petroleum refining, exploration and production, and from transportation incident thereto, which is to be inserted into the petroleum refining process (SIC Code 2911) at or before a point (other than direct insertion into a coker) where contaminants are removed. This exclusion applies to recovered oil stored or transported prior to insertion, except that the oil must not be stored in a manner involving placement on the land, and must not be accumulated speculatively, before being so recycled. Recovered oil is oil that has been reclaimed from secondary materials (such as wastewater) generated from normal petroleum refining, exploration and production, and transportation practices. Recovered oil includes oil that is recovered from refinery wastewater collection and treatment systems, oil recovered from oil and gas drilling operations, and oil recovered from wastes removed from crude oil storage tanks. Recovered oil does not include (among other things) oil-bearing hazardous waste listed in 40 CFR part 261 D (e.g., K048–K052, F037, F038). However, oil recovered from such wastes may be considered recovered oil. Recovered oil also does not include used oil as defined in 40 CFR 279.1.

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[FR Doc. 96–7276 Filed 3–25–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 300

[FRL–5445–5]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Waste Disposal Engineering Inc. site from the national priorities list; request for comments.

SUMMARY: The United States Environmental Protection Agency (U.S. EPA) Region 5 announces its intent to delete the Waste Disposal Engineering Inc. (Site) from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which U.S. EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) as amended. This action is being taken by U.S. EPA because it has been determined that Responsible Parties and the State of Minnesota have implemented all appropriate response actions required. U.S. EPA, in consultation with the State of Minnesota, have also determined that no further response is appropriate. Although full compliance with off-site surface water and ground water standards has not been demonstrated as yet due to past interruptions in ground water remediation, the State of Minnesota has assumed the legal obligation to carry out the response action duties, including but not limited to operation and maintenance of the remedy and attaining the response action objectives and cleanup standards. A determination of compliance with the off-site surface water and ground water standards will be demonstrated by the State after a longer period of operation and maintenance of the remedy. Moreover, U.S. EPA and the State have determined that remedial activities conducted at the Site to date are and will continue to be protective of public health, welfare, and the environment.

DATES: Comments concerning the proposed deletion of the Site from the NPL may be submitted on or before April 25, 1996.

ADDRESSES: Comments may be mailed to Gladys Beard, Associate Remedial Project Manager, Office of Superfund, U.S. EPA, Region 5, 77 W. Jackson Blvd. (SR–6J), Chicago, IL 60604. Comprehensive information on the site is available at U.S. EPA's Region 5 office and at the local information repository located at: Anoka County Community Health and Environmental Service, Anoka County Government Center, Rm. 360, 2100 3th Ave., Anoka, MN 55303 and Andover City Hall, 1685 Crosstown Blvd. Andover, MN 55304. Requests for comprehensive copies of documents should be directed formally to the Region 5 Docket Office. The address and phone number for the Regional Docket Officer is Jan Pfundheller (H–7J), U.S. EPA, Region 5, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 353–5821.

FOR FURTHER INFORMATION CONTACT: Lawrence Schmitt, Remedial Project Manager at (312) 353–6565, Gladys Beard (SR–6J), Associate Remedial Project Manager, Office of Superfund, U.S. EPA, Region 5, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 886–7253 or Susan Pastor (P–19J), Office of

Public Affairs, U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 353–1325.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Intended Site Deletion

I. Introduction

The U.S. Environmental Protection Agency (EPA) Region 5 announces its intent to delete the Waste Disposal Engineering Inc. Site from the National Priorities List (NPL), which constitutes Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), and requests comments on the proposed deletion. The EPA identifies sites that appear to present a significant risk to public health, welfare or the environment, and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund Response Trust Fund (Fund). Pursuant to Section 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed remedial actions if the conditions at the site warrant such action.

The U.S. EPA will accept comments on this proposal for thirty (30) days after publication of this notice in the **Federal Register**.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the history of this site and explains how the site meets the deletion criteria.

Deletion of sites from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Furthermore, deletion from the NPL does not in any way alter U.S. EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist in Agency management.

II. NPL Deletion Criteria

The NCP establishes the criteria the Agency uses to delete Sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making this determination, U.S. EPA will consider, in consultation with the State, whether any of the following criteria have been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required; or

(ii) All appropriate Fund-financed responses under CERCLA have been implemented, and no further response action by responsible parties is appropriate; or

(iii) The Remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, remedial measures are not appropriate.

III. Deletion Procedures

Upon determination that at least one of the criteria described in 300.425(e) has been met, U.S. EPA may formally begin deletion procedures once the State has concurred. This **Federal Register** notice, and a concurrent notice in the local newspaper in the vicinity of the Site, announce the initiation of a 30-day comment period. The public is asked to comment on U.S. EPA's intention to delete the Site from the NPL. All critical documents needed to evaluate U.S. EPA's decision are included in the information repository and the deletion docket.

Upon completion of the public comment period, if necessary, the U.S. EPA Regional Office will prepare a Responsiveness Summary to evaluate and address comments that were received. The public is welcome to contact the U.S. EPA Region 5 Office to obtain a copy of this responsiveness summary, if one is prepared. If U.S. EPA then determines the deletion from the NPL is appropriate, final notice of deletion will be published in the **Federal Register**.

IV. Basis for Intended Site Deletion

The Waste Disposal Engineering, Inc., Site occupies approximately 114 acres in the City of Andover, Minnesota. Andover has a population of approximately 9000 and is located 20 miles north of Minneapolis/St. Paul. Land uses in the vicinity of the site include agricultural, commercial, and residential, with several subdivisions and a stream bordering directly on the site. Some area residents rely on local ground water as a drinking water supply.

The site operated as an open dump from 1963 to 1971, and as a landfill from 1971 until 1983. Approximately 2.5 million cubic yards of solid municipal and industrial wastes and 3 million gallons of liquid industrial wastes were deposited at the site during this time. The site was proposed for the NPL July 16, 1982. The listing was finalized on September 8, 1983, **Federal Register** number 175, volume number 48 and Page number 40658–40682.

A Remedial Investigation/Feasibility Study was conducted at the site from 1984 through 1987. Contaminants of concern identified at the site include a number of volatile organic compounds in ground water, including 1,1,1-trichloroethane, trichloroethene, and vinyl chloride, at concentrations well above Maximum Contaminant Levels. The site posed potential threats to human health and the environment through direct contact with wastes, soils, and leachate seeps; ingestion of ground or surface water impacted by the site; and possible off-site migration of landfill gas containing hazardous constituents.

On December 31, 1987, the Regional Administrator signed a Record of Decision (ROD) selecting the following remedy:

1. A multilayer soil cap;
2. A ground water containment (extraction and treatment) system;
3. A slurry wall/non-aqueous phase layer control system for a portion of the site;
4. Wetlands replacement;
5. A monitoring program for ground water, surface water, and landfill gas;
6. An operation and maintenance program; and
7. Institutional controls.

After attempts at negotiating a consent decree with the PRPs failed, U.S. EPA issued a CERCLA Section 106 Unilateral Administrative Order for Remedial Design/Remedial Action (RD/RA) to 28 PRPs on August 23, 1991. The PRPs agreed to implement the Order and completed the RD for Operable Unit (OU) 1, the ground water containment system, in October 1992. OU1 Construction was initiated in October 1992 and completed in September 1993. The RD for OU2, the multilayer cap, was completed in December 1992, with construction completed in August 1994. The State provided oversight of all RD/RA activities under a cooperative agreement with U.S. EPA. U.S. EPA and the State conducted a final inspection of the site on August 9, 1994.

After the final inspection was completed, the PRPs were required to discontinue operation of the ground water containment system for several months due to difficulties in meeting permit requirements for the discharge of the ground water to a sanitary sewer. The ground water exhibited a low flash point, creating the hazard of fire or explosion in the sewer, and the PRPs concluded that the presence of landfill gas in the ground water was responsible. U.S. EPA approved the PRP's proposal to construct an air stripping system for the extracted ground water in March 1995 and the system was completed in June 1995.

The ground water containment system has operated without interruption since June 1995, and no further construction is anticipated. U.S. EPA approved the Remedial Action Report submitted by the PRPs and issued the Certification of Completion of Remedial Construction required under the Order to the PRPs on August 10, 1995. U.S. EPA has also approved the Operation and Maintenance Plan and, as a result, only routine operating, maintenance, and monitoring are presently required.

Activities at the site were consistent with the ROD, and work plans were issued to contractors for design and construction of the RA, including sampling and analysis. The RD Report, including a Quality Assurance Project Plan, incorporated all U.S. EPA and State quality assurance and quality control (QA/QC) procedures and protocol. U.S. EPA analytical methods were used for all validation and monitoring samples during remedial action activities.

The QA/QC program utilized throughout this remedial action was rigorous and in conformance with U.S. EPA and State standards; therefore U.S. EPA and the State determined that all analytical results are accurate to the degree needed to assure satisfactory execution of the remedial action, and consistent with the ROD and RD plans and specifications.

Since 1983 the MPCA and the U.S. EPA have been involved in numerous community relations activities associated with the Waste Disposal Engineering Site. Numerous fact sheets and news releases were issued throughout the remedial investigation/feasibility study (RI/FS). Public meetings were held at the beginning of the project on the remedial investigation report and on the proposed remedy. The City of Andover and Anoka County officials were invited to participate in the discussions.

On September 3, 1987, the MPCA issued a news release on the proposed remedy and the public meeting. On September 8, 1987, U.S. EPA sponsored an ad in the Minneapolis daily paper announcing the beginning of the public comment period. On September 14, 1987, a public meeting was held in the Andover City Hall. On September 29, 1987, the public comment period was closed. On March 17, 1993, an Environmental News Release announced the operation schedule of the cleanup at the site.

All the components of the remedy have been fully implemented. On November 27, 1995, the site was issued a Notice of Compliance (NOC) from the State under the Minnesota Landfill Cleanup Law. The State has now assumed full responsibility for the remedy at this site, including achieving all cleanup levels for the remedy. Compliance with off-site surface water and ground water cleanup levels must still be demonstrated. U.S. EPA will proceed in deleting the site from the NPL.

EPA, with concurrence from the State of Minnesota, has determined that Responsible Parties and the State of Minnesota have implemented all appropriate response actions required at the Waste Disposal Engineering Inc. Superfund Site, and that no further CERCLA response is appropriate in order to provide protection of human health and the environment. Therefore, EPA proposes to delete the site from the NPL.

Dated: March 11, 1996.

David A. Ullrich,

Acting Regional Administrator, U.S. EPA, Region V.

[FR Doc. 96–7163 Filed 3–25–96; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 20 and 24

[WT Docket No. 96–59; GN Docket No. 90–314; FCC 96–119]

Broadband Personal Communications Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Communications Commission has adopted a Notice of Proposed Rule Making ("*Notice*") that proposes to resolve a number of issues relevant to the award of licenses for the broadband Personal Communications Services ("PCS") D, E, and F blocks. The *Notice* begins the process of supplementing the record supporting the gender- and race-based competitive bidding rules in the wake of *Adarand Constructors, Inc.* v. *Pena*, but it also tentatively concludes that the Commission should not delay auctioning the remaining broadband PCS frequency blocks long enough to complete that process. Accordingly, the *Notice* proposes to modify the F block auction rules to make them gender- and race-neutral. The *Notice* also seeks comment on several other matters relating to designated entities and entrepreneurs, including the definitions of small business and rural telephone company, whether to extend installment payment plans to small businesses bidding on the D and E blocks, adjustments to the payment plans available to small businesses bidding on the D and E blocks, and adjustments to the benefits provided to entrepreneurs in the F block rules that might be warranted in light of the fact that 10 MHz licenses are expected to have lower values than the 30 MHz C block licenses. In addition, the *Notice* proposes changes to the F block license transfer restrictions.

The *Notice* also proposes to resolve the question whether, in light of *Cincinnati Bell Telephone Co.* v. *FCC*, the Commission should for all broadband PCS licensees, retain or relax the cellular/PCS cross-ownership rule and the attribution rules for cellular licensees interested in acquiring broadband PCS licenses. In addition, the *Notice* proposes to amend the ownership information disclosure requirements for broadband PCS auction applicants, and proposes to auction the D, E, and F block licenses in concurrent auctions.

This *Notice* contains proposed or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed or modified information collections contained in this proceeding.

DATES: Comments must be submitted on or before April 15, 1996; reply comments must be submitted on or before April 25, 1996. Written comments by the public on the proposed and/or modified information collections are due April 15, 1996. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before May 28, 1996.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554. In addition to filing comments with the Secretary, a copy of any comments on information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, D.C. 20554, or via the Internet to dconway@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725—17th Street, N.W., Washington, D.C. 20503 or via the Internet to fain_t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: Mark Bollinger, Wireless

Telecommunications Bureau, (202) 418–0660. For additional information concerning the information collections contained in this *Notice*, contact Dorothy Conway at (202) 418–0217, or via the Internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making in WT Docket No. 96–59; GN Docket No. 90–314; FCC 96–119, adopted March 20, 1996 and released March 20, 1996. The complete text of the Notice of Proposed Rule Making is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C. and also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

This *Notice* contains either a proposed or modified information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this *Notice*, as required by the Paperwork Reduction Act of 1995, Pub. L. No. 104–13. Public and agency comments are due at the same time as other comments on this *Notice;* OMB notification of action is due 60 days from date of publication of this *Notice* in the **Federal Register**. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: N/A.

Title: Amendment of Part 20 and 24 of the Commission's Rules—Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap; Amendment of the Commission's Cellular PCS Cross-Ownership Rule.

Form No.: Form 175 and Form 600.

Type of Review: New collection.

Respondents: Business or other for-profit; individuals or households; not-for-profit institutions; and state, local and tribal governments.

Number of Respondents: 6,000.

Estimated Time Per Response: 13 hours.

Total Annual Burden: 77,817 hours.

Estimated costs per respondent: 2,848 dollars.

Needs and Uses: The auction rules require broadband PCS applicants for the D, E, and F blocks to submit (1) ownership information, (2) terms of joint bidding agreements, (3) net asset (F block only) and gross revenues calculations, and (4) evidence of environmental impact. Furthermore, in case a licensee defaults or loses its license, the Commission retains the discretion to re-auction such licenses. If licenses are re-auctioned, the new license winners would be required at the close of the re-auction to comply with the same disclosure requirements explained above.

The information collected will be used by the Commission to determine whether the applicant is legally, technically, and financially qualified to bid in the broadband PCS auctions and hold a broadband PCS license. Without such information the Commission could not determine whether to issue the license to the successful applicant and therefore fulfill its statutory responsibilities in accordance with the Communications Act of 1934, as amended.

SYNOPSIS OF THE NOTICE OF PROPOSED RULE MAKING

I. Introduction

In this *Notice*, the Commission seeks comment on a range of issues pertaining to the competitive bidding and ownership rules for the D, E, and F frequency blocks of the Personal Communications Services in the 2 GHz band ("broadband PCS"), and the Commission proposes modifications to these rules. A number of the issues the Commission addresses relate to the treatment of designated entities, *i.e.*, small businesses, rural telephone companies, and businesses owned by members of minority groups and women. In addition, on remand from the U.S. Circuit Court of Appeals for the Sixth Circuit, the Commission reexamines certain rules governing cellular licensees' ownership of broadband PCS licenses in all frequency bands.

II. Proposals

A. Treatment of Designated Entities

1. Meeting the Adarand Standard

2. In the *Competitive Bidding Fifth Report and Order*, 59 Fed Reg 37566 (July 22, 1994) the Commission adopted gender- and race-based provisions as part of the F block rules to encourage the participation of women- and minority-owned businesses in the provision of PCS. The standard of review applied to federal programs designed to enhance opportunities for racial minorities at the time the F block rules were adopted was an intermediate scrutiny standard.

3. In *Adarand v. Peña*, the Supreme Court invalidated the intermediate scrutiny standard for federal race-based programs. The Court held that all racial classifications, imposed by whatever federal, state or local government actor, must be analyzed by a reviewing court under strict scrutiny. In other words, such classifications are constitutional only if they are narrowly tailored to further a compelling governmental interest. Moreover, as the Court made clear in *Adarand*, a strict scrutiny standard of review will be applied even if the racial classifications are well motivated or "benign."

4. Application of the two-prong strict scrutiny standard of review to provisions designed to encourage minority participation in PCS requires the Commission to show (1) that a compelling governmental interest exists for taking race into account in adopting such provisions, and (2) that the provisions in question are narrowly tailored to further the compelling governmental interest established by the record and findings. *Richmond* v. *J.A. Croson Co.*, and other cases provide the Commission with some indications of the type of record it might be necessary to develop in order to meet the strict scrutiny standard.

5. In *Croson*, the Court held that remedying past discrimination constitutes a compelling interest, whether the discrimination was committed by the government or by private actors within its jurisdiction. Other courts have also held remedial measures—those intended to compensate for past discrimination—to be compelling governmental interests. In *Croson*, however, the Court makes clear that an interest in remedying general societal discrimination could not be considered compelling because a "generalized assertion" of past discrimination "has no logical stopping point" and would support unconstrained uses of racial classifications. Whether other objectives for race-based measures rise to the level of a compelling governmental interest is unclear. However, in a plurality opinion issued before *Adarand*, the Supreme Court indicated that non-remedial measures aimed at fostering ethnic diversity could satisfy the compelling interest requirement of strict scrutiny.

6. The Supreme Court in *Croson* noted the high standard of evidence required of the government to establish a compelling interest. It stated that the government must demonstrate a "strong basis in evidence for its conclusion that remedial action was necessary" and that such evidence should approach "a prima facie case of a constitutional or statutory violation of the rights of minorities." Other courts, in cases decided after *Croson*, have held that statistical evidence can be probative of discrimination in the remedial setting, and that anecdotal evidence can buttress statistical evidence.

7. As indicated above, even if a compelling governmental interest is established, the second prong of the strict scrutiny test, narrow tailoring, must also be shown. This requirement is intended to ensure "that the means chosen 'fit' [the] compelling goal so closely that there is little or no possibility that the motive for the classification was illegitimate racial prejudice or stereotype." Different factors have been used by courts to determine, under a strict scrutiny standard, whether a program is narrowly tailored. These include: (1) whether race-neutral measures were considered before adopting race-conscious measures; (2) the scope of the program and whether it contains a waiver mechanism that facilitates narrowing of that scope; (3) the comparison of any numerical target to the number of qualified minorities in the relevant sector; (4) the duration of the program and whether it is subject to periodic review; (5) the manner in which race is considered; and (6) the degree and type of burden on non-minorities.

8. An intermediate scrutiny standard of review currently applies to gender-based measures. Under this standard, a gender-based provision is constitutional if it serves an important governmental objective and is substantially related to achievement of that objectivo. The Supreme Court has not addressed constitutional challenges to federal gender-based programs since *Adarand*. However, the Court's refusal in *Adarand* to apply a less strict standard to benign race-based classifications than that applied to "invidious" race-based classifications suggests that the same standard should be applied to benign and invidious gender-based classifications.

9. In the *Competitive Bidding Sixth Report and Order*, 60 FR 37786 (July 21, 1995), in which it eliminated the race- and gender-based provisions in the C block rules, the Commission expressed its concern that the record would not adequately support the race- and gender-based provisions in the C block competitive bidding rules under a strict scrutiny standard of review. The evidence supporting the gender- and race-based provisions cited in the *Competitive Bidding Fifth Report and Order* primarily shows broad discrimination against racial groups and women by lenders and underrepresentation of these groups as owners and employees in the communications industry. Similar evidence has been submitted to the Commission since that time, including evidence supporting a petition for reconsideration of the *Competitive Bidding Sixth Report and Order*.

10. The Commission continues to believe that this evidence is insufficient to demonstrate a compelling interest under the strict scrutiny standard to support the race-based provisions of the F block because it reflects primarily generalized assertions of discrimination. *Adarand* and *Croson* make clear that only a record of discrimination against a particular racial group would support remedial measures designed to help that group. Therefore, the Commission believes that a record of discrimination against minorities in general is not sufficient. Specific evidence of discrimination against particular racial groups would be required to support a rule for any group. Commission Rules define minority group members to include Blacks, Hispanics, American Indians, Alaskan Natives, Asians, and Pacific Islanders. Although the Commission has some general evidence of discrimination against certain racial groups, none of the evidence it has appears to satisfy strict scrutiny.

11. The Commission notes too that last year, the D.C. Circuit Court of Appeals stayed the C block auction in response to a constitutional equal protection challenge against women- and minority-based provisions, even though an intermediate level standard of review applied. Thus, the Commission tentatively concludes that the present record in support of race-based F block provisions is insufficient to satisfy strict scrutiny. The Commission seeks comment on this tentative conclusion. The Commission also requests comment on whether the F block provisions promote a compelling governmental interest and, more particularly, whether compensating for discrimination in lending practices and in practices in the communications industry constitutes such an interest. The Commission also asks interested parties to comment on nonremedial objectives that could be furthered by the minority-based provisions of the F block rules and whether they could be considered compelling governmental interests, such as increased diversity in ownership and employment in the communications industry or increased industry competition. In commenting, the Commission asks parties to submit statistical data, personal accounts, studies, or any other data relevant to the entry of specific racial groups into the field of telecommunications. Examples of relevant evidence could include discrimination against minorities trying to obtain FCC licenses for auctioned or non-auctioned spectrum; discrimination against minorities seeking positions of ownership or employment in communications or related businesses; discrimination against minorities attempting to obtain capital to start up or expand a telecommunications enterprise, including terms and conditions; and discrimination against minorities operating telecommunications businesses, including treatment by vendors, FCC licensees, and suppliers.

12. The Commission also asks those parties who conclude that the race-based provisions serve a compelling governmental interest to comment on whether the provisions are narrowly tailored to serve that interest. Are these provisions sufficiently narrow in scope? Do they unduly burden non-minorities? Would race-neutral measures further the same interests and achieve the same objectives as race-conscious measures?

13. In addition, the Commission also tentatively concludes that the present record in support of the gender-based F block rules may be insufficient to satisfy intermediate scrutiny. The Commission seeks comment on this tentative conclusion. The Commission also seeks comment on whether there are remedial or nonremedial goals that would satisfy the "important governmental objective" requirement of the intermediate scrutiny standard. Are the gender-based F block rules "substantially related" to the achievement of such objectives? Just as it requested for the F block race-based provisions, the Commission asks parties to submit statistical data, personal accounts studies or any other data relevant to the entry of women into the field of telecommunications.

14. The Commission also is interested in supplementing the current record to support race- and gender-based provisions in other rules. In this regard, the Commission plans shortly to issue a Notice of Inquiry that requests evidence of current and past discrimination experienced by small businesses and businesses owned by women and minorities or by individual women and minorities. The record outlined in response to this Notice will also be incorporated into that Docket.

15. The Commission undertakes this effort to support the auction rules because it is committed to fulfilling the Congressional mandate to provide opportunities for women- and minority-owned businesses through the competitive bidding process. The Commission believes, however, that marshaling sufficient evidence to satisfy the strict scrutiny standard of review now applicable to federal race-based programs may be a time-consuming process, and it is mindful that it may not fulfill its other obligations under Section 309(j) if it delayed the award of F block licenses until that process is complete.

16. The Commission notes that some representatives of the telecommunications industry have voiced a need to have the D, E, and F block licenses awarded quickly. With the completion of the C block auction, the Commission will have neared completion of awarding the 30 MHz A, B, and C block licenses. Any entity with plans to aggregate a 10 MHz F block license with a 30 MHz A, B, or C block PCS license or any cellular or Specialized Mobile Radio ("SMR") licensee that plans to acquire a 10 MHz license for use in its service area, the Commission believes, will be interested in swift auctioning of D, E, and F block licenses. The Commission also believes that entities that were unable to win licenses in the previous PCS auctions may be interested in bidding on the D, E, and F blocks, and that it will be important to these entities to acquire licenses quickly so that they can compete at the earliest point possible with other providers of Commercial Mobile Radio Services ("CMRS"), and with wireline service providers. Further, the Commission believes that both Congress and consumers expect it to promote the rapid development of PCS. Balancing its obligation to provide opportunities for women- and minority-owned businesses to participate in spectrum-based services against its statutory duties to facilitate the rapid delivery of new services to the American consumer and promote efficient use of the spectrum, the Commission tentatively concludes that it should not delay the F block auction for the amount of time it would take to adduce sufficient evidence to support the race- and gender-based F block provisions. While the Commission could proceed with the F block auction under the current rules, it tentatively concludes that this course of action would not serve the public interest because it may likely result in litigation that would delay the auction, the dissemination of additional broadband PCS licenses, and ultimately the introduction of competition.

17. As a result, the Commission tentatively concludes that if it is unable to gather sufficient evidence to support the race- and gender-based provisions in the instant proceeding, it should eliminate these provisions from the rules and proceed as expeditiously as possible to auction the remaining broadband PCS licenses. The Commission seeks comment on these tentative conclusions.

18. In reaching these tentative conclusions, the Commission notes that of the 255 bidders that qualified to bid in the C block auction, 46 claimed minority-owned business status and 34 claimed women-owned business status. These statistics indicate that even without the women- and minority-owned business specific provisions in the C block rules, women- and minority-owned businesses were able to participate in the auction. However, one could also argue that the presence of race- and gender-based rules before the *Competitive Bidding Sixth Report and Order* encouraged the participation of minorities and women. It may have helped such companies open the door to discussions with investors that persisted even when the rules changed. Indeed, in the *Competitive Bidding Sixth Report and Order*, one of the Commission's primary objectives was to preserve the relationships and deals minority- and women-owned companies had made prior to the rule change. As discussed more fully below, the Commission seeks comment on whether, if it ultimately decides to make the F block rules race- and gender-neutral, it should do so by making these rules conform to the C block rules, or whether other approaches to amending the F block rules would be more appropriate. The Commission also seeks comment on how the Commission can meet its statutory requirement under Section 309(j) to ensure participation by minorities and women in the provision of service, if the rules are changed to be race- and gender-neutral.

a. Control Group Equity Structures

19. To be eligible to participate in the entrepreneurs' block auctions, an applicant, together with its affiliates and persons or entities that hold interests in the applicant, must have gross revenues of less than $125 million in each of the last two years and total assets of less than $500 million. Under the Commission's current rules, the gross revenues and total assets of certain persons or entities holding interests in an applicant will not be considered for purposes of determining eligibility to participate in the F block auction if the applicant utilizes one of two equity structures. Use of either of these equity structures requires the applicant to form a "control group," but one of these options is available only to minority- and women-owned businesses.

20. The first equity structure option, the *Control Group Minimum 25 Percent Equity Option*, is available to all applicants for the F block auction. Under this option, the control group must hold at least 25 percent of the applicant's total equity. Of that 25 percent, at least 15 percent must be held by "qualifying investors." The remaining ten percent may be held by qualifying investors, certain institutional investors, non-controlling existing investors in any preexisting entity that is a member of the control group, or individuals that are members of the applicant's management. In addition, members of the control group must have *de facto* control of the control group and of the applicant, and hold at least 50.1 percent of the voting stock or all general partnership interests. If these requirements are met, the remaining 75 percent of the applicant's equity may be held by other non-controlling investors, and the gross revenues and total assets of any such investor will not be attributed to the applicant provided that the investor holds no more than 25 percent of the total equity of the applicant.

21. The second equity structure option, the *Control Group Minimum 50.1 Percent Equity Option*, is currently available only to minority- or women-owned applicants for the F block auction. Under this option, the control group must own at least 50.1 percent of the applicant's total equity. Of that 50.1 percent equity, at least 30 percent must be held by qualifying investors who are members of minority groups or women. The remaining 20.1 percent may be held by qualifying investors, certain institutional investors, non-controlling existing investors in any preexisting entity that is a member of the control group, or individuals who are members of the applicant's management. In addition, members of the control group must hold 50.1 percent of the voting stock or all general partnership interests, and have *de facto* control of both the control group and the applicant. If these requirements are met, the remaining 49.9 percent of the applicant's equity may be held by a single non-controlling investor, and the gross revenues and total assets of any such investor will not be attributed.

22. When the Commission adopted the *Control Group Minimum 50.1 Percent Equity Option*, it determined that making such a mechanism available to minority- and women-owned businesses would help them attract adequate financing. However, in light of the Supreme Court's holding in *Adarand*, the Commission tentatively concludes that, if it determines after reviewing the comments in this proceeding that it still does not have a sufficient record to support offering the 50.1/49.9 percent equity structure only to women- and minority-owned businesses, it should make the *Control Group Minimum 50.1 Percent Equity Option* available to small businesses and entrepreneurs as it did in the C block auction. In other words, if commenters in this proceeding are unable to supply sufficient evidence to meet the applicable standard of review, the Commission proposes to modify the rules to permit all F block applicants to avail themselves of the 50.1/49.9 percent equity structure. The Commission believes that such a rule change, which is identical to a rule change upheld in the C block by the D.C. Circuit, would facilitate the expeditious dissemination of the F block licenses by forestalling the legal challenges based on *Adarand* that would likely result if it moved forward with this rule in its current form. The Commission seeks comment on this proposal. Since this control group option was adopted to help minority- and women-owned businesses, in particular, attract capital, the Commission also seeks comment on whether it needs to extend this provision to all small businesses here.

23. As an alternative to adopting the above rule changes, the Commission could simplify or abandon both control group equity structure options currently offered to F block applicants. Should it, for example, provide that only the gross revenues and assets of controlling principals in the applicant, together with any affiliates of the applicant, be aggregated to determine eligibility? If the Commission were to modify the rules in this way, how should it determine who is a controlling principal? Alternatively, the Commission could aggregate the gross revenues and assets of controlling principals and any investor that has an interest in the applicant that exceeds a certain percentage. For example, the Commission could provide that only the gross revenues of investors with an ownership interest of 25 percent or more in the applicant will be aggregated with the assets of controlling principals. If the Commission were to adopt this modification, what percentage of interest in the applicant should it adopt as the threshold? The Commission seeks comment on these and other options that interested parties might wish to propose.

24. Finally, the Commission asks commenters to discuss whether there is any need to make adjustments to the financial eligibility threshold for the F block auction. Is there a concern, for example, that C block winners will be disqualified from acquiring F block licenses by virtue of the valuation of their C block licenses? Should the Commission simply allow any qualified C block bidder to bid on F block licenses?

b. Affiliation Rules

25. The Commission adopted affiliation rules for identifying all individuals and entities whose gross revenues and assets must be aggregated with those of the applicant to determine whether the applicant exceeds the financial caps for the entrepreneurs' blocks or for small business size status. The affiliation rules identify which individuals or entities will be found to control or be controlled by the applicant or an attributable investor in the applicant by specifying which ownership interests or other criteria will give rise to an affiliation.

26. The Commission adopted two exceptions to the affiliation rules in the broadband PCS C and F block context. Under one exception, applicants affiliated with Indian tribes and Alaska Regional or Village Corporations organized pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 *et seq.*, are generally exempted from the affiliation rules for purposes of determining eligibility to participate in bidding on C and F block licenses and to qualify as a small business. Under the second exception, as originally adopted, the gross revenues and assets of affiliates controlled by minority investors who are members of the applicant's control group are not attributed to the applicant for purposes of determining compliance with the eligibility standards for participation in the entrepreneurs' block auctions.

27. In the *Further Notice of Proposed Rule Making*, 60 FR 34201 (June 30, 1995), the Commission proposed elimination of the exception to the affiliation rules pertaining to minority investors for purposes of the C block auction. This exception was intended to permit minority investors who control other concerns to be members of an applicant's control group and to bring their management skills and financial resources to bear in its operation without the assets and revenues of those other concerns being counted as part of the applicant's total assets and revenues. The Commission further anticipated that such an exception would permit minority applicants to pool their resources with other minority-owned businesses and draw on the expertise of those who have faced similar barriers to raising capital in the past. The Commission tentatively concluded that it would be imprudent to extend such an exception to all entrepreneurs because to do so would frustrate the Commission's goals in establishing the entrepreneurs' blocks—namely, to ensure that broadband PCS licenses will be disseminated among a wide variety of applicants and to exclude large telecommunications companies from bidding on such blocks.

28. In the *Competitive Bidding Sixth Report and Order*, however, the Commission declined to eliminate the exception and adopted a modification to the minority affiliation rule for the C block which was suggested by commenters. The modified rule, 47 CFR § 24.720(l)(11)(ii), allows all small business applicants to exclude any affiliates who would otherwise qualify as entrepreneurs by having gross revenues under $125 million and total assets under $500 million and whose total assets and gross revenues, when considered on a cumulative basis and aggregated with each other, do not exceed these amounts. This rule change in the C block was affirmed by the D.C. Circuit Court of Appeals.

29. The Commission seeks comment on whether, if it determines that the record is insufficient to support an exception to the affiliation rule based on race, it should amend the affiliation rule for the F block to eliminate the exception pertaining to minority investors, as was originally proposed for the C block, or whether it should adopt the C block's modified exception. It has been alleged that the modification of the exception for minority investors for purposes of the C block auction could lead to abuse. The Commission believes that its experience with the C block auction may show whether this rule has had its intended effect of allowing small businesses to pool their resources to bid on capital-intensive services and draw on the expertise of those who have started small businesses. If information from the C block auction is relevant to whether the Commission should amend the rule, it proposes to incorporate it here. The Commission also seeks comment on whether this modified minority investors exception would serve the public interest given the fact that F block licenses are smaller than C

block licenses and are expected to have lower values.

30. The Commission does not propose to eliminate the affiliation exception for Indian tribes and Alaska Regional or Village Corporations. It tentatively concludes that the "Indian Commerce Clause" of the United States Constitution provides an independent basis for this exception that is not implicated by the holding in *Adarand*. The Commission requests comment on this tentative conclusion.

c. Installment Payments

31. As a general matter, entrepreneurs' block licensees are eligible for installment payment plans that afford them the opportunity to pay for their licenses over a period of time at favorable interest rates, rather than pay for the licenses in full at the time of grant.

32. Five different installment payment plans are currently available to F block applicants under Section 24.716 of the Commission's Rules. The first installment payment plan, which is available to entities with gross revenues in excess of $75 million, allows them to pay interest based on the ten-year U.S. Treasury rate plus 3.5 percent, with payment of principal and interest amortized over the term of the license. The second installment payment plan, which is available to entities with gross revenues between $40 and $75 million, provides for the payment of interest equal to the ten-year U.S. Treasury rate plus 2.5 percent. Entities eligible for this plan make interest-only payments for one year, with the principal and interest amortized over the remaining nine years of the license term.

33. The third installment payment plan is available only to entities that qualify as a small business or consortium of small businesses. This plan provides for the payment of interest at the ten-year U.S. Treasury rate plus 2.5 percent, but allows eligible entities to make interest-only payments for two years, with principal and interest amortized over the remaining eight years of the license term.

34. The fourth plan provides for interest-only payments for three years and payments of principal and interest over the remaining seven years of the license term and is only available to businesses owned by members of minority groups or women. The final and most favorable installment payment plan provides for interest-only payments for six years and payments of principal and interest amortized over the remaining four years of the license term. This plan is available only to small businesses owned by members of minority groups or women.

35. In the event the Commission finds after reviewing the comments in this proceeding that the record is insufficient to sustain the race- and gender-based provisions of the F block rules under the appropriate standard of review, the Commission proposes to modify Section 24.716 to eliminate the special provisions that are tied to an applicant's status as a minority- or women-owned business. The Commission seeks comment on whether it should provide for three installment payment plans based solely on financial size, as it did for the C block. Under this approach, the first two installment payments described above—those for eligible bidders with gross revenues exceeding $75 million and with gross revenues between $40 and $75 million—would remain unchanged. The most favorable installment payment plan—set forth in Section 24.716(b)(5) and previously available only to small minority- or women-owned firms—would be made available to all small businesses. Thus, all small businesses would be permitted to pay for their licenses in installments at the ten-year U.S. Treasury rate applicable on the date the license is granted, and would be permitted to make interest-only payments for the first six years, with payments of principal and interest amortized over the remaining four years of the license term. As discussed below, however, the Commission also seeks comment on whether such favorable payment terms are necessary for F block auction winners and, in particular, whether the 6-year interest only period serves the public interest given that the amounts bid for the 10 MHz licenses most likely would be lower than those bid for 30 MHz licenses in the C block.

d. Bidding Credits

36. A bidding credit acts as a discount on the winning bid amount that a bidder actually has to pay for the license. The current F block rules provide for three tiers of bidding credits ranging between 10 percent and 25 percent. Under these rules, a small business is granted a 10 percent bidding credit, a business that is owned by members of minority groups or women is granted a 15 percent bidding credit, and a small business owned by members of minority groups or women is allowed to aggregate the bidding credits for a 25 percent bidding credit.

37. If the Commission finds that they cannot withstand judicial review on the basis of the evidence adduced in this proceeding, it proposes to eliminate the race- and gender-based bidding credits in the F block rules. The Commission believe that this proposed rule change, like the other proposals for making the rules race- and gender-neutral, should allow it and prospective bidders to avoid litigation based on Adarand and thus will permit the auction to proceed without delay. The Commission seeks comment on this proposal. It also seeks comment on whether it should, in place of these bidding credits, extend a single bidding credit to all small businesses as it did for the C block. If the Commission chooses to adopt a single small business bidding credit for the F block, how big should the credit be? Should the Commission retain one of the three bidding credits currently provided—10, 15 or 25 percent—and make it available to all small businesses bidding in the F block? In the alternative, should the Commission offer tiered bidding credits, such as 15 percent for small businesses with aggregate gross revenues under $15 million and 10 percent for businesses with gross revenues between $15 million and $40 million? The Commission tentatively concludes that because the value of 10 MHz licenses may be lower than the value of 30 MHz licenses, a smaller bidding credit than was offered C block bidders may be appropriate for F block bidders. The Commission also tentatively concludes that these lower expected values may attract smaller businesses, thus justifying a tiered bidding credit. The Commission seeks comments on these tentative conclusions.

e. Information Collection

38. If the Commission eliminates the race- and gender-based provisions in the F block rules because it finds after reviewing the comments in this proceeding that it still does not have a record sufficient to withstand the appropriate standard of review, it intends nonetheless to continue to request that applicants provide information regarding minority- or women owned status in their short-form applications. The Commission notes that it has collected such information concerning participants in ongoing auctions, including the C block auction. The Commission believes that continuing to collect such information will assist it in analyzing applicant pools and auction results to determine whether it has promoted substantial participation in auctions by minorities and women, as Congress directed, through the special provisions it propose to make available to small businesses. This information will also assist the Commission in preparing a report to Congress on the participation of designated entities in the auctions and in the provision of spectrum-based services. In addition, such information will be relevant in developing a supplemental record should the Commission find that special provisions for small businesses prove unsuccessful in encouraging the dissemination of licenses to a wide variety of applicants, including businesses owned by members of minority groups and women. The Commission seeks comment on this information collection proposal.

2. Definitions

a. Small Business

39. The proposal to extend to small businesses certain F block rule provisions previously applicable only to women- and minority-owned businesses highlights the importance of the definition of a small business. The current generic auction rules enable the Commission to establish a small business definition in the context of each particular service. Under the specific rule for the C and F blocks, a "small business" is defined as an entity that, together with its affiliates and persons or entities that hold interests in such entity and their affiliates, has average gross revenues that are not more than $40 million for the preceding three years.

40. The Commission requests comment on whether the definition of small business continues to be appropriate. Is a threshold of average gross revenues of not more than $40 million too high or too low for entities bidding on 10 MHz licenses? How does the definition of small business in Section 24.720(b)(1) compare to the definition of small businesses for other services? Does the current service-by-service approach remain valid? In the alternative, would it be feasible to establish an appropriate small business size applicable to all CMRS services? The Commission proposes to keep the current small business definition for the F block—the same definition used for the C block—to allow C block small business licensees to benefit from the small business provisions of the F block. The Commission requests comment on this proposal. However, the Commission is concerned that by using this threshold, C block winners may not be able to acquire F block licenses given the value of their C block licenses. The Commission, therefore, requests comment on whether the value of a C block license should be part of the gross revenues calculation. The Commission also requests comment on whether it should define and adopt rules for very small businesses. If so, what should be the appropriate size standard for very small businesses and why? Instead of or in addition to modifying the small business definition, should the Commission modify or simplify the affiliation rules? The Commission notes that the Small Business Administration recently simplified the definition of "affiliate" in its rules.

b. Rural Telephone Company

41. In the *Competitive Bidding Fifth Report and Order*, the Commission established provisions to help rural telephone companies become meaningful participants in the PCS industry and defined a rural telephone company as "a local exchange carrier having 100,000 or fewer access lines, including all affiliates." The impact of this definition was to identify entities that qualified for the partitioning system that the Commission adopted to allow rural telephone companies to obtain broadband PCS licenses that are geographically partitioned from large PCS service areas.

42. The Telecommunications Act of 1996 creates, for the first time, a statutory definition for rural telephone companies. The Commission requests comment on whether Congress intended to define the term rural telephone company used in Section 309(j) or whether it was only meant to define the term as used in new sections of the Communications Act, such as Section 251. In any event, should the Commission change the definition of a rural telephone company to this definition for purposes of the broadband PCS designated entity provisions. The Commission also asks commenters to discuss how adoption of this definition would affect the current rules allowing geographic partitioning of rural areas served by rural telephone companies.

3. Extending Small Business Provisions to the D and E Blocks

43. The rule modifications discussed above would extend greater bidding credits and more favorable installment payment plans to all small business bidders in the F block auction. The D and E blocks are not entrepreneurs' blocks, and current D and E block auction rules do not make special provision for small businesses. Members of the telecommunications industry, however, have expressed a desire for the Commission to extend the small business provisions of the F block auction rules to bidders for D and E block licenses.

44. The Commission requests comment on whether it should extend installment payment plans to small businesses bidding on the D and E blocks. From parties that believe the Commission should extend these provisions to the D and E blocks, the Commission also requests comment on the terms for these provisions for D and E block small businesses. For example, should small businesses bidding in the D and E blocks qualify for installment payments with the same terms as small businesses in the F block, or should D and E block small businesses receive less favorable payment terms? The Commission tentatively concludes that extension of installment payments could result in disseminating licenses in the D and E blocks to a wider variety of applicants in two ways. First, it could increase the chances for all small businesses, including those that are women- or minority-owned and that would have benefited from the F block provisions that it proposes to change, to win a D, E, or F block license. Second, it could increase opportunities for small businesses that are current PCS, cellular, or SMR licensees to obtain 10 MHz-licenses that they could aggregate with their current licenses. The Commission requests comment on this tentative conclusion.

4. Adjusting for Lower Values of 10 MHz Licenses

45. Notwithstanding the Commission's desire to increase opportunities for small businesses, including those that are women- and minority-owned, to acquire PCS licenses, the Commission is aware that winning bids for the D, E, and F block licenses, which authorize the use of 10 MHz, could be lower than those for the 30 MHz A, B, and C block licenses. Accordingly, it asks for comment on whether it should adjust the terms of the installment financing provisions to reflect the lower values of the 10 MHz license. Are the installment payment plans for small businesses too generous in light of the expected lower values of the 10 MHz licenses? In particular, is it in the public interest to offer a 6-year interest-only period for all small business F block licensees?

46. Similarly, the Commission seeks comment on whether the F block rules establishing discounted upfront payments and reduced down payments for entrepreneurs should be adjusted. Upfront payment requirements are designed to ensure that only serious and qualified bidders participate in the Commission's spectrum auctions, and to deter frivolous or insincere bidding. Upfront payments are also required to provide the Commission with a source of funds in the event that it becomes necessary to assess default or bid withdrawal payments. The

Commission's rules currently require participants in the F block auction to submit an upfront payment of $0.015 per MHz per pop (or per bidding unit) for the maximum number of licenses (in terms of bidding units) on which they intend to bid. This differs from the standard upfront payment formula originally set at $0.02 per MHz-pop for broadband PCS services, which was utilized in the A and B block auctions and will be required in the D and E blocks. The 25 percent discount on the upfront payment for the entrepreneurs' block auctions was intended to facilitate the participation of capital-constrained companies and permit them to conserve resources for infrastructure development after winning a license.

47. The Commission requests comment on whether a discounted upfront payment is necessary to encourage the participation of entrepreneurs and designated entities in the F block auction. It also requests comment on whether the discounted upfront payment is sufficient to ensure that only serious and qualified bidders participate in the F block auction. Is the discounted upfront payment amount an adequate measure of a bidder's ability to pay for the licenses it might win and to meet the Commission's build-out requirements? Or, should the Commission increase the required upfront payment to $0.02 per bidding unit or more in order to minimize the possibility of insincere or frivolous bidding and bidder default?

48. The F block rules also discount down payments for winning bidders. The primary purpose of the down payment requirement is to ensure that a winning bidder will be able to pay the full amount of its winning bid. In arriving at an appropriate level for the down payment, the Commission sought to ensure that auction winners would have the necessary financial capabilities to complete payment for the license and to pay for the costs of constructing a system. At the same time, the Commission did not want to require a down payment so onerous as to hinder an applicant's growth and diminish its access to capital. The Commission decided to require winning bidders in broadband PCS auctions (except for those eligible for installment payments in the entrepreneurs' blocks) to supplement their upfront payment with a down payment sufficient to bring their total deposits up to 20 percent of their winning bid(s). For winning bidders in the entrepreneurs' blocks auctions, the Commission agreed to require a reduced down payment of only ten percent of the winning bid. Currently, a winning bidder in the F block auction is required to make a down payment equal to ten percent of its net winning bid, with five percent due within five days of the close of the auction, and the remainder due within five days of the grant of the license.

49. The Commission now requests comment on whether this reduction in the down payment requirement is necessary to facilitate the participation of entrepreneurs and designated entities in providing service to the public as F block licensees. The Commission also requests comment on whether the reduced down payment is sufficient to demonstrate that a winning bidder has the necessary financial capabilities to complete payment for the license and to pay for the costs of constructing a system. Should the Commission increase the required down payment to 20 percent of the winning bid in order to guard against the possibility of bidder default? Would a higher payment hinder growth and access to capital?

5. Rules Regarding the Holding of Licenses

50. In the *Competitive Bidding Fifth Report and Order*, the Commission adopted restrictions on the transfer or assignment of licenses won by bidders in the entrepreneurs' blocks. These restrictions were designed to ensure that licensees did not take unfair advantage of entrepreneurs' block special provisions by immediately assigning or transferring control of their licenses to other entities. The rules prohibit licensees in the entrepreneurs' block from voluntarily assigning or transferring control of their license during the three years after the date of the license grant. Two years thereafter, the licensee is permitted to assign or transfer control of its authorization only to an entity that satisfies the eligibility criteria for the entrepreneurs' blocks.

51. The Commission also adopted specific rules to prevent recipients of bidding credits and installment payment plans from realizing any unjust enrichment that they might gain from transfer or assignment that occurs during the full ten-year license term. With regard to bidding credits, the rules require that if a licensee applies to assign or transfer control of a license to an entity that is not eligible for as high a level of bidding credit, then the difference between the bidding credit obtained by the assigning party and the bidding credit for which the acquiring party would qualify must be paid to the U.S. Treasury as a condition of approval of the transfer or assignment. If a licensee that was awarded installment payments seeks to assign or transfer control of its license during the term of the license to an entity not meeting the applicable eligibility standards, the rules require payment of the remaining principal and any interest accrued through the date of assignment as a condition of approval of the transfer or assignment.

52. The Commission tentatively concludes that, in addition to the changes that it proposes to the F block auction rules, some measure is still needed to discourage speculators or sham bidders in the entrepreneurs' block auction. The Commission also tentatively concludes that if it adopts the proposals to make the F block auction rules race- and gender-neutral, and extend small business provisions to bidders in all three 10 MHz broadband PCS blocks, the current transfer restrictions for F block licensees may be too restrictive. For example, under the proposed changes to the race- and gender-based provisions and the current transfer restriction, a small business cannot transfer its F block license in the first three years and, in the two years thereafter, may only transfer its license to another small business. An entrepreneur F block licensee, however, would be able to transfer its F block license in years four and five to any other entrepreneur, including a small business. Such a result goes farther than to merely discourage speculative bidding in the entrepreneurs' block auction. Therefore, the Commission proposes to amend the holding requirement to let all F block licensees transfer their licenses within the first three years to an entity that qualifies as an entrepreneur. The Commission also proposes to retain the unjust enrichment provisions. It seeks comment on this proposal and its tentative conclusions. It particularly seeks comment on whether entities participating in the C block auction may have had experiences that would influence the Commission's tentative conclusions here.

B. The Cincinnati Bell *Remand*

1. The Cellular/PCS Cross-ownership Rule

53. Under Section 24.204(a), no cellular licensee may be granted a license for more than 10 MHz of broadband PCS spectrum prior to the year 2000 if the grant will result in a significant overlap of the cellular licensee's Cellular Geographic Service Area ("CGSA") and the PCS service area. After the year 2000, cellular licensees will be allowed to obtain a grant of 15 MHz of PCS spectrum in an area that overlaps significantly with their CGSA. "Significant overlap" occurs when ten percent or more of the population of the PCS service area is contained within the CGSA. Thus, because cellular licenses authorize the use of 25 MHz of spectrum, cellular operators currently are limited to 35 MHz of aggregated cellular and PCS spectrum in any one geographic area.

54. In *Cincinnati Bell*, the Court concluded that the Commission's limitations on cellular operators' eligibility for PCS licenses are arbitrary because the FCC provided little or no support for its assertions that, without such restrictions, cellular providers might engage in anticompetitive practices or exert undue market power. The Court further explained that, while the Commission's stated goal of avoiding excessive concentration of licenses is a permissible objective under the Communications Act, the cellular eligibility rules are, without an economic rationale, an arbitrary solution to this problem. According to the Court, the FCC must supply more factual support for its belief that cellular operators might detrimentally affect the market if they were allowed to obtain licenses for larger amounts of PCS spectrum.

55. In light of the Sixth Circuit's ruling, the Commission seeks comment on whether the PCS/cellular cross-ownership rule should be relaxed or retained. Currently, the Commission's rules contain other spectrum caps that affect applicants for PCS licenses. The broadest limitation on wireless spectrum ownership is the 45 MHz cap on CMRS uses within three radio services: broadband PCS, cellular, and SMR. In addition, all PCS licensees are limited to a total of 40 MHz of spectrum in any one geographic area. This means that an entity may not own PCS licenses for any two or more spectrum blocks that will total more than 40 MHz in the same geographic area. Are there reasons for maintaining the separate 35 MHz spectrum cap on cellular providers' ownership of PCS spectrum in their service area or the 40 MHz PCS spectrum cap? Comments supporting retention of the current rules should provide facts showing that cellular operators will detrimentally affect the market if allowed to obtain immediately 10 MHz or more of PCS spectrum in their geographic service areas. The Commission also seeks comment on whether it should relax and simplify the ownership limitations by eliminating the PCS/cellular ownership limitations and the 40 MHz PCS spectrum cap in favor of the single 45 MHz CMRS spectrum cap. Under such a rule, cellular operators would be permitted to acquire licenses for two 10 MHz blocks of broadband PCS spectrum. The Commission asks commenters to discuss the impact on competition among CMRS providers, including the effect, if any, on the provision of PCS.

2. The 20 Percent Attribution Standard

56. For the purpose of determining whether an entity is a cellular operator and subject to the cellular/PCS cross-ownership rule, the Commission has developed attribution standards. Section 24.204(d)(2)(ii) of the Commission's Rules provides that partnership and other ownership interests and any stock interest amounting to 20 percent or more of the equity, or outstanding stock, or outstanding voting stock of a cellular licensee will be attributable. Thus, any entity owning such a 20 percent interest in a cellular licensee is precluded from obtaining a license for broadband PCS in excess of 10 MHz in a service area that overlaps the cellular licensee's CGSA.

57. Section 24.204(d)(2)(ii) also currently provides for a higher cellular ownership attribution threshold for small businesses, rural telephone companies, and businesses owned by minorities or women than for other entities. If cellular ownership interests are held by such types of businesses, their interests are not attributable until they reach at least 40 percent. Similarly, a cellular ownership interest held by an entity with a non-controlling equity interest in a broadband PCS licensee or applicant owned by minorities or women is attributable only if it reaches 40 percent or more.

58. The Court in *Cincinnati Bell* found the 20 percent cellular attribution standard to be arbitrary on the ground that it does not bear a reasonable relationship to whether a party with a minority interest in a cellular licensee actually has the ability to control that licensee. The Court rejected the FCC's argument that an entity with such an interest in a cellular licensee would have a reduced incentive to compete with the cellular company as a PCS provider, indicating that this argument is unsupported by either statistical data or a general economic theory and stating that the Commission must provide support for such predictive conclusions. In response to the FCC's argument that the Commission needs a bright-line rule to avoid delays in resolving PCS eligibility issues, the Court agreed with those challenging the 20 percent standard that the Commission should have supplied a reasoned basis for its decision not to adopt less restrictive alternatives.

59. The 45 MHz CMRS spectrum aggregation limit, discussed above, includes an attribution rule that governs how ownership interests are measured. Under this rule, partnership and other ownership interests, and any stock interest amounting to 20 percent or more of the equity, or outstanding stock, or outstanding voting stock of a broadband PCS, cellular, or SMR licensee shall be attributed, except that those interests held by small businesses, rural telephone companies, or businesses owned by minorities or women will not be attributed unless they reach a threshold level of 40 percent. Similarly, a CMRS ownership interest held by an entity with a non-controlling equity interest in a broadband PCS licensee or applicant owned by minorities or women is attributable only if it reaches 40 percent or more. The Commission's 20 percent attribution level for the CMRS spectrum cap was chosen to be consistent with the attribution standard for the PCS/cellular cross-ownership rule. The Commission supported this standard with an opinion of the Federal Accounting Standards Board which explicitly states that ownership interests below 20 percent presumptively do not have control and above 20 percent they do unless evidence to the contrary is established.

60. In the *Competitive Bidding Sixth Report and Order*, the cellular/PCS cross-ownership attribution rule and the CMRS spectrum aggregation rules were amended for purposes of C block licenses to eliminate race- and gender-based provisions and make the 40 percent attribution standard applicable only to interests held by a small business or rural telephone company and interests held by an entity with a non-controlling equity interest in a licensee or applicant that is a small business.

61. The Commission seeks comment on whether it should retain the ownership attribution rule for cellular licensees interested in acquiring broadband PCS licenses. The 20 percent attribution rule was fashioned to strike a balance between maximizing competition and allowing cellular entities to bring their expertise to PCS. The Commission did not adopt a rule that required inquiry into whether a party has a controlling interest in a cellular licensee because it believed a bright-line rule would result in faster, less burdensome licensing. However, the Sixth Circuit found that the Commission did not adequately justify this decision. Accordingly, the Commission seeks comment on whether the 20 percent attribution rule should be modified. Should the attribution rule be changed to a controlling interest test? Is there some other bright-line test that

might be used to avoid burdening the licensing process? Should the Commission adopt a single majority shareholder exception? Should the approach depend on whether the Commission modifies the cellular/PCS cross-ownership rule or, in the alternative, eliminates this rule and retains only the 45 MHz CMRS spectrum cap? Should the Commission, in any case, modify the 20 percent attribution standard applicable to the 45 MHz CMRS spectrum cap in light of the Sixth Circuit's opinion regarding this type of standard in connection with the cellular/PCS cross-ownership rule? The Commission notes that the 20 percent attribution standard and the 40 percent exception are the highest ownership attribution rules the Commission has. The new Telecommunications Act, in the definition of "affiliate", defines ownership as a 10 percent interest.

62. The Commission proposes to modify the cellular/PCS cross-ownership and CMRS spectrum aggregation limit rules for F block purposes to comply with the requirements of *Adarand*. It proposes to remove the provisions in these rules which increase the cellular attribution threshold to 40 percent on the basis of the race or gender of the holder of the ownership interest or of the broadband PCS applicant in which such holder is an investor. Accordingly, the Commission proposes, for purposes of the F block auction, that the 40 percent cellular attribution threshold of the PCS/cellular cross-ownership rule will continue to apply if the ownership interest is held by a small business or a rural telephone company or if the cellular ownership interest is held by an entity with a non-controlling equity interest in a broadband PCS licensee or applicant that is a small business. Similarly, the Commission proposes, for purposes of the F block auction, that the 40 percent cellular attribution threshold of the CMRS spectrum aggregation limit will continue to apply if the CMRS ownership interest is held by a small business or a rural telephone company (including those owned by minorities or women). These proposed changes mirror modifications that were made to the C block rules in the *Competitive Bidding Sixth Report and Order*. The Commission seeks comment on this proposal.

63. Finally, the Commission notes that the Court in *Cincinnati Bell* did not find Section 24.204(d)(2)(i) of the Commission's Rules to be arbitrary. Under this section, certain ownership interests of five percent or more in broadband PCS licensees and applicants are attributable for purposes of applying the 10 and 15 MHz spectrum limitations and the 40 MHz limit in the same geographic area, discussed above. The Commission does not propose to modify this rule.

C. Ownership Disclosure Provisions

64. The rules provide "short-form" (FCC Form 175) and "long-form" (FCC Form 600) application procedures for broadband PCS bidders. Short-form applications are submitted prior to the auction by entities seeking to qualify as bidders. Long-form applications are submitted by winning bidders in the auctions to obtain their licenses. The application procedures for broadband PCS require applicants to furnish detailed ownership information in both their short-form and long-form applications.

65. In addition to this information required of all PCS applicants, specific rules require F block applicants to submit more detailed ownership and financial information. An F block applicant must identify its affiliates and provide its gross revenues and total assets. On their short-form applications, all other F block applicants must disclose: (1) the identity of each member of their control group, including the citizenship and gender or minority group classification for each member; (2) the status of each control group member that is an institutional investor and existing investor and/or a member of the applicant's management; (3) the identity of each affiliate of the applicant and each affiliate of individuals in applicant's control group; (4) their gross revenues and total assets. Applicants must demonstrate their gross revenues and total assets using audited financial statements for the most recently completed calendar or fiscal years. Each F block applicant must also certify on its short-form application that it is eligible to bid for and obtain licenses, consistent with the Commission's Rules and, if appropriate, that it is eligible to bid as a designated entity.

66. Winning F block bidders' long-form applications must disclose, separately and in the aggregate, their gross revenues and total assets plus the gross revenues and total assets of their affiliates, their control group members, their attributable investors, and affiliates of their attributable investors. These applicants must also list and summarize all agreements that support their eligibility for an F block license and any investor protection agreements.

67. During the course of previous broadband PCS auctions, it became evident that certain ownership disclosure requirements found in the general PCS competitive bidding rules were burdensome and difficult to administer both at the short-form and long-form stages. For many large corporations, especially investment firms with diverse holdings, the requirements were very burdensome, particularly when they involved calculating indirect ownership interests in outside firms using the multiplier. Moreover, while identifying all businesses in which an attributable stockholder of the applicant held a five percent (or greater) interest generated significant amounts of information, the disclosures identified businesses that had no relation to the services for which licenses were being auctioned. In addition, requiring the submission of partnership agreements proved sensitive because such agreements often contained strategic bidding information and other confidential data. These provisions were waived by the Wireless Telecommunications Bureau for the short-form and long-form filings for PCS blocks A and B and for the short-form application for the C block.

68. In waiving ownership disclosure requirements for the A and B block short-form applications, the Wireless Telecommunications Bureau stated that the purpose of the disclosure rules contained in Section 24.813(a) of the Commission's Rules is "to allow the Commission to determine who is the real party in interest, to determine compliance with anti-collusion rules and ownership restrictions such as the multiple- and cross-ownership rules and the alien ownership restrictions." The Bureau noted that the short-form application requires applicants to certify that they are in compliance with these regulations. The Wireless Telecommunications Bureau concluded that requiring information about all attributable stockholders' other interests does not serve the stated purposes of ownership disclosure. The Bureau also concluded that because partnership agreements often discuss strategic business objectives, submission of them would be detrimental to partnerships. Following the same rationale, the Wireless Telecommunications Bureau waived Section 24.813(a)(1), 24.813(a)(2) and 24.813(a)(4) of the rules for the A and B block long-form and the C block short-form applications.

69. At the short-form application stage in the C block PCS auction, the Commission received 36 waiver petitions from applicants requesting that they be permitted to demonstrate their gross revenues and total assets using methods other than audited financial statements. These waiver requests indicate that many smaller businesses do not use audited financial statements in the normal course of business. Applicants in the C block auction also requested, and were granted, a waiver of the requirement that when financial information is supported by audited financial statements based on fiscal years, statements for the three most recent years must be used. Applicants were permitted to file statements for fiscal years 1991, 1992, and 1993, instead.

70. In light of its experience to date, the Commission proposes to amend Section 24.813(a)(1) and Section 24.813(a)(2) of the rules to limit the information disclosure requirement with respect to outside ownership interests of applicants' attributable stockholders. More specifically, it proposes to require only the disclosure of attributable stockholders' direct, attributable ownership in other businesses holding or applying for CMRS or Private Mobile Radio Services ("PMRS") licenses. Moreover, the Commission proposes to amend Section 24.813(a)(4) to delete the requirement that partnerships file a signed and dated copy of the partnership agreement with their short-form and long-form applications. The Commission requests comment on these proposed changes. The Commission also seeks comment on whether it should further reduce the scope of information required by the general PCS rules at either the short-form or long-form filing stages. In addition, it requests comment on the alternative approach of requiring applicants to make their ownership documentation available upon request to other applicants during or after the auction. The Commission also requests comment on whether the proposed changes would provide bidders with sufficient information on their competitors in the auction.

71. The number of waivers requesting permission to demonstrate gross revenues and total assets without audited financial statements in the C block auction leads the Commission to propose changes to Section 24.720(f) and Section 24.720(g) of its rules. The Commission proposes to permit each applicant that does not otherwise use audited financial statements to provide a certification from its chief financial officer that the gross revenue and total asset figures that it provides in its short-form and long-form applications are true, full, and accurate; and that the applicant does not have the audited financial statements that are otherwise required under the rules. The Commission believes that such a modification to the rules would be the most effective way to amend the rules so that small businesses are not overly burdened by auditing their finances when they would not otherwise do so. The Commission seeks comment on this proposal. It also asks interested parties to suggest other alternatives to the audited financial statement requirement, and it seeks comment on whether an alternative—the one it proposes or any other—should be available to all F block applicants (or D and E block applicants if small business provisions are extended to these blocks), or only to applicants that do not otherwise use audited financial statements. The Commission also requests comment on whether applicants should continue to be allowed to rely on either fiscal years or calendar years in providing their gross revenues. Should they instead be required to base their size calculations on the most recent four quarters so that the Commission receives the most current information available?

D. Auction Schedule

72. While the rules do not establish a specific schedule for awarding the D, E, and F block broadband PCS licenses by competitive bidding, the Commission's reasons for creating these 10 MHz licenses and the communications industry's plans for using them directly affect when they should be auctioned. The Commission created the 10 MHz licenses to promote the provision of services that might not require a full 30 MHz of spectrum, or for aggregation with a 30 MHz PCS license or an existing cellular license.

73. On December 23, 1994, the Commission sought comment on whether to auction the 10 MHz F block licenses together with the other 10 MHz D and E block licenses. Of the six comments received, the majority favored a single auction for all three blocks. Arguments in favor of a single auction included efficiency advantages for bidders, administrative and cost savings, and an equal timeline for start-up and deployment of all 10 MHz licensees. Commenters also noted a substantial need in broadband PCS for licensees to aggregate spectrum up to the limits set by the Commission and observed that a single auction would allow bidders to obtain 20–MHz licenses to meet unique service needs. Arguments opposing a single auction were that separate auctions would expedite auction administration and promote opportunities for designated entities by awarding them the first 10 MHz licenses.

74. The Commission tentatively concludes that it should auction the D, E, and F frequency blocks concurrently in simultaneous multiple round auctions. The comments in response to the initial inquiry into this issue indicate that simultaneous access to all the 10 MHz licenses is important to the plans of some prospective PCS providers, and the Commission finds their arguments persuasive. The Commission seeks comment on this tentative conclusion. It also seeks comment on specific services that are planned for the D, E, and F licenses and how, if at all, auctioning all the licenses simultaneously would affect those planned services. The Commission is also interested in other factors that commenters believe would justify combining the auction of the D, E, and F block licenses, or that would argue against doing so.

75. If the Commission auctions the D, E, and F blocks concurrently, it also seeks comment on the option of auctioning the D and E licenses together in one auction and the F block licenses in a separate auction. This approach would accommodate the difference in eligibility requirements for the F block auction. The Commission seeks comment on whether it should adopt this approach. It also requests comment on whether the auction rules for these three blocks should be modified in any way if it implements this proposal.

III. Procedural Matters

A. Regulatory Flexibility Act

76. As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in this document. The IRFA is set forth in Appendix A of the *Notice*. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the *Notice*, but they must have a separate and distinct heading designating them as responses to the Initial Regulatory Flexibility Analysis. The Secretary shall send a copy of this *Notice*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act. Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).

B. Ex Parte Rules—Non-Restricted Proceeding

77. This is a non-restricted notice and comment rule making proceeding. *Ex parte* presentations are permitted except during the Sunshine Agenda period, provided they are disclosed as provided

in Commission Rules. *See generally* 47 CFR §§ 1.1202, 1.1203, and 1.1206(a).

C. Initial Paperwork Reduction Act of 1995 Analysis

78. This *Notice* contains either a proposed or modified information collection. As part of its continuing effort to reduce paperwork burdens, the Commission invites the general public and the Office of Management and Budget ("OMB") to take this opportunity to comment on the information collections contained in this *Notice* as required by the Paperwork Reduction Act of 1995, Pub. L. No. 104–13. Public and agency comments are due at the same time as other comments on this *Notice*; OMB comments are due 60 days from the date of publication of this *Notice* in the **Federal Register**. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

D. Comment Dates

79. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, 47 CFR §§ 1.415 and 1.419, interested parties may file comments on or before April 15, 1996 and reply comments on or before April 25, 1996. To file formally in this proceeding you must file an original and four copies of all comments and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original plus nine copies. You should send your comments to Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554. Comments will be available for public inspection during regular business hours in the Reference Center of the Federal Communications Commission, 1919 M Street, N.W., Room 239, Washington, D.C. 20554.

80. Written comments by the public on the proposed and/or modified information collections are due on or before April 15, 1996. Written comments must be submitted by the Office of Management and Budget on the proposed and/or modified information collections on or before 60 days after the date of publication in the **Federal Register**. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, D.C. 20554, or via the Internet to dconway@fcc.gov and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725 17th Street, N.W., Washington, D.C. 20503 or via the Internet to fain—t@al.eop.gov.

E. Contact Persons

81. For further information concerning this proceeding, contact Mark Bollinger at 418–0660 (Auctions Division, Wireless Telecommunications Bureau).

IV. Ordering Clauses

82. Accordingly, it is ordered that, pursuant to Sections 1, 4(i), 4(j), 7, 303(r), 308(b), and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 157, 303(r), 308(b), and 309(j), notice is hereby given of the proposed amendments to Parts 20 and 24 of the Commission's Rules, 47 CFR Parts 20 and 24, in accordance with the proposals in this Notice of Proposed Rule Making, and that COMMENT IS SOUGHT regarding such proposals.

83. It is further ordered that the Secretary shall send a copy of this Notice of Proposed Rule Making, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

List of Subjects

47 CFR Part 20

Commercial mobile radio services, Cellular/PCS cross-ownership.

47 CFR Part 24

Broadband personal communications services.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–7315 Filed 3–25–96; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 195

[Docket PS–140(c), Notice 5]

RIN 2137–AC34

Areas Unusually Sensitive to Environmental Damage

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Public workshop.

SUMMARY: RSPA invites industry, government agencies, and the public to the fourth workshop on unusually sensitive areas (USAs). The purpose of this workshop is to openly discuss the terms to be used in describing USAs, and the scope and objectives of the additional USA workshops. This workshop is a continuation of the USA workshops held June 15–16, 1995; October 17, 1995; and January 16, 1996.

DATES: The workshop will be held on April 10–11, 1996 from 8:30 a.m. to 4:00 p.m. Persons who are unable to attend may submit written comments in duplicate by May 28, 1996. However, persons submitting comments to be considered at the April 10–11 workshop must do so by April 3, 1996. Interested persons should submit as part of their written comments all material that is relevant to a statement of fact or argument. Late filed comments will be considered so far as practicable.

ADDRESSES: The workshop will be held at the U.S. DOT, Nassif Building, 400 Seventh Street SW., Room 8236–40, Washington, DC. Non-federal employee visitors are admitted into the DOT building through the southwest entrance at Seventh and E Streets, SW. Persons who want to participate in the workshop should call (202) 366–2392 or e-mail their name, affiliation, and phone number to samesc@rspa.dot.gov before close of business April 3, 1996.

Send written comments in duplicate to the Dockets Unit, Room 8421, RSPA, U.S. DOT, 400 Seventh Street SW., Washington, DC 20590–0001. Identify the docket and notice numbers stated in the heading of this notice.

All comments and docketed materials will be available for inspection and copying in Room 8421 between 8:30 a.m. and 4:30 p.m. each business day. A summary of the workshop will be available from the Dockets Unit about three weeks after the workshop.

FOR FURTHER INFORMATION CONTACT: Christina Sames, (202) 366–4561, about this document, or the Dockets Unit, (202) 366–5046, for copies of this document or other material in the docket.

SUPPLEMENTARY INFORMATION: The pipeline safety laws (49 U.S.C. § 60109) require the Secretary of Transportation to prescribe regulations that establish criteria for identifying each hazardous liquid pipeline facility and gathering line, whether otherwise subject to 49 U.S.C. Chapter 601, located in an area that the Secretary, in consultation with the Environmental Protection Agency (EPA), describes as unusually sensitive to environmental damage if there is a hazardous liquid pipeline accident.

Consistent with the President's regulatory policy (E.O. 12866), RSPA wants to accomplish this congressional mandate at the least cost to society. Toward this end, RSPA is seeking early public participation in the rulemaking process by holding public workshops at which participants, including RSPA staff, may exchange views on relevant issues. RSPA hopes these workshops will enable government and industry to reach a better understanding of the problem and the potential solutions before proposed rules are issued.

On June 15 and 16, 1995, RSPA held the first public workshop to openly discuss the criteria being considered to determine USAs (60 FR 27948; May 26, 1995). Participants included representatives from the hazardous liquid pipeline industry; the Departments of Interior, Agriculture, Transportation, and Commerce; EPA; non-government agencies; and the public. Participants requested that additional workshops be held to further discuss this complex topic .

On October 17, 1995, RSPA held a second public workshop that focused on developing a process that could be used to determine if an area is a USA (60 FR 44824; August 29, 1995). Participants asked that the process include a series of workshops on topics such as guiding principles, the definition of terms that may be used when referring to USAs, drinking water source protection, biological resources, and human use resources.

The American Petroleum Institute (API) provided information on its current USA research and suggested that any final definition consider the resource to be protected, the likelihood of a given pipeline impacting that resource, and what can be done to reduce the risk to the resource. Other participants suggested integrating factors on the likelihood of a rupture occurring and the severity of the consequence into the USA definition. Participants also brainstormed guiding principles that could be used when determining if a given area is a USA.

RSPA held a third workshop on January 18, 1996, to further discuss the guiding principles for determining USAs (61 FR 342; January 4, 1996). The primary concerns voiced in this workshop were that drinking water resources and significant ecological resources be considered USA but that economic or recreational areas not be intrinsically considered USAs. A secondary concern voiced by the participants was the need to consider cultural resources as USAs.

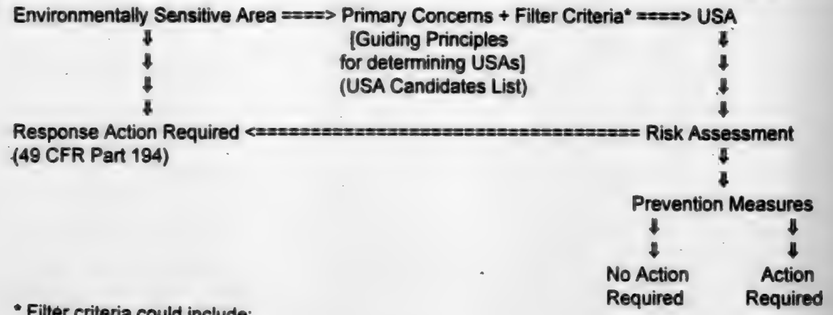
Indian tribal concerns were also identified and participants requested that additional research be conducted in this area.

Participants at the workshop also discussed the following guiding principles for the USA identification process and asked that the following be considered:

1. A functional definition of significance must be developed to determine USAs.
2. Human health and safety.
3. Serious threat of contamination.
4. Only areas in the trajectory of a potential spill, e.g. down gradient.
5. Not all areas identified as USAs will require preventative measures but all candidates for USAs will require protection through response planning under 49 CFR part 194. The process should clarify how sensitive areas are protected under the Pipeline Safety Act separate and apart from protection under the 49 CFR part 194.
6. Operators that have voluntarily taken measures that exceed the regulatory requirements to minimize the potential for spills in their operations should receive credit for these measures in other rulemakings, thereby resulting in exemptions from these additional rulemakings.
7. It is expected that no pipeline operator will be required to collect natural field resource data to determine USAs.
8. USAs should be subject to a systematic review process. USAs may change through time as species migrate, change location or for other reasons. The USA definition should be explicit and practical in application.
9. All phases of the USA definition process should be pilot tested for validity, practicality, and workability, to the extent practical.
10. The government agencies must describe and identify USAs so that the data will not be subject to various interpretations and will be applied consistently. The standards and criteria for resource sensitivity should be uniform on a national basis such that equivalent resources receive equivalent sensitivity assessments regardless of regionally based response priorities.
11. Sources of USA data must be readily available to the public and uniform in criteria and standards. The standards and criteria for resource sensitivity should be uniform on a national basis such that equivalent resources receive equivalent sensitivity assessments regardless of regionally based priorities.

The following diagram was created to display how the process could work:

BILLING CODE 4910–60–P



BILLING CODE 4910-60-C

Finally, participants brain stormed and identified the USA terms that they thought needed to be clarified. The following list is the result of that discussion. The workshop on April 10 will focus on the criteria, components, and parameters of these terms. This list is not final and RSPA invites comments on these terms and submissions of additional terms. This list and any additional terms that are submitted to the docket before April 3 will be considered at the April 10 workshop:

1. Serious threat
2. Contamination
3. Significant
4. Ecological
5. Economic areas
6. Recreational areas
7. Cultural areas
8. Readily available
9. Uniform

The workshop on April 11 will focus on the scope and objectives of the additional USA workshops on drinking water sources, ecological resources, cultural resources, and Indian tribal concerns. RSPA invites comments on the scope and objectives of these additional workshops. Items that are submitted to the docket before April 3 will be considered at the April 11 workshop.

Persons interested in receiving a transcript of the first or third workshop, the summary of the second workshop, material presented at the workshops, or comments submitted to the docket should contact the Dockets Unit at (202) 366–5046 and reference docket PS–140, PS–140(b), and PS–140(c).

Issued in Washington, DC on March 21, 1996.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 96–7295 Filed 3–25–96; 8:45 am]

BILLING CODE 4910–60–P

Surface Transportation Board

49 CFR Part 1039

[Ex Parte No. 346 (Sub-No. 6)]

Exemption From Regulation—Boxcar Traffic

AGENCY: Surface Transportation Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Surface Transportation Board (the Board) is proposing to eliminate an obsolete regulation pertaining to recyclable rates.

DATES: Comments are due on April 25, 1996.

ADDRESSES: Send comments (an original and 10 copies) referring to Ex Parte No. 346 (Sub-No. 8) to: Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue NW., Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–5610. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Effective January 1, 1996, the ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (ICCTA) abolished the Interstate Commerce Commission (ICC) and established the Board. Section 204 of the ICCTA provides that "[t]he Board shall promptly rescind all regulations established by the [ICC] that are based on provisions of law repealed and not substantively reenacted by this Act." In *Removal of Obsolete Recyclables Regulations*, 1 S.T.B. 7 (1996) (*Obsolete Regulations*), the Board removed, *inter alia*, obsolete recyclable regulations at 49 CFR 1134, pertaining to discrimination against recyclables, and at 49 CFR 1145, concerning rail rates on recyclables, because Congress repealed former 49 U.S.C. 10710 and 10731, the statutory bases for these regulations. We stated that we would separately consider the disposition of 49 CFR 1039.14(b)(5), which excludes rates on nonferrous recyclable commodities from the boxcar exemption.

In *Exemption from Regulation —Boxcar Traffic*, 367 I.C.C. 424 (1983), the ICC exempted the rail transportation of all commodities transported in boxcars from rate and certain car hire regulations. The ICC, however, excluded nonferrous recyclables from this exemption "only because Congress itself has singled them out for the application of special standards." 367 I.C.C. at 440. The ICC noted the reference to recyclable rates at former 49 U.S.C. 10731(e).

Although the statutory basis given by the agency for excluding recyclable commodities from the boxcar exemption has been repealed, and we do not believe there are other valid reasons to maintain the exception, we will not follow the procedure in *Obsolete Regulations* by issuing a final rule now. Instead, we will issue a notice proposing to remove 49 CFR 1039.14(b)(5) from the regulations and redesignate paragraphs (6) and (7) to allow the public the opportunity to address whether there is any good reason to maintain the exception for recyclables. Comments (an original and 10 copies) are due on April 25, 1996.

The Board certifies that this rule, if adopted, would not have a significant economic effect on a substantial number of small entities. This proposed rule will reduce regulation; it imposes no new reporting or other requirements directly or indirectly on small entities. Although we are proposing that recyclables no longer be excepted from the boxcar exemption, it appears that the impact, if any, on small entities would not be significant, nor would it likely affect a significant number of small entities. The Board, however, seeks comments on whether there would be effects on small entities that should be considered.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1039

Agricultural commodities, Intermodal transportation, Manufactured commodities, Railroads.

Decided: March 12, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons and Commissioner Owen.

Vernon A. Williams,

Secretary.

For the reasons set forth in the preamble and under the authority of 49 U.S.C. 721(a), the Board proposes to amend title 49, chapter X, part 1039 of the Code of Federal Regulations as set forth below:

PART 1039—EXEMPTIONS

1. The authority citation for part 1039 continues to read as follows:

Authority: 5 U.S.C. 553 and 49 U.S.C. 721 and 10502.

§ 1039.14 [Amended]

2. Section 1039.14 is amended by removing paragraph (b)(5) and redesignating paragraphs (b)(6) and (7) as paragraphs (b)(5) and (6).

[FR Doc. 96–7239 Filed 3–25–96; 8:45 am]

BILLING CODE 4915–00–P

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49 CFR Part 1313

[STB Ex Parte No. 541]

Railroad Contracts

AGENCY: Surface Transportation Board.

ACTION: Advance Notice Of Proposed Rulemaking.

SUMMARY: Because the ICC Termination Act of 1995 (ICCTA) abolished the Interstate Commerce Commission (ICC) and revised the law respecting transportation contracts entered into by rail carriers to provide specified rail services under specified rates and conditions, the contract regulations formerly issued by the ICC are no longer in complete harmony with the applicable law. The Surface Transportation Board (Board) is issuing this advance notice of proposed rulemaking to solicit suggestions from the transportation community for appropriate regulations. Following the receipt of comments, the Board will issue a notice of proposed rulemaking.

DATES: Comments are due on April 25, 1996.

ADDRESSES: Send comments (an original and 10 copies) referring to STB Ex Parte No. 541 to: Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue NW., Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–5610. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (ICCTA), enacted on December 29, 1995, abolished the ICC and transferred the responsibility for regulating rail transportation to the Board. *See* ICCTA Section 101 (abolition of the ICC). *See also* new 49 U.S.C. 701(a) (establishment of the Board), as enacted by ICCTA Section 201(a). The transfer took effect on January 1, 1996. *See* ICCTA Section 2 (effective date).

The new law (i.e., the law in effect on and after January 1, 1996) differs in several important respects from the former law (i.e., the law in effect prior to January 1, 1996). This notice concerns the differences between new 49 U.S.C. 10709 and former 49 U.S.C. 10713 as respects contracts entered into by rail carriers to provide specified rail services under specified rates and conditions.

New § 10709(a) provides that rail carriers may enter into contracts to provide specified rail services under specified rates and conditions. This is a reenactment of former § 10713(a).

New § 10709(b) relieves a party to such a contract from any duties other than those specified by the contract. This is a reenactment of former § 10713(h).

New § 10709(c) relieves transportation provided under such contract from the regulatory provisions of new 49 U.S.C. 10101–11908, and makes the exclusive remedy for any alleged breach of such a contract an action in an appropriate state court or United States district court, unless the parties agree otherwise. This is a reenactment of former § 10713(i). New § 10709(c)(2) adds a clarification that this provision does not, in and of itself, confer original jurisdiction on the United States district courts.

New § 10709(d)(1) requires that a summary of each contract for the transportation of fertilizer and agricultural products, including grain as defined in 7 U.S.C. 75 [1] and products thereof, be filed with the Board, containing such nonconfidential information as the Board prescribes. This represents a substantial narrowing from the prior filing requirement. Under former § 10713(b)(1), the filing requirement applied to all rail transportation contracts (not just contracts to transport agricultural products), and carriers were required to file the complete contract with the ICC (in addition to the summary of nonconfidential information).

New § 10709(d)(1) directs the Board to establish rules for such contracts for agricultural products, to ensure that the essential terms of such contracts are available to the general public. But, unlike former § 10713(b)(2)(A), the new statute does not list the minimum essential terms; it leaves that matter for Board implementation. Similarly, unlike former § 10713(b)(2)(B), the new statute does not address whether a new filing is required for amendments, supplements, or changes to such contracts; that too is a matter left to the Board.

New § 10709(d)(2) provides that documents, papers, and records relating to a rail transportation contract are not subject to disclosure under the Freedom of Information Act, 5 U.S.C. 552 (FOIA). This is a new provision, with no analogue in former § 10713.

New § 10709(e) reenacts the "grandfathering" provision of former § 10713(j) for rail transportation contracts that predate the Staggers Rail Act of 1980.

New § 10709(f) specifies that a rail carrier that enters into a transportation contract remains subject to the common carrier obligation, as set forth in new

[1] 7 U.S.C. 75 is the codification of section 3 of the United States Grain Standards Act.

§ 11101, with respect to rail transportation not provided under such a contract. This is a new provision that clarifies prior law.

New § 10709(g) reenacts the complaint provisions of former § 10713(d), but limits their applicability. Under new § 10709(g), complaints may only be filed against contracts for the transportation of agricultural products. As to such contracts, four grounds of complaint are available. They are: (1) a complaint by any shipper alleging that it will be harmed because the contract will unduly impair the ability of the contracting carrier to meet its common carrier obligations to the complainant under new § 11101 (new § 10709(g)(2)(A)(i)); (2) a complaint by a port alleging that it will be harmed because the contract will result in unreasonable discrimination against it (new § 10709(g)(2)(A)(ii)); (3) a complaint by an agricultural shipper seeking matching terms (new § 10709(g)(2)(B)(i)); and (4) a complaint by an agricultural shipper alleging that the contract constitutes a destructive competitive practice (new § 10709(g)(2)(B)(ii)).

Such complaints must be filed within 30 days after the contract summary is filed (new § 10709(g)(1)), and the Board has 30 days to resolve complaints (new § 10709(g)(3)). It should be noted that, in contrast to former § 10713(b)(2)(A), new § 10709(g) does not address discovery by agricultural shippers seeking remedies. This is a matter left to the Board's discretion.

New § 10709(h) retains the fleetwide equipment limitation of former § 10713(k), which prohibits a carrier from committing more than 40 percent of its equipment capacity (by car type) in contracts for the transportation of agricultural commodities (including forest products, but not including wood pulp, wood chips, pulpwood or paper), without special permission from the Board. However, that limitation is set to expire on September 30, 1998. (A further limitation in former § 10713(k), on the amount of equipment that could be committed by contract to an individual shipper, was not reenacted.)

It is important to note that a rail carrier may enter into transportation contracts only to the extent that such contracts do not impair that carrier's ability to meet its common carrier obligations. New § 11101(a) provides that a rail carrier does not violate its common carrier obligations merely because it fulfills reasonable contractual commitments before responding to reasonable requests for common carrier service. New § 11101(a) further provides, however, that contractual commitments which deprive a carrier of its ability to respond to reasonable requests for common carrier service are not reasonable.

New § 10709 does not retain the railroad contract rate advisory service of former § 10713(m).

Request for Comments

The ICC's regulations implementing former § 10713, set forth at 49 CFR Part 1313, are not appropriate for implementing new § 10709. Therefore, we invite all interested persons to submit suggestions for regulations that would be appropriate to implement new § 10709. We encourage the various sectors of the transportation community to discuss these matters and present a proposal for the Board's consideration.

Comments (an original and 10 copies) must be in writing, and are due on April 25, 1996.

We encourage any commenter that has the necessary technical wherewithal to submit its comments as computer data on a 3.5-inch floppy diskette formatted for WordPerfect 5.1, or formatted so that it can be readily converted into WordPerfect 5.1. Any such diskette submission (one diskette will be sufficient) should be in addition to the written submission (an original and 10 copies).

Small Entities

Because this is not a notice of proposed rulemaking within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), we need not conduct at this point an examination of impacts on small entities. We will certainly welcome, of course, any comments respecting whether any regulations that commenters may suggest would have significant economic effects on any substantial number of small entities.

Environment

The issuance of this advance notice of proposed rulemaking will not significantly affect either the quality of the human environment or the conservation of energy resources. Furthermore, we would not expect that regulations suggested for implementing new 49 U.S.C. 10709 would significantly affect either the quality of the human environment or the conservation of energy resources. We certainly welcome, of course, any comments respecting whether any suggested regulations would have any such effects.

Authority: 49 U.S.C. 721(a) and 10709.

Decided: March 12, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 96–7238 Filed 3–25–96; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 662

[Docket No. 960314075–6077–03; I.D. 031196F]

RIN 0648–AI16

Northern Anchovy Fishery; Removal of Regulations

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Initial decision to withdraw plan approval, proposed rule to remove regulations, and request for comments.

SUMMARY: NMFS announces its initial determination to withdraw Secretarial approval of the Northern Anchovy Fishery Management Plan (FMP), and proposes to remove the regulations implementing the FMP. The anchovy fishery would continue to be regulated by the State of California. This action is being proposed because conditions have changed significantly since approval of the FMP. Harvests of northern anchovy have greatly declined since 1982 and this is unlikely to change in the foreseeable future. The intent of this rulemaking is to remove regulations that duplicate state management and are no longer necessary. This rulemaking is in accordance with the President's Regulatory Reinvention Initiative.

DATES: Comments on the proposed rule must be received on or before May 9, 1996.

ADDRESSES: Send comments on the proposed withdrawal and removal, and on the Environmental Assessment/Regulatory Impact Review (EA/RIR) to Ms. Hilda Diaz-Soltero, Director, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213. A copy of the EA/RIR may be obtained from the same address.

FOR FURTHER INFORMATION CONTACT: Mr. Rodney McInnis or Mr. James Morgan at (310) 980–4030.

SUPPLEMENTARY INFORMATION: The FMP to manage the central subpopulation of northern anchovy was implemented on September 13, 1978 (43 FR 40868). The anchovy resource is a major forage species for marine mammals, other fish, and birds such as the California brown pelican, which is listed as endangered under the Endangered Species Act (ESA). There have been six amendments to the FMP.

The FMP was one of the first fishery management plans developed by the Pacific Fishery Management Council, under the authority of the Magnuson Fishery Conservation and Management Act. At the time, substantial reduction fisheries existed in the United States and Mexico. (Reduction fisheries processed anchovy into fish flour/meal, oil, fertilizer, or other products not intended for human consumption). Further, recreational fisheries for kelp/sand bass, white seabass, bonito, barracuda, yellowtail, and tunas depended on northern anchovy as live bait for its livelihood, as it still does today. The FMP was designed to resolve difficult allocation issues. There was, and still is, no agreement with Mexico on how to manage the fishery.

With the decline in U.S. harvests and little prospect for growth in the fishery, interjurisdictional and allocation issues, which might require Federal intervention, no longer exist. In recent years, virtually the entire fishery has occurred in California waters, and nearly all harvesters and processors are California citizens utilizing vessels registered in California. The condition of the fishery is such that no management authority over this fishery is exercised through Federal regulations that are beyond those available to the State.

California has management measures in place for anchovy and other components of the coastal pelagic species complex. Should this proposed removal of Federal regulations be finalized, NMFS anticipates that California will broaden its management to include the anchovy fishery with substantially the same controls as were provided by Federal regulations. This would also unify management of the coastal species complex fisheries.

Therefore, Federal management is neither necessary nor appropriate for this fishery and unnecessarily duplicates the State of California's management. For these reasons, NMFS proposes to withdraw approval for the FMP and remove the FMP's implementing regulations (50 CFR part 662), leaving management of the anchovy resource to the State of California.

Classification

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. We expect that California will regulate fishing in the same manner that we currently do. Because virtually the entire anchovy fishery takes place in California waters, conditions in the fishery should not change.

NMFS is conducting an ESA consultation with the U.S. Fish and Wildlife Service regarding the effects of this proposed action on the endangered brown pelican.

List of Subjects in 50 CFR Part 662

Fisheries.

Dated: March 20, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, under the authority of 16 U.S.C. 1801 *et seq.*, 50 CFR part 662 is proposed to be removed.

[FR Doc. 96–7185 Filed 3–25–96; 8:45 am]

BILLING CODE 3510–22–F

50 CFR Part 674

[Docket No. 960314075–6063–04; I.D. 031196D]

RIN 0648–AI15

Salmon Fisheries Off the Coast of Alaska; Removal of Implementing Regulations

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS announces its initial determination to withdraw approval of the Fishery Management Plan for the Salmon Fisheries in the Exclusive Economic Zone (EEZ) off the Coast of Alaska East of 175° E. Long. (FMP). NMFS proposes to remove the regulations implementing the FMP. This action is necessary, because NMFS has determined that the State of Alaska adequately manages the salmon fisheries in Federal waters, and, therefore, the need for a Federal FMP no longer exists. This action is in accordance with the President's Regulatory Reinvention Initiative.

DATES: Comments must be received at the following address by May 9, 1996.

ADDRESSES: Comments must be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Lori Gravel. Individual copies of the Environmental Assessment/Regulatory Impact Review prepared for this action may be obtained from the same address.

FOR FURTHER INFORMATION CONTACT: Kaja Brix, 907–586–7228.

SUPPLEMENTARY INFORMATION:

The Magnuson Fishery Conservation and Management Act (Magnuson Act) authorizes the North Pacific Fishery Management Council (Council) to prepare and amend fishery management plans for any fishery in waters under its jurisdiction. In December 1978, the Council prepared the FMP and submitted it to the Secretary of Commerce (Secretary) for approval. The Secretary approved the FMP, and it was implemented in May 1979 with Federal regulations at 50 CFR part 674.

The Assistant Administrator for Fisheries, NOAA, submitted a letter, dated February 23, 1996, to the Council Chairman, expressing NMFS' intent to withdraw approval of the FMP and to remove its implementing regulations. The State of Alaska would retain its authority to manage State-permitted vessels in Federal waters. Currently, all vessels that fish for salmon in Federal waters are registered under the laws of the State of Alaska, and, therefore, are subject to the State laws governing the fishery. In the unlikely event that unregistered vessels were to conduct directed salmon fishing operations in the EEZ, NMFS could address the problem through regulatory action pursuant to the Pacific Salmon Treaty Act of 1985 or the Magnuson Act.

The FMP originally established the Council's management authority over the salmon fisheries in the Federal waters off the coast of Alaska east of 175° E. long., including parts of the Gulf of Alaska, Bering Sea, Chuckchi Sea, and Arctic Ocean. The International North Pacific Fisheries Commission, which is authorized by the International Convention for the High Seas Fisheries of the North Pacific Ocean, manages salmon fisheries west of 175° E. long.

The FMP management area is divided into two management units located east and west of the longitude of Cape Suckling (143°53′35″ W. long.). The FMP has historically focused on the troll fishery in the eastern management

unit. Implementing regulations governing the troll fishery consisted of several management measures, including a fishing season, gear restrictions, a limit on the number of vessel troll permits, and a requirement for trollers to have either a State of Alaska or a Federal limited entry troll permit. The Council intended all of its management measures governing the sport fishery and the commercial troll fishery to complement State of Alaska regulations for the salmon fisheries in adjacent State waters. The FMP has been amended four times. Amendment 3 deferred the management of the salmon fisheries to the State of Alaska.

NMFS has considered the adequacy of State of Alaska management of salmon fisheries within waters of the Council's area of authority with respect to advisory guidelines at 50 CFR part 602, and has determined that State management is adequate. Therefore, NMFS has determined that Federal management is not necessary and proposes to withdraw Secretarial approval of the FMP and remove the implementing Federal regulations.

Classification

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities because the State of Alaska is already managing the fishery with its regulations. Removal of Federal regulations eliminates duplication of effort but does not effect management of the fishery. As a result, a regulatory flexibility analysis was not prepared.

Consultation pursuant to section 7 of the Endangered Species Act will be initiated for the 1996 fishery and for the withdrawal of the FMP.

An RIR was prepared for this proposed rule that describes the management background, the purpose and need for action, and the management action alternatives. Copies of the RIR can be obtained from (see **ADDRESSES**).

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

List of Subjects in 50 CFR Part 674

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: March 21, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, under the authority of 16 U.S.C. 1801 *et seq.*, part 674 is proposed to be removed.

[FR Doc. 96–7286 Filed 3–25–96; 8:45 am]
BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 61, No. 59
Tuesday, March 26, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Request for Extension of Currently Approved Information Collection

AGENCY: Forest Service, USDA.

ACTION: Notice of intent request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Forest Service's intention to extend a currently approved information collection. The purpose is to collect specific sales data from businesses licensed to utilize the "Woodsy Owl" symbol for commercial use. The information is also used to determine if guaranteed sales objectives are being met. This data is needed to comply with 7 U.S.C. 2201 and regulations at 36 CFR part 272—Use of "Woodsy Owl" Symbol.

DATES: Comments must be submitted on or before May 28, 1996.

ADDRESSES: All comments should be addressed to: Director, Cooperative Forestry Staff, Attn: Woodsy Owl Program Coordinator, Forest Service, USDA, P.O. Box 96090, Washington, D.C. 20090–6090.

FOR FURTHER INFORMATION CONTACT: Doris Nance at (202) 401–7781.

SUPPLEMENTARY INFORMATION:

Tile: USDA, Forest Service Commercial Use of "Woodsy Owl" Symbol.

OMB Number: 0596–0087.

Expiration Date of Approval: March 31, 1996.

Type of Request: Extension of a currently approved information collection.

Abstract: This collection of information is used to bill licensees for royalty fees for Woodsy Owl merchandise sold to the public. The information is also used to determine whether licensees are meeting the goals and purposes of the Woodsy Owl Program.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 20 hours per response.

Respondents: Businesses or other for-profit, and small businesses or organizations.

Estimated Number of Respondents: 10.

Estimated Number of Responses per Respondent: 4.

Estimated Total Annual Burden on Respondents: 800 hours.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of this agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected, and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Dated: March 19, 1996.

William L. McCleese,

Associate Deputy Chief, State and Private Forestry.

[FR Doc. 96–7177 Filed 3–25–96; 8:45 am]
BILLING CODE 3410–11–M

Rural Utilities Service

Kodiak Electric Association, Inc. Finding of No Significant Impact

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS), pursuant to the National Environmental Policy Act of 1969, as amended, the Council on Environmental Quality Regulations (40 CFR Parts 1500–1508), and RUS Environmental Policies and Procedures (7 CFR Part 1794), has made a Finding of No Significant Impact (FONSI) with respect to a project proposed by Kodiak Electric Association, Inc. (KEA), of Kodiak, Alaska. The proposed project consists of constructing a 10 MW combustion turbine electric generation power plant and fuel tanks for increasing generation capacity at its Swampy Acres Substation. The new generation would replace the four existing diesel generators representing a total of 6 MW of capacity at the same site. The need for this project was established in KEA's 1994 Power Requirements Study and 1994 Power Generation Study.

RUS has concluded that the impacts from the proposed project would not be significant and that the proposed action is not a major Federal action significantly affecting the quality of the human environment. Therefore, the preparation of an environmental impact statement is not necessary.

FOR FURTHER INFORMATION CONTACT: Lawrence R. Wolfe, Senior Environmental Protection Specialist, Engineering and Environmental Staff, Rural Utilities Service, Agriculture South Building, Washington, DC 20250–1571, telephone (202) 720–1784.

SUPPLEMENTARY INFORMATION: RUS, in accordance with its environmental policies and procedures, required that KEA prepare a Borrower's Environmental Report (BER) reflecting the potential impacts of the proposed facilities. The BER, which includes input from the Federal, State, and local agencies, has been adopted as RUS's Environmental Assessment for the project in accordance with 7 CFR Section 1794.61. RUS has concluded that the BER represents an accurate assessment of the environmental impacts of the project. The proposed project will not affect any known properties listed or eligible for listing in the National Register of Historic Places. The project will be constructed on land which has previously been disturbed. However, if previously unknown resources are discovered during project construction, KEA will halt construction while the significance of the find and proper mitigation is determined. Given these procedures, the project will not have any significant effect on cultural resources. The project should have no impact on floodplains, wetlands, important farmland, prime forest land, formally classified areas, coastal areas, federally listed or proposed for listing threatened or endangered species or their critical habitat. The project should also have no significant impact on

water quality, air quality, noise or visibility.

Alternatives considered to the project as proposed were no action, a review of various alternative energy sources and their application, power demand and load management alternatives, and alternative sites. RUS has considered these alternatives and concluded that the project as proposed will allow KEA to provide adequate and reliable electric service to the customers in the Kodiak Island with a minimum of adverse impact.

Copies of the BER and FONSI are available for review at RUS at the aforementioned address, or may be reviewed at or obtained from the offices of KEA, P.O. Box 787, Kodiak, Alaska, 99615 telephone (907) 486–7700.

Dated: March 18, 1996.

Adam M. Goledner,

Deputy Administrator, Program Operations.

[FR Doc. 96–7248 Filed 3–25–96; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Housing Vacancy Survey; Proposed Agency Information Collection Activity; Comment Request

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Submit written comments on or before May 28, 1996.

ADDRESS: Direct all written comments to Linda Engelmeier, Acting Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Oscar Perez, Bureau of the Census, FOB 3, Room 3340, Washington, DC 20233–8400, (301) 457–3806.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau is requesting clearance for the Housing Vacancy Survey (HVS). The current clearance expires December 31, 1996. Title 13, United States Code, Section 182, authorizes the collection of the HVS. The HVS has been conducted since 1956 and serves a broad array of data users as described below.

We collect the HVS data for a sample of vacant housing units identified in the monthly Current Population Survey (CPS) sample, which provide the only quarterly and annual statistics on rental vacancy rates and homeownership rates for the United States, the 4 census regions, the 50 states and the District of Columbia, and the 75 largest Metropolitan Areas (MAs). Private and public sector organizations use these rates extensively to gauge and analyze the housing market with regard to supply, cost, and affordability at various points in time. In addition, the rental vacancy rate is a component of the index of leading economic indicators, published by the Department of Commerce.

Policy analysts, program managers, budget analysts, and Congressional staff use these data to advise the executive and legislative branches of Government with respect to the number and characteristics of units available for occupancy and the suitability of housing initiatives. Several other Government agencies use these data on a continuing basis in calculating consumer expenditures for housing as a component of the gross national product; to project mortgage demands; and to measure the adequacy of the supply of rental and homeowner units. In addition, investment firms use the HVS data to analyze market trends and for economic forecasting.

II. Method of Collection

Field representatives collect this HVS information by personal-visit interviews in conjunction with the regular monthly CPS interviewing. If a unit is vacant and intended for year-round occupancy, as determined during the CPS interview, we include it in the HVS sample. Approximately 4,800 units in the CPS sample meet these criteria each month. We interview individuals who have knowledge of the vacant sample unit (*e.g.*, landlord, rental agents, neighbors). All interviews are conducted using computer-assisted interviewing.

III. Data

OMB Number: 0607–0179.

Form Number: There are no forms associated with this supplement. We conduct all interviewing on computers.

Type of Review: Regular.

Affected Public: Individuals who have knowledge of the vacant sample unit (*e.g.*, landlord, rental agents, neighbors).

Estimated Number of Respondents: 4,800 per month.

Estimated Time Per Response: 3 minutes.

Estimated Total Annual Burden Hours: 2,880.

Estimated Total Annual Cost: $585,000.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 21, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–7300 Filed 3–25–96; 8:45 am]

BILLING CODE 3510–07–M

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of Issuance of an amended Export Trade Certificate of Review, Application No. 87–10A004.

SUMMARY: On December 1, 1996, the Department of Commerce issued an amendment to the Export Trade Certificate of Review granted to the Association for Manufacturing Technology ("AMT"). The original Certificate was issued on May 19, 1987 (52 FR 19371) and notice of issuance was published in the **Federal Register** on May 22, 1987.

FOR FURTHER INFORMATION CONTACT: W. Dawn Busby, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. Sections 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (1993).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate

AMT's Export Trade Certificate of Review has been amended to:

1. Add each of the following companies as a new "Member" of the Certificate: Acro Automation Systems, Inc., Milwaukee, Wisconsin; Automatic Design Concepts, Bridgeport, Connecticut; Bentz, Incorporated, Detroit, Michigan; Capco, Inc., Roanoke, Virginia; Creative Automation, Inc., Plymouth, Michigan; Edgetek Machine Corporation, Meriden, Connecticut; ESAB L–TEC Cutting Systems, Florence, South Carolina; GEC Alsthom Cyril Bath Company, Monroe, North Carolina; Grav-i-Flo Corporation, Sturgis, Michigan; Hobart Brothers Company, Livermore, California; ISI Robotics, Frazer, Michigan; Jasco Tools, Inc., Rochester, New York; Keller Industries, Hollandale, Minnesota; K.T. Design & Prototype, Winchester, Virginia; Metalsoft, Inc., Santa Ana, California; MHI Machine Tool USA, Inc., Bristol, Connecticut (controlling entity: Mitsubishi Heavy Industries of America); MHO Corporation, Emeryville, California; Natco/Carlton L.P., Richmond, Indiana; OMAX Corporation, Auburn, Washington; Optical Gaging Products, Inc., Rochester, New York; Precitech Inc., Keene, New Hampshire; RWC Incorporated, Bay City, Michigan; Taurus Products, Inc., Sterling Heights, Michigan; Wisconsin Machine Tool Corporation, West Allis, Wisconsin.

2. Delete each of the following companies as a "Member" of the Certificate: Airlock Manufacturing Company; Autospin, Inc.; Black Brothers Co.; Bracker Corporation Pittsburgh; Cammann, Inc.; Curtin Hebert Co. Inc.; DEA; DeHoff Incorporated; Ekstrom, Carlson & Company; Federal Press Company; Feldmann, Inc.; Grotnes Metalforming Systems, Inc.; Hoglund Technology Corporation; IRD Mechanalysis, Inc.; Imperial Stamp & Engraving Company; J.A.C.P., Inc.; Kalamazoo Saw Co.; Louis Levin & Sons Inc.; Morgan Industries, Inc.; Multipress Division; Rank Taylor Hobson Inc.; S–P/Sheffer International, Inc.; Schuler Incorporated.

3. Change the listing of the company name for each current "Member" cited in this paragraph to the new listing cited in this paragraph in parenthesis as follows: Cellular Concepts Company (Cellular Concepts Co.); Control Laser Corporation (Excel/Control); Debur Corporation (Surf/Tran Burlytic Systems Division); S.E. Huffman Corporation (Huffman); Katy/CRL, Inc. (CRL Industries, Inc.); Komatsu-Cybermation (Komatasu Cutting Technologies); Mattison Machine Works (Mattison Technologies); Moore Special Tool Co., Inc. (Moore Tool Co.); Morey Machinery, Inc. (Morey Machinery Manufacturing Corp.); Niagara Machine & Tool Works (Clearing Niagara); Positech Corporation (CM Positech); Roberts Machine Corp. (Niagara Falls Grinders); Setco Sales company (Setco); Sheffield Schaudt Grinding Systems, Inc. (United Grinding Technologies); Whitnon Spindle Division/GMN (Whitnon Spindle Division/Setco).

A copy of the amended Certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4 102, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C 20230.

Dated: March 20, 1996.

W. Dawn Busby,

Director, Office of Export Trading Company Affairs.

[FR Doc. 96–7299 Filed 3–25–96; 8:45 am]

BILLING CODE 3510–DR–P

National Oceanic and Atmospheric Administration

[I.D. 031196B]

Marine Mammals; Pinniped Removal Authority

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of revised Letter of Authorization and availability of an Environmental Assessment.

SUMMARY: NMFS announces modifications to the conditions for the lethal removal of individually identifiable California sea lions that are impacting winter steelhead that migrate through the Ballard Locks in Seattle, WA, under a Letter of Authorization (LOA) issued to the State of Washington. NMFS also announces the availability of an Environmental Assessment (EA) that examines the environmental consequences of alternatives for modifying the conditions for lethal removal of sea lions.

ADDRESSES: A copy of the EA and other documentation may be obtained by writing to William Stelle, Jr., Director, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115, or by telephoning (206) 526–6150.

SUPPLEMENTARY INFORMATION: Pursuant to section 120(b) of the Marine Mammal Protection Act (MMPA), the State of Washington submitted an application to NMFS on June 30, 1994, requesting consideration of lethal removal of California sea lions at the Ballard Locks in Seattle, WA. In response to the application, NMFS formed the Ballard Locks Pinniped-Fishery Interaction Task Force (Task Force). The Task Force met in late 1994, reviewed the available information and recommended approval of lethal removal with conditions. NMFS took the recommendations of the Task Force and public comments into consideration and issued a 3-year LOA to the Washington Department of Fish and Wildlife (WDFW) on January 4, 1995, that provided terms and conditions for lethal removal through June 30, 1997. NMFS prepared an EA in January 1995 that considered lethal removal, as well as non-lethal alternatives, and determined that the authorized lethal removal would not have a significant effect on the human environment in accordance with the Council on Environmental Quality's regulations implementing the National Environmental Policy Act (NEPA).

Section 120 of the MMPA requires that the Task Force "evaluate the effectiveness of the permitted intentional lethal taking or alternative actions implemented" and "if implementation was ineffective in eliminating the problem interaction, the Task Force shall recommend additional actions." Accordingly, the Task Force was reconvened in September 1995 to evaluate the effectiveness of the measures taken by the State during the winter steelhead run in 1995 and prepared a report with recommendations for modifications to the LOA to eliminate sea lion predation on returning adult steelhead to the maximum extent possible. The report and recommendations were submitted to NMFS on November 8, 1995.

Based on the Task Force report and new information collected since issuance of the LOA in January 1995, NMFS has concluded that the previously issued conditions under which the lethal removal of California sea lions may be implemented, should be modified to better protect the depressed and declining Lake Washington winter steelhead population. The winter steelhead spawning escapement in 1994/95 was 126 fish, and the 1995/96 run size is predicted to be approximately 146 steelhead. The 1995/96 steelhead run comprises primarily the progeny from the 1990/91 and 1991/92 brood years when escapements exceeded 200 fish (621 and 599 respectively) and, therefore, represents the "last best" opportunity to have sufficient numbers of spawners available upon which to base a potentially successful recovery program. After the 1995/96 run, the number of returning adult spawners will likely decline precipitously because the broodstock in the years that will produce these future runs was extremely small; the 1996/97 run is estimated to be less than 100 steelhead. The 1995/96 run size projection of 146 steelhead is substantially below the goal of 1600 spawners (91 percent below) needed to fully seed the available habitat. In addition, the number of returning adult steelhead is within the range considered to be near the threshold level below which the ability of the population to recover may be impaired. Therefore, sea lion predation on adult spawners returning in 1996 and beyond is likely to have a significant negative impact on the status and recovery of this steelhead population. In contrast, only a small number of "predatory" male sea lions (about six to ten) are responsible for the impacts on the steelhead run, and removal of these sea lions will have an insignificant impact on the current population of California sea lions (U.S. stock), which is estimated to be in excess of 161,000 individuals and has been increasing at a rate of 5.2 percent since 1975.

In accordance with section 120 of the MMPA, NMFS has modified the conditions contained in the LOA issued to the State of Washington on January 4, 1995, and sent a letter to the State stipulating the new conditions for lethal removal of "predatory" California sea lions at the Ballard Locks as follows.

1. Non-lethal deterrence efforts, such as acoustic deterrence, must be attempted prior to lethal removal. If an "acoustic barrier" is implemented, other means of non-lethal deterrence, such as underwater firecrackers, should be attempted on sea lions that enter and forage in the ensonified area.

2. Only "predatory" California sea lions may be lethally removed. A "predatory" sea lion is an individually identified sea lion (i.e., one bearing a brand mark, dart tag, flipper tags or other distinguishable natural marks) that:

a. Has been observed by biologists monitoring sea lion predation to have preyed on returning steelhead in the inner bay area of the Lake Washington Ship Canal (upstream of the railroad bridge); and

b. Has penetrated the acoustic barrier and has been observed foraging in the ensonified zone during the steelhead run since January 1, 1994 (when the acoustic deterrence program began); and

c. Is observed engaging in foraging behavior in the inner bay area (upstream of the railroad bridge) during the current steelhead season, between January 1 and May 31, by biologists monitoring sea lion predation at the Locks.

3. Information collected to date indicates that sea lions with brand numbers 17, 41 and 225 meet the definition of a "predatory" sea lion if they are observed foraging in the inner bay area during the current or next year's steelhead season from January 1 to May 31. Furthermore, sea lions with brand numbers 45 and 87 will meet the definition if they are observed to prey on a steelhead in the inner bay area during the current or next year's steelhead season from January 1 to May 31. Lethal removal of other sea lions is authorized only if the State determines that the subject animal meets the "predatory" sea lion definition and obtains concurrence with such determination from the Director, Northwest Region, NMFS (Regional Director).

4. Lethal removal of "predatory" sea lions is authorized from January 1 through May 31. The State shall report any lethal takings under this authorization to the Regional Director within 48 hours following implementation of the lethal action.

5. Active capture methods utilizing tangle nets and potential use of drugs, which may result in sea lion mortality, are authorized for use only on "predatory" sea lions.

6. The State will convene an Animal Care Committee (ACC) to provide recommendations on the handling of the sea lions.

a. The ACC membership is (1) to consist of veterinarians, marine mammal caretakers, and Federal and State marine mammal biologists, and (2) to be approved by the Regional Director.

b. The ACC shall review active capture protocols and make recommendations on the procedures and use of any drugs.

c. The ACC shall develop protocols for euthanizing sea lions.

7. "Predatory" sea lions that are identified for lethal removal are to be euthanized using protocols developed by the ACC. Nevertheless, the State shall provide sea lions captured for lethal removal to an Indian tribe with treaty rights to harvest marine mammals in the Lake Washington Ship Canal that requests the animals for subsistence use. In that circumstance, the State shall allow the tribe to dispatch the animal in a humane manner that allows for subsistence use.

8. If 15 sea lions are lethally removed under this authorization, lethal removal must cease, and NMFS will immediately reconvene the Task Force for the purpose of evaluating the effectiveness of the measures implemented and making recommendations on further actions.

9. This authorization may be modified or revoked by NMFS based on Task Force recommendations under Condition (8) above.

10. This authorization is valid until June 30, 1997, although it may be modified as needed.

a. On September 1 of each year that this authorization is valid, the State must submit a report on the efforts undertaken to reduce predation, its compliance with the conditions in this authorization, and how the State will comply with the conditions in the following year. The report also must describe progress on longer-term efforts being undertaken by the State to address recovery of winter steelhead.

b. Pursuant to 16 U.S.C. 1389(c)(5), after receipt of the report, NMFS will ask the Task Force to evaluate the State's report and the effectiveness of any lethal take and the alternative actions. NMFS will consider the report, the Task Force recommendations, and the considerations set out in 16 U.S.C. 1389, and may modify or extend the authorization and conditions for the following year, or revoke the authorization for lethal take.

NEPA requires that Federal agencies conduct an environmental analysis of their actions to determine if the actions may affect the environment. Accordingly, NMFS prepared an EA that explores the environmental consequences of four alternatives to modifying the conditions for lethal removal, as a last resort to protect the depressed Lake Washington winter steelhead migrating through the Ballard Locks from predation by California sea lions. This 1996 EA is a supplement to, and augments, an EA prepared in 1995 that examined non-lethal alternatives to lethal removal. The EA also provides additional information and results of actions taken to protect and enhance the winter steelhead population in 1995.

NMFS has evaluated the environmental consequences of the proposed action and has concluded that it is unlikely to result in any significant impacts on the human environment and therefore has made a finding of no significant impact (FONSI). The EA and FONSI have been prepared in accordance with NEPA and implementing regulations at 40 CFR parts 1500 through 1508 and NOAA guidelines concerning implementation of NEPA found in the NOAA Administrative Order 216–6.

Additional information on steelhead enhancement and management measures being taken by the State of Washington, or a copy of the EA and FONSI is available upon request (see **ADDRESSES**).

Dated: March 13, 1996.

William W. Fox, Jr., Ph.D.,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–7184 Filed 3–25–96; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 031896B]

North Pacific Fishery Management Council; Committee Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of meetings.

SUMMARY: The North Pacific Fishery Management Council (Council) and its advisory bodies will meet the week of April 15, 1996, in Anchorage, AK.

DATES: See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: Anchorage Hilton Hotel, 500 W. 3rd Avenue, Anchorage, AK 99501.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Council staff, telephone: 907–271–2809.

SUPPLEMENTARY INFORMATION: The Advisory Panel (AP) and the Scientific and Statistical Committee (SSC) will begin on April 15, 1996, at 9:00 a.m. The SSC will conclude their meeting on April 17, and the AP will conclude their meeting by April 18. The Council will begin their meeting on April 17, at 8:00 a.m. and will conclude on April 22, 1996. Other committee and workgroup meetings may be held on short notice during the week; notices will be posted at the meeting site. All meetings are open to the public with the exception of Council executive sessions to discuss personnel, international issues, and litigation. An executive session is tentatively scheduled for 12:00 noon on April 18.

The agenda for the meeting will include the following subjects:

1. Reports from the National Marine Fisheries Service and Alaska Department of Fish and Game on the current status of the fisheries off Alaska, reports on enforcement and international fisheries, and a status report on the reauthorization of the Magnuson Fishery Conservation and Management Act.

2. Initial review of Bering Sea/Aleutian Islands (BSAI) Pacific cod gear allocations, and a report on a ban on night trawling.

3. Reports on crab bycatch issues and initial review of an analysis on crab caps and closures in Bristol Bay.

4. Final action on a third party, pay-as-you-go observer program and review of a Request for Proposals for the third party entity.

5. Final review of an amendment to the sablefish and halibut individual fishery quota (IFQ) program which would increase "sweep-up" levels for blocked shares. Other IFQ issues on the agenda include initial review of two other amendments to the program - an increase in the Bering Sea halibut ownership cap, and permitting the use of longline pots for sablefish in the Bering Sea. The IFQ Research Team will give a preliminary report on the 1995 sablefish and halibut IFQ program.

6. Progress report on measures to improve retention and utilization in the groundfish fisheries off Alaska.

7. Review of the Proposed Rule for the groundfish and crab license limitation program, if available.

8. Review consolidated regulations for groundfish and crab and a Proposed Rule to repeal the Salmon Fishery Management Plan (FMP).

9. Under groundfish management, the following subjects will be discussed:

(a) Final review of an amendment to delay the opening of the BSAI pollock "B" season;

(b) Initial review of an amendment to overfishing definitions in the groundfish FMPs;

(c) Definition of alternatives for a license limitation program for demersal shelf rockfish in the Gulf of Alaska; and

(d) Review of a request for an experimental fishing permit.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen, 907–271–2809, at least 5 working days prior to the meeting date.

Dated: March 19, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–7183 Filed 3–25–96; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 031896C]

Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council (Council) and its advisory entities will hold public meetings.

DATES: The Council meeting will be held April 9–12, 1996. It will begin on April 9, at 8 a.m. in a closed session (not open to the public) to discuss litigation. The open session begins at 8:30 a.m. The Council meeting will reconvene at 8 a.m. each day April 10 through April 12. The meetings may continue each day into the evening hours if necessary to complete business.

ADDRESSES: The meetings will be held at the South San Francisco Conference Center, 255 South Airport Boulevard, South San Francisco, CA 94080; telephone: (415) 877–8787.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Lawrence D. Six, Executive Director; telephone: (503) 326–6352.

SUPPLEMENTARY INFORMATION: The following items are on the Council agenda:

A. Call to Order

B. Salmon Management

1. Tentative Adoption of 1996 Ocean Salmon Management Measures for Salmon Technical Team Analysis

2. Clarify Council direction, if necessary

3. National Research Council Report on Pacific Northwest Salmonids

4. Scoping session to identify plan amendment issues and alternatives
5. Identification of stocks not meeting goals for 3 consecutive years
6. Methodology review
7. Final action on 1996 measures

C. Report of the Steering Group

D. Groundfish Management

1. Status of Federal regulations implementing Council actions
2. Status of fisheries and inseason trip limit adjustments
3. Management procedures for the area near Cape Mendocino
4. Revised stock assessment process
5. Long term management of the limited entry fixed gear sablefish fishery
6. Allocation and management of Pacific whiting after 1996
7. Report of the industry meeting on salmon bycatch avoidance in the whiting fishery
8. Effort reduction, data collection, research and other industry recommendations

E. Administrative and Other Matters

1. Report of the Budget Committee
2. Status of legislation
3. Research and data needs
4. Adopt June or August agenda
5. Revise Council operating procedures
6. Regulation consolidation and elimination

Other Meetings

The Salmon Technical Team will meet on March 8–12 as necessary to address salmon management issues related to Council agenda items.

The Salmon Advisory Subpanel will convene on April 8 at 9 a.m. and April 9–12 at 8 a.m. to address salmon management items on the Council agenda.

The Habitat Steering Group will convene on April 8 at 10 a.m. to consider activities affecting the habitat of fish stocks managed by the Council.

The Scientific and Statistical Committee (SSC) will convene on April 8 at 1 p.m. and on April 9 at 8 a.m. in conjunction with the Groundfish Management Team and the Groundfish Advisory Subpanel. The SSC will continue to meet after the joint meeting has ended on April 9. The SSC will meet again on April 10 at 8 a.m. to address scientific issues related to Council agenda items.

The Budget Committee will convene on April 8 at 2 p.m. to review the fiscal year 1996 budget situation.

The Groundfish Management Team will convene on April 8, at 11 a.m. and on April 9 at 8 a.m. in conjunction with the Groundfish Advisory Panel and the SSC. The Groundfish Management Team will meet as necessary after the joint session ends on April 9 and as necessary on April 10 and April 11.

The Groundfish Advisory Subpanel will convene on April 8, at 1 p.m. and on April 9 at 8 a.m. in conjunction with the Groundfish Management Team and the SSC. The Groundfish Advisory Subpanel will continue to meet after the joint session on April 9 and as necessary on April 10 and April 11.

The Legislative Committee will meet on April 8, at 4 p.m. to consider amendments to the Magnuson Fishery Conservation and Management Act.

The Enforcement Consultants will meet on April 9 at 7 p.m. to address enforcement issues related to Council agenda items.

Detailed agendas for the above advisory meetings will be available after March 28, 1996.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Eric W. Greene at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: March 20, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–7284 Filed 3–25–96; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 031996C]

Western Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Western Pacific Fishery Management Council's (Council) Scientific and Statistical Committee (SSC) will hold its 62nd meeting.

DATES: The meeting will be held April 10–12, 1996, from 8:30 a.m. to 5:00 p.m., each day.

ADDRESSES: The meeting will be held at the Executive Center, 1088 Bishop St., Room 4003, Honolulu, HI; telephone: (808) 539–3000.

Council address: Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1405, Honolulu, HI, 96813.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: The SSC will discuss and may make recommendations to the Council on the following agenda items:

1. Pelagic fishery issues, including:
(a) An update on the Pelagic Fisheries Research Program,
(b) Longline observer program: Sampling design and 1-year data,
(c) 1995 draft annual report,
(d) Longline bycatch issues,
(e) Swordfish research plans, and
(f) Program planning;
2. Hawaii bottomfish issues, including:
(a) Hawaii Department of Land and Natural Resources progress with a management plan for Main Hawaiian Islands Onaga and Ehu,
(b) Reconsideration of the Northwestern Hawaiian Islands management system,
(c) 1995 draft annual report, and
(d) Program planning;
3. Lobster management, including:
(a) Status of the stocks,
(b) Status of Amendment 9,
(c) NMFS lobster research plan,
(d) Vessel Monitoring System,
(e) 1996 lobster fishing quota,
(f) Request for experimental fishing permit for Kona crab, and
(g) Program planning;
4. Plan for regional assessment of coral reef resources; and
5. Other business as required.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, 808–522–8220 (voice) or 808–522–8226 (fax), at least 5 days prior to meeting date.

Dated: March 20, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–7285 Filed 3–25–96; 8:45 am]

BILLING CODE 3510–22–F

Patent and Trademark Office

Patent Processing; Updating

ACTION: Proposed collection; correction.

In notice document 96–4906 beginning on page 8261, in the issue of Monday, March 4, 1996, make the following corrections:

On page 8262, the table should read as follows:

Title of form	Form No.	Estimated time for response (hours)	Estimated annual burden hours	Estimated annual responses
Information Disclosure (in Appl'n)	PTO/SB/08	2.0	280,000	140,000
Information Disclosure (in patent)	PTO/SB/42	2.0	2,000	1,000
Statutory Disclaimers	PTO/SB/43	.20	1,500	7,500
Terminal Disclaimers	PTO/SB, 25–26, 52–63	.20	1,500	7,500
Extensions of Time	PTO/SB, 22–23, 32	.10	11,000	110,000
Petitions to Revive	PTO/SB 61, 61/PCT, 64, 64/PCT.	1.0	4,000	4,000
Express Abandonment	PTO/SB/24	.20	800	4,000
Small Entity	PTO/SB, 09–12	.30	18,000	60,000
Petition for Access	PTO/SB/68	.20	4	20
Power to Inspect/Copy	PTO/SB/67	.20	4,000	10,000
Certificate of Mailing	PTO/SB, 92–93	.10	300,000	30,000
Amendment Transmittal Letter	PTO/SB/21	.20	200,000	40,000
Deposit Acct Order Form	PTO/SB/91	.20	20,000	100,000
Appeal Notice	PTO/SB/31	.20	15,000	3,000

On the same page, in the first column, "Estimated Number of Respondents: 659,020" should read "Estimated Number of Respondents: 517,020."

Dated: March 19, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–7168 Filed 3–25–96; 8:45 am]

BILLING CODE 3510–16–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

Agency Holding the Meeting: Commodity Futures Trading Commission.

Time and Date: 11:00 a.m., Friday, April 5, 1996.

Place: 1155 21st Street NW., Washington, D.C. 9th Floor Conference Room.

Status: Closed.

Matters to be Considered: Surveillance Matters.

Contact Person for More Information: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–7380 Filed 3–22–96; 10:55 am]

BILLING CODE 6351–01–M

Sunshine Act Meeting

Agency Holding the Meeting: Commodity Futures Trading Commission.

Time and Date: 11:00 a.m., Friday, April 12, 1996.

Place: 1155 21st Street NW., Washington, D.C. 9th Floor Conference Room.

Status: Closed.

Matters to be Considered: Surveillance Matters.

Contact Person for More Information: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–7381 Filed 3–22–96; 10:55 am]

BILLING CODE 6351–01–M

Sunshine Act Meeting

Agency Holding the Meeting: Commodity Futures Trading Commission.

Time and Date: 11:00 a.m., Friday, April 19, 1996.

Place: 1155 21st Street NW., Washington, D.C. 9th Floor Conference Room.

Status: Closed.

Matters to be Considered: Surveillance Matters.

Contact Person for More Information: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–7382 Filed 3–22–96; 10:55 am]

BILLING CODE 6351–01–M

Sunshine Act Meeting

Agency Holding the Meeting: Commodity Futures Trading Commission.

Time and Date: 11:00 a.m., Friday, April 26, 1996.

Place: 1155 21st Street NW., Washington, D.C. 9th Floor Conference Room.

Status: Closed.

Matters to be Considered: Surveillance Matters.

Contact Person for More Information: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–7383 Filed 3–22–96; 10:55 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Image-Based Automatic Target Recognition

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Image-Based Automatic Target Recognition will meet in closed session on April 8–9, 1996 at MIT, Lincoln Laboratory, Lexington, Massachusetts.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will assess the ability of automatic/aided target recognition technology and systems to support important military missions, principally in the near- and mid-term. The Task Force should concentrate on those technologies and systems that use imagery (EO, IR or radar) as their primary input medium.

In accordance with Section 10(d) of the Federal Advisory Committee Act, P.L. No. 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1988), and that accordingly

this meeting will be closed to the public.

Dated: March 20, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–7178 Filed 3–25–96; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on Information Warfare Defense

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Science Board Task Force on Information Warfare Defense will meet in closed session on April 19, 1996 at Science Applications International Corporation, McLean, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will focus on protection of information interests of national importance through establishment and maintenance of a credible information warfare defensive capability in several areas, including deterrence. This study will be used to assist in analysis of information warfare procedures, processes, and mechanisms, and illuminate future options in defensive information warfare technology and policy.

In accordance with Section 10(d) of the Federal Advisory Committee Act, P.L. No. 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1988), and that accordingly this meeting will be closed to the public.

Dated: March 20, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–7179 Filed 3–25–96; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board FFRDC & UARC Independent Advisory Task Force

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Science Board FFRDC & UARC Independent Advisory Task Force will meet on April 9, 1996 at the Institute for Defense Analyses, 1801 N. Beauregard Street, Alexandria, Virginia, in Closed session from 8:00 a.m.–8:30 a.m. and in Open session from 8:30 a.m.–5:00 p.m.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At the closed portion of this meeting the Task Force will receive classified briefings. For further information or if you would like to attend the open session, contact the DSB Secretariat at (703) 695–4157.

In accordance with Section 10(d) of the Federal Advisory Committee Act, P.L. No. 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1988), and that accordingly a portion of this meeting will be closed to the public.

Dated: March 20, 1996.

Patricia L. Toppings,

Alternte OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–7180 Filed 3–25–96; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on Strategic Mobility

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Strategic Mobility will meet in closed session on April 4–5, 1996 at Science Applications International Corporation, McLean, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will engage in a broad review of strategic mobility under a range of scenarios. The review should include the joint and service processes for planning, executing, protecting, and sustaining force deployments. It should also include the resources and activities that provide command and control, communications and information systems in support of strategic mobility.

In accordance with Section 10(d) of the Federal Advisory Committee Act, P.L. No. 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1988), and that accordingly this meeting will be closed to the public.

Dated: March 20, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–7181 Filed 3–25–96; 8:45 am]

BILLING CODE 5000–04–M

Department of the Army

Army Science Board; Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 27 & 28 March 1996.

Time of Meeting: 0900–1500.

Place: Orlando, Florida.

Agenda: The Army Science Board (ASB) Summer Study on "Army Simulation Implementation and Use" will meet for briefings and discussions regarding the development and application of computer based models and simulations, physics based models and recent technological advances afforded by simulation techniques. These meetings will be closed to the public in accordance with Section 552b(c) of title 5, U.S.C., specifically subparagraph (4) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The proprietary matters to be discussed are so inextricably intertwined so as to preclude opening any portion of these meetings. For further information please contact Michelle Diaz at (703) 695–0781.

Michelle P. Diaz,

Acting Administrative Officer, Army Science Board.

[FR Doc. 96–7340 Filed 3–25–96; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Notice of Intent To Prepare an Environmental Impact Statement for the Disposal and Reuse of Naval Weapons Industrial Reserve Plant, Calverton, Long Island, NY

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969 as implemented in the Council on Environmental Quality regulations (40 CFR parts 1500–1508), the Department of Navy announces its intent to prepare an Environmental Impact Statement (EIS) for the Disposal and Reuse of Naval Weapons Industrial Reserve Plant (NWIRP), Calverton, Long Island, New York.

The Defense Authorization Act for Fiscal Year 1995 authorizes the Secretary of the Navy to convey the property directly to the Community Development Agency of the Town of Riverhead, New York. The conveyance is subject to the condition that the town use the property for economic redevelopment to replace all or part of the economic activity being lost at the facility. Any part of the facility not conveyed to the Town would be disposed of by the General Services Administration (GSA) in accordance with the Federal Property and Administrative Services Act of 1944.

The Grumman Aerospace Corporation operated a Government Owned/Contractor operated (GOCO) facility on approximately 2,900 acres of the 6,050-acre site until February 1996 when operations ceased. The objective of the EIS is to evaluate the environmental impacts associated with the various reuse alternatives. Environmental issues that will be addressed in the EIS include air quality, water quality, wetland impacts, endangered species impacts, cultural resource impacts, and socioeconomic impacts.

The proposed action to be analyzed in the EIS involves the disposal of land, buildings, and infrastructure for subsequent reuse by the Town of Riverhead. The 6,050-acre site has two aircraft landing runways (7,000 ft and 10,000 ft in length) and buildings with more than 1 million sq. ft of space.

The reuse of NWIRP Calverton has recently been studied by the Town of Riverhead's Joint Planning and Redevelopment Commission and its consultants. The redevelopment/reuse plan, developed by the town's consultants and to be approved by the Riverhead Town Board, will be the basis for the EIS. The proposed reuse, known as the Calverton Business Park, comprises the following uses: theme attraction park(s), hotel/conference center, service retail, golf course, industrial center (2.5 million sq. ft), community park(s), open space, natural areas, aviation use/aircraft maintenance, event grounds, and a commercial/recreation area including a stadium. Two additional alternatives will also be evaluated in the EIS. One reuse alternative will include the construction of a permanent automobile race course incorporating use of one existing runway. Industrial, recreational, and other land uses would be included in this alternative. A third alternative reuse plan will include only residential development on the site limited to residents of 50 years or older. The No Action alternative will also be addressed in the EIS. It is defined as closing NWIRP, cessation of all GOCO activities, and retention of the land as U.S. Government property. The EIS to be prepared by the Navy will address the following known areas of concern: effects of developed at the facility on the natural and socioeconomic environment, effects of future growth on infrastructure and transportation systems, and the effects of reuse on the facility's historic properties. The EIS will also serve as technical support for the National Historic Preservation Act Section 106 consultation process.

The Navy will hold a scoping meeting to receive comment on significant issues that should be addressed in the EIS. The meeting will be held on Wednesday, April 10, 1996, beginning at 7:00 P.M. at the Ramada Inn located at 1830 Route 25 (at exit 72 of the Long Island Expressway) in Riverhead, NY 11901. Navy representatives will make a brief presentation, then members of the public will be provided an opportunity for comments. It is important that federal, state, and local agencies and interested individuals take this opportunity to identify environmental concerns that should be addressed in the EIS. In the interest of time, speakers will be asked to limit their comments to five minutes.

ADDRESSES: Agencies and the public are encouraged to provide written comments in addition to, or in lieu of, oral comments at the scoping meeting. To be most helpful, comments should clearly describe specific issues or topics which the EIS should address. Written comments must be postmarked by May 1, 1996, and should be mailed to: Commanding Officer, Northern Division, Naval Facilities Engineering Commend, 10 Industrial Highway, Lester, Pennsylvania 19113 (Attn: Mr. Robert Ostermueller, Code 202), telephone (610) 595–0759.

Dated: March 21, 1996.

M.D. Schetzsle,

LT, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 96–7249 Filed 3–25–96; 8:45 am]

BILLING CODE 3810–FF–M

DEPARTMENT OF ENERGY

Notice of Reestablishment of The Secretary of Energy Advisory Board

Pursuant to section 9(a)(2)of the Federal Advisory Committee Act and in accordance with title 41 of the Code of Federal Regulations, section 101–6.1015, and following consultation with the Committee Management Secretariat of the General Services Administration, notice is hereby given that the Secretary of Energy Advisory Board (the Board) has been reestablished for an additional two years.

The Board will continue to provide advice to the Secretary of Energy on the management reforms, research, development, energy, and national security responsibilities, activities, and operations of the Department of Energy.

The Board members are selected to assure well-balanced, geographical representation and on the basis of their professional expertise and diverse experiences. Membership and representation of the Board will continue to be determined in accordance with the requirements of the Federal Advisory Committee Act, section 624(b) of the Department of Energy Organization Act (Pub. L. 95–91), and implementing regulations.

The reestablishment of the Board has been determined to be in the public interest, important and vital to the conduct of the Department's business in connection with the performance of duties established by statute for the Department of Energy. The Board will operate in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92–463), the Department of Energy Organization Act (Pub. L. 95–91), the General Services Administration Final Rule on Federal Advisory Committee Management, and other directives and instructions issued in implementation of those acts.

Further information regarding this advisory committee can be obtained from Ms. Rachel M. Samuel at (202) 586–3279.

Issued in Washington, D.C. on March 20, 1996.

Rachel M. Samuel,

Deputy Advisory Committee, Management Officer.

[FR Doc. 96–7267 Filed 3–25–96; 8:45 am]

BILLING CODE 6450–01–P

Metal Casting Industrial Advisory Board, Meeting

AGENCY: Department of Energy.

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the Metal Casting Industrial Advisory Board meeting.

DATES: Friday, April 19, 1996 8:00 am–5:30 pm.

ADDRESSES: Clarion Suites, 1010 Race Street, Philadelphia, PA 19107.

FOR FURTHER INFORMATION CONTACT: Douglas E. Kaempf, Program Manager,

Department of Energy, Office of Industrial Technologies (EE–23), 1000 Independence Ave. S.W., Washington, D.C. 20585, (202) 586–5264, Fax: (202) 586–3180.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee

The Metal Casting Industrial Advisory Board (MCIAB) serves to provide guidance and oversight of research programs provided under the Metal Casting Competitiveness Research Program and to recommend to the Secretary of Energy new or revised program activities and Metal Casting Research Priorities.

Tentative Agenda

8:00 Sign-In
8:15–9:00 Welcome & Instructions—Douglas Kaempf
9:00–10:00 Cast Metals Coalition Formulation and Structure—Dennis Allen
10:00–10:15 Break
10:15–12:00 New Role of the Metal Casting Industrial Advisory Board How the Board Wishes To Proceed—Douglas Kaempf
12:00–1:00 Lunch (On your own)
1:00–2:00 Changes in Board Membership—Douglas Kaempf
2:00–3:00 Election of New Chairman of the MCIAB—Co-Chairs
3:00–3:15 Break
3:15–5:00 FY 96 Projects Selected by the Cast Metals Coalition—Kaempf/Allen
5:00–5:30 Public Comment and Meeting Adjourned

Public Participation

The meeting is open to the public. The Chairperson of the Board is empowered to conduct the meeting to facilitate the orderly conduct of business. Any member of the public who wishes to make oral statements pertaining to the agenda items should contact Douglas E. Kaempf at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda. Written statements may be filed with the Committee either before or after the meeting.

Transcript

Available for public review and copying at the Freedom of Information Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. between 9:00 AM and 4:00 PM, Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on March 19, 1996.

Rachel Murphy Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 96–7268 Filed 3–25–96; 8:45 am]

BILLING CODE 6450–01–P

Bonneville Power Administration

Notice of Intent To Prepare an Environmental Impact Statement and Notice of Floodplain and Wetlands Involvement for the Watershed Management Program

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of Intent to Prepare an Environmental Impact Statement (EIS), and Notice of Floodplain and Wetlands Involvement.

SUMMARY: This notice announces BPA's intention to prepare an EIS on proposed funding of the planning and implementation of watershed conservation and rehabilitation projects throughout the Columbia River Basin (Basin). This action proposes to mitigate the loss of anadromous and resident fish habitat caused by the construction and operation of Federal hydroelectric projects in the Basin. In accordance with the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act, 16 U.S.C. 839), specific fish mitigation activities that BPA would implement under the program are developed through Pacific Northwest Power Planning Council (Council) procedures and proposed in the Council's Fish and Wildlife Program. Although BPA decisions on these specific actions are often independent of one another, preparation of this EIS recognizes their similarity of impacts, methods of implementation, and subject matter. This action involves land resources planning that may affect floodplains and wetlands throughout the Basin, including various parts of Oregon, Idaho, Montana and Washington. A floodplain/wetland assessment will be included in the EIS being prepared for the proposed project in accordance with the National Environmental Policy Act (NEPA).

BPA invites public comment on the range of actions, alternatives, and impacts to be addressed in the Watershed Conservation Program EIS.

DATES: BPA has established a scoping period during which affected landowners, concerned citizens, special interest groups, local governments, and any other interested parties are invited to comment on the scope of the proposed EIS. Scoping will help BPA ensure that a full range of issues related to this proposal is addressed in the EIS, and also will identify significant or potentially significant impacts that may result from the proposed project. Please send written comments to the address below by May 31, 1996.

When completed, the Draft EIS will be circulated for review and comment, and BPA will hold a public comment meeting for the Draft EIS. BPA will consider and respond to comments received on the Draft EIS in the Final EIS.

ADDRESSES: BPA invites comments and suggestions on the proposed scope of the Draft EIS. Send comment letters and requests to be placed on the project mailing list to the Public Involvement and Information Manager, Bonneville Power Administration—CKP, P.O. Box 12999, Portland, Oregon, 97212. The phone number of the Public Involvement and Information Office is 503–230–3478 in Portland; toll-free 1800–622–4519 outside of Portland. Comment at our internet address at: comment@bpa.gov.

FOR FURTHER INFORMATION, CONTACT: Eric N. Powers—ECN at (503) 230–5823 or Mark Shaw—EWP at (503) 230–5239, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon, 97208–3621.

SUPPLEMENTARY INFORMATION:

Proposed Action

BPA proposes to establish standards and guidelines for funding the planning and implementation of watershed conservation and rehabilitation projects throughout the Basin. This action is proposed to mitigate the loss of anadromous and resident fish habitat based on four elements: (1) increase salmon survival in the rivers; (2) improve harvest management; (3) improving hatcheries and production practices; and (4) protect and improve habitat. A primary objective of this action is to implement principles that will be the most cost-effective and efficient means of obtaining fish mitigation goals. General issues the socioeconomic impacts, fish and wildlife management, vegetation management, threatened and endangered species management, cultural resources management, recreation management, and water quality management. Identification of additional issues may result from the public scoping process, and scoping may also eliminate some issues from in-depth analysis. The proposed program standards and guidelines may establish criteria for implementing specific mitigation actions without further review, or with limited site-specific analysis tiered to the Program EIS.

Process to Date

BPA has funded, over the last several years, a number of small demonstration projects under a "model" watershed program. The model watersheds include the Grand Ronde and its subbasins in Oregon, the Tucannon, Pataha, and Asotin in Washington, and the Lemhi, Pahsimeroi, and East Fork Salmon in Idaho. To date, BPA has categorically excluded these model watershed demonstration projects under NEPA. However, with the culmination of planning for many of the model watersheds and potential for expansion of the watershed program to include additional watersheds beyond the model watersheds, BPA has decided to prepare an EIS to discuss the potential cumulative impacts, both positive and negative, of a larger-scope watershed program.

Alternatives Proposed for Consideration

Alternatives to be considered in the BPA Watershed Management Program EIS would include alternative standards and guidelines for each management issue addressed. The EIS will also consider a No Action alternative, *i.e.*, program implementation without defined program-wide standards and guidelines.

Identification of Environmental Issues

The environmental issues associated with fish mitigation activities include changes in land use, vegetation patterns, fish and wildlife populations, recreational opportunities, and water use and quality.

Further information is available from BPA at the address above.

Issued in Portland, Oregon, on March 14, 1996.

Randall W. Hardy,

Administrator and Chief Executive Officer.

[FR Doc. 96–7269 Filed 3–25–96; 8:45 am]

BILLING CODE 6540–01–P

Federal Energy Regulatory Commission

[Docket No. EG96–31–000]

AEP Resources Gippsland Power, L.L.C.; Notice of Surrender of Exempt Wholesale Generator Status

March 20, 1996.

Take notice that on March 15, 1996, pursuant to § 365.7 of the Commission's regulations, 18 CFR 365.7, AEP Resources Gippsland Power, L.L.C. filed notification that it surrenders its status as an exempt wholesale generator under section 32(a)(1) of the Public Utility Holding Company Act of 1935, as amended.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7205 Filed 3–25–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–177–000]

Boundary Gas, Inc.; Notice of Proposed Changes in FERC Gas Tariff

March 20, 1996.

Take notice that on March 15, 1996, Boundary Gas, Inc. (Boundary) tendered for filing, as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to become effective April 1, 1996:

First Revised Sheet No. 5
First Revised Sheet No. 6
First Revised Sheet No. 7
First Revised Sheet No. 8
First Revised Sheet No. 13
First Revised Sheet No. 22
First Revised Sheet No. 23
First Revised Sheet No. 24

Boundary states that the purpose of this filing is to accommodate the needs of one of its Repurchasers, National Fuel Gas Distribution Corporation (National Fuel), which wishes to receive all of its Boundary volumes at a different delivery point from the one originally specified in Boundary's Phase 2 Gas Sales Agreement, which is incorporated into Boundary's FERC Gas Tariff. No other changes are being made to the tariff, and no other Boundary Repurchaser will be affected by this change.

Boundary states that copies of this filing were served upon all customers and interested state regulatory agencies.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7201 Filed 3–25–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–345–001]

Indeck Pepperell Power Associates, Inc.; Notice of Issuance of Order

March 20, 1996.

On November 13, 1995, as completed on December 26, 1995, Indeck Pepperell Power Associates, Inc. (Indeck Pepperell) filed a request for authorization to sell energy and capacity at market-based rates from the Indeck Pepperell Power Plant, a 38 MW cogeneration facility, located in Pepperell, Massachusetts. In their filing, Indeck Pepperell requested certain waivers and authorizations. In particular, Indeck Pepperell requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by Indeck Pepperell. On March 19, 1996, the Commission issued an Order On Rehearing Conditionally Accepting For Filing Market-Based Rates, And Granting Requests For Waivers And Authorizations (Order), in the above-docketed proceeding.

The Commission's March 19, 1996 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (D), (E), and (G):

(D) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Indeck Pepperell should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214 (1995).

(E) Absent a request to be heard within the period set forth in Ordering Paragraph (D) above, Indeck Pepperell is hereby authorized to issue securities and to assume obligations or liabilities as guarantor, endorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of the applicant, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(G) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of Indeck Pepperell's issuances of securities or assumptions of liabilities.

* * *

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is April 18, 1996.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7199 Filed 3–25–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP95–326–008 and RP96–128–001]

Natural Gas Pipeline Company of America; Notice of Compliance Filing

March 20, 1996.

Take notice that on March 15, 1996, Natural Gas Pipeline Company of America (Natural) tendered for filing proposed changes in its FERC Gas Tariff, Sixth Revised Volume No. 1, to become effective December 1, 1995 and March 1, 1996.

Natural states that the purpose of this filing is to comply with the Commission's "Order Accepting Tariff Sheets, Subject to Conditions, and Rejecting Tariff Sheets" issued February 29, 1996 in Docket Nos. RP95–326–006, *et al.*

Natural requests whatever waivers may be necessary to permit the tariff sheets as submitted to become effective on their indicated effective dates.

Natural states that copies of the filing are being mailed to all parties on the restricted service list in Docket Nos. RP95–326–006, *et al.*

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7202 Filed 3–25–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–549–000]

Southern Company Services, Inc., Notice of Compliance Filing

March 20, 1996.

Take notice that on January 24, 1996, Southern Company Services, Inc. tendered for filing an amendment in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests must be filed on or before March 29, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7204 Filed 3–25–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EL96–25–000, et al.]

Arizona Public Service Company, et al.; Electric Rate and Corporate Regulation Filings

March 19, 1996.

Take notice that the following filings have been made with the Commission:

1. Arizona Public Service Company

[Docket No. EL96–25–000]

Take notice that on March 4, 1996, Arizona Public Service Company tendered for filing additional material to its December 7, 1995, filing in the above-referenced docket.

Comment date: April 2, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Vitol Gas & Electric, LLC

Docket No. ER94–155–012

On March 12, 1996, Vitol Gas & Electric, LLC filed a notice of succession changing its name from Catex Vitol Electric, L.L.C. to Vitol Gas & Electric LLC.

Comment date: April 2, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. Southern Company Services, Inc.

Docket No. ER95–1266–000

Take notice that on March 14, 1996, Southern Company Services, Inc. tendered for filing an amendment in the above-referenced docket.

Comment date: April 2, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. Western Resources, Inc.

Docket No. ER96–591–000

Take notice that on March 14, 1996, Western Resources, Inc. (Western Resources) tendered for filing a revised participation power agreement between Western Resources and the city of Chanute, Kansas. The agreement is proposed to become effective June 1, 1996.

A copy of this filing was served upon the City of Chanute, Kansas and the Kansas Corporation Commission.

Comment date: April 2, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Western Resources, Inc.

Docket No. ER96–592–000

Take notice that on March 14, 1996, Western Resources, Inc. (Western Resources) tendered for filing a revised participation power agreement with the Oklahoma Municipal Power Authority.

A copy of this filing was served upon the Oklahoma Municipal Power Authority and the Kansas Corporation Commission.

Comment date: April 2, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Dayton Power & Light Company

Docket Nos. ER96–709–000, ER96–886–000, ER96–887–000, ER96–888–000, ER96–903–000, and ER96–978–000

Take notice that on February 26, 1996, Dayton Power & Light Company tendered for filing amendments in the above-referenced dockets.

Comment date: April 2, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Duke Power Company

Docket No. ER96–805–000

Take notice that on March 14, 1996, Duke Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: April 2, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. South Carolina Electric and Gas Company

Docket No. ER96–1085–000

Take notice that on March 14, 1996, South Carolina Electric and Gas Company tendered for filing an amendment in the above-referenced docket.

Comment date: April 2, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Minnesota Power & Light Company

Docket No. ER96–1209–000

Take notice that on February 28, 1996, Minnesota Power & Light Company tendered for filing signed Service Agreements with the following: Missouri Public Service, a division of UtiliCorp United, Inc., Westplains Energy-Colorado, a division of UtiliCorp United, Inc., and Westplains Energy-Kansas, a division of UtiliCorp United, Inc.

Comment date: April 2, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Indiana Michigan Power Company

Docket No. ER96–1232–000

Take notice that Indiana Michigan Power Company (I&M) March 1, 1996, tendered for filing with the Commission Facility Request No. 8 to the existing Agreement, dated December 11, 1989 (1989 Agreement), between I&M and Wabash Valley Power Association, Inc. (WVPA). Facility Request No. 8 was negotiated in response to WVPA's request that I&M provide new facilities at an existing 69 kV tap station to be owned by Northeastern REMC (Co-op Name) and operated by I&M known as Northeastern REMC-Aboite Tap Station. The Commission has previously designated the 1989 Agreement as I&M's Rate Schedule FERC No. 81.

As requested by, and for the sole benefit of WVPA, I&M proposes an effective date of April 30, 1996, for Facility Request No. 8. A copy of this filing was served upon WVPA, the Indiana Utility Regulatory Commission, and the Michigan Public Service Commission.

Comment date: April 2, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Wisconsin Power and Light

Docket No. ER96–1253–000 Company

Take notice that on March 5, 1996, Wisconsin Power and Light Company (WP&L), tendered for filing an Agreement dated February 23, 1996, establishing UtiliCorp United, Inc. as a customer under the terms of WP&L's Point-to-Point Transmission Tariff.

WP&L requests an effective date of February 23, 1996 and accordingly seeks waiver of the Commission's notice requirements. A copy of this filing has been served upon the Public Service Commission of Wisconsin.

Comment date: April 2, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Virginia Electric and Power Company

[Docket No. ER96–1282–000]

Take notice that on March 8, 1996, Virginia Electric and Power Company (Virginia Power), tendered for filing a Service Agreement between Southern Company Services, Inc. and Virginia Power, dated February 16, 1996, under the Power Sales Tariff to Eligible Purchasers dated May 27, 1994. Under the tendered Service Agreement Virginia Power agrees to provide services to Southern Company Services, Inc. under the rates, terms and conditions of the Power Sales Tariff as agreed by the parties pursuant to the terms of the applicable Service Schedules included in the Power Sales Tariff.

Copies of the filing were served upon the Virginia State Corporation Commission, and the North Carolina Utilities Commission.

Comment date: April 2, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. Btu Power, Inc.

[Docket No. ER96–1283–000]

Take notice that on March 8, 1996, Btu Power, Inc. (Btu), petitioned the Commission for acceptance of Btu Rate Schedule FERC No. 1, the granting of certain blanket approvals, including the authority to sell electricity at market-based rates, and the waiver of certain Commission regulations. Btu intends to engage in wholesale electric power and energy purchases and sales as a marketer. Btu is not in the business of generating transmitting, or distributing electric power. Btu is a direct wholly-owned subsidiary of Btu Energy, Inc. which is involved in development of non-utility generating facilities and related business ventures in the United States.

Comment date: April 2, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Northwestern Wisconsin Electric Company

[Docket No. ER96–1284–000]

Take notice that on March 8, 1996, Northwestern Wisconsin Electric Company, tendered for filing proposed changes in its Transmission Use Charge, Rate Schedule FERC No. 2. The proposed changes would decrease revenues from jurisdictional sales by $1,201.66 based on the 12 month period ending April 30, 1996. Northwestern Wisconsin Electric Company is proposing this rate schedule change to more accurately reflect the actual cost of transmitting energy from one utility to another based on current cost data. The service agreement for which this rate is calculated calls for the Transmission Use Charge to be reviewed annually and revised on May 1.

Northwestern Wisconsin Electric Company requests this Rate Schedule Change become effective May 1, 1996.

Copies of this filing have been provided to the respective parties and to the Public Service Commission of Wisconsin.

Comment date: April 2, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Illinois Power Company

[Docket No. ER96–1285–000]

Take notice that on March 8, 1996, Illinois Power Company (IPC), tendered for filing its proposed changes to its open access transmission tariffs (FERC Electric Tariffs, First Revised Volume No. 3 and Original Volume No. 6) which were accepted by the Commission on October 4, 1995. The proposed changes expand eligibility for service under these tariffs.

The reason stated by IPC for the changes in the Tariffs is to include as Eligible Customers certain retail customers participating in a limited Direct Energy Access Service program.

Comment date: April 2, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. Maine Public Service Company

[Docket No. ER96–1286–000]

Take notice that on March 11, 1996, Maine Public Service Company (Maine Public) filed an executed Service Agreement with LG&E Power Marketing, Inc.

Comment date: April 2, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. The Detroit Edison Company

[Docket No. ER96–1287–000]

Take notice that on March 11, 1996, The Detroit Edison Company (Detroit),

tendered for filing an Amendment No. 2 to the Agreement for the Lease of a Portion of Generating Capability of Ludington Pumped Storage Hydroelectric Generating Plant by The Detroit Edison Company to the Toledo Edison Company dated April 3, 1995.

Comment date: April 2, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7198 Filed 3–25–96; 8:45 am]

BILLING CODE 8717–01–P

[Docket No. ER96–807–000, et al.]

Washington Water Power Company, et al.; Electric Rate and Corporate Regulation Filings

March 18, 1996.

Take notice that the following filings have been made with the Commission:

1. Washington Water Power Company

[Docket No. ER96–807–000]

Take notice that on March 13, 1996, Washington Water Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: April 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Delmarva Power & Light Company

[Docket No. ER96–968–000]

Take notice that on February 28, 1996, Delmarva Power & Light Company (DPL) tendered for filing a Certificate of Concurrence by Public Service Electric and Gas Company (PSE&G) to amend and supplement the initial Rate Schedule filed January 30, 1996 in this proceeding. In order to optimize the economic advantages to both DPL and PSE&G, DPL requests the Commission waive its customary notice period and allow the Initial Rate Schedule, as amended and supplemented to become effective on January 31, 1996.

DPL states that a copy of this filing has been sent to PSE&G and will be furnished to the New Jersey Board of Public Utilities, the Delaware Public Service Commission, the Maryland Public Service Commission, and the Virginia State Corporation Commission.

Comment date: April 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. Orange & Rockland Utilities, Inc.

[Docket No. ER96–1059–000]

Take notice that on February 29, 1996, Orange & Rockland Utilities, Inc. tendered for filing a letter deleting language from sections in its February 12, 1996, filing in the above-referenced docket.

Comment date: April 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. Houston Light & Power Company

[Docket No. ER96–1218–000]

Take notice that on February 29, 1996, as amended March 4, 1996, Houston Lighting & Power Company (HL&P) tendered for filing an executed transmission service agreement (TSA) with Enron Power Marketing Inc. (Enron) for Economy Energy and Emergency Power Transmission Service Under HL&P's FERC Electric Tariff, Original Volume No. 1, for Transmission Service to, From and Over Certain HVDC Interconnections. HL&P has requested an effective date of February 5, 1996.

Copies of the filing were served on Enron and the Public Utility Commission of Texas.

Comment date: April 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. New England Power Company

[Docket No. ER96–1229–000]

Take notice that on March 1, 1996, New England Power Company (NEP) filed an Amendment to the Salem Harbor 3 Unit Contract between NEP and UNITIL Power Corp. (UNITIL). The Amendment resolves questions over the billing of certain coal and oil charges attributed to NEP's change in its method of allocating certain allowable charges to fuel to reflect certain costs passed through to NEP by its affiliate New England Energy Incorporated. Under the Amendment, UNITIL will be refunded approximately $82,000 for allocations attributable to coal and $18,000 for oil. NEP requests an effective date of March 2, 1996.

Comment date: April 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Maine Public Service Company

[Docket No. ER96–1264–000]

Take notice that on March 6, 1996, Maine Public Service Company submitted an agreement under its Umbrella Power Sales tariff.

Comment date: April 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Maine Public Service Company

[Docket No. ER96–1265–000]

Take notice that on March 6, 1996, Maine Public Service Company submitted agreements under its Umbrella Power Sales tariff.

Comment date: April 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Cinergy Services, Inc.

[Docket No. ER96–1266–000]

Take notice that on March 6, 1996, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Non-Firm Power Sales Standard Tariff (the Tariff) entered into between Cinergy and the Baltimore Gas and Electric Company.

Cinergy and the Baltimore Gas and Electric Company are requesting an effective date of March 1, 1996.

Comment date: April 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Florida Power Corporation

[Docket No. ER96–1267–000]

Take notice that on March 6, 1996, Florida Power Corporation (the Company) tendered for filing revised sheets to wholesale rate schedules under which the Company serves Seminole Electric Cooperative, Florida Municipal Power Agency and Reedy Creek Improvement District. The Company requests that all of these revised sheets be allowed to become effective as of March 6, 1996. The Company requests waiver of the 60-day notice requirement in order to give immediate effect to the commitments made by the Company to its customers.

Comment date: April 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Cinergy Services, Inc.

[Docket No. ER96–1268–000]

Take notice that on March 6, 1996, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Non-Firm Power Sales Standard Tariff (the Tariff) entered into between Cinergy and the Wisconsin Power & Light Company.

Cinergy and the Wisconsin Power & Light Company are requesting an effective date of March 6, 1996.

Comment date: April 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Duke Power Company

[Docket No. ER96–1269–000]

Take notice that on March 6, 1996, Duke Power Company (Duke), tendered for filing a Transmission Service Agreement (TSA) between Duke, on its own behalf and acting as agent for its wholly-owned subsidiary, Nantahala Power and Light company, and UtiliCorp United Inc. (UtiliCorp). Duke states that the TSA sets out the transmission arrangements under which Duke will provide UtiliCorp non-firm transmission service under its Transmission Service Tariff.

Comment date: April 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Duke Power Company

[Docket No. ER96–1270–000]

Take notice that on March 6, 1996, Duke Power Company (Duke), tendered for filing a Transmission Service Agreement (TSA) between Duke, on its own behalf and acting as agent for its wholly-owned subsidiary, Nantahala Power and Light Company, and American Electric Power Service Corporation (AEP). Duke states that the TSA sets out the transmission arrangements under which Duke will provide AEP non-firm transmission service under its Transmission Service Tariff.

Comment date: April 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. Duke Power Company

[Docket No. ER96–1271–000]

Take notice that on March 6, 1996, Duke Power Company (Duke), tendered for filing a Transmission Service Agreement (TSA) between Duke, on its own behalf and acting as agent for its wholly-owned subsidiary, Nantahala Power and Light Company, and Illinois Power Company (Illinois). Duke states that the TSA sets out the transmission arrangements under which Duke will provide Illinois non-firm transmission service under its Transmission Service Tariff.

Comment date: April 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Duke Power Company

[Docket No. ER96–1272–000]

Take notice that on March 6, 1996, Duke Power Company (Duke) tendered for filing a Service Agreement for Market Rate (Schedule MR) Sales between Duke and Ohio Edison Company and a Schedule MR Transaction Agreement thereunder.

Comment date: April 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Madison Gas and Electric Company

[Docket No. ER96–1273–000]

Take notice that on March 7, 1996, Madison Gas and Electric Company (MGE), tendered for filing a service agreement with Jpower Inc. under MGE's Power Sales Tariff. MGE requests an effective date 60 days from the filing date.

Comment date: April 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. Tucson Electric Power Company

[Docket No. ER96–1274–000]

Take notice that on March 7, 1996, Tucson Electric Power Company (Tucson), tendered for filing a Service Agreement (the Agreement), effective as of March 1, 1996 with Federal Energy Sales Inc. (Federal). The Agreement provides for the sale by Tucson to Federal of economy energy from time to time at negotiated rates in accordance with Service Schedule A of Tucson's Coordination Tariff, Volume 1, Docket No. ER94–1437–000. Tucson requests an effective date of March 1, 1996, and therefore requests all applicable waivers.

Copies of this filing have been served upon all parties affected by this proceeding.

Comment date: April 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. Ohio Valley Electric Corporation

[Docket No. ER96–1275–000]

Take notice that on March 7, 1996, Ohio Valley Electric Corporation (OVEC), tendered for filing Modification No. 9, dated as of August 17, 1995, to the Inter-Company Power Agreement dated July 10, 1953 among OVEC and certain other utility companies named within that agreement as "Sponsoring Companies" (the Inter-Company Power Agreement). The Inter-Company Power Agreement bears the designation "Ohio Valley Electric Corporation Rate Schedule FPC No. 1–B."

This filing would amend the Inter-Company Power Agreement to permit the Sponsoring Companies, in the event of an emergency shortage of power and energy at the United States Department of Energy's uranium enrichment facility in Paducah, Kentucky, to release a portion of their entitlement of power and energy to OVEC and thereby make such power available for DOE. The Sponsoring Companies would collect a surcharge for such power equal to their net cost of utilizing higher-cost generation resources or purchasing replacement power to make such power available.

OVEC has requested that the Commission waive the 60-day notice period and allow the changes to become effective as of August 17, 1995.

Copies of the filing were served upon Appalachian Power Company, The Cincinnati Gas & Electric Company, Columbus Southern Power Company, The Dayton Power and Light Company, Indiana Michigan Power Company, Kentucky Utilities Company, Louisville Gas and Electric Company, Monongahela Power Company, Ohio Edison Company, Ohio Power Company, Pennsylvania Power Company, The Potomac Edison Company, Southern Indiana Gas and Electric Company, The Toledo Edison Company, West Penn Power Company, the Utility Regulatory Commission of Indiana, the Public Service Commission of Kentucky, the Public Service Commission of Maryland, the Public Service Commission of Michigan, the Public Utilities Commission of Ohio, the Public Utility Commission of Pennsylvania, the State Corporation Commission of Virginia and the Public Service Commission of West Virginia.

Comment date: April 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

18. Ohio Valley Electric Corporation

[Docket No. ER96–1276–000]

Take notice that on March 7, 1996, Ohio Valley Electric Corporation (OVEC), tendered for filing the Agreement, dated as of August 17, 1995, by and between OVEC and the Tennessee Valley Authority (TVA).

This Agreement would permit OVEC, in the event of an emergency shortage of power and energy, to sell power and energy to TVA. The charge would be based on OVEC's out-of-pocket cost of emergency energy.

OVEC has requested that the Commission waive the 60-day notice period and allow the changes to become effective as of August 17, 1995.

Copies of the filing were served upon The Tennessee Valley Authority and the Public Utilities Commission of Ohio.

Comment date: April 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

19. Northeast Utilities Service Company

[Docket No. ER96–1277–000]

Take notice that on March 7, 1996, Northeast Utilities Service Company (NUSCO), on behalf of Northeast Utilities (NU) System Companies, filed a Service Agreement for firm transmission service to Suncook Energy Corporation under the NU System Companies' Tariff No. 1.

NUSCO requests the Service Agreement be permitted to become effective on March 8, 1996.

Comment date: April 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

20. South Carolina Electric & Gas Company

[Docket No. ER96–1278–000]

Take notice that on March 7, 1996, South Carolina Electric & Gas Company, tendered for filing proposed Contract for Purchases and Sales of Power and Energy between South Carolina Electric & Gas Company and Enron Power Marketing, Inc. (EPMI).

Under the proposed contract, the parties will purchase and sell electric energy and power between themselves. South Carolina Electric and Gas Company also requested waiver of notice in order that the contract be effective on April 1, 1996.

Copies of this filing were served upon Enron Power Marketing, Inc.

Comment date: April 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

21. South Carolina Electric & Gas Company

[Docket No. ER96–1279–000]

Take notice that on March 7, 1996, South Carolina Electric & Gas Company, tendered for filing proposed Contract for Purchases and Sales of Power and Energy between South Carolina Electric & Gas Company and City of Tallahassee, Florida.

Under the proposed contract, the parties will purchase and sell electric energy and power between themselves. South Carolina Electric and Gas Company also requested waiver of notice in order that the contract be effective on February 9, 1996.

Copies of this filing were served upon City of Tallahassee, Florida.

Comment date: April 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

22. Duke Power Company

[Docket No. ER96–1280–000]

Take notice that on March 7, 1996, Duke Power Company (Duke), tendered for filing a Service Agreement for Market Rate (Schedule MR) Sales between Duke and Koch Power Services, Inc., and a Schedule MR Transaction Short thereunder.

Comment date: April 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

23. Mississippi Power Company

[Docket No. ER96–1281–000]

Take notice that on March 6, 1996, Mississippi Power Company, tendered for filing the correction of a recently discovered typographical error made several years ago in a provision of the Fuel Cost Adjustment Clause of Mississippi's Electric Tariff, First Revised Volume No. 1.

Copies of the filing were served upon all customers receiving service under the tariff, the Mississippi Public Service Commission, and the Mississippi Public Utilities Staff.

Comment date: April 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7206 Filed 3–25–96; 8:45 am]

BILLING CODE 6717–01–P

[Project No. 11132–000–ME]

Consolidated Hydro Maine, Inc., Notice of Availability of Draft Environmental Assessment

March 20, 1996.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for an original license for the existing unlicensed Eustis Hydroelectric Project, located in Franklin County, Maine, and has prepared a Draft Environmental Assessment (DEA) for the project. In the DEA, the Commission's staff has analyzed the potential environmental impacts of the existing project and has concluded that approval of the project, with appropriate environmental protection measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the DEA are available for review in the Public Reference Branch, Room 2–A, of the Commission's offices at 888 First Street, NE., Washington, DC 20426.

Any comments should be filed within 30 days from the date of this notice and should be addressed to Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1–A, Washington, DC 20426. Please affix "Eustis Hydroelectric Project No. 11132" to all comments. For further information, please contact Tom Dean at (202) 219–2778.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7203 Filed 3–25–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–220–000, et al.]

Koch Gateway Pipeline Company, et al.; Natural Gas Certificate Filings

March 18, 1996.

Take notice that the following filings have been made with the Commission:

1. Koch Gateway Pipeline Company

Docket No. CP96–220–000

Take notice that on February 29, 1996, Koch Gateway Pipeline Company (Koch), 600 Travis Street, P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP96–220–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to revise an existing meter station and to install a lateral pipeline to increase delivery capacity to Mississippi Power Company (MPC) in Harrison County, Mississippi, under its blanket certificate issued in Docket No. CP82–430–000, pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Koch proposes to install approximately 5,377 feet of new twenty-inch pipeline parallel and adjacent to its existing eight-inch pipeline designated as TPL 276–14 which is currently serving MPC's Jack Watson Power Plant. Koch states that the first 2,424 of proposed installation will be located in Koch's existing fee property. While the remaining 2,953 of the proposed installation will be located within an existing right-of-way located entirely within MPC property and easements. Additionally, Koch proposes to install on the twenty-inch line at station 39+88, a four-inch tap to tie-over an existing meter station which serves Reichold Chemical, which is currently served from the existing eight-inch line.

Koch asserts that it is not seeking to abandon the eight-inch line because it will be used as a back-up line in the event that service is interrupted on the twenty-inch line. Koch claims that the lateral line will increase the delivery capacity to MPC from 105 MMcf/d to a proposed peak day capacity of 286 MMcf. Koch notes that the twenty-inch line is needed to meet MPC's immediate needs as well as providing the opportunity to meet MPC's future fuel requirements. The estimated cost for the project is $1,120,000, of which MPC will partially reimburse Koch for the construction costs.

Koch states that MPC is currently being served by a number of brokers and marketers which ship gas on Koch's system. Koch states that MPC will continue to have this option or it may execute a new interruptible transportation agreement pursuant to Koch's ITS Rate Schedule. Koch notes that service provided through the proposed facilities will be within the certificated entitlements of existing shippers which serve MPC or within the entitlements of an executed interruptible agreement if MPC chooses, pursuant to Koch's blanket transportation certificate authorized in Docket No. CP88–6–000. Koch states that it has sufficient capacity to render the proposed service without detriment to its existing customers and its tariff does not prohibit the proposed modifications to the facilities.

Comment date: May 2, 1996, in accordance with Standard Paragraph G at the end of this notice.

2. Transcontinental Gas Pipe Line Corporation; National Fuel Gas Supply Corporation

[Docket No. CP9]

Take notice that on March 8, 1996, Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1396, Houston, Texas 77251, and National Fuel Gas Supply Corporation (National Fuel), 10 Lafayette Street, Buffalo, New York 14203 (jointly referred to as Applicants), filed in Docket No. CP96–238–000, a joint application pursuant to Section 7(c) of the Natural Gas Act (NGA), and Part 157 of the Federal Energy Regulatory Commission's (Commission) regulations, for a certificate of public convenience and necessity authorizing the Applicants to redefine the total top gas storage capacity of the Wharton Storage Field as 16 Bcf, and to increase the base gas of the Wharton Storage Field by 4 Bcf for a total of 14.6 Bcf of base gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that the initial development of the Wharton Storage Field was certificated by Commission order dated January 18, 1963, in Docket No. CP61–284. Further, development of the storage field was authorized by Commission orders dated November 20, 1963, in Docket No. CP64–44; February 4, 1964, in Docket No. CP64–103; and January 24, 1967, in Docket No. CP65–182.

Applicants state that the certificated storage capacity of the Wharton Storage Field was never realized during development, and over the years the rated capacity of the Wharton Storage Field has further deteriorated so that the capacity is now 16 Bcf. Further, Applicants state that remediation programs have been followed to maintain, and at a minimum, to mitigate further reduction in deliverability of top gas storage capacity of the Wharton Storage Field.

Applicants indicate that they have entered into a Revised and Restated Wharton Storage Agreement to reflect the changed physical and operational characteristics of the Wharton Storage Field and to update the Wharton Storage Agreement dated February 7, 1963. Applicants state that, under this agreement, Transco will furnish 3 Bcf of base gas and National Fuel will furnish 1 Bcf of base gas.

Comment date: April 8, 1996, in accordance with Standard Paragraph F at the end of this notice.

3. Northern Natural Gas Company

[Docket No. CP96–246–000]

Take notice that on March 14, 1996, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed in Docket No. CP96–246–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to construct and operate a new delivery point under Northern's blanket certificate issued in Docket No. CP82–401–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northern proposes to install a new tap on Northern's 24-inch A-line, and metering and appurtenance facilities, at its existing measurement yard located in the NE 1/4, Section 18, T3N, R26E, Beaver County, Oklahoma. Northern states that the new delivery point would accommodate natural gas deliveries to Continental Natural Gas Incorporated (CNG) under existing transportation rate schedule and service agreements. Northern explains that the gas would be used for feedstock for CNG's processing plant. It is stated that estimated peak day and annual volumes would amount to 25,000 MMBtu and 6,223,250 MMBtu, respectively. Northern estimates that the total cost to install the delivery point would be $155,000. Northern advises that the facilities would be financed in accordance with the General Terms and Conditions of its FERC Gas Tariff, Fifth Revised Volume No. 1.

Comment date: May 2, 1996, in accordance with Standard Paragraph G at the end of this notice.

4. Northern Natural Gas Company

[Docket No. CP96–247–000]

Take notice that on March 14, 1996, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124, filed in Docket No. CP96–247–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon, in place, the Zavala Co. No. 2 compressor station in Zavala County, Texas, all as more fully set forth in the application on file with the Commission and open to public inspection.

Northern states that the Zavala Co. No. 2 compressor station, which consists of one 2,250 horsepower unit, is no longer being utilized due to changes in operating conditions which have eliminated the need for this station. Northern further states that its Zavala Co. No. 3 compressor station is currently being utilized to compress the gas instead of the Zavala Co. No. 2 compressor station; therefore, abandonment of the station will not result in the abandonment of service to any of Northern's existing customers or producers.

Comment date: April 8, 1996, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7200 Filed 3–25–96; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP96–237–000, et al.]

Williston Basin Interstate Pipeline Company, et al.; Natural Gas Certificate Filings

March 20, 1996.

Take notice that the following filings have been made with the Commission:

1. Williston Basin Interstate Pipeline Company

[Docket No. CP96–237–000]

Take notice that on March 8, 1996, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 300, 200 North Third Street, Bismarck, North Dakota 58501, filed in Docket No. CP96–237–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to utilize two existing taps in South Dakota under Williston Basin's blanket certificate issued in Docket No. CP83–1–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in request on file with the Commission and open to public inspection.

Williston Basin states that Montana-Dakota requested authorization to add an additional residential customer to an existing transmission line tap at Station 391+00 on Williston Basin's 10-inch Ellsworth Air Force Base line in Meade County and to add another residential customer at Station 8368+73 on Williston Basin's 12-inch Black Hills Yellow line in Lawrence County. The estimated volumes to be delivered at each area will be 100 Mcf per year. Williston Basin proposes to utilize these existing residential farm taps to effectuate additional natural gas transportation deliveries to Montana-Dakota for other than right-of-way grantor use.

Williston Basin states that the proposed service will have no significant effect on its peak day or annual requirements and that it has sufficient capacity to accomplish deliveries without detriment or disadvantage to its other customers. Williston Basin also states that the additional delivery points are not prohibited by its tariff and the volumes to be delivered are within the contractual entitlements of the customers.

Comment date: May 6, 1996, in accordance with Standard Paragraph G at the end of this notice.

2. National Fuel Gas Supply Corporation

[Docket No. CP96–243–000]

Take notice that on March 11, 1996, National Fuel Gas Supply Corporation (National Fuel), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP96–243–000, a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to perform construction on a sales tap located on National Fuel's T-M170 Line in Clarion County, Pennsylvania. The subject tap renders service to an existing firm transportation customer of National Fuel, National Fuel Gas Distribution Corporation (Distribution). National Fuel makes such request, under its blanket certificate issued in Docket No. CP83–4–000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

National Fuel proposes to perform construction on an existing sales tap that provides transportation service to Distribution under National Fuel's EFT Rate Schedule. Specifically, the sales tap on which construction will take place is Station No. T–1218, which presently includes a 4-inch turbine meter and regulators with 11/16-inch single orifices. National Fuel is proposing to replace those facilities with a 6-inch turbine meter and 1-inch double orifices. It is stated that by altering those facilities, the design delivery capacity of the regulators will increase from 45.2 Mcf per hour to about 140 Mcf per hour, and the measurement capacity will increase from 61 Mcf per hour to about 122 Mcf per hour. National Fuel states that the proposed upgrade is necessary to meet the increased demand for gas in the Miola, Pennsylvania area and to provide a more reliable feed to Distribution.

National Fuel states that the volumes to be delivered at the proposed tap will be within the certificated entitlement of Distribution, and that the proposed service will have a minimal impact on National Fuel's peak day and annual deliveries. The project is estimated to cost $7,500.

Comment date: May 6, 1996, in accordance with Standard Paragraph G at the end of this notice.

3. Portland Natural Gas Transmission System

[Docket No. CP96–248–000]

Take notice that on March 14, 1996, Portland Natural Gas Transmission System (PNGTS), 300 Friberg Parkway, Westborough, Massachusetts 01581–5039, filed an application pursuant to Section 3 of the Natural Gas Act, Sections 153.10 through 153.12 of the Commission's regulations, and Executive Order No. 10485, as amended by Executive Order No. 12038 and Secretary of Energy Delegation Order No. 0204–112 for Section 3 authorization and a Presidential Permit to site, construct, operate and maintain pipeline facilities at the United States-Canada International Boundary, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, PNGTS seeks authorization to site, construct, operate and maintain approximately 500 feet of 20-inch pipeline near North Troy, Vermont, commencing at the United States-Canada border and ending at a proposed joint or bend in the pipeline. PNGTS states that its facilities will enable it to meet gas needs in New England.

Comment date: April 10, 1996, in accordance with Standard Paragraph F at the end of this notice.

4. Portland Natural Gas Transmission System

[Docket No. CP96–249–000]

Take notice that on March 14, 1996, Portland Natural Gas Transmission System (PNGTS), 300 Friberg Parkway, Westborough, Massachusetts 01581–5039, filed in Docket No. CP96–249–000, an application, pursuant to Section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing the construction and operation of pipeline facilities for the transportation of natural gas on a firm and interruptible basis. PNGTS also seeks a blanket certificate pursuant to 18 CFR Part 157, Subpart F, for the construction, operation, and/or abandonment of certain facilities. Further, PNGTS seeks a blanket certificate pursuant to 18 CFR Part 284, Subpart G for self-implementing transportation authority. These proposals are more fully set forth in the application which is on file with the Commission and open to public inspection.

PNGTS is a general partnership under the laws of the State of Maine. PNGTS's partners are: East Coast Pipeline Company, Gaz Metro Portland Corporation, JMC Portland (Investors) Inc., Natural Gas Development Corporation, TCPL Portland Inc., and Tenneco Portland Corporation.

Specifically, PNGTS proposes to construct and operate approximately 242 miles of 20-inch mainline pipeline extending from the U.S.-Canada border near North Troy, Vermont to Haverhill, Massachusetts; a 3.3-mile, 12-inch lateral from the mainline at Westbrook, Maine to an interconnection with Granite State Gas Transmission, Inc. (Granite State) at Falmouth, Maine; a 1-mile, 12-inch lateral from the mainline at Newington, New Hampshire to Granite State; and four metering facilities. PNGTS states that the estimated cost of the proposed facilities is $271 million and will be project financed. The proposed in-service date of the facilities is November 1, 1998. PNGTS states that its proposed pipeline has a design capacity of 178,000 Mcf per day and that over 94 percent of the project's peak day capacity is subject to long-term binding precedent agreements with four shippers.

PNGTS proposes to offer two types of firm service—365-day transportation (Rate Schedule FT) and 151-day winter transportation (November–March) (Rate Schedule WFT)—and interruptible transportation service. PNGTS states that the rates for its service will be based on a winter design day capacity of 178,000 Mcf per day with costs allocated solely to shippers under Rate Schedules FT and WFT. PNGTS states that the rates will utilize a straight fixed-variable rate design. PNGTS has filed a pro forma tariff containing the terms and conditions for its transportation services.

PNGTS maintains that its project will meet a growing demand for gas in New England; allow Bay State Gas Company and Northern Utilities, Inc. continued access to gas currently transported to them by Granite State through a pipeline under a lease due to expire in April 1998; enhance service on the existing New England infrastructure; and offer a variety of transportation services in response to market demand for flexible services.

Comment date: April 10, 1996, in accordance with Standard Paragraph F at the end of this notice.

5. Northwest Pipeline Corporation

[Docket No. CP96–252–000]

Take notice that on March 15, 1996, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP96–252–000 a request pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to abandon obsolete metering facilities and to construct and operate modified metering facilities at a new location for the Echo Lake Meter Station located in Snohomish County, Washington, under Northwest's blanket certificate issued in Docket No. CP82–433–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northwest proposes to abandon, by removal, the existing obsolete facilities and to construct and operate modified metering facilities at a new meter station site approximately 125 feet from the current location.

Northwest states that the design capacity of the new meter station would increase from 700 Dth per day to approximately 1,336 Dth per day at 150 psig.

The estimated total cost of the abandonment and construction project is stated to be approximately $209,960.

Comment date: May 6, 1996, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs:

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion

believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7227 Filed 3–25–96; 8:45 am]

BILLING CODE 6717–01–P

Office of Hearings and Appeals

Proposed Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Proposed Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy announces revised proposed procedures for disbursement of $48,307.13 of crude oil overcharge funds obtained by the DOE from Texas American Oil Corporation (Texas American), Case No. VEF–0019. The OHA has determined that these funds, plus accrued interest, be distributed as direct restitution to individual claimants who were injured by crude oil overcharges.

DATES AND ADDRESSES: Comments must be filed in duplicate on or before April 25, 1996, and should be addressed to the Office of Hearings and Appeals, 1000 Independence Ave., SW, Washington, DC 20585–0107. All comments should conspicuously display a reference to Case No. VEF–0019.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Ave., SW, Washington, DC 20585–0107, Telephone No. (202) 586–2860.

SUPPLEMENTARY INFORMATION: In accordance with 10 C.F.R. § 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set forth below. The Proposed Decision and Order sets forth the procedures that the DOE has tentatively formulated to distribute $48,307.13 (plus accrued interest) remitted to the DOE by Texas American. The DOE is currently holding these funds in an interest-bearing escrow account pending distribution.

This Proposed Decision revises a portion of a previous Proposed Decision that was issued on January 16, 1996. *See Brio Petroleum, Inc.*, Case Nos. VEF–0017 *et al.*, 61 Fed. Reg. 1919 (January 24, 1996). In the January 16 Proposed Decision, the OHA proposed to distribute the funds obtained from Texas American and four other firms in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, 51 Fed. Reg. 27899 (August 4, 1986) (the MSRP). Under the MSRP, crude oil overcharge monies are divided among the federal government, the states, and injured purchasers of refined petroleum products. In accordance with the MSRP, the January 16 Proposed Decision tentatively reserved 20 percent of the funds received from Texas American and the other four firms for direct restitution to injured claimants. In the present Proposed Decision, which involves only Texas American, the OHA has tentatively decided that all of the crude oil overcharge funds obtained from the bankrupt estate of Texas American should be reserved for individual claimants. This is in accordance with *Texas American Oil Corp.* v. *DOE*, 44 F.3d 1557 (Fed. Cir. 1995) (en banc), in which the United States Court of Appeals for the Federal Circuit held that the DOE's claim in the Texas American bankruptcy proceeding on behalf of individual claimants should have a higher priority than its claim on behalf of the states and federal government. Pursuant to that decision, the bankruptcy court distributed to the DOE an amount equivalent to only 20 percent of its claim in the Texas American bankruptcy proceeding.

The remainder of the Proposed Decision is unchanged from the January 16 Proposed Decision. We propose that refunds to eligible purchasers be based on the volume of products that they purchased during the price control period and the extent to which they can demonstrate injury. The proposed volumetric refund amount is $0.0016 per gallon.

Because the June 30, 1995 deadline for crude oil refund applications has passed, we propose not to accept any new applications for refund in this proceeding. As we state in the Proposed Decision, the Texas American funds will be added to the general crude oil overcharge pool for direct restitution to claimants that have filed timely applications.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice in the **Federal Register**, and should be sent to the address set forth in the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1:00 p.m. to 5:00 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E–234, 1000 Independence Ave., SW, Washington, DC 20585–0107.

Dated: March 14, 1996.

Thomas O. Mann,

Acting Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Name of Case: Texas American Oil Corporation
Date of Filing: September 1, 1995
Case Number: VEF–0019

On January 16, 1996 the Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) issued a Proposed Decision and Order (PDO) that tentatively established refund procedures for the distribution of crude oil overcharge funds obtained from Texas American Oil Corporation (Texas American) and four other firms. *Brio Petroleum, Inc.*, Case Nos. VEF–0017 *et al.*, 61 Fed. Reg. 1919 (January 24, 1996). In accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases (MSRP), 51 Fed. Reg. 27899 (August 4, 1989), the PDO proposed that 40 percent of the funds be disbursed to the federal government, another 40 percent be disbursed to the states, and the remaining 20 percent be reserved for applicants who file claims showing that they were injured by crude oil overcharges. It has recently come to our attention that the circumstances under which the DOE obtained the Texas American funds require that the funds be disbursed in a manner different than that proposed in the PDO. Accordingly, we are issuing a new PDO with respect to the Texas American funds.

Background

On September 19, 1988, the OHA issued a Remedial Order (RO) that found that Texas American had violated 10 C.F.R. § 211.67(e)(2) by receiving excessive small refiner bias benefits under the DOE's Entitlements Program. *Texas American Oil Corp.*, 17 DOE ¶ 83,017 (1988). However, Texas American had filed a petition in bankruptcy on July 2, 1987, and its bankruptcy proceeding was still pending when the RO was issued. The trustee-in-bankruptcy approved the DOE's claim in the amount of $241,535.67, but classified it as a non-pecuniary loss in accordance with Section 726(a)(4) of the Bankruptcy Code and Class 9 of the Plan of Liquidation.[1] Since Class 9 claims were inferior to Class 7 claims, and there were insufficient assets to satisfy any Class 9 claim, or to satisfy fully the Class 7 claims, the effect of the trustee's determination was to preclude the DOE from receiving any compensation from Texas American's estate.

The DOE argued before the Bankruptcy Court that the trustee's determination was erroneous on the grounds that its claim was for restitution and therefore was a Class 7 claim. The Bankruptcy Court, however, rejected the DOE's position and held that Class 9 was the proper classification since the DOE's claim was not for actual pecuniary loss suffered by the holder of the claim. *In re Texas American Oil Corp.*, No. 387–33522–SAF–11 (Bankr. N.D. Tex. Mar. 5, 1992). This decision was reversed by the U.S. District Court which, relying on a prior decision of the Temporary Emergency Court of Appeals (TECA), held that a DOE claim under Section 209 of the Economic Stabilization of 1970 (ESA), 12 U.S.C. § 1904 note, was properly placed in the same class and priority as the general unsecured claims of other creditors. *Texas American Oil Corp.* v. *DOE*, No. 3:92–CV–1146–G (N.D. Tex. Sept. 14, 1992) (citing *DOE* v. *West Texas Marketing Corp.*, 763 F.2d 1411 (Temp. Emer. Ct. App. 1985) (*West Texas*)). This decision was in turn reversed by the United States Court of Appeals for the Federal Circuit, which held that the DOE's claim in the Texas American bankruptcy proceeding should be bifurcated, with the portion claimed on behalf of individual persons who suffered actual injury to be classified in Class 7 of the Plan of Liquidation and portion to be paid to the federal and statement governments to be classified in Class 9. *Texas American Oil Corp.* v. *DOE*, 44 F.3rd 1557 (Fed. Cir. 1995) (en banc). On remand, the Bankruptcy Court implemented the Federal Circuit's decision by distributing the 20 percent of DOE's liquidated claim ($48,307.13) that fell within Class 7 to DOE and the remaining 80 percent ($193,228.53) to the other Class 7 creditors. *In re Texas American Oil Corp.*, NO. 387–33522–SAF–11 (Bankr. N.D. Tex. April 12, 1995). The funds that the DOE received from Texas American were deposited in an interest-bearing escrow account maintained by the Department of the Treasury.[2]

In accordance with 10 C.F.R. Part 205, Subpart V, on September 1, 1995, the Office of General Counsel, Regulatory Litigation (OGC) (formerly the Economic Regulatory Administration) filed a Petition for the Implementation of Special Refund Procedures that requested OHA to formulate and implement procedures to distribute the Texas American funds. In the PDO, we tentatively granted the petition, stating that we intended to implement a Subpart V proceeding to distribute the funds to individual claimants and state and federal governments in accordance with the MSRP. The following section of this Proposed Decision sets forth our revised tentative plan to distribute these funds.

Proposed Refund Procedures

We propose to distribute the funds received from Texas American (and accrued interest on those funds) solely to individual claimants in the DOE's crude oil refund proceeding. This sui generis proposal results from the unique circumstances under which these funds were obtained. While the *Texas American* v. *DOE* decision is contrary to the position of the DOE that had been upheld in the *West Texas* case[3] we are constrained by the Federal Circuit's decision to use the funds received from Texas American solely for direct restitutionary purposes. Moreover, as indicated above, the Texas American Bankruptcy Court, in accordance with the Federal Circuit's determination, distributed to the DOE only 20 percent of its liquidated claim, an amount equivalent to the portion of crude oil overcharge funds that we have consistently reserved for individual claimants under the MSRP.

Except for the manner in which the funds will be allocated, we propose to follow the procedures set forth in the initial PDO and adopted in prior refund proceedings involving crude oil overcharge funds. Thus, claimants will be required to (i) document their purchase volumes of petroleum products during the August 19, 1973—January 27, 1981 crude oil price control period, and (ii) prove that they were injured by the alleged crude oil overcharges. Applicants who were end-users or ultimate consumers of petroleum products, whose businesses are unrelated to the petroleum industry, and who were not subject to the DOE price regulations will be presumed to have been injured by Texas American's crude oil overcharges.

In order to receive a refund, end-users will not need to submit any further evidence of injury beyond the volume of petroleum products purchased during the price control period. *See City of Columbus, Georgia* 16 DOE § 85,550 (1987). We also proposed to base refunds to claimants on a volumetric amount that is currently $0.0016 per gallon. *See* 60 Fed. Reg. 15562 (March 24, 1995).

An applicant who has executed and submitted a valid waiver pursuant to one of the escrows established by the Final Stripper Well Settlement Agreement will be considered to have waived its rights to apply for a crude oil refund under Subpart V. *See, e.g., Mid-America Dairymen, Inc.*, v. *Herrington*, 878 F.2d 1448 (Temp Emer. Ct. App. 1989); *see also Hoechst Celanese Chemical*, 25 DOE ¶85,066 (1996). Because the June 30 1995 deadline for crude oil refund applications has

[1] Section 726(a)(4) places non-pecuniary loss claims in the forth priority in the distribution of a bankrupt estate:

11 U.S.C. § 726. Distribution of property of the estate

* * * * * *

(a)(4) forth, in payment of any allowed claim, whether secured or unsecured, for any fine, penalty, or forfeiture, or for multiple, exemplary, or punitive damages, arising before the earlier of the order for relief or the appointment of trustee, to the extent that such fine, penalty, forfeiture, or damages are not compensation for actual pecuniary loss suffered by the holder of such claim[.]

Class 7 (Unsecured Claims) consisted of allowed claims of unsecured creditors, while Class 9 (Non-Pecuniary Loss) consisted of "Allowed Claims for any fine, penalty or forfeiture, or for multiple, exemplary, or punitive damages, as further described in 11 U.S.C. § 726(a)(4)." Texas American Bankruptcy Committee Plan of Liquidation §§ 3.07, 3.09.

[2] As of February 29, 1996, the account contained $50,596.54, consisting of $48,307.13 principal and $2,289.41 interest.

[3] The Federal Circuit in *Texas American* v. *Doe* ascribed its unwillingness to follow the *West Texas* decision to judicial statutory, and related policy changes that had occurred since the issuance of that decision. The Federal Circuit also specifically overruled TECA's ruling that a DOE bankruptcy claim under the ESA to be paid to the federal and state governments on behalf of their citizen was for restitution and not for a penalty.

passed, we propose not to accept any new applications. *See Western Asphalt Service*, 25 DOE ¶85,047 (1995). Instead, these funds will be added to the general crude oil overcharge pool used for direct restitution.

Before taking the action proposed in this Proposed Decision, we intend to publicize our proposal and solicit comments from interested parties. Comments regarding the tentative distribution process set forth in this Proposed Decision and Order should be filed with the OHA within 30 days of its publication in the **Federal Register.**

It is therefore ordered that:

The refund amount remitted to the Department of Energy by Texas American Oil Corporation pursuant to the Order of the United States Bankruptcy Court for the Northern District of Texas signed on April 12, 1995, will be distributed in accordance with the foregoing Decision.

[FR Doc. 96–7270 Filed 3–25–96; 8:45 am]

BILLING CODE 6450–51–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5447–3]

Agency Information Collection Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), this notice announces that EPA is planning to submit the following proposed and/or continuing Information Collection Requests (ICRs) to the Office of Management and Budget (OMB). Before submitting the ICRs to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collections as described below.

DATES: Comments must be submitted on or before May 28, 1996.

ADDRESSES: U. S. Environmental Protection Agency, 401 M Street SW, Mail code 2223A OECA/OC/METD, Washington, D.C. 20460. A copy of these ICR's may be obtained without charge from Sandy Farmer (202) 260–2740. This information may also be acquired electronically through the Enviroene Bulletin Board, 703–908–2092 or the Enviroene WWW/Internet Address, http//wastenot.inel.gov./envirosense/. All responses and comments will be collected regularly from Enviroene.

FOR FURTHER INFORMATION CONTACT: NSPS subpart D and NSPS subpart Da, Ted Coopwood, (202) 564–7058 FAX (202) 564–0050 or Chris Oh, (202) 564–7004; NSPS subpart BB, Maria DiBiase Eisemann at (202) 564–7016, FAX (202) 564–0050, NESHAP subpart N, NSPS subpart CC and NSPS subpart HH, Scott Throwe at (202) 564–7013, FAX (202) 564–0050; NSPS subpart MM, Suzanne Childress at (202) 564–7018, FAX (202) 564–0050, NSPS subpart RR, and Arsenic in Wood Preserving, Seth Heminway, (202) 564–7017, fax: (202) 564–0050, E-mail: Heminway.Seth@EPAMAIL.EPA.GOV.; NSPS subpart SS, NSPS subpart TT, and NSPS subpart WW, Gregory R. Waldrip, 202–564–7024 (telephone)/202–564–0050 (facsimile)/ waldrip.gregory@epamail.epa.gov (Email); NSPS subpart GGG, and NESHAP subpart M, Tom Ripp (202) 564–7003; NSPS subpart HHH, Belinda Breidenbach, (202) 564–7022, fax (202) 564–0050; NSPS Subparts III and NNN, Jeffery KenKnight at (202) 564–7033 or via E-mail (KENKNIGHT.JEFFERY@EPAMAIL.EPA.GOV); NSPS subpart KKK/LLL, Dan Chadwick, (202) 564–7054, FAX (202) 564–0050; NESHAP subpart E, Jane M. Engert, tel: (202) 564–5021; FAX: (202) 564–0050; e-mail: engert.jane@epamail.epa.gov; MACT subpart L, Maria Malave at (202) 564–7027 or via e-mail (MALAVE.MARIA@EPAMAIL.EPA.GOV.) or send a fax to (202) 564–0050; MACT NESHAP subpart M, Karin Leff at (202) 564–7068.

SUPPLEMENTARY INFORMATION:

NSPS Subpart D; Fossil-Fuel-Fired Steam Generators

Affected entities: Entities potentially affected by this action are those fossil-fuel-fired Steam Generators for which construction is commenced after August 17, 1971.

Title: New Source Performance Standards (NSPS) for Fossil-Fuel-Fired Steam Generators for Which Construction is Commenced after August 17, 1971 (Subpart D)—Information Requirements (EPA ICR No. 1052.04; OMB No, 2060–0026). This is a request for extension of a currently approved information collection.

Abstract: Owners or operators of fossil-fuel-fired steam generating units which is capable of combusting more than 73 megawatts heat input of fossil fuel and is not covered under Subpart Da, must provide EPA, or the delegated State regulatory authority with the following one-time-only reports (specified in 40 CFR 60.7): Notifications of the anticipated and actual date of start up, notification of the date of construction or reconstruction, notification of any physical or operational changes to an existing facility which may increase the emission rate of any regulated air pollutant, notification of the date upon which demonstration of the continuous monitoring system performance commences, notification of the date of the initial performance test, and results of the performance test.

Owners and operators are also required to maintain records of the occurrence and duration of any start up, shutdown, or malfunction in the operation of an effected facility, or malfunction in the operation of the air pollution control device, or any periods during which the monitoring system is inoperative. These notifications, reports, and records are required in general of all sources subject to NSPS.

In addition to reporting and recordkeeping requirements, facilities subject to this subpart must install, calibrate, maintain, and operate a continuous monitoring system (CMS) to monitor SO_2, NO_X and opacity (specified in 40 CFR 60.45), and must notify EPA or the State regulatory authority of the date upon which demonstration of the CMS performance commences. Owners or operators must submit quarterly reports indicating whether compliance was achieved, and their assessment of monitoring system performance (specified in 40 CFR 60.7). The notifications and reports enable EPA or the delegated State regulatory authority to determine that best demonstration technology is installed and properly operated and maintained and to schedule inspections.

To ensure compliance with these standards, the required records and reports are necessary to enable the Administrator: (1) To identify new, modified, or reconstructed sources subject to the standard; (2) to ensure that the emission limits are being achieved; and (3) to ensure that emission reduction systems are being operated and maintained properly. In the absence of such information collection requirements, enforcement personnel would be unable to determine whether standards are being met on a continuous basis, as required by the Clean Air Act and in accordance with any applicable permit.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The Agency computed the burden for each of the recordkeeping and reporting requirements applicable to the industry for the currently approved 1992 Information Collection Request (ICR). Where applicable, the Agency identified specific tasks and made assumptions, while being consistent with the concept of burden under the Paper Reduction Act.

The estimate was based on the assumption that there would be no new effected facilities because new utility boilers constructed after September 18, 1978 are subject to Subpart Da, and boilers constructed after June 19, 1986 are subject to Subpart Db. Approximately 660 sources are currently subject to the standard. For the performance test , it was estimated that it would take: 3440 person-hours to gather the information to write the initial reports and to conduct the initial performance tests. However, there are no new sources. For the 660 sources subject, it was estimated that it would take: 2640 person-hours to fill out quarterly and semiannual emission reports and 60,225 person-hours to check, maintain, and operate continuous emission monitors (assuming a source operates 365 days per year).

The average annual burden to industry over the past three year period from recordkeeping and reporting requirements had been estimated at 62,865 person-hours. The respondents costs was calculated on the basis of $14.50 plus 110 percent overhead. The average annual burden to industry over the past three years was estimated to be $1,914,236.

This estimate includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

NSPS Subpart Da; Electric Utility Steam Generating Units

Affected entities: Entities potentially affected by this action are those Electric Utility Steam Generating Units for which construction is commenced after September 18, 1978.

Title: New Source Performance Standards (NSPS) for Electric Utility Steam Generating Units (Subpart Da)—Information Requirements (EPA ICR No. 1053.04; OMB No. 2060–0023). This is a request for extension of a currently approved information collection.

Abstract: Owners or operators of Electric Utility Steam Generating Units capable of combusting more than 73 megawatts heat input of fossil fuel must provide EPA, or the delegated State regulatory authority with the following one-time-only reports: Notifications of the anticipated and actual date of start up, notification of the date of construction or reconstruction, notification of any physical or operational changes to an existing facility which may increase the emission rate of any regulated air pollutant, notification of the date upon which demonstration of the continuous monitoring system performance commences, notification of the date of the initial performance test, and results of the performance test.

Owners and operators are also required to maintain records of the occurrence and duration of any start up, shutdown, or malfunction in the operation of an effected facility, or malfunction in the operation of the air pollution control device, or any periods during which the monitoring system is inoperative. These notifications, reports, and records are required in general of all sources subject to NSPS.

In addition to reporting and recordkeeping requirements specified in 40 CFR 60.7, facilities subject to this subpart must install, calibrate, maintain, and operate a continuous monitoring system (CMS) to monitor SO_2, NO_x and opacity (specified in 40 CFR 60.7 and 40 CFR 60.47a), and must notify EPA or the State regulatory authority of the date upon which demonstration of the CMS performance commences (specified in 40 CFR 60.47a). Owners or operators must submit quarterly reports indicating whether compliance was achieved, and their assessment of monitoring system performance (specified in 40 CFR 60.49a). The notifications and reports enable EPA or the delegated State regulatory authority to determine that best demonstration technology is installed and properly operated and maintained and to schedule inspections.

To ensure compliance with these standards, the required records and reports are necessary to enable the Administrator: (1) To identify new, modified, or reconstructed sources subject to the standard; (2) to ensure that the emission limits are being achieved; and (3) to ensure that emission reduction systems are being operated and maintained properly. In the absence of such information collection requirements, enforcement personnel would be unable to determine whether standards are being met on a continuous basis, as required by the Clean Air Act and in accordance with any applicable permit. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9.

The EPA would like to solicit comments to:

(i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The Agency computed the burden for each of the recordkeeping and reporting requirements applicable to the industry for the currently approved 1992 Information Collection Request (ICR). Where applicable, the Agency identified specific tasks and made assumptions, while being consistent with the concept of burden under the Paper Reduction Act.

The estimate was based on the assumption that there would be seven new effected facilities each year and

there was an average of 71 sources in existence for the three years covered by the ICR. For the new sources, it was estimated that it would take: one person-hours to read the instructions, 502 person-hours to gather the information to write the initial reports and 171 person-hours to conduct the initial performance tests and reference method 9 test (assuming that 20% of the tests must be repeated). For all sources, it was estimated that it would take : 32 person-hours to fill out quarterly and semiannual emission reports and 182 person-hours to check, maintain, and operate continuous emission monitors (assuming a source operates 365 days per year).

The average annual burden to industry over the past three year period from recordkeeping and reporting requirements had been estimated at 19,597 person-hours. The respondents costs was calculated on the basis of $14.50 plus 110 percent overhead. The average annual burden to industry over the past three years was estimated to be $596,733.

This estimate includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

NSPS subpart BB: Kraft Pulp Mills

Affected entities: Entities potentially affected by this action are those which are subject to New Source Performance Standards (NSPS) Subpart BB, Standards of Performance for Kraft Pulp Mills.

Title: NSPS Subpart BB, Standards of Performance for Kraft Pulp Mills. OMB Control Number: 2060–0021, Expiration date: September 30, 1996.

Abstract: This ICR contains recordkeeping and reporting requirements that are mandatory for compliance with Subpart BB, New Source Performance Standards for Kraft Pulp Mills. In the Administrator's judgement, particulate matter and Total Reduced Sulfur (TRS) from kraft pulp mills cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. Therefore, New Source Performance Standards have been promulgated for this source category as required under Section 111 of the Clean Air Act.

The control of emissions of particulate matter and TRS requires not only the installation of properly designed equipment, but also the proper operation and maintenance of that equipment. These standards rely on the capture of pollutants vented to a control device.

Owners or operators of kraft pulp mills subject to NSPS Subpart BB are required to make initial notifications for construction, startup, and performance testing. They must also report the results of a performance test, and demonstration of a continuous monitoring system if applicable. After the initial recordkeeping and reporting requirements, semiannual excess emission reports are required.

Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or malfunction in the operation of the air pollution control device, or any periods during which the monitoring system is inoperative. These notifications, reports and records are required in general, of all sources subject to NSPS.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: At the writing of the previous ICR there were 65 sources currently subject to the standards. It is estimated that 2 additional sources per year will become subject to the standard. The current ICR estimates average annual burden to the industry to be 14,996 person hours. The respondent costs have been calculated on the basis of $14.50 per hour plus 110 percent overhead rate. The current ICR also estimates the average annual burden to the industry is $456,297.

The following is a breakdown of burden used in the ICR. Burden is calculated as two hours for respondents to write the reports for; notification of construction or reconstruction, notification of physical or operational changes, notification of anticipated startup, notification of actual startup, notification of initial performance test, notification of demonstration of CMS. Initial performance tests are allocated 370 burden hours. It is assumed that 20% of all affected facilities will have to repeat performance tests. The ICR allocates four hours for Method 9.

The recordkeeping burden is estimated to be 30 minutes to enter records of operating parameters. It is assumed that the plant will operate 350 days a year, therefore, this information will be recorded 350 times a year. Sources which have excess emission are required to submit excess emission reports. These reports are allocated 16 burden hours with an average of 2 reports per year. There is no additional third party burden relevant to this ICR.

These estimates include the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

NSPS Subpart CC: Glass Manufacturing Plants

Affected entities: Entities potentially affected by this action are those which are subject to New Source Performance Standards (NSPS) Subpart CC, Standards of Performance for Glass Manufacturing Plants.

Title: NSPS Subpart CC, Standards of Performance for Glass Manufacturing Plants. OMB Control Number: 2060–0054, Expiration date: August 31, 1996

Abstract: This ICR contains recordkeeping and reporting requirements that are mandatory for compliance with Subpart CC, New Source Performance Standards for Glass Manufacturing Plants. This information notifies the Agency when a source becomes subject to the regulations, and informs the Agency that the source is in compliance when it begins operation. In the Administrator's judgement, particulate matter from glass manufacturing plants cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. Therefore, New Source Performance Standards have been promulgated for this source category as required under Section 111 of the Clean Air Act.

The control of emissions of particulate matter requires not only the installation of properly designed equipment, but also the proper operation and maintenance of that equipment. These standards rely on the capture of pollutants vented to a control device.

Owners or operators of glass manufacturing plants subject to NSPS Subpart CC are required to make initial notifications for construction, startup, and performance testing. They must also report the results of a performance test, and demonstration of a continuous monitoring system if applicable. After the initial recordkeeping and reporting requirements, semiannual excess emission reports are required but only from sources with modified processes. It is estimated that seventy five percent of sources will have modified processes.

Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or malfunction in the operation of the air pollution control device, or any periods during which the monitoring system is inoperative. These notifications, reports and records are required in general, of all sources subject to NSPS.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: At the writing of the previous ICR there were 25 sources currently subject to the standards. It is estimated that 1.7 additional sources per year will become subject to the standard. The current ICR estimates average burden to the industry to be 2212 person hours. The respondent costs have been calculated on the basis of $14.50 per hour plus 110 percent overhead rate. The current ICR also estimates the average annual burden to the industry is $67,369.

The following is a breakdown of burden used in the ICR. Burden is calculated as two hours for respondents to write the reports for; notification of construction or reconstruction, notification of physical or operational changes, notification of anticipated startup, notification of actual startup, notification of initial performance test, notification of demonstration of COM. Initial performance tests are allocated 160 burden hours. It is assumed that 20% of all affected facilities will have to repeat performance tests. Sources which have modified processes are required to submit semiannual excess emission reports. Excess emission reports are allocated 8 burden hours and 2 reports per year.

The recordkeeping burden is estimated to be 15 minutes to enter records of operating parameters. It is assumed that the plant will operate 250 days a year, therefore, this information will be recorded 250 times a year. This estimate includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

NSPS Subpart HH: Lime Manufacturing Plants

Affected entities: Entities potentially affected by this action are those which are subject to New Source Performance Standards (NSPS) Subpart HH, Standards of Performance for Lime Manufacturing Plants.

Title: NSPS Subpart HH, Standards of Performance for Lime Manufacturing Plants. OMB Control Number: 2060–0063, Expiration date: October 31, 1996.

Abstract: This ICR contains recordkeeping and reporting requirements that are mandatory for compliance with Subpart HH, New Source Performance Standards for Lime Manufacturing Plants. In the Administrator's judgement, particulate matter from lime manufacturing plants cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. Therefore, New Source Performance Standards have been promulgated for this source category as required under Section 111 of the Clean Air Act.

The control of emissions of particulate matter requires not only the installation of properly designed equipment, but also the proper operation and maintenance of that equipment. These standards rely on the capture of pollutants vented to a control device.

Owners or operators of lime manufacturing plants subject to NSPS Subpart HH are required to make initial notifications for construction, startup, and performance testing. They must also report the results of a performance test, and demonstration of a continuous monitoring system if applicable. After the initial recordkeeping and reporting requirements, semiannual excess emission reports are required.

Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or malfunction in the operation of the air pollution control device, or any periods during which the monitoring system is inoperative. These notifications, reports and records are required in general, of all sources subject to NSPS.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond,

including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: At the writing of the previous ICR there were 32 sources currently subject to the standards. It is estimated that 2 additional sources per year will become subject to the standard. The current ICR estimates average annual burden to the industry to be 3031 person hours. The respondent costs have been calculated on the basis of $14.50 per hour plus 110 percent overhead rate. The current ICR also estimates the average annual burden to the industry is $92,297.

The following is a breakdown of burden used in the ICR. Burden is calculated as two hours for respondents to write the reports for; notification of construction or reconstruction, notification of physical or operational changes, notification of anticipated startup, notification of actual startup, notification of initial performance test, notification of demonstration of COM. Initial performance tests are allocated 280 burden hours. It is assumed that 20% of all affected facilities will have to repeat performance tests. The ICR allocates four hours for Method 9. These are all one time only burdens.

The recordkeeping burden is estimated to be 15 minutes to enter records of operating parameters. It is assumed that the plant will operate 250 days a year, therefore, this information will be recorded 250 times a year. Sources which have excess emission are required to submit excess emission reports. These reports are allocated 8 burden hours with an average of 2 reports per year. There is no additional third party burden relevant to this ICR.

These estimates include the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

NSPS Subpart MM; Automobile and Light Duty Truck Surface Coating Operations

Affected entities: Entities potentially affected by this action are those which are subject to New Source Performance Standards (NSPS) Subpart MM, Standards of Performance for Automobile and Light Duty Truck Surface Coating Operations.

Title: NSPS Subpart MM, Standards of Performance for Automobile and Light Duty Truck Surface Coating Operations. OMB Control Number: 2060–0034, Expiration Date: October 31, 1996.

Abstract: This ICR contains recordkeeping and reporting requirements that are mandatory for compliance with Subpart MM, New Source Performance Standards for Automobile and Light Duty Truck Surface Coating Operations. In the Administrator's judgement, VOC emissions from auto mobile and light duty truck surface coating operations cause or contribute to air pollution that may reasonably endanger public health or welfare. Therefore, New Source Performance Standards have been promulgated for this source category as required under Section 111 of the Clean Air Act.

The control of emissions of VOC requires not only the installation of properly designed equipment, but also the proper operation and maintenance of that equipment. These standards rely on the capture of pollutants vented to a control device.

Owners or operators of surface coating operations for automobile and light duty trucks subject to NSPS Subpart MM are required to make initial notifications for construction, startup, and performance testing. They must also report the results of a performance test, and demonstration of a continuous monitoring system if applicable. After the initial recordkeeping and reporting requirements, semiannual excess emission reports are required. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or malfunction in the operation of the air pollution control device, or any periods during which the monitoring system is inoperative. These notifications, reports and records are required in general, of all sources subject to NSPS.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: At the writing of the previous ICR there were 38 sources currently subject to the standards. It is estimated that 3 additional sources per year will become subject to the standard. The current ICR estimates average annual burden to the industry to be 2174 person hours. The respondent costs have been calculated on the basis of $14.50 per hour plus 110 percent overhead rate. The current ICR also estimates the average annual burden to the industry is $66,198.

The following is a breakdown of burden used in the ICR. Burden is calculated as two hours for respondents to write the reports for; notification of construction or reconstruction, notification of physical or operational changes, notification of anticipated startup, notification of actual startup, notification of initial performance test. Initial performance tests are allocated 180 burden hours. It is assumed that 20% of all affected facilities will have to repeat performance tests.

The recordkeeping burden is estimated to be 15 minutes to enter records of operating parameters. It is assumed that the plant will operate 250 days a year, therefore, this information will be recorded 250 times a year. Sources which have excess emissions are required to submit excess emission reports. These reports are allocated 8 burden hours with an average of 2 reports per year. There is no additional third party burden relevant to this ICR.

This estimate includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

NSPS Subpart RR; Pressure Sensitive Tape and Label

Affected entities: Facilities affected by this action are those that are subject to the Clean Air Act New Source Performance Standard subpart RR, which applies to facility owners and operators who manufacture pressure sensitive tape and labels and whose facilities were built, modified or reconstructed after December 30, 1980.

Title: "NSPS for Pressure Sensitive Tape and Label Surface Coating (subpart RR)—information requirements," OMB control number: 2060–0004, Expiration date 10/31/96.

Abstract: This ICR contains record keeping and reporting requirements that are mandatory for compliance with subpart RR, New Source Performance Standards for facilities that manufacture pressure sensitive tape and labels. In the Administrator's judgement volatile organic compounds (VOC's) from this industry contribute to air pollution that may reasonably be anticipated to endanger public health and welfare. Therefore, this NSPS was promulgated under Clean Air Act (CAA) section 111 for this source category. EPA is granted the authority to require facilities to provide information concerning their air emissions under CAA sections 111(a) and 114(a).

Owners and operators of the affected facilities must make the following onetime-only reports: notification of the date of construction or reconstruction; notification of the anticipated and actual dates of initial start-up; notification of any physical change to an existing facility that may increase the regulated pollutant emission rate; notification of initial performance test and the results of the initial performance test. Owners or operators are also required to maintain records of the occurrences and duration of any start-up, shut-down or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports and records are required, in general, of all sources subject to NSPS.

Monitoring requirements specific to these coating operations consist of maintaining a calendar month record of all coatings used and their VOC content, the amount of solvent applied and recovered when a solvent recovery device is used, temperature of exhaust gases if thermal incineration is used, temperature of exhaust gases both upstream and downstream of the catalyst bed if catalytic incineration is used and an indication that a hood or enclosure device to capture fugitive emissions is operational. Any affected facility that inputs to the coating process 45 Mg of VOC or less per 12 month period is not subject to the emission limits of 40 CFR § 60.442, however, the effected facility shall maintain a 12 month record of the amount of solvent applied in the coating at the facility.

When thermal or catalytic incineration is performed, the owner or operator shall keep records of each three-hour period during which the incinerator temperature averaged more than 38 degrees celsius below the temperature of the most recent performance test. Records of this information shall be kept at the source for a period of two years.

The record keeping requirements for the surface coating industry of pressure sensitive tape and labels consist of the occurrence and duration of any start-up and malfunctions as described. They include the initial performance test results including information necessary to determine conditions of the performance test, and performance test measurements and results including, for affected facilities complying with the standard without the use of add-on controls, a weighted average of the mass of solvent used per mass of coating solids applied; the weighted average mass of VOC per mass of coating solids applied at facilities controlled by a solvent recovery device; and the weighted average mass of VOC per mass of coating solids applied being used at a facility controlled by a solvent destruction device; and the results of the monthly performance and records of operating parameters. Records of start-ups, shutdowns, and malfunctions should be noted as they occur. Any owner or operator subject to the provisions of this part shall maintain a file of these measurements, and retain the file for at least two years following the date of such measurements and records.

The reporting requirements for this industry currently include the initial notifications listed, the initial performance test results, quarterly reports of excess VOC emissions, and semiannual reports when no excess emissions are recorded. Semiannual monitoring system results shall include temperature variances of the control device, the date and time of the deviance, the nature and cause of the malfunction (if known) and corrective measures taken, and identification of the time period during which the continuous monitoring system was inoperative.

Notifications inform the Agency or delegated authority about when a source becomes subject to the standard. The reviewing authority can then inspect the source to check if the pollution control devices are properly installed and operated. Performance test reports are needed as these are the Agency's record of a source's initial capability to comply with the emissions standard. The semiannual reports are used for problem identification, and a check on source operation and maintenance, and for compliance determinations.

This collected information is used by the Agency to efficiently monitor industry compliance with NSPS. In the absence of collecting such information, continuous monitoring of compliance with the standards could be ensured only through continuous on-site inspections by regulatory agency personnel, which would be extremely costly.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Data submitted to EPA that is deemed Confidential Business Information will be safeguarded according to the Agency policies set forth in Title 40, Chapter 1, Part 2, Subpart B—Confidentiality of Business Information (see 40 CFR 2).

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9.

Burden Statement: The reporting requirements for this information collection consist of performance testing, notifications and VOC emission reporting. EPA estimates that each initial performance test will take 60 hours to complete and that 45 new or modified facilities will be required to conduct the tests each year and that about 20 percent will fail and have to re-test. In addition, there are monthly

performance tests which take approximately 1 hour to conduct, for a total of 12 hours per year per facility. These are conducted to ensure that the pollution control systems are working. In terms of the notification requirements, EPA estimates that on average it takes two hours to prepare the four different notifications for a new plant, notification of construction, anticipated start-up, actual start-up, initial performance test, and submission of the initial performance test.

Each facility is required to report on a semiannual basis the amount of emissions that the facility emitted in excess of the emission standard. Assuming that a facility would submit one report a year for excess emissions in addition to the required semiannual emission report a facility would spend about 5 hours preparing each report for a total of 10 hours per year. For those facilities using incineration (assume 80 percent of all facilities) to control emissions, exhaust gas temperature reports would be submitted semiannually and would take approximately 4 hours to prepare for a total of 8 hours per facility. The emissions recordkeeping takes approximately 15 minutes per day and assuming that the facility is operational for 250 days a year the time expended on this activity would be 62 hours and 30 minutes. An existing facility that is in compliance will spend about 92 hours and 30 minutes complying with the standard. A facility that is new or that has been modified will spend an additional 68 hours complying with the performance test and notifications for new facilities. EPA assumes the average wage is $14.95 per hour plus 110 percent overhead, which equals $30.45. Thus, plants that are in compliance and that are not new or newly modified will spend about $2,817 for compliance with the information collection requirements. Newly built or modified plants will spend about $4,668 to comply with the information collection requirements. EPA estimates that there were 504 affected facilities at the time of the previous ICR renewal plus the average number of facilities to come on-line over the following three years, 45 facilities, totalling 549 sources that are subject to the standard. The total industry annual burden according to EPA's estimate is 54,921 hours or $1,672,346.

This estimate includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

NSPS Subpart SS; Large Appliance Surface Coating

Affected entities: Entities potentially affected by this action are each large appliance surface coating line in which organic coatings are applied and for which construction, modification or reconstruction commenced after December 24, 1980. A surface coating line includes the coating application station(s), flash-off area, and curing oven.

Title: NSPS for Industrial Surface Coating: Large Appliances - Information Requirements; OMB NO.: 2060–0108; Expiration date: October 31, 1996.

Abstract: The EPA is charged under Section 111 of the Clean Air Act, as amended, to establish standards of performance for new stationary sources that reflect:

* * * application of the best technological system of continuous emissions reduction which (taking into consideration the cost of achieving such emissions reduction, of any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated [Section 111(a)(1)].

The Agency refers to this charge as selecting the best demonstrated technology (BDT). Section 111 also requires that the Administrator review, and, if appropriate revise such standards every four years. In addition, Section 114(a) states that:

* * * the Administrator may require any owner or operator subject to any requirement of this Act to (A) establish and maintain such records, (B) make such reports, install, use and maintain such monitoring equipment or methods (in accordance with such methods at such locations, at such intervals, and in such manner as the Administrator shall prescribe), and (D) provide such other information, as he may reasonably require.

In the Administrator's judgment, VOC emissions from the large appliance surface coating industry cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. Therefore, an NSPS was promulgated for this source category.

The control of VOC emissions from large appliance coating operations requires not only the installation of properly designed equipment, but also the operation and maintenance of that equipment. VOC emissions from the coating of large appliances result from the application and curing or drying of organic coatings on the surface of each large appliance part or product. These standards rely on the reduction of VOC emissions through either a capture system and incinerator or a capture system and solvent recovery system.

Information is recorded in sufficient detail to enable owners or operators to demonstrate compliance with the standards. This information is used to monitor effective operation of the capture system and control devices, thus ensuring continuous compliance with the standards. The semiannual reporting requirement for no exceedances of the monitoring parameters provides a good indication of a source's compliance status.

The information collected from record keeping and reporting requirements is also used for targeting inspections, and is of sufficient quality to be used as evidence in court. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9.

In order to ensure compliance with these standards, adequate record keeping is necessary. In the absence of such information, enforcement personnel would be unable to determine whether the standards are being met on a continuous basis, as required by the Clean Air Act.

Owners/operators of affected facilities must report excess emissions and deviations in operating parameters on a quarterly basis. Where no exceedances have occurred during a particular quarter, a report stating this shall be submitted semi-annually.

Notification of construction and startup indicates to enforcement personnel when a new affected facility has been constructed and therefore is subject to the standards. The information generated by the monitoring, record keeping and reporting requirements described above is used by the Agency to ensure facilities affected by the NSPS continue to operate the control equipment used to achieve compliance with the NSPS.

The Agency has calculated individual burdens for each of the record keeping and reporting requirements applicable to the industry. The individual burdens are expressed under standardized headings believed to be consistent with the concept of burden under the Paperwork Reduction Act. Where appropriate, specific tasks and major assumptions have been identified.

The record keeping and reporting requirements burden are as follows: Read Instructions—26 hours; Notification of construction or reconstruction—52 hours; Notification of anticipated date of initial startup—52 hours; Notification of actual date of initial startup—52 hours; Initial Performance Test—1,560 hours; Repeat Performance Test—312 hours; Monthly performance test—3528 hours; Report performance test—3,675 hours; Install, calibrate, maintain, and operate temperature monitoring device—1,880 hours; Identify and record incinerator combustion temperature; Identify and record excess emissions—3675 hours; Records of operating parameters—18,375.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The individual burdens for each of the record keeping and reporting requirements applicable to the industry are consistent with the concept of burden under the Paperwork Reduction Act. The only type of industry costs associated with the information collection activity in the standards are labor costs. The labor estimates in the table were derived from standard estimates based on EPA's experience with other standards. The average annual burden to industry over the next three years from these record keeping and reporting requirements is estimated at 29,512 person-hours for 268 existing facilities. It is estimated that each year 26 new sources will replace existing sources. No growth in facilities is expected during the next three years. The respondent costs have been calculated on the basis of $14.50 per hour plus 110 percent overhead. The average annual burden to industry over the next three years of the ICR is estimated to be $898,641. This estimate includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

NSPS Subpart TT; Metal Coil Surface Coating

Affected entities: Entities potentially affected by this action are each metal coil surface coating operation in which organic coatings are applied and for which construction, modification or reconstruction commenced after January 5, 1981. A metal coil surface coating operation means the application system used to apply an organic coating to the surface of any continuous metal strip with thickness of 0.15 millimeter (mm) (0.0006 in.) Or more that is packaged in a roll or coil.

Title: NSPS for Metal Coil Surface Coating, Subpart TT—Information Requirements; OMB NO.: 2060–0107; Expiration date: October 31, 1996.

Abstract: The EPA is charged under Section 111 of the Clean Air Act, as amended, to establish standards of performance for new stationary sources that reflect:

* * * application of the best technological system of continuous emissions reduction which (taking into consideration the cost of achieving such emissions reduction, of any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated [Section 111(a)(1)].

The Agency refers to this charge as selecting the best demonstrated technology (BDT). Section 111 also requires that the Administrator review, and, if appropriate revise such standards every four years. In addition, Section 114(a) states that:

* * * the Administrator may require any owner or operator subject to any requirement of this Act to (A) establish and maintain such records, (B) make such reports, install, use and maintain such monitoring equipment or methods (in accordance with such methods at such locations, at such intervals, and in such manner as the Administrator shall prescribe), and (D) provide such other information, as he may reasonably require.

In the Administrator's judgment, VOC emissions from the metal coil surface coating industry cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. Therefore, an NSPS was promulgated for this source category.

The control of VOC emissions from large appliance coating operations requires not only the installation of properly designed equipment, but also the operation and maintenance of that equipment. VOC emissions from the coating of metal coils result from the application and curing or drying of organic coatings on the coil or roll surface. These standards rely on the reduction of VOC emissions through either a capture system and incinerator or a capture system and solvent recovery system.

Information is recorded in sufficient detail to enable owners or operators to demonstrate compliance with the standards. This information is used to monitor effective operation of the capture system and control devices, thus ensuring continuous compliance with the standards. The semiannual reporting requirement for no exceedances of the monitoring parameters provides a good indication of a source's compliance status.

The information collected from record keeping and reporting requirements is also used for targeting inspections, and is of sufficient quality to be used as evidence in court. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9.

In order to ensure compliance with these standards, adequate record keeping is necessary. In the absence of such information, enforcement personnel would be unable to determine whether the standards are being met on a continuous basis, as required by the Clean Air Act.

Owners/operators of affected facilities must report excess emissions and deviations in operating parameters on a quarterly basis. Where no exceedances have occurred during a particular quarter, a report stating this shall be submitted semi-annually.

Notification of construction and startup indicates to enforcement personnel when a new affected facility has been constructed and therefore is subject to the standards. The information generated by the monitoring, record keeping and reporting requirements described above is used by the Agency to ensure facilities affected by the NSPS continue to operate the control equipment used to achieve compliance with the NSPS.

The Agency has calculated individual burdens for each of the record keeping and reporting requirements applicable to the industry. The individual burdens are expressed under standardized

headings believed to be consistent with the concept of burden under the Paperwork Reduction Act. Where appropriate, specific tasks and major assumptions have been identified.

The record keeping and reporting requirements burden are as follows: Read instructions—6 hours; Report of initial performance test—360 hours; Repeat of performance test—72 hours; Notification of construction or reconstruction—12 hours; Notification of anticipated data of initial startup—12 hours; Notification of actual date of initial startup—12 hours; Emission Reports—1,450 hours; Temperature reports—744 hours; Monthly performance test—1,392 hours; Record operating parameters—7,250.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The individual burdens for each of the record keeping and reporting requirements applicable to the industry are consistent with the concept of burden under the Paperwork Reduction Act. The only type of industry costs associated with the information collection activity in the standards are labor costs. The labor estimates in the table were derived from standard estimates based on EPA's experience with other standards. The average annual burden to industry over the next three years from these record keeping and reporting requirements is estimated at 11,310 person-hours for 116 existing facilities. It is estimated that each year 3 new sources will be required to meet these reporting requirements. The respondent costs have been calculated on the basis of $14.50 per hour plus 110 percent overhead. The average annual burden to industry over the next three years of the ICR is estimated to be $344,390. This estimate includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

NSPS Subpart WW; Beverage Can Surface Coating

Affected entities: Entities potentially affected by this action are each facility with beverage can surface coating lines: each exterior base coat operation, each overvarnish coating operation, and each inside spray coating operation and for which construction, modification or reconstruction commenced after November 26, 1980. A surface coating line includes the coating application station(s), flash-off area, and curing oven.

Title: NSPS for the Beverage Can Surface Coating Industry—Information Requirements; OMB No.: 2060–0001; Expiration date: October 31, 1996.

Abstract: The EPA is charged under Section 111 of the Clean Air Act, as amended, to establish standards of performance for new stationary sources that reflect:

* * * application of the best technological system of continuous emissions reduction which (taking into consideration the cost of achieving such emissions reduction, of any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated [Section 111(a)(1)].

The Agency refers to this charge as selecting the best demonstrated technology (BDT). Section 111 also requires that the Administrator review, and, if appropriate, revise such standards every four years. In addition, Section 114(a) states that:

* * * the Administrator may require any owner or operator subject to any requirement of this Act to (A) establish and maintain such records, (B) make such reports, install, use and maintain such monitoring equipment or methods (in accordance with such methods at such locations, at such intervals, and in such manner as the Administrator shall prescribe), and (D) provide such other information, as he may reasonably require.

In the Administrator's judgment, VOC emissions from the beverage can surface coating industry cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. Therefore, an NSPS was promulgated for this source category.

The control of VOC emissions from beverage can surface coating lines requires not only the installation of properly designed equipment, but also the operation and maintenance of that equipment. VOC emissions from the coating of beverage can surfaces result from the application and curing or drying of organic coatings on the surface of each beverage can part or product. These standards rely on the reduction of VOC emissions through either a capture system and incinerator or a capture system and solvent recovery system.

Information is recorded in sufficient detail to enable owners or operators to demonstrate compliance with the standards. This information is used to monitor effective operation of the capture system and control devices, thus ensuring continuous compliance with the standards. The semiannual reporting requirement for no exceedances of the monitoring parameters provides a good indication of a source's compliance status.

The information collected from record keeping and reporting requirements is also used for targeting inspections, and is of sufficient quality to be used as evidence in court. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9.

In order to ensure compliance with these standards, adequate record keeping is necessary. In the absence of such information, enforcement personnel would be unable to determine whether the standards are being met on a continuous basis, as required by the Clean Air Act.

Owners/operators of affected facilities must report excess emissions and deviations in operating parameters on a quarterly basis. Where no exceedances have occurred during a particular quarter, a report stating this shall be submitted semiannually.

Notification of construction and startup indicates to enforcement personnel when a new affected facility has been constructed and therefore is subject to the standards. The information generated by the monitoring, record keeping and reporting requirements described above is used by the Agency to ensure facilities affected by the NSPS continue to operate the control equipment used to achieve compliance with the NSPS.

The Agency has calculated individual burdens for each of the record keeping and reporting requirements applicable to the industry. The individual burdens are expressed under standardized

headings believed to be consistent with the concept of burden under the Paperwork Reduction Act. Where appropriate, specific tasks and major assumptions have been identified. The record keeping and reporting requirements burden are as follows: Read instructions—2 hours; Report of initial performance test—120; Repeat of performance test—120 hours; Notification of construction or reconstruction—4 hours; Notification of anticipated date of initial startup—4 hours; Notification of actual date of initial startup—4 hours; Notification of initial performance test—4 hours; VOC emission reports—263 hours; Temperature reports—136 hours; Monthly performance test—252 hours; Records of operating parameters—1,916 hours.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The individual burdens for each of the record keeping and reporting requirements applicable to the industry are consistent with the concept of burden under the Paperwork Reduction Act. The only type of industry costs associated with the information collection activity in the standards are labor costs. The labor estimates in the table were derived from standard estimates based on EPA's experience with other standards. The average annual burden to industry over the next three years from these record keeping and reporting requirements is estimated at 2,729 person-hours for 21 existing facilities. It is estimated that each year 2 new sources will replace existing sources with no net increase in facilities required to report. The respondent costs have been calculated on the basis of $14.50 per hour plus 110 percent overhead. The average annual burden to industry over the next three years of the ICR is estimated to be $83,098. This estimate includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

NSPS Subpart GGG; Equipment Leaks of VOC in Petroleum Refineries

Affected entities: Entities potentially affected by this action are process units at petroleum refineries that commenced construction, modification, or reconstruction after January 4, 1983. Affected process units include each group of equipment assembled to produce intermediate or final products from petroleum, unfinished petroleum derivatives, or other intermediates.

Title: Standards of Performance for Equipment Leaks of VOC in Petroleum—Refineries NSPS Subpart GGG, OMB Number 2060–0067, expires August 31, 1996.

Abstract: Owners or operators of the affected facilities described must make the following one-time-only reports: notifications of the anticipated and actual date of startup, notification of the date of construction or reconstruction, notification of any physical or operational change to an existing facility which may increase the emission rate of any regulated air pollutant, notification of the date of the initial performance test, and results of the performance tests.

Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility. These notifications, reports and records are required in general, of all sources subject to NSPS.

Semiannual reports are required to measure compliance with the standards of NSPS Subpart VV. Monthly monitoring of equipment in VOC service shall take place as specified in Subpart VV Section 60.485(b). If no leaks are detected for two successive months, monitoring may be performed once per quarter. If a leak is detected, the equipment shall be monitored monthly until a leak is not detected for two successive months. Also, leak location shall be recorded in a log, and this information shall be kept available for at least two years. Leaks shall be repaired within 15 days and the date of successful repair shall be recorded in the log.

Semiannual reports shall be submitted itemizing information for each month. All reports are to be sent to the delegated State or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA Regional office. Notifications are used to inform the agency or delegated authority when a source becomes subject to the standard. The reviewing authority may then inspect the source to check if the standard is being met. Performance test results are needed as these are the Agency's record of a sources initial capacity to meet the standard. The semi annual reports are used for problem identification, as a check on source operations and maintenance, and for compliance determinations.

In the Administrator's judgement, VOC emissions from process units cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. Therefore, New Source Performance Standards have been promulgated for this source category as required under Section 111 of the Clean Air Act.

The control of emissions of VOC from process units requires not only the installation of properly designed equipment, but also the proper operation and maintenance of that equipment so that emissions can be minimized. VOC emissions from process units are the result of equipment leaks. These standards rely on the maintenance of the equipment and adequate monitoring.

To ensure compliance with these standards, adequate recordkeeping and reporting is necessary. In the absence of such information collection requirements, enforcement personnel would be unable to determine whether the standards are being met on a continuous basis, as required by the Clean Air Act and in accordance with any applicable permit.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the

validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The Agency computed the burden for each of the recordkeeping and reporting requirements applicable to the industry for the currently approved 1993 Information Collection Request (ICR). Where appropriate, the Agency identified specific tasks and made assumptions, while being consistent with the concept of burden under the Paper Reduction Act.

The estimate was based on the assumption that there would be three new affected facilities each year and that there was an average of 25 sources in existence at the start of the three years covered by the ICR. For the new sources, it was estimated that it would take: three person-hours to read the instructions (one hour per respondent), 24 person-hours to gather the information to write the initial reports (8 hours per respondent) and 86 person-hours (18 hours per respondent) to conduct the initial performance tests (assuming that 60% of the tests must be repeated). For all sources, it was estimated that it would take: 480 person-hours (16 hours per respondent) to fill out the excess emission reports, and 3,285 person-hours (109.5 hours per respondent) to enter information for records of operating parameters (assuming a source operates 365 days per year and that it takes 0.3 hours per occurrence).

The annual average annual burden to industry over the past three year period from recordkeeping and reporting requirements had been estimated at 3,878 person-hours. The respondents costs was calculated on the basis of $14.50 per hour plus 110 percent overhead. The average annual burden to industry over the past three years was estimated to be $118,085.

This estimate includes the time needed to review instructions; develop, acquire, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

NSPS Subpart HHH: Synthetic Fiber Production

Affected entities: Entities potentially affected by this action are those which are subject to New Source Performance Standards (NSPS) Subpart HHH, Standards of Performance for Synthetic Fiber Production. These standards apply to solvent spun synthetic fiber process that produces more than 500 megagrams of fiber per year and commenced construction or reconstruction after November 23, 1982. These standards do not apply to any facility that uses the reaction spinning process to produce spandex fiber or the viscose process to produce rayon fiber. This standard does not apply to modified sources.

Title: NSPS Subpart HHH, Standards of Performance for Synthetic Fiber Production. OMB Control Number: 2060–0059, EPA #1156.

Expiration date: October 31, 1996.

Abstract: This ICR contains recordkeeping and reporting requirements that are mandatory for compliance with Subpart HHH, New Source Performance Standards for Synthetic Fiber Production. In the Administrator's judgment, VOCs from synthetic fiber production plants cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. Therefore, New Source Performance Standards have been promulgated for this source category as required under Section 111 of the Clean Air Act.

The control of emissions of VOCs requires not only the installation of properly designed equipment, but also the proper operation and maintenance of that equipment. These standards rely on the capture of pollutants vented to a control device.

Owners or operators of synthetic fiber production plants subject to NSPS Subpart HHH are required to make initial notifications for construction, startup, and performance testing. They must also report the results of a performance test, and demonstration of a continuous monitoring system if applicable. After the initial recordkeeping and reporting requirements, excess emission reports are required quarterly. Semiannual reports are filed if no excess emissions.

Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or malfunction in the operation of the air pollution control device, or any periods during which the monitoring system is inoperative. These notifications, reports and records are required in general, of all sources subject to NSPS. NSPS subpart HHH also requires semiannual reports of VOCs used, and reports of excess fiber production.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: At the writing of the previous ICR there were 25 sources currently subject to the standards. It is estimated that 1 additional source per year will become subject to the standard. The current ICR estimates average annual burden to the industry to be 2325 person hours. The respondent costs have been calculated on the basis of $14.50 per hour plus 110 percent overhead rate. The current ICR also estimates the average annual burden to the industry is $70,796.

The following is a breakdown of burden used in the ICR. Burden is calculated as two hours for respondents to write the reports for: notification of construction or reconstruction, notification of physical or operational changes, notification of anticipated startup, notification of actual startup, notification of initial performance test, notification of demonstration of COM. Initial performance tests are allocated 72 burden hours. It is assumed that 20% of all affected facilities will have to repeat performance tests. These are all one time only burdens.

The recordkeeping burden is estimated to be 15 minutes to enter records of operating parameters. It is assumed that the plant will operate 250 days a year, therefore, this information will be recorded 250 times a year. Sources which have excess emission are required to submit excess emission reports. These reports are estimated to take 8 hours. It is assumed that each facility will submit one quarterly report every other year in addition to the semiannual reports. There is no additional third party burden relevant to this ICR.

These estimates include the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

NSPS Subpart III and NNN; Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes, and Distillation Operations

Affected entities: Entities potentially affected by this action are those which are subject to the Standards of Performance of Volatile Organic Compound (VOC) emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes, Subpart III and Distillation Operations, Subpart NNN with the exceptions listed in 40 CFR 60.660(c).

Title: NSPS for SOCMI Air Oxidation Unit Processes and Distillation Operations, Subpart III and NNN, OMB number 2060–0197, expires August 31, 1996.

Abstract: This ICR contains recordkeeping and reporting requirements that are mandatory for compliance with 40 CFR Part 60.610, Subpart III, Standards of Performance for VOC Emissions from SOCMI Air Oxidation Unit Processes and 40 CFR Part 60.660, Subpart NNN, Standards of Performance for VOC from SOCMI Distillation Operations. This information is used by the Agency to identify sources subject to the standards and to insure that the best demonstrated technology is being properly applied. The standards require periodic recordkeeping to document process information relating to the sources' ability to meet the requirements of the standard and to note the operation conditions under which compliance was achieved.

In the Administrator's judgment, VOC emissions from SOCMI air oxidation unit processes and distillation operations cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. Therefore, NSPS were promulgated for this source category.

Owners or operators of the affected facilities described must make the following one-time-only reports: notification of the date of construction or reconstruction; notification of the anticipated and actual dates of startup; notification of any physical or operational change to an existing facility which may increase the regulated pollutant emission rate; notification of the date of the initial performance test; and the results of the initial performance test. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports and records are required, in general, of all sources subject to NSPS.

In addition, owners/operators of affected facilities are required to record periods of operation during which the performance boundaries are exceeded, results of flare pilot flame monitoring, all periods of operation of a boiler or process heater, and to continuously record the indication of vent stream flow to the control device. Records of startups, shutdowns, and malfunctions should be noted as they occur. Any owner or operator subject to the provisions of this part shall maintain a file of all of these records, and retain the file for at least two years following the date of such measurements and records.

The reporting requirements for this industry currently include the initial notifications listed, the initial performance test results, and semiannual reports. Semiannual reports shall include the following: all exceedances of parameter boundaries; all periods during which the vent stream is diverted from the control device or has no flowrate; all periods when the boiler or process heater was not operated; all periods in which the pilot flame of the flare was absent; and any recalculation of the TRE index value.

All reports are sent to the delegated State or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA Regional Office. Notifications are used to inform the Agency or delegated authority when a source becomes subject to the standard. The reviewing authority may then inspect the source to check if the pollution control devices are properly installed and operated and the standard is being met. Performance test reports are needed as these are the Agency's records of a source's initial capability to comply with the emission standard, and note the operating conditions under which compliance was achieved. The semiannual reports are used for problem identification, as a check on source operation and maintenance, and for compliance determinations.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number listed in 40 CFR Part 9.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The Agency computed the burden for each of the recordkeeping and reporting requirements applicable to the industry for the currently approved ICR. Where appropriate, the Agency identified specific tasks and made assumptions, while being consistent with the concept of burden under the Paperwork Reduction Act.

The burden estimates for NSPS Subpart III:

The estimate was based on the assumption that there would be 10 new affected facilities each year and that there would be an annual average of 75 affected facilities over each of the next three years covered by the ICR. For new sources, it was estimated that it would take: 10 person hours to read the instructions, 600 person hours to conduct the initial performance tests (assuming that 20% of the tests must be repeated), and 70 person hours to gather the information and write the initial reports. For all sources, it was estimated that it would take: 450 person hours to fill out semiannual reports and 6,305

person hours to enter information for records of operating parameters.

The annual average burden to industry for the three-year period covered by this ICR from recordkeeping and reporting requirements has been estimated at 7,435 person hours. The respondents cost were calculated on the basis of $21.00 per hour plus 110% overhead. The total annual burden to industry is estimated at $327,884.

The burden estimates for NSPS Subpart NNN:

The estimate was based on the assumption that there would be 236 new affected facilities each year and that there would be an annual average of 1770 affected facilities over each of the next three years covered by the ICR. For new sources, it was estimated that it would take: 236 person hours to read the instructions, 16,992 person hours to conduct the initial performance tests (assuming that 20% of the tests must be repeated), and 1,625 person hours to gather the information and write the initial reports. For all sources, it was estimated that it would take: 10,620 person hours to fill out semiannual reports and 148,798 person hours to enter information for records of operating parameters.

The annual average burden to industry for the three-year period covered by this ICR from recordkeeping and reporting requirements has been estimated at 178,271 person hours. The respondents cost were calculated on the basis of $21.00 per hour plus 110% overhead. The total annual burden to industry is estimated at $7,861,751.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. No additional third party burden is associated with this ICR.

NSPS subparts KKK/LLL: Onshore Natural Gas Processing

Affected entities: Entities potentially affected by this action are those onshore natural gas processing plants for which construction is commenced after January 20, 1984. More specifically for Volatile Organic Compounds (VOC) emissions affected facilities include compressors in VOC service or inlet gas service, and process units. For sulfur dioxide (SO2), the affected facilities include each sweetening unit.

Title: New Source Performance Standards (NSPS) for Onshore Natural Gas Processing Plants/ Equipment Leaks of VOC (Subpart KKK) and Emissions of SO2 (Subpart LLL)—Reporting and Recordkeeping (EPA ICR No. 1086.03; OMB No. 2060–0120). This is a request for extension of a currently approved information collection.

Abstract: Owners or operators of onshore natural gas processing units must provide EPA, or the delegated State regulatory authority with the following one-time-only reports (specified in 40 CFR 60.7): Notifications of the anticipated and actual date of start up, notification of the date of construction or reconstruction, notification of any physical or operational changes to an existing facility which may increase the emission rate of any regulated air pollutant. For large facilities subject to Subpart LLL facilities must provide notification of the date upon which demonstration of the continuous monitoring system performance commences, notification of the date of the initial performance test, and results of the performance test.

Owners and operators are also required to maintain records of the occurrence and duration of any start up, shutdown, or malfunction in the operation of an effected facility, or malfunction in the operation of the air pollution control device, or any periods during which the monitoring system is inoperative. These notifications, reports, and records are required in general of all sources subject to NSPS.

Facilities subject to Subpart KKK shall provide information on leaks from pressure relief devices, the date the leak was detected, repair method used and other pertinent details. Facilities subject to Subpart LLL must provide information on excess emissions of SO2.

In addition to reporting and recordkeeping requirements, large facilities subject to Subpart LLL must install, calibrate, maintain, and operate a continuous monitoring system (CMS) to monitor SO_2 and must notify EPA or the State regulatory authority of the date upon which demonstration of the CMS performance commences. Owners or operators must submit semiannual reports indicating whether compliance was achieved, and their assessment of monitoring system performance (specified in 40 CFR 60.7). The notifications and reports enable EPA or the delegated State regulatory authority to determine that best demonstration technology is installed and properly operated and maintained and to schedule inspections.

To ensure compliance with these standards, the required records and reports are necessary to enable the Administrator: (1) To identify new, modified, or reconstructed sources subject to the standard; (2) to ensure that the emission limits are being achieved; and (3) to ensure that emission reduction systems are being operated and maintained properly. In the absence of such information collection requirements, enforcement personnel would be unable to determine whether standards are being met on a continuous basis, as required by the Clean Air Act and in accordance with any applicable permit.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The Agency computed the burden for each of the recordkeeping and reporting requirements applicable to the industry for the currently approved 1993 Information Collection Request (ICR). Where applicable, the Agency identified specific tasks and made assumptions, while being consistent with the concept of burden under the Paper Reduction Act.

The estimate was based on the assumption that there would be 32 new effected facilities subject to Subpart KKK and Subpart LLL per year. Approximately 236 sources are currently subject to these standards. The annual burden of reporting and recordkeeping requirements for facilities subject to Subpart KKK and Subpart LLL are summarized by the following information. The reporting requirements for Subpart KKK are as follows: Read instructions (1 person-hour), Notification of construction (2 person-hours), Notification of reconstruction (2 person-hours), Notification of physical or operational changes (8 person-hours), Notification of anticipated start-up (2 person-hours), Semi-annual reports (70 person-hours) (For each plant one report is required for all compressors and one each for the three process units that each plant is assumed to have), Recalibrate monitors (4 person-hours), Method 21 performance evaluation (2 person-hours). The reporting requirements for Subpart LLL are as follows: Read Instructions (1 person-hour), Initial performance test (734 person-hours), Demonstration of CMS (350 person-hours), Repeat of performance test (734 person-hours), Write report (notification) (10 person-hours), Write report (excess emissions) (16 person-hours). The recordkeeping requirements for Subpart KKK are as follows: Filing and maintaining records (240 person-hours). The recordkeeping requirements for Subpart LLL are as follows: Determining SO_2 reduction efficiency (2 person-hours) (These facilities are not expected to undergo frequent startup or shutdown), Develop record system (20 person-hours), Gathering information for records of startup, shut-down, malfunction, etc. (0.5 person-hours) (Plants with design operating capacities less than 2 LT/D are required to determine, record and maintain a file of their designed operating capacity), Gathering information for records of all measurements and information required by standard (1.5 person-hours), Gathering information for records of capacity data (2 person-hours). Records must be kept for a period of two years from data collection.

This estimate includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

NESHAP Subpart E; Mercury

Affected entities: Entities potentially affected by this action are those stationary sources which process mercury ore to recover mercury, use mercury chlor-alkali cells to produce chlorine gas and alkali metal hydroxide, and incinerate or dry wastewater treatment plant sludge.

Title: National Emission Standard for Mercury (Part 61, Subpart E), Reporting and Recordkeeping

OMB Control No: 2060–0097.

Expiration Date: 08/31/96.

Abstract: The inhalation of metallic mercury vapors is believed to cause central nervous system injury and kidney damage in humans. Consequently, a national emission standard was developed for mercury ore processing facilities, mercury chlor-alkali plants, and sludge incineration and drying plants. This standard was designed to ensure that emissions from these facilities do not cause ambient concentrations of mercury to exceed the inhalation effects limit of 1 microgram per cubic meter. In order to ensure compliance with the standards, adequate recordkeeping and reporting is necessary. This information enables the Agency to: (1) Identify the sources subject to the standard; (2) ensure initial compliance with emission limits; and (3) verify continuous compliance with the standard. Specifically, the rule requires an application for approval of construction, notification of startup, and a notification and report of the initial emissions test. In addition, estimates of new emission levels must be reported whenever a change of operation is made that would potentially increase emissions. Sludge incineration and drying plants must also perform, maintain records of, and report annual emissions tests. Mercury-cell chlor-alkali plants must conduct a performance test on the hydrogen and end-box ventilation streams and simultaneously monitor certain control device and/or process parameters.

In the absence of such information collection requirements, enforcement personnel would be unable to determine whether the standards are being met on a continuous basis, as required by the Clean Air Act. Consequently, these information collection requirements are mandatory, and the records required by this NESHAP must be retained by the owner or operator for two years. In general, the required information consists of emissions data and other information deemed not to be private. However, any information submitted to the agency for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in Title 40, Chapter 1, Part 2, Subpart B—Confidentiality of Business Information. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The average annual burden to industry over the next three years from these recordkeeping and reporting requirements is estimated at 37,068 person-hours. This is based on an estimated 298 respondents. The average annual burden for reporting only is projected to be 3,864 hours, with an average of 1.25 reports submitted per affected facility, and a burden of 10.5 hours per response. Sludge incineration and drying plants are required to submit a report of their annual emission tests, while mercury-cell chlor-alkali plants must submit semi-annual reports and notifications of any exceedences of monitored parameters. All facilities must keep hourly records of operating parameters, and mercury-cell chlor-alkali plants must also record any mercury leaks or spills on a daily basis.

This estimate includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

NESHAP Subpart M; Asbestos

Affected entities: The standard regulates the demolition and renovation of facilities; the disposal of asbestos waste; asbestos milling, manufacturing, and fabricating; the use of asbestos on roadways; asbestos waste conversion facilities; and the use of asbestos insulation and sprayed-on materials.

Title: NESHAP Subpart M—National Emission Standard for Asbestos, OMB No. 2060–0101, expires August 31, 1996.

Abstract: Owners or operators of the affected milling, manufacturing fabricating, waste disposal, and waste conversion facilities described must make the following one-time-only reports: notification of the date of construction or reconstruction; notification of the anticipated and actual dates of startup; notification of any physical or operational change to an existing facility which may increase the regulated pollutant emission rate. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative.

Therefore, the recordkeeping requirements for the facilities mentioned above consist of the occurrence and duration of any startup and malfunction as described. They include the initial performance test results including information necessary to determine the conditions of the performance test, the performance test measurements and results, including monitoring each potential source of asbestos emissions for visible emissions to the outside air and inspecting air cleaning devices to ensure proper operation. Records of startups, shutdowns, and malfunctions should be noted as they occur. Any owner or operator subject to the provisions of this subpart shall maintain a file of these measurements for at least two years following the date of such measurements, maintenance reports, and records. The reporting requirements for this industry currently include the initial notifications listed, the initial performance test results, and quarterly reports of instances when visible emissions are observed at any time during the quarter.

Owners or operators of demolitions and renovations must notify EPA in advance of the initiation of any asbestos removal work. The notice provides information on the dates of operation, the nature of the removal operation, the quantity of asbestos, and controls to be used. The reviewing authority may then inspect the source to ensure compliance with the standard. Demolitions and renovations tend to be short projects, and it is difficult at best to determine compliance with the standard once the project has been completed. Therefore, it is important that the delegated authority be renotified as necessary when information in the original notification changes. Additionally, without renotification, the Agency or delegated authority may needlessly inspect a demolition or renovation site where the project has been delayed. The demolition and renovation standard requires that a representative (such as a foreman or management-level person) trained in the provisions of the standard be present at the facility. Evidence that the required training has been completed is required in order to ensure compliance with the provision of the standard. The regulation requires asbestos removal contractors that claim exemption from the wetting provisions because of freezing temperatures to take temperature readings throughout the day and record the information. The provisions require that all containers of asbestos waste be labeled including the name of the waste generator and the location of where the waste was generated. Owners or operators of demolitions and renovations are required to prepare and maintain, for at least two years, records of waste shipment as to its destination, the quantity of waste, the date of shipment, and to furnish a copy of the record to disposal site owners or operators. The regulation also requires that generators of asbestos waste attempt to reconcile instances in which a signed copy of the waste shipment record is not received from the disposal site and that the generator notify EPA if delivery to the disposal site cannot be confirmed.

Owners or operators of waste disposal sites are required to document all asbestos waste shipments that are received and send a copy of each record back to the generator. A record of the location and quantity of asbestos in the landfill is required as well as noting the presence and location of asbestos in the landfill property deed. Disposal site owners or operators have to report to EPA any discrepancies between the amount of waste designated on the waste shipment record and the amount actually received; as well as instances of improperly contained waste. Disposal sites are required to maintain records for at least two years. An owner or operator of an operation in which asbestos-containing materials are spray-applied must notify EPA in advance of the spraying operation. The notice provides information on the name and address of the owner or operator, location of the spraying operation, and procedure to be followed.

In the Administrator's judgement, asbestos emissions from the demolition or renovation of asbestos-containing structures; the disposal of asbestos waste; asbestos milling, manufacturing, and fabricating; the use of asbestos on roadways; the use of asbestos insulation and spray materials; and the conversion of asbestos-containing waste material into nonasbestos material cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. Therefore, a NESHAP was promulgated under Section 112 of the Clean Air Act for this source category. The control of emissions of asbestos from the regulated sources requires not only the installation of properly designed equipment, but also the operation and maintenance of that equipment and following specified work practices. These standards rely on the capture and reduction of asbestos emissions by air cleaning equipment and specified work practices. Effective enforcement of the standard is particularly necessary in light of the hazardous nature of asbestos. In order to ensure compliance with the standards, adequate recordkeeping is necessary. In the absence of such information, enforcement personnel would be unable to determine whether the standards are being met on a continuous basis, as required by the Clean Air Act.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The Agency computed the burden for each of the recordkeeping and reporting requirements applicable to the industry for the currently approved 1993 Information Collection Request (ICR). Where appropriate the Agency identified specific tasks and made assumptions, while being consistent with the concept of burden under the Paper Reduction Act.

The estimate was based on the assumption that there was an average of 83,500 sources of demolitions or renovations per year (completed by approximately 7,000 contractors), and that 3,447 sources for milling, manufacturing, fabricating and waste disposal were subject to the standard. For demolitions and renovations, it was estimated that it would take 7,000 person-hours (one hour per respondent) to read the instructions, 304,500 person-hours (43.5 hours per respondent) to write notifications (assuming that there are 120,240 renotifications at 0.25 person-hours per renotification) and excepted waste shipment record reports, 49,420 person-hours (7.1 hours per respondent) to record information and mark vehicles, and 81,951 person-hours (11.7 hours per respondent assuming that one-third take refresher courses and that two-thirds receive initial training) to train supervisors. For milling, manufacturing, and fabricating, it was estimated that there was 430 respondents, and that it would take 430 person-hours (one hour per respondent) to read the instructions, 45,709 person-hours (106.3 hours per respondent)to record the information and mark vehicles, 1,333 person-hours (3.1 hours per respondent) to write the reports and develop the record system. For waste disposal, it was estimated that there were 3,017 respondents, and that it would take 3,017 person-hours (one hour per respondent) to read the instructions, 68,626 person-hours (22.75 hours per respondent) to create and gather the information, and 10,788 person-hours (3.6 hours per respondent) to write the reports.

The average annual burden to the industry over the past three year period from recordkeeping and reporting requirements had been estimated at 572,774 person-hours. The respondents costs were calculated on the basis of $14.50 per hour plus 110 percent overhead. The average annual burden to industry over the past three years was estimated to be $17,440,968.

This estimate includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

NESHAP Subpart N; Inorganic Arsenic from Glass Manufacturing Plants

Affected entities: Entities potentially affected by this action are those which are subject to National Emission Standards for Hazardous Air Pollutants (NESHAP), Subpart N, Standard for Inorganic Arsenic Emissions from Glass Manufacturing Plants.

Title: Subpart N, Standard for Inorganic Arsenic Emission from Glass manufacturing Plants. OMB Control Number: 2060–0043, Expiration date: July 31, 1996.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for arsenic emissions from glass manufacturing facilities were proposed on July 20, 1983 and promulgated on August 4, 1986 and amended to add an alternative test method on May 31, 1990.

Owners or operators of sources covered by these standards are subject to the recordkeeping and reporting requirements of the standards as well as those standards prescribed in the General Provisions of the NESHAP.

Owners or operators of the affected facilities described must make the following one-time-only reports: application for approval of construction or modification (new sources) or a source report (existing sources or new sources with initial start-up preceding effective date of standard); and notification of anticipated and actual dates of start-up. Calculations estimating new emission levels must be reported whenever a change of operation is made that would potentially increase emissions. A detailed discussion of the requirements for each of the above reports and the recordkeeping follows.

Owners or operators of any new source to which the standard applies must submit an application for approval of construction. This application must include the name and address of the applicant, the location or proposed location of the source, and technical information describing the source. The technical information should include the proposed nature, size, design, operating design capacity, and method of operation of the source, including a description of pollution control equipment. The technical information should also include calculations of emission estimates.

Any owner or operator of an affected source with an initial start-up after the effective date of these standards must provide a notification of anticipated and actual start-up dates. Deadlines for these notifications are found at 40 CFR 61.09.

Sources subject to these standards are required to demonstrate initial compliance through emission tests. In addition, a continuous monitoring system for the measurement of the opacity of emissions from any control device must be installed and operated. Records of continuous emission monitoring (CEM) results and other data needed to determine emission concentrations shall be maintained at the source and made available for inspection for a minimum of two years.

A written report of each period for which emission rates exceeded the emission limits is required semiannually. All reports are sent to the delegated State or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA Regional office. Applications and source reports are sent directly to the EPA Regional office. Applications and source reports are used to inform the Agency or delegated authority when a source becomes subject to the standards, and the nature of that source. Notification of start-up informs the reviewing authority at what date the source becomes subject to the standards. The reviewing authority may then inspect the source to check if the pollution control devices are properly installed and operated.

Reports, including calculations estimating any subsequent emission levels, are necessary to keep the Agency informed about the source's activities in terms of hazardous air pollutant emissions.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: At the writing of the previous ICR there were approximately 47 sources. No additional sources are expected to become subject to the standard in the next three years. The current ICR estimates average annual burden to the industry to be 6,769 person hours. The respondent costs have been calculated on the basis of $14.50 per hour plus 110 percent overhead rate. The current ICR also estimates the average annual burden to the industry is $206,116.

The following is a breakdown of burden used in the ICR: Owners and operators of glass melting furnaces seeking to comply with the emission limits in the standards (rather than the percent reduction requirements) are required to calculate arsenic emissions every 6 months for both the preceding and forthcoming 12 month periods for each arsenic containing glass type to be produced during those periods. This calculation takes into account changes in production rates, types of glass produced, and other factors that might affect the uncontrolled arsenic emissions. It is estimated that 43 of the 47 sources will calculate mass balance and calculate an emissions estimate. The current ICR estimates that it will take 8 hours to calculate mass balance and 8 hours to estimate emissions. Both calculations will take place twice per year. The standards require that the rates and factors used in the calculation be recorded. It is estimated that it will take 40 hours to record this information. Should these calculations reveal that the standards were exceeded during the preceding 12-month period, the owner or operator is required to report this fact to the Administrator. It is estimated that 2 of the 47 sources will have excess emissions once per year and that it will take 16 hours to prepare the report. This notification allows the Administrator to determine when a furnace has emitted arsenic into the atmosphere in excess of the level prescribed by the standards and to see that remedial action is taken.

In certain instances, such as periods during which maintenance of the control device is performed, the owner or operator of a facility may apply to the Administrator for approval to bypass the control device for a limited period of time. This application not only informs the Administrator of the owner or operator's intent to bypass the control device, but also allows the Administrator to determine whether the reasons for the bypass are adequate and whether steps are being taken to minimize emissions during the bypass period. It is estimated that 4 of the 47 sources will apply for a bypass waiver once per year and it will take 6 hours to prepare the application.

These estimates include the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

MACT NESHAP Subpart L: Coke Oven Batteries

Affected entities: Entities potentially affected by this action are those owners or operators of new and existing by-product and non-recovery coke oven batteries.

Title: National Emission Standards for Coke Oven Batteries, Part 63, Subpart L; OMB No. 2060–0253; EPA No. 1362.03; expiration date: October 30, 1996.

Abstract: The owners of new and existing coke oven batteries are require to daily monitored coke oven emissions values by a certified observer for each emission point and calculate the 30-run rolling average. All respondents shall prepare a startup, shutdown, and malfunction plan and a coke oven emission control work practice plan. The work practice procedures in the plan (including associated recordkeeping requirements) would be triggered by exceedances of an applicable visible emission limitation for a regulated emission point. If a malfunction occurred, respondents must notify the enforcement agency and follow up with a written report. A report also would be required if coke oven gas were vented through a bypass/bleeder stack and not flared as required under the rule.

All respondents would be required to submit one-time notifications to elect a compliance track and to certify initial compliance. If applicable, respondents also would submit one-time notifications or requests for (1) constructing a new, brownfield, or padup rebuild by-product coke oven battery using a new recovery technology; (2) restarting a cold-idle battery shutdown prior to November 15, 1990; (3) obtaining an exemption from control requirements for bypass/bleeder stacks by committing to permanent closure of a battery or using an equivalent alternative control system for the stacks; and (4) obtaining an alternative standard for coke oven doors on a battery equipped with a shed. Respondents also would submit initial and semiannual compliance certifications, maintain specified records, and provide copies of records and reports upon request to the authorized union representative.

Records and reports are necessary to enable the Administrator to identify new, modified, or reconstructed sources subject to the standards (and for batteries on the deferral route, which standards would apply) and to ensure that the emission limitations, work practice requirements, and other provisions of the national emission standards are being implemented and achieved.

The information and data will be used by EPA and states to: (1) identify batteries subject to the standards; (2) ensure that MACT and LAER are properly applied; and (3) ensure that daily monitoring and work practice requirements are implemented as required. Effective enforcement of the standard is particularly necessary in light of the hazardous nature of coke oven emissions.

Based on recorded and reported information, EPA and states can identify compliance problems and what records or processes should be inspected at the plant. The records the plants would maintain would help indicate whether plants are in compliance with the standard, reveal misunderstanding about how the standard is to be implemented, and indicate to EPA whether plant personnel are operating and maintaining their process equipment properly.

Reporting and recordkeeping requirements on the part of the respondent are mandatory, required under Sections 112 and 114 of the Clean Air Act as amended. All information submitted to the Agency for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in Title 40, Chapter 1, Part 2, Subpart B—Confidentiality of Business Information (See 40 CFR 2; 41 FR 36902, September 1, 1976; amended by 43 FR 39999, September 8, 1978; 43 FR 42251, September 28, 1978; 44 FR 17674, March 23, 1979).

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The total annual hours were estimated to be 73,825 and the recordkeeping and reporting burden was estimated to average 2,461 hours per respondent per year. The total annual cost was estimated to average $2,519, 102 based on 30 respondents (29 by-product plants with a total of 82 batteries and 1 non-recovery plant). Costs were based on the following hourly rates: technical at $35, management at $51, and clerical at $16.

This analysis was based on monitoring, reporting and recordkeeping requirements that would be implement by all plants with existing and new coke oven batteries. The following activities were addressed in calculating the respondent burden: work practice plan; startup, shutdown, malfunction plan; monitoring by certified observer; certification program; monitor of oven pressure; work practices procedures; notifications and written reports required (see discussion that follows for assumptions); information gathering and recording; and training. We made several assumptions for both by-product plants and non-recovery plants in calculating the burden associated with this regulation, as described below.

By-product plants are required to have daily performance tests for each emission point on each battery conducted by a certified observer provided by the state. Therefore, respondent will reimburse the State through permit fees for all costs associated with daily inspections using the formula provided in the standard. Other indirect costs attributable to respondents would include the cost of observer certification. It was assumed in this analysis that of the 29 by-product plants only 10% would be required to implement the work practice procedures, specified in the work practice plan, which is require following the second independent exceedance of an applicable visible emission limitation for an emission point. It was also assumed in the analysis that 10% of the 29 plants would experience a venting episode where emissions are released through bypass/bleeder stacks without flaring and, therefore, require to submit a notification and written report to EPA.

Non-recovery plants are not required to use a certified observer to monitor the oven pressure to control emissions from coke oven doors. They are subject to work practices for charging operation for which they need to keep records.

Other general assumptions made in the burden estimate analysis include: (1) one plant per year will submit a notification for construction or reconstruction, use of new recovery technology, and startup of cold-idle batteries; (2) enforcement agency will receive six requests for an alternative door standard; (3) two plants would permanently close batteries and would be require to submit a notification; (4) all plants will submit initial compliance certifications, semiannual compliance certifications, and a notification as to election of a compliance track; (5) all plants would install flares; (6) no requests for an alternative control system would be submitted to the enforcement agency; and (7) 2 of the 30 existing plants may experience malfunction and, therefore are require to submit a notification and a written report to the enforcement agency.

This burden considered the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

MACT Subpart M; PCE Dry Cleaning Facilities

Affected entities: Entities potentially affected by this action are those which are subject to NESHAP Subpart M, owners or operators of dry cleaning facilities using perchlorethylene (PCE) as a solvent.

Title: NESHAP Subpart M, Dry Cleaning Facilities/Perchloroethylene (PCE), OMB number 2060–0234, expires October 31, 1996.

Abstract: The information collected is needed to determine which sources are subject to the regulation and whether these sources are in compliance with the standards. EPA is required under Section 112(d) of the Clean Air Act (Act) to regulate emissions of 189 hazardous air pollutants (HAPs) listed in Section 112(b) of the Act. One of these pollutants, PCE, is emitted from dry cleaning facilities. In the Administrator's judgment, PCE emitted from dry cleaning facilities causes, or contributes significantly, to air pollution that may reasonably be anticipated to endanger pubic health. Consequently, National Emission Standards for Hazardous Air Pollutants (NESHAP) for this source category have been developed. Certain records and reports are necessary to enable the Administrator to identify sources subject to the standards and to ensure that the standard, which is based on maximum achievable control technology (MACT) or generally available control technology (GACT), is being achieved. The Agency will use the information to identify sources subject to the standards to ensure that MACT or GACT is being properly applied, monitoring is being conducted on a weekly basis to ensure that the emission control devices are being properly operated and maintained on a continuous basis to reduce vented PCE emissions, and leak detection and repair are being conducted on a weekly basis to reduce fugitive PCE emissions.

The records and reports are necessary to enable the EPA to identify facilities that may not be in compliance with the standard. Based on reported information, the EPA can decide which facilities should be inspected/receive compliance assistance, and what records or processes should be inspected at these facilities. The records that the facilities maintain would indicate to the EPA whether they are operating and maintaining equipment properly to control vented emissions and whether transfer emissions and other fugitive emissions are being properly controlled. To minimize the burden, much of the information the Agency needs to determine compliance would be recorded and retained on site at the facility. Such information would be reviewed by enforcement/compliance assistance personnel during an inspection and would not need to be routinely reported to the EPA.

The recordkeeping and reporting requirements under Subpart M are mandatory under 40 CFR 63.324. These requirements are as follows:

5-year retention of records (40 CFR 63.324(d))
Records of solvent purchase per month (40 CFR 63.324(d)(1))
Records of calculation and result of yearly PCE consumption (40 CFR 63.324(d)(2))
Records of weekly or biweekly inspections (40 CFR 63.324(d)(3))
Records of dates of repair or purchase orders (40 CFR 63.324(d)(4))
Records of monitoring (40 CFR 64.324(d) (5) and (6))
Initial report requirements (all) (40 CFR 63.324.(a))
Report on compliance (40 CFR 63.324(b))
Report on facility status change to a major source (40 CFR 63.324(c))
Report on exceedance of low solvent consumption exemption level (40 CFR 63.324(c))

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: Since the dry cleaning industry is considered to be comprised primarily of small businesses, the EPA took special steps to ensure that the burdens imposed on small businesses were reasonable. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. No additional third-party burden is associated with this ICR.

The individual burdens for each of the recordkeeping and reporting requirements applicable to the industry are consistent with the concept of burden under the Paperwork Reduction Act. The annual burden estimates for reporting and recordkeeping for an average respondent are derived from estimates based on the EPA's experience with other standards, and from discussions with industry representatives.

The previous ICR estimated the total annual burden to industry to be $10,131,466. This was based on total annual burden of 1,282,577 person hours for all respondents. For an average dry cleaning facility, the total annual hours were 70 and the total cost was $563. Costs were determined based on management hours at $23.00/hr and employee hours at $7.60/hour. In the current ICR, labor costs are assumed to be $21.00/hour × 110% overhead, or approximately $41.00/hour.

In addition, this estimate was based on the assumption that there will be 2,571 new affected facilities each year, but that the overall number of facilities will remain constant as the new owners will take over old existing facilities.

In estimating the burden associated with reporting requirements, the following activities were taken into account: reading the instructions, gathering information and writing the report. There are four types of possible reports including: the initial report, solvent consumption report, compliance method report, and report in exceeding the consumption cutoff. Only new sources will have to comply with the reporting requirements. For new sources, it is estimated that it would take an average total of 1 person hour to read the instructions, 4 person hours to gather information for reports. It is estimated that it would take new sources 4.25 person hours to write the required reports. It is estimated that there would be 1 occurrence per respondent per year for each of the above listed reporting burdens. The total cost for new sources of complying with the reporting requirements is $21,211.00.

The recordkeeping requirements include the following activities: reading instructions, planning activities, developing a record system, entering the information, and training personnel. Records must be kept on solvent consumption, weekly inspections and biweekly inspections, including leak detection efforts. Only new facilities will have to plan activities and develop a record system. It is estimated that it will take each new source 4 person hours the first year they are in operation to plan activities and develop a record system. It is estimated that it will take new and existing sources 866 person hours per year to complete the other recordkeeping requirements. It is estimated that, for each of the 2,571 new sources, there will be 1 occurrence of planning activities their first year in operation and 3 occurrences of developing a record system that first year. For the 2,571 new sources and the 22,519 existing sources, there will be a total of 78 occurrences per respondent per year of leak detection/repair. There will be 90 total occurrences of entering information in records and 2 occurrences of training personnel per respondent per year. The total cost to new sources of complying with the recordkeeping requirements is $61,644.00. The total cost to all existing sources to comply with the record keeping requirements is $19,501,454.00. Therefore, the total annual cost of complying with the recordkeeping requirements for all sources is $19,563,098.00.

Wood Preserving Containing Arsenic

Affected entities: Entities potentially affected by this action are those that treat wood with preservative formulations containing arsenic. The Standard Industrial Code for the wood preserving industry is 2491.

Title: Wood Preservatives—Submission of Information Regarding Arsenic Exposure Levels in Wood Treatment Plants.

Abstract: This information collection provides wood treaters that use arsenic formulations a way of exempting themselves from the FIFRA pesticide label requirements, which dictate that all applicators of the product wear NIOSH-approved respirators. This opportunity for facilities to exempt themselves from the respirator requirements is called the Permissible Exposure Limit Monitoring Program (PEL) and it is incorporated in the final settlement of the "Notice of Intent To Cancel Registrations of Pesticide Products Containing Creosote, Pentachlorophenol (Including Its Salts) and Inorganic Arsenic" which is published in the July 1984 **Federal Register**, Vol. 49, No. 136, p. 28674. Facilities that choose to participate in the voluntary PEL can do the following to exempt themselves from the respirator requirements. First, the facility needs to conduct air monitoring for air-borne arsenic. Facilities that have air-borne arsenic levels that are higher than the permissible exposure limit would have to continue to require plant personnel to wear respirators. If a facility's air-borne arsenic levels are below the permissible exposure limit they are no longer required to wear respirators. Depending on how close the levels are to the permissible exposure limit, the facility is required to retest periodically or fill out a checklist, which indicates if arsenic exposure levels are likely to increase due to changes in the facility's industrial process.

Participating facilities must submit the air monitoring test results to EPA or if arsenic levels are low and testing is not required then they can simply fill out the checklist and submit it to EPA. All submissions must certify that the information provided is accurate.

EPA uses the certification and air monitoring data to determine if the wood preserving facility is complying with the air-borne arsenic levels set by the cancellation order, which was set to ensure that plant personnel are not exposed to levels of arsenic that pose an unacceptably high health risk. This data will also be used to monitor which wood preserving facilities are participating in the PEL program and thus could be exempt from the pesticide label requirement to wear a respirator. Because the information that is submitted to EPA would not be confidential business information the submittals from the facilities will not be handled as such.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: This information collection assumes that of the estimated 300 wood preserving plants that use arsenic formulation, 200 of these participate in the PEL program. The majority of the participants, 150, have conducted monitoring in the past that has demonstrated that arsenic levels are well below the permissible exposure level. These facilities that are not required to test are required to simply fill out and submit the 6 question PEL checklist, which asks if the facility has changed their process and in doing so may have increased the levels of air-borne arsenic. These 150 plants will spend .75 hours on each submittal at a cost of $14.95 per hour in wages and 110% in overhead for a total cost of $30.45 per hour. Thus each facility will spend $22.84 for the annual submission. Collectively, the 150 plants will spend $3,426 on filling out and submitting the checklist.

EPA estimates that each of the approximately 50 plants that are required to monitor during a given year will spend 17.5 hours on preparing and conducting the tests. When calculating cost EPA assumes an hourly wage of $14.95 with 110% added as overhead for a total hourly cost of $30.45. Thus, a single facility will spend approximately $532 on each test. Collectively, the 50 plants that conduct monitoring will spend $26,644 on monitoring. The total cost for monitoring and submittal costs is $30,070.

This estimate includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: March 5, 1996.

Elaine Stanley,

Director, Office of Compliance.

[FR Doc. 96–7279 Filed 3–25–96; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5446–9]

Notice of Proposed Purchaser Agreement Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as Amended by the Superfund Amendments and Reauthorization Act

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with Section 122 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), 42 U.S.C. 9622, notice is hereby given that a proposed purchaser agreement associated with property adjacent to the Foote Mineral Superfund Site, Exton, PA, was executed by the Agency on March 15, 1996 and is subject to final approval by the United States Department of Justice. The Purchaser Agreement would resolve certain potential EPA claims under Section 107 of CERCLA, 42 U.S.C. 9607, against Key West Connection Corporation. ("The purchasers"). The settlement would require Key West Connection Corporation to pay $5,000 within five (5), days of the effective date of the Agreement to the EPA Hazardous Substances Superfund.

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the proposed settlement. The Agency's response to any comments received will be available for public inspection at the U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107.

DATES: Comments must be submitted on or before April 25, 1996.

AVAILABILITY: The proposed agreement and additional background information relating to the settlement are available for public inspection at the U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107. A copy of the proposed agreement may be obtained

from Suzanne Canning, U.S. Environmental Protection Agency, Regional Docket Clerk (3RC00), 841 Chestnut Building, Philadelphia, PA 19107. Comments should reference the "Foote Mineral Superfund Site; Key West Connection Corporation" and "EPA Docket No. III–96–07–DC", and should be forwarded to Suzanne Canning at the above address.

FOR FURTHER INFORMATION CONTACT: Bonnie A. Pugh (3RC23), Assistant Regional Counsel, U.S. Environmental Protection Agency, 841 Chestnut Building, Philadelphia, PA 19107, Phone: (215) 597–8448.

Dated: March 15, 1996.

Stanley L. Laskowski,

Acting Regional Administrator, U.S. Environmental Protection Agency, Region III.

[FR Doc. 96–7278 Filed 3–25–96; 8:45 am]

BILLING CODE 6560–60–P

[OPPTS–44623; FRL–5358–3]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the receipt of test data on n-butyl acetate (CAS No. 123–86–4), submitted pursuant to a testing consent order under the Toxic Substances Control Act (TSCA). Publication of this notice is in compliance with section 4(d) of TSCA.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–543B, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD (202) 554–0551; e-mail:TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under 40 CFR 790.60, all TSCA section 4 consent orders must contain a statement that the results of testing conducted pursuant to testing consent orders will be announced to the public in accordance with section 4(d).

I. Test Data Submissions

Test data for n-butyl acetate were submitted by the Chemical Manufacturers Association Oxo Process Panel on behalf of the following sponsors: Aristech Chemical Corporation, BASF Corporation, BP Chemicals, Inc., Eastman Chemical Company, Hoechst Celanese Chemical Group, Inc., Rhone-Poulenc, Inc., Shell Oil Company, Union Carbide Corporation, and Vista Chemical Company pursuant to a consent order at 40 CFR 799.5000. They were received by EPA on March 6, 1996. The submission includes a final report entitled "n-Butyl Acetate, A Two-week Inhalation Probe Study in the Rat." This chemical is used as a solvent for coatings, as a process solvent, and for miscellaneous solvent uses.

EPA has initiated its review and evaluation process for this data submission. At this time, the Agency is unable to provide any determination as to the completeness of the submission.

II. Public Record

EPA has established a public record for this TSCA section 4(d) receipt of data notice (docket number OPPTS–44623). This record includes copies of all studies reported in this notice. The record is available for inspection from 12 noon to 4 p.m., Monday through Friday, except legal holidays, in the TSCA Public Docket Office, Rm. B–607 Northeast Mall, 401 M St., SW., Washington, DC 20460.

Authority: 15 U.S.C. 2603.

List of Subjects

Environmental protection, Test data.

Dated: March 19, 1996.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 96–7274 Filed 3–25–96; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Licensee Order To Show Cause

The Acting Chief, Audio Services Division, Mass Media Bureau, has before her the following matter:

Licensee	City/State	MM docket No.
Cen-Ten Productions, Inc.. (Regarding the silent status of Station KJCO (FM))	Yuma, Colorado..	96–49

Pursuant to Section 312(a)(3)(and (4) of the Communications Act of 1934, as amended, Cen-Ten Productions, Inc. has been directed to show cause why the license for Station KJCO (FM) should not be revoked, at a proceeding in which the above matter has been designated for hearing concerning the following issues:

(1) To determine whether Cen-Ten Productions, Inc. has the capability and intent to expeditiously resume the broadcast operations of KJCO (FM), consistent with the Commission's Rules.

(2) To determine whether Cen-Ten Productions, Inc. has violated Sections 73.1740 and/or 73.1750 of the Commission's Rules.

(3) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether Cen-Ten Productions, Inc. is qualified to be and remain the licensee of Station KJCO (FM).

A copy of the complete *Show Cause Order and HDO* in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 239), 1919 M Street, N.W., Washington, D.C. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037 (telephone 202–857–3800).

Federal Communications Commission

Linda Blair,

Acting Chief,

Audio Services Division, Mass Media Bureau.

[FR Doc. 96–7224 Filed 3–25–96; 8:45 am]

BILLING CODE 6712–01–P

Licensee Order To Show Cause

The Acting Chief, Audio Services Division, Mass Media Bureau, has before her the following matter:

Licensee	City/State	MM Docket No.
Oakhill-Jackson Economic Development Corp.. (regarding the silent status of noncommercial, educational station KOJC (FM))	Cedar Rapids, Iowa.	96–47.

Pursuant to Section 312(a)(3) and (4) of the Communications Act of 1934, as amended, Oakhill-Jackson Economic Development Corp. has been directed to show cause why the license for Station KOJC (FM) should not be revoked, at a proceeding in which the above matter has been designated for hearing concerning the following issues:

(1) To determine whether Oakhill-Jackson Economic Development Corp. has the capability and intent to expeditiously resume the broadcast operations of KOJC (FM), consistent with the Commission's Rules.

(2) To determine whether Oakhill-Jackson Economic Development Corp. has violated Sections 73.561 and/or 73.1750 of the Commission's Rules.

(3) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether Oakhill-Jackson Economic Development Corp. is qualified to be and remain the licensee of Station KOJC (FM).

A copy of the complete Show Cause Order and HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 239), 1919 M Street NW., Washington, D.C. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037 (telephone 202–857–3800).

Federal Communications Commission.

Linda Blair,

Acting Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 96–7225 Filed 3–25–96; 8:45 am]

BILLING CODE 6712–01–P

Licensee Order To Show Cause

The Acting Chief, Audio Services Division, Mass Media Bureau, has before her the following matter:

Licensee	City/State	MM docket No.
Rainy River Community College. (Regarding the silent status of noncommercial, educational Station KICC (FM))	International; Falls, Mn..	96–48

Pursuant to Section 312(a)(3) and (4) of the Communications Act of 1934, as amended, Rainy River Community College has been directed to show cause why the license for noncommercial, educational Station KICC (FM) should not be revoked, at a proceeding in which the above matter has been designated for hearing concerning the following issues:

(1) To determine whether Rainy River Community College has the capability and intent to expeditiously resume the broadcast operations of KICC (FM), consistent with the Commission's Rules.

(2) To determine whether Rainy River Community College has violated Sections 73.561 and/or 73.1750 of the Commission's Rules.

(3) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether Rainy River Community College is qualified to be and remain the licensee of Station KICC (FM).

A copy of the complete Show Cause Order and HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 239), 1919 M Street, N.W., Washington, D.C. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037 (telephone 202–857–3800).

Federal Communications Commission.

Linda Blair,

Acting Chief, Audio Services Division Mass Media Bureau.

[FR Doc. 96–7223 Filed 3–25–96; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed new, revised, or continuing information collections. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), this notice seeks comments concerning the proposed extension to a currently approved information collection, which is assigned OMB Control Number 3067–0077. The current approval expires May 31, 1996.

Background

The National Flood Insurance Program regulations require the elevation or floodproofing of newly constructed structures in designated special flood hazard areas. As part of the agreement for making flood insurance available in a community, the NFIP requires the community to adopt a floodplain management ordinance containing certain minimum requirements intended to reduce future flood losses. One such requirement is that the community obtain the elevation of the lowest flood (including basement) of all new and substantially improved structures, and maintain a record of all such information. These data may be generated and retained as part of the communities permit issuance and building inspection processes. The Elevation Certificate is one convenient way for a community to comply with this requirement. The Floodproofing Certificate may similarly be used to establish the required record in those instances when floodproofing for non-residential structures is a permitted practice.

Collection of Information

Title. Post Construction Elevation Certificate/Floodproofing Certificate.

Type of Review. Extension.

Form Numbers. FEMA Form 81–31, Elevation Certificate, FEMA Form 81–65, Floodproofing Certificate for Non-Residential Structures.

Abstract. The Elevation Certificate and Floodproofing Certificate are adjuncts to the application for flood insurance. The certificates are required for proper rating of post-Flood Insurance Rate Map (FIRM) structures, which are buildings constructed after publication of the FIRM, for flood insurance in Special Flood Hazard Areas. In addition, the Elevation Certificate is also needed for pre-FIRM structures being rated under post-FIRM flood insurance rules. The certificates provide community officials and others standardized documents to readily record needed information.

The certificates are supplied to insurance agents, community officials, surveyors, engineers, architects, and NFIP policyholders/applicants. The community officials or other professionals provide the elevation data required to document conformance with floodplain management regulations and for the applicants so that actuarial insurance rates can be charged. The elevation data is transmitted to the NFIP by the insurance applicant or agent with the appropriate NFIP policy forms.

The data is also used to assist FEMA in measuring the effectiveness of the NFIP regulations in eliminating or decreasing damage caused by flooding and the appropriateness of the NFIP premium charges for insuring property against the flood hazard.

Affected Public: Individuals and households, Businesses or other for-profit, Not-for-profit institutions, Farms, and State, local or tribal governments.

FEMA forms	No. of respondents	Hours per response	Annual burden hours
81–31	14,800	2.25	33,300
81–65	240	3.25	780

Based on comments from respondents, the burden estimates for

each of the FEMA forms have been reestimated.

Estimated Total Annual Burden Hours. 34,080.

Comments: Written comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. Comments should be received within 60 days of the date of this notice.

ADDRESSES: Direct all comments to Muriel B. Anderson, FEMA Information Collections Officer, Federal Emergency Management Agency, 500 C Street, SW, Room 311, Washington, DC 20472. Telephone number (202) 646–2625. FAX number (202) 646–3524.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection can be obtained by contacting the person listed in the **ADDRESSES** section of this notice.

Dated: March 15, 1996.

Thomas Behm,

Acting Director, Program Services Division, Operations Support Directorate.

[FR Doc. 96–7235 Filed 3–25–96; 8:45 am]

BILLING CODE 6718–01–P

[FEMA–1088–DR]

New Jersey; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of New Jersey (FEMA–1088–DR), dated January 13 1996, and related determinations.

EFFECTIVE DATE: March 2, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, effective this date and pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Marianne Jackson of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

This action terminates my appointment of Agnes Mravcak as Federal Coordinating officer for this disaster.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 96–7230 Filed 3–25–96; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–1083–DR]

New York; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of New York (FEMA–1083–DR), dated January 12, 1996, and related determinations.

EFFECTIVE DATE: March 2, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, effective this date and pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Marianne Jackson of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

This action terminates my appointment of Agnes Mravcak as Federal Coordinating Officer for this disaster.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 96–7233 Filed 3–25–96; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–1099–DR]

Oregon; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Oregon, (FEMA–1099–DR), dated February 9, 1996, and related determinations.

EFFECTIVE DATE: March 13, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Oregon, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 9, 1996:

The Warm Springs Indian Reservation for Public Assistance and Hazard Mitigation Assistance (already designated for Individual Assistance); and,

Coos County for Hazard Mitigation (already designated for Individual Assistance and Public Assistance).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96–7231 Filed 3–25–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–3117–EM]

Texas; Emergency and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of an emergency for the State of Texas (FEMA–3117–EM), dated February 23, 1996, and related determinations.

EFFECTIVE DATE: February 23, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated February 23, 1996, the President declared an emergency under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the imminent fire threat in certain areas of the State of Texas, resulting from extreme fire hazards beginning this date, is of sufficient severity and magnitude to warrant an emergency declaration under Title V, Section 501(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such an emergency exists in the State of Texas.

You are authorized to coordinate with the U.S. Forest Service to provide appropriate assistance for required emergency measures, authorized under Title V of the Stafford Act, to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe in the designated areas. Specifically, you are authorized to mobilize and prestage Federal fire suppression resources, and reimburse costs associated with predeploying those resources. Utilization and reimbursement for such use of predeployed resources will be at the recommendation of the U.S. Forest Service for fires designated under Title IV, Section 420 of the Stafford Act.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act under Title V will be limited to 75 percent of the total eligible costs.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Dell Greer of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Texas to have been affected adversely by this declared emergency:

Angelina, Bell, Bexar, Brown, Cass, Coryell, Dallas, Denton, Fayette, McLennan, Montgomery, Palo Pinto, Rusk, San Saba, Taylor, Tarrant, Tom Green, Travis, Tyler, Wise and Wichita Counties. FEMA has been authorized to mobilize and prestage Federal fire suppression resources, and reimburse costs associated with predeploying those resources under Title V, Section 501(a) of the Stafford Act. Utilization and reimbursement for such use of predeployed resources will be at the recommendation of the U.S. Forest Service for fires designated under Title IV, Section 420 of the Stafford Act.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 96–7234 Filed 3–25–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–3117–EM]

Texas; Amendment to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency for the State of Texas, (FEMA–3117–DR), dated February 23, 1996, and related determinations.

EFFECTIVE DATE: March 15, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of an emergency for the State of Texas, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of February 23, 1996:

Childress County for emergency assistance as defined in this declaration.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96–7236 Filed 3–25–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1101–DR]

Vermont; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Vermont (FEMA–1101–DR), dated February 13, 1996, and related determinations.

EFFECTIVE DATE: March 13, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective February 2, 1996.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96–7232 Filed 3–25–96; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

International Logistics Corporation, 1701 Quincy Street, Suite #5, Naperville, IL 60540; Officers: John D. Staton, President/CEO, John M. Staton, Vice President

Cibao Furniture Inc., 14 East 167th Street, Bronx, NY 10452; Officer: Jose Augusto Perdomo Mojica, President

CFS International, Inc., 2700 Broening Highway, Suite 211–A, Baltimore, MD 21222; Officers: Frank E. Cashman, Jr., President, Karen P. Cashmen, Vice President

Ark International Shipping, 116 E. Edgebrook, Suite 1114, Houston, TX 77034; Nabil Tamimi, Sole Proprietor

Bobrek Cargo (USA) Inc., 8730 N.W. 101 Street, Medley, FL 33178; Officers: Maria A. Mohandas, President, Ana Cristina Bobrek, Vice President,

Vernon Paul Chadwick, 5915 Hoover Avenue, Indian Trail, NC 28079; Sole Proprietor

H&S International, Inc., 7955 N.W. 21st Street, Miami, FL 33122; Officers: Pedro A. Gonzalez, President, Christina A. Gonzalez, Vice President

Only Forwarding Services, Inc., 2315 N.W. 107th Avenue, 1M17, Miami, FL 33172; Officer: Hassain Issa, President

Pactrans Marine, Inc., 9520 La Cienega Blvd., Inglewood, CA 90301; Officers: Terrence Lynch, Director, C.T. Tsui, Vice President

Peter Wittwer North America Inc. Shipping Agents, 2401 West Bay Drive, Suite 15, Largo, FL 34640; Officers: Siegfried Adam, President, Carolyn J. Haack, Vice President

Dated: March 20, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 96–7220 Filed 3–25–96; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank

holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 8, 1996.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *O. Perry Earle, III*, Greenville, South Carolina; to acquire an additional 1.51 percent, for a total of 10.35 percent, of the voting shares of Greenville Financial Corporation, Greenville, South Carolina, and thereby indirectly acquire Greenville National Bank, Greenville, South Carolina.

Board of Governors of the Federal Reserve System, March 20, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–7176 Filed 3–25–96; 8:45 am]

BILLING CODE 6210–01–F

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices" (12 U.S.C. 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 18, 1996.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Old National Bancorp*, Evansville, Indiana; to acquire 100 percent of the voting shares of The National Bank of Carmi, Carmi, Illinois.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Kanbanc, Inc.*, Overland Park, Kansas; to acquire 51.6 percent of the voting shares of Citizens Bank of Norborne, Norborne, Missouri.

C. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. *East Texas Financial Corporation*, Kilgore, Texas, and *East Texas (Delaware) Holdings, Ltd.*, Wilmington, Delaware; each to acquire a total of 54.35 percent of the voting shares of Gladewater National Bank, Gladewater, Texas.

Board of Governors of the Federal Reserve System, March 20, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96-7175 Filed 3-25-96; 8:45 am]

BILLING CODE 6210-01-F

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11 a.m., Monday, April 1, 1996.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Policy regarding disclosure of Federal Reserve Board employees' salaries.
2. Federal Reserve Bank and Branch director appointments.
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
4. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: March 22, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–7493 Filed 3–22–96; 3:35 pm]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Revised Jurisdictional Thresholds for Section 8 of the Clayton Act

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: The Federal Trade Commission announces the revised thresholds for interlocking directorates required by the 1990 amendment of section 8 of the Clayton Act. Section 8 prohibits, with certain exceptions, one person from serving as a director or officer of two competing corporations if two thresholds are met. Competitor corporations are covered by section 8 if each one has capital, surplus, and undivided profits aggregating more than $10,000,000, with the exception that no corporation is covered if the competitive sales of either corporation are less than $1,000,000. Section 8(a)(5) requires the Federal Trade Commission to revise those thresholds annually, based on the change in gross national product. The new thresholds, which take effect immediately, are $13,239,000 for section 8(a)(1), and $1,323,900 for section 8(a)(2)(A).

EFFECTIVE DATE: March 26, 1996.

FOR FURTHER INFORMATION CONTACT: James Mongoven, Bureau of Competition, Office of Policy and Evaluation, (202) 326–2879.

(Authority: 15 U.S.C. 19(a)(5)).

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 96–7290 Filed 3–25–96; 8:45 am]

BILLING CODE 6750–01–M

[File No. 922–3308]

Cancer Treatment Centers of America, Inc.; Midwestern Regional Medical Center, Inc.; Memorial Medical Center and Cancer Institute, Inc.; Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require the Arlington, Illinois-based company and two affiliated hospitals to substantiate future claims regarding the success or efficacy of their cancer treatments and to ensure that testimonials they use do not misrepresent the typical experience of their patients. The consent agreement settles allegations that the company and the hospitals made false and unsubstantiated claims in advertising and promoting their cancer treatments.

DATES: Comments must be received on or before May 28, 1996.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Richard F. Kelly, Federal Trade Commission, H–200, 6th and Pennsylvania Ave, NW, Washington, DC 20580. 202–326–3304. Walter C. Gross, III, Federal Trade Commission, H–200, 6th and Pennsylvania Ave, NW, Washington, DC 20580. 202–326–3319.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Before Federal Trade Commission

In the Matter of Cancer Treatment Centers of America, Inc., a corporation, Midwestern Regional Medical Center, Inc., a corporation, and Memorial Medical Center and Cancer Institute, Inc., a corporation; Agreement Containing Consent Order to Cease and Desist.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Cancer Treatment Centers of America, Inc., a corporation, Midwestern Regional Medical Center, Inc., a corporation, and Memorial Medical Center and Cancer Institute, Inc., a corporation (hereinafter sometimes referred to as "proposed respondents" or "respondents"), and it now appearing that proposed respondents are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between Cancer Treatment Centers of America, Inc., a corporation, Midwestern Regional Medical Center, Inc., a corporation, and Memorial Medical Center and Cancer Institute, Inc., a corporation, and their attorneys, and counsel for the Federal Trade Commission that:

1. Proposed respondent Cancer Treatment Centers of America, Inc., is an Illinois corporation, with its principal office or place of business at 3455 Salt Creek Lane, Suite 200, Arlington, Illinois 60005–1090.

Proposed respondent Midwestern Regional Medical Center, Inc., is an Illinois corporation, with its principal office or place of business at Shiloh Boulevard and Emmaus Avenue, Zion, Illinois 60099.

Proposed respondent Memorial Medical Center and Cancer Institute, Inc., is an Oklahoma corporation, with its principal office or place of business at 8181 South Lewis Avenue, Tulsa, Oklahoma 74137.

2. Proposed respondents admit all the jurisdictional facts set forth in the attached draft complaint.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act, 5 U.S.C. 504.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the attached draft complaint, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, in which event it will take such action as it may consider appropriate, or issue and service its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents of facts, other than jurisdictional facts, or of violations of law as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents: (a) Issue its complaint corresponding in form and substance with the attached draft complaint and its decision containing the following Order to cease and desist in disposition of the proceeding; and (b) make information public in respect thereto. When so entered, the Order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The Order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to Order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the Order, and no agreement, understanding, representation, or interpretation not contained in the Order or the agreement may be used to vary or contradict the terms of the Order.

7. Proposed respondents have read the attached draft complaint and the following Order. Proposed respondents understand that once the Order has been issued, they will be required to file one or more compliance reports showing

that they have fully complied with the Order. Proposed respondents further understand that it may be liable for civil penalties in the amount provided by law for each violation of the Order after it becomes final.

Order

Definitions

For the purposes of this Order, the following definitions shall apply:

A. "Competent and reliable scientific evidence" shall mean tests, analyses, research, studies or other evidence based on the expertise of professionals in the relevant area that have been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

B. "Cancer" shall mean any of various malignant neoplasms characterized by the proliferation of anaplastic cells that tend to invade surrounding tissue and may metastasize to new body sites or the pathological condition characterized by such growths.

C. "Independent organization or facility" means any organization, association, or entity, whether or not for profit, which is not owned or controlled, directly or indirectly, by respondents, individually or collectively.

D. "Endorsement" means any advertising message (including verbal statements, demonstrations or depictions of the name, signature, likeness or other personal identifying characteristics of any individual or the name or seal of an organization) which message consumers are likely to believe reflects the opinions, beliefs, findings, or experience of a party other than the sponsoring advertiser.

I

It is ordered that respondents Cancer Treatment Centers of America, Inc., a corporation, Midwestern Regional Medical Center, Inc., a corporation, and Memorial Medical Center and Cancer Institute, Inc., a corporation, their successors or assigns, (hereinafter sometimes referred to as "respondents"), and respondents' officers, representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other advice, including franchisees or licensees, in connection with the advertising, promotion, offering for sale, or sale of products or services purporting to treat or cure disease, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Making any representation, directly or by implication, about either:

(1) The existence or content of statistical data that purports to document survivorship rates or cure rates for cancer patients in respondents' treatment facilities, or

(2) Cure rates or survivorship rates either for any of respondents' treatment facilities or for any treatment modality or modalities offered by respondents.

unless, at the time of making any such representation, respondents possess and rely upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, substantiating the representation.

B. Representing, directly or by implication, that any modality for the treatment or mitigation of cancer or its attendant symptoms is approved, endorsed or accepted by any independent organization or facility unless, at the time of making any such representation, respondents possess and rely upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, substantiating the representation.

C. Making any representation, directly or by implication, about the efficacy of any modality that purports to treat or mitigate cancer or its attendant symptoms, unless, at the time of making any such representation, respondents possess and rely upon competent and reliable scientific evidence substantiating the representation.

D. Representing, directly or by implication, that any endorsement of any of respondents' treatment programs that purport to mitigate or cure cancer represents the typical or ordinary experience of members of the public who use the program, unless:

(1) At the time of making such representation, respondents possess and rely upon competent and reliable scientific evidence, that substantiates such representation, or

(2) Respondents disclose clearly, prominently and in close proximity to the endorsement or testimonial either:

(a) What the generally expected results would be for users of such program, or

(b) The limited applicability of the endorser's experience to what consumers may generally expect to achieve, that is, that consumers should not expect to experience similar results.

E. Making any representation, directly or by implication, about the performance, safety or benefits of any modality that purports to treat or mitigate cancer, its attendant symptoms or attendant diseases, unless, at the time of making any such representation, respondents possess and rely upon competent and reliable scientific evidence substantiating the representation.

II

It is further ordered that respondents shall notify the Commission at least thirty (30) days prior to the effective date of any proposed change such as dissolution, assignment, or sale resulting in the emergence of a successor corporation(s), the creation or dissolution of subsidiaries, or any other change in the corporation(s) that may affect compliance obligations arising out of this Order.

III

It is further ordered that for three (3) years after the last date of dissemination of any representation covered by this Order, respondents, or their successors and assigns, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. All materials that were relied upon in disseminating such representation; and

B. All tests, reports, studies, surveys, demonstrations or other evidence in their possession or control that contradict, qualify, or call into question such representation, or the basis relied upon for such representation, including complaints from consumers.

IV

It is further ordered that within ten (10) days from the date of service of this order, respondents shall distribute a copy of this Order to each of its officers, agents, representatives, independent contractors and employees who are involved in the preparation and placement of advertisements or promotional materials or who have any responsibilities with respect to the subject matter of this Order; and, shall secure from each such person a signed statement acknowledging receipt of this order.

V

It is further ordered that respondents shall, within sixty (60) days after the date of service of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from three corporations who operate under the trade name Cancer Treatment Centers of America and offer cancer treatment services to the public. The three corporations are: Cancer Treatment Centers of America, Inc., Midwestern Regional Medical Centers, Inc., and Memorial Medical Center and Cancer Institute, Inc.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Commission has alleged that proposed respondents failed to possess a reasonable basis for claiming that their five year survivorship rates for cancer patients that they treated was "among the highest recorded." The Commission further alleges that representations proposed respondents made about the ability of treatments known as "whole body hyperthermia" and "brachytheraphy" to successfully treat some cancers and/or improve survivorship rates were also unsubstantiated.

Additionally, the Commission has alleged that proposed respondents claimed that whole body hyperthermia was "an approved medical procedure," implying that the procedure had been approved by an independent agency or medical body when, in fact, it had not. Finally, the Commission has alleged that proposed respondents failed to substantiate advertisements that featured the treatment experiences of former patients and represented, expressly or by implication, that such experiences represented the typical and ordinary experience of consumers of proposed respondents' treatment services.

The proposed consent order addresses the alleged misrepresentations cited in the accompanying complaint by requiring, among other things, that proposed respondents possess a reasonable basis consisting of competent and reliable evidence for any future claims regarding survivorship or cure rates. When appropriate the order would require that such evidence be competent and reliable scientific evidence. Additionally, under the order, any efficacy claims for any modality that purports to treat or mitigate cancer or its attendant symptoms must also be substantiated with competent and reliable scientific evidence.

The order further prohibits proposed respondents from misrepresenting that any independent organization has approved any treatment regimen for cancer. The order also requires that any future claims containing consumer endorsements or testimonials either represent the typical and ordinary experience of consumers of proposed respondents' services or contain a clear and prominent statement referring to the limited applicability of the endorser's experience. Finally, the order requires competent and reliable scientific evidence for any representation about the performance, safety, or benefits of any modality that purports to treat or mitigate cancer, its attendant symptoms or attendant diseases.

The purpose of this analysis is to facilitate public comment on the proposed order, and is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 96–7293 Filed 3–25–96; 8:45 am]

BILLING CODE 6750–01–M

[File No. 952–3478]

Johnson & Collins Research, Inc. and Gregor A. Von Ehrenfels; Consent Agreement with Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal laws prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit the Minneapolis-based company from making false or unsubstantiated representations in future advertisements for weight-loss booklets or for other weight-loss products or programs. The consent agreement settles allegations that Johnson & Collins's advertisements for the Total Body Reshaping System and the Super Total Body Shaping System ("TBR System"), which appeared in magazines directed at teenage girls, failed to disclose that the TBR System consisted primarily of booklets containing advice on dieting and exercising.

DATES: Comments must be received on or before May 28, 1996.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT:

Joel Winston, Federal Trade Commission, S–4002, 6th and Pennsylvania Ave., NW., Washington, DC, 202–326–3153.

Richard L. Cleland, Federal Trade Commission, S–4002, 6th and Pennsylvania Ave., NW., Washington, DC, 202–326–3088.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Before Federal Trade Commission

[File No. 952–3478]

In the Matter of *Johnson & Collins Research, Inc.*, a corporation, and *Gregor A. Von Ehrenfels*, individually and as an officer of said corporation; Agreement Containing Consent Order to Cease and Desist.

The Federal Trade Commission, having initiated an investigation of certain acts and practices of Johnson & Collins Research, Inc., a corporation, and Gregor A. Von Ehrenfels, individually and as an officer of said corporation, hereinafter sometimes referred to as proposed respondents, and it now appearing that proposed respondents are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between Johnson & Collins Research, Inc., by its authorized officer, and Gregor A. Von Ehrenfels, individually and as an officer of said corporation, and their attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Johnson & Collins Research, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Minnesota, with its office and principal place of business located at 5115 Excelsior Blvd., in the City of Minneapolis, State of Minnesota 55416.

Proposed respondent Gregor A. Von Ehrenfels is an officer of said corporation. Individually or in concert with others, he participates in and/or

formulates, directs, and controls the acts and practices of said corporation and his address is the same as that of said corporation.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents of facts, other than jurisdictional facts, or of violations of law as alleged in the draft of complaint here attached.

6. This agreement contemplates, that if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) Issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

For purposes of this Order;

1. "Clearly and prominently" shall mean as follows: (a) In a television or videotape advertisement, the disclosure shall be presented simultaneously in both the audio and video portions of the advertisement. The audio disclosure shall be delivered in a volume and cadence and for a duration sufficient for an ordinary consumer to hear and comprehend it. The video disclosure shall be of a size and shade, and shall appear on the screen for a duration, sufficient for an ordinary consumer to read and comprehend it.

(b) In a print advertisement, the disclosure shall be in a type size, and in a location, that are sufficiently noticeable so that an ordinary consumer will see and read it, in print that contrasts with the background against which it appears. In multipage documents, the disclosure shall appear on the cover or first page.

(c) In a radio advertisement, the disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it.

2. "Competent and reliable scientific evidence" shall mean tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

3. "Weight-loss product" shall mean any product or program designed or used to prevent weight gain or to produce weight loss, reduction or elimination of fat, slimming, or caloric deficit in a user of the product or program.

I

It is ordered that respondents, Johnson & Collins Research, Inc., a corporation, its successor and assigns, and its officers; and Gregor A. von Ehrenfels, individually and as an officer of Johnson & Collins Research, Inc.; and respondents' agents, representatives and employees, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the manufacturing, advertising, packaging, labeling, promotion, offering for sale, sale, or distribution of Total Body Reshaping System, Super Total Body Reshaping System, or any substantially similar product, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, that such product does not require dieting.

II

It is further ordered that respondents, Johnson & Collins Research, Inc., a corporation, its successors and assigns, and its officers; and Gregor A. von Ehrenfels, individually and as an officer of Johnson & Collins Research, Inc.; and respondents' agents, representatives and employees, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the manufacturing, advertising, packaging, labeling, promotion, offering for sale, sale, or distribution of any weight-loss product, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, that:

A. Such product is effective in causing fast and significant weight loss;

B. Such product is effective in reducing body fat or cellulite;

C. Such product is effective in causing weight loss, fat reduction, or increased muscle tone in specific, desired areas of the body;

D. Such product is effective in burning excess calories, modifying caloric intake, or converting food into energy instead of fat; or

E. Such product has any effect on users' weight, body size or shape, body measurements, appetite,

unless, at the time of making such representation, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

III

Nothing in Parts I and II of this Order shall prohibit respondents from making

representations which promote the sale of books and other publications, provided that, the advertising only purports to express the opinion of the author or to quote the contents of the publication; the advertising discloses the source of the statements quoted or derived from the contents of the publication; and the advertising discloses the author to be the source of the opinions expressed about the publication. This Part shall not apply, however, if the publication or its advertising is used to promote the sale of some other product as part of a commercial scheme.

IV

It is further ordered that respondents, Johnson & Collins Research, Inc., a corporation, its successors and assigns, and its officers; and Gregor A. von Ehrenfels, individually and as an officer of Johnson & Collins Research, Inc.; and respondents' agents, representatives and employees, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the manufacturing, advertising, packaging, labeling, promotion, offering for sale, sale, or distribution of Total Body Reshaping System, Super Total Body Reshaping System, or any substantially similar product, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from making any representation, in any manner, directly or by implication, that any such product has any effect on weight or body size, unless respondents disclose, clearly and prominently, that such product consists primarily of a booklet or pamphlet containing information and advice on weight loss.

V

It is further ordered that respondents, Johnson & Collins Research, Inc., a corporation, its successors and assigns, and its officers; and Gregor A. von Ehrenfels, individually and as an officer of Johnson & Collins Research, Inc.; and respondents' agents, representatives and employees, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the manufacturing, advertising, packaging, labeling, promotion, offering for sale, sale, or distribution of any weight-loss product, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from making any representation, in any manner, directly or by implication, that any such weight-loss product has any effect on weight or body size, unless they disclose, clearly and prominently, that dieting and/or increasing exercise is required to lose weight; provided however, that this disclosure shall not be required if respondents possess and rely upon competent and reliable scientific evidence demonstrating that the weight-loss product is effective without either dieting or increasing exercise.

VI

It is further ordered that respondent, Johnson & Collins Research, Inc., shall:

A. Within thirty (30) days after service of this Order, provide a copy of this Order to each of respondent's current principals, officers, directors, and managers, and to all personnel, agents, and representatives having sales, advertising, or policy responsibility with respect to the subject matter of this Order; and

B. For a period of five (5) years from the date of issuance of this Order, provide a copy of this Order to each of respondent's future principals, officers, directors, and managers, and to all personnel, agents, and representatives having sales, advertising, or policy responsibility with respect to the subject matter of this Order who are associated with respondent or any subsidiary, successor, or assign, within three (3) days after the person assumes his or her responsibilities.

VII

It is further ordered that five (5) years after the last date of dissemination of any representation covered by this Order, respondents, or their successors and assigns, shall maintain and upon request make available to the Federal Trade Commission or its staff for inspection and copying:

A. All materials that were relied upon in disseminating such representation; and

B. All tests, reports, studies, surveys, demonstrations or other evidence in their possession or control that contradict, qualify, or call into question such representation, or the basis relied upon for such representation, including complaints from consumers.

VIII

It is further ordered that respondent, Johnson & Collins Research, Inc., shall notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in its corporate structure, including but not limited to dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or affiliates, the planned filing of a bankruptcy petition, or any other corporate change that may affect compliance obligations arising out of this Order.

IX

It is further ordered that respondent, Gregor A. von Ehrenfels, shall, for a period of three (3) years from the date of issuance of this Order, notify the Commission within thirty (30) days of the discontinuance of his present business or employment and of his affiliation with any new business or employment involving the advertising, offering for sale, sale, or distribution of any weight-loss product. Each notice of affiliation with any new business or employment shall include respondent's new business address and telephone number, current home address, and a statement describing the nature of the business or employment and his duties and responsibilities.

X

This Order will terminate twenty years from the date of its issuance, or twenty years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the Order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

A. Any paragraph in this Order that terminates in less than twenty years;

B. This Order's application to any respondent that is not named as a defendant in such complaint; and

C. This Order if such complaint is filed after the Order has terminated pursuant to this paragraph.

Provided further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the Order, and the dismissal or ruling is either not appealed or upheld on appeal, then the Order will terminate according to this paragraph as though the complaint was never filed, except that the Order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

XI

It is further ordered that respondents shall, within sixty (60) days after service of this Order, and at such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from proposed respondents Johnson & Collins Research, Inc. and Gregor A. von Ehrenfels, an officer of the corporation.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

This matter concerns advertising for "Total Body Reshaping System" and "Super Total Body Reshaping System" (collectively referred to herein as "TBRS"). These products are booklets or pamphlets containing advice on dieting and exercise in order to achieve weight loss and body toning. The advertisements ran in teen-oriented magazines.

The Commission's complaint charges that proposed respondents falsely represented that users of the TBRS are not required to consciously diet to lose weight. The complaint also alleges that proposed respondents lacked a reasonable basis when they made the following claims: (1) TBRS is effective in causing fast and significant weight loss; (2) TBRS is effective in significantly reducing body fat and cellulite; (3) TBRS is effective in causing weight loss, fat reduction, and increased muscle tone in specific, desired areas of the body; and (4) TBRS is effective in burning excess calories, modifying caloric intake, and converting food into energy instead of fat. Finally, the complaint alleges that, in light of their representations, proposed respondents' failure to disclose in advertisements that TBRS consists only of booklets or pamphlets containing advice concerning techniques for reducing caloric intake and/or increasing exercise, and that reducing caloric intake and/or increasing exercise is required to lose weight, was a deceptive practice.

The proposed consent order contains provisions designed to remedy the violations charged and to prevent proposed respondents from engaging in similar acts in the future.

Part I of the proposed order prohibits proposed respondents from representing that TBRS, or any substantially similar product, does not require dieting. Part II requires proposed respondents to possess competent and reliable scientific evidence before making any of the representations alleged to be unsubstantiated in the complaint for any weight-loss product; as well as any representation that any such product has any effect on users' weight, body size or shape, body measurements, or appetite.

Part III of the proposed order provides that nothing in Parts I and II prohibits proposed respondents from making representations which promote the sale of books and other publications, provided that, the advertising only purports to express the opinion of the author or to quote the contents of the publication; the advertising discloses the source of the statements quoted or derived from the contents of the publication; and the advertising discloses the author to be the source of the opinions expressed about the publication. Part III does not apply to any publication or its advertising that is used to promote the sale of some other product as part of a commercial scheme.

Part IV prohibits proposed respondents from representing that TBRS, or any substantially similar product, has any effect on weight or body size, unless they disclose clearly and prominently that the product consists solely of a booklet or pamphlet containing information and advice on weight loss. Part V requires proposed respondents to disclose that diet or exercise are required to lose weight in connection with any representation about the effect of weight-loss product on weight or body size, unless they have competent and reliable scientific evidence to the contrary.

Part VI requires Johnson & Collins Research to distribute a copy of the order to certain current and future company personnel. Part VII requires proposed respondents to maintain, for five years, all materials that support, contradict, qualify, or call into question any representations they make that are covered by the proposed order. Under Part VIII of the proposed order, Johnson & Collins Research is required to notify the Federal Trade Commission at least thirty days prior to any proposed change in its corporate structure that may affect compliance with the order's obligations. Part IX requires that Gregor A. von Ehrenfels, for a period of three years, notify the Commission of his affiliation with any new business or employment involving the advertising, offering for sale, sale, or distribution of any weight-loss product. Part X provides for the termination of the order after twenty years under certain circumstances. Part XI obligates proposed respondents to file compliance reports with the Commission.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 96–7292 Filed 3–25–96; 8:45 am]

BILLING CODE 6750–01–M

[File No. 952–3099]

NW Ayer, Inc.; Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit the New York City-based advertising agency from misrepresenting the absolute or comparative amounts of cholesterol, total fat, saturated fat, or any other fatty acid in eggs or in any meat, dairy, or poultry product and from misrepresenting the existence or results of any test or study. The consent agreement settles allegations arising from Ayer's role in creating advertisements that conveyed allegedly deceptive claims regarding the effect of Eggland's Best eggs on blood cholesterol.

DATES: Comments must be received on or before May 28, 1996.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT:

C. Lee Peeler, Federal Trade Commission, S–4002, 6th and Pennsylvania Ave, NW., Washington, DC, 202–326–3090.

Justin Dingfelder, Federal Trade Commission, S–4302, 6th and Pennsylvania Ave., NW., Washington, DC, 202–326–3088.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Before Federal Trade Commission

[File No. 952 3099]

In the Matter of *N.W. Ayer & Son, Inc. d/b/a NW Ayer, Inc.* a corporation; Agreement Containing Consent Order to Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of N.W. Ayer & Son, Inc. d/b/a NW Ayer, Inc., a corporation, hereinafter sometimes referred to as proposed respondent, and it now appearing that proposed respondent is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between N.W. Ayer & Son, Inc. d/b/a NW Ayer, Inc., by its duly authorized officer and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent N.W. Ayer & Son, Inc. d/b/a NW Ayer, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 825 Eighth Avenue, New York, New York 10019.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached, or that the facts as alleged in the draft complaint, other than jurisdictional facts, are true.

6. The agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding; and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

Definition

For purposes of this order, the phrase "covered food product" shall mean only eggs and any meat, dairy, or poultry product. For purposes of this definition, "meat product" shall include any food product for human consumption that is made in whole or in substantial part of the meat of cattle, sheep, swine, or goats; "dairy product" shall include any food product for human consumption that is made in whole or in substantial part from milk; and "poultry product" shall include any food product for human consumption that is made in whole or in substantial part of the meat of any fowl.

I

It is ordered that respondent N.W. Ayer & Son, Inc. d/b/a NW Ayer, Inc., a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of any covered food product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, in any manner, directly or by implication, through numerical or descriptive terms or any other means, the absolute or comparative amount of cholesterol, total fat, saturated fat or any other fatty acid in such covered food product. If any representation covered by this Part either directly or by implication conveys any nutrient content claim defined (for purposes of labeling) by any regulation promulgated by the Food and Drug Administration, or, if applicable, the United States Department of Agriculture, compliance with this Part shall be governed by the qualifying amount for such defined claim as set forth in such regulation.

II

It is further ordered that respondent N.W. Ayer & Son, Inc. d/b/a NW Ayer, Inc., its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of any covered food product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from making any representation, in any manner, directly or by implication, about the absolute or comparative effect of such covered food product on serum cholesterol, whether or not such covered food product is consumed as part of an unrestricted diet or as part of any specific dietary regimen, unless at the time of making the representation, respondent possesses and relies upon competent and reliable scientific

evidence substantiating such representation. For purposes of this order, "competent and reliable scientific evidence" shall mean tests, analyses, research, studies or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

III

It is further ordered that respondent N.W. Ayer & Son, Inc. d/b/a/ NW Ayer, Inc., its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of any covered food product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from making any representation, in any manner, directly or by implication, about the absolute or comparative health benefits of such covered food product, including but not limited to its effect on heart disease, unless at the time of making the representation, respondent possesses and relies upon competent and reliable scientific evidence substantiating such representation.

IV

It is further ordered that respondent N.W. Ayer & Son, Inc. d/b/a/ NW Ayer, Inc., its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of any covered food product in or affecting commerce, as "commerce" is defined in the Fedefal Trade Commission Act, do forthwith cease and desist from misrepresenting, in any manner, directly or by implication, the existence, contents, validity, results, conclusions or interpretations of any test or study.

V

Nothing in this order shall prohibit respondent N.W. Ayer & Son, Inc. d/b/a/ NW Ayer, Inc., from making any representation that is specifically permitted in labeling for any product by regulations promulgated by the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990, or by nutrition labeling regulations promulgated by the Department of Agriculture pursuant to the Federal Meat Inspection Act or the Poultry Products Inspection Act.

VI

It is further ordered that for five (5) years after the last date of dissemination of any representation covered by this order, respondent N.W. Ayer & Son, Inc. d/b/a NW Ayer, Inc., or its successors and assigns, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. All materials that were relied upon in disseminating such representation; and

B. All tests, reports, studies, surveys, demonstrations or other evidence in their possession or control that contradict, qualify or call into question such representation, or the basis relied upon for such representation, including complaints from consumers and complaints or inquiries from governmental organizations.

VII

It is further ordered that respondent N.W. Ayer & Son, Inc. d/b/a NW Ayer, Inc., shall, within thirty (30) days after service upon it of this order, distribute a copy of the order to each of its operating divisions, each of its managerial employees, and each of its officers, agents, representatives or employees engaged in the preparation or placement of advertising or other materials covered by this order and shall secure from each such person a signed statement acknowledging receipt of this order.

VIII

It is further ordered that respondent N.W. Ayer & Son, Inc. d/b/a NW Ayer, Inc., shall notify the Commission at least thirty (30) days prior to any proposed change in its corporate structure, including but not limited to dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or affiliates, or any other corporate change that may affect compliance obligations arising out of this order.

IX

It is further ordered that respondent N.W. Ayer & Son, Inc. d/b/a NW Ayer, Inc., shall, within sixty (60) days after service of this order, and at such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

X

This order will terminate twenty years from the date of its issuance, or twenty years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; *provided, however,* that the filing of such a complaint will not affect the duration of:

A. Any paragraph in this order that terminates in less than twenty years;

B. This order's application to any respondent that is not named as a defendant in such complaint; and

C. This order if such complaint if filed after the order has terminated pursuant to this paragraph.

Provided, further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this paragraph as though the complaint was never filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from NW Ayer & Son, Inc. d/b/a/ NW Ayer, Inc. ("Ayer").

The proposed consent order has been placed on the public record for sixty (60) days for the reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter concerns advertising claims made by Ayer, an advertising agency, for eggs marketed by Eggland's Best, Inc. Eggland's Best, Inc. is subject to a Commission consent order (Docket No. C–3520), issued on August 15, 1994. A separate consent decree with Eggland's Best regarding alleged violations of that consent order relating to the same advertisements will be filed in United States District Court.

The Commission's complaint in this matter charges Ayer with engaging in unfair or deceptive practices in connection with the advertising of Eggland's Best eggs. According to the complaint, Ayer represented, without adequate substantiation, that eating Eggland's Best eggs (1) will not increase serum cholesterol, and (2) will not increase serum cholesterol as much as eating ordinary eggs. The complaint also alleges that Ayer falsely represented that (1) clinical studies have proven that adding twelve Eggland's Best eggs per week to a low-fat diet does not increase serum cholesterol, (2) Eggland's Best eggs are low in saturated fat, and (3) Eggland's Best eggs are lower in saturated fat than ordinary eggs.

Finally, the complaint alleges that Ayer knew or should have known that these claims were false and misleading.

The consent order contains provisions designed to remedy the violations charged and to prevent Ayer from engaging in similar deceptive and unfair acts and practices in the future.

Part I of the order prohibits Ayer from misrepresenting the absolute or comparative amount of cholesterol, total fat, saturated fat, or any other fatty acid in eggs, or any meat, dairy, or poultry product ("covered food product"). Part I also requires that any representation covered by that Part that conveys a nutrient content claim defined for labeling by any regulation of the Food and Drug Administration ("FDA") or United States Department of Agriculture ("USDA") must comply with the qualifying amount set forth in that regulation.

Part II of the order prohibits Ayer from making any representation about the absolute or comparative effect of any covered food product or serum cholesterol unless it possesses and relies upon competent and reliable scientific evidence substantiating the representation at the time it is made.

Part III of the order prohibits Ayer from making any representation about the absolute or comparative health benefits of the covered food product unless it possesses and relies upon competent and reliable scientific evidence substantiating the representation at the time it is made.

Part IV of the order prohibits Ayer from misrepresenting the existence, contents, validity, results, conclusions or interpretations of any test or study.

Part V of the order provides that representations that would be specifically permitted in food labeling, under certain regulations issued by the FDA or USDA are not prohibited.

Part VI of the order requires Ayer to maintain copies of all materials relied upon in making any representation covered by the order for five years.

Part VII of the order requires Ayer to distribute copies of the order to its operating divisions and to various officers, agents and representatives of Ayer.

Part VIII of the order requires Ayer to notify the Commission of any changes in corporate structure that might affect compliance with the order.

Part IX of the order requires Ayer to file with the Commission one or more reports detailing compliance with the order.

Part X of the order is a "sunset" provision, stating that the order will terminate twenty years from the date it is issued unless a complaint is filed in federal court, by either the United States or the FTC, alleging any violation of the order.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order, or to modify any of their terms.

Donald S. Clark,

Secretary.

[FR Doc. 96–7291 Filed 3–25–96; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration, HHs.

In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection Requirement abstracted below has been submitted to the Office of Management and budget (OMB) for review and comment. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency—s functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Reinstatement, with change, of a previously approved collection for which approval has expired; *Title of Information Collection:* Medicare Uniform Institutional Provider Bill; *Form No.:* HCFA–1450; *Use:* Medicare reimbursement of claims. This form is the standardized form used in the Medicare/Medicaid program to apply for reimbursement for covered services by all providers that accept Medicare/ Medicaid assigned claims. It will reduce cost and administrative burdens associated with claims since only one coding system is used and maintained. *Frequency:* On occasion; *Affected Public:* Business or other for-profit, not-for-profit institutions, Federal Government, and State, local or tribal government; *Number of Respondents:* 123,432,041; *Total Annual Hours Requested:* 1,890,490.

To request copies of the proposed paperwork collections referenced above, E-mail your request, including your address, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: March 14, 1996.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 96–7222 Filed 3–25–96; 8:45 am]

BILLING CODE 4120–03–P

National Institutes of Health

Proposed Data Collection Available for Public Comment and Recommendations

Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires that Federal agencies provide a 60-day notice in the **Federal Register** concerning each proposed collection of information. The National Institute of Dental Research (NIDR) of the National Institutes of Health is publishing this notice to solicit public comment on a proposed data collection: 1996–1997 National Survey of the Oral Health of U.S. School Children (OHSC III).

Comments are invited on: (a) The need for the information (b) its practical utility, (c) the accuracy of the agency's burden estimate, and (d) ways to minimize burden on respondents. Send comments to Dr. Thomas F. Drury,

Disease Prevention and Health Promotion Branch, DEODP, NIDR, NIH, Natcher Building, Room 3AN–44A, 9000 Rockville Pike, Bethesda, MD 20892. Written comments must be received by May 28, 1996. To request a copy of the data collection plan and instrument, call Dr. Drury on (301) 594–4916 (not a toll-free number).

Proposed Project

1996–1997 National Survey of the Oral Health of U.S. School Children (OHSC III)—New—This project is for the design and implementation of a nationwide oral epidemiologic survey of U.S. schoolchildren, grades K through 12. The survey will provide the database for a historical analysis of trends in dental caries and other oral health characteristics of U.S. schoolchildren. It will provide for the first time statistically reliable estimates of the oral health of Black and Hispanic schoolchildren in the United States. The objectives of this survey are to: (1) Assess the relative frequency and sociodemographic distribution of certain oral diseases and disorders in U.S. schoolchildren, (2) oversample selected minority schoolchildren to provide statistically reliable baseline, national estimates of oral health for Black nonHispanic and Hispanic schoolchildren, and (3) provide the database for the late nineties, needed to evaluate shorter- and longer-term trends in coronal caries and certain other oral diseases and disorders. Burden estimates are as follows:

	No. of respondents	No. of responses per respondent	Avg/burden/response (hours)
Parents	32,410	1.00	.2505
Children	32,410	2.06	.2910
School Principals	586	1.00	.2505
School Administrators	165	1.00	.1002

Dated: March 20, 1996.

Yvonne H. du Buy,

Executive Officer, NIDR.

[FR Doc. 96–7250 Filed 3–25–96; 8:45 am]

BILLING CODE 4145–51–M

National Cancer Institute; Notice of Cancellation of Meetings

Notice is hereby given of the cancellation of the closed meetings of the National Cancer Institute Special Emphasis Panel (SEP) of the National Cancer Institute scheduled for March 25–27 and 26–28, 1996, which were published in the **Federal Register** on March 19 (61 FR 11216).

The meetings were cancelled due to administrative complications.

Dated: March 20, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–7251 Filed 3–25–96; 8:45 am]

BILLING CODE 4145–01–M

National Center for Research Resources, Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Center Research Resources Special Emphasis Panel (SEP) meetings:

Name of SEP: General Clinical Research Centers Review Committee.

Date: April 10, 1996.

Time: 7:30 a.m.

Place: Novotel New York Hotel, London Room, 226 West 52nd Street, New York, NY 10019–5804, (212) 315–1313.

Contact Person: Dr. Bela J. Gulyas, Deputy Director, Office of Review, 6705 Rockledge Drive, MSC 7965, Room 6116, Bethesda, MD 20892–7965, (301) 435–0806.

Purpose/Agenda: To evaluate and review grant applications.

This notice is being published less than 15 days prior to the above meeting due to the partial shutdown of the Federal Government and the urgent need to meet timing limitations imposed by the review and funding cycle.

Name of SEP: Institutional Development Award.

Date: April 16–17, 1996.

Time: 8:00 a.m.

Place: Holiday Inn Bethesda, New Jersey Room, 8120 Wisconsin Avenue, Bethesda, MD 20814, (301) 652–2000.

Contact Person: Dr. Jill Carrington, Scientific Review Administrator, 6705 Rockledge Drive, MSC 7965, Room 6104, Bethesda, MD 20892–7965, (301) 435–0822.

Purpose/Agenda: To evaluate and review grant applications.

Name of SEP: General Clinical Research Centers Review Committee.

Date: May 8, 1996.

Time: 7:30 a.m.

Place: Sheraton Burlington Hotel, Room One, 870 Williston Road, Burlington, VT 05403, (802) 862–6576.

Contact Person: Dr. Bela J. Gulyas, Deputy Director, Office of Review, 6705 Rockledge Drive, MSC 7965, Room 6116, Bethesda, MD 20892–7965, (301) 435–0806.

Purpose/Agenda: To evaluate and review grant applications.

Name of SEP: General Clinical Research Centers Review Committee.

Date: June 5, 1996.

Time: 7:30 a.m.

Place: Holiday Inn Financial District, Jade Room, 750 Kearny Street, San Francisco, CA 94108, (415) 433–6484.

Contact Person: Dr. Bela J. Gulyas, Deputy Director, Office of Review, 6705 Rockledge Drive, MSC 7965, Room 6116, Bethesda, MD 20892–7965, (301) 435–0806.

Purpose/Agenda: To evaluate and review grant applications.

These meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.333 Clinical Research, National Institutes of Health, HHS)

Dated: March 20, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–7252 Filed 3–25–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Allergy and Infectious Diseases; Notice of Cancellation of Meeting

Notice is hereby given of the cancellation of the meeting of the National Institute of Allergy and Infectious Diseases Special Emphasis Panel (SEP), National Institute of Allergy and Infectious Diseases, March 20–21, 1996, Georgetown Holiday Inn, 2101 Wisconsin Avenue, N.W., Washington, D.C., which was published in the **Federal Register** on February 27, 1996, (61 FR 7269).

The meeting was cancelled due to complications of other commitments of several members of the SEP and will be rescheduled at a later date.

Dated: March 20, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–7253 Filed 3–25–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Allergy and Infectious Diseases, Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Allergy and Infectious Diseases Special Emphasis Panel (SEP) meeting:

Name of SEP: Mucosal and Synovial Gene Transfer.

Date: April 11, 1996.

Time: 9:00 a.m.

Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, N.W., Washington, DC 20007, (202) 338–4600.

Contact Person: Dr. Madelon C. Halula, Scientific Review Adm., 6003 Executive Boulevard, Solar Bldg., Room 4C16, Bethesda, MD 20892, (301) 496–2550.

Purpose/Agenda: To evaluate grant applications.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Programs Nos. 93.855, Immunology, Allergic and Immunologic Diseases Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health.)

Dated: March 20, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–7254 Filed 3–25–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Mental Health, Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting of the National Institute of Mental Health Special Emphasis Panel:

Agenda/Purpose: To review and evaluate grant applications.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: April 2, 1996.

Time: 1:30 p.m.

Place: Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Sheri L. Schwartzback, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–4843.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: March 20, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–7255 Filed 3–25–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Mental Health, Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings of the National Institute of Mental Health Special Emphasis Panel:

Agenda/Purpose: To review and evaluate grant applications

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: April 24, 1996.

Time: 11:15 a.m.

Place: Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Phyllis L. Zusman, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–1340.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: April 29, 1996.

Time: 9 a.m.

Place: Bethesda Ramada Inn, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Phyllis L. Zusman, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–1340.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: March 20, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–7256 Filed 3–25–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting of the National Institute of Mental Health Special Emphasis Panel:

Agenda/Purpose: To review and evaluate grant applications.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: April 1, 1996.

Time: 11 a.m.

Place: Residence Inn, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Rehana A. Chowdhury, Parklawn Building, Room 9C–26, 5600 Fisher Lane, Rockville, MD 20857, Telephone: 301 443–6470.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: March 20, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–7257 Filed 3–25–96; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Microbiological and Immunological Sciences.

Date: April 8, 1996.

Time: 1:00 p.m..

Place: NIH, Rockledge 2, Room 4210, Telephone Conference.

Contact Person: Dr. Bruce A. Maurer, Scientific Review Administrator, 6701 Rockledge Drive, Room 4210, Bethesda, Maryland 20892, (301) 435–1225.

Name of SEP: Biological and Physiological Sciences.

Date: April 11, 1996..

Time: 1:00 p.m..

Place: NIH, Rockledge 2, Room 4152, Telephone Conference.

Contact Person: Dr. Marcelina Powers, Scientific Review Administrator, 6701 Rockledge Drive, Room 4152, Bethesda, Maryland 20892, (301) 435–1720.

Name of SEP: Biological and Physiological Sciences.

Date: April 12, 1996.

Time: 1:00 p.m.

Place: NIH, Rockledge 2, Room 4152, Telephone Conference.

Contact Person: Dr. Marcelina Powers, Scientific Review Administrator, 6701 Rockledge Drive, Room 4152, Bethesda, Maryland 20892, (301) 435–1720.

Name of SEP: Biological and Physiological Sciences.

Date: April 12, 1996.

Time: 10:30 a.m.

Place: NIH, Rockledge 2, Room 6172, Telephone Conference.

Contact Person: Dr. Cheryl Corsaro, Scientific Review Administrator, 6701 Rockledge Drive, Room 6172, Bethesda, Maryland 20892, (301) 435–1045.

This notice is being published less than 15 days prior to the above meetings due to the partial shutdown of the Federal Government and the urgent need to meet timing limitations imposed by the review and funding cycle.

Name of SEP: Microbiological and Immunological Sciences.

Date: April 15, 1996.

Time: 1:00 p.m.

Place: NIH, Rockledge 2, Room 4178, Telephone Conference.

Contact Person: Dr. Jean Hickman, Scientific Review Administrator, 6701 Rockledge Drive, Room 4178, Bethesda, Maryland 20892, (301) 435–1146.

Purpose/Agenda: To review Small Business Innovation Research.

Name of SEP: Biological and Physiological Sciences.

Date: April 15–16, 1996.

Time: 9:00 a.m.

Place: One Washington Circle Hotel, Washington, DC.

Contact Person: Dr. Anita Sostek, Scientific Review Administrator, 6701 Rockledge Drive, Room 5202, Bethesda, Maryland 20892, (301) 435–1260.

Name of SEP: Behavioral and Neurosciences.

Date: April 18, 1996.

Time: 8:30 a.m.

Place: Bethesda Marriott Pooks Hill, Bethesda, MD.

Contact Person: Dr. Leonard Jakubczak, Scientific Review Administrator, 6701 Rockledge Drive, Room 5172, Bethesda, Maryland 20892, (301) 435–1247.

Name of SEP: Biological and Physiological Sciences.

Date: April 26, 1996.

Time: 8:00 a.m.

Place: Double Tree Hotel, Rockville, MD.

Contact Person: Dr. Abubakar A. Shaikh, Scientific Review Administrator, 6701 Rockledge Drive, Room 6166, Bethesda, Maryland 20892, (301) 435–1042.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of person privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93,893, National Institutes of Health, HHS)

Date: March 20, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–7258 Filed 3–25–96; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Chemistry and Related Sciences.

Date: April 9, 1996.

Time: 1:00 p.m.

Place: NIH, Rockledge, 2 Room 4176, Telephone Conference.

Contact Person: Dr. Mike Radtke, Scientific Review Administrator, 6701 Rockledge Drive, Room 4176, Bethesda, Maryland 20892, (301) 435–1728.

Name of SEP: Clinical Sciences.

Date: April 11, 1996.

Time: 3:00 p.m.

Place: NIH, Rockledge 2, Room 4136, Telephone Conference.

Contact Person: Dr. Gordon Johnson, Scientific Review Administrator, 6701 Rockledge Drive, Room 4136, Bethesda, Maryland 20892, (301) 435–1212.

Name of SEP: Clinical Sciences.

Date: April 12, 1996.

Time: 1:00 p.m.

Place: NIH, Rockledge 2, Room 4136, Telephone Conference.

Contact Person: Dr. Gordon Johnson, Scientific Review Administrator, 6701 Rockledge Drive, Room 4136, Bethesda, Maryland 20892, (301) 435–1212.

This notice is being published less than 15 days prior to the above meetings due to the partial shutdown of the Federal Government and the urgent need to meet timing limitations imposed by the review and funding cycle.

Name of SEP: Behavioral and Neurosciences.

Date: April 22, 1996.

Time: 3:00 p.m.

Place: NIH, Rockledge 2, Room 5176, Telephone Conference.

Contact Person: Dr. Carole Jelsema, Scientific Review Administrator, 6701 Rockledge Drive, Room 5176, Bethesda, Maryland 20892, (301) 435–1248.

Name of SEP: Clinical Sciences.

Date: May 2, 1996.

Time: 3:00 p.m.

Place: NIH, Rockledge 2, Room 4136, Telephone Conference.

Contact Person: Dr. Gordon Johnson, Scientific Review Administrator, 6701 Rockledge Drive, Room 4136, Bethesda, Maryland 20892, (301) 435–1212.

The meetings will be closed in accordance with the provisions set forth in secs. 552(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health HHS)

Dated: March 20, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–7271 Filed 3–25–96; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–960–1060–02–24 1A]

Extension of Approved Information Collection, OMB Number 1004–0042

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is announcing its intention to request renewal of existing approval to collect certain information from those requesting to adopt a wild horse or burro. BLM needs this information to determine whether individuals are qualified to provide humane care and proper treatment (including proper transportation, feeding and handling) to an adopted wild horse or burro.

DATES: Comments on the proposed information collection must be received by May 28, 1996 to be assured of consideration.

ADDRESSES: Comments may be mailed to: Regulatory Management Team (420), Bureau of Land Management, 1849 C Street NW., Room 401LS, Washington, DC 20240.

Comments may be sent via Internet to: !WO140@attmail.com. Please include "ATTN: 1004–0042" and your name and return address in your Internet message.

Comments may be hand-delivered to the Bureau of Land Management Administrative Record, Room 401, 1620 L Street, NW., Washington, DC.

Comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Robert Mitchell, (702) 785–6583.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.12(a), BLM is required to provide 60-day notice in the **Federal Register** concerning a collection of information contained in a published current rule to solicit comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. BLM will receive and analyze any comments sent in response to this notice and include them with its request for approval from the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Section 3 (b) (2) (B) of Public Law 92–195, as amended (commonly referred to as the Wild Free-Roaming Horse and Burro Act), requires that BLM provide healthy excess animals for adoption by individuals the Secretary determines are qualified to provide humane care and proper treatment (including proper transportation, feeding and hauling). The implementing regulations are found in 43 CFR Subpart 4750—Private Maintenance. The regulations were issued on March 3, 1968 (51 FR 7414) and last amended on September 25, 1990 (55 FR 39152). Under the voluntary program, individuals must inform the BLM of their interest and willingness to adopt. The adoption application requirement provides individuals a mechanism to inform BLM of their interest and to submit their credentials for determination of their qualifications.

The Application for Adoption of Wild Horse(s) or Burro(s), Form 4710–10, is required by the Wild Horse and Burro Regulations, 43 CFR 4750.3, and is used to determine an individual's qualifications for providing care and humane treatment of wild horses or burros. The Application for Adoption of Wild Horse(s) and Burros(s) form requires that the applicant furnish the following information: (1) The applicants name, address, and telephone number, (2) the applicant's driver's license number, (3) applicant's birth date, (4) an indication of the number and species of animals the applicant wishes to adopt, (5) map to where the adopted wild horse or burro will be located, (6) questions the applicant whether he understands the restrictions related to adopting an animal, (7) information requested about the physical characteristics of the site where the animals will be kept, (8) information about whether more than four untitled animals will be cared for at this location, (9) information about whether someone else will select, transport, or care for the animals, and, (10) whether the applicant has ever been convicted of abuse or inhumane treatment of animals, violation of the Wild Free-Roaming Horse and Burro Act or the Wild Horse and Burro Regulations.

BLM uses the information provided by the applicant to determine whether individuals are qualified to provide humane care and proper treatment (including proper transportation, feeding and handling) to an adopted wild horse or burro. Upon approval of the application by a BLM Authorized Officer and completion of a Private Maintenance and Care Agreement, the individual may adopt a wild horse or burro. The information, which is required by law, is a voluntary, nonrecurring submission necessary to receive a benefit. There is no other source for the required information, and failure of the applicant to furnish the required information will result in the applicant not being allowed to adopt a wild horse or burro.

The collection of information is short, simple and not inconvenient to the applicant. Valuable dialogue normally occurs during the approval process when the BLM conducts an interview with the applicant to ensure that the applicant understands the obligations and prohibited acts and that the adopter is knowledgeable about horse or burros or has access to assistance from a knowledgeable individual. Based on BLM's experience administering the activities described above, the public reporting burden for the information collected is estimated to average ten minutes per response. The respondents must be: (1) At least 18 years of age, (2) a resident of the United States or its territories and maintain the animal in the United States or its territories, (3) have no convictions for violations of 43 CFR 4700 regulations, and (4) have no convictions for inhumane treatment of animals. The frequency of response is once for an individual to adopt a wild horse or burro. The number of responses per year is estimated to be about 30,000. The estimated total annual burden on new respondents is about 5,000 hours.

Any interested member of the public may request and obtain, without charge, a copy of Form 4710–10 by contacting the person identified under **FOR FURTHER INFORMATION CONTACT.**

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will also become a matter of public record.

Dated: March 20, 1996.

Annetta L. Cheek,

Chief, Regulatory Management Team.

[FR Doc. 96–7207 Filed 3–25–96; 8:45 am]

BILLING CODE 4310–84–P

[WO–330–1030–02–24 1A]

Extension of Approved Information Collection, OMB Number 1004–0058

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is announcing its intention to request renewal of existing approval to collect certain information from Federal timber purchasers to allow the BLM to determine compliance with export restrictions. Federal timber purchasers must keep records of Federal timber volume purchased and private timber volume exported for a period of three years from the date the activity occurred. BLM uses this information to administer export restrictions on BLM timber sales and to determine whether substitution of Federal timber for exported private timber has occurred.

DATES: Comments on the proposed information collection must be received by May 28, 1996 to be assured of consideration.

ADDRESSES: Comments may be mailed to: Regulatory Management Team (420), Bureau of Land Management, 1849 C Street NW, Room 401LS, Washington, D.C. 20240.

Comments may be sent via Internet to: !WO140@attmail.com. Please include

"ATTN: 1004–0058" and your name and return address in your Internet message.

Comments may be hand-delivered to the Bureau of Land Management Administrative Record, Room 401, 1620 L Street, NW, Washington, DC.

Comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Dwight Fielder, (202) 452–7758.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.12(a), BLM is required to provide 60-day notice in the **Federal Register** concerning a collection of information contained in a published current rule to solicit comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. BLM will receive and analyze any comments sent in response to this notice and include them with its request for approval from the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

BLM manages and sells timber located on the revested Oregon and California Railroad and the reconveyed Coos Bay Wagon Road Grant Lands pursuant to authority of the Act of August 28, 1937 (50 Stat. 875, 43 U.S.C. 1181e). BLM manages and sells timber located on other lands under the jurisdiction of the BLM pursuant to the Act of July 31, 1947, as amended (61 Stat. 681, 30 U.S.C. 601 *et seq.*). The Department of the Interior and Related Agencies Appropriation Acts of 1975 and 1976 contained a requirement for the inclusion of provisions in timber sale contracts that will assure that unprocessed timber sold from public lands under the jurisdiction of the BLM will not be exported or used by the purchasers as a substitute for timber they export or sell for export. The implementing regulations are found at 43 CFR 5400, Sales of Forest Products; General. The regulations were issued on June 13, 1970 (35 FR 9785). The regulations were amended on March 26, 1976 (41 FR 12658) to reflect the prohibition against export and substitution, and last amended on March 11, 1991 (56 FR 10175). Timber purchasers or their affiliates must provide the information listed at 43 CFR 5424.1(a). BLM collects the purchaser's name, timber contract number, processing facility location, total volume of Federal timber purchased on an annual basis, total volume of private timber exported on an annual basis, and method of measuring the volume using BLM Form 5460–17, Substitution Determination. The regulations at 43 CFR 5424.1(b) requires that purchasers or affiliates retain a record of Federal timber acquisitions and private timber exports for three years from the date the activity occurred.

BLM uses the information to determine if there was a substitution of Federal timber for exported private timber in violation of 43 CFR 5400.(3)(c). If BLM did not collect this information, it could not protect against export and substitution.

Based on BLM's experience administering timber contracts, the public reporting burden for the information collected is estimated to average one hour per response. The respondents are Federal timber purchasers who have exported private timber within one year preceding the purchase date of Federal timber and/or affiliates of a timber purchaser who exported private timber within one year before the acquisition of Federal timber from the purchaser. The frequency of response for substitution determination is annually. The number of responses per year is estimated to be about 100. The estimated total annual burden on new respondents is about 100 hours.

Any interested member of the public may request and obtain, without charge, a copy of Form 5460–17 by contacting the person identified under **FOR FURTHER INFORMATION CONTACT.**

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will also become a matter of public record.

Dated: March 20, 1996.

Dr. Annetta L. Cheek,

Chief, Regulatory Management Team.

[FR Doc. 96–7208 Filed 3–25–96; 8:45 am]

BILLING CODE 4310–84–P

[WO–330–1030–02–24 1A]

Extension of Approved Information Collection, OMB Number 1004–0113

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is announcing its intention to request renewal of existing approval to collect certain information from prospective Federal timber purchasers to allow the BLM to determine the qualification of the purchaser to bid on a timber sale contract and to document written and sealed bids and bid deposits. BLM uses this information to administer the timber sale contracting process by ensuring only qualified bidders are participating and that the bidding process is not compromised.

DATES: Comments on the proposed information collection must be received by May 28, 1996 to be assured of consideration.

ADDRESSES: Comments may be mailed to: Regulatory Management Team (420), Bureau of Land Management, 1849 C Street NW, Room 401LS, Washington, D.C. 20240.

Comments may be sent via Internet to: !WO140@attmail.com. Please include "ATTN: 1004–0113" and your name and return address in your Internet message.

Comments may be hand-delivered to the Bureau of Land Management Administrative Record, Room 401, 1620 L Street, NW, Washington, DC.

Comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Dwight Fielder, (202) 452–7758.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.12(a), BLM is required to provide 60-day notice in the **Federal Register** concerning a collection of information contained in a published current rule to solicit comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. BLM will receive and analyze any comments sent in response to this notice and include them with its request for approval from the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

BLM manages and sells timber located on the revested Oregon and California Railroad and the reconveyed Coos Bay Wagon Road Grant Lands pursuant to authority of the Act of August 28, 1937, (50 Stat. 875, 43 U.S.C. 1181e). BLM manages and sells timber located on other lands under the jurisdiction of the BLM pursuant to the Act of July 31, 1947, as amended (61 Stat. 681, 30 U.S.C. 601 *et seq.*). The implementing regulations are found at 43 CFR 5400, Sales of Forest Products; General. The regulations were issued on June 13, 1970 (35 FR 9785), amended on March 8, 1973 (38 FR 6280), September 2, 1982 (47 FR 38696), and last amended on July 17, 1987 (52 FR 26983). A bidder or purchaser for the sale of timber must be (1) an individual who is a citizen of the United States, (2) a partnership composed wholly of such citizens, (3) an unincorporated association composed wholly of such citizens, or (4) a corporation authorized to transact business in the States in which the timber is located (43 CFR 5441.1). BLM collects the purchaser's name and address, tract number, sale name, sale notice date, BLM District, evidence of qualification, bid deposit type and amount, product type or timber species, unit, estimated volume or quantity, unit price and total value using BLM Form 5440–9, Deposit and Bid for Timber.

BLM uses the information to determine that a prospective purchaser has met the regulatory requirements to qualify for bidding and that the bid offered meets the minimum acceptable amount. If BLM did not collect this information, unqualified prospective purchasers might enter into the timber sale contracting process and the bidding process may be compromised.

Based on BLM's experience administering timber sales, the public reporting burden for the information collected is estimated to average one and one quarter hours per response. This includes time to read and understand the instructions, consult the timber sale prospectus, make a determination of the value of the products and fill out the form. The respondents are prospective timber purchasers. The frequency of response is controlled by the number of advertised sales conducted. The number of responses is estimated to be 500 from experience with the number of bidders qualifying for timber sales over the past 3 years. The estimated total annual burden on respondents is about 625 hours.

Any interested member of the public may request and obtain, without charge, a copy of Form 5440–9 by contacting the person identified under **FOR FURTHER INFORMATION CONTACT.**

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will also become a matter of public record.

Dated: March 20, 1996.

Dr. Annetta L. Cheek,

Chief, Regulatory Management Team.

[FR Doc. 96–7209 Filed 3–25–96; 8:45 am]

BILLING CODE 4310–84–P

[OR–130–1020–00; GP6–102]

Notice of Meeting of Eastern Washington Resource Advisory Council

AGENCY: Bureau of Land Management, Spokane District.

ACTION: Meeting of Eastern Washington Resource Advisory Council; Spokane, Washington; April 26, 1996.

SUMMARY: A meeting of the Eastern Washington Resource Advisory Council will be held on April 26, 1996, beginning at 8:00 a.m. at the Quality Inn Valley Suites Hotel, E. 8923 Mission Avenue, Spokane, Washington, 99212. At an appropriate time, the Council meeting will recess for approximately one hour for lunch. The meeting will adjourn upon conclusion of business. Public comments will be received from 10:00 a.m. to 10:30 a.m. The topic to be discussed is Standards and Guidelines for livestock grazing.

FOR FURTHER INFORMATION CONTACT: Richard Hubbard, Bureau of Land Management, Spokane District Office, 1103 N. Fancher, Spokane, Washington, 99212; or call 509–536–1200.

Dated: March 21, 1996.

Joseph K. Buesing,

District Manager.

[FR Doc. 96–7372 Filed 3–25–96; 8:45 am]

BILLING CODE 4310–33–P

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before March 16, 1996. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, D.C. 20013–7127. Written comments should be submitted by April 10, 1996.

March 21, 1996.

Carol D. Shull,

Keeper of the National Register.

CALIFORNIA

Los Angeles County

Palos Verdes Public Library and Art Gallery—Farnham Martin's Park (Boundary Increase), 2400 Via Campesina, Palos Verdes, 96000393

San Pedro Municipal Ferry Building, Berth 84, foot of 6th St., San Pedro, 96000392

FLORIDA

Okaloosa County

World War II JB—2 Launch Site, Address Restricted, Fort Walton Beach vicinity, 96000395

World War II JB—2 Mobile Launch Site, Address Restricted, Fort Walton Beach vicinity, 96000394

GEORGIA

Burke County

Haven Memorial Methodist Episcopal Church, Barron St., S of jct. of Barron and 6th Sts., Waynesboro, 96000397

HAWAII

Kauai County

Yamase Building, 4493 Moana Rd., Waimea, 96000398

ILLINOIS

Peoria County

Grand View Drive, Roughly bounded by N. Prospect Rd., the Illinois River bluffs, Adams St., and the Grand View Dr. W. right of way, Peoria, 96000399

IOWA

Guthrie County

Masonic Temple Building, 1311 N. 2nd St., Stuart, 96000400

MARYLAND

Harford County

Vineyard, The (Boundary Decrease),
1201 Conowingo Rd.,
Bel Air vicinity, 96000402

Somerset County

St. Paul's Methodist Episcopal Church,
Jct. of MD 413 and Sign Rd.,
Westover, 96000403

MISSOURI

Pike County

Louisiana Public Library,
121 N. 3rd St.,
Louisiana, 96000401

NEW JERSEY

Sussex County

High Point Park Historic District,
Roughly bounded by the NJ—NY state line and Deckertown Tnpk. between NJ 23 and NJ 653, Wantage and Montague Townships,
Branchville vicinity, 96000404

SOUTH CAROLINA

Beaufort County

Knights of Wise Men Lodge
(St. Helena Island MPS)
Martin Luther King Dr., S of Jct. of Martin Luther King Dr. and US 21,
St. Helena Island, 96000408

Georgetown County

Friendfield Plantation
(Georgetown County Rice Culture MPS)
Roughly bounded by US 521/17A, the Sampit River, Whites Cr., and Creek Rd.,
Georgetown vicinity, 96000409

Lee County

St. Philip's Episcopal Church, Bradford Springs,
Bradford Springs Rd., approximately 6 mi. N of Dalzell,
Dalzell vicinity, 96000406

Spartanburg County

Palmetto Theater,
172 E. Main St.,
Spartanburg, 96000405

Sumter County

O'Donnell House,
120 E. Liberty St.,
Sumter, 96000407

TENNESSEE

Shelby County

Vollintine Evergreen Historic District,
Roughly bounded by Watkins St., Vollintine Ave., Faxon Ave., Jackson Ave., and University St.,
Memphis, 96000410

Trousdale County

Averitt—Herod House,
395 Herod Ln.,
Hartsville vicinity, 96000411

UTAH

Salt Lake County

Carlson Hall
(Public Works Buildings MPS)
369 S. University St.,
Salt Lake City, 96000414

Summit County

Union Pacific Park City Branch Railroad Grade,
RR grade parallel to I–80 from Echo to Park City,
Echo vicinity, 96000413

WASHINGTON

Kitsap County

Fort Ward Historic District (Boundary Increase),
Fort Ward, approximately .5 mi. N of Beans Pt.,
Bainbridge Island, 96000415

Whatcom County

Skagit River and Newhalem Creek Hydroelectric Projects
(Hydroelectric Power Plants MPS)
At Newhalem on the Skagit River and at Ross Dam,
Newhalem vicinity, 96000416

WISCONSIN

Green County

Cadiz Township Joint District No. 2 School,
214 School St.,
Browntown, 96000419

Milwaukee County

Friedmann Row,
1537, 1539, 1541, 1543 N. Cass St. and 731 E. Pleasant St.,
Milwaukee, 96000420

South Layton Boulevard Historic District,
921—2264 S. Layton Blvd.,
Milwaukee, 96000412

Ozaukee County

Nieman, Edwin J., Sr., House,
13030 N. Cedarburg Rd.,
Mequon, 96000418

Washington County

Washington County "Island" Effigy Mound District,
Address Restricted,
West Bend vicinity, 96000417

[FR Doc. 96–7282 Filed 3–25–96; 8:45 am]

BILLING CODE 4310–70–P

Bureau of Reclamation

[FES 96-14]

Tongue River Basin Project/Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1992, Big Horn County, Montana

AGENCY: Bureau of Reclamation (Interior), in conjunction with the Northern Cheyenne Tribe and the Montana Department of Natural Resources and Conservation.

ACTION: Notice of availability of Final Environmental Impact Statement (FEIS).

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Bureau of Reclamation, acting as lead Federal agency, in conjunction with the Northern Cheyenne Tribe and the Montana Department of Natural Resources and Conservation, has prepared a Final Environmental Impact Statement on the Tongue River Basin Project portion of the Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1992 (Settlement Act). The proposed action affects the following trust assets of the Northern Cheyenne Indian Tribe (Tribe) (1) the Tribe's existing water supplies held in Tongue River Reservoir; (2) the safety of downstream Tribal lands; and (3) additional water for the Tribe's use in the Tongue River Basin. The FEIS evaluates the impact to the environment of various alternatives for protecting these Tribal assets. The project includes the repair and enlargement of the Tongue River Dam, the partial fulfillment of the Northern Cheyenne Settlement Act, and the conservation, development, and enhancement of fish and wildlife resources and habitat in the Tongue River Basin.

FOR FURTHER INFORMATION CONTACT: Ms. Katherine Jabs, Area Manager, Montana Projects Office, Bureau of Reclamation (Code: MT–100), P.O. Box 30137, Billings, Montana 59107, telephone: (406) 247–7298.

SUPPLEMENTARY INFORMATION: Negotiations between the Federal Government (acting as trustee for the Tribe) and the State of Montana culminated in 1991 with the signing of a water rights compact. Subsequently, the compact was ratified by the United States Congress and the Northern Cheyenne Indian Water Rights Settlement Act of 1992 (Settlement Act) was signed into Public Law #102–374. During the negotiations, an opportunity was identified to rehabilitate the presently unsafe State-owned Tongue River Dam (Dam) and provide additional water to the Tribe by raising the dam. The following action alternatives for rehabilitating and replacing the spillway and raising the Dam crest elevation 4 feet were evaluated in the FEIS: (1) A Labyrinth Weir Spillway, (2) a Roller-Compacted Concrete (RCC) Spillway, and (3) No Action. Other alternatives were considered and dismissed on the basis of being technically or economically infeasible or resulted in greater environmental effects. These dismissed alternatives ranged from purchasing water rights to satisfy the Settlement Act to constructing a new dam at another location. The preferred alternative selected by the project sponsors is the RCC alternative.

During the process of negotiating the compact, the State of Montana and the Bureau of Reclamation hosted numerous public and agency informational meetings. More recently, during the NEPA process, public scoping meetings were held during March 1993. A scoping document containing the schedule for all meetings was mailed to approximately 2100 individuals and entities on the Northern Cheyenne Indian Reservation and surrounding towns and cities. After the scoping process was completed, the draft EIS was completed and sent out for agency and public review and comment in mid 1995. Comments were received and replies are incorporated in the FEIS.

There is a 30-day public comment period for the FEIS. Anyone interested in obtaining a copy of the FEIS and/or wanting more information relative to the study should contact the following persons:

Ms. Brenda Schilf, Project Coordinator, Bureau of Reclamation, Montana Projects Office, P.O. Box 30137, Billings, MT 59107, (406) 247–7298.

Mr. Ernie Robinson, Project Coordinator, Northern Cheyenne Tribe, 128 Little Coyote Drive, Lame Deer, MT 59043, (406) 477–6503.

Mr. Stan Jones, Project Coordinator, Department of Natural Resources and Conservation, 48 N. Last Chance Gulch, P.O. Box 201601, Helena, Montana 59620–1601, (406) 444–0525.

Dated: March 14, 1996.

Katherine Jabs,

Acting Regional Director.

[FR Doc. 96–7197 Filed 3–25–96; 8:45 am]

BILLING CODE 4310–09–P

AGENCY FOR INTERNATIONAL DEVELOPMENT

Proposed Collection; Comment Request

SUMMARY: Agency for International Development (AID) is making efforts to reduce the paperwork burden. AID invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act for 1995. Comments are requested concerning: (a) Whether the proposed or continuing collections of information is necessary for the proper performance of the functions of the agency, including whether information shall have practical utility; (b) the accuracy of the burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Send comments on these information collections on or before May 28, 1996.

ADDRESS INFORMATION TO: Mary Ann Ball, Bureau for Management, Office of Administrative Services, Information Support Services Division, Agency for International Development, B930 N.S., Washington, DC, (202) 736–4743 or via e-mail MABall@USAID.Gov.

SUPPLEMENTARY INFORMATION:

OMB Number: OMB 0412–0004.

Form Number: AID 11.

Type of Review: Extension of Information Collection.

Title: Application for Approval of Commodity Eligibility.

Purpose: AID provides loans and grants to some developing countries in the form of Commodity Import Programs (CIPS). These funds are made available to host countries to be allocated to the public and private sectors for purchasing various commodities from the U.S., or in some cases, from other developing countries. In accordance with section 604(f) of the Foreign Assistance Act of 1991, as amended, AID may finance only those commodities which are determined eligible and suitable in accordance with various statutory requirements and Agency policies. Using the Application for Approval of Commodity Eligibility (Form 11), the suppliers certify to AID information about the commodities being supplied, as required in section 604(f), so that AID may determine eligibility.

Annual Reporting Burden:
Respondents: 395.

Annual burden hours: 404

Dated: March 18, 1996.

Genease E. Pettigrew,

Chief, Information Support Services Division, Office of Administrative Services, Bureau of Management.

[FR Doc. 96–7189 Filed 3–25–96; 8:45 am]

BILLING CODE 6116–01–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–746 (Preliminary)]

Beryllium Metal and High-Beryllium Alloys From Kazakhstan

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of a preliminary antidumping investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping Investigation No. 731–TA–746 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Kazakhstan of beryllium metal and high-beryllium alloys [1] that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must complete preliminary antidumping investigations in 45 days, or in this case by April 29, 1996. The Commission's views are due at the Department of Commerce within five business days thereafter, or by May 6, 1996.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: March 14, 1996.

FOR FURTHER INFORMATION CONTACT: Bonnie Noreen (202–205–3167), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the

[1] The imported products covered by this investigation consist of beryllium metal and high-beryllium alloys with a beryllium content equal to or greater than 30 percent by volume, all the foregoing whether in ingot, billet, powder or block form. Beryllium metal and alloys in which beryllium predominates by weight are provided for in subheading 8112.11.60 of the Harmonized Tariff Schedule of the United States (HTS). Other alloys containing beryllium are provided for elsewhere in the HTS—e.g., aluminum-beryllium alloys are provided for in HTS 7601.20.90.

Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov or ftp://ftp.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted in response to a petition filed on March 14, 1996, by Brush Wellman Inc., Cleveland, OH.

Participation in the investigation and public service list.—Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this preliminary investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on April 3, 1996, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Bonnie Noreen (202–205–3167) not later than April 1, 1996, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before April 9, 1996, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

Issued: March 20, 1996.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–7214 Filed 3–25–96; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 332–360]

International Harmonization of Customs Rules of Origin

AGENCY: United States International Trade Commission.

ACTION: Request for public comment on draft proposals for chapters 71–81.

EFFECTIVE DATE: March 18, 1996.

FOR FURTHER INFORMATION CONTACT: Eugene A. Rosengarden, Director, Office of Tariff Affairs and Trade Agreements (O/TA&TA) (202–205–2595), or Lawrence A. DiRicco (202–205–2606).

Parties having an interest in particular products or HTS chapters and desiring to be included on a mailing list to receive available documents pertaining thereto should advise Diane Whitfield by phone (202–205–2610) or by mail at the Commission, 500 E St SW., Room 404, Washington, DC 20436. Hearing impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. The media should contact Margaret O'Laughlin, Director, Office of Public Affairs (202–205–1819).

BACKGROUND: Following receipt of a letter from the United States Trade Representative (USTR) on January 25, 1995, the Commission instituted Investigation No. 332–360, International Harmonization of Customs Rules of Origin, under section 332(g) of the Tariff Act of 1930 (60 FR 19605, April 19, 1995).

The investigation is intended to provide the basis for Commission participation in work pertaining to the Uruguay Round Agreement on Rules of Origin (ARO), under the General Agreement on Tariffs and Trade (GATT) 1994 and adopted along with the Agreement Establishing the World Trade Organization (WTO).

The ARO is designed to harmonize and clarify nonpreferential rules of origin for goods in trade on the basis of the substantial transformation test; achieve discipline in the rules' administration; and provide a framework for notification, review, consultation, and dispute settlement. These harmonized rules are intended to make country-of-origin determinations impartial, predictable, transparent, consistent, and neutral, and to avoid restrictive or distortive effects on international trade. The ARO provides that technical work to those ends will be undertaken by the Customs Cooperation Council (CCC) (now informally known as the World Customs Organization or WCO), which must report on specified matters relating to such rules for further action by parties to the ARO. Eventually, the WTO Ministerial Conference is to "establish the results of the harmonization work program in an annex as an integral part" of the ARO.

In order to carry out the work, the ARO calls for the establishment of a Committee on Rules of Origin of the WTO and a Technical Committee on Rules of Origin (TCRO) of the CCC. These Committees bear the primary responsibility for developing rules that achieve the objectives of the ARO.

A major component of the work program is the harmonization of origin rules for the purpose of providing more certainty in the conduct of world trade. To this end, the agreement contemplates a 3-year CCC program, to be initiated as soon as possible after the entry into force of the Agreement Establishing the WTO. Under the ARO, the TCRO is to undertake (1) to develop harmonized definitions of goods considered wholly obtained in one country, and of minimal processes or operations deemed not to confer origin, (2) to consider the use of change in Harmonized System classification as a means of reflecting substantial transformation, and (3) for those products or sectors where a change of tariff classification does not allow for the reflection of substantial transformation, to develop

supplementary or exclusive origin criteria based on value, manufacturing or processing operations or on other standards.

To assist in the Commission's participation in work under the Agreement on Rules of Origin (ARO), the Commission is making available for public comment draft proposed rules for goods of:

Chapter 71—Natural or Cultured Pearls, Precious or Semi-precious Stones, Precious Metals, Metals Clad with Precious Metal and Articles Thereof; Imitation Jewelry; Coin
Chapter 72—Iron and Steel
Chapter 73—Articles of Iron or Steel
Chapter 74—Copper and Articles Thereof
Chapter 75—Nickel and Articles Thereof
Chapter 76—Aluminum and Articles Thereof
Chapter 78—Lead and Articles Thereof
Chapter 79—Zinc and Articles Thereof
Chapter 80—Tin and Articles Thereof
Chapter 81—Other Base Metals; Cermets; Articles Thereof

of the Harmonized System that are not considered to be wholly made in a single country. The rules rely largely on the change of heading as a basis for ascribing origin.

Copies of the proposed revised rules will be available from the Office of the Secretary at the Commission, from the Commission's Internet web server (http://www.usitc.gov), or by submitting a request on the Office of Tariff Affairs and Trade Agreements voice messaging system, 202–205–2592 or by FAX at 202–205–2616.

These proposals, which have been reviewed by interested government agencies, are intended to serve as the basis for the U.S. proposal to the Technical Committee on Rules of Origin (TCRO) of the Customs Cooperation Council (CCC) (now known as the World Customs Organization or WCO). The proposals do not necessarily reflect or restate existing Customs treatment with respect to country of origin applications for all current non-preferential purposes. Based upon a decision of the Trade Policy Staff Committee, the proposals are intended for future harmonization for the nonpreferential purposes indicated in the ARO for application on a global basis. They seek to take into account not only U.S. Customs current positions on substantial transformation but additionally seek to consider the views of the business community and practices of our major trading partners as well. As such they represent an attempt at reaching a basis for agreement among the contracting parties. The proposals may undergo change as proposals from other government administrations and the private sector are received and considered. Under the circumstances, the proposals should not be cited as authority for the application of current domestic law.

If eventually adopted by the TCRO for submission to the Committee on Rules of Origin of the World Trade Organization, these proposals would comprise an important element of the ARO work program to develop harmonized, non-preferential country of origin rules, as discussed in the Commission's earlier notice. Thus, in view of the importance of these rules, the Commission seeks to ascertain the views of interested parties concerning the extent to which the proposed rules reflect the standard of substantial transformation provided in the Agreement. In addition, comments are also invited on the format of the proposed rules and whether it is preferable to another presentation, such as the format for the presentation of the NAFTA origin or marking rules.

Forthcoming Commission notices will advise the public on the progress of the TCRO's work and will contain any harmonized definitions or rules that have been provisionally or finally adopted.

WRITTEN SUBMISSIONS: Interested persons are invited to submit written statements (original and 14 copies) concerning this phase of the Commission's investigation. Written statements should be submitted to the Office of the Secretary, and follow-up statements are permitted; but all statements must be received at the Commission by the close of business on May 3, 1996, in order to be considered. Information supplied to the Customs Service in statements filed pursuant to notices of that agency has been given to us and need not be separately provided to the Commission. Again, the Commission notes that it is particularly interested in receiving input from the private sector on the effects of the various proposed rules and definitions on U.S. exports. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be available for inspection by interested persons. All submissions should be addressed to the Office of the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436.

Issued: March 18, 1996.

By order of the Commission.

Donna Koehnke,

Secretary.

[FR Doc. 96–7213 Filed 3–25–96; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; Department of Justice Federal Coal Lease Review Information.

Office of Management and Budget (OMB) approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** and allowed 60 days for public comment.

The purpose of this notice is to allow an additional 30 days for public comments from the date listed at the top of this page in the **Federal Register**. This process is conducted in accordance with 5 code of Federal Regulation, Part 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC, 20503. Additionally, comments may be submitted to OMB via facsimile to 202–395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street, NW., Washington, DC, 20530. Additionally, comments may be submitted to DOJ via facsimile to 202–514–1534.

Written comments and suggestions from the public and affected agencies should address one or more of the following points:

(1) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component,

including whether the information will have practical utility;

(2) evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) enhance the quality, utility, and clarity of the information to be collected; and

(4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The proposed collection is listed below:

(1) *Type of information collection.* Extension of a currently approved collection.

(2) *The title of the form/collection.* Department of Justice Federal Coal Lease Review Information.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection.* Forms: ATR–139, ATR–140. Antitrust Division, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract.* Primary: Business or other for-profit. Other: None.

The Department of Justice evaluates the competitive impact of issuances, transfers and exchanges of Federal coal leases. These forms seek information regarding a prospective coal lessee's coal reserves and the reserves subject to the federal lease. The Department uses this information to determine whether the lease transfer is consistent with the Antitrust laws.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond.* 20 responses per year at 2 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection.* 40 annual burden hours.

Public comment on this proposed information collection is strongly encouraged.

Dated: March 20, 1996.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 96–7193 Filed 3–25–96; 8:45 am]

BILLING CODE 4410–11–M

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; Registration for Classification as Refugee.

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" from the date listed at the top of this page in the **Federal Register.**

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) enhance the quality, utility, and clarity of the information to be collected; and

(4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Kathleen Thompson, 202–633–3577, Immigration and Naturalization Service, 425 I Street NW, Washington DC, 20536.

Written comments and/or suggestions regarding this collection may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street, NW, Washington DC 20530. Additionally, comments may be submitted to DOJ via facsimile to 202–514–1534.

Overview of this information collection:

(1) Type of Information Collection: *Extension of a currently approved collection.*

(2) Title of the Form/Collection: Registration for Classification as Refugee.

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form: I–590. Immigration and Naturalization Service. United States Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Individual and for-profit. Other: None. This form provides a uniform method for applicants to apply for refugee status and contains the information needed in order to adjudicate such applications.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 140,000 responses at 35 minutes per response.

(6) An estimate of the total public burden (in hours) associated with the collection: 81,620 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: March 20, 1996.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 96–7195 Filed 3–25–95; 8:45 am]

BILLING CODE 4410–10–M

Office of Justice Programs

Bureau of Justice Statistics; Agency Information Collection Activities, Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; Pretest of a survey on "Police Public Contact."

Office of Management and Budget (OMB) approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** and allowed 60 days for public comment.

The purpose of this notice is to allow an additional 30 days for public comments from the date listed at the top of this page in the **Federal Register.** This process is conducted in accordance with 5 Code of Federal Regulation, Part 1320.10. Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to 202–395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street, NW, Washington, DC 20530. Additionally, comments may be submitted to DOJ via facsimile to 202–514–1534.

Written comments and suggestions from the public and affected agencies should address one or more of the following points:

(1) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) enhance the quality, utility, and clarity of the information to be collected; and

(4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The proposed collection is listed below:

(1) Type of information collection. Revision of a currently approved collection.

(2) The title of the form/collection. Pretest of a survey on "Police Public Contact,"

(3) The agency form number, if any, and the applicable component of the Department sponsoring the collection. Form: PPCS–1. Office of Justice Statistics, Office of Justice Programs, United States Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract. Primary: Individuals or households. Other: None. This pretest will assist the Bureau of Justice Statistics in determining whether the National Crime Victimization Survey is an appropriate vehicle for implementing the annual data collection/reporting requirement set forth in Section 210402 of the Violent Crime Control and Law Enforcement Act. This statute requires the Attorney General to produce annual statistics on the use of excessive force by police nationwide.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond. 12,000 respondents: of the 12,000 respondents about 11,400 will only answer the lead-in or screening questions which takes one (1) minute per respondent. Additionally, 600 respondents will be asked the detailed questions which takes ten (10) minutes per respondent.

(6) An estimate of the total public burden (in hours) associated with the collection. 290 annual burden hours.

Public comment on this proposed information collection is strongly encouraged.

Dated: March 20, 1996.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 96–7194 Filed 3–25–96; 8:45 am]

BILLING CODE 4410–18–M

Bureau of Justice Statistics

[OJP No. 1073]

RIN 1121–ZA29

Solicitation for Award of Cooperative Agreement To Continue the Bureau of Justice Statistics Criminal Justice Information Policy Program

AGENCY: Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.

ACTION: Solicitation for Award of Cooperative Agreement.

SUMMARY: The purpose of this notice is to announce a public solicitation for the continuation of the Bureau of Justice Statistics (BJS) Criminal Justice Information Policy program. The program, which has been in existence since 1978, serves as the primary liaison between BJS, the States, and other Federal agencies, on issues relating to the quality, content, management, use and exchange of criminal history record information (CHRI). Projects supported under the program include, but are not limited to, major national conferences on criminal justice data quality issues, comprehensive national surveys of State criminal history data quality, numerous workshops on emerging issues such as the uses of Automated Fingerprint Identification Systems (AFIS) and forensic uses of DNA, National Task Forces composed of members representing all components of the Federal and State criminal justice systems, ongoing review of State legislative developments and preparation of a biannual Compendium of State legislation, and extensive preperation of materials and training in areas such as data quality auditing.

A key element in all of these efforts is the extent to which the program provides for direct input by States, for coordination among the States on program activities, and for liaison between the project and other relevant agencies of the Federal Government such as the Federal Bureau of Investigation (FBI), the Immigration and Naturalization Service (INS). The presently proposed project, which is designed to continue these activities, will be funded under a cooperative agreement.

DATES: Proposals must be postmarked on or before April 25, 1996.

ADDRESSES: Proposal should be mailed to: Applications Coordinator, Bureau of Justice Statistics, Room 1144 D, 633 Indiana Avenue, NW 20531.

FOR FURTHER INFORMATION CONTACT: Carol G. Kaplan, Chief, Criminal History Improvement Programs, Bureau of Justice Statistics, 633 Indiana Avenue NW, Washington, D.C. 20531, (202) 307–0759.

SUPPLEMENTARY INFORMATION:

Background

The Bureau of Justice Statistics Justice Information Policy Assistance (JIPA) program represents the primary response of BJS to its legislative charter to "Identify, analyze and participate in the implementation of privacy, security and information policies which impact on Federal and State criminal justice operations and related statistical activities." See section 302(c)(22) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 U.S.C. § 3732(c)(22). The program is designed to assist States in upgrading the quality of State criminal history record systems and in increasing the utility of criminal history records for both criminal and non-criminal justice purposes. The program also provides for coordination among States and between States and BJS and other Federal agencies on national issues such as the interstate system for the exchange of criminal history record data.

The BJS Program was initiated over eighteen years ago, concurrent with the issuance of Department of Justice Regulations set out at 28 C.F.R. Part 20 which requires that States ensure that criminal history records are accurate, complete, secure, and disseminated only to authorized users. Since its inception, projects undertaken under the program have focussed on the

rapidly changing technology, legislation and policies affecting criminal history record systems. Of equal importance, the project has served as the primary liaison among the States and Federal agencies on issues of data quality and criminal record exchange. The program is also closely coordinated with the Bureau of Justice Assistance which administers the Edward Byrne State and Local Law Enforcement Formula Grant program. The 1990 amendments to the Omnibus Crime Control and Safe Streets Act of 1986, as amended, require that at least five percent of these grant funds be used for the improvement of criminal justice records.

Over the past eighteen years, five national conferences on criminal justice data quality and data management have been conducted under the proposal. The conferences have included speakers representing the Congress, the Department of Justice and State criminal justice practitioners, researchers, and members of the judiciary. Proceedings of the conferences have also been prepared and widely distributed.

In addition to the national conferences, smaller workshops have been conducted to explore the issues and technologies in emerging areas such as automated fingerprint technology, forensic uses of deoxyribonucleic acid (DNA), dissemination techniques and strategies to improve data quality. Documents prepared on the basis of State input at these workshops have formed the basis for a series of BJS reports on varying issues relating to data quality and information policy. In addition to DNA and AFIS, reports in this series address "hot" files, investigative files, original records of entry and the release of data for non-criminal justice purposes such as employment screening. These reports are available through the National Criminal Justice Reference Service (NCJRS).

On a more operational level, the project has also produced reports and training materials detailing specific strategies for improving data quality and three manuals on the auditing of data quality in criminal history record systems. Periodic reports have also been prepared following studies of, for example, the potential liability of law enforcement personnel for erroneous release of identifiable criminal history records and the impact of new identification technologies (such as retinal scans).

On an ongoing basis the program also maintains contact with representatives of the State repositories and other State personnel having responsibility for operation of the State criminal record system. In addition to serving as a continuing resource regarding the status of criminal record systems in the States, the project reviews changes in State legislation impacting on privacy and record management and, on a biannual basis, collects and classifies State legislation in the Compendium of State Privacy Legislation which is issued by BJS. Full texts of statutes are maintained both by the project and at NCJRS.

Major national surveys are also conducted under this project. Surveys have focussed on requirements of State legislation and the nature of State operating practices.

Funds for this project are subject to the availability of Department of Justice appropriations.

Objectives

The major purpose of this award is to support the continuation of activities currently being funded under the ongoing Justice Information program, as described above.

Type of Assistance

Assistance will be made available under a cooperative agreement.

Statutory Authority

The cooperative agreement to be awarded pursuant to this solicitation will be funded by the Bureau of Justice Statistics consistent with its mandate under 42 U.S.C. § 3732(c)(22).

Eligibility Requirements

The solicitation is open to non-profit organizations only.

Scope of Work

The objective of the proposed project is to continue activities initiated under the ongoing BJS justice information policy program. Specifically, the recipient of funds will:

1. Identify, on the basis of existing information and contact with the States, two issues relevant to current policies affecting criminal justice records, and prepare reports on these issues. Preparation of such reports should include, as appropriate, analyses of existing State legislation, current technology, and State activity in the area under consideration. If necessary, a workshop of State representatives should be convened to discuss and provide input for the reports. Final decisions on subjects for these reports will be made by BJS.

2. Conduct a fifty state review to identify new and amended legislation impacting on privacy, security and record procedures in each of the states; analyze the results of the legislative search and related state inquiries; and, prepare the 1996 update to the BJS series, Compendium of State Privacy and Security Legislation. The analysis should address issues identified in previous editions of the Compendium and data should be presented in previously developed formats. Full text and legislative analysis tables should be provided in an online fashion to be identified by BJS.

3. Convene a major national conference on the technical legislative policy and operational aspects of issues relating to criminal justice data quality. The conference, to be hosted jointly with BJS, should include high level Federal, State and local policy makers, representatives of the judiciary, criminal justice practitioners, researchers, and, if appropriate, representatives of State or Federal legislative bodies. To provide for the broader review of presentations and relevant materials, the proceedings should be compiled for publication by BJS. Time and location for the meeting will be jointly agreed upon with BJS. Costs under the project should cover staff, materials, presentations and logistics, but not cover costs of attendee participation or travel.

4. Convene and conduct one meeting of a working group to identify and address technical and policy issues relating to long range planning for the design and operation of state criminal history record repositories. The group should include representatives of the State repositories, judiciary, prosecutors, correctional agencies and other data users. The project should develop discussion materials and background information for use by the working group. The applicant will suggest three possible topics for this working group. Selection of persons to serve as part of the working group will be made jointly with BJS. A report describing the activities and recommendations of the working group should be prepared for submission to BJS.

5. Maintain a resource of information regarding State activity, legislation, and CHRI status and provide ad hoc assistance to States and to BJS on these matters. This may include assisting States through referrals to other States, reference to written materials, etc. Also, the recipient of funds will conduct ad hoc activities at the request of BJS involving, for example, the informal rapid turn-around telephone survey of States on a particular current issue or the collation of materials on a new issues associated with CHRI technology or policy.

All products will be submitted on a schedule to be determined jointly with BJS. BJS anticipates that the products will be spaced throughout the period of the award.

Award Procedures

Proposals should describe in appropriate detail the efforts to be undertaken in furtherance of each of the activities described in the Scope of Work. Information should focus on activities to be undertaken in the initial 12 month period but should also include a general discussion of three year goals and objectives of the program. Information on staffing levels and qualifications should be included for each task and descriptions of experience relevant to the project should be included.

Applications will be competitively reviewed by a BJS selected panel which will make recommendations to the Director of BJS. Final authority to enter into a cooperative agreement is reserved for the Director who may, at his discretion, determine that none of the applications shall be funded.

Applications will be evaluated on the overall extent to which they respond to be goals of the criminal justice information program, demonstrate an understanding and ability to perform the specific activities to be conducted and appear to be fiscally feasible and efficient. In particular, the applicant will be evaluated on the basis of:

1. Knowledge and expertise in the current and historical conditions of criminal justice records systems as they exist at both the State and Federal level. Particular emphasis will be given to knowledge and experience relating to current technologies, the status of State and Federal legislation, current and prior operating policies and a historical and current knowledge of the issues which affect the exchange of data between State and Federal systems.

2. Expertise in the identification and analysis of issues and policies which affect the operation of criminal history records systems, the exchange of data among States and the Federal Government, and the release of data for noncriminal justice purposes.

3. Expertise and experience in the analysis of legislation and State regulations relating to criminal history records and the privacy of data maintained in the State criminal history record systems.

4. Contact and experience in dealing with Federal and State representatives on issues relating to criminal history record policies. Particular emphasis will be given to: (a) experience in dealing with relevant personnel in Federal agencies, such as INS, the FBI and the Bureau of Alcohol, Tobacco and Firearms, on issues relating to the development end improvement of national criminal history record systems and the use of criminal record data for criminal and noncriminal justice purposes; and (b) ongoing organizational and staff connections with representatives of the States (including criminal justice practitioners, policy makers, and record management personnel) sufficient to ensure direct State input to products produced under the project.

5. Demonstrated ability to produce high quality reports and conduct national conferences and workshops on sensitive issues for an audience of professional policy analysts, researchers, criminal justice practitioners, legislators and the general public.

6. Demonstrated fiscal, management and organization capacity (including availability of professional and support staff) suitable for providing sound program management for this multi-faceted effort.

7. Reasonableness of estimated costs for the total project and for individual cost categories.

Application and Awards Process

An original and three (3) copies of a full proposal must be submitted on SF–424 (Revision 1988) including the Certified Assurances. Proposals must be accompanied by OJP Form 4061/6, Certifications Regarding Lobbying, Debarment, Suspension and other Responsibility Matters; and Drug Free Workplace. Applicants must complete the certificate regarding lobbying and, if appropriate, complete and submit Standard Form LLL, Disclosure of Lobbying Activities.

Proposals must include both narrative descriptions and a detailed budget. The narrative shall describe activities as discussed in the previous section. The budget shall contain detailed costs of personnel, fringe benefits, travel, equipment, supplies and other expenses. Contractual services or equipment must be procured through competition or the application must contain an applicable sole source justification.

Awards will be made for a period of 12 months with an option for two additional continuation years conditional upon availability of funds and the quality of the initial performance and products. Costs are estimated at not to exceed $425,000 for the initial 12-month period.

Jan M. Chaiken,

Director, Bureau of Justice Statistics.

[FR Doc. 96–7247 Filed 3–25–96; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–31,870]

American Olean Title Company, Incorporated, Lansdale, Pennsylvania, and Operating in Various Locations in the States of Alabama et al.; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on February 26, 1996, applicable to all workers of American Olean Title Company, Incorporated, located in Lansdale, Pennsylvania. The notice will soon be published in the **Federal Register.**

At the request of the company, the Department reviewed the certification for workers of the subject firm. New information provided by American Olean Title shows that worker separations have occurred at various operating facilities throughout the United States. Based on company-wide increased imports of title, the Department is amending the certification for workers of the subject firm to include service center workers and production workers at the various locations in the United States. The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by increased imports of title.

Due to a typographical error, the Department is also amending the impact date to February 15, 1996. The Department's notice of Certification incorrectly identified the impact date as February 15, 1995.

The amended notice applicable to TA–W–31,870 is hereby issued as follows:

All workers of American Olean Title Company, Incorporated, Lansdale, Pennsylvania (TA–W–31,870), and at the various locations cited below, who became totally or partially separated from employment on or after February 15, 1996 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974:

TA–W–31,870A	Alabama
TA–W–31,870B	Arizona
TA–W–31,870C	California
TA–W–31,870D	Connecticut
TA–W–31,870E	Florida
TA–W–31,870F	Georgia
TA–W–31,870G	Illinois
TA–W–31,870H	Indiana
TA–W–31,870I	Kentucky
TA–W–31,870J	Louisiana

TA–W–31,870K	Maryland
TA–W–31,870L	Massachusetts
TA–W–31,870M	Minnesota
TA–W–31,870N	Missouri
TA–W–31,870O	Nevada
TA–W–31,870P	New Jersey
TA–W–31,870Q	New York
TA–W–31,870R	Ohio
TA–W–31,870S	Oklahoma
TA–W–31,870T	Pennsylvania (except Lansdale)
TA–W–31,870U	Tennessee
TA–W–31,870V	Texas
TA–W–31,870W	Utah
TA–W–31,870X	Virginia
TA–W–31,870Y	Washington
TA–W–31,870Z	Wisconsin.

Signed at Washington, D.C. this 18th day of March 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–7260 Filed 3–35–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,614]

Christian Fashions Including Montana Fashions, El Paso, Texas; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 6, 1995, applicable to all workers of Christian Fashions located in El Paso, Texas. The notice was published in the **Federal Register** on January 26, 1996 (61 FR 2537).

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. The workers produce ladies' sportswear. The findings show that the subject firm was formerly operating under the name Montana Fashions at the same location.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by increased imports. Accordingly, the Department is amending the certification to include the workers of Montana Fashions.

The amended notice applicable to TA–W–31,614 is hereby issued as follows:

All workers of Christian Fashions, including Montana Fashions, El Paso, Texas who become totally or partially separated from employment on or after October 25, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 12th day of March 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–7261 Filed 3–25–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,565 and TA–W–31,566]

Eastland Woolen Mill, Incorporated, Striar Textile Mill, Orono, Maine, Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Program Manager of the Office of Trade Adjustment Assistance for workers at Eastland Woolen Mill, Inc., & Striar Textile Mill, Orono, Maine. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–31,565; Eastland Woolen Mill, Inc.
TA–W–31,566; Striar Textile Mill, Orono, Maine (March 15, 1996)

Signed at Washington, D.C. this 15th day of March, 1996.

Russell T. Kile,

Acting Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–7262 Filed 3–25–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,827 and TA–W–31,827A]

Major League, Inc., Jasper, Georgia; and Tellico Plains, Tennessee; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 30, 1996, applicable to all workers of Major League, Inc., located in Jasper, Georgia. The notice was published in the **Federal Register** on February 21, 1996 (61 FR 6659).

At the request of petitioners, the Department reviewed the certification for workers of the subject firm. New information provided by the company shows that worker separations have occurred at the subject firms' Tellico Plains, Tennessee production facility. The workers are engaged in the production of sportswear.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by increased imports of apparel. Accordingly, the Department is amending the certification to cover the workers of Major League, Inc., Tellico Plains, Tennessee.

The amended notice applicable to TA–W–31,827 is hereby issued as follows:

All workers of Major League, Inc., Jasper, Georgia (TA–W–31,827), and Tellico Plains, Tennessee (TA–W–31,827A) engaged in employment related to the production of sportswear who became totally or partially separated from employment on or after December 27, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 18th day of March 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–7263 Filed 3–25–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31, 926]

McAllen Separation Co. Mt. Gilead, NC; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on February 20, 1996 in response to a worker petition which was filed on January 29, 1996 on behalf of workers at McAllen Separation Co., Mt. Gilead, North Carolina.

A negative determination applicable to the petitioning group of workers was issued on January 29, 1996 (NAFTA–00699). No new information is evident which would result in a reversal of the Department's previous determination. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 18th day of March, 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–7264 Filed 3–25–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,959]

TRW, Incorporated Auburn, NY; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on February 26, 1996 in response to a worker petition which was received on February 26, 1996 on behalf of workers at TRW, Incorporated, located in Auburn, New York.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 18th day of March, 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–7265 Filed 3–25–96; 845 am]

BILLING CODE 4510–30–M

Occupational Safety and Health Administration

NACOSH HazCom Workgroup Meeting

Notice is hereby given that a workgroup of the National Advisory committee on Occupational Safety and Health (NACOSH), established under section 7(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) to advise the Secretary of Labor and the Secretary of Health and Human Services on matters relating to the administration of the Act, will meet on the following dates: April 24–25 in N3437 A–D and June 12–13 in N4437 B–D in the Department of Labor Building located at 200 Constitution Avenue NW., Washington, DC. These meetings, which are open to the public, will run from 10:00 a.m. to approximately 4:30 p.m. the first day and from 8:00 a.m. to approximately 3:00 p.m. the second day.

The Occupational Safety and Health Administration (OSHA) has asked NACOSH to form a workgroup to identify ways to improve chemical hazard communication and the right-to-know in the workplace. OSHA has asked the Committee to provide OSHA with recommendations in approximately six months related to simplification of material safety data sheets, reducing the amount of required paperwork, improving the effectiveness of worker training, and revising enforcement policies so that they focus on the most serious hazards.

On April 24–25, the HazCom Workgroup will meet in Room N3437 A–D to review all issues and finalize the content of its report and recommendations. On June 12–13, the HazCom Workgroup will meet in Room N4437 B–D to review the total report, make any necessary changes and obtain concurrences of workgroup members.

It is anticipated that the final product of this workgroup will be submitted to the full National Advisory Committee on Occupational Safety and Health for action in the summer.

Written data, views or comments for consideration by the workgroup may be submitted, preferably with 20 copies, to Joanne Goodell at the address provided below. Any such submissions will be provided to the members of the Workgroup and will be included in the record of the meeting. Individuals with disabilities who need special accommodations should contact Tom Hall (202–219–8615) a week before each meeting.

For additional information contact: Joanne Goodell, Directorate of Policy, Occupational Safety and Health Administration, Room N–3641, 200 Constitution Avenue NW., Washington, DC 20210, telephone (202) 219–8021, extension 107.

Signed at Washington, DC this 20th day of March, 1996.

Joseph A. Dear,

Assistant Secretary of Labor.

[FR Doc. 96–7266 Filed 3–25–96; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Administration

ACTION: Notice of availability of proposed records schedule; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 U.S.C. 3303a(a).

DATES: Request for copies must be received in writing on or before May 10, 1996. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESSES: Address requests for single copies of schedules identified in this notice to the Record Appraisal and Disposition Division (NIR), National Archives and Records Administration, College Park, MD 20740. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in the parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office of program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. Department of Housing and Urban Development (N1–207–96–4). Input data and output reports for the Consolidated Single Family Statistical System, the master files and annual published reports for which are designated for permanent retention.

2. Bonneville Power Administration (N1–305–95–2). Routine and facilitative records relating to power management.

3. Bureau of Export Administration (N1–476–95–1). Audio-tapes of Technical Advisory Committee meetings, 1980–1994.

4. Economic Development Administration (N1–378–96–1). Change in disposition standards for Approved Public Works and Local Public Works Case Files.

5. Postal Rate Commission (N1–458–96–1). Library Reference Files.

6. Securities and Exchange Commission (N1–266–96–2). Electronic Data Gathering, Analysis, Evaluation and Retrieval (EDGAR) system. (Public data files are designated for preservation).

7. Tennessee Valley Authority, Resource Group, Flood Protection (N1–142–92–13). Microdata, studies, information files and databases of defunct program.

8. Tennessee Valley Authority (N1–142–93–16). Copies of local and national television newscasts.

9. Tennessee Valley Authority (N1–142–95–1). Quantum Meter Outage Reports and routine and facilitative correspondence files of the Energy Resource Planning and Engineering Department.

10. Tennessee Valley Authority (N1–142–95–3). Duplicate copies of photographs and biographies of TVA officials used to produce press releases that are preserved for transfer to the National Archives.

Dated: March 18, 1996.

James W. Moore,

Assistant Archivist for Records Administration.

[FR Doc. 96–7216 Filed 3–25–96; 8:45 am]

BILLING CODE 7515–01–M

NATIONAL LABOR RELATIONS BOARD

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: National Labor Relations Board.

TIME AND DATE: 10:00 a.m. Monday, February 15, 1996.

PLACE: Board Conference Room, Eleventh Floor, 1099 Fourteenth St., NW., Washington, DC 20570.

STATUS: Closed to public observation pursuant to 5 U.S.C. Section 552b(c)(2) (internal personnel rules and practices); and 9(B) (disclosure would significantly frustrate implementation of a proposed Agency action * * *).

MATTERS TO BE CONSIDERED: Budget.

CONTACT PERSON FOR MORE INFORMATION: John J. Toner, Executive Secretary, Washington, DC 20570, Telephone: (202) 273–1940.

Dated, Washington, DC, March 22, 1996.

By direction of the Board:

John J. Toner,

Executive Secretary, National Labor Relations Board.

[FR Doc. 96–7452 Filed 3–22–96; 1:48 pm]

BILLING CODE 7545–01–M

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: National Labor Relations Board.

TIME AND DATES: 10:00 a.m. Monday, February 15, 1996.

PLACE: Board Conference Room, Eleventh Flood, 1099 Fourteenth St., N.W., Washington, D.C. 20570.

STATUS: Closed to public observation pursuant to 5 U.S.C. Section 552b(c)(2) (internal personnel rules and practices); and (9)(B) (disclosure would significantly frustrate implementation of a proposed Agency action . . .).

MATTERS TO BE CONSIDERED: Budget.

CONTACT PERSON FOR MORE INFORMATION: John J. Toner, Executive Secretary, Washington, D.C. 20570, Telephone: (202) 273–1940.

Dated, Washington, D.C., March 22, 1996.

By direction of the Board:

John J. Toner,

Executive Secretary, National Labor Relations Board.

[FR Doc. 96–7453 Filed 3–22–96; 1:48 pm]

BILLING CODE 7545–01–M

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of March 25, April 1, 8, and 15, 1996.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of March 25

Wednesday, March 27

10:30 a.m.

Meeting with Chairman of Nuclear Safety Research Review Committee (NSRRC) (Public Meeting)

(Contact: Jose Cortez, 301–415–6596)

Week of April 1—Tentative

Thursday, April 4

10:00 a.m.

Briefing on PRA Implementation Plan (Public Meeting)

(Contact: Ashok Thadani, 301–415–1274)

11:30 a.m.

Affirmation Session (Public Meeting) (if needed)

2:00 p.m.

Briefing on Status of Activities with CNWRA and HLW Program (Public Meeting)

(Contact: Shirley Fortuna, 301–415–7804)

Week of April 8—Tenative

There are no meetings scheduled for the Week of April 8.

Week of April 15—Tentative

There are no meetings scheduled for the Week of April 15.

ADDITIONAL INFORMATION: Briefing on U.S. Enrichment Corporation Certification (Public Meeting) originally scheduled for Tuesday, March 19 was rescheduled for Friday, March 22.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292.

CONTACT PERSON FOR MORE INFORMATION: Bill Hill (301) 415–1661.

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, DC 20555 (301–415–1963).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to alb@nrc.gov or gkt@nrc.gov.

* * * * *

Dated: March 21, 1996.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 96–7458 Filed 3–22–96; 2:09 pm]

BILLING CODE 7590–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

TIME AND DATE: 9:30 a.m., Tuesday, April 2, 1995.

PLACE: The Board Room, 5th Floor, 490 L'Enfant Plaza, SW., Washington, DC 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

6405A Special Investigation Report: Robinson Helicopter Company R22 Loss of Main Rotor Control Accidents

NEWS MEDIA CONTACT: Telephone: (202) 382–0660.

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 382–6525.

Dated: March 22, 1996.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 96–7454 Filed 3–22–96; 1:48 pm]

BILLING CODE 7533–01–P

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request for Extension of a Currently Approved Information Collection: RI 38–45

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management intends to submit to the Office of Management and Budget a request for extension of a currently approved information collection. RI 38–45, We Need the Social Security Number of the Person Named Below, is used by the Civil Service Retirement System and the Federal Employees Retirement System to identify the records of individuals with similar of the same names. It also needed to report payments to the Internal Revenue Service.

We estimate 3,000 RI 38–45 forms are completely annually. Each form takes approximately 5 minutes to complete. The annual estimated burden is 250 hours.

For copies to this proposal, contact Jim Farron on (202) 418–3208, or E-mail to jmfarron@mail.opm.gov

DATES: Comments on this proposal should be received on or before May 28, 1996.

ADDRESSES: Send or deliver comments to—Lorraine E. Dettman, Chief, Operations Support Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street NW., Room 3349, Washington, DC 20415.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Mary Beth Smith-Toomy, Management Services Division, (202) 606–0623.

U.S. Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 96–7246 Filed 3–25–96; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–21634; File No. 812–9602]

Principal Mutual Life Insurance Company, et al.

March 20, 1996.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of Application for Amendment to Order Granting Exemptions Pursuant to the Investment Company Act of 1940 (the "Act").

APPLICANTS: Principal Mutual Life Insurance Company ("Principal Mutual"), Principal Mutual Life Insurance Company Separate Account B (the "Account") and Princor Financial Services Corporation ("Princor").

RELEVANT 1940 ACT SECTIONS: Order requested pursuant to Section 6(c) of the Act to amend order granting exemptions from the provisions of Sections 2(a)(35), 26(a)(2)(C), 27(a)(2) and (3), and 27(c)(2) thereof.

SUMMARY OF APPLICATION: Applicants have previously received relief from the provisions of the Act set forth above to the extent necessary to permit the issuance and sale of certain variable annuity contracts ("Contracts") with prescribed sales loads and mortality and expense risk charges (the "Prior Order").[1] This application seeks additional relief so that: (a) The exemption from Sections 26(a)(2)(C) and 27(c)(2) will extend to the mortality and expense risk charges under the Contracts as revised by Principal Mutual; and (b) the exemptive relief regarding the mortality and expense risk charges and the relief granted by the Prior Order will extend to any variable annuity contracts that may be offered in the future that are substantially similar in all material respects to the Contracts ("Future Contracts") that are funded by the Account or any other separate accounts established in the future by Principal Mutual ("Future Accounts") and that may be offered by Princor or any other members of the National Association of Securities Dealers, Inc. ("NASD") that may in the future serve as principal underwriters of the Contracts or Future Contracts ("Future Underwriters").

FILING DATE: The application was filed on October 6, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on April 15,1996, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Applicants, c/o Kristian Anderson, Counsel, The Principal Financial Group, Des Moines, Iowa 50392–0300.

FOR FURTHER INFORMATION CONTACT: Kevin M. Kirchoff, Senior Counsel, or Wendy Friedlander, Deputy Chief, Office of Insurance Products (Division of Investment Management), at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application; the complete application is available for a fee from the Public Reference Branch of the Commission.

Applicants' Representations and Legal Analysis

1. Principal Mutual is a mutual life insurance company with its home office in Des Moines, Iowa. The Account was established on January 12, 1970, as a separate account as defined in Section 2(a)(37) of the Act, and is registered pursuant to the Act as a unit investment trust (file no. 811–2091). Princor, a wholly-owned subsidiary of Principal Mutual, is the principal underwriter of the Contracts, and is a broker-dealer registered under the Securities Exchange Act of 1934 and a member of the NASD.

2. Principal Mutual assumes mortality and expense risks under the Contracts. The mortality risk is the risk that annuitants receiving annuity payments may live for a longer period of time than estimated. Principal Mutual assumes this mortality risk by virtue of annuity rates incorporated into the Contract which cannot be changed as to a current plan participant (except to make them more favorable to the participant). This assures each annuitant that his or her longevity will not have an adverse effect on the amount of annuity payments. The expense risk assumed by Principal Mutual is the risk that the allowance for administration expenses in the annuity

[1] *See Principal Mutual Life Insurance Company, et al.*, Inv. Co. Act Rel. No. 18798 (June 18, 1992)(1992 WL 150835 (SEC)) (notice) and Inv. Co. Act. Rel. No. 18853 (July 15, 1992)(1992 WL 172828 (SEC)) (order); file no. 812–7882.

conversion rates will be insufficient to cover actual costs of administration during an annuity pay out period.

3. For assuming these risks, Principal Mutual, in determining unit values for the Account and variable annuity payments, makes a charge as of the end of each valuation period against the assets of the Account held with respect to the Contract. If the charge is insufficient to cover the actual costs of the mortality and expense risk assumes, the financial loss will fall on Principal Mutual; conversely, if the charge proves more than sufficient, the excess will be a gain to Principal Mutual.

4. The relevant portions of Sections 26(a)(2)(C) and 27(c)(2) of the Act prohibit a registered unit investment trust and any depositor thereof or underwriter therefor from selling periodic payment plan certificates unless the proceeds of all payments (other than the sales load) are deposited with a qualified bank as trustee or custodian and held under arrangements which prohibit any payment to the depositor or principal underwriter except a fee, not exceeding such reasonable amount as the Commission may prescribe, for performing bookkeeping and other administrative services of a character normally performed by the bank itself.

5. In the Prior Order, Applicants received exemptive relief necessary to deduct a mortality and expense risk charge from the assets of the Account. For assuming mortality and expense risks, Principal Mutual currently deducts from each division of the Account a charge at a simple annual rate of 0.33 percent for certain Contracts and 0.55 percent for other Contracts. In accordance with the right it has reserved to increase the charge up to 1.25 percent, subject to certain limitations, Principal Mutual intends to increase those charges to 0.42 percent and 0.64 percent, respectively.

6. Contracts issued prior to March 31, 1995, contained an additional limitation that permitted a change in the mortality and expense risk charge only after the Contract had been in effect for at least one year. That limitation has been eliminated for all Contracts issued subsequent to that date.

7. In order to avoid questions regarding the scope of the Prior Order, Applicants seek an order pursuant to Section 6(c) of the Act amending the Prior Order to permit the issuance and sale of the Contracts providing for the mortality and expense risk charges described above, including the right to increase the charges up to a maximum of 1.25 percent.

8. Applicants represent that the maximum charge of 1.25 percent is within the range of industry practice for comparable annuity products. This representation is based upon an analysis by Principal Mutual of publicly available information about selected similar industry products, taking into consideration such factors as the method used in charging sales loads, any contractual right to increase charges above current levels and the existence of charges against separate account assets for other than mortality and expense risks. Principal Mutual will maintain its principal office, available to the Commission upon request, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, the comparative survey made.

9. Applicants acknowledge that the sales load and the deferred sales charge under the Contracts will be insufficient to cover all costs relating to the distribution of the Contracts and if a profit is realized from the mortality and expense risk charge, all or a portion of such profit may be offset by distribution expenses not reimbursed by sales charges. In such circumstances a portion of the mortality and expense risk charge might be viewed as providing for a portion of the costs relating to distribution of the Contracts. Notwithstanding the foregoing, Principal Mutual has concluded that there is reasonable likelihood that the proposed distribution financing arrangements made with respect to the Contracts will benefit the Account, the Contractholders and plan participants. The basis for that conclusion is set forth in a memorandum which will be maintained by Principal Mutual at its principal office and will be available to the Commission upon request.

10. Principal Mutual represents that the Account will invest only in underlying mutual funds which undertake, in the event such funds should adopt any plan under Rule 12b–1 to finance distribution expenses, to have such plan formulated and approved by a board of directors, a majority of the members of which are not "interested persons" of such fund within the meaning of Section 2(a)(19) of the Act.

11. Applicants also request that the Prior Order be amended to provide that the exemptive relief from Sections 26(a)(2)(C) and 27(c)(2) in connection with the mortality and expense risk charge extend to Future Contracts, funded by Future Accounts and sold through Future Underwriters. Applicants assert that extending the relied concerning the mortality and expense risk charge to Future Contracts, funded by Future Accounts and sold through Future Underwriters, is appropriate in the public interest. An order so providing should promote competitiveness in the variable annuity contract market by eliminating the need for filing redundant exemptive applications, thereby reducing Principal Mutual's costs. The delay and expense of repeatedly seeking exemptive relief for substantially similar contracts, new separate accounts or new principal underwriters could impair Principal Mutual's ability to take effective advantage of business opportunities that might arise. There is no benefit or additional protection afforded to investors by requiring Applicants repeatedly to seek exemptive relief with respect to the same issues addressed in this application.

12. Applicants represent that, before any Future Contracts are made available for sale to the public, Principal Mutual will have determined that the mortality and expense risk charge under the Future Contracts is within the range of industry practice for comparable annuity products based upon its analysis of then publicly available information about selected similar industry products. Principal Mutual will maintain at its principal office, available to the Commission upon request, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, the comparative survey made.

13. Applicants also represent that, if the sales charges under any Future Contracts are expected to be insufficient to cover the costs of distributing the Contracts, Principal Mutual, before such Future Contracts are made available for sale to the public, will have concluded that there is a reasonable likelihood that the proposed distribution financing arrangements made with respect to the Future Contracts will benefit the Account or the Future Account, as applicable, the contractholders and plan participants. The basis for that conclusion will be set forth in a memorandum which will be maintained by Principal Mutual at its principal office and will be available to the Commission upon request.

14. Principal Mutual represents that, if the Future Contract is funded by a Future Account, the Future Account will invest only in an underlying mutual fund which undertakes, in the event such fund should adopt any plan under Rule 12b–1 to finance distribution expenses, to have such plan formulated and approved by a board of directors, a majority of the members of which are not "interested persons" of such fund within the meaning of Section 2(a)(19) of the Act.

15. In the Prior Order, Applicants also received exemptive relief from the provisions of Sections 2(a)(35), 27(a)(2) and 27(a)(3) to permit the use of the sales load pattern and payment arrangements described in the application that resulted in the Prior Order. Applicants now request that this relief extend to Future contracts that are funded by the Account or any Future Accounts and that may be offered by Princor or any Future Underwriters. Applicants assert that extending the relief previously granted in this manner is appropriate in the public interest for the same reasons as those discussed in paragraph 11, above.

16. The reasons advanced in support of the exemptive application resulting in the Prior Order apply with equal force, Applicants assert, to Future Contracts, Future Accounts and Future Underwriters. The abuse intended to be curbed by Section 27(a)(3) (excessive front-end loading of periodic payment plans) is not, and will not be presented by the sales load structure of the Contracts or Future Contracts.

Conclusion

For the reasons summarized above, Applicants represent that the exemptions requested are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–7237 Filed 3–25–96; 8:45 am]

BILLING CODE 8010–01–M

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration (Transworld Telecommunications, Inc., Common Stock, $0.001 Par Value) File No. 1–13410

March 20, 1996.

Transworld Telecommunications, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security ("Securities") from listing and registration on the Boston Stock Exchange Incorporated ("BSE").

The reasons alleged in the application for withdrawing the Security from listing and registration include the following:

According to the Company, it has recently signed an agreement with Pacific Telesis Group ("PTG") and other parties to sell all of its interests in its wireless cable assets to PTG and then liquidate the company as reported to the Commission in the company's Form 10–KSB for the year ended October 31, 1995. The Board of Directors of TTI has subsequently approved a plan of liquidation which includes terminating all of TTI's contractual relationships and agreements.

Any interested person may, on or before April 10, 1996, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–7229 Filed 3–25–96; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 96–012]

Navigation Safety Advisory Council (NAVSAC) and National Boating Safety Advisory Council (NBSAC) Joint Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: NAVSAC and NBSAC will meet jointly to discuss various issues relating to commercial and recreational boat safety. The meeting will be open to the public.

DATES: The NAVSAC/NBSAC meeting will be held April 27 through 29, 1996, from 8:00 a.m. to approximately 5:00 p.m. each day except Sunday, when committee meetings will end at 11:30 a.m. Written material must be received on or before April 19, 1996.

ADDRESSES: The NAVSAC/NBSAC meeting will be held at the Parc Fifty Five Hotel, 55 Cyril Magnin, San Francisco, CA. Written material should be submitted to Margie G. Hegy, NAVSAC Executive Director, Commandant (G–MVO–3), or Albert J. Marmo, NBSAC Executive Director (G–NAB), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001.

FOR FURTHER INFORMATION CONTACT: Margie G. Hegy, NAVSAC Executive Director, Commandant (G–MVO–3), or Albert J. Marmo, NBSAC Executive Director (G–NAB), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001, telephone (202) 267–0415 or (202) 267–0950.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 2 § 1 *et seq.* The agenda for the joint NAVSAC/NBSAC sessions will include discussion of the following topics:

(1) Prevention Through People Initiative;

(2) Recreational Boating Safety Program Direction;

(3) Vessel Visibility and Identification;

(4) Status of Nautical Charting Program;

(5) Multiple Use Waterway Conflicts; and,

(6) Prioritizing Commercial and Recreational Boating Issues.

The meeting will begin on Saturday morning with separate NAVSAC and NBSAC plenary sessions before the joint session begins at 10:15 a.m. Items to be discussed in these sessions include boat occupant protection and the status of differential global positioning system (DGPS) and the Coast Guard's radionavigation responsibilities.

Committee meetings will be held on Sunday morning. NBSAC's Boat Occupant Protection Subcommittee will meet from 8:00 to 11:00 a.m. Prevention Through People and Vessel Visibility and Identification Committee, comprised of members of both NAVSAC and NBSAC will meet from 8:30 to 11:30 a.m.

NAVSAC/NBSAC will reconvene on Monday at 8:00 a.m. in joint plenary session to hear committee reports, and break into separate afternoon plenary sessions. Topics to be discussed in NAVSAC's plenary session include Implementation of the 1995 STCW Amendments and Inland Navigation Rule 9. NBSAC will discuss the emergency position indicating radio beacon 121.5 MHz transition plan, nonprofit grant solicitation, and the

Boat Occupant Protection Subcommittee report.

Attendance at the meeting is open to the public. With advance notice, and at the Chairman's discretion, members of the public may make oral presentations during the meeting. Persons wishing to make oral presentations should notify the Executive Director, listed above under **ADDRESSES**, no later than April 19, 1996. Written material may be submitted at any time for presentation to the Councils. However, to ensure advance distribution to each Council member, persons submitting written material are asked to provide 21 copies to the Executive Director no later than April 19, 1996.

Date: March 19, 1996.

Rudy K. Peschel,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 96–7170 Filed 3–25–96; 8:45 am]

BILLING CODE 4910–14–M

Federal Aviation Administration

SUMMARY: Notice is hereby given of a meeting of the Aviation Security Advisory Committee.

DATES: The meeting will be held April 23, 1996 from 9 a.m. to 12 p.m.

ADDRESS: The meeting will be held in the MacCracken Room 10th floor, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone 202–267–7451.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Aviation Security Advisory Committee to be held April 23, 1996, in the MacCracken Room, tenth floor, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC. The agenda for the meeting will include reports on the Universal Access System, Rewrites of FAR 107 and 108, Status of RTCA, and AVSEC Baseline.

Attendance at the April 23, 1996, meeting is open to the public but is limited to space available. Members of the public may address the committee only with the written permission of the chair, which should be arranged in advance. The chair may entertain public comment if, in its judgment, doing so will not disrupt the orderly progress of the meeting and will not be unfair to any other person. Members of the public are welcome to present written material to the committee at any time. Persons wishing to present statements or obtain information should contact the Office of the Associate Administrator for Civil Aviation Security, 800 Independence Avenue, SW., Washington, DC 20591, telephone 202–267–7451.

Issued in Washington, DC on March 20, 1996.

Quinten T. Johnson,

Acting Director of Civil Aviation Security and Policy Planning.

[FR Doc. 96–7298 Filed 3–25–96; 8:45 am]

BILLING CODE 4910–13–M

Research and Special Programs Administration

[Docket PS–142; Notice 3]

Risk Management Public Meeting

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Public meeting notice.

SUMMARY: This notice announces a public meeting, Risk Management and the Pipeline Industry, Your Input into Regulatory Reform, to discuss Government and industry work on the feasibility and benefits of using risk management to improve safety and efficiency in the pipeline industry. The Risk Management Quality Team, which represents the pipeline industry, Government, and the public, will discuss issues related to an interim risk management standard, a regulatory framework for risk management, performance measures, and communication with the public. Pipeline companies will share information on their risk management programs.

DATES: The public meeting will be from 7 p.m. to 9 p.m. on April 14 and from 8 a.m. to 5 p.m. on April 15 at the Westin Galleria Hotel in Houston, Texas. The sponsors need to know the number of participants to have enough conference background materials and space in the main meeting and break out session rooms. To register for the April 14 and 15 meeting, please contact Allie Chamberlain, API, 1220 L ST, NW, Washington, D.C., 20005, o: (202) 682–8229, fax: (202) 682–8222. Participants may choose to pay a fee to cover lunch and refreshments at breaks. A fee is not required to attend or to participate in the meeting. People who are unable to attend may submit written comments in duplicate on moving toward conducting risk management demonstration projects by May 15, 1996. Interested people should submit as part of their written comments all material that is relevant to statements of fact or argument. Late filed comments will be considered as far as practicable.

ADDRESSES: The public meeting will be at the Westin Galleria Hotel, 5060 West Alabama, Houston, TX 77056, (713) 960–8100.

Send written comments in duplicate to the Dockets Unit, Room 8421, RSPA, DOT, 400 Seventh St., SW, Washington, DC 20590–0001. Identify the docket and notice numbers in the notice heading.

All comments and docketed material will be available for inspection and copying in the Dockets Unit, Room 8421, between 8:30 a.m. and 4:30 p.m. Monday thru Friday.

FOR FURTHER INFORMATION CONTACT: Melanie Barber or Eben Wyman, OPS, DOT, Room 2335, 400 Seventh Street, S.W., Washington, D.C. 20590–0001, fax: (202) 366–4566, Melanie Barber's office: (202) 366–4560, e-mail: barberm@rspa.dot.gov and Eben Wyman's office: (202) 366–0918, e-mail: wymane@rspa.dot.gov.

SUPPLEMENTARY INFORMATION

I. Background

The first risk management public meeting, held November 6–9, 1995, in McLean, Virginia, gave over four hundred participants a chance to share their views on risk management. The meeting featured public and private sector risk management leaders and break-out sessions to address the many challenges that moving from the current regulatory system to conducting risk management demonstration projects poses. The April meeting will address the issues that were raised at the November meeting and help OPS and the pipeline industry create the foundation for the risk management demonstration projects. These projects will test whether a company creating a plan to manage risks can equal or exceed the safety level reached by complying with current regulations.

The pipeline industry's move toward risk management results from the pipeline industry's desire to demonstrate its willingness to improve pipeline safety, from OPS' and the pipeline industry's recognition that cost effective improvements can be made outside the current regulatory environment, and from the public's interest in OPS protecting people and the environment from the dangers pipelines pose. OPS, pipeline industry, State, and public representatives have been working on a Risk Management Quality Team to create, evaluate, and test an alternative approach to improving pipeline safety. Risk management assigns the greatest assets to the greatest risks pipelines pose. It systematically applies management policies, procedures, resources, and practices to analyzing, assessing, and controlling risks to protect the public, the environment, and company employees and assets. The meeting is designed for all pipeline stakeholders to learn more about how risk management would work in the pipeline industry and the effect it would have on the environment, human safety, and all stakeholders. The benefits the meeting offers are: (1) Learning about risk management processes and tools pipeline companies are using, (2) contributing ideas on the technical standard, regulatory framework, and baseline safety performance measures for the risk management demonstration program, and (3) considering whether a company would like to compete to conduct a demonstration program.

II. Risk Management Public Meeting

A risk management drama will highlight the challenges OPS, State pipeline regulators, the pipeline industry, and the public will face when risk management demonstration projects are conducted. At the April 15 and 15 meeting, speakers, panel members, and the risk management drama cast will include: representatives from OPS Headquarters and Regions, State pipeline safety offices, fire fighting and hazardous material response officers, the public, pipeline trade associations, and companies including Chevron, Shell, Tenneco, Natural Gas Pipe Line, American Natural Resources, Enron, and Mapco.

Key topics include technical standards, a risk management regulatory framework, effective risk communication, risk management demonstration projects, safety performance measures, how to measure program effectiveness, how state and federal regulators could interact with industry, and how much information companies will have to share with OPS. Sponsoring the April 14 and 15, 1996, meeting are the Office of Pipeline Safety (OPS), the American Petroleum Institute (API), the Association of Oil Pipe Lines (AOPL), the American Gas Association (AGA), the Gas Research Institute (GRI), the Interstate Natural Gas Association of America (INGAA), the American Public Gas Association (APGA), NACE International, and the National Association of Regulatory Utility Commissioners (NARUC).

Participants will get the latest information on the Risk Management Quality Team's work and public comments on the **Federal Register** notice outlining a draft regulatory framework for risk management demonstration projects. Break out sessions will allow participants to help design program elements needed for the risk management demonstration projects and will address questions from the November meeting.

For information on the April 14 and 15 meeting, please contact Melanie Barber, OPS; John Erickson, A.G.A., 1515 Wilson Blvd., Arlington, VA 22209–2469, o: (703) 841–8450, fax: 841–8492, e-mail: jerick06.reach.com; Michele Joy, AOPL, 1101 Vermont Ave., N.W., Washington, D.C. 20005–3521, o: (202) 408–7970, fax: 408–7983; Marty Matheson, API, 1220 L St., N.W., Washington, D.C. 20005, o: (202) 682–8192, fax: (202) 682–8222, e-mail: matheson@api.org; Bob Cave, APGA, Suite 102, 11094–D Lee Highway, Fairfax, VA 22030, o: (703) 352–3890, fax: 352–1271; Tina Thomas, GRI, Suite 730 North, 1331 Pennsylvania Ave., N.W., Washington, D.C. 20004, o: (202) 662–8937, fax: 347–6925, e-mail: cthomas@gri.org; Terry Boss, INGAA, Suite 300 West, 555 Thirteenth St., N.W., Washington, D.C. 20004, o: (202) 626–3234, fax: 626–3249, e-mail: tboss@ingaa.org; Shelley Leavitt Nadel, NACE International, P.O. Box 21834, Houston, TX 77218–8340, e-mail: shelley@mail.nace.org; or Rick Marini, NARUC, NH Public Utilities Commission, 8 Old Suncook RD, Concord, NH 03301, o: (603) 271–2443, fax: (603) 271–3878.

Issued in Washington, DC, on March 21, 1996.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 96–7289 Filed 3–25–96; 8:45 am]

BILLING CODE 4910–60–P

Surface Transportation Board

[STB Ex Parte No. 290 (Sub No. 5) (96–2)]

Quarterly Rail Cost Adjustment Factor

AGENCY: Surface Transportation Board.

ACTION: Approval of rail cost adjustment factor.

SUMMARY: The Board has approved a second quarter 1996 rail cost adjustment factor (RCAF) and cost index filed by the Association of American Railroads. The second quarter RCAF (Unadjusted) is 1.063. The second quarter RCAF (Adjusted) is 0.769, a decrease of 1.7% from the first quarter 1996 RCAF (Adjusted).

EFFECTIVE DATE: April 1, 1996.

FOR FURTHER INFORMATION CONTACT: H. Jeff Warren, (202) 927–6243. TDD for the hearing impaired: (202) 927–5721.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision write to, call, or pick up in person from: DC NEWS & DATA, INC., Room 2229, 1201 Constitution Avenue, N.W., Washington, DC 20423, or telephone (202) 289–4357. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

This action will not significantly affect either the quality of the human environment or energy conservation.

Pursuant to 5 U.S.C. 605(b), we conclude that our action will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Decided: March 19, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 96–7240 Filed 3–25–96; 8:45 am]

BILLING CODE 4915–00–P

Surface Transportation Board [1]

[STB Finance Docket No. 32799]

Economic Development Rail Corporation and Economic Development Rail II Corporation—Exemption—Common Control

Economic Development Rail Corporation (EDRC) and Economic Development Rail II Corporation (EDR–II), non-profit quasi-public entities, have jointly filed a notice of exemption for common control because both entities own active rail lines that are managed by the same group of trustees and directors.[2] EDRC owns a rail line in and around Youngstown, OH, that is operated by the Youngstown and Austintown Railroad, and EDR–II owns a rail line in and around Warren, OH,

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (the Act), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions to the Surface Transportation Board (Board). This decision notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 11323.

[2] Petitioners state that they neglected to file a notice of exemption for common control upon EDR–II's reactivating an abandoned rail line from CSX Transportation, Inc., in 1993. Petitioners seek to correct that omission by filing this notice of exemption. In addition, in a filing made by EDR–II in Finance Docket No. 32798 contemporaneous with the filing of this notice of exemption, EDR–II is requesting an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10902 for EDR–II to acquire certain rail lines in the Warren, OH area from Consolidated Rail Corporation (Conrail). The lines to be acquired from Conrail cross, but do not connect with lines already owned by EDR–II.

that is operated by the Warren & Trumbull Railroad Company.

Petitioners state that: (1) The rail lines owned by EDRC and EDR–II do not physically connect, (2) there are no plans to acquire or operate additional rail lines for the purpose of making a connection; and (3) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Board and served on: Robert A. Wimbish, Suite 420, 1920 N Street, N.W., Washington, D.C. 20036.

Decided: March 20, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–7242 Filed 3–25–96; 8:45 am]

BILLING CODE 4915–00–P

[STB Finance Docket No. 32877]

Pioneer Railcorp; Acquisition of Control Exemption; KNRECO, Inc., d/b/a/ Keokuk Junction Railway

Pioneer Railcorp. (Pioneer), a noncarrier holding company, has filed a notice of exemption to acquire a controlling interest (66.62% of the stock) of KNRECO, Inc., d/b/a Keokuk Junction Railway (KJRY) from its majority shareholder John Warfield. KJRY is a Class III common carrier railroad which owns 38 miles of track as follows: 28.4 miles of track from Keokuk to LaHarpe, Hancock County, IL, from MP 195.0 to MP 223.4; 5.1 miles of track from Hamilton to Warsaw, Hancock County, IL, from MP 222.6 to MPW 227.7 (of which 1.5 miles are actively operated from MPW 222.6 to MP 224.1) and 4.5 miles of track extending from Keokuk westward from MP 0.0 to MP 4.5 (of which 2.5 miles are actively operated from MP 0.0 to MP 2.5). Pioneer will make a tender offer to acquire the remaining stock of KJRY. The transaction was scheduled to be consummated on or after March 8, 1996.

Pioneer owns and controls eight existing Class III shortline rail carriers: West Michigan Railroad Co., operating in Michigan; Fort Smith Railroad Co., operating in Arkansas; Alabama Railroad Co., operating in Alabama; Mississippi Central Railroad Co., operating in Mississippi and Tennessee; Alabama & Florida Railway Co., operating in Alabama; Decatur Junction Railway Co., operating in Illinois; Vandalia Railroad Company, operating in Illinois; and Minnesota Central Railroad Co., operating in Minnesota.

Pioneer states that: (i) The railroads will not connect with each other or any railroad in their corporate family; (ii) the acquisition of control is not part of a series of anticipated transactions that would connect the nine railroads with each other or any railroad in their corporate family; and (iii) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 32877, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423 and served on: Keith G. O'Brien, Esq., Rea, Cross & Auchincloss, Suite 420, 1920 N Street, N.W., Washington, DC 20036.

Decided: March 20, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–7241 Filed 3–25–96; 8:45 am]

BILLING CODE 4915–00–P

[1] The ICC Termination Act of 1995, Pub. L. 104–88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 11323.

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 96–19]

Request for Public Comments Concerning Dissemination of Existing Information Product and Elimination of Microfiche

AGENCY: Customs Service, Department of the Treasury.

ACTION: General notice; extension of comment period.

SUMMARY: On February 22, 1996, Customs published in the **Federal Register** a document inviting public comments regarding its intention to provide Customs rulings, future publications and additional information in CD–ROM and the Internet formats with built-in search capabilities and "hypertext" links. The document also requested comments regarding the possible elimination of the microfiche format used to presently supply rulings to the public by subscription. Comments were to be received on or before March 25, 1996. This document extends for an additional 30 days the period of time within which interested members of the public may comment on the proposals.

DATES: Comments must be received on or before April 25, 1996.

ADDRESSES: Written comments (preferably in triplicate) may be addressed to the Regulations Branch, U.S. Customs Service, Franklin Court, 1301 Constitution Avenue, N.W., Washington, D.C. 20229. Comments submitted may be inspected at the Regulations Branch, Office of Regulations and Rulings, Franklin Court, 1099 14th Street N.W., Suite 4000W, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

For contents and technical aspects of the CD–ROM: Howard Plofker, 202–482–7077.

For the Internet: Kathy Davis, 202–927–0255.

For the microfiche: Thomas Budnik, 202–482–6909.

SUPPLEMENTARY INFORMATION:

Background

On February 22, 1996, Customs published a document in the **Federal Register** (61 FR 6892) requesting public comments concerning proposals to provide rulings, future publications and additional information in two new formats (CD–ROM and the Internet) with built-in search capabilities and "hypertext" links, and to eliminate one format used to supply rulings to the public by subscription (microfiche). Comments were requested by March 25, 1996.

Customs has been requested to extend the period of time for comments to allow interested parties to have more time to consider the proposals. Customs believes that it would be appropriate to grant the request. Accordingly, the period of time for the submission of comments is being extended 30 days.

Dated: March 21, 1996.

Stuart P. Seidel,

Assistant Commissioner, Office of Regulations and Rulings.

[FR Doc. 96–7283 Filed 3–25–96; 8:45 am]

BILLING CODE 4820–02–P

Fiscal Service

[Dept. Circ. 570, 1995 Rev., Supp. No. 7]

Surety Companies Acceptable on Federal Bonds: Carolina Casualty Insurance Company

A Certificate of Authority as an acceptable surety on Federal Bonds is hereby issued to the following company under Sections 9304 to 9308, Title 31, of the United States Code. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1995 Revisions, on page 34438 to reflect this addition:

Carolina Casualty Insurance Company, BUSINESS ADDRESS: P.O. Box 2575, Jacksonville, FL 32203, Telephone No. (904) 363–0900. UNDERWRITING LIMITATION b/: $5,080,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Florida.

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

The Circular may be viewed or downloaded by calling the U.S. Department of the Treasury, Financial Management Service, computerized public bulletin board system (FMS Inside Line) at (202) 874–6817/7034/6953/6872. A hard copy may be purchase from the Government Printing Office (GPO), Washington, DC, telephone (202) 512–0132. When ordering the Circular from GPO, use the following stock number: 048–000–00489–0.

For further assistance, contact the U.S. Department of the Treasury, Financial Management Service, Funds Management Division, Surety Bond Branch, 3700 East-West Highway, Room 6F04, Hyattsville, MD 20782, telephone (202) 874–6696.

Dated: March 13, 1996.

Charles F. Schwan III,

Director, Funds Management Division, Financial Management Services.

[FR Doc. 96–7172 Filed 3–25–96; 8:45 am]

BILLING CODE 4810–35–M

Office of Thrift Supervision

[AC–19; OTS No. 01570]

Citizens Savings Bank, F.S.B., Normal, Illinois; Approval of Conversion Application

Notice is hereby given that on March 11, 1996, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Citizens Savings Bank, F.S.B., Normal, Illinois, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Central Regional Office, Office of Thrift Supervision, 200 West Madison Street, Suite 1300, Chicago, Illinois 60606.

Dated: March 18, 1996.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 96–7186 Filed 3–25–96; 8:45 am]

BILLING CODE 6725–01–P

[AC–20; OTS No. 2721]

First Federal Bank of Arkansas, FA, Harrison, Arkansas; Approval of Conversion Application

Notice is hereby given that on March 19, 1996, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of First Federal Bank of Arkansas, FA, Harrison, Arkansas, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Midwest Regional Office, Office of Thrift Supervision, 122 W. John Carpenter Freeway, Suite 600, Dallas, Texas 75039–2010.

Dated: March 20, 1996.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 96–7187 Filed 3–25–96; 8:45 am]

BILLING CODE 6725–01–P

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federal register

Tuesday
March 26, 1996

Part II

Department of Housing and Urban Development

24 CFR Part 3500
Real Estate Settlement Procedures Act; Streamlining Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 3500

[Docket No. FR–4023–F–01]

RIN 2502–AG69

Office of the Assistant Secretary for Housing—Federal Housing Commissioner; Real Estate Settlement Procedures Act; Streamlining Final Rule

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule amends HUD's regulations under the Real Estate Settlement Procedures Act (RESPA). In an effort to comply with the President's regulatory reform initiatives, this rule streamlines the RESPA regulations by eliminating provisions that repeat statutes or are otherwise unnecessary. A number of the appendices that were intended to be illustrative, rather than regulatory, have been removed from codification, but will be made available by the Department as Public Guidance Documents. Therefore, this final rule makes the RESPA regulations clearer and more concise.

EFFECTIVE DATE: April 25, 1996.

FOR FURTHER INFORMATION CONTACT: David R. Williamson, Director, Office of Consumer and Regulatory Affairs, Room 5241, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, telephone number (202) 708–4560 (this is not a toll-free number); or for legal questions: Kenneth A. Markison, Assistant General Counsel for GSE/RESPA, or Grant E. Mitchell, Senior Attorney for RESPA, Room 9262, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, telephone number (202) 708–1550 (this is not a toll-free number). For hearing- or speech-impaired persons, this number may be accessed via TDD by calling the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On March 4, 1995, President Clinton issued a memorandum to all Federal departments and agencies regarding regulatory reinvention. In response to this memorandum, the Department of Housing and Urban Development conducted a page-by-page review of its regulations to determine which could be eliminated, consolidated, or otherwise improved. HUD has determined that the regulations for implementing RESPA can be improved and streamlined by eliminating unnecessary provisions.

Several provisions in the regulations repeat statutory language from the Real Estate Settlement Procedures Act of 1974, 12 U.S.C. 2601 *et seq.* It is unnecessary to maintain statutory requirements in the Code of Federal Regulations (CFR), since those requirements are otherwise fully accessible and binding. Furthermore, if regulations contain statutory language, HUD must amend the regulations whenever Congress amends the statute. Therefore, this final rule will remove repetitious statutory language and replace it with a citation to the specific statutory section for easy reference. For example, § 3500.19(a) has been substantially streamlined to delete provisions that simply repeated statutory provisions that do not need to be implemented by regulation.

This final rule also removes from codification several of the appendices that previously accompanied part 3500. The Department intends to preserve the material contained in the appendices to be removed, but will no longer codify that material. Instead, that material will be available as Public Guidance Documents, as defined in this rule. Although not codified, Public Guidance Documents have been or will be published in the **Federal Register** and any amendments to the documents will be published in the **Federal Register**, as well. In addition, the rule specifies that these documents are available from HUD at the address provided. The appendices being removed from codification are as follows:

- Appendix G—consisting of: (1) Appendix G–1 entitled "Initial Escrow Account Disclosure Statement—Format," published at 60 FR 24736 (May 9, 1995); and (2) Appendix G–2 entitled "Initial Escrow Account Disclosure Statement—Example," published at 60 FR 8819 (Feb. 15, 1995), but amended at 60 FR 24735 (May 9, 1995).
- Appendix H—consisting of Appendix H–1 and Appendix H–2, each entitled "Biweekly Payments—Example," published at 60 FR 8820–8821 (Feb. 15, 1995).
- Appendix I—consisting of: (1) Appendices I–1, I–2, I–5, and I–6, each entitled "Annual Escrow Account Disclosure Statement—Format," published at 60 FR 24737–24740 (May 9, 1995); and (2) Appendices I–3, I–4, I–7, and I–8, each entitled "Annual Escrow Account Disclosure Statement—Example," published at 60 FR 8824, 8825, 8828, and 8829 (Feb. 15, 1995).
- Appendix J—consisting of Appendices J–1 and J–2, each entitled "Annual Escrow Account Disclosure Statement—Example," published at 60 FR 8830–8831 (Feb. 15, 1995).
- Appendix K—consisting of Appendices K–1 through K–4, each entitled "Short Year Statements—Example," published at 60 FR 8832–8835 (Feb. 15, 1995).
- Appendix L—"Side-by-Side Presentation of Old Projection and History," published at 60 FR 8836 (Feb. 15, 1995).
- Appendix M—"Illustration of Option of Identifying Simultaneous Deficiency and Shortage," published at 60 FR 8837 (Feb. 15, 1995).
- Appendix N—"HUD–1 Aggregate Accounting Adjustment Example," published at 60 FR 8838 (Feb. 15, 1995).

Aside from having been published previously in the **Federal Register** as indicated above, these appendices were also published in the 1995 edition of the CFR (though after publication of the 1995 edition further revisions to Appendices G and I were made at 60 FR 24735–24740 (May 9, 1995)). While the guidance in these appendices remains applicable and the examples and explanations are very helpful to users, it is not necessary that it be published in the CFR. HUD will more appropriately provide this information through other public guidance materials rather than maintain it in the CFR. HUD may update this information from time to time by publication in the **Federal Register**. The information is also available from HUD at the address indicated in 24 CFR 3500.3.

The investigation provisions formerly at § 3500.20 previously were removed from this Part and consolidated in a new part 3800 with similar provisions for manufactured housing (part 3282) and interstate land sales (part 1720) (see FR–4026, a reinvention rule published shortly before this rule).

Justification for Final Rulemaking

HUD generally publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking in 24 CFR part 10. However, part 10 provides for exceptions to the general rule if the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is "impracticable, unnecessary, or contrary to the public interest" (24 CFR 10.1). HUD finds that good cause exists to publish this rule for effect without first soliciting public comment. This rule removes unnecessary regulatory provisions and nonbinding guidance material and corrects minor, nonsubstantive editorial errors in the text of the current regulations. Because of the nature of the changes, prior public comment is unnecessary.

Other Matters

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this final rule, and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule merely streamlines regulations by removing unnecessary provisions. The rule will have no adverse or disproportionate economic impact on small businesses.

Environmental Impact

This rulemaking does not have an environmental impact. This rulemaking simply amends an existing regulation by consolidating and streamlining provisions and does not alter the environmental effect of the regulations being amended. Findings of No Significant Impact with respect to the environment were made in accordance with HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) at the time of development of regulations implementing RESPA. Those findings remain applicable to this rule, and are available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that this rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. No programmatic or policy changes will result from this rule that would affect the relationship between the Federal Government and State and local governments.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this rule will not have the potential for significant impact on family formation, maintenance, or general well-being, and thus is not subject to review under the Order. No significant change in existing HUD policies or programs will result from promulgation of this rule.

List of Subjects in 24 CFR Part 3500

Consumer protection, Condominiums, Housing, Mortgages, Mortgage servicing, Reporting and recordkeeping requirements.

Accordingly, part 3500 of title 24 of the Code of Federal Regulations is amended as follows:

PART 3500—REAL ESTATE SETTLEMENT PROCEDURES ACT

1. The authority citation for part 3500 continues to read as follows:

Authority: 12 U.S.C. 2601 *et seq.*; 42 U.S.C. 3535(d).

2. Sections 3500.1 through 3500.19 and 3500.21 are revised to read as follows:

§ 3500.1 Designation.

This part may be referred to as Regulation X.

§ 3500.2 Definitions.

(a) *Statutory terms.* All terms defined in RESPA (12 U.S.C. 2602) are used in accordance with their statutory meaning unless otherwise defined in paragraph (b) of this section or elsewhere in this part.

(b) *Other terms.* As used in this part:

Application means the submission of a borrower's financial information in anticipation of a credit decision, whether written or computer-generated, relating to a federally related mortgage loan. If the submission does not state or identify a specific property, the submission is an application for a pre-qualification and not an application for a federally related mortgage loan under this part. The subsequent addition of an identified property to the submission converts the submission to an application for a federally related mortgage loan.

Business day means a day on which the offices of the business entity are open to the public for carrying on substantially all of the entity's business functions.

Dealer means, in the case of property improvement loans, a seller, contractor, or supplier of goods or services. In the case of manufactured home loans, "dealer" means one who engages in the business of manufactured home retail sales.

Dealer loan or dealer consumer credit contract means, generally, any arrangement in which a dealer assists the borrower in obtaining a federally related mortgage loan from the funding lender and then assigns the dealer's legal interests to the funding lender and receives the net proceeds of the loan. The funding lender is the lender for the purposes of the disclosure requirements of this part. If a dealer is a "creditor" as defined under the definition of "federally related mortgage loan" in this part, the dealer is the lender for purposes of this part.

Effective date of transfer is defined in section 6(i)(1) of RESPA (12 U.S.C. 2605(i)(1)). In the case of a home equity conversion mortgage or reverse mortgage as referenced in this section, the effective date of transfer is the transfer date agreed upon by the transferee servicer and the transferor servicer.

Federally related mortgage loan, also referred to in this rule as a "mortgage loan," is defined in section 3(1) of RESPA (12 U.S.C. 2602(1)). If the residential property securing a mortgage loan is not located in a State, it is not a federally related mortgage loan. A federally related mortgage loan also includes:

(1) Any loan (other than temporary financing such as a construction loan) which meets the requirements in section 3(1)(A) of RESPA (12 U.S.C. 2602(1)(A)) and which is either:

(i) Originated by a dealer or, if the obligation is to be assigned to any maker of mortgage loans specified in section 3(1)(B)(i)–(iv) of RESPA (12 U.S.C. 2602(1)(B)(i)–(iv), by a mortgage broker; or

(ii) The subject of a home equity conversion mortgage, also frequently called a "reverse mortgage," issued by any maker of mortgage loans specified in section 3(1)(B)(i)–(iv) of RESPA (12 U.S.C. 2602(1)(B)(i)–(iv)).

(2) Any installment sales contract, land contract, or contract for deed on otherwise qualifying residential property is a federally related mortgage loan if the contract is funded in whole or in part by proceeds of a loan made by any maker of mortgage loans specified in section 3(1)(B)(i)–(iv) of RESPA (12 U.S.C. 2602(1)(B)(i)–(iv)).

Good faith estimate means an estimate, prepared in accordance with section 5 of RESPA (12 U.S.C. 2604), of charges that a borrower is likely to incur in connection with a settlement.

HUD–1 or HUD–1A settlement statement (also *HUD–1 or HUD–1A*) means the statement that is prescribed by the Secretary in this part for setting forth settlement charges in connection with either the purchase or the refinancing (or other subordinate lien transaction) of 1- to 4-family residential property.

Lender means, generally, the secured creditor or creditors named in the debt obligation and document creating the lien. For loans originated by a mortgage broker that closes a federally related mortgage loan in its own name in a table funding transaction, the lender is the person to whom the obligation is initially assigned at or after settlement. A lender, in connection with dealer loans, is the lender to whom the loan is assigned, unless the dealer meets the definition of creditor as defined under "federally related mortgage loan" in this section. See also § 3500.5(b)(7), secondary market transactions.

Manufactured home is defined in § 3280.2 of this title.

Mortgage broker means a person (not an employee or exclusive agent of a lender) who brings a borrower and lender together to obtain a federally related mortgage loan, and who renders services as described in the definition of "settlement services" in this section. A loan correspondent meeting the requirements of the Federal Housing Administration under § 202.2(b) or § 202.15(a) of this title is a mortgage broker for purposes of this part.

Mortgaged property means the real property that is security for the federally related mortgage loan.

Person is defined in section 3(5) of RESPA (12 U.S.C. 2602(5)).

Public Guidance Documents means documents that HUD has published in the **Federal Register**, and that it may amend from time-to-time by publication in the **Federal Register**. These documents are also available from HUD at the address indicated in 24 CFR 3500.3.

Refinancing means a transaction in which an existing obligation that was subject to a secured lien on residential real property is satisfied and replaced by a new obligation undertaken by the same borrower and with the same or a new lender. The following shall not be treated as a refinancing, even when the existing obligation is satisfied and replaced by a new obligation with the same lender (this definition of "refinancing" as to transactions with the same lender is similar to Regulation Z, 12 CFR 226.20(a)):

(1) A renewal of a single payment obligation with no change in the original terms;

(2) A reduction in the annual percentage rate as computed under the Truth in Lending Act with a corresponding change in the payment schedule;

(3) An agreement involving a court proceeding;

(4) A workout agreement, in which a change in the payment schedule or change in collateral requirements is agreed to as a result of the consumer's default or delinquency, unless the rate is increased or the new amount financed exceeds the unpaid balance plus earned finance charges and premiums for continuation of allowable insurance; and

(5) The renewal of optional insurance purchased by the consumer that is added to an existing transaction, if disclosures relating to the initial purchase were provided.

Regulation Z means the regulations issued by the Board of Governors of the Federal Reserve System (12 CFR part 226) to implement the Federal Truth in Lending Act (15 U.S.C. 1601 *et seq.*), and includes the Commentary on Regulation Z.

Required use means a situation in which a person must use a particular provider of a settlement service in order to have access to some distinct service or property, and the person will pay for the settlement service of the particular provider or will pay a charge attributable, in whole or in part, to the settlement service. However, the offering of a package (or combination of settlement services) or the offering of discounts or rebates to consumers for the purchase of multiple settlement services does not constitute a required use. Any package or discount must be optional to the purchaser. The discount must be a true discount below the prices that are otherwise generally available, and must not be made up by higher costs elsewhere in the settlement process.

RESPA means the Real Estate Settlement Procedures Act of 1974, 12 U.S.C. 2601 *et seq.*

Servicer means the person responsible for the servicing of a mortgage loan (including the person who makes or holds a mortgage loan if such person also services the mortgage loan). The term does not include:

(1) The Federal Deposit Insurance Corporation (FDIC) or the Resolution Trust Corporation (RTC), in connection with assets acquired, assigned, sold, or transferred pursuant to section 13(c) of the Federal Deposit Insurance Act or as receiver or conservator of an insured depository institution; and

(2) The Federal National Mortgage Corporation (FNMA); the Federal Home Loan Mortgage Corporation (Freddie Mac); the RTC; the FDIC; HUD, including the Government National Mortgage Association (GNMA) and the Federal Housing Administration (FHA) (including cases in which a mortgage insured under the National Housing Act (12 U.S.C. 1701 *et seq.*) is assigned to HUD); the National Credit Union Administration (NCUA); the Farmers Home Administration or its successor agency under Public Law 103–354 (FmHA); and the Department of Veterans Affairs (VA), in any case in which the assignment, sale, or transfer of the servicing of the mortgage loan is preceded by termination of the contract for servicing the loan for cause, commencement of proceedings for bankruptcy of the servicer, or commencement of proceedings by the FDIC or RTC for conservatorship or receivership of the servicer (or an entity by which the servicer is owned or controlled).

Servicing means receiving any scheduled periodic payments from a borrower pursuant to the terms of any mortgage loan, including amounts for escrow accounts under section 10 of RESPA (12 U.S.C. 2609), and making the payments to the owner of the loan or other third parties of principal and interest and such other payments with respect to the amounts received from the borrower as may be required pursuant to the terms of the mortgage servicing loan documents or servicing contract. In the case of a home equity conversion mortgage or reverse mortgage as referenced in this section, servicing includes making payments to the borrower.

Settlement means the process of executing legally binding documents regarding a lien on property that is subject to a federally related mortgage loan. This process may also be called "closing" or "escrow" in different jurisdictions.

Settlement service means any service provided in connection with a prospective or actual settlement, including, but not limited to, any one or more of the following:

(1) Origination of a federally related mortgage loan (including, but not limited to, the taking of loan applications, loan processing, and the underwriting and funding of such loans);

(2) Rendering of services by a mortgage broker (including counseling, taking of applications, obtaining verifications and appraisals, and other loan processing and origination services, and communicating with the borrower and lender);

(3) Provision of any services related to the origination, processing or funding of a federally related mortgage loan;

(4) Provision of title services, including title searches, title examinations, abstract preparation, insurability determinations, and the issuance of title commitments and title insurance policies;

(5) Rendering of services by an attorney;

(6) Preparation of documents, including notarization, delivery, and recordation;

(7) Rendering of credit reports and appraisals;

(8) Rendering of inspections, including inspections required by applicable law or any inspections required by the sales contract or mortgage documents prior to transfer of title;

(9) Conducting of settlement by a settlement agent and any related services;

(10) Provision of services involving mortgage insurance;

(11) Provision of services involving hazard, flood, or other casualty insurance or homeowner's warranties;

(12) Provision of services involving mortgage life, disability, or similar insurance designed to pay a mortgage loan upon disability or death of a borrower, but only if such insurance is required by the lender as a condition of the loan;

(13) Provision of services involving real property taxes or any other assessments or charges on the real property;

(14) Rendering of services by a real estate agent or real estate broker; and

(15) Provision of any other services for which a settlement service provider requires a borrower or seller to pay.

Special information booklet means the booklet prepared by the Secretary pursuant to section 5 of RESPA (12 U.S.C. 2604) to help persons understand the nature and costs of settlement services. The Secretary publishes the form of the special information booklet in the **Federal Register**. The Secretary may issue or approve additional booklets or alternative booklets by publication of a Notice in the **Federal Register**.

State means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

Table funding means a settlement at which a loan is funded by a contemporaneous advance of loan funds and an assignment of the loan to the person advancing the funds. A table-funded transaction is not a secondary market transaction (see § 3500.5(b)(7)).

Title company means any institution, or its duly authorized agent, that is qualified to issue title insurance.

§ 3500.3 Questions or suggestions from public and copies of public guidance documents.

Any questions or suggestions from the public regarding RESPA, or requests for copies of HUD Public Guidance Documents, should be directed to the Director, Office of Consumer and Regulatory Affairs, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410–8000, rather than to HUD field offices. Legal questions may be directed to the Assistant General Counsel, GSE/RESPA Division, at this address.

§ 3500.4 Reliance upon rule, regulation or interpretation by HUD.

(a) *Rule, regulation or interpretation.*—(1) For purposes of sections 19 (a) and (b) of RESPA (12 U.S.C. 2617 (a) and (b)) only the following constitute a rule, regulation or interpretation of the Secretary:

(i) All provisions, including appendices, of this part. Any other document referred to in this part is not incorporated in this part unless it is specifically set out in this part;

(ii) Any other document that is published in the **Federal Register** by the Secretary and states that it is an "interpretation," "interpretive rule," "commentary," or a "statement of policy" for purposes of section 19(a) of RESPA. Such documents will be prepared by HUD staff and counsel. Such documents may be revoked or amended by a subsequent document published in the **Federal Register** by the Secretary.

(2) A "rule, regulation, or interpretation thereof by the Secretary" for purposes of section 19(b) of RESPA (12 U.S.C. 2617(b)) shall not include the special information booklet prescribed by the Secretary or any other statement or issuance, whether oral or written, by an officer or representative of the Department of Housing and Urban Development (HUD), letter or memorandum by the Secretary, General Counsel, any Assistant Secretary or other officer or employee of HUD, preamble to a regulation or other issuance of HUD, Public Guidance Document, report to Congress, pleading, affidavit or other document in litigation, pamphlet, handbook, guide, telegraphic communication, explanation, instructions to forms, speech or other material of any nature which is not specifically included in paragraph (a)(1) of this section.

(b) *Unofficial interpretations; staff discretion.* In response to requests for interpretation of matters not adequately covered by this part or by an official interpretation issued under paragraph (a)(1)(ii) of this section, unofficial staff interpretations may be provided at the discretion of HUD staff or counsel. Written requests for such interpretations should be directed to the address indicated in § 3500.3. Such interpretations provide no protection under section 19(b) of RESPA (12 U.S.C. 2617(b)). Ordinarily, staff or counsel will not issue unofficial interpretations on matters adequately covered by this Part or by official interpretations or commentaries issued under paragraph (a)(1)(ii) of this section.

(c) All informal counsel's opinions and staff interpretations issued before November 2, 1992, were withdrawn as of that date. Courts and administrative agencies, however, may use previous opinions to determine the validity of conduct under the previous Regulation X.

§ 3500.5 Coverage of RESPA.

(a) *Applicability.* RESPA and this part apply to all federally related mortgage loans, except for the exemptions provided in paragraph (b) of this section.

(b) *Exemptions.* (1) A loan on property of 25 acres or more.

(2) *Business purpose loans.* An extension of credit primarily for a business, commercial, or agricultural purpose. The definition of such an extension of credit for purposes of this exemption generally parallels Regulation Z, 12 CFR 226.3(a)(1), and persons may rely on Regulation Z in determining whether the exemption applies. Notwithstanding the foregoing, the exemption in this section for business purpose loans does not include any loan to one or more persons acting in an individual capacity (natural persons) to acquire, refinance, improve, or maintain 1- to 4-family residential property used, or to be used, to rent to other persons. An individual who voluntarily chooses to act as a sole proprietorship is not considered to be acting in an individual capacity for purposes of this part.

(3) *Temporary financing.* Temporary financing, such as a construction loan. The exemption for temporary financing does not apply to a loan made to finance construction of 1- to 4-family residential property if the loan is used as, or may be converted to, permanent financing by the same lender or is used to finance transfer of title to the first user. If a lender issues a commitment for permanent financing, with or without conditions, the loan is covered by this part. Any construction loan for new or rehabilitated 1- to 4-family residential property, other than a loan to a *bona fide* builder (a person who regularly constructs 1- to 4-family residential structures for sale or lease), is subject to this part if its term is for two years or more. A "bridge loan" or "swing loan" in which a lender takes a security

interest in otherwise covered 1- to 4-family residential property is not covered by RESPA and this part.

(4) *Vacant land.* Any loan secured by vacant or unimproved property, unless within two years from the date of the settlement of the loan, a structure or a manufactured home will be constructed or placed on the real property using the loan proceeds. If a loan for a structure or manufactured home to be placed on vacant or unimproved property will be secured by a lien on that property, the transaction is covered by this part.

(5) *Assumption without lender approval.* Any assumption in which the lender does not have the right expressly to approve a subsequent person as the borrower on an existing federally related mortgage loan. Any assumption in which the lender's permission is both required and obtained is covered by RESPA and this part, whether or not the lender charges a fee for the assumption.

(6) *Loan conversions.* Any conversion of a federally related mortgage loan to different terms that are consistent with provisions of the original mortgage instrument, as long as a new note is not required, even if the lender charges an additional fee for the conversion.

(7) *Secondary market transactions.* A *bona fide* transfer of a loan obligation in the secondary market is not covered by RESPA and this part, except as set forth in section 6 of RESPA (12 U.S.C. 2605) and § 3500.21. In determining what constitutes a *bona fide* transfer, HUD will consider the real source of funding and the real interest of the funding lender. Mortgage broker transactions that are table-funded are not secondary market transactions. Neither the creation of a dealer loan or dealer consumer credit contract, nor the first assignment of such loan or contract to a lender, is a secondary market transaction (see § 3500.2.)

§ 3500.6 Special information booklet at time of loan application.

(a) *Lender to provide special information booklet.* Subject to the exceptions set forth in this paragraph, the lender shall provide a copy of the special information booklet to a person from whom the lender receives, or for whom the lender prepares, a written application for a federally related mortgage loan. When two or more persons apply together for a loan, the lender is in compliance if the lender provides a copy of the booklet to one of the persons applying.

(1) The lender shall provide the special information booklet by delivering it or placing it in the mail to the applicant not later than three business days (as that term is defined in § 3500.2) after the application is received or prepared. However, if the lender denies the borrower's application for credit before the end of the three-business-day period, then the lender need not provide the booklet to the borrower. If a borrower uses a mortgage broker, the mortgage broker shall distribute the special information booklet and the lender need not do so. The intent of this provision is that the applicant receive the special information booklet at the earliest possible date.

(2) In the case of a federally related mortgage loan involving an open-ended credit plan, as defined in § 226.2(a)(20) of Regulation Z (12 CFR), a lender or mortgage broker that provides the borrower with a copy of the brochure entitled "When Your Home is On the Line: What You Should Know About Home Equity Lines of Credit", or any successor brochure issued by the Board of Governors of the Federal Reserve System, is deemed to be in compliance with this section.

(3) In the categories of transactions set forth at the end of this paragraph, the lender or mortgage broker does not have to provide the booklet to the borrower. Under the authority of section 19(a) of RESPA (12 U.S.C. 2617(a)), the Secretary may issue a revised or separate special information booklet that deals with these transactions, or the Secretary may chose to endorse the forms or booklets of other Federal agencies. In such an event, the requirements for delivery by lenders and the availability of the booklet or alternate materials for these transactions will be set forth in a Notice in the **Federal Register**. This paragraph shall apply to the following transactions:

(i) Refinancing transactions;

(ii) Closed-end loans, as defined in 12 CFR 226.2(a)(10) of Regulation Z, when the lender takes a subordinate lien;

(iii) Reverse mortgages; and

(iv) Any other federally related mortgage loan whose purpose is not the purchase of a 1- to 4-family residential property.

(b) *Revision.* The Secretary may from time to time revise the special information booklet by publishing a notice in the **Federal Register**.

(c) *Reproduction.* The special information booklet may be reproduced in any form, provided that no change is made other than as provided under paragraph (d) of this section. The special information booklet may not be made a part of a larger document for purposes of distribution under RESPA and this section. Any color, size and quality of paper, type of print, and method of reproduction may be used so long as the booklet is clearly legible.

(d) *Permissible changes.* (1) No changes to, deletions from, or additions to the special information booklet currently prescribed by the Secretary shall be made other than those specified in this paragraph (d) or any others approved in writing by the Secretary. A request to the Secretary for approval of any changes shall be submitted in writing to the address indicated in § 3500.3, stating the reasons why the applicant believes such changes, deletions or additions are necessary.

(2) The cover of the booklet may be in any form and may contain any drawings, pictures or artwork, provided that the words "settlement costs" are used in the title. Names, addresses and telephone numbers of the lender or others and similar information may appear on the cover, but no discussion of the matters covered in the booklet shall appear on the cover.

(3) The special information booklet may be translated into languages other than English.

§ 3500.7 Good faith estimate.

(a) *Lender to provide.* Except as provided in this paragraph (a) or paragraph (f) of this section, the lender shall provide all applicants for a federally related mortgage loan with a good faith estimate of the amount of or range of charges for the specific settlement services the borrower is likely to incur in connection with the settlement. The lender shall provide the good faith estimate required under this section (a suggested format is set forth in Appendix C of this part) either by delivering the good faith estimate or by placing it in the mail to the loan applicant, not later than three business days after the application is received or prepared.

(1) If the lender denies the application for a federally related mortgage loan before the end of the three-business-day period, the lender need not provide the denied borrower with a good faith estimate.

(2) For "no cost" or "no point" loans, the charges to be shown on the good faith estimate include any payments to be made to affiliated or independent settlement service providers. These payments should be shown as P.O.C. (Paid Outside of Closing) on the Good Faith Estimate and the HUD–1 or HUD–1A.

(3) In the case of dealer loans, the lender is responsible for provision of the good faith estimate, either directly or by the dealer.

(4) If a mortgage broker is the exclusive agent of the lender, either the lender or the mortgage broker shall provide the good faith estimate within three business days after the mortgage broker receives or prepares the application.

(b) *Mortgage broker to provide.* In the event an application is received by a mortgage broker who is not an exclusive agent of the lender, the mortgage broker must provide a good faith estimate within three days of receiving a loan application based on his or her knowledge of the range of costs (a suggested format is set forth in Appendix C of this part). As long as the mortgage broker has provided the good faith estimate, the funding lender is not required to provide an additional good faith estimate, but the funding lender is responsible for ascertaining that the good faith estimate has been delivered. If the application for mortgage credit is denied before the end of the three-business-day period, the mortgage broker need not provide the denied borrower with a good faith estimate.

(c) *Content of good faith estimate.* A good faith estimate consists of an estimate, as a dollar amount or range, of each charge which:

(1) Will be listed in section L of the HUD–1 or HUD–1A in accordance with the instructions set forth in Appendix A to this part; and

(2) That the borrower will normally pay or incur at or before settlement based upon common practice in the locality of the mortgaged property. Each such estimate must be made in good faith and bear a reasonable relationship to the charge a borrower is likely to be required to pay at settlement, and must be based upon experience in the locality of the mortgaged property. As to each charge with respect to which the lender requires a particular settlement service provider to be used, the lender shall make its estimate based upon the lender's knowledge of the amounts charged by such provider.

(d) *Form of good faith estimate.* A suggested good faith estimate form is set forth in Appendix C to this part and is in compliance with the requirements of the Act except for any additional requirements of paragraph (e) of this section. The good faith estimate may be provided together with disclosures required by the Truth in Lending Act, 15 U.S.C. 1601 *et seq.*, so long as all required material for the good faith estimate is grouped together. The lender may include additional relevant information, such as the name/signature of the applicant and loan officer, date, and information identifying the loan application and property, as long as the form remains clear and concise and the additional information is not more prominent than the required material.

(e) *Particular providers required by lender.* (1) If the lender requires the use (see § 3500.2, "required use") of a particular provider of a settlement service, other than the lender's own employees, and also requires the borrower to pay any portion of the cost of such service, then the good faith estimate must:

(i) Clearly state that use of the particular provider is required and that the estimate is based on the charges of the designated provider;

(ii) Give the name, address, and telephone number of each provider; and

(iii) Describe the nature of any relationship between each such provider and the lender. Plain English references to the relationship should be utilized, e.g., "X is a depositor of the lender," "X is a borrower from the lender," "X has performed 60% of the lender's settlements in the past year." (The lender is not required to keep detailed records of the percentages of use. Similar language, such as "X was used [regularly] [frequently] in our settlements the past year" is also sufficient for the purposes of this paragraph.) In the event that more than one relationship exists, each should be disclosed.

(2) For purposes of paragraph (e)(1) of this section, a "relationship" exists if:

(i) The provider is an associate of the lender, as that term is defined in 12 U.S.C. 2602(8);

(ii) Within the last 12 months, the provider has maintained an account with the lender or had an outstanding loan or credit arrangement with the lender; or

(iii) The lender has repeatedly used or required borrowers to use the services of the provider within the last 12 months.

(3) Except for a provider that is the lender's chosen attorney, credit reporting agency, or appraiser, if the lender is in a controlled business relationship (see § 3500.15) with a provider, the lender may not require the use of that provider.

(4) If the lender maintains a controlled list of required providers (five or more for each discrete service) or relies on a list maintained by others, and at the time of application the lender has not yet decided which provider will be selected from that list, then the lender may satisfy the requirements of this section if the lender:

(i) Provides the borrower with a written statement that the lender will require a particular provider from a lender-controlled or -approved list; and

(ii) Provides the borrower in the Good Faith Estimate the range of costs for the required provider(s), and provides the name of the specific provider and the actual cost on the HUD–1 or HUD–1A.

(f) *Open-end lines of credit (home-equity plans) under Truth in Lending Act.* In the case of a federally related mortgage loan involving an open-end line of credit (home-equity plan) covered under the Truth in Lending Act and Regulation Z, a lender or mortgage broker that provides the borrower with the disclosures required by 12 CFR 226.5b of Regulation Z at the time the borrower applies for such loan shall be deemed to satisfy the requirements of this section.

(Approved by the Office of Management and Budget under control number 2502–0265)

§ 3500.8 Use of HUD–1 or HUD–1A settlement statements.

(a) *Use by settlement agent.* The settlement agent shall use the HUD–1 settlement statement in every settlement involving a federally related mortgage loan in which there is a borrower and a seller. For transactions in which there is a borrower and no seller, such as refinancing loans or subordinate lien loans, the HUD–1 may be utilized by using the borrower's side of the HUD–1 statement. Alternatively, the form HUD–1A may be used for these transactions. Either the HUD–1 or the HUD–1A, as appropriate, shall be used for every RESPA-covered transaction, unless its use is specifically exempted, but the HUD–1 or HUD–1A may be modified as permitted under this part. The use of the HUD–1 or HUD–1A is exempted for open-end lines of credit (home-equity plans) covered by the Truth in Lending Act and Regulation Z.

(b) *Charges to be stated.* The settlement agent shall complete the HUD–1 or HUD–1A in accordance with the instructions set forth in Appendix A to this part.

(c) *Aggregate Accounting At Settlement.* (1) After itemizing individual deposits in the 1000 series using single-item accounting, the servicer shall make an adjustment based on aggregate accounting. This adjustment equals the difference in the deposit required under aggregate accounting and the sum of the deposits required under single-item accounting. The computation steps for both accounting methods are set out in § 3500.17(d). The adjustment will always be a negative number or zero (–0–). The settlement agent shall enter the aggregate adjustment amount on a final line in the 1000 series of the HUD–1 or HUD–1A statement.

(2) During the phase-in period, as defined in § 3500.17(b), an alternative procedure is available. The settlement

agent may initially calculate the 1000 series deposits for the HUD–1 and HUD–1A settlement statement using single-item analysis with only a one-month cushion (unless the mortgage loan documents indicate a smaller amount). In the escrow account analysis conducted within 45 days of settlement, however, the servicer shall adjust the escrow account to reflect the aggregate accounting balance. Appendix F to this part sets out examples of aggregate analysis. Appendix A to this part contains instructions for completing the HUD–1 or HUD–1A settlement statements using an aggregate analysis adjustment and the alternative process during the phase-in period.

(Approved by the Office of Management and Budget under control numbers 2502–0265 and 2502–0491)

§ 3500.9 Reproduction of settlement statements.

(a) *Permissible changes—HUD–1.* The following changes and insertions are permitted when the HUD–1 settlement statement is reproduced:

(1) The person reproducing the HUD–1 may insert its business name and logotype in Section A and may rearrange, but not delete, the other information that appears in Section A.

(2) The name, address, and other information regarding the lender and settlement agent may be printed in Sections F and H, respectively.

(3) Reproduction of the HUD–1 must conform to the terminology, sequence, and numbering of line items as presented in lines 100–1400. However, blank lines or items listed in lines 100–1400 that are not used locally or in connection with mortgages by the lender may be deleted, except for the following: Lines 100, 120, 200, 220, 300, 301, 302, 303, 400, 420, 500, 520, 600, 601, 602, 603, 700, 800, 900, 1000, 1100, 1200, 1300, and 1400. The form may be shortened correspondingly. The number of a deleted item shall not be used for a substitute or new item, but the number of a blank space on the HUD–1 may be used for a substitute or new item.

(4) Charges not listed on the HUD–1, but that are customary locally or pursuant to the lender's practice, may be inserted in blank spaces. Where existing blank spaces on the HUD–1 are insufficient, additional lines and spaces may be added and numbered in sequence with spaces on the HUD–1.

(5) The following variations in layout and format are within the discretion of persons reproducing the HUD–1 and do not require prior HUD approval: size of pages; tint or color of pages; size and style of type or print; vertical spacing between lines or provision for additional horizontal space on lines (for example, to provide sufficient space for recording time periods used in prorations); printing of the HUD–1 contents on separate pages, on the front and back of a single page, or on one continuous page; use of multicopy tear-out sets; printing on rolls for computer purposes; reorganization of Sections B through I, when necessary to accommodate computer printing; and manner of placement of the HUD number, but not the OMB approval number, neither of which may be deleted. The designation of the expiration date of the OMB number may be deleted. Any changes in the HUD number or OMB approval number may be announced by notice in the **Federal Register**, rather than by amendment of this part.

(6) The borrower's information and the seller's information may be provided on separate pages.

(7) Signature lines may be added.

(8) The HUD–1 may be translated into languages other than English.

(9) An additional page may be attached to the HUD–1 for the purpose of including customary recitals and information used locally in real estate settlements; for example, breakdown of payoff figures, a breakdown of the borrower's total monthly mortgage payments, check disbursements, a statement indicating receipt of funds, applicable special stipulations between buyer and seller, and the date funds are transferred. If space permits, such information may be added at the end of the HUD–1.

(10) As required by HUD/FHA in FHA-insured loans.

(11) As allowed by § 3500.17, relating to an initial escrow account statement.

(b) *Permissible changes—HUD–1A.* The changes and insertions on the HUD–1 permitted under paragraph (a) of this section are also permitted when the HUD–1A settlement statement is reproduced, except the changes described in paragraphs (a) (3) and (6) of this section.

(c) *Written approval.* Any other deviation in the HUD–1 or HUD–1A forms is permissible only upon receipt of written approval of the Secretary. A request to the Secretary for approval shall be submitted in writing to the address indicated in § 3500.3 and shall state the reasons why the applicant believes such deviation is needed. The prescribed form(s) must be used until approval is received.

(Approved by the Office of Management and Budget under control numbers 2502–0265 and 2502–0491)

§ 3500.10 One-day advance inspection of HUD–1 or HUD–1A settlement statement; delivery; recordkeeping.

(a) *Inspection one day prior to settlement upon request by the borrower.* The settlement agent shall permit the borrower to inspect the HUD–1 or HUD–1A settlement statement, completed to set forth those items that are known to the settlement agent at the time of inspection, during the business day immediately preceding settlement. Items related only to the seller's transaction may be omitted from the HUD–1.

(b) *Delivery.* The settlement agent shall provide a completed HUD–1 or HUD–1A to the borrower, the seller (if there is one), the lender (if the lender is not the settlement agent), and/or their agents. When the borrower's and seller's copies of the HUD–1 or HUD–1A differ as permitted by the instructions in Appendix A to this part, both copies shall be provided to the lender (if the lender is not the settlement agent). The settlement agent shall deliver the completed HUD–1 or HUD–1A at or before the settlement, except as provided in paragraphs (c) and (d) of this section.

(c) *Waiver.* The borrower may waive the right to delivery of the completed HUD–1 or HUD–1A no later than at settlement by executing a written waiver at or before settlement. In such case, the completed HUD–1 or HUD–1A shall be mailed or delivered to the borrower, seller, and lender (if the lender is not the settlement agent) as soon as practicable after settlement.

(d) *Exempt transactions.* When the borrower or the borrower's agent does not attend the settlement, or when the settlement agent does not conduct a meeting of the parties for that purpose, the transaction shall be exempt from the requirements of paragraphs (a) and (b) of this section, except that the HUD–1 or HUD–1A shall be mailed or delivered as soon as practicable after settlement.

(e) *Recordkeeping.* The lender shall retain each completed HUD–1 or HUD–1A and related documents for five years after settlement, unless the lender disposes of its interest in the mortgage and does not service the mortgage. In that case, the lender shall provide its copy of the HUD–1 or HUD–1A to the owner or servicer of the mortgage as a part of the transfer of the loan file. Such owner or servicer shall retain the HUD–1 or HUD–1A for the remainder of the five-year period. The Secretary shall have the right to inspect or require copies of records covered by this paragraph (e).

(Approved by the Office of Management and Budget under control number 2502–0265)

§ 3500.11 Mailing.

The provisions of this part requiring or permitting mailing of documents shall be deemed to be satisfied by placing the document in the mail (whether or not received by the addressee) addressed to the addresses stated in the loan application or in other information submitted to or obtained by the lender at the time of loan application or submitted or obtained by the lender or settlement agent, except that a revised address shall be used where the lender or settlement agent has been expressly informed in writing of a change in address.

§ 3500.12 No fee.

No fee shall be imposed or charge made upon any other person, as a part of settlement costs or otherwise, by a lender in connection with a federally related mortgage loan made by it (or a loan for the purchase of a manufactured home), or by a servicer (as that term is defined under 12 U.S.C. 2605(i)(2)) for or on account of the preparation and distribution of the HUD–1 or HUD–1A settlement statement, escrow account statements required pursuant to section 10 of RESPA (12 U.S.C. 2609), or statements required by the Truth in Lending Act, 15 U.S.C. 1601 *et seq.*

§ 3500.13 Relation to State laws.

(a) State laws that are inconsistent with RESPA or this part are preempted to the extent of the inconsistency. However, RESPA and these regulations do not annul, alter, affect, or exempt any person subject to their provisions from complying with the laws of any State with respect to settlement practices, except to the extent of the inconsistency.

(b) Upon request by any person, the Secretary is authorized to determine if inconsistencies with State law exist; in doing so, the Secretary shall consult with appropriate Federal agencies.

(1) The Secretary may not determine that a State law or regulation is inconsistent with any provision of RESPA or this part, if the Secretary determines that such law or regulation gives greater protection to the consumer.

(2) In determining whether provisions of State law or regulations concerning controlled business arrangements are inconsistent with RESPA or this part, the Secretary may not construe those provisions that impose more stringent limitations on controlled business arrangements as inconsistent with RESPA so long as they give more protection to consumers and/or competition.

(c) Any person may request the Secretary to determine whether an inconsistency exists by submitting to the address indicated in § 3500.3, a copy of the State law in question, any other law or judicial or administrative opinion that implements, interprets or applies the relevant provision, and an explanation of the possible inconsistency. A determination by the Secretary that an inconsistency with State law exists will be made by publication of a notice in the **Federal Register**. "Law" as used in this section includes regulations and any enactment which has the force and effect of law and is issued by a State or any political subdivision of a State.

(d) A specific preemption of conflicting State laws regarding notices and disclosures of mortgage servicing transfers is set forth in § 3500.21(h).

§ 3500.14 Prohibition against kickbacks and unearned fees.

(a) *Section 8 violation.* Any violation of this section is a violation of section 8 of RESPA (12 U.S.C. 2607) and is subject to enforcement as such under § 3500.19.

(b) *No referral fees.* No person shall give and no person shall accept any fee, kickback or other thing of value pursuant to any agreement or understanding, oral or otherwise, that business incident to or part of a settlement service involving a federally related mortgage loan shall be referred to any person. Any referral of a settlement service is not a compensable service, except as set forth in § 3500.14(g)(1). A company may not pay any other company or the employees of any other company for the referral of settlement service business.

(c) *No split of charges except for actual services performed.* No person shall give and no person shall accept any portion, split, or percentage of any charge made or received for the rendering of a settlement service in connection with a transaction involving a federally related mortgage loan other than for services actually performed. A charge by a person for which no or nominal services are performed or for which duplicative fees are charged is an unearned fee and violates this section. The source of the payment does not determine whether or not a service is compensable. Nor may the prohibitions of this Part be avoided by creating an arrangement wherein the purchaser of services splits the fee.

(d) *Thing of value.* This term is broadly defined in section 3(2) of RESPA (12 U.S.C. 2602(2)). It includes, without limitation, monies, things, discounts, salaries, commissions, fees, duplicate payments of a charge, stock, dividends, distributions of partnership profits, franchise royalties, credits representing monies that may be paid at a future date, the opportunity to participate in a money-making program, retained or increased earnings, increased equity in a parent or subsidiary entity, special bank deposits or accounts, special or unusual banking terms, services of all types at special or free rates, sales or rentals at special prices or rates, lease or rental payments based in whole or in part on the amount of business referred, trips and payment of another person's expenses, or reduction in credit against an existing obligation. The term "payment" is used throughout §§ 3500.14 and 3500.15 as synonymous with the giving or receiving any "thing of value" and does not require transfer of money.

(e) *Agreement or understanding.* An agreement or understanding for the referral of business incident to or part of a settlement service need not be written or verbalized but may be established by a practice, pattern or course of conduct. When a thing of value is received repeatedly and is connected in any way with the volume or value of the business referred, the receipt of the thing of value is evidence that it is made pursuant to an agreement or understanding for the referral of business.

(f) *Referral.*—(1) A referral includes any oral or written action directed to a person which has the effect of affirmatively influencing the selection by any person of a provider of a settlement service or business incident to or part of a settlement service when such person will pay for such settlement service or business incident thereto or pay a charge attributable in whole or in part to such settlement service or business.

(2) A referral also occurs whenever a person paying for a settlement service or business incident thereto is required to use (see § 3500.2, "required use") a particular provider of a settlement service or business incident thereto.

(g) *Fees, salaries, compensation, or other payments.* (1) Section 8 of RESPA permits:

(i) A payment to an attorney at law for services actually rendered;

(ii) A payment by a title company to its duly appointed agent for services actually performed in the issuance of a policy of title insurance;

(iii) A payment by a lender to its duly appointed agent or contractor for services actually performed in the origination, processing, or funding of a loan;

(iv) A payment to any person of a *bona fide* salary or compensation or other payment for goods or facilities

actually furnished or for services actually performed;

(v) A payment pursuant to cooperative brokerage and referral arrangements or agreements between real estate agents and real estate brokers. (The statutory exemption restated in this paragraph refers only to fee divisions within real estate brokerage arrangements when all parties are acting in a real estate brokerage capacity, and has no applicability to any fee arrangements between real estate brokers and mortgage brokers or between mortgage brokers.);

(vi) Normal promotional and educational activities that are not conditioned on the referral of business and that do not involve the defraying of expenses that otherwise would be incurred by persons in a position to refer settlement services or business incident thereto;

(vii) An employer's payment to its own employees for any referral activities; or

(viii) Any payment by a borrower for computer loan origination services, so long as the disclosure set forth in Appendix E of this part is provided the borrower.

(2) The Department may investigate high prices to see if they are the result of a referral fee or a split of a fee. If the payment of a thing of value bears no reasonable relationship to the market value of the goods or services provided, then the excess is not for services or goods actually performed or provided. These facts may be used as evidence of a violation of section 8 and may serve as a basis for a RESPA investigation. High prices standing alone are not proof of a RESPA violation. The value of a referral (i.e., the value of any additional business obtained thereby) is not to be taken into account in determining whether the payment exceeds the reasonable value of such goods, facilities or services. The fact that the transfer of the thing of value does not result in an increase in any charge made by the person giving the thing of value is irrelevant in determining whether the act is prohibited.

(3) *Multiple services.* When a person in a position to refer settlement service business, such as an attorney, mortgage lender, real estate broker or agent, or developer or builder, receives a payment for providing additional settlement services as part of a real estate transaction, such payment must be for services that are actual, necessary and distinct from the primary services provided by such person. For example, for an attorney of the buyer or seller to receive compensation as a title agent, the attorney must perform core title agent services (for which liability arises) separate from attorney services, including the evaluation of the title search to determine the insurability of the title, the clearance of underwriting objections, the actual issuance of the policy or policies on behalf of the title insurance company, and, where customary, issuance of the title commitment, and the conducting of the title search and closing.

(h) *Recordkeeping.* Any documents provided pursuant to this section shall be retained for five (5) years from the date of execution.

(i) *Appendix B of this part.* Illustrations in Appendix B of this part demonstrate some of the requirements of this section.

§ 3500.15 Controlled business arrangements.

(a) *General.* A controlled business arrangement is defined in section 3(7) of RESPA (12 U.S.C. 2602(7)).

(b) *Violation and exemption.* A controlled business arrangement is not a violation of section 8 of RESPA (12 U.S.C. 2607) and of § 3500.14 if the conditions set forth in this section are satisfied.

(1) The person making each referral has provided to each person whose business is referred a written disclosure, in the format of the Controlled Business Arrangement Disclosure Statement set forth in Appendix D of this part, of the nature of the relationship (explaining the ownership and financial interest) between the provider of settlement services (or business incident thereto) and the person making the referral and of an estimated charge or range of charges generally made by such provider (which describes the charge using the same terminology, as far as practical, as section L of the HUD–1 settlement statement). The disclosures must be provided on a separate piece of paper no later than the time of each referral or, if the lender requires use of a particular provider, the time of loan application, except that:

(i) Where a lender makes the referral to a borrower, the condition contained in paragraph (b)(1) of this section may be satisfied at the time that the good faith estimate or a statement under § 3500.7(d) is provided; and

(ii) Whenever an attorney or law firm requires a client to use a particular title insurance agent, the attorney or law firm shall provide the disclosures no later than the time the attorney or law firm is engaged by the client. Failure to comply with the disclosure requirements of this section may be overcome if the person making a referral can prove by a preponderance of the evidence that procedures reasonably adopted to result in compliance with these conditions have been maintained and that any failure to comply with these conditions was unintentional and the result of a *bona fide* error. An error of legal judgment with respect to a person's obligations under RESPA is not a *bona fide* error. Administrative and judicial interpretations of section 130(c) of the Truth in Lending Act shall not be binding interpretations of the preceding sentence or section 8(d)(3) of RESPA (12 U.S.C. 2607(d)(3)).

(2) No person making a referral has required (as defined in § 3500.2, "required use") any person to use any particular provider of settlement services or business incident thereto, except if such person is a lender, for requiring a buyer, borrower or seller to pay for the services of an attorney, credit reporting agency, or real estate appraiser chosen by the lender to represent the lender's interest in a real estate transaction, or except if such person is an attorney or law firm for arranging for issuance of a title insurance policy for a client, directly as agent or through a separate corporate title insurance agency that may be operated as an adjunct to the law practice of the attorney or law firm, as part of representation of that client in a real estate transaction.

(3) The only thing of value that is received from the arrangement other than payments listed in § 3500.14(g) is a return on an ownership interest or franchise relationship.

(i) In a controlled business arrangement:

(A) *Bona fide* dividends, and capital or equity distributions, related to ownership interest or franchise relationship, between entities in an affiliate relationship, are permissible; and

(B) *Bona fide* business loans, advances, and capital or equity contributions between entities in an affiliate relationship (in any direction), are not prohibited—so long as they are for ordinary business purposes and are not fees for the referral of settlement service business or unearned fees.

(ii) A return on an ownership interest does not include:

(A) Any payment which has as a basis of calculation no apparent business motive other than distinguishing among recipients of payments on the basis of the amount of their actual, estimated or anticipated referrals;

(B) Any payment which varies according to the relative amount of referrals by the different recipients of similar payments; or

(C) A payment based on an ownership, partnership or joint venture share which has been adjusted on the basis of previous relative referrals by recipients of similar payments.

(iii) Neither the mere labelling of a thing of value, nor the fact that it may be calculated pursuant to a corporate or partnership organizational document or a franchise agreement, will determine whether it is a *bona fide* return on an ownership interest or franchise relationship. Whether a thing of value is such a return will be determined by analyzing facts and circumstances on a case by case basis.

(iv) A return on franchise relationship may be a payment to or from a franchisee but it does not include any payment which is not based on the franchise agreement, nor any payment which varies according to the number or amount of referrals by the franchisor or franchisee or which is based on a franchise agreement which has been adjusted on the basis of a previous number or amount of referrals by the franchiser or franchisees. A franchise agreement may not be constructed to insulate against kickbacks or referral fees.

(c) *Definitions.* As used in this section:

(1) *Associate* is defined in section 3(8) of RESPA (12 U.S.C. 2602(8)).

(2) *Affiliate relationship* means the relationship among business entities where one entity has effective control over the other by virtue of a partnership or other agreement or is under common control with the other by a third entity or where an entity is a corporation related to another corporation as parent to subsidiary by an identity of stock ownership.

(3) *Beneficial ownership* means the effective ownership of an interest in a provider of settlement services or the right to use and control the ownership interest involved even though legal ownership or title may be held in another person's name.

(4) *Control,* as used in the definitions of "associate" and "affiliate relationship," means that a person:

(i) Is a general partner, officer, director, or employer of another person;

(ii) Directly or indirectly or acting in concert with others, or through one or more subsidiaries, owns, holds with power to vote, or holds proxies representing, more than 20 percent of the voting interests of another person;

(iii) Affirmatively influences in any manner the election of a majority of the directors of another person; or

(iv) Has contributed more than 20 percent of the capital of the other person.

(5) *Direct ownership* means the holding of legal title to an interest in a provider of settlement service except where title is being held for the beneficial owner.

(6) *Franchise* is defined in 16 CFR 436.2(a).

(7) *Franchisor* is defined in 16 CFR 436.2(c).

(8) *Franchisee* is defined in 16 CFR 436.2(d).

(9) *Person who is in a position to refer settlement service business* means any real estate broker or agent, lender, mortgage broker, builder or developer, attorney, title company, title agent, or other person deriving a significant portion of his or her gross income from providing settlement services.

(d) *Recordkeeping.* Any documents provided pursuant to this section shall be retained for 5 years after the date of execution.

(e) *Appendix B of this part.* Illustrations in Appendix B of this part demonstrate some of the requirements of this section.

§ 3500.16 Title companies.

No seller of property that will be purchased with the assistance of a federally related mortgage loan shall violate section 9 of RESPA (12 U.S.C. 2608). Section 3500.2 defines "required use" of a provider of a settlement service. Section 3500.19(c) explains the liability of a seller for a violation of this section.

§ 3500.17 Escrow accounts.

(a) *General.* This section sets out the requirements for an escrow account that a lender establishes in connection with a federally related mortgage loan. It sets limits for escrow accounts using calculations based on monthly payments and disbursements within a calendar year. If an escrow account involves biweekly or any other payment period, the requirements in this section shall be modified accordingly. A HUD Public Guidance Document entitled "Biweekly Payments—Example" provides examples of biweekly accounting and a HUD Public Guidance Document entitled "Annual Escrow Account Disclosure Statement—Example" provides examples of a 3-year accounting cycle that may be used in accordance with paragraph (c)(9) of this section.

(b) *Definitions.* As used in this section:

Acceptable accounting method means an accounting method that a servicer uses to conduct an escrow account analysis for an escrow account subject to the provisions of § 3500.17(c).

Aggregate (or) composite analysis, hereafter called *aggregate analysis,* means an accounting method a servicer uses in conducting an escrow account analysis by computing the sufficiency of escrow account funds by analyzing the account as a whole. Appendix F to this part sets forth examples of aggregate escrow account analyses.

Annual Escrow Account Statement means a statement containing all of the information set forth in § 3500.17(i). As noted in § 3500.17(i), a servicer shall submit an annual escrow account statement to the borrower within 30 calendar days of the end of the escrow account computation year, after conducting an escrow account analysis.

Conversion date means the date three years after the publication date of the rule adding this section (i.e., October 27, 1997) by which date all servicers shall use aggregate analysis.

Cushion or reserve (hereafter cushion) means funds that a servicer may require a borrower to pay into an escrow account to cover unanticipated disbursements or disbursements made before the borrower's payments are available in the account, as limited by § 3500.17(c).

Deficiency is the amount of a negative balance in an escrow account. As noted in § 3500.17(f), if a servicer advances funds for a borrower, then the servicer must perform an escrow account analysis before seeking repayment of the deficiency.

Delivery means the placing of a document in the United States mail, first-class postage paid, addressed to the last known address of the recipient. Hand delivery also constitutes delivery.

Disbursement date means the date on which the servicer actually pays an escrow item from the escrow account. Section 3500.17(k) provides that the servicer shall use as the disbursement date a date on or before the earlier of the deadline to take advantage of discounts, if available, or the deadline to avoid a penalty.

Escrow account means any account that a servicer establishes or controls on behalf of a borrower to pay taxes, insurance premiums (including flood insurance), or other charges with respect to a federally related mortgage loan, including charges that the borrower and servicer have voluntarily agreed that the servicer should collect and pay. The definition encompasses any account established for this purpose, including a "trust account", "reserve account", "impound account", or other term in different localities. An "escrow account" includes any arrangement where the servicer adds a portion of the borrower's payments to principal and subsequently deducts from principal the disbursements for escrow account items.

For purposes of this section, the term "escrow account" excludes any account that is under the borrower's total control.

Escrow account analysis means the accounting that a servicer conducts in the form of a trial running balance for an escrow account to:

(1) Determine the appropriate target balances;

(2) Compute the borrower's monthly payments for the next escrow account computation year and any deposits needed to establish or maintain the account; and

(3) Determine whether shortages, surpluses or deficiencies exist.

Escrow account computation year is a 12-month period that a servicer establishes for the escrow account beginning with the borrower's initial payment date. The term includes each 12-month period thereafter, unless a servicer chooses to issue a short year statement under the conditions stated in § 3500.17(i)(4).

Escrow account item or *separate item* means any separate expenditure category, such as "taxes" or "insurance", for which funds are collected in the escrow account for disbursement. An escrow account item with installment payments, such as local property taxes, remains one escrow account item regardless of multiple disbursement dates to the tax authority.

Initial escrow account statement means the first disclosure statement that the servicer delivers to the borrower concerning the borrower's escrow account. The initial escrow account statement shall meet the requirements of § 3500.17(g) and be in substantially the format set forth in § 3500.17(h).

Installment payment means one of two or more payments payable on an escrow account item during an escrow account computation year. An example of an installment payment is where a jurisdiction bills quarterly for taxes.

Payment due date means the date each month when the borrower's monthly payment to an escrow account is due to the servicer. The initial payment date is the borrower's first payment due date to an escrow account.

Phase-in period means the period beginning on the effective date of this final rule and ending on the conversion date, i.e., October 27, 1997, by which date all servicers shall use the aggregate accounting method in conducting escrow account analyses.

Post-rule account means an escrow account established in connection with a federally related mortgage loan whose settlement date is on or after the effective date of this section.

Pre-accrual is a practice some servicers use to require borrowers to deposit funds, needed for disbursement and maintenance of a cushion, in the escrow account some period before the disbursement date. Pre-accrual is subject to the limitations of § 3500.17(c).

Pre-rule account is an escrow account established in connection with a federally related mortgage loan whose settlement date is before the effective date of this rule.

Shortage means an amount by which a current escrow account balance falls short of the target balance at the time of escrow analysis.

Single-item analysis means an accounting method servicers use in conducting an escrow account analysis by computing the sufficiency of escrow account funds by considering each escrow item separately. Appendix F to this part sets forth examples of single-item analysis.

Submission (of an escrow account statement) means the delivery of the statement.

Surplus means an amount by which the current escrow account balance exceeds the target balance for the account.

System of recordkeeping means the servicer's method of keeping information that reflects the facts relating to that servicer's handling of the borrower's escrow account, including, but not limited to, the payment of amounts from the escrow account and the submission of initial and annual escrow account statements to borrowers.

Target balance means the estimated month end balance in an escrow account that is just sufficient to cover the remaining disbursements from the escrow account in the escrow account computation year, taking into account the remaining scheduled periodic payments, and a cushion, if any.

Trial running balance means the accounting process that derives the target balances over the course of an escrow account computation year. Section 3500.17(d) provides a description of the steps involved in performing a trial running balance.

(c) *Limits on payments to escrow accounts; acceptable accounting methods to determine limits.*

(1) A lender or servicer (hereafter servicer) shall not require a borrower to deposit into any escrow account, created in connection with a federally related mortgage loan, more than the following amounts:

(i) *Charges at settlement or upon creation of an escrow account.* At the time a servicer creates an escrow account for a borrower, the servicer may charge the borrower an amount sufficient to pay the charges respecting the mortgaged property, such as taxes and insurance, which are attributable to the period from the date such payment(s) were last paid until the initial payment date. The "amount sufficient to pay" is computed so that the lowest month end target balance projected for the escrow account computation year is zero (–0–) (see Step 2 in Appendix F to this part). In addition, the servicer may charge the borrower a cushion that shall be no greater than one-sixth (⅙) of the estimated total annual payments from the escrow account.

(ii) *Charges during the life of the escrow account.* Throughout the life of an escrow account, the servicer may charge the borrower a monthly sum equal to one-twelfth (1/12) of the total annual escrow payments which the servicer reasonably anticipates paying from the account. In addition, the servicer may add an amount to maintain a cushion no greater than one-sixth (⅙) of the estimated total annual payments from the account. However, if a servicer determines through an escrow account analysis that there is a shortage or deficiency, the servicer may require the borrower to pay additional deposits to make up the shortage or eliminate the deficiency, subject to the limitations set forth in § 3500.17(f).

(2) *Escrow analysis at creation of escrow account.* Before establishing an escrow account, the servicer shall conduct an escrow account analysis to determine the amount the borrower shall deposit into the escrow account, subject to the limitations of § 3500.17(c)(1)(i) and the amount of the borrower's periodic payments into the escrow account, subject to the limitations of § 3500.17(c)(1)(ii). In conducting the escrow account analysis, the servicer shall estimate the disbursement amounts according to § 3500.17(c)(7). Pursuant to § 3500.17(k), the servicer shall use a date on or before the earlier of the deadline to take advantage of discounts, if available, or the deadline to avoid a penalty as the disbursement date for the escrow item. Upon completing the initial escrow account analysis, the servicer shall prepare and deliver an initial escrow account statement to the borrower, as set forth in § 3500.17(g). The servicer shall use the escrow account analysis to determine whether a surplus, shortage or deficiency exists since settlement and shall make any adjustments to the account pursuant to § 3500.17(f).

(3) Subsequent escrow account analyses. For each escrow account, the servicer shall conduct an escrow account analysis at the completion of the escrow account computation year to determine the borrower's monthly escrow account payments for the next computation year, subject to the limitations of § 3500.17(c)(1)(ii). In conducting the escrow account analysis, the servicer shall estimate the disbursement amounts according to § 3500.17(c)(7). Pursuant to § 3500.17(k), the servicer shall use a date on or before the earlier of the deadline to take advantage of discounts, if available, or the deadline to avoid a penalty as the disbursement date for the escrow item. The servicer shall use the escrow account analysis to determine whether a surplus, shortage or deficiency exists and shall make any adjustments to the account pursuant to § 3500.17(f). Upon completing an escrow account analysis, the servicer shall prepare and submit an annual escrow account statement to the borrower, as set forth in § 3500.17(i).

(4) Acceptable accounting methods to determine escrow limits. The following are acceptable accounting methods that servicers may use in conducting an escrow account analysis.

(i) Pre-rule accounts. For pre-rule accounts, servicers may use either single-item analysis or aggregate-analysis during the phase-in period. In conducting the escrow account analysis, servicers shall use "month-end" accounting. Under month-end accounting, the timing of the disbursements and payments within the month is irrelevant. As of the conversion date, all pre-rule accounts shall comply with the requirements for post-rule accounts in paragraph (c)(4)(ii) of this section. During the phase-in period, the transfer of servicing of a pre-rule account to another servicer does not convert the account to a post-rule account. After the effective date of this rule, refinancing transactions (as defined in § 3500.2) shall comply with the requirements for post-rule accounts.

(ii) Post-rule accounts. For post-rule accounts, servicers shall use aggregate accounting to conduct an escrow account analysis. In conducting the escrow account analysis, servicers shall use "month-end" accounting. Under month-end accounting, the timing of the disbursements and payments within the month is irrelevant.

(5) *Cushion.* For post-rule accounts, the cushion shall be no greater than one-sixth (⅙) of the estimated total annual disbursements from the escrow account using aggregate analysis accounting. For pre-rule accounts, the cushion may not exceed the total of one-sixth of the estimated annual disbursements for each escrow account item using single-item analysis accounting. In determining the cushion using single-item analysis, a servicer shall not divide an escrow account item into sub-accounts, even if the payee requires installment payments.

(6) *Restrictions on pre-accrual.* For pre-rule accounts, a servicer shall not require any pre-accrual that results in the escrow account balance exceeding the limits of paragraph (c)(1) of this section. In addition, if the mortgage documents in a pre-rule account are silent about the amount of pre-accrual, the servicer shall not require in excess of one month of pre-accrual, subject to the additional limitations provided in paragraph (c)(8) of this section. For post-rule accounts, a servicer shall not practice pre-accrual.

(7) *Servicer estimates of disbursement amounts.* To conduct an escrow account analysis, the servicer shall estimate the amount of escrow account items to be disbursed. If the servicer knows the charge for an escrow item in the next computation year, then the servicer shall use that amount in estimating disbursement amounts. If the charge is unknown to the servicer, the servicer may base the estimate on the preceding year's charge, or the preceding year's charge as modified by an amount not exceeding the most recent year's change in the national Consumer Price Index for all urban consumers (CPI, all items). In cases of unassessed new construction, the servicer may base an estimate on the assessment of comparable residential property in the market area.

(8) *Provisions in mortgage documents.* The servicer shall examine the mortgage loan documents to determine the applicable cushion and limitations on pre-accrual for each escrow account. If the mortgage loan documents provide for lower cushion limits or less pre-accrual than this section, then the terms of the loan documents apply. Where the terms of any mortgage loan document allow greater payments to an escrow account than allowed by this section, then this section controls the applicable limits. Where the mortgage loan documents do not specifically establish an escrow account, whether a servicer may establish an escrow account for the loan is a matter for determination by State law. If the mortgage loan document is silent on the escrow account limits (for cushion or pre-accrual) and a servicer establishes an escrow account under State law, then the limitations of this section apply unless State law provides for a lower amount. If the loan documents provide for escrow accounts up to the RESPA limits, then the servicer may require the maximum amounts consistent with this section, unless an applicable State law sets a lesser amount.

(9) *Assessments for periods longer than one year.* Some escrow account items may be billed for periods longer than one year. For example, servicers may need to collect flood insurance or water purification escrow funds for payment every three years. In such cases, the servicer shall estimate the borrower's payments for a full cycle of disbursements. For a flood insurance premium payable every 3 years, the servicer shall collect the payments reflecting 36 equal monthly amounts. For two out of the three years, however, the account balance may not reach its low monthly balance because the low point will be on a three-year cycle, as compared to an annual one. The annual escrow account statement shall explain this situation (see example in the HUD Public Guidance Document entitled "Annual Escrow Account Disclosure Statement—Example", available in accordance with § 3500.3).

(d) *Methods of escrow account analysis.* Paragraph (c) of this section prescribes acceptable accounting methods. The following sets forth the steps servicers shall use to determine whether their use of an acceptable accounting method conforms with the limitations in § 3500.17(c)(1). The steps set forth in this section derive maximum limits. Servicers may use accounting procedures that result in lower target balances. In particular, servicers may use a cushion less than the permissible cushion or no cushion at all. This section does not require the use of a cushion.

(1) *Aggregate analysis.* (i) When a servicer uses aggregate analysis in conducting the escrow account analysis, the target balances may not exceed the balances computed according to the following arithmetic operations:

(A) The servicer first projects a trial balance for the account as a whole over the next computation year (a trial running balance). In doing so the servicer assumes that it will make estimated disbursements on or before the earlier of the deadline to take advantage of discounts, if available, or the deadline to avoid a penalty. The servicer does not use pre-accrual on these disbursement dates. The servicer also assumes that the borrower will make monthly payments equal to one-twelfth of the estimated total annual escrow account disbursements.

(B) The servicer then examines the monthly trial balances and adds to the first monthly balance an amount just sufficient to bring the lowest monthly trial balance to zero, and adjusts all other monthly balances accordingly.

(C) The servicer then adds to the monthly balances the permissible cushion. The cushion is two months of the borrower's escrow payments to the servicer or a lesser amount specified by State law or the mortgage document (net of any increases or decreases because of prior year shortages or surpluses, respectively).

(ii) *Lowest monthly balance.* Under aggregate analysis, the lowest monthly target balance for the account shall be less than or equal to one-sixth of the estimated total annual escrow account disbursements or a lesser amount specified by State law or the mortgage document. The target balances that the servicer derives using these steps yield the maximum limit for the escrow account. Appendix F to this part illustrates these steps.

(2) *Single-item or other non-aggregate analysis method.* (i) When a servicer uses single-item analysis or any hybrid accounting method in conducting an escrow account analysis during the phase-in period, the target balances may not exceed the balances computed according to the following arithmetic operations:

(A) The servicer first projects a trial balance for each item over the next computation year (a trial running balance). In doing so the servicer assumes that it will make estimated disbursements on or before the earlier of the deadline to take advantage of discounts, if available, or the deadline to avoid a penalty. The servicer does not use pre-accrual on these disbursement dates. The servicer also assumes that the borrower will make periodic payments equal to one-twelfth of the estimated total annual escrow account disbursements.

(B) The servicer then examines the monthly trial balance for each escrow account item and adds to the first monthly balance for each separate item an amount just sufficient to bring the lowest monthly trial balance for that item to zero, and then adjusts all other monthly balances accordingly.

(C) The servicer then adds the permissible cushion, if any, to the monthly balance for the separate escrow account item. The permissible cushion is two months of escrow payments for the escrow account item (net of any increases or decreases because of prior year shortages or surpluses, respectively) or a lesser amount specified by State law or the mortgage document.

(D) The servicer then examines the balances for each item to make certain that the lowest monthly balance for that item is less than or equal to one-sixth of the estimated total annual escrow account disbursements for that item or a lesser amount specified by State law or the mortgage document.

(ii) In performing an escrow account analysis using single-item analysis, servicers may account for each escrow account item separately, but servicers shall not further divide accounts into sub-accounts, even if the payee of a disbursement requires installment payments. The target balances that the servicer derives using these steps yield the maximum limit for the escrow account. Appendix F to this part illustrates these steps.

(e) *Transfer of servicing.* (1) If the new servicer changes either the monthly payment amount or the accounting method used by the transferor (old) servicer, then the new servicer shall provide the borrower with an initial escrow account statement within 60 days of the date of servicing transfer.

(i) Where a new servicer provides an initial escrow account statement upon the transfer of servicing, the new servicer shall use the effective date of the transfer of servicing to establish the new escrow account computation year.

(ii) Where the new servicer retains the monthly payments and accounting method used by the transferor servicer, then the new servicer may continue to use the escrow account computation year established by the transferor servicer or may choose to establish a different computation year using a short-year statement. At the completion of the escrow account computation year or any short year, the new servicer shall perform an escrow analysis and provide the borrower with an annual escrow account statement.

(2) The new servicer shall treat shortages, surpluses and deficiencies in the transferred escrow account according to the procedures set forth in § 3500.17(f).

(3) A pre-rule account remains a pre-rule account upon the transfer of servicing to a new servicer so long as the transfer occurs before the conversion date.

(f) *Shortages, surpluses, and deficiencies requirements.* (1) *Escrow account analysis.* For each escrow account, the servicer shall conduct an escrow account analysis to determine whether a surplus, shortage or deficiency exists.

(i) As noted in § 3500.17(c) (2) and (3), the servicer shall conduct an escrow account analysis upon establishing an escrow account and at completion of the escrow account computation year.

(ii) The servicer may conduct an escrow account analysis at other times during the escrow computation year. If a servicer advances funds in paying a disbursement, which is not the result of a borrower's payment default under the underlying mortgage document, then the servicer shall conduct an escrow account analysis to determine the extent of the deficiency before seeking repayment of the funds from the borrower under this paragraph (f).

(2) *Surpluses.* (i) If an escrow account analysis discloses a surplus, the servicer shall, within 30 days from the date of the analysis, refund the surplus to the borrower if the surplus is greater than or equal to 50 dollars ($50). If the surplus is less than 50 dollars ($50), the servicer may refund such amount to the borrower, or credit such amount against the next year's escrow payments.

(ii) These provisions regarding surpluses apply if the borrower is current at the time of the escrow account analysis. A borrower is current if the servicer receives the borrower's payments within 30 days of the payment due date. If the servicer does not receive the borrower's payment within 30 days of the payment due date, then the servicer may retain the surplus in the escrow account pursuant to the terms of the mortgage loan documents.

(3) *Shortages.* (i) If an escrow account analysis discloses a shortage of less than one month's escrow account payment, then the servicer has three possible courses of action:

(A) The servicer may allow a shortage to exist and do nothing to change it;

(B) The servicer may require the borrower to repay the shortage amount within 30 days; or

(C) The servicer may require the borrower to repay the shortage amount in equal monthly payments over at least a 12-month period.

(ii) If an escrow account analysis discloses a shortage that is greater than or equal to one month's escrow account payment, then the servicer has two possible courses of action:

(A) The servicer may allow a shortage to exist and do nothing to change it; or

(B) The servicer may require the borrower to repay the shortage in equal monthly payments over at least a 12-month period.

(4) *Deficiency.* If the escrow account analysis confirms a deficiency, then the servicer may require the borrower to pay additional monthly deposits to the account to eliminate the deficiency.

(i) If the deficiency is less than one month's escrow account payment, then the servicer:

(A) May allow the deficiency to exist and do nothing to change it;

(B) May require the borrower to repay the deficiency within 30 days; or

(C) May require the borrower to repay the deficiency in 2 or more equal monthly payments.

(ii) If the deficiency is greater than or equal to 1 month's escrow payment, the servicer may allow the deficiency to exist and do nothing to change it or may require the borrower to repay the deficiency in two or more equal monthly payments.

(iii) These provisions regarding deficiencies apply if the borrower is current at the time of the escrow account analysis. A borrower is current if the servicer receives the borrower's payments within 30 days of the payment due date. If the servicer does not receive the borrower's payment within 30 days of the payment due date, then the servicer may recover the deficiency pursuant to the terms of the mortgage loan documents.

(5) *Notice of Shortage or Deficiency in Escrow Account.* The servicer shall notify the borrower at least once during the escrow account computation year if there is a shortage or deficiency in the escrow account. The notice may be part of the annual escrow account statement or it may be a separate document.

(g) *Initial Escrow Account Statement.* (1) Submission at settlement, or within 45 calendar days of settlement. As noted in § 3500.17(c)(2), the servicer shall conduct an escrow account analysis before establishing an escrow account to determine the amount the borrower shall deposit into the escrow account, subject to the limitations of § 3500.17(c)(1)(i). After conducting the escrow account analysis for each escrow account, the servicer shall submit an initial escrow account statement to the borrower at settlement or within 45 calendar days of settlement for escrow accounts that are established as a condition of the loan.

(i) The initial escrow account statement shall include the amount of the borrower's monthly mortgage payment and the portion of the monthly payment going into the escrow account and shall itemize the estimated taxes, insurance premiums, and other charges that the servicer reasonably anticipates to be paid from the escrow account during the escrow account computation year and the anticipated disbursement dates of those charges. The initial escrow account statement shall indicate the amount that the servicer selects as a cushion. The statement shall include a trial running balance for the account.

(ii) Pursuant to § 3500.17(h)(2), the servicer may incorporate the initial escrow account statement into the HUD–1 or HUD–1A settlement statement. If the servicer does not incorporate the initial escrow account statement into the HUD–1 or HUD–1A settlement statement, then the servicer shall submit the initial escrow account statement to the borrower as a separate document.

(2) *Time of submission of initial escrow account statement for an escrow account established after settlement.* For escrow accounts established after settlement (and which are not a condition of the loan), a servicer shall submit an initial escrow account statement to a borrower within 45 calendar days of the date of establishment of the escrow account.

(h) *Format for initial escrow account statement.* (1) The format and a completed example for an initial escrow account statement are set out in HUD Public Guidance Documents entitled "Initial Escrow Account Disclosure Statement—Format" and "Initial Escrow Account Disclosure Statement—Example", available in accordance with § 3500.3.

(2) *Incorporation of Initial Escrow Account Statement Into HUD–1 or HUD–1A Settlement Statement.* Pursuant to § 3500.9(a)(11), a servicer may add the initial escrow account statement to the HUD–1 or HUD–1A settlement statement. The servicer may include the initial escrow account statement in the basic text or may attach the initial escrow account statement as an additional page to the HUD–1 or HUD–1A settlement statement.

(3) *Identification of Payees.* The initial escrow account statement need not identify a specific payee by name if it provides sufficient information to identify the use of the funds. For example, appropriate entries include: county taxes, hazard insurance, condominium dues, etc. If a particular payee, such as a taxing body, receives more than one payment during the escrow account computation year, the statement shall indicate each payment and disbursement date. If there are several taxing authorities or insurers, the statement shall identify each taxing body or insurer (e.g., "City Taxes", "School Taxes", "Hazard Insurance", or "Flood Insurance," etc.).

(i) *Annual Escrow Account Statements.* For each escrow account, a servicer shall submit an annual escrow account statement to the borrower within 30 days of the completion of the escrow account computation year. The servicer shall also submit to the borrower the previous year's projection or initial escrow account statement. The servicer shall conduct an escrow account analysis before submitting an annual escrow account statement to the borrower.

(1) *Contents of Annual Escrow Account Statement.* The annual escrow account statement shall provide an account history, reflecting the activity in the escrow account during the escrow account computation year, and a projection of the activity in the account for the next year. In preparing the statement, the servicer may assume scheduled payments and disbursements will be made for the final 2 months of the escrow account computation year. The annual escrow account statement shall include, at a minimum, the following:

(i) The amount of the borrower's current monthly mortgage payment and the portion of the monthly payment going into the escrow account;

(ii) The amount of the past year's monthly mortgage payment and the portion of the monthly payment that went into the escrow account;

(iii) The total amount paid into the escrow account during the past computation year;

(iv) The total amount paid out of the escrow account during the same period for taxes, insurance premiums, and other charges;

(v) The balance in the escrow account at the end of the period;

(vi) An explanation of how any surplus is being handled by the servicer;

(vii) An explanation of how any shortage or deficiency is to be paid by the borrower; and

(viii) If applicable, the reason(s) why the estimated low monthly balance was not reached, as indicated by noting differences between the most recent account history and last year's projection. HUD Public Guidance Documents entitled "Annual Escrow Account Disclosure Statement—Format" and "Annual Escrow Account Disclosure Statement—Example" set forth an acceptable format and methodology for conveying this information.

(2) *No annual statements in the case of default, foreclosure, or bankruptcy.* This paragraph (i)(2) contains an exemption from the provisions of § 3500.17(i)(1). If at the time the servicer conducts the escrow account analysis the borrower is more than 30 days overdue, then the servicer is exempt from the requirements of submitting an annual escrow account statement to the borrower under § 3500.17(i). This exemption also applies in situations where the servicer has brought an action for foreclosure under the underlying mortgage loan, or where the borrower is in bankruptcy proceedings. If the servicer does not issue an annual statement pursuant to this exemption and the loan subsequently is reinstated

or otherwise becomes current, the servicer shall provide a history of the account since the last annual statement (which may be longer than 1 year) within 90 days of the date the account became current.

(3) *Delivery with other material.* The servicer may deliver the annual escrow account statement to the borrower with other statements or materials, including the Substitute 1098, which is provided for federal income tax purposes.

(4) *Short year statements.* A servicer may issue a short year annual escrow account statement ("short year statement") to change one escrow account computation year to another. By using a short year statement a servicer may adjust its production schedule or alter the escrow account computation year for the escrow account.

(i) *Effect of short year statement.* The short year statement shall end the "escrow account computation year" for the escrow account and establish the beginning date of the new escrow account computation year. The servicer shall deliver the short year statement to the borrower within 60 days from the end of the short year.

(ii) *Short year statement upon servicing transfer.* Upon the transfer of servicing, the transferor (old) servicer shall submit a short year statement to the borrower within 60 days of the effective date of transfer.

(iii) *Short year statement upon loan payoff.* If a borrower pays off a mortgage loan during the escrow account computation year, the servicer shall submit a short year statement to the borrower within 60 days after receiving the pay-off funds.

(j) *Formats for annual escrow account statement.* The formats and completed examples for annual escrow account statements using single-item analysis (pre-rule accounts) and aggregate analysis are set out in HUD Public Guidance Documents entitled "Annual Escrow Account Disclosure Statement—Format" and "Annual Escrow Account Disclosure Statement—Example".

(k) *Timely payments.* (1) If the terms of any federally related mortgage loan require the borrower to make payments to an escrow account, the servicer shall pay the disbursements in a timely manner, that is, by the disbursement date, so long as the borrower's payment is not more than 30 days overdue. In calculating the disbursement date, the servicer shall use a date on or before the earlier of the deadline to take advantage of discounts, if available, or the deadline to avoid a penalty.

(2) The servicer shall advance funds to make disbursements in a timely manner so long as the borrower's payment is not more than 30 days overdue. Upon advancing funds to pay a disbursement, the servicer may seek repayment from the borrower for the deficiency pursuant to § 3500.17(f).

(l) *System of recordkeeping.* (1) Each servicer shall keep records, which may involve electronic storage, microfiche storage, or any method of computerized storage, so long as the information is easily retrievable, reflecting the servicer's handling of each borrower's escrow account. The servicer's records shall include, but not be limited to, the payment of amounts into and from the escrow account and the submission of initial and annual escrow account statements to the borrower.

(2) The servicer responsible for servicing the borrower's escrow account shall maintain the records for that account for a period of at least five years after the servicer last serviced the escrow account.

(3) A servicer shall provide the Secretary with information contained in the servicer's records for a specific escrow account, or for a number or class of escrow accounts, within 30 days of the Secretary's written request for the information. The servicer shall convert any information contained in electronic storage, microfiche or computerized storage to paper copies for review by the Secretary.

(i) To aid in investigations, the Secretary may also issue an administrative subpoena for the production of documents, and for the testimony of such witnesses as the Secretary deems advisable.

(ii) If the subpoenaed party refuses to obey the Secretary's administrative subpoena, the Secretary is authorized to seek a court order requiring compliance with the subpoena from any United States district court. Failure to obey such an order of the court may be punished as contempt of court.

(4) Borrowers may seek information contained in the servicer's records by complying with the provisions set forth in 12 U.S.C. 2605(e) and § 3500.21(f).

(5) After receiving a request (by letter or subpoena) from the Department for information relating to whether a servicer submitted an escrow account statement to the borrower, the servicer shall respond within 30 days. If the servicer is unable to provide the Department with such information, the Secretary shall deem that lack of information to be evidence of the servicer's failure to submit the statement to the borrower.

(m) *Penalties.* A servicer's failure to submit to a borrower an initial or annual escrow account statement meeting the requirements of this part shall constitute a violation of section 10(d) of RESPA (12 U.S.C. 2609(d)) and this section. For each such violation, the Secretary shall assess a civil penalty in accordance with section 10(d) of RESPA.

(n) *Civil penalties procedures.* The following procedures shall apply whenever the Department seeks to impose a civil money penalty for violation of section 10(c) of RESPA (12 U.S.C. 2609(c)):

(1) *Purpose and scope.* This paragraph (n) explains the procedures by which the Secretary may impose penalties under 12 U.S.C. 2609(d). These procedures include administrative hearings, judicial review, and collection of penalties. This paragraph (n) governs penalties imposed under 12 U.S.C. 2609(d) and, when noted, adopts those portions of 24 CFR part 30, subpart E, that apply to all other civil penalty proceedings initiated by the Secretary.

(2) *Authority.* The Secretary has the authority to impose civil penalties under section 10(d) of RESPA (12 U.S.C. 2609(d)).

(3) *Notice of intent to impose civil money penalties.* Whenever the Secretary intends to impose a civil money penalty for violations of section 10(c) of RESPA (12 U.S.C. 2609(c)), the responsible program official, or his or her designee, shall serve a written Notice of Intent to Impose Civil Money Penalties (Notice of Intent) upon any servicer on which the Secretary intends to impose the penalty. A copy of the Notice of Intent must be filed with the Chief Docket Clerk, Office of Administrative Law Judges, at the address provided in the Notice of Intent. The Notice of Intent will provide:

(i) A short, plain statement of the facts upon which the Secretary has determined that a civil money penalty should be imposed, including a brief description of the specific violations under 12 U.S.C. 2609(c) with which the servicer is charged and whether such violations are believed to be intentional or unintentional in nature, or a combination thereof;

(ii) The amount of the civil money penalty that the Secretary intends to impose and whether the limitations in 12 U.S.C. 2609(d)(1), apply;

(iii) The right of the servicer to a hearing on the record to appeal the Secretary's preliminary determination to impose a civil penalty;

(iv) The procedures to appeal the penalty;

(v) The consequences of failure to appeal the penalty; and

(vi) The name, address, and telephone number of the representative of the Department, and the address of the Chief Docket Clerk, Office of Administrative Law Judges, should the servicer decide to appeal the penalty.

(4) *Appeal procedures.* (i) *Answer.* To appeal the imposition of a penalty, a servicer shall, within 30 days after receiving service of the Notice of Intent, file a written Answer with the Chief Docket Clerk, Office of Administrative Law Judges, Department of Housing and Urban Development, at the address provided in the Notice of Intent. The Answer shall include a statement that the servicer admits, denies, or does not have (and is unable to obtain) sufficient information to admit or deny each allegation made in the Notice of Intent. A statement of lack of information shall have the effect of a denial. Any allegation that is not denied shall be deemed admitted. Failure to submit an Answer within the required period of time will result in a decision by the Administrative Law Judge based upon the Department's submission of evidence in the Notice of Intent.

(ii) *Submission of evidence.* A servicer that receives the Notice of Intent has a right to present evidence. Evidence must be submitted within 45 calendar days from the date of service of the Notice of Intent, or by such other time as may be established by the Administrative Law Judge (ALJ). The servicer's failure to submit evidence within the required period of time will result in a decision by the Administrative Law Judge based upon the Department's submission of evidence in the Notice of Intent. The servicer may present evidence of the following:

(A) The servicer did submit the required escrow account statement(s) to the borrower(s); or

(B) Even if the servicer did not submit the required statement(s), that the failure was not the result of an intentional disregard of the requirements of RESPA (for purposes of determining the penalty).

(iii) *Review of the record.* The Administrative Law Judge will review the evidence submitted by the servicer, if any, and that submitted by the Department. The Administrative Law Judge shall make a determination based upon a review of the written record, except that the Administrative Law Judge may order an oral hearing if he or she finds that the determination turns on the credibility or veracity of a witness, or that the matter cannot be resolved by review of the documentary evidence. If the Administrative Law Judge decides that an oral hearing is appropriate, then the procedural rules set forth at 24 CFR part 30, subpart E, shall apply, to the extent that they are not inconsistent with this section.

(iv) *Burden of Proof.* The burden of proof or the burden of going forward with the evidence shall be upon the proponent of an action. The Department's submission of evidence that the servicer's system of records lacks information that the servicer submitted the escrow account statement(s) to the borrower(s) shall satisfy the Department's burden. Upon the Department's presentation of evidence of this lack of information in the servicer's system of records, the burden of proof shifts from the Secretary to the servicer to provide evidence that it submitted the statement(s) to the borrower.

(v) *Standard of Proof.* The standard of proof shall be the preponderance of the evidence.

(5) *Determination of the Administrative Law Judge.*

(i) Following the hearing or the review of the written record, the Administrative Law Judge shall issue a decision that shall contain findings of fact, conclusions of law, and the amount of any penalties imposed. The decision shall include a determination of whether the servicer has failed to submit any required statements and, if so, whether the servicer's failure was the result of an intentional disregard for the law's requirements.

(ii) The Administrative Law Judge shall issue the decision to all parties within 30 days of the submission of the evidence or the post-hearing briefs, whichever is the last to occur.

(iii) The decision of the Administrative Law Judge shall constitute the final decision of the Department and shall be final and binding on the parties.

(6) *Judicial review.* (i) A person against whom the Department has imposed a civil money penalty under this part may obtain a review of the Department's final decision by filing a written petition for a review of the record with the appropriate United States district court.

(ii) The petition must be filed within 30 days after the decision is filed with the Chief Docket Clerk, Office of Administrative Law Judges.

(7) *Collection of penalties.* (i) If any person fails to comply with the Department's final decision imposing a civil money penalty, the Secretary, if the time for judicial review of the decision has expired, may request the Attorney General to bring an action in an appropriate United States district court to obtain a judgment against the person that has failed to comply with the Department's final decision.

(ii) In any such collection action, the validity and appropriateness of the Department's final decision imposing the civil penalty shall not be subject to review in the district court.

(iii) The Secretary may obtain such other relief as may be available, including attorney fees and other expenses in connection with the collection action.

(iv) Interest on and other charges for any unpaid penalty may be assessed in accordance with 31 U.S.C. 3717.

(8) *Offset.* In addition to any other rights as a creditor, the Secretary may seek to collect a civil money penalty through administrative offset.

(9) At any time before the decision of the Administrative Law Judge, the Secretary and the servicer may enter into an administrative settlement. The settlement may include provisions for interest, attorney's fees, and costs related to the proceeding. Such settlement will terminate the appearance before the Administrative Law Judge.

(o) *Discretionary payments.* Any borrower's discretionary payment (such as credit life or disability insurance) made as part of a monthly mortgage payment is to be noted on the initial and annual statements. If a discretionary payment is established or terminated during the escrow account computation year, this change should be noted on the next annual statement. A discretionary payment is not part of the escrow account unless the payment is required by the lender, in accordance with the definition of "settlement service" in § 3500.2, or the servicer chooses to place the discretionary payment in the escrow account. If a servicer has not established an escrow account for a federally related mortgage loan and only receives payments for discretionary items, this section is not applicable.

(Approved by the Office of Management and Budget under control number 2502–0501)

§ 3500.18 Validity of contracts and liens.

Section 17 of RESPA (12 U.S.C. 2615) governs the validity of contracts and liens under RESPA.

§ 3500.19 Enforcement.

(a) *Enforcement Policy.* It is the policy of the Secretary regarding RESPA enforcement matters to cooperate with Federal, State or local agencies having supervisory powers over lenders or other persons with responsibilities under RESPA. Federal agencies with supervisory powers over lenders may use their powers to require compliance with RESPA. In addition, failure to comply with RESPA may be grounds for administrative action by the Secretary under part 24 of this title concerning debarment, suspension, ineligibility of

contractors and grantees, or under part 25 of this title concerning the HUD Mortgagee Review Board. Nothing in this paragraph is a limitation on any other form of enforcement which may be legally available.

(b) *Violations of section 8 of RESPA (12 U.S.C. 2607), § 3500.14, or § 3500.15.* Any person who violates §§ 3500.14 or 3500.15 shall be deemed to violate Section 8 of RESPA and shall be sanctioned accordingly.

(c) *Violations of section 9 of RESPA (12 U.S.C..2608) or § 3500.16.* Any person who violates Section 3500.16 of this part shall be deemed to violate Section 9 of RESPA and shall be sanctioned accordingly.

(d) *Investigations.* The procedures for investigations and investigational proceedings are set forth in 24 CFR part 3800.

§ 3500.21 Mortgage servicing transfers.

(a) *Definitions.* As used in this section:

Master servicer means the owner of the right to perform servicing, which may actually perform the servicing itself or may do so through a subservicer.

Mortgage servicing loan means a federally related mortgage loan, as that term is defined in § 3500.2, subject to the exemptions in § 3500.5, when the mortgage loan is secured by a first lien. The definition does not include subordinate lien loans or open-end lines of credit (home equity plans) covered by the Truth in Lending Act and Regulation Z, including open-end lines of credit secured by a first lien.

Qualified written request means a written correspondence from the borrower to the servicer prepared in accordance with paragraph (e)(2) of this section.

Subservicer means a servicer who does not own the right to perform servicing, but who does so on behalf of the master servicer.

Transferee servicer means a servicer who obtains or who will obtain the right to perform servicing functions pursuant to an agreement or understanding.

Transferor servicer means a servicer, including a table funding mortgage broker or dealer on a first lien dealer loan, who transfers or will transfer the right to perform servicing functions pursuant to an agreement or understanding.

(b) *Servicing Disclosure Statement and Applicant Acknowledgement; requirements.* (1) At the time an application for a mortgage servicing loan is submitted, or within 3 business days after submission of the application, the lender, mortgage broker who anticipates using table funding, or dealer who anticipates a first lien dealer loan shall provide to each person who applies for such a loan a Servicing Disclosure Statement. This requirement shall not apply when the application for credit is turned down within three business days after receipt of the application. A format for the Servicing Disclosure Statement appears as Appendix MS–1 to this part. Except as provided in paragraph (b)(2) of this section, the specific language of the Servicing Disclosure Statement is not required to be used, but the Servicing Disclosure Statement must include the information set out in paragraph (b)(3) of this section, including the statement of the borrower's rights in connection with complaint resolution. The information set forth in Instructions to Preparer on the Servicing Disclosure Statement need not be included on the form given to applicants, and material in square brackets is optional or alternative language.

(2) The Applicant's Acknowledgement portion of the Servicing Disclosure Statement in the format stated is mandatory. Additional lines may be added to accommodate more than two applicants.

(3) The Servicing Disclosure Statement must contain the following information, except as provided in paragraph (b)(3)(ii) of this section:

(i) Whether the servicing of the loan may be assigned, sold or transferred to any other person at any time while the loan is outstanding. If the lender, table funding mortgage broker, or dealer in a first lien dealer loan does not engage in the servicing of any mortgage servicing loans, the disclosure may consist of a statement to the effect that there is a current intention to assign, sell, or transfer servicing of the loan.

(ii) The percentages (rounded to the nearest quartile (25%)) of mortgage servicing loans originated by the lender in each calendar year for which servicing has been assigned, sold, or transferred for such calendar year. Compliance with this paragraph (b)(3)(ii) is not required if the lender, table funding mortgage broker, or dealer on a first lien dealer loan chooses option B in the model format in paragraph (b)(4) of this section, including in square brackets the language "[and have not serviced mortgage loans in the last three years.]". The percentages shall be provided as follows:

(A) This information shall be set out for the most recent three calendar years completed, with percentages as of the end of each year. This information shall be updated in the disclosure no later than March 31 of the next calendar year. Each percentage should be obtained by using as the numerator the number of mortgage servicing loans originated during the calendar year for which servicing is transferred within the calendar year and, as the denominator, the total number of mortgage servicing loans originated in the calendar year. If the volume of transfers is less than 12.5 percent, the word "nominal" or the actual percentage amount of servicing transfers may be used.

(B) This statistical information does not have to include the assignment, sale, or transfer of mortgage loan servicing by the lender to an affiliate or subsidiary of the lender. However, lenders may voluntarily include transfers to an affiliate or subsidiary. The lender should indicate whether the percentages provided include assignments, sales, or transfers to affiliates or subsidiaries.

(C) In the alternative, if applicable, the following statement may be substituted for the statistical information required to be provided in accordance with paragraph (b)(3)(ii) of this section: "We have previously assigned, sold, or transferred the servicing of federally related mortgage loans."

(iii) The best available estimate of the percentage (0 to 25 percent, 26 to 50 percent, 51 to 75 percent, or 76 to 100 percent) of all loans to be made during the 12-month period beginning on the date of origination for which the servicing may be assigned, sold, or transferred. Each percentage should be obtained by using as the numerator the estimated number of mortgage servicing loans that will be originated for which servicing may be transferred within the 12-month period and, as the denominator, the estimated total number of mortgage servicing loans that will be originated in the 12-month period.

(A) If the lender, mortgage broker, or dealer anticipates that no loan servicing will be sold during the calendar year, the word "none" may be substituted for "0 to 25 percent." If it is anticipated that all loan servicing will be sold during the calendar year, the word "all" may be substituted for "76 to 100 percent."

(B) This statistical information does not have to include the estimated assignment, sale, or transfer of mortgage loan servicing to an affiliate or subsidiary of that person. However, this information may be provided voluntarily. The Servicing Disclosure Statements should indicate whether the percentages provided include assignments, sales or transfers to affiliates or subsidiaries.

(iv) The information set out in paragraphs (d) and (e) of this section.

(v) A written acknowledgement that the applicant (and any co-applicant) has/have read and understood the disclosure, and understand that the disclosure is a required part of the mortgage application. This acknowledgement shall be evidenced by the signature of the applicant and any co-applicant.

(4) The following is a model format, which includes several options, for complying with the requirements of paragraph (b)(3) of this section. The model format may be annotated with additional information that clarifies or enhances the model language. The lender or table funding mortgage broker (or dealer) should use the language that best describes the particular circumstances.

(i) *Model Format:* The following is the best estimate of what will happen to the servicing of your mortgage loan:

(A) *Option A.* We may assign, sell, or transfer the servicing of your loan while the loan is outstanding. [We are able to service your loan[.][,] and we [will] [will not] [haven't decided whether to] service your loan.]; or

(B) *Option B.* We do not service mortgage loans[.][,] [and have not serviced mortgage loans in the past three years.] We presently intend to assign, sell, or transfer the servicing of your mortgage loan. You will be informed about your servicer.

(C) As appropriate, the following paragraph may be used:

We assign, sell, or transfer the servicing of some of our loans while the loans are outstanding, depending on the type of loan and other factors. For the program for which you have applied, we expect to [assign, sell, or transfer all of the mortgage servicing][retain all of the mortgage servicing] [assign, sell, or transfer _____% of the mortgage servicing].

(ii) [Reserved]

(c) *Servicing Disclosure Statement and Applicant Acknowledgement; delivery.* The lender, table funding mortgage broker, or dealer that anticipates a first lien dealer loan shall deliver Servicing Disclosure Statements to each applicant for mortgage servicing loans. Each applicant or co-applicant must sign an Acknowledgement of receipt of the Servicing Disclosure Statement before settlement.

(1) In the case of a face-to-face interview with one or more applicants, the Servicing Disclosure Statement shall be delivered at the time of application. An applicant present at the interview may sign the Acknowledgment on his or her own behalf at that time. An applicant present at the interview also may accept delivery of the Servicing Disclosure Statement on behalf of the other applicants.

(2) If there is no face-to-face interview, the Servicing Disclosure Statement shall be delivered by placing it in the mail, with prepaid first-class postage, within 3 business days from receipt of the application. If co-applicants indicate the same address on their application, one copy delivered to that address is sufficient. If different addresses are shown by co-applicants on the application, a copy must be delivered to each of the co-applicants.

(3) The signed Applicant Acknowledgment(s) shall be retained for a period of 5 years after the date of settlement as part of the loan file for every settled loan. There is no requirement for retention of Applicant Acknowledgment(s) if the loan is not settled.

(d) *Notices of Transfer; loan servicing.* (1) Requirement for notice. (i) Except as provided in this paragraph (d)(1)(i) or paragraph (d)(1)(ii) of this section, each transferor servicer and transferee servicer of any mortgage servicing loan shall deliver to the borrower a written Notice of Transfer, containing the information described in paragraph (d)(3) of this section, of any assignment, sale, or transfer of the servicing of the loan. The following transfers are not considered an assignment, sale, or transfer of mortgage loan servicing for purposes of this requirement if there is no change in the payee, address to which payment must be delivered, account number, or amount of payment due:

(A) Transfers between affiliates;

(B) Transfers resulting from mergers or acquisitions of servicers or subservicers; and

(C) Transfers between master servicers, where the subservicer remains the same.

(ii) The Federal Housing Administration (FHA) is not required under paragraph (d) of this section to submit to the borrower a Notice of Transfer in cases where a mortgage insured under the National Housing Act is assigned to FHA.

(2) *Time of notice.* (i) Except as provided in paragraph (d)(2)(ii) of this section:

(A) The transferor servicer shall deliver the Notice of Transfer to the borrower not less than 15 days before the effective date of the transfer of the servicing of the mortgage servicing loan;

(B) The transferee servicer shall deliver the Notice of Transfer to the borrower not more than 15 days after the effective date of the transfer; and

(C) The transferor and transferee servicers may combine their notices into one notice, which shall be delivered to the borrower not less than 15 days before the effective date of the transfer of the servicing of the mortgage servicing loan.

(ii) The Notice of Transfer shall be delivered to the borrower by the transferor servicer or the transferee servicer not more than 30 days after the effective date of the transfer of the servicing of the mortgage servicing loan in any case in which the transfer of servicing is preceded by:

(A) Termination of the contract for servicing the loan for cause;

(B) Commencement of proceedings for bankruptcy of the servicer; or

(C) Commencement of proceedings by the Federal Deposit Insurance Corporation (FDIC) or the Resolution Trust Corporation (RTC) for conservatorship or receivership of the servicer or an entity that owns or controls the servicer.

(iii) Notices of Transfer delivered at settlement by the transferor servicer and transferee servicer, whether as separate notices or as a combined notice, will satisfy the timing requirements of paragraph (d)(2) of this section.

(3) *Notices of Transfer; contents.* The Notices of Transfer required under paragraph (d) of this section shall include the following information:

(i) The effective date of the transfer of servicing;

(ii) The name, consumer inquiry addresses (including, at the option of the servicer, a separate address where qualified written requests must be sent), and a toll-free or collect-call telephone number for an employee or department of the transferee servicer;

(iii) A toll-free or collect-call telephone number for an employee or department of the transferor servicer that can be contacted by the borrower for answers to servicing transfer inquiries;

(iv) The date on which the transferor servicer will cease to accept payments relating to the loan and the date on which the transferee servicer will begin to accept such payments. These dates shall either be the same or consecutive days;

(v) Information concerning any effect the transfer may have on the terms or the continued availability of mortgage life or disability insurance, or any other type of optional insurance, and any action the borrower must take to maintain coverage;

(vi) A statement that the transfer of servicing does not affect any other term or condition of the mortgage documents, other than terms directly related to the servicing of the loan; and

(vii) A statement of the borrower's rights in connection with complaint resolution, including the information set forth in paragraph (e) of this section. Appendix MS–2 of this part illustrates a statement satisfactory to the Secretary.

(4) *Notices of Transfer; sample notice.* Sample language that may be used to comply with the requirements of paragraph (d) of this section is set out in Appendix MS–2 of this part. Minor modifications to the sample language may be made to meet the particular circumstances of the servicer, but the substance of the sample language shall not be omitted or substantially altered.

(5) *Consumer protection during transfer of servicing.* During the 60-day period beginning on the effective date of transfer of the servicing of any mortgage servicing loan, if the transferor servicer (rather than the transferee servicer that should properly receive payment on the loan) receives payment on or before the applicable due date (including any grace period allowed under the loan documents), a late fee may not be imposed on the borrower with respect to that payment and the payment may not be treated as late for any other purposes.

(e) *Duty of loan servicer to respond to borrower inquiries.*

(1) *Notice of receipt of inquiry.* Within 20 business days of a servicer of a mortgage servicing loan receiving a qualified written request from the borrower for information relating to the servicing of the loan, the servicer shall provide to the borrower a written response acknowledging receipt of the qualified written response. This requirement shall not apply if the action requested by the borrower is taken within that period and the borrower is notified of that action in accordance with the paragraph (f)(3) of this section. By notice either included in the Notice of Transfer or separately delivered by first-class mail, postage prepaid, a servicer may establish a separate and exclusive office and address for the receipt and handling of qualified written requests.

(2) *Qualified written request; defined.* (i) For purposes of paragraph (e) of this section, a qualified written request means a written correspondence (other than notice on a payment coupon or other payment medium supplied by the servicer) that includes, or otherwise enables the servicer to identify, the name and account of the borrower, and includes a statement of the reasons that the borrower believes the account is in error, if applicable, or that provides sufficient detail to the servicer regarding information relating to the servicing of the loan sought by the borrower.

(ii) A written request does not constitute a qualified written request if it is delivered to a servicer more than 1 year after either the date of transfer of servicing or the date that the mortgage servicing loan amount was paid in full, whichever date is applicable.

(3) *Action with respect to the inquiry.* Not later than 60 business days after receiving a qualified written request from the borrower, and, if applicable, before taking any action with respect to the inquiry, the servicer shall:

(i) Make appropriate corrections in the account of the borrower, including the crediting of any late charges or penalties, and transmit to the borrower a written notification of the correction. This written notification shall include the name and telephone number of a representative of the servicer who can provide assistance to the borrower; or

(ii) After conducting an investigation, provide the borrower with a written explanation or clarification that includes:

(A) To the extent applicable, a statement of the servicer's reasons for concluding the account is correct and the name and telephone number of an employee, office, or department of the servicer that can provide assistance to the borrower; or

(B) Information requested by the borrower, or an explanation of why the information requested is unavailable or cannot be obtained by the servicer, and the name and telephone number of an employee, office, or department of the servicer that can provide assistance to the borrower.

(4) Protection of credit rating. (i) During the 60-business day period beginning on the date of the servicer receiving from a borrower a qualified written request relating to a dispute on the borrower's payments, a servicer may not provide adverse information regarding any payment that is the subject of the qualified written request to any consumer reporting agency (as that term is defined in section 603 of the Fair Credit Reporting Act, 15 U.S.C. 1681a).

(ii) In accordance with section 17 of RESPA (12 U.S.C. 2615), the protection of credit rating provision of paragraph (e)(4)(i) of this section does not impede a lender or servicer from pursuing any of its remedies, including initiating foreclosure, allowed by the underlying mortgage loan instruments.

(f) *Damages and costs.* (1) Whoever fails to comply with any provision of this section shall be liable to the borrower for each failure in the following amounts:

(i) *Individuals.* In the case of any action by an individual, an amount equal to the sum of any actual damages sustained by the individual as the result of the failure and, when there is a pattern or practice of noncompliance with the requirements of this section, any additional damages in an amount not to exceed $1,000.

(ii) *Class Actions.* In the case of a class action, an amount equal to the sum of any actual damages to each borrower in the class that result from the failure and, when there is a pattern or practice of noncompliance with the requirements of this section, any additional damages in an amount not greater than $1,000 for each class member. However, the total amount of any additional damages in a class action may not exceed the lesser of § 500,000 or 1 percent of the net worth of the servicer.

(iii) *Costs.* In addition, in the case of any successful action under paragraph (f) of this section, the costs of the action and any reasonable attorneys' fees incurred in connection with the action.

(2) *Nonliability.* A transferor or transferee servicer shall not be liable for any failure to comply with the requirements of this section, if within 60 days after discovering an error (whether pursuant to a final written examination report or the servicer's own procedures) and before commencement of an action under this section and the receipt of written notice of the error from the borrower, the servicer notifies the person concerned of the error and makes whatever adjustments are necessary in the appropriate account to ensure that the person will not be required to pay an amount in excess of any amount that the person otherwise would have paid.

(g) *Timely payments by servicer.* If the terms of any mortgage servicing loan require the borrower to make payments to the servicer of the loan for deposit into an escrow account for the purpose of assuring payment of taxes, insurance premiums, and other charges with respect to the mortgaged property, the servicer shall make payments from the escrow account in a timely manner for the taxes, insurance premiums, and other charges as the payments become due, as governed by the requirements in § 3500.17(k).

(h) *Preemption of State laws.* A lender who makes a mortgage servicing loan or a servicer shall be considered to have complied with the provisions of any State law or regulation requiring notice to a borrower at the time of application for a loan or transfer of servicing of a loan if the lender or servicer complies with the requirements of this section. Any State law requiring notice to the borrower at the time of application or at the time of transfer of servicing of the loan is preempted, and there shall be no additional borrower disclosure requirements. Provisions of State law, such as those requiring additional notices to insurance companies or taxing authorities, are not preempted by section 6 of RESPA or this section, and this additional information may be added to a notice prepared under this section, if the procedure is allowable under State law.

(Approved by the Office of Management and Budget under control number 2502–0458)

3. Appendix A is amended by revising the heading of the appendix to read as follows:

Appendix A to Part 3500—Instructions for Completing HUD–1 and HUD–1A Settlement Statements; Sample HUD 1 and HUD 1A Statements

4. Appendix B is amended in Illustration 11, in the paragraph headed "Comments," by substituting the reference "section 3500.14(g)(1)" for the reference "Section 3500.14(g)(2)".

5. Appendix MS–2 is revised to read as follows:

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APPENDIX MS-2 to PART 3500

[Sample language; use business stationery or similar heading]

NOTICE OF ASSIGNMENT, SALE, OR TRANSFER OF SERVICING RIGHTS

You are hereby notified that the servicing of your mortgage loan, that is, the right to collect payments from you, is being assigned, sold or transferred from _____ to _____, effective _____.

The assignment, sale or transfer of the servicing of the mortgage loan does not affect any term or condition of the mortgage instruments, other than terms directly related to the servicing of your loan.

Except in limited circumstances, the law requires that your present servicer send you this notice at least 15 days before the effective date of transfer, or at closing. Your new servicer must also send you this notice no later that 15 days after this effective date or at closing. [In this case, all necessary information is combined in this one notice].

Your present servicer is _____.
If you have any questions relating to the transfer of servicing from your present servicer call _____ [enter the name of an individual or department here] between _____ a.m. and _____ p.m. on the following days _____.
This is a [toll-free] or [collect call] number.

Your new servicer will be _____.

The business address for your new servicer is:
_____
_____.

The [toll-free] [collect call] telephone number of your new servicer is _____. If you have any questions relating to the transfer of servicing to your new servicer call _____ [enter the name of an individual or department here] at _____ [toll free or collect call telephone number] between _____ a.m. and _____ p.m. on the following days _____.

The date that your present servicer will stop accepting payments from you is _____. The date that your new servicer will start accepting payments from you is _____. Send all payments due on or after that date to your new servicer.

[Use this paragraph if appropriate; otherwise omit] The transfer of servicing rights may affect the terms of or the continued availability of mortgage life or disability insurance or any other type of optional insurance in the following manner:
_____
_____
_____
_____
_____
and you should take the following action to maintain coverage:
_____
_____
_____.

You should also be aware of the following information, which is set out in more detail in Section 6 of the Real Estate Settlement Procedures Act (RESPA) (12 U.S.C. 2605):

During the 60-day period following the effective date of the transfer of the loan servicing, a loan payment received by your old servicer before its due date may not be treated by the new loan servicer as late, and a late fee may not be imposed on you.

Section 6 of RESPA (12 U.S.C. 2605) gives you certain consumer rights. If you send a "qualified written request" to your loan servicer concerning the servicing of your loan, your servicer must provide you with a written acknowledgment within 20 Business Days of receipt of your request. A "qualified written request" is a written correspondence, other than notice on a payment coupon or other payment medium supplied by the servicer, which includes your name and account number, and your reasons for the request. [If you want to send a "qualified written request" regarding the servicing of your loan, it must be sent to this address:
_____
_____]

Not later than 60 Business Days after receiving your request, your servicer must make any appropriate corrections to your account, and must provide you with a written clarification regarding any dispute. During this 60-Business Day period, your servicer may not provide information to a consumer reporting agency concerning any overdue payment related to such period or qualified written request. However, this does not prevent the servicer from initiating foreclosure if proper grounds exist under the mortgage documents.

A Business Day is a day on which the offices of the business entity are open to the public for carrying on substantially all of its business functions.

Section 6 of RESPA also provides for damages and costs for individuals or classes of individuals in circumstances where servicers are shown to have violated the requirements of that Section. You should seek legal advice if you believe your rights have been violated.

[INSTRUCTIONS TO PREPARER: Delivery means placing the notice in the mail, first class postage prepaid, prior to 15 days before the effective date of transfer (transferor) or prior to 15 days after the effective date of transfer (transferee). However, this notice may be sent not more than 30 days after the effective date of the transfer of servicing rights if certain emergency business situations occur. See 24 CFR § 3500.21(d)(1)(ii). "Lender" may be substituted for "present servicer" where appropriate. These instructions should not appear on the format.]

PRESENT SERVICER [Signature not required] Date

[and][or]

FUTURE SERVICER [Signature not required] Date

Dated: March 6, 1996.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner,

[FR Doc. 96–6511 Filed 3–25–96; 8:45 am]

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Tuesday
March 26, 1996

Part III

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 165
Beverages: Bottled Water; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 165

[Docket No. 93N–0085]

Beverages: Bottled Water

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the quality standard for bottled water by establishing or revising allowable levels for 5 inorganic chemicals (IOC's) and 17 synthetic organic chemicals (SOC's), including 3 synthetic volatile organic chemicals (VOC's), 9 pesticide chemicals, and 5 nonpesticide chemicals. However, FDA is staying the effective date for the allowable levels for the 5 IOC's and 4 of the SOC's. FDA also is not changing the existing allowable level for sulfate in the bottled water quality standard. In addition, FDA is deferring final action on the proposed allowable level for the nonpesticide chemical di(2-ethylhexyl)phthalate (DEHP). This final rule will ensure that the minimum quality of bottled water, as affected by at least the 13 chemicals for which allowable levels are adopted and effective, remains comparable with the quality of public drinking water that meets the Environmental Protection Agency (EPA) standards.

DATES: The regulation is effective September 23, 1996. The Director of the Office of the Federal Register approves the incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 of certain publications in 21 CFR 165.110(b)(4)(iii), effective September 23, 1996.

FOR FURTHER INFORMATION CONTACT: Henry S. Kim, Center For Food Safety and Applied Nutrition (HFS–306), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–205–4681.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 410 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 349), whenever EPA prescribes interim or revised National Primary Drinking Water Regulations (NPDWR's) under section 1412 of the Public Health Service Act (The Safe Drinking Water Act (SDWA) (42 U.S.C. 300f through 300j–9)), FDA is required to consult with EPA and either amend its regulations for bottled drinking water in § 165.110 (21 CFR 165.110) or publish in the **Federal Register** its reasons for not making such amendments.

In the **Federal Register** of July 17, 1992 (57 FR 31776) (hereinafter referred to as the July 1992 final rule), EPA published a final rule promulgating NPDWR's consisting of maximum contaminant levels (MCL's) for 18 SOC's and 5 IOC's. Further, in that final rule, EPA deferred establishing an MCL for sulfate in public drinking water.

In accordance with section 410 of the act, FDA published in the **Federal Register** of August 4, 1993 (58 FR 41612), a proposal to adopt EPA's MCL's for the 18 SOC's and 5 IOC's as allowable levels in the quality standard for bottled water (hereinafter referred to as the August 1993 proposal). In the August 1993 proposal, FDA tentatively concluded that the MCL's that EPA had established based on available toxicological information for the 18 SOC's and 5 IOC's in public drinking water were adequate to protect the public from the adverse health effects of these chemical contaminants in drinking water. Further, FDA tentatively concluded that adopting EPA's MCL's for the 18 SOC's and 5 IOC's as allowable levels in the bottled water quality standard was appropriate to protect the public from the adverse health effects of these chemical contaminants that may be found in bottled water.

FDA did not propose any change in the existing allowable level of 250 milligrams per liter (mg/L) for sulfate in bottled water. FDA had established this level in 1973 (38 FR 32558, November 26, 1973), based on the Public Health Service standard for sulfate in drinking water established on March 6, 1962 (27 FR 2152). Although EPA proposed to establish either 400 or 500 mg/L as the MCL for sulfate in public drinking water (55 FR 30370, July 25, 1990), it deferred action on this MCL in its July 1992 final rule and did not revise the existing secondary maximum contaminant level (SMCL) of 250 mg/L for this chemical (40 CFR 143.3) in public drinking water.

II. Summary of and Response to Comments

A. Summary of Comments

FDA received 11 comments in response to the August 1993 proposal. The comments represented the views of three foreign trade associations and one domestic trade association that represent bottled water manufacturers, two State health departments, a State environmental protection department, a European Communities General Agreement for Tariffs and Trade (EC GATT) Enquiry Point, a bottled water company, a supplier of packaging materials, and a nonprofit private organization. The majority of the comments stated that they generally supported the proposal. Two comments addressed the issue of Federal preemption of State requirements concerning the quality of bottled water and related monitoring requirements. The issue of Federal preemption of State requirements is outside the scope of the proposal and thus will not be discussed here. A number of comments suggested modifications to, or were opposed to, various provisions of the proposal. A summary of the suggested changes, the opposing comments, and the agency's responses follows.

B. Comments Pertaining to Allowable Levels in the Quality Standard for Bottled Water

1. One of the comments addressed the proposed allowable level of 0.006 mg/L for the chemical, DEHP. The comment pointed out that this chemical is prior sanctioned in § 181.27 (21 CFR 181.27) for use as a plasticizer when migrating from food-packaging material into foods with high water content and, as such, is approved for use in contact with food in § 177.1210 (21 CFR 177.1210) *Closures with sealing gaskets for food containers.* The comment also pointed out that DEHP is routinely used as a plasticizer in gaskets used in metal and plastic closures for the packaging of bottled water in accord with this approval, and that such use may result in levels of this chemical migrating into water that exceed the proposed allowable level. Thus, the comment maintained that finalizing the proposed allowable level for DEHP would result in a limit on the level of this chemical in bottled water that conflicts with this chemical's permitted use under the existing food additive regulation for closures with sealing gaskets, and that taking such action would effectively ban the use of this plasticizer. The comment further pointed out that gaskets containing DEHP are permitted for use in packaging food and bottled water under relevant European national regulations, and that these uses comply with the migration limit of 3 mg/kilograms proposed for DEHP established by the Scientific Committee for Food in their Synoptic Document 7.

FDA was not aware of the potential conflict between the proposed allowable level for DEHP and the existing prior sanction for this substance in § 181.27 at the time it published the proposal. The agency needs additional time to evaluate this matter and to determine an appropriate course of action with respect to the proposed allowable level for DEHP. Therefore, FDA is deferring final action on the proposed allowable level for DEHP at this time.

2. Several comments asked FDA to clarify the status of bottled water products labeled as mineral water with respect to compliance with the existing allowable level of 250 mg/L for sulfate in bottled water. The comments stated that, in the **Federal Register** of January 5, 1993 (58 FR 393), FDA proposed to exempt bottled mineral water from complying with the allowable levels for certain substances, such as sulfate, that may be present at high levels in some mineral waters because the allowable levels in question have been established for aesthetic reasons and not for public health protection.

FDA did not fully address this issue in the August 1993 proposal. These comments are correct in noting that in January of 1993, FDA proposed to subject bottled mineral water to the bottled water quality standard but to exempt mineral water from complying with certain allowable levels, including that for sulfate, that were established for aesthetic reasons and not for public health protection. The January 1993 proposal was still pending when the August 1993 proposal was published. Bottled mineral water was not yet subject to the bottled water quality standard. Therefore, in addressing the allowable level for sulfate in the August 1993 proposal, FDA did not provide in the codified material that bottled mineral water would be exempt from the quality standard for sulfate.

In the **Federal Register** of November 13, 1995 (60 FR 57076) (hereinafter referred to as the November 1995 final rule), FDA published a final rule based on the January 1993 proposal that, among other things, established a standard of identity for bottled water (21 CFR part 165), which includes a definition for mineral water and which subjects mineral water to the quality standard regulations for bottled water. Bottled mineral water must also comply with the current good manufacturing practice (CGMP) regulations for bottled water in part 129 (21 CFR part 129). Thus, under the newly established regulations, bottled waters that meet the definition for "mineral water" in § 165.110(a)(2)(iii) must comply with the bottled water quality standard (i.e., the allowable levels for physical, chemical, microbiological, and radiological contaminants) in § 165.110(b).

However, FDA recognizes that mineral water with a high mineral content may not meet the allowable levels in the quality standard for certain physical and chemical attributes (i.e., color, odor, total dissolved solids (TDS), chloride, iron, manganese, sulfate, and zinc) that are based on EPA's SMCL's and, as such, are intended only to ensure the aesthetic quality of the water, i.e., SMCL's are not established for public health reasons. Consequently, in the November 1995 final rule (60 FR 57076 at 57125), FDA included provisions that exempt bottled mineral waters that meet the definition for "mineral water" in § 165.110(a)(2)(iii) from complying with the allowable levels for color, odor, TDS, chloride, iron, manganese, sulfate, and zinc. Therefore, bottled mineral waters do not have to comply with the allowable level of 250 mg/L for sulfate. FDA reflected this fact in the November 1995 final rule (60 FR 57076 at 57125) by including a footnote to the entry for sulfate in the listing of allowable levels under § 165.110(b)(4)(I)(A). Therefore, no action in response to this comment is necessary in this final rule.

3. One comment from an EC GATT Enquiry Point questioned whether European mineral waters that meet EC Council Directive 80/777/EEC of July 15, 1980, which established standards relating to the exploitation and marketing of natural mineral waters for member countries of the EC, but that contain levels of chemical contaminants that exceed FDA's proposed allowable levels, particularly those allowable levels that are based on EPA's SMCL's, can be marketed in the United States. The comment stated that European mineral waters should be exempt from complying with allowable levels that are based on aesthetic factors to prevent any unnecessary trade barriers.

The same comment also stated that, with regard to drinking waters, the proposed standards for barium, chloride, copper, fluoride, nitrate, trihalomethanes, TDS, and zinc are stricter than those established in EC Council Directive 80/778/EEC of July 15, 1980, relating to the quality of water intended for human consumption (other than natural mineral waters and medicinal waters). Moreover, the comment stated that EC Council Directive 80/778/EEC does not contain any limit for beryllium, thallium, dichloromethane, 1,2,4-trichlorobenzene, 1,1,2-trichloroethane, dioxin, DEHP, di(2-ethylhexyl)adipate (DEHA), and hexachlorocyclopentadiene. Consequently, the comment questioned whether European bottled waters that comply with EC Council Directive 80/778/EEC will be accepted on the U.S. market, or whether the allowable levels for chemical contaminants addressed in this final rule might create technical barriers to trade.

With regard to the U.S. standards for barium, chloride, copper, fluoride, nitrate, trihalomethanes, TDS, and zinc, FDA notes that the allowable levels for these chemical contaminants were established in previous rulemakings and thus are outside the scope of this rulemaking.

Further, FDA disagrees with the comment's assertion that trade barriers might be created because European bottled water products meeting EC Council Directives 80/777/EEC and 80/778/EEC may not meet the allowable levels for certain chemical contaminants in the quality standard for bottled water for the following two reasons:

First, as stated above, FDA recognizes that the levels of these physical and chemical contaminants in bottled mineral waters with high mineral content may exceed the allowable levels.

Thus, in the November 1995 final rule, FDA has provided that bottled mineral waters are exempt from complying with the allowable levels for color, odor, TDS, chloride, iron, manganese, sulfate, and zinc that are all based upon EPA's SMCL's. Therefore, European bottled mineral waters that meet the definition for "mineral water" in § 165.110(a)(2)(iii) do not have to comply with the allowable levels for these contaminants in the quality standard for bottled water. There is, consequently, no basis for the concern expressed by the comment.

Second, with respect to other chemical contaminants (i.e., beryllium, thallium, dichloromethane, 1,2,4-trichlorobenzene, 1,1,2-trichloroethane, hexachlorocyclopentadiene, dioxin, DEHP, and DEHA) addressed in this final rule and for which no limits are established in the EC Council Directive 80/778/EEC, the comment did not provide any evidence of any European bottled waters that would not meet the allowable levels for these chemical contaminants. In addition, except for the chemical DEHP, FDA is not aware of any evidence that would indicate that European bottled waters would not meet the allowable levels for the chemical contaminants addressed in this final rule.

Moreover, if a bottled water product (domestic or imported) exceeds an allowable level for a particular contaminant, under the labeling provisions of § 165.110(c), the bottler can still market that product, provided that the labeling bears a statement of substandard quality (e.g., if it exceeds the allowable level for thallium, the

labeling shall state either "Contains Excessive Thallium" or "Contains Excessive Chemical Substances" if the bottled water is not mineral water under § 165.110(c)(3)). Therefore, should a European or an American bottled water product exceed the allowable levels for certain contaminants, it still can be marketed in the United States if its labeling bears the prescribed statement for those contaminants.

Consequently, because FDA does not expect that European bottled waters will exceed the allowable levels for the chemical contaminants addressed in this final rule, and because bottled water that exceeds the allowable level for a contaminant can still be sold in the United States if it bears the prescribed label statement, FDA rejects the comment's suggestion that this final rule will create technical trade barriers.

However, FDA reminds water bottlers (domestic and foreign) that any bottled water containing a substance at a level considered injurious to health is adulterated under section 402(a)(1) of the act (21 U.S.C. 342(a)(1)) and is subject to regulatory action, regardless of whether or not the bottled water bears a label statement of substandard quality prescribed in § 165.110(c). In this regard, FDA notes that the GATT Agreement on Sanitary and Phytosanitary (SPS) measures, resulting from the Uruguay Round of Multilateral Trade Negotiations, permits countries to give food safety requirements priority over trade when those requirements are based on valid scientific information.

4. One comment from a trade association representing bottled water manufacturers opposed FDA's proposal to adopt EPA's MCL for endrin as the allowable level in bottled water because EPA's level for endrin in public drinking water is higher than the existing allowable level for this contaminant in the bottled water quality standard. The comment argued that bottlers can and have met, without exception, the existing allowable level for endrin in bottled water, and thus, FDA should keep the more stringent allowable level for endrin in bottled water. The comment further argued that while it does not disagree with FDA's acknowledgment of EPA's risk assessment for contaminants, FDA should not weaken the bottled water quality standard merely because EPA has established less stringent level for public water utilities based on their technical limitations.

FDA rejects the comment's call to retain the existing allowable level for endrin in the bottled water quality standard that is lower than the EPA's MCL for endrin in public drinking water. In the past, in similar circumstances where FDA had proposed to establish allowable levels for contaminants in bottled water based upon EPA's MCL's that were less stringent than existing allowable levels, FDA has concluded (see e.g. 59 FR 61529 at 61531, December 1, 1994) that its general policy of adopting EPA's MCL's for chemical contaminants as allowable levels in bottled water (where bottled water may be expected to contain the contaminants at issue (58 FR 41612 at 41613, August 4, 1993)) is appropriate because it will protect the public health, maintain consistent standards for identical contaminants in bottled water and public drinking water, prevent duplication of efforts between FDA and EPA in evaluating the effects of contaminants in drinking water, and not foster public perception that bottled water is required to be of better quality than tap water. This continues to be the agency's position. Therefore, for these reasons, FDA is adopting EPA's MCL's for endrin as the allowable level in the quality standard for bottled water.

In conclusion, the majority of the comments to the August 1993 proposal supported the proposed allowable levels for the 5 IOC's and 18 SOC's in the quality standard for bottled water. Further, the agency has addressed the comments that suggested modifications to or were opposed to various allowable levels in the proposal. With the exception of the comment pertaining to the proposed allowable level for DEHP (see comment 1 of this document), none of the comments have persuaded FDA that it should not adopt the allowable levels as proposed for the remaining chemical contaminants. The agency, therefore, is adopting the allowable levels for 22 of the 23 chemical contaminants (excluding DEHP) in the quality standard for bottled water as proposed (58 FR 41612).

C. Comments Related to Monitoring for Chemical Contaminants Under the Bottled Water CGMP Regulations

5. One comment from a nonprofit private organization stated that laboratory equipment (e.g., inductively coupled plasma-mass spectroscopy (ICP–MS)) for determining a number of trace elements such as antimony, beryllium, and nickel) addressed in this rulemaking is not available to a large number of laboratories because of the cost of such equipment. Further, the comment maintained that a limited number of laboratories exist that are qualified to perform many of the methods that FDA is proposing to adopt for measuring these chemical contaminants in bottled water. Consequently, the comment asserted that a large number of bottlers could be in violation of monitoring requirements for these contaminants because laboratories qualified to perform the analytical methods to determine these chemical contaminants may not be readily available.

FDA disagrees with this comment. In its July 1992 final rule (57 FR 31776 at 31798), that established NPDWR's for the chemical contaminants addressed in this final rule, EPA stated that selection of analytical methods for compliance monitoring of the chemical contaminants was based on the following factors: (1) Reliability (i.e., precision/accuracy) of the analytical results; (2) specificity in the presence of interferences; (3) availability of enough equipment and trained personnel to implement a national monitoring program (i.e., laboratory availability); (4) rapidity of analysis to permit routine use; and (5) cost of analysis to water supply systems.

Further, EPA stated in its July 1992 final rule (57 FR 31776 at 31799) that, although the ICP–MS technique for determining inorganic chemical contaminants (i.e., elements such as antimony, beryllium, and nickel) is not used widely, it expects that routine use of this equipment for determining trace elements in water samples will soon become the norm comparable to current routine laboratory use of gas chromatography/mass spectrometry (GC/MS) techniques for water analysis. In addition, EPA stated that, although the cost of the equipment is high, the capability of ICP–MS technique (i.e., high sensitivity, short analysis times, and multiple metal analytical capability) makes it a cost effective investment because of lower operational costs when compared to trace element determination with such techniques as conventional atomic absorption spectrophotometry. EPA concluded that the ICP–MS technique is technologically and economically feasible for routine compliance monitoring of water samples and adopted the technique for determining trace elements in water samples. Finally, EPA stated that the ICP–MS technique is one of many being approved for determining trace elements in water samples, and laboratories without ICP–MS technique capability may use other conventional methods.

Based on the factors discussed above (i.e., reliability, specificity, availability, rapidity) that EPA considered in adopting analytical methods for determining the levels in public drinking water of the 24 chemical contaminants that are the subject of this rulemaking, FDA concludes that laboratories are readily available that are competent in performing the applicable analytical methods for the 22 chemical contaminants for which it is establishing allowable levels. FDA therefore rejects the comment's suggestion that a large number of bottlers could be in violation of the monitoring requirements for a number of the contaminants because laboratories qualified to perform the required analytical methods are not readily available.

6. Comments from a trade association representing bottled water manufacturers and from a nonprofit private organization maintained that, for nine of the chemical contaminants addressed in the proposal, namely the IOC's antimony, beryllium, cyanide, nickel, and thallium and the SOC's diquat, endothall, glyphosate, and dioxin, finalization of the proposed allowable levels would, under the CGMP requirements for bottled water (part 129), require additional analytical testing to be performed by water bottlers for monitoring purposes. Bottlers would have to test for these contaminants at least annually using methods other than those that are being used to analyze bottled water for compliance with the quality standard. The comment from the bottled water trade association stated that this additional testing would impose an additional cost of over one million dollars annually on bottlers. To ease the economic burden that would result from these testing requirements, the comments recommended that the agency adopt monitoring requirements for bottled water that are similar to EPA's monitoring requirements, which would allow bottlers to obtain waivers permitting them to monitor finished bottled water products for chemical contaminants less frequently than once per year if they can establish that a contaminant is not likely to be present in the source water for bottling or in the finished bottled water products.

However, comments from two State public health departments contended that water bottlers should continue to be required to test their products at least annually for chemical contaminants. One of these comments argued that the current minimum annual testing is essential, and that cost should not be a consideration, even for small bottling companies.

FDA recognizes that the number of chemical contaminants that bottlers must monitor under the bottled water CGMP regulations has increased substantially in recent years. FDA also recognizes that the increased monitoring requirements pose additional costs to water bottlers. Further, data submitted by one commenter that was obtained from a nonprofit private organization that offers testing services for the bottled water industry suggest that bottled water frequently would not be expected to contain detectable levels of the types of nonnaturally occurring contaminants regulated under the bottled water quality standard (i.e., pesticides and SOC's), and that the instances where such chemicals are detected are relatively few in number. Moreover, the levels of such contaminants, when found, are well below the allowable levels. The data also suggest that naturally occurring contaminants, e.g., IOC's, are frequently not found in bottled water, and that when they are found in bottled water, they do not exceed the allowable levels and, in fact, are usually found at levels well below the allowable levels.

For example, a 1990 analytical test summary showed that among a set of 97 bottled water products analyzed for 6 pesticide chemicals (endrin, lindane, methoxychlor, toxaphene, 2,4-D, and 2,4,5-TP), none tested positive for any of these 6 pesticide chemicals, i.e., no pesticide chemical was detected in 582 (i.e., 6×97) analyses. The analytical test summary also showed that among another set of 21 bottled water products analyzed for 11 different pesticide chemicals (simazine, atrazine, alachlor, heptachlor, chlordane, oxamyl, carbofuran, dalapon, pentachlorophenol, dinoseb, and picloram), none tested positive for any of these 11 pesticide chemicals, i.e., no pesticide chemical was detected in the 231 (i.e., 11×21) analyses. Further, in 1993, among 150 bottled water samples analyzed for the above 17 pesticide chemicals for which EPA has established MCL's, none showed the presence of any of these 17 pesticide chemicals, i.e., no pesticide chemical was detected in the 2,550 (i.e., 17×150) analyses.

In addition, the commenter submitted another 1990 analytical summary showing that among 97 bottled water products tested for 32 contaminants (18 IOC's, 11 nonpesticide SOC's, and 3 physical/quality attributes) for which FDA has established allowable levels in the bottled water quality standard, none contained any of these contaminants above the allowable levels. Nonpesticide SOC's were detected in 70 instances among the 1,067 (i.e., 11×97) analyses, but in no case did the level detected exceed 20 percent of the allowable level. Further, when testing was done for other types of contaminants (IOC's) and physical/quality attributes (e.g., odor, turbidity), such contaminants were not detected in 76 percent (i.e., 1,554 of 2,037) of the analyses, and in no case did a contaminant exceed the allowable level. Contaminants exceeding 50 percent of the allowable level were detected in only 12 instances among 2,037 analyses, and in all but 1 of these instances, the contaminants or physical/quality attributes that were detected (e.g., color, odor, TDS, iron, manganese) were those for which FDA has established allowable levels based on EPA's SMCL's to address the aesthetic effects, but not the health effects, of the contaminants. Contaminants exceeding 20 percent of the allowable level were detected in 100 instances among the 2,037 analyses, and in all but 6 of these instances, the contaminants or physical/quality attributes detected were those for which FDA has established allowable levels based on EPA's SMCL's.

In view of these facts, the commenter's suggestion that FDA adopt monitoring requirements for bottled water that are similar to EPA's monitoring requirements (i.e., that would allow bottlers to monitor finished bottled water products for chemical contaminants less frequently than once per year if they can establish that a contaminant is not likely to be present in the source water for bottling or in the finished bottled water products) merits consideration by the agency. However, any revision of the monitoring requirements for chemical contaminants in bottled water would require a careful consideration of all the relevant facts and an opportunity for input from all concerned parties. It would also require an amendment of the bottled water CGMP regulations. As such, it is beyond the scope of this rulemaking. This rulemaking only addresses the allowable levels for certain chemical contaminants in the quality standard for bottled water.

FDA intends to initiate rulemaking to address the issue of the circumstances in which reduced frequency of monitoring for chemical contaminants in bottled water products is appropriate. This rulemaking will consider the issues raised in the comments from the State health department summarized above. However, the agency's ability to undertake this rulemaking expeditiously will depend on the availability of agency resources and other competing priorities, particularly those of a significant public health concern.

As discussed above, FDA is adopting the allowable levels for 22 of 23 chemical contaminants (excluding DEHP) in the quality standard for bottled water as proposed (58 FR 41612). However, given the cost of testing for the nine chemical

contaminants in question (antimony, beryllium, cyanide, nickel, thallium, diquat, endothall, glyphosate, and dioxin), and the fact that the comments have submitted data showing that it is unlikely that IOC's, SOC's, and pesticide contaminants will be found in bottled water at levels that would pose a quality or safety concern, FDA finds that it is in the public interest and in the interest of justice to stay the effective date of the allowable levels for these nine comtaminants, in accordance with 21 CFR 10.35(e). FDA is staying the effect of these allowable levels until it has completed a rulemaking to address the issue of reduced frequency monitoring for chemical contaminants in bottled water. As a result of this action, bottlers are not required to monitor source waters and finished bottled water products annually for these nine chemical contaminants at this time.

FDA, however, reminds water bottlers that they are responsible for ensuring that all bottled water products introduced or delivered for introduction into interstate commerce are safe, wholesome, and appropriately labeled. Moreover, any bottled water containing any substance (including any of the nine chemical contaminants for which the allowable levels are being stayed) at a level that may be injurious to health under section 402 of the act is adulterated and will be subject to regulatory action. Consequently, FDA advises water bottlers to ensure through appropriate manufacturing techniques and sufficient quality control procedures that their bottled water products are safe with respect to levels of these nine chemical contaminants.

III. Conclusion

The agency is adopting the provisions concerning allowable levels for 22 of the 23 chemical contaminants (excluding DEHP) in the quality standard for bottled water as proposed (58 FR 41612). However, FDA is staying the effective date of the allowable levels for nine of these chemical contaminants (five IOC's and four SOC's) for the reasons explained in the response to comment 6 of this document. Further, as explained in response to comment 1 of this document, FDA is deferring final action on the proposed allowable level for the nonpesticide chemical DEHP.

The majority of the comments to the August 1993 proposal supported the provisions concerning allowable levels that FDA is adopting in this final rule. Further, after carefully considering the comments that the agency received that suggested modifications to, or that were opposed to, various provisions of the proposal, the agency has determined that no changes in the final rule other than those discussed in the response to comment 6 of this document concerning staying of the effective date for 9 of the 23 contaminants and in response to comment 1 of this document concerning deferring final action on DEHP are warranted.

In the November 1995 final rule that established a standard of identity for bottled water, FDA moved the standard of quality for bottled water from § 103.35 (21 CFR 103.35) to § 165.110. Therefore, the provisions that are being added to the quality standard in this final rule are being codified under § 165.110 and not under § 103.35 (as was proposed), which has been superseded.

With respect analytical methods for the determination of chemical contaminants, FDA is making the following changes in 165.110(b)(4)(iii).

In § 165.110(b)(4)(iii)(E)(*1*)(*iv*), FDA cites the updated version of proposed Method D–3697–87 (i.e., Method D–3697–92), and in § 165.110(b)(4)(iii)(E)(*7*)(*iv*), FDA cites the updated version of proposed Method D–2036–89A (i.e., Method D–2036–91).

These methods are contained in the manual entitled "Annual Book of ASTM Standards," vols. 11.01 and 11.02, 1995, American Society for Testing and Materials (ASTM), 100 Barr Harbor Dr., West Conshoocken, PA 19428, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The source for the manual containing the two methods is the American Society for Testing and Materials. FDA is adopting the updated versions of the two methods because the proposed older versions (i.e., Method D–3697–87 and Method D–2036–89A) are contained in the 1991 edition of the manual entitled "Annual Book of ASTM Standards," vols. 11.01 and 11.02, which the publisher has discontinued printing, and therefore, is no longer commercially available.

Further, FDA is deleting proposed § 103.35(d)(3)(v)(H)(5) that contains the analytical method, 4500–CN–F which is one of five methods that FDA proposed to adopt for determining cyanide in bottled water. FDA proposed to adopt Method 4500–CN–F that is contained in "Standard Methods for the Examination of Water and Wastewater," 17th ed. (1989), published by the American Public Health Association, Washington, DC. However, the publisher has discontinued printing the 1989 edition of the Standard Methods for the Examination of Water and Wastewater. Consequently, the 1989 version of Method 4500–CN–F is no longer commercially available. Therefore, because the 1989 version of Method 4500–CN–F is no longer commercially available, and because FDA is incorporating by reference four other methods (three EPA methods and one ASTM method) for determining cyanide in bottled water, FDA is not adopting Method 4500–CN–F.

Finally, FDA is consolidating and relisting in alphabetical order all of the appropriate analytical methods that the agency either previously incorporated by reference or is incorporating by reference in this final rule in recodified § 165.110(b)(4)(iii)(E), (b)(4)(iii)(F), and (b)(4)(iii)(G).

Therefore, upon the effective date of this rule, September 23, 1996, any bottled water that contains any of the 13 chemical contaminants for which the allowable levels are effective at a level that exceeds the applicable allowable levels will be misbranded under section 403(h)(1) of the act (21 U.S.C. 343(h)(1)) unless it bears a statement of substandard quality as provided by § 165.110(c)(3).

IV. Environmental Impact

The agency has previously considered the environmental effects of this rule as announced in the proposed rule (58 FR 41612, August 4, 1993). No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

V. Analysis of Economic Impacts

FDA has examined the impacts of this final rule which amends the quality standard for bottled water by establishing or revising allowable levels for 5 IOC's and 17 SOC's (excluding DEHP) as required by Executive Order 12866 and the Regulatory Flexibility Act (Pub. L. 96–654). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity).

The Regulatory Flexibility Act requires analyzing options for regulatory relief for small businesses. FDA finds that this final rule is not a significant regulatory action as defined by Executive Order 12866. In compliance with the Regulatory Flexibility Act, the agency certifies that the final rule will not have a significant impact on a substantial number of small businesses.

A. Costs

In the August 1993 proposal, FDA presented an analysis of the economic impact of the proposed requirements under the previous Executive Order 12291. In that analysis, the agency stated that the benefits of the proposed rule are expected to be zero because none of the 23 chemicals found in currently marketed bottled water are expected to be above the levels of the proposed standard. FDA also stated that the costs of this regulation will only be for testing of these chemicals according to the CGMP regulations for bottled water. A single test can be used to simultaneously analyze a number of chemicals and can cost up to $3,000 per sample. To the extent that the tests currently being performed can be used to test for any of the 23 chemicals, there would be no additional costs imposed by this rule.

As mentioned above, in response to that analysis the agency received two comments, one from a trade association representing bottled water manufacturers and one from a nonprofit private organization. One of the comments stated that, under the proposal, 14 contaminants may be analyzed using methods that can simultaneously test for a number of currently regulated chemicals, and that no additional testing cost would be required. However, the other nine of these chemicals would require additional testing, which would increase costs for each bottled water product by $1,290 per sample, and by another $1,290 for each nonmunicipal source. In the United States there are 1,000 to 1,100 bottled water products that under the proposed requirements would require additional testing (Ref. 1). The incremental annual costs to bottlers would then range between $1.29 to $1.419 million for additional testing of the finished bottled water products (i.e., $1,290×1,000 to 1,100 bottled water products). The number of nonmunicipal sources affected is not known, but assuming that, on average, 50 percent of the total bottled water products are from nonmunicipal sources, the cost of the additional testing would be $1,290 × 500 nonmunicipal sources or $645,000 annually. The total annual costs of additional testing would be approximately $2 million.

According to a trade association comment, approximately 140 of their member bottlers are considered small or have sales that are below $1 million. These 140 small bottlers represent approximately half of the small bottlers in the country (Ref. 1). On average, each small bottler produces two products. Thus the incremental annual cost to small bottlers is estimated as 280 bottlers × 2 products × $1,290, which would be equal to $722,400. The total future discounted costs (6 percent) to small businesses would be $12 million.

In addition, as mentioned above (see response to comment 6 of this document, *supra*), 1990 and 1993 data from a nonprofit private organization that offers testing services for the bottled water industry suggest that bottled water frequently may not be expected to contain detectable levels of the types of nonnaturally occurring contaminants regulated under the bottled water quality standard (e.g., pesticides and SOC's), and that the instances where such chemicals may be detected are relatively few in number. The data also show that the levels of such contaminants, when found, are well below the allowable levels. FDA has also received data that suggest that some types of contaminants, e.g., IOC's, are frequently not found in bottled water and, when found in bottled water, do not exceed the allowable levels and are usually found at levels well below the allowable levels. For these reasons, the comment suggested that FDA provide waivers similar to those provided by EPA that would allow less frequent monitoring of contaminants not likely to be found in bottled water. Although this suggestion warrants consideration by the agency, any revision of the monitoring requirements for chemical contaminants in bottled water would require amending the bottled water CGMP regulations. An amendment of CGMP regulations is beyond the scope of this rulemaking.

As mentioned earlier, FDA intends to initiate rulemaking to address the issue of reduced frequency monitoring for chemicals that are unlikely to be present in bottled water. However, the agency's ability to undertake such rulemaking expeditiously will depend on the availability of agency resources and other competing priorities, particularly for those that pose significant public health concerns. Therefore, as explained above, FDA decided to finalize the allowable levels for the nine contaminants that cannot be analyzed with currently used methods but to stay the effective date for these allowable levels until it undertakes a rulemaking on reduced frequency monitoring for chemical contaminants in bottled water. Thus, while stayed, this rule results in no additional testing costs for these nine contaminants.

To assess the minimum expected cost of this rule if the monitoring frequency requirements in the CGMP are reduced, FDA assumes that any revision of the CGMP would require at least initial testing for the nine contaminants for which the allowable levels are being stayed. The cost for this initial testing for 1,000 to 1,100 bottled water products and 500 nonmunicipal sources would be approximately $2 million as stated above. This is the minimum expected cost since additional testing (at less frequent intervals) still would be required after the initial testing. No reformulation costs are expected because none of the 23 contaminants are found in bottled water above the levels of the proposed standard.

B. Benefits

In the Economic Impact Analysis of the proposed rule FDA determined that, because none of the 23 contaminants are expected to be found in bottled water above the levels of the standards, benefits of the proposed rule were expected to be zero. However, this rule ensures that, should current conditions change, such as new sources of water or new manufacturing practices, the level of these contaminants will remain low. Although the health benefits of this regulation are expected to be small, regulation similar to that for municipal water may improve consumer perceptions of the risk associated with bottled water, particularly relative to municipal water.

VI. Reference

The following reference has been place on display in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20875, and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Memorandum of telephone conversation to Tyrone Wilson of the International Bottled Water Association (IBWA), from Christinia Ford, (FDA), September 7, 1995.

List of Subjects in 21 CFR Part 165

Beverages, Bottled water, Food grades and standards, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 165 is amended as follows:

PART 165—BEVERAGES

1. The authority citation for 21 CFR part 165 continues to read as follows:

Authority: Secs. 201, 401, 403, 403A, 409, 410, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 341, 343, 343A, 348, 349, 371, 379e).

2. Section 165.110 is amended in the table in paragraph (b)(4)(i)(A) by removing the entries for "Sulfate" and "Endrin * * *", by alphabetically adding new entries in the tables in paragraphs (b)(4)(iii)(A), (b)(4)(iii)(B), (b)(4)(iii)(C), and (b)(4)(iii)(D), and by revising paragraphs (b)(4)(iii)(E), (b)(4)(iii)(F), and (b)(4)(iii)(G) to read as follows:

§ 165.110 Bottled water.

* * * * *

(b) * * *

(4) * * *

(iii) * * *

(A) * * *

Contaminant	Concentration in milligrams per liter (or as specified)
Antimony [1]	.006
. . . . .	.
Beryllium [1]	0.004
. . . . .	.
Cyanide [1]	0.2
. . . . .	.
Nickel [1]	0.1
. . . . .	.
Thallium [1]	0.002
. . . . .	.

[1] Stayed until further notice. See § 165.110(b)(4)(iii) (G)(*3*)(*iv*).

(B) * * *

Contaminant (CAS Reg. No.)	Concentration in milligrams per liter
. . . . .	.
Dichloromethane (75–09–2)	0.005
. . . . .	.
1,2,4–Trichlorobenzene (120–82–1)	0.07
. . . . .	.
1,1,2–Trichloroethane (79–00–5)	0.005
. . . . .	.

(C) * * *

Contaminant (CAS Reg. No.)	Concentration in milligrams per liter
. . . . .	.
Benzo(a)pyrene (50–32–8)	0.0002
. . . . .	.
Dalapon (75–99–0)	0.2
. . . . .	.
. . . . .	.
Di(2-ethylhexyl)adipate (103–23–1)	0.4
Dinoseb (88–85–7)	0.007
Diquat (85–00–7) [1]	0.02
Endothall (145–73–3) [1]	0.1
Endrin (72–20–8)	0.002
. . . . .	.
Glyphosate (1071–53–6) [1]	0.7
. . . . .	.
Hexachlorobenzene (118–74–4)	0.001
Hexachlorocyclopentadiene (77–47–4)	0.05

Contaminant (CAS Reg. No.)	Concentration in milligrams per liter
. . . . .	.
Oxamyl (23135–22–0)	0.2
. . . . .	.
Picloram (1918–02–1)	0.5
Simazine (122–34–9)	0.004
2,3,7,8-TCDD (Dioxin) (1746–01–6) [1]	$3x10^{-8}$
. . . . .	.

[1] Stayed until further notice. See § 165.110(b)(4)(iii) (G)(*3*)(*iv*).

(D) * * *

Contaminant	Concentration in milligrams per liter
. . . . .	.
Sulfate [1]	250.0

[1] Mineral water is exempt from allowable level. The exemptions are aesthetically based allowable levels and do not relate to a health concern.

(E) Analyses to determine compliance with the requirements of paragraph (b)(4)(iii)(A) of this section shall be conducted in accordance with an applicable method and applicable revisions to the methods listed in paragraphs (b)(4)(iii)(E)(*1*) through (b)(4)(iii)(E)(*13*) of this section and described, unless otherwise noted, in "Methods for Chemical Analysis of Water and Wastes," U.S. EPA Environmental Monitoring and Support Laboratory (EMSL), Cincinnati, OH 45258 (EPA–600/4–79–020), March 1983, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of this publication are available from the National Technical Information Service (NTIS), U.S. Department of Commerce, 5825 Port Royal Rd., Springfield, VA 22161, or may be examined at the Center for Food Safety and Applied Nutrition's Library, Food and Drug Administration, 200 C Street SW., Washington, DC 20204, or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(*1*) Antimony shall be measured using the following methods:

(*i*) Method 204.2—"Atomic Absorption; furnace technique," which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(E) of this section.

(*ii*) Method 200.8—"Determination of Trace Elements in Water and Wastes by Inductively Coupled Plasma-Mass Spectrometry," Rev. 4.4, April 1991, U.S. EPA, EMSL. The revision is contained in the manual entitled "Methods for the Determination of Metals in Environmental Samples," Office of Research and Development, Washington, DC 20460, (EPA/600/4–91/010), June 1991, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of this publication are available from the National Technical Information Service, U.S. Department of Commerce, 5825 Port Royal Rd., Springfield, VA 22161, or may be examined at the Center for Food Safety and Applied Nutrition's Library, Food and Drug Administration, 200 C Street SW., Washington, DC 20204, or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(*iii*) Method 200.9—"Determination of Trace Elements by Stabilized Temperature Graphite Furnace Atomic Absorption Spectrometry," Rev. 1.2, April 1991, U.S. EPA, EMSL. The revision is contained in the manual entitled "Methods for the Determination of Metals in Environmental Samples," Office of Research and Development, Washington, DC 20460, (EPA/600/4–91/010), June 1991, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(E)(*1*)(*ii*) of this section.

(*iv*) Method D–3697–92—"Standard Test Method for Antimony in Water," contained in the Annual Book of ASTM Standards, vols. 11.01 and 11.02, 1995, American Society for Testing and Materials, 100 Barr Harbor Dr., West Conshohocken, PA 19428, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of this publication are available from American Society for Testing and Materials, 100 Barr Harbor Dr., West Conshohocken, PA 19428, or may be examined at the Center for Food Safety and Applied Nutrition's Library, Food and Drug Administration, 200 C Street SW., Washington, DC 20204, or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(*2*) Barium shall be measured using the following methods:

(*i*) Method 208.2—"Atomic Absorption; furnace technique," which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, or

(*ii*) Method 208.1—"Atomic Absorption; direct aspiration," which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(E) of this section.

(*iii*) Method 200.7—"Determination of Metals and Trace Elements in Water and Wastes by Inductively Coupled Plasma-Atomic Emission Spectrometry," Rev. 3.3, April 1991, U.S. EPA, EMSL. The revision is contained in the manual entitled "Methods for the Determination of Metals in Environmental Samples,"

Office of Research and Development, Washington, DC 20460, (EPA/600/4–91/010), June 1991, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(E)(*1*)(*ii*) of this section.

(*3*) Beryllium shall be measured using the following methods:

(*i*) Method 210.2—"Atomic Absorption; Furnace Technique," which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(E) of this section.

(*ii*) Method 200.7—"Determination of Metals and Trace Elements in Water and Wastes by Inductively Coupled Plasma-Atomic Emission Spectrometry," Rev. 3.3, April 1991, U.S. EPA, EMSL. The revision is contained in the manual entitled "Methods for the Determination of Metals in Environmental Samples," Office of Research and Development, Washington, DC 20460, (EPA/600/4–91/010), June 1991, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(E)(*1*)(*ii*) of this section.

(*iii*) Method 200.8—"Determination of Trace Elements in Water and Wastes by Inductively Coupled Plasma-Mass Spectrometry," Rev. 4.4, April 1991, U.S. EPA, EMSL. The revision is contained in the manual entitled "Methods for the Determination of Metals in Environmental Samples," Office of Research and Development, Washington, DC 20460, (EPA/600/4–91/010), June 1991, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(E)(*1*)(*ii*) of this section.

(*iv*) Method 200.9—"Determination of Trace Elements by Stabilized Temperature Graphite Furnace Atomic Absorption Spectrometry," Rev. 1.2, April 1991, U.S. EPA, EMSL. The revision is contained in the manual entitled "Methods for the Determination of Metals in Environmental Samples," Office of Research and Development, Washington, DC 20460, (EPA/600/4–91/010), June 1991, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(E)(*1*)(*ii*) of this section.

(*4*) Cadmium shall be measured using the following methods:

(*i*) Method 213.2—"Atomic Absorption; Furnace Technique," which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(E) of this section.

(*ii*) Method 200.7—"Determination of Metals and Trace Elements in Water and Wastes by Inductively Coupled Plasma-Atomic Emission Spectrometry," Rev. 3.3, April 1991, U.S. EPA, EMSL. The revision is contained in the manual entitled "Methods for the Determination of Metals in Environmental Samples," Office of Research and Development, Washington, DC 20460, (EPA/600/4–91/010), June 1991, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(E)(*1*)(*ii*) of this section.

(*5*) Chromium shall be measured using the following methods:

(*1*) Method 218.2—"Atomic Absorption; furnace technique," which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(E) of this section.

(*2*) Method 200.7—"Determination of Metals and Trace Elements in Water and Wastes by Inductively Coupled Plasma-Atomic Emission Spectrometry," Rev. 3.3, April 1991, U.S. EPA, EMSL. The revision is contained in the manual entitled "Methods for the Determination of Metals in Environmental Samples," Office of Research and Development, Washington, DC 20460, (EPA/600/4–91/010), June 1991, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(E)(*1*)(*ii*) of this section.

(*6*) Copper shall be measured as total recoverable metal without filtration using the following methods:

(*i*) Method 220.2—"Atomic Absorption; furnace technique," which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, or

(*ii*) Method 220.1—"Atomic Absorption; direct aspiration," which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of these incorporation by reference is given in paragraph (b)(4)(iii)(E) of this section.

(*iii*) Method 200.7—"Determination of Metals and Trace Elements in Water and Wastes by Inductively Coupled Plasma-Atomic Emission Spectrometry," Rev. 3.3, April 1991, U.S. EPA, EMSL. The revision is contained in the manual entitled "Methods for the Determination of Metals in Environmental Samples," Office of Research and Development, Washington, DC 20460, (EPA/600/4–91/010), June 1991, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(E)(*1*)(*ii*) of this section.

(*iv*) Method 200.8—"Determination of Trace Elements in Water and Wastes by Inductively Coupled Plasma-Mass Spectrometry," Rev. 4.4, April 1991, U.S. EPA, EMSL. The revision is contained in the manual entitled "Methods for the Determination of Metals in Environmental Samples," Office of Research and Development, Washington, DC 20460, (EPA/600/4–91/010), June 1991, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(E)(*1*)(*ii*) of this section.

(*v*) Method 200.9—"Determination of Trace Elements by Stabilized Temperature Graphite Furnace Atomic Absorption Spectrometry," Rev. 1.2, April 1991, U.S. EPA, EMSL. The revision is contained in the manual entitled "Methods for the Determination of Metals in Environmental Samples," Office of Research and Development, Washington, DC 20460, (EPA/600/4–91/010), June 1991, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(E)(*1*)(*ii*) of this section.

(*7*) Cyanide shall be measured using the following methods:

(*i*) Method 335.1—"Titrimetric; Spectrophotometric" which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, or

(*ii*) Method 335.2—"Titrimetric; Spectrophotometric" which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, or

(*iii*) Method 335.3—"Colorimetric, Automated UV," which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of these incorporation by reference is given in paragraph (b)(4)(iii)(E) of this section.

(iv) Method D–2036–91—"Standard Test Methods for Cyanides in Water," contained in the Annual Book of ASTM Standards, vols. 11.01 and 11.02, 1995, American Society for Testing and Materials, 100 Barr Harbor Dr., West Conshohocken, PA 19428, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of this publication are available from American Society for Testing and Materials, 100 Barr Harbor Dr., West Conshohocken, PA 19428, or may be examined at the Center for Food Safety and Applied Nutrition's Library, 200 C Street SW., Washington, DC 20204, or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(*8*) Lead shall be measured as total recoverable metal without filtration using the following methods:

(*i*) Method 239.2—"Atomic Absorption; furnace technique," which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(E) of this section.

(*ii*) Method 200.8—"Determination of Trace Elements in Water and Wastes by Inductively Coupled Plasma-Mass Spectrometry," Rev. 4.4, April 1991, U.S. EPA, EMSL. The revision is contained in the manual entitled "Methods for the Determination of Metals in Environmental Samples," Office of Research and Development, Washington, DC 20460, (EPA/600/4–91/010), June 1991, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(E)(*1*)(*ii*) of this section.

(*iii*) Method 200.9—"Determination of Trace Elements by Stabilized Temperature Graphite Furnace Atomic Absorption Spectrometry," Rev. 1.2, April 1991, U.S. EPA, EMSL. The revision is contained in the manual entitled "Methods for the Determination of Metals in Environmental Samples," Office of Research and Development, Washington, DC 20460, (EPA/600/4–91/010), June 1991, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(E)(*1*)(*ii*) of this section.

(*9*) Mercury shall be measured using the following methods:

(*i*) Method 245.1—"Manual cold vapor technique," which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, or

(*ii*) Method 245.2—"Automated cold vapor technique," which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of these incorporation by reference is given in paragraph (b)(4)(iii)(E) of this section.

(*10*) Nickel shall be measured using the following methods:

(*i*) Method 249.1—"Atomic Absorption; direct aspiration," which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, or

(*ii*) Method 249.2—"Atomic Absorption; furnace technique," which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of these incorporation by reference is given in paragraph (b)(4)(iii)(E) of this section.

(*iii*) Method 200.7—"Determination of Metals and Trace Elements in Water and Wastes by Inductively Coupled Plasma-Atomic Emission Spectrometry," Rev. 3.3, April 1991, U.S. EPA, EMSL. The revision is contained in the manual entitled "Methods for the Determination of Metals in Environmental Samples," Office of Research and Development, Washington, DC 20460, (EPA/600/4–91/010), June 1991, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(E)(*1*)(*ii*) of this section.

(*iv*) Method 200.8—"Determination of Trace Elements in Water and Wastes by Inductively Coupled Plasma-Mass Spectrometry," Rev. 4.4, April 1991, U.S. EPA, EMSL. The revision is contained in the manual entitled "Methods for the Determination of Metals in Environmental Samples," Office of Research and Development, Washington, DC 20460, (EPA/600/4–91/010), June 1991, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(E)(*1*)(*ii*) of this section.

(*v*) Method 200.9—"Determination of Trace Elements by Stabilized Temperature Graphite Furnace Atomic Absorption Spectrometry," Rev. 1.2, April 1991, U.S. EPA, EMSL. The revision is contained in the manual entitled "Methods for the Determination of Metals in Environmental Samples," Office of Research and Development, Washington, DC 20460, (EPA/600/4–91/010), June 1991, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(E)(*1*)(*ii*) of this section.

(*11*) Nitrate and/or nitrite shall be measured using the following methods:

(*i*) Method 300.0—"The Determination of Inorganic Anions in Water by Ion Chromatography—Method 300.0," EPA, EMSL (EPA–600/4–84–017), March 1984, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of this publication are available from NTIS, U.S. Department of Commerce, 5825 Port Royal Rd., Springfield, VA 22161, or may be examined at the Center for Food Safety and Applied Nutrition's Library, Food and Drug Administration, 200 C Street SW., Washington, DC 20204, or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(*ii*) Method 353.1—"Colorimetric, automated, hydrazine reduction," for nitrate only, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, or

(*iii*) Method 353.2—"Colorimetric, automated, cadmium reduction," for both nitrate and nitrite, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, or

(*iv*) Method 353.3—"Spectrophotometric, cadmium reduction," for both nitrate and nitrite, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, or

(*12*) Selenium shall be measured using the following methods:

(*i*) Method 270.2—"Atomic Absorption; furnace technique," which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51; or

(*ii*) Method 270.3—"Atomic Absorption; gaseous hydride," which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(E) of this section.

(*13*) Thallium shall be measured using the following methods:

(*i*) Method 279.2—"Atomic Absorption; furnace technique," which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(E) of this section.

(*ii*) Method 200.8—"Determination of Trace Elements in Water and Wastes by Inductively Coupled Plasma-Mass Spectrometry," Rev. 4.4, April 1991, U.S. EPA, EMSL. The revision is contained in the manual entitled "Methods for the Determination of Metals in Environmental Samples," Office of Research and Development, Washington, DC 20460, (EPA/600/4–91/010), June 1991, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(E)(*1*)(*ii*) of this section.

(*iii*) Method 200.9—"Determination of Trace Elements by Stabilized Temperature Graphite Furnace Atomic Absorption Spectrometry," Rev. 1.2, April 1991, U.S. EPA, EMSL. The revision is contained in the manual

entitled "Methods for the Determination of Metals in Environmental Samples," Office of Research and Development, Washington, DC 20460, (EPA/600/4–91/010), June 1991, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(E)(*1*)(*ii*) of this section.

(F) Analyses to determine compliance with the requirements of paragraphs (b)(4)(iii)(B) and (b)(4)(iii)(C) of this section shall be conducted in accordance with an applicable method or applicable revisions to the methods listed in paragraphs (b)(4)(iii)(F)(*1*) through (b)(4)(iii)(F)(*20*) of this section and described, unless otherwise noted, in "Methods for the Determination of Organic Compounds in Drinking Water," Office of Research and Development, EMSL, EPA/600/4–88/039, December 1988, or in "Methods for the Determination of Organic Compounds in Drinking Water, Supplement 1," Office of Research and Development, EMSL, EPA/600/4–90/020, July 1990, which are incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of these publications are available from NTIS, U.S. Department of Commerce, 5285 Port Royal Rd., Springfield, VA 22161, or may be examined at the Center for Food Safety and Applied Nutrition's Library, Food and Drug Administration, 200 C St. SW., Washington, DC, or at the Office of the Federal Register, 800 North Capitol St. NW., suite 700, Washington, DC.

(*1*) Method 502.1—"Volatile Halogenated Organic Compounds in Water by Purge and Trap Gas Chromatography," Rev. 2.0, 1989, (applicable to VOC's), which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, or

(*2*) Method 502.2—"Volatile Organic Compounds in Water by Purge and Trap Capillary Column Gas Chromatography with Photoionization and Electrolytic Conductivity Detectors in Series," Rev. 2.0, 1989, (applicable to VOC's), which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, or

(*3*) Method 503.1—"Volatile Aromatic and Unsaturated Organic Compounds in Water by Purge and Trap Gas Chromatography," Rev. 2.0, 1989, (applicable to VOC's), which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, or

(*4*) Method 524.1—"Measurement of Purgeable Organic Compounds in Water by Packed Column Gas Chromatography/Mass Spectrometry," Rev. 3.0, 1989, (applicable to VOC's), which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, or

(*5*) Method 524.2—"Measurement of Purgeable Organic Compounds in Water by Capillary Column Gas Chromatography/Mass Spectrometry," Rev. 3.0, 1989, (applicable to VOC's), which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, or

(*6*) Method 504—"1,2–Dibromoethane (EDB) and 1,2–Dibromo-3-Chloropropane (DBCP) in Water by Microextraction and Gas Chromatography," Rev. 2.0, 1989, (applicable to dibromochloropropane (DBCP) and ethylene dibromide (EDB)), which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, or

(*7*) Method 505—"Analysis of Organohalide Pesticides and Commercial Polychlorinated Biphenyl (PCB) Products in Water by Microextraction and Gas Chromatography," Rev. 2.0, 1989, (applicable to alachlor, atrazine, chlordane, heptachlor, heptachlor epoxide, lindane, methoxychlor, toxaphene, endrin, hexachlorobenzene, hexachlorocyclopentadiene, simazine, and as a screen for PCB's), which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, or

(*8*) Method 506—"Determination of Phthalate and Adipate Esters in Drinking Water by Liquid-Liquid Extraction or Liquid-Solid Extraction and Gas Chromatography with Photoionization Detection," applicable to di(2-ethylhexyl) adipate which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, or

(*9*) Method 507—"Determination of Nitrogen- and Phosphorus-Containing Pesticides in Water by Gas Chromatography with a Nitrogen-Phosphorus Detector," Rev. 2.0, 1989, (applicable to alachlor, atrazine, and simazine), which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, or

(*10*) Method 508—"Determination of Chlorinated Pesticides in Water by Gas Chromatography with an Electron Capture Detector," Rev. 3.0, 1989, (applicable to chlordane, heptachlor, heptachlor epoxide, lindane, methoxychlor, toxaphene, endrin, hexachlorobenzene, and as a screen for PCB's), which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, or

(*11*) Method 508A—"Screening for Polychlorinated Biphenyls by Perchlorination and Gas Chromatography," Rev. 1.0, 1989, (used to quantitate PCB's as decachlorobiphenyl if detected in methods 505 or 508 in paragraph (b)(4)(iii)(F)(*7*) or (b)(4)(iii)(F)(*9*) of this section, respectively, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, or

(*12*) Method 515.1—"Determination of Chlorinated Acids in Water by Gas Chromatography with an Electron Capture Detector," Rev. 5.0, 1991, (applicable to 2,4–D, 2,4,5–TP (Silvex), pentachlorophenol, dalapon, dinoseb, and picloram), which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, or

(*13*) Method 525.1—"Determination of Organic Compounds in Drinking Water by Liquid-Solid Extraction and Capillary Column Gas Chromatography/Mass Spectrometry," Rev. 2.2, May 1991, (applicable to alachlor, atrazine, chlordane, heptachlor, heptachlor epoxide, lindane, methoxychlor, pentachlorophenol, benzo(a)pyrene, di(2-ethylhexyl) adipate, endrin, hexachlorobenzene, hexachlorocyclopentadiene, and simazine), which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, or

(*14*) Method 531.1—"Measurement of N-Methylcarbamoyloximes and N-Methylcarbamates in Water by Direct Aqueous Injection HPLC with Post Column Derivatization," Rev. 3.0, 1989, (applicable to carbofuran and oxamyl (vydate)), which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, or

(*15*) Method 547—"Determination of Glyphosate in Drinking Water by Direct-Aqueous-Injection HPLC, Post-Column Derivatization, and Fluorescence Detection," (applicable to glyphosate), which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, or

(*16*) Method 548—"Determination of Endothall in Drinking Water by Aqueous Derivatization, Liquid-Solid Extraction, and Gas Chromatography with Electron-Capture Detection," (applicable to endothall), which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, or

(*17*) Method 549—"Determination of Diquat and Paraquat in Drinking Water by Liquid-Solid Extraction and HPLC with Ultraviolet Detection," (applicable to diquat), which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, or

(*18*) Method 550—"Determination of Polycyclic Aromatic Hydrocarbons in Drinking Water by Liquid-Liquid Extraction and HPLC with Coupled Ultraviolet and Fluorescence Detection," (applicable to benzo(a)pyrene and other polynuclear aromatic hydrocarbons), which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, or

(*19*) Method 550.1—"Determination of Polycyclic Aromatic Hydrocarbons in Drinking Water by Liquid-Solid Extraction and HPLC with Coupled Ultraviolet and Fluorescence Detection," (applicable to benzo(a)pyrene and other polynuclear aromatic hydrocarbons), which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of these incorporation by reference is given in paragraph (b)(4)(iii)(F) of this section.

(*20*) Method 1613—"Tetra- through Octa- Chlorinated Dioxins and Furans by Isotope Dilution HRGC/HRMS," Rev. A, 1990, EPA, Office of Water Regulations and Standards, Industrial Technology Division, (applicable to 2,3,7,8–TCDD (Dioxin)), which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of this publication are available from USEPA–OST, Sample Control Center, P.O. Box 1407, Alexandria, VA 22313, or may be examined at the Center for Food Safety and Applied Nutrition's Library, Food and Drug Administration, 200 C St. SW., Washington, DC, or at the Office of the Federal Register, 800 North Capitol St. NW., suite 700, Washington, DC.

(G) Analyses to determine compliance with the requirements of paragraph (b)(4)(iii)(D) of this section shall be conducted in accordance with an applicable method and applicable revisions to the methods listed in paragraphs (b)(4)(iii)(G)(*1*) through (b)(4)(iii)(G)(*3*) of this section and described, unless otherwise noted, in "Methods of Chemical Analysis of Water and Wastes," which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(E) of this section.

(*1*) Aluminum shall be measured using the following methods:

(*i*) Method 202.1—"Atomic Absorption; direct aspiration technique," which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, or

(*ii*) Method 202.2—"Atomic Absorption; furnace technique," which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(E).

(*iii*) Method 200.7—"Determination of Trace Elements in Water and Wastes by Inductively Coupled Plasma-Atomic Emission Spectrometry," Rev. 3.3, April 1991, U.S. EPA, EMSL. The revision is contained in the manual entitled "Methods for the Determination of Metals in Environmental Samples," Office of Research and Development, Washington, DC 20460, (EPA/600/4–91/010), June 1991, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(E)(*1*)(*ii*) of this section.

(*iv*) Method 200.8—"Determination of Trace Elements in Water and Wastes by Inductively Coupled Plasma-Mass Spectrometry," Rev. 4.4, April 1991, U.S. EPA, EMSL. The revision is contained in the manual entitled "Methods for the Determination of Metals in Environmental Samples," Office of Research and Development, Washington, DC 20460, (EPA/600/4–91/010), June 1991, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(E)(*1*)(*ii*) of this section.

(*v*) Method 200.9—"Determination of Trace Elements by Stabilized Temperature Graphite Furnace Atomic Absorption Spectrometry," Rev. 1.2, April 1991, U.S. EPA, EMSL. The revision is contained in the manual entitled "Methods for the Determination of Metals in Environmental Samples," Office of Research and Development, Washington, DC 20460, (EPA/600/4–91/010), June 1991, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(E)(*1*)(*ii*) of this section.

(*2*) Silver shall be measured using the following methods:

(*i*) Method 272.1—"Atomic Absorption; direct aspiration technique," which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, or

(*ii*) Method 272.2—"Atomic Absorption; furnace technique," which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(E) of this section.

(*iii*) Method 200.7—"Determination of Trace Elements in Water and Wastes by Inductively Coupled Plasma-Atomic Emission Spectrometry," Rev. 3.3, April 1991, U.S. EPA, EMSL. The revision is contained in the manual entitled "Methods for the Determination of Metals in Environmental Samples," Office of Research and Development, Washington, DC 20460, (EPA/600/4–91/010), June 1991, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(E)(*1*)(*ii*) of this section.

(*iv*) Method 200.8—"Determination of Trace Elements in Water and Wastes by Inductively Coupled Plasma-Mass Spectrometry," Rev. 4.4, April 1991, U.S. EPA, EMSL. The revision is contained in the manual entitled "Methods for the Determination of Metals in Environmental Samples," Office of Research and Development, Washington, DC 20460, (EPA/600/4–91/010), June 1991, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(E)(*1*)(*ii*) of this section.

(*v*) Method 200.9—"Determination of Trace Elements by Stabilized Temperature Graphite Furnace Atomic Absorption Spectrometry," Rev. 1.2, April 1991, U.S. EPA, EMSL. The revision is contained in the manual entitled "Methods for the Determination of Metals in Environmental Samples," Office of Research and Development, Washington, DC 20460, (EPA/600/4–91/010), June 1991, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of these incorporation by reference is given in paragraph (b)(4)(iii)(E)(*1*)(*ii*) of this section.

(*3*) Sulfate shall be measured using the following methods:

(*i*) Method 300.0—"The Determination of Inorganic Anions in Water by Ion Chromatography—Method 300.0," EPA, EMSL (EPA–600/4–84–017), March 1984, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(E)(*11*)(*i*) of this section.

(*ii*) Method 375.1—"Colorimetric, Automated, Chloranilate," which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, or

(*iii*) Method 375.3—"Gravimetric," which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, or

(*iv*) Method 375.4—"Turbidimetric," which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1

CFR part 51. The availability of these incorporation by reference is given in paragraph (b)(4)(iii)(E) of this section.

[**Note:** the allowable levels in § 165.110 for the chemicals antimony, beryllium, cyanide, nickel, thallium, diquat, endothall, glyphosate, and dioxin are stayed until further notice.]

* * * * * *

Dated: March 18, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–6940 Filed 3–25–96; 8:45 am]

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Tuesday
March 26, 1996

Part IV

Department of Housing and Urban Development

Office of the Secretary

24 CFR Parts 10 and 966

Public Housing Lease and Grievance Procedures; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 10 and 966

[Docket No. FR–3619–F–02]

RIN 2501–AB92

Public Housing Lease and Grievance Procedures

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: On May 22, 1995 (60 FR 27058), HUD published a rule for public comment proposing to amend its regulations governing public notice and comment requirements and public housing lease and grievance procedures. This rule finalizes the policies set forth in the May 22, 1995 proposed rule. Specifically, this final rule clarifies that HUD is not required to use notice and comment rulemaking for issuance of a due process determination. This rule also authorizes Public Housing Agencies (PHAs) to bypass judicial eviction procedures, if the law of the jurisdiction permits eviction through administrative action. Additionally, this final rule corrects a typographical error currently contained in 24 CFR part 966.

EFFECTIVE DATE: April 25, 1996.

FOR FURTHER INFORMATION CONTACT: Linda Campbell, Director, Occupancy Division, Room 4206, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C, 20410; Telephone numbers (202) 708–0744; 1–800–877–8339 (Federal Information Relay Service TTY). (Other than the "800" number, these are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

I. Background

A. The May 22, 1995 Proposed Rule

On May 22, 1995 (60 FR 27058), HUD published for public comment a rule proposing to revise HUD's regulations at 24 CFR part 10, governing public notice and comment requirements, and 24 CFR part 966, governing public housing lease and grievance procedures.

Under 42 U.S.C. 1437d(k), a housing authority is generally required to provide a tenant with the opportunity for an administrative hearing before the commencement of eviction proceedings in the local landlord-tenant courts. The statute and HUD's implementing regulations at 24 CFR part 966 state that for certain criminal-related evictions the housing authority may bypass the administrative hearing. However, HUD must first make a determination that local law requires a pre-eviction court hearing that provides the basic elements of due process.

In HUD's view, the issuance of a due process determination is not a rule, and is therefore not subject to 24 CFR part 10's notice and comment rulemaking requirements. However, in its decision in *Yesler Terrace Community Council* v. *Cisneros*, the Ninth Circuit held that the due process determination for the State of Washington was a rule to which part 10 applied. The *Yesler* decision has meant that Public Housing Agencies (PHAs) in the States comprising the Ninth Circuit cannot rely on the HUD due process determinations issued for those States. Even for jurisdictions outside the Ninth Circuit, the decision in the *Yesler* case will inevitably lead to dispute and litigation concerning the ability of PHAs to rely on a HUD due process determination. In order to remedy this serious situation, the May 22, 1995 rule proposed to amend part 10 to clarify that the issuance of a due process determination does not require prior public procedure.

The May 22, 1995 rule also proposed to amend 24 CFR part 966. The amendment would permit PHAs to evict without bringing a court action if the law of the jurisdiction permits eviction by administrative action, after a due process administrative hearing, but does not require a court determination of the rights and liabilities of the parties. This proposed amendment was designed to avoid the necessity for duplicative administrative and judicial hearings.

The May 22, 1995 proposed rule described in detail the amendments to 24 CFR parts 10 and 966.

B. Discussion of Public Comments on the May 22, 1995 Proposed Rule

The public comment period on the proposed rule expired on July 21, 1995. By close of business on that date, a total of 8 comments had been received. Six of the eight commenters expressed support for the May 22, 1995 proposed rule and urged its adoption without change. As a result of this positive public response, HUD has decided to adopt the May 22, 1995 proposed rule without change. A representative comment read:

> [Our organization] strongly supports the proposed amendments to regulations governing eviction from public and Indian housing * * *. Granting these administrative hearings to persons engaged in serious criminal activity slows down the eviction process considerably, adversely affecting the quality of life in our developments for law-abiding families * * *. We welcome the initiative taken by the Department of Housing and Urban Development * * *. This will provide support to the Housing Authorit[ies] in [their] efforts to expeditiously evict persons engaged in criminal activities.

The other two commenters were opposed to the proposed amendment to part 966 which would permit certain PHAs to evict through administrative action. Both commenters believed that the proposed rule, by authorizing non-judicial evictions, would eliminate vital protections of the tenant's rights. For example, the commenters worried about the lack of a legally trained, impartial, presiding officer at administrative hearings. The commenters were also concerned about the lack of subpoena power in administrative eviction actions.

HUD, while recognizing that there are substantive differences between administrative and judicial proceedings, does not agree with the commenters. This final rules provides adequate safeguards against wrongful evictions. Only PHAs located in States which authorize administrative evictions will be able to bypass judicial eviction procedures. The administrative hearings will have to comply with Constitutional due process requirements, as well as the grievance hearing procedures set forth at 24 CFR part 966. Additionally, the administrative determinations will be subject to review by the State's courts.

C. Technical Correction of § 966.4(l)(3)(ii)

Paragraph (l)(3) of § 966.4 establishes the requirements for lease termination notices to public housing tenants. Paragraph (l)(3)(ii), which requires that the notice inform the tenant of the right to examine PHA documents directly relevant to the termination or eviction, contains a cross-reference to § 944.4(m). The cross-reference is incorrect, and should instead refer to § 966.4(m). This final rule makes the necessary correction.

II. Other Matters

A. Impact on the Environment

In accordance with 40 CFR 1508.4 of the regulations of the Council on Environmental Quality and 24 CFR 50.20(k) of the HUD regulations, the policies and procedures contained in this rule relate only to HUD administrative procedures and, therefore, are categorically excluded from the requirements of the National Environmental Policy Act.

B. Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this final rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government.

This final rule clarifies that HUD is not required to use notice and comment rulemaking procedures for issuance of a due process determination. Furthermore, this rule permits PHAs to evict without bringing a court action, if the law of the jurisdiction permits eviction by administrative action and does not require a court determination of the rights and liabilities of the parties. This final rule will effect no changes in the current relationships between the Federal government, the States and their political subdivisions.

C. Impact on the Family

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that this final rule does not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under this order. No significant change in existing HUD policies or programs will result from promulgation of this final rule, as those policies and programs relate to family concerns.

D. Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605 (b)) has reviewed and approved this rule, and in so doing certifies that this rule will not have a significant impact on a substantial number of small entities. This final rule merely concerns HUD's public housing lease and grievance procedures, and will not have any meaningful economic impact on any entity.

List of Subjects

24 CFR Part 10

Administrative practice and procedure.

24 CFR Part 966

Grant programs—housing and community development, Public housing.

Accordingly, 24 CFR parts 10 and 966 are amended as follows:

PART 10—RULEMAKING: POLICY AND PROCEDURES

1. The authority citation for part 10 is revised to read as follows:

Authority: 42 U.S.C. 3535(d).

2. Section 10.3 is amended by adding a new paragraph (c) to read as follows:

§ 10.3 Applicability.

* * * * *

(c) This part is not applicable to a determination by HUD under 24 CFR Part 966 (public housing) or 24 CFR Part 950 (Indian housing) that the law of a jurisdiction requires that, prior to eviction, a tenant be given a hearing in court which provides the basic elements of due process ("due process determination").

PART 966—LEASE AND GRIEVANCE PROCEDURES

3. The authority citation for part 966 is revised to read as follows:

Authority: 42 U.S.C. 1437a, 1437d *note*, and 3535(d).

4. Section 966.4 is amended by revising the first two sentences in paragraph (l)(3)(ii) and by revising paragraph (l)(4) to read as follows:

§ 966.4 Lease requirements.

* * * * *

(l) * * *

(3) * * *

(ii) The notice of lease termination to the tenant shall state specific grounds for termination, and shall inform the tenant of the tenant's right to make such reply as the tenant may wish. The notice shall also inform the tenant of the right (pursuant to § 966.4(m)) to examine PHA documents directly relevant to the termination or eviction. * * *

* * * * *

(4) *How tenant is evicted.* The PHA may evict the tenant from the unit either:

(i) By bringing a court action or;

(ii) By bringing an administrative action if law of the jurisdiction permits eviction by administrative action, after a due process administrative hearing, and without a court determination of the rights and liabilities of the parties. In order to evict without bringing a court action, the PHA must afford the tenant the opportunity for a pre-eviction hearing in accordance with the PHA grievance procedure.

* * * * *

5. In § 966.51, paragraph (a)(2) is amended by redesignating paragraph (a)(2)(ii) as paragraph (a)(2)(iv) and adding new paragraphs (a)(2)(ii) and (a)(2)(iii) to read as follows:

§ 966.51 Applicability.

(a) * * *

(2) * * *

(ii) The issuance of a due process determination by HUD is not subject to 24 CFR part 10, and HUD is not required to use notice and comment rulemaking procedures in considering or issuing a due process determination.

(iii) For guidance of the public, HUD will publish in the **Federal Register** a notice listing the judicial eviction procedures for which HUD has issued a due process determination. HUD will make available for public inspection and copying a copy of the legal analysis on which the determinations are based.

* * * * *

Dated: March 12, 1996.

Henry G. Cisneros,

Secretary.

[FR Doc. 96–7061 Filed 3–25–96; 8:45 am]

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Tuesday
March 26, 1996

Part V

Department of Housing and Urban Development

Public Housing Lease and Grievance Procedures; HUD Due Process Determinations; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–3998–N–01]

Office of the Assistant Secretary for Public and Indian Housing; Public Housing Lease and Grievance Procedures; Notice of HUD Due Process Determinations

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of HUD due process determinations.

SUMMARY: Under 42 U.S.C. 1437d(k), a housing authority is generally required to provide a public housing tenant with the opportunity for an administrative hearing before commencement of eviction proceedings in court. The statute and HUD's implementing regulations at 24 CFR part 966 state that for certain criminal-related evictions the housing authority may bypass the administrative hearing. However, HUD must first make a determination that local law requires a pre-eviction court hearing that provides the basic elements of due process (a "due process determination"). This notice lists the judicial eviction procedures for which HUD has issued a due process determination.

FOR FURTHER INFORMATION CONTACT: Office of General Counsel, Assisted Housing Division, Room 8166, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410; telephone (202) 708–2140. Hearing or speech-impaired individuals may call 1–800–877–8339 (Federal Information Relay Service TTY). (Except for the "800" number, these are not toll free numbers.) Individuals may arrange to inspect and copy the documents detailing the legal analysis on which the due process determinations are based by contacting the Assisted Housing Division.

SUPPLEMENTARY INFORMATION:

I. Background

HUD has published a final rule elsewhere in today's **Federal Register** amending its regulations at 24 CFR part 10, which sets forth HUD's rulemaking policies and procedures, and 24 CFR part 966, which governs HUD's public housing lease and grievance procedures. The rule adds a new paragraph (a)(2)(iii) to § 966.51 which states that "[f]or guidance of the public, HUD will publish in the **Federal Register** a notice listing the judicial eviction procedures for which HUD has issued a due process determination."

This notice implements 24 CFR 966.51(a)(2)(iii). The notice provides a State-by-State listing of the due process determinations issued by HUD. Each listing provides a brief description of the judicial eviction procedures required by local law (e.g., forcible entry and detainer actions) which HUD has determined are consistent with the basic elements of due process as further defined in 24 CFR 966.53(c).

II. Listing of Judicial Eviction Procedures for Which HUD Has Issued a Due Process Determination

Alabama

Unlawful detainer action in district court under Ala. Code §§ 6–6–310(2) to –353 (1975) and a possessory action in district court under the Sanderson Act, Ala. Code §§ 35–9–80 to –88.

Alaska

Forcible entry and detainer action in district or superior court under Alaska Stat. §§ 09.45.060 to .160.

Arizona

Forcible entry and detainer action in justice or superior court under Ariz. Rev. Stat. Ann. Sections 12–1171 –1183.

Arkansas

Forcible entry and detainer action in circuit court under Ark. Code Ann. tit. 18, ch. 60, subch. 3.

California

Unlawful detainer action (as defined in Cal. Civ. Proc. Code Section 1161) in superior, municipal or justice court.

Colorado

Unlawful detainer action in district or county court under Colo. Rev. Stat. §§ 13–40–104 to –123 (1987, Supp. 1989).

Delaware

Summary proceeding for possession in justice of peace court under Del. Code Ann. ch. 57.

District of Columbia

(1) A civil ejectment action under D.C. Code Ann. § 16–1101 in the civil division of the superior court; (2) A summary civil action for unlawful detainer under D.C. Code Ann. § 16–501 in the landlord and tenant branch of the superior court; and (3) An action to recover possession of a rental unit used as a drug haven under D.C. Code Ann. § 45–2559.2 in the landlord and tenant branch of the superior court.

Florida

An action for possession in county court under Fl. Stat. Ann. § 83.59 and a summary procedure for possession in county court under Fl. Stat. Ann. § 51.011.

Georgia

Dispossessory action in courts of record pursuant to Ga. Code Ann. § 44–7–50 *et seq.* and dispossessory action in magistrate court pursuant to Ga. Code Ann. Section 15–10–1 *et seq.*

Idaho

Unlawful detainer action in district court under Idaho Code Ann. tit. 6, ch. 3.

Illinois

Forcible entry and detainer ("FED") action in circuit court under Ill. Ann. Stat. ch. 110, para. 9–101 *et seq.* (Smith-Hurd 1992), including two special procedures for drug eviction: (1) a public housing agency FED action to evict the tenant for drug trafficking under Ill. Ann. Stat. ch. 110., para. 9–118; and (2) an FED action to evict the tenant under the Illinois Controlled Substance and Abuse Act, Ill. Ann. Stat. ch. 100–1/2, para. 13.9 *et seq.* (Smith-Hurd 1992).

Indiana

Ejectment action (as defined in Ind. Code Ann. § 32–6–1.5–1 (Burns 1992)) in the following courts: (1) The small claims and misdemeanor division of the circuit, superior and county courts; (2) the regular civil division of the circuit, superior, and county courts; and (3) the Municipal Court of Marion County.

Iowa

Forcible detainer action in district court under Iowa Code Ann. chs. 562A, 631, 648 and the Iowa Rules of Civil Procedure.

Kansas

An action in district court for rent and possession under Kan. Stat. Ann. Section 58–2501 to –2533, 58–2540 to –2573; and an action in district court for forcible detainer under Kan. Stat. Ann. §§ 58–2542 to –2573 and Kan. Stat. Ann. ch. 61, art. 23.

Kentucky

Forcible entry and detainer (FED) action in district court in jurisdictions that have adopted the Uniform Residential Landlord and Tenant Act (URLTA). The URLTA provisions on FED actions are set forth in Ky. Rev. Stat. §§ 383.500 to .715.

Maine

Forcible entry and detainer action in district court under Me. Rev. Stat. Ann. ch. 14, Section 6001.

Maryland

(1) An action for summary eviction in district court under Md. Code Ann., Real Prop. Sections 8–401 to –403; (2) An action for ejectment in circuit court under Md. Code Ann., Cts. & Jud. Proc. § 4–402; and (3) An action for ejectment in circuit court under Md. Rules Ann. ch. 1100, §§ T40 to T46.

Massachusetts

An action for eviction in housing, district or superior court under Mass. Gen. Laws ch. 239.

Michigan

A summary proceeding for recovery and possession of premises in district court under Mich. Comp. Laws §§ 600.5701 to .5756.

Minnesota

Forcible entry and unlawful detainer action in district court (or in the housing courts of Hennepin and Ramsey Counties) under Minn. Stat. Ann. §§ 566.01 to .33.

Missouri

Unlawful detainer action (as defined in Mo. Rev. Stat. § 534.030) in circuit court (including an action in small claims courts).

Montana

An action for possession in district or justice court under the Montana Residential Landlord and Tenant Act of 1977, Mont. Code. Ann. Sections 70–24–101 to –442

Nebraska

An action for the restitution of real property in county or district court under the Nebraska Uniform Residential Landlord and Tenant Act, Neb. Rev. Stat. Section 76–1401 *et seq.*

New Hampshire

A summary action for eviction under N.H. Rev. Stat. Ann. ch. 540 and a civil action of ejectment and entry.

New Jersey

An action for eviction in the Special Civil Part of the Superior Court, Law Division, under N.J. Stat. Ann. Section 2A:18–61.1 *et seq.*

New Mexico

A summary action for possession in district or magistrate court under the Uniform Owner-Resident Relations Act, N.M. Stat. Ann. Sections 47–8–1 to –51 (Michie 1978).

New York

Summary eviction proceedings under N.Y. Real Prop. Acts. Law art. 7

North Dakota

An action for eviction in district or county court under N.D. Cent. Code Sections 33–06–01 to –04.

Ohio

Forcible entry and detainer action in municipal or county court under Ohio Rev. Code Sections 1923.01 to .15

Oklahoma

An action in district court for forcible entry and detainer (12 Okl. St. Section 1148.1 to .16, 1751 to 1772) for noncompliance which materially affects health or safety.

Oregon

Forcible entry and detainer action in district court under Or. Rev. Stat. Sections 90.100 to .940, 105.110 to .155.

Pennsylvania

An action for eviction in the court of common pleas under Section 511 of the Pennsylvania Landlord Tenant Act, 68 Pa. Cons. Stat. Section 250.511 and an action before a district justice for recovery of possession of real property under rules in the 500 series of the Pennsylvania Rules of Civil Procedure for District Judges.

Rhode Island

An action for eviction in district court under R.I. Gen Laws tit. 34, ch. 18.

South Carolina

An action for possession in circuit or magistrate court under S.C. Code Ann. tit. 27.

South Dakota

An action for detainer in circuit or magistrate court under S.D. Codified Laws Ann. Sections 21–16–1 to –12.

Tennessee

An unlawful detainer action under Tenn. Code Ann. Sections 29–18–101 to –134 and an action for possession under Tenn. Code Ann. Sections 64–2801 to –2864, 66–28–101 to –517.

Texas

An action for forcible entry and detainer in justice court under Tex. Prop. Code Ann. Sections 24.001 *et seq.*, 91.001 *et seq.* and a trespass to try title action in district court under Tex. Prop. Code Ann. Sections 22.001 *et seq.* and 91.001 *et seq.*

Utah

Unlawful detainer action in district or circuit court under Utah Code Ann. Sections 78–36–1 to –12.6 (1989 and 1990 Supp.).

Vermont

A superior court ejectment action pursuant to Vt. Stat. Ann. tit. 9, Sections 4451–4468 and Vt. Stat. Ann. tit. 12, Section 4851 *et seq.*

Virginia

An unlawful detainer action in circuit court or general district court pursuant to Va. Code Sections 8.01–126.

Washington

An unlawful detainer action in superior or district court under Wash. Rev. Code chs. 59.12, 59.18.

West Virginia

An action in magistrate or circuit court for unlawful detainer under W. Va. Code ch. 55, art. 3 or for wrongful occupation under W. Va Code ch. 55, art. 3A–1.

Wisconsin

An action for eviction in circuit court under Wis. Stat. Ann. ch. 799.

Wyoming

An action for ejectment in district court under Wyo. Stat. Section 1–32–202 *et seq.*

Dated: March 12, 1996.

Kevin Emanuel Marchman,

Acting Assistant Secretary for Public and Indian Housing.

[FR Doc. 96–7060 Filed 3–25–96; 8:45 am]

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Tuesday
March 26, 1996

Part VI

Department of Housing and Urban Development

Office of the Secretary

24 CFR Part 20
Board of Contract Appeals Rule Revisions; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 20

[Docket No. FR–4013–F–01]

RIN 2501–AC16

Board of Contract Appeals Rule Revisions

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This final rule revises HUD's Board of Contract Appeals regulations in 24 CFR part 20 to increase certain monetary amounts that are required by the Federal Acquisition Streamlining Act of 1994.

EFFECTIVE DATE: April 25, 1996.

FOR FURTHER INFORMATION CONTACT: David T. Anderson, Chairman, HUD Board of Contract Appeals, Room 2131, U.S. Department of Housing and Urban Development, Washington, DC 20410–0001; telephone (202) 927–5110. (This number is not a toll-free number.) For hearing- or speech-impaired persons, this number may be accessed via TTY by contacting the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Amendments Made by This Rule

This final rule revises the rules of the Department of Housing and Urban Development Board of Contract Appeals. The revisions to Rule 1, 2, 12.1 and Rule 12.3, increasing certain monetary amounts, are required by the Federal Acquisition Streamlining Act of 1994 (Pub. L. 103–355, approved October 13, 1994), which amended the Contract Disputes Act of 1978, 41 U.S.C. 601–613. Rule 6 has been revised in the interests of judicial efficiency and fairness, holding the Government to the same obligation with respect to filings as the Appellant. Finally, Section 20.3 of the Board Rules has been revised to note changes in the Board's physical location and facsimile number, and to note the availability of alternative dispute resolution procedures and the applicability of the Equal Access to Justice Act.

Justification for Final Rulemaking

In general, the Department publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking at 24 CFR part 10. However, part 10 provides for exceptions from that general rule where the Department finds good cause to omit advance notice and public comment is "impracticable, unnecessary, or contrary to the public interest" (24 CFR 10.1). The Department finds that good cause exists to publish this rule for effect without first soliciting public comment because the statutory provisions are self-executing and prior public comment is unnecessary. The rule only updates the current regulations to comply with the Federal Acquisition Streamlining Act of 1994.

Other Matters

Environmental Impact

An environmental finding under section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4321–4347) and 24 CFR Part 50 is categorically excluded under § 50.20(k) because this rule only revises internal administrative procedures of the Department.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this rule, and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule only revises the Department's Board of Contract Appeals rules.

Family Impact

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this final rule will not have a potential, direct, significant impact on family formation, maintenance, and general well-being; therefore, it is not subject to review under this order.

Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this final rule will not have significant federalism implications and thus are not subject to review under the order. This final rule will not interfere with or preempt State or local government functions.

List of Subjects in 24 CFR Part 20

Administrative practice and procedure, Government contracts, Organization and functions (Government agencies).

Accordingly, 24 CFR part 20 is amended as follows:

PART 20—BOARD OF CONTRACT APPEALS

1. The authority citation for part 20 has been revised to read as follows:

Authority: 41 U.S.C. 601–613; 42 U.S.C. 3535(d).

2. In § 20.3, paragraph (a) is revised to read as follows:

§ 20.3 Organization and location of the Board.

(a) *Location.* The Board's mailing address is: Board of Contract Appeals, U.S. Department of Housing and Urban Development, Room 2131, 451 Seventh Street, S.W., Washington, D.C. 20410–0001. For items requiring non-postal delivery, the Board is located in Room 3229, 1201 Constitution Ave., N.W. 20001. The telephone number of the Board is (202) 927–5110. (This is not a toll-free number.) For learning- or speech-impaired persons, this number may be accessed via TTY by contacting the Federal Information Relay Service at 1–800–877–8339. The facsimile number is (202) 927–6257.

* * * * *

3. Section 20.10 is amended by:

a. Designating the undesignated paragraph as paragraph (a); and

b. Adding new paragraphs (b), (c) and (d), as follows:

§ 20.10 Rules.

(a) * * *

(b) *Filing Requirements.* A party shall file with the Board one original of any pleading or motion. That party shall simultaneously serve upon the other party of record one copy of that pleading or motion filed with the Board. Filings may be transmitted to the Board via facsimile. However, the original of any document transmitted to the Board by facsimile shall simultaneously be mailed to the Board.

(c) *Alternative Disputes Resolution.* The Administrative Dispute Resolution Act authorizes and encourages Federal agencies to use mediation, conciliation, arbitration, and other techniques for the prompt and informal resolution of disputes. With the mutual consent of the parties, the Board may assist in the resolution of disputes by Alternative Dispute Resolution (ADR) procedures. The utilization of ADR procedures shall not relieve the parties from the filing requirements or other orders of the Board relating to a contract appeal duly docketed before the Board.

(d) *Equal Access to Justice Act.* The Equal Access to Justice Act provides that agencies which conduct adversary adjudications "shall award, to a prevailing party other than the United States, fees and other expenses incurred by that party in connection with that proceeding, unless the adjudicative officer of the agency finds that the position of the agency was substantially justified or that special circumstances make an award unjust." 5 U.S.C. § 504. Prevailing parties in proceedings before the Board may apply for an award under the Act following the issuance by the Board of its final decision in the appeal.

* * * * *

Rule 1 [Amended]

4. In paragraphs (b) and (c) of Rule 1. "Appeals, how taken." of § 20.10, "$50,000" is revised to read "$100,000" wherever it appears.

Rule 2 [Amended]

5. In the last sentence of Rule 2 "Notice of appeal, contents of." of § 20.10, "$50,000" is revised to read "$100,000."

Rule 6 [Amended]

6. In paragraph (b) of Rule 6. "Pleadings." of § 20.10, the last sentence of paragraph (b) is removed.

Rule 12.1 [Amended]

7. In paragraph (a) of Rule 12.1. "Elections to utilize small claims (expedited) and accelerated procedures." of § 20.10, "$10,000" is revised to read "$50,000" wherever it appears and in paragraph (b) "$50,000" is revised to read "$100,000" wherever it appears.

Rule 12.3 [Amended]

8. In paragraph (c) of Rule 12.3. "The accelerated procedure." of § 20.10, "$10,000" is revised to read "$50,000" wherever it appears.

Dated: March 7, 1996.

Henry G. Cisneros,

Secretary.

[FR Doc. 96–7089 Filed 3–25–96; 8:45 am]

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Tuesday
March 26, 1996

Part VII

Department of Transportation

Coast Guard

46 CFR Parts 10, 12, and 15

International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW): Implementation of 1995 Amendments; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 10, 12, and 15

[CGD 95–062]

RIN 2115–AF25

Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW)

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes changes to the current domestic rules on licensing, documentation, and manning in compliance with recent amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW). The amendments were adopted by a Conference of Parties to STCW in July 1995, and will come into force on February 1, 1997, though some changes to domestic rules must come into force before then to ensure these rules conform with international requirements, and other changes may come into force after then to allow a more gradual shift in practice. The proposed changes would affect the full range of activities associated with determining that an individual is competent for service in certain shipboard capacities.

DATES: Comments must be received on or before July 24, 1996.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA, room 3406) [CGD 95–062], U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, or may be delivered to room 3406 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477. Comments on collection-of-information requirements must be mailed also to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attn: Desk Officer, U.S. Coast Guard.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

A copy of the material listed in Incorporation by Reference of this preamble is available for inspection at room 3406, U.S. Coast Guard Headquarters.

A copy of the 1995 Amendments to STCW may be obtained by writing Commandant (G–MOS), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001, or by calling (202) 267–0229, between 8 a.m. and 3 p.m. Monday through Friday, except Federal holidays. Requests may also be submitted by facsimile at (202) 267–4570.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Young, Project Manager, Operating and Environmental Standards Division (G–MOS), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, telephone (202) 267–0216.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking [CGD 95–062] and the specific section of this proposal to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

Hearings

The Coast Guard has determined that the opportunity for oral presentations will aid in this rulemaking, and will hold at least one public hearing during the comment period. The Coast Guard solicits recommendations on dates and locations for a public meeting. Requests for a public meeting should be addressed to the Marine Safety Council at the address under **ADDRESSES**. The Coast Guard will provide more information about public hearings by a later document in the **Federal Register**.

Background and Purpose

On July 7, 1995, a Conference of Parties to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW), meeting at the Headquarters of the International Maritime Organization (IMO) in London, adopted a package of Amendments to STCW. The amendments will enter into force on February 1, 1997, unless a third of the parties to the Convention, or parties representing over 50 percent of the world's hipping tons, object to them by August 1, 1996. Because they were adopted unanimously by the Conference, no objections are expected. Consequently, the Coast Guard is taking the steps necessary to implement the revised requirements to ensure that U.S. documents and licenses are issued in compliance with the 1995 Amendments to STCW.

The Convention sets qualifications for masters, officers, and watchkeeping personnel on seagoing merchant ships. It was adopted in 1978 by a conference at IMO Headquarters in London and it entered into force in 1984. Currently, there are 114 State-Parties, representing almost 95 percent of the world's merchant-ship tons. The United States became a party in 1991. Over 90 percent of ships visiting U.S. waters are foreign-flag. Approximately 350 large U.S. merchant ships that routinely visit foreign ports, as well as thousands of smaller U.S. documented commercial vessels that operate on ocean or near-coastal voyages, are subject to STCW.

In 1993, IMO embarked on a comprehensive revision of STCW to establish the highest practicable standards of competence and to address human error as a major cause of maritime casualties. By 1993, significant limitations to the existing Convention had become apparent. They included requirements that were too vague and left too much to the discretion of Parties; the absence of clear, uniform standards of competence; ineffective international superintendent to verify that Parties were in fact complying with Convention requirements; limited provisions for port-State control; and outdated technical references that failed to address modern shipboard systems, job descriptions, and approaches to maritime training such as the use of simulation technology.

The amendments adopted by the Conference in July 1995 were comprehensive and detailed. They concern port-State control, communication of information to IMO to allow for mutual oversight, and responsibility of all State-Parties to ensure that seafarers meet objective standards of competence. They also require candidates for certificates (licenses and document endorsements) to establish competence through both subject-area examinations and practical demonstrations of skills. Training, assessment, and certification of competence are all to be managed within a quality-standards system to ensure that stated objectives are being achieved.

The Coast Guard published a notice of inquiry in the **Federal Register** [60 FR 56970 (November 13, 1995)] to solicit information on the costs that may be associated with implementation of the 1995 Amendments to STCW. This notice is discussed in more detail under the heading "Regulatory Evaluation."

The Coast Guard held a public meeting on August 31, 1995, to discuss the outcome of the Conference and seek public comment on how the 1995 Amendments to STCW should be implemented by the United States. Comments received at the meeting and in response to the notice of inquiry have been taken into consideration in the development of implementing regulations. Three written comments were submitted to the docket, and they will be discussed in the appropriate sections of this preamble.

Additionally, the Coast Guard had sought comment from the public during the period leading up to the Conference that adopted the 1995 Amendments to STCW. The Coast Guard had held seven public meetings to determine what positions U.S. delegations should advocate at meetings held by IMO, and to exchange views about Amendments to STCW that were under discussion.

The Coast Guard has also taken advantage of the meetings of its advisory panels, particularly the Merchant Marine Personnel Advisory Committee (MERPAC), the Towing Safety Advisory Committee (TSAC), and the Navigational Safety Advisory Council (NAVSAC), to discuss developments relating to the amendment of STCW and the domestic implementation of these amendments.

Related Rulemakings

This proposed rulemaking has been prepared in anticipation that several other rulemakings will revise Parts 10, 12, and 15 or address related subjects.

First, in docket number CGD 95–072 [60 FR 50455 (September 29, 1995)], the Coast Guard has made technical and editorial corrections to its current rules, removing outdated references and reflecting current organizational structures.

Second, in CGD 91–045, the Coast Guard published a supplemental notice of proposed rulemaking (SNPRM) [60 FR 55904 (November 3, 1995)] that proposed operational measures to reduce spills from existing tank vessels without double hulls. This too involves subjects addressed here to implement the STCW Amendments, such as rest-period requirements and training in bridge-team procedures and bridge-resource management.

Third, in CGD 94–029, a proposed rule for modernizing examination methods was published [60 FR 10053 (February 23, 1995)]. Essentially, it would allow for the use of testing services from the private and public sectors to confirm the competency of candidates for Coast Guard licenses.

Fourth, in CGD 94–055, there is under development a proposal that concerns licensing requirements for officers of towing vessels. It stems from investigations into the Sunset Limited tragedy, when a tug and barge damaged a railroad bridge in September 1993. It may introduce into 46 CFR Part 10 new terms and concepts, such as the *designated examiner, practical demonstration, and standard of competence*, and the use of training-record books. The Coast Guard has been working with TSAC on CGD 94–055.

The Coast Guard will make every effort to coordinate these projects with a view to establishing uniform requirements except where there is a compelling need to maintain a difference in respect of a particular activity or class of vessel.

In keeping with other recent Coast Guard initiatives, this proposed rule tries to avoid unnecessary additional requirements when international standards are being implemented. Specifically, the Coast Guard has compared the rules to the international standard and has determined that it would not unnecessarily establish a requirement in excess of that standard. With this objective, the rule makes direct reference to international standards where possible. Where there is a difference in substance between the rule and the international requirement, this is noted and discussed in the section-by-section analysis. In most cases, the difference involves an exercise of discretion to address a specific class of vessel rather than an additional requirement. In some cases, clear differences with the international scheme are retained to preserve continuity in the U.S. licensing system. The Coast Guard requests comments on these differences, and the advantages that might be derived from removing them from current domestic rules.

The Coast Guard has attempted to develop a rule that would be self-implementing. In other words, it has tried to minimize the direct role the Coast Guard would need to play in overseeing routine compliance with the requirements. Ideally, it would like to minimize its direct involvement and limit its role to the following: (a) performing functions governmental in nature such as issuing certificates of competency; (b) setting standards for such certificates; (c) addressing special circumstances or exceptions to the general case clearly covered by the regulations; (d) monitoring training and assessment by spot-checks or by review of random samples to ensure that the new "quality-standards system" requirements are being maintained; and (e) keeping some necessary records.

Discussion of Proposed Rule

General

The following discussion proceeds in the order in which the proposed revisions to current domestic rules are presented. However, a few general comments may assist the reader and reduce repetition of a point common to many parts of the revisions.

1. *Approach.* The approach taken in this proposed rule is to retain the existing structure of the current domestic rules on licensing (46 CFR Part 10), certification of seamen (46 CFR Part 12), and manning (46 CFR Part 15), and incorporate specific requirements of the 1995 Amendments to STCW. Where possible, this Convention and its associated Seafarers' Training, Certification and Watchkeeping Code (STCW Code) have been incorporated by reference to avoid unnecessary duplication and to ensure compatibility between international and domestic requirements.

The 1995 Amendment to STCW essentially replace the current Annex to the 1978 Convention with a new Annex and an associated STCW Code. The STCW Code is divided into two separate parts (A and B), that are both is organized to parallel, exactly, the STCW Regulations in the Annex. Part A provides mandatory standards that are directly referred to in the relevant STCW Regulations in the Annex. Part B is non-mandatory guidance to assist in implementation of the requirements of Part A, and to promote uniform interpretation of the STCW Regulations. Not all of the STCW Regulations have explanatory material in both parts of the STCW Code.

Chapter I of the new Annex is expanded to include new STCW Regulations on matters such as the use of simulators in training and assessment, the qualifications of persons responsible for the training and assessment of seafarers, the establishment of a quality-standards system to ensure achievement of defined objectives, the establishment of medical-fitness standards for seafarers, and the responsibilities of companies.

The remaining part of the new Annex is enlarged from six to eight chapters. Chapters II, III, and IV have retained their application to the master and deck department, the engine department, and radiocommunications, respectively. However, material that was previously presented as appendices to the original STCW regulations is now contained in the STCW Code, and detailed standards of competence are set out in the corresponding sections of the Code. Additionally, the standards of competence are organized along functional lines, with three levels of responsibility. The amendments establish requirements for certification for the following seven functions: navigation; handling and stowage of cargo; controlling the operation of the ship and care for persons on board; marine engineering; electronic and control engineering; maintenance and repair; and radiocommunications. Three levels of responsibility are associated with each function under STCW—management level, operational level, and support level.

Chapter V, which was previously amended in 1994 and which addressed only tanker personnel, is not expanded to address personnel on roll-on/roll-off(ro-ro) passenger ships.

Chapter VI, which currently addresses only proficiency in survival craft and rescue boats, is expanded to require familiarization training or instruction for all seafarers, and basic safety-training for those who have safety or pollution-prevention duties.

Chapter VII allows for alternative-certification systems under which certificates could be issued on the basis of functions combined in ways that differ from those associated with traditional shipboard capacities under Chapters II, III, and IV. This flexibility is subject to a number of restrictions under the STCW Regulations in Chapter VII. The Coast Guard is not planning, at this time, to incorporate provisions for alternative certification without further evaluation and industry support. The Coast Guard requests comments on the application of Chapter VII to U.S. licensing and documentation.

In the 1995 Amendments to STCW, all watchkeeping provisions are consolidated under new Chapter VIII and the associated sections of the STCW Code. New STCW Regulation VIII/1 requires Administrations to establish and enforce rest-hour requirements for watchkeeping personnel to prevent fatigue.

2. *Scope of application.* STCW applies to seagong ships (except pleasure craft, fishing vessels, and ships entitled to sovereign immunity such as warships). Article II defines a *seagoing ship* as a ship other than one that "navigate[s] exclusively in inland waters or in waters within, or closely adjacent to, sheltered waters or areas where port regulations apply." This proposed rule, which implements STCW, applies to any commercial vessel that operates seaward of the boundary lines established by 46 CFR part 7.

The Coast Guard does not intend to apply the requirements of STCW to vessels that operate exclusively on the inland waters of the United States. However, some of the proposals would have the effect of modifying how the Coast Guard does business and the conditions under which it would consider approving a program of training and assessment for qualifying an individual for a license, document, or endorsement. It does not intend to restrict, to ocean and near-coastal licenses and documents, procedures that may also be suitable to training for inland licenses. The Coast Guard solicits comments on the potential effects on candidates for inland licenses and documents, and on the enterprises that offer training to such candidates.

The Coast Guard does not consider STCW to apply directly to personal serving on ships that operate exclusively on the Great Lakes. However, individuals using time served on such vessels toward an ocean or near-coastal license, and those who are being trained at training institutions that serve mariners in the Great Lakes region, need to be aware of the requirements that mariners must meet to hold STCW Certificates if those mariners will be serving on ships in ocean service.

One comment submitted in response to the request for comments published in the **Federal Register** on August 2, 1995 [60 FR 39306], requested that the Coast Guard consider deferring implementation of the 1995 Amendments to STCW in respect of Mobile Offshore Drilling Units (MODUs). The comment pointed out a resolution adopted by the 1995 Conference of Parties to STCW, noting that time constraints had not allowed full consideration to the possibility of including provisions on the training and certification of maritime personnel employed on board MODUs. The resolution invites IMO to consider developing provisions addressing this matter under STCW, or in such other instrument as may be appropriate.

The resolution referred to in the comment recommends special training and certification for industrial personnel serving on MODUs because of the specialized nature of MODUs' operations. To the extent a MODU is a *seagoing ship* under STCW, this proposed rule would apply to seafarers serving on one. On the other hand, in approving specific training programs, the Coast Guard would take into consideration, and would use as the basis for its evaluation of training programs, any IMO resolutions that provide special guidance relating to the training of personnel on MODUs.

In this regard, the following three IMO resolutions are particularly relevant: A.538(13), "Maritime Safety Training of Personnel on Mobile Offshore Units"; A.712(17), "Recommended Standards of Specialized Training, Qualifications and Certification of Key Personnel Assigned Responsibility for Essential Marine Functions of Mobile Offshore Units"; and A.828(19), "Recommendation on Maritime Safety and Emergency Preparedness Training for all Personnel on Moble Offshore Units".

The comment also suggested that the Coast Guard accept or recognize certificates issued by another Party to STCW for service on MODUs. The Coast Guard does not consider this request to be viable at this time. The issue of recognition is complicated by citizenship requirements that apply to the following: (a) candidates for U.S. licenses and certificates of registry under 46 U.S.C. 7102, (b) crewmembers on documented vessels of the United States under 46 U.S.C. 8103, and (c) MODUs operating on the U.S. outer continental shelf under 43 U.S.C. 1356. Another issue would be the principle of reciprocity or mutual recognition between U.S. and non-U.S. certificates.

3. *License structure.* The Coast Guard would not, by this proposed rule, replace the existing license structure with the license structure presented in STCW. The 4-level license structure in Part 10 would persist (e.g., chief engineer, 1st, 2nd, and 3rd assistant engineer officer, and 3 levels of mate under the master). Although the STCW structure is less complicated than the U.S. structure, the Coast Guard does not consider it appropriate or expedient to propose a comprehensive change in this rulemaking.

Some of the STCW terms must be introduced into U.S. regulations to ensure that holders of U.S. licenses would be entitled to hold the appropriate STCW certificate. The Coast Guard is concerned, however, that the elimination of the existing categories of license might create difficulties for certain segments of the industry, or could have unintended impacts on established career patterns in the maritime industry. In addition, it may necessitate changes in the terms used in the manning-complement section of the U.S. Certificate of Inspection.

Trying to anticipate and address all of these possibilities could unnecessarily complicate promulgation of a rule intended only to implement new STCW requirements. The requirement for promulgating a rule by February 1, 1997, has precluded the opportunity for assessing the implications at this time. However, the Coast Guard is interested in comments on adjustments to the current U.S. licensing structure, to bring it into closer alignment with the STCW structure.

4. *Documentation.* Although the 1995 Amendments to STCW will permit the use of an STCW document to serve as both an individual's certificate of competency and an endorsement that the candidate meets STCW requirements, the Coast Guard plans to retain a distinction between the U.S. license and the STCW endorsement for the time being. In other words, each licensed officer who will be serving on a seagoing vessel will be issued both a U.S. license and a separate STCW endorsement. Of course, an STCW endorsement will have no validity unless accompanied by its holder's license.

5. *Communication to IMO.* In proposing this rule, the Coast Guard has been cognizant of its future obligation to submit to IMO a detailed description of how the United States complies with the 1995 Amendments to STCW. Under new STCW Regulation I/7, each Party must prepare a report on the steps it has taken to give the Convention "full and complete effect."

When complete information has been provided to IMO, and the Secretary-General of IMO has confirmed that in fact full effect has been given to STCW, the Maritime Safety Committee will be invited to formally confirm and identify the Party as having done so, and other Parties will be entitled to accept certificates issued by that Party as being in compliance with Convention requirements.

It will be important for the United States to be able to satisfy the requirements that earn this international recognition. This rulemaking is an essential step toward meeting that objective.

6. *Tonnage.* Both the U.S. licensing structure and the STCW structure employ tonnage thresholds in establishing requirements for training and certification. However, the U.S. structure includes several tonnage divisions not used in STCW, particularly in respect of lower-tonnage licenses. Also, these tonnage divisions are keyed to the tonnage of ships as determined under the regulatory tonnage-measurement system, which exempts certain spaces in calculating gross register tons (GRT) and therefore can result in lower tonnage values than calculations based on the International Convention on Tonnage Measurement of Ships, 1969 (ITC).

The 1995 Amendments to STCW include adjustments in the tonnage thresholds from 200 GRT to 500 gross tons (GT); and from 1,600 GRT to 3,000 GT that reflect a relatively close alignment between the various domestic tonnage systems used around the world and the ITC tonnage-measurement system. The new STCW Regulation I/15, on Transitional Provisions, allows Parties to reissue or revalidate certificates (licenses) based on the lower tonnage values by substituting 500 GT for 200 GRT, and 3,000 GT for 1,600 GRT, at their discretion.

A number of alternatives are available for addressing tonnage in the implementation of the 1995 Amendments to STCW. A threshold of 3,000 GT can be added as a new category of licensing without deleting any existing category. Under this alternative, the requirements for the 3,000-GT license would be identical to the requirements for a 1,600-GRT license; and anyone holding a 1,600-GRT license for service on a ship on near-coastal or ocean service would be entitled to hold an STCW endorsement for service on seagoing ships of 3,000 GT. Similarly, an individual holding a 200-GRT license would be entitled to hold an STCW endorsement for service on seagoing ships of 500 GT.

Another alternative would be to add a threshold of 3,000 GT as a new category of license, and delete the threshold of 1,600 GRT. Under this alternative a transition mechanism would be implemented by regulation or by policy guidance to ensure that holders of 1,600-GRT licenses were issued 3,000-GT licenses at the time of renewal.

A different approach would be needed to align the 200-GRT and 500-GRT thresholds in 46 CFR part 10 with the 500 GT threshold in the STCW Amendments, because the 500-GRT license entails special requirements that apply to certain classes of ships (i.e., OSVs). At the present time, it appears that these thresholds must be retained, and policy guidance will be developed for issuing an STCW endorsement at the 500-GT level, with the appropriate service limitations.

Comments on these or other alternatives may be submitted to the docket and will be considered before a final rule is published. In deciding how to proceed, the Coast Guard would make every effort to avoid penalizing either the holders of existing licenses or the operators of vessels that have exercised their option to be measured under the regulatory-tonnage-measurement system.

7. *Medical fitness.* The 1995 Amendments to STCW include a requirement for Parties to establish standards of medical fitness for seafarers, particularly regarding eyesight and hearing (STCW Regulation I/9). Under STCW as amended, candidates for certification will have to provide *satisfactory proof* that they meet the standards of medical fitness; and they must each hold a document attesting their medical fitness, issued by "a duly qualified medical practitioner recognized by the Party."

Criteria and procedures for medical fitness are already established by 46 CFR parts 10, 12, and 13. They include the following sections: § 10.205(d), physical-examination requirements for original licenses; § 10.207(e), physical requirements for raise of grade of license; § 10.209(d), physical requirements for license renewals; § 10.709, physical-examination requirements for pilots; § 12.02–27, physical requirements for renewal of a merchant mariner's document; § 12.05–5, physical requirements for Able Seamen; § 12.15–5, physical requirements for qualified members of the engine department; and § 13.125, physical requirements for tankermen.

There are currently no internationally agreed-upon standards of medical fitness for seafarers, except in respect of eyesight (which appear in section B–I/9 of the STCW Code). The 1995 STCW Conference adopted a resolution that (a) noted that the International Labor Organization (ILO) and the World Health Organization (WHO) are undertaking research into existing medical-examination requirements for seafarers on a global basis and (b) invited IMO to develop international standards of medical fitness for seafarers, in cooperation with the ILO and WHO. This matter is now on the work program of the IMO Sub-Committee on Standards of Training and Watchkeeping (STW). It is unlikely that such standards will be established before this proposed rule would be published as a final rule.

Meanwhile, the Coast Guard has been working with MERPAC to determine whether there is a need for more explicit physical standards for entry-level personnel. The Coast Guard is also continuing to work with the Maritime Administration in promoting the

Seafarers Health Improvement Program, which includes guidance for physical examinations for both entry of seafarers into, and retention in, the U.S. merchant marine.

The Coast Guard is also in the process of reviewing and revising Navigation and Inspection Circular Number (NVIC) 6–89, "Physical Evaluation Guidelines for Merchant Mariners' Documents and Licenses," which identifies disqualifying medical conditions. As noted in one comment submitted to the docket in response to the notice published on August 2, 1995, medical-fitness standards must take into account the job description for the positions to be filled by the individual concerned, and the implications for both employees and employers under the Americans with Disabilities Act (ADA).

Taking the preceeding discussion into account, the Coast Guard is not venturing into any specific new medical-fitness standards in this proposed rule. However, to ensure compliance with the requirements of new STCW Regulation I/9, this rule includes a provision stating that each applicant for an entry-level MMD must provide a document issued by a qualified medical practitioner attesting the prospective seaman's medical fitness for anticipated shipboard duties (§ 12.02–07).

The Coast Guard invites comments on the need for and feasibility of establishing more prescriptive medical standards for entry-level personnel and particularly for personnel with duties in safety or pollution-prevention. It also invites comment on whether a licensed nurse practitioner should be considered a "qualified medical practitioner" for assuring medical fitness under U.S. regulations.

8. *Quality-standards system (QSS).* The 1995 Amendments to STCW include a new requirement (STCW Regulation I/8) for Parties to ensure that all training and assessment are "continuously monitored through a quality-standards system to ensure achievement of defined objectives, including those concerning the qualifications and experience of instructors and assessors." Furthermore, the new STCW Regulation provides that an evaluation be conducted periodically by qualified persons, not involved in the activities concerned. The associated sections of the STCW Code expand on this STCW Regulation by outlining the requirements for a QSS in Part A, and then by additional guidance in Part B. For example, A–I/8 states that independent evaluations of assessments are to be conducted "at intervals of not more than 5 years." Furthermore, the results of these evaluations are to be reported to IMO, in accordance with STCW Regulation I/7.

To a large degree, the current process of the Coast Guard for course approval meets the requirements of new STCW Regulation I/8, but this process is limited to specific required training (such as firefighting or radar), or training intended to substitute for part of a sea-service requirement. As discussed in more detail relative to 46 CFR Part 10 under *Approved training*, the 1995 Amendments to STCW expand the instances where approved training must or may be used to meet competence requirements. A QSS will be required for all such training.

This proposed rule incorporates elements that conform to the STCW requirements for a QSS for training and assessment activities, but that would at the same time take into consideration the impact on Coast Guard resources that may be needed for effective supervision. The proposed rule is intentionally drafted to allow for a variety of QSSs that may be tailored to suit particular programs of training and assessment. They are also designed to ensure that no QSS imposes unreasonable costs on small enterprises or entities that offer training programs whether limited in scope or offered only to a restricted pool of seafarers and programs that, regardless, may be conducted either on board ship or at shoreside.

The Coast Guard invites comments on the extent to which the following systems or processes, or a combination of such systems or processes, should be accepted as meeting the QSS requirements of the 1995 Amendments to STCW:

(a) Periodic accreditation under a recognized process like the regional accreditation used by high-level academic institutions in the United States, such as the Middle States Association of Colleges and Schools, provided that the process can be appropriately modified to explicitly cover maritime training and take into account guidance regarding quality-standards provided in part B–I/8 of the STCW Code.

(b) Periodic Accreditation by an independent professional agency, or a voluntary association of trade and technical schools, that has membership standards and a procedure for accreditation that takes into account guidance regarding quality-standards provided in part B–I/8 of the STCW Code.

(c) Periodic certification, by a State board of education, or other suitable regulatory body at the State level, establishing that a particular training program or institution is authorized to issue certificates of completion of training requirements in a relevant maritime field, if the supervising process takes into account guidance regarding quality-standards provided in part B–I/8 of the STCW Code.

(d) Periodic certification by an organization accepted or authorized by the Coast Guard, such as a ship-classification society, that has developed a certification process for maritime-training programs based on guidance regarding quality-standards provided in part B–I/8 of the STCW Code, or has suitably adapted such a process from the standards, guidelines, and principles contained in the ISO 9000 series, or from the equivalent Quality management and Quality Assurance Standards developed by the American National Standards Institute (ANSI).

(e) Periodic evaluation by a panel or team of maritime-education specialists, made up of professional staff from the State or Federal maritime academies, or from other recognized maritime-training institutions. The evaluation would be based on an industry standard to be developed, and guidance regarding quality-standards provided in part B–I/8 of the STCW Code.

The Coast Guard is continuing to work with MERPAC to identify how best to introduce an effective QSS. It will consider the recommendations of MERPAC that came from its first meeting in 1996 in drafting the final rule.

For further discussion on qualifications of instructors and assessors, see the section on *Approved training other than approved courses.*

9. *Simulators.* The 1995 Amendments to STCW promote the use of simulators for training and assessment by (a) requiring the proper use of radar and ARPA simulators in training, and (b) allowing the use of simulation as a tool for assessing the competence of candidates for certification. The amendments also set out performance standards for simulators used for conducting required training or assessment. An opportunity for grandfathering simulators installed or brought into use before February 1, 2002, is provided under STCW Regulation I/12.

Current domestic rules require the use of simulators for those training to qualify as radar observers (46 CFR 10.305 and 10.480) and promote the use of simulator training promoted by allowing it to count, in conjunction with approved training, as an equivalency for up to 25 percent of required sea service (46 CFR 10.304(d)).

A new study by the Marine Board of the National Research Council (NRC) examines the role of ship-bridge simulation in the professional development and licensing of mariners responsible for vessels' navigation and piloting. The study, entitled "Simulated Voyages" recommends steps to increase the use of simulators in maritime training and assessment. The Coast Guard considers this proposed rule for implementing STCW to be consistent with the study and its conclusions. This rule is intended to allow introduction of the most effective use of simulators into maritime training and assessment taking place in the United States.

In this regard, the Coast Guard has also been working with the maritime academies in developing guidelines on the use of simulators there. The Maritime Academies Simulator Committee (MASC) includes representatives from the six State maritime academies, the Maritime Administration (MARAD), and the Coast Guard. The outcome of the efforts of this committee will figure in drafting the final rule.

Because of the wide variety of interpretations given to the term "simulation," the Coast Guard invites comments on the need for introducing definitions, or technical performance standards, into the rules, and on the extent to which, or the conditions under which, personal computer-based training should be classified as falling within the scope of simulator training.

10. *Effective dates.* As noted earlier, the 1995 Amendments to STCW come into force on February 1, 1997. However, STCW Regulation I/15, on transitional provisions, allows some requirements to come into force more gradually. The Coast Guard will be working at IMO to establish an international agreement on precisely which requirements must come into force as of February 1, 1997. Any agreement reached at IMO will be taken into figure in drafting the final rule.

STCW Regulation I/15 provides that a Party may continue, until February 1, 2002, to issue certificates (licenses) in accordance with the domestic rules it has in place before the 1995 Amendments come into force (February 1, 1997) only in respect to seafarers who begin their sea service or their approved maritime training before August 1, 1998. Candidates who begin their service or their training after then will be subject to the full application of the revised STCW requirements.

Where options presented by this proposed rule would be to the advantage of the maritime industry in the United States, there may be no need to defer or delay implementation. Comments on the most suitable effective dates for new requirements associated with such matters as the QSS and the process for identifying qualified instructors and assessors should be submitted to the docket.

46 CFR Part 10—Licensing of Maritime Personnel

1. Purpose of Regulations

The Coast Guard would revise § 10.101(a) to reflect that the purpose of part 10 is twofold. This proposed rule is intended to provide, first, a means of determining that an applicant is qualified to hold a U.S. license and, second, a means of determining that an applicant is competent to hold an STCW certificate or endorsement to serve in a particular shipboard position. The use of the term "STCW certificate or endorsement" would allow the Coast Guard to combine the U.S. license and the STCW endorsement into a single document at some time in the future, for administrative convenience.

2. Approved Training

The Coast Guard would revise § 10.101(c) to indicate that Subpart C of Part 10 would apply not only to approved training used for remission of seagoing service but also to all training and assessment that must be approved as meeting the requirements of STCW. For additional discussion of approved training see the discussion of § 10.309 under *Approved training other than approved courses.*

3. Incorporation by Reference

The Coast Guard would introduce the necessary language in § 10.102 to allow technical requirements of the 1995 Amendments to STCW and to the STCW Code to be incorporated by reference into specific rules in part 10.

4. Definitions

The Coast Guard would add a number of new definitions in § 10.103. These include *approved training* because virtually all training required under STCW is subject to approval to ensure that it meets the relevant provisions of STCW. However, such training is distinct from training provided in the context of a course approved by the Coast Guard for use as a substitute for sea service. Under this proposed rule, training could be "approved" for the purposes of STCW if it met certain minimal conditions, as set out in § 10.309. Refer to the discussion of that section (paragraph 12) for more details.

The proposal also includes a definition for *Coast-Guard-accepted.* This term is used in a number of regulations to indicate that, although the Coast Guard would not in some cases engage in a formal approval process, it would maintain certain standards of practice by accepting materials or processes as meeting the applicable requirements, or by authorizing a third party to do so on its behalf under a Memorandum of Agreement.

This proposed rule also defines *approved instructor* as a person trained or instructed in instructional techniques and qualified to provide required training to candidates for licenses, documents, and endorsements.

A definition of *STCW endorsement* also appears in § 10.103 because that term occurs with some frequency in the proposed rule, and the definition would give this endorsement a special legal significance as a document issued under Part 10 to those found in compliance with STCW Standards of Competence.

For the purposes of this proposed rule, the Coast Guard assumes that Part 10 will also include a number of new definitions along the lines of those being developed for docket number CGD 94–055, the project on licensing requirements for officers of towing vessels, including the following:

(a) *Designated examiner* means an individual trained or instructed in assessment techniques and otherwise qualified to evaluate whether a candidate for a license, document, or endorsement has achieved the level of competence necessary to hold the license, document, or endorsement. This individual may be personally designated by the Coast Guard, or be designated within the context of a Coast-Guard-approved program of training or assessment.

(b) *Standard of competence* means the level of proficiency necessary for the proper performance of duties on board vessels in accordance with national and international criteria.

(c) *Practical demonstration* means the performance of an activity under the direct observation of a designated examiner for the purpose of establishing that the performer is sufficiently proficient in a practical skill to meet a specified standard of competence or other objective criterion.

These are not final definitions, and comments made on their applicability to STCW requirements will be taken into account in the rule on towing vessels to ensure that that final rule winds up consistent with all the changes being made to Part 10 by this. Both rules will also maintain uniformity with the definitions of identical terms used in

part 12. This will be discussed further under § 12.01–6.

5. Paperwork Approval

If this proposed rule finally results in new reporting and recordkeeping requirements, § 10.107 will refer to the appropriate OMB control numbers.

6. Eligibility for Licenses

The Coast Guard would revise paragraph (a) of § 10.207 to reflect that, in some cases, candidates must provide proof of having successfully completed practical demonstrations of certain skills. Demonstration requirements are further specified in proposals relating to §§ 10.205, 10.910, and 10.950.

7. Issuance of Licenses

The Coast Guard would revise § 10.202 to ensure that anyone qualified for an STCW certificate or endorsement is issued the appropriate documents at the same time as a license.

8. Requirements for Original Licenses

Under § 10.205, the Coast Guard would incorporate a number of new requirements from the 1995 Amendments to STCW, as follows:

(a) *Firefighting.* Under paragraph (g) of § 10.205, every candidate for a license—as master or mate of a vessel on near-coastal or ocean service, as an operator of an uninspected passenger vessel operating beyond the boundary line, for service on a MODU, and as an engineer—will have to meet the standard of competence in basic and advanced firefighting set out in STCW Regulations VI/1 and VI/3 and in Part A of the associated sections of the STCW Code. This proposed rule assumes that operators of seagoing towing vessels will be classified as masters or mates under a separate rulemaking [CGD 94–055]. If they are not, then the final rule in this will restore the reference to operators of such vessels.

A second provision would allow the Coast Guard to approve a firefighting course or training program specially designed for a particular ship or type of service. This is consistent with the exemption in STCW Regulation II/3 of the 1995 Amendments, which concerns certification of masters and mates on ships of less than 500 GT and states that

> [t]he Administration, if it considers that a ship's size and the conditions of its voyage are such as to render the application of the full requirements of this regulation and section A–II/3 of the STCW Code unreasonable or impracticable, may to that extent exempt the master and the officer in charge of a navigational watch on such a ship or class of ships from some of the requirements, bearing in mind the safety of all ships that may be operating in the same waters.

The Coast Guard expects to apply this flexibility, for instance, in approval of a firefighting course or training program for licensed personnel serving on small passenger vessels engaged in near-coastal voyages. In these cases, the Coast Guard would take into consideration the firefighting equipment whose fitting is actually required on such vessels, as well as the complexity of firefighting that may take place on such vessels. The Coast Guard invites comments on the scope, content, and skills-assessment techniques that it should include in these limited or modified courses or training programs.

(b) *Automatic Radar-Plotting Aids (ARPA).* The Coast Guard would revise § 10.205 by adding a new STCW requirement for every candidate for a license—as master or mate of vessels on near-coastal or ocean service, or as operator of uninspected passenger vessels operating beyond the boundary line—to establish competence in the use of ARPA. Candidates would have to have ARPA-simulator training. However, this requirement would not apply to those who will be serving on vessels not fitted with ARPA; in such cases, the license and STCW endorsement would state the lack of the training. (For further discussion of radar-training requirements, see the discussion of § 10.480 at page 46.)

(c) *Certificate for Operator of Radio in Global Maritime Distress and Safety System (GMDSS).* The Coast Guard would revise § 10.205 by adding a new STCW requirement that every candidate for a license—as master or mate of a vessel on near-coastal or ocean service—hold a Certificate for Operator of Radio in Global Maritime Distress and Safety System issued by the Federal Communications Commission (FCC) under its regulations (47 CFR Part 13), or a certificate of completion of an FCC-approved or Coast Guard-approved Certificate for Operator of Radio in Global Maritime Distress and Safety System. However, this requirement would not apply to those who will be serving on vessels not required to participate in the GMDSS system under FCC regulations (47 CFR Part 80) and Chapter IV of the International Convention on Safety of Life At Sea (SOLAS). Seagoing cargo ships of 300 GTs and seagoing passenger ships must meet GMDSS requirements. On the other hand, some mates or masters may have to hold GMDSS certificates before this proposed rule would become final in any form, if they are designated to serve as primary or secondary GMDSS operators under FCC regulations.

One comment submitted in response to the request for comments published in the **Federal Register** on August 2, 1995 [60 FR 39306], urged the Coast Guard to provide for "maintenance of GMDSS and radio equipment in the revisions of the licensing and documentation regulations to reflect the STCW Amendments." The comment also said "a communications and electronics position should be established incorporating the skills of the traditional Radio Officer and those of an electronics specialist." The comment also asserted that the Coast Guard, rather than the FCC, should certify training facilities and testing facilities for the GMDSS. Lastly, the comment said the Coast Guard should consider establishing standards of competence for shipboard radio-electronics personnel responsible for distress and emergency communications.

For regulatory purposes, the Coast Guard considers this comment to raise four distinct issues. Only two of these fall directly in the scope of the present rulemaking, to implement the 1995 Amendments to STCW. Qualifications of those who will be maintaining GMDSS and radio equipment, and their training and testing, are subjects within the scope of this project. A proposal for establishing an electronics-technician endorsement appears under part 12 (in new § 12.25–45).

Proposals for the establishment of a new crew position on U.S. ships, to be dedicated to communications and electronics, or modification of radio officers' role to encompass all GMDSS-related responsibilities, lie outside the scope of this rulemaking. STCW does not impose manning requirements on seagoing ships. On the other hand, the new certification standards may have implications for crew complements; therefore, the Coast Guard has included a proposal for revising part 15 concerning the ability of the electronics technician to perform at-sea maintenance of GMDSS installations when the ship is required to have that onboard-maintenance capability as one of the options under the GMDSS provisions of SOLAS. That proposal pertains to § 15.401.

With respect to the role of the Coast Guard and the FCC in regulating maritime communications, the Coast Guard currently recognizes the FCC as the agency with primary responsibility for establishing U.S. requirements for holding radiocommunications licenses or radio operators' certificates. This responsibility is complemented by the Coast Guard's authority for issuing radio officers' licenses. This proposed rule honors the complementary roles of both agencies, while taking into account the fact that adjustments may be made in the future on how these roles are allocated and carried out. Comment to the docket is welcome on whether the Coast Guard should be involved in approving the GMDSS training program, as it is proposing to be. The Coast Guard will also be looking at this issue in light of section 365 of the Telecommunications Act of 1996 (Public Law 104–104) which will allow a vessel to operate without a radio officer if it is determined that the vessel is properly fitted with equipment to implement GMDSS, and the equipment is in good working condition.

(d) *Personal survival techniques.* The Coast Guard is proposing to revise § 10.205 by adding a new STCW requirement—for every candidate for a license as master, mate, or engineer on a vessel on near-coastal or ocean service, or for a license as operator of uninspected passenger vessels operating beyond the boundary line, or for a license for service on a MODU—to present proof of having received approval training or instruction in personal survival techniques (i.e., survival at sea in the event of abandoning ship). The object of the training is to ensure that the candidate meets the standard of competence in personal survival techniques set out in STCW Regulation VI/1 and in table VI/1–1 in section A/VI/1 of the STCW Code. The Coast Guard intends to accept training and assessment which is based on documented practical experience.

The Coast Guard is also proposing to approving a personal survival course of training especially designed for a particular ship or type of service. This is consistent with the flexibility conferred by section A–VI/1, paragraph 3, of the STCW Code that concerns familiarization and basic safety-training and states that

> [t]he Administration may, in respect of ships other than passenger ships of more than 500 gross tonnage engaged on international voyages and tankers, if it considers that a ship's size and the conditions of its voyage are such as to render the application of the full requirements of this section of the STCW Code unreasonable or impracticable, exempt to that extent the seafarers on such a ship or class of ships from some of the requirements, bearing in mind the safety of people on board, the ship and property and the protection of the environment.

The Coast Guard expects to apply this flexibility, for instance, in approval of personal survival training for licensed personnel serving on small vessels engaged in near-coastal voyages. The Coast Guard invites comment on the scope, content, and skills-assessment techniques that should be included in this limited or modified training.

(e) *Personal safety and social responsibilities.* The Coast Guard is proposing to revise § 10.205 by adding a new STCW requirement—for every candidate for a license as master, mate, or engineer on a vessel in near-coastal or ocean service, or for a license as an operator of uninspected passenger vessels operating beyond the boundary line, or for a license for service on a MODU—to present a certificate of completion of approved training in personal safety and social responsibilities (e.g., taking proper actions in emergencies, taking precautions to prevent pollution, observing safe working practices, understanding and communicating orders, and contributing to effective human relationships on board ship by being aware of employment conditions, individual rights and obligations, dangers of alcohol abuse, etc.). The object is to ensure that the candidate meets the standard of competence in personal safety and social responsibility set out in STCW Regulation VI/1 and in table A–VI/1–4 in section A/VI/1 of the STCW Code.

The Coast Guard is also proposing to let itself approve a course in personal safety and social responsibilities especially designed for a particular ship or type of service. This is consistent with the exemption in section A–VI/1, paragraph 3, of the STCW Code quoted under paragraph (d) *Personal survival techniques.*

The Coast Guard invites comments on the scope, content, and skill-assessment techniques that belong in this limited or modified training.

The Coast Guard anticipates that the requirements for firefighting, personal survival, and personal safety and social responsibility including pollution prevention can be combined into a single course of training or instruction, which also includes elementary first aid, to meet the basic safety-training requirements of section A–VI/1, paragraph 2, of the STCW Code. This will be particularly true with respect to operators of uninspected passengers vessels (OUPVs) operating seaward of the boundary line. The Coast Guard intends to develop a checklist of elementary basic safety-instruction that candidates for OUPV licenses could have confirmed by boating-safety instructor from the Coast Guard Auxiliary or the Red Cross, or by a suitable official from the local firefighting department. The Coast Guard invites comments on what belongs in this elementary basic safety checklist.

After receiving the basic safety-training or instruction, the license-holder must every 5 years provide evidence of having maintained the required standard of competence, by providing evidence at the time of renewal that he or she has demonstrated competence and has been examined or continuously assessed as part of an approved training program, in accordance with the tables in section A–VI/1, paragraph 2, of the STCW Code. This matter gets closer scrutiny in the discussion under paragraph 9, *Requirements for renewal of licenses.*

(f) *Procedures for bridge team-work.* The Coast Guard would revise § 10.205 by adding a new STCW requirement for every candidate for a license as master, or mate, on a vessel on near-coastal or ocean service to know effective bridge-team-work procedures as an essential element of the competence to maintain a safe navigational watch. The Coast Guard understands bridge-team-work procedures to encompass the processes by which the watchkeeping personnel work together efficiently and effectively to maintain a continuously safe watch. The concepts applied in training and assessment to that end should reflect the principles of bridge-resource management that contribute to the most effective performance of watchkeeping duties. In this regard, refer to the principles of bridge-resource management outlined in section B–VIII of the STCW Code.

(g) *Practical demonstration.* The Coast Guard would add a new subsection to § 10.205 to require that, when a practical demonstration of a skill is called for under this section or under a provision of STCW referred to in this section the candidate must provide sufficient evidence that the skill has been demonstrated properly in the presence of a designated examiner. A written record, including skills demonstrated, identity of the designated examiner, and the results of the demonstration, must be maintained in the applicant's license file. The Coast Guard invites comments on the best format for maintaining this record. For related proposals, refer to the discussion on tables 10.910 and 10.950.

9. Requirements for Raise in Grade of License

The Coast Guard would revise § 10.207 to require proof that candidates for a raise in grade of license have been examined and otherwise assessed, to establish that they meet standards of competence. In many cases, STCW will

require assessment by examination and by demonstration of practical skills, which will be in addition to any basic qualifications such as age, seagoing experience, and training.

10. Requirements for Renewal of Licenses

The Coast Guard is proposing to add a new subsection under § 10.209 to indicate that after July 31, 1998, applicants for renewals will have to meet new requirements for holding the original licenses at the grades concerned.

Candidates for renewal of licenses as masters or mates for service on vessels in ocean or near-coastal service, or as operators of uninspected passenger vessels operating beyond the boundary line, will have to have the appropriate training or instruction in firefighting, personal survival techniques, and personal safety and social responsibility. If the instruction took place more than 5 years ago, the candidates will also have to provide proof that competence was assessed and validated within the last 5 years. Regardless of the schedule under which a candidate's license is renewed, he or she will need to receive basic safety training in accordance with dates of compliance established in paragraph (b) of § 15.403 for service on a seagoing vessel. The Coast Guard intends to accept training and assessment which is based on documented practical experience.

Candidates for renewal of licenses will also need to be trained in ARPA if they will be serving on vessels fitted with ARPA and they will need to hold a Certificate for Operator of Radio in Global Maritime Distress and Safety System if they will be serving on vessels that participate in GMDSS.

The proposed deadline of July 31, 1998, derives from the transitional provisions of the 1995 Amendments to STCW, which allow for a phase-in of new requirements up to August 1, 1998. STCW Regulation I/15 permits a Party to renew certificates (licenses) until February 1, 2002, in accordance with rules that will be in effect before February 1, 1997. However, to meet the target for full implementation in 2002, it is necessary to process renewals in accordance with new requirements beginning in 1998.

With these changes, the renewal process will conform to the requirements of new STCW Regulation I/11 (Revalidation of Certificates) of the 1995 Amendments.

11. Required use of Training—And Assessment—record Books

As noted, the 1995 Amendments to STCW require the use of a training- and assessment-record book under some circumstances. The Coast Guard is proposing to revise § 10.304 to require use of Coast-Guard-accepted training- and assessment-record books when candidates for deck licenses are using training to substitute of service, and when candidates for engineer licenses need onboard training to meet the requirements of STCW. A training- and assessment-record book must provide certain basic information including an indication, by means of the initials or signature of a clearly identified, designated examiner, that the candidate has established, through practical demonstrations, that he or she is competent in each of the subjects of knowledge, understanding, and proficiency set forth in the tables of the appropriate section in Part A of the STCW Code.

The Coast Guard proposes to require the designated examiner to certify that he or she has in fact personally witnessed the practical demonstration by the candidate.

STCW requires the training- and assessment-record book to be "approved." The Coast Guard plans to issue a NVIC or suitable regulation in due course that would set out the format or formats that it will consider approved (i.e., Coast-Guard-accepted) for the purposes of complying with this regulation. Formal approval would take place when the record book is submitted as proof that competence has been assessed.

12. Approved Training Other Than Approved Courses

The 1995 Amendments to STCW refer to "approved training" in the following eight contexts:

(a) STCW Regulation II/1 states that a candidate for certification as officer in charge of a navigational watch must have approved seagoing service of not less than 1 year "as part of an approved training program which includes onboard training which meets the requirements of section A–II/1 of the STCW Code and is documented in an approved training-record book." In the absence of an approved training program, the candidate must have at least 3 years of approved seagoing service.

(b) STCW Regulation III/1 states that a candidate for officer in charge of an engineering watch, or for designated duty engineer, must have completed "approved education and training of at least 30 months which includes onboard training documented in an approved training-record book and meets the standards of competence specified in section A–II/1 of the STCW Code."

(c) STCW Regulation IV/2 states that candidates for certification as persons in charge of or performing radio duties on a ship required to participate in the GMDSS must have completed "approved education and training and meet the standard of competence specified in section A–IV/2 of the STCW Code."

(d) STCW Regulation V/1 requires certain personnel on tankers to have completed "an approved tanker familiarization course" and "an approved specialized training program."

(e) STCW Regulation V/2 requires certain personnel on ro-ro passenger ships to have completed "approved training in crisis management and human behavior."

(f) Section A–VI of the STCW Code refers to "approved familiarization training" for all persons employed or engaged on seagoing ships other than passengers, and to "approved basic training or instruction" for seafarers with designated safety or pollution-prevention duties.

(g) The table of competence for deck officers (A–II/1) refers to "approved radar simulator and ARPA simulator training."

(h) The tables of competence throughout part A of the STCW Code refer to "approved training," "approved simulator training" and "approved laboratory equipment training" as alternative methods constituting evidence to prove a candidate's competence.

The Coast Guard's current course-approval system, as provided in §§ 10.301 to 10.307, applies only to specific mandatory courses such as firefighting, radar, and first aid or cardiopulmonary resuscitation, and to training used as a substitute for required service or for a written examination. There are almost 400 Coast-Guard-approved courses. (The procedures necessary to process course approvals appear (as outlined in NVIC 5–95, "Marine Licensing Program's Quality Standards System for Approved Training"). An alternative system may be needed to regulate approved training conducted to meet STCW requirements but not used for remission of seagoing service under Part 10.

The Coast Guard is working with MERPAC to identify the criteria for instructors of approved courses. MERPAC is also looking at the relationship of these criteria to the overall requirements for monitoring training under a quality-standards system that ensures the meeting of training objectives. Preliminarily, the MERPAC working groups engaged in these efforts have settled on a concept under which the Coast Guard would individually certify instructors and examiners whom it finds to meet professional and instructional experience. The status and content of MERPAC's recommendations on these criteria will influence the final rule.

The Coast Guard is including in this proposed rule an alternative to its current course-approval system. Proposed new § 10.309 rests on the principle of self-certification with minimum Coast Guard oversight based on acceptance by the Coast Guard of certain materials and procedures to maintain standards. In other words, completion certificates issued by training programs that meet the conditions stated in that section could be accepted as meeting the "approved training" requirements of STCW when such training is not being used for remission of seagoing service.

This could be done by a process like that used to credit "approved seagoing service" after the fact, on sufficient documentary proof. If the Coast Guard learned that the conditions set out in new § 10.309 were not being met by a particular training program, it would not accept certificates of completion as proof that the necessary training had been completed. The conditions for conducting approved training other than approved courses are set out in new § 10.309.

This proposal is intended to comply with the requirements of new STCW Regulations I/6 and I/8 of the 1995 Amendments. STCW Regulation I/6 concerns qualifications of those who train or assess the competence of seafarers; and STCW Regulation I/8 requires that training and assessment of seafarers be continuously monitored through a quality-standards system to ensure achievement of defined objectives, including those concerning the qualifications and experience of instructors and assessors.

The Coast Guard welcomes comments on this alternative approach, particularly with respect to (a) Coast Guard involvement in conducting oversight and maintenance of standards through a Coast-Guard-acceptance procedure and (b) specific training or instruction in instruction or assessment that those who instruct or assess candidates for STCW certificates or endorsements should be proficient in.

13. Radar Training

The Coast Guard would revise § 10.480 to require that radar simulators used in radar training meet the performance standards set out in section A–I/12 of the STCW Code.

14. Requirements for Radio Operators' Certificates

The Coast Guard would expand §§ 10.601 and 10.603 to cover certification or radio operators for service on ships required to participate in GMDSS. Candidates must meet the standard of competence set forth in STCW Regulation IV/2 of the 1995 Amendments.

This proposal is intended to complement that under § 10.205, which would require masters and mates to hold a Certificate for Operator of Radio in Global Maritime Distress and Safety System (GMDSS) if they serve on vessels that participate in GMDSS, and with FCC regulations in 47 CFR parts 13 and 80 also allows persons other than masters and mates to acquire radio operators certificates from the Coast Guard if they have the necessary training and have met standards of competence by means of an examination and practical demonstration.

The Coast Guard invites comment on the most effective process for implementing the Certificate requirements for GMDSS radio operator, particularly in light of section 365 of the Telecommunications Act of 1996 which promotes implementation of GMDSS on U.S. vessels.

15. Practical Demonstration

Subpart I of part 10 (§§ 10.901 through 10.950) is currently limited to identification of subjects in which candidates must be examined to qualify for certain licenses. Because qualification for STCW certificates or endorsements under the 1995 Amendments to the Convention will typically require candidates to prove their competence by means of both an examination and a demonstration of skills, the Coast Guard is proposing to expand § 10.901 to cover practical demonstrations.

Proposed new § 10.901 provision would incorporate by reference the tables in Part A of the STCW Code, with the effect of permitting candidates for U.S. licenses to demonstrate their competence by any of the methods authorized under those tables.

The table of subjects (a) adds subjects that will be treated under STCW; (b) highlights those subjects for which candidates must perform practical demonstrations; and (c) suggests subjects that can be removed from the table because not treated under STCW.

The Coast Guard is also proposing a new subsection to require that simulators used in assessment of competency or demonstration of continued proficiency must meet the appropriate performance standards set out in section A–I/12 of the STCW Code. However, simulators installed or brought into use before February 1, 2002, would be exempt from full compliance with these standards to the extent that they remained capable of meeting the objectives of the assessment of competence or demonstration of continued proficiency.

16. Ro-Ro Passenger Ships

The 1995 Amendments to STCW include new special provisions for personnel serving on ro-ro passenger ships. New STCW Regulation V/2 in Chapter V of the Annex, and section A–V/2 of the STCW Code, establish mandatory minimum standards for the training and certification of masters, officers, ratings (i.e., unlicensed seamen with certain ratings), and other personnel on ro-ro passenger ships.

Because there are a number of ro-ro passenger ships documented in the United States, of which six operate on international voyages between the United States and Canada, the Coast Guard is proposing to add a new subpart J in part 10, on "Professional requirements for officers serving on ro-ro passenger ships," to implement STCW Regulation V/2 in the U.S. licensing system. Primarily, the new subpart would incorporate by reference STCW Regulation V/2 and section A–V/2 of the STCW Code. This proposed rule would apply only to U.S. Ro-Ro passenger ships to which SOLAS Certificates are issued. Comments on whether application should be expanded to other classes of U.S. ro-ro passenger ships may be submitted to the docket.

The International Maritime Organization (IMO) will be undertaking further work to clarify certain requirements under STCW Regulation V/2. In particular, the STCW of IMO will consider training in crisis management for masters and senior officers. Any recommendations that IMO ultimately adopts in this regard will influence the Coast Guard in approving training programs or course materials on this subject.

46 CFR Part 12—Certification of Seamen

1. Purpose of Regulations

The Coast Guard would revise § 12.01–1 to reflect that the purpose of part 12 is twofold. Part 12 is intended to provide, first, a means of determining the qualifications an applicant must possess to be eligible for certification to serve on U.S. merchants vessels and, second, a means of determining whether an applicant is competent under STCW to serve in a particular shipboard position. The Coast Guard is also proposing to indicate that new subpart 12.03 prescribes the requirements applicable to training and assessment associated with meeting the standards of competence under amended STCW.

2. Incorporation by Reference (§ 12.01–3)

The Coast Guard would introduce the necessary language in § 12.01–3 to allow technical requirements of the 1995 Amendments to STCW and to the STCW Code to be incorporated by reference into specific rules in Part 12.

3. Definitions

As noted in the discussion of § 10.103, the Coast Guard intends to maintain consistency in the definitions for identical terms used in parts 10 and 12. Consequently, the Coast Guard is proposing for § 12.01–6 a number of new definitions that correspond with those proposed for § 10.103. These comprise *approved training, Coast-Guard-accepted, designated examiner, practical demonstration, qualified instructor, STCW endorsement,* and *standard of competence.*

4. When Documents are Required

The Coast Guard would revise § 12.02–7 to require individuals serving in certain capacities on seagoing ships to hold STCW certificates or endorsement stating that they are so qualified.

5. General Provisions Respecting Merchant Mariner's Document (MMD)

The Coast Guard is proposing to revise § 12.02–11 to ensure that everyone qualified for an STCW certificate or endorsement is issued the appropriate certificate or endorsement when he or she is issued an MMD, or when the MMD is renewed or endorsed. One may be qualified to hold an endorsement for a rating forming part of a navigation or engineering watch, under STCW Regulation II/4 or III/4 and the corresponding section of the STCW Code (A–II/4 or A–III/4), without being qualified as an AB or QMED.

The Coast Guard is also proposing to allow the endorsement of an MMD to indicate that the holder has received the familiarization or basic safety-training required by chapter VI of STCW as amended. This would not be mandatory, but it should be a convenience to those who move from ship to ship, or company to company. As in the relevant parts of § 10.205, the Coast Guard would be able to approve courses which are designed for particular ships or types of service, within the limits allowed by STCW.

6. Medical Fitness

The Coast Guard is proposing to add a new subsection to § 12.02–17, requiring an applicant for an MMD to present documents issued by a qualified medical practitioner attesting the applicant's medical fitness to perform the functions for which the document is issued. There are currently no medical-fitness requirements for entry-level seamen.

This proposal is intended to comply with new STCW Regulation I/9 of the 1995 Amendments, which states that "each party shall establish standards of medical fitness for seafarers, particularly regarding eyesight and hearing." For further discussion of medical fitness, refer to *General,* at page 9.

The Coast Guard invites comments on whether additional procedures or criteria belong in the rule to regulate medical fitness of entry-level seamen.

7. Approved Training Other Than Approved Courses

As discussed under § 10.309, the Coast Guard is proposing an alternative to the course-approval system, for accepting training programs as "approved" to satisfy STCW as amended. The proposal in § 12.03–1 is almost identical to the proposal in § 10.309 (with necessary editorial adjustments to fit in the context of Part 12). The conditions are intended to meet the quality-standards provisions of STCW as amended.

8. Able Seaman

The Coast Guard is proposing to revise the able seamen qualifications in Subpart 12.05 to conform with the requirements of the 1995 Amendments to STCW.

Section 12.05–3 would expand the reference to "lifeboatman" to include everyone with "proficiency in survival craft and rescue boats."

This section would also add a new subsection to require candidates for AB certificates for service on seagoing vessels to receive approved basic safety-training as set out in STCW Regulation VI/1 and section A–VI/1 of the STCW Code (i.e., personal survival techniques; firefighting and fire prevention; elementary first aid; and personal safety and social responsibilities). As in the relevant parts of § 10.205, the Coast Guard would be able to approve courses designed for particular ships or types of service, within the limits allowed by STCW. Also, as in § 10,209, an applicant for renewal of an MMD with an AB endorsement would have to prove that competency was assessed within the last 5 years, if instruction took place more than 5 years ago.

Section 12.05–3 would also require a candidate for an AB certificate for service on seagoing ships of 500 GT or more to meet the requirements of STCW Regulation II/4, and be qualified to hold an STCW certificate or endorsement for a rating forming part of a navigational watch. The standard of competence set out in section A–II/4 of the STCW Code would be incorporated by reference.

The table in section A–II/4 of the STCW Code includes a number of subjects areas (such as use of gyro compasses, change-over from auto-pilot, maintenance of a safe watch, knowledge of EPIRBs, and avoidance of false alerts) that are not currently required under § 12.05–9 (examination and demonstration of ability). That section would refer to the STCW table.

Also, each candidate would have to prove that he or she had a stated minimum of seagoing service including training and experience associated with navigational watchkeeping under the direct supervision of the Master, the officer in charge of the navigational watch, or a qualified rating.

The Coast Guard is also proposing to revise § 12.05–11 (general provisions respecting MMDs endorsed for able seaman) to indicate that, on seagoing ships of 500 GT ton and more, ABs who serve in navigational watchkeeping must hold STCW certificates or endorsements for a rating forming part of a navigational watch and be qualified in accordance with STCW Regulation II/4.

9. Lifeboatman

The Coast Guard is proposing to revise the lifeboatman qualifications in subpart 12.10 to conform with the requirements of the 1995 Amendments to STCW.

Section 12.10–3 would expand the reference to "lifeboatman" to include every mariner with "proficiency in survival craft and rescue boats." This section would require candidates to (a) be at least 18 years of age and (b) have a minimum of 6 months of seagoing service when associated with approved training.

This section would also add a new subsection to require a candidate for a certificate for lifeboatman or survival craft to receive approved basic safety-training as set out in STCW Regulation VI/1 and section A–VI/1, paragraph 2, of the STCW Code (i.e. personal survival techniques; firefighting and fire prevention; elementary first aid; and personal safety and social responsibilities). As in the relevant parts of § 10.205, the Coast Guard would be able to approve courses designed for particular ships or types of service, within the limits allowed by the STCW. Also, a candidate for renewal of an MMD with a lifeboatman endorsement would have to prove that competence was established within the last 5 years if instruction took place more than 5 years ago.

Section 12.10–5 would incorporate by reference the standard of competence set out in STCW Regulation VI/2 and section A–VI/2 of the STCW Code. This would expand the coverage under this section to such subjects as methods of starting survival-craft engines use of the fire extinguisher provided method of helicopter rescue, effects of hypothermia, use of rescue boats for persons in the sea, use of EPIRBS and pyrotechnic distress signals, and first aid for survivors. The Coast Guard would be able to approve courses designed for a particular class of ship or type of service, to take into account such conditions as small ships required only to carry liferafts. It would place an appropriate limitation on the certificate issued on the basis of such training.

The Coast Guard is proposing to delete § 12.10–7. Individuals qualified under STCW Regulation VI/2 must hold certificates stating they are qualified. However, by policy, the Coast Guard proposes to grandfather those who currently hold AB endorsements. Until August 1, 1998, it would issue to holders of MMDs with AB endorsements, endorsements for proficiency in survival craft when they renew their MMDs.

The Coast Guard is proposing to add a new § 12.10–9 on certificates of proficiency in fast rescue boats. This section would incorporate by reference both the requirements of STCW Regulation VI/2, paragraph 2, and the relevant portions of section A–VI/2 of the STCW Code, including table A–VI/2–2. Fast rescue boats are those that can sustain speeds of over 20 knots with crews of 3, and over 8 knots with full complements of persons and equipment.

The Coast Guard is also proposing to add a new § 12.10–11 for those designated to provide medical care on board ship. This section would incorporate by reference the requirements of STCW Regulation VI/4 and those of section A–VI/4 of the STCW Code. This allows individuals not already having to be trained in first aid under other regulations (e.g., § 10.205(h) for licenses and certificates of registry) to acquire endorsements to provide medical care on board ship.

10. Qualified Member of the Engine Department

The Coast Guard is proposing to revise the qualifications for qualified members of the engine department (QMEDs) in subpart 12.15 to conform with the requirements of the 1995 Amendments to STCW.

Section 12.15–3 would get a new subsection to require candidates for QMED certificates for service on seagoing vessels driven by main propulsion machinery of 750 kW [1,000 hp] of propulsion power or more to receive approved basic safety-training as set out in STCW Regulation VI/1 and section A–VI/1 of the STCW Code (i.e., personal survival techniques; firefighting and fire prevention; elementary first aid, and personal safety and social responsibilities, including pollution prevention). As in the relevant parts of §§ 10.205 and 12.05–3, the Coast Guard would be able to approve courses designed for particular ships or types of service, within the limits allowed by the STCW. Also, as in § 12.05–3, an applicant for renewal of an MMD with a QMED endorsement would have to prove that competency was assessed within the last 5 years if instruction took place more than five years ago.

Section 12.15–3 would also require candidates for QMED certificates for service on seagoing vessels driven by main propulsion machinery of 750 kW [1,000 hp] of propulsion power or more to meet the requirements of STCW Regulation III/4, and either be qualified to hold an STCW certificate or endorsement for a rating forming part of a watch in a manned engine-room or be designated to perform duties in a periodically unmanned engine-room. The standard of competence set out in section A–III/4 of the STCW Code would be incorporated by reference.

The table in section A–III/4 of the STCW Code includes a number of subjects (such as engine-room watchkeeping and knowledge of escape routes from machinery spaces) not currently covered under § 12.15–9.

Section 12.15–7 would require a minimum of seagoing service performing duties associated with engine-room watchkeeping under the direct supervision of a qualified engineer officer or of a member of a qualified rating.

Section 12.15–9 would refer to table A–III/4 of the STCW Code, and would require practical demonstration of abilities.

Section 12.15–11 would indicate that, on seagoing vessels driven by main propulsion machinery of 750 kW [1,000 hp] of propulsion power or more, QMEDs who serve in a watchkeeping capacity in a manned engine-room or are designated to perform duties in a periodically unmanned engine-room must hold STCW certificates or endorsements stating that they are qualified in accordance with STCW Regulation III/4.

11. Electronics Technician

The Coast Guard would establish a new rating under part 12 by adding a section to Subpart 12.25 (Certificates of service for ratings other than AB or QMED). New § 12.25–45 would allow an individual to hold a certificate or MMD stating that he or she is qualified to serve as an electronics technician on board a vessel.

Section 12.25–45 would require candidates for this endorsement to provide sufficient proof of competence. This would comprise (a) a certificate of completion from a Coast Guard-approved training program that includes instruction and assessment by qualified instructors and designated examiners, and makes the student complete appropriate examinations and practical demonstrations to establish competence in the basic skills, knowledge, and understanding necessary to perform maintenance, diagnosis, and repair of electronic equipment and installations on board ships, in accordance with the manuals normally provided for such equipment and installations and (b) a certificate of completion from a course approved by the FCC or Coast Guard and covering at least the scope and content of training outlines in the relevant sections of B–IV/2 of the STCW Code relating to maintenance of GMDSS installations on board ships.

Under § 12.25–45 an individual could receive an electronic-technician rating without completing the GMDSS course. However, in that case, the endorsement would contain a limitation to the effect that the individual could not serve as the person designated to perform at-sea maintenance of GMDSS installations when such a person was necessary to meet the maintenance requirements imposed by SOLAS Regulation IV/15 (i.e., "electronics technician—non-GMDSS)". When at-sea maintenance is

to be used as a means of meeting the SOLAS requirement for maintenance of GMDSS, the person designated to perform the maintenance must have an electronics-technician endorsement, without the limitation. While this proposed rule would establish an electronics-technician endorsement in part 12, the intent is not that there be any restriction on the ability of a licensed engineer to acquire the endorsement. The Coast Guard solicits comments on whether Part 10 should include additional requirements on electronics as a shipboard skill or responsibility, particularly in light of section 365 of the Telecommunications Act of 1996 which promotes the implementation of GMDSS on U.S. vessels.

12. Qualifications for Service on Ro-Ro Passenger Ships

The Coast Guard would add a new subpart (§ 12.30) under part 12 to establish requirements for certification (i.e., by endorsement of an MMD) of unlicensed seamen for service on ro-ro passenger ships. The requirements would essentially incorporate by reference the provisions of STCW Regulation V/2 as they relate to personnel with specific duties on such ships, and those with duties for care of passengers. The proposed rule would apply only to U.S. ro-ro passenger ships to which SOLAS certificates are issued. Comments on whether application should be expanded to other classes of ro-ro passenger ships may be submitted to the docket.

46 CFR Part 15—Manning Requirements

The 1995 Amendments to STCW contain a number of provisions that affect manning and watchkeeping on seagoing vessels, as well as conditions that must be met before crewmembers can be assigned to duties. The Coast Guard is proposing to revise part 15 to incorporate these new requirements on U.S. merchant vessels that operate seaward of the boundary line.

1. Incorporation by Reference (§ 15.105)

The Coast Guard would introduce the necessary language in § 15.105 to allow technical requirements of the 1995 Amendments to STCW and to the STCW Code to be incorporated by reference into specific rules in part 15.

2. Definitions (§ 15.301)

The Coast Guard would revise this section to reflect changes proposed in parts 10 and 12. For example, a reference to *GMDSS radio operator, electronics technician—non-GMDSS,* and *electronics technician* must each be added to paragraph (b) or (c).

3. Employment and Service Within Restrictions of License or Document (§ 15.401)

The Coast Guard would expand this section to include references to STCW certificates and endorsements. The section would also propose that, as of February 1, 2002, only persons with the appropriate training and certification as GMDSS radio operators be employed or engaged as masters, chief mates, or officers in charge of navigational watches on ships required to participate in the GMDSS system under SOLAS Chapter IV. Additionally, only persons trained in the use of ARPA could be employed or engaged as masters, chief mates, officers in charge of navigational watches, or operators of uninspected passenger vessels on vessels fitted with ARPA. These requirements would complement those for §§ 10.205 and 10.209.

Section 15.401 would also, as of February 1, 2002, let only persons holding electronic-technician endorsements not limited to non-GMDSS electronics installations be designated to perform at-sea maintenance of GMDSS installations, when such designation is used to meet the maintenance requirements imposed by SOLAS Regulation IV/15. This would complement the proposal for § 12.25–45.

Section 15.401 would also allow only those with proper training under subpart J of part 10 and § 12.24–30 of part 12 to be employed or engaged on ro-ro passenger ships.

4. Familiarization and Basic Safety-Training (§ 15.403)

The Coast Guard would implement STCW Regulation VI/1 of the 1995 Amendments by adding new § 15.403 to Part 15 on familiarization and basic safety-training. The section would propose that after February 1, 1997 no person may be assigned to perform any duties on a seagoing vessel unless he or she has received approved familiarization training in personal survival or has received sufficient information and instruction in a number of subjects affecting personal safety, in accordance with A–VI/1 of the STCW Code.

This section would also state that no person may be employed or engaged in any capacity on board a seagoing vessel in the business of that vessel as part of the crew with designated duties for safety or pollution prevention in the operation of the ship unless he or she has received approved basic safety-training or instruction in accordance with A–VI/1 of the STCW Code. Designated duties for safety include those associated with fire-team emergency squads and with assisting passengers in emergencies.

Additionally, this section would provide that no person may perform duties on board a seagoing vessel unless he or she has received the required familiarization training or instruction, or has achieved the required standard of competence through basic safety-training, as appropriate.

Under the relevant parts of §§ 10.205 and 12.02–11, the Coast Guard would be able to approve training designed for particular ships or types of service, within the limits allowed by STCW.

One comment submitted to the docket following the public meeting in August expressed concern about the application of these requirements of familiarization and basic safety-training to personnel serving on MODUs. Again, to the extent a MODU was a seagoing ship under STCW, the implementing regulations being proposed at this time would apply to its personnel. On the other hand, in approving specific training, the Coast Guard will take into consideration, and use as the basis for its evaluation, any IMO resolutions that provide special guidance on the training of personnel on MODUs.

5. Maintenance of Seamen's Records by Owner or Operator (§ 15.411)

STCW Regulation I/14 of the 1995 Amendments requires Administrations to impose certain responsibilities on companies that own or operate seagoing vessels. These responsibilities are fundamental to good management, are consistent with the principles reflected in the International Management Code for Safe Operation of Ships (ISM Code), and are to a large extent already covered by domestic regulations.

For example, the obligation under item 1.1 of STCW Regulation I/14, concerning the need to ensure that each seafarer holds the appropriate STCW certificate, is addressed by 46 CFR 15.401. The obligation in item 1.2 of STCW Regulation I/14, concerning compliance with manning requirements, is addressed by 46 CFR 15.401 and 15.515, and to some extent by 46 CFR 15.801, with statutory support (e.g., 46 U.S.C. 8101 (c) and (f) and 8104(j)). Similarly, the object of item 1.4 of STCW Regulation I/14, ensuring that seafarers are familiar with ship-specific arrangements, equipment, and so forth, before being assigned to duties, is already addressed in 46 CFR 15.405.

But, because § 15.405 does not explicitly require companies to ensure that a level of familiarity has been achieved, the Coast Guard is inviting comment on whether it should be revised. If so, the Coast Guard also invites comments on whether the term *company* (or, alternatively, the term *owner or operator*) should be defined in Part 15. The Coast Guard also invites comments on how § 15.405 should be revised to effectively implement paragraph 2 of section A.I/14 of the STCW code, which states the following:

> The company shall provide written instructions to the master of each ship to which the Convention applies, setting forth the policies and the procedures to be followed to ensure that all seafarers who are newly employed on board the ship are given a reasonable opportunity to become familiar with the shipboard equipment, operating procedures and other arrangements needed for the proper performance of their duties, before being assigned to those duties.

To some extent, the requirements for maintaining certain records, as set out in item 1.3 of STCW Regulation I/14, are already addressed by statutory and regulatory provisions on shipping articles and other records of seamen (e.g., 46 U.S.C. 10302, 10320, and 10502 and 46 CFR part 14). Additionally, it is considered routine practice for U.S. companies that employ seaman to maintain a personnel record for each employee, or to ensure that one is maintained by an agency acting on behalf of the company in such matters (such as a labor union that has entered into a collective-bargaining agreement).

Taking the above into account, the rule proposed as § 15.411 focuses on the recordkeeping requirements in STCW Regulation I/14 of the 1995 Amendments. The object is to allow companies a suitable range of flexibility for complying with these requirements in a manner most consistent with good management. Furthermore, the policy of the Coast Guard will be to presume, in the absence of information to the contrary, that companies holding valid ISM certificates, issued in accordance with the appropriate international, and domestic regulations, are fulfilling their obligations under STCW Regulation I/14.

One comment submitted in response to the notice published on August 2, 1995 [60 FR 39306], asked that the requirements of item 1.4 of STCW Regulation I/14 (on familiarization with specific equipment and procedures) not be extended to apply to duties of industrial personnel on industrial vessels (e.g., MODUs) or research crew on research vessels. The Coast Guard would not expect this proposed rule to impose an unreasonable obligation on companies that employ such personnel. However, in keeping with earlier statements in this preamble, the Coast Guard recognizes that IMO will be giving further consideration to issues of industrial personnel. Therefore, the proposals relating to paragraph 1.4 of STCW Regulation 1/14 should be understood not to apply to industrial personnel on MODUs or research personnel on research vessels. Such personnel, however, would be subject to the familiarization and basis safety training requirements, of STCW Regulation VI/I, as described in section 4.

6. Watchkeeping Arrangements

The Coast Guard is proposing to revise § 15.705 (Watches) by requiring masters on seagoing vessels to observe the principles on watchkeeping arrangements set out in STCW Regulation VIII/2 of the 1995 Amendments.

7. Workhours and Rest Periods

The Coast Guard is proposing to implement the rest-hour requirements of STCW Regulation VIII/1 of the 1995 Amendments, and of section A–VIII/1 of the STCW Code, by adding new subparagraphs to § 15.710. Essentially, the STCW Amendments will require that every person assigned duty as an officer in charge of a watch or as a rating forming part of a watch shall receive a minimum of 10 hours of rest in any 24-hour period. These 10 hours of rest may be divided into two parts as long as one segment is at least 6 hours.

Deviation from the requirement for 10 total and 6 continuous hours of rest is permissible in the case of "an emergency or drill or in other overriding operational conditions." Additionally, the 10 hours of rest in a 24-hour period may drop to 6 consecutive hours in a 24-hour period over 2 days, as long as the watch-keeper receives 70 hours of rest in each 7-day period. Watch schedules that ensure compliance with these rest-hour requirements must be posted when they are easily accessible to watchkeeping personnel and to port-control officers in foreign ports.

Section B–VIII/1 of the STCW Code provides some guidance on the meaning of the terms used in section A–VIII/1, and on the correct interpretation of the rest-hour requirements when calculating workhours outside of the periods of watchkeeping responsibility. For instance, it construes the phrase "overriding operational conditions" to mean "only essential shipboard work which cannot be delayed for safety or environmental reasons or which could not reasonably have been anticipated at the commencement of the voyage."

The guidance in section B–VIII/1 of the STCW Code also states that the minimum rest periods should not be interpreted as implying that all other hours may be devoted to watchkeeping or other duties. It also invites administrations to consider a requirement for recordkeeping to ensure compliance with that for hours of the rest.

One comment submitted in response to the notice published on August 2, 1995 [60 FR 39306], expressed concern that an individual serving in a two-watch rotation on a towing vessel would be considered unfit for duty if he or she got only 5 hours of sleep in one 6-hour off-duty period, and 2 hours of sleep in the next off-duty period. The Coast Guard does not view the rest-hour requirements of STCW as mandating a period in which the individual concerned is actually in his or her bunk asleep. However, over any period of 24 hours, the watchkeeping personnel must be provided the opportunity for an uninterrupted period of rest for at least 6 hours, and an additional 4-hour period during which no duties are assigned or performed. The operative word is "opportunity". This would not prevent a person from attending to routine personal affairs, or engaging in recreational or other off-duty activities.

Another comment submitted on this matter suggested that the rest-hour requirements of STCW could have an adverse impact on the operation of towing vessels and small passenger vessels because it would permit a 14-hour workday or a 98-hour workweek, in violation of U.S. statutory and regulatory provisions that limit the number of hours a seaman may be required to work.

Note, however, that the introduction of a rest-hour requirement into U.S. regulations would not change any existing work-hour limits or rest-hour requirements that apply to personnel on U.S. vessels. Limits that apply to seagoing ships under 46 U.S.C. 8104 and 46 CFR 15.705 and 15.710 would remain fully in effect. Additionally, operators of towing vessels and tankers already have to comply with both the work-hour limits under 46 U.S.C. 8104(h) and 8104(n), respectively, and the rest-hour requirements under STCW and 46 U.S.C. 8104(a).

In any specific set of circumstances, the stricter rule would apply. For example, although the rest-hour requirements proposed here would technically permit the operator of a seagoing towing vessel to stand watch for up to 14 hours a day, 46 U.S.C. 8104(h) would limit the operator to no more than 12 hours in a 24-hour period.

Similarly, although 46 U.S.C. 8104(n) technically permits a mate on a tanker to work up to 15 hours in a 24-hour period, the rest-hour requirements proposed here would limit his or her periods of duty to not more than 14 hours in that same 24-hour period, unless there were an emergency or other overriding operational condition; and then an adjustment would subsequently be necessary to ensure that the mate received 70 hours of rest in 7 days.

Although calculating work and rest may be complex under some non-routine circumstances, the Coast Guard considers the STCW rest-hour requirements of STCW and the existing work-hour limits in U.S. statutes and regulations to be compatible and enforceable, and in keeping with the object of safe watchkeeping.

Further comment to the docket is welcome, on the implementation of the rest-hour requirement, and particularly on the extent to which the terms *rest hours and overriding operational conditions* should be clarified or interpreted either in this proposed rule itself or in the policy on its enforcement. Comment is also welcome on the kinds of shipboard activity (such as personal housekeeping) that should be allowed to watchkeeping personnel who are off duty and on the need for recordkeeping to ensure compliance with the rest-hour requirements.

Incorporation by Reference

The following material would be incorporated by reference in §§ 10.102, 12.01–3, and 15.105: Amendments to the Annex to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, and the associated Seafarers' Training, Certification and Watchkeeping (STCW) Code, as adopted under resolutions 1 and 2, respectively, by the Conference of Parties to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, held at IMO from June 26 to July 7, 1995.

Copies of the material are available for inspection where indicated under **ADDRESSES**. Copies of the material are also available from IMO, 4 Albert Embankment, London, SE1 7SR, England, telephone in London 0171–735–7611.

Before publishing a final rule, the Coast Guard will submit this material to the Director of the Federal Register for approval of the incorporation by reference.

Regulatory Evaluation

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) [44 FR 11040 (February 26, 1979)].

A preliminary regulatory assessment has been prepared and is available for inspection where indicated under **ADDRESSES**.

The regulatory assessment is preliminary at this stage. The Coast Guard published a notice of inquiry on November 13, 1995 [60 FR 56970], to solicit information that would be useful in calculating the costs and benefits of implementing the 1995 Amendments to STCW. Some of those calling the Coast Guard to discuss the notice said they could not give a detailed or accurate assessment of impacts until they had seen the specific proposals. Others indicated they did not foresee a cost impact since they felt that their current practices and procedures generally conformed with the requirements of the amendments to STCW.

To a great extent, the STCW revisions are introducing, as requirements, practices already successfully promoted through the current U.S. regulations (e.g., use of approved training, and the use of simulators in training as predicates of remission of seagoing service). In most cases, the new requirements would involve modification or enhancement of existing training and oversight rather than establishment of new programs.

The Coast Guard estimates that the proposal will affect approximately 19,500 seafarers over a 5-year period. The estimated composition of this group is 10,335 deck and other officers, 1,755 engineering officers, 3,900 able seamen, and 3,510 qualified members of the engineering department.

The approximate vessel population that operate outside the boundary line and may be affected by the proposed regulation are 136 MODUs; 95 industrial vessels; 271 freight ships; 103 oil recovery vessels; 696 offshore supply vessels; 20 passenger vessels; 2,112 small passenger vessels; 14 research vessels; 14 maritime school ships; 162 tank ships; 15 towboats and tugboats; 462 tank barges; 3 ferries; and 486 freight barges.

Costs

The Coast Guard estimates that costs fall into the following categories: medical fitness, training costs, training infrastructure costs, company and/or owner/operator costs, and government costs.

The Coast Guard estimates that approximately 12,000 seafarers apply for MMDs annually. Approximate costs of $1,900,000 annually are estimated for mariners certifying their medical fitness when applying for an MMD.

Deck, radio, and other officers will be required to demonstrate competency and knowledge in a combination of courses including GMDSS, ARPA, Personal Survival, Personal Safety and Social Responsibility, and Bridge Teamwork. The Coast Guard estimates that as many as 4,091 officers may be affected annually while the proposed regulation has a high level of flexibility built into it for mariners, the Coast Guard has assumed that mariners will attend formal, classroom courses to comply with the requirements. Annual training costs for deck, radio, and other officers are estimated at $21,804,580.

Engineering officers will be required to demonstrate competence and knowledge in a combination of courses including Personal Survival, Personal Safety and Social Responsibility, and Electronic and Control Engineering. The Coast Guard estimates that as many as 645 engineering officers may be affected annually. Annual training costs for engineering officers are estimated at $3,247,575.

ABs will be required to demonstrate competence and knowledge in a combination of courses including Personal Survival, Personal Safety and Social Responsibility, Shipboard Orientation, Firefighting and Fire Prevention, and estimates that as many as 1,369 ABs may be affected annually. Annual training costs for ABs are estimated at $11,568,050.

QMEDs will be required to demonstrate competence and knowledge in a combination of courses including Personal Survival, Personal Safety and Social Responsibility, Shipboard Orientation, and Firefighting and Fire Prevention. The Coast Guard estimates that as many as 1,253 QMEDs may be affected annually. Annual training costs for QMEDs are estimated at $7,580,650.

Ro/Ro personnel will be required to attend specialized training including crowd management, passenger safety, cargo safety, and hull integrity. The Coast Guard estimates that this may affect 225 Seafarers every 5 years. Estimated annual cost is $67,500.

The Coast Guard has estimated a new electronics technician rating for vessels equipped with GMDSS. Electronic technicians will be required to demonstrate competence and knowledge to perform maintenance, diagnosis and repair of electronic equipment and installations. The Coast Guard estimates that this may affect 1,128 Seafarers. The Coast Guard has estimated this as a one-time cost of $6,204,000.

The Coast Guard has determined that training infrastructure costs include QSS, Approved Instructor, Designated Examiner, Capital Investments, and Course Development.

For QSS, the Coast Guard estimates that 100 training institutions may be affected at an initial cost of $7,500, $1,000 annual maintenance costs, and an independent evaluation estimated at $5,000. Total cost is estimated at $1,750,000.

For Approved Instructors, the Coast Guard estimates that 1,500 instructors at 100 training institutions may be affected. Annual approved instructor costs are estimated at $1,500,000.

For Designated Examiners, the Coast Guard estimates each will be required to provide 20 hours of service. Annual designated examiner costs are estimated at $3,900,000 for 1997 through 2001 and $780,000 for 2002 through 2003.

The Coast Guard has determined that there are likely to be some GMDSS and ARPA Capital Investments necessary by training institutions to accommodate the anticipated annual through-put of deck and other officers. A one-time cost of $3,160,000 is estimated.

The Coast Guard has determined that there are likely to be some course-development costs associated with the proposed rulemaking. A one-time cost of $889,000 is estimated.

The Coast Guard has determined that costs for companies and for owners and operators are likely to include those associated with rest-hour and recordkeeping requirements.

The Coast Guard has determined that rest-hour requirements are likely to affect 83 vessels annually. Crew augmentation costs for these vessels is estimated at $2,120,650 annually.

The Coast Guard has determined that records on Seafarer training and competence, medical fitness, and rest hour requirements will be required. The Coast Guard estimates that this will likely affect 19,500 seafarers annually at an estimated cost of $1,462,500.

The Coast Guard does not anticipate any additional costs in implementing the regulation at this time.

Total Costs

Costs of the proposal are forecast to 2003. The Coast Guard estimates that these requirements will be fully integrated into the marine infrastructure by 2003 and, thus, a regular part of doing business. Costs are estimated at $45,789,021 in 1997, $36,218,521 in 1998, $35,568,521 in 1999 through 2001, $12,767,724 in 2002, and $13,200,224 in 2003. The present value of the costs of this proposed regulation discounted at 7 percent to 1997 would total $172,685,673.

Benefits

The Coast Guard has determined that the proposed rule has potential economic benefits and a potential to reduce marine casualties.

Economics play a significant role in safety. While the U.S. commercial fleet has long been among the safest in the world, differences between U.S. standards and those of other maritime nations put our vessels at a competitive disadvantage. Responsible operators can be forced to operate with lower profit margins and less capital to invest in safe operations, and in some cases forced out of the market entirely. More aggressively holding all ships to the same standards set for U.S. ships is key to shifting the balance. This proposal would allow the U.S. to hold mariners aboard all vessels entering its ports to the same competency standards which the U.S. holds its own vessels, without foreign retaliation. Consequently, U.S. vessels visiting foreign ports would not be faced with increased scrutiny that could result in costly vessel delays. Such delays would otherwise likely decrease the value of trade carried in U.S. bottoms. Conversely, under this proposal, the U.S. could expect to increase its market share of cargo carried which could result from the more even competitive playing field accorded U.S. and foreign fleets because of this proposal. Appendix F provides a summary of the value of U.S. international trade and ocean trade worldwide.

U.S. ships only carry about 8 percent of the value of U.S. export trade and 7 percent of the value of U.S. import trade. If, as a result of complying with international standards proposed in this rulemaking, U.S. vessels gain one tenth of one percent of the value of U.S. international trade in any given year of implementation (approximately $56,000,000), the annual benefits will outweigh the costs.

On average, there were 29 fatalities and 76 injuries annually as a result of errors that potentially could be linked to training deficiencies. The training required by this proposal has the potential to significantly decrease the number of fatalities and injuries in maritime transportation. Based on the $27,700,000 value of a human life, if this proposal causes a reduction in the number of fatalities by 17 in 1997, 13 in 1998–2001, and 55 in 2002–2003, the benefits will exceed the costs.

The complex cumulative effect of human error makes it difficult to quantify the exact benefits of the proposed rulemaking. One way to reduce the risks associated with human error in operating seagoing ships is to ensure that seafarers maintain the highest practicable standards of training, certification, and competence. The proposal is intended to reduce the risk of maritime casualties and pollution incidents caused by human error. Benefits are expected to accrue from a reduction of shipboard accidents and injuries because personnel will have an increased awareness of safe shipboard practices. As the Coast Guard reviews comments resulting from the proposal and formulates a final rule, further review of benefits based on risk is anticipated.

Small Entities

Under the Regulatory Flexibility Act [5 U.S.C. 601 *et seq.*], the Coast Guard must consider whether this proposal, if adopted, would have a significant economic impact on a substantial number of small entities. "Small entities" may include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under Section 3 of the Small Business Act (15 U.S.C. 632). "Small entities" also include small not-for-profit organizations and small governmental jurisdictions.

The proposed rule has built in sufficient flexibility and options to allow small entities to comply with its proposed requirements at modest cost. For the most part, it is expected to affect only large business enterprises and individuals mariners. There is no requirement that one entity perform all the STCW training and assessment requirements that are being proposed.

Those small entities engaged in training may choose to obtain assessment from individual qualified assessors who may also be organized as small entities. The Coast Guard does not limit the arrangements as to who may offer instruction or assessment. Any combination may be used by a mariner to achieve the desired qualifications licenses, or certificates.

The proposed rule applies to individual mariners and allows for small entities to remain in and actively compete in the maritime-training sector of the maritime industry with options to teach and assess as many courses or functions as any entity chooses. The proposal covers requirements that

would not begin to go into effect until early 1997, through the phase-in period.

Because of these accommodations and characteristics, the Coast Guard certifies under 5. U.S.C. 605(b) that this proposal will not have a significant economic impact on a substantial number of small entities.

Collection of Information

Under the Paperwork Reduction Act [44 U.S.C. 3501 *et seq.*], the Office of Management and Budget (OMB) reviews each proposed rule that contains a collection-of-information requirement to determine whether the practical value of the information is worth the burden imposed by its collection. Collection-of-information requirements include reporting, recordkeeping, notification, and other, similar requirements.

This proposal contains collection-of-information requirements in the following sections: 10.304 (training and assessment-record books); 10.309 and 12.03–1 (approved training); and 15.411 (maintenance of seamen's records by owner or operator). The following particulars apply:

Training conducted on board ships, when part of an approved program based on 1 year of seagoing service for deck licenses (6 months for engineer licenses), would have to make use of a training- and assessment-record book to document that required training and assessment of competency has been completed properly. The books would be submitted to the Coast Guard as part of an application for a license.

The QSS that would monitor training and assessment to ensure that they were meeting objectives would compel organizations offering training to document certain information and to maintain records for 1 year. The records would cover such matters as the course syllabus, students performance, and the qualifications of instructors and examiners. Additionally, an independent evaluation would need to be documented periodically. Records would be subject to review by the Coast Guard in its oversight function to ensure that training and assessment satisfy minimum conditions.

The proposed rule would allow for wide variation in the means for complying with new requirements to ensure that the scope of the QSS is reasonably related to the scope of training and assessment conducted by the entity concerned.

Companies owning or operating U.S.-documented seagoing vessels would have to arrange for the maintenance of certain records concerning the medical fitness, experience, training, and competence, of the seamen employed or engaged on their ships. The records could be maintained by a third party on behalf of the company, but they would need to be readily accessible to those in management responsible for the safety of vessel operations and the prevention of marine pollution. The recordkeeping requirement would be in effect only during the period of service of the seaman concerned.

The proposed rest-hour schedule would require documentation necessary for the safe operation of the vessel. This would ensure that the crew was informed of rest-hour requirements.

The proposed recordkeeping generally reflects routine practices for U.S. ship-operating companies and training institutions. However, the international rules in STCW were drafted to apply to companies and training programs worldwide. In due course, by its obligation under STCW as amended, the United States must demonstrate to the IMO that it has in place certain specific regulations that implement the international rules.

Dot No: 2115.

Administration: U.S. Coast Guard.

Title: Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW).

Need for Information: To ensure compliance with international requirements, and to maintain an acceptable level of quality in the training and assessment of merchant mariners.

Proposed use of Information: The Coast Guard would have access to information to monitor compliance with regulations and to identify where corrective action may be needed. Coast Guard officials involved in issuing licenses, documents, and STCW certificates would have a reliable source for determining whether training and assessment had been completed by candidates in accordance with domestic and international rules.

Frequency of Response: Under this proposed rule, records would have to be maintained for 1 year. In one case a certification of continued compliance would have to be provided to the Coast Guard once a year.

Burden Estimate: 40,215 hours.

Respondents: 28,645.

Form(s): N/A.

Average Burden-Hours per Respondent: 1.4 hours.

The Coast Guard has submitted the requirements to OMB for review under § 3504(h) of the Paperwork Reduction Act. Persons submitting comments on the requirements should submit their comments both to OMB and to the Coast Guard where indicated under **ADDRESSES**.

Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

This rulemaking should not have a direct impact on State, local, or tribal governments. However, States that operate or charter maritime-training institutions would have to bring the relevant training programs into line with the new requirements. For the most part, the existing State-sponsored maritime-training institutions have programs that would need little adjustment to meet the new requirements. And the accreditation process for these institutions should satisfy the new quality-assurance provisions.

Environment

The Coast Guard considered the environmental impact of this proposed rule proposal and concluded that, under paragraph 2.B.2.e(34)(C) of Commandant Instruction M16475.1B, this rulemaking is categorically excluded from further environmental documentation.

This rulemaking would have no direct environmental impact. The implementation of the 1995 Amendments to STCW should reduce the risk that human error will result in a maritime casualty or pollution incident by ensuring that seafarers on seagoing ships are meeting the highest practicable standards of competence. However, there are few objective criteria for quantifying the reduction in this risk. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects

46 CFR Part 10

Fees, Marine safety, Incorporation by reference, Reporting and recordkeeping requirements, Schools, Seamen, Vessels.

46 CFR Part 12

Fees, Marine safety, Incorporation by reference, Reporting and recordkeeping requirements, Schools, Seamen, Vessels.

46 CFR Part 15

Marine safety, Navigation (water), Incorporation by reference, Reporting and recordkeeping requirements, Schools, Seamen, Vessel manning, Vessels.

For the reasons set out in the preamble, the Coast Guard proposes to amend 46 CFR parts 10, 12, and 15 as follows:

PART 10—LICENSING OF MARITIME PERSONNEL

1. the authority citation for part 10 continues to read as follows:

Authority: 31 U.S.C. 9701; 46 U.S.C. 2103, 7101, 7106, 7107; 49 CFR 1.45, 1.46; § 10.107 also issued under the authority of 44 U.S.C. 3507.

2. Section 10.101 is amended by revising paragraphs (a) and (c) to read as follows:

§ 10.101 Purpose of regulations.

(a) The purpose of the regulations in this part are to provide—

(1) A comprehensive means of determining the qualifications an applicant must possess to be eligible for a license as deck officer, engineer, pilot, radio officer, or radio operator on merchant vessels, or for a license to operate uninspected towing vessels or uninspected passenger vessels, or for a certificate of registry as staff officer; and

(2) A means of determining that an applicant is competent to serve as a master, chief mate, officer in charge of a navigational watch, chief engineer officer, second engineer officer, officer in charge of an engineering watch, designated duty engineer, or radio operator, in accordance with the provisions of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (STCW), and to receive the appropriate certificate or endorsement as required by STCW.

* * * * *

(c) The regulations in subpart C of this part prescribe the requirements applicable to—

(1) Each approved training course if the training course is to be acceptable as a partial substitute for service or for a required examination, or as training required for a particular license or license endorsement; and

(2) All training and assessment associated with meeting the standards of competence established by STCW.

3. Section 10.102 is added to read as follows:

§ 10.102 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the Office of the Federal Register, 800 North Capitol Street NW., Suite 700, Washington, DC, and at the U.S. Coast Guard, Operating and Environmental Standards Division, 2100 Second Street SW., Washington, DC 20593–0001, and is available from the sources indicated in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this part and the sections affected are as follows:

International Maritime Organization (IMO)

4 Albert Embankment, London, SE1 7SR, England.

Amendments to the Annex to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW), and the associated Seafarers' Training, Certification and Watchkeeping Code (STCW Code), as adopted under resolutions 1 and 2, respectively, by the Conference of Parties to the International Convention of Standards of Training, Certification and Watchkeeping for Seafarers, 1978, held at IMO from June 26 to July 7, 1995—10.103; 10.205; 10.304; 10.480; 10.602; 10.901.

4. Section 10.103 is amended by adding in alphabetical order the following new definitions to read as follows:

§ 10.103 Definitions of terms used in this part.

Approved training means training that is approved by the Coast Guard or meets the requirements of § 10.309.

* * * * *

Coast-Guard-accepted means that the Coast Guard has officially acknowledged in writing that the material or process at issue meets the applicable requirements; that the Coast Guard has issued an official policy statement listing or describing the material or process as meeting the applicable requirements; or that an entity acting on behalf of the Coast Guard under a Memorandum of Agreement has determined that the material or process meets the applicable requirements.

* * * * *

Designated examiner means an individual who has been trained or instructed in techniques of training or assessment and is otherwise qualified to evaluate whether a candidate for a license, document, or endorsement has achieved the level of competence required to hold the license, document, or endorsement. This individual may be designated by the Coast Guard or by a Coast-Guard-approved program of training or assessment.

* * * * *

Practical demonstration means the performance of an activity under the direct observation of a designated examiner for the purpose of establishing that the performer is sufficiently proficient in a practical skill to meet a specified standard of competence or other objective criterion.

Qualified instructor means an individual who has been trained or instructed in instructional techniques and is otherwise qualified to provide required training to candidates for licenses, documents, and endorsements.

* * * * *

Standard of competence means the level of proficiency to be achieved for the proper performance of duties on board vessels in accordance with national and international criteria.

STCW endorsement means a certificate or endorsement issued in accordance with the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (STCW). An STCW endorsement issued by the Officer in Charge, Marine Inspection, will be valid only when accompanied by the appropriate U.S. license or document; and, if the license or document is revoked, then the associated STCW endorsement will no longer be valid for any purpose.

* * * * *

5. In § 10.107, paragraph (b)(3) is added to read as follows:

§ 10.107 Paperwork approval.

* * * * *

(b) * * *

(3) OMB 2115—46 CFR 10.304, 10.309.

6. In § 10.201, paragraph (a) is revised to read as follows:

§ 10.201 Eligibility for licenses and certificates of registry, general.

(a) The applicant shall establish to the satisfaction of the Officer in Charge, Marine Inspection (OCMI), that he or she possesses all of the qualifications necessary (e.g., age, experience, character references and recommendations, physical examination, citizenship, approved training, passage of a professional examination, as appropriate, and, when required by this part, a practical demonstration of skills) before the OCMI will issue a license or certificate of registry.

* * * * *

7. In § 10.202, paragraph (j) is added to read as follows:

§ 10.202 Issuance of licenses and certificates of registry.

* * * * *

(j) When an original license is issued, renewed, upgraded, or otherwise modified, the Officer in Charge, Marine Inspection (OCMI), will determine whether the holder of the license must hold an STCW certificate or endorsement for service on a seagoing vessel and, if so, and if the holder is qualified, will issue the appropriate certificate or endorsement. The OCMI will also issue an STCW certificate or endorsement at other times, if circumstances so require and if the holder of the license is qualified to hold the certificate or endorsement.

8. In § 10.205, paragraph (g) is revised, and paragraphs (k), (l), (m), (n), (o), and (p) are added, to read as follows:

§ 10.205 Requirements for original licenses and certificates of registry.

* * * * *

(g) *Firefighting certificate.* (1) Applicants for licenses in the following categories shall each present a certificate of completion from an approved course or approved training in firefighting. The course must be sufficient to establish that the applicant meets the standard of competence in basic and advanced firefighting set forth in STCW Regulations VI/1 and VI/3. The course must have been completed 5 years or less before the date of application for the license requested:

(i) All masters' or mates' licenses for service on vessels in ocean or near-coastal service.

(ii) All licenses for operators of uninspected passenger vessels for service beyond the boundary line.

(iii) All licenses for service on mobile offshore drilling units.

(iv) all engineers' licenses.

(2) The officer in charge, Marine Inspection (OCMI), may accept a certificate of completion from an approved course or approved training in firefighting designed for a particular ship or type of service; however, in that case, the OCMI will limit the endorsement by indicating the ship or type of service.

* * * * *

(k) *Competence in the use of Automatic Radar-Plotting Aids (ARPA).* (1) Subject to paragraph (j)(2) of this section, all candidates for masters' or mates' licenses for service on vessels in ocean or near-coastal service, or for licenses for operators of uninspected passenger vessels for service beyond the boundary line, shall each present a certificate of completion from an approved course or approved training on an ARPA simulator. The course must be sufficient to establish that the applicant is competent to maintain safe navigation through the proper use of ARPA, by correctly interpreting and analyzing the information obtained from that device and taking into account both the limitations of the equipment and the prevailing circumstances and conditions. The simulator used in the course must meet or exceed the performance standards established under STCW Regulation I/12 of the 1995 Amendments.

(2) Training and assessment in the use of ARPA is not required for those who serve exclusively on ships not fitted with ARPA. However, when the simulator training has not been completed, the license must be endorsed to indicate this limitation.

(l) *Certificate for operator of radio in the Global Maritime Distress and Safety System (GMDSS).* (1) Subject to paragraph (l)(2) of this section, candidates for all masters' or mates' licenses for service on vessels in ocean or near-coastal service shall each present either a certificate for operator of radio in the GMDSS issued by the Federal Communication Commission (FCC) or a certificate of completion from a Coast-Guard- or an FCC-approved course for operator of radio in the GMDSS. The course must be sufficient to establish that the applicant is competent to perform radio duties on a ship participating in the GMDSS and meets the standard of competence under STCW Regulation IV/2 of STCW.

(2) Candidates intending to serve only on ships not required to comply with the provisions of the GMDSS in Chapter IV of SOLAS need not comply with those of paragraph (k)(1) of this section.

(m) *Personal survival techniques.* (1) Applicants for licenses in the following categories shall each present a certificate of completion from an approved course or approved training in personal survival techniques. The course must be sufficient to establish that the applicant meets the standard of competence under STCW Regulation VI/1 and table A–VI/1–1 of the STCW Code. The course must have been completed 5 years or less before the date of application for the license requested:

(i) All masters' or mates' licenses for service on vessels in ocean or near-coastal service.

(ii) All licenses for operators of uninspected passenger vessels for service beyond the boundary line.

(iii) All licenses for service on mobile offshore frilling units.

(iv) All engineers' licenses.

(2) The officer in charge, Marine Inspection (OCMI), may accept a certificate of completion from an approved course or approved training in firefighting designed for a particular ship or type of service; however, in that case the OCMI will limit the endorsement by indicating the ship or type of service.

(n) *Personal safety and social responsibilities.* (1) Applicants for licenses in the following categories shall each present a certificate of completion from an approved course or approved training in personal safety and social responsibilities. The course must be sufficient to establish that the applicant meets the standard of competence under STCW Regulation VI/1 and table A–VI/1–4 of the STCW Code. The course must have been completed 5 years or less before the date of application for the license requested:

(i) All masters' or mates' licenses for service on vessels in ocean or near-coastal service.

(ii) All licenses for operators of uninspected passenger vessels for service beyond the boundary line.

(iii) All licenses for service on mobile offshore drilling units.

(iv) All engineers' licenses.

(2) The officer in charge, Marine Inspection (OCMI), may accept a certificate of completion from an approved course or approved training in firefighting designed for a particular ship or type of service; however, in that case, the OCMI will limit the endorsement by indicating the ship or type of service.

(o) *Procedures for bridge team-work.* Candidates for all masters' or mates' licenses for service on vessels in ocean or near-coastal service shall each present sufficient documentary proof that they understand and can effectively apply procedures for bridge team-work as an essential aspect of maintaining a safe navigational watch, taking into account the principles of bridge-resource management enumerated in section B–VIII/2 of the STCW Code.

(p) *Practical demonstration of skills.* Candidates for original licenses must each successfully complete any practical demonstrations required under this part and appropriate to the particular licenses concerned, to prove that they are sufficiently proficient in skills required under subpart I of this part. The OCMI must be satisfied as to the authenticity and acceptability of all evidence that each candidate has successfully completed those demonstrations in the presence of a designated examiner. The OCMI will place in each candidate's file a written record of the skills required, the results of the practical demonstrations, and the identification of the designated examiner in whose presence those occurred.

9. In § 10.207, the section heading, the heading for paragraph (c), and paragraph (c)(1) are revised to read as follows:

§ 10.207 Requirements for raise in grade of license.

* * * * *

(c) *Age, experience, training, and assessment.* (1) Applicants for a raise of grade of licenses shall establish that they possess the age, experience, and training qualifications necessary, and that they have been examined and otherwise assessed as may be required by this part to establish competence to hold the particular license requested, before they are entitled to a raise in grade of license.

* * * * *

10. In § 10.209, paragraphs (k), (l), and (m) are added to read as follows:

§ 10.209 Requirements for renewal of licenses and certificates of registry.

* * * * *

(k) After July 31, 1998, each applicant for renewal of a license in any of the following categories shall meet the applicable requirements of §§ 10.205(g), 10.205(l), and 10.205(m) unless he or she has previously done so:

(1) All masters' or mates' licenses for service on vessels in ocean or near-coastal service.

(2) All licenses for operators of uninspected passenger vessels for service beyond the boundary line.

(3) All licenses for service on mobile offshore drilling units.

(4) All engineers' licenses.

(l) After July 31, 1998, each applicants for renewal of a license in any of the following categories of license shall provide evidence of having both demonstrated competence in firefighting, personal survival techniques, and personal safety and social responsibility and been examined or continuously assessed in these areas as part of an approved training program, within the previous 5 years:

(1) All masters' or mates' licenses for service on vessels in ocean or near-coastal service.

(2) All licenses for operators of uninspected passenger vessels for service beyond the boundary line.

(3) All licenses for service on mobile offshore drilling units.

(4) All engineers' licenses.

(m) After July 31, 1998, each applicant for renewal of any master's or mate's license for service on vessels in ocean or near-coastal service, or any license for operator of an uninspected passenger vessel for service beyond the boundary line, shall meet the applicable requirements of §§ 10.205(k), 10.205(l), and 10.205(o) if he or she has not previously done so.

11. In § 10.304, the heading is revised and paragraphs (e), (f), and (g) are added to read as follows:

§ 10.304 Substitution of training for required service, and use of training- and assessment-record books.

* * * * *

(e) Where a candidate for ocean and near-coastal deck licenses uses completion of approved training to substitute for required service, then not less than 1 year of the remaining service must be part of approved training that meets the appropriate requirements of Chapter II of STCW and the requirements of subpart C of this part. The candidate's training must be documented in a Coast-Guard-accepted training- and assessment-record book.

(f) Each candidate for an engineer's licenses for service on seagoing vessels shall complete onboard training as part of approved training that meets the appropriate requirements of Chapter III of STCW and the requirements of subpart C of this part. The training must be documented in a Coast-Guard-accepted training- and assessment-record book.

(g) The training- and assessment-record book referred to in paragraphs (e) and (f) of this section must contain at least the following:

(1) Identification of the candidate, including full name, home address, photograph or photo-image, and personal signature.

(2) The objectives of the training and assessment.

(3) The tasks to be performed or the skills to be demonstrated, based on the standards of competence set forth in the tables of the appropriate sections in Part A of the STCW Code.

(4) The criteria to be used in determining that the tasks or skills have been performed properly, based on the standards of competence set forth in the tables of the appropriate sections in Part A of the STCW Code.

(5) A place for a qualified instructor to indicate by his or her initials that the candidate has received training in the proper performance of the task or skill.

(6) A place for a qualified examiner to indicate by his or her initials that the candidate has successfully completed a practical demonstration and has proved competent in the task or skill under the criteria.

(7) Identification of each qualified instructor by full name, home address, employer, job title, ship name or business address, number of any Coast Guard license or document held, and personal signature.

(8) Identification of each designated examiner by full name, home address, employer, job title, ship name or business address, number of any Coast Guard license or document held, and personal signature confirming that his or her initials certify that he or she has witnessed the practical demonstration of a particular task or skill by the candidate.

12. Section 10.309 is added to read as follows:

§ 10.309 Approved training other than approved courses.

(a) When the training and assessment of competence required by these regulations are not subject to § 10.302 of this part and are not being used to substitute for seagoing service, they must meet the following requirements:

(1) The training and assessment program must have written, clearly defined objectives that emphasize specific knowledge, skills, and abilities, and include criteria to use in establishing a candidate's successful achievement of the objectives.

(2) The training must be set out in a written syllabus that conforms to a Coast-Guard-accepted outline for such training and includes—

(i) The sequence of subjects to be covered;

(ii) The number of classroom hours in the presence of a qualified instructor to be spent on each subject;

(iii) The identity and professional qualifications of the instructor(s) to be conducting the training;

(iv) The identification of other media or facilities to be used in conducting training; and

(v) Measurements at appropriate intervals of each candidate's progress toward acquisition of the specific knowledge, skills, and abilities stated in the objectives.

(3) Except as provided in paragraphs (a)(4) and (a)(5) of this section, documentary evidence must be readily available to establish that all instructors—

(i) Have experience, training, or instruction in effective instructional techniques;

(ii) Are qualified in the task for which the training is being conducted; and

(iii) Hold the level of license, endorsement, or other professional credential required of those who would apply, on board a vessel, the relevant level of knowledge, abilities, and skills described in the training objectives.

(4) Neither a specialist in a particular field of non-maritime education, such as

mathematics or first aid, nor an individual with at least 3 years of service as a member of the Armed Forces of the United States specializing in the field in which he or she is to conduct training, need hold a maritime license or document to conduct training in that field.

(5) A simulator may be used in training if—

(i) The simulator meets applicable performance standards;

(ii) The instructor has gained practical operational experience on the particular type of simulator being used; and

(iii) The instructor employing the simulator has received appropriate guidance in instructional techniques involving the use of simulators.

(6) Essential equipment and instructional materials must afford all candidates adequate opportunity to participate in exercises and acquire practice in performing required skills.

(7) A process or routinely assessing the effectiveness of the instructors, including the use of confidential evaluations by candidates, must be in place.

(8) Records of candidates' performance must be maintained for at least a year.

(9) To ensure that the training is meeting its objectives and the requirements of paragraph (a) of this section, its offeror must monitor it at suitable intervals in accordance with a Coast-Guard-accepted quality-standards system, which must include the following features:

(i) Those monitoring the trading, shall be persons knowledgeable about the subjects being monitored and about the national and international requirements that apply to the training, and they shall not themselves be involved in the training.

(ii) Those monitoring the training must enjoy convenient access to all appropriate documents and facilities, and opportunities both to observe all appropriate activities and to conduct confidential interviews when necessary.

(iii) Arrangements must be such as to ensure that persons monitoring the training are not penalized or rewarded, directly or indirectly, by the sponsor of the training for making any particular observations or for reaching any particular conclusions.

(10) Those monitoring the training shall communicate their conclusions to the Coast Guard within 1 month of the completion of the monitoring.

(11) Upon prior notice by the Coast Guard, those providing the training shall let the Coast Guard observe the training and review documentation relating to paragraphs (a)(1) through (a)(10) of this section.

(b) The Coast Guard will maintain a list of training each of whose providers annually submits a certificate, signed by the provider or its authorized representative, starting that the training fully complies with requirements of this section. Training on this list will presumptively offer the training necessary for licenses and STCW endorsements under this part. The Coast Guard will update this list periodically and make it available to members of the public on request.

(c) If the Coast Guard determines, on the basis of observations or conclusions either of its own or by those monitoring the training, that particular training does not satisfy one or more of the conditions described in paragraph (a) of this section—

(1) The Coast Guard will so notify the provider of the training by letter enclosing a report of the observations and conclusions;

(2) The provider will have a specified period to appeal the conclusions to the appropriate official at Coast Guard Headquarters, or to bring the training into compliance; and

(3) If the appeal is denied—or the deficiency is not corrected in the allotted time, or within any additional period held by the Coast Guard, considering progress toward compliance, to be appropriate—the Coast Guard will remove the training from the list referred to in paragraph (b) of this section until it can verify full compliance; and it may deny applications based in whole or in part on training not on the list until additional training or assessment can be documented.

13. In § 10.480, paragraph (d)(1) is added and paragraph (d)(20 is added and reserved to read as follows:

§ 10.480 Radar observer.

* * * * *

(d) * * *

(1) Each applicant for an STCW certificate or endorsement as master or deck officer must complete approved radar-simulator training that meets the appropriate requirements of sections A–I/12 and A–II of the STCW Code.

* * * * *

14. Section 10.601 is revised to read as follows:

§ 10.601 Applicability.

This subpart provides for the licensing of radio officers for employment on vessels, and for the certification of radio operators for service on ships subject to the provisions on the Global Maritime Distress and Safety System (GMDSS) of Chapter IV of SOLAS.

15. In § 10.603, the heading is revised, and paragraphs (d) and (e) are added to read as follows:

§ 10.602 Requirements for radio offices' licenses and radio operators' certificates.

* * * * *

(d) Each applicant for a radio operator's certificate required for service on ships subject to the Global Maritime Distress and Safety System (GMDSS) shall provide evidence that he or she meets the standard of competence set out in STCW Regulation IV/2 including the competence to transmit and receive information using subsystems of GMDSS, to fulfill the functional requirements of GMDSS, and to provide radio services in emergencies.

(e) Evidence required by paragraph (d) of this section must include a certificate of completion of a Coast Guard-approved or FCC-approved course on the GMDSS.

16. In § 10.901, paragraphs (c) and (d) are added to read as follows:

§ 10.901 General provisions.

* * * * *

(c) Each applicant for a license for service in the following capacities on vessels that operate beyond the boundary line must also provide sufficient documentary evidence that he or she has successfully performed practical demonstrations using one or more of the methods for demonstrating competence authorized under the tables set out under the appropriate regulations of STCW:

(1) *Deck Department*—(i) Officer in charge of the navigational watch on seagoing ships of 500 gross tons or more.

(ii) Officer in charge of the navigational watch on seagoing ships of less than 500 gross tons not engaged on near-coastal voyages.

(iii) Officer in charge of the navigational watch on seagoing ships of less than 500 gross tons engaged on near-coastal voyages.

(iv) Master and chief mate on seagoing ships of 3,000 gross tons or more.

(v) Master and chief mate on seagoing ships of between 500 and 3,000 gross tons or more.

(vi) Master on seagoing ships of less than 500 gross tons not engaged on near-coastal voyages.

(vii) Master on seagoing ships of less than 500 gross tons engaged on near-coastal voyages.

(2) *Engine Department*—(i) Officer in charge of the an engineering watch in a manned engine-room on a seagoing ship.

(ii) Designated duty engineer in a periodically unmanned engine-room on a seagoing ship.

(iii) Chief engineer officer of a seagoing ship driven by main propulsion machinery of 3,000 kW [4,000 hp] of propulsion power or more.

(iv) Second engineer officer of a seagoing ship driven by main propulsion machinery of 3,000 kW [4,000 hp] of propulsion power or more.

(v) Chief engineer officer of a seagoing ship powered by main propulsion machinery of between 750 kW [1,000 hp] and 3,000 kW [4,000 hp] of propulsion power or more.

(vi) Second engineer officer of a seagoing ship driven by main propulsion machinery of between 750 kW [1,000 hp] and 3,000 kW [4,000 hp] of propulsion power or more.

(d) Simulators used in assessment of competence under paragraph (c) of this section must meet the appropriate performance standards set out in section A–I/12 of the STCW Code. However, simulators installed or brought into use before February 1, 2002, need not meet them so far as they fulfill the objectives of the assessment of competence or demonstration of proficiency.

17. In § 10.910, the introductory text and table 10.910–2 are revised to read as follows:

§ 10.910 Subjects for deck licenses.

On each topic indicated by an "X", each applicant for an ocean or near-coastal license is subject to an assessment of his or her command of the practical skills included within each professional topic, as well as to a written test of his or her knowledge. On each topic indicated by a "T" he or she is subject only to an assessment of evidence obtained from his or her completion of approved training. On each topic indicated by an "A" he or she is subject only to an assessment of his or her command of those practical skills.

* * * * *

BILLING CODE 4910–14–M

TABLE 10.910-2 - LICENSE CODES

Examination topics	1	2	3	4	5
Navigation and position determination:					
Ocean Track Plotting:					
Middle-Latitude Sailing	1	1		1	1
Mercator Sailing	X	X		1	1
Great-Circle Sailing	1	1		1	
Parallel Sailing	1	1		1	1
ETA	X	X	1	X	X
Piloting:					
Distance Off			X	X	X
Bearing Problems			X	X	X
Fix or Running Fix			X	X	X
Chart Navigation			X	X	X
Dead Reckoning			X	X	X
Celestial Observations:					
Special Cases (hi/lo Alt., Backsight)	1				
Latitude by Polaris	1	1	1		
Latitude by Meridian Transit	1				
Lat. by Meridian Transit (Sun Only)	X	X	1	X	X
Fix or Running fix (Any body)	X	X	1	X	
Fix or Running Fix (Sun Only)					X
Star Identification	1	1	1		
Star Selection	1	X	1	X	
Times of Celestial Phenomena:					
Time of Meridian Transit	1				
Time of Meridian Transit (Sun Only)		X	1	X	X
Second Estimate Meridian Transit	1				
Zone Time Sun Rise/Set/Twilight	X	X	1	1	1
Zone Time Moon Rise/Set	X	X		1	
Speed by RPM	X	X		X	
Fuel Conservation	X	X			
Electronic Navigation	X	X	X	X	X
Instruments and Accessories	X	X	X	X	X
Aids to Navigation	X	X	X	X	X
Charts, Navigation Pubs. & Notices to Mariners	X	X	X	X	X
Naut. Astronomy and Nav. Definitions	X	X		X	X
Chart Sketch					
Seamanship:					
Marlinspike Seamanship			X	X	X
Purchases, Blocks and Tackle			X	X	X
Small-Boat Handling Under Oars or Sail				X	X
Watchkeeping:					
COLREGS	X	X	X	X	X
Inland navigational Rules	X	X	X	X	X
Basic Principles Watchkeeping	X	X	X	X	X
Navigation Safety Regs. (33 CFR 164)	X	X		X	X

TABLE 10.910-2 - LICENSE CODES - Continued

Examination Topics	1	2	3
Compass-Magnetic and Gyro:			
Principles of Gyro Compass	X	X	X
Principles of Magnetic Compass	X	X	X
Magnetic-Compass Adjustment		X	X
Gyro-Compass Error/Correction	X	X	X
Magnetic-Compass Error/Correction	X	X	X
Determination of Compass Error:			
Azimuth (Any Body)		X	X
Azimuth (Sun Only)			1
Amplitude (Any Body)	X		
Amplitude (Sun Body)		X	1
Deviation Table construction	X	X	1
Terrestrial Observation		X	X
Gyro-Controlled Systems	X	X	X
Operation & Care of Main Gyro Systems	X	X	X
Meteorology and Oceanography:			
Characteristics of Weather Systems	X	X	X
Ocean-Current Systems		X	X
Weather Charts and Reports		X	X
Tides and Tidal Currents:			
Extensive Tidal Effects	X	X	X
Terms and Definitions		X	X
Publications		X	X
Calculations		X	X
Ship Maneuvering and Handling:			
Approaching Pilot Vessel or Station	X	X	X
Shiphandling in Rivers, Estuaries	X	X	X
Maneuvering in Shallow Water	X	X	X
Interaction with Bank/Passing Ship	X	X	X
Berthing and Unberthing	X	X	X
Anchoring and Mooring	X	X	X
Dragging Cleaning Fouled Anchors	X	X	X
Drydocking with & without Prior Damage		X	X
Heavy-Weather Operations	X	X	X
Maneuvering for Launching of Life boats and Liferafts in Heavy Weather	X	X	X
Receiving Survivors From Lifeboats/Life		X	X
General Turn Circle, Pivot Point, Advance and Transfer	X	X	X
Determine Maneuvering Characteristics of Major Vessel Types	X	X	X
Wake Reduction		X	X
Ice Operations/Ice Navigation	X	X	X
Towing Operations		X	X

TABLE 10.910-2 - LICENSE CODES - Continued

Examination topics	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27
Ship Stability, Const, & Damage Control:																											
Principles of Ship Construction		X	X	X	X		7						X	3	X	3	7	X	X								
Vessel Structural Mem. IMO Ship Stability Recommendations	X	X																									
Trim and Stability	X	X	X	X	X	X	X			X	X	X	X	3	X	3	X	X	X		X	X	X				
Use of Stability Letter			X				X								X		X	X	X	X	X						
Stability, Trim, and Stress Calculation	X	X	X	X			7						3									X	X				
Damage Trim and Stability	X	X	X			X	7						X		X		X					X	X				
Damage Control	X	X	X			X	7						X		X		7										
Ship Power Plants:																											
Marine Power Plants Operations & Principles		X	X				7						X		X		7	X	X								
Ships' Auxiliary Machinery		X	X										X		X			X	X								
Marine Engineering Terms		X	X				7						X		X		7	X	X								
Small-Engine Operations and Maintenance							X	X	X								X			X							
Cargo handling and Stowage:																											
Cargo Stowage and Security, including Cargo Gear		X	X	X	X	X	X						X	X	X	X	7	X	X	X							
Loading and Discharging Operations		X	X	X	X	X							X	X	X	X		X	X	X							
Dangerous/Hazardous Cargo Regulations	X	X	X	X	X	X							X	X	X	X		X	X	X							
Tank Vessel Safety		X	X	X	X	X							X	X	X	X											
Cargo Piping and Pumping Systems				X	X	X								X		X											
Cargo Oil Terms and Definitions				X	X	X								X		X											
Ballasting, Tank Clean., & Gas free Ops.		X	X	X	X	X						X	X	X	X		X	X	X								
Load-on-Top Procedures Barge Regs. (Operations)							X			X	X	X					X	X	X	X	X						
Fire Prevention and Firefighting Appliances:																											
Organization of Fire Drills		X	X	T	T	T	T			X	X	X	X	X	X	X	X	X	X	X	X	X	T				
Classes and Chemistry of Fire		X	X	T	T	T	T	T	X	X	X	X	X	X	X	X	X	X	X	X	X	X	T				
Firefighting Systems		X	X	T	T	T	T			X	X	X	X	X	X	X	X	X	X	X	X	X	T				
Firefighting Equip.		X	X	T	T	T	T	T	X	X	X	X	X	X	X	X	X	X	X	X	X	X	T				
Basic Firefighting and Prevention		X	X	T	T	T	T	T	X	X	X	X	X	X	X	X	X	X	X	X	X	X	T				
Emergency Procedures:																											
Ship Beaching Precautions	X	X	X										X		X												
Actions Prior to/After Grounding	X	X	X										X		X			X	X								
Refloating a Grounded Ship	X	X	X										X		X			X	X								
Collision	X	X	X				X	X		X	X	X	X		X		X	X	X		X						
Temporary Repairs		X	X	X			X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X				
Passenger/Crew Safety in Emergency		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X				
Fire or Explosion		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X				
Abandon Ship		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X				
Emergency Steering		X	X	X									X		X			X	X			X	X				
Rescuing Surv. From Ship/Airc. in Dist.		X	X	X	X	X	X			X			X	X	X	X	X	X									
Man Overboard		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X				
Emergency Towing		X	X				X			X			X														

TABLE 10.910-2 - LICENSE CODES - Continued

Examination topics	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27
Medical Care:																											
Int'l. Medical Guide for Ships		X	X																								
Ship Med. Chest and Med. Aid at Sea		X	X																								
Medical Sec., Inter. Code of Signals		X	X	X	X																						
1st Aid Guide: Accidents with Dangerous Goods		X	X																								
First Aid		X	X	T	T	T	T	T	X	X	X	X	X	X	X	X	X	X	X	X	X	X	T				
Maritime Law:																											
International Maritime Law: Int'l. Convention on Load Lines	A	A	A																								
SOLAS	A	A	A				7																				
MARPOL 73/78	A	A	A	X	X																						
International Health Regulations	A	A	A																								
Other Int'l Instruments for Ships/Pass/Crew/Cargo Safety	A	A	A																								
National Maritime Law:																											
Load Lines	X	X	X			X	X			X	X		3	3	3	3	7										
Cert. and Documentation of Vessels	X	X	X				X	X	X	X	X	X	X		X		X	X	X		X	X					
Rules & Regs. for Inspected Vessels	X	X	X	X	X	X	7						X	X	X	X	7	X	X	X	7						
Rules & Regs. for T-Boats							X										X				X						
Rules and Regs for Uninsp. Fish. Vsls																											
Rules and Regs for Uninsp. Vessels							X	X	X	X	X	X					X				X	X	X				
Pollution Prevention Regulations	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X			
Pilotage	X	X	X																					X			
Licensing & Certification of Seamen	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X				
Shipment and Discharge, Manning	X		X				X			X			X		X												
Title 46 U.S. Code	X	X	X										X		X			X	X								
Captain of the Port Vessel Traffic Service for the Route Desired																								X			
Shipboard Management and Training:																											
Personnel Management	X	X	X										X		X			X	X								
Shipboard Organization	X	X	X										X		X			X	X								
Required Crew Training	X	X	X										X		X			X	X								
Ship sanitation	X	X	X				X	X	X	X	X	X	X		X		X	X	X		X	X					
Vessel Alteration/Repair- Hot Work	X	X	X				X						X		X			X	X								
Safety	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X				
Ship's Business:																											
Charters	X	X	X																								
Liens, Salvage	X	X	X																								
Insurance	X	X	X																								
Entry, Clearance	X	X	X																								
Certificates and Documents Required	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X				

TABLE 10.910-2 - LICENSE CODES - Continued

Examination topics	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27
Communications:																											
Flashing Light	X	X		T	T	T	T	T	X		X	X	X	X	X	X	7	X	X	X	7	X	T	X			
Radiotelephony		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X			
Radiotelegraphy Emerge Dist Signals		X		X	X	X	X	X	X		X		X	X	X	X		X	X	X	X	X	X	X			
Signals Wreck/Special		X	X	X	X	X	X	X	X		X		X	X	X	X		X	X	X	X	X	X	X			
International Code of Signals		X	X	X	X	X	X	X	X		X		X	X	X	X		X	X	X	X	X	X	X			
Lifesaving:																											
Survival at Sea		X	X	T	T	T	T	T		X	X	X		X	X		7	X	X	X	7	X	T	X			
Lifesaving appliance		X	X	T	T	T	T	T		X	X	X		X	X		7	X	X	X	7	X	T	X			
Search and Rescue:																											
Search and Rescue Procedures	X	X	X																								
AMVER	X	X	X																								
Operation of Sail/Aux:																											
Any other subject considered necessary to establish the applicant's proficiency	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X			

1 - For ocean routes only.
2 - River chart navigation only.
3 - Topic covered only on Great Lakes specific module(s) taken for "Great Lakes and inland" routes.
4 - Including recommended courses, distances, prominent aids to navigation, depths of waters in channels and over hazardous shoals, other important features of the routes, such as character of the bottom. The OMCI may accept chart sketching of only a portion or portions of the route for long or extended routes.
5 - Take COLREGS if license not limited to non-COLREG waters.
6 - For licenses over 1600 gross tons.
7 - For licenses over 100 gross tons.
8 - Applicants for a sail/auxiliary sail endorsement to a master's or mate's license are tested on a sail vessel safety, rules of the road, operations, heavy-weather operations, navigation, Maneuvering, and terminology.

BILLING CODE 4910-14-C

18. Section 10.950 is revised to read as follows:

§ 10.950 Subjects for engineer licenses.

(a) On each topic indicated by an "X", each applicant for an engineering license is subject to a written test of his or her knowledge. On each topic indicated by a "T", he or she is subject only to an assessment of evidence obtained from his or her completion of approved training. On each topic indicated by an "A" he or she is subject only to an assessment of his or her practical skills assessed by an established regime of on-board practical factors, simulator demonstration, or a combination.

(b) A distinct engineering license for steam-driven vessels of limited power or tonnage is no longer practicable, because of the small number of these vessels. When such a license is necessary for these vessels, the owner or operator is responsible for the engineer's competence in the operation of steam propulsion. Engineer licenses endorsed for steam must first hold a comparable license for motor-driven vessels and attend a course approved for limited steam engines.

BILLING CODE 4910-14-M

TABLE 10.950 SUBJECTS FOR ENGINEER LICENSES

	UNLIMITED POWER/TONNAGE								LIMITED POWER/TONNAGE							
									UNIN. IND.	FISH VSL.	DESIGNATED DUTY				MODU	
	CH/ENG STM	CH/ENG MTR	1/A ENG STM	1/A ENG MTR	2/A ENG STM	2/A ENG MTR	3/A ENG STM	3/A ENG MTR	CH ENG	ASST ENG	CH ENG	ASST ENG	UNLTD	LTD	CH ENG	ASST ENG
General Subjects:																
Engineering Theory	X/T	X/T	X/T	X/T	A	A	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T
Thermodynamics	X/T	X/T	X/T	X/T	A	A	X/T	X/T								
Prints & Tables	X/T	X/T	X/T	X/T	A	A	T	T	T	T	T	T	T	T	T	T
Machine Shop	T	T	T	T	A	A	T	T	T	T	T	T	T	T	T	T
Pipes, Fittings, Valves	T/A	T/A	T/A	T/A	A	A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A
Bilge Systems	T/A	T/A	T/A	T/A	A	A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A
Sanitary/Sewage Systems	T/A	T/A	T/A	T/A	A	A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A
Freshwater Systems	T/A	T/A	T/A	T/A	A	A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A
Distilling Systems	T/A	T/A	T/A	T/A	A	A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A
Cooling Systems	T/A	T/A	T/A	T/A	A	A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A
Lubricants	X/T	X/T	X/T	X/T	A	A	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T
Lubrication Systems	T/A	T/A	T/A	T/A	A	A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A
Bearings	T/A	T/A	T/A	T/A	A	A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A
Pumps	T/A	T/A	T/A	T/A	A	A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A
Compressors	T/A	T/A	T/A	T/A	A	A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A
Hydraulics	X/T	X/T	X/T	X/T	A	A	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T
Steering Systems	T/A	T/A	T/A	T/A	A	A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A
Deck Machinery	T/A	T/A	T/A	T/A	A	A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A
Automation Systems	T/A	T/A	T/A	T/A	A	A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A
Control Systems	T/A	T/A	T/A	T/A	A	A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A
Instrumentation	T/A	T/A	T/A	T/A	A	A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A
Ship Construction & Repairs	X/T	X/T	X/T	X/T	A	A	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T
Propellers & Shafting Systems	T/A	T/A	T/A	T/A	A	A	T/A	T/A	T/A	T/A	T/A	T/A	T/A	T/A		
Administration	T/A	T/A	T/A	T/A					T/A		T/A		T/A	T/A	T/A	
Watch-Standing Duties					A	A	T/A	T/A		T/A		T/A				T/A
Refrigeration, Air Conditioning, Heating & Ventilation:																
Theory	X/T	X/T	X/T	X/T	A	A	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T		X/T
Air-Conditioning Systems	X/T	X/T	X/T	X/T	A	A	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T		X/T
Refrigeration Systems	X/T	X/T	X/T	X/T	A	A	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T		X/T
Heating Systems	X/T	X/T	X/T	X/T	A	A	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T		X/T
Ventilation Systems	X/T	X/T	X/T	X/T	A	A	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T		X/T
System Controls	X/T	X/T	X/T	X/T	A	A	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T		X/T
Trouble-Shooting	X/T	X/T	X/T	X/T	A	A	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T		X/T
Safety	X/T	X/T	X/T	X/T	A	A	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T		X/T

TABLE 10.950 SUBJECTS FOR ENGINEER LICENSES

	UNLIMITED POWER/TONNAGE								LIMITED POWER/TONNAGE							
									UNIN. IND.	FISH VSL.	DESIGNATED DUTY				MODU	
	CH/ENG STM	CH/ENG MTR	1/A ENG STM	1/A ENG MTR	2/A ENG STM	2/A ENG MTR	3/A ENG STM	3/A ENG MTR	CH ENG	ASST ENG	CH ENG	ASST ENG	UNLTD	LTD	CH ENG	ASST ENG
Electricity:																
Theory	X/T	X/T	X/T	X/T	A	A	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T
Batteries	X/T	X/T	X/T	X/T	A	A	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T
Generators/Alternators	X/T	X/T	X/T	X/T	A	A	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T
Motors-AC/DC	X/T	X/T	X/T	X/T	A	A	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T
General Maintenance	X/T	X/T	X/T	X/T	A	A	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T
Motor Controllers	X/T	X/T	X/T	X/T	A	A	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T
Distribution Systems	X/T	X/T	X/T	X/T	A	A	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T
Propulsion Systems	X/T	X/T	X/T	X/T	A	A	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T
Communication Systems	X/T	X/T	X/T	X/T	A	A	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T
Electronic Systems	X/T	X/T	X/T	X/T	A	A	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T
Safety	X/T	X/T	X/T	X/T	A	A	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T
Trouble-Shooting	X/T	X/T	X/T	X/T	A	A	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T
Steam Generation:																
Theory	X/T		X/T		A		X/T		T*	T*			T*	T*		
Main Boilers	X/T		X/T		A		X/T		T*	T*			T*	T*		
Feedwater Systems	X/T		X/T		A		X/T		T*	T*			T*	T*		
Condensate Systems	X/T		X/T		A		X/T		T*	T*			T*	T*		
Control Systems	X/T		X/T		A		X/T		T*	T*			T*	T*		
Automation Systems	X/T		X/T		A		X/T		T*	T*			T*	T*		
Fuel Oil	X/T		X/T		A		X/T		T*	T*			T*	T*		
Fuel Oil Systems	X/T		X/T		A		X/T		T*	T*			T*	T*		
Boiler Water	X/T		X/T		A		X/T		T*	T*			T*	T*		
Safety	X/T		X/T		A		X/T		T*	T*			T*	T*		
Trouble-Shooting	X/T		X/T		A		X/T		T*	T*			T*	T*		
Steam Engines:																
Propulsion Turbines	X/T		X/T		A		X/T		T*	T*			T*	T*		
Auxiliary Turbines	X/T		X/T		A		X/T		T*	T*			T*	T*		
Governors	X/T		X/T		A		X/T		T*	T*			T*	T*		
Control Systems	X/T		X/T		A		X/T		T*	T*			T*	T*		
Automation Systems	X/T		X/T		A		X/T		T*	T*			T*	T*		
Bearings & Lubrication Systems	X/T		X/T		A		X/T		T*	T*			T*	T*		
Auxiliary Diesels	X/T		X/T		A		X/T		T*	T*			T*	T*		
Safety	X/T		X/T		A		X/T		T*	T*			T*	T*		
Trouble-Shooting	X/T		X/T		A		X/T		T*	T*						

TABLE 10.950 SUBJECTS FOR ENGINEER LICENSES

	UNLIMITED POWER/TONNAGE				LIMITED POWER/TONNAGE											
					UNLIM.		FISH	DESIGNATED		MODU						
					IND.		VSL.	DUTY ENG.								
	CH/ENG STM MTR	1/A ENG STM MTR	2/A ENG STM MTR	3/A ENG STM MTR	CH ENG	ASST ENG	CH ENG	ASST ENG	UNLTD	LTD	CH ENG	ASST ENG	CH ENG	ASST ENG	CH ENG	ASST ENG
Motor:																
Propulsion Engines	X/T	X/T		X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	T	T	T	T
Auxiliary Engines	X/T	X/T		X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	T	T	T	T
Starting Systems													T	T	T	T
Bearings	X/T	X/T		X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	T	T	T	T
Lubrication Systems	X/T	X/T,		A	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	T	T	T	T
Cooling Systems	X/T	X/T		A	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	T	T	T	T
Fuel	X/T	X/T		A	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	T	T	T	T
Fuel Systems	X/T	X/T		A	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	T	T	T	T
Combustion	X/T	X/T		A	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	T	T	T	T
Intake Systems	X/T	X/T		A	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	T	T	T	T
Exhaust Systems	X/T	X/T		A	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	T	T	T	T
Scavenging & Super-charging Systems	X/T	X/T		A	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	T	T	T	T
Automation Systems	X/T	X/T		A	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	T	T	T	T
Control Systems	X/T	X/T		A	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	T	T	T	T
Governors	X/T	X/T		A	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	T	T	T	T
Auxiliary Boilers	X/T	X/T		A	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	T	T	T	T
Safety	X/T	X/T		A	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	T	T	T	T
Trouble-Shooting	X/T	X/T		A	X/T	X/T	X/T	X/T	X/T	X/T	X/T	X/T	T	T	T	T
Engineering Safety:																
Fire Theory					T	T	T	T	T	T	T	T	T	T	T	T
Fire Prevention					T	T	T	T	T	T	T	T	T	T	T	T
Fire Fighting					T	T	T	T	T	T	T	T	T	T	T	T
Stability & Trim					T	T	T	T	T	T	T	T	T	T	T	T
Flooding					T	T	T	T	T	T	T	T	T	T	T	T
Dewatering					T	T	T	T	T	T	T	T	T	T	T	T
Damage Control					T	T	T	T	T	T	T	T	T	T	T	T
Emergency Equipment					T	T	T	T	T	T	T	T	T	T	T	T
Life Saving Appliances					T	T	T	T	T	T	T	T	T	T	T	T
General Safety					T	T	T	T	T	T	T	T	T	T	T	T
First Aid					T	T	T	T	T	T	T	T	T	T	T	T
Dangerous Materials					T	T	T	T	T	T	T	T	T	T	T	T
Pollution Prevention					T	T	T	T	T	T	T	T	T	T	T	T
U.S. Rules & Regs.					T	T	T	T	T	T	T	T	T	T	T	T
Internat'l Rules & Regs.					T	T	T	T	T	T	T	T	T	T	T	T

a Note: Engineer licenses endorsed for steam propulsion must first hold a comparable license for motor-driven vessels and attend a course approved for limited power steam plants.

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19. Subpart J, consisting of §§ 10.1001 through 10.1005, is added to read as follows:

Subpart J—Ro-Ro Passenger Ships

Sec.
10.1001 Purpose or regulations.
10.1003 Definitions.
10.1005 General requirement for license-holders.

Subpart J—Ro-Ro Passenger Ships

§ 10.1001 Purpose of regulations.

The purpose of the regulations in this subpart is to establish requirements for officers serving on roll-on/roll-off (ro-ro) passenger ships.

§ 10.1003 Definitions.

Roll-on/roll-off (ro-ro) passenger ship means a passenger ship with ro-ro cargo spaces or special-category spaces as defined in the International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS), and to which a SOLAS certificate is issued.

§ 10.1005 General requirement for license-holders.

To serve on a ro-ro passenger ship after January 30, 1997, a person licensed as master, chief mate, licensed mate, chief engineer, or licensed engineer shall meet the appropriate requirements of STCW Regulation V/2 and section A–V/2 of the STCW Code, and hold documentary evidence to show his or her meeting these requirements.

PART 12—CERTIFICATION OF SEAMEN

1. The authority citation for part 12 continues to read as follows:

Authority: 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, 2110, 7301, 7302, 7503, 7505, 7701; 49 CFR 1.46.

2. Section 12.01–1 is revised to read as follows:

§ 12.01–1 Purpose of regulations.

(a) The purposes of the regulations in this part are to provide—

(1) A comprehensive and adequate means of determining the identity or the qualifications an applicant must possess to be eligible for certification to serve on merchant vessels of the United States; and

(2) A means of determining that an applicant is competent to serve in a "rating forming part of a navigational watch" or a "rating forming part of an engine-room watch", or is otherwise "designated to perform duties in a periodically unmanned engine-room", on a seagoing ship, in accordance with the provisions of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (STCW), and to receive the certificate or endorsement required by STCW.

(b) The regulations in subpart 12.03 of this part prescribe the requirements applicable to all training and assessment associated with meeting the standards of competence established by STCW.

3. Section 12.01–3 is added to read as follows:

§ 12.01–3 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the Office of the Federal Register, 800 North Capitol Street NW., Suite 700, Washington, DC, and at the U.S. Coast Guard, Operating and Environmental Standards Division, 2100 Second Street SW., Washington, DC, and is available from the sources indicated in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this part and the sections affected are as follows:

International Maritime Organization (IMO)

4 Albert Embankment, London, SE1 7SR, England.

Amendments to the Annex to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW), and the associated Seafarers' Training, Certification and Watchkeeping Code (STCW Code), as adopted under resolutions 1 and 2, respectively, by the Conference of Parties to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, held at IMO from June 26 to July 7, 1995—12.01–1; 12.01–6; 12.02–7; 12.02–11; 12.05–3; 12.05–7; 12.10–3; 12.10–9; 12.10–11; 12.15–3; 12.15–7; 12.25–45; 12.30–5.

4. Section 12.01–6 is amended by adding in alphabetical order the following new definitions to read as follows:

§ 12.01–6 Definitions of terms used in this part.

Approved training means training that is approved by the Coast Guard or otherwise meets the requirements of § 12.03–1.

Coast-Guard-accepted means that the Coast Guard has officially acknowledged in writing that the material or process at issue meets the applicable requirements; that the Coast Guard has issued an official policy statement listing or describing the material or process as meeting the applicable requirements; or that an entity acting on behalf of the Coast Guard under a Memorandum of Agreement has determined that the material or process meets the applicable requirements.

Designated examiner means an individual who is trained or instructed in assessment techniques and is otherwise qualified to evaluate whether a candidate for a license, document, or endorsement has achieved the level of competence required to hold the license, document, or endorsement. This individual may be designated by the Coast Guard, or is designated as part of a Coast Guard-approved training or assessment program.

* * * * *

Practical demonstration means the performance of an activity under the direct observation of a designated examiner for the purpose of establishing that the performer is sufficiently proficient in a practical skill to meet a specified standard of competence or other objective criterion.

Qualified Instructor means an individual who has been trained or instructed in instructional techniques and is otherwise qualified to provide required training to candidates for licenses, documents, and endorsements.

* * * * *

Standard of competence means the level of proficiency to be achieved for the proper performance of duties on board vessels in accordance with national and international criteria.

STCW endorsement means a certificate or endorsement issued in accordance with the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (STCW). An STCW endorsement issued by the Officer in Charge, Marine Inspection shall be valid only when accompanied by the appropriate U.S. license or document; and if the license or document is revoked, then the associated STCW endorsement is no longer valid for any purpose.

5. In § 12.02–7, paragraphs (d) and (e) are added to read as follows:

§ 12.02–7 When documents are required.

* * * * *

(d) Every individual serving as a rating forming part of a navigational watch on a seagoing ship of 500 gross tons or more shall hold an STCW

endorsement certifying him or her as qualified to perform the navigational function at the support level, in accordance with STCW.

(e) Every individual who are serving in a rating forming part of a watch in a manned engine-room or designated to perform duties in a periodically unmanned engine-room, on a seagoing ship driven by main propulsion machinery of 750 kW [1,000 hp] of propulsion power or more, shall hold an STCW endorsement certifying him or her as qualified to perform the marine-engineering function at the support level, in accordance with STCW.

6. In § 12.02–11, the heading is revised, and paragraphs (h) and (i) are added, to read as follows:

§ 12.02–11 General provisions respecting merchant mariners' documents.

* * * * *

(h) When a merchant mariner's document is issued, renewed, or endorsed, the Officer in Charge, Marine Inspection (OCMI), will determine whether the holder of the document is required to hold an STCW endorsement for service on a seagoing vessel and, if so, and if the holder is qualified, will issue the appropriate endorsement. The OCMI will also issue an STCW endorsement at other times, if circumstances so require if the holder of and the document is qualified to hold the endorsement. The OCMI will issue an STCW endorsement for the following ratings:

(1) A rating forming part of a navigational watch on a seagoing ship of 500 gross tons or more if the holder of the document is qualified in accordance with STCW Regulation II/4 and section A–II/4 of the STCW Code, to perform the navigational function at the support level.

(2) A rating forming part of a watch in a manned engine-room, if the holder of the document is designated to perform duties in a periodically unmanned engine-room, on a seagoing ship driven by main propulsion machinery of 750 kW [1,000 hp] of propulsion power or more and if the holder is qualified in accordance with STCW Regulation III/4 and section A–III/4 of the STCW Code, to perform the marine-engineering function at the support level.

(i) At the request of the holder of the document, the OCMI may add an endorsement to indicate that the holder has received familiarization or basic safety-training required under, Chapter VI of STCW.

7. In § 12.02–17, paragraph (e) is added to read as follows:

§ 12.02–17 Rules for the preparation and issuance of documents.

* * * * *

(e) An applicant for a merchant mariner's document shall provide a document issued by a qualified medical practitioner attesting the applicant's medical fitness to perform the functions for which the document is issued.

* * * * *

8. Subpart 12.03, consisting of § 12.03–1, is added to read as follows:

Subpart 12.03—Approved Training

Sec.

12.03–1 Approved training other than approved courses.

Subpar 12.03—Approved Training

§ 12.03–1 Approved training other than approved courses.

(a) When training and assessment of competence required by these regulations is not subject to the course-approval provisions of § 10.302 of this chapter, such training and assessment must meet the following requirements:

(1) The program must have written, clearly defined objectives that emphasize specific knowledge, skills, and abilities, and include criteria to be used in establishing a student's successful achievement of the training objectives.

(2) The course of training must be set out in a written syllabus which conforms to a Coast-Guard-accepted outline for such training and includes—

(i) The sequence of subjects to be covered;

(ii) The number of classroom hours (i.e., in the presence of a qualified instructor) to be spent on each subject;

(iii) The identify and professional qualifications of the instructor(s) to be conducting the training;

(iv) Identification of other media or facilities to be used in conducting the training; and

(v) Measurements at appropriate intervals of each student's progress toward acquisition of the specific knowledge, skills and abilities stated in the training objectives.

(3) Documentary evidence must be readily available to establish that all instructors—

(i) Have experience, training, or instruction in effective instructional techniques;

(ii) Are qualified in the task for which the training is being conducted; and

(iii) Hold the level of license, endorsement, or other professional credential required of those who would apply, on board a vessel, the relevant level of knowledge, abilities, and skills described in the training objectives; provided, however—

(A) A specialist in a particular field of non-maritime education, such as mathematics or first-aid, and an individual with at least 3 years of service as a member of the Armed Forces of the United States specializing in the field in which he or she is to conduct training, need not hold a maritime license or document to conduct training in that field; and

(B) A simulator may be used in training if—

(*1*) The instructor employing the simulator has received appropriate guidance in instructional techniques involving the use of simulators;

(*2*) The instructor has gained practical operational experience on the particular type of simulator being used; and

(*3*) The simulator meets applicable performance standards.

(4) Essential equipment and instructional materials must be conveniently available to allow all students adequate opportunity to participate in exercises and acquire practice in performing required skills.

(5) A process of routinely assessing the effectiveness of the instructors, including the use of confidential student evaluations, must be in place.

(6) Records of student performance must be maintained for a period of not less than 1 year.

(7) A process must be in place for monitoring at suitable intervals that the training program is meeting its training objectives and is consistently applying the requirements in accordance with a Coast Guard-accepted quality-standards system, which shall include, as a minimum, the following:

(i) Those monitoring the training program shall be individuals who are knowledgeable about the subject area being monitored and about the national and international requirements which apply to the training program, and they shall not themselves be involved in the activities being monitored.

(ii) Persons engaged to conduct monitoring of training programs must be provided convenient access to all appropriate documents and facilities, as well as opportunities to observe all appropriate activities, and to conduct confidential interviews when necessary.

(iii) Arrangements shall be such as to ensure that persons performing monitoring activities shall not be directly or indirectly penalized or rewarded by the sponsor of the training program being monitored for making any particular observations or for reaching any particular conclusions.

(8) The results of the monitoring must be communicated to the Coast Guard within 1 month of completion of those activities.

(9) Upon prior notification by the Coast Guard, an opportunity must be provided for the Coast Guard to observe training activities and review documentation relating to paragraphs (a)(1) through (a)(10) of this section.

(b) The Coast Guard will maintain a list of training programs which annually submit a certification, signed by the sponsor or an authorized representative of the sponsor, stating that the program is conducted in a manner which fully complies with the requirements in offering a specified course of approved training. Programs on this list will be presumptively considered to offer approved training for the purposes of evaluating materials supporting applications for licenses and STCW endorsements under this part. This list shall be updated periodically and made available to members of the public on request.

(c) If the Coast Guard determines, on the basis of an observation of training activities or a review of relevant documentation, that a particular program does not meet one or more of the conditions described in paragraph (a) of this section—

(1) The Coast Guard will so notify the managers or sponsors of the program by letter enclosing a report of the Coast Guard's observations and its conclusions;

(2) The managers or sponsors of the program will have a specified period to appeal the Coast Guard's conclusions to the appropriate official at Coast Guard Headquarters, or to come into compliance with the requirement where the program has been found to be deficient; and

(3) If the appeal is denied, or the deficiency is not corrected in the allotted time, or within any additional period considered by the Coast Guard to be appropriate considering progress toward compliance, the training program shall be removed from the list referred to in paragraph (b) of this section until full compliance can be established by the Coast Guard, and applications which are based in whole or in part on training received from a program at a time when it was not on the list may be denied until additional training or assessment can be documented.

9. In § 12.05–3, paragraph (d) is revised, paragraph (e) is amended by removing the period at the end and adding a semicolon in its place, and paragraphs (f) and (g) are added to read as follows:

§ 12.05–3 General requirements.

* * * * *

(d) Pass an examination demonstrating ability as an able seaman and lifeboatman with proficiency in survival craft and rescue boats;

* * * * *

(f) Complete approved basic safety-training as set out in STCW Regulation VI/1 and section a–VI/1 of the STCW Code. This training must encompass personal survival, firefighting and fire prevention, elementary first aid, and personal safety and social responsibilities. The Coast Guard may approve a basic safety-training program designed for a particular ship or type of service; however, in that case, the Coast Guard will limit the endorsement by indicating the ship or type of service. The training must have been completed 5 years or less before the date of application for the endorsement. For renewal, the applicant shall prove that his or her competence in all the subjects encompassed by the training has been assessed and established within the last 5 years; and

(g) Meet the requirements of STCW Regulation II/4 and section A–11/4 of the STCW Code, if the applicant will be serving in a rating forming part of a navigational watch on a seagoing ship of 500 gross tons or more.

10. In § 12.05–7, paragraph (a)(5) is added before the note to read as follows:

§ 12.05–7 Service or training requirements.

(a) * * *

(5) For a candidate to qualify to receive an STCW endorsement for service in a "rating forming part of a navigational watch" on a seagoing ship of 500 gross tons or more, the candidate's seagoing service must include training and experience associated with navigational watchkeeping and involve the performance of duties carried out under the direct supervision of the master, the officer in charge of the navigational watch, or a qualified rating. The training and experience must be sufficient to establish that the candidate has achieved the required standard of competence prescribed in table A–II/4 of the STCW Code, in accordance with the methods of demonstrating competence and the criteria for evaluating competence specified in that table.

* * * * *

11. In § 12.05–11, the heading and paragraph (a) are revised to read as follows:

§ 12.05–11 General provisions respecting merchant mariner's document endorsed for service as able seaman.

(a) The holder of a merchant mariner's document endorsed for the rating of able seaman may serve in any unlicensed rating in the deck department without obtaining an additional endorsement; provided, however, that the holder shall hold the appropriate STCW endorsement when serving in a "rating forming part of a navigational watch" on a seagoing ship of 500 gross tons or more.

* * * * *

12. In § 12.10–3, the heading, paragraph (a) introductory text, and paragraph (a)(6) are revised, and paragraph (c) is added, to read as follows:

§ 12.10–3 General requirements.

(a) To be eligible for certification as lifeboatman with proficiency in survival craft and rescue boats, an applicant shall be at least 18 years of age, shall meet the requirements of STCW Regulation VI/2, paragraph 1, and the appropriate provisions of section A–VI/2 of the STCW Code, and shall meet one of the following requirements:

* * * * *

(6) Successful completion of a training course, approved by the Commandant, that includes a minimum of 30 hours' actual lifeboat training; provided that the applicant produces evidence of having served a minimum of 6 months at sea aboard ocean or coastwise vessels.

* * * * *

(c) To be eligible for certification as lifeboatman with proficiency in survival craft and rescue boats, an applicant shall receive approved basic safety-training as set out in STCW Regulation VI/1 and section A–VI/1 of the STCW Code. This training must encompass personal survival, firefighting and fire prevention, elemental first aid, and personal safety and social responsibilities. The Officer in Charge, Marine Inspection (OCMI), may approve a basic safety-training program designed for a particular ship or type of service; however, in that case, the OCMI will limit the endorsement by indicating the particular ship or type of service. The training must have been completed 5 years or less before the date of application for the endorsement. For renewal, an applicant shall prove that his or her competence has been assessed and established within the last 5 years.

§ 12.10–7 [Reserved].

13. Section 12.10–7 is removed and reserved.

14. Section 12.10–9 is added to read as follows:

§ 12.10–9 Certificates of proficiency in fast rescue boats.

(a) Every person engaged or employed in a rating as a lifeboatman with proficiency in fast rescue boats shall hold a certificate of proficiency in these boats or a merchant mariner's document endorsed for proficiency in them.

(b) To be eligible for a certificate of proficiency in fast rescue boats or a merchant mariner's document endorsed for proficiency in these boats, an applicant must—

(1) Be qualified as a lifeboatman with proficiency in survival craft and rescue boats under this subpart; and

(2) Provide sufficient proof that he or she has met the requirements for training and competence of STCW Regulation VI/2, paragraph 2, and the appropriate requirements of section A–VI/2 of the STCW Code.

15. Section 12.10–11 is added to read as follows:

§ 12.10–11 Requirements for those designated to provide medical care on board ship.

(a) Every person designated to provide medical first aid on board ship, or to take charge of medical care on board ship, shall hold documentary evidence indicating that the holder has attended a course of training in medical first aid or medical care, as appropriate.

(b) The Coast Guard will issue such documentary evidence to the person, or endorse his or her license or document, on being satisfied that the training required under paragraph (a) of this section was sufficient to establish that he or she meets the standards of competence set out in STCW Regulation VI/4 and the provisions of section A–VI/4 of the STCW Code.

16. In § 12.15–3, paragraphs (d) and (e) are added to read as follows:

§ 12.15–3 General requirements.

* * * * *

(d) To be eligible for certification as qualified member of the engine department, an applicant shall complete approved basic safety-training as set out in STCW Regulation VI/1 and section A–VI/1 of the STCW Code. This training must encompass personal survival, firefighting and fire prevention, elementary first aid, and personal safety and social responsibilities. The Officer in Charge, Marine Inspection (OCMI), may approve a basic safety-training program designed for a particular ship or type of service; however, in that case, the OCMI will limit the endorsement by indicating the particular ship or type of service. The training must have been completed within 5 years or less before the date of application for the endorsement. For renewal, the applicant shall prove that his or her competence in all the subjects encompassed by the training has been assessed and established within the last 5 years.

(e) To be eligible for certification as qualified member of the engine department, an applicant shall meet the requirements of STCW Regulation III/4 and section A–II/4 of the STCW Code, if he or she will be either serving in a rating forming part of a watch in a manned engine-room or designated to perform duties in a periodically unmanned engine-room on a seagoing ship driven by main propulsion machinery of 750 kW [1,000 hp] propulsion power or more.

17. in § 12.15–7, paragraph (c) is added to read as follows:

§ 12.15–7 Service or training requirements.

* * * * *

(c) To qualify to receive an STCW endorsement as "rating forming part of a watch in a manned engine-room or designated to perform duties in a periodically unmanned engine-room" on a seagoing vessel driven by main propulsion machinery of 750 kW [1,000 hp] propulsion power or more, an applicant shall prove seagoing service that includes training and experience associated with engine-room watchkeeping and involves the performance of duties carried out under the direct supervision of a qualified engineer officer or a member of a qualified rating. The training must be sufficient to establish that the applicant has achieved the standard of competence prescribed in table A–I/4 of the STCW Code, in accordance with the methods of demonstrating competence and the criteria for evaluating competence specified in that table.

18. in § 12.15–11, the heading is revised, paragraphs (a) through (j) are redesignated as paragraphs (1) through (10), the introductory text is designated as paragraph (a), and paragraph (b) is added, to read as follows:

§ 12.15–11 General provisions respecting merchant mariner's document endorsed for service as qualified member of the engine department.

* * * * *

(b) The holder of a merchant mariner's document endorsed for the rating of qualified member of the engine department shall hold the appropriate STCW endorsement when either serving in a "rating forming part of a watch in a manned engine-room or designated to perform duties in a periodically unmanned engine-room" on a seagoing vessel driven by main propulsion machinery of 750 kW [1,000 hp] propulsion power or more.

19. Section 12.25–45 is added to read as follows:

§ 12.25–45 Electronics technician.

(a) An applicant is eligible to have his or her merchant mariner's document endorsed for the rating of electronics technician if he or she holds a certificate of completion from—

(1) Approved training that includes instruction and assessment by qualified instructors and designated examiners, and requires the student both to complete appropriate examinations and practical demonstrations to establish competence in the basic knowledge, understanding, and skills necessary to perform maintenance, diagnosis, and repair of electronic equipment and installations on board ships and to make practical use of maintenance and repair manuals provided for such equipment and installations; or

(2) An FCC- or Coast-Guard-approved course that covers at least the scope and content of training outlined in section B–IV/2 of the STCW Code for training in maintenance of GMDSS installations on board ships.

(b) Only an applicant fulfilling the requirements of paragraph (a)(2) of this section may be designated to perform at-sea maintenance requirements imposed by SOLAS Regulation IV/15.

(c) An applicant fulfilling only the requirements of paragraph (a)(1) of this section will have his or her document endorsed as follows: "electronics technician—non-GMDSS." No one whose document bears this endorsement may be designated to perform at-sea maintenance of GMDSS installations when such a designation is used to meet the maintence requirements imposed by SOLAS Regulation IV/15.

20. Subpart 12.30, consisting of 12.30–1 through 12.30–5, is added to read as follows:

Subpart 12.30—Ro-Ro Passenger Ships

Sec.

12.30–1 Purpose of regulations.
12.30–3 Definitions.
12.30–5 General requirements.

Subpart 12.30—Ro-Ro Passenger Ships

§ 12.30–1 Purpose of regulations.

The purpose of the regulations in this subpart is to establish requirements for certification of seamen serving on roll-on/roll-off (Ro-Ro) passenger ships.

§ 12.30–3 Definitions.

Roll-on/roll-off (Ro-Ro) passenger ship means a passenger ship with ro-ro cargo spaces or special-category spaces as defined in the International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS), and to which a SOLAS Certificate is issued.

MMD means merchant mariner's document.

12.30–5 General requirements.

To serve on a ro-ro passenger ship after January 30, 2002, a person holding an MMD and performing duties toward safety, cargo-handling, or care for passengers shall meet the appropriate requirements of STCW Regulation V/2 and section A–V/2 of the STCW Code, and have his or her MMD endorsed to show his or her meeting those requirements.

PART 15—MANNING REQUIREMENTS

1. The authority citation for part 15 continues to read as follows:

Authority: 46 U.S.C. 3703, 8105; 49 CFR 1.46.

2. Section 15.105 is added to subpart A to read as follows:

§ 15.105 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the Office of the Federal Register, 800 North Capitol Street NW., Suite 700, Washington, DC and at the U.S. Coast Guard, Operating and Environmental Standards Division, 2100 Second Street SW., Washington, DC 20593–0001, and is available from the sources indicated in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this part and the sections affected are as follows:

International Maritime Organization (IMO)

4 Albert Embankment, London, SE1 7SR, England.

Amendments to the Annex to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW), and the associated Seafarers' Training, Certification and Watchkeeping Code (STCW Code), as adopted under resolutions 1 and 2, respectively, by the Conference of parties to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, held at IMO from June 26 to July 7, 1995—15.401; 15.403; 15.705.

3. In § 15.301, the periods at the ends of paragraphs (b)(7) and (b)(10) are removed, a semicolon is added in each place, the word "and" is added after the semicolon after paragraph (b)(10), and paragraph (b)(11) is added; and paragraphs (c)(7) and (c)(8) are added to paragraph (c) as that paragraph will stand after the revision effective on March 31, 1996, all to read as follows:

§ 15.301 Definitions of terms used in this part.

* * * * *

(b)* * *

(11) GMDSS radio operator.

(c) * * *

(7) Electronics technician.

(8) Electronics technician—Non-GMDSS.

* * * * *

4. In § 15.401, the heading is revised, the existing text is designated as paragraph (a), and paragraphs (b), (c), (d), (e), (f), (g), (h), and (i) are added, to read as follows:

§ 15.401 Employment and service within restrictions of license, document, and STCW endorsement.

* * * * *

(b) On a vessel operating beyond the boundary line, no person may employ or engage any person to serve, and no person may serve, in a position in which a person shall hold an STCW endorsement, including master, chief mate, chief engineer, second engineer, officer of the navigational or engineering watch, or radio operator, unless the person serving holds an appropriate, valid STCW certificate or endorsement issued in accordance with part 10 or 12 of this chapter.

(c) On a seagoing vessel of 500 gross tons or more, no person may employ or engage any person to serve, and no person may serve, in a rating forming part of the navigational watch, except for training, unless the person serving holds an appropriate, valid STCW certificate or endorsement issued in accordance with part 12 of this chapter.

(d) After January 31, 1997, no person may either be engaged or employed to serve on a roll-on/roll-off (ro-ro) passenger ship to which a SOLAS certificate has been issued, or perform duties on such a ship, unless he or she holds a license or document endorsed for service on ro-ro passenger ships in accordance with § 10.1005 or § 12.30–5, of this chapter, whichever is appropriate to the service or the duties.

(e) On a seagoing vessel driven by main propulsion machinery of 750 kW [1,000 hp] propulsion power or more, no person may employ or engage any person to serve, and no person may serve, in a rating forming part of a watch in a manned engine-room, nor may any person be designated to perform duties in a periodically unmanned engine-room, except for training or for the performance of duties of an unskilled nature, unless the person serving holds an appropriate, valid STCW certificate or endorsement issued in accordance with part 12 of this chapter.

(f) After January 31, 2002, on a seagoing vessel required to comply with provisions of the Global Maritime Distress and Safety System (GMDSS) in Chapter IV of SOLAS, no person may employ or engage any person to serve, and no person may serve, as the master, chief mate, or officer of the navigational watch, unless the person serving holds the appropriate Certificate for Operator of Radio in Global Maritime Distress and Safety System (GMDSS).

(g) After January 31, 1997, on a seagoing vessel required to comply with provisions of the GMDSS in Chapter IV of SOLAS, no person may employ or engage any person to serve, and no person may serve, as the person designated to perform at-sea maintenance of GMDSS installations, when such designation is used to meet the maintenance requirements imposed by STCW Regulation IV/15, unless the person serving holds an electronic-technician endorsement not limited to non-GMDSS electronic installations.

(h) After January 31, 2002, on a seagoing vessel fitted with an Automatic Radar-Plotting Aid (ARPA), no person may employ or engage any person to serve, and no person may serve, as the master, chief mate, or officer of the navigational watch, unless the person serving has been trained in the use of ARPA in accordance with § 10.205 or § 10.209 of this chapter.

(i) The provisions of paragraphs (b) through (g) of this section are effective as of August 1, 1998.

5. Section 15.403 is added to read as follows:

§ 15.403 Familiarization and basic safety-training.

(a) After January 31, 1997, on a seagoing vessel, no person may assign any person to perform shipboard duties, and no person may perform those duties, unless the person performing them has received—

(1) Familiarization training in personal survival techniques as set out in the standard of competence under STCW Regulation VI/1; or

(2) Sufficient training or instruction, to be able to—

(i) Communicate with other persons on board on elementary safety matters and understand information symbols, signs, and alarm signals covering information on safety;

(ii) Know what to do if a person falls overboard; if fire or smoke is detected; or if the fire or abandon-ship alarm sounds;

(iii) Identify stations for muster and embarkation, and emergency-escape routes;

(iv) Locate and don life-jackets;

(v) Raise the alarm and know the use of portable fire extinguishers;

(vi) Take immediate action upon encountering an accident or other medical emergency before seeking further medical assistance on board; and

(vii) Close and open the fire, weathertight, and watertight doors fitted in the particular ship other than those for hull openings.

(b) After January 31, 1997, on a seagoing vessel, no person may assign any person on board a ship, as part of the complement with designated safety or pollution-prevention duties in the operation of the ship, to perform shipboard duties, and no person may perform those duties, unless the person performing them has—

(1) Received approved basic safety-training or instruction as set out in the standards of competence under STCW Regulation VI/1, particularly with respect to personal survival techniques, fire prevention and fire-fighting, elementary first aid, and personal safety and social responsibilities; and

(2) Established competence within the last 5 years as part of an approved training program, in accordance with the methods and criteria prescribed under STCW Regulation VI/1.

(c) Each person who has met the requirements of either §§ 10.205 and 10.209 of this chapter or §§ 12.05–3, 12.10–3, and 12.15–3 of this chapter meets the requirements of this section without further training or assessment.

6. Section 15.411 is added to read as follows:

§ 15.411 Maintenance of seamen's records by owner or operator.

Each owner or operator of a U.S.-documented vessel that operates beyond the boundary line shall ensure that procedures are in place, in respect of licensed and unlicensed seamen who serve on each such vessel, to ensure that the following information is maintained throughout their service, and is readily accessible to those in management responsible for the safety of vessels and prevention of marine pollution:

(a) Medical fitness.

(b) Experience and training relevant to assigned shipboard duties.

(c) Assessment of competence in performance of assigned shipboard duties.

7. In § 15.705, paragraph (f) is revised to read as follows:

§ 15.705 Watches.

* * * * *

(f) Masters of vessels that operate beyond the boundary line shall observe the principles concerning watchkeeping as set out in STCW Regulation VIII/2 and section A–VIII/2 of the STCW Code.

8. In § 15.710, the heading is revised, paragraphs (a) through (d) are redesignated as paragraphs (1) through (4), respectively, the introductory text is designated as paragraph (a), and paragraphs (b) and (c) are added to read as follows:

§ 15.710 Working hours and rest periods.

* * * * *

(b) After January 31, 1997, each person assigned duty as officer in charge of a navigational or engineering watch, or duty in a rating forming part of a navigational or engineering watch, on any vessel that operates beyond the boundary line shall receive a minimum period of 10 hours of rest in any 24-hour period, except in an emergency, a drill, or any other overriding operation condition, provided—

(1) The hours of rest are divided into no more than two periods, one of which must be at least 6 hours in length; and

(2) The minimum period of 10 hours of rest may be reduced to not less than 6 consecutive hours as long as—

(i) No reduction extends beyond 2 days; and

(ii) He or she receives at least 70 hours of rest in each 7-day period.

(c) The Master shall post watch schedules where they are easily accessible. Each schedule must include each affected person.

(d) For purposes of applying this section—

(1) *Rest period* means a period of time during which no tasks are assigned to the person concerned, the person is not scheduled to perform any duty, and the person is allowed to sleep without being interrupted; and

(2) *Overriding operational conditions* means circumstances in which essential shipboard work cannot be delayed for reasons of safety or environment or for reasons not foreseeable at the commencement of the voyage.

Dated: 5 March 1996.

Joseph J. Angelo,

Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 96–7019 Filed 3–25–96; 8:45 am]

BILLING CODE 4910–14–M

federal register

Tuesday
March 26, 1996

Part VIII

Department of Justice

Bureau of Prisons

28 CFR Part 549

Plastic Surgery; Final Rule

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 549

[BOP–1020–F]

RIN 1120–AA26

Plastic Surgery

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document, the Bureau of Prisons is revising its regulations concerning the circumstances and procedures under which the Bureau approves plastic surgery for inmates. Criteria under which plastic surgery may be approved are as follows: as a component of standard medical/surgical treatment, when necessary for the good order and security of the institution, and in other special situations as determined by the Medical Director. Additionally, these regulations have been reorganized to emphasize "informed consent" and to remove unnecessary provisions. This revision is intended to provide for the continued efficient and orderly operation of the Bureau and its institutions.

EFFECTIVE DATE: April 25, 1996.

ADDRESSES: Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514–6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is revising its regulations on plastic surgery (28 CFR part 549, subpart D). A proposed rule on this subject was published in the **Federal Register** on October 20, 1995 (60 FR 54288).

The proposed regulations stipulated in the statement of purpose (28 CFR 549.50) that the Bureau ordinarily does not perform plastic surgery on inmates to correct preexisting disfigurements (including tattoos) on any part of the body. Plastic surgery may be performed when it is a component of the presently medically necessary standard of treatment. Plastic surgery may also be approved under special circumstances: namely, for the good order and security of the institution. Approval procedures for requests, whether for medical reasons or special circumstances, are contained in § 549.51. "Informed consent" requirements were redesignated as a separate section (§ 549.52) for the sake of emphasis. Procedures relating to staff processing of inmate identification records were removed because these administrative details are better addressed in internal instructions to staff.

The Bureau received one comment on the proposed rule. This comment supported the adoption of the proposed rule. The Bureau is therefore adopting the proposed rule as a final rule without change.

Members of the public may submit comments concerning this rule by writing to the address cited above. These comments will be considered but will receive no response in the **Federal Register**.

The Bureau of Prisons has determined that this rule is not a significant regulatory action for the purpose of E.O. 12866, and accordingly was not reviewed by the Office of Management and Budget. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96–354), does not have a significant impact on a substantial number of small entities.

List of Subjects in 28 CFR Part 549

Prisoners.

Kathleen M. Hawk,

Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(p), part 549 in subchapter C of 28 CFR, chapter V is amended as set forth below.

Subchapter C—Institutional Management

PART 549—MEDICAL SERVICES

1. The authority citation for 28 CFR part 549 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4005, 4042, 4045, 4081, 4082, (Repealed in part as to offenses committed on or after November 1, 1987), 4241–4247, 5006–5024 (Repealed October 12, 1984, as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

2. Subpart D, consisting of §§ 549.50 and 549.51, is revised to consist of §§ 549.50 through 549.52 as follows:

Subpart D—Plastic Surgery

Sec.
549.50 Purpose and scope.
549.51 Approval procedures.
549.52 Informed consent.

Subpart D—Plastic Surgery

§ 549.50 Purpose and scope.

The Bureau of Prisons does not ordinarily perform plastic surgery on inmates to correct preexisting disfigurements (including tattoos) on any part of the body. In circumstances where plastic surgery is a component of a presently medically necessary standard of treatment (for example, part of the treatment for facial lacerations or for mastectomies due to cancer) or it is necessary for the good order and security of the institution, the necessary surgery may be performed.

§ 549.51 Approval procedures.

The Clinical Director shall consider individually any request from an inmate or a BOP medical consultant.

(a) In circumstances where plastic surgery is a component of the presently medically necessary standard of treatment, the Clinical Director shall forward the surgery request to the Office of Medical Designations and Transportation for approval.

(b) If the Clinical Director recommends plastic surgery for the good order and security of the institution, the request for plastic surgery authorization will be forwarded to the Warden for initial approval. The Warden will forward the request through the Regional Director to the Medical Director. The Medical Director shall have the final authority to approve or deny this type of plastic surgery request.

(c) If the Clinical Director is unable to determine whether the plastic surgery qualifies as a component of presently medically necessary standard of treatment, the Clinical Director may forward the request to the Medical Director for a final determination in accordance with the provisions of paragraph (b) of this section.

§ 549.52 Informed consent.

Approved plastic surgery procedures may not be performed without the informed consent of the inmate involved.

[FR Doc. 96–7157 Filed 3–25–96; 8:45 am]

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federal register

Tuesday
March 26, 1996

Part IX

Department of Education

34 CFR Part 299

General Provisions, Elementary and Secondary Education Act; Proposed Rule

DEPARTMENT OF EDUCATION

34 Part 299

RIN 1810–AA82

General Provisions, Elementary and Secondary Education Act

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The U.S. Secretary of Education (the Secretary) proposes to issue general regulations governing programs under the Elementary and Secondary Education Act of 1965, as amended by the Improving America's Schools Act of 1994 (the "Elementary and Secondary Education Act", "ESEA" or the "Act"). These proposed regulations would implement several provisions in Title XIV, General Provisions, of the Act. These proposed regulations would generally govern all programs under the Act, and would establish uniform provisions that would minimize burdensome differences in implementing these provisions in individual programs.

The areas that would be covered by these proposed regulations for ESEA programs include: other regulations that would apply; priorities for empowerment zones or enterprise communities in discretionary grants; the consolidation of State and local administrative funds; maintenance of effort; services to private school children and teachers; and complaint procedures. In addition, the proposed regulations would provide further flexibility to States under Title III of the Goals 2000: Educate America Act.

DATES: Comments must be received on or before May 10, 1996.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Delores Warner, U.S. Department of Education, Portals Building, 1250 Maryland Avenue SW., Room 4000, Washington, DC 20202–6110. The fax number for submitting comments is (202) 260–0310. Comments may also be sent through the Internet to General_Provisions@ed.gov.

To ensure that public comments have maximum effect in developing the final regulations, the Department urges that each comment clearly identify the specific section or sections of the regulations that the comment addresses and that comments be in the same order as the regulations.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: For further information on this part, please contact Delores Warner. Telephone: (202) 260–1941. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: On October 20, 1994, the President signed into law the Improving America's Schools Act of 1994 (IASA) (Pub. L. 103–382). The IASA reauthorizes and fundamentally changes the ESEA, redesigning its programs so that they work together to support high-quality teaching and learning to help all children learn challenging material in academic areas and acquire the knowledge and skills they will need to succeed in the 21st century.

Throughout the reauthorized Elementary and Secondary Education Act, including Title XIV of the Act, provisions are designed to make it easier for programs to work together with, rather than separately from, one another. In addition, the Act fosters the operation of ESEA programs in unison with the broader education that children receive. For example, the reauthorized Act supports State and community reform efforts geared to challenging State academic standards, particularly those initiated or supported by the Goals 2000: Educate America Act.

Unlike the reauthorized ESEA programs, earlier ESEA programs often were not coordinated with each other and with other educational programs in the schools. The previous programs often were not designed to target funds to areas, schools or students with the greatest needs for assistance, nor were they designed to support State and local efforts at broader educational reform. They were often burdensome without adequate provisions for needed flexibility.

Virtually all of the major ESEA programs have been redesigned to include greater flexibility at the State and local levels, to support directly comprehensive State and local reforms of teaching and learning, and to ensure that all children—regardless of background and whatever school they attend—can achieve at high levels.

In implementing the Act, the Department, is issuing regulations only where absolutely necessary, and is providing flexibility to the maximum extent permitted by statute. The regulations proposed in Part 299 are consistent with this approach and are intended to provide support to educators at the State and local levels for the appropriate implementation of provisions in Title XIV and of the Act as a whole. Title XIV contains provisions that allow: flexibility, promote coordinated program services and allow waivers of certain provisions to increase the quality of instruction or improve academic performance, consolidated State and local plans and applications, consolidation of State and local administrative funds, and uniform provisions that apply to programs authorized in the ESEA. Most of the provisions of Title XIV are not the subject of regulations. The Department has issued, separately from this notice of proposed rulemaking (NPRM), non-binding guidance on a number of Title XIV provisions such as State consolidated plans (sections 14302 of the Act), waivers (section 14401 of the Act), and the Gun-Free Schools Act (sections 14601–03 of the Act). Copies of this guidance are available from Delores Warner, U.S. Department of Education, 1250 Maryland Avenue SW., Room 4000, Portals Building, Washington, DC 20202–6110.

Summary of Provisions

Section 299.1 of these proposed regulations would provide general information about the scope of these regulations and the laws and regulations that would apply to ESEA programs. Further guidance about which general administrative regulations would apply is provided in the discussion of § 299.2 in the next paragraph of this summary.

Section 299.2 of these proposed regulations would provide flexibility by permitting a State to formally adopt its own general provisions, in lieu of 34 CFR Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments) of the Education Department General Provisions Regulations for most ESEA programs if the State meets several minimal requirements. This flexibility is similar to flexibility that was previously included in regulations for Chapters 1 and 2 of ESEA before the 1994 amendments.

Section 299.2 would also indicate that 34 CFR Part 80 would apply to direct grant programs under ESEA and to Title XI. While this would provide States in ESEA State-administered programs the option of adopting and using their own procedures as an alternative to Part 80, the Department believes that the application of Part 80 to direct grant programs and to Title XI provides the appropriate balance of flexibility and accountability for results in those programs. As the Department continues to look for other ways to simplify the direct grant process, the Department particularly invites comments on the appropriate balance of flexibility and accountability in direct grant and Title XI programs.

Section 299.2 would indicate that 34 CFR Part 80 applies to State, local, and Indian tribal governments under direct grant programs, and programs under Title XI of ESEA (Coordinated Services). 34 CFR Part 80 also applies to other programs under the ESEA unless a State formally adopts its own written fiscal and administrative requirements for expending and accounting for all funds received by State educational agencies (SEA) and local educational agencies (LEAs) under this part that meet certain minimal requirements contained in § 299.2. This flexibility would also apply to Title III of the Goals 2000: Educate America Act.

Section 299.2 would not affect the applicability of the Department's other general administrative regulations to ESEA programs. Therefore, unless a particular regulatory provision is inconsistent with a statutory provision (in which case the statute controls), the Department's general administrative regulations apply to ESEA programs as follows:

(a) 34 CFR Part 74 (Administration of Grants to Institutions of Higher Education, Hospitals and Nonprofit Organizations) applies to grantees other than State and local governments and Indian tribal organizations.

(b) 34 CFR Part 75 (Direct Grant Programs), except for § 75.650 (participation of students enrolled in private schools), applies to all direct grant programs.

(c) 34 CFR Part 76 (State-Administered Programs), except for §§ 76.650 through 76.662 (participation of students enrolled in private schools), applies to State administered grant programs.

(d) 34 CFR Part 77 (Definitions that Apply to Department Regulations).

(e) 34 CFR Part 79 (Intergovernmental Review of Department of Education Programs and Activities) applies to some of the ESEA programs.

(f) 34 CFR Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments), as discussed in this preamble.

(g) 34 CFR Part 81 (General Education Provisions Act—Enforcement) applies to all ESEA programs except for Title VIII (Impact Aid) of ESEA.

(h) 34 CFR Part 82 (New Restrictions on Lobbying) applies to all ESEA programs.

(i) 34 CFR Part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)) applies to all ESEA programs.

(j) 34 CFR Part 86 (Drug-Free Schools and Campuses) applies to institutions of higher education.

Guidance on which of these provisions apply to Title VIII (Impact Aid) will be issued separately.

Section 299.3 of these proposed regulations would authorize the Secretary to coordinate discretionary grants under the ESEA with the Empowerment Zones and Enterprise Community initiative, a critical community revitalization strategy. Under this initiative, the United States Department of Housing and Urban Development or the United States Department of Agriculture has designated certain urban and rural areas as Empowerment Zones, including Supplemental Empowerment Zones, or Enterprise Communities. These selected areas, which are characterized by pervasive poverty, unemployment, and general distress, are implementing locally designed strategies for building healthy, safe, and economically vibrant communities. Interested individuals may contact the Department of Housing and Urban Development at 1–800–998–9999 for additional information on the Empowerment Zone and Enterprise Community initiative.

The discretionary grants under the ESEA can play a key role in helping Empowerment Zones and Enterprise Communities address key educational needs as part of a community revitalization strategy. Therefore, to encourage grantees to concentrate resources to address multi-faceted problems, under the proposed § 299.3, the Secretary would be able to give priority to applications that propose projects that serve these zones and communities.

In § 299.4, the Secretary proposes to authorize each SEA to adopt and use its own reasonable standards in determining whether the majority of its resources for administrative purposes come from non-Federal sources, a prerequisite for the consolidation of State administrative funds as authorized by section 14201 of the ESEA. Under this section, SEAs would also be permitted to adopt reasonable standards for determining when to allow the consolidation of local administrative funds. This section would provide flexibility for SEAs in these State-administered programs and fulfill the Secretary's obligation to issue regulations under section 14203.

Sections 299.5–299.12 of these proposed regulations would contain uniform provisions regarding maintaining fiscal effort, serving private school children and teachers, and for filing and resolving complaints from the public. In the past, these requirements have varied program-by-program. The revised provisions discussed as follows are designed to reduce burden for grantees by making their implementation uniform among ESEA programs.

The proposed regulations in § 299.5 for maintenance of effort would, for the first time, provide uniform provisions to reduce the burden of requiring different recordkeeping for several programs. It would also provide more flexibility than in previous regulations by excluding all Federal funds and supplemental funds spent as a result of a Presidentially declared disaster. The exclusion of Federal funds from maintenance of effort calculations is consistent with the purposes of the statutory provision. The Secretary interprets the maintenance of effort provision in section 14501 of Title XIV not to apply to Title VI programs, because of the specific maintenance of effort provision in section 6401 of Title VI. Therefore, § 299.5 also does not apply to Title VI programs.

The proposed regulations governing participation of private schools students, teachers and other personnel in §§ 299.6–299.9 are similar to the regulations for Title I of the Act (34 CFR §§ 200.10–200.14 (published on July 3, 1995 (60 FR 34800)). For example, § 299.7 on equitable participation includes the same provisions on "equal expenditures" and "equitable basis" as in 34 CFR § 200.11, except that § 299.7 does not include provisions relating to the specific distribution of Title I funds. Instead of simply cross-referencing the Title I regulations, however, for the convenience of the reader, full provisions are included in this notice.

Sections 299.6–299.9 also provide for more flexibility than in general regulations on participation of students enrolled in private schools currently in 34 CFR §§ 76.650–76.662 that would otherwise apply. Sections 299.6–299.9 would supersede the provisions of 34 CFR §§ 76.650–76.662 for the programs listed in § 299.6.

Sections 299.10–299.12 require States to establish complaint procedures in State-administered programs, so that the public is provided an opportunity to bring complaints to the attention of State program administrators. The provisions are similar to those previously included in the regulations for Chapter 1 of ESEA before the 1994 amendments, but the new regulations would provide the SEA with considerably more flexibility in

establishing reasonable procedures for resolving these complaints by authorizing SEAs to adopt their own reasonable time limits for resolving a complaint.

Executive Order 12866

1. Assessment of Costs and Benefits

These proposed regulations have been reviewed in accordance with Executive Order 12866. Under the terms of the order, the Secretary has assessed the potential costs and benefits of this regulatory action. The potential costs and benefits associated with the proposed regulations are minimal and to the extent there are costs, the costs result from the statutory requirements and regulations determined by the Secretary to be necessary for administering these programs effectively and efficiently. To the extent there are burdens specifically associated with information collection requirements, they are identified and explained elsewhere in this preamble under the heading "*Paperwork Reduction Act of 1995.*"

Thus, in assessing the potential costs and benefits—both quantitative and qualitative—of these proposed regulations, the Secretary has determined that the benefits of the proposed regulations justify the costs. The Secretary has also determined that this regulatory action does not interfere unduly with State and local governments in the exercise of their governmental functions.

To assist the Department in complying with the specific requirements of Executive Order 12866, the Secretary invites comments on whether there may be further opportunities to reduce any potential costs or increase potential benefits resulting from these proposed regulations without impeding the effective and efficient administration of the program.

2. Clarity of the Regulations

Executive Order 12866 requires each Federal agency to write regulations that are easy to understand.

The Secretary invites comment on how to make these regulations easier to understand, including answers to questions such as the following: (1) Are the requirements in the regulations clearly stated? (2) Do the regulations contain technical terms or other wording that interferes with the clarity? (3) Does the format of the regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity? Would the regulations be easier to understand if they were divided into more (but shorter) sections? (A "section" is preceded by the symbol "§" and a numbered heading; for example "§ 299.1 What are the purpose and scope of the regulations?") (4) Is the description of the proposed regulations in the "Supplementary Information" section of this preamble helpful in understanding the proposed regulations? How could this description be more helpful in making the proposed regulations easier to understand? (5) What else could the Department do to make the regulations easier to understand?

A copy of any comments that concern whether these proposed regulations are easy to understand should also be sent to Stanley M. Cohen, Regulations Quality Officer, U.S. Department of Education, 600 Independence Avenue, S.W. (room 5121, FOB–10), Washington, DC, 20202–2241.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities.

The small entities that would be affected by these proposed regulations are small local educational agencies (LEAs), and public or nonprofit private agencies receiving Federal funds under the ESEA programs. The proposed regulations would not have a significant economic impact on the small entities affected because the proposed regulations would not impose excessive regulatory burdens or require unnecessary Federal supervision. The proposed regulations would impose minimal requirements to ensure the proper expenditure of program funds.

Paperwork Reduction Act of 1995

Collection of Information: General Provisions, Elementary and Secondary Education Act: Complaint Process: Sections 299.10–299.12 contain information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department of Education has submitted a copy of these sections to the Office of Management and Budget (OMB) for its review under that Act.

Under sections 299.10–299.12, an SEA is required to adopt written procedures for receiving and resolving on a timely basis complaints from an organization or individual that the SEA or an agency or consortium of agencies is violating a Federal statute or regulations that apply to a covered program listed in § 299.10(b). The resolution of a complaint by the SEA may be reviewed by the Secretary, at the Secretary's discretion.

The likely respondents to the collection of information in the complaint process are individuals and organizations that submit complaints. The information submitted is used to resolve complaints and will be collected as complaints are submitted.

We estimate that each State will receive, an average of twenty complaints each year, and that each complaint will take an average of four burden hours to prepare. Therefore, the total annual reporting and recordkeeping burden that will result from the collection of this information is 4560 burden hours (fifty-seven State entities, multiplied by twenty complaints, multiplied by four burden hours for preparing each complaint).

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10235, New Executive Office Building, Washington, D.C. 20503; Attention: Desk Officer for U.S. Department of Education.

The Department considers comments by the public on these proposed collections of information in:

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;
- Evaluating the accuracy of the Department's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Department on the proposed regulations.

Intergovernmental Review

Some of the programs that would be affected by these regulations are subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an inter-governmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance. In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for these programs.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection during and after the comment period, in rooms 4400 and 4100, respectively, Portals Building, 1250 Maryland Avenue, S.W., Washington, DC., between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

List of Subjects in 34 CFR Part 299

Administrative practice and procedure, Education, Elementary and secondary education, Grant programs—education, Private schools, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Number does not apply)

Dated: March 20, 1996.

Richard W. Riley,

Secretary of Education.

The Secretary proposes to amend Title 34 of the Code of Federal Regulations by adding a new Part 299 to read as follows:

PART 299—GENERAL PROVISIONS

Subpart A—Purpose and Applicability

Sec.

299.1 What are the purpose and scope of these regulations?
299.2 What regulations apply to ESEA programs?

Subpart B—Selection Criteria

299.3 What priority may the Secretary establish for activities in an Empowerment Zone or Enterprise Community?

Subpart C—Consolidation of State and Local Administrative Funds

299.4 What requirements apply to the consolidation of state and local administrative funds?

Subpart D—Fiscal Requirements

299.5 What maintenance of effort requirements apply to ESEA programs?

Subpart E—Services to Private School Students and Teachers

299.6 What are the responsibilities for providing services to children and teachers in private schools?
299.7 What are the factors for determining equitable participation of children and teachers in private schools?
299.8 What are the requirements to ensure that funds do not benefit a private school?
299.9 What are the requirements concerning property, equipment, and supplies for the benefit of private school children and teachers?

Subpart F—Complaint Procedures

299.10 What complaint procedures shall an SEA adopt?
299.11 What are included in the complaint procedures?
299.12 How does an organization or individual file a complaint?

Authority: 20 U.S.C. 1221e–3, unless otherwise noted.

Subpart A—Purpose and Applicability

§ 299.1 What are the purpose and scope of these regulations?

(a) This part establishes uniform administrative rules for programs in Titles I through XIII of the Elementary and Secondary Education Act of 1965, as amended (ESEA), except where otherwise indicated. As indicated in particular sections of this part, certain provisions apply only to a specific group of programs.

(b) If an ESEA program does not have implementing regulations, the Secretary implements the program under the authorizing statute, and, to the extent applicable, Title XIV of ESEA, the General Education Provisions Act, the regulations in this part, and the Education Department General Administrative Regulations (34 CFR Parts 74 through 86) that are not inconsistent with specific statutory provisions of this Act.

(Authority: 20 U.S.C. 1221e-3(a)(1))

§ 299.2 What regulations apply to ESEA programs?

With regard to the applicability of Education Department General Administrative Regulations (EDGAR) to the ESEA programs (in addition to any other specific implementing regulations):

(a) 34 CFR Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments) applies to State, local, and Indian tribal governments under direct grant programs (as defined in 34 CFR 75.1(b)), and programs under Title XI of ESEA.

(b) 34 CFR Part 80 also applies to all other programs under the ESEA and to programs under Title III of the Goals 2000: Educate America Act (Title III of Goals 2000), unless a State formally adopts its own written fiscal and administrative requirements for expending and accounting for all funds received by State educational agencies (SEAs) and local educational agencies (LEAs) under the ESEA and Title III of Goals 2000. If a State adopts its own alternative requirements, the requirements must be available for inspection upon the request of the Secretary or the Secretary's representatives and must—

(1) Be sufficiently specific to ensure that funds received under ESEA and Title III of Goals 2000 are used in compliance with all applicable statutory and regulatory provisions;

(2) Ensure that funds received under ESEA and Title III of Goals 2000 are spent only for reasonable and necessary costs of operating programs under this part; and

(3) Ensure that funds received under ESEA and Title III of Goals 2000 are not used for general expenses required to carry out other responsibilities of State or local governments.

(Authority: 20 U.S.C. 1221e–3(a)(1))

Subpart B—Selection Criteria

§ 299.3 What priority may the Secretary establish for activities in an Empowerment Zone or Enterprise Community?

For any ESEA discretionary grant program, the Secretary may establish a priority, as authorized by 34 CFR 75.105(b), for projects that will—

(a) Use a significant portion of the program funds to address substantial problems in an Empowerment Zone, including a Supplemental Empowerment Zone, or an Enterprise Community designated by the United States Department of Housing and Urban Development or the United States Department of Agriculture; and

(b) Contribute to systemic educational reform in an Empowerment Zone, including a Supplemental Empowerment Zone, or an Enterprise Community, and are made an integral

part of the Zone or Community's comprehensive community revitalization strategies.

(Authority: 20 U.S.C. 2831(a))

Subpart C—Consolidation of State and Local Administrative Funds

§ 299.4 What requirements apply to the consolidation of state and local administrative funds?

An SEA may adopt and use its own reasonable standards in determining whether—

(a) The majority of its resources for administrative purposes come from non-Federal sources to permit the consolidation of State administrative funds in accordance with section 14201 of the Act; and

(b) To approve an LEA's consolidation of its administrative funds in accordance with section 14203 of the Act.

(Authority: 20 U.S.C. 8821 and 8823)

Subpart D—Fiscal Requirements

§ 299.5 What maintenance of effort requirements apply to ESEA programs?

(a) *General.* An LEA receiving funds under a covered program listed in subsection (b) may receive its full allocation of funds if the SEA finds that either the combined fiscal effort per student or the aggregate expenditures of State and local funds with respect to the provision of free public education in the LEA for the preceding fiscal year was not less than 90 percent of combined fiscal effort per student or the aggregate expenditures for the second preceding fiscal year.

(b) *Covered programs.* Programs covered by this subpart are the following:

(1) Part A of Title I (Improving Basic Programs Operated by Local Educational Agencies).

(2) Title II (Eisenhower Professional Development Program) (other than section 2103 and part C of this title).

(3) Subpart 2 of Part A of Title III (State and Local Programs for School Technology Resources).

(4) Part A of Title IV (Safe and Drug-Free Schools and Communities) (other than section 4114).

(c) *Meaning of "preceding fiscal year."* For purposes of determining if the requirement of paragraph (a) of this section is met, the "preceding fiscal year" means the Federal fiscal year, or the 12-month fiscal period most commonly used in a State for official reporting purposes, prior to the beginning of the Federal fiscal year in which funds are available for obligation by the Department.

Example: For fiscal year 1995 funds, that are first made available on July 1, 1995, if a State is using the Federal fiscal year, the "preceding fiscal year" is Federal fiscal year 1994 (which began on October 1, 1993 and ended September 30, 1994) and the "second preceding fiscal year" is Federal fiscal year 1993 (which began on October 1, 1992). If a State is using a fiscal year that begins on July 1, 1995, the "preceding fiscal year" is the 12-month period ending on June 30, 1994, and the "second preceding fiscal year," is the period ending on June 30, 1993.

(d) *Expenditures.* (1) In determining an LEA's compliance with paragraph (a) of this section, the SEA shall consider only the LEA's expenditures from State and local funds for free public education. These include expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities.

(2) The SEA may not consider the following expenditures in determining an LEA's compliance with the requirement in paragraph (a) of this section:

(i) Any expenditures for community services, capital outlay, debt service or supplemental expenses made as a result of a Presidentially declared disaster.

(ii) Any expenditures made from funds provided by the Federal Government.

(Authority: 20 U.S.C. 8891)

Subpart E—Services to Private School Students and Teachers

§ 299.6 What are the responsibilities for providing services to children and teachers in private schools?

(a) *General.* An agency or consortium of agencies receiving funds under a program listed in subsection (b) of this section shall, after timely and meaningful consultation with appropriate private school officials, in accordance with that section, provide special educational services or other benefits under this part, on an equitable basis, to children who are enrolled in private elementary and secondary schools, and are eligible for that program, and to their teachers or other educational personnel.

(b) *Covered programs.* In accordance with section 14503(b) of ESEA, programs covered by this subpart are the following:

(1) Part C of Title I (Migrant Education).

(2) Title II (Professional Development) (other than section 2103 and part C of this title).

(3) Title III (other than Part B of the Title) (Star Schools).

(4) Part A of Title IV (Safe and Drug-Free Schools and Communities) (other than section 4114).

(5) Title VI (Innovative Education Program Strategies).

(6) Title VII (Bilingual Education).

(c) *Provisions not applicable.* Sections 75.650 and 76.650 through 76.662 of Part 34 of the Code of Federal Regulations (participation of students enrolled in private schools) do not apply to covered programs.

(Authority: 20 U.S.C. 8893)

§ 299.7 What are the factors for determining equitable participation of children and teachers in private schools?

(a) *Equal expenditures.* (1) Expenditures of funds made by an agency or consortium of agencies under a covered program for services for eligible private school children and their teachers and other educational personnel must be equal on a per-pupil basis to the amount of funds expended for participating public school children and their teachers and other educational personnel taking into account the number and educational needs of those children and their teachers or other educational personnel.

(2) Before determining equal expenditures under paragraph (a)(1) of this section, an agency or consortium of agencies shall pay for the reasonable and necessary administrative costs of providing services to public and private school children and their teachers or other educational personnel, from the agency's or consortium of agencies' total allocation of funds under the applicable ESEA program.

(b) *Services on an equitable basis.* (1) The services that an agency or consortium of agencies provides to eligible private school children and their teachers and other educational personnel must also be equitable in comparison to the services and other benefits provided to public school children and their teachers or other educational personnel participating in a program under this subpart.

(2) Services are equitable if the agency or consortium of these agencies—

(i) Addresses and assesses the specific needs and educational progress of eligible private school children and their teachers or other educational personnel on a comparable basis as public school children and their teachers or other educational personnel;

(ii) Determines the number of students to be served on an equitable basis;

(ii) Meets the equal expenditure requirements under paragraph (a) of this section; and

(iii) Provides private school children and their teachers or other educational personnel with an opportunity to participate that—

(A) Is equitable to the opportunity and the benefits provided to public school children and their teachers or other educational personnel; and

(B) Provides reasonable promise of those children meeting challenging academic standards as called for by the State's student performance standards and has their teachers or other educational personnel assisting these students in meeting high standards.

(3) The agency or consortium of these agencies shall make the final decisions with respect to the services to be provided to eligible private school children and their teachers or other educational personnel.

(c) If the needs of private school students, their teachers or other educational personnel are different from the needs of students, teachers or other educational personnel in the public schools, the agency or consortium of these agencies shall provide program benefits for the private school students, teachers, or other educational personnel that are different from the benefits the subgrantee provides for the public school children and their teachers or other educational personnel.

(Authority: 20 U.S.C. 8893)

§ 299.8 What are the requirements to ensure that funds do not benefit a private school?

(a) An agency or consortium of these agencies shall use funds under a covered program to provide services that supplement, and in no case supplant, the level of services that would, in the absence of services under that ESEA program, be available to participating children and their teachers or other educational personnel in private schools.

(b) An agency or consortium of those agencies shall use funds under a listed program to meet the special educational needs of participating children who attend a private school and their teachers or other educational personnel, but may not use those funds for—

(1) The needs of the private school; or

(2) The general needs of children and their teachers or other educational personnel in the private school.

(Authority: 20 U.S.C. 8893)

§ 299.9 What are the requirements concerning property, equipment, and supplies for the benefit of private school children and teachers?

(a) A public agency must keep title to, and exercise continuing administrative control of, all property, equipment, and supplies that the public agency acquires with funds under a covered program for the benefit of eligible private school children and their teachers or other educational personnel.

(b) The public agency may place equipment and supplies in a private school for the period of time needed for the program.

(c) The public agency shall ensure that the equipment and supplies placed in a private school—

(1) Are used only for proper ESEA program purposes; and

(2) Can be removed from the private school without remodeling the private school facility.

(d) The public agency must remove equipment and supplies from a private school if—

(1) The equipment and supplies are no longer needed for ESEA program purposes; or

(2) Removal is necessary to avoid unauthorized use of the equipment or supplies for other than ESEA program purposes.

(e) No funds may be used for repairs, minor remodeling, or construction of private school facilities.

(f) For the purpose of this section, the term public agency includes the agency or consortium of these agencies.

(Authority: 20 U.S.C. 8893)

Subpart F—Complaint Procedures

§ 299.10 What complaint procedures shall an SEA adopt?

(a) *General.* An SEA shall adopt written procedures, consistent with State law, for—

(1) Receiving and resolving any complaint from an organization or individual that the SEA or an agency or consortium of agencies is violating a Federal statute or regulations that apply to a covered program listed in subsection (b) of this section.

(2) Reviewing an appeal from a decision of an agency or consortium of agencies with respect to a complaint; and

(3) Conducting an independent on-site investigation of a complaint if the SEA determines that an on-site investigation is necessary.

(b) *Covered programs.* Programs covered by this subpart are the following:

(1) Part A of Title I (Improving Basic Programs Operated by Local Educational Agencies).

(2) Part B of Title I (Even Start Family Literacy Programs).

(3) Part C of Title I (Migrant Education).

(4) Part D of Title I (Children and Youth Who Are Neglected, Delinquent, or At Risk of Dropping Out).

(5) Title II (Eisenhower Professional Development Program) (other than section 2103 and part C of this title).

(6) Subpart 2 of Part A of Title III (State and Local Programs for School Technology Resources).

(7) Part A of Title IV (Safe and Drug-Free Schools and Communities) (other than section 4114).

(8) Title VI (Innovative Education Program Strategies).

(Authority: 20 U.S.C. 1221e–3(a)(1))

§ 299.11 What are included in the complaint procedures?

An SEA shall include the following in its complaint procedures—

(a) A reasonable time limit after the SEA receives a complaint for resolving the complaint, including a provision for carrying out an independent on-site investigation, if necessary.

(b) An extension of the time limit under paragraph (a) of this section only if exceptional circumstances exist with respect to a particular complaint.

(c) The right for the complainant to request the Secretary to review the final decision of the SEA, at the Secretary's discretion.

(Authority: 20 U.S.C. 1221e–3(a)(1))

§ 299.12 How does an organization or individual file a complaint?

An organization or individual may file a written signed complaint with an SEA. The complaint must include—

(a) A statement that the SEA or an agency or consortium of these agencies has violated a requirement of a Federal statute or regulations that apply to the ESEA program; and

(b) The facts on which the statement is based, and the specific requirement violated.

(Authority: 20 U.S.C. 1221e–3(a)(1))

[FR Doc. 96–7098 Filed 3–25–96; 8:45 am]
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Tuesday
March 26, 1996

Part X

Department of Housing and Urban Development

24 CFR Part 51

Regulatory Reinvention; Streamlining of HUD's Environmental Criteria and Standards; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 51

[Docket No. FR–4034–F–01]

RIN 2501–AC22

Regulatory Reinvention; Streamlining of HUD's Environmental Criteria and Standards

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: In an effort to comply with the President's regulatory reform initiative, this final rule streamlines HUD's regulations governing its environmental criteria and standards. Specifically, this rule amends these regulations to eliminate provisions which do not require regulatory codification. The rule also updates the regulations to more accurately reflect current HUD organization and practices. The streamlining amendments made by this final rule will make HUD's environmental criteria clearer and more concise.

EFFECTIVE DATE: April 25, 1996.

FOR FURTHER INFORMATION CONTACT: Richard Broun, Office of Community Viability, Department of Housing and Urban Development, Room 7240, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–3297. Hearing- or speech-impaired individuals may access this number by calling the Federal Information Relay Service TTY at 1–800–877–8339. (With the exception of the "800" number, these numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

I. Background

On March 4, 1995, President Clinton issued a memorandum to all Federal departments and agencies regarding regulatory reinvention. In response to this memorandum, HUD conducted a page-by-page review of its regulations to determine which can be eliminated, consolidated, or otherwise improved. As part of this review, HUD reexamined its regulations at 24 CFR part 51, which govern HUD's environmental criteria and standards. HUD has determined that several streamlining amendments can be made to part 51.

This final rule removes provisions which do not require regulatory codification. For example, this rule removes most of the substance of § 51.3, which sets forth the responsibility for administering the requirements of 24 CFR part 51. The rule also removes paragraph (a) of § 51.102, which describes the authority to approve projects under part 51, subpart B. This information, while helpful to HUD's clients, will more appropriately be provided through **Federal Register** notice. Accordingly, Appendix I to this rule identifies the HUD officials with responsibility for administering the requirements of part 51 and their specific duties. HUD will update this appendix as necessary.

This final rule also updates part 51 to more accurately reflect current HUD organization and practices. For example, paragraph (a)(3) of § 51.101 sets forth HUD's policy for support of construction of new noise sensitive uses. This paragraph states that the "policy does not apply to * * * any action or emergency assistance under disaster emergency programs." The provision originally applied to FEMA programs, which are no longer under HUD jurisdiction. This final rule updates paragraph (a)(3) of § 51.101 to apply this exclusion more generally to other emergency actions, such as those performed under HUD's CDBG and HOME programs.

Finally, the rule streamlines 24 CFR part 51 to eliminate unnecessary wordiness. The streamlining amendments made by this final rule will make HUD's environmental criteria clearer and more concise.

II. Justification for Final Rulemaking

HUD generally publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking in 24 CFR part 10. However, part 10 provides for exceptions to the general rule if the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is "impracticable, unnecessary, or contrary to the public interest" (24 CFR 10.1). In this case, HUD finds that prior public comment is unnecessary.

This rule merely removes provisions which are unnecessarily codified and which HUD will more appropriately set forth through **Federal Register** notice. The rule also eliminates excessive wordiness and updates the regulations at 24 CFR part 51 to reflect current HUD organization and practices. This final rule does not affect or establish policy.

III. Other Matters

A. Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this final rule, and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule merely streamlines and updates regulations to reflect current organization and practices. The rule will have no adverse or disproportionate economic impact on any small entity.

B. Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of General Counsel, the Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, DC 20410.

C. Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that this rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. No programmatic or policy changes will result from this rule that would affect the relationship between the Federal Government and State and local governments.

D. Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that this rule will not have the potential for significant impact on family formation, maintenance, or general well-being, and thus is not subject to review under the Order. No significant change in existing HUD policies or programs will result from promulgation of this rule.

List of Subjects in 24 CFR Part 51

Environmental protection, Airports, Hazardous substances, Housing standards, Noise control.

Accordingly, 24 CFR part 51 is amended as follows:

PART 51—ENVIRONMENTAL CRITERIA AND STANDARDS

1. The authority citation for 24 CFR part 51 is revised to read as follows:

Authority: 42 U.S.C. 3535(d), unless otherwise noted.

Subpart A—General Provisions

2–3. Section 51.2 is revised to read as follows:

§ 51.2 Authority.

This part implements the Department's responsibilities under: The National Housing Act (12 U.S.C. 1701 *et seq.*); sec. 2 of the Housing Act of 1949 (42 U.S.C. 1441); secs. 2 and 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3531 and 3535(d)); the National Environmental Policy Act of 1969 (42 U.S.C. 4321); and the other statutes that are referred to in this part.

4. Section 51.3 is revised to read as follows:

§ 51.3 Responsibilities.

The Assistant Secretary for Community Planning and Development is responsible for administering HUD's environmental criteria and standards as set forth in this part. The Assistant Secretary for Community Planning and Development may be assisted by HUD officials in implementing the responsibilities established by this part. HUD will identify these HUD officials and their specific responsibilities through **Federal Register** notice.

§ 51.5 [Removed]

5. Section 51.5 is removed.

Subpart B—Noise Abatement and Control

6. Section 51.100 is amended by revising the introductory text of paragraph (a) and revising paragraph (b) to read as follows:

§ 51.100 Purpose and authority.

(a) It is the purpose of this subpart B to:

* * * * *

(b) *Authority.* Specific authorities for noise abatement and control are contained in the Noise Control Act of 1972, as amended (42 U.S.C. 4901 *et seq.*); and the General Services Administration, Federal Management Circular 75–2; *Compatible Land Uses at Federal Airfields.*

7. Section 51.101 is amended by:

a. Removing paragraph (a)(1)(iii); and

b. Revising paragraphs (a)(1) introductory text, (a)(1)(ii), (a)(2), and (a)(3) to read as follows:

§ 51.101 General policy.

(a) * * *

(1) *Planning assistance.* HUD requires that grantees give adequate consideration to noise exposures and sources of noise as an integral part of the urban environment when HUD assistance is provided for planning purposes, as follows:

* * * * *

(ii) Applicants shall take into consideration HUD environmental standards impacting the use of land.

(2) *Activities subject to 24 CFR part 58.* (i) Responsible entities under 24 CFR part 58 must take into consideration the noise criteria and standards in the environmental review process and consider ameliorative actions when noise sensitive land development is proposed in noise exposed areas. Responsible entities shall address deviations from the standards in their environmental reviews as required in 24 CFR part 58.

(ii) Where activities are planned in a noisy area, and HUD assistance is contemplated later for housing and/or other noise sensitive activities, the responsible entity risks denial of the HUD assistance unless the HUD standards are met.

(3) *HUD support for new construction.* HUD assistance for the construction of new noise sensitive uses is prohibited generally for projects with unacceptable noise exposures and is discouraged for projects with normally unacceptable noise exposure. (Standards of acceptability are contained in § 51.103(c).) This policy applies to all HUD programs providing assistance, subsidy or insurance for housing, manufactured home parks, nursing homes, hospitals, and all programs providing assistance or insurance for land development, redevelopment or any other provision of facilities and services which are directed to making land available for housing or noise sensitive development. The policy does not apply to research demonstration projects which do not result in new construction or reconstruction, flood insurance, interstate land sales egistration, or any action or emergency assistance under disaster assistance provisions or appropriations which are provided to save lives, protect property, protect public health and safety, remove debris and wreckage, or assistance that has the effect of restoring facilities substantially as they existed prior to the disaster.

* * * * *

8. Section 51.102 is amended by:

a. Removing paragraphs (a) and (d);

b. Redesignating paragraphs (b), (c), and (e) as paragraphs (a), (b), and (c), respectively;

c. Revising the introductory text of newly designated paragraph (b); and

d. Revising newly designated paragraph (c) to read as follows:

§ 51.102 Responsibilities.

* * * * *

(b) *Notice to applicants.* At the earliest possible stage, HUD program staff shall:

* * * * *

(c) *Interdepartmental coordination.* HUD shall foster appropriate coordination between field offices and other departments and agencies, particularly the Environmental Protection Agency, the Department of Transportation, Department of Defense representatives, and the Department of Veterans Affairs. HUD staff shall utilize the acceptability standards in commenting on the prospective impacts of transportation facilities and other noise generators in the Environmental Impact Statement review process.

9. Section 51.104 is amended by:

a. Removing paragraph (a)(1);

b. Redesignating the introductory text to paragraph (a) as paragraph (a)(1);

c. Revising paragraph (a)(2); and

d. Revising the introductory text of paragraph (b) and paragraphs (b)(1)(ii) and (b)(2) to read as follows:

§ 51.104 Special requirements.

(a) * * *

(2) *Normally unacceptable noise zones and unacceptable noise zones.* Approvals in Normally Unacceptable Noise Zones require a minimum of 5 decibels additional sound attenuation for buildings having noise-sensitive uses if the day-night average sound level is greater than 65 decibels but does not exceed 70 decibels, or a minimum of 10 decibels of additional sound attenuation if the day-night average sound level is greater than 70 decibels but does not exceed 75 decibels. Noise attenuation measures in Unacceptable Noise Zones require the approval of the Assistant Secretary for Community Planning and Development, or the Certifying Officer for activities subject to 24 CFR part 58. (See § 51.104(b)(2).)

(b) *Environmental review requirements.* Environmental reviews shall be conducted pursuant to the requirements of 24 CFR parts 50 and 58, as applicable, or other environmental regulations issued by the Department. These requirements are hereby modified for all projects proposed in the Normally Unacceptable and Unacceptable noise exposure zones as follows:

(1) * * *

(ii) When an EIS is required, the concurrence of the Program Assistant Secretary is also required before a project can be approved. For the purposes of this paragraph, an area will be considered as largely undeveloped unless the area within a 2-mile radius of

the project boundary is more than 50 percent developed for urban uses and infrastructure (particularly water and sewers) is available and has capacity to serve the project.

* * * * *

(2) *Unacceptable noise zone.* An EIS is required prior to the approval of projects with unacceptable noise exposure. Projects in or partially in an Unacceptable Noise Zone shall be submitted to the Assistant Secretary for Community Planning and Development, or the Certifying Officer for activities subject to 24 CFR part 58, for approval. The Assistant Secretary or the Certifying Officer may waive the EIS requirement in cases where noise is the only environmental issue and no outdoor noise sensitive activity will take place on the site. In such cases, an environmental review shall be made pursuant to the requirements of 24 CFR parts 50 or 58, as appropriate.

10. Section 51.105 is amended by revising paragraph (a)(1) to read as follows:

§ 51.105 Exceptions.

(a) * * *

(1) The project does not require an Environmental Impact Statement under provisions of § 51.104(b)(1) and noise is the only environmental issue.

* * * * *

11. Section 51.106 is amended by revising paragraph (a)(4) introductory text to read as follows:

§ 51.106 Implementation.

(a) * * *

(4) *Use of areawide acoustical data.* HUD encourages the preparation and use of areawide acoustical information, such as noise contours for airports. Where such new or revised contours become available for airports (civil or military) and military installations they shall first be referred to the HUD State Office (Environmental Officer) for review, evaluation and decision on appropriateness for use by HUD. The HUD State Office shall submit revised contours to the Assistant Secretary for Community Planning and Development for review, evaluation and decision whenever the area affected is changed by 20 percent or more, or whenever it is determined that the new contours will have a significant effect on HUD programs, or whenever the contours are not provided in a methodology acceptable under § 51.106(a)(1) or in other cases where the HUD State Office determines that Headquarters review is warranted. For other areawide acoustical data, review is required only where existing areawide data are being utilized and where such data have been changed to reflect changes in the measurement methodology or underlying noise source assumptions. Requests for determination on usage of new or revised areawide data shall include the following:

* * * * *

Subpart C—Siting of HUD-Assisted Projects Near Hazardous Operations Handling Conventional Fuels or Chemicals of an Explosive or Flammable Nature

12. Section 51.200 is amended by revising the introductory text to read as follows:

§ 51.200 Purpose.

The purpose of this subpart C is to:

* * * * *

13. Section 51.201 is amended by revising the definition of "*Acceptable separation distance (ASD)*" to read as follows:

§ 51.201 Definitions.

Acceptable separation distance (ASD)—means the distance beyond which the explosion or combustion of a hazard is not likely to cause structures or individuals to be subjected to blast overpressure or thermal radiation flux levels in excess of the safety standards in § 51.203. The ASD is determined by applying the safety standards established by this subpart C to the guidance set forth in HUD Guidebook, "Siting of HUD-Assisted Projects Near Hazardous Facilities."

* * * * *

§ 51.202 [Amended]

14. Section 51.202 is amended by removing the first sentence of paragraph (a).

15. Section 51.203 is amended by adding a paragraph (d) to read as follows:

§ 51.203 Safety standards.

* * * * *

(d) Background information on the standards and the logarithmic thermal radiation and blast overpressure charts that provide assistance in determining acceptable separation distances are contained in Appendix II to this subpart C.

16. Section 51.206 is revised to read as follows:

§ 51.206 Implementation.

This subpart C shall be implemented for each proposed HUD-assisted project by the HUD approving official or responsible entity responsible for review of the project. The implementation procedure will be part of the environmental review process in accordance with the procedures set forth in 24 CFR parts 50 and 58.

17. Section 51.207 is revised to read as follows:

§ 51.207 Special circumstances.

The Secretary or the Secretary's designee may, on a case-by-case basis, when circumstances warrant, require the application of this subpart C with respect to a substance not listed in Appendix I to this subpart C that would create thermal or overpressure effect in excess of that listed in § 51.203.

Subpart D—Siting of HUD Assisted Projects in Runway Clear Zones at Civil Airports and Clear Zones and Accident Potential Zones at Military Airfields

§ 51.300 [Amended]

18. Section 51.300 is amended by removing paragraph (a) and removing the paragraph designation of paragraph (b).

19. Section 51.302 is amended by revising the first sentence in paragraph (a) to read as follows:

§ 51.302 Coverage.

(a) These policies apply to HUD programs which provide assistance, subsidy or insurance for construction, land development, community development or redevelopment or any other provision of facilities and services which are designed to make land available for construction. * * *

* * * * *

20. Section 51.303 is amended by revising paragraph (a)(3) to read as follows:

§ 51.303 General policy.

* * * * *

(a) * * *

(3) Special notification requirements for Runway Clear Zones and Clear Zones. In all cases involving HUD assistance, subsidy, or insurance for the purchase or sale of an existing property in a Runway Clear Zone or Clear Zone, HUD (or the responsible entity or recipient under 24 CFR part 58) shall advise the buyer that the property is in a Runway Clear Zone or Clear Zone, what the implications of such a location are, and that there is a possibility that the property may, at a later date, be acquired by the airport operator. The buyer must sign a statement acknowledging receipt of this information.

* * * * *

21. Section 51.304 is revised to read as follows:

§ 51.304 Responsibilities.

(a) The following persons have the authority to approve actions in Accident Potential Zones:

(1) For programs subject to environmental review under 24 CFR part 58: the Certifying Officer of the responsible entity as defined in 24 CFR part 58.

(2) For all other HUD programs: the HUD approving official having approval authority for the project.

(b) The following persons have the authority to approve actions in Runway Clear Zones and Clear Zones:

(1) For programs subject to environmental review under 24 CFR part 58: The Certifying Officer of the responsible entity as defined in 24 CFR part 58.

(2) For all other HUD programs: the Program Assistant Secretary.

Dated: March 7, 1996.

Henry G. Cisneros,

Secretary.

[**Note:** This appendix will not be codified in title 24 of the CFR.]

Appendix I

Responsibility for Administering HUD's Environmental Criteria and Standards

Section

1. Purpose.
2. General Responsibilities in the Administration of HUD's Environmental Criteria and Standards.
3. Responsibilities in the Administration of HUD's Noise Abatement and Control Standards.

1. Purpose

HUD's environmental criteria and standards are set forth in 24 CFR part 51. The Assistant Secretary for Community Planning and Development is responsible for administering these regulations. However, § 51.3 states that the "Assistant Secretary * * * may be assisted by HUD officials in implementing the responsibilities established by" 24 CFR part 51. The purpose of this appendix is to identify these HUD officials and their specific duties.

It is unnecessary to codify this information in title 24 of the Code of Federal Regulations. Providing this information through **Federal Register** notice will allow HUD to better assist its clients and maintain up-to-date environmental standards. HUD will update this appendix as necessary.

Section 2 of this appendix describes the general responsibilities in administering HUD's environmental criteria and standards. These duties are applicable across-the-board to all the requirements established by 24 CFR part 51. Section 3 of this appendix is more limited in scope and complements the duties described in Section 2. Section 3 sets forth the responsibilities in administering HUD's noise abatement and control standards, which are described in subpart B to 24 CFR part 51.

2. General Responsibilities in the Administration of HUD's Environmental Criteria and Standards

HUD approving officials shall assure that adopted environmental regulations are implemented in relation to program decisions and recommendations. They shall also monitor projects to assure that mitigation measures are implemented.

3. Responsibilities in the Administration of HUD's Noise Abatement and Control Standards

(a) *Authority to approve projects.* (1) HUD approving officials shall make decisions on proposed projects with acceptable noise exposures, including projects where increased noise levels are considered acceptable because of non-acoustic benefits under 24 CFR 51.105(a). HUD approving officials may also approve projects in normally unacceptable noise exposed areas where adequate sound attenuation is provided and where the project does not require an Environmental Impact Statement under 24 CFR 51.104(b).

(2) Other approvals in normally unacceptable noise exposed areas require the concurrence of the Program Assistant Secretary.

(3) Requests for approvals of projects or portions of projects with unacceptable noise exposure shall be referred through the HUD approving official to the Assistant Secretary for Community Planning and Development for approval pursuant to 24 CFR 51.104(b).

(4) In cases where the HUD approving official determines that an important precedent or issue is involved, such cases shall be referred with recommendations to the Assistant Secretary for Community Planning and Development.

(b) *Technical assistance.* Technical assistance in the measurement, estimation, interpretation, or prediction of noise exposure is available from the Office of Community Planning and Development and the Office of Policy Development and Research. Field office questions shall be forwarded through the HUD approving official to the Assistant Secretary for Community Planning and Development or his/her designee.

[FR Doc. 96–7002 Filed 3–25–96; 8:45 am]

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Part XI

Department of Transportation

Federal Highway Administration

49 CFR Part 391
Qualifications of Drivers; Vision and Diabetes; Limited Exemptions; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 391

[FHWA Docket No. MC–96–2]

RIN 2125–AD73

Qualification of Drivers; Vision and Diabetes; Limited Exemptions

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA announces a final determination and final rule to allow those drivers currently holding valid waivers from both the vision and diabetes standards contained in the Federal Motor Carrier Safety Regulations (FMCSRs) to continue to operate in interstate commerce after March 31, 1996. This action is directed solely at those drivers who have been granted temporary waivers to participate in either the Federal vision waiver study or the Federal diabetes waiver study, who numbered 2210 and 116, respectively, as of March 1, 1996. The FHWA believes that allowing this special group of drivers to continue to drive after March 31, 1996, is consistent with the public interest and safe operation of commercial motor vehicles (CMV). This action is necessary because the waiver program will be terminated on March 31, 1996, and without this action, the drivers will no longer be qualified to operate in interstate commerce after that date. With this final rule, the FHWA allows these drivers to continue operations, subject to certain operating conditions. This action also includes a technical amendment to relocate an existing provision so that all limited exemptions from driver qualification standards can be found in the same subpart.

EFFECTIVE DATE: This final rule and technical amendment are effective March 31, 1996.

FOR FURTHER INFORMATION CONTACT: The FHWA has established a telephone number to receive inquiries regarding this action. Contact Ann Dulaney at (703) 448–3094. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: Section 206(f) of the Motor Carrier Safety Act of 1984 (MCSA), Pub. L. No. 98–554, 98 Stat. 2835 (codified at 49 U.S.C. 31136(e)) allows the Secretary of Transportation to issue waivers from the Federal Motor Carrier Safety Regulations only after a determination that such waivers are consistent with the public interest and the safe operation of CMVs. The safety performance data collected under the vision and diabetes waiver programs were used as the basis for this determination. Historically, the FHWA has issued limited waivers and does not intend to enter into any large scale program of exemptions. A separate research effort would form the basis for any future adjustments, if warranted, to the current vision and diabetes standards.

Vision Waiver Program Background

The FHWA announced its vision waiver study in a notice of final disposition on July 16, 1992 (57 FR 31458). The intent of the program was to obtain valuable information on the relationship between visual capacity [1] and the ability to operate a CMV safely. This vision waiver study program was initiated as part of an overall regulatory review of the medical qualification standards applicable to interstate CMV drivers. For a complete description of the waiver program, see the FHWA's October 6, 1994, notice of determination; request for comments, at 59 FR 50887.

A. Court Decision

On August 2, 1994, the U.S. Court of Appeals for the D.C. Circuit found that the agency's determination that the waiver program will not adversely affect the safe operation of CMVs lacked empirical support in the record and accordingly, the court found that the FHWA failed to meet the exacting requirements of section 2505(f) (now 49 U.S.C. 31136(e)). *Advocates for Highway and Auto Safety* v. *FHWA*, 28 F.3d 1288, 1294. Consequently, the Court concluded that the FHWA's adoption of the waiver program was contrary to law, and vacated and remanded the rule to the agency.

B. Proceedings After the Court Decision

On November 17, 1994, the FHWA published a notice of final determination in the **Federal Register** (59 FR 59386) extending the validity of the vision waivers through March 31, 1996. The FHWA's decision was based, in part, on data collected on the group of waived drivers indicating that they had performed and continued to perform more safely than drivers in the general population of commercial drivers. The notice announced plans to develop and impose more stringent performance conditions to further reduce safety risks to the waived drivers and highway users. For more complete information on the FHWA's actions after the court decision, see 59 FR 50887 (October 6, 1994) and 61 FR 606 (January 8,1996).

Diabetes Waiver Program Background

On July 29, 1993, the FHWA published in the **Federal Register** a notice of final disposition allowing certain insulin-using diabetic drivers to operate CMVs in interstate commerce for a 3-year period. The purpose of the waiver study program was to collect data on the driving experience of a group of insulin-using drivers and use that information to support amending, if warranted, the current diabetes requirement.[2] Approximately 140 drivers were accepted into the diabetes waiver program. For a complete description of the diabetes waiver program, see 57 FR 48011 (October 11, 1992) and 58 FR 40690 (July 29, 1993).

The August 2, 1994, court decision in *Advocates* called into question the FHWA's ability to issue waivers to insulin-treated diabetic drivers because of the similar approach used to pre-qualify drivers for participation in the diabetes waiver program.

Accordingly, the FHWA notified the diabetes waiver drivers, in separate mailings on March 28, 1995, of the court's decision and changes to the Vision and Diabetes Waiver Programs that allowed both programs to continue until March 31, 1996. The FHWA established stricter performance conditions for all participants, and enhanced the FHWA's monitoring of the performance of the waived drivers in order to ensure compliance with the statutory test as construed by the court.

Comments

The FHWA has received over 960 separate comments to the docket in response to the January 8, 1996, notice of proposed rulemaking (NPRM). The majority of comments were from drivers in the waiver programs, their families, and employers, all of whom favored the FHWA's proposal to allow waived drivers in the vision and diabetes waiver programs to continue driving in interstate commerce after March 31, 1996. Their comments addressed their safe driving records and the significant economic and emotional hardships that would likely befall them without the relief proposed in the NPRM. Other commenters in favor of the proposal include the National Private Truck Council (NPTC), the Owner- Operator Independent Drivers Association (OOIDA), the American Association of Motor Vehicle Administrators (AAMVA), the State of Utah Department of Public Safety, the U.S. Equal Employment Opportunity Commission (EEOC), the Disabilities Law Project, the American Optometric Association (AOA), Eglis K. Bogdanovics, M.D., the International Brotherhood of Teamsters, Teamsters, Chauffeurs, Warehousemen and Helpers (Local Union No. 110), Teamsters "General" (Local Union No. 200), the International Union of Operating Engineers (IUOE) and the Institute for Public Representation of the Georgetown University Law Center.

While the majority of the commenters supported the NPRM as proposed, some supported it with slight modifications. Some of the waived drivers believed that the required medical monitoring, especially the requirement for an annual physical examination pursuant to § 391.43, instead of every 2 years as is required of other drivers, was burdensome, expensive and unnecessary. One supporter believed that the proposed level of medical monitoring was insufficient and made recommendations for additional monitoring. Other supporters of the NPRM contended that the FHWA's proposal did not go far enough and urged the FHWA to extend its proposed grandfathering rights to other similarly qualified drivers who were not currently participating in the waiver programs and/or to amend its physical qualification standards to allow individual determination of the ability to drive, rather than blanket exclusions.

Phillips Petroleum Company supported the proposal for drivers currently holding vision waivers, but opposed it for those drivers holding diabetes waivers, stating that the insulin-using diabetic drivers pose a higher medical risk with potentially disastrous consequences. The American Trucking Associations (ATA) supported a "case-by case review that considered the merits of individual waived drivers," but opposed the broad issuance of waivers stating that the "analysis doesn't justify grandfathering all waived drivers."

Four commenters, the Advocates for Highway and Auto Safety (AHAS), the Insurance Institute for Highway Safety (IIHS), Philip A. Shelton, M.D., and Mr. Bernard Gustavsen, one of the waived drivers, opposed the NPRM. The comments of the AHAS and IIHS addressed the reliability and accuracy of the FHWA's risk assessment, use of the General Estimate System [3] (GES) as a comparison group, existing scientific evidence of the increased crash risk of drivers with diabetes and vision-impairments and other factors which, they contend, support their position that the FHWA should not grant grandfather rights to the drivers holding a valid Federal vision or diabetes waiver on March 31, 1996. Dr. Shelton, chairman of the Medical Advisory Board of the Department of Motor Vehicles of the State of Connecticut, believed that the FHWA's NPRM, as proposed, was without merit and created a privileged class of drivers. Mr. Gustavsen stated that he opposed the waiver program and believed that all rules and regulations prior to the waiver should remain enforced and be carried out to the fullest degree; however, it is not clear whether Mr. Gustavsen understands that, without his waiver of the current vision standard or grandfather rights after March 31, 1996, he would not qualify to operate a CMV in interstate commerce.

These comments are more fully discussed below.

Discussion of the Comments

A. In Favor

The Disabilities Law Project, a non-profit law firm representing individuals with disabilities including several waived drivers, believed that unsafe drivers have been effectively screened out of the waiver program and that the good driving performance of these remaining drivers as well as the proposed medical monitoring requirements will ensure the continued safe driving of this group of drivers. Furthermore, this firm believes that the FHWA's proposed actions are "consistent with national policy as expressed in the Rehabilitation Act of 1973 and the Americans with Disabilities Act to facilitate the employment of qualified individuals with disabilities."

The NPTC, a national association representing more than 1100 companies that utilize proprietary trucks in their business activities, believed the FHWA's proposal will be an important step in the FHWA's overall efforts to establish performance-based standards. It cited the drivers safe driving performance and emphasized the need to continue the medical monitoring. The NPTC believed "the conditions FHWA has put into place will effectively screen out any unsafe drivers and safeguard the operation of CMVs."

Egils K. Bogdanovics, M.D., a practicing endocrinologist and board member of the American Diabetes Association (Connecticut Affiliate) commented as a member of the Medical Advisory Board of the Department of Motor Vehicles of the State of Connecticut in support of the NPRM. Dr. Bogdanovics stated that he was not surprised by the safe performance of the diabetes drivers, and cited the waiver program data to support his belief that motivated insulin-treated diabetics can "scrupulously avoid hypoglycemia" and operate CMVs safely.

The AOA strongly supported the FHWA's proposal to allow the drivers in the vision waiver program to continue operating CMVs in interstate commerce after March 31,1996; however, they were silent on whether waived drivers in the diabetes program should be allowed to continue driving. The AOA believed that an examination by an ophthalmologist or optometrist as part of the medical requirements for operating under the proposed grandfather provision was appropriate.

The AAMVA commented in support of the NPRM, but expressed some reservations concerning the drivers in the diabetes waiver program. Specifically, AAMVA was concerned about the potential effects of hypoglycemia on CMV drivers. The American Diabetes Association, in earlier comments to FHWA docket MC–87–17, noted that mild hypoglycemia resulting in minor cognitive effects is not an immediately threatening emergency, although it should be addressed immediately by ingesting glucose. The FHWA believes that such ingestion can occur quickly and without stopping the vehicle. Therefore, it is requiring that the diabetic drivers carry a source of rapidly absorbable glucose while driving. Individuals with severe hypoglycemic reactions or hypoglycemic unawareness were excluded from participating in the program. The FHWA believes that today's medical technology for screening individuals for severe hypoglycemia and the proposed medical monitoring requirements, including an annual examination by a endocrinologist, ensure that such individuals will be detected and removed from the pool of diabetic drivers operating under § 391.64.

The OOIDA, a national trade association representing the interests of

[1] The current Federal vision standard for CMV drivers requires: distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70 degrees in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber. 49 CFR 391.41(b)(10).

[2] The Federal diabetes standard for CMV drivers requires no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control. 49 CFR 391.41(b)(3).

[3] The GES is a national survey conducted by the National Highway Traffic Safety Administration and was selected for use as the best measure of the prevailing national norm relative to large truck accidents.

a large number of independent owner-operators and professional drivers at both the Federal and State level, urged the FHWA to allow the waived drivers to continue to operate in interstate commerce, stating that the drivers "have earned the privilege .... as evidenced by their safety record." The OOIDA also believed that the medical monitoring requirements were sound and that the affected drivers would not object to these requirements in order to continue driving after March 31,1996.

The IBT, IUOE, and the EEOC, like OOIDA, supported the FHWA's proposal to allow the waived drivers to operate in interstate commerce after March 31, 1996, but they also urged the FHWA to move beyond this proposed action and change the physical qualification requirements to allow individual assessments of a driver's ability to safely operate a CMV in interstate commerce. They cited the good driving performance of the waived drivers and, therefore, concluded that the drivers were not a high risk group.

Comments in the form of a legal brief were filed on behalf of two self-employed interstate truck drivers by the Institute for Public Representation of the Georgetown University Law Center. Both of the drivers are petitioners in the United States Court of Appeals for the 8th Circuit, appealing the FHWA's decision to deny them waivers from the vision standard. The comments were strongly supportive of the proposed action, but strongly critical of the FHWA's failure to extend the exemption to all other drivers "identically situated." The brief contends that the FHWA has *de facto* amended the standard, and that the two drivers are now qualified under the amended standard.

The FHWA disagrees that these drivers are "identically situated." Since neither has participated in the waiver program, neither has been subject to the same performance standards, reporting requirements and monitoring. The FHWA also disagrees that the standard has been changed, but the agency is continuing its efforts to conduct the research necessary to enable it to make the changes that are indicated when that work is completed. The remaining arguments made in the comments are best left for resolution by the court in the pending litigation.

The FHWA agrees that this group of drivers is not a high risk group and will use their performance data to support allowing them to continue driving after March 31, 1996. However, it does not plan to use this data for any future adjustments to the vision and diabetes standards; nor does the FHWA plan to reopen the waiver programs in light of the Court decision in *Advocates for Highway and Auto Safety* v. *Federal Highway Administration,* (28 F. 3d 1288, D.C. Circuit 1994). The FHWA recognizes that there were weaknesses in the waiver study design and believes that the waiver study has not produced, by itself, sufficient evidence upon which to develop new vision and diabetes standards. The waived group of drivers has perform as well as or better than a similar group drawn from the general population of CMV drivers because of the waiver program preselection criteria and conditions. The FHWA's goal is to adopt driver physical qualification standards that are more performance-oriented; that is, more reflective of the actual physical requirements that foster safe operation of commercial vehicles. Therefore, the FHWA has undertaken comprehensive research to develop parameters for a more performance-based vision standard for all commercial drivers and has initiated plans to conduct a retrospective study to examine the risk associated with permitting insulin-using diabetic individuals to operate commercial motor vehicles (CMVs).

Many waived drivers who supported the proposal stated that the requirement for an annual physical qualification examination and certification, instead of every two years as required for other drivers, will be burdensome to drivers both financially and in terms of time off from work to get the examination. Other waived drivers believed that any further monitoring of their physical condition beyond the current requirements for drivers operating in interstate commerce is unwarranted for the above stated reasons and because their good driving performance proves that they are not a high risk group.

The FHWA has determined that the requirements for an annual physical qualification examination pursuant to § 391.43 and annual medical examinations by ophthalmologist or optometrist and endocrinologists are not overly burdensome in light of the facts that this group of drivers has physical conditions that would otherwise disqualify them from interstate operations pursuant to § 391.41(b)(10) and § 391.41(b)(3) of the FMCSRs and that an individual's medical or physical condition may deteriorate over time. In fact, some drivers' waivers were canceled because the disqualifying condition for which they were waived had worsened or they had developed other medical problems or conditions that caused them to be otherwise unqualified pursuant to § 391.41. Therefore, the FHWA will require the annual physical qualification examination and certification in addition to an annual eye examination for the vision impaired drivers and an annual examination by an endocrinologist for diabetic drivers as an extra precaution to ensure the continued safe operation of these drivers.

The ATA, a national trade association representing the trucking industry, commented in opposition to the broad issuance of waivers, but stated it would support a case-by-case evaluation that considered the merits of individual waived drivers. Notwithstanding the safe performance of the drivers in the waiver program, the FHWA's decision to allow this group of vision and diabetes waived drivers to operate CMVs in interstate commerce has been and continues to be based on the individual assessment of each driver's compliance with the waiver program conditions, including driving performance and medical requirements. Initially, to determine eligibility for participation in the waiver programs, individual determinations were made on the basis of complete data submitted. Each driver's application was individually examined, any missing information was required to be furnished, and each driver was measured against the waiver standards to assure that all the conditions were met. Recognizing that this group of waived drivers could potentially include some subpar drivers who individually would present an unacceptable risk, the FHWA took steps to identify and remove such drivers. The FHWA's monitoring systems, which have been in effect since the inception of the programs, were later enhanced to more promptly identify subpar performers among the waived group to ensure that safety was maintained. The FHWA's periodic verification of the waived drivers' reported accidents and citations through each driver's State motor vehicle record (MVR) was increased to monthly monitoring. Additionally, medical reports from the waived drivers have been reviewed and verified. Therefore, the FHWA has determined that the 2326 drivers in the vision and diabetes waiver programs have individually merited partial exemption from §§ 391.41(b)(10) or 391.41(b)(3).

The ATA commented that the NPRM provided "too little control" over the drivers in the waiver programs. It suggested that the FHWA should augment its proposed monitoring program by requiring (1) Copies of the annual physical qualification examination and certification pursuant to § 391.43 and the medical examinations by the appropriate medical specialists be sent directly to the FHWA to be included in a database of waived drivers, (2) that information concerning the driver's activities at the time of an insulin reaction (hypoglycemia) be reported, (3) FHWA notification to each driver 45 days in advance of the expiration of the current physical qualification certificate, and (4) the medical examiner to provide copies of the required certifications to the employer and driver. Although the ATA considered the monitoring conditions for operating under the proposed grandfather provisions to be the foundation for an appropriate monitoring program, the FHWA believes its proposed monitoring program, regarding medical requirements and performance, is an extra precaution that enlarges the current system of safeguards in place for all CMV drivers in the general population. All of the drivers who will be operating under this grandfather provision will be subject to State or Federal enforcement or licensing sanctions and, in most cases, to the penalty provisions of the commercial drivers' license regulations (49 CFR Part 383). Furthermore, the FMCSRs currently require the medical examiner to provide a copy of the medical certificate to the motor carrier. In addition, the FMCSRs do not preclude employing motor carriers, the first level enforcers under the regulatory scheme for the FMCSRs, from imposing additional requirements to ensure that their drivers meet the requirements under § 391.41. Many motor carriers obtain copies of the completed medical examination form to keep on file while others will require certification by a medical examiner of their choice even though the driver has a current medical examiner's certificate. Some employers require both. The provisions in § 391.64 will not preclude motor carriers or other employers from obtaining additional information on employees who will be operating under this grandfather provision.

Furthermore, the FHWA believes that the entire medical determination process can best be delivered through a State-administered program linked to the issuance and renewal of CDLs. After the recent completion of six pilot demonstration programs to verify these States' ability to integrate the medical determination process with the CDL process, the FHWA recommended that this medical transfer to the States be handled through a negotiated rulemaking process to begin sometime in the summer 1996. The FHWA believes that merging the medical determination process with the CDL process will provide further scrutiny of the performance of all commercial drivers. Therefore, the FHWA has determined that the monitoring conditions, as outlined in the NPRM, are more than adequate to ensure the continued safe operation of these drivers when viewed in the framework of the safeguards in place for monitoring all commercial drivers. The proposed monitoring conditions will provide safeguards for employers while not imposing an undue burden on the grandfathered drivers.

The ATA expressed concern over potential changes to the medical certificate as a result of this action and in light of additional changes that may be forthcoming as a result of the FHWA's plans for revising the medical examination form. Although the FHWA finds it necessary to change the medical certificate to verify that a driver is qualified to operate a CMV by operation under § 391.64, the FHWA is sensitive to ATA's concerns regarding an adequate lead time for informational changes to forms and to the ATA's economic concerns as a result of having to discard large inventories of current forms. Therefore, the FHWA will allow the current medical certificate form to be used until existing stocks are exhausted or until one year from the effective date of the change, whichever comes first, provided that medical examiners using existing forms make appropriate handwritten notations of the required information on such forms.

The ATA's comments included a recommendation for a final report on the FHWA's waiver programs. The FHWA will prepare a final report of its efforts in this area and will give consideration to the ATA's suggestions for information to be addressed in the report. The report will be placed in the docket.

The ATA raised several issues concerning the risk assessment used by the FHWA to justify granting grandfather rights to the waived drivers after March 31, 1996. We believe that the ATA comments contain a misunderstanding of the data presented in the Risk Assessment Report. It stated that "in assessing the accident rate of drivers in the vision waiver program, it is reported that their rate was below that of the general commercial vehicle driver population except for the period January to June 1994." The ATA is erroneously combining statements from two different tables. The NPRM did state that the accident rates of these drivers were below that of the general commercial vehicle driver population rate. That statement applied to Tables 1 and 2 in the Risk Assessment Report which reported the rates for cumulative periods of time from the beginning of the program. The accident rate given for January to June 1994 (Table 4) was presented in the context of data to be used for a trend analysis of independent time periods and no comparison was made for that data relative to the general driver population. The statement of the higher rate for that period was made in the context that it represented a departure from the accident trend across time. Even with this departure, the overall accident trend was not increasing and, in fact, showed a decreasing trend.

The ATA also stated that there was a failure to analyze the accident experience of the drivers in the two groups, vision and diabetes, in the same manner. It is true that the accident rates of the two groups were viewed in a different manner relative to the national rate, but this was done because the numbers of drivers in the two groups were so disparate (over 2,000 in the vision group versus slightly more than 100 in the diabetes group) that the same method of analysis could not appropriately be used for both. In the vision group, confidence intervals were used to relate that group's accident rate to the national rate. This was done because the number of drivers was of sufficient size that the error of estimate for the accident rate would not be so large as to allow the rate to get too much above the national rate before safety concerns were alerted. Conversely, the small numbers in the diabetes group provide an error of estimate for their accident rate which is larger and, as a result, it was determined that the actual rate without confidence intervals would be compared to the national rate. When the diabetes group's rate became larger than the national rate, a more detailed scrutiny of the drivers was made. If the lower level of the confidence interval for the vision group's rate had become larger than the national rate, a similar type of scrutiny would have been done for that group. An overall approach of this type is accepted practice to protect patients in clinical trials that investigate the therapeutic use of pharmaceutical products.

The ATA and the AAMVA commented on the proposed requirement that the endocrinologist certify that the driver is free of insulin reactions (less than one documented, symptomatic hypoglycemic reaction per month). The AAMVA misinterpreted this requirement concerning hypoglycemis to mean that one hypoglycemic reaction per month

would be allowed, including severe hypoglycemic reactions. This was not the FHWA's intent. The FHWA continues to believe that individuals with severe hypoglycemia and hypoglycemia unawareness should be excluded from operating CMVs. At the same time, the FHWA believes that mild hypoglycemia is not an immediately threatening emergency, although it must be addressed within a few minutes by ingesting glucose. The reference, "less than one documented, symptomatic hypoglycemic reaction per month," was intended to provide guidelines to the endocrinologist and medical examiner for evaluating the status of the driver's diabetic condition for the preceding 12 months. This reference was included because the FHWA was anticipating the question, " What is meant by free of insulin reactions?" To clarify this issue, the FHWA believes that an individual is free of insulin reactions if he or she does not have severe hypoglycemia (i.e., episodes of altered consciousness requiring the assistance of another person to regain control) or hypoglycemia unawareness (i.e., the inability to recognize the early symptoms of hypoglycemia), and has less than one documented, symptomatic hypoglycemic reaction per month. Any one episode or a series of documented, symptomatic hypoglycemia reactions should be evaluated in terms of the individual's overall diabetic condition, and whether the individual, as a result of such reactions, is likely to experience any diminution in driving ability. The FHWA believes that the more frequent medical evaluation and self-monitoring requirements for operating under § 391.64 will ensure that the drivers operating under this grandfather provision who develop severe hypoglycemia or hypoglycemia unawareness will be identified and promptly removed from the pool of drivers.

B. In Opposition

The AHAS voiced strong opposition to the FHWA proposal to grant grandfather rights to the drivers in the vision and diabetes waiver program after March 21, 1996. In addition to rearguing the position it took in the court proceedings, the AHAS criticized the proposal to grandfather these drivers asserting that the FHWA relied on a monitoring program that it characterized as lacking precision and containing inaccuracies and inconsistencies. The AHAS stated that the comparison of Table 1 and Table 2 in the FHWA Risk Assessment (October 12, 1995) shows a number of incongruities and that it is difficult to perform cross-table comparisons.

These two tables in the Assessment were not intended to be compared. As is stated in the text of the assesment (page 2), Table 1 is a compilation of data presented in the various monitoring reports developed throughout the course of the program. The rates presented in that table represent all drivers who were in the program at the time of the particular monitoring report. Table 2, on the other hand, is a re-examination of the accident data for only those drivers who are still in the program as of October 1995 (as was stated in the text). Given that this is a re-examination of those drivers in October 1995, it is possible to retrospectively restructure the dates of accident rate presentation with information available at that later date. Since the tables were not intended for comparison, given that they are based on different sets of drivers at different time periods with different retrospective perspectives, the appearance of apparent incongruities is not surprising. This misapplication is, unfortunately, exacerbated by some typographical errors. In Table 1, the National Accident Rate for the June 1994 comparison should be 2.400 instead of 2.422. In addition, in Table 2, the year of the national accident rate for the June 1994 comparison should be 1992 rather than 1993.

Other apparent inconsistencies identified by AHAS are explained on the basis of how data are reported to GES and to the waiver program. For example, the AHAS stated that the national accident rate used for June 1993 (the 1991 rate of 2.13) is different from that used just two months later for August 1993 (the 1992 rate of 2.40). The use of different rates is related to the availability of data from GES. The results of the GES data acquisition process for any year usually become available in late summer or early fall for the subsequent year. The 1992 GES data were not available in June 1993 but became available by August 1993.

The AHAS also pointed out that, for June 1994, the smaller number of drivers in Table 2 had a larger number of accidents (293) than the number of drivers in Table 1 for that date (292). This is explained by the nature of delays in reporting. The accidents reported in June 1994 in Table 1 are for the complete reporting period prior to that date. The data reported in Table 2 is taken from complete data reported as of October 1995.

The AHAS has also observed that the drivers remaining in the program (Table 2) have persistently higher accident rates than those shown when the program had fuller participation. The fuller program data presented in the past contains drivers whose waivers were subsequently revoked for a variety of reasons, only one of which was prompted by the driver having an accident with a citation. Having an accident with a citation is a relatively rare event, and the preponderance of revocations occurs for reporting problems, such as failure to report medical evaluations, mileage, violations, and other required data. When these individuals are removed from the program, their vehicle miles traveled (VMT) are also removed from reports but, unless they also had accidents, there is no reduction in the overall number of accidents reported. Therefore, the accident rates per million VMT will naturally increase. Even with this increase, however, the accident rates of those remaining in the vision waiver group are still considerably lower than the national rate.

The AHAS has made several statements alluding to the inadequacy of the study design in the diabetes waiver program. The AHAS claimed that the inadequacies of the design undermine the ability of the FHWA to draw inferences from the results. The AHAS' understanding of the activities surrounding the diabetes waiver is inaccurate. The FHWA is *not* presently conducting a study to generalize the feasibility of issuing waivers to diabetic drivers. No inferences about a waiver program will be drawn from these results. No research study has been in place since the U.S. Court of Appeals' decision, cited above, regarding the waiver programs. Since that time, the program has focused on the monitoring of the drivers. This means that the procedures of inferential research do not apply in this circumstance. In its place, monitoring is conducted on multiple levels: in group monitoring to compare the waived drivers' accident rates to the national accident rate as a warning device, and thereafter, on a case-by-case basis if the group monitoring indicates this is necessary.

Since the FHWA changed the focus of the waiver program, the AHAS's comments concerning the study design have been resolved. For example, given that no inference is drawn, the size of the sample is irrelevant. Also, when the FHWA detects that the group accident rate in a monitoring report exceeds the national rate, it is not contrary to study methodology to use a case-by-case review, because the monitoring effort is not a study. Moving to a case review is a prudent step in the monitoring process. It is the same process as that used in clinical trials to protect patient safety.

The AHAS stated that the conduct of case reviews is not a valid means of conducting statistical analysis. In the context explained above, this claim is clearly not relevant since the focus of the data presentation in the diabetes monitoring report was comparative and not a statistical analysis with such facets as confidence intervals.

The AHAS also stated that case-by-case evaluations are entirely subjective since they are not based on such methods as accident reconstruction. The contrast offered here is hardly valid because accident reconstruction also has subjective components and is therefore not entirely objective. In like manner, the case level analysis conducted by the FHWA is not entirely subjective. The analysis at that level seeks to determine if the reporting police officer has issued a citation indicating that the driver may be at fault. The analysis also examines the accident report to detect if there is any evidence of driving behavior that could potentially indicate a hypoglycemic event, such as crossing the median, swerving, or driving off the road. In the cases where medical attention is given to the waivered driver, reports on glucose levels are obtained. Therefore, both methods involved some analytical decision making based on evidence.

The AHAS stated that the FHWA does not review GES data to eliminate accidents in which the truck driver was at fault. It is true that the FHWA did not do this, however, the FHWA did not compare the at-fault accident rate of the diabetic group to the GES data. A comparison was made for accidents when one vehicle was towed from the scene. This rate for the diabetes group was 0.783. It was pointed out by the Insurance Institute for Highway Safety that the rate should be compared with the national rate for tow away accidents, which was estimated by the University of Michigan's Transportation Research Institute (UMTRI) to be 0.911. In this case, the diabetes group's rate is lower than the national rate (0.783 vs 0.911).

The AHAS stated that there is a problem in the reporting process which involves a lag-time in revealing accidents in the diabetes waiver program. The FHWA recognizes that there is a lag in reporting accidents in the monitoring report, but notes that there is no lag in examining accidents as they are reported to the FHWA. The lag in reporting in the monitoring report is due to the delay in the reporting of vehicle miles traveled. Since the initial focus of the monitoring report is to compare the group accident rate to the national rate, it is necessary to have complete mileage data to construct the group accident rate. The accidents that are combined with relevant mileage must be from the same period of time, and mileage data reports lag behind the accident reports. Accidents must be reported within 15 days of their occurrence. Since accidents occur at random times, it is not possible to have mileage reported concurrently with accidents. However, since the accidents are usually reported first, they are examined to determine if action should be taken relative to a particular accident.

The AHAS commented on its previous objection to the diabetes waiver program that pointed out the safety dangers inherent in a plan that relies on close monitoring. The FHWA is aware that an individual under close or tight control has a greater propensity for episodes of hypoglycemia than an individual under less rigid control. However, as the FHWA stated in an earlier notice (58 FR 40690), it is not mandating tight control for the drivers who will be operating under § 391.64. As already mentioned, individuals with severe hypoglycemia or hypoglycemia unawareness were excluded from participating in the diabetes waiver study program. Such individuals will continue to be promptly identified, found unqualified, and removed from this pool of drivers by virtue of the more frequent medical evaluation and self-monitoring conditions for operating under § 391.64.

The IIHS, in its comments opposing the FHWA's NPRM, stated that "evidence continues to mount concerning the increased crash risk of drivers with diabetes." To support this, it submitted three studies (Dionne *et al.*, 1995; Koepsell *et al.* 1994; Cox *et al.* 1993) which are addressed below. While these studies are well-performed and their results are clearly defensible, a closer scrutiny suggests that they may not be as conclusive relative to the waiver group as IIHS implies. For example, the Dionne (1995) study seems to show that diabetic drivers of straight trucks have a 2.4 relative risk of accidents when compared to healthy drivers. Taken in isolation, this result is compelling. But viewed in the broader context of the study, it is less conclusive relative to FHWA's waiver program. In particular, this study also examined diabetic drivers of articulated trucks, and there was no significant relative risk for that group. The authors of the study state that it is difficult to explain why diabetic drivers of straight trucks show elevated risk while this result does not hold for articulated trucks. They speculate that the different results may be due to company owners being more rigorous in their selection of drivers for articulated trucks or that the results are due to different levels of disease severity in the two groups of diabetic drivers.

This study does not distinguish between diabetic drivers who are treated with insulin and those who are not. The authors also do not report the number of diabetic drivers in relation to truck type. In addition to not examining the interactive effects of disease severity, the potential moderating effects of other factors (e.g., age and driving behavior) are not analyzed. Thus, while the results are significant in the context of straight trucks, the overall lack of specificity strongly suggests that this outcome is preliminary and not directly applicable to the waiver group.

Koepsell *et al.* (1994) reported that they found more than a two-fold risk of crashes among diabetic drivers who were 65 years of age or older. This would be consistent with the degenerative nature of the disease relative to aging. However, the average age of the drivers in the diabetes waiver group is slightly over 43 with less than one percent (0.85%) 65 or older. That study, therefore, is not directly relevant for the present group of drivers.

Cox *et al.* (1993) reported that in a group of 25 Type I diabetics on a driving simulator, driving performance was significantly disrupted under conditions of moderate hypoglycemia. However, it seems reasonable that these study conditions, i.e. testing conducted under fasting conditions and IV insertions in the arms of individuals being tested, would, in and of themselves, affect overall performance. The limited relevance of these study findings to the drivers in the FHWA waiver programs is best represented by the Cox Study conclusion itself: "Because we used a simulator, it is not clear to what extent these data can be extrapolated to an individual's actual driving performance."

Regarding the crash risk of drivers with vision impairments, the IIHS cited the Rogers and Janke study of California heavy vehicle operators with vision impairments. This was a 1987 study conducted at the request of the FHWA. While the study findings for this visually impaired group showed that both their accident and conviction rates, adjusted for age, were significantly and substantially higher than those for visually nonimpaired drivers, the authors concluded that the "evidence presented could not be considered compelling in substantiating the federal standard, given the lack of good data on

possible exposure differences."
Although not cited by the IIHS, McKnight *et al.* (1985) concluded in their study of monocular and binocular truck drivers that an individual's style of driving was a more predictive measure of accident involvement than was visual status. They found that monocular drivers showed deficiencies on a number of clinical visual measures, but no differences were found between monocular and binocular drivers in tasks of actual driving performance (i.e., information interpretation, hazard detection, visual search, lane keeping, clearance judgment, and gap judgment).

The IIHS claimed that there are a number of fallacies in the reasoning that lead to the FHWA proposal. As a first fallacy, it claimed that the FHWA's reasoning is based on a relatively clean individual driving record predicting future low crash risk. The IIHS indicated that this reasoning is faulty because a study of crashes in California showed that two-thirds of the crashes in one year involved drivers who had no accidents in the preceding three years.

Although this is a cogent result for individual drivers, it is not reflective of the analysis conducted by the FHWA in making the determination to grandfather this group of drivers. The FHWA has determined that the current group, and only this group of drivers, as a group, does not present an increased risk on the road. That is, individuals may have unpredictable variability in accident behavior across time but groups are not necessarily that labile. Groups can have stable behavior over time when (1) preselected and (2) closely monitored. The FHWA believes that by examining individuals in this group, over the past three years, relative to a number of responsible behaviors, the surviving group has stable behavior relative to a total accident rate, a rate that is consistently lower than the national rate. Moreover, when the accident rates of the drivers to be grandfathered were examined in six-month periods, a significant decreasing trend (page 5, Risk Assessment) was observed. Hence, while the prediction of individual crash behavior is problematic, the fact that this group has a lower accident rate than the national rates with a significantly decreasing trend strongly support the FHWA's determination that they will not present increased risk by driving on the nation's roads, while being monitored.

Furthermore, the insurance industry continues to follow a practice of setting insurance rates based on accident and conviction information that becomes available to them, indicating by industry practice that they believe a pattern of convictions and/or accidents does indicate a higher risk of a future accident. Of course, the converse is more appropriate, i.e., the absence of convictions and/or accidents indicates a lower risk of a future accident—the so called "safe driver" in insurance premium-setting parlance. This is consistent with the findings of the many studies cited in the Notice of Final Determination of November 17, 1994 (59 FR 59386) which support the principle that past behavior, in terms of accidents and convictions, is still the best predictor of future performance. Thus the FHWA believes that in determining the relative risk of this group of waived drivers, the same information being used by the insurance industry is a valid measure that should be applied in making this decision regarding relative performance of the drivers in this study versus the pool of all drivers.

The IHS also claimed that GES is an inappropriate comparison group. It stated that this has been noted by FHWA's consultant, Dr. Thomas Songer, who pointed out that such factors as age and driving patterns cannot be controlled in this manner of comparison. It is true that ancillary factors cannot be controlled through a comparison with GES, but the FHWA believes that this type of control is not of primary interest in this situation where the decision involves safety on the roads in general. For example, a study in which a control group is selected, even randomly, and matched to the study group has as its intent the achievement of internal validity in the comparison. But, as is being increasingly pointed out in medical research where randomized trials are the basis of good science, these controlled studies which do not specifically address external validity have this as the chief potential weakness with their results (U.S. General Accounting Office, "Cross Design Synthesis; A New Strategy for Medical Effectiveness Research," March 1992, GAO/PEMD–92–18). It is believed that external validity is of primary concern in the decision to allow this group of drivers to continue in their professions and, as a result, GES is the best focus for this validity.

Another fallacy alleged by the IIHS involves the FHWA's statement that most waivered drivers are not at fault in their crash involvement. It stated that the problem concerns the subjective nature of fault determination. The IIHS is correct in this finding and in its claim that a waivered driver, while not at fault, could have an impaired ability to react quickly. However, the IIHS' claim is not germane here, given the behavior of the vision waiver group. Their accident rate, even with the foregoing possibility, is still lower than the national rate.

The IIHS is correct in its assertion that the FHWA has improperly characterized the GES data. The FHWA was incorrect to state that accidents are not included in GES unless one vehicle was towed from the accident scene. The diabetes waiver group accident rate of .783 under towed vehicle condition should not have been compared to the national rate of 2.39. The IIHS was correct in stating that the 0.783 rate should have been compared to the more appropriate rate (towaway crashes) calculated by UMTRI which was 0.911. However, 0.783 is still smaller than 0.911 and the rate ratio involving these two .783/.911=.859) is less than one. For this particular group of drivers, this piece of evidence suggests they are certainly not less safe than the average CMV driver.

The IIHS stated that a limitation of the program was the methods used to ascertain crash involvement and traffic violation citations. The IIHS stated that self-reporting of crashes and violations is problematic and the primary source of verification, motor vehicle records, is less than complete. It is true that self-reporting can be problematic and requires some form of verification. At present, the FHWA verifies the waivered drivers' accident and violation reports in three ways. In some cases, driver MVRs and driving histories are obtained directly from States. Verification is also conducted by obtaining driver records through a commercial provider that does screening for automobile and truck rental companies and insurers. In addition, the FHWA is able to obtain driver histories by querying the Commercial Driver License Information System (CDLIS). The CDLIS is a component of the national CDL program which has as one of its procedures the requirement that States communicate the relevant accident and violation information for out-of-State drivers to the State of their licensing.

The IIHS' comments that jurisdictions "are not forwarding all the convictions to the primary licensing" jurisdiction is an acknowledged traffic record problem. However, for CDL drivers this is now an issue subject to State compliance requirements. It is being addressed as part of the overall effectiveness of the CDL program. There are a number of efforts underway addressing the issue of convicting jurisdiction reporting to the licensing jurisdiction, including efforts to increase the awareness of various police organizations and courts regarding the requirements of the CDL program. The FHWA will continue to vigorously pursue this issue for all licensees.

Determination

After a thorough review of the comments submitted in response to the January 8, 1996, NPRM, the FHWA believes that grandfathering this group of waived drivers to continue operating CMVs in interstate commerce, subject to the operating conditions under § 391.64, is consistent with the public interest and the safe operation of CMVs, in accordance with the Motor Carrier Safety Act of 1984 (49 U.S.C. 31136(e) (1994)).

The FHWA has documented the safe driving performance over a six-year period for the vision waived drivers and over a five-year period for diabetes waived drivers and determined that this group of waived drivers will be allowed to continue driving in interstate commerce after March 31, 1996, based on continuous and sustained safe performance as a group. The underlying basis for this action is the performance data gathered to date and risk analysis performed on this data that show that the continued operation of both waived groups of drivers, who total 2328 as of March 1, 1996, will be consistent with the public interest and safe operation of CMVs. Prior to being admitted into the study, the waiver applicants had to demonstrate a three-year period of safe driving performance (i.e., no chargeable accidents and no more than one serious traffic violation). Since the program began, the data have shown that the driving performance of this group of waived drivers is better than the driving performance of all CMV drivers collectively, based on data obtained from the General Estimates Service (GES). Moreover, each driver in the vision and diabetes waiver programs has been closely monitored, in many cases for three years or more, and the poorest performers have been eliminated. Coupled with their 3-year good driving record preceding the waivers, their continued good driving during the waiver program has earned these drivers individually partial exemption from §§ 391.41(b)(10) and 391.41(b)(3), respectively.

In addition, the FHWA believes that the continued employment of individuals with demonstrated safe driving records is in the public's interest by allowing these individuals to gain employment in occupations of their choice, by promoting economic viability and furthering national policy and legislative goals articulated in both the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1992.

Therefore, the FHWA hereby amends 49 CFR part 391 to grant grandfather rights to all drivers holding a valid Federal vision or diabetes waiver on March 31, 1996. Under the grandfather provision, the FHWA will allow only those drivers who have been granted temporary waivers to participate in the Federal vision and diabetes waiver programs, numbering 2326 as of March 1, 1996, to continue to operate in interstate commerce beyond March 31, 1996, subject to certain operating conditions. This action will provide relief to these drivers who, notwithstanding the demonstrated abilities of the group, would otherwise not be permitted to operate a CMV in interstate commerce. These grandfather provisions are conditional, in order to ensure the continued safe operation of these drivers. In addition to the conditions regarding medical requirements discussed below, the FHWA will monitor the performance of these drivers through periodic checks.

Medical Requirements for Operating Under This Grandfather Provision

The FHWA recognizes that any person's medical or physical condition may deteriorate over time. Consequently, the FHWA will require a physical examination every year under § 391.43, instead of every 2 years as is required of other drivers, as an extra precaution to ensure the continued safe operation of these drivers. Under this provision, the waived drivers, like all other interstate drivers, must be otherwise physically qualified pursuant to § 391.41 of the FMCSRs.

In addition, in this final rule, the FHWA requires the grandfathered vision impaired drivers to obtain an annual vision examination by an ophthalmologist or optometrist indicating that they have been examined within the past two months and that the vision in the better eye is at least 20/40 acuity, corrected or uncorrected. This information must be submitted to the medical examiner at the time of the individual's annual physical qualification examination under part 391 of the FMCSRs.

Similarly, diabetic drivers grandfathered as a result of this action are required to obtain an annual examination by a board certified/eligible endocrinologist who must certify that the driver (1) has been examined within the past two months; (2) is free of insulin reactions; (3) has the ability and has demonstrated willingness to properly monitor and manage his/her diabetes; and (4) does not have a diabetic condition that would adversely affect his or her ability to operate a CMV. An individual is free of insulin reactions if he or she does not have severe hypoglycemia (i.e., episodes of altered consciousness requiring the assistance of another person to regain control) or hypoglycemia unawareness (i.e., the inability to recognize the early symptoms of hypoglycemia), and has less than one documented, symptomatic hypoglycemic reaction per month. These drivers will be required to carry a source of rapidly absorbable glucose and continue to monitor their blood glucose using a portable glucose monitoring device equipped with a computerized memory one hour prior to driving and approximately every four hours while driving. Upon request, the driver must submit his or her blood glucose logs to the endocrinologist and/or the medical examiner or when otherwise directed by an authorized agent of the FHWA. A copy of the endocrinologist's report must be submitted to the medical examiner at the time of the annual physical qualification examination under part 391 of the FMCSRs.

This final rule requires this group of drivers to carry a medical certificate stating: "Medically qualified by operation of 49 CFR 391.64." Drivers who do not provide a copy of the required information from the ophthalmologist/optometrist or the endocrinologist to the medical examiner at the time of their annual physical qualification examinations cannot be recertified to continue driving a CMV in interstate commerce under this grandfather provision.

Technical Amendment

In this final rule, the FHWA also relocates the provision in part 391 granting limited exemptions for intra-city zone drivers. The current provision, required under the Motor Carrier Act of 1988 (49 U.S.C. 31136(f)), is codified as paragraph (d) of 49 CFR 391.2, General Exemptions. This action redesignates the provision, without any substantive change, as § 391.62, where it is more properly included in subpart G, Limited Exemptions. Paragraph (d)(5)(i) of 49 CFR 391.2 is also being deleted as superfluous.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined that this final rule is not a significant regulatory action under Executive Order 12866 or under the regulatory policies and procedures of the DOT. It is anticipated that the economic impact of this rule will be minimal because of its limited application and the small number of

affected drivers. Moreover, this action will not have any permanent effect on any existing safety standard. It will merely continue the status quo by grandfathering some 2,300 drivers who have been operating safely for substantial periods of time. Therefore, a full regulatory evaluation is not required.

The FHWA finds that this final rule is exempt from the 30-day delayed effective date requirement of U.S.C. 553(d) because it "grants or recognizes an exemption or relieves a restriction." Without this action, CMV drivers in the agency's diabetes and vision waiver studies would no longer be qualified to operate in interstate commerce after March 31, 1996, the date on which these programs would otherwise end. This final rule enables these drivers to continue operations, subject to certain operating and monitoring conditions, granting an exemption to the vision and diabetes standards of 49 C.F.R. 391.41 that would otherwise soon apply to these drivers.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act, 5 U.S.C. 601–612, the FHWA has evaluated the effects of this final rule on small entities. The FHWA believes that this action will not have a significant economic impact on a substantial number of small entities because this action is directed solely at a limited number and narrowly defined population of CMV drivers operating in interstate commerce. This action will not cause a major increase in costs or prices and, therefore, will not have a significant effect on the Nation's economy.

Executive Order 12612 (Federalism Assessment)

This rulemaking will amend 49 CFR part 391 pertaining to the qualification of CMV drivers. This action will allow CMV drivers who currently hold waivers from the Federal vision and diabetes requirements to continue operating in interstate commerce after March 31, 1996. This rulemaking has been analyzed in accordance with the principles and criteria contained in Executive Order 12612. Nothing in this rulemaking will directly preempt any State law or regulation:. This rulemaking will not limit the policymaking discretion of the States. Therefore, the FHWA has determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a separate Federalism Assessment.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

This program does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1995, Pub. L. 104–13.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 391

Driver qualifications, Highway safety, Motor carriers, Reporting and recordkeeping requirements, Safety, Transportation.

Issued on: March 20, 1996.

Rodney E. Slater,

Federal Highway Administration.

In consideration of the foregoing, the FHWA amends title 49, CFR, subtitle B, chapter III, part 391 as set forth below:

PART 391—QUALIFICATIONS OF DRIVERS

1. The authority citation for part 391 continues to read as follows:

Authority: 49 U.S.C. 504, 31133, 31136, and 31502; and 49 CFR 1.48.

§ 391.2 [Redesignated as § 391.62]

2. Part 391 is amended by redesignating § 391.2 as § 391.62 and revising it to read as follows:

§ 391.62 Limited exemptions for intra-city zone drivers.

The provisions of §§ 391.11(b)(1) and 391.41(b)(1) through (b)(11) do not apply to a person who:

(a) Was otherwise qualified to operate and operated a commercial motor vehicle in a municipality or exempt intracity zone thereof throughout the one-year period ending November 18, 1988;

(b) Meets all the other requirements of this section;

(c) Operates wholly within the exempt intracity zone (as defined in 49 CFR 390.5);

(d) Does not operate a vehicle used in the transportation of hazardous materials in a quantity requiring placarding under regulations issued by the Secretary under 49 U.S.C. chapter 51.; and

(e) Has a medical or physical condition which:

(1) Would have prevented such person from operating a commercial motor vehicle under the Federal Motor Carrier Safety Regulations contained in this subchapter;

(2) Existed on July 1, 1988, or at the time of the first required physical examination after that date; and

(3) The examining physician has determined this condition has not substantially worsened since July 1, 1988, or at the time of the first required physical examination after that date.

3. Section 391.64 is added to read as follows:

§ 391.64 Grandfathering for certain drivers participating in vision and diabetes waiver study programs.

(a) The provisions of § 391.41(b)(3) do not apply to a driver who was a participant in good standing on March 31, 1996, in a waiver study program concerning the operation of commercial motor vehicles by insulin-controlled diabetic drivers; *provided:*

(1) The driver is physically examined every year, including an examination by a board-certified/eligible endocrinologist attesting to the fact that the driver is:

(i) Otherwise qualified under § 391.41;

(ii) Free of insulin reactions (an individual is free of insulin reactions if that individual does not have severe hypoglycemia or hypoglycemia unawareness, and has less than one documented, symptomatic hypoglycemic reaction per month);

(iii) Able to and has demonstrated willingness to properly monitor and manage his/her diabetes; and

(iv) Not likely to suffer any diminution in driving ability due to his/her diabetic condition.

(2) The driver agrees to and complies with the following conditions:

(i) A source of rapidly absorbable glucose shalll be carried at all times while driving;

(ii) Blood glucose levels shall be self-monitored one hour prior to driving and at least once every four hours while driving or on duty prior to driving using a portable glucose monitoring device equipped with a computerized memory;

(iii) Submit blood glucose logs to the endocrinologist or medical examiner at the annual examination or when otherwise directed by an authorized agent of the FHWA;

(iv) Provide a copy of the endocrinologist's report to the medical examiner at the time of the annual medical examination; and

(v) Provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retain a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State or local enforcement official.

(b) The provisions of § 391.41(b)(10) do not apply to a driver who was a participant in good standing on March 31, 1996, in a waiver study program concerning the operation of commercial motor vehicles by drivers with visual impairment in one eye; *provided:*

(1) The driver is physically examined every year, including an examination by an ophthalmologist or optometrist attesting to the fact that the driver:

(i) Is otherwise qualified under § 391.41; and

(ii) Continues to measure at least 20/40 (Snellen) in the better eye.

(2) The driver provides a copy of the ophthalmologist or optometrist report to the medical examiner at the time of the annual medical examination.

(3) The driver provides a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized federal, state or local enforcement official.

3. Section 391.43 is amended by redesignating paragraphs (e), (f) and (g) as paragraphs (f), (g) and (h), respectively; by adding a new paragraph (e); by revising the text preceding the Instructions in newly designated paragraph (f) and the text preceding the Certificate in newly designated paragraph (h); and by amending the medical examiner's certificate form at the end of newly designated paragraph (h) by adding a new listing after the words "_____ Qualified only when wearing a hearing aid" to read as follows:

§ 391.43 Medical examination; certificate of physical examination.

* * * * *

(e) Any driver operating under a limited exemption authorized by § 391.64 shall furnish the medical examiner with a copy of the annual medical findings of the endocrinologist, ophthalmologist or optometrist, as required under that section. If the medical examiner finds the driver qualified under the limited exemption in § 391.64, such fact shall be noted on the Medical Examiner's Certificate.

(f) The medical examination shall be performed, and its results shall be recorded, substantially in accordance with the following instructions and examination form. Existing forms may be used until current printed supplies are depleted or until March 31, 1997.

* * * * *

(h) The medical examiner's certificate shall be in accordance with the following form. Existing forms may be used until current printed supplies are depleted or until March 31, 1997, provided that the medical examiner writes down in pen and ink any applicable information contained in the following form: MEDICAL EXAMINER'S CERTIFICATE

* * * * *

__Qualified by operation of 49 CFR 391.64

* * * * *

4. In § 391.45, paragraph (b)(2) is revised to read as follows:

§ 391.45 Persons who must be medically examined and certified.

* * * * *

(b) * * *

(2) Any driver authorized to operate a commercial motor vehicle only with an exempt intracity zone pursuant to § 391.62, or only by operation of the exemption in § 391.64, if such driver has not been medically examined and certified as qualified to drive in such zone during the preceding 12 months; and

* * * * *

[FR Doc. 96–7226 Filed 3–21–96; 12:03 am]

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Tuesday
March 26, 1996

Part XII

Office of Management and Budget

Budget Rescissions and Deferrals; Notice

OFFICE OF MANAGEMENT AND BUDGET

Budget Rescissions and Deferrals

To the Congress of the United States

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report five proposed rescissions of budgetary resources, totaling $50 million. These rescission proposals affect the Department of Defense.

William J. Clinton

The White House,

March 13, 1996.

BILLING CODE 3110-01-P

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Rescission No	ITEM	Budgetary Resources
	Department of Defense:	
	Military Construction:	
R96-21	Military construction, Army	10,000
R96-22	Military construction, Navy	8,000
R96-23	Military construction, Air Force	15,000
R96-24	Military construction, Defense-wide	13,000
R96-25	Military construction, Air National Guard	4,000
	Total, rescissions	50,000

R96-21

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION

Military construction, Army

Of the funds made available under this heading in Public Law 104-32, $10,000,000 are rescinded.

Rescission Proposal No. R96-21

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Defense	New budget authority..... $ 633,814,000 (P.L. 104-32)
BUREAU: Military Construction	Other budgetary resources.. $ 2,663,432,000
Appropriations title and symbol: Military construction, Army 216/02050	Total budgetary resources... $ 3,297,246,000
	Amount proposed for rescission..... $ 10,000,000
OMB identification code: 21-2050-0-1-051	**Legal authority (in addition to sec. 1012):** ☐ Antideficiency Act ☐ Other _____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☒ Multi-year: September 30, 2000 (expiration date) ☐ No-Year	**Type of budget authority:** ☒ Appropriation ☐ Contract authority ☐ Other _____

JUSTIFICATION: This appropriation provides for acquisition, construction, and installation of, and equipment for, temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, including personnel in the Army Corps of Engineers. This proposal would rescind appropriations that are no longer needed because inflation for FY 1996 is less than anticipated.

ESTIMATED PROGRAM EFFECT: The Department of the Army's construction program would not be changed by this rescission proposal.

OUTLAY EFFECT: (in thousands of dollars):

1996 Outlay Estimate		Outlay Changes					
Without Rescission	With Rescission	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001
685,325	683,745	-1,580	-3,000	-2,500	-1,700	-680	-300

R96–22

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION

Military construction, Navy

Of the funds made available under this heading in Public Law 104–32, $8,000,000 are rescinded.

Rescission Proposal No. R96-22

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Defense	New budget authority..... $ 554,636,000 (P.L. 104-32)
BUREAU: Military Construction	Other budgetary resources.. $ 737,907,000
Appropriations title and symbol: Military construction, Navy 176/01205	Total budgetary resources... $ 1,292,543,000
	Amount proposed for rescission..... $ 8,000,000
OMB identification code: 17-1205-0-1-051	**Legal authority (in addition to sec. 1012):** ☐ Antideficiency Act ☐ Other _____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☒ Multi-year: September 30, 2000 (expiration date) ☐ No-Year	**Type of budget authority:** ☒ Appropriation ☐ Contract authority ☐ Other _____

JUSTIFICATION: This appropriation provides for acquisition, construction, and installation of, and equipment for, temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command. This proposal would rescind appropriations that are no longer needed because inflation for FY 1996 is less than anticipated.

ESTIMATED PROGRAM EFFECT: The Department of the Navy's construction program would not be changed by this rescission proposal.

OUTLAY EFFECT: (in thousands of dollars):

1996 Outlay Estimate		Outlay Changes					
Without Rescission	With Rescission	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001
522,296	521,416	-880	-3,040	-2,080	-1,200	-400	-240

R96–23

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION

Military construction, Air Force

Of the funds made available under this heading in Public Law 104–32, $15,000,000 are rescinded.

Rescission Proposal No. R96-23

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Defense	New budget authority..... $ 578,469,000 (P.L. 104-32)
BUREAU: Military Construction	Other budgetary resources.. $ 452,196,000
Appropriations title and symbol: Military construction, Air Force 576/03300	Total budgetary resources... $ 1,030,665,000
	Amount proposed for rescission..... $ 15,000,000
OMB identification code: 57-3300-0-1-051	**Legal authority (in addition to sec. 1012):** ☐ Antideficiency Act ☐ Other _____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☒ Multi-year: September 30, 2000 (expiration date) ☐ No-Year	**Type of budget authority:** ☒ Appropriation ☐ Contract authority ☐ Other _____

JUSTIFICATION: This appropriation provides for acquisition, construction, and installation of, and equipment for, temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law. This proposal would rescind appropriations that are no longer needed because inflation for FY 1996 is less than anticipated.

ESTIMATED PROGRAM EFFECT: The Air Force's construction program would not be changed by this rescission proposal.

OUTLAY EFFECT: (in thousands of dollars):

1996 Outlay Estimate		Outlay Changes					
Without Rescission	With Rescission	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001
811,821	810,561	-1,260	-4,050	-4,350	-2,880	-1,500	-750

R96–24

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION

Military construction, Defense-wide

Of the funds made available under this heading in Public Law 104–32, $13,000,000 are rescinded.

Rescission Proposal No. R96-24

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Defense	New budget authority..... $ 616,836,000 (P.L. 104-32)
BUREAU: Military Construction	Other budgetary resources.. $ 444,559,000
Appropriations title and symbol: Military construction, Defense-wide 976/00500	Total budgetary resources... $ 1,061,395,000
	Amount proposed for rescission..... $ 13,000,000
OMB identification code: 97-0500-0-1-051	**Legal authority (in addition to sec. 1012):** ☐ Antideficiency Act ☐ Other _____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☒ Multi-year: September 30, 2000 (expiration date) ☐ No-Year	**Type of budget authority:** ☒ Appropriation ☐ Contract authority ☐ Other _____

JUSTIFICATION: This appropriation provides for acquisition, construction, and installation of, and equipment for, temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law. This proposal would rescind appropriations that are no longer needed because inflation for FY 1996 is less than anticipated.

ESTIMATED PROGRAM EFFECT: The Defense Department's construction program would not be changed by this rescission proposal.

OUTLAY EFFECT: (in thousands of dollars):

1996 Outlay Estimate		Outlay Changes					
Without Rescission	With Rescission	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001
581,747	580,967	-780	-4,550	-4,160	-1,560	-910	-520

R96–25

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION

Military construction, Air National Guard

Of the funds made available under this heading in Public Law 104–32, $4,000,000 are rescinded.

Rescission Proposal No. R96-25

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Defense	New budget authority..... $ 164,572,000 (P.L. 104-32)
BUREAU: Military Construction	Other budgetary resources.. $ 217,220,000
Appropriations title and symbol: Military construction, Air national guard 576/03830	Total budgetary resources... $ 381,792,000
	Amount proposed for rescission..... $ 4,000,000
OMB identification code: 57-3830-0-1-051	**Legal authority (in addition to sec. 1012):** ☐ Antideficiency Act ☐ Other _____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☒ Multi-year: September 30, 2000 (expiration date) ☐ No-Year	**Type of budget authority:** ☒ Appropriation ☐ Contract authority ☐ Other _____

JUSTIFICATION: This appropriation provides for construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts. This proposal would rescind appropriations that are no longer needed because inflation for FY 1996 is less than anticipated.

ESTIMATED PROGRAM EFFECT: The Air National Guard's construction program would not be changed by this rescission proposal.

OUTLAY EFFECT: (in thousands of dollars):

1996 Outlay Estimate		Outlay Changes					
Without Rescission	With Rescission	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001
266,684	266,628	-56	-2,160	-1,040	-480	-120	-56

[FR Doc. 96–7215 Filed 3–25–96; 8:45 am]
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Tuesday
March 26, 1996

Part XIII

Department of Education

Even Start Statewide Family Literacy Initiative Grants; Notice Inviting Applications for New Awards With Fiscal Year (FY) 1995 Funds; Notice

DEPARTMENT OF EDUCATION

[CFDA NO.: 84.314A]

Even Start Statewide Family Literacy Initiative Grants; Notice Inviting Applications for New Awards With Fiscal Year (FY) 1995 Funds

AGENCY: Department of Education.

Note to Applicants: This notice is a complete application package. Together with the statute authorizing the program and the Education Department General Administrative Regulations (EDGAR), the notice contains all of the information, application forms, and instructions needed to apply for a grant under this competition.

Purpose of Program: To enable States to plan and implement statewide family literacy initiatives under the Even Start Family Literacy Program. Initiative activities must be conducted through a consortium of State, local, and other institutions, organizations, or agencies.

Eligible Applicants: State office or agency.

Deadline for Transmittal of Applications: May 10, 1996

Deadline for Intergovernmental Review: July 9, 1996

Available Funds: $1,000,000.

Note: Under this program, States receiving grants must make available non-Federal contributions in an amount equal to not less than the Federal funds provided under the grant, as required by section 1202(c)(2) of the Elementary and Secondary Education Act (ESEA).

Estimated Range of Awards: $75,000–$250,000.

Estimated Average Size of Awards: $200,000.

Estimated Number of Awards: 5.

Note: This Department is not bound by any estimates in this notice.

Project Period: Up to 18 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR Part 75 (Direct Grant Programs).

(2) 34 CFR Part 77 (Definitions that Apply to Department Regulations).

(3) 34 CFR Part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(4) 34 CFR Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(5) 34 CFR Part 81 (General Education Provisions Act—Enforcement).

(6) 34 CFR Part 82 (New Restrictions on Lobbying).

(7) 34 CFR Part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

Description of Program: States receiving funds under this grant authority will use these funds to plan and implement statewide family literacy initiatives under the Even Start Family Literacy Program to coordinate and integrate existing Federal, State, and local literacy resources including resources available under Even Start, the Adult Education Act, Head Start, and the Family Support Act of 1988. Initiative activities must be conducted through a consortium of State, local, and other institutions, organizations, or agencies. The State must make available non-Federal contributions in an amount not less than the Federal funds provided under the grant for the costs to be incurred by the consortium in carrying out the activities for which the grant is awarded.

Waiver of Reporting Requirement: Under the EDGAR, an applicant generally must submit an annual performance report to the Department. (See 34 CFR 75.720 and 80.40). However, in the interest of reducing burden at the State level, the Secretary has determined that a performance report is unnecessary until the end of the project period (up to 18 months), and therefore waives the requirement for a performance report at the end of the first year (unless the end of the first year coincides with the end of the project period). This waiver is in accordance with the Secretary's authority under these regulations.

Selection Criteria: (a)(1) The Secretary uses the following selection criteria to evaluate applications for grants under this competition.

(2) The maximum composite score for all of these criteria is 100 points.

(3) The maximum score for each criterion is indicated in parentheses.

(b) *The Criteria.*—(1) *Meeting the purposes of the authorizing statute.* (20 points). The Secretary reviews each application to determine how well the project will meet the purpose of section 1202(c) of the ESEA (Even Start Statewide Family Literacy Initiatives grants), which is to enable States to plan and implement statewide family literacy initiatives, through a consortium of entities, to coordinate and integrate existing Federal, State, and local literacy resources consistent with the purpose of the Even Start Family Literacy Program (Part B of Title I of the ESEA).

(2) *Extent of need for the project.* (20 points) The Secretary reviews each application to determine the extent to which the project meets specific needs recognized in section 1202(c) of the ESEA, including consideration of—

(i) The needs addressed by the project;

(ii) How the applicant identified those needs;

(iii) How those needs will be met by the project; and

(iv) The benefits to be gained by meeting those needs.

(3) *Plan of Operation.* (35 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(i) The quality of the design of the project;

(ii) The extent to which the plan of management is effective and ensures proper and efficient administration of the project;

(iii) How well the objectives of the project relate to the purposes of the program;

(iv) The quality of the applicant's plan to use its resources and personnel to achieve each objective; and

(v) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or handicapping condition.

(4) *Quality of key personnel.* (7 points)

(i) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use on the project, including—

(A) The qualifications of the project director (if one is to be used);

(B) The qualifications of each of the other key personnel to be used in the project;

(C) The time that each person referred to in paragraphs (b)(4)(i) (A) and (B) will commit to the project; and

(D) How the applicant, as part of the nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

(ii) To determine personnel qualifications under paragraphs (b)(4)(i) (A) and (B), the Secretary considers—

(A) Experience and training in fields related to the objectives of the project; and

(B) Any other qualifications that pertain to the quality of the project.

(5) *Budget and cost effectiveness.* (5 points) The Secretary reviews each application to determine the extent to which—

(i) The budget is adequate to support the project; and

(ii) Costs are reasonable in relation to the objectives of the project.

(6) *Evaluation plan.* (10 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(i) Are appropriate to the project; and

(ii) To the extent possible, are objective and produce data that are quantifiable.

(Cross-reference: See 34 CFR 75.590 Evaluation by the grantee.)

(7) *Adequacy of resources.* (3 points) The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to devote to the project, including facilities, equipment, and supplies.

Intergovernmental Review of Federal Programs: This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR Part 79.

The objective of the Executive Order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedure established in each State under the Executive Order. If you want to know the name and address of any State Single Point of Contact, see the list published in the **Federal Register** on March 31, 1995 (60 FR 16714).

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372—CFDA #84.314A, U.S. Department of Education, Room 6300, 600 Independence Avenue, SW, Washington, DC 20202.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, DC time) on the date indicated in this notice.

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS. INSTRUCTIONS FOR TRANSMITTAL OF APPLICATIONS:*

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: Patricia McKee (CFDA #84.314A), Compensatory Education Programs, Room 3633, Regional Office Building #3, 7th and D Streets, SW, Washington, DC 20202–4725 or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. (Washington, DC time) on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: Patricia McKee (CFDA #84.314A), Compensatory Education Programs, Room 3633, Regional Office Building #3, 7th and D Streets, SW, Washington, DC 20202–4725.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If any application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgement to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–9494.

(3) The applicant *must* indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and suffix letter, if any—of the competition under which the application is being submitted.

Application Instructions and Forms: The appendix to this application is divided into three parts plus a statement regarding estimated public reporting burden and various assurances and certifications. These parts and additional materials are organized in the same manner that the submitted application should be organized and submitted. The parts and additional materials are as follows:

Part I: Application for Federal Assistance (Standard Form 424 (Rev. 4–88)) and instructions.

Part II: Budget Information—Non-Construction Programs (ED Form No. 524) and instructions.

Part III: Application Narrative.

Additional Materials: Estimated Public Reporting Burden.

Assurances—Non-Construction Programs (Standard Form 424B).

Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013).

Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (ED 80–0014, 9/90) and instructions. (**Note:** ED 80–0014 is intended for the use of grantees and should not be transmitted to the Department.)

Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions; and Disclosure of Lobbying Activities Continuation Sheet (Standard Form LLL-A). (See *amendments by 61* **Federal Register** 1412 (1/19/96).)

Notice to all Applicants (Section 427 of the General Education Provisions Act).

An applicant may submit information on photostatic copies of the application, budget forms, assurances, and certifications. However, the application form, assurances, and certifications must each have an original signature. No grant may be awarded unless a completed application form, including the signed assurances and certifications, have been received.

For Further Information Contact: Patricia McKee, Compensatory Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 600 Independence Avenue, SW., (4400, Portals), Washington, DC 20202–6132. Telephone (202) 260–0991. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server

at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 20 U.S.C. section 6362(c).

Dated: March 18, 1996.

Gerald N. Tirozzi,

Assistant Secretary, Elementary and Secondary Education.

BILLING CODE 4000-01-P

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction; Preapplication ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (give city, county, state, and zip code):	Name and telephone number of the person to be contacted on matters involving this application (give area code)

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State; B. County; C. Municipal; D. Township; E. Interstate; F. Intermunicipal; G. Special District; H. Independent School Dist.; I. State Controlled Institution of Higher Learning; J. Private University; K. Indian Tribe; L. Individual; M. Profit Organization; N. Other (Specify): _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award; B. Decrease Award; C. Increase Duration; D. Decrease Duration; Other (specify): _____

9. NAME OF FEDERAL AGENCY:

U.S. Department of Education

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 8 4 . 3 1 4A

TITLE: Even Start Statewide Family Literacy Initiative Grants

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (Cities, Counties, States, etc.):

13. PROPOSED PROJECT: Start Date	Ending Date	14. CONGRESSIONAL DISTRICTS OF: a. Applicant	b. Project

15. ESTIMATED FUNDING:	
a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:
1.	Self-explanatory.
2.	Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3.	State use only (if applicable).
4.	If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5.	Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7.	Enter the appropriate letter in the space provided.
8.	Check appropriate box and enter appropriate letter(s) in the space(s) provided: — "New" means a new assistance award. — "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. — "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9.	Name of Federal agency from which assistance is being requested with this application.
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11.	Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
12.	List only the largest political entities affected (e.g., State, counties, cities).
13.	Self-explanatory.
14.	List the applicant's Congressional District and any District(s) affected by the program or project.
15.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18.	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

U.S. DEPARTMENT OF EDUCATION

BUDGET INFORMATION

NON-CONSTRUCTION PROGRAMS

OMB Control No. 1875-0102

Expiration Date: 9/30/95

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

Name of Institution/Organization

SECTION A - BUDGET SUMMARY

U.S. DEPARTMENT OF EDUCATION FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

ED FORM NO. 524

Name of Institution/Organization

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION B - BUDGET SUMMARY
NON-FEDERAL FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED FORM NO. 524

BILLING CODE 4000-01-C

Instructions for ED Form No. 524

General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

Section A—Budget Summary

U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1–11.

Lines 1–11, columns (a)–(e):
For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1–11, column (f):
Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)–(e):
Show the total budget request for each project year for which funding is requested.

Line 12, column (f):
Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

Section B—Budget Summary

Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1–11 of Section B.

Lines 1–11, columns (a)–(e):
For each project year for which matching funds or other contributions are provided, show the total contribution for each applicable budget category.

Lines 1–11, column (f):
Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)–(e):
Show the total matching or other contribution for each project year.

Line 12, columns (f):
Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

Section C—Other Budget Information

Pay attention to applicable program specific instructions, if attached.

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.

2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.

3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.

4. Provide other explanations or comments you deem necessary.

Instructions for Part III Application Narrative

Before preparing the Application Narrative an applicant should read carefully the description of the program and the selection criteria the Secretary uses to evaluate applications.

The narrative should encompass each function or activity for which funds are being requested and should—

1. Begin with an Abstract; that is, a summary of the proposed project;

2. Describe the proposed project in light of the selection criteria in the order in which the criteria are listed in this application package; and

3. Include any other pertinent information that might assist the Secretary in reviewing the application package, including—

(a) A description of the activities and services for which assistance is sought;

(b) A comprehensive statement of how the applicant will plan and implement a statewide family literacy initiative in accordance with section 1202(c) of the ESEA; and

(c) An assurance that the plan will be developed in consultation with the State, local, and other institutions, organizations, and agencies that will form the consortium and carry out the plan.

4. Include, in the application budget, a description of the non-Federal contributions that the State will make, in an amount not less than the Federal funds awarded under the grant, for the costs to be incurred by the consortium in carrying out the grant activities.

5. Provide the following in response to the attached "Notice to all Applicants": (1) a reference to the portion of the application in which information appears as to how the applicant is addressing steps to promote equitable access and participation, or (2) a separate statement that contains that information.

6. For any applicant *other* than the State educational agency, include a copy of the signed set of assurances specified in section 14306(a) of the ESEA (20 USC 8856(a)) that the applicant has filed with its SEA and that is applicable to this application.

The Secretary strongly requests the applicant to limit the Application Narrative to no more than 20 double-spaced, typed pages (on one side only), although the Secretary will consider applications of greater length. The Department has found that successful applications for similar programs generally meet this page limit.

Instructions for Estimated Public Reporting Burden

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control Number. The valid OMB control number for this information collection is 1810–0590. The time required to complete this information collection is estimated to average 7½ hours (or minutes) per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: U.S. Department of Education, Washington, D.C. 20202–4651. If you have comments or concerns regarding the status of your individual submission of this form, write directly to: Patricia McKee, Compensatory Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 600 Independence Avenue, SW, Room 4400, Portals Building, Washington D.C. 20202–6132.

BILLING CODE 4000-01-P

OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C.§§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

Standard Form 424B (4-88)
Prescribed by OMB Circular A-102

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10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program andto purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

SF 424B (4-88) Back

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110 –

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about–

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will–

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3),

Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted–

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

_____

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013, 6/90 (Replaces ED 80-0008, 12/89; ED Form GCS-008, (REV. 12/88); ED 80-0010, 5/90; and ED 80-0011, 5/90, which are obsolete)

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV. 12/88), which is obsolete)

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB 0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change For Material Change Only: year _____ quarter ____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier ____, *if known:* Congressional District, *if known:*	Congressional District, *if known:*
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, *if applicable:* _____
8. Federal Action Number, *if known:*	9. Award Amount, *if known:* $
10. a. Name and Address of Lobbying Entity (*if individual, last name, first name, MI*):	b. Individuals Performing Services (*including address if different from No. 10a*) (*last name, first name, MI*):

(attach Continuation Sheet(s) SF-LLL-A, *if necessary*)

11. Amount of Payment (*check all that apply*):	13. Type of Payment (*check all that apply*):
$ _____ ☐ actual ☐ planned	☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other; specify: _____
12. Form of Payment (*check all that apply*): ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____	

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, *if necessary*)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16.	
Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____

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INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.

13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.

14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.

15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET

Approved by OMB 0348-0046

Reporting Entity: _____ Page ____ of ____

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[FR Doc. 96–7210 Filed 3–25–96; 8:45 am]
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federal register

Tuesday
March 26, 1996

Part XIV

Department of Education

Education of Individuals With Disabilities: Personnel Training; Notice

DEPARTMENT OF EDUCATION

Training Personnel for the Education of Individuals With Disabilities—Grants for Personnel Training

AGENCY: Department of Education.

ACTION: Notice of proposed priority.

SUMMARY: The Secretary proposes a priority for the Training Personnel for the Education of Individuals with Disabilities—Grants for Personnel Training program administered by the Office of Special Education and Rehabilitative Services (OSERS) under the Individuals with Disabilities Education Act. The Secretary may use this priority in Fiscal Year 1996 and subsequent years. The Secretary takes this action to focus Federal assistance on identified needs to improve outcomes for children with disabilities. This proposed priority is intended to ensure wide and effective use of program funds.

DATES: Comments must be received on or before April 25, 1996.

ADDRESSES: All comments concerning the proposed priority should be addressed to: Linda Glidewell, U.S. Department of Education, 600 Independence Avenue SW., Room 3524, Switzer Building, Washington, D.C. 20202–2641.

FOR FURTHER INFORMATION CONTACT: Scott Brown, U.S. Department of Education, 600 Independence Avenue SW., Room 3522, Switzer Building, Washington, D.C. 20202–2641.

SUPPLEMENTARY INFORMATION: The Individuals with Disabilities Education Act (IDEA) directs the Secretary to develop and implement a plan for providing outreach services to minority entities and underrepresented populations to assist them in participating more fully in the discretionary programs under the Act (section 610(j)(2)(C)).

This proposed priority supports the National Education Goals by improving understanding of how to enable children and youth with disabilities to reach higher levels of academic achievement.

The Secretary will announce the final priority in a notice in the **Federal Register**. The final priority will be determined by responses to this notice, available funds, and other considerations of the Department. Funding of particular projects depends on the availability of funds, the content of the final priority, and the quality of the applications received. Further, the priority could be affected by enactment of legislation reauthorizing this program. The publication of this proposed priority does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only this priority, subject to meeting applicable rulemaking requirements.

Note: This notice of proposed priority does not solicit applications. A notice inviting applications under this competition will be published in the **Federal Register** concurrent with or following publication of the notice of final priority.

Priority

Under 34 CFR 75.105(c)(3), the Secretary proposes to give an absolute preference to applications that meet the following priority. The Secretary proposes to fund under this competition only applications that meet this absolute priority.

Proposed Absolute Priority—Outreach Services to Minority Entities to Expand Research Capacity

Background

The Congress has found that the Federal Government must be responsive to the growing needs of an increasingly diverse society and that a more equitable distribution of resources is essential for the Federal Government to meet its responsibility to provide an equal educational opportunity for all individuals. The Congress has concluded that the opportunity for full participation in awards for grants, cooperative agreements and contracts by Historically Black Colleges and Universities (HBCUs), other institutions of higher education whose minority enrollment is at least 25% (OMIs) and other eligible institutions as defined under section 312 of the Higher Education Act of 1965 (OEIs) is essential if we are to obtain greater success in the education of children from diverse backgrounds in special education.

This priority focuses on assisting HBCUs, OMIs and OEIs to prepare scholars for careers in research on special education and related services. This preparation shall consist of engaging both faculty and students at HBCUs, OMIs and OEIs in special education research activities. The activities focus on an area of critical emerging need which has material application in today's changing environment and will likely be the subject of future research efforts—*the special education of children in urban and high poverty schools with predominantly minority enrollments.* By building a cadre of experienced researchers on this important topic, the chances for full participation in awards for grants, cooperative agreements and contracts by HBCUs, OMIs and OEIs will be increased.

The association between socioeconomic status and enrollment in special education has been well documented. Available data from the National Longitudinal Transition Study (NLTS) show that 68% of students in special education live in a household where the income is less than $25,000 per year versus 39% of the general population of youth.

The problem of this association is heightened in urban school districts and, to a lesser extent, rural districts. NLTS data reveal that only 34% of students in special education live in suburban school districts compared to 48% of all youth. Data from the Office for Civil Rights indicate that 30% of all inner-city students live in poverty compared to 18% of students in non-inner city areas. Moreover, findings from the National Longitudinal Transition Study indicate that 47% of urban youth with disabilities live in households with an annual income of less than $12,000 (in 1986 dollars) compared to 34% of rural and 19% of suburban youth with disabilities (Valdes et al., 1990).

Urban school districts face a variety of challenges in meeting the educational needs of their students. Their schools often have high per student costs and limited financial resources. Their students are disproportionately poor and the population of individuals with limited English proficiency is among the fastest growing populations with special needs in some of these districts. This disproportionate representation of poor children in special education is also likely to be uniquely influenced by culturally diverse and urban settings, posing both opportunities and problems in the provision of special education services.

Priority

The Assistant Secretary establishes an absolute priority for a project to design and conduct a program of research by individuals who show promise of contributing to the program improvement activities authorized under the Individuals with Disabilities Education Act (IDEA). Each research activity of the program must implement the Congress' direction in section 610(j)(2) to support outreach activities to HBCUs, OMIs and OEIs to increase their participation in competition for research, demonstration and outreach grants, cooperative agreements and contracts funded under the IDEA. Activities shall include:

(1) Conducting research activities at HBCUs, OMIs and OEIs as explained below that link scholars at HBCUs, OMIs and OEIs with researchers at institutions with an established research capacity in a mentoring relationship to develop both individual and institutional research capacity at those HBCUs, OMIs and OEIs with a demonstrated need for capacity development; and

(2) Providing linkages between HBCUs, OMIs and OEIs with a demonstrated need for capacity development and institutions with an established research capacity to provide opportunities for researchers at those HBCUs, OMIs and OEIs to develop first hand experience in the grants and contracts application process.

All research activities must be conducted for the purpose of capacity building. The research program must include one or more projects that are focused on issues related to improving the delivery of special education services and educational results for children with disabilities in urban and high poverty schools with predominantly minority enrollments. The program must examine the association between minority status and identification for, evaluation for and placement in special education. Other possible research topics may include:

(1) Effective intervention strategies that make a difference in the provision of a Free Appropriate Public Education (FAPE);

(2) Practices to promote the successful inclusion of children with disabilities in a least restrictive environment (LRE);

(3) Strategies for establishing high expectations for children with disabilities and increasing their participation in the general curriculum provided to all children;

(4) Increasing effective parental participation in the educational process, especially for poor parents, minority parents, and parents with limited English proficiency;

(5) Effective disciplinary approaches, including behavioral management strategies, for ensuring a safe and disciplined learning environment;

(6) The effect of school-wide projects conducted under Title 1 of the Elementary and Secondary Education Act on the delivery of special education; or

(7) Effective practices for promoting the coordination of special education services with health and social services for children with disabilities and their families.

The program shall ensure that findings are communicated in appropriate formats for researchers. The program shall also ensure that if findings are of importance to other audiences, such as teachers, administrators and parents, they are made available to Department of Education's technical assistance, training and dissemination projects for distribution to those audiences.

Projects must demonstrate experience and familiarity in research on children with disabilities in urban and high poverty schools with predominantly minority enrollments. The project must also demonstrate experience in capacity development in special education research, as well as a thorough understanding of the strengths and needs of HBCUs, OMIs and OEIs.

The project must budget for two trips annually to Washington, DC for: (1) A two-day Research Project Directors' meeting; and (2) an additional meeting to meet and collaborate with the project officer of the Office of Special Education Programs (OSEP) and with other relevant OSEP funded projects. The project must also coordinate activities with the ongoing Policy Research Institute funded by OSEP.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding this proposed priority.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in Room 3521, 300 C Street SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Program Authority: 20 U.S.C. 1431.

(Catalog of Federal Domestic Assistance Number 84.029, Training Personnel for the Education of Individuals with Disabilities Program)

Dated: March 20, 1996.

Howard R. Moses,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 96–7211 Filed 3–25–96; 8:45 am]

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Part XV

Department of Education

Training Personnel for the Education of Individuals With Disabilities; Grants for Personnel Training; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1996; Notice

DEPARTMENT OF EDUCATION

[CFDA No.: 84.029G]

Training Personnel for the Education of Individuals With Disabilities; Grants for Personnel Training; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1996

PURPOSE OF PROGRAM: The purpose of Training Personnel for the Education of Individuals with Disabilities Program—Grants for Personnel Training is to increase the quantity and improve the quality of personnel available to serve infants, toddlers, children and youth with disabilities.

ELIGIBLE APPLICANTS: Eligible applicants are institutions of higher education, and other appropriate nonprofit agencies.

APPLICABLE REGULATIONS: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR Part 318.

In some instances, the description of the absolute priority identified below differs from applicable regulatory provisions in 34 CFR 318. These changes, as well as any supplementary information provided under the priority that is not found in the regulations, represent interpretative guidance and are provided for purposes of clarification. These interpretations do not substantively change the regulations.

Note: The regulations in 34 CFR Part 86 apply to institutions of higher education only.

PRIORITY: Under 34 CFR 75.105(c)(3), and 34 CFR 318, the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only those applications that meet this absolute priority:

Absolute Priority—Grants for Preservice Personnel Training (84.029G).

This priority supports projects designed to provide preservice preparation of personnel who serve infants, toddlers, children and youth with disabilities. Projects must address either:

(1) The development of new programs to establish expanded capacity for quality preservice training; or

(2) The improvement of existing programs designed to increase the capacity and quality of preservice training.

In addition, projects must address one or more of the following training components:

(1) *Preparation of Personnel for Careers in Special Education.* This component supports preservice preparation of personnel for careers in special education. Preservice training includes additional training for currently employed teachers seeking additional degrees, certifications, or endorsements. Training may occur at one or more of the following levels: baccalaureate, master's, or specialist. Under this component, "personnel" includes special education teachers, speech-language pathologists, audiologists, adapted physical education teachers, vocational educators, and instructive and assistive technology specialists.

(2) *Preparation of Related Services Personnel.* This component supports preservice preparation of individuals to provide developmental, corrective, and other supportive services that assist children and youth with disabilities to benefit from special education. These include paraprofessional personnel, therapeutic recreation specialists, school social workers, health service providers, physical therapists, occupational therapists, school psychologists, counselors (including rehabilitation counselors), interpreters, orientation and mobility specialists, respite care providers, art therapists, volunteers, physicians, and other related services personnel. For purposes of this component, the Department considers the term "interpreters" to be limited to interpreters for the deaf.

(i) Projects to train personnel identified as special education personnel under training component (1) are not appropriate for purposes of this component, even if those personnel may be considered related services personnel in other settings (e.g., speech language pathologists).

(ii) This component is not designed for general training. Projects must include inducements and preparation to increase the probability that graduates will direct their efforts toward supportive services to special education. For example, a project in occupational therapy (OT) might support a special focus in pediatric or juvenile psychiatric OT; support those students whose career goal is OT in the school; or provide for practica, and internships in school settings.

(3) *Training Early Intervention and Preschool Personnel.* This component supports projects that are designed to provide preservice preparation of personnel who serve infants, toddlers, and preschool children with disabilities, and their families. Personnel may be prepared to provide short-term services or long-term services that extend into a child's school program. The proposed training program must have a clear and limited focus on the special needs of children within the age range from birth through five, and must include consideration of family involvement in early intervention and preschool services. Training programs under this priority must have a significant interdisciplinary focus.

Applications Available: April 23, 1996.

Deadline for Transmittal of Applications: June, 10, 1996.

Deadline for Intergovernmental Review: August 10, 1996.

Estimated Number of Awards: 23.

Estimated Range of Awards: $100,000 to $480,000.

Project Period: Up to 36 months.

Available Funds: In fiscal year 1996, approximately $6,750,000 will be available to support an estimated 23 projects (grant awards) under this absolute priority (competition). While the total average award is estimated at $290,000, it is anticipated that the average range per component would be $100,000 to $160,000. Multi-year projects will be level funded unless there are increases in costs attributable to significant changes in activity level, and funds are available.

The Congress has not yet enacted a fiscal year 1996 appropriation for the Department of Education. The Department is publishing this notice in order to give potential applicants adequate time to prepare applications. The estimate of the amount of funds that will be available for this competition is based, in part, on the President's 1996 budget request and, in part, on the level of funding available for fiscal year 1995.

Potential applicants should note, however, that the Congress is considering proposals to reduce funding in 1996 for the Training Personnel for the Education of Individuals with Disabilities Program administered by the Department. Final action on the 1996 appropriation may require the Department to cancel this competition or to significantly reduce the number or size of grant awards that will be made under the competition announced in this notice.

Note: The Department of Education is not bound by any estimates in this notice.

WAIVER OF RULEMAKING: It is the practice of the Secretary to offer interested parties the opportunity to comment on proposed priorities in accordance with the Administrative Procedure Act (5 U.S.C. 553). However, this application notice restates existing priorities in 34 CFR 318. In addition, the Secretary has determined, pursuant to 5 U.S.C. 553(b)(A), that rulemaking requirements do not apply to the changes to applicable regulatory provisions contained in this notice. These changes reflect the Secretary's interpretation of existing regulations and are provided solely for purposes of clarification.

FOR APPLICATIONS AND GENERAL INFORMATION CONTACT: Marlene Spencer, U.S. Department of Education, 600 Independence Avenue, S.W., Switzer Building, Room 3072, Washington, D.C. 20202–2651. Telephone: (202) 205–9058. FAX: (202) 205–9070. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8953. Internet: Marlene_Spencer@ed.gov

FOR TECHNICAL INFORMATION CONTACT: Martha B. Bokee, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3078, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–5509. FAX: (202) 205–9070. Internet: Martha_Bokee@ed.gov

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases); or on the World Wide Web at http://www.ed.gov/money.html However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 20 U.S.C. 1431.

Dated: March 20, 1996.

Howard R. Moses,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 96–7212 Filed 3–25–96; 8:45 am]

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The rules and proposed rules in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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Conflict of interests; correction; published 3-26-96

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- Accounting guide availability; published 1-26-96
- Contractors' purchasing systems reviews and subcontractor consent; published 1-26-96
- Debarment and suspension certificate; tax evasion; published 1-26-96
- Field pricing support request; published 1-26-96
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- Contractors' purchasing systems reviews and subcontractor consent; published 1-26-96
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Federal Aviation Administration

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- Boeing; published 3-11-96

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National Highway Traffic Safety Administration

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  - Rear-facing infant; interaction between child restraints and air bags; cutoff devices; correction; published 3-26-96

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Agricultural Marketing Service

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Nectarines and peaches grown in California; comments due by 4-3-96; published 3-4-96

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- Business and industrial loan program; comments due by 4-2-96; published 2-2-96

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Agricultural commodities standards:
- Beans, whole dry peas, split peas, and lentils; grade standards removed from CFR; comments due by 4-1-96; published 2-29-96

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- Mid-Atlantic Fishery Management Council; comments due by 4-2-96; published 2-22-96

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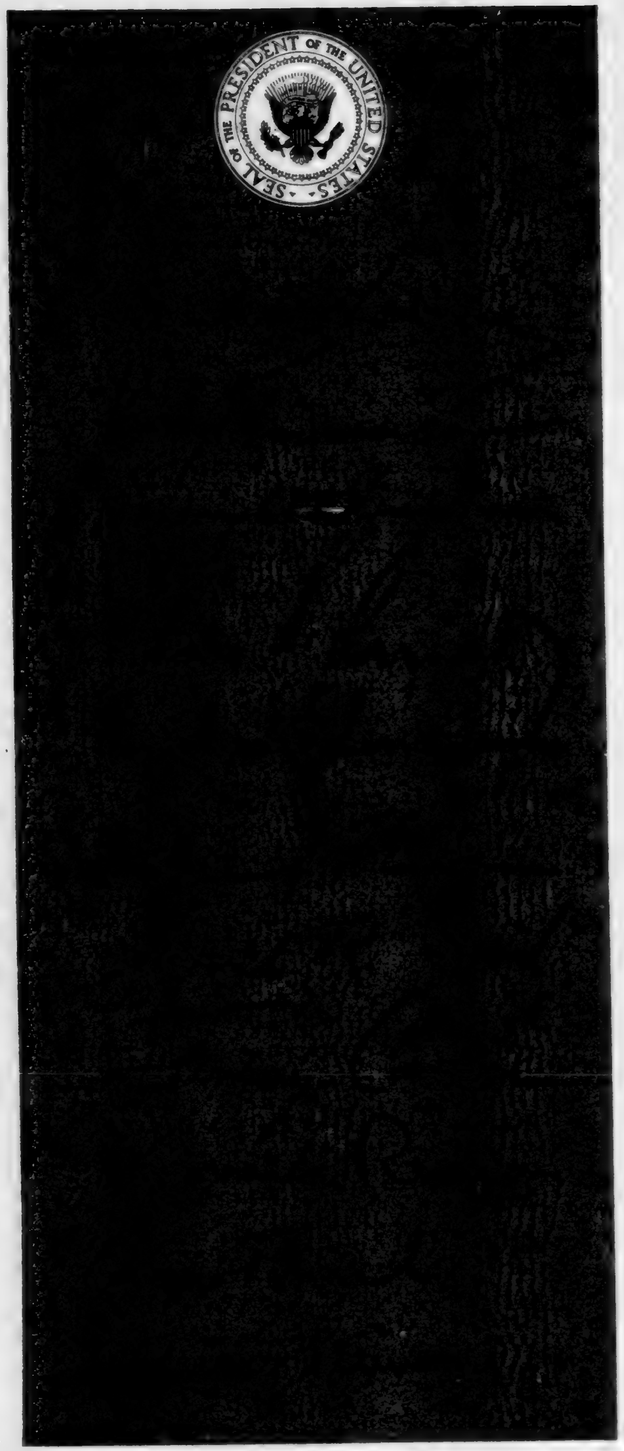
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H.J. Res. 165/P.L. 104–118

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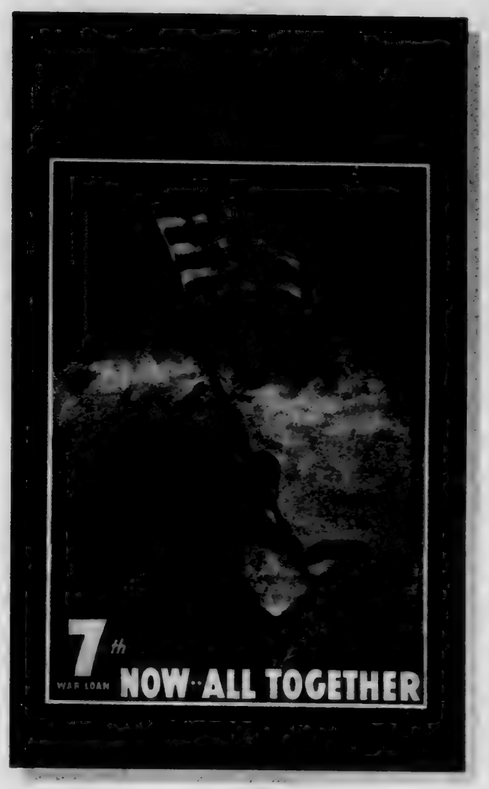
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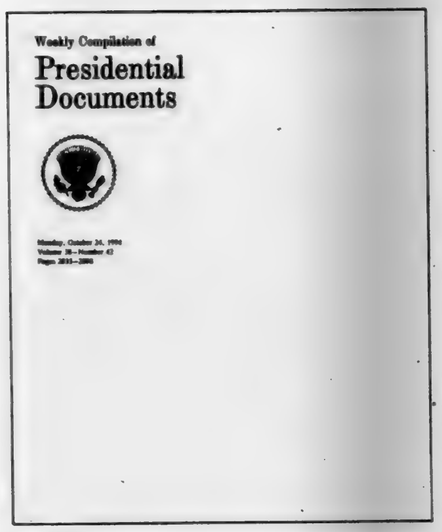
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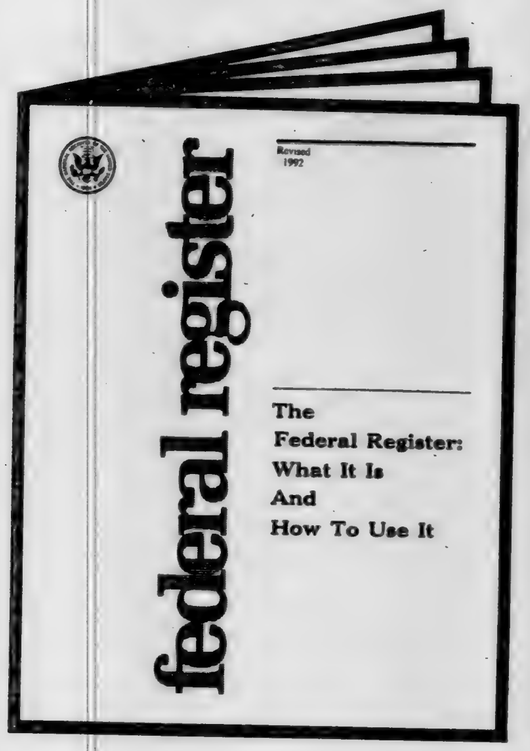
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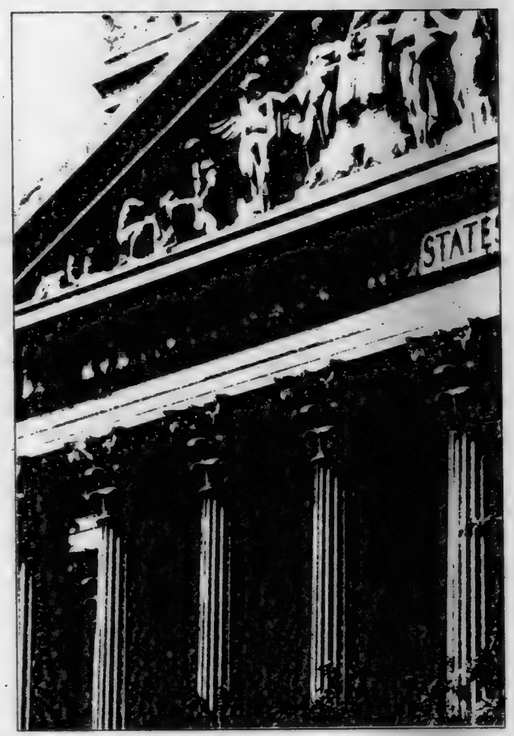
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Federal Register
Vol. 61, No. 68
Wednesday, March 28, 1996

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Title 3—

The President

Proclamation 6873 of March 22, 1996

Greek Independence Day: A National Day of Celebration of Greek and American Democracy, 1996

By the President of the United States of America

A Proclamation

While Hellenic literature, art, architecture, and philosophy have profoundly influenced western civilization for over 2,000 years, democracy remains the most precious gift to our world from the Greeks of ancient times. This manner of government, placing authority directly into the hands of the people, has long fulfilled the needs and aspirations of freedom-loving nations around the world. Our founders chose to adopt the democratic system when declaring America's liberty, just as the Greek Constitution enshrines democracy as the governing rule of the Hellenic Republic.

It is one of history's great ironies that Greece, the birthplace of democracy, was subject for centuries to foreign domination, culminating in almost four hundred years of political suppression by the Ottoman Empire. The Greeks' age-old love of liberty remained strong, however, and in 1821, Greece began its successful struggle for self-determination.

Today, as we commemorate the one hundred and seventy-fifth anniversary of Greek independence, the citizens of Greece and the United States remember that with democracy come great responsibilities—to seek peaceful solutions to civil differences, to foster freedom and human rights in all nations, and to ensure that our laws continue to build upon our strong democratic foundation.

Standing shoulder to shoulder, Americans and Greeks fought for these principles on the battlefields of World War II and through the dark days of the Cold War. Today, while we celebrate Greek independence, we also remember all those around the world who still endure oppression and are denied economic, social, or political freedom. In recent years we have seen many nations break the bonds of tyranny, and we must continue to support others who seek to embrace democracy's promise. In doing so, we look forward to a day when people everywhere enjoy the rights and liberties that Greeks and Americans are so proud to share.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim March 25, 1996, as Greek Independence Day: A National Day of Celebration of Greek and American Democracy. I call upon all Americans to observe this day with appropriate ceremonies, activities, and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of March, in the year of our Lord nineteen hundred and ninety-six, and of the Independence of the United States of America the two hundred and twentieth.

William J. Clinton

[FR Doc. 96-7598
Filed 3-26-96; 8:45 am]
Billing code 3195-01-P

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Rules and Regulations

Federal Register
Vol. 61, No. 60
Wednesday, March 27, 1996

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 46

[Docket No. FV93–353]

RIN 0581–AB28

Regulations (Other Than Rules of Practice) Under the Perishable Agricultural Commodities Act, 1930 (PACA)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture is revising the Regulations (other than Rules of Practice) Under the Perishable Agricultural Commodities Act (PACA) to include oil-blanched frozen fruits and vegetables as a commodity covered under the PACA. This rule will grant dealers in frozen oil-blanched products the same rights afforded dealers whose frozen product is water-blanched.

EFFECTIVE DATE: April 26, 1996.

FOR FURTHER INFORMATION CONTACT: J.R. Frazier, Assistant Chief, PACA Branch, Room 2095–So., Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, Phone (202) 720–4180.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule is issued under the Perishable Agricultural Commodities Act (7 U.S.C. 499 *et. seq.*), as amended, hereinafter referred to as the "PACA." The Department of Agriculture is issuing this final rule in conformance with Executive Order 12866.

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. This final rule will not preempt any State or local laws, regulation, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), (5 U.S.C. 601 *et seq.*), the Administrator of the Agricultural Marketing Service (AMS) has certified that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. This is an action that is brought about at the request of the frozen fruit and vegetable industry and would benefit producers and small businesses that process and supply frozen fruits and vegetables by making available to them new remedies under the PACA.

This rule extends PACA coverage to include frozen fruits and vegetables that are oil-blanched, especially frozen french fried potato products. Under previous regulations, suppliers of these commodities suffered considerable financial losses because oil-blanched products were excluded by regulation from PACA coverage. This rule grants dealers in frozen oil-blanched products the same rights afforded dealers whose frozen product is water- blanched.

It is therefore not unduly or disproportionately burdensome on small businesses and in fact, rectifies the previous situation in which processors and suppliers were closed out of remedies with respect to oil-blanched product.

The PACA establishes a code of fair trading by prohibiting certain unfair practices in the marketing of fresh or frozen fruits and vegetables. The law requires that parties fulfill their contractual obligations including prompt pay, and provides a forum wherein persons who suffer damages can recover their losses.

The PACA also impresses a statutory trust for the benefit of unpaid sellers or suppliers on all perishable agricultural commodities received by a commission merchant, dealer or broker and all inventories of food or other products derived from the sale of such commodities or products. Sellers who preserve their eligibility are entitled to payment ahead of other creditors, from trust assets, of money owed on past due accounts.

Information submitted to this Agency by the Frozen Potato Products Institute indicates that frozen potato products represent the largest single frozen commodity shipped in the United States. This information further indicates that potatoes cannot be economically frozen and shipped long distances unless they first undergo oil blanching. As pointed out by the American Frozen Food Institute, oil blanching, like water and steam blanching inactivates enzymes without cooking the product. Water and steam blanched frozen fruits and vegetables are covered under the current regulations, oil-blanched frozen fruits and vegetables are not. To exclude such a substantial portion of the frozen food industry is inconsistent with the intent of the PACA to protect dealers in fresh or frozen fruits and vegetables.

Retailers who buy in interstate or foreign commerce must obtain a PACA license if they buy more than $230,000 of fruits and vegetables during a calendar year. Including oil-blanched product in the calculation of the $230,000 exemption may result in a marginal increase in retailers becoming subject to PACA, requiring them to purchase a PACA license at an annual cost of $400. However, the license fee for retailers is being phased out under the provisions of the Perishable Agricultural Commodities Act Amendments of 1995. By calendar year 1999, retailers will no longer be obligated to pay license fees though they must still be licensed. A marginal increase in the number of retailers subject to the PACA, is not significant compared to the benefits derived in the industry by including these commodities under the PACA.

The proposed rule was published in the **Federal Register** (59 FR 35487) on July 12, 1994. On September 12, 1994, Notice was given in the **Federal Register** (59 FR 46772) re-opening the comment period. That notice provided another comment period which ended October 12, 1994. Ten comments were received,

six in favor and four opposed to the proposed rule.

Three commentors representing retailers and wholesale grocers opposed the rule claiming that it would expand the PACA program.

It is true that the rule does expand the PACA program to a product line that is not currently covered, but only because the current regulations restrict the application of the meaning of "perishable agricultural commodity" as provided in the Act. Oil-blanched product is well within the definition of a perishable agricultural commodity as defined by the statute and is consistent with the industry view of the scope of the Act and the nature of the product. Including oil-blanched frozen fruits and vegetables does not unduly or disproportionately burden retailers. With this final rule, all sales of potato products, whether to wholesale distributors, or retailers, would be covered by the term "perishable agricultural commodity." Further, retailers would be less likely than other dealers to be affected by the rule because frozen oil-blanched product would be a small portion of their total business. However, continuing to exclude (frozen french fried potatoes) the largest single frozen commodity in the United States poses substantial risk to farmers, shippers, and processors who are extending credit without the trust protection the Act affords to other dealers.

Another commentor representing a major restaurant chain opposed the proposed rule because he thought the change might bring restaurants under the jurisdiction of the PACA, and argued that therefore, the economic impact of the rule has been underestimated. Restaurants traditionally have not been considered subject to the PACA by USDA or Congress unless the buying arm of the restaurant is a separate legal entity, and is buying for and/or reselling the product to another entity. Since restaurants are not subject to the PACA, this change in the regulation will not impact restaurants.

For the reasons stated, we are not making any changes to this final rule based on the above comments.

The commentors in favor of the proposal claimed that frozen potatoes cannot be shipped practically and commercially without being oil-blanched and that extending PACA to cover these products would protect processors and shippers and enhance the protection to farmers. They also pointed out that incorporating oil-blanched products into the regulations was consistent with the current policy of including water-blanched and steam-blanched product and would streamline the administration of PACA because it would no longer be necessary to distinguish oil-blanched from water or steam-blanched products. They also claimed that the proposed rule would improve marketing efficiency, thereby benefitting consumers and the potato industry.

After thoroughly analyzing the comments received and all other available information, the Department has concluded that issuing this rule is appropriate.

Based on the above, the Administrator of the AMS has determined that the issuance of this final rule will not have a significant economic effect on a substantial number of small entities.

After consideration of all relevant material presented, the comments received, and other available information, it is found that this regulation, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 46

Agricultural commodities, Brokers, Penalties, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 46 of the Code of Federal Regulations is amended as follows:

PART 46—REGULATIONS (OTHER THAN RULES OF PRACTICE) UNDER THE PERISHABLE AGRICULTURAL COMMODITIES ACT, 1930

1. The authority citation for part 46 continues to read as follows:

Authority: Sec. 15, 46 Stat. 537; 7 U.S.C. 499o.

2. In section 46.2, paragraph (u) is revised to read as follows:

§ 46.2 Definitions.

* * * * *

(u) *Fresh fruits and fresh vegetables* include all produce in fresh form generally considered as perishable fruits and vegetables, whether or not packed in ice or held in common or cold storage, but do not include those perishable fruits and vegetables which have been manufactured into articles of food of a different kind or character. The effects of the following operations shall not be considered as changing a commodity into a food of a different kind or character: Water, steam, or oil blanching, chopping, color adding, curing, cutting, dicing, drying for the removal of surface moisture; fumigating, gassing, heating for insect control, ripening and coloring; removal of seeds, pits, stems, calyx, husk, pods, rind, skin, peel, et cetera; polishing, precooling, refrigerating, shredding, slicing, trimming, washing with or without chemicals; waxing, adding of sugar or other sweetening agents; adding ascorbic acid or other agents used to retard oxidation; mixing of several kinds of sliced, chopped, or diced fruits or vegetables for packaging in any type of containers; or comparable methods of preparation.

* * * * *

Dated: March 20, 1996.

Lon Hatamiya,

Administrator.

[FR Doc. 96–7437 Filed 3–26–96; 8:45 am]

BILLING CODE 3410–02–P

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7 CFR Parts 916 and 917

[Docket No. FV95–916–4–IFR]

Nectarines and Peaches Grown in California; Revision of Handling Requirements for Fresh Nectarines and Peaches

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule revises the handling requirements for California nectarines and peaches by modifying the grade, size, maturity, container, and pack requirements for fresh shipments of these fruits, beginning with 1996 season shipments. This rule enables handlers to continue shipping fresh nectarines and peaches meeting consumer needs in the interest of producers, handlers, and consumers of these fruits.

DATES: Effective April 1, 1996. Comments which are received by April 26, 1996 will be considered prior to issuance of any final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2523–S, Washington, DC 20090–6456; or by facsimile at 202–720–5698. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection at the office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Terry Vawter, Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone: (209) 487–5901; or Kenneth Johnson, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2523–S, Washington, DC 20090–6456; telephone: (202) 720–2861.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Marketing Order Nos. 916 and 917 (7 CFR Parts 916 and 917) regulating the handling of nectarines and peaches grown in California, hereinafter referred to as the orders. The orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are about 300 California nectarine and peach handlers subject to regulation under the orders covering nectarines and peaches grown in California, and about 1,800 producers of these fruits in California. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. A majority of these handlers and producers may be classified as small entities.

The Nectarine Administrative Committee (NAC) and the Peach Commodity Committee (PCC) met December 7, 1995, and unanimously recommended that the handling requirements for California nectarines and peaches be revised, respectively. These committees meet prior to and during each season to review the rules and regulations effective on a continuous basis for California nectarines and peaches under the orders. These committee meetings are open to the public, and interested persons may express their views at these meetings. The Department reviews committee recommendations and information, as well as information from other sources, and determines whether modification, suspension, or termination of the rules and regulations would tend to effectuate the declared policy of the Act.

Container and Pack Requirements (Nectarines)

Section 916.350 specifies container and pack requirements for fresh nectarine shipments. Paragraph (a)(4)(iv) of § 916.350 specifies the tray-pack size designations which must be marked on loose-filled or tight-filled containers, depending on the size of the fruit. The size designations specify the maximum number of nectarines in a 16-pound sample for each tray-pack size designation. This rule revises paragraph (a)(4)(iv) of § 916.350 by modifying one size designation for the weight-count standards in Column B of TABLE 1 for early-season and mid-season nectarine varieties and one size designation for the weight-count standards in Column B of TABLE 2. Continuing research conducted by the NAC indicate that early-season and mid-season fruit weighs less than late-season fruit and the weight-count standards were, therefore, modified for the past two seasons based on that consideration. Results from the 1995 season suggest that a minor modification of TABLE 1 and TABLE 2 is necessary to provide more accurate weight-count standards for early-season and mid-season nectarines, and late-season nectarines.

The NAC recommended these revised weight-count standards for nectarines after a comprehensive review of the appropriate relationships between the tray-pack containers and loose-filled or tight-filled containers for early-season and mid-season nectarine varieties, as well as late-season varieties. Specifically, the NAC's recommendation provides that the maximum number of nectarines of size 50 in a 16-pound sample of early-season and mid-season fruit is more appropriately 39 rather than 38. Also the maximum number of nectarines of size 50 in a 16-pound sample of late-season fruit is more appropriately 37 rather than 36.

Pack regulations provide for uniform packing practices. In particular, weight-count standards provide for equality between fruit packed in loose-filled or tight-filled containers and fruit packed in tray-pack styles.

According to the NAC, packers occasionally moved fruit from tray-pack styles of pack to loose-filled or tight-filled pack styles. This activity has led to an awareness that fruit which was of proper size when tray-packed exceeded the maximum number of nectarines for the 16-pound sample for corresponding loose-filled or tight-filled pack size. In some instances, these samples required an additional piece of fruit to meet the 16-pound weight requirement, thus causing the pack to be "marked" smaller than its equivalent tray-pack size. When packs are "marked" smaller this causes the container to be sold for a lower price.

Revised and refined weight-count standards should provide for more accurate marking of sizes when packed in loose-filled or tight-filled pack styles compared to equivalent sizes that are tray packed. These regulations provide for uniformly packed containers of nectarines. These regulations also attempt to assure equivalent returns for growers based on style of pack used.

This rule also further clarifies the definition of "tree ripe" added to section 916.350 paragraph (b) for the 1995 season. According to the NAC, "tree ripe" is an optional marking with regard to maturity that is stamped on containers of nectarines. Currently, the definition of tree ripe is based on the California Well Matured maturity requirement and is intended to be used for fruit which has been allowed to

ripen naturally by remaining longer on the tree. California Well Matured means that fruit has been picked at a maturity level distinctly more advanced than "mature." The definition of "tree ripe" was added in 1995 so that its meaning was consistent with other descriptive markings and provided a consistent minimum maturity level throughout the industry to the benefit of consumers. However, during the 1995 season, some handlers marked their boxes of fruit as "tree ripened." It has been recommended by the NAC that the terms "tree ripe", and "tree ripened", and other terms which denote an advanced level of maturity due to the fruit remaining on the tree for a longer period, are interchangeable terms indicative of the enhanced maturity of the fruit inside the box. Requiring containers of nectarines to be at a minimum California Well Matured in order to be marked "tree ripe" or "tree ripened," or other interchangeable terms such as "ripened on the tree", or "ripened on tree" will clarify the current regulation by specifying when the "tree ripe" or some similar marking using the words "tree" and "ripe", can be used and help to ensure that buyer expectations are met.

The NAC also recommended that a new container, that allows for markings on the lid of the container, be approved for nectarine shipments for the 1996 season only. The NAC will review the impact of the use of this container with shippers prior to the 1997 season.

The marketing order, under § 916.350, requires that all containers be marked with specific information (e.g. handler, grade, size, and variety) and that all such markings on nectarine containers have to be applied to the outside end of the container. This has been defined as any of the four sides of the container, but not on the lid. Currently, there is interest by handlers in containers that are reusable thus creating financial savings for handlers. There is now a reusable and recyclable container, a single layer, plastic, 12×20 inch box, that is available for use with nectarines. However, the design of the container, which has cooling slots in all of its sides, is such that the markings cannot easily be placed on the outside end of the container.

The NAC believes that allowing for markings to be placed on the container lid will facilitate the use of this plastic, reusable and recyclable container in compliance with marketing order requirements. Authorizing the use of this new container will allow handlers to reduce their container costs through the continued reuse of the container.

Maturity Requirements (Nectarines)

Section 916.356 specifies maturity requirements for fresh nectarines in paragraphs (a)(1) and (a)(1)(i), including TABLE 1. For fruit being inspected and certified as meeting the maturity requirements for "well matured", maturity determinations are generally in terms of maturity guides (e.g., color chips) specified in TABLE 1.

This rule revises paragraph (a)(1) by exempting yellow nectarine varieties from the requirement that a blush or red color be present on the skin of the nectarines. By their nature, yellow nectarine varieties fail to attain any color other than yellow on the skin of the fruit. The U.S. Standards for Grades of Nectarines requires that a blush or red color be present on the skin of the fruit in order for the fruit to be considered as U.S. No. 1 grade.

This rule also revises TABLE 1 of paragraph (a)(1)(i) of § 916.356 for nectarines to add the maturity guides for four nectarine varieties. Specifically, an addition to the maturity guides was recommended for Grand Diamond, King Jim, and Spring Brite at a maturity guide of L, and Rose Diamond at a maturity guide of J.

The NAC recommended these maturity requirement changes for these nectarine varieties based on a continuing review by the Shipping Point Inspection Service of their individual maturity characteristics, and the identification of the appropriate color chip corresponding to the "well matured" level of maturity for such variety.

Size Requirements (Nectarines)

Section 916.356 specifies size requirements for fresh nectarines in paragraphs (a)(2) through (a)(9). This rule revises § 916.356 to establish variety-specific size requirements for six nectarine varieties that were produced in commercially significant quantities of more than 10,000 packages for the first time during the 1995 season. This rule also modifies the variety-specific size requirements for two varieties of nectarines by reassigning those varieties.

Size regulations are put in place to improve fruit quality by allowing fruit to stay on the tree for a greater length of time. This increased growing time not only improves maturity and, therefore, the quality of the product, but also the size of the fruit. Increased size results in increases in the number of packed boxes of nectarines per acre. This provides greater consumer satisfaction, more repeat purchases, and, therefore, increases returns to growers. Varieties recommended for specific size regulation have been reviewed and recommendations are based on the characteristics of the variety to attain minimum size.

Paragraph (a)(3) is revised to include the Johnny's Delight and May Jim varieties; paragraph (a)(4) is revised to include the Arctic Rose variety; and paragraph (a)(6) in § 916.356 is revised to include the Flame Glo, Prima Diamond III, Prima Diamond IV, Prima Diamond VIII, and the White Jewels nectarine varieties.

This rule also revises § 916.356 to remove eleven nectarine varieties from the variety-specific size requirements specified in the section because less than 5,000 packages of each of these varieties were produced during the 1995 season. Paragraph (a)(2) of that section is revised to remove the Royal Delight nectarine variety. Paragraph (a)(4) is revised to remove the Sunfre variety, and paragraph (a)(4) is also revised to delete the May Jim variety. This variety was placed in this paragraph prior to the 1995 season. The variety matures to a smaller-than-average size when compared to other varieties in this paragraph. Based upon its sizing characteristics from the 1995 season, removal of the May Jim variety from this paragraph was recommended. Paragraph (a)(6) is revised to remove the Del Rio Rey, Independence, La Pinta, Late Le Grand, Royal Red, Son Red, Sun Grand, 181–119 (Sierra Star), and Nectarine 23 nectarine varieties. Paragraph (a)(6) is also revised to remove the Arctic Rose variety. This variety was placed in this paragraph prior to the 1995 season. The variety matures to a smaller-than-average size when compared to other varieties in this paragraph. Based upon its sizing characteristics from the 1995 season, removal of the Arctic Rose variety from this paragraph was recommended.

Nectarine varieties removed from the nectarine variety-specific list become subject to the non-listed variety size requirements specified in paragraphs (a)(7), (a)(8), and (a)(9) of § 916.356.

The NAC recommended these changes in the minimum size requirements based on a continuing review of the sizing and maturity relationships for these nectarine varieties, and consumer acceptance levels for various sizes of fruit. This rule is designed to establish minimum size requirements for fresh nectarines consistent with expected crop and market conditions.

Container and Pack Requirements (Peaches)

Section 917.442 currently specifies container and pack requirements for fresh peach shipments. Paragraph (a)(4)(iv) of § 917.442 specifies the tray-pack size designations which must be marked on loose-filled or tight- filled containers, depending on the size of the fruit. The size designations specify the maximum number of peaches in a 16-pound sample for each tray pack size designation. This rule revises paragraph (a)(4)(iv) of § 917.442 by modifying one size designation for the weight-count standards in Column B of TABLE 1 for early-season and mid-season peach varieties. Research conducted by the PCC indicated that early-season and mid-season fruit weighs less than late-season fruit and the weight-count standards were, therefore, modified for the past two seasons based on that consideration. Results from the 1995 season suggest that a minor modification of TABLE 1 is necessary to provide more accurate weight-count standards for early-season and mid-season peaches.

The PCC recommended the revised container marking requirement changes for peaches after a comprehensive review of the appropriate relationships between the tray-pack containers and loose-filled or tight-filled containers for early-season and mid-season peach varieties prior to the 1996 season. Specifically, the PCC's recommendation provides that the maximum number of peaches of size 54 in a 16-pound sample of early-season and mid-season fruit is more appropriately 44 rather than 43.

Pack regulations provide for uniform packing practices. In particular, weight-count standards provide equality between fruit packed in loose-filled or tight-filled containers and fruit packed in tray-pack styles.

According to the PCC, packers occasionally moved fruit from tray-pack styles of pack to loose-filled or tight-filled pack styles. This activity has led to an awareness, especially in regard to early-season varieties, that fruit which was of proper size when tray-packed exceeded the maximum number of nectarines for the 16-pound sample for corresponding loose-filled or tight-filled pack size. In this instance, these samples needed an additional piece of fruit to meet the 16-pound weight requirement, thus causing the pack to be "marked" smaller than its equivalent tray- pack size. When packs are "marked" smaller this causes the container to be sold for a lower price. During the 1994 season, new weight-count assignments for early varieties were in place. Research continued with the purpose of possible refinement of those weight-count assignments.

Revised and refined weight-count standards for early varieties should provide for more accurate marking of size when packed in loose-filled or tight-filled pack styles compared to equivalent sizes that are tray packed. These regulations provide for uniformly packed containers of peaches. These regulations also attempt to assure equivalent returns for growers based on style of pack used.

This rule also further clarifies the definition of "tree ripe" added to section 917.442 paragraph (b) for the 1995 season. According to the PCC, "tree ripe" is an optional marking with regard to maturity that is stamped on containers of peaches. Currently the definition of tree ripe is based on the California Well Matured maturity requirement and is intended to be used for fruit which has been allowed to ripen naturally by remaining longer on the tree. California Well Matured means that fruit has been picked at a maturity level distinctly more advanced than "mature." The definition of "tree ripe" was added in 1995 so that its meaning was consistent with other descriptive markings and provided a consistent minimum maturity level throughout the industry to the benefit of consumers. However, during the 1995 season, some handlers marked their boxes of fruit as "tree ripened." It has been recommended by the PCC that the terms "tree ripe" and "tree ripened" and other terms which denote an advanced level of maturity due to the fruit remaining on the tree for a longer period, are interchangeable terms indicative of the enhanced maturity of the fruit inside the box. Requiring containers of peaches to be at a minimum California Well Matured in order to be marked "tree ripe" or "tree ripened," or other interchangeable terms such as "ripened on the tree," or "ripened on tree" will clarify the current regulation by specifying when the "tree ripe" or some similar marking using the words "tree" and "ripe" can be used and help to ensure that buyer expectations are met.

The PCC also recommended that a new container, that allows for markings on the lid of the container, be approved for peach shipments for the 1996 season only. The PCC will review the impact of this container with shippers prior to the 1997 season.

The marketing order, under § 917.442, requires that all containers be marked with specific information (e.g. handler, grade, size, and variety) and that all such markings on peach containers have to be applied to the outside end of the container. This has been defined as any of the four sides of the container, but not on the lid. Currently, there is interest by handlers in containers that are reusable thus creating financial savings for handlers. There is now a reusable and recyclable container, a single layer, plastic, 12x20 inch box, that is available for use with peaches. However, the design of the container, which has cooling slots in all of its sides, is such that the markings cannot easily be placed on the outside end of the container.

The PCC believes that allowing for markings to be placed on the container lid will facilitate the use of this plastic, reusable and recyclable container in compliance with marketing order requirements. Authorizing the use of this new container will allow handlers to reduce their container costs through the continued reuse of the container.

Maturity Requirements (Peaches)

Section 917.459 specifies maturity requirements for fresh peaches in paragraph (a)(1), including TABLE 1. For fruit being inspected and certified as meeting the maturity requirements for "well matured", maturity determinations are generally in terms of maturity guides (e.g., color chips) specified in TABLE 1. This rule revises TABLE 1 of paragraph (a)(1)(ii) of § 917.459 for peaches to change the maturity guide for the Elegant Lady peach variety from a maturity guide M to a maturity guide L. The Early Delight peach variety has been recommended to be added with a maturity guide H and the May Sun variety has been recommended to be added with a maturity guide I.

The PCC recommended these maturity requirement changes for these peach varieties based on a continuing review by the Shipping Point Inspection Service of their individual maturity characteristics, and the identification of the appropriate color chip corresponding to the "well matured" level of maturity for such varieties.

Size Requirements (Peaches)

Section 917.459 specifies size requirements for fresh peaches in paragraphs (a)(2) through (a)(6), and paragraphs (b) and (c). This rule also revises § 917.459 to establish variety-specific size requirements for six peach varieties that were produced in commercially significant quantities of more than 10,000 packages for the first time during the 1995 season.

Size regulations are put in place to improve fruit quality by allowing fruit to stay on the tree for a greater length of time. This increased growing time not

only improves maturity, and, therefore, the quality of the product, but also size of the fruit. Increased size results in increases in the number of packed boxes of peaches per acre. This provides greater consumer satisfaction, more repeat purchases, and, therefore, increases returns to growers. Varieties recommended for specific size regulation have been reviewed and recommendations are based on the characteristics of the variety to attain minimum size.

In § 917.459 paragraph (a)(5) is revised to include the May Sun peach variety; and paragraph (a)(6) is revised to include the July Sun, Kaweah, Snow Giant, Snow King, and Sugar Giant peach varieties.

This rule also revises § 917.459 to remove eleven peach varieties from the variety-specific size requirements specified in that section, because less than 5,000 packages of each of these varieties were produced during the 1995 season. In § 917.459 paragraph (a)(2) of § 917.459 is revised to remove the Flordaprince peach variety; paragraph (a)(5) is revised to remove the First Lady, Merrill Gem, Royal May, Sierra Crest, Summer Crest, and 50–178 peach varieties; and paragraph (a)(6) is revised to remove the Angelus, August Delight, Parade, and Scarlet Lady peach varieties. Peach varieties removed from the variety- specific list become subject to the non-listed variety size requirements specified in paragraphs (b) and (c) of § 917.459.

The removal of the Flordaprince variety from paragraph (a)(2) results in there being no varieties regulated within size 96 for the 1996 season. Since the variety-specific list is subject to change from one season to another, the Department wishes to reserve paragraph number (a)(2) for future regulation of peaches at size 96.

The PCC recommended these changes in the minimum size requirements based on a continuing review of the sizing and maturity relationships for these peach varieties, and the consumer acceptance levels for various sizes fruit. This rule is designed to establish minimum size requirements for fresh peaches consistent with expected crop and market conditions.

This rule reflects the committees' and the Department's appraisal of the need to revise the handling requirements for California nectarines and peaches, as specified. The Department's determination is that this rule will have a beneficial impact on producers, handlers, and consumers of California nectarines and peaches.

This rule establishes handling requirements for fresh California nectarines and peaches consistent with expected crop and market conditions, and will help ensure that all shipments of these fruits made each season will meet acceptable handling requirements established under each of these orders. This rule will also help the California nectarine and peach industries provide fruit desired by consumers. This rule is designed to establish and maintain orderly marketing conditions for these fruits in the interest of producers, handlers, and consumers.

Based on the above, the Administrator of the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matters presented, the information and recommendations submitted by the committees, and other information, it is found that the rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined, upon good cause, that it is impracticable, unnecessary and contrary to the public interest to give preliminary notice prior to putting this rule into effect because: (1) California nectarine and peach growers and handlers should be apprised of this rule as soon as possible, since early shipments of these fruits are expected to begin about April 1; (2) this rule relaxes grade requirements for yellow-skinned nectarines and size requirements for several nectarine and peach varieties; (3) California nectarine and peach handlers are aware of these revised requirements that are non-controversial, administrative by nature, and similar to other recommendations made by the committees in prior seasons, and they will need no additional time to comply with such requirements; and (4) the rule provides a 30-day comment period, and any written comments received will be considered prior to any finalization of this interim final rule.

List of Subjects

7 CFR Part 916

Marketing agreements, Nectarines, Reporting and recordkeeping requirements.

7 CFR Part 917

Marketing agreements, Peaches, Pears, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Parts 916 and 917 are amended as follows:

PART 916—NECTARINES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 916 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 916.350 is amended by revising TABLE 1 and TABLE 2 of paragraph (a)(4)(iv), revising paragraph (b), and adding a new paragraph (c) to read as follows:

§ 916.350 California Nectarine Container and Pack Regulation.

(a) * * *
(4) * * *
(iv) * * *

TABLE 1.—WEIGHT-COUNT STANDARDS FOR NECTARINES PACKED IN LOOSE OR TIGHT-FILLED CONTAINERS

Column A—Tray pack size designation	Column B—Maximum number of nectarines in a 16-pound sample applicable to varieties specified in paragraphs (a)(2)(ii), (a)(3)(ii), (a)(4)(ii), (a)(5)(ii), and (a)(8)(ii) of § 916.356
108	100
96	90
88	83
84	78
80	75
72	67
70	60
64	55
60	49
56	46
54	40
50	39
48	35
42	31
40	30
36	25
34	23
32	22
30	19

TABLE 2.—WEIGHT-COUNT STANDARDS FOR NECTARINES PACKED IN LOOSE OR TIGHT-FILLED CONTAINERS

Column A—Tray pack size designation	Column B—Maximum number of nectarines in a 16-pound sample applicable to varieties specified in paragraphs (a)(6)(ii), and (a)(9)(ii) of § 916.356
108	92
96	87

TABLE 2.—WEIGHT-COUNT STANDARDS FOR NECTARINES PACKED IN LOOSE OR TIGHT-FILLED CONTAINERS—Continued

Column A—Tray pack size designation	Column B—Maximum number of nectarines in a 16-pound sample applicable to varieties specified in paragraphs (a)(6)(ii), and (a)(9)(ii) of § 916.356
88	78
84	75
80	67
72	61
70	56
64	51
60	46
56	43
54	39
50	37
48	33
42	28
40	26
36	25
34	23
32	22
30	19

* * * * *

(b) As used in this section, standard pack and fairly uniform in size shall have the same meanings as set forth in U.S. Standards for Grades of Nectarines (§§ 51.3145 to 51.3160) and all other terms shall have the same meaning as when used in the amended marketing agreement and order. No. 12B standard fruit box measures 2⅜ to 7⅛ × 11½ × 16⅛ inches, No. 22D standard lug box measures 2⅞ to 7⅛ × 13½ × 16⅛ inches, No. 22E standard lug box measures 8¾ x 13½ × 16⅛ inches, No. 22G standard lug box measures 7⅜ to 7½ × 13¼ × 15⅞ inches. All dimensions are given in depth (inside dimension) by width by length (outside dimension). Individual consumer packages means packages holding 15 pounds or less net weight of nectarines. "Tree ripe" means "tree ripened" and fruit shipped and marked as "tree ripe", "tree ripened", or any similar terms using the words "tree" and "ripe" must meet minimum California Well Matured standards.

(c) Each container of nectarines in plastic, 12×20 inch reusable and recyclable containers shall meet and bear, on the container lid, all applicable marking requirements under the order.

3. Section 916.356 is amended by revising paragraphs (a)(1) introductory text, Table 1, (a)(2) introductory text, (a)(3) introductory text, (a)(4) introductory text, and (a)(6) introductory text to read as follows:

§ 916.356 California Nectarine Grade and Size Regulation.

(a) * * *

(1) Any lot or package or container of any variety of nectarines unless such nectarines meet the requirements of U. S. No. 1 grade: Provided, that nectarines 2 inches in diameter or smaller, shall not have fairly light colored, fairly smooth scars which exceed an aggregate area of a circle ⅜ inch in diameter, and nectarines larger than 2 inches in diameter shall not have fairly light colored, fairly smooth scars which exceed an aggregate area of a circle ½ inch in diameter: Provided further, that an additional tolerance of 25 percent shall be permitted for fruit that is not well formed but not badly misshapen: Provided further, that all varieties of nectarines which fail to meet the U.S. No. 1 grade only on account of lack of blush or red color due to varietal characteristics shall be considered as meeting the requirements of this subpart. The Federal or Federal-State Inspection Service shall make final determinations on maturity through the use of color guides or such other tests as determined appropriate by the inspection agency.

* * * * *

TABLE 1

Column A variety	Column B maturity guide
Alshir Red	J
Ama Lyn	G
Apache	G
April Glo	H
Armking	B
August Glo	L
August Red	J
Aurelio Grand	F
Autumn Delight	M
Autumn Grand	L
Bob Grand	L
Clinton-Strawberry	H
Del Rio Rey	G
Desert Dawn	G
Early Diamond	J
Early May	F
Early May Grand	H
Early Star	G
Early Sungrand	H
Fairlane	M
Fantasia	J
Firebrite	H
Flamekist	L
Flaming Red	K
Flavor Grand	G
Flavortop	J
Flavortop I	K
Gee Red	H
Gold King	H
Grand Diamond	L
Granderli	J
Grand Stan	F
Hi-Red	J
Independence	H

TABLE 1—Continued

Column A variety	Column B maturity guide
July Red	L
June Glo	H
June Grand	G
Kent Grand	L
King Jim	L
Kism Grand	J
Larry's Grand	M
Late Le Grand	L
Late Tina Red	I
Le Grand	H
Maybelle	F
May Diamond	I
Mayfair	C
May Fire	H
May Glo	H
May Grand	H
May Kist	H
Mayred	B
Mid Glo	L
Mike Grand	H
Moon Grand	M
Niagara Grand	H
Pacific Star	G
P-R Red	L
Red Diamond	M
Red Delight	I
Red Free	L
Red Glen	J
Red Grand	H
Red Jim	L
Red June	G
Red Lion	J
Red May	J
Regal Grand	L
Rio Red	L
Rose Diamond	J
Royal Delight	F
Royal Giant	I
Ruby Grand	J
Ruby Sun	J
Scarlet Red	K
September Grand	L
September Red	L
Sheri Red	J
Sierra Star/181–119	G
Son Red	L
Sparkling June	M
Sparkling May	J
Sparkling Red	L
Spring Brite	L
Spring Diamond	M
Spring Grand	G
Spring Red	H
Springtop	B
Stan's Grand	C
Star Bright	G
Star Brite	J
Star Grand	H
Summer Beaut	H
Summer Blush	J
Summer Bright	J
Summer Diamond	M
Summer Fire	L
Summer Grand	L
Summer Lion	M
Summer Red	L
Summer Star	G
Sunburst	J
Sun Diamond	I
Sunfre	F
Sun Grand	G

TABLE 1—Continued

Column A variety	Column B maturity guide
Super Star	G
Tasty Free	J
Tasty Gold	H
Tom Grand	L
Zee Glo	J
61–61	J

Note: Consult with the Federal or Federal-State Inspection Service Supervisor for the maturity guides applicable to the varieties not listed above.

* * * * *

(2) Any package or container of May Glo variety nectarines through May 5 of each year; or April Glo, or Mayfire variety nectarines, unless:

* * * * *

(3) Any package or container of May Glo variety nectarines on or after May 6 of each year, or Earliglo, Early Diamond, Johnny's Delight, May Jim, or May Kist variety nectarines, unless:

* * * * *

(4) Any package or container of Arctic Rose, Early May, Mike Grand, June Brite, June Glo, May Grand, May Diamond, May Lion, Pacific Star, Red Delight, Rose Diamond, Sparkling May, Star Brite, or Zee Grand variety nectarines unless:

* * * * *

(6) Any package or container of Alshir Red, Alta Red, Arctic Queen, August Glo, August Red, Autumn Delight, Big Jim, Bob Grand, Early Red Jim, Early Sungrand, Fairlane, Fantasia, Firebrite, Flame Glo, Flamekist, Flaming Red, Flavor Grand, Flavortop, Flavortop I, Grand Diamond, How Red, July Red, King Jim, Kay Diamond, Kism Grand, Late Red Jim, Mid Glo, Moon Grand, Niagara Grand, Prima Diamond, Prima Diamond III, Prima Diamond IV, Prima Diamond VIII, P–R Red, Red Diamond, Red Fred, Red Free, Red Glen, Red Jim, Red Lion, Rio Red, Royal Giant, Royal Glo, Ruby Diamond, Ruby Grand, Scarlet Red, September Grand, September Red, Sparkling June, Sparkling Red, Spring Bright, Spring Diamond, Spring Red, Summer Beaut, Summer Blush, Summer Bright, Summer Diamond, Summer Fire, Summer Grand, Summer Lion, Summer Red, Summer Star, Sunburst, Sun Diamond, Super Star, Tasty Gold, Tom Grand, White Jewels, Zee Glo, 80P–1135, or 424–195 variety nectarines unless:

* * * * *

PART 917—FRESH PEARS AND PEACHES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 917 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 917.442 is amended by revising TABLE 1 of paragraph (a)(4)(iv), revising paragraph (b), and adding a new paragraph (c) to read as follows:

§ 917.442 California Peach Container and Pack Regulation.

(a) * * *
(4) * * *
(iv) * * *

TABLE 1.—WEIGHT-COUNT STANDARDS FOR PEACHES PACKED IN LOOSE OR TIGHT-FILLED CONTAINERS

Column A—Tray pack size designation	Column B—Maximum number of peaches in a 16-pound sample applicable to varieties specified in paragraphs (a)(2)(ii), (a)(3)(ii), (a)(4)(iii), (a)(5)(ii), and (b)(3) of § 917.459
96	96
88	92
84	83
80	76
72	68
70	64
64	56
60	50
56	46
54	44
50	39
48	35
42	31
40	30
36	27
34	25
32	23
30	21

* * * * *

(b) As used in this section, standard pack shall have the same meaning as set forth in U.S. Standards for Grades of Peaches (§§ 51.1210 to 51.1223) and all other terms shall have the same meaning as when used in the amended marketing agreement and order. No. 12B standard fruit box measures 2⅜ to 7⅛ x 11½ x 16⅛ inches, No. 22D standard lug box measures 2⅞ to 7⅛ x 13½ x 16⅛ inches, No.22E standard lug box measures 8¾ x 13½ x 16⅛ inches, No. 22G standard lug box measures 7⅜ to 7½ x 13¼ x 15⅞ inches. All dimensions are given in depth (inside dimension) by width by length (outside dimension). Individual consumer packages means packages holding 15 pounds or less net weight of nectarines. "Tree ripe" means the same as "tree ripened" and fruit shipped and marked as "tree ripe", "tree ripened", or any similar terms using the words "tree" and "ripe", must meet minimum California Well Matured standards.

(c) Each container of peaches in plastic, 12×20 inch reusable and recyclable containers shall meet and bear, on the container lid, all applicable marking requirements under the order.

3. Section 917.459 is amended by removing and reserving paragraph (a)(2), and revising Table 1 of paragraph (a)(1)(ii), (a)(5) introductory text, and (a)(6) introductory text to read as follows:

§ 917.459 California Peach Grade and Size Regulation.

(a) * * *
(1) * * *

(ii) If a grower or handler believes his/her fruit is meeting the appropriate maturity level but the fruit has not been so graded by the inspector, he/she may appeal the inspection by calling the officer-in-charge of the local Federal-State Inspection Service office to arrange for an on-site examination of the fruit.

TABLE 1

Column A variety	Column B maturity guide
Angelus	I
Ambercrest	G
Armgold	D
August Sun	I
Autumn Crest	I
Autumn Gem	I
Autumn Lady	H
Autumn Rose	I
Bella Rosa	G
Belmont (Fairmont)	I
Berenda Sun	I
Blum's Beauty	G
Bonjour	F
Cardinal	G
Cal Red	I
Carnival	I
Cassie	H
Coronet	E
Crimson Lady	J
Crown Princess	J
David Sun	I
Desertgold	B
Diamond Princess	J
Early Coronet	D
Early Delight	H
Early Fairtime	I
Early May Crest	H
Early O'Henry	I
Early Royal May	G
Early Top	G
Elberta	B
Elegant Lady	L
Fairtime	G
Fancy Lady	J
Fay Elberta	C

TABLE 1—Continued

Column A variety	Column B maturity guide
Fayette	I
Fire Red	I
First Lady	D
Flamecrest	I
Flavorcrest	G
Flavor Queen	H
Flavor Red	G
Fortyniner	F
Franciscan	G
Goldcrest	H
Golden Crest	H
Golden Lady	F
Honey Red	G
Jody Gaye	F
John Henry	J
Judy Elberta	C
July Lady	G
June Crest	G
June Lady	G
June Pride	J
June Sun	H
Kearney	I
Kern Sun	H
Kings Lady	I
Kings Red	I
Lacey	I
Mardigras	G
Mary Ann	G
May Crest	G
May Lady	G
May Sun	I
Merrill Gem	G
Merrill Gemfree	G
Morning Sun	D
O'Henry	I
Pacifica	G
Parade	I
Pat's Pride	D
Preuss Suncrest	F
Prima Fire	H
Prima Lady	J
Prime Crest	H
Queen Crest	G
Ray Crest	G
Red Cal	I
Redglobe	C
Redhaven	G
Red Lady	G
Redtop	G
Regina	G
Rich Lady	J
Rich May	H
Rio Oso Gem	I
Royal April	D
Royal Lady	J
Royal May	G
Ruby May	H
Ryan Sun	I
Scarlet Lady	F
September Sun	I
Sierra Crest	H
Sierra Lady	I
Sparkle	I
Springcrest	G
Spring Lady	H
Springold	D
Sugar Lady	J
Summer Lady	M
Summerset	I
Suncrest	G
Sun Lady	I

TABLE 1—Continued

Column A variety	Column B maturity guide
Topcrest	H
Toreador	I
Tra Zee	J
Treasure	F
Willie Red	G
Windsor	I
Zee Lady	L
50–178	G

Note: Consult with the Federal or Federal-State Inspection Service Supervisor for the maturity guides applicable to the varieties not listed above

* * * * *

(5) Any package or container of Babcock, Crimson Lady, Crown Princess, David Sun, Early May Crest, Flavorcrest, Golden Crest, Honey Red, June Lady, June Sun, Kern Sun, Kingscrest, Kings Red, May Crest, May Sun, Merrill Gemfree, Queencrest, Ray Crest, Redtop, Regina, Rich May, Snow Brite, Snow Flame, Springcrest, Spring Lady, or Sugar May variety of peaches unless:

* * * * *

(6) Any package or container of Amber Crest, August Sun, Autumn Crest, Autumn Gem, Autumn Lady, Autumn Rose, Belmont, Berenda Sun, Blum's Beauty, Cal Red, Carnival, Cassie, Champagne, Diamond Princess, Early Elegant Lady, Early O'Henry, Elegant Lady, Fairmont, Fairtime, Fay Elberta, Fire Red, Flamecrest, John Henry, July Lady, July Sun, June Pride, Kaweah, Kings Lady, Lacey, Late Ito Red, Mary Ann, O'Henry, Prima Gattie, Prima Lady, Red Boy, Red Cal, Redglobe, Rich Lady, Royal Lady, Ryan's Sun, September Snow, September Sun, Sierra Lady, Snow Giant, Snow King, Sparkle, Sprague Last Chance, Summer Lady, Summer Sweet, Suncrest, Tra Zee, White Lady, or Zee Lady variety of peaches unless:

* * * * *

Dated: March 21, 1996.

Eric M. Forman,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 96–7438 Filed 3–26–96; 8:45 am]

BILLING CODE 3410–02–P

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7 CFR Part 920

[Docket No. FV95–920–4FR]

Kiwifruit Grown in California; Relaxation of Container Marking Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule relaxes the container marking requirements for kiwifruit packed under the Federal marketing order for kiwifruit grown in California. This relaxation reduces the number of kiwifruit containers required to be marked with the lot stamp number. This rule reduces handling costs and provides more flexibility in kiwifruit packing operations.

EFFECTIVE DATE: April 26, 1996.

FOR FURTHER INFORMATION CONTACT: Rose Aguayo, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone (209) 487–5901, Fax # (209) 487–5906; or Charles Rush, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2526–S, Washington, DC 20090–6456, telephone (202) 720–5127, Fax # (202) 720–5698.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 920 (7 CFR Part 920), as amended, regulating the handling of kiwifruit grown in California, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this final rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity

is filed not later than 20 days after date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 65 handlers of California kiwifruit subject to regulation under the order and approximately 500 kiwifruit producers in the production area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.601) as those whose annual receipts are less than $5,000,000, and small agricultural producers have been defined as those having annual receipts of less than $500,000. A majority of handlers and producers of California kiwifruit may be classified as small entities.

Under the terms of the marketing order, fresh market shipments of California kiwifruit are required to be inspected and are subject to grade, size, maturity, pack and container requirements. Current requirements include specifications that all containers of kiwifruit shall be plainly marked with the lot stamp number corresponding to the lot inspection conducted by an authorized inspector, except for individual consumer packages and containers that are being directly loaded into a vehicle for export shipment under the supervision of the Federal or Federal-State Inspection Service.

The Kiwifruit Administrative Committee (committee), the agency responsible for local administration of the marketing order, met on November 30, 1995, and recommended, by unanimous vote, to relax the container marking requirements by reducing the number of containers plainly marked with the lot stamp number from all containers to all exposed or outside containers of kiwifruit, but not less than 75 percent of the total containers on a pallet.

The marketing order authorizes under § 920.52(a)(3) the establishment of container marking requirements. Section 920.303(d) of the rules and regulations outlines the lot stamp number container marking requirements for fresh kiwifruit packed under the order.

The committee recommended relaxing the lot stamp number marking requirement because of changes in the produce retail industry. The committee anticipates that the current order language, which requires all containers to be plainly marked with the lot stamp number, will create a problem in the near future due to industry changes in container packaging configurations and pallet sizes. This relaxation allows the industry flexibility for future pallet size and container configurations.

Many products, outside the produce industry, are received by retailers on 48- by 40-inch pallets. The kiwifruit industry almost exclusively used the "LA Lug" container which fits on the 35- by 42-inch or 53- by 42-inch pallets until recent years. The "LA Lug" configuration does not create a center tier when stacked on these pallets. When kiwifruit shippers use 35- by 42-inch or 53- by 42-inch pallets, receivers must unload the pallets and restack the fruit on metric pallets, causing more damage to the fruit and more labor costs to the receiver. Because of retail buying patterns and the retail demand for operational consistency in pallet usage, the produce industry has been moving away from using the 35- by 42-inch or 53×42 inch pallets and has been moving towards using a standard grocery-industry metric pallet measuring 48- by 40-inches. The committee anticipates that the retail usage of the metric pallet will continue to increase because: (1) Retailer and handler trucking and transportation costs for produce stacked on metric pallets are less than for produce stacked on 35- by 42-inch and 53- by 42-inch pallets, (2) retailer labor and disposal costs are less when metric pallets are utilized, and (3) receiving areas are steadily being remodeled to handle metric pallets. In the 1995/1996 season, approximately one percent of the industry's 9.3 million trays equivalents were packed in "shoe" box containers. The "shoe" box container (12×20 inches) is one of two new containers which is stacked in eight columns on a 48- by 40-inches metric pallet, and is configured in a manner which leaves one side of each container exposed. The other container that fits on the metric pallet is the "mum" box container. The "mum" box container (13.3×16 inches) is stacked nine columns on a pallet with the center column inaccessible to lot stamp numbering after the containers are placed on the pallet during block inspection. In block inspection, the inspection occurs after the pallets have been packed, strapped, and been placed in storage. In-line inspection is performed during the packing process, prior to palletization and storage.

The industry's usage of block and in-line inspection methods is fairly evenly split with approximately 50 percent of the handlers using in-line inspection and 50 percent using block inspection. The majority of block inspections are conducted in the northern part of California while in-line inspections are conducted primarily in the southern part of California.

The committee's recommendation to relax the container marking requirement will not significantly lower the number of containers being inspected or bearing the lot stamp number. Of the 81 containers stacked on a metric pallet during block inspection, nine containers (the center tier—approximately 11 percent of the pallet) will not be lot stamp numbered. The center tiers of all pallets will be randomly inspected by the Federal or Federal-State Inspection Service for all marketing order requirements. When the industry utilizes in-line inspection, both the "shoe" and "mum" containers are accessible to lot stamp number marking and inspection, as they are being stacked on the pallet.

There is unanimous support in the industry to reduce the lot stamp number container marking requirement.

Several other alternatives were suggested during the public meeting. One alternative discussed by the committee was to require all containers to continue to be lot stamp numbered. Maintaining the requirement for lot stamp numbers to be placed on all containers increases handler labor costs, slows handler operations, increases handler restrapping costs, as well as increases inspection costs. It was the consensus of the committee that such a requirement will be cost prohibitive as each block-inspected pallet will have to be manually pulled apart to enable the lot stamp number to be placed on the nine-column center tier containers.

Another alternative suggested was to eliminate the block-inspection method and require all handlers to use the in-line inspection method. During in-line inspection, containers will be stamped with the lot stamp number prior to being stacked on the pallet. This will have a serious financial impact on the industry, especially among small growers and handlers, due to a large increase in inspection costs. This suggestion was unacceptable to the industry as it will be cost prohibitive and could force small growers and handlers out of business.

Another alternative examined was to establish regulations prohibiting the use of any containers that create an inaccessible center when stacked on pallets. This alternative was not acceptable as it will not allow the industry to make necessary container changes to meet changing retailer needs and will be an excessive restriction.

This final rule, which relaxes the lot stamp number requirement, impacts all handlers in the same manner and was viewed by the committee as the least restrictive and best solution. Relaxing the lot stamp number requirement solves the problems caused by changes in pallet sizes and container configurations as well as spares the industry future financial hardship. It allows the industry flexibility for future pallet size and container configurations.

A proposed rule concerning this relaxation was issued on January 24, 1996, and published in the **Federal Register** on February 1, 1996, (61 FR 3604). That rule provided a 30-day comment period which ended March 4, 1996. No comments were received.

Based on the above, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, the information and recommendations submitted by the committee, and other available information, it is found that this action will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 920

Kiwifruit, Marketing agreements.

For the reasons set forth in the preamble, 7 CFR Part 920 is amended as follows:

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 920 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. In Section 920.303 paragraph (d) is revised to read as follows:

§ 920.303 Container marking regulations.

* * * * *

(d) All exposed or outside containers of kiwifruit, but not less than 75 percent of the total containers on a pallet, shall be plainly marked with the lot stamp number corresponding to the lot inspection conducted by an authorized inspector; except for individual consumer packages and containers that are being directly loaded into a vehicle for export shipment under the supervision of the Federal or Federal-State Inspection Service.

Dated: March 20, 1996.

Eric M. Forman,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 96–7436 Filed 3–26–96; 8:45 am]

BILLING CODE 3410-02-P

FEDERAL RESERVE SYSTEM

12 CFR Part 265

[Docket No. R–0918]

Rules Regarding Delegation of Authority

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is amending its Rules Regarding Delegation of Authority to authorize the Board's General Counsel to deny a request for stay of the effective date of a Board order. The Board itself would retain sole discretion to grant a request for stay of the effectiveness of any decision. This amendment corrects an unintentional omission from the Rules Regarding Delegation of Authority.

EFFECTIVE DATE: March 27, 1996.

FOR FURTHER INFORMATION CONTACT: Robert deV. Frierson, Assistant General Counsel (202/452–3711), or Christopher Greene, Attorney (202/452–2263), Legal Division. For users of Telecommunications Device for the Deaf (TDD) *only*, please contact Dorothea Thompson (202/452–3544), Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION: In 1987, the Board, pursuant to its authority under the Bank Holding Company Act and section 11(k) of the Federal Reserve Act, delegated to its General Counsel authority to deny a request for stay of the effective date of a Board order (52 FR 48805, December 28, 1987). The Board reorganized its Rules Regarding Delegation of Authority (12 CFR part 265) in 1991 to make it easier to locate specific delegations (56 FR 25614, June 5, 1991). In taking this action, the General Counsel's authority to deny a request for stay of the effective date of an action taken by the Board was unintentionally omitted from the amended Rules Regarding Delegation of Authority. This final rule corrects this omission.

Public Comment

The provisions of 5 U.S.C. 553 relating to notice, public participation, and deferred effective date have not been followed in connection with the adoption of this amendment because the change to be effected is technical and procedural in nature and does not constitute a substantive rule subject to the requirements of that section.

Regulatory Flexibility Act

No significant impact on small entities is expected.

Paperwork Reduction Act of 1995

In accordance with section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Ch. 35; 5 CFR 1320 Appendix A.1), the Board reviewed the rule under the authority delegated to the Board by the Office of Management and Budget. No collections of information pursuant to the Paperwork Reduction Act are contained in the rule.

List of Subjects in 12 CFR Part 265

Authority delegations (Government agencies), Banks, banking, Federal Reserve System.

For the reasons set forth in the preamble, the Board amends 12 CFR Part 265 as set forth below:

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

1. The authority citation for Part 265 continues to read as follows:

Authority: 12 U.S.C. 248 (i) and (k).

2. In § 265.6, paragraph (a)(1) is revised to read as follows:

§ 265.6 Functions delegated to General Counsel.

* * * * *

(a) *Procedure*—(1) *Reconsideration of Board action.* Pursuant to § 262.3(i) of this chapter (Rules of Procedure) to determine whether or not to grant a request for reconsideration or whether to deny a request for stay of the effective date of any action taken by the Board with respect to an action as provided in that part.

* * * * *

By order of the Secretary of the Board of Governors of the Federal Reserve System, March 22, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–7424 Filed 3–26–96; 8:45 a.m.]

Billing Code 6210–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1274

RIN 2700–AC07

Cooperative Agreements With Commercial Firms

AGENCY: Office of Procurement, Contract Management Division, NASA.

ACTION: Final rule.

SUMMARY: Current NASA regulations at 14 CFR part 1260 describe the use of cooperative agreements with educational institutions and non-profit organizations. This final regulation establishes the requirements for cooperative agreements with commercial firms.

EFFECTIVE DATE: March 27, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. T. Deback, (202) 358–0431.

SUPPLEMENTARY INFORMATION:

Background

NASA published a proposed rule in the **Federal Register** on June 27, 1995 (60 FR 33163). Interested parties were invited to submit comments. Almost 100 comments were received. All comments were considered in developing this final revision. The following section presents a summary of the major comments received and a response to each comment. Other changes have been made to improve clarity and readability.

Comment: The draft coverage requires synopsizing cooperative agreements awarded as a result of unsolicited proposals. This is not required by statute and may result in informing competitors of planned R&D and give them an opportunity to submit competing proposals thereby discouraging submission of innovative proposals from industry.

Response: As a general rule, it is important to be as open as possible about the expenditure of public funds and this principal led to requiring synopses of unsolicited proposals. It is recognized, however, that innovative proposals must be protected; therefore the policy allows the same exclusions as FAR 5.202(a)(8) which addresses a waiver to synopses requirements in the case of unique or innovative concepts.

Comment: The coverage requires that FAR cost principles be utilized for cooperative agreements. There is no statutory requirement for this and it will require commercial firms to establish special accounting procedures. Recommend flexible tracking of costs.

Response: Government policy is expressed in OMB Circular A–110 which states in Paragraph 27 that "The allowability of costs incurred by commercial organizations and those nonprofit organizations listed in Attachment C to Circular A–122 is determined in accordance with the provisions of the Federal Acquisition Regulation (FAR) at 48 CFR part 31".

Comment: Proposed rule appears to incorporate many features of a contract vs an assistance instrument. Proposed rule should be substantially rewritten.

Response: The proposed rule does contain some contractual aspects, but only those that are required by law or to ensure that public funds are appropriately expended. For example, the preaward certification requirements, treatment of property in a cooperative agreement, and much of the intellectual property coverage are required by law. Other aspects of the policy such as milestone payments, technical officer responsibilities, and liability and risk of loss are adaptations of contract language deemed necessary to protect both the recipient and NASA.

Comment: We note that the proposed rule provides for milestone billings. While this is a reasonable approach to managing the flow of funds, we are concerned that some may view these milestones as "go-no-go" decision points rather than a measure of progress against a recipient's best efforts. This area of the proposed regulation requires careful crafting so as to avoid inadvertently introducing a level of certainty that is not appropriate to cooperative agreements.

Response: The milestones are, in fact, "go-no-go" decision points. If a milestone cannot be met, the recipient should carefully consider revoking the agreement.

Comment: The proposed rule should be further clarified to provide that IR&D can be used for work performed under subcontracts issued pursuant to the cooperative agreement. This clarification is required to eliminate potential IR&D unallowability due to the interpretation that second tier work is required by contract. The definition should also recognize the possibility that the company's contribution may be Manufacturing and Production Engineering (M&PE) costs.

Response: IR&D costs may be recovered under other Government awards as an allowable cost only by the recipient (an individual firm or members of a consortium). While these costs of the recipient may be expended under subcontracts, the subcontractor may not recover any expenditures as IR&D costs.

Costs incurred by a recipient which may be classified as M&PE costs will generally not be permitted to be recovered under other Government awards.

Comment: "Resource Contribution" This term includes "in-kind contributions" which is not defined elsewhere, even though "cash contributions" are defined. The term "in-kind" is also used elsewhere in the proposed rule. This is an area where significant misunderstandings can arise and the term should be defined. We suggest that NASA use the definition in the now superseded OMB Circular A–110, Attachment E, Paragraph 2.d. (1976).

Response: The term "in-kind contribution" has been removed from the regulation and replaced with "non-cash" to avoid misunderstanding.

Comment: "Revocation" This definition needs to recognize mutuality as opposed to the proposed version which describes cancellation of NASA sponsorship, inferring one-sided activity.

Response: Agree. The definition has been amended.

Comment: A number of comments were received regarding the treatment of patent rights issues. For the most part, the treatment of patent rights is controlled by legislation and not within the purview of the agency to amend.

Response: NA

Comment: Section 1274.204 Evaluation and Selection. (a) As written, the regulation states that a typical CAN will have only one technical evaluation factor, e.g., technology transfer, enhancing U.S. competitiveness, etc. It then describes any number of more detailed "subfactors" which should be used, e.g., "level of commitment (contribution of private resources to the project)". In our view the "single" evaluation factor described is really not an evaluation factor, but rather the objective of the cooperative agreement. The "subfactors" appear to be the real evaluation factors. We recommend the regulation be revised accordingly.

Response: Many of the subfactors stated for evaluation could be consideration for any type of award (contract, grant, or cooperative agreement). It is the single evaluation factor that establishes cooperative agreement nature of the evaluation and ensures that the subfactors are evaluated within the scope and intent of a cooperative agreement structure.

Comment: When the total value of the agreement is less than $5m, the regulation says "Cost and [sic] pricing data should not normally be required." We strongly recommend that the word "normally" be deleted. Cost or pricing data should never be required for a cooperative agreement. Such a requirement is totally inappropriate for this type of financial arrangement.

Response: The cooperative agreement policy is structured to minimize the bureaucratic impact on the recipient during the course of performance. Minimal reporting of any kind is required and no cost reporting is required (except in the event of termination). We still must ensure that Government funds are being expended wisely. This is accomplished through two specific means. The first is a careful analysis of the proposed cost. The second is ensuring that the milestones are accomplished. Other than cost or pricing data may be an integral part of ensuring that the proposed cost is reasonable since no other adequate means may be available. The guidance has been changed to indicate that cost or pricing data (i.e., certified cost and pricing data in accordance with FAR 15.8 following the changes required by FASA) should never be required.

Comment: Section 1274.401 Government Property. The guidance regarding the acquisition of property for use on a cooperative agreement further shows the "contract" nature of this proposed rule. This requirement indicates a NASA belief that a recipient will structure the costing for the cooperative agreement in such a way that NASA dollars fund certain work and the recipient's dollars will fund other work. In reality, many recipients will account for the costs of a total agreement, including purchases of equipment, billing only its share of the total. In this scenario, NASA does not fund specific work, but funds a percentage of the total. The proposed Cooperative Agreements language would require separation of tasks that is unnecessary for any other purpose of the recipient and only increases costs of all work.

Response: Statutorily, equipment purchased with Government funds is Government equipment. Since NASA has no interest in acquiring equipment procured under a cooperative agreement, it is in both the recipient's and NASA's best interests that equipment be provided as a non-cash contribution of the recipient.

Comment: Section 1274.701 Suspension or Revocation. We strongly support the language in this section which provides that *either party* may revoke the agreement if acceptable technical progress is not made or there is a shift in technical emphasis. We recommend this same bilateral treatment be provided for suspension. The cooperative agreement should provide like rights to both parties.

Response: Sections 1274.701 and 1274.922 have been amended to state that either party may suspend the cooperative agreement.

Comment: Section 1274.903 Responsibilities. (b) NASA Responsibilities. NASA must not contract with other than the recipient without the recipient reaching a non-disclosure agreement with the proposed NASA contractor prior to the placing of the contract. Notification to the recipient is insufficient to protect recipient's intellectual property.

Response: It is preferred that NASA contractors not perform NASA duties and responsibilities under a cooperative agreement, but at times, that may be unavoidable. Protection of the recipient's trade secrets and other confidential data is covered by § 1274.905(b)(2) and (b)(3). A separate non-disclosure agreement should not be required. Any inventions made by a NASA contractor as a result of doing work for NASA will not be disclosed if doing so would compromise Recipient's trade secrets. However, the contractor has the first option to retain title to inventions made while doing work for NASA that do not compromise Recipient's trade secrets.

Comment: The limitation on disputes to those arising three (3) months prior to the written notification of paragraph (d) is too limiting and should be expanded to six to twelve months to correct this. It is suggested that paragraph (c) be modified to clarify when the three (3) month period begins.

Response: Disagreements between NASA and its contractors and recipients occur on a regular basis, but are resolved at low levels within the respective organizations as they should be. This provision attempts to provide another avenue for disputes in those extremely rare instances where resolution at the lower levels fails. The clause has been rewritten to clarify when the three (3) month period begins.

Comment: We strongly disagree with this paragraph which states that "all preceding payment milestones must be completed before payment can be made for the next payment milestone". Activities captured in milestones are not necessarily sequential in nature. Payment milestones are supposed to provide a mechanism for triggering payment of the NASA pre-agreed contribution at the accomplishment of the particular milestone.

Response: In order to ensure that a cooperative agreement is completed and that neither party "games" the other, it is critical that payment for milestones be made in the order that the milestones are established. It is important to note that the milestones are primarily established by the recipient and negotiated with NASA, so the recipient is able to establish milestones which represent the work to be accomplished sequentially under the cooperative agreement.

Comment: Section 1274.911(b)(4)(i)—In this paragraph the term "Administrator" is used. If it is to mean the same as that in § 1272.102, then the term should be included in the "Definition" section of the provision. If another person is intended, the paragraph should be revised.

Response: The definition of "Administrator" in § 1274.912(a)(1) has been added to the Definitions in 1274.911.

Comment: Section 1274.911(b)(6)—In line 10 it is unclear who in NASA can approve the waiver. This should be clarified.

Response: The Associate Administrator for Procurement has been substituted for NASA.

Comment: Section 1274.915—Restrictions on Sale or Transfer of Technology to Foreign Firms or Institutions. This clause gives NASA the right to, in effect, block the sale of a company to a foreign firm. We strongly recommend this clause be deleted.

Response: The purpose of cooperative agreements is to enhance US competitiveness, create jobs, improve the balance of payments, etc. These objectives may or may not be advanced by sale to a foreign firm but would form the basis of NASA's decision. The clause does not give NASA the right to prevent the sale; it only provides for consultation between the parties to determine how to best protect the Government's interests. If an acceptable solution cannot be reached, the agreement could be terminated.

Regulatory Flexibility Act

NASA certifies that this regulation will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Paperwork Reduction Act

Under 5 CFR 1320.5(b)(2)(i), NASA is required to inform potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number. Under 5 CFR 1320.5(b)(2)(ii)(C), this paragraph meets that requirement as follows: information collection has been approved under OMB control number 2700–0092.

List of Subjects in 14 CFR Part 1274

Grant programs, Business and industry.

Tom Luedtke,

Deputy Associate Administrator for Procurement.

Accordingly, part 1274 is added to 14 CFR chapter V to read as follows:

PART 1274—COOPERATIVE AGREEMENTS WITH COMMERCIAL FIRMS

Subpart A—General

1274.101 Purpose.
1274.102 Definitions.
1274.103 Effect on other issuances.
1274.104 Deviations.
1274.105 Approval of Cooperative Agreement Notices (CANs) and cooperative agreements.

Subpart B—Pre-Award Requirements

1274.201 Purpose.
1274.202 Solicitations and proposals.
1274.203 Intellectual property.
1274.204 Evaluation and selection.
1274.205 Award procedures.
1274.206 Document format and numbering.
1274.207 Distribution of cooperative agreements.

Subpart C—Administration

1274.301 Delegation of administration.
1274.302 Transfers, novations, and change of name agreements.

Subpart D—Government Property

1274.401 Government property.

Subpart E—Procurement Standards

1274.501 Subcontracts.

Subpart F—Reports and Records

1274.601 Retention and access requirements for records.

Subpart G—Suspension or Termination

1274.701 Suspension or termination.

Subpart H—After-the-Award Requirements

1274.801 Purpose.
1274.802 Closeout procedures.
1274.803 Subsequent adjustments and continuing responsibilities.

Subpart I—Other Provisions and Special Conditions

1274.901 Other provisions and special conditions.
1274.902 Purpose.
1274.903 Responsibilities.
1274.904 Resource Sharing Requirements.
1274.905 Rights in Data.
1274.906 Designation of New Technology Representative and Patent Representative.
1274.907 Disputes.
1274.908 Milestone Payments.
1274.909 Term of this Agreement.
1274.910 Authority.
1274.911 Patent Rights.
1274.912 Patent Rights—Retention by the Recipient (Large Business).
1274.913 Patent Rights—Retention by the Recipient (Small Business).
1274.914 Requests for Waiver of Rights—Large Business.
1274.915 Restrictions on Sale or Transfer of Technology to Foreign Firms or Institutions.
1274.916 Liability and Risk of Loss.
1274.917 Additional Funds.
1274.918 Incremental Funding.
1274.919 Cost Principles and Accounting Standards.
1274.920 Responsibilities of the NASA Technical Officer.
1274.921 Publications and Reports: Non-Proprietary Research Results.
1274.922 Suspension or Termination.
1274.923 Equipment and Other Property.
1274.924 Civil Rights.
1274.925 Subcontracts.
1274.926 Clean Air-Water Pollution Control Acts.
1274.927 Debarment and Suspension and Drug-Free Workplace.
1274.928 Foreign National Employee Investigative Requirements.
1274.929 Restrictions on Lobbying.
1274.930 Travel and Transportation.
1274.931 Electronic Funds Transfer Payment Methods.
1274.932 Retention and Examination of Records.

Appendix A to Part 1274—Contract Provisions

Appendix B to Part 1274—Reports

Appendix C to Part 1274—Listing of Exhibits

Authority: 31 U.S.C. 6301 to 6308; 42 U.S.C. 2451 *et seq.*

Subpart A—General

§ 1274.101 Purpose.

(a) This part establishes uniform administrative requirements for NASA cooperative agreements awarded to commercial firms. Cooperative agreements are ordinarily entered into with commercial firms to—

(1) Support research and development,

(2) Provide technology transfer from the Government to the recipient, or

(3) Develop a capability among U.S. firms to potentially enhance U.S. competitiveness.

(b) An award may not be made to a foreign government. Award to foreign firms is not precluded. The approval of the Associate Administrator for Procurement is required to exclude foreign firms from submitting proposals.

§ 1274.102 Definitions.

Administrator. The Administrator or Deputy Administrator of NASA.

Associate Administrator for Procurement. The head of the Office of Procurement, NASA Headquarters (Code H).

Cash contributions. The recipient's cash outlay, including the outlay of money contributed to the recipient by third parties.

Closeout. The process by which a NASA determines that all applicable administrative actions and all required work of the award have been completed by the recipient and NASA.

Commercial item. The definition in 48 CFR 2.101 (FAR) is applicable.

Cooperative agreement. As defined by 31 U.S.C. 6305, cooperative agreements are financial assistance instruments used to stimulate or support activities for authorized purposes and in which the Government participates substantially in the performance of the effort. This regulation covers only cooperative agreements with commercial firms. Cooperative agreements with universities and non-profit organizations are covered by 14 CFR part 1260.

Cost sharing or matching. That portion of project or program costs not borne by the Federal Government except that the recipient's contribution may be reimbursable under other Government awards as allowable IR&D costs pursuant to 48 CFR 1831.205–18 (NFS).

Date of completion. The date on which all work under an award is completed or the date on the award document, or any supplement or amendment thereto, on which NASA sponsorship ends.

Days. Calendar days, unless otherwise indicated.

Government furnished equipment. Equipment in the possession of, or acquired directly by, the Government and subsequently delivered, or otherwise made available, to a Recipient and equipment procured by the Recipient with Government funds under a cooperative agreement.

Grant Officer. A Government employee who has been delegated the authority to negotiate, award, or administer grants or cooperative agreements. A Contracting Officer may serve as a Grant Officer if authorized by installation procurement regulations.

Incremental funding. A method of funding a cooperative agreement where the funds initially allotted to the cooperative agreement are less than the award amount. Additional funding is added as described in § 1274.918.

Recipient. An organization receiving financial assistance under a cooperative agreement to carry out a project or program. A recipient may be an individual firm, a consortium, a partnership, etc.

Resource contribution. The total value of resources provided by either party to the cooperative agreement including both cash and non-cash contributions.

Support contractor means a NASA contractor performing part or all of the NASA responsibilities under a cooperative agreement.

Suspension. An action by NASA or the recipient that temporarily discontinues efforts under an award, pending corrective action or pending a decision to terminate the award. Suspension of an award is a separate action from suspension under Federal agency regulations implementing Executive Order 12549, 51 FR 6370, 3 CFR, 1986 Comp., p. 189 and Executive Order 12689, 54 FR 34131, 3 CFR, 1989 Comp., p. 235, "Debarment and Suspension."

Technical Officer. The official of the cognizant NASA office who is responsible for monitoring the technical aspects of the work under a cooperative agreement. A Contracting Officer's Technical Representative may serve as a Technical Officer.

Termination. The cancellation of a cooperative agreement in whole or in part, by either party at any time prior to the date of completion.

§ 1274.103 Effect on other issuances.

For awards subject to this part, all administrative requirements of codified program regulations, program manuals, handbooks and other nonregulatory materials which are inconsistent with the requirements of this part shall be superseded, except to the extent they are required by statute, or authorized in accordance with the deviations provision in § 1274.104.

§ 1274.104 Deviations.

(a) *Exceptions.* The Associate Administrator for Procurement may grant exceptions for classes of or individual cooperative agreements from the requirements of this part when exceptions are not prohibited by statute.

(b) *Applicability.* A deviation is required for any of the following:

(1) When a prescribed provision set forth in this regulation for use verbatim is modified or omitted.

(2) When a provision is set forth in this part, but not prescribed for use verbatim, and the installation substitutes a provision which is inconsistent with the intent, principle, and substance of the prescribed provision.

(3) When a NASA form or other form is prescribed by this part, and that form is altered or another form is used in its place.

(4) When limitations, imposed by this regulation upon the use of a provision, form, procedure, or any other action, are not adhered to.

(c) *Request for deviations.* Requests for authority to deviate from this regulation will be forwarded to Headquarters, Program Operations Division (Code HS). Such requests, signed by the Procurement Officer, shall contain as a minimum:

(1) A full description of the deviation and identification of the regulatory requirement from which a deviation is sought.

(2) Detailed rationale for the request, including any pertinent background information.

(3) The name of the recipient and identification of the cooperative agreement affected, including the dollar value.

(4) A statement as to whether the deviation has been requested previously, and, if so, circumstances of the previous request(s).

(5) A description of the intended effect of the deviation.

(6) A copy of legal counsel's concurrence or comments.

§ 1274.105 Approval of Cooperative Agreement Notices (CANs) and cooperative agreements.

(a) As soon as possible after the initial decision is made by a Headquarters program office or Center procurement personnel to use the CAN process, the cognizant program office or procurement office shall notify the Associate Administrator for Procurement (Code HS) of the intent to use a CAN in all cases where the total Government funds to be awarded in response to CAN proposals is expected to equal or exceed $10 million. All such notifications, as described below, shall be concurred in by the Procurement Officer. This requirement also applies in those cases where an unsolicited proposal is received and a decision is made to award a cooperative agreement in which the recipient (or one or more members of a "team" of recipients) is a commercial firm and the total Government funds are expected to equal or exceed $10 million.

(b) The required notification is to be accomplished by sending an electronic mail (e-mail) message to the following address at NASA Headquarters: can@mercury.hq.nasa.gov. The notification must include the following information, as a minimum:

(1) Identification of the cognizant center and program office;

(2) Description of the proposed program for which proposals are to be solicited;

(3) Rationale for decision to use a CAN rather than other types of solicitations;

(4) The amount of Government funding to be available for awards;

(5) Estimate of the number of cooperative agreements to be awarded as a result of the CAN;

(6) The percentage of cost-sharing to be required; and

(7) Tentative schedule for release of CAN and award of cooperative agreements.

(c) Code HS will respond by e-mail message to the sender, with a copy of the message to the Procurement Officer, within 5 working days of receipt of this initial notification. The response will address the following:

(1) Whether Code HS agrees or disagrees with the appropriateness for using a CAN for the effort described;

(2) Whether Code HS will require review and approval of the CAN before its issuance;

(3) Whether Code HS will require review and approval of the selected offeror's cost sharing arrangement (e.g., cost sharing percentage; type of contribution (cash, labor, etc.)); and

(4) Whether Code HS will require review and approval of the resulting cooperative agreement(s).

(d) If a response from Code HS is not received within 5 working days of notification, the program office or center may proceed with release of the CAN and award of the cooperative agreements as described.

Subpart B—Pre-Award Requirements

§ 1274.201 Purpose.

Sections 1274.202 through 1274.207 prescribe forms and instructions and address other pre-award matters.

§ 1274.202 Solicitations and proposals.

(a) Consistent with 31 U.S.C. 6301(3), NASA uses competitive procedures to award cooperative agreements whenever possible. An award will normally be made as a result of a Cooperative Agreement Notice (CAN) which envisions a cooperative agreement as the award instrument. A Commerce Business Daily synopsis or a synopsis on the NASA Acquisition Internet Service will be used to publicize the CAN.

(b) *Unsolicited Proposals.* (1) An award may be made as a result of an unsolicited proposal. The unsolicited proposal must evidence a unique and innovative idea or approach which is not the subject of a current or anticipated solicitation. When a cooperative agreement is awarded as a result of an unsolicited proposal, a Commerce Business Daily synopsis or a synopsis on the NASA Acquisition Internet Service will be used to provide an opportunity for other firms/consortia to express an interest in the agreement

unless the exception in 48 CFR 5.202(a)(8) (FAR) applies. Respondents should be given a minimum of thirty days to respond. If interest is expressed, a decision must be made to proceed with the award or to issue a solicitation for competitive proposals.

(2) Prior to an award made as the result of an unsolicited proposal, the award must be approved by the Procurement Officer if NASA's total resource contribution is below $5 million. Center Director approval is required if NASA's total resource contribution is $5 million or more. For Headquarters cooperative agreements, approval by the Associate Administrator for Procurement is required if NASA's total resource contribution is $5 million or more.

(c) *Cost and payment matters.* (1) The expenditure of Government funds by the Recipient and the allowability of costs recognized as a resource contribution by the Recipient shall be governed by the FAR cost principles, 48 CFR part 31. If the Recipient is a consortium which includes non-commercial entities as members, cost allowability for those members will be determined as follows: Allowability of costs incurred by State, local or federally-recognized Indian tribal governments is determined in accordance with the provisions of OMB Circular A–87, "Cost Principles for State and Local Governments." The allowability of costs incurred by non-profit organizations is determined in accordance with the provisions of OMB Circular A–122, "Cost Principles for Non-Profit Organizations." The allowability of costs incurred by institutions of higher education is determined in accordance with the provisions of OMB Circular A–21, "Cost Principles for Educational Institutions." The allowability of costs incurred by hospitals is determined in accordance with the provisions of Appendix E of 45 CFR part 74, "Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals." Recipient's method for accounting for the expenditure of funds must be consistent with Generally Accepted Accounting Principles.

(2) A substantial resource contribution on the part of the Recipient is required. The Recipient is expected to contribute at least 50% of the total resources required to accomplish the cooperative agreement. Recipient contributions may be either cash or non-cash or both. In those cases in which a contribution of less than 50% is anticipated from the Recipient, approval of the Associate Administrator for Procurement (Code HS) is required prior to award. The request for approval should address the evaluation factor in the solicitation and how the proposal accomplishes those objectives to such a degree that a share ratio of less than 50% is warranted.

(3) Cooperative agreements are funded by NASA in a fixed amount. Payments in fixed amounts will be made by NASA in accordance with "Milestone Billings" which are discussed in paragraph (c)(4) of this section. If the Recipient completes the final milestone, final payment is made, and NASA will have completed its financial responsibilities under the agreement. However, if the cooperative agreement is terminated prior to achievement of all milestones, NASA's funding will be limited to milestone payments already made plus NASA's share of costs required by the Recipient to meet commitments which had in the judgment of NASA become firm prior to the effective date of termination and are otherwise appropriate. In no event shall these additional costs or payment exceed the amount of the next payable milestone billing amount.

(4) Milestone billings is the method of payment to the Recipient under cooperative agreements. Performance based milestones are used as the basis of establishing a set of verifiable milestones for payment purposes. Each milestone payment shall be established so that the Government payment is at the same share ratio as the cooperative agreement share ratio. If the Recipient is a consortium, the Articles of Collaboration is required to contain an extensive list of performance based milestones that the consortium has agreed to. Generally, payments should not be made more than once monthly; ideally, payments will be made about every 60 to 90 days but in all cases should be made on the basis of verifiable, significant events as opposed to the passage of time. The last payment milestone should be large enough to ensure that the Recipient completes its responsibilities under the cooperative agreement (or funds should be reserved for payment until after completion of the cooperative agreement). The Government technical officer must verify completion of each milestone to the Grants Officer as part of the payment process. If the Government's projected cash contribution to a cooperative agreement exceeds $5 million, approval of the Milestone Payment clause, including the milestones and anticipated payments, by the Associate Administrator for Procurement (Code HS) is required prior to award. The request for approval should contain substantially the same information required by 48 CFR (NFS) 1832.7006.

(5) Cooperative agreements may be incrementally funded subject to the following:

(i) The total value of the NASA cash contribution is $50,000 or more.

(ii) The period of performance overlaps the succeeding fiscal year.

(iii) The funds are not available to fully fund the cooperative agreement at the time of award.

(6) Cost sharing requirements on cooperative agreements with commercial firms are based on section 23 of OMB Circular A–110, November 23, 1993. Only cash or certain non-cash resources are acceptable sources for the Recipient contribution to a cooperative agreement. Acceptable non-cash resources include such items as purchased equipment, equipment, labor, office space, etc. The actual or imputed value of intellectual property such as patent rights, data rights, trade secrets, etc., are not acceptable as sources for the Recipient contribution.

(7) Recipients shall not be paid a profit under cooperative agreements. Profit may be paid by the Recipient to subcontractors, if the subcontractor is not part of the offering team and the subcontract is an arms-length relationship.

(8) The Recipient's resource share of the cooperative agreement may be allocated as part of its IR&D program in accordance with a class deviation pursuant to 48 CFR 1831.205–18 (NFS).

(9) The CAN must provide a description of the non-cash Government contribution (personnel, equipment, facilities, etc.) as part of the Government's contribution to the cooperative agreement in addition to funding. The offeror may propose that additional non-cash Government resources be provided under two conditions. First, the offeror is responsible for verifying the availability of the resources and their suitability for their intended purpose and, second, those resources are part of the Government contribution (which must be matched by the Recipient) and paid for directly by the awarding organization.

(d) *Consortia as recipients.* (1) The use of consortia as Recipients for cooperative agreements is encouraged. Consortia will tend to bring to a cooperative agreement a broader range of capabilities and resources. A consortium is a group of organizations that enter into an agreement to collaborate for the purposes of the cooperative agreement with NASA. The agreement to collaborate can take the form of a legal entity such as a partnership or joint venture but it is not necessary that such an entity be created. A consortium may be made up of firms which normally compete for commercial or Government business or may be made up of firms which perform complementary functions in a given industry. The inclusion of non-profit or educational institutions, small businesses, or small disadvantaged businesses in the consortium could be particularly valuable in ensuring that the results of the consortium's activities are disseminated.

(2) Key to the success of the cooperative agreement with a consortium is the consortium's Articles of Collaboration, which is a definitive description of the roles and responsibilities of the consortium's members. It should also address to the extent appropriate: commitments of financial, personnel, facilities and other resources, a detailed milestone chart of consortium activities, accounting requirements, subcontracting procedures, disputes, term of the agreement, insurance and liability issues, internal and external reporting requirements, management structure of the consortium, obligations of organizations withdrawing from the consortia, allocation of data and patent rights among the consortia members, agreements, if any, to share existing technology and data, the firm which is responsible for the completion of the consortium's responsibilities under the cooperative agreement and has the authority to commit the consortium and receive payments from NASA, employee policy issues, etc.

(3) An outline of the Articles of Collaboration should be required as part of the proposal and evaluated during the source selection process.

(e) *Metric system of measurement.* The Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act (15 U.S.C. 205) declares that the metric system is the preferred measurement system for U.S. trade and commerce.

§ 1274.203 Intellectual property.

(a) A cooperative agreement covers the disposition of rights relating to inventions and patents between NASA and the Recipient. If the Recipient is a consortium or partnership, rights flowing between multiple organizations in a consortium must be negotiated separately and formally documented, preferably in the Articles of Collaboration.

(b) Patent rights clauses are required by statute and regulation. The clauses exist for Recipients of the Agreement whether they are:

(1) Other than small business or nonprofit organizations (generally referred to as large businesses) or

(2) Small businesses or nonprofit organizations.

(c) There are five situations in which inventions may arise under a cooperative agreement: Recipient Inventions, Subcontractor Inventions, NASA Inventions, NASA Support Contractor Inventions, and Joint Inventions with Recipient.

(d)(1) *Recipient inventions.* (i) A Recipient, if a large business, is subject to section 305 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457) relating to property rights in inventions. The term "invention" includes any invention, discovery, improvement, or innovation. Title to an invention made under a cooperative agreement by a large business Recipient initially vests with NASA. The Recipient may request a waiver under the NASA Patent Waiver Regulations to obtain title to inventions made under the Agreement. Such a request may be made in advance of the Agreement (or 30 days thereafter) for all inventions made under the Agreement. Alternatively, requests may be made on a case by case basis any time an individual invention is made. Such waivers are liberally and expeditiously granted after review by NASA's Invention and Contribution Board and approval by NASA's General Counsel. When a waiver is granted, any inventions made in the performance of work under the Agreement are subject to certain reporting, election and filing requirements, a royalty-free license to the Government, march-in rights, and certain other reservations.

(ii) A Recipient, if a small business or nonprofit organization, may elect to retain title to its inventions. The term "nonprofit organization" is defined in 35 U.S.C. 201(i) and includes universities and other institutions of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code. The Government obtains an irrevocable, nonexclusive, royalty-free license.

(2) *Subcontractor inventions.* (i) *Large business.* If a Recipient enters a subcontract (or similar arrangement) with a large business organization for experimental, developmental, research, design or engineering work in support of the Agreement to be done in the United States, its possessions, or Puerto Rico, section 305 of the Space Act applies. The clause applicable to large business organizations is to be used (suitably modified to identify the parties) in any subcontract. The subcontractor may request a waiver under the NASA Patent Waiver Regulations to obtain rights to inventions made under the subcontract just as a large business Recipient can (see paragraph (d)(1)(i) of this section). It is strongly recommended that a prospective large business subcontractor contact the NASA installation Patent Counsel or Intellectual Property Counsel to assure that the right procedures are followed. Just like the Recipient, any inventions made in the performance of work under the Agreement are subject to certain reporting, election and filing requirements, a royalty-free license to the Government, march-in rights, and certain other reservations.

(ii) *Non-profit organization or small business.* In the event the Recipient enters into a subcontract (or similar arrangement) with a domestic nonprofit organization or a small business firm for experimental, developmental, or research work to be performed under the Agreement, the requirements of 35 U.S.C. 200 *et seq.* regarding "Patent Rights in Inventions Made With Federal Assistance," apply. The subcontractor has the first option to elect title to any inventions made in the performance of work under the Agreement, subject to specific reporting, election and filing requirements, a royalty-free license to the Government, march-in rights, and certain other reservations that are specifically set forth.

(iii) *Work outside the United States.* If the Recipient subcontracts for work to be done outside the United States, its possessions or Puerto Rico, the NASA installation Patent Counsel or Intellectual Property Counsel should be contacted for the proper patent rights clause to use and the procedures to follow.

(iv) *Additional rights.* Notwithstanding paragraphs (d)(1) and (d)(2) (i) through (iii) of this section, and in recognition of the Recipient's substantial contribution, the Recipient is authorized, subject to rights of NASA set forth elsewhere in the Agreement, to:

(A) Acquire by negotiation and mutual agreement rights to a subcontractor's subject inventions as the Recipient may deem necessary, or

(B) If unable to reach agreement pursuant to paragraph (d)(2)(iv)(A) of this section, request that NASA invoke exceptional circumstances as necessary pursuant to 37 CFR 401.3(a)(2) if the prospective subcontractor is a small business firm or nonprofit organization, or for all other organizations, request that such rights for the Recipient be included as an additional reservation in a waiver granted pursuant to 14 CFR 1245.1. The exercise of this exception does not change the flow down of the

applicable patent rights clause to subcontractors. Applicable laws and regulations require that title to inventions made under a subcontract must initially reside in either the subcontractor or NASA, not the Recipient. This exception does not change that. The exception does authorize the Recipient to negotiate and reach mutual agreement with the subcontractor for the grant-back of rights. Such grant-back could be an option for an exclusive license or an assignment, depending on the circumstances.

(3) *NASA inventions.* NASA will use reasonable efforts to report inventions made by its employees as a consequence of, or which bear a direct relation to, the performance of specified NASA activities under an Agreement. Upon timely request, NASA will use its best efforts to grant Recipient first option to acquire either an exclusive or partially-exclusive, revocable, royalty-bearing license, on terms to be negotiated, for any patent applications and patents covering such inventions. This exclusive or partially-exclusive license to the Recipient will be subject to the retention of rights by or on behalf of the Government for Government purposes.

(4) *NASA support contractor inventions.* It is preferred that NASA support contractors be excluded from performing any of NASA's responsibilities under the Agreement since the rights obtained by a NASA support contractor could work against the rights needed by the Recipient. In the event NASA support contractors are tasked to work under the Agreement and inventions are made by support contractor employees, the support contractor will normally obtain rights in such inventions. However, if NASA has the right to acquire or has acquired title to such inventions, upon timely request, NASA will use its best efforts to grant Recipient first option to acquire either an exclusive or partially exclusive, revocable, royalty-bearing license, upon terms to be negotiated, for any patent applications and patents covering such inventions. This exclusive or partially-exclusive license to the Recipient will be subject to the retention of rights by or on behalf of the Government for Government purposes.

(5) *Joint inventions.* (i) NASA and the Recipient agree to use reasonable efforts to identify and report to each other any inventions made jointly between NASA employees (or employees of NASA support contractors) and employees of Recipient. For large businesses, the Associate General Counsel (Intellectual Property) may agree that the United States will refrain, for a specified period, from exercising its undivided interest in a manner inconsistent with Recipient's commercial interest. For small business firms and nonprofit organizations, the Associate General Counsel (Intellectual Property) may agree to assign or transfer whatever rights NASA may acquire in a subject invention from its employee to the Recipient as authorized by 35 U.S.C. 202(e). The grant officer negotiating the Agreement with small business firms and nonprofit organizations can agree, up front, that NASA will assign whatever rights it may acquire in a subject invention from its employee to the small business firm or nonprofit organization. Requests under this paragraph shall be made through the Center Patent Counsel.

(ii) NASA support contractors may be joint inventors. If a NASA support contractor employee is a joint inventor with a NASA employee, the same provisions apply as those for NASA Support Contractor Inventions. The NASA support contractor will retain or obtain nonexclusive licenses to those inventions in which NASA obtains title. If a NASA support contractor employee is a joint inventor with a Recipient employee, the NASA support contractor and Recipient will become joint owners of those inventions in which they have elected to retain title or requested and have been granted waiver of title. Where the NASA support contractor has not elected to retain title or has not been granted waiver of title, NASA will jointly own the invention with the Recipient.

(e) *Licenses to recipient(s).* (1) Any exclusive or partially exclusive commercial licenses are to be royalty-bearing consistent with Government-wide policy in licensing its inventions. It also provides an opportunity for royalty-sharing with the employee-inventor, consistent with Government-wide policy under the Federal Technology Transfer Act.

(2) Upon application in compliance with 37 CFR part 404—Licensing of Government Owned Inventions, all Recipients shall be granted a revocable, nonexclusive, royalty-free license in each patent application filed in any country on a subject invention and any resulting patent in which the Government obtains title. Because cooperative agreements are cost sharing cooperative arrangements with a purpose of benefiting the public by improving the competitiveness of the Recipient and the Government receives an irrevocable, nonexclusive, royalty-free license in each Recipient subject invention, it is only equitable that the Recipient receive, at a minimum, a revocable, nonexclusive, royalty-free license in NASA inventions and NASA contractor inventions where NASA has acquired title.

(3) *Notice requirements.* Once a Recipient has exercised its option to apply for an exclusive or partially exclusive license, a notice, identifying the invention and the Recipient, is published in the **Federal Register**, providing the public opportunity for filing written objections for 60 days.

(f) *Preference for United States manufacture.* Despite any other provision, the Recipient agrees that any products embodying subject inventions or produced through the use of subject inventions shall be manufactured substantially in the United States. The intent of this provision is to support manufacturing jobs in the United States regardless of the status of the Recipient as a domestic or foreign controlled company. However, in individual cases, the requirement to manufacture substantially in the United States, may be waived by the Associate Administrator for Procurement (Code HS) upon a showing by the Recipient that under the circumstances domestic manufacture is not commercially feasible.

(g) *Space Act agreements.* Invention and patent rights in cooperative agreements must comply with statutory and regulatory provisions. Where circumstances permit, a Space Act Agreement is available as an alternative instrument which can be more flexible in the area of invention and patent rights.

(h) *Data rights.* Data rights provisions can and should be tailored to best achieve the needs and objectives of the respective parties concerned.

(1) The data rights clause at § 1274.905 assumes a substantially equal cost sharing relationship where collaborative research, experimental, developmental, engineering, demonstration, or design activities are to be carried out, such that it is likely that "proprietary" information will be developed and/or exchanged under the agreement. If cost sharing is unequal or no extensive research, experimental, developmental, engineering, demonstration, or design activities are likely, a different set of clauses may be appropriate.

(2) The primary question that must be answered when developing data clauses is what does each party need or intend to do with the data developed under the agreement. Accordingly, the data rights clauses may be tailored to fit the circumstances. Where conflicting goals of the parties result in incompatible data provisions, grant officers for the Government must recognize that private companies entering into cooperative agreements bring resources to that relationship and must be allowed to reap an appropriate benefit for the expenditure of those resources. However, since serving a public purpose is a major objective of a cooperative agreement, care must be exercised to ensure the Recipient is not established as a long term sole source supplier of an item or service and is not in a position to take unfair advantage of the results of the cooperative agreement. Therefore, a reasonable time period (depending on the technology, two to five years after production of the data) may be established after which the data first produced by the Recipient in the performance of the agreement will be made public.

(3) Data can be generated from different sources and can have various restrictions placed on its dissemination. Recipient data furnished to NASA can exist prior to, or be produced outside of, the agreement or be produced under the agreement. NASA can also produce data in carrying out its responsibilities under the agreement. Each of these areas need to be covered.

(4) For data, including software, first produced by the Recipient under the agreement, the Recipient may assert copyright. Data exchanged with a notice showing that the data is protected by copyright must include appropriate licenses in order for NASA to use the data as needed.

(5) Recognizing that the dissemination of the results of NASA's activities is a primary objective of a cooperative agreement, the parties should specifically delineate what results will be published and under what conditions. This should be set forth in the clause of the cooperative agreement entitled "Publication and Reports." Any such agreement on the publication of results should be stated to take precedence over any other clause in the cooperative agreement.

(6) In accordance with section 303(b) of the Space Act, any data first produced by NASA under the agreement which embodies trade secrets or financial information that would be privileged or confidential if it had been obtained from a private participant, will be marked with an appropriate legend and maintained in confidence for an agreed to period of up to five years (the maximum allowed by law). This does not apply to data other than that for which there has been agreement regarding publication or distribution. The period of time during which data first produced by NASA is maintained in confidence should be consistent with the period of time determined in accordance with paragraph (h)(2) of this section, before which data first produced by the Recipient will be made public. Also, NASA itself may use the marked data (under suitable protective conditions) for agreed-to purposes.

§ 1274.204 Evaluation and selection.

(a) *General.* A single technical evaluation factor is typically used for CANs. That evaluation factor should be one of the following: providing research and development or technology transfer, enhancing U.S. competitiveness, or developing a capability among U.S. firms. Award to foreign firms is not precluded if the evaluation factor is satisfied. Subfactors could include such things as fostering U.S. leadership, potential to advance technologies anticipated to enhance U.S. competitiveness, timeliness of proposed accomplishments, private sector commitment to commercialization, identification of specific potential commercial markets, appropriateness of business risk, potential for broad impact on the U.S. technology and knowledge base, level of commitment (contribution of private resources to the project), appropriateness of team member participation and relationships, appropriateness of management planning, relevant experience, qualifications and depth of management and technical staff, quality and appropriateness of resources committed to the project, performance bench marks, technical approach, business approach/resource sharing, past performance, the articles of collaboration, etc.

(b) *Technical evaluation.* (1) Competitive technical proposal information shall be protected in accordance with 48 CFR 15.411 (FAR), Receipt of Proposals and quotations. Unsolicited proposals shall be protected in accordance with 48 CFR 15.508 (FAR), Prohibitions, and 48 CFR 15.509 (FAR), Limited use of data.

(2) The technical officer will evaluate proposals in accordance with the criteria in the CAN. Proposals selected for award will be supported by documentation as described in paragraph (c)(1) of this section. When evaluation results in a proposal not being selected, the proposer will be notified in accordance with the CAN.

(3) The technical evaluation of proposals may include peer reviews. Since the business sense of a cooperative agreement proposal is critical to its success, NASA should reserve the right to utilize appropriate outside evaluators to assist in the evaluation of such proposal elements as the business base projections, the market for proposed products, and/or the impact of anticipated product price reductions. The use of outside evaluators shall be approved in accordance with 48 CFR 1815.413–2(c)(2) (NFS). It is strongly recommended that a numerical scoring system be established to rank proposals. Data provided to outside evaluators should be protected in accordance with 48 CFR 1815.413–2(e) (NFS).

(4) Evaluation of unsolicited proposals must consider whether: the subject of the proposal is available to NASA from another source without restriction; the proposal closely resembles a pending competitive acquisition; and the research proposed demonstrates an innovative and unique method, approach, or concept. Organizations submitting unaccepted proposals will be notified in writing.

(c) *Documentation requirements.* For proposals selected for award, the technical officer will prepare and furnish to the grant officer the following documentation:

(1) For a competitively selected proposal, a signed selection statement and technical evaluation based on the evaluation criteria stated in the solicitation.

(2) For an unsolicited proposal, a justification for acceptance of an unsolicited proposal (JAUP) prepared by the cognizant technical office. The JAUP shall be submitted for the approval of the grant officer after review and concurrence at a level above the technical officer. The evaluator shall consider the following factors, in addition to any others appropriate for the particular proposal:

(i) Unique and innovative methods, approaches or concepts demonstrated by the proposal.

(ii) Overall scientific or technical merits of the proposal.

(iii) The offeror's capabilities, related experience, facilities, techniques, or unique combinations of these which are integral factors for achieving the proposal objectives.

(iv) The qualifications, capabilities, and experience of the proposed key personnel who are critical in achieving the proposal objectives.

(v) Current, open solicitations under which the unsolicited proposal could be evaluated.

(d) *Cost evaluation.* (1) The grant officer and technical team will determine whether the overall proposed cost of the project is reasonable and that the Recipient's contribution is valid, verifiable, and available. Commitments should be obtained and verified to the extent practical from the offeror or

members of the consortia that the proposed contributions can and will be made as specified in the proposal or statement of work.

(i) If the Recipient's verified share on a cooperative agreement equals or exceeds 50% of the total cost of the agreement and the total value of the agreement is less than $5 million, the cost evaluation of the offeror's proposal should focus on the overall reasonableness and timing of the proposer's contribution. Cost or pricing data should not be required and information other than cost or pricing data (defined in 48 CFR 15.801) (FAR) should not normally be required.

(ii) If the Recipient's share is projected to be less than 50% or the total value of the agreement is more than $5 million, a more in-depth analysis of the proposed costs should be undertaken. Only information other than cost or pricing data should be required. An analysis consistent with 48 CFR 15.805–3 through 15.805–5 (FAR) should be performed.

(2) As part of the evaluation of the cost proposal, the source of the recipient's contribution should be determined. Each of the cost elements contributed by the recipient and their amounts should be identified. If the contribution will consist at least in part of IR&D, the extent to which the IR&D may be recoverable from Government awards should be established. This will involve using the estimated Government participation rate of the recipient's General and Administrative indirect cost base for the period of the cooperative agreement. The results of the evaluation are to be documented in the cooperative agreement file.

(e) *Consortium.* If the cooperative agreement is to be awarded to a consortium, a completed, formally executed Articles of Collaboration is required prior to award.

(f) *Printing, binding, and duplicating.* Proposals for effort which involve printing, binding, and duplicating in excess of 25,000 pages are subject to the Government Printing and Binding Regulations, No. 26, February 1990, S. Pub. 101–9, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800, published by the Congressional Joint Committee on Printing. The technical office will refer such proposals to the Installation Central Printing Management Officer (ICPMO). The grant officer will be advised in writing of the results of the ICPMO review.

§ 1274.205 Award procedures.

(a) *General.* Multiple year cooperative agreements are encouraged, but normally they should not extend beyond two years.

(b) *Award above proposed amount.* Awards of cooperative agreements in response to competitive solicitations will not result in providing more NASA funds or resources than was anticipated in the Recipient's proposal. If additional funds or resources are deemed necessary, they will be provided by the Recipient and the Government cost share percentage will be adjusted downward.

(c) *Changes to cooperative agreements.* Cost growth or in-scope changes shall not increase the amount of NASA's contribution. Additional costs which arise during the performance of the cooperative agreement are the responsibility of the Recipient. Funding for work required beyond the scope of the cooperative agreement must be sought through the submission of a proposal which will be treated as an unsolicited proposal.

(d) *Bilateral award.* All cooperative agreements awarded under this regulation will be awarded on a bilateral basis.

(e) *Certifications and representations.* (1) *General.* Unless prohibited by statute or codified regulation, Recipients will be encouraged to submit certifications and representations required by statute, executive order, or regulation on an annual basis, if the Recipients have ongoing and continuing relationships with the agency. Annual certifications and representations shall be signed by responsible officials with the authority to ensure Recipients' compliance with the pertinent requirements.

(2) Civil rights requirements—nondiscrimination in certain Federally-funded programs. Recipients must furnish assurances of compliance with civil rights statutes specified in 14 CFR parts 1250 through 1252. Such assurances are not required for each cooperative agreement, if they have previously been furnished and remain current and accurate. Certifications to NASA are normally made on NASA Form 1206, which may be obtained from the grant officer. Upon acceptance, the grant officer will forward assurances to the NASA Office of Equal Opportunity Programs for recording and retention purposes.

(3) *Debarment certification.* NASA cooperative agreements are subject to the provisions of 14 CFR part 1265, Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide requirements for Drug-Free Workplace (Grants), unless excepted by §§ 1265.110 and 1265.610.

(4) *Lobbying certification.* A Lobbying Certification in accordance with 14 CFR part 1271 will be obtained prior to award.

(f) *Indemnification.* Indemnification under Public Law 85–804, as amended (50 U.S.C. 1431 *et seq.*) is not authorized for cooperative agreements.

§ 1274.206 Document format and numbering.

(a) *Formats.* Grant officers are authorized to use the format in Exhibit A of Appendix C of this part for the award of all cooperative agreements. Computer-generated versions and omission of inapplicable items are allowed.

(b) *Cooperative agreement numbering.* The identification numbering system for all cooperative agreements shall conform to 48 CFR 1804.7102–3 (NFS), except that a NCC prefix will be used in lieu of the NAS prefix.

§ 1274.207 Distribution of cooperative agreements.

Copies of cooperative agreements and modifications will be provided to: payment office, technical officer, administrative grant officer when delegation has been made, NASA Center for Aerospace Information (CASI), Attn: Document Processing Section, 800 Elkridge Landing Road, Linthicum Heights, Maryland 21090–2934, and any other appropriate recipient. Copies of the statement of work, contained in the Recipient's proposal and accepted by NASA, will be provided to the administrative grant officer and CASI. The cooperative agreement file will contain a record of the addresses for distributing agreements and supplements.

Subpart C—Administration

§ 1274.301 Delegation of administration.

Normally, cooperative agreements will be administered by the awarding activity.

§ 1274.302 Transfers, novations, and change of name agreements.

(a) *Transfer of cooperative agreements.* Novation is the only means by which a cooperative agreement may be transferred from one Recipient to another.

(b) *Novation and change of name.* All novation agreements and change of name agreements of the Recipient, prior to execution, shall be reviewed by NASA legal counsel for legal sufficiency prior to approval.

Subpart D—Government Property

§ 1274.401 Government property.

The accomplishment of a cooperative agreement may require the purchase of equipment for a wide range of purposes. If this equipment is purchased with Government funds, i.e., as part of the Government contribution to the cooperative agreement, it becomes Government property and must be disposed of in accordance with 48 CFR part 45 (FAR) at the conclusion of the cooperative agreement. In some cases, this may meet the needs of the parties. If, however, the Recipient may need the equipment to continue commercial efforts following the cooperative agreement, it should be purchased by the Recipient and included as a non-cash contribution of the Recipient. In this way, it is not procured, not even in part, with Government funds and the Government acquires no ownership interest. Procurement by the Recipient may be before or during the performance of the cooperative agreement.

Subpart E—Procurement Standards

§ 1274.501 Subcontracts.

Recipients are not authorized to issue grants or cooperative agreements to subrecipients. All contracts, including small purchases, awarded by Recipients and their contractors shall contain the procurement provisions of Appendix A to this part, as applicable and may be subject to approval requirements cited in § 1274.925.

Subpart F—Reports and Records

§ 1274.601 Retention and access requirements for records.

(a) This subpart sets forth requirements for record retention and access to records for awards to Recipients.

(b) Financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained for a period of three years from the date of submission of the final invoice. The only exceptions are the following:

(1) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken.

(2) Records for real property and equipment acquired with Federal funds shall be retained for 3 years after final disposition.

(3) When records are transferred to or maintained by NASA, the 3-year retention requirement is not applicable to the Recipient.

(4) Indirect cost rate proposals, cost allocations plans, etc. as specified in paragraph (g) of this section.

(c) Copies of original records may be substituted for the original records if authorized by NASA.

(d) NASA shall request transfer of certain records to its custody from Recipients when it determines that the records possess long term retention value. However, in order to avoid duplicate record keeping, NASA may make arrangements for Recipients to retain any records that are continuously needed for joint use.

(e) NASA, the Inspector General, Comptroller General of the United States, or any of their duly authorized representatives, have the right of timely and unrestricted access to any books, documents, papers, or other records of Recipients that are pertinent to the awards, in order to make audits, examinations, excerpts, transcripts and copies of such documents. This right also includes timely and reasonable access to a Recipient's personnel for the purpose of interview and discussion related to such documents. The rights of access in this paragraph are not limited to the required retention period, but shall last as long as records are retained.

(f) Unless required by statute, NASA shall not place restrictions on Recipients that limit public access to the records of Recipients that are pertinent to an award, except when NASA can demonstrate that such records shall be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) if the records had belonged to NASA.

(g) This paragraph (g) applies to the following types of documents, and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

(1) *If submitted for negotiation.* If the Recipient submits to NASA or the subrecipient submits to the Recipient the proposal, plan, or other computation to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts on the date of such submission.

(2) *If not submitted for negotiation.* If the Recipient is not required to submit to NASA or the subrecipient is not required to submit to the Recipient the proposal, plan, or other computation for negotiation purposes, then the 3-year retention period for the proposal, plan, or other computation and its supporting records starts at the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

Subpart G—Suspension or Termination

§ 1274.701 Suspension or termination.

A cooperative agreement provides both NASA and the Recipient the ability to terminate the agreement if it is in their best interests to do so. For example, NASA may terminate the agreement if the Recipient is not making anticipated technical progress, if the Recipient materially fails to comply with the terms of the agreement, if the Recipient materially changes the objective of the agreement, or if appropriated funds are not available to support the program. Similarly, the Recipient may terminate the agreement if, for example, technical progress is not being made, if the firms are shifting their technical emphasis, or if other technological advances have made the effort obsolete. NASA or the Recipient may also suspend the cooperative agreement for a short period of time if an assessment needs to be made as to whether the agreement should be terminated.

Subpart H—After-the-Award Requirements

§ 1274.801 Purpose.

Sections 1274.802 and 1274.803 contain closeout procedures and other procedures for subsequent disallowances and adjustments.

§ 1274.802 Closeout procedures.

(a) Recipients shall submit, within 90 calendar days after the date of completion of the cooperative agreement, all financial, performance, and other reports as required by the terms and conditions of the award. Extensions may be approved when requested by the Recipient.

(b) The Recipient shall account for any real and personal property acquired with Federal funds or received from the Federal Government in accordance with subpart D of this part.

§ 1274.803 Subsequent adjustments and continuing responsibilities.

The closeout of an award does not affect any of the following:

(a) Audit requirements in § 1274.933.

(b) Property management requirements in subpart D of this part.

(c) Records retention as required in § 1274.601.

Subpart I—Other Provisions and Special Conditions

§ 1274.901 Other provisions and special conditions.

The provisions set forth in this subpart are to be incorporated in and made a part of all cooperative agreements. The provisions at §§ 1274.902 through 1274.909 are to be incorporated in full text substantially as stated in this part. The provisions at §§ 1274.910 through 1274.933 will be by reference incorporated in an enclosure to each cooperative agreement (see Exhibit A of Appendix C of this part). For inclusion of provisions in subcontracts, see Subpart E—Procurement Standards of this part.

§ 1274.902 Purpose.

Purpose (FEB 1996)

The purpose of this cooperative agreement is to conduct a shared resource project that will lead to _____. This cooperative agreement will advance the technology developments and research which have been performed on _____. The specific objective is to _____. This work will culminate in _____.

[End of provision]

§ 1274.903 Responsibilities.

Responsibilities (FEB 1996)

(a) This cooperative agreement will include substantial NASA participation during performance of the effort. NASA and the Recipient agree to the following Responsibilities, a statement of cooperative interactions to occur during the performance of this effort. NASA and the Recipient shall exert all reasonable efforts to fulfill the responsibilities stated below.

(b) *NASA responsibilities.* Since NASA contractors may obtain certain intellectual property rights arising from work for NASA in support of this agreement, NASA will inform Recipient whenever NASA intends to use NASA contractors to perform technical engineering services in support of this agreement. The following responsibilities are hereby set forth with anticipated start and ending dates, as appropriate:

Responsibility	*Start*	*End*

(c) *Recipient responsibilities.* The Recipient shall be responsible for particular aspects of project performance as set forth in the technical proposal dated _____, attached hereto (or Statement of Work dated _____, attached hereto.). The following responsibilities are hereby set forth with anticipated start and ending dates, as appropriate:

Responsibility	*Start*	*End*

[End of provision]

§ 1274.904 Resource Sharing Requirements.

Resource Sharing Requirements (FEB 1996)

(a) NASA and the Recipient will share in providing the resources necessary to perform the agreement. NASA funding and non-cash contributions (personnel, equipment, facilities, etc.) and the dollar value of the Recipient's cash and/or non-cash contribution will be on a ____ (NASA) - ____ (Recipient) basis. Criteria and procedures for the allowability and allocability of cash and non-cash contributions shall be governed by section 23, "Cost Sharing or Matching," of OMB Circular A–110. The "applicable federal cost principles" cited in OMB Circular A–110 shall be determined in accordance with § 1274.919.

(b) The Recipient's share shall not be charged to the Government under this agreement or under any other contract, grant, or cooperative agreement, except to the extent that the Recipient's contribution may be allowable IR&D costs pursuant to 48 CFR 1831.205–18 (NFS).

§ 1274.905 Rights in Data.

Rights in Data (FEB 1996)

(a) *Definitions.*

Data, means recorded information, regardless of form, the media on which it may be recorded, or the method of recording. The term includes, but is not limited to, data of a scientific or technical nature, computer software and documentation thereof, and data comprising commercial and financial information.

(b) *Data categories—(1) General.* Data exchanged between NASA and Recipient under this cooperative agreement will be exchanged without restriction as to its disclosure, use or duplication except as otherwise provided in paragraphs (b)(2) through (6) of this provision.

(2) *Background data.* In the event it is necessary for Recipient to furnish NASA with Data which existed prior to, or produced outside of, this cooperative agreement, and such Data embodies trade secrets or comprises commercial or financial information which is privileged or confidential, and such Data is so identified with a suitable notice or legend, the Data will be maintained in confidence and disclosed and used by NASA and its contractors (under suitable protective conditions) only for the purpose of carrying out NASA's responsibilities under this cooperative agreement. Upon completion of activities under this agreement, such Data will be disposed of as requested by Recipient.

(3) *Data first produced by Recipient.* In the event Data first produced by Recipient in carrying out Recipient's responsibilities under this cooperative agreement is furnished to NASA, and Recipient considers such Data to embody trade secrets or to comprise commercial or financial information which is privileged or confidential, and such Data is so identified with a suitable notice or legend, the Data will be maintained in confidence for a period of [insert "two" to "five"] years after development of the data and be disclosed and used by ["NASA" or "the Government," as appropriate] and its contractors (under suitable protective conditions) only for [insert appropriate purpose; for example: experimental; evaluation; research; development, etc.] by or on behalf of ["NASA" or "the Government" as appropriate] during that period. In order that ["NASA" or the "Government", as appropriate] and its contractors may exercise the right to use such Data for the purposes designated above, NASA, upon request to the Recipient, shall have the right to review and request delivery of Data first produced by Recipient. Delivery shall be made within a time period specified by NASA.

(4) *Data first produced by NASA.* As to Data first produced by NASA in carrying out NASA's responsibilities under this cooperative agreement and which Data would embody trade secrets or would comprise commercial or financial information that is privileged or confidential if it had been obtained from the Recipient, will be marked with an appropriate legend and maintained in confidence for an agreed to period of up to (—) years [INSERT A PERIOD UP TO 5 YEARS] after development of the information, with the express understanding that during the aforesaid period such Data may be disclosed and used (under suitable protective conditions) by or on behalf of the Government for Government purposes only, and thereafter for any purpose whatsoever without restriction on disclosure and use. Recipient agrees not to disclose such Data to any third party without NASA's written approval until the aforementioned restricted period expires.

(5) *Copyright.* (i) In the event Data is exchanged with a notice indicating the Data is protected under copyright as a published copyrighted work, or are deposited for registration as a published work in the U.S. Copyright Office, the following paid-up licenses shall apply:

(A) If it is indicated on the Data that the Data existed prior to, or was produced outside of, this agreement, the receiving party and others acting on its behalf, may reproduce, distribute, and prepare derivative works for the purpose of carrying out the receiving party's responsibilities under this cooperative agreement; and

(B) If the furnished Data does not contain the indication of paragraph (b)(5)(i)(A) of this provision, it will be assumed that the Data was first produced under this agreement, and the receiving party and others acting on its behalf, shall be granted a paid up, nonexclusive, irrevocable, world-wide license for all such Data to reproduce, distribute copies to the public, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the receiving party. For Data that is computer software, the right to distribute shall be limited to potential users in the United States.

(ii) When claim is made to copyright, the Recipient shall affix the applicable copyright notice of 17 U.S.C. 401 or 402 and acknowledgment of Government sponsorship to the data when and if the data are delivered to the Government.

(6) *Oral and visual information.* If information which the Recipient considers to embody trade secrets or to comprise commercial or financial information which is privileged or confidential is disclosed orally or visually to NASA, such information must be reduced to tangible, recorded form (i.e., converted into Data as defined herein), identified and marked with a suitable notice or legend, and furnished to NASA within 10 days after such oral or visual disclosure, or NASA shall have no duty to limit or restrict, and shall not incur any liability for, any disclosure and use of such information.

(7) *Disclaimer of Liability.* Notwithstanding paragraphs (b)(2) through (6) of this provision, NASA shall not be restricted in, nor incur any liability for, the disclosure and use of:

(i) Data not identified with a suitable notice or legend as set in paragraph (b)(2) of this provision; nor

(ii) Information contained in any Data for which disclosure and use is restricted under paragraphs (b)(2) or (3) of this provision, if such information is or becomes generally known without breach of the above, is known to or is generated by NASA independently of carrying out responsibilities under this agreement, is rightfully received from a third party without restriction, or is included in data which Participant has, or is required to furnish to the U.S. Government without restriction on disclosure and use.

(c) *Marking of data.* Any Data delivered under this cooperative agreement, by NASA or the Recipient, shall be marked with a suitable notice or legend indicating the data was generated under this cooperative agreement.

(d) *Lower Tier Agreements.* The Recipient shall include this provision, suitably modified to identify the parties, in all subcontracts or lower tier agreements, regardless of tier, for experimental, developmental, or research work.

[End of provision]

§ 1274.906 Designation of New Technology Representative and Patent Representative.

Designation of New Technology Representative and Patent Representative (FEB 1996)

(a) For purposes of administration of the clause of this cooperative agreement entitled "PATENT RIGHTS—RETENTION BY THE CONTRACTOR (LARGE BUSINESS)" or "PATENT RIGHTS—RETENTION BY THE CONTRACTOR (SMALL BUSINESS)" the following named representatives are hereby designated by the Grant Officer to administer such clause:

Title	*Office Code*	*Address*
New Technology Representative		
Patent Representative		

(b) Reports of reportable items, and disclosure of subject inventions, interim reports, final reports, utilization reports, and other reports required by the clause, as well as any correspondence with respect to such matters, should be directed to the New Technology Representative unless transmitted in response to correspondence or request from the Patent Representative. Inquiries or requests regarding disposition of rights, election of rights, or related matters should be directed to the Patent Representative. This clause shall be included in any subcontract hereunder requiring "PATENT RIGHTS—RETENTION BY THE CONTRACTOR (LARGE BUSINESS)" clause or "PATENT RIGHTS—RETENTION BY THE CONTRACTOR (SMALL BUSINESS)" clause, unless otherwise authorized or directed by the Grant Officer. The respective responsibilities and authorities of the above-named representatives are set forth in 48 CFR 1827.375–3 (NFS).

[End of provision]

§ 1274.907 Disputes.

Disputes (FEB 1996)

(a) In the event that a disagreement arises, representatives of the parties shall enter into discussions in good faith and in a timely and cooperative manner to seek resolution. If these discussions do not result in a satisfactory solution, the aggrieved party may seek a decision from the Dispute Resolution Official under paragraph (b) of this provision. This request must be presented no more than (3) three months after the events giving rise to the disagreement have occurred.

(b) The aggrieved party may submit a written request for a decision to the _____ [Suggest this be the Center Director], who is designated as the Dispute Resolution Official. The written request shall include a statement of the relevant facts, a discussion of the unresolved issues, and a specification of the clarification, relief, or remedy sought. A copy of this written request and all accompanying materials must be provided to the other party at the same time. The other party shall submit a written position on the matters in dispute within thirty (30) calendar days after receiving this notification that a decision has been requested. The Dispute Resolution Official shall conduct a review of the matters in dispute and render a decision in writing within thirty (30) calendar days of receipt of such written position. Such resolution is not subject to further administrative review and, to the extent permitted by law, shall be final and binding.

[End of provision]

§ 1274.908 Milestone Payments.

Milestone Payments (FEB 1996)

(a) By submission of the first invoice, the Recipient is certifying that it has an established accounting system which complies with generally accepted accounting principles, with the requirements of this agreement, and that appropriate arrangements have been made for receiving, distributing, and accounting for Federal funds received under this agreement.

(b) Payments will be made upon the following milestones: [The schedule for payments may be based upon the Recipient's completion of specific tasks, submission of specified reports, or whatever is appropriate.]

Date	*Payment Milestone*	*Amount*

(c) Upon submission by the Recipient of invoices in accordance with the provisions of the agreement and upon certification by NASA of completion of the payable milestone, the grant officer shall authorize payment.

(d) A payment milestone may be successfully completed in advance of the date appearing in paragraph (b) of this provision. However, payment shall not be made prior to that date without the written consent of the Grant Officer.

(e) The Recipient is not entitled to partial payment for partial completion of a payment milestone.

(f) All preceding payment milestones must be completed before payment can be made for the next payment milestone.

(g) Invoices hereunder shall be submitted in the original and five copies to the Grant Officer for certification.

[End of provision]

§ 1274.909 Term of this Agreement.

Term of this Agreement (FEB 1996)

The agreement commences on the effective date indicated on the attached cover sheet and continues until the expiration date indicated on the attached cover sheet unless terminated by either party. If all resources are expended prior to the expiration date of the agreement, the parties have no obligation to continue performance and may elect to cease at that point. The parties may extend the expiration date if additional time is required to complete the milestones at no increase in Government resources. Provisions of this Agreement, which, by their express terms or by necessary implication, apply for periods of time other than that specified as the agreement term, shall be given effect, notwithstanding expiration of the term of the agreement.

[End of provision]

§ 1274.910 Authority.

Authority (FEB 1996)

This is a cooperative agreement as defined in 31 U.S.C. 6305 (the Chiles Act) and is entered into pursuant to the authority of 42 U.S.C. 2451 *et seq.* (the Space Act).

[End of provision]

§ 1274.911 Patent Rights.

Patent Rights (FEB 1996)

(a) *Definitions.*

(1) *Administrator* means the Administrator or Deputy Administrator of NASA.

(2) *Invention* means any invention or discovery which is or may be patentable or otherwise protectable under title 35 of the United States Code.

(3) *Made* when used in relation to any invention means the conception or first actual reduction to practice such invention.

(4) *Nonprofit organization* means a domestic university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)), or any domestic nonprofit scientific or educational organization qualified under a State nonprofit organization statute.

(5) *Practical application* means to manufacture, in the case of a composition or product; to practice, in the case of a process

or method; or to operate, in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

(6) *Recipient* means: (i) The signatory Recipient party or parties; or (ii) The Consortium, where a Consortium has been formed for carrying out Recipient responsibilities under this agreement.

(7) *Small business firm* means a domestic small business concern as defined at 15 U.S.C. 632 and implementing regulations of the Administrator of the small Business Administration. (For the purpose of this definition, the size standard contained in 13 CFR 121.901 through 121.911 will be used.)

(8) *Subject invention* means any invention of a Recipient and/or Government employee conceived or first actually reduced to practice in the performance of work under this Agreement.

(b) *Allocation of principal rights.* (1) *Recipient inventions.* For other than Small Business Firm or Nonprofit organization Recipients, the "PATENT RIGHTS—RETENTION BY RECIPIENT (LARGE BUSINESS)" provision applies. For Small Business Firm and Nonprofit organization Recipients, the "PATENT RIGHTS—RETENTION BY RECIPIENT (SMALL BUSINESS)" provision applies.

(2) *NASA inventions.* NASA will use reasonable efforts to report inventions made by NASA employees as a consequence of, or which bear a direct relation to, the performance of specified NASA activities under this cooperative agreement and, upon timely request, NASA will use its best efforts to grant the Recipient or designated Consortium Member (if applicable) the first option to acquire either an exclusive or partially exclusive, revocable, royalty-bearing license, on terms to be subsequently negotiated, for any patent applications and patents covering such inventions, and subject to the license reserved in paragraph (b)(5)(i) of this provision. Upon application in compliance with 37 CFR Part 404—Licensing of Government Owned Inventions, the Recipient or each Consortium Member (if applicable), shall be granted a revocable, nonexclusive, royalty-free license in each patent application filed in any country on a subject invention and any resulting patent in which the Government acquires title. Each nonexclusive license may extend to subsidiaries and affiliates, if any, within the corporate structure of the licensee and includes the right to grant sublicenses of the same scope to the extent the licensee was legally obligated to do so at the time the cooperative agreement was signed.

(3) *NASA contractor inventions.* In the event NASA contractors are tasked to perform work in support of specified NASA activities under this cooperative agreement and inventions are made by contractor employees, and NASA has the right to acquire or has acquired title to such inventions, NASA will use reasonable efforts to report such inventions and, upon timely request, NASA will use its best efforts to grant the Recipient or designated Consortium Member (if applicable) the first option to acquire either an exclusive or partially exclusive, revocable, royalty-bearing license, upon terms to be subsequently negotiated, for any patent applications and patents covering such inventions, and subject to the license reserved in paragraph (b)(5)(ii) of this provision. Upon application in compliance with 37 CFR Part 404—Licensing of Government Owned Inventions, the Recipient or each Consortium Member (if applicable), shall be granted a revocable, nonexclusive, royalty-free license in each patent application filed in any country on a subject invention and any resulting patent in which the Government acquires title. Each nonexclusive license may extend to subsidiaries and affiliates, if any, within the corporate structure of the licensee and includes the right to grant sublicenses of the same scope to the extent the licensee was legally obligated to do so at the time the cooperative agreement was signed.

(4) *Joint NASA and recipient inventions.* NASA and Recipient agree to use reasonable efforts to identify and report to each other any inventions made jointly between NASA employees (or employees of NASA contractors) and employees of Recipient.

(i) For other than small business firms and nonprofit organizations the Administrator may agree that the United States will refrain from exercising its undivided interest in a manner inconsistent with Recipient's commercial interest and to cooperate with Recipient in obtaining patent protection on its undivided interest on any waived inventions subject, however, to the condition that Recipient makes its best efforts to bring the invention to the point of practical application at the earliest practicable time. In the event that the Administrator determines that such efforts are not undertaken, the Administrator may void NASA's agreement to refrain from exercising its undivided interest and grant licenses for the practice of the invention so as to further its development. In the event that the Administrator decides to void NASA's agreement to refrain from exercising its undivided interest and grant licenses for this reason, notice shall be given to the Inventions and Contributions Board as to why such action should not be taken. Either alternative will be subject to the applicable license or licenses reserved in paragraph (b)(5) of this provision.

(ii) For small business firms and nonprofit organizations, NASA may assign or transfer whatever rights it may acquire in a subject invention from its employee to the Recipient as authorized by 35 U.S.C. 202(e).

(5) *Minimum rights reserved by the Government.* Any license or assignment granted Recipient pursuant to paragraph (b)(2), (b)(3), or (b)(4) of this provision will be subject to the reservation of the following licenses:

(i) As to inventions made solely or jointly by NASA employees, the irrevocable, royalty-free right of the Government of the United States to practice and have practiced the invention by or on behalf of the United States; and

(ii) As to inventions made solely by, or jointly with, employees of NASA contractors, the rights in the Government of the United States as set forth in paragraph (b)(5)(i) of this provision, as well as the revocable, nonexclusive, royalty-free license in the contractor as set forth in 14 CFR 1245.108.

(6) *Preference for United States manufacture.* The Recipient agrees that any products embodying subject inventions or produced through the use of subject inventions shall be manufactured substantially in the United States. However, in individual cases, the requirement to manufacture substantially in the United States may be waived by the Associate Administrator for Procurement (Code HS) with the concurrence of the Associate General Counsel for Intellectual Property upon a showing by the Recipient that under the circumstances domestic manufacture is not commercially feasible.

(7) Work performed by the Recipient under this cooperative agreement is considered undertaken to carry out a public purpose of support and/or stimulation rather than for acquiring property or services for the direct benefit or use of the Government. Accordingly, such work by the Recipient is not considered "by or for the United States" and the Government assumes no liability for infringement by the Recipient under 28 U.S.C. 1498.

[End of provision]

§ 1274.912 Patent Rights—Retention by the Recipient (Large Business).

Patent Rights—Retention by the Recipient (Large Business) (FEB 1996)

(a) *Definitions.*

(1) *Administrator* means the Administrator of the National Aeronautics and Space Administration (NASA) or duly authorized representative.

(2) *Invention* means any invention or discovery which is or may be patentable or otherwise protectable under title 35 of the U.S.C.

(3) *Made,* as used in relation to any invention, means the conception or first actual reduction to practice such invention.

(4) *Nonprofit organization* means a domestic university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)), or any domestic nonprofit scientific or educational organization qualified under a State nonprofit organization statute.

(5) *Practical application* means to manufacture, in the case of a composition or product; to practice, in the case of a process or method; or to operate, in case of a machine or system; and, in each, case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

(6) *Reportable item* means any invention, discovery, improvement, or innovation of the Recipient, whether or not the same is or may be patentable or otherwise protectable under title 35 of the United States Code, conceived or first actually reduced to practice in the performance of any work under this contract or in the performance of any work that is reimbursable under any clause in this contract providing for reimbursement of costs incurred prior to the effective date of this contract.

(7) *Small business firm* means a domestic small business concern as defined at 15 U.S.C. 632 and implementing regulations of the Administrator of the Small Business Administration. (For the purpose of this definition, the size standard contained in 13 CFR 121.901 through 121.911 will be used.)

(8) *Subject invention means* any reportable item which is or may be patentable or otherwise protectable under title 35 of the United States Code, or any novel variety of plant that is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321 *et seq*).

(b) Allocation of principal rights—(1) *Presumption of title*—(i) Any reportable item that the Administrator considers to be a subject invention shall be presumed to have been made in the manner specified in paragraph (1) or (2) of section 305(a) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457(a)) (hereinafter called "the Act"), and the above presumption shall be conclusive unless at the time of reporting the reportable item the Recipient submits to the Grants Officer a written statement, containing supporting details, demonstrating that the reportable item was not made in the manner specified in paragraph (1) or (2) of section 305(a) of the Act.

(ii) Regardless of whether title to a given subject invention would otherwise be subject to an advance waiver or is the subject of a petition for waiver, the Recipient may nevertheless file the statement described in paragraph (b)(1)(i) of this provision. The Administrator will review the information furnished by the Recipient in any such statement and any other available information relating to the circumstances surrounding the making of the subject invention and will notify the Recipient whether the Administrator has determined that the subject invention was made in the manner specified in paragraph (1) or (2) of section 305(a) of the Act.

(2) *Property rights in subject inventions.* Each subject invention for which the presumption of paragraph (b)(1)(i) of this provision is conclusive or for which there has been a determination that it was made in the manner specified in paragraph (1) or (2) of section 305(a) of the Act shall be the exclusive property of the United States as represented by NASA unless the Administrator waives all or any part of the rights of the United States, as provided in paragraph (b)(3) of this section.

(3) *Waiver of rights*—(i) Section 305(f) of the Act provides for the promulgation of regulations by which the Administrator may waive the rights of the United States with respect to any invention or class of inventions made or that may be made under conditions specified in paragraph (1) or (2) of section 305(a) of the Act. The NASA Patent Waiver Regulations, 14 CFR part 1245, subpart 1, have adopted the Presidential memorandum on Government Patent Policy of February 18, 1983, as a guide in acting on petitions (requests) for such waiver of rights.

(ii) As provided in 14 CFR part 1245, subpart 1, Recipients may petition, either prior to execution of the contract or within 30 days after execution of the Agreement, for advance waiver of rights to any or all of the inventions that may be made under an Agreement. If such a petition is not submitted, or if after submission it is denied, the Recipient (or an employee inventor of the Recipient may petition for waiver of rights to an identified subject invention within eight months of first disclosure of invention in accordance with paragraph (e)(2) of this provision or within such longer period as may be authorized in accordance with 14 CFR 1245.105. Further procedures are provided in the REQUESTS FOR WAIVER OF RIGHTS—LARGE BUSINESS provision.

(c) *Minimum rights reserved by the Government.* (1) With respect to each Recipient subject invention for which a waiver of rights is applicable in accordance with 14 CFR part 1245, subpart 1, the Government reserves—

(i) An irrevocable, royalty-free license for the practice of such invention throughout the world by or on behalf of the United States or any foreign government in accordance with any treaty or agreement with the United States; and

(ii) Such other rights as stated in 14 CFR 1245.107.

(2) Nothing contained in this paragraph (c) shall be considered to grant to the Government any rights with respect to any invention other than a subject invention.

(d) *Minimum rights to the Recipient.* (1) The Recipient is hereby granted a revocable, nonexclusive, royalty-free license in each patent application filed in any country on a Recipient subject invention and any resulting patent in which the Government acquires title, unless the Recipient fails to disclose the subject invention within the times specified in paragraph (e)(2) of this provision. The Recipient's license extends to its domestic subsidiaries and affiliates, if any, within the corporate structure of which the Recipient is a party and includes the right to grant sublicenses of the same scope to the extent the Recipient was legally obligated to do so at the time the contract was awarded. The license is transferable only with the approval of the Administrator except when transferred to the successor of that part of the Recipient's business to which the invention pertains.

(2) The Recipient's domestic license may be revoked or modified by the Administrator to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with 14 CFR part 1245, subpart 2, Licensing of NASA Inventions. This license will not be revoked in that field of use or the geographical areas in which the Recipient has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the Administrator to the extent the Recipient, its licensees, or its domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, the Recipient will be provided a written notice of the Administrator's intention to revoke or modify the license, and the Recipient will be allowed 30 days (or such other time as may be authorized by the Administrator for good cause shown by the Recipient) after the notice to show cause why the license should not be revoked or modified. The Recipient has the right to appeal, in accordance with 14 CFR 1245.211, any decision concerning the revocation or modification of its license.

(e) *Invention identification, disclosures, and reports.* (1) The Recipient shall establish and maintain active and effective procedures to assure that reportable items are promptly identified and disclosed to Recipient personnel responsible for the administration of this clause within six months of conception and/or first actual reduction to practice, whichever occurs first in the performance of work under this contract. These procedures shall include the maintenance of laboratory notebooks or equivalent records and other records as are reasonably necessary to document the conception and/or the first actual reduction to practice of the reportable items, and records that show that the procedures for identifying and disclosing reportable items are followed. Upon request, the Recipient shall furnish the Grants Officer a description of such procedures for evaluation and for determination as to their effectiveness.

(2) The Recipient will disclose each reportable item to the Grants Officer within two months after the inventor discloses it in writing to Recipient personnel responsible for the administration of this clause or, if earlier, within six months after the Recipient becomes aware that a reportable item has been made, but in any event for subject inventions before any on sale, public use, or publication of such invention known to the Recipient. The disclosure to the agency shall be in the form of a written report and shall identify the contract under which the reportable item was made and the inventor(s) or innovator(s). It shall be sufficiently complete in technical detail to convey a clear understanding, to the extent known at the time of the disclosure, of the nature, purpose, operation, and physical, chemical, biological, or electrical characteristics of the reportable item. The disclosure shall also identify any publication, on sale, or public use of any subject invention and whether a manuscript describing such invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the agency, the Recipient will promptly notify the agency of the acceptance of any manuscript describing a subject invention for publication or of any on sale or public use planned by the Recipient for such invention.

(3) The Recipient shall furnish the Grants Officer the following:

(i) Interim reports every 12 months (or such longer period as may be specified by the Grants Officer) from the date of the contract, listing reportable items during that period, and certifying that all reportable items have been disclosed (or that there are no such

inventions) and that the procedures required by paragraph (e)(1) of this provision have been followed.

(ii) A final report, within three months after completion of the contracted work, listing all reportable items or certifying that there were no such reportable items, and listing all subcontracts at any tier containing a patent rights clause or certifying that there were no such subcontracts.

(4) The Recipient agrees, upon written request of the Grants Officer, to furnish additional technical and other information available to the Recipient as is necessary for the preparation of a patent application on a subject invention and for the prosecution of the patent application, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions.

(5) The Recipient agrees, subject to 48 CFR 27.302(j) (FAR), that the Government may duplicate and disclose subject invention disclosures and all other reports and papers furnished or required to be furnished pursuant to this clause.

(f) *Examination of records relating to inventions.* (1) The Grants Officer or any authorized representative shall, pursuant to the Retention and Examination of Records provision of this cooperative agreement, have the right to examine any books (including laboratory notebooks), records, and documents of the Recipient relating to the conception or first actual reduction to practice of inventions in the same field of technology as the work under this contract to determine whether—

(i) Any such inventions are subject inventions;

(ii) The Recipient has established and maintained the procedures required by paragraph (e)(1) of this provision; and

(iii) The Recipient and its inventors have complied with the procedures.

(2) If the Grants Officer learns of an unreported Recipient invention that the Grants Officer believes may be a subject inventions, the Recipient may be required to disclose the invention to the agency for a determination of ownership rights.

(3) Any examination of records under this paragraph will be subject to appropriate conditions to protect the confidentiality of the information involved.

(g) *Subcontracts.* (1) Unless otherwise authorized or directed by the Grants Officer, the Recipient shall—

(i) Include this Clause Patent Rights—Retention by the Recipient—(Large Business) (suitably modified to identify the parties) in any subcontract hereunder (regardless of tier) with other than a small business firm or nonprofit organization for the performance of experimental, developmental, or research work; and

(ii) Include the clause Patent Right—Retention by the Recipient—(Small Business) (suitably modified to identify the parties) in any subcontract hereunder (regardless of tier) with a small business firm or nonprofit organization for the performance of experimental, developmental, or research work.

(2) In the event of a refusal by a prospective subcontractor to accept such a clause the Recipient—

(i) Shall promptly submit a written notice to the Grants Officer setting forth the subcontractor's reasons for such refusal and other pertinent information that may expedite disposition of the matter; and

(ii) Shall not proceed with such subcontract without the written authorization of the Grants Officer.

(3) The Recipient shall promptly notify the Grants Officer in writing upon the award of any subcontract at any tier containing a patent rights clause by identifying the subcontractor, the applicable patent rights clause, the work to be performed under the subcontract, and the dates of award and estimated completion. Upon request of the Grants Officer, the Recipient shall furnish a copy of such subcontract, and, no more frequently than annually, a listing of the subcontracts that have been awarded.

(4) The subcontractor will retain all rights provided for the Recipient in the clause of paragraph (g)(1)(i) or (1)(ii) of this provision, whichever is included in the subcontract, and the Recipient will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

(5) Notwithstanding paragraph (g)(4) of this provision, and in recognition of the contractor's substantial contribution of funds, facilities and/or equipment to the work performed under this cooperative agreement, the Recipient is authorized, subject to the rights of NASA set forth elsewhere in this clause, to:

(i) Acquire by negotiation and mutual agreement rights to a subcontractor's subject inventions as the Recipient may deem necessary to obtaining and maintaining of such private support; and

(ii) Request, in the event of inability to reach agreement pursuant to paragraph (g)(5)(i) of this provision, that NASA invoke exceptional circumstances as necessary pursuant to 37 CFR 401.3(a)(2) if the prospective subcontractor is a small business firm or organization, or for all other organizations, request that such rights for the Recipient be included as an additional reservation in a waiver granted pursuant to 14 CFR part 1245, subpart 1. Any such requests to NASA should be prepared in consideration of the following guidance and submitted to the contract officer.

(A) *Exceptional circumstances.* A request that NASA make an "exceptional circumstances" determination pursuant to 37 CFR 401.3(a)(2) must state the scope of rights sought by the Recipient pursuant to such determination; identify the proposed subcontractor and the work to be performed under the subcontract; and state the need for the determination.

(B) *Waiver petition.* The subcontractor should be advised that unless it requests a waiver of title pursuant to the NASA Patent Waiver Regulations (14 CFR part 1245, subpart 1), NASA will acquire title to the subject invention (42 U.S.C. 2457). If a waiver is not requested or granted, the Recipient may request a license from NASA (see licensing of NASA inventions, 14 CFR part 1245, subpart 2). A subcontractor requesting a waiver must follow the procedures set forth in the attached clause REQUESTS FOR WAIVER OF RIGHTS—LARGE BUSINESS.

(h) *Preference for United States manufacture.* The Recipient agrees that any products embodying subject inventions or produced through the use of subject inventions shall be manufactured substantially in the United States. However, in individual cases, the requirement to manufacture substantially in the United States may be waived by the Associate Administrator for Procurement (Code HS) with the concurrence of the Associate General Counsel for Intellectual Property. upon a showing by the Recipient that under the circumstances domestic manufacture is not commercially feasible.

(i) *March-in rights.* The Recipient agrees that, with respect to any subject invention in which it has acquired title, NASA has the right in accordance with the procedures in 37 CFR 401.6 and any supplemental regulations of the agency to require the Recipient, an assignee or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the Subcontractor, assignee, or exclusive licensee refuses such a request NASA has the right to grant such a license itself if the Federal agency determines that—

(1) Such action is necessary because the Recipient or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use;

(2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Recipient, assignee, or their licensees;

(3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the Recipient, assignee, or licensees; or

(4) Such action is necessary because the agreement required by paragraph (i) of this provision has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

[End of provision]

§ 1274.913 Patent Rights—Retention by the Recipient (Small Business).

Patent Rights—Retention by the Recipient (Small Business) (FEB 1996)

(a) *Definitions.*

(1) *Invention* means any invention or discovery which is or may be patentable or otherwise protectable under title 35 of the U.S.C.

(2) *Made* when used in relation to any invention means the conception or first actual reduction to practice such invention.

(3) *Nonprofit organization* means a university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

(4) *Practical application* means to manufacture, in the case of a composition of product; to practice, in the case of a process or method, or to operate, in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

(5) *Small business firm* means a small business concern as defined at section 2 of Pub. L. 85–536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standards for small business concerns involved in Government procurement and subcontracting at 13 CFR 121.901 through 121.911 will be used.

(6) *Subject invention* means any invention of the Subcontractor conceived or first actually reduced to practice in the performance of work under this Agreement.

(b) *Allocation of principal rights.* The Recipient may retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this clause and 35 U.S.C. 203. With respect to any subject invention in which the Recipient retains title, the Federal Government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.

(c) *Invention disclosure, election of title, and filing of patent application by Recipient.* (1) The Recipient will disclose each subject invention to NASA within two months after the inventor discloses it in writing to Recipient personnel responsible for patent matters. The disclosure to the agency shall be in the form of a written report and shall identify the contract under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the agency, the Recipient will promptly notify the agency of the acceptance of any manuscript describing the invention for publication or of any sale or public use planned by the Recipient.

(2) The Recipient will elect in writing whether or not to retain title to any such invention by notifying NASA within two years of disclosure to the Federal agency. However, in any case where publication, on sale or public use has initiated the one-year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title may be shortened by the agency to a date that is no more than 60 days prior to the end of the statutory period.

(3) The Recipient will file its initial patent application on a subject invention to which it elects to retain title within one year after election of title or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public use. The Recipient will file patent applications in additional countries or international patent offices within either 10 months of the corresponding initial patent application of six months from the date permission is granted by the Commissioner of Patents and Trademarks to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

(4) Requests for extension of the time for disclosure election, and filing under paragraphs (c)(1), (2), and (3) of this provision may, at the discretion of the agency, be granted.

(d) *Conditions when the Government may obtain title.* The Recipient will convey to NASA, upon written request, title to any subject invention—

(1) If the Recipient fails to disclose or elect title to the subject invention within the times specified in paragraph (c) of this provision, or elects not to retain title; provided, that the agency may only request title within 60 days after learning of the failure of the Recipient to disclose or elect within the specified times.

(2) In those countries in which the Recipient fails to file patent applications within the times specified in paragraph (c) of this provision; provided, however, that if the Recipient has filed a patent application in a country after the times specified in paragraph (c) of this provision, but prior to its receipt of the written request of the Federal agency, the Recipient shall continue to retain title in that country.

(3) In any country in which the Recipient decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in reexamination or opposition proceeding on, a patent on a subject invention.

(e) *Minimum rights to Recipient and protection of the Recipient right to file.* (1) The Recipient will retain a nonexclusive, royalty-free license throughout the world in each subject invention to which the Government obtains title, except if the Recipient fails to disclose the invention within the times specified in paragraph (c) of this provision. The Recipient's license extends to its domestic subsidiary and affiliates, if any, within the corporate structure of which the Recipient is a party and includes the right to grant sublicenses of the same scope to the extent the Recipient was legally obligated to do so at the time the agreement was awarded. The license is transferable only with the approval of NASA, except when transferred to the successor of that part of the Recipient's business to which the invention pertains.

(2) The Contractor's domestic license may be revoked or modified by NASA to the extent necessary to achieve expeditious practical application of subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions at 37 CFR part 404 and agency licensing regulations (if any). This license will not be revoked in that field of use or the geographical areas in which the Subcontractor has achieved practical application and continues to make the benefits of the invention reasonable accessible to the public. The license in any foreign country may be revoked or modified at the discretion of NASA to the extent the Subcontractor, its licensees, or the domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, NASA will furnish the Recipient a written notice of its intention to revoke or modify the license, and the Recipient will be allowed 30 days (or such other time as may be authorized by NASA for good cause shown by the Recipient) after the notice to show cause why the license should not be revoked or modified. The Recipient has the right to appeal, in accordance with applicable regulations in 37 CFR part 404 and 14 CFR part 1245, subpart 2, concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of the license.

(f) *Recipient action to protect the Government's interest.* (1) The Recipient agrees to execute or to have executed and promptly deliver to NASA all instruments necessary to:

(i) Establish or confirm the rights the Government has throughout the world in those subject inventions to which the Subcontractor elects to retain title; and

(ii) Convey title to the Federal agency when requested under paragraph (d) of this provision and to enable the Government to obtain patent protection throughout the world in that subject invention.

(2) The Recipient agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Recipient each subject invention made under contract in order that the Recipient can comply with the disclosure provisions of paragraph (c) of this provision, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by paragraph (c)(1) of this provision. The Recipient shall instruct such employees, through employee agreements or other suitable educational programs, on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(3) The Recipient will notify NASA of any decisions not to continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not

less than 30 days before the expiration of the response period required by the relevant patent office.

(4) The Recipient agrees to include, within the specification of any United States patent application and any patent issuing thereon covering a subject invention the following statement, "This invention was made with Government support under (identify the agreement) awarded by NASA. The Government has certain rights in the invention."

(5) The Recipient shall provide the Grants Officer the following:

(i) A listing every 12 months (or such longer period as the Grants Officer may specify) from the date of the Agreement, of all subject inventions required to be disclosed during the period.

(ii) A final report prior to closeout of the Agreement listing all subject inventions or certifying that there were none.

(iii) Upon request, the filing date, serial number, and title, a copy of the patent application, and patent number and issue date for any subject invention in any country in which the Recipient has applied for patents.

(iv) An irrevocable power to inspect and make copies of the patent application file, by the Government, when a Federal Government employee is a co-inventor.

(g) *Subcontracts.* (1) Unless otherwise authorized or directed by the Grants Officer, the Recipient shall—

(i) Include this clause (Patent Rights—Retention by the Recipient (Small Business)), suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental, or research work to be performed by a small business firm or domestic nonprofit organization.

(ii) Include in all other subcontracts, regardless of tier, for experimental, developmental, or research work the patent rights clause (Patent Rights—Retention by the Recipient (Large Business)).

(2) In the event of a refusal by a prospective subcontractor to accept such a clause the Recipient—

(i) Shall promptly submit a written notice to the Grants Officer setting forth the subcontractor's reasons for such refusal and other pertinent information that may expedite disposition of the matter; and

(ii) Shall not proceed with such subcontract without the written authorization of the Grants Officer.

(3) The Recipient shall promptly notify the Grants Officer in writing upon the award of any subcontract at any tier containing a patent rights clause by identifying the subcontractor, the applicable patent rights clause, the work to be performed under the subcontract, and the dates of award and estimated completion. Upon request of the Grants Officer, the Recipient shall furnish a copy of such subcontract, and, no more frequently than annually, a listing of the subcontracts that have been awarded.

(4) The subcontractor will retain all rights provided for the Recipient in the clause under paragraph (g)(1)(i) or (g)(1)(ii) of this provision, whichever is included in the subcontract, and the Recipient will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

(5) Notwithstanding paragraph (g)(4) of this provision, and in recognition of the contractor's substantial contribution of funds, facilities and/or equipment to the work performed under this cooperative agreement, the Recipient is authorized, subject to the rights of NASA set forth elsewhere in this clause, to:

(i) Acquire by negotiation and mutual agreement rights to a subcontractor's subject inventions as the Recipient may deem necessary to obtaining and maintaining of such private support; and

(ii) Request, in the event of inability to reach agreement pursuant to paragraph (g)(5)(i) of this provision that NASA invoke exceptional circumstances as necessary pursuant to 37 CFR 401.3(a)(2) if the prospective subcontractor is a small business firm or organization, or for all other organizations, request that such rights for the Recipient be included as an additional reservation in a waiver granted pursuant to 14 CFR part 1245, subpart 1. Any such requests to NASA should be prepared in consideration of the following guidance and submitted to the contract officer.

(A) *Exceptional circumstances.* A request that NASA make an "exceptional circumstances" determination pursuant to 37 CFR 401.3(a)(2) must state the scope of rights sought by the Recipient pursuant to such determination; identify the proposed subcontractor and the work to be performed under the subcontract; and state the need for the determination.

(B) *Waiver petition.* The subcontractor should be advised that unless it requests a waiver of title pursuant to the NASA Patent Waiver Regulations (14 CFR part 1245, subpart 1), NASA will acquire title to the subject invention (42 U.S.C. 2457). If a waiver is not requested or granted, the Recipient may request a license from NASA (see licensing of NASA inventions, 14 CFR part 1245, subpart 2). A subcontractor requesting a waiver must follow the procedures set forth in the REQUESTS FOR WAIVER OF RIGHTS—LARGE BUSINESS provision.

(h) *Reporting on utilization of subject inventions.* The Recipient agrees to submit, on request, periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the Recipient or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Recipient, and such other data and information as the agency may reasonably specify. The Recipient also agrees to provide additional reports as may be requested by the agency in connection with any march-in proceeding under-taken by the agency in accordance with paragraph (i) of this provision. As required by 35 U.S.C. 202(c)(5), the agency agrees it will not disclose such information to persons outside the Government without permission of the Recipient.

(i) *Preference for United States manufacture.* The Recipient agrees that any products embodying subject inventions or produced through the use of subject inventions shall be manufactured substantially in the United States. However, in individual cases, the requirement to manufacture substantially in the United States may be waived by the Associate Administrator for Procurement (Code HS) with the concurrence of the Associate General Counsel for Intellectual Property upon a showing by the Recipient that under the circumstances domestic manufacture is not commercially feasible.

(j) *March-in rights.* The Recipient agrees that, with respect to any subject invention in which it has acquired title, NASA has the right in accordance with the procedures in 37 CFR 401.6 and any supplemental regulations of the agency to require the Recipient, an assignee or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the Subcontractor, assignee, or exclusive licensee refuses such a request NASA has the right to grant such a license itself if the Federal agency determines that—

(1) Such action is necessary because the Recipient or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use;

(2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Recipient, assignee, or their licensees;

(3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the Recipient, assignee, or licensees; or

(4) Such action is necessary because the agreement required by paragraph (i) of this provision has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

(k) *Special provisions for contracts with nonprofit organizations.* If the Recipient is a nonprofit organization, it agrees that—

(1) Rights to a subject invention in the United States may not be assigned without the approval of NASA, except where such assignment is made to an organization which has one of its primary functions the management of inventions; *provided*, that such assignee will be subject to the same provisions as the Recipient;

(2) The Recipient will share royalties collected on a subject invention with the inventor, including Federal employee co-inventors (when NASA deems it appropriate) when the subject invention is assigned in accordance with 35 U.S.C. 202(e) and 37 CFR 401.10;

(3) The balance of any royalties or income earned by the Recipient with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions will be utilized for the support of scientific research or education; and

(4) It will make efforts that are reasonable under the circumstances to attract licensees of subject inventions that are small business firms, and that it will give a preference to a small business firm when licensing a subject invention if the Recipient determines that the small business firm has a plan or proposal for marketing the invention which, if executed, is equally as likely to bring the invention to practical application as any plans or proposals from applicants that are not small business firms; *provided* that the Recipient is also satisfied that the small business firm has the capability and resources to carry out its plan or proposal. The decision whether to give a preference in any specific case will be at the discretion of the Recipient. However, the Recipient agrees that the Secretary of Commerce may review the Contractor's licensing program and decisions regarding small business applicants, and the Recipient will negotiate changes to its licensing policies, procedures, or practices with the Secretary of Commerce when the Secretary's review discloses that the Recipient could take reasonable steps to more effectively implement the requirements of this paragraph (k)(4).

(l) A copy of all submissions or requests required by this clause, plus a copy of any reports, manuscripts, publications, or similar material bearing on patent matters, shall be sent to the installation Patent Counsel in addition to any other submission requirements in the cooperative agreement. If any reports contain information describing a "subject invention" for which the Recipient has elected or may elect title, NASA will use reasonable efforts to delay public release by NASA or publication by NASA in a NASA technical series, in order for a patent application to be filed, provided that the Recipient identify the information and the "subject invention" to which it relates at the time of submittal. If required by the Grants Officer, the Recipient shall provide the filing date, serial number and title, a copy of the patent application, and a patent number and issue date for any "subject invention" in any country in which the Recipient has applied for patents.

[End of provision]

§ 1274.914 Requests for Waiver of Rights—Large Business.

Requests For Waiver of Rights—Large Business (FEB 1996)

(a) In accordance with the NASA Patent Waiver Regulations, 14 CFR part 1245, subpart 1, waiver of rights to any or all inventions made or that may be made under a NASA contract or subcontract with other than a small business firm or a domestic nonprofit organization may be requested at different time periods. Advance waiver of rights to any or all inventions that may be made under a contract or subcontract may be requested prior to the execution of the contract or subcontract, or within 30 days after execution by the selected Recipient. In addition, waiver of rights to an identified invention made and reported under a contract or subcontract may be requested, even though a request for an advance waiver was not made or, if made, was not granted.

(b) Each request for waiver of rights shall be by petition to the Administrator and shall include an identification of the petitioner; place of business and address; if petitioner is represented by counsel, the name, address, and telephone number of the counsel; the signature of the petitioner or authorized representative; and the date of signature. No specific forms need be used, but the request should contain a positive statement that waiver of rights is being requested under the NASA Patent Waiver Regulations; a clear indication of whether the request is for an advance waiver or for a waiver of rights for an individual identified invention; whether foreign rights are also requested and, if so, the countries, and a citation of the specific Section or Sections of the regulations under which such rights are requested; and the name, address, and telephone number of the party with whom to communicate when the request is acted upon. Requests for advance waiver of rights should, preferably, be included with the proposal, but in any event in advance of negotiations.

(c) Petitions for advance waiver, prior to contract execution, must be submitted to the Grants Officer. All other petitions will be submitted to the Patent Representative designated in the contract.

(d) Petitions submitted with proposals selected for negotiation of a contract will be forwarded by the Grants Officer to the installation Patent Counsel for processing and then to the Inventions and Contributions Board. The Board will consider these petitions and where the Board makes the findings to support the waiver, the Board will recommend to the Administrator that waiver be granted, and will notify the petitioner and the Grants Officer of the Administrator's determination. The Grants Officer will be informed by the Board whenever there is insufficient time or information or other reasons to permit a decision to be made without unduly delaying the execution of the contract. In the latter event, the petitioner will be so notified by the Grants Officer. All other petitions will be processed by installation Patent Counsel and forwarded to the Board. The Board shall notify the petitioner of its action and if waiver is granted, the conditions, reservations, and obligations thereof will be included in the Instrument of Waiver. Whenever the Board notifies a petitioner of a recommendation adverse to, or different from, the waiver requested, the petitioner may request reconsideration under procedures set forth in 14 CFR 1245.112(b).

[End of provision]

§ 1274.915 Restrictions on Sale or Transfer of Technology to Foreign Firms or Institutions.

Restrictions on Sale or Transfer of Technology to Foreign Firms or Institutions (FEB 1996)

(a) The parties agree that access to technology developments under this Agreement by foreign firms or institutions must be carefully controlled. For purposes of this clause, a transfer includes a sale of the company, or sales or licensing of the technology. Transfers do not include:

(1) Sales of products or components;

(2) Licenses of software or documentation related to sales of products or components; or

(3) Transfers to foreign subsidiaries of the Recipient for purposes related to this Agreement.

(b) The Recipient shall provide timely notice to the Grants Officer in writing of any proposed transfer of technology developed under this Agreement. If NASA determines that the transfer may have adverse consequences to the national security interests of the United States, or to the establishment of a robust United States industry, NASA and the Recipient shall jointly endeavor to find alternatives to the proposed transfer which obviate or mitigate potential adverse consequences of the transfer.

[End of provision]

§ 1274.916 Liability and Risk of Loss.

Liability and Risk of Loss (FEB 1996)

(a) With regard to activities undertaken pursuant to this agreement, neither party shall make any claim against the other, employees of the other, the other's related entities (e.g., contractors, subcontractors, etc.), or employees of the other's related entities for any injury to or death of its own employees or employees of its related entities, or for damage to or loss of its own property or that of its related entities, whether such injury, death, damage or loss arises through negligence or otherwise, except in the case of willful misconduct.

(b) To the extent that a risk of damage or loss is not dealt with expressly in this agreement, each party's liability to the other party arising out of this Agreement, whether or not arising as a result of an alleged breach of this Agreement, shall be limited to direct damages only, and shall not include any loss of revenue or profits or other indirect or consequential damages.

[End of provision]

§ 1274.917 Additional Funds.

Additional Funds (FEB 1996)

Pursuant to this agreement, NASA is providing a fixed amount of funding for activities to be undertaken under the terms of this cooperative agreement. NASA is under no obligation to provide additional funds. Under no circumstances shall the Recipient undertake any action which could be construed to imply an increased commitment on the part of NASA under this cooperative agreement.

[End of provision]

§ 1274.918 Incremental Funding.

Incremental Funding (FEB 1996)

(a) Of the award amount indicated on the cover page of this agreement, only the obligated amount indicated on the cover page of this agreement is available for payment. NASA anticipates making additional allotments of funds as required.

(b) These funds will be obligated as appropriated funds become available without any action required of the Recipient. NASA is not obligated to make payments in excess of the total funds obligated.

[End of provision]

§ 1274.919 Cost Principles and Accounting Standards.

Cost Principles and Accounting Standards (FEB 1996)

The expenditure of Government funds by the Recipient and the allowability of costs recognized as a resource contribution by the Recipient (See clause entitled "Resource Sharing Requirements") shall be governed by the FAR cost principles, 48 CFR part 31. (If the Recipient is a consortium which includes non-commercial firm members, cost allowability for those members will be determined as follows: Allowability of costs incurred by State, local or federally-recognized Indian tribal governments is determined in accordance with the provisions of OMB Circular A–87, "Cost Principles for State and Local Governments." The allowability of costs incurred by non-profit organizations is determined in accordance with the provisions of OMB Circular A–122, "Cost Principles for Non-Profit Organizations." The allowability of costs incurred by institutions of higher education is determined in accordance with the provisions of OMB Circular A–21, "Cost Principles for Educational Institutions." The allowability of costs incurred by hospitals is determined in accordance with the provisions of Appendix E of 45 CFR part 74, "Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals.") Recipient's method for accounting for the expenditure of funds must be consistent with Generally Accepted Accounting Principles.

[End of provision]

§ 1274.920 Responsibilities of the NASA Technical Officer.

Responsibilities of the NASA Technical Officer (FEB 1996)

(a) The NASA Grant Administrator and Technical Officer for this cooperative agreement are identified on the cooperative agreement cover sheet.

(b) The Grant Specialist shall serve as NASA's authorized representative for the administrative elements of all work to be performed under the agreement.

(c) The Technical Officer shall have the authority to issue written Technical Advice which suggests redirecting the project work (e.g., by changing the emphasis among different tasks), or pursuing specific lines of inquiry likely to assist in accomplishing the effort. The Technical Officer shall have the authority to approve or disapprove those technical reports, plans, and other technical information the Recipient is required to submit to NASA for approval. The Technical Officer is not authorized to issue and the Recipient shall not follow any Technical Advice which constitutes work which is not contemplated under this agreement; which in any manner causes an increase or decrease in the resource sharing or in the time required for performance of the project; which has the effect of changing any of the terms or conditions of the cooperative agreement; or which interferes with the Recipient's right to perform the project in accordance with the terms and conditions of this cooperative agreement.

[End of provision]

§ 1274.921 Publications and Reports: Non-Proprietary Research Results.

Publications and Reports: Non-Proprietary Research Results (FEB 1996)

(a) NASA encourages the widest practicable dissemination of research results at all times during the course of the investigation consistent with the other terms of this agreement.

(b) All information disseminated as a result of the cooperative agreement, shall contain a statement which acknowledges NASA's support and identifies the cooperative agreement by number.

(c) Prior approval by the NASA Technical Officer is required only where the Recipient requests that the results of the research be published in a NASA scientific or technical publication. Two copies of each draft publication shall accompany the approval request.

(d) Reports shall contain full bibliographic references, abstracts of publications and lists of all other media in which the research was discussed. The Recipient shall submit the following technical reports:

(1) A performance report for every year of the cooperative agreement (except the final year). Each report is due 60 days before the anniversary date of the cooperative agreement and shall describe research accomplished during the report period.

(2) A summary of research, which is due by 90 days after the expiration date of the cooperative agreement, regardless of whether or not support is continued under another cooperative agreement. This report is intended to summarize the entire research accomplished during the duration of the cooperative agreement.

(e) Performance reports and summaries of research shall display the following on the first page:

(1) Title of the cooperative agreement.

(2) Type of report.

(3) Period covered by the report.

(4) Name and address of the Recipient's organization.

(5) Cooperative agreement number.

(f) An original and two copies, one of which shall be of suitable quality to permit micro-reproduction, shall be sent as follows:

(1) Original—Grant Officer.

(2) Copy—Technical Officer.

(3) Micro-reproducible copy—NASA Center for Aerospace Information (CASI), Attn: Accessioning Department, 800 Elkridge Landing Road, Linthicum Heights, Maryland 21090–2934.

[End of provision]

§ 1274.922 Suspension or Termination.

Suspension or Termination (FEB 1996)

(a) This cooperative agreement may be suspended or terminated in whole or in part by the Recipient or by NASA after consultation with the other party. NASA may terminate the agreement, for example, if the Recipient is not making anticipated technical progress, if the Recipient materially fails to comply with the terms of the agreement, if the Recipient materially changes the objective of the agreement, or if appropriated funds are not available to support the program.

(b) Upon fifteen (15) days written notice to the other party, either party may temporarily suspend the cooperative agreement, pending corrective action or a decision to terminate the cooperative agreement. The notice should express the reasons why the agreement is being suspended.

(c) In the event of termination by either party, the Recipient shall not be entitled to additional funds or payments except as may be required by the Recipient to meet NASA's share of commitments which had in the judgment of NASA become firm prior to the effective date of termination and are otherwise appropriate. In no event, shall these additional funds or payments exceed the amount of the next payable milestone billing amount.

[End of provision]

§ 1274.923 Equipment and Other Property.

Equipment and Other Property (FEB 1996)

(a) NASA cooperative agreements permit acquisition of technical property required for the conduct of research. Acquisition of property costing in excess of $5,000 and not included in the approved proposal budget requires the prior approval of the Grant Officer unless the item is merely a different model of an item shown in the approved proposal budget.

(b) Recipients may not purchase, as a direct cost to the cooperative agreement, items of non-technical property, examples of which include but are not limited to office equipment and furnishings, air conditioning equipment, reproduction and printing equipment, motor vehicles, and automatic data processing equipment. If the Recipient requests an exception, the Recipient shall submit a written request for Grant Officer approval, prior to purchase by the Recipient, stating why the Recipient cannot charge the property to indirect costs.

(c) Under no circumstances shall cooperative agreement funds be used to acquire land or any interest therein, to acquire or construct facilities (as defined in 48 CFR 45.301 (FAR)), or to procure passenger carrying vehicles.

(d) The government shall have title to equipment and other personal property acquired with government funds. Such property shall be disposed of pursuant to 48 CFR 45.603 (FAR). The Recipient shall have title to equipment and other personal property acquired with Recipient funds. Such property shall remain with the Recipient at the conclusion of the cooperative agreement.

(e) Title to Government furnished equipment (including equipment, title to which has been transferred to the Government pursuant to 14 CFR 1260.408(d) prior to completion of the work) will remain with the Government.

(f) The Recipient shall establish and maintain property management standards for nonexpendable personal property and otherwise manage such property as set forth in 14 CFR 1260.507.

(g) Annually by October 31, the Recipient shall submit 2 copies of an inventory report which lists all Government furnished equipment and equipment acquired with Government funds in their custody as of September 30. The Recipient shall submit 2 copies of a final inventory report by 60 days after the expiration date of the cooperative agreement. The final inventory report shall contain a list of all Recipient acquired equipment and a list of Government furnished equipment. Annual and final inventory reports shall reflect the elements required in 14 CFR 1260.507(a)(1) (i), (ii), (iii), (v) through (viii) and beginning and ending dollar value totals for the reporting period and be submitted to the grant officer. When Government furnished equipment is no longer needed, the Recipient shall notify the Grants Officer, who will provide disposition instructions.

[End of provision]

§ 1274.924 Civil Rights.

Civil Rights (FEB 1996)

Work on NASA cooperative agreements is subject to the provisions of Title VI of the Civil Rights Act of 1964 (Public Law 88–352; 42 U.S.C. 2000d–l), Title IX of the Education Amendments of 1972 (20 U.S.C. 1680 *et seq.*), section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), the Age Discrimination Act of 1975 (42 U.S.C. 6101 *et seq.*), and the NASA implementing regulations (14 CFR parts 1250, 1251, and 1252).

[End of provision]

§ 1274.925 Subcontracts.

Subcontracts (FEB 1996)

(a) Recipients are not authorized to issue grants or cooperative agreements.

(b) NASA Grant Officer consent is required for subcontracts over $100,000, if not accepted by NASA in the original proposal. The Recipient shall provide the following information to the Grant Officer:

(1) A copy of the proposed subcontract.

(2) Basis for subcontractor selection.

(3) Justification for lack of competition when competitive bids or offers are not obtained.

(4) Basis for award cost or award price.

(c) The Recipient shall utilize small business concerns, small disadvantaged business concerns, Historically Black Colleges and Universities, minority educational institutions, and women-owned small business concerns as subcontractors to the maximum extent practicable.

[End of provision]

§ 1274.926 Clean Air-Water Pollution Control Acts.

Clean Air-Water Pollution Control Acts (FEB 1996)

If this cooperative agreement or supplement thereto is in excess of $100,000, the Recipient agrees to notify the Grant Officer promptly of the receipt, whether prior or subsequent to the Recipient's acceptance of this cooperative agreement, of any communication from the Director, Office of Federal Activities, Environmental Protection Agency (EPA), indicating that a facility to be utilized under or in the performance of this cooperative agreement or any subcontract thereunder is under consideration to be listed on the EPA "List of Violating Facilities" published pursuant to 40 CFR 15.20. By acceptance of a cooperative agreement in excess of $100,000, the Recipient:

(a) Stipulates that any facility to be utilized thereunder is not listed on the EPA "List of Violating Facilities" as of the date of acceptance;

(b) Agrees to comply with all requirements of section 114 of the Clean Air Act, as amended (42 U.S.C. 7414) and section 308 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1318) relating to inspection, monitoring, entry, reports and information, and all other requirements specified in the aforementioned sections, as well as all regulations and guidelines issued thereunder after award of and applicable to the cooperative agreement; and

(c) Agrees to include the criteria and requirements of this provision in every subcontract hereunder in excess of $100,000, and to take such action as the Grant Officer may direct to enforce such criteria and requirements.

[End of provision]

§ 1274.927 Debarment and Suspension and Drug-Free Workplace.

Debarment and Suspension and Drug-Free Workplace (FEB 1996)

NASA cooperative agreements are subject to the provisions of 14 CFR part 1265, Government-wide Debarment and Suspension (Nonprocurement) and Government-wide requirements for Drug-Free Workplace, unless excepted by 14 CFR 1265.110 or 1265.610.

[End of provision]

§ 1274.928 Foreign National Employee Investigative Requirements.

Foreign National Employee Investigative Requirements (FEB 1996)

(a) The Recipient shall submit a properly executed Name Check Request (NASA Form 531) and a completed applicant fingerprint card (Federal Bureau of Investigation Card FD–258) for each foreign national employee requiring access to a NASA Installation. These documents shall be submitted to the Installation's Security Office at least 75 days prior to the estimated duty date. The NASA Installation Security Office will request a National Agency Check (NAC) for foreign national employees requiring access to NASA facilities. The NASA Form 531 and fingerprint card may be obtained from the NASA Installation Security Office.

(b) The Installation Security Office will request from NASA Headquarters, International Relations Division (Code IR), approval for each foreign national's access to the Installation prior to providing access to the Installation. If the access approval is obtained from NASA Headquarters prior to completion of the NAC and performance of the cooperative agreement requires a foreign national to be given access immediately, the Technical Officer may submit an escort request to the Installation's Chief of Security.

[End of provision]

§ 1274.929 Restrictions on Lobbying.

Restrictions on Lobbying (FEB 1996)

This award is subject to the provisions of 14 CFR part 1271 "New Restrictions on Lobbying."

[End of provision]

§ 1274.930 Travel and Transportation.

Travel and Transportation (FEB 1996)

(a) For travel funded by the government under this agreement, section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires the Recipient to use U.S.-flag air carriers for international air transportation of personnel and property to the extent that service by those carriers is available.

(b) Department of Transportation regulations, 49 CFR part 173, govern Recipient shipment of hazardous materials and other items.

[End of provision]

§ 1274.931 Electronic Funds Transfer Payment Methods.

Electronic Funds Transfer Payment Methods (FEB 1996)

Payments under this cooperative agreement will be made by the Government either by check or electronic funds transfer (through the Treasury Fedline Payment System (FEDLINE) or the Automated Clearing House (ACH)), at the option of the Government. After award, but no later than 14 days before an invoice is submitted, the Recipient shall designate a financial institution for receipt of electronic funds transfer payments, and shall submit this designation to the Grant Officer or other Government official, as directed.

(a) For payment through FEDLINE, the Recipient shall provide the following information:

(1) Name, address, and telegraphic abbreviation of the financial institution receiving payment.

(2) The American Bankers Association 9-digit identifying number for wire transfers of the financing institution receiving payment if the institution has access to the Federal Reserve Communication System.

(3) Payee's account number at the financial institution where funds are to be transferred.

(4) If the financial institution does not have access to the Federal Reserve Communications System, name, address, and telegraphic abbreviation of the correspondent financial institution through which the financial institution receiving payment obtains wire transfer activity. Provide the telegraphic abbreviation and American Bankers Association identifying number for the correspondent institution.

(b) For payment through ACH, the Recipient shall provide the following information:

(1) Routing transit number of the financial institution receiving payment (same as American Bankers Association identifying number used for FEDLINE).

(2) Number of account to which funds are to be deposited.

(3) Type of depositor account ("C" for checking, "S" for savings).

(4) If the Recipient is a new enrollee to the ACH system, a "Payment Information Form," SF 3881, must be completed before payment can be processed.

(c) In the event the Recipient, during the performance of this cooperative agreement, elects to designate a different financial institution for the receipt of any payment made using electronic funds transfer procedures, notification of such change and the required information specified above must be received by the appropriate Government official 30 days prior to the date such change is to become effective.

(d) The documents furnishing the information required in this clause must be dated and contain the signature, title, and telephone number of the Recipient official authorized to provide it, as well as the Recipient's name and contract number.

(e) Failure to properly designate a financial institution or to provide appropriate payee bank account information may delay payments of amounts otherwise properly due.

[End of Provision]

§ 1274.932 Retention and Examination of Records.

Retention and Examination of Records (FEB 1996)

Financial records, supporting documents, statistical records, and all other records (or microfilm copies) pertinent to this cooperative agreement shall be retained for a period of 3 years, except that records for nonexpendable property acquired with cooperative agreement funds shall be retained for 3 years after its final disposition and, if any litigation, claim, or audit is started before the expiration of the 3-year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved. The retention period starts from the date of the submission of the final invoice. The Administrator of NASA and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any pertinent books, documents, papers, and records of the Recipient and of subcontractors to make audits, examinations, excerpts, and transcripts. All requirements of this provision shall apply to any subcontractor performing substantive work under this cooperative agreement.

[End of provisions]

Appendix A to Part 1274—Contract Provisions

All contracts awarded by a Recipient, including small purchases, shall contain the following provisions if applicable:

1. Equal Employment Opportunity—All contracts shall contain a provision requiring compliance with Executive Order 11246, 30 FR 12319, 12935, 3 CFR, 1964–1965 Comp., p. 339, Executive Order 11375, 32 FR 14199, 3 CFR, 1966–1970 Comp., p. 684, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

2. Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 276c)—All contracts in excess of $50,000 for construction or repair awarded by Recipients and subRecipients shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each Recipient or subRecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The Recipient shall report all suspected or reported violations to NASA.

3. Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333)—Where applicable, all contracts awarded by Recipients in excess of $2,000 for construction contracts and in excess of $50,000 for other contracts, other than contracts for commercial items, that involve the employment of mechanics or laborers shall include a provision for compliance with sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333), as supplemented by Department of Labor regulations (29 CFR part 5). Under section 102 of the Act, each Recipient shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

4. Rights to Inventions Made Under a Contract or Agreement—Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the Recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

5. Clean Air Act, as amended (42 U.S.C. 7401 *et seq.*) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 *et seq.*) Contracts, other than contracts for commercial items, of amounts in excess of $100,000 shall contain a provision that requires the Recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 *et seq.*) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 *et seq.*). Violations shall be reported to NASA and the Regional Office of the Environmental Protection Agency (EPA).

6. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors who apply or bid for an award of $100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the Recipient.

7. Debarment and Suspension (Executive Orders 12549 and 12689)—No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with Executive Orders 12549 and 12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than Executive Order 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

Appendix B to Part 1274—Reports

1. Individual procurement action report (NASA Form 507). The grant officer is responsible for submitting NASA Form 507 for all cooperative agreement actions.

2. Inventory listings of equipment. As provided in paragraph (g) of the provision in § 1274.923, an annual inventory listing of Government furnished equipment will be submitted by October 31 of each year. Upon receipt of each annual inventory listing, the administrative grant officer will provide 1 copy to the NASA installation financial management officer and 1 copy to the NASA installation industrial property officer. A final inventory report of Government furnished equipment and grantee acquired equipment is due 60 days after the end of the cooperative agreement, in accordance with the provision in 31274.923. Upon receipt of the final inventory report, the administrative grant officer will provide 1 copy to the technical officer and 1 copy to the NASA Installation industrial property officer.

3. Disclosure of lobbying activities (SF LLL). (a) Grant officers shall provide one copy of each SF LLL furnished under 14 CFR 1271.110 to the Procurement Officer for transmittal to the Director, Analysis Division (Code HC).

(b) Suspected violations of the statutory prohibitions implemented by 14 CFR part 1271 shall be reported to the Director, Contract Management Division (Code HK).

Appendix C to Part 1274—Listing of Exhibits

Exhibit A—Format for cooperative agreement

BILLING CODE 7510-01-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
COOPERATIVE AGREEMENT

1. TO:
2. COOPERATIVE AGREEMENT NO.:
3. SUPPLEMENT NO.:
4. EFFECTIVE DATE:
5. EXPIRATION DATE:

6. FOR RESEARCH ENTITLED:

7. AWARD HISTORY
PREVIOUS AMOUNT:
THIS ACTION:
TOTAL TO DATE:

FUNDING HISTORY
PREVIOUS OBLIGATION:
THIS ACTION:
TOTAL TO DATE:

8. NASA PROCUREMENT REQUEST NO.:
PPC CODE.: APPROPRIATION:

9. POINTS OF CONTACT:

TECHNICAL OFFICER: GRANT ADMINISTRATOR:

PAYMENT:

10. This cooperative agreement is awarded under the authority of 42 U.S.C. 2473(c)(5), and is subject to all applicable laws and regulations of the United States in effect on the date this cooperative agreement is awarded, including but not limited to 14 CFR Part 1274 (Cooperative Agreements with Commercial Firms).

UNITED STATES OF AMERICA

XXXX XXXXXXXXXX
GRANTS OFFICER

DATE:

Recipient

XXXXXXXXXXX XXXXXXXXXXXX
AUTHORIZED REPRESENTATIVE

DATE:

Enclosures
(As Required)

[FR Doc. 96–6535 Filed 3–26–96; 8:45 am]
BILLING CODE 7510–01–C

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2, 153, 157, 201, 375 and 382

[Docket No. RM96–9–000]

Editorial Changes to Various Regulations To Conform References to Revised Part 154; Order No. 586; Final Rule

Issued March 21, 1996.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final Rule.

SUMMARY: The Federal Energy Regulatory Commission is amending various regulations under the Natural Gas Act to conform to revisions to part 154 of the Commission's regulations under the Natural Gas Act which reorganized the filing requirements for interstate natural gas pipelines.

EFFECTIVE DATE: This final rule is effective April 26, 1996.

FOR FURTHER INFORMATION CONTACT: Richard A. White, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 208–0491.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours at 888 First Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397 if dialing locally or 1–800 856–3920 if dialing long distance. To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400 or 1200bps, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this document will be available on CIPS indefinitely in ASCII and WordPerfect 5.1 format. The complete text on diskette in Wordperfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, located in Room 2–A, 888 First Street NE., Washington, DC 20426.

Before Commissioners: Elizabeth Anne Moler, Chair; Vicky A. Bailey, James J. Hoecker, William L. Massey, and Donald F. Santa, Jr.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is amending parts 2, 153, 157, 201, and 382 of its regulations to conform to changes in part 154 promulgated by the final rule issued September 28, 1995, in Docket No. RM95–3–000 (60 FR 52960, October 11, 1995). The changes to the Commission regulations are to be effective April 26, 1996.

II. The Revised Regulations

The final rule in Docket No. RM95–3–000 completely reorganized the regulations governing the filing requirements for interstate natural gas pipelines. Therefore, other regulations that reference part 154 must be conformed to reference the appropriate section of the revised regulations. Accordingly, the Commission is adopting these conforming changes to its regulations.

Section 2.55 contains a reference to former § 154.91 which contained the definition of "independent producer." Since former § 154.91 has been removed, the definition will be incorporated into paragraph (d) of revised § 2.55. This modification does not represent a change in Commission policy.

Section 2.64 concerns producer certificates. Producers no longer have to file for certificates with the Commission. The entire section has been removed.

Section 153.8 references former §§ 154.31 through 154.41. This section is modified to refer to revised §§ 154.101 through 154.111, and 154.301 through 154.403.

Section 157.103(d)(8) refers to former § 154.63. This section is modified to refer to subpart D of part 154.

Section 157.301(d) concerns waiver of requirements formerly required by §§ 154.92 through 154.94. These sections have been removed from the Commission's regulations by Order No. 567.[1] Accordingly, § 157.301(d) is removed.

Part 201, General Instruction 16, refers to former §§ 2.66 and 154.42. Section 2.66 was removed by Order No. 542[2] and § 154.42 was removed by Order No 567.[3] These sections were removed because the Natural Gas Wellhead Decontrol Act of 1989[4] made all "first sales" of natural gas no longer subject to Federal regulation. Because General Instruction 16 is predicated on the requirements of former §§ 2.66 and 154.42, General Instruction No. 16 is being removed.

Part 201, Gas Plant Instruction, 3.(17)(b) refers to former § 154.63. This reference will be changed to subpart D of revised part 154.

In part 375, the title of § 375.307 must be changed to reflect the renaming of the Office of Pipeline and Producer Regulation to the Office of Pipeline Regulation. The reference to §§ 154.303(e) and 154.63(a)(2) is changed to reference subpart D of part 154 in § 375.307(b)(1). In paragraph (b)(5), the reference to § 154.91 has been removed. Paragraph (f)(3), concerns applications for waiver of various fees. However, the fees are no longer required. Therefore, the references to §§ 381.201–206, 381.208, 381.209, 381.401, and 381.404 have been removed. Paragraph (f)(5) has been changed to refer to § 154.403.

The reference in § 382.103(c) to former § 154.67(c)(2)(iii) is modified to reflect that the subject of this section, interest calculations, is now found in revised § 154.501(d).

III. Public Reporting Burden

The Commission estimates the public reporting burden for the collection of information under the rule will not be affected.

Interested persons may send comments regarding this burden estimate or any other aspect of this information collection, including suggestions for reducing the burden by contacting the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426 [Attention: Michael Miller, Information Services Division, (202) 208–1415], and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington DC 20503 (Attention: Desk Officer for the Federal Energy Regulatory Commission), FAX: (202) 395–5167.

IV. Regulatory Flexibility Act Certification

[1] 68 FERC ¶ 61,135 (1994). Order No. 567 deleted certain regulations related to natural gas producer rate regulation that were either obsolete or nonessential in light of the deregulation of wellhead gas prices under the Natural Gas Wellhead Decontrol Act of 1989. Pub. L. No. 101–60; 103 Stat. 157 (1989).

[2] Deletion of Certain Outdated or Nonessential Regulations Pertaining to the Commission's Jurisdiction over Natural Gas, III FERC Stats. & Regs. ¶ 30,945 (1992).

[3] Removal of Outdated Regulations Pertaining to the Sales of Natural Gas Production, III FERC Stats. & Regs. ¶ 30,999 (1994).

[4] Pub. L. 101–60; 103 Stat. 157 (1989).

The Regulatory Flexibility Act (RFA)[5] requires agencies to prepare certain statements, descriptions and analyses of proposed rules that will have a "significant economic impact on a substantial number of small entities." The Commission is not required to make such analyses if a rule would not have such an effect.

The Commission believes that this rule will not have such an impact on small entities. Most filing companies regulated by the Commission do not fall within the RFA's definition of small entity.[6] Further, this rule merely changes the section number referenced within an existing regulation. Therefore, the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities.

V. Environmental Statement

The Commission has excluded certain actions not having a significant effect on the human environment from the requirement to prepare an environmental assessment or an environmental impact statement.[7] No environmental consideration is raised by the promulgation of a rule that is clarifying, corrective, or procedural or that does not substantially change the effect of legislation or regulations being amended.[8] The instant rule is purely procedural. Accordingly, no environmental consideration is necessary.

VI. Information Collection Statement

The Office of Management and Budget's (OMB) regulations[9] require that OMB approve certain information and recordkeeping requirements imposed by an agency. The following existing data collections are affected by this final rule but with no change in industry reporting burden: FERC–541, Gas Pipeline Certificates: Curtailment Plan (1902–0066); FERC–542, Gas Pipeline Rates: Initial Rates, Rate Change & Tracking Filing (1902–0070); FERC–544, Gas Pipeline Rates: Rate Change (formal) (1902–0153); FERC–545, Gas Pipeline Rates: Rate Change (NonFormal) (1902–0154); FERC–577, Environmental Impact Statement (1902–0128); FERC Form 2, Annual Report of Major Natural Gas Companies (1902–0028); and, FERC Form 2A, Annual Report of Nonmajor Natural Gas Companies (1902–0030); and, FERC–582, Oil, Gas and Electric Annual Charges (1902–0132).

The Commission is issuing this final rule to change the section references in existing regulations to conform to the revised part 154. The Commission uses the information to carry out its regulatory responsibilities pursuant to the Natural Gas Act. The Commission's Office of Pipeline Regulation uses the information to review rate filings by natural gas pipelines for the transportation of gas.

The Commission is submitting to the Office of Management and Budget a notification of these collections of information. Interested persons may obtain information on these reporting requirements by contacting the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 [Attention: Michael Miller, Information Services Division, (202) 208–1415]. Comments on the requirements of this rule can be sent to the Office of Information and Regulatory Affairs of OMB, Washington, DC 20503, (Attention: Desk Officer for Federal Energy Regulatory Commission) FAX: (202) 395–5167.

VII. Administrative Findings and Effective Date

The Administrative Procedure Act (APA) exempts certain rules from notice and comment requirements.[10] Specifically, the APA exempts "rules of agency organization, procedure, or practice" from the requirements for notice and comment.[11] This change to referenced sections of part 154 to conform to changes in part 154 qualifies for exemption as a procedural rule because it does not affect the substantive rights of a party.

This order is effective April 26, 1996.

List of Subjects

18 CFR Part 2

Administrative practice and procedure, Electric power, Natural gas, Pipelines, Reporting and recordkeeping requirements.

18 CFR Part 153

Exports, Imports, Natural Gas, Reporting and recordkeeping requirements.

18 CFR Part 157

Administrative practice and procedure, Natural gas, Reporting and recordkeeping requirements.

18 CFR Part 201

Natural gas, Reporting and recordkeeping requirements, Uniform System of Accounts.

18 CFR Part 375

Authority delegations (Government agencies), Seals and insignia, Sunshine Act.

18 CFR Part 382

Administrative practice and procedure, Electric utilities Pipelines, Reporting and recordkeeping requirements.

By the Commission.

Lois D. Cashell,

Secretary.

In consideration of the foregoing, the Commission is amending parts 2, 153, 157, 201, 375 and 382, Chapter I, Title 18, Code of Federal Regulations, as set forth below.

PART 2—GENERAL POLICY AND INTERPRETATIONS

1. The authority citation for part 2 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 791a-825r, 2601–2645; 42 U.S.C. 4321–4361, 7101–7352.

2. Section 2.55 is amended by revising paragraph (d) to read as follows:

§ 2.55 Definition of terms used in section 7(c).

* * * * *

(d) Taps. Taps on existing transmission pipelines which are installed solely for the purpose of enabling a purchaser or transporter to take delivery of gas from an independent producer. An independent producer means any person as defined in the Natural Gas Act who is engaged in the production or gathering of natural gas and who sells natural gas in interstate commerce for resale, but who is not engaged in the transportation of natural gas (other than gathering) by pipeline in interstate commerce.

§ 2.64 [Removed]

3. Section 2.64 is removed.

PART 153—APPLICATION FOR AUTHORIZATION TO EXPORT OR IMPORT NATURAL GAS

4. The authority citation for part 153 is revised to read as follows:

Authority: 15 U.S.C. 717b, 717o; E.O. 10485, 3 CFR, 1949–1953 Comp., p. 970, as amended by E.O. 12038, 3 CFR, 1978 Comp., p. 136.

5. Section 153.8 is revised to read as follows:

§ 153.8 Filing of contracts, rate schedules, etc.

Persons authorized to export natural gas from the United States to a foreign country or to import natural gas from a foreign country must file two full and complete copies of every contract and the amendments thereto, presently or hereafter effective, for such export or import, together with all rate schedules, agreements, leases or other writings, tariffs, classifications, rules and regulations relative to such export or import in the manner specified in part 154 of this chapter, except that the requirements of § 154.101 through § 154.111 and § 154.301 through 154.403 shall not be applicable.

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

6. The authority citation for part 157 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7352.

7. Section 157.103 is amended by revising paragraph (d)(8) to read as follows:

§ 157.103 Terms and conditions; other requirements.

* * * * *

(d) * * *

(8) Prohibitions against cost shifting. No costs originally allocated to a new service may subsequently be allocated to any other services without a filing under Subpart D of Part 154 and a determination by the Commission that the costs sought to be reallocated are in fact being incurred for the benefit of the other services.

* * * * *

§ 157.301 [Removed]

8. Section 157.301 is removed.

PART 201—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR NATURAL GAS COMPANIES SUBJECT TO THE PROVISIONS OF THE NATURAL GAS ACT

9. The authority citation for Part 201 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7352, 7651–7651o.

10. In Part 201, General Instructions, paragraph 16 is removed and reserved.

11. In Part 201, Gas Plant Instructions, paragraph 3(17)(b) remove the words "§ 154.63" and add, in their place, the words "subpart D of part 154".

PART 375—THE COMMISSION

12. The authority citation for Part 375 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 791–825r, 2601–2645; 42 U.S.C. 7101–7352.

13. In section 375.307, the section heading and paragraphs (b)(1), (b)(5), (f)(3) and (f)(5) are revised to read as follows:

§ 375.307 Delegations to the Director of the Office of Pipeline Regulation.

* * * * *

(b) * * *

(1) Accept a tariff or rate schedule filing, except a major pipeline rate increase under section 4(e) of the Natural Gas Act and under subpart D of part 154, if it complies with all applicable statutory requirements, and with all applicable Commission rules, regulations, and orders for which a waiver has not been granted, or if a waiver has been granted by the Commission, if it complies with the terms of such waiver;

* * * * *

(5) Accept statements of eligibility filed under § 2.56(p) of this chapter by producers of natural gas, as defined in § 157.40 of this chapter.

* * * * *

(f) * * *

(3) Fees prescribed in §§ 381.207, 381.402, and 381.403 of this chapter in accordance with § 381.106(b) of this chapter;

* * * * *

(5) Section 154.403 of this chapter, as necessary, in order to rule on out-of-cycle purchased gas adjustment filings.

* * * * *

PART 382—ANNUAL CHARGES

14. The authority citation for part 382 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 791a-825r, 2601–2645; 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85.

§ 382.103 [Amended]

15. In § 382.103(c), the words "§ 154.67(c)(2)(iii)" are removed and the words "§ 154.501(d)" are added in their place.

[FR Doc. 96–7430 Filed 3–26–96; 8:45 am]

BILLING CODE 6717–01–P

[5] 5 U.S.C. 601–612.

[6] 5 U.S.C. 601(3), citing to section 3 of the Small Business Act, 15 U.S.C. 632. Section 3 of the Small Business Act defines a "small-business concern" as a business which is independently owned and operated and which is not dominant in its field of operation.

[7] 18 CFR 380.4.

[8] 18 CFR 380.4(a)(2)(ii).

[9] 5 CFR 1320.12.

[10] 5 U.S.C. 553(b)(3).

[11] 5 U.S.C. 553(b)(3)(A).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 1000 and 1002

[Docket No. 82N–0273]

RIN 0910–AA15

Records and Reports Regulations for Radiation Emitting Electronic Products; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that appeared in the **Federal Register** of September 19, 1995 (60 FR 48374). The document amended FDA regulations regarding the requirements for recordkeeping and reporting of adverse experiences and other information relating to radiation emitting electronic products. The document was published with inadvertent typographical errors. This document corrects those errors.

EFFECTIVE DATE: October 19, 1995.

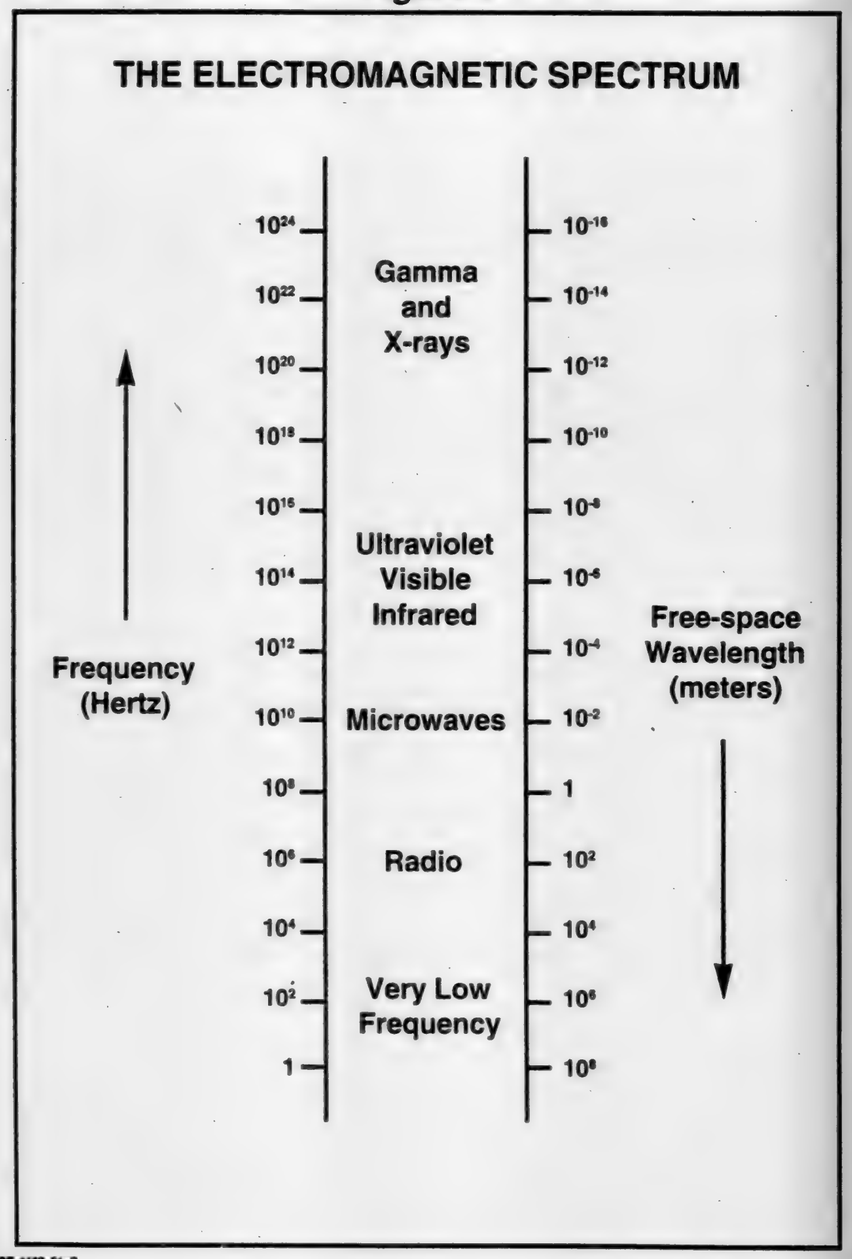
FOR FURTHER INFORMATION CONTACT: Joanne Barron, Center for Devices and Radiological Health (HFZ–300), Food and Drug Administration, 2094 Gaither Rd., Rockville, MD 20850, 301–594–4654.

In FR Doc. 95–23130, appearing on page 48374 in the **Federal Register** of Tuesday, September 19, 1995, the following corrections are made:

1. On page 48381, "Figure 1" is republished to correct some inadvertent errors, as follows:

BILLING CODE 4160–01–F

Figure 1



BILLING CODE 4160-01-C

2. Beginning on page 48383, in table 1, is being republished to correct some inadvertent typographical errors, as follows:

TABLE 1.—Record and Reporting Requirements By Product

Products	Manufacturer: Product reports § 1002.10	Supplemental reports § 1002.11	Abbreviated reports § 1002.12	Annual reports § 1002.13	Test records § 1002.30(a)[1]	Distribution records § 1002.30(b)[2]	Dealer & Distributor: Distribution records §§ 1002.40 and 1002.41
DIAGNOSTIC X-RAY[3] (1020.30, 1020.31, 1020.32, 1020.33)							
Computed tomography	X	X		X	X	X	X
X-ray system[4]	X	X		X	X	X	X
Tube housing assembly	X	X		X	X	X	
X-ray control	X	X		X	X	X	X
X-ray high voltage generator	X	X		X	X	X	X
X-ray table or cradle			X		X	X	X
X-ray film changer			X		X	X	
Vertical cassette holders mounted in a fixed location and cassette holders with front panels			X		X	X	X
Beam-limiting devices	X	X		X	X	X	X
Spot-film devices and image intensifiers manufactured after April 26, 1977	X	X		X	X	X	X
Cephalometric devices manufactured after February 25, 1978			X		X	X	
Image receptor support devices for mammographic X-ray systems manufactured after September 5, 1978			X		X	X	X
CABINET X RAY (§ 1020.40)							
Baggage inspection	X	X		X	X	X	X
Other	X	X		X	X	X	
PRODUCTS INTENDED TO PRODUCE PARTICULATE RADIATION OR X-RAYS OTHER THAN DIAGNOSTIC OR CABINET DIAGNOSTIC X-RAY							
Medical			X	X	X	X	
Analytical			X	X	X	X	
Industrial			X	X	X	X	
TELEVISION PRODUCTS (§ 1020.10)							
<25 kilovolt (kV) and <0.1 milliroentgen per hour (mR/hr IRLC[5,6]			X	X[6]			
≥25kV and <0.1mR/hr IRLC[5]	X	X		X			
≥0.1mR/hr IRLC[5]	X	X		X	X	X	
MICROWAVE/RF							
MW ovens (§ 1030.10)	X	X		X	X	X	
MW diathermy			X				
MW heating, drying, security systems			X				
RF sealers, electromagnetic induction and heating equipment, dielectric heaters (2–500 megahertz)			X				
OPTICAL							
Phototherapy products	X	X					
Laser products (§§ 1040.10, 1040.11)							
Class I lasers and products containing such lasers[7]	X			X	X		
Class I laser products containing class IIa, II, IIIa, lasers[7]	X			X	X	X	
Class IIa, II, IIIa lasers and products other than class I products containing such lasers[7]	X	X		X	X	X	X
Class IIIb and IV lasers and products containing such lasers[7]	X	X		X	X	X	X
Sunlamp products (§ 1040.20)							
Lamps only	X						
Sunlamp products	X	X		X	X	X	X
Mercury vapor lamps (§ 1040.30)							
T lamps	X	X		X			
R lamps			X				
ACOUSTIC							
Ultrasonic therapy (1050.10)	X	X		X	X	X	X

TABLE 1.—Record and Reporting Requirements By Product—Continued

Products	Manufacturer: Product reports § 1002.10	Supplemental reports § 1002.11	Abbreviated reports § 1002.12	Annual reports § 1002.13	Test records § 1002.30(a)[1]	Distribution records § 1002.30(b)[2]	Dealer & Distributor: Distribution records §§ 1002.40 and 1002.41
Diagnostic ultrasound			X				
Medical ultrasound other than therapy or diagnostic	X	X					
Nonmedical ultrasound			X				

[1]However, authority to inspect all appropriate documents supporting the adequacy of a manufacturer's compliance testing program is retained.
[2]The requirement includes §§ 1002.31 and 1002.42, if applicable.
[3]Report of Assembly (Form FDA 2579) is required for diagnostic x-ray components; see 21 CFR 1020.30(d)(1) through (d)(3).
[4]Systems records and reports are required if a manufacturer exercises the option and certifies the system as permitted in 21 CFR 1020.30(c).
[5]Determined using the isoexposure rate limit curve (IRLC) under phase III test conditions (1020.10(c)(3)(iii)).
[6]Annual report is for production status information only.
[7]Determination of the applicable reporting category for a laser product shall be based on the worst-case hazard present within the laser product.

§ 1002.3 [Corrected]

3. On page 48385, in the first column, in § 1002.3, in line 6, the comma is removed after the word "product" and in line 7, a comma is added after the word "purchaser".

Dated: March 19, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–7313 Filed 3–26–96; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AH48

Examinations

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule, without change, an interim rule that amended the Department of Veterans Affairs (VA) adjudication regulations concerning compensation and pension claims filed by veterans, surviving spouses, or parents. With respect to language for authorizing VA examinations, this final rule provides that a VA examination will be authorized where there is a well-grounded claim for disability compensation or pension but the medical evidence accompanying the claim is not adequate for rating purposes. This final rule reflects statutory language and caselaw requirements concerning such VA examinations.

EFFECTIVE DATE: This final rule is effective March 27, 1996. (The interim rule was effective October 11, 1995.)

FOR FURTHER INFORMATION CONTACT: Paul Trowbridge, Consultant, Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, telephone (202) 273–7210.

SUPPLEMENTARY INFORMATION: On October 11, 1995, VA published in the **Federal Register** (60 FR 52863) an interim final rule intended to clarify the circumstances under which a VA examination will be authorized. Interested parties were invited to submit written comments on or before December 11, 1995. We received no comments.

Based on the rationale set forth in the interim final rule, the provisions of the interim final rule are adopted as a final rule without change.

The Secretary certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule will directly affect VA beneficiaries but will not affect small businesses. Therefore, pursuant to 5 U.S.C. 606(b), this final rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance program numbers are 64.100, 64.104, 64.105, 64.106, 64.109, and 64.110.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Veterans, Vietnam.

Approved: March 18, 1996.

Jesse Brown,

Secretary of Veterans Affairs.

[FR Doc. 96–7326 Filed 3–26–96; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 5F4509/R2221; FRL–5357–9]

Meat Meal and Red Pepper; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for residues of the active ingredients meat meal and red pepper in or on all raw agricultural commodities when applied as animal repellants in accordance with good agricultural practices. This exemption was requested by Lakeshore Enterprises.

EFFECTIVE DATE: The regulation becomes effective on March 27, 1996.

ADDRESSES: Written objections and hearing requests, identified by the docket number, [PP 5F4509/R2221], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the docket number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled "Tolerance Petition Fees" and forwarded: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. An electronic copy of objections and hearing requests filed with the Hearing Clerk may be submitted to OPP by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov

Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket number [PP 5F4509/R2221] . No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Julie Fry, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs (7501W), U. S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 5th Floor CS1, 2800 Crystal Drive, Arlington, VA 22202, Telephone 703–308–8673, e-mail: fry.julie@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 7, 1996, EPA issued a notice that Lakeshore Enterprises had submitted pesticide petition 5F4509 to EPA, proposing to amend 40 CFR part 180 by establishing a regulation pursuant to section 408 of the Federal Food, Drug and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d) to exempt from the requirement of a tolerance the residues of the biochemicals meat meal and red pepper (synonyms include capsicum, cayenne pepper, chile pepper) in or on all raw agricultural commodities when applied as animal repellants in accordance with good agricultural practices. The Agency received one comment opposing tolerance levels proposed for the pesticides described primarily based on possible roles of pesticides in neurotoxicity. The commentor also supported the promotion of "safe/safer" alternatives to toxic chemicals. The Agency believes that the subject active ingredients, meat meal and red pepper, don't pose a risk including risk of neurotoxicity based on their extended use without any reported adverse effects. Furthermore, both meat meal and red pepper fall in the category of "safe/safer" pesticides, as supported by the response of the commentor.

Product Chemistry

Meat Meal

Meat meal is a sterilized, animal food by-product produced at livestock rendering plants from clean, fresh animal proteins. It is composed of greater than or equal to 85% crude protein, greater than or equal to 8% crude fiber, less than or equal to 3% fat, and less than or equal to water. This composition may vary from the batch-to-batch, depending on the by-products rendered (traces of hair, stomach belchings and urine might occur unavoidably in good manufacturing processes.) The moisture is removed from the crude product and the dried meat meal is sterilized at a temperature ranging from 210 °F to 250 °F for at least 1 1/2 hours. No chemicals are added to the meat meal. The resulting product is an unconsolidated fibrous powder.

Red Pepper

Red pepper is natural, processed vegetable matter that has been part of the human diet for many years. Red pepper is made by dehydrating fresh red chili pepper pods (*Capsicum spp.*), processing the dried pods through a mill and sifter, then blending the varieties of pepper powder into a final product. Known constituents of red pepper include capsaicin oil (0.1 - 1%), the source of red pepper's pungent effect and capsanthin, a carotenoid pigment.

Human Health Risk Assessment

EPA waived the data requirements for residue chemistry and toxicology data pursuant to 40 CFR 177.110(b) because it was unnecessary. As discussed below, EPA already has adequate information to determine that meat meal and red pepper do not pose a human health hazard without the waived data.

Meat Meal

Meat meal is available from livestock rendering plants nationwide; it is widely distributed in commerce and available to the general public. It is used as an animal food/feed supplement and as organic fertilizer. No significant adverse effects from exposure to meat meal have been reported. The expected uses of meat as an olfactory animal repellant will include meat meal packaged in bags and applied in powder form around the base of plants. Meat meal will not be applied directly to the plant. Negligible human exposure is anticipated.

Meat meal is composed mainly of sterilized animal proteins and fats. These natural components do not persist in the environment because they biodegrade rapidly. Furthermore, meat meal has been identified by EPA as a List 4A-Minimum Risk Inert. This list, published in the **Federal Register**, September 28, 1994 (59 FR 49400), identifies substances "considered to be of minimal risk in pesticide products to human health when used as inert ingredients." These substances are also exempt from the requirement of tolerance when used as an inert ingredient. EPA believes that the risk from the use of meat meal on food is comparable whether it is used as an active or as an inert ingredient.

Red Pepper

Lack of toxicity of red pepper is supported by its long history of use by humans as a food additive/component without any indication of deleterious effects. Red peppers are ubiquitous in the cooking of many African countries and most of India, Ceylon and S.E. Asia. (*Capsicum spp*). Pepper exports amount to 176,000 tons annually (Ref. 1) (Rehm, S. and G. Espig. 1991. The Cultivated Plants of the Tropics and Subtropics - Cultivation, Economic Value, Utilization. Verlag Josef Margraf Scientific Books. Berlin, Germany. Pages 279–280). Red pepper is listed by the Food and Drug Administration as Generally Regarded as Safe (GRAS) in 21 CFR part 182. Furthermore, red pepper, a common food additive/component, also falls within the scope of the policy announced in the **Federal Register**, September 28, 1994 (59 FR 49400) which states "... EPA is announcing that substances commonly consumed as food will also be considered minimal risk, List 4A, even if they have previously not been used in pesticide products and are therefore not currently on the list. Substances commonly consumed as foods will be considered acceptable for use in all pesticide products, both food and nonfood use, and will not require a specific exemption from tolerance." EPA believes the risk from the use of red pepper on food is comparable whether it is used as an active or as an inert ingredient.

Conclusion

Based on the low toxicity of meat meal, a sterilized food by-product and

red pepper, a common additive/component of the human diet, the Agency concludes that establishment of a tolerance is not necessary to protect the public health. Therefore, the exemption from tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections to the regulation and may also request a hearing on those objections.
Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

EPA has established a record for this rulemaking under docket number [PP 5F4509/R2221] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments may be sent directly to EPA at:

opp-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

References Cited

The following reference is cited in this tolerance rule:

(1) Rehm, S. and G. Espig. (1991). The Cultivated Plants of the Tropics and Subtropics - Cultivation, Economic Value, Utilization. Verlag Josef Margraf Scientific Books. Berlin, Germany. pp. 279-280.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlements, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4, EPA has determined that this regulation does not impose a Federal mandate upon State, local, or tribal governments or the private sector and does not contain any regulatory requirements that might significantly or uniquely affect small governments because the regulation does not impose any enforceable duties upon those entities.

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 18, 1996.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In subpart D, by adding § 180.1164, to read as follows:

§ 180.1164 Food and food by-products; exemption from the requirement of a tolerance.

(a) Meat meal, a sterilized food by-product, is exempt from the requirement of a tolerance on all raw agricultural commodities when used as an olfactory animal repellent.

(b) Red pepper (*Capsicum spp.*) is exempt from the requirement of a tolerance on all raw agricultural commodities when used as a gustatory animal repellent.

[FR Doc. 96–7444 Filed 3–26–96; 8:45 am]
BILLING CODE 6560–50–F

40 CFR Part 180

[PP 4E4375/R2219; FRL–5357–6]

RIN 2070–AB78

Pesticide Tolerance for Benzoic Acid

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide benzoic acid (3,5-dimethyl-1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl) hydrazide), in or on the raw agricultural commodity apples. The regulation to establish a maximum permissible level for residues of the insecticide was requested in a petition submitted by the Rohm and Haas Co.

EFFECTIVE DATE: This regulation becomes effective March 27, 1996.

ADDRESSES: Written objections and hearing requests, identified by the docket number, [PP 4E4375/R2219], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the docket number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. An electronic copy of objections and hearing requests filed with the Hearing Clerk may be submitted to OPP by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov.

Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket number [PP 4E4375/R2219] . No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Richard P. Keigwin, Jr., Product Manager (PM) 10, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 210, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703–305–6788; e-mail: keigwin.rick@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a notice (FRL–4948–2), published in the **Federal Register** of April 5, 1995 (60 FR 17357), which announced that Rohm and Haas Co. had submitted pesticide petition (PP) 4E4375 to EPA requesting that the Administrator, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), establish a tolerance for residues of the insecticide benzoic acid (3,5-dimethyl-1,1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl)hydrazide), in or on the raw agricultural commodity apples at 1.0 parts per million (ppm). As of February 29, 1996 there are no U.S. registrations for apples.

The scientific data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the tolerance include:

1. A 1–year dog feeding study with a lowest-observable-effect level(LOEL) of 250 ppm (8.7 mg/kg/day for male and 8.9 mg/kg/day for female dogs) based on growth retardation in the male and in both sexes decreases in RBC, HCT, and HGB, increases in Heinz bodies, methemoglobin, MCV, MCH, reticulites, platelets, plasma total bilirubin, spleen weight, and spleen/body weight ratio, and liver weight and liver/body weight ratio. Hematopoiesis and sinusoidal engorgement occurred in the spleen, and hyperplasia occurred in marrow of the femur and sternum. The liver showed an increased pigment in the Kupffer cells. The no-observable-effect level (NOEL) for systemic toxicity is 50 ppm (1.8mg/kg/day for males and 1.9 mg/kg/day for females).

2. An 18–mounth mouse carcinogenicity study with no carcinogenicity observed at dosage levels up to and including 1,000 ppm (males 155 mg/kg/day; females 186 mg/kg/day).

3. A 2–year rat carcinogenicity study with no carcinogenicity observed at dosage levels up to and including 2,000 ppm (97 mg/kg/day and 125 mg/kg/day for males and females, respectively).

4. A 2–generation rat reproduction study with a NOEL of 150 ppm (12.1 mg/kg/day) for reproductive effects compared to a systemic NOEL of 10 ppm (0.85 mg/kg/day).

5. A rat developmental study with a NOEL of 1,000 mg/kg/day for developmental toxicity and a NOEL of 250 mg/kg/day for maternal toxicity.

6. A rabbit developmental study with a NOEL of 1,000 mg/kg/day for developmental toxicity.

7. Several mutagenicity tests which were all negative. These include an Ames assay with and without metabolic activation, an *in vivo* cytogenetic assay in rat bone marrow cells, an *in vitro* chromosome aberration assay in CHO cells, a CHO/HGPRT assay, a reverse mutation assay with *E. coli*, and an unscheduled DNA synthesis assay (UDS) in rat hepatocytes.

The reference dose (RFD), for chronic toxicity as defined in a 1–year chronic dog study is 0.018 mg/kg/day based upon a NOEL of 1.8 mg/kg/day in male dogs and applying an uncertainty factor of 100. Granting this use of benzoic acid (3,5-dimethyl-1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl)hydrazide) on apples raises the theoretical maximum residue contribution (TMRC) for the overall U.S. population from 0.000001 mg/kg/day to 0.000792 mg/kg/day and represents 4.4% of the RFD. The TMRC for the highest exposed subgroup, non-nursing infants is raised from 0.000001 mg/kg/day to 0.008051 mg/kg/day and represents 44.7% of the RFD for that subgroup.

The metabolism of benzoic acid, (3,5-dimethyl-1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl)hyrazide), is adequately understood.

An adequate analytical method, HPLC separation with UV detection, is available for enforcement purposes.

There are presently no actions pending against the continued registration of this chemical.

Based on the information and data considered, the Agency has determined that the tolerance established by amending 40 CFR part 180 will protect the public health. The pesticide is considered useful for the purposes for which the tolerance is sought. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections to the regulation and may also request a hearing on those objections.
Objections and hearing requests must be filed with the Hearing Clerk, at the

address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

A record has been established for this rulemaking under the docket number [PP 4E4375/R2219] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia address in "ADDRESSES" at the beginning of this document.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlements, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 15, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.482, by adding alphabetically to the table, an entry for the raw agricultural commodity "apples", to read as follows:

§ 180.482 Benzoic acid; tolerances for residues.

* * * * *

Commodities	Parts per million
Apples	1.0
* * *	*

[FR Doc. 96–7450 Filed 3–26–96; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 180

[PP 4E3060/R2218; FRL–5357–2]

RIN 2070–AC78

Pesticide Tolerance for 2,4-D

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is extending the tolerance for residues of the herbicide 2,4-D (2,4-dichlorophenoxyacetic acid) in or on the raw agricultural commodity soybeans. The Agency has not completed the regulatory assessment of its science findings; therefore, the Agency is extending this tolerance for 3 years.

EFFECTIVE DATE: This extension is effective March 27, 1996. The tolerance expires on December 31, 1998.

ADDRESSES: Written objection and hearing requests, identified by the docket number, [PP 4E3060/R2218], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing request filed with the Hearing Clerk should be identified by the docket number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C); Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: oppdocket@epamail.epa.gov.

Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket number [PP 4E3060/R2218]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submission can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne Miller, Product Manager (PM 23), Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 237, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, 703–305–6224, e-mail address: miller.joanne@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 7, 1996 (61 FR 4623), EPA issued a proposed rule that gave notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA) (21 U.S.C. 346a), the Agency proposed to extend until December 31, 1998, a tolerance for residues of the herbicide 2,4-D (2,4-dichlorophenoxyacetic acid) in or on the raw agricultural commodity (RAC) soybeans at 0.1 parts per million (ppm).

There were no comments or requests for referral to an advisory committee received in response to this proposed rule.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which the hearing is requested, the requestor's contentions on each such issue, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

A record has been established for this rulemaking under docket number [PP 4E3060/R2218] (including objections and hearing requests submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4.30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, Va.

Written objections and hearing requests, identified by the docket number [PP 4E3060/R2218] may be submitted to the Hearing Clerk (1900), Environmental Protection Agency, Rm 3708, 401 M St. SW., Washington, DC 20460. A copy of electronic objections and hearing requests filed with the Hearing Clerk can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

A copy of electronic objections and hearing requests filed with the Hearing Clerk must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the rulemaking record which will also include all objections and hearing requests submitted directly in writing. The official record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. Under section 3(f), the order defines a "significant regulatory action" as an action that is likely to result in a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligation of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of the Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 13, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.142 by revising paragraph (k), to read as follows,

§ 180.142 2,4-D; tolerances for residues.

* * * * *

(k) A tolerance that expires on December 31, 1998, is established for

residues of the herbicide 2,4-D (2,4-dichlorophenoxyacetic acid) resulting from the preplant use of 2,4-D ester or amine in or on the raw agricultural commodity as follows:

Commodity	Parts per million
Soybeans	0.1

[FR Doc. 96–7449 Filed 3–26–96; 8:45 am]
BILLING CODE 6560–60–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 417 and 434

Office of Inspector General

42 CFR Part 1003

[OMC–010–FC]

RIN 0938–AF74

Medicare and Medicaid Programs; Requirements for Physician Incentive Plans in Prepaid Health Care Organizations

AGENCY: Health Care Financing Administration (HCFA), HHS. Office of Inspector General (OIG), HHS.

ACTION: Final rule with comment period.

SUMMARY: This final rule amends the regulations governing Federally-qualified health maintenance organizations and competitive medical plans contracting with the Medicare program, and certain health maintenance organizations and health insuring organizations contracting with the Medicaid program. It implements requirements in sections 4204(a) and 4731 of the Omnibus Budget Reconciliation Act of 1990 that concern physician incentive plans.

The provisions of this final rule will also have an effect on certain entities subject to the physician referral rules in section 1877 of the Social Security Act (the Act) as amended by the Omnibus Budget Reconciliation Act of 1993 (OBRA '93). Section 1877 provides that, if a physician (or an immediate family member of the physician) has a financial relationship with certain entities (that is, has an ownership or investment interest in the entity or a compensation arrangement with the entity), the physician may not make a referral to the entity for the furnishing of certain health services for which payment otherwise may be made under the Medicare program. Additionally, effective December 31, 1994, section 1903(s) of the Act provides for denial of Federal financial participation payment under the Medicaid program to a State for expenditures for certain health services furnished to an individual on the basis of a physician referral that would result in denial of payment under the Medicare program if Medicare covered the services in the same manner as they are covered under the State plan.

Among other amendments, section 13562 of OBRA '93 sets forth an exception to the physician referral prohibition that, in effect, incorporates the provisions of this final rule. That is, it provides that, under certain circumstances, compensation received under a personal services arrangement that meets the physician incentive plan requirements established by the Secretary does not trigger the ban on referrals. Thus, the provisions of this final rule have implications for entities that would not have been affected at the time we published the proposed rule (December 14, 1992). (The proposed rule applied to only prepaid health plans that contract with Medicare or Medicaid under section 1876 or 1903(m) of the Act, respectively.) OBRA '93 applies the requirements to any prepaid health care organization that bills Medicare or Medicaid. The additional organizations that may be affected include preferred provider organizations, health maintenance organizations that do not contract with Medicare or Medicaid and are not Federally qualified, prepaid health plans that contract with Medicaid, and some States that contract with managed care organizations under the Medicaid program (including those that operate under a section 1115 waiver).

DATES: *Effective dates.* These regulations are effective on April 26, 1996.

Comment dates. To be considered, comments must be mailed or delivered to the appropriate address, as provided below and must be received by 5 p.m. on May 28, 1996.

Compliance dates. Affected organizations with contracts or agreements on March 27, 1996 must comply with (1) the applicable disclosure requirements at § 417.479(h)(1)(i) through (h)(1)(v) or with § 434.70(a)(3) of this rule by May 28, 1996 or by the renewal date of the contract or agreement, whichever is later, and (2) the survey requirement at § 417.479(g)(1)(iv) and the disclosure requirement at § 417.479(h)(1)(vi) by March 27, 1997. Affected organizations must comply with all other requirements by May 28, 1996.

ADDRESSES: Mail written comments (1 original and 3 copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: OMC–010–FC, P.O. Box 26688, Baltimore, MD 21207.

If you prefer, you may deliver your written comments (1 original and 3 copies) to one of the following addresses:

Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201, or

Room C5–09–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code OMC–010–FC. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 309–G of the Department's offices at 200 Independence Avenue SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

FOR FURTHER INFORMATION CONTACT: Medicare: Tony Hausner, (410) 786–1093. Medicaid: Beth Sullivan, (410) 786–4596. Office of Inspector General: Joel Schaer, (202) 619–0089.

SUPPLEMENTARY INFORMATION:

I. Background

A. Introduction

Prepaid health care organizations, such as health maintenance organizations (HMOs), competitive medical plans (CMPs), and health insuring organizations (HIOs), are entities that provide enrollees with comprehensive, coordinated health care in a cost-efficient manner. The goal of prepaid health care delivery is to control health care costs through preventive care and case management and provide enrollees with affordable, coordinated, quality health care services. Titles XVIII and XIX of the Social Security Act (the Act) authorize contracts with prepaid health care organizations (hereinafter referred to as "organizations" or "prepaid plans") for the provision of covered health services to Medicare beneficiaries and Medicaid recipients, respectively. Such organizations may contract under either a risk-based or cost-reimbursed contract.

B. Medicare

Section 1876 of the Act authorizes the Secretary to enter into contracts with eligible organizations (HMOs that have been Federally qualified under section 1310(d) of the Public Health Service Act and CMPs that meet the requirements of section 1876(b)(2) of the Act) to provide Medicare-covered services to beneficiaries and specifies the requirements the organizations must meet. Section 1876 of the Act also provides for Medicare payment at predetermined rates to eligible organizations that have entered into risk-based contracts under Medicare or for Medicare payment of reasonable costs to eligible organizations that have entered into cost-reimbursed contracts under Medicare. Implementing Federal regulations for the organization and operation of Medicare prepaid health care organizations, contract requirements, and conditions for payment are located at 42 CFR 417.400 through 417.694.

Risk-based organizations are paid a prospectively-determined per capita monthly payment for each Medicare beneficiary enrolled in the organization. This capitated payment is the projected actuarial equivalence of 95 percent of what Medicare would have paid if the beneficiaries had received services from fee-for-service providers or suppliers. Organizations paid on a risk basis are liable for any difference between the Medicare prepaid amounts and the actual costs they incur in furnishing services, and they are therefore "at risk."

Cost-reimbursed organizations are paid monthly interim per capita payments that are based on a budget. Later, a retrospective cost settlement occurs to reflect the reasonable costs actually incurred by the organization for the covered services it furnished to its Medicare enrollees.

C. Medicaid

Section 1903(m) of the Act specifies requirements that must be met for States to receive Federal financial participation (FFP) for their contracts with organizations (HMOs or HIOs) to furnish, either directly or through arrangements, specific arrays of services on a risk basis. Federal implementing regulations for these contract requirements and conditions for payment are located at 42 CFR part 434.

States determine the per capita monthly rates that are to be paid to risk-based organizations. FFP is available for these payments at the matching rate applicable in the State as long as HCFA determines that: (1) The HMO or HIO rates are actuarially sound; (2) the rates do not exceed the cost of providing the same scope of services, to an actuarially equivalent nonenrolled population group, on a fee-for-service basis; and (3) the contract meets the additional requirements at 42 CFR part 434 ("Contracts") and 45 CFR part 74 ("Administration of Grants").

II. Legislative History

Section 9313(c) of the Omnibus Budget Reconciliation Act of 1986 (OBRA '86), Public Law 99–509, prohibited, effective April 1, 1989, hospitals and prepaid health care organizations with Medicare or Medicaid risk contracts from knowingly making incentive payments to a physician as an inducement to reduce or limit services to Medicare beneficiaries or Medicaid recipients. Under the OBRA '86 provisions, parties who knowingly made or accepted these payments would have been subject to specified civil money penalties. Additionally, the provisions required that the Secretary report on incentive arrangements in HMOs and CMPs. Section 4016 of the Omnibus Budget Reconciliation Act of 1987 (OBRA '87), Public Law 100–203, extended the original implementation date for the OBRA '86 physician incentive provisions to April 1, 1991. Subsequently, sections 4204(a) and 4731 of the Omnibus Budget Reconciliation Act of 1990 (OBRA '90), Public Law 101–508, repealed, effective November 5, 1990, the prohibition of physician incentive plans in prepaid health care organizations and enacted requirements, effective January 1, 1992, for regulating these plans.

Specifically, section 4204(a)(1) of OBRA '90 added paragraph (8) to section 1876(i) of the Act to specify that each Medicare contract with a prepaid health care organization must stipulate that the organization must meet the following requirements if it operates a physician incentive plan:

- That it not operate a physician incentive plan that directly or indirectly makes specific payments to a physician or physician group as an inducement to limit or reduce medically necessary services to a specific individual enrolled with the organization.
- That it disclose to us its physician incentive plan arrangements in detail that is sufficient to allow us to determine whether the arrangements comply with Departmental regulations.
- That, if a physician incentive plan places a physician or physician group at "substantial financial risk" (as defined by the Secretary) for services not provided directly, the prepaid health care organization: (1) Provide the physician or physician group with adequate and appropriate stop-loss protections (under standards determined by the Secretary) and (2) conduct surveys of currently and previously enrolled members to assess the degree of access to services and the satisfaction with the quality of services.

Section 4204(a)(2) of OBRA '90 amended section 1876(i)(6)(A)(vi) of the Act to add violations of the above requirements to the list of violations that could subject a prepaid health care organization to intermediate sanctions and civil money penalties.

Section 4731 of OBRA '90 enacted similar provisions for the Medicaid program by amending sections 1903(m)(2)(A) and 1903(m)(5)(A) of the Act.

As noted earlier (in the "Summary" section), subsequent to the December 1992 publication of the proposed rule, the Omnibus Budget Reconciliation Act of 1993 (OBRA '93), Public Law 103–66, was enacted. Section 13562 of OBRA '93 amended section 1877 of the Act, which prohibits physician referrals to entities with which the physician (or an immediate family member) has a financial relationship (which can consist of either (1) an ownership or investment interest or (2) a compensation arrangement). OBRA '93 provides an exception to the section 1877 physician referral prohibition that incorporates the physician incentive plan rules implemented in this final rule. Under this exception, compliance with these physician incentive rules is one of several conditions that must be satisfied if a personal services compensation arrangement involves compensation that varies based on the volume or value of referrals.

This exception affects managed care organizations that were not specified in the December 1992 proposed rule on physician incentive plans. The proposed rule applied to only prepaid plans that contract with Medicare or Medicaid under section 1876 or 1903(m) of the Act, respectively. The OBRA '93 physician referral provisions, however, apply to any entity with an incentive plan that bills Medicare or Medicaid. The additional organizations that may be affected include preferred provider organizations, HMOs that do not contract with Medicare or Medicaid and are not Federally qualified, and prepaid health plans" (PHPs) that contract with Medicaid. (PHPs are organizations that are exempt from section 1903(m) of the Act.) Some States that contract with managed care organizations under the Medicaid program (including those that operate under a section 1115 waiver)

may also be affected. We believe that most prepaid health care organizations will not be affected by these provisions since they apply only if (1) the physician incentive plan includes services not furnished by the physician group, and (2) there is a compensation arrangement between the physician group and the entity furnishing the services.

III. Opportunity for Public Comment

Because there may be entities that were not affected by the proposed rule at the time it was published but are now affected, we are publishing this rule as a final rule with a 60-day comment period so that these newly-affected entities have an opportunity to comment. Note also, we will incorporate the OBRA '93 amendments to section 1877 of the Act into a final rule with comment covering the physician referral prohibition as it relates to referrals for clinical laboratory services. We will also publish a proposed rule to interpret or clarify these OBRA '93 amendments as they relate to referrals for all of the health services designated in section 1877 of the Act, including clinical laboratory services. Once these rules are published, entities will have had several opportunities to comment on the interaction between the physician referral prohibition in section 1877 and the physician incentive rules.

We are also providing the 60-day comment period because we are interested in receiving comments on the changes from the proposed rule. For example, we are particularly interested in receiving comments on the thresholds we have set for determining substantial financial risk and for determining per-patient stop loss limits.

Because of the large number of items of correspondence we normally receive on a rule, we are not able to acknowledge or respond to them individually. We will, however, consider all comments that we receive by the date specified in the **DATES** section of this preamble and, if we publish a subsequent document, we will respond to the comments in that document.

IV. Discussion of Physician Incentive Plans

Effective utilization control that identifies both underutilization and overutilization is essential for the efficient operation of prepaid health care organizations. A prepaid health care organization needs to minimize overutilization of services not only to prevent unnecessary spending, but also to reduce the risk of unnecessary and intrusive procedures. Nonetheless, a prepaid health care organization also needs to ensure that all medically necessary services are furnished both to protect patient health and to avoid the need for more costly care later. Medicare and Medicaid require both cost-reimbursed and risk organizations to have internal quality assurance programs, external quality review or medical audits, and other mechanisms to ensure proper delivery of health care services. Medicare and Medicaid contracts also are subject to periodic monitoring for compliance. In addition, sections 1876(i)(6) and 1903(m)(5) of the Act provide for intermediate sanctions and civil money penalties that may be imposed if an HMO or CMP fails substantially to provide medically necessary services. (Regulations implementing this authority were published on July 15, 1994 (59 FR 36072).

One mechanism many prepaid health care organizations use to encourage proper utilization is a financial incentive as part of a physician incentive plan. OBRA '90 defines a physician incentive plan as any compensation arrangement between an eligible organization and a physician or physician group that may directly or indirectly have the effect of reducing or limiting services furnished with respect to individuals enrolled in the organization.

A review and analysis of physician incentive plans in a sample of HMOs was conducted and presented in the Department's 1990 report to the Congress, "Incentive Arrangements Offered by Health Maintenance Organizations and Competitive Medical Plans to Physicians." The results showed a wide variety of incentive plans. There were differences in the types of incentive payments, the distribution of incentives, the basis for determining the incentive payments, and the parties or entities the incentives affected.

Physicians in prepaid health care organizations generally receive fee-for-service payments, salary, or capitation payments (a set dollar amount per patient) for the services they furnish. Financial incentives may be used with the various types of physician payments to encourage appropriate levels of referral services. Referral services are any specialty, inpatient, outpatient, or laboratory services that a physician arranges for but does not provide directly. Prepaid health care organizations may hold physicians or physician groups at risk for all or a portion of the cost of referral services so that they have a financial incentive to arrange for the furnishing of only medically necessary services. If the physician or physician group successfully controls the levels of referral services, the physician or group may receive additional compensation (an incentive payment) from the prepaid health care organization. The incentive payment may take the form of unused capitation, a returned withhold, or a bonus payment. Each of these methods is described below.

A capitation payment is a set dollar amount per patient per month that a prepaid health care organization pays to a physician or a physician group to cover a specified set of services, without regard to the actual number of services furnished to each person. The capitation may cover the physician's own services, referral services, or all medical services and/or administrative costs. If patient costs exceed the capitation amount, the physician or physician group must absorb these additional costs. If costs are below the capitation, the physician or physician group may keep the additional money.

Withholds are percentages of payments or set dollar amounts that a prepaid health care organization deducts from each physician's or physician group's payment (salary, fees, or capitation). The amount withheld is set aside in pools to pay for specialty referral services and inpatient hospital services. If referral costs exceed a prepaid health care organization's budget, part or all of the withhold may be forfeited depending on the terms of the physician's contract. If referral costs do not exceed the ceiling, part or all of the withhold may be returned to a physician or a physician group. Some plans limit the amount of the risk to the withhold; others hold the physician or physician group liable for amounts beyond the amount withheld.

Bonuses are payments prepaid health care organizations make to a physician or a physician group beyond the physician's set salary, fee-for-service payments, or capitation. Bonuses may be based on a physician's or physician group's level of referral services or may be based on the overall performance of the organization.

If the physician or physician group has excessive referrals (as defined by the prepaid health care organization), it may not receive any incentive funds. In addition, the prepaid health care organization may hold the physician or physician group liable for referral costs that exceed a specified threshold. The prepaid health care organization may also increase the physician's or physician group's withhold or make other changes in its incentive arrangements.

Many physician incentive plans incorporate stop-loss protection to limit the liability of the physician or physician group. Most often, the stop-loss protection limits a physician's maximum liability per patient to a specific dollar amount.

Other variables may affect the amount of risk or the effect of financial incentives on physicians; for example, whether incentive payments are calculated according to each individual physician's performance or according to a physician group's performance; the size of the physician group; the length of time over which performance is evaluated; the number of enrollees; and the amount of total income at risk. In addition, the relative health status of the patients involved affects the level of risk. If because of their health status the patients served require more services than the average enrollee, the risk increases. Conversely, if they are healthier than the average enrollee, the risk may be lower.

V. Provisions of the Proposed Regulations

On December 14, 1992, we published a proposed rule (57 FR 59024) that set forth our proposal for implementing the requirements of sections 1876(i) and 1903(m) of the Act as amended, respectively, by sections 4204(a) and 4731 of OBRA '90. Sections 1876(i)(8) and 1903(m)(2)(A)(x) of the Act require that physician incentive plans be regulated, and sections 1876(i)(6)(A) and 1903(m)(5)(A) provide penalties for violation of the regulation. To implement these provisions for Medicare, we proposed to impose new contract requirements pertaining to physician incentive plans. For Medicaid, we proposed new requirements for the granting of FFP for State Medicaid agency contracts with HMOs and HIOs. The requirements address—

- The scope of the regulation;
- Disclosure requirements;
- Criteria for the determination of substantial financial risk;
- Requirements for physician incentive plans that place physicians at substantial financial risk;
- Prohibition on certain physician payments; and
- Enforcement.

Each proposed requirement is summarized individually below. Readers who desire more specifics are referred to the proposed rule.

A. Scope

Because sections 4204(a)(2) and 4731 of OBRA '90 amended sections that govern Medicare and Medicaid contracts, but did not amend title XIII of the Public Health Service Act, which governs all Federally-qualified HMOs, we proposed to apply these requirements to only physician incentive plans that base incentive payments (in whole or in part) on services provided to Medicare beneficiaries or Medicaid recipients. Nonetheless, because relevant statutory language uses the term "individuals enrolled with the organization," which could be interpreted as all of an organization's enrollees, not just Medicare or Medicaid enrollees, we specifically sought comments regarding the proposed scope of the regulations.

B. Disclosure

We proposed that an HMO, CMP, or HIO disclose to HCFA (for Medicare) or to the State Medicaid agency (for Medicaid) information on physician incentive plans that affect Medicare beneficiaries or Medicaid recipients that is sufficient for us or the States to determine whether the organization is in compliance with our requirements. We also proposed when submittal of the information would be required.

C. Substantial Financial Risk

We proposed that a physician or physician group is considered to be at substantial financial risk if more than a specified percentage (the risk threshold) of the prepaid health care organization's total potential payments to the physician or physician group is at risk and the risk is based on the costs of services the physician or physician group does not provide (for example, referrals to specialists or the cost of inpatient care).

For purposes of determining substantial financial risk, we proposed to define payments as any amounts the organization pays physicians or physician groups for services they provide, plus amounts paid for administration and controlling levels or costs of referral services. We proposed that payments do not include bonuses or other forms of compensation that are not based on referral levels (such as bonuses based solely on the quality of care provided, patient satisfaction, and participation on committees).

Under our proposal, the risk threshold that determines substantial financial risk would depend on the frequency with which the health plan assesses or distributes incentive payments. We proposed that, for prepaid health care organizations that assess or distribute incentive payments no more often than annually, the risk threshold is 25 percent. The risk threshold we proposed for prepaid health care organizations that assess or distribute incentive payments more often than annually was 15 percent.

Often, prepaid health care organizations use more than one type of compensation arrangement. If more than one type of arrangement is used, we proposed to consider all the different risk arrangements placed on physicians or physician groups to determine whether they collectively exceeded either of the thresholds.

D. Requirements for Physician Incentive Plans That Place Physicians at Substantial Financial Risk

1. Enrollee Surveys

We proposed that HMOs, CMPs, and HIOs that place their physicians or physician groups at substantial financial risk must conduct enrollee surveys at least annually. We proposed that the surveys must—

- Either survey all current Medicare/Medicaid enrollees in the organization and those who have disenrolled (due to other than loss of eligibility in Medicaid) in the past 12 months, or survey a statistically valid sample of these same enrollees and disenrollees;
- Be designed, conducted, and results analyzed in accordance with commonly accepted principles of survey design and statistical analysis; and
- Address enrollees'/disenrollees' satisfaction with the quality of the services furnished and their degree of access to the services.

2. Stop-loss Protection

We proposed two levels of stop-loss protection depending on the incentive plan's risk threshold. If the risk threshold is 25 percent, the stop-loss protection must protect physicians and physician groups from losses greater than 30 percent of the payments for services they furnish, plus payments for administrative costs and controlling levels of referral services. If the risk threshold is 15 percent, the stop-loss protection must protect physicians and physician groups from losses greater than 20 percent of payments.

We proposed that the organization may provide the stop-loss protection directly or purchase it, or the physician or physician group may purchase it.

E. Prohibited Physician Payments

We proposed language reflecting section 1876(i)(8)(A)(i) of the Act, which provides that physician incentive plans may operate only if no specific payment is made directly or indirectly under the plan as an inducement to reduce or limit medically necessary services furnished to a specific enrollee. We

proposed that indirect payments include offerings of monetary value (such as stock options or waivers of debt) measured in the present or future.

F. Enforcement

We proposed that noncompliance with the proposed requirements discussed above could result in civil money penalties, intermediate sanctions, and/or contract termination (for Medicare) or withholding of FFP (for Medicaid). The civil money penalties would be limited to $25,000 for each determination of noncompliance. Under the intermediate sanctions provision, HCFA could (for Medicare) suspend the enrollment of individuals into noncompliant plans and HCFA (for Medicare) or the State (for Medicaid) could suspend payment for new enrollees until it is satisfied that the basis for the determination is not likely to recur. The process for applying civil money penalties and intermediate sanctions would be the same process as that proposed in the July 22, 1991, proposed rule on civil money penalties and intermediate sanctions (56 FR 33404).

VI. Analysis of and Responses to Public Comments

We received 41 timely comments on the December 1992 proposed rule. (Comments related to the provisions that were proposed in the July 1991 proposed rule on civil money penalties and intermediate sanctions and that were merely republished in the December 1992 proposed rule were not considered timely.) Commenters included prepaid plans, State agencies, national and local associations of managed care providers, physician associations, consumer advocacy groups, and an insurance industry trade association. This section of the preamble contains a summary of the comments and our responses.

Note: This final rule changes the CFR designation of a number of the proposed provisions. To aid the reader, we have provided in section VI. of this preamble, a crosswalk between the proposed provisions and the provisions of this final rule.

Scope of Regulation

Comment: Many commenters agreed with our position that the proposed rule should apply to only Medicare and Medicaid risk contracts. In contrast, one commenter believed protection should be extended to plans governed by title XIII of the Public Health Service Act but conceded that the scope of the authorizing legislation is not clear on this point. This commenter recommended that we seek congressional clarification of the intent of the statute.

Response: As indicated in the preamble to the proposed regulation (hereinafter referred to as the "proposed preamble"), the original legislation amended only titles XVIII and XIX of the Act. Subsequent legislation, however, applies to all physicians that furnish services under the Medicare or Medicaid program.

Comment: One commenter suggested that we apply the proposed requirements only if there is a greater risk for Medicare and Medicaid contracts than for commercial contracts.

Response: The legislation requires us to develop these regulations for Medicare and Medicaid prepaid plans but not for commercial plans. It does not provide us with flexibility to make this determination. Thus, we will examine only incentive plans between a prepaid plan and a physician or physician group that apply to Medicare and Medicaid enrollees. We will not examine the incentive plans as they relate to commercial enrollees, even if the commercial enrollees are in addition to Medicare and Medicaid enrollees. The only exception to this is if the plan uses the pooling methods described later in this preamble.

Comment: One commenter suggested that the Department of Health and Human Services should evaluate the feasibility of applying these regulations to accountable health plans or other health care delivery systems that may be created under health care reform.

Response: This suggestion does not fall within the scope of this rulemaking, which implements enacted legislation in regulations.

Comment: Some commenters stated that there are no published studies that link quality problems to physician incentive plans. They suggest, therefore, that the regulation be dropped. In addition, some commenters suggested that we are only responding to pressures from press reports. Furthermore, some commenters believed this rule would not improve quality of care and that it would only add to the cost of care.

One commenter believed that the proposed rule is too restrictive. The commenter stated that it would make far more sense to monitor the health outcomes of enrollees to ensure that they are receiving quality health care services than to micromanage the administrative arrangements within these health organizations.

Response: We reject these recommendations for the following reasons:

- OBRA '90 requires us to issue these regulations.
- While we acknowledged in the proposed preamble that no link between quality problems and incentive plans has been established, the issue has not been sufficiently examined. In the report to the Congress entitled "Incentive Arrangements Offered by Health Maintenance Organizations and Competitive Medical Plans to Physicians" (hereinafter referred to as the "Report"), no study is cited that directly tests the link. Instead the Report cites studies that show no differences in quality between prepaid plans and fee-for-service arrangements. From this evidence, the Report infers that incentive plans do not affect quality. It should be noted that studies to date have used limited outcome measures.

Furthermore, the OBRA '90 provisions that require these regulations were enacted after the submission of the Report, confirming legislative intent subsequent to the Report.

- HCFA is sponsoring quality assurance reform initiatives in both Medicare and Medicaid that will begin to develop outcome measures for HMOs. HCFA's first efforts contain some outcome measures. Future projects will develop even more of these measures. The state of the art in outcome measures is still in the early stages and, thus, at this time, they cannot serve as a reliable measure of potential underutilization.

While there is no guarantee that these requirements will result in improvements in the quality of care, the Congress was concerned with ensuring that underuse of necessary services does not occur. We are all concerned with ensuring adequate protection of beneficiaries and recipients so that they have access to all necessary and appropriate care. As indicated in both the proposed preamble and later in this document, we anticipate most prepaid plans will not incur significant additional costs because most of them already meet the requirements that are specified in this regulation.

Comment: A major organization suggested that we examine incentive plans only if quality problems are detected.

Response: We rejected this recommendation for the following reasons:

- The legislation does not provide for an exception if there is an absence of quality problems.
- As indicated in the Report, there are limitations in the quality studies and methodologies used to detect quality problems.

Prohibited Arrangements

Comment: One commenter recommended that we revise proposed

§ 417.479(c) ("Prohibited physician payments") to clarify that medically necessary services means medically necessary *covered* services.

Response: In this final rule, we have revised proposed § 417.479(c) (now designated as § 417.479(d)) to include all medically necessary services covered by the prepaid plan contract. We have included all services covered in the contract since some plans contain services in their Medicare and Medicaid contracts that are in addition to those covered under the regular Medicare or Medicaid program. Furthermore, as established under title XIX of the Act, if a plan contracts to provide early and periodic screening and diagnosis and treatment services, the plan is responsible for any medically necessary Medicaid covered services, regardless of whether these services are covered under the State plan.

Disclosure

Comment: Several commenters, including major organizations, requested that we require disclosure of the incentive plans to all enrollees at the time of enrollment. They believed that disclosure is necessary to protect patients and physicians.

In contrast, several commenters, also including major organizations, stated that incentive plans are proprietary information and, as such, should be exempt from disclosure under the Freedom of Information Act (FOIA).

Response: We agree that disclosure of the incentive plans to patients can aid them in ensuring that they receive needed services. This information in the hands of Medicare beneficiaries and Medicaid recipients will also help physicians to counter pressure from the prepaid plans to reduce services. At the same time, we want to protect the proprietary aspects of the information. To effectively balance these conflicting goals, this final rule adds new §§ 417.479(h)(3) and 434.70(a)(4) to require that prepaid plans provide a summary of three items of information to Medicare beneficiaries and Medicaid recipients, respectively, when they request it. The three items are identified in the next response. As the prepaid plans' experience with physician incentive plans and disclosure increases, we encourage them to voluntarily share summaries of the incentive plans with all enrollees. We have not asked that more information be provided for the following reasons:

- We do not want to put an undue burden on the prepaid plans.
- We do not require fee-for-service physicians to provide a notice that they have incentives to provide excessive services.
- Certain information in the incentive plans is proprietary information and is exempt from disclosure under the FOIA.

Comment: One commenter recommends we clarify what constitutes "sufficient information" for disclosure purposes.

Response: This final rule revises proposed §§ 417.479(h) and 434.70(a) to provide for two types of disclosure. Disclosure to HCFA and the States requires that prepaid plans submit information that describes (1) whether services not furnished by the physician or physician group are covered by the incentive arrangement (if only the services furnished by the physician or physician group are covered by the incentive plan, there is no need for disclosure of other aspects of the plan); (2) the type of incentive arrangement, for example, withhold, bonus, capitation; (3) the percent of the withhold or bonus, if any; (4) the amount and type of stop-loss protection; (5) the panel size and, if enrollees are pooled according to the principles discussed later, the method of pooling used; (6) in the case of capitated physicians or physician groups, capitation payments paid to primary care physicians for the most recent year broken down by percent for primary care services, referral services to specialists, hospital services, and other types of provider (for example, nursing homes and home health agencies) services; and (7) in the case of those prepaid plans that are required to conduct beneficiary surveys, the survey results. We are requesting the information described in item 6 so that we can determine whether additional standards are necessary in the future.

Disclosure to Medicare beneficiaries and Medicaid recipients requires that only a summary of the above information be made available if requested by the beneficiary. This information will indicate, 1) whether the prepaid plan uses a physician incentive plan that affects the use of referral services, 2) the type of incentive arrangement, 3) and whether stop-loss protection is provided. In addition, those prepaid plans that must conduct enrollee surveys must provide a summary of the survey results to those beneficiaries and recipients who request it.

Comment: One commenter stated that disclosure should not be needed *each* time there is any change in the incentive plan. A second commenter stated that we should require disclosure only initially and when changes occur relative to rules.

Response: We agree with these recommendations. Therefore, we have revised proposed § 417.479(h)(3) and proposed § 434.70(a)(2)(ii) to specify that an organization must provide information concerning any of the following changes in its incentive plan: A change as to the type of incentive plan; a change in the amounts of risk or stop-loss protection; or expansion of the risk formula to cover services not provided by the physician group which the formula had not included previously. We also specify that this information must be provided to HCFA at least 45 days (rather than the proposed 30 days) before the change takes effect. This latter change is made to make this rule consistent with existing § 417.428, which requires that HMOs and CMPs submit to HCFA all marketing information 45 days in advance of distribution. (Proposed § 417.479(h)(3) is now § 417.479(h)(2)(C)(ii).)

Comment: One commenter recommended that the due date for submission of the required information by organizations that have a contract with us be extended from 30 days after publication of the final rule to 60 days after publication. The commenter stated that 30 days is not sufficient for organizations to become aware of the rule, study its details, analyze their incentive plans, and formulate disclosures that meet the rule's requirements.

One commenter believed there should be a phase-in period for organizations to comply with the regulations. The commenter suggested that the phase-in period be the remainder of the term of the organization's existing provider contract.

Response: We agree that organizations should be given more than 30 days to comply with the provisions of this rule. Since 60 days for compliance is a standard time period used in many of our regulations, particularly in the Medicaid program, we have extended the time period in which organizations must comply with this rule to at least 60 days from the date of publication. Further, we now require that organizations with existing contracts with us comply with most of the disclosure requirements by the date of the contract renewal or at least 60 days from the date of publication of this final rule, whichever is later. We now require compliance with the disclosure requirement related to capitation data within 1 year from the date of publication of this rule. (See **DATES** section of this rule.)

Comment: One commenter believed that subcontracting poses an

impediment to an HMO's ability to comply with the disclosure requirement. The commenter stated that subcontracting will result in numerous contracts being subject to disclosure, particularly in the case of larger HMOs. This commenter also pointed out that the proposed rule does not address the extent to which subcontractors will be compelled to disclose information concerning incentive arrangements. The commenter stated that HMOs need to know the extent of the disclosure obligation of the HMO where subcontracting has resulted in incentive arrangements currently unknown to the HMO.

This same commenter believed that our estimate of 4 hours per organization to meet disclosure requirements is a serious underestimation given the complexity of current industry contracting practices. The commenter did not offer an alternate estimate.

Response: Under this final rule, if the prepaid plan contracts with a physician group that puts its individual physician members at substantial financial risk for services not provided, the prepaid plan must disclose to us (or in the case of Medicaid, to the State agency) any physician incentive plans between the physician group and its individual physicians that base compensation on the use or cost of services furnished to beneficiaries or recipients.

Additionally, if a prepaid plan contracts with an "intermediate entity" that, in turn, subcontracts with individual physicians or a physician group, the prepaid plan, under all circumstances, must disclose to us (or the State agency) any physician incentive plans between the intermediate entity and the individual physician or physician group that base compensation on the use or cost of services furnished to beneficiaries. This information is necessary to ensure that physicians are not placed at substantial financial risk for services not provided.

For purposes of this requirement, we define intermediate entities as organizations or individuals who contract with the prepaid plan and, in turn, subcontract with one or more physician groups. Thus, for example, an individual practice association (IPA) is an intermediate entity if it subcontracts with one or more physician groups. (It is simply a physician group when it is composed of a set of individual physicians and has no subcontracts with physician groups.) A physician hospital organization is also an example of an intermediate entity.

The information to be disclosed for each of the situations described above includes the following:

- Whether services not furnished by the physician or physician group are covered by the incentive plan. If only the services furnished by the physician or physician group are covered by the incentive plan, disclosure of other aspects of the plan need not be made.
- The type of incentive arrangement; for example, withhold, bonus, capitation.
- If the incentive plan involves a withhold or bonus, the percent of the withhold or bonus.
- The amount and type of stop-loss protection.
- The panel size and, if patients are pooled according to one of the permitted methods, which method is used.
- In the case of capitated physicians or physician group, capitation payments paid to primary care physicians for the most recent year broken down by percent for primary care services, referral services to specialists, and hospital and other types of provider services.
- In the case of those prepaid plans that are required to conduct beneficiary surveys, the survey results.

In subcontracting relations, if, under any circumstances, a physician group and/or individual physicians are put at substantial financial risk, the prepaid plan must conduct the beneficiary survey required by this rule and provide adequate stop-loss protection to the physician group and/or individual physicians. We have taken this position because recent investigations by HCFA of HMOs in a number of States has led us to conclude that, in subcontracting situations, some physicians have been put at substantial financial risk without adequate examination of the effect this has on the quality of care furnished to the enrollees.

We have set forth the above requirements in this final rule by adding a new paragraph (i) to § 417.479 (for Medicare) and revising proposed § 434.70(a) (for Medicaid). We have also revised the proposed definition of "physician group" at § 417.479(b) to clarify that an IPA is a physician group only if it is composed of individual physicians and has no subcontracts with physician groups.

We believe these additional requirements will increase the burden on prepaid health plans by an additional 4 hours, resulting in a total of 8 hours per organization to meet the disclosure requirements. The organization can either submit copies of its incentive plans or submit information that addresses the required items listed in § 417.479(h)(1).

We would welcome comments on our estimate of the burden imposed by the above requirements. We are particularly interested in receiving empirical data supporting any estimates the commenter may offer.

Comment: One commenter believed the disclosure requirements are excessively burdensome. This commenter noted that, as stated in the preamble of the proposed rule, the justification for these disclosure requirements is that, if the information is only disclosed during site visits, an organization could change its physician incentive plan shortly after the site visit, and we would not know of the new arrangement for 2 years. The commenter pointed out that there are many items of information that we review at site visits that could be changed shortly thereafter without our knowledge; for example, HMO marketing material, provider contracts, and quality assurance plans. The commenter pointed out that these are reviewed during site visits and not re-reviewed during the 2-year cycle. The commenter stated that the proposed rule offered no explanation for different treatment for incentive plans, and, therefore, the requirements are not based on an acceptable justification.

Response: Section 1876(i)(8)(A)(iii) of the Act requires that we obtain sufficient information to determine if substantial financial risk occurs, adequate stop-loss protection is provided, etc. As indicated in an earlier response, we have limited the amount of information prepaid plans are required to submit to HCFA and the States to information on just a few key items. As prescribed by legislation, marketing materials are submitted to us every year. Further, as a change from the proposed rule, we are requiring that we be notified of only significant changes in the incentive plan, rather than each change, thereby reducing the burden of this requirement.

Comment: One commenter suggested that HCFA use a simple disclosure form that can quickly be completed by HMO personnel and reviewed promptly by HCFA.

Response: HCFA will consider the feasibility of a form and, if it decides to adopt the recommendation, in accordance with the Paperwork Reduction Act of 1995, will publish a document in the **Federal Register** soliciting public comments on a proposed form.

Comment: One commenter recommended that disclosure not be required if the HMO essentially admits substantial financial risk by agreeing to comply with enrollee survey and stop-loss requirements.

Response: The statute requires that organizations disclose their incentive plan arrangements.

Comment: One commenter asked what timeframes an organization may anticipate for HCFA's review of its incentive arrangements.

Response: Timeframes for the review of incentive plans will be addressed in a forthcoming manual issuance. At this time, we anticipate that the average review time will be 60 days.

Implementation

Comment: One commenter recommended that the final rules provide an explicit mechanism for dealing with disputes arising from and during the determination of whether physicians are at substantial financial risk.

Response: We agree with the commenter that there should be procedures for these disputes. Details on the dispute procedures will be addressed in a forthcoming manual issuance.

Referral service

Comment: We proposed to define "referral services" as any specialty, inpatient, outpatient, or laboratory services that a physician or physician group orders or arranges, but does not provide directly. One commenter believed that this definition is ambiguous. The commenter questioned whether we intended to distinguish between the services provided by the prepaid plan's physician employees and services provided by independent contract physicians. The commenter believed that absent knowing our position on this issue, the terms "provide directly" in the definition is ambiguous. The commenter believed we should clarify that services provided by specialist physicians through a contract with the physician group would not constitute referral services. In addition, the commenter believed that "referral services" should be limited to services that a physician is not licensed to provide, such as hospital services.

Response: We disagree that the definition is ambiguous. We believe the problem the commenter had with this definition is related to the understanding of another term used in the definition, that is, the meaning of "physician group." We assume that what the commenter is really asking is "If a physician group contracts for services of a specialist, is the contract physician considered a member of the physician group?" We see this as the real issue because, if the contract physician is a member of the physician group, then services furnished by that physician would be services furnished directly by the group. Thus, the services would not be referral services.

We proposed to define "physician group" as a partnership, association, corporation, individual practice association, or other group that distributes income from the practice among members according to a prearranged plan unrelated to the members' referral levels. (For reasons that will be discussed later in this preamble, this final rule adopts a revised version of that definition. That is, we have deleted from the definition the phrase "according to a prearranged plan unrelated to the members' referral levels". We also no longer include an individual practice association in the definition.) According to this definition, a contract physician is not a member of the physician group.

We disagree with the comment that referral services should be limited to services that a physician is not licensed to provide. The legislation requires the Secretary to determine if the plan places the physicians at substantial financial risk for services not provided by the physician group. Thus, referrals to specialists who are not part of the group practice are considered referral services in the determinations of risk. It is these services that the legislation intended to address. Prepaid plans generally use primary care physicians as gatekeepers. These models encourage the primary care physician gatekeeper to not use specialist services if he or she can perform the services. We support these models. The legislation, however, is designed to prevent restrictions on necessary specialist care.

Substantial Financial Risk

Comment: Several commenters believed the definition of "substantial financial risk" is overly restrictive. They believed it fails to fulfill the goal of only identifying outliers because it fails to address the variables that affect risk. One commenter suggested that it be redrafted or, if HCFA is unwilling to redraft the definition, that organizations be given the choice of either complying with the regulation as written or demonstrating to HCFA that their incentive plan does not put physicians at substantial financial risk.

A number of commenters recommended, more specifically, that HCFA include the size of patient and physician pools (panels) in the risk formula threshold as, in their view, required by the legislation. On the other hand, one commenter stated that attempting to incorporate patient panel size as a risk factor would prove unduly complex and less workable than the approach contained in the proposed rule.

Response: We have reconsidered this issue and, in this final rule, we take panel size into account in determining adequate stop-loss requirements (See § 417.479(g)(2)(ii).) Analyses by Rossiter and Adamache (1990) (Health Care Financing Review, vol. 12, pp. 19–30) show that there is no significant variation in costs from year to year for counties with populations greater than 25,000. Based on these analyses, we have determined that physician groups with more than 25,000 patients are able to adequately spread risk and, therefore, are not at substantial financial risk, even if 100 percent of the physician group's income is at risk for referral services. This does not apply to panels of more than 25,000 patients as a result of pooling. (See § 417.479(f).) Pooling of patients is discussed later in this preamble.

As stated, our decision to set the threshold at 25,000 was based on the analyses done by Rossiter and Adamache. We would welcome information as to whether there are data that would support another threshold.

With regard to the suggestion that we allow organizations the choice of either complying with the regulation as written or demonstrating that their incentive plan does not put physicians at substantial financial risk, we would be interested in receiving comments on how we might implement such an exception process.

The remainder of this response applies to panels of less than 25,000 patients. As stated in the proposed preamble, the size of the patient or physician pool can have several theoretical effects on substantial financial risk. Furthermore, there is no empirical evidence that could guide us on the effects of these and other factors. We requested information in this regard in the proposed preamble. Nonetheless, while commenters suggested that size is a factor, none of the commenters provided information on the exact relationship between size and risk. Therefore, we have no basis for specifying this relationship. Finally, the legislation discusses panel size only in regard to stop-loss protection and not in regard to substantial financial risk.

Comment: One major organization stated that, under the proposed rule, prepaid plans that assess and/or distribute incentive payments more often than annually are subject to lower risk thresholds. It maintains that there are problems with this requirement as follows:

First, it contends that the term "assess" as used in this regard is not

clear. It might, the organization suggests, be interpreted to bar plans from communication with physicians as to their progress in meeting annual goals. The organization stated that it disagrees with any interpretation of this requirement that might prevent plans that distribute incentive payments annually from working with their physicians on their mutual cost containment goals on a more frequent basis.

Second, the proposed regulation does not achieve its goal of using an outlier approach in this area. Many organizations that use withhold and distribute, or assess, incentive payments more often than once a year exceed the 15 percent risk threshold. These organizations, however, fall within the 25 percent threshold set for plans distributing or assessing payments annually or less often.

Another commenter stated that the frequency of the assessment or distribution should not affect the level or risk necessary to qualify as substantial financial risk.

Response: The term "assess" is meant to refer to imposing a charge. It is not used in the meaning of an evaluation or appraisal of progress toward a goal.

We agree that a 15 percent threshold is not an outlier, since the median withhold is between 10 and 20 percent. Also, there is no evidence that making assessments or distributions more often than annually affects the amount of risk placed on physicians. While our rationale in the proposed rule was based upon reasonable assumptions as to the impact of more frequent assessments or distributions, we now agree that the 15 percent threshold is inconsistent with our intent to use an outlier approach. Therefore, we have eliminated making a distinction on the basis of the frequency of the assessment or distribution. We establish the 25 percent threshold in all cases. The 25 percent threshold is an outlier since it exceeds the median withhold of 10 to 20 percent. Proposed § 417.479 has been revised to reflect the elimination of the distinction.

Comment: One commenter stated that the proposed threshold for combination of withholds and bonuses does not identify only outliers. The commenter also stated that, in practice, physician performance will be either in the bonus area *or* in the withhold area; therefore, to limit the amount of financial risk that a physician will ultimately accept, it is not necessary to limit the combination. The commenter also pointed out that there is no evidence that upward variations on physician payments (bonuses) have the same potential to cause underutilization as downward variations (withholds).

Response: If organizations do not use a combination of withholds and bonuses, there is no problem with setting the same limit for the combinations as for withholds and bonuses individually. Since it is possible for plans to use combinations of withholds and bonuses, it is necessary to set a limit on the combination. As indicated in the proposed preamble, to avoid putting physicians at substantial financial risk, we determined it necessary to use the same threshold for the combination.

With regard to the last comment, we are not aware of any data on the effect of bonuses as opposed to withholds on physician behavior. We would, therefore, appreciate receiving any information in this regard.

Comment: Several commenters recommended that we lower the threshold.

Response: The proposed preamble had an extensive discussion of this issue. As we stated, because of the limited information available on this issue, the only logical approach is to use an outlier formula. Given this decision, the threshold of 25 percent that we proposed is consistent with the data that showed that the median withhold was between 10 to 20 percent. It is also consistent with the concept of substantial financial risk, which implies a greater than average risk. As indicated, the threshold is based on withhold data. Averaging in the organizations with capitation arrangements, which are the majority of organizations, and treating them as equal to 100 percent withhold would raise the threshold rather than lower it. We decided not to raise the threshold because that would not make a difference to the capitation arrangements. This would be so because, if capitation were considered equal to 100 percent withhold, all plans using capitation would be placing their physicians at substantial financial risk (unless the threshold were set at 100 percent). Furthermore, as indicated in the proposed preamble, the 25 percent withhold figure is within the range of discounts that physician groups frequently provide to various insurers. Physicians also lose similar amounts to bad debts.

Comment: One commenter suggested that we include the risk arrangements between the physician groups and their individual physicians, because the prepaid plan may use this strategy to circumvent the process. The commenter maintained that the statute does not specifically exclude these arrangements from scrutiny. The commenter pointed out that the statute defines an incentive plan as "any compensation arrangement between an eligible organization and a physician that may directly *or indirectly* have the effect of reducing * * *" [Emphasis added.] The commenter believed that the use of the words "or indirectly" indicates that the types of compensation arrangements should be looked at broadly.

Response: As stated in an earlier response, we are requiring a prepaid health plan that contracts with an intermediate entity to disclose information about the physician incentive plans that the entity has with physician groups or physicians. This will prevent a prepaid plan from creating intermediate entities merely to evade the requirements of this rule.

Furthermore, if the physician group subcontract with its physicians places the latter at substantial financial risk, the prepaid health plan must disclose the incentive arrangements. In order to minimize the burden on prepaid plans, we are not requiring disclosure of every incentive arrangement between physician groups and individual physicians, only of those under which the physicians are placed at significant financial risk.

In regard to the phrase "indirectly have the effect of reducing or limiting services," this phrase applies only to the arrangement between the plan and physician group. It does not apply to the relationship between the physician group and its individual physicians. "Indirect" as used in the statute refers to methods of compensation to the physician groups that are not strictly monetary, but can be considered the equivalent. Examples would include providing stocks, waivers of debt, or equipment.

The commenter has raised the issue of physician groups that have incentive arrangements with their individual physicians. As we examined this issue, we noted that the definition of "physician group" in proposed § 417.479(b) technically would exclude such a physician group, since it would *not* be a group that "distributes income from practice among members according to a * * * plan *unrelated to the members' referral levels.*" (Emphasis added.) It was not intended that any physician group fall outside the scope of our definition, and thus technically outside the scope of these regulations. We, accordingly, are deleting "according to a prearranged plan unrelated to the member's referral levels" from the definition of "physician group." It is also for this reason that we did not adopt any existing definitions of a physician group or group practice that may similarly have contained provisions that would exclude a group Congress intended to reach in this rule (for example, the existing definition of "medical group" at 42 CFR 417.1 or "group practice" in section 1877 of the Act.

We are also taking this opportunity to point out that, although we define a "physician incentive plan" as "any compensation arrangement between an *organization* and a physician or physician group that may directly or indirectly have the effect of reducing or limiting services furnished to Medicare beneficiaries or Medicaid recipients enrolled in the organization" [emphasis added], this definition also encompasses a compensation arrangement between an *entity* with which the organization contracts and physicians/physician groups and a compensation arrangement between a *physician group* and its individual physicians. This is because, although not a direct relationship, a linkage between the organization and the physician group or individual physicians has been established through the entity or physician group with which the organization contracts.

Comment: One commenter suggested that we not apply substantial financial risk to individual practice association (IPA) and direct contracting models. The commenter stated that there would be no loss if a few providers drop out.

Response: While the organization may not feel a loss, the enrollees may be concerned about the loss. Furthermore, this may be an indication that the incentive plans are having an undesired effect. The legislation requires us to apply these regulations to all prepaid plans. There is no justification for treating IPA and direct contracting models differently. If anything, since these models frequently involve contracts with individual physicians, these physicians are less in a position to spread risk and may be at even greater risk than other models.

Comment: Several commenters, including a major organization, raised the concern that they do not know the total payments and patient loads until the end of the year. They suggested that we substitute total potential payments, based on the most recent year's utilization and experience, in the substantial financial risk and stop-loss formulas.

Response: We agree that this option is acceptable, unless the organization has information that suggests a significantly different situation; for example, the addition of a major new contract. Appropriate revisions have been made to proposed § 417.479 to clarify this.

Comment: A major organization suggested that we substitute an actuarially derived threshold instead of an outlier approach.

Response: We reviewed this recommendation with several actuaries, including staff from HCFA's Office of the Actuary. We concluded that it is not feasible to make such an analysis. Actuaries can perform analyses for certain kinds of losses, such as loss of life or loss of income. However, the determination of what is a substantial loss of income to a physician or physician group is more of a subjective or policy decision than a measurable amount.

The actuaries also indicated that they could not perform such an analysis because there are no empirical data to indicate how physicians respond to different levels of financial risk.

Actuaries have supplied us with recommendations as to stop-loss protection, discussed later in this preamble. The recommendations result in different stop-loss requirements for different panel sizes. Also, as discussed earlier, we have determined that physicians or physician groups serving panels of over 25,000 patients are not at substantial financial risk. We are, however, interested in receiving current data on how physicians respond to different levels of financial risk.

Comment: One commenter raised a concern that the Internal Revenue Service (IRS) is developing policy on withholds that defines them as discounts that would not be tax-exempt.

Response: We have held discussions with the IRS to coordinate consistent policies and will continue to work with them.

Comment: One organization commented that the threshold should only apply to the aggregate group of physicians and not to individual physicians. It stated that its incentive plan is within the specified limits for physician groups, but will exceed the limits for individual physicians whose behavior exceeds certain norms.

Response: The legislation is concerned with whether a plan puts physicians or physician groups at substantial financial risk. Thus, the threshold policy applies to contracts between an organization and individual physicians, but only if the contract is specifically between the organization and an individual physician. As indicated earlier, we have not interpreted the legislation to apply to subcontracts between the physician group and its individual physicians.

Comment: A major organization asked if a contract for primary care services outside the service area equals referral services.

Response: Primary care services outside the service area are not "referral services." The prepaid plan, however, must ensure that all necessary services are available and accessible within the service area.

Comment: A major organization commented that the proposed regulation poses a problem for staff model HMOs in medically underserved areas (MUAs). The commenter stated that, because the salaries of many physicians in community health centers (CHCs) are low (because they are often working under a Federal student loan repayment program), the formula we use to determine the risk threshold results in a threshold that is artificially low for these HMO programs. The commenter added that, to impose additional administrative obligations on these community programs, because of their bonus payment arrangements for salaried physicians, would divert time, energy, and resources away from their mission of providing health services in MUAs.

Response: We share the concerns raised by this commenter. The low salaries do create an artificially lower threshold, and the centers have much more limited administrative resources. Nevertheless, these circumstances result in even greater pressures on these physicians to contain costs. With lower salaries, the physicians are more sensitive to factors that can affect their income. Therefore, it is even more appropriate to have the policies in this regulation apply to these centers. Unfortunately, we have not been able to develop a different policy for these centers. Note, however, that if an HMO contracts with a CHC, then, as indicated in an earlier response, these regulations would not apply to contracts between the centers and their physicians because they are subcontracts.

Capitation Arrangements With Physicians

Comment: Several commenters, including a major organization, stated that the threshold should not apply to capitation. Their argument was that the thresholds were based on withhold data and, further, that it is difficult to separate services furnished by the physicians from referral services. The commenters also claimed that we did not specify that the capitation applies only to referral services.

The commenters raised the concern that the capitation payments may include payments for services furnished directly by the physician group. Thus, they point out, we are limiting the

amount of risk a physician can accept for his or her own services. The commenters stated that to do so is beyond the mandate of the statute, which is intended to apply only to services not provided by the physician group.

Response: We gave this issue a great deal of thought. We decided, however, to continue with our proposed policy of applying a 25 percent threshold. To exempt capitation from the threshold could place physicians who are compensated in this manner at substantial financial risk, without subjecting the prepaid plans to the requirement either to set limits to the risk in the form of maximums and minimums, or provide adequate stop-loss protection and conduct beneficiary surveys as required by the statute. Furthermore, the commenters are incorrect; the proposed and final rules are concerned with referral services. If the incentive plan applies only to the services furnished by the physician group, these rules do not apply. The legislation specifies that we address services not furnished by the physician group. If the incentive plan applies to all services or just referral services, these rules apply.

The commenters are correct on these two points: our policy does affect services that the physician group directly provides if we are dealing with capitation for all services; and services furnished directly by the physician group or physician are not covered by the statute. However, when the capitation covers all services, we are not able to separate those service furnished directly from the referral services. And, since the referral services are our primary concern, we need to be inclusive rather than exclusive.

Comment: One commenter recommended that we not require the maximum and minimum formula for capitation arrangements if the organization can show that a 25 percent differential had not occurred in the past.

Response: While there is merit to this recommendation, we have decided to reject it. The legislation requires that organizations that place their physicians at substantial financial risk, as determined by the Secretary, provide stop-loss protection and conduct enrollee surveys. Thus, the formula is necessary for us to determine if substantial financial risk exists. Also, past behavior is no guarantee of future behavior. Thus, physicians could still feel the pressure if they are placed at substantial financial risk, regardless of past payments.

Comment: One commenter believed the rule should distinguish between a monthly capitation payment to a physician group that includes an amount for referral services, and an incentive plan assessment or payment.

Response: The applicability of the provisions of this rule depends upon the specific arrangements in the incentive plan. As stated earlier, if the incentive plan applies only to services directly furnished by the physician or physician group and does not cover referral services, the regulations do not apply. If the capitation includes payment for referral services, the provisions of § 417.479(f)(5) apply. If the organization capitates its physicians only for services they directly furnish and uses withholds or bonuses (or a combination of withholds and bonuses) as incentives to control referrals, the requirements of § 417.479(f)(5) concerning capitation do not apply. In this case, however, if the withholds or bonuses or combination of withholds and bonuses exceed the 25 percent risk threshold, the stop-loss and survey requirements of this rule apply.

Comment: One commenter suggested that, if a physician group achieves a patient population of approximately 250 members from a single capitated HMO, there is no longer a need for the risk protection.

Response: There is no evidence that supports this number. As indicated later in this preamble, we have set an exception for the stop-loss requirements that is based on panel size.

Comment: A number of commenters stated that the proposed rules, as they relate to capitated payment arrangements, do not accommodate common, longstanding contractual arrangements and should be withdrawn to permit additional study.

Response: The Group Health Association of America (GHAA) has supplied us with updated data as of the Winter 1993–94. Furthermore, Mathematica has published data from 1995. We took these data into account as we revisited our decisions regarding specific risk thresholds and issues concerning capitation and stop-loss protection. These data support the approach we have taken in this final rule. If more recent data exists, we would appreciate receiving it.

Comment: Several commenters stated that they capitate their physicians but also provide adequate stop-loss protection. They believed that these physicians are not at risk, because of the stop-loss protection.

Response: We agree in principle with this view. If an HMO has stop-loss protection in place that ensures that no more than 25 percent of a physician's or physician group's income is at risk, we would determine that the plan does not involve substantial financial risk.

Stop-Loss

Comment: A commenter recommended that we put physicians at risk beyond the stop-loss limit. The commenter believed that setting an absolute limit on the amount of risk that physicians can accept (that is, requiring stop-loss protection to cover the cost of referrals in excess of 30 percent of payments) obstructs an organization's ability to control physician behavior beyond that point. The commenter suggested that the stop-loss requirement be constructed to allow for continued, but limited, risk sharing. The commenter recommended that the organization be allowed to hold physicians or physician groups responsible for 20 percent of the cost of referrals beyond the point at which the stop-loss protection begins. The commenter stated that it does not believe the statute requires an absolute limit on the amount of risk, but instead only "adequate and appropriate" stop-loss protection.

Response: The approach suggested by this commenter is consistent with the policy used by a number of HMOs. The practice of requiring physicians to continue to share in the risk beyond a stop-loss limit makes the physicians sensitive to the need to avoid furnishing unnecessary services. Therefore, this final rule allows for continued, but limited, risk sharing beyond the point at which the stop-loss protection begins.

For those prepaid plans that provide an aggregate stop-loss policy, we are setting the required stop-loss limit at 25 percent. The prepaid plan will bear 90 percent of the losses beyond this level and the physicians will bear 10 percent of the losses. (See § 417.479(g)(2)(i).) Because we are adding a 90/10 ratio to the potential loss level, we believe it is necessary to reduce the proposed 30 percent stop-loss limit to 25 percent to compensate for the added element of risk sharing. Furthermore, the 25 percent level is consistent with the threshold we established for substantial financial risk.

The 90/10 split also applies to those plans that provide per patient stop-loss protection.

Comment: Several commenters, including major organizations, stated that aggregate stop-loss policies are not currently used and would be difficult to obtain. They recommended that patient, dollar, and/or specific disease protections be substituted.

Response: We have decided to allow plans to provide either aggregate or per-patient limit stop-loss policies. (See

§ 417.479(g)(2).) The amount of the per patient policy required to be considered adequate and appropriate will vary with the patient panel size and will be discussed later in this preamble. We reached this decision on the following basis.

We agree that some organizations might have trouble purchasing aggregate stop-loss policies or that it may be expensive to switch from a per patient limit to an aggregate policy. Since most organizations do not have such policies, this aggregate policy requirement would, at the least, cause a significant change in policy, which could be very difficult or expensive to implement. Furthermore, actuarial analyses indicate that aggregate coverage is unlikely to be needed.

On the other hand, there are some organizations that do provide aggregate stop-loss protection. Requiring them to switch to a per-patient limit would also be expensive. There are advantages and disadvantages to both aggregate and per-patient stop-loss coverage. Aggregate policies provide greater overall protection, while per-patient policies provide better protection at the individual patient level.

Both of these options provide reasonable protection for physicians and their patients. By providing an option, we have eliminated the burden organizations might face to switch policies.

We considered the recommendation to include specific disease protections. We reviewed the Department's preliminary plans for implementing the Medicare Catastrophic Coverage Act of 1988 (Public Law 100–203), major provisions of which were repealed before being implemented. The Department had not planned to specify any specific diseases as catastrophic and instead planned to use specific dollar levels to define "catastrophic" expenses.

Comment: Several commenters stated that the prepaid plans should not be required to pay for the cost of stop-loss protection. They believed they should be allowed to charge the physicians a reasonable premium for stop-loss protection.

Response: Section 1876(i)(8)(ii) of the Act reads, in relevant part, as follows:

(ii) If the plan places a physician or physician group at substantial financial risk * * * the organization—(I) provides stop-loss protection for the physician or group * * *.

In the case where the physician or physician group decides to purchase its own stop-loss protection, we interpret "provides" to mean that the organization either pays for the premium or reduces the level at which the stop-loss protection applies by the cost of the stop-loss. We also rejected the proposal of allowing HMOs to make available stop-loss protection rather than paying for it. Making available is not consistent with providing.

Thus, we provide, in § 417.479(g)(2)(iii), that the prepaid plan may either (1) Provide the stop-loss protection directly, (2) purchase the stop-loss protection, or (3) if the physician or physician group purchases the protection, pay the portion of the premium that covers its enrollees or reduce the level at which the stop-loss protection applies by the cost of the stop-loss. We are interested in any comments on this provision and alternative proposals.

Comment: Several commenters suggested that we establish a case-by-case exceptions process for stop-loss requirements.

Response: As stated previously for substantial financial risk, such a process would be administratively burdensome. Further, it would be difficult to make judgments.

Comment: One commenter, a major organization, disputed our statement that there is little information available regarding the impact of various factors on physician behavior.

Several commenters believed we should take patient panel size into account and exclude large panels from this requirement. Other commenters suggested that we have a higher stop-loss requirement, for example, $200,000 per patient, for larger panels. They noted that the legislation instructed us to take panel size into account for stop-loss protection. The commenters argued that, with a sufficiently large patient panel (generally a clinic), the physicians are able to spread the risk across all the patients.

In addition, several commenters pointed out that a number of physician groups have contracts with many different HMOs, particularly IPA models, and have the equivalent of a large panel spread out among the HMOs. The commenters recommended that HMOs that contract with these groups be exempt from the stop-loss requirements.

Response: Analyses by several actuarial firms and data from several HMOs support the position that having a large panel does reduce the level of risk. The data is also consistent with the findings of Rossiter and Adamache (1990) discussed previously. Based on these analyses, we have determined the limits specified in the following table (Table 1) for different panel sizes and have revised proposed § 417.479(g)(2) accordingly. Providing a higher stop-loss requirement (a higher stop-loss level is a lower level of protection) is consistent with the legislation, which specified that we take panel size into account.

TABLE 1.—STOP LOSS LIMITS PER PATIENT PANEL SIZE

Number of patients	Stop-loss limits per patient
Less than 1,000	$10,000
1,000 to 10,000	$30,000
10,000 to 25,001	$200,000
Greater than 25,000 (unpooled)	None
Greater than 25,000 (as a result of pooling).	$200,000

There are two ways physician groups can pool patients to meet the panel size requirements specified in the table: (1) Including commercial, Medicare, and/or Medicaid enrollees in the calculation of panel size, and (2) Pooling together, by the organization, of several physician groups into a single panel. Each method may lead to a panel size large enough to reduce the financial risk. These methods may be used to pool patients, provided they are consistent with the relevant contract between the physician or physician group and the prepaid plan. (For instance, if there are separate contracts for commercial, Medicare, and/or Medicaid enrollees, then, absent contractual provisions to the contrary, pooling would be precluded).

We consider physician groups whose panels are greater than 25,000 patients without pooling of patients as not at substantial financial risk. Thus, the organization would be exempt from stop-loss protection and beneficiary survey requirements.

For those groups whose panel size is greater than 25,000 patients as a result of pooling, the organization is required to provide stop-loss protection at the same level that is required if the panel size is between 10,000 to 25,000 patients ($200,000 per patient). This policy is adopted so that plans will not use pools to circumvent the stop-loss requirements. Furthermore, physicians may be at higher risk for panels that are pooled than panels that are not pooled since the former may experience greater variability in costs than the latter.

We have not established an increasing scale for the aggregate stop-loss option, except that those panels over 25,000 patients without pooling do not need aggregate stop-loss coverage. The scale does not need to increase because, since a percentage formula is used, the dollar

amount represented by the threshold rises as the panel size increases.

We are willing to consider policy alternatives that are supported by empirical data. We are interested in receiving public comments in this regard.

Surveys

Comment: Several commenters believed a survey of enrollee satisfaction should be required of all prepaid plans, not just those where there is substantial financial risk.

Response: While most prepaid plans do conduct surveys, there is no legislative requirement to do so except as prescribed by this regulation.

Comment: One commenter, a major organization, stated that the proposed rule is silent about what HCFA must do with the survey results. This organization proposed that the regulations explicitly require HCFA to (1) Annually review the results as they are filed, (2) share the complete results with the appropriate PRO, (3) take appropriate action if the results indicate a problem; and (4) ensure public access to the survey results by requiring that they be published and disseminated to interested parties by the PRO, the organization, or HCFA.

Response: We partially addressed this comment earlier in this preamble. The survey results will be submitted to plan managers in HCFA's central and regional offices. They will review the results in conjunction with PRO results, disenrollment data, reconsiderations, and related information, as part of ongoing compliance monitoring activities. As HCFA develops performance measures and report cards over the next several years, it will consider the best way to make the survey results available to consumers and providers.

Comment: One commenter suggested that disenrollees that move be excluded from the surveys.

Response: We agree with this recommendation since it may be very hard to locate these beneficiaries. Therefore, we have revised proposed § 417.479(g) accordingly.

Comment: One commenter, a major organization, requested that we specify that surveys do not need to be done more often than annually.

Response: This final rule, at § 417.479(g)(1)(iv), revises the requirement to specify that the survey must be conducted no later than 1 year from the effective date of the incentive plan, and at least every 2 years thereafter. As noted in the **DATES** section of this preamble, compliance with § 417.479(g)(1)(iv) is not required until 1 year after the effective date of this rule.

Medicaid

Comment: One commenter asked whether States have the option to prohibit incentive plans that place providers at a substantial financial risk. The commenter believed this option would eliminate the need to obtain and monitor stop-loss requirements and a member survey.

Response: Nothing in OBRA '90 prohibits States from placing more restrictive requirements under State law on the physician incentive plans of their HMO and HIO contractors. As a result, States do have the option of under State law prohibiting altogether incentive plans that place providers at substantial financial risk, regardless of any stop-loss arrangements and member satisfaction surveys used by the contractor. We point out, however, that the sanctions and penalties provided for under this final rule would apply only with respect to violations of the Federal requirements in this rule.

Comment: One commenter asked whether, if annual member surveys are already required under quality assurance standards, an additional member survey is necessary for those plans placing providers at substantial financial risk.

Response: No additional survey is required, as long as the survey conducted under the quality assurance standards meets the requirements specified at § 417.479(g) of this rule.

Comment: One commenter stated that sufficient time must be allowed for States to incorporate the new provisions in program rules and existing provider agreements.

Response: We agree with this comment. As a result, as stated in the **DATES** section of this preamble, the compliance date for most provisions is 60 days after publication of this final rule. This time period is the standard commonly used for implementation under Medicaid.

Comment: One commenter stated that incentive plans for physicians serving Medicaid recipients need to address access to primary and preventive services and quality of care services. The commenter stated that these plans must include incentives based on specific health outcomes, timely access to primary care, and enrollee satisfaction based on specific health outcomes.

Response: OBRA '90: (1) Prohibits certain physician incentive arrangements and (2) specifies two requirements to be met if other types of arrangements that place physicians at substantial financial risk are used. The statute does not go beyond these prohibitions and requirements to mandate the use of any particular type of incentive arrangements, including those described by the commenter. Accordingly, the rule does not include any requirements that certain types of incentives be used.

Comment: One State agency stated that incentive plans for physicians serving Medicaid must limit the payment of any incentives to once annually. The commenter believed this would decrease the possibility that physicians will cut back on services or refuse to treat individual patients because of fear of financial losses.

Response: OBRA '90 prohibited only one type of incentive arrangement: those that make specific payments, "directly or indirectly under the plan to a physician or physician group as an inducement to reduce or limit medically necessary services provided with respect to a specific individual enrolled with the organization." All other types of incentive arrangements are allowed, including those that place physicians at "substantial financial risk." (Those that place physicians at substantial financial risk must meet certain requirements for the provision of stop-loss protection for physicians and periodic enrollee satisfaction surveys.) The statute makes no provision, including the one recommended by the commenter, for banning other types of incentive plans. We cannot impose the restrictions on the incentive program that were recommended by the commenter. As noted above, however, OBRA '90 would not prohibit a State from imposing such a restriction under State law.

Comment: One commenter recommended that the reporting and other requirements for physician incentive plans be limited to only those HMOs, CMPs, or HIOs that institute percentage risk levels that are greater for the Medicaid and Medicare populations than for their commercial contracts.

Response: With respect to Medicaid, OBRA '90 amended section 1903(m)(2)(A) of the Act to condition a State's receipt of FFP for expenditures in prepaid capitation or other risk-based reimbursement contracts upon a contractor's adherence to the requirements for physician incentive plans also described in OBRA '90. The statute does not authorize the Secretary to exempt certain plans or State Medicaid contracts from compliance with these reporting and other requirements. Therefore, we cannot change the regulation as the commenter has proposed.

Comment: One commenter stated that the definitions of "substantial risk," "withhold," and "bonus" are too inflexible to meet the special needs related to the Medicaid program. Citing monthly eligibility variation and differences in payments based on varying Medicaid eligibility categories as examples of variables that can affect payment to a provider in any given period, the commenter questioned how, if incentive payments are based on end of year results and a percent sharing arrangement, a plan can know in advance if its providers will be at substantial risk.

Response: The maximum potential (as opposed to the actual) amount of withhold or bonus lost or awarded, respectively, determines whether a prepaid plan has placed a physician or physician group at substantial financial risk. If the plan places the practitioner at risk of losing more than 25 percent of his/her potential earnings, then the plan has placed the physician or physician group at substantial financial risk. The actual amount of withhold returned or not returned or bonus awarded or not awarded at the end of the assessment and disbursement period is not the determinant of substantial financial risk because money returned or awarded after care has already been delivered does not serve as an inducement. It is the promise of potential earnings (or the prospect of loss thereof) that serves as the inducement. Therefore, a prepaid plan does not need to know its end of year results in order to determine if it is placing its physicians and physician groups at substantial financial risk.

The minimum and maximum potential earnings, including the portions that are the result of incentive arrangements, should be known both to the plan and the physician or physician group under contract at the beginning of each risk assessment period. As a result, the regulation states that capitation arrangements in which the maximum and minimum possible payments are not clearly explained in the physician's or physician group's contract constitute substantial financial risk.

Comment: One commenter stated that the rules are not very clear on defining a number of terms. As examples, the commenter asked the following questions:

- What does "risk based on the levels or costs of referral services" mean? Are the "levels or costs" applied to an individual capitated physician, physician group, or organization?
- What if the amount allocated to cover referral services is placed in a pool account for debiting patient costs and the amount from these services that might be paid as part of the incentive plan depends on the performance of the larger pool formed by a number of separate physicians and these physicians pool accounts?
- What if the "capitation" amount actually paid to a physician is meant to cover that physician's services and involves a 15 percent withhold?

Response: In response to the first question, the term "referral services" is defined in § 417.479(c) of the regulation. In addition, the word "level" has been changed to "use" for greater clarity.

In response to the first two questions, it is important to note that, in general, the regulation does not attempt to address how a prepaid plan chooses to design or implement its physician incentive plan. Rather, it attempts to regulate one of the final products, that is, the maximum financial risk to which a physician or physician group may be exposed for referral services. Plans may use a variety of incentive arrangements, including those identified by the commenter, in structuring their physician incentive plans. However, prepaid plans should be able to determine or establish, as part of their physician incentive plans, the maximum financial risk, when the risk is based on referral services, to which a physician or physician group may be exposed under the physician incentive plan. If a plan is unable, based on the structure and operation of its incentive plan, to determine the amount of the financial risk, then, according to § 417.479(f)(5)(ii), we would determine that the plan places physicians or physician groups at "substantial financial risk" and the plan would be required to implement stop-loss protection and conduct enrollee surveys. As indicated previously, we have decided to allow a plan to pool patients for different physician groups.

In response to the third question, the threshold for withhold arrangements is established in § 417.479(f) of this final rule. This section would apply only if the withhold is based in part or in its entirety on utilization or costs of referral services. If the return of the withhold is based solely on the physicians' own services, then, under § 417.479(f) of this final rule, these regulations would not apply.

Comment: One commenter stated that the proposed rule does not allow for the differences found in HIOs, specifically that they have mandatory enrollment in a specific area, may be at-risk for retroactively eligible individuals, and may be responsible for an ongoing category of special members who are not capitated to a particular physician. The commenter noted that the cost of services to this population affects the incentive plan (withhold payment and surplus sharing). The commenter also specifically noted that the HIOs in California which are Medicaid only were not specifically addressed in the proposed rule.

Response: The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA '85) generally subjected HIOs which were operational on or after January 1, 1986, to the same requirements as other organizations contracting with Medicaid agencies on a risk basis to provide or arrange for comprehensive services (HMOs). (Certain exceptions to this are allowed under the law.) Therefore, this proposed rule did not reiterate the fact that HIOs subject to the same requirements for HMOs are also subject to these requirements for physician financial incentive plans.

Further, OBRA '90 did not contain any provisions calling for the differential treatment of HIOs. Because of this, and the historical interest of the Congress in subjecting HIOs to the same standards as HMOs, we did not identify the need for differential treatment of HIOs in this regulation.

Comment: One commenter stated that the proposal on enrollee surveys excludes only those Medicaid enrollees who have disenrolled because of a loss of Medicaid eligibility. The commenter recommended we consider excluding those who disenroll from a prepaid plan because they moved from the plan's service area.

Response: As stated earlier, we agree that individuals who have disenrolled from the plan because they have moved outside of a plan's service area may be omitted from the plan's enrollee survey. The regulations text at § 417.479(g)(1) has been appropriately modified.

Comment: One commenter stated that, in addition to an enrollee survey, monitoring of the complaint/appeals process for the plan and the State's Medicaid fair hearing process would be another check on the quality of care and the denial of needed service.

Response: OBRA '90 does not address monitoring the complaint/appeals process for the plan and the State Medicaid fair hearing process in the State. However, monitoring the plan's complaint hearing process is the responsibility of the State Medicaid agency as part of its routine monitoring of its managed care contractors. In addition, HCFA routinely monitors a State's fair hearing process as part of the monitoring of each State's Medicaid plan. As a result, these areas are not included in these regulations.

Miscellaneous

Comment: One commenter recommended that we clarify the definition of "medically necessary services" as it applies in the prohibition on specific payment as an inducement to reduce or limit medically necessary services to a specific enrollee.

Response: We are preparing a final rule entitled "Medicare Program: Criteria and Procedures for Making Medical Services Coverage Decisions that Relate to Health Care Technology." This rule will specify the definition of medically necessary services that will apply for purposes of the prohibition in question. (The rule will be in response to a notice we published in the **Federal Register** on April 29, 1987, at 52 FR 15559, that requested comments on procedures for medical services coverage decisions.)

Comment: One commenter stated that managed care plans should be specifically directed to provide for effective physician participation in the development of incentive plans and other elements of the organization's management.

Response: Physicians have the opportunity for input before they sign a contract with the organization. Physicians have the opportunity to negotiate all aspects of the contract. Since the contract specifies the nature of the incentive arrangements, the physicians have an opportunity for input through the negotiation process.

Comment: Some commenters recommended that patients be allowed direct access to specialists and/or that the prepaid plan explain, as part of the enrollment contract, that patients have limited access to specialists.

Response: HCFA supports the practice of HMOs using gatekeepers to limit patients from direct access to specialists. HMOs have found this to be an effective way to limit inappropriate utilization and expenditures. HMOs are required to explain this practice as part of the enrollment.

Comment: Several commenters suggested that there be an appeals process for physicians and patients.

Response: HCFA requires prepaid plans to provide an appeals process for enrollees. For physicians, there are several arrangements. All physicians have an opportunity to informally appeal decisions through the plan's medical review board and through the contract negotiation process. In addition, for Medicare risk contractors, unaffiliated physicians can represent a Medicare beneficiary in an appeal to the prepaid plan. In the case of a cost contract, the physician can represent a beneficiary in an appeal to whichever entity (prepaid plan, carrier, or intermediary) made the determination.

VII. Provisions of the Final Regulations

The proposed rule is adopted, with the changes listed below. Many of these changes are discussed in section V. of this preamble. If the change is not discussed in section V, the reason for the change is given below.

Changes to Proposed § 417.479

- We add a new paragraph (a); and designated proposed paragraph (a) as paragraph (b). New paragraph § 417.479(a) is added to reflect the requirement at section 1876(i)(8) of the Act that each contract between HCFA and an eligible organization contain provisions related to physician incentive plans. This new paragraph also makes it clear why this provision is placed in part 417, subpart L (Medicare Contract Requirements).
- We designate paragraph (b) as paragraph (c) and revise the definition of "physician group" so that it no longer inadvertently excludes physician groups that pay their physicians using a methodology under which the amount of payment is affected by referrals. We also clarify, in that definition, that an IPA is a physician group only if it is composed of individual physicians and has no subcontracts with physician groups.
- We designate proposed (c) as paragraph (d). We also revise this paragraph to remove language that, because of the addition of new paragraph (a), became redundant. Also, in response to a comment, we change "to reduce or limit medically necessary services" to "to reduce or limit medically necessary services covered under the organization's contract".
- Proposed paragraph (d) is designated as paragraph (e). Additionally, the difference in risk threshold based on the frequency of distribution or assessment of incentive payments is removed.
- Proposed paragraph (e) is designated as paragraph (f) and is revised to—
  + Provide a definition of "potential payments" and clarify that it is these payments that are used in the calculation of the level of risk.
  + Provide that substantial financial risk does not exist if, without pooling, the patient panel size is 25,000 patients or more.
- Proposed paragraph (g) is revised to—
  + Specify that individuals who disenroll from a prepaid plan because they relocate outside the plan's service area need not be included in the enrollee survey.
  + Provide that, in the case of aggregate stop-loss protection, the protection must cover 90 percent of the costs of referral services (beyond allocated amounts) that exceed 25 percent of potential payments.
  + Establish, in the case of stop-loss protection based on a per-patient limit, requirements as to the amount of stop-loss protection that are based on patient panel size.
- Proposed paragraph (h) is revised to-
  + Specify the items of information that must be disclosed to HCFA and to Medicare beneficiaries and, in accordance with § 434.70(a)(3) and (a)(4), to the State Medicaid agency or recipient, respectively.
  + Include methods that may be used in the calculation of panel size.
  + Specify those types of changes in the incentive plan that must be reported to HCFA and require that this information be submitted to HCFA 45 days before implementing the changes.
  + Remove proposed paragraph (h)(5). The proposed paragraph addressed when organizations with existing contracts must comply with the disclosure requirements. Because that provision would become quickly irrelevant, we have decided to address this issue in the **DATES** section of this final rule, rather than by incorporation into the CFR.
  + Require that organizations provide Medicare beneficiaries a summary of the disclosure information, if they request it.
- We designate proposed § 417.479(i) as § 417.479(j). We add a new § 417.479(i) to specify requirements related to subcontracting arrangements.

Changes to Proposed § 434.70

- Proposed paragraph (a)(2) is revised to—
  + Require compliance with §§ 417.479(d) through (g) and the requirements related to subcontracts set forth at § 417.479(i) if the subcontract is for the provision of services to Medicaid recipients.
  + Specify the items of information that must be disclosed to the State agency.
  + Require that the organization provide certain information concerning the physician incentive plan to any Medicaid recipient who requests it.
  + Remove proposed paragraph (a)(2)(iv). The proposed paragraph addressed when organizations with existing contracts (agreements) must comply with the disclosure requirements. Because that provision would quickly become irrelevant, we have decided to address this issue in the **DATES** section of this final rule, rather than by incorporation into the CFR.

Crosswalk Between Proposed Rule and This Final Rule

Note that those provisions related to civil money penalties and intermediate sanctions that were included in the July 22, 1991, proposed rule and that were merely republished in the December 1992 proposed rule on physician incentive plans are not included in this final rule or in the following crosswalk.

Proposed	This rule
	§ 417.479(a)—new contents.
§ 417.479(a)	§ 417.479(b).
§ 417.479(b)	§ 417.479(c).
§ 417.479(c)	§ 417.479(d).
§ 417.479(d)	§ 417.479(e).
§ 417.479(e)	§ 417.479(f).
§ 417.479(f)	Content deleted.
§ 417.479(g)	§ 417.479(g).
§ 417.479(h)	§ 417.479(h).
	§ 417.479(i)—new contents.
§ 417.479(i)	§ 417.479(j).
§ 417.495(a)(7)	§ 417.500(a)(9).
§ 434.44(a)	§ 434.44(a).
	§ 434.70(a)(3) and (a)(4)—added.
§ 1003.100(b)(vi)	§ 1003.100(b)(vi).
§ 1003.101 (definitions).	§ 1003.101—only definition of "physician incentive plan" added by this rule.
§ 1003.103(e)(iv) through (e)(vi).	§ 1003.103(e)(iv) through (e)(vi).
§ 1003.106(a)(4)(vii)	§ 1003.106(a)(4)(vii).

VIII. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995, we are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires that we solicit comment on the following issues:

- Whether the information collection is necessary and useful to carry out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

Therefore, we are soliciting public comment on each of these issues for the following sections of this document that contain information collection requirements:

The information collection requirements in § 417.479(g)(1) (and § 434.70(a)(3) for Medicaid) concern organizations that operate incentive plans that place physicians or physician groups at substantial financial risk and require them to conduct annual enrollee surveys that include either all current Medicare/Medicaid enrollees in the organization and those who have disenrolled (other than because of loss of eligibility in Medicaid or relocation outside the organization's service area) in the past 12 months, or a sample of these same enrollees and disenrollees. These surveys must be designed, implemented, and analyzed in accordance with commonly accepted principles of survey design and statistical analysis. They must address enrollees/disenrollees satisfaction with the quality of services furnished and their degree of access to the services. We estimate that 200 organizations will conduct the surveys each year. We estimate that a total of approximately 90,000 enrollees will respond to the survey.

The information collection requirements in §§ 417.479(h)(1) and (h)(2), 417.479(i), and 434.70(a)(3) specify that disclosure concerning physician incentive plans must be made to HCFA or to the State, as appropriate. The requirements apply to physician incentive plans between eligible organizations and individual physicians or physician groups with whom they contract to furnish medical services to enrollees. The requirements apply only to physician incentive plans that base compensation on the use or cost of services furnished to Medicare beneficiaries or Medicaid recipients.

The disclosure must contain the following information:

(1) Whether services not furnished by the physician or physician group are covered by the incentive plan. (If not, disclosure of other aspects of the plan need not be made.)

(2) The type of incentive arrangement.

(3) If the incentive plan involves a withhold or bonus, the percent of the withhold or bonus.

(4) The amount and type of stop-loss protection.

(5) The patient panel size and, if patients are pooled, the pooling method used.

(6) In the case of capitated physicians or physician groups, capitation payments paid to primary care physicians for the most recent year broken down by percent for primary care services, referral services to specialists, and hospital and other types of provider services.

(7) In the case of prepaid plans that must conduct beneficiary/recipient surveys, the survey results.

An organization must provide the information upon application for a contract; upon application for a service area expansion; at least 45 days before implementing certain changes in its incentive plan, and within 30 days of a request by HCFA or the State. The respondents that will provide the information are HMOs, CMPs, HIOs, and certain subcontractor entities that contract with the Medicare program or States and have physician incentive plans. We estimate that approximately 600 organizations will submit the information.

Sections 417.479(h)(3) and 434.70(a)(4) require that the following information be provided to any Medicare beneficiary or Medicaid recipient, respectively, who requests it: Whether the plan uses a physician incentive plan that affects the use of referral services; if so, the type of incentive arrangement; whether stop-loss protection is provided; and, if a survey is required, a summary of the survey results. The respondents who will provide this information will be HMOs, CMPs, HIOs, that contract with the Medicare program or States and have physician incentive plans. We estimate that approximately 300 organizations will provide this information to a total of approximately 1,500 Medicare beneficiaries and 1,500 Medicaid recipients.

The table below indicates the annual number of responses for each regulation section in this final rule containing information collection requirements, the average burden per response in minutes or hours, and the total annual burden hours.

CFR section	Annual No. of responses	Annual frequency	Average burden per response	Annual burden hours
417.479(g)(1)	90,000	1	10 minutes	15,000
417.479(h) (1) and (2) and 417.479(i)	600	1	1 hour	600

CFR section	Annual No. of responses	Annual frequency	Average burden per response	Annual burden hours
417.479(h)(3)	1,500	1	10 minutes	250
434.70(a)(4)	1,500	1	10 minutes	250

We have submitted a copy of this final rule with comment period to OMB for its review of the above information requirements. A document will be published in the **Federal Register** when OMB approval is obtained.

If you comment on these information collection and recordkeeping requirements, please mail your comments to the following address: Health Care Financing Administration, Office of Financial and Human Resources, Management Planning and Analysis Staff, Room C2–26–17, 7500 Security Boulevard, Baltimore, MD 21244–1850.

IX. Regulatory Impact Statement

Consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), we prepare a regulatory flexibility analysis unless the Secretary certifies that a rule will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, all HMOs, CMPs, and HIOs are considered to be small entities.

In addition, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

This final rule with comment period will amend the regulations governing prepaid health care organizations with Medicare or Medicaid risk contracts. Sections 4204(a) and 4731 of OBRA 1990 repealed the prohibition of physician incentive plans in prepaid health care organizations and enacted requirements, effective January 1, 1992, for regulating these plans.

One of the requirements imposed was that each Medicare contract with a prepaid health care organization stipulate that, if a physician incentive plan places a physician or physician group at "substantial financial risk" for services not provided directly, the prepaid health plan organization must: (1) Provide the physician or physician group with adequate and appropriate stop-loss protection, and (2) conduct surveys of currently and previously enrolled members to assess the degree of access to services and the satisfaction with the quality of services.

We received one comment that dealt with the impact statement in the proposed rule published in the **Federal Register** on December 14, 1992 (57 FR 59034). The commenter believed that the proposed rule would have a substantial impact on prepaid health care organizations. The commenter stated that it would be required to make significant changes to limit physician group participation in incentive programs. The commenter also believed the proposed rule would limit its ability to control costs and also result in higher administrative expenses. We believe most plans already meet a majority of our requirements, as indicated by the survey data collected by GHAA and Mathematica discussed in the preamble. We strongly believe that if physicians are at substantial financial risk, organizations must provide stop-loss protection to ensure that essential health care services are received by Medicare beneficiaries and Medicaid enrollees.

All of the approximately 600 HMOs, CMPs, and HIOs could be affected by the revised incentive plan disclosure requirements. We believe, however, that few incentive plans will require changes to comply with the regulations. In addition, since we expect that most current incentive plans already comply with the regulations, we believe that we will rarely need to impose intermediate sanctions or civil money penalties on prepaid health plan organizations that fail to provide covered medically necessary services. Further, we expect few additional surveys of currently and previously enrolled members will be necessary to assess the degree of access to services and the satisfaction with the quality of services. Thus, we believe that additional costs will be incurred by only a small number of organizations.

We are not preparing analyses for either the RFA or section 1102(b) of the Act because we have determined, and the Secretary certifies, that this rule will not have a significant economic impact on a substantial number of small entities or a significant impact on the operations of a substantial number of small rural hospitals. We will, however, publish a regulatory flexibility analysis and regulatory impact analysis if we receive comments and data that would enable us to do so.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

List of Subjects

42 CFR Part 417

Administrative practice and procedure, Health maintenance organization (HMO), Medicare, Reporting and recordkeeping requirements.

42 CFR Part 434

Grant programs—Health, Health maintenance organization (HMO), Medicaid, Reporting and recordkeeping requirements.

42 CFR Part 1003

Administrative practice and procedure, Fraud, Grant programs—Health, Health facilities, Health profession, Maternal and child health, Medicaid, Medicare, Penalties.

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES

I. Chapter IV of title 42 is amended as set forth below:

PART 417—HEALTH MAINTENANCE ORGANIZATIONS, COMPETITIVE MEDICAL PLANS, AND HEALTH CARE PREPAYMENT PLANS

A. Part 417 is amended as follows:

1. The authority citation for part 417 is revised to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

2. A new § 417.479 is added to read as follows:

§ 417.479 Requirements for physician incentive plans.

(a) The contract must specify that an organization may operate a physician incentive plan only if—

(1) No specific payment is made directly or indirectly under the plan to a physician or physician group as an inducement to reduce or limit medically necessary services furnished to an individual enrollee; and

(2) The stop-loss protection, enrollee survey, and disclosure requirements of this section are met.

(b) *Applicability.* The requirements in this section apply to physician incentive plans between eligible organizations and individual physicians or physician groups with whom they contract to provide medical services to enrollees. These requirements apply only to physician incentive plans that base compensation (in whole or in part) on the use or cost of services furnished to Medicare beneficiaries or Medicaid recipients.

(c) *Definitions.* For purposes of this section:

Bonus means a payment an organization makes to a physician or physician group beyond any salary, fee-for-service payments, capitation, or returned withhold.

Capitation means a set dollar payment per patient per unit of time (usually per month) that an organization pays a physician or physician group to cover a specified set of services and administrative costs without regard to the actual number of services provided. The services covered may include the physician's own services, referral services, or all medical services.

Payments means any amounts the organization pays physicians or physician groups for services they furnish directly, plus amounts paid for administration and amounts paid (in whole or in part) based on use and costs of referral services (such as withhold amounts, bonuses based on referral levels, and any other compensation to the physician or physician group to influence the use of referral services). Bonuses and other compensation that are not based on referral levels (such as bonuses based solely on quality of care furnished, patient satisfaction, and participation on committees) are not considered payments for purposes of this subpart.

Physician group means a partnership, association, corporation, individual practice association, or other group that distributes income from the practice among members. An individual practice association is a physician group only if it is composed of individual physicians and has no subcontracts with physician groups.

Physician incentive plan means any compensation arrangement between an organization and a physician or physician group that may directly or indirectly have the effect of reducing or limiting services furnished to Medicare beneficiaries or Medicaid recipients enrolled in the organization.

Referral services means any specialty, inpatient, outpatient, or laboratory services that a physician or physician group orders or arranges, but does not furnish directly.

Risk threshold means the maximum risk, if the risk is based on referral services, to which a physician or physician group may be exposed under a physician incentive plan without being at substantial financial risk.

Withhold means a percentage of payments or set dollar amounts that an organization deducts from a physician's service fee, capitation, or salary payment, and that may or may not be returned to the physician, depending on specific predetermined factors.

(d) *Prohibited physician payments.* No specific payment of any kind may be made directly or indirectly under the incentive plan to a physician or physician group as an inducement to reduce or limit covered medically necessary services covered under the organization's contract furnished to an individual enrollee. Indirect payments include offerings of monetary value (such as stock options or waivers of debt) measured in the present or future.

(e) *General rule: Determination of substantial financial risk.* Substantial financial risk occurs when the incentive arrangements place the physician or physician group at risk for amounts beyond the risk threshold, if the risk is based on the use or costs of referral services. Amounts at risk based solely on factors other than a physician's or physician group's referral levels do not contribute to the determination of substantial financial risk. The risk threshold is 25 percent.

(f) *Arrangements that cause substantial financial risk.* For purposes of this paragraph, *potential payments* means the maximum anticipated total payments (based on the most recent year's utilization and experience and any current or anticipated factors that may affect payment amounts) that could be received if use or costs of referral services were low enough. The following physician incentive plans cause substantial financial risk if risk is based (in whole or in part) on use or costs of referral services and the patient panel size is not greater than 25,000 patients or is greater than 25,000 patients only as a result of pooling patients using a method set forth in paragraph (h)(1)(v) of this section:

(1) Withholds greater than 25 percent of potential payments.

(2) Withholds less than 25 percent of potential payments if the physician or physician group is potentially liable for amounts exceeding 25 percent of potential payments.

(3) Bonuses that are greater than 33 percent of potential payments minus the bonus.

(4) Withholds plus bonuses if the withholds plus bonuses equal more than 25 percent of potential payments. The threshold bonus percentage for a particular withhold percentage may be calculated using the formula—

Withhold %=−0.75 (Bonus %)+25%.

(5) Capitation arrangements, if—

(i) The difference between the maximum possible payments and minimum possible payments is more than 25 percent of the maximum possible payments; or

(ii) The maximum and minimum possible payments are not clearly explained in the physician's or physician group's contract.

(6) Any other incentive arrangements that have the potential to hold a physician or physician group liable for more than 25 percent of potential payments.

(g) *Requirements for physician incentive plans that place physicians at substantial financial risk.* Organizations that operate incentive plans that place physicians or physician groups at substantial financial risk must do the following:

(1) Conduct enrollee surveys. These surveys must—

(i) Include either all current Medicare/Medicaid enrollees in the organization and those who have disenrolled (other than because of loss of eligibility in Medicaid or relocation outside the organization's service area) in the past 12 months, or a sample of these same enrollees and disenrollees;

(ii) Be designed, implemented, and analyzed in accordance with commonly accepted principles of survey design and statistical analysis;

(iii) Address enrollees/disenrollees satisfaction with the quality of the services provided and their degree of access to the services; and

(iv) Be conducted no later than 1 year after the effective date of the incentive plan, and at least every 2 years thereafter.

(2) Ensure that all physicians and physician groups at substantial financial risk have either aggregate or per-patient stop-loss protection in accordance with the following requirements:

(i) If aggregate stop-loss protection is provided, it must cover 90 percent of the costs of referral services (beyond allocated amounts) that exceed 25 percent of potential payments.

(ii) If the stop-loss protection provided is based on a per-patient limit, the stop-loss limit per patient must be determined based on the size of the

patient panel. In determining patient panel size, the patients may be pooled using one of the methods set forth in paragraph (h)(1)(v) of this section if pooling is consistent with the relevant contract between the physician or physician group and the organization. Stop-loss protection must cover 90 percent of the costs of referral services that exceed the per patient limit. The per-patient stop-loss limit is as follows:

(A) Less than 1,000 patients—$10,000.

(B) 1,000 to 10,000 patients—$30,000.

(C) 10,000 to 25,001 patients—$200,000.

(D) Greater than 25,000 patients—

(*1*) Without pooling patients—none; and

(*2*) As a result of pooling patients—$200,000.

(iii) The organization may provide the stop-loss protection directly or purchase the stop-loss protection, or the physician or physician group may purchase the stop-loss protection. If the physician or physician group purchases the stop-loss protection, the organization must pay the portion of the premium that covers its enrollees or reduce the level at which the stop-loss protection applies by the cost of the stop-loss.

(h) *Disclosure requirements for organizations with physician incentive plans*—(1) *Disclosure to HCFA.* Each organization must provide to HCFA information concerning its physician incentive plans as required or requested. The disclosure must contain the following information in detail sufficient to enable HCFA to determine whether the incentive plan complies with the requirements specified in this section:

(i) Whether services not furnished by the physician or physician group are covered by the incentive plan. If only the services furnished by the physician or physician group are covered by the incentive plan, disclosure of other aspects of the plan need not be made.

(ii) The type of incentive arrangement; for example, withhold, bonus, capitation.

(iii) If the incentive plan involves a withhold or bonus, the percent of the withhold or bonus.

(iv) The amount and type of stop-loss protection.

(v) The panel size and, if patients are pooled according to one of the following permitted methods, the method used:

(A) Including commercial, Medicare, and/or Medicaid patients in the calculation of the panel size.

(B) Pooling together, by the organization, of several physician groups into a single panel.

(vi) In the case of capitated physicians or physician groups, capitation payments paid to primary care physicians for the most recent year broken down by percent for primary care services, referral services to specialists, and hospital and other types of provider (for example, nursing home and home health agency) services.

(vii) In the case of those prepaid plans that are required to conduct beneficiary surveys, the survey results.

(2) *When disclosure must be made to HCFA.* (i) An organization must provide the information required by paragraph (h)(1) of this section to HCFA—

(A) Upon application for a contract;

(B) Upon application for a service area expansion; and

(C) Within 30 days of a request by HCFA.

(ii) An organization must notify HCFA at least 45 days before implementing any of the following changes in its incentive plan:

(A) A change as to the type of incentive plan.

(B) A change in the amounts of risk or stop-loss protection.

(C) Expansion of the risk formula to cover services not furnished by the physician group that the formula had not included previously.

(3) *Disclosure to Medicare beneficiaries.* An organization must provide the following information to any Medicare beneficiary who requests it:

(i) Whether the prepaid plan uses a physician incentive plan that affects the use of referral services.

(ii) The type of incentive arrangement.

(iii) Whether stop-loss protection is provided.

(iv) If the prepaid plan was required to conduct a survey, a summary of the survey results.

(i) *Requirements related to subcontracting arrangements*—(1) *Physician groups.* An organization that contracts with a physician group that places the individual physician members at substantial financial risk for services they do not furnish must do the following:

(i) Disclose to HCFA any incentive plan between the physician group and its individual physicians that bases compensation to the physician on the use or cost of services furnished to Medicare beneficiaries or Medicaid recipients. The disclosure must include the information specified in paragraphs (h)(1)(i) through (h)(1)(vii) of this section and be made at the times specified in paragraph (h)(2) of this section.

(ii) Provide adequate stop-loss protection to the individual physicians.

(iii) Conduct enrollee surveys as specified in paragraph (g)(1) of this section.

(2) *Intermediate entities.* An organization that contracts with an entity (other than a physician group) for the provision of services to Medicare beneficiaries must do the following:

(i) Disclose to HCFA any incentive plan between the entity and a physician or physician group that bases compensation to the physician or physician group on the use or cost of services furnished to Medicare beneficiaries or Medicaid recipients. The disclosure must include the information required to be disclosed under paragraphs (h)(1)(i) through (h)(1)(vii) of this section and be made at the times specified in paragraph (h)(2) of this section.

(ii) If the physician incentive plan puts a physician or physician group at substantial financial risk for the cost of services the physician or physician group does not furnish—

(A) Meet the stop-loss protection requirements of this subpart; and

(B) Conduct enrollee surveys as specified in paragraph (g)(1) of this section.

(3) For purposes of paragraph (i)(2) of this section, an entity includes, but is not limited to, an individual practice association that contracts with one or more physician groups and a physician hospital organization.

(j) *Sanctions against the organization.* HCFA may apply intermediate sanctions, or the Office of Inspector General may apply civil money penalties described at § 417.500, if HCFA determines that an eligible organization fails to comply with the requirements of this section.

3. In § 417.500, the introductory text of paragraph (a) is republished, and a new paragraph (a)(9) is added to read as follows:

§ 417.500 Sanctions against HMOs and CMPs.

(a) *Basis for imposition of sanctions.* HCFA may impose the intermediate sanctions specified in paragraph (d) of this section, as an alternative to termination, if HCFA determines that an HMO or CMP does one or more of the following:

* * * * *

(9) Fails to comply with the requirements of §§ 417.479(d) through (i) relating to physician incentive plans.

* * * * *

PART 434—CONTRACTS

B. Part 434 is amended as follows:

1. The authority citation for part 434 continues to read as follows:

Authority: Secs. 1102 of the Social Security Act (42 U.S.C. 1302).

2. In § 434.44, the introductory text of paragraph (a) is republished, and paragraph (a)(1) is revised to read as follows:

§ 434.44 Special rules for certain health insuring organizations.

(a) A health insuring organization that first enrolls patients on or after January 1, 1986, and arranges with other providers (through subcontract, or through other arrangements) for the delivery of services (as described in §§ 434.21(b)) to Medicaid enrollees on a prepaid capitation risk basis is—

(1) Subject to the general requirements set forth in § 434.20(d) concerning services that may be covered and § 434.20(e) which sets forth the requirements for all contracts, the additional requirements set forth in §§ 434.21 through 434.38 and the Medicaid agency responsibilities specified in subpart E of this part; and

* * * * *

3. In § 434.67, the introductory text of paragraph (a) is republished, and a new paragraph (a)(5) is added to read as follows:

§ 434.67 Sanctions against HMOs with risk comprehensive contracts.

(a) Basis for imposition of sanctions. The agency may recommend that the intermediate sanction specified in paragraph (e) of this section be imposed if the agency determines that an HMO with a risk comprehensive contract does one or more of the following:

* * * * *

(5) Fails to comply with the requirements of §§ 417.479(d) through (g) of this chapter relating to physician incentive plans, or fails to submit to the State Medicaid agency its physician incentive plans as required or requested in § 434.70.

* * * * *

4. Section 434.70 is revised to read as follows:

§ 434.70 Condition for FFP.

(a) FFP is available in expenditures for payments to contractors only for the periods that—

(1) The contract—

(i) Meets the requirements of this part;

(ii) Meets the appropriate requirements of 45 CFR part 74; and

(iii) Is in effect;

(2) The HMO or HIO complies with the physician incentive plan requirements specified in §§ 417.479(d) through (g) of this chapter and the requirements related to subcontracts set forth at § 417.479(i) of this chapter if the subcontract is for the provision of services to Medicaid recipients;

(3) The HMO or HIO (or, in accordance with § 417.479(i) of this chapter, the subcontracting entity) has supplied the information on its physician incentive plan listed in §§ 417.479(h)(1) of this chapter to the State Medicaid agency. The information must contain detail sufficient to enable the State to determine whether the plan complies with the requirements of §§ 417.479(d) through (g) of this chapter. The HMO or HIO must supply this information to the State Medicaid agencies as follows:

(i) Upon application for a contract.

(ii) At least 45 days before implementing any of the following changes in its incentive plan:

(A) A change as to the type of incentive plan.

(B) A change in the amounts of risk or stop-loss protection.

(C) Expansion of the risk formula to cover services not furnished by the physician group that the formula had not included previously.

(iii) Within 30 days of a request by the State or HCFA; and

(4) The HMO or HIO has provided the information on physician incentive plans listed in § 417.479(h)(3) of this chapter to any Medicaid recipient who requests it.

(b) HCFA may withhold FFP for any period during which—

(1) The State fails to meet the State plan requirements of this part;

(2) Either party to a contract substantially fails to carry out the terms of the contract; or

(3) The State fails to obtain from each HMO or HIO contractor proof that it meets the requirements for physician incentive plans specified in §§ 417.479(d) through (g) and (i) of this chapter.

CHAPTER V—OFFICE OF INSPECTOR GENERAL—HEALTH CARE, DEPARTMENT OF HEALTH AND HUMAN SERVICES

II. 42 CFR part 1003 is amended as set forth below:

PART 1003—CIVIL MONEY PENALTIES, ASSESSMENTS AND EXCLUSIONS

1. The authority citation for part 1003 continues to read as follows:

Authority: 42 U.S.C. 1302, 1320a–7, 1320a–7a, 1320b–10, 1395mm, 1395ss(d), 1395u(j), 1395u(k), 1396b(m), 11131(c) and 11137(b)(2).

2. In § 1003.100, paragraph (b)(1) introductory text is revised and paragraph (b)(1)(vii) is revised to read as follows:

§ 1003.100 Basis and purpose.

* * * * *

(b) *Purpose.* * * *

(1) Provides for the imposition of civil money penalties and, as applicable, assessments against persons who—

* * * * *

(vii) Substantially fail to provide an enrollee with required medically necessary items and services, or who engage in certain marketing, enrollment, reporting, claims payment, employment or contracting abuses, or that do not meet the requirements for physician incentive plans for Medicare specified in §§ 417.479 (d) through (i) of this title;

* * * * *

3. Section 1003.101 is amended by adding, in alphabetical order, a definition for the term "Physician incentive plan" to read as follows:

§ 1003.101 Definitions.

* * * * *

Physician incentive plan means any compensation arrangement between a contracting organization and a physician group that may directly or indirectly have the effect of reducing or limiting services provided with respect to enrollees in the organization.

* * * * *

4. In § 1003.103, paragraph (f)(1) introductory text is republished, paragraphs (f)(1)(iv) and (f)(1)(v) are revised, and a new paragraph (f)(1)(vi) is added, to read as follows:

§ 1003.103 Amount of penalty.

* * * * *

(f)(1) The OIG may, in addition to or in lieu of other remedies available under law, impose a penalty of up to $25,000 for each determination by HCFA that a contracting organization has—

* * * * *

(iv) Misrepresented or falsified information furnished to an individual or any other entity under section 1876 or section 1903(m) of the Act;

(v) Failed to comply with the requirements of section 1876(g)(6)(A) of the Act, regarding prompt payment of claims; or

(vi) Failed to comply with the requirements of §§ 417.479 (d) through (i) of this title for Medicare, and §§ 417.479 (d) through (g) and (i) of this title for Medicaid, regarding certain prohibited incentive payments to physicians.

* * * * *

5. In § 1003.106, paragraph (a)(5) introductory text is republished; paragraphs (a)(5)(vii) and (a)(5)(viii) are redesignated as paragraphs (a)(5)(viii) and (a)(5)(ix), respectively; and a new paragraph (a)(5)(vii) is added to read as follows:

§ 1003.106 Determinations regarding the amount of the penalty and assessment.

(a) * * *

(5) In determining the appropriate amount of any penalty in accordance with § 1003.103(f), the OIG will consider, as appropriate—

* * * * * *

(vii) The extent to which the failure to provide medically necessary services could be attributed to a prohibited inducement to reduce or limit services under a physician incentive plan and the harm to the enrollee which resulted or could have resulted from such failure. It would be considered an aggravating factor if the contracting organization knowingly or routinely engaged in any prohibited practice which acted as an inducement to reduce or limit medically necessary services provided with respect to a specific enrollee in the organization;

* * * * * *

(Catalog of Federal Domestic Assistance Program No. 93.733—Medicare—Hospital Insurance Program; No. 93.774—Medicare Supplementary Medical Insurance Program; No. 93.778—Medical Assistance Program)

Dated: April 20, 1995.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

Dated: May 19, 1995.

June G. Brown,

Inspector General, Department of Health and Human Services.

Dated: November 2, 1995.

Donna E. Shalala,

Secretary.

[FR Doc. 96–7228 Filed 3–25–96; 8:45 am]

BILLING CODE 4120–01–P

UTAH RECLAMATION MITIGATION AND CONSERVATION COMMISSION

43 CFR Part 10001

Operating Procedures

AGENCY: Utah Reclamation Mitigation and Conservation Commission.

ACTION: Final rule.

SUMMARY: This part establishes the final rule that describes the operating procedures of the agency established by the Central Utah Project Completion Act. The rule meets the requirement of the Administrative Procedure Act that directs each agency to publish its organizational structure and functions in the **Federal Register** for the guidance of the public.

EFFECTIVE DATE: February 5, 1996.

FOR FURTHER INFORMATION CONTACT: Michael C. Weland, Executive Director, Utah Reclamation Mitigation and Conservation Commission, 111 East Broadway, Suite 310, Salt Lake City, Utah, 84111. Telephone (801) 524–3146.

SUPPLEMENTARY INFORMATION: The final rule was adopted by the Utah Reclamation Mitigation and Conservation Commission in public session February 5, 1996.

List of Subjects in 43 CFR Part 10001

Administrative practice and procedures, Organization and functions (Government Agencies).

Chapter III of title 43 of the Code of Federal Regulations is amended to add new part as follows:

PART 10001—OPERATING PROCEDURES

Sec.

10001.1 Commissioners.
10001.2 Meetings.

Authority: Sec. 301, Pub. L. 102–575, 106 Stat 4625.

§10001.1 Commissioners.

(a) Three members of the Commission shall constitute a quorum.

(b) The affirmative vote of at least three members of the Commission in attendance at a meeting at which a quorum is present, on any matter within their duties and responsibilities, shall constitute the Commission's action, except as otherwise provided herein.

(1) The Commission may not take action on a matter not appearing on the published agenda for a particular meeting except upon the unanimous vote of the members present.

(2) Any proposed Commission action must be moved by a Commission member and seconded by another member before a vote may be taken by the Commission. Other questions of procedure will be decided by reference to generally accepted principles of parliamentary procedure, as determined by the Chairman or the Chairman's designee.

(3) A member who is present at a meeting of the Commission at which action on any matter is taken shall be presumed to have assented to the action taken unless that member's abstention or dissent shall have been entered into the minutes of the meeting or unless that member shall file a written dissent to such action with the Chairman before the adjournment of the meeting. A written dissent shall not apply to a member who voted in favor of such action.

(4) In a case where a member is recused due to a conflict in a particular matter, the member shall not be present during, nor take any part in, the proceedings on that matter and shall not be counted as having voted.

(5) No member of the Commission may appoint another individual, including another member, by proxy or otherwise, to assume his or her responsibilities or vote on his or her behalf as a member of the Commission.

(c) There shall be one office of Chairman of the Commission to be held by a member of the Commission.

(1) The Chairman shall be elected by an affirmative vote by at least three members of the Commission and shall hold office for one year, commencing immediately upon election, or until resignation from the office or the Commission.

(2) The Chairman shall be the presiding officer of the Commission and shall perform the following duties and responsibilities:

(i) Preside at all meetings of the Commission;

(ii) Vote on all matters requiring Commission action;

(iii) Execute all contracts, agreements, resolutions, and other documents approved and authorized by the Commission, except as otherwise delegated by the Commission;

(iv) Preside at ceremonial activities sponsored by the Commission and represent the Commission at other ceremonial activities upon invitation;

(v) Appoint any other member of the Commission to serve as Acting Chairman in the absence of the Chairman and Vice-Chairman; and

(vi) Serve as spokesperson for the Commission, unless otherwise directed by the Commission. When the Chairman or any other member of the Commission speaks as an individual member of the Commission, the Chairman or member shall state when he or she is representing his or her own views and not the consensus of the Commission as a whole.

(3) A member may not serve as Chairman for more than four consecutive full one-year terms.

(4) Whenever a vacancy occurs in the office of Chairman, the members shall at their next meeting elect a successor to fill the vacancy for the unexpired term.

(d) The Commission may, upon an affirmative vote by at least three members, elect one of its members to serve as Vice-Chairman.

(1) The Vice-Chairman, whenever such office may from time to time be established, shall perform all of the duties of the Chairman of the Commission when the Chairman is unable for any reason to act or when for any reason there is a vacancy in the office of Chairman.

(2) The term of office for the Vice-Chairman shall be one year, commencing immediately upon election unless otherwise established by the Commission.

(e) The Chairman or Vice-Chairman may be removed from office by an affirmative vote of at least four members of the Commission whenever in its judgment the best interests of the Commission would be served.

(f) Except as provided in paragraph (f)(1), of this section members of the Commission shall each be paid at a rate equal to the daily equivalent of the maximum of the annual rate of basic pay in effect for grade GS–15 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

(1) Members of the Commission who are full-time officers or employees of the United States or the State of Utah shall receive no additional pay by reason of their service on the Commission.

(2) Members of the Commission who are eligible for compensation under this paragraph shall be paid for the performance of the following activities:

(i) Preparation for and attendance at regularly scheduled meetings of the Commission or Commission meetings called pursuant to § 10001.2(a);

(ii) Preparation for and attendance at Commission inspections of mitigation and conservation projects;

(iii) Preparation for and attendance at ceremonial activities sponsored by the Commission; and

(iv) Upon the prior or subsequent approval of the Commission, preparation for and attendance at other meetings, or the performance of any activities assigned by the Commission.

(g) All members of the Commission, as special or intermittent Federal employees, shall be entitled to advances or reimbursement of expenses incurred in the performance of the activities described in paragraph (f) of this section in accordance with the applicable Federal regulations.

§ 10001.2 Meetings.

(a) The Commission shall meet at least quarterly each year and may meet at the call of the Chairman or upon the request of a majority of its members.

(1) Commission members may participate in a Commission meeting through the use of conference telephone or similar communications equipment with the consent of the Chairman, provided that all members so participating, members at the meeting, and attending members of the public, can hear each other clearly at all times.

(2) All meetings of the Commission shall be open and public, and all persons are permitted to attend except when the Commission meets in executive or work session.

(i) Site visits by a quorum of the Commission are not considered to be meetings of the Commission; however, whenever feasible, interested members of the press will be invited to accompany the Commission on site visits.

(ii) Paragraph (a)(2) of this section shall not be interpreted so as to prohibit the removal of any person who willfully disrupts a meeting.

(3) The Commission may meet in executive session at any time and for any purpose authorized by law.

(i) It is the intention of the Commission that its meetings should generally be open and public, and that executive sessions should be held only when permitted by law or when the reasons for the executive session clearly exceed the merits of public disclosure.

(ii) A unanimous vote of the members present is required to move into executive session.

(iii) The Commission shall not authorize or approve any mitigation or conservation plan, amendment, or project while in executive session, and shall report a summary of all non-exempt information from such sessions at the next open meeting.

(iv) In the course of an executive session, any member may request that the matter under discussion be moved into an open meeting. Upon receiving such a request, the Chairman shall poll the members present in the executive session. If a majority agree to move the matter into an open meeting, the Chairman will close the discussion of the matter and schedule it for consideration at the next open meeting of the Commission.

(b) The agenda for each Commission meeting shall be established by the Chairman upon recommendation from any member of the Commission or the Executive Director and shall briefly set out all items of business expected to come before the Commission at the meeting for action, consideration, or information, and identify items upon which the Commission will accept public comment.

(1) The agenda shall specify the time and location of the meeting.

(2) At least seven calendar days prior to a Commission meeting, the Executive Director shall publish the agenda for the upcoming meeting by providing copies to all members of the Commission, to major news media, and to all individuals, agencies, and organizations who have requested in writing to be given notice of Commission meetings.

(3) The deadline for submission to the Executive Director of items for Commission meetings shall be ten business days prior to the date of the meeting as previously set by the Commission.

(4) Any person appearing before the Commission to comment on an agenda item shall do so only when called by the Chairman. They shall state their name clearly for the record and may then address the Commission on the issue then under consideration, subject to reasonable time limits on the issue and individual speakers as established by the Chairman.

(5) The Executive Director shall make available for inspection by the public, at the commencement of and during a Commission meeting, copies of the meeting agenda and of any written material that is not exempt from public disclosure and that has been distributed in advance of the meeting to the Commission members for action, consideration, or information at the meeting. If non-exempt written material is distributed to the members during the meeting, copies thereof shall be made available for public inspection at the same time or as soon thereafter as practicable.

(6) Any person desiring to appear and present an item for Commission consideration shall file a written request to do so with the Executive Director. The request shall state the nature of the matter to be considered by the Commission. The Chairman shall then determine whether the matter should be placed on the agenda for a Commission meeting or should be referred to the Executive Director.

(c) The Executive Director shall record, or have recorded, by tape recording and stenographic notes, official minutes of all open portions of Commission meetings.

(1) The written minutes shall contain the following information:

(i) the date, time, and location of the meeting, together with the names of all members present and absent, the names of all staff present, and a copy of the registration list of others attending the meeting;

(ii) the substance of all matters proposed, considered, or decided, including actions to go into executive session and summaries of non-exempt information from executive sessions;

(iii) the names of all individuals who appeared before the Commission and the substance in brief of their comments;

(iv) all motions (including the identity of the moving and seconding members),

votes, and major decisions of the Commission; and

(v) any other information a member requests be entered in the minutes.

(2) The draft of the written minutes shall be prepared and forwarded to the members by the Executive Director in a reasonable time after the meeting. The members shall inform the Executive Director or his or her designee of any proposed additions or corrections prior to the final draft being sent to the members with the packet of materials for the next Commission meeting.

(3) The Commission shall approve the written minutes at its next regularly scheduled meeting. Upon such approval, the Chairman shall certify the approval of the minutes by signing the original document. One year after adoption of the minutes, the Executive Director shall cause the tape recording of the meeting to be erased and all stenographic notes to be destroyed, unless otherwise directed by the Commission.

(4) Within a reasonable time after approval of the minutes by the Commission, the Executive Director shall make the approved minutes available for public inspection.

(5) The Executive Director shall provide copies of the certified minutes to each member and maintain the original of the certified minutes in the agency files and archives.

Joan Degiorgio,

Acting Executive Director.

[FR Doc. 96–6755 Filed 3–26–96; 8:45 am]

BILLING CODE 4316–05–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 625

[Docket No. 960314074–6074–01; I.D. 030696C]

RIN: 0648–XX52

Summer Flounder Fishery; Emergency for the Scup Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Emergency interim rule.

SUMMARY: NMFS amends the regulations implementing the Summer Flounder Fishery Management Plan (Summer Flounder FMP) to establish management measures for the scup fishery. These measures are contained in an amendment to the Summer Flounder FMP that will be submitted for NMFS review shortly. Emergency implementation of these measures is necessary because of the overexploited status of the stock. This action establishes a minimum fish size for both the recreational and commercial fisheries, and implements a minimum codend mesh requirement for otter trawl vessels that possess 4,000 lb or more (1,814 kg or more) of scup harvested in or from the exclusive economic zone (EEZ).

EFFECTIVE DATE: This emergency interim rule is effective from March 22, 1996, through June 25, 1996.

ADDRESSES: Copies of documents supporting this action, including the environmental assessment, are available from David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115 Federal Building, 300 S. New Street, Dover, DE 19901-6790.

FOR FURTHER INFORMATION CONTACT: Regina L. Spallone, Fishery Policy Analyst, (508)281–9221.

SUPPLEMENTARY INFORMATION: The Mid-Atlantic Fishery Management Council (Council) began the development of a scup fishery management plan (scup FMP) in 1978. Although preliminary development work was done, a scup FMP was not completed.

In January 1990, the Council and the Atlantic States Marine Fisheries Commission (ASMFC) began the development of an amendment to the Summer Flounder FMP to manage scup. However, the development of an amendment to manage scup was delayed because of a series of other amendments to the Summer Flounder FMP. Work on a separate scup FMP was not resumed until 1993.

The Council and the ASMFC adopted a scup FMP for NMFS review in November 1995. The Council had accelerated its work on the scup FMP after the release in March 1995 of the Plenary Report of the 19th Stock Assessment Workshop (19th SAW). The 19th SAW report established that the scup spawning stock biomass was at a record low level, and warned that recruitment failure in a single year could collapse the fishery. The report urged immediate action to substantially reduce fishing mortality. To provide some protection to the stock immediately, the Council also voted in November 1995 to request emergency implementation on January 1, 1996, of some of the management measures contained in the proposed scup FMP. The efforts of the Council and NMFS to prepare and review the required documents associated with emergency action were delayed by the government shutdown from December 21, 1995, through January 7, 1996, and by additional shutdowns due to severe winter weather.

These delays have also affected the submission of the proposed scup FMP. In addition, subsequent to the adoption of the scup FMP by the Council, NMFS requested that the proposed scup FMP be incorporated into the Summer Flounder FMP, as an amendment, to reduce the number of separate FMPs and regulations. As a result, the Council shortly will submit the scup FMP for NMFS review as Amendment 8 to the Summer Flounder FMP.

The management unit for the fishery is scup (*Stenotomus chrysops*) in U.S. waters of the Atlantic Ocean from 35°15.3′ N. lat., the latitude of Cape Hatteras Light, N.C., northward to the U.S.-Canadian border.

Implementing regulations are authorized by the Magnuson Fishery Conservation and Management Act (Magnuson Act), and are found at 50 CFR part 625, subparts C and D. This action is consistent with the criteria contained in a "Notice of policy guidelines for the use of emergency rules" published at 50 CFR chapter VI (57 FR 375, January 6, 1992). The Council and NMFS agree that the biological status of the scup stock requires immediate action through this emergency interim rule for conservation and management measures to protect the stock while Amendment 8 undergoes Secretarial review. The measures contained in this action for minimum fish sizes and minimum mesh size are the same as those adopted by the Council for Amendment 8. However, issuance of this emergency rule in no way prejudges approval or disapproval of Amendment 8. Further, this emergency rule contains a gear restriction, the effective date of which will be delayed 15 days to provide adequate time for affected industry members to adjust.

Background

Abundance indices derived from NMFS trawl surveys and surveys conducted by the States of Rhode Island and Connecticut, and the Commonwealth of Massachusetts, indicate that the biomass of adult scup is at low levels. For example, the Northeast Fisheries Science Center's autumn offshore survey indices of scup (age 1+) abundance have declined dramatically in recent years. The 1993 index was the third lowest value observed in the time series and the 1994 index was the all-time lowest value since the survey began in 1967.

Reduced abundance is also evident in data collected from commercial otter trawl vessels. Standardized catch per unit effort (CPUE) of these vessels peaked in 1978 at greater than 2.5 metric tons (mt)/day. CPUE has since trended downward to about 1.0 mt/day in recent years. Based on the trawl survey and CPUE indices, the overall declining trend suggests that recent exploitation has reduced stock abundance substantially.

Additionally, the length frequency distribution of scup in commercial landings has shifted to smaller, younger fish, including young-of-year, indicating that the fishery is dependent primarily upon new year classes. Although scup may attain ages of 20 years, recent landings have been composed primarily of age 2 and 3 year old scup with a general absence of larger, older fish in the landed catch. This truncated age distribution also suggests a reduced population level.

All available information indicates that scup are overexploited and have been for several years. The scup advisory report issued from the 19th Stock Assessment Workshop Plenary Report in March 1995 stated that the current spawning stock biomass (SSB) is at a record low level and that recruitment has decreased in recent years. The report further warns that recruitment failure in a single year could collapse the fishery and that fishing mortality should be "substantially reduced immediately." The current condition of the resource is such that immediate action is required to reduce fishing mortality on fully-recruited fish and allow for increases in SSB and yield. In the absence of a strong year class, continued exploitation at current levels will lead to further decline in the SSB.

In light of the overexploited condition of the stock, the Council requested emergency implementation of a 9–inch total length (TL) minimum fish size for the commercial fishery, and a 7–inch TL minimum fish size for the recreational fishery. These measures are included among those proposed for implementation in the first year of management if Amendment 8 is approved.

Discards of small fish are extremely high in this fishery and are particularly acute during years of good recruitment when small fish are abundant. NMFS has found that establishing a minimum fish size without an accompanying minimum mesh requirement would increase the discard of small fish. Therefore, this emergency action also establishes a 4–inch (10.2–cm) minimum codend mesh size for otter trawl vessels when those vessels possess 4,000 lb or more (1,814 kg or more) of scup harvested in or from the EEZ. The 4,000–lb (1,814–kg) threshold for the minimum mesh size requirement was selected through an iterative process between the Council and industry representatives. It is considered to represent the level at which the directed fishery is differentiated from the bycatch fishery. This level is substantiated by the fact that trips of 4,000 lb (1814 kg) or more accounted for 80 percent of all landings of scup in 1992 and 1993. The measures are designed to reduce discarding of small scup by otter trawl vessels, increase yields, and allow more scup to reach sexual maturity and spawn.

Analyses of these measures indicate that implementation on an emergency basis may impose a short-term cost on some harvesters, although most already use the required mesh. The benefits of implementing this action include a reduction of discards of small fish and an improved economic return to the industry due to resulting increased yields. The benefits outweigh the costs to the industry of complying with these measures.

Classification

The Assistant Administrator Fisheries, NOAA (AA) has determined that this rule is necessary to respond to an emergency situation and is consistent with the Magnuson Act and other applicable law.

The AA finds that failure to implement the actions in this emergency rule could result in collapse of the fishery.

The foregoing constitutes good cause to waive the requirement to provide prior notice and an opportunity for public comment, pursuant to the authority set forth at 5 U.S.C. 553(b)(B), as such procedures would be contrary to the public interest. Similarly, the need to implement these measures in a timely manner to address a biological emergency constitutes good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness. However, a 15-day delay in effectiveness of the gear restriction contained in § 625.54, and a prohibition related to that measure in § 625.39(a)(3), is necessary to allow the industry sufficient time to adjust to this new requirement.

This emergency rule has been determined to be not significant for purposes of E.O. 12866.

The emergency rule is exempt from the requirements of the Regulatory Flexibility Act to prepare a regulatory flexibility analysis because this rule is not required to be issued with prior notice and opportunity for public comment.

List of Subjects in 50 CFR Part 625

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: March 20, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 625 is amended as follows:

PART 625—SUMMER FLOUNDER AND SCUP FISHERY

1. The authority citation for part 625 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Subpart C, consisting of §§ 625.31, 625.32, 625.33, and 625.39, and subpart D, consisting of §§ 625.53 and 625.54 are added to read as follows:

Subpart C—General Provisions, Scup
625.31 Purpose and scope.
625.32 Definitions.
625.33 Relation to other laws.
625.39 Prohibitions.
Subpart D—Management Measures, Scup
625.53 Minimum sizes.
625.54 Gear restrictions.

Subpart C—General Provisions, Scup

§ 625.31 Purpose and scope.

The regulations in this part govern the conservation and management of scup.

§ 625.32 Definitions.

In addition to the definitions in the Magnuson Act and in § 620.2 of this chapter, the terms used in this part have the following meanings:

Charter or party boat means any vessel that carries passengers for hire to engage in fishing.

Commercial fishing means fishing that is intended to or results in the barter, trade or sale of fish.

Land means to begin offloading fish, to offload fish, or to enter port with fish.

Recreational fishing means fishing that is not intended to, nor does it result in, the barter, trade, or sale of fish.

Recreational fishing vessel means any vessel from which no fishing other than recreational fishing is conducted. Charter and party boats are considered recreational fishing vessels for purposes of the scup minimum size requirement.

Scup means the species *Stenotomus chrysops*.

Total length (TL) means the straight-line distance from the tip of the snout to the end of the tail (caudal fin) while the fish is lying on its side.

§ 625.33 Relation to other laws.

(a) The relation of this part to other laws is set forth in § 620.3 of this chapter and paragraph (b) of this section.

(b) Nothing in these regulations supersedes more restrictive state management measures.

§ 625.39 Prohibitions.

(a) In addition to the general prohibitions specified in § 620.7 of this chapter, it is unlawful for any person owning or operating a vessel fishing commercially for scup, which are harvested in or from the EEZ, to do any of the following:

(1) Land or possess at sea any scup, or parts thereof, that fail to meet the minimum fish sizes specified in § 625.53(a);

(2) Sell any scup harvested in or from the EEZ that fail to meet the minimum fish size specified in § 625.53(a).

(3) Possess 4,000 or more lb (1,814.4 or more kg) of scup harvested in or from the EEZ unless the vessel meets the minimum mesh size requirement specified in § 625.54(a).

(4) Fish with or possess nets or netting in the EEZ that do not meet the minimum mesh requirement, or that are modified, obstructed, constricted, or constructed with mesh in which the bars entering or exiting the knots twist around each other, if subject to the minimum mesh requirement specified in § 625.54, unless the nets or netting are stowed in accordance with § 625.24(d).

(5) Engage in recreational fishing in the EEZ while simultaneously conducting commercial fishing operations.

(b) It is unlawful for the owner or operator of any recreational fishing vessel, including party or charter boats, to: (1) Possess scup harvested in or from the EEZ smaller than the minimum size limit for recreational fishermen established pursuant to § 625.53(b);

(2) [Reserved]

(c) It is unlawful for any person to do any of the following:

(1) Purchase any scup harvested in or from the EEZ that fail to meet the minimum fish size specified in § 625.53(a).

(2) Possess any scup harvested in or from the EEZ that fail to meet the minimum fish size specified in § 625.53(b).

(3) Sell any scup harvested in or from the EEZ that fail to meet the minimum fish sizes specified in § 625.53(a).

(4) Land any scup harvested in or from the EEZ in fillet form with the skin removed.

Subpart D—Management Measures, Scup

§ 625.53 Minimum sizes.

(a) The minimum size for scup is 9 inches (22.9 cm) total length for all vessels engaged in commercial fishing.

(b) The minimum size for scup is 7 inches (17.8 cm) TL for all vessels that are engaged in recreational fishing.

(c) The minimum size applies to whole fish or any part of a fish found in possession, e.g., fillets.

§ 625.54 Gear restrictions.

(a) *General.* Applicable April 8, 1996, otter trawl vessels that land or possess 4,000 lb or more (1,814.4 kg or more) of scup harvested in or from the EEZ must fish with nets that have a minimum mesh size of 4 inches (10.2 cm) applied throughout the codend for at least 75 continuous meshes forward of the terminus of the net, or, for codends with less than 75 meshes, the minimum-mesh-size codend must be a minimum of one-third of the net, measured from the terminus of the codend to the head rope, excluding any turtle excluder device extension.

(b) *Mesh-size measurement.* Mesh sizes will be measured according to the procedure described in § 625.24(c).

(c) *Net modification and mesh obstruction and constriction.* Vessels are prohibited from modifying, obstructing, and/or constricting their nets as described in § 625.24(d) and (e).

(d) *Stowage of nets.* Applicable APril 8, 1996, otter trawl vessels retaining 4,000 lb or more (1,814.4 or more kg) of scup harvested in or from the EEZ, and subject to the minimum mesh requirement specified in paragraph (a) of this section may not have available for immediate use any net, or any piece of net, not meeting the minimum mesh size requirement, or mesh that is rigged in a manner that is inconsistent with the minimum mesh size. A net that conforms to the specifications specified in § 625.24(f) and that can be shown not to have been in recent use is considered to be not "available for immediate use."

[FR Doc. 96–7386 Filed 3–22–96; 3:45 pm]

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50 CFR Part 649

[Docket No. 960304058–6058–01; I.D. 020696A]

RIN 0648–XX50

American Lobster Fishery; Emergency Gear Conflict Regulations

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Emergency interim rule.

SUMMARY: NMFS, by emergency interim rule, amends the regulations implementing the American Lobster Fishery Management Plan (FMP). This emergency rule implements a prohibition on mobile gear vessels fishing in newly defined Restricted Gear Areas I and II; a prohibition on lobster pot vessels fishing in and lobster pots in newly defined Restricted Gear Area III; and a requirement that all mobile gear vessels in Restricted Gear Areas I and II and all lobster pot (fixed gear) vessels in Restricted Gear Area III stow their gear while transiting the restricted gear areas. The intended effect is to reduce gear losses caused by use of fixed and mobile gear simultaneously in the same area.

EFFECTIVE DATE: April 1, 1996 through June 25, 1996. Restricted Gear Areas I and II will be closed to mobile gear for the duration of this emergency action. Restricted Gear Area III will be closed April 1, 1996 through April 30, 1996, to fishing by fixed gear vessels.

ADDRESSES: Copies of the Environmental Assessment supporting this action may be obtained from Douglas Marshall, Executive Director, New England Fishery Management Council (Council), 5 Broadway, Saugus, MA 01906–1097.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fishery Policy Analyst, 508–281–9273.

SUPPLEMENTARY INFORMATION:

Background

American lobster pot gear vessels began losing fixed gear in the offshore waters of Southern New England as a result of increased trawling by mobile gear fishers targeting monkfish during 1991. In 1992, offshore lobster fishers and some mobile gear fishers sought assistance from the Council. At that time, the Council believed that voluntary industry agreements were preferable to regulatory action. The Council helped several groups of fixed and mobile gear fishers draft and circulate the "Southern New England Offshore Gear Conflict Resolution." The agreement was initially effective, because the fishers designed it to allow them to fish their gear in the most productive areas and seasons. Both fixed and mobile gear fishers gave up access to fishing grounds when they were less productive to gain easier access to grounds during more productive seasons. Besides setting aside areas to separate fixed and mobile gear, the resolution stressed cooperation and good communication among the different fishing groups. Due to the resolution, the fishers reported much greater cooperation and significantly less gear loss.

During the 1994–95 season conflicts rapidly escalated as mobile gear fishers changed their fishing practices. The pursuit of alternative species, declining abundances of traditional species, additional regulations to reduce fishing on stressed fish stocks, and changing market conditions all have contributed to the recent increase in gear conflicts. New mobile gear fishers targeting monkfish with deepwater trawls frequently failed to recognize the agreement and gear conflicts increased.

Because of the increase in gear conflicts, the Council decided at its February 1995 meeting to hold additional meetings and reemphasize its support of the voluntary agreement. The Council also warned that regulations designed to reduce the gear conflicts would be developed if the voluntary agreement continued to be ineffective. Continued efforts by the Council to resolve the problem through voluntary means were not successful during the first half of 1995.

Due to these failed efforts and the anticipated economic hardship, the Council requested on August 21, 1995, that NMFS take Secretarial emergency action to implement segments of the voluntary agreement by regulation. On September 13, 1995, NMFS disapproved the request, because the situation described by the Council in the emergency request was a longstanding one and the recent escalation from increased monkfish trawling was known to the Council the previous fall, the proposed boundaries were unenforceable, and the Council had not proposed a permanent solution to the problem.

On October 25, 1995, the Council announced that gear conflicts had increased. The U.S. Coast Guard affirmed this statement by reporting that gear conflicts had almost doubled those for October 1994. Due to the unanticipated level of the increase in fishing effort for monkfish in areas where lobster fishers place their traps during the winter, the Council reiterated its request for Secretarial emergency action on October 25, 1995, and modified its August 21, 1995, request to include defined straight lines by latitude and longitude, rather than the fathom contoured lines defined in their last request. The Council's Gear Conflict Committee met on November 15, 1995, and boundaries defined by latitude and longitude for the two mobile gear and one fixed gear areas were developed to accommodate the ability of the U.S. Coast Guard to enforce the gear closure areas.

In recommending the emergency action, the Council stated that it recognizes that the action does not address all types of fixed gear conflicts, nor does it apply to all fishing areas within Southern New England. The failure of the current industry agreement to adequately manage the gear conflict is an unforeseen event, for which the Council had insufficient time to respond by developing amendments and implementing rules through the standard rulemaking process. Additionally, the magnitude of the conflict and the degree of economic hardship in the fixed gear fleet due to the conflict was unanticipated by the Council.

During the Council's October 25, 1995, meeting, NMFS informed the Council that development of permanent measures was a requisite for consideration of its request for Secretarial emergency action. At its December 13, 1995, meeting, the Council voted to hold public hearings on an action that will insert a framework mechanism in each of its FMPs through the amendment process to allow gear conflicts to be addressed in a timely manner in the future.

Although the development of these framework actions is moving forward, it will likely take several months for them to be completed and implemented, if approved. Due to the unanticipated levels of increases in effort by mobile gear vessels on monkfish and the time needed for the Council to develop measures to alleviate this problem, NMFS believes that emergency action is warranted.

NMFS concurs with the Council that this emergency action is necessary because substantial harm and disruption to the fishery is occurring on a scale unforeseen in previous seasons that threatens the economic liability of offshore lobster fishing operations. Direct economic losses to individual lobster vessels are reported by the Council to be as high as $75,000. The value of lost gear reported to the Council for a partial season by eight lobster vessels totaled more than $290,000. There are approximately 50 active lobster vessels fishing within the gear conflict areas. If the above data are extrapolated across the 50 vessel fleet, the direct economic loss as a result of lost gear is potentially $1.8 million.

The value of lobster landings during October through June, when operators of lobster vessels move their gear inshore, averaged more than $8.5 million for 1991–93. Landings data showing the magnitude of lost fishing opportunity during 1994 and 1995 are unavailable. Lobster fishers reported setting their gear in a severely closed band that had a significant effect on catch per trap. Even if the number of traps remained constant and catch per trap only declined 25 percent, the lost revenue could have totaled more than $2.1 million. The total estimated economic loss that could be prevented by taking emergency action is therefore nearly $4 million. The Council believes that the potential benefit of taking emergency action significantly exceeds the economic loss by trawlers targeting monkfish in the restricted gear areas, and greatly outweighs the value of advance notice and public comment. This action is consistent with the FMP objectives to minimize social, cultural, and economic dislocation in the lobster fishery.

The Council is actively pursuing viable means to mitigate the long-term gear conflicts, but recent conditions have caused rapid escalation of the conflicts and efforts to resolve this problem have only recently failed. These conditions include increased targeting of monkfish by mobile gear vessels, as reported to the Council by the U.S. Coast Guard on October 25, 1995. The emergency measures are a set of initial measures addressing the immediate interim need to begin the process of curtailing gear conflicts. These measures were selected rather than other options because they are relatively less controversial, as evidenced by the near unanimous support of the Council and because the area boundaries are more narrowly defined and more easily enforced.

The emergency action is expected to greatly reduce gear damage and economic loss. The Council believes, and NMFS agrees, that preventing the potential economic loss greatly outweighs the need for advance notice and public comment before taking action.

The closures will be known as Restricted Gear Areas I, II, and III. Restricted Gear Areas I and II will be closed to mobile gear (defined as trawls, beam trawls, and dredges) for the duration of this emergency action. Restricted Gear Area III will be closed upon implementation of this rule through April 30, 1996, to fishing by fixed gear vessels. Vessels may transit these areas if their gear is properly stowed.

Classification

NMFS has determined that this rule is necessary to respond to an emergency situation and is consistent with the

Magnuson Fishery Conservation and Management Act and other applicable law.

The Assistant Administrator for Fisheries, NOAA, also finds for good cause that the reasons justifying implementation of this rule on an emergency basis make it impracticable and contrary to the public interest to provide additional notice and opportunity for public comment, or to delay for 30 days the effective date of these emergency regulations, under the provisions of sections 553 (b) and (d) of the Administrative Procedure Act.

This emergency rule has been determined to be not significant for purposes of E.O. 12866.

This rule is exempt from the procedures of the Regulatory Flexibility Act to prepare a regulatory flexibility analysis because the rule is issued without opportunity for prior public comment, therefore, no analysis has been prepared.

List of Subjects in 50 CFR Part 649

Fisheries.

Dated: March 20, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 649 is amended as follows:

PART 649—AMERICAN LOBSTER FISHERY

1. The authority citation for part 649 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 649.2 definitions for "Beam trawl", "Dredge or dredge gear", "Fixed gear", "Mobile gear", and "Trawl" are added, in alphabetical order to read as follows:

§ 649.2 Definitions.

* * * * *

Beam trawl means gear consisting of a twine bag attached to a beam attached to a towing wire designed so that the beam does not contact the bottom. The beam is constructed with sinkers or shoes on either side that support the beam above the bottom or any other modification so that the beam does not contact the bottom. The beam trawl is designed to slide along the bottom rather than dredge the bottom.

* * * * *

Dredge or dredge gear means gear consisting of a mouth frame attached to a holding bag constructed of metal rings, or any other modification to this design, that can be or is used in the harvest of Atlantic sea scallops.

* * * * *

Fixed gear means lobster pot trawls.

* * * * *

Mobile gear means trawls, beam trawls, and dredges that are attached to a vessel at all times and which maneuver with that vessel.

* * * * *

Trawl means gear consisting of a net that is towed, including but not limited to beam trawls, pair trawls and Danish and Scottish seine gear.

* * * * *

3. In § 649.8, paragraphs (c)(11) and (c)(12) are added to read as follows:

§ 649.8 Prohibitions.

* * * * *

(c) * * *

(11) Enter or be in the areas described in § 649.23 (a)(1) and (b)(1) on a mobile gear fishing vessel, during the time periods specified in § 649.23 (a)(2) and (b)(2), except as provided in § 649.23 (a)(3) and (b)(3).

(12) Enter or be in, and no fixed gear may be deployed or remain in, the areas described in § 649.23(c)(1) on a fixed gear fishing vessel, during the time periods specified in § 649.23(c)(2), except as provided in § 649.23(c)(3).

* * * * *

4. Section 649.23 is added to subpart B to read as follows:

§ 649.23 Restricted gear areas.

(a) *Restricted Gear Area I.* (1) No mobile gear fishing vessel or person on a mobile gear fishing vessel, may enter, fish, or be in the following areas during the time period specified in paragraph (a)(2) of this section (Figure 4 to part 649), as defined by straight lines connecting the following points in the order stated, except as specified in paragraph (a)(3) of this section:

Point	Latitude	Longitude
Inshore Boundery		
to 120.		
69	40°07.9′ N.	68°36.0′ W.
70	40°07.2′ N.	68°38.4′ W.
71	40°06.9′ N.	68°46.5′ W.
72	40°08.7′ N.	68°49.6′ W.
73	40°08.1′ N.	68°51.0′ W.
74	40°05.7′ N.	68°52.4′ W.
75	40°03.6′ N.	68°57.2′ W.
76	40°03.65′ N.	69°00.0′ W.
77	40°04.35′ N.	69°00.5′ W.
78	40°05.2′ N.	69°00.5′ W
79	40°05.3′ N.	69°01.1′ W.
80	40°08.9′ N.	69°01.75′ W.
81	40°11.0′ N.	69°03.8′ W.
82	40°11.6′ N.	69°05.4′ W.
83	40°10.25′ N.	69°04.4′ W.
84	40°09.75′ N.	69°04.15′ W.
85	40°08.45′ N.	69°03.6′ W.
86	40°05.65′ N.	69°03.55′ W.
87	40°04.1′ N.	69°03.9′ W.
88	40°02.65′ N.	69°05.6′ W.
89	40°02.00′ N.	69°08.35′ W.
90	40°02.65′ N.	69°11.15′ W.
91	40°00.05′ N.	69°14.6′ W.
92	39°57.8′ N.	69°20.35′ W.
93	39°56.65′ N.	69°24.4′ W.
94	39°56.1′ N.	69°26.35′ W.
95	39°56.55′ N.	69°34.1′ W.
96	39°57.85′ N.	69°36.5′ W.
97	40°00.65′ N.	69°36.5′ W.
98	40°00.9′ N.	69°37.3′ W.
99	39°59.15′ N.	69°37.3′ W.
100	39°58.8′ N.	69°38.45′ W.
102	39°56.2′ N.	69°40.2′ W.
103	39°55.75′ N.	69°41.4′ W.
104	39°56.7′ N.	69°53.6′ W.
105	39°57.55′ N.	69°54.05′ W.
106	39°57.4′ N.	69°55.9′ W.
107	39°56.9′ N.	69°57.45′ W.
108	39°58.25′ N.	70°03.0′ W.
110	39°59.2′ N.	70°04.9′ W.
111	40°00.7′ N.	70°08.7′ W.
112	40°03.75′ N.	70°10.15′ W.
115	40°05.2′ N.	70°10.9′ W.
116	40°02.45′ N.	70°14.1′ W.
119	40°02.75′ N.	70°16.1′ W.
to 181.		
Offshore Boundery		
to 69.		
120	40°06.4′ N.	68°35.8′ W.
121	40°05.25′ N.	68°39.3′ W.
122	40°05.4′ N.	68°44.5′ W.
123	40°06.0′ N.	68°46.5′ W.
124	40°07.4′ N.	68°49.6′ W.
125	40°05.55′ N.	68°49.8′ W.
126	40°03.9′ N.	68°51.7′ W.
127	40°02.25′ N.	68°55.4′ W.
128	40°02.6′ N.	69°00.0′ W.
129	40°02.75′ N.	69°00.75′ W.
130	40°04.2′ N.	69°01.75′ W.
131	40°06.15′ N.	69°01.95′ W.
132	40°07.25′ N.	69°02.0′ W.
133	40°08.5′ N.	69°02.25′ W.
134	40°09.2′ N.	69°02.95′ W.
135	40°09.75′ N.	69°03.3′ W.
136	40°09.55′ N.	69°03.85′ W.
137	40°08.4′ N.	69°03.4′ W.
138	40°07.2′ N.	69°03.3′ W.
139	40°06.0′ N.	69°03.1′ W.
140	40°05.4′ N.	69°03.05′ W.
141	40°04.8′ N.	69°03.05′ W.
142	40°03.55′ N.	69°03.55′ W.
143	40°01.9′ N.	69°03.95′ W.
144	40°01.0′ N.	69°04.4′ W.
146	39°59.9′ N.	69°06.25′ W.
147	40°00.6′ N.	69°10.05′ W.
148	39°59.25′ N.	69°11.15′ W.
149	39°57.45′ N.	69°16.05′ W.
150	39°56.1′ N.	69°20.1′ W.
151	39°54.6′ N.	69°25.65′ W.
152	39°54.65′ N.	69°26.9′ W.
153	39°54.8′ N.	69°30.95′ W.
154	39°54.35′ N.	69°33.4′ W.
155	39°55.0′ N.	69°34.9′ W.
156	39°56.55′ N.	69°36.0′ W.
157	39°57.95′ N.	69°36.45′ W.
158	39°58.75′ N.	69°36.3′ W.
159	39°58.8′ N.	69°36.95′ W.
160	39°57.95′ N.	69°38.1′ W.
161	39°54.5′ N.	69°38.25′ W.
162	39°53.6′ N.	69°46.5′ W.
163	39°54.7′ N.	69°50.0′ W.
164	39°55.25′ N.	69°51.4′ W.
165	39°55.2′ N.	69°53.1′ W.
166	39°54.85′ N.	69°53.9′ W.
167	39°55.7′ N.	69°54.9′ W.
168	39°56.15′ N.	69°55.35′ W.
169	39°56.05′ N.	69°56.25′ W.
170	39°55.3′ N.	69°57.1′ W.
171	39°54.8′ N.	69°58.6′ W.
172	39°56.05′ N.	70°00.65′ W.
173	39°55.3′ N.	70°02.95′ W.
174	39°56.9′ N.	70°11.3′ W.
175	39°58.9′ N.	70°11.5′ W.
176	39°59.6′ N.	70°11.1′ W.
177	40°01.35′ N.	70°11.2′ W.
178	40°02.6′ N.	70°12.0′ W.
179	40°00.4′ N.	70°12.3′ W.
180	39°59.75′ N.	70°13.05′ W.
181	39°59.3′ N.	70°14.0′ W.
to 119.		

(2) *Duration.* No mobile gear fishing vessel or person on a mobile gear fishing vessel may enter, fish, or be in Restricted Gear Area I from April 1, 1996 through June 25, 1996, except as specified in paragraph (a)(3) of this section.

(3) *Transiting.* Vessels may transit Restricted Gear Area I as defined in paragraph (a)(1) of this section, provided that gear is stowed and not available for immediate use in accordance with the provisions of paragraph (d)(1) of this section.

(b) *Restricted Gear Area II.* (1) No mobile gear fishing vessel or person on a mobile gear fishing vessel may enter, fish, or be in the following areas during the time period specified in paragraph (b)(2) of this section (Figure 5 to part 649), as defined by straight lines connecting the following points in the order stated, except as specified in paragraph (b)(3) of this section:

Point	Latitude	Longitude
Inshore Boundary		
to 1.		
49	40°02.75′ N.	70°16.1′ W.
50	40°00.7′ N.	70°18.6′ W.
51	39°59.8′ N.	70°21.75′ W.
52	39°59.75′ N.	70°25.5′ W.
53	40°03.85′ N.	70°28.75′ W.
54	40°00.55′ N.	70°32.1′ W.
55	39°59.15′ N.	70°34.45′ W.
56	39°58.9′ N.	70°38.65′ W.
57	40°00.1′ N.	70°45.1′ W.
58	40°00.5′ N.	70°57.6′ W.
59	40°02.0′ N.	71°01.3′ W.
60	39°59.3′ N.	71°18.4′ W.
61	40°00.7′ N.	71°19.8′ W.
62	39°57.5′ N.	71°20.6′ W.
63	39°53.1′ N.	71°36.1′ W.
64	39°52.6′ N.	71°40.35′ W.
65	39°53.1′ N.	71°42.7′ W.
66	39°46.95′ N.	71°49.0′ W.
67	39°41.15′ N.	71°57.1′ W.
68	39°35.45′ N.	72°02.0′ W.
69	39°32.65′ N.	72°06.1′ W.
70	39°29.75′ N.	72°09.8′ W.
to 48.		
Offshore Boundary		
to 49.		
1	39°59.3′ N.	70°14.0′ W.
2	39°58.85′ N.	70°15.2′ W.
3	39°59.3′ N.	70°18.4′ W.
4	39°58.1′ N.	70°19.4′ W.
5	39°57.0′ N.	70°19.85′ W.
6	39°57.55′ N.	70°21.25′ W.
7	39°57.5′ N.	70°22.8′ W.
8	39°57.1′ N.	70°25.4′ W.
9	39°57.65′ N.	70°27.05′ W.
10	39°58.58′ N.	70°27.7′ W.
11	40°00.65′ N.	70°28.8′ W.
12	40°02.2′ N.	70°29.15′ W.
13	40°01.0′ N.	70°30.2′ W.
14	39°58.58′ N.	70°31.85′ W.
15	39°57.05′ N.	70°34.35′ W.
16	39°56.42′ N.	70°36.8′ W.
21	39°58.15′ N.	70°48.0′ W.
24	39°58.3′ N.	70°51.1′ W.
25	39°58.1′ N.	70°52.25′ W.
26	39°58.05′ N.	70°53.55′ W.
27	39°58.4′ N.	70°59.6′ W.
28	39°59.8′ N.	71°01.05′ W.
29	39°58.2′ N.	71°05.85′ W.
30	39°57.45′ N.	71°12.15′ W.
31	39°57.2′ N.	71°15.0′ W.
32	39°56.3′ N.	71°18.95′ W.
33	39°51.4′ N.	71°36.1′ W.
34	39°51.75′ N.	71°41.5′ W.
35	39°50.05′ N.	71°42.5′ W.
36	39°50.0′ N.	71°45.0′ W.
37	39°48.95′ N.	71°46.05′ W.
38	39°46.6′ N.	71°46.1′ W.
39	39°43.5′ N.	71°49.4′ W.
40	39°41.3′ N.	71°55.0′ W.
41	39°39.0′ N.	71°55.6′ W.
42	39°36.72′ N.	71°58.25′ W.
43	39°35.15′ N.	71°58.55′ W.
44	39°34.5′ N.	72°00.75′ W.
45	39°32.2′ N.	72°02.25′ W.
46	39°32.15′ N.	72°04.1′ W.
47	39°28.5′ N.	72°06.5′ W.
48	39°29.0′ N.	72°09.25′ W.
to 70.		

(2) *Duration.* No mobile gear fishing vessel or person on a mobile gear fishing vessel may enter, fish, or be in Restricted Gear Area II from April 1, 1996 through June 25, 1996, except as specified in paragraph (b)(3) of this section.

(3) *Transiting.* Vessels may transit Restricted Gear Area II as defined in paragraph (b)(1) of this section, provided that gear is stowed and not available for immediate use in accordance with the provisions of paragraph (d)(1) of this section.

(c) *Restricted Gear Area III.* (1) No fixed gear fishing vessel or person on a fixed gear fishing vessel may enter, fish, or be in, and no fixed gear may be deployed or remain in, the following areas during the time period specified in paragraph (c)(2) of this section (Figure 6 to part 649), as defined by straight lines connecting the following points in the order stated, except as specified in paragraph (c)(3) of this section:

Point	Latitude	Longitude
Inshore Boundary		
to 49.		
182	40°05.6′ N.	70°17.7′ W.
183	40°06.5′ N.	70°40.05′ W.
184	40°11.05′ N.	70°45.8′ W.
185	40°12.75′ N.	70°55.05′ W.
186	40°10.7′ N.	71°10.25′ W.
187	39°57.9′ N.	71°28.7′ W.
188	39°55.6′ N.	71°41.2′ W.
189	39°55.85′ N.	71°45.0′ W.
190	39°53.75′ N.	71°52.25′ W.
191	39°47.2′ N.	72°01.6′ W.
192	39°33.65′ N.	72°15.0′ W.
to 70.		
Offshoe Boundary		
to 182.		
49	40°02.75′ N.	70°16.1′ W.
50	40°00.7′ N.	70°18.6′ W.
51	39°59.8′ N.	70°21.75′ W.
52	39°59.75′ N.	70°25.5′ W.
53	40°03.85′ N.	70°28.75′ W.
54	40°00.55′ N.	70°32.1′ W.
55	39°59.15′ N.	70°34.45′ W.
56	39°58.9′ N.	70°38.65′ W.
57	40°00.1′ N.	70°45.1′ W.
58	40°00.5′ N.	70°57.6′ W.
59	40°02.0′ N.	71°01.3′ W.
60	39°59.3′ N.	71°18.4′ W.
61	40°00.7′ N.	71°19.8′ W.
62	39°57.5′ N.	71°20.6′ W.
63	39°53.1′ N.	71°36.1′ W.
64	39°52.6′ N.	71°40.35′ W.
65	39°53.1′ N.	71°42.7′ W.
66	39°46.95′ N.	71°49.0′ W.
67	39°41.15′ N.	71°57.1′ W.
68	39°35.45′ N.	72°02.0′ W.
69	39°32.65′ N.	72°06.1′ W.
70	39°29.75′ N.	72°09.8′ W.
to 192.		

(2) *Duration.* No fixed gear fishing vessel or person on a fixed gear fishing vessel may enter, fish, or be in, and no fixed gear may be deployed or remain in, Restricted Gear Area III from April 1, 1996 through April 30, 1996, except as specified in paragraph (c)(3) of this section.

(3) *Transiting.* Vessels may transit Restricted Gear Area III as defined in paragraph (c)(1) of this section, provided that their gear is stowed in accordance with the provisions of paragraph (d)(2) of this section.

(d) *Gear stowage requirements.* (1) Mobile gear vessels transiting Restricted Gear Area I and Restricted Gear Area II specified under paragraphs (a)(1) and

(b)(1) of this section must stow their gear so it is not available for immediate use as follows:

(i) *Trawl vessel net stowage requirements.* A net that is stowed and is not available for immediate use conforms to one of the following specifications:

(A) A net stowed below deck, provided:

(*1*) It is located below the main working deck from which the net is deployed and retrieved;

(*2*) The towing wires, including the leg wires, are detached from the net; and

(*3*) It is fan-folded (flaked) and bound around its circumference; or

(B) A net stowed and lashed down on deck, provided:

(*1*) It is fan-folded (flaked) and bound around its circumference;

(*2*) It is securely fastened to the deck or rail of the vessel; and

(*3*) The towing wires, including the leg wires, are detached from the net; or

(C) A net that is on a reel and is covered and secured, provided:

(*1*) The entire surface of the net is covered with canvas or other similar material that is securely bound;

(*2*) The towing wires, including the leg wires, are detached from the net; and

(*3*) The codend is removed from the net and stored below deck; or

(D) Nets that are secured in a manner authorized in writing by the Regional Director.

(ii) *Scallop dredge and beam trawl stowage requirements.* A scallop dredge and beam trawl that is stowed and is not available for immediate use must:

(A) Detach the towing wire from the scallop dredge or beam trawl;

(B) Reel the wire up onto the winch; and

(C) Secure and cover the dredge or beam trawl so that it is rendered unusable for fishing.

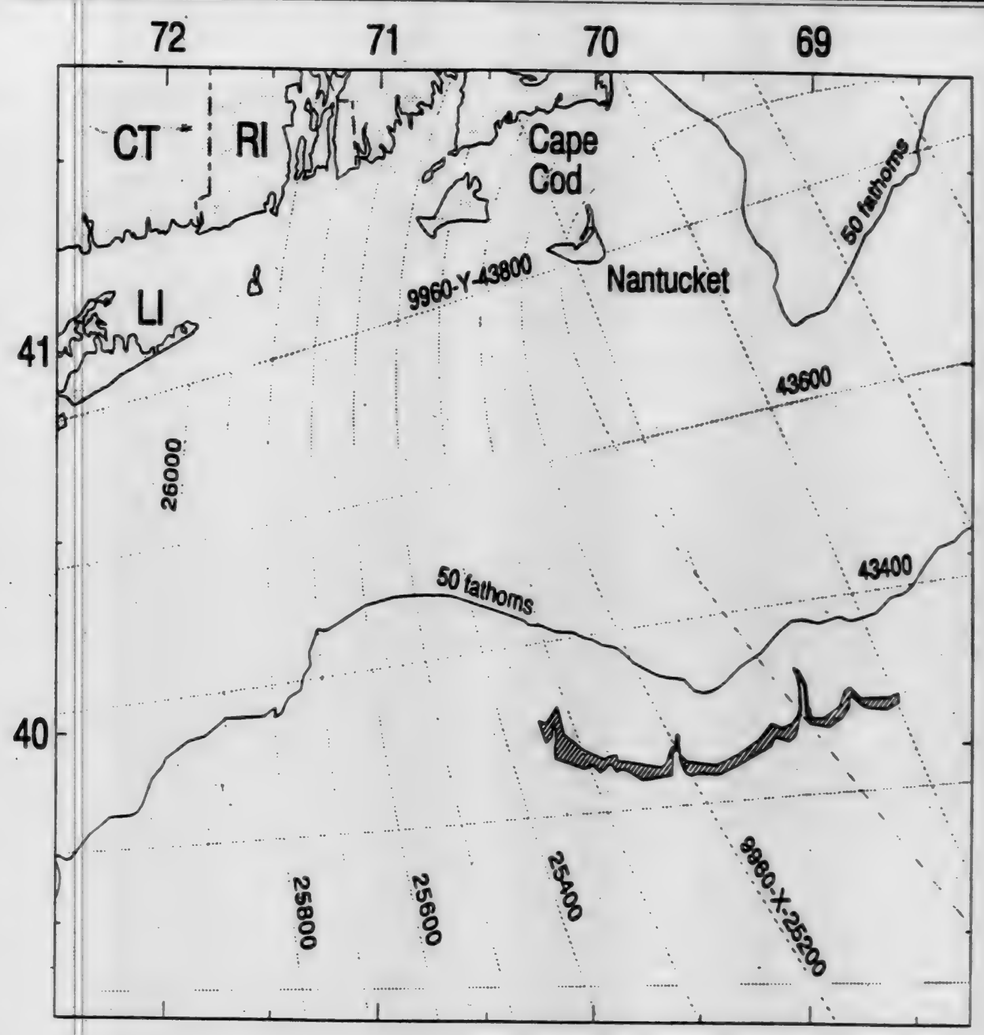
(2) *Fixed gear stowage requirements.* Fixed gear vessels transiting Restricted Gear Area III specified under paragraphs (c)(1) of this section must stow their gear as follows so it is not available for immediate use:

(i) Secure all pots, buoys, and high flyers so that the gear is not available for immediate use and

(ii) The pots must not have trawl warps connected to the bridles and must be unbaited.

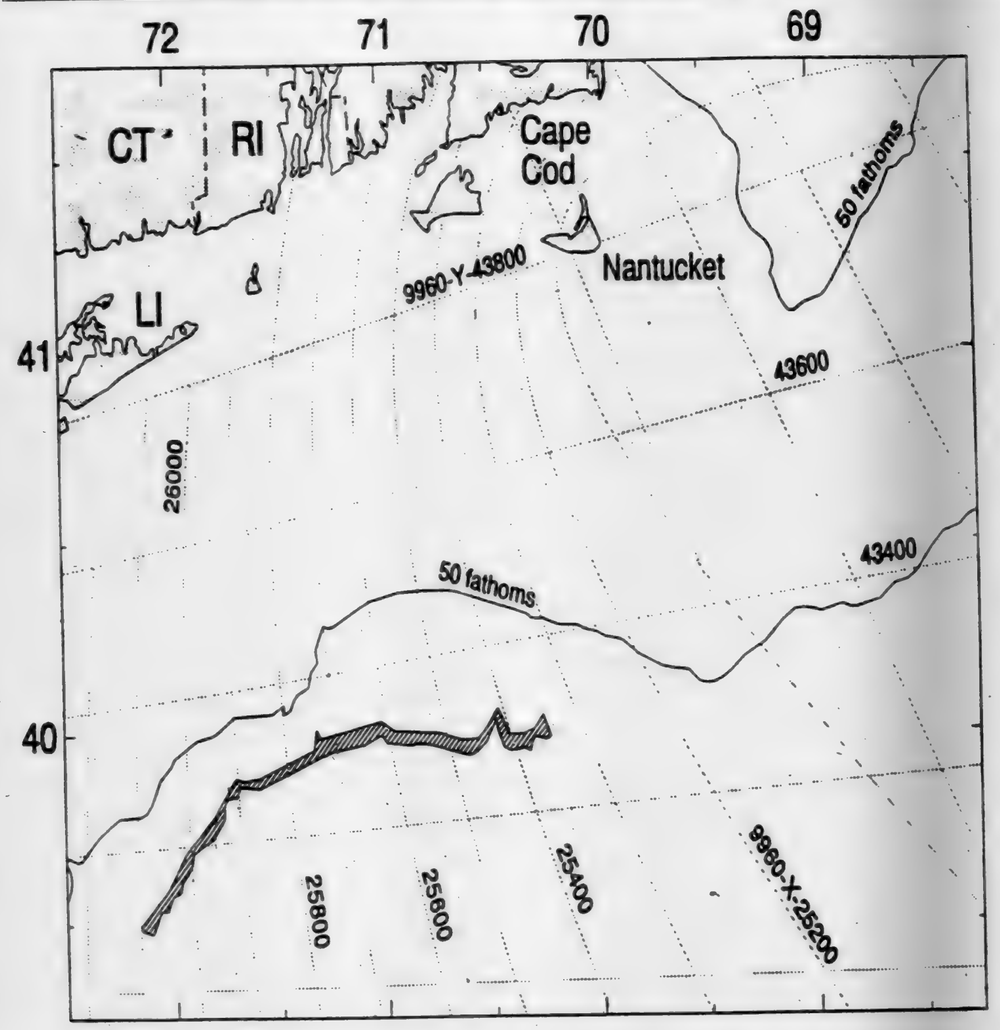
5. Figures 4, 5 and 6 are added to part 649 to read as follows:

BILLING CODE 3510-22-P



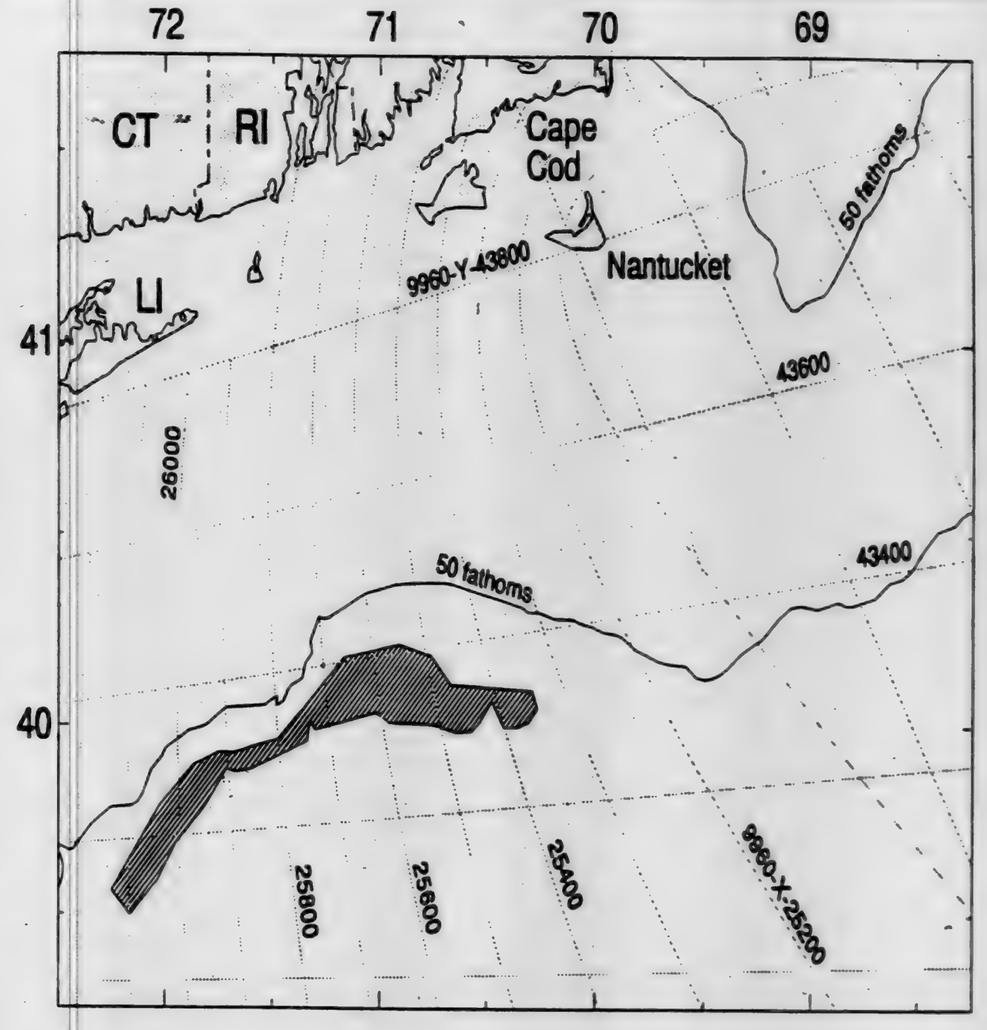
Restricted Gear Area I; Closed to Mobile Gear Towed From a Vessel

Figure 4 to Part 649—Restricted Gear Area I



Restricted Gear Area II; Closed to Mobile Gear Towed From a Vessel

Figure 5 to Part 649—Restricted Gear Area II



Restricted Gear Area III, Closed to Lobster Trap Gear

Figure 6 to Part 649—Restricted Gear Area III

[FR Doc. 96–7317 Filed 3–22–96; 3:45 pm]
BILLING CODE 3510–22–C

50 CFR Part 672

[Docket No. 960129018–6018–01; I.D. 032096B]

Groundfish of the Gulf of Alaska; Deep-water Species Fishery by Vessels using Trawl Gear in the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for species that comprise the deep-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA). This action is necessary because the first seasonal bycatch allowance of Pacific halibut apportioned to the deep-water species fishery in the GOA has been caught.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), March 21, 1996, until 12 noon, A.l.t., April 1, 1996.

FOR FURTHER INFORMATION CONTACT: Thomas Pearson, 907–486–6919.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

In accordance with § 672.20(f)(1)(i) the deep-water species fishery, which is defined at § 672.20(f)(1)(i)(B)(2) was apportioned 100 mt of Pacific halibut prohibited species catch for the first season, the period January 20, 1996, through March 31, 1996 (61 FR 4304, February 5, 1996).

The Director, Alaska Region, NMFS, has determined, in accordance with § 672.20(f)(3)(i), that vessels participating in the trawl deep-water species fishery in the GOA have caught the first seasonal bycatch allowance of Pacific halibut apportioned to that fishery. Therefore, NMFS is prohibiting directed fishing for each species and species group that comprise the deep-water species fishery by vessels using trawl gear in the GOA. The species and species groups that comprise the deep-water species fishery are: All rockfish of the genera *Sebastes* and *Sebastolobus*, Greenland turbot, Dover sole, Rex sole, arrowtooth flounder, and sablefish.

After the effective date of this closure the maximum retainable bycatch amounts, calculated using the retainable percentages at § 672.20(g), apply at any time during a trip.

Classification

This action is taken under 50 CFR 672.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 21, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–7316 Filed 3–21–96; 4:56 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register

Vol. 61, No. 60

Wednesday, March 27, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 920

[Docket No. FV96–920–1]

Kiwifruit Grown in California; Continuance Referendum

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Referendum order.

SUMMARY: This document directs that a referendum be conducted among eligible growers of California kiwifruit to determine whether they favor continuance of the marketing order regulating the handling of kiwifruit grown in the production area.

DATES: The referendum will be conducted from June 3 through June 21, 1996. To vote in this referendum, growers must have been producing California kiwifruit during the period August 1, 1995, through May 31, 1996.

ADDRESSES: Copies of the text of the aforesaid marketing order may be obtained from the office of the referendum agent at 2202 Monterey Street, Suite 102B, Fresno, California 93721, or the Office of the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456.

FOR FURTHER INFORMATION CONTACT: Rose Aguayo, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, Agriculture Marketing Service, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone (209) 487–5901; or Charles L. Rush, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, USDA, room 2536–S, P.O. Box 96456, Washington, DC 20090–6456; telephone (202) 720–3127.

SUPPLEMENTARY INFORMATION: Pursuant to Marketing Order No. 920 (7 CFR Part 920), hereinafter referred to as the "order" and the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act," it is hereby directed that a referendum be conducted to ascertain whether continuance of the order is favored by growers. The referendum shall be conducted during the period June 3 through June 21, 1996, among California kiwifruit growers in the production area. Only growers who were engaged in the production of California kiwifruit during the period of August 1, 1995, through May 31, 1996, may participate in the continuance referendum.

The Secretary of Agriculture (Secretary) has determined that continuance referenda are an effective means for ascertaining whether growers favor continuation of marketing order programs. The Secretary would consider termination of the order if less than two-thirds of the growers voting in the referendum and growers of less than two-thirds of the volume of California kiwifruit represented in the referendum favor continuance. In evaluating the merits of continuance versus termination, the Secretary will not only consider the results of the continuance referendum. The Secretary will also consider all other relevant information concerning the operation of the order and the relative benefits and disadvantages to growers, handlers, and consumers in order to determine whether continued operation of the order would tend to effectuate the declared policy of the Act.

In any event, section 8c(16)(B) of the Act requires the Secretary to terminate an order whenever the Secretary finds that a majority of all growers affected by the order favor termination, and such majority produced for market more than 50 percent of the commodity covered under such order.

In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13), the ballot materials to be used in the referendum herein ordered have been submitted to and approved by the Office of Management and Budget (OMB) and have been assigned OMB No. 0581–0149 for California kiwifruit. It has been estimated that it will take an average of 20 minutes for each of the approximately 500 growers of California kiwifruit to cast a ballot. Participation is voluntary. Ballots postmarked after June 21, 1996 will not be included in the vote tabulation.

Rose M. Aguayo and Kurt J. Kimmel of the California Marketing Field Office, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture (USDA), are hereby designated as the referendum agents of the Secretary to conduct such referendum. The procedure applicable to the referendum shall be the "Procedure for the Conduct of Referenda in Connection With Marketing Orders for Fruit, Vegetables, and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended" (7 CFR Part 900.400 *et seq.*).

Ballots will be mailed to all growers of record and may also be obtained from the referendum agents and from their appointees.

List of Subjects in 7 CFR Part 920

Kiwifruit, Marketing agreements.

Authority: 7 U.S.C. 601–674.

Dated: March 20, 1996.

Michael V. Dunn,

Assistant Secretary, Marketing and Regulatory Programs.

[FR Doc. 96–7443 Filed 3–26–96; 8:45 am]

BILLING CODE 3410–02–P

7 CFR Part 1240

[AMS–FV–96–701.PR]

Honey Research, Promotion, and Consumer Information Order—Amendment of the Rules and Regulations To Add HTS Code for Flavored Honey

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would add a new Harmonized Tariff Schedule (HTS) code number for imported flavored honey to the rules and regulations issued under the Honey Research, Promotion, and Consumer Information Order to provide authority for the U.S. Customs Service to collect an assessment on all imported, flavored honey.

DATES: Comments must be received by April 26, 1996.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule to: Research and Promotion Branch, Fruit

and Vegetable Division, Agricultural Marketing Service (AMS), USDA, P.O. Box 96456, Room 2535–S, Washington, DC 20090–6456; fax (202) 205–2800. Three copies of all written material should be submitted, and they will be made available for public inspection at the Research and Promotion Branch during regular business hours. All comments should reference the docket number and the date and page number of this issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Sonia N. Jimenez, Research and Promotion Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2535–So., Washington, D.C. 20090–6456; telephone (202) 720–9915.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under the Honey Research, Promotion, and Consumer Information Act, as amended [104 Stat. 3904, 7 U.S.C. 4601 *et seq.*], hereinafter referred to as the Act.

This proposed rule has been issued in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 10 of the Act, a person subject to an order may file a petition with the Secretary stating that such order, any provision of such order, or any obligation imposed in connection with such order is not in accordance with law; and requesting a modification of the order or an exemption from the order. Such person is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule in the petition. The Act provides that the district court of the United States in any district in which such person is an inhabitant, or has a principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided that a compliant is filed within 20 days after the date of entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

There are an estimated 145 handlers, 510 producer-packers, 8,300 producers, and 350 importers who are currently subject to the provisions of the Order. The majority of these persons may be classified as small agricultural producers and small agricultural service firms. Small agricultural producers are defined by the Small Business Administration [13 CFR 121.601] as those having annual receipts of less than $500,000, and small service firms are defined as those having annual receipts of less than $5 million.

The Administrator of the AMS has determined that this rule would not have a significant economic impact on a substantial number of small entities.

In accordance with the Paperwork Reduction Act [44 U.S.C. Chapter 35], and OMB regulations [5 CFR Part 1320], the information collection and recordkeeping requirements contained in this action have been previously approved under OMB control number 0581–0093.

Background

The Honey Research, Promotion, and Consumer Information Order (Order) provides that each producer and importer shall pay to the Board a one cent per pound assessment rate on honey and honey products produced in or imported into the United States. Section 1240.5 of the Order defines honey products as products wherein honey is a principal ingredient.

In order for the U.S. Customs Service (Customs) to collect the assessments on imported honey and honey products, each product needs to be identified by an HTS Code. Since the Board inception, honey has been assessed by Customs under HTS code number 0409.00.00. However, there were no HTS codes for honey products.

The Board has identified flavored honey as a product containing approximately 99 percent honey. The Board estimates that 500,000 pounds of flavored honey are imported into the United States annually without the importer paying the required assessment. Therefore, at the recommendation of the Board, the Department requested the Committee for Statistical Annotation of Tariff Schedules (Committee) on the International Trade Commission to establish an HTS code for flavored honey. The Committee notified the Department on February 13, 1996, that a code has been established for flavored honey. The purpose of this rule is to add the new HTS code for flavored honey to the rules and regulations under the Order to provide authority for Customs to collect the assessment on all imported, flavored honey.

This proposed rule would add the new 2106.90.9988 HTS code for flavored honey to section 1240.115(e) of the rules and regulations issued under the Order. Flavored honey would be assessed at the one-cent-per-pound rate. A conversion factor is not necessary because the amount of honey in flavored honey is estimated at 99 percent of the total product. Customs will notify importers 60 to 90 days before it begins collecting the assessment on flavored honey. The notification will be made only after a final rule, if any, is issued on this action.

A 60-day comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 1240

Advertising, Agricultural research, Honey, Imports, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 1240 is proposed to be amended as follows:

PART 1240—HONEY RESEARCH, PROMOTION, AND CONSUMER INFORMATION ORDER

1. The authority citation for 7 CFR Part 1240 continues to read as follows:

Authority: 7 U.S.C. 4601–4612

2. In § 1240.115, paragraph (e) is revised to read as follows:

§ 1240.115 Levy of assessments.

* * * * *

(e) The U.S. Customs Service (USCS) will collect assessments on all honey or honey products where honey is the principal ingredient imported under its tariff schedule (HTS heading numbers 0409.00.00 and 21006.90.9988) at the time of entry or withdrawal for consumption and forward such assessment as per the agreement between the USCS and USDA. Any importer or agent who is exempt from payment of assessments pursuant to § 1240.42 (a) and (b) of the Order may apply to the Board for reimbursement of such assessment paid.

* * * * *

Dated: March 21, 1996.

Eric M. Forman,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 96–7441 Filed 3–26–96; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL ELECTION COMMISSION

11 CFR Part 104

[Notice 1996–10]

Electronic Filing of Reports by Political Committees

AGENCY: Federal Election Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Election Commission is seeking comment on proposed rules to implement an electronic filing system for reports of campaign finance activity filed with the agency. Although the agency has been working on the development of an electronic filing sytem for some time, the proposals in this Notice are also designed to reflect recent changes in the Federal Election Campaign Act of 1971. The proposed rules would establish requirements for filing reports electronically, including specifying the format for data to be submitted by filers, procedures for submitting amendments to reports, and methods of satisfying signature requirements under the law.

DATES: Comments must be received on or before May 28, 1996.

ADDRESSES: Comments must be in writing and addressed to: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463, (202) 219–3690 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: On December 28, 1995, Public Law 104–79 amended the Federal Election Campaign Act of 1971 to require, *inter alia*, that the Commission create a system to "permit reports required by this Act to be filed and preserved by means of computer disk or any other electronic format or method, as determined by the Commission." 109 Stat. 791(1995), section 1(a). The new law requires this system to be available for reports covering periods after December 31, 1996. This means the new system will be in place for the first reports filed in the 1998 election cycle. The goals of such a system include more complete on line access to reports on file with the Commission, reduced paper filing and manual processing, and more efficient and cost-effective methods of operation for filers and for the Commission. Note that participation in the electronic filing program by committees and other persons filing reports will be voluntary.

There are a number of factors that should be considered before any system can be successfully implemented. The information must be submitted in a standardized format so that the Commission's computer system can read the information and locate all the different data elements that are part of a committee's report. At the outset, the Commission plans to accept reports filed electronically, store them, and make them available to the public. The information will then be processed by the Commission in the same manner as paper reports (i.e. creating paper copies for review and integration into the disclosure data base). Ultimately, the electronically filed material will be directly integrated into the Commission's data bases. While most electronic filing systems developed at the state and local level have required submission of paper reports along with electronic media, the FEC process does not include this requirement. In fact, committees choosing to file electronically would have to include all information found in a report in the electronic data submitted. When paper copies of reports are necessary for processing, the Commission will create those documents.

(**Note:** However, that certain forms and schedules have special requirements that may require submission of a paper copy under proposed paragraph (f).)

It is also important, however, that the system be designed in a fashion that allows committees to comply most easily with the Act's requirements. Thus, the Commission is developing methods for complying with statutory requirements such as submitting a report signed by the committee's treasurer, and to accommodate, for example, the need to file amendments to reports or to explain more fully certain transactions included on a committee's report. However, certain schedules and forms require signatures of third parties or submission of additional materials such as loan agreements. The Commission will need to design the format structure to include the information provided on these forms and schedules, but will also need a mechanism to meet the additional requirements of these documents.

The system being designed by the Commission will be available to all committees required to file reports with the Commission that wish to file in an electronic format. Public Law 104–79 changed the place of filing for committees that formerly filed with the Clerk of the House of Representatives. These committees, as well as those that have historically filed with the Commission, will have the opportunity to file under the new system. Proposed section 104.18 will set forth the requirements for electronic filing. Please note that committees that are required to file reports with the Secretary of the Senate will not be covered by the Commission's new rules.

The Commission welcomes comments from committees that will be affected by this change. Vendors with knowledge of the software concerns that might be involved in implementing such a system, and state and local jurisdictions that have had experience with electronic filing, are also encouraged to participate. Finally, end-users of campaign finance information, such as researchers and the media, may wish to offer their suggestions from a consumer's perspective.

Interested persons should also note that the Commission will be developing its record format specifications in a separate process at the same time it is considering these rules. Software vendors and committees that wish to comment or make suggestions regarding the format specifications should contact the Data Systems Division to be included on the list of those consulted.

Standard Format

Several different standardization issues are presented by the Commission's proposal. A key requirement is that any data submitted electronically be conveyed in the Commission-approved format. The agency has dealt with these concerns previously in the context of publicly financed presidential candidates and convention committees. To address those situations, the Commission issued its Computerized Magnetic Media Requirements (CMMR), which established format specifications for certain computerized data submitted by these committees. The CMMR specifies the record format for submitting data; that is, it specifies the "fields" (required information) that make up the records and how much space is allocated for each field of data. There are separate fields for receipt and disbursement records, consistent with the Act's reporting provisions.

A similar set of requirements is being developed for electronic filing of reports. These requirements will be contained in a document titled "The Federal Election Commission's Electronic Filing Specifications Requirements." As previously noted, the format specifications will be made available to interested persons for comment and suggestions as they are being developed. When completed, this document will be available from the Commission at no charge.

Another set of issues relates to the steps that will be necessary to integrate

the reports filed into the Commission's data base. Currently, the Commission uses the reports to enter certain selected data into its computer data base. For the most part, this data is limited to totals from the committees' summary pages, and information on contributions and independent expenditures. When the Commission first implements its electronic filing program in 1997, it expects to continue its cross-indexing of information from all reports, including those filed electronically. In addition, the Commission will maintain reports filed electronically in a separate data base, in order to preserve a record of what has been filed by each reporting entity. A copy of these records will be accessible on-line.

In the future, the Commission intends to structure its program so that the data submitted by reporting entities will be in a form that can be directly added to the agency's data base. This development may require the specification of standards for reporting certain categories of information, in order to maintain the accuracy and integrity of the Commission's current data base. This will ensure, for example, that all contributions made by PACs to a particular candidate are reported in the same way so they can be accurately attributed in the Commission's data base to that candidate. Currently, the Commission ensures that the correct recipient is identified in the data base, even though reporting entities may have described the recipient in slightly different ways. The Commission may also wish to establish a standard list of purposes for reported disbursements, which could in turn be based on the expense classifications used in a chart of accounts. Both of these issues could be addressed by making updated lists available through the Internet that could be downloaded by committees. Information from these lists could then be moved into reports, simplifying the reporting process for committees.

Acceptance of Reports Filed Electronically

A related issue addressed by the proposed rules concerns the need to ensure that reports filed electronically can be read by the Commission's computers. Data submitted in a format that does not meet the Commission's filing specifications and therefore does not permit the Commission's computers to read and locate required information will not be treated as a filed report under proposed paragraph 104.18(c). Similarly, a damaged disk that cannot be read by the computer system will not be accepted. In addition, filings that do not contain valid identifying information for the committee and the report being submitted, or that are not signed using one of the signature mechanisms provided by the rules, will not be considered filed. The Commission proposes to notify committees whose reports are not accepted.

To determine that a report submitted in an electronic format meets these requirements, the Commission is developing validation software that will check the submitted record structures to be sure they meet the requirements of the format specifications. This software will be available to committees at no charge, to enable them to run their reports against this program and ensure that their submission will not be rejected.

Another issue involves the method of submitting electronic reports. When the program first goes into effect in 1997, the Commission proposes to accept reports only on floppy disk. This approach will help ease the transition to accepting reports in this new format, since it is comparable to the Commission's past practice of accepting computerized media from Presidential campaigns. As soon as practicable, however, the Commission expects to initiate acceptance of reports through telecommunications. Among other things, since the law provides that reports are due on specified dates, this option would require the arrangement of a mechanism for handling a large influx of data during a compressed time period with intervening periods of no activity. As a guide to assessing the potential load factor involved in accepting reports via modem, the Commission encourages committees to comment on whether they are currently capable of submitting an electronic report via telecommunications and whether they perceive any problems with a system that allows reports to be filed in this manner.

Amended Reports

Proposed paragraph (d) would require that amendments to reports be filed in an electronic format if the original report was filed electronically, and that the amendment consist of a complete version of the report as amended, not just those portions of the earlier submission that are being changed. The Commission welcomes comments on how to address amendments, particularly with regard to whether the amendment should be a complete version of the report. This approach has the advantage of placing a complete revised copy of the report on the public file, and therefore would not require those reviewing a committee's records to piece later amendments of reports together with earlier submissions. However, filing a complete revised version would not immediately indicate what aspects of the earlier report had changed. Larger reports could pose a particular problem in this regard. In addition, the Commission encourages comments on whether one approach would be easier for committees to comply with than the other.

Signature Requirements

The Act requires that reports and statements shall be signed by the person responsible for filing them. See, 2 U.S.C. 434(a)(1) and (c). Public Law 104–79 directs the Commission to develop one or more methods for verifying reports filed electronically and states that such a verification will be treated the same as a signature for all purposes. In the initial phase of the new system, paragraph (e) of the proposed rule would require that filers utilize one of two methods for verifying their reports. Either a signed certification page would be submitted with the disk containing the electronic report, or the disk would contain a digitized version of the signed certification. When the Commission begins to accept reports filed by telecommunications, it plans to provide other methods for verification, such as providing an encryption key to the treasurer or allowing simultaneous mailing of a signature page, similar to the system being used by the Internal Revenue Service in its electronic filing program. Suggestions for other methods are welcome.

Certain schedules and forms must be filed with signatures from third parties, however. For example, the Act requires that Schedule E and Form 5, which are used to report independent expenditures, be notarized. Schedule C–1 (Loans and Lines of Credit from Lending Institutions) and Form 8 (Debt Settlement Plans) must be filed with signatures from lenders and creditors, respectively. In addition, Schedule C–1 must be accompanied by a copy of the relevant loan agreement. The electronic record format will be designed to include the data provided on these forms and schedules. However, to satisfy these additional requirements, proposed paragraph (f) would also require that either a signed version of these schedules and forms (and any accompanying materials) be digitized and submitted as a separate file in the electronic submission, or that a signed paper original of these schedules and forms (and accompanying materials) be submitted with the electronic media.

Additional Issues

For those commenters who are reporting entities, some additional information about the committee would be helpful to the Commission's inquiry. In particular, the Commission would be interested in whether the committee uses a computer to maintain its records and prepare its reports. If so, what data is maintained on the computer? For example, does the data include information regarding contributors, contributions to candidates, other receipts and disbursements? If the committee uses a software package to maintain this data and/or to prepare its reports, what package(s) does it use? Does this software incorporate all the information the committee needs to file its reports or is it necessary to bring in information from other sources?

In addition, the Commission would welcome comments indicating whether reporting committees plan to take advantage of this option. The Commission recognizes that, to be successful, any electronic filing program must accommodate to the extent possible the needs and capabilities of the filing community. A major factor to be considered in this regard is the high level of turnover among filers. A significant portion of the filing population is only involved in campaign finance disclosure for a relatively short period. This includes unsuccessful candidates as well as political committees that go out of existence after a few months or a year. Many committees, including those that have a more stable existence (such as party committees), operate largely with volunteers or experience frequent staff changes. Consequently, there also may be little staff continuity in some ongoing committees. Moreover, those that depend on volunteers may be disadvantaged by the limited time those individuals can devote to committee responsibilities.

However, other committees have a more permanent staff and are sophisticated in their use of computers and their knowledge of the law. These committees might have an easier time converting to an electronic filing format.

Therefore, a fundamental question on which the Commission welcomes comment concerns the potential benefits of an electronic filing system to filers and others. How can electronic filing make disclosure easier? Conversely, are there any perceived problems with the Commission's approach to electronic filing, whether from a procedural or technical perspective, and how can these problems be averted?

A related point concerns committees that begin filing electronically but for some reason are later unable to do so. Proposed paragraph (a) would require that committees continue to submit reports in an electronic format for the remainder of the calendar year in which they elect to begin filing electronically. This provision has been added for several reasons, including enabling the agency to efficiently administer the disclosure program and to ensure continuity in the means by which a committee's reports are placed on the public record. While these are important considerations for the Commission's administration of the Act, should the Commission attempt to distinguish committees with a genuine problem from those who simply decide to discontinue submitting electronic reports? If so, how could this be accomplished?

Information on the electronic capability of current filers would be helpful in assessing the community's readiness to move to this reporting format. Any other information the committee feels would be helpful to the Commission in its efforts to assess the ability of the regulated community to move to an electronic filing format would be appreciated.

Finally, the Commission is interested in the experience of other jurisdictions that have implemented an electronic filing program. What have these jurisdictions found to be the most effective means of introducing filers to the new system, without jeopardizing the integrity of their ongoing program? Since the Commission will not have a test period for filing reports electronically before it begins accepting these reports solely in electronic format, are there any concerns of committees that should be addressed?

List of Subjects in 11 CFR Part 104

Campaign funds, Political candidates, Political committees and parties, Reporting requirements.

Certification of No Effect Pursuant to 5 U.S.C. 605(B) (Regulatory Flexibility Act)

These proposed rules will not, if promulgated, have a significant economic impact on a substantial number of small entities. The basis for this certification is that no small entity is required to submit reports electronically under these proposed rules.

For the reasons set out in the preamble, it is proposed to amend subchapter A, Chapter I of title 11 of the Code of Federal Regulations as follows:

PART 104—REPORTS BY POLITICAL COMMITTEES

1. The authority citation for Part 104 would be amended as follows:

Authority: 2 U.S.C. 431(1), 431(8), 431(9), 432(d), 432(i), 434, 436(a)(8), 436(b).

§ 104.17 [Reserved]

2. Section 104.17 is reserved.

3. Section 104.18 would be added to read as follows:

§ 104.18 Electronic filing of reports (2 U.S.C. 432(d) and 434(a)(11)).

(a) *General.* A political committee that files reports with the Commission, as provided in 11 CFR Part 105, may choose to file its reports in an electronic format that meets the requirements of this section. If a committee chooses to file its reports electronically, and its first electronic report passes the Commission's validation program in accordance with paragraph (c) of this section, it must continue to file in an electronic format all reports covering financial activity for that calendar year.

(b) *Format specifications.* Reports filed electronically shall conform to the technical specifications, including file requirements, described in the Federal Election Commission's Electronic Filing Specifications Requirements. The data contained in the computerized magnetic media provided to the Commission shall be organized in the order specified by the Electronic Filing Specifications Requirements.

(c) *Acceptance of reports filed in electronic format.*

(1) Each committee that submits an electronic report shall check the report against the Commission's validation program before it is submitted, to ensure that the files submitted meet the Commission's format specifications and can be read by the Commission's computer system. Each report submitted in an electronic format under this section shall also be checked upon receipt against the Commission's validation program. The Commission's validation program is available on request and at no charge.

(2) A report that does not pass the validation program will not be accepted by the Commission and will not be considered filed. If a committee submits a report that does not pass the validation program, the Commission will notify the committee that the report has not been accepted.

(d) *Amended reports.* If a committee files an amendment to a report that was filed electronically, it shall also submit the amendment in an electronic format. The committee shall submit a complete version of the report as amended, and

not just the portions of the earlier report that are being amended.

(e) *Signature requirements.* The committee's treasurer, or any other person having the responsibility to file a designation, report or statement under this subchapter, shall verify the report in one of the following ways: by submitting a signed certification on paper that is submitted with the computerized media; or by submitting a digitized copy of the signed certification as a separate file in the electronic submission. Each verification submitted under this section shall certify that the person has examined the report or statement and, to the best of the signatory's knowledge and belief, it is true, correct and complete. Any verification under this section shall be treated for all purposes (including penalties for perjury) in the same manner as a verification by signature on a report submitted in a paper format.

(f) *Schedules and forms with special requirements.* The following list of schedules, materials, and forms have special signature and other requirements and reports containing these documents shall include, in addition to providing the required data within the electronic report, either a paper copy submitted with the committee's electronic report or a digitized version submitted as a separate file in the electronic submission: Schedule C–1 (Loans and Lines of Credit From Lending Institutions), including copies of loan agreements required to be filed with that Schedule, Schedule E (Itemized Independent Expenditures), Form 5 (Report of Independent Exepnditures Made and Contributions Received), and Form 8 (Debt Settlement Plan). The committee shall submit any paper materials together with the electronic media containing the committee's report.

(g) *Preservation of reports.* For any report filed in electronic format under this section, the treasurer shall retain a machine-readable copy of the report as the copy preserved under 11 CFR 104.14(b)(2). In addition, the treasurer shall retain the original signed version of any documents submitted in a digitized format under paragraphs (e) and (f) of this section.

Dated: March 22, 1996.

Lee Ann Elliott,

Chairman, Federal Election Commission.

[FR Doc. 96–7405 Filed 3–26–96; 8:45 am]

BILLING CODE 6715–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–CE–84–AD]

Airworthiness Directives; The New Piper Aircraft, Inc. (Formerly Piper Aircraft Corporation) PA31, PA31P, PA31T, and PA42 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain The New Piper Aircraft, Inc. (Piper) PA31, PA31P, PA31T, and PA42 series airplanes. The proposed action would require inspecting for cracks beneath and in the area of the inboard aileron hinge bracket on the aileron spar and rib using dye penetrant methods, replacing any cracked aileron spar or rib, and replacing the inboard aileron hinge bracket with a hinge bracket of improved design. Several reports of cracks in the vicinity of the inboard aileron hinge bracket, aileron spar, and aileron rib prompted this proposed action. The actions specified by the proposed AD are intended to prevent structural failure of the aileron caused by cracks in the area of the inboard aileron hinge bracket, which, if not detected and corrected, could result in loss of control of the airplane.

DATES: Comments must be received on or before June 7, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–CE–84–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Piper Service Bulletin (SB) No. 967, dated January 24, 1994, and Piper SB No. 974, dated October 19, 1994, may be obtained from The New Piper Aircraft, Inc., Attn: Customer Service, 2926 Piper Dr., Vero Beach, Florida, 32960. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Christina Marsh, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, Campus Building, 1701 Columbia Avenue, suite 2–160, College Park, Georgia 30337–2748; telephone (404) 305–7362; facsimile (404) 305–7348.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 95–CE–84–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–CE–84–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA has received several service difficulty reports (SDRs) on certain Piper PA31, PA31P, PA31T, and PA42 series airplanes reflecting a problem with cracks in the aileron spar in the area of the inboard aileron hinge brackets. The cracks are appearing in certain Piper airplanes having between 3,000 hours time-in- service (TIS) and 12,000 hours TIS. The cause of this condition is believed to be the location of the inboard aileron hinge bracket in relation to the aileron pushrod. The inboard aileron hinge bracket is located 2.06 inches from the center line of the pushrod whereas the outboard aileron hinge bracket is located 45.17 inches from the center line of the pushrod, with both brackets being identical in design. This arrangement causes the majority of the load to be transferred to the inboard hinge bracket, which in time could cause cracks to develop in the aileron spar or in the corresponding aileron rib in the area of the inboard aileron hinge bracket. As a result of the reported cracking, Piper has redesigned the inboard aileron hinge bracket to better distribute the load into the aileron spar web. A crack in the aileron spar or in the vicinity of inboard aileron hinge bracket, if left uncorrected, could possibly compromise the structural integrity of the aileron.

Piper has issued two service bulletins (SB), No. 967, dated January 24, 1994, and Piper SB No. 974, dated October 19, 1994, which specify procedures for inspecting the designated areas for cracks and replacing the aileron inboard hinge brackets with a part of improved design as a terminating action.

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that AD action should be taken to prevent structural failure of the aileron caused by cracks in the area of the inboard aileron hinge bracket, which, if not detected and corrected, could result in loss of control of the airplane.

Since an unsafe condition has been identified that is likely to exist or develop in other Piper PA31, PA31P, PA31T, PA42 series airplanes of the same type design, the proposed AD would require:

- Inspecting the aileron spar beneath and in the area of the inboard aileron hinge bracket for cracks;
- If cracks are found in the area of the aileron spar, inspecting the aileron rib for cracks, and replacing the cracked spar assembly and any cracked rib;
- Replacing the inboard aileron hinge brackets with part number (P/N) 74461–02 (left) and P/N 74461–03 (right).

The FAA estimates that 2,501 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 2 workhours per airplane for the inspection and 5 workhours per airplane for the modification, with a total of 7 workhours to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $300 per airplane. Based on these figures, the total cost impact for the initial inspection and the modification of the proposed AD on U.S. operators is estimated to be $1,800,720 or $720 per airplane. This figure does not include the amount for repetitive inspections and is based on the assumption that all of the owners/operators of the affected airplanes have not inspected for cracks, repaired cracks, or incorporated the modification of this proposed AD. The FAA has no way of determining the number of repetitive inspections each owner/operator will incur before the proposed modification is accomplished.

Piper has informed the FAA that parts have been distributed to equip approximately 1,250 airplanes. Assuming that these distributed parts are incorporated on the affected airplanes, the cost of the proposed AD would be reduced by $900,000 from $1,800,720 to $900,720.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new AD to read as follows:

The New Piper Aircraft, Inc. (formerly Piper Aircraft Corporation): Docket No. 95–CE–84–AD.

Applicability: The following airplane models and serial numbers, certificated in any category:

Models	Serial Nos.
(The following aircraft should reference Piper Service Bulletin No. 974, dated October 19, 1994)	
PA31, PA31–300, and PA31–325.	31–2 through 31–8312019.
PA31–350	31–5001 through 31–8553002.
PA31P–350	31P–8414001 through 31P–8414050.
PA31T3	31T–8275001 through 31T–8475001, and 31T–5575001.
(The following aircraft should reference Piper Service Bulletin No. 967, dated January 24, 1994)	
PA31P	31P–1 through 31P–7730012, and 31P–03.
PA31T	31T–7400002 through 31T–7400009, and 31T–7520001 through 31T–8120104.
PA31T1	31T–7804001 through 31T–8304003, and 31T–1104004 through 31T–1104017.
PA31T2	31T–8166001 through 31T–8166078, and 31T–1166001 through 31T–1166008.
PA42	42–7800001 through 42–7800004, and 42–8001001 through 42–8001106.
PA42–720	42–8301001, 42–8301002, 42–5501003 through 42–5501023, 42–5501025 through 42–5501027, 42–5501129 through 42–5501031, 42–5501033, and 42–5501039 through 42–5501059.
PA42–720R	42–5501024, 42–5501028, 42–5501032, and 42–5501034 through 42–5501038.
PA42–1000	42–5527002 through 42–5527044.

Note 1: This AD applies to each airplane identified in the preceding applicability revision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of

the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Upon the accumulation of 3,000 hours time-in-service (TIS), or within the next 100 hours TIS after the effective date of this AD, whichever occurs later, unless already accomplished.

Note 2: The paragraph structure of this AD is as follows:

Level 1: (a), (b), (c), etc.
Level 2: (1), (2), (3), etc.
Level 3: (i), (ii), (iii), etc.

Level 2 and Level 3 structures are designations of the Level 1 paragraph they immediately follow.

To prevent structural failure of the aileron caused by cracks in the area of the inboard aileron hinge bracket, which, if not detected and corrected, could result in loss of control of the airplane, accomplish the following:

(a) Inspect (using dye penetrant methods) the area beneath and in the area of the inboard aileron hinge bracket on the aileron spar for cracks in accordance with the INSTRUCTIONS section of Piper Service Bulletin (SB) No. 967, dated January 24, 1994, or Piper SB No. 974, dated October 19, 1994, whichever service bulletin applies to the particular model and serial number.

(1) If cracks are found on the aileron spar:

(i) Prior to further flight, inspect the corresponding aileron rib at the inboard aileron hinge bracket location;

(ii) Prior to further flight, replace any cracked spar assembly and any cracked aileron rib in accordance with the applicable Maintenance Manual;

(iii) Prior to further flight, replace the inboard aileron hinge brackets with an inboard aileron hinge bracket of improved design, part number (P/N) 74461–02 (left) and P/N 74461–03 (right), in accordance with the INSTRUCTIONS section of Piper SB No. 967, dated January 24, 1994, or Piper SB No. 974, dated October 19, 1994, as applicable.

(2) If no cracks are found, prior to further flight, replace the inboard aileron hinge brackets with a part of improved design P/N 74461–02 (left) and P/N 74461–03 (right), in accordance with the INSTRUCTIONS section of Piper SB No. 967, dated January 24, 1994, or Piper SB No. 974, dated October 19, 1994, as applicable.

(b) If the inboard aileron hinge brackets, P/N 74461–02 (left) or P/N 74461–03 (right) have been ordered from the manufacturer but are not available, prior to further flight, and thereafter at intervals not to exceed 100 hours TIS, dye penetrant inspect beneath and in the vicinity of the inboard aileron hinge bracket for cracks in accordance with the INSTRUCTIONS section of Piper SB No. 967, dated January 24, 1994, or Piper SB No. 974, dated October 19, 1994, as applicable.

(c) If any one of the following occurs, prior to further flight, terminate the above repetitive inspections, replace any cracked aileron rib and any cracked spar assembly (if applicable), and replace the inboard aileron hinge bracket as specified in paragraph (a)(1)(iii) of this AD:

(1) Parts become available;

(2) An inboard aileron bracket hinge, aileron spar or aileron rib is found cracked; or

(3) 1,000 hours TIS are accumulated after the initial inspection required by this AD.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) An alternative method of compliance or adjustment of the compliance times that provides an equivalent level of safety may be approved by the Manager, FAA, Atlanta Aircraft Certification Office, Campus Building, 1701 Columbia Avenue, suite 2–160, College Park, Georgia 30337–2748. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta Aircraft Certification Office.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta Aircraft Certification Office.

(f) All persons affected by this directive may obtain copies of the document referred to herein upon request to The New Piper Aircraft, Inc., Attn: Customer Service, 2926 Piper Dr., Vero Beach, Florida, 32960; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on March 20, 1996.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–7329 Filed 3–26–96; 8:45 am]

BILLING CODE 4910–13–P

Coast Guard

33 CFR Parts 62 and 66

[CGD 94–091]

RIN 2115–AF14

Conformance of the Uniform State Waterways Marking System and the Western Rivers Marking System With the United States Aids to Navigation System

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: As part of the President's Regulatory Reinvention Initiative, the Coast Guard proposes to eliminate the Uniform State Waterway Marking System (USWMS), which is not widely used and may be confusing to the mariner. The Coast Guard also proposes to replace the solid-color crossing dayboards in the Western Rivers Marking System (WRMS) with the checkered non-lateral dayboards used in the United States Aids to Navigation System (USATONS); the latter dayboards would have the same meaning and be the same size and shape as the former, but would be easier to see. These changes would help mariners avoid misinterpreting navigational markers they might see when transiting different bodies of water now subject to different marking systems.

DATES: Comments are requested by April 26, 1996.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA/3406) (CGD 94–091), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, or may be delivered to room 3406 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

The Executive Secretary maintains the public docket for this request for comments. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LTJG Chad Asplund, Short Range Aids to Navigation Division, Telephone: (202) 267–1386.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this request for comments by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD 94–091) and the specific section of this notice to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The brevity of the comment period owes to three facts. First, an advanced notice of proposed rulemaking (ANPRM) has already sounded public opinion. Second, that opinion holds the two changes proposed here to be minor and non-controversial. Third, this rulemaking constitutes part of the President's Regulatory Reinvention Initiative.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Council at the address under **ADDRESSES**. The request should include the reason why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by later notice in the **Federal Register**.

Regulatory History

On December 29, 1995, the Coast Guard published an ANPRM in the **Federal Register** (60 FR 67345). It gave interested persons until February 9, 1996, to submit comments. The Coast Guard received two comments on that notice. One came from a trade association and the other from an independent consultant.

The ANPRM intended to gauge public opinion towards eliminating the USWMS, replacing the crossing dayboards in the WRMS, and allowing the aids to navigation in the WRMS a larger selection of flash characteristics from which to chose. The first two items were non-controversial; therefore, the Coast Guard here proposes eliminating the USWMS and replacing the crossing dayboards in the WRMS.

The issue of flash characteristics may be more important that the Coast Guard thought it would be. The Coast Guard has determined that more time is necessary to study this issue and may address it in a future rulemaking.

Background and Purpose

The USWMS wes created in 1966 to adequately mark State waters. It offers two types of aids to navigation, a system of regulatory markers as well as a system to supplement the USATONS. It features red and black buoys to mark lateral hazards. But 33 CFR 66.10–1(b) already allows the USATONS on all waterways in the United States. Many states already use the USATONS instead of the USWMS. The Coast Guard proposes eliminating the USWMS to move towards a unitary lateral aids to navigation system. This change would make the waterways less confusing for the mariner.

The WRMS was created to adequately mark the dynamic waterways of the Mississippi River and its Western counterparts. Some deviations from the USATONS were necessary for this. One of these is the use of crossing dayboards. These dayboards indicate where the river channel ("sailing line") crosses from one bank to the other. The dayboards currently used in the WRMS are either solid green or solid red. They are important aids, but can be difficult to see, especially the green dayboards against the overgrowth of trees that line the Western Rivers. The Coast Guard proposes replacing the (red or green) solid-color crossing dayboards used in the WRMS with the checkered (green-and-white or red-and-white) non-lateral dayboards used in the USATONS. The checkered non-lateral dayboards would retain the same meaning as the sold-color crossing dayboards, yet would be easier to see.

The purpose of these two proposed changes is to adequately mark the Uniform State Waterways and Western Rivers and reduce the number of systems of aids to navigation.

Consultation With Advisory Committee

The Coast Guard has consulted with the National Association of State Boating-Law Administrators (NASBLA) concerning elimination of the USWMS. NASBLA indicates this would be a minor, non-controversial change.

Discussion of Comments

1. Should crossing dayboards used in the WRMS be replaced by the non-lateral dayboards used in the USATONS?

The comments generally indicated that this change would entail a massive reeducation. The Coast Guard believes, with an adequate phase-in period and increased boaters' awareness, this change would not be problematic. The benefits gained from the increased visibility would far outweigh the possible confusion.

2. What is the best way to mark obstructions in the USWMS? Should the meaning of the red-and-white striped buoys in the USWMS be changed so such buoys mark safe water as in the USATONS?

The comments generally supported this change. They did express some concern towards boaters' reeducation. The Coast Guard has consulted with NASBLA, which believes this would be a minor, insignificant change. Very few states, if any, use the USWMS.

Discussion of Proposed Rule

The Coast Guard has weighed the needs of the mariner against the conflicts cited in the comments and has decided to propose eliminating the USWMS and replacing the solid-color crossing dayboards used in the WRMS with the checkered non-lateral dayboards used in the USATONS. Therefore, the Coast Guard is proposing the following changes to 33 CFR Parts 62 and 66:

Revise § 62.45(d)(6) to include mooring buoys and their light characteristics. The elimination of the USWMS, § 66.10, also removes the reference to the lighting characteristics on mooring buoys. § 62.45(d)(6) will be revised to place the requirements for lighting characteristics on mooring buoys in the regulatory text for the USATONS.

Revise § 62.51(b)(3) to replace diamond-shaped crossing dayboards, solid red or solid green as appropriate, with diamond-shaped crossing dayboards, checkered red-and-white or green-and-white, non-lateral dayboards similar to those used in the USATONS as appropriate.

Revise Part 66 to eliminate the USWMS by deleting Subpart 66.10. The USWMS is not used and is obsolete.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11010; February 26, 1979).

The Coast Guard expects the economic impact of this proposal to be minimal enough that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Eliminating the USWMS would ultimately save money for states still using this system. States could purchase the aids to navigation used in the USATONS, which are manufactured in bulk and should cost less than the aids peculiar to the USWMS. Replacing the solid-color crossing dayboards of the WRMS would cost the Federal government little additional money, since new ones would cost essentially the same as the current ones. The Coast Guard proposes to replace the current ones with the new ones when it would otherwise replace them in kind, so the cost will be similar to that of regular maintenance.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Cost Guard must consider whether this proposal, if adopted, would have a significant impact on a substantial number of small entities. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2)

government jurisdictions with populations less than 50,000.

This proposal would have minimal impact on small entities. Eliminating the USWMS would not affect small entities; the USWMS is a system run by the State governments. Replacing the crossing dayboards on the WRMS would only affect the Federal government. Because it expects the impact of this proposal to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, would not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this proposal would have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this proposal would economically affect it.

Collection of Information

This proposal contains no increase in collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that, under paragraph 2.B.2.e(34)(a) of Commandant Instruction M164475.1B, this proposal is categorically excluded from further environmental documentation. Eliminating the USWMS and replacing the solid-color crossing dayboards in the WRMS would have no environmental implications. A Categorical Exclusion Determination is available in the rulemaking docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects

33 CFR Part 62

Navigation (water)

33 CFR Part 66

Intergovernmental relations, Navigation (water), Reporting and recordkeeping requirements.

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR Parts 62 and 66 as follows:

PART 62—UNITED STATES AIDS TO NAVIGATION SYSTEM

1. The authority citation for part 62 continues to read as follows:

Authority: 14 U.S.C. 85; 33 U.S.C. 1233; 43 U.S.C. 1333; 49 CFR 1.46.

§ 62.45 [Amended]

2. In § 62.45, paragraph (d)(6) is revised to read as follows:

* * * * *

(d) * * *

(6) Information and Regulatory Marks, and mooring buoys, display white lights of various rhythms.

* * * * *

§ 62.51 [Amended]

3. In § 62.51, paragraph (b)(3) is revised to read as follows:

* * * * *

(b) * * *

(3) Diamond-shaped non-lateral dayboards, checkered red-and-white or green-and-white, similar to those used in the USATONS, as appropriate, are used as crossing dayboards where the river channel crosses from one bank to the other.

* * * * *

PART 66—PRIVATE AIDS TO NAVIGATION

4. The authority citation for part 66 continues to read as follows:

Authority: 14 U.S.C. 83, 85; 43 U.S.C. 1333; 49 CFR 1.46.

Subpart 66.10—[Removed]

5. Subpart 66.10 is removed.

Dated: March 21, 1996.

Rudy K. Peschel,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 96–7333 Filed 3–26–96; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 67

[CGD 95–052]

RIN 2115–AF15

Testing of Obstruction Lights and Fog Signals on Offshore Facilities.

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: In keeping with the National Performance Review, the Coast Guard proposes to amend its testing procedures for obstruction lights and fog signals on Outer Continental Shelf facilities. Presently, manufacturers of lighting equipment must forward an application to each of the ten Coast Guard districts for approval. Fog signal equipment manufacturers must schedule and pay for Coast Guard representatives to observe their tests. This proposal would allow independent laboratories to conduct the tests using Coast Guard approved procedures. This would improve the quality control of the tests, reduce the administrative burden on the pubic, and minimize the cost to the Coast Guard.

DATES: Comments are requested by April 26, 1996.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA/3406) (CGD 95–052), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, or may be delivered to room 3406 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LTJG Chad Asplund, Short Range Aids to Navigation Division, (202) 267–1386.

SUPPLEMENTARY INFORMATION:

Requests for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD 95–052) and the specific section of this proposal to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comments period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Council at the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and

place announced by a later notice in the **Federal Register**.

Regulatory History

On January 10, 1996, the Coast Guard published a notice requesting comments in the **Federal Register** (61 FR 708). Interested persons were given until February 12, 1996, to submit comments. The Coast Guard received six letters commenting on the questions raised in the notice. Five of the letters came from owners of offshore structures and one letter came from an independent laboratory.

The January 10, 1996, notice asked questions about whether (1) the flash characteristics of obstruction lights should be changed from a quick-flashing rhythm to a Morse "U", (2) the candlepower requirements on obstruction lighting should be adapted to the new transmissivity tables developed by the Coast Guard, and (3) lights and fog signals should be tested by independent laboratories rather than by the Coast Guard. The Coast Guard has determined that more time is needed to study issues (1) and (2) and may address them in a future rulemaking project. This rulemaking is limited to issue (3).

Background and Purpose

The existing 33 CFR 67.05–10 states that manufacturers of lights must have their equipment approved by the District Commander and a permit must be issued before the equipment can be distributed. Currently the manufacturer must apply to each Coast Guard district in which the lights are to be operated. This proposal would amend this provision to require that the tests be conducted by an independent laboratory in accordance with Coast Guard procedures. The manufacturer would then forward one application and the test results of the independent laboratory to Commandant (G–NSR), U.S. Coast Guard, 2100 2nd Street SW., Washington, DC, 20593, for review.

Under 33 CFR 67.10–20, manufacturers of fog signals must apply to the Coast Guard and schedule to have a Coast Guard representative observe the test procedure. The test must be completed using equipment supplied and calibrated by the Coast Guard. The manufacturer must also bear the cost of Coast Guard personnel and test equipment. This requirement would be changed to require independent laboratories to conduct fog signal tests in accordance with existing Coast Guard procedures.

The amendments would relieve the financial and administrative burden from both the public and the government.

Discussion of Comments on Testing by Independent Laboratories

The comments were generally favorable towards this change. The consensus was that independent laboratory testing would improve quality and reduce the costs and administrative burden associated with inspection. However, one company commented that the existing procedures are adequate. In light of the favorable response to the testing issue, the Coast Guard is pursuing this change in this rulemaking project.

Discussion of Proposed Rules

(1) Proposed § 67.05–30 would be added to require testing of lights by independent laboratories. One sample of each product model would be tested. Once approved, the manufacturer and model numbers would be placed on a Coast Guard approved list which would be made available to the public. Information regarding testing procedures may be obtained from Commandant (G–NSR), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001.

(2) Existing § 67.10 would be amended to require testing of fog signals by independent laboratories. This procedure would be similar to that used for lights. One sample of each product model would be tested. Once approved, the manufacturer and model numbers would be placed on a Coast Guard approved list which would be made available to the public. Information regarding testing procedures may be obtained from Commandant (G–NSR), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001.

(3) Section 67.10–25, Application for tests, would be removed because of the proposed changes to § 67.10–20.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11010; February 26, 1979).

The Coast Guard expects the economic impact of this proposal to be minimal enough that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The cost of testing each model of light by an independent laboratory is approximately $500.00 per test. This is an initial cost to the manufacturer and will only apply to the production sample tested. Once the sample passes the tests, its manufacturer and model numbers are placed on the approved list. Many manufacturers of lighting equipment are already using independent laboratories to conduct tests, and, therefore, would not incur additional costs.

The cost for testing fog signal equipment will be greatly reduced. Presently, the manufacturer has to bear all expenses of conducting the test including all expenses of the U.S. Government in sending a Coast Guard representative to the test. The expense to the manufacturer for Coast Guard personnel to observe a test is approximately $2,000.00. By having an independent laboratory conduct the test without Coast Guard representatives, manufacturers would save a minimum of $2,000.00. Manufacturers would submit one production sample to an independent laboratory for testing. Once the sample passes the tests, its manufacturer and model numbers are placed on an approved list. Manufacturers will see a significant savings by having independent laboratories conduct tests.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal, if adopted, will have a significant impact on a substantial number of small entities. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations less than 50,000.

Small entities would not be affected by this proposal. The manufacturers of lighting and fog signal equipment are large corporations. If anything, small entities would benefit from this proposal by creating jobs for small independent laboratories. Because it expects the impact of this proposal to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this proposal will have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this proposal will economically effect it.

Collection of Information

This proposal contains no collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that, under paragraph 2.B.2.e(34)(a) of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. Revision of the testing procedures for lighting and fog signal equipment will have no effect on the environment. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 67

Continental shelf, Navigation (water), Reporting and recording requirements.

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 67 as follows:

PART 67—AIDS TO NAVIGATION ON ARTIFICIAL ISLANDS AND FIXED STRUCTURES

1. The authority citation for part 67 continues to read as follows:

Authority: 14 U.S.C. 85, 633; 43 U.S.C. 1333; 49 CFR 1.46.

2. In subpart 67.05, § 67.05–30 is added to read as follows:

§ 67.05–30 Testing of obstruction lights.

Each obstruction light must be tested by an independent laboratory to ensure that it meets or exceeds the requirements in subparts 67.20, 67.25, and 67.30 of this part for the class of structure on which it is to be used. Information on the test procedure may be obtained from Commandant (G–NSR), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001.

3. Section 67.10–30 is revised to read as follows:

§ 67.10–20 Fog signal tests.

Each fog signal must be tested by an independent laboratory to ensure that it meets the required sound pressure levels in table A of this section. Information on the test procedure may be obtained from Commandant (G–NSR), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001.

§ 67.10–25 [Removed]

4. Section 67.10.25 is removed.

Dated: March 15, 1996.

Rudy K. Peschel,

Rear Admiral, U.S. Coast Guard, and Waterway Services.

[FR Doc. 96–7332 Filed 3–26–96; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 4E4365 and 4E4376/P645; FRL–5348–1]

RIN 2070–AB18

Diquat; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes to establish a tolerance for the plant growth regulator diquat [6,7-dihydrodipyrido (1,2-a:2',1'-c) pyrazinediium] derived from application of the dibromide salt and calculated as the cation in or on the imported raw agricultural commodities bananas and coffee at 0.05 part per million (ppm). Zeneca, Inc., petitioned for this proposed regulation to establish a maximum permissible level for the residues of the plant growth regulator.

DATES: Comments identified by the docket number, (PP 4E4365 and 4E4376/P645), must be received on or before April 26, 1996.

ADDRESSES: Submit written comments by mail to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Public Docket, Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number (PP 4E4365 and 4E4376/P645). No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures as set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docket is available for public inspection in Rm. 1132 at the above address, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne I. Miller, Product Manager (PM-23), Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 237, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703)-305-6224; e-mail: miller.joanne@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Zeneca, Inc., P.O. Box 15458, Wilmington, DE 19850, has submitted pesticide petition (PP 4E4365 and 4E4376) to EPA. This petition requested that the Administrator, pursuant to the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e), establish a tolerance for residues of the plant growth regulator diquat [6,7-dihydrodipyrido (1,2-a:2',1'-c) pyrazinediium derived from application of the dibromide salt and calculated as the cation in or on the raw agricultural commodity bananas at 0.02 ppm and coffee at 0.05 ppm. The petition for bananas was subsequently amended to raise the tolerance level to 0.05 ppm.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the tolerances include the following:

1. A 2-year chronic toxicity/carcinogenicity study in rats resulted in a systemic lowest-observed-effect level (LOEL) of 2.91 mg/kg/day in males and 3.64 mg/kg/day in females (expressed as diquat cation), and a systemic no-observed effect level (NOEL) of 0.58 mg/kg/day in males and 0.72 mg/kg/day in females (expressed as diquat cation).

2. A 1-year feeding study in dogs resulted in a systemic LOEL of 2.5 mg/kg/day and a systemic NOEL of 0.5 mg/kg/day in both sexes (expressed as diquat cation).

3. A 2-year feeding study in mice resulted in a systemic LOEL of 11.96 mg/kg/day in males and 16.03 mg/kg/day in females (expressed as diquat cation), and a systemic NOEL of 3.56 mg/kg/day in males and 4.78 mg/kg/day in females (expressed as diquat cation).

4. A developmental toxicity study in rats resulted in a maternal toxicity LOEL of 32 to 56 mg/kg/day and a maternal toxicity NOEL of 8 to 14 mg/kg/day (expressed as diquat cation), and a developmental toxicity LOEL of 32 to 56 mg/kg/day and a developmental toxicity NOEL of 8 to 14 mg/kg/day (expressed as diquat cation).

5. A developmental toxicity study in rabbits resulted in a maternal toxicity LOEL of 5.0 mg/kg/day and a maternal toxicity NOEL of 2.5 mg/kg/day (expressed as diquat cation). The developmental toxicity was not clearly established.

6. A recently submitted developmental toxicity study in rabbits resulted in a maternal toxicity LOEL of 3 mg/kg/day and a maternal toxicity NOEL of 1 mg/kg/day (expressed as diquat cation), and a developmental toxicity LOEL of 10 mg/kg/day and a developmental toxicity NOEL of 3 mg/kg/day (expressed as diquat cation).

7. A developmental toxicity study in mice resulted in a maternal toxicity LOEL of 2 mg/kg/day and a maternal toxicity NOEL of 1 mg/kg/day (expressed as diquat cation), and a developmental toxicity LOEL of 4 mg/kg/day and a developmental toxicity NOEL of 2 mg/kg/day (expressed as diquat cation).

8. A two-generation reproduction study on rats resulted in a systemic toxicity LOEL of 4 mg/kg/day and a systemic toxicity NOEL of 0.8 mg/kg/day (expressed as diquat cation), and a reproductive toxicity LOEL of 12 to 20 mg/kg/day and a reproductive toxicity NOEL of 4 mg/kg/day (expressed as diquat cation).

9. Diquat showed nonmutagenicity in one gene mutation test (Ames), two structural chromosome aberration tests (mouse micronucleus and dominant lethal in mice), and one test for other genotoxic effects (unscheduled DNA synthesis in rat hepatocytes *in vitro*). Positive results were seen in one gene mutation test (mouse lymphoma cell assay) and in one chromosome aberration test (human blood lymphocytes, depending on the concentration of diquat and the presence of the metabolic activation system).

10. Metabolism studies showed about 90% of the administered dose being eliminated in feces, indicating that diquat was poorly absorbed from the gastrointestinal tract. Following a subcutaneous injection to circumvent the intestine, nearly all of the administered dose was recovered in the urine within 2 days.

The Office of Pesticide Program's Health Effects Division's Carcinogenicity Peer Review Committee (CPRC) has classified diquat as a Group E carcinogen (no evidence of carcinogenicity) under the Agency's *Guidelines for Carcinogen Risk Assessment*, published in the **Federal Register** of September 24, 1986 (51 FR 33992). In its evaluation, CPRC gave consideration to body weight changes in a 2-year feeding study in mice and histopathological changes in the eyes in a 2-year chronic feeding/carcinogenicity study in rats.

The Reference Dose (RfD) is established at 0.005 mg/kg/day, based on a NOEL of 0.5 mg/kg/day from the chronic toxicity study in dogs and an uncertainty factor of 100. The Anticipated Residue Concentration (ARC) from the current actions is estimated at 0.00074 mg/kg/day of body weight/day for the general population and utilizes 15% of the RfD for the U.S. population. The ARC for the most exposed subgroup is 0.0024 mg/kg/day of body weight/day for nonnursing infants (less than 1-year old) and utilizes 48% of the RfD. Therefore, no appreciable risk is expected from the chronic dietary intake since the RfD is not exceeded for either the general population or any subgroup.

The nature of the residue is adequately understood for the purposes of the tolerances. An adequate analytical method, extraction with sulfuric acid with spectrometric detection, is available for enforcement purposes. The analytical method for enforcing these tolerances have been published in the *Pesticide Analytical Manual, Vol. II* (PAM II).

The pesticide is considered useful for the purposes for which it is sought, and the tolerances are capable of achieving the intended physical or technical effect. There are currently no actions pending against the registration of this chemical.

Based on the information and data considered, the Agency concludes that the proposed tolerances will protect the public health. Therefore, it is proposed that the tolerances be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains the ingredient listed herein, may request within 30 days after the publication of this document in the **Federal Register** that this proposal be referred to an Advisory Committee in accordance with section 408(e) of the FFDCA.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 4E4365 and 4E4376/P645). All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch at the above address from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

A record has been established for this proposal under docket number (PP 4E4365 and 4E4376/P645) (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:
opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this proposal, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory

action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule: (1) Having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this proposed rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 20, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.226, by adding new paragraph (c) to read as follows:

§180.226 Diquat; tolerances for residues.

* * * * *

(c) Tolerances are established for the plant growth regulator diquat [6,7-dihydrodipyrido (1,2-a:2',1'-c) pyrazinediium] derived from application of the dibromide salt and calculated as the cation in or on the following raw agricultural commodities:

Commodity	Parts per million
Bananas	0.05
Coffee	0.05

There are no U.S. registrations as of December 6, 1995.

[FR Doc. 96-7445 Filed 3-26-96; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 180

RIN 2070-AB18

[OPP-300418; FRL-5355-6]

Oxidized Pine Lignin, Sodium Salt; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that oxidized pine lignin, sodium salt (CAS Reg. No. 68201-23-0) be exempted from the requirement of a tolerance when used as an inert ingredient (surfactant or adjuvant to surfactant) in pesticide formulations. This proposed regulation was requested by LignoTech USA, Inc.

DATES: Comments, identified by the docket control number [OPP-300418], must be received on or before April 26, 1996.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person deliver comments to: Rm. 1128, Crystal Mall, Building #2, 1921 Jefferson Davis Highway, Arlington, VA.

ADDRESSES: The Agency invites any interested person who has concerns about the implementation of this action to submit written comments in triplicate to: By mail: Program Resources Section, Public Response and Program Resources Branch, Field Operations Division (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number "OPP-300418." No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this document may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in the SUPPLEMENTARY unit of this document.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the Virginia address given above from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Amelia M. Acierto, Registration Support Branch, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: 2800 Crystal Drive North Tower, Arlington, VA, (703) 308-8375, e-mail acierto.amelia@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: LignoTech USA, Inc., 100 Highway 51 South, Rothschild, WI 54474-1998 submitted pesticide petition (PP) number 5E04471 to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(e), propose to amend 40 CFR 180.1001 (c) and (e) by establishing an exemption from the requirement of a tolerance for oxidized lignin, sodium salt when used as a surfactant or adjuvant to surfactant in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest or to animals. Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

The data submitted in the petition and other relevant material have been evaluated. As part of the EPA policy statement on inert ingredients published in the **Federal Register** of April 22, 1987 (52 FR 13305), the Agency set forth a list of studies which would generally be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. However, where it can be determined without that data that the inert ingredient will present minimal or no risk, the Agency generally does not require some or all of the listed studies to rule on the proposed tolerance or exemption from the requirement of a tolerance for an inert ingredient. The Agency has decided that no data, in addition to that described below, for oxidized lignin, sodium salt will need to be submitted. The rationale for this decision is described below:

1. Similar chemicals such as pine lignin (used as an absorbent) and sulfonated kraft lignin/lignosulfonates (used as a surfactant or related adjuvant to surfactant), are exempt from the requirement of a tolerance when used in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest or to animals under 40 CFR 180.1001 (c) and (e).

2. Pine lignin, also known as kraft lignin, is a derivative of a natural plant polymer, lignin, which is the most abundant polymer in nature. Pine lignin is used as a raw material for oxidized kraft lignin as well as a starting material for pine-kraft lignin-based lignosulfonates. It is produced as a coproduct during the manufacture of paper via the kraft pulping process.

3. The toxicological data show that pine lignin, sulfonated pine lignin as well as oxidized pine lignin or lignosulfonates are of very low acute toxicity (LD50 >2 to >5 g/kg in rats and LC50 >1000 to >3000 mg/l in fish).

4. Pine lignin is classified as toxicity category IV in a skin irritation and eye irritation studies.

Based on the submitted toxicological data, physico-chemical properties of the sodium salt of oxidized kraft lignin, its structural similarity to related chemicals such as kraft lignin/lignosulfonates and pine/kraft lignin that have already been exempted under 40 CFR 180.1001(c) and (e), and the review of its use, the Agency has found that, when used as a surfactant or adjuvant to surfactant in pesticide formulations applied preharvest, postharvest or to animals in accordance with good agricultural practice, this ingredient is useful and a tolerance is not necessary to protect the public health. Therefore, EPA proposes that the exemption from the requirement of a tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the **Federal Register** that this proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number [OPP-300418].

A record has been established for this proposal under docket number "OPP-300418" (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for the proposal as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

The Office of Management and Budget has exempted this proposed rule from the requirements of section 3 of Executive Order 12866.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Recording and recordkeeping requirements.

Dated: March 13, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.1001 is amended by revising the table in paragraphs (c) and (e) by adding and alphabetically inserting the inert ingredient, oxidized pine lignin to read as follows:

§180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
Oxidized pine lignin, sodium salt (CAS Reg. No. 68201-23-0)	Maximum of 2% of formulation	Surfactant or adjuvant to surfactant

* * * * *

(e) * * *

Inert ingredients	Limits	Uses
Oxidized pine lignin, sodium salt (CAS Reg. No. 68201-23-0)	Maximum of 2% of formulation	Surfactant or adjuvant to surfactant

[FR Doc. 96-7448 Filed 3-26-96; 8:45 am]
BILLING CODE 6560-50-F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 649

[Docket No. 960315082-6082-01; I.D. 031296C]

RIN 0648-XX55

American Lobster Fishery; Removal of Regulations

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS announces its initial determination to withdraw approval of the Fishery Management Plan for the American Lobster Fishery (FMP), and proposes to remove the regulations implementing the FMP. Withdrawal of FMP approval appears necessary, because changed circumstances have called into question whether this FMP is consistent with the national standards of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The intended effect of this action is to ensure that Federal management of the American lobster fishery more closely complies with state-administered programs.

DATES: Comments on the proposed rule must be received on or before May 13, 1996.

ADDRESSES: Comments on the proposed rule should be sent to Dr. Andrew A. Rosenberg, Regional Director, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930-3799.

Copies of the Environmental Assessment (EA) supporting this action and the regulatory impact review (RIR) are available from the same address.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fishery Policy Analyst, 508-281-9273.

SUPPLEMENTARY INFORMATION:

The subject FMP, prepared by the New England Fishery Management Council (Council), was approved and implemented in 1983. Implementing regulations are found at 50 CFR part 649. The FMP has been amended several times since implementation, most recently by Amendment 5. The purpose of Amendment 5 is to prevent overfishing through adoption of a stock rebuilding program in the exclusive economic zone (EEZ) to be developed by effort management teams (EMTs) to enhance the existing regulations, including those implemented by the individual coastal states and the Atlantic States Marine Fisheries Commission (ASMFC). Amendment 5 has not yet achieved this objective and on September 18, 1995 (60 FR 48086), NMFS published an advance notice of proposed rulemaking (ANPR) that requested comments from the public on options for lobster management. This proposed rule discusses the comments received as a result of the ANPR and the other circumstances that give rise to this proposed action to withdraw the FMP.

These options were discussed in the ANPR: Whether to withdraw the FMP and develop regulations under the Atlantic Coastal Fisheries Cooperative Management Act (ACFCMA), or proceed with development of a Secretarial fishery management plan, or some other option. NMFS stated that it wished to retain as many current measures as possible under the law, and especially desired to consider those measures proposed by the group of industry, government, and other non-government participants who constituted the EMTs. Written responses were received on the ANPR from the Council, the ASMFC, two state fishery agencies, three fishing associations, and one individual. Two comments favored withdrawal of the FMP and the development of regulations under the ACFCMA. Five comments requested that NMFS keep the current FMP in place while the ASMFC develops an amendment to its lobster coastal management plan (CMP). The one remaining comment was in favor of Secretarial action for the offshore lobster fishery.

There are several reasons to withdraw this FMP. In accordance with the goals of the initiative to reform the Federal regulatory system announced by the President on February 21, 1995, the lobster FMP can be eliminated without compromising resource management and conservation objectives. The American lobster fishery is prosecuted primarily in state waters from Maine to Virginia and these states have implemented protective measures under state law in addition to the ASMFC CMP. Final withdrawal of the FMP and its implementing regulations would only occur upon completion of an effective state management program, most likely developed by the ASMFC. The primary objective of the FMP has been to serve as a vehicle for coordinated management of the American lobster fishery throughout its range. The FMP was prepared to support the management efforts of the states. However, the need for a Magnuson Act fishery management plan for lobster is now in question, given the compliance authority included in the ACFCMA.

In addition, NMFS can no longer ensure that the FMP is, or can be amended to be, consistent with National Standard 1, which requires implementation of conservation and management measures to prevent overfishing. Fishing mortality for American lobster is occurring at a rate in excess of that in the overfishing definition, and Amendment 5 has not fostered the necessary cooperation between the Atlantic coastal states, the Council, and the ASMFC to address the problem. Withdrawal would allow the ASMFC to address the overfished condition of the stocks unhindered by the Council process.

Withdrawal would also ensure consistency with National Standard 7, which requires that conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication. Prior to the implementation of the ACFCMA, interstate plans lacked effective compliance authority and states relied upon Federal regulations under the Magnuson Act to provide cohesiveness and compliance. This is no longer a problem, because the ACFCMA, as recently amended, now provides a mechanism for state compliance to coastal management plans implemented by the ASMFC and, therefore, is a more appropriate vehicle to support the effective implementation of these plans. As a result, in some instances where a coastal plan exists or is proposed, the Magnuson Act may be an unnecessary duplication.

Withdrawal of the FMP, provided that complementary Federal regulations are issued by NMFS under the ACFCMA, is consistent with the formal comments submitted by the ASMFC during the comment period on the ANPR. During the comment period, the ASMFC requested a status quo approach until the states, through ASMFC, determine where lobster management should go from here by amending its CMP for American lobster. The Maine Department of Marine Resources commented that management of lobster should transfer from the Council to the ASMFC immediately. The Connecticut Department of Environmental Protection requested that the FMP remain in place to allow the ASMFC time to develop its CMP. Timely withdrawal of this FMP and replacement by a state-administered CMP is consistent with the requests of these agencies.

Therefore, NMFS is publishing this proposed rule stating its intent to withdraw the FMP and remove its implementing regulations. Final action would be contingent upon appropriate action by the ASMFC that would allow NMFS to issue effective Federal regulations under the ACFCMA, as necessary.

Timing the withdrawal to coincide with implementation of an ASMFC CMP is necessary, because a lapse in the Federal regulations would suspend conservation measures in the EEZ. For instance, the Federal minimum size limit, the protective measures for egg-bearing lobsters, and the limited access permit program would lapse, jeopardizing conservation and canceling roughly 3,000 Federal limited access moratorium permits. The administrative and resource costs that would result from a lapse in the regulations would exceed the benefits of this action.

Amendment 5 to the FMP was approved on the basis that it established a participative process to reduce effort and prevent overfishing. As stated in the ANPR, NMFS supports the EMT concept and the prevention of overfishing objective of Amendment 5 and expects that the state management plan initiative will be guided by the national standards and guidelines to ensure effective conservation and management of the American lobster resource.

Classification

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

At this time, the Assistant Administrator for Fisheries (AA) has not determined that the action this rule would implement is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The AA, in making that determination, will take into account the data, views, and comments received during the comment period.

NMFS prepared a draft EA for this amendment that discusses the impact on the environment as a result of this rule. A copy of the draft EA may be obtained from NMFS (see **ADDRESSES**).

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. As a result, a regulatory flexibility analysis was not prepared. This rule has no direct effect on the stock of lobster or the lobster fishery, since the management measures that would be removed via this action are expected to be implemented under the ACFCMA before withdrawal is complete. If NMFS intends to alter, add, or eliminate any regulations implemented under the FMP under the authority of the ACFCMA, an initial regulatory flexibility analysis will be done for those specific regulations at that time.

This rule does not contain a collection-of-information requirement for the purposes of the Paperwork Reduction Act.

This proposed rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

List of Subjects in 50 CFR Part 649

Fisheries.

Dated: March 20, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, under the authority of 16 U.S.C. 1801 *et seq.*, part 649 is proposed to be removed.

[FR Doc. 96-7319 Filed 3-26-96; 8:45 am]
BILLING CODE 3510-22-F

Notices

Federal Register

Vol. 61, No. 60

Wednesday, March 27, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Services

[TB–96–12]

Burley Tobacco Advisory Committee; Reestablishment of Committee

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of reestablishment of committee.

SUMMARY: Notice is hereby given that the Secretary of Agriculture has reestablished the Burley Tobacco Advisory Committee for a period of 2 years.

FOR FURTHER INFORMATION CONTACT: John P. Duncan III, Director, Tobacco Division, AMS, USDA, 300 12th Street, S.W., Room 502 Annex Building, P.O. Box 96456, Washington, D.C. 20090–6456, (202) 205–0567.

SUPPLEMENTARY INFORMATION: The Committee, which reports to the Secretary through the Assistant Secretary for Marketing and Regulatory Programs, recommends opening dates and selling schedules for the burley marketing area which aid the Secretary in making an equitable apportionment and assignment of tobacco inspectors. The Committee consists of 39 members; 21 producers, 10 warehousemen, and 8 buyers, representing all segments of the burley tobacco industry and meets at the call of the Secretary. The Secretary has determined that the reestablishment of this Committee is in the public interest.

This notice is given in compliance with the Federal Advisory Committee Act (5 U.S.C. App.).

Dated: March 19, 1996.

Wardell C. Townsend,

Assistant Secretary for Administration.

[FR Doc. 96–7439 Filed 3–26–96; 8:45 am]

BILLING CODE 3410–02–P

[TB–96–08]

Flue-Cured Tobacco Advisory Committee; Reestablishment of Committee

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of reestablishment of Committee.

SUMMARY: Notice is hereby given that the Secretary of Agriculture has reestablished the Flue-Cured Tobacco Advisory Committee for a period of 2 years.

FOR FURTHER INFORMATION CONTACT: John P. Duncan III, Director, Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, 300 12th Street SW., Room 502 Annex Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 205–0567.

SUPPLEMENTARY INFORMATION: The Committee, which reports to the Secretary through the Assistant Secretary for Marketing and Regulatory Programs, recommends opening dates and selling schedules for the flue-cured marketing area which aid the Secretary in making an equitable apportionment and assignment of tobacco inspectors. The Committee consists of 39 members; 21 producers, 10 warehousemen, and 8 buyers, representing all segments of the flue-cured tobacco industry and meets at the call of the Secretary. The Secretary has determined that the reestablishment of this Committee is in the public interest.

This notice is given in compliance with the Federal Advisory Committee Act (5 U.S.C. App).

Dated: March 19, 1996.

Wardell C. Townsend,

Assistant Secretary for Administration.

[FR Doc. 96–7440 Filed 3–26–96; 8:45 am]

BILLING CODE 3410–02–P

[Docket No. PY–95–001]

Tentative Voluntary Poultry Grade Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice; extension of test-market period.

SUMMARY: On March 30, 1995, the Agricultural Marketing Service (AMS) published a notice in the **Federal Register** (60 FR 16428) announcing a one-year test-market period for USDA grade-identified, boneless-skinless poultry legs and drumsticks, based on tentative grade standards. AMS is extending the test-market period beyond its scheduled end, April 1, 1996, until it makes a final determination about the tentative standards.

FOR FURTHER INFORMATION CONTACT: Larry W. Robinson, Chief, Grading Branch, Poultry Division, 202–720–3271.

SUPPLEMENTARY INFORMATION: On March 30, 1995, the Agricultural Marketing Service (AMS) published a notice in the **Federal Register** (60 FR 16428) announcing a one-year test-market period for USDA grade-identified, boneless-skinless poultry legs and drumsticks, based on tentative grade standards. The test-market period is scheduled to end April 1, 1996, after which the Agency will evaluate the test results. If AMS decides to amend the current poultry grade standards, a proposal with comment period will be published in the **Federal Register**. To allow processors to continue marketing these products while the Agency evaluates test results, AMS has determined that it is appropriate to extend the test-market period until a final determination is made about the tentative grade standards.

Dated: March 21, 1996.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 96–7442 Filed 3–26–96; 8:45 am]

BILLING CODE 3410–02–P

Forest Service

Willamette Provincial Interagency Executive Committee (PIEC), Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Willamette PIEC Advisory Committee will meet on Thursday, April 18, 1996. The meeting will held in the Conference Room, at Salem District Office, Bureau of Land Management; 1717 Fabry Road SE; Salem, Oregon 97306; phone (503) 375–5646. The meeting is scheduled to begin at 9 a.m. and conclude at approximately 4 p.m. Topics tentatively scheduled on the agenda include: (1) Advisory Committee feedback on the Forest Health proposal from the Klamath Province and a presentation by the Small Log Utilization Group, (2) Discussion with federal managers about the short-term and long-term response to flood impacts on Forest Service and Bureau of Land Management lands in the Province, (3) Overview of Northwest Forest Plan monitoring strategy, (4) Group information sharing

The meeting is open to the public and opportunity will be available to address the Advisory Committee during a public forum. The public forum will follow the agenda topics mentioned above and will occur in the afternoon. Time allotted for individual presentations to the committee will be limited to 3–5 minutes each. Written comments are encouraged and can be submitted prior to the meeting.

FOR FURTHER INFORMATION CONTACT: For more information regarding this meeting, contact Neal Forrester, Designated Federal Official; Willamette National Forest, 211 East Seventh Avenue; Eugene, Oregon 97401; (541) 465–6924.

Dated: March 21, 1996.

Richard C. Stem,

Deputy Forest Supervisor.

[FR Doc. 96–7391 Filed 3–26–96; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–437–001]

Truck Trailer Axle and Brake Assemblies From Hungary; Termination of Antidumping Duty Investigation

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of termination of antidumping duty investigation.

SUMMARY: On December 1, 1995, the Department received a letter from counsel to Rockwell International Corporation ("the petitioner"). The letter notified the Department that the petitioner had no further interest in the suspended investigation on truck trailer axle-and-brake assemblies and parts thereof from Hungary and that it was, therefore, withdrawing the petition. On December 8, 1995, the Department requested parties to the proceeding to provide comments on the Department's proposal to terminate the suspended antidumping duty investigation on truck trailer axle-and-brake assemblies and parts thereof from Hungary. The Department is now terminating this suspended investigation.

EFFECTIVE DATE: March 27, 1996.

FOR FURTHER INFORMATION CONTACT: Steven Presing, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–3793.

SUPPLEMENTARY INFORMATION:

Background

On February 12, 1981, the Department received a petition from counsel representing Rockwell International Corporation of Pittsburgh, Pennsylvania. The petitioner simultaneously filed a copy of the petition with the United States International Trade Commission (the Commission). The petition alleged that truck trailer axle-and-brake assemblies and parts thereof were being sold in the United States at less than fair value and that the truck trailer axle industry in the United States was being materially injured by reason of the importation of this merchandise. After conducting a summary review of the petition, the Department instituted an investigation, and notice was published in the **Federal Register** of March 11, 1981 (46 FR 16109).

On March 30, 1981, the Commission notified us that it had determined, as required by section 733(a) of the Act, that there was a reasonable indication that an industry in the United States was materially injured by reason of the importation of the subject imports. The Commission's determination and the reasons therefore were published in the **Federal Register** on April 8, 1981 (46 FR 21121).

On September 30, 1981, the Department preliminarily determined that truck trailer axle-and-brake assemblies were being sold in the United States at less than fair value. Notice of the preliminary affirmative antidumping determination was published in the **Federal Register** on September 17, 1981 (46 FR 46152).

In a letter dated October 29, 1981, counsel for the respondent Hungarian Railway Carriage and Machine Works (RÁBA) proposed to enter into a suspension agreement pursuant to section 734 of the Act and section 353.18 (19 CFR 353.18 (1994)) of the Department's regulations. On November 3, 1981, the Department provided copies of the proposed suspension agreement between RÁBA and the Department of Commerce to the petitioner for its consultation and to other parties to the proceeding for their comments. On December 1, 1981, Rockwell International Corporation (the petitioner) and Dana Corporation (a U.S. producer of the subject merchandise) submitted comments on the proposed suspension agreement. After considering all comments and consulting with the petitioner in accordance with section 734(e) of the Act, the Department determined that the criteria for suspension of an investigation pursuant to section 734(e) of the Act had been met.

On January 4, 1982, the Department published in the **Federal Register** a notice of suspension of antidumping duty investigation on truck trailer axles from Hungary (47 FR 66). The basis for the suspension of investigation was an agreement reached between the Department and RÁBA in which RÁBA agreed to revise its prices to eliminate sales of this merchandise to the United States at less than fair value.

Between January 1982 and June 1993, the suspension agreement was administered pursuant to the terms of the agreement. On June 9, 1993, the Department received a letter from RÁBA notifying the Department that RÁBA was withdrawing from the suspension agreement. In RÁBA's letter of withdrawal, RÁBA stated that it no longer possessed any physical capacity to manufacture truck trailer axles, and that its contractual obligations to provide truck trailer axles to its sole U.S. importer of the merchandise had terminated. Further, RÁBA stated that it had no intention for the foreseeable future of reinvesting in machinery and equipment in order to be able to manufacture truck trailer axles. Therefore, RÁBA stated that there was no purpose in continuing to maintain the suspension agreement, and that RÁBA was thereby withdrawing from it.

On June 21, 1993, the petitioner objected to RÁBA's withdrawal from the suspension agreement. The petitioner alleged that BPW–RÁBA, the company formed when RÁBA sold its truck trailer axle-producing facility to the German company BPW in 1991, was a successor in interest to RÁBA with regard to the suspension agreement. Therefore, the petitioner argued that BPW–RÁBA, and not RÁBA, was the proper party to withdraw from the suspension agreement.

In light of petitioner's objection regarding RÁBA's standing to withdraw from the suspension agreement, the Department, in a letter dated November 8, 1993, inquired into BPW–RÁBA's interest in the suspension agreement. The Department stated in the letter that if BPW–RÁBA indicated that it was not

interested in the suspension agreement, the Department would terminate the suspension agreement and resume the suspended investigation. Conversely, if BPW–RÁBA were to indicate that it was interested in the suspension agreement, the Department could initiate a changed circumstances administrative review to determine whether BPW–RÁBA should be treated as a successor in interest to RÁBA. The Department requested a response from BPW–RÁBA, indicating its interest in the continuation of the suspension agreement, no later than 60 days from the date of the letter. Absent a response from BPW–RÁBA by January 7, 1994, the Department would assume that BPW–RÁBA had no interest in the agreement and, therefore, the Department would resume the investigation.

On January 5, 1994, BPW–RÁBA notified the Department that the agreement seemed to have no relevance to it for the following reasons: 1) it had never been an exporter of truck trailer axles to the United States, although it had supplied RÁBA with certain truck trailer axle components; 2) it had stopped production of truck trailer axles for the United States in 1992; and 3) it had removed the truck trailer axle production equipment from its plant.

On May 5, 1994, the petitioner stated that they believed that BPW–RÁBA still produced axles, but that it was not currently exporting them to the United States. Rockwell stated that it would like the Department to inquire further into BPW–RÁBA's production capabilities. On September 29, 1994, the Department conducted a verification at the production facilities of BPW–RÁBA in Szombathely, Hungary. The primary purpose of the verification was to investigate BPW–RABA's claim that the agreement was no longer relevant due to BPW–RABA's cessation of production/exports of subject merchandise to the United States. Based on the verification, there was no evidence to support the claim that BPW–RÁBA was continuing to produce covered merchandise for the U.S. market. For further details of the verification, please see the verification report placed on the record.

On December 1, 1995, counsel to the petitioner notified the Department that Rockwell International Corporation had no further interest in the suspended investigation on truck trailer axle-and-brake assemblies and parts thereof from Hungary and that it was, therefore, withdrawing the petition.

On December 8, 1995, the Department notified parties to the proceeding of its intent to terminate the suspended investigation pursuant to § 353.17(a)(1) of the Department's regulations (19 CFR 353.17(a)(1)(1994)). We received comments from interested parties concerning the proposed termination on January 11, 1996.

Scope of Investigation

The merchandise covered by the investigation are those trailer axle-and-brake assemblies and parts thereof (the "product") imported under item numbers 692.32 and 692.60 of the Tariff Schedules of the United States (TSUS) or under item number 8716.40 and 8716.90 of the Harmonized Tariff Schedule (HTS) of the United States. This includes any parts which may be imported under any other TSUS category to be utilized in trailer axles. These parts include, but are not limited to the beam, spindle, brake spider, camshaft, brake shoes, and separate brake assemblies when imported for use on trailer axles. The agreement did not include separate brake assemblies and other parts which are to be utilized solely in truck components other than trailer axles.

Termination of Investigation

Under § 353.17(a) of the Department's regulations (19 CFR 353.17(a)(1994)) the Department may terminate an investigation if the petitioner withdraws the petition, after notifying all parties to the proceeding and after consultation with the International Trade Commission (ITC). Section 353.17(a) further provides that the Department may not terminate an investigation unless it concludes that the termination is in the public interest. We have notified all parties to the proceeding and have consulted with the ITC. We also conclude that termination of the investigation is in the public interest (see public interest assessment memo, March 6, 1996).

On December 1, 1995, Rockwell International Corporation notified the Department that it has no further interest in the suspended investigation on truck trailer axle-and-brake assemblies and parts thereof from Hungary and that it was, therefore, withdrawing its petition. Based on the Department's request for comments to the proposed termination, two letters were filed on January 11, 1996. Eaton Corporation (an importer of the subject merchandise) expressed its support for the proposed termination. Dana Corporation objected to the proposed termination. In its public interest assessment regarding the termination of the suspended investigaton , the Department addresses the objections raised by Dana Corporation.

Based on information contained in the record, the Department is terminating the antidumping duty investigation on truck trailer axle-and-brake assemblies and parts thereof from Hungary. This action is taken pursuant to section 734(a)(1) of the Tariff Act of 1930, as amended (19 U.S.C. 1673c(a)(2)), and § 353.17(a)(2) of Commerce's regulations (19 CFR 353.17(a)(2)(1994)).

Dated: March 14, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–7346 Filed 3–26–96; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF DEFENSE

Meeting of the Advisory Council on Dependents' Education

AGENCY: Department of Defense Education Activity, Office of the Secretary of Defense, DOD.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Council on Dependents' Education (ACDE). It also describes the functions of the Council. Notice of this meeting is required under the National Advisory Committee Act. Although the meeting is open to the public, because of space constraints, anyone wishing to attend the meeting should contact the point of contact listed below.

DATES: May 16, 1996, 8:30 a.m. to 5 p.m. and May 17, 1996, 8:30 a.m. to 1 p.m.

ADDRESSES: On May 16, 1996, the meeting will be held in the Secretary of Defense Conference Room (3E869) in the Pentagon. On May 17, 1996, the meeting will be held at the headquarters building of the Department of Defense Education Activity, 4040 N. Fairfax Drive, Room 904, Arlington, Virginia 22203–1635.

FOR FURTHER INFORMATION CONTACT: Ms. Pamela Williams, DoD Education Activity, 4040 N. Fairfax Drive, Arlington, Virginia 22203–1635; Telephone number: 703–696–4246, extension 124.

SUPPLEMENTARY INFORMATION: The Advisory Council on Dependents' Education is established under title XIV, section 1411, of Public Law 95–561, Defense Dependents' Education Act of 1978, as amended by title XII, section 1204(b) (3)–(5), of Public Law 99–145, Department of Defense Authorization Act of 1986 (20 U.S.C., chapter 25A, section 929, Advisory Council on Dependents' Education). The Council is cochaired by designees of the Secretary of Defense and the Secretary of Education. In addition to a representative of each of the Departments, 12 members are appointed jointly by the Secretaries of Defense and Education. Members include representatives of educational institutions and agencies, professional employee organizations and unions, unified military commands, school administrators, parents of DoDDS students, and one DoDDS student. The Director, DoDEA, serves as the Executive Secretary of the Council. The purpose of the Council is to advise the Secretary of Defense and the DoDDS Director about effective educational programs and practices that should be considered by DoDDS and to perform other tasks as may be required by the Secretary of Defense. The agenda includes reports about topics raised during ACDE team visits in October 1995, to DoD overseas schools in Germany, England, the Netherlands, and Belgium; the DoD Education Activity (DoDEA) Community Strategic Plan, to include communications, technology, assessment, budget, and organizational restructuring.

Dated: March 21, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–7318 Filed 3–26–96; 8:45 am]

BILLING CODE 5000–04–M

Department of the Air Force

Intent To Grant an Exclusive Patent License

Pursuant to the provisions of Part 404 of Title 37, Code of Federal Regulations, which implements Public Law 96–517, the Department of the Air Force announces its intention to grant CeramOptec, Inc., a corporation of the State of New Jersey, an exclusive license under United States Patent Application S/N 08/365,002 filed in the name of Peter S. Durkin for a "Portable Pumped Laser System."

The license described above will be granted unless an objection thereto, together with a request for an opportunity to be heard, if desired, is received in writing by the addressee set forth below within sixty (60) days from the date of publication of this Notice. Copies of the patent application may be obtained, on request, from the same addressee.

All communications concerning this Notice should be sent to: Mr. Samuel B. Smith, Jr., Chief, Intellectual Property Branch, Commercial Litigation Division, Air Force Legal Services Agency, AFLSA/JACNP, 1501 Wilson Blvd., Suite 805, Arlington, VA 22209–2403, Telephone No. (703) 696–9033.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 96–7451 Filed 3–26–96; 8:45 am]

BILLING CODE 3910–01–P

Department of the Army

Army Science Board; Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 19 and 20 March 1996.

Time of Meeting: 0800–1600, 19 and 20 March 1996.

Place: Pentagon—Washington, DC.

Agenda: The Army Science Board (ASB) Ad Hoc Study on "The Impact of Information Warfare on Army Command, Control, Communications, Computers and Intelligence (C4I) Systems" will meet for briefings and discussion on the study subject. These meetings will be closed to the public in accordance with Section 552b(c) of title 5, U.S.C., specifically subparagraph (4) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The proprietary matters to be discussed are so inextricably intertwined so as to preclude opening any portion of these meetings. For further information, please contact Michelle Diaz at (703) 695–0781.

Michelle P. Diaz,

Acting Administrative Officer, Army Science Board.

[FR Doc. 96–7337 Filed 3–26–96; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 21 March 1996.

Time of Meeting: 1000–1600.

Place: Pentagon—Washington, DC.

Agenda: The Army Science Board (ASB) Independent Assessment Study on "Reengineering the Acquisition and Modernization Processes of the Institutional Army" will meet for briefings and discussion on the study subject. This meeting will be closed to the public in accordance with Section 552b(c) of title 5, U.S.C., specifically subparagraph (4) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The proprietary matters to be discussed are so inextricably intertwined so as to preclude opening any portion of this meeting. For further information, please contact Michelle Diaz at (703) 695–0781.

Michelle P. Diaz,

Acting Administrative Officer, Army Science Board.

[FR Doc. 96–7338 Filed 3–26–96; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 21 and 22 March 1996.

Time of Meeting: 0900–1700, 21 March 1996. 1000–1700, 22 March 1996.

Place: Pentagon–Washington, DC.

Agenda: The Army Science Board (ASB) Summer Study on "Technical Architecture C4I" will meet for briefings and discussion on the study subject. The meetings will be closed to the public in accordance with Section 552b(c) of title 5, U.S.C., specifically subparagraph (4) thereof, and Title 5, U.S.C. Appendix 2, subsection 10(d). The proprietary matters to be discussed are so inextricably intertwined so as to preclude opening any portion of these meetings. For further information, please contact Michelle Diaz at (703) 695–0781.

Michelle P. Diaz,

Acting Administrative Officer, Army Science Board.

[FR Doc. 96–7339 Filed 3–26–96; 8:45 am]

BILLING CODE 3710–08–M

Department of the Army; Corps of Engineers

Availability of Surplus Land and Buildings Located at Defense Depot Memphis, TN

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of availability.

SUMMARY: This notice identifies the surplus real property located at Defense Distribution Depot Memphis, Tennessee (DDMT). DDMT is located less than one mile North of Interstate 240 and one mile North of the Memphis Airport, in the southern sector of the city. Commercial rail adjoins the property.

SUPPLEMENTARY INFORMATION: This surplus property is available under the provisions of the Federal Property and Administrative Services Act of 1949 and the Base Closure Community Redevelopment and Homeless Assistance Act of 1994. Notices of interest should be forwarded to Memphis Depot Redevelopment Agency, Attention: Ms. Cindy

Buchanan, Executive Director, 2163 Airways Blvd., Building 144, Suite 140, Memphis, TN 38114 (telephone (901) 942–4939). For more information regarding particular properties identified in this notice (i.e., acreage, floor plans, existing sanitary facilities, exact street address), contact Mr. Jim Phillips, U.S. Army Engineer District, Mobile, ATTN: CESAM–RE–MD, P.O. Box 2288, Mobile, AL 36628–0001, (telephone (334) 694–3681); or Ms. Buchanan at the above address.

The surplus real property consists of two parcels containing 642 and 60 acres respectively and includes 1 administration building, 35 warehouse buildings, and 82 miscellaneous support buildings. The current range of uses include administrative, storage, maintenance, residential and recreational. Future uses may be influenced by environmental conditions.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96–7359 Filed 3–26–96; 8:45 am]

BILLING CODE 3710–CR–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Proposed collection; comment request.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 28, 1996.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: March 21, 1996.

Gloria Parker,

Director, Information Resources Group.

Office of Elementary and Secondary Education

Type of Review: Revision.

Title: Title II—Dwight D. Eisenhower Professional Development Program Report Forms.

Frequency: Triennially.

Affected Public: Not-for-profit institutions, Federal Government, State, local or Tribal Gov't, SEAs and LEAs.

Annual Reporting and Recordkeeping Burden:

Responses: 52.

Burden Hours: 30.

Abstract: This will be used by the Department as one means of collecting information on the effectiveness of the program at the State and local levels. The data will be used to inform the Department and Congress on the progress of the State programs in meeting performance indicators. The information will assure statutory mandates are followed.

[FR Doc. 96–7357 Filed 3–26–96; 8:45 am]

BILLING CODE 4000–01–P

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before April 26, 1996.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Wendy Taylor, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U. S. C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: March 21, 1996.

Gloria Parker,

Director, Information Resources Group.

Office of Educational Research and Improvement

Type of Review: Reinstatement.

Title: Financial and Performance Report, Library Services and Construction Act, Titles I, II and III.

Frequency: Annually.

Affected Public: State, local or Tribal Gov't, SEAs or LEAs.

Reporting Burden and Recordkeeping: Responses: 55. Burden Hours: 2,481.

Abstract: The State Library Administrative Agency submits the Financial and Performance Report reflecting project expenditures and completion data, the relationship of the projects to the LSCA Long-range Plan, and evaluation project data for Title I (Public Library Services); Title II (Public Library Construction and Technology Enhancement); and Title III (Interlibrary Cooperation and Resource Sharing).

[FR Doc. 96–7360 Filed 3–26–96; 8:45 am]

BILLING CODE 4000–01–P

[CFDA No.: 84.004C and 84.00D]

Office of Elementary and Secondary Education; Desegregation of Public Education Programs—State Educational Agency and Desegregation Assistance Centers

ACTION: Extension notice.

SUMMARY: The purpose of this notice is to revise the closing date for receipt of applications for new awards for fiscal year (FY) 1996. On December 20, 1995, the Acting Assistant Secretary for Elementary and Secondary Education published in the **Federal Register** (60 FR 65643) an application receipt notice for two programs under Desegregation of Public Education. The two programs announced were CFDA No. 84.004C, State Educational Agency (SEA), and CFDA No. 84.004D, Desegregation Assistance Centers (DACs). The original deadline dates were January 31, 1996 for the SEA program and February 2, 1996 for the DAC program. Applications for these programs were not available until mid March. In order to give applicants sufficient time to develop and submit quality applications, the Secretary has extended the application deadline date.

Deadline for Transmittal of Applications: May 9, 1996. This deadline for transmittal of applications is for both programs.

Deadline for Intergovernmental Review: July 9, 1996.

Applications Available: March 26, 1996.

For Applications or Information Contact: Adell S. Washington, U.S. Department of Education, 600 Independence Avenue, S.W., Portals, Suite 4500, Washington, D.C. 20202–6140. Telephone (202) 260–2495. Fax (202) 205–0302. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday. Internet: Adell—Washington@ed.gov

Program Authority: 42 U.S.C. 2000c–2,2000c–5.

Dated: March 21, 1996.

Gerald N. Tirozzi,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 96–7358 Filed 3–26–96; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Notice of Public Workshops On the Draft Environmental Impact Statement for the Nevada Test Site and Offsite Locations in the State of Nevada

AGENCY: Department of Energy.

ACTION: Notice of Public Workshops.

SUMMARY: The Department of Energy (DOE) in conjunction with the University of Nevada, Las Vegas, will conduct three additional public hearings in workshop format to solicit comments on the Draft Environmental Impact Statement (EIS) for the Nevada Test Site and Offsite Locations in the State of Nevada (DOE/EIS–0243).

DATES: The dates and locations for the public workshops are listed below. The Boulder City, Nevada meeting will be held at City Hall on April 8, 1996, from 6:00 to 9:00 p.m. The Caliente, Nevada meeting will be held at City Hall on April 16, 1996, from 6:30 to 9:00 p.m. The Tonopah, Nevada meeting will be held in the Commissioners Chambers at the Tonopah Court House on April 23, 1996, from 7:00 to 9.00 p.m.

ADDRESSES: Requests for a copy of the Draft EIS and written comments on the Draft EIS should be directed to: Dr. Donald R. Elle, Director, Environmental Protection Division, U.S. Department of Energy, Nevada Operations Office, P.O. Box 14459, Las Vegas, NV 89195–8066. Oral comments may be submitted at the public workshops or by calling the Nevada Test Site EIS Hotline, 1–800–405–1140 or (702) 295–1392. Comments may also be submitted via facsimile to (702) 295–1264 or via electronic mail at ntseis@nv.doe.gov.

FOR FURTHER INFORMATION CONTACT: For general information on the Department's NEPA process, please contact: Ms. Carol Borgstrom, Director, Office of NEPA Policy and Assistance, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, DC 20585, 202–586–4600 or leave a message at 1–800–472–2756.

SUPPLEMENTARY INFORMATION: DOE released the Draft EIS to the public in February 1996 with a DOE notice in the **Federal Register** (61 FR 3924, February 2, 1996) and a U.S. Environmental Protection Agency notice in the **Federal Register** (61 FR 3932, February 2, 1996). Additional information on public hearings for the Draft EIS can be found in the DOE **Federal Register** notice. Written and/or oral comments on the Draft EIS are invited from the general public, other government agencies, and all other interested parties. Comments received or postmarked by May 3, 1996, whether written or oral, submitted directly to the Department, or presented during a public hearing, will be given equal consideration in preparation of the final EIS. Comments received or postmarked after that date will be considered to the extent practicable.

Issued in Washington, D.C., March 22, 1996.

Gary T. Palmer,

Environmental Specialist, Office of Environmental Support Defense Programs.

[FR Doc. 96–7406 Filed 3–26–96; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. CP96–41–003]

Colorado Interstate Gas Company; Notice of Petition To Amend

March 21, 1996.

Take notice that on March 20, 1996, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP96–41–003 a petition to further amend its application filed in Docket No. CP96–41–000 to delete compressors at three compressor stations as well as an 858-foot segment of 18-inch pipeline and measurement facilities, all currently classified as transmission, from those facilities CIG wishes to transfer to its affiliate, CIG Field Services Company (Field Services), all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

CIG states that, at a technical conference convened on March 5, 1996, in Docket No. CP96–41–000, as amended, parties questioned the consistency of the proposed reclassification of compression facilities and also raised the issue of whether Field Services could fully recover the cost of providing gathering services using compressors proposed to be reclassified from transmission to gathering. To alleviate these concerns, CIG indicates that it now seeks to amend its pending application to retain as facilities owned and operated by CIG subject to the Commission's jurisdiction under the Natural Gas Act, the compressors at its Lakin, Morton, and Mocane Compressor Stations currently classified as transmission. It is indicated that these compression facilities consist of 31,700 horsepower. CIG also proposed to retain a 858-foot segment of pipeline with measurement facilities extending from the outlet of the Mocane Compressor Station to the Warren Processing Plant. CIG also proposes to include dehydrators at Mocane and Morton among its transmission assets. No other changes to the original application, as amended on February 23, 1996, are proposed.

CIG indicates that, as a result of the instant petition and a previous petition filed February 23, 1996, the net book value of facilities to be transferred to CIG Field Services Company will be reduced from $36,111,594 to $32,982,883.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before April 1, 1996, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7355 Filed 3–26–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–118–002]

Eastex Power Marketing, Inc.; Notice of Filing

March 21, 1996.

Take notice that on March 1, 1996, Eastex Power Marketing, Inc. tender for filing a letter to expand upon prior representations regarding electric generation owned by affiliates of EPMI.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before April 3, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7353 Filed 3–26–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–1301–000]

Florida Power Corporation; Notice of Filing

March 21, 1996.

Take notice that on March 13, 1996, Florida Power Corporation (Florida Power), tendered for filing service agreements providing service to Eastern Power Marketing, Inc. pursuant to its open access transmission tariff (the T–2 Tariff). Florida Power requests that the Commission waive its notice of filing requirements and allow the agreements to become effective on March 14, 1996.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before April 3, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7352 Filed 3–26–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ID–2589–001]

Brian R. Foster; Notice of Filing

March 21, 1996.

Take notice that on January 3, 1996, Brian R. Foster (Applicant) tendered for filing an application under Section 305(b) of the Federal Power Act to hold the following positions: Director, Savannah Electric and Power Company; Executive Vice President, NationsBank of Georgia, National Association.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before April 1, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7350 Filed 3–26–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT96–45–001]

Honeoye Storage Corporation; Notice of Electronic Tariff Filing

March 21, 1996.

Take notice that on March 18, 1996, Honeoye Storage Corporation (Honeoye) filed a diskette containing in electronic format its FERC Gas Tariff, Second Revised Volume No. 1, Honeoye states that the filing does not involve any change in rates or services.

Honeoye also states that the filing was made to comply with the FERC Order No. 582 issued September 28, 1995.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7351 Filed 3–26–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP95–326–000 and RP94–242–000]

Natural Gas Pipeline Company of America; Notice of Informal Settlement Conference

March 21, 1996.

Take notice that an informal settlement conference will be convened in this proceeding on Wednesday, March 27, 1996, at 10:00 a.m., at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC, for the purpose of exploring the possible settlement of the above-referenced dockets.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact David R. Cain (202) 208–0917 or John P. Roddy (202) 208–0053.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7356 Filed 3–26–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–159–000]

Shell Gas Pipeline Company; Notice of Technical Conference

March 21, 1996.

Take notice that a technical conference will be convened in the above-docketed proceeding on Wednesday, April 17, 1996, at 10:00 a.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. This technical conference is being convened to further discuss all rate and tariff issues raised by Shell Gas Pipeline Company's application. Any party, as defined in 18 CFR 385.102(c), and any participant, as defined in 18 CFR 385.102(b) is invited to participate.

For additional information please contact Robert A. Wolfe, (202) 208–2098, or Thomas F. Koester, III, (202) 208–2258 at the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7354 Filed 3–26–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP91–203–060 and RP92–132–047 (Phase II—PCB Issues)]

Tennessee Gas Pipeline Company; Notice of Compliance Filing

March 21, 1996.

Take notice that on March 18, 1996, Tennessee Gas Pipeline Company tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the tariffff sheets in Appendix A to the filing, to become effective on July 1, 1995 and thereafter, as indicated.

Tennessee asserts that the purpose of this filing is to comply with the Commission's orders issued November 29, 1995 and February 20, 1996, in FERC Docket Nos. RP91–203 and RP92–132 (Phase II—PCB issues) by which the Commission approved the Stipulation and Agreement filed May 15, 1995 in this proceeding ("PCB Settlement").

Tennessee states that the PCB Settlement resolves outstanding issues relating to Tennessee's recovery from its customers of the costs of remediating PCB and HSL contamination at specified locations on its pipeline system. Tennessee further states that the PCB Settlement requires that Tennessee file the identified tariff sheets to implement the terms and conditions of the PCB Settlement. Tennessee requests that the tariff sheets become effective consistent with the effective date prescribed in the PCB Settlement.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7348 Filed 3–26–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–117–000]

Texas Eastern Transmission Corporation; Notice of Technical Conference

March 21, 1996.

In the Commission's order issued on February 15, 1996, in the above-captioned proceeding, the Commission held that the filing raises issues for which a technical conference is to be convened.

The conference to address the issues has been scheduled for Wednesday, April 3, 1996, from 1:00 p.m. to 5:00 p.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

All interested persons and Staff are permitted to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7347 Filed 3–26–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER94–1488–005, et al.]

Excell Energy Services, Inc., et al.; Electric Rate and Corporate Regulation Filings

March 20, 1996.

Take notice that the following filings have been made with the Commission:

1. Excell Energy Services, Inc., National Power Exchange, Corp., Energy Services, Inc.

[Docket Nos. ER94–1488–005, ER94–1593–005, and ER95–1021–002 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On March 1, 1996, Excell Energy Services, Inc. filed certain information as required by the Commission's September 29, 1994, order in Docket No. ER94–1488–000.

On March 6, 1996, National Power Exchange Corporation filed certain information as required by the Commission's October 7, 1994, order in Docket No. ER94–1593–000.

On March 4, 1996, Energy Services, Inc. filed certain information as required by the Commission's June 13, 1995, order in Docket No. ER95–1021–000.

2. Cleveland Electric Illuminating Company

[Docket No. ER96–1073–000]

Take notice that on March 12, 1996, Cleveland Electric Illuminating Company tendered for filing an amendment to its February 15, 1996, filing in the above-referenced docket.

Comment date: April 3, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. PacifiCorp

[Docket No. ER96–1288–000]

Take notice that on March 11, 1996, PacifiCorp, tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, a Restated and Amended Power Sales Agreement dated January 31, 1996 (Sales Agreement) between PacifiCorp and Public Utility District No. 1 of Clark County, Washington (Clark). The Sales Agreement replaces in its entirety the December 28, 1996, Power Sales Agreement, PacifiCorp Rate Schedule FERC No. 416.

Copies of this filing were supplied to Clark, the Public Utility Commission of Oregon and the Washington Utilities and Transportation Commission.

A copy of this filing may be obtained from PacifiCorp's Regulatory Administration Department's Bulletin Board System through a personal computer by calling (503) 464–6122 (9600 baud, 8 bits, no parity, 1 stop bit).

Comment date: April 3, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. Madison Gas and Electric Company

[Docket No. ER96–1289–000]

Take notice that on March 11, 1996, Madison Gas and Electric Company (MGE), tendered for filing a service agreement with FEDERAL Energy Sales Inc. under MGE's Power Sales Tariff. MGE requests an effective date 60 days from the filing date.

Comment date: April 3, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Louisville Gas and Electric Company

[Docket No. ER96–1290–000]

Take notice that on March 11, 1996, Louisville Gas and Electric Company, tendered for filing copies of a service agreement between Louisville Gas and Electric Company and Entergy Services, Inc. under Rate GSS.

Comment date: April 3, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Commonwealth Edison Company

[Docket No. ER96–1291–000]

Take notice that on March 11, 1996, Commonwealth Edison Company (ComEd) submitted four Service Agreements, establishing Southern Company Services (Southern), dated September 15, 1995; CNG Power Services Corp. (CNG), dated January 15, 1996; Northern Indiana Public Service Company (NIPSCO), dated January 25, 1996; and Illinois Power Company (IP), dated January 29, 1996, as customers under the terms of ComEd's Power Sales Tariff PS–1 (PS–1 Tariff). ComEd also submitted two additional Service Agreements, establishing Illinois Power Company, (IP), dated January 29, 1996, and Sonat Power Marketing (Sonat), dated February 1, 1996, as customers under the terms of ComEd's Flexible Transmission Service Tariff (FTS–1 Tariff). The Commission has previously designated the PS–1 Tariff as FERC Electric Tariff, Original Volume No. 2, and the FTS–1 Tariff as FERC Electric Tariff, Second Revised Volume No. 3.

ComEd requests an effective date of February 11, 1996, for all six Service Agreements and accordingly seeks waiver of the Commission's requirements. Copies of this filing were served upon Southern, CNG, NIPSCO, IP, Sonat and the Illinois Commerce Commission.

Comment date: April 3, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Florida Power Corporation

[Docket No. ER96–1302–000]

Take notice that on March 13, 1996, Florida Power Corporation (FPC), tendered for filing a contract for the provision of interchange service between itself and Eastern Power Marketing, Inc. The contract provides for service under Schedule J, Negotiated Interchange Service and OS, Opportunity Sales. Cost support for both schedules has been previously filed and approved by the Commission. No specifically assignable facilities have been or will be installed or modified in order to supply service under the proposed rates.

FPC requests Commission waiver of the 60-day notice requirement in order to allow the contract to become effective as a rate schedule on March 14, 1996. Waiver is appropriate because this filing does not change the rate under these two Commission accepted, existing rate schedules.

Comment date: April 3, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Minnesota Power & Light Company

[Docket No. ER96–1303–000]

Take notice that on March 13, 1996, Minnesota Power & Light Company, tendered for filing a signed Service Agreement and reciprocal Letter Agreement with Sonat Power Marketing, Inc. under its Wholesale Coordination Sales Tariff to satisfy its filing requirements under this tariff.

Comment date: April 3, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Pennsylvania Power & Light Company

[Docket No. ER96–1304–000]

Take notice that on March 13, 1996, Pennsylvania Power & Light Company (PP&L), tendered for filing with the Federal Energy Regulatory Commission, Service Agreements (the Agreements) between PP&L and Aquila Power Corporation, dated February 14, 1996, and between PP&L and Morgan Stanley Capital Group, Inc., dated February 28, 1996.

The Agreements supplement a Short Term Capacity and Energy Sales umbrella tariff approved by the Commission in Docket No. ER95–782–000 on June 21, 1995.

In accordance with the policy announced in *Prior Notice and Filing Requirements Under Part II of the Federal Power Act*, 64 FERC ¶ 61,139, *clarified and reh'g granted in part and denied in part*, 65 FERC ¶ 61,081 (1993), PP&L requests the Commission to make the Agreements effective as of March 13, 1996, because service will be provided under an umbrella tariff and each service agreement is filed within 30 days after the commencement of service. In accordance with 18 CFR 35.11, PP&L has requested waiver of the sixty-day notice period in 18 CFR 35.2(e). PP&L has also requested waiver of certain filing requirements for information previously filed with the Commission in Docket No. ER95–782–000.

PP&L states that a copy of its filing was provided to the customers involved and to the Pennsylvania Public Utility Commission.

Comment date: April 3, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Montaup Electric Company

[Docket No. ER96–1305–000]

Take notice that on March 13, 1996, Montaup Electric Company (Montaup), filed a Notice of Cancellation of a service agreement between Montaup and New England Power Company, Montaup Rate Schedule No. 100 and Supplement No. 1 thereto. Montaup requests that the Notice be allowed to become effective February 23, 1996.

Comment date: April 3, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Montaup Electric Company

[Docket No. ER96–1306–000]

Take notice that on March 13, 1996, Montaup Electric Company (Montaup) filed 1) executed unit sales service agreements under Montaup's FERC Electric Tariff, Original Volume No. III, and 2) executed service agreements for the sale of system capacity and associated energy under Montaup's FERC Electric Tariff Original Volume No. IV. The service agreements under both tariffs are between Montaup and the following companies:

1. Massachusetts Municipal Wholesale Electric Company (MMWEC)
2. Bangor Hydro-Electric Company (BHE)
3. New York State Electric & Gas Corporation (NYSEG)
4. New England Power Company (NEP)

The service agreements under Original Volume No. IV allow them, through certificates of concurrence, to provide capacity from one of their units, in order to enable Montaup to make a system sale while maintaining its minimum monthly system capability required under the present NEPOOL agreement.

The transactions under the service agreements are purely voluntary and will be entered into only if mutually beneficial and agreeable. Montaup requests a waiver of the sixty-day notice requirement so that the service agreement may become effective January 3, 1996 for the MMWEC agreements, January 19, 1996 for the BHE agreements, and February 23, 1996 for the NYSEG and the NEP agreements.

Comment date: April 3, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Atlantic City Electric Company

[Docket No. ER96–1307–000]

Take notice that on March 13, 1996, Atlantic City Electric Company (ACE), tendered for filing an Agreement for Short-Term Energy Transactions between ACE and USGenPS Power Services, L.P. (USGenPS). ACE requests that the Agreement be accepted to become effective December 19, 1995.

Copies of the filing were served on USGenPS and the New Jersey Board of Regulatory Commissioners.

Comment date: April 3, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. Kentucky Utilities Company

[Docket No. ER96–1308–000]

Take notice that on March 13, 1996, Kentucky Utilities Company (KU), tendered for filing a service agreement between KU and KN Marketing, Inc. under its TS Tariff. KU requests an effective date of February 23, 1996.

Comment date: April 3, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. PECO Energy Company

[Docket No. ER96–1311–000]

Take notice that on March 14, 1996, PECO Energy Company (PECO) filed a Service Agreement dated February 14, 1996, with Entergy Power Marketing Corporation (EPMC) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds EPMC as a customer under the Tariff.

PECO requests an effective date of February 14, 1996, for the Service Agreement.

PECO states that copies of this filing have been supplied to EPCM and to the Pennsylvania Public Utility Commission.

Comment date: April 3, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. PECO Energy Company

[Docket No. ER96–1312–000]

Take notice that on March 14, 1996, PECO Energy Company (PECO) filed a Service Agreement dated February 14, 1996, with Entergy Power, Inc. (Entergy Power) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds Entergy Power as a customer under the Tariff.

PECO requests an effective date of February 14, 1996, for the Service Agreement.

PECO states that copies of this filing have been supplied to Entergy Power and to the Pennsylvania Public Utility Commission.

Comment date: April 3, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. American Electric Power Service Corporation

[Docket No. ER96–1313–000]

Take notice that on March 14, 1996, the American Electric Power Service Corporation (AEPSC), tendered for filing a number of umbrella-type agreements for service under the AEP Companies' Power Sales and Point-to-Point Transmission Service Tariffs. The agreements were executed by AEPSC, on behalf of the AEP Companies and the following parties: Alpena Power Company, Aquila Power Corporation, Electric Clearinghouse, Inc., Entergy Power Corporation, InterCoast Power Marketing Co., Ohio Edison Company, and Tennessee Power.

The Point-to-Point Transmission Tariff has been accepted to replace AEPSC FERC Electric Tariff, Original Volume No. 1, effective August 15, 1995. The Power Sales Tariff has been designated as FERC Electric Tariff, Original Volume No. 2, effective October 1, 1995. AEPSC requests waiver of notice to permit the Service Agreements to be made effective for service billed on and after February 13, 1996.

A copy of the filing was served upon the parties listed above and the State Utility Regulatory Commissions of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: April 3, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. LSP-Cottage Grove, L.P.

[Docket No. QF94–142–002]

On March 4, 1996, LSP-Cottage Grove, L.P., of 402 East Main Street, Bozeman, Montana 59715 submitted for filing an application for recertification of a facility as a qualifying cogeneration facility pursuant to Section 292.207(b) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

The cogeneration facility, to be located in Washington County, Minnesota, was previously certified as a qualifying cogeneration facility, *LSP-Cottage Grove, L.P.*, 69 FERC ¶ 62,130 (1994). The instant request for recertification is due to a change in the ownership structure and internal description of the facility.

Comment date: Within 30 days after the date of publication of this notice in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party

must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7431 Filed 3–26–96; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. EC96–14–000, et al.]

Metropolitan Edison Company, et al. Electric Rate and Corporate Regulation Filings

March 21, 1996.

Take notice that the following filings have been made with the Commission:

1. Metropolitan Edison Company

[Docket No. EC96–14–000]

Take notice that on March 11, 1996, Metropolitan Edison Company (MetEd) submitted for filing an application under Section 203 of the Federal Power Act seeking authorization from the Commission for the sale and lease of certain MetEd transmission facilities to Pennsylvania Power & Light Company (PP&L). MetEd has served copies of the filing on the Pennsylvania Public Utility Commission and PP&L.

Comment date: April 10, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. PanEnergy Lake Charles Generation, Inc.

[Docket No. EG96–50–000]

On March 18, 1996, PanEnergy Lake Charles Generation, Inc. ("Applicant"), 5400 Westheimer Court, Houston, Texas 77056, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Applicant, is an indirect, wholly-owned subsidiary of Panhandle Eastern Corporation, doing business as PanEnergy Corp. Applicant intends to purchase a portion of a generating facility (the "Facility") with a nominal capacity of 32 megawatts located in the vicinity of Lake Charles, Louisiana. Applicant's portion of the Facility is an eligible facility as defined under Section 32(a)(2) of the Public Utility Holding Company Act of 1935.

Comment date: April 11, 1996, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. Louisville Gas and Electric Company

[Docket No. ER94–1380–007]

Take notice that on February 28, 1996, Louisville Gas and Electric Company tendered for filing revisions to its rate schedules to comply with the Commission's order issued on July 25, 1995 in Docket No. ER94–1380–000.

Comment date: April 4, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. Ruffin Energy Services, Inc., Premier Enterprises, Inc.

[Docket Nos. ER95–1047–002 and ER95–1123–001 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On March 11, 1996 Ruffin Energy Services, Inc. filed certain information as required by the Commission's July 7, 1995, order in Docket No. ER95–1047–000.

On February 26, 1996 Premier Enterprises, Inc. filed certain information as required by the Commission's August 7, 1995, order in Docket No. ER95–1123–000.

5. Great Bay Power Corporation

[Docket No. ER96–726–000]

Take notice that on March 15, 1996, Great Bay Power Corporation (Great Bay) tendered for filing further revisions to its Tariff for Short-Term Sales, under which it sells capacity and/or energy from its ownership interest in Seabrook Unit No. 1 and/or purchased power. The currently effective Tariff was accepted for filing by the Commission on November 11, 1993, in Docket No. ER93–924–000. Great Bay requests an effective date for the revisions of February 28, 1996.

Great Bay states copies of the filing were served on existing customers and on the New Hampshire Public Utilities Commission.

Comment date: April 4, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. South Carolina Electric & Gas Company

[Docket No. ER96–870–000]

Take notice that on March 15, 1996, South Carolina Electric & Gas Company (SCE&G), tendered for filing an amendment to a transmission service agreement dated January 1, 1996 between SCE&G and the South Carolina Public Service Authority under which SCE&G will provide specified transmission service to the Woodland Hills Substation effective January 1, 1996. SCE&G requests waiver of the Commission's notice requirements to implement the agreement as amended.

Comment date: April 4, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Duke/Louis Dreyfus Energy Services (New England) L.L.C.

[Docket No. ER96–1121–000]

Take notice that on March 18, 1996, Duke/Louis Dreyfus Energy Services (New England) L.L.C. (the Applicant) filed (1) additional exhibits to the prepared direct testimony of Mr. Boisvert enclosed with the original filing and (2) a revision to the Code of Conduct as originally filed. These enclosures are tendered as a supplement to the filing in response to a request by Staff.

The additional exhibits to Mr. Boisvert's testimony present the data already contained in his exhibits in the format which Staff has requested. The exhibits continue to show that Montaup Electric Company has only a small share of relevant generation markets.

The Applicant requests waiver of the 60-day notice requirement in order to allow the filing, as supplemented, to become effective on April 21, 1996, when the original filing was requested to become effective.

Comment date: April 4, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. New England Power Company

[Docket No. ER96–1162–000]

Take notice that on March 4, 1996, New England Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: April 4, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Nevada Power Company

[Docket No. ER96–1214–000]

Take notice that on March 1, 1996, Nevada Power Company tendered for filing supplemental information to its February 29, 1996, filing in the above-referenced docket.

Comment date: April 4, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. UtiliCorp United Inc.

[Docket No. ER96–1227–000]

Take notice that Missouri Public Service, a Division of UtiliCorp United Inc. (MPS) on March 1, 1996, tendered for filing an Amendment dated February 20, 1996 to the Transmission and Interconnection Agreement between MPS and Associated Electric Cooperative, Inc. (AEC) dated August 24, 1988 (the Agreement).

The filing states that the Amendment was entered into in order to add a new delivery point to the Agreement. No change in rates will occur as a result of the Amendment.

Copies of the filing were served upon AEC and the Missouri Public Service Commission.

Comment date: April 4, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Midwest Power Systems, Inc.

[Docket No. ER96–1252–000]

Take notice that on March 5, 1996, Midwest Power Systems, Inc. tendered for filing a Notice of Cancellation of FERC Rate Schedule No. 52.

Comment date: April 4, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. NEES Transmission Services, Inc., New England Power Company, Massachusetts Electric Company, The Narragansett Electric Company, and Granite State Electric Company

[Docket No. ER96–1309–000]

Take notice that on March 13, 1996, NEES Transmission Services, Inc. (NEES Trans) filed open access transmission tariffs and service agreements for point-to-point and network service. Concurrent with this filing the New England Electric System is seeking Securities and Exchange Commission approval to establish a transmission-only company and an affiliate of the New England Electric System. According to NEES Trans, it will assume control of the transmission facilities and transmission entitlements held by New England Power Company (NEP) and the distribution facilities of Massachusetts Electric Company (Mass Electric), The Narragansett Electric Company (Narragansett) and Granite State Electric Company (Granite State) for wholesale purposes. NEES Trans will henceforth be the sole provider of wholesale transmission and wholesale distribution services across the integrated network of the NEES Companies.

As part of the filing, NEP also filed relevant amendments to its FERC Electric Tariff, Original Volume No. 1, which provides all-requirements service, to begin the unbundling of that tariff.

NEES Trans and NEP also tendered for filing a series of contracts which support the unbundling of generation and transmission services. NEP, Mass Electric, Narragansett and Granite State tendered a Transmission and Distribution Support Agreement which authorizes this arrangement and provides for the rates to be charged to NEES Trans.

Comment date: April 4, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. TransAlta Enterprises Corporation

[Docket No. ER96–1316–000]

Take notice that on March 15, 1996, TransAlta Enterprises Corporation (TEN), tendered for filing pursuant to Rule 205, 18 CFR 385.205, a petition for waivers and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Rate Schedule No. 1 to be effective at the earliest possible date but no later than 60 days from the date of its filing.

TEN intends to engage in electric power and energy transactions as a marketer and a broker. In transactions where TEN sells electric energy, it proposes to make such sales on rates, terms, and conditions to be mutually agreed to with the purchasing party. As outlined in the petition, TEN is an affiliate of TransAlta Utilities Corporation, an integrated electric utility serving customers in Alberta, Canada.

Comment date: April 4, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. The Dayton Power and Light Co.

[Docket No. ER96–1317–000]

Take notice that on March 15, 1996, The Dayton Power and Light Company (Dayton), tendered for filing on an executed Master Electric Interchange Agreement between Dayton and Noram Energy Services (NES).

Pursuant to the rate schedules attached as Exhibit B to the Agreement Dayton will provide to NES power and/or energy for resale.

Comment date: April 4, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Louisville Gas and Electric Company

[Docket No. ER96–1318–000]

Take notice that on March 15, 1996, Louisville Gas and Electric Company, tendered for filing copies of service agreements between Louisville Gas and Electric Company and Enron Power Marketing, Inc. under Rate GSS.

Comment date: April 4, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. Louisville Gas and Electric Company

[Docket No. ER96–1319–000]

Take notice that on March 15, 1996, Louisville Gas and Electric Company, tendered for filing copies of service agreements between Louisville Gas and Electric Company and NorAm Energy Services under Rate GSS.

Comment date: April 4, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. Public Service Electric and Gas Company

[Docket No. ER96–1320–000]

Take notice that on March 15, 1996, Public Service Electric and Gas Company (PSE&G), tendered for filing, two transmission tariffs: a Point-to-Point Transmission Service Tariff and a Network Integration Service Transmission Tariff. PSE&G states that the tariffs are substantively identical to the Pro-Forma tariffs attached to the Commission's NOPR in Docket No. RM95–8–000. Copies of this filing have been served to the New Jersey Board of Public Utilities.

Comment date: April 4, 1996, in accordance with Standard Paragraph E at the end of this notice.

18. Tampa Electric Company

[Docket No. ER96–1321–000]

Take notice that on March 15, 1996, Tampa Electric Company (Tampa Electric), tendered for filing umbrella service agreements with InterCoast Power Marketing Company, Sonat Power Marketing, Inc., and the Utilities Commission, City of New Smyrna Beach under Tampa Electric's point-to-point transmission service tariff.

Tampa Electric proposes an effective date of March 12, 1996, for the service agreements, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served on each customer under the service agreements and the Florida Public Service Commission.

Comment date: April 4, 1996, in accordance with Standard Paragraph E at the end of this notice.

19. Wisconsin Electric Power Company

[Docket No. ER96–1322–000]

Take notice that on March 15, 1996, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing an Electric Service Agreement between itself and Utilicorp United. The Electric Service Agreement provides for service under Wisconsin Electric's Coordination Sales Tariff.

Wisconsin Electric requests an effective date of sixty days from the date of this filing. Copies of the filing have been served on Utilicorp United, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: April 4, 1996, in accordance with Standard Paragraph E at the end of this notice.

20. Interstate Power Company

[Docket No. ES96–20–000]

Take notice that on March 18, 1996, Interstate Power Company filed an application under § 204 of the Federal Power Act seeking authorization to issue up to $75 million of short-term debt on or before December 31, 1997, with final maturities not later than December 31, 1998.

Comment date: April 17, 1996, in accordance with Standard Paragraph E at the end of this notice.

21. AES Puerto Rico, L.P.

[Docket No. QF96–28–000]

On March 19, 1996, AES Puerto, L.P. tendered for filing an amendment to its filing in this docket.

The amendment pertains to information relating to the ownership and technical aspects of the facility. No determination has been made that this submittal constitutes a complete filing.

Comment date: April 12, 1996, in accordance with Standard Paragraph E at the end of this notice.

22. Trigen St. Louis, Inc.

[Docket No. TX96–8–000]

On March 19, 1996, Trigen St. Louis, Inc. (Trigen), One Ashley Place, St. Louis, Missouri, filed with the Federal Energy Regulatory Commission an application requesting that the Commission order Union Electric (UE) to provide transmission services pursuant to Section 211 of the Federal Power Act.

Trigen requests the Commission to issue a proposed order directing that UE provide Trigen with firm point-to-point service to move 57 MW from the facility site to UE's interconnection with CIPSCO, with nonfirm service to other interconnections. Moreover, the service should be provided under rates, terms and conditions comparable and equivalent to those being provided to other users of UE's transmission system, including UE. Service should begin fifteen (15) months after a transmission agreement is reached and continue for a fifteen (15) year period.

Comment date: April 19, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7432 Filed 3–26–96; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–181005; FRL 5358–1]

Carbofuran; Receipt of Application for Emergency Exemption, Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the Arkansas State Plant Board (hereafter referred to as the "Applicant") to use the pesticide flowable Carbofuran (Furadan 4F Insecticide/Nematicide) (EPA Reg. No. 279–2876) to treat up to 1 million acres of cotton to control cotton aphids. The Applicant proposes the use of a chemical which has been the subject of a Special Review within EPA's Office of Pesticide Programs, and the proposed use could pose a risk similar the risk assessed by EPA under the Special Review of granular carbofuran. Therefore, in accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments must be received on or before April 11, 1996.

ADDRESSES: Three copies of written comments, bearing the identification notation "OPP–181005," should be submitted by mail to: Public Response and Program Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–181005]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 1132, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: David Deegan, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Floor 6, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA, (703)308–8327; e-mail: deegan.dave@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Pursuant to Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at her discretion, exempt a state agency from any registration provision of FIFRA if she determines that emergency conditions exist which require such exemption. The Applicant has requested the Administrator to issue a specific exemption for the use of carbofuran on cotton to control aphids. Information in accordance with 40 CFR part 166 was submitted as part of this request.

As part of this request, the Applicant asserts that the state of Arkansas is likely to experience a non-routine infestation of aphids during the 1996 cotton growing season. The applicant further claims that, without a specific exemption of FIFRA for the use of flowable carbofuran on cotton to control cotton aphids, cotton growers in much of the state will suffer significant economic losses. The applicant also details a use program designed to minimize risks to pesticide handlers and applicators, non-target organisms (both Federally-listed endangered species, and non-listed species), and to reduce the possibility of drift and runoff.

The applicant proposes to make no more than two applications at the rate of 0.25 lb. active ingredient [(a.i.,)] (8 fluid oz.) in a minimum of 2 gallons of finished spray per acre by air, or 10 gallons of finished spray per acre by ground application. The total maximum proposed use during the 1996 growing season (June 1, 1996 until September 30, 1996) would be 0.5 lb. a.i. (16 fluid oz.) per acre. The applicant proposes that the maximum acreage which could be treated under the requested exemption would be 1 million acres. If all acres were treated at the maximum proposed rates, then 500,000 lbs. a.i. would be used.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require publication of a notice of receipt of an application for a specific exemption proposing use of a chemical (i.e., an active ingredient) which has been the subject of a Special Review within EPA's Office of Pesticide Programs, and the proposed use could pose a risk similar the risk assessed by EPA under the previous Special Review. Such notice provides for opportunity for public comment on the application.

A record has been established for this notice under docket number [OPP–181005] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI is available for inspection from 8 a.m to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document. Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the Arkansas State Plant Board.

List of Subjects

Environmental protection, Pesticides and pests, Emergency exemptions.

Dated: March 18, 1996.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 96–7446 Filed 3–26–96; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2323–012 and 2334–001]

New England Power Company, Western Massachusetts Electric Company; Notice of Intention To Hold a Public Meeting for Discussion of the Draft Environmental Impact Statement for the Deerfield River

March 21, 1996.

On February 29, 1996, the Commission staff mailed the Deerfield River Projects DEIS to the Environmental Protection Agency, resource and land management agencies, and interested organizations and individuals. This document evaluates the environmental consequences of the "Deerfield River Project, Offer of Settlement" and continuing the operation and maintenance of the existing Deerfield and Garners Falls Projects, in Massachusetts and Vermont.

The DEIS also evaluates the environmental effects of implementing the Deerfield River Project, Offer of Settlement; applicants' proposals supplemented with staff's recommended enhancement measures; and the no-action alternative.

A public meeting which will be recorded by an official stenographer, is scheduled on Tuesday April 9, 1996, from 7:00 p.m. to 9:00 p.m. at the Mohawk Trail Regional High School at 26 Ashfield Road, Shelburne Falls, Massachusetts, and Wednesday, April 10, 1996, from 7:00 p.m. to 9:00 p.m. at the Wilmington High School in Wilmington, Vermont.

At the meetings, all interested person will have an opportunity to provide oral and written comments regarding the Deerfield River Projects DEIS for the Commission's public record.

For further information, please contact Mr. R. Feller (Telephone 202–219–2796), or Mr. Bob Bell (Telephone 202 219–2806), Federal Energy Regulatory Commission, Office of Hydropower Licensing, 888 First Street, NE, Washington, DC, 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7349 Filed 3–26–96; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–181004; FRL 5356–8]

Dimethomorph; Receipt of Applications for Emergency Exemptions, Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received specific exemption requests from the North Carolina and Kentucky Departments of Agriculture (hereafter referred to as the "Applicants") to use the pesticide dimethomorph (CAS 110488–70–5) to treat up to 85,500 (NC) and 167,500 (KY) acres of tobacco to control metalaxyl - resistant blue mold. The Applicants propose the use of a new (unregistered) chemical; therefore, in accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemptions.

DATES: Comments must be received on or before April 11, 1996.

ADDRESSES: Three copies of written comments, bearing the identification notation "OPP–181004," should be submitted by mail to: Public Response

and Program Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–181004]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document. Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as (CBI).

Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 1132, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Libby Pemberton, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Floor 6, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA, (703) 308–8326; e-mail: pemberton.libby@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Pursuant to Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C.136p), the Administrator may, at her discretion, exempt a state agency from any registration provision of FIFRA if she determines that emergency conditions exist which require such exemption. The Applicants have requested the Administrator to issue specific exemptions for the use of dimethomorph on tobacco to control blue mold. Information in accordance with 40 CFR part 166 was submitted as part of these requests.

In 1995, a national epidemic of tobacco blue mold, caused by metalaxyl - resistant strains of the pathogen, occurred. Resistant strains are becoming more widely disseminated, a situation which is exacerbated with a protracted wet weather pattern. Previously, blue mold was controlled primarily by treatment with metalaxyl, with significant assistance from ferbam and mancozeb. A very high level of control was possible with these materials until metalaxyl - resistant strains appeared. Labeled pesticides made under ideal spray conditions but high disease pressure do not provide acceptable economic levels of control.

The Applicants state that presently, there are no fungicides registered in the U.S. that will provide adequate control of the metalaxyl - resistant strains of blue mold. The Applicants state that dimethomorph has been shown to be effective against these strains of blue mold. Dimethomorph holds current registrations throughout many European countries. The Applicants state that losses in 1995 were greater than $70 million in Kentucky and $9 million in North Carolina. To have another year of losses on this scale could mean bankruptcy for many of these farmers. Under appropriate conditions, it is possible that this disease could develop to epidemic proportions, causing major changes and losses to the U.S. tobacco industry.

The Applicants propose to apply dimethomorph at a maximum rate of 1.725 lbs. active ingredient (a.i.), [(2.5 lb. of product)] per acre, by ground with a maximum of 4 applications per crop, to a maximum of 85,500 acres of tobacco in North Carolina and 167,500 acres of tobacco in Kentucky.

This notice does not constitute a decision by EPA on the applications. The regulations governing section 18 require publication of a notice of receipt of an application for a specific exemption proposing use of a new chemical (i.e., an active ingredient not contained in any currently registered pesticide). Such notice provides for opportunity for public comment on the application.

A record has been established for this notice under docket number "OPP–181004" (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document. Accordingly, interested persons may submit written views on this subject to the Field OperationsDivision at the address above. The Agenoy, accordingly, will determine whether to issue the emergency exemptions requested by the North Carolina and Kentucky Departments of Agriculture.

List of Subjects

Environmental protection, Pesticides and pests, Emergency exemptions.

Dated: March 18, 1996.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 96–7447 Filed 3–26–96; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

FEDERAL REGISTER NUMBER: *96–7072.*

PREVIOUSLY ANNOUNCED DATE & TIME: *Tuesday, March 26, 1996, 10:00 a.m.; Meeting Closed to the Public.*

This Meeting Has Been Canceled.

PREVIOUSLY ANNOUNCED DATE & TIME: *Thursday, March 28, 1996, 10:00 a.m.; Meeting Open to the Public.*

THE FOLLOWING ITEM WAS ADDED TO THE AGENDA: FEC FORM 5, Report of Independent Expenditures Made and Contributions Received.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 219–4155.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 96–7567 Filed 3–25–96; 11:58 am]

BILLING CODE 6715–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1103–DR]

North Carolina; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of North Carolina, (FEMA–1103–DR), dated February 23, 1996, and related determinations.

EFFECTIVE DATE: March 19, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of North Carolina, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 23, 1996:

Yancey County for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96–7404 Filed 3–26–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1099–DR]

Oregon; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Oregon, (FEMA–1099–DR), dated February 9, 1996, and related determinations.

EFFECTIVE DATE: March 19, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Oregon, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 9, 1996:

Wheeler County for Public Assistance and Hazard Mitigation.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96–7401 Filed 3–26–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1100–DR]

Washington; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Washington, (FEMA–1100–DR), dated February 9, 1996, and related determinations.

EFFECTIVE DATE: March 18, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Washington, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 9, 1996:

Spokane County for Individual Assistance, Public Assistance and Hazard Mitigation Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96–7402 Filed 3–26–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1100–DR]

Washington; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Washington (FEMA–1100–DR), dated February 9, 1996, and related determinations.

EFFECTIVE DATE: March 19, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective February 23, 1996.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96–7403 Filed 3–26–96; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 800 North Capitol Street, NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appeärs. The requirements for comments are found in section 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 203–01130–007.

Title: Information System Agreement.

Parties:

A.P. Moller-Maersk Line
Crowley Maritime Corporation
P&O Containers, Ltd.
American President Lines, Ltd.
Sea-Land Service, Inc.
Hapag-Lloyd AG
Orient Overseas Container, Inc.
Lykes Bros. Steamship Co., Inc.
Nedlloyd (USA) Corp.
Kawasaki Kisen Kaisha

Synopsis: The proposed amendment expands the member's authority to discuss and agree on ways to reduce their costs' of operation and cooperate in the acquisition of goods and services used in their operations.

Agreement No.: 232–011535.
Title: Central American Space Charter Agreement.
Parties:
Tropical Shipping and Construction Co., Ltd.
Southeastern Shipping Line, Ltd.

Synopsis: The proposed Agreement permits the parties to charter space to and from one another, consult and agree upon the deployment and utilization of vessels, and to rationalize sailings in the trade between U.S. Atlantic and Gulf Coast ports and points, and ports and points in El Salvador, Honduras, Guatemala, and Nicaragua.

Agreement No.: 203–011536.
Title: Grand Alliance Agreement.
Parties:
Hapag-Lloyd Aktiengesellchaft
Neptune Orient Lines, Ltd.
Nippon Yusen Kaisha
P&O Containers Limited

Synopsis: The proposed Agreement permits the parties to charter vessel and vessel space to and from one another, consult and agree upon the deployment and utilization of vessels. The parties are also authorized to enter into service contracts in the trade between U.S. Atlantic, Gulf (Portland, Maine to and including Brownsville, Texas range and Puerto Rico) and Pacific Coast (including Hawaii and Alaska) ports and points, on the one hand, and port and points in the Far East, South East Asia, South West Asia, the Arabian Gulf, Red Sea, Gulf of Oman, Europe, Canada, and Mexico, on the other hand.

By Order of the Federal Maritime Commission.

Dated: March 22, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 96–7457 Filed 3–26–96; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 11, 1996.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Anthony A. & Mary E. Anderson, Mobridge, South Dakota; to acquire a total of 6.66 percent; Kelly L. & Shelly D. Christianson, Hot Springs, South Dakota, to acquire a total of 8.67 percent; Danny B. & Rebecca J. Decker, Casper, Wyoming, to acquire a total of 4.33 percent; Kenny L. & Barbara B. DeGering, Lusk, Wyoming, to acquire a total of 8.67 percent; Kenny G. & Linda M. Decker, Lusk, Wyoming, to acquire a total of 4.33 percent; Thomas D. & Candace L. Dooper, Lusk, Wyoming, to acquire a total of 8.67; Jay E. & Leslie L. Hammond, Lusk, Wyoming, to acquire a total of 4.33 percent; Ralph K. Hammond Trust, Ralph K. Hammond, trustee, both of Loveland, Colorado, to acquire 4.33 percent; Henry Dale & Janice K. Hytrek, Lusk, Wyoming, to acquire a total of 6.66 percent; Eugene L. & Carol A. Kupke, Lusk, Wyoming, to acquire a total of 8.67 percent; Norbanc Group, Inc., Pine River, Minnesota, to acquire a total of 8.67 percent; Jacob E. & Lorrie K. Reed, Lusk, Wyoming, to acquire a total of 8.67 percent; Joel D. & Laurie J. Wasserburger, Lusk, Wyoming, to acquire a total of 8.67 percent; and Thomas L. & Valerie A. Wasserburger, Lusk, Wyoming, to acquire a total of 8.67 percent, of the voting shares of Banker's Capital Corporation, Lusk, Wyoming, and thereby indirectly acquire Lusk State Bank, Lusk, Wyoming.

Board of Governors of the Federal Reserve System, March 22, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–7433 Filed 3–26–96; 8:45 am]

BILLING CODE 6210–01–F

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices" (12 U.S.C. 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 19, 1996.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Firstar Corporation, Milwaukee, Wisconsin, and *Firstar Corporation of Minnesota,* Milwaukee, Wisconsin; to merge with Jacob Schmidt Company, St. Paul, Minnesota, and American Bancorporation, Inc., St. Paul, Minnesota, and thereby indirectly acquire American Bank, N.A., St. Paul, Minnesota; American Commercial Bank, St. Paul, Minnesota; American Bank Lake City, Lake City, Minnesota; and American Bank Moorhead, Moorhead, Minnesota.

In connection with this application, Applicants also have allied to acquire American Credit Corporation, St. Paul, Minnesota, and Lake City Agency, Inc., Lake City, Minnesota, and thereby engage in making and servicing loans, pursuant to § 225.25(b)(1)(iv) of the Board's Regulation Y; and in insurance agency activities, pursuant to § 225.25(b)(8)(iv) of the Board's Regulation Y.

B. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Security Bank Holding Company, and Security Bank Holding Company Employee Stock Ownership Plan, both of Coos Bay, Oregon; to acquire not less than 51 percent of the voting shares of Lincoln Security Bank, Newport, Oregon (in organization).

Board of Governors of the Federal Reserve System, March 21, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–7321 Filed 3–26–96; 8:45 am]

BILLING CODE 6210–01–F

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices" (12 U.S.C. 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 22, 1996.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Figge Bancshares, Inc., Davenport, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of Ossian State Bank, Ossian, Iowa, and thereby indirectly acquire Iowa State Bank, Calmar, Iowa.

Board of Governors of the Federal Reserve System, March 22, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–7434 Filed 3–26–96; 8:45 am]

BILLING CODE 6210–01–F

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo,* or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.25 of Regulation Y (12 CFR 225.25) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act, including whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices" (12 U.S.C. 1843). Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 9, 1996.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Norwest Corporation, Minneapolis, Minnesota; to engage *de novo* through its subsidiary, Next Home Mortgage, Clive, Iowa, in residential mortgage lending business, pursuant to § 225.25(b)(1) of the Board's Regulation Y. The co-venturers will be Norwest Ventures, Inc. and Next Generation Realty, Inc., Clive, Iowa.

Board of Governors of the Federal Reserve System, March 21, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–7322 Filed 3–26–96; 8:45 am]

BILLING CODE 6215–01–F

FEDERAL TRADE COMMISSION

[File No. 932–3176]

The Diet Workshop, Inc.; The Diet Workshop of Boston, Inc.; Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit the respondents from misrepresenting the results of any weight loss program they offer, require them to have scientific data to back up any claims about weight loss and maintenanco, and

mandate that they make certain disclosures in connection with maintenance and other claims. The consent agreement settles allegations that the respondents engaged in deceptive advertising by making unsubstantiated weight loss and weight-loss maintenance claims and by implying, without substantiation, that the consumer testimonials they used represented the typical experience of dieters on the programs.

DATES: Comments must be received on or before May 28, 1996.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Andrew D. Caverly, Boston Regional Office, Federal Trade Commission, Suite 810, 101 Merrimac Street, Boston, MA 02114–4719, 617–424–5960.

Gary Cooper, Boston Regional Office, Federal Trade Commission, Suite 810, 101 Merrimac Street, Boston, MA 02114–4719, 617–424–5960.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

In the Matter of The Diet Workshop, Inc., and The Diet Workshop of Boston, Inc., corporations.

[File No. 932–3176]

Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of The Diet Workshop, Inc. and The Diet Workshop of Boston, Inc., corporations (collectively referred to as "proposed respondents"), and it now appearing that proposed respondents are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It Is Hereby Agreed by and between The Diet Workshop, Inc., and The Diet Workshop of Boston, Inc., by their duly authorized officers, and their attorneys, and counsel for the Federal Trade Commission that:

1. Proposed respondents are Massachusetts corporations, with their principal office or place of business located at 1 University Office Park, 29 Sawyer Road, Waltham, Massachusetts 02154.

2. Proposed respondents admit all the jurisdictional facts set forth in the attached draft complaint.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this agreement; and

(b) Any claim under the Equal Access to Justice Act, 5 U.S.C. 504.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the attached draft complaint, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposed only and does not constitute an admission by proposed respondents of facts, other than jurisdictional facts, or of violations of law as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to purposed respondents: (a) issue its complaint corresponding in form and substance with the attached draft complaint and its decision containing the following order to cease and desist in disposition of the proceeding; and (b) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time frame provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondents' addresses as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the attached draft complaint and the following order. Proposed respondents understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

Definitions

For the purposes of this Order, the following definitions shall apply:

A. *Competent and reliable scientific evidence* shall mean those tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the relevant profession to yield accurate and reliable results;

B. *Weight loss program* shall mean any program designed to aid consumers in weight loss or weight maintenance;

C. A *broadcast medium* shall mean any radio or television broadcast, cablecast, home video or theatrical release;

D. For any Order-required disclosure in a print medium to be made *clearly and prominently* or in a *clear and prominent* manner, it must be given both in the same type style and in: (1) twelve (12) point type where the representation that triggers the disclosure is given in twelve (12) point or larger type; or (2) the same type size as the representation that triggers the disclosure where that representation is given in a type size that is smaller than twelve (12) point type. For any Order-required disclosure given orally in a broadcast medium to be made *clearly and prominently* or in a *clear and prominent* manner, the disclosure must be given at the same volume and in the same cadence as the representation that triggers the disclosure;

E. A *short broadcast advertisement* shall mean any advertisement of thirty seconds or less duration made in a broadcast medium.

I

It is ordered that respondents, The Diet Workshop, Inc. and The Diet Workshop of Boston, Inc., corporations, their successors and assigns, and their officers, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, including franchisees or licensees, in connection with the advertising, promotion, offering for sale, or sale of any weight loss program in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Making any representation, directly or by implication, about the success of participants on any weight loss program in achieving or maintaining weight loss or weight control unless, at the time of making any such representation, respondents possess and rely upon competent and reliable scientific evidence substantiating the representation, *provided, further,* that for any representation that:

(1) Any weight loss achieved or maintained through the weight loss program is typical or representative of all or any subset of participants using the program, said evidence shall, at a minimum, be based on a representative sample of:

(a) All participants who have entered the program, where the representation relates to such persons; *provided, however,* that the required sample may exclude those participants who dropped out of the program within two weeks of their entrance, or who were unable to complete the program due to illness; pregnancy, or change of residence; or

(b) All participants who have completed a particular phase of the program or the entire program, where the representation *only* relates to such persons;

(2) Any weight loss is maintained long-term, said evidence shall, at a minimum, be based upon the experience of participants who were followed for a period of at least two years from their completion of the active maintenance phase of respondents' program or earlier termination, as applicable; and

(3) Any weight loss is maintained permanently, said evidence shall, at a minimum, be based upon the experience of participants who were followed for a period of time after completing the program that is either:

(a) Generally recognized by experts in the field of treating obesity as being of sufficient length for predicting that weight loss will be permanent, or

(b) Demonstrated by competent and reliable survey evidence as being of sufficient duration to permit such a prediction.

B. Representing, directly or by implication, except through endorsements or testimonials referred to in paragraph I.E. herein, that participants of any weight loss program have successfully maintained weight loss, unless respondents disclose, clearly and prominently, and in close proximity to such representation, the statement: "For many dieters, weight loss is temporary."; *provided, further,* that respondents shall not represent, directly or by implication, that the above-quoted statement does not apply to dieters in respondents' weight loss program; *provided, however,* that a mere statement about the existence, design, or content of a maintenance program shall not, without more, be considered a representation that participants of any weight loss program have successfully maintained weight loss.

C. Representing, directly or by implication, except through short broadcast advertisements referred to in paragraph I.D. herein, and except through endorsements or testimonials referred to in paragraph I.E. herein, that participants of any weight loss program have successfully maintained weight loss, unless respondents disclose, clearly and prominently, and in close proximity to such representation, the following information:

(1) The average percentage of weight loss maintained by those participants;

(2) The duration over which the weight loss was maintained, measured from the date that participants ended the active weight loss phase of the program, *provided, further,* that if any portion of the time period covered includes participation in a maintenance program(s) that follows active weight loss, such fact must also be disclosed; and

(3) If the participant population referred to is not representative of the general participant population for respondents' programs:

(a) The proportion of the total participant population in respondents' programs that those participants represent, expressed in terms of a percentage or actual numbers of participants, or

(b) The statement: "Diet Workshop makes no claim that this [these] result[s] is [are] representative of all participants in the Diet Workshop program.";

Provided, further, that compliance with the obligations of this paragraph I.C. in no way relieves respondents of the requirement under paragraph I.A. of this Order to substantiate any representation about the success of participants on any weight loss program in maintaining weight loss.

D. Representing, directly or by implication, or short broadcast advertisements, that participants of any weight loss program have successfully maintained weight loss, unless respondents:

(1) include, clearly and prominently, and in immediate conjunction with such representation, the statement: "Check at our clinics for details about our maintenance record.";

(2) for a period of time beginning with the date of the first broadcast of any such advertisement and ending no sooner than thirty days after the last broadcast of such advertisement, comply with the following procedures upon the first presentation of any form asking for information from a potential client, but in any event before such person has entered into any agreement with respondents:

(a) Give to each potential client a separate document entitled "Maintenance Information," which shall include all the information required by paragraph I.B. and subparagraphs I.C. (1)–(3) of this Order and shall be formatted in the exact type size and style as the example form below, and shall include the heading (Helvetica 14 pt. bold), lead-in (Times Roman 12 pt.), disclosures (Helvetica 14 pt. bold), acknowledgement language (Times Roman 12 pt.) and signature block therein; *provided, further,* that no information in addition to that required to be included in the document required by this subparagraph I.D. (2) shall be included therein:

MAINTENANCE INFORMATION

You may have seen our recent ad about maintenance success. Here's some additional information about our maintenance record.

[Disclosure of maintenance statistics goes here

For many dieters, weight loss is temporary.

I have read this notice.

(Client Signature) (Date)

(b) Require each potential client to sign such document; and

(c) Give each client a copy of such document; and

Provided, however, that if any potential participant who does not then participate in the program refuses to sign or accept a copy of such document, respondents shall so indicate on such document and shall not, for that reason alone, be found in breach of this subparagraph I.D.(2); and

(3) Retain in each client file a copy of the signed maintenance notice required by this paragraph;

Provided, further, that:

(i) Compliance with the obligations of this paragraph I.D. in no way relieves respondents of the requirement under paragraph I.A. of this Order to substantiate any representation about the success of participants on any weight loss program in maintaining weight loss; and

(ii) Respondents must comply with both paragraph I.D. and paragraph I.C. of this Order if respondents include in any such short broadcast advertisement a representation about maintenance success that states a number or percentage, or uses descriptive terms that convey a quantitive measure such as "most of our customers maintain their weight loss long-term"; and

provided, however, that the provisions of paragraph I.D. shall not apply to endorsements or testimonials referred to in paragraph I.E. herein.

E. Using any advertisement containing an endorsement or testimonial about weight loss success or weight loss maintenance success by a participant or participants of respondent's weight loss program if the weight loss success or weight loss maintenance success depicted in the advertisement is not representative of what participants in respondents' weight loss programs generally achieve, unless respondents disclose, clearly and prominently, and in close proximity to the endorser's statement of his or her weight loss success or weight loss maintenance success:

(1) What the generally expected success would be for Diet Workshop customers in losing weight or maintaining achieved weight loss; *provided, however,* that in determining the generally expected success for Diet Workshop customers respondents may exclude those customers who dropped out of the program within two weeks of their entrance or who were unable to complete the program due to illness, pregnancy, or change of residence; or

(2) One of the following statements:

(a) "You should not expect to experience these results."

(b) "This result is not typical. You may not do as well."

(c) "This result is not typical. You May be less successful."

(d) "_____'s success is not typical. You may do not as well."

(e) "_____'s experience is not typical. You may achieve less."

(f) "Results not typical."

(g) "Results not typical of program participants.";

Provided, further, that is the endorsements or testimonials covered by this paragraph are made in a broadcast medium, any disclosure required by this paragraph must be communicated in a clear and prominent manner and in immediate conjunction with the representation that triggers the disclosure; and *provided, however,* that:

(i) For endorsements or testimonials about weight loss success, respondents can satisfy the requirements of subparagraph I.E.(1) by accurately disclosing the generally expected success in the following phrase: "Diet Workshop clients lose an average of __ pounds over an average __ week treatment period"; and

(ii) If the weight loss success or weight loss maintenance success depicted in the advertisement is representative of what participants of a group or subset clearly defined in the advertisement generally achieve, then, in lieu of the disclosures required in either subparagraph I.E. (1) or (2) herein, respondents may substitute a clear and prominent disclosure of the percentage of all of respondents' customers that the group or subset defined in the advertisement represents.

F. Representing, directly or by implication, the rate or speed at which participants or prospective participants in any weight loss program have lost or will lose weight, unless at the time of making such representation, respondents possess and rely upon competent and reliable scientific evidence substantiating the representation.

G. Representing, directly or by implication, that participants or prospective participants in respondents' weight loss programs have reached or will reach a specified weight within a specified time period, unless at the time of making such representation, respondents possess and rely upon competent and reliable scientific evidence substantiating the representation.

H. Failing to disclose, clearly and prominently, either (1) to each participant who, after the first two weeks on the program, is experiencing average weekly weight loss that exceeds two percent (2%) of said participant's initial body weight, or three pounds, whichever is less, for at least two consecutive weeks, or (2) in writing to all participants, when they enter the program, that failure to follow the diet instructions and consume the total caloric intake recommended may involve the risk of developing serious health complications.

I. Misrepresenting, directly or by implication, the existence, contents, validity, results, conclusions, or interpretations of any test or study.

J. Misrepresenting, directly or by implication, the performance, efficacy, or benefits of any weight loss program or weight loss product.

II

It is further ordered that respondents shall notify the Commission at least thirty (30) days prior to the effective date of any proposed change in the corporate respondents such as dissolution, assignment, or sale resulting in the emergence of a successor corporation(s), the creation or dissolution of subsidiaries, or any other change in the corporations that may affect compliance obligations arising out of this Order.

III

It is further ordered that for three (3) years after the last date of dissemination of any representation covered by this Order, respondents, or their successors and assigns, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. All materials that were relied upon in disseminating such representation; and

B. All test, reports, studies, surveys, demonstrations or other evidence in their possession or control that contradict, qualify, or call into question such representation, or the basis relied upon for such representation, including complaints from consumers.

IV

It is further ordered that respondents shall distribute a copy of this Order to each of their officers, agents, representatives, independent contractors and employees, who is involved in the preparation and placement of advertisements or promotional materials or in communication with customers or prospective customers or who have any responsibilities with respect to the subject matter of this Order, and, for a period of five (5) years from the date of entry of this Order, distribute same to all future such officers, agents, representatives, independent contractors and employees.

V

It is further ordered that:

A. Respondents shall distribute a copy of this Order to each of their franchisees and licensees and shall contractually bind them to comply with the prohibitions and affirmative requirements of this Order; respondents may satisfy this contractual requirement by incorporating such Order requirements into their current Operations Manuals or, if they do not have a current Operations Manual, by notifying their franchisees and licensees that failure to comply with the provisions of this Order is at variance with respondents' methods, standards, and specifications for proper conduct of the franchisee's business under the franchise agreement; and

B. Respondents shall further make reasonable efforts to monitor their franchisees' and licensees' compliance with the Order provisions; respondents may satisfy this requirement by: (1) Taking reasonable steps to notify promptly any franchisee or licensee that respondents determine is failing materially or repeatedly to comply with any order provision; (2) providing the Federal Trade Commission with the name and address of the franchisee or licensee and the nature of the noncompliance if the franchisee or licensee fails to comply promptly with the relevant Order provision after being so notified; and (3) in cases where that franchisee's or licensee's conduct constitutes a material or repeated violation of the order, diligently pursuing reasonable and appropriate remedies available under their franchise or license agreements and applicable state law to bring about a cessation of that conduct by the franchisee or licensee; provided, however, that respondents' compliance with this Part shall constitute an affirmative defense to any civil penalty action arising from an act or practice of one of respondents' franchisees or licensees that violates this Order where respondents: (a) have not authorized, approved or ratified that conduct; (b) have reported that conduct promptly to the Federal Trade Commission under this Part; and (c) in cases where that franchisee's or licensee's conduct constitutes a material or repeated violation of the Order, have diligently pursued reasonable and appropriate remedies available under the franchise or license agreement and applicable state law to bring about a cessation of that conduct by the franchisee or licensee.

VI

This order will terminate twenty years from the date of its issuance, or twenty years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

A. Any paragraph in this order that terminates in less than twenty years;

B. This order's application to any respondent that is not named as a defendant in such complaint; and

C. This order if such complaint is filed after the order has terminated pursuant to this paragraph.

Provided further, that if such complaint is dismissed or a federal court rules that the respondents did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this paragraph as though the complaint was never filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

VII

It is further ordered that respondents shall, within sixty (60) days after the date of service of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from The Diet Workshop, Inc. and The Diet Workshop of Boston, Inc. (hereinafter "Diet Workshop" or "respondents"), marketers of the Diet Workshop low-calorie diet (hereinafter "LCD") program. The Diet Workshop diet program is offered to the public throughout much of the United States through company-owned and franchised centers.

The proposed consent order has been placed on the public record for sixty (60) days for the reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Commission's complaint in this matter charges that the proposed respondents have made deceptive claims regarding the success consumers have had losing weight on the respondents' LCD programs, and maintaining their weight loss. Respondents also are charged with having made deceptive claims regarding the rate at which consumers lose weight while on the respondent's "Quick Loss" LCD program. Finally, the complaint alleges that the respondents have engaged in the deceptive practice of failing to warn consumers whose weight loss progress the respondents monitored of the importance to their health of consuming all of the food called for in the diet instructions.

Success

The complaint alleges that the proposed respondents have represented, directly or by implication, that most consumers using the Diet Workshop LCD programs (1) reach their weight loss goals and (2) maintain their weight loss either long-term or permanently. The complaint charges that, at the time they were made, the respondents did not possess or rely upon a reasonable basis for these representations.

The complaint alleges further that the respondents have represented, directly or by implication, that testimonials from consumers appearing in advertisements and promotional materials for the Diet Workshop LCD programs reflect the typical or ordinary experience of members of the public who have used the programs. The complaint charges that the respondents failed to possess or rely upon a reasonable basis for these representations.

The proposed consent order seeks to address the alleged success misrepresentations cited in the proposed complaint in several ways. First, the order (Part I.A.) requires Diet Workshop to possess a reasonable basis consisting of competent and reliable scientific evidence substantiating any claim about the success of participants in any diet program in achieving or maintaining weight loss. To ensure compliance, the order further specifies what this level of evidence shall consist of when certain types of success claims are made:

(1) In the case of claims that weight loss is typical or representative of all participants using the program or any subset of those participants, that evidence shall be based on a representative sample of: (a) All participants who have entered the program, where the representation relates to such persons; or (b) all participants who have completed a

particular phase of the program or the entire program, where the representation *only* relates to such persons.

(2) In the case of claims that any weight loss is maintained long-term, that evidence shall be based upon the experience of participants who were followed for a period of at least two years after their completion of the respondents' program, including any periods of participation in respondents' maintenance program.

(3) In the case of claims that weight loss is maintained permanently, that evidence shall be based upon the experience of participants who were followed for a period of time after completing the program that is either: (a) Generally recognized by experts in the field of treating obesity as being of sufficient length to constitute a reasonable basis for predicting that weight loss will be permanent; or (b) demonstrated by competent and reliable survey evidence as being of sufficient duration to permit such a prediction.

Second, as measures to ensure future compliance, the proposed order requires the proposed respondents for any claim that participants of any diet program have successfully maintained weight loss to disclose the fact that "For many dieters, weight loss is temporary" (Part I.B.), as well as the following information relating to that claim (Part I.C.):

(1) The average percentage of weight loss maintained by those participants (e.g., "60% of achieved weight loss was maintained"),

(2) The duration over which the weight loss was maintained, measured from the date that participants entered the active weight loss phase of the program, and the fact that all or a portion of the time period covered includes participation in proposed respondents' maintenance program(s) that follows active weight loss, if that is the case—e.g., "participants maintain an average of 60% of weight loss 22 months after active weight loss (includes 18 months on maintenance program)", and

(3) Where the participant population referred to is not representative of the general participant population for that program, the proportion of the total participant population that those participants represent, expressed in terms of a percentage or actual numbers of participants—e.g. "Participants on maintenance—30% of our clients—kept off an average of 66% of the weight for one year (includes time on maintenance program)" or, in lieu of that factual disclosure, the statement: "Diet Workshop makes no claim that this result is representative of all participants in the Diet Workshop program."

Third, for maintenance success claims made in broadcast advertisements of thirty seconds or less duration, the proposed order (Part I.D.) requires that Diet Workshop, in lieu of making the factual disclosures required for such claims by Part I.C.: (1) Include in such advertisements the statement "Check at our centers for details about our maintenance record."; and (2) provide consumers at point-of-sale with a required form that includes the factual disclosures required by Part I.C., which form must be signed by the client and retained in the respondents' client file.

The proposed order makes clear that this alternative disclosure requirement does not relieve Diet Workshop of the obligation to substantiate any maintenance success claim, in accordance with Part I.A. of the order, and it "takes back" the exception from full quantiative disclosures in short broadcast advertising if Diet Workshop makes a maintenance success claim that uses numbers or descriptive terms that convey a quantitative measure, such as "most of our customers maintain their weight loss long term." Diet Workshop in that case would have to make all the required disclosures in the ad and provide the disclosures at point-of-sale.

Fourth, for weight loss and weight loss maintenance success claims made through endorsements or testimonials that are not representative of what Diet Workshop diet program participants generally achieve, the order (Part I.E.) requires that Diet Workshop disclose either what the generally expected success would be for Diet Workshop customers, or one of several alternative statements, such as "This result is not typical. You may be less successful", which explains the limited applicability of atypical testimonials in accordance with the Commission's "Guides Concerning Use of Endorsements and Testimonals in Advertising" 16 C.F.R. 255.2 (a). Under the proposed order, Diet Workshop may satisfy the requirements of the first disclosure concerning generally expected success by accurately disclosing those facts in the following format: "Diet Workshop clients lose an average of _____ pounds over an average _____—week treatment period."

Finally, the proposed order (Parts I.I. and I.J.) generally prohibits the respondents from misrepresenting (1) the existence, contents, validity, results, conclusions, or interpretations of any test or study; and (2) the performance, efficacy, or benefits of any weight loss program or product.

Rate of Weight Loss

The complaint alleges that the proposed respondents have represented, directly or by implication, that an appreciable number of consumers using the Diet Workshop's "Quick Loss" LCD program lose up to 20 pounds in a six-week period. The complaint charges that, at the time this representation was made, the respondents did not possess or rely upon a reasonable basis for the representation.

The proposed consent order (Part I.F.) prohibits Diet Workshop from representing the rate or speed at which participants in its LCD programs will lose weight, unless at the time of making such representation, Diet Workshop possesses and relies upon competent and reliable scientific evidence substantiating the representation. In addition, the proposed order (Part I.G.) prohibits Diet Workshop from representing that participants or prospective participants in Diet Workshop LCD programs will reach a specified weight within a specified period of time, unless at the time of making such representation, respondents possess and rely upon competent and reliable scientific evidence substantiating the representation.

Monitoring Practices

According to the complaint, Diet Workshop provides its customers with diet instructions that require the customers to come in to one of the proposed respondents' centers once a week for monitoring of their progress, including weighing in. It is further alleged that in the course of regularly ascertaining weight loss progress, respondents, in some instances, are presented with weight loss results indicating that customers are losing weight significantly in excess of their projected goals, which is an indication that they may not be consuming all of the food prescribed by their diet instructions. According to the complaint, such conduct, if not corrected promptly, could result in health complications. In light of this monitoring practice, the Commission's complaint alleges that Diet Workshop has failed to disclose to customers who are losing weight significantly in excess of their projected goals that failing to follow the diet instructions and consume all of the food prescribed could result in health complications.

The proposed consent order seeks to address this alleged deceptive practice in two ways. First, the order (Part I.H.) requires respondents to disclose in writing either (1) to each participant who, after the first two weeks on the program, is experiencing average weekly weight loss that exceeds two percent (2%) of said participants' initial body weight, or three pounds, whichever is less, for at least two consecutive weeks, or (2) to all participants when they enter the program, that failure to follow the diet instructions and consume the total caloric intake recommended may involve the risk of developing serious health complications. Second, the proposed order (Part I.J.) generally prohibits any misrepresentation concerning the safety of any weight loss program.

Compliance

Parts II, III, IV, V and VII of the proposed order are compliance reporting provisions that require the respondents to: notify the Commission of any changes in the structure of the respondents that may affect their compliance obligations under the order; retain all records that would bear on the respondents' compliance with the order; distribute copies of the order to the respondents' operating divisions and to those persons responsible for the preparation and review of advertising material covered by the order; distribute a copy of the order to each of the respondents' franchisees and licenses, take steps to contractually bind the franchisees and licensees to the order, and take certain additional steps designed to encourage or require the franchisees and licensees to comply with the order; and report to the Commission their compliance with the terms of the order.

Part VI of the proposed order provides generally that the proposed order will sunset twenty years from the date of issuance, unless a complaint to enforce the order (with or without an accompanying consent decree) was/is filed while the order was/is in force. In such a case, the order sunsets twenty years after the filing of the complaint.

The purpose of this analysis is to facilitate public comment on the proposed interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 96–7294 Filed 3–20–96; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Statement of Organization, Functions and Delegations of Authority

Part H, Chapter HB (Health Resources and Services Administration) of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (47 FR 39409–24, August 31, 1982, as amended most recently at 61 FR 1595 dated January 22, 1996) is amended to reflect the name change for the Division of Personnel within the Office of Operations and Management, Office of the Administrator, Health Resources and Services Administration (HRSA).

Under HB–10, Organization and Functions, amend the functional statements for the *Office of Operations and Management (HBA4)* as follows:

(1) Delete the functional statements for the *Division of Personnel (HBA44);* and

(2) Add the following functional statement immediately after the functional statement for the *Division of Financial Management (HBA43):*

Office of Human Resources and Development (HBA44). Provides Agency wide personnel management assistance to all Health Resources and Services Administration employees, both headquarters and field. Specifically: (1) Plans, conducts and evaluates the Agency's human resource studies, programs, policies and reports; (2) provides advice and assistance to management officials on individual actions arising from headquarters and field components; (3) administers the Agency's training functions; (4) acts as the focal point for the agency's labor relations activities; (5) develops and provides guidelines and regulations for the Agency's personnel programs; (6) administers the Agency's Ethics Program; (7) administers the Agency's merit and performance awards programs; (8) plans, directs and administers the appointing and processing of civil service employees; (9) plans and conducts position management surveys; (10) operates and oversees the Agency's merit promotion program; (11) manages and coordinates the Agency's personnel security program; (12) ensures that management practices and policies related to the Commissioned Corps are coordinated throughout the Agency; (13) and ensures compliance with established personnel rules and regulations governing HRSA.

Delegation of Authority. All delegations and redelegations of authorities to officers and employees of the Health Resources and Services Administration which were in effect immediately prior to the effective date of this consolidation will be continued in effect in them or their successors, pending further redelegation, provided they are consistent with this consolidation.

This consolidation is effective upon date of signature.

Dated: March 14, 1996.

Ciro V. Sumaya,

Administrator.

[FR Doc. 96–7308 Filed 3–26–96; 8:45 am]

BILLING CODE 4160–15–M

Centers for Disease Control and Prevention

Advisory Council for the Elimination of Tuberculosis: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following council meeting.

Name: Advisory Council for the Elimination of Tuberculosis (ACET).

Times and Dates: 8:30 a.m.–5p.m., April 25, 1996; 8:30 a.m.–1 p.m., April 26, 1996.

Place: Corporate Square Office Park, Corporate Square Boulevard, Building 11, Room 1413, Atlanta, Georgia 30329.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 100 people.

Purpose: This council advises and makes recommendations to the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the elimination of tuberculosis. Specifically, the Council makes recommendations regarding policies, strategies, objectives, and priorities; addresses the development and application of new technologies; and reviews the extent to which progress has been made toward eliminating tuberculosis.

Matters to be Discussed: Agenda items include: an update on research and TB among the foreign-born; considerations for managed care; newly approved rapid diagnostic tests for TB; recommendations for public health advocacy in TB during continuing decreases in morbidity trends; organizational approaches to community-based TB control in a managed care environment; challenges for local health departments in TB control at a community level managed care environment; and a pilot study of the effects of Medicaid managed care on structures, processes, and outcomes relevant to community-wide TB prevention and control.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Tracy Whitnell, Program Analyst, National

Center for HIV/STD/TB Prevention, 1600 Clifton Road, NE, M/S E–07, Atlanta, Georgia 30333, telephone 404/639–8006.

Dated: March 21, 1996.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–7387 Filed 3–26–96; 8:45 am]

BILLING CODE 4163–18–M

National Committee on Vital and Health Statistics (NCVHS) Subcommittee on Mental Health Statistics: Meeting

Pursuant to Pub. L. 92–463, the National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC), announces the following subcommittee meeting.

Name: NCVHS Subcommittee on Mental Health Statistics.

Time and Date: 9 a.m.–5 p.m., May 2, 1996.

Place: Room 503A–529A, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

Status: Open.

Purpose: The Subcommittee will continue working on enrollment and encounter data, and receive updates on Federal developments.

Notice: In the interest of security, the Department has instituted stringent procedures for entrance to the Hubert H. Humphrey Building by non-government employees.

Thus, persons without a government identification card should plan to arrive at the building either between 8:30 and 9 a.m. or 12:30 and 1 p.m. so they can be escorted to the meeting. Entrance to the meeting at other times during the day cannot be assured.

Contact Person for More Information: Substantive program information as well as summaries of the meeting and a roster of committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone number 301/436–7050.

Dated: March 19, 1996.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–7314 Filed 3–26–96; 8:45 am]

BILLING CODE 4163–18–M

Administration for Children and Families

Federal Allotments to State Developmental Disabilities Councils and Protection and Advocacy Formula Grant Programs for Fiscal Year 1997

AGENCY: Administration on Developmental Disabilities, Administration for Children and Families, Department of Health and Human Services.

ACTION: Notification of Fiscal Year 1997 Federal Allotments to State Developmental Disabilities Councils and Protection and Advocacy Formula Grant Programs.

SUMMARY: This notice sets forth Fiscal Year 1997 individual allotments and percentages to States administering the State Developmental Disabilities Councils and Protection and Advocacy programs, pursuant to Section 125 and Section 142 of the Developmental Disabilities Assistance and Bill of Rights Act (Act). The allotment amounts are based on the 1997 Budget Request and are contingent upon Congressional appropriations for Fiscal Year 1997. If Congress enacts and the President approves a different appropriation amount, the allotments will be adjusted accordingly.

EFFECTIVE DATE: October 1, 1996.

FOR FURTHER INFORMATION CONTACT: Joseph Lonergan, Director, Division of Formula, Entitlement, and Block Grants, Office of Program Support, Administration for Children and Families, Department of Health and Human Services, 370 L'Enfant Promenade S.W., Washington, D.C. 20447, Telephone (202) 401–6603.

SUPPLEMENTARY INFORMATION: Section 125(a)(2) of the Act requires that adjustments in the amounts of State allotments may be made not more often than annually and that States are to be notified not less than six (6) months before the beginning of any fiscal year of any adjustments to take effect in that fiscal year. It should be noted that, as required, Palau's allotment has been adjusted to fifty percent of its Fiscal Year 1995 allotment.

The Administration on Developmental Disabilities has updated the data elements for issuance of Fiscal Year 1997 allotments for the Developmental Disabilities formula grant programs. The data elements used in the update are:

A. The number of beneficiaries in each State and Territory under the Childhood Disabilities Beneficiary Program, December 1994, are from Table 5.J10 of the "Social Security Bulletin: Annual Statistical Supplement 1995" issued by the Social Security Administration. The numbers for the Northern Mariana Islands and the Republic of Palau, were obtained from the Social Security Administration;

B. State data on Average Per Capita Income, 1990–94, are from Table 2 of the "Survey of Current Business," September 1995, issued by the Bureau of Economic Analysis, U.S. Department of Commerce; comparable data for the Territories also were obtained from that Bureau; and

C. State data on Total Population and Working Population (ages 18–64) as of July 1, 1994, are from Table 1 Estimates of Resident Population of States by Age of the "Census Advisory: Updated National and State Population Estimates, CB95–39," issued by the Bureau of the Census, U.S. Department of Commerce. Estimates for the Territories are no longer available, therefore, the Territories population data are from the 1990 Census Population Counts. The Territories' working populations were issued in the Bureau of Census report, "General Characteristics Report: 1980," which is the most recent data available from the Bureau.

TABLE 1.—FY 1997 ALLOTMENT—ADMINISTRATION ON DEVELOPMENTAL DISABILITIES

	State developmental disabilities councils	Percentage
Total	$70,438,000	100.000000
Alabama	1,340,972	1.903762
Alaska	420,475	.596943
Arizona	1,016,658	1.443337
Arkansas	768,612	1.091189
California	6,554,934	9.305963
Colorado	791,715	1.123988
Connecticut	703,588	.998876
Delaware	420,475	.596943
District of Columbia	420,475	.596943
Florida	3,128,797	4.441916
Georgia	1,728,544	2.453994
Hawaii	420,475	.596943
Idaho	420,475	.596943
Illinois	2,694,055	3.824718
Indiana	1,465,625	2.080731
Iowa	802,559	1.139384
Kansas	614,504	.872404
Kentucky	1,250,669	1.775560
Louisiana	1,431,968	2.032948
Maine	420,475	.596943
Maryland	979,588	1.390710
Massachusetts	1,356,158	1.925322
Michigan	2,482,101	3.523810
Minnesota	1,027,766	1.459107
Mississippi	948,730	1.346901
Missouri	1,338,242	1.899886
Montana	420,475	.596943
Nebraska	425,955	.604723
Nevada	420,475	.596943
New Hampshire	420,475	.596943
New Jersey	1,533,682	2.177350
New Mexico	480,298	.681873
New York	4,330,957	6.148609
North Carolina	1,818,663	2.581934
North Dakota	420,475	.596943

TABLE 1.—FY 1997 ALLOTMENT—ADMINISTRATION ON DEVELOPMENTAL DISABILITIES—Continued

	State developmental disabilities councils	Percentage
Ohio	2,956,009	4.196611
Oklahoma	919,612	1.305562
Oregon	744,861	1.057470
Pennsylvania	3,208,727	4.555392
Rhode Island	420,475	.596943
South Carolina	1,059,457	1.504099
South Dakota	420,475	.596943
Tennessee	1,476,074	2.095565
Texas	4,531,299	6.433032
Utah	550,178	.781081
Vermont	420,475	.596943
Virginia	1,443,415	2.049199
Washington	1,143,692	1.623686
West Virginia	809,722	1.149553
Wisconsin	1,317,695	1.870716
Wyoming	420,475	.596943
American Samoa	220,750	.313396
Guam	220,750	.313396
Northern Mariana Islands	220,750	.313396
Puerto Rico	2,381,894	3.381547
Palau	110,375	.156698
Virgin Islands	220,750	.313396

TABLE 2.—FY 1997 ALLOTMENT—ADMINISTRATION ON DEVELOPMENTAL DISABILITIES

	Protection & advocacy	Percentage
Total	[1] $25,911,318	100.000000
Alabama	439,048	1.694426
Alaska	254,508	.982227
Arizona	344,561	1.329770
Arkansas	258,072	.995982
California	2,211,563	8.535124
Colorado	276,741	1.068031
Connecticut	260,970	1.007166
Delaware	254,508	.982227
District of Columbia	254,508	.982227
Florida	1,070,357	4.130847
Georgia	603,004	2.327184
Hawaii	254,508	.982227
Idaho	254,508	.982227
Illinois	906,534	3.498602
Indiana	506,712	1.955562
Iowa	264,834	1.022078
Kansas	254,508	.982227
Kentucky	405,708	1.565756
Louisiana	466,720	1.801221
Maine	254,508	.982227
Maryland	341,643	1.318509
Massachusetts	451,170	1.741208
Michigan	833,321	3.216050
Minnesota	357,383	1.379254
Mississippi	315,443	1.217395
Missouri	460,588	1.777555
Montana	254,508	.982227
Nebraska	254,508	.982227
Nevada	254,508	.982227

TABLE 2.—FY 1997 ALLOTMENT—ADMINISTRATION ON DEVELOPMENTAL DISABILITIES—Continued

	Protection & advocacy	Percentage
New Hampshire	254,508	.982227
New Jersey	516,527	1.993442
New Mexico	254,508	.982227
New York	1,384,297	5.342441
North Carolina	635,552	2.452797
North Dakota	254,508	.982227
Ohio	997,392	3.849252
Oklahoma	307,034	1.184942
Oregon	263,782	1.018018
Pennsylvania	1,047,473	4.042531
Rhode Island	254,508	.982227
South Carolina	366,434	1.414185
South Dakota	254,508	.982227
Tennessee	495,147	1.910929
Texas	1,512,208	5.836091
Utah	254,508	.982227
Vermont	254,508	.982227
Virginia	505,699	1.951653
Washington	385,932	1.489434
West Virginia	275,697	1.064002
Wisconsin	448,512	1.730950
Wyoming	254,508	.982227
American Samoa	136,161	.525489
Guam	136,161	.525489
Northern Mariana Islands	136,161	.525489
Puerto Rico	800,722	3.090240
Palau	68,750	.265328
Virgin Islands	136,161	.525489

[1] In accordance with Public Law 103–230, Section 142(c)(5), $806,682 has been withheld for funding technical assistance and American Indian Consortiums in Fiscal Year 1997. The statute provides for spending up to two percent (2%) of the amount appropriated under Section 143 to fund technical assistance. American Indian Consortiums are eligible to receive an allotment under Section 142(c)(1)(A)(i). Unused funds will be reallotted in accordance with Section 142(c)(1) of the Act.

Dated: March 21, 1996.

Bob Williams,

Commissioner, Administration on Developmental Disabilities.

[FR Doc. 96–7379 Filed 3–26–96; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 96N–0005]

Review of Infant Formula Nutrient Requirements; Announcement of Study; Request for Scientific Data and Information; Announcement of Open Meeting; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** of March 5, 1996 (61 FR 8628). The document announced the Federation of American Societies for Experimental Biology (FASEB) study "Review of Infant Formula Nutrient Requirements," requested scientific data and information, and announced an open meeting to be held on May 31, 1996. The location of the open meeting was inadvertently omitted. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Yetley, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4168.

In FR Doc. 95–5117, appearing on page 8628 in the **Federal Register** of Tuesday, March 5, 1996, the following correction is made:

1. On page 8628, in the first column, under the ADDRESSES caption, the sentence "The public meeting will be held in the Chen Auditorium, Lee Bldg., FASEB, 9650 Rockville Pike, Bethesda, MD." is inserted as the first sentence immediately after the ADDRESSES caption.

Dated: March 20, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–7311 Filed 3–26–96; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 96G–0096]

The Flax Council of Canada; Filing of Petition for Affirmation of GRAS Status

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that The Flax Council of Canada has filed a petition (GRASP 5G0416) proposing to affirm that low linolenic acid flaxseed oil is generally recognized as safe (GRAS) for use as a food oil.

DATES: Written comments by June 10, 1996.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lawrence J. Lin, Center for Food Safety and Applied Nutrition (HFS–206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3103.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (secs. 201(s) and 409(b)(5) (21 U.S.C. 321(s) and 348(b)(5)) and the regulations for affirmation of GRAS status in § 170.35 (21 CFR 170.35), notice is given that The Flax Council of Canada, 465–167 Lombard Ave., Winnipeg, MB R3B 0T6, Canada, has filed a petition (GRASP 5G0416) proposing to affirm that low linolenic acid flaxseed oil is GRAS for use as a food oil. The petitioner proposes that solin oil be the common or usual name for low linolenic acid flaxseed oil.

The petition has been placed on display at the Dockets Management Branch (address above).

Any petition that meets the requirements outlined in §§ 170.30 (21 CFR 170.30) and 170.35 is filed by the agency. There is no prefiling review of the adequacy of data to support a GRAS conclusion. Thus, the filing of a petition for GRAS affirmation should not be interpreted as a preliminary indication of suitability for GRAS affirmation.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Interested persons may, on or before June 10, 1996, review the petition and file comments with the Dockets Management Branch (address above). Two copies of any comments should be filed and should be identified with the docket number found in brackets in the heading of this document. Comments should include any available information that would be helpful in determining whether the substance is, or is not, GRAS for the proposed use. In addition, consistent with the regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency encourages public participation by review of and comment on the environmental assessment submitted with the petition that is the subject of this notice. A copy of the petition (including the environmental assessment) and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 13, 1996.

Eugene C. Coleman,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 96–7312 Filed 3–26–96; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 92G–0085]

Michael Foods, Inc.; Withdrawal of GRAS Affirmation Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of a petition (GRASP 2G0387) proposing that the use of β-cyclodextrin as a processing aid in reducing the cholesterol content of liquid eggs be affirmed as generally recognized as safe (GRAS).

FOR FURTHER INFORMATION CONTACT: Andrew D. Laumbach, Center for Food Safety and Applied Nutrition (HFS–217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3071.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of March 30, 1992 (57 FR 10767), FDA announced that a petition (GRASP 2G0387) had been filed by Michael Foods, Inc., 324 Park National Bank Bldg., 5353 Wayzata Blvd., Minneapolis, MN 55416. This petition proposed that the use of β-cyclodextrin as a processing aid in reducing the cholesterol content of liquid eggs be affirmed as GRAS.

Michael Foods, Inc. has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: March 7, 1996.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 96–7310 Filed 3–26–96; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 96N–0085]

Hoffmann-La Roche, Inc., et al.; Withdrawal of Approval of 49 New Drug Applications, 9 Abbreviated Antibiotic Applications, and 36 Abbreviated New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of 49 new drug applications (NDA's), 9 abbreviated antibiotic applications (AADA's), and 36 abbreviated new drug applications (ANDA's). The holders of the applications notified the agency in writing that the drug products were no longer marketed and requested that the approval of the applications be withdrawn.

EFFECTIVE DATE: April 26, 1996.

FOR FURTHER INFORMATION CONTACT: Lola E. Batson, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1038.

SUPPLEMENTARY INFORMATION: The holders of the applications listed in the table in this document have informed FDA that these drug products are no longer marketed and have requested that FDA withdraw approval of the applications. The applicants have also, by their request, waived their opportunity for a hearing.

Application no.	Drug	Applicant
NDA 3–718	Synkayvite Tablets and Injection	Hoffman-La Roche, Inc., 340 Kingsland St., Nutley, NJ 07110.
NDA 3–977	Theelin	Parke-Davis, 2800 Plymouth Rd., Ann Arbor, MI 48105.
NDA 6–071	Berocca Injectable	Hoffman La Roche, Inc.
NDA 6–128	Sopronol Ointment	Wyeth-Ayerst Laboratories, P.O. Box 8299, Philadelphia, PA 19101–8299.
NDA 6–129	Sopronol Solution	Do.
NDA 6–130	Sopronol Powder	Do.
NDA 9–102	Antepar Tablets and Syrup	Burroughs Wellcome Co., 3030 Cornwallis Rd., P.O. Box 12700, Research Triangle Park, NC 27709–2700.

Application no.	Drug	Applicant
NDA 9–495	Marezine Injection	Do.
NDA 9–519	Doriden Tablets	Rhone-Poulenc Rorer Pharmaceuticals, Inc., 500 Arcola Rd., Colegeville, PA 19426–0107.
NDA 9–660	Noludar Tablets	Hoffman-La Roche, Inc.
NDA 10–209	Meti-Derm Cream	Schering Corp., 2000 Galloping Hill Rd., Kenilworth NJ 07033.
NDA 10–773	Correctol Tablets	Schering-Plough HealthCare Products, 110 Allen Rd., P.O. Box 276, Liberty Corner, NJ 07938–0276.
NDA 10–878	Visine Eye Drops	Pfizer Pharmaceuticals, 235 East 42d St., New York, NY 10017.
NDA 11–160	Thorexin Cough Medicine	The Purdue Frederick Co., 100 Connecticut Ave., Norwalk, CT 06856.
NDA 11–296	Sunbath Protective Tanning Cream	Revlon, Research Center, Inc., 121 Route 27, Edison, NJ 08818.
NDA 11–297	Sunbath Protective Tanning Lotion	Do.
NDA 11–657	Betaprone	Forest Pharmaceuticals, Inc., 909 Third Ave., New York NY 10022–4731.
NDA 11–844	Arthropan Liquid	The Purdue Frederick Co.
NDA 13–077	Xylocaine Suppositories	Astra Pharmaceutical Products, Inc., 50 Otis St., Westborough, MA 01581.
NDA 13–094	Clysodrast Evacuant Enema	Rhone-Poulenc Rorer Pharmaceuticals, Inc.
NDA 13–319	Iothalamate Sodium 80%	Mallinckrodt Medical Inc., 675 McDonnell Blvd., P.O. Box 5840, St. Louis, MO 63134.
NDA 13–638	Indoklon	OHMEDA, Inc., 110 Allen Rd., P.O. Box 804, Liberty Corner, NJ 07938.
NDA 14–359	Meprobamate Tablets	Halsey Drug Co., Inc., 245 Old Hook Rd., Westwood, NJ 07675.
NDA 14–740	Menrium Tablets	Hoffmann-La Roche, Inc.
NDA 16–144	Ethamide Tablets	Allergan, 2525 Dupont Dr., P.O. Box 19534, Irvin, CA 92713–9534.
NDA 16–219	Lemon Spree Deodorant Soap	Colgate-Palmolive Co., 909 River Rd., P.O. Box 1343, Piscataway, NJ 08855–1343.
NDA 16–264	Palmolive Gold Antibecterial Deodorant Soap	Do.
NDA 16–278	Tackle Medicated Soap	Do.
NDA 16–486	Antibecterial Deodorant Soap	Do.
NDA 16–768	Estrovus Tablets	Parke-Davis.
NDA 16–942	Halotex 1% Cream	Westwood-Squibb Pharmaceuticals, 100 Forest Ave., Buffalo, NY 14213–1091.
NDA 17–129	Cholebrine	Mallinckrodt Medical, Inc.
NDA 17–486	Heparin Injection	Akorn, Inc., P.O. Box 1220, Decatur, IL 62525.
NDA 18–144	Centrax Capsules	Parke-Davis
NDA 18–203	Liposyn 10%	Abbott Laboratories, D–389, Bldg. AP30, 200 Abbott Park Rd., Abbott Park, IL 60064–3537.
NDA 18–223	Multivitamin Additive for Injection	Do.
NDA 18–288	Hypnomidate Injection	Janssen Research Foundation, 1125 Trenton-Harbourton Rd., P.O. Box 200, Titusville, NJ 08560.
NDA 18–440	M.V.C. 9 + 3	Fujusawa USA, Inc., Parkway North Center, Three Parkway North, Deerfield, IL 60015–2548.
NDA 18–550	Rimadyl Tablets	Hoffmann-La Roche Inc.
NDA 18–555	Yutopar Tablets	Astra USA, Inc., P.O. Box 4500, Westborough, MA 01581–4500.
NDA 18–614	Lipoeyn 20%	Abbott Laboratories.
NDA 18–962	Manganese Chloride Injection	Do.
NDA 19–185	Oxytocin in 5% Dextrose Injection	Do.
NDA 19–228	Magnesium Sulfate Injection	Fujisawa USA, Inc.
NDA 19–271	Chromic Chloride Injection	Do.
NDA 19–786	Lopressor OROS	Ciba-Geigy Corp., 556 Morris Ave., Summit NJ 07901–1398.
NDA 50–502	Siseptin Injection	Schering Corp.
NDA 50–523	Vira-A	Parke-Davis.
NDA 50–532	Ilotycin Topical Solution	Lilly Research Laboratories, Lilly Corporate Center, Indianapolis IN 46285.
AADA 60–842	Penicillin V. Potassium	Novo Nordisk Pharmaceuticals, Inc., 100 Overlook Center, suite 200, Princeton, NJ 08540–7810.
AADA 61–864	Cephradine	Apothecon Inc., P.O. Box 4500, Princeton, NJ 08543–4500.
AADA 61–976	Cephradine	Do.
AADA 62–047	Erythromycin Ethylsuccinate Oral Suspension	KV Pharmaceutical Co., 2503 South Hanley Rd., St. Louis, MO 63144–2555.
AADA 62–171	Chloramphenicol Ophthalmic Solution	Optopics Laboratories Corp., 32 Main St., P.O. Box 210, Fairton, NJ 08320–0210.

Application no.	Drug	Applicant
AADA 62–413	Gentamicin Sulfate in 9% Sodium Chloride	Abbott Laboratories.
AADA 62–586	Erythromycin Lactobionate for Injection	Do.
AADA 62–871	Cephalexin Capsules	Yoshitomi Pharmaceutical Industries, c/o Warner Chilcott Laboratories, 182 Tabor Rd., Morris Plains, NJ 07950.
AADA 62–872	Cephalex Capsules	Do.
ANDA 70–118	Diphenhydramine Hydrochloride Cough Syrup	Morton Grove Pharmaceutical, Inc., 6451 West Main St., Morton Grove, IL 60053.
ANDA 70–770	Dexbrompheniramine Maleate and Pseudoephedrine Sulfate Extended-Release Tablets.	Geneva Pharmaceuticals, Inc., 2555 West Midway Blvd., Broomfield, CO 80020.
ANDA 71–368	Propranolol Hydrochloride Tablets	Interpharm, Inc., Three Fairchild Ave., Plainview, NY 11803.
ANDA 71–369	Propranolol Hydrochloride Tablets	Do.
ANDA 71–370	Propranolol Hydrochloride Tablets	Do.
ANDA 71–371	Propranolol Hydrochloride Tablets	Do.
ANDA 71–819	Methyldopa and Hydrochlorothiazide Tablets	Novopharm, Ltd., c/o Granutec, Inc., 4409 Airport Dr. NW., Wilson, NC 27696.
ANDA 71–820	Methyldopa and Hydrochlorothiazide Tablets	Do.
ANDA 71–821	Methyldopa and Hydrochlorothiazide Tablets	Do.
ANDA 71–822	Mehyldopa and Hydrochlorothiazide Tablets	Do.
ANDA 74–106	Naproxen Sodium Tablets	Hamilton Pharmaceuticals, Ltd., c/o Syntex, Inc., 3401 Hillview Ave., P.O. Box 10850, Palo Alto, CA 94303.
ANDA 74–110	Naproxen Tablets	Do.
ANDA 80–059	Aminosalicylate and Aminosalicylic Acid Tablets, 846 milligrams (mg)/112 mg.	Wallace Laboratories, 301B College Road East, Princeton, NJ 08540.
ANDA 80–271	Methyltestosterone Sublingual Tablets	Rosemont Pharmaceutical Corp., 301 South Cherokee St., Denver, CO 80223.
ANDA 80–384	Procaine Hydrochloride Injection	Fujisawa USA, Inc.
ANDA 83–376	Esterified Estrogens Tablets	Hoffmann-La Roche, Inc.
ANDA 84–215	Esterified Estrogens Tablets	Do.
ANDA 84–216	Esterified Estrogens Tablets	Do.
ANDA 84–290	Potassium Chloride for Injection Concentrate	Fujisawa USA, Inc.
ANDA 85–256	Diphenoxylate Hydrochloride and Atropine Sulfate Tablets.	MD Pharmaceuticals, Inc., 3130 South Harbor Blvd., suite 320, Santa Ana, CA 92704.
ANDA 85–303	Amithriptyline Hydrochloride Tablets	Roche Products, Inc., State Road 670, Km. 2.7, P.O. Box 452, Manati PR 00674–0452.
ANDA 86–587	Phenobarbital with Belladonna Alkaloids Elixir	Halsey Drug Co., Inc.
ANDA 87–723	Diatrizoate Meglumine and Diatrizoate Sodium Injection.	Berlex Laboratories, Inc., 300 Fairfield Rd., Wayne NJ 07470–7358.
ANDA 87–724	Diatrizoate Meglumine and Diatrizoate Sodium Injection.	Do.
ANDA 87–725	Diatrizoate Sodium Injection	Do.
ANDA 87–726	Diatrizoate Meglumine Injection	Do.
ANDA 87–728	Diatrizoate Meglumine and Diatrizoate Sodium Solution.	Do.
ANDA 87–729	Diatrizoate Meglumine Injection	Do.
ANDA 87–731	Diatrizoate Meglumine Injection	Do.
ANDA 87–739	Diatrizoate Meglumine Injection	Do.
ANDA 87–768	Ipodate Sodium Capsules	Do.
ANDA 87–787	Potassium Chloride for Injection Concentrate	Fujisawa USA, Inc.
ANDA 88–739	Promethazine Hydrochloride and Codeine Phosphate Syrup.	Halsey Drug Co., Inc.
ANDA 88–868	Promethazine and Phenylephrine Hydrochlorides Syrup.	Do.
ANDA 88–870	Promethazine and Phenylephrine Hydrochlorides and Codeine Phosphate Syrup.	Do.
ANDA 88–913	Promethazine Hydrochloride and Dextromethorphan Hydrobromide Syrup.	Do.

Therefore, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) and under authority delegated to the Director, Center for Drug Evaluation and Research (21 CFR 5.82), approval of the applications listed above, and all amendments and supplements thereto, is hereby withdrawn, effective April 26, 1996.

Dated: March 7, 1996.

Janet Woodcock,

Center for Drug Evaluation and Research.

[FR Doc. 96–7309 Filed 3–26–96; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

Proposed Collection of Public Comment; Submission for OMB Review

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Request:* Revision of a currently approved collection; *Title of Information Collection:* Reconciliation of State Invoice (Formerly: Remittance Advice Report) and Prior Quarter Adjustment Statement; *Form No.:* HCFA–304, HCFA–304a; *Use:* Section 1927 of the Social Security Act requires drug labelers to enter into and have in effect a rebate agreement with HCFA for States to receive funding for drugs dispensed to Medicaid recipients. 42 CFR 447.534 and 447.536 require labelers to report specific drug rebate data to States when payment is made; *Frequency:* Quarterly; *Affected Public:* Business or other for-profit; *Number of Respondents:* 520; *Total Annual Responses:* 2,080; *Total Annual Hours Requested:* 170,560.

To request copies of the proposed paperwork collection referenced above, E-mail your request, including your address, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: March 20, 1996.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 96–7361 Filed 3–26–96; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. FR–3790–N–02]

Public Housing Drug Elimination Technical Assistance Program, Announcement of Funding Awards for FY 1995

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the Notice of Funding Availability (NOFA) for Public Housing Drug Elimination Technical Assistance Program. This announcement contains the names and addresses of the awardees and the amount of the awards.

FOR FURTHER INFORMATION CONTACT: Elizabeth Cocke, Crime Prevention and Security Division, Office of Community Relations and Involvement, Department of Housing and Urban Development, room 4116, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–1197 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number by calling the Federal Information Relay Service TTY at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Public Housing Drug Elimination Technical Assistance Program is authorized by the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1995 (Pub. L. 103–327, approved September 28, 1994).

The Fiscal Year 1995 competition was announced in a NOFA published in the **Federal Register** on January 13, 1995 (60 FR 3324). The NOFA announced the availability of $3 million to assist in providing short-term technical assistance to public housing agencies, Indian housing authorities, resident management corporations, and incorporated resident councils that are combating drug-related crime and abuse of controlled substances in public and Indian housing communities. These funds reimburse consultants who provide expert advice and work with housing authorities or resident councils to assist them in gaining skills and training to eliminate drug abuse and related problems from public housing communities. Applications were scored and selected for funding based on criteria contained in the Notice.

In accordance with section 102 (a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989), the Department is hereby publishing the names and addresses of the awardees that received funding under the NOFA, and the amount of funds awarded to each. This information is provided in Appendix A to this document.

Dated: March 21, 1996.

Michael B. Janis,

General Deputy Assistant Secretary for Public and Indian Housing.

Appendix A

Fiscal Year 1995 Public Housing Drug Elimination Technical Assistance Program Funding Decisions

Herbert Carter, P.O. Box 215, Raleigh, NC 277020215. Provided Technical Assistance Services to: Paducah Housing Authority, Paducah, KY. Amount: 10000

Vincent Lewis, 717 D. St. NW, Suite 309, Washington, DC 20004. Provided Technical Assistance Services to: Hartford Housing Authority, Hartford, CT. Amount: 13816.2

Paul Tanner, 5618 Shorewood Rd., Jacksonville, FL 32210. Provided Technical Assistance Services to: Housing Authority of the City of Homestead, Homestead, FL. Amount: 9200

William McClure, 2740 Greenbriar, Atlanta, GA 30331. Provided Technical Assistance Services to: Indianapolis Public Housing Agency, Indianapolis, IN. Amount: 8522

Jesse Jaramillo, 2131 34th Street, Los Alamos, NM 87544. Provided Technical Assistance Services to: Housing Authority of the City of East St. Louis, East St. Louis, IL. Amount: 9409

Dan Carmon, 11270 S. Idlewood Ct. New Orleans, LA 70128. Provided Technical Assistance Services to: Bogalusa Housing Authority, Bogalusa, LA. Amount: 7497

Severin Sorensen, P.O. Box 34469, Bethesda, MD 20827. Provided Technical Assistance Services to: Albany Housing Authority, Albany, NY. Amount: 12246

Severin Sorensen, P.O. Box 34469, Bethesda, MD 208131072. Provided Technical Assistance Services to: Cuyahoga Metropolitan Housing Authority Police Department, Cleveland, OH. Amount: 12451

Paul Turner, 410 Castello Road, Lafayette, CA 94549. Provided Technical Assistance Services to: Housing Authority of the City of Ogden, Ogden, UT. Amount: 9511

Rose Shaw, 518 Leahy, Pawhuska, OK 74056. Provided Technical Assistance Services to: Meadow Glenn Additon-Osage Housing Authority, Hominy, OK. Amount: 4286

Philip Fairweather, 6924 La Cienega Blvd, Ste 2, Inglewood, CA 90302. Provided

Technical Assistance Services to: Chicago Housing Authority, Chicago, IL. Amount: 13800

Graylyn Swilley, 5350 Warren Avenue, Cincinnati, OH 45212. Provided Technical Assistance Services to: Gary Housing Authority, Gary, IN. Amount: 11238

Randy Atlas, 770 Palm Bay Ln., Miami, FL 33138. Provided Technical Assistance Services to: Housing Authority of Paris, Paris, KY. Amount: 13280

Robert Fisk, 906 W. Elk St., Manistique, MI 49854. Provided Technical Assistance Services to: Flint Housing Commission, Flint, MI. Amount: 5916

Randy Atlas, 770 Palm Bay Ln., Miami, FL 33138. Provided Technical Assistance Services to: Albuquerque Housing Services, Albuquerque, NM. Amount: 12281

David Staton, 11490 Comerce Park Dr., Reston, VA 22091. Provided Technical Assistance Services to: Housing Authority of the City of Prichard, Alabama, Prichard, AL. Amount: 7811

Pamela Petersen, 4000 Harpers Ferry Drive, Tallahassee, FL 32308. Provided Technical Assistance Services to: The Housing Authority of the City of Key West, Key West, FL. Amount: 17302

Carolyn Williams, 2810 Shipley Terrace SE #202, Washington, DC 20020. Provided Technical Assistance Services to: Branch Heights Resident Council, Butlaw, AL. Amount: 12575

Ernest Crane, 1202 St Marks Ave, New York, NY 11213, Provided Technical Assistance Services to: Sumner Houses Association, Inc., Brooklyn, NY. Amount: 7650

Jim Munro, 7335 No. Shores Dr., Navarre, FL 32566. Provided Technical Assistance Services to: Fort Walton Beach Housing Authority, Fort Walton Beach, FL. Amount: 10305

Joseph Donahue, P.O. Box 1736, Kenail, AK 99611. Provided Technical Assistance Services to: Newhalen Resident Organization, Newhalen, AK. Amount: 12250

Saundra Williams, 4300 Flat Shoals Rd. #2606, Union City, GA 30291. Provided Technical Assistance Services to: Senoia City Housing Authority, Senoia, GA. Amount: 8257

Pamela Petersen, 4000 Harpers Ferry Drive, Tallahassee, FL 32308. Provided Technical Assistance Services to: The Key West Housing Authority, Key West, FL. Amount: 11261

Lexie Williams, 1177 Dominion Court, Port Orange, FL 32119. Provided Technical Assistance Services to: Housing Authority of the City of New Bern, New Bern, NC. Amount: 8891

Roxanna Nanto, 2961 Riviera Blvd., Malaga, WA 98828. Provided Technical Assistance Services to: Othello Housing Authority, Othello, WA. Amount: 7674

Hugh Phillips, 619 Longbow Drive, Albany, GA 31707. Provided Technical Assistance Services to: Housing Authority of the City of Mathis, Mathis, TX. Amount: 12002

Hugh Phillips, 619 Longbow Drive Albany, GA 31707.Provided Technical Assistance Services to: Housing Authority of the City of Uvalde, Uvalde, TX. Amount: 13353

Randy Atlas, 770 Palm Bay Ln., Miami, FL 33138. Provided Technical Assistance Services to: West Palm Beach Housing Authority, West Palm Beach, FL. Amount: 8256

Severin Sorensen, PO box 34469, Bethesda, MD 20813–1072. Provided Technical Assistance Services to: Housing Authority of the Town of Laurinburg, Laurinburg, NC. Amount: 12666

Kevin Fields, 4827 Valla Rd., Louisville, KY 40213. Provided Technical Assistance Services to: Housing Authority of Taft, Taft, TX. Amount: 12626

Phillip Watson, 5525 Macarthur Boulevard #450, Irving, TX 75038. Provided Technical Assistance Services to: Housing Authority of the City of Franklin, Franklin, GA. Amount: 8966

Phillip Watson, 5525 MacArthur Boulevard #450, Irving, TX 75038. Provided Technical Assistance Services to: City of Rock Island Housing Authority, Rock Island, IL. Amount: 9958

Gregory Robinson, 1350 Euclid Ave. Suite 901, Cleveland, OH 44115. Provided Technical Assistance Services to: St. Louis Housing Authority, St. Louis, MO. Amount: 12930

Randy Atlas, 770 Palm Bay Ln., Miami, FL 33138. Provided Technical Assistance Services to: Housing Authority of the County of Marin, San Rafael, CA. Amount: 15008

Robert Hahn, 1181 Via Salerno, Winter Park, FL 32790–2644. Provided Technical Assistance Services to: Ocala Housing Authority, Ocala, FL. Amount: 13499

Marshall Kandell, 3401 Agate Street, Eugene, OR 97405. Provided Technical Assistance Services to: Chicago Housing Authority, Washington, DC. Amount: 12373

David Buches, RD 1 Box 735a, Dover, DE 19901. Provided Technical Assistance Services to: Dover Resident Advisory Council, Dover, DE. Amount: 9650

Betty Jefferson, 3801 Canal Street #331, New Orleans, LA 70119. Provided Technical Assistance Services to: Capital Square Resident Management, Baton Rouge, LA. Amount: 14626

Travis Alexander, 108–t South St., Leesburg, VA 22075. Provided Technical Assistance Services to: Monroe County Housing Authority, Key West, FL. Amount: 11100

Alvin Dawson, 6242 Oram St., Irving, TX 75062. Provided Technical Assistance Services to: McKinney Housing Authority, McKinney, TX. Amount: 6641

Susan Guyette, 97 Moya Rd., Santa Fe, NM 87505. Provided Technical Assistance Services to: Colorado River Indian Housing Authority, Parker, AZ. Amount: 13580

Shirley Curry, 113 Belew Circle, Waynesboro, TN 38485. Provided Technical Assistance Services to: Sandy Park Resident Council, Tulsa, OK. Amount: 11386

Jeffrey Oshins, 271 Rosario Park Rd, Santa Barbara, CA 93105. Provided Technical Assistance Services to: Helena Housing Authority, Helena, MT. Amount: 9689.92

Rickie Lewis, P.O. Box 621, Mableton, GA 30059. Provided Technical Assistance Services to: Bankhead Courts Resident Association, Atlanta, GA. Amount: 13385

Jesse Jaramillo, 2131 34th Street, Los Alamos, NM 87544. Provided Technical Assistance Services to: Housing Authority of the City of Kingsville, Kingsville, TX. Amount: 7704

Herbert Carter, P.O. Box 215, Raleigh, NC 27702–0215. Provided Technical Assistance Services to: South Carolina Regional Housing Authority, Laurens, SC. Amount: 10000

Wanda Ramseur, 218 West Broad Street, Statesville, NC 28677. Provided Technical Assistance Services to: City of Hickory Public Housing Authority, Hickory, NC. Amount: 10745

Jesse Jaramillo, 2131 34th Street, Los Alamos, NM 87544. Provided Technical Assistance Services to: The Housing Authority of the City of San Benito, San Benito, TX. Amount: 8431

Phillip Watson, 5525 MacArthur Boulevard #450, Irving, TX 75038. Provided Technical Assistance Services to: Housing Authority of the City of Brownwood, Brownwood, TX. Amount: 9798

James Godfrey, P.O. Box 2470, Hot Springs, AR 71914. Provided Technical Assistance Services to: Housing Authority of the Sac and Fox Tribe, Reserve, KS. Amount: 8812.36

Rob Robinson, 1047 South 32nd Street, #1, Omaha, NE 68510. Provided Technical Assistance Services to: The Housing Authority of the City of High Point, High Point, NC. Amount: 7610

Anne Fallis, Rural Route 1, Box 1845, Rapid City, SD 57702. Provided Technical Assistance Services to: Crow Tribal Housing Authority, Crow Agency, MT. Amount: 8108

Phillip Watson, 5525 MacArthur Boulevard #450, Irving, TX 75038. Provided Technical Assistance Services to: Housing Authority of the City of Carrizo Springs, Carrizo Springs, TX. Amount: 9985

Travis Alexander, 108–t South St., Leesburg, VA 22075. Provided Technical Assistance Services to: Pasco County Housing Authority, Dade City, FL. Amount: 13416

Kent Irwin, 118 South Franklin, Muncie, IN 47305. Provided Technical Assistance Services to: Housing Authority of the City of Muncie, Muncie, IN. Amount: 10803.6

Anne Fallis, Rural Route 1, Box 1845, Rapid City, SD 57702. Provided Technical Assistance Services to: Crow Resident Organization, Crow Agency, MT. Amount: 8128

Betty Jefferson, 3801 Canal Street #331, New Orleans, LA 70119. Provided Technical Assistance Services to: Laredo Housing Authority, Laredo, TX. Amount: 11680

Hugh Phillips, 619 Longbow Drive, Albany, GA 31707. Provided Technical Assistance Services to: Killeen Housing Authority, Killeen, TX. Amount: 12035

Travis Alexander, 108–t South St., Leesburg, VA 22075. Provided Technical Assistance Services to: Hialeah Housing Authority, Hialeah, FL. Amount: 11106

Nancy Lowe-Conno, 3406 Wild Cherry Rd., Baltimore, MD 21207. Provided Technical Assistance Services to: Wilmington Housing Authority, Wilmington, DE. Amount: 8463

Shirley Curry, 113 Belew Circle, Waynesboro, TN 38485. Provided

Technical Assistance Services to: Maryville Housing Authority, Maryville, TN. Amount: 11974

W. Sawyer Shirley, 2005 Country Park Drive, Smyrna, GA 30080. Provided Technical Assistance Services to: Housing Authority of the City of Montezuma, Montezuma, GA. Amount: 9852

Phillip Watson, 5525 MacArthur Boulevard #450, Irving, TX 75038. Provided Technical Assistance Services to: Plano Housing Authority, Plano, TX. Amount: 9774

Marla Cabage, 1309 North Broadway, Knoxville, TN 37917. Provided Technical Assistance Services to: Knoxville Tenant Council, Knoxville, TN. Amount: 13635

Linwood Timberlake, 202 11th Street, Butner, NC 27509. Provided Technical Assistance Services to: Roxboro Housing Authority, Roxboro, NC. Amount: 14647

Katherine Nelson, 2000 Fordem Avenue, Madison, WI 53704. Provided Technical Assistance Services to: City of Madison Community Development Authority, Madison, WI. Amount: 8064

Wanda Stansbury, 206 Renfrew Ave., Trenton, NJ 08618. Provided Technical Assistance Services to: Schenectady Municipal Housing Authority, Schenectady, NY. Amount: 12377

Carlos Garcia, Skills Training Inc, Grapevine, TX 76051. Provided Technical Assistance Services to: Housing Authority of San Angelo, San Angelo, TX. Amount: 5929

Harold Wright, 2551 Melaway Drive, Richmond, VA 23228. Provided Technical Assistance Services to: Housing Authority of the City of Austin, Austin, TX. Amount: 14553

Carolyn Williams, 2810 Shipley Terrace SE #202, Washington, DC 20020. Provided Technical Assistance Services to: Elyton Village Resident Council, Birmingham, AL. Amount: 12805

Carolyn Williams, 2810 Shipley Terrace SE #202, Washington, DC 20020. Provided Technical Assistance Services to: King Village Resident Council, Eutaw, AL. Amount: 12575

Carl Kellem, 6 Briar Patch Lane, Danbury, CT 06811. Provided Technical Assistance Services to: New Bedford Housing Authority, New Bedford, MA. Amount: 11880

Billy Thompson, 175 Jane Sowers Rd, Statesville, NC 28677. Provided Technical Assistance Services to: Belmont Housing Authority, Belmont, NC. Amount: 8686

Rose-Alma Jacobs, P.O. Box 221, Hogansburg, NY 13655. Provided Technical Assistance Services to: Ravenswood Tenant Association, Long Island, NY. Amount: 11476

Philip Fairweather, 6024 La Cienega Blvd, Ste 2, Inglewood, CA 90302. Provided Technical Assistance Services to: Housing Authority of the City of Los Angeles, Los Angeles, CA. Amount: 11370

Jeffrey Oshins, 271 Rosario Park Rd, Santa Barbara, CA 93105. Provided Technical Assistance Services to: San Diego Housing Commission, San Diego, CA. Amount: 12437

Severin Sorensen, PO Box 34469, Bethesda, MD 208131072. Provided Technical Assistance Services to: Cincinnati Metropolitan Housing Authority, Cincinnati, OH. Amount: 17579

Paul Turner, 410 Castello Road, Lafayette, CA 94549. Provided Technical Assistance Services to: San Francisco Housing Authority, San Francisco, CA. Amount: 9840

Ben Chan, 127 Glorietta Blvd, Orinda, CA 94563. Provided Technical Assistance Services to: Ping Yuen Residents Improvement Association, San Francisco, CA. Amount: 7753

Carolyn Kusler, 2706 Raintree Circle, Sapulpa, OK 74136. Provided Technical Assistance Services to: Housing Authority of the City of Austin (Thurmond Heights), Austin, TX. Amount: 8336

Ian Horncastle, 830 South Woodlawn Ave, Okmulgee, OK 74447. Provided Technical Assistance Services to: Housing Authority of the City of Austin (Meadowbrook), Austin, TX. Amount: 8878

Richard Martin, P.O. Box 12311, Raleigh, NC 27605. Provided Technical Assistance Services to: Housing Authority, Wilmington, NC. Amount: 9949

Curtis Jones, 6 Lindsey Street, Dorchester, MA 02124. Provided Technical Assistance Services to: Norwalk Housing Authority, Hartford, CT. Amount: 11270

Severin Sorensen, P.O. Box 34469, Bethesda, MD 20813–1072. Provided Technical Assistance Services to: Norwalk Housing Authority, Norwalk, CT. Amount: 15116

Jacob Flores, 5756 E. Lee, Tucson, AZ 85712.Provided Technical Assistance Services to: All Indian Pueblo Housing Authority, Albuquerque, NM. Amount: 4352

Severin Sorensen, P.O. Box 34469, Bethesda, MD 20827. Provided Technical Assistance Services to: Atlanta Housing Authority, Atlanta, GA. Amount: 21251

Saundra Williams, 4300 Flat Shoals Rd., #2606, Union City, GA 30291. Provided Technical Assistance Services to: Housing Authority of the County of Douglas, Douglasville, GA. Amount: 8177

Wanda Stansbury, 206 Renfrew Ave., Trenton, NJ 08618. Provided Technical Assistance Services to: Housing Authority of the Borough of Princeton, Princeton, NJ. Amount: 8995

Wanda Ramseur, 218 West Broad Street, Statesville, NC 28677. Provided Technical Assistance Services to: City of Hickory Housing Authority, Hickory, NC. Amount: 8561

Phillip Watson, 5525 MacArthur Boulevard, #450, Irving, TX 75038. Provided Technical Assistance Services to: Housing Authority of the City of Alamo, Alamo, TX. Amount: 9503

Vincent Lewis, 717 D St. NW, Suite 309, Washington, DC 20004. Provided Technical Assistance Services to: Housing Authority of Henderson, Henderson, KY. Amount: 12868

Bessie Singletary, Myic/Bankers Assistance, Winston Salem, NC 27103. Provided Technical Assistance Services to: S.H.E., Lexington, NC. Amount: 9621

Hugh Phillips, 619 Longbow Drive, Albany, GA 31707. Provided Technical Assistance Services to: Housing Authority of the City of Casper, Casper, WY. Amount: 10991

Patricia Corprew, 3404 Dunkirk Ave., Norfolk, VA 23509. Provided Technical Assistance Services to: Grandy Village Tenant Management Corporation, Norfolk, VA. Amount: 6115

Sanford Horvitz, 1325 S. Colorado Blvd., B204, Denver, CO 80222. Provided Technical Assistance Services to: Aurora Housing Authority, Aurora, CO. Amount: 8950

Severin Sorensen, P.O. Box 34469, Bethesda, MD 20813–1072. Provided Technical Assistance Services to: Portsmouth Metropolitan Housing Authority, Portsmouth, OH. Amount: 9953

Herman Wrice, Mantua Against Drugs, Philadelphia, PA 19104. Provided Technical Assistance Services to: Housing Authority of the City of Taylor, Taylor, TX. Amount: 9878

Jesse Jaramillo, 2131 34th Street, Los Alamos, NM 87544. Provided Technical Assistance Services to: Housing Authority of the City of Charlotte, Charlotte, NC. Amount: 3689

Jesse Jaramillo, 2131 34th Street, Los Alamos, NM 87544. Provided Technical Assistance Services to: Housing Authority of the City of High Point, High Point, NC. Amount: 6546

Maria Hankerson, 2139 Georgia Ave. S.E., Washington, DC 20001. Provided Technical Assistance Services to: Department of Public and Assisted Housing, Washington, DC. Amount: 12600

Paul Turner, 410 Castello Road, Lafayette, CA 94549. Provided Technical Assistance Services to: Hunters Point "A" West Tenant Assoc., San Francisco, CA. Amount: 8840

Deborah House, 1809 Fairpointe Trace, Stone Mountain, GA 30088. Provided Technical Assistance Services to: Housing Authority of the City of East Point, East Point, GA. Amount: 6770

F. Willis Caruso, 718 South Spring, Lagrange, IL 60525. Provided Technical Assistance Services to: Housing Authority of the City of Waterbury, Waterbury, CT. Amount: 10000

Phillip Watson, 5525 MacArthur Boulevard #450, Irving, TX 75038. Provided Technical Assistance Services to: Bonham Housing Authority, Bonham, TX. Amount: 11039

Robert Borghese, 21 S. 12th St. Suite 902, Philadelphia, PA 19107. Provided Technical Assistance Services to: Oakland Housing Authority, Oakland, CA. Amount: 9676

Jeffrey Oshins, 271 Rosario Park Rd., Santa Barbara, CA 93105. Provided Technical Assistance Services to: Wind River Indian Housing Authority, Fort Washakie, WY. Amount: 9422

Gennaro Vito, University of Louisville, Louisville, KY 40292. Provided Technical Assistance Services to: New Albany Housing Authority, New Albany, IN. Amount: 9085

Betty Jefferson, 3801 Canal Street #331, New Orleans, LA 70119. Provided Technical Assistance Services to: North Baton Rouge TC, Baton Rouge (ebr), LA. Amount: 11062

Alex Hartley, 1138 S. Hayworth Ave., Los Angeles, CA 90035. Provided Technical Assistance Services to: Nickerson Gardens Resident Management Corporation, Los Angeles, CA. Amount: 12474

Phillip Watson, 5525 MacArthur Boulevard #450, Irving, TX 75038. Provided Technical Assistance Services to: Housing Authority of the City of Waco, Waco, TX. Amount: 11795
Jackie Figler, 2639 Canton Rd., Akron, OH 44312. Provided Technical Assistance Services to: Portage Metropolitan Housing Authority, Ravenna, OH. Amount: 14421
Jeffrey Oshins, 271 Rosario Park Rd., Santa Barbara, CA 93105. Provided Technical Assistance Services to: The Housing Authority of the City of St. Petersburg Florida, St. Petersburg, FL. Amount: 11337
Herbert Carter, P.O. Box 215, Raleigh, NC 27702–0215. Provided Technical Assistance Services to: Rowan County Housing Authority, Salisbury, NC. Amount: 10776
Jeffrey Oshins, 271 Rosario Park Rd., Santa Barbara, CA 93105. Provided Technical Assistance Services to: Beeville Housing Authority, Beeville, TX. Amount: 9167
Karriem Shabazz, 3150 Borge Street, Oakton, VA 22124. Provided Technical Assistance Services to: Lynchburg Redevelopment and Housing Authority, Lynchburg, VA. Amount: 7647
Carol Deemer, 6700 South Shore Dr. #18A, Chicago, IL 60649. Provided Technical Assistance Services to: Housing Authority of Jefferson County, Mt. Vernon, IL. Amount: 11818
Jeffrey Oshins, 271 Rosario Park Rd., Santa Barbara, CA 93105. Provided Technical Assistance Services to: Housing Authority of the City of Eagle Pass, Eagle Pass, TX. Amount: 9230
Vivian Martain, 1813 Lasalle Street, Saint Louis, MO 63104. Provided Technical Assistance Services to: The Michigan City Housing Authority, Michigan City, IN. Amount: 8394
John Campbell, 319 SW Washington St., #802, Portland, OR 97204. Provided Technical Assistance Services to: Housing Authority of the City of Richmond, Richmond, CA. Amount: 9390
Robert Borghese, 21 S. 12th St. Suite 902, Philadelphia, PA 19107. Provided Technical Assistance Services to: Yankton Sioux Housing Authority, Wagner, SD. Amount: 9760
Hugh Phillips, 619 Longbow Drive, Albany, GA 31707. Provided Technical Assistance Services to: Tullahoma Housing Authority, Tullahoma, TN. Amount: 10656
Patricia Surprenant, 418 Robin Ct., Cheshire, CT 06410. Provided Technical Assistance Services to: Montgomery Housing Authority, Montgomery, AL. Amount: 11511
Herbert Carter, P.O. Box 215, Raleigh, NC 27702–0215. Provided Technical Assistance Services to: Housing Authority of the City of New Iberia, New Iberia, LA. Amount: 9869
Renee Williams, 244 West Queen Lane, Philadelphia, PA 19144. Provided Technical Assistance Services to: Montgomery County Housing Authority, Norristown, PA. Amount: 9468
Marcus Guthrie, P.O. Box 67, Lac du Flambeau, WI 54538. Provided Technical Assistance Services to: Lac du Flambeau Chippewa Housing Authority, Lac du Flambeau, WI. Amount: 10333.6
Chuck Bean, P.O. Box 1686, Duvall, WA 98019. Provided Technical Assistance Services to: Bristol Bay Housing Authority, Dillingham, AK. Amount: 15205
Joseph Donahue, P.O. Box 1736, Kenail, AK 99611. Provided Technical Assistance Services to: New Stuyahok Resident Organization, New Stuyahok, AK. Amount: 11650
Joseph Donahue, P.O. Box 1736, Kenail, AK 99611. Provided Technical Assistance Services to: Dillingham Resident Organization, Dillingham, AK. Amount: 11650
C. Jean Bennett, 207 Valley North Blvd., Jackson, MS 39206. Provided Technical Assistance Services to: Natchez Housing Authority, Natchez, MS. Amount: 9992
Wanda Ramseur, 218 West Broad Street, Statesville, NC 28677. Provided Technical Assistance Services to: Morganton Housing Authority, Morganton, NC. Amount: 10625
Severin Sorensen, PO Box 34469, Bethesda, MD 208131072. Provided Technical Assistance Services to: Bluefield Housing Authority, Bluefield, WV. Amount: 19345
Saundra Williams, 4300 Flat Shoals Rd. #2606, Union City, GA 30291. Provided Technical Assistance Services to: Hawkinsville Housing Authority, Hawkinsville, GA. Amount: 9169
W. Sawyer Shirley, 2005 Country Park Drive, Smyrna, GA 30080. Provided Technical Assistance Services to: Housing Authority of the County of Clallam, Port Angeles, WA. Amount: 9864
Marcia Marshall, 101 College Pkwy, Arnold, MD 21012. Provided Technical Assistance Services to: Anne Arundel County Housing Authority, Glen Burnie, MD. Amount: 9970
Robert Taylor, 425 Beasley Road, #B7, Jackson, MS 39286. Provided Technical Assistance Services to: Housing Authority of the City of Columbus, Columbus, MS. Amount: 7514
Phil Watson, 5525 MacArthur Blvd. #450, Irving, TX 75038. Provided Technical Assistance Services to: Mission Housing Authority, Mission, TX. Amount: 9909
C. Jean Bennett, 207 Valley North Blvd., Jackson, MS 39206. Provided Technical Assistance Services to: Housing Authority of the City of Hazlehurst, Hazlehurst, MS. Amount: 9818
Herbert Carter, P.O. Box 215, Raleigh, NC 277020215. Provided Technical Assistance Services to: Vance County Housing Authority, Henderson, NC. Amount: 9344
Sanford Horvitz, 1325 S. Colorado Blvd, b204, Denver, CO 80222. Provided Technical Assistance Services to: Adams County Housing Authority, Commerce City, CO. Amount: 9898
Anthony Randolph, 1050 Topeka Street, Pasadena, CA 91104. Provided Technical Assistance Services to: Sacramento Housing and Redevelopment Agency, Sacramento, CA. Amount: 9898
C. Jean Bennett, 207 Valley North Blvd., Jackson, MS 39206. Provided Technical Assistance Services to: Yazoo Housing Resident Council, Inc., Yazoo City, MS. Amount: 9353
David Buches, Rd 1 Box 735a, Dover, DE 19901. Provided Technical Assistance Services to: McKean County Redevelopment and Housing Agency, Smethport, PA. Amount: 7510
Severin Sorensen, PO Box 34469, Bethesda, MD 20813–1072. Provided Technical Assistance Services to: Housing Authority of the City of Asheville, Asheville, NC. Amount: 10000
Severin Sorensen, P.O. Box 34469, Bethesda, MD 20827. Provided Technical Assistance Services to: Geneva Housing Authority, Geneva, NY. Amount: 14482
Francis McDonald, 22 Kings Landing Lane, Hampton, VA 23669. Provided Technical Assistance Services to: Norfolk Redevelopment & Housing Authority, Norfolk, VA. Amount: 2858
Saundra Williams, 4300 Flat Shoals Rd. #2606, Union City, GA 30291. Provided Technical Assistance Services to: Housing Authority of the City of Acworth, Acworth, GA. Amount: 8797
Travis Alexander, 108–t South St., Leesburg, VA 22075. Provided Technical Assistance Services to: Housing Authority of the City of Key West, Key West, FL. Amount: 9266
Hugh Phillips, 619 Longbow Drive, Albany, GA 31707. Provided Technical Assistance Services to: Russellville Housing Authority Incorporated, Russellville, AL. Amount: 11394
David Buches, Rd 1 Box 735a, Dover, DE 19901. Provided Technical Assistance Services to: Norman Housing Authority, Norman, OK. Amount: 17366
Jesse Jaramillo, 2131 34th Street, Los Alamos, NM 87544. Provided Technical Assistance Services to: Housing Authority of New Orleans, New Orleans, LA. Amount: 10000
Gregory Robinson, 1350 Euclid Ave. Suite 901, Cleveland, OH 44115. Provided Technical Assistance Services to: Jackson Housing Authority, Jackson, TN. Amount: 13934
Hugh Phillips, 619 Longbow Drive, Albany, GA 31707. Provided Technical Assistance Services to: Housing Authority of the City of Baxley, Baxley, GA. Amount: 11212
Severin Sorensen, P.O. Box 34469, Bethesda, MD 20813–1072. Provided Technical Assistance Services to: Housing Authority of Pasco and Franklin County, Pasco, WA. Amount: 10374
Gary Davis, 620 Alum Creek Drive, Columbus, OH 43205. Provided Technical Assistance Services to: Hall County Housing Authority, Grand Island, NE. Amount: 7462
Jesse Jaramillo, 2131 34th Street, Los Alamos, NM 87544. Provided Technical Assistance Services to: San Francisco Housing Authority, San Francisco, CA. Amount: 9979
William McDonough, 30 Gillett Street, #3a, Hartford, CT 06105. Provided Technical Assistance Services to: Housing Authority of New London, New London, CT. Amount: 9375
Dennis Rodriguez, 267 West 9th St., San Pedro, CA 90731. Provided Technical Assistance Services to: Pueblo Del Rio Resident Management Corporation, Los Angeles, CA. Amount: 6234
Margot Lebrasseur, 725 2nd St. N.E., Washington, DC 20002. Provided Technical Assistance Services to: Fort Belknap Housing Authority, Harlem, MT. Amount: 7197

Phillip Watson, 5525 MacArthur Boulevard #450, Irving, TX 75038. Provided Technical Assistance Services to: Starr County Housing Authority, Rio Grande, TX. Amount: 11195
Severin Sorensen, P.O. Box 34469, Bethesda, MD 20813–1072. Provided Technical Assistance Services to: Housing Authority of the Town of Laurinburg, Laurinburg, NC. Amount: 10000
Phillip Watson, 5525 MacArthur Boulevard #450, Irving, TX 75038. Provided Technical Assistance Services to: Housing Authority of the City of Donna, Donna, TX. Amount: 11493
William Gailliard, 1120 Perry Hill Road, Montgomery, AL 36109. Provided Technical Assistance Services to: Gibbs Village, Montgomery, AL. Amount: 10135
Philip Fairweather, 6924 La Cienega Blvd, Ste 2, Inglewood, CA 90302. Provided Technical Assistance Services to: Albany Housing Authority, Albany, NY. Amount: 13610
Phillip Watson, 5525 MacArthur Boulevard #450, Irving, TX 75038. Provided Technical Assistance Services to: Housing Authority of the City of Port Isabel, Port Isabel, TX. Amount: 11634
Carol Deemer, 6700 South Shore Dr. #18A, Chicago, IL 60649. Provided Technical Assistance Services to: Jackson County Housing Authority, Murphysboro, IL. Amount: 11974
Sheila Wallce, 714 Lakeside Dr., Carriere, MS. Provided Technical Assistance Services to: Picayune Housing Authority, Picayune, MS. Amount: 8003
Paul Turner, 410 Castello Road, Lafayette, CA 94549. Provided Technical Assistance Services to: Yolo County Housing Authority, Woodland, CA. Amount: 13870
Paul Tanner, 5618 Shorewood Rd., Jacksonville, FL 32210. Provided Technical Assistance Services to: Chipley Housing Authority, Chiley, FL. Amount: 9314
Gwendolyn Edwards, P.O. Box 2932, Atlanta, GA 30301. Provided Technical Assistance Services to: Ceader Park, Montgomery, AL. Amount: 7335
Michael Norman, 4060 Peachtree Rd NE B181, Atlanta, GA 30360. Provided Technical Assistance Services to: Smiley Court Resident Organization, Montgomery, AL. Amount: 9082
Marlene Johnson, 2805 Dawson Street #202, Anchorage, AK 99503. Provided Technical Assistance Services to: Clarks Point Resident Organization, Clarks Point, AK. Amount: 14318
Marlene Johnson, 2805 Dawson Street #202, Anchorage, AK 99503. Provided Technical Assistance Services to: Ekwok Resident Organization, Ekwok, AK. Amount: 15406
James Kinkead, 2371 Henry Clower Blvd, Ste. C, Snellville, GA 30278. Provided Technical Assistance Services to: Rowan County Housing Authority, Salisbury, NC. Amount: 10936
Herbert Carter, P.O. Box 215, Raleigh, NC 27702–0215. Provided Technical Assistance Services to: Housing Authority of the City of Bainbridge, Bainbridge, GA. Amount: 9874
Gary Cordner, 410 Stratton Building, Richmond, KY 40475. Provided Technical Assistance Services to: Housing Authority of Cumberland, Cumberland, KY. Amount: 6711
Gwendoiyn Shepherd, GMSS Learning Services, Port Orchard, WA 98366–7645. Provided Technical Assistance Services to: Housing Authority of Clackamas County, Oregon City, OR. Amount: 10000
Paul Tanner, 5618 Shorewood Rd., Jacksonville, FL 32210. Provided Technical Assistance Services to: Union County Housing Authority, Lake Butler, FL. Amount: 8227
James Godfrey, P.O. Box 2470, Hot Springs, AR 71914. Provided Technical Assistance Services to: Rome Housing Authority, Rome, GA. Amount: 10824
William Pammer, 8904 Beeler Dr., Tampa, FL 33626. Provided Technical Assistance Services to: Miller Plaza Resident Council, Las Vegas, NV. Amount: 11855
Severin Sorensen, P.O. Box 34469, Bethesda, MD 20813–1072. Provided Technical Assistance Services to: Alachua County Housing Authority, Gainesville, FL. Amount: 11920
Joseph Alex, P.O. Box 210546, Montgomery, AL 36121. Provided Technical Assistance Services to: Uniontown Housing Tenant Association, Uniontown, AL. Amount: 10384
Severin Sorensen, P.O. Box 34469, Bethesda, MD 20813–1072. Provided Technical Assistance Services to: New Bedford Housing Authority, New Bedford, MA. Amount: 12757
Luis Ortiz, Chile #7 St. Vista Verde, Vega Baja, PR 00763. Provided Technical Assistance Services to: Davila Freyotes Resident Council, Barceloneta, PR. Amount: 7825
Abraham Williams, 804 26th Avenue, Phenix City, AL 36869. Provided Technical Assistance Services to: City of Evergreen Housing Authority, Evergreen, AL. Amount: 5478
Sylvia Roberts, 500 South Florida Ave Ste. 600, Lakeland, FL 33804–0183. Provided Technical Assistance Services to: Winter Haven Housing Authority, Winter Haven, FL. Amount: 5928
Herman Wrice, Mantua Against Drugs, Philadelphia, PA 19104. Provided Technical Assistance Services to: Pasco County Housing Authority, Dade City, FL. Amount: 7689
Philip Fairweather, 6924 La Cienega Blvd, Ste 2, Inglewood, CA 90302. Provided Technical Assistance Services to: The Housing Authority of the City of Atlanta, Atlanta, GA. Amount: 13860
Percy Dace, P.O. Box 23556, Belleville, IL 62223. Provided Technical Assistance Services to: Springfield Housing Authority, Springfield, IL. Amount: 11000
Gary Davis, 620 Alum Creek Drive, Columbus, OH 43205. Provided Technical Assistance Services to: The Housing Authority of Martin, Martin, KY. Amount: 5282
Isaac Montoya, 3104 Edloe St. #330, Houston, TX 77027–6022. Provided Technical Assistance Services to: Rayville Housing Authority, Rayville, LA. Amount: 9604
John Campbell, 319 SW Washington St., #802, Portland, OR 97204. Provided Technical Assistance Services to: Housing Authority of the City of Salem, Salem, OR. Amount: 17481
Carlos Garcia, Skills Training Inc, Grapevine, TX 76051. Provided Technical Assistance Services to: Housing Authority of the City of Beaumont, Beaumont, TX. Amount: 6279
Robert Milan, P.O. Box 214, Lawton, OK 73502. Provided Technical Assistance Services to: Osage Indian Resident Council Association, Skiatook, OK. Amount: 10500
Mary Weathers, 9830 Willow Suite 4B, Kansas City, MO 64134. Provided Technical Assistance Services to: The Housing Authority for the City of Dallas, Dallas, TX. Amount: 7466

[FR Doc. 96–7330 Filed 3–26–96; 8: 45 am]
BILLING CODE 4210–33–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of a Technical/Agency Draft Recovery Plan for the Mitchell's Satyr Butterfly (Neonympha mitchellii mitchellii) for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service announces the availability for public review of a technical/agency draft recovery plan for the Mitchell's satyr butterfly (*Neonympha mitchellii mitchellii*). It occurs on private and public lands in southeastern Michigan and northern Indiana. The Service solicits review and comment from the public on this draft plan.

DATES: Comments on the technical/agency draft recovery plan must be receive on or before May 28, 1996, to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting Charles M. Wooley, Field Supervisor, East Lansing Field Office, 2651 Coolidge Road, East Lansing, Michigan 48823–6316, telephone (517) 351–2555. Comments and materials received are available for public inspection by appointment during normal business hours at the above address. Comments on the plan should be addressed to Mark Hodgkins (see **ADDRESSES**).

FOR FURTHER INFORMATION CONTACT: Mark Hodgkins at the above address, or telephone (517) 351–6289.

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened animal or plant to the point

where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the U.S. Fish and Wildlife Service's (Service) endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, establish criteria for the recovery levels to reclassify to threatened or delist them, and estimate time and cost to implement the recovery measures needed. The Service revises existing recovery plans, as needed, to reflect important new biological information, significant changes in a species' status, or the accomplishment of tasks identified in the original plan.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

The document submitted for review is the draft Mitchell's Satyr Butterfly (*Neonympha mitchellii mitchellii*) Recovery Plan. Of the 30+ historic populations known, only 11 extant, isolated populations remain in southwestern Michigan and one in northern Indiana. The species is considered extirpated from Ohio, New Jersey, and Maryland (if it actually occurred in that state).

The Mitchell's satyr butterfly was emergency listed as endangered on June 25, 1991, due to a perceived threat posed by overcollection. On May 20, 1992, the Mitchell's satyr butterfly received long-term protection through the normal listing process. The literature reflects some variability in the description of Mitchell's satyr habitat. Known habitats are all peatlands but range along a continuum from prairie/bog fen to meadow/swamp. However, a constant attribute in all historical and active habitats is a herbaceous community which is dominated by sedges, usually *Carex stricta*, with scattered deciduous and/or coniferous shrubs, most often tamaracks, or red cedar. Mitchell's satyr habitat is most easily characterized as a sedge-dominated fen community. The greatest threat to *N. m. mitchellii* is continued loss of habitat due to development and fen alteration leading to disruption of ecological processes which create and maintain habitat.

The primary objective of this draft recovery plan is to protect an adequate number of Mitchell's satyr butterfly sites to ensure long-term viability of the species in the wild. Conditions that must be met to reclassify the Mitchell's satyr butterfly from endangered to threatened status include protection of a minimum of 16 geographically distinct, self-sustaining populations established or discovered range wide. Delisting will be considered when 25 geographically distinct, self-sustaining populations are established or discovered range wide for five consecutive years following reclassification. Also, a minimum of 15 of these sites would need the establishment of permanent protection with long-term management programs requiring some intervention.

Site protection will be accomplished through negotiating cooperative agreements and conservation easements with land owners and managers, acquiring lands from willing sellers, and using existing legislation to protect the Mitchell's satyr and their habitat. Other recovery activities will include searching for additional populations, monitoring population levels and habitat conditions, managing habitat as needed, conducting necessary studies, and conducting a general information program for the public.

The draft recovery plan is available for technical/agency review. After consideration of comments received during the review period, the recovery plan will be submitted to the Regional Director, Region 3, for final approval.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of the recovery plan.

Authority

The authority for this action is Section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: March 20, 1996.

Mamie A. Parker,

Acting Assistant Regional Director, Ecological Services.

[FR Doc. 96–7373 Filed 3–26–96; 8:45 am]

BILLING CODE 4310–55–M

Geological Survey

Federal Geographic Data Committee (FGDC); Public Meeting of the FGDC Facilities Working Group

AGENCY: Geological Survey, Interior.

ACTION: Notice of two meetings.

SUMMARY: This notice is to invite public participation in two meetings of the FGDC Facilities Working Group. The major topics for these meetings are: the standardization of definitions for Facility and Installation; development of a Facility/Installation ID standard; and development of standards for utility, building, and environmental hazard geospatial data.

TIME AND PLACE: 8 April 1996, from 1:00 p.m. until 4:00 p.m., and 13 May 1996, from 1:00 p.m. until 4:00 p.m. The meetings will be held at Headquarters U.S. Army Corps of Engineers, in room 8222D of the Pulaski Building, 20 Massachusetts Avenue, NW., Washington, DC. The Pulaski Building is located just a few blocks west of Union Station.

FOR FURTHER INFORMATION CONTACT: Jennifer Fox, FGDC Secretariat, U.S. Geological Survey, 590 National Center, 12201 Sunrise Valley Drive, Reston, Virginia 22092; telephone (703) 648–5514; facsimile (703) 648–5755; Internet "gdc@usgs.gov".

SUPPLEMENTARY INFORMATION: The FGDC is a committee of Federal Agencies engaged in geospatial activities. The FGDC Facilities Working Group specifically focuses on geospatial data issues related to facilities and facility management. A facility is an entity with location, deliberately established as a site for designated activities. A facility database might describe a factory, a military base, a college, a hospital, a power plant, a fishery, a national park, an office building, a space command center, or a prison. The database for a complex facility may describe multiple functions or missions, multiple buildings, or even a county, town, or city. The objectives of the Working Group are to: promote standards of accuracy and currentness in facilities data that are financed in whole or in part by Federal funds; exchange information on technological improvements for collecting facilities data; encourage the Federal and non-Federal communities to identify and adopt standards and specifications for facilities data; and promote the sharing of facilities data among Federal and non-Federal organizations.

Dated: March 15, 1996.

Richard E. Witmer,

Acting Chief, National Mapping Division.

[FR Doc. 96–7362 Filed 3–26–96; 8:45 am]

BILLING CODE 4310–31–M

Bureau of Land Management

[WO–350–1430–00]

Extension of Currently Approved Information Collection; OMB Approval Number 1004–0011

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is announcing its intention to request extension of approval for the collection of information from those persons seeking to acquire title to public land under the color-of-title authority as a Class 2 claim. The BLM collects information to assure that statutory requirements for conveyance of title under the Color-of-Title Act have been met.

DATES: Comments on the proposed information collection must be received by May 28, 1996, to be considered.

ADDRESSES: Comments may be mailed to: Regulatory Management Team (420), Bureau of Land Management, 1849 C Street NW, Room 401 LS, Washington, D.C. 20240.

Comments may be sent via Internet to: lWO140@attmail.com. Please include "Attn:1004–0011" and your name and return address in your Internet address.

Comments may be hand delivered to the Bureau of Land Management Administrative Record, Room 401, L Street NW, Washington, D.C. 20036.

Comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Vanessa R. Engle, Realty Use Group, 202–452–7776.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.12(a), the BLM is required to provide 60-day notice in the **Federal Register** concerning a collection of information contained in published current rules to solicit comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

The Color-of-Title Act of December 22, 1928, as amended (43 U.S.C. 1068, 1068a, 1068b), provides for the issuance of a land patent (deed) to eligible individuals, groups, or corporations who believe they have a valid claim to public lands under color-of-title. The information collected on Color-of-Title Tax Levy and Payment Record Form 2540–3, is required by Departmental regulations 43 CFR 2541.2 for all applicants who initiate a Class 2 claim. These regulations were adopted on June 13, 1970 (35 FR 9592).

A claim of Class 2 is one which has been held in good faith and in peaceful, adverse possession by a claimant, his ancestors, or grantors, under claim or color of title for the period commencing not later than January 1, 1901, to the date of application, during which time they have paid taxes levied on the land by State and local governmental units.

Any individual seeking to acquire a title to public land under the color-of-title authority must make application and provide information essential to compliance with law, regulations, and procedures. The evidence needed to determine property rights through color-of-title regulations for a Class 2 claim is proof of payment of taxes levied on the property claimed by the applicant. Without this proof of payment, the BLM cannot finalize the claim.

Form 2540–3 may be submitted in person or by mail to the proper BLM office. The following is an explanation of specific items of information requested on Color-of-Title Tax Levy and Payment Record Form 2540–3, pursuant to 43 CFR 2541.2(4)(c)(2): (1) the name of applicant is needed to identify the person/entity filing a claim; (2) the legal description of the claimed land must be listed as recorded in public records of the county concerned; (3) tax payment information including the certification of the data on tax year, payor of the tax, and the amount of tax is necessary information to legally qualify the applicant to receive a property right from the Federal government; and (4) certification from the public official administering the county tax records or a certified abstracter must be provided to determine the validity of the application.

Response is mandatory if the color-of-title claimant wishes to obtain the benefits of the statute and gain clear title to his claimed property. Failure to provide the necessary information results in the rejection of the color-of-title application. If the information on Color-of-Title Tax Levy and Payment Record Form 2540–3 was not collected, BLM would be unable to carry out the mandate of the Color-of-Title Act and the responsibilities for implementing 43 CFR 2540 and 2541. Form 2540–3 requires only the minimal information necessary to determine claim validity.

Based on its experience processing Color-of-Title applications, BLM estimates the public reporting burden for completing Color-of-Title Tax Levy and Payment Record Form 2540–3 is one hour. BLM estimates that approximately 37 Color-of-Title applications will be filed annually for a total annual burden of 37 hours.

Any interested member of the public may request and obtain, without charge, a copy of Color-of-Title Tax Levy and Payment Form 2540–3 by contacting any BLM Office or the person identified under **FOR FURTHER INFORMATION CONTACT.**

BLM will summarize all responses to this notice and include them in the request for Office of Management and Budget approval. All comments will also become part of the public record.

Dated: March 21, 1996.

Annetta L. Cheek,

Chief, Regulatory Management Team.

[FR Doc. 96–7323 Filed 3–26–96; 8:45 am]

BILLING CODE 4310–84–P

[WY–921–41–5700; WYW121598]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

March 14, 1996

Pursuant to the provisions of 30 U.S.C. 188 (d) and (e), and 43 CFR 3108.2–3 (a) and (b)(1), a petition for reinstatement of oil and gas lease WYW121598 for lands in Natrona County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of

this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW121598 effective September 1, 1995, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Pamela J. Lewis,

Chief, Leasable Minerals Section.

[FR Doc. 96–7363 Filed 3–26–96; 8:45 am]

BILLING CODE 4310–22–P

[WY–920–06–1330–01; WYW128036, WYW128037, WYW128038]

Notice of Sodium Lease Offerings by Sealed Bid; Cheyenne, WY

SUMMARY: Notice is hereby given that certain sodium resources in the lands hereinafter described, located in Sweetwater County, Wyoming, will be offered for competitive lease by sealed bid in accordance with the provisions of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 181 *et seq.*), as amended.

DATES: The lease sale will be held at 2:00 p.m., on Wednesday, May 1, 1996. Sealed bids must be submitted before 1:00 p.m., on Wednesday, May 1, 1996.

ADDRESSES: The lease sale will be held in the first floor conference room (Room 107) of the Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, Wyoming 82003. Sealed bids must be submitted to the Cashier, Wyoming State Office, at the address given above.

FOR FURTHER INFORMATION CONTACT: Mavis Love, Land Law Examiner, at (307) 775–6258.

SUPPLEMENTARY INFORMATION: These offerings are being made as a result of expressions of interest filed in the Wyoming State Office. The parcels will be leased to the qualified bidder of the highest cash amount provided that the high bid meets the fair market value determination of the parcels. The minimum bid is $200.00 per acre. No bid less than $200.00 per acre will be considered. The minimum bid is not intended to represent fair market value. The fair market value will be determined by the Authorized Officer after the sale.

The resource to be offered consists of all the sodium in the following described lands located in Sweetwater County, Wyoming. Minable reserves are defined as beds that are a maximum of 2000 feet deep, are a minimum of 8 feet thick, and have a minimum quality greater than 85 percent trona and less than 2 percent halite.

Parcel 1 (WYW128036)

T. 18 N., R. 109 W., 6th P.M., WY,
Sec. 20: All.
Containing 640 acres.

Parcel 1 contains an estimated 18.1 million tons of minable trona in Bed 17.

Parcel 2 (WYW128037)

T. 18 N., R. 109 W., 6th P.M., WY,
Sec. 28: All.
Containing 640 acres.

Parcel 2 contains an estimated 15.0 million tons of minable trona in Bed 17 and 4.6 million tons of minable trona in Bed 15 for a total of 19.6 million tons.

Parcel 3 (WYW128038)

T. 17 N., R. 110 W., 6th P.M., WY,
Sec. 10: All;
Sec. 12: All.
Containing 1280 acres.

Parcel 3 contains minable trona in all five beds with a total of 60.2 million tons of minable trona. Bed 17 contains 2.0 million tons, Bed 15 contains 6.9 million tons, Bed 14 contains 13.3 million tons, Bed 12 contains 23.8 million tons, and Bed 11 contains 14.2 million tons.

The leases issued as a result of this offering will provide for payment of annual rentals for each acre, or fraction thereof, as follows: 25 cents for the first calendar year or fraction thereof; 50 cents for the second, third, fourth and fifth calendar years, respectively; and, one dollar for the sixth and each and every calendar year thereafter during the continuance of the leases. The rental paid for any year shall be credited against the first royalties as they accrue under the lease during the year for which the rental was paid. The royalty rate shall be 8 percent of the quantity or gross value of the output of sodium compounds and related products at the point of shipment to market. Bidding instructions for the offered tracts are included in the Detailed Statement of Lease Sale. Copies of the statement and of the proposed sodium leases are available at the Wyoming State Office. Case file documents are also available at the office for public inspection.

Dennis R. Stenger,

Acting Deputy State Director, Minerals and Lands.

[FR Doc. 96–6805 Filed 3–26–96; 8:45 am]

BILLING CODE 4310–22–M

National Park Service

Solicitation of Nominations for National Maritime Heritage Grants Advisory Committee

AGENCY: National Park Service, Interior.

ACTION: Solicitation of nominations.

SUMMARY: Pursuant to 16 U.S.C. 5401, the Secretary of the Interior is soliciting nominations for members to serve on the National Maritime Heritage Grants Advisory Committee. The purpose of the Committee is to advise the Secretary on matters pertaining to the National Maritime Heritage Grants Program and the National Maritime Heritage Policy.

DATES: All nominations should be submitted on or before April 26, 1996.

ADDRESSES: All nominations should be sent to: Secretary of the Interior, U.S. Department of the Interior, 1849 C Street NW., Washington, D.C. 20240. All nominations should be accompanied by complete biographical and professional information, and include home and business address and telephone numbers.

FOR FURTHER INFORMATION CONTACT: Kevin Foster, National Maritime Initiative, National Park Service, U.S. Department of the Interior, (202) 343–5969 or (202) 343–1244 (fax).

SUPPLEMENTARY INFORMATION: Pub. L. 103–451 (16 U.S.C. 5401) established within the Department of Interior the National Maritime Heritage Grants Program for maritime heritage preservation and education projects. It also sets forth the National Maritime Heritage Policy, calling for preservation of historic maritime resources through a partnership with Federal, State, and local governments, and private entities.

In addition, the Act established the National Maritime Heritage Grants Advisory Committee. The Committee is responsible for reviewing proposals to the National Maritime Heritage Grants Program and making funding recommendations to the Secretary. The Committee identifies and advises the Secretary regarding priorities for achieving the objectives set forth in the National Maritime Heritage Policy. The Committee also reviews the Secretary's annual report to Congress on the Grants Program, and performs any other duties the Secretary considers appropriate.

Pub. L. 103–451 stipulates that the Committee will consist of 13 members appointed by the Secretary who are representative of various sectors of the maritime community who are knowledgeable and experienced in maritime heritage and preservation. To the extent practicable, membership should reflect regional geographic balance and include a representative from each of the fields of:

1. small craft preservation
2. large vessel preservation
3. sail training
4. preservation architecture
5. underwater archaeology
6. lighthouse preservation
7. maritime education
8. military naval history
9. maritime museums or historical societies
10. maritime arts and crafts
11. maritime heritage tourism
12. maritime recreational resources management

The Committee will also include a member of the general public.

Through this notice, the Secretary is soliciting nominations for any of the appointments from interested organizations or individuals.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 96–7371 Filed 3–26–96; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–383]

Certain Hardware Logic Emulation Systems and Components Thereof; Prehearing Conference

Notice is hereby given that a prehearing conference in this matter will commence at 8:30 a.m. on Thursday, April 11, 1996, in Courtroom B (Room 111), U.S. International Trade Commission Building, 500 E St. S.W., Washington, D.C., and the hearing will commence immediately thereafter.

The Secretary shall publish this notice in the **Federal Register**.

Issued: March 21, 1996

Paul J. Luckern,

Administrative Law Judge.

[FR Doc. 96–7413 Filed 3–26–96; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Reserach and Production Act of 1993—Research, Development and Production of Adsorbent for Air Separation (Air Products and Chemicals, Inc.)

Notice is hereby given that, on February 5, 1996, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Air Products and Chemicals, Inc. filed notifications of a cooperative joint venture simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the joint venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identifies of the parties are Air Products and Chemicals, Inc., Allentown, PA and L'Air Liquide, Societe Anonyme Pour L'Etude et L'Exploitation Des Procedes Georges Claude, Paris, FRANCE. The objective of the joint venture is to research, develop and arrange for and share in the production of new adsorbents for the separation of air to recover oxygen and/or nitrogen.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–7365 Filed 3–26–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Corporation for Open Systems International (COS)

Notice is hereby given that, on February 23, 1996, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the Cooperation for Open Systems International ("COS") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission reflecting changes in the membership of COS. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Effective December 31, 1995, the following companies ceased membership in COS: Ameritech, Chicago, IL; AT&T, Holmdel, NJ; Bell Atlantic, Arlington, NJ; Computer Sciences Corporation, Herndon, VA; Digital Equipment Corporation, Littleton, MA; Defense Information Systems Agency, Reston, VA; Motorola, Arlington Heights, IL; National Institute of Standards and Technology, Gaithersburg, IL; Northern Telecom, Inc., Morristown, NJ; NYNEX Science & Technology, Inc., White Plains, NY; Southwestern Bell Technology Resources, Austin, TX; Unisys Corporation, St. Paul, MN; and 3COM Corporation, Santa Clara, CA.

No other changes have been made in either the membership or planned activity of COS. Membership in this group research project remains open, and COS intends to file additional written notification disclosing all changes in membership.

On May 14, 1986, COS filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 11, 1986 (51 FR 21260).

The last notification was filed with the Department on October 17, 1995. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on February 20, 1996 (61 Fed. Reg. 6388).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–7366 Filed 3–26–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Petroleum Environmental Research Forum ("PERF")

Notice is hereby given that, on February 15, 1996, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the Petroleum Environmental Research Forum ("PERF") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing a change in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the notifications stated that the Aramco Services Company, Houston, TX, has become a member of PERF.

No other changes have been made in either the membership or planned activity of PERF. Membership in PERF remains open, and PERF intends to file additional written notification disclosing all changes in membership.

On February 10, 1986, PERF filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 14, 1986, (51 FR 8903).

The last notification was filed with the Department on March 1, 1995. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 27, 1995, (60 FR 20751). A supplemental filing of a change in the

wording of the Charter of PERF filed with the Department on October 25, 1995, has not been published.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–7368 Filed 3–26–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Petroleum Environmental Research Forum Project No. 93–24

Notice is hereby given that, on February 26, 1996, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the participants in the Petroleum Environmental Research Forum ("PERF") Project No. 93–24, titled "Biodegradation and Metabolism of Methyl Tertiary Butyl Ether and Other Tertiary Ethers," have filed written notifications simultaneously with the Attorney General and with the Federal Trade Commission disclosing (1) the identities of the parties to PERF Project No. 93–24 and (2) the nature and objectives of the research program to be performed in accordance with the Project. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the current parties participating in PERF Project No. 93–24 are: Amoco Corporation, Chicago, IL; ELF Aquitaine Inc., Washington, D.C.; Union Oil Company of California (Unocal), Brea, CA.

The nature and objective of the research program performed in accordance with PERF Project No 93–24 is to assess biodegradation and metabolism of methyl tertiary butyl ether (MTBE) and other tertiary ethers.

Participation in this project will remain open to interested persons and organizations until issuance of the final Project Report, which is presently anticipated to occur approximately in September, 1996. The participants intend to file additional written notifications disclosing all changes in its membership.

Information about participating in PERF Project No. 93–24 may be obtained by contacting Ms. Minoo Javanmardian, Amoco Corporation, Naperville, IL.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–7369 Filed 3–26–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Petroleum Environmental Research Forum

Notice is hereby given that, on October 25, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the Petroleum Environmental Research Forum ("PERF") filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing a change in the statement of the nature and objectives of the joint venture. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the notifications stated that the wording of the Charter of PERF Article II, paragraphs A and B shall read as follows:

A. To provide a stimulus to and mechanism for cooperative research and development of technology related to any aspect of health, environment, safety, waste reduction, and system integrity for the petroleum industry.

B. To provide a forum for the presentation and consideration of proposals for industry projects related to any aspect of health, environment, safety, waste reduction, and system integrity for funding by Members of the organization and non-Members alike.

No other changes have been made in either the membership or planned activities of PERF. Membership in PERF remains open, and PERF intends to file additional written notifications disclosing all changes in membership.

On February 10, 1986, PERF filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 14, 1986, (51 FR 8903).

The last notification of change in membership was filed with the Department on March 1, 1995. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 27, 1995, (60 FR 20751).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–7367 Filed 3–26–96; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Manufacturer of Controlled Substance; Notice of Application

Pursuant to Section 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on October 9, 1995, High Standard Products, 1100 W. Florence Avenue, #8, Inglewood, California 90301, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Methaqualone (2565)	I
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
3,4-Methylenedioxyamphetamine (7400).	I
3,4-Methylenedioxy-N-ethylamphetamine (7404).	I
3,4-Methylenedioxy-methamphetamine (7405).	I
4-Methoxyamphetamine (7411)	I
Heroin	I
Normorphine	I
3-Methylfentanyl (9813)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Phencyclidine (7471)	II
Cocaine (9041)	II
Codeine (9050)	II
Diphenoxylate (9170)	II
Benzoylecgonine (9180)	II
Hydrocodone (9193)	II
Methadone (9250)	II
Morphine (9300)	II
Fentanyl (9801)	II

The firm plans to manufacture analytical reference standards.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than May 28, 1996.

Dated: March 15, 1996.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 96–7415 Filed 3–26–96; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Labor Advisory Committee for Trade Negotiations and Trade Policy; Sunshine Act Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (P.L. 92–463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: April 10, 1996, 10:00 am–12:00 noon, U.S. Department of Labor, Room S–3215 A/B, 200 Constitution Avenue NW., Washington, D.C. 20210.

Purpose: The meeting will include a review and discussion of current issues which influence U.S. trade policy. Potential U.S. negotiating objectives and bargaining positions in current and anticipated trade negotiations will be discussed. Pursuant to section 9(B) of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(9)(B) it has been determined that the meeting will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions. Accordingly, the meeting will be closed to the public.

For further information, contact: Fernand Lavalee, Director, Trade Advisory Group, Phone: (202) 219–4752.

Signed at Washington, D.C. this 21st day of March, 1996.

Joaquin Otero,

Deputy Under Secretary, International Affairs.

[FR Doc. 96–7412 Filed 3–26–96; 8:45 am]

BILLING CODE 4510–28–M

Mine Safety and Health Administration

Advisory Committee on the Elimination of Pneumoconiosis Among Coal Mine Workers; Meeting

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of advisory committee meeting.

SUMMARY: This notice announces the date, time, place, and agenda summary for the second meeting of the Mine Safety and Health Administration's Advisory Committee on the Elimination of Pneumoconiosis Among Coal Mine Workers.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, room 631, Arlington, Virginia 22203; phone 703–235–1910.

SUPPLEMENTARY INFORMATION: A public meeting of the advisory committee will be held as follows:

(1) April 11, 1996, from 8:00 a.m. to 6:30 p.m.

(2) April 12, 1996, from 8:00 a.m. to 5:00 p.m. The meeting will be held on both days at the DoubleTree Hotel—Pittsburgh (Somerset Room) located at 1000 Penn Avenue, Pittsburgh, Pennsylvania 15222; phone 412–281–3700.

The Secretary of Labor established this advisory committee (60 FR 5947) to develop recommendations for improved standards or other appropriate actions addressing: permissible exposure limits to eliminate black lung disease and silicosis; the means to control respirable coal mine dust levels; improved monitoring of respirable coal dust levels and the role of the miner in that monitoring; and the adequacy of operator sampling programs to determine the actual levels of dust concentrations to which miners are exposed. The Advisory Committee is chartered through September 30, 1996 (60 FR 55284), but must complete its deliberations by August 19, 1996.

The agenda for the second meeting will include discussions on the control of the workplace environment (worker exposure). Specific topics for discussion will include: (1) The current state of dust control technology for underground and surface coal mines and its effectiveness; (2) new developments in control technology and mining systems; (3) the hierarchy of controls and its application in underground and surface coal mines; (4) the design of mine ventilation plans for effective dust control and the means for verifying plan effectiveness; (5) the monitoring of compliance with plan requirements; (6) means of upgrading ventilation plan provisions; (7) the role of the miner, operator, and MSHA; and (8) education and training needs relative to the control of the workplace environment.

The public is invited to attend. The chairperson will provide an hour near the end of each day's meeting to allow interested persons to make comments. Official records of the meeting will be available for public inspection at the above address.

Dated: March 22, 1996.

J. Davitt McAteer,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 96–7384 Filed 3–22–96; 12:17 pm]

BILLING CODE 4510–43–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. The title of the information collection: 10 CFR Part 35, "Medical Use of Byproduct Material."

2. Current OMB Approval Number 3150–0010.

3. How often the collection is required: Required reports are collected and evaluated on a continuing basis as needed due to a change in programs or as events occur.

4. Who is required or asked to report: Physicians and medical institutions who are applicants for, or holders of, an NRC license authorizing the administration of byproduct material or its radiation to humans for medical use.

5. The number of annual respondents: 1,982 NRC licensees and 4,955 Agreement State licensees.

6. The number of hours needed annually to complete the requirement or request: 376,407 hours for NRC licensees and 942,820 hours for Agreement State licensees.

7. Abstract: 10 CFR Part 35, "Medical Use of Byproduct Material," contains requirements that apply to NRC licensees who are authorized to administer byproduct material or its radiation to humans for medical use. The information in the required reports and records is used by the NRC to ensure that the health and safety of the public is protected, and that the licensee possession and use of byproduct material is in compliance with license and regulatory requirements. The revision is a net increase adjustment in burden resulting from an increase in the number of affected licensees, a reevaluation of the time required to perform individual activities and the number of times those activities are performed, and an addition of burden associated with three sections, two of which are a result of rulemaking, and one which was inadvertently omitted during the last evaluation of burden.

Submit, by (insert date 60 days after publication in the **Federal Register**), comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Members of the public who are in the Washington, DC, area can access this document via modem on the Public Document Room Bulletin Board (NRC's Advance Copy Document Library), NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608. Additional assistance in locating the document is available from the NRC Public Document Room, nationally at 1–800–397–4209 or, within the Washington, DC area, at 202–634–3273.

Comments and questions may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, DC, 20555–0001, or by telephone at (301) 415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 21st day of March, 1996.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 96–7407 Filed 3–26–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 72–9 (50–267)]

Notice of Issuance of Amendment to Materials License SNM–2504; Public Service Company of Colorado; Fort St. Vrain Independent Spent Fuel Storage Installation

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment 2 to Materials License No. SNM–2504 held by the Public Service Company of Colorado (PSCo) for the receipt, possession, storage, and transfer of spent fuel at the Fort St. Vrain (FSV) independent spent fuel storage installation (ISFSI), located in Weld County, Colorado. The amendment is effective as of the date of issuance.

By applications dated July 21 and December 12, 1995, PSC requested amendments to its ISFSI license to (1) incorporate organizational changes, (2) delete reference to the FSV 10 CFR Part 50 "possession only" license, and (3) revise the radioactive materials and possession limits to accurately reflect the materials stored at the ISFSI.

This amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

In accordance with 10 CFR 72.46(b)(2), a determination has been made that the amendment does not present a genuine issue as to whether the health and safety of the public will be significantly affected. Therefore, the publication of a notice of proposed action and an opportunity for hearing or a notice of hearing is not warranted. Notice is hereby given of the right of interested persons to request a hearing on whether the action should be rescinded or modified.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that, pursuant to 10 CFR 51.22(c)(11), an environmental assessment need not be prepared in connection with issuance of the amendment.

Documents related to this action are available for public inspection at the Commission's Public Document Room located at the Gelman Building, 2120 L Street NW., Washington, DC 20555, and at the Local Public Document Room at the Weld Library District, Lincoln Park Branch, 919 7th Street, Greeley, Colorado 80631.

Dated at Rockville, Maryland, this 21st day of March 1996.

For the Nuclear Regulatory Commission.

William D. Travers,

Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 96–7414 Filed 3–26–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket Nos. 50–266 and 50–301]

Wisconsin Electric Power Company; Point Beach Nuclear Plant; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to the licenses and Technical Specifications for the Point Beach Nuclear Plant, Unit Nos. 1 and 2, located in Manitowoc County, Wisconsin (Facility Operating License Nos. DPR–24 and DPR–27, respectively, issued to Wisconsin Electric Power Company, the licensee).

Environmental Assessment

Identification of the Proposed Action

The proposed action would reflect the change in the name of the licensee from Wisconsin Electric Power Company to Wisconsin Energy Company.

The proposed action is in accordance with the licensee's application for amendment of the facility operating license dated October 23, 1995.

The Need for the Proposed Action

The proposed action is needed to properly reflect corporate administrative changes in the license and Technical Specifications.

Environmental Impacts of the Proposed Action

The proposed action is administrative in nature only and will have no effect on the operation or maintenance of the facility whatsoever. The change will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for Point Beach.

Agencies and Persons Consulted

In accordance with its stated policy, on March 11, 1996, the staff consulted with the Wisconsin State official, Ms. Sarah Jenkins, of the Public Service Commission of Wisconsin, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated October 23, 1995, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin 54241.

Dated at Rockville, Maryland, this 20th day of March 1996.

For the Nuclear Regulatory Commission.

Gail H. Marcus,

Director Project Directorate III–3, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 96–7408 Filed 3–26–96; 8:45 am]

BILLING CODE 7590–01–P

Biweekly Notice

Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from March 4, 1996, through March 15, 1996. The last biweekly notice was published on March 13, 1996.

Notice Of Consideration Of Issuance Of Amendments To Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, And Opportunity For A Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By April 26, 1996, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing

Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to **(Project Director)**: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Arizona Public Service Company, et al., Docket Nos. STN 50-528, STN 50-529, and STN 50-530, Palo Verde Nuclear Generating Station, Units Nos. 1, 2, and 3, Maricopa County, Arizona

Date of amendments request: February 1, 1996

Description of amendments request: The proposed amendment would (1) revise Technical Specifications (TS) Sections 3/4.1.1.1, 6.9.1.9, and 6.9.1.10 to relocate the shutdown margin (reactor trip breakers open) to the Core Operating Limits Report (COLR); (2) revise TS 3/4.3.2 (Tables 3.3-3 and 3.3-4), to specify an additional restriction for the allowed low pressurizer pressure trip setpoint when reducing reactor coolant system (RCS) pressure in Mode 3; (3) revise TS Section 2.2.1 (Table 2.2-1) to make it consistent with the footnote in TS Tables 3.3-3 and 3.3-4; and (4) revise TS Sections 3/4.5.2 and 3/4.5.3 to specify an additional restriction to require that two emergency core cooling system (ECCS) subsystems be operable in Mode 3 whenever the RCS cold leg temperature is equal to or above 485 degrees F. In addition, the Table of Contents and the Bases would be revised to be consistent with these changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes do not significantly increase the probability or consequences of an accident previously evaluated in the Updated Final Safety Analysis Report (UFSAR). The proposed changes to TS Tables 2.2-1, 3.3-3, and 3.3-4 to add additional restrictions to the pressurizer pressure - low trip setpoint requirements are more conservative than the current Technical Specifications and will reflect the updated Mode 3 steam line break safety analyses assumptions. The proposed changes to TS sections 3/4.5.2 and 3/4.5.3 to add additional restrictions to the requirement to have two ECCS Subsystems operable are also more conservative than the current Technical Specifications and will reflect the updated Mode 3 steam line break safety analyses assumptions. Since these changes are more restrictive, they would not contribute to the initiation of any accident, nor would they increase the consequences of an accident, but they would enhance the plant response to a steam line break in Mode 3 to reduce consequences. The proposed changes to relocate the shutdown margin - reactor trip breakers open to the COLR will have no effect on the initiation or consequences of an accident. The shutdown margin-reactor trip breakers open, which would be determined using NRC approved analytical methods, as required by the proposed changes, would ensure that the probability and consequences of an accident would not increase. The changes to the titles of TS 3/4.5.2 and 3/4.5.3, and to the Table of Contents, are editorial and have no effect on the operation of the plant or on any structures, systems or components.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed TS changes do not create the possibility of an accident of a new or different kind. The proposed changes to TS Tables 2.2-1, 3.3-3, and 3.3-4, and TS section 3/4.5.2 and 3/4.5.3, to add additional restrictions to the pressurizer pressure - low trip setpoint requirement and add additional restrictions to the requirement to have two ECCS Subsystems operable are more conservative than the current Technical Specifications and will reflect the updated Mode 3 steam line break safety analyses assumptions. Since these changes are more restrictive, and therefore bounded by the current TS, they would not contribute to the initiation of any kind of new or different accident. The proposed changes to relocate the shutdown margin -reactor trip breakers open to the COLR will have no effect on the possibility of a new or different kind of accident. The shutdown margin-reactor trip breakers open, which would be determined using NRC approved analytical methods as required by the proposed changes, would ensure that there would be no possibility of a new or different kind of accident from any accident previously evaluated. The changes to the titles of TS 3/4.5.2 and 3/4.5.3, and to the Table of Contents, are editorial and have no effect on the operation of the plant or on any structures, systems or components.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed TS changes do not involve a reduction in any margin of safety. The proposed changes to TS Tables 2.2-1, 3.3-3, and 3.3-4, and TS section 3/4.5.2 and 3/4.5.3, to add additional restrictions to the pressurizer pressure - low trip setpoint requirement and add additional restrictions to the requirement to have two ECCS Subsystems operable are more conservative than the current Technical Specifications and will reflect the updated Mode 3 steam line break safety analyses assumptions. Since these changes are more restrictive, they do not involve a reduction in any margin of safety as currently established by the existing TS. The proposed changes to relocate the shutdown margin - reactor trip breakers open to the COLR will have no effect on any margin of safety. The shutdown margin - reactor trip breakers open would be determined using NRC approved analytical methods as required by the proposed changes, thus ensuring that there would be no reduction in any margin of safety. The changes to the titles of TS 3/4.5.2 and 3/4.5.3, and to the Table of Contents, are editorial and have no effect on the operation of the plant or on any structures, systems or components.

The NRC staff has reviewed the licensee's analysis and, based on that review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involve no significant hazards consideration.

Local Public Document Room location: Phoenix Public Library, 1221 N. Central Avenue, Phoenix, Arizona 85004

Attorney for licensee: Nancy C. Loftin, Esq., Corporate Secretary and Counsel, Arizona Public Service Company, P.O. Box 53999, Mail Station 9068, Phoenix, Arizona 85072-3999

NRC Project Director: William H. Bateman

Duke Power Company, Docket Nos. 50-269, 50-270 and 50-287, Oconee Nuclear Station, Units 1, 2 and 3, Oconee County, South Carolina

Date of amendment request: February 15, 1996

Description of amendment request: The proposed amendments would revise Technical Specification (TS) 3.7 to add operability requirements for the Keowee Hydro units during periods of commercial power generation. These requirements are based on lake level and power level of the Keowee Hydro units. Also, two surveillance requirements would be added to TS 4.6 to (1) address periodic testing of the circuitry that was added by the modification approved in NRC's SER dated August 15, 1995, and (2) add a load rejection surveillance to ensure that the response of the Keowee Hydro units is bounded by the design criteria used to develop the Keowee operating restrictions.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) [Does not] involve a significant increase in the probability or consequences of an accident previously evaluated:

Each accident analysis addressed within the Oconee Final Safety Analysis Report (FSAR) has been examined with respect to the change proposed within this amendment request. The probability of any Design Basis Accident (DBA) is not significantly increased by this change. In addition, the consequences of the accidents are within the bounds of the FSAR analyses.

The design basis of the auxiliary electrical systems is to supply the required engineered safeguards (ES) loads of one unit and the safe shutdown loads of the other two units. The systems are arranged so that no single failure will jeopardize plant safety. The addition of the operability requirement and surveillances for the Keowee Hydro units will ensure that the electrical systems can meet their design basis.

(2) [Does not] create the possibility of a new or different kind of accident from any kind of accident previously evaluated:

Addition of the operability requirement and surveillances will not create a new or different kind of accident. The addition of the circuitry which is covered by the operability requirement and surveillances has been reviewed and approved by the NRC. Therefore, operation of ONS [Oconee Nuclear Station] in accordance with this Technical Specification amendment will not create any failure modes not bounded by previously evaluated accidents. Consequently, this change will not create the possibility of a new or different kind of accident from any kind of accident previously evaluated.

(3) [Does not] involve a significant reduction in a margin of safety:

The design basis of auxiliary electrical systems is to supply the required ES loads of one Unit and safe shutdown loads of the other two units. The ability of the Keowee Hydro units to provide emergency power following an accident during a period of Keowee Hydro commercial power generation was reviewed and approved by the NRC in [an] SER dated August 15, 1995. Therefore, there will be no significant reduction in any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina 29691

Attorney for licensee: J. Michael McGarry, III, Winston and Strawn, 1200 17th Street, NW., Washington, DC 20036

NRC Project Director: Herbert N. Berkow

Duke Power Company, Docket Nos. 50-269, 50-270 and 50-287, Oconee Nuclear Station, Units 1, 2 and 3, Oconee County, South Carolina

Date of amendment request: February 20, 1996

Description of amendment request: The proposed amendments would revise Technical Specifications (TS) 3.1.5, 3.1.10, and 4.1. The TS changes would: (1) reduce the frequency for the concentrated boric acid storage tank boron concentration surveillance, (2) delete the chemical and radiochemical surveillance requirements for the reactor

coolant for $Sr^{=189}$ and $Sr^{=190}$, gross beta activity, gross alpha activity, dissolved gas concentration in the reactor coolant, and gross beta activity in the steam generator feedwater, and (3) relocate the surveillance requirements for tritium, chloride, fluoride and oxygen to the Selected Licensee Commitments (SLC) Manual. The proposed changes would also delete some temperature and pressure requirements on control rod operation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The licensee has determined that operation of the facility in accordance with the proposed amendments would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated:

Each accident analysis addressed within the Oconee Final Safety Analysis Report (FSAR) has been examined with respect to the proposed amendment request. The probability of any Design Basis Accident (DBA) is not significantly increased by the proposed amendment due to the fact that the identified cause in the FSAR accidents is not impacted. In addition, the consequences of the accidents are within the bounds of the FSAR analyses since the proposed amendment does not change the accident analysis methods or assumptions described in the FSAR.

(2) Create the possibility of a new or different kind of accident from any kind of accident previously evaluated:

The proposed amendment revises and eliminates several of the RCS [Reactor Coolant System] chemistry Technical Specification surveillance requirements. The changes in the surveillance requirements do not alter the plant safety features or the method of operation at ONS [Oconee Nuclear Station]. Therefore, operation of ONS in accordance with the proposed Technical Specification will not create any failure modes not bounded by previously evaluated accidents.

(3) Involve a significant reduction in a margin of safety.

The proposed amendment does not impact the mitigation of any of the accidents analyzed in the FSAR. Therefore, there is not a significant reduction in the margin of safety associated with the proposed amendment.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina 29691

Attorney for licensee: J. Michael McGarry, III, Winston and Strawn, 1200 17th Street, NW., Washington, DC 20036

NRC Project Director: Herbert N. Berkow

Entergy Operations, Inc., et al., Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: February 22, 1996

Description of amendment request: The licensee has proposed to increase the safety function lift setpoint tolerances for the safety and relief valves that are listed in Surveillance Requirement 3.4.4.1 (Page 3.4-10) of the Technical Specifications TSs) for the Grand Gulf Nuclear Station, Unit 1. The tolerances would be increased from the current plus/minus 1 percent of the safety function (i.e., safety relief valve) lift setpoint to plus/minus 3 percent.

The frequency of verifying these setpoints would not be changed by this amendment request. Also, the other surveillance requirements in the TSs on these valves and the number of these valves required to be operable are not being changed by this amendment request.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration (NSHC) in Attachment 2 to its application of February 22, 1996.

In its application, the licensee stated that it has used the NRC staff's safety evaluation report (SER), NEDC 31753-P-A, issued in the NRC letter of March 8, 1993, which evaluated General Electric (GE) topical report NEDC-31753P, "BWROG [BWR Owners' Group] In-Service Pressure Relief Technical Specification Revision Licensing Topical Report," dated February 1990.

The licensee's NSHC analysis is presented below:

Entergy Operations, Inc. is proposing that the Operating License for Grand Gulf Nuclear Station (GGNS) be amended to increase the tolerance of the safety function lift setpoints [from plus/minus 1%] to plus/minus 3%. The GGNS Inservice Testing (IST) program controls the frequency of safety relief valve (S/RV) testing as required by the GGNS Operating License; therefore, this proposal will also incorporate changes [concerning the setpoint tolerances] to applicable IST procedures. GGNS will incorporate the recommendations of the NEDC-31753-P-A [NRC staff's] SER, by resetting the safety function [S/RV] lift setpoints for all tested valves to within plus/minus 1% of the design lift setpoint and increasing the test sample size by two valves for each valve found outside the plus/minus 3% safety function lift setpoint. S/RV test sample population will be determined based upon the currently licensed ASME [American Society of Mechanical Engineers] Boiler and Pressure Vessel Code.

The commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10CFR50.92(c). A proposed amendment to an operating license involves no significant hazards if the operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

Entergy Operations, Inc. has evaluated the no significant hazards considerations in its request for a license amendment. In accordance with 10CFR50.91(a), Entergy Operations, Inc. is providing the following analysis of the proposed amendment against the three standards in 10CFR50.92(c):

a. No significant increase in the probability or consequences of an accident previously evaluated results from this change.

The GGNS safety design bases for the S/RVs are:

) Prevent overpressurization of the nuclear system that could lead to failure of the reactor coolant pressure boundary,

) Provide automatic depressurization for small breaks in the nuclear system,

) Permit verification of operability,

) Withstand adverse combinations of loadings and forces during abnormal, accident, or special event conditions.

The most limiting vessel overpressurization event is a closure of all main steam isolation valves with a high flux scram. This event was analyzed for GGNS using the minimum number of S/RVs required by the GGNS Operating License. The safety function lift setpoint tolerance used in the analysis bounds the proposed plus/minus 3% setpoint tolerance. The analysis indicates that the S/RVs are capable of maintaining adequate margin below the Operating License Reactor Coolant System Pressure of 1325 psig.

Anticipated operational transients can also challenge the operation of the S/RVs, for instance, Generator Load Reject without Bypass. Analyses have been performed on the limiting events that bound other pressure transient events using safety function limit setpoint tolerances that bound the proposed plus/minus 3% tolerance request. Fuel operating limits are based on the results of these analyses; therefore, adequate fuel thermal margin is maintained.

Plant transients and events that require the use of automatic depressurization and the low-low set feature utilize the relief mode of S/RV operation. This proposed change does not affect the relief mode of S/RV operation.

The verification of valve operability will still be performed in accordance with the GGNS Inservice Testing Program, and S/RV safety mode operability will be verified prior to reinstallation. Analysis of the loads placed on each S/RV sub-system (discharge piping, spargers and associated components) verifies that adequate margin exists to ensure that the overpressurization system can perform its designed function.

The negative tolerance of the safety function lift setpoint remains above the highest setpoint of the S/RV relief mode, and therefore normal vessel pressure. This margin provides reasonable assurance that inadvertent opening of an S/RV will not occur during power operations.

GGNS will replace each S/RV removed for IST program testing with an S/RV that has been reset to within plus/minus 1% of the designed safety function lift setpoint. During each refueling outage, at least six of the installed S/RVs will be tested for safety lift setpoint in accordance with the current IST program plant procedures. This sample population is in agreement with the current ASME Boiler and Pressure Vessel Code requirements for the GGNS IST program, and is more restrictive than the ANSI/ASME OM-1-1981 requirement upon which the setpoint tolerance was based. For S/RV setpoint testing ([the] as-found [setpoint]), additional valves will be tested if the as-found setpoint is outside plus/minus 3% of its designed safety function lift setpoint. Sample expansion will be consistent with the NEDC 31753-P-A SER requirement of two additional valves per valve failure.

The GGNS UFSAR currently requires at least fifty percent of the installed valves to be removed and tested during each refueling outage. GGNS FSAR Questions & Responses ı 211.49 discusses the bases for this requirement. The concern regarded the performance of S/RVs installed in operating plants at the time of GGNS construction and licensing, and that new plants should have significantly better performing S/RVs. The fifty percent requirement provides a very conservative margin of testing to demonstrate that no common cause of S/RV failure occurs within any one operating cycle. The minimum testing of six valves proposed for each outage, with additional testing for each failure from the initial test population, provides reasonable assurance that no common cause failure is occurring without early detection. [The minimum testing of six valves is in agreement with the current ASME Code requirements and is consistent with the current industry practices that was accepted in the NRC staff's safety evaluation report, NEDC 31753-P-A.]

One of the major factors in the requirement of additional testing population beyond ASME Boiler and Pressure Vessel Code is many of the older plants were experiencing failures with multiple stage pilot operated S/RVs. The safety function of this type of S/RV requires operation of a pilot valve that is susceptible to excessive leakage and corrosive bonding to cylinder walls; thereby preventing proper safety function operation. The GGNS Dikkers S/RVs are direct acting, and do not require the operation of a pilot valve for the safety function. The Dikkers S/RV Instruction Manual recommends "to replace part of the installed valves each maintenance stop (refueling outage)", and does not prescribe any particular [number of valves to be tested].

Therefore, no significant increase in the probability or consequences of an accident previously evaluated results from this proposed change.

b. This change would not create the possibility of a new or different kind of accident from any previously analyzed.

The plant specific analyses verify that each S/RV will still perform the intended function of preventing overpressurization of the nuclear system. The vessel will have adequate margin below the Operating License Reactor Coolant System Pressure of 1325 psig, and plant system response will not deviate from the expected sequence of events. Each system, structure, and component that communicates with the reactor vessel has been verified to be within its design and operational margin, and no unanticipated plant transients will occur as a result of the safety lift function setpoint tolerance change.

The negative tolerance of the safety function lift setpoint remains above the highest setpoint of the S/RV relief mode, and therefore normal vessel pressure. This margin provides reasonable assurance that inadvertent opening of an S/RV will not occur during power operations.

This proposed change does not add any new systems, structures or supports, nor does it introduce new S/RV operating modes.

Therefore, this change would not create the possibility of a new or different kind of accident from any previously analyzed.

c. This change would not involve a significant reduction in the margin of safety.

The increase in the S/RV safety function lift tolerance has been analyzed for bounding limiting events and accident conditions. [The safety function lift setpoint tolerance used in the analysis bounds the proposed plus/minus 3% setpoint tolerance.] No condition exists that reduces the margin of safety on the reactor coolant pressure boundary or any system, structure or component that is required to operate during vessel overpressurization events. Fuel operating limits are based on the results of these analyses; therefore, adequate fuel thermal margin is maintained.

[The negative tolerance of the safety function lift setpoint remains above the highest setpoint of the S/RV relief mode, and therefore normal vessel pressure. This margin provides reasonable assurance that inadvertent opening of an S/RV will not occur during power operations.]

Therefore, this change would not involve a significant reduction in the margin of safety.

Based on the above evaluation, Entergy Operations, Inc. has concluded that operation in accordance with the proposed amendment involves no significant hazards considerations.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Judge George W. Armstrong Library, 220 S. Commerce Street, Natchez, MS 39120

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., 12th Floor, Washington, DC 20005-3502

NRC Project Director: William D. Beckner

GPU Nuclear Corporation, et al., Docket No. 50-219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of amendment request: February 22, 1996

Description of amendment request: The amendment proposes to delete a specification which requires a thorough inspection of the Emergency Diesel Generator (EDG) every 24 months during shutdown. In addition this Technical Specification proposes to delete the phrase "in any thirty day period" from a specification concerning Allowed Outage time (AOT).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

GPU Nuclear has determined that this [technical specification change request] TSCR poses no significant hazard as defined by the NRC in 10 CFR 50.92.

1. State the basis for the determination that the proposed activity will or will not increase the probability of occurrence of the consequences of an accident.

The proposed activity deletes the requirement to inspect EDGs during shut down from the Technical Specifications. It further modifies the operability of a single EDG for a limited and defined period of time. These changes do not affect the design or performance of the EDGs or their ability to perform their design function. Analysis using PRA techniques indicates the changes do not significantly increase the probability or consequences of an accident.

2. State the basis for the determination that the activity does or does not create a possibility of an accident or malfunction of a different type than any previously identified in the SAR.

The EDGs are not the source of any accident described in the SAR. These changes do not modify the design or performance of the EDGs and do not affect plant functions or actions. Therefore, the proposed change does not create the possibility of an accident or malfunction of a different type than those previously identified.

3. State the basis for the determination that the margin of safety is not reduced. The proposed changes are designed to improve EDG reliability and availability during shutdown periods by providing flexibility in the scheduling and performance of maintenance. The surveillance intervals are unchanged and operability requirements are only modified to an acceptable degree. The proposed activity does not alter the basis of

any technical specification that is related to the establishment or maintenance of a nuclear safety margin. Therefore, the margin of safety is not significantly reduced by this action.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Ocean County Library, Reference Department, 101 Washington Street, Toms River, NJ 08753

Attorney for licensee: Ernest L. Blake, Jr., Esquire. Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

GPU Nuclear Corporation, et al., Docket No. 50-219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of amendment request: February 23, 1996

Description of amendment request: The proposed change to the Technical Specifications would allow the implementation of 10 CFR 50, Appendix J, Option B.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

GPU Nuclear has determined that this TSCR [technical specification change request] involves no significant hazards considerations as defined by NRC in 10 CFR 50.92.

The major changes from the existing Oyster Creek Technical Specifications requested in accordance with the Option B requirements:

1. Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability of occurrence or the consequences of an accident or malfunction of equipment important to safety as previously evaluated in the Safety Analysis Report.

The proposed change implements Option B of 10 CFR 50, Appendix J on performance based containment leakage testing. The proposed change does not involve a change to the plant design or operation. Therefore, the proposed change does not affect any of the parameters or conditions that contribute to initiation of any of the analyzed accidents or malfunctions. The proposed change does request an allowable extension of containment testing. Therefore, a hypothetical leak could remain undetected for a greater period of time. This slight increase in risk has been determined to be insignificant as:

Type A Testing

NUREG 1493 determined that the effect of containment leakage on overall accident risk is small as risk is dominated by accident sequences that result in the failure or bypass of the containment. Industry wide PCILRTs have demonstrated that only a small fraction of the leaks discovered during testing exceeded acceptance criteria, and that the leak rate has been only marginally above the acceptable limit. Only 3% of all leaks can be detected only by PCILRT, therefore, only 3% of the theoretical leaks are affected by the extension to the Type A test interval. Experience at Oyster Creek agrees with the industry wide data in that the majority of the detected leakage from the primary containment is found through Type B and C testing.

NUREG 1493 found that these observations, together with the insensitivity of reactor accident risk to the containment leakage rate, demonstrates that increasing the Type A leakage test intervals would have a minimal impact on public risk.

Type B and C Testing

Penetrations are designed to ensure reliability of the containment isolation function. Type B penetrations use a double passive seal (e.g. o-ring, gasket) and Type C penetrations use a double isolation valve design to ensure reliability of the isolation function. Because valves perform the isolation function actively, they are more likely to fail on demand (e.g. failure to completely close on demand). To address this failure mode, Type C valves are subjected to increased design constraints and testing to ensure both acceptable leak rates and stroke times. The proposed change does not alter the installation, operation, operating environment, or testing method of these valves. Therefore, the proposed change does not introduce any new component failure modes, nor does it affect the probability of occurrence of any existing evaluated failure mode.

The failure of any single penetration barrier (isolation valve or passive seal) does not cause penetration failure. Therefore, a double failure would have to occur to cause a failure of the penetration and affect containment. Additionally, the proposed change does not change the acceptance criteria for acceptable leakage testing.

The proposed change does not alter plant design or operation, nor does it alter the allowable maximum leakage rate limit. Thus, the proposed change does not affect the probability of occurrence nor the consequences of any evaluated accident or malfunction of equipment important to safety.

2. Operation of the facility in accordance with the proposed amendment would not create the possibility of an accident or malfunction different from any accident or malfunction previously evaluated.

The proposed change does not involve a change to the plant design or operation. As a result, the proposed change does not affect any of the parameters or conditions that could contribute to initiation of any accidents. This change only involves the reduction in Type A, B and C test frequencies, and the Type A test pressure.

Type A Testing

The only changes proposed to the Type A testing are to frequency and test pressure. As the proposed test pressure is grater than the existing test pressure, no new type of accident or malfunction is created, and the increase in pressure provides an additional margin of safety. The increase in pressure provides an additional margin of safety. The increase in surveillance interval cannot introduce any new type of accident or malfunction.

The PCILRT is presently performed at 20 psig. Performance of the PCILRT at P_a (35 PSIG) will provide a more direct leak rate for analysis. P_a is the design pressure of the torus (the drywell design pressure is 44 psig, but the torus is non isolable form the drywell. Therefore, P_a will not create the possibility of the failure of the torus due to overpressurization. No new accident modes can be created by extending the test intervals. No safety related functions or components are altered as a result of this change. Therefore, no new accident or malfunction different form those evaluated in the Safety Analysis Report can result due to the increase in test pressure or increase in surveillance interval.

Type B and C Testing

The proposed change only deals with the frequency of performing Type B and C testing. It does not change what components are tested or the method of testing. There is no proposed change to the design or operation of the plant. Therefore, no new accident or malfunction different form those evaluated in the Safety Analysis Report can result due to the increase in test pressure or increase in surveillance interval.

3. Operation of the facility in accordance with the proposed amendment would not decrease the margin of safety as defined in the bases of the Technical Specifications.

Type A Testing

Except for the method of defining the test frequency and pressure at which the PCILRT is performed, the methods for performing the actual test are not changed. However, the proposed change can increase the probability that an increase in leakage could go undetected for an extended period of time. NUREG 1493 has determined that under several different accident scenarios, the increased risk of radioactivity release from containment is negligible with the implementation of these proposed changes.

Type B and C Testing

The proposed change only affects the frequency of Type B and C testing. The methods for performing the actual test are not changed. The design or operation of Type B and C components are not changed. The proposed change will result in a longer interval between tests of good performing Type B and C components.

The margin of safety that has the potential of being impacted by the proposed change involves the offsite dose consequences of postulated accidents which are directly related to containment leakage rate. The containment isolation system is designed to limit leakage to L_a, which is defined by the Oyster Creek Technical Specifications to be 1.0 percent by weight of the containment air at 35 psig per 24 hours. The limitation on containment leakage rate is designed to ensure the total leakage volume will not exceed the value assumed in the accident analyses at the peak accident pressure (P_a). The margin of safety for the offsite dose consequences of postulated accidents directly related to the containment leakage rate is maintained by meeting the 1.0 L_a acceptance criteria. The L_a value is not being modified by this proposed Technical Specification change request.

Therefore, the margin of safety as defined in the bases for the Technical Specification will not be reduced.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Ocean County Library, Reference Department, 101 Washington Street, Toms River, NJ 08753

Attorney for licensee: Ernest L. Blake, Jr., Esquire. Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendment requests: February 22, 1996 (AEP:NRC:0659AA)

Description of amendment requests: The proposed amendments would revise the technical specifications to remove the requirement that the Operations Superintendent must hold or have held a Senior Operator License at Cook Nuclear Plant, or a similar reactor. In addition, a mid-level operations manager will only be required to hold a Senior Operator License if the Operations Superintendent does not hold one.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Per 10 CFR 50.92, this proposed change does not involve a significant hazards consideration because the change does not:

1. involve a significant increase in the probability or consequences of an accident previously evaluated,

2. create the possibility of a new or different kind of accident from any accident previously evaluated, or

3. involve a significant reduction in a margin of safety.

Criterion 1

The amendment request does not involve a significant increase in the probability or consequences of [an] accident previously evaluated because the proposed change to the Technical Specification does not affect the assumptions, parameters, or results of any UFSAR [updated final safety analysis report] accident analysis. The proposed amendment does not modify any existing equipment. It is concluded that the changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2

The proposed change does not involve physical changes to the plant or changes in plant operating configuration. The proposed change updates the requirements for the Operations Superintendent. Thus, it is concluded that the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3

The proposed change updates the requirements for Operations Superintendent. There is no reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW, Washington, DC 20037

NRC Project Director: John N. Hannon

Indiana Michigan Power Company, Docket No. 50-316, Donald C. Cook Nuclear Plant, Unit No. 2, Berrien County, Michigan

Date of amendment request: March 12, 1996 (AEP:NRC:1248)

Description of amendment request: The proposed amendment would remove the technical specifications related to shutdown and control rod position indication while in modes 3, 4, and 5. The change would make the Unit 2 technical specifications consistent with the Unit 1 technical specifications and the Standard Technical Specifications.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Per 10 CFR 50.92, this proposed change does not involve a significant hazards consideration because the change does not:

1. involve a significant increase in the probability or consequences of an accident previously evaluated,

2. create the possibility of a new or different kind of accident from any accident previously evaluated, or

3. involve a significant reduction in a margin of safety.

Criterion 1

The boron concentration in the reactor coolant system will be high enough to assure adequate SDM in modes 3, 4, and 5. The calculation to obtain the required boron concentration takes into account the position of the rods. Shutdown margin is assumed as an initial condition in the safety analysis. The safety analysis establishes a SDM that ensures specified acceptable fuel design limits are not exceeded. As long as the SDM is satisfied, no change in the probability or consequences of an accident previously evaluated will result from the proposed deletion of the "position indicator - shutdown" specification. It is noted that this change is consistent with the new ISTS approved by the NRC as NUREG-1431, Rev. 1.

Criterion 2

The ability to insert the control and shutdown rods provided by the rod control system is not affected by the OPERABILITY status of the ARPI system. As mentioned previously, the reactor coolant system boron concentration will be high enough to assure adequate SDM is maintained. Therefore, it is concluded that the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3

The margin of safety requirements are not affected by the removal of this T/S. The required SDM which is an initial condition in the safety analysis, is unaffected since the reactor coolant system boron concentration is increased to address the potential "all rods out" configuration. Based on these considerations, it is concluded that the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW, Washington, DC 20037

NRC Project Director: John N. Hannon

Maine Yankee Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of amendment request: November 29, 1995

Description of amendment request: The proposed amendment would

modify the Technical Specifications to remove the requirement for additional pressure relief by a residual heat removal (RHR) spring relief valve during low temperature overpressure protection (LTOP) conditions.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed change to delete Technical Specification 3.4.D.3b has been evaluated against the standards of 10 CFR 50.92 and has been determined not to involve a significant hazards consideration. This proposed change does not:

1. Involve a significant increase in the probability or consequence of an accident previously analyzed. The Power Operative Relief Valves (PORVs) remain operable to mitigate any LTOP event. Thus, this change does not result in an increase in the probability or consequences of an accident previously analyzed.

2. Create the possibility of a new or different kind of accident from any previously evaluated. Removing the RHR spring relief valve as an additional relief requirement does not create the possibility of a new or different kind of accident since the proposal involves neither a hardware modification nor the creation of a unique operating condition.

3. Involve a significant reduction in a margin of safety. Removing the RHR spring relief valve as an additional requirement does not change the results of any of the FSAR Chapter 14 events. The PORVs remain operable to maintain the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Wiscasset Public Library, High Street, P.O. Box 367, Wiscasset, ME 04578

Attorney for licensee: Mary Ann Lynch, Esquire, Maine Yankee Atomic Power Company, 329 Bath Road, Brunswick, ME 04011NRC Deputy Director: John Zwolinski

Maine Yankee Atomic Power Company, Dockst No. 50-309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of amendment request: November 29, 1995

Description of amendment request: The proposed amendment would modify Technical Specification (TS) 3.14 to decrease the maximum steam generator (SG) primary-to-secondary leakage rate from 0.15 gpm to 0.10 gpm and would modify TS 4.10 by revising the requirements for unscheduled SG tube inspections that are performed on each SG following a primary-to-secondary tube leak.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated. A steam generator leakage assumption greater than the proposed 0.10 gpm/SG limit has been used in the FSAR [Final Safety Analysis Report] Chapter 14 safety analyses. Thus, the FSAR Chapter 14 safety analyses remain bounding. Assuring that an adequate leakage limit exists that initiates corrective actions in a timely manner is important to ensuring a steam generator tube rupture event does not take place. This change modifies the steam generator post-leakage testing requirements to focus inspections on leaking tubes and areas likely to produce similar leakage, in lieu of an expanded test campaign of all three steam generators. Without this change, Technical Specifications require inspection of 3% of the tubes in each steam generator. By inspecting the critical areas of the affected steam generator and possibly expanding inspections to the critical areas of the remaining steam generators, the probability and/or consequences of previously evaluated accidents (e.g., steam generator tube rupture) are not increased.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed changes will not involve a modification to existing hardware at the plant. The decrease in the maximum allowable steam generator primary leakage rate tends to provide additional time for operator action to take place which, if timely enough, would avoid the consequences of a tube rupture event. The proposed inspection campaign requires inspection of the critical area and may be expanded to the other steam generators to ensure that additional tubes will not fail due to similar causes. This modified inspection campaign does not introduce the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed changes do not involve a significant reduction in a margin of safety. The FSAR Chapter 14 safety analyses assume a higher steam generator leakage rate and therefore remain conservative. The proposed reduction in the allowable leakage provides a greater margin of safety since it is more conservative than the present value. This change modifies inspection requirements of Technical Specifications and does not impact the plant design or equipment. The modified inspection requirements following a plant shutdown due to tube leakage concentrate steam generator tube inspections in those areas believed to be most susceptible to flaws. For these reasons, we believe the proposed changes increase the margin of safety by inspecting the critical areas of the steam generator(s) in lieu of additional random inspections.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Wiscasset Public Library, High Street, P.O. Box 367, Wiscasset, ME 04578

Attorney for licensee: Mary Ann Lynch, Esquire, Mairie Yankee Atomic Power Company, 329 Bath Road, Brunswick, ME 04011NRC Deputy Director: John Zwolinski

Northeast Nuclear Energy Company, Docket No. 50-245, Millstone Nuclear Power Station, Unit 1, New London County, Connecticut

Date of amendment request: November 8, 1995

Description of amendment request: The amendment request would revise the Technical Specifications (TS) for the jet pumps to be consistent with the limiting conditions for operation and surveillance requirements in the Standard Technical Specifications for General Electric Plants (NUREG-1433).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

...The proposed change does not involve an [significant hazards consideration] SHC because the change would not:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed.

The new LCO [Limiting Condition for Operation] does not diminish the existing requirement that all jet pumps must be operable, nor does it effect the time available to achieve cold shutdown should a pump become inoperable. The new LCO does eliminate the ability to continue to operate with the indication (but not the function) of a single jet pump inoperable. This does not increase the possibility of an unnecessary plant shutdown due to inoperable instrumentation since sufficient flexibility exists in the surveillance requirement so that operability of the jet pumps can be verified. This change eliminates the LCO that allowed continued operation with conditions that could potentially mask an inoperable pump. The new LCO is more limiting in ensuring that the plant is operated in a condition for which accidents were analyzed.

The new surveillance requirement provides a more accurate method of ensuring the jet pumps remain operable. The new surveillance criteria are more sensitive to jet pump failures and the degradation of the jet pumps prior to failure.

Based on the above, the proposed change does not involve a significant increase in the probability or consequences of an accident previously analyzed.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

The new LCO and surveillance does not change the manner in which the plant is operated, nor does it reduce the operability requirements of any jet pump, Therefore, no new or different kind of accident can be created by the new specificadon. The surveillances that will be performed do not require any new hardware or plant evolutions. Therefore, the proposed change to the LCO and surveillance cannot create the possibility of a new or different kind of accident.

3. Involve a significant reduction in the margin of safety.

The margin of safety that currently exists is not diminished by this change. The requirement to place the reactor in cold shutdown within 24 hours should a jet pump become inoperable is maintained. The LCO which allowed continued operation with indication for one pump inoperable has been eliminated.

The new surveillance requirement continues to demonstrate the operability of the jet pumps and during operation, continues to be performed at the same interval as in the current technical specifications. The note (which allows the surveillance to be deferred until four hours after the associated recirculation loop is in operation and 24 hours after exceeding 25% of rated thermal power) does not significantly affect the margin of safety. The time that the unit would be operating in these conditions would be small, and the stress placed on the pump at less than 25% power is lower.

Based on the above, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, CT 06360.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141-0270.

NRC Project Director: Phillip F. McKee

Northeast Nuclear Energy Company, et al., Docket No. 50-336, Millstone Nuclear Power Station, Unit No. 2, New London, Connecticut

Date of amendment request: November 3, 1995

Description of amendment request: The proposed amendment will extend the allowed outage time from 48 hours to 7 days for an emergency core cooling system train that is declared inoperable as a result of an inoperable low pressure safety injection subsystem.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Pursuant to 10CFR50.92, Northeast Nuclear Energy Company (NNECO) has reviewed the proposed change to extend the allowed outage time (AOT) for an inoperable low pressure safety injection (LPSI) subsystem from the existing limit of 48 hours to 7 days. In addition, the change to modify the completion time for the Action Statement and the criteria for the Surveillance Requirements were also reviewed. NNECO concludes that these changes do not involve a significant hazards consideration (SHC) since the proposed change satisfies the criteria in 10CFR50.92(c). That is, the proposed change does not:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed.

The proposed amendments for Millstone Unit No. 2 will extend the action completion AOT for a single inoperable LPSI train from 48 hours to 7 days. A LPSI subsystem is designed as a part of each emergency core cooling system (ECCS) train to supplement safety injection tank inventory during the early stages of mitigating a design basis accident (DBA). As such, components of the LPSI subsystem are not accident initiators, and an extended AOT to restore operability of an inoperable LPSI subsystem would not increase the probability of occurrence of accidents previously analyzed.

The safety analyses for Millstone Unit No. 2 demonstrates that ECCS performance acceptance criteria are satisfied with only one of the two redundant ECCS trains operating during the postulated DBA. The proposed technical specification revisions involve the AOT for a single inoperable LPSI subsystem, and do not change the conditions assumed for the minimum amount of operating equipment needed for accident mitigation. Therefore, the consequences of an accident previously evaluated will not be significantly increased.

In addition, CE NPSD-995 recognizes that when an ECCS train is inoperable due to a LPSI subsystem being unavailable, due either to being declared inoperable (by failing a surveillance requirement) or is intentionally taken out-of-service (for corrective or preventive maintenance), the core damage frequency (CDF) during power operation increases. The results of the PRA presented in CE NPSD-995 show that the proposed increase in the ECCS AOT (due to LPSI unavailability) from 48 hours to 7 days does not cause a significant increase in the overall CDF of Millstone Unit No. 2.

The analyses indicate that continued plant operation with a single LPSI subsystem out-of-service may result in a small increase in "at power risk;" however, that risk increase will be negligibly small and controlled effectively via the Maintenance Rule and the risk monitor program that minimizes the outage time and prevents entering into an unacceptable risk configuration. In addition, the proposed AOT extension for the LPSI subsystem is evaluated as having negligible impact on the large early radiological release probability for Combustion Engineering pressurized water reactors in the event of a design basis accident.

Therefore, operation in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

The proposed amendment will not change the physical plant or the modes of plant operation defined in the technical specifications. The changes do not involve the addition or modification of equipment nor do they alter the design of plant systems. Therefore, operation of Millstone Unit No. 2 in accordance with its proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in the margin of safety.

The margin of safety associated with the ECCS train is established by acceptance criteria for system performance defined in 10CFR50.46, The proposed amendment will not change this acceptance criteria nor the operability requirements for equipment that is used to achieve such performance as demonstrated in the Millstone Unit No. 2 safety analyses. Moreover, an integrated assessment of the risk impact of extending the AOT for a single inoperable LPSI train has concluded that the risk contribution is small. Therefore, operation of Millstone Unit No. 2 in accordance with its proposed amendment would not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, CT 06360.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141-0270.

NRC Project Director: Phillip F. McKee

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of amendment request: September 12, 1995

Description of amendment request: The amendment would revise and reformat Technical Specification (TS) 6.3.1 to add the requirement that the Assistant Operations Manager shall hold a senior reactor operator (SRO) license if the Operations Manager does not hold an SRO license for Millstone Unit 3. Also the footnote would be deleted from TS 6.3.1 that previously granted a one-time three year exception to the qualification requirements for the Operations Manager and an exception for the Assistant Operations Manager to hold a license instead of the Operations Manager.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

...The proposed change does not involve an [significant hazards consideration] SHC because the change would not:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed.

The proposed change affects an administrative control, which was based on the guidance of ANSI N18.1-1971. ANSI N18.1-1971 recommended that the Operations Manager hold an SRO license. The current guidance in Section 4.2.2 of ANSI/ANS 3.1-1987 recommends, as one option, that the Operations Manager have held a license for a similar unit and the Operations Middle Manager hold an SRO license. While the Operations Middle Manager position does not exist at Millstone Unit No. 3, [Northeast Nuclear Energy Company] NNECO has created the position of Assistant Operations Manager. The individual in this position would meet the requirements for, and would have responsibilities as recommended in, ANSI/ANS 3.1-1987 for the Operations Middle Manager position.

Therefore, the proposed change requests an exception to ANSI N18.1-1971 to allow use of ANSI/ANS 3.1-1987 in a limited circumstance. Specifically, the proposed revision to Technical Specification 6.3.1 would require the Operations Manager to either hold an SRO license at Millstone Unit No. 3 or have held an SRO at a [pressurized water reactor] PWR.

If the Operations Manager does not hold an SRO license at Millstone Unit No. 3, the specification will require the Assistant Operations Manager to hold, and continue to hold, an SRO license. The proposed change includes the requirement for the Operations Manager to have held a license for a similar unit (a PWR) in accordance with Section 4.2.2 of ANSI/ANS 3.1-1987. For those areas of knowledge that require an SRO license, the Assistant Operations Manager will provide the technical guidance normally provided by the Operations Manager.

The proposed change does not alter the design of any system, structure, or component, nor does it change the way plant systems are operated. It does not reduce the knowledge, qualifications, or skills of licensed operators, and does not affect the way the Operations Department is managed by the Operations Manager. The Operations Manager will continue to maintain the effective performance of his personnel and ensure the plant is operated safely and in accordance with the requirements of the operating license. Additionally, the Control Room Operators will continue to be supervised by the licensed Shift Supervisors.

The proposed change does not detract from the Operations Manager's ability to perform his primary responsibilities. In this case, by having previously held an SRO license, the Operations Manager has achieved the necessary training, skills, and experience to fully understand the operation of plant equipment and the watch requirements for operators. In summary, the proposed change does not affect the ability of the Operations Manager to provide the plant oversight required of his position. Thus, it does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

The proposed change to Technical Specification 6.3.1 does not affect the design or function of any plant system, structure, or component, nor does it change the way plant systems are operated. It does not affect the performance of NRC licensed operators. Operation of the plant in conformance with technical specifications and other license requirements will continue to be supervised by personnel who hold an NRC SRO license. The proposed change to Technical Specification 6.3.1 ensures that the Operations Manager will be a knowledgeable and qualified individual to have held an SRO license at a PWR. Based on the above, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Involve a significant reduction in the margin of safety.

The proposed change involves an administrative control that is not related to the margin of safety. The proposed change does not reduce the level of knowledge or experience required of an individual who fills the Operations Manager position, nor does it affect the conservative manner in which the plant is operated. The Control Room Operators will continue to be supervised by personnel who hold an SRO license. Thus, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, CT 06360.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141-0270.

NRC Project Director: Phillip F. McKee

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of amendment request: November 21, 1995

Description of amendment request: The licensee proposes to change Technical Specification Section 1.33 and Bases Sections 3/4.3.3.9 and 3/4.3.3.10, and 3/4.11.2.1. The changes clarify the definition of source check to include a source check from a light emitting diode (LED), as well as from ionizing radiation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

... NNECO concludes that these changes do not involve a significant hazards consideration since the proposed changes satisfy the criteria in 10CFR50.92(c). That is, the proposed changes do not:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed.

The proposed changes to the definition of source check clarifies the source check for the liquid and gaseous effluent radiation monitors. These monitors do not provide a safety function and only serve to provide radiological information to plant operators, therefore, the changes will not increase the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

The proposed changes to the definition of source check have no effect on the ability of the monitors to perform their designed function. The clarification to the surveillance do not involve any physical modifications to any equipment, structures, or components. The monitors already have the internal LEDs which were originally used to perform the source check. The proposed changes have no impact on design basis accidents, and the changes will not modify plant response or create a new or unanalyzed event.

3. Involve a significant reduction in the margin of safety.

The proposed changes to the definition of source check do not have any impact on the protective boundaries and, therefore, have no impact on the safety limits for these boundaries. The instrumentation associated with these changes do not provide a safety function and only serve to provide radiological information to plant operators. The instrumentation has no affect on the operation of any safety-related equipment. As such, these changes have no impact on the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, CT 06360.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141-0270.

NRC Project Director: Phillip F. McKee

PECO Energy Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: February 15, 1996

Description of amendment request: The amendment changes the Technical Specifications to implement 10 CFR Part 50, Appendix J, Option B, by creating Technical Specification Section 5.5.12, "Primary Containment Leakage Rate Testing Program," which refers to Regulatory Guide 1.163, "Performance-Based Containment Leakage-Test Program."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1) The proposed changes do not involve a significant increase in the probability or consequences of any accident previously evaluated.

The adoption of 10 CFR 50, Appendix J Option B will not involve a significant increase in the probability or consequences of any accident previously evaluated. The proposed changes to the TS [Technical Specifications] reflect the use of the performance-based containment leakage-testing program. The USNRC has approved the use of a performance-based option for containment leakage testing programs when it amended 10 CFR 50, Appendix J (60 FR 49495). For adoption of the revised regulation, licensees are required to incorporate into their TS, by general reference, the USNRC regulatory guide or other plant-specific implementing document used to develop their performance-based leakage testing program. A new Administrative Control subsection (5.5.12, "Primary Containment Leakage Rate Testing Program") has been added that requires the establishment and maintenance of a Primary Containment Leakage Rate Testing Program. The TS will still require the performance of a periodic general visual inspection of the containment to ensure early detection of any structural deterioration of the containment that may occur.

As concluded in NUREG-1493, given the insensitivity of risk to containment leakage rate and the small fraction of leakage paths detected solely by ILRT [Integrated Leak Rate Test] testing, increasing the interval between ILRTs is possible with minimal impact on public risk. Additionally, performance-based alternatives to current LLRT [Local Leak Rate Test] requirements are feasible without significant risk impacts. Additionally, these changes will not alter any safety limits which ensure the integrity of fuel barriers, and will not result in a significant increase to onsite or offsite dose.

No physical changes are being made to the plant, nor are there any changes being made in the operation of the plant as a result of these changes which could involve a significant increase in the probability or consequences of any accident previously evaluated. Additionally, these changes will not alter the operation of equipment assumed to be available for the mitigation of accidents or transients.

2) The proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

The adoption of 10 CFR 50, Appendix J Option B will not create the possibility of a new or different type of accident from any previously evaluated. These changes to the PBAPS, Units 2 and 3 TS will not involve any changes to plant systems, structures or components (SCCs) which could act as new accident initiators. These changes will not impact the manner in which SSCs are tested such that a new or different type of accident from any previously evaluated could be created.

3) The proposed changes do not result in a significant reduction in the margin of safety.

No margins of safety are reduced as a result of the proposed adoption of 10 CFR 50, Appendix J Option B. As stated previously, the USNRC has approved the use of this performance-based option for containment leakage testing programs when it amended 10 CFR 50, Appendix J (60 FR 49495). These changes will not impact core limits or any other parameters that are used in the mitigation of a UFSAR [Updated Final Safety Analysis Report] design-basis accident or transient. Additionally, these changes do not introduce any hardware changes, and will not alter the intended operation of plant structures, systems or components utilized in the mitigation of UFSAR design-basis accidents or transients. These changes will not introduce any new failure modes of plant equipment not previously evaluated.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Attorney for licensee: J. W. Durham, Sr., Esquire, Sr. V. P. and General Counsel, PECO Energy Company, 2301 Market Street, Philadelphia, Pennsylvania 19101

NRC Project Director: John F. Stolz

Pennsylvania Power and Light Company, Docket No. 50-387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Date of amendment request: January 26, 1996

Description of amendment request: The proposed amendment removes three pressure relief valves from Technical Specification Table 3.6.3-1, "Primary Containment Isolation Valves," since these valves are no longer needed to support the steam condensing mode of the residual heat removal (RHR) system and are being removed from the plant.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

With the prior deletion of the steam condensing mode of RHR and the isolation of the high and low pressure interfaces, the three pressure relief valves that are being removed from the plant have no active function. Their passive function of maintaining system or containment integrity will be fulfilled by blind flanges. Also, the RHR and RCIC [reactor core isolation cooling] piping are provided with overpressure protection from other pressure relief valves. Therefore, the removal of these pressure relief valves does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The pressure relief valves that are being removed had two primary functions. First,

they provided overpressure protection for the RHR and RCIC piping during the steam condensing mode of RHR. Since the steam condensing mode has been deleted from the plant, these valves no longer have that function. Also, overpressure protection of the RHR and RCIC piping is provided by other existing pressure relief valves. Second, these valves maintained system or containment integrity. When the pressure relief valves are removed from the plant, they will be replaced with blind flanges or equivalent that will maintain system or containment integrity. Therefore, the removal of the three pressure relief valves does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

Since the steam condensing mode of RHR has been eliminated, the three pressure relief valves have no active function. Their passive function of maintaining system or containment integrity will be fulfilled by blind flanges or equivalent. Also, overpressure protection of RHR and RCIC piping is provided by other existing pressure relief valves. Therefore, the removal of the three pressure relief valves does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037

NRC Project Director: John F. Stolz

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: January 25, 1996

Description of amendment request: The amendment proposes to revise the allowed out-of-service times for single inoperable Emergency Diesel Generators (EDGs) to accommodate on-line maintenance of the EDGs. In addition, two line item changes are proposed: (1) to improve safety by reducing EDG testing at power; and (2) to revise the ac power requirements during cold shutdown or refueling modes to make the James A. FitzPatrick (JAF) Technical Specifications consistent with the Standard Technical Specifications.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Operation of the FitzPatrick plant in accordance with the proposed Amendment would not involve a significant hazards consideration as defined in 10 CFR 50.92, since it would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

a. EMERGENCY DIESEL GENERATOR LCO [Limiting Conditions for Operation] AT POWER

The proposed changes to the Technical Specifications will allow longer Allowed Out of Service Times [AOTs] to perform necessary repair and maintenance on individual Emergency Diesel Generators while at power. This extended AOT will enhance scheduling of preventive maintenance of individual EDGs without significantly increasing the probability or consequences of an accident previously evaluated. The risk evaluations contained in the JAF quantitative analyses of the EDGs determined that the probability of an accident by increasing the AOT for an individual EDG from 7 days to 14 days is non-risk-significant. The primary reason for this low relative risk is due to the designed redundancy and capability to respond to an accident when a single diesel generator is out of service. LOCA [loss-of-coolant accident] Analyses that assume the worst case line break while an EDG is out of service indicate the plant can be safely shut down with the remaining EDGs. Even if another EDG should fail during the AOT, at least one Core Spray and one Residual Heat Removal (RHR) Low Pressure Coolant Injection pump can provide the required flow to bring the plant to safe shut down. Furthermore, long term suppression pool and reactor shutdown cooling is provided by any one of the three remaining RHR pumps for a single EDG out of service or by two remaining RHR pumps assuming an additional EDG failure during the AOT.

Increasing the EDG AOT does not involve physical alteration of any plant equipment and does not affect analysis assumptions regarding functioning of required equipment designed to mitigate the consequences of accidents. Further, the severity of postulated accidents and resulting radiological effluent releases will not be affected by the increased AOT for a single EDG.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

b. EMERGENCY DIESEL GENERATOR LCO DURING PLANT SHUTDOWN

Changing the number of EDGs required during plant shutdown does not involve physical alteration of any plant equipment and does not affect analysis assumptions regarding functioning of required equipment designed to mitigate the consequences of accidents. Further, the severity of postulated accidents and resulting radiological effluent releases will not be affected by the change in the LCO during shutdown.

c. EMERGENCY DIESEL GENERATOR SURVEILLANCE AT POWER OPERATION

The proposed change to the Technical Specification will reduce the required number of tests to be performed when an EDG or EDG System is inoperable. This proposed change to TS requirements addresses the concern of excessive testing that could result in EDG wear which is counter-productive to safety in terms of equipment degradation and availability. This change is consistent with Generic Letter 93-05 guidance for implementing such recommendations. The proposed Technical Specifications will not result in a change to the design or operation of the facility, therefore, this change will not result in a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

a. EMERGENCY DIESEL GENERATOR LCO AT POWER

Extending the AOT for an individual EDG does not necessitate physical alteration of the plant or changes in parameters governing normal plant operation. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated for JAF plant.

b. EMERGENCY DIESEL GENERATOR LCO DURING PLANT SHUTDOWN

Changing the number of EDGs required during shutdown does not necessitate physical alteration of the plant or changes in parameters governing normal plant operation. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated for JAF plant.

c. EMERGENCY DIESEL GENERATOR SURVEILLANCE AT POWER OPERATION

The proposed change does not change design, operation or the testing process. The nature of this change precludes the possibility of a new or different kind of accident. The proposed change to complete the required action does not involve any hardware changes, nor changes to the operation of the equipment nor does it change the ability of the equipment to perform its intended function. Performing the testing on an extended time cannot initiate any type of accident.

3. Involve a significant reduction in the margin of safety.

a. EMERGENCY DIESEL GENERATOR LCO AT POWER

As discussed above, the JAF quantitative evaluation determined that the change in risk associated with extending the AOT for a single EDG is non-risk-significant. In addition, the design provides adequate redundancy for safe shut down during the AOT for a single EDG out of service. This is supported by the LOCA analyses including analyses for long term suppression pool and reactor shutdown cooling.

b. EMERGENCY DIESEL GENERATOR LCO DURING PLANT SHUTDOWN

The margin of safety is not affected by changing the number of EDGs required during shutdown. One offsite power source or one EDG ensure the availability of the required power to recover from postulated accident events during shutdown. When the required number of operable systems is not met, all work that could potentially initiate a postulated accident event during shutdown is suspended.

c. EMERGENCY DIESEL GENERATOR SURVEILLANCE AT POWER OPERATION

The proposed change to Technical Specifications reduces testing at reactor power. The overall effect is a net gain in plant safety by avoiding the potential for unnecessary wear that could degrade the EDGs at power. Implementation of these changes is consistent with the guidance provided by the NRC in Generic Letter 93-05. The proposed change to the EDG testing requirements does not reduce the ability of the equipment to perform its intended safety function.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mr. Charles M. Pratt, 1633 Broadway, New York, New York 10019.

NRC Project Director: Ledyard B. Marsh

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment request: January 30, 1996

Description of amendment request: The proposed Technical Specifications change will delete the requirement that oxygen concentrations for both normal and transient conditions not exceed saturation when the reactor coolant is below 250 degrees F. The Technical Specifications change will also eliminate the surveillance requirement for reactor coolant chemistry sampling of chloride, fluoride, and oxygen concentration during maintenance activities when fuel is removed from the reactor vessel and the Reactor Coolant System (RCS) is drained below the reactor vessel flange regardless of whether the upper internal and/or vessel heat are in place or not. Administrative result of the changes being made, capitalize Technical Specifications defined terms to maintain consistency within the Technical Specifications, and the word "degrees" is spelled-out when referring to the Fahrenheit temperature, rather than using the symbol.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Specifically, operation of Surry Power Station in accordance with the proposed changes will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

Since the RCS and the RHR [Residual Heat Removal] System are drained when the RCS inventory is reduced below the reactor vessel flange for maintenance or refueling activities, the concentrations of chlorides and fluorides will not change. During these maintenance or refueling activities, only controlled makeup to the RCS is planned, and any planned or unplanned makeup to the RCS would be detected by available level indication. Sampling for chloride and fluoride concentrations in the RCS will be performed prior to draining the system. Sampling of the reactor coolant for chloride and fluoride concentrations will resume when the RCS is filled. The chloride and fluoride concentrations will be known and will be maintained consistent with the Technical Specification Limiting Condition for Operation and Action Statements. Also, when the RCS inventory is drained below the reactor vessel flange, the RCS is vented and open to the containment building atmosphere with the reactor coolant liquid considered oxygen saturated. Technical Specification 3.1.F.4 allows normal and off-normal "saturated" oxygen concentrations when reactor coolant temperature is below 250 degrees F. Consequently, sampling the reactor coolant for oxygen concentration under these conditions is not required and the Technical Specification Table 4.1-2B specified sampling frequency of five (5) times per week is not necessary since the oxygen concentration continues to remain in compliance with the Technical Specification limit, measures are available and action can be taken to correct the condition prior to any deleterious effect.

Surry Technical Specifications 3.1.F.1 prohibits reactor coolant temperature from exceeding 250 degrees F unless chloride, fluoride, and oxygen concentrations are within specified limits. Therefore a significant increase in the probability or consequences of an accident previously evaluated does not exist.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated.

The materials that are exposed to reactor coolant are corrosion resistant. They were chosen for specific applications within the system and for their compatibility with the reactor coolant. The chemical composition of the reactor coolant will be maintained within the specifications given within Technical Specification 3.1.F, Updated Final Safety Analysis Report Table 4.2-2, and Technical Specification Table 4.1-2B. Because of the time dependent nature of any adverse affects from chloride, fluoride, and oxygen concentrations in excess of the Technical Specifications limits, measures are available and can be taken to correct the condition while the reactor is in a safe shutdown condition, prior to any deleterious effect. No hardware modifications are involved. System configuration and plant operations are not being changed. Therefore, the possibility of a new or different kind of accident from any accident previously evaluated has not been created.

(3) Involve a significant reduction in the margin of safety.

This change does not involve a significant reduction in the margin of safety since the chloride and fluoride concentrations are maintained within their specified values prior to RCS drain down and following refill. The time period during which the RCS inventory is reduced below the reactor vessel flange and fuel is removed from the vessel, is short and insignificant in terms of the parameters necessary to initiate a corrosion concern. Existing Technical Specifications Action Statements and Allowed Technical Specification values for normal and off-normal concentrations of chlorides and fluorides are not being changed. No hardware modifications are involved. System configuration and plant operations are not being changed. Surry Technical Specification 3.1.F.1 remains unaffected by this change and continues to prohibit reactor coolant temperature from exceeding 250 degrees F unless chloride, fluoride, and oxygen concentrations are within specified limits.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219

NRC Project Director: Eugene V. Imbro

Previously Published Notices Of Consideration Of Issuance Of Amendments To Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, And Opportunity For A Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued

involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket No. 50-498, South Texas Project, Unit 1, Matagorda County, Texas

Date of amendment request: February 29, 1996

Description of amendment request: The proposed amendment would include the addition of Technical Specification 3.10.8 which would allow a one-time only extension of the standby diesel generator (SDG) allowed outage time for a cumulative 21 days on "A" train SDG. In addition, it would also allow a one-time only extension of the allowed outage time on "A" train essential cooling water loop for a cumulative 7 days. This one-time only change would become effective on April 10, 1996, and expire on May 15, 1996.Date of individual notice in the **Federal Register:** March 8, 1996 (61 FR 9502)

Expiration date of individual notice: April 8, 1996

Local Public Document Room location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, TX 77488

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket Nos. 50-498 and 50-499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: May 1, 1995, as supplemented by letters dated June 22, August 28, November 22, and December 19, 1995, and January 4, January 8 (two letters), and January 23, 1996

Description of amendment request: The proposed amendment would provide a special test exception that would allow an extension of the standby diesel generator (SDG) allowed outage time for a cumulative 21 days on each SDG once per fuel cycle, and it would also allow an extension of the essential cooling water (ECW) loop allowed outage time for a cumulative 7 days on each ECW loop once per fuel cycle. These extended allowed outage times will be used to perform required inspections and maintenance on the SDGs and the ECW system during power operation.

Date of individual notice in the **Federal Register:** February 8, 1996 (61 FR 4805)

Expiration date of individual notice: March 11, 1996

Local Public Document Room location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, TX 77488

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: March 1, 1996 (supersedes December 11, 1995, application)

Description of amendment request: The proposed amendment would revise Technical Specification Section 4.7, "Surveillance Requirements for Primary Containment Automatic Isolation Valves." Specifically, the proposed amendment would revise the replacement frequency of the seat seals for the drywell and suppression chamber purge and vent valves from every 5 years to every six operating cycles.

Date of individual notice in the **Federal Register:** March 8, 1996 (61 FR 9504)

Expiration date of individual notice: April 8, 1996

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401

Notice Of Issuance Of Amendments To Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved.

Arizona Public Service Company, et al., Docket Nos. STN 50-528, STN 50-529, and STN 50-530, Palo Verde Nuclear Generating Station, Units 1, 2, and 3, Maricopa County, Arizona

Date of application for amendments: November 7, 1995, as supplemented by letter dated January 17, 1996.

Brief description of amendments: These amendments adopt the improved Standard Technical Specifications (NUREG-1432) format and content of Section 5.0, "Design Features," as modified by approved changes to the improved Standard Technical Specifications.

Date of issuance: March 6, 1996

Effective date: March 6, 1996, to be implemented within 45 days of the date of issuance.

Amendment Nos.: Unit 1 - Amendment No. 104; Unit 2 - Amendment No. 93; Unit 3 - Amendment No. 76

Facility Operating License Nos. NPF-41, NPF-51, and NPF-74: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 20, 1995 (60 FR 65673) The January 17, 1996, supplemental letter provided clarifying information and did not change the initial no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 6, 1996.No significant hazards consideration comments received: No.

Local Public Document Room location: Phoenix Public Library, 1221 N. Central Avenue, Phoenix, Arizona 85004

Carolina Power & Light Company, et al., Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of application for amendment: February 16, 1996

Brief description of amendment: The amendment allows a one-time extension for the performance of the trip actuating device operational test for one of the safety injection manual initiation switches listed in Technical Specification Table 4.3-2, Item 1a.Date of issuance: March 11, 1996

Effective date: March 11, 1996

Amendment No. 63

Facility Operating License No. NPF-63. Amendment revises the Technical Specifications.Public comments requested as to proposed no significant hazards consideration: Yes (61 FR 7125). That notice provided an opportunity to submit comments on the Commission's proposed no significant hazards consideration determination. No comments have been received. The notice also provided for an opportunity to request a hearing by March 27, 1996, but indicated that if the Commission makes a final no significant hazards consideration determination any such hearing would take place after issuance of the amendment. The Commission's related evaluation of the amendment, finding of exigent circumstances, and final determination of no significant hazards consideration is contained in a Safety Evaluation dated March 11, 1996

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Commonwealth Edison Company, Docket Nos. STN 50-454 and STN 50-455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois, Docket Nos. STN 50-456 and STN 50-457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of application for amendments: January 11, 1996

Brief description of amendments: The amendments revise the action statements and allowed outage time for inoperability of one channel and both channels of source range neutron flux instrumentation in Shutdown Modes 3, 4, and 5.

Date of issuance: March 15, 1996

Effective date: March 15, 1996

Amendment Nos.: 80, 80, 72, and 72

Facility Operating License Nos. NPF-37, NPF-66, NPF-72 and NPF-77: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 31, 1996 (61 FR 3509) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 15, 1996. No significant hazards consideration comments received: No

Local Public Document Room location: For Byron, the Byron Public Library District, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of application for amendments: November 14, 1995, as supplemented January 4, 1996 and February 29, 1996.

Brief description of amendments: The amendments revise the Technical Specifications to incorporate 10 CFR Part 50, Appendix J, "Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors," Option B.

Date of issuance: March 11, 1996

Effective date: Immediately, to be implemented no later than June 30, 1996.

Amendment Nos.: 110 and 95

Facility Operating License Nos. NPF-11 and NPF-18: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 7, 1995 (60 FR 62896) The January 4, 1996, submittal provided additional clarifying information that did not change the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 11, 1996. No significant hazards consideration comments received: No

Local Public Document Room location: Jacobs Memorial Library, Illinois Valley Community College, Oglesby, Illinois 61348.

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of application for amendment: September 20, 1995, as supplemented December 18 and December 22, 1995.

Brief description of amendment: The amendment allows a one-time surveillance interval extension for certain 18-month surveillances listed in new Technical Specification Tables 4.0.2-1 and 4.0.2-2. Date of issuance: March 1, 1996

Effective date:

March 1, 1996, with full implementation within 90 days.

Amendment No.: 106

Facility Operating License No. NPF-43. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** November 27, 1995 (60 FR 58400). The December 18, 1995, letter corrected a typographical error on one of the proposed TS pages and provided a corrected Table of Contents page to reflect the addition of the new Tables. The December 22, 1995, letter provided additional information on the licensee's review of historical plant drift data. This information was within the scope of the original application and did not change the staff's initial no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 1, 1996.No significant hazards consideration comments received: No.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-321 and 50-366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of application for amendments: November 10, 1995

Brief description of amendments: The amendments revise the Technical Specifications for containment systems to reflect the adoption of the requirements of 10 CFR Part 50, Appendix J, Option B, and the implementation of a performance-based containment leak-rate testing program at the Edwin I. Hatch Nuclear Plant, Units 1 and 2.

Date of issuance: March 6, 1996

Effective date: As of the date of issuance to be implemented within 90 days

Amendment Nos.: Unit 1 - 200 - Unit 2 - 141

Facility Operating License Nos. DPR-57 and NPF-5. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 20, 1995 (60 FR 65679) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 6, 1996.No significant hazards consideration comments received: No

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

GPU Nuclear Corporation, et al., Docket No. 50-219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: December 5, 1995

Brief description of amendment: The amendment revises the submittal date for the Annual Exposure Data Report bringing Oyster Creek into conference with 10 CFR 20.2206 and relaxes an overly restrictive administrative requirement.

Date of Issuance: March 4, 1996

Effective date: As of the date of issuance, to be implemented within 30 days.

Amendment No.: 183

Facility Operating License No. DPR-16. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 22, 1996 (61 FR 1629). The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated March 4, 1996. No significant hazards consideration comments received: No.

Local Public Document Room location: Ocean County Library, Reference Department, 101 Washington Street, Toms River, NJ 08753.

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of application for amendment: December 14, 1995

Brief description of amendment: The amendment modifies Technical Specification 3.4.2, "Flow Control Valves (FCVs)," by deleting Surveillance Requirement (SR) 3.4.2.2, which required periodic verification that the average rate of movement of each reactor recirculation system FCV was limited to less than or equal to 11% per second in the opening and closing directions. Due to a plant modification, the requirement is not applicable.

Date of issuance: March 11, 1996

Effective date: March 11, 1996

Amendment No.: 103

Facility Operating License No. NPF-62: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 22, 1996 (61 FR 1630) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 11, 1996. No significant hazards consideration comments received: No

Local Public Document Room location: The Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of application for amendments: November 10, 1995 (AEP:NRC:0896X). This application superseded a request dated June 15, 1995 (AEP:NRC:0896V).

Brief description of amendments: The amendments change the 18-month emergency diesel generator surveillance test from a 24-hour run to an 8-hour run and add voltage and frequency measurement and power factor monitoring.

Date of issuance: March 11, 1996

Effective date: March 11, 1996, with full implementation within 45 days

Amendment Nos.: Unit 1 - 207, Unit 2 - 191

Facility Operating License Nos. DPR-58 and DPR-74. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 20, 1995 (60 FR 65682) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 11, 1996.No significant hazards consideration comments received: No.

Local Public Document Room location: Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of application for amendments: June 20, 1995, as supplemented December 19, 1995.

Brief description of amendments: The amendments relocate the fire protection program elements from the Technical Specifications and incorporate, by reference, the NRC-approved Fire Protection Program and major commitments, including the fire hazards analysis, into the Updated Final Safety Analysis Report. In addition, the amendments revise the operating licenses to include the NRC's standard fire protection license condition.

Date of issuance: March 11, 1996

Effective date: March 11, 1996, with full implementation within 180 days

Amendment Nos.: Unit 1 - 208, Unit 2 - 192

Facility Operating License Nos. DPR-58 and DPR-74. Amendments revised the Technical Specifications and the operating licenses.

Date of initial notice in **Federal Register:** September 13, 1995 (60 FR 47620). The December 19, 1995, supplement clarified the license conditions by providing specific approval dates for previous fire protection safety evaluations. This information was within the scope of the original application and did not change the staff's initial proposed no significant hazards consideration determination.The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 11, 1996.No significant hazards consideration comments received: No.

Local Public Document Room location: Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Northeast Nuclear Energy Company, et al., Docket No. 50-423, MillstoneNuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: June 29, 1995

Brief description of amendment: The amendment revises the Technical Specifications to extend the surveillance schedule from 18 months to each refueling interval (nominally 24 months) for specifications 4.6.4.2, 4.7.1.2.1.c, 4.7.3.b, 4.7.4.b,and 4.7.10.e. It also deletes specification 4.6.4.2.a and the phrase "during shutdown" from these specifications.Date of issuance: March 4, 1996

Effective date: As of the date of issuance, to be implemented within 90 days.

Amendment No.: 127

Facility Operating License No. NPF-49. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 27, 1995 (60 FR 58402) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 4, 1996. No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, CT 06360.

Pacific Gas and Electric Company, Docket No. 50-275, Diablo Canyon Nuclear Power Plant, Unit No. 1, San Luis Obispo County, California

Date of application for amendment: January 18, 1996

Brief description of amendment: The amendment revises the combined Technical Specifications (TS) for the Diablo Canyon Nuclear Power Plant, Unit No. 1. TS 3.8.1.1, "Electrical Power Systems - A.C. Sources - Operating," is revised to allow operation of Unit 1 in Mode 3 (Hot Standby) during installation of a replacement non-vital auxiliary transformer 11, for a one time extension of up to 48 hours beyond the 72 hours allowed by TS 3.8.1.1, Action Statement (a).

Date of issuance: March 8, 1996

Effective date: March 8, 1996

Amendment No.: Unit 1 - Amendment No. 111

Facility Operating License No. DPR-80: The amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** February 1, 1996 (61 FR 3737) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 8, 1996.No significant hazards consideration comments received: No.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of application for amendments: December 27, 1995

Brief description of amendments: The amendments revised the combined Technical Specifications (TS) 3/4.6.1.1, Containment Integrity; 3/4.6.1.2, Containment Leakage; 3/4.6.1.3, Containment Air Locks; 3/4.6.1.6, Containment Structural Integrity; 3/4.6.3, Containment Isolation Valves; their associated Bases; and adds Specification 6.8.4 j., Containment Leakage Rate Testing Program to implement the performance based leakage rate testing program as permitted by 10 CFR Part 50, Appendix J, rather than paraphrasing the requirements of the regulation. These changes will support the implementation of the performance based testing of Option B to Appendix J, for Type A, B, and C containment leakage rate testing and the appropriate rescheduling of testing.

Date of issuance: March 1, 1996

Effective date: March 1, 1996

Amendment Nos.: Unit 1 - Amendment No. 110; Unit 2 - Amendment No. 109

Facility Operating License Nos. DPR-80 and DPR-82: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 31, 1996 (61 FR 3502) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 1, 1996.No significant hazards consideration comments received: No.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: April 13, 1994, as supplemented December 6, 1995

Brief description of amendment: The proposed changes revise the Quality Assurance audit frequencies in the Hope Creek Technical Specifications. These revisions will permit an audit frequency based on performance and transfer subsequent control over the audit program to the Updated Final Safety Analysis Report.

Date of issuance: March 11, 1996

Effective date: As of the date of issuance to be implemented within 60 days from the date of issuance.

Amendment No.: 95

Facility Operating License No. NPF-57: This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 8, 1994 (59 FR 29633) The December 6, 1995, letter provided clarifying information that did not change the initial proposed no significant hazards consideration determination nor the original **Federal Register** notice.The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 11, 1996.No significant hazards consideration comments received: No

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: April 13, 1994, as supplemented December 6, 1995.

Brief description of amendments: The proposed changes revise the Quality Assurance audit frequencies in the Salem Unit Nos. 1 and 2 Technical Specifications. These revisions will permit an audit frequency based on performance and transfer subsequent control over the audit program to the Updated Final Safety Analysis Report.

Date of issuance: March 11, 1996

Effective date: As of the date of issuance to be implemented within 60 days from the date of issuance.

Amendment Nos. 181 and 162

Facility Operating License Nos. DPR-70 and DPR-75. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 8, 1994 (59 FR 29633) The December 6, 1995, letter provided clarifying information that did not change the initial proposed no significant hazards consideration determination nor the original **Federal Register** notice.The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 11, 1996No significant hazards consideration comments received: No

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: December 8, 1995 (TS 93-09)

Brief description of amendments: The amendments revise the setpoints and time delays for the auxiliary feedwater loss-of-power and the 6.9-kilovolt shutdown board loss-of-voltage and degraded voltage instruments.

Date of issuance: March 1, 1996

Effective date: March 1, 1996

Amendment Nos.: 219 and 209

Facility Operating License Nos. DPR-77 and DPR-79: Amendments revise the technical specifications.

Date of initial notice in **Federal Register:** January 3, 1996 (61 FR 161) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 1, 1996.No significant hazards consideration comments received: None

Local Public Document Room location: Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: January 4, 1996 (TS 95-22)

Brief description of amendments: The amendments change the surveillance test frequency specified for the functional tests of the containment, fuel storage pool, and control room radiation monitors from monthly to quarterly.

Date of issuance: March 4, 1996

Effective date: March 4, 1996

Amendment Nos.: 220 and 210

Facility Operating License Nos. DPR-77 and DPR-79: Amendments revise the technical specifications.

Date of initial notice in **Federal Register:** January 31, 1996 (61 FR 3503)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated Macrh 4, 1996.No significant hazards consideration comments received: None

Local Public Document Room location: Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of application for amendment: January 16, 1996, and supplement dated March 1, 1996

Brief description of amendment: This amendment approves that part of the request that defers the drywell bypass leakage test during the current refueling outage. The remainder of the licensee's request is still under NRC staff review.

Date of issuance: March 8, 1996

Effective date: March 8, 1996

Amendment No. 82

Facility Operating License No. NPF-58: This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 2, 1996 (61 FR 3951) The March 1, 1996, supplemental letter was clarifying in nature and did not affect the inititial no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 8, 1996. No significant hazards consideration comments received: No

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: December 9, 1994, as supplemented by letters dated September 13, 1995, and February 9, 1996.

Brief description of amendment: The amendment revises Technical Specifications (TS) 4.3.2.2, TS 4.7.1.2.1, and the Bases for TS 3/4 7.1.2 to decrease the frequency of auxiliary feedwater pump testing, remove inconsistencies in testing requirements for the turbine-driven auxiliary feedwater pump, and clarify performance parameters in the TS Bases.

Date of issuance: March 11, 1996

Effective date: March 11, 1996, to be implemented within 30 days from the date of issuance.

Amendment No.: 108

Facility Operating License No. NPF-30: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 1, 1995 (60 FR 6314). The September 13, 1995, and February 9, 1996, supplemental letters provided additional clarifying information and did not change the original no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 11, 1996.No significant hazards consideration comments received: No.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251.

Virginia Electric and Power Company, et al., Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of application for amendments: September 19, 1995

Brief description of amendments: The amendments revised the maximum allowable power range neutron flux high setpoints for operation with inoperable main steam safety valves.

Date of issuance: March 6, 1996

Effective date: March 6, 1996

Amendment Nos.: 199 and 180

Facility Operating License Nos. NPF-4 and NPF-7. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 25, 1995 (60 FR 54724) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 6, 1996No significant hazards consideration comments received: No.

Local Public Document Room location: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903-2498.

Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: November 22, 1995

Brief description of amendment: The amendment replaces the Technical Specification (TS) requirements associated with the boron dilution mitigation system (BDMS) with alarms, indicators, procedures and controls to allow proper resolution of potential boron dilution events.

Date of issuance: March 1, 1996

Effective date: March 1, 1996, to be implemented prior to the startup from the eighth refueling outage.

Amendment No.: 96

Facility Operating License No. NPF-42. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 31, 1996 (61 FR 3503) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 1, 1996.No significant hazards consideration comments received: No. Local Public Document Room locations: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621

Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: December 20, 1995, as supplemented by letter dated February 8, 1996.

Brief description of amendment: The amendment revises the Technical Specifications to reflect the approval of the use of 10 CFR Part 50, Appendix J, Option B for the Wolf Creek Generating Station containment leakage rate test program.

Date of issuance: March 1, 1996

Effective date: March 1, 1996, to be implemented prior to startup from the eighth refueling outage.

Amendment No.: 97

Facility Operating License No. NPF-42. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 31, 1996 (61 FR 3504) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 1, 1996.No significant hazards consideration comments received: No.

Local Public Document Room locations: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621

Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: December 13, 1995

Brief description of amendment: The amendment revises the minimum and maximum flow requirements for the centrifugal charging pumps (CCPs) and safety injection pumps (SIPs) specified in Technical Specification (TS) Surveillance Requirement 4.5.2.h. Specifically, the amendment (1) decreases the minimum limits on the sum of the injection line flow rates, excluding the highest flow rate, from 346 gallons per minute (gpm) to 330 gpm for the CCPs and from 459 gpm to 450 gpm for the SIPs, and (2) revises the maximum pump flow rate for the SIPs from 665 to 670 gpm, but retains the CCPs maximum pump flow rate at its current value of 556 gpm.Date of issuance: March 5, 1996

Effective date: March 5, 1996, to be implemented prior to startup from the eighth refueling outage.

Amendment No.: 98

Facility Operating License No. NPF-42. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 22, 1996 (61 FR 1639) The February 5, 1996, supplemental letter provided additional clarifying information and did not change the original no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 5, 1996.No significant hazards consideration comments received: No. Local Public Document Room locations: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621

Notice Of Issuance Of Amendments To Facility Operating Licenses And Final Determination Of No Significant Hazards Consideration And Opportunity For A Hearing (Exigent Public Announcement Or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing.

For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. By April 26, 1996, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be

entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to **(Project Director)**: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application for amendment: March 6, 1996

Brief description of amendment: This amendment revises TS 3/4 5.2, ECCS SUBSYSTEMS - T_{avg} greater than or equal to 280°F by modifying Surveillance Requirement 4.5.2.b to defer venting of the Emergency Core Cooling System flow path which does not have manual venting capability until the tenth refueling outage.

Date of issuance: March 7, 1996

Effective date: March 7, 1996

Amendment No: 208

Facility Operating License No. NPF-3: Amendment revised the Technical Specifications. Public comments requested as to proposed no significant hazards consideration: No. The Commission's related evaluation of the amendments, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated March 7, 1996.

Local Public Document Room location: University of Toledo, William Carlson Library, Government Documents Collection, 2801 West Bancroft Avenue, Toledo, Ohio 43606

Attorney for licensee: Jay E. Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: Gail H. Marcus

Dated at Rockville, Maryland, this 20th day of March 1996.

For the Nuclear Regulatory Commission

Steven A. Varga, Director,

Division of Reactor Projects - I/II,Office of Nuclear Reactor Regulation

[Doc. 96-7259 Filed 3-26-96; 8:45 am]

BILLING CODE 7590-01-F

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:

Rule 11Ab2-1 and Form SIP

SEC File No. 270-23

OMB Control No. 3235-0043

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission ("Commission") is publishing the following summary of collection for public comment.

Rule 11Ab2-1 and Form SIP establish the procedures by which a Securities Information Processor ("SIP") files and amends its SIP registration form. The information filed with the Commission pursuant to Rule 11Ab2-1 and Form SIP is designed to provide the Commission with the information necessary to make the required findings under the Act before granting the SIP's application for registration. In addition, the requirement that a SIP file an amendment to correct any inaccurate information is designed to assure that the Commission has current, accurate information with respect to the SIP. This information is also made available to members of the public.

Only exclusive SIPs are required to register with the Commission. An exclusive SIP is a SIP which engages on an exclusive basis on behalf of any national securities exchange or registered securities association, or any national securities exchange or registered securities association which engages on an exclusive basis on its own behalf, in collecting, processing, or preparing for distribution or publication, any information with respect to (i) transactions or quotations on or effective or made by means of any facility of such exchange or (ii) quotations distributed or published by means of any electronic quotation system operated by such association. The Federal securities laws require that before the Commission may approve the registration of an exclusive SIP, it must make certain mandatory findings. It takes a SIP applicant approximately 400 hours to prepare documents which include sufficient information to enable the Commission to make those findings. Currently, there are only two exclusive SIPs registered with the Commission; The Securities Information Automation Corporation ("SIAC") and the National Association of Securities Dealers, Inc. (NASD). SIAC and NASD are required to keep the information on file with the Commission current, which entails filing a form SIP annually to update information.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, N.W., Washington, DC 205489.

Dated: March 19, 1996.

Jonathan G. Katz,

Secretary.

[FR Doc. 96-7393 Filed 3-26-96; 8:45 am]

BILLING CODE 8010-01-M

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

New:

Tell Us How We're Doing! an Investor Questionnaire

SEC File No. 270-406

OMB Control No. 3235-new

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget a request for approval on the following questionnaire:

The Commission has proposed use of a questionnaire, titled "Tell Us How We're Doing! an Investor Questionnaire," to be sent to persons who have utilized the services of the Commission's Office of Investor Education and Assistance ("OIEA").

The questionnaire will be sent to each of the approximately 20,000 persons who request assistance or information from OIEA. The questionnaire consists of eight questions concerning the quality of service provided by OIEA. Most questions can be answered by checking a box on the questionnaire.

It is estimated that eight percent (8%) of the questionnaires, approximately 1,600, will be returned to OIEA, based on OIEA experience with similar types of questionnaires. It is also estimated that fifteen (15) minutes will be required to fill out a questionnaire, resulting in an aggregate burden of 400 hours.

The retention period of the questionnaires will be three years. Provision of the information requested is voluntary and responses will be kept confidential.

Members of the public should be aware that unless a currently valid Office of Management and Budget control number is displayed, an agency may not sponsor or conduct or require responses to an information collection.

General comments regarding the estimated burden hours should be directed to the Desk Officer for the Securities and Exchange Commission at the address below. Any comments concerning the accuracy of the estimated average burden hours should be directed to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549 and Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Dated: March 18, 1996.

Jonathan G. Katz,

Secretary.

[FR Doc. 96-7394 Filed 3-26-96; 8:45 am]

BILLING CODE 8010-01-M

[Investment Company Act Rel. No. 21836; 812-9785]

Access Capital Strategies Community Investment Fund, Inc., et al.; Notice of Application

March 20, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("Act").

APPLICANTS: Access Capital Strategies Community Investment Fund, Inc. ("Strategies") and Access Capital Strategies Corp. ("Access"), on behalf of themselves and any future business development companies that are advised by Access or entities controlling, controlled by, or under common control (as defined in section 2(a)(9) of the Act) with Access ("Future Funds").

RELEVANT ACT SECTIONS: Order requested under section 6(c) and rule 17d-1 authorizing certain transactions otherwise prohibited under section 57(a)(4).

SUMMARY OF APPLICATION: Applicants seek an order that would permit two existing portfolios of Strategies and any Future Fund to enter into certain co-investment transactions.

FILING DATES: The application was filed on September 28, 1995, and amended on December 27, 1995 and March 15, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 15, 1996, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C 20549. Applicants, c/o Access Capital Strategies Corp., 124 Mt. Auburn Street, Suite 200N, Cambridge, Massachusetts 02138.

FOR FURTHER INFORMATION CONTACT: Courtney S. Thornton, Senior Counsel, at (202) 942-0583, or Alison E. Baur, Branch Chief, at (202) 942-0564 (Division of Investment Management,

Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. Applicants seek an order under section 6(c) and rule 17d–1 authorizing two portfolios of Strategies, the Bank Portfolio and the Institutional Investor Portfolio (the "Portfolios"), and the Future Funds (collectively with the Portfolios, the "Funds") to purchase securities or otherwise effect transactions jointly with another Fund in transactions that are otherwise prohibited by section 57(a)(4). Each Portfolio is a Maryland corporation that has elected to be regulated as a business development company ("BDC") under the Act.[1] The investment objective of each Portfolio is to invest in geographically specific private placement debt securities and to earn a total return over the life of the Portfolio greater than that of the Access Benchmark, a blend of selected fixed-income indices designed by Mellon Bond Associates, a wholly-owned subsidiary of Mellon Bank Corporation.

2. Access, a newly formed corporation that has registered as an investment adviser under the Investment Advisers Act of 1940, is an indirect, wholly-owned subsidiary of Mellon Bank, N.A. Access serves as investment adviser to each Portfolio. As compensation for its services, Access will receive an annual management fee based upon a percentage of the assets of each Portfolio.

3. Each Portfolio has an eight-member board of directors ("Board of Directors"), five of whom are not affiliated persons of Access or interested persons of any Fund (the "Independent Directors"). The Board of Directors of each Portfolio will provide overall guidance and supervision with respect to the operations of the Portfolio, and will perform all duties the Act imposes on the boards of directors of BDCs organized in corporate form. The Independent Directors will assume the responsibilities and obligations imposed by the Act and the regulations thereunder on the disinterested directors of a BDC organized in corporate form. None of the Independent Directors of the Bank Portfolio will serve as an Independent Director of the Institutional Investor Portfolio, although one or more of the Independent Directors of the Portfolios may serve as Independent Directors of one or more Future Funds.

4. Applicants propose to allow each Fund to purchase securities jointly with one or more other Funds in transactions that are otherwise prohibited by section 57(a)(4) or rule 17d–1 under the Act ("Co-Investment Transactions"). Before undertaking a Co-Investment Transaction, Access will make a written investment presentation respecting the proposed transaction to the Board of Directors of each Fund based on such considerations and circumstances as Access deems appropriate, including the consistency of the proposed transaction with the investment objectives and policies of each Fund. The presentation will include the name of each Fund that has funds available for investment and the amount of the proposed investment. There will be no consideration paid to Access (or its controlling persons) directly or indirectly, including any type of brokerage commission, in connection with a Co-Investment Transaction, although Access will continue to receive its normal advisory compensation with respect to each Fund.

5. Each Fund will make its own decision on whether or not to participate in a Co-Investment Transaction, and no Fund will be able to impose an investment decision on the other Funds. Prior to engaging in a Co-Investment Transaction, a required majority (as defined in section 57(o) of the Act) ("Required Majority") of the directors of each Fund shall conclude that the terms of the proposed transaction, as presented to them by Access, are reasonable and fair to the shareholders of their respective Fund and do not involve overreaching of the Fund or its shareholders on the part of any person concerned.

6. Where the aggregate amount recommended for a Fund and that sought by other Funds is greater than the amount available for investment, the amount available for purchase by a Fund shall be determined on a *pro rata* basis determined by dividing the net assets of the fund by the sum of the net assets of the fund and each other Fund seeking to make the investment. Each Fund may determine not to take its full allocation or decline to participate when a Required Majority of the directors of the Fund determines that to do so would not be in the best interests of the Fund. Any such excess investment opportunity will be made available to other Funds that have determined to participate in the Co-Investment transaction in the same proportions as their participation in the transaction. All follow-on investments (additional investments in the same entity) will be treated in the same manner as the initial Co-Investment Transaction, except that the denominator in the fraction will consist solely of the net assets for those Funds that chose to participate in the initial transaction.

7. A Co-Investment Transaction will be effected for each participating Fund on the same terms and conditions. For such co-investment assets, each Fund will be offered the opportunity to sell, exchange, or otherwise dispose of such investments in the same manner and at the same time. A Required Majority of the directors of a Fund may either accept all or part or none of such offer, depending on their determination of the best interests of each Fund. A decision by a Fund not to participate in a Co-Investment Transaction, to take less or more than its full allocation, or not to sell, exchange of otherwise dispose of a co-investment asset in the same manner and at the same time as the other Funds electing to participate, shall include a finding by a Required Majority of its directors that such decision is fair and reasonable to the fund and its shareholder's and not the result of overreaching on the part of any party concerned.

8. Applicants believe that the ability to participate in Co-Investment Transactions would be advantageous for each Fund because it would enlarge the scope of each Fund's co-investment opportunities and permit such transactions to be effected at better prices and on more favorable terms than if only one Fund has Been able to participate in any given transaction. If the requested order were not granted, the Funds would have to seek the participation of other community investing entities or forego the opportunity. Applicants also anticipate that the availability of one or more of the Funds as an investing partner in a Co-Investment Transaction would significantly alleviate the cost of searching for such an alternative investing partner, as well as the risk that the alternative community investing entity would appropriate for itself the entire investment opportunity.

Applicants' Legal Analysis

1. Section 57(a)(4) prohibits certain affiliated persons of a BDC specified in section 57(b) from participating in joint transactions with the BDC or a company controlled by the BDC. Section 57(b)(2) extends the prohibitions of section 57(a) to persons under common control with a BDC. Applicants believe that the Funds may be prohibited from engaging in joint transactions because they share a common investment adviser.

2. Section 57(i) provides that the rules and regulations of the SEC under sections 17(a) and (d) applicable to registered closed-end investment companies shall apply to transactions subject to sections 57(a) and (d) in the absence of rules under these sections. No rules with respect to joint transactions have been adopted under sections 57(a) and (d). Rule 17d-1 prohibits affiliated persons of a registered investment company from entering into joint transactions with the investment company unless the SEC has granted an order permitting the transaction after considering whether the participation of the investment company is consistent with the provision, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

3. Applicants state that all Funds will participate in the proposed Co-Investment Transactions on the same terms. In addition, applicants state that the procedure for allocating investment opportunities will ensure that the Funds will be treated fairly. Moreover, applicants assert that the approval of these transactions by a Required majority of the directors will ensure that no overreaching will occur. Applicants therefore believe that the requested exemption for Co-Investment Transactions meets the standards for granting exemptive relief under rule 17d–1.

4. Section 6(c) of the Act permits the SEC to exempt any person or transaction from any provision of the Act if the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy of the Act. Applicants submit that it would be impractical to attempt to obtain separate exemptive relief under section 57(a)(4) and rule 17d–1 for each Co-Investment Transaction as it arises. Applicants therefore represent that failure to obtain prospective, generic exemptive relief would severely hamper the Funds' ability to participate meaningfully in community investing and, thus, to achieve their investment objectives. Accordingly, applicants believe that the terms of the relief requested with respect to the proposed Co-Investment Transactions are consistent with the standards of section 6(c).

Applicants' Conditions

Applicants agree that the following conditions will govern transactions under the requested order:

1. (a) To the extent that a Fund is considering new investments, Access will review investment opportunities on behalf of the Fund, including investments being considered on behalf of other Funds. Access will determine whether a particular investment is eligible for investment by any Fund.

(b) If access deems an investment eligible for investment by any Fund, Access will determine what it considers to be an appropriate amount that the Fund should invest in the particular investment. Where the aggregate amount recommended for the Fund and that sought by other Funds is greater than the amount available for investment, the amount available for purchase by the Fund shall be determined on a *pro rata* basis calculated by dividing the net assets of the Fund by the sum of the net assets of each Fund seeking to make the investment.

(c) Following the making of the determinations referred to in (a) and (b), Access will distribute information concerning the proposed Co-Investment Transaction to the Board of Directors of each participating Fund. Such information will include the name of each Fund that proposes to make the investment and the amount of each proposed investment.

(d) The Board of Directors of each participating Fund will review the information regarding Access's preliminary determination. A fund will only engage in a Co-Investment Transaction if a Required Majority of the directors of the Fund conclude, prior to the acquisition of the investment, that:

(i) the terms of the transaction, including the consideration to be paid, are reasonable and fair to the shareholders of the Fund and do not involve overreaching of the Fund or such shareholders on the part of any person concerned;

(ii) the transaction is consistent with the interests of the shareholders of the Fund and is consistent with the Fund's investment objectives and policies as recited in its registration statement and reports filed under the Securities Exchange Act of 1934, and its report to shareholders;

(iii) the investments by one or more of the other Funds would not disadvantage the Fund, and that participation by the Fund would not be on a basis different from or less advantageous than that of the other Funds; and

(iv) the proposed Co-Investment Transaction will not benefit Access or any affiliated person thereof (other than the Funds) except to the extent permitted pursuant to sections 17(e) and 57(k) of the Act.

(e) A Fund has the right to decline to participate in a particular Co-Investment Transaction or may purchase less than its full allocation.

2. No Fund will make an investment for its portfolio if a Fund, Access, or a person controlling, controlled by, or under common control with Access is an existing investor in such issuer.

3. All Co-Investment Transactions will consist of the same class of securities, including the same registration rights (if any) and other rights related thereto, at the same unit consideration, and on the same terms and conditions, and the settlement date will be the same.

4. If one or more Funds elect to sell, exchange, or otherwise dispose of an interest in a particular security that is also held by another Fund, notice of the proposed disposition will be given to the other Funds at the earliest practical time, and such Funds will be given the opportunity to participate in such disposition on a proportionate basis, at the same price and on the same terms and conditions. Access will formulate a recommendation as to participation by such Fund in such a disposition, and provide a written recommendation to the Board of Directors of such Fund. A Fund will participate in any such disposition if a Required Majority of its directors determines that it is in the best interest of the investing Fund. Each Fund will bear its own expenses associated with any such disposition of a portfolio security.

5. If a Fund desires to make a follow-on investment in a particular issuer whose securities are held by any other Fund, or to exercise rights to purchase securities of such an issuer, Access will notify the other Fund of the proposed transaction at the earliest practical time. Access will formulate a recommendation as to the proposed participation by the other Fund in a follow-on investment, and provide the recommendation to the other Fund's Board of Directors along with notice of the total amount of the follow-on investment. The other Fund's directors will make their own determination with respect to follow-on investments. To the extent that the amount of a follow-on investment available to a Fund is not based on the amount of its initial investment, the relative amount of investment by each Fund participating in a follow-on investment will be based on a ratio derived by comparing the remaining funds available for investment by each such Fund with the

[1] Each Future Fund will elect to be regulated as a BDC under the Act.

total amount of the follow-on investment. A Fund will participate in such investment to the extent that a Required Majority of its directors determine that it is in the Fund's best interest. The acquisition of follow-on investments as permitted by this condition will be subject to the other conditions set forth herein.

6. The Board of Directors of the Funds will be provided quarterly for review all information concerning Co-Investment Transactions made by the Funds, including Co-Investment Transactions in which one or more Funds declined to participate, so that they may determine whether all Co-Investment Transactions made during the preceding quarter, including those Co-Investment Transactions they declined, compiled with the conditions set forth above.

7. Each Fund will maintain the records required by section 57(f)(3) of the Act as if each of the Co-Investment Transactions permitted under these conditions had been approved by Required Majority of its directors under section 57(f).

8. No Fund will engage in a Co-Investment Transactions with another Fund that has a common Independent Director.

9. No person other than a Fund shall participate in a Co-Investment Transaction unless a separate exemptive order with respect to such transaction has been obtained.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–7345 Filed 3–26–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36997]

EDGAR Phase-In Complete on May 6, 1996

March 21, 1996.

The Division of Corporation Finance today is publishing a notice to all domestic registrants whose filings are subject to its review to remind them that the phase-in to mandated electronic filing on the Commission's Electronic Data Gathering, Analysis, and Retrieval ("EDGAR") system will be complete on May 6, 1996. Beginning on that date, all domestic registrants not previously phased in, and third parties filing with respect to such registrants, will become subject to mandated electronic filing requirements, as outlined in Regulation S–T (17 CFR Part 232). This applies to companies assigned to Group CF–10, as well as to those that previously have not been assigned a phase-in group. Beginning May 6, registration statements for initial public offerings also must be filed electronically, unless the filing is made at one of the Commission's regional offices.

Domestic registrants that will be phased in May 6 may begin filing electronically before that date if they wish, once they have filed a Form ID with the Commission and received EDGAR access and identification codes. It is no longer necessary for them to contact the staff to request a change in their phase-in group. Registrants may begin testing on the system once access codes have been issued. Early compliance with electronic filing requirements is encouraged once registrants become comfortable with the system.

Once a company becomes a mandated electronic filer, all filings made with respect to it by third parties (for example, Schedules 13D and 13G) must be made electronically. Third parties will not be required to file electronically with respect to companies whose phase-in date is May 6 until that date. If third parties wish to file electronically, however, they may do so at any time, whether or not the subject company has begun to make its own filings via EDGAR. Persons filing Forms 3, 4 and 5 pursuant to Section 16 of the Securities Exchange Act of 1934, and those filing Forms 144 pursuant to Rule 144 of the Securities Act of 1933, may file these documents in paper or electronic format, since electronic filing of these forms will continue to be optional after May 6.

Foreign private issuers and foreign governments will not be required to file electronically (unless acting as a third party filer with respect to an electronic domestic company or engaging in a business transaction with a phased-in domestic company), but they may choose to do so. Such entities can gain access to the EDGAR system by filing a Form ID to receive EDGAR access and identification codes. EDGAR currently recognizes many of the types of forms that may be filed by foreign registrants, but some form types, such as those associated with the multijurisdictional disclosure system, are not yet available; as a consequence, filings not supported by EDGAR must be made in paper. The EDGAR system will be enhanced in the future to allow electronic filing of these documents.

As is true with all rules promulgated by the Commission, persons making filings with the Commission are responsible for apprising themselves of their new obligations associated with filing on the EDGAR system. While the Commission has attempted to contact registrants in this last phase-in group by furnishing a copy of the current version of the EDGAR Filer Manual and EDGARLink software (with mailing having taken place the week of March 11), registrants will not be relieved of their electronic filing obligations in the absence of such notification.

FOR FURTHER INFORMATION CONTACT: Sylvia J. Reis, Assistant Director, CF EDGAR Policy, Division of Corporation Finance, at (202) 942–2940.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–7336 Filed 3–26–96; 8:45 am]

BILLING CODE 8010–01–M

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of March 25, 1996.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matter may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matter at the closed meeting.

Commissioner Wallman, as duty officer, voted to consider the item listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Tuesday, March 26, 1996, at 12:00 noon, will be: Institution of injunctive action.

Commissioner Wallman, as duty officer, determined that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942–7070.

March 25, 1996.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–7536 Filed 3–25–96; 11:41 am]

BILLING CODE 8010–01–M

[Release No. 34–36990; International Series Release No. 952; File No. SR–Amex–95–44]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 to the Proposed Rule Change by the American Stock Exchange, Inc., Relating to the Listing and Trading of Equity Linked Term Notes on Non-U.S. Securities

March 20, 1996.

I. Introduction

On November 9, 1995, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed a proposed rule change with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] to amend Section 107B of the Amex Company Guide to provide alternate criteria for the listing and trading of hybrid debt securities whose value is linked to the performance of a non-U.S. company which is traded in the U.S. market as sponsored American Depositary Shares ordinary shares or otherwise.

Notice of the proposal was published for comment and appeared in the **Federal Register** on December 7, 1995.[3] The Exchange filed with the Commission Amendment No. 1 to the proposed rule change on January 5, 1996.[4] No comment letters were received on the proposed rule change. This order approves the Exchange's proposal, as amended.

II. Background

On May 20, 1993 and December 13, 1993, the Commission approved amendments to Section 107 of the Amex Company Guide to provide for the listing and trading of Equity Linked Term Notes ("ELNs").[5] ELNs are intermediate term (two to seven years), non-convertible, hybrid debt instruments, the value of which is linked to the performance of a highly capitalized, actively traded U.S. and non-U.S. companies.

In August 1994, the Exchange amended Section 107B of the Amex Company Guide to permit the listing and trading of ELNs linked to actively traded non-U.S. companies which are traded in the U.S. market as sponsored American Depositary Shares, ordinary shares or otherwise ("non-U.S. securities"), provided that (1) the Exchange has in place a comprehensive surveillance sharing agreement with the primary exchange on which the non-U.S. security trades; the trading volume of the non-U.S. security in the U.S. market represents at least 50% of the world-wide trading volume in the non-U.S. security ("50% Test"); and (2) the ELNs issuance does not exceed (i) 2% of the total shares of the underlying security outstanding provided at least 30% of the worldwide trading volume for the security for the six-months prior to the listing occurred in the U.S. market, (ii) 3% of the total shares of the underlying outstanding provided at least 50% of the worldwide trading volume for the security for the six-months prior to listing occurred in the U.S. market, or (iii) 5% of the total shares of the underlying security outstanding provided at least 70% of the worldwide trading volume for the security for the six-months prior to listing occurred in the U.S. market. No ELN may be listed if the U.S. market for the underlying security accounted for less than 30% of the worldwide trading volume for the security and related securities during the prior six months.[6]

III. Description of the Proposal

The Exchange proposes to amend its ELNs on non-U.S. security listing criteria by (1) revising the manner in which the applicable percentage of world-wide trading volume is calculated under the 50% Test; (2) adding new criteria for the listing of ELNs on non-U.S. securities, based on the daily trading volume in the U.S.; and (3) revising the current restrictions on the size of ELN issuances linked to non-U.S. securities to reflect the amendments to the listing criteria noted above.[7] Specifically, the Exchange proposes to revise the 50% Test so that trading in non-U.S. securities and other related non-U.S. securities in any market with which the Exchange has in place a comprehensive/effective surveillance sharing agreement will be added to U.S. market volume for the purpose of determining whether the 50% Test has been met. Currently, only trading in the U.S. market counts toward satisfying the 50% Test.

Additionally, the Exchange proposes to add an alternate set of criteria under which the Exchange may list ELNs on non-U.S. securities ("20% Test + Daily Trading Volume Standards"). The new standard will permit the Exchange to list ELNs on non-U.S. securities if all of the following conditions are satisfied: (1) The combined world-wide trading volume for the non-U.S. security in the U.S. market represents (on a share equivalent basis) at least 20% of the combined world-wide trading volume in the non-U.S. security and other related non-U.S. securities over the six month period preceding the date of selection of the non-U.S. security for an ELN listing;[8] (2) the average daily trading volume for the non-U.S. security in the U.S. market over the six months preceding the date of selection of the non-U.S. security for an ELN listing is at least 100,000 shares; and (3) the trading volume for the non-U.S. security in the U.S. market is at least 60,000 shares per day for a majority of the trading days for the six months preceding the date of selection of the non-U.S. security for an ELN listing.

Moreover, the Exchange proposes to amend the size limitations of ELN issuances linked to non-U.S. securities. Specifically, the Exchange proposes to require that the size of ELN issuances linked to non-U.S. securities will be limited to 2% of the total shares of the underlying security for the underlying security outstanding provided at least 20% of the worldwide trading volume for the security for the six-months prior to the listing occurred in the U.S. market. Additionally, under the proposed rule change, the 30% floor would be lowered to 20%[9] so that an ELN would be permitted on a non-U.S. security if U.S. trading volume accounted for at least 20% of the world-wide trading volume during the six months prior to listing.[10] As noted

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 36538 (November 30, 1995), 60 FR 62914.

[4] The Exchange submitted Amendment No. 1 to the Commission to make certain technical changes, as further described herein, to the listing standards regarding Equity Linked Term Notes on non-U.S. securities. *See* Letter from Claire McGrath, Special Counsel, Amex, to Michael Walinskas, Branch Chief, Office of Market Supervision ("OMS"), Division of Market Regulation ("Market Regulation"), Commission, dated January 5, 1996 ("Amendment No. 1").

[5] *See* Securities Exchange Act Release Nos. 32345 (May 20, 1993), 58 FR 30033 (May 27, 1993), and 33328 (December 13, 1993), 58 FR 66041 (December 20, 1993).

[6] *See* Securities Exchange Act Release No. 34540 (August 16, 1994), 59 FR 43673 (August 25, 1994).

[7] *See* Amendment No. 1, *supra* note 4.

[8] The calculation for the 20% Test + Daily Trading Volume Standard does not include foreign markets with which the Exchange has in place a comprehensive surveillance sharing agreement. *See* Amendment No. 1, *supra* note 4.

[9] As with the 20% Test + Daily Trading Volume Standard, foreign markets with which the Exchange has in place a comprehensive surveillance sharing agreement are not included in the calculation for purposes of determining the size of eligible ELN issuances. *See* Amendment No. 1, *supra* note 4.

[10] The other size limitations in Amex's rule remains unchanged. Accordingly, the size of ELN issuances linked to non-U.S. securities will be limited to 3% of the total shares of the underlying security outstanding provided at least 50% of the worldwide trading volume for the security for the

Continued

above, the current rule requires at least 30% of the trading volume to occur in the U.S. to issue an ELN linked to up to 2% of the outstanding shares of a non-U.S. security.[11]

The Exchange believes that the proposed rule change is appropriate in that it limits the listing of ELNs linked to non-U.S. securities to those that have both a significant amount of U.S. market trading volume and a substantial volume of trading covered by a comprehensive/effective surveillance sharing agreement, which provides reasonable assurances that the underlying non-U.S. securities are deliverable upon exercise of the ELNs, and gives the Exchange the ability to inquire into potential trading problems or irregularities in a market place that serves as a significant price discovery market for the non-U.S. security.

The Exchange also believes that the proposed amendment will benefit investors by expanding the number of non-U.S. securities that may be linked to ELNs, thereby providing investors with enhanced investment flexibility. The Exchange believes that it is appropriate to now include additional non-U.S. securities within the existing ELNs regulatory framework because of the significant level of U.S. investor interest in both U.S. and non-U.S. highly capitalized and actively traded reporting companies.

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of change, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and percent the mechanism of a free and open market and a national market system.

IV. Commission Finding and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5) of the Act.[12] Specifically, the Commission finds that the Exchange's proposal to provide alternate criteria for the listing and trading of ELNs on non-U.S. securities strikes a reasonable balance between the Commission's mandates under Section 6(b)(5) to remove impediments to and perfect the mechanism of a free and open market and a national market system, while protecting investors and the public interest.

The Commission believes that the proposed amendments to the listing standards for ELNs on non-U.S. securities will benefit investors by effectively increasing the number of available ELNs-eligible non-U.S. securities. At the same time, as described below, the proposal provides safeguards designed to reduce the potential for manipulation and other abusive trading strategies in connection with the trading of non-U.S. security ELNs and their underlying securities. Accordingly, the Commission believes that the proposal will extend the benefits associated with ELNs on non-U.S. securities to additional non-U.S. securities and provide market participants with opportunities to trade a greater number of ELNs on non-U.S. securities without compromising the effectiveness of the Exchange's listing standards for such securities.

Currently, the 50% Test allows the Exchange to list ELNs on a non-U.S. security in the absence of a comprehensive/effective surveillance sharing agreement with the primary exchange where the non-U.S. security trades if the combined trading volume of the non-U.S. security and other related non-U.S. securities occurring in the U.S. market during the six month period preceding the selection of the non-U.S. security for ELN listing represents (on a share equivalent basis) at least 50% of the combined world-wide trading volume in such securities.

The Commission has previously concluded that the 50% Test helps to ensure that the relevant pricing market for non-U.S. securities underlying ELNs occurs in the U.S. market.[13] In such cases, the Commission has previously found that the U.S. market is the instrumental market for purposes of deterring and detecting potential manipulations or other abusive trading strategies in conjunction with transactions in the overlying non-U.S. security ELN market. Because the U.S. self-regulatory organizations which comprise the U.S. market for non-U.S. securities are members of the Intermarket Surveillance Group,[14] the Commission has concluded that there exists an effective surveillance sharing agreement to permit the exchanges and the NASD to adequately investigate any potential manipulations of the non-U.S. security ELNs or their underlying securities.

The Exchange proposes to modify the 50% Test to include in the U.S. market volume calculation, the trading volume in non-U.S. securities and other related non-U.S. securities that occurs in any market with which the Exchange has in place a comprehensive/effective surveillance sharing agreement. The Commission believes that this proposed modification of the 50% Test is consistent with the Act and with the Commission's approach in the ELN Approval Orders because it will continue to ensure that the majority of world-wide trading volume in the non-U.S. security and other related non-U.S. securities occurs in trading markets with which the Exchange has in place a comprehensive/effective surveillance sharing agreement. The existence of such agreements should deter as well as detect manipulations or other abusive trading strategies and also provide an adequate mechanism for obtaining market and trading information from the non-U.S. markets that list the non-U.S. security underlying the Exchange's ELNs in order to adequately investigate any potential abuse or manipulation.

Additionally, the Commission finds that the proposed 20% Test + Daily Trading Volume Standard is consistent with the Act and with the ELN Approval Orders. As noted above, the 20% Test + Daily Trading Volume Standard will allow the Exchange to list ELNs on a non-U.S. security if, over the six month period preceding the date of selection of the non-U.S. security for ELNs trading (1) the combined world-wide trading volume for the non-U.S. security in the U.S. market represents (on a share equivalent basis) at least 20% of the combined world-wide trading volume in the non-U.S. security and other related non-U.S. securities; [15] (2) the average daily trading volume for the non-U.S. security in the U.S. market is at least 100,000 shares; and (3) the trading volume for the non-U.S. security in the U.S. market is at least 60,000 shares per day for a majority of the trading days.

The Commission believes that these requirements present a reasonable alternative to the 50% Test by limiting the actual listing of ELNs on non-U.S. securities to only those non-U.S. securities that have a significant amount of U.S. market trading volume. This will ensure that the U.S. market is sufficiently active to serve as a relevant pricing market for the non-U.S. security and that the underlying foreign security is readily available to meet the delivery requirements upon exercise of the ELN. Accordingly, the Commission believes that the 20% Test + Daily Trading Volume Standard should help to ensure that the U.S. markets serve a significant role in the price discovery of the applicable non-U.S. security and are generally deep, liquid markets.

Finally, the Exchange believes, for similar reasons, that it is appropriate to reduce the minimum U.S. trading volume requirements for ELNs issuances from 30% to 20%. As noted above, the Commission believes that the 20% Test + Daily Trading Volume Standard will ensure that an underlying non-U.S. security has deep and liquid markets to sustain an ELNs listing. The Commission believes that it is appropriate to adjust the limitations on the size of the ELNs issuance to correspond to this requirement. Accordingly, where the trading volume in the U.S. market for the underlying non-U.S. security is between 20% and 50% of the worldwide trading volume, the issuance will be limited to 2% of the total outstanding shares of the underlying security. The 20% minimum U.S. trading volume requirement should continue to ensure that the U.S. market is significant enough to accommodate ELNs trading. In this regard, the Commission believes that these restrictions will minimize the possibility that trading in such issuances will adversely impact the market for the security to which it is linked.

The Commission notes that other existing ELNs listing requirements relating to the protection of investors will continue to apply. Among other things, these rules set forth issuer standards as well as minimum market capitalization and trading volume requirements that must be met prior to listing an ELN.[16]

The Commission finds good cause for approving Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Specifically, Amendment No. 1 to the proposal makes certain technical clarifications, and revises paragraph (f) of Section 107B of the Amex Company Guide to reflect the amendments to the listing criteria in paragraph (e) as set forth herein. Accordingly, the Commission believes it is consistent with Section 6(b)(5) of the Act to approve Amendment No. 1 to the proposal on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 1. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to SR–Amex–95–44 and should be submitted by April 17, 1996.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[17] that the proposed rule change (File No. SR–Amex–95–44), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–7341 Filed 3–26–96; 8:45 am]

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six-months prior to listing occurred in the U.S. market, or 5% of the total shares of the underlying security outstanding provided at least 70% of the worldwide trading volume for the security for the six-months prior to listing occurred in the U.S. market.

[11] This 30% requirement is also currently the minimum volume that must have occurred in the U.S. market in order for the Exchange to list an ELN linked to any non-U.S. security.

[12] 15 U.S.C. 78f(b)(5).

[13] *See* Securities Exchange Act Release Nos. 34549 (August 18, 1994), 59 FR 43873 (August 25, 1994) (SR–Amex–93–46); 34759 (September 30, 1994), 59 FR 50939 (October 6, 1994) (SR–CBOE–94–04); 34758 (September 30, 1994), 59 FR 50943 (October 6, 1994) (SR–NASD–94–49); 34985 (November 18, 1994), 59 FR 60860 (November 28, 1994) (SR–NYSE–94–37); and 35479 (March 13, 1995), 60 FR 14993 (March 21, 1995) (SR–Phlx–95–09) ("ELN Approval Orders").

[14] The Intermarket Surveillance Group ("ISG") was formed on July 14, 1983 to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. *See* Intermarket Surveillance Group Agreement, July 14, 1983. The most recent amendment to the ISG Agreement, which incorporates the original agreement and all amendments made thereafter, was signed by ISG members on January 29, 1990. *See* Second Amendment to the Intermarket Surveillance Group Agreement, January 29, 1990. The members of the ISG are: the Amex; the Boston Stock Exchange, Inc.; the Chicago Board Options Exchange, Inc.; the Chicago Stock Exchange, Inc.; the National Association of Securities Dealers, Inc. ("NASD"); the New York Stock Exchange, Inc.; the Pacific Stock Exchange, Inc.; and the Philadelphia Stock Exchange, Inc. Because of potential opportunities for trading abuses involving stock index futures, stock options, and the underlying stock and the need for greater sharing of surveillance information for these potential intermarket trading abuses, the major stock index futures exchanges (*e.g.*, the Chicago Mercantile Exchange and the Chicago Board of Trade) joined the ISG as affiliate members in 1990.

[15] *See supra* note 8. The Commission notes that the 20% Test + Daily Trading Volume Standard does not include worldwide trading volume in the non-U.S. security that takes place in a foreign market regardless of the existence of a comprehensive surveillance sharing agreement with the listing exchange. The 20% Test is a minimum U.S. market share trading test intended to permit the listing of ELNs only on non-U.S. securities that have active and liquid markets in the U.S.

[16] The Commission recently approved the Exchange's proposed rule change amending some of the initial listing standards regarding such structured notes. The Exchange's amended initial listing standards require, among other things, that the linked stock underlying the Exchange-listed ELNs either: (i) has a minimum market capitalization of $3 billion and during the 12 months preceding listing is shown to have traded at least 2.5 million shares, (ii) has a minimum market capitalization of $1.5 billion and during the 12 months preceding listing is shown to have traded at least 10 million shares; or (iii) has a minimum market capitalization of $500 million and during the 12 months preceding listing is shown to have traded at least 15 million shares. *See* Securities Exchange Act Release No. 36909 (March 20, 1996).

[17] 15 U.S.C. 78s(b)(2).

[18] 17 CFR 200.30–3(a)(12).

[Release No. 34–36989; File No. AR–Amex–95–48]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Revised Listing Standards for Equity Linked Notes

March 20, 1996.

On December 5, 1995, the American Stock Exchange, Inc. ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to revise the trading volume requirement for securities underlying Equity Linked Notes ("ELNs").

Notice of the proposed rule change was published for comment and appeared in the **Federal Register** on December 20, 1995.[3] No comments were received on the proposal. This order approves the proposal.

I. Description of the Proposal

On May 20, 1993 and December 13, 1993, the SEC approved amendments to Section 107 of the Amex Company Guide ("Section 107") to provide for the

[1] 15 U.S.C. 78s(b)(1) (1988 & Supp. V 1993).

[2] 17 CFR § 240.19b–4 (1994).

[3] *See* Securities Exchange Act Release No. 36578 (Dec. 13, 1995).

listing and trading of ELNs.[4] ELNs are intermediate term, nonconvertible, hybrid debt instruments, the value of which is linked to the performance of a highly capitalized, actively traded U.S. common stock or non-convertible preferred stock ("linked security"). In order to list an ELNs product, Section 107B currently requires the linked security to meet one of the following criteria:

Market Capitalization and Annual Trading Volume
$3 billion and 2.5 million shares.
$1.5 billion and 20 million shares.
$500 million and 80 million shares.

Amex now proposes to amend Section 107(B) to provide for greater flexibility in the listing criteria for ELNs. The proposed rule change will lower the trading volume requirements criteria for underlying linked stocks meeting the capitalization requirements of $1.5 billion and $500 million. Under the revised criteria, a linked stock with market capitalization of $1.5 billion would now need an annual trading volume of 10 million shares, as opposed to the current trading volume requirement of 20 million shares. Securities with a market capitalization in excess of $500 million also would be eligible for ELNs listing if they have annual trading volume of 15 million shares, as opposed to the 80 million shares under the current rule.[5] The proposal will also delete the current provision of the rule that allows the Exchange to list ELNs that do not meet the market capitalization and trading volume criteria if the Division of Market Regulation of the SEC concurs.

The Exchange believes these revisions strike an appropriate balance between the Exchange's responsiveness to innovations in the securities markets and its need to ensure the protection of investors and the maintenance of fair and orderly markets. Moreover, the Exchange believes that these changes will not have an adverse impact on the markets for the underlying linked security since the requirements will continue to ensure that the linked security has a large minimum market capitalization and a significant amount of trading volume over the preceding twelve months. The Exchange will continue to require that the issuer have a minimum tangible net worth of $150 million and that the total issue price of the ELNs combined with all of the issuer's other listed ELNs shall not be greater than 25% of the issuer's tangible net worth at the time of issuance.

II. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5).[6] In particular, the Commission believes the proposal is consistent with the Section 6(b)(5) requirement that the rules of an exchange be designed to promote just and equitable principles of trade and not to permit unfair discrimination between customers, issuers, brokers, and dealers.

The Commission finds that the proposal to reduce the trading volume requirement for eligible linked securities will expand the number of securities that can be linked on ELNs while maintaining the requirement that the linked security be an actively traded, highly capitalized common stock or ADR. While the proposal reduces the trading volume criteria for securities with market capitalizations in the $1.5 billion and $500 million tiers to 10 million and 15 million shares, respectively (from 20 and 80 million shares, respectively), the Commission nevertheless believes that, together, the applicable capitalization and new trading volume requirements will continue to help ensure that ELNs are only issued on highly liquid securities of broadly capitalized companies. Accordingly, the Commission believes that these requirements will continue to help reduce the likelihood of any adverse market impact on the securities underlying ELNs.

Finally, the Commission notes that the Exchange has deleted the provision that allows it to list ELNs on securities not meeting the market capitalization and trading volume criteria if the Division of Market Regulation of the SEC concurs. The revised criteria will expand the number of securities eligible for ELNs trading. The increased flexibility in the ELNs listing criteria should effectively reduce or eliminate the need for additional discretion in this area, in addition to providing issuers and the Exchange with specific and clear guidance on the applicable listing criteria for a security to be eligible to underlie an ELN.

It therefore is ordered, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change (SR–Amex–95–48) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–7395 Filed 3–26–96; 8:45 am]

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[Release No. 34–36992; File No. SR–CBOE–96–11]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Listing and Trading of Options on the CBOE PC Index

March 20, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 7, 1996, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to provide for the listing and trading on the Exchange of options on the CBOE PC Index ("CBOE PC Index" or "Index"), a narrow-based, equal weighted index comprised of eight of the largest personal computer manufacturing companies.

The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to permit the Exchange to list and trade cash-settled, European-style stock index options on the CBOE PC Index, an equal-weighted index consisting of stocks of eight of the largest personal computer manufacturing companies. CBOE represents that each of these stocks are actively traded and believes that options on the Index will provide investors with a low-cost means to participate in the performance of the domestic PC industry or a means to hedge the risk of investments in that industry. The Exchange believes that the small number of Index components should facilitate replication of the Index for hedging purposes.

Index Design

As noted above, the CBOE PC Index consists of eight components, all of which trade on the New York Stock Exchange ("NYSE") or Nasdaq.[1] In addition, the Exchange represents that all eight underlying component securities currently meet the Exchange's listing criteria for equity options contained in Exchange Rule 5.3 and are the subject of options trading on U.S. options exchanges.

As of February 6, 1996, the capitalization of the components ranged from a low of $363 million (AST Research) to a high of $65.26 billion (IBM). The total capitalization as of that date was $135.5 billion; the mean capitalization was $16.9 billion; and the median capitalization was $3.34 billion. Because the Index is equal-weighted, each component accounts for 12.5% of the weight of the Index.

Calculation

The Index will be calculated by CBOE or its designee on a real-time basis using last-sale prices and will be disseminated every 15 seconds. The updated Index values will be displayed by the Consolidated Tap Association and over the facilities of the Options Price Reporting Authority ("OPRA"). If a component is not currently being traded on its primary market, the most recent price at which the share traded on such market will be used in the Index calculation. The value of the Index at the close on February 1, 1996 was 127.65.

The Index is equal-weighted and reflects changes in the prices of the component stocks relative to the Index base date, January 3, 1995 when the Index was set to 100.000. Specifically, each of the component securities is initially represented in equal-dollar amounts, with the level of the Index equal to the combined market value of the assigned number of shares for each of the Index components divided by the current Index divisor. The Index divisor is adjusted to maintain continuity in the Index at the time of certain types of changes. Changes which may result in divisor changes include, but are not limited to, quarterly re-balancing, special dividends, spin-offs, certain rights issuances, and mergers and acquisitions.

Maintenance

The Index will be maintained by CBOE and will be re-balanced after the close of business on Expiration Fridays on the March Quarterly Cycle. The Index will be reviewed regularly and CBOE may change the composition of the Index at any time to reflect changes affecting the components of the Index or the PC markets generally. If it becomes necessary to replace a component, every effort will be made to add a component that preserves the character of the Index. If no replacement is available, or if CBOE determines to decrease the number of component stocks, it will submit a proposed rule change pursuant to Section 19(b) of the Act prior to opening any new series of Index options for trading. Absent prior Commission approval, CBOE will not increase to more than ten the number of component stocks in the Index. Finally, if at any time any of the components are not options eligible, the Exchange will submit a rule change pursuant to Section 19(b) of the Act prior to opening any new series of Index options for trading.

Index Option Trading

The Exchange proposes to base trading in options on the CBOE PC Index on the full value of that Index. The Exchange may list full-value long-term index option series ("LEAPS ®"), as provided in Rule 24.9. The Exchange also may provide for the listing of reduced-value LEAPS, for which the underlying value would be computed at one-tenth of the value of the Index. The current and closing index value of any such reduced-value LEAP will, after such initial computation, be rounded to the nearest one-hundredth.

Exercise and Settlement

CBOE PC Index options will have European-style exercise and will be "A.M.-settled index options" within the meaning of the Rules in Chapter XXIV, including Rule 24.9, which is being amended to refer specifically to CBOE PC Index options. The proposed options will expire on the Saturday following the third Friday of the expiration month and the last day for trading in an expiring series will be the second business day (ordinarily a Thursday) preceding the expiration date.

Exchange Rules Applicable

Except as modified herein, the Rules in Chapter XXIV will be applicable to CBOE PC Index options. Index option contracts based on the CBOE PC Index will be subject to a position limit of 9,000 contracts on the same side of the market.[2] Ten reduced-value options will equal one full-value contract for such purposes.

CBOE represents that it has the necessary systems capacity to support new series that would result from the introduction of options on the Index and has also been informed that OPRA has the capacity to support such new series.[3]

Surveillance

The surveillance procedures currently used to monitor the trading of options on other Exchange-listed indexes will be used to monitor the trading of options on the CBOE PC Index. The Exchange has access to trading activity in the underlying securities, all of which trade on either the NYSE or Nasdaq, via the Intermarket Surveillance Group Agreement.

2. Statutory Basis

CBOE believes the proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it will permit trading in options based on the CBOE PC Index pursuant to rules designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, and thereby will provide investors with the ability invest in options based on an additional index.

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[4] See Securities Exchange Act Release Nos. 32345 (May 20, 1993) and 33328 (Dec. 13, 1993).

[5] Under the rule, as amended by this proposal, ELNs could be listed where the linked security met any of the following criteria:

Market capitalization and Annual Trading Volume
$3 billion and 2.5 million shares.
$1.5 billion and 10 million shares.
$500 million and 15 million shares.

[6] 15 U.S.C. 78f(b)(5) (1982).

[7] 15 U.S.C. 78s(b)(2) (1988).

[8] 17 CFR § 200.30–3(a)(12) (1994).

[1] The components of the Index are: Apple Computer, AST Research, Compaq Computer, Dell Computer, Gateway 2000, Hewlett Packard, International Business Machines, and Micron Electronics.

[2] CBOE recently increased its position limit tiers applicable to narrow-based index options from 5,000, 7,500, and 10,500 contracts on the same side of the market to 6,000, 9,000, and 12,000 contracts, respectively.

[3] See Letter from Joe Corrigan, OPRA, to Eileen Smith, CBOE, dated February 21, 1996.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons make written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–96–11 and should be submitted by April 17, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

[4] 17 CFR 200.30–3(a)(12) (1994).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–7342 Filed 3–26–96; 8:45 am]

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[Release No. 34–36995; International Release No. 954; File No. SR–CBOE 95–71]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1 Thereto Relating to Listing Criteria for Equity Linked Term Notes ("ELNs")

March 20, 1996.

Pursuant to Section 19(b)(1), of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 20, 1995, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I and II below, which Items have been prepared by the CBOE. On January 18, 1996, CBOE filed Amendment No. 1 ("Amendment No. 1") to the proposed rule change to clarify issues relating to the issuance of ELNs on non-U.S. companies that trade in the U.S. market as sponsored American Depositary Receipts, ordinary shares, or otherwise.[1] This Order approves the proposed rule change, as amended, on an accelerated basis and also solicits comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules relating to the listing criteria for equity linked term notes. The text of the proposed rule change is available at the Office of the Secretary of the CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CBOE has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

[1] Letter from Timothy Thompson, CBOE, to Michael Walinskas, SEC, dated January 17, 1996.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

ELNs are intermediate-term (*i.e.*, two to seven years), non-convertible hybrid securities, the value of which is based, at least in part, on the value of another issuer's common stock, non-convertible preferred stock, or certain sponsored American Depositary Receipts ("ADRs"). ELNs may pay periodic interest or may be issued as zero-coupon instruments with no payments to holders prior to maturity. ELNs also may be subject to a "cap" on the maximum principal amount to be repaid to holders upon maturity, or, conversely, they may feature a "floor" on the minimum principal amount paid to holders upon maturity. A specific issue of ELNs, for example, may provide holders with a fixed semi-annual interest payment, while capping the maximum amount to be repaid upon maturity at 135% of the issuance price, with no minimum floor guarantee on the principal to be repaid at maturity. Another issue of ELNs might offer lower semi-annual payments based upon a floating interest rate with a minimum floor for the repayment of principal of 75% of the issuance price. The flexibility available to an issuer of ELNs permits the creation of securities which offer issuers and investors the opportunity to more precisely focus on a specific investment strategy.

The CBOE's proposal would modify the listing standards applicable to the underlying linked security. Paragraph (e) of Rule 31.5.I specifies that a common stock or a non-convertible preferred stock may be considered for listing on the Exchange if the underlying stock meets one of three alternative criteria for market capitalization and trading volume. Lower levels of market capitalization require a higher trading volume for the Exchange to consider listing an ELN on that security. The Exchange believes that two of the three trading volume levels could be reduced without compromising investor protection.

Specifically, the Exchange is proposing that the Exchange be permitted to list an ELN on a security with a market capitalization of at least $1.5 billion if that security has trading volume in U.S. markets of at least 10 million shares during the 12 month period preceding the listing. Currently, paragraph (e) requires trading volume of 20 million shares for such securities. In addition, the Exchange is proposing that it be permitted to list an ELN on a security with a market capitalization of at least $500 million if that security has a trading volume in U.S. markets of at least 15 million shares during the 12 month period preceding the listing. Currently, paragraph (e) requires trading volume of 60 million shares for such securities. This reduction in the trading volume levels would enable the Exchange to list ELNs on a wider range of securities and provide investors a new opportunity to participate in the market performance of these securities.

Paragraph (e) would also be revised to specify that the Exchange will file a rule change with the Commission pursuant to Section 19(b) of the Act (rather than merely obtaining concurrence of SEC staff) if it desires to list an ELN on an underlying security that does not meet the market capitalization or trading volume criteria set forth in the rule.

Second, CBOE proposes to amend the ELNs listing standard governing which non-U.S. securities are eligible to be linked to ELNs. Presently, under paragraph (h) of Rule 31.5.I, the Exchange may list ELNs on actively traded non-U.S. securities which are traded in the U.S. market as sponsored ADRs or otherwise, provided that: (1) The Exchange has in place a comprehensive surveillance sharing agreement with the primary exchange on which the non-U.S. security is traded (in the case of an ADR, the primary exchange on which the security underlying the ADR is traded); or (2) the combined trading volume of the non-U.S. security and other related non-U.S. securities (as defined below) occurring in the U.S. market represents (on a share equivalent basis with respect to any ADRs) ("U.S. Trading Volume") at least 50% of the combined worldwide trading volume in the non-U.S. security during the six month period preceding the date of listing ("50% Test").

This paragraph (h) would be revised in three respects. First, the Exchange proposes to revise the manner in which the 50% test is calculated such that trading in the non-U.S. security and other related non-U.S. securities in any market with which the Exchange has in place a comprehensive, effective surveillance sharing agreement would be added to the U.S. market volume for the purpose of determining whether the 50% test has been met. Currently, only trading in the U.S. market counts toward satisfying the 50% test. This change is consistent with the change to the listing criteria for options on ADRs. This change would also be reflected in Interpretation .01 to Rule 31.5.I.

CBOE also proposes to add an alternative set of criteria to paragraph (h) of Rule 31.5.I in order to add a third alternative set of criteria under which the Exchange may list an ELN on a non-U.S. security. This new standard, referred to as the 20% Test + Daily Trading Volume Standard ("20% Test + Daily Trading Volume Standard") would permit the Exchange to list an ELN on a non-U.S. security if each of the following three conditions were satisfied: (1) The combined trading worldwide volume of the non-U.S. security in the U.S. market represents (on a share equivalent basis with respect to ADRs) at least 20% of the combined worldwide trading volume in the non-U.S. security and other related non-U.S. securities over the six month period preceding the date of selection of the non-U.S. security for ELN trading; [2] (2) the average trading volume for the non-U.S. security in the U.S. market over the six months preceding the date of selection of the non-U.S. security for ELN trading is at least 100,000 shares per day; [3] and (3) the trading volume for the non-U.S. security in the U.S. is at least 60,000 shares per day for a majority of the trading days for the six months preceding the date of selection of the non-U.S. security for ELN trading.[4]

As with the 50% Test, the Daily Trading Volume Standard will allow the listing of ELNs on non-U.S. securities in the absence of a comprehensive, effective surveillance sharing agreement between the Exchange and the primary exchange on which the non-U.S. security is traded (in the case of an ADR, the home country where the security underlying the ADR is traded). The Exchange believes the Daily Trading Volume Standard is justified because it will enable the Exchange to list ELNs on non-U.S. securities that are widely followed by U.S. investors but that do not meet the 50% Test. Although the Daily Trading Volume Standard reduces from 50% to 20% the percentage of worldwide trading that must occur in the U.S. market, it also requires the non-U.S. security to meet certain trading levels in the U.S. market. The Exchange believes the Daily Trading Volume Standard's requirement of observable, high trading volume should ameliorate regulatory concerns regarding investor protection. In addition, it should be noted that the Daily Trading Volume Standard is the same standard approved by the Commission in determining on which ADRs the Exchange may list options, except that CBOE believes the standard for ELNs is actually stricter because it requires the 20% test to be met over a longer period (six months instead of three).[5]

Finally, the Exchange proposes to amend paragraph (g) to Rule 31.5.I in order to clarify the limitation on the number of ELNs that may be linked to a particular security. Specifically, the issuance of ELNs relating to any underlying non-U.S. security may not exceed 2% of the total shares outstanding worldwide if at least 20% of the worldwide trading volume occurs in the U.S. market during the six-month period preceding the date of listing.[6] The Exchange notes that this change is consistent with the Daily Trading Volume Standard requirement contained in paragraph (h) that requires at least 20% of the combined worldwide trading volume in the non-U.S. security to occur in U.S. markets.[7] This change would also be reflected in Interpretation .04 to the Rule.

Because this new listing standard would enable the Exchange to list ELNs on widely followed non-U.S. securities without comprising investor protection concerns, the Exchange believes that the proposed rule change is consistent with Section 6 of the Act in general and with Section 6(b)(5) in particular in that it is designed to promote just and equitable principles of trade, to foster cooperation with persons engaged in facilitating and clearing transactions in securities, and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[2] The calculation for the 20% Test + Daily Trading Volume Standard does not include foreign markets with which the Exchange has in place a comprehensive surveillance sharing agreement. *See* Amendment No. 1.

[3] *See* Amendment No. 1.

[4] *Id.*

[5] *See also* note 2, *supra.*

[6] The other size limitations in CBOE's rule remains unchanged. Accordingly, the size of ELN issuances linked to non-U.S. securities will be limited to 3% of the total shares of the underlying security outstanding provided, however, at least 50% of the worldwide trading volume for the security for the six-months prior to listing occurred in the U.S. market, or 5% of the total shares of the underlying security outstanding provided at least 70% of the worldwide trading volume for the security for the six-months prior to listing occurred in the U.S. market.

[7] As with the 20% Test + Daily Trading Volume Standard, foreign markets with which the Exchange has in place a comprehensive surveillance sharing agreement are not included in the calculation for purposes of determining the size of eligible ELN issuances.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Findings and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5).[8] In particular, the Commission believes the proposal is consistent with the Section 6(b)(5) requirement that the rules of an exchange be designed to promote just and equitable principles of trade and not to permit unfair discrimination between customers, issuers, brokers, and dealers.

The Commission finds that the proposal to reduce the trading volume requirement for eligible linked securities will expand the number of securities that can be linked to ELNs while maintaining the requirement that the linked security be an actively traded, highly capitalized common stock or ADR. While the proposal reduces the trading volume criteria for securities with market capitalizations in the $1.5 billion and $500 million tiers to 10 million and 15 million shares, respectively (from 20 and 80 million shares, respectively), the Commission nevertheless believes that, together, the applicable capitalization and new trading volume requirements will continue to help ensure that ELNs are only issued on highly liquid securities of broadly capitalized companies. Accordingly, the Commission believes that these requirements will continue to help reduce the likelihood of any adverse market impact on the securities underlying ELNs.

The Commission notes that the Exchange has deleted the provision that allows it to list ELNs on securities not meeting the market capitalization and trading volume criteria if the Division of Market Regulation of the SEC concurs.[9] The revised criteria will expand the number of securities eligible for ELNs trading. The increased flexibility in the ELNs listing criteria should effectively reduce or eliminate the need for additional discretion in this area, in addition to providing issuers and the Exchange with specific and clear guidance on the applicable listing criteria for a security to be eligible to underlie an ELN.

The Commission also believes that the additional proposed amendments to the listing standards for ELNs on non-U.S. securities will benefit investors by effectively increasing the number of available ELNs-eligible non-U.S. securities. At the same time, as described below, the proposal provides safeguards designed to reduce the potential for manipulation and other abusive trading strategies in connection with the trading of non-U.S. security ELNs and their underlying securities. Accordingly, the Commission believes that the proposal will extend the benefits associated with ELNs on non-U.S. securities without compromising the effectiveness of the Exchange's listing standards for such securities.

Currently, the 50% Test allows the Exchange to list ELNs on a non-U.S. security in the absence of a comprehensive/effective surveillance sharing agreement with the primary exchange where the non-U.S. security trades if the combined trading volume of the non-U.S. security and other related non-U.S. securities occurring in the U.S. market during the six month period preceding the selection of the non-U.S. security for ELN listing represents (on a share equivalent basis) at least 50% of the combined world-wide trading volume in such securities.

The Commission has previously concluded that the 50% Test helps to ensure that the relevant pricing market for non-U.S. securities underlying ELNs occurs in the U.S. market.[10] In such cases, the Commission has previously found that the U.S. market is the instrumental market for purposes of deterring and detecting potential manipulations or other abusive trading strategies in conjunction with transactions in the overlying non-U.S. security ELN market. Because the U.S. self-regulatory organizations which comprise the U.S. market for non-U.S. securities are members of the Intermarket Surveillance Group,[11] the Commission has concluded that there exists an effective surveillance sharing agreement to permit the exchanges and the NASD to adequately investigate any potential manipulations of the non-U.S. security ELNs or their underlying securities.

The Exchange proposes to modify the 50% Test to include in the U.S. market volume calculation the trading volume in non-U.S. securities and other related non-U.S. securities that occur in any market with which the Exchange has in place a comprehensive/effective surveillance sharing agreement. The Commission believes that this proposed modification of the 50% Test is consistent with the Act and with the Commission's approach in the ELN Approval Orders because it will continue to ensure that the majority of world-wide trading volume in the non-U.S. security and other related non-U.S. securities occurs in trading markets with which the Exchange has in place a comprehensive/effective surveillance sharing agreement. The existence of such agreements should deter as well as detect manipulations or other abusive trading strategies and also provide an adequate mechanism for obtaining market and trading information from the non-U.S. markets that list the non-U.S. security underlying the Exchange's ELNs in order to adequately investigate any potential abuse or manipulation.

Additionally, the Commission finds that the proposed 20% Test + Daily Trading Volume Standard is consistent with the Act and with the ELN Approval Orders. As noted above, the 20% Test + Daily Trading Volume Standard will allow the Exchange to list ELNs on a non-U.S. security if, over the six month period preceding the date of selection of the non-U.S. security for ELNs trading (1) the combined world-wide trading volume for the non-U.S. security in the U.S. market represents (on a share equivalent basis) at least 20% of the combined world-wide trading volume in the non-U.S. security and other related non-U.S. securities; [12] (2) the average daily trading volume for the non-U.S. security in the U.S. market is at least 100,000 shares; and (3) the trading volume for the non-U.S. security in the U.S. market is at least 60,000 shares per day for a majority of the trading days.

The Commission believes that these requirements present a reasonable alternative to the 50% Test by limiting the actual listing of ELNs on non-U.S. securities to only those non-U.S. securities that have a significant amount of U.S. market trading volume. This will ensure that the U.S. market is sufficiently active to serve as a relevant pricing market for the non-U.S. security and that the underlying foreign security is readily available to meet the delivery requirements upon exercise of the ELN. Accordingly, the Commission believes that the 20% Test + Daily Trading Volume Standard should help to ensure that the U.S. markets serve a significant role in the price discovery of the applicable non-U.S. security and are generally deep, liquid markets.

Finally, the Exchange believes, for similar reasons, that it is appropriate to reduce the minimum U.S. trading volume requirements for ELNs issuances from 30% to 20%. As noted above, the Commission believes that the 20% Test + Daily Trading Volume Standard will ensure that an underlying non-U.S. security has deep and liquid markets to sustain an ELNs listing. The Commission believes that it is appropriate to adjust the limitations on the size of the ELNs issuance to correspond to this requirement. Accordingly, where the trading volume in the U.S. market for the underlying non-U.S. security is between 20% and 50% of the worldwide trading volume, the issuance will be limited to 2% of the total outstanding shares of the underlying security. The 20% minimum U.S. trading volume requirement should continue to ensure that the U.S. market is significant enough to accommodate ELNs trading. In this regard, the Commission believes that these restrictions will minimize the possibility that trading in such issuances will adversely impact the market for the security to which it is linked.

The Commission finds good cause for approving the proposed rule change and Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register** in order to allow CBOE to implement these changes to its ELNs Listing Standards without delay. The proposal will provide the Exchange with increased flexibility in the listing of ELNs products on both U.S. and non-U.S. securities without compromising investor protection concerns. In addition, the CBOE proposal is substantially similar to, and is being approved concurrently with, two American Stock Exchange proposals relating to ELNs listing standards, both of which were subject to the full notice and comment period.[13] The Commission notes that no comment letters were received on these Amex proposals. Accordingly, the Commission does not believe the CBOE proposal, as amended, raises any new or unique regulatory issues. For these reasons, the Commission believes there is good cause, consistent with Sections 6(b)(5) and 19(b)(2) of the Act, to approve the proposed rule change and Amendment No. 1 on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by April 17, 1996.

It therefore is ordered, pursuant to Section 19(b)(2) of the Act,[14] that the proposed rule change (SR–CBOE–95–71) is approved, as amended.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–7396 Filed 3–26–96; 8:45 am]

BILLING CODE 8010–01–M

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[8] 15 U.S.C. 78f(b)(5) (1982).

[9] As noted above, CBOE has replaced this section with a provision stating it would have to file a Section 19(b) rule change if it desires to list an ELN on an underlying security that does not meet these standards.

[10] *See* Securities Exchange Act Release Nos. 34549 (August 18, 1994), 59 FR 43073 (August 25, 1994) (SR–Amex–93–46); 34759 (September 30, 1994), 59 FR 50939 (October 6, 1994) (SR–CBOE–94–04); 34758 (September 30, 1994), 59 FR 50943 (October 6, 1994) (SR–NASD–94–49); 34985 (November 18, 1994), 59 FR 60860 (November 28, 1994) (SR–NYSE–94–37); and 35479 (March 13, 1995), 60 FR 14993 (March 21, 1995) (SR–Phlx–95–09) ("ELN Approval Orders").

[11] The Intermarket Surveillance Group ("ISG") was formed on July 14, 1983 to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. *See* Intermarket Surveillance Group Agreement, July 14, 1983. The most recent amendment to the ISG Agreement, which incorporates the original agreement and all amendments made thereafter, was signed by ISG members on January 29, 1990. *See* Second Amendment to the Intermarket Surveillance Group Agreement, January 29, 1990. The members of the ISG are: The American Stock Exchange, Inc.; the Boston Stock Exchange, Inc.; the CBOE; the Chicago Stock Exchange, Inc.; the National Association of Securities Dealers, Inc.; the New York Stock Exchange, Inc.; the Pacific Stock Exchange, Inc.; and the Philadelphia Stock Exchange, Inc. Because of potential opportunities for trading abuses involving stock index futures, stock options, and the underlying stock and the need for greater sharing of surveillance information for these potential intermarket trading abuses, the major stock index futures exchanges (*e.g.*, the Chicago Mercantile Exchange and the Chicago Board of Trade) joined the ISG as affiliate members in 1990.

[12] The Commission notes that the 20% Test + Daily Trading Volume Standard does not include worldwide trading volume in the non-U.S. security that takes place in a foreign market regardless of the existence of a comprehensive surveillance sharing agreement with the listing exchange. The 20% Test is a minimum U.S. market share trading test intended to permit the listing of ELNs only on non-U.S. securities that have active and liquid markets in the U.S.

[13] *See* Securities Exchange Act Release Nos. 36538 (Nov. 30, 1995) (notice of filing of SR–Amex–95–44) and 36578 (Dec. 13, 1995) (notice of filing of SR–Amex–95–48).

[14] 15 U.S.C. 78s(b)(2) (1988).

[15] 17 CFR § 200.30–3(a)(12) (1994).

[Release No. 34–36994; International Release No. 953; File No. SR–NASD–95–01]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1 Thereto Relating to Listing Criteria for Selected Equity Linked Debt Securities ("SEEDS")

March 20, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 4, 1996, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I and II below, which Items have been prepared by the NASD. On February 1, 1996, the NASD filed Amendment No. 1 ("Amendment No. 1") to the proposed rule change to revise the trading volume requirement for securities underlying an issuance of SEEDS and to clarify issues relating to the issuance of SEEDS on non-U.S. companies that trade in the U.S. market as sponsored American Depositary Receipts ("ADRs"), ordinary shares, or otherwise.[1] This Order approves the proposed rule change, as amended, on an accelerated basis and also solicits comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing to amend the listing standards for Selected Equity-Linked Debt Securities ("SEEDS")[2] found in Section 2(f) of Part III to Schedule D to the NASD By-Laws

[1] Letter from Joan C. Conley, Corporate Secretary, NASD, to Michael Walinskas, SEC, dated January 29, 1996.

[2] "SEEDS" and "Selected Equity-Linked Debt Securities" are service marks of The Nasdaq Stock Market, Inc.

("Schedule D"). Specifically, the NASD proposes to amend Section 2(f)(3)(A) of Part III to Schedule D to increase the number of securities eligible to underlie or be "linked" to SEEDS. The NASD also proposes to amend Schedule D to provide alternative criteria for the listing and trading of SEEDS linked to the performance of non-U.S. companies that trade in the U.S. market as ADRs, ordinary shares, or otherwise.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

SEEDS are intermediate-term (*i.e.*, two to seven years), non-convertible hybrid securities, the value of which is based at least in part, on the value of another issuer's common stock, non-convertible preferred stock, or certain sponsored ADRs.[3] SEEDS may pay periodic interest or may be issued as zero-coupon instruments with no payments to holders prior to maturity. SEEDS also may be subject to a "cap" on the maximum principal amount to be repaid to holders upon maturity, or, conversely, they may feature a "floor" on the minimum principal amount paid to holders upon maturity. A specific issue of SEEDS, for example, may provide holders with a fixed semi-annual interest payment, while capping the maximum amount to be repaid upon maturity at 135% of the issuance price, with no minimum floor guarantee on the principal to be repaid at maturity. Another issue of SEEDS might offer lower semi-annual payments based upon a floating interest rate with a minimum floor for the repayment of principal of 75% of the issuance price. The flexibility available to an issuer of SEEDS permits the creation of securities which offer issuers and investors the opportunity to more precisely focus on a specific investment strategy.

There are four components to the NASD's listing standards for SEEDS: (1) Standards applicable to issuers of SEEDS; [4] (2) standards applicable to the SEEDS offerings themselves; [5] (3) standards applicable to the underlying linked security; [6] and (4) limitations on the size of a particular SEEDS offering.[7]

The NASD's instant rule proposal would modify the listing standards applicable to the underlying linked security. First, the NASD proposes to amend the trading volume criteria for securities eligible to be linked to SEEDS found in Section 2(f)(3)(A) of Part III to Schedule D. Currently, in order for a security to be eligible to be linked to a SEEDS, the linked security must, among other things, meet one of the following criteria: (a) Have a market capitalization of at least $3 billion and a trading volume in the United States of at least 2.5 million shares in the one-year period preceding the listing of the SEEDS; (b) have a market capitalization of at least $1.5 billion and a trading volume in the United States of at least 20 million shares in the one-year period preceding the listing of the SEEDS; or (c) have a market capitalization of at least $500 million and a trading volume in the United States of at least 80 million shares in the one-year period preceding the listing of the SEEDS.

Under the proposal, the trading volume criteria for SEEDS-linked securities would be lowered such that a security could underlie a SEEDS if it: (a) had a market capitalization of at least $3 billion and a trading volume in the United States of at least 2.5 million shares in the one-year period preceding the listing of the SEEDS; (b) had a market capitalization of at least $1.5 billion and a trading volume in the United States of at least 10 million shares in the one-year period preceding the listing of the SEEDS; or (c) had a market capitalization of at least $500 million and a trading volume in the United States of at least 15 million shares in the one-year period preceding the listing of the SEEDS.

The NASD believes this proposed trading volume criteria for SEEDS-linked securities will provide qualified issuers greater flexibility to list SEEDS on the Nasdaq National Market. The NASD also notes that its proposal would delete a provision in the SEEDS listing standards that permits the NASD, with the concurrence of the staff of the Division of Market Regulation of the Commission, to list a particular SEEDS issue notwithstanding the fact that the underlying linked security does not meet the market capitalization and trading volume requirements noted above. With the increased flexibility that the proposed trading volume criteria will provide issuers, the NASD believes it no longer will be necessary to retain this provision of the SEEDS listing standards.

Second, the NASD proposes to modify the SEEDS listing standard governing which non-U.S. companies are eligible to be linked to SEEDS. Presently, under Section 2(f)(3)(C) of Part III to Schedule D, SEEDS may be linked to actively traded non-U.S. companies which are traded in the U.S. market as sponsored ADRs, ordinary shares, or otherwise, provided that: (1) the NASD has a comprehensive surveillance sharing agreement in place with the primary foreign exchange on which the non-U.S. security trades; or (2) the trading volume of the non-U.S. security in the U.S. market represents at least 50% of the world-wide trading volume in the non-U.S. security ("50% Test"). Under the proposal, the manner in which the applicable percentage of world-wide trading volume is calculated under the 50% Test would be modified and a new criteria for the listing of SEEDS on non-U.S. securities would be added. Specifically, the NASD proposes to revise the 50% Test so that trading in non-U.S. securities and other related non-U.S. securities in any market with which the NASD has a comprehensive surveillance sharing agreement in place will be added to U.S. market volume for the purpose of determining whether the 50% Test has been met. Currently, only trading in the U.S. market counts toward satisfying the 50% Test.

The NASD also proposes to add an alternative set of criteria to Section 2(f)(3)(C) to expand the number of non-U.S. securities upon which Nasdaq may list SEEDS. This new standard will be referred to as the 20% Test + Daily Trading Volume Standard ("20% Test + Daily Trading Volume Standard") and will permit Nasdaq to list SEEDS on non-U.S. securities if all of the following conditions are satisfied: (1) The combined world-wide trading volume for the non-U.S. security in the U.S. market represents (on a share equivalent basis) at least 20% of the combined world-wide trading volume in the non-U.S. security and in other related non-U.S. securities over the six-month period preceding the date of selection of the non-U.S. security for a SEEDS listing; [8] (2) the average daily trading volume for the non-U.S. security in the U.S. market over the six-month period preceding the date of selection of the non-U.S. security for a SEEDS listing is 100,000 or more shares; and (3) the trading volume for the non-U.S. security in the U.S. market is at least 60,000 shares per day for a majority of the trading days for the six-month period preceding the date of selection of the non-U.S. security for a SEEDS listing.

The NASD also proposes to amend Section 2(f)(4) in order to clarify the limitation on the number of SEEDS that may be linked to a particular security. Specifically, the issuance of SEEDS relating to any underlying non-U.S. security or sponsored ADR may not exceed 2% of the total shares outstanding worldwide if at least 20% of the worldwide trading volume occurs in the U.S. market during the six-month period preceding the date of designation.[9] The NASD notes that this change is consistent with the 20% Test + Daily Trading Volume Standard requirement contained in Section 2(f)(3)(C) that requires at least 20% of the combined worldwide trading volume in the non-U.S. security to occur in U.S. markets.[10]

The NASD believes that the alternate criteria for non-U.S. securities is appropriate because it will ensure that non-U.S. securities linked to SEEDS will have a significant amount of U.S. market trading volume and a substantial volume of trading covered by a comprehensive surveillance sharing agreement, which gives the NASD the ability to inquire into potential trading problems or irregularities in a marketplace that serves as a significant price discovery market for the non-U.S. security. Thus, the proposed requirement of observable, high trading volume should ameliorate any regulatory concern regarding investor protection and, at the same time, allow investors to trade SEEDS linked to more non-U.S. securities.

The NASD also believes that the proposal will benefit investors by expanding the number of non-U.S. securities that may be linked to SEEDS, thereby providing investors with enhanced investment flexibility. The NASD believes that it is appropriate to now include additional non-U.S. securities within the existing regulatory framework for SEEDS because of the significant level of U.S. investor interest in non-U.S. companies that are highly capitalized and actively traded.

For the foregoing reasons, the NASD believes the proposed rule change is consistent with Section 15A(b)(6) of the Act. Section 15A(b)(6) requires that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and in general to protect investors and the public interest. In sum, the NASD believes the proposal strikes an appropriate balance between the NASD's need to adapt and respond to innovations in the securities markets and the NASD's concomitant need to ensure the protection of investors and the maintenance of fair and orderly markets.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Findings and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association, and, in particular, the requirements of Section 15A(b)(6).[11] In particular, the Commission believes the proposal is consistent with the Section 15A(b)(6) requirements that the rules of a registered securities association be designed to promote just and equitable principles of trade and not to permit unfair discrimination among issuers.

The Commission finds that the proposal to reduce the trading volume requirement for eligible linked securities will expand the number of securities that can be linked to SEEDS while maintaining the requirement that the linked security be an actively traded, highly capitalized common stock, non-convertible preferred stock or ADR. While the proposal reduces the trading volume criteria for securities with market capitalizations in the $1.5 billion and $500 million tiers to 10 million and 15 million shares, respectively (from 20 and 80 million shares, respectively), the Commission nevertheless believes that, together, the applicable capitalization and new trading volume requirements will continue to help ensure that SEEDS are only issued on highly liquid securities of broadly capitalized companies. Accordingly, the Commission believes that the market capitalization and trading volume requirements will continue to help reduce the likelihood of any adverse market impact on the securities underlying SEEDS.

The Commission notes that the NASD has deleted the provision that allows it to list SEEDS on securities not meeting these criteria if the Division of Market Regulation of the SEC concurs. The revised criteria will expand the number of securities eligible for SEEDS trading. The increased flexibility in the SEEDS listing criteria should effectively reduce

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[3] *See* Securities Exchange Act Release No. 34758 (September 30, 1994), 59 FR 50943 (October 6, 1994).

[4] An issuer of a SEEDS must be an entity that is listed on the Nasdaq National Market or the NYSE, or an affiliate of a company listed on the Nasdaq National Market or the NYSE. Each issuer of a SEEDS must also have a net worth of $150 million. In addition, the market value of a SEEDS offering, when combined with the market value of all other SEEDS offerings previously completed by the issuer and traded on the Nasdaq National Market or a national securities exchange, may not be greater than 25 percent of the issuer's net worth at the time of issuance.

[5] Each issuance of a SEEDS must have: (1) a minimum public distribution of one million SEEDS; (2) a minimum of 400 holders of the SEEDS, provided, however, that if the SEEDS is traded in $1,000 denominations, there must be a minimum of 100 holders; (3) a minimum market value of $4 million; and (4) a term of two to seven years (although a SEEDS on an ADR cannot have a term longer than three years).

[6] The securities linked to SEEDS must: (1) meet certain market capitalization and trading volume requirements, as discussed below; (2) be a U.S. reporting company under the Securities Exchange Act of 1934 ("Act"); (3) be traded on Nasdaq or a national securities exchange; and (4) be subject to last sale reporting. In addition, as discussed below, SEEDS may also be linked to certain non-U.S. companies.

[7] SEEDS linked to a U.S. security may not exceed five percent of the total shares outstanding of such underlying security, absent approval by the SEC. Depending on the percentage of world-wide trading volume in the U.S. market, a SEEDS linked to a non-U.S. security or sponsored ADR may not exceed two, three, or five percent of the total shares outstanding of the non-U.S. security, as discussed below.

[8] *See* Amendment No. 1. The calculation for the 20% Test + Daily Trading Volume Standard does not include foreign markets with which the NASD has in place a comprehensive surveillance sharing agreement.

[9] The other size limitations in the NASD's rule remains unchanged. Accordingly, the size of SEEDS issuances linked to non-U.S. securities will be limited to 3% of the total shares of the underlying security outstanding provided, however, at least 50% of the worldwide trading volume for the security for the six-months prior to listing occurred in the U.S. market, or 5% of the total shares of the underlying security outstanding provided at least 70% of the worldwide trading volume for the security for the six-months prior to listing occurred in the U.S. market.

[10] As with the 20% Test + Daily Trading Volume Standard, foreign markets with which the NASD has in place a comprehensive surveillance sharing agreement are not included in the calculation for purposes of determining the size of eligible SEEDS issuances.

[11] 15 U.S.C. 78o–3(b)(6) (1988).

restrictions will minimize the possibility that trading in such issuances will adversely impact the market for the security to which it is linked.

The Commission finds good cause for approving the proposed rule change and Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register** in order to allow the NASD to implement these changes to its SEEDS Listing Standards without delay. The proposal will provide the NASD with increased flexibility in the listing of SEEDS products on both U.S. and non-U.S. securities without compromising investor protection concerns. In addition, the NASD proposal is substantially similar to, and is being approved concurrently with, two American Stock Exchange proposals relating to equity linked notes listing standards, both of which were subject to the full notice and comment period.[15] The Commission notes that no comment letters were received on these Amex proposals. Accordingly, the Commission does not believe the NASD proposal, as amended, raises any new or unique regulatory issues. For these reasons, the Commission believes there is good cause, consistent with Sections 15A(b)(6)[16] and 19(b)(2)[17] of the Act, to approve the proposed rule change and Amendment No. 1 to the proposal on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number of the caption above and should be submitted by April 17, 1996.

It therefore is ordered, pursuant to Section 19(b)(2) of the Act,[18] that the proposed rule change (SR–NASD–96–01) is approved, as amended.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–7397 Filed 3–26–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36993; File No. SR–NYSE–95–39]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Revised Listing Standards for Equity Linked Derivative Securities ("ELDs")

March 20, 1996.

On November 29, 1995, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to revise the trading volume requirements for linked securities underlying ELDs issuances.

Notice of the proposed rule change was published for comment and appeared in the **Federal Register** on December 20, 1995.[3] No comments were received on the proposal. This order approves the proposal.

I. Description of the Proposal

ELDs are non-convertible debt securities of an issuer where the value of the debt is based, at least in part, on the value of another issuer's common stock or non-convertible preferred stock.[4] The purpose of the proposed rule change is to amend the trading volume criteria for the linked security, that is, the security on which the value of the ELDs is based. Currently, under Section 703.21 of the Listed Company Manual, in order to list an ELDs product, the linked security must meet one of the following criteria:

Market Capitalization and Annual Trading Volume

$3 billion and 2.5 million shares.
$1.5 billion and 20 million shares.
$500 million and 80 million shares.

The NYSE now proposes to amend Section 703.21 to provide for greater flexibility in the listing criteria for ELDs. The proposed rule change will lower the trading volume requirements criteria for underlying linked stocks meeting the capitalization requirements of $1.5 billion and $500 million. Under the revised criteria, a linked stock with market capitalization of $1.5 billion would now need an annual trading volume of 10 million shares, as opposed to the current trading volume requirement of 20 million shares. Securities with a market capitalization in excess of $500 million also would be eligible for ELDs listing if they have annual trading volume of 15 million shares, as opposed to the 80 million shares under the current rule.[5]

The Exchange believes the new criteria will provide it with greater flexibility to list these types of securities. The rule change will also delete the current provision of the rule that allows the Exchange to list ELDs that do not meet these criteria if the Division of Market Regulation of the SEC concurs. With the increased flexibility that the new numerical listing criteria will supply, it will no longer be necessary to conduct such a case-by-case review of ELDs listing.

II. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5).[6] In particular, the Commission believes the proposal is consistent with the Section 6(b)(5) requirement that the rules of an exchange be designed to promote just and equitable principles of trade and not to permit unfair dicrimination between customers, issuers, brokers, and dealers.

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[15] *See* Securities Exchange Act Release Nos. 36538 (Nov. 30, 1995) (notice of filing of SR–Amex–95–44) and 36578 (Dec. 13, 1995) (notice of filing of SR–Amex–95–48).

[16] 15 U.S.C. 78o–3(b)(6) (1988).

[17] 15 U.S.C. 78s(b)(2) (1988).

[18] 15 U.S.C. 78s(b)(2) (1988)

[19] 17 CFR § 200.30–3(a)(12) (1994).

[1] 15 U.S.C. 78s(b)(1) (1988 & Supp. V 1993).

[2] 17 CFR 240.19b–4 (1994).

[3] *See* Securities Exchange Act Release No. 36581 (Dec. 13, 1995).

[4] *See* Securities Exchange Act Release No. 33468 (Jan. 13, 1994). These listing standards were subsequently revised in Securities Exchange Act Release Nos. 33841 (March 31, 1994) and 34985 (Nov. 18, 1995).

[5] Under the rule, as amended by this proposal, ELDs could be listed where the linked security met any of the following criteria:

Market Capitalization and Annual Trading Volume

$3 billion and 2.5 million shares.
$1.5 billion and 10 million shares.
$500 million and 15 million shares.

[6] 15 U.S.C. 78f(b)(5) (1982).

or eliminate the need for additional discretion in this area, in addition to providing issuers and the NASD with specific and clear guidance on the applicable listing criteria for a security to underlie a SEEDS.

The Commission also believes that the additional proposed amendments to the listing standards for SEEDS on non-U.S. securities will benefit investors by effectively increasing the number of available SEEDS-eligible non-U.S. securities. At the same time, as described below, the proposal provides safeguards designed to reduce the potential for manipulation and other abusive trading strategies in connection with the trading of non-U.S. security SEEDS and their underlying securities. Accordingly, the Commission believes that the proposal will extend the benefits associated with SEEDS on non-U.S. securities without compromising the effectiveness of the NASD's listing standards for such securities.

Currently, the 50% Test allows the NASD to list SEEDS on a non-U.S. security in the absence of a comprehensive/effective surveillance sharing agreement with the primary exchange where the non-U.S. security trades if the combined trading volume of the non-U.S. security and other related non-U.S. securities occurring in the U.S. market during the six month period preceding the selection of the non-U.S. security for SEEDS listing represents (on a share equivalent basis) at least 50% of the combined world-wide trading volume in such securities.

The Commission has previously concluded that the 50% Test helps to ensure that the relevant pricing market for non-U.S. securities underlying SEEDS (or other similar equity linked debt securities) occurs in the U.S. market.[12] In such cases, the Commission has previously found that the U.S. market is the instrumental market for purposes of deterring and detecting potential manipulations or other abusive trading strategies in conjunction with transactions in the overlying non-U.S. security equity-linked market. Because the U.S. self-regulatory organizations which comprise the U.S. market for non-U.S. securities are members of the Intermarket Surveillance Group,[13] the Commission has concluded that there exists an effective surveillance sharing agreement to permit the NASD to adequately investigate any potential manipulations of the non-U.S. security SEEDS or their underlying securities.

The NASD proposes to modify the 50% Test to include in the U.S. market volume calculation the trading volume in non-U.S. securities and other related non-U.S. securities that occurs in any market with which the NASD has in place a comprehensive/effective surveillance sharing agreement. The Commission believes that this proposed modification of the 50% Test is consistent with the Act and with the Commission's approach in the ELN Approval Orders because it will continue to ensure that the majority of world-wide trading volume in the non-U.S. security and other related non-U.S. securities occurs in trading markets with which the NASD has in place a comprehensive/effective surveillance sharing agreement. The existence of such agreements should deter as well as detect manipulations or other abusive trading strategies and also provide an adequate mechanism for obtaining market and trading information from the non-U.S. markets that the list the non-U.S. security underlying the NASD's SEEDS in order to adequately investigate any potential abuse or manipulation.

Additionally, the Commission finds that the proposed 20% Test + Daily Trading Volume Standard is consistent with the Act and with the ELN Approval Orders. As noted above, the 20% Test + Daily Trading Volume Standard will allow the NASD to list SEEDS on a non-U.S. security if, over the six month period preceding the date of selection of the non-U.S. security for SEEDS trading (1) the combined world-wide trading volume for the non-U.S. security in the U.S. market represents (on a share equivalent basis) at least 20% of the combined world-wide trading volume in the non-U.S. security and other related non-U.S. securities;[14] (2) the average daily trading volume for the non-U.S. security in the U.S. market is at least 100,000 shares; and (3) the trading volume for the non-U.S. security in the U.S. market is at least 60,000 shares per day for a majority of the trading days.

The Commission believes that these requirements present a reasonable alternative to the 50% Test by limiting the actual listing of SEEDS on non-U.S. securities to only those non-U.S. securities that have a significant amount of U.S. market trading volume. This will ensure that the U.S. market is sufficiently active to serve as a relevant pricing market for the non-U.S. security and that the underlying foreign security is readily available to meet the delivery requirements upon exercise of the SEEDS. Accordingly, the Commission believes that the 20% Test + Daily Trading Volume Standard should help to ensure that the U.S. markets serve a significant role in the price discovery of the applicable non-U.S. security and are generally deep, liquid markets.

Finally, the NASD believes, for similar reasons, that it is appropriate to reduce the minimum U.S. trading volume requirements for SEEDS issuances from 30% to 20%. As noted above, the Commission believes that the 20% Test + Daily Trading Volume Standard will ensure that an underlying non-U.S. security has deep and liquid markets to sustain a SEEDS listing. The Commission believes that it is appropriate to adjust the limitations on the size of the SEEDS issuance to correspond to this requirement. Accordingly, where the trading volume in the U.S. market for the underlying non-U.S. security is between 20% and 50% of the worldwide trading volume, the issuance will be limited to 2% of the total outstanding shares of the underlying security. The 20% minimum U.S. trading volume requirement should continue to ensure that the U.S. market is significant enough to accommodate SEEDS trading. In this regard, the Commission believes that these

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[12] *See* Securities Exchange Act Release Nos. 34549 (August 18, 1994), 59 FR 43873 (August 25, 1994) (SR–Amex–93–46); 34759 (September 30, 1994), 59 FR 50939 (October 6, 1994) (SR–CBOE–94–04); 34758 (September 30, 1994), 59 FR 50943 (October 6, 1994) (SR–NASD–94–49); 34985 (November 18, 1994), 59 FR 60860 (November 28, 1994) (SR–NYSE–94–37); and 35479 (March 13, 1995), 60 FR 14993 (March 21, 1995) (SR–Phlx–95–09) ("ELN Approval Orders").

[13] The Intermarket Surveillance Group ("ISG") was formed on July 14, 1983 to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. *See* Intermarket Surveillance Group Agreement, July 14, 1983. The most recent amendment to the ISG Agreement, which incorporates the original agreement and all amendments made thereafter, was signed by ISG members on January 29, 1990. *See* Second Amendment to the Intermarket Surveillance Group Agreement, January 29, 1990. The members of the ISG are: the American Stock Exchange, Inc.; the Boston Stock Exchange, Inc.; the Chicago Board Options Exchange, Inc.; the Chicago Stock Exchange, Inc.; the NASD; the New York Stock Exchange, Inc.; the Pacific Stock Exchange, Inc.; and the Philadelphia Stock Exchange, Inc. Because of potential opportunities for trading abuses involving stock index futures, stock options, and the underlying stock and the need for greater sharing of surveillance information and for these potential intermarket trading abuses, the major stock index futures exchanges (*e.g.*, the Chicago Mercantile Exchange and the Chicago Board of Trade) joined the ISG as affiliate members of 1960.

[14] The U.S. notes that the 20% Test + Daily Trading Volume standard does not include worldwide trading volume in the non-U.S. security that takes place in a foreign market regardless of the existence of a comprehensive surveillance sharing agreement with the listing exchange. The 20% Test is a minimum U.S. market share trading test intended to permit the listing of SEEDS only on non-U.S. securities that have active and liquid markets in the U.S.

The Commission finds that the proposal to reduce the trading volume requirement for eligible linked securities will expand the number of securities that ELDs can be linked to while maintaining the requirement that the linked security be an actively traded, highly capitalized common stock or ADR. While the proposal reduces the trading volume criteria for securities with market capitalizations in the $1.5 billion and $500 million tiers to 10 million and 15 million shares, respectively (from 20 and 80 million shares, respectively), the Commission nevertheless believes that, together, the applicable capitalization and new trading volume requirements will continue to help ensure that ELDs are only issued on highly liquid securities of broadly capitalized companies. Accordingly, the Commission believes that these requirements will continue to help reduce the likelihood of any adverse market impact on the securities underlying ELDs.

Finally, the Commission notes that the Exchange has deleted the provision that allows it to list ELDs on securities not meeting the market capitalization and trading volume criteria if the Division of Market Regulation of the SEC concurs. The revised criteria will expand the number of securities eligible for ELDs trading. The increased flexibility in the listing criteria should effectively reduce or eliminate the need for additional discretion in this area, in addition to providing issuers and the Exchange with specific and clear guidance on the applicable listing criteria for a security to be eligible to underlie an ELD.

It therefore is ordered, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change (SR–NYSE–95–39) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–7343 Filed 3–26–96; 8:45 am]

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[7] 15 U.S.C. 78s(b)(2) (1988).

[8] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–36966; File No. SR–OCC–95–18]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of a Proposed Rule Change Clarifying Rules Regarding the Unavailability of Current Index Values

March 20, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on November 24, 1995, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR–OCC–95–18) as described in Items I, II, and III below, which items have been prepared primarily by OCC. On March 19, 1996, OCC amended the proposed rule change to make a technical correction and to incorporate changes made to its rules in a recently approved proposed rule change.[2] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to clarify the respective rights and responsibilities of OCC and the options exchanges[3] ("exchanges") in the event that the primary market for securities representing a substantial part of the value of an underlying index is not trading at the time when the current index value would ordinarily be determined or in the event that the current index value is unreported or otherwise unavailable for purposes of calculating the exercise settlement amount. The proposed rule change also makes certain technical changes in OCC's by-laws and rules governing index options and Flexibly Structured Index Options Denominated in a Foreign Currency ("FX Index Options").[4]

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Letter from James C. Yong, First Vice President and General Counsel, OCC, to Jerry W. Carpenter, Assistant Director, Division of Market Regulation, Commission (March 19, 1996).

[3] The exchanges include the American Stock Exchange, the Chicago Board Options Exchange, the New York Stock Exchange, the Pacific Stock Exchange, and the Philadelphia Stock Exchange.

[4] For a complete description of FX Index Options, refer to Securities Exchange Act Release No. 35149 (January 3, 1995), 60 FR 156 (File No. SR–OCC–94–08) (order approving proposed rule change).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments that it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[5]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On July 15, 1994, technical difficulties delayed the opening of the National Association of Securities Dealers Automated Quote System ("NASDAQ") until 11:55 a.m., Eastern Time, which was nearly 2½ hours after the time trading normally begins. However, prior to the delayed opening, transactions in NASDAQ listed securities occurred through the telephone and the Instinet on-line trading system. Prices reported in connection with those transactions ("preopening prices") were transmitted to certain designated reporting authorities, and some or all of those reporting authorities used those prices in calculating values for certain stock index options settling at the opening.

An issue arose that day as to whether the exchanges would be able to provide OCC with settlement values for those index options settling on the opening of the market whose component securities included NASDAQ listed issues. The exchanges were concerned that they would be unable to provide OCC with settlement values prior to OCC's exercise processing cut-off time.[6]

While the NASDAQ incident was resolved without significant impact, the incident prompted OCC to take a closer look at its rules respecting the unavailability of current index values and to consider more fully what steps should be taken in such a situation. OCC determined that certain technical changes should be made to its rules to clarify the respective rights and responsibilities of OCC and the exchanges with respect to the reporting of current index values and the determination of settlement values.

OCC is proposing to amend Article XVII, Section 4 of its by-laws, which empowers OCC to fix an exercise settlement amount in the event that OCC determines that the current index value is unreported or otherwise unavailable, to make it clear that OCC has the authority to fix an exercise settlement amount whenever the primary market for securities representing a substantial part of the value of an underlying index is not open for trading at the time when the current index value (*i.e.*, the value used for exercise settlement purposes) ordinarily would be determined. OCC believes this authority is implicit in the language of the present by-law because in such circumstances the current index value would generally be "unreported or otherwise unavailable;" however, the proposed rule change will make OCC's authority explicit.[7]

In addition, the proposed change assigns the responsibility for fixing exercise settlement amounts to a panel consisting of OCC's Chairman and two designated representatives of each exchange on which the affected series is open for trading, one of whom shall be such exchange's representative on OCC's Securities Committee. This procedure to assign the decision-making responsibility to an exchange-controlled panel conforms with the procedures used in making determinations with respect to adjustments made pursuant to Article VI, Section 11.[8] The proposed change authorizes the panel to fix the exercise settlement amount based on its judgment as to what is appropriate for the protection of investors and the public interest including, without limitation, fixing the exercise settlement amount on the basis of the reported level of the underlying index at the close of trading on the last preceding trading day for which a closing index level was reported.

Identical changes also are being made to Article XXIII, Section 5, which governs the fixing of exercise settlement amounts for FX Index Options. Under these proposed changes, the situation contemplated by the last two sentences of the definition of "expiration date" in Article XXIII, Section 1.E.(3) (*i.e.*, where the primary market for underlying securities representing a substantial part of the value of an index is closed on an expiration date) will be explicitly covered by Article XXIII, Section 5; therefore, the last two sentences of Article XXIII, Section 1.E.(3) will be deleted.

The remainder of the proposed changes to the by-laws are technical changes that are being made primarily for the purpose of conforming those by-laws to changes approved in SR–OCC–94–08.[9]

OCC believes the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder because it will facilitate the prompt and accurate clearance and settlement of transactions in index options and FX Index Options.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which OCC consents, the Commission will:

(a) By order approve such proposed rule change or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to the file number SR–OCC–95–18 and should be submitted by April 17, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

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[5] The Commission has modified the text of the summaries submitted by OCC.

[6] The designated reporting authorities were able to calculate and report the settlement values for the affected series to the exchanges, and the exchanges reported those settlement values to OCC in time for OCC to conduct its normal expiration processing. Although the exchanges reported the settlement values somewhat later than usual, OCC clearing member reports were not delayed, and there were no significant impact on OCC's processing.

[7] During the NASDAQ event, OCC stood ready to exercise this authority had it become necessary. However, questions arose as to how OCC would have determined the prices to fix exercise settlement amounts. OCC's proposed changes to Article XVII, Section 4 are intended to address those issues.

[8] Section 11 of Article VI sets forth the procedures by which adjustments are made to options.

[9] *Supra* note 2.

[10] 17 CFR 200.30–3(a)(12) (1995).

[Release No. 34–36998; File No. SR–Phlx–95–77]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment Nos. 1 and 2 Relating to the Rules of the Allocation, Evaluation and Securities Committee

March 21, 1996.

I. Introduction

On December 22, 1995, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to update its By-Laws and rules relating to the Allocation, Evaluation and Securities Committee.

The proposed rule change was published for comment in Securities Exchange Act Release No. 36752 (Jan. 22, 1996), 61 FR 2557 (Jan. 26, 1996). No comments were received on the proposal.

[10] 17 CFR 200.30–3(a)(12) (1995).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

On March 11, 1996, the Exchange submitted Amendment Nos. 1 [3] and 2 [4] to the proposed rule change. This order approves the proposed rule change, including Amendment Nos. 1 and 2 on an accelerated basis.

II. Description of Proposal

The Exchange proposes to update the Exchange's by-Laws and 500 Series of rules relating to the Allocation, Evaluation and Securities Committee ("Committee"). Specifically, Rules 500, 501, 505, 506, 508, 511 and 515 are being amended in addition to By-Law Article X, Section 10–7.

Composition of Allocation, Evaluation and Securities Committee

Currently, Phlx By-Laws require the committee to consist of not less than nine members, but do not specify a maximum member requirement. Moreover, Phlx By-Laws require that at least but not more than the minimum number of its members required to constitute a majority of all its members be composed of persons who conduct a public securities business. The balance of the Committee is to be composed of persons who are active on the equity trading floor as specialists or floor brokers and also persons who are active on the options trading floor as specialists, registered options traders or floor brokers.

The Exchange proposes to amend By-Law Article X, Section 10–7 and Phlx Rule 500 to revise the Committee size and structure. The By-Law section would continue to require a minimum of nine members on the Committee, but would be amended so that a quorum will always be five members. The Committee would be composed of members from the core committee and the allocation panel. The core committee members are to serve a three-year term and may not serve for more than two consecutive terms. Members of the allocation panel are to serve for a one-year term. Amended Phlx Rule 500 would specify the compositions of the Committee, core committee, and the allocation panel.

Under new Phlx Rule 500(b), the Committee is to consist of the five member core committee and four members of the allocation panel appointed for each meeting on a rotating alphabetical basis. In situations where none of such nine members have particular knowledge of an issue being discussed, the Chairman of the Committee is required to invite extra members of the allocation panel with the relevant knowledge or expertise. Moreover, any member of the core committee and the allocation panel may attend and vote at any meeting of the Committee. Finally, at every meeting in which specialist privileges are to be allocated, at least one core committee member who conducts a public securities business and one other core committee member must be in attendance and not be recused from voting.

Amended Phlx Rule 500(a) would require that the core committee be composed of three persons who conduct a public securities business, one person who is active on the equity trading floor as a specialist or floor broker and one person who is active on the options trading floor as a specialist, registered options trader, or floor broker. Rule 500(a) would also require that the allocation panel be composed of six persons who conduct a public securities business, five persons who are active on the equity trading floor as a specialist or floor broker, five persons who are active on the options trading floor as a specialist, registered options trader or floor broker, and four persons who are active on the foreign currency options trading floor as a specialist, registered options trader or floor broker. The six members of the allocation panel who conduct a public securities business would be divided equally between options and equity persons.

Specialist Appointment

Currently, under Phlx Rule 501, an application to become a specialist unit must include the unit's plan to respond to extraordinary circumstances such as the temporary or permanent loss of the head or key assistant specialist or the sudden influx of order flow in the assigned issue. The Exchange is proposing to amend this rule to require instead that an application specify the unit's back up arrangements endorsed by the parties providing such support. Moreover, amended Phlx Rule 501(b) would require an application for an individual to act as a specialist to include an account of the abilities and background of the applicant. Finally, amended Phlx Rule 501(d) would require that the specialist unit notify promptly the Exchange staff and the Committee in writing of any change in registration information and any material change in the application for any assigned issue once an applicant is approved by the Committee as a specialist unit.

Allocation, Reallocation and Transfer of Issues

Currently, the equity book or options class may be registered in either the name of the unit, the individual acting as specialist, or jointly in the name of the unit and the specialist ("Registrant"). There is no requirement in the rules that the Registrant be an Exchange member or approved specialist.

The Exchange is proposing to amend Phlx Rule 505 to require specifically that all Registrants be Exchange members and approved specialists. Moreover, the Exchange proposes to require equity books or options classes that are subject to a lease to be registered in the name of the Registrant and the name of the unit performing specialist duties be noted on the registration form.

Allocation Application

Currently, Phlx Rule 506 states that applicants for allocation of securities may make and the Committee may request personal appearances. The Exchange proposes to amend Rule 506 so that the Committee would request personal appearances when there are five or more applicants for an allocation. The amended rule, however, would provide that the failure to appear would not disqualify an applicant.

Currently, under Phlx Rule 508, a specialist does not have to seek Committee approval when it proposes to transfer all of its specialist privileges, but it must do so to transfer less than all of its privileges. The Exchange proposes to amend Rule 508 to require all proposed transfers and leases of specialist privileges be subject to prior Committee approval.

The Exchange also proposes to add Commentary .01 to Rule 508 to impose a 45-day moratorium on trading floor location moves when option specialist privileges are transferred except that the Options Committee may shorten this time period if necessary.

[3] See letter from Michele Weisbaum, Associate General Counsel, to Glen Barrentine, Senior Counsel, SEC, dated March 7, 1996. Amendment No. 1 amends Rule 500(a) to require that the six public members of the allocation panel be evenly divided between options and equity persons and adds new Commentary .01 to Rule 500 to require the Committee chairman to appoint extra panelists with relevant expertise if the alphabetically chosen allocation panel members and core committee members do not have such knowledge. Amendment No. 1 also withdraws portions of the filing to be reproposed in a related filing pending with the Commission (SR–Phlx–95–91) and adds a reference to the Foreign Currency Options Committee in paragraph (c) to By-Law Article X, Section 10–7.

[4] See letter from Michelle Weisbaum, Associated General Counsel, to Jennifer Choi, Attorney, Division of Market-Regulation, SEC, dated March 8, 1996. Amendment No. 2 submits in this filing an amendment to Phlx Rule 515(b) that was originally submitted in File No. SR–Phlx–95–91. Amended Phlx Rule 515(b) would refer to the new allocation reviews to be conducted within 90 days.

Specialist Performance Evaluation [5]

Under Phlx Rule 511 as proposed to be amended, the Committee, in addition to allocating new equity books and options classes and reallocating existing equity books and options classes, would approve transfers of existing equity books and options classes to applicants based on the results of the evaluations conducted pursuant to Rule 515 and other such factors as the Committee deems appropriate. As a result, Phlx Rule 511 as proposed to be amended would apply the criteria currently set forth in the rule for making allocation and reallocation decisions to transfer decisions. The Exchange is also proposing to include among the factors that the Committee may consider in making such decisions the order flow commitments, any prior transfers of specialist privileges by the applicant and the reasons therefore.

Currently, Rule 511(b) provides that all allocations are to be made initially on a temporary basis for a period up to 60 days within which time the Committee may conduct a special review. The Exchange proposes to increase the temporary allocation period to a period up to 90 days. At present, Phlx Rule 511 also provides for the Committee to conduct two kinds of reviews of specialist units; routine quarterly reviews and transfers and material changes reviews. Rule 511(c), as proposed to be amended, would continue to provide for routine quarterly reviews and proposed Rule 511(d)(2) would continue to provide for a special review in the event of a transfer or material change. In addition, proposed Rule 511(d)(1) would provide for a new special review after a new allocation.

New Phlx Rule 511(d)(2) would require the Committee to commence a specialist review pursuant to Rule 515 within 60 days after a transfer (including a lease) of one or more equity books or options classes has become effective or when there has been a material change in the specialist unit. Moreover, in cases where a transfer has been effected, the Exchange proposes that the Committee would evaluate the performance of the Registrant and if the new unit's performance is below minimum standards, the unit would be given 30 days in which to improve its performance prior to beginning reallocation proceedings.

For new allocations, new Phlx Rule 511(d)(1) would require the Committee to commence special reviews within 90 days after one or more equity books or options classes have been allocated. The new allocations reviews would take into account whether the Registrant is complying with the commitments that it made either orally at an appearance before the Committee or on its written application. If the Committee determines that the Registrant has not complied with any of the commitments that it made when applying for the equity book or options class including, but not limited to commitments regarding capital, personnel, order flow, and PACE, the Registrant would be afforded 30 days in which to comply with such commitments and if it does not do so, the Committee would institute proceedings to determine whether to remove and reallocate one or more securities.

Specialist Evaluations

The Exchange proposes to amend Phlx Rule 515(b) to refer to the new allocation reviews to be conducted within 90 days after the Committee has allocated a security. This amendment is intended to make Rule 515(b) consistent with amended Phlx Rule 511(d)(1).

Foreign Currency Options

Finally, the Exchange proposes various amendments to the rules to include references to foreign currency options and the Foreign Currency Options Committee where appropriate.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).[6] The Commission believes the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest. Moreover, the Commission finds that the rule change is consistent with Section 11(b) of the Act [7] and Rule 11b–1 thereunder,[8] which allow exchanges to promulgate rules relating to the specialists' obligations to maintain fair and orderly markets.

The Commission fully supports Phlx's effort to evaluate its current allocation policies and address issues that have arisen since the initial adoption of the policies in 1987.[9] For the reasons set forth below, the Commission believes that the amended By-Law and rules relating to the Allocation, Evaluation and Securities Committee should enhance the Exchange's allocation process and protect investors and the public interest.

Specialists play a crucial role in providing stability, liquidity and continuity in the trading of securities. Among the obligations imposed upon specialists by the Exchange, and by the Act and the rules thereunder, is the maintenance of fair and orderly markets in their designated securities. To ensure that specialists fulfill these obligations, it is important that the Exchange develop and maintain securities allocation procedures and policies that ensure that securities are allocated in an equitable and fair manner and that all specialists have a fair opportunity for allocations based on established criteria and procedures. To this end, the Commission believes that meaningful and effective allocation policies would improve the allocation system.

The Commission believes that amending the composition of the Committee should provide an opportunity for expertise and objectivity [10] on the Committee, which in turn, should promote suitable matches between specialist units and the securities to be allocated. The Commission believes that the amended quorum requirement would enable the Committee to meet and make decisions

[5] Concurrently, with this proposed rule change, the Exchange has submitted File No. SR–Phlx–95–91, which proposes to revise the options specialist evaluation form and review procedure. See Securities Exchange Act Release No. 36776 (Jan. 26, 1996), 61 FR 3748 (Feb. 1, 1996).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78k(b).

[8] 17 CFR 240.11b–1.

[9] The rules initially were approved by the Commission as an eight month pilot program on May 21, 1987. See Securities Exchange Act Release No. 24496 (May 21, 1987), 52 FR 20183 (May 29, 1987). On February 23, 1988, the pilot program was extended indefinitely until further action was taken by the Commission. See Securities Exchange Act Release No. 25388 (Feb. 23, 1988), 53 FR 6725 (Mar. 2, 1988). The rules were permanently approved on June 26, 1991. See Securities Exchange Act Release No. 29389 (June 26, 1991), 56 FR 30604 (July 3, 1991).

[10] The Exchange has represented to the Commission that the Exchange applies Phlx By-Law Article IV, Section 4–6, which provides that "no person shall participate in the adjudication of any matter in which he is personally interested," to the conduct of all standing committee, subcommittee, hearing panel and panel members. In this regard, the Exchange assures the Commission that no member of the Allocation, Evaluation and Securities Committee or any subcommittee or panel thereof may participate in the deliberation and/or voting on any award or reallocation of a book or options class in which such member or his affiliated firm will have an interest in the outcome. See letter from William W. Uchimoto, First Vice President and General Counsel, Phlx, to Jennifer S. Choi, Attorney, Division of Market Regulation, SEC, dated March 20, 1996.

as necessary on short notice while still ensuring that various interests are represented at the meetings so that such decisions are made fairly.

With respect to the Committee, core committee and the allocation panel, the Commission believes that the proposed compositions would adequately represent the options and equity floors and the public business perspective of the Exchange as well as ensure that no one group dominates the committees. The Committee is to be composed of the five member core committee and four members of the allocation panel appointed for each meeting on a rotating basis. In situations where the Committee does not represent or adequately represent constituencies that are affected or interested in the issues being discussed at a particular meeting, the Chairman of the Committee would invite extra members of the allocation panel with the relevant knowledge and expertise. Moreover, any member would always have the option of attending and voting at any meeting. Conducting each meeting with a combination of persons with the relevant expertise and those with differing perspectives should contribute to an opportunity for a fair and equitable resolution of issues. Finally, the requirement that at least two core committee members (including one conducting a public securities business) be part of the quorum would ensure a minimum level of experience at every meeting.

The Commission believes that the Exchange's proposal to require the applications for specialist appointments to specify the unit's back up arrangement endorsed by the parties providing such support and the abilities and background of the applicant would help ensure that the Committee evaluates an application with the relevant information. Moreover, the proposal that the specialist unit notify promptly the Exchange staff and the Committee in writing of any change in registration information and any material change in the application for any assigned issue would assist the Exchange in determining whether a particular specialist unit continues to be capable of performing its specialist functions.

The Exchange also proposes to amend Rule 506 so that the Committee would request personal appearances before it when there are five or more applicants for an allocation. The Commission does not believe this requirement would be too onerous on the applicants, especially because the failure to appear would not disqualify an applicant.

The Exchange also proposes to require that all proposed transfers and leases of specialist privileges be subject to prior Committee approval. The Commission believes that this amendment would allow the Exchange to monitor the transfers and leases of specialist privileges more carefully and consider the qualifications of proposed transferees and lessees before the specialist privileges are transferred or leased. This prior review would enable the Exchange to reject those units or specialists that the Exchange believes are not qualified for such responsibilities.

The Exchange also proposes to amend Phlx Rule 511 to require the Committee to approve transfers of existing equity books and options classes to applicants based on the results of the evaluations conducted pursuant to Rule 515 and other factors that the Committee may deem appropriate. The Commission believes that evaluating transfers of securities based on criteria already being used for allocating new securities and reallocating existing securities is appropriate because the concerns in allocating new securities and reallocating existing securities are equally applicable to transfers of existing securities.

With respect to transfer of option specialist privileges, the Exchange proposed a 45-day moratorium on trading floor locations moves although the Options Committee may shorten this time period if necessary. The Commission believes that this alternative is reasonable to give staff and traders in the crowd time to prepare for the move.

The Exchange also proposes to extend the period for which allocations are temporarily made to 90 days. This extension of time would allow the Exchange more time to evaluate whether an allocation was appropriate made.

The Exchange also amends the Transfer and Material Changes Reviews and proposes a new type of "special review." For transfers and material changes, amended Rule 511(d)(2) would require the Committee to commence a specialist review pursuant to Rule 515 within 60 days after a lease as well as a transfer or when there has been a material change in the specialist unit. The Commission believes that this proposal would provide the Exchange with an opportunity to review leases as well as transfers of specialist privileges to promote an efficient allocation program. In situations where a transfer has been effected, the Exchange proposes that the Committee evaluate the performance of the unit, which must improve its performance within 30 days if it falls below minimum standards. The Commission believes that this allowance of time to improve performance is reasonable.

The Exchange also proposes to conduct reviews of new allocations within 90 days after the security has been allocated by the Committee. The Committee would evaluate the unit based on the representation it made either orally at an appearance before the Committee or on its written application. The unit would be given 30 days to comply with the representations it made before the Committee would institute proceedings to determine whether to reallocate the securities. The Commission believes that the proposal would provide the Exchange with a reasonable time period to evaluate the performance of the specialist unit and that it is appropriate to evaluate the unit based on the representations it made either orally or in writing to the Committee.

The Commission finds good cause for approving Amendment Nos. 1 and 2 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. Amendment No. 1 assures the Commission that the Committee would have adequate representation and expertise to conduct each meeting efficiently and reach resolutions to issues fairly and withdraws certain amendments that are to be refiled in a related rule filing.[11] Amendment No. 2 also includes in this filing a proposed rule change (originally submitted in File No. SR–Phlx–95–91) that references another rule that is being amended in this filing. These amendments to the proposal strengthen the Phlx's allocation policies. In addition, the Exchange's original proposal was published in the **Federal Register** for the full statutory period and no comments were received.[12] Based on the above, the Commission finds that there is good cause, consistent with Section 6(b)(5) of the Act, to accelerate approval of Amendment Nos. 1 and 2.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment Nos. 1 and 2. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Phlx–95–77 and should be submitted by April 17, 1996.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (SR–Phlx–95–77) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Jonathan G. Katz,

Secretary.

[FR Doc. 96–7392 Filed 3–26–96; 8:45 am]

BILLING CODE 8010–01–M

[11] Certain proposals were withdrawn from this filing to be reproposed in a relating filing pending with the Commission (File No. SR–Phlx–95–91) because the substance of the rule proposals is being proposed in the other filing.

[12] *See* Securities Exchange Act Release No. 36752 (Jan. 22, 1996), 61 FR 2557 (Jan. 26, 1996).

[13] 15 U.S.C. 78s(b)(2).

[14] 17 cFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[License No. 01/10–0076]

Central Texas Small Business Investment Corporation; Notice of Surrender of Licensee

Notice is hereby given that Central Texas Small Business Investment Corporation ("Central Texas"), One Canterbury Green, P.O. Box 120013 Stamford, Connecticut 06912–0013 has surrendered its License to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (Act). Central Texas was licensed by the Small Business Administration on March 29, 1962.

Under the authority vested by the Act and Pursuant to the Regulations promulgated thereunder, the surrender of the license was accepted on February 20, 1996, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 96–7320 Filed 3–26–96; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Notice of Proposed Change in Magnetic Media Filing Requirements for Form W–2 Wage Reports; Request for Comments

SUMMARY: Notice is hereby given that SSA is currently considering a change to its Technical Instruction Bulletin for Magnetic Media Reporting (TIB–4) under which SSA would no longer accept annual Form W–2 wage reports filed on 8 inch diskettes. Instead, such wage reports would have to be filed by employers or third-party preparers on 5¼ inch or 3½ inch diskettes; on ½ inch magnetic tape; or on 3480 cartridges. Before further consideration is given to this proposal, SSA would like to receive any comments the public may offer on the proposed change.

DATES: Comments must be received on or before April 26, 1996.

ADDRESSES: Comments on this proposal should be mailed or delivered to Norman Goldstein, Senior Financial Executive, Social Security Administration, Room 451 Altmeyer Building, Baltimore, MD 21235; or sent by telefax to (410) 966–8753.

FOR FURTHER INFORMATION CONTACT: Richard Harron, Chief, Earnings Records and Reporting Branch, Office of Program Benefits Policy, Social Security Administration, 3–F–26 Operations Building, Baltimore, MD 21235, telefax (410) 966–9214.

SUPPLEMENTARY INFORMATION: Under section 6011(e) of the Internal Revenue Code and section 301.6011–2 of Internal Revenue Service (IRS) Regulations, employers who file 250 or more Form W–2 (Wage and Tax Statement) returns in a year after 1986 must file them on magnetic media. Employers with fewer returns may file on magnetic media on a voluntary basis.

Pursuant to an agreement with the IRS, SSA receives and processes employers' Form W–2 wage returns for use by both agencies. Each tax year, SSA sets out the requirements for filing magnetic media Form W–2 reports in its TIB–4 publication, which is sent to each employer who filed such reports in the preceding year. Magnetic media reports that do not meet these requirements are returned unprocessed to the submitter.

Most diskette reports filed by employers with SSA are filed on 3½ inch or 5¼ inch diskettes based upon an MS-DOS operating system. About 15% of the diskettes received by SSA are 8 inch diskettes produced by older computer equipment which is more expensive to repair and uses a different operating system. Equipment for the 8 inch diskettes is rapidly becoming obsolete and the number of returns filed in this manner is declining. SSA's continued processing of diskettes based on the two different operating systems requires the maintenance of equipment for both systems and special handling to "translate" 8 inch diskette data to a usable form. Moreover, the TIB–4 requirements for all filers are of necessity more complex. The consequence is slower and more costly wage reporting processes, with the additional costs having to be borne, in part, by other employers using more up-to-date equipment.

SSA is also exploring ways to simplify its disk reporting process as well as to receive more Form W–2 wage reports by electronic data transmission over telephone lines. SSA's objective is to achieve a more efficient process for both the Agency and employers. However, such efforts cannot be fully effective so long as SSA maintains requirements based on two operating systems. For these reasons and the readily available alternatives for diskette filers in the computer market, SSA is considering the possibility of eliminating 8 inch diskette from its list of acceptable magnetic media reporting formats.

Dated: March 20, 1996.

Norman Goldstein,

Senior Financial Executive.

[FR Doc. 96–7377 Filed 3–26–96; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 96–011]

National Environmental Policy Act: Agency Procedures for Categorical Exclusions

AGENCY: Coast Guard, DOT.

ACTION: Notice of agency policy.

SUMMARY: The Coast Guard is announcing a change to its procedures and policies concerning agency actions which do not individually or cumulatively have a significant effect on the human environment under the National Environmental Policy Act

(NEPA). The change concerns the issuance of regatta and marine parade event permits and the promulgation of regulations issued in conjunction with those permits. The change is needed to avoid unnecessary or duplicative environmental analyses.

FOR FURTHER INFORMATION CONTACT: Ms. Kebby Hardy, Environmental Management Division, (202) 267–6034.

SUPPLEMENTARY INFORMATION:

Background and Purpose

Under regulations implementing the National Environmental Policy Act (NEPA) (40 CFR parts 1500 through 1508), each Federal agency is required to adopt procedures to supplement those regulations (40 CFR 1507.3). The Coast Guard's procedures and policies are published as a Commandant Manual Instruction entitled "National Environmental Policy Act Implementing Procedures and Policy for Considering Environmental Impacts" (COMDTINST M16475.1 series). On July 29, 1994, the Coast Guard published a notice in the **Federal Register** (59 FR 38654) announcing the revision of section 2.B.2. of the instruction. Section 2.B.2.e. lists the proposed agency actions that are categorically excluded from the requirement that the actions undergo the analysis that accompanies preparation of an Environmental Assessment (EA) or an Environmental Impact Statement (EIS).

This notice announces further changes to 2.B.2.e. (35), the categorical exclusion that addresses the approval of regatta and marine parade event permits ("CE 35"), and section 2.B.2.e. (34)(h), the categorical exclusion that addresses the promulgation of regulations (special local regulations, regulated navigation areas, security zones, or safety zones, etc.) issued in conjunction with regatta or marine parade event permits ("CE 34(h)").

CE 35 and CE 34(h) are revised. These revisions are needed to avoid unnecessary environmental analyses under CE 34 and duplicative analyses under CE 34(h).

Discussion of Changes

(1) Changes to CE 35.

After conducting numerous environmental analyses (including programmatic environmental assessments) of regatta and marine parade events, the Coast Guard has concluded that these events do not normally have a significant impact on the environment if held away from environmentally sensitive areas. These areas may include, but are not limited to, wildlife refuges, wetlands, historic areas, and other, similar areas designated as environmentally sensitive by governmental environmental agencies. The Coast Guard also concluded that some events held in or near these areas, by their nature, do not have a significant impact. For example, it may be acceptable to hold an event in an area designated as environmentally sensitive if the event is rowing, sailing, or swimming event.

The previous CE 35 (i.e., as amended on July 29, 1994) was based on the type of event; the number, type and size of the vessels expected to participate in the event; and the number of spectator vessels expected. Based on additional environmental analyses and documentation prepared for permitting regatta and marine parade events since the previous CE 35 took effect, the Coast Guard concluded that the location of the event, in relation to environmentally sensitive areas, was a more accurate determining factor than the type of event or the size and number of vessels involved. As previously written, CE 35 tended to cause the preparation of unnecessary environmental assessments for larger events that should have been categorically exclude and, in turn, tended to exclude smaller events that, because of their location, might have justified closer environmental scrutiny.

New CE 35(a) establishes a qualitative, environmentally-based threshold to categorically exclude Coast Guard approval of all regatta and marine parade event permits for events held in areas that are not environmentally sensitive. New CE 35(b) establishes a qualitative, environmentally-based threshold to categorically exclude Coast Guard approval of regatta and marine parade event permits for events to be held in environmentally sensitive areas when the proposed marine event is determined to have no significant environmental effects. New CE 35 eliminates the need for additional time and resources to analyze the environmental effects of marine event permits that were found to be environmentally benign.

2. *CE 34(h).*

CE 34(h) is amended to provide that, if the environmental analysis conducted for a regatta or marine parade event permit includes an analysis of the impact of regulations, if any, issued in conjunction with the permit, the regulations themselves do not have to be analyzed again. The previous CE 34(h) was not clear on this point and could be construed to require duplicate analyses.

Relation of New Provisions to the Rest of Section 2.B.2

New CE 34(h) and CE (35) will continue to be applied in conjunction with the requirements of section 2.B.2., including section 2.B.2.b.,which sets forth the limitations on using categorical exclusions, and section 2.B.2.c., which sets forth the documentation requirements. The limitations in section 2.B.2.b. will continue to require either an environmental assessment or impact statement when the event will result in potentially significant impacts resulting from either the participants (e.g., noise or emissions) or the spectators (e.g., air impacts of potential traffic jams or solid waste generation).

For the reasons set out in the preamble, the Cost Guard announces the following amendments to sections 2.B.2.e.(34)(h) and 2.B.2.e.(35) of COMDTINST M16475.1B:

2.B.2.e. Categorical Exclusion List

* * * * *

(34) * * *

(h) Special local regulations issued in conjunction with a regatta or marine parade; provided that, if a permit is required, the environmental analysis conducted for the permit included an analysis of the impact of the regulations. (Checklist and CED not required.)

* * * * *

(35) Approvals of regatta and marine parade event permits for the following events:

(a) Events that are not located in, proximate to, or above an area designated as environmentally sensitive by an environmental agency of the Federal, State, or local government. For example, environmentally sensitive areas may include such areas as critical habitats or migration routes for endangered or threatened species or important fish or shellfish nursery areas.

(b) Events that are located in, proximate to, or above an area designated as environmentally sensitive by an environmental agency of the Federal, State, or local government and for which the Coast Guard determines, based on consultation with the Governmental agency, that the event will not significantly affect the environmentally sensitive area. (Checklist and CED required.)

Dated: March 22, 1996

E.J. Barrett,

RADM, Chief, Systems Directorate.

[FR Doc. 96–7456 Filed 3–26–96; 8:45 am]

BILLING CODE 4910–14–M

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on Aircraft Certification Procedures Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration's Aviation Rulemaking Advisory Committee to discuss aircraft certification procedures issues.

DATES: The meeting will be held on April 11, 1996, at 9:00 a.m. Arrange for oral presentations by April 4, 1996.

ADDRESSES: The meeting will be held at the General Aviation Manufacturers Association, Suite 801, 1400 K Street, NW, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Ms. Jeanne Trapani, Office of Rulemaking, 800 Independence Avenue, SW, Washington, DC 20591, telephone (202) 267–7624.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Aviation Rulemaking advisory committee to be held on April 11, 1996, at the General Aviation Manufacturers Association, Suite 801, 1400 K Street, NW, Washington, DC 20005. The agenda for the meeting will include:

- Opening remarks
- Training
- Working Group status reports
- Production Certification
- Parts
- Delegation
- ICPTF
- ELT
- New Business

Attendance is open to the interested public, but will be limited to the space available. The public must make arrangements by April 4, 1996, to present oral statements at the meeting. The public may present written statements to the committee at any time by providing 25 copies to the Assistant Executive Director for Aircraft Certification procedures or by bringing the copies to him at the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on March 21, 1996.

Ava Robinson,

Assistant Executive Director for Aircraft Certification Procedures, Aviation Rulemaking Advisory Committee.

[FR Doc. 96–7427 Filed 3–26–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Use the Revenue From a Passenger Facility Charge (PFC) Collected at Los Angeles International Airport (LAX), Los Angeles, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Los Angeles International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before April 26, 1996.

ADDRESSES: Comments on this application may be mailed in triplicate to the following mailing address: Federal Aviation Administration, Airports Division, P.O. Box 92007, WWPC, Los Angeles, CA 90009, or delivered in triplicate to the following street address: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Hawthorne, CA 90261.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Jerald K. Lee, Deputy Executive Director, Los Angeles Department of Airports, One World Way, Los Angeles, CA 90045.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Los Angeles Department of Airports under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. John P. Milligan, Supervisor, Standards Section, AWP–621, Airports Division, Federal Aviation Administration, 15000 Aviation Blvd., Hawthorne, CA 90261, Tel. (310) 725–3621. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at LAX under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On February 28, 1996 the FAA determined that the application to use the revenue from a PFC submitted by the Los Angeles Department of Airports was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than May 31, 1996.

The following is a brief overview of the application, PFC application number AWP–96–03–C–00–LAX:

Level of the PFC: $3.00.

Actual charge effective date: July 1, 1993.

Actual charge expiration date: December 31, 1995.

Total estimated net PFC revenue collected: $168,000,000.

Total estimated PFC revenue to be used: $52,000,000.

The balance of approximately $116,000,000 in PFC revenue is concurrently proposed for the Ontario Terminal Development Program at Ontario International Airport (ONT) under a separate PFC application.

Brief description of proposed projects:

ONT: Airport Drive-West End; Transmitter/Receiver Relocation; Access Control; Taxiway N Westerly Extension, and LAX: Taxiway K Easterly Extension-Phase II; Remote Aircraft Boarding; Facilities/Boarding Facilities Special Equipment; Interline Baggage Remodel-Tom Bradley International Terminal (TBIT); Approach Lighting System Runway 6R; Southside Taxiways 19, 24, 43 & Extensions 48 & 49; Runway 24R Paved Stopway; High Speed Taxiway 85V; TBIT Improvements including: Flight Information Displays System (FIDS), In-transit Lounge, Baggage System Realignment (Interline), Domestic Carousels, and 2nd Level Structure.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators (ATCO) filing Form 1800–31, including: American Trans Air Execujet; CFI, Inc.; Chrysler Aviation; Corporate Flight, Inc.; Elliott Aviation; Geneva International; Key Air; KMR Aviation; Louisiana Pacific Corporation; Mayo Aviation, Inc.; Mcathco Enterprises, Inc.; Modesto Executive Air Charter; Morgan Equipment; Raleigh Jet Charter; Samaritan Health Services; Valko, Inc.; Windstar Aviation Corp.; Yecny Enterprises, Inc.

Any person may inspect the application in person at the FAA office

listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Los Angeles Department of Airports, Los Angeles International Airport.

Issued in Los Angeles, California on March 7, 1996.

Herman C. Bliss,

Manager, Airports Division, Western-Pacific Region.

[FR Doc. 96–7428 Filed 3–26–96; 8:45 am]

BILLING CODE 4910–13–M

National Highway Traffic Safety Administration

[Docket No. 95–76; Notice 2]

Ford Motor Company; Grant of Application for Decision of Inconsequential Noncompliance

Ford Motor Company (Ford) of Dearborn, Michigan determined that some of its vehicles fail to comply with the display identification requirements of 49 CFR 571.101, Federal Motor Vehicle Safety Standard (FMVSS) No. 101, "Controls and Displays," and filed an appropriate report pursuant to 49 CFR Part 573, "Defect and Noncompliance Reports." Ford also applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—"Motor Vehicle Safety" on the basis that the noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the application was published on September 18, 1995, and an opportunity afforded for comment (60 FR 48195). This notice grants the application.

Footnote 3 in Table 2 of Standard No. 101 specifies that "[i]f the odometer indicates kilometers, then 'KILOMETERS' or "km" shall appear, otherwise, no identification is required." Ford manufactured approximately 300,000 vehicles (1995 model year Rangers, Explorers, Crown Victorias, and Grand Marquis, certain 1994 and 1995 Mustangs, and certain 1995 Ford-built Mazda B-Series pickup trucks) a relatively few of which do not comply with the display identification requirements of Standard No. 101. Of that total population of 300,000 vehicles, at least 24, but not more than 124 vehicles were manufactured with an odometer that measures distance in units of kilometers but is not labeled as such as Standard No. 101 requires. Ford has already found and corrected 24 of these noncompliant odometers in service; therefore, up to 100 of them could still exist.

Ford supported its application for inconsequential noncompliance with the following:

In Ford's judgment, this condition is inconsequential as it relates to motor vehicle safety. [Ford's] basis for this belief is that: 1) an owner of an affected vehicle will readily recognize the condition and return the vehicle to a Ford dealer for correction; 2) even if the condition were to go undetected, the role of the odometer in alerting drivers to potential safety-related problems is minimal; and 3) no reports of accidents or injuries related to this condition are known or expected.

Ford believes, as evidenced by those odometers already identified by owners, that this condition becomes obvious to an owner early in the "life" of a vehicle because of more rapid mileage accumulation, better than expected fuel economy, etc., and that an owner will seek repair for the condition through a Ford dealer. Ford will continue to remedy the condition of any of the vehicles brought to its attention at no cost to the owners, under normal warranty terms.

With respect to the relationship of the odometer to safety, in past rulemaking (FR Vol 47, No. 216 at 50497) the agency concluded that the role of the odometer in alerting drivers to potential safety-related problems is not crucial. This conclusion was among those leading to the rescission of Federal Motor Vehicle Safety Standard No. 127, Speedometers and Odometers. That standard contemplated that the purpose of the odometer requirement was twofold. First, it was to inform purchasers of used vehicles of the actual mileage of the vehicles they were purchasing to enable them to ascertain the probable condition of the vehicle. Second, it was to provide an owner with information so that he or she could maintain a periodic maintenance schedule. In rescinding Safety Standard No. 127, the agency acknowledged that its reliance on the Tri-Level Study of the Causes of Traffic Accidents by the Indiana University Institute for Research in Public Safety, which led to the odometer requirement, was misplaced. The agency concluded that although the study found that problems with vehicle systems were causal or contributing factors in up to 25 percent of the accidents studied—such as problems with the brake system, tires, lights and signals, for example—all of those causes involved components which must be periodically replaced or serviced regardless of mileage. The agency thereby concluded that deterioration in performance, such as brake pulling, or in appearance, such as tire wear, etc., are readily apparent to the driver and should do more to alert the driver to potential safety-related problems than the distance traveled indication on the odometer.

Ford agrees with the agency's conclusion that the odometer reading is not a crucial factor in alerting drivers to potential safety-related vehicle problems, and, therefore, it submits that the absence of the "km" designation is not crucial in this regard. We believe the vehicles that are the subject of this petition present no direct or indirect risk to motor vehicle safety. Furthermore, in the case of the vehicles in question, even if the odometer indication were a crucial indicator or required periodic maintenance, the odometer reading, if relied on for this purpose, would cause a driver to seek maintenance sooner than required because the indicated mileage would be approximately 1.6 times greater than the distance actually traveled.

Therefore, while the absence of the "km" designation is technically a noncompliance, and the odometer of the affected vehicles registers distance traveled in kilometers while the speedometer registers in miles per hour, we believe, for the reasons cited above, the condition presents no risk to motor vehicle safety.

No comments were received on the application.

An accurate recording of mileage on a vehicle is relevant to complying with the manufacturer's recommended maintenance schedule. When the schedule is expressed in miles and the odometer records in kilometers, a vehicle owner who is not cognizant of the noncompliance will be alerted to the apparent time for maintenance before it is, in fact, needed under the maintenance schedule. This cannot be termed a negative impact upon safety. NHTSA agrees with the applicant that "the condition presents no risk to motor vehicle safety".

Ford believes that an owner of a noncompliant vehicle will readily recognize the seemingly excessive accumulation of mileage and "seek service through their Ford dealers." This service most probably is replacement of the metric odometer with one that registers miles. NHTSA urges Ford to ask its dealers to provide the vehicle owner, at the time of odometer replacement, with a statement noting the distance accumulated prior to replacement so that the owner will be able to provide an accurate mileage statement at the time the vehicle is transferred to its next owner, as required by 49 CFR Part 580, *Odometer Disclosure Requirements.*

In consideration of the foregoing, it is hereby found that the applicant has met its burden of persuasion that the noncompliance herein described is inconsequential to safety. Accordingly, Ford Motor Company is hereby exempted from providing notification of the noncompliance pursuant to Sec. 30118, and from remedying the noncompliance pursuant to Sec. 30120.

(49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 501.8).

Issued on: March 22, 1996.

Barry Felrice,

Associate Administrator, for Safety Performance Standards

[FR Doc. 96–7425 Filed 3–26–96; 8:45 am]

BILLING CODE 4910–59–P

Surface Transportation Board

Availability of Environmental Assessments

Pursuant to 42 U.S.C. 4332, the Surface Transportation Board has prepared and made available environmental assessments for the proceedings listed below. Dates environmental assessments are available are listed below for each individual proceeding.

To obtain copies of these environmental assessments contact Ms. Victoria Rutson or Ms. Judith Groves, Surface Transportation Board, Section of Environmental Analysis, Room 3219, Washington, DC 20423, (202) 927–6211 or (202) 927–6246. Comments on the following assessment are due 15 days after the date of availability:

AB No. 459 (Sub-No. 1X), Central Railroad Company of Indiana, Abandonment Exemption in Dearborn County, Indiana. EA available 3/15/96.

AB No. 406 (Sub-No. 5X), Central Kansas Railway, Limited Liability Company—Abandonment Exemption—in Clark and Comanche Counties, Kansas. EA available 3/15/96.

AB No. 406 (Sub-No. 6X), Central Kansas Railway, Limited Liability Company—Abandonment Exemption—in Marion and McPherson Counties, Kansas. EA available 3/15/96.

Vernon A. Williams,

Secretary.

[FR Doc. 96–7417 Filed 3–26–96; 8:45 am]

BILLING CODE 4915–00–P

Release of Waybill Data

The Commission has received a request from McKinsey & Company for permission to use certain data from the Board's 1994 Carload Waybill Sample. A copy of the request (WB495—3/15/96) may be obtained from the Office of Economic and Environmental Analysis.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to this request, they should file their objections with the Director of the Board's Office of Economic and Environmental Analysis within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.8.

Contact: James A. Nash, (202) 927–6196.

Vernon A. Williams,

Secretary.

[FR Doc. 96–7416 Filed 3–26–96; 8:45 am]

BILLING CODE 4915–00–P

[Finance Docket No. 32825] [1]

Dakota, Missouri Valley and Western Railroad, Inc.—Lease and Operation Exemption—Soo Line Railroad Company

AGENCY: Surface Transportation Board.

ACTION: Notice of exemption.

SUMMARY: The Board exempts from the prior approval requirements of 49 U.S.C. 11343–45 the lease and operation by Dakota, Missouri Valley and Western Railroad, Inc., of approximately 48.68 miles of rail line owned by the Soo Line Railroad Company between milepost 516.02 at Washburn, ND, and milepost 467.61 and milepost 467.06 on the legs of the wye at Max, ND. The exemption is subject to standard employee protective conditions.

DATES: This exemption is effective on April 16, 1996. Petitions to stay must be filed April 8, 1996. Petitions to reopen must be filed by April 11, 1996.

ADDRESSES: Send pleadings referring to Finance Docket No. 32825 to: (1) Office of the Secretary, Case Control Branch, Surface Transportation Board, 1201 Constitution Avenue, N.W., Washington, DC 20423; and (2) Petitioner's representative: Thomas J. Litwiler, Oppenheimer, Wolff & Donnelly, 1020 Nineteenth Street, N.W. Suite 400, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–5610. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC News and Data, Inc., Room 2229, 1201 Constitution Avenue, N.W., Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD service (202) 927–5721].

Decided: March 20, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 96–7418 Filed 3–26–96; 8:45 am]

BILLING CODE 4915–00–P

[STB Finance Docket No. 32870] [1,2]

David L. Durbano—Continuance in Control Exemption—Cimarron Valley Railroad, L.C.

David L. Durbano (Applicant), a noncarrier, has filed a verified notice under 49 CFR 1180.2(d)(2) to continue in control of Cimarron Valley Railroad, L.C. (CVR), upon CVR's becoming a Class III rail carrier. Consummation was expected to occur on or shortly after February 23, 1996.

CVR, a noncarrier, has concurrently filed a verified notice of exemption under 49 CFR 1150.31 in *Cimarron Valley Railroad, L.C.—Exemption to Acquire and Operate—Cimarron Valley and Manter Branches of The Atchison, Topeka and Santa Fe Railway Company,* STB Finance Docket No. 32869, in which CVR seeks to acquire and operate 151.04 miles of the Cimarron Valley Branch rail line and 103.83 miles of the Manter Branch rail line both of which are owned by The Atchison, Topeka and Santa Fe Railroad Company. CVR's acquisition of the rail lines was expected to have been

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (the Act), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the Surface Transportation Board (Board). Section 204(b)(1) of the Act provides, in general, that proceedings pending before the ICC on the effective date of the legislation shall be decided under the law in effect prior to January 1, 1996, insofar as they involve functions retained by the Act. This notice relates to a proceeding that was pending with the ICC prior to January 1, 1996, and to functions that are subject to Board jurisdiction. Therefore, this notice applies the law in effect prior to the Act, and citations are to the former sections of the statute.

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 11323.

[2] A notice in this proceeding was previously served by the Board and published in the **Federal Register** on March 4, 1996. A corrected notice is being issued because the earlier notice imposed labor protective conditions that the Board may no longer impose under the Act for transactions such as this one that are the subject of notices of exemption filed after the January 1, 1996 effective date of the Act.

consummated on or shortly after February 23, 1996.

Applicant controls four other Class III rail carriers: Wyoming and Colorado Railroad Company, Inc. (WYCO); Oregon Eastern Railroad Company, Inc. (OER); Arizona Central Railroad, Inc. (AZCR); and Southwestern Railroad Company, Inc. (SWR).

The transaction is exempt from the prior approval requirements of 49 U.S.C. 11323 [formerly section 11343] because Applicant states that: (1) CVR, WYCO, OER, AZCR, and SWR will not connect with each other; (2) the continuance in control is not part of a series of anticipated transactions that would connect the railroads with each other; and (3) the transaction does not involve a Class I carrier.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) [formerly section 10505(d)] may be filed at any time. The filing of a petition to reopen will not automatically stay the transaction. An original and 10 copies of all pleadings, referring to STB Finance Docket No. 32870, must be filed with the Office of the Secretary, Surface Transportation Board, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423. In addition, a copy of each pleading must be served on Walter T. Merrill, Durbano & Associates, 3340 Harrison Boulevard, Suite 200, Ogden, UT 84403.

Decided: February 27, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–7422 Filed 3–26–96; 8:45 am]

BILLING CODE 4915–00–P

[STB Finance Docket No. 32863][1,2]

Genesee & Wyoming, Inc.—Continuance in Control Exemption—Illinois & Midland Railroad, Inc.

Genesee & Wyoming, Inc. (GWI), a noncarrier, has filed a verified notice under 49 CFR 1180.2(d)(2) to continue in control of Illinois & Midland Railroad, Inc. (IMR), upon IMR's becoming a Class III rail carrier. IMR, a noncarrier, has concurrently filed a notice of exemption in *Illinois & Midland Railroad, Inc.—Acquisition and Operation Exemption—Chicago & Illinois Midland Railway Company*, STB Finance Docket No. 32862, in which IMR seeks to acquire and operate 98 miles of rail lines of Chicago & Illinois Midland Railway Company (CIMR), in the State of Illinois. IMR also seeks to acquire the interest of CIMR in 25.4 miles of overhead trackage rights in the State of Illinois. The transaction was to have been consummated on or about February 8, 1996.

GWI also controls through stock ownership 9 other nonconnecting Class III rail carriers: Genesee & Wyoming Railroad Company; Dansville and Mount Morris Railroad Company; Rochester & Southern Railroad, Inc.; Louisiana & Delta Railroad, Inc.; Buffalo & Pittsburgh Railroad, Inc.; Bradford Industrial Rail, Inc.; Allegheny & Eastern Railroad, Inc.; Willamette & Pacific Railroad, Inc.; and GWI Switching Services.[3]

The transaction is exempt from the prior approval requirements of 49 U.S.C. 11323 [formerly section 11343] because: (1) the railroads will not connect with each other or with any railroad in their corporate family; (2) the continuance in control is not part of a series of anticipated transactions that would connect the railroads with each other or with any railroad in their corporate family; and (3) the transaction does not involve a Class I carrier.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) [formerly section 10505(d)] may be filed at any time. The filing of a petition to reopen will not automatically stay the transaction. An original and 10 copies of all pleadings, referring to STB Finance Docket No. 32863, must be filed with the Office of the Secretary, Case Control Branch, Surface Transportation Board, 1201 Constitution Ave., N.W., Washington, DC 20423. In addition, a copy of each pleading must be served on Eric M. Hocky, Esq., Gollatz, Griffin & Ewing, P.O. Box 796, 213 West Miner St., West Chester, PA 19381–0796.

Decided: February 22, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–7421 Filed 3–26–96; 8:45 am]

BILLING CODE 4915–00–P

[STB Finance Docket No. 32876 (Sub-No. 1)][1]

Notre Capital Ventures II, LLC, and Coach USA, Inc.—Control Exemption—Arrow Stage Lines, Inc.; Cape Transit Corp.; Community Coach, Inc.; Community Transit Lines, Inc.; Grosvenor Bus Lines, Inc.; H.A.M.L. Corp.; Leisure Time Tours; Suburban Management Corp.; Suburban Trails, Inc.; and Suburban Transit Corp.

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of Filing of Petition for Exemption.

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (the Act), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 11323.

[2] A notice in this proceeding was previously served by the Board and published in the **Federal Register** on March 1, 1996. A corrected notice is being issued because the earlier notice imposed labor protective conditions that the Board may no longer impose under the Act for transactions such as this one that are the subject of notices of exemption filed after the January 1, 1996 effective date of the Act.

[3] Also, GWI has in *Genesee & Wyoming Industries, Inc.—Continuance in Control Exemption—Portland & Western Railroad*, Finance Docket No. 32759, a pending petition for exemption to continue in control of a connecting Class III railroad.

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to an exemption of a motor passenger carrier acquisition of control transaction that is subject to Board jurisdiction under 49 U.S.C. 13541 and 14303.

SUMMARY: Notre Capital Ventures II, LLC, and Coach USA, Inc., both noncarriers, seek an exemption, under 49 U.S.C. 13541, from the prior approval requirements of 49 U.S.C. 14303(a)(4), to acquire control of 10 motor common carriers of passengers. Petitioners request expedition, asking that the exemption become effective no later than May 3, 1996.

DATES: Comments must be filed by April 11, 1996. Petitioners may file a reply by April 16, 1996.

ADDRESSES: Send an original and 10 copies of comments referring to STB Finance Docket No. 32876 (Sub-No. 1) to: Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, NW., Washington, DC 20423. In addition, send one copy of comments to petitioners' representatives: Betty Jo Christian and David H. Coburn, Steptoe & Johnson LLP, 1330 Connecticut Ave., NW., Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–5610. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Petitioners, Notre Capital Ventures II, LLC, and Coach USA, Inc., seek an exemption to acquire, through stock purchase, control over 10 motor carriers of passengers: Arrow Stage Lines, Inc.; Cape Transit Corp.; Community Coach, Inc. (Coach); Community Transit Lines, Inc. (Community Transit); Grosvenor Bus Lines, Inc.; H.A.M.L. Corp.; Leisure Time Tours; Suburban Management Corp. (Management); Suburban Trails, Inc. (Trails); and Suburban Transit Corp (Suburban Transit).

Petitioners also request that the exemption extend to the possible common control of Orange, Newark, Elizabeth Bus, Inc. (ONE Bus). ONE Bus is not part of the proposed transaction but is owned in part by persons who now control Coach and Community Transit, and who will own a small percentage of the new, consolidated entity after the transaction is consummated.

Petitioners request that this exemption become effective no later than May 3, 1996, to allow them to synchronize the exemption with a Securities and Exchange Commission registration statement that is intended to authorize an initial public offering (IPO) of $45 million in stock to be issued in connection with the proposed transaction and future transactions of this nature. Petitioners state that a delay could increase their costs, make it impossible to complete the IPO as projected, and otherwise jeopardize their entire plan.

Petitioners state that the 10 carriers they seek to control are relatively small and operate in diverse markets across the country. The 10 carriers generally have no connection or control relationship with one another, except that Coach and Community Transit are under common control, and H.A.M.L., Management, Trails, and Suburban Transit are under common control. Petitioners state that the only significant competition among the 10 carriers is in the limited area of charter and special operations.

Aside from charter and special operations, petitioners state that the 10 carriers operate regionally with a relatively small market share. While acknowledging that there are some overlapping routes, petitioners note that the 10 carriers do not compete with each other to any significant degree. Although several of them operate commuter bus services between New York City and points in New Jersey, their routes (with the exception of those operated by carriers already under common control) extend in different directions and serve different termini.

Petitioners assert that, in each of their respective markets, the 10 carriers confront significant competitive pressure from other bus lines and other transportation modes, including commercial airlines, Amtrak, commuter rail services, and the private automobile. Further, petitioners state that the 10 bus companies, whether considered as individual entities or as consolidated into what would be the nation's second largest group of passenger carriers, cannot compare, much less compete on any substantial basis, with Greyhound Lines, Inc., the only bus company providing nationwide, regular-route bus service.

Following the acquisition of control, the 10 carriers allegedly will continue to operate in their respective markets, each in its own name and in the same basic manner as before. Petitioners claim that the 10 carriers will benefit from centralized management, coordination of functions, financial support, and economies of scale and that improved services at lower costs will result.

Petitioners assert that prior review and approval of the transaction under 49 U.S.C. 14303 are not necessary to carry out the transportation policy of 49 U.S.C. 13101, that regulation is not needed to protect shippers from the abuse of market power, that the transaction is of limited scope, and that exempting the transaction from regulation is in the public interest.

Additional information may be obtained from petitioners' representatives.

Decided: March 21, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 96–7423 Filed 3–26–96; 8:45 am]

BILLING CODE 4915–00–P

[Docket No. AB–453 (Sub-No. 1X)][1]

Georgia & Florida Railroad Co., Inc.—Abandonment Exemption—in Mitchell and Colquitt Counties, GA

AGENCY: Surface Transportation Board.

ACTION: Notice of exemption.

SUMMARY: The Board, pursuant to 49 U.S.C. 10505, exempts Georgia & Florida Railroad Co., Inc. from the prior approval requirements of 49 U.S.C. 10903–04 to abandon service over 5.45 miles of rail line in Mitchell and Colquitt Counties, GA, subject to standard labor protective conditions. Specifically, the line runs 1.6 miles between mileposts 93.0 and 94.6 near Camilla, in Mitchell County, GA, and 3.85 miles between mileposts 23.25 and 27.1 near Moultrie, in Colquitt County, GA.

DATES: Provided no formal expression of intent to file a financial assistance offer has been received, this exemption will be effective on April 26, 1996. Formal expressions of intent to file financial assistance offers[2] under 49 CFR 1152.27(c)(2), requests for a notice of interim trail use/rail banking and petitions to stay must be filed by April 8, 1996. Requests for a public use condition and petitions to reopen must be filed by April 16, 1996.

ADDRESSES: Send pleadings referring to Docket No. AB–453 (Sub-No. 1X) to: (1) Office of the Secretary, Case Control Branch, Surface Transportation Board, 1201 Constitution Avenue, NW., Washington, DC 20423; and (2) Petitioner's representative: Jo A.

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (the Act), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the Surface Transportation Board (Board). Section 204(b)(1) of the Act provides, in general, that proceedings pending before the ICC on the effective date of that legislation shall be decided under the law in effect prior to January 1, 1996, insofar as they involve functions retained by the Act. This notice relates to a proceeding that was pending with the ICC prior to January 1, 1996, and to functions that are subject to Board jurisdiction pursuant to section 10903. Therefore, this notice applies the law in effect prior to the Act, and citations are to the former sections of the statute, unless otherwise indicated.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C. 2d 164 (1987).

Washington, DC 20423; and (2) Petitioner's representative: Jo A. DeRoche, Weiner, Brodsky, Sidman & Kider, 1350 New York Avenue, NW., Suite 800, Washington, DC 20005–4797.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927–5660. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC News & Data, Inc., Room 2229, 1201 Constitution Avenue, NW., Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

Decided: March 14, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 96–7420 Filed 3–26–96; 8:45 am]

BILLING CODE 4915–00–P

[Docket No. AB–57 (Sub-No. 36X)][1]

Soo Line Railroad Company—Abandonment Exemption—in Stearns and Morrison Counties, MN

AGENCY: Surface Transportation Board.

ACTION: Notice of exemption.

SUMMARY: The Board, under 49 U.S.C. 10505, exempts from the prior approval requirements of 49 U.S.C. 10903–04 the abandonment by Soo Line Railroad Company (Soo) of the remaining 60.22 miles of its Brooten Line between milepost 104.00 near Brooten and milepost 164.22 near Genola (end of line), in Stearns and Morrison Counties, MN, subject to standard labor protective conditions, environmental conditions, and a public use condition.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on April 26, 1996. Formal expressions of intent to file an offer[2] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by April 8, 1996; petitions to stay must be filed by April 11, 1996; requests for a public use condition must be filed by April 16, 1996; and petitions to reopen must be filed by April 22, 1996.

ADDRESSES: Send pleadings referring to Docket No. AB–57 (Sub-No. 36X) to: (1) Office of the Secretary, Case Control Branch, Surface Transportation Board, 1201 Constitution Avenue, N.W., Washington, DC 20423, and (2) Larry D. Starns, 1000 Soo Line Building, 105 South 5th Street, Minneapolis, MN 55402.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927–5660. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC News & Data, Inc., Room 2229, 1201 Constitution Avenue, N.W., Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927–5271.]

Decided: March 13, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 96–7419 Filed 3–26–96; 8:45 am]

BILLING CODE 4915–00–P

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (the Act), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the Surface Transportation Board (Board). Section 204(b)(1) of the Act provides, in general, that proceedings pending before the ICC on the effective date of that legislation shall be decided under the law in effect prior to January 1, 1996, insofar as they involve functions retained by the Act. This notice relates to a proceeding that was pending with the ICC prior to January 1, 1996, and to functions that are subject to Board jurisdiction pursuant to section 10903. Therefore, this notice applies the law in effect prior to the Act, and citations are to the former sections of the statute, unless otherwise indicated.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

DEPARTMENT OF VETERANS AFFAIRS

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Office of Small and Disadvantaged Business Utilization, Veterans Affairs.

ACTION: Notice.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, the Office of Small and Disadvantaged Business Utilization invites the general public and other Federal agencies to comment on this information collection. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)). Comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection.

DATES: Written comments and recommendations on the proposal for the collection of information should be received on or before May 28, 1996.

ADDRESSES: Direct all written comments to Gladys Lane, Office of Small and Disadvantaged Business Utilization (00SB), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. All comments will become a matter of public record and will be summarized in the request for Office of Management and Budget (OMB) approval. This document solicits comments concerning the following information collection:

OMB Control Number: 2900–0444.

Title and Form Number: VAAR Subpart 819.70, Veteran-Owned and Operated Small Business, (Exceptions to SF 18 and SF 129).

Type of Review: Reinstatement without change, of a previously approved collection for which approval has expired.

Need and Uses: The information will be used by VA to identify veteran-owned business to ensure eligible veteran-owned firms are given an opportunity to participate in VA solicitations for goods and services. Without this information there would be no way to properly monitor this program.

Current Actions: Public Law 93–237, amended the Small Business Act by directing the U.S. Small Business Administration (SBA) to give "special consideration" to veterans of the U.S. Armed Forces in all SBA programs. In September 1983, VA adopted the "special consideration" philosophy and directed all VA contracting activities to take affirmative action to solicit and assist Vietnam Era and disabled veteran-owned small businesses to participate in VA acquisition process. This established VA Vietnam Era and Disabled Veteran-Owned Small Business Outreach Program. In October 1983, VA received OMB approval to modify SF 18, Request for Quotations, and SF 129, Solicitation Mailing List Application, to include Vietnam Era and disabled veteran-owned information. On April 5, 1990, the Secretary approved an initiative to expand the Vietnam Era and disabled veteran-owned small business program to include all veteran-owned small businesses. Title 38 U.S.C. vests the Secretary with broad authority and responsibility to assist veterans. Therefore, we requested that approval be granted to include veteran-owned business in addition to Vietnam Era and disabled veteran-owned businesses information on SF 18 and SF 129. The information requested will be a self certification that a firm is veteran-owned. It allows VA to ensure that eligible veteran-owned firms are given an opportunity to participate in VA acquisitions and to monitor our success in implementing these regulatory provisions. The information requested on the SF 18 and SF 129 will be solicited from the respondents on a voluntary basis.

Affected Public: Business or other for-profit.

Estimated Annual Burden: 14,181 hours.

Estimated Average Burden Per Respondent: Additional burden imposed on SF 18 and SF 129 is 15 seconds.

Frequency of Response: On occasion.

Estimated Number of Respondents: 3,403,500.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the reports should be directed to Department of Veterans Affairs, Attn: Ron Taylor, VA Clearance Officer (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, Telephone (202) 565–4412 or FAX (202) 565–8267.

Dated: March 14, 1996.

By direction of the Secretary.

William T. Morgan,

Management Analyst.

[FR Doc. 96–7324 Filed 3–26–96; 8:45 am]

BILLING CODE 8320–01–P

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Veterans Affairs.

ACTION: Notice.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Veterans Benefits Administration (VBA) invites the general public and other Federal agencies to comment on this information collection. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)). Comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection.

DATES: Written comments and recommendations on the proposal for the collection of information should be received on or before May 28, 1996.

ADDRESSES: Direct all written comments to Nancy J. Kessinger, Veterans Benefits Administration (20M30), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. All comments will become a matter of public record and will be summarized in the VBA request for Office of Management and Budget (OMB) approval. In this document VBA is soliciting comments concerning the following information collection:

OMB Control Number: 2900–0101.

Title and Form Number: Eligibility Verification Reports.

a. Old Law Eligibility Verification Report (Surviving Spouse), VA Form 21–0511S.

b. Old Law Eligibility Verification Report (Veteran), VA Form 21–0511V.

c. Section 306 Eligibility Verification Report (Surviving Spouse), VA Form 21–0512S.

d. Section 306 Eligibility Verification Report (Veteran), VA Form 21–0512V.

e. Old Law and Section 306 Eligibility Verification Report (Children Only), VA Form 21–0513.

f. DIC Parent's Eligibility Verification Report, VA Form 21–0514.

g. Improved Pension Eligibility Verification Report (Veteran With No Children), VA Form 21–0516.

h. Improved Pension Eligibility Verification Report (Veteran With Children), VA Form 21–0517.

i. Improved Pension Eligibility Verification Report (Surviving Spouse With No Children), VA Form 21–0518.

j. Improved Pension Eligibility Verification Report (Child or Children), VA Form 21–0519C.

k. Improved Pension Eligibility Verification Report (Surviving Spouse With Children), VA Form 21–0519S.

Type of Review: Extension of a currently approved collection.

Need and Uses: These reports are used by VA regional offices to verify continued eligibility for pension and parents' Dependency and Indemnity Compensation (DIC) and to determine whether adjustments in the rate of payment are necessary. These reports are also used for developing supplemental income and estate information from claimants who have previously filed a formal application for pension or parents' DIC. It would be impossible to administer the pension and parents' DIC programs without the collection of information.

Current Actions: Until recently, VA was required by 38 U.S.C. 1315(e) and 38 U.S.C. 1506(2) to secure a completed Eligibility Verification Report (EVR) at least once a year from every pension beneficiary and every parents' DIC beneficiary under the age of 72, showing the beneficiary's income and dependency status and verifying other entitlement factors. Public Law 103–271, the Board of Veterans' Appeals Administrative Procedures Improvement Act of 1994, amended 38 U.S.C. 1315 and 1506 to give the Secretary of veterans Affairs discretionary authority to require submission of income and resource reports by recipients of income-based benefits. VA amended 38 CFR 3.256 and 38 CFR 3.277 to require submission of an EVR in three instances. First, VA will require submission of an EVR by any beneficiary whose Social Security number, or whose spouse's Social Security number, has not been verified by the Social Security Administration. VA will also require beneficiaries who receive income other than Social Security to submit an EVR. Further, VA will require completion of an EVR if it determines that submission of an EVR is necessary to preserve program integrity.

Affected Public: Individuals or households.

Estimated Annual Burden: 406,250 hours.

Estimated Average Burden Per Respondent: 30 minutes per report.

Frequency of Response: Semi-annually.

Estimated Number of Respondents: 325,000.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the reports should be directed to Department of Veterans Affairs, Attn: Ron Taylor, VA Clearance Officer (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, Telephone (202) 565–4412 or FAX (202) 565–8267.

Dated: March 13, 1996.

By direction of the Secretary.

William T. Morgan,

Management Analyst.

[FR Doc. 96–7328 Filed 3–26–96; 8:45 am]

BILLING CODE 8320–01–P

Agency Information Collection; Submission for OMB Review; Comment Request

AGENCY: Veterans Health Administration, Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA), Department of Veterans Affairs, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

OMB Control Number: None Assigned.

Title and Form Number: Study of Environmental Health and Persian Gulf War Syndrome, VA Form 10–20989(NR).

Type of Review: Existing collection in use without an OMB control number.

Need and Uses: This information collection will be a case controlled study to describe and elucidate the causes of Gulf War Syndrome. Participants will be 2,000 veterans of the Persian Gulf War who currently reside in Oregon and Washington.

Affected Public: Individuals and households.

Estimated Annual Burden: 2,833 hours.

Estimated Average Burden Per Respondent: 1 hour and 15 minutes.

Frequency of Response: Generally one-time.

Estimated Number of Respondents: 2,000.

ADDRESSES: A copy of the submission may be obtained from Ann Bickoff, Veterans Benefits Administration (161B4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 565–7407.

Comments and recommendations concerning the submission should be directed to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Do not send requests for benefits to this address.

DATES: Comments on the collection of information should be directed to the OMB Desk Officer on or before April 26, 1996.

FOR FURTHER INFORMATION CONTACT: Ron Taylor, VA Clearance Officer (045A4), (202) 565–4412.

Dated: March 14, 1996.

By direction of the Secretary.

William T. Morgan,

Management Analyst.

[FR Doc. 96–7325 Filed 3–26–96; 8:45 am]

BILLING CODE 8320–01–P

VA Residency Realignment Review Committee; Notice of Meeting

As required by the Federal Advisory Committee Act, Public Law 92–463, the VA hereby gives notice that the Residency Realignment Review Committee has scheduled a meeting on April 8th and 9th, 1996. The meeting on the 8th will start at 10:00 a.m. and end at 5:00 p.m., and the meeting on the 9th will start at 8:30 and end at 12 noon. The meeting will be held in Room 830 at VA Central Office, 810 Vermont Ave., NW., Washington, DC. The purpose of the committee is to review the present scope and structure of Veterans Health Administration's Residency Program to ensure that the program is effective in the future health care setting.

The first day will be to discuss the principles identified in the March meeting which form the basis for the Committee's recommendations, proposals for restructuring the Residency Program to meet both VHA's and the nation's future graduate medical education needs, and how changes could be accomplished within the new headquarters and field structure of VHA. The second day will be to finalize the principles, recommendations, and to prepare the report to the Under Secretary for Health.

The meeting will be open to the public. Due to limited seating capacity of the room, those who plan to attend or who have questions concerning the meeting should contact Betty, Department of Veterans Affairs at 202–565–7954 or 7955.

The Designated Federal Official for the Committee is Jan Lamoreaux, Office of Policy, Planning, and Performance; phone number: 202–565–7961.

Dated: March 13, 1996.

By Direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 96–7327 Filed 3–26–96; 8:45 am]

BILLING CODE 8320–01–M

federal register

Wednesday
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Notice of Funding Availability (NOFA) for Indian Applicants under the HOME Program, Fiscal Year 1996; Notice.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. FR–3999–N–01]

Notice of Funding Availability (NOFA) for Fiscal Year 1996 for Indian Applicants Under the HOME Program

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of funding availability (NOFA) for fiscal year 1996 for Indian applicants for HOME Investment Partnerships Act (the HOME Act) programs, referred to as the HOME program.

SUMMARY: This NOFA announces the availability of up to $14,000,000 in funding for Fiscal Year (FY) 1996 for the HOME Program for Indian tribes; provides the selection criteria; provides information on how to apply; and explains how selections will be made. All eligible applicants are invited to submit applications for HOME funds in accordance with the requirements of this NOFA. NOTE: The Congress has not yet enacted a FY 1996 appropriation for HUD. However, HUD is publishing this notice in order to give potential applicants adequate time to prepare applications. The estimate of the amount of funds available for this program is based on the level of funding available for FY 1995. HUD is not bound by the estimate set forth in this notice.

DATES: Application Due Date: May 28, 1996. Applications must be RECEIVED by the Area Office of Native American Programs (Area ONAP) having jurisdiction over the applicant on or before 3:00 p.m. (Area ONAP local time) on May 28, 1996. This application deadline is firm as to date and hour. The Department shall treat as ineligible for consideration any application that is received after the deadline. Applicants should make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems. Facsimile ("FAX") copies shall not be accepted.

FOR FURTHER INFORMATION CONTACT: Prospective applicants may contact the appropriate Area ONAP. Refer to Appendix 1 of this NOFA for a complete list of Area ONAPs and telephone numbers.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the information collection requirements contained in these application procedures for HOME funds were reviewed by the Office of Management and Budget and approved under OMB control number 2577–0191.

Changes from Last Year's NOFA

1. *COMPETITIVE AREA.* This year HOME funds will be allocated to each Area ONAP pursuant to the formula in the Program Regulation (24 CFR 92.601). Applicants in each Area ONAP jurisdiction will only compete with each other for the HOME funds allocated to the Area ONAP.

The applicant need submit only the original and 1 copy of the application to its Area ONAP.

2. *MULTIPLE PROJECTS.* An applicant may apply for grant assistance for more than one project. If so, each project is limited to no more than one category (i.e., acquisition, rehabilitation, new construction) and stands on its own. The total grant amount requested by the applicant may not exceed the maximum allowed. Each project will be rated independently and ranked independently. For each project grant request, where appropriate and to assure maximum point award, applicants must provide individual responses to application information requirements.

3. *LIMIT ON GRANTS THAT ARE NOT CLOSED OUT.* An applicant may not have more than two HOME grants at a time. An application from an applicant with more than two HOME grants that are not closed out will be set aside and not rated.

4. *LEVERAGE DEFINITION.* This year the NOFA clarifies some elements of scoring for different kinds of financial assistance in order to receive leverage points. To be considered for leverage points, the financial assistance proposed by the applicant must come in, i.e., be in the possession of or legally obligated to the applicant, within 90 calendar days after award notification.

HUD is, again this year, requesting that the data and explanation provided by the applicant to address the selection criteria be limited to 200 words per component.

I. Purpose and Substantive Description

(a) Authority

The HOME Investment Partnerships Act (the HOME Act) (title II of the Cranston-Gonzalez National Affordable Housing Act) was signed into law on November 28, 1990 (Pub. L. 101–625), and created the HOME Investment Partnerships (or HOME) Program that provides funds to Indian tribes to expand the supply of affordable housing for very low-income and low-income persons. Interim regulations for the HOME Investment Partnerships Program are codified at 24 CFR part 92. The requirements of 24 CFR part 92, subpart A and subpart M (§§ 92.600–92.652), apply specifically to the Indian HOME program.

The HOME Act was amended by the Housing and Community Development Act of 1992 (HCDA 1992) (Pub. L. 102–550, approved October 28, 1992) and the Multifamily Housing Property Disposition Reform Act of 1994 (MHPDRA) (Pub. L. 102–233, approved April 11, 1994).

Note: The Congress has not yet enacted a FY 1996 appropriation for HUD. However, HUD is publishing this notice in order to give potential applicants adequate time to prepare applications. The estimate of the amount of funds available for this program is based on the level of funding available for FY 1995. HUD is not bound by the estimate set forth in this notice.

(b) Allocation Amounts

(1) *Fiscal Year 1996 Funding.* In accordance with section 217(a)(2) of the HOME Act, each Fiscal Year (FY) HUD shall provide funds to Indian tribes, totaling one percent (or such other percentage or amount as authorized by Congress) of the amount appropriated for the HOME program to expand the supply of affordable housing. For the fiscal year ending September 30, 1995, the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act of 1995 (approved September 28, 1994, Pub. L. 103–327), appropriated a total of $1.4 billion for the HOME program. Together with $42,000 available from the 1994 Appropriations Act, the amount of funding available for the HOME Indian program for Fiscal Year 1995 was up to $14,042,000.

HOME funds will be allocated to the Area ONAPs as follows:

1. Eastern/Woodlands ONAP	$1,086,250
2. Southern Plains ONAP	2,626,250
3. Northern Plains ONAP	2,208,750
4. Southwest ONAP	6,096,250
5. Northwest ONAP	818,750
6. Alaska ONAP	1,163,750
Total	$14,000,000

(2) *Project Grant Amount.* The maximum grant amount per applicant is $1.5 million. Grants may be funded at less than applied for levels. In determining appropriate grant amounts to be awarded, the Area ONAP may take into account the level of demand, the scale of the activity proposed relative to need, the number of persons to be served, and the amount of funds required to achieve project objectives.

(3) If the Department does not award the entire $14,000,000 in this funding round because there is not a sufficient number of eligible applications, the amount not awarded shall be awarded at another time.

(4) If an insufficient number of fundable applications is received in any one Area ONAP, any surplus funds may be assigned to other Area ONAPs which have unfunded fundable applications.

(c) Eligibility

(1) *Eligible Applicants.* (i) Eligible applicants for HOME funds for Indian tribes are any Indian Tribe, band, group, or nation, including Alaskan Indians, Aleuts, and Eskimos, and any Alaskan native village of the United States which is considered an eligible recipient under Title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450) or which had been an eligible recipient under the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221). Eligible recipients under the Indian Self-Determination and Education Assistance Act will be determined by the Bureau of Indian Affairs and eligible recipients under the State and Local Fiscal Assistance Act of 1972 are those that have been determined eligible by the Department of Treasury, Office of Revenue Sharing.

(ii) Tribal organizations which are eligible under Title I of the Indian Self-Determination and Education Assistance Act may apply for funds under this NOFA on behalf of any Indian Tribe, band, group, nation, or Alaskan native village eligible under that Act when one or more of these entities have authorized the Tribal organization to do so through concurring resolutions. Such resolutions must accompany the application for funding. Eligible Tribal organizations under Title I of the Indian Self-Determination and Education Assistance Act will be determined by the Bureau of Indian Affairs.

(iii) Only eligible applicants shall receive grants. However, eligible applicants may contract or otherwise agree with non-eligible entities such as States, cities, counties, or other organizations to assist in the preparation of applications and to help implement assisted activities.

(iv) To apply for funding in a given fiscal year, an applicant must be eligible as an Indian Tribe or Alaskan native village, as provided in paragraph (i) of this section, or as a Tribal organization, as provided in paragraph (ii) of this section, by the application submission date.

(v) Applicants must have the administrative capacity to undertake the project proposed, including systems of internal control necessary to administer these projects effectively.

(2) *Eligible Projects.*

(i) *Size and Location of a Project.* A "project" may be located on one or more sites. The applicant must identify the scale and location of a project and show that the project is within the operating area of the applicant. A project may be as small as one site or as large as the operating area of the tribe. (NOTE: For purposes of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), the term "project" means one or more activities paid for in whole or in part with HUD financial assistance. Two or more activities that are integrally related, each essential to the other, are considered one project.)

(ii) *Categories of Eligible Projects.* In accordance with 24 CFR 92.604, projects that may be funded under the HOME Indian program include: (A) housing rehabilitation (moderate and substantial), (B) acquisition of housing, and (C) new housing construction. These project types may also include site improvements and relocation. A project may be for rental or homeownership.

(A) A rehabilitation project consists of only rehabilitation, or includes acquisition of units with rehabilitation.

(B) An acquisition project consists of the acquisition of standard units not requiring rehabilitation.

(C) A new construction project consists of new construction of housing and may include acquisition and demolition.

(3) *Eligible Activities.* Eligible activities, in accordance with 24 CFR 92.611, are as follows:

(i) HOME funds may be used by an Indian tribe to provide incentives to develop and support affordable rental housing and homeownership affordability through the acquisition (including assistance to homebuyers), new construction, reconstruction, or moderate or substantial rehabilitation of nonluxury housing with suitable amenities, including real property acquisition, site improvements, conversion, demolition, and other expenses, including financing costs, relocation expenses of any displaced persons, families, businesses, or organizations; and to pay administrative costs. The specific eligible costs for these activities are set forth in § 92.612.

(ii) Acquisition of vacant land or demolition must be undertaken only with respect to a particular housing project intended to provide affordable housing, and for which funds for construction have been committed.

(iii) Housing that has received an initial certificate of occupancy or equivalent document within a one-year period before an Indian tribe commits HOME funds to the project is new construction for purposes of this part.

(iv) Conversion of an existing structure to affordable housing is rehabilitation, unless the conversion entails adding a unit beyond the existing walls, in which case, the project is new construction for purposes of this part.

(v) Site improvements must be in keeping with improvements of surrounding, standard projects. Site improvements include roads, streets, sidewalks, curbs, gutters, and connections to utilities, such as storm and sanitary sewers, water supply, gas, and electricity. The "site" of the improvements may include property adjacent or near the immediate site of the housing if this property and the housing are owned by the same entity (e.g., the housing is owned—at least until sold to homebuyers—by the tribe and the housing and the improvements are located on a reservation). If the site improvements will benefit housing (existing or future) in addition to housing assisted with FY 1995 HOME Indian Program grant funds, only a pro-rated share of the site improvements may be charged to the HOME grant.

(d) Selection Criteria and Rating Factors

Each project submitted for grant funding shall be evaluated using the three criteria provided in 24 CFR 92.604, as more fully explained in sections I.(e)(1), (2), and (3) of this NOFA, below. See Figure 1. For an application to be considered for rating, ranking, and funding, all eligibility requirements must be addressed. *After rating, the project must receive at least 50 points to be considered for funding.* The complete rating and ranking process is described in detail at section I.(e)(5).

All the potential points which can be earned are summarized as follows:

Need and Design	30
Need	(15)
Need/Quantity/Documentation	4
Need/Quantity/Demographics	3
Responsiveness	3
Benefits	5
Project Fesibility	(15)
Planning and Implementation	40
Financial	(15)
Property/Cost/Ability to Pay	6
Cashflow thru Completion	3
Feasibility thru Affordability Period	3
Cost Effectiveness Test	3
Legal and Administrative	(10)
Staffing Plan during Implementation	(15)

Leveraging	30

HUD urges each applicant to screen its application using the Checklist of Eligibility Requirements and Application Submission Requirements to ensure that the application meets each requirement.

In responding to each of the components which address the selection criteria, HUD requests that each applicant:

—Use separate tabs for each selection criterion and sub-criterion. In order to be rated, make sure the response is beneath the appropriate heading.
—Keep its responses in the same order as the NOFA.
—Provide the necessary data and the explanation, not exceeding 200 words, that supports the response. Include all relevant material to a response under the same tab. Do not assume the reviewer will search for the answer or information to support the answer elsewhere in the application.
—Do a preliminary rating for its own project, providing a score according to the scoring guide. This will help to show the applicant how its project might be scored by the reviewers. It will also help to show the applicant whether the application meets the eligibility requirements and the minimum point score requirement (50 points), and where the strengths and weaknesses of the application are located. Then, the applicant can strengthen the weaker parts of the application and retain the stronger parts.

The HOME program is for low-income and very low-income persons. In the application, applicants must provide information on the median income for the community in which the proposed project is located. The low-income and very low-income levels for each applicant community are available from the Area ONAPs.

FIGURE 1.—INDIAN HOME PROGRAM SCORING

Selection criteria	Maximum points
Need and Design	30
Planning and Implementation	40
Leveraging	30

(1) NEED AND DESIGN—30 points maximum.

The first of the three criteria provided in 24 CFR 92.604 addresses the degree to which the application: (1) identifies the housing needs of the tribe, (2) describes the demographic characteristics of needy very low and low-income families, (3) describes the characteristics of the homes to be provided, (4) is from an applicant with a high ratio of unmet need to total need, and (5) proposes homes which meet the requirements of the needy. This first criterion is divided into two parts that will be examined and evaluated separately. These parts are: (i) Need and (ii) Project Feasibility.

(i) Need—15 points maximum. The degree to which the proposed project addresses the housing need(s) of the tribe as identified in the documentation for the project. Tribal need must be documented. This documentation should include current IHA waiting lists, data on the degree of overcrowding, percentage of population in need of housing based upon census data, etc. Waiting lists from the IHA must identify whether the list is for rental housing or ownership housing, e.g., mutual help. An IHA waiting list for ownership housing is especially important if the proposed project contemplates the sale of units, e.g., new construction.

(A) Housing Need Expressed in Terms of Quantity (4 points maximum). The tribe shall express its housing needs within its reservation, service area, or area of operation by:

—The number of affordable units, as documented by the applicant;
—The size (number of bedrooms) of the needy households as documented by the applicant;
—The type of assistance needed, e.g., rehabilitation vs. new construction, as documented by the applicant; and
—The tenure type of the housing needed, i.e., homeownership or rental, as documented by the applicant.

Documentation that contains a recent formal survey prepared by a tribe, a State, the Federal Government or a commission authorized by a tribe, a State, or the Federal Government, or a recent formal survey authorized by a tribe, State, the Federal Government or a tribe authorized commission and actually performed by a third party, such as a consultant or university, shall receive four points. Documentation supporting housing need other than a formal survey shall receive 0 or 2 points depending upon the quality of the documentation presented. See Table 1.

TABLE 1.—SCORING GUIDE

Quantity of Housing Need—Quality of Documentation—		
Good	Fair	Unsatisfactory
4 points	2 points	0 points.

(B) Demographic Information Regarding Indian Households in Need of Affordable Housing (3 points maximum). The demographic characteristics of low-income and very low-income Indian households that are in need of the housing identified in (A), above, shall quantify the number of Indian households and number of family members in the household, their age, and gender, as well as the number of households for which an accessible unit is needed. An application which contains this data shall receive 3 points. A current IHA waiting list may be used to supply this data. Waiting lists must identify whether the list is for rental housing or ownership housing, i.e., mutual help. A waiting list for ownership housing is especially important if the proposed project contemplates the sale of units, e.g., new construction.

Partial supporting documentation shall receive 2 points. If the documentation is unclear or missing entirely, 0 points. See Table 2.

TABLE 2.—SCORING GUIDE

Quantity of housing need—Demographic characteristics—		
Complete or with correct IHA list	Partial documentation	Unclear or missing
3 points	2 points	0 points

(C) Proposed Supply by Quantity, Size, Tenure, and Type (3 points maximum). Documentation in the application must identify the housing to be supplied by the proposed project. Supply must be described by the following characteristics:

—The number of affordable units to be provided;
—The size (number of bedrooms) of the units to be provided;
—The type of assistance to be provided, e.g., rehabilitation vs. new construction; and
—The tenure type of the housing to be provided, i.e., homeownership or rental.

An application that provides this information shall receive 3 points. An application that does not respond to all these requirements shall receive 2 or 0 points depending upon its responsiveness to this factor. See Table 3.

TABLE 3.—SCORING GUIDE

Responsiveness to Housing Supply Factors		
Very responsive	Fairly responsive	Not responsive
3 points	2 points	0 points

(D) Benefits to Very Low-Income and Low-Income Families of the Tribe (5 points maximum). Under this factor, the applicant with the larger ratio of unmet low-income and very low-income need for affordable housing receives more points. The ratio consists of a numerator, which is the number of very low-income and low-income families of the tribe in need of affordable housing divided by a denominator, which is the total number of very low-income and low-income families of the tribe. The result is multiplied by 5 to determine the number of points received under this criterion. The number of points should be rounded to 2 decimal places.

In the response to this criterion, the applicant may use data for "members" or "families," whichever one is available. Whichever one is chosen, it must be used in both the numerator and the denominator of the ratio. If data is chosen for "families," "families" must be used in both the numerator and denominator. The applicant must provide the source for the data. Failure to identify the source of the data will result in the loss of one point. See Table 4.

The total of all the low-income and very low-income families with unmet housing needs is the number that is considered for the numerator in the formula used in this criterion, regardless of the particular activity for which funding is sought in the application. The denominator is the total number of low-income and very low-income families of the tribe. For example, say:

—the total number of low-income and very low-income families of the tribe is 1,000,
—the applicant is applying for funds to rehabilitate 10 units, and
—there are 100 low-income and very low-income families in need of rehabilitated units,
—but the total number of low-income and very low-income families with housing needs of all types (rental, new construction, and rehabilitation) is 500.

Then, the number that would be used in the formula as the numerator is 500; the denominator is 1,000. If the project is mixed, that fact is of no consequence in using the formula. A mixed project may be mixed as to tenure of the families to be assisted, i.e., rental or home ownership, but it may not be mixed as to type of project activity, i.e., a combination of acquisition, rehabilitation, new construction.

For example, a tribe has 20 low-income and very low-income families in need of affordable housing and a total of 100 low-income and very low-income families. No source for the data is identified. Substitute these values in the formula:

$5 \times (20/100) =$
$5 \times 0.20 =$
1.00 point.

The formula results in a preliminary score of 1.00 point. Then, deduct one point because the source for the data is not given and the final point score for this item becomes zero.

TABLE 4.—SCORING GUIDE

Benefits to very low-income and low-income families
5×(low-income and very low-income families in need of affordable housing/total of low-income and very low-income families). Round to 2 decimal places. Deduct 1 point if source of data is not provided.

(ii) Project feasibility. Match Between Demand and Supply by Characteristics.—15 points maximum. Project feasibility as measured here is the degree to which the characteristics of housing units in the proposed project are responsive to need of actual low-income and very low-income families for affordable housing that was identified in the previous evaluation factor. A project which provides a number of units with the appropriate characteristics less than or equal to the identified need will receive more points. A project which provides a number of units with the appropriate characteristics greater than the demand will receive less points. Thus, there is a penalty if supply is greater than demand. To evaluate the degree to which the proposed project addresses the housing needs of the tribe as identified in the application, points will be awarded based upon:

(A) The relationship between the number of affordable units to be provided as compared to the number needed, as documented by the applicant;

(B) The size (number of bedrooms) of the units to be provided relative to sizes of needy households as documented by the applicant;

(C) The type of assistance to be provided, e.g., rehabilitation vs. new construction, compared with the type of assistance necessary, as documented by the applicant; and

(D) The tenure type of the housing to be provided, i.e., homeownership or rental, compared with the type of assistance required, desired, or necessary as documented by the applicant, and;

(E) The project plan must indicate a schedule for the implementation of the expanded housing opportunities.

The documentation for a project shall receive 15 points if it: (1) shows that the quantity of housing units to be made available for very low-income and low-income families of the tribe is equal to or less than the demand, (2) shows that the sizes of the units to be made available meet but do not exceed the needs of the very low-income and low-income families, (3) shows that the type of assistance (rehabilitation, new construction) to be provided meets the type of assistance needed, (4) shows that the tenure type (ownership, rental) to be provided is the tenure type needed, and (5) describes the delivery schedule. The documentation for a project shall receive 8 points if it does not clearly respond to all five items. The documentation for a project shall receive 0 points if it does not clearly respond to four of the five items. See Table 5.

TABLE 5.—SCORING GUIDE

Match between proposed supply and documented demand		
Good	Fair	Unsatisfactory
15 points	8 points	0 points.

(2) PLANNING AND IMPLEMENTATION—40 points maximum.

The second of the three criteria provided in 24 CFR 92.604 is: The degree to which the financial, legal, and administrative actions necessary to undertake the proposed project have been considered and addressed in the documentation for the project, and the degree to which the applicant has the administrative staff to carry out the project successfully. Applicants must be concrete and specific in describing the financial, administrative, and legal actions involved in carrying out the project, and must describe their own administrative capability, existing or planned, to carry out this project. The applicant must demonstrate, using complete cost and revenue estimates for the project, including loans if necessary, that the proposed project is financially feasible and meets the regulatory

affordability requirements. This second criterion is divided into three parts that will be examined and evaluated separately. These three parts are: (i) Financial; (ii) Legal and Administrative Actions; and (iii) Staffing Plan during Implementation.

(i) Financial—15 points maximum.

(A) Property identification and comparison of project cost and ability of needy family to pay (6 points maximum). The applicant must demonstrate that the proposed very low- and low-income families who will be the owners or tenants shall be able to afford to buy or rent this housing in accordance with the affordability requirements under 24 CFR 92.614: "qualification as affordable housing and income targeting: rental housing," and 24 CFR 92.615: "qualification as affordable housing: home ownership." This evaluation is to include the results of market surveys for acquisition, rehabilitation, or new construction of housing and/or the identification of the actual properties to be acquired, rehabilitated, or constructed.

In addition to information concerning the supply of homes, the applicant must provide information to support the demand for homes. This market information must indicate that there is a demand for the type of tenure being proposed for the home at the price being proposed. If the project is for homeownership, what evidence is there that there is sufficient demand of interested and eligible applicants? Have applicants been identified? Selected? If the proposed applicants are renting, is there evidence they want to buy? Is there evidence they can afford to buy? As an indication of credit worthiness, have applicants been pre-qualified for a loan?

For all types of projects, but especially for an owner-occupied rehabilitation project, include a discussion of funding for routine maintenance and property taxes, which may increase due to an increase in the unit value, and energy conservation. Since the units to be rehabilitated with the HOME grant became substandard because they were not maintained, include a discussion of provisions to pay for training and education, and for major repair and replacement as a result of damage or loss through wear and tear. For example: After the unit is rehabilitated with this HOME grant, how will it be maintained? Are funds being set aside to maintain the unit? Whose funds are they—the owner's, tenant's, owner/occupant's? Is there a plan included in the application to address this? Will the applicant provide for energy efficient construction/rehabilitation which goes beyond regulatory requirements so as to minimize occupant expenditure for utilities? Will the applicant employ construction/rehabilitation techniques/materials which will help minimize the upkeep and maintenance costs to the occupant/owner? For scoring, see Table 6. Points will be awarded based upon the completeness and adequacy of responding to pertinent questions.

TABLE 6.—SCORING GUIDE

Property identification and cost vs. ability to pay		
Good	Fair	Unsatisfactory
6 points	3 points	0 points.

(B) Cash flow projection through project completion (3 points maximum). This requirement deals with the year by year cash flow for the proposed project. For example, for a new construction project by the applicant of a single family detached unit that is to be sold to a low income family that will occupy the unit, the cash flow projection would show the cost of construction, the construction payments, any equity or debt using HOME or non-HOME funds, any downpayment and any mortgage loan made in the sale of the unit to the family, and the monthly mortgage payment and the source of funds to make those payments.

The applicant must provide a year-by-year cash flow projection which includes an estimate of all project costs and revenues. The project must be financially feasible from the start. The costs and the revenues must be realistic. The housing opportunities must be achievable for the amounts shown. The costs must not be unrealistically low, showing more product for less money.

There must be a projection of costs and revenues for the time the work is being carried out as well as the time of maintenance and repair. The costs and revenues projection identifies what the maintenance and repair and major replacement costs for the long term (i.e., not less than the minimum period of affordability, 24 CFR 92.614) are going to be and how they will be paid. The projection must identify what the costs and revenues are. If the source of revenue is a grant, the grant must be identified. The costs and revenues and the cash flow must cover the construction period and the marketing period (if there will be a marketing period); the period of maintenance and repair must be projected separately. The applicant must identify whether there is a need for short-term borrowing for rehabilitation or whether rehabilitation is paid for entirely from HOME and leveraged funds; any years of negative cash flow; and the cumulative negative cash flow. If the project requires financing, i.e., borrowing, to get through periods of negative cash flow, the applicant must show the financing in the cash flow projection. For scoring, see Table 7. Points will be awarded based on completeness in adequately addressing the pertinent questions.

TABLE 7.—SCORING GUIDE

Cash flow projection through project completion		
Good	Fair	Unsatisfactory
3 points	2 points	0 points.

(C) Financial feasibility during the affordability period (3 points maximum). This requirement deals with the financial feasibility of the housing during the affordability period beginning after project completion, i.e., after completion of the acquisition, rehabilitation, or new construction. The affordability period can be from 5 years to 20 years (24 CFR 92.614). The housing has costs and revenues throughout the affordability period. Identify all of the costs and revenues, year by year, and display them to ensure that all of the costs shall be paid by revenues reasonably anticipated to occur.

The housing must be financially feasible for the affordability period, while at the same time remaining affordable as prescribed by the requirements at 24 CFR 92.614 and 92.615. Arrangements to be made for long-term costs must be shown. If during this period developer borrowing is required to get through periods of cumulative negative cash flow, the applicant must show the borrowing. The applicant must show buyer mortgage payments, if any.

As costs occur for the units that are occupied (e.g., owner-occupied rehabilitation, or new construction of rental housing), the application must discuss who will pay those costs and how they will be paid; whether any borrowing will be involved; whether the owner is expected to make the payments and when the payments will occur. The costs and revenues for maintenance, repair, and major replacements must be included in the affordability period cash flow projection. For a rental project, the projection must include how the project management staffing costs described in the staffing plan will be paid. For scoring, see Table 8. Points will be awarded for completeness in addressing the pertinent questions.

TABLE 8—SCORING GUIDE

Financial feasibility during the affordability period		
Good	Fair	Unsatisfactory
3 points	2 points	0 points.

(D) Cost effectiveness test (3 points maximum). The cost effectiveness test is related to leverage because the more non-HOME grant money brought to the project, the lower the amount of HOME grant money needed. The cost effectiveness test gives more points to projects that use less HOME funds. The cost effectiveness test also rewards projects which use HOME funds most efficiently. To score a project in the cost effectiveness test, a maximum allowable expenditure of HOME funds is identified for each project type with respect to the total development cost (TDC).

(*1*) Housing Rehabilitation. For rehabilitation projects, the maximum allowable expenditure of HOME funds shall be no more than 62.5% of the cost of new construction (i.e., no more than 62.5% of the TDC) for substantial rehabilitation ("substantial" means an expenditure of $25,000 or more per home) and no more than 50% of the TDC of new construction for moderate rehabilitation. If the HOME assistance is less than 20% of the maximum allowable expenditure of HOME funds, the project receives 3 points; for 20% to 60%, 2 points; for 61% to 99%, 1 point. If it is 100% of the maximum allowable, the project receives 0 points. See Table 9.

(*2*) Acquisition. For acquisition projects, the maximum allowable expenditure of HOME funds shall be no more than 62.5% of the cost of new construction (i.e., no more than 62.5% of the TDC) if the property has been substantially rehabilitated and no more than 50% of the cost of new construction if the property has been moderately rehabilitated. If the HOME assistance is less than 20% of the maximum allowable amount, the project receives 3 points; for 20% to 60%, 2 points; for 61% to 99%, 1 point. If the HOME assistance is 100% of the maximum allowable amount, the project receives 0 points. See Table 9.

(*3*) New Construction. For new construction projects, the maximum allowable expenditure of HOME funds shall be less than or equal to 100% of the TDC. If the HOME assistance amount is less than 20% of the maximum allowable amount, the project receives 3 points; for 20% to 60%, 2 points; for 61% to 99%, 1 point. If the HOME assistance amount is 100% of the maximum allowable expenditure of HOME funds, the project receives 0 points. See Table 9.

TABLE 9—SCORING GUIDE

Cost Effectiveness Test			
0% to 19%	20% to 60%	61% to 99%	100%
3 pts.	2 pts.	1 pts.	0 pts.

(ii) Legal and Administrative Actions—10 points maximum. All policies, procedures, standards, criteria, and planning documents necessary for the type of project proposed must be included in the documentation for the project. Where rental housing is envisioned, this includes the tenant selection requirements for rental housing at 24 CFR 92.622(e). Where assistance for homeowners is contemplated, this includes the requirements for rehabilitation at 24 CFR 92.615(b). If the applicant is assisting homebuyers, the applicant must establish guidelines determined by HUD to be appropriate for the subsequent resale of the housing units, required under 24 CFR 92.615(a)(4). Planning documents must include a discussion of steps that will be taken to ensure maintenance of housing quality throughout the affordability period. See Table 10. Points will be awarded based on the completeness of the application and sample documentation in addressing the pertinent factors:

(A) Housing Rehabilitation. Data submitted must include adopted rehabilitation policies, including adopted rehabilitation standards that meet applicable local codes and/or ordinances; maximum rehabilitation cost per unit; rehabilitation selection criteria; and project planning documents.

(B) Acquisition. Data submitted must include adopted standards for houses that shall be acquired, including maximum purchase price per unit; participant selection criteria, and project planning documents.

(C) New Construction. Data submitted must include adopted standards for construction that meet applicable or local codes and ordinances and that meet HUD prescribed energy-efficiency standards; maximum cost per unit; participant selection criteria; and project planning documents.

Table 10—Scoring Guide

Other Legal and Administrative		
Good	Fair	Unsatisfactory
10 points	5 points	0 points.

(iii) Staffing Plan—15 points maximum. The applicant must provide a staffing plan. The plan must relate the steps in the project execution timetable with the personnel skills required for this project.

(A) For a grantee administered project, the staffing plan must identify the key personnel skills and experience requirements for the particular steps in the execution of this project, and relate this information to the project timetable, i.e., during acquisition, rehabilitation, construction. In order to be properly rated, experience identified must demonstrate the ability of key personnel in relation to the tasks required. A staffing plan which relates tasks, time, and personnel skills will receive 15 points. If the personnel requirements are for individuals who are experienced in the administration/management of programs which are somewhat similar to, but not the same as, the proposed program, 7 points will be awarded. Failure to submit a staffing plan or the submission of a plan which identifies personnel requirements for individuals whose experience would not have prepared them for the administration/management of the proposed program will result in the award of 0 points. Points will be awarded in accordance with Table 11 below.

(B) If the tribe has an agreement for the tribal IHA (or any other entity) to implement the project, a copy of the agreement must be included, as well as a staffing plan of the IHA (or other entity), which includes the addition of this project, and a description of the impact on the entity due to administering this project. The staffing plan must identify the key personnel skills and experience requirements for the particular steps in the execution of this project, and relate this information to the project timetable, i.e., during acquisition, rehabilitation, construction. In order to be properly rated, experience identified must demonstrate the ability of key personnel in relation to the tasks required. A staffing plan which relates tasks, time, and personnel skills will receive 15 points. If the personnel requirements are for individuals who are experienced in the administration/management of programs which are somewhat similar to, but not the same as, the proposed program, 7 points will

be awarded. Failure to submit a staffing plan or the submission of a plan which identifies personnel requirements for individuals whose experience would not have prepared them for the administration/management of the proposed program will result in the award of 0 points. Points will be awarded in accordance with Table 11 below.

TABLE 11.—SCORING GUIDE

Staffing plan		
Good	Fair	Unsatisfactory
15 points	7 points	0 points.

(3) Leveraging—30 points maximum. The third of the three criteria provided in 24 CFR 92.604 is: Leveraging of HOME funds. Leveraging means using HOME funds to attract or bring in other dollars. Leveraging is the degree to which other sources of assistance (including—but not limited to—loans, advances, equity investments, interest subsidies, State funds, and private contributions) are used in conjunction with HOME funds to carry out the proposed project. The application must identify the leveraged funding for the HOME project and whether the leveraged funding will be used to pay for an eligible HOME project cost. For example, a Bureau of Indian Affairs-funded road is only counted for leveraging purposes if it's a site improvement and then only to the extent it benefits the HOME project units (and that amount becomes part of the development cost). If the proposed HOME project is being funded with resources other than the HOME grant, the application must identify those resources and explain how they will be used. The application may propose some or all of those resources for leverage points. Proportionate amounts of each resource and the HOME grant should be expended at the same time, but if not, the application must explain why and identify when the HOME funds and the non-HOME funds will be spent.

Resources will be counted for leverage points only if they are in the possession of, or legally obligated to, the applicant before or within 90 calendar days of notification of grant award. For example, the contribution of land, goods, and services which come in or become available, or the prequalification of buyers for mortgage loans with a mortgage lender, before or within 90 calendar days of notification of grant award, fulfills this criterion. Contributions to a low-income housing tax credit program (LIHTC) where the funds do not become available to be expended for eligible project costs until 90 calendar days after notification of grant award do not fulfill this criteria. The use by the grantee of HOME grant funds for acquisition, rehabilitation, or construction will be conditioned upon the fulfillment of this criterion. If fulfillment does not occur, the grant will be withdrawn.

For consideration as leverage points, applicants must not submit information about the category of costs called indirect costs in OMB circular A–87. Such amounts are not counted for leverage points.

The phrase "in-kind" has been removed for leveraging points. Submit information about financial assistance for leverage points and identify it as land, goods, or services.

Whether or not leverage points are awarded, the use of additional funding to the tribe or family, including mortgage loans and LIHTC funding, is encouraged.

Applicants must provide documentation of the amount and sources of additional funds, including mortgage insurance, tribal funds, private contributions, tribal contributions directly related to the activity (labor, material, and equipment, as well as for soft costs, e.g., architectural and engineering costs), which are to be used in conjunction with HOME funds to carry out the proposed project.

Land already owned by the tribe shall not be counted. In the case of land donated by individuals or entities, it will be counted if the donation was contingent upon the receipt of the HOME award. Land value will be counted as a contribution only to the extent of its appraised value. All appraisals shall be in conformance with established and generally recognized appraisal practices and procedures in common use by professional appraisers. Donated services will be accepted, provided that: first, the costs are demonstrated and determined necessary and directly attributable to the actual development of the project; and second, comparable costs and time estimates are submitted that justify the costs attributable to the donated services or labor. Donated labor shall be valued at a level necessary for the work provided and shall be assessed at the skill level of the individual(s) providing the labor.

The amounts recognized as leverage can include any other Federal grant or assistance program. However, do not propose to use Indian Health Service funding for leverage points; IHS funding is not being made available for HOME projects. Loans secured through mortgage loan insurance programs (e.g., section 184 loan guarantee) may be recognized as leverage.

Points will be awarded as presented in Table 12. Ratio as a percentage is calculated by dividing the number of dollars made available from other sources of assistance by the number of dollars of HOME funds requested in the application, and multiplying by 100. For example, when one hundred (or more) dollars are made available from other sources of assistance for each one hundred dollars of HOME funds requested in the application, the maximum number of points (30) is awarded. When sixty dollars are made available from other sources of assistance for each one hundred dollars of requested HOME funds, fifteen points are earned.

TABLE 12.—SCORING GUIDE

Leveraging	
Ratio	Points
100% or more	30
80% but less than 100%	20
60% but less than 80%	15
40% but less than 60%	10
Less than 40%	0

(e) Application Review

(1) Receipt, eligibility, correctable deficiencies, and non-correctable deficiencies.

(i) Receipt. Upon receipt of the application, the Area ONAP will note the date and time and provide written acknowledgement to the applicant indicating the date and time the application was received.

(ii) Eligibility. Each application will be screened at the Area ONAP for eligibility requirements. For the application to be rated and ranked, it must meet each eligibility requirement.

(iii) Correctable deficiencies. The opportunity to correct a technical, non-substantive deficiency is only given for those deficiencies which would *not* affect the evaluation of the application. Therefore, only minor administrative deficiencies are correctable. To assure uniform treatment, these are limited to a failure to submit a certification with the application or failure to submit a signed certification with the application. An applicant is not permitted to improve its application by filing statements that address substantive requirements after the due date for submissions has passed. If the application has correctable deficiencies, prior to a final determination on funding, the Area ONAP shall notify the applicant in writing of the correctable deficiencies and require their correction by the applicant within 14 calendar days of the issuance of notification.

(iv) Non-correctable deficiencies. If the application does not include all the items identified as non-correctable eligibility requirements, the Area ONAP shall not request any corrections for correctable deficiencies. The Area ONAP shall set the application aside. When HUD announces its decisions concerning the funding competition, the Area ONAP shall notify the applicant whose application did not meet the eligibility requirements.

(2) Eligibility requirements. Completeness will be determined by the Area ONAP as to whether the application includes all the non-correctable items, properly prepared and executed, identified in the Checklist of Eligibility Requirements and Application Submission Requirements under Appendix 2 of this NOFA. The Area ONAP screening does not include determining whether the application meets the minimum point score requirement. After screening, each application which meets the eligibility and application submission requirements set forth in this NOFA and those which are complete except for correctable deficiencies will be rated.

(3) Rating and ranking. Rating and ranking of applications will be carried out by a panel of HUD staff. The panel will review and rate each application which meets the eligibility requirements. The application ratings will be used to create an Initial Application Ranking List.

(i) Ranking. After the applications from all applicants have been rated by the Area ONAP, the scores will be assembled in a single, merged list of scores for all applications rated by the Area ONAP. There will be a single list for each Area ONAP. For multi-project applications, each project will be rated and ranked individually.

(ii) Computation. Scores for ranking will be carried out to two decimal places (e.g., 12.34).

(4) Selection. The ranking process will produce an ordered list of projects that may receive funding. The order is established by the number of points the project received in the rating process. The eligibility requirement for further consideration will be 50 out of 100 points. Project applications scoring lower than 50 points will be set aside as non-responsive and ineligible. After rating and ranking, applicants with the highest scores will be selected and offered awards *to the extent that funds are available.* NOTE: The grantee must carry out an environmental review before any HOME funds are committed to an activity requiring such a review (acquisition, rehabilitation, or new construction, generally; administrative costs are exempt) and obtain approval of its request for release of funds under 24 CFR part 58, in accordance with 24 CFR 92.633.

(5) Tie Breaker. When rating results in a tie among projects, projects will be approved in the following order:

(i) Those that can be fully funded over those that cannot be fully funded;

(ii) Projects that benefit the greatest number of very low-income and low-income persons; and

(iii) Projects that benefit the highest percentage of the total population of the tribe.

(6) Errors. Area ONAP Administrators may make a determination that an error has occurred in the rating or ranking of applications. Applicants may bring errors in the rating and ranking of applications to the attention of Area ONAP within 90 days of being informed of their score. If an Area ONAP review determines that there was an error that denied funding to the applicant, the Area ONAP will construct a hypothetical distribution that would have existed if the error had not been made, and the Area ONAP will determine what the funding would have been for the applicant subject to the funds that were available at the time. The applicant will be funded out of remaining funds in the challenged round of funding, or out of the next available round of funding.

II. Application Process

(a) Application Packages. Although this NOFA provides the public with notice of, and salient information about, the FY 1996 HOME program for Indian applicants, it is the application kit that provides applicants with further necessary information on how to participate in the program. Applicants should obtain a copy of the application kit, which includes copies of required forms, from any Area ONAP listed in Appendix 1.

(b) Submittal of Complete Application. Completed applications must be submitted to the Area ONAP having jurisdiction for the applicant at the address listed at Appendix 1. The application shall be submitted on Form 424 and shall be accompanied by all the legal and administrative attachments required by the form.

(c) Application Due Date. An applicant may submit an application for grant assistance to the Area ONAP having jurisdiction over the applicant after the publication of this NOFA in the **Federal Register** but before 3:00 P.M. Area ONAP local time, 60 calendar days after the publication date. This application deadline is firm as to date and hour. The Department shall treat as ineligible for consideration any application that is received after the deadline. Applicants should make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems. Facsimile ("FAX") copies of applications will not be accepted.

III. Other Matters

(a) Environment. A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection during business hours in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

(b) Energy. Utility expenses place a heavy burden on Indian housing and often cause abandonment. Applicants are encouraged to address this problem in applications for funding. 24 CFR 92.621: "Newly constructed housing must meet the current edition of the Model Energy Code published by the Council of American Building Officials." See also 24 CFR 905.250(b) and 24 CFR 85.36(b)(7).

(c) Federalism Impact. The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this NOFA shall not have substantial direct effects on states or their political subdivisions, or the relationship between the federal government and the states, or on the distribution of power and responsibilities among the various levels of government. The NOFA is limited to providing funds to Indian tribes in accordance with a program to expand the supply of affordable housing. As a result, the rule is not subject to review under the order.

(d) Family Impact. The General Counsel, as the Designated Official for Executive Order 12606, *The Family*, has determined that the provisions of this NOFA have the potential for indirect, although positive, impact on family formation, maintenance and general well-being within the meaning of the Order. The NOFA provides funds to Indian tribes in accordance with a program to expand the supply of affordable housing. To the extent that housing for families is increased, the

impact on the family is indirect and beneficial. Accordingly, no further review is considered necessary.

(e) Section 102 of the HUD Reform Act. Documentation and Public Access Requirements; Applicant/Recipient disclosures:

Documentation and public access requirements. HUD shall ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, shall be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material shall be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD shall include the recipients of assistance pursuant to this NOFA in its **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these documentation and public access requirements.)

Disclosures. HUD shall make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) shall be made available along with the applicant disclosure reports, but in no case for a period less than three years. All reports—both applicant disclosures and updates—shall be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. (See 24 CFR subpart C, and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.)

(f) Section 103 of the HUD Reform Act. HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3537a) is codified at 24 CFR part 4. Part 4 applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants.

HUD employees involved in the review of applications and in the making of funding decisions are restrained by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Office of Ethics (202) 708–3815. (This is not a toll-free number.) For HUD employees who have specific program questions, such as whether particular subject matter can be discussed with persons outside HUD, the employee should contact the appropriate Field Office Counsel, or Headquarters counsel for the program to which the question pertains.

(g) Section 3. 24 CFR part 135. Economic Opportunities for Low and Very Low Income Persons. All applicants are herein notified that section 3 of the Housing and Urban Development Act of 1968 and the regulations in 24 CFR part 135 are applicable to funding awards made under this NOFA. One of the purposes of the assistance is to give to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, job training, employment, contracting and other economic opportunities to section 3 residents and section 3 business concerns. Applicants that receive Indian HOME Program assistance which exceeds $200,000 for housing rehabilitation or new construction shall comply with the procedures and requirements of this part to the maximum extent consistent with, but not in derogation of, compliance with section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)).

Authority: 42 U.S.C. 3535(d) and 12701–12839.

Dated: March 15, 1996.

Michael B. Janis,

General Deputy Assistant Secretary for Public and Indian Housing.

APPENDIX 1.—LIST OF LOCAL OFFICES OF NATIVE AMERICAN PROGRAMS

Tribes located	Area ONAP address
East of the Mississippi River (including all of Minnesota and Iowa).	Eastern/Woodlands Office of Native American Programs, 5P, Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, Illinois 60604–3507, (312) 353–1282 or (800) 735–3239, TDD Numbers: 1–800–927–9275 or 312–886–3741.
Louisiana, Missouri, Kansas, Oklahoma, and eastern Texas.	Southern Plains Office of Native American Programs, 6.IPI, 500 West Main Street, Suite 400, Oklahoma City, Oklahoma 73102, (405) 553–7525, TDD Numbers: 405–231–4181 or 405–231–4891.
Colorado, Iowa, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming.	Northern Plains Office of Native American Programs, 8P, First Interstate Tower North, 633 17th Street, Denver, Colorado 80202–3607, (303) 672–5462, TDD Number: 303–844–6158.
Arizona, California, New Mexico, Nevada, and western Texas.	Southwest Office of Native American Programs, 9EPID, Two Arizona Center, 400 North Fifth Street, Suite 1650, Phoenix, Arizona 85004–2361, (602) 379–4156, TDD Number: 602–379–4461 or Office of Native American Programs, HUD, 450 Golden Gate Avenue, 8th Floor, Box 36003, San Francisco, CA 94102–3448, (415) 436–8121, TDD Number: (415) 436–6559.
Idaho, Oregon, and Washington	Northwest Office of Native American Programs, 10PI, 909 First Avenue, Suite 300, Seattle, Washington 98104–1000, (206) 220–5270, TDD Number: (206) 220–5185.
Alaska	Alaska Office of Native American Programs, 10.1PI, 949 East 36th Avenue, Suite 401, Anchorage, Alaska 99508–4399, (907) 271–4633, TDD Number: (907) 271–4328.

Appendix 2. Checklist of Eligibility Requirements and Application Submission Requirements

Applications must meet the requirements in (1) and (2), below. Except for the certifications in (2)(iii) and (2)(iv), these requirements are non-correctable after the closing of the application submission period.

(1) Each application must be:

(i) _____ From an eligible applicant.

(ii) _____ If the applicant proposes to involve its IHA, the IHA must not have been disqualified for funding of new projects, as determined in accordance with 24 CFR 905.135. (A resolution may be attached which authorizes another entity, e.g., a housing authority, to prepare the application on behalf of the tribe; however, the tribe must be the applicant and sign the application.)

(iii) _____ There is no information to indicate that the eligible applicants and involved IHA lack the administrative capacity to undertake the project proposed.

(iv) _____ For one or more Indian HOME Program eligible projects.

(v) _____ For not more than a $1.5 million grant.

(vi) _____ For a grant amount not in excess of 115% of the maximum per-unit subsidy amount (24 CFR 92.620). The maximum per-unit subsidy amount is the total development cost standard for the area. Maximum allowable Total Development Costs ("TDCs") are established by location and by unit size (size is expressed as number of bedrooms). Maximum allowable TDCs are available from the Area ONAP for each applicant community. To determine whether the HOME grant amount requested satisfies this limitation, multiply the maximum allowable TDC for each size by the proposed number of units, add the products, multiply by 115%, and compare the result to the HOME grant amount requested. The grant amount request may not be more than this amount.

(vii) _____ Submitted with an original and one copy.

(2) Each application must contain the following:

(i) _____ Transmittal Letter.

(ii) _____ Standard Form-424, Application for Federal Assistance. Complete side one only.

Name of the eligible applicant, e.g., a tribe or an authorized Tribal organization, must be in field 5, legal applicant. A resolution may be attached which authorizes another entity, e.g., a housing authority, to prepare the application on behalf of the eligible applicant; however, the eligible applicant must be the applicant and sign the application. The Catalog of Federal Domestic Assistance identifies this program as program number 14.239.

(iii) _____ Form HUD–4126, which contains the following certifications:

(A) A certification that the applicant shall comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, implementing regulations at 49 CFR part 24 and the requirements of 24 CFR 92.634.

(B) A certification that the applicant shall use HOME funds in compliance with all the requirements of 24 CFR part 92, the HOME investment partnerships program interim rule.

(C) Drug-free workplace. The certification with regard to the drug-free workplace required by 24 CFR part 24, subpart F and appendix C.

(D) Debarment. The certification that neither the applicant nor its principals are presently excluded from participation in any HUD programs, as required by 24 CFR part 24, appendix A.

(E) Audits. A certification that the applicant does not have an outstanding Indian HOME or ICDBG obligation to HUD that is in arrears, or it has agreed to a repayment schedule. A certification that the applicant does not have an overdue or unsatisfactory response to an audit finding(s).

(F) Fire Safety. A certification that the applicant shall comply with the requirements of the Fire Authorization Administration Act of 1992 (Pub. L. 102–522).

(G) Economic Opportunities for Low-Income and Very Low-Income Persons. A certification that the applicant shall comply with the requirements of Section 3 of the Housing and Urban Development Act of 1968 and the regulations in 24 CFR part 135 to the maximum extent consistent with, but not in derogation of, compliance with section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)).

(iv) _____ Drug-free workplace. In order to fulfill OMB requirements, a separate, complete text certification with regard to the drug-free workplace required by 24 CFR part 24, subpart F and appendix C.

(v) _____ Form HUD–2880, Applicant/Recipient Disclosure/Update Report, as required under subpart C of 24 CFR part 12, Accountability in the Provision of HUD Assistance.

(vi) _____ Form HUD–4121–I, Indian HOME Program Grants. Comprehensive Approach; component that addresses the Comprehensive Approach For Expanding The Supply Of Affordable Housing. Indian tribes are not required to submit a Comprehensive Housing Affordability Strategy (CHAS), a Tribal Housing Plan, or a housing strategy to receive HOME funds. However, the application must demonstrate how the proposed project will contribute to a comprehensive approach for expanding the supply of affordable housing for members of the Indian tribe.

(vii) _____ Form HUD–4122–I, Indian HOME Program Grants. Project Summary; component that addresses the summary description of the proposed project.

(viii) _____ Operation Plan. All proposed projects that shall be operated as rental projects MUST include a management and maintenance plan and a staffing plan for these functions. An agreement with the tribal IHA to manage the units is not sufficient as a management and maintenance staffing plan; the IHA must include projected staffing to carry out these functions.

(ix) _____ Form HUD–4125–I, Indian HOME Program Grants. Implementation Schedule.

(x) _____ Form HUD–4123–I, Indian HOME Program Grants. Cost Summary.

(xi) _____ Project location map.

(xii) _____ Components that address the selection criteria. The applicant must provide a narrative and supporting documentation that are responsive to the selection criteria of sections I.(d) (1), (2), and (3) of this NOFA. This includes, but is not limited to, a description of how the HOME funds shall be used, and the various kinds of information that are necessary in order to apply the selection criteria and rating factors.

[FR Doc. 96–7281 Filed 3–26–96; 8:45 am]

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Part III

Department of Housing and Urban Development

24 CFR Part 880, et al.
Consolidation of Regulations for Project-Based Section 8 Programs; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner; Consolidation of Regulations for Project-Based Section 8 Programs

24 CFR Parts 880, 881, 883, and 884

[Docket No. FR–3984–F–01]

RIN 2502–AG65

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner (HUD).

ACTION: Final rule.

SUMMARY: This rule removes obsolete provisions concerning development of housing under regulations for the Section 8 project-based assistance programs for New Construction, Substantial Rehabilitation, and State Housing Agencies, and Rural Rental Housing now found in 24 CFR parts 880, 881, 883, and 884. It also consolidates into one part, the certain nearly identical provisions concerning the housing assistance payments contract and management for the New Construction, Substantial Rehabilitation, and State Housing Agencies programs that are now found in three parts.

EFFECTIVE DATE: April 26, 1996.

FOR FURTHER INFORMATION CONTACT: For development issues: Jane Luton, Director, New Products Division (telephone: (202) 708–2556, ext. 2537) or for management issues: Barbara D. Hunter, Director, Program Management Division (telephone: (202) 708–4162, ext. 2632), Office of Multifamily Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, D.C. 20410. The above telephone numbers may be accessed through TDD by calling the Federal Relay Service at (202) 708–9300 or 1–800–877–TDDY (1–800–877–8389). (Other than the "1–800" number, these telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

This rule does not alter existing information collection requirements. An agency may not conduct or sponsor, and person is not required to respond to a collection of information unless the collection displays a valid control number.

Background

On March 4, 1995, President Clinton issued a memorandum to all Federal departments and agencies regarding regulatory reinvention. In response to this memorandum, the Department of Housing and Urban Development conducted a page-by-page review of its regulations to determine which can be eliminated, consolidated, or otherwise improved.

The authority for funding activity under the Section 8 project-based assistance programs affected by this rule was repealed in 1983, and there have been no projects in the development stage for a substantial period. This rule, accordingly, removes from 24 CFR parts 880, 881, 883, and 884 obsolete provisions relating to the development of projects under these parts. The removed provisions include but are not limited to: part 880, subparts C and D; part 881, subparts C, D, and G; and part 883, subparts B, D, and E. Section 883.106, added by this rule, replaces current § 883.201, which was in subpart B. In part 884, individual sections have been removed.

This rule also consolidates into part 880, subparts E and F, the closely-related housing assistance payments (HAP) contract and the management regulations currently contained in parts 880, 881, and 883. Because of the similarity of the two sets of HAP contract regulations, §§ 881.505 through 881.508 have been removed and replaced by a cross-reference to the same sections in part 880, subpart E. (See § 881.503) In part 883, which is not as closely related to part 880, §§ 883.605 and 883.608 have been replaced by cross-reference to the comparable §§ 880.504 and 880.508 provisions in part 880, subpart E.

In both parts 881 and 883, the respective Management subparts have been removed and replaced by cross-references to part 880, subpart F. Part 880, subpart F has been revised to include certain part 883-specific requirements, where the current part 883 requirements differ from those applicable to part 880 and part 881 projects.

The New Construction Set-Aside for Section 515 Rural Rental Housing Projects program, contained in part 884, is administered by the Rural Housing and Community Development Service, successor agency to the Farmers Home Administration, under a memorandum of understanding. The part 884 provisions have not been consolidated into part 880.

Justification for Final Rulemaking

HUD generally publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking in 24 CFR part 10. However, part 10 provides for exceptions to the general rule if the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is "impracticable, unnecessary, or contrary to the public interest" (24 CFR 10.1). HUD finds that good cause exists to publish this rule for effect without first soliciting public comment. This rule merely consolidates existing CFR parts and removes obsolete regulatory provisions and does not establish or affect substantive policy. Therefore, prior public comment is unnecessary.

Findings and Certifications

Impact on the Environment

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk at the above address.

Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this rule do not have significant impact on States or their political subdivisions since the rule merely consolidates existing provisions into one part.

Impact on the Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this rule does not have potential for significant impact on family formation, maintenance, and general well-being, since it only consolidates and streamlines existing provisions. Therefore, the rule is not subject to review under the Order.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule will not have a significant impact on a substantial number of small entities, because it makes no substantive changes in the regulations affected.

Catalog

The Catalog of Federal Domestic Assistance number for the programs affected by this rule is 14.182.

List of Subjects

24 CFR Part 880

Grant programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 881

Grant programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 883

Grant programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 884

Grant programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements, Rural areas.

Accordingly, under the authority of 42 U.S.C. 3535(d), for the reasons stated in the preamble, parts 880, 881, 883, and 884 of title 24 of the Code of Federal Regulations are amended as follows:

PART 880—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR NEW CONSTRUCTION

1. The authority citation for part 880 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437f, 3535(d), 12701, and 13611–13619.

Subpart A—Summary and Applicability

2. Section 880.101 is revised to read as follows:

§ 880.101 General.

(a) The purpose of the Section 8 program is to provide low-income families with decent, safe and sanitary rental housing through the use of a system of housing assistance payments. This part contains the policies and procedures applicable to the Section 8 new construction program. The assistance may be provided to public housing agency owners or to private owners either directly from HUD or through public housing agencies.

(b) This part does not apply to projects developed under other Section 8 program regulations, including 24 CFR parts 881, 882, 883, 884, and 885, except to the extent specifically stated in those parts. Portions of subparts E and F of this part 880 have been cross-referenced in 24 CFR parts 881 and 883.

§§ 880.102 and 880.103 [Removed]

3. Sections 880.102 and 880.103 are removed.

4. Section 880.104 is revised to read as follows:

§ 880.104 Applicability of part 880 in effect as of November 5, 1979.

(a) Part 880, in effect as of November 5, 1979, applies to all proposals for which a notification of selection was not issued before the November 5, 1979 effective date of part 880. (See 24 CFR part 880, revised as of April 1, 1980.) Where a notification of selection was issued for a proposal before the November 5, 1979 effective date, part 880, in effect as of November 5, 1979, applies if the owner notified HUD within 60 calendar days that the owner wished the provisions of part 880, effective November 5, 1979, to apply and promptly brought the proposal into conformance.

(b) Subparts E (Housing Assistance Payments Contract) and F (Management) of this part apply to all projects for which an Agreement was not executed before the November 5, 1979, effective date of part 880. Where an Agreement was so executed:

(1) The owner and HUD may agree to make the revised subpart E of this part applicable and to execute appropriate amendments to the Agreement and/or Contract.

(2) The owner and HUD may agree to make the revised subpart F of this part applicable (with or without the limitation on distributions) and to execute appropriate amendments to the Agreement and/or Contract.

(c) Section 880.607, Termination of Tenancy and Modification of Leases, applies to new families who begin occupancy or execute a lease on or after 30 days after the November 5, 1979, effective date of part 880. This section also applies to families not covered by the preceding sentence, including existing families under lease, with respect to all leases in which a renewal becomes effective on or after the 60th day following the November 5, 1979 effective date of part 880. A lease is considered to be renewed where both the landlord and the family fail to terminate a tenancy under a lease permitting either party to terminate.

(d) Notwithstanding the provisions of paragraph (b) of this section, the provisions of 24 CFR part 5 (concerning preferences for selection of applicants) apply to all projects, regardless of when an Agreement was executed.

Subpart B—Definitions and Other Requirements

5. The heading for subpart B of part 880 is revised as set forth above.

6. Section 880.201 is amended by removing the definitions of *"Allocation area"*, *"New Communities"*, and *"Preliminary proposal"* and by adding in alphabetical order, the definition of *"Agency"*, to read as follows:

§ 880.201 Definitions.

* * * * *

Agency. As defined in 24 CFR part 883.

* * * * *

§§ 880.202, 880.203, 880.204, 880.206, 880.209, and 880.210 [Removed]

7. Sections 880.202, 880.203, 880.204, 880.206, 880.209, and 880.210 are removed.

Subparts C and D—[Removed and Reserved]

8. Subpart C (§§ 880.301 through 880.311) and subpart D (§§ 880.401 through 880.405) of part 880 are removed and reserved.

Subpart E—Housing Assistance Payments Contract

9. Section 880.501 is amended by revising paragraph (a), and by removing and reserving paragraph (b), to read as follows:

§ 880.501 The contract.

(a) *Contract.* The Housing Assistance Payments Contract sets forth rights and duties of the owner and the contract administrator with respect to the project and the housing assistance payments. The owner and contract administrator execute the Contract in the form prescribed by HUD upon satisfactory completion of the project.

(b) [Reserved]

* * * * *

10. In § 880.504, paragraphs (b), (c) introductory text, (c)(1), and (e) are revised, to read as follows:

§ 880.504 Leasing to eligible families.

* * * * *

(b) *Reduction of number of units covered by Contract.* (1) *Part 880 and 24 CFR part 881 projects.* HUD (or the PHA at the direction of HUD, as appropriate) may reduce the number of units covered by the Contract to the number of units available for occupancy by eligible families if:

(i) The owner fails to comply with the requirements of paragraph (a) of this section; or

(ii) Notwithstanding any prior approval by the contract administrator to lease such units to ineligible families, HUD (or the PHA at the direction of HUD, as appropriate) determines that the inability to lease units to eligible families is not a temporary problem.

(2) *For 24 CFR part 883 projects.* HUD and the Agency may reduce the number

of units covered by the Contract to the number of units available for occupancy by eligible families if:

(i) The owner fails to comply with the requirements of paragraph (a) of this section; or

(ii) Notwithstanding any prior approval by the Agency to lease such units to ineligible families, HUD and the Agency determine that the inability to lease units to eligible families is not a temporary problem.

(c) *Restoration.* For this part 880 and 24 CFR part 881 projects, HUD will agree to an amendment of the ACC or the Contract, as appropriate, to provide for subsequent restoration of any reduction made pursuant to paragraph (b) of this section, and for 24 CFR part 883 projects, HUD will agree to an amendment of the ACC and the Agency may agree to an amendment to the Contract to provide for subsequent restoration of any reduction made pursuant to paragraph (b) of this section, if:

(1) HUD determines (for 24 CFR part 883 projects, HUD and the Agency determine) that the restoration is justified by demand,

* * * * *

(e) *Termination of assistance for failure to submit evidence of citizenship or eligible immigration status.* If an owner who is subject to paragraphs (a) and (b) of this section is required to terminate housing assistance payments for the family in accordance with 24 CFR part 5 because the owner determines that the entire family does not have U.S. citizenship or eligible immigration status, the owner may allow continued occupancy of the unit by the family without Section 8 assistance following the termination of assistance, or if the family constitutes a mixed family, as defined in 24 CFR part 5, the owner shall comply with the provisions of 24 CFR part 5 concerning assistance to mixed families, and deferral of termination of assistance.

Subpart F—Management

11. Section 880.601 is amended by revising paragraphs (a)(4), (b), (c), and (e), to read as follows:

§ 880.601 Responsibilities of owner.

(a) * * *

(4) At the time of Contract execution, the owner must submit a list of leased and unleased units, with justification for the unleased units, in order to qualify for vacancy payments for the unleased units.

(b) *Management and maintenance.* The owner is responsible for all management functions, including determining eligibility of applicants in accordance with 24 CFR parts 5 and 24 CFR part 813, provision of Federal selection preferences in accordance with 24 CFR part 5, selection of tenants, obtaining and verifying Social Security Numbers submitted by families (as provided by 24 CFR part 5), obtaining signed consent forms from families for the obtaining of wage and claim information from State Wage Information Collection Agencies (as provided by 24 CFR part 5), reexamination of family income, evictions and other terminations of tenancy, and collection of rents, and all repair and maintenance functions (including ordinary and extraordinary maintenance and replacement of capital items). All these functions shall be performed in compliance with applicable Equal Opportunity requirements.

(c) *Contracting for services.* (1) For this part 880 and 24 CFR part 881 projects, with HUD approval, the owner may contract with a private or public entity (except the contract administrator) for performance of the services or duties required in paragraphs (a) and (b) of this section.

(2) For 24 CFR part 883 projects, with approval of the Agency, the owner may contract with a private or public entity (but not with the Agency unless temporarily necessary for the Agency to protect its financial interest and to uphold its program responsibilities where no alternative management agent is immediately available) for performance of the services or duties required in paragraphs (a) and (b) of this section.

(3) However, such an arrangement does not relieve the owner of responsibility for these services and duties.

* * * * *

(e) *Use of project funds.* (1) Project funds must be used for the benefit of the project, to make required deposits to the replacement reserve in accordance with § 880.602 and to provide distributions to the owner as provided in § 880.205, § 881.205 of this chapter, or § 883.306 of this chapter, as appropriate.

(2) For this part 880 and 24 CFR part 881 projects:

(i) Any remaining project funds must be deposited with the mortgagee or other HUD-approved depository in an interest-bearing residual receipts account. Withdrawals from this account will be made only for project purposes and with the approval of HUD.

(ii) Partially-assisted projects are exempt from the provisions of this section.

(iii) In the case of HUD-insured projects, the provisions of this paragraph (e) will apply instead of the otherwise applicable mortgage insurance provisions.

(3) For 24 CFR part 883 projects:

(i) Any remaining project funds must be deposited with the Agency, other mortgagee or other Agency-approved depository in an interest-bearing account. Withdrawals from this account may be made only for project purposes and with the approval of the Agency.

(ii) In the case of HUD-insured projects, the provisions of this paragraph will apply instead of the otherwise applicable mortgage insurance provisions, except in the case of partially-assisted projects which are subject to the applicable mortgage insurance provisions.

* * * * *

12. Section 880.602 is revised to read as follows:

§ 880.602 Replacement reserve.

(a) A replacement reserve must be established and maintained in an interest-bearing account to aid in funding extraordinary maintenance and repair and replacement of capital items.

(1) *Part 880 and 24 CFR part 881 projects.* (i) For this part 880 and 24 CFR part 811 projects, an amount equivalent to .006 of the cost of total structures, including main buildings, accessory buildings, garages and other buildings, or any higher rate as required by HUD from time to time, will be deposited in the replacement reserve annually. This amount will be adjusted each year by the amount of the automatic annual adjustment factor.

(ii) The reserve must be built up to and maintained at a level determined by HUD to be sufficient to meet projected requirements. Should the reserve achieve that level, the rate of deposit to the reserve may be reduced with the approval of HUD.

(iii) All earnings including interest on the reserve must be added to the reserve.

(iv) Funds will be held by the mortgagee or trustee for bondholders, and may be drawn from the reserve and used only in accordance with HUD guidelines and with the approval of, or as directed by, HUD.

(v) Partially-assisted part 880 and 24 CFR part 881 projects are exempt from the provisions of this section.

(2) *Part 883 of this chapter projects.* (i) For 24 CFR part 883 projects, an amount equivalent to at least .006 of the cost of total structures, including main buildings, accessory buildings, garages and other buildings, or any higher rate as required from time to time by:

(A) The Agency, in the case of projects approved under 24 CFR part 883, subpart D; or

(B) HUD, in the case of all other projects, will be deposited in the replacement reserve annually. For projects approved under 24 CFR part 883, subpart D, this amount may be adjusted each year by up to the amount of the automatic annual adjustment factor. For all projects not approved under 24 CFR part 883, subpart D, this amount must be adjusted each year by the amount of the automatic annual adjustment factor.

(ii) The reserve must be built up to and maintained at a level determined to be sufficient by the Agency to meet projected requirements. Should the reserve achieve that level, the rate of deposit to the reserve may be reduced with the approval of the Agency.

(iii) All earnings, including interest on the reserve, must be added to the reserve.

(iv) Funds will be held by the Agency, other mortgagee or trustee for bondholders, as determined by the Agency, and may be drawn from the reserve and used only in accordance with Agency guidelines and with the approval of, or as directed by, the Agency.

(v) The Agency may exempt partially-assisted projects approved under 24 CFR part 883, subpart D, from the provisions of this section. All partially-assisted projects not approved under the Fast Track Procedures formerly in 24 CFR part 883, subpart D, are exempt from the provisions of this section.

(b) In the case of HUD-insured projects, the provisions of this section will apply instead of the otherwise applicable mortgage insurance provisions, except in the case of partially-assisted insured projects which are subject to the applicable mortgage insurance provisions.

13. Section 880.603 is revised to read as follow:

§ 880.603 Selection and admission of assisted tenants.

(a) *Application.* The owner must accept applications for admission to the project in the form prescribed by HUD. Both the owner (or designee) and the applicant must complete and sign the application. For this part 880 and 24 CFR part 881 projects, on request, the owner must furnish copies of all applications to HUD and the PHA, if applicable. For 24 CFR part 883 projects, on request, the owner must furnish to the Agency or HUD copies of all applications received.

(b) *Determination of eligibility and selection of tenants.* The owner is responsible for obtaining and verifying information related to income in accordance with 24 CFR part 813, and evidence related to citizenship and eligible immigration status in accordance with 24 CFR part 5, to determine whether the applicant is eligible for assistance in accordance with the requirements of 24 CFR part 5, and 24 CFR part 813, and to select families for admission to the program, which includes giving selection preferences in accordance with 24 CFR part 5, subpart D.

(1) If the owner determines that the family is eligible and is otherwise acceptable and units are available, the owner will assign the family a unit of the appropriate size in accordance with HUD standards. If no suitable unit is available, the owner will place the family on a waiting list for the project and notify the family of when a suitable unit may become available. If the waiting list is so long that the applicant would not be likely to be admitted for the next 12 months, the owner may advise the applicant that no additional applications are being accepted for that reason, provided the owner complies with the procedures for informing applicants about admission preferences as provided in 24 CFR part 5, subpart D.

(2) If the owner determines that an applicant is ineligible on the basis of income or family composition, or because of failure to meet the disclosure and verification requirements for Social Security Numbers (as provided by 24 CFR part 5), or because of failure by an applicant to sign and submit consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies (as provided by 24 CFR parts 5 and 813), or that the owner is not selecting the applicant for other reasons, the owner will promptly notify the applicant in writing of the determination and its reasons, and that the applicant has the right to meet with the owner or managing agent in accordance with HUD requirements. Where the owner is a PHA, the applicant may request an informal hearing. If the PHA determines that the applicant is not eligible, the PHA will notify the applicant and inform the applicant that he or she has the right to request HUD review of the PHA's determination. The applicant may also exercise other rights if the applicant believes that he or she is being discriminated against on the basis of race, color, creed, religion, sex, or national origin. See 24 CFR part 5 for the informal review provisions for the denial of a Federal preference or the failure to establish citizenship or eligible immigration status and for notice requirements where assistance is terminated, denied, suspended, or reduced based on wage and claim information obtained by HUD from a State Wage Information Collection Agency.

(3) Records on applicants and approved eligible families, which provide racial, ethnic, gender and place of previous residency data required by HUD, must be maintained and retained for three years.

(c) *Reexamination of family income and composition*—(1) *Regular reexaminations.* The owner must reexamine the income and composition of all families at least every 12 months. After consultation with the family and upon verification of the information, the owner must make appropriate adjustments in the Total Tenant Payment in accordance with 24 CFR part 813 and determine whether the family's unit size is still appropriate. The owner must adjust Tenant Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment and must carry out any unit transfer required by HUD. At the time of the annual reexamination of family income and composition, the owner must require the family to disclose the verify Social Security Numbers, as provided by 24 CFR part 5. For requirements regarding the signing and submitting of consent forms by families for the obtaining of wage and claim information from State Wage Information Collection Agencies, see 24 CFR part 5. At the first regular reexamination after June 19, 1995, the owner shall follow the requirements of 24 CFR part 5 concerning obtaining and processing evidence of citizenship or eligible immigration status of all family members. Thereafter, at each regular reexamination, the owner shall follow the requirements of 24 CFR part 5 and verify the immigration status of any new family member.

(2) *Interim reexaminations.* The family must comply with provisions in its lease regarding interim reporting of changes in income. If the owner receives information concerning a change in the family's income or other circumstances between regularly scheduled reexaminations, the owner must consult with the family and make any adjustments determined to be appropriate. Any change in the family's income or other circumstances that results in an adjustment in the Total Tenant Payment, Tenant Rent and Housing Assistance Payment must be verified. See 24 CFR part 5 for the requirements for the disclosure and verification of Social Security Numbers

at interim reexaminations involving new family members. For requirements regarding the signing and submitting of consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, see 24 CFR part 5. At any interim reexamination after June 19, 1995, when a new family member has been added, the owner shall follow the requirements of 24 CFR part 5 concerning obtaining and processing evidence of the citizenship or eligible immigration status of any new family member.

(3) *Continuation of housing assistance payments.* A family's eligibility for Housing Assistance Payments continues until the Total Tenant Payment equals the Gross Rent. The termination of eligibility at such point will not affect the family's other rights under its lease, nor will such termination preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances during the term of the Contract. However, eligibility also may be terminated in accordance with HUD requirements, for such reasons as failure to submit requested verification information, including failure to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 5, or failure to sign and submit consent forms for the obtaining wage and claim information from State Wage Information Collection Agencies, as provided by 24 CFR part 5. See 24 CFR part 5 for provisions requiring termination of assistance for failure to establish citizenship or eligible immigration status and also for provisions concerning certain assistance for mixed families (families whose members include those with eligible immigration status, and those without eligible immigration status) in lieu of termination of assistance, and for provisions concerning deferral of termination of assistance.

(Approved by the Office of Management and Budget under control number 2502–0204.)

14. In § 880.606, paragraph (b) is revised to read as follows:

§ 880.606 Lease requirements.

* * * * *

(b) *Form.* (1) *Part 880 and 24 CFR part 881 projects.* For this part 880 and 24 CFR part 881 projects, the form of lease must contain all required provisions, and none of the prohibited provisions specified in the developer's packet, and must conform to the form of lease included in the approved final proposal.

(2) *24 CFR part 883 projects.* For 24 CFR part 883 projects, the form of lease must contain all required provisions, and none of the prohibited provisions specified below.

(i) *Required provisions (Addendum to lease).*

Addendum to Lease

The following additional Lease provisions are incorporated in full in the Lease between ____ (Landlord) and ____ (Tenant) for the following dwelling unit: ____. In case of any conflict between these and any other provisions of the Lease, these provisions will prevail.

a. The total rent will be $____ per month.

b. Of the total rent, $____ will be payable by the State Agency (Agency) as housing assistance payments on behalf of the Tenant and $____ will be payable by the Tenant. These amounts will be subject to change by reason of changes in the Tenant's family income, family composition, or extent of exceptional medical or other unusual expenses, in accordance with HUD-established schedules and criteria; or by reason of adjustment by the Agency of any applicable Utility Allowance; or by reasons of changes in program rules. Any such change will be effective as of the date stated in a notification to the Tenant.

c. The Landlord will not discriminate against the Tenant in the provision of services, or in any other manner, on the grounds of race, color, creed, religion, sex, or national origin.

d. The Landlord will provide the following services and maintenance: _____

e. A violation of the Tenant's responsibilities under the Section 8 Program, as determined by the Agency, is also a violation of the lease.

Landlord _____

By _____

Date _____

Tenant _____

Date _____

[End of addendum]

(ii) *Prohibited provisions.* Lease clauses which fall within the classifications listed below must not be included in any Lease.

Lease Clauses

a. *Confession of Judgment.* Consent by the tenant to be sued, to admit guilt, or to accept without question any judgment favoring the landlord in a lawsuit brought in connection with the lease.

b. *Seize or Hold Property for Rent or Other Charges.* Authorization to the landlord to take property of the tenant and/or hold it until the tenant meets any obligation which the landlord has determined the tenant has failed to perform.

c. *Exculpatory Clause.* Prior agreement by the tenant not to hold the landlord or landlord's agents legally responsible for acts done improperly or for failure to act when the landlord or landlord's agent was required to do so.

d. *Waiver of Legal Notice.* Agreement by the tenant that the landlord need not give any notices in connection with (1) a lawsuit against the tenant for eviction, money damages, or other purposes, or (2) any other action affecting the tenant's rights under the lease.

e. *Waiver of Legal Proceeding.* Agreement by the tenant to allow eviction without a court determination.

f. *Waiver of Jury Trial.* Authorization to the landlord's lawyer to give up the tenant's right to trial by jury.

g. *Waiver of Right to Appeal Court Decision.* Authorization to the landlord's lawyer to give up the tenant's right to appeal a decision on the ground of judicial error or to give up the tenant's right to sue to prevent a judgment being put into effect.

h. *Tenant Chargeable with Cost of Legal Actions Regardless of Outcome of Lawsuit.* Agreement by the tenant to pay lawyer's fees or other legal costs whenever the landlord decides to sue the tenant whether or not the tenant wins. (Omission of such a clause does not mean that the tenant, as a party to a lawsuit, may not have to pay lawyer's fees or other costs if the court so orders.)

[End of clauses]

15. Section 880.607 is amended by:

a. Removing from paragraph (b)(3)(ii), the words "part 812", "part 750", "part 760", and by adding, in their respective places, the words "part 5"; and

b. Revising paragraphs (c)(4) and (d), to read as follows:

§ 880.607 Termination of tenancy and modification of lease.

* * * * *

(c) * * *

(4) See 24 CFR part 5 for provisions related to termination of assistance because of failure to establish citizenship or eligible immigration status, including informal hearing procedures and also for provisions concerning certain assistance for mixed families (families whose members include those with eligible immigration status, and those without eligible immigration status) in lieu of termination of assistance, and for provisions concerning deferral of termination of assistance.

(d) *Modification of Lease form.* The owner, with the prior approval of HUD or, for a 24 CFR part 883 project, the Agency, may modify the terms and conditions of the lease form effective at the end of the initial term or a successive term, by serving an appropriate notice on the family, together with the offer of a revised lease or an addendum revising the existing lease. This notice and offer must be received by the family at least 30 days prior to the last date on which the family has the right to terminate the tenancy without being bound by the modified terms and conditions. The family may accept the modified terms and conditions by executing the offered revised lease or addendum, or may reject the modified terms and conditions by giving the owner written notice in accordance with the lease that the family intends to terminate the tenancy. Any increase in rent must in all cases be governed by § 880.609 and other applicable HUD regulations.

* * * * *

§ 880.608 [Amended]

16. In § 880.608, paragraph (f) introductory text is amended by removing the words "HUD or the PHA, as appropriate," and by adding, in their place, the words "the contract administrator".

17. In § 880.609, paragraph (b) is revised to read as follows:

§ 880.609 Adjustment of contract rents.

* * * * *

(b) *Special additional adjustments.* For all projects, special additional adjustments will be granted, to the extent determined necessary by HUD (for 24 CFR part 883 projects, by the Agency and HUD), to reflect increases in the actual and necessary expenses of owning and maintaining the assisted units which have resulted from substantial general increases in real property taxes, assessments, utility rates, and utilities not covered by regulated rates, and which are not adequately compensated for by annual adjustments under paragraph (a) of this section. The owner must submit to the contract administrator required supporting data, financial statements and certifications.

* * * * *

18. In § 880.611, the introductory text to paragraph (d)(3) is revised to read as follows:

§ 880.611 Conditions for receipt of vacancy payments.

* * * * *

(d) * * *

(3) The owner has (for 24 CFR part 883 projects, the owner and the Agency have) demonstrated to the satisfaction of HUD that:

* * * * *

19. In § 880.612, paragraph (b) is revised to read as follows:

§ 880.612 Reviews during management period.

* * * * *

(b) In addition:

(1)(i) For this part 880 and 24 CFR part 881 private-owner/PHA projects, HUD will review the PHA's administration of the Contract at least annually to determine whether the PHA is in compliance with the ACC; and

(ii) For 24 CFR part 883 projects, HUD will periodically review the Agency's administration of the Contract to determine whether it is in compliance with the Contract.

(2) HUD may independently inspect project operations and units at any time.

* * * * *

PART 881—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR SUBSTANTIAL REHABILITATION

20. The authority citation for part 881 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437f, 3535(d), 12701, and 13611–13619.

Subpart A—Summary and Applicability

21. Section 881.101 is revised to read as follows:

§ 881.101 General.

(a) The purpose of the Section 8 program is to provide low-income families with decent, safe and sanitary rental housing through the use of a system of housing assistance payments. This part contains the policies and procedures applicable to the Section 8 substantial rehabilitation program. The assistance may be provided to public housing agency owners or to private owners either directly from HUD or through public housing agencies.

(b) This part does not apply to projects developed under other Section 8 program regulations, including 24 CFR parts 880, 882, 883, 884, and 885, except to the extent specifically stated in those parts.

§§ 881.102 and 881.103 [Removed]

22. Sections 881.102 and 881.103 are removed.

23. Section 881.104 is revised to read as follows:

§ 881.104 Applicability of part 881 in effect as of February 20, 1980.

(a) Part 881, in effect as of February 20, 1980, applies to all proposals for which a notification of selection was not issued before the February 20, 1980 effective date of part 881. (See 24 CFR part 881, revised as of April 1, 1980). Where a notification of selection was issued for a proposal before the February 20, 1980, effective date, part 881 in effect as of February 20, 1980 applies if the owner notified HUD within 60 calendar days that the owner wished the provisions of part 881, effective February 20, 1980, to apply and promptly brought the proposal into conformance.

(b) Subparts E (Housing Assistance Payments Contract) and F (Management) of this part apply to all projects for which an Agreement was not executed before the February 20, 1980, effective date of part 881. Where an Agreement was so executed:

(1) The owner and HUD may agree to make the revised subpart E of this part applicable and to execute appropriate amendments to the Agreement and/or Contract.

(2) The owner and HUD may agree to make the revised subpart F of this part applicable (with or without the limitation on distributions) and to execute appropriate amendments to the Agreement and/or Contract.

(c) Section 880.607 of this chapter, Termination of Tenancy and Modification of Leases, applies to new families who begin occupancy or execute a lease on or after 30 days after the February 20, 1980, effective date of part 881. This section also applies to families not covered by the preceding sentence, including existing families under lease, with respect to all leases in which a renewal becomes effective on or after the 60th day following the February 20, 1980 effective date of part 881. A lease is considered to be renewed where both the landlord and the family fail to terminate a tenancy under a lease permitting either party to terminate.

(d) Notwithstanding the provisions of paragraph (b) of this section, the provisions of 24 CFR part 5 (concerning preferences for selection of applicants) apply to all projects, regardless of when an Agreement was executed.

Subpart B—Definitions and Other Requirements

24. The heading for subpart B of part 881 is revised to read as set forth above.

§ 881.201 [Amended]

25. Section 881.201 is amended by removing the definitions of "*Allocation area*", "*New Communities*", and "*Preliminary proposal*".

§§ 881.202, 881.203, 881.204, 881.206, 881.209, and 881.210 [Removed]

26. Sections 881.202, 881.203, 881.204, 881.206, 881.209, and 881.210 are removed.

Subparts C and D—[Removed and Reserved]

27. Subpart C (§§ 881.301 through 881.312) and subpart D (§§ 881.401 through 881.405) of part 881 are removed and reserved.

Subpart E—Housing Assistance Payments Contract

28. In § 881.501, paragraph (a) is revised and paragraph (b) is removed and reserved, to read as follows:

§ 881.501 The contract.

(a) *Contract.* The Housing Assistance Payments Contract sets forth rights and duties of the owner and the contract administrator with respect to the project

and the housing assistance payments. The owner and contract administrator execute the Contract in the form prescribed by HUD upon satisfactory completion of the project.

(b) [Reserved]

* * * * *

29. Section 881.503 is revised to read as follows:

§ 881.503 Cross-reference.

All of the provisions of §§ 880.503, 880.504, 880.505, 880.506, 880.507, and 880.508 of this chapter apply to projects assisted under this part, subject to the requirements of § 881.104.

§§ 881.504, 881.505, 881.506, 881.507, and 881.508 [Removed]

29a. Sections 881.504, 881.505, 881.506, 881.507, and 881.508 are removed.

30. Subpart F of part 881 is revised to read as follows:

Subpart F—Management

§ 881.601 Cross-reference.

All of the provisions of part 880, subpart F, of this chapter apply to projects assisted under this part, subject to the requirements of § 881.104.

Subpart G—[Removed]

31. Subpart G (§§ 881.701 through 881.709) of part 881 is removed.

PART 883—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—STATE HOUSING AGENCIES

32. The authority citation for part 883 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437f, 3535(d), and 13611–13619.

Subpart A—Summary and Guide

33. Section 883.101 is revised to read as follows:

§ 883.101 General.

(a) The purpose of the Section 8 program is to provide decent, safe and sanitary housing for low-income families through the use of a system of housing assistance payments. These needs may be met by statewide or special purpose housing agencies established by the various States.

(b) The regulations in this part 883 contain the policies and procedures applicable to the Section 8 program for these State agencies.

§§ 883.102, 883.103, and 883.104 [Removed]

34. Sections 883.102, 883.103 and 883.104 are removed.

35. Section 883.105, is revised to read as follows:

§ 883.105 Applicability of part 883 in effect as of February 29, 1980.

(a) Part 883, in effect as of February 29, 1980, applies to projects for which the initial application was submitted on or after the February 29, 1980, effective date. (See 24 CFR part 883, revised as of April 1, 1980.) Projects for which applications or proposals were submitted before the February 29, 1980, effective date of part 883 have been processed under the part 883 regulations and procedures in effect at the date of submission. If, however, the agency notified HUD within 60 calendar days of the February 29, 1980, effective date of the part 883 regulations that they chose to have the provisions of part 883, in effect as of February 29, 1980, apply to a specific case, it must have promptly modified the application(s) and proposal(s) to comply.

(b) Subpart F of this part, dealing with the HAP contract and subpart G of this part, dealing with management, apply to all projects for which an Agreement was not executed before the February 29, 1980, effective date of part 883. In cases where an Agreement has been executed:

(1) The Agency, owner and HUD may agree to make the revised subpart F of this part applicable and execute appropriate amendments to the Agreement or Contract;

(2) The Agency, Owner and HUD may agree to make the revised subpart G of this part applicable (with or without the limitation on distributions) and execute appropriate amendments to the Agreement or Contract.

(c) Section 883.708, Termination of Tenancy and Modifications of Leases, applies to new families who begin occupancy or execute a lease on or after 30 days following the February 29, 1980, effective date of part 883. This section also applies to families not covered by the preceding sentence, including families currently under lease, who have a lease in which a renewal becomes effective on or after the 60th day following the February 29, 1980 effective date of part 883. A lease is considered renewed when both the landlord and the family fail to terminate a tenancy under a lease permitting either to terminate.

(d) Notwithstanding the provisions of paragraph (b) of this section, the provisions of 24 CFR part 5 (concerning preferences for selection of applicants) apply to all projects, regardless of when am Agreement was executed.

36. A new § 883.106 is added to subpart A to read as follows:

§ 883.106 Applicability and relationships between HUD and State agencies.

(a) *Applicability.* This subpart A applies to contract authority set aside for a State Agency.

(b) *General responsibilities and relationships.* Subject to audit and review by HUD to assure compliance with Federal requirements and objectives, Housing Finance Agencies (HFAs) shall assume responsibility for project development and for supervision of the development, management and maintenance functions of owners.

(c) *Certifications and HUD monitoring.* (1) Generally, when reviewing any of the certifications of an HFA required by this part, HUD shall accept the certification as correct. If HUD has substantial reason to question the correctness of any element in a certification, HUD shall promptly bring the matter to the attention of the HFA and ask it to provide documentation supporting the certifications. When the HFA provides such evidence, HUD will act in accordance with the HFA's judgment or evaluation unless HUD determines that the certification is clearly not supported by the documentation.

(2) HUD will periodically monitor the activities of HFA's participating under this part only with respect to Section 8 or other HUD programs. This monitoring is intended primarily to ensure that certifications submitted and projects operated under this part reflect appropriate compliance with Federal law and requirements.

Subpart B—[Removed and Reserved]

37. Subpart B (§§ 883.201 through 883.207) of part 883 is removed and reserved.

Subpart C—Definitions and Other Requirements

38. The heading for subpart C of part 883 is revised to read as set forth above.

§ 883.302 [Amended]

39. Section 883.302 is amended by removing the definitions of "Allocation area", "Allocation plan", "Impacted jurisdiction", and "New Communities".

§§ 883.303, 883.304, 883.305, 883.309, 883.311, and 883.312 [Removed]

40. Sections 883.303, 883.304, 885.305, 883.309, 883.311, and 883.312 are removed.

41. In § 883.307, paragraph (a) is revised to read as follows:

§ 883.307 Financing.

(a) *Types of financing.* A State Agency that used the Fast Track Procedures formerly in this part must provide permanent financing for any new construction or substantial rehabilitation project without Federal mortgage insurance, except coinsurance under section 244 under the National Housing Act (12 U.S.C. 1701 et seq). Obligations issued by the HFA for this purpose may be taxable under section 802 of the Housing and Community Development Act of 1974 (42 U.S.C. 1440) or tax-exempt under section 103 of the Internal Revenue Code (26 U.S.C. 103), 24 CFR part 811 or other Federal Law.

* * * * *

Subparts D and E—[Removed and Reserved]

42. Subpart D (§§ 883.401 through 883.412) and subpart E (§ 883.501) of part 883 are removed and reserved.

Subpart F—Housing Assistance Payments Contract

§ 883.602 [Amended]

43. Section 883.602 is amended by:

a. Removing paragraph (b);

b. Redesignating paragraphs (c), (d), and (e) as paragraphs (b), (c), and (d), respectively; and

c. By amending newly redesignated paragraphs (b)(2), (c)(2), and (c)(3) by removing the words "§ 883.712" in each place they appear, and by adding the words "§ 880.611 of this chapter", in their place.

§ 883.604 [Amended]

44. In § 883.604, paragraph (b)(2) is amended by removing the words "U.S. Housing Act of 1937" and adding, in their place, the words "1937 Act".

45. Section 883.605 is revised to read as follows:

§ 883.605 Leasing to eligible families.

The provisions of § 880.504 of this chapter apply, subject to the requirements of § 883.105.

46. Section 883.608 is revised to read as follows:

§ 883.608 Notice upon contract expiration.

The provisions of § 880.508 of this chapter apply, subject to the requirements of § 883.105.

47. Subpart G of part 883 is revised to read as follows:

Subpart G—Management

§ 883.701 Cross-reference.

All of the provisions of part 880, subpart F, of this chapter apply to projects assisted under this part, subject to the requirements of § 883.105. For purposes of this subpart G, all references in part 880, subpart F, of this chapter to "contract administrator" shall be construed to refer to "Agency".

PART 884—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM, NEW CONSTRUCTION SET-ASIDE FOR SECTION 515 RURAL RENTAL HOUSING PROJECTS

48. The authority citation for part 884 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437f, 3535(d), and 13611–13619.

Subpart A—Applicability, Scope and Basic Policies

49. In § 884.101, paragraph (a) is revised to read as follows:

§ 884.101 Applicability and scope.

(a) The policies and procedures in subparts A and B of this part apply to the making of Housing Assistance Payments on behalf of Eligible Families leasing newly constructed housing pursuant to the provisions of section 8 of the 1937 Act. They are applicable only to proposals submitted by the Department of Agriculture/Farmers Home Administration (now the Department of Agriculture/Rural Housing and Community Development Service) that have been charged against the set-aside of section 8 contract authority specifically established for projects to be funded under section 515 of title V of the Housing Act of 1949 (42 U.S.C. 1485).

* * * * *

§ 884.102 [Amended]

50. Section 884.102 is amended by:

a. Amending the definition of *"Agreement to enter into housing assistance payments contract ('agreement')"*, by removing the word "FmHA" in each place it appears in paragraphs (a) and (b), and by adding, in each place, the word "RHCDS";

b. Removing the definition of *"FmHA"* and by adding, in alphabetical order, the definition *"RHCDS"*; and

c. Placing the definition of *"Proposal"* in alphabetical order and amending it by removing the word "FmHA", and by adding in its place, the word "RHCDS", to read as follows:

§ 884.102 Definitions.

* * * * *

RHCDS. The Rural Housing and Community Development Service.

* * * * *

§ 884.103 [Removed]

51. Section 884.103 is removed.

§ 884.105 [Amended]

52. Section 884.105 is amended by removing the word "Act" from paragraphs (b)(1) and (b)(2) in each place it appears and adding, in each place, the words "1937 Act".

§§ 884.107, 884.111, 884.112, and, 884.113 [Removed]

53. Sections 884.107, 884.111, 884.112, and 884.113 are removed.

§§ 884.108, 884.118, 884.119, and 884.120 [Amended]

54. Sections 884.108(a), 884.118(a)(9), 884.119(b), and 884.120(b)(3) are amended by removing the word "FmHA", each place it appears, and by adding in each place the word "RHCDS".

§ 884.117 [Amended]

55. Section 884.117 is amended by removing the words "part 705" and adding, in their place, the words "part 5".

56. In § 884.118, paragraphs (a)(3) and (a)(7) are revised, to read as follows:

§ 884.118 Responsibilities of the owner.

(a) * * *

(3) Performance of all management functions, including the taking of applications; determining eligibility of applicants in accordance with 24 CFR parts 5 and 813; selection of families, including verification of income, provision of Federal selection preferences in accordance with 24 CFR part 5, obtaining and verifying Social Security Numbers submitted by applicants (as provided by 24 CFR part 5), obtaining signed consent forms from applicants for the obtaining of wage and claim information from State Wage Information Collection Agencies (as provided in 24 CFR part 5), and other pertinent requirements; and determination of the amount of tenant rent in accordance with HUD established schedules and criteria;

* * * * *

(7) Reexamination of family income and composition; redetermination, as appropriate, of the amount of Tenant Rent and the amount of housing assistance payment in accordance with 24 CFR part 813; obtaining and verifying Social Security Numbers submitted by participants, as provided by 24 CFR part 5; and obtaining signed consent forms from participants for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by 24 CFR part 5;

* * * * *

Subpart B—Project Development and Operation

§§ 884.201, 884.202, 884.203, 884.204, 884.205, 884.206, 884.207, 884.208, 884.209, 884.210, and 884.211 [Removed]

57. Sections 884.201, 884.202, 884.203, 884.204, 884.205, 884.206, 884.207, 884.208, 884.209, 884.210, and 884.211 are removed.

§ 884.214 [Amended]

58. In § 884.214, paragraph (b)(1) is amended by removing the phrase "part 812," and adding, in its place, the phrase "part 5,".

§ 884.216 [Amended]

59. Section 884.216 is amended by:

a. Removing the words "part 760," and adding in their place, the words "part 5,"; and

b. Removing the words "24 CFR 812.9, and also 24 CFR 812.10" and adding, in their place, the words "24 CFR part 5 and also".

§ 884.218 [Amended]

60. Section 884.218 is amended by:

a. Amending paragraph (a) by removing the words "part 750" where it appears, by removing "part 760" where it appears, and by removing "part 812" each place it appears, and by adding in each place the words "part 5";

b. Amending paragraph (b) by removing the words "part 760", where it appears, and by removing "part 812", where it appears, and by adding in each place the words, "part 5";

c. Amending paragraph (c) by removing the words "part 750", where it appears, and by removing the words "part 760", where it appears, and by adding in each place the words, "part 5"; and

d. Further amending paragraph (c), by removing the words "24 CFR 812.9, and also 24 CFR 812.10" and adding, in their place, the words "24 CFR part 5 and also".

§ 884.223 [Amended]

61–62. In § 884.223(e), remove the words "§ 812.9 of this chapter" and add, in their place, the words "24 CFR part 5" and remove the words "24 CFR 812.10" in each place they occur and add, in each place, the words "24 CFR part 5".

Dated: February 28, 1996.

Stephanie A. Smith,

Acting General Deputy, Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 96–5990 Filed 3–26–96; 8:45 am]

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Wednesday
March 27, 1996

Part IV

Department of Housing and Urban Development

24 CFR Parts 1700, 1710, and 1715
Interstate Land Sales Registration Programs: Streamlining; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner; Interstate Land Sales Registration Program; Streamlining Final Rule

24 CFR Parts 1700, 1710, and 1715

[Docket No. FR–3987–F–01]

RIN 2502–AG63

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule amends HUD's regulations for the Interstate Land Sales Registration Program. In an effort to comply with the President's regulatory reform initiatives, this rule will streamline the Interstate Land Sales Registration Program regulations by eliminating provisions that are repetitive of statutes or are otherwise unnecessary. This final rule will make the Interstate Land Sales Registration Program regulations clearer and more concise. Guidelines applicable to the program are available from the Department, as provided in an uncodified attachment to this rule.

EFFECTIVE DATE: April 26, 1996.

FOR FURTHER INFORMATION CONTACT: David R. Williamson, Director, Office of Consumer and Regulatory Affairs, Department of Housing and Urban Development, 451 7th Street SW., Room 5241, Washington, DC 20410–8000); telephone number: (202) 708–4560 (this is not a toll-free number). For hearing- and speech-impaired persons, this number may be accessed via TDD by calling the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

On March 4, 1995, President Clinton issued a memorandum to all Federal departments and agencies regarding regulatory reinvention. In response to this memorandum, the Department of Housing and Urban Development conducted a page-by-page review of its regulations to determine which can be eliminated, consolidated, or otherwise improved. HUD has determined that the regulations for the Interstate Land Sales Registration Program can be improved and streamlined by eliminating unnecessary provisions.

Several provisions in the regulations repeat statutory language from the Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1701 *et seq.* It is unnecessary to maintain statutory requirements in the Code of Federal Regulations (CFR), because those requirements are otherwise fully accessible and binding. Furthermore, if regulations contain statutory language, HUD must amend the regulations whenever Congress amends the statute. Therefore, this final rule will remove repetitious statutory language and replace it with a citation to the specific statutory section for easy reference.

Many provisions of part 1720 in the regulations are based on requirements that apply to more than one program, and therefore HUD repeated these provisions in different subparts. This repetition is unnecessary, and updating these scattered provisions is cumbersome and often creates confusion. Therefore, some of part 1720 has been removed, and a consolidated rule of investigation procedures that are in a new part 3800 has been made applicable to the Interstate Land Sales Registration program by cross-reference (see 61 FR 10440, March 13, 1996). In addition, the Department is developing a separate rule to consolidate certain procedures into a uniform rule on hearings. When that separate rule is final, the Department expects to revise § 1710.45 to include certain provisions of subpart D of part 1720 that will not be removed by the consolidated hearing procedures rule.

This final rule also removes from codification part 1700, § 1710.501, § 1710.502, and Appendix A to 1710 (which are maintained in an uncodified appendix accompanying this final rule). The information contained in the material to be removed is informational and will be available through separately issued guidance, which is available from the Department (see uncodified attachment to this rule) and may be updated from time to time and published in the **Federal Register**.

Copies of this rule and related notices are available electronically from HUD or other sources. You can access this material through the World Wide Web at http://www.hud.gov or telenet to hudclips.aspensys.com. You also may subscribe separately to HUDClips (a source of all of HUD's directives) by calling 301/251–5757 or e-mailing to hudclips@aspensys.com.

Justification for Final Rulemaking

HUD generally publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking in 24 CFR part 10. However, part 10 provides for exceptions to the general rule if the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is "impracticable, unnecessary, or contrary to the public interest" (24 CFR 10.1). HUD finds that good cause exists to publish this rule for effect without first soliciting public comment. This rule primarily removes unnecessary regulatory provisions. Although the rule also contain some clarification of policy, it does not make substantive changes in the program regulations. Therefore, prior public comment is unnecessary.

Other Matters

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this final rule, and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule merely streamlines regulations by removing unnecessary provisions. The rule will have no adverse or disproportionate economic impact on small businesses.

Environmental Impact

This rulemaking does not have an environmental impact. This rulemaking simply amends an existing regulation by consolidating and streamlining provisions and does not alter the environmental effect of the regulations being amended. A Finding of No Significant Impact with respect to the environment was made in accordance with HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) at the time of development of regulations implementing the Interstate Land Sales Registration Program. That finding remains applicable to this rule, and is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that this rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. No programmatic or policy changes will result from this rule that would affect the relationship between the Federal Government and State and local governments.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that this rule will not have the potential for significant impact on family formation, maintenance, or general well-being, and thus is not subject to review under the Order. No significant change in existing HUD policies or programs will result from promulgation of this rule.

List of Subjects

24 CFR Part 1700

Consumer protection, Freedom of information, Land sales, Reporting and recordkeeping requirements.

24 CFR Part 1710

Administrative practice and procedure, Consumer protection, Freedom of information, Land sales, Reporting and recordkeeping requirements.

24 CFR Part 1715

Advertising, Consumer protection, Fraud, Land sales.

Accordingly, under the authority of 42 U.S.C. 3535(d), parts 1700, 1710, and 1715 of title 24 of the Code of Federal Regulations are amended as follows:

PART 1700—[REMOVED]

1. Part 1700 is removed.

PART 1710—INTERSTATE LAND SALES REGISTRATION PROGRAM

1a. The authority citation for part 1710 is revised to read as follows:

Authority: 15 U.S.C. 1718; 42 U.S.C. 3535(d).

2. Section 1710.1 is revised to read as follows:

§ 1710.1 Definitions.

(a) *Statutory terms.* All terms are used in accordance with their statutory meaning in 15 U.S.C. 1702 or with part 5 of this title, unless otherwise defined in paragraph (b) of this section or elsewhere in this part.

(b) *Other terms.* As used in this part:

Act means the Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1701.

Advisory opinion means the formal written opinion of the Secretary as to jurisdiction in a particular case or the applicability of an exemption under §§ 1710.5 through 1710.15, based on facts submitted to the Secretary.

Available for use means that in addition to being constructed, the subject facility is fully operative and supplied with any materials and staff necessary for its intended purpose.

Beneficial property restrictions means restrictions that are enforceable by the lot owners and are designed to control the use of the lot and to preserve or enhance the environment and the aesthetic and economic value of the subdivision.

Date of filing means the date a Statement of Record, amendment, or consolidation, accompanied by the applicable fee, is received by the Secretary.

Good faith estimate means an estimate based on documentary evidence. In the case of cost estimates, the documentation may be obtained from the suppliers of the services. In the case of estimates of completion dates, the documentation may be actual contracts let, engineering schedules, or other evidence of commitments to complete the amenities.

Lot means any portion, piece, division, unit, or undivided interest in land located in any State or foreign country, if the interest includes the right to the exclusive use of a specific portion of the land.

OILSR means the Interstate Land Sales Registration program.

Owner means the person or entity who holds the fee title to the land and has the power to convey that title to others.

Parent corporation means that entity which ultimately controls the subsidiary, even though the control may arise through any series or chain of other subsidiaries or entities.

Principal means any person or entity holding at least a 10 percent financial or ownership interest in the developer or owner, directly or through any series or chain of subsidiaries or other entities.

Rules means all rules adopted pursuant to the Act, including the general requirements published in this part.

Sale means any obligation or arrangement for consideration to purchase or lease a lot directly or indirectly. The terms "sale" or "seller" include in their meanings the terms "lease" and "lessor".

Senior Executive Officer means the individual of highest rank responsible for the day-to-day operations of the developer and who has the authority to bind or commit the developing entity to contractual obligations.

Site means a group of contiguous lots, whether such lots are actually divided or proposed to be divided. Lots are considered to be contiguous even though contiguity may be interrupted by a road, park, small body of water, recreational facility, or any similar object.

Start of construction means breaking ground for building a facility, followed by diligent action to complete the facility.

§ 1710.2 [Removed]

3. Section 1710.2 is removed.

4. Section 1710.5 is revised to read as follows:

§ 1710.5 Statutory exemptions from the provisions of this chapter.

A listing of the statutory exemptions is contained in 15 U.S.C. 1703. In accordance with 15 U.S.C. 1703(a)(2), if the sale involves a condominium or multi-unit construction, a presale clause conditioning the sale of a unit on a certain percentage of sales of other units is permissible if it is legally binding on the parties and is for a period not to exceed 180 days. However, the 180-day provision cannot extend the 2-year period for performance. The permissible 180 days is calculated from the date the first purchaser signs a sales contract in the project or, if a phased project, from the date the first purchaser signs the first sales contract in each phase.

§§ 1710.501, 1710.502, and Appendix A to part 1710 [Removed]

5. Sections 1710.501 and 1710.502 and Appendix A to Part 1710 are removed.

PART 1715—PURCHASERS' REVOCATION RIGHTS, SALES PRACTICES, AND STANDARDS

6. The authority citation for part 1715 is revised to read as follows:

Authority: 15 U.S.C. 1718; 42 U.S.C. 3535(d).

7. Section 1715.1 is revised to read as follows:

§ 1715.1 General.

The purpose of this subpart A is to elaborate on the revocation rights in 15 U.S.C. 1703, by enumerating certain conditions under which purchasers may exercise revocation rights. Generally, whenever revocation rights are available, they apply to promissory notes, as well as traditional agreements.

8. Section 1715.2 is revised to read as follows:

§ 1715.2 Revocation regardless of registration.

All purchasers have the option to revoke a contract or lease with regard to a lot not exempt under §§ 1710.5 through 1710.11 and 1710.14 until midnight of the seventh day after the day that the purchaser signs a contract or lease. If a purchaser is entitled to a

longer revocation period under State law, that period is deemed the Federal revocation period rather than the 7 days, and all contracts and agreements (including promissory notes) shall so state.

§ 1715.3 [Removed]

9. Section 1715.3 is removed.

10. Section 1715.4 is revised to read as follows:

§ 1715.4 Contract requirements and revocation.

(a) In accordance with 15 U.S.C. 1703(d)(3), the refund to the purchaser is calculated by subtracting from the amount described in 15 U.S.C. 1703(d)(3)(B), the greater of:

(1) Fifteen percent of the purchase or lease price of the lot (excluding interest owed) at the time of the default or breach of contract or agreement; or

(2) The amount of damages incurred by the seller or lessor due to the default or breach of contract.

(b) For the purposes of this section:

Damages incurred by the seller or lessor means actual damages resulting from the default or breach, as determined by the law of the jurisdiction governing the contract. However, no damages may be specified in the contract or agreement, except a liquidated damages clause not exceeding 15 percent of the purchase price of the lot, excluding any interest owed.

Purchase price means the cash sales price of the lot shown on the contract.

(c) The contractual requirements of 15 U.S.C. 1703(d) do not apply to the sale of a lot for which, within 180 days after the signing of the sales contract, the purchaser receives a warranty deed or, where warranty deeds are not commonly used, its equivalent under State law.

11. Section 1715.5 is revised to read as follows:

§ 1715.5 Reimbursement.

If a purchaser exercises rights under 15 U.S.C. 1703(b), (c) or (d), but cannot reconvey the lot in substantially similar condition, the developer may subtract from the amount paid by the purchaser, and otherwise due to the purchaser under 15 U.S.C. 1703, any diminished value in the lot caused by the acts of the purchaser.

12. Section 1715.15 is revised to read as follows:

§ 1715.15 Unlawful sales practices—statutory provisions.

The statutory prohibitions against fraudulent or misleading sales practices are set forth at 15 U.S.C. 1703(a). With respect to the prohibitions against representing that certain facilities will be provided or completed unless there is a contractual obligation to do so by the developer:

(a) The contractual covenant to provide or complete the services or amenities may be conditioned only upon grounds that are legally sufficient to establish impossibility of performance in the jurisdiction where the services or amenities are being provided or completed;

(b) Contingencies such as acts of God, strikes, or material shortages are recognized as permissible to defer completion of services or amenities; and

(c) In creating these contractual obligations developers have the option of incorporating by reference the Property Report in effect at the time of the sale or lease. If a developer chooses to incorporate the Property Report by reference, the effective date of the Property Report being incorporated by reference must be specified in the contract of sale or lease.

13. Section 1715.27 is revised to read as follows:

§ 1715.27 Fair housing.

Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601, et seq., and its implementing regulations and guidelines apply to land sales transactions to the extent warranted by the facts of the transaction.

Dated: March 13, 1996.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

(Note: The following guidelines will not be codified in the Code of Federal Regulations.)

Guidelines to the Interstate Land Sales Registration Program

A copy of these guidelines applicable to the Interstate Land Sales Registration Program may be obtained by writing to: Interstate Land Sales Registration Program, HUD, 451 7th Street SW., Washington, DC 20410–8000 or by electronic access on the World Wide Web, at: http://www.hud.gov

These guidelines were previously published as appendix A to Part 1710; Part 1700, Introduction; Part 1700.501, Certification criteria; and Part 1700.502, Application for certification of State land sales program, in title 24 of the Code of Federal Regulations (CFR) (1995 edition).

Part IV(b), *Improved Lots* (which pertains to Appendix A to Part 1710) is revised to reflect recent court actions on this matter, as discussed below.

Section 1702(a)(2) of Title 15 of the United States Code exempts (1) the sale or lease of any improved land on which there is a residential, commercial, condominium, or industrial building; or (2) the sale or lease of land under a contract obligating the seller or lessor to erect such a building on the lot within a period of 2 years.

Although there is virtually no legislative history regarding this exemption at the time Congress passed the Interstate Land Sales Full Disclosure Act, institutional memory within the Department is to the effect that this exemption was added by an amendment offered late in the course of passage. The reason for the amendment was to exclude traditional homebuilders from the Act's requirements since they did not comprise the class of persons Congress sought to regulate. Nor were traditional home buyers, whose purchases tend to be reasoned and deliberative, the class of consumers for whom the Act's protections were intended.

HUD's first set of Guidelines, denoted "Condominium And Other Construction Contracts," was published on February 28, 1974, in response to inquiries as to the applicability of the Act and this exemption to condominiums. The Department published expanded Guidelines on October 8, 1975, April 23, 1979, and August 6, 1984. The 1984 Guidelines (which had appeared as an appendix to 24 CFR part 1710) remained applicable until the effective date of these Guidelines on April 26, 1996.

HUD consistently has taken the position that for a lot sale to be eligible for the exemption under section 1702(a)(2), the seller's obligation to construct must be real and not illusory, and must be obligatory except for the conditions described in these guidelines.

On July 11, 1995, the United States Court of Appeals for the Eighth Circuit issued an opinion that from HUD's perspective effectively nullified the seller's obligation to construct. In fact, it effectively nullified the exemption.

In *Attebury* v. *Maumelle Company,* 60 F.3d 415 (8th Cir. 1995), a case in which HUD appeared as amicus curiae as to the exemption issue only, the developer, Maumelle, used a sales contract that initially recited its obligation to build within two years after the lot sale. The contract then went on to recite a number of conditions, the effect of which was to shift the obligation to build onto the buyer.

HUD argued these guidelines and several cases that have recognized an unconditional requirement on the seller to build. In part, the case law adhered to the rule of construction that exemptions from a remedial statute should be narrowly construed. The court, which observed that the plaintiffs had not relied on the HUD Guidelines in the district court, dismissed the government's arguments primarily based on the language in this section that says: "* * * the contract must *specifically* obligate the seller to complete the building within two years" (emphasis added), by distinguishing the Guidelines' literal requirement that the obligation to build be "specific" from the argument in this case that the requirement be "unconditional."

At the time of the decision the language in question read:

If a seller (or developer) is relying on this exemption and the residential, commercial, condominium or industrial building is not complete, the contract must specifically obligate the seller to complete the building within two years. If the contractual obligation is not present, the sale is not exempt. The two-year period begins on the date the purchaser signs the sales contract. The use of a contract that obligates the buyer to build within two years would not exempt the sale.

As amended, the above paragraph will read:

If a seller (developer) is relying on this exemption and the residential, commercial, condominium or industrial building is not complete, the contract must obligate the seller to complete the building within two years. If the contractual obligation is not present, the sale is not exempt. The two-year period normally begins on the date the purchaser signs the sales contract. A contract that conditions construction upon acts of a buyer will not exempt the sale. The essence of this exemption is that it applies to the sale of a house (if not built at the time of sale, then to be built within two years after the sale).

HUD's interpretation of what constitutes an obligation to construct a building relies on general principles of contract law. Provisions for purchaser financing and remedies clauses are matters to be decided by the parties to the contract under the laws of the jurisdiction in which the construction project is located. However, such clauses may not alter the obligation of the seller to build.

(Another reason the court appears to have ruled in favor of Maumelle is that the plaintiffs based much of their case on allegations of fraudulent conduct, conduct which the court found wanting of proof.)

The court also refused to accept the argument that by recognizing the Maumelle contract as eligible for the exemption it essentially abolished the reasons for the exemption. The purpose of the exemption was to eliminate homebuilders from the ambit of the Interstate Land Sales Full Disclosure Act. The rationale was that a person who buys a house is much more attentive to the transaction than one who is buying a lot. Moreover, the methods and practices of selling the two products usually differs with a "heavier sell" being employed for lot sales.

Obviously, a buyer in a non-exempt transaction will shoulder any responsibility for building a house. If the conditions in the Maumelle contract create a similar result, which is the effect of the ruling, there would be no reason for the exemption. (The fact that fewer than 200 houses had been built on approximately 2,000 lots sold over a multi-year period was not a factor that the court considered; the district court had found this fact not probative, a finding that the Department found puzzling, given the purpose of this exemption.)

For the above reasons HUD is amending the third, fourth and fifth paragraphs of this section to make it clear that the seller's obligation to build must be unconditional, except for the conditions HUD recognizes as acceptable for exemption eligibility. HUD also is amending the eighth and ninth paragraphs to update the discussion of case law.

HUD is bound by the *Maumelle* decision within the jurisdiction of the Eighth Circuit but not in other federal judicial circuits. Moreover, since the Guidelines that the court considered when making its decision are being changed to clarify the Department's position that the obligation to build must be that of the developer, subject only to the conditions recognized by HUD, HUD will not recognize the *Maumelle* decision as controlling within the Eighth Circuit as to lots offered after the publication of these amendments to the Interstate Land Sales Guidelines.

Therefore, the Interstate Land Sales Guidelines are revised as follows:

Guidelines to the Interstate Land Sales Registration Program

Public Information

In general. The identifiable records of the Office of Interstate Land Sales Registration are subject to the provisions of 5 U.S.C. 552, as implemented by 24 CFR part 15—Public Information, subtitle A.

Availability of information and records. Information concerning land sales registrations and copies of statements of record may be obtained from the following address: Interstate Land Sales Registration Program, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000.

In addition, statements of record may be reviewed at such address on any business day from 9 a.m. to 4:15 p.m.

Nonapplicability of exemptions authorized by 5 U.S.C. 552. With the exception of information exempt from disclosure under 5 U.S.C. 552(b)(7) and 24 CFR 15.21(a)(7), all information contained in or filed with any statement of record shall be made available to the public as provided by 15 U.S.C. 1704(d).

Duplication fee—property report. Notwithstanding the provisions of 24 CFR 15.14, *Schedule of Fees,* copies of a Property Report on file with the Office of Interstate Land Sales Registration will be provided upon request for a fixed fee of $2.50 per copy regardless of the number of pages duplicated. Payment may be made in cash or by check or money order payable to the Department of Housing and Urban Development. Personal checks are acceptable.

Duplication and certification fee-required documents to the several States that accept Federal filings. Notwithstanding the provisions of 24 CFR 15.14, *Schedule of Fees,* copies of documents on file with the Office of Interstate Land Sales Registration that are provided for certification to the several states that accept Federal filings will be provided upon request for a fixed fee of $12.00 per filing regardless of the number of pages duplicated.

Methods of payment. The fees set forth above may be paid by cash, by personal check, or by company check; or by U.S. money orders; or by certified check payable to the Treasurer of the United States or to the Department of Housing and Urban Development. Postage stamps will not be accepted. All other fees must be paid as set forth in 24 CFR 15.14(g).

Supplemental Information on Part 1710, Subpart C—Certification of Substantially Equivalent State Law

Certification Criteria

(a) *Certification of States requiring full disclosure.* The Secretary shall certify a state when—

(1) It is determined that the laws and regulations of the state applicable to the sale or lease of lots not otherwise exempt under section 1403 of the Act require the seller of lots to disclose information which is substantially equivalent to or greater than the information required to be disclosed in the Federal Statement of Record; and

(2) The state's administration of such laws and regulations shall provide that the information disclosed is current and accurate. The means for administering the disclosure requirements must include considerations of ample staffing, budgetary provisions for policing functions and that the requisite legal authority be vested in the state agency or agencies responsible for enforcing the laws and regulations of the State land program.

(b) *Certification of States providing sufficient protection.* The Secretary shall certify a state when—

(1) It can be demonstrated that the laws and regulations of the state applicable to the sale or lease of lots not otherwise exempt under section 1403 provide the purchasers and lessees with protection commensurate with that which is provided by the Federal disclosure requirements. That is, a State must develop substantive measures plus disclosure which provides a level of protection that is, at a minimum, comparable to the protection provided by the Federal disclosure standard; and

(2) The administration of the laws and regulations provide that all information disclosed is accurate and current. The means for administering the requirements of sufficient protection must include considerations of ample staffing, budgetary provisions for policing functions and that the requisite legal authority be vested in the state agency or agencies responsible for enforcing the laws and regulations of the State land program.

(c) *Applicability to Federal exemptions.* To be certified a state need not provide protections with regard to the sale or lease of lots that would qualify for a Federal exemption. The state may choose at its discretion to provide protections on the sale of lots exempt under the Act. However, for certification a state's laws should, in general, apply to the same lots as would be required to be registered under the Act.

(d) *Equivalency with Federal disclosure.* In order to be determined as substantially equivalent under paragraph (a) or (b) of this section, a state must provide protection either through disclosure, substantive development standards or some combination thereof in the topics delineated in paragraph (e) of this section. In addition, a state must satisfy requirements of paragraphs (f), (g), (h), (i), (j) and (k) of this section.

(e) *Areas of required protection.* In order to be certified, a state must require specific protections for consumers with regard to

paragraphs (e) (1) through (10) of this section. Protection in these areas can be secured through disclosure, substantive development standards or some combination thereof. Establishing protection provisions in these areas is to be considered essential to the granting of certification to a state. Paragraphs (e) (11) through (15) of this section are considered to be complementary protection provisions which would give additional strength to a state's land program if combined with the required provisions for protection. If the protection which is required by the items listed below is provided through substantive standards rather than solely disclosure, it is expected that the state will buttress those substantive standards with requirements of performance that are enforceable against developers. The state will designate who shall be responsible for enforcing the commitments made by developers and the method of enforcement to be used.

(1) *Subdivision and developer information.* The name of the subdivision, the name and address of the developer or owner, the nature of the offering and the number of lots in the subdivision must be given to the purchaser.

(2) *Method of sale or lease.* Information with regard to the: developer's method of sale, type of contract used, type and time frame for delivery of the deed, recordation of contract and deed, whether there is a security arrangement and its description, any escrow arrangement for monies received, title insurance, prepayments, defaults, developer's resale and lot exchange program, time sharing and membership sales must be given to the purchaser.

(3) *Condition of title.* Information about all liens, encumbrances or mortgages affecting purchasers in the subdivision, the lots covered and the impact on purchasers and lessees in a subdivision should a developer default, and mortgage release provisions must be given to the purchaser.

(4) *Condition and use of property.* Information regarding land reservations, unusual or restrictive easements, mineral reservations, land use restrictions, special zoning permits, environmental impact studies which may have been conducted and their results, topographical characteristics, including any subsurface conditions and potentially hazardous natural conditions must be given to purchasers.

(5) *Financial and legal information.* Information about the net income and worth of the developer, condition of financial operations at present and in the preceding fiscal year, bankruptcy litigation or other litigation to which the developer is a party or action taken against the developer by a governmental agency which may have a material adverse impact upon its financial condition or its ability to transfer title to a purchaser or to complete promised facilities must be given to purchasers

(6) *Roads.* Information about access and subdivision roads, type of surface (present and final), completion dates, percentage of completion, buyer's cost and assessment, who is responsible for completion and maintenance and financial assurance of completion must be given to purchasers.

(7) *Water.* Information as to how water is to be supplied, supplier, completion dates, percentage of completion, any financial assurance of completion, buyer's cost and assessment including hook-up and water hauling costs, who is responsible for completion, quality and quantity, source, capacity of the water system, any intention to transfer the water system and the cost to lot owners or property owners association and any permits or approvals required must be given to purchasers.

(8) *Sewerage facilities.* Information as to the method used, supplier, completion dates, percentage of completion, any financial assurance of completion, buyer's cost and assessment including hook-up and sewage pumping and hauling, capacity of central system, who is responsible for completion, approvals and permits required, transfer of system to lot owners or property owners association must be given to purchasers.

(9) *Utilities (gas, electric, phone).* Information as to the availability, supplier, purchaser's or lessee's cost, completion date, percentage of completion must be given to purchasers.

(10) *Recreational facilities.* A list of the facilities and information about estimated date available for use, percentage of completion, any financial assurance or completion, buyer's or lessee's cost and assessment, who is responsible for completion, maintenance, disclosures on facilities which will be leased and/or transferred to the lot owners or property owners' association and who may use the facilities must be given to purchasers.

(11) *Lots being sold or leased.* Information about the legal descriptions of the offering by lot, block and unit number may be given to purchasers.

(12) *Location, size surrounding communities.* Information which describes the county seat, surrounding communities of significant size and services offered, population of the area, road systems and the potential size of the subdivision may be given to purchasers.

(13) *Taxes and assessments.* Information about payments to property owners' associations, the property owners' association's functions and responsibilities, management of the association, extent of developer control and the purpose of any special improvement district may be given to purchasers.

(14) *Community facilities.* Information about the availability of schools, medical and dental services, postal services, fire and police protection, shopping facilities and public transportation may be given to purchasers.

(15) *Platting.* Information which reports whether the subdivision's plats have been approved by regulatory authorities, whether the plats have been recorded and whether the survey and staking of each lot has been done and the cost that may be passed on to purchasers may be given to purchasers.

(f) The disclosure law of the State must be consistent with, but not necessarily identical to, the requirements of 15 U.S.C. 1703(a)(2)(D). This provision makes it unlawful for a developer to represent in any manner that it will provide or complete roads, sewers, water, gas or electric service or recreational amenities without stipulating in the contract of sale or lease that such services or amenities will be provided. Developers registered with the Secretary through a certified state are subject to this requirement. Consequently, the State may itself impose this substantive requirement upon developers. In any event, the disclosure documents approved by any certified state must meet the federal standard with respect to subdivision improvements. Developers are not allowed to represent that they will provide or complete roads, water, sewer, gas or electric facilities or recreational facilities unless the contract or agreement for sale obligates the developer to complete the facilities.

(g) In order to be determined substantially equivalent to the federal disclosure requirement, the state law and regulations must require that prospective purchasers and lessees receive, prior to or at the time of the signing any contract or agreement for purchase or lease, the applicable disclosure document containing complete and accurate information on the subdivision and the developer. In addition, state law or regulation must require developers to file amendments if any change occurs in any representation of material fact required to be stated in the disclosure materials filed with the state. The state law or regulation regarding amendments should entail requirements equivalent to those stated in 24 CFR 1710.23.

(h) For a state to be certified, it must be demonstrated that the state has or will have adequate full-time professional and clerical staff in its regulatory agency or agencies responsible for regulating the sale or lease of lots within its jurisdiction; that there is a budget approved for that staff which will permit them to fulfill the administrative and enforcement responsibilities; and that the staff have adequate legal authority to take official action in cases falling within the purview of state law and regulation.

(i)(1) If a certified state modifies or amends any law, regulation or administrative procedure with regard to subdivision development standards, it shall so notify HUD by registered or certified mail within 30 days after the modification or amendment has been enacted or promulgated. The state must submit to HUD new copies of its laws, regulations, rulings, administrative provisions and legal opinions, as amended, mandating the disclosure of information or establishment of development standards regarding land sales.

(2) Should any changes occur as set forth above and result in a measurable alteration of the protection provided to consumers by the state, the Secretary may, upon examination of those changes, re-evaluate the certification status of the state's land program.

(j) Once a state is certified and the state's disclosure document has become the Federal Property Report, the Secretary may require, as a condition of certification, a cover page, similar to the one presently used for federal filings, to be attached to the certified state filings. The form and substance of the federal cover page is explained in 24 CFR 1710.105. If a certified state filing does not have a cover page, the Secretary may require that, as a condition of certification, the state include information regarding the federal revocation period within the body of the state disclosure document.

(k) The Secretary shall require all certified states to submit to the Secretary a copy of any notice of suspension which the state has issued to a developer at the time the notice is sent to the developer.

Application for Certification of State Land Sales Program

(a) In order to be certified, a state must submit an application to the Office of Interstate Land Sales Registration, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410. The application should be titled "Application for Certification of State Land Sales Program." The application should use the section format and contain the information set out below:

Application for Certification of State Land Sales Program Submitted by: (Name, Address and Telephone Number of State Agency and Person To Contact.)

Section 1. Legal Authorities. This section should contain copies of all laws and regulations (including rulings and legal opinions having the effect of law) establishing and interpreting disclosure requirements or substantive development standards with regard to land sales and leases including all administrative provisions and all provisions establishing exemptions from the rule. Only those legal authorities which deal with land sales and leases subject to the federal disclosure requirements need be submitted.

Section 2. Sample Copies of Material to be Submitted by Developers to the State. This section should contain sample copies of all materials required to be filed with the agency responsible for regulating the sale of lots in subdivisions and sample copies of all material required to be provided to purchasers and lessees and prospective purchasers and lessees.

Section 3. Methods of Administration and Enforcement. This section should contain a detailed statement on the methods and scope of the state's administration and enforcement procedures to include:

(a) The name and address of the agency responsible for regulating the sale or lease of lots in subdivisions.

(b) The staffing capacity of the responsible State Regulatory Agency. There should be included:

(1) An organizational chart which describes not only the internal structure of the regulatory agency (agencies) but also the relationship of that agency to other decision-making centers;

(2) a description of the functions and duties of the full-time staff;

(3) the eligibility criteria, i.e., training, education and experience, for principal members of the staff; and

(4) the formula used in calculating the necessary number of staff members to fulfill administrative, investigative and enforcement responsibilities. The state should submit for the Secretary's review the actual number of complaints received, enforcement actions taken, and investigations initiated for the past three years.

(C) A description of the anticipated additional staff, if any, and their duties and qualifications.

(D) The method and scope of investigation and enforcement to be used. The state should demonstrate the procedures to be followed from the time a complaint is received until the completion of action on that complaint and the kinds of sanctions which may be involved.

(E) Included should be an accounting of the number of new filings received per year for the past three years, the number of amendments received per year, and the total number of active filings.

Section 4. Assertion of Equivalency. This section should contain a detailed statement supporting the state's claim that its land program provides purchasers and lessees through disclosure, substantive development standards or combination thereof, protection substantially equivalent to the protection provided for them by Federal law.

(b) Upon receiving an application for certification, the Secretary will publish a Notice of Application in the **Federal Register**. The purpose of this public notice is to give other certified states and other interested parties an opportunity to review and comment on applications and to enhance consistency among states which are certified. Person(s) interested in receiving application materials for review and comment purposes may request them from the Secretary. Comments should be submitted no later than 30 days after the Notice of Application has been published.

Supplemental Information to Part 1710: Guidelines for Exemptions Available Under the Interstate Land Sales Full Disclosure Act

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Part I—Introduction

The Interstate Land Sales Registration Division (also known as OILSR) is offering these Guidelines to clarify agency policies and positions with regard to the exemption provisions of the Interstate Land Sales Full Disclosure Act (the Act), Pub. L. 90–448 (15 U.S.C. 1701 through 1720), and its implementing regulations, 24 CFR parts 1710 through 1730. The regulations comply with the Paperwork Reduction Act of 1980, as evidenced by Office of Management and Budget approval number 2502–0243. These Guidelines are intended to assist a developer in determining whether or not a real estate offering is exempt from any or all of the requirements of the Act. They supersede any Guidelines previously issued by this Office.

This is an interpretive rule, not a substantive regulation. Not every conceivable factor of the exemption process is covered in these Guidelines and variations may occur in unique situations. Examples are given, but the examples do not in any way exhaust the myriad possibilities occurring in land development and land sales activity, nor do they set absolute standards.

To understand the exemptions, the jurisdictional scope of the Act must be understood. Any use of the mails, including intrastate use, or advertising in media which have interstate circulation is sufficient to establish jurisdiction. Generally, if a real estate offering falls under the jurisdiction established by the Act, a developer of a subdivision containing 100 or more lots must register the subdivision. Registration includes filing a Statement of Record and supporting documentation with HUD and providing to prospective purchasers an effective Property Report containing important facts about the subdivision and the developer.

Effective June 21, 1980, the provisions of the Act that prohibit misrepresentations or practices that would result in defrauding purchasers generally apply to sales or lease programs of 25 or more lots offered pursuant to a common promotional plan where any means or instruments of transportation or communication in interstate commerce, or the mails, are used.

Real estate offerings that meet the eligibility requirements or an exemption are exempt from all or some of the Act's requirements unless the method of operation

has been adopted for the purpose of evading the requirements of the law. The exemptions are available for subdivisions with particular characteristics, for certain individual lot sales transactions or for real estate meeting specific criteria. In addition, the Act gives the Secretary authority to exempt subdivisions or lots in a subdivision if, because of the small amount involved or the limited character of the offering, enforcement of the Act (i.e., full registration and disclosure) is not necessary in the public interest and for the protection of purchasers.

If the offering is subject to the Act and does not qualify for an exemption, it must be registered. The requirement of registration does not imply that the real estate value is questioned or the integrity of a business is suspect. The law simply provides that prospective purchasers have the right to adequate disclosure of facts about a subdivision so that an informed decision about the potential purchase can be made.

As exceptions to the registration and full disclosure requirements of the Act, the exemption provisions are strictly construed. The exemption requirements do not prescribe a method of operation or dictate how a subdivision should be developed.

A developer is not required to submit any documentation or obtain a determination from HUD to operate under any exemption except the one provided under 24 CFR 1710.16 (part VI of these Guidelines). However, if there is any question whatsoever concerning whether or not a real estate offering qualifies for any of the exemptions, developers are encouraged to seek legal counsel or obtain an Advisory Opinion from the Department before making any sales or leases. Experience has shown that developers are sometimes misinformed as to the applicability of the Act to their offering and that such misunderstanding can result in violative sales and the disruption of business. The instructions and format for obtaining an Advisory Opinion are contained in § 1710.17 of the regulations and in part VIII of these Guidelines.

Part II—Definitions

The following definitions are included here because of the importance each has to the explanation and understanding of HUD's interpretations of the exemption requirements. Furthermore, with the exception of "lot", "sale", "common promotional plan", and "subdivision", these definitions are not set forth elsewhere. The definitions of "lot" and "sale" are repeated here because of their extraordinary importance to the exemptions.

(a) *Anti-Fraud Provisions* means the provisions of the Act that prohibit the use of any sales practices, advertising or promotional materials that: would be misleading to purchasers; contain any misrepresentation of material facts or untrue statements; or would operate as a fraud or deceit upon a purchaser. Also prohibited are representations that roads, sewer, water, gas or electric services or recreational amenities will be provided or completed by the developer without so stipulating in the contract. The relevant provisions are set forth in 15 U.S.C. 1703(a)(2). The regulations that implement the anti-fraud provisions are set forth in 24 CFR part 1715, subpart B.

(b) *Common Promotional Plan* means any plan undertaken by a single developer or a group of developers acting together to offer lots for sale or lease. A common promotional plan is presumed to exist if land is offered by a developer or a group of developers acting in concert and the land is contiguous or is known, designated, or advertised as a common development or by a common name. The number of lots covered by each individual offering has no bearing on whether or not there is a common promotional plan.

Other characteristics that are evaluated in determining whether or not a common promotional plan exists include, but are not limited to: a 10% or greater common ownership; same or similar name or identity; common sales agents; common sales facilities; common advertising; and common inventory. The presence of one or more of the characteristics does not necessarily denote a common promotional plan. Conversely, the absence of a characteristic does not demonstrate that there is no common promotional plan.

Two essential elements of a common promotional plan are a thread of common ownership or developers acting in concert. However, common ownership alone would not constitute a common promotional plan. HUD considers the involvement of all principals holding a 10 percent or greater interest in the subdivision to determine whether there is a thread of common ownership. If there is common ownership or if the developers are acting in concert, and there is common advertising, sales agents or sales office, a common promotional plan is presumed to exist. Experience has led to the conclusion that sales agents generally will direct a prospective purchaser to any or all properties in inventory to make a sale.

The phrase "common promotional plan" is most often misunderstood by those who believe that "promotion" implies an enthusiastic sales campaign. Any method used to attract potential purchasers is, in fact, the "promotional plan". For example, direct mail campaigns and free dinners may be the promotional plan of one developer while another developer's promotion may be limited to classified advertisements in a local newspaper.

Brokers selling lots as an agent for any person who is required to register are required to comply with the requirements of the Act for those sales. Brokers selling lots for different individuals who do not own enough lots to come within the jurisdiction established by the Act generally would not be considered to be offering lots pursuant to a common promotional plan as long as they are merely receiving the usual real estate commission for such sales. If the broker has an ownership interest in the lots or is receiving a greater than normal real estate commission, the broker may be offering lots pursuant to common promotional plan and may be required to comply with the requirements of the Act.

(c) *Delivery of Deed* means the physical transfer of a recordable deed, executed by the seller to the purchaser, to the purchaser's agent or to the appropriate governmental recording office. If the transfer (i.e., delivery) is to an agent or to a recording office, there must not be any conditions imposed upon the purchaser or any further action to be taken by either the purchaser or the seller. If delivery is to the place of recordation, it must be accompanied by the proper recordation fees.

(d) *Lot* means any portion, piece, division, unit or undivided interest in land if such interest includes the right to the exclusive use of a specific portion of the land or unit. This applies to the sale of a condominium or cooperative unit or a campsite as well as a traditional lot.

If the purchaser of an undivided interest or a membership has exclusive repeated use or possession of a specific designated lot even for a portion of the year, a lot, as defined by the regulations, exists. For purposes of definition, if the purchaser has been assigned a specific lot on a recurring basis for a defined period of time and could eject another person during the time he has the right to use that lot, then the purchaser has an exclusive use.

(e) *Sale* means any obligation or agreement for consideration to purchase or lease a lot directly or indirectly. The time of sale is measured from when a purchaser signs a contract, even if the contract contains contingencies beyond the control of the seller. For example, if a developer uses a contract which states that the sale is contingent upon obtaining an exemption from HUD, a sale, for the purposes of this definition, occurred when the purchaser signed the contract. The terms "sale" and "seller" include the terms "lease" and "lessor" for the purposes of the regulations and these Guidelines.

(f) *Site* means a group of contiguous lots whether such lots are actually divided or proposed to be divided. Lots are considered to be contiguous even though contiguity may be interrupted by a road, park, small body of water, recreational facility or any similar object.

(g) *Subdivision* means any land that is located in any state or in a foreign country and is divided or is proposed to be divided into lots, whether contiguous or not, for the purpose of sale or lease as part of a common promotional plan. Any number of lots, whether divided by the previous owner, divided by the current owner, or merely proposed to be divided may constitute a subdivision. "Proposed to be divided" includes the developer's intention to subdivide land, as well as the developer's intention to add additional land or units.

Part III—Exclusions From the Act

The following items are excluded from the coverage of the Act:

(a) *Reservation.* A reservation is a non-binding agreement used to gauge market feasibility for a developer through which a potential purchaser expresses an interest to buy or lease a lot or unit at some time in the future. A deposit may be accepted from the interested person provided that the money is placed in escrow with an independent institution having trust powers and is refundable in full at any time at the option of the potential purchaser. To be excluded from the Act, in no case may a reservation become a binding obligation to purchase a lot; the potential purchaser must take some subsequent affirmative action, typically the signing of a sales contract, to create a binding obligation. An option agreement is an arrangement for consideration in which a potential purchaser could forfeit money; therefore, an option agreement is not a reservation. In no event may a document purporting to be a Property Report or other evidence of compliance with the Act be delivered to an interested party when entering a reservation agreement for a lot or proposed condominium unit which is neither effectively registered nor exempt.

(b) *Undivided interests.* The sale of undivided interests that do not carry with them the right of exclusive use of a specific lot does not establish jurisdiction. For example, a camping subdivision sold as 400 undivided interests to tenants in common, where purchasers have a co-extensive, non-exclusive right to the use and enjoyment of all campsites on a space available basis and no purchaser has an expressed or implied exclusive right to repeatedly use or occupy any specific campsite, would not be covered by the Act.

Part IV—Statutory Exemptions Requiring No Determination by HUD

The discussions that immediately follow pertain to 15 U.S.C. 1702(a) (1) through (8). The exemptions are set forth in the regulations at 24 CFR 1710.5 (a) through (h). These provisions exempt sales from both the anti-fraud and the registration provisions of the Act.

(a) *Twenty-five Lots.* (15 U.S.C. 1702(a)(10) and 24 CFR 1710.5(a)).

This section exempts the sale or lease of lots in a subdivision (i.e., lots offered pursuant to the same common promotional plan) that contains fewer than 25 lots. If a subdivision contains 25 or more lots, but fewer than 25 of those lots are offered for sale under a common promotional plan, those sales would be exempt. Thus, in a subdivision of 28 lots in which 4 lots are not offered for sale because, for example, they are permanently dedicated to the public for a park, the sale of the remaining 24 lots is exempt.

If fewer than 25 lots are acquired in a larger subdivision, the offer of these lots may be subject to the Act if the acquiring party is in any way acting in concert with the previous or current developer of the balance of the subdivision. Correspondingly, if fewer than 25 lots are acquired in a larger subdivision, the offer of the lots may be exempt if there is neither an identity of interest between the acquiring party and the previous or current developer nor any form of concerted action that constitutes a common promotional plan.

Since the *fewer than 25 lots* exemption is based upon the number of lots as opposed to the number of sales, resales of a lot will not be counted toward the *fewer than 25 lots* limit.

(b) *Improved Lots, 15 U.S.C. 1702(a)(2).*

Section 1702(a)(2) of Title 15 of the United States Code exempts (1) the sale or lease of any improved land on which there is a residential, commercial, condominium, or industrial building; or (2) the sale or lease of land under a contract obligating the seller or lessor to erect such a building on the lot within a period of two years.

For a building or unit to be considered complete, it must be physically habitable and usable for the purpose for which it was purchased. A residential structure, for example, must be ready for occupancy and have all necessary and customary utilities extended to it before it can be considered complete. Manufactured home lots with pads but no structure, even if improved with utilities and roads, will not qualify for this exemption. Recreational vehicles are not considered buildings.

If a seller (developer) is relying on this exemption and the residential, commercial, condominium or industrial building is not complete, the contract must obligate the seller to complete the building within two years. If the contractual obligation is not present, the sale is not exempt. The two-year period normally begins on the date the purchaser signs the sales contract. A contract that conditions construction upon acts of a buyer will not exempt the sale. The essence of this exemption is that it applies to the sale of a house (if not built at the time of sale, then to be built within two years after the sale).

HUD's interpretation of what constitutes an obligation to construct a building relies on general principles of contract law. Provisions for purchaser financing and remedies clauses are matters to be decided by the parties to the contract under the laws of the jurisdiction in which the construction project is located. However, such clauses may not alter the obligation of the seller to build. For example, if the type and terms of financing are subject to negotiation between buyer and seller, but the buyer is unable to obtain financing as a condition of the obligation to build, then the sale fails for exemption purposes. The inability of the buyer to obtain construction financing will not relieve the seller from the obligation to build, thereby leaving the buyer with a lot free of a construction obligation. Since the nature of the transaction is the sale of a house (or other structure), there should be no reason for separate construction financing in the normal course of business.

The contract must not allow nonperformance by the seller at the seller's discretion. Contracts that permit the seller to breach virtually at will are viewed as unenforceable because the construction obligation is not an obligation in reality. Thus, for example, a clause that provides for a refund of the buyer's deposit if the seller is unable to close for reasons normally within the seller's control is not acceptable for use under this exemption. Similarly, contracts that directly or indirectly waive the buyer's right to specific performance are treated as lacking a realistic obligation to construct. HUD's position is not that a right to specific performance of construction must be expressed in the contract, but that any such right that purchasers have must not be negated. For example, a contract that provides for a refund or a damage action as the buyer's sole remedy would not be acceptable.

Contract provisions which allow for nonperformance or for delays of construction completion beyond the two-year period are acceptable if such provisions are legally recognized as defenses to contract actions in the jurisdiction where the building is being erected. For example, provisions to allow time extensions for events or occurrences such as acts of God, casualty losses or material shortages are generally permissible. Also permissible, in the case of multi-unit construction, is a clause conditioning the completion of construction or closing of title on a certain percentage of sales of other units. The presale period cannot exceed 180 days from the date the first purchaser signs a contract in the project or, in a phased project, from the date the first purchaser signs a sales contract in a phase. Such a clause may not extend the overall two-year obligation to construct.

Although the factual circumstances upon which nonperformance or a delay in performance is based may vary from transaction to transaction, as a general rule delay or nonperformance must be based on grounds cognizable in contract law such as impossibility or frustration and on events which are beyond the seller's reasonable control.

Because of the variations in applicable contract law among the states and the many different provisions that are used by sellers in construction contracts, HUD may condition its advisory opinions regarding this exemption on representations by local counsel as to the current status of state law on the relevant issues. For example, the Florida Supreme Court has ruled that there must be an unconditional commitment to complete construction within two years and that the remedies available to the purchaser must not be limited. *Samara Development Corp.* v. *Marlow*, 556 So.2d 1097 (Fla. 1990). See also *Schatz* v. *Jockey Club Phase III, Ltd.*, 604 F. Supp. 537 (S.D. Fla. 1985). Developers, especially those in Florida, should be aware of these decisions, as well as decisions in other jurisdictions, e.g., *Markowitz* v. *Northeast Land Co.*, 906 F.2d 100 (3d Cir. 1990).

For a different view, readers should refer to *Attebury* v. *Maumelle Company*, 60 F.3d 415 (8th Cir. 1995), in which the court upheld a contractual provision to build as sufficient to qualify for the exemption despite the fact that the contract then shifted that responsibility to the buyer. This revision of the Guidelines dealing with the "Improved lot" exemption is in reaction to the *Maumelle* decision. At the time of this writing another case of interest was pending in the United States District Court for the Eastern District of Michigan. Whether it ultimately will result in a decision on the Land Sales issues is unknown, as it is the understanding of the Department that settlement negotiations are ongoing. The court is considering those issues on remand from the Court of Appeals for the Sixth Circuit. See *Becherer* v. *Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 43 F.3d 1054 (6th Cir. 1995).

Since questions about this exemption most often arise in connection with condominiums, developers and others should be aware of the decision in the case

of *Winter* v. *Hollingsworth Properties Inc.*, 777 F.2d 1444 (11th Cir. 1985), in which the court held that the Interstate Land Sales Full Disclosure Act applied to the sale or lease of condominium units. This ruling is in consonance with the Department's longstanding position on the condominium issue. The weight of authority of other cases, both Federal and State, supports the Department's position. Therefore, it continues to be the Department's policy that the mere use of the condominium form of ownership does not determine jurisdiction of the Act and that developers should look to the specific requirements of the statutory and regulatory exemptions as amplified in these Guidelines to determine the applicability of the Act.

(c) *Evidence of Indebtedness.* (15 U.S.C. 1702(a)(3) and 24 CFR 1710.5(c)).

This section exempts the sale or lease of evidences of indebtedness (typically a note) secured by a mortgage or deed of trust on real estate. The sale of such notes, which is common in the industry, is exempt; however, the underlying sale of the land is not exempt under this provision.

(d) *Securities.* (15 U.S.C. 1702(a)(4) and 24 CFR 1710.5(d)).

This section exempts the sale of securities issued by a real estate investment trust.

(e) *Government Sales.* (15 U.S.C. 1702(a)(5) and 24 CFR 1710.5(e)).

This section exempts the sale or lease of real estate by any government or government agency. This exemption extends to the sale or lease of land by a city, state, or foreign government as well as the sale of land by the U.S. Government. However, it does not exempt sales or leases of lots by Federal or state chartered and regulated institutions such as banks or savings and loan associations, nor does the fact that the development is assisted, insured or guaranteed under a Federal or state program exempt the lot sales. Municipal Utility Districts and Special Improvement Districts may or may not be considered a qualified government agency under this exemption depending on the legal basis and operation of the District.

(f) *Cemetery Lots.* (15 U.S.C. 1702(a)(6) and 24 CFR 1710.5(f)).

This section exempts the sale or lease of cemetery lots.

(g) *Sales to Builders.* (15 U.S.C. 1702(a)(7) and 24 CFR 1710.5(g)).

This section exempts the sale or lease of lots to any person who acquires the lots for the purpose of engaging in the business of constructing residential, commercial, or industrial buildings or for the purpose of resale or lease of the lots to persons engaged in such a business. The term business is viewed as an activity of some continuity, regularity, and permanency, or means of livelihood.

The sale or lease of lots to an individual who purchases the lots to have his or her own home built is not exempt under this provision. The sale to a non-broker who is buying a lot for investment with indefinite plans for resale also is not exempt.

(h) *Industrial or Commercial Developments.* (15 U.S.C. 1702(a)(8) and 24 CFR 1710.10(h)).

This section exempts the sale or lease of real estate which is zoned for industrial or commercial development. If there is no zoning ordinance, the exemption is available only if the real estate is restricted to industrial or commercial development by a declaration of covenants, conditions, and restrictions which have been recorded in the official records of the city or county in which the real estate is located. In addition, the following five conditions must exist in order to establish eligibility for this exemption:

(1) Local authorities have approved access from the real estate to a public street or highway. The approved access to a public street or highway must run to the legal boundary of the subdivision, but need not run to each and every lot;

(2) The purchaser or lessee of the real estate is a duly organized corporation, partnership, trust or business entity engaged in commercial or industrial business. To be considered "duly organized", a purchaser or lessee must have set up an administrative structure to conduct business, such as: checking accounts; licenses and permits, if required; evidence of intent; and a set of accounting records. The phrase "engaged in business" implies an activity of some continuity, regularity and permanency, or means of livelihood. A new entity or individual starting a business must be authorized to conduct such business in the jurisdiction in which the subdivision is located;

(3) The purchaser or lessee of the real estate is represented in the transaction of sale or lease by a representative of its own selection. The term "representative" is not limited to attorneys and does not exclude sole proprietors from representing themselves. Any person can serve as the representative of the purchaser or lessee so long as sufficient evidence can be produced to prove authority to act in that capacity;

(4) The purchaser or lessee of the real estate affirms in writing to the seller that: it is either purchasing or leasing the real estate substantially for its own use or it has a binding commitment to sell, lease or sublease the real estate to an entity which meets the requirements of (2) above; it is engaged in commercial or industrial businesses; and it is not affiliated with the seller or agent. These affirmations should be retained by the developer in accordance with the statute of limitations of the local jurisdiction or for a period of three years, whichever is longer. If the affirmation is included in the contract, a space must be provided for the purchaser to initial immediately following the affirmation clause; and

(5) A title insurance policy or a title opinion is issued in connection with the transaction showing that title to the real estate purchased or leased is vested in the seller or lessor, subject only to such exceptions as are approved in writing by the purchaser or lessee, preferably in a separate document, prior to the recordation of the instrument of conveyance or execution of the lease. The recordation of a lease is not required. Any purchaser or lessee may waive, in writing in a separate document, the requirement that a title insurance policy or title opinion be issued in connection with the transaction.

Part V—Statutory Exemptions From Registration Requiring No HUD Determination

The discussions that immediately follow pertain to 15 U.S.C. 1701(b) (1) through (8) and 24 CFR 1710.6 through 1710.13.

The developer must comply with the Act's anti-fraud provisions (15 U.S.C. 1703(a)(2)) for sales of lots in the subdivision that are exempt under these provisions. Developers should be particular aware of the requirements of 15 U.S.C. 1703(a)(2)(D).

(a) *One Hundred Lot Exemption.* (15 U.S.C. 1702(b)(1) and 24 CFR 1710.6).

This section exempts the sale of lots in a subdivision if: the subdivision contained fewer than 100 lots on April 28, 1969; has, since that date, contained fewer than 100 lots; and will continue to contain fewer than 100 lots. The 100 lot count for purposes of the exemption excludes lots that are exempt from jurisdiction under 24 CFR 1710.5 (b) through (h). It should be noted that the "25 lot" exemption under § 1710.5(a) cannot be used in connection with the "100 lot" exemption.

For example, a developer of a subdivision containing a total of 129 lots since April 28, 1969, qualifies for this exemption if at least 30 lots are sold in transactions that are exempt because the lots had completed homes erected on them. The 30 exempt transactions may fall within any one exemption or a combination of exemptions noted in § 1710.5 (b) through (h) and may be either past or future sales. In the above example, the developer also could qualify if twelve lots had been sold with residential structures already erected on them, nine lots had been sold to building contractors and at least nine lots were reserved for either the construction of homes by the developer or for sales to building contractors. The reserved lots need not be specifically identified.

Developers of subdivisions containing more than 99 lots who wish to operate under this exemption must assure themselves that all lots in excess of 99 have been and will be sold in transactions exempt under 24 CFR 1710.5 (b) through (h). The sale of more than 99 lots in transactions not exempt under § 1710.5 (b) through (h) would nullify this exemption for prior and future sales and might result in prior sales being voidable at the purchaser's option.

Since the "100 lot" exemption applies to the number of the lots as opposed to the number of sales, resales of a lot will not be counted toward the 100 lot limit. However, any sale or resale of a lot must comply with the anti-fraud provisions.

If fewer than 100 lots are acquired in a larger subdivision, the offer of these lots will not be exempt if the acquiring party is, in any way, acting in concert with the previous or current developer of the balance of the subdivision so as to create a common promotional plan for 100 or more lots unless sales of the other lots are exempt under § 1710.5. However, if fewer than 100 lots are acquired in a larger subdivision, the offer of the lots may be exempt if there is neither an identity of interest between the acquiring party and the previous or current developer nor a form of concerted action constituting a common promotional plan.

(b) *Twelve Lot Exemption.* (15 U.S.C. 1702(b)(2) and 24 CFR 1710.7).

This section exempts the sale of lots from the registration requirements of the Act if, beginning with the first sale after June 20, 1980, no more than twelve lots in the subdivision are sold in the subsequent 12-month period. Thereafter, the sale of the first twelve lots each period is exempt from the registration requirements if no more than twelve lots were sold in each previous 12-month period that began with the anniversary date of the first sale after June 20, 1980. For example, if a developer's first lot sale after June 20, 1980 occurred on August 5, 1980 and no more than eleven additional lots in the subdivision were sold through August 4, 1981, the sales would be exempt.

During the second year of operation under this exemption (beginning on August 5, 1981 in the example) at least the first twelve lot sales would be exempt. However, if lot sales exceed twelve in the second or any subsequent year, the exemption would terminate on the sale of the thirteenth lot. Once eligibility has been terminated, the exemption is no longer available and cannot be recaptured by the same developer for the same subdivision even if there are fewer than twelve lots sold in subsequent years.

A developer may apply to the Secretary to establish a different twelve-month period for use in determining eligibility for the exemption, and the Secretary may allow the change if it is for good cause and consistent with the purpose of this section. An example would be to change the year to coincide with the developer's fiscal or tax year.

In determining eligibility for this exemption, all lots sold or leased in the subdivision after June 20, 1980 are counted, whether or not the lot is registered or the transaction is otherwise exempt, such as the sale of a home and lot package. This exemption extends to twelve lots, not twelve sales. Each lot would be counted in the sale or lease of multiple lots.

Since the "twelve lot" exemption applies to the number of lots as opposed to the number of sales, resales of a lot will not be counted toward the twelve lot limit. The sale and resale of a lot must qualify for the exemption and comply with the anti-fraud provisions. However, lot sales exempt under § 1710.5 (b) through (h), while counted toward the total of twelve, are not required to comply with the anti-fraud provisions.

(c) *Scattered Site Exemption.* (15 U.S.C. 1702(b)(3) and 24 CFR 1710.8).

This section exempts from the Act's registration requirements the sale of lots in a subdivision consisting of noncontiguous parts if: (1) each noncontiguous part of the subdivision contains twenty or fewer lots; and (2) each purchaser or purchaser's spouse makes a personal, on-the-lot inspection of the lot purchased before signing a contract.

This exemption is intended to relieve the developers of small, scattered offerings of the requirement to register their subdivisions. The exemption may also apply to real estate brokers who have an ownership interest in more than one site, each containing 20 or fewer lots.

If a developer intends to rely on this exemption, it is important that the developer understand the definition of subdivision, how a common promotional plan is determined and what constitutes a site. These terms are defined in part II of these Guidelines.

Lots that are contiguous when they are originally platted or developed are considered to remain contiguous. For purposes of this exemption, interruptions such as roads, parks, small bodies of water or recreational facilities do not serve to break the contiguity of parts of a subdivision.

(d) *Twenty Acre Lots Exemption.* (15 U.S.C. 1702(b)(4) and 24 CFR 1710.9).

This section exempts the sale of lots in a subdivision from the registration requirements of the Act if, since April 28, 1969, each lot in the subdivision has contained at least twenty acres. In determining eligibility for the exemption, easements for ingress and egress or public utilities are considered part of the total acreage of the lot if the purchaser retains ownership of the property affected by the easement.

This exemption applies to the entire subdivision and requires that each lot in the subdivision be twenty acres or larger in order for the subdivision to qualify. If a single lot offered in the subdivision is less than twenty acres in size, no lot in the subdivision qualifies for the exemption. If a developer has two sites which comprise the subdivision and only one of the sites contains lots that are all greater than twenty acres in size, the offering of these lots would not be exempt under this provision. All lots offered pursuant to a common promotional plan must be considered.

A subdivision which is platted of record and contains a single lot that is less than twenty acres cannot qualify for the exemption even if the lots are offered in multiples that aggregate twenty acres or more. Further, if the platted lots are all twenty acres or more in size, but a lot is divided and a portion that is less than twenty acres is offered for sale, the exemption would not be available to the subdivision.

(e) *Single-Family Residence Exemption.* (15 U.S.C. 1702(b)(5) and 24 CFR 1710.10).

(1) *General.* This section provides an exemption for the sale of lots that are limited to single-family residential use. Developers are advised to carefully review the eligibility requirements listed below before proceeding with sales. Note especially that some of the eligibility requirements pertain to the entire subdivision while others apply to individual lots.

(2) *Subdivision Requirements.* All lots offered under the same common promotional plan must comply with the two eligibility requirements listed below in order for any lot to be eligible for this exemption.

(i) The subdivision must meet all local codes and standards. If local codes expressly permit incremental development, then only the portions of the subdivision being offered at any given time are required to meet the codes and standards to satisfy this requirement. Otherwise, the entire subdivision must comply with the local standards.

(ii) In the promotion of the subdivision, there cannot be offers, by direct mail or telephone solicitation, of gifts, trips, or dinners or the use of similar promotional techniques to induce prospective purchasers to visit the subdivision or to purchase a lot. There is no prohibition against using the mails, telephone or other advertising media to promote or advertise the offering or to respond to inquiries from potential purchasers. The only prohibition is that these media cannot contain offers of gifts, trips, dinners or other inducement.

In order to qualify for this exemption, the subdivision must have complied with the requirements pertaining to advertising and promotional methods since June 13, 1980, the date the exemption became effective.

(3) *Lot Requirements.* Having met the edibility requirements for a subdivision, each lot offered under the exemption also must comply with the eight requirements listed below. Lots within a subdivision that do not comply with these additional requirements must either be registered or sold in compliance with another exemption, even though the two subdivision requirements have been met.

(i) The lot must be located within a municipality or county where a unit of local government or the State specifies minimum standards for the development of subdivision lots taking place within its boundaries. Each lot must comply with these standards. The following is a list of the areas which must be regulated:

(A) Lot dimensions.
(B) Plat approval and recordation.
(C) Roads and access.
(D) Drainage.
(E) Flooding.
(F) Water supply.
(G) Sewage disposal.

(ii) Each lot sold under the exemption must be either zoned for single-family residence or, in the absence of a zoning ordinance, limited exclusively by enforceable covenants or restrictions to single-family residences or, in the absence of a zoning ordinance, limited exclusively by enforceable covenants or restrictions to single-family residences. Manufactured homes, townhouses, and residences for one to four family use are considered single-family residences for purposes of this exemption. Recreational vehicles are not considered to be residential buildings. Manufactured homes must be affixed to the real estate to be eligible, e.g., connected to water, sewer and electrical sources and on blocks with skirts.

The phrase "* * * in the absence of a zoning ordinance" is interpreted in its literal sense. The existence of a zoning ordinance other than single-family residence zoning is considered to be disqualifying even if there are covenants or restrictions limited construction to single-family residences. Situations such as the foregoing would, however, be a candidate for a "substantial compliance" exemption (24 CFR 1710.16) if all other eligibility requirements of the exemption are satisfied substantially. "Substantial compliance" is discussed in part VII of these Guidelines.

(iii) The lot must be situated on a paved street or highway which has been built to standards prescribed by a unit of local government in which the subdivision is located and be acceptable to that local unit. If the street or highway is not complete, the developer must post a bond or other surety acceptable to the municipality or county in the full amount of the cost of completing the street or highway to assure its completion to local standards. For the purposes of this exemption, paved means concrete or pavement with a bituminous wearing surface that is impervious to water, protects the base and is durable under the traffic load and maintenance contemplated.

(iv) The unit of local government or a homeowners' association must have accepted or be obligated to accept the responsibility for maintaining the street or highway upon which the lot is situated. The obligation of the local government entity to accept this responsibility may be evidenced by an ordinance which binds the government to maintain the streets or by a written statement signed by the appropriate government official. Maintenance independently provided by a developer is not acceptable under this exemption.

In any case in which a homeowners' association has accepted or is obligated to accept maintenance responsibility, the developer must, prior to a purchaser signing a contract or agreement to purchase, provide the purchaser with a good faith written estimate of the cost of maintenance over the first ten years of ownership. A *good faith estimate* means a current estimate based on documentary evidence, usually obtainable from the suppliers of the necessary services.

(v) At the time of closing, potable water, sanitary sewage disposal, and electricity must be extended to the lot or the unit of local government must be obligated to install the facilities within 180 days following closing.

The obligation may be in the form of a local statute or written agreement signed by the appropriate government authority. A local code or statute that obligates the subdivider or developer to complete installation of water and sewage disposal systems within a certain time does not satisfy this requirement of the exemption.

For subdivisions that will not have a central water system, there must be assurances that an adequate potable water supply is available year-round to service the subdivision. Assurances of an adequate, drinkable water supply can be obtained from a hydrologist or the local health department.

For subdivisions that will not have a central sewage disposal system, there also must be assurances that each lot is approved for the installation of a septic tank. If the individual lot is not approved for the installation of a septic tank at time of sale, the developer may provide in the contract that approval will be obtained prior to closing provided that any purchaser deposits and/or payments are placed in an escrow account with an institution having trust powers in the jurisdiction where the subdivision is located. All such monies must be refunded to the purchaser if the approval is not obtained prior to closing. Closing must occur within 180 days. The approval for the installation of a septic tank must come from the appropriate government authority, usually the local health department, local governmental engineer or county sanitarian. Developers selling lots prior to obtaining approval for installation of a septic tank on the individual lot are proceeding at their own risk. The sale will not qualify for the exemption if the approval is not obtained and the closing does not occur within 180 days.

(vi) The contract of sale must require delivery of a warranty deed to the purchaser within 180 days after the signing of the sales contract. The deed must be free from monetary liens and encumbrances at the time of delivery. If a warranty deed is not commonly used in the jurisdiction where the lot is located, a deed or grant that warrants that the seller has not conveyed the lot to another person may be delivered in lieu of a warranty deed. The deed or grant used must also warrant that the lot is free from encumbrances made by the seller or any other person claiming by, through or under the seller.

(vii) At the time of closing, a current title insurance binder, policy or title opinion reflecting the condition of title must be issued or presented to the purchaser showing that, subject only to exceptions which are approved in writing by the purchaser at the time of closing, marketable title to the lot is vested in the seller. In order to satisfy this requirement, a developer may want to obtain the purchaser's written approval of exceptions to title prior to closing, although the actual title binder, policy or opinion must be current at the time of closing and show that title is vested in the seller. If closing occurs and the purchaser has not approved the exceptions to title in writing, the sale would not be exempt under this provision. The party that bears the cost of the title binder, policy or opinion is not relevant to eligibility for the exemption. Unless otherwise defined by state law, the *time of closing* is the date that legal title to the property is transferred from seller to buyer.

(viii) The purchaser or purchaser's spouse must make a personal, on-the-lot inspection of the lot purchased prior to signing a contract or agreement to purchase.

(f) *Mobile home exemption.* (15 U.S.C. 1702(b)(6) and 24 CFR 1710.11)

For purposes of this exemption, a mobile home is a unit receiving a label in conformance with HUD Regulations implementing the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401, et seq.).

This section exempts the sale of a mobile home lot from the registration requirements of the Act when all eligibility requirements listed below are met:

(1) The lot is sold as a homesite by one party and a mobile home is sold by another party, and the individual contracts of sale:

(i) Obligate the sellers to perform, contingent upon the other seller carrying out its obligations, so that a completed mobile home will be placed on a completed homesite within two years after the date the purchaser signs the contract to purchase the lot (see part IV(b) of these guidelines for HUD's position on two year completion requirements);

(ii) Provide that all funds received by the sellers are to be deposited in escrow accounts independent of the sellers until the transactions are completed;

(iii) Provide that funds received by the sellers will be released to the buyer upon demand if either of the sellers do not perform; and

(iv) Contain no provisions that restrict the purchaser's right to specific performance under state law.

(2) The homesite is developed in conformance with all local codes and standards, if any, for mobile home subdivisions.

(3) At the time of closing:

(i) Potable water and sanitary sewage disposal are available to the homesite and electricity has been extended to the lot line;

(ii) The homesite is accessible by roads;

(iii) The purchaser receives marketable title to the lot; and

(iv) Other common facilities represented in any manner by the developer or agent to be provided are completed or, in the alternative, there are letters of credit, cash escrows or surety bonds in a form acceptable to the local government in an amount equal to 100 percent of the estimated cost of completion. Corporate bonds are not acceptable for purposes of the exemption.

(g) *Intrastate Exemption.* (15 U.S.C. 1702(b)(7) and 24 CFR 1710.12).

This section exempts the sale or lease of real estate in a sales operation that is intrastate in nature. The lot must be free and clear of all liens, encumbrances and adverse claims. The following six eligibility requirements must be met before a lot qualifies for this exemption:

(1) The sale of lots in the subdivision after December 20, 1979, must have been and must continue to be restricted solely to residents of the state in which the subdivision is located, unless the sale is exempt under 24 CFR 1710.5, 1710.11 or 1710.13. Sales of lots exempt under § 1710.5, § 1710.11 or § 1710.13 may be to out-of-state purchasers without affecting the eligibility of the overall subdivision for the intrastate exemption. Any other sales to out-of-state purchasers, even if the lots were registered or otherwise exempt under any other section, would make the entire subdivision ineligible for the intrastate exemption.

Residency is determined by state law. For purposes of this exemption, a developer may rely on a statement signed by the purchaser or lessee as to the state of residence. Obviously, the prospective purchaser must be an actual resident of the state at the time of signing the sales contract as opposed to a person visiting the state or planning to move into the state. However, service personnel

may, at their option, claim the state in which they are stationed.

(2) The purchaser or purchaser's spouse must make a personal on-the-lot inspection of the lot to be purchased before signing a contract. Evidence of this inspection should be retained by the developer.

(3) Each contract must:

(i) Specify the developer's and purchaser's responsibilities for providing and maintaining roads, water and sewer facilities and any existing or promised amenities. If the developer is not responsible for providing or completing a particular service or amenity, the contract should make it clear that it is up to the buyer to make the necessary arrangements for the desired services. If a third party is involved, the contract must specify whether the buyer or seller is responsible for making the required arrangements;

(ii) Contain a good faith estimate of the year in which the roads, water and sewer facilities and promised amenities will be completed.

This estimate is required for any facility the developer promises or indicates will be completed. Estimates should be based on documentary evidence, such as contracts, engineering schedules or other evidence of commitments to complete the facilities and amenities; and

(iii) Contain a non-waivable provision giving the purchaser the right to revoke the contract until at least midnight of the seventh calendar day following the date the purchaser signed the contract. This revocation right cannot be restricted to a specific method of notification such as requiring notification to be in writing. If the purchaser is entitled to a longer revocation period by operation of state law, that period automatically becomes the Federal revocation period and the contract must reflect the longer period. If the purchaser revokes the contract during this "cooling-off period," he or she is entitled to a full refund of all money paid.

(4) The lot being sold must be free and clear of all liens, encumbrances and adverse claims. To remain exempt, the real estate must remain free and clear of all liens, encumbrances and adverse claims, with the exception of those placed on the property by the purchaser. Thus, real estate that is sold under a installment contract prior to conveyance by deed cannot be burdened by a lien and still qualify for the exemption. If a lien is placed on the property, the exemption is automatically terminated at the time the lien is perfected.

The fact that a title company will insure against a lien, encumbrance or adverse claim has no bearing in determining whether or not the sale qualifies for the exemption. Except as noted below, the existence of a lien, encumbrance or adverse claim disqualifies the affected lot or lots for this exemption. The only exceptions to this requirement are listed below:

(i) Mortgages or deeds of trust containing release provisions for the individual lot purchased if:

(A) The contract of sale obligates the developer to deliver a free and clear warranty deed or its equivalent under local law within 180 days (constructive delivery is acceptable); and

(B) The purchaser's payments are deposited in an escrow account independent of the developer until a deed is delivered. The escrow account must be with an institution which has trust powers or in an established bank, title insurance, abstract or escrow company that is doing business in the jurisdiction in which the property is located. The purchaser's earnest money payment or any other payment by the purchaser cannot be used to obtain a release from the mortgage and may not be released from escrow until the deed is delivered.

(ii) Liens that are subordinate to the leasehold interest and do not affect the lessee's right to use or enjoy the lot.

(iii) Property reservations that are for the purpose of bringing public services to the land being developed, such as easements for water and sewer lines.

Other acceptable property reservations are easements for roads and electric lines to serve the subdivision as well as certain drainage easements. The reservation of subsurface oil, gas or mineral rights is acceptable unless the reservation expressly or impliedly includes the right of ingress and egress upon the property. Examples of the types of reservations and easements that are unacceptable and disqualify the burdened property for the exemption include easements for high power transmission lines, telephone long lines, pipelines and bridle trails.

(iv) Taxes or assessments which constitute liens before they are due and payable if imposed by a state or other public body having authority to assess and tax property or by a property owners' association.

(v) Beneficial property restrictions that are mutually enforceable by all lot owners in the subdivision.

Developers who wish to maintain control of a subdivision indefinitely through a Property Owners' Association, Architectural Control Committee, and/or restrictive covenants will find the requirements of this exemption unsuitable.

In recognition of the fact that developer control is unavoidable until lots are sold, for the purpose of this exemption, a developer must provide an opportunity for the transfer of control to all lot owners at or before the time when the developer no longer owns a majority of total lots in, or planned for, the subdivision. Relinquishment of developer control must require affirmative action, usually in the form of an election based upon one vote per lot.

The developer may continue to participate in the control of the subdivision to the extent that lots remain unsold. For example, a developer who still owns thirty percent of the lot inventory has a thirty percent voting block on issues regarding the subdivision.

It is acceptable for the developer to appoint, during the initial stages of development, a governing body (panel, commission, etc.) whose members subsequently are elected and re-elected by all the lot owners to administer subdivision control.

To be enforceable, restrictions must be part of a general plan of development. Restrictions, whether separately recorded or incorporated into individual deeds, must be applied uniformly to every applicable lot or group of lots. To be considered beneficial and enforceable, any restriction or covenant that imposes an assessment on lot owners must apply to the developer on the same basis as other lot owners.

(vi) Reservations contained in United States land patents and similar Federal grants or reservations are excepted from the term "liens" but must be disclosed in the Intrastate Exemption Statement.

Many of the land patents by which land west of the Mississippi River was originally conveyed contain reservations to the United States for minerals and water rights-of-way for canals and ditches. These reservations as well as any other Federal grants or reservations must be disclosed but are not disqualifying factors.

(5) Before the sale the developer must disclose in a written statement (see sample below) to the purchaser all liens, reservations, taxes, assessments and restrictions applicable to the lot purchased. The developer must obtain a written receipt from the purchaser acknowledging that the statement required by this subparagraph was delivered.

Neither the statement nor the written receipt have to be submitted to HUD, but copies of the purchaser receipts should be available for review upon demand by the Secretary or his or her designee. It is suggested that the developer retain the purchaser receipts for at least three years.

(6) The written statement (see sample below) also must include good faith cost estimates for providing electric, water, sewer, gas and telephone service to the lot. Estimates must include all costs associated with obtaining the services. For example, if private wells are the water source, the estimate should include the cost of the well, pump, casing, etc. Likewise, if butane or propane gas is used, the statement must include the cost of installing a tank and the per gallon cost of the gas.

The estimates for services applicable to unsold lots must be updated every two years or more frequently if the developer has reasons to believe that at least a $100 increase or decrease for a particular item has occurred. The dates on which the estimates were made must be included in the statement.

Effective state property reports or disclosure statements containing all the information required in the Intrastate Exemption Statement may be used in lieu of a separate statement. State property reports which do not contain all the information required in the Intrastate Exemption Statement may be used only of they are supplemented with the missing information.

Sample Intrastate Exemption Statement

Intrastate Exemption Statement

Name of Developer _____

Address _____

Name of Subdivision _____

Location _____

Liens

(Provide a clear and concise listing of all liens on the property. As used in this statement, liens are security interests such as mortgages or deeds of trust, tax liens, mechanics liens or judgments. Liens which are acceptable for purposes of the exemption are those which contain release provisions for the individual lot purchased but only if the contract of sale obligates the developer to deliver a deed within 180 days and the purchaser's payments are held in an independent escrow account until a deed is delivered and, in the case of leases, liens which are subordinate to the lease hold interest and do not affect the lessee's right to enjoy or use the lot.) A chart similar to the following may be used:

Type of lien	Amount of lien	Lots subject to lien.
.....	.....	

Reservations

(Disclose all easements and reservations affecting the lots that are offered for sale. The preceding narrative contains examples of easements and reservations which are acceptable.)

Taxes

(Provide sufficient information to enable a purchaser to estimate the annual taxes due on the lot purchased.)

Assessments

(Disclose all assessments, fees and dues that have been imposed or may be imposed. The list of assessments, fees and dues must show the rates and amounts and explain who has the authority for imposing the listed assessments, fees and dues.)

Restrictions

(Recite verbatim all restrictions that apply to the lots being offered. In the alternative, the developer may attach a complete copy of all restrictions affecting the lots. If the restrictions do not apply to all the lots in the offering, the developer should specify which lots are affected by the restrictions. In addition, the developer should explain who has the authority to enforce the restrictions and indicate whether or not the restrictions are recorded.)

Utility Cost Estimates

(Disclose a good faith estimate of the cost to the purchaser of providing water, electric, telephone, sewage disposal and gas service to each lot offered under the exemption. The estimate must include all costs associated with obtaining the services.) A chart similar to the following may be used.

Lot No.	Water	Electric	Telephone	Sewage disposal	Gas
.....					
.....					

Under each heading list the estimated cost to the purchaser and the date the estimate was made.

I affirm that to the best of my knowledge the above information is accurate and complete.

(Signature of Developer or Authorized Agent)

(Date)

(Title)

Purchaser's Acknowledgement

(The developer must obtain a written receipt from the purchaser acknowledging that the purchaser received a written statement(s) of all liens, reservations, taxes, assessments and restrictions applicable to the lot and good faith estimates of the cost of providing electric, water, sewer, gas and telephone service to the lot.)

The receipt may be in the following form:

Sample Receipt

I acknowledge that I have received an Intrastate Exemption Statement listing all liens, reservations, taxes, assessments, restrictions and estimates of utility costs applicable to (identify the subdivision and its location) from (name of developer). I have made a personal on-the-lot inspection of (identify the lot), which is the lot I am interested in buying or leasing.

(Signature of Purchaser)

(Date)

(h) *Metropolitan Statistical Area (MSA) Exemption.* (15 U.S.C. 1702(b)(8) and 24 CFR 1710.13).

This section exempts the sale or lease of lots in a subdivision located in a Metropolitan Statistical Area (MSA). The eligibility criteria for the MSA Exemption are the same as that of the Intrastate Exemption with the following exceptions:

(1) The subdivision must have contained fewer than 300 lots on and since April 28, 1969, and continue at or below that quantity in the future;

(2) The lot(s) must be located in a MSA as defined and designated by the U.S. Office of Management and Budget;

(3) The principal residence of each purchaser must be within the same MSA;

(4) Adverse claims that are disqualifying for the Intrastate Exemption are acceptable for the MSA Exemption. The only requirement in this regard is for the adverse claim to be disclosed in the MSA Exemption Statement. The party making the claim, the basis of the claim and the property affected by the claim must be identified; and

(5) Although the MSA exemption is self-determining, a written affirmation must be submitted by developers relying on this exemption. The due date is January 31 of each year. Failure to submit the affirmations will disqualify the subdivision for this exemption. The written affirmation must be in the following format: Affirmation

Developer's Name _____

Developer's Address _____

Purchaser's Name(s) _____

Purchaser's Address(es) (including county)

_____

_____

Name of Subdivision _____

Legal Description of Lot(s) Purchased _____

_____

I hereby affirm that all of the requirements of the MSA exemption as set forth in 15 U.S.C. 1702(b)(8) and 24 CFR 1710.13 have been met in the sale or lease of the lot(s).

I also affirm that I submit to the jurisdiction of the Interstate Land Sales Full Disclosure Act with regard to the sale or lease cited above.

(Date)

(Signature of Developer or Authorized Agent)

(Title)

The sample Intrastate Exemption Statement shown above may be used as a guide in preparing the MSA Exemption Statement. Simply substitute references to the MSA Exemption in lieu of references to the Intrastate Exemption and add a provision for disclosure of "Adverse Claims" after the discussion of "Restrictions" and before the caption "Utility Cost Estimates".

Part VI—Regulatory Exemptions From Registration Requiring No HUD Determination—(24 CFR 1710.14)

(a) *General.*

The Secretary has established several regulatory exemptions from the registration and full disclosure requirements of the Act (i.e., filing a Statement of Record and furnishing a Property Report). These exemptions are self-determining and do not require a submission to HUD.

To qualify, a developer must satisfy the eligibility criteria at all times. Exempt status ends when a developer fails to immediately comply with the eligibility criteria. Furthermore, if there are reasonable grounds to believe that the use of any of these regulatory exemptions is not in the public interest in a particular case, the Secretary may deny the use of the exemption by an otherwise eligible subdivision, site or lot. The developers will be given notice and an opportunity for hearing before a final determination is made. Proceedings under this provision follow the requirements set forth in the regulations (24 CFR 1720.105, et seq.) and are patterned after the notice and time requirements of a proceeding pursuant to 24 CFR 1710.45(b)(1).

If a sale meets any one of the following requirements, it qualifies for exemption from the registration requirements of the Act. However, qualifying sales must comply with the anti-fraud provisions.

(b) *Eligibility Requirements.*

(1) *Inexpensive Lots (24 CFR 1710.14(a)(1))*

The sale or lease of a lot for less than $100, including closing costs, is exempt if the purchaser or lessee is not required to purchase or lease more than one lot. This exemption is available on a lot-by-lot basis. The entire subdivision need not qualify.

(2) *Leases for Limited Duration (24 CFR 1710.14(a)(2))*

The lease of a lot for a term of five years or less is exempt if the terms of the lease do not obligate the lessee to renew. This exemption is available on a lot-by-lot basis. The entire subdivision need not qualify.

The use of an arrangement that is called a lease but is tantamount to the sale or long-term lease of a lot would not qualify for this exemption; i.e., a lease with a large initial payment or substantial payments over five years and token payments thereafter.

A five-year lease with an option to purchase or renew would be suspect under this exemption and might or might not qualify depending on the overall transaction. In these cases, a request for an Advisory Opinion is strongly recommended.

(3) *Lots Sold to Developers (24 CFR 1710.14(a)(3))*

The sale or lease of lots to a person who is engaged in a bona fide land sales business is exempt. For a transaction to qualify for this exemption, the purchaser must be a person who plans to subsequently sell or lease the lot(s) in the normal course of business. The term business refers to an activity of some continuity, regularity and permanency, or means of livelihood. The sale or lease of lots to an individual who is buying the property for investment, to be sold at some unforeseeable time in the future, would not be exempt under this provision. This exemption is available on a lot-by-lot basis, although most transactions would include more than one lot. The entire subdivision need not qualify.

(4) *Adjoining Lot (24 CFR 1710.14(a)(4))*

The sale or lease of a lot to a purchaser who owns a contiguous lot that has a residential, commercial, or industrial building on it is exempt. This exemption permits a developer to sell or lease unimproved lots to persons wishing to enlarge the property on which their home or business is located. This exemption is available on a lot-by-lot basis.

(5) *Lot Sales to a Government (24 CFR 1710.14(a)(5))*

The sale or lease of real estate to a government or government agency is exempt. This exemption is available on a lot-by-lot basis. The entire subdivision need not qualify.

(6) *Sales of Leased Lots (24 CFR 1710.14(a)(6))*

The sale of a lot or lots on which the purchaser has maintained his or her primary residence for at least one year is exempt. Typically, these sales will occur in a mobile home subdivision. This exemption is available on a lot-by-lot basis. The entire subdivision need not qualify.

(c) *Termination.*

If HUD has reasonable grounds to believe that exemption from registration in a particular case is not in the public interest, HUD may terminate the exemption as to a subdivision or as to particular lots in a subdivision. Termination could be ordered only after the developer is notified of HUD's intention to terminate and is afforded a hearing opportunity. The reasons for termination will vary from case to case but could include unlawful sales practices by the developer or its agents, insolvency or adverse information about the lots or the subdivision that should be disclosed to purchasers.

Part VII—Regulatory Exemption HUD Determination Required—(24 CFR 1710.16)

An Exemption Order is available for a subdivision or certain lots in a subdivision that technically do not comply with the eligibility requirements of one of the other available exemptions. However, to qualify for an Exemption Order, the offering must substantially comply with the eligibility requirements.

In evaluating the circumstances of an Exemption Order request, HUD examines the basic intent and legislative history of the exemption that the developer claims to substantially meet. If the offering is not consistent with the basic intent, an Exemption Order will not be issued even though some of the technical requirements of that exemption are met.

Offerings that involve circumstances that are equal to or better than the technical requirements, or that are consistent with the basic intent of the exemption, will be judged to be in substantial compliance and an Exemption Order will be issued. It should be noted that an Exemption Order applies only to sales after the date of the Order and has no retroactive effect. This is the only exemption that requires submission of a request and a determination by HUD before it is effective. Developers wishing to request an Exemption Order must submit the information listed below:

(a) A detailed statement describing how the proposed sales of lots meet, or substantially meet, each of the eligibility requirements of the exemption that the developer claims to substantially meet.

(b) A copy of the contract to be used. The contract must:

(1) Specify the developer's and purchaser's responsibilities for providing and maintaining roads, water and sewer facilities and any existing or promised amenities. If the developer is not responsible for providing or completing a particular service, the contract should make it clear that it is up to the buyer to make the necessary arrangements for desired services; and

(2) Contain a good faith estimate of the year in which the roads, water and sewer facilities and promised amenities will be completed. This estimate is required for any facility the developer promises or indicates will be completed. Estimates should be based on documentary evidence, such as contracts, engineering schedules or other evidence of commitments to complete facilities and amenities; and

(3) Contain a non-waivable provision giving the purchaser the opportunity to revoke the contract until at least midnight of the seventh calendar day following the date the purchaser signed the contract. If the purchaser is entitled to a longer revocation period by operation of state law, that period becomes the Federal revocation period and the contract must reflect the requirements of the longer period; and

(4) Contain a provision that obligates the developer to deliver to the purchaser within 180 days of the date the purchaser signed the sales contract, a warranty deed, or its equivalent under local law, which at the time of delivery is free from any monetary liens or encumbrances.

(c) A plat of the entire subdivision with the lots subject to the exemption delineated.

(d) A description of how the lots have been and will be promoted and to which population centers the promotion has been and will be directed.

(e) Documentation to establish that each purchaser or purchaser's spouse will make an on-the-lot inspection of the lot to be purchased before the contract is signed.

(f) A filing fee in the amount set forth in § 1710.35(c) in the form of a certified check, cashier's check or postal money order made payable to the U.S. Treasury.

If, after an Exemption Order has been issued, HUD has reasonable grounds to believe that the exempt status of the subdivision or individual lots is not in the public interest, the Exemption Order may be terminated. Such an action would be preceded by a notice giving the developer an opportunity to request a hearing on the allegations leading to termination. For example, proceedings may be initiated because of the apparent omissions or misrepresentations in the information upon which the Exemption Order was based, the unethical conduct of the developer or the developer's agent or the presence of adverse conditions at or about the real estate which should be brought to the attention of purchasers by way of a disclosure document.

Some examples of substantial compliance are listed below. These are examples only and presume that all other applicable eligibility requirements of the exemption are either fully met or substantially met. It should be remembered that substantial compliance can occur with virtually any of the twenty-two available exemptions.

(1) One of the eligibility requirements for the Single-Family Residence Exemption is that the lots be zoned as single-family residential or, in the absence of a zoning ordinance, restricted to single-family residence development by enforceable covenants or restrictions. As stated before, the phrase "* * * in the absence of a zoning ordinance * * *" is interpreted in its most literal sense. Therefore, the existence of any zoning ordinance other than single-family

residence zoning is a disqualifying factor for the exemption.

However, substantial compliance would be considered if a different zoning ordinance existed and the enforceable covenants or restrictions limited development to single-family residences.

(2) Another eligibility requirement for the Single-Family Residence Exemption states that, at the time of closing, potable water, sanitary sewage disposal and electricity must be extended to each lot or the unit of local government must be obligated to install these facilities within 180 days following closing.

Substantial compliance with this provision would be considered in those cases where one or more of these utilities is not available but the developer has a contract with a publicly regulated utility to install the facilities within 180-days following closing or upon demand of the purchaser.

Furthermore, substantial compliance would be considered if the utility trunk lines are "reasonably close" to the lots instead of at each lot line.

(3) An eligibility requirement for the Intrastate Exemption is that the lot sold must be free and clear of all liens, encumbrances and adverse claims. Mineral reservations have been deemed to be acceptable so long as the reservation does not include the right of ingress or egress upon the property. If the right of ingress or egress exists, substantial compliance will be considered if there are written, recorded provisions from the owner(s) of the mineral rights for compensating the lot owner for loss of the use or enjoyment of the property when such rights are exercised.

Part VIII—Advisory Opinion—Secretary's Opinion May Be Requested—(24 CFR 1710.17)

(a) *General*

When it is not clear that an offering is either exempt under the self-determined statutory or regulatory provisions or whether jurisdiction exists, an Advisory Opinion may be requested to clarify the situation. The filing requirements are found in 24 CFR 1710.17 of the regulations and are described in (b) and (c) below.

The material to be submitted with all requests for Advisory Opinions is described under (b) below. In most cases, depending on the provision under which an exemption is claimed, additional documentation is needed before an opinion can be given. Review (c) below to determine what additional documentation is customarily needed before submitting a request.

HUD's Advisory Opinions are based upon and limited to the representations made by the developer. Therefore, if a favorable Advisory Opinion is issued based upon incomplete, improper or incorrect representations, the Opinion has no binding effect.

(b) *Basic Requirements For Submission*

(1) A filing fee in the amount required by § 1710.35(c) in form a certified check, cashier's check or postal money order made payable to the U.S. Treasury.

(2) A comprehensive description of the conditions and operations of the offering. Specify the provision(s) of the Act or regulations under which sales are believed to be exempt or why there is no jurisdiction.

(c) *Additional Requirements For Submission*

Depending on the provision under which an exemption is claimed, a developer may be required to submit additional information. Beginning with the exemption under 24 CFR 1710.5(a) of the regulations and ending with 24 CFR 1710.14, the additional information that should be submitted with a request for an Advisory Opinion is listed below. In some cases, information or documentation other than that specified may be requested after a submission has been reviewed by HUD.

(1) To obtain an Advisory Opinion pertaining to 24 CFR 1710.5(a), the "25 lot" exemption, submit a plat of the subdivision. Submit a listing of any other properties in which the developer has an interest and the geographic relationship of those properties to the subdivision for which the exemption is claimed. If other properties are divided or proposed to be divided, indicate the total number of lots planned. Indicate those properties which will be offered by the same sales personnel or through the same sales office as the subdivision for which the exemption is claimed. Describe how the lots are marketed, i.e., who sells the lots, how the lots are advertised, whether prospective purchasers are referred between subdivisions, etc.

(2) To obtain an Advisory Opinion pertaining to 24 CFR 1710.5(b), the "improved lot" exemption, submit a copy of the contract of sale or lease and an opinion of local counsel with respect to whether the contract meets the exemption's requirements under the law in the jurisdiction in which the subdivision is located.

(3) To obtain an Advisory Opinion pertaining to 24 CFR 1710.5(c), the "evidences of indebtedness" exemption, describe the security arrangement and submit a copy of the evidence of indebtedness.

(4) To obtain an Advisory Opinion pertaining to 24 CFR 1710.5(d), the "securities" exemption, no additional documentation is customarily required to be submitted with the request.

(5) To obtain an Advisory Opinion pertaining to 24 CFR 1710.5(e), the "government sales" exemptions, specify the government agency selling the property and submit the enabling legislation.

(6) To obtain an Advisory Opinion pertaining to 24 CFR 1710.5(f), the "cemetery lots" exemption, no additional documentation is customarily required to be submitted with the request.

(7) To obtain an Advisory Opinion pertaining to 24 CFR 1710.5(g), the "sales to builders" exemption, submit specific information showing that the purchaser or lessee is engaged in the business of building or is acquiring the real estate for resale or lease to a builder.

(8) To obtain an Advisory Opinion pertaining to 24 CFR 1710.5(h), the "industrial or commercial development" exemption submit a plat and supporting documentation, including a copy of the instrument containing the purchaser or lessee affirmation and evidence of the zoning or, in the absence of zoning, restrictive covenants.

(9) To obtain an Advisory Opinion pertaining to 24 CFR 1710.6, the "100 lot" exemption, submit a plat of the subdivision. In addition, submit a listing of any other properties in which the developer has an interest and the geographic relationship of those properties to the subdivision for which the exemption is claimed. If other properties are divided or proposed to be divided, indicate the total number of lots planned. Indicate those properties that will be offered by the same sales personnel or through the same sales office as the subdivision for which the exemption is claimed. Describe how the lots are marketed, i.e., who sells the lots, how the lots are advertised, whether prospective purchasers are referred between subdivisions, etc.

(10) To obtain an Advisory Opinion pertaining to 24 CFR 1710.7, the "12 lot" exemption, submit a list of all lots sold under the same common promotional plan since June 20, 1980. (Review Part II(b) of these Guidelines for an explanation of common promotional plan.) Indicate the date of each sale. State whether the developer has been involved in the sale of any other real estate since June 20, 1980 and indicate how it is intended that future sales will be restricted.

(11) To obtain an Advisory Opinion pertaining to 24 CFR 1710.8, the "scattered sites" exemption, submit a plat of the site and list the name and geographic location of all other properties in which the developer has an interest. State the extent of the developer's interest.

(12) To obtain an Advisory Opinion pertaining to 24 CFR 1710.9, the "20 acre lots subdivision" exemption, submit a plat of the subdivision with the acreage of each lot clearly delineated. In addition, substantiate that all lots offered under the same common promotional plan are greater than 20 acres in size and have been that size since April 29, 1969. Describe all properties in which the developer has an interest and the geographic relationship of such properties to the subdivision for which the exemption is claimed. Indicate those properties which will be offered by the same sales personnel or through the same sales office as the subdivision for which the exemption is claimed. Describe how the properties are marketed, i.e., who sells the lots, how the lots are advertised, whether purchasers are referred between subdivisions, etc.

(13) To obtain an Advisory Opinion pertaining to 24 CFR 1710.10, the "single-family residence" exemption, address each of the subdivision requirements and the eight lot requirements as set forth in Part V(e) of these Guidelines. For example, the developer should specifically state how the condition of title will be demonstrated, that the purchaser's approval of exceptions to title will be obtained prior to closing and that the purchasers will make a personal on-the-lot inspection prior to signing the contract. The submission should describe how the standards are being enforced by the local authorities. The submission must also describe the marketing and promotion of the subdivision.

The submission should be accompanied by documentation including a copy of the contract of sale and a copy of the state or local minimum standards. The documents submitted must include minimum standards for each of the eight areas listed in the regulations. The documentation should clearly show that the standards are being enforced and are not merely discretionary. If the developer states that the local authorities will take over responsibility for the roads, submit documentation evidencing that intent. If the developer represents that water is the purchaser's responsibility, submit a copy of the appropriate report assuring that an adequate year-around water supply is available. If septic tanks are to be used, submit a copy of the approval for their installation and a statement of how approval will be obtained for each lot.

The above listing is not comprehensive. It is designed to give the developer an idea of the type of statements and documentation which will be requested before an opinion will be issued.

(14) To obtain an Advisory Opinion pertaining to 24 CFR 1710.11, the "manufactured home" exemption, identify who is selling the lot and who is selling the manufactured home. Submit a copy of the contracts to be used.

(15) To obtain an Advisory Opinion pertaining to 24 CFR 1710.12, the "intrastate" exemption, submit a copy of the contract of sale, the Intrastate Exemption Statement, the restrictive covenants, a statement of the status of mineral right ownership and the enabling document(s) of the Property Owners' Association or condominium association including the by-laws, if any. If sales have been made since December 20, 1979, submit a list of such sales with the purchaser's name, address at the time of sale, date of sale and lot number(s).

(16) To obtain an Advisory Opinion pertaining to 24 CFR 1710.13, the "MSA" exemption, submit a copy of the contract of sale, plat, and MSA Exemption Statement. If sales have been made, submit a list of such sales with the purchaser's name, address at the time of sale, date of sale and lot number(s).

(17) To obtain an Advisory Opinion pertaining to 24 CFR 1710.14(a)(1), the "inexpensive lots" exemption, submit a copy of the proposed promotional materials and the documents to be used in the sale.

(18) To obtain an Advisory Opinion pertaining to 24 CFR 1710.14(a)(2), the "limited term leases" exemption, submit a copy of the lease and other documentation relevant to the lease transaction.

(19) To obtain an Advisory Opinion pertaining to 24 CFR 1710.14(a)(3), which exempts sales of lots to developers, submit information to substantiate the claim that the purchaser is in the land sales business.

(20) To obtain an Advisory Opinion pertaining to 24 CFR 1710.14(a)(4), the "adjoining lot" exemption, submit a map showing the lot on which the purchaser owns a residential, commercial or industrial building and the lot to be purchased.

(21) To obtain an Advisory Opinion pertaining to 24 CFR 1710.14(a)(5), the "sales to government" exemption, name the Government entity and submit a copy of the legal document by which the entity was created or a document evidencing the governmental decision to purchase.

(22) To obtain an Advisory Opinion pertaining to 24 CFR 1710.14(a)(6), the "sales of leased lots" exemption, state the circumstances which the purchaser has lived on or will have lived on the lot for one year or more and submit a copy of the lease or other agreement entitling the purchaser to occupy the lot. State whether the purchaser is using the lot as his or her primary residence.

Part IX—No-Action Letter—(24 CFR 1710.18)

The availability of expanded regulatory exemptions has resulted in the exemption of most transactions which may previously have warranted the issuance of a No-Action Letter. Nevertheless, there may be instances when one or more sales or leases fall within the purview of the Act but do not qualify for an exemption, although the circumstances of the sales or leases may be such that no affirmative action is needed to protect the public interest and prospective purchasers.

In such instances, a No-Action Letter may be requested. The request should include a thorough explanation of the proposed transaction(s) and the facts and supporting documentation necessary to demonstrate that no affirmative action is needed in the particular situation. If a request for a No-Action Letter is based upon a belief that the offering is ineligible for an exemption due to a minor technicality, demonstrate how other provisions of the particular exemption are met. The issuance of a No-Action Letter will not affect any right or remedy that the purchaser may have under the Act, including the right to rescind a contract for a period of two years. A No-Action Letter simply signifies that HUD will not take any affirmative action to require registration. However, the issuance of a No-Action Letter does not preclude any future agency action which may become necessary because of new information or a change in the circumstances.

HUD's No-Action Letters are based upon and limited to representations made by the developer. Therefore, if a favorable No-Action Letter is issued based upon incomplete, improper or incorrect representations, the Letter has no binding effect.

In no event will a No-Action Letter be issued if the sale or lease has already occurred.

There is no prescribed format for requesting a No-Action Letter. Therefore, describe the circumstances as fully as possible following a general rule that too much information is better than too little. Upon review of the information submitted, additional clarification may be required to permit a final determination.

[FR Doc. 96–7280 Filed 3–26–96; 8:45 am]

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Wednesday
March 27, 1996

Part V

Department of Housing and Urban Development

Office of the Secretary

24 CFR Part 5, et al.
Consolidation and Streamlining of the Restrictions on Assistance to Noncitizens; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 5, 200, 236, 247, 812, 882, 887, 904, 912, 960, and 982

[Docket No. FR–3988–F–01]

RIN 2501–AC12

Consolidation and Streamlining of the Restrictions on Assistance to Noncitizens

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: On March 20, 1995, HUD issued its final rule implementing Section 214 of the Housing and Community Development Act of 1980, as amended. Section 214 prohibits HUD from making financial assistance available to persons other than United States citizens, nationals, or certain categories of eligible noncitizens in HUD's Public Housing and Indian Housing programs (including homeownership); the Section 8 housing assistance payments programs; the Housing Development Grants program; the Section 236 interest reduction and rental assistance programs; the Rent Supplement program; and the Section 235 homeownership program. HUD's March 20, 1995 final rule, which became effective on June 19, 1995, promulgated virtually identical "noncitizen" regulations for the HUD programs covered by Section 214. This final rule eliminates the redundancy of these duplicative regulations by consolidating noncitizens requirements and relocating them to a single location in 24 CFR part 5. This rule does not consolidate or revise the noncitizens requirements for HUD's Indian Housing programs.

EFFECTIVE DATE: April 26, 1996.

FOR FURTHER INFORMATION CONTACT: For the covered programs, the following persons should be contacted:

(1) For Public Housing, Section 8 Rental Certificate, Rental Voucher, and Moderate Rehabilitation (except Single Room Occupancy—"SRO") programs—Linda Campbell, Office of Public Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–5000, telephone (202) 708–0744;

(2) For Indian Housing programs—Deborah Lalancette, Office of Native American Programs, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–5000, telephone (202) 755–0088;

(3) For the Section 8 Moderate Rehabilitation SRO program—Dave Pollack, Office of Special Needs Assistance Programs, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–7000, telephone (202) 708–4300;

(4) For the other Section 8 programs, the Section 236 programs, Housing Development Grants and Rent Supplement—Barbara Hunter, Office of Multifamily Management, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3944; and

(5) For the Section 235 homeownership program—William Heyman, Office of Lender Activities and Land Sales Registration, Office of Single Family Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–1824.

For persons with hearing or speech impairment, the TTY number is 1–800–877–8339 (Federal Information Relay Service TTY). With the exception of the "800" number, none of the foregoing telephone numbers are toll-free.

SUPPLEMENTARY INFORMATION:

I. Background

A. The March 20, 1995 Final Rule

On March 20, 1995 (60 FR 14816), HUD issued its final rule implementing Section 214 of the Housing and Community Development Act of 1980, as amended (42 U.S.C. 1436a). Section 214 prohibits HUD from making financial assistance available to persons other than United States citizens, nationals, or certain categories of eligible noncitizens in HUD's: (1) Public Housing and Indian Housing programs (including homeownership); (2) the Section 8 housing assistance payments programs; (3) the Housing Development Grants program; (4) the Section 236 interest reduction and rental assistance programs; (5) the Rent Supplement program; and (6) the Section 235 homeownership program.

B. Regulatory Reform

President Clinton's Regulatory Reform Initiative calls for immediate, comprehensive regulatory reform. The President has directed all Federal departments and agencies to undertake an exhaustive review of their regulations. This initiative, which is part of the National Performance Review, calls for the elimination of redundant, unnecessary, or obsolete regulatory requirements, and the modification of others to increase flexibility and reduce burden.

On February 9, 1996 (61 FR 5198), HUD, as part of its continuing regulatory reform efforts, published a final rule creating a new 24 CFR part 5. HUD established part 5 to set forth those requirements which are applicable to one or more program regulations. Consolidation in part 5 of requirements applicable to one or more programs will eliminate redundancy in title 24 and assist in HUD's overall efforts to streamline the content of its regulations.

HUD's March 20, 1995 final rule implementing Section 214, which became effective on June 19, 1995, promulgated virtually identical noncitizen regulations for the HUD programs covered by Section 214. Subpart G of part 200, subpart B of part 812, and subpart B of part 912, contain, with minor exceptions, the same noncitizen requirements. This final rule eliminates the repetitiveness of these duplicative regulations by consolidating the noncitizens requirements and relocating them to a single location in 24 CFR part 5. This rule does not consolidate the noncitizens requirements for HUD's Indian Housing programs. These provisions will continue to be located in 24 CFR part 950, which sets forth the consolidated regulatory requirements for the Indian Housing programs.

Although HUD is consolidating its noncitizen requirements, it is not revising the requirements nor is it modifying any differences in the requirements among the program regulations. This final rule eliminates redundancy in the existing noncitizen requirements wherever possible, but it retains those provisions which are specific to certain of the Section 214 covered programs.

C. Technical Corrections/Clarifying Changes

Additionally, although HUD is not making substantive changes, it is making certain clarifying changes. These changes are as follows. First, this streamlining rule clarifies that a noncitizen student alien's family may be eligible for assistance if the family meets the conditions for prorated assistance for mixed families. Second, this rule removes from the text of the regulation those INS documents that are required to show proof of immigration status. Because INS may change these documents from time to time, notification of the documents that are required to show proof of immigration status is best accomplished through notice in the **Federal Register**. The INS uses the **Federal Register** frequently to list appropriate documents for various immigration categories. Third, the rule also provides increased flexibility on when verification of immigration status is to occur for public housing projects. Fourth, the rule clarifies that for tenants receiving assistance under the Section 8 Moderate Rehabilitation assistance, Section 8 tenant-based assistance, and the Section 8 project-based certificate assistance programs, that the applicable hearing procedures are found in parts 882, 982, and 983, respectively. Section 812.9(f)(3) of the March 20, 1995 rule incorrectly referred to the procedures in part 966, which are the public housing hearing procedures. This rule does not revise the noncitizens requirements for HUD's Indian Housing programs in 24 CFR part 950.

Additionally, this rule makes one technical change unrelated to the noncitizens requirements. On February 13, 1996, HUD published a final rule which consolidated HUD's general requirements for assistance under the United States Housing Act of 1937 in a new subpart D of part 5. This final rule amends paragraph (c)(2) of § 5.405 to add the phrase "as determined by the HA subsidy standard." The addition of this phrase will clarify how the limitations on housing assistance for single persons is applied under the tenant-based assistance programs.

With regard to more substantive changes to HUD's noncitizens regulations, HUD is aware that some housing providers desire certain changes be made to the noncitizen requirements set forth in the March 20, 1995 rule. In some cases, the types of changes requested cannot be made because the changes would affect statutory requirements not regulatory ones. Other changes which could possibly be made are not those that can be addressed by this streamlining final rule, but rather, would need to be addressed through rulemaking that provides for advance notice and public comment. Because the March 20, 1995 final rule became effective June 19, 1995, implementation of Section 214 remains fairly recent. HUD is monitoring implementation of Section 214 and will consider making changes to the regulations (to the extent that HUD can give the statutory requirements) after opportunity to review the results of the procedures provided in the March 20, 1995 rule.

D. New Immigration Legislation and Changes to Noncitizen Requirements

HUD is also aware of several immigration bills that have been proposed by House and Senate committees that would possibly amend Section 214. As of the date of publication of this rule, no changes have been made to Section 214. If and when changes are made to Section 214 that may require changes to the regulations issued on March 20, 1995, HUD will undertake whatever regulatory action may be required in accordance with any new immigration legislation or by the Administrative Procedures Act.

E. Nondiscrimination in the Implementation of Section 214

HUD reiterates the statement made in the March 20, 1995 final rule that all regulatory procedures involved in implementation of Section 214 must be administered in the uniform manner prescribed without regard to race, national origin, or personal characteristics (e.g., accent, language spoken, or familial association with a noncitizen).

II. Justification for Final Rulemaking

It is HUD's policy to publish rules for public comment before their issuance for effect in accordance with its own regulations on rulemaking found at 24 CFR part 10. However, part 10 provides that prior public procedure will be omitted if HUD determines that it is "impracticable, unnecessary, or contrary to the public interest." (24 CFR 10.1). HUD finds that in this case prior comment is unnecessary since this final rule does not affect or establish policy. This rule merely consolidates HUD's noncitizen requirements in 24 CFR part 5. Where consolidation is not possible, this rule retains those provisions which are applicable to several, but not all, Section 214 covered programs. This final rule does not add or remove program requirements, but merely relocates them to a single part of HUD's regulations.

III. Other Matters

Environmental Review. This rulemaking does not have an environmental impact. This rulemaking simply amends existing regulations by consolidating and streamlining provisions and does not alter the environmental effect of the regulations being amended. A Finding of No Significant Impact with respect to the environment was made in accordance with HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) at the time of development of regulations implementing Section 214 of the Housing and Community Development Act of 1980. That Finding remains applicable to this rule, and is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

Regulatory Flexibility Act. The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this final rule before publication, and by approving it, certifies that this rule does not have a significant economic impact on a substantial number of small entities. This rule is limited to consolidating and streamlining existing regulations.

Executive Order on Federalism. The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this final rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. Specifically, this final rule merely consolidates HUD's noncitizen requirements which are currently repeated throughout title 24 of the Code of Federal Regulations.

Executive Order on The Family. The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that this rule does not have potential significant impact on family formation, maintenance, and general well-being. This final rule merely consolidates HUD's noncitizen requirements which are currently repeated throughout title 24 of the Code of Federal Regulations.

List of Subjects

24 CFR Part 5

Administrative practice and procedure, Aged, Grant programs—housing and community development, Individuals with disabilities, Loan programs—housing and community development, Low and moderate income housing, Mortgage insurance, Pets, Public housing, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Home improvement, Housing standards, Incorporation by reference, Lead poisoning, Loan programs—housing and community development, Minimum property standards, Mortgage insurance, Organization and functions (Government agencies), Penalties, Reporting and recordkeeping requirements, Social security, Unemployment compensation, Wages.

24 CFR Part 236

Grant programs—housing and community development, Low and moderate income housing, Mortgage insurance, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 247

Grant programs—housing and community development, Loan programs— housing and community development, Low and moderate income housing, Rent subsidies.

24 CFR Part 812

Low and moderate income housing, Reporting and recordkeeping requirements.

24 CFR Part 882

Grant programs—housing and community development, Homeless, Lead poisoning, Manufactured homes, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 887

Grant programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 904

Grant programs—housing and community development, Loan programs—housing and community development, Public housing.

24 CFR Part 912

Grant programs—housing and community development, Public housing, Reporting and recordkeeping requirements.

24 CFR Part 960

Aged, Grant programs—housing and community development, Individuals with disabilities, Public housing.

24 CFR Part 982

Grant programs—housing and community development, Housing, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, under the authority of 42 U.S.C. 3535(d), parts 5, 200, 236, 247, 812, 882, 887, 904, 912, 960, and 982 of title 24 of the Code of Federal Regulations, are amended as follows:

PART 5—GENERAL HUD PROGRAM REQUIREMENTS; WAIVERS

1. The authority citation for part 5 is revised to read as follows:

Authority: 12 U.S.C. 101r-1; 42 U.S.C. 1436a, 3535(d), 3543, and 3544.

2. Section 5.405 is amended by revising paragraph (c)(2) to read as follows:

§ 5.405 Basic eligibility; preference over single persons; and housing assistance limitation for single persons.

* * * * *

(c) * * *

(2) For tenant-based assistance, housing assistance for which the family unit size as determined by the HA subsidy standard exceeds the one bedroom level.

* * * * *

3. A new subpart E is added to read as follows:

Subpart E—Restrictions on Assistance to Noncitizens

Sec.
5.500 Applicability.
5.502 Requirements concerning documents.
5.504 Definitions.
5.506 General provisions.
5.508 Submission of evidence of citizenship or eligible immigration status.
5.510 Documents of eligible immigration status.
5.512 Verification of eligible immigration status.
5.514 Delay, denial, reduction or termination of assistance.
5.516 Availability of preservation assistance to mixed families and other families.
5.518 Types of preservation assistance to mixed families and other families.
5.520 Proration of assistance.
5.522 Prohibition of assistance to noncitizen students.
5.524 Compliance with nondiscrimination requirements.
5.526 Protection from liability for responsible entities and State, and local government agencies and officials.
5.528 Liability of ineligible tenants for reimbursement of benefits.

Subpart E—Restrictions on Assistance to Noncitizens

§ 5.500 Applicability.

(a) *Covered programs/assistance.* This subpart E implements Section 214 of the Housing and Community Development Act of 1980, as amended (42 U.S.C. 1436a). Section 214 prohibits HUD from making financial assistance available to persons who are not in eligible status with respect to citizenship or noncitizen immigration status. This subpart E is applicable to financial assistance provided under:

(1) Section 235 of the National Housing Act (12 U.S.C. 1715z) (the Section 235 Program);

(2) Section 236 of the National Housing Act (12 U.S.C. 1715z–1) (tenants paying below market rent only) (the Section 236 Program);

(3) Section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s) (the Rent Supplement Program); and

(4) The United States Housing Act of 1937 (42 U.S. C. 1437 *et seq.*) which covers:

(i) HUD's Public Housing Programs;

(ii) The Section 8 Housing Assistance Programs; and

(iii) The Housing Development Grant Programs (with respect to low income units only).

(b) *Covered individuals and entities.* (1) *Covered individuals/persons and families.* The provisions of this subpart E apply to both applicants for assistance and persons already receiving assistance covered under this subpart E.

(2) *Covered entities.* The provisions of this subpart E apply to Public Housing Agencies (PHAs), project (or housing) owners, and mortgagees under the Section 235 Program. The term "responsible entity" is used in this subpart E to refer collectively to these entities, and is further defined in § 5.504.

§ 5.502 Requirements concerning documents.

For any notice or document (decision, declaration, consent form, etc.) that this subpart E requires the responsible entity to provide to an individual, or requires the responsible entity to obtain the signature of an individual, the responsible entity, where feasible, must arrange for the notice or document to be provided to the individual in a language that is understood by the individual if the individual is not proficient in English. (See 24 CFR 8.6 of HUD's regulations for requirements concerning communications with persons with disabilities.)

§ 5.504 Definitions.

(a) The definitions *"1937 Act", "HUD", "Public Housing Agency (PHA)",* and *"Section 8"* are defined in subpart A of this part.

(b) As used in this subpart E:

Child means a member of the family other than the family head or spouse who is under 18 years of age.

Citizen means a citizen or national of the United States.

Evidence of citizenship or eligible status means the documents which must be submitted to evidence citizenship or eligible immigration status. (See § 5.508(b).)

Family has the same meaning as provided in the program regulations of the relevant Section 214 covered program.

Head of household means the adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

Housing covered programs means the following programs administered by the Assistant Secretary for Housing:

(1) Section 235 of the National Housing Act (12 U.S.C. 1715z) (the Section 235 Program);

(2) Section 236 of the National Housing Act (12 U.S.C. 1715z–1) (tenants paying below market rent only) (the Section 236 Program); and

(3) Section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s) (the Rent Supplement Program).

INS means the U.S. Immigration and Naturalization Service.

Mixed family means a family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

National means a person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

Noncitizen means a person who is neither a citizen nor national of the United States.

Project owner means the person or entity that owns the housing project containing the assisted dwelling unit.

Public Housing covered programs means the public housing programs administered by the Assistant Secretary for Public and Indian Housing under title I of the 1937 Act. This definition does not encompass HUD's Indian Housing programs administered under title II of the 1937 Act. Further, this term does not include those programs providing assistance under section 8 of the 1937 Act. (See definition of "Section 8 Covered Programs" in this section.)

Responsible entity means the person or entity responsible for administering the restrictions on providing assistance to noncitizens with ineligible immigrations status. The entity responsible for administering the restrictions on providing assistance to noncitizens with ineligible immigration status under the various covered programs is as follows:

(1) For the Section 235 Program, the mortgagee.

(2) For Public Housing, the Section 8 Rental Certificate, the Section 8 Rental Voucher, and the Section 8 Moderate Rehabilitation programs, the PHA administering the program under an ACC with HUD.

(3) For all other Section 8 programs, the Section 236 Program, and the Rent Supplement Program, the owner.

Section 8 covered programs means all HUD programs which assist housing under Section 8 of the 1937 Act, including Section 8-assisted housing for which loans are made under section 202 of the Housing Act of 1959.

Section 214 means section 214 of the Housing and Community Development Act of 1980, as amended (42 U.S.C. 1436a).

Section 214 covered programs is the collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in § 5.500.

Tenant means an individual or a family renting or occupying an assisted dwelling unit. For purposes of this subpart E, the term tenant will also be used to include a homebuyer, where appropriate.

§ 5.506 General provisions.

(a) *Restrictions on assistance.* Financial assistance under a Section 214 covered program is restricted to:

(1) *Citizens;* or

(2) *Noncitizens* who have eligible immigration status under one of the categories set forth in Section 214 (see 42 U.S.C. 1436a(a)).

(b) *Family eligibility for assistance.* (1) A family shall not be eligible for assistance unless every member of the family residing in the unit is determined to have eligible status, as described in paragraph (a) of this section, or unless the family meets the conditions set forth in paragraph (b)(2) of this section.

(2) Despite the ineligibility of one or more family members, a mixed family may be eligible for one of the three types of assistance provided in §§ 5.516 and 5.518. A family without any eligible members and receiving assistance on June 19, 1995 may be eligible for temporary deferral of termination of assistance as provided in §§ 5.516 and 5.518.

§ 5.508 Submission of evidence of citizenship or eligible immigration status.

(a) *General.* Eligibility for assistance or continued assistance under a Section 214 covered program is contingent upon a family's submission to the responsible entity of the documents described in paragraph (b) of this section for each family member. If one or more family members do not have citizenship or eligible immigration status, the family members may exercise the election not to contend to have eligible immigration status as provided in paragraph (e) of this section, and the provisions of §§ 5.516 and 5.518 shall apply.

(b) *Evidence of citizenship or eligible immigration status.* Each family member, regardless of age, must submit the following evidence to the responsible entity.

(1) For citizens, the evidence consists of a signed declaration of U.S. citizenship;

(2) For noncitizens who are 62 years of age or older or who will be 62 years of age or older and receiving assistance under a Section 214 covered program on June 19, 1995, the evidence consists of:

(i) A signed declaration of eligible immigration status; and

(ii) Proof of age document.

(3) For all other noncitizens, the evidence consists of:

(i) A signed declaration of eligible immigration status;

(ii) One of the INS documents referred to in § 5.510; and

(iii) A signed verification consent form.

(c) *Declaration.* (1) For each family member who contends that he or she is a U.S. citizen or a noncitizen with eligible immigration status, the family must submit to the responsible entity a written declaration, signed under penalty of perjury, by which the family member declares whether he or she is a U.S. citizen or a noncitizen with eligible immigration status.

(i) For each adult, the declaration must be signed by the adult.

(ii) For each child, the declaration must be signed by an adult residing in the assisted dwelling unit who is responsible for the child.

(2) *For Housing covered programs:* The written declaration may be incorporated as part of the application for housing assistance or may constitute a separate document.

(d) *Verification consent form.* (1) *Who signs.* Each noncitizen who declares eligible immigration status (except certain noncitizens who are 62 years of age or older as described in paragraph (b)(2) of this section) must sign a verification consent form as follows.

(i) For each adult, the form must be signed by the adult.

(ii) For each child, the form must be signed by an adult residing in the assisted dwelling unit who is responsible for the child.

(2) *Notice of release of evidence by responsible entity.* The verification consent form shall provide that evidence of eligible immigration status may be released by the responsible entity without responsibility for the further use or transmission of the evidence by the entity receiving it, to:

(i) HUD, as required by HUD; and

(ii) The INS for purposes of verification of the immigration status of the individual.

(3) *Notice of release of evidence by HUD.* The verification consent form also shall notify the individual of the possible release of evidence of eligible immigration status by HUD. Evidence of eligible immigration status shall only be released to the INS for purposes of establishing eligibility for financial assistance and not for any other

purpose. HUD is not responsible for the further use or transmission of the evidence or other information by the INS.

(e) *Individuals who do not contend that they have eligible status.* If one or more members of a family elect not to contend that they have eligible immigration status, and other members of the family establish their citizenship or eligible immigration status, the family may be eligible for assistance under §§ 5.516 and 5.518, or § 5.520, despite the fact that no declaration or documentation of eligible status is submitted for one or more members of the family. The family, however, must identify in writing to the responsible entity, the family member (or members) who will elect not to contend that he or she has eligible immigration status.

(f) *Notification of requirements of Section 214.* (1) *When notice is to be issued.* Notification of the requirement to submit evidence of citizenship or eligible immigration status, as required by this section, or to elect not to contend that one has eligible status as provided by paragraph (e) of this section, shall be given by the responsible entity as follows:

(i) *Applicant's notice.* The notification described in paragraph (f)(1) of this section shall be given to each applicant at the time of application for assistance. Applicants whose applications are pending on June 19, 1995, shall be notified of the requirement to submit evidence of eligible status as soon as possible after June 19, 1995.

(ii) *Notice to tenants.* The notification described in paragraph (f)(1) of this section shall be given to each tenant at the time of, and together with, the responsible entity's notice of regular reexamination of income, but not later than one year following June 19, 1995.

(iii) *Timing of mortgagor's notice.* A mortgagor receiving Section 235 assistance must be provided the notification described in paragraph (f)(1) of this section and any additional requirements imposed under the Section 235 Program.

(2) *Form and content of notice.* The notice shall:

(i) State that financial assistance is contingent upon the submission and verification, as appropriate, of evidence of citizenship or eligible immigration status as required by paragraph (a) of this section;

(ii) Describe the type of evidence that must be submitted, and state the time period in which that evidence must be submitted (see paragraph (g) of this section concerning when evidence must be submitted); and

(iii) State that assistance will be prorated, denied or terminated, as appropriate, upon a final determination of ineligibility after all appeals have been exhausted (see § 5.514 concerning INS appeal, and informal hearing process) or, if appeals are not pursued, at a time to be specified in accordance with HUD requirements. Tenants also shall be informed of how to obtain assistance under the preservation of families provisions of §§ 5.516 and 5.518.

(g) *When evidence of eligible status is required to be submitted.* The responsible entity shall require evidence of eligible status to be submitted at the times specified in paragraph (g) of this section, subject to any extension granted in accordance with paragraph (h) of this section.

(1) *Applicants.* For applicants, responsible entities must ensure that evidence of eligible status is submitted not later than the date the responsible entity anticipates or has knowledge that verification of other aspects of eligibility for assistance will occur (see § 5.512(a)).

(2) *Tenants.* For tenants, evidence of eligible status is required to be submitted as follows:

(i) For financial assistance under a Section 214 covered program, with the exception of Section 235 assistance payments, the required evidence shall be submitted at the first regular reexamination after June 19, 1995, in accordance with program requirements.

(ii) For financial assistance in the form of Section 235 assistance payments, the mortgagor shall submit the required evidence in accordance with requirements imposed under the Section 235 Program.

(3) *New occupants of assisted units.* For any new occupant of an assisted unit (e.g., a new family member comes to reside in the assisted unit), the required evidence shall be submitted at the first interim or regular reexamination following the person's occupancy.

(4) *Changing participation in a HUD program.* Whenever a family applies for admission to a Section 214 covered program, evidence of eligible status is required to be submitted in accordance with the requirements of this subpart unless the family already has submitted the evidence to the responsible entity for a Section 214 covered program.

(5) *One-time evidence requirement for continuous occupancy.* For each family member, the family is required to submit evidence of eligible status only one time during continuously assisted occupancy under any Section 214 covered program.

(h) *Extensions of time to submit evidence of eligible status.* (1) *When extension must be granted.* The responsible entity shall extend the time, provided in paragraph (g) of this section, to submit evidence of eligible immigration status if the family member:

(i) Submits the declaration required under § 5.508(a) certifying that any person for whom required evidence has not been submitted is a noncitizen with eligible immigration status; and

(ii) Certifies that the evidence needed to support a claim of eligible immigration status is temporarily unavailable, additional time is needed to obtain and submit the evidence, and prompt and diligent efforts will be undertaken to obtain the evidence.

(2) *Prohibition on indefinite extension period.* Any extension of time, if granted, shall be for a specific period of time. The additional time provided should be sufficient to allow the individual the time to obtain the evidence needed. The responsible entity's determination of the length of the extension needed shall be based on the circumstances of the individual case.

(3) *Grant or denial of extension to be in writing.* The responsible entity's decision to grant or deny an extension as provided in paragraph (h)(1) of this section shall be issued to the family by written notice. If the extension is granted, the notice shall specify the extension period granted. If the extension is denied, the notice shall explain the reasons for denial of the extension.

(i) *Failure to submit evidence or to establish eligible status.* If the family fails to submit required evidence of eligible immigration status within the time period specified in the notice, or any extension granted in accordance with paragraph (h) of this section, or if the evidence is timely submitted but fails to establish eligible immigration status, the responsible entity shall proceed to deny, prorate or terminate assistance, or provide continued assistance or temporary deferral of termination of assistance, as appropriate, in accordance with the provisions of §§ 5.514, 5.516, and 5.518.

(ii) [Reserved]

§ 5.510 Documents of eligible immigration status.

(a) *General.* A responsible entity shall request and review original documents of eligible immigration status. The responsible entity shall retain photocopies of the documents for its own records and return the original documents to the family.

(b) *Acceptable evidence of eligible immigration status.* Acceptable evidence of eligible immigration status shall be the original of a document designated by INS as acceptable evidence of immigration status for the specific immigration status claimed by the individual.

§ 5.512 Verification of eligible immigration status.

(a) *When verification is to occur.* The responsible entity is encouraged to commence verification of immigration status at a date that the responsible entity believes will allow for verification of immigration status, including any appeals or informal hearings, to be completed by the time that verification of other aspects of eligibility for assistance under a Section 214 covered program will be completed. In no case may verification of immigration status occur later than the date the responsible entity commences verification of other aspects of eligibility for assistance under a Section 214 covered program. The responsible entity shall verify eligible immigration status in accordance with the INS procedures described in this section.

(b) *Primary verification.* (1) *Automated verification system.* Primary verification of the immigration status of the person is conducted by the responsible entity through the INS automated system (INS Systematic Alien Verification for Entitlements (SAVE)). The INS SAVE system provides access to names, file numbers and admission numbers of noncitizens.

(2) *Failure of primary verification to confirm eligible immigration status.* If the INS SAVE system does not verify eligible immigration status, secondary verification must be performed.

(c) *Secondary verification.* (1) *Manual search of INS records.* Secondary verification is a manual search by the INS of its records to determine an individual's immigration status. The responsible entity must request secondary verification, within 10 days of receiving the results of the primary verification, if the primary verification system does not confirm eligible immigration status, or if the primary verification system verifies immigration status that is ineligible for assistance under a Section 214 covered program.

(2) *Secondary verification initiated by responsible entity.* Secondary verification is initiated by the responsible entity forwarding photocopies of the original INS documents required for the immigration status declared (front and back), attached to the INS document verification request form G–845S (Document Verification Request), or such other form specified by the INS to a designated INS office for review. (Form G–845S is available from the local INS Office.)

(3) *Failure of secondary verification to confirm eligible immigration status.* If the secondary verification does not confirm eligible immigration status, the responsible entity shall issue to the family the notice described in § 5.514(d), which includes notification of the right to appeal to the INS of the INS finding on immigration status (see § 5.514(d)(4)).

(d) *Exemption from liability for INS verification.* The responsible entity shall not be liable for any action, delay, or failure of the INS in conducting the automated or manual verification.

§ 5.514 Delay, denial, reduction or termination of assistance.

(a) *General.* Assistance to a family may not be delayed, denied, reduced or terminated because of the immigration status of a family member except as provided in this section.

(b) *Restrictions on delay, denial, reduction or termination of assistance.* (1) *Restrictions on reduction, denial or termination of assistance.* Assistance to an applicant or tenant shall not be delayed, denied, reduced, or terminated, on the basis of ineligible immigration status of a family member if:

(i) The primary and secondary verification of any immigration documents that were timely submitted has not been completed;

(ii) The family member for whom required evidence has not been submitted has moved from the assisted dwelling unit;

(iii) The family member who is determined not to be in an eligible immigration status following INS verification has moved from the assisted dwelling unit;

(iv) The INS appeals process under § 5.514(e) has not been concluded;

(v) For a tenant, the informal hearing process under § 5.514(f) has not been concluded;

(vi) Assistance is prorated in accordance with § 5.520;

(vii) Assistance for a mixed family is continued in accordance with §§ 5.516 and 5.518; or

(viii) Deferral of termination of assistance is granted in accordance with §§ 5.516 and 5.518.

(2) *When delay of assistance to an applicant is permissible.* Assistance to an applicant may be delayed after the conclusion of the INS appeal process, but not denied until the conclusion of the informal hearing process, if an informal hearing is requested by the family.

(c) *Events causing denial or termination of assistance.* (1) *General.* Assistance to an applicant shall be denied, and a tenant's assistance shall be terminated, in accordance with the procedures of this section, upon the occurrence of any of the following events:

(i) Evidence of citizenship (i.e., the declaration) and eligible immigration status is not submitted by the date specified in § 5.508(g) or by the expiration of any extension granted in accordance with § 5.508; or

(ii) Evidence of citizenship and eligible immigration status is timely submitted, but INS primary and secondary verification does not verify eligible immigration status of a family member; and

(A) The family does not pursue INS appeal or informal hearing rights as provided in this section; or

(B) INS appeal and informal hearing rights are pursued, but the final appeal or hearing decisions are decided against the family member.

(2) *Termination of assisted occupancy.* For termination of assisted occupancy, see paragraph (i) of this section.

(d) *Notice of denial or termination of assistance.* The notice of denial or termination of assistance shall advise the family:

(1) That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance;

(2) That the family may be eligible for proration of assistance as provided under § 5.520;

(3) In the case of a tenant, the criteria and procedures for obtaining relief under the provisions for preservation of families in §§ 5.514 and 5.518;

(4) That the family has a right to request an appeal to the INS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal in accordance with the procedures of paragraph (e) of this section;

(5) That the family has a right to request an informal hearing with the responsible entity either upon completion of the INS appeal or in lieu of the INS appeal as provided in paragraph (f) of this section;

(6) For applicants, the notice shall advise that assistance may not be delayed until the conclusion of the INS appeal process, but assistance may be delayed during the pendency of the informal hearing process.

(e) *Appeal to the INS.* (1) *Submission of request for appeal.* Upon receipt of

notification by the responsible entity that INS secondary verification failed to confirm eligible immigration status, the responsible entity shall notify the family of the results of the INS verification, and the family shall have 30 days from the date of the responsible entity's notification, to request an appeal of the INS results. The request for appeal shall be made by the family communicating that request in writing directly to the INS. The family must provide the responsible entity with a copy of the written request for appeal and proof of mailing. For good cause shown, the responsible entity shall grant the family an extension of the time within which to request an appeal.

(2) *Documentation to be submitted as part of appeal to INS.* The family shall forward to the designated INS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the INS document verification request form G–845S (used to process the secondary verification request) or such other form specified by the INS, and a cover letter indicating that the family is requesting an appeal of the INS immigration status verification results.

(3) *Decision by INS.* (i) *When decision will be issued.* The INS will issue to the family, with a copy to the responsible entity, a decision within 30 days of its receipt of documentation concerning the family's appeal of the verification of immigration status. If, for any reason, the INS is unable to issue a decision within the 30 day time period, the INS will inform the family and responsible entity of the reasons for the delay.

(ii) *Notification of INS decision and of informal hearing procedures.* When the responsible entity receives a copy of the INS decision, the responsible entity shall notify the family of its right to request an informal hearing on the responsible entity's ineligibility determination in accordance with the procedures of paragraph (f) of this section.

(4) *No delay, denial, reduction, or termination of assistance until completion of INS appeal process; direct appeal to INS.* Pending the completion of the INS appeal under this section, assistance may not be delayed, denied, reduced or terminated on the basis of immigration status.

(f) *Informal hearing.* (1) *When request for hearing is to be made.* After notification of the INS decision on appeal, or in lieu of request of appeal to the INS, the family may request that the responsible entity provide a hearing. This request must be made either within 14 days of the date the responsible entity mails or delivers the notice under paragraph (d) of this section, or within 14 days of the mailing of the INS appeal decision issued in accordance with paragraph (e) of this section (established by the date of postmark).

(2) *Extension of time to request hearing.* The responsible entity shall extend the period of time for requesting a hearing (for a specified period) upon good cause shown.

(3) *Informal hearing procedures.* (i) *Tenants assisted under a Section 8 covered program:* For tenants assisted under a Section 8 covered program, the procedures for the hearing before the responsible entity are set forth in:

(A) *For Section 8 Moderate Rehabilitation assistance:* 24 CFR part 882;

(B) *For Section 8 tenant-based assistance:* 24 CFR part 982; or

(C) *For Section 8 project-based certificate program:* 24 CFR part 983.

(ii) *Tenants assisted under any other Section 8 covered program or a Public Housing covered program:* For tenants assisted under a Section 8 covered program not listed in paragraph (f)(3)(i) of this section or a Public Housing covered program, the procedures for the hearing before the responsible entity are set forth in 24 CFR part 966.

(iii) *Families under Housing covered programs and applicants for assistance under all covered programs.* For all families under Housing covered programs (applicants as well as tenants already receiving assistance) and for applicants for assistance under all covered programs, the procedures for the informal hearing before the responsible entity are as follows:

(A) *Hearing before an impartial individual.* The family shall be provided a hearing before any person(s) designated by the responsible entity (including an officer or employee of the responsible entity), other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision;

(B) *Examination of evidence.* The family shall be provided the opportunity to examine and copy at the individual's expense, at a reasonable time in advance of the hearing, any documents in the possession of the responsible entity pertaining to the family's eligibility status, or in the possession of the INS (as permitted by INS requirements), including any records and regulations that may be relevant to the hearing;

(C) *Presentation of evidence and arguments in support of eligible status.* The family shall be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings;

(D) *Controverting evidence of the responsible entity.* The family shall be provided the opportunity to controvert evidence relied upon by the responsible entity and to confront and cross-examine all witnesses on whose testimony or information the responsible entity relies;

(E) *Representation.* The family shall be entitled to be represented by an attorney, or other designee, at the family's expense, and to have such person make statements on the family's behalf;

(F) *Interpretive services.* The family shall be entitled to arrange for an interpreter to attend the hearing, at the expense of the family, or responsible entity, as may be agreed upon by the two parties to the proceeding; and

(G) *Hearing to be recorded.* The family shall be entitled to have the hearing recorded by audiotape (a transcript of the hearing may, but is not required to, be provided by the responsible entity).

(4) *Hearing decision.* The responsible entity shall provide the family with a written final decision, based solely on the facts presented at the hearing, within 14 days of the date of the informal hearing. The decision shall state the basis for the decision.

(g) *Judicial relief.* A decision against a family member, issued in accordance with paragraphs (e) or (f) of this section, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

(h) *Retention of documents.* The responsible entity shall retain for a minimum of 5 years the following documents that may have been submitted to the responsible entity by the family, or provided to the responsible entity as part of the INS appeal or the informal hearing process:

(1) The application for financial assistance;

(2) The form completed by the family for income reexamination;

(3) Photocopies of any original documents (front and back), including original INS documents;

(4) The signed verification consent form;

(5) The INS verification results;

(6) The request for an INS appeal;

(7) The final INS determination;

(8) The request for an informal hearing; and

(9) The final informal hearing decision.

(i) *Termination of assisted occupancy.* (1) Under Housing covered programs, and in the Section 8 covered programs other than the Section 8 Rental Certificate, Rental Voucher, and Moderate Rehabilitation programs, assisted occupancy is terminated by:

(i) If permitted under the lease, the responsible entity notifying the tenant that because of the termination of assisted occupancy the tenant is required to pay the HUD-approved market rent for the dwelling unit.

(ii) The responsible entity and tenant entering into a new lease without financial assistance.

(iii) The responsible entity evicting the tenant. While the tenant continues in occupancy of the unit, the responsible entity may continue to receive assistance payments if action to terminate the tenancy under an assisted lease is promptly initiated and diligently pursued, in accordance with the terms of the lease, and if eviction of the tenant is undertaken by judicial action pursuant to State and local law. Action by the responsible entity to terminate the tenancy and to evict the tenant must be in accordance with applicable HUD regulations and other HUD requirements. For any jurisdiction, HUD may prescribe a maximum period during which assistance payments may be continued during eviction proceedings and may prescribe other standards of reasonable diligence for the prosecution of eviction proceedings.

(2) In the Section 8 Rental Certificate, Rental Voucher, and Moderate Rehabilitation programs, assisted occupancy is terminated by terminating assistance payments. (See provisions of this section concerning termination of assistance.) The PHA shall not make any additional assistance payments to the owner after the required procedures specified in this section have been completed. In addition, the PHA shall not approve a lease, enter into an assistance contract, or process a portability move for the family after those procedures have been completed.

§ 5.516 Availability of preservation assistance to mixed families and other families.

(a) *Assistance available for tenant mixed families.* (1) *General.* Preservation assistance is available to tenant mixed families, following completion of the appeals and informal hearing procedures provided in § 5.514. There are three types of preservation assistance:

(i) Continued assistance (see paragraph (a) of § 5.518);

(ii) Temporary deferral of termination of assistance (see paragraph (b) of § 5.518); or

(iii) Prorated assistance (see § 5.520, a mixed family must be provided prorated assistance if the family so requests).

(2) *Availability of assistance.* (i) *For Housing covered programs:* One of the three types of assistance described is available to tenant mixed families assisted under a National Housing Act or 1965 HUD Act covered program, depending upon the family's eligibility for such assistance. Continued assistance must be provided to a mixed family that meets the conditions for eligibility for continued assistance.

(ii) *For Section 8 or Public Housing covered programs.* One of the three types of assistance described may be available to tenant mixed families assisted under a Section 8 or Public Housing covered program.

(b) *Assistance available for applicant mixed families.* Prorated assistance is also available for mixed families applying for assistance as provided in § 5.520.

(c) *Assistance available to other families in occupancy.* Assistance may be available to families receiving assistance under a Section 214 covered program on June 19, 1995, and who have no members with eligible immigration status, as set forth in paragraphs (c)(1) and (c)(2) of this section.

(1) *For Housing covered programs:* Temporary deferral of termination of assistance is available to families assisted under a Housing covered program.

(2) *For Section 8 or Public Housing covered programs:* The responsible entity may make temporary deferral of termination of assistance to families assisted under a Section 8 or Public Housing covered program.

(d) *Section 8 covered programs: Discretion afforded to provide certain family preservation assistance.* (1) *Project owners.* With respect to assistance under a Section 8 Act covered program administered by a project owner, HUD has the discretion to determine under what circumstances families are to be provided one of the two statutory forms of assistance for preservation of the family (continued assistance or temporary deferral of assistance). HUD is exercising its discretion by specifying the standards in this section under which a project owner must provide one of these two types of assistance to a family. However, project owners and PHAs must offer prorated assistance to eligible mixed families.

(2) *PHAs.* The PHA, rather than HUD, has the discretion to determine the circumstances under which a family will be offered one of the two statutory forms of assistance (continued assistance or temporary deferral of termination of assistance). The PHA must establish its own policy and criteria to follow in making its decision. In establishing the criteria for granting continued assistance or temporary deferral of termination of assistance, the PHA must incorporate the statutory criteria, which are set forth in paragraphs (a) and (b) of § 5.518. However, the PHA must offer prorated assistance to eligible families.

§ 5.518 Types of preservation assistance available to mixed families and other families.

(a) *Continued assistance.* A mixed family may receive continued housing assistance if all of the following conditions are met (a mixed family assisted under a Housing covered program must be provided continued assistance if the family meets the following conditions):

(1) The family was receiving assistance under a Section 214 covered program on June 19, 1995;

(2) The family's head of household or spouse has eligible immigration status as described in § 5.506; and

(3) The family does not include any person (who does not have eligible immigration status) other than the head of household, any spouse of the head of household, any parents of the head of household, any parents of the spouse, or any children of the head of household or spouse.

(b) *Temporary deferral of termination of assistance.* (1) *Eligibility for this type of assistance.* If a mixed family qualifies for prorated assistance (and does not qualify for continued assistance), but decides not to accept prorated assistance, or if a family has no members with eligible immigration status, the family may be eligible for temporary deferral of termination of assistance if necessary to permit the family additional time for the orderly transition of those family members with ineligible status, and any other family members involved, to other affordable housing. Other affordable housing is used in the context of transition of an ineligible family from a rent level that reflects HUD assistance to a rent level that is unassisted; the term refers to housing that is not substandard, that is of appropriate size for the family and that can be rented for an amount not exceeding the amount that the family pays for rent, including utilities, plus 25 percent.

(2) *Housing covered programs: Conditions for granting temporary deferral of termination of assistance.* The responsible entity shall grant a

temporary deferral of termination of assistance to a mixed family if the family is assisted under a Housing covered program and one of the following conditions is met:

(i) The family demonstrates that reasonable efforts to find other affordable housing of appropriate size have been unsuccessful (for purposes of this section, reasonable efforts include seeking information from, and pursuing leads obtained from the State housing agency, the city government, local newspapers, rental agencies and the owner);

(ii) The vacancy rate for affordable housing of appropriate size is below five percent in the housing market for the area in which the project is located; or

(iii) The consolidated plan, as described in 24 CFR part 91 and if applicable to the covered program, indicates that the local jurisdiction's housing market lacks sufficient affordable housing opportunities for households having a size and income similar to the family seeking the deferral.

(3) *Time limit on deferral period.* If temporary deferral of termination of assistance is granted, the deferral period shall be for an initial period not to exceed six months. The initial period may be renewed for additional periods of six months, but the aggregate deferral period shall not exceed a period of three years.

(4) *Notification requirements for beginning of each deferral period.* At the beginning of each deferral period, the responsible entity must inform the family of its ineligibility for financial assistance and offer the family information concerning, and referrals to assist in finding, other affordable housing.

(5) *Determination of availability of affordable housing at end of each deferral period.* (i) Before the end of each deferral period, the responsible entity must satisfy the applicable requirements of either paragraph (b)(5)(i) (A) or (B) of this section. Specifically, the responsible entity must:

(A) *For Housing covered programs:* Make a determination that one of the three conditions specified in paragraph (b)(2) of this section continues to be met (note: affordable housing will be determined to be available if the vacancy rate is five percent or greater), the owner's knowledge and the tenant's evidence indicate that other affordable housing is available; or

(B) *For Section 8 or Public Housing covered programs:* Make a determination of the availability of affordable housing of appropriate size based on evidence of conditions which when taken together will demonstrate an inadequate supply of affordable housing for the area in which the project is located, the consolidated plan (if applicable, as described in 24 CFR part 91), the responsible entity's own knowledge of the availability of affordable housing, and on evidence of the tenant family's efforts to locate such housing.

(ii) The responsible entity must also:

(A) Notify the tenant family in writing, at least 60 days in advance of the expiration of the deferral period, that termination will be deferred again (provided that the granting of another deferral will not result in aggregate deferral periods that exceed three years), and a determination was made that other affordable housing is not available; *or*

(B) Notify the tenant family in writing, at least 60 days in advance of the expiration of the deferral period, that termination of financial assistance will not be deferred because either granting another deferral will result in aggregate deferral periods that exceed three years, or a determination has been made that other affordable housing is available.

(c) *Option to select proration of assistance at end of deferral period.* A family who is eligible for, and receives temporary deferral of termination of assistance, may request, and the responsible entity shall provide proration of assistance at the end of the deferral period if the family has made a good faith effort during the deferral period to locate other affordable housing.

(d) *Notification of decision on family preservation assistance.* A responsible entity shall notify the family of its decision concerning the family's qualification for family preservation assistance. If the family is ineligible for family preservation assistance, the notification shall state the reasons, which must be based on relevant factors. For tenant families, the notice also shall inform the family of any applicable appeal rights.

§ 5.520 Proration of assistance.

(a) *Applicability.* This section applies to a mixed family other than a family receiving continued assistance, or other than a family who is eligible for and requests and receives temporary deferral of termination of assistance. An eligible mixed family who requests prorated assistance must be provided prorated assistance.

(b) *Method of prorating assistance for Housing covered programs. (1) Proration under Rent Supplement Program.* If the household participates in the Rent Supplement Program, the rent supplement paid on the household's behalf shall be the rent supplement the household would otherwise be entitled to, multiplied by a fraction, the denominator of which is the number of people in the household and the numerator of which is the number of eligible persons in the household;

(2) *Proration under Section 235 Program.* If the household participates in the Section 235 Program, the interest reduction payments paid on the household's behalf shall be the payments the household would otherwise be entitled to, multiplied by a fraction the denominator of which is the number of people in the household and the numerator of which is the number of eligible persons in the household;

(3) *Proration under Section 236 Program without the benefit of additional assistance.* If the household participates in the Section 236 Program without the benefit of any additional assistance, the household's rent shall be increased above the rent the household would otherwise pay by an amount equal to the difference between the market rate rent for the unit and the rent the household would otherwise pay multiplied by a fraction the denominator of which is the number of people in the household and the numerator of which is the number of ineligible persons in the household;

(4) *Proration under Section 236 Program with the benefit of additional assistance.* If the household participates in the Section 236 Program with the benefit of additional assistance under the rent supplement, rental assistance payment or Section 8 programs, the household's rent shall be increased above the rent the household would otherwise pay by:

(i) An amount equal to the difference between the market rate rent for the unit and the basic rent for the unit multiplied by a fraction, the denominator of which is the number of people in the household, and the numerator of which is the number of ineligible persons in the household, plus;

(ii) An amount equal to the rent supplement, housing assistance payment or rental assistance payment the household would otherwise be entitled to multiplied by a fraction, the denominator of which is the number of people in the household and the numerator of which is the number of ineligible persons in the household.

(c) *Method of prorating assistance for Section 8 covered programs.* (1) *Section 8 assistance other than Section 8 rental voucher assistance.* For Section 8 assistance other than assistance provided under the Section 8 Rental Voucher Program, the PHA shall prorate the family's assistance as follows:

(i) *Step 1.* Determine gross rent for the unit. (Gross rent is contract rent plus any allowance for tenant paid utilities).

(ii) *Step 2.* Determine total tenant payment in accordance with 24 CFR 813.107(a). (Annual income includes income of all family members, including any family member who has not established eligible immigration status.)

(iii) *Step 3.* Subtract amount determined in paragraph (c)(1)(ii), (Step 2), from amount determined in paragraph (c)(1)(i), (Step 1).

(iv) *Step 4.* Multiply the amount determined in paragraph (c)(1)(iii), (Step 3) by a fraction for which:

(A) The numerator is the number of family members who have established eligible immigration status; and

(B) The denominator is the total number of family members.

(v) *Prorated housing assistance.* The amount determined in paragraph (c)(1)(iv), (Step 4) is the prorated housing assistance payment for a mixed family.

(vi) *No effect on contract rent.* Proration of the housing assistance payment does not affect contract rent to the owner. The family must pay as rent the portion of contract rent not covered by the prorated housing assistance payment.

(2) *Section 8 Rental Voucher assistance.* For assistance under the Section 8 Rental Voucher Program, the PHA shall prorate the family's assistance as follows:

(i) *Step 1.* Determine the amount of the pre-proration voucher housing assistance payment in accordance with 24 CFR part 887. (Annual income includes income of all family members, including any family member who has not established eligible immigration status.)

(ii) *Step 2.* Multiply the amount determined in paragraph (c)(2)(i), (Step 1) by a fraction for which:

(A) The numerator is the number of family members who have established eligible immigration status; and

(B) The denominator is the total number of family members.

(iii) *Prorated housing assistance.* The amount determined in paragraph (c)(2)(ii), (Step 2) is the prorated housing assistance payment for a mixed family.

(iv) *No effect on rent to owner.* Proration of the voucher housing assistance payment does not affect rent to the owner. The family must pay as rent the portion of rent not covered by the prorated housing assistance payment.

(d) *Method of prorating assistance for Public Housing covered programs.* The PHA shall prorate the family's assistance by:

(1) *Step 1.* Determining total tenant payment in accordance with 24 CFR 913.107(a). (Annual income includes income of all family members, including any family member who has not established eligible immigration status.)

(2) *Step 2.* Subtracting the total tenant payment from a HUD-supplied "public housing maximum rent" applicable to the unit or the PHA. (This "maximum rent" shall be determined by HUD using the 95th percentile rent for the PHA.) The result is the maximum subsidy for which the family could qualify if all members were eligible ("family maximum subsidy").

(3) *Step 3.* Dividing the family maximum subsidy by the number of persons in the family (all persons) to determine the maximum subsidy per each family member who has citizenship or eligible immigration status ("eligible family member"). The subsidy per eligible family member is the "member maximum subsidy".

(4) *Step 4.* Multiplying the member maximum subsidy by the number of family members who have citizenship or eligible immigration status ("eligible family members").

(5) *Step 5.* The product of steps 1 through 4, as set forth in paragraph (d)(2) of this section is the amount of subsidy for which the family is eligible ("eligible subsidy"). The family's rent is the "public housing maximum rent" minus the amount of the eligible subsidy.

§ 5.522 Prohibition of assistance to noncitizen students.

(a) *General.* The provisions of §§ 5.516 and 5.518 permitting continued assistance or temporary deferral of termination of assistance for certain families do not apply to any person who is determined to be a noncitizen student as in paragraph (c)(2)(A) of Section 214 (42 U.S.C. 1436a(c)(2)(A)). The family of a noncitizen student may be eligible for prorated assistance, as provided in paragraph (b)(2) of this section.

(b) *Family of noncitizen students.* (1) The prohibition on providing assistance to a noncitizen student as described in paragraph (a) of this section extends to the noncitizen spouse of the noncitizen student and minor children accompanying the student or following to join the student.

(2) The prohibition on providing assistance to a noncitizen student does not extend to the citizen spouse of the noncitizen student and the children of the citizen spouse and noncitizen student.

§ 5.524 Compliance with nondiscrimination requirements.

The responsible entity shall administer the restrictions on use of assisted housing by noncitizens with ineligible immigration status imposed by this part in conformity with all applicable nondiscrimination and equal opportunity requirements, including, but not limited to, title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d–2000d–5) and the implementing regulations in 24 CFR part 1, section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and the implementing regulations in 24 CFR part 8, the Fair Housing Act (42 U.S.C. 3601–3619) and the implementing regulations in 24 CFR part 100.

§ 5.526 Protection from liability for responsible entities and State and local government agencies and officials.

(a) *Protection from liability for responsible entities.* Responsible entities are protected from liability as set forth in paragraph (e) of section 214.

(b) *Protection from liability for State and local government agencies and officials.* State and local government agencies and officials shall not be liable for the design or implementation of the verification system described in § 5.512 and the informal hearings provided under § 5.514, as long as the implementation by the State and local government agency or official is in accordance with prescribed HUD rules and requirements.

§ 5.528 Liability of ineligible tenants for reimbursement of benefits.

Where a tenant has received the benefit of HUD financial assistance to which the tenant was not entitled because the tenant intentionally misrepresented eligible status, the ineligible tenant is responsible for reimbursing HUD for the assistance improperly paid. If the amount of the assistance is substantial, the responsible entity is encouraged to refer the case to the HUD Inspector General's office for further investigation. Possible criminal prosecution may follow based on the False Statements Act (18 U.S.C. 1001 and 1010).

PART 200—INTRODUCTION

4. The authority citation for 24 CFR part 200 is revised to read as follows:

Authority: 12 U.S.C. 1701–1715z–18; 42 U.S.C. 3535(d).

Subpart G—[Removed and Reserved]

5. Subpart G, consisting of §§ 200.180 through 200.192, is removed and reserved.

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

6. The authority citation for part 235 continues to read as follows:

Authority: 12 U.S.C. 1715b and 1715z; 42 U.S.C. 3535(d).

7. Section 235.1 is revised to read as follows:

§ 235.1 Applicability of regulations.

The regulations regarding eligibility requirements (including eligibility requirements for noncitizens) for homes for lower income families in force before December 8, 1995, will continue to govern the rights and obligations of mortgagors, mortgagees, and the Department of Housing and Urban Development with respect to loans insured under section 235(i) of the National Housing Act.

8. Section 235.375 is amended by revising paragraph (b)(6) to read as follows:

§ 235.375 Termination, suspension, or reinstatement of the assistance payments contract.

* * * * *

(b) * * *

(6) Failure to provide evidence of citizenship or eligible immigration status in accordance with 24 CFR part 5:

(i) For a new member of the family, except with respect to a mortgagor described under § 235.1.

(ii) At the first recertification of an assistance contract, except with respect to a mortgagor described under § 235.1; or

(iii) Upon modification of an existing assistance contract.

* * * * *

PART 236—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENTS FOR RENTAL PROJECTS

9. The authority citation for part 236 continues to read as follows:

Authority: 12 U.S.C. 1715b and 1715z–1; 42 U.S.C. 3535(d).

10. Section 236.2 is amended by revising paragraph (3) of the definition of "Qualified Tenant" to read as follows:

§ 236.2 Definitions.

* * * * *

Qualified Tenant.

* * * * *

(3) For restrictions on financial assistance to noncitizens with ineligible immigration status, see 24 CFR part 5.

* * * * *

11. In § 236.70, paragraph (a)(1) is revised to read as follows:

§ 236.70 Occupancy requirements.

(a)(1) The housing owner shall determine eligibility following procedures prescribed by the Commissioner when processing applications for admission. The restrictions on assistance to noncitizens set forth in 24 CFR part 5 govern the submission and verification of information related to citizenship and eligible immigration status for those applicants who seek admission at a below market rent.

* * * * *

12. Section 236.80 is amended by revising:

a. The two sentences at the end of paragraph (a);

b. The last sentence of paragraph (b); and

c. The last two sentences at the end of paragraph (c), to read as follows:

§ 236.80 Reexamination of income.

(a) * * * At the first regular reexamination after June 19, 1995, the owner shall follow the requirements of 24 CFR part 5, concerning obtaining and processing information on the citizenship or eligible immigration status of all family members. Thereafter, at each regular reexamination, the owner shall follow the requirements of 24 CFR part 5 concerning obtaining and processing information on the citizenship or eligible immigration status of any new family member.

(b) * * * At any interim reexamination after June 19, 1995 when there is a new family member, the owner shall follow the requirements of 24 CFR part 5 concerning obtaining and processing information on the citizenship or eligible immigration status of the new family member.

(c) * * * When termination is based upon a determination that the tenant does not have eligible immigration status, the procedures of 24 CFR part 5 apply. The procedures include the provision of assistance to certain mixed families (families whose members include those with eligible immigration status, and those without eligible immigration status) in lieu of termination.

13. Section 236.710 is amended by revising the sentence at the end of the section to read as follows:

§ 236.710 Qualified tenant.

* * * For restrictions on financial assistance to noncitizens with ineligible immigration status, see 24 CFR part 5.

14. Section 236.715 is amended by revising the sentence at the end of paragraph (a) to read as follows:

§ 236.715 Determination of eligibility.

(a) * * * The requirements of 24 CFR part 5 govern the submission and verification of information related to citizenship and eligible immigration status for applicants, and the procedures for denial of assistance based upon a failure to establish eligible immigration status.

* * * * *

15. Section 236.765 is revised to read as follows:

§ 236.765 Determination of eligible immigration status of applicants and tenants; protection from liability.

(a) *Housing owner's obligation to make determination.* A housing owner shall obtain and verify information regarding the citizenship or immigration status of applicants and tenants in accordance with the procedures of 24 CFR part 5.

(b) *Protection from liability.* HUD will not take any compliance, disallowance, penalty or other regulatory action against a housing owner with respect to any error in its determination to make an individual eligible for financial assistance based upon citizenship or eligible immigration status, as provided in 24 CFR part 5.

PART 247—EVICTIONS FROM CERTAIN SUBSIDIZED AND HUD-OWNED PROJECTS

16. The authority citation for part 247 continues to read as follows:

Authority: 12 U.S.C. 1701q, 1701s, 1715b, 1715*l*, 1715z–1; 42 U.S.C. 1437a, 1437c, 1437f, 3535(d).

17. Section 247.3 is amended by revising paragraph (c)(3), to read as follows:

§ 247.3 Entitlement of tenants to occupancy.

* * * * *

(c) * * *

(3) If the tenant:

(i) Fails to supply on time all required information on the income and composition, or eligibility factors, of the tenant household, as provided in 24 CFR part 5; or

(ii) Knowingly provides incomplete or inaccurate information as required under these provisions; and

* * * * *

PART 812—[REMOVED]

18–19. Part 812 is removed.

PART 882—SECTION 8 CERTIFICATE AND MODERATE REHABILITATION PROGRAMS

20. The authority citation for part 882 continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

21. In § 882.118, paragraph (a)(1) is revised to read as follows:

§ 882.118 Obligations of the Family.

(a) * * *

(1) Supply such certification, release, information or documentation as the PHA or HUD determine to be necessary, including submission of required evidence of citizenship or eligible immigration status (as provided by 24 CFR part 5), submission of Social Security Numbers and verifying documentation (as provided by 24 CFR part 5), submission of signed consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies (as provided by 24 CFR part 5), and submissions required for an annual or interim reexamination of family income and composition.

* * * * *

22. Section 882.212 is amended by revising the two sentences at the end of paragraph (a), and the sentence at the end of paragraphs (b) and (c), to read as follows:

§ 882.212 Reexamination of Family income and composition.

(a) * * * At the first regular reexamination after June 19, 1995 the PHA shall follow the requirements of 24 CFR part 5 concerning obtaining and processing evidence of citizenship or eligible immigration status of all family members. Thereafter, at each regular reexamination, the PHA shall follow the requirements of 24 CFR part 5 concerning verification of the immigration status of any new family member.

(b) * * * At any interim reexamination after June 19, 1995 when there is a new family member, the PHA shall follow the requirements of 24 CFR part 5, subpart E concerning obtaining and processing evidence of citizenship or eligible immigration status of the new family member.

(c) * * * For provisions requiring termination of housing assistance payments when the PHA determines that a member is not a U.S. citizen or does not have eligible immigration status, see 24 CFR parts 5 and 982 for provisions concerning certain assistance for mixed families (families whose members include those with eligible immigration status, and those without eligible immigration status) in lieu of termination of assistance, and for provisions concerning deferral of termination of assistance.

* * * * *

23. Section 882.514 is amended by revising the sentence at the end of paragraph (f) to read as follows:

§ 882.514 Family participation.

* * * * *

(f) * * * The informal hearing requirements for denial and termination of assistance on the basis of ineligible immigration status are contained in 24 CFR part 5.

* * * * *

24. Section 882.515 is amended by revising the two sentences at the end of paragraph (a), and by revising the sentence at the end of paragraphs (b) and (c), to read as follows:

§ 882.515 Reexamination of family income and composition.

(a) * * * At the first regular reexamination after June 19, 1995, the PHA shall follow the requirements of 24 CFR part 5 concerning obtaining and processing evidence of citizenship or eligible immigration status of all family members. Thereafter, at each regular reexamination, the PHA shall follow the requirements of 24 CFR part 5 concerning verification of immigration status of any new family member.

(b) * * * At any interim reexamination after June 19, 1995 when there is a new family member, the PHA shall follow the requirements of 24 CFR part 5 concerning obtaining and processing evidence of citizenship or eligible immigration status of the new family member.

(c) * * * For provisions requiring termination of assistance when the PHA determines that a family member is not a U.S. citizen or does not have eligible immigration status, see 24 CFR parts 5 and 982 for provisions concerning certain assistance for mixed families (families whose members include those with eligible immigration status, and those without eligible immigration status) in lieu of termination of assistance, and for provisions concerning deferral of termination of assistance.

25. Section 882.808 is amended by revising the two sentences at the end of paragraph (i)(1), the sentence at the end of paragraph (i)(2), and the sentence at the end of paragraph (l), to read as follows:

§ 882.808 Management.

* * * * *

(i) * * *

(1) * * * At the first regular reexamination after June 19, 1995, the PHA shall follow the requirements of 24 CFR part 5 concerning obtaining and processing evidence of citizenship or eligible immigration status of all family members. Thereafter, at each regular reexamination, the PHA shall follow the requirements of 24 CFR part 5 concerning verification of immigration status of any new family member.

(2) * * * At any interim reexamination after June 19, 1995 when there is a new family member, the PHA shall follow the requirements of 24 CFR part 5 concerning obtaining and processing evidence of citizenship or eligible immigration status of the new family member.

* * * * *

(l) * * * For provisions requiring termination of assistance when the PHA determines that a family member is not a U.S. citizen or does not have eligible immigration status, see 24 CFR parts 5 and 982 for provisions concerning certain assistance for mixed families (families whose members include those with eligible immigration status, and those without eligible immigration status) in lieu of termination of assistance, or for provisions concerning deferral of termination of assistance.

* * * * *

PART 887—HOUSING VOUCHERS

26. The authority citation for part 887 continues to read as follows:

Authority: 42 U.S.C. 1437f(o) and 3535(d).

27. Section 887.355 is amended by revising paragraph (b) to read as follows:

§ 887.355 Regular reexamination of family income and composition.

* * * * *

(b) At the first regular reexamination after June 19, 1995, the PHA shall follow the requirements of 24 CFR part 5 concerning obtaining and processing evidence of citizenship or eligible immigration status of all family members. Thereafter, at each regular reexamination, the PHA shall follow the requirements of 24 CFR part 5 concerning verification of the immigration status of any new family member.

* * * * *

28. Section 887.357 is amended by revising the sentence at the end of the section to read as follows:

§ 887.357 Interim reexamination of family income and composition.

* * * At any interim reexamination after June 19, 1995 that involves the addition of a new family member, the PHA shall follow the requirements of 24 CFR part 5 concerning obtaining and processing evidence of citizenship or eligible immigration status of the new family member.

PART 904—LOW RENT HOUSING HOMEOWNERSHIP OPPORTUNITIES

29. The authority citation for part 904 continues to read as follows:

Authority: 42 U.S.C. 1437–1437ee and 3535(d).

30. Section 904.104 is amended by revising the first sentence of paragraph (b)(1) and the first sentence of paragraph (g)(2)(iii), to read as follows:

§ 904.104 Eligibility and selection of homebuyers.

* * * * *

(b) *Eligibility and standards for admission.* (1) Homebuyers shall be lower income families that are determined to be eligible for admission in accordance with the provisions of 24 CFR parts 5 and 913, which prescribe income definitions, income limits, and restrictions concerning citizenship or eligible immigration status. * * *

* * * * *

(g) * * *

(2) * * *

(iii) For denial of assistance for failure to establish citizenship or eligible immigration status, the applicant may request, in addition to the informal hearing, an appeal to the INS, in accordance with 24 CFR part 5.

* * * * *

31. In § 904.107, paragraphs (j)(2) and (m)(1) are revised to read as follows:

§ 904.107 Responsibilities of homebuyer.

* * * * *

(j) * * *

(2) For purposes of determining eligibility of an applicant (see 24 CFR parts 5 and 913, as well as this part) and the amount of Homebuyer payments under paragraph (j)(1) of this section, the LHA shall examine the family's income and composition and follow the procedures required by 24 CFR part 5 for determining citizenship or eligible immigration status before initial occupancy. Thereafter, for the purposes stated in this paragraph and to determine whether a Homebuyer is required to purchase the home under § 904.104(h)(1), the LHA shall reexamine the Homebuyer's income and composition regularly, at least once every 12 months, and shall undertake such further determination and verification of citizenship or eligible immigration status as required by 24 CFR part 5. The Homebuyer shall comply with the LHA's policy regarding required interim reporting of changes in the family's income and composition. If the LHA receives information from the family or other source concerning a change in the family income or other circumstances between regularly scheduled reexaminations, the LHA, upon consultation with the family and verification of the information (in accordance with 24 CFR parts 5 and 913 of this chapter) shall promptly make any adjustments determined to be appropriate in the Homebuyer payment amount or take appropriate action concerning the addition of a family member who is not a citizen with eligible immigration status. Any change in the family's income or other circumstances that results in an adjustment in the Total Tenant Payment and Tenant Rent must be verified.

* * * * *

(m) *Termination by LHA.* (1) In the event the homebuyer breaches the Homebuyers Ownership Opportunity Agreement by failure to make the required monthly payment within ten days after its due date, by misrepresenting or withholding of information in applying for admission or in connection with any subsequent reexamination of income and family composition (including the failure to submit any required evidence of citizenship or eligible immigration status, as provided by 24 CFR part 5; the failure to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 5; or the failure to sign and submit consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by 24 CFR part 5), or by failure to comply with any of the other homebuyer obligations under the Agreement, the LHA may terminate the Agreement. No termination under this paragraph may occur less than 30 days after the LHA gives the homebuyer notice of its intention to do so, in accordance with paragraph (m)(3) of this section. For termination of assistance for failure to establish citizenship or eligible immigration status under 24 CFR part 5, the requirements of 24 CFR parts 5 and 966 shall apply.

* * * * *

PART 912—[REMOVED]

32–33. Part 912 is removed.

PART 960—ADMISSION TO, AND OCCUPANCY OF, PUBLIC HOUSING

34. The authority citation for part 960 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437d, 1437n, and 3535(d).

35. Section 960.204 is amended by revising paragraph (a) to read as follows:

§ 960.204 Tenant selection policies.

(a) *Selection policies.* (1) The PHA shall establish and adopt written policies for admission of tenants.

(2) These policies shall be designed:

(i) To attain, to the maximum extent feasible, a tenant body in each project that is composed of families with a broad range of incomes and to avoid concentrations of the most economically deprived families with serious social problems;

(ii) To preclude admission of applicants whose habits and practices reasonably may be expected to have a detrimental effect on the residents or the project environment;

(iii) To give a preference in selection of tenants to applicants who qualify for a federal preference, ranking preference, or local preference, in accordance with 24 CFR part 5; and

(iv) To establish objective and reasonable policies for selection by the PHA among otherwise eligible applicants.

(3) The PHA tenant selection policies shall include the following:

(i) Requirements for applications and waiting lists (see 24 CFR 1.4);

(ii) Description of the policies for selection of applicants from the waiting list that includes the following:

(A) How the "federal preferences" (described in 24 CFR part 5) will be used;

(B) How any "ranking preferences" (described in 24 CFR part 5) will be used;

(C) How any "local preferences" (described in 24 CFR part 5) will be used; and

(D) How any residency preference will be used;

(iii) Policies for verification and documentation of information relevant to acceptance or rejection of an applicant, including documentation and verification of citizenship and eligible immigration status under 24 CFR part 5; and

(iv) Policies for participant transfer between units, projects, and programs. For example, a PHA could adopt a criterion for voluntary transfer that the tenant had met all obligations under the current program, including payment of charges to the PHA.

* * * * *

36. Section 960.206 is amended by revising paragraph (a) to read as follows:

§ 960.206 Verification procedures.

(a) *General.* Adequate procedures must be developed to obtain and verify information with respect to each applicant. (See 24 CFR parts 5 and 913.) Information relative to the acceptance or rejection of an applicant or the grant or denial of a ranking preference, or a local preference under 24 CFR part 5 must be documented and placed in the applicant's file.

* * * * *

37. Section 960.209 is amended by revising the two sentences at the end of paragraph (a), revising the sentence at the end of paragraph (b), and by revising paragraph (c), to read as follows:

§ 960.209 Reexamination of family income and composition.

(a) * * * At the first regular reexamination after June 19, 1995, the PHA shall follow the requirements of 24 CFR part 5 concerning obtaining and processing information on the citizenship or eligible immigration status of all family members. Thereafter, at each regular reexamination, the PHA shall follow the requirements of 24 CFR part 5 concerning verification of the immigration status of any new family member.

(b) * * * At any interim reexamination after June 19, 1995 when there is a new family member, the PHA shall follow the requirements of 24 CFR part 5 concerning obtaining and processing information on the citizenship or eligible immigration status of the new family member.

(c) *Termination.* For provisions requiring termination of participation for failure to establish citizenship or eligible immigration status, see 24 CFR part 5 for provisions concerning assistance to certain mixed families (families whose members include those with citizenship and eligible immigration status and those without eligible immigration status) in lieu of termination of assistance.

PART 982—SECTION 8 TENANT-BASED ASSISTANCE: UNIFIED RULE FOR TENANT-BASED ASSISTANCE UNDER THE SECTION 8 RENTAL CERTIFICATE PROGRAM AND THE SECTION 8 RENTAL VOUCHER PROGRAM

38. The authority citation for part 982 continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

39. Section 982.153 is amended by revising paragraph (b)(9) to read as follows:

§ 982.153 HA responsibilities.

* * * * *

(b) * * *

(9) Obtain and verify evidence of citizenship and eligible immigration status in accordance with 24 CFR part 5.

* * * * *

39a. Section 982.201 is amended by revising the second sentence in paragraph (a) to read as follows:

§ 982.201 Eligibility.

(a) * * * To be eligible, the applicant must be a "family", must be income-eligible, and must be a citizen or a noncitizen who has eligible immigration status as determined in accordance with 24 CFR part 5.

* * * * *

40. Section 982.551 is amended by revising paragraph (b)(1) to read as follows:

§ 982.551 Obligations of participant.

* * * * *

(b) * * *

(1) The family must supply any information that the HA or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status (as provided by 24 CFR part 5). "Information" includes any requested certification, release or other documentation.

* * * * *

41. Section 982.552 is amended by revising paragraph (e) to read as follows:

§ 982.552 HA denial or termination of assistance for family.

* * * * *

(e) *Restrictions on assistance to noncitizens.* The family must submit required evidence of citizenship or eligible immigration status. See 24 CFR part 5 for a statement of circumstances in which the HA must deny or terminate assistance because a family member does not establish citizenship or eligible immigration status, and the applicable informal hearing procedures. See 24 CFR part 5 for provisions on assistance for mixed families (families whose members include those with eligible immigration status, and those without eligible immigration status) instead of denial or termination of assistance, and for provisions on deferral of termination of assistance.

* * * * *

42. Section 982.554 is amended by revising paragraph (d) to read as follows:

§ 982.554 Informal review for applicant.

* * * * *

(d) *Restrictions on assistance for noncitizens.* The informal hearing provisions for the denial of assistance on the basis of ineligible immigration status are contained in 24 CFR part 5.

43. Section 982.555 is amended by revising paragraph (g) to read as follows:

§ 982.555 Informal hearing for participant.

* * * * *

(g) *Restrictions on assistance to noncitizens.* The informal hearing provisions for the denial of assistance on the basis of ineligible immigration status are contained in 24 CFR part 5.

Dated: March 12, 1996.

Henry G. Cisneros,

Secretary.

[FR Doc. 96–7188 Filed 3–26–96; 8:45 am]

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Part VI

Securities and Exchange Commission

17 CFR Part 270
Exemption for the Acquisition of Securities During the Existence of an Underwriting Syndicate; Proposed Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 270

[Release No. IC–21838, File No. S7–7–96]

RIN 3235–AG61

Exemption for the Acquisition of Securities During the Existence of an Underwriting Syndicate

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is proposing amendments to the rule under the Investment Company Act of 1940 that permits investment companies that are affiliated with members of underwriting syndicates to purchase securities underwritten by these syndicates if certain conditions are met. The proposed amendments are designed to make the rule more flexible by, among other things, increasing the percentage of an underwriting that an investment company may purchase in reliance on the rule and expanding the scope of the rule to include foreign securities. The proposed amendments, and a proposed new companion rule, also would permit investment companies to acquire municipal securities from underwriting syndicates in "group sales." The proposed amendments respond to changes in the investment company and underwriting industries that have occurred since the rule last was substantively amended in 1979.

DATES: Comments must be received on or before June 3, 1996.

ADDRESSES: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Stop 6–9, Washington, DC 20549. Comments also may be submitted electronically at the following E-mail address: rule-comments@sec.gov. All comment letters should refer to File No. S7–7–96; this file number should be included on the subject line if E-mail is used. Comment letters will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Electronically submitted comment letters will be posted on the Commission's Internet web site (http://www.sec.gov).

FOR FURTHER INFORMATION CONTACT: David M. Goldenberg, Senior Counsel, or Kenneth J. Berman, Assistant Director, at (202) 942–0690, Office of Regulatory Policy, Division of Investment Management, Stop 10–6, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission today is requesting public comment on proposed amendments to rule 10f–3 (17 CFR 270.10f–3) and a proposed new rule, rule 17a–10 (17 CFR 270.17a–10), under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) (the "Investment Company Act").

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Executive Summary

Section 10(f) of the Investment Company Act was designed to address the practice prior to 1940 by some securities underwriters ("underwriters") of "dumping" unmarketable securities on their affiliated investment companies ("funds"). The section prohibits a fund from purchasing securities for which an underwriter having certain relationships with the fund ("affiliated underwriter") is acting as a principal underwriter during the existence of an underwriting or selling syndicate. Rule 10f–3 under the Investment Company Act permits funds to purchase securities during the existence of an underwriting syndicate under specified conditions designed to assure that the purchase is consistent with the protection of fund investors. These conditions include requirements that (i) the purchased securities be either registered under the Securities Act of 1933 ("Securities Act") or municipal securities, (ii) the fund (along with other funds advised by the same investment adviser) purchase no more than the greater of four percent of the underwritten securities, or $500,000, but in no case more than 10% of the offering (the "percentage limit"), (iii) the fund use no more than three percent of its assets to purchase securities in a transaction subject to the rule, and (iv) the fund not purchase the securities from the affiliated underwriter. The last condition also prohibits a fund from purchasing municipal securities in a "group sale," which is a sale for which all members of a syndicate receive credit in proportion to their respective underwriting commitments.

The Commission believes that the conditions of rule 10f–3 should be reevaluated in light of changes in the fund and financial services industries since the principal provisions of rule 10f–3 were last amended in 1979 and is proposing amendments to the rule that reflect these changes. The proposed amendments are intended to provide funds with additional flexibility, consistent with the policies underlying section 10(f), to make investments that may be in the best interests of investors.

The proposed amendments would raise the percentage limit to the greater of 10% of an offering or $1,000,000 (but not to exceed 15% of the offering). The proposed amendments also would eliminate the current limit on the amount of a fund's assets that may be used to make purchases pursuant to the rule and the current requirement that funds report rule 10f–3 transactions in their semi-annual reports filed with the Commission on Form N–SAR.

In recognition of the increase in the extent to which funds invest in foreign securities, the proposed amendments would expand rule 10f–3 to permit funds to purchase securities of foreign issuers ("foreign securities") that are not registered under the Securities Act, subject to certain conditions. These conditions are designed to permit funds to purchase foreign securities in transactions having certain characteristics similar to public offerings in the United States, such as disclosure of specified information and a single public offering price.

The proposed amendments would permit funds to purchase municipal securities in group sales, subject to certain conditions designed to protect against overreaching by fund affiliates. Purchases of securities in group sales would be permitted, for example, only when the underwriting syndicate has established that group sales would have priority over other types of sales.

I. Background

A. Introduction

A central theme underlying the regulation of investment companies is the concern that fund affiliates could use fund assets for their own purposes, to the detriment of fund shareholders. One of the major abuses noted in the period preceding the Investment Company Act was the use of funds by underwriters that controlled these funds as a "dumping ground" for unmarketable securities.[1] An underwriter could, for example, "dump" unmarketable securities on its controlled fund, either by causing the fund to purchase the securities from the underwriter itself, or by encouraging the fund to purchase securities from another member of the underwriting syndicate. Fund assets also could be used to absorb the risks of an underwriting in more subtle ways, such as to facilitate price stabilization in connection with an underwriting.[2]

Section 10(f) of the Investment Company Act was designed to address these concerns.[3] The section prohibits a fund from purchasing securities for which an affiliated underwriter is acting as a principal underwriter during the existence of an underwriting or selling syndicate.[4] Recognizing that section 10(f), by prohibiting *all* purchases by funds affiliated with members of an underwriting syndicate during the existence of the syndicate, could be overly broad, Congress gave the Commission specific authority to exempt persons from that section by order or rule when the exemption is consistent with the protection of investors.[5]

B. Rule 10f–3

In 1958, the Commission used its exemptive authority under section 10(f) to adopt rule 10f–3.[6] The rule permits a fund to purchase securities in a transaction that otherwise would violate section 10(f) if, among other things (i) the securities are either registered under the Securities Act or municipal securities, (ii) the offering involves a "firm commitment" underwriting,[7] (iii) the fund and all other funds advised by the same investment adviser do not in the aggregate purchase more than the greater of 4% of the principal amount of the securities being offered or $500,000 (but in no event greater than 10% of the offering), (iv) the fund does not use more than 3% of its assets to purchase the securities, (v) the fund purchases the securities from a member of the syndicate other than the affiliated underwriter, (vi) the fund purchases the securities at a price not more than the public offering price prior to the end of the first full business day after the first date on which the securities are offered, and (vii) the fund's directors have adopted procedures for purchases made in reliance on the rule and regularly review fund purchases to determine whether they comply with these procedures.[8] The conditions of rule 10f–3 are designed to ensure that a purchase by a fund from a syndicate in which an affiliated underwriter is participating is consistent with the protection of fund investors.

C. Need for Amendments

The Commission believes that the conditions of rule 10f–3 should be reevaluated in light of changes in the financial markets, particularly in the fund and financial services industries.[9]

[1] *See Investment Trusts and Investment Companies: Hearings on S. 3580 Before a Subcomm. of the Senate Comm. on Banking and Currency*, 76th Cong., 3d Sess. 35 (1940) (statement of Commissioner Healy).

[2] In its study of the fund industry prior to 1940, the Commission gave specific examples of cases in which underwriters had used the assets of their affiliated funds to benefit the underwriters or to save them from insolvency. *See generally* SEC, Investment Trusts and Investment Companies, H.R. Doc. No. 279, 76th Cong., 1st Sess., pt. 3, at 2519–2624 (1939). The Commission explained:

> The control of an investment company by an investment banker naturally impresses the client, who desires to be financed, with the resources that the investment banker may call upon to make the financing operation successful, such as, selling some of the securities to the investment company, securing the company's participation in the underwriting commitment, including the company in trading accounts or using the company's funds in stabilizing the market.

Id. at 2535–36.

[3] See **2 T. Frankel, The Regulation of Money Managers** 355 (1978) ("The purpose of [section 10(f)] is to protect investment companies from purchasing securities to advance the interests of their affiliates rather than their own."). Even in the absence of section 10(f), a fund effectively would be prohibited by section 17(a) of the Investment Company Act from purchasing securities directly from its affiliated underwriter or from an affiliate of its affiliate. *See* 15 U.S.C. 80a–17(a). That section 10(f) prevents a fund from acquiring securities from an unaffiliated member of the underwriting syndicate would seem to reflect the view that the affiliated underwriter has the potential to pressure the fund into acquiring the securities through another underwriter in order to facilitate the underwriting. If each member of a syndicate has proportionate liability for securities remaining unsold, as is frequently the case in many municipal securities syndicates, for example, the successful sale of all of the securities, regardless of from which member of the syndicate the securities are purchased, benefits all members of the syndicate, including the affiliated underwriter.

[4] "Principal Underwriter" is defined in section 2(a)(29) of the Investment Company Act, 15 U.S.C. 80a–2(a)(29), to mean (in relevant part) an underwriter who, in connection with a primary distribution of securities, (A) is in privity of contract with the issuer or an affiliated person of the issuer, (B) acting alone or in concert with one or more other persons, initiates or directs the formation of an underwriting syndicate, or (C) is allowed a rate of gross commission, spread, or other profit greater than the rate allowed another underwriter participating in the distribution.

[5] Section 10(f) prohibits a fund from purchasing a security during the existence of an underwriting or selling syndicate if a principal underwriter of the security is an officer, director, member of an advisory board, investment adviser, or employee of the fund, or is a person of which any such officer, director, member of an advisory board, investment adviser, or employee is an affiliated person. For purposes of this release, a person that falls within one of these categories is referred to as an "affiliated underwriter," and the syndicate of which such person is a member is referred to as an "affiliated underwriting syndicate." Funds that are subject to section 10(f) because an affiliated underwriter is a member of a syndicate are referred to as "affiliated funds."

[6] *See* Adoption of Rule N–10F–3 Permitting Acquisition of Securities of Underwriting Syndicate Pursuant to Section 10(f) of the Investment Company Act of 1940, Investment Company Act Release No. 2797 (Dec. 2, 1958), 23 FR 9548 (hereinafter "1958 Adopting Release"). The rule codified the conditions of orders that the Commission had granted prior to 1958 exempting certain funds from section 10(f) to permit them to purchase specific securities. *See, e.g.*, The Chicago Corporation, Release No. 40–107 (Apr. 8, 1941); The Pennroad Corporation, Investment Company Act Release No. 1636 (Aug. 10, 1951).

The Commission amended rule 10f–3 in 1979 to permit its use for the purchase of municipal securities, in 1985 to reflect changes in the periodic reporting requirements for all funds, and again in 1993 to remove a requirement that fund boards annually review procedures adopted pursuant to the rule. *See* Exemption of Acquisition of Securities During the Existence of Underwriting Syndicate, Investment Company Act Release No. 10736 (June 14, 1979), 44 FR 36152 (hereinafter "1979 Adopting Release"); Withdrawal of Quarterly Reporting Forms and Filing Obligation of Certain Registered Investment Companies, Securities Act Release No. 6591 (July 1, 1985), 50 FR 29366; Revision of Certain Annual Review Requirements of Investment Company Boards of Directors, Securities Act Release No. 7013 (Sept. 17, 1993), 58 FR 49919.

[7] A "firm commitment" underwriting, for purposes of rule 10f–3, is one in which the underwriters are committed to purchase all of the securities being offered, if the underwriters purchase any of the securities being offered. *See* rule 10f–3(a)(3).

[8] The provisions of rule 10f–3 are similar to provisions permitting limited affiliated transactions by persons subject to section 406 of the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. 1106, and by banks subject to section 23B of the Federal Reserve Act, 12 U.S.C. 371c–1. Section 406 of ERISA, as interpreted by the Department of Labor, prohibits a plan fiduciary from purchasing a security for the plan from a syndicate in which an affiliate of the fiduciary is an underwriter. *See* Prohibited Transaction Class Exemption 75–1 (Oct. 24, 1975) ("PTCE 75–1"). The Department of Labor has issued a class exemption permitting purchases in limited circumstances, subject to conditions similar to rule 10f–3. *Id.*

Section 23B of the Federal Reserve Act, 12 U.S.C. 371c–1(b), like section 10(f) of the Investment Company Act, prohibits a bank or its subsidiary from purchasing, as principal or fiduciary, securities from underwriting syndicates in which an affiliate of the bank participates. Section 23B, however, permits acquisitions of these securities if a majority of the bank's independent directors have approved the acquisition in advance. 12 U.S.C. 371c–1(b)(2).

[9] The Commission first recognized a need to reevaluate rule 10f–3 when it issued a release in 1986 requesting comment on whether the Commission should amend the rule, and requesting suggestions on possible amendments. *See* Advance Notice and Request for Comment on Whether the Commission Should Amend an Existing Rule that

Continued

The number of funds and the amount of assets invested in funds has grown exponentially since 1980.[10] The increase in the number and size of funds has resulted in funds becoming major sources of capital and significant purchasers in syndicated offerings.[11] This growth, however, has had an effect on the ability of funds to use rule 10f–3. The provisions in the rule limiting the amount of an offering that a fund may purchase may, in effect, be more restrictive today than they were when the Commission last substantively amended the rule in 1979.[12]

The growth of the fund industry has been accompanied by changes in the financial services industry that have limited the usefulness of rule 10f–3. Over the recent past, the financial services industry has become more concentrated as large financial conglomerates have replaced smaller, independent underwriting firms.[13] Increasing concentration in the underwriting industry has made it more likely that an affiliated underwriter will participate in an underwriting syndicate. In addition, more underwriters have either developed or otherwise become affiliated with fund complexes, and the sponsors of some fund complexes have established broker-dealer affiliates.[14] As a result of the increasing affiliations among funds and underwriters, more funds have become, and more are likely in the future to become, subject to section 10(f).

Another significant change in the fund industry since 1980 has been the dramatic increase in the number of funds that invest in foreign securities.[15] This trend may be the result of a combination of several factors, including the internationalization of the securities markets and increased investor interest in overseas investment opportunities.[16] The increase in demand for foreign securities by U.S. funds has been accompanied by an increase in the participation of U.S. underwriters in the global offerings of these securities.[17] Additionally, funds that invest only in securities of issuers located in particular countries often employ investment advisers located in those countries, many of which advisers are affiliated with major underwriters in those countries.[18] As a result of these developments, funds that invest in foreign securities increasingly are subject to the prohibitions of section 10(f), but often cannot rely upon rule 10f–3 for purchases of these securities because the securities frequently are not registered under the Securities Act.[19]

The Commission believes that amendments to rule 10f–3 may be desirable in light of these changes. Because the incentives that could lead fund affiliates to seek to use fund assets to facilitate underwritings are substantially the same today as they were in 1940, however, the concerns underlying section 10(f) remain important.[20] The proposed amendments are designed to balance these concerns with the need for funds to have more flexibility to purchase securities when their affiliated underwriters are members of syndicates.

II. Discussion

A. Quantity Limitations

1. Amount Purchased

Rule 10f–3 currently prohibits funds advised by the same investment adviser from purchasing, in the aggregate, more than 4% of the principal amount of the offering, or $500,000, whichever is greater, but in no event greater than 10% of the offering.[21] The Commission is proposing to amend the percentage limit to permit funds relying on the rule to purchase up to the greater of 10% of the principal amount of an offering, or $1,000,000 (but not more than 15% of the offering).[22] This proposed change is designed to respond to the increasing size of funds and the increasing concentration in the underwriting industry in general.

When originally adopted in 1958, rule 10f–3 limited funds to purchasing 3% of the amount offered by the syndicate in which the affiliated underwriter participated. The exemptions from section 10(f) obtained by funds prior to 1958 generally had involved purchases that would not exceed this amount.[23] In 1979, the Commission increased the percentage limit to its current level.[24]

The current percentage limit, in some instances, may be more restrictive than is necessary for the protection of fund investors. A fund that is limited to purchasing 4% of an offering must, if it wishes to purchase more than that amount, wait until the syndicate has closed and purchase the securities in the secondary market. This delay may result in a fund paying a significantly higher price for the securities and incurring significant additional transaction costs.[25] Thus, a fund that is restricted by the percentage limit in rule 10f–3 may not be able to purchase desirable securities at prices that would benefit its portfolio. Large funds or funds in a large fund complex also may find it inefficient to purchase only 4% of an offering, particularly if the total offering amount is small. For these funds, 4% of an offering may be too small an amount to have any effect on the fund's portfolio.[26] The portfolio manager of such a fund may then decide not to purchase the security at all.

Notwithstanding these potential disadvantages, the percentage limit would appear to limit the possibility that securities will be "dumped" on an affiliated fund. The percentage limit provides an indication that a significant portion of the offering is being purchased by persons other than the affiliated fund. In view of its administrative experience with rule 10f–3, however, the Commission believes that the percentage limit can be raised to afford funds additional flexibility. The proposed 10% purchase limit would continue to provide assurance that a significant portion of the offering is being distributed to persons not affiliated with the fund.

2. Percentage of Fund Assets

Rule 10f–3 currently prohibits a fund from using more than 3% of its assets to acquire securities in a transaction subject to the rule (the "3% limit").[27] The Commission is proposing to eliminate this condition. The Commission believes that the other provisions of rule 10f–3 provide sufficient protection against dumping. In addition, the diversification provisions of the Investment Company Act provide shareholders of most funds with similar protections.[28]

3. Request for Comment on Quantity Limitations

The Commission requests comment on the percentage limit and the 3% limit generally. Does the percentage limit continue to serve a useful regulatory purpose? Should the percentage limit be retained at all? Would increasing the percentage limit to 10% provide sufficient flexibility to funds while addressing the concerns underlying section 10(f)?[29] Would a higher limit (such as 15% or 20%) be appropriate? Does the 3% limit serve a useful purpose, and if so, should the limit be retained or raised?

The Commission also requests comment whether other types of quantity limits, in addition or as an alternative to the current and proposed limits, are appropriate or necessary to reduce the risk that an underwriter will seek to cause an affiliated fund to purchase unmarketable securities. One industry commenter, for example, has suggested raising the percentage limit dramatically while limiting the percentage of a fund's assets that may consist of securities acquired in rule 10f–3 transactions.[30] Another possible approach would be to limit the amount of an offering all funds affiliated with members of the underwriting syndicate may purchase. Commenters are requested to provide specific suggestions for these types of provisions and indicate whether they would supplement or replace existing quantity limitations in the rule.

B. Purchases of Foreign Securities

Funds cannot rely on rule 10f–3 to purchase foreign securities from syndicates in which their affiliated underwriters participate when those offerings are not registered under the Securities Act. As a result, several funds have, over time, applied for orders from the Commission that would exempt them from section 10(f) and allow them to make these purchases.[31] The proposed amendments would permit funds to rely on rule 10f–3 to purchase foreign securities in circumstances similar to those described in prior Commission orders.

The Commission has granted orders permitting funds to purchase foreign securities in accordance with rule 10f–3 when the securities have been offered in foreign public offerings that have characteristics similar to those present in offerings registered under the Securities Act.[32] One important factor present in all of the orders, for example,

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Permits an Investment Company to Acquire Securities Underwritten by an Affiliate of that Company, Investment Company Act Release No. 14924 (Jan. 29, 1986), 51 FR 4386 ("1986 Concept Release"). In response, the Commission received 11 letters commenting on nearly every aspect of the rule. The Commission's Division of Investment Management ("Division") further evaluated the rule in connection with its 1992 study of the Investment Company Act. The Division recommended at that time that the Commission amend rule 10f–3 to permit the purchase of foreign securities. *See Division of Investment Management, U.S. Securities and Exchange Commission, Protecting Investors: A Half Century of Investment Company Regulation* 499–500 (1992).

[10] In 1980, there were 564 funds with total assets of $134.8 billion. By December 1995, there were 5,789 funds with total assets of over $2.8 trillion. Investment Company Institute, Press Release (Jan. 25, 1996).

[11] *See, e.g., The Boom in IPOs*, Bus. Wk., Dec. 18, 1995, at 64, 68 (stating that "mutual funds are major buyers of new equity issues").

[12] The average size of a municipal bond fund, for example, has increased at a much greater rate than the average size of a municipal bond offering. In 1980, the average municipal bond fund had $69.5 million in assets and the average municipal bond offering was $8.5 million. *Investment Company Institute, 1982 Mutual Fund Fact Book* 27; *Investment Company Institute, 1986 Mutual Fund Fact Book* 19; *Bond Buyer, 1990 Yearbook* 38. In 1995, the average municipal bond fund had more than tripled in size, with $249.6 million in assets, while the average municipal bond offering, $15.2 million, had not even doubled in size. *See* Investment Company Institute, Press Release (Jan. 25, 1996); *1995 Year-End Statistics Supplement, Bond Buyer*, Jan. 26, 1996, at 13A. *See also infra* note and accompanying text.

[13] *See, e.g.*, Shawn Tully, *Can Lehman Survive?, Fortune*, Dec. 11, 1995, at 154; *see also* Helene Duffy, *Few to Get Fewer in Investment Banking, Bank Mgmt.*, Mar. 1991, at 8; *From the Many, Perhaps Just a Few*, Bus. Month, Feb. 1988, at 69. Some commentators have suggested that there has been an increased concentration in the municipal securities industry as firms have departed from that business. *See, e.g.*, Michael Stanton, *Chemical Securities to Close Muni Division; 50 Jobs Lost, Bond Buyer*, Jan. 17, 1996, at 1; *Muni Market Liquidity Not Seen Growing Significantly, Sec. Industry Daily*, Sept. 29, 1995, at 15.

[14] *See, e.g.*, Mercedes M. Cardona, *Wall St. Managers Pay Off, Pensions & Investments*, Sept. 5, 1994, at 3 ("money managers owned by big Wall Street brokerage and investment banking firms increasingly are contributing to their parents' bottom lines, while underwriting and brokerage activities slow down"); Geoffrey Smith, *This Little Broker Went to Market—And Got Big, Bus. Wk.*, Jan. 27, 1992, at 76 (describing the development and increasing growth of a broker-dealer affiliate of the nation's largest fund complex). According to statistics compiled by the Division, in 1970 only 8 of the top 25 underwriters (ranked by percentage of amount of securities underwritten, giving full credit to the lead underwriter) were affiliated with funds. By 1980, that number had risen to 13. By 1995, 23 of the top 25 underwriters were affiliated with fund groups.

[15] According to statistics compiled by the Division, 21 funds, with aggregate assets of $2.2 billion, invested primarily in foreign securities as of December 1980. By December 1995, 682 funds, with aggregate assets of $230.3 billion, invested primarily in foreign securities. *See* Investment Company Institute, Press Release (Jan. 25, 1996).

[16] *See, e.g.*, Michael Hurley, *Comments: International Debt and Equity Markets: U.S. Participation in the Globalization Trend*, 8 *Emory Int'l L. Rev.* 701 (1994) (describing the internationalization of the securities markets); William Glasgall, *Who's Afraid of the Global Markets? Not U.S. Investors, Bus. Wk.*, Sept. 18, 1995, at 70 (describing how U.S. investors "continue to roam the world in search of portfolio diversification and growth").

[17] *See, e.g.*, Michael R. Sesit, *Top Dogs: U.S. Financial Firms Seize Dominant Role In the World Markets, Wall St. J.*, Jan. 5, 1996, at A1; *see also* Michael Carroll, *As the Cycle Turns, Inst. Inv.*, Sept. 1994, at 138–39 (describing how U.S. firms are in a "preeminent worldwide position in underwriting").

[18] *See, e.g.*, Irish Investment Fund, Investment Company Act Release Nos. 20220 (Apr. 14, 1994), 59 FR 19035 (Notice of Application) and 20286 (May 10, 1994), 56 SEC Docket 1843 (Order); Brazilian Equity Fund, Investment Company Act Release Nos. 19601 (July 28, 1993), 58 FR 41533 (Notice of Application) and 19650 (Aug. 24, 1993), 54 SEC Docket 1840 (Order); First Philippine Fund, Investment Company Act Release Nos. 19034 (Oct. 16, 1992), 57 FR 48534 (Notice of Application) and 19096 (Nov. 12, 1992), 52 SEC Docket 2436 (Order).

[19] If a fund is prohibited by section 10(f) from purchasing a security during the existence of an underwriting syndicate, the fund theoretically can wait until the syndicate is completed and purchase the security in the market. This option has disadvantages, however. *See infra* note and accompanying text.

[20] *See* 1 *Louis Loss & Joel Seligman, Securities Regulation* 378 (1989) ("The high turnover of underwriting capital in this country means that investment bankers for the most part cannot retain the securities they underwrite for any length of time even if they should want to."); *id.* at 379–80 ("It is a simple fact * * * that diminution of risk and its by-product, speed, are the keynotes in distribution."). Members of the fund industry, on the other hand, have observed that the increased contributions of funds to the revenues of major financial conglomerates, and the increased scrutiny given funds by the financial press, have reduced the likelihood that funds would be used to facilitate underwritings to the disadvantage of fund shareholders. *See, e.g.*, Letter from IDS Financial Services, Inc. to John P. Wheeler, III, Secretary, SEC, Apr. 4, 1986 (commenting on 1986 Concept Release, File No. S7–3–86).

[21] Rule 10f–3(d).

[22] Proposed rule 10f–3(f).

[23] *See* 1958 Adopting Release, *supra* note 6.

[24] *See* 1979 Adopting Release, *supra* note 6.

[25] In many instances, particularly in the equity market, the price of a security increases, sometimes dramatically, after an initial public offering. *See, e.g.*, 1 Louis Loss & Joel Seligman, *supra* note 20, at 333 n.28; Jonathan A. Shayne & Larry D. Soderquist, *Inefficiency in the Market for Initial Public Offerings*, 48 Vand. L. Rev. 965 (1995). There are additional potential costs to purchasing securities in the secondary market. In secondary market purchases, funds would be required to pay brokerage commissions that they usually would not pay when purchasing directly in an underwritten offering. A fund that must wait until the dissolution of the underwriting syndicate to purchase more than 4% of an offering also may not have the opportunity to purchase the amount of the security that is desirable for its portfolio because of limited supply. This particularly would be the case for popular securities that are in high demand.

[26] *See, e.g.*, Letter from Alliance Capital Management Corp. to John P. Wheeler, III, Secretary, SEC, Apr. 14, 1986 (commenting on 1986 Concept Release, File No. S7–3–86); Application of First Funds, File No. 812–9248; *see also supra* note 12 and accompanying text. In the case of municipal securities, smaller blocks of securities often are more difficult to sell than larger blocks. If a fund manager is able to purchase only a small block of municipal securities because of the percentage limit in rule 10f–3, the liquidity of the fund's portfolio may be adversely affected.

[27] Rule 10f–3(e).

[28] Section 5(b)(1), 15 U.S.C. 80a–5(b)(1), of the Investment Company Act, for example, generally limits a diversified fund to investing, with respect to 75% of its assets, no more than 5% of its assets in the securities of a single issuer.

[29] The Commission notes that a factor in determining the percentage limit is the possibility that several underwriters would together agree to underwrite an offering and sell the entire offering to their affiliated funds. The higher the percentage limit, the fewer the number of underwriters necessary to make such an agreement.

[30] Letter from Smith Barney Inc. to Kenneth J. Berman, Assistant Director, Office of Regulatory Policy, Division of Investment Management, SEC, Feb. 28, 1996 (available in public file S7–7–96).

[31] *See, e.g.*, Brazilian Investment Fund, Investment Company Act Release Nos. 19301 (Mar. 1, 1993), 58 FR 12613 (Notice of Application) and 19366 (Mar. 30, 1993), 53 SEC Docket 2139 (Order); France Growth Fund, Investment Company Act Release Nos. 19097 (Nov. 13, 1992), 57 FR 54627 (Notice of Application) and 19151 (Dec. 9, 1992), 52 SEC Docket 3001 (Order). The orders granted by the Commission generally have required the applicants to comply with all of the provisions of rule 10f–3 except for the Securities Act registration requirement.

[32] *See, e.g.*, The Mexico Fund, Investment Company Act Release Nos. 20156 (Mar. 23, 1994), 59 FR 14946 (Notice of Application) and 20225 (Apr. 19, 1994), 56 SEC Docket 1455 (Order); The New Germany Fund, Investment Company Act Release Nos. 19353 (Mar. 24, 1993), 58 FR 16723 (Notice of Application) and 19421 (Apr. 20, 1993), 53 SEC Docket 2481 (Order); The First Philippine Fund, *supra* note 18.

has been that the securities were publicly offered and distributed at a uniform public offering price.[33] Another important factor has been that the applicable laws or regulations of the country in which the public offering was taking place required information about the issuer to be made available to the public. These and other factors outlined in the orders suggested that the securities would be widely distributed, that a wide range of market participants would agree that the offering price of the securities was fair, and that a secondary market for the securities would likely develop.

The Commission proposes to amend rule 10f–3 to permit purchases of foreign securities in circumstances in which the offerings have characteristics similar to those described above. The proposed amendments would permit a fund to purchase, through an affiliated underwriting syndicate, securities issued by a foreign issuer and not registered under the Securities Act if they are issued in either an "Eligible Foreign Offering" or a "Foreign Issuer Rule 144A Offering," described below.[34] The fund also would be required to comply with all other provisions of rule 10f–3.

1. Eligible Foreign Offering

a. General. The proposed amendments would define an Eligible Foreign Offering as a public offering, conducted under the laws of a country other than the United States, of the securities of a foreign issuer.[35] The offering would be required to be subject to regulation by a Foreign Financial Regulatory Authority ("FFRA"), as defined in the Investment Company Act, in the country in which the public offering occurs.[36] Thus, an offering would meet the terms of the proposed definition if it is conducted in a country that has laws, rules or regulations regarding public offerings. An offering also would fall within the definition if an organization such as a stock exchange in that country has rules that regulate the offering of the securities. The Commission requests comment whether the proposed requirement for regulation by a FFRA appropriately recognizes that securities regulatory schemes differ among countries. Comment is requested whether a narrower definition of regulatory scheme would be appropriate for the protection of investors. Are additional or alternative provisions, such as a requirement that the country have laws imposing liability for misleading disclosure, or a requirement that the country have a system for the registration of securities, appropriate or necessary for the protection of investors?

The public offering requirement may provide some assurance that a market for the securities will develop. The Commission requests comment whether additional conditions, such as a minimum market float or a requirement that there be no legal restrictions on transferability, are necessary to provide adequate assurance that a market for the securities will exist after the offering is complete. The Commission also requests comment whether the proposal should require all foreign securities purchased pursuant to the rule to be listed on a securities exchange, either as an alternative or an addition to the proposed provisions. Would a listing requirement provide greater assurance that the securities are widely distributed?

b. Disclosure. An offering subject to regulation by a FFRA would meet the terms of the definition of Eligible Foreign Offering only if, under applicable law or the rules of the applicable FFRA, the issuer of the securities is required to disclose information about the issuer and the offering to prospective purchasers.[37] The proposed amendments also would require that financial statements, audited in accordance with the accounting standards of the appropriate country, for the two years prior to the offering, be made available to the public and prospective purchasers in connection with the offering.[38]

The proposed rule would not set objective disclosure standards, other than the financial statement requirement, that must be met in order to comply with the rule. The Commission requests comment whether the rule should be amended to provide specific standards of disclosure that would be applicable to purchases of foreign securities made pursuant to the rule.

c. Offering Price. Under the proposed definition of Eligible Foreign Offering, the foreign securities would have to be offered at a fixed price to all purchasers in the offering. The single public offering price requirement is designed to enable a fund to comply with the provision of rule 10f–3 that requires the fund to purchase the securities at not more than the public offering price prior to the end of the first business day after the first date on which the securities are offered to the public.[39] The Commission believes the proposed single price offering requirement is consistent with the purposes of section 10(f) because it would preclude an underwriter from obtaining an advantage for the syndicate by causing an affiliated fund to purchase securities from the syndicate at a price that is higher than the price offered to unaffiliated purchasers.

An exception from the single offering price requirement would be available if applicable law requires an issuer to offer the securities at a lower price to existing securities holders.[40] The Commission requests comment whether there are other discrete classes of persons to whom discounts are offered, other than persons who may control a company through ownership or influence over the company's operations, that should be included in this exception. In privatization transactions, for example, citizens of the country that formerly owned the enterprise often are offered the securities at a discount.

[33] At least one applicant that received a Commission order invested in securities in a country where existing shareholders could be offered securities on terms different than those offered to other potential purchasers. *See* The New Germany Fund, *supra* note 32.

[34] A "foreign issuer" would be defined in the same manner as it is in rule 405 under the Securities Act, 17 CFR 230.405, to mean any issuer which is a foreign government, a national of any foreign country or a corporation or other organization incorporated or organized under the laws of any foreign country.

[35] The proposed amendments do not affect the obligation of any issuer, whether domestic or foreign, to comply with U.S. securities laws. The proposed definition of Eligible Foreign Offering, for example, would not affect an issuer's obligation to determine whether the offering is conducted in such a manner as to bring it within the reach of the registration requirements of section 5 of the Securities Act.

[36] Proposed rule 10f–3(k)(1)(i). "Foreign Financial Regulatory Authority" is defined in section 2(a)(50) of the Investment Company Act, 15 U.S.C. 80a–2(a)(50), generally as any (A) Foreign securities authority, (B) other governmental body or foreign equivalent of a self-regulatory organization empowered by a foreign government to administer or enforce its laws relating to certain financial activities, or (C) membership organization a function of which is to regulate the participation of its members in such financial activities.

A "foreign securities authority" is defined in section 2(a)(49) of the Investment Company Act, 15 U.S.C. 80a–2(a)(49), as any foreign government or any governmental body or regulatory organization empowered by a foreign government to administer or enforce its laws as they relate to securities matters.

[37] This condition would not require that the issuer become subject to an ongoing disclosure regime. The condition would be satisfied if information about the issuer and the offering were required to be disclosed to prospective purchasers in connection with the sale of the securities.

[38] Proposed rule 10f–3(k)(1)(iv). The proposed amendments would not specify the format of the financial statements that must be provided in recognition that financial reporting standards differ from country to country.

[39] *See* rule 10f–3 (a)(2) (paragraph (b) of rule 10f–3 as proposed to be amended).

[40] *See supra* note 33.

2. Foreign Issuer Rule 144A Offerings

Many fund purchases of foreign securities are made in transactions ("rule 144A placements") that are exempt from the registration provisions of the Securities Act and that qualify the purchased securities as eligible to be resold pursuant to rule 144A under the Securities Act ("rule 144A-eligible securities").[41] Rule 144A is a non-exclusive safe harbor that exempts from the registration provisions of the Securities Act resales of securities to certain large institutions, known as Qualified Institutional Buyers ("QIBs").[42] Typically, a rule 144A placement involving a foreign issuer's securities is part of a larger global offering of those securities.[43] Frequently, a global offering is divided into several tranches—one for the issuer's home country, one for the United States, and one or more for other countries. The securities in the U.S. tranche are sold in either a registered public offering or an offering that is exempt from registration under the Securities Act. Often, the U.S. tranche is sold only to institutions that qualify as QIBs. Usually, the price for the securities is uniform across all the tranches and the issuer prepares an offering document that provides detailed information about the issuer and the offered securities.[44] Securities purchased by a fund in a rule 144A placement are transferable to another QIB in the United States, and may be sold freely in a foreign market (assuming foreign law permits such sale).[45]

In order to increase the flexibility of affiliated funds to purchase securities in these types of transnational offerings, the proposed amendments would permit a fund to purchase securities in a Foreign Issuer Rule 144A Offering, subject to the other conditions of rule 10f–3 (other than the Securities Act registration requirement).[46] A Foreign Issuer Rule 144A Offering generally would be a distribution of securities of a foreign issuer, made exclusively to QIBs, if the securities would be eligible to be resold pursuant to rule 144A.[47] In addition, the proposed amendments would require that securities of the same class be offered in a concurrent Eligible Foreign Offering.[48] This condition is designed to provide some assurance that there is a widespread distribution of securities that are fungible with the rule 144A securities purchased by the fund.

Consistent with the purpose of section 10(f), the proposed amendments would require a fund purchasing securities in a Foreign Issuer Rule 144A Offering to pay no more than the public offering price in the concurrent Eligible Foreign Offering or the price paid by each other QIB, whichever is lower.[49] This provision is designed to provide assurance that a fund does not pay more for the securities than it would if it could engage in arm's length negotiations as to the price of the securities.

The proposed amendments would permit funds to purchase securities in rule 144A placements of foreign issuers. The Commission recognizes that rule 144A placements also often are used by U.S. issuers, and requests comment whether rule 10f–3 should permit purchases of rule 144A-eligible securities of domestic issuers, subject to conditions that protect investors by reducing the likelihood that dumping of unmarketable securities will occur.[50] The conditions applicable to Foreign Issuer Rule 144A Offerings and Eligible Foreign Offerings, however, generally could not be made applicable to domestic rule 144A placements.[51] Commentators in favor of expanding the rule to permit the purchase of securities of domestic issuers in rule 144A placements should suggest alternative conditions.

3. General Request for Comment

The Commission believes that the proposed conditions for purchases of foreign securities should provide assurance that the purposes underlying rule 10f–3 will be met in foreign offerings. Nonetheless, the Commission requests comment on its overall approach to permitting purchases of foreign securities under rule 10f–3. Commenters are encouraged to suggest specific alternatives that would provide flexibility without diminishing investor protection. The Commission also requests comment whether the proposed standards for an Eligible Foreign Offering and a Foreign Issuer Rule 144A Offering are sufficiently clear. The Commission considered alternatives to the proposed approach, such as specifically identifying countries in which purchases may be made, but believes that its proposed approach

[41] 17 CFR 230.144A. In 1993, funds purchased more foreign equity securities in rule 144A placements than did any other type of purchaser. *See* SEC, *Staff Report on Rule 144A* 15 (1994) (hereinafter *Staff Report*). The Commission has received applications from several funds requesting exemptive relief from section 10(f) for purchases of foreign securities in transactions that would produce rule 144A-eligible securities. *See, e.g.*, Application of the Brazilian Investment Fund, Inc. *et al.*, File No. 812–9676; Application of Merrill Lynch Balanced Fund For Investment and Retirement *et al.*, File No. 812–8346.

[42] Under rule 144A, the seller must reasonably believe that the purchaser is a QIB. A QIB is an institution of a type listed in rule 144A and owning or investing on a discretionary basis at least $100 million of securities. *See* 17 CFR 230.144A(a)(1). Many funds qualify as QIBs in their own right, and others qualify because they are part of a "family" of funds that own, in the aggregate, at least $100 million in securities. 17 CFR 230.144A(a)(1)(iv).

[43] One of the purposes of rule 144A was to encourage foreign issuers to access the U.S. capital markets. *See* Securities Act Release No. 6862 (April 30, 1990), 55 FR 17933. According to statistics compiled by the Commission's Division of Corporation Finance, from the adoption of rule 144A through December 31, 1994, approximately $39 billion of equity and debt securities relating to more than 480 foreign issuers were sold in rule 144A placements.

[44] Although most foreign rule 144A placements appear to be priced the same as concurrent foreign offerings, there is no regulatory requirement that the securities be priced in this manner. *See Staff Report, supra* note 41, at 26. It has been suggested, however, that most rule 144A transactions are sold in underwriting arrangements with terms and conditions substantially similar to those applicable to registered public offerings. 1 E. Greene et al., U.S. Regulation of the International Securities Markets: A Guide for Domestic and Foreign Issuers and Intermediaries 141 (1993). Rule 144A requires an issuer to provide certain information about the issuer that the purchaser of the securities may request, including financial information for its two most recent fiscal years of operation. *See* 17 CFR 230.144A(d)(4). The rule exempts from this information requirement foreign governments and foreign private issuers that furnish information to the Commission pursuant to rule 12g3–2(b), 17 CFR 240.12g3–2(b), under the Securities Exchange Act of 1934, 15 U.S.C. 78a *et seq.* ("Exchange Act"). *See* 17 CFR 230.144A(d)(4)(i).

[45] Regulation S under the Securities Act generally permits the sale of securities owned by a U.S. person into a foreign market if certain conditions are met. *See* 17 CFR 230.901 *et seq.*

[46] The proposed amendments would in no way affect the determination that must be made by fund boards of directors whether a security purchased by the fund in a rule 144A placement is deemed a liquid security for purposes of the fund's liquidity policies. *See* Resale of Restricted Securities, Securities Act Release No. 6862 (Apr. 23, 1990), 55 FR 17933.

[47] Rule 144A provides that a person who offers or sells securities in compliance with rule 144A is not deemed to be an underwriter of such securities for purposes of section 2(11) of the Securities Act. 17 CFR 230.144A(c). Rule 144A, however, does not limit the scope of section 10(f).

[48] Proposed rule 10f–3(k)(4). The definition of "foreign issuer" for purposes of rule 10f–3 would not be limited to "foreign private issuers," as defined in rule 405, 17 CFR 230.405, under the Securities Act. A foreign issuer that is not a foreign private issuer may have a substantial presence in the United States (either through securities ownership or operation of business, or both). Under the amended rule, for a fund to purchase securities of that issuer in a rule 144A placement, the issuer would be required to have a concurrent Eligible Foreign Offering of securities of the same class in a foreign country.

[49] Proposed rule 10f–3(b)(2). The proposed amendments would provide that a fund will be deemed to have satisfied this condition if it reasonably relies on written statements of the seller. Proposed rule 10f–3(h).

[50] *See Staff Report, supra* note , at 3–4.

[51] The requirement that there be a concurrent public offering of securities of the same class, for example, could not be met because rule 144A is not available for transactions in securities if, at issuance, securities of the same class were listed on a national securities exchange.

would protect investors while also affording greater flexibility to funds.

The proposed amendments would not differentiate between securities issued by foreign companies and those issued by foreign governments. The definition of Eligible Foreign Offering, therefore, would permit an affiliated fund to purchase foreign government securities if the offering of those securities otherwise meets the conditions of the definition. Comment is requested, however, whether these conditions are appropriate for purchases of foreign government securities that could be subject to section 10(f).

Rule 10f–3 currently requires fund directors to adopt procedures pursuant to which a fund may purchase securities in reliance on the rule.[52] The Commission requests comment on the role of fund directors in determining compliance with the proposed foreign securities provisions. In particular, the Commission asks commenters to consider whether the existing requirements for the establishment and review of procedures are sufficient to cover the new proposals.

C. Group Sales

A "group sale" is a sale of municipal securities resulting from a "group order," which is an order for securities for the account of all members of a syndicate in proportion to their respective participations in the syndicate.[53] Rule 10f–3 prohibits a fund from purchasing a security, directly or indirectly, from its affiliated underwriter, and, in effect, provides that a purchase from a syndicate manager that is designated as a group sale is deemed a purchase from the affiliated underwriter.[54] These provisions are designed to ensure that a purchase permitted by rule 10f–3 does not violate section 17(a) of the Investment Company Act, which prohibits a fund from purchasing securities from an affiliate or an affiliate of an affiliate.[55]

The prohibition in rule 10f–3 on group sales may act to the detriment of funds that invest in municipal bonds. The rules of the Municipal Securities Rulemaking Board ("MSRB"), which govern the sale of municipal securities, require a syndicate that is offering municipal securities to establish a priority by which orders for the securities will be filled.[56] Frequently, group orders are designated to receive first priority.[57] Thus, if a municipal securities offering were oversubscribed, it is possible that only prospective purchasers who placed group orders would be able to purchase the securities being offered. A fund that is prohibited by rule 10f–3 from placing group orders would be precluded from purchasing any securities in that offering. Because of the potential cost of this prohibition to municipal bond funds and their shareholders, particularly during times in which demand for municipal securities is increasing and supply of these securities is decreasing, the Commission believes that funds subject to rule 10f–3 should be given more flexibility to place group orders for municipal securities.[58]

The proposed provision that would permit group sales contains two conditions designed to limit the likelihood that a group sale would be motivated primarily by an affiliated underwriter's intention to be the primary beneficiary of the group sale. First, a purchase designated as a group sale could be made only if the syndicate has established that orders designated as group orders have first priority, or that only group orders will be filled.[59] Second, a purchase designated as a group sale would be permitted only if, at the time of the sale, the affiliated underwriter is not committed to underwriting more than 50% of the principal amount of the offered securities.[60] In determining whether the conditions have been satisfied, the proposed amendments would permit a fund reasonably to rely upon the written statements of a member of the syndicate.[61]

Absent an exemption by order or rule, section 17(a) of the Investment Company Act could prohibit a fund from purchasing securities in a group sale. To clarify that a purchase of municipal securities in a group sale permitted by rule 10f–3 also is exempt from section 17(a), the Commission is proposing new rule 17a-10. The new rule would exempt any purchase of municipal securities in a group sale that complies with rule 10f–3 from section 17(a)(1).

The Commission requests comment whether permitting funds to purchase through group sales would give needed flexibility to funds. To further reduce the likelihood that the syndicate is giving group sales first priority to benefit the affiliated underwriter, should the proposed amendments require there to be at least a certain number of syndicate members for a fund to take advantage of the provision permitting group sales? Comment also is requested whether there are other arrangements similar to group sales with respect to securities other than municipal securities and whether rule 10f–3 should be amended to permit these types of arrangements.

D. Reporting and Recordkeeping

The Commission proposes eliminating the current requirement that funds report all rule 10f–3 transactions to the Commission in their semi-annual reports on Form N-SAR by filing an exhibit setting forth certain details about each transaction.[62] Information about transactions that rely on rule 10f–3 currently are required to be kept with other records pursuant to rule 10f–3 and is available to Commission staff during periodic on-site examinations of funds and investment advisers.[63] The Commission thus believes that it is unnecessary for funds to continue to file these reports. The Commission requests comment whether any changes to the reporting and recordkeeping requirements of rule 10f–3, other than the elimination of the requirement to report on Form N–SAR, are necessary.

[52] Rule 10f–3(h). The Commission proposes to amend this requirement to clarify that the board of directors must *approve*, rather than *adopt*, procedures for the purchase of securities of rule 10f–3. Proposed rule 10f–3(i)(1). The Commission believes that this change would more accurately reflect the role of the board of directors of approving policies and procedures developed by fund management.

[53] See Municipal Securities Rulemaking Board ("MSRB") Rule G–11(a)(iii), MSRB Manual (CCH) ¶3551; *see also* The Galaxy Fund *et al.*, Investment Company Act Release No. 20660 (Oct. 26, 1994) (Notice of Application).

[54] Rule 10f–3(f) provides that a purchase from a syndicate may not be made from, or directly or indirectly benefit, an affiliated underwriter. The rule implicitly permits certain purchases of municipal securities to indirectly benefit an affiliated underwriter, however, so long as such purchases are not designated as group sales or otherwise allocated to the account of the affiliated underwriter. *See* Exemption of Acquisition of Securities During the Existence of Underwriting Syndicate, Investment Company Act Release No. 10592 (Feb. 13, 1979) (proposing amendments to rule 10f–3).

[55] Rule 10f–3 currently defines "municipal securities" by reference to section 3(a)(29) of the Exchange Act. *See* rule 10f–3(a)(1)(ii). The proposed rule would continue to refer to the definition under the Exchange Act. *See* proposed rule 10f–3(k)(7).

[56] MSRB Rule G–11(e), MSRB Manual (CCH) ¶3551.

[57] *See, e.g.*, Public Securities Association, Fundamentals of Municipal Bonds 80 (1990). After group orders, "designated orders" generally are next in priority to be filled. A designated order is an order submitted by a member of the syndicate on behalf of a buyer on which all or a portion of the sale is to be credited to certain members of the syndicate. MSRB, Glossary of Municipal Securities Terms 34 (1985). Because rule 10f–3 prohibits funds that are purchasing municipal securities from placing group orders, these funds generally must place designated orders, designating underwriters other than affiliated underwriters to be credited with the sale.

[58] The increase in the number of municipal bond funds over the past 15 years has contributed to an increase in demand for municipal securities. *See, e.g.*, Investment Company Institute, *Trends in Mutual Fund Activity*, (Sept. 1995); Investment Company Institute, 1986 Mutual Fund Fact Book; Investment Company Institute, 1982 Mutual Fund Fact Book. The supply of newly issued municipal securities varies from year to year, depending upon a number of factors, including interest rates, tax considerations and political factors. Between 1986 and 1995, for example, the annual amount of issuances of new-money municipal securities ranged from a low of approximately $59.4 billion in 1987 to a high of $119.3 billion in 1993. *See 1995 Year-End Statistics Supplement*, Bond Buy., Jan. 26, 1996, at 16A.

[59] Proposed rule 10f–3(g)(2)(i).

[60] Proposed rule 10f–3(g)(2)(ii).

[61] Proposed rule 10f–3(h). MSRB rule G–11(f) requires a member of a municipal securities syndicate, upon request, to promptly furnish in writing information about the syndicate's priority provisions. A fund attempting to comply with rule 10f–3 could therefore easily obtain the required information.

[62] *See* rule 10f–3(g).

[63] *See* rule 10f–3(i).

[64] The Commission notes that it may not be necessary for rule 10f–3 to permit the purchase of U.S. government securities because the arrangements among distributors of these securities may not always constitute underwriting or selling syndicates for purposes of section 10(f). *See* Institutional Liquid Assets (pub. avail. Dec. 16, 1981).

III. General Request for Comments

Any interested persons wishing to submit written comments on the rule changes that are the subject of this Release, to suggest additional changes, or to submit comments on other matters that might have an effect on the proposals contained in this Release, are requested to do so. Comment is specifically requested whether the Commission should amend or eliminate conditions in rule 10f–3 other than those addressed in this Release. Does the requirement that the issuer have three years of operations and, in the case of municipal securities, have at least an investment grade rating, for example, continue to serve the purposes of rule 10f–3? Suggestions for such amendments should explain how they are consistent with the protection of investors and the purposes of section 10(f). The Commission also requests comments whether rule 10f–3 should be amended to permit the purchase of other classes of securities, such as U.S. government securities, that currently are not addressed by the rule, and the extent to which the conditions of the rule should apply to such purchases.[64]

IV. Cost/Benefit Analysis

The proposed amendments to rule 10f–3 would increase the flexibility for funds to purchase securities during the existence of a syndicate in which an affiliated underwriter participates. These amendments would benefit funds, which would be able to (i) purchase foreign securities in reliance upon rule 10f–3, without having to seek an exemptive order from the Commission, (ii) in many cases, purchase more desirable quantities of securities at advantageous prices, and (iii) purchase municipal securities that are in high demand. Funds also would no longer be required to file information about rule 10f–3 transactions on Form N-SAR. The potential benefits to fund investors of the proposed amendments are better investment performance, lower fund expenses, and less paperwork burden.

The costs to funds and investors of the proposed amendments are minimal. Fund advisers and boards of directors would be required to determine whether purchases of foreign securities and municipal securities in group sales comply with the proposed standards. Rule 10f–3, however, currently has standards that must be met for purchases permitted under the rule. Thus, the additional cost of determining compliance with the standards related to foreign securities and municipal securities in group sales should be minimal. These costs likely would be outweighed by the potential benefits to funds and investors described above.

V. Paperwork Reduction Act

Certain provisions of the proposed amendments to rule 10f–3 contain "collection of information" requirements within the meaning of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), and the Commission has submitted the proposed amendments to the Office of Management and Budget for review in accordance with 44 U.S.C. 3507(d). The title for the collection of information is "Exemption for the Acquisition of Securities During the Existence of an Underwriting Syndicate." The Supporting Statement to the Paperwork Reduction Act submission notes that the proposed amendments to rule 10f–3 would permit funds to purchase foreign securities and to purchase municipal securities in group sales, if certain conditions are met. The proposed amendments also would permit funds to purchase up to the greater of 10% of the offering amount or $1,000,000 (but not greater than 15% of the offering amount).

The submission further notes that the amendments would require funds that wish to rely upon the proposed new provisions to amend the procedures that are required by the rule to account for purchases of foreign securities and municipal securities in group sales. Adoption, and occasional revision, of procedures is important to ensure continual board oversight of transactions relying upon rule 10f–3. The Division of Investment Management estimates that 600 funds rely upon rule 10f–3 each year, and that 140 of those funds purchase municipal and/or foreign securities (although not all such funds rely upon rule 10f–3 to purchase such securities). It is estimated that the proposed amendments would increase the recordkeeping burden of funds that invest in foreign and/or municipal securities by an estimated 0.50 hours per fund per year. Thus, the total additional burden of the proposed amendments is estimated to be 70 hours.

Pursuant to 44 U.S.C. 3506(c)(2)(B), the Commission solicits comments concerning: whether the proposed collection of information is necessary for the proper performance of the function of the Commission, including whether the information shall have practical utility; on the accuracy of the Commission's estimate of the burden of the proposed collection of information; on the quality, utility, and clarity of the information to be collected; and whether the burden of collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology, may be minimized.

Persons desiring to submit comments on the collection of information requirements should direct them to the Office of Management and Budget, Attention: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Washington D.C. 20503, and should also send a copy of their comments to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth St., N.W., Washington, D.C. 20549 with reference to File No. S7–7–96. The Office of Management and Budget is required to make a decision concerning the collection of information between 30 and 60 days after publication, so a comment to the Office of Management and Budget is best assured of having its full effect if the Office of Management and Budget receives it within 30 days of publication.

VI. Summary of Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis in accordance with 5 U.S.C. 603 regarding amendments to rule 10f–3 under the Investment Company Act. The analysis indicates that the proposed amendments would affect small entities in the same manner as other entities subject to section 10(f), but that the proposed amendments increase flexibility for all funds. Cost-benefit information reflected in the "Cost/Benefit Analysis" section

of this Release also is reflected in the analysis. A copy of the Initial Regulatory Flexibility Analysis may be obtained by contacting David M. Goldenberg, Securities and Exchange Commission, 450 Fifth Street, N.W., Mail Stop 10–6, Washington, D.C. 20549.

VII. Statutory Authority

The Commission is proposing to amend rule 10f–3 pursuant to the authority set forth in sections 10(f), 31(a) and 38(a) of the Investment Company Act [15 U.S.C. 80a–10(f), 80a–30(a), 80a–37(a)]. New rule 17a-10 is proposed pursuant to the authority set forth in sections 6(c) and 38(a) of the Investment Company Act [15 U.S.C. 80a–6(c), 80a–37(a)].

Text of Proposed Rule and Form Amendments

List of Subjects in 17 CFR Part 270

Investment companies, Reporting and recordkeeping requirements, Securities.

For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

The authority citation for Part 270 continues to read, in part, as follows:

Authority: 15 U.S.C. 80a–1 *et seq.*, 80a–37, 80a–39 unless otherwise noted;

* * * * *

Section 270.10f–3 is revised to read as follows:

§ 270.10f–3. Exemption of acquisition of securities during the existence of underwriting syndicate.

Any purchase of securities by a registered investment company prohibited by section 10(f) of the Act shall be exempt from the provisions of such section if the following conditions are met:

(a) The securities to be purchased are:

(1) Part of an issue registered under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) which is being offered to the public;

(2) Municipal Securities; or

(3) Securities of a Foreign Issuer sold in either an Eligible Foreign Offering or a Foreign Issuer Rule 144A Offering.

(b) The securities are purchased at not more than the public offering price prior to the end of the first full business day after the first date on which the issue is offered to the public; *provided, however,* that:

(1) If the securities are offered for subscription upon exercise of rights, the securities shall be purchased on or before the fourth day preceding the day on which the rights offering terminates; and

(2) If the securities are part of a Foreign Issuer Rule 144A Offering, the securities shall be purchased at not more than the lesser of the public offering price in the concurrent Eligible Foreign Offering or the price paid by each other purchaser of securities in the Foreign Issuer Rule 144A Offering, in each case prior to the end of the first full business day after the first date on which the issue is offered.

(c)(1) If the securities to be purchased are not Municipal Securities, the issuer of such securities shall have been in continuous operation for not less than three years, including the operations of any predecessors; or

(2) If the securities to be purchased are Municipal Securities, the securities shall have received an investment grade rating from at least one NRSRO; *provided,* that if the issuer of the Municipal Securities, or the entity supplying the revenues or other payments from which the issue is to be paid, shall have been in continuous operation for less than three years, including the operation of any predecessors, the securities shall have received one of the three highest ratings from an NRSRO.

(d) The securities are offered pursuant to an underwriting or similar agreement under which the underwriters are committed to purchase all of the securities being offered, except those purchased by others pursuant to a rights offering, if the underwriters purchase any thereof.

(e) The commission, spread or profit received or to be received by the principal underwriters is reasonable and fair compared to the commission, spread or profit received by other such persons in connection with the underwriting of similar securities being sold during a comparable period of time.

(f) The amount of securities of any class of such issue to be purchased by the investment company, or by two or more investment companies having the same investment adviser, shall not exceed 10 percent of the principal amount of the offering of such class, or $1,000,000 in principal amount, whichever is greater, but in no event greater than 15 percent of the principal amount of the offering of such class.

(g) Such investment company does not purchase the securities being offered directly or indirectly from an officer, director, member of an advisory board, investment adviser or employee of such investment company or from a person of which any such officer, director, member of an advisory board, investment adviser or employee is an affiliated person; *provided,* that a purchase from a syndicate manager shall not be deemed to be a purchase from a specific underwriter if:

(1) Such underwriter does not benefit directly or indirectly from the transaction; or

(2) In the case of a purchase of Municipal Securities that is designated as a group sale:

(i) The syndicate manager has determined that group orders for the securities will be given first priority or that only group orders for the securities will be accepted; and

(ii) At the time of the purchase by the investment company, a person referred to in the introductory sentence of paragraph (g) of this section is not obligated to underwrite more than 50 percent of the securities being offered.

(h) For purposes of determining compliance with paragraphs (b)(2) and (g)(2) of this section, an investment company may reasonably rely upon written statements made by a seller of the securities or a member of the underwriting syndicate through which the securities are purchased.

(i) The board of directors, including a majority of the directors of the investment company who are not interested persons with respect thereto:

(1) Has approved procedures, pursuant to which such purchases may be effected for the company, that are reasonably designed to provide that the purchases comply with all the conditions of this section;

(2) Makes and approves such changes as the board deems necessary; and

(3) Determines no less frequently than quarterly that all purchases made during the preceding quarter were effected in compliance with such procedures.

(j) The investment company:

(1) Shall maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modification thereto) described in paragraph (i)(1) of this section; and

(2) Shall maintain and preserve for a period not less than six years from the end of the fiscal year in which any transactions occurred, the first two years in an easily accessible place, a written record of each such transaction, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the transaction, and the information or materials upon which the determination described in paragraph (i)(3) of this section was made.

(k) For purposes of this section:

(1) *Eligible Foreign Offering* means a public offering, conducted under the laws of a country other than the United States, of securities issued by a Foreign Issuer, meeting the following conditions:

(i) The offering is subject to regulation by a Foreign Financial Regulatory Authority in such country;

(ii) The laws of such country, or the rules and regulations of such Foreign Financial Regulatory Authority, require the issuer, in connection with the offering, to make information about the issuer and the offering available to the public;

(iii) The securities are offered at a fixed price to all purchasers in the offering (except for any rights to purchase that are required by law to be granted to existing security holders of the issuer); and

(iv) Financial statements, audited in accordance with the accounting standards of such country, for the two years prior to the offering, are made available to the public and prospective purchasers in connection with the offering.

(2) *Foreign Financial Regulatory Authority* has the same meaning as that set forth in section 2(a)(50) of the Act (15 U.S.C. 80a–2(a)(50)).

(3) *Foreign Issuer* means any issuer which is a foreign government, a national of any foreign country, or a corporation or other organization incorporated or organized under the laws of any foreign country.

(4) *Foreign Issuer Rule 144A Offering* means a distribution of securities of a foreign issuer if such securities are offered or sold in the United States solely to persons that the seller and any person acting on behalf of the seller reasonably believe to be qualified institutional buyers, as defined in § 230.144A(a)(1) of this chapter, which securities ("offered securities") would be eligible for resale to other qualified institutional buyers pursuant to § 230.144A of this chapter, *provided,* that securities of the same class as the offered securities are offered in a concurrent Eligible Foreign Offering.

(5) *Group Order* means an order for securities for the account of all members of a syndicate on a pro rata basis in proportion to their respective participations in the syndicate.

(6) *Group Sale* means a sale resulting from a group order.

(7) *Municipal Securities* has the same meaning as that set forth in section 3(a)(29) of the Securities Exchange Act of 1934 [15 U.S.C. 78c(a)(29)].

(8) *NRSRO* has the same meaning as that set forth in § 270.2a-7(a)(10).

3. By adding § 270.17a–10 to read as follows:

§ 270.17a–10. Exemption of certain group sales.

Any group sale of municipal securities exempted pursuant to § 270.10f-3 shall be exempt from the provisions of section 17(a)(1) of the Act [15 U.S.C. 80a-17(a)(1)].

Dated: March 21, 1996.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–7335 Filed 3–26–96; 8:45 am]

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Wednesday
March 27, 1996

Part VII

Department of Transportation

Federal Aviation Administration

14 CFR Part 23

Powerplant Instruments; Fuel Pressure Indication; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. 28011; Amendment No. 23–52]

RIN 2120–AF41

Powerplant Instruments; Fuel Pressure Indication

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document amends the certification requirement for fuel pressure indicators on pump-fed engines of normal, utility, acrobatic, and commuter category airplanes to permit regulatory alternatives to fuel pressure indicators to warn pilots of fuel system problems. A fuel pressure indicator is not technically the only means available to the pilot of indicating a fuel system problem. The amendment allows airplanes to be certificated with a means that indicates fuel flow or that monitors the fuel system and warns the pilot of any fuel flow trend that could lead to engine failure. New technology incorporated as a means of compliance with the revised rule could improve engine operation and reduce airplane operating costs.

EFFECTIVE DATE: July 25, 1996.

FOR FURTHER INFORMATION CONTACT: J. Lowell Foster, Aerospace Engineer, Standards Office, Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 426–5688.

SUPPLEMENTARY INFORMATION:

Background

Statement of the Problem

The FAA proposed to amend Title 14 of the Code of Federal Regulations (CFR), Part 23, § 23.1305(b)(4), which required a fuel pressure indicator for each pump-fed engine. The pressure indicator gives continuous fuel pressure readings to the pilot. This information provides an advance warning of engine failure only when a pilot notices the pressure reading has deviated from the norm and when the pilot can diagnose what those deviations mean in terms of potential engine failure. The change would allow the options of a fuel pressure indicator, a fuel flow indicator, or a means that continuously monitors the fuel system and warns the pilot of any fuel flow trend that could cause engine failure. A fuel flow indicator would give continuous fuel flow readings to the pilot. Fuel flow information presents the fuel system status to the pilot in a manner similar to the fuel pressure indicator, but it also allows the pilot to quickly assess the engine's performance during critical phases of flight, such as takeoff. A continuous fuel system monitoring device would alert the pilot to any fuel flow trend that could lead to engine failure.

History

The Aircraft Owners and Pilots Association (AOPA) petitioned the FAA for new standards that would allow, on all pump-fed engines, a fuel flow system employing a differential pressure transducer to be accepted as a means of compliance equivalent to the current fuel pressure indicator requirements (55 FR 39299, September 26, 1990). The FAA requested that the Aviation Rulemaking Advisory Committee (ARAC) review the petition and recommend a course of action. In January 1992, the Fuel Pressure Indicators Working Group of the ARAC on General Aviation and Business Airplane Issues began a review of the AOPA's petition. As a result of the review, a Notice of Proposed Rulemaking (NPRM), Notice No. 94–37, was published on December 28, 1994 (59 FR 67114).

Discussion of Comments

General

This amendment is based on the NPRM, Notice No. 94–37, published December 28, 1994 (59 FR 67114). Interested persons were invited to participate in the development of this final rule by submitting written data, views, or arguments to the regulatory docket on or before February 27, 1995. Four comments were received on the proposal, including a letter of support from the Air Line Pilots Association.

The intent of the fuel pressure indicator requirement for pump-fed engines is to advise the pilot of a fuel pressure deficiency before total engine failure. The term "indicator" in § 23.1305(b)(4) implies that the fuel pressure be constantly displayed.

The FAA proposed a change to allow a fuel pressure indicator or a fuel flow indicator. The fuel flow indicator would constantly display information that the pilot could use to evaluate engine power, fuel mixture, and other engine performance factors in addition to fuel system status. It is technologically possible to have a microprocessor that monitors engine operation and triggers a warning if the fuel system operation does not match the other monitored engine trends; therefore, the FAA also proposed to change the rule to accept a means that monitors the fuel system and warns the pilot of any fuel flow trend that could lead to engine failure.

Accordingly, the FAA proposed to adopt a performance standard, instead of a requirement for specific equipment. An applicant could show compliance with paragraph (b) of the proposal by using any design that monitors the fuel system and warns the pilot of any fuel flow trend that could lead to engine failure.

Discussion of Comments to Section 23.1305

One commenter, a private individual, does not feel that § 23.1305(b)(4) should be changed as proposed. The commenter believes that "an accurate indication is necessary for the pilot to have a situation awareness of his operating environment." The FAA understands and agrees with the overall basis for the comment; however, the FAA does not agree with all of the commenter's arguments and will address them individually.

First, the commenter believes the proposal implies that small airplane engines are "antiquated" using "antiquated fuel flow means." The NPRM sections discussing the history of this rule focused on fuel pump reliability, radial engines, and diagnosing fuel pump failures, which were more frequent in the 1940's and 1950's than today. The FAA's intention in discussing the rule's history was to point out that the reliability of fuel pumps has improved since the 1940's. The FAA did not intend to imply that these engines were in some way "antiquated." In fact, as the commenter points out, the basic engines used on most small airplanes are derivatives of the engines designed in the 1940's. Civil Air Regulation 3 airplanes, which constitute over 85 percent of the existing small airplanes flying today, have an excellent service history.

The commenter also points out that "continual reference to automobile monitoring systems is well taken, except that automobiles can have a problem and pull off to the side of the road." Additionally, "[a]utomobiles may have indicator lights and warnings as to the state of fule consumption, but they also have a fuel quantity gauge so the driver can monitor the system in use to also determine an accurate fuel flow." The FAA used the reference to automobile technology to make the point that sophisticated engine monitoring is inexpensive enough to be mass produced for automobiles. Complex fuel monitoring systems are available in business jets and recently-certificated jet transport aircraft. This technology may soon be affordable to small airplane owners and manufacturers, and the FAA does not want to impede progress with rules offering no alternatives.

The commenter believes that the proposal would allow "idiot lights." On the contrary, the FAA stated in the NPRM, "A light that comes on at the same time that the engine quits is useless. A warning light system that would comply with this proposal would be sophisticated enough to read transients and trends, and would give a useful warning to the pilot." Also, the rule as proposed would require that any warning light system continuously monitor the fuel system and warn the pilot of any fuel flow trend that could lead to an engine failure.

Transport Canada questions the ability to show compliance with the requirement in § 23,1549 to identify maximum and, if applicable, minimum safe operating limits as well as the normal operating range of the instrument. This commenter points out that the typical fuel flow meter is a digital type, and it would be difficult for the applicant to provide equivalent markings. Engine manufacturers provide the information required by § 23.1549, which is then usually transcribed to the installed fuel pressure gauge. It appears that this information would not be presented through the use of typical digital fuel flow meters. The commenter offers the following suggestion: "FAR 23.1549 was written with a traditional dial instrument in mind where the engine limitations could be easily displayed on the face of the unit and monitored by the crew. To allow flow meters or other fuel system monitors to satisfy the requirements of § 23.1549 where such a gauge no longer exists, compliance could be shown by (1) different colors to indicate changing trends in system performance (e.g., amber color for a low pressure/flow condition, red for impending engine failure), or (2) placarding, if appropriate, to indicate the normal and abnormal operating ranges."

The FAA agrees with the commenter's suggestions as an acceptable means of compliance with § 23.1549. Suggested items (1) and (2) above offer the pilot a means to determine fuel flow limitations, which may be needed if a fuel flow meter is installed.

A commenter from Australia supports the proposal; however, the commenter feels that the proposed text would require a monitoring system that provides a warning of any trend that could lead to engine failure, which is an extremely difficult compliance requirement. The commenter further states: "The historic requirement, and the NRPM preamble, clearly addresses fuel pressure (as an indication of the availability of fuel flow) or fuel flow only. Such wording may stifle the development of monitoring instrumentation for small airplanes." The commenter suggests that, for clarification, the proposed text for § 23.1305(b)(4)(ii), be amended to read as follows: "That continuously monitors the fuel system and warns the pilot of any fuel flow trend that could lead to engine failure."

The FAA agrees with the commenter that the proposed wording may be too broad, making compliance difficult or the system unnecessarily complex. The FAA encourages "smart" systems; however, the intent of the proposal was to warn the pilot of any fuel flow trend and, for that reason, the final rule and the preamble adopt the commenter's language.

Section 23.1305 is adopted with the change in paragraph (b)(4)(ii) to add the words "fuel flow" before the word "trend."

International Compatibility

The agency has reviewed corresponding International Civil Aviation Organization international standards and recommended practices and Joint Aviation Authorities requirements for compatibility. The FAA has determined that this final rule, if adopted, would not present any differences.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1990 (44 U.S.C. 3501 et seq.), there are no reporting or recordkeeping requirements associated with this rule.

Regulatory Evaluation Summary

Economic Evaluation, Regulatory Flexibility Determination, and Trade Impact Assessment

Proposed changes to federal regulations must undergo several economic analyses. First, Executive Order 12866 directs Federal agencies to promulgate new regulations or modify existing regulations only if the potential benefits to society outweigh the potential costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Finally, the Office of Management and Budget directs agencies to assess the effects of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this rule: (1) will generate benefits exceeding its costs and is not significant as defined in Executive Order 12866; (2) is not significant as defined in DOT's Policies and Procedures; (3) will not have a significant economic impact on small entities; and (4) will not affect international trade. These analyses, available in the docket, are summarized below.

Economic Evaluation

The rule adopts a performance standard instead of requiring specific equipment. In this way, manufacturers can develop any design that monitors the fuel system and warns the pilot of any fuel flow trend that could lead to engine failure. The objective of imposing a performance standard could be met in this case by any means that "continuously indicates to the pilot fuel pressure or fuel flow, or that continuously monitors the fuel system and warns the pilot of any fuel flow trend that could lead to engine failure." This will maintain the level of safety intended by the original requirement, without imposing any additional costs. For example, a warning light system could possibly alert the pilot sooner than if the pilot relied on an instrument panel scan to notice a trend in the fuel pressure indication alone (as is currently the case).

A fuel flow indicator offers additional benefits compared to a fuel pressure indicator in that it enables the pilot to monitor the engine's fuel consumption and compare it to fuel consumption listed in the airplane flight manual. Consequently, engine operation could be improved, resulting in reduced fuel consumption and operating costs. In addition, continual fuel flow readings are useful during critical phases of flight, such as takeoff and climb. Thus, flight safety could be enhanced. The other alternative, a means to continuously monitor the fuel system, will also enhance safety by alerting the pilot to any fuel flow trend that could lead to engine failure.

Since the rule will permit but not require alternative means of warning pilots of fuel system problems, it is inherently cost-beneficial. To the extent that it encourages the future development and utilization of comprehensive engine control, monitoring, and diagnostic systems, it will generate benefits in the form of enhanced safety, improved fuel efficiency, power output, and engine life.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. The RFA requires a Regulatory Flexibility Analysis if a proposed or final rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. FAA Order 2100.14A, Regulatory Flexibility Criteria and Guidance, prescribes standards for complying with RFA requirements in FAA rulemaking actions. The Order defines "small entities" in terms of size, "significant economic impact" in terms of annualized costs, and "substantial number" as a number which is not less than eleven and which is more than one-third of the small entities subject to a proposed of final rule.

The rule will affect manufacturers of future part 23 airplanes. For manufacturers, Order 2100.14A defines a small entity as one with 75 or fewer employees and a significant economic impact as annualized costs of $19,000 or more. The FAA has determined that the rule will not have a significant economic impact on a substantial number of small manufacturers since the annualized certification costs of the rule are less than $19,000.

International Trade Impact Assessment

The rule will not constitute a barrier to international trade, including the export of U.S. airplanes and airplane parts to foreign markets or the import of foreign airplanes and airplane parts in the United States.

Federalism Implications

The regulations herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this regulation will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

The FAA amends the airworthiness standards to allow airplane manufacturers to utilize new technology for fuel system monitoring to improve the operation and economy of part 23 airplanes powered by pump-fed engines. The current rule requires a fuel pressure indication; thus, it limits the means of compliance. The advances in engines monitoring systems and electronics offer technology that should be utilized by the aviation community. By broadening this airworthiness standard, fuel flow indicators or new fuel system monitors may provide better information to the pilot.

For the reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this regulation is not significant under Executive Order 12866. In addition, the FAA certifies that this regulation will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The regulation is not considered significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A regulatory evaluation of the regulation, including a Regulatory Flexibility Determination and Trade Impact Analysis, has been placed in the docket. A copy may be obtained by contacting the person identified under **FOR FURTHER INFORMATION CONTACT.**

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 23 as follows:

PART 23—AIRWORTHINESS STANDARDS; NORMAL, UTILITY, ACROBATIC, AND COMMUTER CATEGORY AIRPLANES

1. The authority citation for part 23 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44704.

2. Section 23.1305 is amended by revising paragraph (b)(4) to read as follows:

§ 23.1305 Powerplant instruments.

* * * * *

(b) * * *

(4) For each pump-fed engine, a means:

(i) That continuously indicates, to the pilot, the fuel pressure or fuel flow; or

(ii) That continuously monitors the fuel system and warns the pilot of any fuel flow trend that could lead to engine failure.

* * * * *

Issued in Washington, D.C. on March 21, 1996.

David R. Hinson,

Administrator.

[FR Doc. 96–7429 Filed 3–26–96; 8:45 am]

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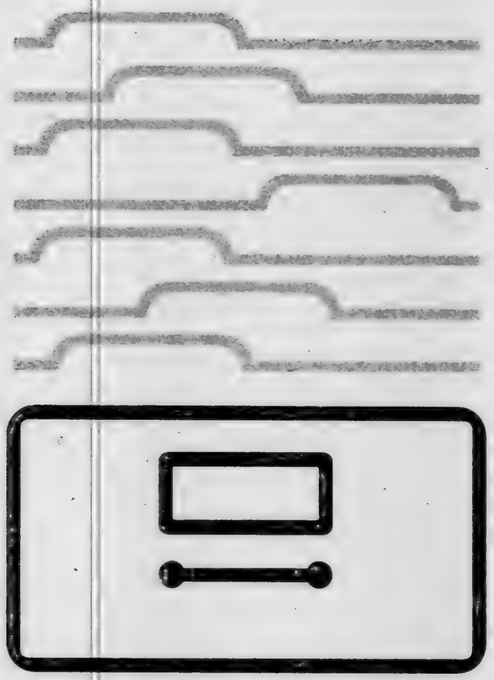
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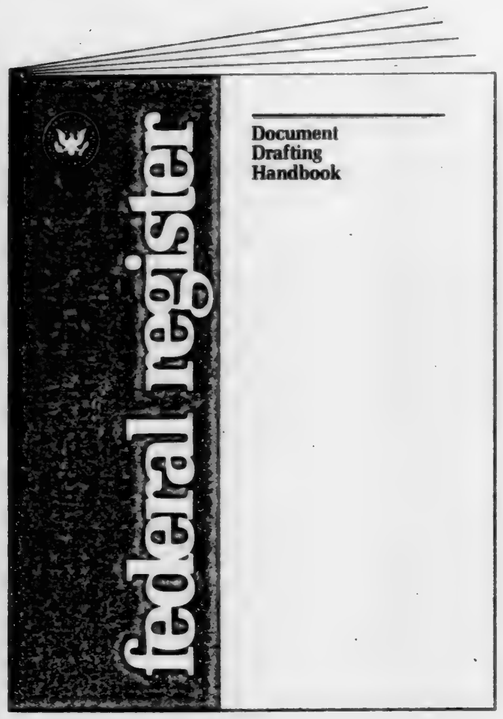
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Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

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Title 3—

The President

Executive Order 12995 of March 25, 1996

Amendment to Executive Order No. 12873

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to assist paper mills in their procurement of recovered materials to use as raw materials, it is hereby ordered that Executive Order No. 12873 is amended as follows:

Section 1. Section 504(a) of Executive Order No. 12873 shall read: "(a) For high speed copier paper, offset paper, forms bond, computer printout paper, carbonless paper, file folders, white woven envelopes and for other uncoated printing and writing paper, such as writing and office paper, book paper, cotton fiber paper, and cover stock, the minimum content standard shall be no less than 20 percent postconsumer materials beginning December 31, 1994. This minimum content standard shall be increased to 30 percent beginning on December 31, 1998."

Sec. 2. Section 504(b) of Executive Order No. 12873 shall be deleted and section 504(c) of that order shall be redesignated as section 504(b) and shall read: "(b) As an alternative to meeting the standards in section 504(a), for all printing and writing papers, the minimum content standard shall be no less than 50 percent recovered materials that are a waste material byproduct of a finished product other than a paper or textile product which would otherwise be disposed of in a landfill, as determined by the State in which the facility is located."

Sec. 3. The last sentence of section 301(a) of Executive Order No. 12873 shall read "In carrying out his or her functions, the Federal Environmental Executive shall consult with the Chairman of the Council on Environmental Quality."

William J. Clinton

THE WHITE HOUSE,
March 25, 1996.

[FR Doc. 96–7773
Filed 3–27–96; 8:45 am]
Billing code 3195–01–P

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Executive Order 12996 of March 25, 1996

Management and General Public Use of the National Wildlife Refuge System

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in furtherance of the purposes of the Fish and Wildlife Act of 1956 (16 U.S.C. 742a), the Fish and Wildlife Coordination Act (16 U.S.C. 661), the National Wildlife Refuge System Administration Act (16 U.S.C. 668dd), the Refuge Recreation Act (16 U.S.C. 460k), the Endangered Species Act of 1973 (16 U.S.C. 1531), the Emergency Wetlands Resources Act (16 U.S.C. 3901), the North American Wetlands Conservation Act (16 U.S.C. 4401), the National Environmental Policy Act (42 U.S.C. 4321), and other pertinent statutes, and in order to conserve fish and wildlife and their habitat, it is ordered as follows:

Section 1. *The Mission of the National Wildlife Refuge System.* The mission of the National Wildlife Refuge System ("Refuge System") is to preserve a national network of lands and waters for the conservation and management of fish, wildlife, and plant resources of the United States for the benefit of present and future generations.

Sec. 2. *Guiding Principles.* To help ensure a bright future for its treasured national heritage, I hereby affirm the following four guiding principles for the management and general public use of the Refuge System:

(a) *Public Use.* The Refuge System provides important opportunities for compatible wildlife-dependent recreational activities involving hunting, fishing, wildlife observation and photography, and environmental education and interpretation.

(b) *Habitat.* Fish and wildlife will not prosper without high-quality habitat, and without fish and wildlife, traditional uses of refuges cannot be sustained. The Refuge System will continue to conserve and enhance the quality and diversity of fish and wildlife habitat within refuges.

(c) *Partnerships.* America's sportsmen and women were the first partners who insisted on protecting valuable wildlife habitat within wildlife refuges. Conservation partnerships with other Federal agencies, State agencies, Tribes, organizations, industry, and the general public can make significant contributions to the growth and management of the Refuge System.

(d) *Public Involvement.* The public should be given a full and open opportunity to participate in decisions regarding acquisition and management of our National Wildlife Refuges.

Sec. 3. *Directives to the Secretary of the Interior.* To the extent consistent with existing laws and interagency agreements, the Secretary of the Interior, in carrying out his trustee and stewardship responsibilities for the Refuge System, is directed to:

(a) recognize compatible wildlife-dependent recreational activities involving hunting, fishing, wildlife observation and photography, and environmental education and interpretation as priority general public uses of the Refuge System through which the American public can develop an appreciation for fish and wildlife;

(b) provide expanded opportunities for these priority public uses within the Refuge System when they are compatible and consistent with sound principles of fish and wildlife management, and are otherwise in the public interest;

(c) ensure that such priority public uses receive enhanced attention in planning and management within the Refuge System;

(d) provide increased opportunities for families to experience wildlife-dependent recreation, particularly opportunities for parents and their children to safely engage in traditional outdoor activities, such as fishing and hunting;

(e) ensure that the biological integrity and environmental health of the Refuge System is maintained for the benefit of present and future generations of Americans;

(f) continue, consistent with existing laws and interagency agreements, authorized or permitted uses of units of the Refuge System by other Federal agencies, including those necessary to facilitate military preparedness;

(g) plan and direct the continued growth of the Refuge System in a manner that is best designed to accomplish the mission of the Refuge System, to contribute to the conservation of the ecosystems of the United States, and to increase support for the Refuge System and participation from conservation partners and the public;

(h) ensure timely and effective cooperation and collaboration with Federal agencies and State fish and wildlife agencies during the course of acquiring and managing National Wildlife Refuges;

(i) ensure appropriate public involvement opportunities will be provided in conjunction with refuge planning and management activities; and

(j) identify, prior to acquisition, existing compatible wildlife-dependent uses of new refuge lands that shall be permitted to continue on an interim basis pending completion of comprehensive planning.

Sec. 4. *Judicial Review.* This order does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person.

William J. Clinton

THE WHITE HOUSE,
March 25, 1996.

[FR Doc. 96–7774
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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 96–016–3]

Karnal Bunt Infestations in Arizona et al.; Quarantining

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are quarantining the State of Arizona and a total of six counties in the States of New Mexico and Texas because of infestations of Karnal bunt and are restricting the movement of regulated articles from the quarantined areas. This action is necessary on an emergency basis to prevent the artificial spread of Karnal bunt, a serious fungal disease of wheat, durum wheat, and triticale, into noninfected areas of the United States.

DATES: Interim rule effective March 25, 1996. Consideration will be given only to comments received on or before May 28, 1996.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 96–016–3, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road, Unit 118, Riverdale MD 20737–1238. Please state that your comments refer to Docket No. 96–016–3. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Poe, Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, 4700 River Road, Unit 134, Riverdale, MD 20732, (301) 734–8247.

SUPPLEMENTARY INFORMATION:

Background

We are amending the "Domestic Quarantine Notices" in 7 CFR part 301 by adding a new subpart 301.89, "Karnal Bunt" (referred to below as the regulations). These regulations quarantine all of Arizona and portions of New Mexico and Texas because of Karnal bunt. They also restrict the interstate movement of regulated articles from the quarantined areas.

On March 8, 1996, Karnal bunt, a serious fungal disease of wheat *(Triticum aestivum)*, durum wheat *(Triticum durum)*, and triticale *(Triticum aestivum* X *Seale cereals)*, a hybrid of wheat and rye, was detected in Arizona during a seed certification inspection done by the Arizona Department of Agriculture (ADA). The disease was found in three seedlots that had been grown in Arizona and shipped within Arizona as well as to New Mexico and Texas. Immediately after the Karnal bunt was detected, emergency action was taken by ADA and the Animal and Plant Health Inspection Service (APHIS) to control the artificial spread of this disease, and APHIS began working with other plant protection agencies to determine the extent of the infection.

On March 20, 1996, the Secretary of Agriculture signed a "Declaration of Extraordinary Emergency" authorizing the Secretary to take emergency action under 7 U.S.C. 150dd with regard to Karnal bunt within the States of Arizona, New Mexico, and Texas.

Karnal bunt is caused by the smut fungus *Tilletia indica* (Mitra) Mundkur and is spread by spores. Infection occurs during the flowering stage of the plant when the developing ovary of a host plant comes into contact with infectious sporidia. The spores can be carried on a variety of surfaces, including plants and plant parts, seeds, soil, elevators, buildings, farm equipment, tools, and even vehicles. Spores and the sporidia they produce also can be windborne. Although the sporidia are fragile and may be able to move only short distances, spores have been known to move longer distances.

Karnal bunt is a serious disease that affects both yield and grain quality. It adversely affects the color, odor, and palatability of flour and other foodstuffs made from wheat. Wheat containing any amount of bunted kernels is reduced in quality. Karnal bunt does not present a risk to human health.

Karnal bunt is difficult to manage because of the biology of the pathogen and the susceptibility of the host. Teliospores can remain viable for 4 to 5 years in the soil. Chemical seed treatments may reduce infection by controlling seedborne inoculum, but do little to eliminate soilborne inoculum. Use of resistant varieties of wheat would be the most effective means of control. However, no commercial cultivars are known to be established.

For this reason, Federal and State quarantines are needed on an emergency basis to retard the artificial spread of Karnal bunt and to protect noninfected areas. Therefore, this interim rule establishes a quarantine and regulations, which are described below by section, to prevent the artificial spread of Karnal bunt.

Definitions

Section 301.89–1 contains definitions of the following terms: *Administrator, Animal and Plant Health Inspection Service, certificate, compliance agreement, conveyances, farm tools, infestation (infected), inspector, interstate, Karnal bunt, limited permit, mechanized cultivating equipment and mechanized harvesting equipment, milling products and byproducts, movement (moved), person, soil, soil-moving equipment,* and *State. Regulated articles.*

The regulations impose conditions on the interstate movement of those articles that present a significant risk of spreading Karnal bunt if moved without restriction from quarantined areas into or through noninfected areas. The articles, which are designated as regulated articles, may not be moved interstate from quarantined areas except in accordance with the conditions specified in §§ 301.89–4 through 301.89–11.

Paragraphs (a) through (m) of § 301.89–2 designate the following as regulated articles: Conveyances, including trucks, railroad cars and other containers used to move wheat, durum wheat, or triticale; grain elevators/equipment/structures used for storing and handling wheat, durum wheat, and triticale; manure from animals that have

fed on wheat, durum wheat, or triticale; milling products or byproducts, except flour; plants or plant parts, including grain, seed, or straw of all varieties of the species of *Triticum aestivum* (wheat), *Triticum durum* (durum wheat); and *Triticum aestivum* X *Seale cereals* (triticale); root crops with soil; soil from areas where field crops are produced; used bags, sacks and containers; used farm tools; used mechanized cultivating equipment; used mechanized harvesting equipment; used seed conditioning equipment; and used mechanized soil-moving equipment.

Further, § 301.89(2)(n) allows designation of any other product, article or means of conveyance as a regulated article if an inspector determines that it presents a risk of spreading Karnal bunt due to its proximity to an infestation of Karnal bunt and notifies the person in possession of the product, article, or means of conveyance that it is subject to the restrictions in the regulations.

Quarantined areas

As stated in § 301.89–3(a), the Administrator will quarantine each State or each portion of a State that is infected. Section 301.89(b) provides that less than an entire State will be listed as a quarantined area only under certain conditions. Such a listing may be made if the Administrator determines that: (1) The State has adopted and is enforcing restrictions on the intrastate movement of the regulated articles listed in § 301.89–2 that are equivalent to the interstate movement restrictions imposed by the regulations in § 301.89–1 through § 301.89–11; and (2) designating less than the entire State as a quarantined area will prevent the artificial spread of Karnal bunt. Alternatively, less than an entire State may be listed as a quarantined area if the Administrator exercises his or her extraordinary emergency authority under 7 U.S.C. 150dd.

In accordance with these criteria, we are designating the State of Arizona, four counties in New Mexico, and two counties in Texas as quarantined areas. These quarantined areas are listed in § 301.89–3(e).

Section 301.89–3(c) provides that the Administrator may include uninfected acreage within a quarantined area due to its proximity to an infestation or inseparability from the infected locality for quarantine purposes, as determined by: (1) Projections of the spread of Karnal bunt along the periphery of the infestation; (2) the availability of natural habitats and host materials within the uninfected acreage that are suitable for establishment and survival of Karnal bunt; and (3) the necessity of including uninfected acreage within the quarantined area in order to establish readily identifiable boundaries.

Section 301.89–3(d) provides that the Administrator or an inspector may temporarily designate any nonquarantined area as a quarantined area, without publication in the **Federal Register**, if there is a basis for listing the area as a quarantined area under § 301.89–3 paragraphs (a), (b), or (c), and if the owner or person in possession of the nonquarantined area, or, in the case of publicly owned land, the person responsible for the management of the nonquarantined area, is given written notice of the designation. This is necessary to prevent the spread of Karnal bunt before restrictions can be published in the **Federal Register** concerning the interstate movement of regulated articles from the designated area.

Conditions Governing the Interstate Movement of Regulated Articles From Quarantined Areas

Section 301.89–4(a)(1) requires regulated articles moved interstate from a quarantined area into or through an area that is not quarantined to be accompanied by a certificate or limited permit issued and attached as prescribed by §§ 301.89–5 and 301.89–9.

Section 301.89–4(a)(2) allows a regulated article that originates outside the quarantined area to be moved interstate through a quarantined area without a certificate or limited permit under the following conditions: (1) The regulated article was moved into the quarantined area from an area that is not quarantined; (2) the point of origin is indicated on a waybill accompanying the regulated article; (3) the regulated article is moved through the quarantined area without stopping, or has been stored, packed, or handled at locations approved by an inspector, or has been treated in accordance with the methods and procedures prescribed in § 301.89–11 while in or moving through any quarantined area; and (4) the article has not been combined or commingled with other articles so as to lose its individual identity.

Section 301.89–4(a)(3) allows soil to be moved interstate from a quarantined area, provided the soil is being moved to a laboratory approved by the Administrator to process, test, or analyze soil samples.

Section 301.89–4(b) references the authority of an inspector who has probable cause to believe a person or means of conveyance is moving regulated articles in interstate commerce to stop the person or means of conveyance to determine whether regulated articles are present and to inspect the regulated articles. Further, § 301.89–4(b) provides that articles found to be infected by an inspector, and articles not in compliance with the regulations, may be seized, quarantined, treated, subjected to other remedial measures, destroyed, or otherwise disposed of.

Issuance of Certificates and Limited Permits

Under Federal domestic plant quarantine programs, there is a difference between the use of certificates and limited permits. Certificates are issued for regulated articles upon a finding by an inspector that, because of certain conditions (e.g., the article is free of Karnal bunt), there is an absence of a pest or disease risk prior to movement. Regulated articles accompanied by a certificate may be moved interstate without further restrictions being imposed. Limited permits are issued for regulated articles when an inspector has determined that, because of possible pest or disease risk, such articles may be safely moved interstate only subject to further restrictions, such as movement to specified areas and movement for specified purposes. Section § 301.89–5 explains the conditions for issuing a certificate or limited permit.

Specifically, § 301.89–5(a) provides that an inspector or person operating under a compliance agreement (discussed below) will issue a certificate for the interstate movement of a regulated article if the inspector determines that the regulated article: (1) Is eligible for unrestricted movement under all other applicable Federal domestic plant quarantines and regulations; (2) is to be moved in compliance with any emergency conditions the Administrator may impose under 7 U.S.C. 150dd to prevent the artificial spread of Karnal bunt; and (3) meets one of the following conditions: The article is free of Karnal bunt infection, based on laboratory results of testing, and history of previous infestation; the article has been grown, produced, manufactured, stored, or handled in a manner that would prevent infestation or destroy all life stages of Karnal bunt; or the article has been treated in accordance with methods and procedures prescribed in § 301.89–11.

Section 301.50–5(b) provides for the issuance of a limited permit (in lieu of a certificate), by an inspector or a person operating under a compliance agreement, for movement of a regulated article if the inspector determines that the regulated article: (1) Is to be moved interstate to a specified destination for specified handling, utilization, or processing (the destination and other conditions to be listed in the limited permit and/or compliance agreement), and this interstate movement will not result in the artificial spread of Karnal bunt because Karnal bunt will be destroyed or the risk mitigated by the specified handling, utilization, or processing; (2) is to be moved interstate in compliance with any additional emergency conditions the Administrator may impose under 7 U.S.C. 150dd to prevent the spread of Karnal bunt; and (3) is eligible for interstate movement under all other Federal domestic plant quarantines and regulations applicable to the regulated article.

Section 301.89–5(c) provides that an inspector will issue blank certificates and limited permits to a person operating under a compliance agreement or authorize reproduction of the certificates or limited permits on shipping containers, or both, as requested by the person operating under the compliance agreement. These certificates or limited permits may then be completed and used, as needed, for the interstate movement of regulated articles that have met all of the requirements of § 301.89–5(a) or § 301.89–5(b), respectively.

Compliance Agreements

Section 301.89–6 provides for the use of compliance agreements. Specifically, compliance agreements may be entered into by any person engaged in the growing, handling, or movement of regulated articles interstate if such persons review with an inspector each stipulation of the compliance agreement, have facilities and equipment to carry out disinfestation procedures or application of chemical materials in accordance with § 301.89–11, and meet applicable State training and certification standards under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136b). Any person who enters into a compliance agreement with APHIS must agree to comply with the regulations.

Cancellation of a Certificate, Limited Permit, or Compliance Agreement

Section 301.89–7 provides that an inspector may cancel a certificate, limited permit, or compliance agreement, orally or in writing, whenever the inspector determines that the holder of the certificate or limited permit, or the person who has entered into the compliance agreement, has not complied with the regulations. If the cancellation is oral, the cancellation will become effective upon notification by the inspector. The cancellation and the reasons for the cancellation will then be confirmed in writing as soon as circumstances allow within 20 days after oral notification of the cancellation. Any person whose certificate, limited permit, or compliance agreement has been canceled may appeal the decision, in writing, within 10 days after receiving the written cancellation notice. The appeal must state all of the facts and reasons that the person wants the Administrator to consider in deciding the appeal. A hearing may be held to resolve any conflict as to any material fact. Rules of practice for the hearing will be adopted by the Administrator. As soon as practicable, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision.

Assembly and Inspection of Regulated Articles

Section 301.89–8(a) provides that any person who requires certification or other services from an inspector must request the services at least 48 hours before they are needed. Section 301.89–7(b) provides that regulated articles must be assembled at the place and in the manner an inspector designates as necessary to comply with the regulations.

Attachment and Disposition of Certificates and Limited Permits

Section 301.89(a) requires the consignor of a regulated article to ensure that the certificate or limited permit authorizing interstate movement of a regulated article is, at all times during interstate movement, attached to the regulated article, or to the outside of the container encasing the regulated article, or to the accompanying waybill. This section also provides that the certificate or limited permit may be attached to the consignees copy of the waybill only if the certificate and limited permit, and the waybill, contain a sufficient description of the regulated article to identify the regulated article. This provision is necessary for enforcement purposes.

Section 301.89–9(b) requires the carrier of the article to furnish the certificate or limited permit to the consignee at the shipment's destination.

Costs and Charges

Section 301.89–10 explains the APHIS policy that the services of an inspector during normal business hours will be furnished without cost to persons requiring the services. The user will be responsible for all costs and charges arising from inspection and other services provided outside of normal business hours.

Treatments

Treatments of regulated articles for Karnal bunt are set forth in § 301.89–11. These treatments are known to be efficacious in destroying Karnal bunt teliospores. To meet the requirements of the regulations for treatments, all conveyances, mechanized farm equipment, seed-conditioning equipment, soil-moving equipment, grain elevators and structures used for storing and handling wheat must be cleaned and disinfected by first removing all soil and plant debris, then treated in one of the following ways: (1) Wetting all surfaces to the point of runoff with a solution of sodium hypochlorite mixed with water applied at the rate of one gallon of a commercial chlorine bleach (5.2 percent sodium hypochlorite) mixed with 2.5 gallons of water (thoroughly washing the equipment or site after 15 minutes is recommended to minimize corrosion); (2) applying steam to all surfaces until the point of runoff; (3) cleaning with a solution of hot water and detergent, under high pressure (at least 30 pounds per square inch), at a minimum temperature of 180 °F.; or (4) fumigating with methyl bromide at the dosage of 15 pounds/1000 cubic feet for 96 hours. Soil and straw/stalks/seed heads for decorative purposes must be fumigated with methyl bromide at the dosage of 15 pounds/1000 cubic feet for 96 hours.

Emergency Action

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency exists that warrants publication of this interim rule without prior opportunity for public comment. Immediate action is necessary to prevent Karnal bunt from spreading to noninfected areas of the United States.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make it effective upon signature. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866

This action quarantines the State of Arizona and six counties in New Mexico and Texas because of Karnal bunt and restricts the interstate movement of regulated articles from areas quarantined because of infestation with Karnal bunt. This emergency situation makes compliance with section 603 and timely compliance with section 604 of the Regulatory Flexibility Act (5 U.S.C. 603 and 604) impracticable. This rule may have a significant economic impact on a substantial number of small entities. If we determine this is so, then we will discuss the issues raised by section 604 of the Regulatory Flexibility Act in our Final Regulatory Flexibility Act Analysis.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which required intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) only requires administrative proceedings before parties may file suit in court challenging this rule upon the cancellation of a certificate, limited permit, or compliance agreement.

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this rule. The assessment provides a basis for the conclusion that the treatment of regulated articles, under the conditions specified in this rule, will not have a significant impact on the quality of the human environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C 4321 *et seq.*), (2) Regulations on the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Paperwork Reduction Act

In accordance with section 3507(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection and recordkeeping requirements included in this interim rule have been submitted for emergency approval to the Office of Management and Budget (OMB). OMB has assigned control number 0579–0121 to the information collection and recordkeeping requirements. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number. Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 96–016–3. Please send a copy of your comments to: (1) Docket No. 96–016–3, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OIRM, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250.

The paperwork associated with the Karnal bunt program will include the completion of compliance agreements, certificates, and limited permits. There will also be requests for inspections. We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. We need this outside input to help us accomplish the following:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 15 minutes per response.

Respondents: State plant regulatory officials, shippers, growers, and representatives of the plant industry.

Estimated number of respondents: 1,573.

Estimated number of responses per respondent: 4.

Estimated total annual burden on respondents: 1,500.

Copies of this information collection can be obtained from: Clearance Officer, OIRM, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250.

List of subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, 7 CFR part 301 is amended as follows:

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

2. Part 301 is amended by adding a new "Subpart—Karnal Bunt", sections 301.89 through 301.89–11, to read as follows:

Subpart—Karnal Bunt

Sec.

301.89–1 Definitions.
301.89–2 Regulated articles.
301.89–3 Quarantined areas.
301.89–4 Interstate movement of regulated articles from quarantined areas.
301.89–5 Issuance of a certificate or limited permit.
301.89–6 Compliance agreements.
301.89–7 Cancellation of a certificate, limited permit, or compliance agreement.
301.89–8 Assembly and inspection of regulated articles.
301.89–9 Attachment and disposition of certificates and limited permits.
301.89–10 Costs and charges.
301.89–11 Treatments.

Subpart—Karnal Bunt

§ 301.89–1 Definitions.

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service of the U.S. Department of Agriculture.

Certificate. A document in which an inspector or a person operating under a compliance agreement affirms that a specified regulated article meets the requirements of this subpart and may be moved interstate to any destination.

Compliance agreement. A written agreement between APHIS and a person engaged in growing, handling, or moving regulated articles that are moved interstate, in which the person agrees to comply with the provisions of this subpart and any conditions imposed under this subpart.

Conveyances. Containers used to move wheat, durum wheat, or triticale, or their products, including trucks, trailers, railroad cars, bins, and hoppers.

Farm tools. An instrument worked or used by hand, e.g., hoes, rakes, shovels, and axes.

Infestation (infected). The presence of Karnal bunt, or any stage of development of the fungus *Tilletia indica* (Mitra) Mundkur, or the existence of circumstances that make it reasonable to believe that Karnal bunt is present.

Inspector. An APHIS employee or designated cooperator/collaborator authorized by the Administrator to enforce the provisions of this subpart.

Interstate. From any State into or through any other State.

Karnal bunt. A plant disease caused by the fungus *Tilletia indica* (Mitra) Mundkur.

Limited permit. A document in which an inspector affirms that a specified regulated article not eligible for a certificate is eligible for interstate movement only to a specified destination and in accordance with conditions specified on the permit.

Mechanized cultivating equipment and mechanized harvesting equipment. Mechanized equipment used for soil tillage, including tillage attachments for farm tractors—e.g., tractors, disks, plows, harrows, planters, and subsoilers; mechanized equipment used for harvesting purposes—e.g., combines, cotton harvesters, and hay balers.

Milling products and byproducts. Products resulting from processing wheat, durum wheat, or triticale, including animal feed, and waste and debris.

Movement (moved). The act of shipping, transporting, delivering, or receiving for movement, or otherwise aiding, abetting, inducing or causing to be moved.

Person. Any association, company, corporation, firm, individual, joint stock company, partnership, society, or any other legal entity.

Soil. That part of the upper layer of earth in which plants can grow.

Soil-moving equipment. Equipment used for moving or transporting soil, including, but not limited to, bulldozers, dump trucks, or road scrapers.

State. The District of Columbia, Puerto Rico, the Northern Mariana Islands, or any State, territory, or possession of the United States.

§ 301.89–2 Regulated articles.

The following are regulated articles:

(a) Conveyances, including trucks, railroad cars, and other containers used to move wheat, durum wheat, or triticale;

(b) Grain elevators/equipment/structures used for storing and handling wheat, durum wheat, and triticale;

(c) Milling products or byproducts, except flour;

(d) Plants, or plant parts, including grain, seed, or straw of all varieties of the following species:

Wheat: *Triticum aestivum;*
Durum wheat: *Triticum durum;* and
Triticale: *Triticum aestivum X Seale cereals;*

(e) Root crops with soil;

(f) Soil from areas where field crops are produced;

(g) Manure from animals that have fed on wheat, durum wheat, or triticale;

(h) Used bags, sacks and containers;

(i) Used farm tools;

(j) Used mechanized cultivating equipment;

(k) Used mechanized harvesting equipment;

(l) Used seed conditioning equipment;

(m) Used mechanized soil-moving equipment; and

(n) Any other product, article or means of conveyance when:

(i) An inspector determines that it presents a risk of spreading Karnal bunt due to its proximity to an infestation of Karnal bunt; and

(ii) The person in possession of the product, article, or means of conveyance has been notified that it is regulated under this subpart.

§ 301.89–3 Quarantined areas.

(a) The Administrator will quarantine each State or each portion of a State that is infected.

(b) Less than an entire State will be listed as a quarantined area only if the Administrator:

(1) (i) Determines that the State has adopted and is enforcing restrictions on the intrastate movement of the regulated articles listed in § 301.89–2 that are equivalent to the interstate movement restrictions imposed by this subpart; and

(ii) Determines that designating less than the entire State as a quarantined area will prevent the spread of Karnal bunt; or

(2) Exercises his or her extraordinary emergency authority under 7 U.S.C. 150dd.

(c) The Administrator may include noninfected acreage within a quarantined area due to its proximity to an infestation or inseparability from the infected locality for quarantine purposes, as determined by:

(1) Projections of the spread of Karnal bunt along the periphery of the infestation;

(2) The availability of natural habitats and host materials within the noninfected acreage that are suitable for establishment and survival of Karnal bunt; and

(3) The necessity of including uninfected acreage within the quarantined area in order to establish readily identifiable boundaries.

(d) The Administrator or an inspector may temporarily designate any nonquarantined area as a quarantined area in accordance with the criteria specified in paragraphs (a), (b), and (c) of this section. The Administrator will give written notice of this designation to the owner or person in possession of the nonquarantined area, or, in the case of publicly owned land, to the person responsible for the management of the nonquarantined area. Thereafter, the interstate movement of any regulated article from an area temporarily designated as a quarantined area is subject to this subpart. As soon as practicable, this area either will be added to the list of designated quarantined areas in paragraph (e) of this section, or the Administrator will terminate the designation. The owner or person in possession of, or, in the case of publicly owned land, the person responsible for the management of, an area for which the designation is

terminated will be given written notice of the termination as soon as practicable.

(e) The following areas are designated as quarantined areas:

Arizona

The entire State.

New Mexico

Dona Ana County. The entire county.
Hidalgo. The entire county.
Luna County. The entire county.
Sierra County. The entire county.

Texas

El Paso County. The entire county.
Hudspeth. The entire county.

§ 301.89–4 Interstate movement of regulated articles from quarantined areas.

(a) Any regulated article may be moved interstate from a quarantined area into or through an area that is not quarantined only if moved under the following conditions:

(1) With a certificate or limited permit issued and attached in accordance with §§ 301.89–5 and 301.89–9;

(2) Without a certificate or limited permit, provided that each of the following conditions is met:

(i) The regulated article was moved into the quarantined area from an area that is not quarantined;

(ii) The point of origin is indicated on a waybill accompanying the regulated article;

(iii) The regulated article is moved through the quarantined area without stopping, or has been stored, packed, or handled at locations approved by an inspector as not posing a risk of contamination with Karnal bunt, or has been treated in accordance with the methods and procedures prescribed in § 301.89–11 while in or moving through any quarantined area; and

(iv) The article has not been combined or commingled with other articles so as to lose its individual identity; or

(3) Without a certificate or limited permit, provided the regulated article is a soil sample being moved to a laboratory approved by the Administrator[1] to process, test, or analyze soil samples.

(b) When an inspector has probable cause to believe a person or means of conveyance is moving a regulated article in interstate commerce, the inspector is authorized to stop the person or means of conveyance to determine whether a regulated article is present and to inspect the regulated article. Articles found to be infected by an inspector, and articles not in compliance with the regulations in this subpart, may be seized, quarantined, treated, subjected to other remedial measures, destroyed, or otherwise disposed of. Any treatments will be in accordance with the methods and procedures prescribed in § 301.89–11.

§ 301.89–5 Issuance of a certificate or limited permit.

(a) An inspector[2] or person operating under a compliance agreement will issue a certificate for the interstate movement of a regulated article if he or she determines that the regulated article:

(1) Is eligible for unrestricted movement under all other applicable Federal domestic plant quarantines and regulations;

(2) Is to be moved in compliance with any emergency conditions the Administrator may impose under 7 U.S.C. 150dd to prevent the artificial spread of Karnal bunt[3]; and

(3) (i) Is free of Karnal bunt infestation, based on laboratory results of testing, and history of previous infestation;

(ii) Has been grown, produced, manufactured, stored, or handled in a manner that would prevent infestation or destroy all life stages of Karnal bunt; or

(iii) Has been treated in accordance with methods and procedures prescribed in § 301.89–11.

(b) An inspector or a person operating under a compliance agreement will issue a limited permit for the interstate movement of a regulated article not eligible for a certificate if the inspector determines that the regulated article:

(1) Is to be moved interstate to a specified destination for specified handling, utilization, or processing (the destination and other conditions to be listed in the limited permit and/or compliance agreement), and this interstate movement will not result in the artificial spread of Karnal bunt because Karnal bunt will be destroyed or the risk mitigated by the specified handling, utilization, or processing;

(2) Is to be moved interstate in compliance with any additional emergency conditions the Administrator may impose under 7 U.S.C. 150dd to prevent the artificial spread of Karnal bunt; and

(3) Is eligible for interstate movement under all other Federal domestic plant quarantines and regulations applicable to the regulated article.

(c) An inspector shall issue blank certificates and limited permits to a person operating under a compliance agreement in accordance with § 301.89–6 or authorize reproduction of the certificates or limited permits on shipping containers, or both, as requested by the person operating under the compliance agreement. These certificates and limited permits may then be completed and used, as needed, for the interstate movement of regulated articles that have met all of the requirements of paragraph (a) or (b), respectively, of this section.

§ 301.89–6 Compliance agreements.

Persons who grow, handle, or move regulated articles interstate may enter into a compliance agreement[4] if such persons review with an inspector each stipulation of the compliance agreement, have facilities and equipment to carry out disinfestation procedures or application of chemical materials in accordance with § 301.89–11, and meet applicable State training and certification standards under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136b). Any person who enters into a compliance agreement with APHIS must agree to comply with the provisions of this subpart and any conditions imposed under this subpart.

§ 301.89–7 Cancellation of a certificate, limited permit, or compliance agreement.

Any certificate, limited permit, or compliance agreement may be canceled orally or in writing by an inspector whenever the inspector determines that the holder of the certificate or limited permit, or the person who has entered into the compliance agreement, has not complied with this subpart or any conditions imposed under this subpart.

[1] Criteria that laboratories must meet to become approved to process, test, or analyze soil, and the list of currently approved laboratories, may be obtained from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Domestic and Emergency Operations, 4700 River Road Unit 134, Riverdale, Maryland 20737–1236.

[2] Inspectors are assigned to local offices of APHIS, which are listed in local telephone directories. Information concerning such local offices may also be obtained from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Domestic and Emergency Operations, 4700 River Road Unit 134, Riverdale, Maryland 20737–1236, or from Karnal Bunt Project, 1688 W. Adams St., Phoenix, Arizona 85007.

[3] Section 105 of the Federal Plant Pest Act (7 U.S.C. 105dd) authorizes the Secretary of Agriculture to impose emergency measures necessary to prevent the spread of plant pests new to, or not widely prevalent or distributed within and throughout, the United States.

[4] Compliance agreements may be initiated by contacting a local office of Plant Protection and Quarantine, which are listed in telephone directories. The addresses and telephone numbers of local offices of Plant Protection and Quarantine may also be obtained from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, 4700 River Road Unit 134, Riverdale, Maryland 20737–1236, or from the Karnal Bunt Project, 1688 W. Adams St., Phoenix, Arizona 85007.

If the cancellation is oral, the cancellation will become effective immediately and the cancellation and the reasons for the cancellation will be confirmed in writing as soon as circumstances allow, but within 20 days after oral notification of the cancellation. Any person whose certificate, limited permit, or compliance agreement has been canceled may appeal the decision, in writing, within 10 days after receiving the written cancellation notice. The appeal must state all of the facts and reasons that the person wants the Administrator to consider in deciding the appeal. A hearing may be held to resolve any conflict as to any material fact. Rules of practice for the hearing will be adopted by the Administrator. As soon as practicable, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision.

§ 301.89–8 Assembly and inspection of regulated articles.

(a) Persons requiring certification or other services must request the services from an inspector[5] at least 48 hours before the services are needed.

(b) The regulated articles must be assembled at the place and in the manner the inspector designates as necessary to comply with this subpart.

§ 301.89–9 Attachment and disposition of certificates and limited permits.

(a) The consignor must ensure that the certificate or limited permit authorizing interstate movement of a regulated article is, at all times during interstate movement, attached to:

(1) The outside of the container encasing the regulated article;

(2) The article itself, if it is not in a container; or

(3) The consignee's copy of the accompanying waybill: Provided, that the descriptions of the regulated article on the certificate or limited permit, and on the waybill, are sufficient to identify the regulated article; and

(b) The carrier must furnish the certificate or limited permit authorizing interstate movement of a regulated article to the consignee at the shipment's destination.

§ 301.89–10 Costs and charges.

The services of the inspector during normal business hours will be furnished without cost to persons requiring the services. The user will be responsible for all costs and charges arising from inspection and other services provided outside of normal business hours.

[5] See footnote 2.

§ 301.89–11 Treatments.

(a) All conveyances, mechanized farm equipment, seed-conditioning equipment, soil-moving equipment, grain elevators and structures used for storing and handling wheat, durum wheat, or triticale must be cleaned and disinfected by removing all soil and plant debris and:

(1) Wetting all surfaces to the point of runoff with a solution of sodium hypochlorite mixed with water applied at the rate of 1 gallon of commercial chlorine bleach (5.2 percent sodium hypochlorite) mixed with 2.5 gallons of water. The equipment or site should be thoroughly washed down after 15 minutes to minimize corrosion; or

(2) Applying steam to all surfaces until the point of runoff;

(3) Cleaning with a solution of hot water and detergent, under high pressure (at least 30 pounds per square inch), at a minimum temperature of 180 °F.; or

(4) Fumigating with methyl bromide at the dosage of 15 pounds/1000 cubic feet for 96 hours.

(b) Soil, and straw/stalks/seed heads for decorative purposes must be treated by fumigation with methyl bromide at the dosage of 15 pounds/1000 cubic feet for 96 hours.

Done in Washington, DC, this 25th day of March, 1996.

Lonnie J. King,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–7545 Filed 3–27–96; 8:45 am]

BILLING CODE 3410–34–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

Policy and Procedure for Enforcement Actions; Removal; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Policy statement: Correction.

SUMMARY: This document corrects a notice appearing in the **Federal Register** on June 30, 1995 (60 FR 34380), that announced the removal of the Nuclear Regulatory Commission's (NRC's) Enforcement Policy from the Code of Federal Regulations. This action is necessary to correct an inadvertent indication in the Paperwork Reduction Act Statement section that the policy statement did not include any information collection requirements. Because this notice and a second notice anndouncing the revision of the NRC's Enforcement Policy (60 FR 34381; June 30, 1995) were subsequently issued in their entirety as NUREG–1600, NUREG–1600 also includes this inadvertent indication. An errata for NUREG–1600 is being issued to address this issue.

FOR FURTHER INFORMATION CONTACT: James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–2741.

On page 34380, in the third full paragraph in the third column, the correct Paperwork Reduction Act Statement for the NRC's Enforcement Policy should read: "This policy statement does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, approval number 3150–0136. The approved information collection requirements contained in this policy statement appear in Section VII.C."

Dated at Rockville, Maryland, this 22nd day of March 1996.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 96–7532 Filed 3–27–96; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–SW–04–AD; Amendment 39–9552; AD 96–07–03]

Airworthiness Directives; Societe Nationale Industrielle Aerospatiale and Eurocopter France Model AS 350B, BA, B1, B2, and D, and Model AS 355E, F, F1, F2, and N Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Societe Nationale Industrielle Aerospatiale and Eurocopter France (Eurocopter France) Model AS 350B, BA, B1, B2, and D, and Model AS 355E, F, F1, F2, and N helicopters, without an autopilot installed, that requires a visual inspection to determine whether the cyclic pitch change control rod (rod) end fittings were safetied, and removal

and replacement of the rod if the rod end fittings were not safetied. This amendment is prompted by a manufacturer's report that some of the rod end fittings had not been safetied at the factory. The actions specified by this AD are intended to prevent loss of tightening torque on the adjustment nuts of the rod, shifting of the neutral point of the cyclic stick, reduction in the amount of available movement of the cyclic stick in the roll axis, and subsequent reduction in the controllability of the helicopter.

EFFECTIVE DATE: Effective May 2, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Monschke, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5116, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to Eurocopter France Model AS 350B, BA, B1, B2, and D, and Model AS 355E, F, F1, F2, and N helicopters, without an autopilot installed, was published in the **Federal Register** on November 1, 1995 (60 FR 55491). That action proposed to require a visual inspection to confirm that the rod end fittings are safetied, and removal and replacement of the rod, if necessary.

Eurocopter France has issued Eurocopter Service Bulletin No. 01.38, dated June 26, 1994, for the Model AS 355 series helicopters, and Eurocopter Service Bulletin No. 01.42, dated June 28, 1994, for the Model AS 350 series helicopters, which specifies a visual inspection to determine whether the rod end fittings have been safetied; reinstallation of the forward lower fairing if the rod end fittings have been safetied, and removal and replacement of the rod with an airworthy rod and reinstallation of the forward lower fairing if the rod end fittings have not been safetied. The Direction Generale De L'Aviation Civile, which is the airworthiness authority for France, classified this service bulletin as mandatory and issued AD 94–179–051(B) and AD 94–180–069(B), both dated August 3, 1994, in order to assure the continued airworthiness of these helicopters in France.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. However, a note has been inserted at the end of paragraph (c) to alert the reader that a Eurocopter Service Bulletin has been issued that pertains to the requirements of this AD. The FAA has determined that air safety and the public interest require the adoption of the rule with the noted change.

The FAA estimates that 498 helicopters of U.S. registry will be affected by this AD, that it will take approximately one-fourth of a work hour per helicopter to inspect the rod end fittings, and 1 work hour to remove and reinstall the rod, if necessary, and that the average labor rate is $60 per work hour. Required parts will be provided by the manufacturer. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $37,350.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

AD 96–07–03 Societe Nationale Industrielle Aerospatiale and Eurocopter France: Amendment 39–9552. Docket No. 95–SW–04–AD.

Applicability: Model AS 350B, BA, B1, B2, and D, and Model AS 355E, F, F1, F2, and N helicopters, with cyclic pitch change control rod, part number (P/N) 704A34–113–279, installed, and without an autopilot installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of tightening torque on the adjustment nuts of the cyclic pitch change control rod, shifting of the neutral position of the cyclic stick, reduction in the amount of available movement of the cyclic stick in the roll axis, and subsequent reduction in the controllability of the helicopter, accomplish the following:

(a) Within 100 hours time-in-service (TIS) after the effective date of this AD, remove the forward lower fairing and visually inspect the cyclic pitch change control rod (rod), P/N 704A34–113–279, to determine whether the end fittings have been safetied (see Figure 1, Detail 1, tabs bent around the adjustment nut).

(b) If the visual inspection indicates that the rod end fittings have been safetied, reinstall the forward lower fairing.

(c) If the visual inspection indicates that the rod end fittings have not been safetied (see Figure 1, Detail 2, tabs not bent around the adjustment nut), accomplish the following in accordance with the applicable maintenance manual:

(1) Immobilize the cyclic control.

(2) Remove the rod and replace it with an airworthy rod on which the rod end fittings have been safetied.

(3) Reinstall the forward lower fairing.

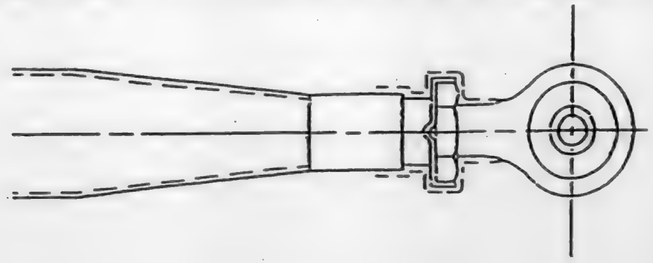
(4) Verify proper operation of the cyclic control.

Note 2: Eurocopter Service Bulletin No. 01.38, dated June 26, 1994, for the Model AS 355 series helicopters, and Eurocopter Service Bulletin No. 01.42, dated June 28, 1994, for the Model AS 350 series helicopters, pertain to this subject.

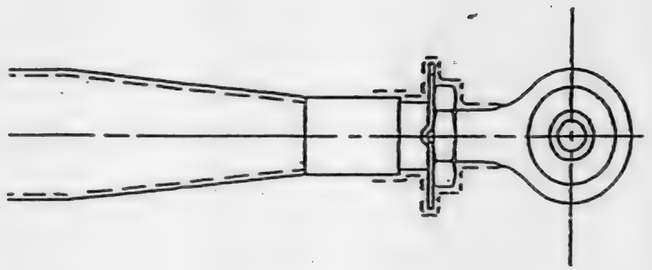
(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used when approved by the Manager, Rotorcraft Standards Staff, FAA, Rotorcraft Directorate. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Standards Staff.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Standards Staff.

BILLING CODE 4910–13–U



DETAIL 1



DETAIL 2

BILLING CODE 4910-13-C

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

(f) This amendment becomes effective on May 2, 1996.

Issued in Fort Worth, Texas, on March 20, 1996.

Daniel P. Salvano,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 96-7494 Filed 3-27-96; 8:45 am]

BILLING CODE 4910-13-U

FEDERAL TRADE COMMISSION

16 CFR Part 460

Trade Regulation Rule: Labeling and Advertising of Home Insulation

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission (the "Commission" or "FTC") announces it is retaining its Trade Regulation Rule Concerning the Labeling and Advertising of Home Insulation ("R-value Rule" or "Rule") and adopting non-substantive amendments to the Rule. The Commission amends section 460.5(a) of the R-value Rule to allow use of the R-value test procedure in American Society of Testing and Materials ("ASTM") standard test method C 1114–95. The Commission also amends sections 460.5(a), 460.5(a)(2), 460.5(b), and 460.5(d)(1) to specify revised versions of additional ASTM standards that are required for determining the R-value of home insulation. Further, the Commission amends the Rule to add a summary of the exemptions from specific requirements of the Rule that the Commission previously granted for certain classes of persons covered by the Rule. Last, the Commission adopts a non-substantive amendment to revise section 460.10 to cross-reference the Commission's enforcement policy statement for foreign language advertising in 16 CFR 14.9 and to delete the current Appendix to the Rule, which merely repeats the text of 16 CFR 14.9.

EFFECTIVE DATE: The amendments are effective on April 29, 1996. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 29, 1996.

FOR FURTHER INFORMATION CONTACT: Kent C. Howerton, Attorney, Federal Trade Commission, Washington, DC 20580, (202) 326–3013 (voice), (202) 326–3259 (fax).

SUPPLEMENTARY INFORMATION:

I. Introduction

On April 6, 1995, as part of its oversight responsibilities and its program to review all current Commission rules and guides periodically, the Commission solicited public comments about the economic impact of and current need for the R-value Rule, 60 FR 17492 (1995).[1] At the same time, the Commission solicited comments on a petition ("Petition") requesting the Commission to approve an additional (fifth) ASTM R-value test procedure as an optional, but not required, test procedure for determining the R-value of home insulation under the Rule.

The Commission received 42 comments in response to the April 6, 1995 notice.[2] The commenters included the following parties: Manufacturers of cellular plastics, cellulose, mineral fiber, and reflective insulation products; manufacturers of structural insulated panels; trade associations comprised of manufacturers of insulation products and structural insulated panels, professional installers, and roofing contractors; independent technical consultants to industry; a government contractor; and individual consumers. Specific issues addressed by the commenters are described below in Parts III through VI.

II. Requirements of the R-Value Rule

The Commission promulgated the R-value Rule under section 18 of the FTC Act, 15 U.S.C. 57a, on August 27, 1979.[3] The Rule became effective on September 29, 1980, 45 FR 54702 (1980).

The R-value Rule covers home insulation products. The Rule defines "insulation" as any product mainly used to slow down heat flow, for example through a house's exterior walls, attic, floors over crawl spaces, or basement. It defines "home insulation" as insulation used in old or new houses, condominiums, cooperatives, apartments, modular homes, and mobile homes. The Rule does not cover insulation products sold for use in commercial or industrial buildings, such as offices or factories. It does not apply to other products with insulating characteristics, such as storm windows or doors.

The Rule applies to home insulation manufacturers, professional installers, retailers, and new home sellers (including sellers of manufactured or mobile homes). It also applies to testing laboratories that conduct R-value tests for home insulation manufacturers or other sellers who use the test results as the basis for making R-value claims about home insulation products.

The Rule requires that those who manufacture or sell thermal insulation products for use in residential structures disclose specific information about the thermal performance of the insulation at

[1] The Commission reviewed the Rule in 1985 under the Regulatory Flexibility Act, 5 U.S.C. 610, to determine the economic impact of the Rule on small entities. Based on that review, the Commission determined that: There was a continuing need for the Rule; there was no basis to conclude that the Rule had a significant impact on a substantial number of small entities; there was no basis to conclude that the Rule should be amended to minimize its economic impact on small entities; the Rule did not generally overlap, duplicate, or conflict with other regulations; and technological, economic, and other changes had not affected the Rule in any way that would warrant amending the Rule. 50 FR 13246 (1985).

[2] Plymouth Foam Products ("Plymouth"), comment number #01; Advanced Foil Systems ("AFS"), #02; W.H. Porter, Inc. ("Porter"), #03; Benchmark Foam, Inc. ("Benchmark"), #04; Big Sky Insulations, Inc. ("Big Sky"), #05; Rock Wool Manufacturing Co. ("Rock Wool Mfg./1"), #06; Rose E. Kettering ("Kettering"), #07; Matt Anderson ("Anderson"), #08; Marilyn Raeth ("Raeth"), #09; James A. McGarry ("McGarry"), #10; Structural Insulated Panel Association ("SIPA"), #11; Tierra Consulting Group ("Tierra"), #12; EPS Molders Association ("EPSMA"), #13; Western Insulfoam, Division of Premier Industries, Inc. ("Western"), #14; Fi-Foil Co., Inc. ("Fi-Foil/Nowman"), #15; Regal Industries, Inc. ("Regal"), #16; Insulation Contractors Association of America ("ICAA/1"), #17; England & Associates ("England"), #18; Cellulose Insulation Manufacturers Association ("CIMA"), #19; GreenStone Industries ("Greenstone/Tranmer"), #20; Styropor Business, BASF Corporation ("BASF"), #21; Hamilton Mfg., Inc. ("Hamilton"), #22; Energy Control, Inc. ("ECI"), #23; North American Insulation Manufacturers Association ("NAIMA"), #24; The Celotex Corporation ("Celotex"), #25; Tennessee Technological University, ("TN Tech"), #26; Superior Aluminum Insulation Inc. ("Superior"), #27; Oak Ridge National Laboratory ("ORNL/Yarbrough"), #28; Oak Ridge National Laboratory ("ORNL/Wilkes"), #29; Polyisocyanurate Insulation Manufacturers Association ("PIMA"), #30; Midwest Roofing Contractors Association ("MRCA"), #31; GreenStone Industries ("GreenStone/Smith"), #32; Insulspan, Inc. ("Insulspan"), #33; Clayville Insulation ("Clayville"), #34; Tascon, Inc. ("Tascon"), #35; FischerSips Inc. ("FischerSips"), #36; Dow Chemical Canada Inc. ("Dow/Canada"), #37; AFM Corporation ("AFM"), #38; Rock Wool Manufacturing Co. ("Rock Wool Mfg./2"), #39; Insulation Contractors Association of America ("ICAA/2"), #40; Corbond Corp. ("Corbond"), #41; Fi-Foil Co., Inc. ("Fi-Foil/Lippy"), #42. The April 6, 1995 notice is filed as document number B172394. The comments submitted in response to the that notice are filed as document numbers B17239400001, B17239400002, *etc.* In today's notice, the comments are cited as #01, #02, *etc.* The Commission's staff added an additional letter from the Petitioner, R. S. Graves, R & D Services, Inc. This letter, cited as Graves, #43, was not filed as a comment in response to the April 6, 1995 notice, but instead, as a response to a request for clarification from the Commission's staff. *See* Part V and note 64, *infra.*

[3] Final trade regulation rule ("Statement of Basis and Purpose" or "SBP"), 44 FR 50218 (1979).

the point of sale (on product labels, manufacturers' fact sheets, and receipts or contracts to purchasers from professional installers and new home sellers), and in advertising and other promotional materials that contain certain claims. Thermal performance is described by the product's R-value, which varies among insulation types and forms and among specific products of the same type and form.[4] "R-value" is the recognized numerical measure of the ability of an insulation product to restrict the flow of heat and, therefore, to reduce energy costs. The higher the R-value, the better the product's insulating ability. The major reason consumers purchase thermal insulation is to reduce energy expenditures to heat and cool their homes. The Rule requires sellers to have adequate substantiation for these R-value disclosures and for any energy savings claims they make.

The R-value Rule is designed to enable consumers to compare the thermal performance of competing home insulation products when they make purchasing decisions. To accomplish this purpose, the Rule requires sellers (including insulation manufacturers, professional installers, new home sellers, and retailers who sell insulation to consumers) to disclose the insulation product's R-value and related information, based on uniform standards. This information enables consumers to evaluate how well a particular insulation product is likely to perform, to determine whether the cost of the insulation is justified, and to make meaningful cost-benefit purchase decisions among competing products.

III. Regulatory Review

The Commission has determined, as part of its oversight responsibilities, to review all current Commission rules and guides periodically. These reviews seek information about the costs and benefits of the Commission's rules and guides and their regulatory and economic impact. The information obtained assists the Commission in identifying rules and guides that warrant modification or recision. In the April 6, 1995 notice, the Commission solicited comments on, among other things, the economic impact of and the continuing need for the R-value Rule, possible conflict between the Rule and state, local, or other federal laws or regulations, and the effect on the Rule of any technological, economic, or other industry changes. The Commission also solicited comments on whether the Rule should be revised to require the use of different test procedures or standards than those currently specified, and whether there are insulation products for which the Rule does not sufficiently address product-specific issues relating to testing or preparation of test specimens.

A. Need for the Rule, Benefits, Costs, and Other Burdens

1. Current Need for the Rule

Thirty-one comments specifically addressed the current need for the Rule. Thirty comments stated that there is a continuing need for the Rule and supported keeping it in place.[5] Only one commenter, Benchmark, implied that the Rule was not needed, stating that the costs of complying with the Rule far outweigh the benefits it confers.[6] Benchmark did not explain how it reached this conclusion.

Based on the comments, the Commission determines that there is a continuing need for the Rule.

2. Benefits and Costs to Purchasers

Twenty-four comments described the benefits the Rule confers on purchasers.[7] In summary, the comments described the major benefits of the Rule to consumers as:

- Increasing consumer awareness of the benefits of insulation; [8]
- Giving consumers the basic thermal performance information they need to compare insulation products and select those with the R-value they want,[9] at little or no cost; [10]
- Giving consumers R-value information in a uniform manner that facilitates easy comparison of competing products; [11]
- Helping ensure that R-value claims are substantiated so consumers receive what they are promised; [12]
- Helping consumers save energy (and heating and cooling costs) by preventing misrepresentations about R-values of insulation products,[13] and by setting standards for the proper installation of insulation products; [14]
- Saving consumers money by eliminating sales and marketing practices that lead them to overinsulate or underinsulate; [15]
- Improving the quality [16] and consistency [17] of home insulation, encouraging the development of advanced products,[18] and preventing the sale of inferior products; [19] and
- Reducing the rate of depletion of our nation's limited energy resources by helping consumers conserve energy expenditures.[20]

In addition to the benefits described above, Greenstone/Smith explained that utility companies have embraced the Rule and developed their own energy savings programs that depend on the Rule to protect consumers from fraudulent acts.[21] Greenstone/Smith also stated that state departments of consumer affairs have used the Rule as a model in writing their laws, which has led to state enforcement actions that generated publicity and educated consumers. Greenstone/Smith further stated that consumers would be in a user-beware condition without the Rule and that sellers would lower their ethical boundaries and take advantage of naive consumers.[22]

Sixteen commenters addressed the costs the Rule imposes on purchasers. Fifteen of these commenters stated that they did not believe the Rule imposes significant costs on purchasers.[23] Only one, Benchmark, stated that the costs imposed by the Rule outweigh the Rule's benefits.[24] In brief, the commenters other than Benchmark expressed the following views concerning costs the Rule imposes on consumers:

- no cost; [25]
- Minimal or insignificant cost,[26] or small cost when spread over volume of production; [27]
- Very small cost imposed is offset by improved product quality and the benefit-to-cost ratio is very large; [28]
- Any cost already has been born by manufacturers and is embedded in product pricing; [29]
- Required testing should already have been done so the only additional cost is the Fact Sheet, which can be produced at minimal expense; [30]
- Possibly has imposed cost, but not nearly the waste of money that would have occurred without the Rule; [31] and
- Has saved consumers on cost.[32]

Based on the comments, the Commission determines that the Rule provides substantial benefits to consumers, while imposing no significant costs on them.

3. Benefits and Burdens or Costs to Firms

Ten comments addressed the benefits provided to firms covered by the Rule.[33] According to the comments, the Rule benefits firms by:

- Creating a level playing field through standardized guidelines for labeling, testing, and evaluation, which promote legitimate competition and make it easier for honest manufacturers to compete; [34]
- Providing a more even market place in which it is easier for industry to attempt to regulate itself; [35]
- Enhancing competition by enabling suppliers to convey truthfully and meaningfully the insulation properties of their products; [36] and
- Providing guidelines for product testing and evaluation and creating confidence in the residential buyer's mind.[37]

As pointed out in Part III.A.2, above, Greenstone/Smith stated that individual utility companies have developed energy savings programs that depend on the Rule to protect consumers from fraudulent acts.[38] According to the commenter, by encouraging consumers to insulate homes, these programs benefit firms by generating an ever-increasing demand for products covered by the Rule.

Fourteen comments addressed the burdens or costs imposed on firms covered by the Rule. Eleven of these stated that the Rule had not imposed any significant costs on firms.[39] Tierra stated merely that any costs due to the Rule already were imbedded in the pricing of the products.[40] Fi-Foil/Nowman stated that the Rule had a substantial economic impact on industry members originally because it required redesigning and reprinting packaging and promotional materials to meet the labeling requirements, but that these costs already had been borne by manufacturers.[41] Benchmark stated that the costs imposed by the Rule outweigh its benefits.[42]

Based on the comments, the Commission determines that the Rule benefits firms by creating a level playing field that promotes competition, by providing a market place in which industry can more easily regulate itself, by providing guidelines to industry for product testing and evaluation, and by creating consumer confidence. The Commission also determines that the Rule does not impose significant ongoing costs on firms.

B. Other Federal, State, or Local Laws or Regulations

Nine comments addressed the existence of other federal, state, or local laws or regulations. None of the commenters was aware of any conflicts with other federal, state, or local laws or regulations.[43] England stated that the Rule strengthens other federal, state, and local laws and regulations.[44] Celotex and PIMA explained that the Rule is a consumer protection regulation, which does not address issues such as building energy conservation standards that are regulated elsewhere at the federal, state, and local levels.[45] Greenstone/Smith stated that the Rule has been precedent-setting rather than conflicting, and that

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[4] "Type" refers to the material from which the insulation is made, *e.g.*, fiberglass or cellulose. "Form" refers to the physical form of the product, *e.g.*, batts, loose-fill, or rigid boardstock. Most home insulation products are "mass" insulations, which restrict the flow of heat through the product's mass. "Reflective" insulations (which also are covered by the Rule), on the other hand, restrict heat flow by reflecting back radiant heat and must be installed facing an air space.

[5] AFS, #02 (must stay in place, keep regulations that work); Porter, #03 (continue and strengthen); Rock Wool Mfg./1, #06 (provides basic guidelines by which consumers better assured of receiving full value); Kettering, #07 (R-values must be maintained or consumer has no guideline and inferior products will be passed off on the public); Anderson, #08, at 2–3 (labeling ensures consumers can easily select products with the R-value they want); Raeth, #09 (eliminating Rule would be a great disservice to consumers, consumers would not know the value of what purchasing); McGarry, #10 (do not eliminate or weaken, uses label information to compare when purchasing); SIPA, #11, at 1 (retain); Tierra, #12, at 1–2 (serves useful public purpose); Western, #14, at 1; Fi-Foil/Nowman, #15, at 1 (serves useful purpose); Regal, #16, at 1 (retain); ICAA/1, #17, at 1 (necessary); England, #18, at 1 (need stronger today than ever); CIMA, #19, at 1 (valuable protection for consuming public); Greenstone/Tranmer, #20, at 1 (critical to consumers; centralized labeling requirements necessary to maintain consistency in products, avoid costly production costs resulting from rules differing from region to region, and encourage development of advanced products); BASF, #21, at 1 (urges be retained); Hamilton, #22, at 1 (still needed in today's market); ECI, #23 (good Rule that should be continued); NAIMA, #24, at 1 (should be maintained, market place would be chaotic in its absence); Celotex, #25, at 1 (continuing need), at 7 (supports the Rule); TN Tech, #26, at 1 (extremely important to industry and consuming public); ORNL/Wilkes, #29, at 1 (supports keeping, Commission to be commended for promulgating and enforcing the Rule); PIMA, #30, at 2 (continuing need), at 9 (vigorously supports retaining and enforcing Rule and applauds FTC for its efforts in this regard); Greenstone/Smith, #32, at 1 (provides a viable means of creating broader consumer awareness of insulation value and maintaining even playing field, without Rule sellers would take advantage of naive consumers); Insulspan, #33, at 1 (retain); Clayville, #34, at 3 (still needed to keep a level playing field); FischerSips, #36, at 1 (retain); Fi-Foil/Lippy, #42 (should be continued to enable general public to evaluate insulation products). *See also*, Rock Wool Mfg./1, #06 (fully supports ICAA's submittal).

[6] Benchmark, #04.

[7] Porter, #03; Rock Wool Mfg./1, #06; Anderson, #08, at 2–3; McGarry, #10; Tierra, #12, at 1–2; Western, #14, at 1; Fi-Foil/Nowman, #15, at 1; ICAA/1, #17, at 1; England, #18, at 1; CIMA, #19, at 1; Greenstone/Tranmer, #20, at 1; Hamilton, #22, at 1; TN Tech, #26, at 1; ORNL/Wilkes, #29, at 1–2; PIMA, #30, at 2–3, 9; Greenstone/Smith, #32, at 1; Clayville, #34, at 1; Celotex, #35, at 1; Fi-Foil/Lippy, #42. See also, Rock Wool Mfg./1, #06; Kettering, #07; Raeth, #09; ECI, #23; NAIMA, #24, at 1.

[8] ORNL/Wilkes, #29, at 1; Greenstone/Smith, #32, at 1.

[9] Anderson, #08, at 2–3; McGarry, #10; Greenstone/Tranmer, #20, at 1; PIMA, #30, at 2–3; Fi-Foil/Lippy, #42. *See* Raeth, #09; ECI, #23.

[10] ICAA/1, #17, at 1. *See also* Rock Wool Mfg./1, #06.

[11] Tierra, #12, at 1–2; Fi-Foil/Nowman, #15, at 1; England, #18, at 1; PIMA, #30, at 3; Celotex, #35, at 1.

[12] Porter, #03; Tierra, #12, at 1–2; England, #18, at 1; Hamilton, #22, at 1. *See* Kettering, #07; Raeth, #09; ECI, #23; NAIMA, #24, at 1.

[13] Porter, #03. *See* Rock Wool Mfg./1, #06.

[14] *See* Rock Wool Mfg./1, #06.

[15] CIMA, #19, at 1.

[16] TN Tech, #26, at 1.

[17] Greenstone/Tranmer, #20, at 1.

[18] Id.

[19] *See* Kettering, #07.

[20] ORNL/Wilkes, #29, at 1.

[21] Greenstone/Smith, #32, at 1.

[22] *Id. See also* NAIMA, #24, at 1; ORNL/Wilkes, #29, at 2.

[23] Rock Wool Mfg./1, #06; Tierra, #12, at 2; Western, #14, at 1; Fi-Foil/Nowman, #15, at 1; ICAA/1, #17, at 1; England, #18, at 1; CIMA, #19, at 1; Greenstone/Tranmer, #20, at 2; Hamilton, #22, at 1; Celotex, #25, at 1; TN Tech, #26, at 1; ORNL/Wilkes, #29, at 2–3; PIMA, #30, at 3, 9; Greenstone/Smith, #32, at 1; Clayville, #34; at 1.

[24] Benchmark, #04.

[25] Rock Wool Mfg./1, #06; ICAA/1, #17, at 1; CIMA, #19, at 1; Hamilton, #22, at 1.

[26] Celotex, #25, at 1; TN Tech, #26, at 1; PIMA, #30, at 3, 9; Clayville, #34, at 1.

[27] Greenstone/Tranmer, #20, at 2; ORNL/Wilkes, #29, at 2–3.

[28] TN Tech, #26, at 1. *See* Greenstone/Tranmer, #20, at 2.

[29] Tierra, #12, at 2; Fi-Foil/Nowman, #15, at 1.

[30] Greenstone/Smith, #32, at 1.

[31] Western, #14, at 1.

[32] England, #18, at 1.

[33] Porter, #03; Tierra, #12, at 1–2; Western, #14, at 1, *but see*, at 2; England, #18, at 2; Greenstone/Tranmer, #20, at 3; Celotex, #25, at 2; PIMA, #30, at 2, 4, 9; Greenstone/Smith, #32, at 1; Clayville, #34, at 1, 3. *See* NAIMA, #24, at 1.

[34] Porter, #03; Tierra, #12, at 1–2; Western, #14, at 1, *but see*, at 2 (not much benefit for Western); Greenstone/Tranmer, #20, at 3; Celotex, #25, at 2; Clayville, #34, at 3. *See also* NAIMA, #24, at 1 (marketplace would be chaotic in its absence).

[35] England, #18, at 2.

[36] PIMA, #30, at 2.

[37] Id. at 4.

[38] Greenstone/Smith, #32, at 1 .

[39] Rock Wool Mfg./1, #06 (not aware of any significant added cost); Western, #14, at 2 (for it $0); ICAA/1, #17, at 1 (no significant cost burden); England, #18, at 2 (none, because what Rule requires should be done anyway); CIMA, #19, at 2 (few incremental costs of compliance since requirements are based on existing industry and government standards); Greenstone/Tranmer, #20, at 3 (does not impose large financial burden); Hamilton, #22, at 1 (do not think it has imposed additional costs); Celotex, #25, at 2 (no significant burdens or costs since R-value data is necessary for marketing, quality control, and research purposes); PIMA, #30, at 4 (no significant burdens or costs, benefits clearly outweigh any burdens or costs), at 9 (does not impose significant burden or cost); Greenstone/Smith, #32, at 1 (required testing should already have been done when Commission issued Rule and no additional tests were required, only additional cost was Fact Sheet which could be produced at minimal expense to manufacturer); Clayville, #34, at 1 (doesn't believe the Rule has imposed any excessive costs on manufacturers or contractors).

[40] Tierra, #12, at 2.

[41] Fi-Foil/Nowman, #15, at 1.

[42] Benchmark, #04.

[43] Rock Wool Mfg./1, #06; Tierra, #12, at 3; Western, #14, at 3; England, #18, at 2; CIMA, #19, at 2; Greenstone/Tranmer, #20, at 4; Celotex, #25, at 2; PIMA, #30, at 5; Greenstone/Smith, #32, at 1.

[44] England, #18, at 2 .

[45] Celotex, #25, at 2; PIMA, #30, at 5.

utility companies have embraced the Rule's requirements and developed energy-saving programs that depend on the Rule to protect consumers from fraudulent acts.[46]

Based on the comments, the Commission determines that there is no reason to believe that the Rule conflicts with other federal, state, or local laws or regulations.

IV. Adoption of Current ASTM Standards

The Rule currently requires that the R-value of each home insulation product be determined based on tests conducted according to ASTM C 177–85, C 236–87, C 518–85, or C 976–82.[47] It requires that R-values based upon heat flux measurements under C 177–85 or C 518–85 be reported in accordance with ASTM standard practice C 1045–85. It also requires that, for loose-fill cellulose, the tests be conducted at the settled density determined under ASTM C 739–88 ("Standard Specification for Cellulosic Fiber (Wood-Base) Loose-Fill Thermal Insulation").[48]

Four comments discussed which versions of specified ASTM test procedures or other standards should be required by the Rule. Celotex and PIMA recommended that the Commission revise the Rule to require the use of current versions of required ASTM standards that are incorporated into the Rule. Specifically, they recommended that the Commission amend the Rule to require use of the following versions of ASTM standards: ASTM C 177–85 (1993), ASTM C 236–89 (1993), ASTM C 518–91, ASTM C 976–90, ASTM C 1045–90.[49] NAIMA recommended that the Commission revise section 460.5(a)(2) to require settled density testing of loose-fill cellulose according to C 739–91.[50] No comments opposed adoption of these current versions of the ASTM standards.

NAIMA pointed out that an alternative to referencing current versions of ASTM standards would be to omit the specific version and rely on the language in section 460.7 of the Rule, 16 CFR 460.7.[51] Section 460.7 provides that updated, final ASTM test methods automatically replace the old ones in the Rule 90 days after publication by ASTM. Greenstone/Smith agreed with this approach.[52]

ASTM was organized in 1898. A not-for-profit organization, it is one of the largest voluntary standards-development organizations in the world. ASTM's members (approximately 36,000 worldwide) include producers, users, ultimate consumers, and those having a general interest (including government and academia). Through 132 standards-writing committees, ASTM publishes more than 9,500 standards each year. Membership in ASTM is open to all interested parties concerned with the fields in which ASTM is active.[53] ASTM standards are developed through a consensus-type process and are used voluntarily. They become legally binding only when a government body references them in regulations, or when they are cited in a contract. ASTM standards are subject to revision at any time by the responsible technical committee and must be reviewed every five years, and if not revised, either reapproved or withdrawn.[54] ASTM's C–16 Committee on Thermal Insulation is the standards-writing committee responsible for virtually all of the ASTM standards referenced in the R-value Rule.

Section 460.7 of the Rule provides for automatic incorporation into the Rule of revisions to these ASTM test procedures. As part of this automatic incorporation, the Commission originally cited in the Rule only the basic test procedures and other standards, not the specific version of each then in effect. Under section 460.7, when ASTM changed a test procedure required by the Rule, the new version automatically replaced the old one in the Rule 90 days after ASTM first published the change.[55] In 1990, the Commission amended the Rule to specify the version of each ASTM test procedure that would be required in the future. 55 FR 10053 (1990). The Commission explained that, because it previously had taken no action to consider any of the revisions to the required test procedures that ASTM had adopted since the Commission promulgated the Rule, the Commission in effect had adopted the revised procedures. *Id.* at 10054.

The Office of the Federal Register ("OFR") specifies additional procedures that federal agencies must follow when they promulgate rules requiring the use of private standards that are not printed in full in the Code of Federal Regulations ("CFR") (i.e., when they incorporate private standards by reference). Section 51.1(f) of OFR's regulations states that incorporation by reference is limited to the edition of the publication that is approved by the Director of the Federal Register. 1 CFR 51.1(f). Section 51.9 of OFR's regulations requires that each "incorporation by reference" in a federal rule specifically identify the standard to be incorporated, including the title, date, edition, author, publisher, and identification number of the publication. 1 CFR 51.9.

Under **Federal Register** requirements, therefore, the Commission does not have discretion to require compliance generally with the "latest" or "current" version of ASTM test procedures or other standards. If ASTM adopts and publishes revised test procedures or other standards required by the Rule, however, the Commission may update its incorporation by reference of these standards by obtaining permission for the incorporation by reference from the Director of the Federal Register and publishing an amendment to the Rule that requires the use of the revised standard in the future.

ASTM standards C 177–85, C 236–87, C 518–85, C 976–82, C 1045–85, and C 739–88, which currently are specified in the Rule, have been revised by ASTM since the Commission adopted those versions of the standards in 1990.[56] Because the Commission has taken no action to consider any of the revised standards adopted by ASTM, and has received no petitions to consider them, section 460.7 of the Rule has authorized, but not required, use of the revised ASTM standards for compliance with the Rule.

Based on the comments and the text of the revised versions of the ASTM standards recommended by the commenters, the Commission believes that these revisions to the versions of the standards currently required by the Rule have been primarily technical changes or editorial comments, and not significant, substantive revisions. The Commission, therefore, amends the Rule to require use of the revised, current versions of these standards that are published in volume 04.06, section 4, of the 1995 Annual Book of ASTM Standards. Because the revisions appear to be technical changes or editorial comments, not significant, substantive revisions, the Commission determines that these amendments are non-substantive under section 18(d)(2)(B) of the FTC Act, 15 U.S.C. 57a(d)(2)(B).

The amendments require that all future tests by manufacturers or others to substantiate R-value claims for home insulation products be based on the revised standards. Manufacturers or others whose home insulation products have not changed can continue to rely on tests conducted according to the versions of the standards that were required by the Rule at the time the tests were conducted. Under section 460.7 of the Rule, in the future the Commission will accept, but not require, the use of a revised version of any of these standards 90 days after ASTM adopts and publishes the revision. The Commission may, however, reopen the rulemaking proceeding during the 90-day period or at any later time to consider whether it should require use of the revised procedure or reject it under section 460.5 of the Rule, 16 CFR 460.5.

V. Proposed Non-Substantive Amendment to Allow Use of an Additional ASTM R-value Test Procedure

In the April 6, 1995 notice, the Commission also solicited comments on the Petition from Ronald S. Graves, Research Staff Member, Materials Analysis Group, at Martin Marietta Energy Systems, Inc.[57] The Petition requested that the Commission include an additional (fifth) ASTM R-value test procedure ("ASTM C 1114–92—Standard Test Method for Steady-State Thermal Transmission Properties by Means of the Thin-Heater Apparatus"), as an approved test method for complying with section 460.5(a) of the R-value Rule, 16 CFR 460.5(a). This test method is under the jurisdiction of ASTM Committee C–16 on Thermal Measurements (the ASTM Committee responsible for the other R-value test procedures required by the R-value Rule), and is the direct responsibility of ASTM Subcommittee C16.30 on Thermal Measurements. Mr. Graves is the Chairman of the Thin Heater Task Group within C16.30 that meets semiannually to maintain and keep ASTM C 1114 current.

Based on the documentation submitted with the Petition, the Commission stated its belief that the accuracy of the ASTM C 1114–92 test procedure compared favorably to that of other ASTM R-value test procedures the Commission has adopted under the R-value Rule.[58] The Commission, therefore, stated that it was considering adopting a non-substantive amendment to section 460.5(a) of the Rule to include ASTM C 1114–92 as an optional, but not required, test procedure for determining the R-value of home insulation. Because the proposed amendment would not impose any new obligations upon parties covered by the Rule, or lessen the protections afforded consumers by the Rule, the Commission stated that the proposed change appeared to be non-substantive under section 18(d)(2)(B) of the FTC Act, 15 U.S.C. 57a(d)(2)(B). For these reasons, the Commission stated that it did not have to solicit public comment or follow the rulemaking proceedings that would be required for a substantive amendment to the Rule. On the other hand, because the Commission was soliciting comments as part of its regulatory review of the Rule, as a matter of discretion the Commission determined to solicit comments on the Petition at the same time.

Twelve comments addressed the proposed adoption of ASTM C 1114–92 as an optional R-value test procedure. Nine comments recommended that the Commission adopt the test procedure or said that they had no objections.[59] Of these, Regal stated that the adoption of the test procedure was "appropriate." Celotex and PIMA stated that the test procedure has shown excellent correlation to the R-value test procedures currently required by the Rule. ORNL/Wilkes stated that the test procedure is a test method that has proven minimal uncertainty, high reproducibility, and broad applicability to a variety of existing and advanced insulation materials.

Three comments expressed reservations about the proposed adoption of ASTM C 1114–92. Rock Wool Mfg./1 agreed that the Commission's proposal to adopt the test procedure would be appropriate, if the Commission is assured that the results are comparable with other required tests.[60] Western stated that adding C 1114–92 may help reduce burdens or costs imposed by the Rule,[61] but later responded specifically to the issue of adopting the test procedure with "no comment."[62] MRCA expressed concern that the test procedure would replace ASTM tests C 177 and C 518, that only two pieces of equipment currently are available to conduct the C 1114 test, that available test equipment is proprietary, and that more labs should use the equipment to obtain comparable test results before the FTC accepts the procedure.[63]

The Commission has determined to adopt a non-substantive amendment to allow use of ASTM C 1114–95 as an optional, but not required, test method for determining the R-value of home insulation under section 460.5(a) of the R-value Rule.[64] Based on the data submitted with the Petition and the comments, the Commission believes that the accuracy of the ASTM C 1114–95 test procedure compares favorably with the other ASTM R-value test procedures the Commission has adopted under the R-value Rule. Because the amendment imposes no new obligations upon parties covered by the Rule (but merely recognizes the use of an optional R-value test procedure), and because the accuracy of the test procedure compares favorably to the test procedures already required by the Rule, the Commission has determined that this amendment is non-substantive under section 18(d)(2)(B) of the FTC Act, 15 U.S.C. 57a(d)(2)(B).

VI. Other Issues

In addition to the subjects discussed above, the comments raised numerous other issues relating to the Rule. For example:

- Whether the scope of the Rule should be expanded to cover insulation sold for use in the commercial market, the thermal efficiency of building systems (such as insulation used in structural panels), or new products

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[46] Greenstone/Smith, #32, at 1.

[47] In citations of ASTM standards, the letter and first series of numbers refer to the basic standard; the number following the hyphen refers to the version of the standard (denoting the year in which the version was adopted and published by ASTM).

[48] This section discusses only the comments that recommended the Commission revise the Rule concerning specific ASTM test procedures and other standards that currently are required by the Rule. It does not discuss the comments that recommended the Commission adopt additional or different ASTM or other test procedures or standards that are not currently required by the Rule. *See* Part VI, *infra*.

[49] Celotex, #25, at 3; PIMA, #30, at 5. Both comments stated that the 1993 revisions to C 177–85 and C 236–89 (the year 1993 is indicated in parentheses in the standards) were editorial only.

[50] NAIMA, #24, at 2.

[51] *Id.* at 7.

[52] Greenstone/Smith, #32, at 3.

[53] 1995 Annual Book of ASTM Standards, Section 4, Volume 04.06 (Thermal Insulation; Environmental Acoustics), at iii.

[54] *Id.* at iv.

[55] Under section 460.7, the Commission's staff or a person affected by the change can petition the Commission during the 90-day period not to adopt the change or to reopen the rulemaking proceeding to consider it further.

[56] 55 FR 10053 (1990).

[57] 60 FR at 17493–94. Martin Marietta Energy Systems, Inc., operates Oak Ridge National Laboratory ("ORNL") as a contractor for the U.S. Department of Energy. The Petition, plus attachments, has been placed on the public record of the R-value Rule, File No. R811001, and can be inspected at the Commission's Public Reference Room, Room 130, Sixth Street and Pennsylvania Avenue, NW, Washington, DC.

[58] The Commission noted that C 1114–92 had been adopted as an official ASTM standard and, therefore, it appeared that the industry recognized it as an accurate and appropriate test procedure.

[59] Tierra, #12, at 1–3; Fi-Foil/Nowman, #15, at 1; Regal, #16, at 1; England, #18, at 4; Hamilton, #22, at 3; Celotex, #25, at 6; PIMA, #30, at 8; Fi-Foil/Lippy, #42; ORNL/Wilkes, #29, at 2.

[60] Rock Wool Mfg./1, #06.

[61] Western, #14, at 2.

[62] *Id.* at 3.

[63] MRCA, #31, at 1–2.

[64] ASTM published revised version C 1114–95 of the standard in August 1995, after the comment period ended. According to the petitioner, the revised version contains merely technical, housekeeping changes. The Commission, therefore, considers the documentation in support of the Petition and the comments to apply to revised version C 1114–95. Graves, #43.

(such as cellulose batts, cotton batts, cotton loose-fill, stabilized cellulose);

• Whether the Rule should require different or new procedures or specify additional requirements for preparing test specimens for certain types of insulation products (such as aging cellular plastics insulations, determining the long-term density of loose-fill mineral fiber insulations);

• Whether the Rule should take into consideration additional factors that can affect the thermal performance of specific products in actual use (such as temperature differences, the effect of convection during winter conditions); and

• Whether the Rule should impose additional requirements on manufacturers or installers to help consumers ensure that the requisite amount of insulation has been installed in their homes.

Adopting the commenters' recommendations to cover, for example, additional products and to create new Rule requirements would require substantive amendments under section 18(d)(2)(B) of the FTC Act, 15 U.S.C. 57a(d)(2)(B). In addition, some of the comments suggested requiring the use of specific proposed ASTM test procedures when ASTM adopts them as final procedures. Because these test procedures are not yet final ASTM standards, it is premature for the Commission to consider requiring that they be used to determine the R-values of home insulation products.

The Commission is continuing to review the issues raised by the comments and the most efficient and effective methods of dealing with them, which may not necessarily include further rulemaking. For example, the Commission could bring enforcement actions against specific companies whose practices are not covered by the Rule, but who are engaging in unfair or deceptive acts or practices under section 5 of the FTC Act, 15 U.S.C. 45. Another option might be for the Commission to provide affected industry members informal guidance instead of adopting substantive amendments to the Rule. The Commission will address these other issues in other notices or forums.

VII. Exemptions

Section 18(g)(2) of the FTC Act, 15 U.S.C. 57a(g)(2), authorizes the Commission to exempt a person or class of persons from all or part of a trade regulation rule if the Commission finds that application of the rule is not necessary to prevent the unfair or deceptive acts or practices to which the rule relates. Since the R-value Rule became effective, the Commission, in response to petitions from industry representatives, has granted exemptions from specific requirements of the Rule to certain classes of sellers. The Commission granted these exemptions after soliciting public comment.

Although the Commission published the exemptions in the **Federal Register**, the exemptions are not cited in the text of the Rule in the Code of Federal Regulations. To assist industry members in understanding their responsibilities under the Rule, the Commission has determined to amend the Rule to include a summary of the exemptions as an Appendix to the Rule. These non-substantive amendments do not alter the requirements of the Rule. They merely summarize the previously-granted exemptions as an Appendix to the Rule for easier reference. Industry members should review the decisions published in the **Federal Register** where the Commission granted the exemptions for a more complete description of the scope of the exemptions. The summaries in the Appendix include the citations to those decisions.

A. Manufacturers of Perlite Insulation

The Commission granted the first exemption in response to a petition from a trade association representing manufacturers of perlite insulation products, 46 FR 22179 (1981). The petitioner requested that the Commission exempt manufacturers of perlite insulation from sections 460.12(b)(2) and 460.13(c)(1) of the Rule, 16 CFR 460.12(b)(2), 460.13(c)(1), which require that they disclose on labels and fact sheets the minimum weight per square foot of perlite insulation products that is necessary to achieve a specific R-value.

The Rule's label and fact sheet disclosure requirements were based on the fact that, for most insulation products, as the density increases, the R-value per unit of thickness increases. The Rule, therefore, requires that sellers of loose-fill insulations, including perlite, disclose the minimum weight per square foot that is required to achieve the density and thickness necessary for the claimed total R-value. Unlike other insulation products, however, as the density of most perlite insulation increases, the R-value per unit of thickness decreases. Thus, if these perlite insulations are installed at densities greater than the thicknesses and weights per square foot listed on their labels and fact sheets, the consumer may not receive the claimed R-values. The petitioner requested that the label and fact sheet disclosure requirements be changed to require disclosure of maximum weight per square foot.

The Commission exempted manufacturers of perlite insulation products that have an inverse relationship between R-value and density or weight per square foot from the requirements in sections 460.12(b)(2) and 460.13(c)(1) of the Rule that they disclose minimum weight per square foot for R-values listed on labels and fact sheets. The exemption is conditioned upon the alternative disclosure in labels and fact sheets of the maximum weight per square foot for each R-value listed. All other requirements of the Rule apply to sellers of these perlite home insulation products.

B. Manufacturers of Rigid, Flat-Roof Insulation

The Commission granted the second exemption in response to petitions filed by four manufacturers of rigid, flat-roof insulation products and two trade associations representing such manufacturers, 46 FR 22180 (1981). One of the trade associations and all four manufacturers requested an exemption from all requirements of the Rule for rigid, flat-roof insulation products that are used in flat, built-up roofs. The other trade association limited its request to an exemption from the labeling requirements of section 460.12 of the Rule, 16 CFR 460.12.

The petitioners stated that more than 95 percent of the rigid, flat-roof insulation boards sold were used in commercial or industrial buildings and, therefore, were not covered by the Rule. They acknowledged, however, that some of the products were used in multi-family residential buildings, such as flat-roof apartments or condominium buildings. The petitioners stated that manufacturers have no way of knowing which products would be used in residential applications. If manufacturers were required to label all products for residential use according to the Rule, they would be required to assume the unnecessary expense of labeling every package of insulation even though only a small percentage would be used in residential applications. Furthermore, since these products were used primarily in large, multi-family, flat-roof buildings, petitioners asserted that the labeling information was unnecessary because the product generally would be selected by an architect or another professional, not the ultimate consumer.

The Commission exempted manufacturers of rigid, flat-roof insulation products that are used in flat, built-up roofs from the requirement in section 460.12 that all insulation products that might be used in residential buildings be labeled with required R-value information. All other requirements of the Rule apply to sellers of these products.

C. New Home Sellers

The Commission granted the third exemption in response to a petition filed by a trade association representing new home sellers, 48 FR 31192 (1983). The petitioner requested that new home sellers be exempted from certain requirements of sections 460.18 and 460.19 of the Rule, 16 CFR 460.18, 460.19. Section 460.18 requires that advertisements and other promotional materials that make certain claims about a home insulation product include specific disclosures. Section 460.19 requires that ads and other promotional materials that claim home insulation can cut fuel bills or fuel use ("energy savings claims") include specific disclosures, and that advertisers have a reasonable basis for the claims and maintain records substantiating the claims.

The Commission determined that certain disclosures in new home advertisements and other promotional materials, which would have been required by the Rule, were not necessary to prevent the unfair or deceptive acts or practices to which the Rule relates. The Commission, therefore, exempted new home sellers from:

(1) The requirement, under section 460.18(a), that they disclose the type and thickness of the insulation when they make a representation about the R-value of the insulation in a new home;

(2) the requirement that they disclose the R-value explanatory statement under section 460.18(a) or the savings explanatory statement under section 460.19(b), conditioned upon the new home seller alternatively disclosing the appropriate explanatory statement in the sales contract along with the disclosures required by section 460.16, 16 CFR 460.16;[65]

(3) the requirement that they make the disclosures specified in section 460.19(c) if they claim that insulation, along with other products in a new home, will cut fuel bills or fuel use; and

(4) the requirement that they include the reference to fact sheets when they must disclose the R-value explanatory statement or the savings claim explanatory statement under sections 460.18(a) or 460.19(b), respectively.

These exemptions also apply to home insulation sellers other than new home sellers (such as home insulation manufacturers) when they participate with a new home seller to advertise and promote the sale of new homes, provided that the primary thrust of the advertisement or other promotional material is the promotion of new homes, and not the promotion of the insulation product. All other requirements of the Rule, including the section 460.19 substantiation and recordkeeping requirements for energy savings claims made in ads and other promotional materials, apply to new home sellers and those who participate with a new home seller to advertise and promote the sale of new homes or home insulation products.

VIII. Summary of Commission's Determinations

For the reasons set forth in this notice, the Commission:[66] (1) retains the R-value Rule; (2) adopts a non-substantive amendment to section 460.5(a) of the Rule to allow the use of ASTM C 1114–95 as an optional, but not required, test procedure to determine the R-value of home insulation; (3) adopts non-substantive amendments to sections 460.5(a), 460.5(a)(2), 460.5(b), and 460.5(d)(1) of the Rule to require the use of ASTM C 177–85 (1993), ASTM C 236–89 (1993), ASTM C 518–91, ASTM C 976–90, ASTM C 1045–90, and ASTM C 739–91 to determine the R-value of home insulation; (4) adopts a non-substantive amendment to add an Appendix to the Rule, summarizing the exemptions from specific requirements of the Rule that the Commission previously granted for certain classes of persons covered by the Rule; and (5) adopts a non-substantive amendment to revise section 460.10 to cross-reference the Commission's enforcement policy statement for foreign language advertising in 16 CFR 14.9 and to delete the current Appendix to the Rule, which merely repeats the text of 16 CFR 14.9.

List of Subjects in 16 CFR Part 460

Advertising, Incorporation by reference, Insulation, Labeling, Trade practices.

Text of Amendments

Accordingly, the Commission amends 16 CFR Part 460 to read as follows:

PART 460—[AMENDED]

1. The authority citation for Part 460 is amended to read as follows:

Authority: 15 U.S.C. 41 *et seq.*

2. In section 460.5, the introductory text, paragraph (a) introductory text, paragraphs (a)(2) and (b), paragraph (d) introductory text and paragraph (d)(1) are revised to read as follows:

§ 460.5 R-value tests.

R-value measures resistance to heat flow. R-values given in labels, fact sheets, ads, or other promotional materials must be based on tests done under the methods listed below. They were designed by the American Society of Testing and Materials (ASTM). The test methods are:

(a) All types of insulation except aluminum foil must be tested with ASTM C 177–85 (Reapproved 1993), "Standard Test Method for Steady-State Heat Flux Measurements and Thermal Transmission Properties by Means of the Guarded-Hot-Plate Apparatus;" ASTM C 236–89 (Reapproved 1993), "Standard Test Method for Steady-State Thermal Performance of Building Assemblies by Means of a Guarded Hot Box;" ASTM C 518–91, "Standard Test Method for Steady-State Heat Flux Measurements and Thermal Transmission Properties by Means of the Heat Flow Meter Apparatus;" ASTM C 976–90, "Standard Test Method for Thermal Performance of Building Assemblies by Means of a Calibrated Hot Box;" or ASTM C 1114–95, "Standard Test Method for Steady-State Thermal Transmission Properties by Means of the Thin-Heater Apparatus." The tests must be done at a mean temperature of 75° Fahrenheit. The tests must be done on the insulation material alone (excluding any airspace). R-values ("thermal resistance") based upon heat flux measurements according to ASTM C 177–85 (Reapproved 1993) or ASTM C 518–91 must be reported only in accordance with the requirements and restrictions of ASTM C 1045–90, "Standard Practice for Calculating Thermal Transmission Properties from Steady-State Heat Flux Measurements." These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of the test procedures and standard practice may be obtained from the American Society of Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

[65] Under section 460.19(d), ads or other promotional materials that otherwise would require both the R-value explanatory statement under section 460.18(a) and the savings claim explanatory statement under section 460.19(b) need only contain the savings claim explanatory statement. This option applies under the exemption to new home sellers who choose to make the explanatory statement in the sales contract instead of in the ad or other promotional material.

[66] In addition to the amendments described in the text of this notice, the Commission also adopts a non-substantive amendment to section 460.10 and removes the current Appendix ("Enforcement Policy Statement for Foreign Language Advertising"). Section 460.10 previously required compliance with the disclosure requirements described in the Appendix. The Appendix simply reprinted 16 CFR 14.9. Amended section 460.10 refers directly to 16 CFR 14.9, eliminating unnecessary duplication.

Copies may be inspected at the Federal Trade Commission, Public Reference Room, Room 130, Sixth Street and Pennsylvania Ave., NW, Washington, DC, or at the Office of the Federal Register, 800 North Capital St., NW, suite 700, Washington, DC.

(1) * * *

(2) For loose-fill cellulose, the tests must be done at the settled density determined under paragraph 8 of ASTM C 739–91, "Standard Specification for Cellulosic Fiber (Wood-Base) Loose-Fill Thermal Insulation." This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of the test procedure may be obtained from the American Society of Testing and Materials, 1916 Race Street, Philadelphia, PA 19103. Copies may be inspected at the Federal Trade Commission, Public Reference Room, Room 130, Sixth Street and Pennsylvania Ave., NW, Washington, DC, or at the Office of the Federal Register, 800 North Capital St., NW, suite 700, Washington, DC.

* * * * *

(b) Aluminum foil systems with more than one sheet must be tested with ASTM C 236–89 (Reapproved 1993) or ASTM C 976–90, which are incorporated by reference in paragraph (a) of this section. The tests must be done at a mean temperature of 75° Fahrenheit, with a temperature differential of 30° Fahrenheit.

* * * * *

(d) For insulation materials with foil facings, you must test the R-value of the material alone (excluding any air spaces) under the methods listed in paragraph (a) of this section. You can also determine the R-value of the material in conjunction with an air space. You can use one of two methods to do this:

(1) You can test the system, with its air space, under ASTM C 236–89 (Reapproved 1993) or ASTM C 976–90, which are incorporated by reference in paragraph (a) of this section. If you do this, you must follow the rules in paragraph (a) of this section on temperature, aging and settled density.

* * * * *

3. Section 460.10 is revised to read as follows:

§ 460.10 How statements must be made.

All statements called for by this regulation must be made clearly and conspicuously. Among other things, you must follow the Commission's enforcement policy statement for clear and conspicuous disclosures in foreign language advertising and sales materials, 16 CFR 14.9.

4. The "Appendix to Part 460—Enforcement Policy Statement for Foreign Language Advertising" is removed.

5. A new Appendix is added, to read as follows:

Appendix to Part 460—Exemptions

Section 18(g)(2) of the Federal Trade Commission Act, 15 U.S.C. 57a(g)(2), authorizes the Commission to exempt a person or class of persons from all or part of a trade regulation rule if the Commission finds that application of the rule is not necessary to prevent the unfair or deceptive acts or practices to which the rule relates. In response to petitions from industry representatives, the Commission has granted exemptions from specific requirements of 16 CFR Part 460 to certain classes of sellers. Some of these exemptions are conditioned upon the performance of alternative actions. The exemptions are limited to specific sections of Part 460. All other requirements of Part 460 apply to these sellers. The exemptions are summarized below. For an explanation of the scope and application of the exemptions, see the formal Commission decisions in the **Federal Register** cited at the end of each exemption.

(a) Manufacturers of perlite insulation products that have an inverse relationship between R-value and density or weight per square foot are exempted from the requirements in sections 460.12(b)(2) and 460.13(c)(1) that they disclose minimum weight per square foot for R-values listed on labels and fact sheets. This exemption is conditioned upon the alternative disclosure in labels and fact sheets of the maximum weight per square foot for each R-value required to be listed. 46 FR 22179 (1981).

(b) Manufacturers of rigid, flat-roof insulation products used in flat, built-up roofs are exempted from the requirements in section 460.12 that they label these home insulation products. 46 FR 22180 (1981).

(c) New home sellers are exempted from:

(1) the requirement in section 460.18(a) that they disclose the type and thickness of the insulation when they make a representation in an advertisement or other promotional material about the R-value of the insulation in a new home;

(2) the requirement that they disclose in an advertisement or other promotional material the R-value explanatory statement specified in section 460.18(a) or the savings explanatory statement specified in section 460.19(b), conditioned upon the new home sellers alternatively disclosing the appropriate explanatory statement in the sales contract along with the disclosures required by section 460.16;

(3) the requirement that they make the disclosures specified in section 460.19(c) if they claim that insulation, along with other products in a new home, will cut fuel bills or fuel use; and

(4) the requirement that they include the reference to fact sheets when they must disclose the R-value explanatory statement or the savings claim explanatory statement under sections 460.18(a) or 460.19(b), respectively.

The exemptions for new home sellers also apply to home insulation sellers other than new home sellers when they participate with a new home seller to advertise and promote the sale of new homes, provided that the primary thrust of the advertisement or other promotional material is the promotion of new homes, and not the promotion of the insulation product. 48 FR 31192 (1983).

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 96–7528 Filed 3–27–96; 8:45 am]

BILLING CODE 6750–01–P

16 CFR Parts 801 and 802

Premerger Notification; Reporting and Waiting Period Requirements

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Commission amends the premerger notification rules that require the parties to certain mergers or acquisitions to file reports with the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice and to wait a specified period of time before consummating such transactions. The reporting and waiting period requirements are intended to enable these enforcement agencies to determine whether a proposed merger or acquisition may violate the antitrust laws if consummated and, when appropriate, to seek a preliminary injunction in federal court to prevent consummation.

These amendments consist of five rules that define or create exemptions to the requirements imposed by the Hart-Scott-Rodino Act. These rules clarify the types of transactions that are in the ordinary course of business of the parties to the transaction and are exempt under section 7A(c)(1) of the Hart-Scott-Rodino Act. They also provide several new exemptions under section 7A(d)(2)(B) for certain types of acquisitions of realty and carbon-based mineral reserves that are not likely to violate the antitrust laws. These rules are designed to reduce the compliance burden on the business community by eliminating the application of the notification and waiting requirements to a significant number of transactions that are unlikely to violate the antitrust laws. They will also allow the enforcement agencies to focus their resources more effectively on those transactions that present the potential for competitive harm.

EFFECTIVE DATE: April 29, 1996.

FOR FURTHER INFORMATION CONTACT: John M. Sipple, Jr., Assistant Director, or Melea R. Epps, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, DC 20580. Telephone: (202) 326–3100.

SUPPLEMENTARY INFORMATION:

Regulatory Flexibility Act

These amendments to the Hart-Scott-Rodino premerger notification rules are designed to reduce the burden of reporting on the public. The Commission has determined that none of the rules is a major rule, as that term is defined in Executive Order 12291. The amendments will not result in any of the following: an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in the domestic market. None of the amendments expands the coverage of the premerger notification rules in a way that would affect small business. Therefore, pursuant to § 605(b) of the Administrative Procedure Act, 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96–354 (September 19, 1980), the Federal Trade Commission has certified that these rules will not have a significant economic impact on a substantial number of small entities. Section 603 of the Administrative Procedure Act, 5 U.S.C. 603, requiring a final regulatory flexibility analysis of these rules, is therefore inapplicable.

Background

Section 7A of the Clayton Act ("the act"), 15 U.S.C. 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires parties to certain acquisitions of assets or voting securities to give advance notice to the Federal Trade Commission (hereafter referred to as "the Commission") and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice (hereafter referred to as "the Assistant Attorney General"). The parties must then wait certain designated periods before the consummation of such acquisitions. The transactions to which the advance notice requirement is applicable and the length of the waiting period required are set out respectively in subsections (a) and (b) of section 7A. This amendment to the Clayton Act does not change the standards used in determining the legality of mergers and acquisitions under the antitrust laws.

The legislative history suggests several purposes underlying the act. Congress wanted to ensure that certain acquisitions were subjected to meaningful scrutiny under the antitrust laws prior to consummation. To this end, Congress intended to eliminate the "midnight merger" that is negotiated in secret and announced just before, or sometimes only after, the closing takes place. Congress also provided an opportunity for the Commission or the Assistant Attorney General (who are sometimes hereafter referred to as the "antitrust agencies" or the "enforcement agencies") to seek a court order enjoining the completion of those transactions that either agency has reason to believe would present significant antitrust problems. Finally, Congress sought to facilitate an effective remedy when a challenge by one of the enforcement agencies proved successful. Thus, the act requires that the antitrust agencies receive prior notification of certain acquisitions, provides tools to facilitate a prompt, thorough investigation of the competitive implications of these acquisitions, and assures the enforcement agencies an opportunity to seek a preliminary injunction before the parties to an acquisition are legally free to consummate it. The problem of unscrambling the assets after the transaction has taken place is thereby reduced.

Subsection 7A(d)(1) of the act, 15 U.S.C. 18a(d)(1), directs the Commission, with the concurrence of the Assistant Attorney General and in accordance with 5 U.S.C. 553, to require that the notification be in such form and contain such information and documentary material as may be necessary and appropriate to determine whether the proposed transaction may, if consummated, violate the antitrust laws. Subsection 7A(d)(2) of the act, 15 U.S.C. 18a(d)(2), grants the Commission, with the concurrence of the Assistant Attorney General and in accordance with 5 U.S.C. 553, the authority to (a) define the terms used in the act, (b) exempt from the act's notification and waiting period requirements additional classes of persons or transactions which are not likely to violate the antitrust laws, and (c) prescribe such other rules as may be necessary and appropriate to carry out the purposes of section 7A.

The Commission, with the concurrence of the Assistant Attorney General, promulgated implementing rules ("the rules") and the Notification and Report Form (the "Form") and issued an accompanying Statement of Basis and Purpose, all of which were published in the **Federal Register** of July 31, 1978, 43 FR 33451, and became effective on September 5, 1978.

The rules are divided into three parts which appear at 16 CFR Parts 801, 802, and 803. Part 801 defines a number of the terms used in the act and rules, and explains which acquisitions are subject to the reporting and waiting period requirements. Part 802 contains a number of exemptions from these requirements. Part 803 explains the procedures for complying with the act. The Form, which is completed by persons required to file notification, is an appendix to Part 803 of the rules.

Changes of a substantive nature have been made to the premerger notification rules or Form on eleven occasions since they were first promulgated: 44 FR 66781 (November 21, 1979); 45 FR 14205 (March 5, 1980); 46 FR 38710 (July 29, 1981); 48 FR 34427 (July 29, 1983); 50 FR 38742 (September 24, 1985); 51 FR 10368 (March 28, 1986); 52 FR 7066 (March 6, 1987); 52 FR 20058 (May 29, 1987); 54 FR 21425 (May 18, 1989); 55 FR 31371 (August 2, 1990); and 60 FR 40704 (August 9, 1995). The current amendments interpret the act and expand the current policies of the Commission's Premerger Notification Office regarding transactions in the ordinary course of business that are exempt from the notification and waiting requirements of the act. They also include several new exemptions for acquisitions of certain types of real property assets and carbon-based mineral reserves.

Comments

These amendments reflect extensive analysis of comments received in response to the notice of proposed rulemaking published by the Federal Trade Commission, in consultation with the Assistant Attorney General, in the **Federal Register** of July 28, 1995, 60 FR 38930. The notice contained the current amendments in a proposed form and provided 60 days for interested persons to submit comments on the proposed rules. During the 60-day period 29 comments were received. In addition, three new comments and one supplemental comment were received after the expiration of the comment period. The commenters are identified below.

Number of comment	Commenter	Date of comment
1	American Council of Life Insurance.	9/7/95
2	Heller Ehrman White & McAuliffe.	9/15/95
3	Pillsbury, Madison & Sutro on behalf of Chevron Corporation.	9/26/95
4	The Perkin-Elmer Corporation.	9/21/95
5	Atlantic Richfield Company.	9/27/95
6	Pillsbury, Madison & Sutro.	9/25/95
7	General Motors Corporation.	9/28/95
8	Boult, Cummings, Conners & Berry.	9/28/95
9	Section of Antitrust Law of the American Bar Association.	9/29/95
10	Federal Express	9/28/95
11	Ford Motor Company	9/28/95
12	BellSouth Corporation	9/28/95
13	Equipment Leasing Association of America.	9/29/95
14	Ronald A. Bloch of McDermott, Will & Emery.	9/29/95
15	Arter & Hadden on behalf of Kennecott Corporation.	9/29/95
16	U.S. Chamber of Commerce.	9/29/95
16A	U.S. Chamber of Commerce (Supplemental Comments).	11/9/95
17	Rinehart & Associates, Investment Forestry.	9/28/95
18	Timberland Investment Services, LLC.	9/28/95
19	O'Melveny & Myers on behalf of Marriott International, Inc..	9/29/95
20	American Hospital Association.	9/29/95
21	Weil, Gotschal & Manges.	9/29/95
22	Latham & Watkins	9/29/95
23	International Council of Shopping Centers.	9/29/95
24	Colorado Oil & Gas Association.	9/29/95
25	ITT Corporation	9/27/95
26	American Hotel & Motel Corporation.	9/29/95
27	American Transport Association of America.	9/29/95
28	National Independent Energy Producers.	9/29/95
29	Latham & Watkins on behalf of Host Marriott Corporation.	10/6/95
30	Forest Investment Associates.	9/28/95
31	National Association of Real Estate Investment Trusts.	11/2/95
32	Association of Private Pension and Welfare Plans.	2/1/96

The commenters generally favored the adoption of the exemptions but also advocated the expansion of certain of the proposals to include exemptions for other types of transactions which, they argued, raise few competitive concerns. The final amendments contain revisions to the proposed rule that address certain commenters' concerns and exclude from the reporting requirements additional transactions that the Commission and the Assistant Attorney General found were unlikely to violate the antitrust laws. A few of the comments contained suggestions that were outside the scope of the proposed rulemaking; these suggestions may be considered by the Commission in future rulemaking efforts.

Statement of Basis and Purpose for the Commission's Revisions to the Premerger Notification Rules

Authority: The Federal Trade Commission, with the concurrence of the Assistant Attorney General, promulgates these amendments to the premerger notification rules pursuant to section 7A(d) of the Clayton Act, 15 U.S.C. 18a(d), as added by section 201 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, Pub. L. 94–435, 90 Stat. 1390.

The five amendments to the premerger notification rules—§§ 802.1, 802.2, 802.3, 802.4, and 802.5—describe certain types of acquisitions that are exempt or are not exempt from the notification requirements of the act. They replace and expand existing § 802.1, which describes certain applications of the exemption granted by section 7A(c)(1) of the act for acquisitions of goods or realty transferred in the ordinary course of business. Revisions to § 801.15 define when the aggregation rules apply to acquisitions covered by these rules.

Criteria for the Rules. Section 7A(c)(1) of the act exempts "acquisitions of goods or realty transferred in the ordinary course of business." Existing § 802.1(a) interprets this statutory language to apply the exemption to acquisitions of voting securities of entities holding only realty. Existing § 802.1(b) denies the exemption to the sale of goods or real property of an entity if they constitute "all or substantially all of the assets of that entity or an operating division thereof" unless the entity qualifies for the exemption under existing § 802.1(a) because its assets consist solely of real property and assets incidental to the ownership of real property.

The reportability of transfers in the ordinary course of business has long been a frequent source of questions from the public to the Premerger Notification Office. Amended § 802.1 represents interpretations of section 7A(c)(1) made by the Premerger Notification Office over the years, and it also broadens these interpretations to exempt additional classes of acquisitions of goods that qualify as transfers in the ordinary course of business and thus are unlikely to violate the antitrust laws.

Amended § 802.1(a) preserves the concept of existing § 802.1(b) and makes the exemption unavailable for acquisitions of all or substantially all of the assets of an operating unit. Operating unit is defined as "assets that are operated by the acquired person as a business undertaking in a particular location or for particular products or services." The sale of all or substantially all of the assets of a business undertaking is generally equivalent to the sale of a business. Amended § 802.1(a) recognizes that acquisitions that transfer the equivalent of a business are not in the ordinary course and thus are not exempt from the prior notification obligations of the act.

Amended § 802.1 also defines categories of acquisitions of goods that are deemed to be in the ordinary course of business and are therefore exempt from the notification requirements. Individual review of transactions such as typical acquisitions of new goods and current supplies is generally unnecessary because buying and selling goods is the essence of manufacturing, wholesaling, and retailing businesses. Sales in the ordinary course of business should not in any way diminish the capacity of the selling firm to compete.

Amended § 802.1 provides that certain acquisitions of used durable goods qualify for exemption from the reporting requirements as transfers of goods in the ordinary course of business. These exemptions for specific types of acquisitions of used durable goods acknowledge that certain transfers of productive assets that are not the sale of an operating unit are made in the ordinary course of business. For example, an equipment leasing company may be acquiring used durable goods as current supplies, or the seller may be replacing these assets to increase or upgrade capacity and to improve efficiencies. However, many used durable goods acquisitions involving productive assets are not within the ordinary course of business and thus are not exempt under § 802.1.

New §§ 802.2 (concerning real property assets) and 802.3 (concerning carbon-based mineral reserves) are based on the Commission's authority in section 7A(d)(2)(B) of the act to exempt transactions that are unlikely to violate the antitrust laws. These sections provide exemptions for certain acquisitions of assets that are abundant and are used in markets that are generally unconcentrated. These two factors make it unlikely that a transfer of these types of assets will have anticompetitive effects. It is thus not necessary to examine each individual transaction to determine if it will violate the antitrust laws.

To accommodate parties who choose to structure their transactions as acquisitions of voting securities rather than as acquisitions of the underlying assets, new § 802.4 exempts acquisitions of voting securities of issuers holding assets of two types: (1) assets, the direct acquisition of which is exempted by section 7A(c)(2) of the act or §§ 802.2, 802.3 or 802.5 of the rules, and (2) assets, the direct acquisition of which is not exempt by section 7A(c)(2) of the act or §§ 802.2, 802.3 or 802.5 of the rules, that are valued at $15 million or less. The exemption for the acquisition of the voting securities of an issuer holding assets, the acquisition of which is exempt under section 7A(c)(2)—bonds, mortgages, deeds of trust and other obligations that are not voting securities—is designed to provide the same treatment for the direct acquisition of such assets (a transaction which is already exempt from the reporting requirements) and the acquisition of the voting securities of an issuer holding these assets.

New § 802.5 exempts acquisitions of investment rental property assets, the acquisition of which is not already exempted by § 802.2. Section 802.5 is based on the use to which buyers will put the acquired assets. The Commission believes that the acquisition of investment rental property assets—defined in § 802.5(b) as real property that, except for limited circumstances, will be rented only to entities not included within the acquiring person and will be held solely for rental or investment purposes—is unlikely to violate the antitrust laws.

Sections 802.1 through 802.5 are based on the Commission's authority in section 7A(d)(2)(A) of the act to "define the terms used in [section 7A]" and sections 7A(d)(2) (B) and (C) to "exempt . . . transactions which are not likely to violate the antitrust laws" and to "prescribe such other rules as may be necessary and appropriate to carry out the purposes of [section 7A]." These exemptions, of course, relate only to premerger reporting, and transactions exempted from the reporting requirements by the new rules remain subject to the antitrust laws.

The Commission is aware that even with the significant coverage of the new rules, the exempt status of many transactions will remain unaddressed. These rules do not and are not intended to interpret or apply to the entire statutory exemption created by section 7A(c)(1). For example, certain acquisitions of credit card receivables may qualify for exemption as transfers in the ordinary course of business. Persons who desire advice on the exempt status of any transfer of goods, realty or other assets may contact the Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, DC 20580, or phone (202) 326–3100.

I. Section 802.1: Acquisitions of Goods and Realty in the Ordinary Course of Business

Section 7A(c)(1) of the act exempts "acquisitions of goods or realty transferred in the ordinary course of business." Amended § 802.1 provides that an acquisition of all the assets of an operating unit is not an acquisition in the ordinary course of business. It also defines certain acquisitions of goods that are in the ordinary course of business and therefore exempt from the reporting requirements. This section primarily covers exemptions for certain acquisitions of goods. Exemptions for the acquisition of certain types of realty are set out in new § 802.2. The realty exemptions are not subject to the exclusion for acquisitions of an operating unit.

Amended § 802.1 defines four categories of acquisitions of goods: acquisitions of an operating unit, acquisitions of new goods, acquisitions of current supplies, and acquisitions of used durable goods. The section states whether and under what circumstances each type of acquisition is exempt. These four categories of asset acquisitions are not comprehensive. As noted above, some asset acquisitions may not fit neatly into any of these defined categories.

Amended § 802.1 has four paragraphs: Paragraph (a) denies the ordinary course of business exemption to any transfer of goods and realty that is equivalent to the sale of a business. The next three paragraphs define acquisitions of goods that may be exempt. Paragraph (b) exempts the acquisition of new goods, and paragraph (c) exempts the acquisition of current supplies. Paragraph (d) defines certain transfers of used durable goods that are within the ordinary course of business. These include: (1) transfers to and from bona fide dealers, resellers or lessors; (2) transfers by an acquired person that has replaced the productive capacity of the assets being sold; and (3) transfers by an acquired person that has outsourced the management and administrative support services provided by the goods being sold.

In determining whether a given acquisition of goods and realty is in the ordinary course of business and is therefore exempt under a provision of amended § 802.1, one must first determine if the assets are substantially all of the assets of an operating unit. If the assets being sold comprise all or substantially all of the assets of an operating unit of the seller, the inquiry ends there, and the acquisition is not exempt as a transfer of goods or realty in the ordinary course of business. If the assets do not constitute all or substantially all of the assets of an operating unit, then the goods should be classified as either new goods, current supplies or used durable goods.

The organization of § 802.1 is intended to make it easier to identify routine acquisitions that meet the criteria of section 7A(c)(1) for an exemption as an acquisition of goods transferred in the ordinary course of business. Sales of new goods and purchases of current supplies are frequent. The objective of the businesses covered by paragraphs (b) and (c) is to buy, sell or lease such goods and supplies; thus such transactions meet the common meaning of transfers in the ordinary course of business. Exempting these transactions facilitates acquisitions of new goods that normally expand the supply of products or expand productive capacity and therefore do not tend to lessen competition. In contrast, acquisitions of entire operating units are not within the common meaning of "ordinary course" and have the potential to concentrate productive capacity and thereby diminish competition.

Proposed § 802.1 addressed only exemptions for acquisitions of goods in the ordinary course of business. Acquisitions of realty in the ordinary course of business are also exempted, pursuant to section 7A(c)(1) of the act. Section 802.2 covers certain exemptions for acquisitions of realty, and it is possible that acquisitions of realty other than those identified in § 802.2 are transfers of real property in the ordinary course of business that are exempt. Language added to § 802.1 concerning realty makes the provision consistent with the exemption provided in section 7A(c)(1).

A. *Operating Unit.* Amended § 802.1(a) excludes from the ordinary course of business exemption any acquisition of all or substantially all of the assets of an "operating unit." As defined by the amended provision, an

operating unit is a collection of assets that has been operated as a business undertaking and that may include goods, realty and other types of property. Amended § 802.1(a) also indicates that operating units are not necessarily separate legal entities. A determination of which groups of assets constitute an operating unit within a company will vary significantly among businesses, because the manner in which businesses are organized is company-specific. Thus, examples of operating units include, but are not limited to, regional divisions, company branches, international operations, a hospital, a retail store, a factory or a processing facility.

The definition of operating unit indicates that the assets that comprise the unit are operated "in a particular location or for particular products or services." Proposed § 802.1(a) defined an operating unit as assets operated "in a particular geographic area or for particular products or services." The word "location" was substituted for "geographic area" since a single location of a company's business, *i.e.*, a manufacturing plant, a retail store, a funeral home, constitutes an operating unit. Each location of a company's operations is viewed as a separate business undertaking, and the purchase of all of the assets of one of a company's stores or production facilities is not a transaction within the ordinary course of business. Because amended § 802.1(a) no longer uses the term "geographic area," the determination of which of the seller's operations comprise an operating unit is no longer dependent in part upon whether certain locations are sufficiently proximate to comprise a business undertaking in a particular geographic area. Example 1 to § 802.1 illustrates that an operating unit consists of one grocery store within a company's chain of stores.

A key factor in determining whether a group of assets being sold constitutes an operating unit is whether the seller, as a result of the sale, will cease to sell particular products or provide particular services from a specific location or will exit the business of selling particular products or providing particular services. The operating unit definition specifically excludes references to relevant product markets and relevant geographic markets. Thus, a section 7 antitrust analysis is unnecessary and inappropriate in determining whether assets being sold comprise an operating unit for purposes of determining whether notification is required.

Another probative factor in determining whether a group of assets constitutes an operating unit is whether the seller derived third party revenues from the use of the assets. In certain cases, this factor may distinguish an operating unit from a set of assets that have been used solely to provide management and administrative support services, such as in-house accounting or billing services, that generate no third party revenues directly but support the seller's business operations.

Amended § 802.1(a) uses the term "operating unit" rather than the term "operating division" used in existing § 802.1(b). The latter term has created some uncertainty because certain business entities use the term "division" in a manner that may not be consistent with this rule. For example, a business might use the term "division" to designate an unincorporated administrative segment of its enterprise, such as the "East Coast Division" or the "Tri-State Division," that provides support functions to the business" manufacturing activities. Such usage is designed to serve the needs of the business. The term "operating unit" has been adopted in order to make clear that the application of the rule is not dependent on the terminology used by a business.

Comment 11 suggested that § 802.1(a) be revised to focus on whether the seller is exiting a line of business or a geographic area. However, the wording of amended § 802.1(a) makes no explicit reference to the seller's exit from a line of business or geographic area. As discussed above, this provision no longer emphasizes the operation of a business undertaking in a particular geographic area; instead, the focus is on the location of a specific business undertaking. Also, while the seller's exit from a business segment can be a major indication that certain assets constitute an operating unit, it is not that only possible indication. The extent to which the assets are used to generate third party revenues is also an important factor and may determine that a group of assets comprises an operating unit, even though there may be disagreement as to whether the seller is actually exiting a business segment. For example, the sale of revenue generating assets at a specific location can be the sale of an operating unit even if the seller is continuing in that line of business at other locations.

Comment 11 also suggested that the operating unit should be defined as assets operated by the acquired person as a business undertaking including all similar products or services offered by the acquired person, or all operations in a geographic area. Interpretation of the terminology "similar products or services" could require a complicated analysis of the seller's products to determine whether the assets being sold were used to manufacture those products of the seller that were sufficiently different from the seller's other products to deem that an operating unit was being transferred. Thus, the suggested language was not adopted in order to avoid the necessity of such an analysis.

B. *New Goods.* Amended § 802.1(b) describes the type of acquisitions of goods that are most commonly referred to as acquisitions "in the ordinary course of business." This paragraph exempts acquisitions of new goods, which are typically routine sales of inventory by manufacturers, wholesalers or retailers conducted in the ordinary course of business.

Proposed § 802.1(b) exempted acquisitions of new goods "produced by the acquired person for sale, or * * * held by the acquired person solely for resale." The proposed rule did not exempt any acquisitions of goods from a seller that purchased or produced the goods for his own use but decided to sell the goods without using them. This language was eliminated from amended § 802.1(b) in order to simplify the rule. Further, the change addresses a concern raised by Comment 21 that the proposed rule would not exempt acquisitions of new equipment from companies that ordered the equipment for their own use but discovered before or upon delivery that they could not use the equipment. The Commission has concluded that such sales should be exempt because sales of new equipment that are not part of the sale of an operating unit are not likely to raise an antitrust concern, even though the equipment may have been purchased by the seller for use. As a result of the deletion of this language, the rule no longer focuses on the purpose for which the acquired person holds the new goods. The exemption is also available for acquisitions of goods that the seller in good faith considers to be new, even though he may have used the goods for demonstration purposes, customer trials or other purposes that are incidental to the sale of the goods. The term "new" implies that the goods have not been used to generate income.

Comments 9, 13 and 21 suggested that an exemption be included for acquisitions of new goods produced or held for lease. Amended § 802.1(b) adopts this suggestion by exempting acquisitions of new goods regardless of the purpose for which the goods were produced or acquired. As a result, an equipment leasing company that sells new inventory that it has been unable to lease may avail itself of the exemption as long as the inventory of new goods does not constitute an operating unit of the company.

The exemption set forth in paragraph (b) does not apply to any acquisition of new goods which are sold as part of a transaction that includes all or substantially all of the assets of an operating unit. This limitation on the exemption of new goods would apply even if all the assets transferred were new goods held solely for the purpose of resale. For example, if a marine supply wholesaler purchased the entire inventory of another marine supply wholesaler which owned only an extensive inventory of hundreds of items from different manufacturers, the acquisition would not be exempt, even though the sale is composed entirely of new goods. The sale of all of its inventory would be considered the sale of all or substantially all of its business since the primary assets of such a wholesaling business are inventory.

C. *Current Supplies.* Amended § 802.1(c) describes another category of asset acquisitions—the acquisition of "current supplies"—that qualifies for the ordinary course exemption. "Current supplies" is a new term to the rules and is described in subparagraphs (1), (2) and (3). Current supplies include goods bought solely for the purpose of resale or leasing to an entity not included within the acquiring person, raw materials, components, maintenance supplies and the like. Current supplies are generally purchased frequently and are used for inventory by the purchaser, consumed in the daily conduct of business or incorporated into a final product. Current supplies may also consist of used durable goods, discussed in new § 802.1(d), which, for example, may be purchased as inventory by equipment leasing companies or used equipment dealers. However, acquisitions of current supplies are not in the ordinary course of business if they are acquired as part of an acquisition of all or substantially all the assets of an operating unit.

In proposed § 802.1(c), the term "current supplies" explicitly excluded used durable goods. Amended § 802.1(c) now redefines "current supplies" to eliminate this exclusion, as suggested by Comments 9 and 21. Although "used durable goods" are addressed explicitly in § 802.1(d), the Commission recognizes that used assets, as well as new assets, may meet the definition of "current supplies" in § 802.1(c). Parties are permitted to claim the exemption even if the goods purchased are not new, so long as the acquired goods are to be held for third-party resale or lease, are to be consumed by the buyer, or are otherwise incorporated in the acquiring person's final product.

Amended § 802.1(c)(1) includes additional language to make clear that the exemption does not apply unless the goods being acquired will be resold or leased to an entity that is not within the acquiring person. The addition prevents a buyer from claiming the exemption for the acquisition from a competitor of used productive equipment which the buyer in turn resells or leases to a subsidiary.

The used durable goods provision, § 802.1(d), contains a provision exempting the acquisition of the category of goods described in proposed § 802.1(c)(1) as goods acquired for the purpose of resale or leasing. The language of amended § 802.1(c)(1) has been changed largely to mirror the language of the comparable provision in the used durable goods exemption, § 802.1(d)(1). Read together, the amended provisions exempt, with certain exceptions, acquisition of new goods and used durable and non-durable goods that are acquired and held solely for the purpose of resale or leasing to entities not within the acquiring person.

Amended § 802.1(c) also adds goods acquired for lease to the categories of assets comprising current supplies. These changes, also suggested in Comments 9 and 21, make the exemption available for inventory purchases of equipment by leasing companies.

The acquisition of current supplies is unlikely to create or extinguish a competitive entity and is therefore exempt unless acquired as part of an acquisition of an operating unit. In applying paragraph (c), the focus is on the business of the acquiring person to determine if the exemption is available.

D. *Used Durable Goods.* Amended § 802.1(d) provides that certain acquisitions of used durable goods qualify for the ordinary course of business exemption. The term "used durable good" is new to the rules currently in force. It is defined as a used good which was "designed to be used repeatedly and has a useful life greater than one year." The Commission recognizes that sales of used durable goods often meet a common sense definition of transfers of goods in the ordinary course of business and that some categories of used durable goods acquisitions lack competitive significance. Sales of such used durable goods may be routine and considered by parties to be in the ordinary course of their businesses. Sales of used durable goods may also facilitate the purchase of a new generation of equipment that will increase the productive capacity of a business.

Paragraph (d) represents an attempt to identify certain categories of transfers of used durable goods that meet a common sense definition of "ordinary course" and appear unlikely to violate the antitrust laws: (1) when the goods are being acquired and held solely for the purpose of resale or leasing to an entity not within the acquired person; (2) when the goods are being acquired from an acquired person holding the goods solely for resale or leasing to an entity not within the acquired person; (3) when the acquired person is replacing or upgrading the productive capacity provided by the goods being sold; and (4) when the acquired person is outsourcing the management and administrative support services provided by the goods being sold.

An acquisition of used durable goods is exempt as within the ordinary course of business if two requirements are satisfied. The first requirement is that they must not be acquired as part of an acquisition of an operating unit as defined in § 802.1(a). Thus, if the used durable goods constitute, or are being acquired as part of a group of assets that constitute, a business undertaking in a particular location or for particular products or services, the ordinary course exemption does not apply.

The second requirement for exempting an acquisition of a used durable good is that any one of four criteria set forth in the amended rule must be satisfied. The first criterion, that the goods must be acquired and held solely for the purpose of resale or leasing to an entity not within the acquiring person (*i.e.*, current supplies as the term is used in § 802.1(c)(1)), and the second, that the acquired person must have held the goods at all times solely for resale or leasing to an entity not within the acquired person, represent an exemption for dealers whose business is to purchase and sell used goods and for equipment leasing companies which buy used goods for leasing purposes. After considerable assessment of the necessity and applicability of § 802.1(d)(1) and (2), the Commission believes that the exemption should be included to allow dealers to make transfers within the ordinary course of their business, in good faith transactions conducted on their own behalf, without having to observe the reporting and waiting requirements. However, the Commission will closely monitor such transactions to ensure that the exemption is not being used as a ploy by two or more parties acting in concert to circumvent the notification requirements of the act.

Comment 9 recommended that proposed § 802.1(d)(1) and (2) apply even when the acquiring person is an intermediary, since dealers often search for used equipment at the request of the ultimate buyer. The Commission declines to adopt this recommendation, which would permit potentially anticompetitive transfers of used equipment to occur without a reporting requirement if the dealer brokers the transaction for the seller or the ultimate buyer. Thus, the exemption is unavailable if the person making the acquisition is in reality an intermediary for either the seller or another person who intends to hold the goods (see Example 6 to § 802.1). This limitation attempts to forestall abuse of the dealer exemption by requiring notification in circumstances where the dealer is acting as a broker or an agent for a purchaser or a seller. In these instances, the dealer generally does not take beneficial ownership of the goods and thus is not actually acquiring the goods. The true parties to the acquisition—the seller and the person that will have beneficial ownership of the goods as a result of the acquisition—should be subject to the notification requirements.

In proposed § 802.1(d), the first criterion, (d)(1), limited the exemption to purchases of goods acquired and held solely for resale, and the second criterion, (d)(2), exempted acquisitions of goods purchased from a seller who had acquired and held the goods solely for resale. Amended § 802.1(d) exempts acquisitions of goods acquired and held solely for the purpose of resale or leasing and acquisitions of goods from a seller who had acquired and held the goods solely for resale or leasing. The provision now exempts inventory purchases and sales by leasing companies of used durable goods that they have leased or held for lease to third parties, as long as the goods are not being purchased or sold as part of the transfer of an operating unit. Such transactions are within the ordinary course of business of leasing companies, which typically acquire goods for leasing and sell goods which they have held for leasing. The revisions address concerns raised in Comments 6, 11, 13, 16 and 21 about the inclusion in the used durable goods provisions of exemptions for sales and purchases of leased goods.

Amended § 802.1 (d)(1) and (d)(2) change the language of the proposals to clarify that the exemptions within these provisions are available only if (1) the buyer acquires the goods to resell or lease to an entity that is not within it, or (2) the buyer acquires goods that the seller has held only to resell or lease to entities not within it. As noted above, this change was also made to § 802.1(c)(1), one of the current supplies provisions.

In proposed and amended § 802.1(d)(2), the exemption applies only if the goods are acquired from an acquired person who held the goods *solely* for resale or leasing. The limitation that the goods be held *solely* for resale or lease is designed to guard against transfers by a seller who has used the goods to maintain a competitive presence and is now selling productive capacity.

The third criterion in § 802.1(d) recognizes that it is in the ordinary course of business for a company to replace or upgrade productive capacity and to sell the capacity it is replacing. Thus, an exemption is permitted for the sale of used durable goods if all or substantially all of the productive capacity of these goods is being replaced. Such replacements may result in an increase in the acquired person's productive capacity or manufacturing efficiencies. The exemption will not apply unless the acquired person has already replaced the capacity or taken definitive steps to replace the capacity of the goods being sold. In addition, these steps must have been taken in good faith; this requirement prevents sham contracts that the acquired person cancels after transferring the productive capacity without observing the notification requirements and without replacing the capacity.

Proposed § 802.1(d)(3) imposed no time limit between the replacement of the capacity and the sale of the capacity being replaced. However, a key factor in determining whether the goods being sold represent productive capacity that has been or will be replaced is whether the sale is sufficiently contemporaneous with the past or future purchase of replacement goods such that the goods being sold represent a bona fide sale of replaced capacity. To insure that the replacement of capacity is sufficiently contemporaneous, § 802.1(d)(3) has been modified to require either that the capacity has been replaced within the six months prior to the sale of the goods being replaced, or that a contract has been executed in good faith to replace the capacity within six months.

Proposed § 802.1(d)(3) allowed use of the exemption if the acquired person had executed either a contract, agreement in principle or letter of intent to replace the capacity of the goods being sold. The exemption now requires an executed contract for the purchase of the replacement equipment, since only the contract imposes a binding obligation on the seller to acquire the equipment to replace the capacity of the goods being sold.

Normally companies that intend to remain in a particular business do not sell capacity prior to replacing that capacity or making contractual arrangements to replace the capacity. If the replacement of capacity is not sufficiently proximate to the sale of the goods representing the capacity replaced, a firm could experience an absence from the market that would have a detrimental effect on its competitive position. The six-month windows will permit firms to integrate the new replacement equipment into its operations for a reasonable period of time before selling the used equipment. The six-month windows will also allow a company to operate without the replacement capacity but only for a brief period of time so as not to affect adversely its competitive presence in the market.

The rule allows replacement of the productive capacity of the used durable goods being sold by acquisition or by lease. No minimum lease term is specified; however, in order for an acquisition of the goods being replaced to be in the ordinary course of business, the replacement goods must be leased for a period that is substantially long enough to maintain or increase the company's productive capacity. Such a period is industry specific and must be determined in good faith by the acquired person. Because this provision requires that all or substantially all of the productive capacity be replaced, the exemption is lost if the replacement goods result or will result in more than a de minimis decrease in the acquired person's capacity or an exit from a line of business in which the acquired person currently operates.

The fourth criterion permits an exemption for sales of used durable goods if (1) the goods are used by the acquired person solely to provide management and administrative support services for the acquired person's business operations, and (2) the acquired person has in good faith executed a contract to outsource the management and administrative support services provided by the goods being sold. Management and administrative support services include services such as accounting, legal, purchasing, payroll, billing and repair and maintenance of the acquired person's own equipment. For example, a company that has equipment in-house to provide its administrative data processing needs may decide that it would be more cost effective to have a third party provide these services. To accomplish this objective, the company may enter into a contract with a third party for these services and sell all of the equipment it used internally to provide this function. Such transfers appear unlikely to pose any competitive concern.

Proposed § 802.1(d)(4) used the term "auxiliary functions" to describe the services provided by the goods being sold. That term has been changed in new § 802.1(d)(4) to "management and administrative support services." This term is more descriptive and conveys more clearly that these services support the business operations of the acquired person and are not integral to the person's business operations.

The rule does not define "management and administrative support services" but instead lists certain services that are included within that term and other services that are not included.

Although companies will sometimes outsource the manufacturing of some products they market, the sale of used durable goods that were used to manufacture those products does not qualify for exemption under this provision. Manufacturing, including the manufacturing of inputs for other products produced by the acquired person, is not a management and administrative support service within the meaning of this exemption. Thus, if a company decides to sell the equipment it had used to manufacture a product, even if it had entered into a contract for a third party to manufacture the product, the sale of that equipment is not exempt under § 802.1(d)(4). The loss of the company's control over the manufacturing of the product may raise competitive concerns warranting investigation by the enforcement agencies.

In the Statement of Basis and Purpose to the proposed rules, research and development, testing and warehousing were listed as auxiliary support functions. The Commission does not consider these activities to be management and administrative support services; they are integral to a company's product design, development, production and distribution and thus are tied directly to the competitive business activities of the company. In an analysis of a given industry, these activities may have a significant impact on issues involving innovation, entry and product distribution.

The exemption requires that the goods have been used "solely" to provide the acquired person with management and support services for its business operations. The transfer of goods that solely provide internal management and administrative support services does not constitute the acquisition of an operating unit. A company division that only provides management and administrative support services to the company's operating units is not itself an operating unit; it supports or benefits the company's operating units. For example, in a company containing a division that only provides the company's internal data processing needs, that division would be deemed to provide management and administrative support services. The limitation on the sale of an operating unit contained in § 802.1(a) would not exclude from the exemption under § 802.1(d)(4) the sale of all of the equipment from that division. However, if that division derived revenues from providing data processing services to third parties, then the unit would be considered to be an operating unit. Further, equipment used to derive third party revenues would not have been used *solely* to provide management and administrative support services for the business operations of the acquired person.

Proposed § 802.1(d)(4), like proposed § 802.1(d)(3), permitted the use of the exemption if the acquired person had a contract, agreement in principle or letter of intent to obtain the administrative and management support services provided by the goods being sold. New § 802.1(d)(4) requires that the acquired person execute in good faith a contract for the services to be outsourced. The contract gives rise to a binding obligation on the acquired person to outsource the services provided by the goods being sold.

Comment 14 suggested that a sale of goods pursuant to the decision to downsize or discontinue a management and administrative support service should also be included within the exemption. The recommendation was not adopted because the Commission does not have sufficient information and knowledge at this time to conclude that the elimination—as opposed to the outsourcing—of management and administrative support services in every business setting is unlikely to raise competitive concerns.

Comment 7 suggested that examples to § 802.1(d)(4) that distinguish between goods that perform a management and administrative support service and goods that are an integral part of operations that affect competition be changed to reflect a more objective standard, such as goods that generate third party revenues. This suggestion was not adopted because of the variation among industries of the factors that distinguish goods that perform management and administrative support services from goods that are integral to the business operations of the company. In a vertically integrated company, for example, equipment it used for componentry manufacture would not be considered goods that perform a management and administrative support service, even though the company derived no third party revenues from the sale of the components, but used the components in the manufacture of its final products. Example 12 illustrates a similar application of § 802.1(d)(4). Therefore, if a company has an internal operation that also derives third party revenues, that operation will not be considered a management and administrative support service; however, the fact that a company's internal operation does not derive third party revenues does not automatically make the operation a management and administrative support service.

Comments 10 and 27 recommended an exemption for transfers of used airplanes that do not qualify for the exemption in § 802.1(d)(3). Comment 27 presented statistics showing that there may be little correlation between used equipment sold by air carriers and new equipment that they purchase. The commenter stated that this absence of correlation would make the exemption in § 802.1(d)(3) unavailable for most potentially reportable sales of used aircraft. Comment 10 suggested an exemption for acquisitions of less than 15 percent of an air carrier's total productive capacity, while Comment 27 stated that exempt acquisitions of used aircraft and spare parts should be limited to less than 15 percent of an air carrier's total productive assets.

Although a specific exemption for acquisitions of used aircraft has not been added to the final rules, the recommendations and concerns raised by Comments 10 and 27 are still under consideration. In providing certain limited exemptions for transfers of used durable goods in this rulemaking, the Commission's primary concern is that the acquisitions that qualify for these exemptions are ordinary course of business transactions and do not constitute either significant downsizing or substantial transfers of productive capacity without replacement. The recommendations made by Comments 10 and 27 suggest a less restrictive exemption for sales of aircraft that would not require replacement and would permit limited downsizing. The Commission has no experience in implementing HSR exemptions based on the sale of a limited percentage of the acquired person's capacity or assets or a basis to conclude that such acquisitions do not pose competitive

concerns. Moreover, an exemption based on the sale of capacity would present difficulties in determining the appropriate measure to use in applying the exemption. However, Comments 10 and 27 have raised issues that may be unique to the airline industry, and the Commission believes that further consideration is needed.

Other additions to § 802.1(d) that were suggested by commenters include a recommendation in Comment 3 to exempt purchases of goods for the purpose of demolition, disassembly and sale of usable parts (*e.g.*, an oil tanker being sold for scrap and parts) and goods that can no longer lawfully be used for the purpose for which they were used by the acquired person (*e.g.*, oil tankers no longer allowed to call on U.S. ports because of hull restrictions that are sold for other lawful uses). Specific provisions to address these types of transactions were not adopted. Most purchases of used equipment for scrap and parts should be exempt as an acquisition of current supplies under §§ 802.1(c)(1) and 802.1(d)(1). With regard to the second exemption suggested, the Commission does not have evidence to show that such transactions occur with sufficient frequency to warrant the addition of the exemption, and it is not confident that a clearly-bounded exemption could be created to cover a category of transactions not likely to violate the antitrust laws.

II. Section 802.2: Certain Acquisitions of Real Property Assets

New § 802.2 exempts eight categories of real property acquisitions from the reporting requirements of the act. These include acquisitions of new facilities, certain used facilities by the original lessee in a lease financing arrangement, unproductive real property, office and residential property, hotels and motels, recreational property, agricultural property, and rental retail space and warehouses.

This new rule creates new exemptions for several categories of real property acquisitions that the enforcement agencies, after extensive review, have concluded "are not likely to violate the antitrust laws." Section 7A(d)(2)(B) of the act. For the most part, the types of real property assets that are included within this exemption are abundant, and their holdings are widely dispersed. Transfers of these categories of real property are generally small relative to the total amount of holdings, and entry into regional and local markets for these types of real property assets is usually easy.

Previously, the Premerger Notification Office had interpreted section 7A(c)(1) of the act as exempting certain acquisitions of new facilities, undeveloped realty, office buildings and residential property as transfers of realty in the ordinary course of business. Although new § 802.2 is not based on section 7A(c)(1) of the act, certain acquisitions of realty exempted by this new exemption may also qualify for exemption as transfers of realty in the ordinary course of business. The primary difference between new § 802.2, that exempts the acquisition of certain types of realty, and amended § 802.1, that exempts the acquisition of goods and realty in the ordinary course of business, is that the former—because it is not based on the "ordinary course" concept—does not limit the exemption to acquisitions that are not acquisitions of operating units. In fact, several categories of realty exempted by new § 802.2, *e.g.*, hotels, motels and agricultural land, may qualify as operating units, but they are exempt under this provision.

The exemptions for new facilities, certain used facilities, unproductive real property, office and residential property, hotels and motels, certain recreational land, agricultural property, rental retail space and warehouses state that any non-exempt assets that are being transferred as part of an acquisition of the exempt assets are separately subject to the requirements of the act and the rules. This approach to non-exempt portions of acquisitions is also used in § 802.3. The Commission recognizes that this approach may result, as Comment 9 has pointed out, in "a more fragmented analysis * * * generating value allocation issues." However, the Commission believes that this inconvenience is offset by an approach that results in an expanded exemption for realty acquisitions.

A. *New Facilities.* New § 802.2(a) exempts the acquisition of new facilities, which may include real estate, equipment and assets incidental to the ownership of the new facility. The term "new facility" is new to the rules, and the Commission has concluded that acquisitions of new facilities are not likely to violate the antitrust laws. Although the provision is intended primarily to exempt "turnkey" facilities, *i.e.*, new facilities capable of commencing operations immediately with minimal additional capital investment, it does not require that the facility be ready for immediate occupancy. The facility may need additional construction or outfitting at the time it is purchased and still qualify for the exemption. However, if the facility requires a substantial amount of additional construction or outfitting, it may not be classified as a new facility but may qualify as unproductive real property as defined in new § 802.2(c).

The new exemption is unchanged from proposed § 802.2(a), and it applies only to new structures that have not produced income. It also applies only if the acquired person has held the facility at all times solely for sale. The language of the exemption allows the holder of the new facility to be either a builder of the facility ("constructed by the acquired person for sale") or other persons, such as a creditor, who take possession of a new facility with the intention of selling it ("held at all times by the acquired person solely for resale"). These limitations prevent the sale by an acquired person of capacity constructed for the acquired person's use, as Example 1 to § 802.2 illustrates.

New § 802.2(a) requires separate valuation of non-exempt assets being purchased in an acquisition of a new facility. If the value of the non-exempt assets exceeds $15 million, and no other exemptions apply, then the purchase of these non-exempt assets is separately subject to the notification requirements.

B. *Used facilities.* New § 802.2(b) exempts the acquisition of a used facility by a lessee that has had sole and continuous possession and use of the facility since it was first built, from a lessor that holds title to the facility for financing purposes in the ordinary course of its business. This provision was not contained in the proposed rules. It is being adopted in response to Comment 6.

New facilities are often acquired through lease financing arrangements. In a lease financing arrangement a creditor, in a bona fide credit transaction entered into in the ordinary course of its business, acquires a new facility and immediately leases it to a lessee that will have sole and continuous use and possession of the facility, usually under a long-term lease. The lessee generally has the option to purchase the facility from the lessor at or before the end of the lease term. Currently, there is no exemption for this acquisition even though the acquisition of the new facility may have been exempt under § 802.2(a) if the lessee had acquired the facility directly when it first began operation and had financed the purchase through an installment sales arrangement.

New § 802.2(b) will effectively treat the subsequent acquisition by the original lessee of a used facility that the lessee originally took possession of as a new facility through a lease financing arrangement the same as the direct purchase of a new facility through a more traditional credit arrangement. This new exemption also will effectively treat this category of acquisitions the same as an acquisition of a leased facility by a lessee subject to a sale/leaseback arrangement. In a sale/leaseback arrangement the owner of a facility sells the facility to a creditor that acquires it in a bona fide credit transaction in the ordinary course of its business. The creditor immediately leases the facility back to the owner, now lessee, under a long-term lease. The arrangement is often used as method of raising capital. Since the original owner/lessee held beneficial ownership of the facility prior to the sale/leaseback arrangement and the lessor typically receives only title and a security interest in the facility, the Premerger Notification Office generally has informally interpreted the rules to require no notification for the subsequent repurchase because the original owner/lessee did not relinquish beneficial ownership when it entered into the sale/leaseback arrangement.

C. *Unproductive real property.* New § 802.2(c) exempts acquisitions of unproductive real property. Subject to the limitations of § 802.2(c)(2), unproductive real property is real property, including raw land, structures or other improvements, associated production and exploration assets as defined in § 802.3(c), natural resources and assets incidental to the ownership of the real property, that has not produced revenues of more than $5 million during the 36 months preceding the transaction. Structures and improvements are additions to the real property that add value and include, for example, buildings and parking lots. Production machinery and equipment are not included in the definition of structures and improvements, and their acquisition must be analyzed separately to determine whether notification is required. Natural resources refers to any assets growing or appearing naturally on the land, such as timber and mineral deposits.

New § 802.2(c)(2) excludes from the exemption acquisitions of manufacturing and non-manufacturing facilities that have not yet begun operations as well as facilities that have been in operation at any time during the twelve months preceding the acquisition. The exclusion for manufacturing and non-manufacturing facilities that have not begun operations is narrow and applies to facilities that are held by a person who neither constructed the facility for sale nor held the facility at all times for resale. The acquisition of a new structure from a person who built the facility to sell or held it solely for resale is exempt under new § 802.2(a), the exemption for new facilities. The exclusion in § 802.2(c)(2)(i) is also intended to apply to "turnkey" facilities, *i.e.*, new facilities capable of commencing operations immediately with minimal additional capital investment; whether acquisition of a "turnkey" facility is exempt is determined under § 802.2(a). A new facility that is partially complete, is not ready to commence operation in the immediate future and requires substantial additional capital investment is not yet a manufacturing or non-manufacturing facility within the meaning of § 802.2(c)(2)(i). Such a facility may qualify as unproductive real property.

New § 802.2(c)(2)(iii) also excludes real property that is either adjacent to or used in conjunction with real property that does not qualify as unproductive real property and is part of the acquisition. This exclusion is intended to make § 802.2(c) unavailable for the acquisition of vacant land adjoining productive property, such as a factory, a poultry processing facility or a meat packing plant, which is also part of the acquisition. This exclusion was not in the proposed rule. Without this exclusion, it might have been argued that the acquisition of the vacant land should be exempt under § 802.2 if income has been derived only from the factory and not from activities taking place on the vacant land. However, this exemption is not permitted under § 802.2(c) because the vacant land, due to its adjacency to the factory, is considered to be part of the productive property that is being acquired. If the vacant land were not adjoining the factory but were used in connection with the factory operations, the § 802.2(c) exemption would still be unavailable for the acquisition of the vacant land because it was used in conjunction with the factory. Example 7 illustrates this exclusion from § 802.2(c).

The primary purpose of new § 802.2(c) is to eliminate filing requirements for acquisitions of formerly productive property, which is no longer used to generate revenues, and undeveloped, non-income producing property. New § 802.2(c) will exempt most wilderness and rural land that is not used commercially, and urban land that is vacant or contains facilities that have ceased operations more than twelve months prior to the acquisition and that have generated a minimal amount of income during the most recent three-year period.

"Associated production and exploration assets as defined in § 802.3(c)," was added to the definition of unproductive real property in response to Comments 15 and 24. This addition will include within the exemption for acquisitions of unproductive real property any machinery or equipment associated with a formerly productive coal mine or oil and gas reserve that has not been in operation for twelve months prior to the acquisition and has not generated revenues of more than $5 million during the thirty-six months prior to the acquisition.

New § 802.2(c)(2) incorporates a suggestion made by Comment 14 that the language of the proposed rule's exclusion for manufacturing and non-manufacturing facilities "that began operation within the twelve (12) months preceding the acquisition" be modified. Comment 14 pointed out that the proposed exemption excludes from the definition of unproductive real property facilities that began operation during the twelve-month period prior to the acquisition but includes operations that were commenced more than twelve months before the acquisition. One of the concepts underlying this exemption is to exclude from the reporting requirements formerly productive facilities, *i.e.*, facilities whose operations have ceased and are no longer being used to generate revenues. The exemption was not intended to apply to manufacturing and non-manufacturing operations begun more than twelve months prior to the acquisition and continuing to operate during the twelve-month period prior to the acquisition. The language suggested by Comment 14 excludes from the exemption manufacturing and non-manufacturing facilities that were in operation at any time during the twelve months preceding the acquisition. Because this language is more consistent with the "formerly used/abandoned facilities concept" underlying this exemption, the Commission has decided to adopt this suggestion in the final rule.

Comment 14 also suggested that language be added to § 802.2(c) that, for purposes of this provision, no revenues be deemed generated by any real property used solely to provide management and administrative support services (formerly "auxiliary support functions") for the business operations of the acquired person. The commenter expressed concern that while the acquisition of goods used by the seller to provide these support services would be exempt under § 802.1(d)(4), the acquisition of a facility used only to house equipment that provides these support services may not be exempt from the notification requirements. The

Commission agrees that if the acquisition of the equipment providing the management and administrative support service is exempt under § 802.1(d)(4), then the acquisition of a facility used solely to house the equipment should be exempt. However, in most cases this type of facility can be classified as office property, the acquisition of which is exempt under § 802.2(d).

D. *Office and residential property.* New § 802.2(d) exempts acquisitions of office and residential property. "Office or residential property" is defined as real property that is used primarily for office or residential purposes.

The rule specifies that in determining whether real property is used primarily for office or residential purposes, the total space being measured should consist of real property, the acquisition of which is not exempted by other provisions of the act or rules. Therefore, in making this determination, any portion of the building consisting of, for example, rental retail space, the acquisition of which is exempt under § 802.2(f), should be excluded.

The language of new § 802.2(d)(2) differs somewhat from the language in the proposed rule in order to make clearer the procedure for determining whether real property is used primarily for office and residential purposes. Although new § 802.2(d) does not specify the meaning of "primarily," it is contemplated that at least 75 percent of the space in the qualifying property is used for office or residential purposes. Example 8 applies this threshold to exempt the acquisition of a multi-use building.

If the acquisition includes assets other than office or residential property, the acquisition of those assets is separately subject to the notification requirements. For example, if the acquiring person is also purchasing a factory for $20 million, the acquisition of the factory is separately subject to the reporting requirements.

New § 802.2(d)(3) also specifies that if the purchaser is acquiring a business that is conducted on the office or residential property, the acquisition of the business, including the space in which the business is conducted, is separately subject to the notification requirements of the act. For example, if a company owns an office building in which it operates a department store and the purchaser of that building is acquiring not only the space that the store occupies but also the retail operations of the department store, the acquisition of the department store business as well as the space that the store occupies is subject to the notification requirements of the act. If the value of the business and the space in which the business is conducted exceeds $15 million, the acquisition of the department store business is reportable.

The inclusion of "assets incidental to the ownership of office and residential property" is derived from the language of existing § 802.1. Although incidental assets may have value apart from the real property, they are often necessary for the continued and uninterrupted use of the property. Therefore, incidental assets are included in the description in new § 802.2(d) of office and residential property and are exempt assets.

Comment 14 suggested that language be added to new § 802.2(d) to exempt structures that house equipment that provide management and administrative support services to the seller and owner of the structure. As mentioned above, the Commission believes that the common meaning of office space includes space used solely to provide management and administrative support services to the acquired person. For example, if an acquired person owns a building that primarily houses the computer equipment used to provide its administrative data processing needs, and the acquired person, in good faith, executed a contract for substantially the same services, the sale of the equipment would be exempt pursuant to § 802.1(d)(4). The sale of the building also would qualify for exemption as an acquisition of office property, since the building is not housing a "business" that is being transferred but office equipment that is being sold.

E. *Hotels and motels.* New § 802.2(e) exempts from the reporting requirements acquisitions of hotels and motels, and improvements to those facilities, such as golf, swimming, tennis, restaurant, health club or parking facilities (but excluding ski facilities), and assets incidental to the ownership of those facilities. The exemption, however, excludes the acquisition of a hotel or motel that includes a gambling casino.

The exemption is based on the Commission's review of past HSR notifications and observation that acquisitions of hotels and motels, except for those excluded from the exemption, are unlikely to violate the antitrust laws. Several commenters affirmed the Commission's understanding that these types of assets are plentiful and widely held, and often they are owned by investor groups that hire management firms or national chains to operate the facilities. Even in local markets entry appears to be relatively easy.

The proposed exemption for the acquisition of hotels and motels excluded hotels "acquired as part of the acquisition of a ski resort." This exclusion raised questions concerning the treatment of a ski resort containing a hotel versus a hotel that has ski facilities along with other recreational improvements. The wording of the new exemption excludes ski facilities from improvements included with a hotel or motel which may be acquired without observing the reporting requirements. As a result, in an acquisition of a hotel with ski facilities, the acquisition of the hotel is exempt, but the ski facilities must be valued separately to determine if their acquisition is subject to the notification requirements.

Ski facilities are not included within the exemption for acquisitions of hotels and motels because the Commission does not have a basis for concluding that the acquisition of a ski facility is not likely to violate the antitrust laws. In addition, ski facilities do not appear to be characterized by the same ease of entry as hotels generally. Gambling casinos are also excluded from the exemption because they involve services other than lodging, and their acquisition may affect competition in certain local markets. Also, certain areas may have licensing requirements for gambling casinos that serve as an impediment to entry.

Comments 9 and 14 suggested that the exemption for hotels and motels be expanded to included the acquisition of related improvements, such as golf courses, swimming and tennis facilities and restaurants. The Commission agrees that the inclusion of these improvements, as well as health clubs and parking facilities, does not raise antitrust concerns and, thus, has included such related improvements as qualifying for the exemption. The Commission also has added language exempting the acquisition of assets incidental to the ownership of the hotel or motel being acquired to make clear that all related permits and tangible personal property used directly in the operation of the facility are included within the exemption.

In the Statement of Basis and Purpose accompanying the proposed rule, the Commission made clear that "this exemption would include the acquisition by a national hotel chain of hotel assets of another hotel chain." The Statement of Basis and Purpose went on to say that "if the acquisition includes assets other than hotels and motels, *e.g.*, the selling firm's trademark or its hotel management business, these assets must be separately valued to determine whether their acquisition is subject to the notification requirements."

Comments 19, 26 and 29 suggested that the exemption for hotels and motels be expanded to included the acquisition of trademarks and hotel management businesses. These comments assert that hotel and motel assets are plentiful and that entry into the hotel/motel business is relatively easy, justifying a broader exemption to cover all hotel and motel asset acquisitions. The Commission has learned that acquisitions of hotel and motel assets typically include the transfer of the hotel management contracts in effect at the time of the acquisition as well as licenses to use the trademarks associated with the hotel or motel being acquired. Thus new § 802.2(e) explicitly includes these contracts and licenses among the list of assets incidental to the operation of the hotel or motel. However, the exemption does not include the acquisition of hotel management businesses or the purchase of a hotel trademark. Such acquisitions, even if made in connection with the purchase of a hotel or motel, are not considered to be transfers of incidental assets associated with a hotel or motel and are therefore separately subject to the requirements of the act.

F. *Recreational Land.* New § 802.2(f) exempts the acquisition of recreational land, which is defined as real property used primarily as golf, swimming, or tennis club facilities and assets incidental to the ownership of such property. If an acquisition includes any property or assets other than recreational land, the acquisition of these other assets is separately subject to the notification requirements.

This exemption was not originally included in proposed § 802.2 and is being added to the final rule in response to Comment 14 that suggested an exemption for certain types of recreational land. The Commission has received HSR filings for a very small number of acquisitions of recreational land, primarily golf courses. Based on this experience, the Commission believes that the acquisition of certain types of recreational land is not likely to violate the antitrust laws. This exemption is limited to the types of recreational realty the acquisition of which is exempt as improvements when acquired as part of a hotel or motel under § 802.2(e). Recreational land under § 802.2(f) does not include, for example, ski facilities, multi-purpose arenas, stadia, racetracks and amusement parks.

G. *Agricultural property.* New § 802.2(g) exempts acquisitions of agricultural property, assets incidental to the ownership of the property and associated assets integral to the agricultural business activities conducted on the property. Agricultural property that is covered by this exemption is real property that primarily derives revenues under Major Groups 01 and 02 of the 1987 Standard Industrial Classification (SIC) Manual. Associated assets integral to the agricultural business activities conducted on the property to be acquired include structures (e.g., barns used to house livestock), fertilizer, animal feed and inventory (*e.g.*, livestock, poultry, crops, fruits, vegetables, milk, and eggs). In an acquisition that includes assets that are covered by this exemption, the transfer of any other assets is separately subject to the notification requirements.

Associated agricultural assets do not include processing equipment or facilities. If a meat packing or poultry processing market is concentrated in a given local area, the transfer of in- house processing capacity may have a significant effect on the market. For this reason, the Commission believes that such transfers should be reviewed prior to consummation so the agencies can determine whether the proposed acquisition will affect competition adversely.

The proposed rule exempting acquisitions of agricultural property included within the definition of associated agricultural assets "equipment dedicated to the income-generating activities conducted on the real property." New § 802.2(g) omits this equipment from the definition of associated agricultural assets because in certain cases the equipment may be part of a processing facility, the acquisition of which is not exempt under § 802.2(g).

The final rule also changes the proposed rule by including a parenthetical reference to SIC Major Groups 01 and 02 in the definition of agricultural property. This inclusion is intended to make clear that acquisitions of agricultural land on which other activities involving farm products are conducted, *e.g.*, activities included within SIC Major Groups 20 (*e.g.*, meat packing plants, poultry slaughtering and processing, milk processing, and corn wet milling), 42 (farm product storage and warehousing) and 51 (buying and marketing of farm products) are not included within the exemption.

New § 802.2(g)(2), which has been added to the proposed rule, provides that "agricultural property does not include any real property and assets either adjacent to or used in conjunction with facilities that are not associated agricultural assets and that are included in the acquisition." This provision excludes from the exemption, for example, acquisitions of any real property and assets that are either adjacent to or used in conjunction with poultry or livestock slaughtering, processing or packing facilities that are also being acquired. Thus, if a meat packing plant is surrounded by vacant land that serves as a buffer zone for environmental purposes or as an area for grazing cattle in connection with the plant operations, and an acquiring person intends to purchase the plant and the surrounding property, the acquisition of the vacant land is not exempt either as an acquisition of agricultural land or an acquisition of unproductive real property [see discussion of § 802.2(c)(2)]. The vacant land is considered to be part of the business of the plant, and its acquisition, along with that of the plant, is subject to the reporting requirements.

H. *Rental retail space; warehouses.* New § 802.2(h) exempts acquisitions of two other categories of real property, rental retail space and warehouses. Rental retail space includes structures that house and are rented to retail establishments and include real property assets such as shopping centers, strip malls, and stand alone buildings. These types of assets are abundant and widely held by insurance companies, banks, other institutional investors and individual investors as investments and rental property. The Commission believes that acquisitions of these types of real property assets are unlikely to violate the antitrust laws.

However, the new rule provides that if the retail rental space or warehouses are to be acquired in an acquisition of a business conducted on the real property, the acquisition of the retail rental space or warehouses is not exempt. Thus, if an acquiring person is also acquiring a business that is conducted on the real property, the acquisition of that business, including the portion of the real property on which the business is conducted, is separately subject to the notification requirement of the act. For example, if a department store chain proposed to acquire from another department store chain several shopping centers and the department store business conducted by the seller in several stores located in these shopping centers, the acquisition of the seller's department store business and the portion of the shopping centers in which the stores are located would be subject to the notification requirements. The acquisition of the portion of the shopping centers that housed other retail establishments would be exempt under this rule. Similarly, as illustrated in Example 12, the exemption for the acquisition of warehouses is lost if

warehouses are being acquired in connection with the acquisition of a wholesale distribution business.

The new rule also provides that if an acquisition of rental retail space or a warehouse includes other assets, those other assets are separately subject to the reporting requirements of the act. New § 802.2(h) differs from the proposed rule only in the addition to the exemption of assets incidental to the ownership of retail rental space or warehouses. Without this addition, it would be necessary to value separately any incidental assets associated with the ownership of the property, contrary to the treatment of real property assets included in other provisions of § 802.2.

III. Section 802.3: Acquisitions of Carbon-Based Mineral Reserves

New § 802.3 adds exemptions for certain acquisitions of carbon-based mineral reserves. Specifically, § 802.3(a) exempts the acquisition of reserves of oil, natural gas, shale and tar sands or the rights to such assets if the value of the reserves, the rights and associated exploration and production assets to be held as a result of the acquisition do not exceed $500 million. Similarly, § 802.3(b) exempts the acquisition of reserves of coal or rights to coal reserves if the value of the reserves, the rights and associated exploration and production assets to be held as a result of the acquisition do not exceed $200 million. Associated exploration and production assets are defined in new § 802.3(c) to mean, with certain specified exceptions, equipment, machinery, fixtures, and other assets that are integral and exclusive to current or future exploration or production activities associated with the carbon-based mineral reserves that are being acquired.

The Commission's studies of the coal and oil and gas industries have shown that the values of the reserves in these industries are substantial compared with asset holdings in other industries. The holdings of reserves in these industries are widely dispersed, and individual acquisitions have had minimal effect on concentration. However, the Commission believes that an unlimited exemption for reserves of coal and oil and gas is inappropriate, because acquisitions of carbon-based mineral reserves above the newly established thresholds may warrant an examination of their potential effects on competition.

New § 802.3 differs from proposed § 802.3 in that new § 802.3(a) expands the exemption for oil, natural gas, shale and tar sands by increasing the value of the reserves that will be held as a result of the acquisition that qualify for the exemption from $200 million to $500 million. This increase is based on statistical information provided by Comments 5 and 9 indicating that the ownership of oil and gas reserves in the United States and worldwide is relatively unconcentrated. Moreover, the acquisition of $500 million of crude oil reserves in the United States would amount to about 1/10 of 1 percent of domestic oil reserves. Such an acquisition, if made by the leading commercial owner of domestic reserves, would result in an increase in the HHI of about 2 points in an unconcentrated market. The Commission has concluded that acquisitions of oil and gas reserves valued at $500 million or less are unlikely to violate the antitrust laws. However, the $200 million threshold for transactions involving coal reserves was retained from proposed § 802.3. The Commission does not have sufficient information to support a higher threshold for coal reserves acquisitions. Also, because acquisitions of coal reserves may tend to affect local or regional markets, a higher threshold may exempt transactions that should be reviewed for their impact on such markets.

Sections 802.3(a) and 802.3(b) primarily are designed to exempt acquisitions of producing reserves, but also may exempt some acquisitions of non-producing reserves that may also be exempt as unproductive real property under § 802.2(c). Because the exemption is not based on the "ordinary course" concept, the exemptions also apply if the reserves and associated assets being transferred constitute all or substantially all of the assets of an operating unit. If the reserves being acquired are not yet producing, the acquisition also is likely to be exempt under § 802.2(c) as an acquisition of unproductive real property. For formerly producing reserves that have not been in production during the twelve months preceding the acquisition and have not generated revenues in excess of $5 million during the 36 months preceding the acquisition, their acquisition would qualify as unproductive real property. If the reserves qualify as unproductive property, their acquisition is exempt, regardless of the value of the reserves. Currently producing reserves are governed by the valuation requirements of § 802.3. Example 1, which involves an acquisition consisting of non-producing gas reserves, producing oil reserves and assets associated with the producing reserves, illustrates the application of § 802.2(c) and § 802.3 to the separate components of the acquisition.

The $500 million threshold in § 802.3(a) and the $200 million threshold in § 802.3(b) apply to reserves, rights to the reserves and associated exploration or production assets. The acquisition of these associated assets is not separately reportable because these assets generally have no competitive significance separate from the reserves. In many instances, producing reserves contain dedicated equipment that may have a market value exceeding $15 million but have no practical value absent the reserves. In addition, the wide availability of used equipment in the oil and gas and coal industries makes it unlikely that a servicer of oil fields or coal mines could purchase reserves to restrict supply of available equipment in a given region. Thus, the Commission believes that the inclusion of associated exploration and production assets is necessary to facilitate meaningful application of the exemption.

Associated exploration or production assets are defined in § 802.3(c) to include equipment, machinery, fixtures and other assets that are integral to the exploration or production activities of the reserves. Such assets do not include any intellectual property rights that may be transferred with the reserves. In the oil and gas industry, examples of associated exploration or production assets include proprietary or licensed geological and geophysical data, wells, pumps, compressors, easements, permits and rights of way.

As in the oil and gas industry, exploration or production assets associated with coal reserves may include proprietary or licensed geological and geophysical data, easements, permits and rights of way. In surface mining in the western U.S., associated production assets may consist of various load out facilities, including storage barns and silos, dryer barns and railroad spurs, and heavy equipment such as draglines and crushers. Such assets would also include the long-term coal contracts and federal leases related to the reserves.

New § 802.3 also changes the categories of assets that are excluded from the definition of associated production or exploration assets as it relates to oil and natural gas reserves. Proposed § 802.3 excluded from associated production or exploration assets all flow and gathering pipelines, distribution pipelines, interests in pipelines, processing facilities and refineries, because acquisitions of these assets in certain local markets have, from time to time, raised competitive concerns prompting investigations by the enforcement agencies. However, Comments 3, 5, 9 and 24 recommended including in the definition of associated exploration or production assets pipeline systems and field treating facilities that serve a particular producing property and have no competitive significance apart from the oil and natural gas reserves being acquired. The Commission has concluded that acquisitions of these systems and facilities in connection with the reserves to which they are dedicated are unlikely to violate the antitrust laws because they do not have the potential for competing in the provision of services to third parties. Therefore, the definition of associated exploration or production assets now clearly delineates dedicated facilities from facilities serving third parties by excluding "any pipeline and pipeline system or processing facility which transports or processes oil and gas after it passes through the meters of a producing field; and any pipeline or pipeline system that receives gas directly from gas wells for transportation to a natural gas processing facility or other destination."

Comments 17, 18 and 30 proposed an exemption for acquisitions of timberland, noting that the raw material supply and manufacturing resources in the forestry industry are abundant, and ownership of timberland is fragmented. However, because there has been enforcement interest in a number of transactions involving timberland in the western United States, the Commission declined to include an exemption for acquisitions of timberland to insure that the enforcement agencies continue to receive notification of those acquisitions of timberland that may present competitive concerns.

Comment 9 noted that the enforcement agencies, as they obtain additional experience and information about other natural resources, will perhaps identify ways of expanding § 802.3 to include other types of producing reserves without posing undue risk to competition. For non-producing reserves of other minerals and renewable natural resources, § 802.2(c) will exempt acquisitions of these reserves if they qualify as unproductive real property. Regarding producing reserves, the Commission has not included these in § 802.3 at this time because it does not have an adequate factual basis for determining that acquisitions of other types of mineral reserves and renewable natural resources should be exempt from the requirements of the act or subject to a reporting level higher than the statutory $15 million threshold. However, the Commission will continue to collect information about other minerals and renewable natural resources and determine at a later date if expansion of § 802.3 to include acquisition of reserves of these resources is warranted.

IV. Section 802.4: Acquisitions of Voting Securities of Issuers Holding Certain Assets the Direct Acquisition of Which Is Exempt

New § 802.4 exempts the acquisition of voting securities of issuers that hold certain assets the direct acquisition of which is exempt under the act or the rules. New § 802.4(a) exempts the acquisition of voting securities of an issuer whose assets, together with those of all entities controlled by the issuer, consist of assets whose direct purchase is exempt from the notification requirements pursuant to section 7A(c)(2) of the act or §§ 802.2, 802.3 and 802.5 of the rules. New § 802.4(b) defines "issuer" as used in § 802.4 to mean a single issuer, or two or more issuers controlled by the same person. The exemptions provided by new § 802.4 are available so long as the acquired issuer or issuers do not in the aggregate hold exempt assets that exceed the threshold limitations of the cited rules and non-exempt assets with a fair market value of more than $15 million. New § 802.4(c) states that fair market value as determined in accordance with § 801.10 (c)(3) of the rules is the standard to apply in determining the value of assets held by an issuer whose voting securities are being acquired pursuant to § 802.4. New § 802.4 applies to acquisitions resulting in the holding of a minority interest as well as a controlling interest in the acquired issuer's outstanding voting securities.

Section 802.4 derives in part from original § 802.1(a) which exempted "an acquisition of the voting securities of an entity whose assets consist solely of real property" and related assets, if a direct acquisition of that real property and those related assets would be exempt. The rationale for original § 802.1(a) and new § 802.4 is that the applicability of an exemption should not depend on the form of the acquisition. The antitrust analysis would seem to be the same whether assets or voting securities are acquired. *See* Statement of Basis and Purpose to § 802.1(a), 43 FR 33488 (July 31, 1978).

Proposed § 802.4(a) extended this approach by exempting acquisitions of voting securities of issuers whose assets consist solely of assets exempt under proposed § 802.2: new facilities, unproductive real property, office and residential property, hotels and motels, agricultural property, rental retail space and warehouses. Proposed § 802.4(b) contained a comparable exemption for issuers whose assets consist solely of carbon-based mineral reserves exempt under proposed § 802.3.

New § 802.4 differs in five respects from the proposal. First, new paragraph (a) no longer requires that the issuer whose voting securities are being acquired hold *solely* exempt assets. New § 802.4(a) provides that the issuer also may hold up to $15 million of non-exempt assets in addition to the exempt assets. Second, proposed paragraph (b) has been merged into new paragraph (a). In the proposed exemption, the aggregation principles of § 801.15(b) applied only to § 802.4(b), while § 801.15(a) applied to § 802.4(a). Because of the new provision that an issuer whose voting securities are being acquired pursuant to § 802.4 also may hold up to $15 million of non-exempt assets, § 801.15(b) applies to all transactions under § 802.4. New § 802.4(a) now describes all classes of acquisitions that are exempt pursuant to § 802.4.

Third, new § 802.4(a) has been expanded and now provides an exemption for voting securities acquisitions of issuers that hold assets the direct acquisition of which are exempt pursuant to section 7A(c)(2) of the act and § 802.5 of the rules. Fourth, new § 802.4(b) has been added to the rule to make clear that the term "issuer" as used in § 802.4(a) means a single issuer or two or more issuers controlled by the same person. Lastly, new § 802.4(c) has been added to make clear that the value of assets held by an issuer whose voting securities are being acquired pursuant to § 802.4 is the fair market value determined in accordance with § 801.10(c)(3) of the rules.

The first change responds to Comments 2, 5 and 9, which noted that the requirement in proposed § 802.4 that the acquired issuer could hold solely assets exempt under §§ 802.2 and 802.3 was very limiting and caused the proposed exemption to fall short of the goal of treating voting securities acquisitions the same as asset purchases. Proposed §§ 802.2 and 802.3 provided an exemption for asset acquisitions involving the purchase of certain types of realty and carbon-based mineral reserves and required that the acquisition of any non-exempt assets be separately analyzed to determine whether notification was required prior to their purchase. Thus, under proposed §§ 802.2 and 802.3, a person could acquire certain exempt assets and non-exempt assets valued at $15 million or

less and would not be required to file. However, in contrast, the requirement in proposed § 802.4 that the acquired issuer hold solely exempt assets precluded the exemption if the issuer held any assets not exempt under §§ 802.2 and 802.3.

The Commission agrees that this limitation seemed to undercut the rationale underlying § 802.4 to reduce the extent to which the form of the transaction affects the requirement to file notification. For this reason, as noted previously, the Commission has modified proposed § 802.4 to exempt acquisitions of issuers that hold assets exempt under section 7A(c)(2) of the act and new §§ 802.2, 802.3, and 802.5, and non-exempt assets with a fair market value of $15 million or less.

Comment 2 also suggested that proposed § 802.4 be amended to exempt acquisitions of voting securities of issuers that hold "incidental assets," *i.e.*, assets incidental to the ownership of the exempt assets, in addition to the assets that are exempt pursuant to proposed §§ 802.2 and 802.3. The commenter pointed out that since incidental assets were not included in every provision of the proposed rules as exempt assets, the ownership of incidental assets by an acquired issuer would limit the application of § 802.4. As noted previously, the Commission has modified the language of proposed § 802.4 to include within the exemption acquisitions of voting securities of issuers holding assets exempt under the cited rules and non-exempt assets with a fair market value of $15 million or less. The Commission also has included within the various subsections of §§ 802.2 and 802.3 language that will include within the exemptions, assets incidental to the ownership of the exempt assets. The Commission believes that since the ownership of incidental assets has little effect on competition, the value of incidental assets should not be included in the determination of whether the acquired issuer holds non-exempt assets with a fair market value exceeding $15 million. The Commission believes that these modifications adequately address the concerns raised by this comment.

The second change was made because the provisions of § 801.15(b) that address aggregation of previous acquisitions now govern all voting securities acquisitions of issuers holding assets exempt under the sections included within new § 802.4(a). Proposed § 802.4(a) contained exemptions that did not require aggregation because the exemptions were not based on the holding of assets valued at less than a set threshold amount. For instance, the exemption for certain types of realty provided in § 802.2 is applicable regardless of the value of the exempt assets to be acquired. However, since new § 802.4(a) has eliminated the restriction that an issuer whose voting securities are to be acquired hold solely exempt assets and now permits the acquired issuer to hold non-exempt assets valued at $15 million or less, the principles of § 801.15(b) apply, and aggregation is required to determine whether this limitation will be exceeded.

The third change from the proposed rules reflects a suggestion by Comment 9 that section 7A(c)(2) of the act be included within § 802.4. Section 7A(c)(2) exempts acquisitions of "bonds, mortgages, deeds of trust, and other obligations which are not voting securities." The Commission agrees that the acquisition of these types of assets are of little antitrust concern, whether acquired in the form of an asset or voting securities acquisition, and has added section 7A(c)(2) of the act to new § 802.4(a).

Similarly, an exemption for acquisitions of voting securities of issuers holding assets the direct acquisition of which would be exempt under § 802.5 is now included in § 802.4(a) as a result of revisions to § 802.5 (see discussion, below). Because proposed § 802.5 included a limitation on the type of purchaser that qualified for the exemption, comparable voting securities acquisitions could not be included within § 802.4 and thus were exempted within proposed § 802.5. New § 802.5 has been revised to remove the limitation, and the exemption for the equivalent voting securities acquisition has been moved to § 802.4. Therefore, acquisitions of the voting securities of issuers holding investment rental property plus non-exempt assets valued at $15 million or less will be exempt pursuant to § 802.4(a).

The addition of § 802.4(b) stems from the rationale underlying this exemption that voting securities acquisitions and asset purchases be treated similarly for purposes of § 802.4. The first step toward achieving similar treatment was to modify proposed §§ 802.4(a) and (b) to include within the exemption the acquisition of issuers that hold exempt assets and non-exempt assets valued at $15 million or less. The Commission believes that, in addition to this modification, purchasers should be required to aggregate acquisitions of voting securities of different issuers controlled by the same acquired person. Otherwise, the form of the transaction will affect the notification requirement. For this reason, new § 802.4(b) defines issuer, for purposes of § 802.4, to mean a single issuer or multiple issuers controlled by the same acquired person. Thus, when the voting securities of more than one issuer controlled by the same person are being acquired, aggregation of the non-exempt assets held by these issuers and aggregation of the carbon-based mineral reserves for which there are threshold limitations is required. For example, if "A" proposed to acquire the voting securities of three subsidiaries of "B" and each subsidiary held $200 million of oil and gas reserves, the acquisition would not be exempt under § 802.4(a) because the acquired issuers hold in the aggregate $600 million of oil and gas reserves. If the acquisition were structured as an asset acquisition with "A" purchasing the oil and gas reserves held by "B's" three subsidiaries, the acquisition would not qualify for exemption under new § 802.3(a) since the value of the reserves to be acquired exceeds $500 million.

Similarly, if "A" proposed to acquire the voting securities of three of "B's" subsidiaries and each held, respectively, (1) two hotels and $10 million of non-exempt assets, (2) two hotels and $7 million of non-exempt assets and (3) three hotels and $3 million of non-exempt assets, "A" would be required to aggregate the value of the non-exempt assets to determine whether the acquired issuers hold in the aggregate non-exempt assets exceeding $15 million in value. Since the value of the non-exempt assets exceeds $15 million, "A's" proposed acquisition would not be exempt under § 802.4(a). If the acquisition were structured as an asset acquisition with "A" purchasing the hotels and the non-exempt assets directly, "A's" acquisition of the hotels would be exempt under § 802.2(e) but "A" would be required to file notification for the acquisition of the non-exempt assets. The Commission recognizes that in this situation the holdings of non-exempt assets exceeding $15 million in the voting securities acquisition negated the availability of the exemption for the entire acquisition, whereas in the asset acquisition filing would be required only for the acquisition of the non-exempt assets. However, since voting securities acquisitions are by their nature different than asset acquisitions because voting securities represent an interest in the undivided totality of the underlying assets, this difference in outcome is unavoidable but reasonable.

New § 802.4(c) has been added to make clear that the value of the exempt and non-exempt assets held by the issuer is fair market value determined in accordance with § 801.10(c)(3). The Commission recognizes that this requirement may be difficult to meet when the acquisition is hostile or the acquiring person proposes to acquire a minority interest through the acquisition of voting securities from third party holders, *e.g.*, open market purchases. However, § 801.10(c)(3) requires that the acquiring person make a good faith determination of the fair market value of the assets of the issuer whose voting securities are to be acquired. The acquired person cannot rely on the absence of data to make a good faith determination that the fair market value of the assets held by the acquired issuer(s) does not exceed threshold limitations.

The modifications that have been made to proposed § 802.3, providing different thresholds for oil and gas reserves and coal reserves, and proposed § 802.4, expanding the exemption to include issuers holding non-exempt assets with a fair market value of $15 million or less, complicate the application of the rules requiring aggregation of acquisitions of voting securities of different issuers controlled by the same acquired person. The previous discussion addressed the issue of aggregation when the voting securities of different issuers are acquired in the same transaction. The following discussion addresses some of the intricacies of aggregation involving subsequent acquisitions from the same acquired person of voting securities of the same issuer (and of different issuers) holding assets exempt under §§ 802.2, 802.3 and 802.5 and section 7A(c)(2) of the act.

To address the issue of aggregation involving subsequent acquisitions from the same issuer of voting securities governed by the exemptions provided by § 802.4, § 801.15(b) has been revised to include §§ 802.3 and 802.4. Section 801.15(b) provides that voting securities, the acquisition of which was exempt under certain identified exemptions, are not held as a result of an acquisition unless in a subsequent acquisition the limitations contained in those specified exemptions are exceeded. For example, "A" acquires for $40 million, in an exempt transaction, 20 percent of the voting stock of B, which holds petroleum reserves valued at $300 million and subsequently plans to acquire an additional five percent of the B's voting securities for $10 million. "A" would be required to determine whether its subsequent acquisition of B's stock qualifies for the exemption under § 802.4(a). If B's holdings of oil and gas reserves have increased and the value of its reserves exceeds $500 million, "A's" subsequent acquisition of B's stock would not be exempt under § 802.4(a). Under § 801.15(b), "A" is considered to hold 20 percent of the voting stock of B, and "A's" subsequent acquisition is not exempt under § 802.4(a).

Another situation in which aggregation is required under § 801.15(b) involves an acquisition of a minority interest in the voting securities of an issuer exempt under § 802.4(a) followed by a subsequent acquisition of either a minority or a controlling interest in the voting securities of another issuer included within the same acquired person. For example, assume that "A" acquired 30 percent of the voting securities of C, an issuer controlled by "B," for $40 million and that the acquisition was exempt under § 802.4(a) because C held oil and gas assets valued at $300 million and non-exempt assets valued at $7 million. Six months later, "A" proposes to acquire from "B" all (or a minority) of the voting securities of D and E, issuers controlled by "B," for $20 million each. D has oil and gas reserves valued at $150 million and non-exempt assets valued at $2 million, and E has oil and gas reserves valued at $150 million and non-exempt assets valued at $2 million. Under § 801.15(b), "A" is required to aggregate its current proposed acquisitions of D and E with its previous exempt acquisition of C's voting securities to determine whether the limitations set forth in § 802.4(a) will be exceeded as a result of the subsequent acquisition. In this situation, since the value of the oil and gas reserves held by the C, D, and E exceed $500 million, the acquisition of the voting securities of D and E is not exempt under § 802.4(a).

Aggregation is not required in a subsequent acquisition of voting stock of an issuer included within the same acquired person if the acquiring person acquired control of that issuer in an earlier transaction, *i.e.*, holds 50 percent or more of the issuer's outstanding voting securities. In such case, the issuer is now included within the acquiring person, and the aggregation requirements of § 801.13(a) do not apply since control has passed to the acquiring person. (In a situation in which the acquiring person acquires exactly 50 percent of an issuer's voting stock and the acquired person has retained 50 percent, the Premerger Notification Office has long treated the issuer as within the acquiring person alone in applying the aggregation requirements of §§ 801.13 and 801.14 for subsequent voting stock and asset purchases from the same acquired person.) Therefore, if an acquiring person has acquired 50 percent or more of the voting stock of an issuer and proposes to acquire additional voting stock from the same issuer or another issuer controlled by the same acquired person, the acquiring person is not required to aggregate the assets of the issuer in the first acquisition with assets of the issuer in the second acquisition to determine if any limitations have been exceeded.

Section 802.4 contains three examples that illustrate the application of the rule, including an example involving simultaneous acquisitions. Examples illustrating the aggregation principles of § 802.4 in sequential transactions are included in the examples to § 801.15. Section 802.4 represents the Commission's first major effort to accord the same treatment to asset acquisitions and comparable voting securities acquisitions. The aggregation principles, though necessary, complicate the application of the exemption. If the complexity of the aggregation principles makes applying the § 802.4 exemption overly burdensome for parties, the Commission will review the provision to determine if any changes to the exemption are necessary.

Proposed Section 802.5: Acquisitions of Investment Rental Property Assets

Section 802.5 exempts acquisitions of investment rental property assets. It is intended to exempt certain acquisitions of real property that are not exempt under new § 802.2. The exemption applies only to acquisitions of real property assets that will be held by the acquiring person solely for rental or investment purposes and that will be rented only to entities not included within the purchaser (except for the sole purpose of maintaining, managing or supervising the operation of the investment rental property assets). Thus, the intent of the purchaser at the time of the acquisition must be considered to determine whether the exemption is available. Although the application of new § 802.5, unlike proposed § 802.5, is no longer limited to certain types of acquiring persons such as institutional investors, the Commission believes that this provision will exempt most real property acquisitions typically made by institutional investors, real estate investment trusts ("REITs"), or real estate development and management companies that are not exempted by new § 802.2.

New § 802.5 is designed to supplement new § 802.2 by recognizing that there may be additional categories of real property assets, such as industrial parks and multi-purpose sports and entertainment facilities, that.

when acquired as investment rental property, are not likely to violate the antitrust laws. Acquisitions of these types of real property are often made solely for rental investment purposes. In such instances, investors in such property play no active role in the business conducted on these properties and seek only to profit from their investment in the real estate. Moreover, in order to reduce risk of loss in the value of the real estate they hold, purchasers of numerous properties generally do not concentrate their investments in a single geographic market. Given the size and unconcentrated nature of the real estate market, such acquisitions are not likely to pose a competitive concern. The limitations in new § 802.5 on the intent of the acquiring person and the use of the qualifying real property are designed to insure that the exemption will not be available for any acquisition intended to achieve business objectives that are not related to the rental or investment objectives.

Although the investment rental property exemption may apply to real property, such as office or residential property, hotels/motels and rental retail space, that is also exempt under § 802.2, there will be no need to apply new § 802.5 to the acquisition of these categories of real property assets. The important distinction between § 802.2 and § 802.5 is that § 802.2 exempts acquisitions of specific classes of real property assets and does not incorporate the intent-based test of § 802.5, while § 802.5 exempts any type of real property assets that meet the rule's requirements for investment rental property. In addition, the exemptions for acquisition of real property under § 802.2 apply even if the acquiring person occupies the property for any purpose while § 802.5 permits the acquiring person to use the acquired investment rental property assets only to manage or operate the real property assets being acquired.

Proposed § 802.5 limited the availability of the exemption for acquisitions of investment rental property to institutional investors as defined by § 802.64 and persons whose sole business is the acquisition or management of investment rental property assets. Comment 2 recommended that the limitation on qualified purchasers be eliminated because the definition of investment rental property assets in proposed § 802.5(b) would be sufficient to prevent purchasers from conducting business on the property being acquired. Comment 31 suggested that the exemption should be available to persons other than investors whose sole business consists of acquiring or managing investment rental property assets. REITs, the commenter pointed out, are permitted to own certain assets such as temporary stock and bond investments that are not investment rental property and thus, under the proposed rules, may not qualify as entities whose sole business is acquiring and managing investment rental property assets.

The Commission has determined that the dual restrictions in proposed § 802.5 which made the exemption available only to (1) certain types of investors for (2) acquisitions of investment rental property were too limiting. The Commission believes that eliminating the first restriction will not compromise the efficacy of the exemption. Thus, new § 802.5 is available to all types of purchasers so long as the acquisition qualifies as investment rental property assets.

New § 802.5 includes a provision, found in other sections of Part 802 and omitted from proposed § 802.5, stating that in an acquisition that includes investment rental property, the transfer of any other property shall be separately subject to the requirements of the act. Thus an investor can purchase property, the acquisition of which is exempt under § 802.5, and non-exempt assets valued at $15 million or less and still qualify for the exemption.

In addition, the provision included in proposed § 802.5 exempting acquisitions of voting securities of an entity holding assets that consist solely of investment rental property assets has been modified and moved to new § 802.4. Thus, the exemption for acquisitions of voting securities of issuers holding § 802.5 assets will be governed by § 802.4. This change results in greater comparability between the direct acquisition of § 802.5 assets and the acquisition of voting securities of issuers holding these assets.

Proposed § 802.5 included within the definition of investment rental property assets any space occupied by the acquiring person for the sole purpose of maintaining, managing or supervising the operation of real property *and* real property rented only to entities not included within the acquired person. The proposal incorrectly implied that an investor could not lease a portion of the acquired rental property to a subsidiary or other affiliated entity which would, in turn, manage the property on behalf of the investor. The language in new § 802.5 has been changed and explicitly permits the investor to establish this arrangement with a subsidiary solely to maintain, manage or supervise the purchased property.

For some acquisitions, in order to determine prior to the acquisition whether the buyer will use the investment rental property in accordance with the requirements of § 802.5, it may be necessary to examine the acquisition intent of the acquiring person, particularly if that investor is controlled by a person that also controls entities engaged in other businesses. The acquisition intent can be inferred from the context of the transaction and from actions by the acquiring person before the acquisition. Circumstances or conduct such as the following may be scrutinized separately or in combination to determine whether the acquiring person has an intent that is fully consistent with holding property solely as investment rental property assets: (1) the acquiring person undertook, prior to the acquisition, a study of the cost of converting the property for use by one of its businesses; (2) the property is to be converted for use by the acquiring person; (3) prior to the acquisition, the property is being leased to or used by entities included within the acquiring person; (4) a portion of the acquired property is being leased at the time of the acquisition to a competitor of the acquiring person; and (5) the purchase price reflects the value of a business operated on the property rather than the investment rental value of the property.

Because § 802.5 covers a broad range of non-specific assets and places no limits on who may acquire the assets, the Commission has declined to adopt the suggestion in Comment 7 to eliminate the requirement that the property to be acquired will be rented only to entities not included within the acquiring person. The Commission also declined to adopt the suggestions in Comments 7 and 9 to eliminate the restrictions on the acquiring person's use of any space on the property for the sole purpose of maintaining, managing and supervising the operation of the property. Limits on the use of the property provide additional safeguards to insure that the property is being acquired for investment or rental purposes, since other safeguards such as limits on the type of investment rental property that can be acquired and the type of investor that qualifies for exemption are absent from new § 802.5.

Currently, HSR notifications are not required for acquisitions of realty made by REITs under the ordinary course of business exemption. REITs acquire real estate in the ordinary course of their business, and the fiduciary nature of their investment activities and the restrictions imposed upon them by the Internal Revenue Code safeguard against improper use of property they acquire.

New § 802.5 is not intended to narrow the exemption from the reporting requirements that is currently available to REITs.

Comment 9 noted that the language of proposed § 802.5 excluded the acquisition of a REIT by a non-REIT, because of the restriction on the type of investor that qualified for the exemption. Acquisitions of REITs by non-REITs are currently subject to the notification requirements, because the fiduciary restraints that govern acquisitions by REITs do not generally apply to non-REITs. However, under new § 802.5, the acquisition by a non-REIT of all of the assets of a REIT may be exempt from the reporting requirements if the transaction meets the requirements of the exemption. The acquisition of all of the assets of a REIT by another REIT is currently an exempt transaction, even though the acquired REIT may hold certain non-real estate assets, and new § 802.5 does not supersede this exemption.

VI. Aggregation Rules

Section 801.15 states that, notwithstanding § 801.13; certain assets and voting securities acquired in exempt transactions are not considered to be "held as a result of an acquisition." These rules and concepts govern whether certain acquisitions must be aggregated to determine if a proposed acquisition requires notification. As the Statement of Basis and Purpose makes clear (43 FR 33479), § 801.15 is applicable to simultaneous acquisitions in which both exempt and non-exempt assets or voting securities are being acquired from the same acquired person and to acquisitions of non-exempt assets or voting securities after the person has previously acquired exempt assets or voting securities from the same acquired person.

Section 801.15(a) provides that assets and voting securities exempt at the time of acquisition under certain provisions of the act and rules are not held as a result of the acquisition. Acquisitions exempted by section 7A(c)(1) of the act are among the classes listed. As a result, in determining whether an assets acquisition meets the more than $15 million size-of-transaction criterion of section 7A(a)(3), the value of assets acquired in the ordinary course of business is not counted. Because § 802.1 declares that certain acquisitions are and that others are not considered to be transfers in the ordinary course of business under section 7A(c)(1), it is not necessary to list § 802.1 separately in § 801.15(a). However, to eliminate possible confusion, § 802.1 is listed in § 801.15(a), along with section 7A(c)(1), to make clear that assets exempted pursuant to § 802.1(b), (c) and (d) are not deemed to be held as the result of an acquisition for aggregation purposes. Therefore, an acquisition of current supplies valued at $8 million is not aggregated with subsequent acquisitions from the same person to determine if a proposed acquisition will exceed the $15 million size-of-transaction notification threshold, since the current supplies are exempt pursuant to section 7A(c)(1) and § 802.1(c).

New § 802.2, which provides an exemption for the acquisition of certain types of real property assets (new facilities, used facilities, unproductive real property, office and residential property, hotels and motels, recreational land, agricultural property, rental retail space and warehouses) is also listed in § 801.15(a) since the exemption sets no dollar limit on the amount of exempt assets that may be acquired without prior notification. Since new § 802.2 is listed in § 801.15(a), assets exempt under this provision are never held as a result of an acquisition. Section 802.5, which exempts acquisitions of investment rental property also appears in § 801.15(a). However, it is important to note that new §§ 802.2 and 802.5 provide that the acquisition of any other assets not exempted by new §§ 802.2 and 802.5 are subject to the requirements of the act and the rules as if they were being acquired in a separate acquisition. Consequently, in an acquisition that includes these exempt assets, the acquisition of other non-exempt assets are subject to the aggregation requirements of § 801.13(b).

Sections 802.3 (exempting certain acquisitions of carbon-based mineral reserves) and 802.4(exempting acquisitions of voting securities of issuers holding exempt assets under section 7A (c)(2) of the act, §§ 802.2, 802.3 and 802.5, plus non-exempt assets valued at $15 million or less), appear in § 801.15(b). This provision requires parties to aggregate the value of otherwise exempt assets that are transferred in separate acquisitions. Section 801.15(b) provides that the aggregation rules of § 801.13 are to be applied if, as a result of a proposed subsequent transaction, the assets from that transaction and an earlier transaction will exceed a quantitative limitation on the exemption of assets of that kind. Thus, the $500 million limitation for oil and gas reserves and the $200 million limitation for coal reserves in § 802.3, that were not reached in an earlier acquisition, may be exceeded by a subsequent acquisition of reserves.

Example 4 to § 801.15 amends the current Example 4, in which the acquiring person is purchasing two mines. The existing example does not indicate whether the mines contain carbon-based minerals. Based on the value of the mines stated in the example, § 802.3 would exempt their acquisition if they are carbon-based mineral reserves. To avoid possible confusion, the acquired assets have been changed to manufacturing plants.

In response to a suggestion in Comment 9, language has been added to Example 5 regarding valuation of assets in sequential acquisitions to determine if the limitation in § 802.3 has been exceeded. In such acquisitions, the buyer is not required to determine the current fair market value of the assets of the first acquisition, but he may use the value of those assets at the time of their prior acquisition pursuant to § 801.10(b). However, in applying § 802.4, if in the first acquisition the buyer had purchased a minority share of the voting securities of an issuer that held the exempt oil reserves assets and proposed to buy additional voting securities from the same issuer, the buyer is required to revalue the total holdings of the issuer at the time of the second acquisition to determine if the issuer's holdings of oil and gas rights and reserves exceed the limitation in § 802.3.

In proposed § 801.15, only § 802.4(b) appeared in § 801.15(b) because only that provision of § 802.4 exempted acquisitions of voting securities of issuers holding assets that, if acquired directly, were exempt subject to certain dollar limitations. Paragraphs (a) and (b) of proposed § 802.4 have now been consolidated into new § 802.4(a) since the exemption has been expanded to exempt issuers holding exempt assets and non-exempt valued at $15 million or less. New § 802.4 now appears in amended § 801.15(b) to reflect the provision contained in § 802.4(a) limiting the value of the non-exempt assets that the issuer whose voting securities are being acquired can hold. Also, three new examples have been added to § 801.15 to illustrate the aggregation principles of § 802.4 (see discussion of new § 802.4, above).

List of Subjects in 16 CFR Parts 801 and 802

Antitrust.

Amended Rules

The Commission amends Title 16, Chapter 1, Subpart H, of the Code of Federal Regulations as follows:

PART 801—COVERAGE RULES

1. The authority citation for Part 801 continues to read as follows:

Authority: Sec. 7A(d), Clayton Act, 15 U.S.C. 18a(d), as added by sec. 201, Hart-Scott-Rodino Antitrust Improvements Act of 1976, Pub. L. 94–435, 90 Stat. 1390.

2. Section 801.15(a)(2) and (b) are revised to read as follows:

§ 801.15 Aggregation of voting securities and assets the acquisition of which was exempt.

* * * * *

(a) * * *

(2) Sections 802.1, 802.2, 802.5, 802.6(b)(1), 802.8, 802.31, 802.35, 802.50(a)(1), 802.51(a), 802.52, 802.53, 802.63, and 802.70;

(b) Assets or voting securities the acquisition of which was exempt at the time of acquisition (or would have been exempt, had the act and these rules been in effect), or the present acquisition of which is exempt, under section 7A(c)(9) and §§ 802.3, 802.4, 802.50(a)(2), 802.50(b), 802.51(b) and 802.64 unless the limitations contained in section 7A(c)(9) or those sections do not apply or as a result of the acquisition would be exceeded, in which case the assets or voting securities so acquired will be held; and

* * * * *

3. Section 801.15, Example 4 is revised, and Examples 5, 6, 7 and 8 are added to read as follows:

§ 801.15 Aggregation of voting securities and assets the acquisition of which was exempt.

* * * * *

Examples: * * *

4. Assume that acquiring person "B," a United States person, acquired from corporation "X" two manufacturing plants located abroad, and assume that the acquisition price was $40 million. In the most recent year, sales into the United States attributable to the plants were $15 million, and thus the acquisition was exempt under § 802.50(a)(2). Within 180 days of that acquisition, "B" seeks to acquire a third plant from "X," to which United States sales of $12 million were attributable in the most recent year. Since under § 801.13(b)(2), as a result of the acquisition, "B" would hold all three plants of "X," and the $25 million limitation in § 802.50(a)(2) would be exceeded, under paragraph (b) of this rule, "B" would hold the previously acquired assets for purposes of the second acquisition. Therefore, as a result of the second acquisition, "B" would hold assets of X exceeding $15 million in value, would not qualify for the exemption in § 802.50(a)(2), and must observe the requirements of the act and file notification for the acquisition of all three plants before acquiring the third plant.

5. "A" acquires producing oil reserves valued at $400 million from "B." Two months later, "A" agrees to acquire oil and gas rights valued at $75 million from "B." Paragraph (b) of this section and § 801.13(b)(2) require aggregating the previously exempt acquisition of oil reserves with the second acquisition. If the two acquisitions, when aggregated, exceed the $500 million limitation on the exemption for oil and gas reserves in § 802.3(a), "A" and "B" will be required to file notification for the latter acquisition, including within the filings the earlier acquisition. Since, in this example, the total value of the assets in the two acquisitions, when aggregated, is less than $500 million, both acquisitions are exempt from the notification requirements. In determining whether the value of the assets in the two acquisitions exceed $500 million, "A" need not determine the current fair market value of the oil reserves acquired in the first transaction, since these assets are now within the person of "A." Instead "A" may use the value of the oil reserves at the time of their prior acquisition in accordance with § 801.10(b).

6. "X" acquired 55 percent of the voting securities of M, an entity controlled by "Z," six months ago and now proposes to acquire 50 percent of the voting stock of N, another entity controlled by "Z." M's assets consist of $150 million worth of producing coal reserves plus $7 million worth of non-exempt assets and N's assets consist of a producing coal mine worth $100 million together with non-exempt assets with a fair market value of $6 million. "X's" acquisition of the voting securities of M was exempt under § 802.4(a) because M held exempt assets pursuant to § 802.3(b) and less than $15 million of non-exempt assets. Because "X" acquired control of M in the earlier transaction, M is now within the person of "X," and the assets of M need not be aggregated with those of N to determine if the subsequent acquisition of N will exceed the limitation for coal reserves or for non-exempt assets. Since the assets of N alone do not exceed these limitations, "X's" acquisition of N also is not reportable.

7. In Example 6, above, assume that "X" acquired 30 percent of the voting securities of M and proposes to acquire 40 percent of the voting securities of N, another entity controlled by "Z." Assume also that M's assets at the time of "X's" acquisition of M's voting securities consisted of $90 million worth of producing coal reserves and non-exempt assets with a fair market value of $9 million, and that N's assets currently consist of $60 million worth of producing coal reserves and non-exempt assets with a fair market value of $8 million. Since "X" acquired a minority interest in M and intends to acquire a minority interest in N, and since M and N are controlled by "Z," the assets of M and N must be aggregated, pursuant to § 801.15(b) and § 801.13, to determine whether the acquisition of N's voting securities is exempt. "X" is required to determine the current fair market value of M's assets. If the fair market value of M's coal reserves is unchanged, the aggregated exempt assets do not exceed the limitation for coal reserves. However, if the present fair market value of N's non-exempt assets also is unchanged, the present fair market value of the non-exempt assets of M and N when aggregated is greater than $15 million. Thus the acquisition of the voting securities of N is not exempt. If "X" proposed to acquire 50 percent or more of the voting securities of both M and N in the same acquisition, the assets of M and N must be aggregated to determine if the acquisition of the voting securities of both issuers is exempt. Since the fair market value of the aggregated non-exempt assets exceeds $15 million, the acquisition would not be exempt.

8. "A" acquired 49 percent of the voting securities of M and 45 percent of the voting securities of N. Both M and N are controlled by "B." At the time of the acquisition M held rights to producing coal reserves worth $90 million and N held a producing coal mine worth $90 million. This acquisition was exempt since the aggregated holdings fell below the $200 million limitation for coal in § 802.3(b). A year later, "A" proposes to acquire an additional 10 percent of the voting securities of both M and N. In the intervening year, M has acquired coal reserves so that its holdings are now valued at $140 million, and the value of N's assets remained unchanged. "A's" second acquisition would not be exempt. "A" is required to determine the value of the exempt assets and any non-exempt assets held by any issuer whose voting securities it intends to acquire before each proposed acquisition (unless "A" already owns 50 percent or more of the voting securities of the issuer) to determine if the value of those holdings of the issuer falls below the limitation of the applicable exemption. Here, an assessment shows that the holdings of M and N now exceed the $200 million limitation for coal reserves in § 802.3.

PART 802—EXEMPTION RULES

1. The authority citation for Part 802 continues to read as follows:

Authority: Sec. 7A(d), Clayton Act, 15 U.S.C. 18a(d), as added by sec. 201, Hart-Scott-Rodino Antitrust Improvements Act of 1976, Pub. L. 94–435, 90 Stat. 1390.

2. Section 802.1 is revised to read as follows:

§ 802.1 Acquisitions of goods and realty in the ordinary course of business.

Pursuant to section 7A(c)(1), acquisitions of goods and realty transferred in the ordinary course of business are exempt from the notification requirements of the act. This section identifies certain acquisitions of goods that are exempt as transfers in the ordinary course of business. This section also identifies certain acquisitions of goods and realty that are not in the ordinary course of business and, therefore, do not qualify for the exemption.

(a) *Operating unit.* An acquisition of all or substantially all the assets of an operating unit is not an acquisition in the ordinary course of business. "Operating unit" means assets that are operated by the acquired person as a business undertaking in a particular location or for particular products or services, even though those assets may not be organized as a separate legal entity.

(b) *New goods.* An acquisition of new goods is in the ordinary course of business, except when the goods are acquired as part of an acquisition described in paragraph (a) of this section.

(c) *Current supplies.* An acquisition of current supplies is in the ordinary course of business, except when acquired as part of an acquisition described in paragraph (a) of this section. The term "current supplies" includes the following kinds of new or used assets:

(1) Goods acquired and held solely for the purpose of resale or leasing to an entity not within the acquiring person (*e.g.*, inventory),

(2) Goods acquired for consumption in the acquiring person's business (*e.g.*, office supplies, maintenance supplies or electricity), and

(3) Goods acquired to be incorporated in the final product (*e.g.*, raw materials and components).

(d) *Used durable goods.* A good is "durable" if it is designed to be used repeatedly and has a useful life greater than one year. An acquisition of used durable goods is an acquisition in the ordinary course of business if the goods are not acquired as part of an acquisition described in paragraph (a) of this section and any of the following criteria are met:

(1) The goods are acquired and held solely for the purpose of resale or leasing to an entity not within the acquiring person; or

(2) The goods are acquired from an acquired person who acquired and has held the goods solely for resale or leasing to an entity not within the acquired person; or

(3) The acquired person has replaced, by acquisition or lease, all or substantially all of the productive capacity of the goods being sold within six months of that sale, or the acquired person has in good faith executed a contract to replace within six months after the sale, by acquisition or lease, all or substantially all of the productive capacity of the goods being sold; or

(4) The goods have been used by the acquired person solely to provide management and administrative support services for its business operations, and the acquired person has in good faith executed a contract to obtain substantially similar services as were provided by the goods being sold. Management and administrative support services include services such as accounting, legal, purchasing, payroll, billing and repair and maintenance of the acquired person's own equipment. Manufacturing, research and development, testing and distribution (*i.e.*, warehousing and transportation) are not considered management and administrative support services.

Examples: 1. Greengrocer Inc. intends to sell to "A" all of the assets of one of the 12 grocery stores that it owns and operates throughout the metropolitan area of City X. Each of Greengrocer's stores constitutes an operating unit, i.e., a business undertaking in a particular location. Thus "A's" acquisition is not exempt as an acquisition in the ordinary course of business. However, the acquisition will not be subject to the notification requirements if the acquisition price or fair market value of the store's assets does not exceed $15 million.

2. "A," a manufacturer of airplane engines, agrees to pay $20 million to "B," a manufacturer of airplane parts, for certain new engine components to be used in the manufacture of airplane engines. The acquisition is exempt under § 802.1(b) as new goods as well as under § 802.1(c)(3) as current supplies.

3. "A," a power generation company, proposes to purchase from "B," a coal company, $25 million of coal under a long-term contract for use in its facilities to supply electric power to a regional public utility and steam to several industrial sites. This transaction is exempt under § 802.1(c)(2) as an acquisition of current supplies. However, if "A" proposed to purchase coal reserves rather than enter into a contract to acquire output of a coal mine, the acquisition would not be exempt as an acquisition of goods in the ordinary course of business. The acquisition may still be exempt pursuant to § 802.3(b) as an acquisition of reserves of coal if the requirements of that section are met.

4. "A," a national producer of canned fruit, preserves, jams and jellies, agrees to purchase from "B" for $25 million a total of 10,000 acres of orchards and vineyards in several locations throughout the U.S. "A" plans to harvest the fruit from the acreage for use in its canning operations. The acquisition is not exempt under § 802.1 because orchards and vineyards are real property, not "goods." If, on the other hand, "A" had contracted to acquire from "B" the fruit and grapes harvested from the orchards and vineyards, the acquisition would qualify for the exemption as an acquisition of current supplies under § 802.1(c)(3). Although the transfer of orchards and vineyards is not exempt under § 802.1, the acquisition would be exempt under § 802.2(g) as an acquisition of agricultural property.

5. "A," a railcar leasing company, will purchase $20 million of new railcars from a railcar manufacturer in order to expand its existing fleet of cars available for lease. The transaction is exempt under § 802.1(b) as an acquisition of new goods and § 802.1(c), as an acquisition of current supplies. If "A" subsequently sells the railcars to "C", a commercial railroad company, that acquisition would be exempt under § 802.1(d)(2), provided that "A" acquired and held the railcars solely for resale or leasing to an entity not within itself.

6. "A," a major oil company, proposes to sell two of its used oil tankers for $15.5 million to "B," a dealer who purchases oil tankers from the major U.S. oil companies. "B's" acquisition of the used oil tankers is exempt under § 802.1(d)(1) provided that "B" is actually acquiring beneficial ownership of the used tankers and is not acting as an agent of the seller or purchaser.

7. "A," a cruise ship operator, plans to sell for $18 million one of its cruise ships to "B," another cruise ship operator. "A" has, in good faith, executed a contract to acquire a new cruise ship with substantially the same capacity from a ship builder. The contract specifies that "A" will receive the new cruise ship within one month after the scheduled date of the sale of its used cruise ship to "B." Since "B" is acquiring a used durable good that "A" has contracted to replace within six months of the sale, the acquisition is exempt under § 802.1(d)(3).

8. "A," a luxury cruise ship operator, proposes to sell to "B," a credit company engaged in the ordinary course of its business in lease financing transactions, its fleet of six passenger ships under a 10-year sale/leaseback arrangement. That acquisition is exempt pursuant to § 802.1(d)(1), used durable goods acquired for leasing purposes. The acquisition is also exempt under § 802.63(a) as a bona fide credit transaction entered into in the ordinary course of "B's" business. "B" now proposes to sell the ships, subject to the current lease financing arrangement, to "C," another lease financing company. This transaction is exempt under § 802.1(d)(1) and § 802.1(d)(2).

9. Three months ago "A," a manufacturing company, acquired several new machines that will replace equipment on one of its production lines. "A's" capacity to produce the same products increased modestly when the integration of the new equipment was completed. "B," a manufacturing company that produces products similar to those produced by "A," has entered into a contract to acquire for $18 million the machinery that "A" replaced. Delivery of the equipment by "A" to "B" is scheduled to occur within thirty days. Since "A" purchased new machinery to replace the productive capacity of the used equipment, which it sold within six months of the purchase of the new equipment, the acquisition by "B" is exempt under § 802.1(d)(3).

10. "A" will sell to "B" for $16 million all of the equipment "A" uses exclusively to perform its billing requirements. "B" will use the equipment to provide "A's" billing needs pursuant to a contract which "A" and "B" executed 30 days ago in conjunction with the equipment purchase agreement. Although the assets "B" will acquire make up essentially all of the assets of one of "A's" management and administrative support services divisions, the acquisition qualifies for the exemption under § 802.1(d)(4) because a company's internal management and administrative support services, however organized, are not an operating unit as defined by § 802.1(a). Management and administrative support services are not a "business undertaking" as that term is used

in § 802.1(a). Rather, they provide support and benefit to the company's operating units and support the company's business operations. However, if the assets being sold also derived revenues from providing billing services for third parties, then the transfer of these assets would not be exempt under § 802.1(d)(4), since the equipment is not being used solely to provide management and administrative support services to "A".

11. "A," a manufacturer of pharmaceutical products, and "B" have entered into a contract under which "B" will provide all of "A's" research and development needs. Pursuant to the contract, "B" will also purchase all of the equipment that "A" formerly used to perform its own research and development activities. The sale of the equipment is not an exempt transaction under § 802.1(d)(3) because "A" is not replacing the productive capacity of the equipment being sold. The sale is also not exempt under § 802.1(d)(4), because functions such as research and development and testing are not management and administrative support services of a company but are integral to the design, development or production of the company's products.

12. "A," an automobile manufacturer, is discontinuing its manufacture of metal seat frames for its cars. "A" enters into a contract with "B," a manufacturer of various fabricated metal products, to sell its seat frame production lines and to purchase from "B" all of its metal seat frame needs for the next five years. This transfer of productive capacity by "A" is not exempt pursuant to § 802.1(d)(3), since "A" is not replacing the productive capacity of the equipment being sold. The acquisition is also not exempt under § 802.1(d)(4). "A's" sale of production lines is not the transfer of goods that provide management and administrative services to support the business operations of "A"; this manufacturing equipment is an integral part of "A's" production operations.

3. Part 802 is amended by adding Sections 802.2, 802.3, 802.4 and 802.5 to read as follows:

§ 802.2 Certain acquisitions of real property assets.

(a) *New facilities.* An acquisition of a new facility shall be exempt from the requirements of the act. A new facility is a structure that has not produced income and was either constructed by the acquired person for sale or held at all times by the acquired person solely for resale. The new facility may include realty, equipment or other assets incidental to the ownership of the new facility. In an acquisition that includes a new facility, the transfer of any other assets shall be subject to the requirements of the act and these rules as if they were being acquired in a separate acquisition.

(b) *Used facilities.* An acquisition of a used facility shall be exempt from the requirements of the act if the facility is acquired from a lessor that has held title to the facility for financing purposes in the ordinary course of the lessor's business by a lessee that has had sole and continuous possession and use of the facility since it was first built as a new facility. The used facility may include realty, equipment or other assets associated with the operation of the facility. In an acquisition that includes a used facility that meets the requirements of this paragraph, the transfer of any other assets shall be subject to the requirements of the act and these rules as if they were acquired in a separate transaction.

(c) *Unproductive real property.* An acquisition of unproductive real property shall be exempt from the requirements of the act. In an acquisition that includes unproductive real property, the transfer of any assets that are not unproductive real property shall be subject to the requirements of the act and these rules as if they were being acquired in a separate acquisition.

(1) Subject to the limitations of (c)(2), unproductive real property is any real property, including raw land, structures or other improvements (but excluding equipment), associated production and exploration assets as defined in § 802.3(c), natural resources and assets incidental to the ownership of the real property, that has not generated total revenues in excess of $5 million during the thirty-six (36) months preceding the acquisition.

(2) Unproductive real property does not include the following:

(i) Manufacturing or non-manufacturing facilities that have not yet begun operation;

(ii) Manufacturing or non-manufacturing facilities that were in operation at any time during the twelve (12) months preceding the acquisition; and

(iii) Real property that is either adjacent to or used in conjunction with real property that is not unproductive real property and is included in the acquisition.

(d) *Office and residential property.*

(1) An acquisition of office or residential property shall be exempt from the requirements of the act. In an acquisition that includes office or residential property, the transfer of any assets that are not office or residential property shall be subject to the requirements of the act and these rules as if such assets were being transferred in a separate acquisition.

(2) Office and residential property is real property that is used primarily for office or residential purposes. In determining whether real property is used primarily for office or residential purposes, all real property, the acquisition of which is exempt under another provision of the act and these rules, shall be excluded from the determination. Office and residential property includes:

(i) Office buildings,

(ii) Residences,

(iii) Common areas on the property, including parking and recreational facilities, and

(iv) Assets incidental to the ownership of such property, including cash, prepaid taxes or insurance, rental receivables and the like.

(3) If the acquisition includes the purchase of a business conducted on the office and residential property, the transfer of that business, including the space in which the business is conducted, shall be subject to the requirements of the act and these rules as if such business were being transferred in a separate acquisition.

(e) *Hotels and motels.*

(1) An acquisition of a hotel or motel, its improvements such as golf, swimming, tennis, restaurant, health club or parking facilities (but excluding ski facilities), and assets incidental to the ownership and operation of the hotel or motel (*e.g.*, prepaid taxes or insurance, management contracts and licenses to use trademarks associated with the hotel or motel being acquired) shall be exempt from the requirements of the act. In an acquisition that includes a hotel or motel, the transfer of any assets that are not a hotel or motel, its improvements such as golf, swimming, tennis, restaurant, health club or parking facilities (but excluding ski facilities) and assets incidental to the ownership of the hotel or motel, shall be subject to the requirements of the act and these rules as if they were being acquired in a separate acquisition.

(2) Notwithstanding paragraph (1) of the section, an acquisition of a hotel or motel that includes a gambling casino shall be subject to the requirements of the act and these rules.

(f) *Recreational land.* An acquisition of recreational land shall be exempt from the requirements of the act. Recreational land is real property used primarily as a golf course or a swimming or tennis club facility, and assets incidental to the ownership of such property. In an acquisition that includes recreational land, the transfer of any property or assets that are not recreational land shall be subject to the requirements of the act and these rules as if they were being acquired in a separate acquisition.

(g) *Agricultural property.* An acquisition of agricultural property, assets incidental to the ownership of such property and associated agricultural assets shall be exempt from the requirements of the act. Agricultural property is real property and assets that primarily generate revenues from the production of crops, fruits, vegetables, livestock, poultry, milk and eggs (activities within SIC Major Groups 01 and 02).

(1) Associated agricultural assets are assets integral to the agricultural business activities conducted on the property. Associated agricultural assets include, but are not limited to, inventory (*e.g.*, livestock, poultry, crops, fruit, vegetables, milk, eggs); structures that house livestock raised on the real property; and fertilizer and animal feed. Associated agricultural assets do not include processing facilities such as poultry and livestock slaughtering, processing and packing facilities.

(2) Agricultural property does not include any real property and assets either adjacent to or used in conjunction with processing facilities that are included in the acquisition.

(3) In an acquisition that includes agricultural property, the transfer of any assets that are not agricultural property, assets incidental to the ownership of such property or associated agricultural assets shall be subject to the requirements of the act and these rules as if such assets were being transferred in a separate acquisition.

(h) *Retail rental space; warehouses.* An acquisition of retail rental space (including shopping centers) or warehouses and assets incidental to the ownership of retail rental space or warehouses shall be exempt from the requirements of the act, except when the retail rental space or warehouse is to be acquired in an acquisition of a business conducted on the real property. In an acquisition that includes retail rental space or warehouses, the transfer of any assets that are neither retail rental space nor warehouses shall be subject to the requirements of the act and these rules as if such assets were being transferred in a separate acquisition.

Examples. 1. "A," a major automobile manufacturer, builds a new automobile plant in anticipation of increased demand for its cars. The market does not improve and "A" never occupies the facility. "A" then sells the facility, which is fully equipped and ready for operation, to "B," another automobile manufacturer. The acquisition of this plant, including any equipment and assets associated with its operation, is not exempt as an acquisition of a new facility, even though the facility has not produced any income, since "A" did not construct the facility for sale or hold it at all times solely for resale. Also, the acquisition is not exempt as an acquisition of unproductive property, because manufacturing facilities that have not yet begun operations are explicitly excluded from that exemption.

2. B, a subsidiary of "A," a financial institution, acquired a newly constructed power plant, which it leased to "X" pursuant to a lease financing arrangement. "A's" acquisition of the plant through B was exempt under § 802.63(a) as a bona fide credit transaction entered into in the ordinary course of "A's" business. "X" operated the plant as sole lessee for the next eight years and now proposes to exercise an option to buy the plant for $62 million. "X's" acquisition of the plant is exempt pursuant to § 802.2(b). The plant is being acquired from B, the lessor, which held title to the plant for financing purposes, and the purchaser, "X," has had sole and continuous possession and use of the plant since its construction.

3. "A" proposes to acquire a $100 million tract of wilderness land from "B." Copper deposits valued at $17 million and timber reserves valued at $20 million are situated on the land and will be conveyed as part of this transaction. During the last three fiscal years preceding the sale, the property generated $50,000 from the sale of a small amount of timber cut from the reserves two years ago. "A's" acquisition of the wilderness land from "B" is exempt as an acquisition of unproductive real property because the property did not generate revenues exceeding $5 million during the thirty-six months preceding the acquisition. The copper deposits and timber reserves are by definition unproductive real property and, thus, are not separately subject to the notification requirements.

4. "A" proposes to purchase from "B" for $40 million an old steel mill that is not currently operating to add to "A's" existing steel production capacity. The mill has not generated revenues during the 36 months preceding the acquisition but contains equipment valued at $16 million that "A" plans to refurbish for use in its operations. "A's" acquisition of the mill and the land on which it is located is exempt as unproductive real property. However, the transfer of the equipment and any assets other than the unproductive property is not exempt and is separately subject to the notification requirements of the act.

5. "A" proposes to purchase two downtown lots, Parcels 1 and 2, from "B" for $40 million. Parcel 1, located in the southwest section, contains no structures or improvements. A hotel is located in the northeast section on Parcel 2, and it has generated $9 million in revenues during the past three years. The purchase of Parcel 1 is exempt if it qualifies as unproductive real property, *i.e.*, it has not generated annual revenues in excess of $5 million in the three fiscal years prior to the acquisition. Parcel 2 is not unproductive real property, but its acquisition is exempt under § 802.2(e) as the acquisition of a hotel.

6. "A" plans to purchase from "B," a manufacturer, a newly-constructed building that "B" had intended to equip for use in its manufacturing operations. "B" was unable to secure financing to purchase the necessary equipment and "A", also a manufacturer, will be required to invest approximately $50 million in order to equip the building for use in its production operations. This building is not a new facility under § 802.2 (a), because it was not constructed or held by "B" for sale or resale. However, the acquisition of the building qualifies for exemption as unproductive real property pursuant to § 802.2(c)(1). The building is not yet a manufacturing facility since it does not contain equipment and requires significant capital investment before it can be used as a manufacturing facility.

7. "A" proposes to purchase from "B," for $20 million, a 100 acre parcel of land that includes a currently operating factory occupying 10 acres. The other 90 adjoining acres are vacant and unimproved and are used by "B" for storage of supplies and equipment. The factory and the unimproved acreage have fair market values of $12 million and $8 million, respectively. The transaction is not exempt under § 802.2(c) because the vacant property is adjacent to property occupied by the operating factory. Moreover, if the 90 acres were not adjacent to the 10 acres occupied by the factory, the transaction would not be exempt because the 90 acres are being used in conjunction with the factory being acquired and thus is not unproductive property.

8. "X" proposes to buy a five-story building from "Y." The ground floor of this building houses a department store, and "X" currently leases the third floor to operate a medical laboratory. The remaining three floors are used for offices. "X" is not acquiring the business of the department store. Because the ground floor is rental retail space, the acquisition of which is exempt under § 802.2(h), this part of the building is excluded from the determination of whether the building is used primarily for office purposes. The laboratory is therefore the only non-office use, and, since it makes up 25 percent of the remainder of the building, the building is used 75 percent for offices. Thus the building qualifies as an office building and its acquisition is therefore exempt under § 802.2(d).

9. "A" intends to acquire three shopping centers from "B" for a total of $80 million. The anchor stores in two of the shopping centers are department stores, the businesses of which "A" is buying from "B" as part of the overall transaction. The acquisition of the shopping centers is an acquisition of retail rental space that is exempt under § 802.2(h). However, "A's" acquisition of the department store business, including the portion of the shopping centers that the two department stores being purchased occupy, are separately subject to the notification requirements. If the value of these assets exceeds $15 million, "A" must comply with the requirements of the act for this part of the transaction.

10. "A" wishes to purchase from "B" a parcel of land for $30 million. The parcel contains a race track and a golf course. The golf course qualifies as recreational land pursuant to § 802.2(f), but the race track is not included in the exemption. Therefore, if the value of the race track is more than $15 million, "A" will have to file notification for the purchase of the race track.

11. "A" intends to purchase a poultry farm from "B." The acquisition of the poultry farm is a transfer of agricultural property that is

exempt pursuant to § 802.2(g). If, however, "B" has a poultry slaughtering and processing facility on his farm that is included in the acquisition, "A's" acquisition of the farm is not exempt as an acquisition of agricultural property because agricultural property does not include property or assets adjacent to or used in conjunction with a processing facility that is included in an acquisition.

12. "A" proposes to purchase the prescription drug wholesale distribution business of "B" for $50 million. The business includes six regional warehouses used for "B's" national wholesale drug distribution business. Since "A" is acquiring the warehouses in connection with the acquisition of "B's" prescription drug wholesale distribution business, the acquisition of the warehouses is not exempt.

§ 802.3 Acquisitions of carbon-based mineral reserves.

(a) An acquisition of reserves of oil, natural gas, shale or tar sands, or rights to reserves of oil, natural gas, shale or tar sands together with associated exploration or production assets shall be exempt from the requirements of the act if the value of the reserves, the rights and the associated exploration or production assets to be held as a result of the acquisition does not exceed $500 million. In an acquisition that includes reserves of oil, natural gas, shale or tar sands, or rights to reserves of oil, natural gas, shale or tar sands and associated exploration or production assets, the transfer of any other assets shall be subject to the requirements of the act and these rules as if they were being acquired in a separate acquisition.

(b) An acquisition of reserves of coal, or rights to reserves of coal and associated exploration or production assets, shall be exempt from the requirements of the act if the value of the reserves, the rights and the associated exploration or production assets to be held as a result of the acquisition does not exceed $200 million. In an acquisition that includes reserves of coal, rights to reserves of coal and associated exploration or production assets, the transfer of any other assets shall be subject to the requirements of the act and these rules as if they were being acquired in a separate acquisition.

(c) Associated exploration or production assets means equipment, machinery, fixtures and other assets that are integral and exclusive to current or future exploration or production activities associated with the carbon-based mineral reserves that are being acquired. Associated exploration or production assets do not include the following:

(1) Any pipeline and pipeline system or processing facility which transports or processes oil and gas after it passes through the meters of a producing field located within reserves that are being acquired; and

(2) Any pipeline or pipeline system that receives gas directly from gas wells for transportation to a natural gas processing facility or other destination.

Examples: 1. "A" proposes to purchase from "B" for $550 million gas reserves that are not yet in production and have not generated any income. "A" will also acquire from "B" for $280 million producing oil reserves and associated assets such as wells, compressors, pumps and other equipment. The acquisition of the gas reserves is exempt as a transfer of unproductive property under § 802.2(c). The acquisition of the oil reserves and associated assets is exempt pursuant to § 802.3(a), since the value of the reserves and associated assets does not exceed the $500 million limitation.

2. "A," an oil company, proposes to acquire for $180 million oil reserves currently in production along with field pipelines and treating and metering facilities which serve such reserves exclusively. The acquisition of the reserves and the associated assets are exempt. "A" will also acquire from "B" for $16 million a natural gas processing plant and its associated gathering pipeline system. This acquisition is not exempt since § 802.3(c) excludes these assets from the exemption in § 802.3 for transfers of associated exploration or production assets.

3. "A," an oil company, proposes to acquire a coal mine currently in operation and associated production assets for $90 million from "B," an oil company. "A" will also purchase from "B" producing oil reserves valued at $100 million and an oil refinery valued at $13 million. The acquisition of the coal mine and the oil reserves is exempt pursuant to § 802.3. Although § 802.3(c) excludes the refinery from the exemption in § 802.3 for transfers of associated exploration and production assets, "A's" acquisition of the refinery is not subject to the notification requirements of the act because its value does not exceed $15 million.

4. "X" proposes to acquire from "Z" coal reserves which, together with associated exploration assets, are valued at $230 million. Since the value of the reserves and the assets exceeds the $200 million limitation in § 802.3(b), this transaction is not exempt under § 802.3. However, if the coal reserves qualify as unproductive property under the requirements of § 802.2(c), their acquisition, along with the acquisition of their associated assets, would be exempt.

§ Section 802.4 Acquisitions of voting securities of issuers holding certain assets the direct acquisition of which is exempt.

(a) An acquisition of voting securities of an issuer whose assets together with those of all entities it controls consist or will consist of assets whose purchase would be exempt from the requirements of the act pursuant to section 7A(c)(2) of the act, § 802.2, § 802.3 or § 802.5 of these rules is exempt from the reporting requirements if the acquired issuer and all entities it controls do not hold other non-exempt assets with an aggregate fair market value of more than $15 million.

(b) As used in paragraph (a) of this section, "issuer" means a single issuer, or two or more issuers controlled by the same acquired person.

(c) In connection with paragraph (a) of this section and § 801.15 (b), the value of the assets of an issuer whose voting securities are being acquired pursuant to this section shall be the fair market value, determined in accordance with § 801.10(c).

Examples: 1. "A," a real estate investment company, proposes to purchase 100 percent of the voting securities of C, a wholly-owned subsidiary of "B," a construction company. C's assets are a newly constructed, never occupied hotel, including fixtures, furnishings and insurance policies. The acquisition of the hotel would be exempt under § 802.2(a) as a new facility and under § 802.2(d). Therefore, the acquisition of the voting securities of C is exempt pursuant to § 802.4(a) since C holds assets whose direct purchase would be exempt under § 802.2 and does not hold non-exempt assets exceeding $15 million in value.

2. "A" proposes to acquire 60 percent of the voting securities of C from "B." C's assets consist of a portfolio of mortgages valued at $20 million and a small manufacturing plant valued at $6 million. The manufacturing plant is an operating unit for purposes of § 802.1(a). Since the acquisition of the mortgages would be exempt pursuant to section 7A(c)(2) of the act and since the value of the non-exempt manufacturing plant is less than $15 million, this acquisition is exempt under § 802.4(a).

3. "A" proposes to acquire from "B" 100 percent of the voting securities of each of three issuers, M, N and O, simultaneously. M's assets consist of oil reserves worth $160 million and coal reserves worth $40 million. N has assets consisting of $130 million of gas reserves and $100 million of coal reserves. O's assets are oil shale reserves worth $140 million and a coal mine worth $80 million. Since "A" is simultaneously acquiring the voting securities of three issuers from the same acquired person, it must aggregate the assets of the issuers to determine if any of the limitations in § 802.3 is exceeded. As a result of aggregating the assets of M, N and O, "A's" holdings of oil and gas reserves are below the $500 limitation for such assets in § 802.3(a). However, the aggregated holdings exceed the $200 million limitation for coal reserves in § 802.3(b). "A's" acquisition therefore is not exempt, and it must report the entire transaction.

§ 802.5 Acquisitions of investment rental property assets.

(a) Acquisitions of investment rental property assets shall be exempt from the requirements of the act.

(b) Investment rental property assets. "Investment rental property assets" means real property that will not be rented to entities included within the acquiring person except for the sole purpose of maintaining, managing or supervising the operation of the real property, and will be held solely for rental or investment purposes. In an acquisition that includes investment rental property assets, the transfer of any property or assets that are not investment rental property assets shall be subject to the requirements of the act and these rules as if they were being acquired in a separate transaction. Investment rental property assets include:

(1) Property currently rented,

(2) Property held for rent but not currently rented,

(3) Common areas on the property, and

(4) Assets incidental to the ownership of property, which may include cash, prepaid taxes or insurance, rental receivables and the like.

Example: 1. "X", a corporation, proposes to purchase a sports/entertainment complex which it will rent to professional sports teams and promoters of special events for concerts, ice shows, sporting events and other entertainment activities. "X" will provide office space in the complex for "Y", a management company which will maintain and manage the facility for "X." This acquisition is an exempt acquisition of investment rental property assets since "X" intends to rent the facility to third parties and is providing space within the facility to a management company solely to maintain, manage or supervise the operation of the facility on its behalf. If, however, "X" controls Z, a concert promoter to whom it also intends to rent the complex, the acquisition would not be exempt under § 802.5, since the property would not meet the requirements of § 802.5(b)(1).

2. "X" intends to buy from "Y" a development commonly referred to as an industrial park. The industrial park contains a warehouse/distribution center, a retail tire and automobile parts store, an office building, and a small factory. The industrial park also contains several parcels of vacant land. If "X" intends to acquire this industrial park as investment rental property, the acquisition will be exempt pursuant to § 802.5. If, however, "X" intends to use the factory for its own manufacturing operations, this exemption would be unavailable. The exemptions in § 802.2 for warehouses, rental retail space, office buildings, and undeveloped land may still apply and, if the value of the factory is $15 million or less, the entire transaction may be exempted by that section.

By direction of the Commission,

Donald S. Clark,

Secretary.

[FR Doc. 96-7529 Filed 3-27-96; 8:45 am]

BILLING CODE 6750-01-P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release No. 34-37022; File No. S7-40-92]

RIN 3235-AF91

Rules of Practice

AGENCY: Securities and Exchange Commission.

ACTION: Final rule; Correction.

SUMMARY: This document contains a correction to the final regulations which were published on June 23, 1995 (60 FR 32738). These regulations relate to the Commission's procedural rules that govern administrative proceedings.

EFFECTIVE DATE: July 24, 1995.

FOR FURTHER INFORMATION CONTACT: Frances R. Sienkiewicz, Office of the Secretary, 202-942-7072.

SUPPLEMENTARY INFORMATION: The Rules of Practice that are the subject of this correction are the procedural rules that govern administrative proceedings.

Correction of Publication

Accordingly, the publication on June 23, 1995 of the Rules of Practice, which were the subject of FR Doc. No. 95-14750, is corrected as follows:

1. On page 32794, in column one, amendment 7 is revised to read:

§ 200.30-7 [Corrected]

7. In § 200.30-7, in paragraph (a)(3), remove the words "Rule 13 of the Commission's rules of practice, § 201.13" and in their place, add the words "Rule 161 of the Commission's Rules of Practice, § 21.161", and in paragraph (a)(4), remove the words "§ 201.13" and in their place, add the words "Rule 161 of the Commission's Rules of Practice, § 201.161".

Dated: March 25, 1996.

Jonathan G. Katz,

Secretary.

[FR Doc. 96-7537 Filed 3-27-96; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[DEA No. 148-I]

Exempt Chemical Preparations

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Interim Rule and Request for Comments.

SUMMARY: This interim rule amends the list of exempt chemical preparations set forth in section 1308.24(i) of Title 21 of the Code of Federal Regulations. This action is in response to DEA's periodic review of the exempt chemical preparation list and of new applications for exemptions which have been approved by DEA. This action is being done by interim rule because prior notice is unnecessary. The list contains preparations which have already been exempted from the application of specific provisions of the Comprehensive Drug Abuse Prevention and Control Act of 1970, and from certain Drug Enforcement Administration Regulations.

EFFECTIVE DATE: March 28, 1996. Comments must be submitted on or before May 28, 1996.

ADDRESSES: Comments and objections should be submitted to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537; Attention: Federal Register Representative/CCR.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug & Chemical Evaluation Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 307-7183.

SUPPLEMENTARY INFORMATION: The Controlled Substances Act as amended by the Dangerous Drug Diversion Control Act of 1984 authorizes the Attorney General in accordance with 21, U.S.C. 811 (g)(3)(B) to exempt from specific provisions of the Act, a compound, mixture, or preparation which contains any controlled substance, which is not for administration to a human being or animal and which is packaged in such form or concentration, or with adulterants or denaturants, so that, as packaged, it does not present any significant potential for abuse. This authority has been delegated to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, 28 CFR 0.104.

The Deputy Assistant Administrator has received applications pursuant to section 1308.23 of Title 21 of the Code of Federal Regulations requesting approval of exempt status provided for in 21 CFR 1308.24. The Deputy Assistant Administrator has found that each of the following preparations and mixtures is intended for laboratory, industrial, educational, or special research purposes, is not intended for general administration to man or animal, and either (a) contains no narcotic controlled substances and is

packaged in such a form or concentration that the packaged quantity does not present any significant potential for abuse, (b) contains either a narcotic or non-narcotic controlled substance and one or more adulterating or denaturing agents in such a manner, combination, quantity, proportion, or concentration that the preparation or mixture does not present any potential for abuse, or (c) the formulation of such preparation or mixture incorporates methods of denaturing or other means so that the controlled substance cannot in practice be removed, and therefore the preparation or mixture does not present any significant potential for abuse. The Deputy Assistant Administrator has found that exemption of the following chemical preparations and mixtures is consistent with the public health and safety as well as the needs of the researchers, chemical analysts, and suppliers of these products.

The listing of products in 21 CFR 1308.24(i) may exempt persons who handle them from application of sections 302, 303, 305, 306, 307, 308, 309, 1002, 1003, and 1004 of the Act and section 1301.74 of the regulations. The Deputy Assistant Administrator hereby certifies that these matters will have no significant impact upon small businesses or other entities within the meaning and intent of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. Accordingly, the Deputy Assistant Administrator certifies this action will have no impact on the ability of small businesses to compete and he therefore determines that no regulatory flexibility analysis is required.

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this matter does not have sufficient federalism implications to require the preparation of a Federalism Assessment.

The Office of Management and Budget (OMB) has determined that listings of exempt chemical preparations are exempt from centralized review under Executive Order 12866.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

Under the authority vested in the Attorney General by section 202(d) of the Act (21 U.S.C. 811 (g)(3)(B)) and delegated to the Administrator of the Drug Enforcement Administration by regulations of the Department of Justice (28 CFR Part 0.100), and redelegated to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, the Deputy Assistant Administrator hereby amends 21 CFR Part 1308 as set forth below.

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

1. The authority citation for 21 CFR part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b) unless otherwise noted.

2. In § 1308.24(i), the table is revised to read as follows:

§ 1308.24 Exempt Chemical Preparations.

* * * * *

(i) * * *

EXEMPT CHEMICAL PREPARATIONS

Supplier	Product name	Form	Date
Aalto Scientific, LTD	Therapeutic Drug Monitoring Control Level I, II, III Freeze Dried.	Vial: 5ml	4/09/91
Abbott Laboratories	125I Cholylglycyltyrosine Reagent Solution, No. 7816	Plastic Bottle: 20ml	4/07/78
Abbott Laboratories	ADx Benzoylecgonine Fluorescein Tracer Solution	Bottle: 3.2 ml	12/02/86
Abbott Laboratories	ADx Cannabinoids Fluorescein Tracer Solution	Bottle: 3.2ml	12/02/86
Abbott Laboratories	ADx Cannabinoids Reagent Pack (No. 9671-55)	Reagent Pack: 50 tests	12/02/86
Abbott Laboratories	ADx Cocaine Metabolite Fluorescein Tracer Solution, No. 9670-T, No. 9670T0013.	Vial: 3.2ml, Kit: 100 vials	4/18/89
Abbott Laboratories	ADx Cocaine Metabolite Reagent Pack, No. 9670-55	50 Test Unit	4/18/89
Abbott Laboratories	ADx Opiates Fluorescein Tracer Solution, No. 9673-T, No. 9673T0013.	Vial: 3.2ml, Kit: 100 vials	4/18/89
Abbott Laboratories	ADx Opiates Reagent Pack, No. 9673-55	50 Test Unit	4/18/89
Abbott Laboratories	ADx Propoxyphene Fluorescein Tracer Solutions Item No. 9675T0011.	Box: 100 bottles or less	11/30/90
Abbott Laboratories	ADx Propoxyphene Reagent Pack Item No.9675-55	Kit: 50 test	11/30/90
Abbott Laboratories	Advisor (4 Track); Code 9A18-21	Kit: 40 Discs	3/25/94
Abbott Laboratories	Advisor Cannabinoids Bulk Tracer No.76224	Flasks: 6L, 4L, 2L, 1L, 500ml, 250ml, 200ml, 100ml; Bottles: 950ml, 500ml, 100ml, 50ml, 5ml; Amp: 20ml, 10ml, 5ml, 2ml.	4/10/92
Abbott Laboratories	Advisor Card & Cover No.07A15	Box: 2000 Cards	4/10/92
Abbott Laboratories	Advisor Card & Tracer No.07A14	Box: 2000 Cards	4/10/92
Abbott Laboratories	Advisor Card with Cover; Code # 05B08	Box: 2000 Cards	3/25/94
Abbott Laboratories	Advisor Card with Tracer; Code # 05B07	Box: 2000 Cards	3/25/94
Abbott Laboratories	Advisor Cocaine Bulk Tracer (in-process) No.77458A	Flasks: 6L, 4L, 2L, 1L, 500ml, 250ml, 200ml, 100ml; Bottles: 950ml, 500ml, 100ml, 50ml, 5ml; Amp: 20ml, 10ml, 5ml, 2ml.	6/08/92
Abbott Laboratories	Advisor Cocaine Bulk Tracer No.77458	Flasks: 6L, 4L, 2L, 1L, 500ml, 250ml, 200ml, 100ml; Bottles: 950ml, 500ml, 100ml, 50ml, 5ml; Amp: 20ml, 10ml, 5ml, 2ml.	4/10/92
Abbott Laboratories	Advisor Controls, Code # 6A63-10	Kit: 2 Bottles	1/25/94
Abbott Laboratories	Advisor Drug of Abuse Screening System No.6A60-10	Kit: 10 Discs	4/10/92
Abbott Laboratories	Advisor Drug of Abuse Screening System No.6A60-21	Kit: 40 Discs	4/10/92

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Abbott Laboratories	Advisor Opiates Bulk Tracer (In-process) No.78692A	Flasks: 6L, 4L, 2L, 1L, 500ml, 250ml, 200ml, 100ml; Bottles: 950ml, 500ml, 100ml, 50ml, 5ml; Amp: 20ml, 10ml, 5ml, 2ml.	5/08/92
Abbott Laboratories	Advisor Opiates Bulk Tracer No.78692	Flasks: 6L, 4L, 2L, 1L, 500ml, 250ml, 200ml, 100ml; Bottles: 950ml, 500ml, 100ml, 50ml, 5ml; Amp: 20ml, 10ml, 5ml, 2ml.	4/10/92
Abbott Laboratories	Advisor Positive Control, Bulk, Code # 82979	Carboy: 50, 45, 20, 10L; Flask: 6, 4, 2, 1L; 500, 250, 200, 125, 100, 50ml; Bottle: 8, 4, 2, 1L; 500, 250, 125, 50, 30, 10, 5ml.	1/25/94
Abbott Laboratories	Advisor Positive Control, Code # 6A63P	Bottle: 5ml	1/25/94
Abbott Laboratories	Advisor Positive Control, In-Process, Code # 6A63P001	Box: 100 Bottles	1/25/94
Abbott Laboratories	Advisor Reaction Disc No.6A60B	Disc: 1 Card	4/10/92
Abbott Laboratories	Advisor Reaction Discs (4 Track); Code # 9A18	inner Carton: 20 Discs	3/25/94
Abbott Laboratories	Advisor Reaction Discs No.6A60	Carton: 20 Discs	4/10/92
Abbott Laboratories	Amphetamine Bulk Calibrators, B-F	Carboy: 10L Flask: 6L, 2L, 1L, 250ml, 200ml.	10/09/85
Abbott Laboratories	Amphetamine Bulk Controls, L and H	Flask: 2 liter	12/09/85
Abbott Laboratories	Amphetamine Class Bulk Calibrator B-F	50L, 45L, 20L, 10L, 8L, 6L, 4L, 2L, 1L, 500ml, 250ml, 200ml, 125ml, 100ml, 50ml, 30ml, 20ml, 15ml, 10ml, 5ml, 2ml.	3/01/88
Abbott Laboratories	Amphetamine Class Bulk Control L and H	50L, 45L, 20L, 10L, 8L, 6L, 4L, 2L, 1L, 500ml, 250ml, 200ml, 125ml, 100ml, 50ml, 30ml, 20ml, 15ml, 5ml, 2ml.	3/01/88
Abbott Laboratories	Amphetamine Class Bulk Tracer: No. 94699	50L, 45L, 20L, 10L, 8L, 6L, 4L, 2L, 1L, 500ml, 250ml, 200ml, 125ml, 100ml, 50ml, 30ml, 20ml, 15ml, 10ml, 5ml, 2ml.	3/01/88
Abbott Laboratories	Amphetamine Class QC Primary B–F, L, M, H No. 9667 (B–F, L, M, H) QC.	Carboy: 10L Flask: 4L, 2L, 1L, 500 ml, 250 ml, 200 ml, 100 ml Bottle: 5ml.	11/22/88
Abbott Laboratories	Amphetamine Class Stock Tracer: No. 94700	Bottle: 30 ml	3/01/88
Abbott Laboratories	Amphetamine Stock Standard No. 97072, 97072 A–B	Carboy: 20L, 10L Flask: 4L, 2L, 1L, 500 ml, 250 ml, 200 ml, 100 ml Bottle: 950ml, 500ml, 100ml, 5ml.	11/22/88
Abbott Laboratories	Amphetamine Stock Standard, No. 97072	Bottle: 125ml	9/30/85
Abbott Laboratories	Amphetamine/ Methamphetamine II Controls (L, M, H) No. 1A99–L, M, H.	5 ML Vial	8/26/88
Abbott Laboratories	Amphetamine/ Methamphetamine II Controls No. 1A99–10	Kit: 3 Vials	8/26/88
Abbott Laboratories	Amphetamine/ Methamphetamine QC Primary B–F, L, M, H No. 9668 (B–F, L, M, H) QC.	Carboy: 10L Flask: 4L, 2L, 1L, 500 ml, 250 ml, 200 ml, 100 ml Bottle: 5ml.	11/22/88
Abbott Laboratories	Amphetamine/ Methamphetamine QC Primary Standard Control M, No. 9668–M.	Bottle: 5 ml	11/10/87
Abbott Laboratories	Amphetamine/Metamphetamine QC Primary Bulk Control M, No. 9668–M.	Flasks: 1 liter, 250 ml, and 200 ml.	11/10/87
Abbott Laboratories	Amphetamine/Methamphetamine (II) QC Primary B–F, L, M, H No. 1A99 (B–F, L, M, H) QC.	Carboy: 10L Flask: 4L, 2L, 1L, 500 ml, 250 ml, 200 ml, 100 ml Bottle: 5ml.	11/22/88
Abbott Laboratories	Amphetamine/Methamphetamine II Bulk Calibrator B, C, D, E, F; No. 01A99–B, C, D, E, F.	Carboy: 20L, 10L, 6L, 2L, 1L, 250ml, 200ml.	7/14/89
Abbott Laboratories	Amphetamine/Methamphetamine II Bulk Calibrators B–F Code No. 1A99 (B–F).	50L, 45.5L, 20 L, 19L, 13.25L, 13L, 10 L, 9.5L, 9L Carboy; 6 L, 4L, 2 L, 1 L, 250 ml, 200 ml Flask.	8/26/88
Abbott Laboratories	Amphetamine/Methamphetamine II Bulk Control L, M, H, ; No. 01A99–L, M, H.	Carboy: 20L, 10L, Flask: 6L, 2L, 1L, 250ml, 200ml.	7/14/89
Abbott Laboratories	Amphetamine/Methamphetamine II Bulk Controls (L, M, H) Code No. 1A99 (L, M, H).	50L, 45.5L, 20 L, 19L, 13.25L, 13L, 10 L, 9.5L, 9L Carboy; 6 L, 4L, 2 L, 1 L, 250 ml, 200 ml Flask.	8/26/88

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Abbott Laboratories	Amphetamine/Methamphetamine II Bulk Controls, No. 1A99X, Y, Z.	Carboy: 20L, 10L, Flask: 6L, 2L, 1L, 250ml, 200ml.	1/19/89
Abbott Laboratories	Amphetamine/Methamphetamine II Bulk Master Calibrator W, 3B27–W.	Carboys: 50, 45, 20, 10L; Flasks: 6, 4, 2, 1L; 500, 250, 200, 125, 100, 50ml.	6/12/95
Abbott Laboratories	Amphetamine/Methamphetamine II Calibrators B–F No. 1A99 B–F.	5 ml Vial	8/26/88
Abbott Laboratories	Amphetamine/Methamphetamine II Control X, Y, Z; No. 1A99–02, 03, 04.	Kit: 100 vials	1/19/89
Abbott Laboratories	Amphetamine/Methamphetamine II Control X, Y, Z; No. 1A99X, Y, Z.	Vial: 5ml	1/19/89
Abbott Laboratories	Amphetamine/Methamphetamine II QC Primary 2–6 QT, NG, CO, PS No. 1A99 2–6 QT–QC & NG/CO/PS–QC.	Carboy: 20, 10L; Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottle: 950, 500, 100, 50, 5ml; Ampule: 20, 10, 5, 2ml.	2/20/91
Abbott Laboratories	Amphetamine/Methamphetamine II QC Primary 8QT No. 1A998QT–QC.	Carboy: 20L, 10L; Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottle: 950, 500, 100, 50, 5ml; Ampule: 20, 10, 5, 2ml.	10/25/91
Abbott Laboratories	AxSYM Amphetamine/Methamphetamine II Master Calibrator 2.	Bottle: 5ml	6/12/95
Abbott Laboratories	AxSYM Amphetamine/Methamphetamine II Master Calibrators, 3B27–30.	Kit: 2 Bottles, 5ml each	6/12/95
Abbott Laboratories	AxSYM Barbiturates II U Master Calibrator 2	Bottle: 5ml	5/10/95
Abbott Laboratories	AxSYM Barbiturates II U Master Calibrators	Kit: 2 Bottles	5/10/95
Abbott Laboratories	AxSYM Benzodiazepines Master Calibrator 2	Bottle: 5ml	5/10/95
Abbott Laboratories	AxSYM Benzodiazepines Master Calibrators	Kit: 2 Bottles	5/10/95
Abbott Laboratories	AxSYM Cannabinoids Fluorescin Tracer; Code 3B28T0001	Bottles: 35, 20, 15ml; Box: 100 vials; Tray: 200vials.	6/02/94
Abbott Laboratories	AxSYM Cannabinoids Master Calibrator 2	Bottle: 5ml	5/10/95
Abbott Laboratories	AxSYM Cannabinoids Master Calibrators	Kit: 2 Bottles	5/10/95
Abbott Laboratories	AxSYM Cannabinoids Reagent Pack	Kit: 100 Tests	7/27/94
Abbott Laboratories	AxSYM Cocaine Metabolite Reagent Pack	Kit: 100 Tests	7/27/94
Abbott Laboratories	AxSYM Cocaine Metabolite Fluorescin Tracer Solution; Code 3B24T0001.	Bottles: 35, 20, 15ml; Box: 100 vials; Tray: 200 vials.	6/02/94
Abbott Laboratories	AxSYM Cocaine Metabolite Master Calibrator 2	Bottle: 5ml	5/10/95
Abbott Laboratories	AxSYM Cocaine Metabolite Master Calibrators	Kit: 2 Bottles	5/10/95
Abbott Laboratories	AxSYM Methadone Master Calibrator 2	Bottle: 5ml	6/12/95
Abbott Laboratories	AxSYM Methadone Master Calibrators, 3B31–30	Kit: 2 Bottles, 5ml each	6/12/95
Abbott Laboratories	AxSYM Opiates Fluorescin Tracer Solution; Code 3B25T0001	Bottles: 35, 20, 15ml; Box: 100 vials; Tray: 200 vials.	6/02/94
Abbott Laboratories	AxSYM Opiates Master Calibrator 2	Bottle: 5ml	5/10/95
Abbott Laboratories	AxSYM Opiates Master Calibrators	Kit: 2 Bottles	5/10/95
Abbott Laboratories	AxSYM Opiates Reagent Pack	Kit: 100 Tests	7/27/94
Abbott Laboratories	AxSYM Phencyclidine Master Calibrator 2	Bottle: 5ml	6/12/95
Abbott Laboratories	AxSYM Phencyclidine Master Calibrators, 3B26–30	Kit: 2 Bottles, 5ml each	6/12/95
Abbott Laboratories	AxSYM Phenobarbital Calibrator B, Code # 7A70–B	Vial: 5ml	1/25/94
Abbott Laboratories	AxSYM Phenobarbital Calibrator C, Code # 7A70–C	Vial: 5ml	1/25/94
Abbott Laboratories	AxSYM Phenobarbital Calibrator D, Code # 7A70–D	Vial: 5ml	1/25/94
Abbott Laboratories	AxSYM Phenobarbital Calibrator E, Code 7A70–E	Vial: 5ml	1/25/94
Abbott Laboratories	AxSYM Phenobarbital Calibrator F, Code 7A70–F	Vial: 5ml	1/25/94
Abbott Laboratories	AxSYM Phenobarbital Calibrators (B–F), Code # 7A70–01	Kit: 6 Vials	1/25/94
Abbott Laboratories	AxSYM Phenobarbital Control H, Code # 7A70–H	Vial: 10ml	1/25/94
Abbott Laboratories	AxSYM Phenobarbital Control M, 7A70–M	Vial: 10ml	1/25/94
Abbott Laboratories	AxSYM Phenobarbital Controls (L, M, H), Code # 7A70–L	Kit: 3 Vials	1/25/94
Abbott Laboratories	Barbital Buffer, 0.06 M; Reagent Solution No. 7824	Plastic Bottle: 2.5ml	4/07/78
Abbott Laboratories	Barbiturate II U Control L, M, H; No. 9669 L, M, H–11	Bottle: 5 ml	10/17/89
Abbott Laboratories	Barbiturates Bulk Calibrator B–F; No. 9669 B–F	Carboy: 50L, 45.5L, 20L, 19L, 13.25L, 13L, 10L, 9.5L, 9L, 6L, 4L, 2L, 1L, 250ml, 200ml.	7/01/88
Abbott Laboratories	Barbiturates Bulk Control L, H; No. 9669 L, H	Carboy: 50L, 45.5L, 20L, 19L, 13.25L, 13L, 10L, 9.5, 9L, 6L, 4L, 2L, 1L, 250ml, 200ml.	7/01/88
Abbott Laboratories	Barbiturates Bulk Controls, No. 9669X, Y, Z	Carboy: 20L, 10L, Flask: 6L, 2L, 1L, 250ml, 200ml.	1/19/89
Abbott Laboratories	Barbiturates Control X, Y, Z; No. 9669X, Y, Z	Vial: 5ml	1/19/89
Abbott Laboratories	Barbiturates II QC Primary NG, CO, PS; No. 9669 NG/CO/PS–11–QC.	Carboy: 20, 10L; Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottle: 950, 500, 100, 50, 5ml; Ampule: 20, 10, 5, 2ml.	2/20/91

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Abbott Laboratories	Barbiturates II U Bulk Calibrators B–F; No. 9669 B–F–05	Carboy: 50L, 45.5L, 20L, 19L, 13.25L, 13L, 10L, 9.5L, 9L, 6L, 4L, 2L, 1L, Flask: 250ml, 200ml.	10/17/89
Abbott Laboratories	Barbiturates II U Bulk Controls L, M, H; No. 9669 L, M, H–11	Carboy: 50L, 45.5L, 20L, 19L, 13.25L, 13L, 10L, 9.5L, 9L, 6L, 4L, 2L, 1L, Flask: 250ml, 200ml.	10/17/89
Abbott Laboratories	Barbiturates II U Bulk Master Calibrator W	Carboys: 50, 45, 20, 10L; Flasks: 6, 4, 2, 1L; 500, 250, 200, 125, 100, 50ml.	5/10/95
Abbott Laboratories	Barbiturates II U Calibrators B–F; No. 9669 B–F–05	Bottle: 5 ml	10/17/89
Abbott Laboratories	Barbiturates II U Controls L, M, H; No. 9661–11	Kit: 3 vials	10/17/89
Abbott Laboratories	Barbiturates II U QC Primary B–F; No. 9669 B–F–05 QC	Carboy: 10L, Flask: 4L, 2L, 1L, 500ml, 250ml, 200ml, 100ml, Bottle: 950ml, 500ml, 100ml, 5ml.	10/17/89
Abbott Laboratories	Barbiturates II U QC Primary L, M, H; No. 9669 L, M, H–11 QC.	Carboy: 10L, Flask: 4L, 2L, 1L, 500ml, 250ml, 200ml, 100ml, Bottle: 950ml, 500ml, 100ml, 5ml.	10/17/89
Abbott Laboratories	Barbiturates QC Primary B–F, L, M, H No. 9669 (B–F, L, M, H) QC.	Carboy: 10L Flask: 4L, 2L, 1L, 500 ml, 250 ml, 200 ml, 100 ml Bottle: 5 ml.	11/22/88
Abbott Laboratories	Barbiturates QC Primary Bulk Control M, No. 9669–M	Flasks: 1 liter, 250 ml, and 200 ml.	11/10/87
Abbott Laboratories	Barbiturates QC Primary Standard Control M, No. 9669–M	Bottle: 5 ml	11/10/87
Abbott Laboratories	Barbiturates QC Primary X, No. 9669X–QC	Carboy: 10L, Flask: 4L, 2L, 1L, 500ml, 250ml, 200ml, 100ml, Bottle: 5ml.	6/05/89
Abbott Laboratories	Barbiturates Serum Bulk Calibrator B–F, No. 9679 B–F	Carboy, Flask, Bottle or Ampule: 50, 45, 20, 10, 8, 6, 4, 2, 1–(L); 500, 250, 200, 125, 100, 50, 30, 20, 15, 10, 5, 2–(ml).	1/03/89
Abbott Laboratories	Barbiturates Serum Bulk Control L, M, H; No. 9676 L, M, H	Carboy: 20L, 10L, Flask: 6L, 2L, 1L, 250ml, 200ml.	1/03/89
Abbott Laboratories	Barbiturates Serum Calibrators B–F, No. 9679–01	Kit: 6 vials	1/03/89
Abbott Laboratories	Barbiturates Serum Calibrators B/F, No. 9679 B/F	Bottle: 5ml	1/03/89
Abbott Laboratories	Barbiturates Serum Controls L, M, H; No. 9679 L, M, H	Bottle: 5ml	1/03/89
Abbott Laboratories	Barbiturates Serum Controls L, M, H; No. 9679–10	Kit: 3 vials	1/03/89
Abbott Laboratories	Barbiturates Serum QC Primary B–F, L, M, H; No. 9679 (B–F, L, M, H)–QC.	Carboy: 10L, Flask: 4L, 2L, 1L, 500ml, 250ml, 200ml, 100ml, Bottle: 5ml.	1/03/89
Abbott Laboratories	Benzodiazepine Serum QC Primary B–F, L, M, H No. 9682 (B–F, L, M, H)–QC.	Carboy: 10L Flask: 4L, 2L, 1L, 500 ml, 250 ml, 200 ml, 100 ml Bottle: 5 ml.	11/22/88
Abbott Laboratories	Benzodiazepines Bulk Calibrator No. 9674 B–F	Carboy: 50L, 45.5L, 20L, 19.5L, 19L, 13.25L, 13L, 10L, 9L, 6L, 4L, 2L, 1L, 250ml, 200ml.	7/18/88
Abbott Laboratories	Benzodiazepines Bulk Control L, H No. 9674 L, H	Carboy: 50L, 45.5L, 20L, 19L, 13.25zl, 13L, 10L, 9.5, 9L, 6L, 4L, 2L, 1L, 250ml, 200ml,.	7/18/88
Abbott Laboratories	Benzodiazepines Bulk Master Calibrator W	Carboys: 50, 45, 20, 10L; Flasks: 6, 4, 2, 1L; 500, 250, 200, 125, 100, 50ml.	5/10/95
Abbott Laboratories	Benzodiazepines QC Primary Bulk Control M, No. 9674–M	Flasks: 1 liter, 250 ml, and 200 ml.	11/10/87
Abbott Laboratories	Benzodiazepines QC Primary Bulk Control M, No. 9674–M	Flasks: 1 liter, 250 ml, and 200 ml.	11/10/87
Abbott Laboratories	Benzodiazepines QC Primary NG, CO, PS No. 9674NG/CO/PS–QC.	Carboy: 20, 10L; Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottle: 950, 500, 100, 50, 5ml; Ampule: 20, 10, 5, 2ml.	2/20/91
Abbott Laboratories	Benzodiazepines QC Primary, B–F, L, M, H No. 9674 (B–F, L, M, H) QC.	Carboy: 10L Flask: 4L, 2L, 1L, 500 ml, 250 ml, 200 ml, 100 ml Bottle: 5ml.	11/22/88
Abbott Laboratories	Benzodiazepines Serum Bulk Calibrators B–F: Code No. 9682 B–F.	Carboy: 10 liter; Flask: 6 liter, 2 liter.	12/07/87
Abbott Laboratories	Benzodiazepines Serum Bulk Calibrators: No. 9682 B–F	Carboy: 20 liters, 10 liters; Flask: 6 liters, 2 liters, 1 liter.	5/02/88

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Abbott Laboratories	Benzodiazepines Serum Bulk Controls L, M, & H: Code No. 9682 L, M, & H.	Carboy: 10 liter; Flask: 6 liter, 2 liter.	12/07/88
Abbott Laboratories	Benzodiazepines Serum Bulk Controls: No. 9682 L, M, H	Carboy: 20 liters, 10 liters; Flask: 6 liters, 2 liters, 1 liter, 250 ml, 200 ml.	5/02/88
Abbott Laboratories	Benzoylecgonine Stock Standard No. 97182, 97182 A–B	Carboy: 20L, 10L Flask: 4L, 2L, 1L, 500 ml, 250 ml, 200 ml, 100 ml, Bottle: 950ml, 500ml, 100ml, 5ml.	11/23/88
Abbott Laboratories	Benzoylecgonine Stock Standard, No. 97182	Bottle: 125ml	11/21/85
Abbott Laboratories	CG RIA Diagnostic Kit No. 7815	Kit: 100 tests	4/07/78
Abbott Laboratories	Cannabinoids—GS Bulk Controls, No. 3897X, Y, Z	Carboy: 20L, 10L, Flask: 6L, 2L, 1L, 250ml, 200ml.	1/19/89
Abbott Laboratories	Cannabinoids—GS Control X, Y, Z; No. 3897–02, 03, 04	Kit: 100 vials	1/19/89
Abbott Laboratories	Cannabinoids—GS Control X, Y, Z; No. 3897X, Y, Z	Vial: 5ml	1/19/89
Abbott Laboratories	Cannabinoids Bulk Calibrators B–F, No. 9671 (B02–F02)	Carboy: 50L, 45.5L, 20L, 19L, 13.25L, 13L, 10L, 9.5L, 9L Flask: 6L, 4L, 2L, 1L, 250ml, 200ml.	10/24/86
Abbott Laboratories	Cannabinoids Bulk Controls L, M, H; No. 9671 (L11, M11H11)	Carboy: 50L, 45.5L, 20L, 19L, 13.25L, 13L, 10L, 9.5L, 9L Flask: 6L, 4L, 2L, 1L, 250ml, 200ml.	10/24/86
Abbott Laboratories	Cannabinoids Bulk Master Calibrator W	Carboys: 50, 45, 20, 10L; Flasks: 6, 4, 2, 1L; 500, 250, 200, 125, 100, 50ml.	5/10/95
Abbott Laboratories	Cannabinoids Bulk Tracer (No. 94192)	Carboy: 50L, 45.5L, 20L, 19L, 13.25L, 13L, 10L, 9.5L, 9L Flask: 6L, 4L, 2L, 1L, 250ml, 200ml.	10/27/86
Abbott Laboratories	Cannabinoids Bulk Tracer; Code 3B28T	Sizes: 50, 45, 20, 10, 8, 6, 4, 2, 1L; 500, 250, 200, 125, 100, 50, 35, 30, 20, 15, 10, 5ml; Ampules: 50, 20, 15, 10, 5, 2ml.	6/02/94
Abbott Laboratories	Cannabinoids QC Primary 2–6 QT, NG, CO, PS No. 9671–11 2–6 QT–QC & NG/CO/PS–QC.	Carboy: 20, 10L; Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottle: 950, 500, 100, 50, 5ml; Ampule: 20, 10, 5, 2ml.	2/20/91
Abbott Laboratories	Cannabinoids QC Primary 8QT No. 9671–11 8QT–QC	Carboy: 20, 10L; Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottle: 950, 500, 100, 50, 5ml; Ampule: 20, 10, 5, 2ml.	10/25/91
Abbott Laboratories	Cannabinoids QC Primary NBS, B–F, L, M, H; No. 9671–02[NBS, B–F]–QC; No. 9671–11[L, M, H]–QC.	Carboy: 10L, Flask: 4L, 2L, 500ml, 250ml, 100ml, 200ml, Bottle: 5ml.	12/27/88
Abbott Laboratories	Cannabinoids QC Primary NBS, B–F, L, M, H; No. 9671 (NBS, B–F, L, M, H)–QC.	Carboy: 10L, Flask: 4L, 2L, 1L, 500ml, 250ml, 200ml, 100ml, Bottle: 5ml.	12/27/88
Abbott Laboratories	Cannabinoids Stock Standard (94568)	Bottle: 125 ml	6/19/87
Abbott Laboratories	Cannabinoids Stock Standard (No. 94193)	Bottle: 125 ml	10/24/86
Abbott Laboratories	Cannabinoids Stock Standard 10mcg/ml–No. 94568, 5mcg/ml–NO. 94568A, 1mcg/ml–No. 94568B.	Carboy: 20L, 10L, Flask: 4L, 2L, 1L, 500ml, 250ml, 200ml, 100ml, bottle: 950ml, 500ml, 100ml, 5ml.	12/27/89
Abbott Laboratories	Cannabinoids Stock Standard; 10mcg/ml–No. 94193, 5mcg/ml–No. 94193A, 1mcg/ml–No. 94193B.	Carboy: 20L, 10L, Flask: 4L, 2L, 1L, 500ml, 250ml, 200ml, 100ml, bottle: 950ml, 500ml, 100ml, 5ml.	12/27/88
Abbott Laboratories	Cannabinoids Stock Tracer (No. 94194)	Flasks: 6L, 4L, 2L, 1L, 500ml, 250ml, 200ml, 100ml; Bottles: 950ml, 500ml, 100ml, 50ml, 30ml, 5ml; Amp: 20, 10, 5, 2ml.	10/27/86
Abbott Laboratories	Cannabinoids—GS Bulk Calibrators B–F No. 3897 B–F	20 L, 10 L Carboy; 6 L, 2 L, 1 L, 250 ml, 200 ml Flask.	7/28/88
Abbott Laboratories	Cannabinoids—GS Bulk Controls (L, M, H) Code No. 3897 (L, M, H).	20 L, 10 L Carboy; 6 L, 2 L, 1 L, 250 ml, 200 ml Flask.	7/28/88
Abbott Laboratories	Cannabinoids—GS Bulk Tracer Code No. 95826	10 L Carboy; 6 L, 2 L Flask	7/28/88
Abbott Laboratories	Cannabinoids—GS Calibrators B–F No. 3897 B–F	5 ml Vial	7/28/88
Abbott Laboratories	Cannabinoids—GS Calibrators No. 3897–01	Kit: 6 Vials	7/28/88
Abbott Laboratories	Cannabinoids—GS Controls (L, M, H) No. 3897–L, M, H	5 ml Vial	7/28/88

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Abbott Laboratories	Cannabinoids—GS Controls No. 3897–10	Kit: 3 Vials	7/28/88
Abbott Laboratories	Cannabinoids—GS QC Primary NBS, B–F, L, M, H; No. 3897 (NBS, B–F, L, M, H)–QC.	Carboy: 10L, Flask: 4L, 2L, 1L, 500ml, 250ml, 200ml, 100ml, Bottle: 5ml.	12/27/88
Abbott Laboratories	Cannabinoids—GS Reagent Pack 100 Test No. 3897–20	Kit: 100 Tests	7/28/88
Abbott Laboratories	Cannabinoids—GS Reagent Pack 100 Test, No. 3897–19	Kit: 100 Tests	9/22/89
Abbott Laboratories	Cannabinoids—GS Tracer Code No. 3897–T	5 ml Vial	7/28/88
Abbott Laboratories	Cholylglycine Antiserum (Rabbit) Reagent Solution No. 7817	Plastic Bottle: 20ml	4/07/78
Abbott Laboratories	Cocaine Metabolite Bulk Calibrator B–F No. 9670 B–F	Carboy: 9.5, 19 L	7/07/88
Abbott Laboratories	Cocaine Metabolite Bulk Calibrator, B–F No. 9670	Carboy: 20L, 10L; Flask: 6L, 4L, 2L, 1L, 250ml, 200ml.	10/28/85
Abbott Laboratories	Cocaine Metabolite Bulk Controls L, H No. 9670–L, H	Carboy: 9.5, 19 L	7/07/88
Abbott Laboratories	Cocaine Metabolite Bulk Controls, L and H No. 9670	Carboy: 20L, 10L, Flask: 6L, 4L, 2L, 1L, 250ml, 200ml.	10/28/86
Abbott Laboratories	Cocaine Metabolite Bulk Controls, No. 9670X, Y, Z	Carboy: 20L, 10L, Flask: 6L, 2L, 1L, 250ml, 200ml.	1/19/89
Abbott Laboratories	Cocaine Metabolite Bulk Master Calibrator W	Carboys: 50, 45, 20, 10L; Flasks: 6, 4, 2, 1L; 500, 250, 200, 125, 100, 50ml.	5/10/95
Abbott Laboratories	Cocaine Metabolite Bulk Tracer, No. 97075	Carboy: 50L, 45.5L, 20L, 13.25L, 13L, 10L, 9L; Flask: 6L, 4L, 2L, 1L, 250ml, 200ml.	10/30/85
Abbott Laboratories	Cocaine Metabolite Control X, Y, Z; No. 9670X, Y, Z	Vial: 5ml	1/19/89
Abbott Laboratories	Cocaine Metabolite QC Primary 2–6 QT, NG, CO, PS No. 9670 2–6 QT–QC & NG/CO/PS–QC.	Carboy: 20, 10L; Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottle: 950, 500, 100, 50, 5ml; Ampule: 20, 10, 5, 2ml.	2/20/91
Abbott Laboratories	Cocaine Metabolite QC Primary 2–6 QT–C, 8QT–C No. 9670 2–6 QTC–QC, 9670 8QTC–QC.	Carboy: 20, 10L; Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottle: 950, 500, 100, 50, 5ml; Ampule: 20, 10, 5, 2ml.	10/28/91
Abbott Laboratories	Cocaine Metabolite QC Primary 8QT No. 9670 8QT–QC	Carboy: 20, 10L; Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottle: 950, 500, 100, 50, 5ml; Ampule: 20, 10, 5, 2ml.	10/25/91
Abbott Laboratories	Cocaine Metabolite QC Primary B–F, L, M, H, No. 9670 (B–F, L, M, H)–QC.	Carboy: 10L; Flask: 4L, 2L, 1L, 500 ml, 250 ml, 200 ml, 100 ml, Bottle: 5 ml.	11/23/88
Abbott Laboratories	Cocaine Metabolite QC Primary Bulk Control M, No. 9670–M	Flasks: 1 liter, 250 ml, and 200 ml.	11/10/87
Abbott Laboratories	Cocaine Metabolite QC Primary Standard Control M, No. 9670–M.	Bottle: 5 ml	11/10/87
Abbott Laboratories	Cocaine Metabolite QC Primary X, No. 9670X–QC; Primary Z, No. 9670Z–QC.	Carboy: 10L; Flask: 4L, 2L, 1L, 500ml, 250ml, 200ml, 100ml; Bottle: 5ml.	6/05/89
Abbott Laboratories	Cocaine Metabolite Stock Tracer, No. 97156	Flasks: 6L, 4L, 2L, 1L, 500ml, 250ml, 200ml, 100ml; Bottles: 950ml, 500ml, 100ml, 50ml, 30ml, 5ml; Amp: 20, 10, 5, 2ml.	10/30/85
Abbott Laboratories	Codeine Metabolite Bulk Tracer; Code 3B48T	Sizes: 50, 45, 20, 10, 8, 6, 4, 2, 1L; 500, 250, 200, 125, 100, 50, 35, 30, 20, 15, 10, 5ml; Ampules: 50, 20, 15, 10, 5, 2ml.	6/02/94
Abbott Laboratories	High Multiconstituent (9) Stock Standard Cat. No. 92622	Carboy: 50, 20, 10L; Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottle: 950, 500, 100, 50, 5ml; Ampule: 20, 10, 5, 2ml.	7/02/91
Abbott Laboratories	Low Multiconstituent (9) Stock Standard Cat. No. 92620	Carboy: 50, 20, 10L; Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottle: 950, 500, 100, 50, 5ml; Ampule: 20, 10, 5, 2ml.	7/02/91
Abbott Laboratories	Low, Medium, High Multiconstituent Stock Standards, No. 90967, 90968, 90969.	Carboy: 10, 20L; Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottle: 950, 500, 100, 50, 5ml; Ampule: 20, 10, 5, 2ml.	10/06/89

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Abbott Laboratories	Medium Multiconstituent (9) Stock Standard Cat. No. 92621	Carboy: 50, 20, 10L; Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottle: 950, 500, 100, 50, 5ml; Ampule: 20, 10, 5, 2ml.	7/02/91
Abbott Laboratories	Methadone Bulk Calibrators (B–F) Code No. 9676 (B–F)	20 L, 10 L Carboy; 6 L, 2 L, 1 L, 250 ml, 200 ml Flask.	9/02/88
Abbott Laboratories	Methadone Bulk Calibrators (L, M, H) Code No. 9676 (L, M, H).	20 L, 10 L Carboy; 6 L, 2 L, 1 L, 250 ml, 200 ml Flask.	9/02/88
Abbott Laboratories	Methadone Bulk Master Calibrator W, 3B31–W	Carboys: 50, 45, 20, 10L; Flasks: 6, 4, 2, 1L; 500, 250, 200, 125, 100, 50ml.	6/12/95
Abbott Laboratories	Methadone Bulk Stock Standard Code No. 95952	10 L Carboy; 6 L, 2 L, 1 L Flask.	9/02/88
Abbott Laboratories	Methadone Calibrators B–F No. 9676 B–F	5 ml Vial	9/02/88
Abbott Laboratories	Methadone Controls L, M, H No. 9676–L, M, H	5 ml Vial	9/02/88
Abbott Laboratories	Methadone Controls No. 9676–10	Kit: 3 Vials	9/02/88
Abbott Laboratories	Methadone QC Primary NG, CO, PS No. 9676 NG/CO/PS–QC.	Carboy: 20, 10L; Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottle: 950, 500, 100, 50, 5ml; Ampule: 20, 10, 5, 2ml.	2/20/91
Abbott Laboratories	Methadone Stock Standard Code No. 95720	1 L, 500 ml, 100 ml Bottle	9/02/88
Abbott Laboratories	Morphine Stock Standard, No. 97291	Vial: 125ml	10/16/85
Abbott Laboratories	Morphine Stock Standard, No. 97291 A–B	Carboy: 20L, 10L Flask: 4L, 2L, 1L, 500 ml, 250 ml, 200 ml, 100 ml Bottle: 950ml, 500ml, 100ml, 5ml.	11/22/88
Abbott Laboratories	Multiconstituent (9) QC Control H Cat. No. 92625	Carboy: 50, 20, 10L; Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottle: 950, 500, 100, 50, 5ml; Ampule: 20, 10, 5, 2ml.	7/02/91
Abbott Laboratories	Multiconstituent (9) QC Control L Cat. No. 92623	Carboy: 50, 20, 10L; Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottle: 950, 500, 100, 50, 5ml; Ampule: 20, 10, 5, 2ml.	7/02/91
Abbott Laboratories	Multiconstituent (9) QC Control M Cat. No. 92624	Carboy: 50, 20, 10L; Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottle: 950, 500, 100, 50, 5ml; Ampule: 20, 10, 5, 2ml.	7/02/91
Abbott Laboratories	Multiconstituent Bulk Controls L, M, H (No. 9687–L, M, H)	Carboy: 20L, 10L, Flask: 10L, 6L, 4L, 2L, 1L, 250ml, 200ml.	9/03/87
Abbott Laboratories	Multiconstituent Control for Abused Drug Assays Bulk L, M, H; No. 9687–L, M, H.	Carboy: 20L, 10L, 19L, 9.5L, 6L, 4L, 1L, Flask: 250ml, 200ml.	10/06/89
Abbott Laboratories	Multiconstituent Control for Abused Drug Assays L, M, H; No. 9687–L, M, H.	Vial: 5 ml	10/06/89
Abbott Laboratories	Multiconstituent Control for Abused Drug Assays QC Primaries L, M, H; No. 9687–L, H, H–QC.	Carboy: 10L, Flask: 4L, 2L, 1L, 500ml, 250ml, 200ml, 100ml, Bottle: 950ml, 500ml, 100ml, 5ml.	10/06/88
Abbott Laboratories	Nordiazepam Serum Bulk Stock Standard No. 94941	Carboy: 10 liters; Flask: 6 liters, 2 liters, 1 liter.	5/02/88
Abbott Laboratories	Nordiazepam Serum Bulk Stock Standard: Code No. 94941	Carboy: 10 liter; Flask: 6 liter, 2 liter.	12/07/87
Abbott Laboratories	Nordiazepam Serum Stock Standard No. 94941, 94941 A, B	Carboy: 20L, 10L Flask: 4L, 2L, 1L, 500 ml, 250 ml, 200 ml, 100 ml Bottle: 950 ml, 500 ml, 100 ml, 5 ml.	11/22/88
Abbott Laboratories	Nordiazepam Serum Stock Standard: Code No. 94941	Bottle: 125 ml	12/07/87
Abbott Laboratories	Nordiazepam Serum Stock Standard: No. 94941	Bottle: 125 ml	5/02/88
Abbott Laboratories	Nordiazepam Stock Standard No. 97757, 97757 A, B	Carboy: 20L, 10L Flask: 4L, 2L, 1L, 500 ml, 250 ml, 200 ml, 100 ml Bottle: 950ml, 500ml, 100ml, 5ml.	11/22/88
Abbott Laboratories	Nordiazepam Stock Standard, No. 97757	Bottle: 125ml	4/21/86
Abbott Laboratories	Opiate Bulk Calibrators, B–F, No. 9673 B–F	Carboy: 50L, 45.5L, 20L, 19L, 13.25L, 13L, 10L, 9.5L, 9L Flask: 6L, 4L, 2L, 1L, 250ml, 200ml.	5/07/86

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Abbott Laboratories	Opiate Bulk Controls, L and H No. 9673 L and H	Carboy: 50L, 45.5L, 20L, 19L, 13.25L, 13L, 10L, 9.5L, 9L Flask: 6L, 4L, 2L, 1L, 250ml, 200ml.	5/07/86
Abbott Laboratories	Opiates Bulk Controls, No. 9673X, Y, Z	Carboy: 20L, 10L, Flask: 6L, 2L, 1L, 250ml, 200ml.	1/19/89
Abbott Laboratories	Opiates Bulk Master Calibrator W	Carboys: 50, 45, 20, 10L; Flasks: 6, 4, 2, 1L; 500, 250, 200, 125, 100, 50ml.	5/10/95
Abbott Laboratories	Opiates Bulk Tracer, No. 97458	Carboy: 50L, 45.5L, 20L, 19L, 13.25L, 13L, 10L, 9.5L, 9L Flask: 6L, 4L, 2L, 1L, 250ml, 200ml.	5/07/86
Abbott Laboratories	Opiates Bulk Tracer; Code # 3B25T	Sizes: 50, 45, 20, 10, 8, 6, 4, 2, 1L; 500, 250, 200, 125, 100, 50, 35, 30, 20, 15, 10, 5ml; Ampules: 50, 20, 15, 10, 5, 2ml.	6/02/94
Abbott Laboratories	Opiates Control X, Y, Z; No. 9673X, Y, Z	Vial: 5ml	1/19/89
Abbott Laboratories	Opiates QC Primary (B–F, L, M, H) QC No. 9673 (B–F, L, M, H) QC.	Carboy: 10L Flask: 4L, 2L, 1L, 500 ml, 250 ml, 200 ml, 100 ml Bottle: 5ml.	11/22/88
Abbott Laboratories	Opiates QC Primary 2–6 QT, NG, CO, PS No. 9673 2–6 QT–QC & NG/CO/PS–QC.	Carboy: 20, 10L; Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottle: 950, 500, 100, 50, 5ml; Ampule: 20, 10, 5, 2ml.	2/20/91
Abbott Laboratories	Opiates QC Primary 8QT No. 9673 8QT–QC	Carboy: 20, 10L; Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottle: 950, 500, 100, 50, 5ml; Ampule: 20, 10, 5, 2ml.	10/25/91
Abbott Laboratories	Opiates QC Primary Bulk Control M, No. 9673–M	Flasks: 1 liter, 250 ml, and 200 ml.	11/10/87
Abbott Laboratories	Opiates QC Primary Standard Control M, No. 9673–M	Bottle: 5 ml	11/10/87
Abbott Laboratories	Opiates QC Primary X, No. 9673X–QC; Primary Y, No. 9673Y–QC; PrimaryZ, No. 9673Z–QC.	Carboy: 10L, Flask: 4L, 2L, 1L, 500ml, 250ml, 200ml, 100ml, Bottle: 5ml.	6/05/89
Abbott Laboratories	Opiates Stock Tracer, No. 98718	Flasks: 6L, 4L, 2L, 1L, 500ml, 250ml, 200ml, 100ml; Bottles: 950ml, 500ml, 100ml, 50ml, 30ml, 5ml; Amp: 20, 10, 5, 2ml.	5/07/86
Abbott Laboratories	Phencyclidine Bulk Calibrator, B–F No. 9672 B–F	Carboy: 50L, 45.5L, 20L, 13.25L, 13L, 10L, 9L Flask: 6L, 4L, 2L, 1L, 250ml, 200ml.	3/21/86
Abbott Laboratories	Phencyclidine Bulk Control M, No. 9672 M	Carboy: 50L, 45.5L, 20L, 13.25L, 13L, 10L, 9L Flask: 6L, 4L, 2L, 1L, 250ml, 200ml.	9/25/86
Abbott Laboratories	Phencyclidine Bulk Controls, L and H No. 9672 L and H	Carboy: 50L, 45.5L, 20L, 13.25L, 13L, 10L, 9L Flask: 6L, 4L, 2L, 1L, 250ml, 200ml.	3/21/86
Abbott Laboratories	Phencyclidine Bulk Controls, No. 9672X, Y, Z	Carboy: 20L, 10L, Flask: 6L, 2L, 1L, 250ml, 200ml.	1/19/89
Abbott Laboratories	Phencyclidine Bulk Master Calibrator W, 3B26–W	Carboys: 50, 45, 20, 10L; Flasks: 6, 4, 2, 1L; 500, 250, 200, 125, 100, 50ml.	6/12/95
Abbott Laboratories	Phencyclidine Control X, Y, Z; No. 9672X, Y, Z	Vial: 5ml	1/19/89
Abbott Laboratories	Phencyclidine QC Primary (B–F, L, M, H) QC No. 9672 (B–F, L, M, H) QC.	Carboy: 10L Flask: 4L, 2L, 1L, 500 ml, 250 ml, 200 ml, 100 ml Bottle: 5ml.	11/22/88
Abbott Laboratories	Phencyclidine QC Primary 2–6 QT NG, CO, PS No. 9672 2–6 QT–QC & NG/CO/PS–QC.	Carboy: 20, 10L; Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottle: 950, 500, 100, 50, 5ml; Ampule: 20, 10, 5, 2ml.	2/20/91
Abbott Laboratories	Phencyclidine QC Primary 8QT No. 9672 8QT–QC	Carboy: 20, 10L; Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottle: 950, 500, 100, 50, 5ml; Ampule: 20, 10, 5, 2ml.	10/25/91
Abbott Laboratories	Phencyclidine QC Primary X, No. 9672X–QC; Primary Z, No. 9672Z–QC.	Carboy: 10L, Flask: 4L, 2L, 1L, 500ml, 250ml, 200ml, 100ml, Bottle: 5ml.	6/05/89

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Abbott Laboratories	Phencyclidine Stock Standard No. 97158, 97158 A–B	Carboy: 20L, 10L Flask: 4L, 2L, 1L, 500 ml, 250 ml, 200 ml, 100 ml Bottle: 950ml, 500ml, 100ml, 5ml.	11/22/88
Abbott Laboratories	Phencyclidine Stock Standard, No. 95356	Flask: 100ml, 200ml, 250ml, 500ml, 1L, 2L, 4L, Bottle: 5ml, 100ml, 500ml, 950 ml, Carboys: 10L, 20L.	4/18/89
Abbott Laboratories	Phencyclidine Stock Standard, No. 97158	Bottle: 125ml	11/21/85
Abbott Laboratories	Phenobarbital Bulk Calibrators No. 9500 B–F	Carboy: 50L, 45.5L, 19L, 13.25L, 13L, 9.5L, 9L; Flask: 6L, 4L, 2L, 1L, 250ml, 200ml.	6/16/88
Abbott Laboratories	Phenobarbital Bulk Controls No. 9500 L, M, H	Carboy: 50L, 45.5L, 19L, 13.25L, 13L, 9.5L, 9L; Flask: 6L, 4L, 2L, 1L, 250ml, 200ml.	6/16/88
Abbott Laboratories	Phenobarbital Control L, Code # 7A70-L	Vial: 10ml	1/25/94
Abbott Laboratories	Phenobarbital Enzyme Inhibitor Stock	Vial: 2ml	1/20/84
Abbott Laboratories	Phenobarbital QC Primary B–F, L, M, H Item No. 9500B–F, L, M, H.	Carboy: 20, 10L; Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottles: 950, 500, 100, 50, 5ml; Ampules: 20, 10, 5, 2ml.	1/04/91
Abbott Laboratories	Phenobarbital Stock Solution 1 mg/ml Code No. 94312	Plastic Bottle: 125 ml	3/23/87
Abbott Laboratories	Phenobarbital Stock Solution 10 mg/ml Code No. 94313	Plastic Bottle: 125 ml	3/23/87
Abbott Laboratories	Phenobarbital Stock Standard 500 ug/ml Item No. 99259	Carboy: 50, 20, 10L; Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottles: 950, 500, 100, 50, 5ml; Ampules: 20, 10, 5, 2ml.	1/04/91
Abbott Laboratories	Phenobarbital Stock Standard Solution	Bottle: 1 liter	8/12/82
Abbott Laboratories	Polyethylene Glycol 8000, 16% Solution in 0.09 M Barbital Buffer, No. 7541.	Plastic Bottle: 300 ml, 150 ml	9/21/77
Abbott Laboratories	Polyethylene Glycol 8000, 18% Solution in 0.09M Barbital Buffer: No. 07602.	Stainless Steel Tank: 1000 liters.	3/09/88
Abbott Laboratories	Progesterone Buffer No. 2242J	Bottle: 30ml	3/11/92
Abbott Laboratories	Progesterone Buffer No. 2242J0001	Box: 100 Bottles/30ml	3/11/92
Abbott Laboratories	Progesterone Bulk Buffer No. 12918	Carboy: 50L, 25L, 20L, 19L, 15L, 13L, 10L, 9L; Bottle: 950ml, 500ml, 100ml, 50ml, 30ml, 20ml; Amp: 20ml, 10ml, 5ml, 2ml.	5/11/92
Abbott Laboratories	Progesterone Reagent Pack No. 2242–20	Kit: 4 Bottles	3/11/92
Abbott Laboratories	Propoxyphene Bulk Calibrator B–F No. 9675 B–F	Carboys or Flasks: 50L, 45.5L, 20L, 19L, 13.25L, 13L, 10L, 9.5L, 9L, 6L, 4L, 2L, 1L, 250ml, 200ml.	11/30/90
Abbott Laboratories	Propoxyphene Bulk Control L, M, H No. 9675 L, M, H	Carboys or Flasks: 50L, 45.5L, 20L, 19L, 13.25L, 13L, 10L, 9.5L, 9L, 6L, 4L, 2L, 1L, 250ml, 200ml.	11/30/90
Abbott Laboratories	Propoxyphene Bulk Tracer Item No. 92003	Carboys or Flasks: 50L, 45.5L, 20L, 19L, 13.25L, 13L, 10L, 9.5L, 9L, 6L, 4L, 2L, 1L, 250ml, 200ml.	11/30/90
Abbott Laboratories	Propoxyphene Calibrators Item No. 9675–01	Kit: 5 vials	11/30/90
Abbott Laboratories	Propoxyphene Calibrators Item No. 9675B–F	Vial: 5ml	11/30/90
Abbott Laboratories	Propoxyphene Controls Item No. 9675–10	Kit: 3 vials	11/30/90
Abbott Laboratories	Propoxyphene Controls Item No. 9675L, M, H	Vial: 5ml	11/30/90
Abbott Laboratories	Propoxyphene QC Primary B–F, L, M, H, Z Item No. 9675(B–F, L, M, H, Z)–QC.	Carboy: 20, 10L Flasks: 6, 4, 2, 1L, 500, 250, 200, 100ml Bottles: 950, 500, 100, 50, 5ml Ampules: 20, 10, 5, 2ml.	11/30/90
Abbott Laboratories	Propoxyphene QC Primary NG, CO, PS No. 9675 NG/CO/PS–QC.	Carboy: 20, 10L; Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottle: 950ml, 500, 100, 50, 5ml; Ampule: 20, 10, 5, 2ml.	2/20/91
Abbott Laboratories	Propoxyphene Stock Standard, 100 mcg/ml Item No. 92005	Carboys: 20, 10L Flasks: 6, 4, 2, 1L, 500, 250, 200, 100ml Bottles: 950, 500, 100, 50, 5ml Ampules: 20, 10, 5, 2ml.	11/30/90
Abbott Laboratories	Propoxyphene Stock Tracer Item No. 92001	Bottle: 12ml	11/30/90
Abbott Laboratories	Propoxyphene Tracer Item No. 9675–T	Bottles: 3.2ml, 5ml	11/30/90

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Abbott Laboratories	Secobarbital Bulk Calibrator, B–F No. 9669	Carboy: 20L, 10L, Flask: 6L, 4L, 2L, 1L, 250ml, 200ml.	3/21/86
Abbott Laboratories	Secobarbital Bulk Controls, L and H No. 9669	Carboy: 20L, 10L, Flask: 6L, 4L, 2L, 1L, 250ml, 200ml.	3/21/86
Abbott Laboratories	Secobarbital Stock Standard 1000mcg/ml-No. 90107, 500mcg/ml-No. 90107A, 200mcg/ml-No. 90107B.	Carboy: 20L, 10L, Flask: 4L, 2L, 1L, 500ml, 250ml, 200ml, 100ml, Bottle: 950ml, 500ml, 100ml, 5ml.	1/03/89
Abbott Laboratories	Secobarbital Stock Standard No. 97171, 97171 A, B	Carboy: 20L, 10L Flask: 4L, 2L, 1L, 500 ml, 250 ml, 200 ml, 100 ml Bottle: 950 ml, 500 ml, 100 ml, 5 ml.	11/22/88
Abbott Laboratories	Secobarbital Stock Standard, No. 97171	Bottle: 125ml	11/21/85
Abbott Laboratories	Spectrum Phenobarbital Calibrator II–VI, Nos. 9755, 9757, 9759, 9761, 9763.	Bottle: 4ml	10/03/85
Abbott Laboratories	Spectrum Phenobarbital Control, Nos. 9876, 9878, 9880. (L, M, H).	Bottle: 4ml	10/03/85
Abbott Laboratories	TDx Amphetamine Class Calibrators 9667–01	Kit containing 6 vials	3/01/88
Abbott Laboratories	TDx Amphetamine Class Calibrators B–F	Bottle: 5 ml	3/01/88
Abbott Laboratories	TDx Amphetamine Class Control L and H	Bottle: 5 ml	3/01/88
Abbott Laboratories	TDx Amphetamine Class Controls 9667–10	Kit containing 2 vials	3/01/88
Abbott Laboratories	TDx Amphetamine Class Reagent Pack, No. 9667–60	Kit containing 1 vial	3/01/88
Abbott Laboratories	TDx Amphetamine Class Tracer Solution, No. 9667T	Bottle: 5 ml	3/01/88
Abbott Laboratories	TDx Amphetamine/Methamphetamine Calibrator, No. 9668–01	Bottles: 4ml	8/23/85
Abbott Laboratories	TDx Amphetamine/Methamphetamine Controls, No. 9668–10	Bottles: 4ml	8/23/85
Abbott Laboratories	TDx Barbiturates Calibrators No. 9669 B–F	5 ml Vial	7/01/88
Abbott Laboratories	TDx Barbiturates Calibrators No. 9669–01	Kit: 5 Vials, 5 ml each	7/01/88
Abbott Laboratories	TDx Barbiturates Calibrators, B–F No. 9669	Bottle: 4 ml	10/08/85
Abbott Laboratories	TDx Barbiturates Control L, H No. 9669 L, H	5 ml Vial	7/01/88
Abbott Laboratories	TDx Barbiturates Control, L and H No. 9669	Bottle: 4ml	10/08/85
Abbott Laboratories	TDx Barbiturates Controls No. 9669–10	Kit: 2 Vials, 5 ml each	7/01/88
Abbott Laboratories	TDx Benzodiazepines Calibrator No. 9674 B–F	5 ml Vial	7/18/88
Abbott Laboratories	TDx Benzodiazepines Calibrators, No. 9674–01	Bottles: 4ml	4/21/86
Abbott Laboratories	TDx Benzodiazepines Controls L, H No. 9674 L, H	5 ml Vial	7/18/88
Abbott Laboratories	TDx Benzodiazepines Controls L, H No. 9674–10	Kit: 2 Vials, 5 ml each	7/18/88
Abbott Laboratories	TDx Benzodiazepines Controls, No. 9674–10	Bottles: 4ml	4/21/86
Abbott Laboratories	TDx Benzodiazepines Serum Calibrator No. 9682 B–F	Bottle: 4 ml	5/02/88
Abbott Laboratories	TDx Benzodiazepines Serum Calibrators B–F: Code No. 9682 B–F.	Bottle: 4ml, 5ml	12/07/88
Abbott Laboratories	TDx Benzodiazepines Serum Calibrators: Code No. 9682–01	Kit	12/07/88
Abbott Laboratories	TDx Benzodiazepines Serum Calibrators: No. 9682–01	Kit containing 6 vials	5/02/88
Abbott Laboratories	TDx Benzodiazepines Serum Controls L, M, & H: No. 9682 L, M, H.	Bottle: 4 ml	12/07/87
Abbott Laboratories	TDx Benzodiazepines Serum Controls L, M, H: No. 9682 L, M, H.	Bottle: 4 ml	5/02/88
Abbott Laboratories	TDx Benzodiazepines Serum Controls: Code No. 9682–10	Kit	12/07/88
Abbott Laboratories	TDx Benzodiazepines Serum Controls: No. 9682–10	Kit containing 3 vials	5/02/88
Abbott Laboratories	TDx Cannabinoids Calibrators B–F (No. 9671–01)	Bottles: 5 ml	10/24/86
Abbott Laboratories	TDx Cannabinoids Controls L, M, and H (9671–11)	Bottle: 5 ml	6/19/87
Abbott Laboratories	TDx Cannabinoids Controls L, M, H (No. 9671–10)	Bottles: 5 ml	10/24/86
Abbott Laboratories	TDx Cannabinoids Fluorescein Tracer Solution (No. 9671–T)	Bottle: 5 ml	10/27/86
Abbott Laboratories	TDx Cannabinoids Reagent Pack (No. 9671–20)	100 tests	10/27/86
Abbott Laboratories	TDx Cocaine Metabolite Calibrator B–F No. 9670 B–F	5 ml Vial	7/07/88
Abbott Laboratories	TDx Cocaine Metabolite Calibrator, B–F No. 9670	Bottle: 4ml	10/02/85
Abbott Laboratories	TDx Cocaine Metabolite Control L, H No. 9670 L, H	5 ml Vial	7/07/88
Abbott Laboratories	TDx Cocaine Metabolite Control, L and H No. 9669	Bottle: 4ml	10/02/85
Abbott Laboratories	TDx Cocaine Metabolite Controls No. 9670–10	Kit: 2 Vials, 5 ml each	7/07/88
Abbott Laboratories	TDx Cocaine Metabolite Fluorescein Tracer Solution No. 9670 T0001.	Kit: 100 Vials, 5 ml Each	7/07/88
Abbott Laboratories	TDx Cocaine Metabolite Fluorescein Tracer Solution No. 9670–T.	Box: 5 ml Vial	7/07/88
Abbott Laboratories	TDx Cocaine Metabolite Reagent Pack	Reagent well: 5ml	10/02/85
Abbott Laboratories	TDx Cocaine Metabolite Reagent Pack No. 9670–20	Kit: 100 Tests	7/07/88
Abbott Laboratories	TDx Multiconstituent Controls L, M, H (No. 9687–L, M, H)	Bottle: 5 ml	9/03/87
Abbott Laboratories	TDx Opiates Calibrators B–F: No. 9673–01	Kit: 6 Vials	2/29/88
Abbott Laboratories	TDx Opiates Calibrators, B–F No. 9673	5 ml Vial	5/07/86
Abbott Laboratories	TDx Opiates Controls L and H, No. 9673–10	Kit: 2 Vials	2/29/88
Abbott Laboratories	TDx Opiates Controls L and H: No. 9673 L, H	Vial: 5 ml	2/29/88
Abbott Laboratories	TDx Opiates Controls, L and H No. 9673	Vials: 5ml	5/07/86
Abbott Laboratories	TDx Opiates Fluorescein Tracer Solution No. 9673 T0001	Box: 10 Vials, 5 ml each	7/08/88
Abbott Laboratories	TDx Opiates Fluorescein Tracer Solution: No. 9673–T	Vial: 5 ml	2/29/88
Abbott Laboratories	TDx Opiates Reagent Pack No. 9673–20, 100 tests	Kit: 100 tests	5/07/86

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Abbott Laboratories	TDx Phencyclidine Bulk Calibrator B–F No. 9672 B–F	5 ml Vial	7/18/88
Abbott Laboratories	TDx Phencyclidine Bulk Calibrator B–F No. 9672 B–F	Carboy: 9.5, 19 L	7/18/88
Abbott Laboratories	TDx Phencyclidine Bulk Control L, M, H No. 9672 L, M, H	Carboy: 9.5, 19 L	7/18/88
Abbott Laboratories	TDx Phencyclidine Calibrators, B–F No. 9672	Bottle: 4ml	10/09/85
Abbott Laboratories	TDx Phencyclidine Control M No. 9672	Bottle: 4ml	9/26/86
Abbott Laboratories	TDx Phencyclidine Controls L, M, H No. 9672 L, M, H	5 ml Vial	7/18/88
Abbott Laboratories	TDx Phencyclidine Controls No. 9672–10	Kit: 3 Vials, 5 ml each	7/18/88
Abbott Laboratories	TDx Phencyclidine Controls, L and H No. 9672	Bottle: 4ml	10/09/85
Abbott Laboratories	TDx Phenobarbital Calibrator–0.0, 5.0, 10.0, 20.0, 40.0, and 80.0 mcg/ml.	Kit ctg: 6 vials	8/31/81
Abbott Laboratories	TDx Phenobarbital Calibrators B–F No. 9500 B–F	5 ml Vial	6/16/88
Abbott Laboratories	TDx Phenobarbital Calibrators No. 9500–01 (9500 B–F)	Kit: 6 Vials, 5 ml each	6/16/88
Abbott Laboratories	TDx Phenobarbital Controls No. 9500 L, M, H	5 ml Vial	6/16/88
Abbott Laboratories	TDx Phenobarbital Controls No. 9500–10 (9500 L, M, H)	Kit: 3 Vials, 5 ml each	6/16/88
Abbott Laboratories	TDx Phenobarbital Controls- 15.0, 30.0, 50.0 mcg/ml	Kit ctg: 3 vials	8/31/81
Abbott Laboratories	TDx Propoxyphene Reagent Pack Item No. 9675–20	Kit: 100 tests	11/30/90
Abbott Laboratories	TDx Systems Multiconstituent Controls for Abused Drug (No. 9687–10).	Kit: 6 Bottles	9/03/87
Abbott Laboratories	TDx or TDx/TDxFLx Propoxyphene Fluorescein Tracer Solution Item No. 9675T0001.	Box: 100 bottles or less	11/30/90
Abbott Laboratories	TDx, ADx Amphetamine Class Reagent Pack, No. 9867–20, No. 9667–55.	Kit: 100 tests	3/01/88
Abbott Laboratories	TDx/TDxFLx Propoxyphene Reagent Pack Item No. 9675–60	Kit: 100 tests	11/30/90
Abbott Laboratories	Thyroxine Binding Globulin, Thyroxine I 125	Glass Bottle: 13ml. Plastic Bottle: 250ml.	4/22/76
Abbott Laboratories	TrakPak Five Drug Control 2–6 QT Nos. 92212–92216	Carboy: 20, 10L Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml Bottle: 950, 500, 100, 50, 5ml Ampule: 20, 10, 5, 2ml.	10/19/90
Abbott Laboratories	TrakPak Five Drug Control 8QT No. 93349	Carboy: 20, 10L; FlaskL: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottle: 950, 500, 100, 50, 5ml; Ampule: 20, 10, 5, 2ml.	10/25/91
Abbott Laboratories	TrakPak Five Drug Control Stock No. 92210	Carboy: 20, 10L Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml Bottle: 950, 500, 100, 50, 5ml Ampule: 20, 10, 5, 2ml.	10/19/90
Abbott Laboratories	Trakpak Card w/Cover Code #01249	Box: 2000 cards w/cover	3/08/91
Abbott Laboratories	Trakpak Card w/Tracers Code #01248	Box: 2000 cards	3/08/91
Abbott Laboratories	Trakpak Cocaine Tracer Code #92199	Flasks: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottles: 950, 500, 100, 50, 5ml; Ampules: 20, 10, 5, 2ml.	3/08/91
Abbott Laboratories	Trakpak Drug of Abuse Screening System (40 test kit) Code #04A74.	Kit: 40 cartridges	3/08/91
Abbott Laboratories	Trakpak Negative Control Code #04A74C	Vial: 5ml	3/08/91
Abbott Laboratories	Trakpak Opiates Tracer Code #92198	Flasks: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottles: 950, 500, 100, 50, 5ml; Ampules: 20, 10, 5, 2ml.	3/08/91
Abbott Laboratories	Trakpek Reaction Cartridge Code #04A74B	Cartridge: 1 card	3/08/91
Abbott Laboratories	Trakpak THC Tracer Code #92200	Flasks: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottles: 950, 500, 100, 50, 5ml; Ampules: 20, 10, 5, 2ml.	3/08/91
Abbott Laboratories	X Systems Amphetamine/Methamphetamine II Calibrator B, C, D, E, F; No. 01A99-B, C, D, E, F.	Vial: 5 ml	7/14/89
Abbott Laboratories	X Systems Amphetamine/Methamphetamine II Calibrators, No. 01A99-01.	Kit: 6 vials	7/14/89
Abbott Laboratories	X Systems Amphetamine/Methamphetamine II Control L, M, H; No. 01A99-L, M, H.	Vial: 5 ml	7/14/89
Abbott Laboratories	X Systems Amphetamine/Methamphetamine II Controls, No. 01A99-10.	Kit: 3 vials	7/14/89
Abbott Laboratories	X Systems Methadone Calibrators B–F	Bottle: 5ml	5/15/92
Abbott Laboratories	X Systems Methadone Calibrators B–F	Kit: 6 Bottles	5/12/92
Abbott Laboratories	X Systems Methadone Controls L, M, H, No. 9676–10	Kit: 3 Bottles	5/15/92
Abbott Laboratories	X Systems Methadone Controls L, M, H; No. 9676 L, M, H	Bottle: 5ml	5/15/92
Abbott Laboratories	XSYSTEMS Amphetamine/Methamphetamine II Calibrators No. 1A99–06.	Kit: 6 Vials	8/26/88
Abbott Laboratories	XSYSTEMS Barbiturates II U Calibrators , No. 9669–07	Kit: 6 vials	10/17/89
Abbott Laboratories	XSYSTEMS Benzodiazepines Calibrators, No. 9674–02	Kit: 5 Vials, 5 ml each	7/18/88
Abbott Laboratories	XSYSTEMS Cannabinoids Calibrators, No. 9671–04	Bottle: 5 ml	6/19/87

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Abbott Laboratories	XSYSTEMS Cocaine Metabolite Calibrators No. 9670–06	Kit: 5 Vials, 5 ml each	7/07/88
Abbott Laboratories	XSYSTEMS Methadone Calibrators No. 9676–02	Kit: 6 Vials	9/02/88
Abbott Laboratories	XSYSTEMS Multiconstituent Controls, No. 9687–12	Kit: 6 vials	10/06/89
Abbott Laboratories	XSYSTEMS Opiates Calibrators, No. 9673–06	Vial: 5 ml	2/29/88
Abbott Laboratories	XSYSTEMS Phencyclidine Calibrators, No. 9672–06	Kit: 5 Vials, 5 ml each	7/18/88
Abbott Laboratories	d-Amphetamine (II) Bulk Stock Standard Code No. 95947	10 L Carboy; 6 L, 2 L, 1 L Flask.	8/26/88
Abbott Laboratories	d-Amphetamine (II) Stock Standard Code No. 95934	1 L, 500 ml, 100 ml Bottle	8/26/88
Abbott Laboratories	d-Amphetamine (II) Stock Standard No. 95934, 95934 A–B	Carboy: 20L, 10L Flask: 4L, 2L, 1L, 500 ml, 250 ml, 200 ml, 100 ml Bottle: 950ml, 500ml, 100ml, 5ml.	11/22/88
Adri/Technam	3-Ortho-Carboxymethylmorphine	Screw Cap Vial	5/03/73
Adri/Technam	5-Ethyl-5-(1-Carboxy-n-propyl) Barbituric Acid	Screw Cap Vial	5/03/73
Adri/Technam	5-Ethyl-5-(1-Carboxy-n-propyl) Barbituric Acid-Bovine Serum Albumin.	Vaccine Vial: 10ml	5/03/73
Adri/Technam	5-Ethyl-5-(1-Carboxy-n-propyl) Barbituric Acid-Rabbit Serum Albumin.	Vaccine Vial: 10ml	5/03/73
Adri/Technam	Barbiturate Standard	Screw-cap vial: 10ml	7/17/76
Adri/Technam	Barbituric Acid Sensitized Red Blood Cells	Vaccine Vial: 50ml	5/03/73
Adri/Technam	Benzoyl Ecgonine	Screw-cap vial: 10ml	4/18/74
Adri/Technam	Benzoyl Ecgonine Sensitized Red Blood Cells	Vaccine Vial: 50ml	5/03/73
Adri/Technam	Benzoyl Ecgonine Standard	Screw-cap vial: 10ml	7/17/76
Adri/Technam	Benzoyl Ecgonine-BSA	Vaccine Vial	7/21/75
Adri/Technam	Benzoyl Ecgonine-RSA	Vaccine Vial	7/21/75
Adri/Technam	CMM-BSA and CMM-RSA (Carboxymethylmorphine Bovine Serum Albumin or Carboxymethylmorphine Rabbit Serum Albumin).	Vaccine Vial: 10ml	5/03/73
Adri/Technam	Cannabuse Cannabidiol Standard	Disks: 25/package	5/03/85
Adri/Technam	Cannabuse Delta 8 THC Carboxylic Acid Standard	Disks: 25/package	9/19/84
Adri/Technam	Cannabuse Delta 8 THC Carboxylic Acid Standard	Vial: 6 ml	9/19/84
Adri/Technam	Cannabuse Delta 9 THC Carboxylic Acid Standard	Vial: 6 ml	9/19/84
Adri/Technam	Cannabuse Delta 9 THC Carboxylic Acid Standard	Disks: 25/package	9/19/84
Adri/Technam	Cannabuse Delta 9 THC Standard	Disks: 25/package	9/19/84
Adri/Technam	Cannabuse Delta 9 THC Standard	Vial: 6 ml	9/19/84
Adri/Technam	Drug Standards, Acid/Neutral Mixture A and B	Disks: 25/package	11/15/85
Adri/Technam	Drug Standards, Basic Mixture A and B	Disks: 25/package	11/15/85
Adri/Technam	Methadone Standard	Screw-cap vial: 10ml	7/17/76
Adri/Technam	Morphine Sensitized Red Blood Cells	Vaccine Vial: 50ml	5/03/73
Adri/Technam	Morphine Standard (in distilled water)	Screw-cap vial: 10ml	7/17/77
Adri/Technam	Tropinecarboxylic Acid (ecgonine)	Screw-cap Bottle: 10ml	5/03/73
Alltech-Applied Science Laboratories.	(D)-Norpseudoephedrine HCL	Ampule: 2ml	9/26/95
Alltech-Applied Science Laboratories.	4-Chlorotestosterone	Ampule: 2ml	9/26/95
Alltech-Applied Science Laboratories.	4-Methylaminorex	Vial: 1 ml	5/16/89
Alltech-Applied Science Laboratories.	6-Acetylcodeine	Vial: 1 ml	5/16/89
Alltech-Applied Science Laboratories.	6-Monoacetylmorphine HCl	Vial: 1 ml	3/30/88
Alltech-Applied Science Laboratories.	Allylisobutylbarbituric Acid	Vial: 1ml	1/24/73
Alltech-Applied Science Laboratories.	Alphaprodine HCL	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	Alphenal	Vial: 1ml	1/24/73
Alltech-Applied Science Laboratories.	Alprazolam	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	Amobarbital	Vial: 1ml	1/24/73
Alltech-Applied Science Laboratories.	Amphetamine HCL	Vial: 1ml	1/24/73
Alltech-Applied Science Laboratories.	Antidepressants Mix	Ampule: 2ml	9/26/95
Alltech-Applied Science Laboratories.	Aprobarbital	Vial: 1ml	1/24/73
Alltech-Applied Science Laboratories.	Barbital	Vial: 1ml	1/24/73
Alltech-Applied Science Laboratories.	Barbiturates, Mixture 4	Vial: 10ml	10/04/72

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Alltech-Applied Science Laboratories.	Benzoylecgonine Tetrahydrate	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	Benzoylecgonine Tetrahydrate 7.5ug, 50ug, 250ug	Amber Ampoule: 1ml	2/16/90
Alltech-Applied Science Laboratories.	Benzphetamine HCL	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	Boldenone	Ampule: 2ml	9/26/95
Alltech-Applied Science Laboratories.	Bromazepam	Vial: 1 ml	6/16/89
Alltech-Applied Science Laboratories.	Butabarbital	Vial: 1ml	1/24/73
Alltech-Applied Science Laboratories.	Butethal	Vial: 1ml	1/24/73
Alltech-Applied Science Laboratories.	Cannabidiol	Vial: 1 ml	3/30/88
Alltech-Applied Science Laboratories.	Cannabinol	Vial: 1 ml	3/30/88
Alltech-Applied Science Laboratories.	Chloral Hydrate	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	Chlordiazepoxide HCL	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	Clonazepam	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	Clorazepate Dipotassium	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	Clostebol	Ampule: 2ml	9/26/95
Alltech-Applied Science Laboratories.	Cocaethylene	Ampule: 2ml	9/26/95
Alltech-Applied Science Laboratories.	Cocaine	Vial: 1ml	1/24/73
Alltech-Applied Science Laboratories.	Codeine	Vial: 1ml	1/24/73
Alltech-Applied Science Laboratories.	Cyclopentobarbital	Vial: 1 ml	6/16/89
Alltech-Applied Science Laboratories.	Delta-8-Tetrahydro-cannabinol	Vial: 1 ml	3/30/88
Alltech-Applied Science Laboratories.	Delta-9-Tetrahydrocannabinol	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	Depressants, Mixture 3	Vial: 10ml	10/04/72
Alltech-Applied Science Laboratories.	Dextropropoxyphene HCL	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	Diacetylmorphine HCL	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	Diallybarbituric acid	Vial: 1ml	1/24/73
Alltech-Applied Science Laboratories.	Diazepam	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	Diethylpropion HCL	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	Dihydrocodeine	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	Dimethyltryptamine	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	Drostanolone	Ampule: 2ml	9/26/05
Alltech-Applied Science Laboratories.	Drug Mix Four	Ampoule: 1 ml	11/03/86
Alltech-Applied Science Laboratories.	Drug Mix One	Ampoule: 1 ml	10/21/86
Alltech-Applied Science Laboratories.	Drug Mix Three	Ampoule: 1 ml	11/03/86
Alltech-Applied Science Laboratories.	Drug Mix Two	Ampoule: 1 ml	10/21/86
Alltech-Applied Science Laboratories.	Ecgonine HCL	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	Ecgonine Methyl Ester HCl	Vial: 1 ml	3/30/88
Alltech-Applied Science Laboratories.	Ethchlorvynol	Vial: 1ml	1/24/73

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Alltech-Applied Science Laboratories.	Ethinamate	Vial: 1ml	1/24/73
Alltech-Applied Science Laboratories.	Ethylmorphine HCL	Vial: 1ml	1/24/73
Alltech-Applied Science Laboratories.	Fenfluramine HCL	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	Fentanyl	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	Flunitrazepam	Ampule: 2ml	9/26/95
Alltech-Applied Science Laboratories.	Fluoxymesterone	Ampule: 2ml	9/26/95
Alltech-Applied Science Laboratories.	Flurazepam HCL	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	GC/MS Benzoylecgonine Calibration Standards Kit	Kit: 3 vials	2/16/90
Alltech-Applied Science Laboratories.	Glutethimide	Vial: 1ml	1/24/73
Alltech-Applied Science Laboratories.	Halazepam	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	Hexobarbital	Vial: 1ml	1/24/73
Alltech-Applied Science Laboratories.	Hydrocodone Bitartrate	Vial: 1ml	1/24/73
Alltech-Applied Science Laboratories.	Hydromorphone HCL	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	L-Amphetamine HCl	Vial: 1 ml	6/16/89
Alltech-Applied Science Laboratories.	L-Methamphetamine HCl	Vial: 1 ml	6/16/89
Alltech-Applied Science Laboratories.	Levorphanol Tartrate	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	Lorazepam	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	Lysergic Acid	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	Lysergic Acid Diethylamide	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	Lysergic Acid N-(methylpropyl) amide	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	MDA HCl	Vial: 1 ml	3/30/88
Alltech-Applied Science Laboratories.	MDE HCl	Vial: 1 ml	6/16/89
Alltech-Applied Science Laboratories.	MDMA HCl	Vial: 1 ml	3/30/88
Alltech-Applied Science Laboratories.	Medazepam	Vial: 1 ml	6/16/89
Alltech-Applied Science Laboratories.	Meperidine HCL	Vial: 1ml	1/24/73
Alltech-Applied Science Laboratories.	Mephobarbital	Vial: 1ml	1/24/73
Alltech-Applied Science Laboratories.	Meprobamate	Vial: 1ml	1/24/73
Alltech-Applied Science Laboratories.	Mescaline	Vial: 1ml	1/24/73
Alltech-Applied Science Laboratories.	Mesterolone	Ampule: 2ml	9/26/95
Alltech-Applied Science Laboratories.	Methadone HCL	Vial: 1ml	1/24/73
Alltech-Applied Science Laboratories.	Methamphetamine HCL	Vial: 1ml	1/24/73
Alltech-Applied Science Laboratories.	Methandriol	Ampule: 2ml	9/26/95
Alltech-Applied Science Laboratories.	Methandrostenolone	Ampule: 2ml	9/26/95
Alltech-Applied Science Laboratories.	Methaqualone HCL	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	Metharbital	Vial: 1 ml	6/16/89
Alltech-Applied Science Laboratories.	Methcathinone	Ampule: 2ml	9/26/95

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Alltech-Applied Science Laboratories.	Methenolone	Ampule: 2ml	9/26/95
Alltech-Applied Science Laboratories.	Methohexital	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	Methylphenidate	Vial: 1ml	1/24/73
Alltech-Applied Science Laboratories.	Methyltestosterone	Ampule: 2ml	9/26/95
Alltech-Applied Science Laboratories.	Methyprylon	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	Mixture 1-Opiates	Vial: 1ml	10/04/72
Alltech-Applied Science Laboratories.	Mixture 2-Stimulants	Vial: 1ml	10/04/72
Alltech-Applied Science Laboratories.	Mixture 3-Depressants	Vial: 1ml	10/04/72
Alltech-Applied Science Laboratories.	Mixture 4-Barbiturates	Vial: 1ml	10/04/72
Alltech-Applied Science Laboratories.	Mixture 5-Kit of Representatives	Vial: 1ml	10/04/72
Alltech-Applied Science Laboratories.	Morphine	Vial: 1ml	1/24/73
Alltech-Applied Science Laboratories.	N-Ethylamphetamine	Amber Ampoule: 1ml	2/16/90
Alltech-Applied Science Laboratories.	N-Hydroxy-MDA	Amber Ampoule: 1ml	2/16/90
Alltech-Applied Science Laboratories.	Nalorphine	Vial: 1ml	1/24/73
Alltech-Applied Science Laboratories.	Nandrolone	Ampule: 2ml	9/26/95
Alltech-Applied Science Laboratories.	Nitrazepam	Vial: 1 ml	3/30/88
Alltech-Applied Science Laboratories.	Norcocaine	Ampule: 2ml	9/26/95
Alltech-Applied Science Laboratories.	Norcodeine HCL	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	Nordiazepam	Vial: 1 ml	3/30/88
Alltech-Applied Science Laboratories.	Norethandrolone	Ampule: 2ml	9/26/95
Alltech-Applied Science Laboratories.	Normeperidine HCL	Vial: 1 ml	6/16/89
Alltech-Applied Science Laboratories.	Normorphine	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	Opiates Mix #2	Ampule: 2ml	9/26/95
Alltech-Applied Science Laboratories.	Opiates, Mixture 1	Vial: 10ml	10/04/72
Alltech-Applied Science Laboratories.	Oxandrolone	Ampule: 2ml	9/26/95
Alltech-Applied Science Laboratories.	Oxazepam	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	Oxycodone HCL	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	Oxymesterone	Ampule: 2ml	9/26/95
Alltech-Applied Science Laboratories.	Oxymetholone	Ampule: 2ml	9/26/95
Alltech-Applied Science Laboratories.	Oxymorphone	Ampule: 2ml	9/26/95
Alltech-Applied Science Laboratories.	Oxymorphone HCL	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	Paraldehyde	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	Pemoline	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	Pentazocine	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	Pentazocine HBr	Vial: 1ml	1/24/73
Alltech-Applied Science Laboratories.	Pentobarbital	Vial: 1ml	1/24/73

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Alltech-Applied Science Laboratories.	Phencyclidine HCL	Vial: 1ml	1/24/73
Alltech-Applied Science Laboratories.	Phendimetrazine Bitartrate	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	Phenmetrazine HCl	Amber Ampoule: 1ml	2/16/90
Alltech-Applied Science Laboratories.	Phenobarbital	Vial: 1ml	1/24/73
Alltech-Applied Science Laboratories.	Phentermine	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	Prazepam	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	Propylbenzoyl-ecgonine	Vial: 1 ml	3/30/88
Alltech-Applied Science Laboratories.	Psilocybin	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	Psilocyn	Vial: 1 ml	11/06/87
Alltech-Applied Science Laboratories.	Secobarbital	Vial: 1ml	1/24/73
Alltech-Applied Science Laboratories.	Spot Chek Test Mix 1-A-PPS	Ampule: 2ml	12/19/95
Alltech-Applied Science Laboratories.	Spot Chek Test Mix 1A-M	Ampule: 2ml	12/19/95
Alltech-Applied Science Laboratories.	Spot Chek Test Mix 1B-1	Ampule: 2ml	12/19/95
Alltech-Applied Science Laboratories.	Spot Chek Test Mix 1B-2	Ampule: 2ml	12/19/95
Alltech-Applied Science Laboratories.	Spot Chek Test Mix 1B-3	Ampule: 2ml	12/19/95
Alltech-Applied Science Laboratories.	Spot Chek Test Mix 2A-A	Ampule: 2ml	12/19/95
Alltech-Applied Science Laboratories.	Spot Chek Test Mix 2A-N	Ampule: 2ml	12/19/95
Alltech-Applied Science Laboratories.	Spot Chek Test Mix 2B-B	Ampule: 2ml	12/19/95
Alltech-Applied Science Laboratories.	Spot Chek Test Mix 2C-C	Ampule: 2ml	12/19/95
Alltech-Applied Science Laboratories.	Stanolone	Ampule: 2ml	9/26/95
Alltech-Applied Science Laboratories.	Stanolone Valerate	Ampule: 2ml	9/26/95
Alltech-Applied Science Laboratories.	Stanolzolol	Ampule: 2ml	9/26/95
Alltech-Applied Science Laboratories.	Stimulants, Mixture 2	Vial: 10ml	10/04/72
Alltech-Applied Science Laboratories.	Talbutal	Vial: 1 ml	6/16/89
Alltech-Applied Science Laboratories.	Temazepam	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	Testosterone	Ampule: 2ml	9/26/95
Alltech-Applied Science Laboratories.	Thebaine	Vial: 1ml	1/24/73
Alltech-Applied Science Laboratories.	Thiamylal	Vial: 1ml	1/24/73
Alltech-Applied Science Laboratories.	Thiopental	Vial: 1 ml	6/16/89
Alltech-Applied Science Laboratories.	Toxi Clean Test Mix	Vial: 1 ml	3/30/88
Alltech-Applied Science Laboratories.	Triazolam	Vial: 1ml	4/16/85
Alltech-Applied Science Laboratories.	d3-Benzoylecgonine Tetrahydrate	Amber Ampoule: 5ml	2/16/90
American Biological Technologies, Inc.	Dade Urine Chemistry Control, Level I & II	Glass Vial: 15ml	4/08/91
American Monitor Corporation	Qualify I	Glass Vial: 10ml	10/09/75
American Monitor Corporation	Qualify II	Glass Vial: 10ml	10/09/75
Amerscham Corporation	[N-Methyl-3H]Lysergic Acid Diethylamide	Vial: 5–7ml	10/11/95
Amersham Corporation	5 Alpha-Dihydro[1, 2, 4, 5, 6, 7-3H]Testosterone Cat. No. TRK.443.	Vial: 6ml	4/02/91

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Amersham Corporation	5 alpha-Dihydro[1 alpha, 2 alpha(n)-3H] Testosterone Cat. No. TRK.395.	Vial: 6ml	4/02/91
Amersham Corporation	5 alpha-dihydro[1, 2, 4, 5, 6, 7-3H] Testosterone Reagent 4 T/DHT RIA Kit.	Vial: 1ml	4/11/91
Amersham Corporation	Amerlex T-3 RIA Kit, IM 2000, IM 2001, IM 2004	Kit: 50 tests, 100 tests, 400 tests.	2/18/80
Amersham Corporation	Amerlex T-4 RIA Kit, IM 2010, IM 2011, IM 2014	Kit: 50 tests, 100 tests, 400 tests.	2/06/80
Amersham Corporation	Amerlex-M B-hCG Radioimmunoassay Kit IM 3091, IM 3094	Kit: 100 tests, 400 tests	6/19/85
Amersham Corporation	Amerlex-M T3 RIA Kit, 1M.3001, 1M.3004	Kit: 100 Tests 400 Tests	8/27/86
Amersham Corporation	Amerlex-M T4 RIA Kit, 1M.3011, 1M.3014	Kit: 100 Tests 400 Tests	8/27/86
Amersham Corporation	Amerlite FSH Assay, Cat. Code LAN.0077, Cat. Code LAN.2077.	Glass vial: 5.8ml, 38.1ml, 240 tests, 144 tests.	5/30/89
Amersham Corporation	Amerlite Rubella Antibody Assay, Cat. Code LAN.0200, Cat. Code LAN.2200.	Glass vial: 5.8ml, 38.1ml, 240 tests, 144 tests.	5/30/89
Amersham Corporation	Amerlite TSH Assay, Cat. Code LAN.0001, Cat. Code LAN.2001.	Glass vial: 5.8ml, 240 tests, 144 tests.	5/30/89
Amersham Corporation	Amerlite TT3 Assay: Catalog Code Lan. 0003, Lan. 1003, and Lan.2003.	Kit: 144 tests, 240 tests, 480 tests.	11/24/87
Amersham Corporation	Amerlite TT4 Assay: Catalog Code Lan. 0002, Lan. 1002, Lan. 2002.	Kit: 144 tests, 240 tests, 480 tests.	11/24/87
Amersham Corporation	Codeine (N-methyl-C14) Hydrochloride	Custom Preparation	3/27/72
Amersham Corporation	Dihydrotestosterone Standard Reagnet 3 T/DHT RIA Kit	Vial: 5.5ml	4/11/91
Amersham Corporation	Morphine (N-methyl-C14) Hydrocloride No. CFA-363	Vial: 0.32 to 1.89mg	3/27/72
Amersham Corporation	Pheno [2-14C] barbital Catalog No. CFA 537	Vial: 0.39 to 5.85mg	11/05/74
Amersham Corporation	Prolactin RIA Kit, IM 1060, 1061	Kit: 50 tests, 100 tests	3/28/80
Amersham Corporation	T-3 Uptake (MAA) Kit-IM 1020, IM 1021, IM 1024	Kit: 50 tests, 100 tests, 400 tests.	2/05/79
Amersham Corporation	Testosterone Standard Reagent 2 T/DHT RIA Kit	Vial: 5.5ml	4/11/91
Amersham Corporation	Testosterone-3-(0-carboxymethyl)oximino-(2-[125I] iodohistamine)10uCi, 25uCi Cat. No. IM.128.	Vial: 1.2ml	4/02/91
Amersham Corporation	Testosterone/dihydrotestosterone [3H] assay system Cat. No. TRK-600.	Kit: 200 assays	4/11/91
Amersham Corporation	[1(N)-3H] Hydromorphone TRQ 4729	Vial: 47.5-95 micrograms	7/31/87
Amersham Corporation	[1(n)-3H] Codeine, No. TRK 448	Ampule: 0.002mg to 0.015mg	2/26/74
Amersham Corporation	[1(n)-3H] Morphine, No. TRK-447	Vial: 0.002 mg to 0.015 mg	2/26/74
Amersham Corporation	[1, 2, 6, 7-3H] Testosterone Cat. No. TRK.402	Vial: 6ml	4/02/91
Amersham Corporation	[1, 7, 8(n)-3H]Dihydromorphine, No. TRK-450	Vial: 0.0008 mg to 0.008 mg	2/26/74
Amersham Corporation	[15, 16(n)-3H] Etorphine, Catalog No. TRK 476	Vial: 3.45 to 6.9 micrograms	11/19/74
Amersham Corporation	[15, 16(n)-3H] Etorphine Catalog No. TRK 476	Vial: 13.8 to 27.6 micrograms	2/17/75
Amersham Corporation	[17 alpha-methyl-3H] Mibolerone Cat. No. TRK.764	Vial: 6ml	4/02/91
Amersham Corporation	[2(n)-3H] Lysergic Acid Diethylamide, No. TRK. 461	Vial: 0.003mg to 0.04mg	5/22/74
Amersham Corporation	[2-14C] Diazepam Catalog No. CFA.591	Multidose Glass Vial: 56mm x 25mm.	9/28/77
Amersham Corporation	[3H]11-Ketotestosterone Cat. No. TRQ.5919	Vial: 5.7ml	8/13/91
Amersham Corporation	[4-14C] Testosterone 50uCi, 250uCi Cat. No. CFA.129	Vial: 6ml	4/02/91
Amersham Corporation	[N-methyl-3H] Diazepam Catalog Code: TRK.572	Multidose Glass Vial: 56mm x 25mm.	9/28/77
Amersham Life Science	[125I] Iodo-Lysergic Acid Diethylamide	Vial: 1.2ml	11/22/95
Analytical Control Systems, Inc	Benchmark I TDM Control 1L, 2M, 3H	Plastic Vial: 5ml per Vial; 1-120 Vials per Bag.	10/02/91
Armed Forces Institute of Pathology.	11-nor-9-carboxy-delta 8-THC in Ethanol Ampules	Glass Ampule: 1mg/ml, 1ml, 5ml, 10ml.	1/25/82
Astral Medical Systems	Barbital Buffer	Plastic bag: 12.2g/bag	5/01/85
Astral Medical Systems	Barbital Lactate Buffer	Plastic bag: 18g/bag	5/01/85
Astral Medical Systems	Isoenzyme Buffer	Plastic bag: 14g/bag	5/01/85
Astral Medical Systems	Tris-Barbital Sodium Barbital Buffer	Plastic bag: 18g/bag	5/01/85
Atochem North America, Inc	M&T NiproTeq SB Additive	Polypropylene Containers: 5 gallons, 55 gallons.	3/10/88
BHP Diagnostix, Inc	Kallestad TDM Multi-Calibrator-Pilot Lot B-G	Kit: 7-3 ml Vials; 3 ml Vial	8/18/88
BHP Diagnostix, Inc	Kallestad TDM Multi-Calibrator-Pilot-Lot Phenobarbital	3ml, 6ml, 10ml, 30ml, 50ml Vial.	8/18/88
BHP Diagnostix, Inc	Kodak Ektachem-DT Calibrator	Bottle: 6ml	1/05/85
Baxter Diagnostics Inc	Dade Moni-Trol Gold, Level 1X Chemistry Control and Carbonate Diluent 1.	Kit: 55 Vials	8/31/94
Baxter Diagnostics Inc	Dade Moni-Trol Gold, Level 1X and Level 2X Chemistry Controls.	Bottle: 18ml	8/31/94
Baxter Diagnostics Inc	Dade Moni-Trol Gold, Level 2X Chemistry Control and Carbonate Diluent 2.	Kit: 55 Vials	8/31/94
Baxter Diagnostics Inc	EXCEL–QC Level 1 Serum Chemistry Control	Bottle: 18ml	8/4/93
Baxter Diagnostics Inc	EXCEL–QC Level 1 and Level 2 Serum Chemistry Control and Carbonate Diluent 1 and 2.	Kit: 12 Bottles	8/4/93

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Baxter Diagnostics Inc	EXCEL–QC Level 2 Serum Chemistry Control	Bottle: 18ml	8/4/93
Baxter Diagnostics Inc	Paramax Phenobarbital Calibrator I, II, III, Cat. # B–6109–11	Kit: 6 Glass Bottles; 6ml each	7/7/93
Baxter Diagnostics Inc	Paramax Phenobarbital Calibrator Level II	Glass Bottle: 6ml	7/7/93
Baxter Diagnostics Inc	Paramax Phenobarbital Calibrator Level III	Glass Bottle: 6ml	7/07/93
Bayer Corporation	Estradiol Antibody Conjugate R1	Bulk	8/16/95
Bayer Corporation	Technicon Immuno 1 Estradiol Reagents Kit No. T01–3595–51.	Kit: 1 Cassette	8/16/95
Beckman Instruments, Inc	ARRAY 360 System: Drug Calibrator	Bottle: 3ml	3/13/95
Beckman Instruments, Inc	ARRAY 360 System: Drug Control Kit	Bottle: 1ml	3/13/95
Beckman Instruments, Inc	Beckman Buffer B–2	Packet: 18.16 g	4/24/71
Beckman Instruments, Inc	Beckman ICS Drug Calibrators A, B, C, D, and E	Vials: 5ml	10/29/80
Beckman Instruments, Inc	Beckman ICS Drug Control Sera	Kit containing: 6-1ml bottles	11/11/80
Beckman Instruments, Inc	Beckman ICS Phenobarbital Conjugate	Vial: 5ml	10/29/80
Beckman Instruments, Inc	Beckman LD Buffer	Bottle: 14.3 grams	7/31/86
Beckman Instruments, Inc	Beckman LD Buffer	Bottle: 14.3 grams	7/31/86
Beckman Instruments, Inc	IFE Gel	Foil Packet: 1 Gel; Box: 10 Gels	1/22/96
Beckman Instruments, Inc	LD Gel	Foil Pack: 1 Gel; Box: 10 Gels	1/22/96
Beckman Instruments, Inc	Paragon Electrophoresis System: Alkaline Phosphatase Isoenzyme Electrophoresis (Isopal) Kit.	Plastic Tray: 3.5ml, Box: 10 trays, Kit: 10 trays.	5/19/89
Beckman Instruments, Inc	Paragon Electrophoresis System: High Resolution Electrophoresis (HRE) Kit.	Plastic Tray: 3.5ml, Box: 10 trays, Kit: 10 trays.	5/19/89
Beckman Instruments, Inc	Paragon Electrophoresis System: Immunoelectrophoresis (IEP) Kit.	Plastic Tray: 3.5ml, Box: 10 trays, Kit: 10 trays.	5/19/89
Beckman Instruments, Inc	Paragon Electrophoresis System: Immunofixation Electrophoresis (IFE) Kit.	Plastic Tray: 3.5ml	7/31/86
Beckman Instruments, Inc	Paragon Electrophoresis System: Lactate Dehydrogenase Isoenzyme Electrophoresis (LD) Kit.	Plastic Tray: 3.5ml	7/31/86
Beckman Instruments, Inc	Paragon Electrophoresis System: Lipoprotein Electrophoresis (LIPO) Kit.	Plastic Tray: 3.5 ml, Box: 10 trays, Kit: 10 trays.	5/19/89
Beckman Instruments, Inc	Paragon Electrophoresis System: Protein Electrophoresis (SPE–II) Kit.	Plastic Tray: 3.5ml	7/31/86
Beckman Instruments, Inc	Paragon Electrophoresis System: Serum Protein Electrophoresis (SPE) Kit.	Plastic Tray: 3.5ml, Box: 10 trays, Kit: 10 trays.	5/19/89
Beckman Instruments, Inc	SPE Gel	Foil Pack: 1 Gel; Box: 10 Gels	1/22/96
Beckman Instruments, Inc	Synchron CX Systems: CX Amphetamines Reagent Kit	Cartridge: 150 Tests	3/13/95
Beckman Instruments, Inc	Synchron CX Systems: CX Barbiturates Reagent Kit	Cartridge: 150 Tests	3/13/95
Beckman Instruments, Inc	Synchron CX Systems: CX Benzodiazepine Reagent Kit	Cartridge: 150 Tests	3/13/95
Beckman Instruments, Inc	Synchron CX Systems: CX Cannabinoid 50ng and Cannabinoid 100ng Reagent Kits.	Cartridge: 150 Tests	3/13/95
Beckman Instruments, Inc	Synchron CX Systems: CX DAT High Urine Calibrator I	Bottle: 5ml	3/13/95
Beckman Instruments, Inc	Synchron CX Systems: CX DAT High Urine Calibrator II	Bottle: 5ml	3/13/95
Beckman Instruments, Inc	Synchron CX Systems: CX DAT High Urine Control I	Bottle: 5ml	3/13/95
Beckman Instruments, Inc	Synchron CX Systems: CX DAT High Urine Control II	Bottle: 5ml	3/13/95
Beckman Instruments, Inc	Synchron CX Systems: CX DAT Low Urine Calibrator I	Bottle: 5ml	3/13/95
Beckman Instruments, Inc	Synchron CX Systems: CX DAT Low Urine Calibrator II	Bottle: 5ml	3/13/95
Beckman Instruments, Inc	Synchron CX Systems: CX DAT Low Urine Control I	Bottle: 5ml	3/13/95
Beckman Instruments, Inc	Synchron CX Systems: CX DAT Low Urine Control II	Bottle: 5ml	3/13/95
Beckman Instruments, Inc	Synchron CX Systems: CX Opiate Reagent Kit	Cartridge: 150 Tests	3/13/95
Beckman Instruments, Inc	Synchron CX Systems: CX Phencyclidine Reagent Kit	Cartridge: 150 Tests	3/13/95
Beckman Instruments, Inc	Synchron CX Systems: CX THC Urine 20ng/ml, 75ng/ml, 125ng/ml Controls.	Bottle: 5ml	3/13/95
Beckman Instruments, Inc	Synchron CX Systems: CX THC Urine 50ng/ml, 100ng/ml, 200ng/ml Calibrators.	Bottle: 5ml	3/13/95
Beckman Instruments, Inc	Synchron CX Systems: Cocaine Metabolite Reagent Kit	Cartridge: 150 Tests	3/13/95
Beckman Instruments, Inc	Synchron CX Systems: Methadone Reagent Kit	Cartridge: 150 Tests	3/13/95
Beckman Instruments, Inc	Synchron Control: Multilevel Comprehensive Chemistry Control Serum Levels I, II, III.	Plastic Bottle: 20ml; Kit: 6 bottles.	5/13/91
Beckman Instruments, Inc	Triad LINK Comprehensive Custom Unassayed Chemistry Control Serum Levels I, II, III.	Plastic Bottle: 20ml; Box: 20 Bottles.	5/13/91
Beckman Instruments, Inc	Triad NYSPATH Comprehensive Custom Unassayed Chemistry Control Serum Levels I, II, III.	Plastic Bottle: 20ml; Box 20 Bottles.	5/13/91
Beckman Instruments, Inc	Vigil PRx Multilevel Protein/Drug Control Serum Levels I, II, III	Plastic Bottle: 10ml; Kit: 6 Bottles.	5/13/91
Becton Dickinson & Company	IQ Immunochemistry System, Thyroid Stimulating Hormone Catalog No. 3010.	Kit: 25 tests	5/30/87
Becton Dickinson & Company	Neonatal T4 Tracer, Catalog #264015	Bottle: 125ml	1/15/92
Becton Dickinson & Company	T3 Tracer Solution Catalog No. 237728	Bottle: 125ml	9/27/79
Becton Dickinson & Company	TSH [125I] Tracer, Catalog No. 259624	Clear vial: 10ml	9/04/86
Behring Diagnostics	IEP Buffer, 793001 pH 8.2	Foil Pouch: 6.5 g	9/17/79
Behring Diagnostics	Immuno-tec II Agarose Plate, 839013, 850013	Foil Pouch: "5.35" x "5.25"	9/17/79
Behring Diagnostics Inc	Emit 5B3 THC; Calibrators; 0, 50, 100, 200ng/ml	Vial: 10ml	12/14/95

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Behring Diagnostics Inc	Emit II 5B3 THC Assay	Kit: 2 Vials, 500ml each	12/14/94
Bio-Metric Systems, Incorporated.	Cocaine-Enzyme Conjugate	Vial: 250ml, 100ml, 50ml	7/07/92
Bio-Metric Systems, Incorporated.	Cocaine-ImmunoPrime Modified Carrier	Vial: 50ml, 10ml	7/07/92
Bio-Metric Systems, Incorporated.	Morphine-Enzyme Conjugate	Vial: 250ml, 100ml, 50ml	7/07/92
Bio-Metric Systems, Incorporated.	Morphine-ImmunoPrime Modified Carrier	Vial: 50ml, 10ml	7/07/92
Bio-Metric Systems, Incorporated.	Phencyclidine-Enzyme Conjugate	Vial: 250ml, 100ml, 50ml	7/07/92
Bio-Metric Systems, Incorporated.	Phencyclidine-ImmunoPrime Modified Carrier	Vial: 50ml, 10ml	7/07/92
Bio-Metric Systems, Incorporated.	Tetrahydrocannabinol-Enzyme Conjugate	Vial: 250ml, 100ml, 50ml	7/07/92
Bio-Metric Systems, Incorporated.	Tetrahydrocannabinol-ImmunoPrime Carrier	Vial: 50ml, 10ml	7/07/92
Bio-Rad Laboratories	Benzodiazepines/Tricyclic Antidepressants by HPLC	Kit: 100 tests	2/08/90
Bio-Rad Laboratories	CoTube Estradiol Tracer	Glass Bottle: 125ml	7/28/93
Bio-Rad Laboratories	Dade Urine Chemistry Control Levels I AND II	Vial: 20 ml, 50 ml	1/05/88
Bio-Rad Laboratories	Dade Urine Toxiology Control	Vial: 50 ml	1/05/88
Bio-Rad Laboratories	Internal Standard	Amber vial: 30ml Flask: 200ml-2000ml.	2/08/90
Bio-Rad Laboratories	Methadone/Methadone Metabolite Reagent Kit	400 tests	9/17/90
Bio-Rad Laboratories	Quantaphase Thyroxine RIA-125I Tracer/Dissociating Reagent	Plastic bottle: 60ml, 260ml	5/06/81
Bio-Rad Laboratories	Quantaphase Thyroxine RIA-Thyroxine Immunobeads	Plastic bottle: 60ml, 260ml	5/06/81
Bio-Rad Laboratories	Quantimune Barbital Buffer	Plastic Bottle: 1000ml, 250ml, 200ml.	5/31/78
Bio-Rad Laboratories	Quantimune Radioimmunoassay T-4 Tracer, Iodine-125	Vial: 10 ml	7/21/76
Bio-Rad Laboratories	Quantimune T–3 RIA Barbital Buffer	Bottle: 220ml	9/24/82
Bio-Rad Laboratories	Quantimune T–3 RIA Test Kit	Kit: 500 tests, 100 tests	5/31/78
Bio-Rad Laboratories	Quantimune T–4 RIA Kit	Kit: 500 tests	7/01/77
Bio-Rad Laboratories	Quantimune T–4 RIA Test Kit	Kit: 5000 tests, 100 tests	5/31/78
Bio-Rad Laboratories	Quantimune Thyroxine Radioimmunoassay Barbital Buffer	Plastic Bottle with Screw cap: 1 liter.	7/01/77
Bio-Rad Laboratories	Quantimune Thyroxine Radioimmunoassay T–4 125I Tracer/Dissociating Agent.	Glass Serum Vial: 10 ml	7/01/77
Bio-Rad Laboratories	REMEDI DPS Check Mix	Vial: 20ml, Flask: 1L–10L	9/17/90
Bio-Rad Laboratories	REMEDI DPS Internal Standard Combination	Vial: 20ml, Flask: 250ml-5000ml.	9/17/90
Bio-Rad Laboratories	REMEDI DPS Internal Standard One	Vial: 20ml, Flask: 250ml-2500ml.	9/17/90
Bio-Rad Laboratories	REMEDI DPS Internal Standard Two	Vial: 20ml, Flask: 250ml-5000ml.	9/17/90
Bio-Rad Laboratories	REMEDI DPS Urine Calibrator	Vial: 20ml, Flask: 1L–10L	9/17/90
Bio-Rad Laboratories	Serum Calibrator 1	Amber vial: 20ml Polypropylene container: 20L.	2/08/90
Bio-Rad Laboratories	Serum Calibrator 2	Amber vial: 20ml Polypropylene container: 20L.	2/08/90
Bio-Rad Laboratories	Serum Calibrator for Benzodiazepines/Tricyclics, Contains 2	Box: 2 vials	2/08/90
Bio-Rad Laboratories	T–4 Competitive Binding Reagent, Iodine-125	Bottle: 385 ml	7/21/76
Bio-Rad Laboratories, (Chemical Division).	Barbital Buffer	Vial: 10ml	7/21/76
Bio-Rad Laboratories, (Chemical Division).	Barbital Buffer Powder	Plastic bottle: 250 ml	9/09/77
Bio-Rad Laboratories, (Chemical Division).	Barbital Buffer Powder	Plastic bottle: 250ml	7/21/76
Bio-Rad Laboratories, (Chemical Division).	Barbital Buffer-Dry Pack	Packages: 9.11 g., 18.21 g., 12.14 g.	5/09/74
Bio-Rad Laboratories, (Chemical Division).	Bio-Rad Electrophoresis Buffer	Bottle: 500ml	12/14/72
Bio-Rad Laboratories, (Chemical Division).	Electrophoresis Buffer, Dry-Pack	Package: 6.15 g	12/14/72
Bio-Rad Laboratories, (Chemical Division).	Immunoelectrophoresis Barbital Buffer I, pH 8.6	Dry-pack: 25.6 g	8/06/75
Bio-Rad Laboratories, (Chemical Division).	Immunoelectrophoresis Barbital Buffer II, pH 8.6	Dry-pack: 15.61 g	8/06/75
Bio-Rad Laboratories, (Chemical Division).	Immunoelectrophoresis Barbital Buffer III, pH 8.6	Dry-pack: 6.82 g	1/22/76
Bio-Rad Laboratories, (Chemical Division).	Immunoelectrophoresis Barbital Buffer III-a, pH 8.8	Dry-pack: 15.07 g	8/06/75

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Bio-Rad Laboratories, (Chemical Division).	Reagent No. 3	Bottle: 165 ml	12/14/72
Bio-Rad Laboratories, (Clinical Division).	Benzodiazepines/Tricyclics/Plasma Catecholamines (BZ/TCA/pCats) Serum Calibrators Bulk Preparations.	Polypropylene Container: 15L - 100L.	3/26/91
Bio-Rad Laboratories, (Clinical Division).	Plasma Catecholamines by HPLC, 100 Test	Kit: 100 Test	3/26/91
Bio-Rad Laboratories, (Clinical Division).	Plasma Catecholamines by HPLC, Serum Calibrator Set, 1x6 vials.	Vial: 20 ml; Set: 6 vials	3/26/91
Bio-Rad Laboratories, (ECS Division).	Benzo/TCA Control Levels I & II	Vial: 10ml Box: 6 vials	3/20/91
Bio-Rad Laboratories, (ECS Division).	Blind Performance Specimen Set Cat. #610	Kit: 5 bottles	9/14/90
Bio-Rad Laboratories, (ECS Division).	LYPHOCHEK Assayed Chemistry Control Serum (Human) Levels I and II.	Vials: 10 ml each	4/13/88
Bio-Rad Laboratories, (ECS Division).	LYPHOCHEK Immunoassay Plus Control Serum Levels 1–3	Vial: 10ml; Kit: 12 vials	9/14/90
Bio-Rad Laboratories, (ECS Division).	LYPHOCHEK Urine Toxicology Control-Confirm	Box: 10 vials; Vial: 50ml	9/14/91
Bio-Rad Laboratories, (ECS Division).	LYPHOCHEK Urine Toxicology Control-Law	Vials: 20 ml each	4/13/88
Bio-Rad Laboratories, (ECS Division).	LYPHOCHEK Urine Toxicology Control-Screen	Box: 10 vials; Vial: 20ml	9/14/90
Bio-Rad Laboratories, (ECS Division).	Liquichek Therapeutic Drug Monitoring Control (TDM), Levels 1, 2, 3.	Vial: 10ml	5/01/94
Bio-Rad Laboratories, (ECS Division).	Liquichek Unassayed Chemistry Control (Human) Levels 1, 2	Vial: 20ml	5/01/94
Bio-Rad Laboratories, (ECS Division).	Lyphochek Immunoassay Control Levels I, II, III	Vial: 10 ml	9/24/87
Bio-Rad Laboratories, (ECS Division).	Lyphochek Quantitative Urine Control Levels I and II	Vial: 20 ml, 50 ml	9/24/87
Bio-Rad Laboratories, (ECS Division).	Lyphochek Therapeutic Drug Monitoring Control (TDM), Levels I, II, III.	Vial: 10ml	8/20/84
Bio-Rad Laboratories, (ECS Division).	Lyphochek Unassayed Chemistry Control (Bovine) Levels I, II	Vial: 20 ml	9/24/87
Bio-Rad Laboratories, (ECS Division).	Lyphochek Unassayed Chemistry Control (Human) Levels I, II	Vial: 20ml	9/24/87
Bio-Rad Laboratories, (ECS Division).	Lyphochek Urine Toxicology Screen-Low Control	Vial: 20ml	5/01/94
Bio-Rad Laboratories, (ECS Division).	Lypochek Fertility Control Serum (Human) Levels 1, 2, 3	Vial: 10ml	5/01/94
Bio-Rad Laboratories, (ECS Division).	Positive for Amphetamines	Bottle: 90ml	9/14/90
Bio-Rad Laboratories, (ECS Division).	Positive for Cocaine	Bottle: 90ml	9/14/90
Bio-Rad Laboratories, (ECS Division).	Positive for Marihuana	Bottle: 90ml	9/14/90
Bio-Rad Laboratories, (ECS Division).	Positive for Opiates	Bottle: 90ml	9/14/90
Bio-Rad Laboratories, (ECS Division).	Positive for Phencyclidine	Bottle: 90ml	9/14/90
Bio-Rad Laboratories, (ECS Division).	Urine Toxicology Control No. C–470–25	Amber Vial: 50ml	9/19/79
Biochemical Diagnostics, Inc	(DL) Methadone	Vial: 1ml; 200ml (In-house)	12/22/95
Biochemical Diagnostics, Inc	(DL)-9-Carboxy-11-nor-Delta-9-THC	Vial: 1ml; 200ml (In-house)	12/22/95
Biochemical Diagnostics, Inc	Alprazolam	Vial: 1ml; 200ml (In-house)	12/22/95
Biochemical Diagnostics, Inc	Amobarbital	Vial: 1ml; 200ml (In-house)	12/22/95
Biochemical Diagnostics, Inc	Benzoylecgonine	Vial: 1ml; 200ml (In-house)	12/22/95
Biochemical Diagnostics, Inc	Butalbital	Vial: 1ml; 200ml (In-house)	12/22/95
Biochemical Diagnostics, Inc	Chlordiazepoxide	Vial: 1ml; 200ml (In-house)	12/22/95
Biochemical Diagnostics, Inc	Codeine	Vial: 1ml; 200ml (In-house)	12/22/95
Biochemical Diagnostics, Inc	D-Amphetamine	Vial: 1ml; 200ml (In-house)	12/22/95
Biochemical Diagnostics, Inc	D-Methamphetamine	Vial: 1ml; 200ml (In-house)	12/22/95
Biochemical Diagnostics, Inc	D-Propoxyphene	Vial: 1ml; 200ml (In-house)	12/22/95
Biochemical Diagnostics, Inc	Detectabuse GC/MS Liquid Control Urine	Bottle: 50ml	10/31/95
Biochemical Diagnostics, Inc	Detectabuse Immunoassay Liquid Control Urine, Series I	Bottle: 20ml	10/31/95
Biochemical Diagnostics, Inc	Detectabuse Immunoassay Liquid Control Urine, Series I, II, II, IV, V.	Bulk: Up to 100L	1/02/96
Biochemical Diagnostics, Inc	Detectabuse Immunoassay Liquid Control Urine, Series II	Bottle: 20ml	10/31/95
Biochemical Diagnostics, Inc	Detectabuse Immunoassay Liquid Control Urine, Series III	Bottle: 20ml	10/31/95
Biochemical Diagnostics, Inc	Detectabuse Immunoassay Liquid Control Urine, Series IV	Bottle: 20ml	10/31/95
Biochemical Diagnostics, Inc	Detectabuse Immunoassay Liquid Control Urine, Series V	Bottle: 20ml	10/31/95
Biochemical Diagnostics, Inc	Diazepam	Vial: 1ml; 200ml (In-house)	12/22/95

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Biochemical Diagnostics, Inc	Hydrocodone Bitartrate	Vial: 1ml; 200ml (In-house)	12/22/95
Biochemical Diagnostics, Inc	LSD 25ug/ml	Vial: 1ml	12/22/95
Biochemical Diagnostics, Inc	Meperidine	Vial: 1ml; 200ml (In-house)	12/22/95
Biochemical Diagnostics, Inc	Methaqualone	Vial: 1ml; 200ml (In-house)	12/22/95
Biochemical Diagnostics, Inc	Morphine	Vial: 1ml; 200ml (In-house)	12/22/95
Biochemical Diagnostics, Inc	Morphine-6-Glucuronide	Vial: 1ml; 200ml (In-house)	12/22/95
Biochemical Diagnostics, Inc	Nordiazepam	Vial: 1ml; 200ml (In-house)	12/22/95
Biochemical Diagnostics, Inc	Oxazepam	Vial: 1ml; 200ml (In-house)	12/22/95
Biochemical Diagnostics, Inc	Oxycodone	Vial: 1ml; 200ml (In-house)	12/22/95
Biochemical Diagnostics, Inc	Oxymorphone	Vial: 1ml; 200ml (In-house)	12/22/95
Biochemical Diagnostics, Inc	Pentobarbital	Vial: 1ml; 200 ml (In-house)	12/22/95
Biochemical Diagnostics, Inc	Phencyclidine	Vial: 1ml; 200ml (In-house)	12/22/95
Biochemical Diagnostics, Inc	Phenobarbital	Vial: 1ml; 200ml (In-house)	12/22/95
Biochemical Diagnostics, Inc	Phentermine	Vial: 1ml; 200ml (In-house)	12/22/95
Biochemical Diagnostics, Inc	Secobarbital	Vial: 1ml; 200ml (In-house)	12/22/95
Biochemical Diagnostics, Inc	Triazolam	Vial: 1ml; 200ml (In-house)	12/22/95
Biodiagnostic International	Liqui-Ura Toxic Control	Vial: 5ml	3/11/85
Biopool International	Drugs of Abuse Controls GC/MS L-2, L-3 and L-4	Kit: 6 Vials	1/04/94
Biopool International	Drugs of Abuse Controls GC/MS L-2, L-3 and L-4	Vial: 12ml	1/04/94
Biopool International	Drugs of Abuse Controls L-2, L-3 and L-4	Kit: 6 Vials	1/04/94
Biopool International	Drugs of Abuse Controls L-2, L-3 and L-4	Vial: 12ml	1/04/94
Bioscientific Corp	ECA Buffer, Catalog No. ECA 05805	Plastic Packet: 18.0 g., 10 packets per box.	7/14/77
Bioscientific Corp/ECA	Agarose Barbital Buffer CSB 470182	Vial: 7 drams	11/15/90
Bioscientific Corp/ECA	Agarose Barbital Buffer ECA 470182	Vial: 12 drams; Box: 3 vials	11/15/90
Bioscientific Corp/ECA	Agarose Barbital-EDTA Buffer ECA 470180	Vial: 12 drams, Box: 3 vials	11/15/90
Bioscientific Corp/ECA	ECA Buffer ECA 0320024	Vial: 12 drams, Box: 12 vials	11/15/90
Bioscientific Corp/ECA	General Procedure Agarose Film #ECA 470100	Plastic Tray 4.5"x5", Kit: 10 trays.	9/10/90
Bioscientific Corp/ECA	LD Agarose Gel #CSB 102	Plastic Tray: 3"x5", Kit: 10 trays.	9/10/90
Bioscientific Corp/ECA	Protein Agarose Gel #PSB 103	Plastic Tray 3"x5", Kit: 10 trays.	9/10/90
Biosite Diagnostics	Alprazolam Stock Solution, 31366	Vial: 2ml	5/26/92
Biosite Diagnostics	Alprazolam Threshold Control Calibrators 2-6; 31446-31450	Flask: 250ml	5/26/92
Biosite Diagnostics	Amphetamine Enzyme Conjugate 31111, Bulk Formulation	Vial: 100ml, 1.5ml	10/24/90
Biosite Diagnostics	Amphetamine QC Control	Vial: 5ml	10/29/91
Biosite Diagnostics	Amphetamine QC Control (Bulk)	Bottle: 0.5L–10L	10/29/91
Biosite Diagnostics	Barbiturate Conjugate	Plastic Bottles: 2ml–60 ml	11/30/90
Biosite Diagnostics	Barbiturate Conjugate Control	Vial: 0.5, 1, 2, 5, 15, 50ml	3/28/94
Biosite Diagnostics	Barbiturate Derivative	Vial: 8, 16, 32 ml	11/30/90
Biosite Diagnostics	Barbiturate Enzyme Conjugate 31110, Bulk Formulation	Vial: 100ml, 1.5ml	10/24/90
Biosite Diagnostics	Barbiturate QC Control	Vial: 5ml	10/29/91
Biosite Diagnostics	Barbiturate QC Control (Bulk)	Bottle: 5L–10L	10/29/91
Biosite Diagnostics	Barbiturate Threshold Control Calibrators 2-6; 31356-31360	Flask: 250ml	5/26/92
Biosite Diagnostics	Benzodiazepine Controls, 1-6 31088-31093, 7-11 31098-31102, Bulk Formulation.	Vial: 50ml, 1.5ml	10/24/91
Biosite Diagnostics	Benzodiazepine QC Control 3	Vial: 5ml	10/29/91
Biosite Diagnostics	Benzodiazepines QC Control 1	Vial: 5ml	10/29/91
Biosite Diagnostics	Benzodiazepines QC Control 1 (Bulk)	Bottle: 0.5L–10L	10/29/91
Biosite Diagnostics	Benzodiazepines QC Control 2	Vial: 5ml	10/29/91
Biosite Diagnostics	Benzodiazepines QC Control 2 (Bulk)	Bottle: 0.5L–10L	10/29/91
Biosite Diagnostics	Benzodiazepines QC Control 3 (Bulk)	Bottle: 0.5L–10L	10/29/91
Biosite Diagnostics	Benzoylecgonine Conjugate	Plastic Bottles: 2ml–60 ml	11/30/90
Biosite Diagnostics	Benzoylecgonine Conjugate II, III, IV, & V	Vial: 1.5ml	3/14/91
Biosite Diagnostics	Benzoylecgonine Conjugate II, III, IV, & V Bulk	Bottle: 5, 15, 30 & 60 ml	3/14/91
Biosite Diagnostics	Benzoylecgonine Controls, 1-5 31041-31045, Bulk Formulation.	Vial: 50ml, 1.5ml	10/24/90
Biosite Diagnostics	Benzoylecgonine Enzyme Conjugate 31105, Bulk Formulation	Vial: 100ml, 1.5ml	10/24/90
Biosite Diagnostics	Benzoylecgonine Enzyme Conjugate II	Vial: 1.5ml	3/14/91
Biosite Diagnostics	Benzoylecgonine Standards, 1-6 31035-31040, Bulk Formulation.	Vial: 50ml, 1.5ml	10/24/90
Biosite Diagnostics	Benzoylecgonine Stock Solution	Vial: 3ml	6/01/95
Biosite Diagnostics	Benzoylecgonine Stock Solution, 31322	Vial: 2ml	5/26/92
Biosite Diagnostics	Benzoylecgonine Stock Solution, Bulk	Bottle: 15-100ml	6/01/95
Biosite Diagnostics	Benzoylecgonine Threshold Control Calibrators 2-6; 31341-31345.	Flask: 250ml	5/26/92
Biosite Diagnostics	Cocaine QC Control	Vial: 5ml	10/29/91
Biosite Diagnostics	Cocaine QC Control (Bulk)	Bottle: 0.5L–10L	10/29/91
Biosite Diagnostics	Conjugate (Intermediate)	Vial: 2, 5, 15, 50, 60, 100, 250, 500, 1000, 2000ml.	3/28/94

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Biosite Diagnostics	Conjugate Bead, Intervention	Bottle: 15, 50, 100, 250, 500, 1000, 2000ml.	11/09/93
Biosite Diagnostics	Conjugate Bead, TCA	Bottle: 15, 50, 100, 250, 500, 1000, 2000ml.	11/09/93
Biosite Diagnostics	Conjugate Beads (Bulk)	Bottles: 15, 50, 100, 250, 500, 1000, 2000ml.	11/30/90
Biosite Diagnostics	Conjugate Beads Triage MTD	Vial: 15, 50, 100, 250, 500, 1000, 2000ml.	3/28/94
Biosite Diagnostics	Conjugate Beads Triage and MTD	Vial: 15, 50, 100, 250, 500, 1000, 2000ml.	3/28/94
Biosite Diagnostics	D-Amphetamine Stock Solution, 31323	Vial: 2ml	5/26/92
Biosite Diagnostics	D-Amphetamine Threshold Control Calibrator, 31376	Flask: 250ml	5/26/92
Biosite Diagnostics	D-Methamphetamine Stock Solution, 31324	Vial: 2ml	5/26/92
Biosite Diagnostics	D-Methamphetamine Threshold Control Calibrator, 31381	Flask: 250 ml	5/26/92
Biosite Diagnostics	Drugs of Abuse Controls-Level 2, Positive	Pack: 6 Vials; 5ml/vial	12/14/94
Biosite Diagnostics	Drugs of Abuse Controls-Level 3, Hi-Positive	Pack: 6 Vials; 5ml/vial	12/14/94
Biosite Diagnostics	Estazolam TTC Stock Solution	Vial: 1ml	11/09/93
Biosite Diagnostics	Estazolam Threshold Control Calibrators 2–6	Vial: .25–1ml	11/09/93
Biosite Diagnostics	Estazolam Threshold Control Calibrators 2–6 Bulk Formulation.	Vial: 5–20ml	11/09/93
Biosite Diagnostics	Flurazepam Enzyme Conjugate 31109, Bulk Formulation	Vial: 100ml, 1.5ml	10/24/90
Biosite Diagnostics	Flurazepam Standards, 1–7 31081–31087, Bulk Formulation	Vial: 50ml, 1.5ml	10/24/90
Biosite Diagnostics	Intervention Bead Solution	Vial: 2, 5, 15, 50, 100, 250, 500ml.	3/28/94
Biosite Diagnostics	Intervention Conjugate (Bulk)	Bottled/Flask: .1L–4L	11/09/93
Biosite Diagnostics	Labeled Benzoylecgonine Conjugate	Plastic Bottles: 0.5, 1, 2 & 5 L	11/30/90
Biosite Diagnostics	Labeled Conjugate Mixture 13	Vial: 2, 5, 15, 50, 100, 250, 500ml.	3/28/94
Biosite Diagnostics	Labeled Conjugate Mixture 2	Plastic Bottles: 10ml–1L	11/30/90
Biosite Diagnostics	Labeled Conjugate Mixture 5	Bottles: 2, 5, 15, 50, 100, 250, 500ml.	10/29/91
Biosite Diagnostics	Labeled Conjugate Mixture 7	Bottle: 20L, 10L, 5L, 1L	12/22/92
Biosite Diagnostics	Labeled Conjugate Mixture 9	Plastic Bottles: 0.5, 1, 2 & 5 L	11/30/90
Biosite Diagnostics	Labeled Morphine Conjugate	Plastic Bottles: 0.5, 1, 2 & 5 L	11/30/90
Biosite Diagnostics	Labeled TCA Conjugate	Bottled/Flask: 2, 5, 15, 50, 60, 100, 250, 260, 500, 1000, 2000ml.	11/09/93
Biosite Diagnostics	Labeled THC Conjugate	Plastic Bottles: 10ml–1L	11/30/90
Biosite Diagnostics	Labeled THC Conjugate (Mixture 13)	Flask: 500, 250, 100, 50, 15, 5, 2ml.	3/28/94
Biosite Diagnostics	Labeled THC Conjugate Mixture 4	Bottles: 2, 5, 15, 50, 100, 250, 500ml.	10/29/91
Biosite Diagnostics	Labeled Triage MTD Conjugate (Bulk)	Vial: 2, 5, 15, 50, 60, 100, 250, 260, 500ml.	3/28/94
Biosite Diagnostics	Lorazepam Enzyme Conjugate 31108, Bulk Formulation	Vial: 100ml, 1.5ml	10/24/90
Biosite Diagnostics	Lorazepam Standards, 1–4 31094–31097, Bulk Formulation	Vial: 50ml, 1.5ml	10/24/90
Biosite Diagnostics	Lormetazepam Stock Solution	Vial: 1ml	11/09/93
Biosite Diagnostics	Methadone Control	Vial: 2ml	12/22/92
Biosite Diagnostics	Methadone Standards 1–6	Vial: 2ml, 50ml	12/22/92
Biosite Diagnostics	Methadone Stock Solution	Vial: 2ml, 50ml	12/22/92
Biosite Diagnostics	Methamphetamine Enzyme Conjugate 31104, Bulk Formulation.	Vial: 100ml, 1.5ml	10/24/90
Biosite Diagnostics	Methamphetamine QC Control	Vial: 5ml	10/29/91
Biosite Diagnostics	Methamphetamine QC Control (Bulk)	Bottle: 5L–10L	10/29/91
Biosite Diagnostics	Morphine Conjugate	Plastic Bottles: 2ml–60 ml	11/30/90
Biosite Diagnostics	Morphine Control 3	Vial: 2ml, 50ml	12/22/92
Biosite Diagnostics	Morphine Controls, 1–5 31076–31080, Bulk Formulation	Vial: 50ml, 1.5ml	10/24/90
Biosite Diagnostics	Morphine Enzyme Conjugate 31107, Bulk Formulation	Vial: 100ml, 1.5ml	10/24/90
Biosite Diagnostics	Morphine Standard 6, 31220 Bulk Formulation	Vial: 1.5ml, 5–20ml; Flask: 20–50ml.	3/14/91
Biosite Diagnostics	Morphine Standards, 1–5 31071–31075, Bulk Formulation	Vial: 50ml, 1.5ml	10/24/90
Biosite Diagnostics	Morphine Stock Solution, 31325	Vial: 2ml	5/26/92
Biosite Diagnostics	Opiate QC Control	Vial: 5ml	10/29/91
Biosite Diagnostics	Opiate QC Control (Bulk)	Bottle: 05.L–10L	10/29/91
Biosite Diagnostics	Opiate Threshold Control Calibrators 2–6; 31346–31350	Flask: 250ml	5/26/92
Biosite Diagnostics	PCP QC Control	Vial: 5ml	10/29/91
Biosite Diagnostics	PCP QC Control (Bulk)	Bottle: 0.5L–10L	10/29/91
Biosite Diagnostics	Phencyclidine Control 7 Bulk Formulation	Vial: 5–20ml	11/09/93
Biosite Diagnostics	Phencyclidine Controls 5–6, 31255–31256 Bulk Formulation	Vial: 1.5ml, 5–20ml; Flask: 20–50ml.	3/14/91
Biosite Diagnostics	Phencyclidine Controls, 1–4 31010–31013, Bulk Formulation	Vial: 50ml, 1.5ml	10/24/90
Biosite Diagnostics	Phencyclidine Enzyme Conjugate 31103, Bulk Formulation	Vial: 100ml, 1.5ml	10/24/90

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Biosite Diagnostics	Phencyclidine Standard 7	Vial: .25–1ml	11/09/93
Biosite Diagnostics	Phencyclidine Standards 1–4 31006–31009, Bulk Formulation	Vial: 50ml, 1.5ml	10/24/90
Biosite Diagnostics	Phencyclidine Standards 5–6, 31253–31254 Bulk Formulation	Vial: 1.5ml, 5–20 ml; Flask: 20–50ml.	3/14/91
Biosite Diagnostics	Phencyclidine Stock Solution, 31321	Vial: 2ml	5/26/92
Biosite Diagnostics	Phencyclidine Threshold Control Calibrators 2–6; 31366–31370.	Flask: 250ml	5/26/92
Biosite Diagnostics	Phenobarbital Controls, 1–8 31063–31070, Bulk Formulation	Vial: 50ml, 1.5ml	10/24/90
Biosite Diagnostics	Phenobarbital Standards, 1–8 31055–31062, Bulk Formulation	Vial: 50ml, 1.5ml	10/24/90
Biosite Diagnostics	RT–5 Drugs of Abuse, Positive	Pack: 6 Vials; 5ml/vial	12/14/94
Biosite Diagnostics	Secobarbital Stock Solution, 31326	Vial: 2ml	5/26/92
Biosite Diagnostics	THC Conjugate	Plastic Bottles: 2ml–60 ml	11/30/90
Biosite Diagnostics	THC Conjugate Control	Vial: 0.5, 1, 2, 5, 15, 50ml	3/28/94
Biosite Diagnostics	THC Controls, 1–3 31052–31054, Bulk Formulation	Vial: 50ml, 1.5ml	10/24/90
Biosite Diagnostics	THC Enzyme Conjugate 31106, Bulk Formulation	Vial: 100ml, 1.5ml	10/24/90
Biosite Diagnostics	THC QC Control	Vial: 5ml	10/29/91
Biosite Diagnostics	THC QC Control (Bulk)	Bottle: 0.5L–10L	10/29/91
Biosite Diagnostics	THC Standards, 1–6 31046–31051, Bulk Formulation	Vial: 50ml, 1.5ml	10/24/90
Biosite Diagnostics	THC Standards, 7–9	Vial: .25–1ml	11/09/93
Biosite Diagnostics	THC Standards, 7–9 Bulk Formulation	Vial: 5–20ml	11/09/93
Biosite Diagnostics	THC Threshold Control Calibrators 2–6 31371–31375	Flask: 250ml	5/26/92
Biosite Diagnostics	Temazepam Stock Solution, 31337	Vial: 2ml	5/26/92
Biosite Diagnostics	Temazepam Threshold Control Calibrators 2–6 31451–31455	Flask: 250ml	5/26/92
Biosite Diagnostics	Threshold Control A & B	Vial: 5ml	10/29/91
Biosite Diagnostics	Threshold Control A & B (Bulk)	Bottle: 1L–20L	10/29/91
Biosite Diagnostics	Threshold Control F–1	Vial: 3.5–5ml	6/01/96
Biosite Diagnostics	Threshold Control F–1, Bulk Solution	Bottle: .05–5L	6/01/95
Biosite Diagnostics	Threshold Controls C, D, E, F, G, H	Vial: 3.5–5ml	11/09/93
Biosite Diagnostics	Thresholds C, D, E, F, G, H Bulk Solution	Bottle: 1–5ml	11/09/93
Biosite Diagnostics	Triage 6 Panel for Drugs of Abuse	Box: 10, 25 cassettes	10/05/92
Biosite Diagnostics	Triage 7 Conjugate	Vial: 2, 5, 15, 50, 60, 100, 250, 260, 500ml.	3/28/94
Biosite Diagnostics	Triage 8 Panel for Drugs of Abuse	Box: 3, 10, 25 Cassettes	3/23/94
Biosite Diagnostics	Triage 8 Panel for Drugs of Abuse	Box: 3, 10, 25 Cassettes	3/28/94
Biosite Diagnostics	Triage 8 Panel for Drugs of Abuse	Pouch: 1 Cassette	3/28/94
Biosite Diagnostics	Triage DOA Demo Control	Vial: 5ml	10/29/91
Biosite Diagnostics	Triage DOA Demo Control (Bulk)	Bottle: 0.5L–10L	10/29/91
Biosite Diagnostics	Triage Drug Screen Control	Vial: 5ml	10/29/91
Biosite Diagnostics	Triage Drug Screen Control (Bulk)	Bottle: 0.5–20L	10/29/91
Biosite Diagnostics	Triage Intervention Panel for Drugs of Abuse	Box: 10, 25 Pouches	11/09/93
Biosite Diagnostics	Triage Intervention Test Device	Pouch: 1 each	11/09/93
Biosite Diagnostics	Triage Panel for Drugs of Abuse	Box: 10, 25 cassettes	11/30/90
Biosite Diagnostics	Triage Panel for Drugs of Abuse Plus Tricyclic Antidepressants.	Box: 10, 25 Pouches	11/09/93
Biosite Diagnostics	Triage Panel for Drugs of Abuse Plus Methadone	Box; 3, 10, 25 Cassettes	3/23/94
Biosite Diagnostics	Triage Panel for Drugs of Abuse Plus Methadone	Box: 3, 10, 25 Cassettes	3/28/94
Biosite Diagnostics	Triage Panel for Drugs of Abuse Plus Methadone Test Device	Pouch: 1 Cassette	3/28/94
Biosite Diagnostics	Triage Panel for Drugs of Abuse Plus Tricyclic Antidepressants, Cat #92000.	Kit: 25 Tests	11/01/93
Biosite Diagnostics	Triage Panel for Drugs of Abuse plus Tricyclic Antidepressants, Cat #92010.	Kit: 10 Tests	11/01/93
Biosite Diagnostics	Triage Plus TCA Test Device	Pouch: 1 each	11/09/93
Biosite Diagnostics	Triage Test Device	Metallic Pouch: 1 each	11/30/90
Biosite Diagnostics	Triage and MTD Conjugate (Bulk)	Vial: 2, 5, 15, 50, 60, 100, 250, 260, 500ml.	3/28/94
Biosite Diagnostics	Triage-7 Conjugate Beads	Bottle: 15, 50, 100, 250, 500, 1000, 2000ml.	12/22/92
Biosite Diagnostics	Triage-7 Device	Pouch: 1 cassette	12/22/92
Biosite Diagnostics	Triage-7 Panel for Drugs	Box: 10, 25 cassettes	12/22/92
Biosite Diagnostics	d-Amphetamine Controls, 1–5 31030–31034, Bulk Formulation	Vial: 50ml, 1.5ml	10/24/90
Biosite Diagnostics	d-Amphetamine Standards, 1–6 31024–31029, Bulk Formulation.	Vial: 50ml, 1.5ml	10/24/90
Biosite Diagnostics	d-Methamphetamine Controls 5–6, 31020, 31257 Bulk Formulation.	Vial: 1.5ml, 20-50ml; Flask: 20-50ml.	3/14/91
Biosite Diagnostics	d-Methampbetamine Controls, 1–4 31020–31023, Bulk Formulation.	Vial: 50ml, 1.5ml	10/24/90
Biosite Diagnostics	d-Methamphetamine Standards, 1–6 31014–31019, Bulk Formulation.	Vial: 50ml, 1.5ml	10/24/90
Boehringer Mannheim	2a Amph ED Reagent for 500ml; Cat # 1300796	Vial: 500ml	4/13/94
Boehringer Mannheim	2a Amphetamines ED Reagent for 85 ml; Cat # 1404234	Vial: 100ml	4/13/94
Boehringer Mannheim	Amphetamine System Pack for 85ml; Cat # 81-3300	Kit: 4 Bottles	4/13/94
Boehringer Mannheim	Amphetamines Systems Pack for 500ml; Cat # 81-3400	Kit: 4 Bottles	4/13/94

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Boehringer Mannheim	Bulk Reference Methadone Manufacturing Calibrators E, F, G, H, I, J, K, Open.	Carboy: 5L	8/15/95
Boehringer Mannheim	CEDIA DAU 4-Drug Cutoff Calibrator	Bottle: 10, 15ml	4/01/94
Boehringer Mannheim	CEDIA DAU 4-Drug High Calibrator	Bottle: 10, 15ml	4/01/94
Boehringer Mannheim	CEDIA DAU 4-Drug Intermediate Calibrator	Bottle: 10, 15ml	4/01/94
Boehringer Mannheim	CEDIA DAU 5-Drug Cutoff Calibrator	Bottle: 5, 15ml	6/30/94
Boehringer Mannheim	CEDIA DAU Amphetamine Assay- Cat # 83-3300 and 85-3300.	Kit: 4 Bottles; 18ml each	7/19/94
Boehringer Mannheim	CEDIA DAU Barb/Benz 200	Bottle: 10, 15ml	4/01/94
Boehringer Mannheim	CEDIA DAU Barb/Benz 300 Calibrator	Bottle: 10, 15ml	4/01/94
Boehringer Mannheim	CEDIA DAU Barb/Benz High Calibrator	Bottle: 10, 15ml	4/01/94
Boehringer Mannheim	CEDIA DAU Barb/Benz Intermediate Calibrator	Bottle: 10, 15ml	4/01/94
Boehringer Mannheim	CEDIA DAU Cocaine Assay; Cat # 83–2300 and 85–2300	Kit: 4 Bottles; 18ml each	7/19/94
Boehringer Mannheim	CEDIA DAU Cocaine Assay; Cat # 81–2300	Kit: 4 Bottles, 85ml	1/24/94
Boehringer Mannheim	CEDIA DAU Cocaine Assay; Cat # 81–2400	Kit: 4 Bottles, 500ml	1/24/94
Boehringer Mannheim	CEDIA DAU LSD Assay	Kit: 15, 70ml	12/01/95
Boehringer Mannheim	CEDIA DAU LSD Cutoff Calibrator	Bottle: 10ml	12/01/95
Boehringer Mannheim	CEDIA DAU LSD High Calibrator	Vial: 10ml	12/01/95
Boehringer Mannheim	CEDIA DAU LSD Intermediate Calibrator	Vial: 10ml	12/01/95
Boehringer Mannheim	CEDIA DAU LSD Reagent	Vial: 7, 100ml	12/01/95
Boehringer Mannheim	CEDIA DAU Methadone Assay	Kit: 18, 85, 500ml	8/18/95
Boehringer Mannheim	CEDIA DAU Methadone ED Reagent	Vial: 7, 100, 190ml	8/18/95
Boehringer Mannheim	CEDIA DAU Multi-Level THC Assay; Cat # 81–2700	Kit: 4 Bottles, 85ml	1/24/94
Boehringer Mannheim	CEDIA DAU Multi-Level THC Assay; Cat # 81–2800	Kit: 4 Bottles, 500ml	1/24/94
Boehringer Mannheim	CEDIA DAU Opiate Assay- Cat # 83–2900 and 85–2900	Kit: 4 Bottles; 18ml each	7/19/94
Boehringer Mannheim	CEDIA DAU Opiate Assay; Cat # 81–2900	Kit: 4 Bottles, 85ml	1/24/94
Boehringer Mannheim	CEDIA DAU Opiate Assay; Cat # 81–3000	Kit: 4 Bottles, 500ml	1/24/94
Boehringer Mannheim	CEDIA DAU Propoxyphene Assays; 18ml, 85ml, 500ml	Kit: 4 Bottles	11/30/94
Boehringer Mannheim	CEDIA DAU Propoxyphene Cutoff Calibrator	Vial: 10ml	11/30/94
Boehringer Mannheim	CEDIA DAU Propoxyphene High Calibrator	Vial: 10ml	11/30/94
Boehringer Mannheim	CEDIA DAU Propoxyphene Intermediate Calibrator	Vial: 10ml	11/30/94
Boehringer Mannheim	CEDIA DAU THC 100ng/ml Calibrator	Bottle: 15ml	4/01/94
Boehringer Mannheim	CEDIA DAU THC 150ng/ml Calibrator	Bottle: 15ml	4/01/94
Boehringer Mannheim	CEDIA DAU THC 25ng/ml Calibrator	Bottle: 15ml	4/01/94
Boehringer Mannheim	CEDIA DAU THC 50ng/ml Calibrator	Bottle: 15ml	4/01/94
Boehringer Mannheim	CEDIA DAU THC 75 ng/ml Calibrator	Bottle: 15ml	4/01/94
Boehringer Mannheim	CEDIA Multi-Level THC Assay-Cat # 83–2700 and 85–2700	Kit: 4 Bottles; 18ml each	7/19/94
Boehringer Mannheim	LSD Conjugate	Bottle: 50-200ml	12/01/95
Boehringer Mannheim	LSD Cutoff Calibrator Bulk	Carboy: 4L	12/01/95
Boehringer Mannheim	LSD ED Bulk Reagent	Carboy: 25L	12/01/95
Boehringer Mannheim	LSD High Calibrator Bulk	Carboy: 4L	12/01/95
Boehringer Mannheim	LSD Intermediate Calibrator Bulk	Carboy: 4L	12/01/95
Boehringer Mannheim	LSD Spiking Solution	Vial: 2L	12/01/95
Boehringer Mannheim	Methadone Conjugate	Vial: 25ml	8/18/95
Boehringer Mannheim	Methadone ED Bulk Reagent	Carboy: 50L	8/18/95
Boehringer Mannheim	Methadone Reference Manufacturing Calibrator Spiking Solution.	Carboy: 10L	8/18/95
Boehringer Mannheim	Multi-Drug Control Set, #946380	2 Vials; 15ml/vial	5/10/94
Boehringer Mannheim	Multi-Drug Set, #946379	2 Vials; 5ml/vial	5/10/94
Boehringer Mannheim	Propoxyphene Conjugate	Vial: 25ml	11/30/94
Boehringer Mannheim	Propoxyphene Cutoff Bulk Calibrator	Carboy: 4L	11/30/94
Boehringer Mannheim	Propoxyphene ED Bulk Reagent	Carboy: 25L	11/30/94
Boehringer Mannheim	Propoxyphene ED Reagent	Vial: 7, 100, 190ml	11/30/94
Boehringer Mannheim	Propoxyphene High Bulk Calibrator	Carboy: 4L	11/30/94
Boehringer Mannheim	Propoxyphene Intermediate Bulk Calibrator	Carboy: 4L	11/30/94
Boehringer Mannheim	Propoxyphene Spiking Solution	Vial: 2L	11/30/94
Boehringer Mannheim	Reference LSD Manufacturing Calibrator A, B, C, D, E, F, G, Open.	Vial: 3 or 5ml	12/01/95
Boehringer Mannheim	Reference LSD Manufacturing Calibrator Bulk A, B, C, D, E, F, G, Open.	Carboy: 5L	12/01/95
Boehringer Mannheim	Reference Methadone Manufacturing Calibrators E, F, G, H, I, J, K, Open.	Vial: 3, 5ml	8/18/95
Boehringer Mannheim	Reference Propoxyphene Bulk Manufacturing Calibrators E, F, G, H, I, J, K and Open.	Carboy: 5L	11/30/94
Boehringer Mannheim	Reference Propoxyphene Manufacturing Calibrators E, F, G, H, I, J, K and Open.	Vial: 3, 5ml	11/30/94
Boehringer Mannheim	Specialty Control Set 1, #946381	2 Vials; 15ml/vial	5/10/94
Boehringer Mannheim	Specialty Control Set 2, #946383	2 Vials: 15ml/vial	5/10/94
Boehringer Mannheim	THC 100 Control Set	Box: 2 Bottles; 15ml each	6/30/94
Boehringer Mannheim	THC 100 Controls (High & Low)	Bottle: 15ml	5/30/94
Boehringer Mannheim	THC 100 Controls (High & Low) Bulk	Carboy: 150L	5/30/94
Boehringer Mannheim	THC 25 Control Set	Box: 2 Bottles; 15ml each	5/30/94

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Boehringer Mannheim	THC 25 Controls (High & Low)	Bottle: 15ml	6/30/94
Boehringer Mannheim	THC 25 Controls (High & Low) Bulk	Carboy: 150L	6/30/94
Boehringer Mannheim	THC 50 Control Set	Box: 2 Bottles; 15ml each	6/30/94
Boehringer Mannheim	THC 50 Controls (High & Low)	Bottle: 15ml	6/30/94
Boehringer Mannheim Diagnostics.	Amphetamine Spiking	Carboy: 5–10L	9/26/95
Boehringer Mannheim Diagnostics.	Barbiturate Spiking Solution	Carboy: 5–10L	9/26/95
Boehringer Mannheim Diagnostics.	Benzodiazepine Spiking Solution	Carboy: 5–10L	9/26/95
Boehringer Mannheim Diagnostics.	Benzodiazepine Spiking Solution "A"	Bottle: 2L	9/26/95
Boehringer Mannheim Diagnostics.	CEDIA DAU Multi-Drug Calibrator, Primary Cutoffs	Vial: 10, 15ml	9/26/95
Boehringer Mannheim Diagnostics.	CEDIA DAU Multi-Drug Calibrator, Secondary Cutoffs	Vial: 10, 15ml	9/26/95
Boehringer Mannheim Diagnostics.	CEDIA DAU Multi-Drug High Calibrator	Vial: 10, 15ml	9/26/95
Boehringer Mannheim Diagnostics.	CEDIA DAU Multi-Drug Intermediate Calibrator	Vial: 10, 15ml	9/26/95
Boehringer Mannheim Diagnostics.	Cocaine Spiking Solution	Carboy: 5–10L	9/26/95
Boehringer Mannheim Diagnostics.	Multi-Drug Cutoff, Bulk Calibrator	Bottle: 20L	9/26/95
Boehringer Mannheim Diagnostics.	Multi-Drug High Bulk Calibrator	Bottle: 20L	9/26/95
Boehringer Mannheim Diagnostics.	Multi-Drug Intermediate Bulk Calibrator	Bottle: 20L	9/26/95
Boehringer Mannheim Diagnostics.	Multi-Drug Secondary Cutoffs, Bulk Calibrator	Bottle: 20L	9/26/95
Boehringer Mannheim Diagnostics.	Opiate Spiking Solution	Carboy: 5–10L	9/26/95
Boehringer Mannheim Diagnostics.	PCP Spiking Solution	Carboy: 5–10L	9/26/95
Boehringere Mannheim Diagnostics.	Methamphetamine Spiking Solution	Carboy: 5–10L	9/26/95
California Bionuclear Corporation.	Amobarbital-2–C–14, Catalog No. 72077	Screw Cap Vial: 50 microcuries, 0.1, 0.5, and 1.0 millicuries.	1/08/75
California Bionuclear Corporation.	Cocaine (methoxy-C–14) Catalog No. 72182	Screw Cap Vial: 50 microcuries, 0.1, 0.5, and 1.0 millicuries.	1/08/75
California Bionuclear Corporation.	D-Amphetamine (propyl-1–C–14) Sulfate, Catalog No. 72078	Screw Cap Vial: 50 microcuries, 0.1, 0.5, and 1.0 millicuries.	1/08/75
California Bionuclear Corporation.	DL-Amphetamine (propyl-1–C–14) Sulfate, Catalog No. 72079	Screw Cap Vial: 50 microcuries, 0.1, 0.5, and 1.0 millicuries.	1/08/75
California Bionuclear Corporation.	Meperidine (N-methyl-C–14) Hydrochloride, Catalog No. 72508.	Screw Cap Vial: 50 microcuries, 0.1, 0.5, 1.0 millicuries.	1/08/75
California Bionuclear Corporation.	Mescaline (aminomethylene-C–14) Hydrochloride, Catalog No. 72512.	Screw Cap Vial: 50 microcuries, 0.1, 0.5, 1.0 millicuries.	1/08/75
California Bionuclear Corporation.	Methadone (heptanone-2–C–14) Hydrochloride, Catalog No. 72516.	Screw Cap Vial: 50 microcuries, 0.1, 0.5, 1.0 millicuries.	1/08/75
California Bionuclear Corporation.	Methamphetamine (propyl-1–C–14) Sulfate, Catalog No. 72517.	Screw Cap Vial: 50 microcuries, 0.1, 0.5, 1.0 millicuries.	1/08/75
California Bionuclear Corporation.	Methylphenidate (carbonyl-C–14) Hydrochloride, Catalog No. 72550.	Screw Cap Vial: 50 microcuries, 0.1, 0.5, 1.0 millicuries.	1/08/75
California Bionuclear Corporation.	Morphine (n-methyl-C–14) Hydrochloride, Catalog No. 72560	Screw Cap Vial: 50 microcuries, 0.1, 0.5, 1.0 millicuries.	1/08/75
California Bionuclear Corporation.	Pentobarbital-2–C–14, Catalog No. 72618	Screw Cap Vial: 50 microcuries, 0.1, 0.5, 1.0 millicuries.	1/08/75
California Bionuclear Corporation.	Secobarbital-2–C–14, Catalog No. 72675	Ampule: 50 microcuries, 0.1, 0.5, and 1.0 millicuries.	1/08/75

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Cambridge Medical Diagnostics, Incorporated.	125I Human Parathyroid Hormone 44–68	Vial: 5ml	3/29/85
Cambridge Medical Diagnostics, Incorporated.	125I-Tetraiodothyronine	Vial: 11ml	3/29/85
Cambridge Medical Diagnostics, Incorporated.	125I-Triiodothyronine	Vial: 11ml	3/29/85
Cambridge Medical Diagnostics, Incorporated.	Donkey Anti Goat Gamma Globulin	Vial: 5ml	3/29/85
Cambridge Medical Diagnostics, Incorporated.	Parathyroid Hormone (Human 1–84) Standard	6 Vials: 5ml each	3/29/85
Cambridge Medical Diagnostics, Incorporated.	Parathyroid Hormone Assay Buffer	Vial: 10ml	3/29/85
Cambridge Medical Diagnostics, Incorporated.	T3 AntiSerum (Rabbit)	Vial: 11ml	3/29/85
Cambridge Medical Diagnostics, Incorporated.	T3 Standard	Vial: 1ml	3/29/85
Cambridge Medical Diagnostics, Incorporated.	T4 Antiserum (Rabbit)	Vial: 11ml	3/29/85
Cambridge Medical Diagnostics, Incorporated.	T4 Standard	Vial: 1ml	3/29/85
Casco Standards	1-(1-Phenylcyclohexyl)pyrrolidine Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	1-Phenylcyclohexylamine Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/23/90
Casco Standards	1-[1-(2-thienyl)-cyclohexyl]-piperdine Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/23/90
Casco Standards	1-[1-2(2-thienyl)-cyclohexyl]-pyrrolidine Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 Plastic Cup: 125ml.	3/23/90
Casco Standards	11-OH-delta-8-THC Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	11-OH-delta-9-THC Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic cup: 125ml.	3/21/90
Casco Standards	11-nor-delta-8-THC-9-carboxilic c acid Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	11-nor-delta-9-THC-9-carboxilic acid Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials.	3/21/90
Casco Standards	8-B-11-diOH-delta-9-THC Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	8-B-OH-delta-9-THC Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Allobarbital Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Alphenal Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50 75 vials Plastic cup: 125ml.	3/21/90
Casco Standards	Alprazolam Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Amobarbital Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Aprobarbital Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Barbital Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Benzoylecgonine Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Benzphetamine Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Bromazepam Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Butabarbital Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Butalbital Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Butethal Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Cannabidiol Cross-Reactant	Cryo-Vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Cannabinol Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic cup: 125ml.	3/21/90
Casco Standards	Chlordiazepoxide Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Clonazepam Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Casco Standards	Cocaine Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Cyclopentobarbital Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Diazepam Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Ecgonine HCl Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Ecgonine-methyl ester HCl hydrate Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Fenfluramine Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Flunitrazepam Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Flurazepam Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Halazepam Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Hexobarbital Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Lorazepam Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	MDA Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	MDE Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	MDMA Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Medazepam Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Midazolam Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Nitrazepam Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 03/21/90.	3/21/90
Casco Standards	Nordiazepam Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Oxazepam Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Pentobarbital Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Phencyclidine Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/23/90
Casco Standards	Phenmetrazine Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Phenobarbital Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Phentermine Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Pinazepam Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Prazepam Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Propylhexedrine Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Secobarbital Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Talbutal Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Temazepam Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Triazolam Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	d-Amphetamine Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	d-Methamphetamine Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	l-Amphetamine Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	p-OH-Amphetamine Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Cayman Chemical Company	Testosterone	Vial: 3ml	4/07/93

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Ciba Corning Diagnostics Corp	Magic Lite HCG Solid Phase	Plastic vial: 50ml, Kit: 100 tests.	12/09/88
Ciba Corning Diagnostics Corp	AACC Tox	Glass Vial: 30ml	1/20/86
Ciba Corning Diagnostics Corp	ACS Estradiol Component Sets	Kits: 3 Vials; 18 vials	1/31/94
Ciba Corning Diagnostics Corp	ACS Estradiol Component Sets Releasing Reagent	Bottle: 30ml	1/31/94
Ciba Corning Diagnostics Corp	ACS Estradiol-6 Antibody Reagent	Bottle: 3ml	11/20/95
Ciba Corning Diagnostics Corp	ACS FT4	Kit: 50 Test, 300 Test	3/26/91
Ciba Corning Diagnostics Corp	ACS FT4 Lite Reagent	Vial: 7ml	3/26/91
Ciba Corning Diagnostics Corp	ACS FT4 Lite Reagent	Vial: 7ml	3/26/91
Ciba Corning Diagnostics Corp	ACS FT4 Solid Phase	Vial: 26ml	3/26/91
Ciba Corning Diagnostics Corp	ACS Ferritin Lite Reagent	Vial: 7ml; Kit: 50, 300, 3000 Tests.	4/15/91
Ciba Corning Diagnostics Corp	ACS Ferritin Solid Phase	Vial: 26ml; Kit: 50 Tests, 300 Tests.	4/15/91
Ciba Corning Diagnostics Corp	ACS HCG Solid Phase	Vial: 26ml; Kit: 50 Tests, 300 Tests.	4/18/91
Ciba Corning Diagnostics Corp	ACS Magnetic Check	Plastic Vial: 26ml	6/18/91
Ciba Corning Diagnostics Corp	ACS Magnetic Check II	Plastic Vial: 26ml	6/18/91
Ciba Corning Diagnostics Corp	ACS Multical E Pack (Low & High Calibrator)	Kits: 4 Vials; 2 vials	1/31/94
Ciba Corning Diagnostics Corp	ACS Multical High Calibrator	Vial: 10ml	1/31/94
Ciba Corning Diagnostics Corp	ACS Multical Low Calibrator	Vial: 10ml	1/31/94
Ciba Corning Diagnostics Corp	ACS Performance Verification Test Kit	Kit: 6 Vials	6/18/91
Ciba Corning Diagnostics Corp	ACS Phenobarbital High Calibrator	Bottle: 5ml	5/08/95
Ciba Corning Diagnostics Corp	ACS Phenobarbital Lite Reagent	Bottle: 10ml	5/08/95
Ciba Corning Diagnostics Corp	ACS Phenobarbital Low Calibrator	Bottle: 5ml	5/08/95
Ciba Corning Diagnostics Corp	ACS Phenobarbital Master Curve Material	Bottle: 5ml	5/08/95
Ciba Corning Diagnostics Corp	ACS Phenobarbital Master Curve Material Set	Set: 6 Bottles	5/08/95
Ciba Corning Diagnostics Corp	ACS T3 Kit	Kit: 50, 300, 3000 Tests	7/22/91
Ciba Corning Diagnostics Corp	ACS T3 Lite Reagent	Plastic Vial: 7ml	7/22/91
Ciba Corning Diagnostics Corp	ACS T3 Solid Phase	Plastic Vial: 26ml	7/22/91
Ciba Corning Diagnostics Corp	ACS T4	Kit: 50 Test, 300 Test	3/26/91
Ciba Corning Diagnostics Corp	ACS T4 Lite Reagent	Vial: 7ml	3/26/91
Ciba Corning Diagnostics Corp	ACS T4 Solid Phase	Vial: 26ml	3/26/91
Ciba Corning Diagnostics Corp	ACS Testosterone Component Sets (50 Tests)	Set: 2 Bottles	3/28/94
Ciba Corning Diagnostics Corp	ACS Testosterone Component Sets (500 Tests)	Set: 12 Bottles	3/28/94
Ciba Corning Diagnostics Corp	ACS Testosterone Lite Reagent	Bottle: 10ml	3/28/94
Ciba Corning Diagnostics Corp	ACS Testosterone Releasing Agent	Bottle: 30ml	7/20/94
Ciba Corning Diagnostics Corp	ACS Wash Check Solid Phase	Plastic Vial: 26ml	6/18/91
Ciba Corning Diagnostics Corp	ALP Buffer Concentrate Cat. No. 470244	Plastic Bottle: 175ml	10/28/91
Ciba Corning Diagnostics Corp	ALP Gel/12 Cat. No. 470246	2 Plates: 24 Tests	10/28/91
Ciba Corning Diagnostics Corp	ALP Gel/8 Cat. No. 470243	2 Plates: 16 Tests	10/28/91
Ciba Corning Diagnostics Corp	ALP Gel/8 and Buffer Cat. No. 470240	Kit: 10 Plates; Plastic Bottle: 175ml.	10/28/91
Ciba Corning Diagnostics Corp	Alkaline Hemoglobin Buffer Cat. No. 470580	Plastic Vial: 25 Drams	10/28/91
Ciba Corning Diagnostics Corp	Alkaline Hemoglobin Kit/8 Cat. No. 470678	Kit: 10 Plates; Plastic Vial: 25 Drams.	10/28/91
Ciba Corning Diagnostics Corp	CVM Chemistry (Calibration Verification Material for Chemistry), Levels 1 thru 8.	Kit: 16 Vials; 5ml/vial	6/14/94
Ciba Corning Diagnostics Corp	Ciba Corning ANTICONV/ASTH I, II	Kit Contains: 10ml vial, 5 Vials each level.	10/22/85
Ciba Corning Diagnostics Corp	Ciba Corning Liquid 3	Glass Vials: 15; 5ml each	1/31/95
Ciba Corning Diagnostics Corp	Ciba Corning Liquid TDM 1	Glass Vials: 15; 5ml each	1/31/95
Ciba Corning Diagnostics Corp	Ciba Corning Liquid TDM 1, 2, 3	Kit: 15 Vials	1/31/95
Ciba Corning Diagnostics Corp	Ciba Corning Liquid TDM 2	Glass Vials: 15; 5ml each	1/31/95
Ciba Corning Diagnostics Corp	Ciba Corning TDM I	Vial: 5ml, 10 vials	10/22/85
Ciba Corning Diagnostics Corp	Ciba Corning TDM I, II & III	Kit Contains: 5 Vials each level	10/22/85
Ciba Corning Diagnostics Corp	Ciba Corning TDM II	Vial: 5ml, 10 vials	10/22/85
Ciba Corning Diagnostics Corp	Ciba Corning TDM III	Vial: 5ml, 10 vials	10/22/85
Ciba Corning Diagnostics Corp	Ciba Corning TOX I, II	Kit: Contains: 10ml vial, 5 Vials each level.	12/16/85
Ciba Corning Diagnostics Corp	Ciba Corning Urine II	Vial: 30ml	5/22/85
Ciba Corning Diagnostics Corp	DAU I, No. 9076	Glass vial: 25ml, Box: 10 vials	5/23/89
Ciba Corning Diagnostics Corp	DAU II No. 9077	Glass Vial: 25ml, Box: 10 vials	5/23/89
Ciba Corning Diagnostics Corp	DAU III, No. 9078	Glass vial: 25ml, Box: 10 Vials	5/23/89
Ciba Corning Diagnostics Corp	DAU IV, No. 9079	Glass Vial: 25ml, Box: 10 Vials	5/23/89
Ciba Corning Diagnostics Corp	DAU V, No. 9085	Glass Vial: 25ml; Box: 10 vials	5/10/91
Ciba Corning Diagnostics Corp	Double Four-Track Gel Cat. No. 470179	Plate: 8 Tests; Kit: 12 Plates	10/28/91
Ciba Corning Diagnostics Corp	HDL Cholesterol Gel/8 and Buffer Cat. No. 470618	Kit: 10 Plates; Plastic Vial: 25 Drams.	10/28/91
Ciba Corning Diagnostics Corp	High Resolution Protein Gel/8 Cat. NO. 470201	Kit: 12 Plates; 2 Plates: 16 Tests.	10/28/91

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Ciba Corning Diagnostics Corp	High Resolution Protein Kit/8 Cat. No. 470682	Kit: 10 Plates; Plastic Vial: 25 Drams.	10/28/91
Ciba Corning Diagnostics Corp	Immophase Ferritin Controls	Glass Vial: 3 ml	1/19/87
Ciba Corning Diagnostics Corp	Immophase Ferritin Standards	Glass Vial: 5 ml	9/16/86
Ciba Corning Diagnostics Corp	Immunoelectrophoresis Gel/10 Cat. No. 470090	Kit: 12 Plates; 2 Plates: 20 Tests.	10/28/91
Ciba Corning Diagnostics Corp	Immunoelectrophoresis Kit/8 Cat. No. 470684	Kit: 10 Plates; Plastic Vial: 25 Drams.	10/28/91
Ciba Corning Diagnostics Corp	L–TDM I	Glass Vial: 5 ml, Box: 15 Vials	5/23/89
Ciba Corning Diagnostics Corp	L–TDM I, II, III Kit	Kit: 15 Vials	5/23/89
Ciba Corning Diagnostics Corp	L–TDM II	Glass Vial: 5ml, Box: 15 Vials	5/23/89
Ciba Corning Diagnostics Corp	L–TDM III	Glass Vial: 5ml, Box: 15 Vials	5/23/89
Ciba Corning Diagnostics Corp	LD Isoenzyme Gel/8 and Buffer Cat. No. 470620	Kit: 10 Plates; Plastic Vial: 25 Drams.	10/28/91
Ciba Corning Diagnostics Corp	LVM HI–CHEM DIL	Vial: 10ml	5/21/90
Ciba Corning Diagnostics Corp	LVM, Product Code—9774	Carton: 12 vials	5/21/90
Ciba Corning Diagnostics Corp	Ligand Plus 1, 2, 3	Kit: 15 Bottles, 5ml/bottle	6/17/94
Ciba Corning Diagnostics Corp	Linearity Reference Material LNM–A, LNM–B, LNM–C	Vial: 10ml; Kit: 2 vials	2/12/91
Ciba Corning Diagnostics Corp	Linearity Survey LN3–A, LN3–B, LN3–C	Vial: 10ml; Kit: 2 vials	2/12/91
Ciba Corning Diagnostics Corp	Linearity Survey LN4–A, LN4–B, LN4–C	Vial: 25ml; Kit: 2 vials	2/12/91
Ciba Corning Diagnostics Corp	Lipoprotein Kit/8 Cat. No. 470694	Kit: 10 Plates; Plastic Vial: 25 Drams.	10/28/91
Ciba Corning Diagnostics Corp	MULTIQUAL ABN UNASY	Vial: 3ml, 10ml, Carton: 15 vials, 10 vials.	4/09/89
Ciba Corning Diagnostics Corp	MULTIQUAL I Assay, Product Code 9816	Kit: 15 vials; 3ml/vial	8/05/92
Ciba Corning Diagnostics Corp	MULTIQUAL II Assay, Product Code 9817	Kit: 15 vials; 3ml/vial	8/05/92
Ciba Corning Diagnostics Corp	MULTIQUAL III Assay, Product Code 9818	Kit: 15 vials; 3ml/vial	8/05/92
Ciba Corning Diagnostics Corp	MULTIQUAL NOR UNASY	Vial: 3ml, 10ml, Carton: 15 vials, 10 vials.	4/09/89
Ciba Corning Diagnostics Corp	Magic Ferritin 2000 Standard	Plastic Vial: 1 ml	1/19/87
Ciba Corning Diagnostics Corp	Magic Ferritin Controls	Plastic Vial: 5 ml	1/19/87
Ciba Corning Diagnostics Corp	Magic Ferritin Standards	Polypropylene Vial: 3 ml	9/16/86
Ciba Corning Diagnostics Corp	Magic Ferritin Zero Standard	Plastic Vial: 50 ml	1/19/87
Ciba Corning Diagnostics Corp	Magic Lite FT4 Component Set	Set: 100, 400 Tests	7/06/94
Ciba Corning Diagnostics Corp	Magic Lite FT4 Kit	Kit: 100 Tests	7/06/94
Ciba Corning Diagnostics Corp	Magic Lite FT4 Lite Reagent	Bottle: 10ml, 40ml	7/06/94
Ciba Corning Diagnostics Corp	Magic Lite FT4 Solid Phase	Bottle: 50ml, 200ml	7/06/94
Ciba Corning Diagnostics Corp	Magic Lite Ferritin Bulk Lite Reageant	Plastic Vial: 50 ml	2/16/88
Ciba Corning Diagnostics Corp	Magic Lite Ferritin Bulk Solid Phase	Plastic Vial: 200 ml	2/16/88
Ciba Corning Diagnostics Corp	Magic Lite Ferritin Solid Phase	Plastic Vial: 50 ml	2/16/88
Ciba Corning Diagnostics Corp	Magic Lite T3 Bulk Solid Phase	Plastic Vial: 200 ml	2/16/88
Ciba Corning Diagnostics Corp	Magic Lite T3 Kit	Kit: 100 Tests	6/27/91
Ciba Corning Diagnostics Corp	Magic Lite T3 Lite Reagent	Plastic Vial: 30ml	6/27/91
Ciba Corning Diagnostics Corp	Magic Lite T3 Solid Phase	Plastic Vial: 75ml	6/27/91
Ciba Corning Diagnostics Corp	Magic Lite T4 Component Set	Set: 100, 400, 1200 Tests	7/06/94
Ciba Corning Diagnostics Corp	Magic Lite T4 Kit	Kit: 100 Tests	7/06/94
Ciba Corning Diagnostics Corp	Magic Lite T4 Solid Phase	Bottle: 25ml, 100ml	7/06/94
Ciba Corning Diagnostics Corp	Magic T4 Antibody	Plastic Vial: 50 ml and 200 ml	2/16/88
Ciba Corning Diagnostics Corp	Magic T4 Antibody	Vial: 50ml, 200ml	11/01/90
Ciba Corning Diagnostics Corp	Multi–LD Gel Cat. No. 470221	Kit: 12 Plates; 2 Plates: 32 Tests.	10/28/91
Ciba Corning Diagnostics Corp	Multi–SPE Gel Cat. No. 470252	Kit: 12 Plates; 2 Plates: 32 Tests.	10/28/91
Ciba Corning Diagnostics Corp	Multitrac ALP Gel/12 and Buffer Cat. No. 470240	Kit: 10 Plates; Plastic Bottle: 175ml.	10/28/91
Ciba Corning Diagnostics Corp	Multitrac Immunofixation Kit/12 Cat. No. 470685	Kit: 10 Plates; Plastic Vial: 25 Drams.	10/28/91
Ciba Corning Diagnostics Corp	Multitrac LD Isoenzyme Gel/12 and Buffer Cat. No. 470622	Kit: 10 Plates; Plastic vial: 25 Drams.	10/28/91
Ciba Corning Diagnostics Corp	Multitrac LD Isoenzyme Gel/16 and Buffer Cat. No. 470625	Kit: 10 Plates; Plastic Vial: 25 Drams.	10/28/91
Ciba Corning Diagnostics Corp	Multitrac Lipoprotein Kit/12 Cat. No. 470695	Kit: 10 Plates; Plastic Vial: 25 Drams.	10/28/91
Ciba Corning Diagnostics Corp	Multitrac Serum Protein Kit/12 Cat. No. 470697	Kit: 10 Plates; Plastic vial: 25 Drams.	10/28/91
Ciba Corning Diagnostics Corp	QCS ABN ASY	Vial: 5ml, Kit: 5 vials	1/21/89
Ciba Corning Diagnostics Corp	QCS ABN ASY No. 9705/9705A	Box: 10 vials, Vial: 5 ml	12/15/89
Ciba Corning Diagnostics Corp	QCS ABN ASY No. 9707/9707A	Box: 10 vials, Vial: 5 ml	12/15/89
Ciba Corning Diagnostics Corp	QCS ABN UNASY No. 9691/9691A	Box: 40 vials, Vial: 25 ml	12/15/89
Ciba Corning Diagnostics Corp	QCS ABN UNASY No. 9717/9717A	Box: 10 vials, Vial: 10 ml	12/15/89
Ciba Corning Diagnostics Corp	QCS NOR ASY	Vial: 5 ml, Kit: 5 vials	1/21/89
Ciba Corning Diagnostics Corp	QCS NOR ASY No. 9702/9702A	Box: 10 vials, Vial: 5 ml	12/15/89

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Ciba Corning Diagnostics Corp	QCS NOR ASY No. 9704/9704A	Box: 10 vials, Vial: 5 ml	12/15/89
Ciba Corning Diagnostics Corp	QCS Nor UNASY No. 9681/9681A	Box: 40 vials, Vial: 25 ml	12/15/89
Ciba Corning Diagnostics Corp	QCS Nor UNASY No. 9716/9716A	Box: 10 vials, Vial 10 ml	12/15/89
Ciba Corning Diagnostics Corp	Reagent A- Alt 14	Vial: 15 ml	3/24/79
Ciba Corning Diagnostics Corp	Reagent A- Alt 7	Vial: 15 ml	3/24/79
Ciba Corning Diagnostics Corp	Reagent A–Ammonia 10	Vial: 10 ml	3/24/79
Ciba Corning Diagnostics Corp	Serum Protein Kit/8 Cat. No. 470696	Kit: 10 Plates; Plastic Vial: 25 Drams.	10/28/91
Ciba Corning Diagnostics Corp	Special Barbital Buffer Set, Catalog No. 470182	Vial: 3 per kit	4/17/79
Ciba Corning Diagnostics Corp	Universal Buffer Cat. No. 470586	Plastic Vial: 25 Drams	10/28/91
Ciba Corning Diagnostics Corp	Universal Electrophoresis Film Agarose, Catalog No. 470100	Plates: 12 per kit	4/17/79
Ciba Corning Diagnostics Corp	Universal Gel/12 Cat. No. 470554	Kit: 12 Plates; 2 Plates: 24 Tests.	10/28/91
Ciba Corning Diagnostics Corp	Universal Gel/16 or Multi–SPE Gel Cat. No. 470066	Kit: 12 Plates; 2 Plates: 32 Tests.	10/28/91
Ciba Corning Diagnostics Corp	Universal IEP Gel Cat. No. 470222	Kit: 12 Plates; 2 Plates: 16 Tests.	10/28/91
Ciba Corning Diagnostics Corp	Universal II Gel/12 Cat. No. 470262	Kit: 12 Plates; 2 Plates: 24 Tests.	10/28/91
Ciba Corning Diagnostics Corp	Universal II Gel/12 Cat. No. 470362	Kit: 12 Plates	9/22/92
Ciba Corning Diagnostics Corp	Universal II Gel/16 Cat. No. 470268	Kit: 12 Plates; 2 Plates: 32 Tests.	10/28/91
Ciba Corning Diagnostics Corp	Universal II Gel/8 Cat. No. 470261	Kit: 12 Plates; 2 Plates: 16 Tests.	10/28/91
Ciba Corning Diagnostics Corp	Universal II Gel/8 Cat. No. 470361	Kit: 12 Plates	9/22/92
Ciba Corning Diagnostics Corp	Universal PHAB Buffer Set Catalog No. 470180	Kit: 3 vials per kit	9/26/79
Clinical Diagnostic Systems, Inc	Gemini TT4 Reagent Assembly	Kit: 100 Tests	1/11/95
Cone Biotech, Inc	American Association of Bioanalysts, Urine Toxicology Survey	Vial: 20ml Kit: 2 vials	5/30/90
Cone Biotech, Inc	CAP/Cocaine Reference Material Levels II, III, and IV	Vial: 20 ml	3/07/88
Cone Biotech, Inc	College of American Pathologists (CAP) Reference Material for Cocaine in Urine.	Vial: 15ml Kit: 4 vials	5/30/90
Cone Biotech, Inc	College of American Pathologists Forensic Urine Drug Testing Survey Material (AACC/CAP).	Vial: 100ml	5/30/90
Cone Biotech, Inc	College of American Pathologists Toxicology Survey (CAP)	Vial: 50ml	5/30/90
Cone Biotech, Inc	College of American Pathologists Urine Toxicology Survey (CAP).	Vial: 50ml	5/30/90
Cone Biotech, Inc	QCM–UTI	Vial: 20ml	3/07/85
Cone Biotech, Inc	RIATRAC–Three Level Ligand Assay Controls	Vials: 8ml	2/27/84
Cone Biotech, Inc	UDM–CAP/AACC Forensic Urine Drug Testing Survey (Initial Phase).	Bottle: 60 ml	5/31/87
Cone Biotech, Inc	UDS and UDC CAP/AACC Forensic Urine Drug Testing	Vial: 30 ml	1/08/88
Consolidated Technologies, Inc	AAB Urine Drug Screening Survey	Vial: 20ml	7/14/94
Consolidated Technologies, Inc	AAB Urine Drug Screening Survey Material	Vial: 20ml	9/29/95
Consolidated Technologies, Inc	AACC/CAP Athletic Drug Testing Survey	Bottle; 125ml	7/14/94
Consolidated Technologies, Inc	AACC/CAP Forensic Urine Drug Testing Confirmatory Survey	Vial: 50ml	7/14/94
Consolidated Technologies, Inc	AACC/CAP Forensic Urine Drug Testing Screening Survey	Vial: 15ml	7/14/94
Consolidated Technologies, Inc	ACA Toxicology Urine Survey	Bottle: 15–60ml	9/29/95
Consolidated Technologies, Inc	ADT–1 thru ADT–40	Vial: 125ml	5/10/92
Consolidated Technologies, Inc	CAP Athletic Drug Testing Survey Material	Bottle: 125ml	9/29/95
Consolidated Technologies, Inc	CAP Forensic Pathology Survey	Vial: 5, 15, 50ml	7/14/94
Consolidated Technologies, Inc	CAP Forensic Pathology Survey Material	Vial: 5, 15, 50ml	9/29/95
Consolidated Technologies, Inc	CAP Forensic Urine Drug Testing Confirmatory Survey Material.	Vial: 50ml	9/29/95
Consolidated Technologies, Inc	CAP Toxicology Survey	Vial: 30, 50ml	7/14/94
Consolidated Technologies, Inc	CAP Toxicology Survey Material	Vial: Vial: 50ml	9/29/95
Consolidated Technologies, Inc	CAP Urine Toxicology Survey	Vial: 50ml	7/14/94
Consolidated Technologies, Inc	CAP Urine Toxicology Survey Material	Vial: 50ml	9/29/95
Consolidated Technologies, Inc	HIST Multi–Drug Reference Material	Vial: 15ml	10/22/92
Consolidated Technologies, Inc	Morphine Glucuronide Calibration Set	Kit: 4 Vials	9/08/92
Consolidated Technologies, Inc	Morphine Glucuronide Reference Levels 1, 2, 3	Vial: 20ml	9/08/92
Diagnostics Systems Laboratories Inc.	DHEA Controls I and II, DSL 8951 & 8952	Vial: 3.5ml	10/08/93
Dade International Inc	Absorbed Plasma and Serum Reagents Kit B4233–2	Glass Vial: 5ml (Lyophilized Material).	8/16/71
Dade International Inc	Beckman B–1 Buffer	Plastic Vial: 15 g	5/22/79
Dade International Inc	Bovine Chemistry Control I.X Special Order Request B5107–55XX.	Bottle: 18ml (Lyophilized Material).	1/29/86
Dade International Inc	Bovine Chemistry Control II.X Special Order Request B5107–65XX.	Bottle: 18 ml (Lyophilized Material).	1/29/86
Dade International Inc	Buffered Thrombin (Bovine) Catalog No. B4233–40	Bottle: 5ml (Lyophilized Material).	1/24/86
Dade International Inc	Dade CA System Buffer, Cat # B4265–32	Plastic Bottle: 500ml	7/20/95

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Dade International Inc	Dade CA System Buffer, Cat # B4265–34	Pack: 4 Bottles, 500ml each	7/20/95
Dade International Inc	Dade IAC.X Comprehensive Immuno-Assay Control, Tri-Level Unassayed.	Kit: 6 bottles	8/27/91
Dade International Inc	Dade Immunoassay Control, Level I–Low	Bottle: 9ml (Lyophilized Material).	4/25/86
Dade International Inc	Dade Immunoassay Control, Level II–Intermediate	Bottle: 9ml (Lyophilized Material).	4/25/86
Dade International Inc	Dade Immunoassay Control, Level III–High	Bottle: 9ml (Lyophilized Material).	4/25/86
Dade International Inc	Dade Immunoassay Controls, Level 1 Cat # B5700–06	Bottles: 18; 9ml each	3/28/95
Dade International Inc	Dade Immunoassay Controls, Level 2 Cat # 5700–07	Bottles: 18; 9ml each	3/28/95
Dade International Inc	Dade Immunoassay Controls, Tri-Level	Kit: 3 bottles	4/25/86
Dade International Inc	Dade Immunoassay Controls, Tri-Level Cat # B5700–05	Bottles: 18; 9ml each	3/28/95
Dade International Inc	Dade International Inc	Bottles: 18; 9ml each	3/28/95
Dade International Inc	Dade Moni-Trol Level 1 Chemistry Control	Bottle: 9ml	8/07/95
Dade International Inc	Dade Moni-Trol Level 2 Chemistry Control	Bottle: 9ml	8/07/95
Dade International Inc	Dade TDM Control Level I–Low B5700–2	Glass Vial: 9ml (Lyophilized Material).	1/21/82
Dade International Inc	Dade TDM Control Level II–Intermediate B5700–3	Glass Vial: 9ml (Lyophilized Material).	1/21/82
Dade International Inc	Dade TDM Control Level III–High B5700–4	Glass Vial: 9ml (Lyophilized Material).	1/21/82
Dade International Inc	Dade Therapeutic Drug Monitoring (TDM) Controls (Catalog No. B5700–1).	Kit: 9 Vials	3/10/87
Dade International Inc	Dade Urine Chemistry Control Level I, II	Kit: 10 Bottles; Bottle: 18ml	8/02/91
Dade International Inc	Data-Fi Fibrin Monomer Control Catalog Nos. B4233–30 & B4233–38.	Glass Vial: 5ml (Lyophilized Material).	1/24/86
Dade International Inc	Data-Fi Fibrinogen Determination Reagents Cat. No. B4233–15.	Kit: 50 tests	9/09/86
Dade International Inc	Data-Fi Protamine Sulfate Reagents Kit (Catalog No. B4233–30).	Kit: 10 Vials	3/10/87
Dade International Inc	Immunoassay Control Level I–III Unassayed	Bottle: 9ml	8/27/91
Dade International Inc	Moni-Trol Level I Chemistry Control, Assayed, Special Order Request. B5103–XXX.	Bottle: 9ml (Lyophilized Material).	1/20/84
Dade International Inc	Moni-Trol Level I.X Special Order Request B5106–5X	Bottle: 18ml (Lyophilized Material).	6/30/83
Dade International Inc	Moni-Trol Level II Chemistry Control, Assayed, Special Order Request. B5103–XXX, B5113–XXX.	Bottle: 9ml (Lyophilized Material).	1/20/84
Dade International Inc	Moni-Trol Level II.X Special Order Request B5106–6X	Bottle: 18ml (Lyophilized Material).	6/30/83
Dade International Inc	Moni-Trol. ES Level II Chemistry Control, Assayed	Bottles: 9ml, 6.7ml (Lyophilized Material).	7/15/83
Dade International Inc	Moni-Trol. ES Level II.X Special Order Request Catalog No. B5106–85AAA Catalog No. B5106–2XAAA.	Bottle: 18ml, 9ml (Lyophilized Material).	6/27/86
Dade International Inc	Owren's Veronal Buffer	Bottle: 18ml	8/16/71
Dade International Inc	Stratus Phenobarbital Calibrators B, C, D, E, & F	Glass Vial: 3ml	5/27/83
Dade International Inc	Stratus Phenobarbital Conjugate	Glass Vial: 6ml	1/25/82
Dade International Inc	Stratus Phenobarbital Fluorometric Enzyme Immunoassay Kit (Catalog No. B5700–22).	Kit: 120 tests	3/10/87
Diagnostic Products Corporation.	125–I Barbiturate Isotope: Cat. No. TBA2, TBAY2	Vial: 110 ml, 550 ml	3/01/88
Diagnostic Products Corporation.	125–I Benzolyecgonine Isotope: Cat. No. TCN2, TCNY2	Vial: 100 ml, 550 ml	3/01/88
Diagnostic Products Corporation.	125–I Benzoylecgonine Isotope (DA): Cat. No. CND2, YCND2	Vial: 10 ml, 100 ml, 675 ml	3/01/88
Diagnostic Products Corporation.	125–I Fentanyl Isotope: Cat. No. TFN2	Vial: 500 ml	3/01/88
Diagnostic Products Corporation.	125–I Methadone Isotope: Cat. No. TMD2	Vial: 100 ml	3/01/88
Diagnostic Products Corporation.	125–I Methaqualone Isotope: Cat. No. TMQ2	Vial: 100 ml	3/01/88
Diagnostic Products Corporation.	125–I Morphine Isotope: Cat. No. TMP2, TMPY2	Vial: 110 ml, 550 ml	3/01/88
Diagnostic Products Corporation.	125–I PCP Isotope: Cat. No. TPC2, TPCY2	Vial: 110 ml, 550 ml	3/01/88
Diagnostic Products Corporation.	125–I Serum Morphine Isotope: Cat. No. TSM2	Vial: 110 ml	3/01/88
Diagnostic Products Corporation.	125–I THC Isotope: Cat. No. THD2, YTHD2	Vial: 20 ml, 110 ml, 550 ml	3/01/88
Diagnostic Products Corporation.	Amphetamine Calibrators B–F: Cat. No. APD4–8	Vial: 3.5 ml	3/01/88

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Diagnostic Products Corporation.	Amphetamine Calibrators Cat. No. MAP 4–8	Vial: 5ml	7/05/90
Diagnostic Products Corporation.	Amphetamine Controls, Cat. No. ACO1, ACO2	Vial: 5 ml	3/20/89
Diagnostic Products Corporation.	Amphetamine Controls: Cat. No. 5AC01, 5ACO2	Vial: 100 ml	3/01/88
Diagnostic Products Corporation.	Amphetamine Isotope: Cat. No. APD2, 5APD2, YAPD2	Vial: 20 ml, 100 ml, 550 ml	3/01/88
Diagnostic Products Corporation.	Amphetamine Reference Preparation: Cat. No. 5YAP7	Vial: 120 ml	3/01/88
Diagnostic Products Corporation.	Amphetamine Reference Preparations, Cat. No. APD5, APD9	Vial: 5 ml	3/20/89
Diagnostic Products Corporation.	Barbiturate Calibrators B–G: Cat. No. BAC4–9	Vial: 3.5 ml	3/01/88
Diagnostic Products Corporation.	Barbiturate Reference Preparations: Cat. No. 5YBA5	Vial: 120 ml	3/01/88
Diagnostic Products Corporation.	Benzoylecgonine Calibrators (CAC) B–F: Cat. No. COC4–8	Vial: 3.5 ml	3/01/88
Diagnostic Products Corporation.	Benzoylecgonine Calibrators (DA) B–F: Cat. No. CND4–8	Vial: 3.5 ml	3/01/88
Diagnostic Products Corporation.	Benzoylecgonine Calibrators (DA): Cat. No. CNC4–8	Vial: 3.5 ml	3/01/88
Diagnostic Products Corporation.	Benzoylecgonine Reference Preparation (DA): Cat. No. 5YCN5.	Vial: 120 ml	3/01/88
Diagnostic Products Corporation.	Benzoylecgonine Reference Preparation: Cat. No. 5YCN5	Vial: 120 ml	3/01/88
Diagnostic Products Corporation.	C-Terminal PTH Antiserum: Cat. No. PCD1	Vial: 10 ml	3/01/88
Diagnostic Products Corporation.	CON6 Immunoassay Tri-level Control Cat. No. CON6	Kit: 6 vials	3/25/91
Diagnostic Products Corporation.	Canine T3 Isotope: Cat. No. TC32	Vial: 120 ml	3/01/88
Diagnostic Products Corporation.	Coat-A-Count Barbiturates In Urine: Cat. No. TKBA1, TKBA5	Kit: 100 tests, 500 tests	3/01/88
Diagnostic Products Corporation.	Coat-A-Count Barbiturates Qualitative Determination In Urine: Cat. No. TKBAY.	Kit: 2500 tests	3/01/88
Diagnostic Products Corporation.	Coat-A-Count Canine T3: Cat. No. TKC31, TKC35	Kit: 100 tests, 500 tests	3/01/88
Diagnostic Products Corporation.	Coat-A-Count Cocaine Metabolite: Cat. No. TKCN1, TKCN5	Kit: 100 tests, 500 tests	3/01/88
Diagnostic Products Corporation.	Coat-A-Count Fentanyl: Cat. No. TKFN1	Kit: 100 tests	3/01/88
Diagnostic Products Corporation.	Coat-A-Count Free Testosterone Cat. No. TKTF 1, 2	Kit: 100, 200 Tests	3/25/91
Diagnostic Products Corporation.	Coat-A-Count LSD 100, 500, Cat. No. TKLS1, TKLS5	Kit: 8 vials, 19 vials	3/20/89
Diagnostic Products Corporation.	Coat-A-Count LSD Qualitative Determination in Urine, Cat. No. TKLSY.	Kit: 8 vials	3/20/89
Diagnostic Products Corporation.	Coat-A-Count Metabolite Qualitative Determinants In Urine: Cat. No. TKCNY.	Kit: 2500 tests	3/01/88
Diagnostic Products Corporation.	Coat-A-Count Methadone: Cat. No. TKMD1	Kit: 100 tests	3/01/88
Diagnostic Products Corporation.	Coat-A-Count Methaqualone: Cat. No. TKMQ1	Kit: 100 tests	3/01/88
Diagnostic Products Corporation.	Coat-A-Count Morphine Qualitative Determinations In Urine: Cat. No. TKMPY.	Kit: 2500 tests	3/01/88
Diagnostic Products Corporation.	Coat-A-Count Morphine: Cat. No. TKMP1, TKMP5, TKMPX	Kit: 100 tests, 500 tests, 1000 tests.	3/01/88
Diagnostic Products Corporation.	Coat-A-Count Opiates Screen Qualitative Determinations In Urine: Cat. No. TKOSY.	Kit: 2500 tests	3/1/88
Diagnostic Products Corporation.	Coat-A-Count Opiates Screen: Cat. No. TK0S1, TKOS5	Kit: 100 tests, 500 tests	3/1/88
Diagnostic Products Corporation.	Coat-A-Count PCP (Phencyclidine) In Urine: Cat. No. TKCY1	Kit: 100 tests	3/1/88
Diagnostic Products Corporation.	Coat-A-Count PCP (Phencyclidine) Qualitative Determinations In Urine: Cat. No. TKPCY.	Kit: 2500 tests	3/1/88
Diagnostic Products Corporation.	Coat-A-Count Serum Morphine: Cat. No. TKSM1	Kit: 100 tests	3/1/88
Diagnostic Products Corporation.	Coat-A-Count Total Testosterone Cat. No. TKTT 1, 2, 5	Kit: 100, 200, 500 Tests	3/25/91
Diagnostic Products Corporation.	Donkey Anti-Goat Gamma Globulin (PTH-Ultra): Cat. No. PTDG.	Vial: 10 ml	3/1/88

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Diagnostic Products Corporation.	Double Antibody Amphetamine, Cat: No. KAPD1, KAPD5	Kit: 6 vials	3/20/89
Diagnostic Products Corporation.	Double Antibody Amphetamine, Qualitative Determinations In Urine: Cat. No. KAPDY.	Kit: 2500 tests	3/1/88
Diagnostic Products Corporation.	Double Antibody Amphetamine: Cat. No. KAPD1, KAPD5	Kit: 100 tests, 500 tests	3/1/88
Diagnostic Products Corporation.	Double Antibody Cannabinoids (THC) In Urine: Cat. No. KTHD1, KTHD5.	Kit: 100 tests, 500 tests	3/1/88
Diagnostic Products Corporation.	Double Antibody Cannabinoids (THC) Quantitative Determinations In Urine: Cat. No. KTHDY.	Kit: 2500 tests	3/1/88
Diagnostic Products Corporation.	Double Antibody Cocaine Metabolite Qualitive Determination In Urine: Cat. No. KCNDY.	Kit: 2500 tests	3/1/88
Diagnostic Products Corporation.	Double Antibody Cocaine Metabolite: Cat. No. KCND1, KCND5.	Kit: 100 tests, 500 tests	3/1/88
Diagnostic Products Corporation.	Double Antibody PTH–C: KPCD1, KPCD2	Kit: 70 tests, 140 tests	3/1/88
Diagnostic Products Corporation.	Double Antibody PTH–M: Cat. No. KPMD1	Kit: 70 tests	3/1/88
Diagnostic Products Corporation.	Double Antibody Testosterone Cat. No. KTTD1, 2	Kit: 100, 200 Tests	3/25/91
Diagnostic Products Corporation.	Double Antibody Ultra-PTH: Cat. No. KPTD1, KPTD2	Kit: 70 tests, 140 tests	3/1/88
Diagnostic Products Corporation.	Enzyme-Labeled Amphetamine Cat. No. MEAP2, 5MEAP2	Vial: 20ml, 60ml	7/5/90
Diagnostic Products Corporation.	Enzyme-Labeled Cocaine Metabolite Cat. No. MECC2, 5MECC2.	Glass Vial: 11ml, 60ml	1/25/91
Diagnostic Products Corporation.	Enzyme-Labeled Methamphetamine Cat. No. MEMA2, 5MEMA2.	Vial: 11ml, 60ml	9/28/90
Diagnostic Products Corporation.	Enzyme-Labeled Opiates Cat. No. MEOP2, 5MEOP2	Vial: 20ml, 60ml	7/5/90
Diagnostic Products Corporation.	Enzyme-Labeled PCP Cat. No. MEPC2, 5MEPC2	Vial: 20ml, 60ml	7/5/90
Diagnostic Products Corporation.	Enzyme-Labeled THC Cat. No. METH 2, 5METH2	Vial: 20ml, 60ml	7/5/90
Diagnostic Products Corporation.	EquiCON–DOA Drugs of Abuse Equine Urine Controls Cat. No. EDAC.	Kit: 2 Vials	3/25/91
Diagnostic Products Corporation.	EquiCon-DOA Level 2, 3 Cat. No. EDAC 2, 3	Vial: 30ml	3/25/91
Diagnostic Products Corporation.	Fentanyl Calibrators: Cat. No. FNC4–9	Vial: 3.5 ml	3/1/88
Diagnostic Products Corporation.	Free Testosterone Calibrators Cat. No. TFC4–8	Vial: 3.5ml	3/25/91
Diagnostic Products Corporation.	Goat Anti-Rabbit Gamma Globulin/4% PEG Saline: Cat. No. 5N6.	Vial: 110 ml, 320 ml	3/1/88
Diagnostic Products Corporation.	LSD Calibrators B–F, Cat. No. LSCH–8	Vial: 5 ml	3/20/89
Diagnostic Products Corporation.	LSD Controls, Cat. No. 5LCO1, 5LCO2, LSCO1, LSCO2	Vial: 120ml, 5ml	3/20/89
Diagnostic Products Corporation.	LSD Isotope, Cat. No. TLSY2, TLS2	Vial: 105 ml, 550 ml	3/20/89
Diagnostic Products Corporation.	LSD Reference Preparation, Cat. No. 5YLS6	Vial: 120ml	3/20/89
Diagnostic Products Corporation.	Low and High Barbiturate Urinary Controls: Cat. No. 5BCO1, 5BCO2.	Vial: 100 ml	3/1/88
Diagnostic Products Corporation.	Low and High Benzoylecgonine Urinary Controls (DA): Cat. No. 5COO1, 5COO2, CNC02, CNCO3.	Vial: 3.5 ml, 100 ml	3/1/88
Diagnostic Products Corporation.	Low and High Cannabinoid Urinary Controls: Cat. No. 5TCO1, 5TCO2.	Vial: 100 ml	3/1/88
Diagnostic Products Corporation.	Low and High Morphine Urinary Controls: Cat. No. 5MCO1, 5MCO2.	Vial: 100 ml	3/1/88
Diagnostic Products Corporation.	Low and High Opiate Urinary Controls: Cat. No. 5OCO1, 5OCO2.	Vial: 100 ml	3/1/88
Diagnostic Products Corporation.	Low and High PCP Urinary Controls: Cat. No. 5PCO1, 5PCO2.	Vial: 100 ml	3/1/88
Diagnostic Products Corporation.	Methadone Calibrators: Cat. No. MDC4–8	Vial: 3.5 ml	3/1/88
Diagnostic Products Corporation.	Methamphetamine Calibrators Cat. No. MMA–8	Vial: 5ml	9/28/90
Diagnostic Products Corporation.	Methamphetamine Cartridges Cat. No. VMADC	Cartridge: 5ml	1/25/91
Diagnostic Products Corporation.	Methamphetamine Positive Reference Cat. No. VMAPC	Vial: 3ml	1/25/91

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Diagnostic Products Corporation.	Methaqualone Calibrators: Cat. No. MQC4–8	Vial: 3.5 ml	3/1/88
Diagnostic Products Corporation.	Mid-Molecule PTH Antiserum: Cat. No. PMD1	Vial: 10 ml	3/1/88
Diagnostic Products Corporation.	Milenia Amphetamine Cat. No. MKAP1, MKAP5	Kit: 7 vials, 96 tests, 480 tests	7/5/90
Diagnostic Products Corporation.	Milenia Cannabinoids Cat. No. MK TH1, MKTH5	Kit: 6 vials, 96 Tests, 480 Tests.	7/5/90
Diagnostic Products Corporation.	Milenia Cocaine Metabolite Cat. No. MKCC1, MKCC5	Kit: 96 Tests, 480 Tests	1/25/91
Diagnostic Products Corporation.	Milenia Cocaine References and Controls Cat. No. MC3, 6; MCCC1, 2.	Glass Vial: 5ml	1/25/91
Diagnostic Products Corporation.	Milenia Methamphetamine Cat. No. MKMA1, MKMA5	Kit: 96 wells, 480 wells	9/28/90
Diagnostic Products Corporation.	Milenia Opiates Cat. No: MKOP1, MKOP5	Kit: 6 vials, 96 Tests, 480 Tests.	7/5/90
Diagnostic Products Corporation.	Milenia PCP Cat. No. MKPC1, MKPC5	Kit: 6 vials, 96 tests, 480 tests	7/5/90
Diagnostic Products Corporation.	Morphine Calibrators: Cat. No. MPC4–8	Vial: 3.5 ml, 10 ml	3/1/88
Diagnostic Products Corporation.	Morphine Reference Preparation: Cat. No. 5YMPY7	Vial: 120 ml	3/1/88
Diagnostic Products Corporation.	Opiate Calibrators: Cat. No. OSC4–8	Vial: 3.5 ml	3/1/88
Diagnostic Products Corporation.	Opiate Cartridges Cat. No. VOSDC	Cartridge: 5ml	7/5/90
Diagnostic Products Corporation.	Opiates Calibrators Cat. No. MOP 4–7	Vial: 5ml	7/5/90
Diagnostic Products Corporation.	Opiates Positive Reference Cat. No. VOSPC	Vial: 1ml	7/5/90
Diagnostic Products Corporation.	Opiates Reference Preparation: Cat. No. 5YOS7	Vial: 120 ml	3/1/88
Diagnostic Products Corporation.	PCP Calibrators Cat. No. MPC 3–7	Vial: 5ml	7/5/90
Diagnostic Products Corporation.	PCP Calibrators: Cat. No. PCC4–8	Vial: 3.5 ml	3/1/88
Diagnostic Products Corporation.	PCP Reference Preparation: Cat. No. 5YPC6	Vial: 120 ml	3/1/88
Diagnostic Products Corporation.	PTH (C-Terminal) Isotope: Cat. No. PCD2	Vial: 10 ml	3/1/88
Diagnostic Products Corporation.	PTH (Ultra) Antiserum: Cat. No. PTD1	Vial: 5 ml	3/1/88
Diagnostic Products Corporation.	PTH (Ultra) Isotope: Cat. No. PTD2	Vial 5 ml	3/1/88
Diagnostic Products Corporation.	PTH–M Isotope: Cat. No. PMD2	Vial: 10 ml	3/1/88
Diagnostic Products Corporation.	RIA Controls Level 4, 5, 6 Cat. No. CON4, CON5, CON6	Vial: 10ml	3/25/91
Diagnostic Products Corporation.	Serum Morphine Calibrators: Cat. No. SMC4–8	Vial: 3.5 ml	3/1/88
Diagnostic Products Corporation.	Serum Morphine Controls: Cat. No. SMCO2, SMCO3	Vail: 3.5 ml	3/1/88
Diagnostic Products Corporation.	THC Calibrators B–F: Cat. No. THD4–8	Vial: 3.5 ml	3/1/88
Diagnostic Products Corporation.	THC Calibrators Cat. No. MTH 4–7	Vial: 5ml	7/5/90
Diagnostic Products Corporation.	THC Reference Preparation: Cat. No. 5YTH7	Vial: 120 ml	3/1/88
Diagnostic Products Corporation.	Ten One Methamphetamine Cat. No. VKMA1, VKMA4	Kit: 12 Tests, 48 Tests	1/25/91
Diagnostic Products Corporation.	Ten One Opiates Cat. No. VKSO1, VKSO4	Kit: 1 vial, 12 & 48 5ml cartridges.	7/5/90
Diagnostic Products Corporation.	Testosterone Calibrators Cat. No. TTD3–8	Vial: 3.5ml	3/25/91
Diagnostic Products Corporation.	Total Testosterone Calibrators Cat. No. TTC4–8	Vial: 3.5ml	3/25/91
Diagnostic Products Corporation.	Triiodothyronine (T3) Isotope: Cat. No. TT32	Vial: 120 ml	3/1/88
Diagnostic Products Corporation.	[125I] Free Testosterone Cat. No. TTF2	Vial: 105ml	3/25/91
Diagnostic Products Corporation.	[125I] Testosterone Cat. No. TTD2	Vial: 10ml	3/25/91

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Diagnostic Products Corporation.	[125I] Total Testosterone Cat. No. TTT 2	Vial: 105ml	3/25/91
Diagnostic Systems Laboratories, Inc.	Active DHT DSL 9600	Kit: 100 Tests	1/25/96
Diagnostics Reagents, Inc	Amphetamines Enzyme Conjugate Reagent, Bulk	Carboy: 20, 10, 5, 1 L	10/20/93
Diagnostics Reagents, Inc	Amphetamines Enzyme Immunoassay Kit # 0017	Kit: 2 Bottles; 100ml each	10/20/93
Diagnostics Reagents, Inc	Amphetemine Enzyme Immunoassay Kit # 0018	Kit: 2 Bottles; 500ml each	10/20/93
Diagnostics Reagents, Inc	Barbiturate Enzyme Congugate Reagent, Bulk	Carboy: 20, 10, 5, 1 L	10/20/93
Diagnostics Reagents, Inc	Barbiturate Enzyme Immunoassay Kit # 0225	Kit: 2 Bottles; 100 ml each	10/20/93
Diagnostics Reagents, Inc	Barbiturate Enzyme Immunoassay Kit # 0226	Kit: 2 Bottles; 500ml each	10/20/93
Diagnostics Reagents, Inc	Benzodiazepine Enzyme Conjugate Reagent, Bulk	Carboy: 20, 10, 5, 1 L	10/20/93
Diagnostics Reagents, Inc	Benzodiazepine Enzyme Immunoassay Kit # 0039	Kit: 2 Bottles; 100ml each	10/20/93
Diagnostics Reagents, Inc	Benzodiazepine Enzyme Immunoassay Kit # 0040	Kit: 2 Bottles; 500ml each	10/20/93
Diagnostics Reagents, Inc	Caanbinoid Enzyme Immunoassay Kit # 0186	Kit: 2 Bottles; 500ml each	10/20/93
Diagnostics Reagents, Inc	Cannabinoid Enzyme Conjugate Reagent, Bulk	Carboy: 20, 10, 5, 1 L	10/20/93
Diagnostics Reagents, Inc	Cannabinoid Enzyme Immunoassay Kit # 0185	Kit: 2 Bottles; 100ml each	10/20/93
Diagnostics Reagents, Inc	Cocaine Metabolite Enzyme Conjugate Reagent, Bulk	Carboy: 20, 10, 5, 1 L	10/20/93
Diagnostics Reagents, Inc	Cocaine Metabolite Enzyme Immunoassay Kit # 0055	Kit: 2 Bottles; 100ml each	10/20/93
Diagnostics Reagents, Inc	Cocaine Metabolite Enzyme Immunoassay Kit # 0056	Kit: 2 Bottles; 500ml each	10/20/93
Diagnostics Reagents, Inc	Drugs of Abuse High Calibrator A, Bulk	Bottle: 5L, 1L, 500ml	10/20/93
Diagnostics Reagents, Inc	Drugs of Abuse High Calibrator A, Cat # 0324	Bottle: 5ml	10/20/93
Diagnostics Reagents, Inc	Drugs of Abuse High Calibrator, Bulk	Bottle: 5L, 1L, 500ml	10/20/93
Diagnostics Reagents, Inc	Drugs of Abuse High Calibrator, Cat # 0036	Bottle: 5ml	10/20/93
Diagnostics Reagents, Inc	Drugs of Abuse Level 2 Control, Bulk	Bottle: 5L, 1L, 500ml	10/20/93
Diagnostics Reagents, Inc	Drugs of Abuse Level 2 Control, Cat # 0206	Bottle: 5ml	10/20/93
Diagnostics Reagents, Inc	Drugs of Abuse Level 2A Control, Bulk	Bottle: 5L, 1L, 500ml	10/20/93
Diagnostics Reagents, Inc	Drugs of Abuse Level 2A Control, Cat # 0331	Bottle: 5ml	10/20/93
Diagnostics Reagents, Inc	Drugs of Abuse Level I Control, Bulk	Bottle: 5L, 1L, 500ml	10/20/93
Diagnostics Reagents, Inc	Drugs of Abuse Level I Control, Cat # 0210	Bottle: 5ml	10/20/93
Diagnostics Reagents, Inc	Drugs of Abuse Level IA Control, Bulk	Bottle: 5L, 1L, 500ml	10/20/93
Diagnostics Reagents, Inc	Drugs of Abuse Level IA Control, Cat # 0329	Bottle: 5ml	10/20/93
Diagnostics Reagents, Inc	Drugs of Abuse Low Calibrator A, Cat # 0322	Bottle: 5ml	10/20/93
Diagnostics Reagents, Inc	Drugs of Abuse Low Calibrator, Bulk	Bottle: 5L, 1L, 500ml	10/20/93
Diagnostics Reagents, Inc	Drugs of Abuse Low Calibrator, Bulk	Bottle: 5L, 1L, 500ml	10/20/93
Diagnostics Reagents, Inc	Drugs of Abuse Low Calibrator, Cat # 0034	Bottle: 5ml	10/20/93
Diagnostics Reagents, Inc	Methadone Enzyme Conjugate Reagent, Bulk	Carboy: 20, 10, 5, 1 L	10/20/93
Diagnostics Reagents, Inc	Methadone Enzyme Immunoassay Kit # 0596	Kit: 2 Bottles; 100ml each	10/20/93
Diagnostics Reagents, Inc	Methadone Enzyme Immunoassay Kit # 0597	Kit: 2 Bottles; 500ml each	10/20/93
Diagnostics Reagents, Inc	Methadone Metabolite Enzyme Conjugate Reagent, Bulk	Carboy: 20, 10, 5, 1 L	10/20/93
Diagnostics Reagents, Inc	Methadone Metabolite Enzyme Immunoassay Kit # 0200	Kit: 2 Bottles; 100ml each	10/20/93
Diagnostics Reagents, Inc	Methadone Metabolite Enzyme Immunoassay Kit # 0201	Kit: 2 Bottles; 500ml each	10/20/93
Diagnostics Reagents, Inc	Methaqualone Enzyme Conjugate Reagent, Bulk	Carboy: 20, 10, 5, 1 L	10/20/93
Diagnostics Reagents, Inc	Methaqualone Enzyme Immunoassay Kit # 0514	Kit: 2 Bottles; 100ml each	10/20/93
Diagnostics Reagents, Inc	Methaqualone Enzyme Immunoassay Kit # 0515	Kit: 2 Bottles; 500ml each	10/20/93
Diagnostics Reagents, Inc	Opiate Enzyme Conjugate Reagent, Bulk	Carboy: 20, 10, 5, 1 L	10/20/93
Diagnostics Reagents, Inc	Opiate Enzyme Immunoassay Kit # 0135	Kit: 2 Bottles; 100ml each	10/20/93
Diagnostics Reagents, Inc	Opiate Enzyme Immunoassay Kit # 0136	Kit: 2 Bottles; 500ml each	10/20/93
Diagnostics Reagents, Inc	Phencyclidine Enzyme Conjugate Reagent, Bulk	Carboy: 20, 10, 5, 1 L	10/20/93
Diagnostics Reagents, Inc	Phencyclidine Enzyme Immunoassay Kit # 0160	Kit: 2 Bottles; 100ml each	10/20/93
Diagnostics Reagents, Inc	Phencyclidine Enzyme Immunoassay Kit # 0161	Kit: 2 Bottles; 500ml each	10/20/93
Diagnostics Reagents, Inc	Propoxyphene Enzyme Conjugate Reagent, Bulk	Carboy: 20, 10, 5, 1 L	10/20/93
Diagnostics Reagents, Inc	Propoxyphene Enzyme Immunoassay Kit # 0432	Kit: 2 Bottles; 100 ml each	10/20/93
Diagnostics Reagents, Inc	Propoxyphene Enzyme Immunoassay Kit # 0433	Kit: 2 Bottles; 500ml each	10/20/93
Diagnostics Reagents, Inc	THC Urine Calibrator 100ng/ml, Bulk	Bottle: 5L, 1L, 500ml	10/20/93
Diagnostics Reagents, Inc	THC Urine Calibrator 100ng/ml, Cat # 0044	Bottle: 5ml	10/20/93
Diagnostics Reagents, Inc	THC Urine Calibrator 200ng/ml Cat # 0206	Bottle: 5ml	10/20/93
Diagnostics Reagents, Inc	THC Urine Calibrator 200ng/ml, Bulk	Bottle: 5L, 1L, 500ml	10/20/93
Diagnostics Reagents, Inc	THC Urine Calibrator 50ng/ml	Bottle: 5ml	10/20/93
Diagnostics Reagents, Inc	THC Urine Calibrator 50ng/ml, Bulk	Bottle: 5L, 1L, 500ml	10/20/93
Diagnostics Reagents, Inc	THC Urine Calibrator, 20ng/ml, Cat # 0235	Bottle: 5ml	10/20/93
Diagnostics Reagents, Inc	THC Urine Control 125ng/ml, Bulk	Bottle: 5L, 1L, 500ml	10/20/93
Diagnostics Reagents, Inc	THC Urine Control 40ng/ml, Bulk	Bottle: 5L, 1L, 500ml	10/20/93
Diagnostics Reagents, Inc	THC Urine Control 60ng/ml, Bulk	Bottle: 5L, 1L, 500ml	10/20/93
Diagnostics Reagents, Inc	THC Urine Control 75ng/ml, Bulk	Bottle: 5L, 1L, 500ml	10/20/93
Diagnostics Reagents, Inc	THC Urine Control, 125ng/ml, Cat # 0212	Bottle: 5ml	10/20/93
Diagnostics Reagents, Inc	THC Urine Control, 40ng/ml, Cat # 0170	Bottle: 5ml	10/20/93
Diagnostics Reagents, Inc	THC Urine Control, 60ng/ml, Cat # 0168	Bottle: 5ml	10/20/93
Diagnostics Reagents, Inc	THC Urine Control, 75ng/ml, Cat # 0214	Bottle: 5ml	10/20/93
Diagnostics Reagents, Inc	THC urine Calibrator 20ng/ml, Bulk	Bottle: 5L, 1L, 500ml	10/20/93
Diagnostics Systems Laboratories Inc.	DHEA Standards, A-F, DSL 8901-8906	Vial: 3.5ml	10/08/93
Diagnostics Systems Laboratories Inc.	Radioimmunoassay Kit for the Measurement of Dehydroepiandrosterone (DHEA), DSL 8900.	Kit: 100 Tests	10/08/93

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Diagnostics Systems Laboratories Inc.	Radioimmunoassay Kit for the Measurement of Dehydroepiandrosterone (DHEA), DSL 9000.	Kit; 100 Tests	10/08/93
Diagnostics Systems Laboratories Inc.	Radioimmunoassay Kit for the Quantitative Measurement of Testosterone, DSL 4000.	Kit: 100 Tests	10/08/93
Diagnostics Systems Laboratories Inc.	Radioimmunoassay Kit for the Quantitative Measurement of Testosterone, DSL 4100.	Kit: 100 Tests	10/08/93
Diagnostics Systems Laboratories Inc.	Testosterone Controls I and II, DSL 4051 & 4052	Vial: 3.5ml	10/08/93
Diagnostics Systems Laboratories Inc.	Testosterone Standards A-F, DSL 4001-4006	Vial: 3.5ml	10/08/93
Diamedix Corporation	Barbital-Acetate Buffer, Powder 709-317	Package: 20 envelopes–10.65 g. per envelope.	7/27/72
Diamedix Corporation	CEP Plate-Amebiasis Testing 40 Test No. 730–274	Plate: 40mm x 80mm x 2.5mm	8/9/73
Diamedix Corporation	CEP VI No. 709–339	Plate: 40mm x 80mm x 2.5mm	8/9/73
Diamedix Corporation	Counterelectrophoresis (CEP) Plates for Trichinosis Testing	Plastic plates: 40mm x 80mm x 2.5mm.	8/16/75
Diamedix Corporation	EDTA (0.014M)-GVB Buffer, 753–034	Bottle: 5ml	8/9/73
Diamedix Corporation	EDTA (0.01M)-GVB Buffer, 753–031	Bottle: 5ml	8/9/73
Diamedix Corporation	GVB(3+) Buffer 753-037	Bottle: 50ml	8/9/73
Diamedix Corporation	Glucose-GVB 1 Buffer, 753–036	Bottle: 50ml	8/9/73
DuPont Medical Products	DuPont aca Urine Drugs of Abuse Control (Negative/Positive)	Carton: 10 Vials; 6ml/vial	5/25/95
Duo Research, Inc	Drug Testing Assessment Program Quality Control Samples	Kit: 25 bottles	12/26/86
Duo Research, Inc	Drug Testing Assessment Program-Quality Control Sample	Bottle: 65ml	2/27/86
Duo Research, Inc	Drug Testing Assessment Program-Quality Control Sample Kit	Kit: 5-65ml bottles	2/27/86
DynaGen, Inc	Benzoylecgonine and delta-8 THC-Carboxylic Acid Cat # 700-111.	Plastic Bottle: 100ml	7/27/93
DynaGen, Inc	D-Amphetamine and DL-Methamphetamine Cat # 700-107	Plastic Bottle: 100ml	7/27/93
DynaGen, Inc	D-Amphetamine, D-Methamphetamine and delta-9 THC-Carboxylic Acid Cat # 700-112.	Plastic Bottle: 100ml	7/27/93
DynaGen, Inc	D-Amphetamine, Pseudoephedrine, DL-Methamphetamine and Phenylpropanolamine Cat # 700-116.	Plastic Bottle: 100ml	7/27/93
DynaGen, Inc	DL-Methamphetamine Cat # 700-110	Plastic Bottle: 100ml	7/27/93
DynaGen, Inc	Hydrocodone Cat # 700-106	Plastic bottle: 100ml	7/27/93
DynaGen, Inc	Hydromorphone Cat # 700-108	Plastic Bottle: 100ml	7/27/93
DynaGen, Inc	Methadone Cat # 700-118	Plastic Bottle: 100ml	7/27/93
DynaGen, Inc	Methaqualone Cat # 700-119	Plastic Bottle: 100ml	7/27/93
DynaGen, Inc	Morphine, Codeine and 6-Monoacetylmorphine Cat # 700-114	Plastic Bottle: 100ml	7/27/93
DynaGen, Inc	Oxazepam Cat # 700-120	Plastic Bottle: 100ml	7/27/93
DynaGen, Inc	PeoCheck Blind Performance Specimens Cat # 500-100	Kit: 25 Bottles; 100ml plastic	7/27/93
DynaGen, Inc	Phencyclidine and Hydrocodone Cat # 700-115	Plastic Bottle: 100ml	7/27/93
DynaGen, Inc	ProCheck Blind Performance Specimens Cat # 500-200	Kit: 5 bottles; 100ml plastic	7/27/93
DynaGen, Inc	Propoxyphene Cat # 700-121	Plastic Bottle: 100ml	7/27/93
DynaGen, Inc	Secobarbital Cat # 700-117	Plastic Bottle: 100ml	7/27/93
DynaGen, Inc	delta 9 THC-Carboxylic Acid and Phentermine Cat # 700-113	Plastic Bottle: 100ml	7/27/93
E.I. duPont de Nemours & Co., Inc.	(1) PREP Sample Preparation and Analysis Kit	Kit containing following:	9/25/78
E.I. duPont de Nemours & Co., Inc.	(2) PREP Buffer/Internal Standard and Liquid Chromatography Verifier.	Box containing following:	9/25/78
E.I. duPont de Nemours & Co., Inc.	(2a) PREP Liquid Chromatography Verifier	Vial: 10ml (1 vial/box)	9/25/78
E.I. duPont de Nemours & Co., Inc.	(2b) PREP Buffer/Internal Standard	Vial: 100ml (3 vials/box)	9/25/78
E.I. duPont de Nemours & Co., Inc.	(3) PREP Calibrators	Box containing following:	9/25/78
E.I. duPont de Nemours & Co., Inc.	(3a) PREP Calibrator-Level 1	Vial: 10ml (1 vial/box)	9/25/78
E.I. duPont de Nemours & Co., Inc.	(3b) PREP Calibrator-Level 2	Vial: 10ml (1 vial/box)	9/25/78
E.I. duPont de Nemours & Co., Inc.	(3c) PREP Calibrator-Level 3	Vial: 10ml (1 vial/box)	9/25/78
E.I. duPont de Nemours & Co., Inc.	(3d) PREP Calibrator-Level 4	Vial: 10ml (1 vial/box)	9/25/78
E.I. duPont de Nemours & Co., Inc.	(4) PREP Controls	Box containing following:	9/25/78
E.I. duPont de Nemours & Co., Inc.	(4a) PREP Control-Low Level	Vial: 10ml (2 vials/box)	9/25/78
E.I. duPont de Nemours & Co., Inc.	(4b) PREP Control-High Level	Vial: 10ml (2 vials/box)	9/25/78
E.I. duPont de Nemours & Co., Inc.	Cocaine [N-Methyl-3H]	Vial: 1 or 5ml	10/4/95
E.I. duPont de Nemours & Co., Inc.	DM/TU Saturating Reagent	Plastic Bottle: 1L, 10L, 20L	2/22/89

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
E.I. duPont de Nemours & Co., Inc.	DuPont Drug Calibrator–A (levels 1–5)	Vial: 6ml, Box: 10 vials	9/28/90
E.I. duPont de Nemours & Co., Inc.	DuPont Drug Calibrators– Levels 1 through 5	Vial: 6ml (1 vial and 2 vials/box).	4/4/86
E.I. duPont de Nemours & Co., Inc.	DuPont Phenobarbital Assay	Vial: 6 ml	10/13/86
E.I. duPont de Nemours & Co., Inc.	DuPont U Amp Enzyme Pack Reagent	Bottle: 1 liter	10/19/87
E.I. duPont de Nemours & Co., Inc.	DuPont U Barb Enzyme Pack Reagent	Bottle: 1 liter	10/19/87
E.I. duPont de Nemours & Co., Inc.	DuPont U Benz Enzyme Pack Reagent	Bottle: 1 liter	10/19/87
E.I. duPont de Nemours & Co., Inc.	DuPont U COC Enzyme Pack Reagent	Bottle: 1 liter	10/19/87
E.I. duPont de Nemours & Co., Inc.	DuPont U OPI Enzyme Pack Reagent	Bottle: 1 liter	8/26/87
E.I. duPont de Nemours & Co., Inc.	DuPont U THC Enzyme Pack Reagent	Bottle: 1 Liter	1/4/88
E.I. duPont de Nemours & Co., Inc.	DuPont Urine Drugs-of-Abuse Calibrator (Levels 0, 1, 2)	Box: 6 Vials, 6ml Vial	7/27/87
E.I. duPont de Nemours & Co., Inc.	DuPont Urine Drugs-of-Abuse Control	Vial: 6ml	8/3/87
E.I. duPont de Nemours & Co., Inc.	DuPont aca Barbiturate Screen Analytical Test Pack	Plastic Packs: 25 tests	12/23/84
E.I. duPont de Nemours & Co., Inc.	DuPont aca Barbiturate Screen/Benzodiazepine Screen Calibrator.	6 Vials: 3ml	2/23/84
E.I. duPont de Nemours & Co., Inc.	DuPont aca Benzodiazepine Screen Analytical Test Pack	Plastic Packs: 25 tests	2/23/84
E.I. duPont de Nemours & Co., Inc.	Phenobarbital Calibrator-Level 1	Vial: 6ml (1 vial/box)	4/2/86
E.I. duPont de Nemours & Co., Inc.	Phenobarbital Calibrator-Level 2	Vial: 6ml (1 vial/box)	4/2/86
E.I. duPont de Nemours & Co., Inc.	Phenobarbital Calibrator-Level 3	Vial: 6ml (1 vial/box)	4/2/86
E.I. duPont de Nemours & Co., Inc.	Phenobarbital Calibrator-Level 4	Vial: 6ml (1 vial/box)	4/2/86
E.I. duPont de Nemours & Co., Inc.	Phenobarbital Calibrator-Level 5	Vial: 6ml (1 vial/box)	4/2/86
E.I. duPont de Nemours & Co., Inc.	Theophylline Calibrator Levels 1, 2 and 3	Vial: 6ml. Box contains 2 vials each level.	9/21/88
E.I. duPont de Nemours & Co., Inc.	Thyroid Rotor	Foil Pouch: 1 Rotor Shelf Carton: 10 Rotors Box: 5 Shelf Cartons (50 Rotors).	10/25/88
E.I. duPont de Nemours & Co., Inc.	Thyronine (TU) Uptake Flex	32 Test Cartridge, Carton: 7 cartridges.	3/29/89
E.I. duPont de Nemours & Co., Inc.	Thyronine (TU) Uptake Flex(tm) Reagent Cartridge	Plastic container: 2.3ml (20 tests).	4/28/66
E.I. duPont de Nemours & Co., Inc.	Urine Amphetamine (U Amp) Test Pack	Carton: 50 tests	8/27/87
E.I. duPont de Nemours & Co., Inc.	Urine Barbiturate (U Barb) Test Pack	Carton: 50 tests	8/27/87
E.I. duPont de Nemours & Co., Inc.	Urine Benzodiazepine (U Benz) Test Pack	Carton: 50 tests	8/27/87
E.I. duPont de Nemours & Co., Inc.	Urine Cannabinoid (U THC) Test Pack	Carton: 50 tests	11/9/87
E.I. duPont de Nemours & Co., Inc.	Urine Cocaine (U COC) Test Pack	Carton: 50 tests	8/27/87
E.I. duPont de Nemours & Co., Inc.	Urine Opiate (U OPI) Test Pack	Carton: 50 tests	7/8/87
E.I. duPont de Nemours & Co., Inc.	aca PHNO Analytical Test Pack	Carton: 40 tests packs	8/25/77
E.I. duPont de Nemours & Co., Inc.	aca Thryonine Uptake Analytical Test Pack	Plastic Pack: 1 test	8/25/83
E.I. duPont de Nemours & Co., Inc.	aca Urine Methadone Calibrator (Level 1 & 2)	Vial: 10ml	9/17/93
E.I. duPont de Nemours & Co., Inc.	aca Urine Methadone Control (Negative/Positive)	Vial: 6ml	9/17/93
E.I. duPont de Nemours & Co., Inc., Medical Products.	5-Cyclohexenyl-3,5,-Dimethyl barbituric Acid (3H(G)), Catalog No. NET–426.	Combi-Vial: 250 microcuries, 1 millicurie, and 5 millicuries.	1/4/77
E.I. duPont de Nemours & Co., Inc., Medical Products.	Acetaldehyde (1, 2-14C) as Paraldehyde, Catalog No. NEC–158.	Pyrex Glass Breakseal Tube: 250 microcuries, 1 millicurie.	1/4/77

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
E.I. duPont de Nemours & Co., Inc., Medical Products.	Cocaine, Levo-[Benzoyl] [3.4–3H(N)] Catalog No. NET–510	Combi-Vial: 100 microcuries, 250 microcuries.	1/4/77
E.I. duPont de Nemours & Co., Inc., Medical Products.	Diazepam [Methyl-3H] Catalog No. NET–564	Combi-Vial: 0.250 millicuries, 1.0 millicurie.	9/6/79
E.I. duPont de Nemours & Co., Inc., Medical Products.	Dihydromorphine [7, 8–3H(N)]	Combi-Vial: 250 microcuries, 1 millicurie.	1/4/77
E.I. duPont de Nemours & Co., Inc., Medical Products.	Dihydromorphine [N-Methyl-3H] NET–658	Combi-Vial: 0.250 millicuries, 1.0 millicurie.	2/29/80
E.I. duPont de Nemours & Co., Inc., Medical Products.	Dihydrotestosterone, [1, 2, 4, 5, 6, 7, 16, 17–3H(N)]	NENSURE Vial: 0.8ml, 6.2ml	11/1/91
E.I. duPont de Nemours & Co., Inc., Medical Products.	Dihydrotestosterone, [1, 2, 4, 5, 6, 7–3H(N)]-	NENSURE Vial: 0.8ml, 6.2ml	11/1/91
E.I. duPont de Nemours & Co., Inc., Medical Products.	Dihydrotestosterone, [1, 2-3H(N)]	NENSURE Vial: 0.8ml, 6.2ml	11/1/91
E.I. duPont de Nemours & Co., Inc., Medical Products.	Dihydrotestosterone, [4-14C]-	NENSURE Vial: 0.8ml, 6.2ml	11/1/91
E.I. duPont de Nemours & Co., Inc., Medical Products.	Drug Discovery Kit, No. NED–002, NED–002A	Kit: 100 tests, 500 tests	8/8/89
E.I. duPont de Nemours & Co., Inc., Medical Products.	Drugs of Abuse Controls	Bottle: 5ml	1/11/95
E.I. duPont de Nemours & Co., Inc., Medical Products.	Flunitrazepam (Methyl-3H)	Combi-Vial: 5 microcuries, 14 microcuries.	8/8/89
E.I. duPont de Nemours & Co., Inc., Medical Products.	Flunitrazepam 2.5 Micro M	Combi-Vial: 2.0 ml	8/8/89
E.I. duPont de Nemours & Co., Inc., Medical Products.	Flunitrazepam [Methyl-3H] NET 567	Combi-Vial: 0.250 millicuries, 1.0 millicurie.	4/29/87
E.I. duPont de Nemours & Co., Inc., Medical Products.	LSD [N-Methyl-3H] NET-638	Combi-Vial: 0.250 millicuries, 1.0 millicurie.	11/5/79
E.I. duPont de Nemours & Co., Inc., Medical Products.	Mazindol (4'-3H) Catalog No.NET-816	Combi-Vial: 0.250 millicuries, 1.0 millicurie.	5/17/84
E.I. duPont de Nemours & Co., Inc., Medical Products.	Methylenedioxymethamphetamine, (+)3,4-[N-methyl-3H] NET 957.	Combi-Vial: 0.0250 millicuries, 0.25 millicuries, 1.0 millicuries.	8/25/75
E.I. duPont de Nemours & Co., Inc., Medical Products.	Methylphenidate, +/– threo[methyl-3H]NET-857	Combi-Vial: 0.250 millicuries, 1.0 millicurie.	6/11/84
E.I. duPont de Nemours & Co., Inc., Medical Products.	Mibolerone	Glass Vial: 5ml	11/1/91
E.I. duPont de Nemours & Co., Inc., Medical Products.	Mibolerone, [17Alpha-methyl-3H]-	NENSURE Vial: 0.8ml, 6.2ml	11/1/91
E.I. duPont de Nemours & Co., Inc., Medical Products.	Morphine [N-methyl-3H] NET-653	Combi-Vial: 0.250 millicuries, 1.0 millicurie.	2/29/80
E.I. duPont de Nemours & Co., Inc., Medical Products.	N-[1-(2-Thienyl) Cyclohexyl]-3, 4-Piperidine (Piperidyl-3,4-3H)NET-886.	Combi-Vial: 0.250 millicuries, 1.0 millicurie.	6/11/84
E.I. duPont de Nemours & Co., Inc., Medical Products.	Phencyclidine [Piperidyl-3,4-3H(N)], Catalog No.NET-630	Combi-Vial: 0.250 millicurie, 1.0 millicurie.	9/6/79
E.I. duPont de Nemours & Co., Inc., Medical Products.	Phenobarbital (PHNO) Flex Reagent Cartridge	Cartridge: Plastic	5/26/94
E.I. duPont de Nemours & Co., Inc., Medical Products.	Testosterone, [1,2,6,7,16,17-3H(N)]	NENSURE Vial: 0.8ml, 6.2ml	11/1/91
E.I. duPont de Nemours & Co., Inc., Medical Products.	Testosterone, [1,2,6,7-3H(N)]-	NENSURE Vial: 0.8ml, 6.2ml	11/1/91
E.I. duPont de Nemours & Co., Inc., Medical Products.	Testosterone, [1Alpha, 2Alpha, -3H(N)]-	NENSURE Vial: 0.8ml, 6.2ml	11/1/91
E.I. duPont de Nemours & Co., Inc., Medical Products.	Testosterone, [1Beta, 2Beta,-3H(N)]-	NENSURE Vial: 0.8ml, 6.2ml	11/1/91
E.I. duPont de Nemours & Co., Inc., Medical Products.	Testosterone, [4-14C]-	NENSURE Vial: 0.8ml, 6.2ml; Glass Vial: 10ml.	11/1/91
E.I. duPont de Nemours & Co., Inc., Medical Products.	Testosterone, [7-3H(N)]-	NENSURE Vial: 0.8ml, 6.2ml	11/1/91
E.I. duPont de Nemours & Co., Inc., Medical Products.	Urine Cannabinoids Screen (UTHC) Flex Reagent Cartridge	Cartridge: Plastic	4/19/94
E.I. duPont de Nemours & Co., Inc., Medical Products.	Urine Cocaine Metabolites Screen (UCOC) Flex Reagent Cartridge.	Cartridge: Plastic	4/19/94
E.I. duPont de Nemours & Co., Inc., Medical Products.	Urine Opiates Screen (UOPI) Flex Reagent Cartridge	Cartridge: Plastic	4/19/94
E.I. duPont de Nemours & Co., Inc., Medical Products.	d-Amphetamine Sulfate (3H(G)), Catalog No. NET–140	Combi-Vial: 250 microcuries, 1 millicurie, and 5 millicuries.	1/4/77
EDITEK Inc	EZ-SCREEN Amphetamines Bulk Conjugate	Bottle: 250ml	8/17/94
EDITEK Inc	EZ-SCREEN Amphetamines Bulk Positive Control	Bottle: 4L	8/17/94
EDITEK Inc	EZ-SCREEN Amphetamines Positive Control Stock	Flask: 100ml	8/17/94
EDITEK Inc	EZ-SCREEN Amphetamines QC Standard	Tube: 50ml	8/17/94
EDITEK Inc	EZ-SCREEN Barbiturates Bulk Conjugate	Tube: 50ml	8/17/94

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
EDITEK Inc	EZ-SCREEN Barbiturates Bulk Positive Control	Bottle: 8L	8/17/94
EDITEK Inc	EZ-SCREEN Barbiturates Positive Control Stock	Flask: 100ml	8/17/94
EDITEK Inc	EZ-SCREEN Barbiturates QC Standard	Tube: 50ml	8/17/94
EDITEK Inc	EZ-SCREEN CANNABINOID/COCAINE 0.5ml Positive Control.	Tube: 2.2ml	8/17/94
EDITEK Inc	EZ-SCREEN CANNABINOID/COCAINE 5.0ml Positive Control.	Bottle: 15ml	8/17/94
EDITEK Inc	EZ-SCREEN CANNABINOID/COCAINE/OPIATES Bulk Positive Control.	Bottle: 20L	8/17/94
EDITEK Inc	EZ-SCREEN COCAINE Bulk Conjugate	Bottle: 250ml	8/17/94
EDITEK Inc	EZ-SCREEN COCAINE Bulk Positive Control	Bottle: 8L	8/17/94
EDITEK Inc	EZ-SCREEN COCAINE Positive Control	Flask: 100ml	8/17/94
EDITEK Inc	EZ-SCREEN COCAINE QC Standard	Tube: 50ml	8/17/94
EDITEK Inc	EZ-SCREEN OPIATES Bulk Conjugate	Tube: 50ml	8/17/94
EDITEK Inc	EZ-SCREEN OPIATES Bulk Positive Control	Bottle: 4L	8/17/94
EDITEK Inc	EZ-SCREEN OPIATES Positive Control Stock	Flask: 100ml	8/17/94
EDITEK Inc	EZ-SCREEN OPIATES QC Standard	Tube: 50ml	8/17/94
EDITEK Inc	EZ-SCREEN PCP Bulk Conjugate	Tube: 50ml	8/17/94
EDITEK Inc	EZ-SCREEN PCP Bulk Positive Control	Bottle: 2L	8/17/94
EDITEK Inc	EZ-SCREEN PCP Positive Control Stock	Flask: 100ml	8/17/94
EDITEK Inc	EZ-SCREEN PCP QC Standard	Tube: 50ml	8/17/94
EDITEK Inc	EZ-SCREEN THC Bulk Conjugate	Tube: 50ml	8/17/94
EDITEK Inc	EZ-SCREEN THC Bulk Positive Control	Bottle: 8L	8/17/94
EDITEK Inc	EZ-SCREEN THC Positive Control Stock	Flask: 10ml	8/17/94
EDITEK Inc	EZ-SCREEN THC QC Standard	Tube: 50ml	8/17/94
EDITEK Inc	EZ-SCREEN: Amphetamines 0.5ml Positive Control	Tube: 2.2ml	8/17/94
EDITEK Inc	EZ-SCREEN: Amphetamines 20-Test Bulk Kit	Kit: 20 Tests	8/17/94
EDITEK Inc	EZ-SCREEN: Amphetamines 20-Test Pack	Kit: 20 Tests	8/17/94
EDITEK Inc	EZ-SCREEN: Amphetamines 5.0ml Positive Control	Bottle: 15ml	8/17/94
EDITEK Inc	EZ-SCREEN: Amphetamines Enzyme Conjugate	Ampule: 0.8ml	8/17/94
EDITEK Inc	EZ-SCREEN: Amphetamines Test Kit	Kit: 1 Test	8/17/94
EDITEK Inc	EZ-SCREEN: Barbiturates 0.5ml Positive Control	Tube: 2.2ml	8/17/94
EDITEK Inc	EZ-SCREEN: Barbiturates 20-Test Bulk Kit	Kit: 20 Tests	8/17/94
EDITEK Inc	EZ-SCREEN: Barbiturates 20-Test Pack	Kit: 20 Tests	8/17/94
EDITEK Inc	EZ-SCREEN: Barbiturates 5.0ml Positive Control	Bottle: 15ml	8/17/94
EDITEK Inc	EZ-SCREEN: Barbiturates Enzyme Conjugate	Ampule: 0.8ml	8/17/94
EDITEK Inc	EZ-SCREEN: Barbiturates Test Kit	Kit: 1 Test	8/17/94
EDITEK Inc	EZ-SCREEN: CANNABINOID 0.5 ml Positive Control	Tube: 2.2ml	8/17/94
EDITEK Inc	EZ-SCREEN: CANNABINOID 20-Test Bulk Kit	Kit: 20 Tests	8/17/94
EDITEK Inc	EZ-SCREEN: CANNABINOID 20-Test Pack	Kit: 20 Tests	8/17/94
EDITEK Inc	EZ-SCREEN: CANNABINOID 5.0ml Positive Control	Bottle: 15ml	8/17/94
EDITEK Inc	EZ-SCREEN: CANNABINOID Enzyme Conjugate	Ampule: 0.8ml	8/17/94
EDITEK Inc	EZ-SCREEN: CANNABINOID Test Kit	Kit: 1 Test	8/17/94
EDITEK Inc	EZ-SCREEN: CANNABINOID/COCAINE 20-Test Bulk Kit	Kit: 20 Tests	8/17/94
EDITEK Inc	EZ-SCREEN: CANNABINOID/COCAINE 20-Test Pack	Kit: 20 Tests	8/17/94
EDITEK Inc	EZ-SCREEN: CANNABINOID/COCAINE Enzyme Conjugate	Ampule: 0.8ml	8/17/94
EDITEK Inc	EZ-SCREEN: CANNABINOID/COCAINE Test Kit	Kit: 1 Test	8/17/94
EDITEK Inc	EZ-SCREEN: CANNABINOID/COCAINE/OPIATES 0.5ml Positive Control.	Tube: 2.2ml	8/17/94
EDITEK Inc	EZ-SCREEN: CANNABINOID/COCAINE/OPIATES 10-Test Bulk Kit.	Kit: 10 Tests	8/17/94
EDITEK Inc	EZ-SCREEN: CANNABINOID/COCAINE/OPIATES 20-Test Kit Pack.	Kit: 20 Tests	8/17/94
EDITEK Inc	EZ-SCREEN: CANNABINOID/COCAINE/OPIATES 5.0ml Positive Control.	Bottle: 15ml	8/17/94
EDITEK Inc	EZ-SCREEN: CANNABINOID/COCAINE/OPIATES Enzyme Conjugate.	Ampule: 0.8ml	8/17/94
EDITEK Inc	EZ-SCREEN: CANNABINOID/COCAINE/OPIATES Test Kit	Kit: 1 Test	8/17/94
EDITEK Inc	EZ-SCREEN: COCAINE 0.5ml Positive Control	Tube: 2.2ml	8/17/94
EDITEK Inc	EZ-SCREEN: COCAINE 20 Test Bulk Kit	Kit: 20 Tests	8/17/94
EDITEK Inc	EZ-SCREEN: COCAINE 20-Test Pack	Kit: 20 Tests	8/17/94
EDITEK Inc	EZ-SCREEN: COCAINE 5.0ml Positive Control	Bottle: 15ml	8/17/94
EDITEK Inc	EZ-SCREEN: COCAINE Enzyme Conjugate	Ampule: 0.8ml	8/17/94
EDITEK Inc	EZ-SCREEN: COCAINE Test Kit	Kit: 1 Test	8/17/94
EDITEK Inc	EZ-SCREEN: OPIATES 0.5ml Positive Control	Tube: 2.2ml	8/17/94
EDITEK Inc	EZ-SCREEN: OPIATES 20 Test Pack	Kit: 20 Tests	8/17/94
EDITEK Inc	EZ-SCREEN: OPIATES 20-Test Bulk Kit	Kit: 20 Tests	8/17/94
EDITEK Inc	EZ-SCREEN: OPIATES 5.0ml Positive Control	Bottle: 15ml	8/17/94
EDITEK Inc	EZ-SCREEN: OPIATES Enzyme Conjugate	Ampule: 0.8ml	8/17/94
EDITEK Inc	EZ-SCREEN: OPIATES Test Kit	Kit: 1 Test	8/17/94
EDITEK Inc	EZ-SCREEN: PCP 0.5ml Positive Control	Ampule: 0.8ml	8/17/94
EDITEK Inc	EZ-SCREEN: PCP 20-Test Bulk Kit	Kit: 20 Tests	8/17/94

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
EDITEK Inc	EZ-SCREEN: PCP 20-Test Kit	Kit: 20 Tests	8/17/94
EDITEK Inc	EZ-SCREEN: PCP 5.0ml Positive Control	Bottle: 15ml	8/17/94
EDITEK Inc	EZ-SCREEN: PCP Enzyme Conjugate	Ampule: 0.8ml	8/17/94
EDITEK Inc	EZ-SCREEN: PCP Test Kit	Kit: 1 Test	8/17/94
EDITEK Inc	VERDICT COCAINE One-Step Drug Test; Product # 600230	Pouch: 1 each; Box: 50 Pouches.	8/2/94
EDITEK Inc	VERDICT Cocaine Bulk Conjugate	Vial: 2ml	8/14/94
EDITEK Inc	VERDICT Cocaine Bulk Conjugate	Vial: 2ml	8/14/94
EDITEK Inc	VERDICT Cocaine QC Standard	Tube: 50ml	8/14/94
EDITEK Inc	VERDICT OPIATES One-Step Drug Test; Product # 600233	Pouch: 1 each; Box: 50 Pouches.	8/2/94
EDITEK Inc	VERDICT Opiates Bulk Conjugate	Vial: 2ml	8/14/94
EDITEK Inc	VERDICT Opiates Bulk Conjugate	Vial: 5ml	8/14/94
EDITEK Inc	VERDICT Opiates QC Standard	Tube: 15ml	8/14/94
EDITEK Inc	VERDICT PCP 50-Test Kit, Cat # 600226	Kit: 50 Tests	1/11/96
EDITEK Inc	VERDICT PCP Bulk Conjugate 0.5ml, 2.0ml	Vial: 2ml	1/11/96
EDITEK Inc	VERDICT PCP QC Standard	Tube: 50ml	1/11/96
EDITEK Inc	VERDICT THC Bulk Conjugate	Vial: 2ml	8/14/94
EDITEK Inc	VERDICT THC Bulk Conjugate	Vial: 5ml	8/14/94
EDITEK Inc	VERDICT THC One-Step Drug Test; Product # 600212	Pouch: 1 each; Box: 50 Pouches.	8/2/94
EDITEK Inc	VERDICT THC QC Standard	Tube: 50ml	8/14/94
EDITEK Inc	VERDICT THC/COCAINE One-Step Drug Test	Pouch: 2 Kits	8/14/94
EM Diagnostic Systems, Inc	EMDS Antiepileptic Drug Calibrator Item No. 67630/95	Box: 3 Vials, 5 ml each	6/11/86
EM Diagnostic Systems, Inc	EMDS Test Packs, Phenobarbital (PHENO) Item No. 67677/95.	Carton: 48 Test Packs	9/9/86
EM Diagnostic Systems, Inc	Easytest Phenobarbital Assay Item No. 67534/93	Cuvette: 1.8ml (40 cuvettes /carton).	5/11/86
Eastman Kodak Company	KODATROL Control I Control and Diluent Set	1 Set: 2 amber glass vials ea. 6 ml 1 Box: 12 sets.	7/21/88
Eastman Kodak Company	KODATROL Control II Control and Diluent Set	1 Set: 2 amber glass vials ea. 6 ml 1 Box: 12 sets.	7/21/88
Eastman Kodak Company	Kodak EKTACHEM Specialty Calibrator	Vial: 3ml	9/13/85
Eastman Kodak Company	Kodak EKTACHEM Specialty Control I	Vial: 3ml	9/13/85
Eastman Kodak Company	Kodak Ektachem Specialty Control II	Glass Vial: 6 ml	11/10/87
Electro-Nucleonics Laboratories, Incorporated.	VIRGO IPA Immuno-Precipitation Assay for Phenobarbital	Kit	11/30/82
Eli Lilly and Company	Propoxyphene Industrial Hygiene Air Monitoring Sample Cassette.	Cassette: Plastic	7/13/94
Elsohly Laboratories, Inc	(-)-11 Nor-delta-9-THC-COOH 100ug/ml	Vial: 1ml	3/26/95
Elsohly Laboratories, Inc	11-Hydroxy-delta-9-THC, 100ug/ml	Vial: 1ml	3/26/95
Elsohly Laboratories, Inc	8-Beta, 11-dihydroxy-delta-9-THC, 100ug/ml	Vial: 1ml	3/26/95
Elsohly Laboratories, Inc	8-Beta-hydroxy-delta-9-THC, 100ug/ml	Vial: 1ml	3/26/95
Elsohly Laboratories, Inc	Difluorobenzoylecgonine, 100ug/ml	Vial: 1ml	3/26/95
Elsohly Laboratories, Inc	Difluorococaine, 100ug/ml	Vial: 1ml	3/26/95
Elsohly Laboratories, Inc	Difluorophencyclidine, 100ug/ml	Vial: 1ml	3/26/95
Elsohly Laboratories, Inc	Urine Controls	Bottles: 15ml–40L	3/26/95
Elsohly Laboratories, Inc	d2-Dihydrocodeine, 100ug/ml	Vial: 1ml	3/26/95
Elsohly Laboratories, Inc	d2-Dihydromorphine, 100ug/ml	Vial: 1ml	3/26/95
Elsohly Laboratories, Inc	d3-Codeine, 100ug/ml	Vial: 1ml	3/26/95
Elsohly Laboratories, Inc	d3-Hydrocodone, 100ug/ml	Vial: 1ml	3/26/95
Elsohly Laboratories, Inc	d3-Hydromorphone, 100ug/ml	Vial: 1ml	3/26/95
Elsohly Laboratories, Inc	d3-Morphine, 100ug/ml	Vial: 1ml	3/26/95
Elsohly Laboratories, Inc	d3-Oxycodone, 100ug/ml	Vial: 1ml	3/26/95
Elsohly Laboratories, Inc	d6-11-Nor-delta-8-THC-9-COOH, 100ug/ml	Vial: 1ml	3/26/95
Elsohly Laboratories, Inc	d6-11-Nor-delta-9-THC-9-COOH, 100ug/ml	Vial: 1ml	3/26/95
Elsohly Laboratories, Inc	d6-Amphetamine, 100ug/ml	Vial: 1ml	3/26/95
Elsohly Laboratories, Inc	d6-Delta-8-THC, 100ug/ml	Vial: 1ml	3/26/95
Elsohly Laboratories, Inc	d9-Delta-9-THC, 100ug/ml	Vial: 1ml	3/26/95
Elsohly Laboratories, Inc	d9-Methamphetamine, 100ug/ml	Vial: 1ml	3/26/95
Endocrine Metabolic Center	0.1% Lysozyme-Barbital Buffer, 0.05M	Glass Bottle: 2 liter	5/28/87
Endocrine Metabolic Center	1% Lysozyme-Barbital Buffer, 0.05M	Glass Bottle: 2 liter	5/28/87
Endocrine Metabolic Center	Barbital Buffer, 0.05M	Plastic Bottle: 3000 ml	5/28/87
Endocrine Metabolic Center	Barbital Buffer, 0.1M	Plastic Bottle: 3000 ml	5/28/87
Endocrine Metabolic Center	Tracer Diluent	Glass Bottle: 1 or 2 liter	5/28/87
Environmental Diagnostics, Inc	EZ-Screen: Cannabinoid Enzyme Conjugate	Ampule: 1 ml	2/3/87
Environmental Diagnostics, Inc	EZ-Screen: Cannabinoid Kit Catalog No. 216–2BP	Kit: 1 test	2/3/87
Environmental Diagnostics, Inc	EZ-Screen: Cannabinoid Positive Control	Ampule: 1 ml	2/3/87
Environmental Diagnostics, Inc	EZ-Screen: Cannabinoid/Cocaine-Enzyme Conjugate	Polyethylene Tube: containing ampule with 1 tablet, Kit: 1 test.	12/20/88

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Environmental Diagnostics, Inc .	EZ-Screen: Cannabinoid/Cocaine-Positive Control	Polyethylene Tube: 2.2ml, Kit: 1 test.	12/20/89
Fisher Diagnostics	TheraChem Anticonvulsants/Theophylline, Level I, II	Kit: 9 vials, vial: 5ml	3/3/81
Fisher Scientific	Electrophoretic Buffer No. 1 pH 8.60, Ionic Strength 0.05, Catalog No. E–1.	Packet: 12.14 g	10/27/72
Fisher Scientific	Electrophoretic Buffer No. 2, pH 8.60, Ionic Strength 0.075, Catalog No. E–2.	Packet: 18.16 g	10/27/72
Fisher Scientific	IL-Test Phenobarbital	Kit: contains 2 plastic containers of reagent 2.	3/15/88
Fisher Scientific	IL-Test Phenobarbital Conjugate, Reagent 2	Plastic Container: 16 ml	3/15/88
Fisher Scientific	Owren's Veronal Buffer, CS1094–34	Vial: 10 ml	8/18/86
Fisher Scientific	Owren's Veronal Buffer, CS1094–38	Vial: 25 ml	8/18/86
Fisher Scientific	SeraChem Abnormal Clinical Chemistry Control Serum (Human) Unassayed No. 2906.	Vial: 5ml, 10ml	4/16/82
Fisher Scientific	SeraChem Abnormal Clinical Chemistry Control Serum (Human), Assayed No. 2905.	Vial: 5ml	4/16/82
Fisher Scientific	SeraChem Normal Clinical Chemistry Control Serum (Human), Assayed No. 2907.	Vial: 5ml	4/16/82
Fisher Scientific	SeraChem Plus Clinical Chemistry Control Sera Unassayed (Bovine) Level I.	Vial: 10ml, Box: 50 vials, Carton: 4 boxes.	7/25/89
Fisher Scientific	SeraChem Plus Clinical Chemistry Control Sera Unassayed (Bovine) Level II.	Vial: 10 ml, Box: 50 vials, Carton: 4 boxes.	7/25/89
Fisher Scientific	SeraChem Normal Clinical Chemistry Control Serum (Human), Unassayed No. 2908.	Vial: 5ml, 10ml	4/16/82
Fisher Scientific	TDM Cal	Kit: 7 Vials	11/26/86
Fisher Scientific	TDM Cal (B–F)	Vials: 5 ml	11/26/86
Fisher Scientific	Thera Chem TDC Therapeutic Drug Controls, Low and High Levels, 2840–58.	Kit: 6 vials	1/12/84
Fisher Scientific	TheraChem-Plus TDC Therapeutic Drug Controls, Tri-Level, No. 2845–94.	Kit: 9 vials	3/19/86
Fisher Scientific	Therapeutic Drug Control, High Level III, No. 2848–31	Vial: 5ml	3/19/86
Fisher Scientific	Therapeutic Drug Control, High Level, 2842–31	Vial: 5ml	1/12/84
Fisher Scientific	Therapeutic Drug Control, Low Level I, No. 2846–31	Vial: 5ml	3/19/86
Fisher Scientific	Therapeutic Drug Control, Low Level, 2841–31	Vial: 5ml	1/12/84
Fisher Scientific	Therapeutic Drug Control, Mid-Range Level II, No. 2847–31	Vial: 5ml	3/19/86
Fisher Scientific	Urine Chemistry Control (Human) Level II, No. 2935–80	Vial: 25ml	4/6/78
Fisher Scientific	Urine Toxicology Control No. 2950–61	Vial: 25ml	4/6/78
Flow Laboratories	DGV No. 28–010	Bottle: 125 ml	4/16/73
Flow Laboratories	Human "O" DGV (Dextrose Gelatin Veronal Buffer) No. 28–060.	Glass Vial: 100 ml	10/14/76
GIBCO Laboratories	Complement Fixation Buffer Solution, pH 7.3–7.4, NDC 0118115–0247–1.	Bottle: 1 liter	1/28/74
GIBCO Laboratories	Complement Fixation Buffer Solution, pH 7.3–7.4, NDC 011815–0247–2.	Bottle: 500 ml	4/5/77
GIBCO Laboratories	Dextrose-Gelatin-Veronal Buffer Solution NDC No. 815–0566–1 and No. 815–0566–2.	Bottle: 100 and 500 ml	7/5/73
GIBCO Laboratories	Electrophoresis Buffer Solution, pH 8.6, NDC 011815–0245–1	Bottle: 1 liter	1/28/74
GIBCO Laboratories	I.E.P. Buffer Solution pH 8.2 NDC 011815–0246–1	Bottle: 1 liter	1/28/74
Gelman Sciences, Inc	Drug Control Set No. 51911	Set: 3 vials of 50 ml each	4/6/72
Gelman Sciences, Inc	Drug Standard Set, No. 51910	Set: 3 vials of 2 ml each	4/6/72
Gelman Sciences, Inc	Hi-Phore Buffer	Glass Vial: 15 g	2/11/82
Gelman Sciences, Inc	High Resolution Buffer-Tris Barbital Buffer No. 51104	Vial: 10 dr	12/22/71
Gumm Chem. Co	Niflow Initial Additive	Drums: 5 Gallons	9/30/85
Gumm Chem. Co	Niflow Maintenace Additive	Drums: 5 Gallons	9/30/85
Hach Chemical Co	pH 8.3 Buffer Powder Pillows. No. 898–98	Pillow: 1 g. each	11/30/71
Helena Laboratories	Cardio REP CK Isoenzymes Gel	Plate: 4.6″×2.4″	9/24/93
Helena Laboratories	CK–LD Buffer Catalog No. 5808	Packet: 18.332 g. , 10 packets/box.	3/26/86
Helena Laboratories	Cardio REP CK Isoenzymes Kit, Cat. # 3310	Kit: 10 Plates	9/24/93
Helena Laboratories	Cardio REP CK Isoforms Gel	Plate: 4.6″×2.4″	9/24/93
Helena Laboratories	Cardio REP CK Isoforms Kit, Cat. # 3305	Kit: 10 Plates	9/24/93
Helena Laboratories	Electra B1 Buffer, Catalog No. 5016	Packet: 13.1g. 10 packets/ box	12/28/73
Helena Laboratories	Electra B2 Buffer, Catalog No. 5017	Packet: 18.2 g. 10 packets/box.	12/28/73
Helena Laboratories	Electra HR Buffer, Catalog No. 5805	Packet: 18.1 g. 10 packets/box.	12/28/73
Helena Laboratories	HDL Electrophoresis Buffer	Packet: 36 g	12/18/85
Helena Laboratories	Isoamylase Cathode Buffer	Packet: 9.7 g	12/18/85
Helena Laboratories	Isoamylase Kit Catalog No. 5925	Kit: 2 Packets Cathode Buffer .	1/24/86
Helena Laboratories	Owren's Veronal Buffer Cat. No. 5375	Plastic Bottle: 125 ml	9/15/88
Helena Laboratories	REP ALP–15 Gel	Plate: 5.8″×5.5″	8/26/93
Helena Laboratories	REP Alkaline Phosphatase Cat. # 3152	Kit: 10 Plates	8/26/93

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Helena Laboratories	REP CK Isoforms-15	Plate: 5.8″×5.5″	3/9/88
Helena Laboratories	REP CK Isoforms-15 Kit: Cat. No. 3081	Kit: 10 plates	3/9/88
Helena Laboratories	REP CK Isoforms-4 Cat. # 3083	Kit: 10 Plates	8/26/93
Helena Laboratories	REP CK Isoforms-4 Gel	PLate: 5.8″×1.25″	8/26/93
Helena Laboratories	REP CK Isoforms-8 Cat. # 3082	Kit: 10 Plates	8/26/93
Helena Laboratories	REP CK Isoforms-8 Gel	Plate: 5.8″×2.18″	8/26/93
Helena Laboratories	REP CK–12	Plate: 5.8″×2.18″	3/9/88
Helena Laboratories	REP CK–12 Isoenzyme Kit: Cat. No. 3071	Kit: 10 plates	3/9/88
Helena Laboratories	REP CK–2 STAT Kit, Cat. No. 3074	Kit: 10 plates (5.8″×0.6″)	3/30/89
Helena Laboratories	REP CK–30	Plate: 5.8″×5.5″	3/9/88
Helena Laboratories	REP CK–30 Isoenzyme Kit	Kit: 10 plates	3/9/88
Helena Laboratories	REP CK–8	Plate: 5.8″×1.25″	3/9/88
Helena Laboratories	REP CK–8 Isoenzyme Kit: Cat. No. 3072	Kit: 10 plates	3/9/88
Helena Laboratories	REP ImmunoFix Kit # 3150	Kit: 10 plates	3/9/93
Helena Laboratories	REP LD	Plates: 5.8″×5.5″, 5.8″×2.18″, 5.8″×1.25″.	3/9/88
Helena Laboratories	REP SPE Hi Res-15 Kit, Cat. No. 3176	Kit: 10 plates (5.8″×5.5″)	3/30/89
Helena Laboratories	REP SPE–16 Template (Acid Blue) Kit, Cat. # 3171	Kit: 10 Plates	9/14/93
Helena Laboratories	REP SPE–16 Template (Ponceau S) Kit, Cat. # 3161	Kit: 10 Plates	9/14/93
Helena Laboratories	REP SPE–16 Template Gel	Plate: 5.8″ 2.18″	9/14/93
Helena Laboratories	REP SPE–30 Template (Acid Blue) Kit, Cat. # 3170	Kit: 10 Plates	9/14/93
Helena Laboratories	REP SPE–30 Template (Ponceau S) Kit, Cat. # 3160	Kit: 10 Plates	9/14/93
Helena Laboratories	REP SPE–30 Template Gel	Plate: 5.8″×5.5″	9/14/93
Helena Laboratories	REP SPE–8 Template (Acid Blue) Kit, Cat. # 3172	Kit: 10 Plates	9/14/93
Helena Laboratories	REP SPE–8 Template (Ponceau S) Kit, Cat. # 3162	Kit: 10 Plates	9/14/93
Helena Laboratories	REP SPE–8 Template Gel	Plate: 5.8″×1.25″	9/14/93
Helena Laboratories	REP Ultra-30 HDL, VLDL/LDL Gel	Plate: 5.8″×5.5″	9/24/93
Helena Laboratories	REP Ultra-30 HDL, VLDL/LDL Kit, Cat. # 3183	Kit: 10 Plates	9/24/93
Helena Laboratories	REP Ultra-8 HDL, VLDL/LDL Gel	Plate: 5.8″×1.25″	9/24/93
Helena Laboratories	REP Ultra-8 HDL, VLDL/LDL Kit, Cat. # 3185	Kit: 10 Plates	9/24/93
Helena Laboratories	REP–HDL–12 Isoenzyme Kit Cat. No. 3187	Kit: 10 Plates (5.8″×2.18″)	9/15/88
Helena Laboratories	REP–HDL–30 Isoenzyme Kit Cat. No. 3186	Kit: 10 Plates (5.8″×5.5″)	9/15/88
Helena Laboratories	REP–HDL–6 Isoenzyme Kit Cat. No. 3188	Kit: 10 Plates (5.8″×1.25″)	9/15/88
Helena Laboratories	REP–Lipo–12 Kit Cat. No. 3181	Kit: 10 Plates (5.8″×2.18″)	9/15/88
Helena Laboratories	REP–Lipo–30 Kit Cat. No. 3180	Kit: 10 Plates (5.8″×5.5″)	9/15/88
Helena Laboratories	REP–Lipo–6 Kit Cat. No. 3182	Kit: 10 Plates (5.8″×1.25″)	9/15/88
Helena Laboratories	REP–SP–12 Isoenzyme Kit Cat. No. 3171	Kit: 10 Plates (5.8″×2.18″)	9/15/88
Helena Laboratories	REP–SP–30 Isoenzyme Kit Cat. No. 3170	Kit: 10 Plates (5.8″×5.5″)	9/15/88
Helena Laboratories	REP–SP–6 Isoenzyme Kit Cat. No. 3172	Kit: 10 Plates (5.8″×1.25″)	9/15/88
Helena Laboratories	Super Z–12XHDL Cholesterol Supply Kit Catalog No. 5470)	Kit: 3 Packages buffer 36 g	1/24/86
Helena Laboratories	TITAN GEL Alkaline Phosphatase (HR) Cat. No. 3058	Kit: 10 Plates	8/26/93
Helena Laboratories	TITAN GEL Alkaline Phosphatase (HR) Kit, Cat. No. 3058	Kit: 1 bag	6/19/89
Helena Laboratories	TITAN GEL Alkaline Phosphatase Buffer	Plastic Bag: 13.1g	6/19/89
Helena Laboratories	TITAN GEL Alkaline Phosphatase Gel	Plate: 3.5″×2.9″	8/26/93
Helena Laboratories	Titan Gel High Resolution Protein Buffer	Packet: 25.9 g	4/12/83
Helena Laboratories	Titan Gel High Resolution Protein Kit Catalog No. 3040	Kit: 10 Plates (90mm×75mm), 2 Packages Buffer.	3/3/86
Helena Laboratories	Titan Gel High Resolution Protein Plate	Plate: (90mm×75mm)	3/3/86
Helena Laboratories	Titan Gel IFE Buffer	Packet: 25.9 g	12/18/85
Helena Laboratories	Titan Gel IFE Plate	Plate: (90mm×75mm)	3/5/86
Helena Laboratories	Titan Gel Immuno Fix Kit Catalog No. 3046	Kit: 10 Plates (90mm×75mm), 2 Packets IFE Buffer.	1/24/86
Helena Laboratories	Titan Gel ImmunoFix Plus Kit # 3067	Kit: 10 plates, 1 pkg IFE buffer	3/9/93
Helena Laboratories	Titan Gel ImmunoFix-9 Kit # 3051	Kit: 10 plates, 1 pkg IFE buffer	3/9/93
Helena Laboratories	Titan Gel Iso Dot LDH Buffer	Packet: 19.6 g	1/7/86
Helena Laboratories	Titan Gel Iso Dot LDH Isoenzyme Plate	Plate: (90mm×75mm)	12/18/85
Helena Laboratories	Titan Gel Iso Dot LDH Kit Catalog No. 3062	Kit: 10 Plates (90mm×75mm), 1 Packet Iso Dot LDH Buffer.	1/24/86
Helena Laboratories	Titan Gel LD Buffer	Packet: 21.5 g	11/26/86
Helena Laboratories	Titan Gel LD Isoenzyme Diluent	Bottle: 10 ml	11/26/86
Helena Laboratories	Titan Gel LDH Isoenzyme Buffer	Packet: 22.7 g	3/7/83
Helena Laboratories	Titan Gel LDH Isoenzyme Plate	Plate: (90mm×75mm)	12/18/85
Helena Laboratories	Titan Gel LDH Isoenzyme Reagent	Vial: 2ml, 10 vials/box	1/7/86
Helena Laboratories	Titan Gel Lipoprotein Buffer	Packet: 17.3 g	12/18/85
Helena Laboratories	Titan Gel Lipoprotein Kit Catalog No. 3045	Kit: 1 Packet Buffer	1/24/86
Helena Laboratories	Titan Gel Lipoprotein Plate	Plate: (90x75 mm)	1/9/87
Helena Laboratories	Titan Gel Multi-Slot Lipo–17 Kit Catalog No. 3095	Kit: 10 plates (81×143 mm) 1 packet buffer (21.6 g).	1/9/87
Helena Laboratories	Titan Gel Multi-Slot Lipo–17 Plate	Plate: (81×143 mm)	1/9/87
Helena Laboratories	Titan Gel Multi-Slot SP–17 Kit Catalog No. 3091	Kit: 10 plates (81×143 mm) 1 packet buffer (29.1 g).	1/9/87
Helena Laboratories	Titan Gel Multi-Slot SP–17 Plate	Plate: 81×143 mm	1/9/87

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Helena Laboratories	Titan Gel Serum Protein Buffer	Packet: 29.1 g	4/12/83
Helena Laboratories	Titan Gel Serum Protein Kit Catalog No. 3041	Kit: 10 Plates (90mmx75mm), 1 Packet Buffer.	1/24/86
Helena Laboratories	Titan Gel Serum Protein Plate	Plate: (90mmx75mm)	12/18/85
Helena Laboratories	Titan Gel Silver Stain Buffer	Packet: 25.9g	12/18/85
Helena Laboratories	Titan Gel Silver Stain Kit Catalog No. 3035	Kit: 10 Plates (90mmx75mm), 2 Packets Buffer.	1/24/86
Helena Laboratories	Titan Gel Silver Stain Plate	Plate: (90mmx75mm)	3/3/86
Helena Laboratories	Titan Gel–PC LDH Isoenzyme Kit Catalog No. 3053	Kit: 10 Plates (90mmx75mm), 1 Packet LDH Buffer, 1 Box LDH Reagent.	1/24/86
Helena Laboratories	Titan Gel–PC LDH Isoenzyme Plate	Plate: (90mmx75mm)	12/18/85
Helena Laboratories	Titan III Agar Catalog No. 5023	Packet: 5 g. (5 Packets/box)	12/28/73
Helena Laboratories	Titan IV IE Plate (large)	Package: plates, 3 by 4 in	12/28/73
Helena Laboratories	Titan IV IE Plate (small)	Package: plates, 1 by 3 in	12/28/73
Helena Laboratories	Titan IV IE Plate Kit	Kit: 12 small (1 by 3 in.) IE plates, 1 box B1 Buffer.	12/28/73
Helena Laboratories	Titan IV IE Plate Kit	Kit: 10 large (3 by 4 in.) IE Plates, 1 box B1 Buffer.	12/28/73
High Standard Products	(DL) Methamphetamine 1.0mg/ml	Ampule: 2ml	5/11/93
High Standard Products	(DL) Methamphetamine-d10 100µg/ml	Ampule: 2ml	5/11/93
High Standard Products	(DL) Methamphetamine-d5 100µg/ml	Ampule: 2ml	5/11/93
High Standard Products	11-Nor-Delta-8-Carboxy-Tetrahydrocannabinol 100µg/ml	Ampule: 2ml	5/11/93
High Standard Products	11-Nor-Delta-9-Carboxy-Tetrahydrocannabinol 100ug/ml	Ampule: 2ml	5/11/93
High Standard Products	11-Nor-Delta-9-Carboxy-Tetrahydrocannabinol-d10 100ug/ml	Ampule: 2ml	5/11/93
High Standard Products	11-Nor-Delta-9-Carboxy-Tetrahydrocannabinol-d3 100ug/ml	Ampule: 2ml	5/11/93
High Standard Products	11-Nor-Delta8 carboxy THC; 1.0mg/ml	Ampule: 2ml	4/15/94
High Standard Products	11-Nor-Delta9 carboxy THC Screening/Confirmation Calibrators; 10, 25, 50, 100, 250, ng/ml.	Ampules: 10; 5 of 2ml, 5 of 20ml.	4/15/94
High Standard Products	11-Nor-Delta9 carboxy THC-d10; 0.1mg/ml	Ampule: 2ml	4/15/94
High Standard Products	11-Nor-Delta9 carboxy THC; 1.0mg/ml	Ampule: 2ml	4/15/94
High Standard Products	11-nor-Delta9 carboxy THC Controls; 10, 20, 100 ng/ml	Ampules: 6; 3 of 2ml, 3 of 20ml.	4/15/94
High Standard Products	3, 4-Methylenedioxymethamphetamine (MDMA) 100ug/ml	Ampule: 2ml	5/11/93
High Standard Products	3, 4-Methylenedioxymethamphetamine-d5 (MDMA) 100ug/ml	Ampule: 2ml	5/11/93
High Standard Products	3-Methylfentanyl 100ug/ml	Ampule: 2ml	5/11/93
High Standard Products	3-Methylfentanyl-d3 100ug/ml	Ampule: 2ml	5/11/93
High Standard Products	4-Hydroxyamphetamine; 1.0mg/ml	Ampule: 2ml	4/15/94
High Standard Products	4-Hydroxymethamphetamine; 1.0mg/ml	Ampule: 2ml	4/15/94
High Standard Products	4-Methoxyamphetamine 1.0mg/ml	Ampule: 2ml	5/11/93
High Standard Products	4-Methoxyamphetamine-d5 100ug/ml	Ampule: 2ml	5/11/93
High Standard Products	6-Acetylmorphine 100ug/ml	Ampule: 2ml	5/11/93
High Standard Products	6-Acetylmorphine-d3 100ug/ml	Ampule: 2ml	5/11/93
High Standard Products	6-Acetylmorphine; 0.1mg/ml, 1.0mg/ml	Ampule: 2ml	4/15/94
High Standard Products	Amphetamine Cut-Off Controls; 375, 625, 1500 ng/ml	Ampules: 3; 20ml each	4/15/94
High Standard Products	Amphetamine Screening Confirmation Calibrators; 500, 1000, 1500, 2000 ng/ml.	Ampules: 4; 20ml each	4/15/94
High Standard Products	Benzoylecgonine 1.0mg/ml	Ampule: 2ml	5/11/93
High Standard Products	Benzoylecgonine Cut-Off Controls; 100, 200, 300, ng/ml	Ampules: 3; 20ml each	4/15/94
High Standard Products	Benzoylecgonine Propyl Ester 1.0mg/ml	Ampule: 2ml	5/11/93
High Standard Products	Benzoylecgonine Screening Confirmation Calibrators; 150, 300, 450, 600 ng/ml.	Ampules: 4; 20ml each	4/15/94
High Standard Products	Benzoylecgonine-d3 100ug/ml	Ampule: 2ml	5/11/93
High Standard Products	Benzoylecgonine-d3; 0.1mg/ml	Ampule: 2ml	4/15/94
High Standard Products	Benzoylecgonine-d8 100ug/ml	Ampule: 2ml	5/11/93
High Standard Products	Benzoylecgonine-d8; 0.1mg/ml	Ampule; 2ml	4/15/94
High Standard Products	Cocaethylene 1.0mg/ml	Ampule: 2ml	5/11/93
High Standard Products	Cocaethylene-d3 100ug/ml	Ampule: 2ml	5/11/93
High Standard Products	Cocaethylene-d3; 0.1mg/ml	Ampule: 2ml	4/15/94
High Standard Products	Cocaethylene-d8 100ug/ml	Ampule: 2ml	5/11/93
High Standard Products	Cocaethylene-d8; 0.1mg/ml	Ampule: 2ml	4/15/94
High Standard Products	Cocaine 1.0mg/ml	Ampule: 2ml	5/11/93
High Standard Products	Cocaine-d3 100ug/ml	Ampule: 2ml	5/11/93
High Standard Products	Cocaine-d8 1.0mg/ml	Ampule: 2ml	5/11/93
High Standard Products	Codeine 100ug/ml	Ampule: 2ml	5/11/93
High Standard Products	Codeine Cut-Off Controls; 225, 375, 900 ng/ml	Ampules: 3; 20ml each	4/15/94
High Standard Products	Codeine Screening Confirmation Calibrators; 300, 600, 900, 1200 ng/ml.	Ampules: 4; 20ml each	4/15/94
High Standard Products	Codeine-d3 100ug/ml	Ampule: 2ml	5/11/93
High Standard Products	Codeine-d3; 0.1mg/ml	Ampule: 2ml	4/15/94
High Standard Products	Codeine-d6 100ug/ml	Ampule: 2ml	5/11/93
High Standard Products	Codeine-d6; 0.1mg/ml	Ampule: 2ml	4/15/94

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
High Standard Products	D-Amphetamine; 1.0mg/ml	Ampule: 2ml	4/15/94
High Standard Products	DL Amphetamine 1.0mg/ml	Ampule: 2ml	5/11/93
High Standard Products	DL Amphetamine-d10 100ug/ml	Ampule: 2ml	5/11/93
High Standard Products	DL Amphetamine-d5 100ug/ml	Ampule: 2ml	5/11/93
High Standard Products	DL-Amphetamine-d11; 0.1mg/ml	Ampule: 2ml, 20ml	4/15/94
High Standard Products	DL-Amphetamine-d5; 0.1mg/ml	Ampule; 2ml	4/15/94
High Standard Products	DL-Amphetamine-d6; 0.1mg/ml	Ampule: 2ml, 20ml	4/15/94
High Standard Products	Delta-8-Tetrahydrocannabinol 100ug/ml	Ampule: 2ml	5/11/93
High Standard Products	Delta-9-Tetrahydrocannabinol 100ug/ml	Ampule: 2ml	5/11/93
High Standard Products	Delta-9-Tetrahydrocannabinol 100ug/ml	Ampule: 2ml	5/11/93
High Standard Products	Delta-9-Tetrahydrocannabinol-d10 100ug/ml	Ampule: 2ml	5/11/93
High Standard Products	Delta-9-Tetrahydrocannabinol-d6 100ug/ml	Ampule: 2ml	5/11/93
High Standard Products	Delta-9-THC; 1.0mg/ml	Ampule: 2ml	4/15/94
High Standard Products	Diazepam 1.0mg/ml	Ampule: 2ml	5/11/93
High Standard Products	Diazepam-d5 100ug/ml	Ampule: 2ml	5/11/93
High Standard Products	Diphenoxylate 1.0 mg/ml	Ampule: 2ml	5/11/93
High Standard Products	Ecgonine 1.0mg/ml	Ampule: 2ml	5/11/93
High Standard Products	Ecgonine Methyl Ester 1.0mg/ml	Ampule: 2ml	5/11/93
High Standard Products	Ecgonine Methyl Ester-d3 100ug/ml	Ampule: 2ml	5/11/93
High Standard Products	Ecgonine-d3 100ug/ml	Ampule: 2ml	5/11/93
High Standard Products	Fentanyl 1.0mg/ml	Ampule: 2ml	5/11/93
High Standard Products	Fentanyl-d5 100ug/ml	Ampule: 2ml	5/11/93
High Standard Products	Fentanyl-d5; 0.1mg/ml	Ampule: 2ml	4/15/94
High Standard Products	Heroin, 1.0mg/ml	Ampule: 2ml	3/21/95
High Standard Products	Heroin-D9, 0.1mg/ml	Ampule: 2ml	3/21/95
High Standard Products	Hydrocodone 1.0mg/ml	Ampule: 2ml	5/11/93
High Standard Products	Hydrocodone-d3 100ug/ml	Ampule: 2ml	5/11/93
High Standard Products	Hydromorphone 1.0mg/ml	Ampule: 2ml	5/11/93
High Standard Products	Hydromorphone-d3 100ug/ml	Ampule: 2ml	5/11/93
High Standard Products	Lysergic Acid Diethylamide 25 ug/ml	Ampule: 2ml	5/11/93
High Standard Products	Lysergic Acid Diethylamide-d3 25 ug/ml	Ampule: 2ml	5/11/93
High Standard Products	Lysergic Acid Diethylamide-dl 25ug/ml	Ampule: 2ml	5/11/93
High Standard Products	Lysergic Acid N-Methyl-Propylamide (LAMPA) 25ug/ml	Ampule: 2ml	5/11/93
High Standard Products	Lysergic acid diethylamide-d7; 0.025mg/ml	Ampule: 2ml	4/15/94
High Standard Products	Methadone 1.0mg/ml	Ampule: 2ml	5/11/93
High Standard Products	Methadone-D6, 0.1mg/ml	Ampule: 2ml	3/21/95
High Standard Products	Methadone-d3 100ug/ml	Ampule: 2ml	5/11/93
High Standard Products	Methamphetamine Cut-Off Controls; 225, 375, 900 ng/ml	Ampules: 3; 20ml each	4/15/94
High Standard Products	Methamphetamine Screening Confirmation Calibrators; 500, 1000, 1500, 2000 ng/ml.	Ampules: 4; 20ml each	4/15/94
High Standard Products	Methamphetamine-d14; 0.1mg/ml	Ampule: 2ml, 20ml	4/15/94
High Standard Products	Methamphetamine-d5; 0.1mg/ml	Ampule: 2ml	4/15/94
High Standard Products	Methamphetamine-d9; 0.1mg/ml	Ampule: 2ml, 20ml	4/15/94
High Standard Products	Methaqualone 1.0 mg/ml	Ampule: 2ml	5/11/93
High Standard Products	Methaqualone-d3 100ug/ml	Ampule: 2ml	5/11/93
High Standard Products	Methylenedioxyamphetamine (MDA) 1.0mg/ml	Ampule: 2ml	5/11/93
High Standard Products	Methylenedioxyamphetamine (MDA) d-5 100ug/ml	Ampule: 2ml	5/11/93
High Standard Products	Methylenedioxyethylamphetamine, 1.0mg/ml	Ampule: 2ml	3/21/95
High Standard Products	Methylenedioxyethylamphetamine-D7, 0.1mg/ml	Ampule: 2ml	3/21/95
High Standard Products	Morphine 1.0mg/ml	Ampule: 2ml	5/11/93
High Standard Products	Morphine Cut-Off Controls; 225, 375, 900 ng/ml	Ampules: 3; 20ml each	4/15/94
High Standard Products	Morphine Screening Confirmation Calibrators; 300, 600, 900, 1200 ng/ml.	Ampule: 4; 20ml each	4/15/94
High Standard Products	Morphine-d3 100ug/ml	Ampule: 2ml	5/11/93
High Standard Products	Morphine-d3; 0.1mg/ml	Ampule: 2ml	4/15/94
High Standard Products	Morphine-d4; 0.1mg/ml	Ampule: 2ml, 20ml	4/15/94
High Standard Products	NIDA Cut-Off Controls; Levels 1, 2, 3	Ampules: 6; 3 of 2ml, 3 of 20ml.	4/15/94
High Standard Products	Norcocaine 1.0mg/ml	Ampule: 2ml	5/11/93
High Standard Products	Norcodeine 1.0mg/ml	Ampule: 2ml	5/11/93
High Standard Products	Nordiazepam 1.0mg/ml	Ampule: 2ml	5/11/93
High Standard Products	Nordiazepam-d5 100ug/ml	Ampule: 2ml	5/11/93
High Standard Products	Normorphine 1.0mg/ml	Ampule: 2ml	5/11/93
High Standard Products	Oxazepam 1.0mg/ml	Ampule: 2ml	5/11/93
High Standard Products	Oxazepam-d5 100ug/ml	Ampule: 2ml	5/11/93
High Standard Products	Phencyclidine 1.0mg/ml	Ampule: 2ml	5/11/93
High Standard Products	Phencyclidine Cut-Off Controls; 18, 32, 75 ng/ml	Ampules: 3; 20ml each	4/15/94
High Standard Products	Phencyclidine Screening Confirmation Calibrators; 25, 50, 75, 100 ng/ml.	Ampule: 4; 20ml each	4/15/94
High Standard Products	Phencyclidine-d10 100ug/ml	Ampule: 2ml	5/11/93
High Standard Products	Phencyclidine-d10; 0.1mg/ml	Ampule: 2ml	4/15/94
High Standard Products	Phencyclidine-d5 100ug/ml	Ampule: 2ml	5/11/93

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
High Standard Products	Phencyclidine-d5; 0.1mg/ml	Ampule: 2ml	4/15/94
High Standard Products	Phenobarbital, 1.0mg/ml	Ampule: 2ml	3/21/95
High Standard Products	Phenobarbital-D5	Ampule: 2ml	3/21/95
High Standard Products	Propoxyphene, 1.0mg/ml	Ampule: 2ml	3/21/95
High Standard Products	Propoxyphene-D5, 0.1mg/ml	Ampule: 2ml	3/21/95
High Standard Products	Secobarbital, 1.0mg/ml	Ampule: 2ml	3/21/95
High Standard Products	Secobarbital-D5, 0.1mg/ml	Ampule: 2ml	3/21/95
High Standard Products	Temazepam 1.0mg/ml	Ampule: 2ml	5/11/93
High Standard Products	Temazepam-d5 100ug/ml	Ampule: 2ml	5/11/93
High Standard Products	Urine Confirm (+25%)	Ampule: 20ml	3/20/95
High Standard Products	Urine Confirm (−25%)	Ampule: 20ml	3/20/95
High Standard Products	Urine Confirm (−40%) Retest	Ampule: 20ml	3/20/95
High Standard Products	Urine Confirm 3X Cutoff	Ampule: 20ml	3/20/95
High Standard Products	Urine Confirm Cutoff	Ampule: 20ml	3/20/95
High Standard Products	Urine Screen (+25%)	Ampule: 20ml	3/20/95
High Standard Products	Urine Screen (−25%)	Ampule: 20ml	3/20/95
High Standard Products	Urine Screen 3X Cutoff	Ampule: 20ml	3/20/95
High Standard Products	Urine Screen Cutoff	Ampule: 20ml	3/20/95
HyClone Laboratories, Inc	HyQ-CCM1	Bottle: 50-1000ml; Lined container: 10-1000L.	2/9/95
HyClone Laboratories, Inc	HyQ-CCM1 w/o Phenol Red	Bottle: 50-1000ml; Lined Container: 10-1000L.	2/9/95
HyClone Laboratories, Inc	Medium 925 w/o L-Glutamine, w/o Phenol Red	Bottle: 50-1000ml; Lined Container: 10-1000L.	2/9/95
HyClone Laboratories, Inc	Medium 925 with IGF, w/o Phenol Red	Bottle: 50-1000ml; Lined Container: 10-1000L.	2/9/95
HyClone Laboratories, Inc	Medium 925 with L-Glutamine, w/o Phenol Red	Bottle: 50-1000ml; Lined Container: 10-1000L.	2/9/95
HyClone Laboratories, Inc	Medium TLF with L-Glutamine	Bottle: 50-1000ml; Lined Container: 10-1000L.	2/9/95
Hycor Biomedical, Inc	Hycor AccuPINCH Cocaine Test	Bottle: 3ml Kit: 50 tests	8/21/90
Hycor Biomedical, Inc	Hycor AccuPINCH Morphine Test	Bottle: 3ml Kit: 50 tests	8/21/90
Hycor Biomedical, Inc	Hycor AccuPINCH Phencyclidine Test	Bottle: 3ml Kit: 50 tests	8/21/90
Hycor Biomedical, Inc	Hycor AccuPinch Methamphetamine Test	Bottle: 3ml; Kit: 50 Tests	10/29/91
Hycor Biomedical, Inc	Hycor AccuPinch THC Test	Bottle: 3ml; Kit: 50 Tests	10/29/91
Hycor Biomedical, Inc	Sentry Drugs of Abuse Urine Calibrator BARBITURATES Urine Calibrator- 4 levels.	Bottle: 10ml Kit: 4 bottles, 12 bottles.	8/24/90
Hycor Biomedical, Inc	Sentry Drugs of Abuse Urine Calibrator DELTA-9-THC Urine Calibrator - 4 levels.	Bottle: 10ml Kit: 4 bottles, 12 bottles.	8/24/90
Hycor Biomedical, Inc	Sentry Drugs of Abuse Urine Calibrator NORDIAZEPAM Urine Calibrator - 3 levels.	Bottle: 10ml Kit: 4 bottles, 12 bottles.	8/24/90
Hycor Biomedical, Inc	Sentry Drugs of Abuse Urine Calibrator OPIATES Urine Calibrator - 4 levels.	Bottle: 10ml Kit: 4 bottles, 12 bottles.	8/24/90
Hycor Biomedical, Inc	Sentry Drugs of Abuse Urine Calibrator PHENCYCLIDINE Urine Calibrator - 4 levels.	Bottle: 10ml Kit: 4 bottles, 12 bottles.	8/24/90
Hycor Biomedical, Inc	Sentry Drugs of Abuse Urine Calibrator, Amphetamine Urine Calibrator - 4 level.	Vial: 10ml, Kit: 12 vials, Kit: 4 vials.	3/29/89
Hycor Biomedical, Inc	Sentry Drugs of Abuse Urine Calibrator, Benzoylecgonine Urine Calibrator - 4 level.	Vial: 10ml, Kit: 12 vials, Kit: 4 vials.	3/29/89
Hycor Biomedical, Inc	Sentry Ligand/Combo Control High Level	Vial: 10ml Box: 15 vials	3/1/90
Hycor Biomedical, Inc	Sentry Ligand/Combo Control Low Level	Vial: 10ml Box: 15 vials	3/1/90
Hycor Biomedical, Inc	Sentry Ligand/Combo Control Mid Level	Vial: 10ml Box: 15 vials	3/1/90
Hycor Biomedical, Inc	Sentry Ligand/Combo Control Multi-Pack	Kit: 15 vials	3/1/90
Hycor/ICL Scientific	Drugs of Abuse Comprehensive Urine Control, HIGH POSITIVE.	Bottle: 30ml	2/24/89
Hycor/ICL Scientific	Drugs of Abuse Comprehensive Urine Control, LOWER THRESHOLD.	Bottle: 30ml	2/24/89
Hycor/ICL Scientific	Drugs of Abuse Comprehensive Urine Control, UPPER THRESHOLD.	Bottle: 30ml	2/24/89
Hycor/ICL Scientific	Drugs of Abuse Urine Control, CONFIRMATION	Box: 4-100 ml Bottles	10/21/88
Hycor/ICL Scientific	Drugs of Abuse Urine Control, SCREEN	Box: 4-30 ml Bottles	10/21/88
ICL Scientific	Therapeutic Drug Control I , TDC I (High Level)	Glass Vial: 10ml	8/14/85
ICL Scientific	Therapeutic Drug Control I, II, III, Tri-Level TDC Multipack	Glass Vials (12): 10ml	8/14/85
ICL Scientific	Therapeutic Drug Control II, TDC II (Mid-Level)	Glass Vial: 10ml	8/14/85
ICL Scientific	Therapeutic Drug Control III, TDC III (Low Level)	Glass Vial: 10ml	8/14/85
ICN Micromedic Systems, Inc	Immunogen: BZ–A	Plastic Vial: 1.5 ml	2/29/88
ICN Micromedic Systems, Inc	Immunogen: BZ–B	Plastic Vial: 1.5 ml	2/29/88
ICN Micromedic Systems, Inc	Immunogen: CD–A	Plastic Vial: 1.5 ml	2/29/88
ICN Micromedic Systems, Inc	Immunogen: M–A	Plastic Vial: 1.5 ml	2/29/88
ICN Micromedic Systems, Inc	Immunogen: M–B	Plastic Vial: 1.5 ml	2/29/88
ICN Micromedic Systems, Inc	Immunogen: TF–A	Plastic Vial: 1.5 ml	2/29/88

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
ICN Micromedic Systems, Inc	Micromedic Combostat THC/Cocaine STANDARDS-2, 3, and 4.	Amber Glass Vial: 2 ml Plastic Bottle: 100 ml.	2/24/88
ICN Micromedic Systems, Inc	Micromedic CrackPot 57Co/125I Tracer Solution	Plastic Bottle: 25 ml, 1000 ml	2/24/88
ICN Micromedic Systems, Inc	Micromedic Morphine 125I Tracer Solution	Bottle: 50 ml, 1000 ml	2/29/88
ICN Micromedic Systems, Inc	Micromedic Morphine Standards 2, 3 and 4	Bottle: 5 ml, 100 ml	2/29/88
INCSTAR Corporation	(125I) Human TSH Tracer Cat. No. CA-2623	Vial: 15ml	3/08/91
INCSTAR Corporation	Anticonvulsant Drug Controls Levels I and II Cat. Nos. CA-2419, CA-2420.	Vial: 3.5ml	3/08/91
INCSTAR Corporation	Assay Buffer Cat. No. CA-2742	Bottle: 150ml	3/08/91
INCSTAR Corporation	Clinical Assays Gamma Coat (125I) Phenobarbital Radioimmunoassay Kits Cat. Nos. CA-2545, CA-2565.	Kit: 50, 500 assays	3/08/91
INCSTAR Corporation	Clinical Assays Gamma Coat (125I) Phenytoin Radioimmunoassay Kits Cat. Nos. CA-2537, CA-2557.	Kit: 50, 500 assays	3/08/91
INCSTAR Corporation	Clinical Assays Gamma Coat (125I) T3 Uptake Radioimmunoassay Kit Catalog Nos. CA-2539, CA-2539J, CA-2559, CA-2559J.	Kit: 100, 500 assays	3/08/91
INCSTAR Corporation	Clinical Assays Gamma Dab (125I) hTSH Radioimmunoassay Kit Cat. No. CA–1591.	Kit: 125 assays; Vial: 15ml	3/08/91
INCSTAR Corporation	HTSH Non-Specific Binding Reagent Cat. No. CA–2752	Vial: 3.5ml	3/08/91
INCSTAR Corporation	Human TSH Controls Levels I & II Cat. Nos. CA–2452, CA-2453.	Vial: 3.5ml	3/08/91
INCSTAR Corporation	Human hTSH Blank Cat. No. CA-2885	Vial: 15ml	3/08/91
INCSTAR Corporation	Phenobarbital Standards: 1, 3, 10, 30, 100 ug/ml Cat. Nos. CA-2380-2384.	Bottle: 3.5ml	3/08/91
INCSTAR Corporation	Rabbit Anti-Human TSH Serum Cat. No. CA–2145	Vial: 15ml	3/08/91
INCSTAR Corporation	htsH Standards: 2, 5, 10, 20, 50 uIU/ml Cat. Nos. CA-2886-2890.	Bottle: 3.5ml	3/08/91
ISOTEC, Inc	(-) 11 Nor-9-Carboxy-Delta-9-THC-D3, 100ug/ml	Ampule: 2ml	6/19/95
ISOTEC, Inc	(-) 11-Nor-9-Carboxy-Delta-9-THC, 100ug/ml	Ampule: 2ml	6/19/95
ISOTEC, Inc	6-Acetylmorphine, 1 mg/ml	Ampule: 2ml	6/19/95
ISOTEC, Inc	6-Acetylmorphine-D3, 100ug/ml, 1mg/ml	Ampule: 2ml	6/19/95
ISOTEC, Inc	6-Acetylmorphine-D6, 100ug/ml, 1mg/ml	Ampule; 2ml	6/19/95
ISOTEC, Inc	Benzoylecgonine, 1mg/ml	Ampule: 2ml	6/19/95
ISOTEC, Inc	Benzoylecgonine-D3, 100ug/ml, 1mg/ml	Ampule: 2ml	6/19/95
ISOTEC, Inc	Cocaethylene, 1mg/ml	Ampule: 2ml	6/19/95
ISOTEC, Inc	Cocaethylene-D3, 100ug/ml, 1mg/ml	Ampule: 2ml	6/19/95
ISOTEC, Inc	Cocaine, 1mg/ml	Ampule: 2ml	6/19/95
ISOTEC, Inc	Cocaine-D3, 100ug/ml, 1mg/ml	Ampule: 2ml	6/19/95
ISOTEC, Inc	Codeine, 1mg/ml	Ampule: 2ml	6/19/95
ISOTEC, Inc	Codeine-D3, 100ug/ml, 1mg/ml	Ampule: 2ml	6/19/95
ISOTEC, Inc	DL-3, 4-Methylenedioxyamphetamine, 1mg/ml	Ampule: 2ml	9/18/95
ISOTEC, Inc	DL-3, 4-Methylenedioxyamphetamine-D5, 100ug/ml, 1mg/ml	Ampule: 2ml	9/18/95
ISOTEC, Inc	DL-3, 4-Methylenedioxymethamphetamine, 1mg/ml	Ampule: 2ml	9/18/95
ISOTEC, Inc	DL-3, 4-Methylenedioxymethamphetamine-D8, 100ug/ml, 1mg/ml.	Ampule: 2ml	9/18/95
ISOTEC, Inc	DL-Amphetamine-D6, 100ug/ml, 1mg/ml	Ampule: 2ml	6/19/95
ISOTEC, Inc	DL-Amphetamine, 1mg/ml	Ampule: 2ml	6/19/95
ISOTEC, Inc	DL-Methamphetamine, 1mg/ml	Ampule: 2ml	9/18/95
ISOTEC, Inc	DL-Methamphetamine-D9, 100ug/ml, 1mg/ml	Ampule: 2ml	9/18/95
ISOTEC, Inc	DL-Methylphenidate, 1mg/ml	Ampule: 2ml	9/18/95
ISOTEC, Inc	Delta-9-THC, 1mg/ml	Ampule: 2ml	6/19/95
ISOTEC, Inc	Delta-9-THC-D3, 100ug/ml	Ampule: 2ml	6/19/95
ISOTEC, Inc	Ecgonine Methyl Ester, 1mg/ml	Ampule: 2ml	6/19/95
ISOTEC, Inc	Ecgonine Methyl Ester-D3, 100ug/ml, 1mg/ml	Ampule: 2ml	6/19/95
ISOTEC, Inc	Ecgonine, 1mg/ml	Ampule: 2ml	6/19/95
ISOTEC, Inc	Fentanyl, 100ug/ml, 1mg/ml	Ampule: 2ml	9/18/95
ISOTEC, Inc	Fentanyl-D5, 100ug/ml, 1mg/ml	Ampule: 2ml	9/18/95
ISOTEC, Inc	Hydrocodone, 1mg/ml	Ampule: 2ml	6/19/95
ISOTEC, Inc	Hydrocodone-D3, 100ug/ml, 1mg/ml	Ampule: 2ml	6/19/95
ISOTEC, Inc	Hydromorphone, 1mg/ml	Ampule: 2ml	6/19/95
ISOTEC, Inc	Hydromorphone-D3, 100ug/ml, 1mg/ml	Ampule: 2ml	6/19/95
ISOTEC, Inc	Lysergic Acid Diethylamide, 25ug/ml	Ampule: 2ml	6/19/95
ISOTEC, Inc	Lysergic Acid Diethylamide-D3, 25ug/ml	Ampule: 2ml	6/19/95
ISOTEC, Inc	Lysergic Acid N-Methyl Propylamide, 25ug/ml	Ampule: 2ml	6/19/95
ISOTEC, Inc	Methadone, 1mg/ml	Ampule: 2ml	9/18/95
ISOTEC, Inc	Methadone-D3, 100ug/ml, 1mg/ml	Ampule: 2ml	9/18/95
ISOTEC, Inc	Morphine, 1mg/ml	Ampule: 2ml	6/19/95
ISOTEC, Inc	Morphine-3-beta-D-Glucuronide, 100ug/ml, 1mg/ml	Ampule: 2ml	9/18/95
ISOTEC, Inc	Morphine-D3, 100ug/ml, 1mg/ml	Ampule: 2ml	6/19/95
ISOTEC, Inc	Norcocaine, 1mg/ml	Ampule: 2ml	6/19/95
ISOTEC, Inc	Pentobarbital, 1mg/ml	Ampule: 2ml	9/18/95
ISOTEC, Inc	Pentobarbital-D5, 100ug/ml, 1mg/ml	Ampule: 2ml	9/18/95

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
ISOTEC, Inc	Phencyclidine, 1mg/ml	Ampule: 2ml	6/19/95
ISOTEC, Inc	Phencyclidine-D5, 100ug/ml	Ampule: 2ml	6/19/95
ISOTEC, Inc	Secobarbital, 1mg/ml	Ampule: 2ml	9/18/95
ISOTEC, Inc	Secobarbital-D5, 100ug/ml, 1mg/ml	Ampule: 2ml	9/18/95
Immunotech Corp	Amphetamine Enzyme Conjugate	Bottle: 10.5ml	9/28/89
Immunotech Corp	Amphetamine Positive Urine Calibrator	Bottle: 1ml	9/28/89
Immunotech Corp	Amphetamine-ALK Phos Cat. No. 612; 50 units, 300 units	Bottle: 10ml	3/12/90
Immunotech Corp	Amphetamine-HRP Cat. No. 613; 50 units	Bottle: 10ml	3/12/90
Immunotech Corp	Benzoylecgonine-Alk Phos Cat. # 602; 50 units, 300 units	Bottle: 10ml	3/12/90
Immunotech Corp	Benzoylecgonine-HRP Cat. No. 604; 50 units, 300 units	Bottle: 10ml	3/12/90
Immunotech Corp	Cocaine Conjugate No. 0364-SIG	Bottle: 75ml	6/13/91
Immunotech Corp	Cocaine Metabolite Enzyme Conjugate	Vial: 10.5ml	9/28/89
Immunotech Corp	Cocaine Metabolite Positive Urine Calibrator	Vial: 2ml	9/28/89
Immunotech Corp	Delta-8-tetrahydrocannabinol-ALK Phos Cat. No. 616; 50 units, 300 units.	Bottle: 10 ml	3/12/90
Immunotech Corp	Delta-8-tetrahydrocannabinol-HRP Cat. No. 618; 50 units	Bottle: 10ml	3/12/90
Immunotech Corp	ENDAB Phenobarbital Kit, Cat. No. 119	Kit: 100 tests, 4 Bottles: 1 ml ea.	9/28/89
Immunotech Corp	Methamphetamine-ALK Phos Cat. No. 614; 50 units	Bottle: 10ml	3/12/90
Immunotech Corp	Methamphetamine-HRP Cat. No. 615; 50 units	Bottle: 10 ml	3/12/90
Immunotech Corp	Micro Dau Amphetamine Enzyme Immunoassay Test Kit	Kit: 96 tests, Bottle: 10.5 ml, 2 ml.	9/28/89
Immunotech Corp	Micro Dau Benzodiazepine Enzyme Immunoassay Test Kit	Kit: 96 tests, Bottle: 10.5 ml, 2 ml.	9/28/89
Immunotech Corp	Micro Dau.Cocaine Metabolite Enzyme Immunoassay Test Kit	Kit: 96 tests, Bottle: 10.5 ml, 2 ml.	9/28/89
Immunotech Corp	Micro Dau Opiates Enzyme Immunoassay Test Kit	Kit: 96 tests	12/19/89
Immunotech Corp	Micro Dau PCP Enzyme Immunoassay Kit Cat. No. 175	Kit: 96 tests	7/11/90
Immunotech Corp	Micro Dau THC Enzyme Immunoassay Test Kit Cat. No. 173	Kit: 96 tests	7/11/90
Immunotech Corp	Morphine Positive Urine Calibrator	Vial: 3.5 ml	12/19/89
Immunotech Corp	Morphine-ALK Phos Cat. No. 610; 50 units, 300 units	Bottle: 10ml	3/12/90
Immunotech Corp	Morphine-HRP Cat. No. 611; 50 units, 300 units	Bottle: 10ml	3/12/90
Immunotech Corp	Opiates Enzyme Conjugate	Vial: 10 ml	12/19/89
Immunotech Corp	Oxazepam Enzyme Conjugate	Bottle: 10.5ml	9/28/89
Immunotech Corp	Oxazepam Positive Urine Calibrator	Bottle: 2ml	9/28/89
Immunotech Corp	Oxazepam-ALK Phos Cat. No. 606; 50 units	Bottle: 10ml	3/12/90
Immunotech Corp	Oxazepam-HRP Cat No. 608; 50 units	Bottle: 10ml	3/12/90
Immunotech Corp	PCP Enzyme Conjugate Cat. No. 375	Vial: 20ml	7/11/90
Immunotech Corp	PCP Positive Urine Calibrator Cat. No. 418	Vial: 3ml	7/11/90
Immunotech Corp	Phenobarbital Enzyme Conjugate	Bottle: 10.0ml	9/28/89
Immunotech Corp	Phenobarbital Serum Standard: 3ug/ml, 10ug/ml, 30ug/ml, 80ug/ml.	4 Bottles: 1ml each	9/28/89
Immunotech Corp	THC Enzyme Conjugate Cat. No. 373	Vial: 20ml	7/11/90
Immunotech Corp	THC Positive Urine Calibrator Cat No. 416 50ng/ml, 417 100ng/ml.	Vial: 3ml	7/11/90
Industrial Analytical Laboratory, Inc.	11-Nor-Carboxy-Delta-9-Tetrahydrocannabinol	Ampule: 1ml	9/04/85
Industrial Analytical Laboratory, Inc.	11-hydroxy-delta-9-tetrahydrocannabinol	Ampule: 1 ml	2/18/87
Industrial Optical	Opti-Kleen	Bottle: 5 gallon	6/24/81
International BioClinical, Inc	Innofluor Phenobarbital Calibrators 0.0, 3.0, 8.0, 20.0, 40.0, and 80.0 mcg/ml.	Bottle: 3 ml	7/9/87
International BioClinical, Inc	Phenobarbital Stock Tracer	Vial: 5 ml	9/23/87
International Technidyne Corp	Hemochron Control Plasma Quality Control Test Kit	Kit: 18 Tests; Test tube: 9ml; Vial: 5ml.	3/11/91
JRH Biosciences	HH4 Cell Culture Media	Bulk Plastic Bag: 20, 10, 1L	5/11/95
Janssen Pharmaceutica, Inc	3H Alfentanil	Vial: 0.5 ml	2/1/87
Janssen Pharmaceutica, Inc	3H Fentanyl	Vial: 0.5 ml	2/1/87
Janssen Pharmaceutica, Inc	3H Sufentanil	Vial: 0.5 ml	2/1/87
Janssen Pharmaceutica, Inc	Alfentanil Radioimmunoassay Kit	Kit: 200 tests	5/13/85
Janssen Pharmaceutica, Inc	Fentanyl Radioimmunoassay Kit	Kit: 200 tests	5/13/85
Janssen Pharmaceutica, Inc	Sufentanil Radioimmunoassay Kit	Kit: 500 tests	5/13/85
Kallestad Diagnostics	Barbital Buffer 901	Vial	5/19/81
Kallestad Diagnostics	IEP Buffer No. 900	Vial: 7 Dram	12/26/78
Kallestad Diagnostics	Immunoelectrofilm Catalog No. 910	1 Film Sealed in Cardboard Container.	3/11/80
Kallestad Diagnostics	Immunoelectrofilms, Catalog No. 1013	Styrofoam Container: 25 film	6/22/87
Kallestad Diagnostics	Immunoelectrophoresis Reagent Kit, Catalog No. 1012	Kit: 3 Vials	6/22/87
Kallestad Diagnostics	Quanticoat 125I–T3 Uptake Kit Catalog No. 823	Kit: 400 Determinations	12/16/85
Kallestad Diagnostics	Quanticoat 125I–T3 Uptake Kit, Catalog No. 833	Kit: 100 tests	6/24/81
Kallestad Diagnostics	Quanticoat 125I–T3 Uptake Reagent Catalog No. 785	Bottle: 500ml	12/16/85
Kallestad Diagnostics	Quanticoat 125I-T3 Uptake Reagent No. 834	2 Glass Bottles: 110ml	6/24/81

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Life Technologies, Inc	AmnioMax-C100 Second Dilution	Bottle: 1L	2/17/94
LKB Instruments, Inc	Tris-barbiturate Buffer pH 8.6	Packet: each 6.788 g. 20 packets/box.	5/15/78
Lemmon Company	Etorphine Standard Solution	Plastic Carboy: 1 Liter	10/31/83
Life Technologies, Inc	AmnioMax-C100 First Dilution	Bottle: 1L	2/17/94
Life Technologies, Inc	AmnioMax-C100 Stock Solution	Bottle: 1L	2/17/94
Life Technologies, Inc	AmnioMax-C100 Supplement	Bottle: 15ml, 60ml, 75ml, 100ml.	2/17/94
Life Technologies, Inc	Testosterone Stock Solution	Bottle: 1L	10/4/94
MCI Biomedical	IEP Buffer, pH 8.2, 0.04 Ionic Strength	Package: 6.510 grams	8/26/72
Mallinckrodt Chemical, Inc	Naloxone/6-Beta Naltrexol	Bottle: 60ml	10/6/94
Mallinckrodt Chemical, Inc	Naltrexone/6-beta Naltrexol Standard Solution	Bottle: 60ml	10/4/94
Materials & Technology Systems.	5-Ethyl-5-(1 -Carboxy-N-Propyl) Barbituric Acid	Screw Cap Vial: 8ml	5/3/73
Materials & Technology Systems.	5-Ethyl-5-(1-Carboxy-N-Propyl)Barbituric Acid Bovine Serum Albumin or Rabbit Serum Albumin.	Vaccine Vial: 8ml	5/3/73
Materials & Technology Systems.	5-Ethyl-5-(1-Carboxy-N-Propyl)Barbituric Acid Sensitized RBC	Vaccine Vial: 8ml	5/3/73
Materials & Technology Systems.	Barbiturate Standard	Screwcap Vial: 10ml	9/17/76
Materials & Technology Systems.	Benzoylecgonine	Screw Cap Vial: 25mg and 100 mg.	4/18/74
Materials & Technology Systems.	Benzoylecgonine Standard	Screwcap Vial: 10ml	9/17/76
Materials & Technology Systems.	Carboxymethylmorphine	Screw Cap Vial: 8ml	5/3/73
Materials & Technology Systems.	Carboxymethylmorphine Bovine Serum Albumin or Rabbit Serum Albumin.	Vaccine Vial: 8ml	5/3/73
Materials & Technology Systems.	Carboxymethylmorphine Sensitized RBC	Vaccine Vial: 50ml	5/3/73
Materials & Technology Systems.	Ecgonine Bovine Serum Albumin or Rabbit Serum Albumin	Vaccine Vial: 8ml	5/3/73
Materials & Technology Systems.	Ecgonine Sensitized RBC	Vaccine Vial: 50ml	5/3/73
Materials & Technology Systems.	Methadone Standard	Screwcap Vial: 10ml	9/17/76
Materials & Technology Systems.	Morphine Standard	Screw Cap Vial: 10ml	7/17/73
Materials & Technology Systems.	Tropinecarboxylic Acid	Screw Cap Vial: 8ml, 10ml	5/3/73
McGean-Rocho, Inc	Chloral Solution Denatured	Plastic container; 1, 5, 55 Gallons.	1/11/91
McGean-Rocho, Inc	Reflexion Semi-Bright B	Plastic container; 1, 5, 55 Gallons.	1/11/91
McGean-Rocho, Inc	Reflexion Semi-Bright S	Plastic container; 1, 5, 55 Gallons.	1/11/91
Medi-Chem, Inc	Barbiturate Test Set (Sodium Secobarbital Standard 10mg % w/v) Catalog No.250.	Bottle: 120ml	2/22/74
Medical Analysis Systems, Inc	ACE II Calibrator for the DuPont aca Level 1	Glass Vial: 2238mm, 5ml	8/7/86
Medical Analysis Systems, Inc	ACE II Calibrator for the DuPont aca Level 2	Glass Vial: 2238mm, 5ml	8/7/86
Medical Analysis Systems, Inc	ACE II Calibrator for the DuPont aca Level 3	Glass Vial: 2238mm, 5ml	8/7/86
Medical Analysis Systems, Inc	Amobarbital, #117 Intermediate Solution	Bottle: 10–100ml	10/22/93
Medical Analysis Systems, Inc	Benzoylecgonine, #432 Intermediate Solution	Bottle: 10–250ml	10/22/93
Medical Analysis Systems, Inc	Benzoylecgonine, #483 Intermediate Solution	Bottle: 10–100ml	10/22/93
Medical Analysis Systems, Inc	Benzoylecgonine, #719 Intermediate Solution	Bottle: 10–1800ml	10/22/93
Medical Analysis Systems, Inc	Butalbital, #429 Intermediate Solution	Bottle: 10–100ml	10/22/93
Medical Analysis Systems, Inc	CHALLENGE Liquid Therapeutic Drug Linearity Controls	Kit: 10 Bottles	1/24/91
Medical Analysis Systems, Inc	CHALLENGE Liquid Therapeutic Drug Linearity Controls TD1 A–E; TD2 A–E.	Glass Bottles: 5ml; 1 Set: 5 Bottles.	1/24/91
Medical Analysis Systems, Inc	Chemistry Control Assayed, Level 1, 2, & 3	Vial: 15ml	4/30/85
Medical Analysis Systems, Inc	Chemistry Control, Level 1, 2, & 3	Vial: 15ml	4/30/85
Medical Analysis Systems, Inc	Clonazepam, #473 Intermediate Solution	Bottle: 50–500ml	10/22/93
Medical Analysis Systems, Inc	Codeine, #435 Intermediate Solution	Bottle: 10–100ml	10/22/93
Medical Analysis Systems, Inc	D-Amphetamine, #423 Intermediate Solution	Bottle: 10–250ml	10/22/93
Medical Analysis Systems, Inc	D-Methamphetamine, #422 Intermediate Solution	Bottle: 10–250ml	10/22/93
Medical Analysis Systems, Inc	DOA Calibrator 1, #1921 Bulk Solution	Bottle: 10–100L	10/22/93
Medical Analysis Systems, Inc	DOA Calibrator 2, #1922 Bulk Solution	Bottle: 10–100L	10/22/93
Medical Analysis Systems, Inc	DOA Calibrator 2, #C38979 Bulk Solution	Bottle: 10–100L	10/22/93
Medical Analysis Systems, Inc	DOA Calibrator 3, #C38978 Bulk Solution	Bottle: 10–100L	10/22/93
Medical Analysis Systems, Inc	DOA Calibrator 4, #C38980 Bulk Solution	Bottle: 10–100L	10/22/93
Medical Analysis Systems, Inc	DOA Calibrator 4, #C38980P Pilot Solution	Bottle: 20–300L	10/22/93
Medical Analysis Systems, Inc	DOA Control 2, #1912 Bulk Solution	Bottle: 20–200L	10/22/93

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Medical Analysis Systems, Inc .	DOA Control 3, #1943 Bulk Solution	Bottle: 20–100L	10/22/93
Medical Analysis Systems, Inc .	DOA Control 3, #1913 Bulk Solution	Bottle: 20–300L	10/22/93
Medical Analysis Systems, Inc .	DOA Control 4, #1914 Bulk Solution	Bottle: 20–300L	10/22/93
Medical Analysis Systems, Inc .	DOA Control 4, #1914P Pilot Solution	Bottle: .1–1L	10/22/93
Medical Analysis Systems, Inc .	DOA Control 4, #1944 Bulk Solution	Bottle: 20–100L	10/22/93
Medical Analysis Systems, Inc .	DOA Control 4, #1944P Pilot Solution	Bottle: .1–1L	10/22/93
Medical Analysis Systems, Inc .	DOA Control G2, #1915 Bulk Solution	Bottle: 20–200L	10/22/93
Medical Analysis Systems, Inc .	DOA Control G3, #1916 Bulk Solution	Bottle: 20–300L	10/22/93
Medical Analysis Systems, Inc .	DOA Control G4, #1917 Bulk Solution	Bottle: 20–300L	10/22/93
Medical Analysis Systems, Inc .	DOA Control G4, #1917P Pilot Solution	Bottle: .1–1L	10/22/93
Medical Analysis Systems, Inc .	DOA Cutoff Control, #1946 Bulk Solution	Bottle: 1–10L	10/22/93
Medical Analysis Systems, Inc .	DOA Cutoff Control, #1946P Pilot Solution	Bottle: .1–1L	10/22/93
Medical Analysis Systems, Inc .	DOA High Control, #1945 Bulk Solution	Bottle: 1–10L	10/22/93
Medical Analysis Systems, Inc .	DOA Liquid Drugs of Abuse Controls Level 2, 3, 4	Vial: 5ml, 18ml; Box: 6–8ml vials; Box: 8–5ml vials.	10/12/90
Medical Analysis Systems, Inc .	DOA Low Cointrol, #1947 Bulk Solution	Bottle: 1–10L	10/22/93
Medical Analysis Systems, Inc .	DOA Positive Control, #1924 Bulk Solution	Bottle: 10–100L	10/22/93
Medical Analysis Systems, Inc .	DOA Positive Control, #1924P Pilot Solution	Bottle: .1–1L	10/22/93
Medical Analysis Systems, Inc .	DOA Positive Control, #C38981 Bulk Solution	Bottle: 10–100L	10/22/93
Medical Analysis Systems, Inc .	Diazepam, #430 Intermediate Solution	Bottle: 10–100ml	10/22/93
Medical Analysis Systems, Inc .	Liquid Urine Control Level 1	Vial: 5 ml	4/03/87
Medical Analysis Systems, Inc .	Liquimmune Immunoassay Control 1, #2300 Bulk Solution	Bottle: 40–100L	10/22/93
Medical Analysis Systems, Inc .	Liquimmune Immunoassay Control 1, #2300P Pilot Solution	Bottle: .1–1L	10/22/93
Medical Analysis Systems, Inc .	Liquimmune Immunoassay Control 2, #2301 Bulk Solution	Bottle: 20–300L	10/22/93
Medical Analysis Systems, Inc .	Liquimmune Immunoassay Control 3, #2302 Bulk Solution	Bottle: 20–300L	10/22/93
Medical Analysis Systems, Inc .	Liquimmune Immunoassay Control 3, #2302P Pilot Solution	Bottle: .1–1L	10/22/93
Medical Analysis Systems, Inc .	Methadone, #438 Intermediate Solution	Bottle: 10–250ml	10/22/93
Medical Analysis Systems, Inc .	Methaqualone, #439 Intermediate Solution	Bottle: 10–250ml	10/22/93
Medical Analysis Systems, Inc .	Morphine Glucuronide, #433 Intermediate Solution	Bottle: 10–100ml	10/22/93
Medical Analysis Systems, Inc .	Morphine, #434 Intermediate Solution	Bottle: 10–250ml	10/22/93
Medical Analysis Systems, Inc .	Nordiazepam, #431 Intermediate Solution	Bottle: 10–250ml	10/22/93
Medical Analysis Systems, Inc .	Pentobarbital, #426 Intermediate Solution	Bottle: 10–100ml	10/22/93
Medical Analysis Systems, Inc .	Phencyclidine, #437 Intermediate Solution	Bottle: 10–100ml	10/22/93
Medical Analysis Systems, Inc .	Phenobarbital, #418 Intermediate Solution	Bottle: 50–700ml	10/22/93
Medical Analysis Systems, Inc .	Phenobarbital, #425 Intermediate Solution	Bottle: 10–100ml	10/22/93
Medical Analysis Systems, Inc .	Phenobarbital, #745 Intermediate Solution	Bottle: 50–200ml	10/22/93
Medical Analysis Systems, Inc .	Propoxyphene, #440 Intermediate Solution	Bottle: 10–250ml	10/22/93
Medical Analysis Systems, Inc .	Secobarbital, #427 Intermediate Solution	Bottle: 10–250ml	10/22/93
Medical Analysis Systems, Inc .	TDM Plus.XL Level I, II or III Unassayed Enhanced Liquid Drug Control.	Bottle: 5ml, Box: 6 bottles	9/5/90
Medical Analysis Systems, Inc .	Testosterone, #748 Intermediate Solution	Bottle: 50–200ml	10/22/93
Medical Analysis Systems, Inc .	Therapeutic Drug Monitoring Control 1, #1581 Bulk Solution	Bottle: 20–300L	10/22/93
Medical Analysis Systems, Inc .	Therapeutic Drug Monitoring Control 2, #1582 Bulk Solution	Bottle: 20–300L	10/22/93
Medical Analysis Systems, Inc .	Therapeutic Drug Monitoring Control 3, #1583 Bulk Solution	Bottle: 20–300L	10/22/93
Medical Analysis Systems, Inc .	Therapeutic Drug Monitoring Control 3, #1583P Pilot Solution	Bottle: .1–1L	10/22/93
Medical Analysis Systems, Inc .	Transfer Pilot Material Calibrators; Levels 2, 3, 4, 5	Glass vial: 3–5ml	7/29/94
Medical Analysis Systems, Inc .	Transfer Pilot Material Controls; Negative QC and Positive QC	Glass vial: 3–5ml	7/29/94
Medical Analysis Systems, Inc .	Tri-Point LiquImmune Ligand Control, Levels 1, 2 and 3	Glass Bottle: 5ml; Kit: 6 Bottles	10/23/91
Medical Analysis Systems, Inc .	Tri-Point LiquImmune Ligand Control, Levels 1, 2 and 3	Glass Bottle: 5ml; Kit: 6 bottles	10/23/91
Medical Analysis Systems, Inc .	chemTRAK Liquid Unassayed Therapeuitic Drug Control Level 2.	Kit: 65ml Vials	10/8/86
Medical Analysis Systems, Inc .	chemTRAK Liquid Unassayed Therapeutic Drug Control Level 3.	Kit: 65ml Vials	10/8/86
Medical Analysis Systems, Inc .	chemTRAK Liquid Unassayed Therapeutic Drug Control Level I.	Kit: 65ml Vials	10/8/85
Medical Analysis Systems, Inc .	chemTrak Liquid Unassayed	Vial: 15ml	4/30/85
Meloy Labs, Inc	Counterelectrophoresis Plates, G–301	Plates: 10 determinations	9/5/73
Meloy Labs, Inc	Immunoelectrophoresis Plates, G–201	Plates: 6 / unit	9/5/73
Merck and Co., Inc	Amphetamine - d6 HCl, Cat. No. MD–3892	Ampule: 2 or 5ml	8/30/89
Merck and Co., Inc	Cocaine-d3 HCl Catalog # MD–3677	Ampule: 2 or 5ml	6/13/88
Merck and Co., Inc	Codeine - d3 H2O (N-methyl-d3) No. MD–3776	2ml, 5ml ampule Carton: 5 ampules.	9/6/88
Merck and Co., Inc	Codeine-d3 Catalog # MD–3678	Ampule: 2 or 5ml	6/13/88
Merck and Co., Inc	DL-1 Phenyl-2-aminopropane 1, 1, 2, 3, 3, 3, -d6 (Amphetamine-d6) Catalog # MD–3682.	Ampule: 2 or 5ml	6/13/88
Merck and Co., Inc	DL-1 Phenyl-2-methylaminopropane-1, 1, 2, 3, 3, 3-d6 HCl (Methamphetamine d6) Catalog # MD–3683.	Ampule: 2 or 5ml	6/13/88
Merck and Co., Inc	DL-1-Phenyl-2-aminopropane-1, 1, 2, 3, 3, 3-d6 HCL No. MD–3778.	2ml, 5ml amber ampule Carton: 5 ampules.	9/6/88
Merck and Co., Inc	Ecgonine - d3 Methyl Ester HCl Catalog # MD– 3679	Ampule: 2 or 5ml	6/13/88
Merck and Co., Inc	Methamphetamine - d9 HCl, Cat. No. MD–3853	Ampule: 2 or 5ml	8/30/89

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Merck and Co., Inc	Morphine - d3 HCl 3H20 (N-methyl-d3) No. MD–3777	2ml, 5ml ampule Carton: 5 ampules.	9/6/88
Merck and Co., Inc	Morphine - d3 HCl Catalog # MD–3680	Ampule: 2 or 5 ml	6/13/88
Merck and Co., Inc	O-Benzoylecgonine-d3 Catalog # MD–3676	Ampule: 2 or 5 ml	6/13/88
Merck and Co., Inc	Phen-d5-cyclidine HCl Catalog # MD–3681	Ampule: 2 or 5 ml	6/13/88
Microdiagnostics, Inc	Amphetamine Bulk Tracer	Tube: 1ml; Bottle: 10ml, 100ml, 500ml.	1/17/96
Microdiagnostics, Inc	Amphetamine Enzyme Conjugate	Bottle: 10ml	12/24/92
Microdiagnostics, Inc	Benzoylecgonine Bulk Tracer	Tube: 1ml; Bottle: 10ml, 100ml, 500ml.	1/17/96
Microdiagnostics, Inc	Cocaine Enzyme Conjugate	Bottle: 10ml	12/24/92
Microdiagnostics, Inc	EIA for Amphetamine Metabolites	Kit: 2 bottles	12/24/92
Microdiagnostics, Inc	EIA for Cocaine Metabolites	Kit: 2 bottles	12/24/92
Microdiagnostics, Inc	EIA for Marijuana Metabolites	Kit: 2 bottles	12/24/92
Microdiagnostics, Inc	EIA for Opiate Metabolites	Kit: 2 bottles	12/24/92
Microdiagnostics, Inc	EIA for PCP Metabolites	Kit: 2 bottles	12/24/92
Microdiagnostics, Inc	Morphine Bulk Tracer	Tube: 1ml; Bottle: 10ml, 100ml, 500ml.	1/17/96
Microdiagnostics, Inc	Opiate Enzyme Conjugate	Bottle: 10ml	12/24/92
Microdiagnostics, Inc	PCP Enzyme Conjugate	Bottle: 10ml	12/24/92
Microdiagnostics, Inc	Phencyclidine Bulk Tracer	Tube: 1ml; Bottle: 10ml, 100ml, 500ml.	1/17/96
Microdiagnostics, Inc	Positive Amphetamine Standard	Bottle: 2ml	12/24/92
Microdiagnostics, Inc	Positive Cocaine Standard	Bottle: 2ml	12/24/92
Microdiagnostics, Inc	Positive Opiate Standard	Bottle: 2ml	12/24/92
Microdiagnostics, Inc	Positive PCP Standard	Bottle: 2ml	12/24/92
Microdiagnostics, Inc	Positive THC Standard	Bottle: 2ml	12/24/92
Microdiagnostics, Inc	THC Enzyme Conjugate	Bottle: 10ml	12/24/92
Microdiagnostics, Inc	Tetrahydrocannabinol Bulk Tracer	Tube: 1ml; Bottle: 10ml, 100ml, 500ml.	1/17/96
Microgenics Corporation	4-Drug Barbiturate Spiking Solution	Carboy: 2L	12/1/93
Microgenics Corporation	4-Drug Cutoff Bulk Calibrator	Carboy: 6L	12/1/93
Microgenics Corporation	4-Drug High Bulk Calibrator	Carboy: 4L	12/1/93
Microgenics Corporation	4-Drug Intermediate Bulk Calibrator	Carboy: 4L	12/1/93
Microgenics Corporation	5-Drug Cutoff Bulk Calibrator	Carboy: 4L	12/1/93
Microgenics Corporation	Amphetamine ED Bulk Reagent	Carboy: 25L	4/13/94
Microgenics Corporation	Amphetamine Manufacturing Bulk Calibrators B, C, D, E, F, G, H, I, J, K, Open.	Carboy or Beaker: 4L	4/20/94
Microgenics Corporation	Amphetamine Manufacturing Calibrators B, C, D, E, F, G, H, I, J, K, Open.	Vial: 3.5 or 5.0ml	4/20/94
Microgenics Corporation	Amphetamine/Methamphetamine Bulk Manufacturing Calibrator Open.	Carboy or Beaker: 4L	4/20/94
Microgenics Corporation	Amphetamine/Methamphetamine Manufacturing Calibrator Open.	Vial: 3.5 or 5.0ml	4/20/94
Microgenics Corporation	Amphetamines Spiking Solution	Carboy: 2L	12/1/93
Microgenics Corporation	Barbiturate Manufacturing Bulk Calibrators B, C, D, E, F, G, H, I, J, K, Open.	Carboy or Beaker: 4L	4/20/94
Microgenics Corporation	Barbiturate Spiking Solution	Carboy: 2L	12/1/93
Microgenics Corporation	Barbiturate/Benzodiazepine 200 Cutoff Calibrator	Carboy: 4L	12/1/93
Microgenics Corporation	Barbiturate/Benzodiazepine 300 Cutoff Calibrator	Carboy: 2L	12/1/93
Microgenics Corporation	Barbiturate/Benzodiazepine High Bulk Calibrator	Carboy: 2L	12/1/93
Microgenics Corporation	Barbiturate/Benzodiazepine Intermediate Bulk Calibrator	Carboy: 2L	12/1/93
Microgenics Corporation	Barbiturates Manufacturing Calibrators B, C, D, E, F, G, H, I, J, K, Open.	Vial: 3.5 or 5.0ml	4/20/94
Microgenics Corporation	Benzodiazepine Ethanol Stock	Vial: 25ml	12/1/93
Microgenics Corporation	Benzodiazepine Manufacturing Bulk Calibrators B, C, D, E, F, G, H, I, J, K, Open.	Carboy or Beaker: 4L	4/20/94
Microgenics Corporation	Benzodiazepine Manufacturing Calibrators B, C, D, E, F, G, H, I, J, K, Open.	Vial: 3.5 or 5.0ml	4/20/94
Microgenics Corporation	Benzodiazepine Spiking Solution	Carboy: 2L	12/1/93
Microgenics Corporation	Bulk Calibrator Solution 80ug/ml, 40ug/ml	Carboy: 10L	11/13/90
Microgenics Corporation	CEDAI DAU Opiate Assay Cat # 80–3000	Kit: 4 Bottles, 500ml	12/1/93
Microgenics Corporation	CEDIA DAU 4-Drug Cutoff Calibrator	Bottle: 10, 15ml	12/1/93
Microgenics Corporation	CEDIA DAU 4-Drug High Calibrator	Bottle: 10, 15ml	12/1/93
Microgenics Corporation	CEDIA DAU 4-Drug Intermediate Calibrator	Bottle: 10, 15ml	12/1/93
Microgenics Corporation	CEDIA DAU 5-Drug Cutoff Calibrator	Bottle: 5, 15ml	12/1/93
Microgenics Corporation	CEDIA DAU Amphetamine Assay (For 85ml, 500ml)	Kit: 4 Bottles	4/13/94
Microgenics Corporation	CEDIA DAU Amphetamine ED Reagent	Vial: 100ml, 500ml	4/13/94
Microgenics Corporation	CEDIA DAU Barb/Benz 200 Calibrator	Bottle: 10, 15ml	12/1/93
Microgenics Corporation	CEDIA DAU Barb/Benz 300 Calibrator	Bottle: 10, 15ml	12/1/93
Microgenics Corporation	CEDIA DAU Barb/Benz High Calibrator	Bottle: 10, 15ml	12/1/93
Microgenics Corporation	CEDIA DAU Barb/Benz Intermediate Calibrator	Bottle: 10, 15ml	12/1/93

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Microgenics Corporation	CEDIA DAU Cocaine Assay Cat # 80–2300	Kit: 4 Bottles, 85ml	12/1/93
Microgenics Corporation	CEDIA DAU Cocaine Assay Cat # 80–2400	Kit: 4 Bottles, 500ml	12/1/93
Microgenics Corporation	CEDIA DAU Cocaine ED Reagent, Cat # 80–2300	Vial: 100ml	12/1/93
Microgenics Corporation	CEDIA DAU Cocaine ED Reagent, Cat # 80–2400	Vial: 500ml	12/1/93
Microgenics Corporation	CEDIA DAU Multi-Drug Control Set, #80–0120	2 Vials; 5ml/vial	5/10/94
Microgenics Corporation	CEDIA DAU Multi-Level THC Assay Cat # 80–2700	Kit: 4 Bottles, 85ml	12/1/93
Microgenics Corporation	CEDIA DAU Multi-Level THC Assay Cat # 80–2800	Kit: 4 Bottles, 500ml	12/1/93
Microgenics Corporation	CEDIA DAU Multi-Level THC ED Reagent, Cat # 80–2700	Vial: 100ml	12/1/93
Microgenics Corporation	CEDIA DAU Multi-Level THC ED Reagent, Cat # 80–2800	Vial: 500ml	12/1/93
Microgenics Corporation	CEDIA DAU Multi-grug Control Set, #80–0124	2 Vials; 15ml/vial	5/10/94
Microgenics Corporation	CEDIA DAU Opiate Assay Cat # 80–2900	Kit: 4 Bottles, 85ml	12/1/93
Microgenics Corporation	CEDIA DAU Opiate ED Reagent, Cat # 80–2900	Vial: 100ml	12/1/93
Microgenics Corporation	CEDIA DAU Opiates ED Reagent, Cat # 80–3000	Vial: 500ml	12/1/93
Microgenics Corporation	CEDIA DAU PPX/METD Cutoff Calibrator	Vial: 10ml	3/2/95
Microgenics Corporation	CEDIA DAU PPX/METD High Calibrator	Vial: 10ml	3/2/95
Microgenics Corporation	CEDIA DAU PPX/METD Intermediate Calibrator	Vial: 10ml	3/2/95
Microgenics Corporation	CEDIA DAU Specialty Control Set 1, #80–0121	2 Vials; 15ml/vial	5/10/94
Microgenics Corporation	CEDIA DAU Specialty Control Set 2, #80–0122	2 Vials; 15ml/vial	5/10/94
Microgenics Corporation	CEDIA DAU THC 100ng/ml Calibrator	Bottle: 15ml	12/1/93
Microgenics Corporation	CEDIA DAU THC 150ng/ml Calibrator	Bottle: 15ml	12/1/93
Microgenics Corporation	CEDIA DAU THC 25ng/ml Calibrator	Bottle: 15ml	12/1/93
Microgenics Corporation	CEDIA DAU THC 50ng/ml Calibrator	Bottle: 15ml	12/1/93
Microgenics Corporation	CEDIA DAU THC 75ng/ml Calibrator	Bottle: 15ml	12/1/93
Microgenics Corporation	Cocaine Conjugate	Vial: 25ml	12/1/93
Microgenics Corporation	Cocaine ED Bulk Reagent	Carboy: 25L	12/1/93
Microgenics Corporation	Cocaine Manufacturing Bulk Calibrators B, C, D, E, F, G, H, I, J, K, Open.	Carboy or Beaker: 4L	4/20/94
Microgenics Corporation	Cocaine Manufacturing Calibrators B, C, D, E, F, G, H, I, J, K, Open.	Vial: 3.5 or 5.0ml	4/20/94
Microgenics Corporation	Cocaine Spiking Solution	Carboy: 2L	12/1/93
Microgenics Corporation	In-house Phenobarbital Bulk Primary Standard 40ug/ml, 80ug/ml.	Bottle: 2L	11/13/90
Microgenics Corporation	In-house Phenobarbital Primary Standard 40ug/ml, 80ug/ml	Micro tube: 1.5ml; Box: 100 tubes.	11/13/90
Microgenics Corporation	In-house manufacturing Bulk Calibrator 10ug/ml, 20ug/ml, 40 ug/ml, 60ug/ml, 80ug/ml, 90ug/ml Phenobarbital.	Bottle: 2L	11/13/90
Microgenics Corporation	In-house manufacturing Calibrator 10ug/ml, 20ug/ml, 40ug/ml, 60ug/ml80ug/ml, 90ug/ml Phenobarbital.	Vial: 3.5ml	11/13/90
Microgenics Corporation	Methadone Spiking Solution	Vial: 2L	3/2/95
Microgenics Corporation	Methamphetamine Conjugate	Vial: 25ml	4/13/94
Microgenics Corporation	Methamphetamine Manufacturing Bulk Calibrators B, C, D, E.F.G.H, I, J, K, Open.	Carboy or Beaker: 4L	4/20/94
Microgenics Corporation	Methamphetamine Manufacturing Calibrators B, C, D, E, F, G, H, I, J, K, Open.	Vial: 3.5ml or 5.0ml	4/20/94
Microgenics Corporation	Microgenics CEDIA Phenobarbital Assay 40ug/ml, 80ug/ml	Vial: 3.5ml; Kit: 2 vials	11/13/90
Microgenics Corporation	Morphine Conjugate	Vial: 25ml	12/1/93
Microgenics Corporation	Opiate ED Bulk Reagent	Carboy: 25L	12/1/93
Microgenics Corporation	Opiate Manufacturing Bulk Calibrators E, F, G, H, I, J, K, Open.	Carboy or Beaker: 4L	4/20/94
Microgenics Corporation	Opiate Manufacturing Calibrators E, F, G, H, I, J, K, Open	Vial: 3.5 or 5.0ml	4/20/94
Microgenics Corporation	Opiate Spiking Solution	Carboy: 2L	12/1/93
Microgenics Corporation	PCP Spiking Solution	Carboy: 2L	12/1/93
Microgenics Corporation	PCP Stock Concentrate	Vial: 10ml	12/1/93
Microgenics Corporation	Phencyclidine Manufacturing Bulk Calibrators E, F, G, H, I, J, K, Open.	Carboy or Beaker: 4L	4/20/94
Microgenics Corporation	Phencyclidine Manufacturing Calibrators E, F, G, H, I, J, K, Open.	Vial: 3.5 or 5.0ml	4/20/94
Microgenics Corporation	Phenobarbital Stock Solution	Flask: 100ml	11/13/90
Microgenics Corporation	Propoxyphene/Methadone Cutoff Calibrator	Bulk: 4L	3/2/95
Microgenics Corporation	Propoxyphene/Methadone High Calibrator	Bulk: 4L	3/2/95
Microgenics Corporation	Propoxyphene/Methadone Intermediate Calibrator	Bulk: 4L	3/2/95
Microgenics Corporation	THC 100 Control Set	Box: 2 Bottles; 15ml each	6/30/94
Microgenics Corporation	THC 100 Controls (High & Low)	Bottle: 15ml	6/30/94
Microgenics Corporation	THC 100 Controls (High & Low) Bulk	Carboy: 150L	6/30/94
Microgenics Corporation	THC 100ng/ml Bulk Calibrator	Carboy: 4L	12/1/93
Microgenics Corporation	THC 150ng/ml Bulk Calibrator	Carboy: 4L	12/1/93
Microgenics Corporation	THC 25 Control Set	Box: 2 Bottles; 15ml each	6/30/94
Microgenics Corporation	THC 25 Controls (High & Low)	Bottle: 15ml	6/30/94
Microgenics Corporation	THC 25 Controls (High & Low) Bulk	Carboy: 150L	6/30/94
Microgenics Corporation	THC 25ng/ml Bulk Calibrator	Carboy: 2L	12/1/93
Microgenics Corporation	THC 50 Control Set	Box: 2 Bottles; 15ml each	6/30/94
Microgenics Corporation	THC 50 Controls (High & Low)	Bottle: 15ml	6/30/94

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Microgenics Corporation	THC 50 Controls (High & Low) Bulk	Carboy: 150L	6/30/94
Microgenics Corporation	THC 50ng/ml Bulk Calibrator	Carboy: 4L	12/1/93
Microgenics Corporation	THC 75ng/ml Bulk Calibrator	Carboy: 1L	12/1/93
Microgenics Corporation	THC Conjugate	Vial: 25ml	12/1/93
Microgenics Corporation	THC ED Bulk Reagent	Carboy: 25L	12/1/93
Microgenics Corporation	THC Manufacturing Bulk Calibrators B, C, D, E, F, G, H, I, J, K, L, Open.	Carboy or Beaker: 4L	4/20/94
Microgenics Corporation	THC Manufacturing Calibrators B, C, D, E, F, G, H, I, J, K, L, Open.	Vial: 3.5 or 5.0ml	4/20/94
Micromedic Systems	Micromedic Neonatal T4 125I Tracer Solution	Nalgene Bottle: 4 oz	6/25/87
Micromedic Systems	Micromedic Neonatal T4 Elution Solution	Nalgene Bottle: 2 oz	6/25/87
Micromedic Systems	Neonatal T4 125I Tracer Solution	Vial: 30ml	5/21/80
Micromedic Systems	Neonatal T4 Buffer Solution	Bottle: 8ounce	5/21/80
Micromedic Systems	T3 RIA 125I Tracer Solution	Vial: 30ml	12/14/76
Micromedic Systems	T3 RIA Buffer Solution	High Density Polyethylene Bottle: 8 ounce.	12/14/76
Micromedic Systems	T3 Uptake 125I Tracer Solution	Vial: 30ml	12/14/76
Micromedic Systems	T3 Uptake Buffer Solution	High Density Polyethylene Bottle: 8 ounce.	12/14/76
Micromedic Systems	T4 RIA 125I Tracer Solution	Vial: 30ml	12/14/76
Micromedic Systems	T4 RIA Buffer Solution	High Density Polyethylene Bottle: 8 ounce.	12/14/76
Miles Inc	Immuno-1 Setpoint TDM Calibrators Kit No. T03–2864 Component No. T13–2864(02–06).	Glass Bottles: 5ml; Kit: 5 Bottles.	1/3/91
Miles Inc	Technicon Immuno 1 TESTpoint Ligand Controls, Kit No. T03–3393–01; Level I T13–3394–01; Level II T13–3395–01; Level III T13–3396–01.	Glass vial; 5ml; Kit: 6 vials	3/15/92
Miles Inc	Technicon RA Systems Set Point	Vial: 5ml Kit: 5 vials	7/20/90
Miles Laboratories, Inc	SERALYZER ARIS Phenobarbital Calibrator Kit, # 6453	Kit: 2 vials; 1ml/vial	4/29/93
Miles Laboratories, Inc	SERALYZER ARIS Phenobarbital Calibrator and Control Kit, # 6455T.	Kit: 4 vials; 1ml/vial	4/29/93
Miles Laboratories, Inc	SERALYZER ARIS Phenobarbital Control Kit, # 6454T	Kit: 2 vials; 1ml/vial	4/29/93
Miles Laboratories, Inc	SERALYZER ARIS Phenytoin Bulk Reagent Paper	Bulk	6/15/94
Miles Laboratories, Inc	Seralyzer ARIS Drug Assay Control	Vial: 1ml	1/17/84
Miles Laboratories, Inc	Seralyzer ARIS Drug Assay High Calibrator	Vial: 0.5ml	1/17/84
Miles Laboratories, Inc	Seralyzer ARIS Drug Assay Low Calibrator	Vial: 0.5ml	1/17/84
Miles Laboratories, Inc	Seralyzer ARIS Phenytoin Reagent Strips	Bottle Containing 25 and 50 Strips.	5/25/86
Miles Laboratories, Inc	T–4 Buffer	Glass Screwtop Vial: ¾ ounce	3/25/77
Monobind, Inc	Monobind T3 Antibody Reagent	Test Tube w/Cap: 70ml	11/8/77
Monobind, Inc	Monobind T3 Tracer Reagent	Wheaton Glass Container: 55ml.	11/8/77
Monobind, Inc	Monobind T4 Antibody Reagent	Test Tube w/Cap: 70ml	11/8/77
Monobind, Inc	Monobind T4 Tracer Reagent	Wheaton Glass Container 55ml.	11/8/77
Monobind, Inc	Monobind TSH Antibody Reagent	Test Tube w/Cap: 10.5ml	11/8/77
Monobind, Inc	Monobind TSH Non-Specific Buffer	Wheaton Glass: 1.05ml	11/8/77
Monobind, Inc	Monobind TSH Precipitating Reagent	Plastic Container w/Cap : 105ml.	11/8/77
Monobind, Inc	Monobind TSH Tracer Reagent	Wheaton Glass Container 10.5ml.	11/8/77
Monobind, Inc	T3 Adsorbent Reagent	Glass Bottle: 110ml, 50ml Plastic Bottle: 260ml.	5/15/78
Monobind, Inc	T3 Uptake Tracer Reagent	Glass Bottle: 55ml, 30ml Plastic Bottle: 125ml.	5/15/78
Monobind, Inc	TSH Radioimmunoassay Test System	Kit: 100 Tests	11/8/77
Monobind, Inc	Thyroxine Radioimmunoassay Test System	Kit: 100 Tests	11/8/77
Monobind, Inc	Triiodothyronine Radioimmunoassay Test System	Kit: 100 tests	11/8/77
Monoclonal Antibodies, Inc	Test Kit for Cocaine Metabolites in Urine	Kit: 50 tests	10/17/86
Monoclonal Antibodies, Inc	Test Kit for Opiates in Urine	Kit: 50 tests	10/17/86
Monoclonal Antibodies, Inc	Test Kit for Tetrahydrocannabinol (THC) in Urine	Kit: 50 tests	10/17/86
NSI Technology Services Corp	Alpha, alpha-dimethyl-phenethylamine	Amber Ampoule: 2ml	3/02/89
Nuclear Diagnostics, Inc	MAAT T3 Uptake Reagent	Bottle: 105ml, 210ml; Kit: 1 bottle 210ml.	11/16/90
Nuclear Diagnostics, Inc	SPINSEP–TBG Reagent Catalog No. 17100	Polypropylene Bottle: 105ml	12/15/77
Nuclear Diagnostics, Inc	TETRIA P.E.G. Antiserum Catalog No. 16100A	Polypropylene Bottle: 55ml	3/10/78
Nuclear Diagnostics, Inc	TETRIA P.E.G. Reagent Catalog No. 16100	Polypropylene Bottle: 105ml	7/8/77
Nuclear Diagnostics, Inc	TETRIA P.E.G. Reagent Catalog No. 16100R	Polypropylene Bottle: 55ml	3/10/78
Nuclear Diagnostics, Inc	TRIA–P.E.G. Antiserum Catalog No. 12100A	Polypropylene Bottle: 55ml	3/10/78
Nuclear Diagnostics, Inc	TRIA–P.E.G. Reagent Catalog No.12100R	Polypropylene Bottle: 55ml	3/10/78
OMI International Corporation	Compound N Solution	Steel Drum: 55 gallon	10/1/75
Organon Teknika Corp	Barbital Buffered Saline with Azide	Plastic Bottle: 1L	1/5/90

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Organon Teknika Corp	Modified Barbital Buffer	Plastic Bottle: 1L	1/5/90
Organon Teknika Corp	Owren's Veronal Buffer for FIBRIQUIK	Bottle: 37 ml	5/7/80
Organon Teknika Corp	Platelin	Vial: 7.3ml	3/13/72
Organon Teknika Corp	Simplastin	Vial: 4.7ml, 7.3ml, and 16.5ml	3/13/72
Organon Teknika Corp	Simplastin-A	Vial: 7.3ml	3/13/72
Organon Teknika Corp	TRIS/Barbital Buffer	Plastic Bottle: 1L	1/5/90
Ortho Diagnostic Systems, Inc	Activated ThromboFAX No.721000	Bottle: 3.2ml	9/21/71
Ortho Diagnostic Systems, Inc	ORTHO Owren's Buffer	Kit: 6-20 ml vials	8/26/88
Ortho Diagnostic Systems, Inc	Ortho Activated PTT Reagent	Glass Vial: 30 determination size, 100.	5/23/83
Ortho Diagnostic Systems, Inc	Ortho Plasma Coagulation Control Level I	Glass Vial: 5ml	10/25/83
Ortho Diagnostic Systems, Inc	Ortho Plasma Coagulation Control Level II	Glass Vial: 5ml	10/25/83
Ortho-McNeil Pharmaceutical	Codeine-N-Oxide	Bottle: 2ml	10/11/95
PB Diagnostic Systems, Inc	Estradiol Reagent	6 Vials; 1ml/vial	10/28/93
PB Diagnostic Systems, Inc	Estradiol Test Module	Plastic plate: 1.7"x .7"x 3.5"	10/28/93
PB Diagnostic Systems, Inc	OPUS Estradiol Kit	Kit: 50 Tests	10/28/93
PB Diagnostic Systems, Inc	OPUS Phenobarbital Calibrators: 5, 10, 20, 40, 80µg/ml	Vial: 2.5ml Carton: 5 vials	8/7/90
PB Diagnostic Systems, Inc	OPUS Phenobarbital Test Modules	Plastic Test Module, Tray: 5 modules, Carton: 50 modules.	8/7/90
Pacific Hemostasis	Barbital Buffered Saline	Vial: 100ml	5/24/84
Pacific Hemostasis	Barbital Buffered Saline (Bulk)	Carboy: 100L	10/5/94
Pacific Hemostasis	Barbital Buffered Saline with Heparin	Vial: 90ml	5/24/84
Pacific Hemostasis	Barbital Buffered Saline with Heparin (Bulk)	Carboy: 100L	10/5/94
Pacific Hemostasis	Barbital Buffered with Heparin	Bulk in Process	1/24/95
Pacific Hemostasis	Diluting Fluid	Bulk in Process	1/24/95
Pacific Hemostasis	Diluting Fluid	Vial: 20ml	5/24/84
Pacific Hemostasis	Diluting Fluid (Bulk)	Carboy: 100L	10/5/94
Pacific Hemostasis	Kontact	Bulk in Process	1/24/95
Pacific Hemostasis	Kontact	Vial: 4ml, 10ml	3/22/94
Pacific Hemostasis	Kontact (Bulk)	Carboy: 200L	10/5/94
Pacific Hemostasis	Kontact Kit (10ml) Cat # 224-006	Kit: 10 Vials	3/22/94
Pacific Hemostasis	Kontact Kit (4ml) Cat # 257-324	Kit: 10 Vials	3/22/94
Pantex	Immuno T3 Kit: (1)L-Triiodothyronine 125I (2)1st Antiserum (3)2nd Antiserum (4)Diluent (5)Standards.	Kit Containing Bottles: (1)10ml (2)10ml (3)50ml (4)5ml (5)3ml.	1/4/79
Pantex	Immuno-Digoxin Kit Containing: (1)Digoxin 125I (2)1st Antiserum (3) 2nd Antiserum (4)Diluent.	Kit Containing Bottles: (1)10ml (2)20ml (3)50ml (4)5ml.	1/4/79
Pantex	Immuno-Estriol 125I Kit: 2nd Antiserum	Bottle: 50ml	1/4/79
Pantex	Immuno-Estriol Kit: (1)Estriol 3H RIA (2)Estriol 3H Recovery (3)1st Antiserum (4)2nd Antiserum (5)Diluent (6)Buffer (7)Standards.	Kit Containing Bottles: (1)10ml (2)5ml (3)10ml (4)20ml (5)100ml (6)50ml (7)5ml.	1/4/79
Pantex	Immuno-T4 Kit: (1)Thyroxine 125I (2)1st Antiserum (3)2nd Antiserum (4)Diluent (5)Standards.	Kit Containing Bottles: (1)100ml, 1000ml (2)50ml (3)100ml (4)5ml (5)3ml.	1/4/79
Pantex	Immuno-Testosterone 125I Kit: (1)Testosterone 125I (2)1st Antiserum (3)2nd Antiserum (4)Diluent (5)Standards.	Kit Containing Bottles: (1)10ml (2)10ml (3)50ml (4)100ml (5)5ml.	1/4/79
Pantex	T3 Uptake Kit: L-Triiodothyronine 125I	Bottle: 100ml, 1000ml	1/4/79
Perkin-Elmer Corporation	Amphetamine Polarization Fluoroimmunoassay Kit	Kit: 100 tests	12/18/86
Perkin-Elmer Corporation	Barbiturates Polarization Fluoroimmunoassay Kit	Kit: 100 tests	12/18/86
Perkin-Elmer Corporation	Cocaine Polarization Fluoroimmunoassay Kit	Kit: 100 tests	12/18/86
Perkin-Elmer Corporation	Methadone Polarization Fluoroimmunoassay Kit	Kit: 100 tests	12/18/86
Perkin-Elmer Corporation	Morphine Polarization Fluoroimmunoassay Kit	Kit: 100 tests	12/18/86
Perkin-Elmer Corporation	Opiates Polarization Fluoroimmunoassay Kit	Kit: 100 tests	12/18/86
Princeton Separations, Inc	Panagel 16	Pouch: 1 slide	6/29/87
Princeton Separations, Inc	Panagel 8	Pouch: 1 slide	6/29/87
Princeton Separations, Inc	Panagel Electrobuffer	Fiber Drum: 25 kg	6/29/87
Princeton Separations, Inc	Panagel Electrode Buffer	Pouch: 18.3 gms	6/29/87
Princeton Separations, Inc	Panagel LD Isoenzyme Electrode Buffer	Pouch: 11.85 gms	6/29/87
Princeton Separations, Inc	Panagel LD Isoenzyme Slide	Pouch: 1 slide	6/29/87
Quality Assurance Service Corp	Q.A. Toxicology Blood Controls	Vial: 6ml, 12ml Plastic Bottle: 60ml, 90ml, 250ml, 625ml Glass Bottle: 6ml–100ml.	1/23/90
Quality Assurance Service Corp	Q.A. Toxicology Serum Controls	Vial: 6ml, 12ml Plastic Bottle: 60ml, 90ml, 250ml, 625ml Glass Bottle: 6ml–100ml.	1/23/90
Quality Assurance Service Corp	Q.A. Toxicology Urine Controls	Vial: 6ml, 12ml Plastic Bottle: 60ml, 90ml, 250ml, 625ml Glass Bottle: 6ml–100ml.	1/23/90
Quantimetrix	Quantimetrix Anticonvulsant Serum Drug Control, Liquid Level II Control No. 17–0303–2.	Polyethylene Dropper Bottle: 15ml.	4/16/86

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Quantimetrix	Quantimetrix Antidepressant Serum Drug Control, Liquid Level I Control No. 17–0303–1.	Polyethylene Dropper Bottle: 15ml.	4/16/86
Quantimetrix	Quantimetrix Antidepressant Serum Drug Control, Liquid Level I Control No. 17–0305–1.	Polyethylene Dropper Bottle: 15ml.	4/16/86
Quantimetrix	Quantimetrix Antidepressant Serum Drug Control, Liquid Level II Control No. 17–0305–2.	Polyethylene Dropper Bottle: 15ml.	4/16/86
Quantimetrix	Urine Drugs of Abuse Control Catalog No. 12–2411–1	Dropper Bottle: 15 ml	2/23/87
Quin-Tec, Inc	Additive SB–1	Drum: 55 gals	5/11/87
Quin-Tec, Inc	Quin-Tec Brightener 402	Plastic Pail: 5 gallons, Plastic Drum: 55 gallons.	10/13/81
Quin-Tec, Inc	Quin-Tec Brightener 404	Plastic Pail: 5 gallons, Plastic Drum: 55 gallons.	10/13/81
Radian Corporation	(+/−) 11-Nor-9-Carboxy-delta 9-THC-D9 0.01mg/ml, 0.1mg/ml, 1.0mg/ml.	Vial: 2ml	6/12/91
Radian Corporation	(−)-11-Nor-9-carboxy-delta-9 THC; 1.0mg/ml, 100µg/ml	Vial: 2ml	1/25/95
Radian Corporation	17alpha-Methyl-5alpha-androstane-3alpha, 17beta-diol, 100µg/ml, 1mg/ml.	Ampule: 2ml	7/07/95
Radian Corporation	17alpha-Methyl-5beta-androstane-3alpha, 17beta-diol, 100µg/ml, 1mg/ml.	Ampule: 2ml	7/07/95
Radian Corporation	2–S Methcathinone-D5 HCl 100µg/ml, 1.0mg/ml	Ampule: 2ml	12/22/93
Radian Corporation	2R-Cathinone HCL 100µg/ml, 1.0mg/ml	Ampule: 2ml	12/22/93
Radian Corporation	2R-Cathinone-D5 HCL 100µg/ml, 1.0mg/ml	Ampule: 2ml	12/22/93
Radian Corporation	2R-Methcathinone HCL 100µg/ml, 1.0mg/ml	Ampule: 2ml	12/22/93
Radian Corporation	2R-Methcathinone-D5 HCL 100µg/ml, 1.0mg/ml	Ampule: 2ml	12/22/93
Radian Corporation	2S-Cathinone HCL 100µg/ml, 1.0mg/ml	Ampule: 2ml	12/22/93
Radian Corporation	2S-Cathinone-D5 HCL 100µg/ml, 1.0mg/ml	Ampule: 2ml	12/22/93
Radian Corporation	2S-Methcathinone HCL 100µg/ml, 1.0mg/ml	Ampule: 2ml	12/22/93
Radian Corporation	3'-Hydroxystanozolol–D3; 100µg/ml, 1.0mg/ml	Ampule: 2ml	6/06/94
Radian Corporation	3'–Hydroxystanozolol; 100µg/ml, 1.0mg/ml	Ampule: 2ml	6/06/94
Radian Corporation	3, 4-Methylenedioxy-amphetamine-D5 0.1 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	3, 4-Methylenedioxy-amphetamine-D5 1.0 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	3, 4-Methylenedioxy-methamphetamine-D5 0.1 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	3, 4-Methylenedioxy-methamphetamine-D5 1.0 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	3, 4-Methylenedioxyamphetamine 0.1, 1.0 mg/ml	Amber glass ampule: 2ml	1/12/89
Radian Corporation	3, 4-Methylenedioxymethamphetamine 0.1, 1.0 mg/ml	Amber glass ampule: 2ml	1/12/89
Radian Corporation	4-Methylaminorex 100µg/ml, 1.0mg/ml	Ampule: 2ml	1/29/93
Radian Corporation	4-Methylaminorex-D5 100µg/ml, 1.0mg/ml	Ampule: 2ml	1/29/93
Radian Corporation	6-Acetylmorphine	Ampule: 2 ml	12/4/87
Radian Corporation	6-Acetylmorphine-D3	Ampule: 2 ml	12/4/87
Radian Corporation	6-Acetylmorphine-D6; 100µg/ml, 1.0mg/ml	Ampule: 2ml	4/25/94
Radian Corporation	6beta-Hydroxyfluoxymesterone, 100µg/ml, 1mg/ml	Ampule: 2ml	7/7/95
Radian Corporation	6beta-Hydroxymethandienone, 100µg/ml, 1mg/ml	Ampule: 2ml	7/7/95
Radian Corporation	9-Carboxy-11-nor-Delta-9-Tetrahydrocannabinol-D3	Ampule: 2 ml	12/4/87
Radian Corporation	9-Carboxy-11-nor-delta-9-THC 0.1, 1.0 mg/ml	Amber glass ampule: 2ml	1/12/89
Radian Corporation	Alpha-Hydroxyalprazolam 0.1 mg/ml, 1.0 mg/ml	Vial: 2ml	6/12/91
Radian Corporation	Alpha-Hydroxyalprazolam-D5 0.1 mg/ml, 1.0 mg/ml	Vial: 2ml	6/12/91
Radian Corporation	Alpha-Hydroxytriazolam 0.1mg/ml, 1.0mg/ml	Ampule: 2ml	4/27/92
Radian Corporation	Alpha-Hydroxytriazolam-D4; 0.1mg/ml, 1.0mg/ml	Ampule: 2ml	4/27/92
Radian Corporation	Alprazolam 0.1mg/ml, 1.0mg/ml	Ampule: 2ml	11/5/90
Radian Corporation	Alprazolam-D5 0.1mg/ml, 1.0mg/ml	Ampule: 2ml	11/5/90
Radian Corporation	Amobarbital 0.1mg/ml, 1.0mg/ml	Ampule: 2ml	4/27/92
Radian Corporation	Amphetamine-D3 0.1 mg/ml	Ampule: 2 ml	12/4/87
Radian Corporation	Anhydroecgonine 100µg/ml, 1.0mg/ml	Ampule: 2ml	1/29/93
Radian Corporation	Anhydroecgonine HCL, 100µg/ml, 1mg/ml	Ampule: 2ml	7/7/95
Radian Corporation	Anhydroecgonine methyl ester, 100µg/ml, 1mg/ml	Ampule: 2ml	7/7/95
Radian Corporation	Anhydroecgonine-D3 100µg/ml, 1.0mg/ml	Ampule: 2ml	1/29/93
Radian Corporation	Benzoylecgonine	Ampule: 2ml	12/4/87
Radian Corporation	Benzoylecgonine isopropyl ester, 100µg/ml, 1mg/ml	Ampule: 2ml	7/7/95
Radian Corporation	Benzoylecgonine-D3	Ampule: 2ml	12/4/87
Radian Corporation	Bromazepam; 1.0mg/ml, 100µg/ml	Vial: 2ml	1/25/95
Radian Corporation	Buprenorphine 0.1	Ampule: 2ml	2/1/91
Radian Corporation	Buprenorphine-D4 0.1 mg/ml	Ampule: 2ml	2/1/91
Radian Corporation	Chlordiazepoxide 100µg/ml, 1.0mg/ml	Ampule: 2ml	12/22/93
Radian Corporation	Clobazam, 100µg/ml, 1mg/ml	Ampule: 2ml	7/7/95
Radian Corporation	Clonazepam-D4; 1.0mg/ml, 100µg/ml	Vial: 2ml	1/25/95
Radian Corporation	Cocaethylene 0.1mg/ml, 1.0mg/ml	Ampule: 2ml	12/13/90
Radian Corporation	Cocaethylene-D3	Ampule: 2ml	12/13/90
Radian Corporation	Cocaethylene-D8 100µg/ml, 1.0mg/ml	Ampule: 2ml	12/22/93
Radian Corporation	Cocaine 0.1, 1.0 mg/ml	Amber glass ampule: 2ml	1/12/89
Radian Corporation	Cocaine-D3	Ampule: 2 ml	12/4/87
Radian Corporation	Codeine	Ampule: 2 ml	3/9/88
Radian Corporation	Codeine-D3	Ampule: 2 ml	12/4/87

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Radian Corporation	D-Amphetamine 0.1, 1.0 mg/ml	Amber glass ampule: 2ml	1/12/89
Radian Corporation	D-Methamphetamine 0.1 mg/ml, 1.0 mg/ml	Vial: 2ml	6/12/91
Radian Corporation	D-Propoxyphene 0.1, 1.0 mg/ml	Amber glass ampule: 2ml	4/27/92
Radian Corporation	D-Propoxyphene 0.1mg/ml, 1.0mg/ml	Ampule: 2ml	4/27/92
Radian Corporation	DL-3, 4-MDEA 100µg/ml, 1.0mg/ml	Ampule: 2ml	12/22/93
Radian Corporation	DL-3, 4-MDEA-D5 100µg/ml, 1.0mg/ml	Ampule: 2ml	12/22/93
Radian Corporation	DL-Amphetamine 0.1, 1.0 mg/ml	Ampule: 2ml	12/4/87
Radian Corporation	DL-Amphetamine-D11, 0.1mg/ml, 1.0mg/ml	Ampule: 2ml	4/27/92
Radian Corporation	DL-Amphetamine-D3 0.1, 1.0 mg/ml	Ampule: 2ml	12/4/87
Radian Corporation	DL-Amphetamine-D5 (SC) 0.1, 1.0 mg/ml	Ampule: 2ml	12/4/87
Radian Corporation	DL-Amphetamine-D5 0.1, 1.0 mg/ml	Ampule: 2 ml	12/4/87
Radian Corporation	DL-Amphetamine-D5 0.1, 1.0 mg/ml	Ampule: 2ml	12/4/87
Radian Corporation	DL-Amphetamine-D8, 0.1mg/ml, 1.0mg/ml	Ampule: 2ml	4/27/92
Radian Corporation	DL-MDEA-D6; 1.0mg/ml, 100µg/ml	Vial: 2ml	1/25/95
Radian Corporation	DL-Methamphetamine 0.1, 1.0 mg/ml	Amber glass ampule: 2ml	1/12/89
Radian Corporation	DL-Methamphetamine-D11 0.1mg/ml, 1.0mg/ml	Ampule: 2ml	5/16/93
Radian Corporation	DL-Methamphetamine-D5 0.1, 1.0 mg/ml	Ampule: 2 ml	12/4/87
Radian Corporation	DL-Methamphetamine-D8 (Phenyl-D5 & N-Methyl-D3) 100µg/ml, 1.0mg/ml.	Ampule: 2ml	4/6/93
Radian Corporation	DL-Methamphetamine-D8 0.1 mg/ml	Ampule: 2ml	12/4/87
Radian Corporation	DL-Methamphetamine-D8, 0.1mg/ml, 1.0mg/ml	Ampule: 2ml	4/27/92
Radian Corporation	DL-Propoxyphene-D5 0.1, 1.0 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	Delta-9-Tetrahydrocannabinol 0.1, 1.0 mg/ml	Amber glass ampule: 2ml	1/12/89
Radian Corporation	Delta-9-Tetrahydrocannabinol-D3	Ampule: 2 ml	12/4/87
Radian Corporation	Diazepam 0.1, 1.0 mg/ml	Amber glass ampule: 2ml	1/12/89
Radian Corporation	Diazepam-D5 0.1 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	Diazepam-D5 1.0 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	Ecgonine 0.1 mg/ml, 1.0 mg/ml	Vial: 2ml	6/12/91
Radian Corporation	Ecgonine Methyl Ester 0.1, 1.0 mg/ml	Amber glass ampule: 2ml	1/12/89
Radian Corporation	Ecgonine Methyl Ester-D3 0.1 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	Ecgonine Methyl Ester-D3 1.0 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	Ecgonine ethyl ester, 100ug/ml, 1mg/ml	Ampule: 2ml	7/7/95
Radian Corporation	Ecgonine-D3 0.1 mg/ml, 1.0 mg/ml	Vial: 2ml	6/12/91
Radian Corporation	Estazolam; 1.0mg/ml, 100ug/ml	Vial: 2ml	1/25/95
Radian Corporation	Fentanyl	Ampule: 2ml	1/2/91
Radian Corporation	Fentanyl-D5	Ampule: 2ml	1/2/91
Radian Corporation	Flunitrazepam; 1.0mg/ml, 100ug/ml	Vial: 2ml	1/25/95
Radian Corporation	Fluoxymesterone, 100ug/ml, 1mg/ml	Ampule: 2ml	7/7/95
Radian Corporation	Flurazepam 0.1mg/ml, 1.0mg/ml	Ampule: 2ml	4/27/92
Radian Corporation	Heroin-D3; 1.0mg/ml, 100ug/ml	Vial: 2ml	1/25/95
Radian Corporation	Heroin-D6; 1.0mg/ml, 100ug/ml	Vial: 2ml	1/25/95
Radian Corporation	Heroin-D9; 1.0mg/ml, 100ug/ml	Vial: 2ml	1/25/95
Radian Corporation	Heroin; 1.0mg/ml, 100ug/ml	Ampule: 2ml	8/23/94
Radian Corporation	Hexobarbital; 1.0mg/ml, 100ug/ml	Ampule: 2ml	8/23/94
Radian Corporation	Hydrocodone-D3 0.1 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	Hydrocodone-D3 1.0 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	Hydrocodone 0.1, 1.0 mg/ml	Amber glass ampule: 2ml	1/12/89
Radian Corporation	Hydromorphone-D3 0.1 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	Hydromorphone-D3 1.0 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	Hydromorphone 0.1, 1.0 mg/ml	Amber glass ampule: 2ml	1/12/89
Radian Corporation	Ibogaine 100ug/ml, 1.0mg/ml	Ampule: 2ml	12/22/93
Radian Corporation	Ibogaine-D3 100ug/ml, 1.0mg/ml	Ampule: 2ml	12/22/93
Radian Corporation	Lorazepam 0.1mg/ml, 1.0mg/ml	Ampule: 2ml	4/27/92
Radian Corporation	Lorazepam glucuronide, 50ug/ml, 100ug/ml, 1mg/ml	Ampule: 2ml	7/7/95
Radian Corporation	Lorazepam-D4, 0.1mg/ml, 1.0mg/ml	Ampule: 2ml	4/27/92
Radian Corporation	Lormetazepam, 100ug/ml, 1mg/ml	Ampule: 2ml	7/7/95
Radian Corporation	Meperidine 0.1mg/ml, 1.0mg/ml	Ampule: 2ml	4/27/92
Radian Corporation	Meperidine 0.1mg/ml, 1.0mg/ml	Ampule: 2ml	4/27/92
Radian Corporation	Meprobamate 0.1mg/ml, 1.0mg/ml	Ampule: 2ml	4/27/92
Radian Corporation	Mescaline 100ug/ml, 1.0mg/ml	Ampule: 2ml	1/29/93
Radian Corporation	Mescaline-D9 100ug/ml, 1.0mg/ml	Ampule: 2ml	1/29/93
Radian Corporation	Methadone-D5 0.1 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	Methadone-D5 1.0 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	Methadone 0.1, 1.0 mg/ml	Amber glass ampule: 2ml	1/12/89
Radian Corporation	Methandienone, 100ug/ml, 1mg/ml	Ampule: 2ml	7/7/95
Radian Corporation	Methaqualone-D4 0.1 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	Methaqualone-D4 1.0 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	Methaqualone 0.1, 1.0 mg/ml	Amber glass ampule: 2ml	1/12/89
Radian Corporation	Methcathinone 100ug/ml, 1.0mg/ml	Ampule: 2ml	1/29/93
Radian Corporation	Methcathinone-D5 100ug/ml, 1.0mg/ml	Ampule: 2ml	1/29/93
Radian Corporation	Methenolone, 100ug/ml, 1mg/ml	Ampule: 2ml	7/7/95
Radian Corporation	Method 8270 Supplemental Stock Standard—2000ug/ml	Vial: 2ml	1/25/95

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Radian Corporation	Methohexital 0.1mg/ml, 1.0mg/ml	Ampule: 2ml	4/27/92
Radian Corporation	Methohexital-D5; 1.0mg/ml, 100ug/ml	Ampule: 2ml	8/23/94
Radian Corporation	Methylphenidate 0.1mg/ml, 1.0mg/ml	Ampule: 2ml	4/27/92
Radian Corporation	Methylphenidate HCL, 100ug/ml, 1mg/ml	Ampule: 2ml	7/7/95
Radian Corporation	Methyltestosterone; 1.0mg/ml, 100ug/ml	Vial: 2ml	1/25/95
Radian Corporation	Midazolam; 1.0mg/ml, 100ug/ml	Vial: 2ml	1/25/95
Radian Corporation	Morphine	Ampule: 2 ml	3/9/88
Radian Corporation	Morphine-3-Beta-D-glucuronide 0.1, 1.0mg/ml	Ampule: 2ml	2/1/91
Radian Corporation	Morphine-3-Beta-D-glucuronide-D3 0.1, 1.0mg/ml	Ampule: 2ml	2/1/91
Radian Corporation	Morphine-D3	Ampule: 2 ml	12/4/87
Radian Corporation	N-Ethylamphetamine; 1.0mg/ml, 100ug/ml	Vial: 2ml	1/25/95
Radian Corporation	Nitrazepam 0.1 mg/ml, 1.0 mg/ml	Ampule: 2ml	9/17/90
Radian Corporation	Nitrazepam-D5 0.1 mg/ml, 1.0 mg/ml	Ampule: 2ml	9/17/90
Radian Corporation	Norbenzoylecgonine, 100ug/ml, 1mg/ml	Ampule: 2ml	7/7/95
Radian Corporation	Norcocaethylene, 100ug/ml, 1mg/ml	Ampule: 2ml	7/7/95
Radian Corporation	Norcocaine 0.1 mg/ml, 1.0 mg/ml	Vial: 2ml	6/12/91
Radian Corporation	Norcocaine-D8 100ug/ml, 1.0mg/ml	Ampule: 2ml	12/22/93
Radian Corporation	Nordiazepam-D5 0.1 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	Nordiazepam-D5 1.0 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	Nordiazepam 0.1, 1.0 mg/ml	Amber glass ampule: 2ml	1/12/89
Radian Corporation	Norethandrolone, 100ug/ml, 1mg/ml	Ampule: 2ml	7/7/95
Radian Corporation	Noroxycodone 0.1mg/ml, 1.0mg/ml	Ampule: 2ml	5/16/93
Radian Corporation	Noroxymorphone 100ug/ml, 1.0mg/ml	Ampule: 2ml	5/16/93
Radian Corporation	Oxazepam-D5 0.1 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	Oxazepam-D5 1.0 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	Oxazepam-3-Beta-D-Glucuronide-D5; 100ug/ml, 1.0mg/ml	Ampule: 2ml	4/25/94
Radian Corporation	Oxazepam 0.1, 1.0 mg/ml	Amber glass ampule: 2ml	1/12/89
Radian Corporation	Oxazepam-3-Beta-D-Glucuronide; 100ug/ml, 1.0mg/ml	Ampule: 2ml	4/25/94
Radian Corporation	Oxycodone-D6 0.1mg/ml, 1.0mg/ml	Ampule: 2ml	5/16/93
Radian Corporation	Pentobarbital 0.1 mg/ml, 1.0 mg/ml	Ampule: 2ml	9/24/90
Radian Corporation	Pentobarbital-D5 0.1 mg/ml, 1.0 mg/ml	Ampule: 2ml	9/24/90
Radian Corporation	Phencyclidine 0.1 mg/ml, 1.0 mg/ml	Amber glass ampule: 2ml	1/12/89
Radian Corporation	Phencyclidine-D5	Ampule: 2 ml	12/4/87
Radian Corporation	Phenobarbital 0.1 mg/ml, 1.0 mg/ml	Amber glass ampule: 2ml	1/12/89
Radian Corporation	Phenobarbital-D5 0.1 mg/ml, 1.0 mg/ml	Ampule: 2 ml	12/4/87
Radian Corporation	Phentermine-D3; 1.0mg/ml, 100ug/ml	Vial: 2ml	1/25/95
Radian Corporation	Phentermine; 1.0mg/ml, 100ug/ml	Vial: 2ml	1/25/95
Radian Corporation	Prazepam 100ug/ml, 1.0mg/ml	Ampule: 2ml	1/29/93
Radian Corporation	Prazepam-D5 100ug/ml, 1.0mg/ml	Ampule: 2ml	1/29/93
Radian Corporation	Quazepam; 1.0mg/ml, 100ug/ml	Vial: 2ml	1/25/95
Radian Corporation	Stanozolol-D3; 100ug/ml, 1.0mg/ml	Ampule: 2ml	6/6/94
Radian Corporation	Stanozolol; 100ug/ml, 1.0mg/ml	Ampule: 2ml	6/6/94
Radian Corporation	Temazepam 0.1 mg/ml, 1.0 mg/ml	Ampule: 2ml	9/17/90
Radian Corporation	Temazepam-D5 0.1 mg/ml, 1.0 mg/ml	Ampule: 2ml	9/17/90
Radian Corporation	Triazolam 0.1mg/ml, 1.0mg/ml	Ampule: 2ml	4/27/92
Radian Corporation	Triazolam-D4 0.1mg/ml, 1.0mg/ml	Ampule: 2ml	4/27/92
Radian Corporation	alpha-Hydroxyalprazolam glucuronide, 50ug/ml, 100ug/ml, 1mg/ml.	Ampule: 2ml	7/7/95
Radian Corporation	alpha-Hydroxymidazolam, 100ug/ml, 1mg/ml	Ampule: 2ml	7/7/95
Radian Corporation	alpha-Hydroxytriazolam glucuronide, 50ug/ml, 100ug/ml, 1mg/ml.	Ampule: 2ml	7/7/95
Radian Corporation	m-Hydroxybenzoylecgonine; 1.0mg/ml, 100ug/ml	Vial: 2ml	1/25/95
Research Diagnostics	3H Alfentanil	Vial: 0.5ml	6/15/89
Research Diagnostics	3H Fentanyl	Vial: 0.5ml	6/15/89
Research Diagnostics	3H Sufentanil	Vial: 0.5ml	6/15/89
Research Diagnostics	Alfentanil Radioimmunoassay	Kit: 200 tests	6/15/89
Research Diagnostics	Alfentanil Radioimmunoassay	Kit: 200 tests	6/15/89
Research Diagnostics	Fentanyl Analogs Reference Standards for Drug Analysis	Amber Ampule: 1 ml, Plastic Shell: 5 ampules, Kit: 2 shells (10 ampules).	10/17/89
Research Diagnostics	Fentanyl Radioimmunoassay	Kit: 200 tests	6/15/89
Research Diagnostics	Sufentanil Radioimmunoassay	Kit: 200 tests	6/15/89
Research Triangle Institute	11-Nor-9-carboxy-delta-9 THC Blood Standards Kit	Kit Containing: 18-21ml Ampuls; 1-5ml Ampul.	10/26/81
Research Triangle Institute	11-Nor-9-carboxy-delta-9 THC Plasma Standards Kit	Kit Containing: 18-21ml Ampuls; 1-5ml Ampul.	10/26/81
Research Triangle Institute	Delta-9 THC Blood Standards Kit	Kit Containing: 16-2ml Ampuls; 1-5ml Ampul.	10/26/81
Research Triangle Institute	Delta-9 THC Plasma Standards Kit	Kit Containing: 16-2ml Ampuls; 1-5ml Ampul.	11/2/81

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Research Triangle Institute	Iodine Kit for Radioimmunoassay of 11-Nor-9-carboxy-delta-9 THC in Blood.	Kit Containing: 26-1ml Ampuls; 2-20ml Vials; 2-250ml Bottles.	10/26/81
Research Triangle Institute	Iodine Kit for Radioimmunoassay of 11-Nor-9-carboxy-delta-9 THC in Plasma.	Kit Containing: 24-1ml Ampuls; 2-20ml Vials; 2-250ml Bottles.	10/26/81
Research Triangle Institute	Iodine Kit for Radioimmunoassay of Delta-9 THC	Kit Containing: 20-1ml Ampules; 2-20ml Vials; 2-250ml Bottles.	10/20/80
Research Triangle Institute	Iodine Kit for Radioimmunoassay of Delta-9 THC in Blood	Kit Containing: 22-1ml Ampules; 2-20ml Vials; 2-250ml Bottles.	7/10/81
Research Triangle Institute	Tritium Kit for Radioimmunoassay of Delta-9 THC	Kit Containing: 20-1ml Ampules; 2- 20ml Vials; 2-250ml Bottles.	6/27/80
Restek Corp	Alprazolam	Ampule: 2ml	1/8/93
Restek Corp	Amobarbital	Ampule: 2ml	1/8/93
Restek Corp	Amphetamine	Ampule: 2ml	1/8/93
Restek Corp	Aprobarbital	Ampule: 2ml	1/8/93
Restek Corp	Barbital	Ampule: 2ml	1/8/93
Restek Corp	Benzoylecgonine	Ampule: 2ml	1/8/93
Restek Corp	Benzphetamine	Ampule: 2ml	1/8/93
Restek Corp	Bromazepam	Ampule: 2ml	1/8/93
Restek Corp	Butabarbital	Ampule: 2ml	1/8/93
Restek Corp	Butalbital	Ampule: 2ml	1/8/93
Restek Corp	Cannabidiol delta-8	Ampule: 2ml	1/8/93
Restek Corp	Cannabinol	Ampule: 2ml	1/8/93
Restek Corp	Chlordiazepoxide	Ampule: 2ml	1/8/93
Restek Corp	Clobazam	Ampule: 2ml	1/8/93
Restek Corp	Clonazepam	Ampule: 2ml	1/8/93
Restek Corp	Cocaethylene	Ampule: 2ml	1/8/93
Restek Corp	Cocaine	Ampule: 2ml	1/8/93
Restek Corp	Codeine	Ampule: 2ml	1/8/93
Restek Corp	Desmethyl Diazepam	Ampule: 2ml	1/8/93
Restek Corp	Diacetylmorphine	Ampule: 2ml	1/8/93
Restek Corp	Diazepam	Ampule: 2ml	1/8/93
Restek Corp	EPA Exempt Mix #1	Ampule: 1.25ml	3/18/94
Restek Corp	EPA Exempt Mix #2	Ampule: 1.25ml	3/18/94
Restek Corp	EPA Exempt Mix #3	Ampule: 1.25ml	3/18/94
Restek Corp	Ecgonine	Ampule: 2ml	1/8/93
Restek Corp	Ecgonine methyl ester	Ampule: 2ml	1/8/93
Restek Corp	Fenfluramine	Ampule: 2ml	1/8/93
Restek Corp	Fentanyl	Ampule: 2ml	1/8/93
Restek Corp	Flunitrazepam	Ampule: 2ml	1/8/93
Restek Corp	Flurazepam	Ampule: 2ml	1/8/93
Restek Corp	Glutethimide	Ampule: 2ml	1/8/93
Restek Corp	Hexobarbital	Ampule: 2ml	1/8/93
Restek Corp	Hydrocodone	Ampule: 2ml	1/8/93
Restek Corp	Levorphanol	Ampule: 2ml	1/8/93
Restek Corp	Lorazepam	Ampule: 2ml	1/8/93
Restek Corp	Medazepam	Ampule: 2ml	1/8/93
Restek Corp	Meperidine	Ampule: 2ml	1/8/93
Restek Corp	Mephobarbital	Ampule: 2ml	1/8/93
Restek Corp	Meprobamate	Ampule: 2ml	1/8/93
Restek Corp	Methadone	Ampule: 2ml	1/8/93
Restek Corp	Methamphetamine	Ampule: 2ml	1/8/93
Restek Corp	Methohexital	Ampule: 2ml	1/8/93
Restek Corp	Methyprylon	Ampule: 2ml	1/8/93
Restek Corp	Morphine	Ampule: 2ml	1/8/93
Restek Corp	Nitrazepam	Ampule: 2ml	1/8/93
Restek Corp	Oxazepam	Ampule: 2ml	1/8/93
Restek Corp	Oxycodone	Ampule: 2ml	1/8/93
Restek Corp	Pentazocine	Ampule: 2ml	1/8/93
Restek Corp	Pentobarbital	Ampule: 2ml	1/8/93
Restek Corp	Phencyclidine	Ampule: 2ml	1/8/93
Restek Corp	Phendimetrazine	Ampule: 2ml	1/8/93
Restek Corp	Phenmetrazine	Ampule: 2ml	1/8/93
Restek Corp	Phenobarbital	Ampule: 2ml	1/8/93
Restek Corp	Phentermine	Ampule: 2ml	1/8/93
Restek Corp	Prazepam	Ampule: 2ml	1/8/93
Restek Corp	Propoxyphene	Ampule: 2ml	1/8/93
Restek Corp	Secobarbital	Ampule: 2ml	1/8/93

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Restek Corp	Talbutal	Ampule: 2ml	1/8/93
Restek Corp	Temazepam	Ampule: 2ml	1/8/93
Restek Corp	Tetrahydrocannabinol 11-nor delta-9-THC-carboxylic acid	Ampule: 2ml	1/8/93
Restek Corp	Tetrahydrocannabinol delta-9	Ampule: 2ml	1/8/93
Restek Corp	Thebaine	Ampule: 2ml	1/8/93
Restek Corp	Thiamylal	Ampule: 2ml	1/8/93
Restek Corp	Thiopental	Ampule: 2ml	1/8/93
Restek Corp	Triazolam	Ampule: 2ml	1/8/93
Roche Diagnostic Systems, Inc	Abuscreen Calibration Standard for Amphetamine	Kit: 2 Vials	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Calibration Standard for Barbiturate	Kit: 2 Vials	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Calibration Standard for Cannabinoids	Kit: 2 Vials	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Calibration Standard for Cocaine Metabolite	Kit: 2 Vials	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Calibration Standard for LSD (Lysergic Acid Diethylamide).	Kit: 2 Vials	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Calibration Standard for Methamphetamine (High Specificity).	Kit: 2 vials	5/27/92
Roche Diagnostic Systems, Inc	Abuscreen Calibration Standard for Morphine	Kit: 2 Vials	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Calibration Standard for Phencyclidine (PCP)	Kit: 2 Vials	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen ONLINE Benzoylecgonine Microparticle Reagent	Bottle: 4.5L	3/31/94
Roche Diagnostic Systems, Inc	Abuscreen ONLINE Calibration Pack	Kit: 8 vials	5/18/92
Roche Diagnostic Systems, Inc	Abuscreen ONLINE Calibrator Level 3	Pack: 6 vials	5/18/92
Roche Diagnostic Systems, Inc	Abuscreen ONLINE Cannabinoids Microparticle Reagent	Bottle: 4.5L	3/31/94
Roche Diagnostic Systems, Inc	Abuscreen ONLINE Opiates Microparticle Reagent	Bottle: 4.5L	3/31/94
Roche Diagnostic Systems, Inc	Abuscreen ONLINE Positive Control	Pack: 6 vials	5/18/92
Roche Diagnostic Systems, Inc	Abuscreen ONLINE THC Positive Control	Kit: 6 vials; 4ml/vial	3/22/93
Roche Diagnostic Systems, Inc	Abuscreen ONLINE for Cocaine Metabolite	Kit: 100, 1000, 8000 Tests	3/19/91
Roche Diagnostic Systems, Inc	Abuscreen ONLINE for Opiates	Kit: 100, 1000, 8000 Tests	3/19/91
Roche Diagnostic Systems, Inc	Abuscreen ONLINE for THC	Vial: 100, 1000, 8000 Tests	3/19/91
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK Amphetamine	Kit: 50 tests, 100 tests	3/14/88
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK Amphetamine Positive Control	Vial: 4 ml	3/14/88
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK Barbiturate	Kit: 50 tests, 100 tests	3/14/88
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK Barbiturates Positive Control	Vial: 4 ml	3/14/88
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK Benzodiazepines	Kit: 50 Tests, 100 Tests	5/3/91
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK Cocaine Metabolite	Kit: 50 tests, 100 tests	3/14/88
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK Cocaine Metabolite Positive Control	Vial: 4 ml	3/14/88
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK Methadone	Kits: 50, 100 Tests	9/8/93
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK Morphine	Kits: 50 tests, 100 tests	3/14/88
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK Morphine Positive Control	Vial: 4 ml	3/14/88
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK Multianalyte Positive Control	Kit: 1 Vial, 8ml	9/18/95
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK Phencyclidine (PCP)	Kit: 50 tests, 100 tests	11/22/89
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK Phencyclidine (PCP) Positive Control	Vial: 4 ml	11/22/89
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK THC (100ng/ml)	Kit: 50 tests, 100 tests	3/14/88
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK THC (50ng/ml)	Kit: 50 Tests, 100 Tests	5/3/91
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK THC Positive Control	Vial: 4 ML	3/14/88
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK for Benzodiazepines Positive Control	Vial: 4ml	3/22/93
Roche Diagnostic Systems, Inc	Abuscreen Radioimmunoassay for Amphetamine High Specificity.	Kit: 100 tests, 2500 tests	9/13/85
Roche Diagnostic Systems, Inc	Abuscreen Radioimmunoassay for Barbiturates	Kit: 100 tests, 2500 tests	2/15/83
Roche Diagnostic Systems, Inc	Abuscreen Radioimmunoassay for Benzodiazepines	Kit: 100 tests, 2500 tests	3/5/87
Roche Diagnostic Systems, Inc	Abuscreen Radioimmunoassay for Cannabinoids	Kit: 100 Tests 2, 500 Tests	8/14/81
Roche Diagnostic Systems, Inc	Abuscreen Radioimmunoassay for Cocaine Metabolite	Kit: 100 Tests, 2500 Tests	2/15/83
Roche Diagnostic Systems, Inc	Abuscreen Radioimmunoassay for LSD (Lysergic Acid Diethylamide).	Kit: 100 tests, 2500 tests	1/28/86
Roche Diagnostic Systems, Inc	Abuscreen Radioimmunoassay for Methamphetamine High Specificity.	Kit: 100 tests, 2500 tests	3/1/89
Roche Diagnostic Systems, Inc	Abuscreen Radioimmunoassay for Methaqualone	Kit: 100 tests, 2500 tests	2/15/83
Roche Diagnostic Systems, Inc	Abuscreen Radioimmunoassay for Morphine	Kit: 100 tests, 2500 tests	2/15/83
Roche Diagnostic Systems, Inc	Abuscreen Radioimmunoassay for Phencyclidine (PCP)	Kit: 100 tests, 2500 tests	2/15/83
Roche Diagnostic Systems, Inc	Abuscreen Reference Controls and Calibrator for Amphetamine.	Kit: 3 Vials, 100ml each	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Reference Controls and Calibrator for Barbiturate	Kit: 3 Vials, 100ml each	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Reference Controls and Calibrator for Cannabinoids.	Kit: 3 Vials, 100ml each	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Reference Controls and Calibrator for Cocaine Metabolite.	Kit: 3 Vials, 100ml each	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Reference Controls and Calibrator for LSD (Lysergic Acid Diethylamide).	Kit: 3 Vials, 100ml each	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Reference Controls and Calibrator for Methamphetamine (High Specificity).	Kit: 3 vials, 100ml each	5/27/92
Roche Diagnostic Systems, Inc	Abuscreen Reference Controls and Calibrator for Morphine	Kit: 3 Vials, 100ml each	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Reference Controls and Calibrator for Phencyclidine (PCP).	Kit: 3 Vials, 100ml each	10/12/87

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Roche Diagnostic Systems, Inc	Abuscreenm ONTRAK Methadone Positive Reference Control	Vial: 4ml	9/08/93
Roche Diagnostic Systems, Inc	CAL PACK Abuscreen ONLINE THC Calibration Pack	Kit: 4 vials	9/11/91
Roche Diagnostic Systems, Inc	COBAS FP Phenobarbital Calibrators	Kit: 6 Vials	11/13/84
Roche Diagnostic Systems, Inc	COBAS FP Reagents for Phenobarbital	Kit: 100 tests	11/13/84
Roche Diagnostic Systems, Inc	COBAS FP TDM Controls	Kit: 6 Vials	11/13/84
Roche Diagnostic Systems, Inc	COBAS INTEGRA Cassette for Cannabinoids	Kit: 3 Vials	9/27/95
Roche Diagnostic Systems, Inc	COBAS INTEGRA Cassette for Cocaine Metabolite	Kit: 3 Vials	9/27/95
Roche Diagnostic Systems, Inc	COBAS INTEGRA Cassette for Opiates	Kit: 3 Vials	9/27/95
Roche Diagnostic Systems, Inc	Immunizing Preparation No. 1, 2, 3, 4, 5, 6, 7, or 8	Vial: 10, 20, 50, or 100ml	1/25/83
Roche Diagnostic Systems, Inc	Immunizing Preparation No. 9	Vial: 10ml, 20ml, 50ml, or 100ml.	7/24/84
Roche Diagnostic Systems, Inc	Immunizing Preparation No. 9A	Vial: 10ml, 20ml, 50ml, or 100ml.	7/24/84
Roche Diagnostic Systems, Inc	Immunizing Preparation No.10	Vial: 10ml, 20ml, 50ml, or 100ml.	4/2/86
Roche Diagnostic Systems, Inc	Immunizing Preparation No.10A	Vial: 10ml, 20ml, 50ml, or 100ml.	4/2/86
Roche Diagnostic Systems, Inc	Immunizing Preparations No. 1A, 2A, 3A, 4A, 5A, 6A, 7A, or 8A.	Vial: 10ml, 20ml, 50ml, or 100ml.	7/12/83
Roche Diagnostic Systems, Inc	OnTrak TesTcup Positive Control	Box: 6 Vials	9/25/95
Rowley Biochemical Institute, Inc.	Aldehyde Fuchsin Solution	Bottle: Pint, Quart, Gallon	2/2/84
Rowley Biochemical Institute, Inc.	Aldehyde Thionin Solution	Bottle: Pint, Quart, Gallon	2/2/84
Rowley Biochemical Institute, Inc.	Mayer's Hematoxylin Solution	Bottle: Pint, Quart, Gallon	2/2/84
Schering Corp	Hepaquik	Vial: 9 Dram and Plate	7/16/72
Serex Inc	Benzoylecgonine Positive Control	Bottle: 1 ml	12/16/89
Serex Inc	Benzoylecgonine Standards	Bottle: 1 ml	12/16/89
Serex Inc	CoMA EIA for Cocaine Metabolite	Kit: 96 tests, 2 Bottles: 5 ml ea., Assay Plate: 96 wells.	10/17/89
Serex Inc	Cocaine Metabolite Standards and Controls Kit	Kit: 3 bottles—100 Assays	12/16/89
Serex, Inc	Automates CoMA Cocaine Metabolite Assay	Kit: 3 Bottles; 50, 1000 Tests	7/22/92
Serex, Inc	Automates CoMA Cocaine Metabolite Assay Reagent B	Bottle: 12,5ml, 50ml	7/22/92
Serex, Inc	Automates CoMA High Calibrator	Vial: 5ml	7/22/92
Serex, Inc	Automates CoMA Plus Cocaine Metabolite Assay	Kit: 3 Bottles; 50, 1000 Tests	7/22/92
Serex, Inc	Automates CoMA Low Calibrator	Vial: 5ml	7/22/92
Serex, Inc	Automates CoMA Plus Cocaine Metabolite Assay Reagent B	Bottle: 12, 5ml, 50ml	7/22/92
Serono Diagnostics, Inc	rT3 Barbital Buffer	Glass Vial: 120ml	10/26/84
Serono Diagnostics, Inc	rT3-125I	Glass Vial: 13ml	10/26/84
Serono Diagnostics, Inc	rT3-Antiserum	Glass Vial: 13ml	10/26/84
Sherwood Medical Company	Lancer Fibrinogen Determination, Reagent Kit Catalog No. 8889-007608.	Kit	4/17/75
Sigma Chemical Co	(+)Deoxyephedrine-d5 HCl #D-5914	Ampule: 2ml	8/28/90
Sigma Chemical Co	(+/−)-(2 Methylamino)propiophenone Hydrochloride	Ampule: 1ml	7/30/92
Sigma Chemical Co	(+/−) 2, 5-Dimethoxy-4-bromo-amphetamine Hydrobromide, D-7633.	Ampule: 2ml	9/25/91
Sigma Chemical Co	(+/−) 2, 5-Dimethoxy-4-methyl-amphetamine HCl, D-7883	Ampule: 2ml	9/25/91
Sigma Chemical Co	(+/−) Deoxyephedrine HCl, D-7508	Ampule: 2ml	9/25/91
Sigma Chemical Co	(−) Deoxyephedrine, D-7258	Ampule: 2ml	9/25/91
Sigma Chemical Co	1-Dehydrotestosterone, Product #D5791	Ampule: 2ml	1/30/92
Sigma Chemical Co	1-Tetrahydrocannabinol, Product No. T4764	Vial: 1ml	5/11/81
Sigma Chemical Co	11-Hydroxy-delta 9 Tetrahydrocannabinol Cat. No. H3879	Ampule: 2ml	11/6/91
Sigma Chemical Co	11-nor-delta-9-Tetrahyrocannabinol, 9-carboxylic .05 mg/ml acid, No. N-5642.	Glass Ampule: 2 ml	8/29/89
Sigma Chemical Co	11-nor-delta-9THC-9-Carboxylic Acid #N-6893	Ampule: 2ml	8/28/90
Sigma Chemical Co	11Beta-Hydroxytestosterone, H-4646	Vial: 2ml	2/04/94
Sigma Chemical Co	17alpha-Methyltestosterone, Product #M8783	Ampule: 2ml	1/30/92
Sigma Chemical Co	19-Nortesterone 17-Phenylpropionate, N 2771	Ampule: 1ml	7/30/92
Sigma Chemical Co	19-Nortesterone 17-Propionate, N 2896	Ampule: 1ml	7/30/92
Sigma Chemical Co	19-Nortestosterone 17-Decanoate, N 3021	Ampule: 1ml	7/30/92
Sigma Chemical Co	19-Nortestosterone, Product #N1269	Ampule: 2ml	1/30/92
Sigma Chemical Co	3,4 Methylenedioxymethamphetamine 1 mg/ml, No. M-5029	Glass Ampule: 2 ml	8/29/89
Sigma Chemical Co	3,4-Methylenedioxyamphetamine, No. M-3272	Glass Ampule: 2ml	6/6/89
Sigma Chemical Co	3-Methylfentanyl HCl, M-6255	Ampule: 2ml	9/25/91
Sigma Chemical Co	5,5-Diallylbarbituric Acid, Product No. D-6013	Sealed Ampule: 1ml	6/30/77
Sigma Chemical Co	5-Alpha-Androstan-17beta-ol-3-one Benzoate, A 9768	Ampule: 1ml	7/30/92
Sigma Chemical Co	5-Androstene-3Beta, 17Beta-Diol, Product #A0684	Ampule: 2ml	1/30/92
Sigma Chemical Co	6-Tetrahydrocannabinol, Product No. T-4889	Vial: 1ml	5/11/81
Sigma Chemical Co	AST Reagent A, Stock No. 56–2	Vial: 10ml	6/27/79
Sigma Chemical Co	Acid Hematoxylin Solution, No. 285–2	Bulk: 1000L	5/04/93
Sigma Chemical Co	Acid Hematoxylin Solution, No.285–2	Bottle: 25ml, 100ml	8/6/73

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Sigma Chemical Co	Adenosine Phosphate Substrate, Product No. 675–1	Bottle: 4 ounce	7/25/83
Sigma Chemical Co	Allylcyclopentylbarbituric Acid (A–7787)	Sealed Ampule: 1ml	4/10/85
Sigma Chemical Co	Allylisobutylbarbituric Acid (A–1038)	Sealed Ampule: 1ml	4/10/85
Sigma Chemical Co	Alpha-Ethyltryptamine Acetate, Product #E1392	Vial: 2ml	2/4/94
Sigma Chemical Co	Alphaprodine Hydrochloride (A–1537)	Ampule: 1ml	8/27/84
Sigma Chemical Co	Alphenal (A–1163)	Ampule: 1ml	4/10/85
Sigma Chemical Co	Alprazolam .25 mg/ml, No. A–5052	Glass Ampule: 2 ml	6/29/89
Sigma Chemical Co	Alprazolam-d5 #A–7055	Ampule: 2ml	8/28/90
Sigma Chemical Co	Ammonia Reagent , Stock No. 170–10	Vial: 10ml	2/17/77
Sigma Chemical Co	Ammonia Reagent Kit: Stock No. 170–10	Kit: 10 Vials	2/17/77
Sigma Chemical Co	Ammonia Reagent Stock No. 170–10	Vial: 30ml	12/13/77
Sigma Chemical Co	Ammonia in Plasma Kit	Kit: 100 tests, 30 tests	12/13/77
Sigma Chemical Co	Amobarbital , Product No. A–5142	Sealed Ampule: 1ml	6/30/77
Sigma Chemical Co	Amobarbital Sodium Salt, Product No. A–7441	Ampule: 1ml	5/13/93
Sigma Chemical Co	Antibody Sensitized Sheep Erythrocytes (EA7S)	Vials: 2ml and 5X 2ml	4/2/86
Sigma Chemical Co	Aprobarbital, Product No. A–7023	Sealed Ampule: 1ml	6/30/77
Sigma Chemical Co	Barbital Buffer, Product No. B–6632	Polyethylene Vial: 30ml	5/11/77
Sigma Chemical Co	Barbital Buffer 5X Concentrate Electrophoresis Reagent Cat. No. B–3506.	Bottle: 200ml	11/14/91
Sigma Chemical Co	Barbital Buffer with Albumin Stock No. 880–3	Vial: 20ml	7/11/80
Sigma Chemical Co	Barbital, Product No. B–8632	Sealed Ampule: 1ml	6/30/77
Sigma Chemical Co	Benzoylecgonine 1 mg/ml, No. B–8900	Glass Ampule: 2 ml	6/29/89
Sigma Chemical Co	Benzoylecgonine-d3 #B–3277	Ampule: 2ml	8/28/90
Sigma Chemical Co	Benzphetamine Hydrochloride, Product No. B–8765	Sealed Ampule: 1ml	6/8/84
Sigma Chemical Co	Bolasterone, Product #B3404	Ampule: 1ml	1/30/92
Sigma Chemical Co	Bromazepam #B–5402	Ampule: 2ml	8/28/90
Sigma Chemical Co	Bufotenine Monooxalate, Product No. B–8757	Sealed Ampule: 1ml	6/30/77
Sigma Chemical Co	Buprenorphine Hydrochloride	Vial: 2ml	9/12/94
Sigma Chemical Co	Butabarbital , Product No. B–8882	Sealed Ampule: 1ml	6/30/77
Sigma Chemical Co	Butalbital, Product No. B–5514	Sealed Ampule: 1ml	9/19/83
Sigma Chemical Co	Butethal (B–7516)	Ampule: 1ml	9/5/85
Sigma Chemical Co	Cannabidiol, Product No. C–6395	Vial: 1ml	5/11/81
Sigma Chemical Co	Cannabinol, Product No. C–6520	Vial: 1ml	5/11/81
Sigma Chemical Co	Chloral Hydrate , Product No. C–6516	Sealed Ampule: 1ml	6/30/77
Sigma Chemical Co	Chloral Hydrate, Product #C9954	Ampule: 1ml	5/10/95
Sigma Chemical Co	Chlorazepam Dipotassium Salt, (C–9531)	Ampule: 1ml	5/24/85
Sigma Chemical Co	Chlordiazepoxide (C–4782)	Ampule: 1ml	9/5/85
Sigma Chemical Co	Chlordiazepoxide Hydrochloride Acetonitrile Drug Standard #C–9547.	Ampule: 2ml	6/26/90
Sigma Chemical Co	Chlordiazepoxide-d5 #C–5047	Ampule: 2ml	8/28/90
Sigma Chemical Co	Clobazam, No. C–6667	Glass Ampule: 2ml	6/6/89
Sigma Chemical Co	Clonazepam, Product No. C–4404	Sealed Ampule: 1ml	6/8/84
Sigma Chemical Co	Cocaethylene, #C–8205	Ampule: 1ml	10/9/95
Sigma Chemical Co	Cocaethylene, C–7313	Vial: 2ml	2/4/94
Sigma Chemical Co	Cocaethylene-D5, #C–7073	Ampule: 1ml	10/9/95
Sigma Chemical Co	Cocaine Hydrochloride Product No. C–1528	Sealed Ampule: 1ml	9/19/83
Sigma Chemical Co	Cocaine-d3 #C–3547	Ampule: 2ml	8/28/90
Sigma Chemical Co	Codeine-d3 HCl #C–3672	Ampule: 2ml	8/28/90
Sigma Chemical Co	Codeine, Product No. C–1653	Sealed Ampule: 1ml	9/19/83
Sigma Chemical Co	D-Amphetamine Sulfate, Product No. A–3278	Vial: 1ml	5/11/81
Sigma Chemical Co	D-Propoxyphene Hydrochloride, P–1550	Ampule: 1ml	9/27/84
Sigma Chemical Co	DL-Amphetamine HCL , Product No. A–5017	Sealed Ampule: 1ml	6/30/77
Sigma Chemical Co	Delorazepam #D–5789	Ampule: 2ml	8/28/90
Sigma Chemical Co	Desmethyldiazepam 1 mg/ml, No. D–3162	Glass Ampule: 2 ml	6/29/89
Sigma Chemical Co	Desmethyldiazepam-d5 #D–6039	Ampule: 2ml	8/28/90
Sigma Chemical Co	Diazepam, Product No. D–9900	Sealed Ampule: 1ml	6/8/84
Sigma Chemical Co	Diazepam-d5 #D–5664	Ampule: 2ml	8/28/90
Sigma Chemical Co	Diethylpropion Hydrochloride, Product No. D–7274	Sealed Ampule: 1ml	9/19/83
Sigma Chemical Co	Diphenoxylate HCL, Product #D0780	Ampule: 1ml	9/5/85
Sigma Chemical Co	Drug Standard Mix 1, D–3155	Ampule: 2ml	4/18/86
Sigma Chemical Co	Drug Standard Mix 2, D–3030	Ampule: 2ml	4/18/86
Sigma Chemical Co	Ecgonine Hydrochloride 1 mg/ml, No. E–9762	Glass Ampule: 2 ml	6/29/89
Sigma Chemical Co	Ecgonine-d3 HCl #E–2014	Ampule: 2ml	8/28/90
Sigma Chemical Co	Ecgonine-d3 Methyl Ester HCl #E–2139	Ampule: 2ml	8/28/90
Sigma Chemical Co	Estazolam #E–1139	Ampule: 2ml	8/28/90
Sigma Chemical Co	Ethinamate (E–8508)	Ampule: 1ml	4/10/85
Sigma Chemical Co	Ethylmorphine, E–3377	Ampule: 2ml	9/25/91
Sigma Chemical Co	Fencamfamine Hydrochloride	Vial: 2ml	9/12/94
Sigma Chemical Co	Fenfluramine Hydrochloride, Product No. F–1884	Sealed Ampule: 1ml	9/19/83
Sigma Chemical Co	Fenproporex Hydrochloride, No. F–7261	Glass Ampule: 2ml	6/6/89
Sigma Chemical Co	Fentanyl Citrate, No. F–5886	Glass Ampule: 2 ml	6/6/89
Sigma Chemical Co	Fentanyl-d5 Citrate #F–2520	Ampule: 2ml	8/28/90

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Sigma Chemical Co	Flunitrazepam No. F–8763	Vial: 1 ml	6/30/87
Sigma Chemical Co	Fluoxymesterone, Product #F6891	Ampule: 2ml	1/30/92
Sigma Chemical Co	Flurazepam Dihydrochloride Product #F9134	Vial: 1 ml	10/20/89
Sigma Chemical Co	Gelatin Veronal Buffer (GVB2+) No. G–6514	Vial: 50 ml, 250ml	9/15/86
Sigma Chemical Co	Glutethimide, Product No. G–3134	Sealed Ampule: 1 ml	6/30/77
Sigma Chemical Co	Glycerophosphate Substrate, Product No. 675–2	Bottle: 4 ounce	7/25/83
Sigma Chemical Co	Heroin Hydrochloride .1 mg/ml, No. H–5144	Glass Ampule: 2 ml	6/29/89
Sigma Chemical Co	Hexobarbital, Product No. H–2007	Sealed Ampule: 1 ml	6/30/77
Sigma Chemical Co	Hydrocodone Bitartrate, No. H–2269	Glass Ampule: 2 ml	6/6/89
Sigma Chemical Co	Hydromorphone Hydrochloride No. H–7141	Vial: 1 ml	6/30/87
Sigma Chemical Co	Hydroxytestosterone, Product #H9901	Vial: 0.5 ml	5/10/95
Sigma Chemical Co	Ibogaine HCL, Product No. I–4630	Sealed Ampule: 1 ml	6/30/77
Sigma Chemical Co	LDH Electrophoresis Buffer, Stock No. 705–1	Bottle: 30 ml	1/4/77
Sigma Chemical Co	LDH–P Reagent No. 125–100	Vial: 100 ml	5/29/73
Sigma Chemical Co	Levorphanol Tartrate 1 mg/ml, No. L–0896	Glass Ampule: 2 ml	6/29/89
Sigma Chemical Co	Lorazepam (L–0140)	Ampule: 1 ml	5/24/85
Sigma Chemical Co	Lormetazepam, No. 8145	Glass Ampule: 2 ml	6/6/89
Sigma Chemical Co	Lysergic Acid , Product No. L–5881	Sealed Ampule: 1 ml	6/30/77
Sigma Chemical Co	Lysergic Acid Diethylamide #L–8147	Ampule: 2 ml	8/28/90
Sigma Chemical Co	Lysergic Acid Diethylamide, Drug Standard No. L–5406	Ampule: 1 ml	8/17/94
Sigma Chemical Co	Mayer's Hematoxylin Solution, MHS–1, MHS–16, MHS–32, MHS–80, MHS–128.	Bottle: 3 ml, 6 ml, 25 ml, 100 ml, 225 ml, 500 ml, 1.0L, 2.5L, 4.0L.	8/5/73
Sigma Chemical Co	Mayer's Hematoxylin Solution, No. MHS–1	Bulk: 1000L	5/4/93
Sigma Chemical Co	Mebutamate (M–3772)	Ampule: 1 ml	9/5/85
Sigma Chemical Co	Medazepam (M–7646)	Ampule: 1 ml	5/24/85
Sigma Chemical Co	Meperidine Hydrochloride (M–1020)	Ampule: 1 ml	8/27/84
Sigma Chemical Co	Mephobarbital, Product No. M–3514	Vial: 1 ml	5/11/81
Sigma Chemical Co	Meprobamate (M–0271)	Ampule: 1 ml	5/24/85
Sigma Chemical Co	Mescaline HC1 , Product No. M–5153	Sealed Ampule: 1 ml	6/30/77
Sigma Chemical Co	Mesterolone, Product #M8283	Ampule: 2 ml	1/30/92
Sigma Chemical Co	Methadone Hydrochloride, Product No. M–3268	Sealed Ampule: 1 ml	9/19/83
Sigma Chemical Co	Methadone-d3 #M–4781	Ampule: 2 ml	8/28/90
Sigma Chemical Co	Methamphetamine HC1 , Product No. M–5260	Sealed Ampule: 1 ml	6/30/77
Sigma Chemical Co	Methandrostenolone, Product #M6910	Ampule: 2 ml	1/30/92
Sigma Chemical Co	Methaqualone Hydrochloride, Product No. M–3393	Sealed Ampule: 1 ml	9/19/83
Sigma Chemical Co	Methaqualone-d4 #M–5406	Ampule: 2 ml	8/28/90
Sigma Chemical Co	Methylphenidate Hydrochloride (M–1145)	Ampule: 1 ml	10/31/84
Sigma Chemical Co	Methyprylon, Product No. M–1769	Sealed Ampule: 1 ml	6/8/84
Sigma Chemical Co	Morphine Sulfate, No. M–9524	Glass Ampule: 2 ml	6/6/89
Sigma Chemical Co	Morphine-3-B-D Glucuronide, Product No. M–4266	Ampule: 1 ml	10/21/82
Sigma Chemical Co	Morphine-d3 HCl, M–6380	Ampule: 2 ml	9/25/91
Sigma Chemical Co	N, N-Diethyltryptamine, Product No. D–0392	Vial: 1 ml	5/11/81
Sigma Chemical Co	N, N-Dimethyltryptamine, Product No. D–6263	Sealed Ampule: 1 ml	6/30/77
Sigma Chemical Co	Nalorphine Hydrochloride	Ampule: 1 ml	8/27/84
Sigma Chemical Co	Nitrazepam, N–3397	Ampule: 1 ml	9/8/93
Sigma Chemical Co	Norcodeine Hydrochloride, No. N–3017	Glass Ampule: 2 ml	6/6/89
Sigma Chemical Co	Normorphine HCl #N–7393	Ampule: 2 ml	8/28/90
Sigma Chemical Co	Noroxymorphone #N–7018	Ampule: 2 ml	8/28/90
Sigma Chemical Co	Owren's Buffer, No. 05880	Bottle: 500 ml; Vial: 20 ml; Box: 5vials.	4/5/89
Sigma Chemical Co	Oxazepam, No. O–1755	Vial: 1 ml	6/30/87
Sigma Chemical Co	Oxazepam-d5 #O–1381	Ampule: 2 ml	8/28/90
Sigma Chemical Co	Oxazolam, No. O–8005	Glass Ampule: 2 ml	6/6/89
Sigma Chemical Co	Oxycodone Hydrochloride, Product No. O–2628	Sealed Ampule: 1 ml	9/19/83
Sigma Chemical Co	Oxymetholone, Product #O4006	Ampule: 2 ml	1/30/92
Sigma Chemical Co	Paraldehyde, Product No. P–3778	Ampule: 1 ml	10/21/82
Sigma Chemical Co	Pemoline, Product No. P–3518	Sealed Ampule: 1 ml	6/30/77
Sigma Chemical Co	Pentazocine Hydrochloride, Product No. P–7530	Sealed Ampule: 1 ml	9/19/83
Sigma Chemical Co	Pentobarbital, Product No. P–3393	Sealed Ampule: 1ml	6/30/77
Sigma Chemical Co	Phencyclidine HCL, Product #P7043	Vial: 1 ml	6/30/87
Sigma Chemical Co	Phencyclidine-d5 HCl #P–6054	Ampule: 2ml	8/28/90
Sigma Chemical Co	Phendimetrazine Bitartrate, Product #P3524	Vial: 1ml	5/11/81
Sigma Chemical Co	Phenobarbital FPIA Calibrator Set Cat. No. P9051	Kit: 6 vials	11/21/89
Sigma Chemical Co	Phenobarbital FPIA Calibrator: A-No.P8301, B-No.P8426, C-No.P8551, D-No.P8676, E-No.P8801, F-No.P8926.	Vial: 2.5 ml	11/21/89
Sigma Chemical Co	Phenobarbital Primary Stock Solution No. Z–5419	Bottle: 10, 5, 1L, 500, 100ml	2/1/91
Sigma Chemical Co	Phenobarbital Prod. No.P–3643	Sealed Ampule: 1ml	6/30/77
Sigma Chemical Co	Phentermine Hydrochloride, Product No. P–7655	Sealed Ampule: 1ml	9/19/83
Sigma Chemical Co	Phenylacetone, Product #P3958	Ampule: 1ml	5/10/95
Sigma Chemical Co	Phenylacetone, Product No. P–2024	Vial: 1ml	5/11/81
Sigma Chemical Co	Prazepam, No. P–7168	Vial: 1 ml	6/30/87

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Sigma Chemical Co	Psilocin #P–4054	Ampule: 2ml	8/28/90
Sigma Chemical Co	SIA Cocaine Metabolites	Kit: 96 Tests	7/11/91
Sigma Chemical Co	SIA Conjugate Cocaine Metabolites	Bottle: 75ml	7/11/91
Sigma Chemical Co	SIA Positive Reference Cocaine Metabolites	Vial: 1ml	7/11/91
Sigma Chemical Co	Secobarbital, Product No. S–4006	Sealed Ampule: 1ml	6/30/77
Sigma Chemical Co	Secobarbital-d5, S–4628	Ampule: 2ml	9/25/91
Sigma Chemical Co	Stanozolol, Product #S7649	Ampule: 2ml	1/30/92
Sigma Chemical Co	Stanozolol-d3, Product #S7774	Ampule: 2ml	1/30/92
Sigma Chemical Co	Temazepam, No. T–4903	Vial: 1 ml	6/30/87
Sigma Chemical Co	Tenocyclidine HCl, T–3507	Ampule: 2ml	9/25/91
Sigma Chemical Co	Testosterone 17beta-Cypionate, T 3415	Ampule: 1ml	7/30/92
Sigma Chemical Co	Testosterone Acetate, Product #T5661	Ampule: 2ml	1/30/92
Sigma Chemical Co	Testosterone Benzoate, Product #T1913	Ampule: 2ml	1/30/92
Sigma Chemical Co	Testosterone Enanthate, T 3540	Ampule: 1ml	7/30/92
Sigma Chemical Co	Testosterone Propionate, T 3665	Ampule: 1ml	7/30/92
Sigma Chemical Co	Testosterone, Product #T5411	Ampule: 2ml	1/30/92
Sigma Chemical Co	Testosterone-d3, Product #T5536	Ampule: 2ml	1/30/92
Sigma Chemical Co	Thebaine, Product No. T–5270	Sealed Ampule: 1ml	9/19/83
Sigma Chemical Co	Thiamylal Sodium, Product No. T–6896	Sealed Ampule: 1ml	6/8/84
Sigma Chemical Co	Thiopental (T–1022)	Ampule: 1ml	8/27/84
Sigma Chemical Co	Triazolam #T–7658	Ampule: 2ml	8/28/90
Sigma Chemical Co	Trizma-Barbital Buffer, Stock No. 710–1	Bottle: 30ml	1/4/77
Sigma Chemical Co	Tropacocaine HCL, Product #T4576	Vial: 1ml	5/11/81
Sigma Chemical Co	Z9999, Field Test Sample PSEUDOnarcotics Marihuana Formulation.	Vial: 400ml	3/14/91
Sigma Chemical Co	d-Amphetamine-d3 Sulfate #A–7180	Ampule: 2ml	8/28/90
Sigma Chemical Co	d-Lysergic Acid Cat. No. L–9752	Ampule: 2ml	11/6/91
Sigma Chemical Co	d-Propoxyphene-d7 HCl #P–4179	Ampule: 2ml	8/28/90
Sigma Chemical Co	delta-9-tetrahydrocannabinol-d3 #T–8783	Ampule: 2ml	8/28/90
Sigma Chemical Co	dl-Amphetamine, A–2262	Ampule: 2ml	9/25/91
Sigma Chemical Co	l-Amphetamine, A–9136	Ampule: 2ml	9/25/91
Sigma Chemical Co	p-Methoxyamphetamine HCl #M–4656	Ampule: 2ml	8/28/90
Sigma Diagnostics	Amelung Systems Buffer	Box: 6 Vials; Bottle: 25ml	2/8/96
Sigma Diagnostics	CA System Buffer	Bottle: 500ml	9/9/93
Smart Chemical Co	Regal 180XL	Plastic Drum: 55 gallon	5/12/86
SmithKline Beecham	Benzo/PCP QC	Bottle: 10ml	7/31/95
SmithKline Beecham	GC/MS 1	Bottle: 50ml	7/31/95
SmithKline Beecham	NIDA LODQC	Bottle: 50ml	7/31/95
SmithKline Beecham	SAP LODQC	Bottle: 50ml	7/31/95
SmithKline Beecham	SB50N	Bottle: 10, 25, 50ml	7/31/95
SmithKline Beecham	SB50P	Bottle: 10, 25, 50ml	7/31/95
SmithKline Beecham	Urine Drug Standards Pool A, B, C, D, E, F, G	Bottle: 25ml	7/31/95
SolarCare Technology Corporation.	Benzoylecgonine Cutoff Calibrator	Vial: 4ml	6/5/90
SolarCare Technology Corporation.	Benzoylecgonine Negative Control	Vial: 4ml	6/5/90
SolarCare Technology Corporation.	Benzoylecgonine Positive Control	Vial: 4ml	6/5/90
SolarCare Technology Corporation.	Cocaine Cutoff Calibrator	Vial: 4ml	6/5/90
SolarCare Technology Corporation.	Cocaine EIA	Kit: 3 vials	6/5/90
SolarCare Technology Corporation.	Cocaine Metabolite EIA	Kit: 30 vials	6/5/90
SolarCare Technology Corporation.	Cocaine Negative Control	Vial: 4ml	6/5/90
SolarCare Technology Corporation.	Cocaine Positive Control	Vial: 4ml	6/5/90
SolarCare Technology Corporation.	LSD Cutoff Calibrator	Vial: 4ml	6/5/90
SolarCare Technology Corporation.	LSD EIA	Kit: 3 vials	6/5/90
SolarCare Technology Corporation.	LSD Negative Control	Vial: 4ml	6/5/90
SolarCare Technology Corporation.	LSD Positive Control	Vial: 4ml	6/5/90
SolarCare Technology Corporation.	Low Level Benzodiazepine (Triazolam) EIA	Kit: 3 vials	6/5/90
SolarCare Technology Corporation.	Triazolam Cutoff Control	Vial: 4ml	6/5/90
SolarCare Technology Corporation.	Triazolam Negative Control	Vial: 4ml	6/5/90

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
SolarCare Technology Corporation.	Triazolam Positive Control	Vial: 4ml	6/5/90
Supelco, Inc	Gamma-DEX Programmed Column Test Mix	Ampule: 1ml	9/15/95
Supelco, Inc	Alk Mix No. 04–9210	Vial: 1ml	8/28/73
Supelco, Inc	Amobarbital, No. 04–9170	Ampule: 1ml	12/22/72
Supelco, Inc	Amph. Mix Catalog No. 4–9205	Glass Ampule: 2ml	6/9/86
Supelco, Inc	Amphetamine No. 04–9165	Ampule: 1ml	12/22/72
Supelco, Inc	Anticonvulsant Mixture No. 1; No. 04–9202	Glass Serum Bottle: 50ml	6/16/77
Supelco, Inc	Antiepileptic Calibration Standard Kit, No. 4–9259	Kit: 3 Ampules	5/21/80
Supelco, Inc	Antiepileptic Calibration Standards, Nos. 4–9256, 4–9257, 4–9258.	Glass Ampule: 5ml	5/21/80
Supelco, Inc	Appendix IX Contract Mix 3	Ampule: 2ml	12/22/94
Supelco, Inc	Aprobarbital No. 04–9171	Ampule: 1ml	12/22/72
Supelco, Inc	Barb. Mix 1, Catalog No. 4–9200	Glass Ampule: 2ml	6/9/86
Supelco, Inc	Barb. Mix 2, Catalog No. 4–9201	Glass Ampule: 2ml	6/9/86
Supelco, Inc	Barbital, Catalog No. 4–9279	Glass Ampule: 10ml	6/9/86
Supelco, Inc	Barbiturates Test Mix Catalog No. 4–9295	Ampule: 2 ml	2/25/87
Supelco, Inc	Cannabidiol, No. 04–9221	Ampule: 1ml	11/27/74
Supelco, Inc	Cannabinol, No. 04–9235	Ampule: 1ml	11/27/74
Supelco, Inc	Chloral Hydrate Kit, Product # 4–8112	Kit: 19 Vials; 2ml each	9/6/94
Supelco, Inc	Chloral Hydrate, Product # 4–7335	Ampule: 2ml	9/15/95
Supelco, Inc	Cocaine, No. 04–9188	1000 mcg /Glass Ampule	6/5/75
Supelco, Inc	Codeine No. 04–9161	Ampule: 1ml	12/22/72
Supelco, Inc	Custom Appendix IX Mix-3, Product # 86–8043	Ampule: 10ml	4/6/95
Supelco, Inc	Cyclobarbital No. 04–9175	Ampule: 1ml	12/22/72
Supelco, Inc	Delta-1 THC, No. 04–9237	Ampule: 1ml	11/27/74
Supelco, Inc	Delta-6 THC, No. 04–9238	Ampule: 1ml	11/27/74
Supelco, Inc	Dextroamphetamine, No. 4–9185	Glass Ampule: 1ml	5/21/80
Supelco, Inc	EPA 8270 Base/Neutrals Mix B, Product # 4–8195	Vial: 2ml	8/31/94
Supelco, Inc	Glutethimide No. 04–9173	Ampule: 1ml	12/22/72
Supelco, Inc	Heroin No. 04–9162	Ampule: 1ml	12/22/72
Supelco, Inc	Hexobarbital No. 04–9177	Ampule: 1ml	12/22/72
Supelco, Inc	Mephobarbital No. 04–9178	Ampule: 1ml	12/22/72
Supelco, Inc	Meprobamate, No. 4–9184	Glass Ampule: 1ml	5/21/80
Supelco, Inc	Methadone No. 04–9163	Ampule: 1ml	12/22/72
Supelco, Inc	Methamphetamine No. 04–9168	Ampule: 1ml	12/22/72
Supelco, Inc	Methaqualone, No. 04–9183	1000 mcg /Glass Ampule	6/5/75
Supelco, Inc	Morphine No. 04–9160	Glass Ampule: 1000mcg	3/8/78
Supelco, Inc	NET Appendix IX Mix-3, Product # 86–8–58	Ampule: 2ml	5/3/95
Supelco, Inc	Pentobarbital No. 04–9179	Glass Ampule: 1000mcg	3/8/78
Supelco, Inc	Phenobarbital No. 04–9181	Glass Ampule: 1000mcg	3/8/78
Supelco, Inc	Psilocybin, No. 04–9191	1000 mcg /Glass Ampule	6/5/75
Supelco, Inc	Secobarbital No. 04–9180	Glass Ampule: 1000mcg	3/8/78
Supelco, Inc	alpha, alpha-Dimethylphenethylamine	Ampule: 2ml	2/7/95
Supelco, Inc	alpha, alpha-Dimethylphenethylamine, Product # 4–8377	Vial: 2ml	8/31/94
Sure-Tech Diagnostic Associates, Inc.	3, 4-Methylenedioxyamphetamine in Urine Matrix; Prod 928	Vial: 20ml	4/24/92
Sure-Tech Diagnostic Associates, Inc.	3, 4-Methylenedioxymethylamphetamine in Urine Matrix; Prod 929.	Vial: 20ml	4/24/92
Sure-Tech Diagnostic Associates, Inc.	Alprazolam in Urine Matrix; Prod. 920	Vial: 20ml	4/24/92
Sure-Tech Diagnostic Associates, Inc.	Codeine in Urine Matrix; Prod 924	Vial: 20ml	4/24/92
Sure-Tech Diagnostic Associates, Inc.	D-Methamphetamine/D-Amphetamine in Urine Matrix; Prod 926.	Vial: 20ml	4/24/92
Sure-Tech Diagnostic Associates, Inc.	D-Propoxyphene in Urine Matrix; Prod 936	Vial: 20ml	4/24/92
Sure-Tech Diagnostic Associates, Inc.	Drugs of Abuse Urine Control (Blind Sample) Positive Amphetamine Kit No. ST 904, Vial No. 904–P.	Vial: 4ml Kit: 1 vial	5/11/90
Sure-Tech Diagnostic Associates, Inc.	Drugs of Abuse Urine Control (Blind Sample) Positive Cocaine & Marijuana Kit No. ST 903.	Kit: 2 vials	5/11/90
Sure-Tech Diagnostic Associates, Inc.	Drugs of Abuse Urine Control (Blind Sample) Positive Cocaine, Kit No. ST 901, Vial No. 901–P.	Vial: 4ml Kit: 1 vial	5/11/90
Sure-Tech Diagnostic Associates, Inc.	Drugs of Abuse Urine Control (Blind Sample) Positive Marijuana, Kif No. ST 902, Vial No. 902–P.	Vial: 4ml Kit: 1 vial	5/11/90
Sure-Tech Diagnostic Associates, Inc.	Drugs of Abuse Urine Control (Blind Sample) Positive Opiates Kit No. ST 905, Vial No. 905–P.	Vial: 4ml Kit: 1 vial	5/11/90
Sure-Tech Diagnostic Associates, Inc.	Drugs of Abuse Urine Control (Blind Sample) Positive Phencyclidine Kit No. ST 906, Vial No. 906–P.	Vial: 4ml Kit: 1 vial	5/11/90
Sure-Tech Diagnostic Associates, Inc.	Drugs of Abuse: Urine Controls (Blind Samples) positive Codeine No. 907–P.	Vial: 20ml; Box: 1 vial	9/13/90

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Sure-Tech Diagnostic Associates, Inc.	Drugs of Abuse: Urine Controls (Blind Samples) positive Methadone No. 908–P.	Vial: 20ml; Box: 1 vial	9/13/90
Sure-Tech Diagnostic Associates, Inc.	Drugs of Abuse: Urine Controls (Blind Samples) positive Methamphetamine No. 909–P.	Vial: 20ml; Box: 1 vial	9/13/90
Sure-Tech Diagnostic Associates, Inc.	Drugs of Abuse: Urine Controls (Blind Samples) positive Methaqualone No. 913–P.	Vial: 20ml, Box: 1 vial	9/13/90
Sure-Tech Diagnostic Associates, Inc.	Drugs of Abuse: Urine Controls (Blind Samples) positive Oxazepam No. 910–P.	Vial: 20ml, Box: 1 vial	9/13/90
Sure-Tech Diagnostic Associates, Inc.	Drugs of Abuse: Urine Controls (Blind Samples) positive Propoxyphene No. 911–P.	Vial: 20ml, Box: 1 vial	9/13/90
Sure-Tech Diagnostic Associates, Inc.	Drugs of Abuse: Urine Controls (Blind Samples) positive Secobarbital No. 912–P.	Vial: 20ml, Box: 1 vial	9/13/90
Sure-Tech Diagnostic Associates, Inc.	Meperidine in Urine Matrix; Prod 930	Vial: 20ml	4/24/92
Sure-Tech Diagnostic Associates, Inc.	Methadone in Urine Matrix; Prod 925	Vial: 20ml	4/24/92
Sure-Tech Diagnostic Associates, Inc.	Methaqualone in Urine Matrix; Prod 927	Vial: 20ml	4/24/92
Sure-Tech Diagnostic Associates, Inc.	Morphine-3-Glucuronide in Urine Matrix; Prod 931	Vial: 20ml	4/24/92
Sure-Tech Diagnostic Associates, Inc.	Nordiazepam in Urine Matrix; Prod 932	Vial: 20ml	4/24/92
Sure-Tech Diagnostic Associates, Inc.	Normeperidine in Urine Matrix; Prod 933	Vial: 20ml	4/24/92
Sure-Tech Diagnostic Associates, Inc.	Oxazepam in Urine Matrix; Prod 934	Vial: 20ml	4/24/92
Sure-Tech Diagnostic Associates, Inc.	Phencyclidine in Urine Matrix; Prod 935	Vial: 20 ml	4/24/92
Sure-Tech Diagnostic Associates, Inc.	Secobarbital in Urine Matrix; Prod 937	Vial: 20ml	4/24/92
Sure-Tech Diagnostic Associates, Inc.	Temazepam in Urine Matrix; Prod 938	Vial: 20ml	4/24/92
Sure-Tech Diagnostic Associates, Inc.	Triazolam in Urine Matrix; Prod 939	Vial: 20ml	4/24/92
Sure-Tech Diagnostics Associates, Inc.	9-Carboxyl-11 Nor-A-9-THC in Urine Matrix; Prod 923	Vial: 20ml	4/24/92
Sure-Tech Diagnostics Associates, Inc.	Benzoylecgonine in Urine Matrix; Prod 922	Vial: 20ml	4/24/92
Sure-Tech Diagnostics Associates, Inc.	D-Amphetamine in Urine Matrix; Prod. 921	Vial: 20ml	4/24/92
Syva Co	AccuLevel Phenobarbital Test Control Stock Solution	Flask: 50ml	10/31/85
Syva Co	AccuLevel Phenobarbital Test Kit (Catalog No. 10C019) Contains: (1) AccuLevel Phenobarbital Control (2) AccuLevel Reagent I.	(1) Glass Vial: 6ml; (2) Glass Vial: 9ml, 12 Vials per test kit.	1/24/86
Syva Co	Advance T-3 Uptake Assay	Kit: 100 tests	5/11/82
Syva Co	Advance Thyroxin Assay	Kit: 100 tests	5/11/82
Syva Co	Antiepileptic Drug Control	Vial: 10ml , Lyophilized	8/27/74
Syva Co	EMIT 2000 Phenobarbital Bulk Reagent 1	Bottle: 1000ml	7/14/94
Syva Co	EMIT 2000 Phenobarbital Bulk Reagent B	Bottle: 200ml	2/22/93
Syva Co	EMIT 2000 Phenobarbital Calibrators 5, 10, 20, 40 and 80	Bottle: 3ml	7/14/94
Syva Co	EMIT IIC Cannabinoid Assay Reagent 2	Bottle: 500ml	12/15/93
Syva Co	EMIT IIC Cannabinoid Assay	Kit: 2 Bottles	12/15/93
Syva Co	EMIT IIC Phencyclidine Assay	Kit: 2 Bottles	12/15/93
Syva Co	EMIT IIC Phencyclidine Assay Reagent 2	Bottle: 500ml	12/15/93
Syva Co	EMIT Thyroxine Assay, Cat. No. 6J909	Glass Bottle: 4oz., Kit: 500 Assays.	1/23/89
Syva Co	Emit 2000 Phenobarbital Assay (Convenience Pack)	Kit: 1 cassette; Cassette: 11ml	8/5/91
Syva Co	Emit 2000 Phenobarbital Assay; Enzyme Reagent 2	Kit: 1 bottle; Bottle: 15ml	8/5/91
Syva Co	Emit 2000 Phenobarbital Bulk Reagent	Bottle: 200ml	6/9/93
Syva Co	Emit 2000 Phenobarbital Calibrators (5, 10, 20, 40, 80)	Kit: 5 vials	8/5/91
Syva Co	Emit 700 Amphetamine Assay Catalog No. 3C919	Bottle: 180ml	10/12/84
Syva Co	Emit 700 Barbiturate Assay Catalog No.3D919	Bottle: 180ml	10/12/84
Syva Co	Emit 700 Benzodiazepine Assay Reagent 2	Glass Bottle: 180ml, Kit: 2 bottles.	2/21/89
Syva Co	Emit 700 Calibrator A Catalog No. 3A919	Bottle: 3ml	10/5/84
Syva Co	Emit 700 Calibrator B Catalog No. 3A969	Bottle: 3ml	10/5/84
Syva Co	Emit 700 Cannabinoid (100) Assay Catalog No. 3M919	Bottle: 180ml	10/12/84
Syva Co	Emit 700 Cannabinoid (100) Calibrator Catalog No. 3M969	Bottle: 3ml	10/9/84
Syva Co	Emit 700 Cannabinoid (20) Assay, Catalog No. 3M959	Plastic Bottle: 180ml	9/15/86
Syva Co	Emit 700 Cannabinoid 100ng Assay, Positive Control	Bottle: 3ml	7/31/89
Syva Co	Emit 700 Cannabinoid 20ng Assay Calibrator	Glass Bottle: 5ml, Kit: 2 bottles	2/21/89

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Syva Co	Emit 700 Cannabinoid 20ng Assay Control Set-Positive Control.	Glass Bottle: 5ml, Kit: 2 bottles	2/21/89
Syva Co	Emit 700 Cannabinoid Control Set Catalog No. 3M989	2 Bottles: 3ml	10/9/84
Syva Co	Emit 700 Cocaine Metabolite Assay Catalog No. 3H919	Bottle: 180ml	10/12/84
Syva Co	Emit 700 Control Set A Catalog No. 3A939	2 Bottles: 3ml	10/9/84
Syva Co	Emit 700 Control Set B Catalog No. 3A989	2 Bottles: 3ml	10/9/84
Syva Co	Emit 700 Methaqualone Assay Catalog No. 3G919	Bottle: 180ml	10/19/84
Syva Co	Emit 700 Opiate Assay Catalog No.3B919	Bottle: 180ml	10/12/84
Syva Co	Emit 700 Phencyclidine Assay Catalog No. 3J919	Bottle: 180ml	10/12/84
Syva Co	Emit AED-No. 1 Calibrator	Vial: 3ml , Lyophilized	8/27/74
Syva Co	Emit AED-No. 2 Calibrator	Vial: 3ml , Lyophilized	8/27/74
Syva Co	Emit AED-No. 3 Calibrator	Vial: 3ml , Lyophilized	8/27/74
Syva Co	Emit AED-No. 4 Calibrator	Vial: 3ml , Lyophilized	8/27/74
Syva Co	Emit AED-No. 5 Calibrator	Vial: 3ml , Lyophilized	8/27/74
Syva Co	Emit Amphetamine Bulk Powder Reagent 2	Bottle: 1000ml	10/4/89
Syva Co	Emit Amphetamine Bulk Powder Reagent 2 Satellite	Bottle: 4 oz	4/20/90
Syva Co	Emit Amphetamine Bulk Reagent B	Glass bottle: 1000ml	12/5/90
Syva Co	Emit Barbiturate Bulk Powder Reagent 2	Bottle: 1000ml	10/4/89
Syva Co	Emit Barbiturate Bulk Powder Reagent 2 Satellite	Bottle: 4 oz	4/20/90
Syva Co	Emit Barbiturate Bulk Reagent B	Glass Bottle: 1000ml	12/5/90
Syva Co	Emit Benzodiazepine Bulk Powder Reagent 2	Bottle: 1000ml	10/4/89
Syva Co	Emit Benzodiazepine Bulk Powder Reagent 2 Satellite	Bottle: 4 oz	4/20/90
Syva Co	Emit Benzodiazepine Bulk Reagent B	Glass Bottle: 1000ml	12/5/90
Syva Co	Emit Calibrator B Level 1 (cutoff)	Vial: 5ml, 25ml	6/19/91
Syva Co	Emit Calibrator B Level 2 (high)	Vial: 5ml, 25ml	6/19/91
Syva Co	Emit Cannabinoid (100) Bulk Powder Reagent 2	Bottle: 1000ml	10/4/89
Syva Co	Emit Cannabinoid (100) Bulk Powder Reagent 2 Satellite	Bottle: 4 oz	4/20/90
Syva Co	Emit Cannabinoid Bulk Reagent B	Glass bottle: 1000ml	12/5/90
Syva Co	Emit Cocaine Metabolite Bulk Powder Reagent 2	Bottle: 1000ml	10/4/89
Syva Co	Emit Cocaine Metabolite Bulk Powder Reagent 2 Satellite	Bottle: 4 oz	4/20/90
Syva Co	Emit Cocaine Metabolite Bulk Reagent B	Glass Bottle: 1000ml	12/5/90
Syva Co	Emit Convenience Pack Phenobarbital Assay: Catalog No. 5D009.	Plastic Cassette: 100 tests	11/23/87
Syva Co	Emit Convenience Pack: T-Uptake Assay (Thyroid Hormone Binding Ratio).	Kit: 100 Tests Ea. Kit-Plastic Cassette: 16 ml.	5/9/88
Syva Co	Emit Convenience Pack: Thyroxine Assay Enzyme Reagent B	Plastic Cassette: 8ml, Kit: 100 Assays.	2/22/89
Syva Co	Emit Delta 9 Cannabinoid 100 ng/ml Calibrator/Control	Vial: 3ml	8/22/89
Syva Co	Emit Delta 9 Cannabinoid 20 ng/ml Calibrator/Control	Vial: 3ml	8/22/89
Syva Co	Emit Delta 9 Cannabinoid 400 ng/ml Calibrator/Control	Vial: 3ml	8/22/89
Syva Co	Emit Delta 9 Cannabinoid 50 ng/ml Calibrator/Control	Vial: 3ml	8/22/89
Syva Co	Emit HVA Amphetamine Assay Catalog No. 3C619	Kit: 2500 Assays	6/30/88
Syva Co	Emit HVA Barbiturate Assay Catalog No. 3D619	Kit: 2500 Assays	6/30/88
Syva Co	Emit HVA Calibrator Kit Catalog No. 3A619	Kit: 500 Tests Each Kit - 2 Glass Bottles 100 ml.	5/10/88
Syva Co	Emit HVA Cannabinoid 100 ng Assay Control Kit, Catalog No. 3M739.	Kit: 2 Bottles, 50 ml ea	7/15/88
Syva Co	Emit HVA Cannabinoid 100 ng. Assay Calibrator Kit, Catalog No. 3M729.	Kit: 3 Bottles 50 ml ea	7/15/88
Syva Co	Emit HVA Cannabinoid 100 ng. Assay Kit, Catalog No. 3M719	Kit: 2500 Assays	7/15/88
Syva Co	Emit HVA Cocaine Metabolite Assay Catalog No. 3H619	Bottle: 125 ml	5/10/88
Syva Co	Emit HVA Control Kit Catalog No. 3A629	Kit: 500 Tests Each Kit-2 Glass Bottles—100ml.	5/10/88
Syva Co	Emit HVA Opiate Assay Catalog No. 3B619	Bottle: 125ml	5/10/88
Syva Co	Emit HVA Phencyclidine Assay Catalog No. 3J619	Bottle: 125ml	5/19/88
Syva Co	Emit II Barbiturate Assay	Kit: 100ml, 500ml Bottle: 4oz, 500ml.	6/29/90
Syva Co	Emit II Calibrator A Level 1 (Cutoff)	Vial: 10ml, 50ml	6/29/90
Syva Co	Emit II Calibrator A Level 2 (high)	Vial: 10ml, 50ml	6/29/90
Syva Co	Emit II Cannabinoid 20ng, 50ng, 100ng Assay	Bottle: 4oz, 500ml; Kit: 100ml, 500ml.	10/12/90
Syva Co	Emit II Cocaine Metabolite Assay	Kit: 100ml, 500ml Bottle: 4oz, 500ml.	6/29/90
Syva Co	Emit II Delta 9 Cannabinoid 20ng/ml, 50ng/ml, 100ng/ml, 200ng/ml, Calibrator/Control.	Vial: 10ml, 50ml	10/12/90
Syva Co	Emit II Methadone Assay	Kit: 2 vials	1/26/93
Syva Co	Emit II Methadone Assay Reagent 2	Bottle: 100ml, 500ml	1/26/93
Syva Co	Emit II Methaqualone Assay	Kit: 2 vials	1/26/93
Syva Co	Emit II Methaqualone Assay Reagent 2	Bottle: 100ml, 500ml	1/26/93
Syva Co	Emit II Monoclonal Amphetamine/Methamphetamine Assay	Kit: 2 vials	1/26/93
Syva Co	Emit II Monoclonal Amphetamine/Methamphetamine Assay Enzyme Reagent 2.	Vial: 100ml, 500ml	1/26/93

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Syva Co	Emit II Opiate Assay	Kit: 100ml, 500ml Bottle: 4oz, 500ml.	6/29/90
Syva Co	Emit II Phencyclidine Assay	Bottle: 4oz, 500ml; Kit: 100ml, 500ml.	10/26/90
Syva Co	Emit IIC Barbiturate Assay	Kit: 2 Vials	1/6/94
Syva Co	Emit IIC Barbiturate Enzyme Reagent 2	Vial: 500ml	1/6/94
Syva Co	Emit IIC Calibrators 0, 1, 2, 3, 4, 5	Vial: 10ml	1/6/94
Syva Co	Emit IIC Opiate Assay	Kit: 2 Vials	1/6/94
Syva Co	Emit IIC Opiate Enzyme Reagent 2	Vial: 500ml	1/6/94
Syva Co	Emit Methadone Bulk Powder Reagent 2	Bottle: 1000 ml	10/4/89
Syva Co	Emit Methadone Bulk Powder Reagent 2 Satellite	Bottle: 4 oz	4/20/90
Syva Co	Emit Methadone Bulk Reagent	Bottle: 1000ml	6/7/93
Syva Co	Emit Methaqualone Bulk Powder Reagent 2	Bottle: 1000 ml	10/4/89
Syva Co	Emit Methaqualone Bulk Powder Reagent 2 Satellite	Bottle: 4 oz	4/20/90
Syva Co	Emit Opiate Bulk Powder Reagent 2	Bottle: 1000 ml	10/4/89
Syva Co	Emit Opiate Bulk Powder Reagent 2 Satellite	Bottle: 4 oz	4/20/90
Syva Co	Emit Opiate Bulk Reagent B	Glass bottle: 1000ml	12/5/90
Syva Co	Emit Phencyclidine Bulk Powder Reagent 2	Bottle: 1000 ml	10/4/89
Syva Co	Emit Phencyclidine Bulk Powder Reagent 2 Satellite	Bottle: 4 oz	4/20/90
Syva Co	Emit Phencyclidine Bulk Reagent B	Glass Bottle: 1000ml	12/5/90
Syva Co	Emit Phenobarbital Bulk Powder Reagent B	Bottle: 1000 ml	10/4/89
Syva Co	Emit Phenobarbital Bulk Powder Reagent B Satellite	Bottle: 4 oz	4/20/90
Syva Co	Emit Phenobarbital Enzyme Reagent B	Vial: 6 ml , Lyophilized	8/27/74
Syva Co	Emit Qst Phenobarbital Bulk Powder Reagent	Steel Drum: 7 gallon	6/5/86
Syva Co	Emit Qst Primidone Assay Catalog No. 60819	Glass Vial: 6ml, 50 Vials/Kit	11/12/85
Syva Co	Emit Serum Barbiturate-Enzyme Reagent B	Bottle: 3ml	5/22/79
Syva Co	Emit T-Uptake Assay	Bottle: 4 oz., 1L, Kit: 500 tests, 5000 tests.	5/25/89
Syva Co	Emit T-Uptake Assay (Thyroid Hormone Binding Ratio) Catalog No. 6J519.	Polyethylene Bottle: 4 oz	2/29/88
Syva Co	Emit T-Uptake Bulk Powder Reagent A	Bottle: 1000 ml	10/4/89
Syva Co	Emit T-Uptake Bulk Powder Reagent A Satellite	Bottle: 4 oz	4/20/90
Syva Co	Emit THC 50/100ng Assay	Kit; 2vials, 500ml each	10/11/93
Syva Co	Emit THC Calibrators; 0ng/mlk, 50ng/ml, 100ng/ml, 200ng/ml	Vial: 10ml	10/11/93
Syva Co	Emit THC Controls; Levels I, II, III, IV	Vial: 10ml	10/11/93
Syva Co	Emit Thyroxine Assay	Glass Bottle: 8 oz., 1L, Kit: 1300 tests, 5000 tests.	5/25/89
Syva Co	Emit Thyroxine Bulk Powder Reagent B	Bottle: 1000 ml	10/4/89
Syva Co	Emit Thyroxine Bulk Powder Reagent B Satellite	Bottle: 4 oz	4/20/90
Syva Co	Emit Tox Serum Benzodiazepine Assay Kit Containing: Emit Enzyme Reagent B.	Bottle: 3ml	2/1/78
Syva Co	Emit d.a.u. Amphetamine Assay Catalog Nos. 3C019, 3C119 .	Kit: 100 tests, 1000 tests	9/27/84
Syva Co	Emit d.a.u. Amphetamine Class Low Calibrator, Cat. No. 3C179.	Glass Vial: 5ml	1/30/89
Syva Co	Emit d.a.u. Amphetamine Class Medium Calibrator, Cat. No. 3C189.	Glass Vial: 5ml	1/30/89
Syva Co	Emit d.a.u. Barbiturate Assay Catalog Nos. 3D019, 3D119	Kit: 100 tests, 1000 tests	9/27/84
Syva Co	Emit d.a.u. Benzodiazepine Assay Catalog Nos. 3F019, 3F119.	Kit: 100 tests, 1000 tests	9/27/84
Syva Co	Emit d.a.u. Cannabinoid 100 ng Assay, Catalog No. 3M119	Kit: 1000 tests	9/12/86
Syva Co	Emit d.a.u. Cannabinoid 100ng Assay Calibrator	Kit: 3 vials	7/31/89
Syva Co	Emit d.a.u. Cannabinoid 100ng Assay Low Calibrator	Vial: 3ml	7/31/89
Syva Co	Emit d.a.u. Cannabinoid 100ng Assay Medium Calibrator	Vial: 3ml	7/31/89
Syva Co	Emit d.a.u. Cannabinoid 20ng Assay Catalog No. 3M619	Kit: 100 tests	2/10/86
Syva Co	Emit d.a.u. Cannabinoid 20ng Enzyme Reagent B	Vial: 10ml Lyophilized Powder	2/10/86
Syva Co	Emit d.a.u. Cannabinoid 50 ng Assay Calibrators, Low And Medium: Cat. No. 3M509.	Vial: 5 ml	5/1/88
Syva Co	Emit d.a.u. Cannabinoid 50 ng Assay: Cat. No. 3M519	Kit: 100 tests	5/1/88
Syva Co	Emit d.a.u. Cannabinoid Assay Catalog No. 3M019	Kit: 100 tests	9/24/84
Syva Co	Emit d.a.u. Cannabinoid Urine Calibrator Set	Kit: 3 Vials, 3ml Each	1/3/80
Syva Co	Emit d.a.u. Cocaine Metabolite Assay Catalog Nos. 3H019, 3H119.	Kit: 100 tests, 1000 tests	9/27/84
Syva Co	Emit d.a.u. Low Calibrator A	Bottle: 5ml	7/20/84
Syva Co	Emit d.a.u. Low Calibrator A	Vial: 5 ml	6/30/89
Syva Co	Emit d.a.u. Low Calibrator A, Catalog No. 3C579	5 ml vial	10/6/88
Syva Co	Emit d.a.u. Low Calibrator B	Bottle: 5ml	8/3/84
Syva Co	Emit d.a.u. Medium Calibrator A	Bottle: 5ml	7/20/84
Syva Co	Emit d.a.u. Medium Calibrator A	Vial: 5 ml	6/30/89
Syva Co	Emit d.a.u. Medium Calibrator A, Catalog No. 3C569	5 ml vial	10/6/88
Syva Co	Emit d.a.u. Medium Calibrator B	Bottle: 5ml	8/3/84
Syva Co	Emit d.a.u. Methadone Assay Catalog Nos. 3E019, 3E119	Kit: 100 tests, 1000 tests	10/5/84

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Syva Co	Emit d.a.u. Monoclonal Amphetamine/Methamphetamine Assay, Catalog No3C549 100 tests, 3C559 1000 tests.	Kit: 100 tests, 1000 tests	10/6/88
Syva Co	Emit d.a.u. Opiate Assay Catalog Nos. 3B019, 3B119	Kit: 100 tests, 1000 tests	9/27/84
Syva Co	Emit d.a.u. Phencyclidine Assay Kit Containing: (1)Emit Phencyclidine Enzyme Reagent B.	Bottle: 6ml	2/1/79
Syva Co	Emit-Qst Phenobarbital Assay, Catalog Number 6D619	Kit: 50 Vials	1/18/84
Syva Co	Emit-Tox Serum Barbiturate Assay	Kit: 50 tests	5/22/79
Syva Co	Emit-Tox Serum Calibrators; Low and Medium	Bottle: 3ml	2/1/79
Syva Co	Emit-d.a.u. Methaqualone Assay	Kit: 100 tests	4/27/82
Syva Co	Emit-st Amphetamine Assay	Vial: 3ml, 80 vials/kit	10/3/80
Syva Co	Emit-st Barbiturate Assay	Vial: 3ml, 80 vials/kit	10/3/80
Syva Co	Emit-st Benzodiazepine Assay	Vial: 3ml, 80 vials/kit	10/3/80
Syva Co	Emit-st Cannabinoid Assay Catalog No. 3M319	Vial: 6ml, 80 Vials/Kit	9/27/84
Syva Co	Emit-st Cannabinoid Calibrator	Vial: 3ml, 2 vials/kit	7/10/81
Syva Co	Emit-st Cannabinoid Controls	Vial: 3ml, 2 vials/kit	7/10/81
Syva Co	Emit-st Opiate Assay	Kit: 3ml, 80 vials/kit	10/3/80
Syva Co	Emit-st Phencyclidine Assay	Vial: 3ml, 80 vials/kit	1/7/81
Syva Co	Emit-st Serum Barbiturate Assay	Vial: 3ml, 80 vials/kit	2/16/81
Syva Co	Emit-st Serum Benzodiazepine Assay	Vial: 3ml, 80 vials/kit	2/16/81
Syva Co	Emit-st Serum Calibrator	Vial: 3ml	2/16/81
Syva Co	Emit-st Serum Controls	Vial: 3ml, 2 vials/kit	2/16/81
Syva Co	Emit-st Serum Phencyclidine Assay	Vial: 3ml, 80 vials/kit	2/16/81
Syva Co	Emit-st Urine Calibrator A	Vial: 1ml, 3 vials/kit	10/3/80
Syva Co	Emit-st Urine Cocaine Metabolite Assay	Vial: 3 ml, 80 Vials/Kit	3/16/82
Syva Co	Emit-st Urine Controls A	Vial: 1ml, 6 vials/kit	10/3/80
Syva Co	Emit-st Urine Methadone Assay	Vial: 3ml , 80 vials/kit	3/22/82
Syva Co	Emit-st Urine Methaqualone Assay	Kit: 80 Vials	4/27/82
Syva Co	Emit-st Urine Methaqualone Calibrator	Vial: 3ml	4/27/82
Syva Co	Emit-st Urine Methaqualone Controls	Vial: 3ml	4/27/82
Syva Co	IL test AED Calibrator 1	Vial: 5 ml	4/6/90
Syva Co	IL test AED Calibrator 2	Vial: 5ml	4/6/90
Syva Co	IL test AED Calibrator 3	Vial: 5ml	4/6/90
Syva Co	IL test AED Calibrator 4	Vial: 5ml	4/6/90
Syva Co	IL test AED Calibrator 5	Vial: 5ml	4/6/90
Syva Co	IL test Cannabinoid 100ng, 400ng calibrator	Vial: 5ml	4/6/90
Syva Co	IL test set A calibrator	Vial: 5ml	4/6/90
Syva Co	IL test set A control	Vial: 5ml	4/6/90
Syva Co	IL test set B calibrator	Vial: 5ml	4/6/90
Syva Co	IL test set B control	Vial: 5ml	4/6/90
Syva Co	Vista Thyroxine Uptake Reagent Cartridge	Cartridge: 4ml	1/22/93
Syva Co	Vista Triiodothyronine (T3) Reagent Cartridge	Cartridge: 2.02 ml	9/11/92
Tempil Division. Big Three Industries, Inc.	Tempilaq Striped Mylar	Plastic Sheet: 6 by 12 in. 50 sheets per envelope.	5/22/76
The Binding Site, Inc	I.F.E. Buffer	Plastic Bottle: 125ml	12/5/91
The Binding Site, Inc	Immunofixation Kit	Kit: 125ml Plastic Bottle	12/5/91
The Theta Corp	Allobarbital No.FP305	Vial: 2ml	4/10/73
The Theta Corp	Amobarbital No. FP313	Vial: 2ml	4/10/73
The Theta Corp	Amphetamine No. FP604	Vial: 2ml	4/10/73
The Theta Corp	Anileridine No. FP203	Vial: 2ml	4/10/73
The Theta Corp	Aprobarbital No. FP306	Vial: 2ml	4/10/73
The Theta Corp	Barbital No.FP314	Vial: 2ml	4/10/73
The Theta Corp	Benzoylecgonine FP-1001	Vial: 2 ml	1/24/87
The Theta Corp	Butabarbital No. FP315	Vial: 2ml	4/10/73
The Theta Corp	Butalbital No. FP307	Vial: 2ml	4/10/73
The Theta Corp	Chloral Betaine No. FP502	Vial: 2ml	4/10/73
The Theta Corp	Chloral Hydrate No. FP501	Vial: 2ml	4/10/73
The Theta Corp	Cocaine No. FP601	Vial: 2ml	4/10/73
The Theta Corp	Codeine No. FP102	Vial: 2ml	4/10/73
The Theta Corp	Cyclobarbital No. FP308	Vial: 2ml	4/10/73
The Theta Corp	Dihydrocodeine No. FP108	Vial: 2ml	4/10/73
The Theta Corp	Diphenoxylate No. FP205	Vial: 2ml	4/10/73
The Theta Corp	Ethchlorvynol No. FP508	Vial: 2ml	4/10/73
The Theta Corp	Ethylmorphine No. FP106	Vial: 2ml	4/10/73
The Theta Corp	FP207	Vial: 2ml	9/4/80
The Theta Corp	FP210	Vial: 2ml	5/15/84
The Theta Corp	FP214	Vial: 2ml	4/10/84
The Theta Corp	FP327	Vial: 2ml	4/10/84
The Theta Corp	FP405	Vial: 2ml	3/8/79
The Theta Corp	FP411	Vial: 2ml	5/15/84
The Theta Corp	FP412	Vial: 2ml	5/15/84
The Theta Corp	FP416	Vial: 2ml	5/15/84
The Theta Corp	FP512	Vial: 2ml	3/8/79

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
The Theta Corp	FP513	Vial: 2ml	3/8/79
The Theta Corp	FP514	Vial: 2ml	5/15/84
The Theta Corp	FP515	Vial: 2ml	3/8/79
The Theta Corp	FP556	Vial: 2ml	4/10/84
The Theta Corp	FP601A	Vial: 2ml	5/15/84
The Theta Corp	FP607	Vial: 2ml	5/15/84
The Theta Corp	FP609	Vial: 2ml	5/15/84
The Theta Corp	Fentanyl No. FP211	Vial: 2ml	4/10/73
The Theta Corp	Glutethimide No. FP404	Vial: 2ml	4/10/73
The Theta Corp	Heptabarbital No. FP309	Vial: 2ml	4/10/73
The Theta Corp	Hexabarbital No. FP303	Vial: 2ml	4/10/73
The Theta Corp	Hydrocodone No. FP107	Vial: 2ml	4/10/73
The Theta Corp	Hydromorphone No. FP103	Vial: 2ml	4/10/73
The Theta Corp	Levorphanol No. FP208	Vial: 2ml	4/10/73
The Theta Corp	Marker Mixture No. FPM-104	Vial: 2ml	4/10/73
The Theta Corp	Marker Mixture No. FPM-201	Vial: 2ml	4/10/73
The Theta Corp	Meperidine No.FP201	Vial: 2ml	4/10/73
The Theta Corp	Mephobarbital No. FP301	Vial: 2ml	4/10/73
The Theta Corp	Meprobamate No. FP402	Vial: 2ml	4/10/73
The Theta Corp	Methadone No. FP206	Vial: 2ml	4/10/73
The Theta Corp	Methamphetamine No. FP603	Vial: 2ml	4/10/73
The Theta Corp	Metharbital No. FP302	Vial: 2ml	4/10/73
The Theta Corp	Methohexital No. FP304	Vial: 2ml	4/10/73
The Theta Corp	Methylphenidate No. FP605	Vial: 2ml	4/10/73
The Theta Corp	Monthly Urine Test No. FPM-103	Vial: 2ml	4/10/73
The Theta Corp	Morphine No. FP101	Vial: 2ml	4/10/73
The Theta Corp	Oxycodone No. FP109	Vial: 2ml	4/10/73
The Theta Corp	Oxymorphone No. FP104	Vial: 2ml	4/10/73
The Theta Corp	Paraldehyde No.FP506	Vial: 2ml	4/10/73
The Theta Corp	Pentobarbital No. FP318	Vial: 2ml	4/10/73
The Theta Corp	Phenazocine No. FP213	Vial: 2ml	4/10/73
The Theta Corp	Phenmetrazine No. FP606	Vial: 2ml	4/10/73
The Theta Corp	Phenobarbital No. FP320	Vial: 2ml	4/10/73
The Theta Corp	Piminodine No. FP202	Vial: 2ml	4/10/73
The Theta Corp	Probarbital No. FP319	Vial: 2ml	4/10/73
The Theta Corp	Secobarbital No. FP310	Vial: 2ml	4/10/73
The Theta Corp	Talbutal No. FP311	Vial: 2ml	4/10/73
The Theta Corp	Test Mixture SM No. 1	Vial: 2ml	6/19/74
The Theta Corp	Test Mixture SM No. 2	Vial: 2ml	6/19/74
The Theta Corp	Test Mixture SM No. 3	Vial: 2ml	6/19/74
The Theta Corp	Test Mixture SM No. 4	Vial: 2ml	6/19/74
The Theta Corp	Test Mixture SP No. 1	Vial: 2ml	6/19/74
The Theta Corp	Test Mixture SP No. 2	Vial: 2ml	6/19/74
The Theta Corp	Test Mixture SP No. 3	Vial: 2ml	6/19/74
The Theta Corp	Test Mixture SP No. 4	Vial: 2ml	6/19/74
The Theta Corp	Test Mixture TM No. 1	Vial: 2ml	6/19/74
The Theta Corp	Test Mixture TM No. 2	Vial: 2ml	6/19/74
The Theta Corp	Thiamylal No. FP322	Vial: 2ml	4/10/73
The Theta Corp	Thiopental No. FP321	Vial: 2ml	4/10/73
The Theta Corp	Vinbarbital No. FP312	Vial: 2ml	4/10/73
The Theta Corp	Weekly Urine Test (FDA) No. FPM-101	Vial: 2ml	4/10/73
The Theta Corp	Weekly Urine Test (States) No. FPM-102	Vial: 2ml	4/10/73
The Upjohn Company	DDHQ Spent Oxidant	Fiber Drum: 30 Gallons	12/19/94
Toxi-Lab, Inc	Proficiency Sample	Plastic bottle containing 40 ml	5/22/82
Toxi-Lab, Inc	Special Toxi-Discs	Plastic vial or bottle containing 50 Standard Discs.	3/30/77
Toxi-Lab, Inc	Supplemental Standard Toxi-Discs No. SD–4 Catalog No. 234	Plastic vial containing 50 Standard Discs.	5/15/88
Toxi-Lab, Inc	Supplemental Standard Toxi-Discs No. SD–5 Catalog No. 235	Plastic vial containing 50 Standard Discs.	5/15/88
Toxi-Lab, Inc	Supplemental Standard Toxi-Discs No. SD–6 Catalog No. 236	Plastic vial containing 50 Standard Discs.	5/15/88
Toxi-Lab, Inc	Toxi-Control	Plastic bottle containing 50 ml	3/30/77
Toxi-Lab, Inc	Toxi-Control THC	Plastic bottle containing 50 ml	10/5/83
Toxi-Lab, Inc	Toxi-Disc A Series	Plastic vial containing 50 Standard Discs.	5/6/75
Toxi-Lab, Inc	Toxi-Disc B Series	Plastic vial containing 50 Standard Discs.	5/6/75
Toxi-Lab, Inc	Toxi-Discs Library II, No 3 Catalog No. 131C	Plastic vial containing 50 Standard Discs.	5/15/88
Toxi-Lab, Inc	Toxi-Discs Library II, No. 1 Catalog No. 131A	Plastic vial containing 50 Standard Discs.	5/15/88

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Toxi-Lab, Inc	Toxi-Discs Library II, No. 10 Catalog No. 131K	Plastic vial containing 50 Standard Discs.	6/15/88
Toxi-Lab, Inc	Toxi-Discs Library II, No. 11, Catalog No. 131L	Plastic vial containing 50 Standard Discs.	6/15/88
Toxi-Lab, Inc	Toxi-Discs Library II, No. 12 Catalog No. 131M	Plastic vial containing 50 Standard Discs.	6/15/88
Toxi-Lab, Inc	Toxi-Discs Library II, No. 2 Catalog No. 131B	Plastic vial containing 50 Standard Discs.	6/15/88
Toxi-Lab, Inc	Toxi-Discs Library II, No. 5 Catalog No. 131E	Plastic vial containing 50 Standard Discs.	6/15/88
Toxi-Lab, Inc	Toxi-Discs Library II, No. 8 Catalog No. 131H	Plastic vial containing 50 Standard Discs.	6/15/88
Toxi-Lab, Inc	Toxi-Discs THC	Plastic vial containing 50 Standard Discs.	10/5/83
Toxi-Lab, Inc	Toxi-Grams	Glass jar containing 50 or 100 Chromatograms.	9/24/80
Toxi-Lab, Inc	Toxi-Lab Cannabinoid (THC) Screen	Kit: 50 tests	10/5/83
Tudor Laboratories, Inc	FPIA Phenobarbital Kit—Cat. No. 105	Kit: 100 tests	11/27/89
Tudor Laboratories, Inc	Phenobarbital Calibrator Kit Cat. No. 205	Kit: 6 vials	11/27/89
Tudor Laboratories, Inc	Phenobarbital Calibrators B, C, D, E, F	Vial: 4.0 ml	11/27/89
Universal Reagents, Inc	Drug Monitoring & Toxicology No. DM 90-5, DM-62	Bottle: 10ml	10/9/90
Utak Laboratories	Toxicology Control-High Range Anticonvulsants No. 71910	Bottle: 10ml	4/14/80
Utak Laboratories	Toxicology Control-High Range Barbiturates No. 71916	Bottle: 10ml	4/14/80
Utak Laboratories	Toxicology Control-High Range Hypnotic Plus Acetaminophem, No. 71918.	Bottle: 10ml	4/14/80
Utak Laboratories	Toxicology Control-High Range Hypnotic Plus Salicylate, No. 71920.	Bottle: 10ml	4/14/80
Utak Laboratories	Toxicology Control-Mid Range Anticonvulsants No. 71911	Bottle: 10ml	4/14/80
Utak Laboratories	Toxicology Control-Mid Range Barbiturates No. 71917	Bottle: 10ml	4/14/80
Utak Laboratories	Toxicology Control-Mid Range Hypnotic Plus Acetaminophem, No. 71919.	Bottle: 10ml	4/14/80
Utak Laboratories	Toxicology Control-Mid Range Hypnotic Plus Salicylate, No. 71921.	Bottle: 10ml	4/14/80
Utak Laboratories	Toxicology Serum Control Dried #88112	Bottle: 10ml	7/29/82
Utak Laboratories	Toxicology Serum Control Dried #88113	Bottle: 10ml	7/29/82
Utak Laboratories	Toxicology Serum Control Dried #88120	Bottle: 10ml	7/29/82
Utak Laboratories	Toxicology Serum Control-Dried Catalog Nos. 44610, 44612, 44632, 44635, 44636, 44637, 44642, 44645, 44646, 44647, 44658.	in Bottles	5/24/76
Utak Laboratories	Toxicology Urine Control Dried #88100	Bottle: 20ml	7/29/82
Utak Laboratories	Toxicology Urine Control Dried #88121	Bottle: 10ml	7/29/82
Utak Laboratories	Toxicology Urine Control-Dried Catalog Nos. 44650, 44651, 44652, 44653.	Bottle: 1 oz	5/24/76
Ventrex Laboratories, Inc	PTH Antiserum	Vial: 5ml	4/12/90
Ventrex Laboratories, Inc	PTH Assay Buffer	Vial: 10ml	4/12/90
Ventrex Laboratories, Inc	PTH Omega Radioimmunoassay Kit	Kit: 60 tests	4/12/90
Ventrex Laboratories, Inc	PTH Second Antibody	Vial: 10ml	4/12/90
Ventrex Laboratories, Inc	PTH Tracer Buffer	Vial: 5 ml	4/12/90
Wien Laboratories, Inc	3H Dihydrotestosterone Cat. No. D-1916	Vial: 5.5ml	2/21/91
Wien Laboratories, Inc	3H Epi-Testosterone Cat. No. T–1028	Vial: 5.5ml	2/21/91
Wien Laboratories, Inc	3H Testosterone Cat. No. T–3027	Vial: 5.5ml	2/21/91
Wien Laboratories, Inc	ANS Buffer pH 8.6 Catalog No. T–5144	Plastic Bottle: 100ml	5/14/75
Wien Laboratories, Inc	Buffer Reagent pH 8.6 Catalog No. T–5065	Bottle: 4oz	12/22/72
Wien Laboratories, Inc	Coated Charcoal Suspension No. T–5077	Bottle: 4oz	12/22/72
Wien Laboratories, Inc	Dihydrotestosterone Standard 1ng/ml Cat. No. D–1928	Vial: 5.5ml	2/21/91
Wien Laboratories, Inc	Epi-Testosterone Standard, 10ng/ml Cat. No. T–1016	Vial: 5.5ml	2/21/91
Wien Laboratories, Inc	Epi-Testosterone Test Set Cat. No. TS–1010	Kit: 2 Bottles	2/21/91
Wien Laboratories, Inc	Methamphetamine: HRP EIA Conjugate	Vial: 5ml, 10ml	5/25/90
Wien Laboratories, Inc	T3 Buffer Reagent Catalog No. T–5156	Plastic Vial: 20ml	9/13/78
Wien Laboratories, Inc	Testosterone Standard, 10ng/ml Cat. No. T–3039	Vial: 5.5ml	2/21/91
Wien Laboratories, Inc	Testosterone Test Set Cat. No. TS–333	Kit: 2 Bottles	2/21/91
Windsor Laboratories, Inc	Calibrators FPR Phenobarbital	Kit: 6 Vials	10/30/86
Windsor Laboratories, Inc	Phenobarbital Fluorescence Polarization Immunoassay Kit	Kit: 100 tests	11/20/86

Dated: March 18, 1996.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 96–7385 Filed 3-27-96; 8:45 am]

BILLING CODE 4410–09–P

21 CFR 1313

[DEA Number 145N]

Export of Chemicals From the United States to Colombia; Policy Statement

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Policy statement.

SUMMARY: Notice is hereby given that regular customer status for Colombian customers is being revoked under Section 1018(c)(1) of the Controlled Substance Import Export Act (CSIE) (21 U.S.C. 971(c)(1)). Each U.S. exporter is being informed by letter that they must notify DEA at least 15 days in advance of shipment of certain chemicals listed in 21 CFR 1310.04, if the shipment is from the United States with an ultimate destination of Colombia. Moreover, in view of the danger that chemical shipments may be diverted into the illicit manufacture of cocaine, a heightened review process will be instituted for such exports and for transhipments. The exception under Title 21, Code of Federal Regulations (21 CFR), Section 1313.24, allowing exporters to notify DEA as late as the day of shipment for transactions between a "regulated person" and a "regular customer" will not apply to shipments of certain chemicals to Colombia until further notice.

EFFECTIVE DATE: March 28, 1996.

FOR FURTHER INFORMATION CONTACT: William Wolf, Chief, Chemical Operations Section, Office of Diversion Control, Drug Enforcement Administration, Washington, D.C. 20537, Telephone (202) 307–7204.

SUPPLEMENTARY INFORMATION: The following is a statement of policy by the Drug Enforcement Administration (DEA) under the Controlled Substances Act, as amended by the Chemical Diversion and Trafficking Act of 1988 (CDTA), regarding exports of certain listed chemicals from the United States to Colombia.

On March 1, 1996, the President of the United States, under the Annual Certification Procedures Act (22 U.S.C. Section 2291j), moved to decertify Colombia's status as a nation actively cooperating with the United States to stem the clandestine manufacture and trafficking of illegal drugs. This action was taken in response to overwhelming evidence of rampant drug-related corruption at the highest levels of the Colombian government. In direct contravention of efforts by Colombian law enforcement officials and the judicial sector to root out drug-related corruption, elements of the Colombian government have systematically undermined and publicly attacked these efforts while failing to support the efforts of Colombian law enforcement to strengthen the nation's institutions to combat the destructive effects of narcotics traffickers.

These problems have also adversely affected the ability of the Colombian Government to insure that listed chemicals imported from the U.S. and other sources are not diverted into the illicit manufacture of cocaine.

At a time when the Colombian government's commitment to combating narcotic trafficking has deteriorated, as evidenced by shifting the import permit approvals outside the existing infrastructure for chemical control, DEA data reveals a 57% increase between 1990 and 1995 in the sales to Colombia of List II solvents that are used in the clandestine manufacture of cocaine. These sales by U.S. chemical firms, which were based primarily upon Colombian authorization, are estimated by the Colombian Director of Customs to comprise 59% of the listed chemicals now imported into Colombia and, unfortunately, coincide with continued large scale illicit cocaine production within Colombia. DEA has concluded, therefore, that all shipments to Colombia of certain chemicals may be diverted to the clandestine manufacture of a controlled substance.

The CDTA, the Domestic Chemical Diversion Control Act (DCDCA) and the implementing regulations have established a system of recordkeeping and reporting requirements that provide DEA with a mechanism to track domestic and international movement of listed chemicals in order to prevent their being diverted for use in the clandestine manufacture of controlled substances.

Section 1018(a) of the CSIE (21 U.S.C. 971(a)), as amended by the CDTA, provides that "each regulated person who imports or exports a listed chemical shall notify the Attorney General of the importation or exportation not later than 15 days before the transaction is to take place." In accordance with Section 1018(b) (21 U.S.C. 971(b)), this requirement is modified by 21 CFR 1313.24 where the transaction is between a "regulated person" and a "regular customer." Under normal circumstances, exporters are allowed to ship listed chemicals to regular customers with notification as late as the day of shipment.

A person located in the United States who is a broker or trader for an international transaction of a listed chemical is subject to all of the notification, reporting, recordkeeping, and other requirements placed upon exporters of listed chemicals. No waiver of the 15-day advance notice is permitted under Section 1313.31 for importations and exportations for transhipment purposes of threshold quantities of listed chemicals.

Regardless of whether the shipment is a direct export or a transhipment, DEA has the obligation to examine the notification in order to determine if the shipment is legitimate and that the chemical will not be diverted to the illicit manufacture of controlled substances. Due to the distribution network within Colombian, where large quantities of the chemicals used in the clandestine manufacture of illegal controlled substances are redistributed by the importing customer, bestowing "regular customer" status on the importer is ineffective in assuring legitimate usage.

As underscored by the President's action to decertify Colombia as a cooperating nation due to widespread corruption, DEA is unable to determine the legitimacy of shipments of the specified chemicals or to rely on import permits and other documentation issued by the Colombian Government that the above chemicals are not being diverted for use in the clandestine manufacture of controlled substances. Although the Colombian National Police have been diligent and constructive in their efforts to monitor the legitimacy of chemicals imported into Colombia, its efforts have been handicapped by inadequate political and resource support. DEA has no confidence that those customers previously submitted as regular customers, nor those who would become regular customers in the future, as specified in 21 CFR 1313.24, are not diverting the above chemicals to the illicit drug traffic. Therefore, in the absence of a way to determine with any reasonable degree of certainty that chemical shipments will not be diverted, pursuant to Section 1018(c)(1) of the CSIE (21 U.S.C. 971(c)(1)), DEA will act to disqualify regular customer status for Colombian importers of MEK, MIBK, acetone, toluene, potassium permanganate, and ethyl ether. Accordingly, each U.S. exporter is being informed by letter that for all shipments of these chemicals to Colombia, the exporter must now file a Chemical

Export Declaration (DEA Form 486) at least 15 days in advance of the shipment date in accordance with 21 CFR 1313.21 for every shipment of a threshold amount of the above listed chemicals to Colombia. All subsequent shipments of any of the identified chemicals to the same customer will continue to require 15 day advance notice and evidence of a documented legitimate need.

Furthermore, because DEA has concluded that all shipments to Colombia of the above chemicals may be diverted to the clandestine manufacture of a controlled substance, pursuant to 21 CFR 1313.41, it is DEA's intent to suspend such exports and imports for transhipment in the absence of documented proof of ultimate legitimate use. Shipments of these chemicals will be closely monitored by DEA to determine whether the exporters have presented sufficiently detailed documentation for DEA to conclude that the ultimate users have the specific, legitimate need for the type and quantity of the chemical being purchased and, that the chemical will not be used for the clandestine production of controlled substances. Export declarations and Notices of Importation for Transhipment for the specified chemicals will be reviewed utilizing the following criteria:

A. Whether the U.S. exporter, broker, or foreign exporter for transhipment has shown that the end use for all of the chemical will be for a legitimate purpose;

B. If the importer is not the end user, whether all users or distributors through to the end users are identified to DEA with sufficient documentation to confirm the legitimacy of their chemical needs; and

C. Whether the quantity and type of chemical is consistent with the nature and size of each end-user's business.

A person who knowingly or intentionally exports a listed chemical in violation of section 1018 shall be fined in accordance with Title 18, imprisoned not more than 10 years, or both (21 U.S.C. 960(d) (5) and (6)).

U.S. and foreign exporters, and brokers are cautioned to view every order of these or substitute chemicals from Colombia and other countries in the region with extreme caution. In view of the existing evidence that all shipments to Colombia of the above chemicals may be diverted to the clandestine manufacture of a controlled substance, firms should recognize that export declarations and Notices of Importation for Transhipment will be subjected to the heightened standard of review set forth herein with respect to the identity of the end users and the documented legitimacy of usage. Failure to meet this standard will result in the suspension of the shipment pursuant to 21 CFR 1313.41.

Dated: March 22, 1996.

Stephen H. Greene,

Deputy Administrator, Drug Enforcement Administration.

[FR Doc. 96–7546 Filed 3–27–96; 8:45 am]

BILLING CODE 4410–09–M

UNITED STATES INFORMATION AGENCY

22 CFR Part 514

Exchange Visitor Program

AGENCY: United States Information Agency.

ACTION: Statement of policy.

SUMMARY: Since August of 1990, the Agency has continued its oversight of Summer Travel/Work programs, notwithstanding suggestions that the Agency is in fact without statutory authority to conduct such programs as currently configured. The Agency hereby announces its acceptance, as statutorily sound, of four Summer Travel/Work programs. A two year period of additional review of a fifth program is also hereby announced and adopted.

EFFECTIVE DATE: This policy statement is effective March 28, 1996.

FOR FURTHER INFORMATION CONTACT: Stanley S. Colvin, Assistant General Counsel, United States Information Agency, 301 4th Street, S.W., Washington, D.C. 20547; Telephone, (202) 619–6829.

SUPPLEMENTARY INFORMATION: In February of 1990, the General Accounting Office ("GAO") issued its report entitled "Inappropriate Uses of Educational and Cultural Exchange Visas." This report specifically identified Summer Travel/Work programs designated by the Agency for the past twenty-five years as an example of programs operating outside of the statutory parameters set forth under the Mutual Educational and Cultural Exchange Act of 1961 (Fulbright-Hays Act.) As currently configured, Summer Travel/Work programs permit foreign university students to enter the United States during their summer months for the purpose of travel and the pursuit of employment opportunities wherever they may be found. Approximately 16,000 foreign university students to charges of inappropriate use of the Exchange Visitor Program and brought about, in March of 1993, the promulgation of new and comprehensive regulations governing exchange activities. These regulations, in turn, resulted in changes to the operations of flagship exchange programs and other programs of long-standing and venerable reputation. Underlying this policy and regulatory review was the Agency's identification of the core components of an exchange activity. These components—selection, screening, orientation, placement, monitoring, and the promotion of mutual understanding—define what an exchange is and whether one is actually occurring.

The use of these components in a review of the Summer Travel/Work programs demonstrates clearly why the Agency has determined that it lacks sufficient authority to continue the programs as currently configured. Today, five organizations conduct Summer Travel/Work programs pursuant to two substantially different program designs. Four of the five programs arrange all details of the program including prearranged employment and accommodations. The remaining program, accounting for approximately 12,000 of all participants, does not make advance arrangements for employment or accommodations. Participants in this program are left to their own devices in securing both employment and accommodation.

Given the design and operation of these four programs and their selection, screening, orientation, placement, and monitoring of program participants, the Agency is satisfied that statutory conformity is possible. Accordingly, the Agency has determined that these four Summer Travel/Work programs should be allowed to expand both their number of program participants and the countries from which they are selected. Program guidelines have been developed and the four programs currently selecting, screening, orienting, placing, and monitoring their program enter each year for this purpose.

The 1990 GAO report was the catalyst for what has become a five year debate regarding the public diplomacy value of Summer Travel/Work programs and the Agency's legal authority to continue them under the aegis of the Fulbright-Hays Act. The debate surrounding these programs occurs entirely along the fault lines that necessarily underlie the intersection of law and policy. The legal considerations of this debate are straightforward, while the policy considerations are less so.

Statutory Considerations

The Immigration and Nationality Act, as amended, sets forth at 8 U.S.C. 1101(a)(15)(J) an alien's statutory eligibility for entry into the United States on a J visa. The J visa was created, as a provision of the Fulbright-Hays Act, to facilitate educational and cultural exchange activities. Pursuant to the provisions of 1101(a)(15)(J), an exchange visitor is defined as:

> (J) an alien having a residence in a foreign country which he has no intention of abandoning who is a bona fide student, scholar, trainee, teacher, professor, research assistant, specialist, or leader in a field of specialized knowledge or skill, or other person of similar description, who is coming temporarily to the United States as a participant in a program designated by the Director of the United States Information Agency, for the purpose of teaching, instructing or lecturing, studying, observing, conducting research, consulting, demonstrating special skills, or receiving training and who, if he is coming to the United States to participate in a program under which he will receive graduate medical education or training, also meets the requirements of section 212(j), and the alien spouse and minor children of any such alien if accompanying him or following to join him:

Given this statutory definition of an exchange participant, the GAO concluded that persons entering the United States to participate in Summer Travel/Work programs did not fall within the statutory parameters of the Fulbright-Hays Act and the Immigration and Nationality Act. Specifically, the GAO opined that the Summer Travel/Work programs do not require participants to engage in those activities set forth in both Acts.

In response to this GAO report, the Agency published a Statement of Policy and Notice in the **Federal Register** on August 13, 1990 (55 FR 32906.) This notice advised the public and those organizations facilitating Summer Travel/Work programs that, in light of the GAO report, a legal and policy review of the programs would be undertaken. This notice further advised that upon a favorable determination regarding the foreign policy value of these programs, the Agency would consider whether regulations could be drafted to conform the programs with existing law. The notice also advised that, in the alternative, the Agency might pursue legislation to specifically authorize the continuation of the programs.

As the debate regarding statutory authority began, the Agency received two well-reasoned and thorough legal memoranda suggesting the Agency did in fact possess adequate legal authority to facilitate Summer Travel/Work programs. These memoranda proved unpersuasive. Accordingly, the Agency remained unconvinced that it possessed sufficient statutory authority to facilitate Summer Travel/Work programs and so advised the Congress by letter dated June 10, 1991.

Additional support for this Agency determination was subsequently provided by a GAO Office of General Counsel letter opinion dated July 8, 1992. This letter opinion set forth a review of both the statutory language and legislative history of the Fulbright-Hays Act. The GAO affirmed its legal opinion set forth in the 1990 report but suggested that the Agency may be able to bring Summer Travel/Work programs into statutory compliance, stating:

> Notwithstanding our conclusions, given the broad authority an agency has in promulgating regulations and implementing an activity conferred upon it by statute, Powell v. Schweiker, 688 F. 2d 1357, 1360–61 11th Cir. 1982), we think USIA could revise its regulations to establish trainee, summer student travel/work and international camp counselor programs that are consistent with the J-visa statute. We emphasize that any determination about the propriety of these programs must begin with the J-visa statute. If a program involves individuals whose status is comprehended by the categories set forth in the J-visa statute, and the statute authorizes the activity that such individuals will pursue, then the program would be consistent with the intent of the J-visa statute. These categories and activities intend an educational or cultural purpose.

Thus, the Agency laid to rest the question of whether it possessed sufficient statutory authority to continue Summer Travel/Work programs as currently configured. Having determined that it did in fact lack such authority, the Agency turned its attention to an examination of the policy and public diplomacy aspects underlying these activities.

Policy Considerations

Summer Travel/Work programs have been designated by the Agency for over twenty five years. When these programs began, a strict reciprocal element mandated that the number of United States students outbound from the United States approximate the number of foreign students inbound. Annual consultations with the program's sponsoring organizations were held and the number of participants for that year established. An additional requirement limited participation to foreign students lacking sufficient funds to enter the United States as tourists. Periodic reminders of this underlying policy were also transmitted to sponsoring organizations. The policy underlying these two requirements attempted to (i) ensure no adverse domestic labor market impact resulted from the activity; and (2) that only those persons otherwise financially unable to visit the United States would benefit from this opportunity.

These original policy objectives have been seriously eroded with the passage of time. Exchange programs facilitated under the auspices of the Fulbright-Hays Act must, as a matter of policy and law, have an underlying educational or cultural programmatic component which promotes the Act's raison d'etre of mutual understanding. Critics generally suggest that Summer Travel/Work programs do not possess an educational or cultural exchange component even when such terms are given their broadest of interpretations. Conversely, advocates of these programs suggest that "experiential" learning, whereby the participant gains insight into the American lifestyle and culture through travel and employment, does in fact fulfill the expected programmatic educational or cultural component.

The Agency's interpretation of what is an acceptable educational or cultural programmatic component is often quite broad. However, the Agency has determined that it is unable to adopt the concept of "experiential" learning as sufficient legal justification, in and of itself, for an exchange activity under the Fulbright-Hays Act. To do so, would suggest that any time an alien enters the country as a visitor for business or pleasure or as a temporary worker, an educational or cultural exchange occurs.

In light of this determination, and pursuant to the discussion set forth below, the Agency is willing, in general, to accept, "experiential" programs that otherwise incorporate those programmatic components common to all other exchange activities designated by the Agency.

The Components of Exchange

Since 1990, the Agency has engaged in an on-going review of the policy and public diplomacy considerations underpinning exchange activities. This review has proven useful in responding participants have agreed to abide by these guidelines in the absence of program specific regulations.

Because the remaining Summer Travel/Work sponsor does not operate its program in the manner that the Agency has determined would meet all threshold statutory requirements, the Agency is unable to allow this program to expand in size or scope. Thus, this sponsor will continue to be limited to the numerical program size at which it operated when statutory deficiencies were identified in February of 1990. In similar fashion, this sponsor will also be

limited to recruitment in only those countries in which it was operating Summer Travel/Work programs in 1990.

The Agency has agreed to permit the continued operation of this program under these terms notwithstanding its determination that such a program design continues to suffer certain statutory deficiencies. As agreed with the sponsor, the Agency will allow a two year period of continued study of this matter for the purpose of addressing the policy considerations arising from possible adverse domestic labor market impact due to the lack of preplacement. The Agency will seek the advice and counsel of the U.S. Department of Labor regarding labor market considerations and will continue this additional period of review until March 1, 1998.

List of Subjects in 22 CFR Part 514

Cultural exchange programs.

Dated: March 22, 1996.

Les Jin,

General Counsel.

Guidelines for Summer Work/travel Programs

In lieu of specific programmatic regulations governing the administration of Agency-designated Summer Travel/Work programs, the guidelines set forth below are hereby adopted by the Agency and shall be binding upon all newly designated programs and the existing Summer Travel/Work programs operated by the American Institute for Foreign Study, YMCA InterExchange, and Camp Counselors USA. These guidelines may be amended by the Agency at any time and shall remain in full force and effect until rescinded or Superseded by duly promulgated regulations.

(a) Introduction. These guidelines shall apply to the above described program sponsors and their administration of exchange visitor programs under which foreign university students are afforded the opportunity to travel and pursue employment in the United States for a four month period corresponding with their summer vacation.

(b) Participant Selection and Screening. In addition to satisfying the requirements set forth at § 514.10(a), sponsors shall adequately screen all program participants and at a minimum:

(1) Conduct an in person interview; and

(2) Ensure that the participant is a bona fide post-secondary school student is his or her home country; and

(3) Ensure that not more than ten percent of selected participants have previously participated in a summer travel/work program.

(c) Participant Orientation. Sponsors shall provide participants prior to their departure from the home country information regarding:

(1) The name and location of their employer; and

(2) Any contractual obligations related to their acceptance of paid employment in the United States.

(d) Participant Placements. Sponsors shall not facilitate the entry into the United States of any program participant for whom an employment position has not been arranged.

(e) Participant Compensation. Sponsors shall ensure that program participants receive pay and benefits commensurate with those offered to their American counterparts.

(f) Monitoring. Sponsors shall provide:

(1) All participants with a telephone number which allows 24 hour immediate contact with the sponsor; and

(2) Appropriate assistance to program participants on an as needed emergency basis.

(g) Placement report. In lieu of listing the name and address of the participant's pre-arranged employer on the form IAP–66 sponsors shall submit to the Agency a report of all participant placements. Such report shall reflect the participant's name, place of employment, and the number of times the participant has previously participated in any summer travel/work program. Such report shall be submitted semi-annually on January 30th and July 30th of each year and shall reflect placements made in the preceding six month period.

(h) Unauthorized activities. Placement as domestic employees in United States households is expressly prohibited.

[FR Doc. 96–7592 Filed 3–27–96; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8597]

RIN 1545–AT58

Consolidated Groups and Controlled Groups—Intercompany Transactions and Related Rules; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to final regulations [TD 8597] which were published in the **Federal Register** for Tuesday, July 18, 1995 (60 FR 36671). The final regulations amend the intercompany transaction system of the consolidated return regulations.

EFFECTIVE DATE: July 18, 1995.

FOR FURTHER INFORMATION CONTACT: Roy Hirschhorn of the Office of Assistant Chief Counsel (Corporate), (202) 622–7770 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections are under sections 1502 and 267 of the Internal Revenue Code.

Need for Correction

As published, TD 8597 contains errors that are in need of correction.

Correction of Publication

Accordingly, the publication of the final regulations which are the subject of FR Doc. 95–16973, is corrected as follows:

On page 36679, under amendatory instruction "Par. 2.", the first column in the table is corrected by removing the reference to "1.263A–1T(b)(2)(vi)(B)" and in the seven entries for "1.263A-1T" correct the number "1.263A–1T" to read "1.263A–7T".

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 96–7388 Filed 3–27–96; 8:45 am]

BILLING CODE 4830–01–U

26 CFR Part 301

[TD 8595]

RIN 1545–AI24

Payment of Internal Revenue Tax by Check or Money Order and Liability of Financial Institutions for Unpaid Taxes; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains a correction to final regulations [TD 8595] which were published in the **Federal Register** for Friday, April 28, 1995 (60 FR 20899). The final regulations relate to payments with respect to internal revenue taxes and internal revenue stamps by check or money order.

EFFECTIVE DATE: April 28, 1995.

FOR FURTHER INFORMATION CONTACT: Robert A. Walker, (202) 622–3640 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction are under section 6311 of the Internal Revenue Code.

Need for Correction

As published, TD 8595 contains an error that is in need of clarification.

Correction of Publication

Accordingly, the publication of final regulations which are the subject of FR Doc. 95–10410, is corrected as follows:

On page 20899, column 3, in amendatory instruction "Par. 2.", line 8, the amendatory language "5. Adding paragraphs (d) and (e)." is corrected to read "5. Adding paragraph (d).".

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 96–7389 Filed 3–27–96; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners: Original Jurisdiction Cases

AGENCY: Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: The U.S. Parole Commission is amending the voting quorum required for initial parole decisions under 28 CFR 2.17. In addition, the appeal from such decisions that is available to prisoners under 28 CFR 2.27 is replaced by a petition for reconsideration. These are the procedures for deciding original jurisdiction cases, which involve high profile and extremely serious offenders. The Commission has determined that both initial decisions and petitions for reconsideration in these cases are appropriately decided by a majority vote of the Commission. These changes are necessary in view of the fact that the Commission is downsizing, and only four Commissioners are currently holding office.

EFFECTIVE DATE: April 1, 1996.

FOR FURTHER INFORMATION CONTACT: Pamela A. Posch, Office of General Counsel, 5550 Friendship Blvd., Chevy Chase, Maryland 20815, Telephone (301) 492–5959.

SUPPLEMENTARY INFORMATION: This action changes the quorum of Commissioner votes required to decide on original jurisdiction cases, in keeping with the reduction in the number of U.S. Parole Commissioners from six to four that will become effective April 1, 1996. The early effective date shown above has been ordered by the Commission pursuant to 5 U.S.C. 553(d)(3), and is necessary to permit the Commission to continue making its decisions within statutory deadlines notwithstanding the reduction in the number of Commissioners holding office. This is a procedural change only, and will not implicate the merits of any prisoner's case for parole or affect the way in which hearings are conducted. Hence, notice and public comment is not required. See 5 U.S.C. 553(b)(A). The guidelines at 28 CFR 2.20 will continue to govern the Commission's decisions to grant, deny, and revoke parole.

Implementation

This procedural rule change will apply to all original jurisdiction cases decided under 28 CFR 2.17 or 28 CFR 2.27, after the effective date shown above.

Executive Order 12866 and Regulatory Flexibility Statement

The U.S. Parole Commission has determined that this rule is not a significant regulatory action for the purposes of Executive Order 12866, and the rule has, accordingly, not been reviewed by the Office of Management and Budget. The rule will not have a significant economic impact upon a substantial number of small entities, within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 605(b).

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, probation and parole, prisoners.

The Final Rule

Accordingly, the U.S. Parole Commission makes the following changes to 28 CFR Part 2:

PART 2—[AMENDED]

(1) The authority citation for 28 CFR Part 2 continues to read as follows:

Authority: 18 U.S.C. 4203(a)(1) and 4204(a)(6).

§ 2.17 [Amended]

(2) 28 CFR Part 2, § 2.17(a) is amended by substituting the words "the concurrence of three votes (or a majority vote of Commissioners holding office if such majority is less than three Commissioners)" for the words "the concurrence of three votes".

(3) 28 CFR Part 2, § 2.17(c)(2) is amended by substituting the words "a petition for reconsideration" for the words "an appeal".

(4) 28 CFR Part 2, § 2.27 is revised to read as follows:

§ 2.27 Petition for reconsideration of original jurisdiction decisions.

(a) A petition for reconsideration may be filed with the Commission in cases decided under the procedure specified in § 2.17 within thirty days of the date of such decision. A form is provided for this purpose. A petition for reconsideration will be reviewed at the next regularly scheduled meeting of the Commission provided the petition is received thirty days in advance of such meeting. Petitions received by the Commission less than thirty days in advance of a regularly scheduled meeting will be reviewed at the next regularly scheduled meeting. The concurrence of three Commissioners (or a majority of Commissioners holding office if such majority is less than three Commissioners) shall be required to render a decision on a petition for reconsideration. In case the required concurrence is not reached, the previous decision shall stand. A decision under this rule shall be final.

(b) Attorneys, relatives, and other interested parties who wish to submit written information concerning a petition for reconsideration should send such information to the National Appeals Board, United States Parole Commission, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815. Petitions and all supporting material are to be submitted thirty days in advance of the meeting at which such petitions will be considered.

(c) If no petition for reconsideration is filed within 30 days of the entry of a decision under § 2.17, that decision shall stand as the final decision of the Commission.

Dated: March 15, 1996.

Edward F. Reilly, Jr.,

Chairman, Parole Commission.

[FR Doc. 96–7527 Filed 3–27–96; 8:45 am]

BILLING CODE 4410–01–P

28 CFR Part 50

[AG ORDER NO. 2013–96]

RIN 1105–AA40

Removal of Procedures for Receipt and Consideration of Written Comments Submitted Under Subsection 2(b) of the Antitrust Procedures and Penalties Act

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This rule removes procedures for receipt and consideration of written comments submitted under subsection 2(b) of the Antitrust Procedures and Penalties Act from the Code of Federal Regulations. The regulation is unnecessary, and its removal will help to streamline the Code of Federal Regulations.

EFFECTIVE DATE: This final rule is effective March 28, 1996.

FOR FURTHER INFORMATION CONTACT: Howard Blumenthal, Assistant Chief, Legal Policy Section, Antitrust Division, Room 3121 Main Justice Building, 10th & Pennsylvania Avenue NW., Washington, DC 20530; telephone (202) 514–2513.

SUPPLEMENTARY INFORMATION: 28 CFR 50.13 was promulgated pursuant to section 2 of the Antitrust Procedures and Penalties Act ("Tunney Act" or "Act"), Pub. L. No. 93–528 (codified at 15 U.S.C. 16(b)–(h), as amended). The Tunney Act requires that the Department of Justice ("Department") file proposed consent judgments in civil cases brought under the antitrust laws with the district court before which such cases are pending for a judicial determination that entry of such judgments would be in the public interest. At least 60 days prior to the effective date of any such judgment, the Department must publish in the **Federal Register** the proposed judgment and a competitive impact statement ("CIS") setting forth certain additional information including the background of the violation, an explanation of the proposed consent judgment, and an evaluation of alternatives to the proposed judgment actually considered by the United States. Summaries of the judgment and CIS must also be published in several appropriate newspapers. Both the **Federal Register** and newspaper notices must solicit public comments concerning the proposed consent judgment. The Department must supply the court with, and publish in the **Federal Register**, copies of any comments received and the response of the Department of such comments.

The Act requires the Attorney General or his designee to establish procedures to carry out the Act's provisions concerning the receipt and consideration of comments. 15 U.S.C. 16(d). In response, the Department promulgated 28 CFR 50.13, which provides that comments should be directed to the chief of the litigating section of the Antitrust Division ("Division") to which the case is assigned, and sets out certain general procedures for handling such comments once they have been received by the Division.

This regulation is not necessary, nor is it particularly helpful. First, while the regulation provides generally that comments should be sent to the chief of the section of the Antitrust Division handling the case, the name and address of the Division attorney to whom comments should be sent concerning particular proposed consent judgments is always set out in the **Federal Register** and newspaper notices requesting such comments. Second, more complete Division procedures for handling Tunney Act comments once they have been received than are set out in 28 CFR 50.13 can be established by the Department without the need for a regulation, and these procedures can then be adjusted without the need formally to revise a regulation.

Therefore, because 28 CFR 50.13 is unnecessary and is not required to be promulgated by the Tunney Act, the Department is removing this provision from the Code of Federal Regulations.

Administrative Procedure Act, 5 U.S.C. 553

Because this regulation imposes no new requirements or restrictions, the Department of Justice finds good cause for exempting it from the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment, and delay in effective date.

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities.

Executive Order 12612

This regulation will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with E.O. 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12866

This regulation has been drafted and reviewed in accordance with E.O. 12866, § 1(b), Principles of Regulation. The Department of Justice has determined that this rule is not a "significant regulatory action" under E.O. 12866, § 3(f), and accordingly this rule has not been reviewed by the Office of Management and Budget.

List of Subjects in 28 CFR Part 50

Administrative practice and procedure, Antitrust.

Accordingly, for the reasons set forth in the preamble, part 50 of chapter I of title 28 of the Code of Federal Regulations is amended as follows:

PART 50—STATEMENTS OF POLICY

1. The authority citation for part 50 is revised to read as follows:

Authority: 5 U.S.C. 301, 552, 552a; 21 U.S.C. 881(f)(2); 28 U.S.C. 508, 509, 510, 516, 517, 518, 519; E.O. 12250, 45 FR 72995, 3 CFR, 1980 Comp., p. 298.

§ 50.13 [Removed]

2. Section 50.13 is removed.

Dated: March 19, 1996.

Janet Reno,

Attorney General.

[FR Doc. 96–7364 Filed 3–27–96; 8:45 am]

BILLING CODE 4410–01–M

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 102

Procedural Rules

AGENCY: National Labor Relations Board.

ACTION: Final Rule.

SUMMARY: The National Labor Relations Board is revising its rules that govern charges for responding to requests for information made pursuant to the Freedom of Information Act, 5 U.S.C. 552 ("FOIA"). The revisions are being adopted in order to bring these charges into line with the current costs to the Agency for processing such requests. The intended effect of the revisions is to permit the Agency to charge requesters rates that reflect the actual current costs for processing FOIA requests and for duplicating responsive documents.

EFFECTIVE DATE: April 29, 1996.

FOR FURTHER INFORMATION CONTACT: John J. Toner, Executive Secretary, 1099 14th Street, N.W. Room 11602, Washington, D.C. 20570–0001, Telephone: (202) 273–1934.

SUPPLEMENTARY INFORMATION: Section 102.117(d)(2)(i) of the National Labor Relations Board's Rules and Regulations, 29 CFR 102.117(d)(2)(i), sets forth the rates to be charged to persons requesting information from the Agency pursuant to the Freedom of Information Act, 5 U.S.C. 552 ("FOIA"). These rates were last revised more than seven years ago, since which time our actual costs have increased.

Section 102.117(d)(2)(i) is being revised to set forth new rates which are based on the following calculations:

The typical clerical employee who works on the processing of a FOIA request is a GS–6, step 3. The present rate for that grade and step is $10.70 per hour. Adding the cost to the Agency for benefits (budgeted at 17.5%) brings the total rate to $12.50 per hour, or $3.10 per quarter-hour.

The typical professional employee who works on the processing of a FOIA request is a GS–14, step 5. The present rate for that grade and step is $31.50 per hour. Adding the cost to the Agency for benefits (budgeted at 17.5%) brings the total rate to $37.00 per hour, or $9.25 per quarter-hour.

The current cost of reproducing documents is $0.12 per page, up from $0.10 per page the last time the regulations were revised.

All other direct costs for responding to a FOIA request are to be billed at their actual cost to the Agency, as presently set forth in subsection 102.117(d)(2)(i)(D). That subsection is being revised, however, to explicitly provide that such actual costs shall include, where applicable, the cost of conducting computer searches for information and for providing information in electronic format.

Accordingly, subsection (d)(2)(i) of § 102.117 is being revised to reflect the foregoing changes in the costs for processing a FOIA request.

On a related subject, we have revised downwards our estimate of the cost of processing a check in payment of a FOIA fee from $11.00 to $5.00. Consequently, subsection (d)(iii)(A) of § 102.117 is being revised to provide that fees shall not be imposed on a requester when the total charges are less than $5.00.

In all other respects, 102.117 remains unchanged.

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the NLRB certifies that this rule will not have a significant impact on a substantial number of small businesses.

List of Subjects in 29 CFR Part 102

Administrative practice and procedure, Labor management relations.

Accordingly, 29 CFR part 102 is amended as follows:

PART 102—[AMENDED]

1. The authority citation for 29 CFR part 102 continues to read as follows:

Authority: Section 6, National Labor Relations Act, as amended (29 U.S.C. 151, 156). Section 102.117(c) also issued under section 552(a)(4)(A) of the Freedom of Information Act, as amended (5 U.S.C. 552(a)(4)(A)). Sections 102.143 through 102.155 also issued under section 504(c)(1) of the Equal Access to Justice Act, as amended (5 U.S.C. 504(c)(1)).

2. Section 102.117(d)(2)(i) and (d)(2)(iii)(A) are revised to read as follows:

§ 102.117 Board materials and formal documents available for public inspection and copying; requests for described records; time limit for response; appeal from denial of request; fees for document search, duplication, and review; files and records not subject to inspection.

* * * * *

(d) * * *

(2) Persons requesting records from this Agency shall be subject to a charge of fees for the full allowable direct costs of document search, review, and duplicating, as appropriate, in accordance with the following schedules, procedures, and conditions:

(i) Schedule of charges:

(A) For each one-quarter hour or portion thereof of clerical time—$3.10

(B) For each one-quarter hour or portion thereof of professional time—$9.25

(C) For each sheet of duplication (not to exceed 8½ by 14 inches) of requested records—$0.12

(D) All other direct costs of preparing a response to a request shall be charged to the requester in the same amount as incurred by the Agency. Such costs shall include, but not be limited to: certifying that records are true copies; sending records to requesters or receiving records from the Federal records storage centers by special methods such as express mail; and, where applicable, the cost of conducting computer searches for information and for providing information in electronic format.

* * * * *

(iii)(A) In no event shall fees be imposed on any requester when the total charges are less than $5.00, which is the Agency's cost of collecting and processing the fee itself.

* * * * *

Dated, Washington, DC, March 21, 1996.

By Direction of the Board.

John J. Toner,

Executive Secretary, National Labor Relations Board.

[FR Doc. 96–7410 Filed 3–27–96; 8:45 am]

BILLING CODE 7545–01–P

POSTAL SERVICE

39 CFR Part 20

Implementation of International Package Consignment Service

AGENCY: Postal Service.

ACTION: Interim rule with request for comments.

SUMMARY: International Package Consignment Service (IPCS) is an international mail service designed for companies sending merchandise to other countries. The service was previously available only to Japan. Canada and the United Kingdom (U.K.) are now being added as additional destination countries. The countries that are included in the United Kingdom are England, Scotland, Wales, Northern Ireland, Isle of Man, and Channel Islands. To use IPCS, a customer is required to mail at least 25,000 packages a year to Canada, or at least 10,000 packages a year to the U.K., and agree to link its information systems with the Postal Service's so that the Postal Service can extract certain information about the contents of the customer's packages for customs clearance and other purposes. Initially, two levels of service to Canada and three levels of service to the U.K. will be offered to customers. Interim regulations have been developed and are set forth below for comment and suggested revision prior to adoption in final form.

DATES: The interim regulations take effect March 28, 1996. Comments must be received on or before May 31, 1996.

ADDRESSES: Written comments should be mailed or delivered to International Package Consignment Service, U.S. Postal Service, 475 L'Enfant Plaza SW., Room EB4400, Washington, DC 20260–6500. Copies of all written comments will be available for public inspection and photocopying at the above address between 9 a.m. and 4 p.m., Monday through Friday, after May 31, 1996.

FOR FURTHER INFORMATION CONTACT:

Mike Opiela (Canada) at the above address. Telephone: (202) 268–3860.

Tim Gribben (United Kingdom) at the above address. Telephone: (202) 268–3035.

SUPPLEMENTARY INFORMATION:

I. Introduction

One of the most important goals of the Postal Service's international mission is the development of services that enhance the ability of U.S: companies to do business in other countries. This responsibility was delineated in 39 U.S.C. 403(b)(2) which makes it the

obligation of the Postal Service "to provide types of mail service to meet the needs of different categories of mail and mail users." IPCS is designed to more closely meet the needs of customers who send merchandise packages from the United States to multiple international addressees by simplifying the process companies use to prepare their packages for mailing and by reducing the costs those companies incur in mailing merchandise to other countries.

IPCS benefits all users of the Postal Service because revenues collected contribute to fixed costs, thereby decreasing the total revenue that the Postal Service needs to recover from other services. At the same time, IPCS makes it easier and more economical for customers in the United States to export their products to international markets.

In late 1994, implementation of IPCS to Japan (59 FR 65961 December 22, 1994), the Postal Service announced that, when feasible, it would expand the service to other destination countries based on customer requests. The Postal Service hereby expands IPCS by adding Canada and the United Kingdom as destination countries for qualifying customers.

II. IPCS to Canada and the United Kingdom

A. Qualifying Criteria

A customer who wants to use IPCS to Canada or to the U.K. will be required to enter into a service agreement with the Postal Service providing for the following. First, the customer must commit to mail at least 25,000 packages a year to Canada, or 10,000 packages a year to the U.K. Second, the customer must designate the Postal Service as its carrier of choice to Canada or the U.K. Third, the customer must agree to link its information systems with the Postal Service's so that the Postal Service and the customer can exchange data transmissions concerning the customer's packages, and the Postal Service can extract, on an as-needed basis, certain information about the package by scanning the customer-provided barcode on each package.

In general, the information that must be made available to the Postal Service includes: the order number; the package identification number; the buyer's name and address; the recipient's name and address; the total weight of the package; the total value of the package contents; the number of items in the package; and, for each item in the package, its SKU number, its value, and its country of origin. In practice, this requirement means that the customer will have to begin the necessary systems work by the time it begins using IPCS, and then will have to assist the Postal Service in completing and maintaining the information systems linkages. The Postal Service will use the extracted information to prepare the necessary customs forms and package labels, to accept the customer's mail and verify postage payment automatically, and to provide user-friendly tracking and tracing.

In addition to these required commitments, which must appear in all IPCS service agreements, arrangements between the Postal Service and the customer that are technical in nature also may appear in the IPCS service agreement. For instance, the service agreement may describe the electronic data interface (EDI) or proprietary file format that will be used to transmit data between the customer and the Postal Service, as well as the frequency and schedule of transmissions. Similarly, the service agreement may describe the formats and frequencies for any exception and performance reports that the Postal Service will provide to the customer.

B. Processing and Acceptance

Because of efficiencies created by the Postal Service's ability to process all IPCS mail to Canada or the U.K. at a facility designed for that purpose, as well as general operational and managerial considerations, the Postal Service has determined that, in general, all IPCS mail to Canada or the U.K. should be processed at, and dispatched from, a dedicated IPCS facility.

If the plant at which the customer's ICPS packages originate is located within 500 miles of an IPCS Processing Facility, the Postal Service will verify and accept the packages at the customer's plant and transport them to the processing facility according to a schedule agreed upon by the Postal Service and the customer.

If the customer's plant is located more than 500 miles from the processing facility, two options are available. In Option One, the customer must present the packages to the Postal Service for verification at the customer's plant and transport them as a drop shipment to an IPCS processing facility according to a schedule agreed upon by the Postal Service and the customer. Option Two allows customers to avoid transporting the packages to an IPCS Processing Facility by performing some of the package processing that the Postal Service would otherwise perform. With this option, the Postal Service will provide one or more specially-designed computer workstations to be installed at the customer's plant. The computer workstation(s) and USPS-developed software will be integrated with the customer's order processing data system and will be operated by the customer's employees. As individual orders are processed for shipment, this workstation will prepare and generate all required customs declarations and international mail dispatch tags and forms. Since the workstation(s) is (are) integrated into the process, and may even replace other customer functions, no increase is anticipated in order processing and mail preparation time. When the mail is ready for dispatch, it will be verified and accepted on site by USPS personnel and transported by the Postal Service to a designated Air Exchange Office or directly to an entry point for forwarding and delivery according to a schedule agreed upon by the Postal Service and the customer. Under Option Two, the customer saves the cost of transporting the packages to an IPCS Processing Facility, and the Postal Service saves the cost of processing and sorting individual packages.

C. Customs Forms

Normally, all necessary Canadian and U.K. customs forms will be automatically generated by the Postal Service computer workstations. Packages mailed to Canada or the U.K. through an IPCS facility will not be required to bear customs forms when they are tendered to the Postal Service. The Postal Service will verify, accept, and transport these packages to a designated IPCS processing facility. After scanning the customer-printed barcode on each package and correlating it with the package-specific information transmitted by the customer, the Postal Service will print the necessary customs forms and then affix them to the customer's packages as part of the processing operation at the IPCS Processing Facility. However, during the interim period in which the Postal Service and the customer are working together to establish the information systems linkages to enable the Postal Service to accomplish this, customers may be required to prepare the necessary customs forms on their own and affix the forms to the packages before tendering them to the Postal Service. In those cases where the computer workstations are located at the customer's plant and operated by customer employees, the USPS computer workstations will print the customs forms, and the customer will be required to affix these forms to the appropriate packages as instructed by the Postal Service prior to verification and acceptance of the mail.

D. Customs Clearance

The Postal Service has developed the Customs Pre-Advisory System (CPAS) as part of IPCS processing. This electronic system collects package-specific data to satisfy customs requirements as packages are processed using the USPS computer workstations located at either an IPCS facility or the customer's plant. The system electronically advises the USPS delivery agent and customs of the contents of each package mailed. Since this advisory information arrives before the mail, CPAS facilitates and simplifies customs clearance. Electronic pre-notification of the package contents and automatic preparation of required customs declarations assures the fastest clearance through Canadian or U.K. customs and reduces costs for the customer and the Postal Service. To use CPAS, recipients of merchandise must designate the Postal Service and its customs broker as their agents for customs clearance.

E. Delivery Options

(1) Canada

The Postal Service will initially offer two delivery options to Canada. The two options initially available will be Air Courier Service and Ground Courier Service. The weight limit for packages under both options will be 66 pounds, and both options will provide tracking and tracing.

Air Courier Service will be the fastest option. The Postal Service will transport Air Courier Service packages from the customer's plant or from the designated IPCS processing facility to Canada overnight where they will receive expeditious customs clearance and be released to the delivery agent. From there, the packages will receive courier service throughout Canada and be delivered to major population centers overnight. Normal delivery times will be two to three days from dispatch from the customer's plant to final delivery. Insurance up to $500 is included at no additional cost.

Ground Courier Service will offer overnight transportation to Canada and ground transportation to final destination in Canada. Ground Courier Service will receive the same expeditious customs clearance as Air Courier Service and normal delivery times for 95 percent of all Canadian addresses will be three to six days after dispatch from the customer's plant, depending on the location of final destination. (For addresses in the Maritimes and extreme northern territories where distance and poor roads affect transportation, delivery times could be as long as eight days.) Insurance will be available at an additional cost.

The Postal Service intends to develop and test a third delivery option for possible implementation at a later date. This third option, if successfully tested and implemented, will offer reduced rates, without tracking and tracing, but with proof of delivery provided. The Postal Service requests comments from customers regarding the need for the third option.

(2) United Kingdom

The Postal Service will offer three levels of service to the U.K. Premium, Standard, and Economy. The weight limit for all three delivery options is 66 pounds, the maximum length is 60 inches, and the maximum length and girth combined is 108 inches.

Premium Service will be the fastest option and will provide tracking and tracing and insurance up to $500 at no additional cost. The Postal Service will transport Premium packages to the U.K. by air. Once a package is dispatched from the customer's facility, it should clear customs and be delivered in the U.K. by close of business on the third working day.

Standard Service will be the next fastest delivery option and will provide tracking and tracing and insurance up to $500 at no additional cost. The Postal Service will transport Standard packages to the U.K. by air. Once a package is dispatched from the customer's facility, it should clear customs and be delivered in the U.K. by close of business on the fourth working day.

Economy Service will be the slowest delivery option and will provide tracking and tracing to the point of entry into the U.K's. domestic mail stream. Insurance will be available at an additional cost. The Postal Service will transport Economy packages to the U.K. by air. Once a package is dispatched from the customer's facility, it should clear customs and be delivered in the U.K. by close of business on the fifth or sixth working day.

F. Rates

(1) Canada

The base rates for the two delivery options currently available for Canada are set forth below. These rates may be reduced by one or more of the three annual discounts, depending on how many packages the customer mails to Canada through IPCS in a twelve month period.

For each delivery option, the Postal Service will charge the base rates, in 1-pound increments, for the first 100,000 packages mailed by the customer during a 12-month period. Once the customer has mailed 100,000 packages, postage for the customer's next 400,000 packages will be discounted by 3 percent from the base rates. Packages mailed through either of the two delivery options will count toward the customer meeting the 100,000 package threshold.

Once the customer has mailed 500,000 packages during a 12-month period, postage for the customer's next 500,000 packages will be discounted at 4 percent from the prior tier discounted schedule. Finally, a third level of Discount at 5 percent will apply for all packages mailed in excess of 1 million during the 12-month period. Again, packages mailed through either of the two delivery options will count toward the customer's meeting the 500,000 and 1,000,000 package thresholds.

INTERNATIONAL PACKAGE CONSIGNMENT SERVICE TO CANADA

Pounds	Base rates < 100k		Volume discounts					
			101k–500k 3.00%		501k–1m 4.00%		>1m 5.00%	
	Air	Ground	Air	Ground	Air	Ground	Air	Ground
1	10.15	8.55	9.85	8.29	9.45	7.96	8.98	7.56
2	11.09	9.37	10.76	9.09	10.33	8.72	9.81	8.29
3	12.74	10.92	12.36	10.60	11.86	10.17	11.27	9.66
4	14.38	11.93	13.95	11.57	13.39	11.10	12.73	10.55
5	16.03	12.95	15.55	12.56	14.93	12.06	14.18	11.46

INTERNATIONAL PACKAGE CONSIGNMENT SERVICE TO CANADA—Continued

Pounds	Base rates < 100k		Volume discounts					
			101k–500k 3.00%		501k–1m 4.00%		>1m 5.00%	
	Air	Ground	Air	Ground	Air	Ground	Air	Ground
6	17.55	13.98	17.03	13.56	16.35	13.02	15.53	12.37
7	19.19	14.93	18.61	14.48	17.87	13.90	16.98	13.20
8	20.83	15.85	20.20	15.38	19.39	14.76	18.42	14.03
9	22.45	16.80	21.79	16.29	20.92	15.64	19.87	14.86
10	24.10	17.72	23.37	17.19	22.44	16.51	21.32	15.68
11	25.55	18.55	24.78	17.99	23.79	17.27	22.60	16.41
12	27.17	19.49	26.36	18.91	25.30	18.15	24.04	17.25
13	28.81	20.45	27.95	19.84	26.83	19.05	25.49	18.09
14	30.44	21.40	29.52	20.76	28.34	19.93	26.92	18.93
15	32.06	22.36	31.10	21.69	29.85	20.82	28.36	19.78
16	33.68	23.86	32.67	23.14	31.37	22.21	29.80	21.10
17	35.32	24.84	34.26	24.09	32.89	23.13	31.25	21.97
18	36.95	25.81	35.84	25.03	34.40	24.03	32.68	22.83
19	38.57	26.99	37.41	26.18	35.92	25.14	34.12	23.88
20	40.19	27.97	38.99	27.13	37.43	26.05	35.56	24.74
21	41.53	28.74	40.29	27.88	38.68	26.76	36.74	25.43
22	43.15	29.71	41.85	28.82	40.18	27.67	38.17	26.28
23	44.76	30.69	43.42	29.77	41.68	28.58	39.59	27.15
24	46.37	31.66	44.98	30.71	43.18	29.48	41.02	28.01
25	48.00	32.65	46.56	31.67	44.69	30.40	42.46	28.88
26	49.61	33.61	48.12	32.61	46.20	31.30	43.89	29.74
27	50.85	34.60	49.32	33.56	47.35	32.22	44.98	30.61
28	52.83	35.57	51.25	34.50	49.20	33.12	46.74	31.46
29	54.46	36.55	52.83	35.45	50.71	34.03	48.18	32.33
30	56.07	37.52	54.39	36.39	52.21	34.94	49.60	33.19
31	57.27	38.21	55.55	37.06	53.33	35.58	50.66	33.80
32	58.87	39.17	57.10	37.99	54.82	36.47	52.08	34.65
33	60.49	40.14	58.67	38.94	56.32	37.38	53.51	35.51
34	62.09	41.11	60.22	39.87	57.81	38.28	54.92	36.36
35	63.59	42.08	61.78	40.82	59.31	39.19	56.34	37.23
36	65.29	43.04	63.33	41.75	60.80	40.08	57.76	38.08
37	66.90	44.02	64.90	42.70	62.30	40.99	59.18	38.94
38	68.50	45.33	66.45	43.97	63.79	42.21	60.60	40.10
39	70.10	46.49	68.00	45.09	65.28	43.29	62.02	41.12
40	71.70	47.64	69.55	46.21	66.77	44.36	63.43	42.14
41	72.79	48.26	70.60	46.81	67.78	44.94	64.39	42.69
42	74.38	49.23	72.15	47.75	69.26	45.84	65.80	43.55
43	75.97	50.21	73.69	48.71	70.74	46.76	67.20	44.42
44	77.56	51.57	75.23	50.03	72.22	48.02	68.61	45.62
45	79.16	52.56	76.78	50.99	73.71	48.95	70.03	46.50
46	80.16	53.13	77.75	51.54	74.64	49.48	70.91	47.00
47	81.74	54.94	79.28	53.29	76.11	51.16	72.31	48.60
48	83.31	56.77	80.81	55.06	77.58	52.86	73.70	50.22
49	84.78	58.64	82.24	56.88	78.95	54.60	75.00	51.87
50	86.48	60.96	83.89	59.13	80.53	56.76	76.51	53.92
51	88.06	62.45	85.42	60.58	82.00	58.15	77.90	55.24
52	89.65	63.97	86.96	62.05	83.48	59.57	79.31	56.59
53	91.23	65.52	88.49	63.56	84.95	61.01	80.70	57.96
54	92.82	67.08	90.04	65.06	86.43	62.46	82.11	59.34
55	94.40	68.64	91.57	66.58	87.90	63.92	83.51	60.72
56	95.28	69.28	92.42	67.20	88.73	64.51	84.29	61.29
57	96.85	70.37	93.94	68.26	90.19	65.53	85.68	62.25
58	98.43	71.48	95.48	69.34	91.66	66.56	87.07	63.24
59	99.99	72.58	96.99	70.40	93.11	67.58	88.46	64.20
60	101.57	74.18	98.53	71.96	94.59	69.08	89.86	65.62
61	103.14	75.30	100.05	73.04	96.04	70.12	91.24	66.61
62	104.72	76.40	101.58	74.11	97.51	71.14	92.64	67.59
63	105.51	77.48	102.35	75.16	98.25	72.15	93.34	68.54
64	107.07	78.55	103.85	76.19	99.70	73.15	94.71	69.49
65	108.63	79.70	105.37	77.31	101.16	74.22	96.10	70.51
66	110.19	80.85	106.88	78.42	102.61	75.29	97.48	71.52

(2) United Kingdom

The base rates for the three delivery options for the U.K. are set forth below. For each delivery option, the Postal Service will charge the base rates, in 1-pound increments, for the first 100,000 packages mailed by the customer during a 12-month period. Once the customer has mailed 100,000 packages, postage for the customer's next packages will be reduced by 2.0% from the base rates. Packages mailed through any of the three delivery options will count toward the customer's meeting the 100,000-package threshold.

INTERNATIONAL PACKAGE CONSIGNMENT SERVICE TO UNITED KINGDOM

Pounds to:	Base rates			For volumes > 100,000		
	Premium	Standard	Economy	Premium	Standard	Economy
1	13.87	11.17	9.95	13.59	10.95	9.75
2	15.21	12.46	11.19	14.90	12.21	10.97
3	16.54	13.75	12.43	16.21	13.47	12.18
4	17.88	15.04	13.67	17.52	14.73	13.39
5	19.21	16.32	14.91	18.83	16.00	14.61
6	20.55	17.61	16.15	20.14	17.26	15.82
7	21.88	18.90	17.39	21.44	18.52	17.04
8	23.71	20.18	18.63	23.24	19.78	18.25
9	25.08	21.47	19.87	24.58	21.04	19.47
10	26.63	22.76	21.11	26.09	22.30	20.68
11	28.00	24.05	22.35	27.44	23.57	21.90
12	29.37	25.33	23.59	28.79	24.83	23.11
13	30.96	26.62	24.82	30.34	26.09	24.33
14	32.34	27.91	26.06	31.70	27.35	25.54
15	33.96	29.20	27.30	33.28	28.61	27.76
16	35.35	30.48	28.54	34.64	29.87	27.97
17	36.99	31.77	29.78	36.25	31.13	29.19
18	38.66	33.06	31.02	37.88	32.40	30.40
19	40.61	34.35	32.26	39.80	33.66	53.62
20	42.04	35.63	33.50	41.20	34.92	32.83
21	43.47	36.92	34.74	42.60	36.18	34.05
22	44.90	38.21	35.98	44.00	37.44	35.26
23	46.33	39.49	37.22	45.40	38.70	36.48
24	47.76	40.78	38.46	46.81	39.97	37.69
25	49.19	42.07	39.70	48.21	41.23	38.91
26	50.62	43.36	40.94	49.61	42.49	40.12
27	53.44	44.64	42.18	52.37	43.75	41.34
28	54.91	45.93	43.42	53.81	45.01	42.55
29	56.38	47.22	44.66	55.25	46.27	43.77
30	57.85	48.51	45.90	56.69	47.54	44.98
31	59.31	49.79	47.14	58.13	48.80	46.20
32	60.78	51.08	48.38	59.57	50.06	47.41
33	62.25	52.37	49.62	61.01	51.32	48.63
34	63.72	53.65	50.86	62.45	52.58	49.84
35	65.19	54.94	52.10	63.88	53.84	51.06
36	66.66	56.23	53.34	65.32	55.10	52.27
37	68.13	57.52	54.58	66.76	56.37	53.48
38	69.59	58.80	55.82	68.20	57.63	54.70
39	72.45	60.09	57.06	71.00	58.89	55.91
40	73.94	61.38	58.30	72.46	60.15	57.13
41	75.44	62.67	59.54	73.93	61.41	58.34
42	76.94	63.95	60.77	75.40	62.67	59.56
43	78.44	65.24	62.01	76.87	63.94	60.77
44	79.93	66.53	63.25	78.33	65.20	61.99
45	81.43	67.82	64.49	79.80	66.46	63.20
46	82.93	69.10	65.73	81.27	67.72	64.42
47	84.42	70.39	66.97	82.74	68.98	65.63
48	85.92	71.68	68.21	84.20	70.24	66.85
49	87.42	72.96	69.45	85.67	71.51	68.06
50	88.91	74.25	70.69	87.14	72.77	69.28
51	90.41	75.54	71.93	88.60	74.03	70.49
52	91.91	76.83	73.17	90.07	75.29	71.71
53	93.41	78.11	74.41	91.54	76.55	72.92
54	94.90	79.40	75.65	93.01	77.81	74.14
55	96.40	80.69	76.89	94.47	79.07	75.35
56	97.90	81.98	78.13	95.94	80.34	76.57
57	99.39	83.26	79.37	97.41	81.60	77.78
58	100.89	84.55	80.61	98.87	82.86	79.00
59	102.39	85.84	81.85	100.34	84.12	80.21
60	103.89	87.13	83.09	101.81	85.38	81.43
61	105.38	88.41	84.33	103.28	86.64	82.64
62	106.88	89.70	85.57	104.74	87.91	83.86
63	108.38	90.99	86.81	106.21	89.17	85.07
64	109.87	92.27	88.05	107.68	90.43	86.29

INTERNATIONAL PACKAGE CONSIGNMENT SERVICE TO UNITED KINGDOM—Continued

Pounds to:	Base rates			For volumes > 100,000		
	Premium	Standard	Economy	Premium	Standard	Economy
65	111.37	93.56	89.29	109.14	91.69	87.50
66	112.87	94.85	90.53	110.61	92.95	88.72

III. Conclusion

Accordingly, the Postal Service hereby adopts IPCS to Canada and the United Kingdom, on an interim basis, at the rates set forth in the schedules above. Although 39 U.S.C. 407 does not require advance notice and opportunity for submission of comments, and the Postal Service is exempted by 39 U.S.C. 410(a) from the advance notice requirements of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 553), the Postal Service invites interested persons to submit written data, views, or arguments concerning this interim rule.

The Postal Service adopts the following amendments to the International Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 20.1.

List of Subjects in 39 CFR Part 20

International postal service, Foreign relations.

PART 20—[AMENDED]

1. The authority citation for 39 CFR part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 401, 404, 407, 408.

2. Effective immediately, subchapter 620 of the International Mail Manual, Issue 16, is amended as follows:

6 SPECIAL PROGRAMS

* * * * *

620 International Package Consignment Service

621 Description

621.1 General

International Package Consignment Service (IPCS) is a bulk mailing system that provides fast, economical international delivery of packages containing merchandise. IPCS is designed to make it easier and less costly for mail-order companies to export goods. The Postal Service provides IPCS on a destination country-specific basis pursuant to the terms and conditions stipulated in 620 and the Individual Country Listings.

* * * * *

621.3 Availability

IPCS is available only to destination countries identified in 620 and the Individual Country Listings.

622 Qualifying Customers

To qualify, a customer must enter into a service agreement containing the commitments stipulated in 625.2 and must be able to meet the general and destination country-specific preparation requirements stipulated in 620 and the Individual Country Listings.

623 General

623.1 Special Services

The special services provided for in Chapter 3 are not available for packages sent by IPCS unless specifically provided for in 620 or the Individual Country Listings.

623.2 Customs Documentation

The requirements for customs forms vary by destination country as stipulated in 620 and the Individual Country Listings.

623.3 Size and Weight Limits

Size and weight limits for packages sent by IPCS vary by destination country as stipulated in 620 and the Individual Country Listings.

623.41 Rates

Rates vary by destination country as stipulated in 620 and the Individual Country Listings.

623.42 Postage Payment Method

Postage must be paid by permit imprint or any other Postal Service approved method.

624 Preparation Requirements

624.1 General Requirements

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624.2 Destination Country-Specific Requirements

Certain preparation requirements vary by destination country as stipulated in 620 and the Individual Country Listings.

625 IPCS Service Agreements

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625.2 Required Provisions

a. The customer's commitment to send at least 25,000 packages (or 10,000 to the United Kingdom) by IPCS during the next 12 months to the specified destination country.

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626 IPCS to Japan

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Change 627 to 626.7 Customs Forms Required.

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Change 628 to 626.8 Preparation Requirements.

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Change 628.1 to 626.81 Express Service.

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Change 628.11 to 626.811 Processing at JFK.

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Change 628.12 to 626.812 Processing Mailer's Plant.

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Change 628.2 to 626.82 Standard Air Service.

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Change 628.3 to 626.83 Economy Air Service.

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3. Effective immediately, chapter 6 of the International Mail Manual, Issue 16, is amended by adding new section 627 as follows:

6 SPECIAL PROGRAMS

* * * * *

620 International Package Consignment Service

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627 IPCS to Other Destination Countries

Information concerning IPCS for the following designated countries is detailed in the Individual Country Listings (ICLs) section.

a. Canada.

b. Great Britain and Northern Ireland.

* * * * *

4. Effective immediately, the Individual Country Listing for Canada in the International Mail Manual, Issue 16, is amended by adding the following information, concerning international

Package Consignment Service, to the end of the listing.

International Package Consignment Service (IPCS)

Description

IPCS to Canada provides the customer with two delivery options and with preparation by the Postal Service of the customs forms and delivery labels required by Canada.

Delivery Options

Air Courier Service

Air Courier Service is the fastest option. The Postal Service will transport Air Courier Service packages from the customer's plant or from the designated IPCS processing facility to Canada overnight where they will receive expeditious customs clearance and be released to the delivery agent. From there, the packages will receive courier service throughout Canada and be delivered to major population centers overnight. Normal delivery times will be two to three days from dispatch to final delivery.

Ground Courier Service

Ground Courier Service will offer overnight transportation to Canada and ground transportation to final destination in Canada. It will receive the same expeditious customs clearance as Air Courier Service and normal delivery times for 95 percent of all Canadian addresses will be three to six days after dispatch from the customer's plant, depending on the location of final destination. (For addresses in the Maritimes and extreme northern territories where distance and poor roads affect transportation, delivery times could be as long as eight days.)

Processing and Acceptance

Within 500 Miles of an IPCS Processing Facility

If the plant at which the customer's ICPS packages originate is located within 500 miles of an IPCS processing facility, the Postal Service will verify and accept the packages at the customer's plant and transport them to the IPCS processing facility according to a schedule agreed upon by the Postal Service and the customer.

More than 500 Miles from an IPCS Processing Facility

If the customer's plant from which the IPCS packages will originate is located more than 500 miles from an IPCS processing facility, the customer can choose one of two processing options.

Option One: The customer will be required to present the packages to the Postal Service for verification at the customer's plant and transport them as a drop shipment to an IPCS processing facility according to a schedule agreed upon by the Postal Service and the customer.

Option Two: The customer will process the packages using Postal Service-provided computer system workstations and sort and prepare the packages as required by the Postal Service. Then, the Postal Service verifies and accepts the packages at the customer's plant and transports them by truck to the nearest air mail facility according to a schedule agreed upon by the Postal Service and the customer. From the air mail facility, the Postal Service dispatches the IPCS packages to Canada, bypassing an IPCS processing facility.

Required Package Specific Information

Requirements are the same as those detailed in Section 626.3.

Insurance and Indemnity

Air Courier Service

Packages sent through Air Courier Service are insured against loss, damage, or rifling at no additional cost. Indemnity will be paid by the Postal Service as provided in DMM S500. However, packages are not insured against delay in delivery. Neither indemnity payments nor postage refunds will be made in event of delay.

Ground Courier Service

Packages sent through Economy Service may be insured at an additional cost. See 320.

Postage

General

The base rates for the two currently available options are set forth below. These rates may be reduced by one or more of the three additive annual discounts depending on how many packages the customer mails to Canada using either of the two IPCS delivery options in a twelve month period.

Base Rates

The Postal Service will charge the base rates, in 1-pound increments, for the first 100,000 packages mailed by the customer during a 12-month period.

RATE REDUCTIONS

Number of packages	Percent discount
Up to 100,000	Base Rate.
100,001 to 500,000	3% off base rates.
500,001 to 1,000,000	4% off previously discounted rates.
1,000,001 and over	5% off previously discounted rates.

INTERNATIONAL PACKAGE CONSIGNMENT SERVICE TO CANADA

Pounds	Base rates < 100k		Volume discounts					
			101k–500k 3.00%		501k–1m 4.00%		>1m 5.00%	
	Air	Ground	Air	Ground	Air	Ground	Air	Ground
1	10.15	8.55	9.85	8.29	9.45	7.96	8.98	7.56
2	11.09	9.37	10.76	9.09	10.33	8.72	9.81	8.29
3	12.74	10.92	12.36	10.60	11.86	10.17	11.27	9.66
4	14.38	11.93	13.95	11.57	13.39	11.10	12.73	10.55
5	16.03	12.95	15.55	12.56	14.93	12.06	14.18	11.46
6	17.55	13.98	17.03	13.56	16.35	13.02	15.53	12.37
7	19.19	14.93	18.61	14.48	17.87	13.90	16.98	13.20
8	20.83	15.85	20.20	15.38	19.39	14.76	18.42	14.03
9	22.46	16.80	21.79	16.29	20.92	15.64	19.87	14.86
10	24.10	17.72	23.37	17.19	22.44	16.51	21.32	15.68
11	25.55	18.55	24.78	17.99	23.79	17.27	22.60	16.41
12	27.17	19.49	26.36	18.91	25.30	18.15	24.04	17.25
13	28.81	20.45	27.95	19.84	26.83	19.05	25.49	18.09
14	30.44	21.40	29.52	20.76	28.34	19.93	26.92	18.93

INTERNATIONAL PACKAGE CONSIGNMENT SERVICE TO CANADA—Continued

Pounds	Base rates < 100k		Volume discounts					
			101k–500k 3.00%		501k–1m 4.00%		>1m 5.00%	
	Air	Ground	Air	Ground	Air	Ground	Air	Ground
15	32.06	22.36	31.10	21.69	29.85	20.82	26.36	19.78
16	33.68	23.86	32.67	23.14	31.37	22.21	29.80	21.10
17	35.32	24.84	34.26	24.09	32.89	23.13	31.25	21.97
18	36.95	25.81	35.84	25.03	34.40	24.03	32.68	22.83
19	38.57	26.99	37.41	26.18	35.92	25.14	34.12	23.88
20	40.19	27.97	38.99	27.13	37.43	26.05	35.56	24.74
21	41.53	28.74	40.29	27.88	38.68	26.76	36.74	25.43
22	43.15	29.71	41.85	28.82	40.18	27.67	38.17	26.26
23	44.76	30.69	43.42	29.77	41.68	28.58	39.59	27.15
24	46.37	31.66	44.98	30.71	43.18	29.48	41.02	28.01
25	48.00	32.65	46.56	31.67	44.69	30.40	42.46	28.88
26	49.61	33.61	48.12	32.61	46.20	31.30	43.89	29.74
27	50.85	34.60	49.32	33.56	47.35	32.22	44.98	30.61
28	52.83	35.57	51.25	34.50	49.20	33.12	46.74	31.46
29	54.46	36.55	52.83	35.45	50.71	34.03	48.18	32.33
30	56.07	37.52	54.39	36.39	52.21	34.94	49.60	33.19
31	57.27	38.21	55.55	37.06	53.33	35.58	50.66	33.80
32	58.87	39.17	57.10	37.99	54.82	36.47	52.08	34.65
33	60.49	40.14	58.67	38.94	56.32	37.38	53.51	35.51
34	62.09	41.11	60.22	39.87	57.81	38.26	54.92	36.36
35	63.69	42.08	61.78	40.82	59.31	39.19	56.34	37.23
36	65.29	43.04	63.33	41.75	60.80	40.08	57.76	38.08
37	66.90	44.02	64.90	42.70	62.30	40.99	59.18	38.94
38	68.50	45.33	66.45	43.97	63.79	42.21	60.60	40.10
39	70.10	46.49	68.00	45.09	65.28	43.29	62.02	41.12
40	71.70	47.64	69.55	46.21	66.77	44.36	63.43	42.14
41	72.79	48.26	70.60	46.81	67.78	44.94	64.39	42.69
42	74.38	49.23	72.15	47.75	69.25	45.84	65.80	43.55
43	75.97	50.21	73.69	48.71	70.74	46.76	67.20	44.42
44	77.56	51.57	75.23	50.03	72.22	48.02	68.61	45.62
45	79.16	52.56	76.78	50.99	73.71	48.95	70.03	46.50
46	80.16	53.13	77.75	51.54	74.64	49.48	70.91	47.00
47	81.74	54.94	79.28	53.29	76.11	51.16	72.31	48.60
48	83.31	56.77	80.81	55.06	77.58	52.86	73.70	50.22
49	84.78	58.64	82.24	56.88	78.95	54.60	75.00	51.87
50	86.46	60.96	83.89	59.13	80.53	56.76	76.51	53.92
51	88.06	62.45	85.42	60.58	82.00	58.15	77.90	55.24
52	89.65	63.97	86.96	62.05	83.48	59.57	79.31	56.59
53	91.23	65.52	88.49	63.56	84.95	61.01	80.70	57.96
54	92.82	67.08	90.04	65.06	86.43	62.46	82.11	59.34
55	94.40	68.64	91.57	66.58	87.90	63.92	83.51	60.72
56	95.28	69.28	92.42	67.20	88.73	64.51	84.29	61.29
57	96.85	70.37	93.94	68.26	90.19	65.53	85.68	62.25
58	98.43	71.48	95.48	69.34	91.66	66.56	87.07	63.24
59	99.99	72.58	96.99	70.40	93.11	67.58	88.46	64.20
60	101.57	74.18	98.53	71.96	94.59	69.08	89.86	65.62
61	103.14	75.30	100.05	73.04	96.04	70.12	91.24	66.61
62	104.72	76.40	101.58	74.11	97.51	71.14	92.64	67.59
63	105.51	77.48	102.35	75.16	98.25	72.15	93.34	68.54
64	107.07	78.55	103.85	76.19	99.70	73.15	94.71	69.49
65	108.63	79.70	105.37	77.31	101.16	74.22	96.10	70.51
66	110.19	80.85	106.88	78.42	102.61	75.29	97.48	71.52

Size and Weight Limits

All Air Courier and Ground Courier Service packages must meet the following size and weight limits:

Size Limits

a. Minimum length and width: large enough to accommodate the necessary labels and customs forms on the address side.

b. Maximum length: 60 inches.

c. Maximum length and girth combined: 108 inches.

Weight Limit

Maximum weight: 66 pounds.

Customs

Customs Forms

Normally all necessary Canadian customs forms will be automatically generated by the Postal Service computer workstations. Packages mailed to Canada through an IPCS facility will not be required to bear customs forms when they are tendered to the Postal Service. The Postal Service will verify, accept, and transport these packages to a designated IPCS processing facility. After scanning the customer-printed barcode on each package and correlating it with the package-specific information transmitted by the customer, the Postal Service will print the necessary customs forms and then affix them to the customer's packages as part of the processing operation at the IPCS processing facility. However, during the interim period in which the Postal Service and the customer are working together to establish the information systems linkages to enable the Postal Service to accomplish this, the customer may be required to prepare the necessary customs forms on its own and affix the forms to the packages before tendering them to the Postal Service. In those cases where the computer workstations are located at the customer's plant and operated by customer employees, the USPS computer will print the customs forms, and the customer will be required to affix these forms to the appropriate packages as instructed by the Postal Service prior to verification and acceptance of the mail.

Customs Clearance

The Postal Service has developed the Customs Pre-Advisory System (CPAS) as part of IPCS processing. This electronic system collects package-specific data to satisfy customs requirements as packages are processed using the USPS computer workstations located at either an IPCS facility or the customer's plant. The system electronically advises the USPS delivery agent and Canadian Customs of the contents of each package mailed. Since this advisory information arrives before the mail, CPAS facilitates and simplifies customs clearance. Electronic pre-notification of the package contents and automatic preparation of required customs declarations assures the fastest clearance through Canadian Customs and reduces costs for the customer and the Postal Service.

Preparation Requirements

Air Courier Service

Every package sent through Air Courier Service must bear a label identifying it as an Air Courier Service package. The customer is not normally required to affix this label. The Postal Service prints the necessary label and affixes it to the Air Courier Service package. However, during the interim period in which the Postal Service and the customer are establishing the information systems linkages to enable the Postal Service to accomplish this, the customer is required to affix an alternative label as instructed by the Postal Service to every Air Courier Service package.

Ground Courier Service

There are no Canada-specific preparation requirements for packages sent through Ground Courier Service. Packages weighing 1 pound or less must bear the Small Packet marking (see 264.21).

* * * * *

5. Effective immediately, the Individual Country Listing for the Great Britain and Northern Ireland in the International Mail Manual, Issue 16, is amended by adding the following information, concerning International Package Consignment Service, to the end of the listing.

International Package Consignment Service (IPCS)

Description

IPCS to the United Kingdom (U.K.) provides the customer with three delivery options and with preparation by the Postal Service of the customs and delivery labels required by the British Post Office.

Delivery Options

Premium Service

The Postal Service will transport Premium packages to the U.K. by air. Once a package is dispatched from the customer's facility, it should clear Customs and be delivered in the U.K. by close of business on the third working day. The customer can track packages through delivery and reports on delivery performance are furnished to the customer in the formats and at the frequencies agreed upon by the Postal Service and the customer.

Standard Service

The Postal Service will transport Standard packages to the U.K. by air. Once a package is dispatched from the customer's facility, it should clear Customs and be delivered by close of business on the fourth working day. The customer can track packages through delivery and reports on delivery performance are furnished to the customer in the formats and at the frequencies agreed upon by the Postal Service and the customer.

Economy Service

The Postal Service will transport Economy packages to the U.K. by air. Once a package is dispatched from a customer's facility, it should clear Customs and be delivered by close of business the fifth or sixth working day. Tracking and tracing is available to the point of entry into the U.K. domestic mail stream.

Processing and Acceptance

Within 500 Miles of an IPCS Processing Facility

If the plant at which the customer's ICPS packages originate is located within 500 miles of an IPCS processing facility, the Postal Service will accept the packages at the customer's plant and transport them by truck to the IPCS processing facility according to a schedule agreed upon by the Postal Service and the customer.

More than 500 Miles from an IPCS Processing Facility

If the customer's plant from which the IPCS packages will originate is located more than 500 miles from an IPCS processing facility, the customer can choose one of two processing options.

Option One: The customer will be required to present the packages to the Postal Service for verification at the customer's plant and transport them as a drop shipment to an IPCS processing facility according to a schedule agreed upon by the Postal Service and the customer.

Option Two: The customer will process the packages using Postal Service-provided computer system workstations and sort and prepare the packages as required by the Postal Service. Then, the Postal Service accepts the packages at the customer's plant and transports them by truck to the nearest air mail facility according to a schedule agreed upon by the Postal Service and the customer. From the air mail facility, the Postal Service dispatches the IPCS packages to the U.K., bypassing an IPCS processing facility.

Required Package-Specific Information

Requirements are the same as those detailed in Section 626.3.

Insurance and Indemnity

Premium and Standard Services

Packages sent through the Premium or Standard Services are insured against loss, damage, or rifling at no additional cost. Indemnity will be paid by the Postal Service as provided in DMM S500. However, Premium and Standard packages are not insured against delay in delivery. Neither indemnity payments nor postage refunds will be made in event of delay.

Economy Service

Packages sent through Economy Service may be insured at an additional cost. See 320.

Postage

General

The base rates for the three available delivery options are set forth below. These rates may be reduced by an annual discount depending on how many packages the customer mails to the U.K. using any of the three IPCS delivery options in a twelve month period.

Base Rates

The Postal Service will charge the base rates, in 1-pound increments, for the first 100,000 packages mailed by the customer during a 12-month period.

RATE REDUCTIONS

Number of packages	Percent discount
Up to 100,000	Base Rate.
100,001 and over	2%.

INTERNATIONAL PACKAGE CONSIGNMENT SERVICE

Pounds to:	Base rates			For volumes > 100,000		
	Premium	Standard	Economy	Premium	Standard	Economy
1	13.87	11.17	9.95	13.59	10.95	9.75
2	15.21	12.46	11.19	14.90	12.21	10.97
3	16.54	13.75	12.43	16.21	13.47	12.18
4	17.88	15.04	13.67	17.52	14.73	13.39
5	19.21	16.32	14.91	18.83	16.00	14.61
6	20.55	17.61	16.15	20.14	17.26	15.82
7	21.88	18.90	17.39	21.44	18.52	17.04
8	23.71	20.18	18.63	23.24	19.78	18.25
9	25.08	21.47	19.87	24.58	21.04	19.47
10	26.63	22.76	21.11	26.09	22.30	20.68
11	28.00	24.05	22.35	27.44	23.57	21.90
12	29.37	25.33	23.59	28.79	24.83	23.11
13	30.96	26.62	24.82	30.34	26.09	24.33
14	32.34	27.91	26.06	31.70	27.35	25.54
15	33.96	29.20	27.30	33.28	28.61	27.76
16	35.35	30.48	28.54	34.64	29.87	27.97
17	36.99	31.77	29.78	36.25	31.13	29.19
18	38.66	33.06	31.02	37.88	32.40	30.40
19	40.61	34.35	32.26	39.80	33.66	63.62
20	42.04	35.63	33.50	41.20	34.92	32.83
21	43.47	36.92	34.74	42.60	36.18	34.05
22	44.90	38.21	35.98	44.00	37.44	35.26
23	46.33	39.49	37.22	45.40	38.70	36.48
24	47.76	40.78	38.46	46.81	39.97	37.69
25	49.19	42.07	39.70	48.21	41.23	38.91
26	50.62	43.36	40.94	49.61	42.49	40.12
27	53.44	44.64	42.18	52.37	43.75	41.34
28	54.91	45.93	43.42	53.81	45.01	42.55
29	56.38	47.22	44.66	55.25	46.27	43.77
30	57.85	48.51	45.90	56.69	47.54	44.98
31	59.31	49.79	47.14	58.13	48.80	46.20
32	60.78	51.08	48.38	59.57	50.06	47.41
33	62.25	52.37	49.62	61.01	51.32	48.63
34	63.72	53.65	50.86	62.45	52.58	49.84
35	65.19	54.94	52.10	63.88	53.84	51.06
36	66.66	56.23	53.34	65.32	55.10	52.27
37	68.13	57.52	54.58	66.76	56.37	53.48
38	69.59	58.80	55.82	68.20	57.63	54.70
39	72.45	60.09	57.06	71.00	58.89	55.91
40	73.94	61.38	58.30	72.46	60.15	57.13
41	75.44	62.67	59.54	73.93	61.41	58.34
42	76.94	63.95	60.77	75.40	62.67	59.56
43	78.44	65.24	62.01	76.87	63.94	60.77
44	79.93	66.53	63.25	78.33	65.20	61.99
45	81.43	67.82	64.49	79.80	66.46	63.20
46	82.93	69.10	65.73	81.27	67.72	64.42
47	84.42	70.39	66.97	82.74	68.98	65.63
48	85.92	71.68	68.21	84.20	70.24	66.85
49	87.42	72.96	69.45	85.67	71.51	68.06
50	88.91	74.25	70.69	87.14	72.77	69.28
51	90.41	75.54	71.93	88.60	74.03	70.49
52	91.91	76.83	73.17	90.07	75.29	71.71
53	93.41	78.11	74.41	91.54	76.55	72.92
54	94.90	79.40	75.65	93.01	77.81	74.14
55	96.40	80.69	76.89	94.47	79.07	75.35
56	97.90	81.98	78.13	95.94	80.34	76.57
57	99.39	83.26	79.37	97.41	81.60	77.78
58	100.89	84.55	80.61	98.87	82.86	79.00
59	102.39	85.84	81.85	100.34	84.12	80.21
60	103.89	87.13	83.09	101.81	85.38	81.43

INTERNATIONAL PACKAGE CONSIGNMENT SERVICE—Continued

Pounds to:	Base rates			For volumes > 100,000		
	Premium	Standard	Economy	Premium	Standard	Economy
61	105.38	88.41	84.33	103.28	86.64	82.64
62	106.88	89.70	85.57	104.74	87.91	83.86
63	108.38	90.99	86.81	106.21	89.17	85.07
64	109.87	92.27	88.05	107.68	90.43	86.29
65	111.37	93.56	89.29	109.14	91.69	87.50
66	112.87	94.85	90.53	110.61	92.95	88.72

Size and Weight Limits

All packages must meet the following size and weight limits:

Size Limits

a. Minimum length and width: large enough to accommodate the necessary customs/delivery label on the address side.

b. Maximum length: 60 inches.

c. Maximum length and girth combined: 108 inches.

Weight Limit

Maximum weight: 66 pounds.

Customs

Customs Forms

Normally all necessary U.K. customs forms will be automatically generated by the Postal Service computer workstations. Packages mailed to the U.K. through an IPCS processing facility will not be required to bear customs forms when they are tendered to the Postal Service. The Postal Service will verify, accept, and transport these packages to a designated IPCS processing facility. After scanning the customer-printed barcode on each package and correlating it with the package-specific information transmitted by the customer, the Postal Service will print the necessary customs forms and then affix them to the customer's packages as part of the processing operation at the IPCS Processing Facility. However, during the interim period in which the Postal Service and the customer are working together to establish the information systems linkages to enable the Postal Service to accomplish this, the customer may be required to prepare the necessary customs forms on its own and affix the forms to the packages before tendering them to the Postal Service. In those cases where the computer workstations are located at the customer's plant and operated by customer employees, the USPS computer workstations will print the customs forms, and the customer will be required to affix these forms to the appropriate packages as instructed by the Postal Service prior to verification and acceptance of the mail.

Customs Clearance

The Postal Service has developed the Customs Pre-Advisory System (CPAS) as part of IPCS processing. This electronic system collects package-specific data to satisfy customs requirements as packages are processed using the USPS computer workstations located at either an IPCS facility or the customer's plant. The system electronically advises the USPS delivery agent and Customs in the U.K. of the contents of each package mailed. Since this advisory information arrives before the mail, CPAS facilitates and simplifies customs clearance. Electronic pre-notification of the package contents and automatic preparation of required customs declarations assures the fastest clearance through U.K. Customs and reduces costs for the customer and the Postal Service.

Preparation Requirements

Every package sent through Premium, Standard or Economy Service must bear a label identifying it as a Premium, a Standard or an Economy Service package. The customer is not normally required to affix this label. The Postal Service prints the necessary label and affixes it to the package. However, during the interim period in which the Postal Service and the customer are establishing the information systems linkages to enable the Postal Service to accomplish this, the customer is required to affix an alternative label as instructed by the Postal Service to every package.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 96–7435 Filed 3–27–96; 8:45 am]

BILLING CODE 7710–12–P

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39 CFR Part 20

Implementation of Global Priority Mail

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: Global Priority Mail is a new international mail service designed for correspondence and documents. Global Priority Mail items receive priority handling in the United States and in destination countries. Interim implementing regulations were published in the **Federal Register** on March 17, 1995, 60 FR 14370, under the name Worldpost Priority Letter. The Postal Service is adopting the interim regulations as final, with a change in the name of the service to Global Priority Mail and the addition of new acceptance points.

EFFECTIVE DATE: March 25, 1996.

FOR FURTHER INFORMATION CONTACT: Jay Thabet (202) 268–6095.

SUPPLEMENTARY INFORMATION: On March 17, 1995, the Postal Service published in the **Federal Register** (60 FR 14370) interim regulations implementing WORLDPOST Priority Letter and requested comments. Comments were due on or before April 17, 1995. On April 10, 1995, (60 FR 18009), the Postal Service published a notice correcting certain ZIP Code areas in which WORLDPOST Priority Letter was available.

WORLDPOST Priority Letter service is an expedited airmail service providing fast, reliable, and economical delivery of items mailable as letters. Although a WORLDPOST Priority Letter item will travel in the normal airmail stream between the United States and the destination country, the item will receive priority handling in the United States and in the destination country. In the United States, after the item is deposited, the Postal Service will transport it in a dedicated stream to the appropriate gateway for dispatch. Upon arrival in the destination country, the item will also receive priority handling. Service is available only in certain ZIP Code areas in the United States and only to certain countries.

The Postal Service received one comment on the interim regulations. That comment suggested that the service be made available to additional ZIP Code areas in the Northern New Jersey area. This suggestion has been found to

be feasible and ZIP Code areas in the Northern New Jersey area will be added.

Based on its experience in the pilot, the Postal Service is making two other changes. First, the name of the service is being changed to Global Priority Mail. Second, the sizes of the envelopes are being increased slightly. The small envelope will increase from 5 inches by 8⅞ inches to 6 inches by 10 inches. The large envelope will increase from 9 inches by 11½ inches to 9½ inches by 12½ inches.

The Postal Service adopts the following amendments to the International Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 20.1.

List of Subjects in 39 CFR Part 20

International postal service, Foreign relations.

PART 20—[AMENDED]

1. The authority citation for 39 CFR part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 401, 404, 407, 408.

2. Chapter 2 of the International Mail Manual is amended by revising part 226 to read as follows:

2 CONDITIONS FOR MAILING

* * * * *

226 Global Priority Mail
226.1 General
226.11 Definition

Global Priority Mail is an expedited airmail letter service providing fast, reliable, and economical delivery of all items mailable as letters. Global Priority Mail items receive priority handling in the United States and in destination countries. Service is available only to destination countries identified in 226.2, from post offices identified in 226.3. Global Priority Mail items must be mailed in special envelopes provided for this purpose by the Postal Service.

226.12 Permissible Items

All items admitted in letters (see 221.1) are accepted in Global Priority Mail as long as the contents fit securely into the Global Priority Mail envelopes provided by the Postal Service. Global Priority Mail items may contain dutiable merchandise unless the country of destination prohibits dutiable merchandise in letters (see 224.51). However, Global Priority Mail items that contain dutiable merchandise might experience delay in delivery caused by customs handling.

226.13 Addressing

See 122. All items must bear the complete delivery address of the addressee and the full name (no abbreviations) of the destination country.

226.2 Availability

Global Priority Mail service is available only to the following countries:

Western Europe	Pacific Rim	Canada
Belgium	Australia	Canada.
France	Hong Kong .	
Germany	Japan	
Great Britain* .	New Zealand.	
Netherlands, The.	Singapore ...	
Norway	Taiwan	
Sweden	.....	

*Includes all points in England, Scotland, Wales, Northern Ireland, Guernsey, Jersey, and the Isle of Man.

226.3 Mailing Locations
226.31 Acceptance Offices and Pickup Service Locations

Global Priority Mail service is available only through the designated post offices listed in 226.32. Global Priority Mail items must not be accepted or deposited in areas not listed in 226.32.

226.32 Service Areas

Service is available only from the metropolitan areas as defined by the ZIP Code ranges shown below. Within these service areas, prepaid items may be given to carriers, deposited in Express Mail collection boxes, or mailed at post offices, stations, and branches. Pickup service is available.

Metropolitan area	ZIP Code service area
Atlanta, GA	300–303, 305, 306, 311.
Boston, MA ...	018–024.
Dallas/Ft. Worth, TX.	750–754, 760–762, 764.
Los Angeles, CA.	900–918, 926–928.
Miami, FL	330–334, 349.
New Jersey ...	070–089.
New York, NY	068, 069, 100–108, 110–118.
Washington, DC.	200, 201, 203, 205, 20813–20815, 20817, 20850–20852, 20854, 20855, 20898, 20901, 20902, 20904, 20906, 20907, 20910–20912, 220–223.

226.4 Postage
226.41 Rates

Rates are based on size (either small or large) and destination as follows:

Destination	Envelope size	
	Small	Large
Western Europe	$3.75	$6.95
Pacific Rim	4.95	8.95
Canada	3.75	6.95

226.42 Pickup Service

On-call and scheduled pickup service are available for Global Priority Mail for a charge of $4.95 for each pickup stop, regardless of the number of pieces picked up. Only one pickup fee is charged if domestic or international Express Mail, domestic Priority Mail, or domestic or international parcel post is picked up at the same time. (See DMM D010 for standards for pickup service.)

226.43 Postage Payment Methods

Postage for Global Priority Mail may be paid by adhesive stamps, postage meter and meter stamps, or, if presented at a post office, postage validation imprinter (PVI) labels.

226.5 Packaging

Items must be placed in special Global Priority Mail envelopes provided by the Postal Service. All items that cannot be adequately protected by these envelopes should not be mailed using this service. Envelopes must be sealed.

226.6 Size and Weight Limits
226.61 General

Two sizes of envelopes are available from the Postal Service for mailing Global Priority Mail items. Postage rates are based on the size of the envelope used, not the weight of the item. (See 226.41 for rates.)

226.62 Size Limits

Sizes of the required Postal Service-provided envelopes are:
a. Small size: 6×10 inches.
b. Large size: 9½×12½ inches.

226.63 Weight Limits

The Postal Service-provided envelopes are not intended to accommodate items weighing more than several ounces. However, the maximum weight for letter-class (LC) items is 4 pounds.

226.7 Customs Forms Required

If Global Priority Mail contains dutiable merchandise, the sender must prepare a customs declaration and affix it to the letter. See 123 for instructions. Certain nonpostal export forms may be required as described in Chapter 5.

226.8 Special Services

Mailers may obtain certificates of mailing (see 310). No other special services such as registry, insurance, restricted delivery, return receipt, or recorded delivery are available.

* * * * * * *

A transmittal letter making the changes in the pages of the International Mail Manual will be published and transmitted automatically to subscribers. Notice of issuance of the transmittal letter will be published in the **Federal Register** as provided by 39 CFR 20.3.

Stanley F. Mires,
Chief Counsel, Legislative.

[FR Doc. 96–7491 Filed 3–25–96; 4:51 pm]
BILLING CODE 7710–12–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 004–1004; FRL–5447–5]

Withdrawal for State Implementation Plan; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to adverse comments, the EPA is withdrawing its direct final rule approving Missouri's "Compliance Monitoring Usage" rule (10 CSR 10–6.280) as a revision to Missouri's State Implementation Plan.

EFFECTIVE DATE: This withdrawal is effective March 28, 1996.

FOR FURTHER INFORMATION CONTACT: Joshua A. Tapp at (913) 551–7606.

SUPPLEMENTARY INFORMATION: The EPA's direct final rule approving Missouri rule 10 CSR 10–6.280 (Compliance Monitoring Usage) was published in the **Federal Register** on February 6, 1996 (61 FR 4352). This document stated that if adverse or critical comments were received by March 7, 1996, the effective date of the approval would be delayed and timely notice would be published in the **Federal Register**. Due to receiving adverse comments within the comment period, the EPA is withdrawing the final rule and will address all public comments received during the comment period in a subsequent action based on the proposed rule action also published on February 6, 1996 (61 FR 4391). EPA will not institute a second comment period on this document.

For additional information see the direct final rule and proposed rule located in the **Federal Register** citations mentioned above.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: March 18, 1996.

Dennis Grams,
Regional Administrator.

[FR Doc. 96–7603 Filed 3–27–96; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Part 271

[FRL–5447–6]

Louisiana: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: The State of Louisiana has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed Louisiana's application and determined that its hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Unless adverse written comments are received during the review and comment period provided for public participation in this process, EPA intends to approve Louisiana's hazardous waste program revision subject to the authority retained by EPA in accordance with Hazardous and Solid Waste Amendments of 1984. Louisiana's application for the program revision is available for public review and comment.

DATES: This authorization for Louisiana shall be effective June 11, 1996 unless EPA publishes a prior **Federal Register** (FR) action withdrawing this immediate final rule. All comments on Louisiana's program revision application must be received by the close of business May 12, 1996.

ADDRESSES: Copies of the Louisiana program revision application and the materials which EPA used in evaluating the revision are available for inspection and copying from 8:30 a.m. to 4 p.m., Monday through Friday at the following addresses: Louisiana Department of Environmental Quality, H.B. Garlock Building, 7290 Bluebonnet, Baton Rouge, Louisiana 70810, phone (504) 765–0617 and U.S. EPA, Region 6 Library, 12th Floor, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202–2733, phone (214) 665–6444. Written comments, referring to Docket Number LA–95–5, should be sent to Alima Patterson; Region 6 Authorization Coordinator, Grants and Authorization Section (6PD–G), U.S. EPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–8533.

FOR FURTHER INFORMATION CONTACT: Alima Patterson, Region 6 Authorization Coordinator, Grants and Authorization Section (6PD–G), U.S. EPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–8533.

SUPPLEMENTARY INFORMATION:

A. Background

States authorized under section 3006(b) of the Resource Conservation and Recovery Act ("RCRA or the Act"), 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR parts 124, 260–268, and 270.

B. Louisiana

Louisiana initially received final authorization on February 7, 1985 (see 50 FR 3348), to implement its base hazardous waste management program. Louisiana received authorization for revisions to its program on January 29, 1990 (see 54 FR 48889), October 25, 1991 (see 56 FR 41958), and Corrections at (56 FR 51762), effective January 23, 1995 (see 59 FR 55368–55371), and Corrections at (see 60 FR 18360), March 8, 1995 (see 59 FR 66200) and January 2, 1996 (see 60 FR 53707). On December 11, 1995, Louisiana submitted a final complete program revision application for additional program approvals. Today, Louisiana is seeking approval of its program revision in accordance with 40 CFR 271.21(b)(3).

In 1983, the Louisiana legislature adopted Act 97, which amended and reenacted Louisiana Revised Statutes 30:1051 et seq., the Environmental Affairs Act. This Act created the Louisiana Department of Environmental Quality (LDEQ), which has lead agency jurisdictional authority for administering the RCRA Subtitle C program in the State.

EPA reviewed Louisiana's application and made an immediate final decision that Louisiana's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant authorization for the additional program modifications to Louisiana. The public may submit written comments on EPA's proposed final decision until May 12, 1996. Copies of LDEQ's application for program revision are available for inspection and copying at the locations indicated in the **ADDRESSES** section of this document.

Approval of LDEQ's program revision shall become effective 75 days from the date this notice is published, unless an adverse written comment pertaining to the State's revision discussed in this notice is received by the end of the comment period. If an adverse written comment is received, EPA will publish either (1) a withdrawal of the immediate final decision or (2) a notice containing a response to the comment which either affirms that the immediate final decision takes effect or reverses the decision.

Louisiana's program revision application includes State regulatory

changes that are equivalent to the rules promulgated in the Federal RCRA implementing regulations in 40 CFR parts 124, 260–262, 264, 265, 266, and 270 that were published in the FR from July 1, 1987, through June 30, 1993. This proposed approval includes the provisions that are listed in the chart below. This chart also lists the State analogs that are being recognized as equivalent to the appropriate Federal requirements.

Federal citation	State analog
1. Identification and Listing of Hazardous Waste; and Designation, Reportable Quantities, and Notification (Amendment to the Bevill Exclusion), [53 FR 35412] September 13, 1988 (Checklist 53).	Louisiana Revised Statutes (LRS) 30: §2180 et seq, as amended June 14, 1991, effective June 14, 1991; Louisiana Hazardous Waste Regulations (LHWR) §4901.C, as amended March 20, 1995; effective March 20, 1995, §4901.G Table 6, as amended September 20, 1995; effective September 20, 1995, §105.D17.A-F, as amended September 20, 1994; effective September 20, 1994.
2. Permit Modifications for Hazardous Waste Management Facilities, [53 FR 37912] September 28, 1988. (Checklist 54).	LRS 30: 2180 et seq, as amended June 14, 1991, effective June 14, 1991; LHWR §323.B as amended September 20, 1995; effective September 20, 1995, §1513.D, as amended November 20, 1992; effective November 20, 1992, §3511.C, as amended March 20, 1995; effective March 20, 1995, §3523.D, as amended November 20, 1992; effective November 20, 1992, §4381.C, as amended March 20, 1995; effective March 20, 1995, §4391.D, as amended July 20, 1995, effective July 20, 1992, §109, as amended October 20, 1994; effective October 20, 1994 §307.A, as amended March 20, 1995; effective March 20, 1995, §309.L.2, as amended September 20, 1994; effective September 20, 1994, §321.B.C, as amended March 20, 1995; effective March 20, 1995, §322, as amended September 20, 1995; effective September 20, 1995, §3115.A, B, as amended November 20, 1992; effective November 20, 1992, and §2707.D, as amended July 20, 1990; effective July 20, 1990.
3. Identification and Listing of Hazardous Waste; Removal of Iron Dextran from the List of Hazardous Wastes, [53 FR 43878] October 31, 1988. (Checklist 56).	LRS 30: 2180 et seq, as amended June 14, 1991, effective June 14, 1991; LHWR §4901.F.Table 4, as amended September 20, 1994; effective September 20, 1994, §3105.Table 1, as amended September 20, 1995; effective September 20, 1995, §4901.E.Table 3, as amended September 20, 1994; effective September 20, 1994, §§3105 Table 1, and 4901.E, as amended September 20, 1995, effective September 20, 1995, and LHWR Chapter 31.Table 1, as amended September 20, 1994; effective September 20, 1994.
4. Identification and Listing of Hazardous Waste; Removal of Strontium Sulfide From the List of Hazardous Waste, [53 FR 43881] October 31, 1988. (Checklist 57].	LRS 30: 2180 et seq, as amended June 14, 1991, effective June 14, 1991; LHWR §4901.F.Table 4, as amended September 20, 1994; effective September 20, 1994, §3105.Table 1, as amended September 20, 1995; effective September 20, 1995, §4901.E.Table 3, as amended September 20, 1994; effective September 20, 1994, §§3105 Table 1, and 4901.E, as amended September 20, 1995, effective September 20, 1995, and LHWR Chapter 31.Table 1, as amended September 20, 1994; effective September 20, 1994.
5. Changes to Interim Status Facilities for Hazardous Waste Management Permits; Procedures for Post-Closure Permitting, [54 FR 9596] March 7, 1989. (Checklist 61).	LRS 30: 2180 et seq, as amended June 14, 1991, effective June 14, 1991; LHWR §105, as amended September 20, 1995; effective September 20, 1995, §301.B, as amended November 20, 1992; effective November 20, 1992, §323.A, as amended October 20, 1994; effective October 20, 1994, §701, as amended November 20, 1992; effective November 20, 1992, §705.A, B, as amended July 20, 1990; effective July 20, 1990, §322, as amended September 20, 1995, effective September 20, 1995, §§109, 305.A, and 503, as amended October 20, 1994; effective October 20, 1994, and §706, as amended July 20, 1990; effective July 20, 1990, §4303.A, B, as amended March 20, 1995; effective March 20, 1995, and §4305.C-E, as amended October 20, 1994; effective October 20, 1994.
6. Delay of Closure Period for Hazardous Waste Management Facilities, [54 FR 33376] August 14, 1989. (Checklist 64).	LRS 30: 2180 et seq, as amended June 14, 1991 effective June 14, 1991; LHWR §§1519.A–B, and 3511.D, as amended March 20, 1995; effective March 20, 1995, §3513.A–E, as amended September 20, 1994; effective September 20, 1994, §§3705.A, 4313, 4381.D.2, 4381.D.2.a–b and 4383.A–E, as amended March 20, 1995; effective March 20, 1995 §4401.A.3–4, as amended August 20, 1987; effective August 20, 1987, and §322, as amended September 20, 1995; effective September 20, 1995.
7. Reportable Quantity Adjustment Methyl Bromide Production Wastes, [54 FR 41402] October 6, 1989. (Checklist 68).	LRS 30: 2180 et seq, as amended June 14, 1991, effective June 14, 1991; LHWR §4901.C, as amended March 20, 1995; effective March 20, 1995, Chapter 49.App A.Tbl 8–10, as amended September 20, 1995, effective September 20, 1995, §4901.B.Tbl 1, as amended September 20, 1994; effective September 20, 1994, §§4901.G.Tbl 6, and 3105, Tbl 1, as amended September 20, 1995; effective September 20, 1995.
8. Reportable Quantity Adjustment (F024 & F025), [54 FR 50986] December 11, 1989. (Checklist 69).	LRS 30: 2180 et seq, as amended June 14, 1991, effective June 14, 1991; LHWR §4901.C, as amended March 20, 1995; effective March 20, 1995, Chapter 49.App A.Tbl 8–10, as amended September 20, 1995, effective September 20, 1995, §4901.B.Tbl 1, as amended September 20, 1995; effective September 20, 1995.
9. Toxicity Characteristics Revisions, [55 FR 11798] March 29, 1990, and Toxicity Characteristics Revisions (Correction 1), [55 FR 26986] June 29, 1990. (Checklists 74 and 74.1).	LRS 30: 2180 et seq, as amended June 14, 1991; effective June 14, 1991; LHWR §105.D.15, as amended September 20, 1994; effective September 20, 1994, §105.D.19, as amended March 20, 1995; effective March 20, 1995, §§105.D.39, and 105.D.40, as amended September 20, 1994; effective September 20, 1994, §4903.E.1, and 4903.E.2, as amended November 20, 1992; effective November 20, 1992, §4901.B.Tbl.1, as amended September 20, 1994, effective September 20, 1994 §Chapter 49.App.B, as amended September 20, 1995; effective September 20, 1995, §2503.N.1, as amended March 20, 1995; effective March 20, 1995, §4462.D.1., as amended September 20, 1994; effective September 20, 1994; §4481.A, as amended April 20, 1991; effective April 20, 1991, and Chapter 49.App.B, as amended September 20, 1995; effective September 20, 1995.
10. Listing of 1,1-Dimethylhydrazine Production Waste, [55 FR 18496] May 2, 1990. (Checklist 75).	LRS 30: 2180 et seq, as amended June 14, 1991, effective June 14, 1991; LHWR §4901.C, as amended March 20, 1995; effective March 20, 1995, Chapters 49.App.A.Tbl.8, and 4901.G.Tbl.6, as amended September 20, 1995; effective September 20, 1995.

Federal citation	State analog
11. Toxicity characteristics; Hydrocarbon Recovery Operations, [55 FR 40834], October 5, 1990, Correction 1, Included on Checklist 80 [56 FR 3978] February 1, 1991, and Correction 2 Includes on Checklist 80, [56 FR 13406]. (Checklists 80, 80.1, and 80.2).	LRS 30: 2180 et seq, as amended June 14, 1991, effective June 14, 1991; LHWR §105.D.42.a–b, as amended September 20, 1994; effective September 20, 1994.
12. Petroleum Refinery Primary and Secondary Oil/Water/Solids Separation Sludge Listings (F037 and F038), [55 FR 46354] November 2, 1990, and Correction 1, at [55 FR 51707] December 17, 1980. (Checklists 81 and 81.1).	LRS 30: 2180 et seq, as amended June 14, 1991, effective June 14, 1991; LHWR §4901.B.2–B.2.c.ii, as amended March 20, 1995; effective March 20, 1995.
13. Wood Preserving Listings, [55 FR 50450] December 6, 1990. (Checklist 82).	LRS 30: 2180 et seq, as amended June 14, 1991, effective June 14, 1991, LHWR §§4901.B Table 1, 4901.G.Table 6, and 3105. Table 1, as amended September 20, 1994; effective September 20, 1994, §105.D.45, as amended March 20, 1995; effective March 20, 1995, §4901.B.3.a-c.xii, as amended March 20, 1995; effective March 20, 1995, §535.A–C, as amended March 20, 1995; effective March 20, 1995, §109.drip Pad, as amended October 20, 1994; effective October 20, 1994, §1109.E.1.e. & E.1.c.ii, as amended March 20, 1995; effective March 20, 1995, §1901, as amended December 20, 1992; effective December 20, 1992, §§2801.A–B, 2803.A–D, 2805.A–P, 2807.A–B, 2809.A–D, and 2804, as amended September 20, 1995; effective September 20, 1995, §4431.A & A.3, as amended December 20, 1992; effective December 20, 1992, and Chapter 49 App. A Table 8, as amended September 20, 1994; effective September 20, 1994.
14. Toxicity Characteristic; Chloroflourocarbon Refrigerants, [56 FR 5910] February 13, 1991. (Checklist 84).	LRS 30: 2180 et seq, as amended June 14, 1991, effective June 14, 1991; LHWR §105.D..41, as amended September 20, 1994; effective September 20, 1994.
15. Removal of Strontium Sulifide from the List of Hazardous Waste; Technical Amendment, [56 FR 7567] February 25, 1991, (Checklists 86).	LRS 30: 2180 et seq, as amended June 14, 1991, effective June 14, 1991, LHWR §4901.F.Table 4, as amended September 20, 1994; effective September 20, 1994, §3105.Table 1, as amended September 20, 1995, effective September 20, 1995, §4901.E.Table 3, as amended September 20, 1994; effective September 20, 1994, §§3105 Table 1, and 4901.E, as amended September 20, 1995, effective September 20, 1995, and LHWR Chapter 31. Table 1, as amended September 20, 1994; effective September 20, 1994.
16. Organic Air Emission Standards for Process Vents and Equipment Leaks; Technical Amendment, [56 FR 19290] April 26, 1991. (Checklist 87).	LRS 30: 2180 et seq, as amended June 14, 1991, effective June 14, 1991; LHWR §1701, as amended July 20, 1991; effective July 20, 1991 §§1705.A, and 1709.F.3, as amended September 20, 1994; effective September 20, 1994, §§1713.B.4.b, and 1719.B.1, as amended July 20, 1991; effective July 20, 1991, §1519.B.7, as amended October 20, 1994; effective October 30, 1994, §§4357.B.3, 4549.B, 4557, and 4559, as amended September 20, 1994; effective September 20, 1994, §4585, as amended July 20, 1991; effective July 20, 1991, §4589, as amended July 20, 1992, effective July 20, 1992, §§536.E and 530.D.2, as amended November 20, 1992; effective November 20, 1992.
17. Administrative Stay for K069 Listing, [56 FR 1995] May 1, 1991. (Checklist 88).	LRS 30: et seq, as amended June 14, 1991, effective June 14, 1991; LHWR §§4901.B Table 1 and 4901.C, as amended September 20, 1994; effective September 20, 1994.
18. Revision to F037 and F038 Listings, [56 FR 21955] May 1, 1991. (Checklist 89).	LRS 30: 2180 et seq, as amended June 14, 1991, effective June 14, 1991; LHWR §§4901.B Table 1 and 4901.C, as amended September 20, 1994; effective September 20, 1994.
19. Mining Exclusion III, [56 FR 27300] June 13, 1991. (Checklist 90).	LRS 30: 2180 et seq, as amended June 14, 1991, effective June 14, 1991; LHWR §105.D.17, as amended September 20, 1994; effective September 30, 1994.
20. Administrative Stay for F032, F034, and F035 Listings, [56 FR 27332] June 13, 1991. (Checklist 91).	LRS 30: 2180 et seq, as amended June 14, 1991, effective June 14, 1991; LHWR §4901.B.Table 1, as amended September 20, 1995; effective September 20, 1995, §2805.A, as amended December 20, 1992; effective December 20, 1992.
21. Wood Preserving Listing: Techical Correction, [56 FR 30192] July 1, 1991. (Checklist 92).	LRS 30: 2180 et seq, as amended June 14, 1991, effective June 14, 1991; LHWR §4901.B.3.b–B.3.b.iv, as amended March 20, 1995; effective March 20, 1995, §1109.E.1.a–E.1.e, as amended March 20, 1995; effective March 20, 1995, §§2801.A–B, 2803.A–D, 2804, 2805.A–B, E, M, 2807.A, and 2809.A–C, as amended September 20, 1995; effective September 20, 1995, §532.A.3, A.3.n–p, as amended March 20, 1995; effective March 20, 1995.
22. Exports of Hazardous Waste; Technical Correction, [56 FR 43704] September 4, 1991. (Checklist 97).	LRS 30: 2180 et seq, as amended June 14, 1991, effective June 14, 1991; LHWR §1113.D, G, as amended September 20, 1995; effective September 20, 1995.
23. Coke Ovens Administrative Stay, [56 FR 43754] September 5, 1991. (Checklist 98).	LRS 30: 2180 et seq, as amended June 14, 1991, effective June 14, 1991; LHWR §3001.A, as amended September 20, 1995; effective September 20, 1995.
24. Amendments to Interim Status Standards for Downgradient Ground-Water Monitoring Well Locations at Hazardous Waste Facilities, [56 FR 66365] December 23, 1991. (Checklist 99).	LRS 30: 2180 et seq, as amended June 14, 1991, effective June 14, 1991; LHWR §109, as amended September 20, 1995; effective September 20, 1995, and §4369.A–A.3.d, as amended March 20, 1995; effective March 20, 1995.

Federal citation	State analog
25. Liners and Leak Detection Systems for Hazardous Waste Land Disposal Units, [57 FR 3462] January 29, 1992. (Checklist 100).	LRS 30: 2180 et seq, as amended June 14, 1991, effective June 14, 1991; LHWR §§307.A–A.3. and 525.B–C, as amended March 20, 1995; effective March 20, 1995, §§322, and 533.B,D, as amended September 20, 1995; effective September 20, 1995, and §527.C–C.1.d, E, as amended March 20, 1995; effective March 20, 1995, §109, as amended September 20, 1995; effective September 20, 1995, §§1504.A–D, 1509.B.4, 1529.B.9, 2903.C–F, J–K, 2904.A–B, and 2906.A–C.4, as amended March 20, 1995; effective March 20, 1995, §§2907.E.2, and 2911.B.2–B.4, as amended October 20, 1994; effective October 20, 1994, §2303.C–C.5,J, L, as amended September 20, 1994; effective September 20, 1994, §§2304.A–B, 2306.A–C.4, 2309.C, 2503.C–H, L–L.4, M–M.2, 2405.A–B, 2507.D–D.2, and 2508.A–C–C.4, as amended March 20, 1995; effective March 20, 1995, §2521.B.2, as amended September 20, 1995; effective September 20, 1995, §§4317.B.3, 4320.A–D, and 4357.B.6, as amended September 20, 1995; effective September 20, 1995, §§4462.A, C–C.2, F–G, 4449.A–C, 4451.A–C.4, 4455.B–B.2, 4457.B–B.3, 4476, 4474.A–C, 4472.A–C.4, 4470, 4512.A, C–C.2, F–I, 4497.A–C, 4498.A–C.4, and 4502.A–C, as amended March 20, 1995; effective March 20, 1995, and §2521,B.2, as amended September 20, 1995; effective September 20, 1995.
26. Used Oil Filter Exclusion, [57 FR 21524] May 20, 1992. (Checklist 104).	LRS 30: 2180 et seq, as amended June 14, 1991, effective June 14, 1991; LHWR §105.D, as amended September 20, 1995; effective September 20, 1995.
27. Coke By-Product Exclusion, [57 FR 27880] June 22, 1992. (Checklist 105).	LRS 30: 2180 et seq, as amended June 14, 1991, effective June 14, 1991 LHWR §§105.D, and 3001.A, as amended September 20, 1995; effective September 20, 1995.
28. Used Oil Filter Exclusion; Technical Correction, [57 FR 29220] July 1, 1992. (Checklist 107).	LRS 30: 2180 et seq, as amended June 14, 1991, effective June 14, 1991 LHWR §105.D.46, as amended March 20, 1995; effective March 20, 1995.
29. Toxicity Characteristics Revision; Technical Correction, [57 FR 30657] July 10, 1992. (Checkliist 108).	LRS 30: 2180 et seq, as amended June 14, 1991, effective June 14, 1991 LHWR §§105.D.16, 105.D.19, and 4512.D.1, as amended March 20, 1995; effective March 20, 1995, and §109 Haz.Waste.2.a, as amended October 20, 1994; effective October 20, 1994.
30. Coke By-Product Listings, [57 FR 37284] August 18, 1992. (Checklist 110).	LRS 30: 2180 et seq, as amended June 14, 1991, effective June 14, 1991 LHWR §4901.B.Table 1, as amended September 20, 1994; effective September 20, 1994, and §§105.D.44, 4901.C, and 4901.G.Table 6, as amended March 20, 1995; effective March 20, 1995.
31. Recycled Used Oil Management Standards, [57 FR 41566] September 10, 1992. (Checklist 112).	LRS 30: 2180 et seq, as amended June 14, 1991, effective June 14, 1991; LHWR §§109 used oil, 109 haz.waste.2.e–e.ii, and 4105.C.3–C.4, as amended March 20, 1995; effective March 20,, 1995, §4105.B.4, as amended September 20, 1994; effective September 20, 1994, §§4105.E, 3001.B.1, 4001, 4003–4003.B.2.c, 4003.C, 4003.D–D.2, 4003.E–E.4, 4003.F, 4003.G, 4003.H, 4003.I, 4005, 4005.Table 1, 4007.A, 4007.B, 4007.C–C.2.c, 4009.A–A.4, 4009.B–B.5, 4011.A, 4011.B, 4013–4013.D.4, 4015.A, 4015.B, 4015, 4017–C.3, 4019.A, 4019.B, 4021.B–B.2, 4023.A, 4023.B, 4025.A–A.4, 4025.B, 4025.C, 4025.D–D.5, 4027.A, 4027.B, 4029.A, 4029.B, 4083.B, 4031.A–A.4, 4031.B, 4031.C–C.5, 4033.A, 4033.B–B.2, 4033.C–C2, 4033.D, 4035, 4035.A, 4035.B, 4035.C–C2. 4035.D–D.2, 4035.E–F.2, 4035.G–G.2, 4035.H–H.4, 4037.A–B.5, 4037.C, 4037.D, 4039, 4041.A–A.2, 4041.B–B.5, 4043.A, 4043.B, 4045.A–A.5, 4045.A.6.a–A.6.B, 4045.b–b.6.i.VII, 4047.a, 4047.B–B.2, 4047.C–C.2, 4049–4049.H.2.b, 4051–4051.B.3, 4053.A–C, 4055–4055.B.3, 4057, 4059, 4061.A–A.2, 4061.B–B.5, 4061.C, 4063.A–B, 4065.A, 4065.A, 4067.A, 4067.B–B.3, 4067.C–D, 4071.A–B, 4073.A–B, 4075, 4079–4079.B, 4085.A–C, 4087.A–B, 4089, 4091.A, 4091.B, 4093, 105.D.46, 105.D.47, 1501.C.2, 105.D.4, 4001 "used oil", 4003.B.2, 4003.B.2.b, 4003.B.2.c, 4003.C, 4003.C.1, 4003.C.1.a, 4003.C.1.b, 4003.C.2, 4003.C.3, 4003.D.1, 4003.E.3.b, 4003.E.4, 4003.I, 4005.Table 1, note, 4007.C.3, 4011.A, 4013, 4015, 4015.A, 4015.B, 4015.C, 4025.A.4, 4025.D.4, 4029.A, 4029.B, 4031.B, 4031.B, 4035, 4035.D.1.b, 4035.D.1.c, 4043.A, 4045.B.6.h.iii, 4049, 4049.A, 4049.C.1.a, 4049.C.2, 4061.B.1, 4069–4069.G.4, 4077.A–C.4, 4081.A–B, 4083.A–B, and 4085.A, as amended March 20, 1995, effective March 20, 1995.
32. Financial Responsibility for Third-Party Liability, Closure and Post-Closure, [57 FR 42832] September 16, 1992, [53 FR 33938], September 1, 1988, and [56 FR 30200] July 1, 1991. (Checklists 113, 113.1, and 113.2).	LRS 30: 2180 et seq., as amended June 14, 1991, effective June 14, 1991; LHWR §§3703.A.8, 3707.F.10, 4403.E.10, 4407.E.11, as amended July 20, 1992; effective July 20, 1992, §§4411.a–b.7.c, 4411.F.6, 4411.G–G.3, 4411.H–H.5, 4411.I–I.4, 4411.J–J.4, 4411.K, as amended May 20, 1993; effective May 20, 1993, §§3719.B, 3719.F–G, 3719.H.1–H.2, 3719.L, 3719.M.1–2, 3719.N.1–2, and 4399.A.8, as amended July 20, 1992; effective July 20, 1992, §§3719.I, 1.b.iv, and 3719J.2.d, as amended March 20, 1995; effective March 20, 1995, and §3719.K, as amended July 20, 1992; effective July 20, 1992.
33. Chlorinated Toluene Production Waste Listing, [57 FR 47376] October 15, 1992. (Checklist 115).	LRS 30: 2180 et seq., as amended June 14, 1991, effective June 14, 1991; LHWR §§4901.C.Table 2, and 4901.G.Table 6, as amended March 20, 1995; effective March 20, 1995.
34. "Mixture" and "Derived-From" Rules; Response to Court Remand, [57 FR 7628] March 3, 1992, [57 FR 23062] June 1, 1992, and [57 FR 49287] October 20, 1992. (Checklists 117A, 117.A.1, and 117A.2.	LRS 30: 2180 st seq., as amended June 14, 1991, effective June 14, 1991; LHWR §§109.haz. waste, 109.haz. waste.1, 109.haz. waste 2, and 109.haz. waste.2.a, as amended October 20, 1994; effective October 20, 1994, §109.haz. waste.2.c, as amended March 20, 1995; effective March 20, 1995, §109.haz. waste.2.d, as amended October 20, 1994; effective October 20, 1994, §§4905.A.1, 4905.A.2, 4905.A.3, 49805.A.4, and 4905.A.5, as amended July 20, 1992; effective July 20, 1992, §§109.haz. waste.3, 109.haz. waste.3.a, 109.haz. waste.b, 109.haz.waste 3.c, 109.haz. waste.4, and 109.haz. waste.5, as amended October 20, 1994; effective October 20, 1994, §§105.D.33, 105.D.33.a, and 105.D.33.b, as amended September 20, 1994; effective September 20, 1994, §105.D.33.C, as amended March 20, 1995; effective March 20, 1995, and §§109.haz. waste.6, 109.haz. waste.6.a, and 109.haz. waste.6.b, as amended October 20, 1994; effective October 20, 1994.

Federal citation	State analog
35. Toxicity Characteristic Revision, [57 FR 23062] June 1, 1992. (Checklist 117B).	LRS 30: 2180 et seq., as amended June 14, 1991, effective June 14, 1991; LHWR §§105.D.16, 105.D.19, and 4512.D.1, as amended March 230, 1995; effective March 20, 1995, and §109 haz.waste.2.a, as amended October 20, 1994; effective October 20, 1994.
36. Liquids in Landfills II, [57 FR 54452] November 18, 1992. (Checklist 118).	LRS 30: 2180 et seq., as amended June 14, 1991, effective June 14, 1991; LHWR §§1519.C.3, 2515.A.2, 2515.B, 2515. C.1.b, 2515.F, 2515.F.1, 2515.F.1.a, 2515.F.1.b–c, 2515.F.2, 2515.F.2.a–b, 2515.E, 2515.E.1–2, 2519.B–C, 4313.F.3, 4507.A.2, 4507.B, 4507.C.1.b, 4507.F, 4507.F.1, 4507.F.1.a–c, 4507.F.2, 4507.F.2.a–b, 4507.G, 4507.G.2, 4511.B, and 4511.C, as amended March 20, 1995; effective March 20, 1995.
37. Toxicity Characteristic Revision; TCLP, [57 FR 55114] November 24, 1992, and [58 FR 6854] February 2, 1993. (Checklists 119 and 119.1).	LRS 30: 2180 et seq., as amended June 14, 1991, effective June 14, 1991; LHWR §§Chapters 49, App.B,8.2, 49, App.B,8.2.2, 49, App.B,8.2.2.5, 49 App.B,8.2.2.5.1, 49, App.B,8.2.2.5.2, 49, App.B,8.2.2.5.3, 49, App.B,8.2.2.5.4, and 49, App.B.8.4, as amended September 20, 1995.
38. Wood Preserving; Amendments to Listings and Technical Requirements, [57 FR 61492] December 24, 1992. (Checklist 120).	LRS 30: 2180 et seq., as amended June 14, 1991, effective June 14, 1991; LHWR §4901.B. Table 1, as amended September 20, 1994; effective September 20, 1994, §105.D.44, as amended March 20, 1995; effective March 20, 1995, 4901.B.Table 1, as amended September 20, 1994; effective September 20, 1994, §2801.A, as amended December 20, 1992; effective December 20, 1992, §§2804, 2804.A–B, 2805.C.3, 2805.I, 2803.A, 2803.B, 2805.A.4, 4591, 2805 J, 2805.C, 2805.B, and 2805.C, as amended September 20, 1995; effective September 20, 1995.
39. Corrective Action Management Units and Temporary Units; Corrective Action Provisions Under Subtitle C, [58 FR 8658] February 16, 1993. (Checklist 121).	LRS 30:2180 et seq, as amended June 14, 1991, effective June 14, 1991; LHWR §§109, 109 "landfills", 109 "misc. unit", 109 "remediation waste", 4301.C, 3322.B, 2601.A, 2601.A.1–2, 2601.B.1, 2601.B.1.a–b, 2601.B.2, 2601.C, 2601.C.1–7, 2601.D, 2601.E, 2601.E.1–3, 2601.E.3.a–b, 2601.E.4, 2601.E.4a, 2601.e.4.a.i, 2601.E.4.a.ii, 2601.E.4.b, 2601.E.4.b.i–iii, 2601.E.4.c, 2601.E.4.c.i, ii, iii, iv, v, and vi, 2601.E.4.d, 2601.F, 2601.G, 2601.H, 2603.A–B, 2603.B.1–2, 2603.C, 2603.C.1–7, 2603 D, and 2603.E–G, as amended March 20, 1995, effective March 20, 1995, §109.Interim Status, as amended October 20, 1994; effective October 20, 1994, §§105, and 4301.A & C, as amended September 20, 1994; effective September 20, 1994, and §4307, as amended March 20, 1984; effective March 20, 1984.
40. Recycled Used Oil Management Standards; Technical Amendments and Corrections, [58 FR 26420] May 3, 1993, and [58 FR 33341] June 17, 1993. (Checklists 122 and 122.1).	LRS 30: 2180 et seq, as amended June 14, 1991, effective June 14, 1991; LHWR §§109 used oil, 109 haz. waste.2.e–e.ii, and 4105.C.3–C.4, as amended March 20, 1995; effective March 20, 1995, §4105.B.4, as amended September 20, 1994; effective September 20, 1994, §§4105.E, 3001.B.1, 4001, 4003–4003.B.2.c, 4003.C, 4003.D–D.2, 4003.E–E.4, 4003.F, 4003.G, 4003.H, 4003.I, 4005, 4005.Table 1, 4007.A, 4007.B, 4007.C–C.2.c, 4009.A–A.4, 4009.B–B.5, 40011.A, 4011.B., 4013–4013.D.4, 4015.A, 4015.B, 4015, 4017–C.3, 4019.A, 4019.B, 4021.A, 4021.B–B.2, 4023.A, 4023.B, 4025.A–A.4, 4025.B, 4025.C, 4025.D–D.5, 4027.A, 4027.B, 4029.A, 4029.B, 4083.B, 4031.A–A.4, 4031.B, 4031.C–C.5, 4033.A, 4033.B–B.2, 4033.C–C.2, 4033.D, 4035, 4035.A, 4035.B, 4035.C–C.2, 4035.D–D.2, 4035.E–F.2, 4035.G–G.2, 4035.H–H.4, 4037.A–B.5, 4037.C, 4037.D, 4039, 4041.A–A.2, 4041.B–B.5, 4043.A, 4043.B, 4045.A–A.5, 4045.A.6.a–A.6.B, 4045.b–b.6.i.VII, 4047.a, 4047.B–B.2, 4047.C–C.2, 4049–4049.H.2.b, 4051–4051.B.3, 4053.A–C, 4055–4055.B.3, 4057, 4059, 4061, 4061.A–A.2, 4061.B–B.5, 4061.C, 4063.A–B, 4065.A, 4065.A, 4067.A, 4067.B–B.3, 4067.C–D, 4071.A–B, 4073.A–B, 4075, 4079–4079.B, 4085.A–C, 4087.A–B, 4089, 4091.A, 4091.B, 4093, 105.D.46, 105.D.47, 1501.C.2, 105.D.4, 4001 "used oil", 4003.B.2, 4003.B.2.b, 4003.B.2.c, 4003.C, 4003.C.1, 4003.C.1.a, 4003.C.1.b, 4003.C.2., 4003.C.3, 4003.D.1, 4003.E.3.b, 4003.E.4., 4003.I, 4005.Table 1, note, 4007.C.3, 4011.A, 4013, 4015, 4015.A, 4015.B, 4015.C, 4025.A.4, 4025.D.4, 4029.A, 4029.B, 4031.B, 4031.B, 4035, 4035.D.1.b, 4035.D.1.c, 4043.A, 4045.B.6.h.iii, 4049, 4049.A, 4049.C.1.a, 4049.C.2, 4061.B.1, 4069–4069.G.4, 4077.A–C.4, 4081.A–B, 4083.A–B, and 4085.A, as amended March 20, 1995, effective March 20, 1995.

Louisiana is not authorized to operate the Federal program on Indian lands. This authority remains with EPA.

C. Decision

I conclude that Louisiana's application for program revision meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Louisiana is granted final authorization to operate its hazardous waste program as revised. Louisiana now has responsibility for permitting treatment, storage, and disposal facilities within its borders and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments. Louisiana also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA and to take enforcement actions under sections 3008, 3013, and 7003 of RCRA.

D. Codification in Part 272

EPA uses 40 CFR part 272 for codification of the decision to authorize Louisiana's program and for incorporation by reference of those provisions of Louisiana's Statutes and regulations that EPA will enforce under sections 3008, 3013, and 7003 of RCRA. Therefore, EPA is reserving amendment of 40 CFR part 272, subpart T until a later date.

Compliance with Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12866.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 4 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Louisiana's program, thereby eliminating duplicative requirements for handlers of

hazardous waste in the State. This authorization does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: March 20, 1996.

Jane N. Saginaw,

Regional Administrator.

[FR Doc. 96–7604 Filed 3–27–96; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 677

[Docket No. 960311066–5066–01; I.D. 030596C]

RIN 0648–AI57

North Pacific Fisheries Research Plan; Fee Refund

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Interim final rule; request for comments.

SUMMARY: NMFS issues an interim final rule that will discontinue the 1995 North Pacific Fisheries Research Plan (Research Plan) fee collection process, authorize the issuance of annual Federal processor permits without regard to payment of Research Plan fees, and refund all fees collected (approximately $5.6 million) by NMFS under the Research Plan, along with accrued interest. A refund procedure is outlined that describes how Research Plan refund recipients will be identified, how the refunds will be calculated, and how and when refund checks will be disbursed. This action is necessary to respond to the North Pacific Fishery Management Council's (Council) vote at its December 1995 meeting to repeal the Research Plan. It is intended to terminate the collection of fees authorized by the Research Plan.

DATES: Effective March 25, 1996. Comments must be received on or before April 29, 1996, (See **ADDRESSES**).

ADDRESSES: Comments on the interim final rule may be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, Room 453, 709 W. 9th Street, Juneau, AK 99801, or P.O. Box 21668, Juneau, AK 99802, Attention: Lori J. Gravel.

FOR FURTHER INFORMATION CONTACT: Kim S. Rivera, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

A final rule implementing the Research Plan was published in the **Federal Register** on September 6, 1994 (59 FR 46126), under the authority of section 313 of the Magnuson Fishery Conservation and Management Act (Magnuson Act), as amended by section 404 of the High Seas Driftnet Fisheries Enforcement Act, Public Law 102–582. The Research Plan includes a fee collection program to pay for the costs of observer coverage for all fisheries under the Council's jurisdiction, except salmon fisheries. Full implementation of the Research Plan was delayed until 1997 (60 FR 66755, December 26, 1995) after the Council requested additional time to reconsider certain elements of the Research Plan that it had previously adopted. At its December 1995 meeting, the Council voted to repeal the Research Plan and its associated fee-based funding mechanism and requested NMFS to develop rulemaking for an alternative to the Research Plan and to refund the Research Plan fees collected in 1995.

As a result of the Council's action, NMFS intends to halt the administrative process necessary for full implementation of the Research Plan. This includes the billing of Research Plan fee assessments, collection of fee payments, and the requirement for Research Plan fees to be fully paid prior to issuance of Federal processor permits. Furthermore, NMFS will refund all monies, including accrued interest, deposited in the North Pacific Fishery Observer Fund (Observer Fund) to the processors that were billed and made direct payments to NMFS. Refund checks will be issued as soon as administratively possible.

Without the fee collection process in place, a justification for a semiannual Federal processor permit no longer exists. Therefore, the requirement is revised and the Federal processor permit will be issued annually.

In 1995, fee assessments were billed for the first four bimonthly billing periods and over $5.6 million was collected from Research Plan processors. Two more bimonthly fee assessments were scheduled to complete the 1995 billings. They will not be issued. Regulations at § 677.6(b) are revised to indicate that 1995 fee assessments were required only through August 31, 1995. To be consistent with the revised 1995 billing period, regulations at § 677.6(d) also are changed to indicate a January 1 through August 31, 1995, period.

Beginning in 1996, Federal processor permits will be issued for the entire calendar year rather than for a semiannual period. As a result, Federal processor permits issued in 1996 will be effective for the period January 1, 1996, through December 31, 1996. Regulations at § 677.4(b)(1) and (c)(1) will be revised to indicate that the Federal processor permits are issued annually and regulations at § 677.4(e) will be revised to indicate that the duration of an issued Federal processor permit is for the period January 1 through December 31. Issuance of Federal processor permits will not depend upon payment of past due Research Plan fees. Regulations at § 677.4(c)(2) are revised to remove language requiring payment of Research Plan fees as a condition of Federal processor permit issuance.

NMFS intends to refund in its entirety the $5.6 million collected under the Research Plan and the interest earned on fee payments deposited in the Observer Fund. Refunds will be issued to Research Plan processors using a procedure set forth in a new paragraph at § 677.6(g). Reference to refunds at § 677.6(d)(3)(ii) is no longer applicable and is removed.

NMFS collected fees only from processors. NMFS did not collect fees directly from fishermen and does not have the necessary information to provide refunds to fishermen. NMFS expects processors to refund to fishermen any Research Plan fees collected from fishermen. NMFS encourages fishermen who paid Research Plan fees to one or more processors to coordinate directly with those processors to obtain their portion of the Research Plan refund.

Classification

The Assistant Administrator for Fisheries, NOAA (AA) finds that relieving certain conditions specified at § 677.4(b)(1), (c), and (e) for processor permit issuance and at § 677.6 (b) and (d) for 1995 fee assessments removes a regulatory burden. Given that the Research Plan has not been fully implemented and that the industry did not receive any observer services for their paid fees, NMFS should return all fees paid, including any interest accrued, and amounts for late payment as soon as possible. The AA finds good cause to waive the requirement to provide prior notice and the opportunity for public comment, pursuant to authority set forth at 5 U.S.C. 553(b)(B). To the extent that NMFS is returning Research Plan fees to those who are entitled to those fees, opportunity for comment is unnecessary. NMFS finds that it would be contrary to the public interest to delay these refunds further in order to provide prior notice and opportunity to comment on the procedural aspects of this rule. Such a delay may cause economic injury to persons entitled to a refund. Similarly, because this interim final rule relieves restrictions listed above, the AA finds that this rule, as authorized by 5 U.S.C. 553(d)(1), may be made effective upon filing for public inspection at the Office of the Federal Register. Comments must be received on or before April 29, 1996, (See **ADDRESSES**).

This rule contains collection-of-information requirements subject to the Paperwork Reduction Act. The collections of this information have been approved by the Office of Management and Budget, OMB control numbers 0648–0206 (Processor Permit Application) and 0648–0280 (dispute resolution process). The time estimate for documentation of disputed bills is 1 hr per response. This final rule relieves a reporting burden by changing the Federal processor permit application authorized under § 677.4 from a semiannual to an annual requirement. The annual application process will reduce by 50 percent the total burden hours associated with the issuance of Federal processor permits and result in an estimated total annual reporting burden equal to about 200 hours for an estimated 400 Research Plan processors who applied for a Federal processor permit to date in 1996.

No environmental consequences are anticipated beyond those already analyzed in the environmental assessment (EA) prepared for the Research Plan and therefore this interim final rule is categorically excluded from the requirement to prepare an EA in accordance with NAO 216–6.

This interim final rule has been determined to be not significant for purposes of E.O. 12866.

List of Subjects in 50 CFR Part 677

Fisheries, Reporting and recordkeeping requirements.

Dated: March 22, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service

For the reasons set out in the preamble, 50 CFR part 677 is amended as follows:

PART 677—NORTH PACIFIC FISHERIES RESEARCH PLAN

1. The authority citation for 50 CFR part 677 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 677.4, paragraphs (b)(1), (c)(1), (c)(2), and (e) are revised to read as follows:

§ 677.4 Permits.

* * * * *

(b) * * *

(1) The year for which the permit is requested.

* * * * *

(c) *Issuance.* (1) Permits required under this section will be issued annually by the Regional Director.

(2) The Regional Director will issue a permit required under paragraph (a) of this section upon receipt of a complete application. Upon receipt of an incomplete or improperly completed application, the Regional Director will notify the applicant of the deficiency. No permit will be issued to an applicant until a complete application is submitted.

* * * * *

(e) *Duration.* The processor permit issued by the Regional Director will continue in full force and effect through December 31, of the year for which it is issued, or until it is revoked, suspended, or modified under part 621 (Civil Procedures) of this chapter.

* * * * *

3. In § 677.6, the heading to paragraph (b)(1) is revised, paragraph (b)(2) is revised, the heading for paragraph (d) is revised, paragraph (d)(3)(ii) is removed and reserved, and a new paragraph (g) is added to read as follows:

§ 677.6 Research Plan fee.

* * * * *

(b) * * *

(1) *Fee assessments applicable from January 1, 1995, through August 31, 1995.*

* * * * *

(2) *Fee assessments from September 1, 1995, through December 31, 1996.* Processors of Research Plan fisheries will not be assessed fees based on catch from Research Plan fisheries that is retained during the period September 1, 1995, through December 31, 1996.

* * * * *

(d) *Credit for observer coverage costs incurred from January 1, 1995, through August 31, 1995.*

* * * * *

(g) *Refund of the North Pacific Fishery Observer Fund (Observer Fund)*—(1) *General.* All monies in the Observer Fund will be refunded according to the refund procedure set out in paragraph (g)(2) of this section. The sum of all amounts refunded cannot exceed the amount available in the Observer Fund. The monies in the Observer Fund include: Fee assessment payments as specified in paragraph (c) of this section, assessed late charges in the form of interest and administrative charges for late payment of fee assessments as specified in paragraph (f) of this section, and accrued interest. Until the time of refund, monies will remain deposited in the Observer Fund earning interest. Without exception, full disbursement of the Observer Fund will occur to refund Research Plan processors. NMFS will not retain any funds either to reimburse programs for costs incurred to implement the Research Plan or to issue refunds.

(2) *Refund procedure*—(i) *Identification of the Research Plan refund recipient.* Research Plan fees will be refunded to the person who was billed and made payment to NMFS. The recipient of the refund and the refund amount will be based on Federal processor permit records and Research Plan billing with the following exceptions:

(A) If a refund recipient has died, the refund will be issued to the recipient's estate;

(B) If a refund recipient is a corporation and has gone bankrupt, successor-in-interest guidelines, as set forth in applicable state law, will be followed.

(ii) *Calculation of the refund amount*—(A) *Principal portion.* All payment amounts as assessed under paragraphs (c) and (f) of this section, and paid by processors, will be verified by NMFS in the Research Plan billing records and will constitute the principal portion of the refund.

(B) *Interest portion*—(*1*) *Basis of calculation and calculation formula.* The interest earned by the principal portion invested in the Observer Fund will be distributed among paying processors based on their proportional contribution to the Observer Fund. Contributions are based on two factors: The processor's total payment amount and the number of days the processor's total payment amount was on deposit. The interest portion of the refund will be calculated as follows:

(*i*) A processor's total payment amount multiplied by the number of days the processor's total payment amount was on deposit equals the processor's contribution (the number of days is based on the payment receipt date at the First National Bank of Chicago) (for example, if a processor's total payment amount was $20,000 and this amount was on deposit for 150 days, then the processor's contribution is $20,000 x 150 = $3,000,000);

(*ii*) A processor's contribution divided by the total amount of all processor contributions multiplied by 100 equals the processor's percent contribution to the Observer Fund [for example, if the total amount of all processor contributions is $750,000,000 ($5,000,000 x 150 days), then the processor's percent contribution is $3,000,000/$750,000,000 x 100 = 0.4%];

(*iii*) A processor's percent contribution multiplied by the total amount of interest earned by the Observer Fund equals the processor's interest portion of the Research Plan refund (for example, if the total amount of interest earned by the Observer Fund is $200,000, then the processor's interest portion of the Research Plan refund is 0.4% x $200,000 = $800).

(*2*) *Interest calculation method.* This method is necessary to ensure that the interest that is refunded does not exceed the interest amount that was earned and is available in the Observer Fund. Due to the administrative process used to invest the funds, certain delays existed between the date a processor made payment and the actual investment date. The date of payment is not the date the deposits were invested. Therefore, using the date of payment to calculate interest earned on an individual processor's payments will not accurately reflect the interest that was actually earned. NMFS has determined that the calculation specified in paragraph (g)(2)(ii)(B)(*1*) of this section is a fair and equitable way to distribute the interest earned on Observer Fund investments among the processors that made Research Plan payments.

(*3*) *Disinvestment of the Observer Fund.* The interest portion of the refund cannot be calculated until Observer Fund investments are withdrawn. Withdrawal of investments will occur just prior to the earliest possible issuance of refund checks in order to avoid unwarranted loss of interest. The actual amount of a processor's interest portion of the refund will be evident upon receipt of the refund check.

(iii) *Notification to processors of refund amounts.* NMFS will notify each processor by certified mail of a preliminary determination of the principal portion of the refund amount. The sum of the payment amounts received for each processor equals the principal portion of the Research Plan refund. Final determination of a processor's principal portion is subject to resolution of all disputes received under paragraph (g)(2)(iv) of this section. The notification letter to each processor will include the following itemized reference information:

(A) Payment amount received;

(B) Payment receipt date at the First National Bank of Chicago;

(C) Check number;

(D) Research Plan bill number to which the payment was applied, and;

(E) The fishery category to which the payment was applied.

(iv) *Dispute process.* A processor that disagrees with any determination of the principal portion of the refund amount as described in paragraph (g)(2)(ii)(A) of this section must sign the certified notification letter and return it to NMFS within 30 days of receipt of the certified letter, accompanied by documentation supporting the disputed principal portion of the refund amount.

(A) *NMFS review.* NMFS will review letters and documentation received under paragraph (g)(2)(iv); and

(B) *NMFS determination*—(*1*) If NMFS determines an error exists in the calculation of the principal portion of refund amounts, NMFS will correct such calculations and notify the affected processors of its determination; or

(*2*) If NMFS determines no error exists in the calculation of the principal portion of refund amounts, NMFS will notify the affected processors of its determination.

(v) *Disbursement of refund checks.* Once all disputes received under paragraph (g)(2)(iv) of this section have been resolved, NMFS will authorize and provide necessary documentation for refund checks to be disbursed by the United States Treasury.

[FR Doc. 96–7612 Filed 3–25–96; 4:31 pm]

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Proposed Rules

Federal Register

Vol. 61, No. 61

Thursday, March 28, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–NM–89–AD]

Airworthiness Directives; de Havilland Model DHC–8–100 and –300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to certain de Havilland Model DHC–8–100 and –300 series airplanes, that would have required inspections to detect corrosion on areas of the airplane structure where black film thermal insulation is used; repair, if necessary; and replacement of black insulation blankets with certain aluminized (silver) insulation. That proposal was prompted by reports of corrosion forming on areas of the airplane structure where the black film covers the thermal insulation blankets. This action would expand the inspection area, and would require replacement of the black film insulation in that area. This action also would expand the applicability of the proposed AD to include additional airplanes. The actions specified by this proposed AD are intended to prevent degradation of the structural capability of the airplane fuselage and sudden loss of cabin pressure due to corrosion of the airplane fuselage structure.

DATES: Comments must be received by April 24, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–89–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Bombardier, Inc., Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Jon Hjelm, Aerospace Engineer, Airframe Branch, ANE–172, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7523; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 94–NM–89–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–89–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to certain de Havilland Model DHC–8–100 and –300 series airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on September 27, 1994 (59 FR 49219). That NPRM would have required a one-time visual inspection to detect corrosion on areas of the airplane structure where black film thermal insulation is used, and repair, if necessary; and replacement of black Orcan film insulation blankets with AN4C aluminized (silver) film insulation. That NPRM was prompted by reports of corrosion forming on areas of the airplane structure where the black film covers the thermal insulation blankets. That condition, if not corrected, could result in degradation of the structural capability of the airplane fuselage and sudden loss of cabin pressure due to corrosion of the airplane fuselage structure.

Since the issuance of that NPRM, Bombardier has issued revisions to each of the service bulletins cited in the NPRM. These service bulletin revisions are essentially the same as those referenced in the proposed AD. However, in each of these revisions, the service bulletin effectivity has been updated to remove those airplanes on which silver insulation was installed during production. Further, references to existing part numbers, part descriptions, and new part numbers have been revised. Two of the service bulletin revisions address the black thermal insulation in the passenger compartment area:

- S.B. 8–25–89, Revision E, dated July 6, 1994; and
- S.B. 8–25–92, Revision E, dated July 20, 1994.

Two of the service bulletins address the insulation in the air conditioning ducts:

- S.B. 8–25–90, Revision C, dated July 5, 1994; and

• S.B. 8–25–93, Revision C, dated July 20, 1994.

One service bulletin revision addresses the insulation in the flight compartment and the forward fuselage areas: S.B. 8–25–91, Revision D, dated July 20, 1994.

Bombardier also issued Service Bulletin S.B. 8–21–68, dated July 20, 1994, which descries procedures to determine from the airplane modification records if any of the retrofit kits listed in the service bulletin have been installed on the airplane. The service bulletin also describes procedures for removal of the black Orcon film insulation that may have been installed in a retrofit kit; inspections for corrosion of the airplane structure that has been in contact with the black film insulation, and repair, if necessary; and replacement of the black Orcon film insulation with AN4C aluminized (silver) film insulation blankets. The effectivity of this service bulletin addresses airplanes on which the black insulation was installed through retrofit kits.

Additionally, Bombardier issued Service Bulletin S.B. 8–21–66, Revision C, dated March 24, 1995, which describes procedures for removal of the black Orcon film from delivery and recirculation ducts of the air conditioning system in the rear fuselage, inspections for corrosion of the airplane structure that has been in contact with the black film insulation, and repair, if necessary. The service bulletin also describes procedures for replacement of the black Orcon film insulation with AN4C aluminized (silver) film insulation.

Transport Canada Aviation, which is the airworthiness authority for Canada, classified these service bulletins as mandatory and issued Canadian airworthiness directives CF–94–25R1 and CF–94–26R1, both dated June 30, 1995, in order to assure the continued airworthiness of these airplanes in Canada.

The FAA has examined the findings of Transport Canada Aviation and has reviewed the service bulletin revisions and new service information. The FAA has determined that the proposed rule must be revised to cite the latest revisions of the service bulletins referenced in the NPRM as the appropriate sources of service information.

The FAA also has determined that the addressed unsafe condition is also likely to exist or develop on the airplanes addressed in Bombardier Service Bulletin S.B. 8–21–68. Therefore, the FAA has added a new paragraph (a) to this supplemental NPRM to require the procedures specified in that service bulletin.

Additionally, the FAA finds that the proposed rule must be revised to address inspection for corrosion and replacement of black Orcon film insulation with AN4C aluminized (silver) film insulation blankets in the delivery and recirculation ducts of the air condition system, as specified in Bombardier Service Bulletin S.B. 8–21–66. The FAA has revised paragraph (b) of this supplemental NPRM to include those requirements.

In addition, the applicability of this supplemental NPRM has been revised to specify that the AD applies to those airplanes on which black Orcon film insulation is installed to include airplanes listed in Bombardier Service Bulletins S.B. 8–21–66 and S.B. 8–21–68.

Since these changes expand the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

There are approximately 378 Model DHC–8–100 and -300 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 125 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 650 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. (Work hours associated with the proposed actions described in Service Bulletin S.B. 8–21–68 cannot be estimated at this time since exact numbers of the retrofit kits installed are unknown.) However, the FAA has been advised that the manufacturer plans to provide required parts and to accomplish the required modification at no expense to operators. Therefore, there is no cost impact to U.S. operators that is associated with this proposed rule with regard to labor charges or parts costs.

The FAA does recognize, however, that while operators may incur administrative costs associated with compliance to this proposed rule, the one-year compliance time specified in paragraphs (a) and (b) of this proposed AD should allow ample time for the proposed requirements to be accomplished coincidentally with scheduled major airplane inspection and maintenance activities, thereby minimizing the costs associated with special airplane scheduling.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

De Havilland, Inc.: Docket 94–NM–89–AD.

Applicability: Model DHC–8–100 and -300 series airplanes, equipped with black Orcon film insulation; certificated in any category; and listed in the following Bombardier Service Bulletins:

DHC–8 models	Service bulletin No.	Revision level	Date
102, 103, and 106	S.B. 8–25–89	E	July 6, 1994.
102, 103, and 106	S.B. 8–25–90	C	July 5, 1994.
102, 103, 106, 301, 311, and 314	S.B. 8–25–91	D	July 20, 1994.
301, 311, and 314	S.B. 8–25–92	E	July 20, 1994.
301, 311, and 314	S.B. 8–25–93	C	July 20, 1994.
102, 103, 106, 301, 311, and 314	S.B. 8–21–68		July 20, 1994.
102, 103, 301, 311, and 314	S.B. 8–21–66	C	March 24, 1995.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent degradation of the structural capability of the airplane fuselage and sudden loss of cabin pressure due to corrosion of the airplane fuselage structure, accomplish the following:

(a) For airplanes listed in Bombardier Service Bulletin S.B. 8–21–68, dated July 20, 1994: Within one year after the effective date of this AD, accomplish the requirements of paragraphs (a)(1), and (a)(2) of this AD.

(1) Determine from the airplane modification records if any of the retrofit kits listed in the service bulletin have been installed in the airplane, in accordance with the service bulletin.

(i) If no kit has been installed, no further action is required by this paragraph.

(ii) If any kit has been installed, prior to further flight, remove any black film insulation blanket, and perform a visual inspection to detect corrosion of all airplane structure in contact with the black insulation, in accordance with the service bulletin.

(A) If any corrosion is found that is within the limits specified in the service bulletin, prior to further flight, repair in accordance with the service bulletin.

(B) If any corrosion is found that is beyond the limits specified in the service bulletin, prior to further flight, repair in accordance with a method approved by the New York Aircraft Certification Office (ACO), ANE–170, FAA Engine and Propeller Directorate.

(2) Install the AN4C aluminized (silver) film insulation in accordance with the service bulletin.

(b) Within 1 year after the effective date of this AD, accomplish the requirements of paragraph (b)(1), (b)(2), and (b)(3) of this AD, in accordance with the following Bombardier service bulletin, as applicable:

S.B. 8–25–89, Revision E, dated July 6, 1994;
S.B. 8–25–90, Revision C, dated July 5, 1994;
S.B. 8–25–91, Revision D, dated July 20, 1994;
S.B. 8–25–92, Revision E, dated July 20, 1994;
S.B. 8–25–93, Revision C, dated July 20, 1994; and
S.B. 8–21–66, Revision C, dated March 24, 1995.

(1) Remove any black Orcon film insulation from the flight compartment and forward fuselage of the airplane, the passenger compartment, the air conditioning ducts, and the delivery and recirculation ducts of the air conditioning system in the rear fuselage, in accordance with the applicable service bulletin.

(2) Perform a visual inspection to detect corrosion of all airplane structure in contact with the black insulation, in accordance with the applicable service bulletin.

(i) If any corrosion is found that is within the limits specified in the service bulletin, prior to further flight, repair in accordance with the applicable service bulletin.

(ii) If any corrosion is found that is beyond the limits specified in the service bulletin, prior to further flight, repair in accordance with a method approved by the Manager, New York ACO.

(3) Install the AN4C aluminized (silver) film insulation in accordance with the applicable service bulletin.

(c) As of the effective date of this AD, no person shall install black Orcon film insulation, part number AN46B/AN36B, on any airplane.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on March 22, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–7550 Filed 3–27–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–NM–204–AD]

Airworthiness Directives; McDonnell Douglas Model DC–10–10 and –15 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–10–10 and –15 series airplanes. This proposal would require repetitive inspections to detect cracks in the bulkhead tee caps, and repair and follow-on actions, if necessary. The proposal would also provide for an optional terminating modification for the repetitive inspections. This proposal is prompted by reports of cracking in the bulkhead tee caps at a fuselage station in the area of certain longerons due to fatigue. The actions specified by the proposed AD are intended to prevent such fatigue cracking, which could result in loss of pressurization and damage to adjacent structure.

DATES: Comments must be received by May 21, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–204–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Maureen Moreland, Aerospace Engineer, Systems and Equipment Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5238; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–NM–204–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–204–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On November 6, 1995, the FAA issued AD 95–23–09, Amendment 39–9429 (60 FR 61649, December 1, 1995), which is applicable to McDonnell Douglas DC–10 series airplanes and Model KC–10A (military) airplanes. That AD requires the implementation of a Structural Inspection Document (SID) program of structural inspections to detect fatigue cracking, and repair or replacement, as necessary, to ensure the continued airworthiness of these airplanes as they approach the manufacturer's original fatigue design life goal. Among other requirements, AD 95–23–09 requires inspection of the bulkhead tee cap at station Y=1156.000 under the fleet leader operator sampling criteria. [The bulkhead tee cap at station Y=1156.000 is designated as Principal Structural Elements (PSE) 53.10.041B and 53.10.042B in McDonnell Douglas Report Number L26–012, "DC–10 Supplemental Inspection Document," which is referenced in AD 95–23–09 as the appropriate source of service information.] The fatigue life threshold (N_{th}) for this PSE is 31,898 landings. The sampling period for this PSE started in September 1989, and will end in June 1996. Sampling inspections are to be accomplished within that interval for airplanes in the candidate fleet that have accumulated more than 15,949 total landings($N_{th}/2$).

The FAA has received several reports of cracking in the bulkhead tee caps at fuselage station Y=1156.000 (left and right sides) in the area of longerons 38 and 41.0. The cracking was found on Model DC–10–10 and –15 series airplanes that had accumulated between 56,394 and 72,931 total flight hours and between 21,629 and 26,094 total landings. Investigation revealed that the cause of such cracking has been attributed to fatigue. The FAA has determined that additional inspections of this area will ensure that fatigue cracking is detected before it reaches a critical length. Fatigue cracking, if not detected and corrected in a timely manner, could result in loss of pressurization and damage to adjacent structure.

The FAA has reviewed and approved McDonnell Douglas Service Bulletin DC10–53–168, dated August 9, 1995. The service bulletin describes procedures for repetitive eddy current and radiographic inspections to detect cracks in the bulkhead tee caps (left and right sides) between longerons 38.0 and 41.0 at fuselage station Y=1156.000, and repair and follow-on actions (i.e., repetitive inspections), if necessary.

The service bulletin also describes an optional terminating preventative modification that would eliminate the need for the repetitive inspections. The modification includes cold working fastener holes and a follow-on inspection program. Accomplishment of the preventative modification will minimize the possibility of cracks developing in the subject area of the bulkhead tee cap.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require repetitive eddy current and radiographic inspections to detect cracks in the bulkhead tee caps (left and right sides) between longerons 38.0 and 41.0 at fuselage station Y=1156.000, and repair and follow-on actions, if necessary. The proposed AD would provide for an optional terminating preventative modification that would constitute terminating action for the repetitive inspection requirements. The actions would be required to be accomplished in accordance with the service bulletin described previously.

Operators should note that, although the service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions, this proposal would require the repair of those conditions to be accomplished in accordance with a method approved by the Manager of the Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate.

There are approximately 133 McDonnell Douglas Model DC–10–10 and –15 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 121 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 3 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $21,780, or $180 per airplane, per inspection cycle.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Docket 95–NM–204–AD.

Applicability: Model DC–10–10 and –15 series airplanes, as listed in McDonnell Douglas Service Bulletin DC10–53–168, dated August 9, 1995; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously. To prevent fatigue cracking, which could result in loss of pressurization and damage to adjacent structure, accomplish the following:

(a) Prior to the accumulation of 20,000 total landings, or within 1,500 landings after the effective date of this AD, whichever occurs later, perform an eddy current and radiographic inspection, as applicable, to detect cracks in the bulkhead tee caps (left and right sides) in the area of longerons 38.0 through 41.0 at fuselage station Y=1156.000, in accordance with McDonnell Douglas Service Bulletin DC10–53–168, dated August 9, 1995.

(1) If no cracks are detected, repeat the inspections thereafter at intervals not to exceed 2,600 landings until paragraph (b) of this AD is accomplished.

(2) If any crack is detected, prior to further flight, accomplish the repair specified in either paragraph (a)(2)(i) or (a)(2)(ii) of this AD.

(i) Splice in a new bulkhead tee cap section at cracked area of bulkhead tee cap in accordance with the service bulletin. Within 20,000 total landings after accomplishing this repair, perform eddy current inspections to detect cracks in accordance with the service bulletin. Repeat the inspections thereafter at intervals not to exceed 2,600 landings until paragraph (b) of this AD is accomplished. If any crack is detected, prior to further flight, repair it in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(ii) Repair in accordance with a method approved by the Manager, Los Angeles ACO, FAA, Transport Airplane Directorate.

(b) Terminating action for the repetitive inspections required by paragraphs (a)(1) and (a)(2)(ii) of this AD is as follows:

(1) Accomplish the preventative modification and eddy current open hole inspection in accordance with Condition 1 (no cracks in bulkhead tee cap), Option 2, of the service bulletin. And

(2) Within 14,450 total landings following accomplishment of the modification, perform an eddy current and radiographic inspection to detect cracks in accordance with Condition 1 (no cracks in bulkhead tee cap), Option 2, of the service bulletin.

(i) If no cracks are detected, repeat the inspections thereafter at intervals not to exceed 3,950 landings.

(ii) If any crack is detected, prior to further flight, repair it in accordance with a method approved by the Manager, Los Angeles ACO, FAA, Transport Airplane Directorate.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on March 22, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–7549 Filed 3–27–96; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 95–NM–208–AD]

Airworthiness Directives; Airbus Model A320–111, –211, and –231 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A320–111, –211, and –231 series airplanes. This proposal would require repetitive high frequency eddy current inspections to detect cracks around the fasteners of the lower forward corners of the sliding window frames, and repair, if necessary. This proposal would also require installation of a modification for each affected fastener hole, which would terminate the repetitive inspections. This proposal is prompted by the results of full-scale fatigue tests which indicated that fatigue cracking occurred on the lower forward corner of the sliding window frames at frame 4. The actions specified by the proposed AD are intended to prevent such fatigue cracking, which could result in rapid depressurization of the airplane.

DATES: Comments must be received by May 6, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–208–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2797; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the

proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–NM–208–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–208–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Airbus Model A320–111, -211, and -231 series airplanes. The DGAC advises that, during full-scale fatigue tests on a Model A320 series airplane test article, fatigue cracking was found on the lower forward corner of the sliding window frames at frame 4. Fatigue cracking on the lower forward corner of the sliding window frames at frame 4, if not detected and corrected in a timely manner, could result in rapid depressurization of the airplane.

Airbus has issued Service Bulletin A320–53–1082, Revision 1, dated November 9, 1994, which describes procedures for a high frequency eddy current inspection to detect cracks around the five fasteners of the lower forward corners of the sliding window frames at frame 4. For cases where no cracks are detected during inspection, the service bulletin describes procedures for either conducting repetitive inspections, or installing Modification 23685P3199. The service bulletin also permits further flight with cracking around the five fasteners.

Airbus has also issued Service Bulletin A320–53–1044, dated February 8, 1994, which describes procedures for installation of Modification 23685P3199. The modification entails cold working each of the five fastener holes on each side and installing a tension bolt. Accomplishment of the modification on each of the 5 fasteners on each side would eliminate the need for the repetitive inspections.

The DGAC classified these service bulletins as mandatory and issued French airworthiness directive 94–166–056(B), dated July 20, 1994, in order to assure the continued airworthiness of these airplanes in France.

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, the proposed AD would require high frequency eddy current inspection(s) to detect cracks around the 5 fasteners of the lower forward corners of the sliding window frames at frame 4. For cases where no cracks are detected during inspection, the proposed AD would require installation of Modification 23685P3199, which would constitute terminating action for the repetitive inspection requirements. The actions would be required to be accomplished in accordance with the procedures of the service bulletins described previously.

Operators should note that, unlike the procedures described in the referenced service bulletin, this proposed AD would not permit further flight with cracking detected around any of the 5 fasteners of the lower forward corner of the sliding window frame at frame 4. The FAA has determined that, due to the safety implications and consequences associated with such cracking, all cracks that are found must be repaired prior to further flight. The repair would be required to be accomplished in accordance with a method approved by the FAA.

The FAA estimates that 21 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 5 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $6,300, or $300 per airplane, per inspection cycle.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Docket 95–NM–208–AD.

Applicability: Model A320–111, –211, and –231 series airplanes; manufacturer's serial numbers 002 through 008 inclusive, 010 through 014 inclusive, 016 through 078 inclusive, and 080 through 098 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD are affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking on the lower forward corner of the sliding window frames at frame 4, which could result in rapid depressurization of the airplane, accomplish the following:

(a) Prior to the accumulation of 15,000 total landings, or 3 months after the effective date of this AD, whichever occurs first, perform a high frequency eddy current inspection to detect cracks around the 5 fasteners of the lower forward corners of the sliding window frames at frame 4, in accordance with the procedures of Airbus Service Bulletin A320–53–1082, Revision 1, dated November 9, 1994.

(1) If no cracks are detected, repeat the inspection thereafter at intervals not to exceed 15,000 landings.

(2) If any crack is detected, prior to further flight, repair it in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(b) Prior to the accumulation of 30,000 total landings, or 5 years after the effective date of this AD, whichever occurs later, accomplish Airbus Modification 23685P3199 for each fastener hole, in accordance with Airbus Service Bulletin A320–53–1044, dated February 8, 1994. Accomplishment of the modification constitutes terminating action for the repetitive inspection requirements of paragraph (a) of this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on March 22, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–7548 Filed 3–27–96; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 95–NM–252–AD]

Airworthiness Directives; Fokker Model F28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Fokker Model F28 Mark 0100 series airplanes. This proposal would require replacement of certain flexible oxygen hoses, located in the flight compartment gangway and in the consoles, with insulated hose assemblies. This proposal is prompted by reports of either insufficient or no clearance between these hoses and adjacent structure or electrical wiring. The actions specified by the proposed AD are intended to prevent chafing of the flexible oxygen hoses, which could result in an uncontrollable loss of oxygen from the flightcrew oxygen system, and could allow the presence of oxygen in areas where ignition is possible.

DATES: Comments must be received by May 6, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–252–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2141; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–NM–252–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–252–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Rijksluchtvaartdienst (RLD), which is the airworthiness authority for the Netherlands, recently notified the FAA that an unsafe condition may exist on certain Fokker Model F28 Mark 0100 series airplanes. The RLD advises that it has received reports indicating that, on airplanes in production, no clearance was found to exist between the flexible

oxygen hose located in the flight compartment gangway and the adjacent electrical wiring. In addition, it was reported that no clearance was found between the flexible oxygen hoses installed in the left-hand (LH) and right-hand (RH) side consoles and the air conditioning ducts, and there was insufficient clearance between these hoses and the adjacent electrical wiring. These conditions, if not corrected, could result in chafing of the flexible oxygen hoses and the subsequent uncontrollable loss of oxygen from the flightcrew oxygen system. It also could result in the presence of oxygen in areas where ignition is possible.

Fokker has issued Service Bulletin SBF100–35–004, dated May 17, 1995, which describes procedures for replacement of the flexible oxygen hoses with insulated hose assemblies. The insulated hose assemblies are intended to prevent chafing and damage of the hoses. The RLD classified this service bulletin as mandatory and issued Dutch airworthiness directive BLA 1995–050 (A), dated May 31, 1995, in order to assure the continued airworthiness of these airplanes in the Netherlands.

This airplane model is manufactured in the Netherlands and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the RLD has kept the FAA informed of the situation described above. The FAA has examined the findings of the RLD, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, the proposed AD would require replacement of flexible oxygen hoses with insulated hose assemblies. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 21 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $1,376 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $33,936, or $1,616 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Fokker: Docket 95–NM–252–AD.

Applicability: Model F28 Mark 0100 series airplanes, having serial numbers 11244 through 11321 inclusive, and 11323 through 11332 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent an uncontrollable loss of oxygen from the flightcrew oxygen system due to chafing of the flexible oxygen hoses, which could result in the presence of oxygen in areas where ignition is possible; accomplish the following:

(a) Within 12 months or 3,000 flight cycles after the effective date of this AD, whichever occurs first, replace the flexible oxygen hoses having part number (P/N) A66152–407, located in the left-hand (LH) and right-hand (RH) side consoles with insulated tube assemblies having P/N D66127–401; and replace the flexible oxygen assemblies having P/N A66152–417, located in the flight compartment gangway with insulated tube assemblies having P/N D66127–403; in accordance with Fokker Service Bulletin SBF100–35–004, dated May 17, 1995.

(b) As of the effective date of this AD, no person shall install a hose assembly with P/N A66152–417 or A66152–407, on any airplane.

(c) An alternative method of compliance of adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

NOTE 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on March 22, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–7547 Filed 3–27–96; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 314, 600, and 601

[Docket No. 95N–0329]

RIN 0910–AA57

Changes to An Approved Application; Proposed Rule and Draft Guidance Documents; Public Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; notice of meeting.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public meeting to discuss the proposed amendments to the biologics regulations for reporting changes to an approved application and corresponding drug regulations for submitting supplements for and reporting changes to an application for well-characterized biotechnology products. The purpose of the meeting is to solicit information and views on the agency's proposed rule addressing reporting of changes to an approved application as well as discuss the material and categories set forth in the closely related draft guidance documents.

DATES: The public meeting will be held on Friday, April 19, 1996, from 8 a.m. to 5 p.m. Submit written notices of participation, including a brief summary of the presentation and approximate time requested, by April 15, 1996. Written comments will be accepted until May 6, 1996.

ADDRESSES: The public meeting will be held at the National Institutes of Health, Bldg. 10, Masur Auditorium, 9000 Rockville Pike, Bethesda, MD. Attendance may be limited to 500, which is the capacity of the auditorium. Submit written notices of participation and comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. FDA requests that persons who intend to participate notify the agency in advance. To expedite processing, written notices of participation may also be FAXED to 301–827–3843. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Transcripts of the meeting will be available for review at the Dockets Management Branch (address above).

FOR FURTHER INFORMATION CONTACT: For information regarding the meeting or to advise FDA of an intent to participate: Margaret A. Tart, Center for Biologics Evaluation and Research (HFM–42), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–2000, FAX 301–827–3843.

For information regarding this document: Tracey H. Forfa, Center for Biologics Evaluation and Research (HFM–630), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–594–3074.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 29, 1996 (61 FR 2739), FDA announced its intent to hold a public meeting during the pendency of the comment period that ends on April 29, 1996, for the proposal to amend the biologics regulations for reporting changes to an approved application and corresponding drug regulations for submitting supplements for and reporting changes to an application for well-characterized biotechnology products (21 CFR 314.70 and 601.12). During this public meeting FDA is seeking comments on the proposed mechanisms for reporting changes to an approved application. Specifically, FDA is seeking comments on the three-category scheme for reporting changes in the product, production process, equipment, facilities, or responsible personnel. The three categories would include: (1) Supplement submission and approval prior to distribution of a product made using a proposed change that has a substantial potential to have an adverse effect on a product's safety, purity, potency, or effectiveness; (2) notification not less than 30 days prior to distributing a product made using a proposed change that has a moderate potential to have an adverse effect on a product's safety, purity, potency, or effectiveness; and (3) an annual report describing changes that have minimal potential to have an adverse effect on a product's safety, purity, potency, or effectiveness.

Further, FDA is asking for comment on the proposed three-category reporting system for biological product labeling changes. A change to a product package label, container label, or package label would require one of the following: (1) Submission of a supplement with FDA approval required prior to product distribution; (2) submission of a supplement with product distribution allowed prior to FDA approval; or (3) submission of the final printed label in an annual report. Promotional labeling and advertising would be required to be submitted under procedures found at 21 CFR 314.81(b)(3)(i).

In addition, FDA is seeking public comment on the draft guidance documents, "Changes to An Approved Application; Draft Guidance" and "Draft Guidance; Changes to An Approved Application for Well-Characterized Therapeutic Recombinant DNA-Derived and Monoclonal Antibody Biotechnology Products," that were made available concurrently with the proposed rule in the **Federal Register** of January 29, 1996 (61 FR 2748 and 2749). FDA is seeking comments on the categorization of changes in the draft guidance documents and also on the utility of the guidance documents to applicants. FDA is not, however, intending to use this forum for additional discussion of the agency's definition of a well-characterized therapeutic recombinant DNA-derived and monoclonal antibody biotechnology product that was originally announced in the **Federal Register** of December 8, 1995 (60 FR 63048).

The procedures governing the meeting can be found in 21 CFR part 15. Prior to the meeting, FDA will determine the amount of time assigned to each person and the approximate scheduled time for each presentation. A schedule showing the persons making presentations will be filed with the Dockets Management Branch (address above), and mailed or FAXED to each presenter before the meeting. Interested persons attending the meeting who did not request an opportunity to make a presentation will be given the opportunity to make an oral presentation at the conclusion of the meeting, as time permits. However, no participant may interrupt the presentation of another participant.

Comments received at the public meeting and written comments submitted to the Dockets Management Branch (address above) by May 6, 1996, will be considered in the review of the proposed rule and guidance documents to determine whether revisions are warranted. After careful review of the public comments, FDA intends to revise the draft guidance documents, if necessary, and publish a final rule.

Dated: March 25, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–7613 Filed 3–25–96; 4:06 pm]

BILLING CODE 4160–01–F

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Chapter XIV

Older Workers Benefit Protection Act of 1990 (OWBPA)

AGENCY: Equal Employment Opportunity Commission (EEOC).

ACTION: Fourth meeting of Negotiated Rulemaking Advisory Committee.

SUMMARY: EEOC announces the dates of the fourth meeting of the "Negotiated Rulemaking Advisory Committee for Regulatory Guidance on Unsupervised Waivers of Rights and Claims under the Age Discrimination in Employment Act" (the Committee). A Notice of Intent to form the Committee was published in the **Federal Register** on August 31, 1995, 60 FR 45388, and a Notice of Establishment of the Committee was published in the **Federal Register** on October 20, 1995, 60 F.R. 54207.

DATES: The fourth meeting will be held on April 16–17, 1996, beginning at 10:00 a.m. on April 16. It is anticipated that the meeting will last for two days. The session of April 17, 1996 will commence at 9:00 a.m.

ADDRESSES: The meeting will be held at the EEOC Headquarters, 1801 L Street, N.W., Washington, D.C. 20507.

FOR FURTHER INFORMATION CONTACT: Joseph N. Cleary, Paul E. Boymel, or John K. Light, ADEA Division, Office of Legal Counsel, EEOC, 1801 L Street, N.W., Washington, D.C. 20507, (202) 663–4692.

SUPPLEMENTARY INFORMATION: All Committee meetings, including the meeting of April 16–17, will be open to the public. Any member of the public may submit written comments for the Committee's consideration, and may be permitted to speak at the meeting if time permits. In addition, all Committee documents and minutes will be available for public inspection in EEOC's Library (6th floor of the EEOC Headquarters).

Persons who need assistance to review the comments will be provided with appropriate aids such as readers or print magnifiers. To schedule an appointment call (202) 663–4630 (voice), (202) 663–4630 (TDD). Copies of this notice are available in the following alternate formats: large print, braille, electronic file on computer disk, and audio tape. Copies may be obtained from the Office of Equal Employment Opportunity by calling (202) 663–4395 (voice), (202) 663–4399 (TDD).

Purpose of Meeting/Summary of Agenda

At the meeting, the Committee will continue to discuss the unsupervised waiver legal issues that will be considered by the Committee in drafting a recommended notice of proposed rulemaking for EEOC approval.

Dated: March 23, 1996.

Frances M. Hart,

Executive Officer.

[FR Doc. 96–7471 Filed 3–27–96; 8:45 am]

BILLING CODE 6570–06–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 220 and 227

[FRL–5449–4]

RIN 2040–AC81

Extension of Time for Receipt of Comments on Proposed Rule on Testing Requirements for Ocean Dumping

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of time for receipt of comments on proposed rule on testing requirements for ocean dumping.

SUMMARY: On February 29, 1996, EPA published a proposed rule at 61 FR 7765, clarifying certain provisions of the Agency's ocean dumping regulations relating to testing provisions of the regulations. The proposal stated that written comments on the proposed rule would be accepted until April 1, 1996. EPA has received several requests for an extension of time to comment on the proposed rule, on the grounds that several issues that the rule addresses require additional time for analysis. The Agency has determined that an extension of time is in the public interest, and that an additional 30 days to comment on the proposed rule is reasonable. Consequently, the period for receipt of comments on the proposed rule is extended until May 1, 1996.

DATES: The comment period is extended until May 1, 1996.

It should be noted that this extension of time for comment neither represents any modification of the proposed rule, nor indicates a change in the Agency's interpretation of the existing requirements under the ocean dumping regulations. The extension of time for receipt of comments simply provides those interested parties an additional 30 days to provide comments to the Agency on the proposed rule. All other requirements stipulated in the initial proposal for receipt of comments still apply.

FOR FURTHER INFORMATION CONTACT: John Lishman, Chief, Marine Pollution Control Branch, Oceans and Coastal Protection Division (4504F), Environmental Protection Agency, 401 M Street, SW, Washington, DC, 20460, telephone 202/260–8448.

Dated: March 22, 1996.

Robert Perciasepe,

Assistant Administrator.

[FR Doc. 96–7606 Filed 3–27–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 300

[FRL–5447–7]

National Oil and Hazardous Substances Pollution Contingency Plan National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to delete Howe Valley Landfill Superfund Site, Hardin County, Kentucky, from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region 4 announces its intent to delete the Howe Valley Landfill Site (the Site) from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended. EPA and the Commonwealth of Kentucky have determined that the responsible parties have implemented all appropriate response actions required at the Site and therefore, further remedial measures pursuant to CERCLA are not appropriate.

DATES: Comments may be submitted by midnight April 30, 1996.

ADDRESSES: Comments may be mailed to: Nestor Young, Remedial Project Manager, North Superfund Remedial Branch, U.S. Environmental Protection Agency, Region 4, 345 Courtland Street, N.E., Atlanta, GA 30365.

Comprehensive information on this Site is available through the public docket which is available for viewing at the Howe Valley Landfill Site information repositories at the following locations:

Hardin County Public Library, 201 West Dixie Avenue, Elizabethtown, KY, 42701.

U.S. EPA Record Center, 345 Courtland Street, N.E., Atlanta, GA, 30365.

FOR FURTHER INFORMATION CONTACT: Nestor Young, U.S. EPA Region 4, 345 Courtland St., N.E., Atlanta, GA 30365, 404–347–3555 Ext. 2023 or 1–800–435–9233.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Environmental Protection Agency (EPA) Region 4 announces its intent to delete the Howe Valley Landfill Site, Hardin County, Kentucky, from the National Priorities List (NPL), Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part 300, and requests comments on its deletion. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of these sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions in the unlikely event that conditions at the site warrant such action.

The EPA will accept comments on the proposal to delete this Site for thirty days after publication of this action in the **Federal Register**.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses the procedures that EPA is using for this action. Section IV discusses the Howe Valley Landfill Site and explains how the Site meets the deletion criteria.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that releases may be deleted from, or recategorized on the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, EPA shall consider, in consultation with the state, whether any of the following criteria have been met:

(i) Responsible parties or other parties have implemented all appropriate response actions required;

(ii) All appropriate responses under CERCLA have been implemented, and no further action by responsible parties is appropriate; or

(iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the site above levels that allow for unlimited use and unrestricted exposure, EPA's policy is that a subsequent review of the site will be conducted at least every five years after the initiation of the remedial action at the site to ensure that the site remains protective of public health and the environment.

III. Deletion Procedures

The following procedures were used for the intended deletion of this site: (1) EPA Region 4 has recommended deletion and has prepared the relevant documents, (2) The Commonwealth of Kentucky has concurred with the deletion decision, (3) Concurrent with this Notice of Intent to Delete, a local notice has been published in local newspapers and has been distributed to appropriate federal, state and local officials, and other interested parties. This local notice announces a thirty (30) day public comment period, provides an address and telephone number for submission of comments, and identifies the location of the local site repository; and (4) Region 4 has made all relevant documents available in the Regional Office and local site information repository.

Deletion of the Site from the NPL does not itself create, alter, or revoke any individuals rights or obligations. The NPL is designed primarily for informational purposes and to assist Agency management. As mentioned in Section II of this document, § 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions.

For deletion of this Site, EPA Region 4 will accept and evaluate public comments on EPA's Notice of Intent to Delete before making a final decision to delete. If necessary, the Agency will prepare a Responsiveness Summary to address any significant public comments received.

A deletion occurs when the EPA Regional Administrator places a final action in the **Federal Register**. Generally, the NPL will reflect deletions in the final update following the Notice. Public notices and copies of the Responsiveness Summary will be made available to local residents by Region 4.

IV. Basis for Intended Site Deletion

The following site summary provides the Agency's rationale for the proposal to delete this Site from the NPL.

A. Site Background

The sparsely vegetated, eleven (11) acre Howe Valley Landfill Site is situated at the end of Tom Duvall Lane, approximately 1.4 miles south of State Road 86 near the towns of Cecilia and Vertrees, Kentucky. The nearest community to the site is the unincorporated area of Howe Valley.

B. History

Beginning in 1967, Kentucky Industrial Services, Inc. (KIS) used the Howe Valley Site as an industrial waste landfill. The landfill operated under the State-issued solid waste permit until June 1976, when the Site was formally closed.

Upon the State's request, EPA conducted a Preliminary Assessment (PA) and Site Investigation (SI). EPA found that between 2,000 and 5,000 drums were buried at the landfill, and confirmed that water flowed towards Linders Creek. EPA proposed the site for inclusion on the National Priorities List (NPL) in June 1986. The site was formally included on the NPL in July 1987.

Under an Administrative Order with EPA, two Potentially Responsible Parties (PRPS) agreed to conduct a Removal Action and a Remedial Investigation (RI)/Feasibility Study (FS). The Removal Action, performed in the summer of 1988, involved excavating a total of 9,150 full or partially filled drums; 1,621 empty drums; 6,000 small containers; and 3,000 cubic yards of non-containerized waste. All wastes and highly contaminated soils were sent off-site for permanent disposal at a Resource Conservation and Recovery Act (RCRA) approved landfill.

On September 28, 1990, EPA issued a Record of Decision (ROD) which selected a remedy for contaminated soil still remaining on-site. The major components of the remedy selected consisted of excavation and off-site disposal of contaminated soil from the outer area and, on-site treatment of contaminated soil from the central area.

The selected remedy included the following:

- Excavation and off-site disposal of contaminated soil containing elevated concentrations of inorganic compounds.
- Implementation of a bench-scale treatability study to insure that the selected aeration treatment (rototilling) will reduce organic concentrations to acceptable levels.
- Excavation and treatment of central area soil by aeration via rototilling.
- Five years of quarterly monitoring of Boutwell Spring and any additional springs or wells that lay along the groundwater conduit between the site and Boutwell Spring.
- Placement of deed restrictions to limit usage of the property and its associated groundwater.

Following issuance of the ROD in September 1990, EPA entered into negotiations with Dow Corning

Corporation (Dow) to conduct the final clean-up. An agreement between EPA and Dow was entered in the United States District Court on May 22, 1991.

Final cleanup actions were conducted between November 1991 and July 1994. On August 30, 1994, Dow's contractor submitted a Remedial Action Report signifying successful completion of the remedial activities. The report documents and discusses the work performed at the site. KDEP concurred with the Remedial Action Report. The work was completed at a cost of $2,928,681.

C. Characterization of Risk

Samples collected during the Removal and findings made in the RI/FS indicated unacceptable levels of contamination in subsurface soils, located in the central area and an outlying area of the site. Organic contaminants were concentrated primarily in the central area, and the outlying area contained only inorganic contaminants. In both these areas, the contaminants were located within the near-surface (1 to 2 feet deep) and subsurface (3 to 9 feet deep) of the Site.

At completion of the remedial action, confirmatory sampling verified that: (1) The ROD cleanup objectives were achieved, (2) all actions specified in the ROD were implemented, and (3) the Site no longer posed any threats to human health and the environment.

D. Operation and Maintenance

Since all of the contaminated soil was remediated, and quarterly monitoring of Boutwell Spring was terminated, no long term Operation and Maintenance (O&M) activities associated with the site are required.

E. Five-Year Review

EPA Region 4 has determined that the remedial action completed has attained the site remediation objectives outlined in the ROD and that no hazardous substances, pollutants, or contaminants remain on-site exceeding concentrations that will restrict unlimited use of the site or threaten human health through unlimited exposure. Therefore, a 5-year review of this site will not be required.

F. Explanation of Significant Differences

The remedy selected in the ROD was modified in two instances by issuance of an Explanation of Significant Differences (ESD). The first ESD was issued in March 1993. This ESD modified the remedy to include: removal of additional drums and contaminated material; identification of subsurface soils containing an organic liquid and development of a cleanup plan; and treatment of contaminated rainwater collected during the excavation.

The second ESD was issued in August 1995 and it was done primarily to eliminate the ROD requirement for 5 years of monitoring of Boutwell Spring and the requirement for deed restrictions. Both of these requirements were dropped due to the fact that the cleanup objectives in the ROD were met, and no hazardous substances, pollutants or contaminants remained onsite that would restrict unlimited use of or exposure to the Site.

G. State Concurrence to Delete the Howe Valley Site

The Commonwealth of Kentucky concurred with the deletion of the Site by letter dated December 7, 1995. EPA, with concurrence of the Commonwealth of Kentucky, believes that the following criterion for deletion have been met: (1) Responsible parties have implemented all appropriate response actions required; and (2) No further response action by responsible parties is appropriate. Subsequently, EPA is proposing deletion of Howe Valley Landfill Site from the NPL. Documents supporting this action are available from the public docket.

Dated: March 14, 1996.

Phyllis P. Harris,

Acting Deputy Regional Administrator, U.S. EPA Region 4.

[FR Doc. 96–7602 Filed 3–27–96; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 14

[CGD 94–004]

RIN 2115–AE72

Electronic Records of Shipping Articles and Certificates of Discharge

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to revise the way that information on the "engagement" (shipment) and discharge of merchant mariners is maintained and submitted and to accomplish editorial and other, slight changes throughout its governing rules. The revision is due to statutory amendments directing, in effect, that ship-operating companies ("shipping companies") maintain shipping articles and certificates of discharge and that they electronically submit the information from them. Nevertheless, it should reduce by about 70 percent the companies' burden of preparing articles and certificates, should reduce proportionately the number of personnel manually entering data and manually filing documents for the Coast Guard, and is in keeping with the Administration's Reinventing Government initiatives.

DATES: Comments must be received on or before May 28, 1996.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA, 3406) [CGD 94–004], U.S. Coast Guard Headquarters, 2100 Second Street SW, Washington, DC 20593–0001, or may be delivered to room 3406 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mrs. Justine Bunnell, Marine Personnel Division, National Maritime Center, (703) 235–1951.

SUPPLEMENTARY INFORMATION

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names addresses, identify this rulemaking [CGD 94–004] and the specific section of this proposal to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this proposed rule in view of the comments.

The Coast Guard plans no public hearing. A person may lodge a request for a public hearing by writing to the Marine Safety Council at the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register.**

Background and Purpose

In 1937 the Coast Guard became custodian of the program for protection of merchant mariners ("mariners"). To ensure that mariners are employed of their own will, that they are properly paid for their service, and that their time in service is properly documented, they and the masters or other persons in charge of their vessels, or these persons' representatives, sign contracts, know as shipping articles ("articles"). (From this point forward in the preamble, "masters" will stand for all of those persons other than mariners.)

The content and form, respectively, of articles for foreign and intercoastal voyages appear at 46 U.S.C., § § 10302 and 10303, and 10304; the content of articles for coastwise voyages appears at 46 U.S.C. 10502, even as the form of these articles remains unspecified by statute; both the content and form of articles for voyages on the Great Lakes remain unspecified by statute. (Articles consist of three parts: (1) features of the voyage and of several reciprocal duties, clear down the caloric value of food served to each mariner daily; (2) particulars of engagement; and (3) particulars of discharge.) From 1937 usages or practices regarding articles have changed little. The same has been true regarding certificates of discharge.

When reporting for a foreign or intercoastal voyage—or for a coastwise voyage (including a voyage on the Great Lakes) aboard a vessel of 50 gross tons or more—the mariner presents to the master a valid merchant mariner's document ("MMD") listing the mariner's qualifications. The master reviews the MMD, verifies the mariner's qualifications, and enters the information in the particulars of engagement (part 2 of the articles), then the master and the mariner sign the articles in the appropriate places.

When finishing a foreign or intercoastal voyage, the master enters the mariner's wages and date of discharge in the particulars of discharge (part 3 of the articles), then the master and the mariner sign the articles in the other appropriate places. The master completes the certificate of discharge in the appropriate place, then the master and the mariner sign it in the appropriate place. (The certificate indicates the mariner's name and identification number, the dates and places of shipment and discharge, the name and official number of the vessel, and the name of the shipping company.) If the mariner holds a continuous discharge book, the master also completes and signs it in the appropriate place. The master ensures that the entries in the continuous discharge book (if held), on the certificate, and in the two particulars are proper, corresponding entries.

The mariner keeps the continuous discharge book (if held). The mariner get the original of the certificate of discharge.

When leaving the vessel before the end of the voyage, the mariner closes out the contract otherwise. He or she and the master sign a "mutual agreement" as well as the particulars of discharge; the master notes in these particulars that the reason for the mariner's leaving is mutual agreement. The master completes and signs a certificate of discharge, then the mariner signs it. If the mariner holds a continuous discharge book, the master completes and signs it.

At the end of the voyage, after all mariners have signed the particulars of discharge and received their certificates of discharge, the shipping company sends the articles and signed copies of the certificates to the Coast Guard. The Coast Guard reviews the articles and certificates to ensure that they are complete and accurate. Next, it manually enters the data off the certificates into its own sea-service database and manually files the certificates in the mariners' records. Last, it manually files the articles (alphabetically, by name of vessel).

These usages or practices have prevailed for two generations. On December 20, 1993, however, Congress enacted Public Law 103–206, the Coast Guard Authorization Act for 1994. Title IV, § 411, of that Act added 46 U.S.C., sub-§§ 10302(d) and 10502(e), each to read in full:

> The owner, charterer, managing operator, master, or individual in charge shall maintain the shipping agreement ["articles"] and make [them] available to the [mariner].

It added 46 U.S.C. 10320 to read in full:

> The Secretary shall prescribe regulations requiring vessel owners to maintain records of [mariners] on matters of engagement, discharge, and service. A vessel owner shall make these records available to the [mariner] and the Coast Guard on request.

It added 46 U.S.C., § 10502(f), to read the same, except that it substituted "shipping companies" for "vessel owners":

> The Secretary shall prescribe regulations requiring shipping companies to maintain records of [mariners] on matters of engagement, discharge, and service. The shipping companies shall make these records available to the [mariner] and the Coast Guard on request.

It also raised the penalties in 46 U.S.C., §§ 10321(a) and 10508(b), from $500.00 to $5,000.00 for violating any provision of these chapters or regulations prescribed under these chapters.

The Coast Guard had proposed the legislation because of budgetary constraints leading to cuts in its workforce and of the advent of computerization. Shipping companies will now be responsible for keeping articles and signed copies of certificates of discharge. They will still be free to submit them traditionally—but will now be free to submit just the data from them electronically. Either way, the Coast Guard will now maintain its sea-service database electronically. The companies may develop their own software, use off-the-shelf software, or obtain software developed by the Coast Guard, to generate articles and certificates from existing records of personnel. Whichever of these three courses a particular company follows, the Coast Guard will provide standards that ensure compatibility for the electronic transfer of data from the company's system to the Coast Guard's sea-service database.

The primary purposes of this rule are to standardize the format of articles (for all voyages that require them), to eliminate redundant forms such as masters' reports of mariners shipped or discharged, to authorize persons acting as masters to initiate and sign articles and certificates of discharge, to confer on shipping companies the legal and practical ability to transfer sea-service data electronically to the Coast Guard, and in general to lighten recordkeeping and shift much of what little remains onto the companies. The secondary purposes of this rule are to publish new statutory penalties and to remove gender-based language. A welcome effect of it would be to clarify 46 CFR Part 14.

Discussion of Proposed Rule

There would persist four separate subparts. But they would present a logical flow of work, from the format of the articles to the transmittal and storage of finished articles and certificates of discharge.

New Subpart A (current Subpart 14.01)—General—would contain only the purposes of the rule, several addresses of the Coast Guard, and general doctrine on the disclosure and privacy of information held by the Coast Guard. It would remit treatment of shipping articles into new Subpart B.

New Subpart B (current Subpart 14.05)—Shipment of Merchant Mariners—would cover all voyages

requiring or electing articles rather than only foreign and intercoastal voyages.

New § 14.201, Voyages upon which shipping articles are required (current §§ 14.01–5 and 14.05–10(c), (d), and (e)) would state which voyages must have articles; abolish reference to the Master's Report of Seamen Shipped or Discharged, Form CG–735T, which is an obsolete form; and eliminate gender-based language. By abolishing reference to this form, § 14.213 would remove a non-statutory authority and would standardize articles on all voyages requiring them.

New § 14.203, Voyages upon which shipping articles are not required (current §§ 14.01–7 and 14.05–10(a)(1) through (5)), would contain only editorial changes.

New § 14.205, Production of credentials by merchant mariner signing shipping articles (current § 14.05–5), would eliminate gender-based language.

New § 14.207, Content and form of shipping articles (current § 14.05–1), would contain mainly editorial changes, but would elaborate the entries required in articles.

New § 14.209, Preparation of shipping articles at beginning of voyage (current § 14.05–3), would clarify that an individual other than the master may be in charge of the vessel and would require that the shipping company prepare a signed original, a signed copy, and an unsigned copy of them.

New § 14.211, Posting of copy of shipping articles (current § 14.05–2), would abolish reference to the Forecastle Card, Form CG–704.

New § 14.213, Report of shipment of merchant mariner (current § 14.05–10), would still treat the shipment of mariners but no longer their discharge and would abolish reference to the Master's Report of Seamen Shipped or Discharged, Form CG–735T, which is an obsolete form. By abolishing reference to this form, § 14.213 would comply with the statutory command, among others, to standardize articles on all voyages requiring them.

New Subpart C (current Subpart 14.10)—Discharge of Merchant Mariners—would cover discharges on all voyages requiring them.

New § 14.301, Paying off of merchant mariner during or after voyage upon which shipping articles are required (current § 14.05–7), would eliminate gender-based language.

New § 14.303, Discharge of fit merchant mariner in foreign port (current § 14.10–10), would eliminate gender-based language.

New § 14.305, Discharge of incapacitated merchant mariner in foreign port (current § 14.10–20), would shorten and tighten the current treatment as well as would eliminate gender-based language.

New § 14.307, Entries in continuous discharge book, (current § 14.10–1), would abolish reference to the Record of Entry in Continuous Discharge Book, Form CG–718E, which is an obsolete form.

New § 14.309, Entries on certificate of discharge (current § 14.10–5), would require the shipping company to maintain copies of certificates of discharge as well as would eliminate gender-based language.

New § 14.311, Entries in shipping articles at end of voyage (current § 14.05–15), would clarify the current contents as well as would eliminate gender-based language.

New § 14.313, Report of discharge of merchant mariner (current § 14.05–10), would perpetuate only the portion of the current section pertaining to the discharge of mariners and would authorize the electronic transmission of data to the Coast Guard.

New § 14.315, Storage of shipping articles and of certificates of discharge (current § 14.05–15), would guide shipping companies in the storage of articles and of certificates of discharge and establish procedures for when companies merge or go out of business.

Current Subpart 14.15—Disclosure of Information Regarding Shipments and Discharges of Merchant Mariners—would vanish as a distinct subpart. Its one section would become new § 14.105.

New Subpart D (current Subpart 14.20)—Oceanographic-Research Vessels—would, of course, govern oceanographic-research vessels.

New § 14.401, General (current § 14.20–1), would correct statutory cites as well as would eliminate gender-based language.

New § 14.403, Exemptions (current § 14.20–10), would correct statutory cites as well as would eliminate gender-based language.

New § 14.405, Procedures (current § 14.20–5), would contain only editorial changes.

New § 14.407, Reports (current § 14.20–15), would abolish reference to the Master's Report of Seamen Shipped or Discharged, Form CG–735T, which is an obsolete form, as well as would eliminate gender-based language.

Regulatory Evaluation

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and would not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget (OMB) under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) [44 FR 11040 (February 26, 1979)]. Its economic impact would be so minimal, the Coast Guard expects, that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Many shipping companies, for their own purposes and convenience, already maintain electronic records of employment, from which they can generate both articles and certificates of discharge. Until now they have had to generate both by writing or typing. Now they will be able to print both, when required, from the computer; transmit the data off the certificates directly to the Coast Guard, using the software developed by the Coast Guard if not software developed by themselves or bought off the shelf; and still provide original certificates to their mariners. Upgrades or enhancements to the software, and long-term support for it, may cost them $250 a year. But initial issue of it, and first-year support of it, will cost them nothing. And this new way of doing business will save them time, effort, and money—about $1 million a year. [Since most of these benefits accrue through new reductions of paperwork, the detailed account of them appears under *Collection of Information*, below.]

Small Entities

Under the Regulatory Flexibility Act [5 U.S.C. 601 *et seq.*], the Coast Guard must consider whether this proposed rule, if adopted, would have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

Smaller shipping companies may lack the equipment necessary to prepare articles and certificates of discharge and to transmit the data from the certificates to the Coast Guard, electronically. But the Coast Guard would continue to accept copies of the certificates from these companies, by mail: They would not need to buy computers. This would let the Coast Guard maintain an accurate sea-service database receiving data from all companies required to submit them, by mail if not electronically.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that the rule, if adopted, would not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that the rule would have a significant economic impact on it, please submit a comment (see **ADDRESS**) explaining why you think it qualifies and in what way and to what degree this rule would economically affect it.

Collection of Information

Under the Paperwork Reduction Act [44 U.S.C. 3501 *et seq.*], OMB reviews each proposed rule that contains a collection-of-information requirement, to determine whether the practical value of the information would be worth the burden imposed by its collection. Collection-of-information requirements include reporting, recordkeeping, notification, and other, similar requirements.

This proposed rule contains collection-of-information requirements in the following sections: 14.207, 14.209, 14.213, 14.301, 14.303, 14.305, 14.307, 14.309, 14.311, 14.313, 14.315, 14,405, and 14.407. The following particulars apply:

DOT No: 2115.

OMB Control Nos: 2115–0015 and 2115–0042.

Administration: U.S. Coast Guard.

Title: Electronic Records of Shipping Articles and Certificates of Discharge.

Need for Information: To protect merchant mariners by ensuring that records of their employment, wages, and next of kin are accurate and are available for their review.

Proposed Use of Information: To promote safety aboard domestic merchant vessels by ensuring that merchant mariners qualify by training and service for original or upgraded credentials; to maintain sea-service data toward retirement benefits; and to furnish those data in the many cases litigated over collisions, injuries, or asbestosis.

Forms

Current

The regulated community—shipping companies and mariners—would be free to forgo the use of each of these records, in whole or in its current form: Forecastle Card, CG–704; Shipping Articles, CG–705A; Certificate of Discharge, CG–718A; Record of Entry, CG–718E; Continuous Discharge Book, CG–719A; and (although OMB did not renew authority for its use after February 1995) Master's Report of Seamen Shipped or Discharged, CG–735T.

Proposed

The regulated community would still have to deal with all of the data contained in these records, in some form: Shipping Articles, CG–705A; and Certificate of Discharge, CG–718A.

Respondents: The chief regulatory impact would fall on the medium and large shipping companies because they operate most of the vessels required to execute articles and certificates of discharge. They would continue to prepare, issue, and keep files of articles and of copies of certificates. They would make these files accessible to the Coast Guard and mariners upon request and would send—voyage by voyage, for the sea-service database of the Coast Guard—either copies of certificates, as they do now, though without articles, or data transmitted electronically from these files.

Frequency of Response: Articles and copies of certificates of discharges have been due after each voyage. Articles and certificates would still have to be prepared for each voyage. Data from certificates would still have to reach the Coast Guard after each voyage. But now these data could move by wire rather than by mail; no forms would need move, unless shipping companies chose not to avail themselves of the benefits of this proposed rule, until after a lag of ten years. The number and length of voyages depend on the companies.

Estimate of Total Burden:

Current

The master of each vessel prepares, by hand, large, antiquated articles and certificates of discharge. The shipping companies send these records to the Coast Guard. The Coast Guard enters, by hand, sea-service data into its database, and files originals of articles (alphabetically, by names of vessels) and copies of certificates in individual mariners' records. It leaves the copies in the records. But, after three years, it transfers articles to the Federal Records' Center at Suitland, Maryland, which stores them for sixty years. And, after three years of inactivity, it transfers the records themselves to that Center, which again, stores them for sixty years.

Proposed

The master of each vessel would still prepare articles and certificates of discharge. The shipping company would retain the option of his or her preparing both forms manually and sending copies of certificates to the Coast Guard for entry into its sea-service database. But it would gain that of his or her preparing both forms electronically—on software developed by themselves or the Coast Guard, or bought from stock—and of transmitting the data from certificates electronically to the Coast Guard. The Coast Guard would maintain the record of sea service in its database for six years after the mariner's last activity—such as taking out an upgraded, renewed, modified, or duplicate license or MMD, or sailing—and then transfer its record, in whatever electronic form, to the Center.

The burden would decrease greatly for companies that already had, or that obtained, the capability of preparing articles and certificates electronically from their current records of employment. [They would no longer collect data more than once and could collect them however they chose.] It would decrease considerably even for companies lacking this capability. They would, while their masters continued preparing articles and certificates manually, need only to send copies of certificates to the Coast Guard voyage by voyage; even they would not need to send articles to the Coast Guard voyage by voyage. So both the cost of sending articles oftener than once a year and the cost of sending them at all during the first ten years would be eliminated for all companies: All would maintain files of articles and of copies of certificates for ten years; then they would send the articles to the Coast Guard, which would prepare the articles for storage at the Federal Records Center, and the shipping companies would destroy their copies of certificates, since the Coast Guard would hold the record in its database. The added burden on these would take the forms of allotting more storage space in their offices to maintain the articles for ten years and of, about one work week for one person per company per year after the first ten years, both packing the articles to send to the Coast Guard for further storage and destroying their copies of discharges. The Coast Guard invites comments on the size of this added burden (or of any other burden, whether or not anticipated here).

Average Burden-Hours for Each Respondent: Each year, shipping companies prepare about 8,000 articles with accompanying certificates of discharge; this costs them almost $1.43 million. Each year hereafter, they would still prepare about 8,000 articles with accompanying certificates; but this would cost them just about $0.43 million. The reason is the efficiency that this rule would bring. For each voyage, masters need about 2.5 hours to prepare the articles with accompanying certificates and send them. For each voyage hereafter, those able to file electronically would need about 0.5

hour to prepare the documents and 0.25 hour to file the data from them. The burden-hours would diminish by just about 70 percent.

Savings

For Respondents

The average salary for the staff to prepare the articles and certificates of discharge is $50 an hour. That staff could save 20,000 hours a year, though the exact figure would depend on two variables: the numbers and kinds of vessels and voyages; and the offsetting burden, in the eleventh and later years, of purging ten-year-old copies of certificates and packing and sending ten-year-old articles. The Coast Guard invites comments on the sizes of these two variables.

For Coast Guard

The Coast Guard would save in three ways: (1) on its own personnel, (2) on its contractors' personnel, and (3) on storage-space. (1) Although some shipping companies may continue to submit paper copies of certificates of discharge requiring the Coast Guard to continue entering data from some records, the Coast Guard would save 950 hours or $20,000 a year on its own personnel. (2) The Coast Guard has eliminated 10 "positions" and saved 19,000 hours and has lost $460,000 a year from its budget to support contractors' personnel. And (3) the Coast Guard would need 15 or 20 fewer cubic feet of storage-space a year over the next 15 years and so would save $7,500—at $500 a year over those years—on storage-space.

OMB has approved these requirements on paperwork under a separate submittal pursuant the Paperwork Reduction Act [44 U.S.C. 3501 *et seq.*]. Persons submitting comments on the requirements should submit their comments both to OMB and to the Coast Guard where indicated under **ADDRESS.**

Federalism

The Coast Guard has analyzed this proposed rule under the principles and criteria contained in Executive Order 12612 and has determined that the rule would not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of this proposed rule and concluded that, under paragraph 2.B.2 of Commandant Instruction M16475.1B, the rule is categorically excluded from further environmental documentation. Subparagraphs 2.B.2.e.(34) (a) and (c) of that Instruction exclude, respectively, regulations that are editorial or procedural and those that concern maritime personnel. A Determination of Categorical Exclusion is available in the docket for inspection or copying where indicated under **ADDRESS.**

List of Subjects in 46 CFR Part 14

Oceanographic research vessels, Reporting and recordkeeping requirements, Seamen [Merchant mariners].

For the reasons set out in the preamble, the Coast Guard proposes to revise 46 CFR Part 14 to read as follows:

PART 14—SHIPMENT AND DISCHARGE OF MERCHANT MARINERS

Subpart A—General

14.101 Purpose of part.
14.103 Addresses of Coast Guard.
14.105 Disclosure and privacy.

Subpart B—Shipment of Merchant Mariners

14.201 Voyages upon which shipping articles are required.
14.203 Voyages upon which shipping articles are not required.
14.205 Production of credentials by merchant mariner signing shipping articles.
14.207 Content and form of shipping articles.
14.209 Preparation of shipping articles at beginning of voyage.
14.211 Posting of copy of shipping articles.
14.213 Report of shipment of merchant mariner.

Subpart C—Discharge of Merchant Mariners

14.301 Paying off of merchant mariner during or after voyage upon which shipping articles are required.
14.303 Discharge of merchant mariner in foreign port.
14.305 Discharge of merchant mariner in foreign port with appearance before consul.
14.307 Entries in continuous discharge book.
14.309 Entries on certificate of discharge.
14.311 Entries in shipping articles at end of voyage.
14.313 Report of discharge of merchant mariner.
14.315 Storage of shipping articles and of certificates of discharge.

Subpart D—Oceanographic-Research Vessels

14.401 General.
14.403 Exemptions.
14.405 Procedures.
14.407 Reports.

Authority: 5 U.S.C. 552; 46 U.S.C. Chapters 103 and 105.

Subpart A—General

§ 14.101 Purpose of part.

Part 14 prescribes rules for the shipment and discharge of merchant mariners aboard certain vessels of the United States.

§ 14.103 Addresses of Coast Guard.

(a) By mail: National Maritime Center (NMC–4A), U.S. Coast Guard, Suite 510, 4200 Wilson Boulevard, Arlington, VA 22203–1804

(b) By facsimile: 703–235–1062

§ 14.105 Disclosure and privacy.

The Coast Guard makes information available to the public in accordance with 49 CFR Part 7, including Appendix B.

Subpart B—Shipment of Merchant Mariners

§ 14.201 Voyages upon which shipping articles are required.

(a) Before proceeding either upon a foreign, intercoastal, or coastwise voyage (including a voyage on the Great Lakes) listed in paragraph (b) of this section or with the engagement or replacement of a merchant mariner for such a voyage, each master or individual in charge of a vessel of the United States shall execute shipping articles however prepared, manually or electronically. The master or individual in charge and each mariner engaged or replaced shall sign the the articles.

(b) Except as provided by § 14.203 of this part, articles are required upon each voyage by a vessel of the United States—

(1) Of 100 tons or more, from a port in the United States to any foreign port other than a port in—

(i) Canada;

(ii) Mexico; or

(iii) The West Indies;

(2) Of 75 gross tons or more, between a port of the United States on the Atlantic Ocean and a port of the United States on the Pacific Coast; or

(3) Of 50 gross tons or more, between a port in one State and a port in another State other than an adjoining State.

§ 14.203 Voyages upon which shipping articles are not required.

Although they may be used for the voyage, shipping articles are not required for any voyage by—

(a) A yacht;

(b) A vessel engaged exclusively in fishing or whaling;

(c) A vessel aboard which the merchant mariners are by custom or agreement entitled to participate in the profits or results of a cruise or voyage;

(d) A vessel employed exclusively in trade on the navigable rivers of the United States;

(e) A ferry, or a tug used in ferrying, if the vessel is employed exclusively in trade on the Great Lakes, other lakes, bays, sounds, bayous, canals, or harbors; or

(f) An unrigged vessel other than a seagoing barge.

§ 14.205 Production of credentials by merchant mariner signing shipping articles.

On engagement for a voyage upon which shipping articles are required, each merchant mariner shall present to the master or individual in charge of the vessel every document, certificate, or license required by law for the service the mariner would perform.

§ 14.207 Content and form of shipping articles.

(a) (1) The content and form of shipping articles for each vessel of the United States of 100 gross tons or more upon a foreign or intercoastal voyage must conform to 46 U.S.C., §§ 10302, 10303, 10304, and 10305. The articles must identify the nature of the voyage and specify at least the name, the number of the license or merchant mariner's document, the capacity of service, the time due on board to begin work, and the name and address of the next of kin of, and the wages due to, each merchant mariner, either who was discharged or whose services were otherwise terminated during the month.

(2) The content and form of articles for each such vessel upon a coastwise voyage (including a voyage on the Great Lakes) must conform to 46 U.S.C. 10502. The articles must specify at least the matter identified by paragraph (a)(1) of this section, except that they must not specify the wages due to the mariner.

(b) Any shipping company that manually prepares the articles may, upon request, obtain Shipping Articles, Form CG–705A, from any Officer in Charge, Marine Inspection (OCMI), of the Coast Guard.

(c) Any company that electronically prepares the articles may, upon request submitted to either address in § 14.103, obtain a copy of software developed by the Coast Guard to produce articles in the proper format. Alternatively, a company may develop its own software or buy it off the shelf; but, in either of these cases, it must secure approval of the software from the National Maritime Center at either address in § 14.103 of this part.

§ 14.209 Preparation of shipping articles at beginning of voyage.

Each master or individual in charge of a vessel when shipping articles are required shall prepare an original and two copies of the articles. The original and one copy must be signed by the master or individual in charge and by each merchant mariner under his or her command; but the second copy must not be signed by any of them.

§ 14.211 Posting of copy of shipping articles.

On commencement of a foreign, intercoastal, or coastwise voyage (including a voyage on the Great Lakes), each master or individual in charge of a vessel when shipping articles are required shall ensure that a legible copy of the articles, unsigned, is posted at a place accessible to the crew.

§ 14.213 Report of shipment of merchant mariner.

(a) When a vessel of the United States sails upon a foreign, intercoastal, or coastwise voyage (excluding a voyage on the Great Lakes), each master or individual in charge shall, at the commencement of the voyage, send one copy of shipping articles, signed by himself or herself and by each merchant mariner under his or her command, to the owner, charterer, or managing operator. He or she shall keep the original throughout the voyage and enter in it all changes made to the crew during the voyage.

(b)(1) When a vessel of the United States sails exclusively on the Great Lakes, each master or individual in charge shall, at the commencement of the season, or once the vessel is put into service, whichever occurs earlier, send one copy of articles, signed by himself or herself and by each mariner under his or her command, to the owner, charterer, or managing operator.

(2) The master or individual in charge shall send supplementary particulars of engagement covering each mariner engaged during the month, signed by himself or herself and by each mariner under his or her command, to the owner, charterer, or managing operator.

(3) The master or individual in charge shall, at the close of the season, or once the vessel is withdrawn from service, whichever occurs later, send articles, signed by himself or herself and by each mariner under his or her command, to the owner, charterer, or managing operator.

(c) When a vessel of the United States sails exclusively on bays or sounds, each master or individual in charge shall, on the last day of each calendar month, send articles, signed by himself or herself and by each mariner under his or her command, to the owner, charterer, or managing operator.

(d) Any person who fails to comply with the requirements of this section is subject to a civil penalty of $5,000.

Subpart C—Discharge of Merchant Mariners

§ 14.301 Paying off of merchant mariner during or after voyage upon which shipping articles are required.

Each master or individual in charge of a vessel when shipping articles are required shall complete and sign, and each merchant mariner paid off during or after such a voyage shall sign, the articles and otherwise comply with the requirements of this subpart. When signed by the master or individual in charge and by the mariner, the articles constitute a release from the duties to which they bound their parties.

§ 14.303 Discharge of merchant mariner in foreign port.

Except as provided by § 14.305 of this part, in a foreign port where a United States consul or his or her representative ("consul") is available, each master or individual in charge of a vessel from which a merchant mariner is being discharged in that port and each mariner being discharged in that port shall sign the shipping articles and the certificate of discharge in the presence of the consul.

§ 14.305 Discharge of merchant mariner in foreign port without appearance before consul.

(a) In a foreign port where a United States consul or his or her representative ("consul") is available, the consul may waive the appearance before the consul of—

(1) Any master or individual in charge of a vessel, if the consul finds that he or she cannot accompany the merchant mariner to the consul without placing the crew, the vessel, or the cargo at risk by his or her absence; or

(2) Any mariner being discharged in that port, if the consul find that the mariner cannot accompany the master or individual in charge to the consul without placing himself or herself at risk.

(b) If the consul waives the personal appearance of either the master or individual in charge or the mariner, the master or individual in charge shall, as the case may be, send or give the consul—

(1) A written statement showing the name and official number of the vessel, the name of the shipping company, and the type of voyage; the name, the social-security number, the capacity of service, the date and place of engagement, and the date and place of discharge of the mariner; and the reasons why the

mariner is being discharged and why, as the case may be, the master or individual in charge or the mariner cannot appear before the consul;

(2) An account of the wages due the mariner; and

(3) Either the funds to pay the wages or the commitment of the company to pay.

(c) If the consul deems the statement, the account, and the funds or the commitment satisfactory, the consul may discharge the mariner as if both the master or individual in charge and the mariner had appeared before him or her.

(d) If the consul deems the statement, the account, or the funds or the commitment unsatisfactory, the consul may decline to discharge the mariner—and may order the return of him or her to the vessel at the expense of the vessel, so long as the return will cause no harm to the mariner, the crew, the vessel, or the cargo.

(e) When an incapacitated merchant mariner cannot sign the shipping articles, the certificate of discharge, or any other form (including a Mutual Release, Form CG–713A) on leaving the vessel, the master or individual in charge of the vessel shall complete the master's part of the form and place the form with the mariner.

§ 14.307 Entries in continuous discharge book.

If a merchant mariner holds a continuous discharge book, the master or individual in charge of the vessel shall make the proper entries in it.

§ 14.309 Entries on certificate of discharge.

(a) Each master or individual in charge of a vessel shall, for each merchant mariner being discharged from the vessel, prepare a certificate of discharge and two copies—whether by writing or typing them on the prescribed form with permanent ink or generating them from computer in the prescribed format—and shall sign them with permanent ink.

(b) Each mariner being discharged shall sign the certificate and both copies with permanent ink.

(c) When the mariner leaves the vessel, the master or individual in charge shall give the certificate to the mariner.

(d) Except as directed by § 14.315 of this part, the shipping company shall keep both copies of the certificate.

§ 14.311 Entries in shipping articles at end of voyage.

(a) At the end of each voyage upon which shipping articles are required, the master or individual in charge of the vessel shall—

(1) Complete the articles, conforming the pertinent entries in them to those on the certificate of discharge and its copies;

(2) Note in the articles the execution of each Mutual Release;

(3) Attach to the articles each Mutual Release and a copy of each certificate; and

(4) Pay to each merchant mariner all wages due.

(b) When he or she is paid off, each mariner shall sign the articles.

§ 14.313 Report of discharge of merchant mariner.

At the end of each foreign, intercoastal, or coastwise voyage by a vessel of the United States, or of each voyage by such a vessel that sails exclusively on bays or sounds (or by such a vessel at the close of the season on the Great Lakes, or once the vessel is withdrawn from service there, whichever occurs later), the shipping company shall either—

(a) Send a copy of each certificate of discharge to the address in paragraph 14.103(a) of this part; or

(b) Electronically transmit the data that go onto the certificates, in proper format, via disk to the address in § 14.103(a) of this part, via modem to an electronic address which the shipping company may request from the National Maritime Center or via internet.

§ 14.315 Storage of shipping articles and of certificates of discharge.

(a) Each shipping company shall keep all original shipping articles and copies of all certificates of discharge for ten years. The Coast Guard will dispose of copies of certificates submitted manually, once the data are entered into its sea-service database and are validated.

(b) Each shipping company that goes out of business or merges with another company shall send all original articles to the address in paragraph 14.103(a) of this part within 30 days of the transaction.

Subpart D—Oceanographic-Research Vessels

§ 14.401 General.

Unless otherwise provided by Title 46, U.S.C., by any amending or supplementing that Title, or by this subpart, that Title—as far as it governs the employment of merchant mariners—remains, and any act amending or supplementing that Title becomes, applicable to oceanographic-research vessels.

§ 14.403 Exemptions.

(a) Certain requirements of Title 46, U.S.C., do not apply to the employment of merchant mariners on oceanographic-research vessels. These requirements are those concerned with, among other things, the shipment and discharge of mariners, their pay and allotments, and the adequacy of their clothing. 46 U.S.C. 2113(2) allows exemptions of oceanographic-research vessels from certain requirements of Part B, C, F, or G of Subtitle II of Title 46 U.S.C., upon such terms as the Secretary deems suitable. The exemptions available under this subpart are subject to the terms specified below:

(1) No use of any exemption relieves the owner, charterer, managing operator, master, or individual in charge of the vessel of other statutory responsibilities for the protection of every mariner under his or her command.

(2) If it is presented at a reasonable time and in a reasonable manner, the master or individual in charge shall receive, consider, and appropriately address the legitimate complaint of any mariner.

(b) For any oceanographic-research vessel sailing with any mariner employed by any firm, association, corporation, or educational or governmental body or agency, the Commandant may grant exemptions from Title 46, U.S.C.:

(1) Section 10301, Application.

(2) Section 10302, Shipping articles (for foreign and intercoastal voyages).

(3) Section 10307, Posting of articles.

(4) Section 10308, Foreign engagements.

(5) Section 10311, Certificates of discharge.

(6) Sections 10313 & 10504, Wages.

(7) Sections 10314 & 10505, Advances.

(8) Section 10315. Allotments.

(9) Sections 10316 & 10506, Trusts.

(10) Sections 10321 & 10508, General penalties.

(11) Section 10502, Shipping articles (for coastwise voyages).

(12) Section 10509, Penalty for failure to begin coastwise voyages.

§ 14.405 Procedures.

(a) Upon written request by the owner, charterer, managing operator, master, or individual in charge of the vessel to the OCMI of the Coast Guard in whose zone the vessel is located, the Commandant may grant an exemption of any oceanographic-research vessel designated by 46 U.S.C. 2113(2) from any requirement of any section listed by paragraph 14.403(b) of this part.

(b) The request must state—

(1) Any requirement of any section listed by paragraph 14.403(b) of this part from which the applicant wishes an exemption; and

(2) What business practices regarding, among other things, the shipment and discharge of merchant mariners, their pay and allotments, and the adequacy of their clothing would justify the exemption.

(c) The OCMI will forward the request, along with his or her recommendation, to the Commandant, who will determine whether to grant any exemption of any vessel from any requirement. The OCMI will issue a letter indicating any exemption granted. The master or individual in charge of the vessel shall keep the letter aboard the vessel.

(d) If operating conditions change, the owner, charterer, managing operator, master, or individual in charge of the vessel shall so advise the OCMI. The OCMI will forward pertinent information on how the conditions have changed, along with his or her recommendation, to the Commandant, who will determine whether any exemption should remain granted.

§ 14.407 Reports.

(a) The owner, charterer, managing operator, master, or individual in charge of each oceanographic-research vessel of 100 gross tons or more shall maintain a record of the employment, discharge, or termination of service of every merchant mariner in the crew. At least every six months, the person maintaining this record shall transmit it to the Coast Guard—either manually, in the form of a copy of a certificate of discharge, or electronically.

(b) The owner, charterer, managing operator, master, or individual in charge of the vessel shall keep original shipping articles and a copy of each certificate ready for review by the Coast Guard or the concerned mariner upon request. (After the effective date of this rule, the Coast Guard will no longer keep either original articles or copies of certificates; it will keep only electronic records of employment.)

(c) The master or individual in charge of the vessel shall ensure that every entry made in the articles agrees with the corresponding entry made in a continuous discharge book, on a certificate, or in any other proof of sea service furnished to the mariner.

(d) Each oceanogrpahic company shall keep all original articles and copies of all certificates for ten years. After then each such company shall send all articles to the address in paragraph 14.103(a) of this part.

(e) Each oceanographic company that goes out of business or merges with another company shall send all original articles to the address in paragraph 14.103(a) of this part, within 30 days of the transaction.

Dated: March 21, 1996.

J.C. Card,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 96–7455 Filed 3–27–96; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[CS Docket No. 96–57; FCC 96–117]

Telecommunications Act of 1996

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is issuing this Notice of Proposed Rulemaking ("NPRM") in order to solicit comment on the proper implementation of Section 623(a)(7)(A) of the Communications Act. This NPRM is necessary to fulfill the statutory requirement in Section 301(j) of the Telecommunications Act of 1996 that the Commission allow cable operators to aggregate, on a franchise, system, regional, or company level, their equipment costs into broad categories regardless of the varying levels of functionality of the equipment within each such broad category. This proceeding will permit the Commission to issue final rules.

DATES: Comments are due April 12, 1996. Reply comments are due April 22, 1996.

FOR FURTHER INFORMATION CONTACT: Ibn Spicer, Cable Services Bureau, Financial Analysis Division (202) 418–2296.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Notice of Proposed Rulemaking in CS Docket No. 96–57, FCC 96–117, adopted March 18, 1996 and released March 20, 1996. The complete text of this Notice of Proposed Rulemaking is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street N.W., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services, Inc. ("ITS Inc.") at (202) 857–3800, 2100 M Street N.W., Suite 140, Washington, DC 20017.

Synopsis of Notice of Proposed Rulemaking

1. In this Notice of Proposed Rulemaking ("NPRM"), we propose to amend our rules to implement Section 301(j) of the Telecommunications Act of 1996 ("1996 Act") which adds a new Section 623(a)(7) to the Communication Act of 1934, as amended ("Communications Act"). Section 301(j) of the 1996 Act requires that the Commission allow cable operators to aggregate, on a franchise, system, regional, or company level, their equipment costs into broad categories regardless of the varying levels of functionality of the equipment within each such broad category. That section also provides that "[s]uch aggregation shall not be permitted with respect to equipment used by subscribers who receive only a rate regulated basic tier."

Discussion

A. Cost Categorization

2. Section 301(j) of the 1996 Act requires the Commission to allow regulated operators to aggregate "their [customer] equipment costs into broad categories, such as converter boxes, regardless of the varying levels of functionality of the equipment within each such broad category." We tentatively conclude that the statute intends that equipment be classified and placed in categories based on the primary purpose of the equipment.

3. We propose to amend the Equipment Basket provisions in Section 76.923(c) to allow categorization of customer equipment costs into broad categories. We further propose eliminating the language in Sections 76.923(f) and (g) that requires separate charges for each significantly different type of remote control device, converter box, and other customer equipment. We propose amending the rules to require that equipment be categorized based on its primary purpose. Thus, customer equipment, except equipment used by basic-only subscribers, that is used for the same purpose may be aggregated into the same broad category and priced at the same rate, regardless of the level of functionality. We seek comment on whether the Commission should establish a definition of the term "level of functionality" in order to bring more certainty to these new rules. If commenters believe we should do so, they should propose a definition of that term. Because equipment rates to subscribers must be based on actual costs, operators must base equipment charges on the same aggregation level as their costs. We propose amending our rules to make this explicit. Section 76.923(l) currently permits small systems to average costs for "similar types of equipment" on a company-wide basis. We propose eliminating this section since all systems shall be permitted to aggregate equipment

pursuant to the new provisions in the 1996 Act.

4. Section 76.923(h) currently contains language that effectively requires separate charges for connections, which includes inside wire, additional outlets and signal boosters, if needed, used to provide cable service to additional television receivers. That language was included to implement Section 623(b)(3) of the Communications Act of 1934, as amended, which specifically required rates for installation and monthly use of connections for additional television receivers be separate from rates for the initial receiver. Therefore, we tentatively conclude that additional connections may not be aggregated with initial connections into a broad category.

B. Organizational Levels

5. In light of new section 623(a)(7), we propose that Section 76.923(c) of our rules be amended to specifically permit customer equipment cost aggregation at the franchise, system, regional, or company level. Because equipment rates to subscribers must be based on actual costs, operators must base equipment charges on the same aggregation level as their costs. We propose amending our rules to make this explicit. Furthermore, to the extent that our current rules permit cost aggregation of equipment only in a manner consistent with an operator's practices on April 3, 1993, we propose eliminating this date restriction. We tentatively conclude that such a restriction would improperly prevent an operator from aggregating costs at higher organizational levels, as specifically permitted in the statute.

6. We tentatively conclude that Congress did not intend that cost aggregation be permitted to the same extent for installation charges. We reach this tentative conclusion because Section 301(j) of the 1996 Act refers only to equipment and not to installations, whereas the 1992 Cable Act separately mentions installations. Consistent with our small system rules, we believe that customer equipment charges are less likely to vary significantly between systems, whereas installation charges are more dependent on local labor and other costs that can vary between communities. We recognize, however, that this requirement could impose additional burdens on cable operators, since customer equipment rates could be set at higher organizational levels than installation rates. We therefore propose that operators be permitted to aggregate installation costs based on specific service areas designated for the aggregation of those costs. Under this approach, a rate could be established for installation for a specific service area that is chosen by the operator because the costs of providing installation are substantially similar throughout all franchises in that chosen service area. We seek comment on this approach. We also seek comment on whether there are alternative levels at which installation costs could be identified that would ease burdens on operators, yet still comport with Congressional intent.

C. Basic-Only Subscriber Equipment

7. The 1996 Act prohibits "[s]uch aggregation * * * with respect to equipment used by subscribers who receive only a rate regulated basic service tier." We tentatively conclude that Congress was concerned that basic-only subscribers not subsidize the costs of more sophisticated equipment used by subscribers taking services in addition to basic. Therefore, we tentatively conclude that equipment used by basic-only subscribers may not be aggregated into broad categories. We propose amending Section 76.923(c) to provide that the cost of equipment used by basic service-only customers may not be averaged with other customer equipment. However, the statute is not clear as to whether a cable operator may aggregate the costs of equipment used by basic-only customers at higher organizational levels and developing system, regional, or company average prices for such equipment. Although we recognize this ambiguity, we believe that allowing cable companies to aggregate the costs of equipment used by basic service-only customers at a higher organizational level and develop a rate based upon such aggregation does not contravene Congress' concern that basic-only subscribers not subsidize the costs of more sophisticated equipment used by subscribers taking other services in addition to basic. Any aggregation of the costs of basic service-only equipment at a higher organizational level will still only include equipment for that level of service. We seek comment on this issue.

D. Equipment Rates Jurisdiction and Review

8. Affected local franchising authorities will continue to review the equipment rates and supporting aggregated cost data as part of the review of the cable operators' rate justifications for basic rates. We recognize that the review of aggregated cost data regarding equipment by each of the affected local franchising authorities could lead to varying analyses and potentially inconsistent orders regarding that data. We seek comment on whether there is an alternative that could be more administratively efficient for local franchising authorities and cable operators alike.

E. FCC Form 1205

9. Because of our above tentative conclusions and proposed rules changes, we believe that FCC Form 1205 will need to be modified. We are proposing revisions to Form 1205 and seek comment on these revisions. The pages of Form 1205 containing revisions are set forth below.

Procedural Provisions

A. Ex Parte Presentations

10. This is a non-restricted notice-and-comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in the Commission's rules. See generally 47 CFR Sections 1.1202, 1.1203, 1.1206(a).

B. Initial Regulatory Flexibility Analysis

11. Pursuant to Section 603 of the Regulatory Flexibility Act, the Commission has prepared the following initial regulatory flexibility analysis ("IRFA") of the expected impact of these proposed policies and rules on small entities. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the NPRM, but they must have a separate and distinct heading designating them as responses to the IRFA. Our initial regulatory flexibility analysis under the Regulatory Flexibility Act indicates that if the proposed rule changes are promulgated, there will not be a significant economic impact on a substantial number of small business entities, as defined by Section 601(3) of the Regulatory Flexibility Act and that any impact will be to give operators new, less burdensome options to comply with our rules. We are committed to reducing the regulatory burdens on small cable operators whenever possible, consistent with our other public interest responsibilities. The Secretary shall send a copy of this NPRM of Proposed Rulemaking to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. Sections 601 *et seq.* (1981).

12. The Commission issues this NPRM to consider the changes needed to permit cable operators to aggregate equipment costs into broad categories

and at the organizational level of their choice, as required by Section 301(j)) of the 1996 Act.

13. Objectives. To solicit comments on the rule changes needed to implement Section 301(j) of the 1996 Act.

14. Legal Basis. Action as proposed for this rulemaking is contained in Section 301(j) of the 1996 Act.

15. Description, Potential Impact and Number of Small Entities Affected. The proposals, if adopted, will not have a significant effect on a substantial number of small entities. The proposed rules changes would provide all regulated entities with new options, but would not require them to change the methodology by which they currently justify equipment rates. Thus, any economic impact of the rule changes will be positive.

16. Reporting, Recordkeeping and Other Compliance Requirements. None.

17. Federal Rules which Overlap, Duplicate or Conflict with these Rules. None.

18. Any Significant Alternatives Minimizing Impact on Small Entities and Consistent with Stated Objectives. None.

C. Comment Filing Procedures

19. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's rules, 47 CFR Sections 1.415, 1.419, interested parties may file comments on April 12, 1996, and reply comments on April 22, 1996. To file formally in this proceeding, interested parties must file an original and four copies of all comments, reply comments, and supporting comments. We find these periods for the filing of comments and reply comments to be reasonable in light of the 1996 Act's mandate that the Commission issue revisions to the appropriate rules and forms concerning the aggregation of equipment costs within 120 days of enactment. See *Florida Power & Light Co.* v. *United States*, 846 F.2d 765 (D.C. Cir. 1988) cert. denied, 490 U.S. 1045 (1989). Any party that wishes each Commissioner to receive a personal copy of its comments, must file an original and nine copies. Comments and reply comments should be limited to 25 pages, with reasonable margins and font size of at least 12 points, and sent to Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554, with a copy to Lenworth Smith, Jr. of the Cable Services Bureau, 2033 M Street, N.W., Room 805E, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 1919 M Street, N.W., Room 239, Washington, D.C. 20554.

D. Paperwork Reduction Act

20. Initial Paperwork Reduction Act of 1995 Analysis. This NPRM proposes a modified information collection for FCC Form 1205. As part of its continuing effort to reduce paperwork burdens, we invite the general public and the OMB to take this opportunity to comment on the information collections contained in this NPRM, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due at the same time as other comments on this NPRM; OMB comments are due 60 days from date of publication of this NPRM in the **Federal Register**. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

21. Written comments by the public on the proposed and/or modified information collections are due on or before 15 days after publication in the **Federal Register**, and reply comments on or before 10 days after the comment due date. Written comments must be submitted by the Office of Management and Budget ("OMB") on the proposed and/or modified information collections on or before 60 days after date of publication in the **Federal Register**. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to dconway@fcc.gov and to Timothy Fain, OMB Desk Officer, 10236, NEOB, 725 - 17th Street, N.W., Washington, DC 20503 or via the Internet to fain_t@al.eop.gov.

OMB Approval Number: 3060–0603.

Title: Rates for equipment and installation used to receive the basic service tier

Type of Review: Revision of existing collection

Respondents: Businesses or other for profit; state, local or tribal government

Number of Respondents: 2,000.

Estimated Time Per Response: The commission estimates an average burden of 4 hours for cable operators to maintain in-house accounting records pertaining to 76.923. The Commission estimates a burden of 1 hour for cable operators contracting out for accounting services.

Total Annual Burden: We estimate 75% of respondents maintain records in-house and 25% contract out. 1,500 (75% in-house) × 4 hours = 6,000. 500 (25% contracted out) × 1 hour = 500. 6,000 + 500 = 6,500 hours.

Estimated costs per respondent: We estimate that operators contracting out accounting assistance will pay $100 per hour for the maintenance of their accounting systems. 500 (25% contracted out) accounting systems × 4 hours @ $100 per hour = $200,000.

Needs and Uses: The information is used by cable operators in their accounting systems to justify rates for equipment and installations.

OMB Approval Number: 3060–0592.

Title: FCC Form 1205 Determining Costs of Regulated Cable Equipment and Installation.

Form No.: FCC Form 1205.

Type of Review: Revision of existing collection

Respondents: Business and other for profit; state, local and tribal government

Number of Respondents: 8,800.

Estimated Time Per Response: The Commission estimates an average burden of 12 hours for operators to complete the FCC Form 1205 in-house. For operators contracting out accounting and legal assistance for completing the FCC Form 1205, we estimate an average burden of 1 hour.

Total Annual Burden: We estimate 75% of operators complete the FCC Form 1205 in-house and 25% contract out for assistance. 6,600 (75% in-house) × 12 hours = 79,200. 2,200 (25% contracted out) × 1 hour = 2,200 hours. 79,200 + 2,200 = 81,400 hours. The average burden to local franchising authorities to review FCC Form 1205s is estimated to be 8 hours per filing. We estimate local franchising authorities review approximately 8,000 FCC Form 1205 filings annually. 8,000 × 8 hours = 64,000. 81,400 + 64,000 = 145,400 hours.

Estimated costs per respondent: We estimate postage and photocopying costs of $2 per filing. 8,800 × $2 = $17,600. We estimate that operators contracting out accounting assistance will pay $100 per hour to complete FCC Form 1205. 2,200 (25% contracted out) × 12 hours @ $100 per hour = $2,640,000. $17,600 + $2,640,000 = $2,657,600.

Needs and Uses: Information derived from FCC Form 1205 filings facilitates the review of equipment and installation rates when reviewed by applicable local franchising authorities.

Ordering Clauses

22. Accordingly, *it is Ordered* that, pursuant to Sections 4(i), 4(j), 303(r), and 623 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 154(j), 303(r), and 543, *Notice is Hereby Given* of proposed amendments to Part 76, in accordance with the proposals, discussions, and statement of issues in the Notice of Proposed Rulemaking, and that *Comment is Sought* regarding such proposals, discussion, and statement of issues.

23. *It is Further Ordered* that, the Secretary shall send a copy of this Notice of Proposed Rulemaking, including the regulatory flexibility certification, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with paragraph 603(a) of the Regulatory Flexibility Act, 5 U.S.C. Sections 601 et seq. (1981).

List of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission.
William F. Caton,
Acting Secretary.

Proposed Amendatory Text

Part 76 of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

PART 76—[AMENDED]

1. The authority citation for Part 76 continues to read as follows:

Authority: Secs. 2, 3, 4, 301, 303, 307, 308, 309, 48 Stat. as amended, 1064, 1065, 1066, 1081, 1082, 1083, 1084, 1085, 1101; 47 U.S.C. Secs. 152, 153, 154, 301, 303, 307, 308, 309, 532, 535, 542, 543, 552, as amended, 106 Stat. 1460.

2. Section 76.923 is amended by revising paragraphs (c), (f), and (g), removing paragraph (l) and redesignating paragraphs (m) through (o) as as paragraphs (l) through (n)and revising redesignated paragraph (l) to read as follows:

§ 76.923 Rates for equipment and installation used to receive the basic service tier.

* * * * *

(c) Equipment basket. A cable operator shall establish an Equipment Basket, which shall include all costs associated with providing customer equipment and installation under this section. Equipment Basket costs shall be limited to the direct and indirect material and labor costs of providing, leasing, installing, repairing, and servicing customer equipment, as determined in accordance with the cost accounting and cost allocation requirements of § 76.924, except that operators do not have to aggregate costs in a manner consistent with the accounting practices of the operator on April 3, 1993. The Equipment Basket shall not include general administrative overhead including marketing expenses. The Equipment Basket shall include a reasonable profit.

(1) Customer Equipment. Costs of customer equipment included in the Equipment Basket may be aggregated, on a franchise, system, regional, or company level, into broad categories. Except to the extent indicated in paragraph (c)(2) of this section, such categorization may be made, provided that each category includes only equipment having the same primary purpose, regardless of the levels of functionality of the equipment within each such broad category. When submitting its equipment costs based on average charges, the cable operator must provide a general description of the averaging methodology employed and a justification that its averaging methodology produces reasonable equipment rates.

(2) Basic Service Tier Only Equipment. Costs of customer equipment included in the Equipment Basket, which is used by subscribers who receive only a rate regulated basic service tier, shall not be aggregated into broad cost categories. Costs of each significantly different type of equipment must be classified into specific equipment cost categories. The costs shall not be averaged with the costs of equipment that is used by subscribers who receive only a rate regulated basic service tier.

(3) Installation Costs. Installation costs may be aggregated only for a specific service area, to the extent that the costs of providing installation are substantially similar throughout all franchises in that service area.

* * * * *

(f) Remote charges. Monthly charges for rental of a remote control unit shall consist of the average annual unit purchase cost of remotes leased, including acquisition price and incidental costs such as sales tax, financing and storage up to the time it is provided to the customer, added to the product of the HSC times the average number of hours annually repairing or servicing a remote, divided by 12 to determine the monthly lease rate for a remote according to the following formula:

$$\text{Monthly Charge} = \frac{\text{UCE} + (\text{HSC} \times \text{HR})}{12}$$

Where, HR = average hours repair per year; and UCE = average annual unit cost of remote.

(g) Other equipment charges. The monthly charge for rental of converter boxes and other customer equipment shall be calculated in the same manner as for remote control units. Separate charges may be established for each category of other customer equipment.

* * * * *

(l) Cable operators shall set charges for equipment and installations to recover Equipment Basket costs. Such charges shall be set, consistent with the level at which Equipment Basket costs are aggregated as provided in § 76.923(c). Cable operators shall maintain adequate documentation to demonstrate that charges for the sale and lease of equipment and for installations have been developed in accordance with the rules set forth in this section.

* * * * *

Attachment—Changes to the Instructions for FCC Form 1205

Note: This attachment will not appear in the Code of Federal Regulations.

FCC Form 1205—Instructions for Determining Costs of Regulated Cable Equipment and Installation

"Equipment Form"

- Schedule B: Annual Operating Expenses for Service Installation and Maintenance of Equipment. This schedule collects total annual operating expenses for installation and maintenance of cable facilities. The costs collected here include salaries, benefits, and supplies.
- Schedule C: Capital Costs of Leased Customer Equipment. This schedule computes the annual capital costs for each type or category of customer premises equipment that you offer in connection with regulated service. The method of computing capital costs is the same as that used in Schedule A.
- Schedule D: Average Hours Per Installation. This schedule is used only if you choose to charge average rates for different types of installation services, as opposed to an hourly service charge. This schedule collects the average hours required to complete various types of installations.
- Worksheet for Calculating Permitted Equipment and Installation Charges. You must complete this worksheet *only* if you are calculating the costs of specific equipment and installations to derive the maximum rates you may charge for regulated equipment and installations.
- Worksheet for Calculating Total Equipment and Installation Costs. Utilizing the data collected and computed in Schedules A through D, this worksheet calculates a monthly per subscriber cost of regulated equipment and installations that is used to separate these costs from cable services rates. You must complete this worksheet *only* if you are filing this form in conjunction with a FCC Form 1200, Form 1220, or Form 1225 to establish maximum permitted rates for regulated cable services.
- Summary Schedule: Current Equipment and Installation Rates. This Schedule collects information determined on the Worksheet for Calculating Permitted Equipment and Installation Charges and presents it in summary form together with your actual equipment and installation charges.

General Instructions

You should complete this Form using financial data from the company's general ledger and subsidiary records maintained in accordance with generally accepted accounting principles. The Commission's cost accounting rules require that cable operators maintain their accounts in accordance with these requirements and in a manner that will enable identification of appropriate costs and application of the Commission's cost assignments and allocation procedures (*see* 47 CFR § 76.924). The data submitted in this Form 1205 should be from the operator's fiscal year indicated on the cover sheet. However, when there has been an unusual change in operations, data from a representative month may be used for the calculation of rates, subject to acceptance by the franchising authority or, when applicable, by the FCC. You must attach justification for this approach.

To the extent you have not previously maintained accounts in a manner consistent with our rules, and do not have fully developed cost data, you must indicate on this Form that you are using estimates, where necessary, in calculating equipment and installation costs and rates, and provide justification that the estimates are reasonable.

The data for installations (includable in Schedules A and C) may be identified only for a specific service area, to the extent that the costs of providing installations are substantially similar throughout all franchises in that service area. The data for customer equipment (includable in Schedule C) may be identified on a franchise, system, regional, or company level. For purposes of calculating cable service rates on an FCC Form 1200, 1220, or 1225, the cost data developed on this Form 1205 must be adjusted to the franchise area level (*see* Worksheet for Calculating Permitted Equipment and Installation Charges or Worksheet for Calculating Total Equipment and Installation Costs below for instructions).

Cable operators completing this Form in conjunction with FCC Form 1200 should be aware that the figure entered on line 14 of the Worksheet for Calculating Total Equipment and Installation Costs will be entered on either line D2 or line E2, and on line 12 of FCC Form 1200.

Precision of Calculation; Rounding

If you are performing the calculations required by this form by hand, you must display at least four decimal places. If you are using a calculator or computer, you must carry out the calculation to the full precision afforded by your calculator or computer and display at least four decimal places. If you are using the spreadsheet version of this form, the spreadsheet will round calculations for you; you do not need to display additional decimal places.

The *only* place you should round the figures is in the Summary Schedule. These figures should be rounded to the nearest cent.

About the Spreadsheet

The FCC has developed an electronic spreadsheet to assist you in making the necessary calculations on the Form 1205. We strongly recommend that you make use of this spreadsheet.

If you use the spreadsheet, the values for the shaded boxes on the Form 1205 will be calculated automatically and filled in for you. Instructions for the corresponding line numbers are italicized. You may submit a completed version of an official Form 1205, an exact photocopy of that form, or a copy generated by Commission software, provided that it has the appearance of an actual Form 1205.

If You Need Help

If you have any questions while completing this Form, please call the FCC's Cable Services Bureau between 9:30 a.m. and 5:30 p.m. Eastern Standard Time on Monday through Friday at (202) 418–2381.

FCC Notice to Individuals Required by the Privacy Act and the Paperwork Reduction Act

The solicitation of personal information in this form is authorized by the Communications Act of 1934, as amended. The Commission and/or the local franchising authority will use the information provided in this form to determine the reasonableness of a cable company's rates. In reaching that determination, or for law enforcement purposes, it may become necessary to provide personal information contained in this form to another government agency. If information requested on this form is not provided, processing may be delayed. All information provided in this form will be available for public inspection. Your response is required to apply the Commission's cable rate standards and to provide a response to consumer complaints. Respondents are not required to respond to this collection of information unless it displays a currently valid Office of Management and Budget control number.

Public reporting burden for this information is estimated to average 20 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Federal Communications Commission, Records Management Division, Washington, D.C. 20554. Do *not* send completed forms to this address.

The foregoing notice is required by the Privacy Act of 1974, Pubic Law 93–579, December 31, 1975, 5 U.S.C. 522a(e)(3) and the Paperwork Reduction Act of 1995, 104–13, May 22, 1995, 47 U.S.C. 3507.

Instructions for Schedule C—Capital Costs of Leased Customer Equipment

Schedule C computes the annual capital costs of equipment leased to customers. Follow the instructions below for each type or category of leased equipment.

Note: Subscriber drops up to the Commission-defined cable network demarcation point at the customer's premises are considered network equipment and may not be included as customer equipment on Schedule C.

Line A—Equipment. List all customer equipment for which you wish there to be a separate charge. You may calculate separate charges for specific types of equipment including different models of remote control units, different types of converter boxes, and other equipment (e.g., splitters and amplifiers). However, at your option, customer equipment may instead be listed in broad categories, provided that each category includes only equipment having the same primary purpose, regardless of the levels of functionality of the equipment within each broad category. Except, customer equipment which is used by subscribers who receive only a rate regulated basic service tier, shall not be aggregated into broad cost categories. Costs of each significantly different type of equipment must be classified into specific equipment cost categories.

The costs shall not be averaged with the costs of equipment that is used by subscribers who receive only a rate regulated basic service tier. In addition, with respect to the lease of cable connections, the cost of additional connections may not be aggregated with the cost of initial connections.

On an attached sheet, list separately each type or category of other equipment for which you plan to develop a separate charge and provide the necessary information as required on lines A through K of Schedule C to compute the charge. A separate charge must be developed for each type or category of other customer equipment. Enter in the "Other Equipment" column of Schedule C the total figures for the equipment included on your attachment.

Line B—Total Maintenance/Service Hours. Enter the total maintenance and/or service hours. Attach a Schedule explaining how you calculated these figures.

Line C—Total Number of Units in Service. Enter the total number of units in service for leased remotes and converter boxes. For other leased equipment, list the total number of units in service or the total number of subscribers using this equipment, whichever is appropriate. Use either the number of units or subscribers for the last day of the fiscal year covered by this Form 1205.

Line D—Gross Book Value. Enter the gross book value of the listed equipment as of the date you closed books for the time period covered by the filing of this Form. The gross book value includes the cost of a reasonable number of spare customer equipment units that the operator keeps on-hand as replacements for broken equipment.

Schedule D asks for information about four categories of installations: (a) installations of

unwired homes; (b) installations of already wired homes; (c) installations of additional connections at the time of initial installation; and (d) installations of additional connections after initial installation. These data are needed in the first worksheet below to calculate the four separate average charges that the Commission requires for an operator choosing to exercise the average charge option. Spaces also are included for other specific types of installations (such as those requiring extra long drops to the home). Attach additional sheets as needed.

Worksheet for Calculating Permitted Equipment and Installation Charges

Step A: Hourly Service Charge (HSC).

The Hourly Service Charge (HSC) is designed to recover the costs of service installation and maintenance of customer equipment. The HSC will be used as a factor in developing permitted charges for installation and monthly lease of individual pieces of equipment. To calculate the HSC, you will compute your annual capital costs plus expenses for the maintenance of customer equipment and the installation of basic tier service. You will divide the total costs and expenses by the total number of person-hours spent on those activities over the past year.

The HSC includes the annual capital costs for installing, maintaining, and repairing customer equipment for the specific service area to which this filing applies; the capital cost of the customer equipment itself, however, is not recovered through the HSC. That cost is recovered through the lease of that type of equipment (*see* Steps C through E of the Worksheet for Calculating Permitted Equipment and Installation Charges).

Note 1: If an expense amount is included on Schedule B for equipment sent out for repair, an appropriate adjustment to the total labor hours reported on this Form must be made. This adjustment adds "equivalent labor hours" to the total company labor hours. This may be calculated, for example, as total costs included on Schedule B for work sent out for repair divided by the average company technician wage rate. The total cost may be recovered by including the average hours in the computation for the appropriate equipment charges computed in Steps C through E. In any case that an amount is included on Schedule B for work sent out for repair, explain all the adjustments made on the Worksheet. This explanation must include the number of hours added on line 6 below as well as a description of and the number of hours added into the charges developed in Steps C through E.

Note 2: With respect to the calculation for labor costs associated with installation of the drop up to the Commission-defined cable network demarcation point at the customer's premises, you have two options. The first option is to include the labor costs associated with subscriber drops in the charges for installations. The second option is to capitalize such costs in distribution plant as part of the cost of drops. (In this case, the labor cost for drops is recovered in the charges for cable services only—not in installation or customer equipment charges.) If the second option is chosen, the costs and the associated hours must be eliminated from the charges for all customer equipment and installation charges.

Line 9d1—HSC. Enter the HSC from line 7.

Line 9d2—Average Hours Per Additional Connection Installation Requiring Separate Installation. Enter the figure from line D of Schedule D.

Line 9d3—Charge per Additional Connection Installation Requiring Separate Installation. Multiply line 9d1 by line 9d2.

Line 9e—Other Installations (As specified in Schedule D, Line E).

If there are more than three other types of installations, attach a separate sheet showing how the charges for these other installations are calculated.

Line 9e1—HSC. Enter the HSC from line 7.

Line 9e2—Average Hours Per Installation of Item 1. Enter the figure on Schedule D, line E, Item 1.

Line 9e3—Charge per Installation of Item 1. Multiply line 9e1 by line 9e2.

Line 9e4—HSC. Enter the HSC from line 7.

Line 9e5—Average Hours Per Installation of Item 2. Enter the figure on Schedule D, line E, Item 2.

Line 9e6—Charge per Installation of Item 2. Multiply line 9e4 by line 9e5.

Line 9e7—HSC. Enter the HSC from line 7.

Line 9e8—Average Hours Per Installation of Item 3. Enter the figure on Schedule D, line E, Item 3.

Line 9e9—Charge per Installation of Item 3. Multiply line 9e7 by line 9e8.

Step C. Charges for Leased Remotes.

The rental charge for remote control units is designed to recover the costs of providing and maintaining each type or category of remote control unit leased by subscribers and includes a reasonable profit. The charge determined in this step will not reflect the costs of installation. You must repeat the following substep calculations for each significantly different type or category of remote listed in Schedule C. Describe each type or category of remote in detail sufficient to identify differences among types and/or categories. Attach extra sheets as needed.

Line 10—Total Maintenance/Service Hours. Enter the total maintenance and/or service hours for each type or category of remote from the corresponding column on Schedule C, line B.

Line 11—HSC. Enter the HSC from line 7.

Line 12—Total Maintenance and Service Cost. Multiply line 10 by the HSC listed on line 11. The result is the total annual cost for repairing and servicing each type or category of remote.

Line 13—Annual Capital Costs. Enter the annual capital costs for each type or category of remote from the corresponding column of line K on Schedule C.

Line 14—Total Cost of Remote. Add line 12 to line 13. The sum is the total annual cost for each type or category of remote.

Line 15—Number of Units in Service. Enter the number of units of each type or category of remote in service from the appropriate column of line C on Schedule C.

Line 16—Unit Cost. Divide line 14 by 15. The result is the annual unit cost of each type or category of remote.

Line 17—Rate per Month. Divide the figure from line 16 by the number 12. The result will be the monthly cost of each type or category of remote including a reasonable profit. This figure is the maximum permitted monthly lease charge for each type or category of remote.

Step D. Charges for Leased Converter Boxes.

The rental charge for a converter box is designed to recover the costs of providing and maintaining that type or category of converter box leased by a subscriber and includes a reasonable profit. You must repeat the calculations in the following substeps for each type or category of converter box listed in Schedule C. Describe each type or category of converter box in detail sufficient to identify differences among types and/or categories. Attach extra sheets as needed.

Line 18—Total Maintenance/Service Hours. Enter the total maintenance and/or service hours for each type or category of converter box from the corresponding column of line B on Schedule C.

Line 19—HSC. Enter the HSC from line 7.

Line 20—Total Maintenance and Service Cost. Multiply the figure from line 18 by the HSC listed on line 19. The result is the total annual cost for repairing and servicing each type or category of converter box.

Line 21—Annual Capital Costs. Enter the annual capital costs for each type or category of converter box from the corresponding column of line K on Schedule C.

Line 22—Total Cost of Converters. Add line 20 to line 21. The sum is the total annual cost for each type or category of converter box.

Line 23—Number of Units in Service. Enter the number of units of each type or category of converter box from the corresponding column of line C on Schedule C.

Line 24—Unit Cost. Divide line 22 by line 23. The result is the annual unit cost of each type or category of converter box.

Line 25—Rate per Month. Divide the figure on line 24 by the number 12. The result is the monthly cost of each type or category of converter box including a reasonable profit. This figure is the maximum permitted monthly lease charge for each type of converter box.

Step E. Charges for Other Leased Equipment.

The rental charge for other leased equipment is designed to recover the costs of providing and maintaining that equipment leased by a subscriber and includes a reasonable profit. An operator choosing to establish charges for different types of other equipment must repeat the calculations in the following substeps for each type or category of other equipment listed in Schedule C. Describe each type or category of additional leased equipment in detail, *e.g.*, additional connections. Attach extra sheets as needed.

Commission rules permit operators to charge for power boosters installed in connection with additional connections. Operators may establish a separate charge for the power boosters or may establish a separate charge for additional connections with power boosters. Such charges should be identified and included in Step E.

Line 26—Total Maintenance/Service Hours. Enter the total maintenance and/or service hours for this other equipment. Enter the figure from the corresponding column on Schedule C, line B.

Line 27—HSC. Enter the HSC from line 7.

Line 28—Total Maintenance and Service Cost. Multiply the figure on line 26 by the HSC listed on line 27. The result is the total annual cost for repairing and servicing other equipment.

[FR Doc. 96–7221 Filed 3–27–96; 8:45 am]
BILLING CODE 8712–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 40

[OST Docket No. OST–96–1176, Notice 96–5]

RIN 2105–AC37

Amendments to Laboratory Certification Requirements

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This NPRM proposes provisions that would permit drug testing laboratories located outside the U.S. to participate in the Department's drug testing program. The certification would happen on the basis of recommendations from the Department of Health and Human Services.

DATES: Comments should be received by May 13, 1996. Late-filed comments will be considered to the extent practicable.

ADDRESSES: Comments should be sent, preferably in triplicate, to Docket Clerk, Docket No. OST–96–1176, Department of Transportation, 400 7th Street SW., Room PL–400, Washington, DC, 20590. Comments will be available for inspection at this address from 9:00 a.m. to 5:30 p.m., Monday through Friday. Commenters who wish the receipt of their comments to be acknowledged should include a stamped, self-addressed postcard with their comments. The Docket Clerk will date-stamp the postcard and mail it back to the commenter.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Room 10424, (202–366–9306); 400 7th Street SW., Washington DC, 20590.

SUPPLEMENTARY INFORMATION: Recently, the Federal Highway Administration (FHWA) issued a final rule applying its drug and alcohol testing requirements to foreign-based drivers operating in the United States (60 FR 49322; September 22, 1995). Under the rule, Canadian and Mexican drivers who come into the United States will be subject to testing on the same basis as U.S. drivers, beginning July 1, 1996, for employees of larger carriers and a year later for employees of smaller carriers.

In any case, Canadian and Mexican employers who collect drug urine specimens under FHWA rules will be able to have the specimens tested in U.S. laboratories certified by the Department of Health and Human Services (DHHS), on the same basis as U.S. employers. In the interest of facilitating program implementation, the Department hopes that it will be possible for Mexican and Canadian laboratories to participate in the program as well.

Canadian and Mexican laboratories may participate in the DOT-mandated testing program only if their participation is consistent with the Department's statutory authority. Strict safeguards for the accuracy and quality of laboratory tests are a key mandate of the Omnibus Transportation Employee Testing Act of 1991.

The motor carrier portion of the Act (49 U.S.C. 31306(b), which parallels the other modal sections of the Act), provides that, in carrying out the requirement to establish a motor carrier drug testing program, the Secretary "shall" develop requirements "that shall"

(2) For laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any amendments to those guidelines, including mandatory guidelines establishing—

(A) Comprehensive standards for every aspect of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards requiring the use of the best available technology to ensure the complete reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimens collected for controlled substances testing; * * *

(C) Appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section.

(3) Require that a laboratory involved in testing under this section have the capability and facility, at the laboratory, of performing screening and confirmation tests; * * *

The language of these provisions is clearly mandatory, a point which the legislative history reinforces. Senate Report 102–54 (May 2, 1991), concerning S. 676, the bill that became the Act, notes, in response to concerns about testing accuracy and false positive tests, that "By incorporating laboratory certification and testing procedures developed by HHS and DOT * * * the Committee has taken affirmative steps to ensure accuracy." (S. Rept. 102–54 at 7.) Later, in speaking of the laboratory and other safeguards in the bill, the report says that

> These safeguards are critical to the success of any testing program. They are designed to ensure that * * * there is accountability and accuracy of testing. They provide what the Committee believes are the basic minimums. * * * The Secretary is urged to carefully review the safeguards in any testing program to ensure they are adhered to in a vigorous manner. (*Id.* at 31)

More specifically on laboratory matters, the Committee said that

> Incorporating the HHS guidelines relating to laboratory standards and procedures * * * as DOT has done in Part 40 * * * is an essential component of the procedural safeguards specified in this subsection. * * * Realizing that these guidelines may be subject to future modification, the Committee has acted to specify that the basic elements of certain provisions now in effect are mandated, including the need for comprehensive standards and procedures for all aspects of laboratory testing of drugs * * * [and] the establishment of standards and procedures for the periodic review of laboratories and the development of criteria for laboratory certification or revocation of such certification. (*Id.* at 32)

It is noteworthy that Congress explicitly accepts an active DOT role in establishing and carrying out the laboratory-related provisions of the statute. What is mandatory is not that one agency or the other play any particular administrative role in the process, but that the protections embodied in the DHHS guidelines be applied, through DOT's rules, to participants in the program. There is no bar in the statutory language to a DOT rule assigning to DOT the task of reviewing and certifying laboratories, so long as these actions by DOT are based on the conformity of the laboratories to DOT's incorporation of DHHS laboratory standards. Consequently, DOT has broad legal discretion to take action in the area of drug testing procedures, extending to the certification of laboratories.

DOT and DHHS are working closely together with respect to the potential certification of foreign laboratories. As the two agencies envision the process, there could be two different ways in which foreign laboratories become certified. First, DHHS could review the application of the foreign laboratory, in the same manner that it reviews applications from U.S. laboratories. If the laboratory meets DHHS standards, DHHS would recommend that DOT certify the laboratory under DOT

authority. (The direct certifying authority of DHHS extends only to laboratories that would participate in the Federal employee testing program.) Second, DHHS could review the standards and procedures of a foreign certifying agency. If DHHS determined that the foreign agency had standards, procedures, and authority equivalent to those of DHHS, DHHS would recommend to DOT that DOT deem the foreign agency to be an equivalent certifying authority. Laboratories that the foreign agency certified would then be permitted to participate in the DOT testing program.

DOT and DHHS have discussed laboratory issues with officials of Transport Canada, the Canadian Trucking Association and its affiliates, and the Standards Council of Canada (a potential laboratory certification organization in Canada), as well as representatives of some Canadian laboratories. We have also had discussions with Mexican officials concerning program and laboratory matters. While a number of issues remain to be resolved, the Department is proposing a change to 49 CFR § 40.39 to accommodate the possibility that foreign laboratories may be able to participate in DOT-mandated drug testing.

The proposed amendment would add a new paragraph to authorize the participation of foreign laboratories in the DOT drug testing program in the two circumstances outlined above (i.e., based on a recommendation by DHHS that a particular laboratory meets DHHS certification requirements, or based on a certification by a foreign certifying organization whose standards and process had been deemed equivalent to those of DHHS). It should be emphasized that, if adopted, the proposed amendment would not have the effect of actually certifying any foreign laboratories. It would simply put in place a mechanism that would allow such laboratories to participate, if and when DOT and DHHS had determined that all issues had been resolved satisfactorily, in full compliance with DHHS requirements for laboratory certification.

Regulatory Process Matters

The proposed rule is considered to be a nonsignificant rulemaking under DOT Regulatory Policies and Procedures, 44 FR 11034. It also is a nonsignificant rule for purposes of Executive Order 12866. The Department certifies, under the Regulatory Flexibility Act, that the NPRM, if adopted, would not have a significant economic effect on a substantial number of small entities. The NPRM would not impose any costs or burdens on regulated entities, since it deals with a subject (applying for laboratory certification) that is completely voluntary. The rule has also been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that it does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The comment period is 45 days rather than 60 because, in order to permit the Department to certify foreign laboratories before the July 1, 1996, start date for testing of foreign drivers, the Department needs to complete this rulemaking on an expedited basis.

List of Subjects in 49 CFR Part 40

Drug Testing, Alcohol Testing, Reporting and Recordkeeping Requirements, Safety, Transportation.

For the reasons set forth in the preamble, 49 CFR Part 40 is proposed to be amended as follows:

PART 40—[AMENDED]

1. The authority citation for Part 40 would continue to read as follows:

Authority: 49 U.S.C. 102, 301, 322; 49 U.S.C. app. 1301nt., app. 1434nt., app. 2717, app. 1618a.

2. Section 40.39 is proposed to be revised to read as follows:

§ 40.39 Use of Certified Laboratories.

(a) Except as provided in paragraph (b) of this section, employers subject to this part shall use only laboratories certified under the DHHS "Mandatory Guidelines for Federal Workplace Drug Testing Programs," April 11, 1988, and subsequent amendments thereto.

(b) Employers subject to this part may also use laboratories located outside the United States if—

(1) The Department of Transportation, based on a recommendation from DHHS, has certified the laboratory as meeting DHHS laboratory certification standards; or

(2) The Department of Transportation, based on a recommendation from DHHS, has recognized a foreign certifying organization as having equivalent laboratory certification standards and procedures to those of DHHS, and the foreign certifying organization has certified the laboratory pursuant to those equivalent standards and procedures.

Issued this 26th day of March 1996, at Washington, D.C.

Federico Peña,

Secretary of Transportation.

[FR Doc. 96–7565 Filed 3–27–96; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 628

[Docket No. 960315078–6079–01; I.D. 031296D]

Atlantic Bluefish Fishery; Proposed Removal of FMP

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes the withdrawal of Secretarial approval of the Atlantic Bluefish Fishery Management Plan (FMP) and removal of its implementing regulations. This action is taken in response to the President's Regulatory Reform Initiative.

DATES: Public comments must be received on or before May 13, 1996.

ADDRESSES: Copies of the draft Environmental Assessment (EA) and Regulatory Impact Review are available from the Northeast Regional Office, National Marine Fisheries Service, 1 Blackburn Drive, Gloucester, MA 01930.

Comments should be sent to Dr. Andrew A. Rosenberg, Regional Director, at the same address above. Please mark the envelope "Comments—Bluefish Withdrawal."

FOR FURTHER INFORMATION CONTACT: Myles Raizin, 508–281–9104.

SUPPLEMENTARY INFORMATION: Bluefish is a species that is found and harvested predominantly in state waters. The bluefish stock is described as overexploited with total catch having decreased from approximately 70,000 mt in 1983 to 22,000 mt in 1992 (17th Northeast Regional Stock Assessment Workshop, 1994). The recreational catch accounted for approximately 17,000 mt or 72 percent of the combined recreational and commercial catch in 1992. The 1994 Marine Recreational Fisheries Survey estimated that 93 percent of all recreational landings (11,963,000 fish) in that year were taken in state waters.

The FMP was prepared through the joint efforts of the Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission (ASMFC). It was designed to promote conservation of one of the most important Atlantic coast recreational species. It was approved by the Secretary of Commerce on March 20, 1990. The Council and the ASMFC developed the FMP to address problems they anticipated could develop if the fishery expanded or the resource declined. Prior to the approval of the FMP there were few harvest regulations in any states, and comprehensive management was non-existent. After adoption of the FMP, all states implemented conservation measures. Annual management measures (e.g., possession limits) are recommended by the ASMFC for state waters and by the Council for the exclusive economic zone (EEZ). The EEZ measures include a permit requirement for individuals conducting a commercial fishery, a possession limit of 10 fish that could be adjusted from 0 to 15 fish in order to reflect stock conditions, a limit on commercial catch of 20 percent of the total overall catch, and a framework that allowed for the imposition of commercial fishery controls including state quotas when the commercial limit is exceeded.

As part of the President's plan for reform of the Federal regulatory system, NMFS proposes to remove the bluefish implementing regulations. Since the ASMFC already adopted an Interstate Fishery Management Plan for Atlantic Bluefish, the Magnuson Act regulations implementing the Federal Fishery Management Plan (FMP) for the Atlantic Bluefish Fishery are unnecessarily duplicative. Withdrawal of the FMP is consistent with National Standard 7, which requires that management measures shall, where practicable, minimize costs and avoid unnecessary duplication.

Furthermore, because the fishery takes place primarily in state waters, the ASMFC is an appropriate authority for management. If future management measures in the EEZ are required, the Atlantic Coastal Act allows the states to request NMFS to implement complementary measures in the EEZ.

The Atlantic Coastal Act requires that an interstate fishery management plan contain a recommendation to the Secretary regarding measures to be implemented in the EEZ before he can undertake action. The Council and ASMFC have been working on a plan amendment, which could be modified by ASMFC to specify EEZ management measures that could be implemented under the Atlantic Coastal Act. NMFS does not intend to withdraw the FMP until NMFS issues regulations for the EEZ under the Atlantic Coastal Act.

Classification

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

NMFS prepared a draft EA for this action that discusses the impact on the environment as a result of this rule. A copy of the EA may be obtained from NMFS (see **ADDRESSES**).

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities, because the number affected is less than 20 percent of the number of small entities operating in the fishery.

List of Subjects for 50 CFR Part 628

Fishing, Reporting and recordkeeping requirements.

Dated: March 21, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service

For the reasons set out in the preamble, under the authority of 16 U.S.C. 1801 *et seq.*, 50 CFR part 628 is proposed to be removed.

[FR Doc. 96–7513 Filed 3–27–96; 8:45 am]

BILLING CODE 3510–22–F

50 CFR Parts 656 and 697

[Docket No. 950915230–6060–02; I.D. 022796D]

RIN 0648–AH57

Atlantic Striped Bass Fishery; Atlantic Coastal Fisheries Cooperative Management; Consolidation and Revision of Regulations

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes consolidation of regulations pertaining to the Atlantic striped bass and weakfish fisheries, which are now contained in two CFR parts, into a single part. The consolidated regulations would be revised to be more concise, better organized, and easier for the public to use. In addition, certain prohibitions and definitions currently in parts 656 and 697 would be removed and replaced by references to general sections of the regulations to achieve conformity and to eliminate unnecessary regulatory text. This action is part of the President's Regulatory Reinvention Initiative.

DATES: Comments must be received by April 29, 1996.

ADDRESSES: Comments should be sent to Tom Meyer, Office of Fisheries Conservation and Management, F/CM1, National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Tom Meyer, (301) 713–2337.

SUPPLEMENTARY INFORMATION:

NMFS proposes to remove 50 CFR part 656 and revise 50 CFR part 697 by consolidating into part 697 the regulations previously contained in parts 656 and 697. Duplicative regulatory text previously contained in parts 656 and 697 would be eliminated.

In March 1995, President Clinton issued a directive to Federal agencies regarding their responsibilities under his Regulatory Reinvention Initiative. This initiative is part of the National Performance Review and calls for immediate, comprehensive regulatory reform. The President directed all agencies to undertake an exhaustive review of all their regulations, with an emphasis on eliminating or modifying those that are obsolete, duplicative, or otherwise in need of reform. This proposed rule is intended to carry out the President's directive with respect to the regulations implementing the Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5101 *et seq.*) and the Atlantic Striped Bass Conservation Act Appropriations Authorization (16 U.S.C. 1851 note).

The consolidation and revisions proposed in this rule are not meant to change the substance of the existing regulations. They are intended to make the regulations easier for the public to use and to reduce the volume and publication costs of the regulations.

In addition, some of the prohibitions and definitions currently in parts 656 and 697 would be removed. Instead, the consolidated part 697 would reference definitions and general prohibitions to be contained in 50 CFR part 600 regulations; part 600 is also being proposed for consolidation and revision through another rulemaking. The reference to standard language, rather than the language now contained in parts 656 and 697, could result in some changes in how the Atlantic striped bass and weakfish regulations are enforced. The intent of the proposed changes is to achieve consistency of language, enhance understanding of the regulation's requirements, and to eliminate unnecessary regulatory text.

Classification

This proposed rule has been determined to be not significant for the purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed consolidation is not meant to change the substance of the existing regulations. Proposed revisions to definitions and prohibitions could result in minor changes in how the regulations are enforced, but are not expected to change fishing practices, costs, or revenues. As a result, a regulatory flexibility analysis was not prepared.

List of Subjects in 50 CFR Parts 656 and 697

Fisheries, Fishing.

Dated: March 21, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR chapter VI is proposed to be amended as follows:

PART 656—[REMOVED]

1. Under the authority of 16 U.S.C. 1851 note, part 656 is removed.

2. Part 697 is revised to read as follows:

PART 697—ATLANTIC COASTAL FISHERIES COOPERATIVE MANAGEMENT

Sec.

697.1 Purpose and scope.
697.2 Definitions.
697.3 Relation to the Magnuson Act.
697.4 Civil procedures.
697.5 Specifically authorized activities.
697.6 Prohibitions.

Authority: 16 U.S.C. 1851 note, 5101 *et seq.*

§ 697.1 Purpose and scope.

The regulations in this part implement section 804(b) of the Atlantic Coastal Fisheries Cooperative Management Act, 16 U.S.C. 5101 *et seq.*, and section 6 of the Atlantic Striped Bass Conservation Act Appropriations Authorization, 16 U.S.C. 1851 note, and govern fishing in the EEZ on the Atlantic Coast for species covered by those acts.

§ 697.2 Definitions.

In addition to the definitions in § 600.10 of this chapter, the terms in this part have the following meanings:

Atlantic striped bass means members of stocks or populations of the species *Morone saxatilis* found in the waters of the Atlantic Ocean north of Key West, FL.

Block Island Southeast Light means the aid to navigation light located at Southeast Point, Block Island, RI, and defined as follows: Located at 40°09.2'N. lat., 71°33.1'W. long; is 201 ft (61.3 m) above the water; and is shown from a brick octagonal tower 67 ft (20.4 m) high attached to a dwelling on the southeast point of Block Island, RI.

Continuous transit means that a vessel remains continuously underway while in the EEZ.

Fish, when used as a verb, for the purposes of this part, means any activity that involves:

(1) The catching, taking, or harvesting of fish;

(2) The attempted catching, taking, or harvesting of fish;

(3) Any other activity that can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(4) Any operations at sea in support or, or in preparation for, any activity described in paragraph (1), (2), or (3) of this definition.

Land means to begin offloading fish, to offload fish, or to enter port with fish.

Montauk Light means the aid to navigation light located at Montauk Point, NY, and defined as follows: Located at 41°04.3'N. lat., 71°51.5'W. long.; is shown from an octagonal, pyramidal tower, 108 ft (32.9 m) high; and has a covered way to a dwelling.

Point Judith Light means the aid to navigation light located at Point Judith, RI, and defined as follows: Located at 41°21.7'N. lat., 71°28.9'W. long.; is 65 ft (19.8 m) above the water; and is shown from an octagonal tower 51 ft (15.5 m) high.

Retain means to fail to return Atlantic striped bass or weakfish to the sea immediately after the hook has been removed or the fish has otherwise been released from the capture gear.

Weakfish means members of the stock or population of the species *Cynoscion regalis*, found along the Atlantic coast from southern Florida to Massachusetts Bay.

§ 697.3 Relation to the Magnuson Act.

The provisions of sections 307 through 311 of the Magnuson Act, as amended, regarding prohibited acts, civil penalties, criminal offenses, civil forfeitures, and enforcement apply with respect to the regulations in this part, as if the regulations in this part were issued under the Magnuson Act.

§ 697.4 Civil procedures.

The civil procedure regulations at 15 CFR part 904 apply to civil penalties, permit sanctions, seizures, and forfeitures under the Atlantic Striped Bass Act and the Atlantic Coastal Act, and the regulations in this part.

§ 697.5 Specifically authorized activities.

NMFS may authorize, for the acquisition of information and data, activities that are otherwise prohibited by the regulations in this part.

§ 697.6 Prohibitions.

(a) *Atlantic Coast weakfish fishery.* In addition to the prohibitions set forth in § 600.725, the following prohibitions apply. It is unlawful for any person to do any of the following:

(1) Fish for weakfish in the EEZ.

(2) Harvest any weakfish from the EEZ.

(3) Possess any weakfish in or from the EEZ.

(4) Fail to return to the water immediately, with the least possible injury, any weakfish taken within the EEZ.

(b) *Atlantic striped bass fishery.* It is unlawful for any person to do any of the following:

(1) Fish for Atlantic striped bass in the EEZ.

(2) Harvest any Atlantic striped bass from the EEZ.

(3) Possess any Atlantic striped bass in or from the EEZ, except for the following area: The EEZ within Block Island Sound, north of a line connecting Montauk Light, Montauk Point, NY, and Block Island Southeast Light, Block Island, RI; and west of a line connecting Point Judith Light, Point Judith, RI, and Block Island Southeast Light, Block Island, RI. Within this area, possession of Atlantic striped bass is permitted, provided no fishing takes place from the vessel while in the EEZ and the vessel is in continuous transit.

(4) Fail to return to the water immediately, with the least possible injury, any Atlantic striped bass taken within the EEZ.

[FR Doc. 96–7517 Filed 3–27–96; 8:45 am]
BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 61, No. 61
Thursday, March 28, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

March 22, 1996.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 *and* to Department Clearance Officer, USDA, OIRM, Ag Box 7630, Washington, DC 20250–7630. Copies of the submission(s) may be obtained by calling (202) 720–6204 or (202) 720–6746.

Food and Consumer Service

- *Title:* WIC Program Regulations—Reporting and Recordkeeping Burden.

Summary: The WIC Program provides nutrition benefits to low income women, infants, and children. It is administered by State and local governments. Benefits are obtained through retail vendor, home delivery, and direct distribution systems.

Need and Use of the Information: The information reporting and recordkeeping burdens addressed are necessary to ensure appropriate and efficient distribution and management of WIC funds as authorized by law.

Description of Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions; State, Local, or Tribal Government;

Number of Respondents: 7,053,455.

Frequency of Responses: Recordkeeping; Reporting: Semi-annually, Annually.

Total Burden Hours: 1,372,042.

Food and Consumer Service

- *Title:* Study of WIC Participant and Program Characteristics, 1996.

Summary: Study will describe selected characteristics of WIC participants, local agencies, and state agencies.

Need and Use of the Information: Data from the study will be used to prepare the mandated congressional report and to manage the WIC Program.

Description of Respondents: State, Local, or Tribal Government.

Number of Respondents: 488.

Frequency of Responses: Reporting: Bienially.

Total Burden Hours: 229.

Rural Utilities Service

- *Title:* Seismic Safety Of New Building Construction.

Summary: Information is required to ensure that Rural Utilities Service and Rural Telephone Bank borrowers and grant recipients; inform architects, engineers, and contractors retained by such borrowers and grant recipients of the seismic safety requirements applicable to building construction projects.

Need and Use of the Information: Information is needed to clarify seismic safety requirements applicable to Rural Utility Service borrowers and grant recipients and inform architects, engineers, and contractors retained by RUS borrowers and grant recipients of seismic safety requirements applicable to building construction projects.

Description of Respondents: Business or other for-profit.

Number of Respondents: 100.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 200.

Larry K. Roberson,

Deputy Departmental Clearance Officer.

[FR Doc. 96–7571 Filed 3–27–96; 8:45 am]
BILLING CODE 3410–01–M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Telecommunications Act Accessibility Guidelines for Customer Premises Equipment and Telecommunications Equipment

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of intent to establish advisory committee.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) announces its intent to establish a Telecommunications Access Advisory Committee (Committee) to develop accessibility guidelines under the Telecommunications Act of 1996 and requests applications from interested organizations for representatives to serve on the Committee. The Committee will make recommendations to the Access Board on accessibility guidelines for telecommunications equipment and customer premises equipment.

DATES: Applications should be received by April 29, 1996.

ADDRESSES: Applications should be sent to the Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, D.C. 20004–1111. Fax number (202) 272–5447. Applications may also be sent via electronic mail to the Access Board at the following address: cannon@access-board.gov.

FOR FURTHER INFORMATION CONTACT: Dennis Cannon, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, D.C. 20004–1111. Telephone number (202) 272–5434 extension 35 (Voice); (202) 272–5449 (TTY). Electronic mail address: cannon@access-board.gov. This document is available in alternate formats (cassette tape, braille, large print, or computer disc) upon request.

SUPPLEMENTARY INFORMATION: On February 8, 1996, the President signed the Telecommunications Act of 1996. The Architectural and Transportation Barriers Compliance Board (Access Board) is responsible for developing accessibility guidelines in conjunction

with the Federal Communications Commission under section 255(e) of the Act for telecommunications equipment and customer premises equipment.[1]

The term "telecommunications equipment" is defined as equipment, other than customer premises equipment, used by a carrier to provide telecommunications services, and includes software integral to such equipment (including upgrades). Public Law 104–104, section 3(a)(2)(50). The term "customer premises equipment" is defined as equipment employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications. Public Law 104–104, section 3(a)(2)(38).

The Telecommunications Act requires the accessibility guidelines to be issued within 18 months after the date of enactment. The Board is also required to review and update the guidelines periodically. The Board's guidelines for telecommunications equipment and customer premises equipment are required to principally address the access needs of individuals with disabilities affecting hearing, vision, movement, manipulation, speech, and interpretation of information.

The Senate report to the Telecommunications Act directs the Board to develop its guidelines by involving parties affected by the law. "The Committee expects that manufacturers of equipment and providers of service will be fully included in this process." S. Rept. 104–23, at 53. Throughout the process of developing its guidelines, the Access Board, in conjunction with the Federal Communications Commission, intends to coordinate and consult with representatives of individuals with disabilities and interested telecommunications equipment and service providers to ensure that their concerns and interests are given full consideration in the rulemaking process.

The Access Board will begin the process of developing the accessibility guidelines by establishing a Telecommunications Access Advisory Committee. The establishment of the Committee is in the public interest and will support the agency in performing its duties and responsibilities under the Telecommunications Act of 1996. The Access Board believes that the Committee will facilitate the involvement of individuals with disabilities and telecommunications equipment and service providers in the development of the guidelines.

The Committee will make recommendations to the Access Board on issues such as:

- Types of equipment to be covered by the guidelines;
- Barriers to the use of such equipment by persons with disabilities affecting hearing, vision, movement, manipulation, speech, and interpretation of information;
- Solutions to such barriers, if known, categorized by disability (different solutions may be needed for different disabilities) and research on such barriers; and
- Contents of the guidelines.

The Committee will be expected to present a report with its recommendations to the Access Board within six months of the Committee's first meeting. The Access Board requests applications from organizations representing the following interests for membership on the Committee:

- Manufacturers of telecommunications equipment and customer premises equipment;
- Manufacturers and developers of peripheral devices or specialized customer premises equipment commonly used by individuals with disabilities to achieve access;
- Organizations representing the access needs of individuals with disabilities affecting hearing, vision, movement, manipulation, speech, and interpretation of information;
- Telecommunications providers and carriers;
- Developers of telecommunications software; and
- Other persons affected by these accessibility guidelines.

The number of Committee members will be limited to effectively accomplish the Committee's work and will be balanced in terms of interests represented. Organizations with similar interests are encouraged to nominate a single organization to represent their interest. Although the Committee will be limited in size, there will be opportunities for the public to present written information to the Committee, participate through the Internet and to comment at Committee meetings.

Applications should be sent to the Access Board at the address listed at the beginning of this notice. The application should include a statement of the organization's interests and the name, title, address and telephone number of the person who would represent the organization on the Committee. The application should also describe the person's qualifications, including any experience the person has had with making telecommunications equipment and customer premises equipment accessible to individuals with disabilities.

Committee members will not be compensated for their service. The Access Board may pay travel expenses for a limited number of persons who would otherwise be unable to participate on the Committee. Committee members will serve as representatives of their organizations, not as individuals. They will not be considered special government employees and will not be required to file confidential financial disclosure reports.

After the applications have been reviewed, the Access Board will publish a notice in the **Federal Register** announcing the appointment of Committee members and the first meeting of the Committee. The first meeting of the Committee is tentatively scheduled for June 10–12, 1996 in Washington, D.C. The Committee will operate in accordance with the Federal Advisory Committee Act, 5 U.S.C. app 2. Committee meetings will be held in Washington, D.C. Each meeting will be open to the public. A notice of each meeting will be published in the **Federal Register** at least fifteen days in advance of the meeting. Records will be kept of each meeting and made available for public inspection.

Judith E. Heumann,

Chairman, U.S. Architectural and Transportation Barriers Compliance Board.

[FR Doc. 96–7583 Filed 3–27–96; 8:45 am]

BILLING CODE 8150–01–P

[1] The Access Board is an independent Federal agency established by section 502 of the Rehabilitation Act of 1973, as amended, whose primary mission is to promote accessibility for individuals with disabilities. The Access Board consists of 25 members. Thirteen are appointed by the President from among the public, a majority of who are required to be individuals with disabilities. The other twelve are heads of the following Federal agencies or their designees whose positions are Executive Level IV or above: The Departments of Health and Human Services, Education, Transportation, Housing and Urban Development, Labor, Interior, Defense, Justice, Veterans Affairs, and Commerce; General Services Administration; and United States Postal Services.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–009]

Color Television Receivers, Except for Video Monitors, From Taiwan; Amended Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amendment to final results of antidumping duty administrative review.

SUMMARY: On July 11, 1995, in the case of *Zenith Electronics Corporation et. al. v. United States (Zenith)*, Consolidated Court No. 89–01–00011, the United States Court of International Trade (the Court) affirmed the Department of Commerce's (the Department) results of redetermination on remand of the results of the second administrative review of the antidumping duty order on color television receivers, except for video monitors (CTVs), from Taiwan.

EFFECTIVE DATE: March 28, 1996.

FOR FURTHER INFORMATION CONTACT: Maureen McPhillips or John Kugelman, Office of Antidumping Compliance, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., D.C. 20230, telephone: (202) 482–5253.

SUPPLEMENTARY INFORMATION

Background

On March 11, 1995, the Court ordered the Department to correct the clerical error resulting from the Department's failure to convert the amounts for Tatung's foreign inland freight expense from New Taiwan dollars to U.S. dollars before deducting this expense from the U.S. price. Pursuant to the Court's instructions, the Department corrected this clerical error and filed its redetermination on remand with the Court on June 26, 1995. On July 11, 1995, the Court affirmed the Department's results of redetermination on remand.

Final Results of Remand

As a result of the Department's conversion of the expense for Tatung's foreign inland freight from New Taiwan dollars to U.S. dollars, we have determined that the weighted-average dumping margin for Tatung for the period April 1, 1985 through March 31, 1986 is 2.18 percent.

Accordingly, the Department will determine, and the Customs Service will assess, antidumping duties on the appropriate entries of Tatung. The Department will issue appraisement instructions directly to the Customs Service.

This amendment of final results of review and notice are in accordance with section 751(f) of the Tariff Act of 1930, as amended (19 U.S.C. 1673 (d)) and 19 CFR 353.28(c).

Dated: March 14, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–7463 Filed 3–27–96; 8:45 am]

BILLING CODE 3510–DS–M

[A–122–820 (Lead Case Number); A–122–822; A–122–823]

Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada; Final Results of Antidumping Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Antidumping Duty Administrative Reviews.

SUMMARY: On August 16, 1995, the Department of Commerce (the Department) published the preliminary results of the administrative reviews of the antidumping duty orders on certain corrosion-resistant carbon steel flat products and certain cut-to-length carbon steel plate from Canada. These reviews cover five manufacturers/exporters of the subject merchandise to the United States and the period February 4, 1993, through July 31, 1994. We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments received, we have changed the results from those presented in the preliminary results of reviews.

EFFECTIVE DATE: March 28, 1996.

FOR FURTHER INFORMATION CONTACT: John Drury (CCC), Eric Johnson (Dofasco/Sorevco), Stephen Jacques (Manitoba Rolling Mills), Jim Rice (Algoma), Gerry Zapiain (Stelco), or Jean Kemp, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–3793.

SUPPLEMENTARY INFORMATION:

Background

On August 16, 1995, the Department published in the **Federal Register** (60 FR 42511) the preliminary results of the administrative reviews of the antidumping duty orders on corrosion-resistant carbon steel flat products and certain cut-to-length carbon steel plate from Canada (60 FR 44162, August 25, 1995). The Department has now completed these administrative reviews in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Applicable Statute and Regulations

Unless otherwise stated, all citations to the statute and to the Department's regulations are references to the provisions as they existed on December 31, 1994.

Scope of this Review

The products covered by these administrative reviews constitute two separate "classes or kinds" of merchandise: (1) certain corrosion-resistant steel and (2) certain cut-to-length plate.

The first class or kind, certain corrosion-resistant steel, includes flat-rolled carbon steel products, of rectangular shape, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule (HTS) under item numbers 7210.31.0000, 7210.39.0000, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.60.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.1000, 7210.90.5000, 7210.90.9000, 7212.21.0000, 7212.29.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7212.60.0000, 7215.90.1000, 7215.90.5000, 7217.12.1000, 7217.13.1000, 7217.19.1000, 7217.19.5000, 7217.22.5000, 7217.23.5000, 7217.29.1000, 7217.29.5000, 7217.32.5000, 7217.33.5000, 7217.39.1000, and 7217.39.5000. Included are flat-rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been worked after rolling)—for example, products which have been beveled or rounded at the edges. Excluded are flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead ("terne plate"), or both

chromium and chromium oxides ("tin-free steel"), whether or not painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating. Also excluded are clad products in straight lengths of 0.1875 inch or more in composite thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness. Also excluded are certain clad stainless flat-rolled products, which are three-layered corrosion-resistant carbon steel flat-rolled products less than 4.75 millimeters in composite thickness that consist of a carbon steel flat-rolled product clad on both sides with stainless steel in a 20%–60%–20% ratio. These HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The second class or kind, certain cut-to-length plate, includes hot-rolled carbon steel universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 millimeters but not exceeding 1,250 millimeters and of a thickness of not less than 4 millimeters, not in coils and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain hot-rolled carbon steel flat-rolled products in straight lengths, of rectangular shape, hot rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 millimeters or more in thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the HTS under item numbers 7208.31.0000, 7208.32.0000, 7208.33.1000, 7208.33.5000, 7208.41.0000, 7208.42.0000, 7208.43.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.11.0000, 7211.12.0000, 7211.21.0000, 7211.22.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, and 7212.50.0000. Included are flat-rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been worked after rolling)—for example, products which have been beveled or rounded at the edges. Excluded is grade X–70 plate. These HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The periods of review (POR) are February 4, 1993, through July 31, 1994.

VAT Tax Methodology

In light of the Federal Circuit's decision in *Federal Mogul* v. *United States*, CAFC No. 94–1097, the Department has changed its treatment of home market consumption taxes. Where merchandise exported to the United States is exempt from the consumption tax, the Department will add to the U.S. price the absolute amount of such taxes charged on the comparison sales in the home market. This is the same methodology that the Department adopted following the decision of the Federal Circuit in *Zenith* v. *United States*, 988 F. 2d 1573, 1582 (1993), and which was suggested by that court in footnote 4 of its decision. The Court of International Trade (CIT) overturned this methodology in *Federal Mogul* v. *United States*, 834 F. Supp. 1391 (1993), and the Department acquiesced in the CIT's decision. The Department then followed the CIT's preferred methodology, which was to calculate the tax to be added to U.S. price by multiplying the adjusted U.S. price by the foreign market tax rate; the Department made adjustments to this amount so that the tax adjustment would not alter a "zero" pre-tax dumping assessment.

The foreign exporters in the *Federal Mogul* case, however, appealed that decision to the Federal Circuit, which reversed the CIT and held that the statute did not preclude Commerce from using the "*Zenith* footnote 4" methodology to calculate tax-neutral dumping assessments (*i.e.*, assessments that are unaffected by the existence or amount of home market consumption taxes). Moreover, the Federal Circuit recognized that certain international agreements to which the United States is a party, in particular the General Agreement on Tariffs and Trade (GATT) and the Tokyo Round Antidumping Code, required the calculation of tax-neutral dumping assessments. The Federal Circuit remanded the case to the CIT with instructions to direct Commerce to determine which tax methodology it will employ.

The Department has determined that the "*Zenith* footnote 4" methodology should be used. First, as the Department has explained in numerous administrative determinations and court filings over the past decade, and as the *Federal Circuit* has now recognized, Article VI of the GATT and Article 2 of the Tokyo Round Antidumping Code required that dumping assessments be tax-neutral. This requirement continues under the new Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade. Second, the URAA (Uruguay Round Administrative Action) explicitly amended the antidumping law to remove consumption taxes from the home market price and to eliminate the addition of taxes to U.S. price, so that no consumption tax is included in the price in either market. The Statement of Administrative Action (p. 159) explicitly states that this change was intended to result in tax neutrality.

While the "*Zenith* footnote 4" methodology is slightly different from the URAA methodology, in that section 772(d)(1)(C) of the pre-URAA law required that the tax be added to United States price rather than subtracted from home market price, it does result in tax-neutral duty assessments. In sum, the Department has elected to treat consumption taxes in a manner consistent with its longstanding policy of tax-neutrality and with the GATT.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received comments and rebuttal comments from Algoma Steel Inc. (Algoma), Continuous Colour Coat (CCC), Dofasco Inc./Sorevco, Inc. (Dofasco), Manitoba Rolling Mills (MRM), Stelco Inc. (Stelco), exporters of the subject merchandise, (respondents), and from Bethlehem Steel Corporation, U.S. Steel Group a Unit of USX Corporation, Inland Steel Industries, Inc., Gulf States Steel Inc. Of Alabama, Sharon Steel Corporation, Geneva Steel, and Lukens Steel Company, petitioners. At the request of petitioners, the Department held a hearing on September 29, 1995.

Algoma

Comment 1: Algoma argues that the Department's margin program fails to weight-average all appropriate "most similar" matches where there is no identical home market sale to match to a U.S. sale. Algoma's contention is that the computer program ignores all but the last possible "most similar" match, and then matches that individual similar home market sale to the U.S. sale. Respondent argues that the Department should modify the program so the appropriate "most similar" matches are weight-averaged prior to comparison to a U.S. sale.

Department's Position: The Department agrees with respondent. It is our standard practice to weight-average the most similar matches and we have corrected our calculations for the final results accordingly.

Comment 2: Algoma produces subject merchandise on two rolling mills, a 166" mill and a 106" mill. Algoma reported rolling costs only for the 166" mill, citing the limitations of its accounting system and other factors. Petitioner disagrees with this methodology, and objects to the Department's use of certain information presented by Algoma to the Department at verification. Petitioner's and respondent's arguments regarding the various aspects of this issue, as well as the Department's positions, are found below.

Petitioners contend that even though Algoma acknowledges producing subject merchandise on its 106" plate mill, it did not submit this mill's cost information as part of its response to the Department's COP/CV questionnaire, but rather, only submitted cost information for its 166" plate mill. Petitioners argue that Algoma failed to provide actual manufacturing cost information as required by the Department's instructions. Compounding this failure to report all relevant production costs, petitioners contend that Algoma's presentation of new factual information regarding the 106" mill at verification was improper and untimely. Petitioners argue that the deadline for submitting new information was March 7, 1994, a full six weeks prior to the presentation of this new information at verification. In addition, it is argued that the Department's practice, as explained in *Calcium Aluminate Cement, Cement Clinker and Flux from France*, 59 FR 14136, 14140 (1994) has been to not permit the submission of new information at verification (other than minor corrections). Petitioners also cite *Mechanical Transfer Presses from Germany*, 59 FR 9958 (1994), *Photo Albums and Filler Pages from Korea*, 50 FR 43754 (1985) and *Steel Wire Rope from Taiwan*, 56 FR 46288 (1991).

Moreover, petitioners state that even if the Department does accept this new information, the information provided is of no use because it is based upon total production costs of the mill, not just the costs of producing the subject merchandise. As a result, the utility of this information is minimal, as there is no way, in the view of petitioners, to verify that the production costs of subject merchandise associated with the 106" mill are lower than the production costs of the 166" mill, as suggested by Algoma.

Because Algoma did not provide actual production costs as requested in the Department's questionnaire, and did not notify either petitioners or the Department of its failure to use its actual production costs, petitioners argue that the Department should apply total best information available (BIA). Short of that, petitioners suggest that since the 106" mill produces plate with a gauge less than 3/8" and less that 96" in width, all home market sales of material meeting these two physical criteria be deemed to be sold at below cost, and since a valid constructed value comparison would also be impossible, all matching identical and similar U.S. sales should be treated as BIA and be presumed to have been sold at below cost.

Concerning petitioners' contention that Algoma failed to report costs in accordance with the Department's questionnaire, Algoma asserts that it properly calculated a rolling cost for subject merchandise. Algoma contends that because its cost accounting system does not attribute costs of a particular process directly to different gauges of steel, it calculated the average cost per ton of the cost center producing the vast preponderance of the subject merchandise and attributed these costs to individual products. Algoma also argues that it possesses no records that would permit direct calculation of costs incurred at the 106" mill that relate only to subject merchandise.

Algoma argues that, as demonstrated at verification, the average rolling cost on the 106" mill is significantly less than that of the 166" plate mill, thus Algoma used the most conservative approach possible in determining the average rolling cost for subject merchandise. Algoma further argues that this cost information was an appropriate subject of verification. Finally, Algoma cites *Replacement Parts for Self-Propelled Bituminous Paving Equipment from Canada*, 58 FR 15481 (1993) and *Floral Trade Council of Davis Cal.* v. *U.S.* 775 F. Supp 1492, 1499 (CIT 1991) for the proposition that the Department may request information at any time during a proceeding. Thus Algoma disagrees with petitioner's allegations that Algoma's "Comparison of Costs" exhibit was new factual information presented at verification. Algoma considers this to be documentation supporting the accuracy and reasonableness of the information submitted and the methodologies employed by Algoma in preparing its questionnaire responses.

Finally, Algoma also takes exception to petitioner's suggestion that the Department resort to total BIA if it determines that Algoma's reported rolling cost data is not appropriate or reasonable. Algoma asserts that petitioners themselves acknowledge that the data available to Algoma pertaining to the 106" strip mill would not have been an appropriate basis for a COP response. Algoma believes that the approach it has adopted has been reviewed and verified by the Department, and represents a reasonable and conservative approach to account for the rolling costs that were incurred on the 106" mill.

Department's Position: We agree with respondents. Algoma has two rolling mills: a 166" mill and a 106" mill. While the 166" mill produces only subject merchandise, only a very small percentage of the merchandise produced on the 106" mill is subject merchandise (the rest being strip products too narrow to be included in the scope of this order). Further, an "overwhelming majority" of subject merchandise is produced on the 166" mill. The Department verified that Algoma could not separate the costs to produce different gauges of steel on the 106" mill, thus it could not specifically identify the cost to produce subject merchandise on that mill. Therefore, because subject merchandise produced on the 106" mill is a small percentage of the total quantity of subject merchandise produced, and because the average COP of the 106" mill is lower than the average of the 166" mill, the Department finds that it was reasonable for Algoma to use the COP of the 166" mill as the basis for the COP of all subject merchandise.

Algoma's reporting of rolling costs incurred at only one of its two manufacturing facilities is reasonable, considering (1) the nature of its cost accounting system, (2) Algoma's verified inability to determine specific rolling costs based upon the gauge of the material being manufactured at either facility, and (3) the conservative methodology adopted by Algoma. Algoma stated, and the Department verified, that Algoma is not capable of specifically determining direct calculation of rolling costs incurred at the unreported mill on a basis that would capture costs solely of subject material (which represents a small percentage of that rolling mill's production). The alternative methodology used by Algoma is reasonable.

The Department verified the soundness and reasonableness of Algoma's methodology of calculating rolling costs for all subject merchandise. As stated in the Department's verification report "Algoma demonstrated that costs at the 166" (plate mill) were significantly higher than at the 106" (strip) mill." Therefore, this information indicates that the use of the 166" mill costs was conservative.

The Department also notes, as did petitioners, that rolling cost data from the 106" strip mill was of limited utility because it is based upon total production costs and not just the costs of rolling the subject merchandise. Because of the limitations of Algoma's cost accounting system, this rolling cost data would have been an inappropriate basis for determining rolling costs for subject merchandise produced on the 106" strip mill.

In addition, the Department does not consider the rolling mill costs associated with the 106" strip mill we examined at verification to be new information. The Department's responsibility at verification is to verify the accuracy and completeness of the questionnaire response. In this case, Algoma had clearly stated on the record that the rolling costs it submitted to the Department, for a variety of reasons, reflected only those costs incurred at the 166" plate mill. Therefore, by verifying all the information available which pertained to the 106" strip mill, the Department was merely verifying the reasonableness and accuracy of a methodology Algoma had already reported.

Petitioners' citation to *Calcium Aluminate Cement, Cement Clinker and Flux from France* is not relevant here because that case refers to the presentation of new factual information and the Department's treatment of such information with regard to statutory deadlines. In this case, the new information at issue represents the type of supporting documentation which the Department routinely reviews during the course of a verification.

Petitioners reference to *Mechanical Transfer Presses from Germany* is not relevant here because in that instance, the respondent submitted unsolicited post-verification information which it was unable to provide during the actual verification. Petitioners also cite to *Photo Album and Filler Pages from Korea* and *Steel Wire Rope from Taiwan* to support their argument that new information presented at verification is unacceptable because such acceptance precludes the Department from a reasonable and thorough analysis of the information and denies petitioners their right to comment on such information prior to its acceptance. Again, however, the Department finds that the information reviewed at verification was not new information, but rather simply documentation supporting Algoma's contention that it was unable to report meaningful cost data on one particular rolling mill, that the vast majority of subject merchandise was produced on that mill and that the other mill's costs were significantly lower.

Finally, the Department agrees with Algoma that costs associated with movement to the 106" mill and with coiling and uncoiling were properly included in the average 106" mill costs which were compared to the 166" mill costs at verification.

Regarding petitioner's recommendation that the Department apply total BIA or, alternatively, partial BIA to material meeting the gauge and width criteria of subject merchandise rolled on the 106" strip mill, the Department finds that BIA is not appropriate in this circumstance where the respondent has provided complete information for the mill producing the vast majority of the subject merchandise and supporting documentation for its reported cost.

Comment 3: Petitioners object to Algoma's May 5, 1995, changes to its reported scrap revenue data. Petitioners contend that this new information is not supported by any verification documentation and is inconsistent with existing verification exhibits, and no Departmental request for a recalculation of scrap revenue exists on the record. Petitioners also argue that this new information is untimely.

Petitioners further note that although the Department did request that Algoma submit a revised cost tape following verification, the Department did not solicit any corrections regarding Algoma's reported scrap revenue data. Petitioners allege that Algoma submitted this new information without disclosing it to either petitioners or the Department. Petitioners contend that this inclusion of unsolicited data is improper and is in violation of 19 CFR 353.31(a)(i), which sets a deadline of seven days prior to verification for the submission of unsolicited factual information. Petitioners urge the Department to base its margin calculations on verified data only, citing *Light-Walled Welded Rectangular Carbon Steel Tubing from Argentina* (54 FR 13913), in which the Department was requested by respondent to verify a significant quantity of new information. In addition, in that case, respondent submitted an unsolicited revised response after the preliminary determination. All these factors resulted in the Department's use of total BIA because of the uncertainty of the veracity of the respondent's information.

Algoma contends that all the changes made by Algoma pursuant to the post-verification tape were disclosed to the Department. As explained at verification, Algoma identified a correction for yield loss for Algoma's No. 1 shearing line and reported this correction to the Department at the beginning of verification. This correction increased the calculated generation of scrap, which in turn increased the resulting scrap revenue data as a simple mathematical function (i.e., the higher the yield loss figure, the greater the amount of scrap that is generated and sold or recycled into the production cycle). Respondent holds that this is not "new information."

Algoma also contends that petitioners' allegation that this scrap revenue data is inconsistent with the cost verification exhibits and cannot be the product of the yield loss correction is without merit. According to Algoma, petitioners do not understand the scrap revenue calculation and the verification document they cite contains the erroneous data which Algoma later corrected. Algoma adds that petitioners' contention that all product categories should have been revised is incorrect, because only one particular line was affected by this correction.

Department's Position: We agree with respondent that the post-verification submission of information related to yield loss (based upon errors disclosed at the beginning of verification) and the resultant change in scrap revenue does not constitute new information, and is not a violation of 19 CFR 353.31(a)(i).

On April 28, 1995, Algoma filed a "Corrections Memorandum" with the Department, which indicated the errors Algoma discovered in its response during the process of preparing for its COP/CV verification. One of the errors discovered was an error in its calculation of yield loss for one of Algoma's production lines. The error, as verified by the Department, involved an understatement of yield loss, which Algoma corrected, pursuant to the Department's instructions following verification. As a result of this correction, in which the yield loss factor was increased, Algoma discovered that as a function of the yield loss correction scrap revenue was increased because the increased yield loss automatically increased the amount of imputed scrap generated, and thus increased Algoma's scrap revenue figure. For Algoma to have acted otherwise (i.e., to have corrected only the yield loss data without having corrected subsequent derivative information) would have been to knowingly submit erroneous data to the Department, and the Department would have had to request a correction.

In addition, petitioners' reference to *Light-Walled Welded Rectangular Carbon Steel Tubing from Argentina* is not directly relevant to this proceeding because the nature and extent of the respondents' revisions to their responses in that case (at verification and following the preliminary determination) are far in excess of any additional or new information presented by Algoma in the course of this administrative review.

Comment 4: Petitioners allege that Algoma submitted incorrect revised yield loss data for each of its general product categories, as the result of having based its calculation on the wrong yield loss per ton value. Petitioners contend that the correct way to calculate yield loss is to use the value of the loss at each production stage, in order to ensure that the total yield loss value actually reflects the value of the tonnage lost at each stage of production. According to petitioner, Algoma valued the tonnage lost at each production stage before it entered that production process, resulting in an understatement of the value of the total yield loss.

In addition, petitioners argue that Algoma's revised yield loss data is not supported by any documentation and that there is insufficient information on the record to correct for the understated yield loss values. Therefore, petitioners contend that to correct Algoma's misreported yield data, the Department should increase the yield loss amounts for Algoma's other product categories, as reported in their March 27, 1995 cost tape, to correspond to the increase reported by petitioners in their rebuttal brief.

Algoma argues that its revised yield loss figures are correct and that petitioners' arguments are based upon a misunderstanding of the methodology used by Algoma. Apparently, petitioners assume that the variable HRMYLD (plate rolling mill yield loss) contains not just the value of raw materials lost in later processes, but also reflects yield loss of labor and overhead costs added by later processes. In fact, the HRMYLD figure contains only losses in raw material (slab) value that is caused by product waste in downstream processes. Other yield losses are reported as labor, variable overhead, or fixed overhead losses. This reporting methodology was necessitated by the Department's requirement that costs be reported on a consistent basis, per ton of finished plate.

Department's Position: We agree with respondent. Through inspection of verification documentation, specifically, the slab-to-finished-plate-processing-cost sheet and Algoma's documentation supporting its calculation of scrap revenues, and the subsequent corrections submitted to the Department, the Department is satisfied that Algoma has properly reported correct yield loss data for its regular sheared plate.

Comment 5: Petitioner contends that Algoma's short-term interest expense was calculated using an incorrect short-term interest income offset. According to petitioners, two of the items used by Algoma to calculate its interest expense do not belong in the calculation because their interest revenues do not represent income earned from short-term investments of the company's working capital. See *Television Receivers, Monochrome and Color from Japan*, 56 FR 56189, 56192 (1991) (*Television Receivers from Japan*).

Specifically, Algoma has failed to demonstrate that there was (1) an "investment", (2) that if there was, that it was short-term, and (3) that if there was an investment, that it was related to the current operations of the company. See *Dynamic Random Access Memory Semiconductors of One Megabit and Above from Korea*, 58 FR 15467, 15473 (1993) (*DRAMS from Korea*). Petitioners also cite *Certain Hot-Rolled Carbon Steel flat products, Certain Cold-Rolled Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate from Canada*, 58 FR 37099, 37119 (1993), in which a respondent improperly offset interest expense against interest gained from settlement of a tax case.

Algoma asserts that it properly calculated its interest expense. Algoma contends that petitioners have misstated the law, and that the Court of International Trade has held that respondents may offset against interest expense company interest income "related to the general operations of the firm" (*Timken Company* v. *United States*, 852 F. Supp. 1040, 1048 (CIT 1994)). Additionally, it is the Department's practice "to accept a reduction of total interest expense by such short-term interest income because such income is earned from working capital, which by definition is related to manufacturing and sales operations." See *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts thereof from France*, 60 FR 10900, 10925–26 (1995) (*AFBs from France*).

Department's Position: We agree with respondent. Petitioners' citation to *Flat Rolled Steel from Canada* does not apply. In that case, the Department stated only that it agreed with petitioners' point that a manufacturing line's interest expense "should be included in the cost of production * * *." This comment did not address, nor did the Department's response address, the issue of appropriate interest offsets. Petitioners also cite *Television Receivers from Japan* and *DRAMS from Korea*. In *Television Receivers from Japan*, the Department stated that it would allow an offset to interest expense only with interest income from short-term investments of the company's working capital. However, we disagree with petitioners that methodology applies in this review because since that determination was published, the Department has expanded its view of what constitutes an appropriate offset to interest expense. In *DRAMS from Korea*, the Department stated only that such short-term investments must be "related to the current operations of the company." More recently, however, the Department stated in *AFB's from France*, that "the interest earned on short-term deposits, on advance payments to suppliers, and on late payments is derived from manufacturing and sales operations. The Department's practice is to accept a reduction of total interest expense by such short-term interest income because such income is earned from working capital, which by definition is related to manufacturing and sales operations. Therefore, we accepted the interest offset as reported by SNR." In light of these recent decisions of what constitutes an appropriate interest offset, the Department agrees with Algoma that it properly calculated its interest expense and that all its claimed offsets are allowable.

Comment 6: Petitioners contend that some of Algoma's product specifications and suggested model matches are incorrect. According to petitioners, Algoma made several errors in reporting technical properties in its suggested model match, and when corrected, it becomes clear that certain matches are incorrect.

Algoma argues that one of petitioners' proposed revised model matches is correct but that the other suggested match is less accurate than that originally submitted by Algoma, and that Algoma's original model matching hierarchy be used in that case.

Department's Position: The Department agrees with both parties that one model match modification suggested by petitioners is correct, and that model match is reflected in these final results. The Department also agrees with petitioner that the second disputed model match should be modified on the basis of petitioners' proposal, because the basis upon which Algoma determined the model match is not appropriate, according to the model match hierarchy as laid out in the Department's instructions. The Department agrees that the petitioners' proposed model match is a closer match

than that proposed by Algoma on the basis of comparable chemical characteristics. See also the Department's Analysis Memo.

Comment 7: Petitioners allege that Algoma's allocation of indirect selling expenses is incorrect and must be rejected. Specifically, it is alleged that Algoma failed to properly report its indirect selling expenses on a market-specific basis.

In calculating its indirect selling expense factors for each market, Algoma allocated a certain percentage of its indirect selling expenses exclusively to the home market, with the remainder allocated between markets, including its home market, based upon sales to the home market as a percentage of total sales. Algoma claimed it cannot separately identify U.S. specific indirect selling expenses from expenses related to other markets. Algoma's records indicate that these expenses were classified in six cost centers, four of which support sales in all markets and two supporting sales in Canada only. Thus, Algoma allocated the Canadian cost centers to the home market and the other four across all markets.

Petitioners argue that the record clearly indicates that there are market-specific selling expenses that Algoma could have reported on a market-specific basis (e.g., the "U.S. Sales Department") which Algoma combined with its indirect selling expenses to all markets. Petitioners argue that only the percentage of indirect selling expenses properly identified by Algoma as relating to the home market should be used in the calculation of home market indirect selling expenses, citing *Steel Jacks from Canada*, 50 FR 42577 (1985), wherein the Department denied respondent's allocation methodology because it was unable to provide any evidence separating certain selling expenses by product and market.

Algoma argues that its allocation of indirect selling expenses is correct given the constraints of its normal business procedures. As explained by Algoma in submissions and at verification, the "U.S. Sales Department" is, in fact, a misnomer. During the POR, this department consisted of one employee, who also had other responsibilities beyond those associated with sales to the United States. In addition, sales to the United States were also handled by other personnel. Consistent with this reality, Algoma does not treat this department as a separate cost center in the normal course of business and demonstrated this at verification. Instead, Algoma distinguishes between the costs of selling in the home market, and all other selling costs to all other markets, and costs in this second category are not, and cannot be, broken out among specific countries.

Department's Position: We agree with respondent. The Department verified each of Algoma's indirect selling cost centers, and we confirmed that although Algoma does maintain some information specific to home market, United States, and "off-Shore" sales (quantity, cost of sales, etc.), it does not maintain specific information on selling expenses for each of these three markets. Instead, it maintains some indirect selling expense information only for home market sales while other indirect selling expense information cannot be broken out by market. The former group was only attributed to the home market, while the latter was allocated over all three markets (home market, U.S., and off-shore). Thus the Department is satisfied that Algoma has allocated these indirect selling expenses as specifically as possible given the limitations of its business records. In addition, *Steel Jacks from Canada* is not applicable here because in that case, respondent was not able to demonstrate that these indirect selling expenses related "solely to sales in the Canadian market." In the case of Algoma, it has been able to identify and separate Canada-specific indirect selling expenses from "other market" selling expenses, and within the confines of Algoma's financial accounting system, has properly allocated its indirect selling expenses among all appropriate markets.

Comment 8: Petitioners allege that the margin program incorrectly defines U.S. Direct Expense (USDIREXP), and that it fails to include deductions for U.S. Duty and Brokerage expenses. In addition, the commission offsets are incorrectly defined. Algoma agrees with petitioners, and requests that the Department correct these errors in the final results of review.

Department's Position: We agree with both parties, and the corrections are reflected in the Department's final results.

CCC

Comment 9: In its response to the Department's questionnaire concerning the Model Match, CCC did not provide complete physical characteristics data for all sales. Petitioners assert that the Department erred in accepting incomplete data from respondent on physical characteristics for sales in both the U.S. and home markets. Petitioners further state that the use of these missing variables for the purposes of the model match is inconsistent with past practice and contrary to existing statute. Specifically, petitioners assert that 19 U.S.C 1677(16) requires comparisons with identical physical characteristics and that the Department's practice is not consistent with that requirement. In addition, petitioners believe that the methodology violates 19 U.S.C. 1677b(a)(4) in that no diffmers are used to adjust for potentially different physical characteristics. Petitioners insist that the Department use BIA in cases where sales are reported with missing physical characteristics values. Petitioners request that the Department apply either a regular second-tier BIA (the highest calculated rate in either the investigation or the review, 18.71%), or the highest non-aberrant margin found on any CCC sale.

Petitioners conclude that the Department must use BIA if the respondent is unable to provide the adequate information. By failing to report full product characteristics for a number of prime home market and U.S. sales, petitioners state that CCC made it impossible to accurately perform the model match with respect to these sales or to determine accurate costs of these products. Petitioners reason that the Department is required to use BIA whenever a party or any other person refuses or is unable to produce information requested in a timely manner and in the form required, or otherwise significantly impedes an investigation. Petitioners recommend that to ensure that respondents are encouraged to provide complete information, the Department should apply to the relevant transactions either the higher of a calculated margin found in the investigation or review, or the highest non-aberrant margin found on any CCC sale.

Respondents state that the law does not require identical matches to mean identical in every respect, and that the Department can make reasonable interpretations of the term "identical." In addition, respondents assert that petitioners have already accepted the proposition that the Department may depart from product matching criteria. To support this assertion, respondents note that the Department used the exact same methodology in its treatment of missing physical characteristics for seconds produced by Dofasco as outlined in a policy paper dated April 19, 1995, and that petitioners did not object to that policy. Respondents claim that the same policy is applicable to CCC.

Respondents also note that CCC is not a steel substrate manufacturer, but purchases substrate from others, and as such does not know many of the characteristics of the underlying substrate. In particular, CCC contends that substrate purchased from service centers often lacked specific physical characteristic information and that CCC was unable to obtain said information. CCC argues that its customers are unconcerned with many of the characteristics of the steel substrate which underlies its coated steel products.

Department's Position: We disagree with Petitioners. The Department has the authority to determine what merchandise qualifies as such or similar for the purposes of the statute. *United Engineering & Forging* v. *United States*, 779 F. Supp. 1375, 1380–82 (CIT 1991); *NTN Bearing Corp.* v. *United States*, 747 F. Supp. 726, 735–36 (CIT 1990); *Kerr-McGee Chem. Corp.* v. *United States*, 741 F. Supp. 947, 951–52 (CIT 1990); *Monsanto Co.* v. *United States*, 698 F. Supp. 275, 277–278 (CIT 1988); *Timken Co.* v. *United States* (Timken I), 630 F. Supp. 1327, 1338 (CIT 1986).

The market for the specific products manufactured by CCC is unlike the market for other corrosion-resistant steel products in certain respects. Because CCC's specialized customers are unconcerned with certain characteristics of the steel, CCC has no need to record these characteristics. Moreover, unlike other respondents, CCC does not manufacture steel substrate. Rather, it either paints or galvanizes substrate purchased from other sources. Therefore, for those sales with missing product characteristics, CCC does not possess, or cannot obtain, all of the product characteristics requested in the Department's model match criteria, since some of the criteria in question are only available to the original manufacturer of the substrate. Most importantly, however, because both CCC's U.S. and home market customers are unconcerned with the missing characteristics, there is no reason those characteristics should be used to determine which sales should be compared. Finally, the Department verified that the missing characteristics are not random in nature. Rather, CCC could not report specific sets of characteristics depending upon the type of seller of the original substrate (e.g. steel service centers). As such, the Department determines that any given set of missing characteristics in a sale are the result of a purchase from a particular type of seller of the substrate and not as a result of "selective reporting" by the respondent.

In light of the circumstances contained in this review, we believe that the Department's decision to accept a modified matching hierarchy for some sales is proper. The Department is using a similar modified hierarchy for the purposes of comparing certain of Dofasco's such or similar merchandise, in the same administrative review of carbon steel flat products from Canada. Specifically, the methodology used by the Department for CCC is similar to that used for the comparison of non-prime merchandise manufactured by a Dofasco (*See* Department of Commerce Memorandum, A–100–003, of April 19, 1995; "For those respondents unable to report the same product characteristics for seconds in both markets, the Department could simply drop the missing characteristics and compare products based on the same characteristics reported in both markets."). As with the market for CCC's coated products, the Department determined that the market for non-prime merchandise was highly specialized, and that, therefore, the standard hierarchy would require parties to report irrelevant characteristics (of which they were unlikely to maintain records) and would produce inappropriate matches. No interested party raised objections to the methodology for matching non-prime merchandise.

In its sales verification, the Department noted that CCC used available information to report type, process, metal, coating weight, thickness, width, and form. In addition, it reported quality, strength, temper rolling, and tension leveling for input coils purchased from Stelco. Stelco provided the reported information requested by CCC. During the verification, the Department confirmed that CCC did not possess the four characteristics previously mentioned for coil purchased from suppliers other than Stelco.

Petitioners cite the *Timken* case as support for their contention that the Department is compelled to use BIA in this case. However, the case in question differs from *Timken* in regard to the facts. In *Timken*, the court directed the Department to collect additional home market sales data from a previous review period which had already been completed. When it requested the additional data, the Department found that the company under review had already disposed of all of its home market data for the period and was unable to provide the necessary information, necessitating the use of BIA. Unlike the situation in *Timken*, CCC did not dispose of the relevant data, but rather had no reason to ever maintain such data. Thus, the use of BIA in this case is not warranted.

Comment 10: Petitioners protest the use of certain slitting expenses incurred by CCC in U.S. sales as an addition to Foreign Market Value. Petitioners claim that the Department should instead deduct the expenses from U.S. price. Petitioners cite 19 U.S.C. § 1677a(d)(2)(A), stating that "the statute requires that additional costs, charges and expenses incident to bringing the merchandise from the place of shipment in the country of exportation to the United States shall be deducted from U.S. price."

Department's Position: We disagree with Petitioners. Both CCC and Dofasco had U.S. sales which were slit in the U.S. by unrelated slitters. In both cases, the Department considered the sales to be purchase price sales, and not exporter sales price sales. The slitters in question were unrelated to the companies being reviewed. However, there were slight differences between CCC and Dofasco in terms of the structure of transactions performed by unrelated slitter. In the case of Dofasco, the customer designates the slitter to be used. The slitter invoices Dofasco, which then adds the amount of the charge, noted on a separate line of the invoice, to the price that it charges the customer for the un-slit steel. By contrast, CCC, chooses the slitter, which is a single non-related U.S. company. Furthermore, CCC does not separate the charges but instead includes them in the overall sales price. CCC finalizes the price prior to shipment into the U.S. and maintains a record of the expense charged to it by the slitter.

As a result, the Department simply disregarded the price for the slitting when identifying the price charged by Dofasco. For CCC, however, the slitting expense is a circumstance of sale expense for which the Department must make a circumstance of sale adjustment to FMV under section 773(a)(4).

Petitioners' reliance on section 772(d)(2)(A) is unwarranted. That provision deals with the deduction from USP of movement and related expenses (such as freight, brokerage, handling and port charges). Although the slitting expense was incurred prior to delivery to the customer, that fact alone does not make the expense a movement expense subject to 772(d)(2)(A).

Comment 11: Petitioners object to the Department's price adjustment methodology regarding credit and debit notes for sales in both the U.S. and Canadian markets. Specifically, Petitioners believe that the Department should not allocate such adjustments over multiple sales. Instead, the Department should tie said adjustments directly to specific sales and use BIA when these expenses cannot be tied to specific sales.

Respondents contend that both the Department's policy and various court decisions do not allow for the allocation of such expenses to unspecified invoices. In the case of CCC, however, respondent notes that the adjustments in question are directly related to a specific group of invoices. Therefore, the credit and debit notes are directly related to a set of sales, rather than one sale in particular or to all sales. As such, they meet the criteria of the Department for direct expenses.

Department's Position: While the Department prefers that discounts, rebates and other price adjustments be reported on a transaction-specific basis, the Department has long recognized that some price adjustments are not granted on that basis, and thus cannot be reported on that basis. However, the Department disagrees with CCC's argument that the debits and credits at issue were not granted on a transaction-specific basis. CCC issued the adjustments when a customer over- or under-paid a specific transaction. By including several invoices on the debit or credit note, CCC allocated the debit or credit over the transactions included on the note. Consequently, the debits and credits are transaction-specific but not invoice-specific.

Nevertheless, the Department does not agree with petitioners that this methodology is sufficient to warrant treatment of the adjustments as indirect expenses in the home market (or application of BIA in the U.S. market), under the policy discussed in *Antifriction Bearings (and Parts Thereof) from France*, 58 FR 39729, 39750 (1993), cited by petitioners. In that case, the Department contrasted transaction-specific reporting with customer- or product-specific reporting. In this case, the amount of the "allocation" is limited to a few specific transactions, all to the same customer, and typically within a very limited period of time. Thus the danger of allocation, which is the averaging effect on prices, is extremely limited in this case. This case is similar to situations, permitted by the Department as direct adjustments, in which a rebate is granted on a limited number of purchases by a single customer. Because CCC's method of reporting this transaction is reasonable, the Department has allowed it as a direct adjustment.

Dofasco/Sorevco

Comment 12: Respondents claim that the Department improperly reclassified certain home market rebates as post-sale price adjustments in the preliminary results. Dofasco states that, contrary to the Department's assertion, the record shows that the buyer was aware of the conditions to be fulfilled and the approximate amount of the rebates at the time of sale. Respondents also claim that there are no factual differences between the investigation and this administrative review concerning Dofasco's rebates. Finally, respondents assert that the antidumping law was never intended to be so rigid that memoranda or customer letters would be an insufficient basis to show previous knowledge. Therefore, Dofasco says that the Department should classify all of its home market rebates as rebates.

Petitioners assert that respondents have failed in each case to substantiate these home market rebates. For the first type of rebate, petitioners claim that respondents have stated for the record that in the majority of cases, documentation which the Department requested to illustrate "that their customer knew the conditions and terms of each rebate granted to the customer before the time of the sale" did not exist. Furthermore, even in the minority of cases where some documentation exists, such evidence does not demonstrate the necessary facts for the Department to classify such expenses as rebates. Likewise, for the other two types of rebates, the documentation Dofasco presents as evidence is, according to petitioners, insufficient proof that the customers were aware of the terms of sale and the amount of the rebates at or before the time the sale was made.

Department's Position: We agree with petitioners. First, the evidence to which respondents have pointed in their case brief in no way demonstrates that Dofasco's customers had knowledge of the terms and conditions of the rebates at or before the time of sale.

For Dofasco-reported REBATE1H, respondents have referred to an internal Dofasco memorandum stating the terms of the rebate for a future period. Respondents argue that, while this internal memorandum "may not constitute explicit customer notice," the fact that the customer had been receiving the rebate for some time previously was a clear indication that the customer knew of the rebate prior to sale.

In this case, respondents have implicitly acknowledged the inherent deficiency of this evidence: namely, that the document to which respondents refer is an *internal* memorandum, and thus by its nature cannot serve as evidence of the customer's prior awareness of the terms and conditions of the rebate. While the customer's receipt of this rebate over time may increase the likelihood that the customer may have expected to continue to receive this rebate, such a condition reflects at most the probability that Dofasco's "rebate" policy in this case represented its normal business practice. However, it does not constitute the customer's awareness of the rebate at or prior to the time of the sale.

Furthermore, respondents explicitly acknowledged during verification that "the majority of its rebate and pricing negotiations are completed over the phone and little written communication is exchanged between Dofasco and the customer." *See* Dofasco Sales Verification Report (May 5, 1995), at pg. 24. In fact, for REBATE1H we found no written communication proving prior customer awareness. In this respect, Dofasco's reference to the hand written notation in the example provided in their case brief is unpersuasive. Even presuming the individual in question is employed by the customer (for which we have no evidence), there is no indication when (or whether) the document was sent to the individual.

With regard to Dofasco-reported REBATE2H, respondents have also failed to provide adequate evidence proving prior customer awareness for the example cited. The letters from the customer to Dofasco to which respondents refer in their case brief show nothing about what the customer knew at the time of the sale. Finally, concerning Dofasco-reported REBATE3H, Dofasco's evidence suffers the same defect as REBATE1H: that is, the 1992 document provided as an attachment to respondents' case brief is an internal memorandum which fails entirely in proving the customer's prior awareness.

Second, the Department takes issue with respondents' claim that there are "no factual differences between the investigation and this administrative review" concerning Dofasco's rebates. In fact, it is precisely the factual, documentary difference between the LTFV investigation and this administrative review which has led the Department to its decision to disallow the treatment of these "rebates" as rebates for the Department's purposes. In the LTFV investigation, Dofasco was able to produce a certain type of document (an Allowance Approval Page) which proved that the customer was aware of the terms and conditions of these rebates at or before the time the sale was made. See, *Dofasco's Response to Sections B, C, and E of the Department's Questionnaire*, October 20, 1992, Appendix B–4. This Allowance Approval Page is absent from the record of this review.

Finally, concerning respondents' assertion that the antidumping law was never intended to be so rigid that memoranda or customer letters would be an insufficient basis to show previous knowledge, we stress that the Department's requirements in this regard are not arbitrary. The purpose of requiring respondents to prove that the buyer was aware of the conditions to be fulfilled and the approximate amount of the rebates at the time of the sale is to protect against manipulation of the dumping margins by a respondent once it learns that certain sales will be subject to review. See *Antifriction Bearings (other than Tapered Roller Bearings) and Parts Thereof from France (AFBs)*, 60 FR 10900, 10930 (February 28, 1995), which notes that the purpose of the rebate rule is to "prevent respondents, after they realize that their sales will be subject to administrative review, from granting rebates in order to lower dumping margins on particular sales." Hence, in order to circumvent any such *ex post facto* downward adjustments of foreign market value, the Department has established the evidentiary requirement of "prior knowledge". Therefore, the Department disallows these "rebates" as Departmentally-defined rebates for the period of review.

Comment 13: Petitioners argue that the Department should not treat Dofasco's home market rebates as post-sale price adjustments, because the Department has indicated that post-sale price adjustments are generally corrections to the price resulting from clerical or other data input errors. Moreover, petitioners assert that such a reclassification undermines the Department's policy of requiring a respondent to demonstrate that the rebate is justified. Therefore, petitioners conclude that Dofasco's claimed adjustments must be denied. Additionally, petitioners assert that even if the Department adjusts for Dofasco's rebates, it should not directly adjust for two types of "rebates" because Dofasco reported these on a customer-specific basis, and not on a transaction or product-specific basis.

Respondents argue that, even if the Department does not accept Dofasco's "rebates" as rebates (as defined by the Department), it must at a minimum accept them as post-sale price adjustments, since they reflect a respondent's normal business practice. Regarding the two types of "rebates" allegedly reported on a customer-specific basis, Dofasco claims that the Department verified that these rebates have been reported for each customer on a product-specific basis.

Department's Position: We agree in part with respondents. While petitioners have asserted that post-sale price adjustments are "generally corrections to the price resulting from clerical or other data input errors," they have failed to note that in the case from which they cite, the Department also allowed post-sale price adjustments which were *not* data input errors, because they reflected the respondent's "normal business practice." See *AFBs* at 10930. As Dofasco has argued, the post-sale price adjustments in this instance do reflect its normal business practice. The Department reviewed numerous documents at verification which confirmed this, and petitioners have not suggested otherwise. Additionally, although documentation regarding the administration of these "rebates" for this administrative review differs from the LTFV investigation, their existence since the beginning of the investigation indicates that the use of these "rebates" reflects Dofasco's normal business practice. Nevertheless, in *AFBs* (at 10929), the Department stated that "as a general matter, the Department only accepts claims for discounts, rebates and price adjustments as direct adjustments to price if actual amounts are reported for each transaction." The Department discovered at verification that for certain customers, for two types of Dofasco's claimed rebates (REBATE1H and REBATE2H), "Dofasco totaled the value of specific credit notes issued to a customer and allocated them over sales to that customer." Furthermore, Dofasco demonstrated at verification that it had "allocated rebates for a number of customers because the credit notes did not specify the invoices on which Dofasco granted the credit, and company officials noted that the invoicing department did not always identify correctly the specific product on which the credit was being granted." See *Verification Report* at 22. Thus, it is clear that these adjustments have often not been made on a transaction-specific basis, and the Department will, accordingly, treat them as indirect selling expenses for certain customers.

Finally, the Department disagrees with petitioners' assertion that reclassification undermines the Department's policy with respect to rebates. Rebates typically may be granted as a fixed and constant percentage of sales. The Department's policy is to treat them as direct adjustments if they are reported on that basis. *AFBs* at 10929. By contrast, post-sale price adjustments are usually granted on a transaction-by-transaction basis and, to qualify as direct adjustments, may only be reported on that basis.

Comment 14: Respondents state that the Department's preliminary results give the wrong impression concerning Dofasco's sales of secondary merchandise. Dofasco claims that it has informed the Department "since the beginning of the LTFV investigation" that it cannot properly identify all the product characteristics of secondary merchandise. Thus, Dofasco objects to the Department's alleged inference that Dofasco represented as accurate information certain product characteristics of its secondary merchandise.

Petitioners did not comment on this issue.

Department's Position: The Department has not stated at any time in this review that Dofasco has attempted to represent as complete information certain reported product characteristics for its sales of secondary merchandise. The evidence on the record of this review repeatedly confirms that Dofasco has consistently maintained it is unable to properly identify the product characteristics in question. See, *e.g., Response of Dofasco Inc. to Sections IV & V of the Department of Commerce's Antidumping Administrative Review Questionnaire*, pp. 15–17 of Section IV, (November 14, 1994); *Supplemental Response of Dofasco Inc. to Section III, IV, and V of the Department of Commerce's Antidumping Administrative Review Questionnaire*; pp. 21–25 (December 23, 1994); and *Response of Dofasco Inc. to Section III, IV, and V of the Department of Commerce's Antidumping Administrative Review Supplemental Questionnaire*, pg. 6 (February 22, 1995). Furthermore, the Department explicitly verified respondents' contention through a thorough review of Dofasco's records regarding secondary merchandise. See *Sales Verification Report* (May 5, 1995), pp. 8–10. The preliminary results of review merely confirm that the Department performed its model match on these six product characteristics (see also the Department's April 19, 1995 memorandum on secondary merchandise).

Comment 15: Respondents claim that the Department employed a methodology for adjusting for taxes which artificially inflates margins. Dofasco notes that 19 U.S.C. 1677a(d)(1988) of the statute requires the Department to adjust U.S.P. to take into account taxes that are levied upon

foreign market sales, but that are rebated or not collected upon export sales. Respondents argue that because the Department's tax methodology violates the United States' international obligation by increasing or creating dumping margins, the Department should adopt the tax-adjustment methodology upheld by the Court of Appeals in *Federal Mogul Corp.* v. *United States (Federal Mogul)*, 94–1097, –1104, at 20–21 (Fed. Cir. Aug. 28, 1995). Dofasco claims that the Court of Appeals specifically held that this U.S.P. tax-adjustment methodology is in accordance with the United States' international agreements and is reasonable.

Petitioners assert that respondents have improperly characterized the *Federal Mogul* opinion, and furthermore, that Dofasco's proposed alternative methodology would "artificially *deflate* the amount of cash deposits" (emphasis added). First, petitioners claim that the Court supported the Department's methodology in *Federal Mogul* as consistent with the express statutory language and "not an unreasonable position." Petitioners add that, even if the results are contrary to certain GATT provision, the Court noted in *Federal Mogul* that "in the event of a conflict between a GATT obligation and a statute, the statute must prevail." Therefore, the Court did not order the Department to utilize the methodology in *Federal Mogul* which respondents in this case now advocate. Instead, according to petitioners, the Court allowed the Department discretion to select a tax methodology such as the one used for the preliminary results here.

Second, petitioners argue that the utilization of Dofasco's proposed tax methodology would reduce the estimated duty deposit rate to a level below what it would be if no tax were imposed in the home market. Specifically, petitioners argue that Dofasco's approach, while creating an absolute dumping margin which is tax neutral, would deflate the *ad valorem* margin. Petitioners allege that this significant aspect of the methodology was not addressed by the Court of Appeals in *Federal Mogul*, and that "no court has ever suggested that it was Congress' intent to *diminish* the amount of cash deposit rate to the detriment of the domestic industries (emphasis original)."

Department's Position: In accordance with *Federal Mogul*, we have changed our VAT methodology (see VAT tax methodology section, above).

Comment 16: Petitioners claim that Dofasco used an improper methodology for calculating its product-specific cost of production (COP), constructed value (CV), and difference in merchandise (difmer) data. Petitioners argue that Dofasco did not calculate its costs using its entire production volume to calculate weighted-average costs per product, but rather used only production for home market sales orders to determine the cost of manufacturing (COM) for COP, and only its production for U.S. sales orders to determine its COM for CV. Furthermore, petitioners claim that Dofasco did not alert the Department in its response concerning its methodology.

Respondents claim that petitioners have misunderstood the cost methodology employed by Dofasco to calculate COP and CV. Respondents state that their calculation methodology is a two-step process. First, Dofasco calculates a per unit production cost based on total production of a Dofasco product. Dofasco then weight-averages all Dofasco products by the Department's control number and by production for sale in a particular market. Dofasco argues that this methodology is in accordance with the statute (19 U.S.C. 1677b(e) (1995) for CV and 19 U.S.C. 1677b(b) (1995) for COP) and in accordance with the Department's questionnaire instructions.

Department's Position: The Department agrees with respondent and considers Dofasco's COP/CV response to be in compliance with the statute and with the Department's questionnaire.

Petitioners' argument that Dofasco used an improper methodology in determining COP and CV for subject merchandise because it does not take into account all of Dofasco's production is incorrect. As documented at verification, Dofasco used costs based on total production (on a control number basis) to determine COP and CV figures.

In addition, as stated in the Department's questionnaire issued to Dofasco, COP represents "the total cost of production of each product sold in the home market/third country" and constructed value "is based upon the costs incurred to produce each product sold in the U.S. market, as if it had been sold in the home market." Thus, Dofasco's practice of basing COP and CV on home market sales and U.S. sales respectively is entirely consistent with the Department's practice and intent.

Comment 17: Petitioners claim that Dofasco failed to include third-country production in its weighted-average cost calculations. As a result, according to petitioners, there is no way for the Department to determine accurate product-by-product cost data.

Respondents claim that, as explained in Comment 16 above, the cost of manufacture for each product within a control number is based upon Dofasco's entire production volume of that product, regardless of where each individual production run of that product was sold.

Department's Position: As stated above, the Department verified that Dofasco used costs incurred in its total production (within each CONNUMH and CONNUMU) to determine the COP and CV of subject merchandise. Third country information was only disregarded when Dofasco weight-averaged its costs to determine U.S.-specific CV data and home market-specific COP data.

Comment 18: Petitioners claim that the reliability of Dofasco's COP data is compromised because Dofasco included in its calculations numerous sales orders where there was no cost for slab production, resulting in "understated" costs.

Respondents note that, for a small number of products, Dofasco inadvertently has not reported slab costs. Respondents maintain that this was a simple error arising from their presumption that there were no sales in 1994 of steel poured into ingots at Dofasco's ingot mill, which the Department verified had closed in the third quarter of 1993. Respondents argue that petitioners should have informed the Department of this error prior to petitioners' submission of their case brief, and that petitioners' failure to do so was a deliberate attempt to prevent respondents from presenting proof that the actual incidence of missing slab costs is insignificant.

Respondents add that, in the event Dofasco is not allowed the opportunity to correct this obvious error, the Department should adopt Dofasco's proposed methodology to correct this error, which Dofasco claims is adverse because it results in a certain increase in the cost data of all control numbers.

Department's Position: We agree with petitioners in part. Regardless of whether Dofasco's failure to report certain slab costs was an oversight, the Department is obligated to correct such errors. Because of the nature of this error, which prevented the Department from identifying which sales should have included slab costs, the Department has adopted the following methodology: the Department upwardly adjusted Dofasco's reported value for the control number which we verified, utilizing the weighted-average costs of slab production of all sales orders except those for which slab costs were clearly not included in reported production costs. Then, we applied to all control numbers, for both COP and CV purposes, the percentage difference between the upwardly adjusted value figure and the originally reported value figure as a partial BIA. Because of the limited nature of this error, and the fact that Dofasco has been cooperative, the Department does not believe that total BIA is appropriate.

Comment 19: Petitioners claim that the problems with Dofasco's cost data, as put forward in comments 16–18 above, also affected the difmer data to the point where such data is inaccurate and unreliable. Petitioners state that the data used to calculate COP, which it claims did not include certain slab cost data, were also used to calculate difmers. Additionally, petitioners argue that the difmers were calculated incorrectly for a significant number of CONNUMs where Dofasco sold the merchandise in both the home and U.S. markets. Finally, petitioners stress that the calculation of accurate difmer data is not possible because Dofasco ignored production for export to third countries in calculating COP, and there is no way to know whether all or only some CONNUMs are affected.

Respondents agree with petitioners that the cost data used to calculate the difmer should be based on both U.S. and home market cost data, but that, due to a programming error, this did not occur in "a few instances." Respondents argue that all the necessary information is currently on the record for the Department to recalculate difmers, and have provided the Department with proposed calculation strings and programming language to correct the data. Therefore, Dofasco asserts that there is no reason for the Department to resort to BIA.

Department's Position: The Department agrees with petitioners that Dofasco's reported difmer data is incorrect. However, the errors are obvious and were brought to the Department's attention in sufficient time for correction. Moreover, as noted by respondent, the Department does possess all the information necessary to correct this data. As a result, the Department corrected this data by using the computer code submitted by respondent. The Department has thoroughly reviewed this language and is satisfied that it fully corrects the difmer data.

Comment 20: Petitioners claim that respondents have under reported general and administrative costs by improperly deducting from its expense two items designated as "Reversal of Restructuring Costs." Petitioners assert that the Department is clear that such prior period reversals are not part of the current year's cost of production. Petitioners argue that the Department should add a certain percentage to Dofasco's COP and CV figures to compensate for this improper calculation.

Respondents argue that petitioners have been "inconsistent" on this issue between the LTFV investigation and this review. Respondents claim that, since the Department included the restructuring expenses (as ordinary expenses borne by the entire corporation) in their entirety as part of COP and CV in the LTFV investigation, the Department should now accept a prior period reversal of a portion of those original restructuring estimates. According to Dofasco, this approach would achieve consistency in the Department's treatment of these restructuring expenses, and would also coincide with the Department's "long-standing practice" of following the home country's generally accepted accounting principles.

Respondents further argue that petitioners' reliance on *Small Diameter Circular Seamless Carbon and Alloy Steel, Standard, Line and Pressure Pipe from Italy*, 60 FR 31981, 31987 (1995) is misplaced, because in that instance, the respondent attempted to benefit from a reversal during a POI of an expense prior to the POI.

Department's Position: The Department agrees with respondent. In the *Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, Certain Corrosion-Resistant Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate from Canada* (58 FR 37108), the Department agreed with petitioners that estimated expenditures related to restructuring should have been included in their entirety as part of COP and CV. In the investigation, these expenditures were on Dofasco's financial statements.

In the present review, Dofasco's financial statements include certain partial reversals of those earlier restructuring estimates. In order for the Department to be consistent and abide by its long-standing policy, it must also include these partial reversals in its calculation of COP and CV for Dofasco.

Comment 21: Petitioners note that Dofasco claimed a total of five levels of trade which consisted of distributors, known as service centers, and the following four categories of end-users: automotive, construction, converters, and manufacturers. Petitioners claim that the Department should reject Dofasco's claim that its end-user customers comprised four distinct levels of trade and that Dofasco has not proved distinct selling functions for the reported total of five levels of trade. Petitioners argue that the Department should disallow respondents' claim of different levels of trade within one general category because it is contrary to Departmental practice. Petitioners claim further that any differences pointed to by Dofasco among its purported levels of trade predominantly concern quantities purchased, not function. Petitioners argue that the Department has emphasized in the past that such differences do not warrant distinct level of trade treatment. Finally, petitioners claim that the analysis provided by respondents attempting to show a correlation between price and selling expenses on the one hand and levels of trade on the other is flawed and meaningless. Thus, petitioners state that the Department should allow only two levels of trade: Distributors and end-users.

Respondents note that the Department calculated its dumping margin in the final determination of the LTFV investigation based on its five reported levels of trade, which the Department verified. According to respondents, because the Department has verified these same five levels of trade in this review, and "*nothing* has changed" since the investigation regarding Dofasco's levels of trade, a Departmental decision to collapse Dofasco's levels of trade would "constitute a change of policy * * * from the investigation," and that an agency must present an adequate basis for a policy change in such a situation. Moreover, respondents assert that the Department has differentiated among end-users in past cases. Finally, respondents claim that there were no meaningful methodological errors in its analysis of price and selling expenses by trade level, and that the record shows that Dofasco's prices indeed vary by level of trade for each particular product group.

Department's Position: In asking for level of trade information, the Department attempts to determine where in the distribution chain the respondent's customer falls (end-user, distributor, retailer). Thus, "comparisons are made at distinct, discernible levels of trade based on the function each level of trade performs, such as end-user, distributor, and retailer." See *Certain Carbon and Alloy Steel Wire Rod from Canada* ("*Wire Rod from Canada*"), 59 FR 18791, 18794 (April 20, 1994) (Import Administration Policy Bulletin 92/1 (July 29, 1992)).

In this case, Dofasco has reported separate levels of trade among four types of end-users: that is, Dofasco claims that, while all four types of end-users occupy the same spot on the distribution chain, the differences among these end-users are significant enough that the Department would be mistaken to conduct its model match if they were aggregated into one end-user level.

However, the Department normally disallows a respondent's claim of different levels of trade within one general category. See *Disposable Pocket Lighters from Thailand*, 59 FR at 53415, and *Disposable Pocket Lighters from Thailand*, 60 FR 14263, 14264 (final determination) (March 16, 1995). We note that, in its divisions among end-users, the only characteristics of each of these end-users about which Dofasco uniformly informed the Department were quantities and the customer's end-products. This represents the type of information which the Department highlighted as being inadequate in *Wire Rod from Canada* (59 FR at 18794).

In this respect, the Department notes that Dofasco has referred to a case (*Limousines from Canada*, 55 FR 11036, 11039 (1990)), in which two end-users were differentiated due to differences in volume purchased, lower prices, and different sales resources. With regard to quantities purchased, it is noteworthy that the decision in *Limousines from Canada* predates *Wire Rod from Canada* by four years, and as such does not reflect current Department policy with regard to quantities purchased. Moreover, there is no discussion on the record of this review confirming price differentials among construction, converter, and manufacturing end-users. Finally, regarding sales resources, the Department found at verification that Dofasco's construction and manufacturing customers are served by the same sales division, and Dofasco has not set up a sales division to service only its converter customers as it has done, for example, for its automotive customers.

Dofasco also points to *Stainless Steel Bar from Spain*, in which Dofasco maintains that "the Department separated end-user customers into two levels of trade because the characteristics of those customers were significantly different." See *Stainless Steel Bar from Spain*, 59 FR 66931, 66937 (December 28, 1994). In fact, in its discussion Dofasco omitted a crucial distinction between the end-users in the case of *Stainless Steel Bar from Spain*: namely, one set of end-users purchased through one distribution channel (direct from factory), while the other group of end-users made its purchases through a different distribution channel (from related service centers).

Nevertheless, Dofasco did report significantly more information regarding its sales to the automotive industry than it has for its sales to converters and manufacturers. This information includes a differentiated sales process (through a wholly-owned subsidiary), early vendor involvement, the presence of long-term requirements contracts, and generally lower prices. Together, such distinct and discernible functions represent exactly the sort of evidence which serves to distinguish sales to automotive manufacturers from sales to other customers, notwithstanding petitioners' contention regarding the methodological integrity of Dofasco's analysis of price and selling expenses. Moreover, the Department acknowledged in its questionnaire the uniqueness of automotive manufacturers as steel industry customers. Specifically, the computer field CUSTOMER CATEGORY/LEVEL OF TRADE (CUSTLOT) stated that respondents should "(s)how a different code for each of the basic types of customers to whom you sell the merchandise, *e.g.*, auto manufacturers, steel service centers, etc..." (emphasis added).

Finally, with regard to Dofasco's assertion that a Departmental decision to collapse Dofasco's levels of trade would constitute a change of policy from the investigation, and that "an agency must present an adequate basis for a policy change" (see *British Steel, Plc* v. *United States*, 879 F. Supp. 1254, 1307 (Ct. Int'l Trade 1995), citing *Secretary of Agric.* v. *United States*, 347 U.S. 645, 653–54, 74 S.Ct. 826, 832, 98 L.Ed. 1015 (1954)), the LOT issue addressed in this review was not brought to the Department's attention in the investigation and the Department is not precluded from making a determination on that issue in this administrative review. Neither petitioners nor respondents briefed the issue in the investigation. Each segment of a proceeding (*e.g.* investigations and review) forms a separate administrative record about which parties may raise issues before the Department and seek judicial review.

The Court's decision in *British Steel, Plc* v. *United States* cited by respondents is inapposite to the present case. The British Steel decision addressed a situation where the Department changed an explicitly stated policy between two segments of a proceeding. The issues raised by Petitioners in this proceeding concern the proper treatment of LOT in light of the facts presented and the Department's current policy.

Consequently, in accordance with standard practice, the Department has determined that Dofasco's three reported levels of trade "construction", "converter", and "manufacturer" are combined into one end-user level of trade. We have treated the automotive sector as a separate level of trade for the following reasons: a differentiated sales process (through a wholly-owned subsidiary), early vendor involvement, the presence of long-term requirements contracts, and generally lower prices.

Comment 22: Petitioners assert that, for one term of sale, the Department should include freight revenue to Dofasco in gross unit price and should deduct reported freight rates. Petitioners note that Dofasco did not supply actual freight rates, and that Dofasco acknowledged that in certain cases it did not pay the same amount for freight as the amount charged by Dofasco to its customers. Therefore, petitioners claim that the Department should add freight paid in certain sales, and deduct reported minimum freight for that destination in the home market, and add freight paid in certain United States sales while deducting maximum freight for that destination. Additionally, petitioners claim that an adjustment should also be made to net price for the purposes of the cost test, but that the application of the maximum freight rate (instead of the minimum) should be used as BIA.

Respondents argue that the Department properly accepted the freight amounts charged to Dofasco's customers for one term of sale. First, respondents state that there existed no requirement that Dofasco report actual freight charges. According to respondents, such a requirement would have imposed an unreasonable burden. Second, respondents stress that the Department has no reason to believe that the amounts charged to Dofasco's customers for these sales do not "reasonably approximate" Dofasco's actual freight expenses. Finally, respondents assert that petitioners have not indicated how differences between reported freight expenses and minimum/maximum freight rates charged are in any way significant.

Department's Position: In reporting its freight expenses, Dofasco Inc. has used an allocative methodology because, as the Department verified, the carrier invoices Dofasco for this term of sale for a group of shipments, as opposed to individual sales orders. Because (1) it would impose a heavy burden on respondents to report actual freight charges; (2) the terms of the questionnaire did not prohibit the use of an appropriate allocative methodology in determining freight expenses; and (3) the Department has consistently allowed the use of reasonable allocative methodologies in reporting freight expenses (See, *e.g.*, *Small Diameter Circular Seamless Carbon and Alloy Steel, Standard, Line and Pressure Pie from Italy*, 60 FR 31981, 31987 (June 19, 1995), and *Oil Country Tubular Goods from Korea* ("*OCTG from Korea*"), 60 FR 33561, 33563 (June 28, 1995)), the Department agrees with respondent that respondent's use of allocations for the values reported for freight expense, (*i.e.*, the amounts charged by Dofasco to its customers) is acceptable and we determine that the use of this allocation methodology does not cause inaccuracies or distortions.

Nevertheless, the Department notes that Dofasco reported and the Department verified: (1) The amount Dofasco charged its customer on the invoice and the amount the customer paid Dofasco; and (2) the minimum freight rate charged by the carrier to Dofasco per destination for the home market, the maximum freight rate charged by the carrier to Dofasco per destination for the United States market, and the actual amount Dofasco paid the carrier. The reported minimum freight rates charged by the carrier to Dofasco in the home market reflect the minimum amount to be deducted from foreign market value. Therefore, the Department verified that Dofasco would have lowered its FMV (thereby lowering its margin) had it been able to report actual freight charged by the carrier to Dofasco, because the Department verified that in fact, Dofasco was always charged a higher rate by the carrier in the home market. Similarly, the reported maximum freight rates charged by the carrier to Dofasco in the U.S. market reflect the maximum amount to be deducted from U.S. price. Hence, the Department verified that Dofasco would have raised its USP (thereby lowering its margin) had it been able to report actual freight charged by the carrier to Dofasco, because the Department verified that in fact, Dofasco was always charged a lower rate by the carrier in the U.S. market.

The Department verified that differences between reported freight expenses and minimum/maximum freight rates charged are indeed significant (see, *e.g.*, Dofasco Sales Verification Report, May 5, 1995, pg. 21), and thus, contrary to respondents' assertion, the Department has adequate reason to believe that the amounts charged to Dofasco's customers for these sales do not reasonably approximate what Dofasco actually paid the carrier.

Regarding petitioners' claim that an adjustment should also be made to net price for the purposes of determining whether certain sales have been made below the cost of production, but that the application of the maximum freight rate (instead of the minimum) should be used as BIA (thereby increasing the likelihood that a sale would fail the cost test by deducting a greater amount from the sale's gross unit price), the Department agrees with petitioner that some form of BIA should be used. However, petitioners' proposal in this situation, in which Dofasco has cooperated fully with the Department and has provided extensive information for the record of this review, is not appropriate. Petitioners have proposed that the Department adjust upward Dofasco's minimum freight rate per home market destination by the highest percentage difference between minimum and maximum freight rates for any home market destination. Instead, the Department determines that the percentage difference between minimum and maximum freight rates for the most popular home market destination for this term of sale should be used to upwardly adjust minimum freight rates for all home market destinations. The resulting BIA rate shall be applied to upwardly adjust the minimum freight charged to Dofasco by the carrier for home market sales for the purposes of calculating net price for the cost test.

Therefore, for one term of sale, the Department will add freight paid to Dofasco by the customer and deduct reported minimum freight paid by Dofasco to its carrier for that destination in the home market, and add freight paid to Dofasco by the customer while deducting maximum freight paid by Dofasco to its carrier for that destination in the United States.

Comment 23: Petitioners argue that the Department must deduct estimated antidumping duties paid by the respondent or related parties from U.S. price. Section 772(d)(2)(A) states that the purchase price and exporter's sales price shall be reduced by United States import duties. According to petitioners, antidumping duties are "incident to bringing the subject merchandise from the place of shipment in the country of exportation to the place of delivery in the United States" and are therefore properly classified as import duties. Furthermore, petitioners claim that antidumping or countervailing duties are considered "import duties" in trade laws unless the provision specifically indicates otherwise.

Respondents rebut petitioners' assertion by noting that the Department, the courts, and the U.S. Congress have rejected petitioners' argument. Dofasco stresses that petitioners have cited "no legal or other authority whatsoever" to support their argument. Respondents assert that Congress did not intend for the antidumping law to operate in the manner proposed by petitioners; that furthermore, Congress explicitly rejected such a treatment in drafting the Uruguay Round trade negotiations implementing legislation; and that to follow petitioners' proposal would result in a geometric and infinite margin inflation. Additionally, respondents have only paid "*estimated duty deposits*," and not actual antidumping duties. Therefore, respondents claim that the U.S. Court of International Trade has agreed with the Department's practice of refusing to deduct estimated antidumping duty deposits in calculating margins for a given period of review.

Department's Position: While section 772(d)(2)(A) requires the deduction of normal "import duties," cash deposits of estimated antidumping duties are not normal import duties, and do not qualify for deduction under section 772. Contrary to petitioners' argument, the CIT in *Federal-Mogul* v. *United States* 813 F. Supp. 856, 872 (CIT 1993), recognized that the actual amounts of normal duties to be assessed upon liquidation are known because they are based upon rates published in the Harmonized Tariff Schedule and the actual entered value of the merchandise. In contrast, deposits of estimated antidumping duties are based upon past dumping margins and may bear little relation to the actual current dumping margin. Thus, the CIT recognized the distinction between estimated antidumping duties and "normal" import duties for purposes of section 772(d)(2)(A).

Petitioners' methodology also conflicts with the holding of the CIT in *PQ Corp.* v. *United States*, 652 F. Supp. 724 (CIT 1987), in which the court addressed the issue of deduction of estimated antidumping duties under section 772(d)(2)(A). The court cited with approval the Department's policy of not allowing estimated antidumping duties, based upon past margins, to alter the calculation of present margins. The court explained "[i]f deposits of estimated antidumping duties entered into the calculation of present dumping margins, then those deposits would work to open up a margin where none otherwise exists." *Id.* At 737.

Petitioners argue at length that the Department should not distinguish

between purchase price and ESP transactions in deducting antidumping duties. However, because the Department does not deduct estimated antidumping duties from any transaction, this argument is inapposite.

The Department agrees with petitioners that statements made in the URAA are not relevant in this review, which is being conducted under pre-URAA law. However, the policies of other countries, cited by petitioners with respect to this issue, are equally irrelevant.

Comment 24: Respondents claim that the Department made a clerical error in its computer program on an inland freight charge for a U.S. sale.

Petitioners claim that the Department made clerical errors in the computer program by: failing to include the further processing field in the U.S. price calculation; failing to deduct a U.S. rebate from U.S. price; improperly classifying U.S. duty and brokerage as U.S. direct expenses instead of movement expenses; and double-counting one home market rebate.

Respondents agree with petitioners' identified clerical errors. Petitioners did not comment on respondents' identified clerical errors.

Department's Position: We acknowledge the clerical errors which both parties have identified, and have corrected them for our final results of review.

MRM

Comment 25: MRM contends that the Department's preliminary results contained a ministerial error affecting its treatment of VAT as it relates to U.S. sales. MRM asserts that the Department should multiply U.S. Price by 1.07 to account for the seven percent VAT tax which should be added to U.S. price.

Petitioner agrees with MRM but argue that a similar error was made affecting FMV.

Department's Position: The Department disagrees with both petitioners and respondents. In response to *Federal Mogul* v. *United States*, we have changed our VAT methodology in a manner not addressed by either party. See the VAT tax methodology section, above.

Comment 26: Petitioners contend that MRM has not substantiated its reported rebate expense by failing to demonstrate that the rebates were contemplated at the time of sale, and that (with one exception) MRM did not have any written rebate agreements with any of its customers. In support for their position, petitioners cite *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Final Results of Antidumping Duty Administrative Reviews*, 60 FR 10900, 10930 (February 28, 1995). In addition, Petitioners allege that there is no documentary evidence of MRM's reported "rebate program." Given the average value of these "rebates", Petitioners argue that the Department should not grant any adjustment to MRM's FMV (with the exception of the one customer who had a written agreement with MRM).

MRM contends that it has satisfied the legal criteria for establishing that the Department should adjust FMV for rebates. MRM holds that it has established that the rebates are directly related to the sales under consideration by tying them directly to sales invoices and making reference to them on the invoice. In addition, MRM states that the Department conducted sales traces at verification that established that MRM paid the rebates and the documentation noted that the rebates were either customer or product specific in nature. MRM also argues that these rebates are fixed and determinable at the time of sale, and that it is a demonstrable business practice of MRM to offer these rebates.

Department's Position: We agree with petitioners that MRM failed to demonstrate that the rebates were contemplated at the time of sale. At verification, we confirmed that in the normal course of business, MRM normally made verbal agreements over the telephone with its customers concerning rebates. Only one of MRM's customers had a written rebate agreement. At verification, we examined documentation for MRM's one customer that had a written rebate agreement. We found that the agreement stated MRM's rebate program for the upcoming year, the rebate amount and the minimum purchase necessary to qualify for the rebate.

For the rebates where there were verbal agreements, we examined correspondence between MRM and its customers. These letters indicated the amount of sales on a monthly basis, the amount of the rebate earned and method of MRM's payment of the rebate to the customer. However, the correspondence from MRM to its customers fail to indicate what the customer knew at the time of the sale. In addition, MRM stated during verification that "[i]n most cases there is no written agreement but there are verbal agreements between MRM and its customers. Negotiations and inquiries over MRM's rebate program are usually conducted over the telephone. MRM stated that it does not usually send a confirmation letter to its customers." See MRM Sales Verification Report (May 5, 1995), at pg. 14. With regard to MRM's rebates, respondent has failed to provide adequate evidence proving prior customer awareness for the claimed rebate.

As we stated in our position in Comment 13 concerning Dofasco's rebates, the Department allows post-sale price adjustments that reflect the respondent's "normal business practice." The Department found that MRM's "rebate" program is part of the company's "normal business practice." As the Department reviewed numerous documentation at verification that confirmed that MRM did pay the "rebate" amount claimed in the response, and as we tied the payments to the sale of subject merchandise, we will reclassify MRM's rebates to post-sale price adjustments and deduct them from FMV.

Comment 27: Petitioners note that MRM was unable to report actual credit expense because it could not report actual date of payment, and instead estimated credit expense by multiplying its short-term interest rate by the terms of payment offered to the individual customer. Petitioners contend that MRM's credit expense cannot be based upon terms of payment alone, but must reflect actual credit experience in each market, since all customers do not always pay according to agreed terms of payment. In support of their position, petitioners cite *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Final Results of Antidumping Duty Administrative Reviews*, 60 FR 10900, 10915 (February 28, 1995); and *Final Determination of Sales at Less Than Fair Value; Certain Tapered Roller Bearings from Italy*, 49 FR 2278 (January 19, 1984). Petitioners contend that the Department should make no adjustment to FMV for credit expense and, for U.S. sales, apply as BIA the highest per unit credit expense reported by MRM for any sale.

MRM argues that it reported estimated dates of payment based upon each customer's terms of payment because it does not maintain records of actual date of payment received for each invoice. MRM notes that Canadian GAAP does not require this information be maintained or collected by MRM. However, MRM did keep track of overdue accounts, and included those figures in its estimates.

Department's Position: We disagree with petitioners that MRM's credit expenses should be denied. At verification, we found that MRM was unable to report the actual expense because in the normal course of business, MRM does not maintain

information on the date of payment in its computer system. We find that MRM's use of the average age of invoices for each month of the POR to be an acceptable methodology given the lack of company data concerning date of payment and the fact that the actual number of days outstanding on late payments were included in the estimate. At verification, we found that the credit information contained in the company's sales response tied to the company's internal records. We specifically examined customer-specific information about the number of days outstanding for credit while conducting our examination of MRM's sales traces at verification and found no discrepancies.

We disagree with petitioners' interpretation of *Roller Bearings from Italy* because in that case, the Department rejected the credit expense because "the seller received payment on various dates *later* than those required under the terms of sale but did not account for this (emphasis added)." In contrast, MRM's methodology specifically took into account actual credit experience on overdue accounts. We also disagree with petitioners' reliance on *Antifriction Bearings from France* in which the Department stated that it would be inappropriate to make an adjustment based solely on agreed terms rather than actual terms. In this review, MRM was unable to report the actual expense due to its record keeping system but did account for the late payments. Therefore, for the purposes of the final results, we have allowed the claimed credit expense.

Comment 28: Petitioners note that MRM has reported estimated freight expenses despite an ability to report actual freight expenses on an invoice-by-invoice basis. Therefore, Petitioners contend that the Department should reject MRM's freight information and as BIA use the lowest home market freight adjustment for all home market sales and the highest reported expense for constructed value and U.S. sales.

MRM argues that in the ordinary course of business, it does not track actual freight costs to individual invoices. Instead, MRM includes an estimated freight cost in each invoice and when later available, records the actual freight payment in its account payable records. MRM argues that the Department verified the accuracy of these estimates by comparing the monthly variance between actual and estimated freight payments for shipments in both the U.S. and home markets. MRM states that it established the reasonableness of this approach at verification. MRM contends that the Department's preliminary decision to accept MRM's estimated freight expense is both reasonable and supported by substantial evidence on the record.

Department's Position: We agree with respondent. We found that MRM does not track the actual freight payment on a invoice-by-invoice basis in the normal course of business. At verification, we examined documentation concerning MRM's estimated freight amounts and we successfully tied the estimated amounts to the response and proof of payment. In addition, we examined the variances between actual and estimated freight payments for both home market and U.S. sales and found that the variances were either nonexistent or *de minimis* and thus verified the accuracy of the method of estimation. Consequently, we determine that MRM's freight methodology is reasonable and will allow the adjustments for the final results.

Comment 29: Petitioners argue that MRM improperly calculated its interest expense based upon information for 1993 and the first half of 1994, instead of using only annual data. Petitioners contend that using partial year 1994 data is inappropriate and MRM should have used only 1993 information.

MRM argues that the Department verified the reported interest expense by tying it and the cost of goods sold to the audited financial statements of the Canam Manac group. Petitioner notes also that there is no compelling reason to base interest expense solely on annual figures.

Department's Position: We agree with respondents. The Department tied MRM's interest expense at verification from the questionnaire response to the audited financial statements. We specifically examined the annual data from MRM's audited financial statements for 1993 and 1994. Consequently, the Department examined and verified the full year data on interest expense for both 1993 and 1994 and the actual interest expenses during the POR. Accordingly, the Department will use MRM's interest expense as reported in its questionnaire response.

Comment 30: Petitioners note that MRM reported its G&A expenses on a per/ton basis instead of expressing it as a ratio of cost of goods sold. Petitioners contend that the Department should recalculate the G&A expense as a percentage of cost of goods sold. In addition, petitioners assert that the Department should recalculate MRM's G&A expense as a ratio using 1993 annual data only (excluding the use of partial-year 1994 data).

MRM states that it recalculated its G&A expense as a percentage of the cost of goods sold, in accordance with Departmental instructions, and submitted it the Department on May 5, 1995. Regarding Petitioner's argument that G&A expense should be based upon fiscal year figures only (citing *Oil Country Tubular Goods from Argentina* (60 FR 33539, 33549), MRM notes that the case actually states that "the Department long-standing [sic] practice is to calculate G&A expenses from the audited financial statement which most closely correspond to the POI." Therefore, MRM claims it is entirely appropriate to use the audited financial records corresponding directly to the POR.

Department's Position: We agree with petitioners in part. We agree that the G&A expense should be calculated as a percentage of the cost of goods sold. However, petitioners are incorrect in their assertion that MRM's G&A expense is calculated on a per/ton basis. The Department required MRM to recalculate its G&A on a cost of goods sold basis (see *Memorandum to the File*, May 5, 1995, p.2).

However, we disagree with petitioners that the Department should recalculate MRM's G&A expense as a ratio using 1993 annual data only (excluding the use of partial-year 1994 data). As we stated in *Oil Country Tubular Goods*, the Department's methodology for G&A expenses intends to smooth out fluctuations and capture a representative picture of respondent's G&A costs. MRM's G&A expenses are based on the cost of goods sold over the POR which include 1993 and the first seven months of 1994. At verification, we examined MRM's costs over the entire POR to ensure that respondent properly included all relevant costs in the calculation of its G&A expense. We tied the cost of goods sold to MRM's financial records and statements and determined that both the numerator and denominator in the G&A equation were correct and that the costs were not distortive.

We agree with MRM's interpretation of *Oil Country Tubular Goods from Argentina* where the Department stated that its long-standing practice is to calculate G&A expenses from the audited financial statements which most closely correspond to the POI. The Department's position is also explained in Furfuryl Alcohol (see, *Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From Thailand*, 60 FR 22557, 22560, May 8, 1995) where the Department determined that the G&A rate should be calculated from the annual audited financial statements. Since the Department confirmed the accuracy of MRM's G&A

expenses and tied the expenses to both its 1993 and 1994 audited financial statements, we will use MRM's G&A costs for the final results.

Stelco

Comment 31: Stelco states that on August 11, 1995, it advised the Department of a significant error contained in the computer program used to calculate the antidumping margin calculation. Stelco maintains that the Department's computer error resulted in the exclusion of more than 60 percent of Stelco's U.S. sales from the antidumping margin calculation.

Department's Position: We agree with respondent and have corrected our calculations for the final results of review.

Comment 32: Petitioners state that the Department must apply BIA for Stelco's sales of prime corrosion-resistant merchandise with missing product characteristics. Petitioners state that the Department's methodology for matching prime sales with missing product characteristics violates three provisions of the antidumping statute. Petitioners contend that the statute requires the Department to determine FMV based on the price at which "such or similar merchandise" is sold in the home market. "Such or similar merchandise," say petitioners, is defined by the statute as merchandise that is "identical in physical characteristics" or "like that merchandise in component material or materials." Petitioners contend that these provisions compel the Department to match sales based on actual physical characteristics of the products and do not permit the Department to exclude sales with missing physical characteristics or to assume that missing characteristics are the same as reported for missing characteristics on matching sales.

Petitioners continue that the antidumping statute requires the Department to make adjustments to FMV to take into account the differing costs that are present when matched products are similar but not identical.

Petitioners conclude that the Department must use BIA if the respondent is unable to provide the adequate information, citing *Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from France et al.*, (57 FR 28360, 28379 June 24, 1992). By failing to report full product characteristics for a number of prime home market and U.S. sales, petitioners state that Stelco made it impossible to accurately perform the model match with respect to these sales or to determine accurate costs of these products. Petitioners assert that the Department is required to use BIA whenever a party or any other person refuses or is unable to produce information requested in a timely manner and in the form required, or otherwise significantly impedes an investigation. Petitioners recommend that to ensure that respondents are encouraged to provide complete information, the Department should apply to the relevant transactions the higher of second-tier BIA or the highest non-aberrant margin found on any Stelco sale. Petitioners indicate that this degree of BIA should be applied to all U.S. prime sales with missing product characteristics as well as to all U.S. sales whose best match could have been a home market sale with missing characteristics.

Stelco contends that it did not fail to report any information available to it, nor did it misrepresent any information. Respondent indicates that Stelco informed the Department that there were a few sales for which it was not able to identify all of the product characteristics requested by the Department, and that a majority of these were sales of secondary merchandise and that the remainder were excess prime sales. Stelco explains these sales of seconds and excess prime had lost their "mill order number" and the company then lost track of the characteristics of the merchandise and does not know all of the manufacturing processes.

Respondent maintains that petitioners overstate the significance of limited-characteristic sales. Respondent states that these sales equal .04 percent of total U.S. sales volume. Additionally, Stelco reasserts that given its inability to calculate exact costs for excess prime products, it applied its most reasonable surrogate: The average cost of production for all products having those same characteristics.

Furthermore, respondent objects to petitioners' allegation that Stelco purposefully failed to report product characteristics to conceal high-priced home market sales to circumvent the antidumping law. Stelco states that its inability to provide complete characteristics represents an unintended consequence of the characteristics of the company's normal product invoicing system.

Respondent states that petitioners' assertion that the Department's comparison of these sales violates three provisions of the antidumping statute is based on a fundamentally flawed concept of the law. Respondent maintains that there is nothing in the statute that defines "identical" as meaning "identical in every respect," that the interpretation of what is identical is up to the Department, and that the Department's comparison of limited-characteristic merchandise is the only reasonable policy in this case.

Department's Position: We disagree with petitioners. The Department has the authority to determine what merchandise qualifies as such or similar for the purposes of the statute. *United Engineering & Forging* v. *the United States*, 779 F. Supp. 1375, 1380–82 (CIT1991); *NTN Bearing Corp.* v. *United States*, 747 F. Supp. 726, 735–36 (CIT 1990); *Kerr-McGee Chem. Corp.* v. *United States*, 741 F. Supp. 947, 951–52 (CIT 1990); *Monsanto Co.* v. *the United States*, 698 F. Supp. 275, 277–278 (CIT 1988); *Timken Co.* v. *United States (Timken I)*, 630 F. Supp. 1327, 1338 (CIT 1986).

Stelco's sales of excess prime represent a very small portion of its home market and United States sales and consist of one or more of the following types of merchandise: (1) Material downgraded from use in exposed portions of automobiles to use in unexposed portions; (2) merchandise resulting from production overruns; (3) leftover materials after customers cancel orders; and (4) merchandise with coil weights less than that required by the customer. The Department verified that Stelco customarily effects these sales by offering the customer a list of products it has ready for sale at specific prices, and the customer returns the offer either accepted, rejected or with a counteroffer. The sales process for this merchandise differs significantly from sales of other prime merchandise because under usual circumstances, the buyer and Stelco discuss quantity, quality and price before the merchandise is produced.

The few prime sales Stelco made that did not have complete physical characteristics were orders for which the mill order number had been lost. The Department verified that Stelco designates prime sales lacking complete characteristics as excess prime sales before the product is sold. Stelco then finds customers for this merchandise. Although the material in question is prime, Stelco reported and the Department verified that it is sold at a reduced price, and in the vast majority of cases to distributors. While this merchandise is not defective, full and complete physical characteristics were not needed to make the sale to the customer. The end uses of such material are applications for which knowledge of certain of the product's characteristics was unimportant.

The use of BIA is not appropriate in this case, because Department

methodology properly matches sales based on the information Stelco reported. The Department verified that because of the way that Stelco keeps its records Stelco could not report the full physical characteristics of the small number of sales in question. Petitioners' reference to *AFB's from France* is not precisely relevant, because in that case, the Department used the BIA cited by petitioners as total BIA for companies that either failed to respond to the Department's questionnaire or were unable to complete verification. In this case, Stelco cooperated with the Department and provided all the product matching physical characteristics that it could report. In addition, the Department could use the information that Stelco provided for matching purposes. Consequently, the use of total BIA in this circumstance is unwarranted.

The Department's model match methodology uses a series of matching product characteristics to find such or similar matches. Using these product characteristics, the Department can reasonably find an "identical" match although the merchandise may not be identical in every physical characteristic. We note that the Department used the same matching methodology in the LTFV investigation. (See *Memorandum from Roland MacDonald to Joseph Spetrini*, A–100–003, April 19, 1995).

Therefore, because Stelco sold this merchandise in both markets, because the missing physical characteristics were not important to Stelco's customers and because we verified that respondent reported all physical characteristics it could, the Department matched this merchandise based on the limited physical characteristics reported. Since these were the only physical characteristics relevant to the way the product was sold, we conclude that we may make appropriate matches on the basis of only these physical characteristics in this limited circumstance.

Comment 33: Petitioners contend that Stelco incorrectly reported gross unit prices for corrosion resistant and cut-to-length plate sales in both markets and that they should be rejected. Petitioners state that Stelco directly adjusted its reported gross unit prices for various clerical billing errors or other price adjustments. These adjustments were not made on a transaction-specific basis but were allocated over all invoices referenced on a particular credit or debit memo. Furthermore, say petitioners, Stelco's reporting made it unfeasible to decide what adjustments were made to particular sales, because allocated debits and credits were applied directly to gross unit price and not in a separate computer field, as required by the Department. Petitioners maintain that because it is not possible to determine the actual prices for sales to which price adjustments were assigned, the Department must reject Stelco's information with respect to these sales.

Petitioners argue that it is the Department's practice to require respondents to attribute price adjustments to the precise transactions that lead to the adjustments on a transaction-specific basis, citing *Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from France et al., Final Results of Antidumping Administrative Review*, (58 FR 39729, 39759 July 26, 1993) (*AFBs from France* (1993)). Despite the fact that the Department rejected Stelco's reporting of allocated price adjustments in the original investigation, and although both the CIT and a U.S.—Canada Binational Panel have specifically upheld the Department's policy with respect to price adjustments, Stelco reported allocated price adjustments in this review, declare petitioners.

Petitioners maintain that in the case in which a respondent improperly allocates adjustments, the Department's normal practice is to treat the adjustments as indirect selling expenses in the home market, and to use the highest reported price adjustment as BIA in the U.S. market. Petitioners conclude that Stelco's improper reporting of its price adjustments merits this application of partial BIA, because it did not list these in the manner required by the Department. When a respondent fails to provide usable information for certain sales, the Department's practice is to use second-tier BIA for the misreported U.S. sales, as well as the U.S. sales whose matching FMV is affected by misreported home market sales, maintain petitioners.

Respondent states that as verified by the Department through each selected sale, Stelco's credit and debit notes reference the specific invoice or invoices to which the credit or debit applies. Respondent continues that in the original investigation, adjustments for clerical errors were made on a customer and product-specific basis only. Respondent indicates that this means that in the investigation they allocated the total of all credit and debit notes issued to a customer on subject merchandise over all sales of subject merchandise to that customer: there was no tying of the adjustments to the individual invoices that they referenced in the adjustments. However, respondent states that for this review Stelco matched each credit and debit note to the specific invoice or invoices to which the note applies. Therefore, concludes respondent, the adjustments are no longer customer and product-specific, but are transaction-specific.

Respondent additionally argues that Stelco correctly reported adjustments for clerical errors in billing. Respondent states that Stelco did not report these errors in a separate computer field for "rebates" or "discounts," because they do not meet that definition. Respondent concludes that at verification, the Department reviewed numerous transactions involving adjustments for clerical errors and noted in the verification report that "all values had been entered correctly and that all adjustments had been calculated properly."

Department's Position: We agree with respondent. The verification report states that the Department examined documentation concerning Stelco's adjustments to price and we determined that Stelco properly allocated debit and credit notes on a transaction-specific basis. *In AFB's from France*, the Department made direct adjustments for reported home market discounts, rebates, and price adjustments if they were calculated on a transaction-specific basis and were not based on allocations. Petitioners' reliance on *AFB's from France*, as the basis for the Department to determine that Stelco incorrectly reported its gross unit sales prices is therefore unfounded because Stelco reported the majority of these expenses on a transaction-specific basis. However, on occasion, Stelco allocated debit and credit notes for a particular customer over more than one invoice. While the Department prefers that discounts, rebates and other price adjustments be reported on a transaction-specific basis, the Department has long recognized that some price adjustments are not granted on that basis, and thus cannot be reported on that basis.

The Department does not agree that Stelco's methodology is sufficient to warrant application of BIA under the policy as discussed in *AFBs from France* (1993) 58 FR at 39759. In that case, the Department contrasted preferred, transaction-specific reporting with customer- or product-specific reporting. In this case, the amount of "allocation" is limited to a few specific transactions, all to the same customer, and typically within a very limited period of time. Thus the danger of allocation, which is the averaging effect on prices, is extremely limited in this case. This case is similar to situations,

permitted by the Department as direct adjustments, in which a rebate is granted on a limited number of purchases by a single customer. Because Stelco's method of reporting these adjustments is reasonable, the Department has allowed it as a direct adjustment.

Comment 34: Petitioners assert that the Department should use BIA with respect to Stelco's reported cash discounts for corrosion-resistant sales citing *AFBs from France* and *Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from France, et al., Final Results of Antidumping Administrative Review*, (60 FR 10,929 February 28, 1995). Petitioners state that the Department should treat these discounts as indirect selling expenses in the home market, and should use the highest reported discount as BIA in the U.S. market for all sales which incurred discounts because Stelco failed to report its early payment discounts on a transaction-specific basis.

Respondent maintains that the Department's decision to accept Stelco's calculation of cash discounts is reasonable and is supported by evidence on the record. To calculate the adjustment for discounts, Stelco calculated total monthly sales and the total cash discount taken per month for each eligible customer. Stelco then calculated the actual percentage of cash discounts taken by each customer for each month. They then applied these percentages to the gross unit price. Stelco thus calculated the most precise early payment discount adjustment that it could from the information it had available from its computerized accounting system.

Department's Position: We agree with petitioners. Although Stelco's submission of January 9, 1995 indicated that it granted the discounts on a transaction-specific basis, due to accounting restraints, Stelco could not report the actual discount amount, if any, granted on each transaction. Consequently, the Department has no basis to treat this discount as a direct selling expense. Consistent with our practice as outlined in *AFBs from France*, we are treating these discounts as indirect selling expenses in the home market and as direct selling expenses in the U.S. market as best information available.

Comment 35: Petitioners maintain that the Department should not make a particular adjustment for certain U.S. sales of corrosion-resistant carbon steel products.

Respondent agrees that if petitioners' allegation is valid, that the Department should carefully examine its program to confirm that the claimed double-counting in fact occurs under the Department's program.

Department's Position: We agree with petitioner and respondent that the adjustment results in double-counting and therefore the Department will not make this adjustment for the final results. Further explanation of this adjustment would reveal business proprietary information. (See Analysis Memorandum).

Comment 36: Petitioners argue that the Department must deduct antidumping duties paid by the respondent or related parties paid on imports. Section 1677a(d) (1994) states that the purchase price and exporter's sales price shall be reduced by United States import duties. Petitioners continue that antidumping duties are "incident to bringing the subject merchandise from the place of shipment in the country of exportation to the place of delivery in the United States" and are therefore properly classified as import duties. Furthermore, petitioners claim that "duties" or "import duties" in trade laws are to be read as antidumping or countervailing duties unless the provision specifically suggests otherwise.

Respondent maintains that the Department has consistently refused to deduct antidumping duties from U.S. price and that it should continue to do so. Respondent asserts that petitioners argue that 19 U.S.C. 1677a(d) requires the Department to deduct antidumping duties from United States price. Respondent cites *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et al.* 60 FR 10900 (1995) and *Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from France, et al.* 58 FR 39726 (1993) stating that to make an additional deduction from ESP for the same antidumping duties that correct this price discrimination results in double counting, and that the amount of antidumping duties assessed on imports of subject merchandise constitutes a selling expense, and therefore, should be deducted from ESP.

Respondent continues that as recently as a month ago, the Department rejected almost identical arguments in *Certain Hot-Rolled Lead and Bismuth Carbon Steel Plate from the United Kingdom* 60 FR 44009 (1995). In that case, the Department rejected petitioners' arguments and refused to make an adjustment for antidumping duties in its calculation. Respondent concludes, therefore, that the Department should reject petitioners' arguments in this case and continue to deduct antidumping duties from USP.

Department's Position: We disagree with petitioners. For a more detailed explanation, please see Comment 23.

Comment 37: Petitioners contend that Stelco U.S.A.'s slitting expenses must be treated as further manufacturing costs for purposes of calculating ESP. According to petitioners, respondent reported slitting expenses in the fields OTHEXP1U and OTHEXP2U but did not report these expenses in the fields for further manufacturing costs, nor were they treated as further manufacturing costs by the Department in its preliminary results. Instead, argue petitioners, the Department directly deducted these costs as selling expenses in calculating ESP. Petitioners state that Stelco U.S.A.'s slitting constitutes increased value resulting from a process of manufacture performed after importation. Therefore, petitioners assert that the Department must treat these expenses as further manufacturing costs for purposes of the final results.

Respondent maintains that the Department's questionnaire instructs respondents to consider slitting expenses as selling expenses and that Stelco was required to treat these expenses as such for the sales listing, and not as a manufacturing cost. Additionally, continues respondent, the Department decided that Stelco's slitting expenses did not change an ESP sale into a further manufacturing (FMG) sale, but used the slitting expenses as an additional expense to ESP sales.

Department's Position: We agree with petitioners. Stelco U.S.A. arranges for slitting services to be performed by unrelated parties prior to shipment or sale to its customers. Section 772 (e)(3) requires that adjustments to U.S. price be made for "any increased value, including additional material and labor, resulting from a process of manufacture or assembly performed on the imported merchandise after importation of the merchandise and before its sale to a person who is not the exporter of the merchandise." The Department does not agree with Stelco's argument that the fact that further manufacturing expenses are requested in the sales section of the questionnaire gives any indication that such expenses will be treated as selling expenses. Accordingly, the Department is treating this slitting expense as further manufacturing for purposes of the final determination.

Comment 38: Petitioners assert that respondent reported mistaken amounts in the field for variable manufacturing costs. Instead of reporting the correct variable costs amounts from the cost database, Stelco used the total cost of manufacture for each control number in the sales listing, state petitioners. Petitioners maintain that the Department must correct this error for the final results.

Department's Position: We agree with petitioners and have corrected this error.

Comment 39: Petitioners state that the Department made several errors in its margin calculation programs that should be corrected for the final results. Petitioners list the following as the mistakes in the program for corrosion-resistant products: (A) The Department set various U.S. adjustments to "0"; (B) the Department placed price adjustments in the field for U.S. direct expenses, and should have included them with other discounts and rebates to be deducted from U.S. price; (C) the Department's program treats credit expenses as indirect selling expenses in calculating ESP; (D) the program fails to convert the fields RCOM, RGNA, and RINTEX into U.S. dollars in calculating the foreign manufacturing costs of imported goods; and (E) the program fails to include technical services in the calculation of purchase price for U.S. sales. Additionally, the program also leaves out the variables for inventory carrying costs and market warehousing expenses in calculating indirect expenses for purchase price sales, contend petitioners. With respect to the program for plate, petitioners state that the Department's program incorrectly treats inventory carrying costs in the home market as a direct expense.

Respondent did not comment on A, and agrees with petitioners on comments B, C, and D and provided additional coding to rectify price adjustments in the field for U.S. direct expenses in the corrosion-resistant margin calculation program. With respect to comment E, respondent states that technical services should be treated as direct expenses and therefore should receive the same treatment in all calculations of net prices involving both corrosion-resistant and cut to length carbon steel plate. Regarding petitioners' comment on the treatment of inventory carrying costs, warehousing, and U.S. indirect expenses, Stelco alleges that contrary to petitioners' request, indirect selling expenses are not deducted from purchase price sales, and that the Department should not deduct such expenses from these sales. Respondent also agrees with petitioners' comments regarding plate and provided coding to correct the claimed inaccuracies.

Department's Position: We agree with petitioners on comment A. We agree with petitioners and respondents on comments B, C, D and E. We also agree with respondents that inventory carrying costs, warehousing and U.S. indirect expenses are not deducted from purchase price sales. We agree with petitioners and respondents regarding the alleged inaccuracies regarding the margin calculation for plate. (See Analysis Memorandum).

Final Results of Reviews

As a result of our reviews, we have determined that the following margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Corrosion-Resistant Steel		
Dofasco, Inc	2/4/93–7/31/94	1.65
Continuous Colour Coat	2/4/93–7/31/94	1.96
Stelco, Inc	2/4/93–7/31/94	0.19
Cut-to-Length Plate		
Algoma Steel Inc	2/4/93–7/31/94	1.82
Manitoba Rolling Mills	2/4/93–7/31/94	0.02
Stelco, Inc	2/4/93–7/31/94	0.92

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service. Stelco's rate for corrosion-resistant and Manitoba Rolling Mill's rate for plate are *de minimis*.

Furthermore, the following deposit requirements will be effective, upon publication of this notice of final results of review for all shipments of certain corrosion-resistant carbon steel flat products and certain cut-to-length carbon steel plate from Canada entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies will be the rates for those firms as stated above (except that if the rate for a particular product is *de minimis i.e.*, less than 0.5 percent, a cash deposit rate of zero will be required for that company); (2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 18.71 percent for corrosion-resistant steel and 61.88 percent for cut-to-length plate, the all others rate established in the LTFV investigations. See *Amended Final Determination*, 60 FR 49582 (September 26, 1995).

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 353.34(d) of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

These administrative reviews and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: March 20, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–7462 Filed 3–27–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–428–816]

Certain Cut-To-Length Carbon Steel Plate From Germany: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On July 13, 1995, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on certain cut-to-length carbon steel plate from Germany. This review covers one manufacturer/exporter of the subject merchandise to the United States during the period of review (POR), February 4, 1993, through July 31, 1994. We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments received, we have changed the results from those presented in the preliminary results of review.

EFFECTIVE DATE: March 28, 1996.

FOR FURTHER INFORMATION CONTACT: Nancy Decker or Linda Ludwig, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–3793.

SUPPLEMENTARY INFORMATION:

Background

On July 13, 1995, the Department published in the **Federal Register** (60 FR 36105) the preliminary results of the administrative review of the antidumping duty order on certain cut-to-length carbon steel plate from Germany (58 FR 44170, August 19, 1993). The Department has now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Applicable Statute and Regulations

Unless otherwise stated, all citations to the statute and to the Department's regulations are references to the provisions as they existed on December 31, 1994.

Scope of These Reviews

The products covered by this administrative review constitute one "class or kind" of merchandise: Certain cut-to-length carbon steel plate. These products include hot-rolled carbon steel universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 millimeters but not exceeding 1,250 millimeters and of a thickness of not less than 4 millimeters, not in coils and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain hot-rolled carbon steel flat-rolled products in straight lengths, of rectangular shape, hot rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 millimeters or more in thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule (HTS) under item numbers 7208.31.0000, 7208.32.0000, 7208.33.1000, 7208.33.5000, 7208.41.0000, 7208.42.0000, 7208.43.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.11.0000, 7211.12.0000, 7211.21.0000, 7211.22.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, and 7212.50.0000. Included are flat-rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been "worked after rolling")—for example, products which have been bevelled or rounded at the edges. Excluded is grade X–70 plate. These HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The POR is February 4, 1993, through July 31, 1994. This review covers entries of certain cut-to-length carbon steel plate by AG der Dillinger Hüttenwerke (Dillinger).

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received case and rebuttal briefs from the respondent (Dillinger) and petitioners (Bethlehem Steel Corporation, U.S. Steel Company a Unit of USX Corporation, Inland Steel Industries, Inc., Geneva Steel, Gulf States Steel Inc. of Alabama, Sharon Steel Corporation, and Lukens Steel Company). Dillinger requested a hearing then subsequently withdrew its request; therefore, no hearing was held.

Comment 1: Petitioners assert that based on the overwhelming number of problems with Dillinger's information, the Department has no choice but to apply total best information available (BIA). Petitioners base their assertion on a claim that, despite an inordinate number of opportunities to correct its deficient submissions, Dillinger has still failed to provide reliable data on even the most fundamental elements of the Department's analysis. According to petitioners, the Department's verification reports and exhibits demonstrate Dillinger failed verification. Petitioners assert that problems with Dillinger's data include: a majority of Dillinger's home market sales transactions examined at verification contained erroneous data; Dillinger's product coding contains systemic problems; Dillinger failed to demonstrate complete reporting of U.S. sales for 1994 and home market sales for 1992 and 1994; Dillinger failed to resolve a discrepancy between verification documentation and reported U.S. sales quantities; Dillinger did not provide the necessary actual to theoretical weight conversion factors for cost of production (COP), constructed value (CV), and differences in merchandise (DIFMER) adjustment; Dillinger miscoded customer levels of trade; Dillinger failed to demonstrate that certain freight services provided by related parties were at arm's-length; Dillinger failed to demonstrate that commissions paid to related parties were at arm's-length; Dillinger failed to provide information regarding 500 related companies thus preventing the Department from verifying whether they provide Dillinger with services related to subject merchandise; Dillinger extensively misreported dates of sale and failed to demonstrate to the Department that its reported sales took into account changes in price and payment date; Dillinger reported as date of payment the date on which payment was due to it rather than the actual date on which payment for home market sales was received; and Dillinger's data contains numerous additional inaccuracies and omissions.

Petitioners cite the Department's recent decision to assign total (uncooperative) BIA to Mannesmannrohren-Werke AG (MRW) in *Small Diameter Circular Seamless Carbon and Alloy Steel, Standard, Line and Pressure Pipe from Germany* (60 FR 31978–79—June 19, 1995). Petitioners argue that this makes the case for applying total BIA to Dillinger all the more compelling because Dillinger's errors and omissions are far more egregious than those committed by MRW. In the *Seamless Pipe* case, petitioners note that the Department found that: MRW company officials were unable to explain or provide adequate documentation for numerous discrepancies and omissions; DIFMER data could not be tied to the financial statements; and MRW did not adequately demonstrate that sales data reported to the Department took into account changes in price, quantity, and date of sale. Similarly, the petitioners assert that the Department's verification reports and exhibits indicate that the Department encountered essentially the same problems with respect to Dillinger's responses, and demonstrate that the Department was unable to verify the completeness of either Dillinger's reported home market or U.S. sales databases. Therefore, according to petitioners, Dillinger's home market and U.S. sales databases have not been demonstrated to be reliable and thus cannot be used to calculate accurate dumping margins.

According to petitioners, significant errors in reporting product characteristics, sale dates, and levels of trade effectively eliminate any possibility of matching home market and U.S. sales. Petitioners assert that the failure to identify related parties renders reported charges and expenses meaningless.

Petitioners argue that Dillinger has significantly impeded the Department's administration of this review by providing seriously deficient information. Furthermore, petitioners claim that Dillinger failed to alert the Department to any difficulties with respect to, among other deficient areas, the reporting of: levels of trade; prime/non-prime merchandise; actual/theoretical weights and conversion factors; and dates of sale. Moreover petitioners argue that Dillinger has repeatedly ignored or provided incomplete and/or inaccurate responses to the Department's requests for information. Therefore, petitioners continue, the Department should disregard Dillinger's responses and use as BIA, the highest rate ever applicable to the firm for the same class or kind of merchandise from the investigation.

Finally, petitioners assert that if the Department determines to contradict its standard practice (*see Defrost Timers from Japan* (59 FR 1928—January 13, 1994), *Tapered Roller Bearings from Japan* (60 FR 22349—May 5, 1995), and *Certain Carbon Steel Flat Products from Belgium* (58 FR 37083, 37084, 37090—July 9, 1993)) and erroneously concludes not to apply total BIA, it should make certain adjustments which are discussed in petitioners' other comments.

Respondent argues that petitioners concentrate on arguments which are either not supported by the record evidence, supplant the Department's judgment of what data should have been verified or taken into evidence as verification exhibits, or take out of context judicial opinions and ignore the relevant case law and standard practices of the Department. Certain of petitioners' comments (*i.e.*, regarding the majority of Dillinger's home market sales containing erroneous data) are nothing more than unsupported statements.

Specifically, respondent contends that contrary to petitioners' assertions, the Department verified the completeness of Dillinger's reported home market and U.S. sales databases. Concerning petitioners' allegation that there is a significant discrepancy in Dillinger's reported value of U.S. sales, respondent argues that it satisfactorily demonstrated that its own accounting records list only the price of the merchandise as it leaves Germany. This value does not include expenses, which are incurred by Francosteel (Dillinger's related U.S. selling agent), included in the sales price to the first unrelated purchaser (*e.g.*, U.S. duty, U.S. inland freight, etc.). The respondent contends that the Department verified the total sales value and quantity for both 1993 and 1994 at Francosteel and tied these amounts to Francosteel's financial statements. Therefore, respondent argues that petitioners' allegation has no foundation in fact.

Respondent further argues that petitioners' assertions of significant errors in reporting product characteristics, sales dates, levels of trade, and failure by Dillinger to identify related parties, are without merit. Respondent contends that the evidence on the record unequivocally shows that the data submitted by Dillinger was verified and accurate in all material respects.

With respect to partial BIA, the respondent does not believe any adverse changes should be made to any item addressed by the petitioners, but if the Department decides to change its calculations, only the actual figure attributable to the sale in question should be changed. Alternatively, a reasonable figure, such as an average of the data provided, should be used rather than the most adverse number advocated by petitioners.

Department's Position: We agree with respondent that the use of total BIA is not warranted in this administrative review. Dillinger has been cooperative throughout the proceeding. While we did discover some errors and discrepancies at verification, the extent and magnitude of the errors and discrepancies did not exceed those that are commonly found at verification and were not so large as to render the Dillinger's reported information unusable. Therefore, we find the use of total BIA unjustified. Regarding date of sale, while changes in price or quantity may have occurred after the date of sale Dillinger reported, the reported price and quantity were correct. In other words, only the date of sale may have been wrong. As the verification report notes, home market date of sale is the date a sale is originally booked in the computer; the date is not changed in this database if the order is subsequently modified. As noted in the preliminary results, we have used shipment date as date of sale for home market sales in our calculations. The rest of petitioners' individual allegations are addressed in other comments.

Comment 2: Respondent argues that the Department incorrectly added a reserve for demolition of an old coking plant. It states that the plant was torn down in 1984—ten years prior to the POR, and that it ended production in July 1984. Accordingly, it states that the cost to demolish this plant can correctly be allocated only to the steel which was the beneficiary of this plant's production. Respondent summarizes that since that steel is not subject to this review, no adjustment is permissible.

Petitioners respond that the Department correctly added this accrual to COP and CV. They state that Dillinger apparently capitalized the costs of demolishing the coke plant because these costs were expected to benefit future periods. Petitioners argue that the subsequent accruals, therefore, represent the periodic benefit which Dillinger associated with the demolition. Petitioners argue that the fact that these expenses were included in Dillinger's fiscal 1993 financial records indicates that the accruals continued through the period of review. The petitioners further state that this accrual differs from the reversal of prior year operating expense accruals (which represent a correction of an estimate made in a prior year) which the Department does not include in COP and CV (*see, e.g., Small Diameter*

Circular Seamless Carbon and Alloy, Standard Line, and Pressure Pipe from Italy, 60 FR 31981, 31991, June 19, 1995).

Department's Position: We disagree with the respondent. This accrual was recorded in Dillinger's accounting records during the POR. It is the Department's general practice to include accruals which are recognized in the respondent's audited financial statements in the COP/CV calculations. While the old coking plant does not benefit current operations, its removal does by rationalizing operations which was recognized in the financial statements during the POR. In *Steel Pipe from Italy*, 60 FR 31981, 31992 (June 19, 1995), we found that upon disposal of assets, the gain or loss associated with them would be included in COP/CV at that time. The demolition of the coke plant is equivalent to the disposal of an asset; therefore we are continuing to include this accrual in the calculation of COP/CV.

Comment 3: Respondent argues that the Department should not have added an amount for Rogesa's (Dillinger's supplier of pig iron and a partially owned subsidiary) write-off of receivables from Saarstahl AG (SAG) (Dillinger's sister company), to COP and CV. Respondent argues that this amount resulted from sales of pig iron by Rogesa to SAG, which were written-off by Rogesa as an extraordinary loss solely because of SAG's bankruptcy. Dillinger further states that because Rogesa is a producer of pig iron and because SAG uses the pig iron to manufacture non-scope products (neither Rogesa nor SAG are producers of carbon steel plate), there is no link between this sale of pig iron and the antidumping order on sales of carbon steel plate by Dillinger. Respondent cites the fact that in prior cases, the Department has determined an extraordinary loss should be included in COP only if it relates to the production of subject merchandise (*Antifriction Bearings from Japan: Final Results*, July 11, 1991, 56 FR 31692, 31734). Finally, respondent states that if the Department continues to include this amount in COP and CV, it should at least reduce the amount by 50 percent. It states that the cost verification report acknowledges that Rogesa would be responsible for only half the amount written off because of Rogesa's profit/loss sharing agreement with its parents.

Petitioners respond that the Department has considered expenses related to bankruptcy proceedings to be ordinary operating expenses, as opposed to extraordinary expenses (*see Fresh and Chilled Atlantic Salmon From Norway*, 58 FR 37912, 37915, July 14, 1993); even if these expenses were extraordinary, they still may be included in the COP and CV if they are related to the subject merchandise. The petitioners further state that the relevance of the SAG bankruptcy expenses to Rogesa is indicated by the fact that the expenses were incurred by Rogesa and were entered on Rogesa's accounting records in the normal course of business. Petitioners continue that since Rogesa booked these expenses as extraordinary rather than operating expenses relating to particular merchandise, these expenses relate to Rogesa as a whole rather than to particular merchandise manufactured or sold by Rogesa. Petitioners claim that accordingly, these expenses are properly included in COP and CV. Petitioners note that COP and CV comprise all costs of producing the subject merchandise including general and administrative (G&A) expenses which relate to the company as a whole rather than to the production process. According to the petitioners, including these expenses in the COP of the pig iron was correct since the pig iron sold to Dillinger is used in the production of subject merchandise. Finally, petitioners disagree with respondent that if the Department includes this expense in COP and CV, it should at least be reduced by 50 percent. Petitioners assert that the fact that Rogesa's parent companies absorb its profit or loss has no relevance to the determination of Rogesa's cost of producing the pig iron used in manufacturing the subject merchandise.

Department's Position: We agree with petitioners that these expenses are properly included in the COP for pig iron. We found these expenses to be write-offs of receivables from SAG. Write-offs of receivables are bad debt expenses. The Department considers these to be ordinary operating expenses because they are by their very nature indirect selling expenses since, under generally accepted accounting principles, bad debt is recovered over time by future price increases (see *Fresh Cut Roses from Columbia*, 60 FR 6980, 7014). Since cost information was used for the purchase of pig iron from Rogesa (rather than acquisition price) and since these expenses are ordinary operating expenses, which relate to Rogesa as a whole, they are properly included in Rogesa's COP along with Rogesa's other general expenses. The fact that Rogesa's parents absorb its profit or loss has no relevance. Rogesa's sales must cover all of its expenses (production and general). Rogesa's G&A costs were divided by total production to give a cost per ton of pig iron. We have treated the bankruptcy costs like Rogesa's other general or overhead expenses.

Comment 4: Respondent argues that Department should not have included two expenses related to SAG's bankruptcy in COP and CV. According to respondent, one of the costs related to Dillinger's assumption of SAG's debt to another company. Respondent states that since SAG does not produce carbon steel plate, this cost is not relevant to the antidumping duty order because it is not related to the production or sale of carbon steel plate by Dillinger. According to respondent, the other cost was an extraordinary loss that resulted from the write-off of claims against SAG for pension obligations, which were to be reimbursed to Dillinger. Again, Dillinger claims that since these expenses do not concern the production of carbon steel plate, they have no relevance to the antidumping duty order.

Petitioners argue that Dillinger: booked these expenses as extraordinary expenses rather than operating expenses relating to particular merchandise; entered into an arrangement to assume various debts of SAG and to write-off receivables owed by SAG; and was jointly liable for SAG's tax liability. Petitioners assert that the bankruptcy expenses assumed by Dillinger, therefore, relate to Dillinger "as a whole" and should be included in the G&A component of COP and CV.

Department's Position: We disagree with respondent. Contrary to respondent's characterization, we found these expenses to be write-offs of receivables from SAG and its subsidiaries. Write-offs of receivables are bad debt expenses. The Department considers these to be ordinary operating expenses because they are by their very nature indirect selling expenses since, under generally accepted accounting principles, bad debt is recovered over time by future price increases (see *Fresh Cut Roses from Columbia*, 60 FR 6980, 7014). Therefore, we have included these in the indirect selling expense portion of COP/CV.

Comment 5: Petitioners argue that the Department should include all the bankruptcy expenses related to Dillinger Htte Saarstahl (DHS) (Dillinger's and SAG's parent company) and SAG. Petitioners assert the Department considers bankruptcy costs to be ordinary operating expenses (see *Fresh and Chilled Atlantic Salmon from Norway* (58 FR 37912, 37915—July 14, 1993)). According to petitioners, even extraordinary expenses may be included in calculating the COP and CV under

the principle of full absorption costing provided they are related to the subject merchandise (see *Tapered Roller Bearings from Japan* (56 FR 41508, 41516—August 21, 1991) and *Welded Stainless Steel Pipe from Korea* (57 FR 53693 and 53694—November 12, 1992)). Petitioners argue that although Dillinger contended SAG was not involved in the manufacture of subject merchandise, the information Dillinger submitted at verification indicated otherwise. Petitioners assert that the majority of expenses booked by Dillinger and Rogesa involve write-offs of receivables owed by SAG to Dillinger and Rogesa. According to petitioners, these receivables were generated as a result of the operations of Dillinger and Rogesa. Petitioners claim that while the Department adjusted for Rogesa's write-off of receivables from SAG in the preliminary results, it did not adjust for receivables forgiven by Dillinger or for debts assumed by Dillinger and Rogesa, or other expenses of bankruptcy. Petitioners assert that these remaining bankruptcy expenses should be included in Dillinger's COP/CV. Petitioners note that Dillinger and Rogesa incurred G&A costs (which the questionnaire describes as those which relate to the company as a whole rather than to the production process) to save DHS (their parent) from bankruptcy. Petitioners argue that the exclusion of such costs is contrary to Department practice, and therefore, the costs should be included in G&A.

Respondent argues that the Department correctly excluded certain expenses related to SAG's bankruptcy. It argues that these expenses are not G&A, regardless of the petitioners' characterization, and therefore, don't relate to the company as a whole. According to respondent, many are selling expenses unrelated to scope merchandise (incurred by SAG on purchases unrelated to plate). According to respondent, petitioners do not explain how sales of pig iron by Rogesa to SAG, another non-producer of plate, can be tied to the product under review because there is no connection.

Department's Position: Of the bankruptcy expenses, the Department included: Rogesa's write-off of receivables from SAG in the cost of manufacturing (COM), as explained in Comment 3; and Dillinger's write-off of receivables from SAG and its subsidiaries in the indirect selling expense portion of COP/CV, as explained in Comment 4. The Department did not include the following in COP/CV: Dillinger's and Rogesa's assumption of DHS and SAG liabilities (including VAT responsibilities) and bank debts (that is Dillinger and Rogesa assumed some of SAG's bank debts) because these expenses are not directly related to production. The fact that Rogesa and Dillinger assumed some of SAG's debts does not relate to the manufacture of subject merchandise.

Comment 6: Petitioners argue that the Department should include severance payments made during the POR in Dillinger's COP/CV. They state that during the POR, part of a prior period accrual for severance payments was reversed, and a certain amount was actually paid. Neither was included in the COP/CV calculations, but the petitioners argue, the actual payments should have been included. Petitioners assert that although Dillinger had claimed earlier in the proceeding that the reversal should have been included, this amount was properly excluded. Petitioners claim that this conforms with the Department's recent statement in *Steel Pipe from Italy* (60 FR 31981, 31991—June 19, 1995). However, the petitioners argue that the severance payments made in 1993 should be included in COM because they relate to the manufacturing expenses during the POR. According to petitioners, in *Steel Flat Products from Japan* (58 FR 37174), the Department stated that termination allowances represent an expense recognized within the period of investigation and should be reflected in the product cost in accordance with full absorption costing principles.

The respondent argues that the Department should not just exclude the reversal of the accrual for severance payments but deduct the reversal from COP/CV. It claims that the Department included accruals of severance expenses in its COP calculations in the original investigation of Dillinger. It would be inequitable and without justification for the Department to now ignore the reversal of the accrual for the identical expense. Unlike the case cited by petitioners, Dillinger claims it will achieve revenue or reduced operating costs because it will no longer have to pay the sums involved. According to the respondent, the Department's general view in *Steel Pipe from Italy* does not make sense. According to the respondent, the Department will only accept a reversal of an accrual in the same year as the original accrual. Respondent argues that in that case, there would be no accrual in the financial statement in the first place. Respondent argues that this type of adjustment is conceptually identical to a warranty expense. According to respondent, most warranty expenses do not occur for sales within the period of review; they are often granted later, yet the Department recognizes this as a legitimate expense to be allocated over sales to which they do not apply. Respondent argues that the same holds true for reversals of accruals.

Department's Position: We disagree with petitioners that the actual severance payments should be included in COM. These expenses are applicable to the COM of the period in which they were accrued, which is not the period of review. This is in accordance with full absorption costing principles, which, contrary to petitioners' assertion, is consistent with the *Japanese Flat Products* case. In that case, the termination allowances were recognized within the period of investigation and therefore reflected in the product cost in accordance with full absorption costing principles. In the instant review, the severance expenses were recognized and accrued in a prior period. In the period of review, Dillinger is simply paying severance amounts out of the prior period expense/accrual.

We also disagree with respondent that the reversal of the accrual should be included in COM. The original accrual occurred in 1990. The accrual being reversed relates to costs expensed in 1990, which was before the period of investigation. Therefore, these costs do not relate to the merchandise under review. While reversals of accruals are in accordance with generally accepted accounting principles (GAAP), the Department relies on GAAP if it does not distort costs. In this case, reversing costs that were accrued in 1990 distorts costs in the POR. Furthermore, as we found in *Steel Pipe from Italy*, we do not consider it appropriate to reduce current year production costs by the reversal of prior year operating expense accruals and write-downs of equipment and inventory. The subsequent year's reversal of these estimated costs does not represent revenue or reduced operating costs in the year of the reversal. Rather, they represent a correction of an estimate which was made in a prior year. The position of the Department in *Steel Pipe from Italy* considered the facts in that case, which included write-offs and write-downs. These types of costs are not the costs at issue here. There is not justification for distorting actual production costs incurred in a subsequent year by reducing subsequent year costs by the overestimated amount.

Comment 7: Petitioners argue that the Department should correct the reduction Dillinger made to its COP and CV by reversing a prior period accrual for its Stahlzulage (steel subsidy program). As petitioners discussed in

Comment 6, the Department does not consider it appropriate to reduce current year production costs by the reversal of prior year operating expense accruals (see *Small Diameter Circular Seamless Pipe from Italy* (60 FR 31991) and *Al Tech Specialty Steel Corp.* v. *U.S.*, 651 F. Supp. 1421, 1430 (CIT 1986)). Petitioners assert that because Dillinger has reduced its production costs by the reversal of prior period operating expense accruals, the inclusion of Stahlzulage in COM is improper.

The respondent argues that Dillinger's financial statements, in accordance with GAAP, reversod an accrual for a Stahlzulage subsidy. They state that this was verified, and the Department treated this item correctly in the Preliminary Results and should continue to do so in the Final Results.

Department's Position: We disagree with petitioners. The reversal of the Stahlzulage is permitted by German GAAP, and it is related to assets in use during the POR. Therefore, it is appropriate to include this amount in COM. In *Italian Steel Pipe*, the Department did not consider it appropriate to reduce current year production costs by the reversal of prior year operating expense accruals based on the fact that these were estimated expenses. In the instant review, the Stahlzulage is not an estimate but an amount which is intrinsically linked to assets (currently used in production) based on a program which was allowed by German law. Also, petitioners' citation to *Al Tech* is inapposite. The issue in that case was whether a subsidy determination could be made in the context of an antidumping proceeding. The court ruled that such an investigation could not be undertaken. With respect to the present proceeding, there has been no countervailing duty investigation that has resulted in a determination that the "Stahlzulage" is in fact a subsidy. Pursuant to *Al Tech*, the Department is precluded from making such a determination in this antidumping administrative review.

Comment 8: The petitioners argue that the Department should correct the understated amount of Usinor Sacilor's G&A attributed to Dillinger. Dillinger's method of identifying the share of its parent's (Usinor Sacilor's) G&A attributable to Dillinger's operations is flawed. Petitioners contend that the unconsolidated amount (*i.e.*, parent operating expenses less operating revenue) used to calculate this part of G&A equals net operating income or loss, not G&A as should have been calculated. Given the oversight nature of Usinor Sacilor and that no information regarding Usinor Sacilor's unconsolidated expenses is on the record, the Department should consider all of Usinor Sacilor's unconsolidated operating expenses as G&A and should recalculate the parent company portion of Dillinger's G&A accordingly.

Respondent contends that it correctly reported Usinor Sacilor's G&A expenses. According to respondent, only the net expenses of Usinor Sacilor, a holding company without any production of its own, are allocated to affiliated companies; therefore, the net expenses represent G&A expenses which are allocated to operating subsidiaries. Respondent claims that as a non-operating company, Usinor Sacilor only incurs G&A expenses. Although Dillinger disagrees that Usinor Sacilor's G&A expense should be included at all, if it is, the Department's methodology was correct.

Department's Position: We disagree with petitioners. The amount Dillinger used to calculate Usinor Sacilor's G&A attributable to Dillinger was taken from Usinor Sacilor's financial statements. Because the unconsolidated company is a non-producing holding company, the only expenses it incurs are general in nature. It would incur expenses on its own behalf and on behalf of its subsidiaries. Revenue it receives (including reimbursements from subsidiaries) offsets the G&A it incurs on behalf of its subsidiaries. The difference between these two amounts is the G&A expense of the parent company itself. A more detailed allocation is not possible, and is not required, given the absence of more detailed information on the record.

Comment 9: Petitioners contend that the Department should include home market commissions paid to related parties in the calculation of home market selling expenses for COP/CV (SELLCOP). The preliminary margin program determines whether sales were made below cost by comparing net price with COP. Yet, the petitioners claim, the Department did not include in this program the expenses related to Dillinger's related party commissions despite the fact that these are clearly costs of production. Petitioners assert that home market commissions should have been included in SELLCOP (which only included indirect selling expenses in the preliminary results).

Respondent argues that the Department should exclude home market commissions paid to related parties in the calculation of home market selling expenses for purposes of COP. Since Dillinger included both its own indirect selling expenses as well as those of its related sales agent, Saarlux, in the indirect selling expense field, the petitioners' methodology of including Saarlux's sales commissions as well would be double counting.

Department's Position: We agree with respondent. Since Saarlux's expenses are included in indirect selling expenses, commissions to Saarlux should not also be included in total selling expenses for COP/CV. Since Dillinger pays Saarlux commissions to cover Saarlux's costs related to Dillinger's sales, to include both the commissions and Saarlux's actual costs would be double-counting. Since Dillinger did not demonstrate that commissions were at arm's-length, we would not use these commissions as a cost in any event.

Comment 10: Petitioners contend that the Department should apply BIA to determine the COP, CV, and DIFMER of sales for which no weight conversion factor was provided. The weight of steel is an essential element in determining unit price. Dillinger reported all U.S. sales on a theoretical weight basis and home market sales on either a theoretical or actual basis. Petitioners assert that Dillinger did not provide conversion factors to compare home market prices reported on a theoretical weight basis to COP reported on an actual weight basis. Petitioners argue that the Department, therefore, cannot apply the sales-below-cost test to such home market sales. In addition, petitioners assert that conversion factors were not provided to compare the CV amounts, reported on an actual weight basis, to U.S. sales on a theoretical weight basis. In the flat-rolled steel investigation, the Department recognized that U.S. and home market prices, as well as COP and CV, must be on the same weight basis to accurately calculate margins (*see Cut-to-Length Carbon Steel Plate from Finland* (58 FR 37122 and 37123—July 9, 1993) and *Certain Welded Stainless Steel Pipes from Taiwan* (57 FR 53705, 53711—November 12, 1992)). Petitioners assert that although Dillinger eventually provided conversion factors to permit price-to-price comparisons on the same weight basis, it did not provide factors for converting the costs of producing merchandise from an actual to theoretical weight basis. Therefore, petitioners continue, sales prices, on a theoretical weight basis, cannot be compared to COP and CV, which are based on actual weight.

Petitioners argue that Dillinger ignored the questionnaire's explicit instruction to report COP and CV on the same basis as sales were reported. Dillinger's responses state that its cost accounting system uses actual material prices and actual material quantities, and that the average actual cost of materials and processing per ton for all production, at each step, is calculated monthly. The factors Dillinger provided to convert the weight of home market merchandise sold on an actual weight basis to a theoretical weight basis cannot be used to convert COP or CV to a theoretical weight basis because the conversion factors provided are transaction specific and not control number (CONNUM) specific. Accordingly, the Department should apply BIA to all sales for which Dillinger failed to provide a conversion factor to enable the COP/CV to be compared on the same measure of weight as prices (*i.e.*, all U.S. sales compared to CV and all home market sales made on a theoretical weight basis).

Respondent contends that it reported COP, CV, and DIFMER on a theoretical weight basis. Dillinger reported actual costs and actual weights of inputs at the beginning of the production process. According to respondent, the actual cost per ton of the finished product was calculated using theoretical weight. According to Dillinger, it used theoretical weight as the denominator for the per ton calculation of COP, CV, and DIFMER amounts. Respondent further asserts that there is no weighing station at the end of the production line in the factory. Dillinger does not know the actual weight of each production run, much less record it for cost accounting purposes. The Department can therefore correctly calculate dumping margins using COP, CV, and DIFMER data.

Department's Position: We disagree with petitioners that Dillinger reported its costs on an actual weight basis. When Dillinger reported that it uses actual material prices and actual material quantities, the "actual" in that sense refers to the actual in actual cost accounting versus standard cost accounting (used for cost inputs), as opposed to the actual in actual weight versus theoretical weight. Verification Exhibit 2 includes a map of the plate rolling mill. This reveals, as respondent contends, that there is a scale at the entrance to the mill, but there is not one at the end of the process. Therefore, they cannot weigh the finished product at the end of the product line, which indicates that finished product costs are based on theoretical weight. Also, on pages 5–6 of Dillinger's November 14, 1994, Section VI response, Dillinger indicates that its inventory value, which is calculated from the actual average cost system, is based on theoretical production. The inventory amount is only adjusted to actual at year-end. Therefore, Dillinger's day-to-day costs in their accounting system are based on theoretical weight. We agree with petitioners that costs and prices must be on the same weight basis to accurately calculate margins. In this case, the costs and prices are on the same weight basis (theoretical), so the petitioners' argument for BIA moot.

Comment 11: Petitioners argue that the Department should assign BIA to Dillinger's misreported product characteristics. As petitioners have previously pointed out and the Department recognized in its preliminary results, Dillinger has misreported non-prime products (Y-grades) as prime products. Petitioners argue that by including non-prime products within the same product specification as prime products, Dillinger has precluded the agency from comparing prime merchandise to prime merchandise in both markets. The Department's computer program excludes all home market sales of products with specifications that cover Y-grade merchandise. However, petitioners assert, by simply excluding all products with those particular specifications, the Department likely has excluded sales of prime merchandise as well. The petitioners argue that the exclusion of the home market control numbers (CONNUMHs) with these particular product specifications from the margin calculation program in the preliminary results, actually favors Dillinger by lowering its margin. According to petitioners, it was inappropriate to reward Dillinger for this error. The petitioners argue that when a respondent fails to provide the information requested, the Department must use BIA. When employing BIA, there should be an adverse assumption on the part of the Department unless special circumstances dictate otherwise. Petitioners assert that as BIA, all U.S. sales matched to the sale of a home market product in which the specification code is one which includes Y-grade products, should be assigned the higher of the highest, non-aberrant margin calculated on any individual transaction for this review or the 36.00 percent margin assigned to Dillinger in the investigation.

Respondent argues that the Department incorrectly assumed that Y-grade material contained both prime and non-prime merchandise. Dillinger informed the Department that non-prime merchandise sold in the home market should not be compared to prime material. In order to facilitate the Department's calculations, Dillinger reported all non-prime home market sales in a separate file. Thus, respondent contends, only prime Y-grade material is contained in Dillinger's primary home market sales file. Dillinger claims that it informed the verification team that Y-grade material was guaranteed for chemistry, dimensions and for tensile strength. According to respondent, no mill test certificate was issued for mechanical properties because none was requested by the customer. Dillinger did provide an analysis report to the customer. There is a published specification sheet for Y-grade material, indicating it is a prime product, made to order. Thus, respondent argues, while the chemical composition of the products in question did not meet their originally intended specifications, they were nevertheless prime material, meeting the requirements of the published Y-grade specifications. Generally speaking, according to Dillinger, it treats Y-grades no differently from any other prime grade (*i.e.*, A36). Dillinger claims that the verification team simply misinterpreted the facts. According to respondent, all sales reported as Y-grade specifications were treated by Dillinger as prime merchandise. Dillinger argues that its non-prime sales are sold in rail car lots containing mixed products (*e.g.*, carbon and alloy), without reference to type, specification, measurement, or grade. According to the respondent, there is nothing on the record (*e.g.*, verification report) to suggest that Y-grade material is considered to be non-prime material. Respondent asserts that the only record evidence (in the verification report) confirms that all non-prime material is sold in unmarked lots.

Department's Position: We disagree with respondent that Y-grades should be treated as prime merchandise. This is a question of methodology. Dillinger believes this to be prime material, since this is how it was reported and sold. We found at verification that there were "Misfit Cast" products, which were characterized as such because of an error in pouring. These were classified as Y-grades. The term "Misfit Cast" denotes non-prime merchandise. Since Dillinger did not provide enough information to refute this classification, we are continuing to treat Y-grades as non-prime merchandise. However, since Dillinger provided all requested information, and given the relatively small number of sales involved, we have determined simply to exclude from the home market sales database all specification codes containing Y-grade material. We do not agree with petitioners that our methodology (disregarding sales with specifications

that contain Y-grades) actually favors Dillinger. Even though these specification codes contain some prime material, given the structure and hierarchy of the model match, these specification codes would not match to any U.S. sales. Therefore, the impact on the dumping margin is essentially non-existent.

Comment 12: The petitioners argue that the Department should use adverse BIA to account for Dillinger's unreported and unverified home market sales. Petitioners assert that there is no indication that Dillinger's 1994 financial statements were ever examined by the Department during the sales verification. Petitioners continue that the absence of such financial statements during the verification prevented the Department from tying home market sales for 11 of the 23 months for which home market sales were reported, to Dillinger's audited financial statements. The petitioners argue that it is not possible to conclude that all 1992 and 1994 sales in the home market were reported or that accurate information was provided for home market sales in 1992 and 1994 since neither years' sales were traced to their respective audited financial statements. Since Dillinger presented 1994 semi-annual financial statements to the cost verification team but not to the sales verification team, the petitioners assert that this indicates selective presentation of information, which casts further doubt on the completeness of Dillinger's home market sales database. If the Department erroneously concludes that Dillinger's reported home market sales are usable, petitioners argue that BIA should be used to account for unreported or unverified home market sales. Petitioners continue that any U.S. sale made in February or March 1993, or between November 1993 and July 1994, should be assigned as BIA the higher of the highest non-aberrant margin or the 36.00 percent margin from the investigation

Respondent contends that the Department verified the total quantity and value in both the U.S. and home markets for the entire period of review, 1993 and 1994. Dillinger provided all data requested by the Department during verification. Respondent argues that as the petitioners are well aware, the Department does not trace sales to the financial reports for each month in the period of review.

Department's Position: We disagree with petitioners. We consider total home market sales to be verified. Contrary to petitioners' assertion, we were not prevented from verifying certain months during the POR. Verification is a testing procedure and not every single item is examined (*see Monsanto Co. v. U.S.*, 698 F. Supp 275, 281 (CIT 1988)). In the present case, we traced 1993 totals to the audited financial statements and performed completeness checks on various months in 1993 and 1994. For example, we reviewed the general ledger, sales ledger, sales journal, and profit and loss statement from the general ledger for the months of October 1993, February 1994, and June 1994. Dillinger provided all requested information, and contrary to petitioners' assertion, we were not prevented from verifying any month of the period. Because no discrepancies were found, we consider total home market sales to be reported and verified.

Comment 13: Respondent notes that in comparing foreign market value (FMV) to end-user sales in the United States, the Department made an adjustment to FMV to compensate for the problem discovered at verification where Dillinger incorrectly coded the customer code and level of trade for six home market sales. Respondent argues that as a result, the Department used one level of trade in the home market and increased the price of all end-user sales—both those incorrectly coded as well as those correctly coded—by the level of the discount granted to service centers/distributors when compared to end-user sales in the U.S. Respondent argues that this methodology added the full amount of the discount to sales that were correctly coded. Instead, respondent proposes that a smaller adjustment be made to all end-user sales which would be calculated by applying to the discount the ratio of incorrectly coded sales to total sales examined.

Petitioners note that the Department's adjustment incorrectly assumes Dillinger misreported the home market customer level of trade in only one manner—by identifying service center sales as end-user sales. Petitioners note Dillinger also misreported end-user sales as service center sales. Because of Dillinger's improper reporting of level of trade and failure to adequately explain the Handlerrabatt and its commissions have precluded the Department from identifying the correct level of trade, the Department should assume all sales constituted sales to end-users and increase all home market prices by the amount of the discount.

Department's Position: We agree with petitioners that respondent's improper reporting of level of trade and its failure to report separately certain other adjustments have precluded the Department from identifying the correct level of trade. Since the only known difference in terms of sale to service centers/distributors and end-users was that service centers/distributors received a trader discount (Handlerrabatt), in matching home market sales to sales to U.S. end-users, we have adjusted FMV for this discount. We disagree with petitioners that this amount should be added to FMV for all home market sales matching to U.S. service center sales. The Department's methodology in effect treats all home market sales as service center sales. Therefore, there is no reason to increase the FMV for home market sales matched to U.S. service center sales. We also disagree with respondent that we should adjust FMV by a ratio applied to the discount, rather than the full discount. Given the pervasive errors in the respondent's database in the coding of the customer and the level of trade, it is appropriate to treat all home market sales as service center sales and increase FMV for all such home market sales matched to U.S. end-users by the full trader discount.

Comment 14: Respondent states that the sales verification report contained misstatements concerning discounts for home market sales and other expenses. The verification report states that the reported gross unit price is net of a market discount and trader's commission. The report also states that the reported gross unit price includes an end-user discount which is paid directly to the customer and is reported in the other expense field. Respondent states that all discounts granted to service centers/distributors, whether market, trader's or end-user, are subtracted by Dillinger during negotiation with the purchaser, and the invoice price is net of these discounts. Thus, according to respondent, the end-user discount is not found in the other expense field. Respondent states that if the verification report were correct, the other expense field would have an amount corresponding to discounts given to service centers for end-user sales.

Department's Position: We disagree with respondent. Respondent is confusing the end-user rebate with discounts given to service centers for end-user sales. In the verification report the term "trader's commission" refers to discounts given to service centers for end-user sales. This discount is netted out of reported gross unit price. However, end-user rebates—paid directly to the service center's customer—are included in reported gross unit price and are reported in the other expense field.

Comment 15: Petitioners state that the Department should correct Dillinger's reported home market gross unit prices to account for the conversion from actual to theoretical weight.

Respondent agrees that the Department should compare sales in each market on a same weight basis.

Department's Position: We agree that Dillinger's reported home market gross unit prices should be adjusted from actual to theoretical weight and have done so in these final results. Additionally, we have converted to a theoretical weight basis, other Dillinger adjustments which were reported on an actual weight basis (*see Analysis Memorandum*, November 6, 1995).

Comment 16: Petitioners argue that the Department should deny Dillinger's home market credit expenses because Dillinger reported payment due dates rather than the actual dates of payment. Should the Department erroneously grant Dillinger a downward adjustment for home market credit expenses, this adjustment should be limited to the smallest credit expense reported by Dillinger for any home market sale.

Respondent notes that the Department verified the actual dates of payment for Dillinger's home market sales. These dates, according to respondent, were substantially the same as those reported in the responses. Respondent argues that no change in methodology should be made to that used in the preliminary results.

Department's Position: We agree with respondent that we should not deny Dillinger's adjustment to home market price for credit expenses. However, contrary to Dillinger's assertion, at verification we found that Dillinger's actual payment dates were different than reported in that they generally were later than those reported. As such, Dillinger's actual expenses, on those sales that were verified, generally exceeded those that were claimed. Accordingly, we are allowing the claimed expense.

Comment 17: Petitioners argue that the Department should deny Dillinger's claimed adjustment for global credit and debit notes and other expenses. Petitioners state that Dillinger has not given a consistent explanation of these adjustments. Both global credits and debits are reported for certain transactions. According to petitioners, it appears that the other expenses field also includes global credit notes, which would result in double counting of global credit notes. Petitioners question whether gross unit price has already been adjusted for end-user discounts.

Respondent disputes petitioners' claims, noting that Dillinger gave the Department a detailed explanation of the global credit and debit notes at verification and provided the identity of all customers receiving these credits and debits. Respondent asserts that the Department verified how Dillinger allocated these notes on a customer-by-customer basis, and the Department correctly accounted for these notes in the preliminary results. Respondent explains that global credits and debits could have been granted for the same sales because a particular customer could have been granted credits on some sales and debits on other sales. With respect to the other expense variable, respondent notes that this variable is correctly described on page 31 of the sales verification report, which states that this field contains rebates, invoicing errors, or warranty expenses.

Department's Position: We disagree with petitioners. At verification we verified Dillinger's methodology for allocating global credits and debits on a customer-by-customer basis. We found that global credits and debits were accurately reported. We agree with respondent that global credits and debits could have been granted for the same sales because a particular customer could have been granted credits on some sales and debits on other sales. As noted in our verification report, we found at verification that gross unit price had not been adjusted for end-user discounts and this discount was reported in the other expense field. The other expense field does not include global credits or debits. Hence there is no double counting.

Comment 18: Petitioners state that the Department should recalculate Dillinger's overly inclusive and misallocated home market indirect selling expenses. According to petitioners, Dillinger included both their sales cost as well as those of Saarlux. Petitioners assert that this is different than the methodology used to calculate the U.S. indirect selling expenses. Petitioners continue that Dillinger reduced its costs to account for functions performed by Francosteel and Daval (Francosteel's parent and a commission agent on U.S. sales). Petitioners further assert that Dillinger did not provide an explanation for how it determined cost of manufacturing used to allocate U.S. indirect selling expenses. Because of the complete miscalculation of its home market indirect selling expenses, the Department should deny Dillinger any adjustment for home market selling expenses. If the Department determines to grant this adjustment, then at a minimum, the Department should assign the smallest reported home market selling expense for any sale to all home market sales.

Respondent states that it did not double count any home market indirect selling expenses. Dillinger argues that it did not artificially reduce any sales expenses attributable to U.S. sales. According to Dillinger, it simply did not incur many traditional selling expenses applicable to U.S. sales because those functions are performed by Daval and Francosteel. Dillinger asserts that it also does not incur all home market selling expenses because many of them are performed by Saarlux. Dillinger argues that it correctly calculated indirect selling expenses in both markets predicated on cost of manufacturing, and that this is confirmed in verification exhibits.

Department's Position: We agree with respondent. We found both home market and U.S. indirect selling expenses to be allocated on the basis of cost of manufacturing. The methodology used by Dillinger for calculating home market indirect selling expenses was reasonable and not overly inclusive. U.S. indirect selling expenses have not been used in the calculation of antidumping duty margins as we consider Dillinger's U.S. sales to be purchase price and there are no home market commissions to offset with U.S. indirect selling expenses. Therefore, issues relating to the use or calculation of U.S. indirect selling expenses are moot.

Comment 19: Petitioners state that the Department should deny the erroneous adjustment for inventory carrying costs it granted to Dillinger. Petitioners assert that Dillinger failed to provide any support for its method of calculating the number of days between the date of production and the date of shipment. Petitioners summarize that Dillinger has thus failed to demonstrate entitlement to this adjustment, and the Department should deny it.

Respondent argues that it provided a detailed explanation of how it derived inventory carrying costs at verification. According to the respondent, the Department accepted and verified that explanation.

Department's Position: We disagree with petitioners. At verification, Dillinger provided the Department with a copy of a submission estimating the number of days between the date of production and the date of shipment. These figures appeared reasonable at verification, and result in an extremely small adjustment for inventory carrying costs. We note that inventory carrying costs are included in indirect selling expenses. As stated above in the Department's position on question 18, we have not used U.S. indirect selling expenses in our calculations. We further

note that home market indirect selling expenses are only included to the extent that they do not exceed U.S. commissions. As home market indirect selling expenses exceed U.S. commissions even if inventory carrying costs are not included, this issue is moot.

Comment 20: Petitioners argue that the Department should treat Dillinger's U.S. sales as exporter's sales price (ESP) transactions. According to petitioners, there is no documentary evidence that supports Dillinger's assertion that its related selling arm in the United States, Francosteel, is only a processor of sales-related documentation. Petitioners assert that Dillinger's sales through Francosteel do not meet the statutory definition of purchase price. The Department uses a three-part test to determine whether ESP or purchase price should be used to determine United States price (USP) when the sale is made prior to the date of importation. Petitioners argue that only the third factor in this test (whether the related selling agent in the U.S. acted only as a mere processor of sales-related documentation and a communications link with the unrelated U.S. buyers) directly addresses the question for whether the sales took place in a foreign country for exportation to the United States. Before the Department can make a finding that the related party is just a processor of documentation, there has to exist evidence in the record to support that conclusion. Petitioners assert that in this case, the Department only has Dillinger's assertion. Petitioners argue that there is nothing in the record that indicates that Francosteel communicated with Daval before it issued its confirmation of sale. Petitioners argue that the price at which the merchandise is sold to the unrelated purchaser is different from the price at which it was purchased from Daval. Petitioners assert that in *PQ Corp* v. *U.S.*, 652 F. Supp. 732 (CIT 1987), the court noted that this is a factor that supports a determination that the sale is an ESP transaction. Petitioners argue that Dillinger has the burden of producing the information that proves Francosteel is only a processor of sales related documentation, and it has not done so.

Petitioners further argue that Francosteel sells for its own account in the United States. According to petitioners, Francosteel's agreement with Daval demonstrates that Francosteel has undertaken to sell, in the United States, the products of a related party, and that it, Francosteel, not the unrelated purchaser, obtains those products through a purchase from Daval. Because the sale takes place in the United States between a party related to the foreign seller and an unrelated purchaser, the sale is clearly ESP. Petitioners assert that since Francosteel purchases the products from the foreign seller and the unrelated purchaser does not, the transaction falls outside of the purchase price definition.

Petitioners further argue that declarations made on Customs Form 7501 clearly indicate that Francosteel is the purchaser of the imported merchandise. Petitioners assert that given these declarations, this merchandise was apparently entered for appraisement by Dillinger under transaction value, the most common basis of determining Customs value. According to petitioners, transaction value is defined as the price actually paid or payable for the merchandise when sold for exportation to the United States. Petitioners assert that this definition is largely the same as purchase price. Petitioners argue that given the similarity of the statutes, Dillinger's claim that its U.S. sales to the first unrelated purchaser should be treated as purchase price transactions is inconsistent with a claim that the merchandise should be appraised under transaction value at the price established by the Daval/Francosteel transaction.

Respondent asserts that the first unrelated customer purchases the merchandise from Dillinger, not Francosteel. Respondent argues that at the time of the order and order confirmation, Francosteel does not have title to the merchandise. According to respondent, Francosteel merely receives the order from the unrelated customer and forwards it to Dillinger for approval. Respondent further states that once Dillinger approves the order, it notifies Francosteel, and then Francosteel notifies the customer. Dillinger treats the date of sale as the date it enters the order confirmation into its system. According to respondent, only after the plate is produced does the contract between Daval and Francosteel become applicable. Respondent states that at this time the steel has already been sold to the first unrelated customer. Respondent asserts that Francosteel's agreement with Daval operates only from the time that Francosteel obtains the merchandise at the European port until it invoices the U.S. customer upon arrival at the U.S. port. Even if Francosteel took title, in *Outokumpu Copper Rolled Products AB* v. *U.S.*, 829 F. Sup. 1371 (CIT 1993), the Court held that where the subsidiary took title to the exported merchandise and paid customs duties, the sales were nevertheless properly classified as purchase price transactions.

The respondent further asserts that a related U.S. company can receive purchase orders directly from U.S. customers, send invoices directly to those customers, act as an importer of record and receive payment, and still be deemed to be a mere processor of documentation and a communication link (*see E.I. DuPont de Nemours & Co.* v. *U.S.*, 841 F. Supp. 1237 (CIT 1993)). Therefore, the Department should continue to treat U.S. sales as purchase price transactions.

Department's Position: We disagree with petitioners. The Department determined that purchase price, as defined in section 772 of the Tariff Act, was the appropriate basis for calculating USP. All sales were made through Francosteel, a related sales agent in the United States, to unrelated purchasers. Whenever sales are made prior to the date of importation through a related sales agent in the United States, we typically determine that purchase price is the most appropriate determinant of the USP based upon the following factors: 1) the merchandise in question was shipped directly from the manufacturer to the unrelated buyer, without being introduced into the inventory of the related shipping agent; 2) direct shipment from the manufacturer to the unrelated buyers was the customary commercial channel for sales of this merchandise between the parties involved; and 3) the related selling agent in the United States acted only as a processor of sales-related documentation and a communication link with the unrelated U.S. buyers. See *Certain Stainless Steel Wire Rods from France: Final Determination of Sales at Less than Fair Value*, 58 FR 68865, 68868 (December 29, 1993); *Granular Polytetrafluoroethylene Resin from Japan: Final Results of Antidumping Duty Administrative Review*, 58 FR 50343, 50344 (September 27, 1993). In the present review, we found that: the essential terms of sale were set prior to importation by or on approval by Dillinger; the merchandise was shipped immediately to the customer upon importation into the United States, without being introduced into the inventory of the related shipping agent; direct shipment from the manufacturer to the unrelated buyers was the customary commercial channel for sales of this merchandise; the merchandise was not warehoused by Francosteel during the normal course of business; and the related selling agent in the United States acted only as a processor of sales-related documentation and a communication link with the unrelated U.S. buyers.

Even if Francosteel temporarily takes title to the merchandise, it is not inventoried by them. The term "inventory", as it is commonly used in business, implies that the merchandise is in storage and is available for sale. We have determined that the subject merchandise that Francosteel imports (the merchandise is not physically warehoused by Francosteel during the normal course of business) is not generally available for sale. It is awaiting delivery to a specific customer (*see Stainless Steel Wire Rods from France*).

Although Francosteel takes title to the merchandise and participates in sales negotiations, we found at verification that it does not have the flexibility to set the price of the steel and only acts as a processor of sales-related documentation (*see Stainless Steel Wire Rods from France*). Furthermore the Court of International Trade found in *Independent Radionic Workers of America* v. *U.S.*, (Slip Op. 95–45, March 15, 1995 CIT), that while the respondent processed purchase orders, performed invoicing, collected payments, arranged U.S. transportation, and was the importer of record, these duties, while substantial, are not necessarily disqualifying of purchase price treatment.

For all of the above reasons, we are continuing to treat U.S. sales as purchase price sales.

Comment 21: Petitioners argue that the Department should apply BIA to the value of a discrepancy in Dillinger's reported U.S. sales for 1993 and its sales ledger information. Petitioners state that Dillinger underreported both the quantity and value of its U.S. sales.

Respondent counters that it explained at verification the double counting of one invoice. Respondent also states that the discrepancy in the value of U.S. sales is accounted for by expenses incurred by Francosteel which are not contained in Dillinger's books.

Department's Position: We agree with respondent. As Francosteel explained at verification, Dillinger only retained one entry for the same tonnage in its calculations of total volume and value, thinking that the second identical tonnage was a duplication. However, the same tonnage was reported on two separate invoices, and was properly reported in Dillinger's U.S. sales listing. This second "duplicate" invoice accounts for virtually all of the tonnage discrepancy. The difference in value is accounted for by expenses incurred by Francosteel.

Comment 22: Petitioners argue that the Department should apply BIA to the value of all 1994 Francosteel imports, as Dillinger failed to demonstrate the completeness of its 1994 U.S. sales at verification.

Respondent states that petitioners' assertion is without any foundation on the record. Nowhere in the verification report does the Department state that any material data was not verified. Accordingly, the Department should continue to use Dillinger's 1994 sales data.

Department's Position: We agree with respondent. As discussed above, verification is a testing procedure and not every single item need be examined. *See Monsanto Co.* v. *U.S.*, 698 F. Supp 275, 281 (CIT 1988). We consider total U.S. sales to be verified. We traced 1993 totals to the audited financial statements and performed completeness tests on various months in 1993 and 1994. For example, we randomly selected sales from Francosteel's invoice registers for the months of August 1993 and August 1994 to determine if products were properly included and/or excluded from Dillinger's U.S. sales listing. Because no discrepancies were found, we consider total U.S. sales to be reported and verified.

Comment 23: Petitioners claim that the Department should apply BIA to unreported sales made by Berg Steel Pipe (Berg). Petitioners state that they gave the Department information indicating that Dillinger failed to report sales of subject merchandise (pipe) by Berg Steel Pipe, a related party to Dillinger. According to petitioners, the Department did not confirm whether there were any sales of subject merchandise made by Berg to unrelated customers in the United States during the POR. Petitioners argue that simply because Dillinger stated that Berg did not purchase subject merchandise from it during the POR does not foreclose the possibility that Berg already had subject merchandise in stock which it could have sold during the POR. Petitioners argue that furthermore, Dillinger permitted the Department to select invoices only from a computer-generated listing at verification, rather than an actual sales journal, and did not demonstrate that the computer program which generated the listing was outputting appropriate and complete information. Publicly available data shows that Francosteel imported and shipped steel plate to Panama City, Florida, where Berg is located, during the POR.

Respondent states that the Department verified that all sales and entries in the POR by Dillinger to Berg were of non-scope merchandise. Respondent asserts that assuming, arguendo, that Berg had sales of scope merchandise in the POR which were entered prior to the POR, the petitioners' point is moot. Respondent argues that entries prior to the POR are not subject to this review and have already been liquidated in any case.

Department's Position: We agree with respondent. While it is true that Dillinger sold plate to Berg during the POR, there is no evidence that any of this steel was subject merchandise. To establish whether any sales of subject merchandise were made to Berg, we examined random invoices selected from a company computer report listing all sales to Berg at verification. This report was generated from Dillinger's normal sales accounting system. The sales invoices we examined described the plate sold to Berg as X–70 grade steel, which is outside the scope of this review. We reviewed mill certificates for certain invoices, confirming that this steel was X–70 grade and the strength levels were above 70,000 pounds per square inch. We found this to be sufficient proof that Dillinger did not sell subject merchandise to Berg during the POR.

Comment 24: Petitioners state that the Department should use BIA for foreign brokerage and handling. Because there has been no demonstration of arm's-length transactions between Dillinger and the related company that provided its foreign brokerage and handling services, the Department should apply adverse BIA.

Respondent notes that the Department verified that the brokerage and handling fees charged by this related company were at arm's-length.

Department's Position: We disagree with petitioners. As noted above, verification is a testing procedure and not every single item need be examined. *See Monsanto Co. v. U.S.*, 698 F. Supp 275, 281 (CIT 1988). We performed an arm's-length test on one related party (a barge company) and found that prices for comparable services charged by the unrelated party were less than those charged by the related party. We also found that another related party providing services to Dillinger was profitable. We have no reason to believe that foreign brokerage and handling were provided on other than an arm's length basis and we are allowing this adjustment.

Comment 25: Petitioners argue that the Department should use BIA for ocean freight. They claim that there has been no demonstration of arm's-length transactions between Dillinger and the

related company that provided ocean transportation services.

Respondent notes that the related party does not own the ships which carry the plates to the United States; this related party simply arranges transportation. Respondent argues that none of the ocean carriers are related to Dillinger, and the payments made for ocean freight were made to unrelated parties.

Department's Position: We agree with respondent. While ocean freight is arranged by a related party, the actual ocean carriers are unrelated parties. As such, there is no need to perform an arm's length test because the actual ocean freight is not provided by a related party.

Comment 26: Petitioners state that the Department should use BIA for foreign inland freight. First, the petitioners argue, Dillinger reported related-party foreign inland freight charges, but failed to demonstrate that they were incurred at arm's-length prices. According to petitioners, Dillinger attempted to demonstrate its foreign inland freight expenses were at arm's-length by providing information at verification concerning a transaction between Dillinger and an unrelated freight company. However, the petitioners assert, the verification report does not indicate the product shipped, the route, or the basis for calculating the rate. Moreover, the petitioners argue, the invoices examined were for a different period than those to its related party. The petitioners argue that Dillinger also claimed its transactions were at arm's-length based on transportation charges between this related party and an unrelated customer. However, the petitioners assert, the supporting documentation provided is merely a translation of an agreement, with no actual original documentation. The petitioners argue that the verification report does not indicate that this information was ever verified. According to petitioners, verification documentation also reveals that Dillinger often incurred foreign inland freight expenses through another related company; Dillinger did not attempt to demonstrate those transactions were at arm's-length. Second, the petitioners assert, the Department's program fails to correct the weight basis used for foreign inland freight. The petitioners argue that Dillinger incorrectly converted a theoretical weight figure to an actual weight figure, even though U.S. sales were reported on a theoretical weight basis. Third, the petitioners assert, Dillinger has failed to include costs associated with loading, unloading, and transportation of the merchandise from Dillinger's factory to the port of Dillingen.

Respondent counters that the verification report accurately portrays the arm's-length nature of the foreign inland freight expenses. According to respondent, the documents inspected by the verification team completely satisfied the Department. The respondent argues that concerning the weight basis of the shipped plate, the Department is confused on the facts. Respondent states that the barge company bills Dillinger on an actual weight basis. Respondent argues that it converted this figure to a theoretical weight basis for purposes of its responses.

Department's Position: We disagree with petitioners. Verification is a testing procedure and not every single item need be examined. *See Monsanto Co.* v. *U.S.*, 698 F. Supp 275, 281 (CIT 1988). We performed an arm's-length test on one related party (a barge company) and found that foreign inland freight charges charged by an unrelated party were less than those charged by the related party. In addition to the checks performed at verification, we have compared the prices charged by this unrelated party to reported foreign inland freight expenses for 1994 U.S. sales. We again found the related expenses to be greater than the unrelated charges. Thus, we believe Dillinger's foreign brokerage and handling expenses to be at arm's length. We agree with respondent that verification exhibits demonstrate that these expenses were reported on a theoretical weight basis. Regarding the costs associated with loading, unloading, and transportation of the merchandise from Dillinger's factory to the port, we found (on the basis of the information submitted and verification findings) these expenses to be included in COP/CV. In Dillinger's accounting system, these expenses are embedded in the cost of production and are not easily separated. These expenses are incurred on both home market and U.S. sales. Also, because of the very short distance from the plant to port, these expenses are extremely minor. Therefore, we are allowing Dillinger's treatment of these loading, unloading, and transportation expenses.

Comment 27: Petitioners state that the Department should reject Dillinger's reported U.S. short-term interest rate. In determining whether to use loans obtained from related parties to calculate credit and inventory carrying costs, the Department examines the terms of these loans to determine whether they were made at arm's-length interest rates. When a respondent fails or is unable to demonstrate that such loans are at arm's-length, the Department excludes these loans from its calculation of interest rate. According to the petitioners, Dillinger did not demonstrate this and failed to exclude these related party interest rates from the weighted-average interest rate used to calculate credit and inventory carrying costs. Petitioners argue that verification exhibits demonstrate that the related party interest rates were not arm's-length. Petitioners assert that there is no indication that Dillinger attempted to demonstrate the reported interest rates reflected all of Francosteel's borrowing during the POR. Petitioners argue that there is no indication of any review of Francosteel's accounts to verify whether Francosteel used other sources of financing. Since Dillinger did not establish the arm's length nature of its related party borrowings or demonstrate that all borrowings were reported, its reported U.S. short-term interest rate should be denied altogether. The Department should use the U.S. prime lending rate or, at a minimum, use the weighted-average short-term interest rate reposted by Dillinger calculated without the related party interest rates.

Respondent argues that the Department verified that loans from related parties were at arm's length by comparing them to those obtained from unrelated parties. Therefore, no change should be made to the Department's methodology.

Department's Position: During verification, we examined Francosteel's accounts to determine that all short-term borrowings had been reported for use in the short-term interest rate. To accomplish this, we inquired about all interest expenses on Francosteel's books and their sources. We were satisfied that all borrowings had been reported. We disagree with petitioners in part in that some of the related party loans are considered to be arm's-length when compared for contemporaneous periods. That is, we compared the loan from a related party to those from unrelated parties, looking at when they were made. Some of the related party loans were found to have rates at or above those of unrelated parties, using time and term as the criteria. Accordingly, loans from related parties whose loans were below arm's-length were excluded from the interest rate calculation for purposes of these final results (in the preliminary results, all loans from related parties had been included in the calculations).

Comment 28: Petitioners state that the Department should apply BIA to an unreported U.S. sale. Petitioners state that the Department's examination of one observation at verification revealed the amount invoiced to the U.S. customer was less than the total amount appearing on the bill of lading. Petitioners argue that although this sale should be included in Dillinger's sales listing, the verification report provides no indication the sales listing was examined to verify that the sale had been reported, nor does it indicate any follow-through during verification to determine similar discrepancies. Therefore, the Department should presume the difference is caused by a missing sale and should apply total BIA to the value of that sale.

Respondent notes that sales to one end user were made each time that customer released tonnage from its inventory. Respondent asserts that all tonnage contained in the bill of lading is accounted for in the observations reported to the Department, and there are no unreported U.S. sales.

Department's Position: We agree with respondent. In verifying the calculation of U.S. duty on the observation in question, we examined the total volume on the entry and verified it was totally reported in Dillinger's submissions across a number of other observations. Therefore, there is no missing U.S. sale.

Comment 29: Petitioners argue that the Department should adjust its program to account for understated U.S. commissions. Petitioners assert that the Department correctly treated Dillinger's U.S. commissions as a direct selling expense. Petitioners argue that although the Department found at verification that some of the reported commissions were understated, the Department's program fails to adjust for this understatement. As BIA, the Department should increase all commissions by the average difference between Dillinger's reported commission and its actual commission on these sales.

Respondent agrees that the Department found a discrepancy in U.S. sales commissions for some sales, but points out that these discrepancies are *de minimis*. If the Department makes a correction, it should only be for the three sales in question.

Department's Position: After further examination of U.S. commissions, we have determined that this expense has been correctly reported. The sales referred to in the verification report include multiple observations for each sale. We have found that taking the total weighted-average of all the U.S. commissions corresponding to all observations on a given invoice results in the amount described in the verification report as the correct value for U.S. commissions (*see Analysis Memorandum*, November 6, 1995).

Comment 30: Petitioners argue that the Department should adjust U.S. price for warehousing expenses. Petitioners assert that although the record indicates that Dillinger incurred warehousing costs for its U.S. sales, Dillinger failed to report these expenses. The Department should make an adjustment to USP to account for the cost of warehousing. The Department should use, as BIA for warehousing expenses, data provided in Francosteel's financial statements.

Respondent argues that the Department verified that Francosteel incurred no warehousing expenses applicable to subject merchandise in the period of review; therefore no adjustment is necessary. According to respondent, warehousing in Francosteel's accounting documents is merely an accounting term, and not a reference to a physical warehouse.

Department's Position: We agree with the respondent. We extensively examined this topic at verification and found that Francosteel did not physically inventory, *i.e.*, warehouse, subject merchandise during the POR (as discussed in the Francosteel verification report). Consequently it did not incur any warehousing costs related to subject merchandise during the POR.

Comment 31: Petitioners argue that the Department must ensure that the value-added tax (VAT) amount added to USP is no more than the VAT amount added to/included in FMV. Petitioners assert that the Department neglected to adhere to the instructions of the CIT in *Federal-Mogul* v. *U.S.*, 862 F. Supp. 384, 394–95 (CIT 1994), requiring the Department to impose a cap on the VAT adjustment made to USP. Accordingly, the Department should ensure that the VAT amount added to USP is, in every instance, no greater than the VAT amount which is added to the FMV to which USP is being compared. The petitioners assert that the deposit rate will be affected by an unwarranted increase in USP caused by the Department's failure to apply a VAT cap.

Department's Position: In light of the Federal Circuit's decision in *Federal Mogul* v. *United States*, CAFC No. 94–1097, the Department has changed its treatment of home market consumption taxes. Where merchandise exported to the United States is exempt from the consumption tax, the Department will add to the U.S. price the absolute amount of such taxes charged on the comparison sales in the home market. This is the same methodology that the Department adopted following the decision of the Federal Circuit in *Zenith* v. *United States*, 988 F. 2d 1573, 1582 (1993), and which was suggested by that court in footnote 4 of its decision. The Court of International Trade (CIT) overturned this methodology in *Federal Mogul* v. *United States*, 834 F. Supp. 1391 (1993), and the Department acquiesced in the CIT's decision. The Department then followed the CIT's preferred methodology, which was to calculate the tax to be added to U.S. price by multiplying the adjusted U.S. price by the foreign market tax rate; the Department made adjustments to this amount so that the tax adjustment would not alter a "zero" pre-tax dumping assessment.

The foreign exporters in the *Federal Mogul* case, however, appealed that decision to the Federal Circuit, which reversed the CIT and held that the statute did not preclude Commerce from using the "*Zenith* footnote 4" methodology to calculate tax-neutral dumping assessments (*i.e.*, assessments that are unaffected by the existence or amount of home market consumption taxes). Moreover, the Federal Circuit recognized that certain international agreements of the United States, in particular the General Agreement on Tariffs and Trade (GATT) and the Tokyo Round Antidumping Code, required the calculation of tax-neutral dumping assessments. The Federal Circuit remanded the case to the CIT with instructions to direct Commerce to determine which tax methodology it will employ.

The Department has determined that the "*Zenith* footnote 4" methodology should be used. First, as the Department has explained in numerous administrative determinations and court filings over the past decade, and as the *Federal Circuit* has now recognized, Article VI of the GATT and Article 2 of the Tokyo Round Antidumping Code required that dumping assessments be tax-neutral. This requirement continues under the new Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade. Second, the URAA explicitly amended the antidumping law to remove consumption taxes from the home market price and to eliminate the addition of taxes to U.S. price, so that no consumption tax is included in the price in either market. The Statement of Administrative Action (p. 159) explicitly states that this change was intended to result in tax neutrality.

While the "*Zenith* footnote 4" methodology is slightly different from the URAA methodology, in that section 772(d)(1)(C) of the pre-URAA law required that the tax be added to United States price rather than subtracted from home market price, it does result in tax-

neutral duty assessments. In sum, the Department has elected to treat consumption taxes in a manner consistent with its longstanding policy of tax-neutrality and with the GATT.

Final Results of Review

As a result of our review, we have determined that the following margin exists:

Manufacturer/exporter	Time period	Margin (percent)
AG der Dillinger Huttenwerke.	2/4/93–7/31/94	1.42

The Department shall determine, and the Customs service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of review for all shipments of plate from Germany entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) the cash deposit rates for the reviewed company will be the rate for that firm as stated above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the original less than fair value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this review, the cash rate will be 36.00 percent. This is the "all others" rate from the LTFV investigation. *See Antidumping Duty Order and Amendment of Final Determination of Sales at Less Than Fair Value: Certain Cut-To-Length Carbon Steel Plate from Germany*, 58 FR 44170 (August 19, 1993). These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under section 353.26 of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 353.34(d) of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and this notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and section 353.22 of the Department's regulations.

Dated: March 20, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–7464 Filed 3–27–96; 8:45 am]

BILLING CODE 3510–DS–P

Quarterly Update to Annual Listing of Foreign Government Subsidies on Articles of Cheese Subject to an In-Quota Rate of Duty

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Publication of quarterly update to annual listing of foreign government subsidies on articles of cheese subject to an in-quota rate of duty.

SUMMARY: The Department of Commerce (the Department), in consultation with the Secretary of Agriculture, has prepared a quarterly update to its annual list of foreign government subsidies on articles of cheese subject to an in-quota rate of duty. We are publishing the current listing of those subsidies that we have determined exist.

EFFECTIVE DATE: April 1, 1996.

FOR FURTHER INFORMATION CONTACT: Brian Albright or Maria MacKay, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230, telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION: Section 702(a) of the Trade Agreements Act of 1979 (as amended) (the Act) requires the Department to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of cheese subject to an in-quota rate of duty, as defined in section 702(h)(4) of the Act, and to publish an annual list and quarterly updates of the type and amount of those subsidies.

The Department has developed, in consultation with the Secretary of Agriculture, information on subsidies (as defined in section 702(h)(2) of the Act) being provided either directly or indirectly by foreign governments on articles of cheese subject to an in-quota rate of duty. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amounts of each subsidy for which information is currently available.

The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of cheese subject to an in-quota rate of duty to submit such information in writing to the Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230.

This determination and notice are in accordance with section 702(a) of the Act.

Dated: March 21, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

APPENDIX.—SUBSIDY PROGRAMS ON CHEESE SUBJECT TO AN IN-QUOTA RATE OF DUTY

Country	Program(s)	Gross[1] subsidy	Net[2] subsidy
Austria	European Union (EU) Restitution Payments	33.1¢/lb.	33.1¢/lb.
Belgium	EU Restitution Payments	32.1¢/lb.	32.1¢/lb.

APPENDIX.—SUBSIDY PROGRAMS ON CHEESE SUBJECT TO AN IN-QUOTA RATE OF DUTY—Continued

Country	Program(s)	Gross[1] subsidy	Net[2] subsidy
Canada	Export Assistance on Certain Types of Cheese	26.1¢/lb.	26.1¢/lb.
Denmark	EU Restitution Payments	35.8¢/lb.	35.8¢/lb.
Finland	EU Restitution Payments	34.1¢/lb.	34.1¢/lb.
France	EU Restitution Payments	33.4¢/lb.	33.4¢/lb.
Germany	EU Restitution Payments	36.0¢/lb.	36.0¢/lb.
Greece	EU Restitution Payments	0.00¢/lb.	0.00¢/lb.
Ireland	EU Restitution Payments	38.1¢/lb.	38.1¢/lb.
Italy	EU Restitution Payments	71.5¢/lb.	71.5¢/lb.
Luxembourg	EU Restitution Payments	32.1¢/lb.	32.1¢/lb.
Netherlands	EU Restitution Payments	31.8¢/lb.	31.8¢/lb.
Norway	Indirect (Milk) Subsidy	19.4¢/lb.	19.4¢/lb.
	Consumer Subsidy	43.1¢/lb.	43.1¢/lb.
		62.5¢/lb.	62.5¢/lb.
Portugal	EU Restitution Payments	30.9¢/lb.	30.9¢/lb.
Spain	EU Restitution Payments	42.7¢/lb.	42.7¢/lb.
Switzerland	Deficiency Payments	187.1¢/lb.	187.1¢/lb.
U.K.	EU Restitution Payments	34.8¢/lb.	34.8¢/lb.

[1] Defined in 19 U.S.C. 1677(5).
[2] Defined in 19 U.S.C. 1677(6).

[FR Doc. 96–7465 Filed 3–27–96; 8:45 am]

BILLING CODE 3510–DS–P

Intent To Revoke Countervailing Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of intent to revoke countervailing duty order.

SUMMARY: The Department of Commerce (the Department) is notifying the public of its intent to revoke the countervailing duty order listed below. Domestic interested parties who object to revocation of this order must submit their comments in writing not later than the last day of April 1996.

EFFECTIVE DATE: March 28, 1996.

FOR FURTHER INFORMATION CONTACT: Brian Albright or Cameron Cardozo, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

The Department may revoke a countervailing duty order if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by the Department's regulations (at 19 C.F.R. 355.25(d)(4)), we are notifying the public of our intent to revoke the countervailing duty order listed below, for which the Department has not received a request to conduct an administrative review for the most recent four consecutive annual anniversary months.

In accordance with section 355.25(d)(4)(iii) of the Department's regulations, if no domestic interested party (as defined in sections 355.2(i)(3), (i)(4), (i)(5), and (i)(6) of the regulations) objects to the Department's intent to revoke this order pursuant to this notice, and no interested party (as defined in section 355.2(i) of the regulations) requests an administrative review in accordance with the Department's notice of opportunity to request administrative review, we shall conclude that the countervailing duty order is no longer of interest to interested parties and proceed with the revocation. However, if an interested party does request an administrative review in accordance with the Department's notice of opportunity to request administrative review, or a domestic interested party does object to the Department's intent to revoke pursuant to this notice, the Department will not revoke the order.

Countervailing duty order	
Peru:	
Pompon Chrysanthemums (C–333–601)	4/23/87 52 FR 13491

Opportunity To Object

Not later than the last day of April 1996, domestic interested parties may object to the Department's intent to revoke this countervailing duty order. Any submission objecting to the revocation must contain the name and case number of the order and a statement that explains how the objecting party qualifies as a domestic interested party under sections 355.2(i)(3), (i)(4), (i)(5), or (i)(6) of the Department's regulations.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B–099, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230.

This notice is in accordance with 19 CFR 355.25(d)(4)(i).

Dated: March 21, 1996.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 96–7466 Filed 3–27–96; 8:45 am]

BILLING CODE 3510–DS–P

National Oceanic and Atmospheric Administration

[I.D. 032296A]

Small Takes of Marine Mammals Incidental to Specified Activities; Haro Strait Oceanographic Experiment

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of proposed authorization for a small take exemption; request for comments.

SUMMARY: NMFS has received a request from Prof. Henrik Schmidt of the Department of Engineering, Massachusetts Institute of Technology (DE/MIT), Cambridge, MA, for

authorization to take small numbers of marine mammals by harassment incidental to conducting a physical oceanography experiment that uses sound to study the flow field and mixing processes in Haro Strait, Puget Sound, WA. Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to authorize DE/MIT to incidentally take, by harassment, small numbers of marine mammals in the above-mentioned area between June 10, 1996, and July 5, 1996.

DATES: Comments and information must be received on or before April 29, 1996.

ADDRESSES: Comments on the application should be addressed to Chief, Marine Mammal Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225. A copy of the application, a list of references used in this document, and/or a programmatic Environmental Assessment (EA) may be obtained by writing to this address or by telephoning one of the contacts listed below.

FOR FURTHER INFORMATION CONTACT: Kenneth Hollingshead, Office of Protected Resources at 301–713–2055, or Brent Norberg, Northwest Regional Office at 206–526–6733.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs NMFS to allow, upon request, the incidental, but not intentional, taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations are issued.

Permission may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s); will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses; and the permissible methods of taking and requirements pertaining to the monitoring and reporting of such taking are set forth.

On April 30, 1994, the President signed Public Law 103–238, the MMPA Amendments of 1994. One part of this law added a new subsection 101(a)(5)(D) to the MMPA to establish an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. The MMPA defines "harassment" as:

> * * * any act of pursuit, torment, or annoyance which (a) has the potential to injure a marine mammal or marine mammal stock in the wild; or (b) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.

New subsection 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization. Summary of Request

On January 31, 1996, NMFS received a complete application from DE/MIT requesting an authorization for the harassment of small numbers of marine mammals incidental to conducting a physical oceanography experiment that uses sound to study the flow field and mixing processes in Haro Strait, in the San Juan Island Archipelago (Puget Sound) WA, just south of Stuart Island (48°39′00″ N, 123°11′00″ W).

The experiment, which will be from June 10 through July 5, 1996, for a total of 26 days, is scheduled to take advantage of the extreme ebb tides that occur only twice a year. The winter alternative is unacceptable, because weather conditions at that time of the year would make operations extremely difficult and would make marine mammal monitoring virtually impossible.

As described in the application, the experiment consists of three primary components: (1) A vertical array system, which consists of 5 vertical arrays that will be permanently moored to the bottom throughout the experiment; (2) two autonomous underwater vehicles (AUVs), which will be deployed for about 4 hours per day during maximum front formation. The AUVs are equipped for salinity, temperature and pressure sensing and have sound sources for acoustic modem communications as well as tomography sources; and (3) a set of drifters that will move with the flow field and map current speed profiles using Doppler-shift sonar methods. All systems will be integrated using the Autonomous Oceanographic Sampling Network (AOSN). Additional information on the experiment is available in the application. Information on the sound sources to be used during this experiment are provided in Table 1 of this notice.

Source D (the Long-Base-Line (LBL) transponder array) will be deployed on June 10 and will be operated (along with source E) for 4 hours/day until the end of the experiment. The vertical arrays will be deployed on June 11, and sources A, B, and C will operate daily from June 11 until the end of the experiment. Sources F and G will be used in conjunction with the AUVs on a few days before June 24 and will be used daily for 4 hours after June 24. Sources H and I, which are the Institute of Ocean Science's (IOS) side-scan sonars, will be used for 4 hours/day from June 23 until the end of the experiment on July 5, 1996.

TABLE 1.—LIST OF SOUND SOURCES TO BE USED IN THE HARO STRAIT EXPERIMENT[1]

Source	Class	Frequency (kHz)	Amplitude (dB re 1μPa)	Duration (seconds(s))	Duty cycle	Location	Depth m.
Modems	A	13–18	170	2 s.	1/min	5-moor	30
Tomography	B	1–2	170	1 s.	1/min	5-moor	50
Array tracking	C	25–30	160	0.1 s.	1/min	5-moor	200
LBL transponders.	D	8–12	192	0.01 s.	10 sec	4/5 trns/ship	100/7
Ultra short-baseline transponders.	E	18–22	184	0.001 s.	10 sec	ship and AUV	
LF ADCP[2]	F	115–125	194	0.0001 s.	5 sec	1 AUV	50
HF ADCP[3]	G	295–305	194	0.0001 s.	5 sec	1 AUV	50
IOS imaging[4]	H	90–110	195	0.0001	0.2 sec	1 AUV	30
IOS drifter[4]	I	90–110	195	0.0001/10s	0.2 sec	1 AUV	30

TABLE 1.—LIST OF SOUND SOURCES TO BE USED IN THE HARO STRAIT EXPERIMENT[1]—Continued

Source	Class	Frequency (kHz)	Amplitude (dB re 1μPa)	Duration (seconds(s))	Duty cycle	Location	Depth m.
Low frequency tomography.	J	0.06–0.3	160	1 s.	10 sec	ship	10

[1] Note that some sources are produced out of more than one transducer.
[2] Low frequency Doppler-shift current profiler.
[3] High frequency Doppler-shift current profiler.
[4] Side-scan Doppler-shift sonar onboard the AUVs (imaging) or the drifter.

The low-frequency tomography source (source J) will be used for 4 hours/day from June 18–June 20, 1996.

Description of Marine Mammals Affected by the Activity

The species of marine mammals that are likely to be present in the affected area at the time of the experiment include the harbor porpoise (*Phocoena phocoena*), killer whale (*Orcinus orca*), Dall's porpoise (*Phocoenoides dalli*), and harbor seal (*Phoca vitulina*). Additional species that are rare or only occasionally seen in the area at the time of the experiment include: Minke whale (*Balaenoptera acutorostrata*), elephant seal (*Mirounga angustirostris*); Pacific white-sided dolphin (*Lagenorhynchus obliquidens*), northern sea lion (*Eumetopias jubatus*), California sea lion (*Zalophus californianus*), humpback whale (*Megaptera novaengliae*), and gray whale (*Eschrichtius robustus*). General information on these species can be found in Barlow *et al.* (1995)[5]. More specific information on marine mammals species in Puget Sound waters can be found in the application, which is available upon request (see **ADDRESSES**), and does not need to be repeated here.

Potential Effects on Marine Mammals

The potential effects on marine mammals from sounds transmitted into the water include harassment, temporary or permanent hearing loss, and short-term habitat displacement. The most severe effect can be death or permanent hearing loss, with less severe effects including pain, masking of communication or echolocation signals, habitat avoidance, increased stress, and behavioral or social disruption (Richardson *et al.* 1991 as cited in the application). Of these reactions, permanent hearing loss and habitat exclusion are the primary effects that have the possibility of causing injury to an animal or group of animals. As detailed below, for the Haro Strait experiment, hearing loss is extremely unlikely, because sources' amplitudes are not high enough to cause damage except at extremely close distances (< 1 m). The amount of habitat that may be excluded is likely to be small in comparison to the total range of these animals, and any observed harmful effects can be mitigated with an effective monitoring plan (described below), which will be in place prior to beginning the experiment.

Permanent Hearing Loss

In humans and other terrestrial mammals, permanent hearing loss may occur from exposure to very loud transient sounds. Lengthy exposure to lower amplitude sounds can also cause permanent hearing loss (Richardson *et al.* 1995). However, none of the sources listed in Table 1 is considered a continuous source. In humans and other terrestrial animals, an impulsive sound with a received sound level of 155 to 160 dB above absolute hearing thresholds may cause permanent hearing damage (Greenlaw 1987, Kryter 1985). While it is unknown if similar levels cause damage in marine mammals (Richardson *et al.* 1991, 1995), until better information is available for marine mammals, NMFS proposes to adopt this level as the onset of permanent hearing damage in marine mammals. NMFS clarifies, however, that both the source and the marine mammal's hearing need to be within the same frequency for this damage to potentially take place.

Using 155 dB above hearing threshold as a first approximation of the received level required for permanent hearing damage in marine mammals, the applicant calculated a radius within which each source (listed in Table 1 of this notice) might affect permanent hearing loss for those three species present in the area for which data is available (harbor porpoise/Dall's porpoise, harbor seal, and killer whale). Calculations indicate that marine mammals would need to be closer than .25 m to source D in order to potentially receive hearing damage; for other sources, animals would need to be even closer (please refer to Table 3 in the application for actual distances). However, the applicant presumes that the near-field effects might cause the distance to be slightly greater (but less than 1 m, than calculated by spherical spreading alone. As a result, NMFS and the applicant believe that there is virtually no possibility of inflicting permanent hearing damage on any marine mammals.

Temporary Hearing Loss

Temporary threshold shift (TTS) is an increase in an individual animal's hearing threshold in response to a loud sound (ARPA, 1995). Until TTS dissipates (minutes to hours), and original hearing abilities return, an animal may not perceive low amplitude sounds that were normally within its hearing. This is expected to have only a negligible impact on those marine mammals in the immediate area of the experiment, as animals are expected to move away from sounds that inflict discomfort on them. Because there are no studies of TTS effects in marine mammals (Richardson *et al.* 1995), comparisons with data on humans may be useful and relevant. In humans, onset of TTS is approximately at 80–100 dB over threshold (ARPA 1995).

Incidental Harassment Takes

In addition to the zone of hearing loss or temporary impairment (mentioned above), Richardson *et al.* (1991, 1995) have identified three zones of influence that may have different effects on marine mammals.

(1) *Zone of audibility (ZOA).* The ZOA is the region where a marine mammal can be expected to hear a sound. It will fluctuate based upon ambient noise level and the hearing threshold of the animal. Using spherical and cylindrical spreading models less absorption, the ZOA for killer whales, harbor porpoise and harbor seals are predicted to be limited to the line-of-sight between the animals and the source(s) for the loudest sources and up to 2 km for sources with lower sound pressure levels. It should be recognized,

[5] A list of references used in this document can be obtained by writing to the address provided above (see **ADDRESSES**).

however, that NMFS does not consider simply hearing noise from an activity to mean that the animals are being harassed as marine mammals in the coastal environment are continually subject to noise from a number of sources, both natural and anthropogenic.

(2) *Zone of responsiveness (ZOR).* The ZOR is the region where a marine mammal may (or may not) behaviorally respond to a sound source. For the sound sources listed in Table 1 of this notice, the predicted ZOR is less than 500 m of most sources except source A, which has a ZOR approximately 2.5 km for killer whales; source D, which has a ZOR approximately 6 km for killer whales and 4 km for harbor porpoise; and source E, which has a ZOR approximately 2 km for killer whales (Schmidt 1996). Because source A is located in five different locations, it will have a ZOR that comprises the entire area inside the arrays in addition to the 2.5 km outside exterior to each array. Table 6 in the application contains the estimated ZOR for each source.

It should be noted that these ZORs are based upon limited information. As a result, the ZORs may be larger or smaller than predicted, depending upon the marine mammal species, the level of background noise, habituation, and the behavioral state of the animals involved.

(3) *Zone of discomfort (ZOD).* The ZOD is the region in which sound levels are expected to be uncomfortable to marine mammals. It is presumed that marine mammals will avoid this zone when the sources are operating and those within the ZOD will leave the area, although in some cases avoidance may not be possible, especially if geological features or water conditions make exiting the area impractical. To mitigate this possibility, the applicant has established a monitoring plan that is described below.

Based upon the level found to cause discomfort in humans (Greenlaw 1987), NMFS and the applicant, propose a contour of 90 dB above threshold hearing to define the ZOD. For killer whales and harbor porpoise, 90 dB above threshold is approximately 135–140 dB for a wide range of frequencies. At least for killer whales, this level is supported by observation (Bain 1995).

For the three species for which audiogram data are available, the applicant's model predicts a small ZOD (<=50 m) for all sources except for source A, which has a predicted ZOD of 173 m for killer whales, source D, with a ZOD of 386 m for killer whales and 220 m for harbor porpoise and source E, which has a ZOD of 158 m for killer whales. Table 7 in the application contains the estimated ZOD for each source.

Habitat Exclusion

The area of the experiment is occupied regularly by harbor porpoise, Dall's porpoise, killer whales and harbor seals and to a significantly lesser extent, by minke whales, elephant seals, Pacific white-sided dolphin, northern sea lions, California sea lions, humpback whales, and gray whales. While sounds from the experiment may be audible to some or all of these species, behavioral effects should not be noticeable until the sounds reach some level of discomfort. As a result of this discomfort, there is the possibility that the research may cause some marine mammals to move out of their preferred habitat.

(1) *Harbor porpoise.* While the immediate area of the experiment does not appear to be primary habitat for harbor porpoise (Baird and Guenther 1994, Raum-Suryan pers.-comm. as cited in Schmidt 1996) because of similarity to acoustic deterrent devices (Olesiuk *et al.* 1995), it is predicted that sources D and E will result in the temporary displacement of harbor porpoise, especially on the western side of Haro Strait (Schmidt 1996).

(2) *Killer whale.* Killer whales forage over a large area of water in northern Puget Sound (Schmidt 1996). Therefore, it is highly unlikely that exclusion from the relatively small area of the experiment would have more than a negligible impact on the stock. However, if the sources impeded north-south passage between Haro Strait and Boundary Pass, there might be reason for some concern. While this is not anticipated, mitigation measures are expected to preclude this occurrence.

(3) *Dall's porpoise.* While there is evidence that Dall's porpoise are less disturbed by boats than harbor porpoise are (Osmek *et al.* 1995), other information (McIntyre pers. comm. 1996) indicates that Dall's porpoise can be affected by sonar. Alternatively, other research results of sound effects on Dall's porpoise (Jones *et al.* 1986) are equivocal. As a result of this lack of evidence, and because of the similarity between Dall's porpoise and harbor porpoise, NMFS will presume that Dall's porpoise behavior to the experiment's sound sources will be similar to that observed for harbor porpoise.

(4) *Harbor seal.* The projected ZOR for harbor seal is less than 400 m and the ZOD is less than 40 m for even the loudest source (source D). Because these zones are small, and because the experiment will end prior to the main onset of pupping (Suryan 1995), NMFS does not believe that this experiment would have more than a negligible impact on harbor seals.

(5) *Other marine mammal species.* The remaining marine mammal species identified in this section are considered uncommon in the area. As a result, while this experiment may result in the incidental harassment of an individual animal that might enter into the area of the experiment, the experiment itself is unlikely to result in more than a negligible impact on the species or stock of which the animal is a member.

Monitoring

A monitoring plan has been developed and will be conducted by Patrick Miller, Ph.D. candidate, Marine Bioacoustics Lab, Woods Hole Oceanographic Institution and the Department of Biology, MIT (DB/MIT). In addition, an advisory board for monitoring this activity's impacts on marine mammals has been established.

The goals of the monitoring plan are:

(1) *To document the number of Level B harassment takes by species and number.* To accomplish this task, a cliffside shore station will be established near the sound sources, and area surveys will be conducted using a small inflatable craft. Sampling from both the boat and the cliff site will be based on the schedule of usage of the sound sources to ensure an accurate estimate of the total number of animals present and potentially harassed by the sources. This requirement will vary depending upon which sound sources are activated, especially sources D and E, which are the sources with the largest ZOR. When sources D and E are not operating, the size of the ZOR is small (less than 1 km around each of the sound sources), and censusing animals in this area can be accomplished using a shore station on the western bluff of Spieden Island. When sources D and E are operating, the size of the ZOR is much larger, with a maximum radius of about 6 km around the D source (DE/MIT 1996). To accurately estimate the number of animals by species in an area of water this size will require the use of both the shore station on Spieden Island and a boat to conduct censuses in the area farthest away from Spieden Island. The boat will do point censusing according to NMFS-approved methodologies in several parts of the ZOR while the source is operating.

Acoustical behavior of killer whales will be studied using the vertical arrays, a hydrophone station on Spieden Island, and a towed hydrophone array from the killer whale boat. Specifically, DB/MIT will document changes in vocalization rates and repertoires when the sources are operating from baseline activity in and around the area of the experiment. Any observed change in killer whale acoustical activity that is directly correlated to a sound produced by the experiment will be classified as a "take" by harassment.

(2) *To collect data to mitigate potential effects on marine mammals, especially habitat exclusion for harbor porpoise and killer whales.* To obtain a sufficient number of baseline observations needed to detect a large change in mean abundance of harbor porpoise within the time an animal would be expected to suffer deleterious effects, harbor porpoise observations will begin on May 16, 1996, (25 days prior to startup of the experiment) using a shore station to measure their abundance. To provide a good view of the ZOR on the western side of Haro Island, this shore station will be established on the bluff at Wymond Pt., Sidney Island.

For killer whales, in addition to analyzing data collected in previous years, DB/MIT will conduct a period of baseline observations on killer whale travel behavior in the area. DB/MIT will record the likelihood that killer whales pass from north to south given an approach to the study area.

(3) *To collect data on the effects of sound on those marine mammals present in or near the study area.* Data from shore stations and censusing vessels will be used to document the abundance and distribution of marine mammals in relation to the sound sources over a wide range of amplitude exposures. In addition, monitoring will determine the size of the ZOR for those species present near the sources, compare these measurements to the pre-test calculated ZOR size, and determine displacement for harbor porpoise, killer whales and harbor seals. For killer whales especially, behavior will be monitored by vessel, and data will be collected on swim direction and speed, and group spacing and arrangement. Finally, recovery periods for all species will be determined through a 3-week post-experiment monitoring program.

Mitigation

Mitigation measures include: (1) Developing and incorporating a ramp-up of sound sources A and C over 0.25 sec; (2) incorporating a coded sequence mechanism for shutting off source D; (3) hardwiring the maximum output of source A down from 185 dB (re 1μPa) to 170 dB @ 1 m. and (4) developing a protocol for shutting down sources upon the approach of killer whales in order to use the vertical arrays to record and analyze their sounds.

National Environmental Policy Act (NEPA)

NMFS has conducted a review of the potential impacts from the issuance of an incidental harassment authorization to DE/MIT and has determined that there will be no more than a short-term, negligible impact on marine mammals from the issuance of the harassment authorization. For that reason, NMFS has determined that issuance of an incidental harassment authorization to DE/MIT is categorically excluded (as defined in 40 CFR 1508.4) from the preparation of either an environmental impact statement or an EA under NEPA and section 6.02.c.3(i) of NOAA Administrative Order 216–6 for Environmental Review Procedures (published August 6, 1991).

A programmatic EA on issuing incidental harassment authorizations under section 101(a)(5)(D) of the MMPA, which was released in 1995, is available upon request (see **ADDRESSES**).

Conclusions

NMFS believes that most of the acoustic sources proposed for use in this experiment are of insufficient amplitude and duty cycle to warrant an incidental harassment authorization (literally thousands of similar acoustic devices are in use daily in U.S. waters on vessels as fish finders, bottom sonars, and as acoustic deterrent devices in commercial fisheries); however, because of recent public concern over Scripp's Institution of Oceanography's acoustic thermometry of ocean climate, oceanographic researchers are correctly taking a cautious approach and applying for incidental harassment authorizations to ensure their projects go forward.

NMFS has determined preliminarily that the short-term impact on marine mammals from conducting a physical oceanography experiment between June 10 and July 5, 1996, using high-frequency sound to study the flow field and mixing processes in Haro Strait, Puget Sound, WA, may result in a short-term modification in behavior by certain species of cetaceans. While behavioral modifications may be made by these species of cetaceans to avoid noise, this behavioral change is expected to have only a negligible impact on the animals. However, the mitigation and monitoring measures that will be part of the authorization, if issued, would provide additional protection to ensure that the project's impact on marine mammals is at the lowest level practicable. NMFS has also determined that this experiment will not have an unmitigable adverse impact on the availability of this stock for subsistence uses.

As a result, NMFS proposes to issue an incidental harassment authorization for approximately 60 days for the above described experiment and post-experiment monitoring, provided the above mentioned mitigation and monitoring requirements are incorporated.

Information Solicited

NMFS requests interested persons to submit comments, information, and suggestions concerning this request (see **ADDRESSES**).

Dated: March 22, 1996.

Patricia A. Montanio,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–7824 Filed 3–25–96; 4:31 pm]

BILLING CODE 3510–22–W

[I.D. 031996B]

Western Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Western Pacific Fishery Management Council will hold its 89th meeting.

DATES: The meeting will be held on April 24–26, 1996. The Council's standing committees will meet from 8:00 a.m. to 5:00 p.m. on April 24. The full Council will meet from 8:30 a.m. to 5:00 p.m. on April 25–26. There will be a fishermen's forum from 4:00 p.m. to 6:00 p.m. on April 25.

ADDRESSES: The meeting will be held at the Ala Moana Hotel, Garden Lanai Room, 410 Atkinson Dr., Honolulu, HI; telephone: (808) 955–4811.

Council address: Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1405, Honolulu, HI, 96813

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: 808–522–8220.

SUPPLEMENTARY INFORMATION: The Council will discuss and may take action on the following agenda items:

1. Reports from the islands;

2. Reports from fishery agencies and organizations, including enforcement agencies, and plan to require a Vessel Monitoring System (VMS) on all foreign vessels;

3. Ecosystems and habitat, including:

(a) Report on ocean circulation model, and

(b) Plan for coral reef assessment;

4. Pelagic fishery issues, including:

(a) 1995 draft annual report island-area summaries,

(b) Decline in 1994 Hawaii swordfish landings,

(c) Bycatch issues,

(d) Status of request for single-Council designation for management of domestic pelagic fisheries in the Pacific,

(e) NMFS swordfish research,

(f) Plan for U.S. vessels fishing in the Pacific to report catch and effort and establishment of control date, and

(g) Comprehensive data collection need and strategy for implementation.

5. Crustaceans, including:

(a) Status of Amendment 9,

(b) 1996 quota forecast,

(c) VMS evaluation,

(d) NMFS lobster research, and

(e) Request for experimental fishing permit;

6. Bottomfish issues, including:

(a) 1995 draft annual report island-area summaries,

(b) Department of Land and Natural Resources progress with a management plan for Main Hawaiian Island Onaga and Ehu, and

(c) Reconsideration of Northwestern Hawaiian Islands management system;

7. Native rights and indigenous fishing issues, including: (a) Status of relevant Magnuson Fishery Conservation and Management Act (Magnuson Act) amendments, and

(b) Community-based planning;

8. Program planning, including:

(a) NMFS consolidation of regulations and strategic planning;

(b) University of Hawaii Sea Grant - future of fishery management,

(c) Status of Magnuson Act reauthorization, and

(d) Status of Western Pacific Fisheries Information Network (WesPac FIN);

9. Administrative matters; and

10. Other business as required.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, 808–522–8220 (voice) or 808–522–8226 (fax), at least 5 days prior to meeting date.

Dated: March 20, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–7518 Filed 3–27–96; 8:45 am]

BILLING CODE 3510–22–F

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Florida Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Florida Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 11:00 a.m. on Tuesday, April 23, 1996, at the Holiday Inn I–95 North, 14670 Duval Road, Jacksonville, Florida 32229. The purpose of the meeting is to hold a press conference to release the report, *Racial and Ethnic Tensions in Florida*; discuss progress and/or problems in the State and Nation; and discuss plans to follow-up on the report.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Rabbi Solomon Agin, 813–433–0018, or Bobby D. Doctor, Director of the Southern Regional Office, 404–730–2476 (TDD 404–730–2481). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 20, 1996.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 96–7573 Filed 3–27–96; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the Florida Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Florida Advisory Committee to the Commission will convene at 3:00 p.m. and adjourn at 6:00 p.m. on Tuesday, April 23, 1996, at the Hotel Inter Continental, 100 Chopin Plaza, Miami, Florida 33121. The purpose of the meeting is to hold a press conference to release the report, *Racial and Ethnic Tensions in Florida*; discuss progress and/or problems in the State and Nation; and discuss plans to followup on the report.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Rabbi Solomon Agin, 813–433–0018, or Bobby D. Doctor, Director of the Southern Regional Office, 404–730–2476 (TDD 404–730–2481). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 20, 1996.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 96–7574 Filed 3–27–96; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the Indiana Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Indiana Advisory Committee to the Commission will convene at 12:45 p.m. and adjourn at 5:00 p.m. on Thursday, April 18, 1996, at the Embassy Suites, 110 West Washington Street, Indianapolis, Indiana 46204. The purpose of the meeting is to hold an Indiana Consultation: Focus on Affirmative Action.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Paul Chase, 317–920–3190, or Constance Davis, Director of the Midwestern Regional Office, 312–353–8311 (TDD 312–353–8362). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 20, 1996.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 96–7575 Filed 3–27–96; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the Kentucky Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Kentucky Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 5:00 p.m. on Thursday, April 25, 1996, at the Radisson Plaza, 369 West Vine Street, Lexington, Kentucky 40507. The meeting will include a discussion of a draft report on "Bigotry-Related Violence in Kentucky", discussion of civil rights problems and progress in the State and Nation, and planning for future activity.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Porter Peeples, 606–233–1561 or Robert L. Knight, Civil Rights Analyst, Southern Regional Office, 404–730–2476 (TDD 404–730–2481). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 20, 1996.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 96–7576 Filed 3–27–96; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the Pennsylvania Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Pennsylvania Advisory to the Commission will convene at 10:30 a.m. and adjourn at 3:30 p.m. on Friday, May 3, 1996, at the U.S. Department of Justice, Community Relations Service, Conference Room 208, Second and Chestnut Streets, Philadelphia, Pennsylvania 19106. The purpose of the meeting is to discuss the Committee's current project proposal and plan its project activity on affirmative action for fiscal year 1996. The Committee anticipates inviting speakers to inform the Committee on affirmative action issues in Pennsylvania.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Joseph Fisher, 215–351–0750, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 21, 1996.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 96–7577 Filed 3–27–96; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the Vermont Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Vermont Advisory to the Commission will convene at 9:30 a.m. and adjourn at 4:30 p.m. on Wednesday, May 15, 1996, at the Memorial Room at City Hall, 39 Main Street, Montpelier, Vermont 05602. The purpose of the meeting is to plan project activity based on information gathered at the meeting from civil rights organizations and members of the community on the status of civil rights in Vermont.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Dr. Samuel B. Hand, 802–656–3180 or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 20, 1996.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 96–7578 Filed 3–27–96; 8:45 am]

BILLING CODE 6335–01–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [insert FR citation].

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:00 a.m., March 27, 1996.

CHANGES IN MEETING: Meeting concerning Charcoal Labeling has been canceled and rescheduled for Tuesday, April 2, 1996.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: March 26, 1996.

Sadye E. Dunn,

Secretary.

[FR Doc. 96–7755 Filed 3–26–96; 2:41 pm]

BILLING CODE 6355–01–M

Sunshine Act Meeting

TIME AND DATE: 10:00 a.m., Tuesday, April 2, 1996.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the Public.

MATTER TO BE CONSIDERED:

Charcoal Labeling

The staff will brief the Commission on a draft final rule that would revise the label currently required by the Commission's regulations for packages of charcoal. The label addresses the hazard of inhalation of carbon monoxide that collects when charcoal is burned in confined areas.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: March 26, 1996.

Sadye E. Dunn,

Secretary.

[FR Doc. 96–7756 Filed 3–26–96; 2:41 pm]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Establishment of the Marshall Center Board of Visitors

ACTION: Notice.

SUMMARY: The Marshall Center Board of Visitors is being established by direction of the Secretary of Defense and in accordance with the provisions of Pub. L. 92–463, the "Federal Advisory Committee Act."

The Board will provide advice on matters related to the mission, policy, faculty, students, curricula, educational methods, research, facilities and administration of the Marshall Center. The Marshall Center is a part of the United States European Command, and is located in Garmisch, Germany. The Center's mission is to foster the development defense institutions and

security structures compatible with democratic processes and civilian control among the nations of central Europe and the former Soviet Union.

The Board will be composed of a balanced mix of approximately 15 members who will have expertise relevant to the functions to be performed, and will representatives from the U.S. Congress, former senior government and military officials, and distinguished citizens from academia, business, industry, and other professions associated with national security affairs.

For further information regarding the Board, contact: Colonel Frank Willingham, at (703) 697–1386.

Dated: March 22, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–7469 Filed 3–27–96; 8:45 am]

BILLING CODE 5000–04–M

Government-Industry Advisory Committee on the Operation and Modernization of the National Defense Stockpile

ACTION: Notice of meeting.

SUMMARY: The fifth meeting of this committee will be held on April 10, 1996, at the Defense Logistics Agency Headquarters Complex, Fort Belvoir, VA. The meeting is open to the public. This committee was established under Public Law 102–484. The meeting time and agenda are as follows:

TIME: 9:00 a.m. to 2:30 p.m.

AGENDA: The Committee will hear reports from the working group on Sales Methodology and from the working group on Stockpile Modernization. For additional information contact Tom Meeker at 703–767–6476.

Dated: March 22, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–7470 Filed 3–27–96; 8:45 am]

BILLING CODE 5000–04–M

Department of the Navy

Chief of Naval Operations (CNO) Executive Panel; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel will meet 23 April 1996 from 10:00 a.m. to 11:30 a.m. at the office of the Chief of Naval Operations, 2000 Navy Pentagon, Washington, DC 20350-2000. This session will be closed to the public.

The purpose of this meeting is to conduct the mid-term briefing of the Naval Support to the Land Battle Task Force to the Chief of Naval Operations. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and are, in fact, properly classified pursuant to such Executive Order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b (c) (1) of title 5, United States Code.

For further information concerning this meeting contact: Janice Graham, Assistant for CNO Executive Panel Management, 4401 Ford Avenue, Suite 601, Alexandria, Virginia 22302-0268, Telephone Number: (703) 681-6205.

Dated: March 19, 1996

M. A. Waters,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 96–7580 Filed 3–27–96; 8:45 am]

BILLING CODE 3810–FF–P

Notice of Intent To Grant Exclusive Patent License; Lumitox Gulf L.C.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Lumitox Gulf L.C., a revocable, nonassignable, partially exclusive license in the United States to practice the Government-owned invention described in U.S. Patent Nos. 5,130,251 entitled "Stress-Resistant Bioluminescent Dinoflagellates"; 5,143,545 entitled "Antifouling Marine Coatings"; and 5,192,667 entitled "Method for Evaluating Anti-Fouling Paints."

Anyone wishing to object to the grant of this license has 60 days from the date of this notice to file written objections along with supporting evidence, if any. Written objections are to be filed with the Office of Naval Research, ONR 00CC, Ballston Tower One, 800 North Quincy Street, Arlington, Virginia 22217–5660.

FOR FURTHER INFORMATION CONTACT: Mr. R.J. Erickson, Staff Patent Attorney, Office of Naval Research, ONR 00CC, Ballston Tower One, 800 North Quincy Street, Arlington, Virginia 22217–5660, telephone (703) 696–4001.

Dated: March 19, 1996.

M. A. Waters,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 96–7579 Filed 3–27–96; 8:45 am]

BILLING CODE 3810–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER96–1310–000]

Kentucky Utilities Co.; Notice of Filing

March 22, 1996.

Take notice that on March 14, 1996, Kentucky Utilities Company (KU), tendered for filing information on transactions that occurred during February 16, 1996 through February 29, 1996, pursuant to the Power Services Tariff accepted by the Commission in Docket No. ER95–854–000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before April 5, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7520 Filed 3–27–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP95–149–001 and MT96–11–000]

KO Transmission Co.; Notice of Initial Tariff Filing

March 22, 1996.

Take notice that on March 21, 1996, KO Transmission Company (KO), 139 East Fourth Street, Cincinnati, Ohio 45202, filed in Docket No CP95–149–001 and MT96–11–000 its FERC Gas Tariff, Original Volume No. 1, with a proposed effective date of April 22, 1996.

KO states that the initial tariff filing reflects the required modifications to the general terms and conditions and its cost of service in compliance with the Commission's February 5, 1996, order granting KO its certificate in Docket No. CP95–149–000, 74 FERC ¶ 61,101.

Any person desiring to be heard or to make a protest the subject filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedures, 18 CFR 385.214 or 385.211 and the Regulation under the Natural Gas Act, 18 CFR 157.10. All such motions and protests should be filed on or before April 2, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7521 Filed 3–27–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–175–000]

Southern Natural Gas Co.; Notice of Proposed Changes to FERC Gas Tariff

March 22, 1996.

Take notice that on March 19, 1996, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheets to become effective April 1, 1996:

First Revised Sheet No. 142
Original Sheet No. 142a

Southern states that the purpose of this filing is to implement two Tariff revisions proposed by Southern in its Stipulation and Agreement filed on March 15, 1996, in Docket Nos. RP89–224, *et al.*, and approved by the Commission in its order issued on September 29, 1995.

Southern states that the Tariff provisions proposed to be implemented in this filing are (1) to establish a two-day trading period for imbalances after the end of each month, and (2) to allow storage customers to use their gas in storage or firm storage capacity to remedy all or part of their monthly imbalances. Although Southern is not required to implement these provisions until the first of the month after the Commission issues an order on rehearing in Docket Nos. RP89–224, *et al.*, it prefers to place these provisions into effect April 1, 1996, so that such elections are available for application against March 1996 imbalances. Since March 1996 imbalances are subject to a new cash-out mechanism approved in Docket No. RP96–132, it is preferable from a programming standpoint to place the revisions affecting the cash-out mechanism into effect at the same time. Since no party protested these provisions of the Stipulation and Agreement, Southern submits that the Commission should grant it all waivers necessary to place these provisions into effect April 1, 1996.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR Sections 385.211 and 385.214). All such motions and protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7522 Filed 3–27–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–157–000, et al.]

Transcontinental Gas Pipe Line Corp.; Notice of Informal Settlement Conference

March 22, 1996.

Take notice that an informal settlement conference will be convened in this proceeding on March 29, 1996, at 10:00 a.m. The conference will be held at the offices of the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined in 18 CFR 385.102(b), may attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations, 18 CFR 385.214.

For additional information, contact Donald Heydt at (202) 208–0740 or Michael Cotleur at (202) 208–1076.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7523 Filed 3–27–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP95–136–000 and RP93–109–000]

Williams Natural Gas Co.; Notice of Informal Settlement Conference

March 22, 1996.

Take notice that an informal settlement conference will be convened in the above-captioned proceedings at 10:00 a.m. on April 2, 1996, at the offices of the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, for the purpose of exploring the possible settlement of the above-referenced dockets.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and received intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact Arnold H. Meltz at (202) 208–2161 or Donald. A. Heydt at (202) 208–0740.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7524 Filed 3–27–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–1323–000]

Wisconsin Electric Power Company; Notice of Filing

March 22, 1996.

Take notice that on March 15, 1996, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing an Electric Service Agreement and a Transmission Service Agreement between itself and Coastal Electric Services Company (Coastal). The Transmission Service Agreement allows Coastal to receive transmission service under Wisconsin Electric's FERC Point-to-Point Transmission Tariff, under Docket No. ER95–1474, Rate Schedule STNF.

Wisconsin Electric requests an effective date of March 30, 1996 and waiver of the Commission's notice requirements to allow for economic transactions. Copies of the filing have been served on Coastal, the Public Service Commission of Wisconsin and

the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions of protests should be filed on or before April 5, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7525 Filed 3–22–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–1324–000]

Wisconsin Electric Power Company; Notice of Filing

March 22, 1996.

Take notice that on March 15, 1996, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing an Electric Service Agreement and a Transmission Service Agreement between itself and Valero Power Services Company (Valero). The Transmission Service Agreement allows Valero to receive transmission service under Wisconsin Electric's FERC Point-to-Point Transmission Tariff, under Docket No. ER95–1474, Rate Schedule STNF.

Wisconsin Electric requests an effective date of March 30, 1996 and waiver of the Commission's notice requirements to allow for economic transactions. Copies of the filing have been served on Valero, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before April 5, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7526 Filed 3–27–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–239–000, et al.]

Questar Pipeline Company, et al.; Natural Gas Certificate Filings

March 21, 1996.

Take notice that the following filings have been made with the Commission:

1. Questar Pipeline Company

[Docket No. CP96–239–000]

Take notice that on March 8, 1996, as supplemented on March 14, 1996 and March 18, 1996, Questar Pipeline Company (Questar), 79 South State Street, Salt Lake City, Utah 84111, filed in Docket No. CP96–239–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to 1) construct and operate replacement delivery point metering and regulating facilities and 2) abandon the existing metering and regulating delivery point facilities. The subject delivery point, the Ogden Valley District Regulator Station (Ogden Valley DRS) formerly known as the Weber Basin District Regulator Station (Weber Basin DRS), is located adjacent to Questar's transmission pipeline system in Morgan County, Utah. Questar states that the replacement delivery point facilities will be utilized to provide expanded transportation service to Mountain Fuel Supply Company (Mountain Fuel), a local distribution company which is an affiliate of Questar, under the blanket certificate issued in Docket No. CP82–491–000, pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

By letter dated February 6, 1996, Questar states that Mountain Fuel requested that additional facilities be installed to provide expanded transportation service. Questar states that the proposed facilities will allow Mountain Fuel to provide expanded service to meet the space-and-water heating requirements of the commercial and residential customers of Upper Ogden Valley area of Weber County, Utah. Specifically, Questar will install a four-inch meter run at an estimated cost of $15,000. Questar proposes to provide the expanded transportation service pursuant to its firm transportation Rate Schedule T–1. Questar notes that the additional deliveries to Mountain Fuel will not exceed the maximum daily quantities of 795,000 Dth/d nor will it cause detriment or disadvantage to its other customers. Questar proposes to initially deliver up to approximately 400 Dth per hour. Questar notes that Mountain Fuel expects its peak-day and annual requirements at the new delivery point to approximate 8,000 Dth/d and 750,000 Dth per year.

The facilities that Questar proposes to abandon have been historically utilized as a transportation delivery point, formerly known as Weber Basin DRS, pursuant to Questar's firm transportation Rate Schedules T–1 and NNT. Specifically, Questar proposes to abandon approximately 100 feet of two, three and four-inch diameter piping, one two-inch meter run and one pressure regulating valve assembly at an estimated cost of $15,000. Weber Basin DRS was originally constructed in 1965 to serve as a delivery point at a cost of $796. As part of its corporate reorganization in Docket Nos. CP80–274, *et al.*, the Commission authorized the transfer of the Weber Basin DRS and other jurisdictional transmission facilities to Questar as interstate facilities subject to the Commission's jurisdiction under the NGA.

Comment date: May 6, 1996, in accordance with Standard Paragraph G at the end of this notice.

2. NorAm Gas Transmission Company

[Docket No. CP96–251–000]

Take notice that on March 15, 1996, NorAm Gas Transmission Company (NGT), 1600 Smith Street, Houston, Texas 77002, filed in Docket No. CP96–251–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to construct and operate certain facilities in Columbia County, Arkansas under NGT's blanket certificate issued in Docket No. CP82–384–000, *et al.*, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

NGT proposes to to construct and operate a 2-inch tap and 1-inch first-cut regulator for the transportation of gas to Petro Chem Operating Co. (Petro Chem). The estimated annual volume to be delivered is 43,800 MMBtu and 120 MMBtu per day. The estimated cost of construction is $81,286.36, which will be reimbursed by Petro Chem.

Comment date: May 6, 1996, in accordance with Standard Paragraph G at the end of this notice.

3. Northwest Pipeline Corporation

[Docket No. CP96–257–000]

Take notice that on March 18, 1996, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84158, filed in Docket No. CP96–257–000 an application pursuant to Sections 7(c) and 7(b) of the Natural Gas Act for authorization to construct and operate certain replacement natural gas facilities and for authorization to abandon and remove the facilities being replaced, all as more fully set forth in the application on file with the Commission and open to public inspection.

Northwest proposes to construct and operate approximately one mile of new 26-inch replacement pipeline, partially outside of Northwest's existing right-of-way, and abandon and remove approximately one mile of existing deteriorated pipeline on Northwest's Ignacio to Sumas mainline near the town of Rangely in Rio Blanco County, Colorado.

Northwest states that the installation of replacement pipeline and the removal and abandonment of the existing line is necessary to insure the integrity of its mainline transmission system.

Northwest states that the proposed pipeline replacement will not result in an increase in the capacity of its mainline.

Northwest estimates the total costs to construct the proposed pipeline and remove and abandon the existing pipeline segment at approximately $882,500.

Comment date: April 11, 1996, in accordance with Standard Paragraph F at the end of this notice.

4. Williams Natural Gas Company

[Docket No. CP96–259–000]

Take notice that on March 18, 1996, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP96–259–000 a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216) for authorization to abandon facilities in Shawnee County, Kansas under WNG's blanket certificate issued in Docket No. CP82–479–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

WNG proposes to abandon by sale to KPL, a Western Resources Company (KPL) approximately 8.25 miles of the Forbes 8-inch pipeline, measuring, regulating, and appurtenant facilities.

Comment date: May 6, 1996, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7519 Filed 3–27–96; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. RM96–7–000]

Regulation of Negotiated Transportation Services of Natural Gas Pipelines; Notice of Extension of Time

March 22, 1996.

On March 19, 1996, United Distribution Companies, Associated Gas Distributor, The LDC Caucus and American Gas Association (collectively Petitioners) and Interstate Natural Gas Association of America (INGAA) filed respective motions for an extension of time within which to submit initial comments in response to the Commission's Statement of Policy and Request for Comments issued January 31, 1996, in the above-docketed proceeding (61 FR 4633, February 7, 1996). In their motions, Petitioners and INGAA state that additional time for the filing deadline will provide all parties more time to analyze the legal and policy implications of the rulemaking proceeding and give the parties the time needed to develop, if possible, consensus positions. On March 21, 1996, the Independent Petroleum Association of America filed an answer in support of the extension request stating that additional time will allow the gas industry to consider the complex issues fully.

Upon consideration, notice is hereby given that an extension of time for the filing of initial comments is granted to and including May 31, 1996.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7566 Filed 3–27–96; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5448–1]

Proposed Settlements; Accidental Release Prevention List of Substances Litigation

AGENCY: Enviornmental Protection Agency (EPA).

ACTION: Notice of proposed settlements; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act ("Act"), notice is hereby given of proposed settlements in the following cases: *American Petroleum Institute* v. *U.S. Environmental Protection Agency*, No. 94–1273 (D.C. Cir.), and *Institute of Makers of Explosives* v. *U.S. Environmental Protection Agency*, No. 94–1276 (D.C. Cir.).

These cases involve challenges to the final rule, entitled "List of Regulated Substances and Thresholds for Accidental Release Prevention; Requirements for Petitions Under Section 112(r) of the Clean Air Act as Amended," which, *inter alia*, established a list of substances to be subject to regulation under the accident prevention provisions of the Act and threshold quantities for such substances. 59 Fed. Reg. 4478 (Jan. 31, 1994). Under the terms of the proposed settlements, the Environmental Protection Agency (EPA) would conduct a rulemaking concerning amendment of the above-mentioned final rule to delist certain chemicals and to modify certain other provisions.

For a period of thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the settlements from persons who were not named as parties to the litigation in question. The Agency or the Department of Justice may withhold or withdraw consent to the proposed settlements if the comments disclose facts or circumstances that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Copies of the settlements are available from Samantha Hooks, Air and Radiation Division (2344), Office of General Counsel, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260–7606. Written comments should be sent to Jon Averback at the above address and must be submitted on or before April 29, 1996.

Dated: March 21, 1996.

Scott C. Fulton,

Acting, General Counsel.

[FR Doc. 96–7599 Filed 3–27–96; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5448–3]

Proposed Settlement Agreement, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended, ("Act"), notice is hereby given of a proposed partial consent order, which was lodged with the United States District Court for the District of Columbia by the United States Environmental Protection Agency ("EPA") on November 29, 1995, in a lawsuit filed by the Sierra Club Legal Defense Fund. This lawsuit, which was filed pursuant to section 304(a) of the Act, 42 U.S.C. 7604(a), concerns, among other things, EPA's alleged failure to meet mandatory deadlines under section 112 (d), (e), and (n)(1)(B) of the Clean Air Act.

Since the time that the initial proposed consent order was lodged with the Court, the EPA was shut-down for three weeks due to a lack of appropriated funds. For this and other reasons, EPA and Sierra Club have agreed to reassess the feasibility of the dates in the proposed order.

After providing notice to plaintiff, EPA did not submit the mercury study to Congress pursuant to section 112(n)(1)(B) of the CAA, in accordance with the date in the proposed order. The parties have agreed that such study shall be submitted by April 15, 1996. The revised date will be included in a new proposed consent order that will be lodged with the Court.

With respect to the dates for issuing the maximum achievable control technology (MACT) standards, as established in paragraph 2 of the proposed order, the parties have agreed to revise the dates to provide two additional months for issuance of the standards. The parties plan to lodge an amended proposed order with the Court, which will revise the list in paragraph 2 as follows:

Source category	Date
Acrylonitrile-Butadiene-Styrene Production.	5/15/96
Butyl Rubber Production	7/15/96
Epichlorohydrin Elastomers Production.	7/15/96
Ethylene-Propylene Rubber Production.	7/15/96
Hypalon (TM) Production	7/15/96
Methyl Methacrylate-Acrylonitrile-Butadiene-Styrene Production.	5/15/96
Neoprene Production	7/15/96
Nitrile Butadiene Rubber Production	7/15/96
Polybutadiene Rubber Production	7/15/96
Polystyrene Production	5/15/96
Polysulfide Rubber Production	7/15/96
Styrene-Butadiene Rubber and Latex Production.	7/15/96

The parties plan to file the amended proposed consent order with the Court shortly. The new order will incorporate the revisions described above concerning the submission of the mercury study to Congress and the issuance of twelve MACT standards under section 112(d) of the CAA. Because today's notice provides the schedules that will be incorporated into the revised order, it will not matter if this notice is published before the new consent order is filed with the Court, because this notice will provide adequate notice under section 113(g) of the CAA with respect to the new dates for the mercury study and the twelve MACT categories.

For a period of thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the proposed partial consent order, as modified by this notice, from persons who were not named as parties to the litigation in question. EPA or the Department of Justice may withhold or withdraw consent to the proposed partial consent order if the comments disclose facts or circumstances that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines, following the comment period, that consent is inappropriate, the final consent order will establish deadlines for the regulations covered by § 112(d) and the study provided for by § 112(n)(1)(B).

A copy of the proposed consent order was lodged with the Clerk of the United States District Court for the District of Columbia on November 29, 1995. The dates in that draft consent order will be modified to reflect the date identified in this notice. A revised consent order will be lodged with the Court shortly. Copies of the current November 29, 1995 draft consent order are also available from Sonja Lee, Air and Radiation Division (2344), Office of General Counsel, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (703) 235–5330. A copy of the revised consent order will be available from Ms. Lee once such draft is filed with the Court. Written comments should be sent to Jan M. Tierney at the address above and must be submitted on or before April 29, 1996.

Dated: March 4, 1996.

Jonathan Z. Cannon,

General Counsel.

[FR Doc. 96–7605 Filed 3–22–96; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5448–5]

National Advisory Council for Environmental Policy and Technology; Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: Under the Federal Advisory Committee Act, PL 92463, EPA gives notice of a two-day meeting of the National Advisory Council for Environmental Policy and Technology (NACEPT). NACEPT provides advice and recommendations to the Administrator of EPA on a broad range of environmental policy issues. This meeting is being held to discuss recommendations that the Committee plans to transmit to EPA regarding Community Based Environmental Protection programs and policies. The Committee will also discuss potential new projects for the coming year.

DATES: The two-day public meeting will be held on Wednesday, April 17, 1996 from 9:00 a.m. to 5:00 p.m. and on Thursday, April 18, 1996 from 8:30 am to 4:00 p.m.

ADDRESSES: On both days, the meeting will be held at the Residence Inn by Marriott, 550 Army Navy Drive, Pentagon City, Arlington, VA 22202.

Material may be transmitted to the Committee through Gordon Schisler, Designated Federal Official, NACEPT, U.S. EPA, Acting Director of the Office of Cooperative Environmental Management (1601), 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Joseph Sierra, Designated Federal Official for Community Based Environmental Protection Committee at 202–260–6839.

Dated: March 20, 1996.

Gordon Schisler,

Designated Federal Official.

[FR Doc. 96–7607 Filed 3–27–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5448–2]

Mobile Sources Technical Advisory Committee Meeting

The Mobile Sources Technical Advisory Sub-Committee will meet on April 18, 1996, at the Best Western, Old Colony Inn, 615 First Street, Alexandria, VA 22314, from 9:30 a.m.–4:00 p.m. This meeting will review Sub-Committee progress in the areas previously established as a priority for the Sub-Committee, including in-use deterioration and modeling.

Susan Creel,

Acting Associate Director for Policy Budget and Planning.

[FR Doc. 96–7601 Filed 3–27–96; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Coastal Barrier Improvement Act; Property Availability: Bryant Road Property, Worcester County, MA

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as the Bryant Road Property located on the southerly side of Bryant Road in the Town of Holden, Worcester County, Massachusetts, is affected by section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written notice of serious interest to purchase or effect other transfer of all or any portion of the property may be mailed or faxed to the FDIC until June 26, 1996.

ADDRESSES: Copies of detailed descriptions of the property, including maps, may be obtained from or are available for inspection by contacting the following person: Ms. Mary Ann Richardson, Federal Deposit Insurance Corporation, Franklin Consolidated Office, 124 Grove Street, Franklin, MA 02038, (508) 520–6186; Fax (508) 520–2688.

SUPPLEMENTARY INFORMATION: The Bryant Road property consists of approximately 155 acres of undeveloped land located on the southerly side of Bryant Road approximately 250 feet south of the intersection with Broad Street (Route 68) in the Town of Holden, Massachusetts. The legal description of the property is shown at the Worcester District Registry of Deeds in Book 16693, Pages 329–330 and is further defined in the Holden Assessor's Office as Map 85, Parcel L–3. The site is irregularly shaped, forested, and zoned residential. The property exhibits an uneven, rolling topography with an overall slope dropping to the south. The Bryant Road property has vegetation predominately composed of mixed deciduous and coniferous trees and has two seasonal streams and a pond. The property contains wetlands and is contiguous with lands managed by the Commonwealth of Massachusetts Metropolitan District Commission and the City of Worcester for watershed and natural resource conservation purposes. This property is covered property within the meaning of Section 10 of the Coastal Barrier Improvement Act of 1990, Public Law 101–591 (12 U.S.C. 1441a–3).

Written notice of serious interest in the purchase or other transfer of all or any portion of the property must be received on or before [insert date 90 days after Federal Register publication date] by the FDIC at the appropriate address stated above.

Eligible Entities

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;
2. Agencies or entities of State or local government; and
3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Form of Notice

Written notices of serious interest must be submitted in the following form:

NOTICE OF SERIOUS INTEREST

RE: [insert name of property]
Federal Register Publication **Date:**_____
[insert **Federal Register** publication date]

1. Entity name.

2. Declaration of eligibility to submit Notice under criteria set forth in the Coastal Barrier Improvement Act of 1990, P.L. 101–591, section 10(b)(2), (12 U.S.C. 1441a–3(b)(2)), including, for qualified organizations, a determination letter from the United States Internal Revenue Service regarding the organization's status under section 170(h)(3) of the U.S. Internal Revenue Code (26 U.S.C. 170(h)(3)).

3. Brief description of proposed terms of purchase or other offer for all or any portion of the property (e.g., price, method of financing, expected closing date, etc.).

4. Declaration of entity that it intends to use the property for wildlife refuge,

sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes (12 U.S.C. 1441a–3(b)(4)), as provided in a clear written description of the purpose(s) to which the property will be put and the location and acreage of the area covered by each purpose(s) including a declaration of entity that it will accept the placement, by the FDIC, of an easement or deed restriction on the property consistent with its intended conservation use(s) as stated in its notice of serious interest.

5. Authorized Representative (Name/Address/Telephone/Fax).

List of Subjects

Environmental protection.

Dated: March 21, 1996.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

Executive Secretary.

[FR Doc. 96–7486 Filed 3–27–96; 8:45 am]

BILLING CODE 6714–01–M

Coastal Barrier Improvement Act; Property Availability: Malden Street Property, Worcester County, Massachusetts

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as the Malden Street Property located off Malden Street in the Town of West Boylston, Worcester County, Massachusetts, is affected by section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written notice of serious interest to purchase or effect other transfer of all or any portion of the property may be mailed or faxed to the FDIC until June 26, 1996.

ADDRESSES: Copies of detailed descriptions of the property, including maps, may be obtained from or are available for inspection by contacting the following person: Ms. Mary Ann Richardson, Federal Deposit Insurance Corporation, Franklin Consolidated Office, 124 Grove Street, Franklin, MA 02038, (508) 520–6186; Fax (508) 520–2688.

SUPPLEMENTARY INFORMATION: The Malden Street property consists of approximately 125 acres of undeveloped land with 50 feet of frontage on Malden Street, in the Town of West Boylston, Massachusetts, and a portion of the property is located in the Town of Holden, Massachusetts. The legal description of the property is shown at the Worcester District Registry of Deeds in Book 16653, Page 206 and further defined in a recorded plan identified in the West Boylston Assessor's Office as Map 135, Parcels 1, 2, 4, & 5, and Map 136, Parcels 13–33, and in the Holden Assessor's Office as Map 93, Parcels 1 & 3. The property is irregular in shape, wooded, and contains a substantial amount of rock ledge associated with surface boulders and soil types that exhibit a high water table and slow percolation rates. The Malden Street property has recreational value and is contiguous with lands managed by the Commonwealth of Massachusetts Metropolitan District Commission for watershed and natural resource conservation purposes. This property is covered property within the meaning of Section 10 of the Coastal Barrier Improvement Act of 1990, P.L. 101–591 (12 U.S.C. 1441a–3).

Written notice of serious interest in the purchase or other transfer of all or any portion of the property must be received on or before June 26, 1996; by the FDIC at the appropriate address stated above.

Eligible Entities

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;
2. Agencies or entities of State or local government; and
3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Form of Notice

Written notices of serious interest must be submitted in the following form:

NOTICE OF SERIOUS INTEREST

RE: [insert name of property]
Federal Register Publication **Date:** _____
[insert Federal Register publication date]

1. Entity name.
2. Declaration of eligibility to submit Notice under criteria set forth in the Coastal Barrier Improvement Act of 1990, P.L. 101–591, section 10(b)(2), (12 U.S.C. 1441a–3(b)(2)), including, for qualified organizations, a determination letter from the United States Internal Revenue Service regarding the organization's status under section 170(h)(3) of the U.S. Internal Revenue Code (26 U.S.C. 170(h)(3)).
3. Brief description of proposed terms of purchase or other offer for all or any portion of the property (e.g., price, method of financing, expected closing date, etc.).
4. Declaration of entity that it intends to use the property for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes (12 U.S.C. 1441a–3(b)(4)), as provided in a clear written description of the purpose(s) to which the property will be put and the location and acreage of the area covered by each purpose(s) including a declaration of entity that it will accept the placement, by the FDIC, of an easement or deed restriction on the property consistent with its intended conservation use(s) as stated in its notice of serious interest.
5. Authorized Representative (Name/Address/Telephone/Fax).

List of Subjects

Environmental protection.

Dated: March 21, 1996.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

Executive Secretary.

[FR Doc. 96–7487 Filed 3–27–96; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–3117–EM]

Texas; Amendment to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency for the State of Texas, (FEMA–3117–EM), dated February 23, 1996, and related determinations.

EFFECTIVE DATE: March 18, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of an emergency for the State of Texas, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of February 23, 1996:

Cottle County for emergency assistance as defined in this declaration.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96–7585 Filed 3–27–96; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Deborah S. Whitte, 975 Morrison Drive, Bldg., C-Suite A, Charleston, SC 29403, Sole Proprietor

Pee Jay International Shipping Worldwide Freight Forwarders, 777 So. S.R.L. Thornton FWY #204 Box 3, Dallas, TX 75203, Jonathan Owens Daniels, Peter Mozle, Partnership

Cargo Services, Inc., 5760 Dividend Drive, Indianapolis, IN 46241, Officers: Steve Fugate, President, William Batton, Vice President

Arriage & Associates, Inc., 7211 North Loop East, Houston, TX 77028, Officers: Pandora Daugherty, President; Darryl William Cullick, Vice President.

Dated: March 22, 1996.

Joseph C. Polking,

Secretary

[FR Doc. 96–7514 Filed 3–27–96; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Availability of Funds for the National Health Service Corps Loan Repayment Program and Grants for State Loan Repayment Programs

AGENCY: Health Resources and Services Administration, PHS.

ACTION: Notice.

SUMMARY: The Health Resources and Services Administration (HRSA) announces that applications will be accepted for fiscal year (FY) 1996 for: 1) awards for educational loan repayment under the National Health Service Corps (NHSC) Loan Repayment Program (LRP) (Section 338B of the Public Health Service (PHS) Act) and 2) grants to States to operate loan repayment programs (Section 338I of the PHS Act).

This program announcement is subject to the final action on the appropriation of funds. At this time, given the continuing resolutions and the absence of a final FY 1996 appropriation for these programs, the specific amount available is not known.

The HRSA, through this notice, invites health professionals to apply for participation in the NHSC LRP and invites States to apply for grants to operate State Loan Repayment Programs (LRPs). Awards will be made for a 1-year budget period and for up to a 5-year project period.

The PHS is committed to achieving the health promotion and disease prevention objectives of *Healthy People 2000*, a PHS-led national activity for setting health priority areas. These programs will contribute to the *Healthy People 2000* objectives by improving access to primary health care services through coordinated systems of care for medically underserved populations in both rural and urban areas. Potential applicants may obtain a copy of *Healthy People 2000* (Full Report, Stock No. 017–001–00474–01) or *Healthy People 2000* (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402–9325 (telephone 202–783–3238).

PHS strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care or early childhood development services are provided to children.

Part A of this notice contains specific information concerning the NHSC LRP, and Part B contains specific information concerning grants for State LRPs.

Part A—NHSC Loan Repayment Program

ADDRESSES: Application materials may be obtained by calling or writing to: National Health Service Corps Loan Repayment Program, 2070 Chain Bridge Road, Suite 450, Vienna, Virginia 22182–2536, 1–800–221–9393 or (703) 734–6855. Completed applications must be returned to: Loan Repayment Programs Branch, Division of Scholarships and Loan Repayments, Bureau of Primary Health Care, HRSA, 4350 East-West Highway, 10th Floor, Bethesda, Maryland 20814, (301) 594–4400. The 24-hour toll-free phone number is 1–800–435–6464, and the FAX number is 301–594–4981. Applicants for the NHSC LRP will use HRSA Form 873 approved under Office of Management and Budget (OMB) Number 0915–0127.

DATES: The deadline for applications is April 30, 1996, or until all appropriated funds have been obligated, whichever occurs first. Due to limited funding, it is anticipated that all appropriated funds will be obligated prior to April 30, 1996. The volume of applications is historically three times greater than the number of contracts that can be awarded, therefore, to receive consideration for funding, health professionals must submit an application and proof of a job offer at an eligible NHSC LRP Service Site.

Applications will be considered to be on time if they are either: (1) received on or before the deadline date; or (2) postmarked on or before the established deadline date and received in time for orderly processing. Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks are not acceptable as proof of timely mailing. Applications received after the announced closing date will not be considered for funding.

FOR FURTHER INFORMATION CONTACT: For further program information and technical assistance, please contact Sharley L. Chen, Chief, Loan Repayment Programs Branch, HRSA/BPHC/DSLR, at the above address, phone or FAX number.

SUPPLEMENTARY INFORMATION: Section 338B of the PHS Act (42 U.S.C. 254l-1) authorizes the Secretary to establish the NHSC LRP to help in assuring, with respect to the provision of primary health services, an adequate supply of trained primary care health professionals for the NHSC. The NHSC is used by the Secretary to provide primary health services in federally designated health professional shortage areas (HPSAs). Primary health services are services regarding family medicine, general internal medicine, general pediatrics, obstetrics and gynecology, dentistry, or mental health, that are provided by physicians or other health professionals.

Under the NHSC LRP, the Secretary will repay graduate and undergraduate educational loans incurred by primary care health professionals. For the first 2 years of full-time service at an approved site in a federally designated HPSA, the Secretary will repay up to $25,000 per year of the educational loans of such individual. (There is a minimum 2-year service obligation.) For subsequent years of full-time service, if the NHSC LRP contract is extended, the Secretary will repay up to $35,000 per year. Payments may be made to participants on an advanced quarterly basis (one quarter in

advance of service for the entire service obligation), on an advanced annual basis (one year in advance of service for each year of service) or on an advanced biennial basis (2 years in advance of service but only for the first 2 years of a contract). The Secretary shall, in addition to such payments, make payments to the individual in an amount equal to 39 percent of the total amount of loan repayments made for the taxable year involved. In addition to these amounts, NHSC LRP participants will receive a salary from a private or public entity or, in some cases, the Federal Government during the term of their service.

The Secretary will identify and make available annually a list of those HPSA sites which will be available for service repayment under the NHSC LRP. The Secretary will select applicants for consideration for participation in the NHSC LRP according to the following criteria:

(1) The extent to which an individual's training in a health profession or specialty is determined by the Secretary to be needed by the NHSC in providing primary health services. From time to time, the Secretary will publish a notice detailing the professions and specialties most needed by the NHSC. Current professional and specialty priorities are outlined in this notice at the end of Part A.

(2) The extent to which an individual is determined by the Secretary to be committed to serve in a HPSA.

(3) The extent of an individual's demonstrated interest in providing primary health services.

(4) The immediacy of an individual's availability for service. Individuals who have a degree, have completed all necessary postgraduate training in their professions and specialties (i.e., in the case of physicians, are certified or eligible to sit for the certifying examinations of a specialty board, and in the case of other health professions, are certified in their specialty), and have a current and unrestricted license to practice their profession in the State in which they intend to serve, will receive highest consideration.

(5) The academic standing, prior professional experience in a HPSA, board certification, residency achievements, peer recommendations, and other criteria related to professional competence or conduct will also be considered.

In providing contracts under the NHSC LRP, priority will be given to an applicant:

- Whose health profession or specialty is most needed by the NHSC;
- Who has and whose spouse, if any, has characteristics that increase the probability of continuing to serve in a HPSA upon completion of his or her service obligation;
- Who is from a disadvantaged background, subject to the preceding paragraph.

Eligible Participants

To be eligible to participate in the NHSC LRP, an individual must:

(1)(a) Have a degree in allopathic or osteopathic medicine, dentistry, or other health profession, or be certified, or in accordance with State licensure requirements, as a nurse midwife, nurse practitioner, or physician assistant. Other health professions include clinical psychology, clinical social work, and dental hygiene;

(b) Be enrolled in an approved graduate training program in allopathic or osteopathic medicine, dentistry, or other health profession; or

(c) Be enrolled as a full-time student at an accredited school in a State and in the final year of a course of study or program leading to a degree in allopathic or osteopathic medicine, dentistry, or other health profession.

(2) Be eligible for appointment as a commissioned officer in the Regular or Reserve Corps of the PHS or be eligible for selection for civilian service in the NHSC (e.g., must be a citizen or national of the United States); and

(3) Submit an application for a contract to participate in the NHSC LRP which contract describes the repayment of educational loans in return for the individual serving for an obligated period.

Any individual who previously incurred an obligation for health professional service to the Federal Government, a State Government, or other entity is ineligible to participate in the NHSC LRP unless such obligation is completely satisfied prior to the beginning of service under this Program. Any individual who has breached an obligation for health professional service to the Federal Government, a State Government or other entity is ineligible to participate in the NHSC LRP. Any individual who has a judgment lien against his or her property for a debt to the United States is ineligible to participate in the NHSC LRP until the judgment is paid in full or otherwise satisfied.

No loan repayments will be made for any professional practice performed prior to the effective date of the NHSC LRP contract. All individuals must have a current and unrestricted license to practice their profession in the State of practice prior to beginning service under this Program.

Professions and Specialties Needed by the NHSC

At this time, the Secretary has determined, based on community demand, that priority will be given to: physicians (M.D.s and D.O.s) who are certified or eligible to sit for the certifying examination in the specialty boards of family practice, obstetrics/gynecology, internal medicine, and pediatrics.

Other Award Information

This program is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs, since Executive Order 12372 does not cover payments to individuals. In addition, this program is not subject to the Public Health System Reporting Requirements, since the requirements do not cover payment to individuals.

The OMB *Catalog of Federal Domestic Assistance* number for this program is 93.162.

Part B—Grants for State Loan Repayment Programs

ADDRESSES: Application materials for State Loan Repayment Programs may be obtained from: Grants Management Officer, HRSA/BPHC/GMB, 4350 East-West Highway, Room 11–1C3, Bethesda, Maryland 20814, (301) 594–4260, FAX (301) 594–4073. Completed new and competing applications must be returned to: Bureau of Primary Health Care, Grants Management Officer, c/o Houston Associates, Inc., 1010 Wayne Avenue, Suite 240, Silver Spring, Maryland 20910. Completed applications for budget period renewals (i.e., non-competing continuations) must be returned to: Grants Management Officer, HRSA/BPHC/GMB, 4350 East-West Highway, Room 11–1C3, Bethesda, Maryland 20814, (301) 594–4260 and FAX (301) 594–4073. The Grants Management staff is available to provide assistance on business management issues.

Application for these grants will be made on PHS Form 5161–1 (revised in July 1992) with revised face sheet DHHS Form 424, as approved by the OMB under control number 0937–0189. Specific instructions for completing the application form for this program will be sent to any State requesting an application package.

DATES: Applications are due May 1, 1996. Applications will be considered to have met the deadline if they are: (1) received on or before the deadline date; or (2) postmarked on or before the deadline date and received in time for orderly processing. Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks will not be accepted as proof of timely mailing. Late applications will not be considered for funding and will be returned to the applicant.

FOR FURTHER INFORMATION CONTACT: For general program information and technical assistance, please contact Sharley L. Chen, Chief, Loan Repayment Programs Branch, HRSA/BPHC/DSLR, 4350 East-West Highway, 10th Floor, Bethesda, Maryland 20814, (301) 594–4400. The 24-hour toll-free phone number is 1–800–435–6464, and the FAX number is (301) 594–4981.

SUPPLEMENTARY INFORMATION: Section 338I of the PHS Act (42 U.S.C. 254q–1) authorizes the Secretary, acting through the Administrator, HRSA, to make grants to States for the purpose of assisting the States in operating programs as described in this notice for the repayment of educational loans of health professionals in return for their practice in federally designated health professional shortage areas (HPSAs) to increase the availability of primary health services in federally designated HPSAs.

Eligibility Requirements

State Loan Repayment Programs (LRPs) eligible for funding under this announcement must meet the following requirements:

(1) Direct administration by a State agency;

(2) Payment of all or part of the qualifying educational loans (including principal, interest, and related educational loan expenses) of health professionals agreeing to provide primary health services in federally designated HPSAs. "Qualifying educational loans" are Government and commercial loans for actual costs paid for tuition, reasonable educational expenses, and reasonable living expenses relating to the graduate or undergraduate education of a health professional;

(3) Assignment of participating health professionals only to public and nonprofit private entities located in and providing primary health services in federally designated HPSAs; and

(4) Participant contracts which provide remedies for any breach of contract by participating health professionals.

Contract Requirements

Contracts provided by a State are not to be on terms that are more favorable to health professionals than the most favorable terms the Secretary is authorized to provide for contracts under the Federal NHSC Loan Repayment Program under Section 338B of the PHS Act, including terms regarding:

(1) The annual amount of payments provided on behalf of the professionals regarding educational loans; and

(2) The availability of remedies for any breach of the contracts by the health professionals involved.

States are required to develop contracts that reflect a minimum of 2 years of obligated full-time clinical service. The annual amount of payments under a contract may not exceed $35,000, unless (1) this excess amount is paid solely from non-Federal contributions, and (2) the contract provides that the health professional involved will satisfy the requirement of full-time clinical service under the contract solely through the provision of primary health services in a federally designated HPSA that is receiving priority for the purposes of section 333A(a)(1), and is authorized to receive assignments of individuals who are participating in the NHSC Scholarship Program.

No loan repayments will be made for any professional practice performed prior to the effective date of the health professional's State Loan Repayment Program contract, and no credit will be given for any practice done while the provider is in a professional school or graduate training program. Any individual who previously incurred an obligation for health professional service to the Federal Government, a State Government, or other entity is ineligible to participate in the State LRP unless such obligation will be completely satisfied prior to the beginning of service under this Program. Any individual who has breached an obligation for health professional service to the Federal Government, a State Government or other entity is ineligible to participate in the State LRP. Any individual who has a judgment lien against his or her property for a debt to the United States is ineligible to participate in the State LRP until the judgment is paid in full or otherwise satisfied.

Program Requirements

States seeking support under this notice for the cost of State LRPs must:

(1) Provide adequate assurance that, with respect to the costs of making loan repayments under contracts with health professionals, the State will make available (directly or through donations from public or private entities) non-Federal contributions in cash in an amount equal to not less than $1 for each $1 of Federal funds provided in the grant. The Federal grant funds and the State matching funds will be used only for loan repayments to health professionals who have entered into contracts with States. In determining the amount of non-Federal contributions in cash that a State has to provide, no other Federal funds may be used.

(2) Provide adequate assurance that the State will assign health professionals participating in the program only to public and nonprofit private entities located in and providing primary health services in federally designated HPSAs, and identify each site available for placement.

(3) Identify the State entity and key personnel who will administer the grant.

(4) Provide an assurance that, with respect to contracts between the State and the health professional, all contract breaches, by either party, will be reported regularly.

Future Support

The Secretary must determine that the State has complied with each of the agreements of the grant in order for funding to continue. Before making a grant for a subsequent year of State LRP support, the Secretary will, in the case of a State with one or more initial breaches by health professionals of the repayment contracts, reduce the amount of a grant to the State for the fiscal year involved. The grant will be reduced by an amount equal to the sum of the expenditures of Federal funds made regarding the State LRP contracts involved, including interest on the amount of such expenditures, determined on the basis of the maximum legal rate prevailing for loans made during the time amounts were paid under the contract, as determined by the Treasurer of the United States. The Secretary may waive the reduction in the subsequent grant award if the Secretary determines that a health professional's breach was attributable solely to the serious illness or death of that professional.

Evaluation Criteria

For new and competing continuation grants the following criteria will be used to evaluate State applications to determine which States are to be supported under this notice: (a) The extent of State's need for health professionals consistent with the health professions and specialties identified later in this notice; (b) the extent to which special consideration will be extended to federally designated HPSAs

with large minority populations; (c) the number and type of providers the State proposes to support through this program; (d) the appropriateness of the proposed placements of State LRP recipients (e.g., consistency and coordination with State-based plans to improve access to primary health services for the underserved communities and individuals); (e) the appropriateness of the qualifications, the administrative and managerial ability of the staff to implement the proposed project; (f) the suitability of the State's approach and the degree to which the plan of a State is coordinated with Federal, State, and other programs for meeting the State's health professional needs and resources, including mechanisms for ongoing evaluation of the program's activities; (g) the source and plans for the use of the State match (the degree to which the State match exceeds the minimum requirements or has increased over time, the amount of the match relative to the needs and resources of the State); and (h) the adequacy and appropriateness of the proposed budget.

For competing continuation applicants only, the following criteria will be used: (a) the grantee's progress in achieving stated goals and objectives for the previous year's grant including the impact the State LRP placements have had on the State's short-term and long-term health professional needs; (b) an assessment of the number of and the reasons for initial breaches by health professionals of repayment contracts; and (c) the grantee's history of compliance with reporting requirements including goals, objectives, evaluation plans, organizational structure, financial management, and personnel changes.

Professions and Specialties Needed

To be supported under this program, the State Program must establish State priorities for the selection of health professionals consistent with the NHSC LRP. At this time the Secretary has determined that priority will be given to the following health professionals: Physicians (M.D.s and D.O.s) who are certified or eligible to sit for the certifying examination in the specialty boards of family practice, obstetrics/gynecology, internal medicine, and pediatrics.

Other Award Information

This program is not subject to the Public Health System Reporting Requirements.

This program is subject to the provisions of Executive Order 12372 concerning intergovernmental review of Federal programs as implemented by 45 CFR part 100. Executive Order 12372 allows States the option of setting up a system to review applications from within their States under certain Federal programs. The application kit, to be made available under this notice, will contain a listing of States which have chosen to set up a review system and will provide a single point of contact (SPOC) in the States for that review. Applicants (other than federally recognized Indian tribal governments) should contact their State SPOC as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. The due date for State process recommendations is 60 days after the appropriate application deadline date. The BPHC does not guarantee that it will accommodate or explain its response to State process recommendations received after the due date.

The OMB *Catalog of Federal Domestic Assistance* number for this program is 93.165.

Dated: March 21, 1996.

Ciro V. Sumaya,

Administrator.

[FR Doc. 96–7459 Filed 3–27–96; 8:45 am]

BILLING CODE 4160–15–P

National Institutes of Health

National Institute of Dental Research; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Dental Research Special Emphasis Panel (SEP) meetings:

Name of SEP: National Institute of Dental Research Special Emphasis Panel—ZDEIGN25–96–25.

Dates: April 4, 1996.

Time: 2:00 pm.

Place: Natcher Building, Rm. 4AN–44F, National Institutes of Health, Bethesda, MD 20892 (teleconference).

Contract Person: Dr. George Hausch, Chief, Grants Review Section, 4500 Center Drive, Natcher Building, Room 4AN–44F, Bethesda, MD 20892, (301) 594–2372.

Purpose/Agenda: To evaluate and review grant applications and/or contract proposals.

This notice is being published less than fifteen days prior to the meeting due to the urgent need to meet timing limitations imposed by the grant review cycle.

Name of SEP: National Institute of Dental Research Special Emphasis Panel-Review of Temporomandibular Disorders Applications 96—11.

Dates: April 23–24, 1996.

Time: 8:00 am.

Place: Marriott Suites, 6711 Democracy Blvd., Bethesda, MD 20892.

Contact Person: Dr. George Hausch, Chief, Grants Review Section, 4500 Center Drive Natcher Building, Room 4AN–44F Bethesda, MD 20892, (301) 594–2372.

Purpose/Agenda: To evaluate and review grant applications and/or contract proposals.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the application and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.121, Oral Diseases and Disorders Research)

Dated: March 25, 1996.

Susan K. Feldman

Committee Management Officer, NIH.

[FR Doc. 96–7719 Filed 3–27–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Environmental Health Sciences Special Emphasis Panel (SEP) meetings:

Name of SEP: Research on the Inhalation Toxicology of Environmental Chemicals.

Date: April 5, 1996.

Time: 9:00 a.m.

Place: National Institute of Environmental Health Sciences, South Campus, Building 101, Conference Room D–350, Research Triangle Park, NC.

Contact Person: Dr. John Braun, National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, NC 27709.

Purpose/Agenda: To review and evaluate contract proposals.

This notice is being published less than fifteen days prior to this meeting due to the urgent need to meet

limitations imposed by the contract review and funding cycle.

Name of SEP: Development of Pathology Tissue Methodologies (Telephone Conference Call).

Date: April 29, 1996.

Time: 11:15 a.m.

Place: National Institute of Environmental Health Sciences, North Campus, Building 17, Conference Room 1713, Research Triangle Park, NC.

Contact Person: Dr. John Braun, National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, NC 27709.

Purpose/Agenda: To review and evaluate contract proposals.

These meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.113, Biological Response to Environmental Agents; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation; 93.894, Resource and Manpower Development, National Institutes of Health)

Dated: March 25, 1996.

Susan F. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–7720 Filed 3–27–96; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 19(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Biological and Physiological Sciences.

Date: April 2, 1996.

Time: 11:00 a.m..

Place: NIH, Rockledge 2, Room 6154, Telephone Conference.

Contact Person: Dr. David Remondini, Scientific Review Administrator, 6701 Rockledge Drive, Room 6154, Bethesda, Maryland 20892, (301) 435–1038.

Name of SEP: Biological and Physiological Sciences.

Date: April 3, 1996.

Time: 2:00 p.m..

Place: NIH, Rockledge 2, Room 6154, Telephone Conference.

Contact Person: Dr. David Remondini, Scientific Review Administrator, 6701 Rockledge Drive, Room 6154, Bethesda, Maryland 20892, (301) 435–1038.

This notice is being published less than 15 days prior to the above meetings due to the urgent need to meet timing limitations imposed by the grant review and funding cycle.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 25, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–7718 Filed 3–27–96; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

Applicant: The Hawthorn Corporation, Grayslake, IL, PRT–812757.

The applicant requests a permit to reexport and reimport captive-born tigers (*Panthera tigris*) and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notificatation covers activities conducted by the applicant over a three year period.

Applicant: Columbus Zoo, Powell, OH, PRT–812687.

The applicant requests a permit to import one male captive-held jaguar (*Panthera onca*) from ARCAS, Peten, Guatamala for the purpose of enhancement of the species through captive propagation.

Applicant: Robert Landis, Fountain City, IN, PRT–812681.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygarcus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Ludwig Muller, Miami, FL, PRT–810114.

The applicant requests a permit to export one male and one female cotton-top tamarin (*Saguinus oedipus*) to the Fundacion Primatologica , Costa Rica, for the purpose of enhancement of the survival of the species through scientific research and propagation.

Applicant: James E. Martin, Gastonia, NC, PRT–812642.

The applicant requests a permit to import the sport-hunted trophy of one bontebok (*Damaliscus pygarcus dorcas*) culled from the captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Academy of Natural Sciences, Philadelphia, PA, PRT–678963.

The applicant requests a permit to export and re-import non-living museum specimens of endangered and threatened species of plants and animals previously accessioned into the permittee's collection for scientific research.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 430, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 430, Arlington, Virginia 22203. Phone: (703/358–2104); Fax: (703) 358–2281).

Dated: March 22, 1996.

Caroline Anderson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 96–7468 Filed 3–27–96; 8:45 am]

BILLING CODE 4310–55–P

Notice of Meeting

AGENCY: Fish and Wildlife Service, Interior.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Klamath River Basin Fisheries Task Force, established under the authority of the Klamath River Basin Fishery Resources Restoration Act (16 U.S.C. 460ss *et seq.*). The meeting is open to the public.

DATES: The Klamath River Basin Fisheries Task Force will meet from 9:00 a.m. to 6:00 p.m. on Tuesday, April 23, 1996, and from 8:00 a.m. to 3:40 p.m. on Wednesday, April 24, 1996.

PLACE: The meeting will be held at the B.P.O.E. Elks Lodge, 25 Hawkins Street, Klamath Falls, Oregon.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald A. Iverson, Project Leader, U.S. Fish and Wildlife Service, P.O. Box 1006 (1215 South Main), Yreka, California 96097–1006, telephone (916) 842–5763.

SUPPLEMENTARY INFORMATION: The principal agenda items at this meeting will be a review of the National Biological Survey jurisdictional analysis regarding water management in the Klamath River Watershed; a decision on elements of a water quantity model as part of an instream flow study for the Klamath River Basin; a decision on adoption of a draft Upper Basin Amendment to the Long Range Plan for the Klamath River Basin Conservation Area Fisheries Restoration (KR) Program; consideration of TF comments on the Long Term Klamath Project Operation Plan; a decision on Task Force priorities given a limited budget; a decision on revision of Request for KR Program Proposals and proposal ranking procedures; and the recommendation to recognize private landowners or groups for restoration efforts in the Klamath River Basin.

For background information on the Klamath River Basin Fisheries Task Force, please refer to the notice of their initial meeting that appeared in the **Federal Register** on July 8, 1987 (52 FR 25639).

Dated: March 21, 1996.

Donald V. Friberg,

Acting Regional Director.

[FR Doc. 96–7596 Filed 3–27–96; 8:45 am]

BILLING CODE 4310–55–P

Bureau of Land Management

[WO–350–1430–01–24 1A]

Extension of Currently Approved Information Collection; OMB Approval Number 1004–0004

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is announcing its intention to request extension of approval for the collection of information from those persons who apply for a desert-land entry to reclaim, irrigate, and cultivate arid and semiarid public lands in the Western United States. The BLM uses the information to determine if the applicant is eligible to make a desert-land entry under the Desert Land Act of 1877.

DATES: Comments on the proposed information collection must be received by May 28, 1996, to be considered.

ADDRESSES: Comments may be mailed to: Regulatory Management Team (420), Bureau of Land Management, 1849 C Street NW., Room 401LS, Washington, D.C. 20240.

Comments may be sent via Internet to: !WO140@attmail.com. Please include "Attn: 1004–0004" and your name and address in your Internet message.

Comments may be hand delivered to the Bureau of Land Management Administrative Record, Room 401 L Street NW., Washington, D.C.

Comments will be available for public review at the L Street address during regular business hours (7:45 A.M. to 4:15 P.M., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Alzata L. Ransom, Realty Use Group, at (202) 452–7772.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.12(a), BLM is required to provide 60-day notice in the **Federal Register** concerning a collection of information contained in published current rules to solicit comments on (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or technological collection techniques or other forms of information technology.

The Desert Land Act of March 3, 1877 (19 Stat. 377; 43 U.S.C. 321–323), as amended by the Act of March 3, 1891 (26 Stat. 1096; 43 U.S.C. 231, 323, 325, 327–329), was passed by the Congress to encourage and promote the economic development of the arid and semiarid public lands. Under the Act, U.S. citizens may apply for a desert-land entry to reclaim, irrigate, and cultivate arid and semiarid public lands in the Western United States. The regulations in 43 CFR 2520 provide guidelines and procedures to obtain public lands under the Act. These regulations were adopted on June 13, 1970 (35 FR 9581).

You qualify to file a desert-land entry if you are: (a) a Citizen of the United States; (b) 21 years old; and (c) a resident of the State of Arizona, California, Colorado, Idaho, Montana, New Mexico, North Dakota, South Dakota, Utah, Washington, or Wyoming (no residency is required in the State of Nevada).

You may apply for one or more tracts of public lands totaling no more than 320 acres. The lands are located in the States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming. The lands must be surveyed, unreserved, unappropriated, non-mineral, non-timber, and incapable of producing an agricultural crop without irrigation. The lands must be suitable for agricultural purposes and more valuable for that purpose than any other. The tracts of land must be sufficiently close to each other to be managed satisfactorily as an economic unit.

You must find lands that you believe can be economically developed and determine the legal land description. You must contact the BLM State Office where the lands are located and verify the lands are available for desert-land application. If the lands are available for desert-land application, you may obtain a desert land entry application (Form 2520–1) from the BLM State Office.

The information collected on Form 2520–1 is required by the regulations at 43 CFR Part 2520 to process requests for public lands under the provisions of the Desert Land Act. The following information is collected on the form: (a) Description of the lands you are applying for; (b) evidence of your legal right to the use of water for irrigation; (c) a permit from the State Department of Water Administration; (d) detailed description of soil characteristics, irrigation requirements, and economic feasibility; and (e) full disclosure of your plans, arrangements (financial and otherwise), pertaining to the development and operation of your desert-land entry.

BLM uses the information you provide to (a) determine your eligibility to make a desert-land entry, (b) classify the lands included in the application, and (c) ensure that the requirements of the Desert Land Act and implementing regulations are met. If BLM did not collect this information, beneficial development of desert lands would be precluded. This collection of information is short, simple, and limited to the information necessary for efficient operation of the program. The information, which is required by law, is a voluntary, non-recurring submission necessary to receive a benefit. There is no other source for the information, and failure by the applicant to furnish the required information will result in the applicant not being allowed to reclaim, irrigate and cultivate desert lands.

Based on its experience administering the program, BLM estimates that approximately 20 applications are received annually and that it takes an average of 90 minutes for a applicant to supply the requested information. The frequency of response is once per entry. Based on the estimated number of applications BLM receives annually and the average time it takes an applicant to supply the requested information, the total annual burden is collectively 30 hours.

Any interested member of the public may request and obtain, without charge, a copy of the desert land entry application (Form 2520–1) by contacting the person identified under **FOR FURTHER INFORMATION CONTACT.**

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will also become part of the public record.

Dated: March 25, 1996.

Annetta L. Cheek,

Chief, Regulatory Management Team.

[FR Doc. 96–7588 Filed 3–27–96; 8:45 am]

BILLING CODE 4310–84–P

[WO–350–1430–00]

Extension of Currently Approved Information Collection; OMB Approval Number 1004–0010

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is announcing its intention to request extension of approval for the collection of information from those persons seeking to acquire title to public land under the color-of-title authority. The BLM collects information to assure that statutory requirements for conveyance of title under the Color-of-Title Act have been met.

DATES: Comments on the proposed information collection must be received by May 28, 1996, to be considered.

ADDRESSES: Comments may be mailed to: Regulatory Management Team (420), Bureau of Land Management, 1849 C Street NW., Room 401 LS, Washington, DC 20240.

Comments may be sent via Internet to: !WO140@attmail.com. Please include "Attn: 1004–0011" and your name and return address in your Internet address.

Comments may be hand delivered to the Bureau of Land Management Administrative Record, Room 401, L Street NW., Washington, DC 20036.

Comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Vanessa R. Engle, Realty Use Group, (202) 452–7776.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.12(a), BLM is required to provide 60-day notice in the **Federal Register** concerning a collection of information contained in published current rules to solicit comments on (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. BLM will receive and analyze any comments sent in response to this notice and include them with its request for approval from the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

The Color-of-Title Act of December 22, 1928, as amended (43 U.S.C. 1068, 1068a, 1068b), provides for the issuance of a land patent (deed) to eligible individuals, groups, or corporations who believe they have a valid claim to public lands under color-of-title. The information collected on Conveyances Affecting Color or Claim of Title Form 2540–2, is required by Departmental regulations 43 CFR 2541.2 (35 FR 9592, June 13, 1970), and is used by the agency to identify information concerning conveyances of title and related matters.

Any individual seeking to acquire a title to public land under the color-of-title authority must make application and provide information essential to compliance with law, regulations, and procedures. As required by the Color-of-Title Act and 43 CFR 2541.2 (b) and (c), information provided on Form 2540–2 is used to certify the applicant's claim for land property title rights from the Federal government. Without this conveyance information, the BLM cannot finalize the claim.

Form 2540–2 may be submitted in person or by mail to the proper BLM office. The following is an explanation of specific items of information requested on Conveyances Affecting Color of Claim of Title 2540–2, pursuant to 43 CFR 2541.2 (b) and (c): (1) the name of applicant is needed to identify the person/entity filing a claim; (2) the legal description of the claimed land must be listed as recorded in public records of the county concerned; (3) grantor-grantee recorded ownership for each conveyance of the subject property as required by law; and (4) certification from the public official administering the county records or a certified abstracter must be provided to determine the validity of the application. Response is mandatory if the color-of-title claimant wishes to obtain the benefits of the statute and gain clear title to the claimed property. Failure to provide the necessary information results in the rejection of the color-of-title application.

If the information on Conveyances Affecting Color or Claim of Title Form 2540–2 was not collected, the BLM would be unable to carry out the mandate of the Color-of-Title Act and the responsibilities for implementing 43 CFR 2540 and 2541. Form 2450–2 requires only the minimal information necessary to determine claim validity. Based on its experience processing Color-of-Title applications, the BLM estimates the public reporting burden for completing Conveyances Affecting Color or Claim of Title Form 2540–2 is one hour. It is estimated that approximately 37 Color-of-Title applications are filed annually for a total annual burden of 37 hours.

Any interested member of the public may request and obtain, without charge, a copy of Conveyances Affecting Color or Claim of Title Form 2540–2 by contacting any BLM Office or the person identified under **FOR FURTHER INFORMATION CONTACT**. All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will also become part of the public record.

Dated: March 25, 1996.

Annetta L. Cheek,

Chief, Regulatory Management Team.

[FR Doc. 96–7589 Filed 3–27–96; 8:45 am]

BILLING CODE 4310–84–P

[WO–310–1310–01–24–1A]

Extension of Currently Approved Information Collection; OMB Approval Number 1004–0134

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is announcing its intention to request extension of approval for the collection of information for operators and operating rights owners of Federal and Indian (except Osage) oil and gas leases. BLM uses the information to determine whether proposed operations may be approved to begin, to alter operations, or to allow operations to continue. The information also enables BLM to monitor compliance with granted approvals. Granted approvals include drilling plans, prevention of waste, protection of resources, development of a lease, measurement, production verification, and protection of public health and safety.

DATES: Comments on the proposed information collection must be received by May 28, 1996, to be considered.

ADDRESSES: Comments may be mailed to: Regulatory Management Team (420), Bureau of Land Management, 1849 C Street NW, Room 401 LS, Washington, D.C. 20240.

Comments may be sent via Internet to: !WO140@attmail.com. Please include "Attn: 1004–0134" and your name and return address in your Internet message.

Comments may be hand delivered to the Bureau of Land Management Administrative Record, Room 401, 1620 L Street, NW, Washington, D.C.

Comments will be available for public review at the L Street address during regular business hours (7:45 A.M. to 4:15 P.M., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Barbara Gamble, Compliance Team, Fluids Group, (202) 452–0340.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.12(a), BLM is required to provide 60-day notice in the **Federal Register** concerning a collection of information contained in published current rules to solicit comments on (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

In accordance with the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 *et seq.*); the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 *et seq.*); the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351–359); the various Indian leasing acts; and the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), BLM's implementing regulations at 43 CFR Part 3160 require affected Federal and Indian (except Osage) oil and gas operators and operating rights owners to maintain records or provide information by means other than the submission of forms.

The recordkeeping and non-form information collection items required under various provisions of 43 CFR Part 3160 pertain to data submitted by the operator or operating rights owner. The information either provides data so that proposed operations may be approved or enables the monitoring of compliance with granted approval and is used to grant approval to begin or alter operations or to allow operations to continue. The specific requirements are listed by regulation section.

The information required under 43 CFR Part 3160 covers a broad range of possible operations, and rarely will any specific operator be required to obtain or provide each item. Many of the requirements are one-time filings used to gain approval to conduct a variety of oil and gas operations. Others are routine data submissions that are used to monitor production and ensure compliance with lease terms, regulations, Orders, Notices to Lessees, and conditions of approval. Production information from each producing lease is used to verify volumes and disposition of oil and gas produced on Federal and Indian lands. All recordkeeping burdens are associated with the non-form items requested.

Based on its experience managing the activities required by these regulations, BLM estimates the annual burden of each provision, including recordkeeping, as follows.

Regulatory information collection (43 CFR)	Description	Total burden hours	Total respondents
3162.3–1(a)	Well-Spacing Program	450	150
3162.3–1(e)	Drilling Plans	28,750	2,875
3162.6	Well Markers	30	300
3162.5–2(b)	Direction Drilling	165	(5% of wells) 165
3162.4–2(a)	Drilling Tests, Logs, Surveys	330	(10% of wells) 330
3162.3–4(a)	Plug and Abandon for Water Injection	600	1,200
3162.3–4(b)	Plug and Abandon for Water Source	600	1,200
3162.7–1(d)	Additional Gas Flaring	400	400
3162.5–1(c)	Report of Spills, Discharges, or Other Undesirable Events	200	200
3162.5–1(b)	Disposal of Produced Water	3,000	1,500
3162.5–1(d)	Contingency Plan	1,000	50
3162.4–1(a) and 3162.7–5(d)(1).	Schematic/Facility Diagrams	28,851	2,350
3162.7–1(b)	Approval and Reporting of Oil in Pits	260	520

Regulatory information collection (43 CFR)	Description	Total burden hours	Total respondents
3164.1 (Order No. 3)	Prepare Run Tickets	15,000	90,000
3162.7–5(b)	Records on Seals	7,500	90,000
3165.1(a)	Application for Suspension	600	100
3165.3(b)	State Director Review	800	100
3162.7–5(c)	Site Security	7,454	2,415
Total		96,190	193,856

The respondents already maintain the types of information collected for their own recordkeeping purposes and need only submit the required information. All information collections in the regulations at 43 CFR Part 3160 that do not require a form are covered by this notice. BLM intends to submit these information collections collectively for approval by the Office of Management and Budget, as they were originally submitted and approved.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will also become part of the public record.

Dated: March 25, 1996.

Annetta L. Cheek,

Chief, Regulatory Management Team.

[FR Doc. 96–7590 Filed 3–27–96; 8:45 am]

BILLING CODE 4310–84–P

[WO–310–1310–01–24–1A]

Extension of Currently Approved Information Collection; OMB Approval Number 1004–0135

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is announcing its intention to request extension of approval for the collection of information from operators and operating rights owners of Federal and Indian (except Osage) oil and gas leases who submit a Sundry Notices and Reports on Wells (Form 3160–5). BLM uses the information collected to approve proposed operations and ensure compliance with granted approvals.

DATES: Comments on the proposed information collection must be received by May 28, 1996 to be considered.

ADDRESSES: Comments may be mailed to: Regulatory Management Team (420), Bureau of Land Management, 1849 C Street NW, Room 401 LS, Washington, D.C. 20240.

Comments may be sent via Internet to: !WO140@attmail.com. Please include "Attn: 1004–0135" and your name and return address in your Internet message.

Comments may be hand delivered to the Bureau of Land Management Administrative Record, Room 401, 1620 L Street, NW, Washington, D.C.

Comments will be available for public review at the L Street address during regular business hours (7:45 A.M. to 4:15 P.M., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Barbara Gamble, Compliance Team, Fluids Group, (202) 452–0340.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.12(a), BLM is required to provide 60-day notice in the **Federal Register** concerning a collection of information contained in published current rules to solicit comments on (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

In accordance with the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 *et seq.*); the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 *et seq.*); the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351–359); the various Indian leasing acts; and the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), BLM's regulations at 43 CFR 3162.3–2 require oil and gas operators on Federal and restricted Indian lands to submit Form 3160–5, Sundry Notices and Reports on Wells, in order to obtain authority to perform specific additional operations on a well and to report the completion of such work. In addition, 43 CFR 3162.5–1 provides authority to require the operator to exercise diligence when disposing of produced waters. The specific data required on these forms concerns modifications to existing wells or construction requirements of produced water disposal pits. The regulation at 43 CFR 3162.3–2 divides the proposed action into three categories based on the nature of the impact. Some actions require submitting the form for approval prior to beginning work and again after completion of operations; other actions require submission only after completion; and still others do not require reporting.

All data is delivered to BLM by the operator or its agent. The data pertains to modifying operations conducted under the terms and provisions of an oil and gas lease (a contractual agreement between a lessee and the United States) for Federal or restricted Indian lands. The compilation of this data enables oversight and approval prior to any modifications to existing wells. In the case of a produced water disposal pit approval, this data provides the technical aspects of pit design to allow for sufficient water containment, thereby preventing unnecessary releases of produced water into the environment.

BLM estimates that approximately 34,000 notices will be filed annually with an estimated completion time of 25 minutes each, for a total annual burden of 14,166 hours. Respondents are operators and operating rights owners of Federal and Indian (except Osage) oil and gas leases. The frequency of response is variable depending on the type of activities conducted at oil and gas wells and on operational circumstances.

Any interested member of the public may request and obtain, without charge, a copy of Form 3160–5 by contacting the person identified under **FOR FURTHER INFORMATION CONTACT.**

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will also become part of the public record.

Dated: March 25, 1996.

Annetta L. Cheek,

Chief, Regulatory Management Team.

[FR Doc. 96–7591 Filed 3–27–96; 8:45 am]

BILLING CODE 4310–84–P

[CA–065–06–1990–01]

Environmental Statements; California Desert Conservation Area, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare an Environmental Impact Statement for an open pit, heap leach gold mine on portions of public lands in the California Desert Conservation Area, Kern County, CA; and notice of scoping period and public meetings.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Bureau of Land Management (BLM) will be preparing a joint Environmental Impact Statement/ Environmental Impact Report (EIS/EIR) for addressing impacts of the proposed gold mine development in Kern County, CA. The BLM invites comments and suggestions on the scope of the analysis.

DATES: Public scoping meetings will be held on:

Date: April 16, 1996—Tuesday
Time: 6:30 p.m.–10:00 p.m.
Place: Rosamond High School,
2925 Rosamond Blvd,
Rosamond, CA 93560,
Glennan Gymnasium

Date: April 17, 1996—Wednesday
Time: 6:30 p.m.–10:00 p.m.
Place: Mojave High School,
15732 "O" St.,
Mojave, CA 93501,
Mustang Gymnasium

ADDRESSES: Scoping comments may be sent to: BLM Ridgecrest Resource Area Manager, 300 S. Richmond, Ridgecrest, CA 93555, Attn: Ahmed Mohsen, EIS Coordinator.

SUPPLEMENTARY INFORMATION: Golden Queen is proposing to construct and operate the Soledad Mountain Project, an open pit precious metals (gold and silver) mining and cyanide leaching processing operation at the Soledad Mountain project area located approximately five miles southwest of the town of Mojave in Kern County, California.

The proposed action includes: construction of facilities; mining and processing of precious metals ores at the rate of three to four million tons per year for a period of ten to sixteen years; stockpiling of overburden materials; sales of overburden materials as aggregate and construction materials; and reclamation of the project site.

The project area is approximately 1,228 acres, of which 959 acres are private land and 269 acres are unpatented mining claims on public lands administered by BLM. The proposed surface disturbance is approximately 782 acres on private lands and 153 acres on public lands. The proposed mining operation includes twelve interconnected open pit mining areas within the ultimate pit boundary of the proposed open pit.

FOR FURTHER INFORMATION CONTACT: Ahmed Mohsen, BLM EIS Coordinator at (619) 384–5421.

Dated: March 21, 1996.

Lee Delaney,

Area Manager.

[FR Doc. 96–7495 Filed 3–27–96; 8:45 am]

BILLING CODE 4310–40–M

[OR–015–96–1610–00: G6–0088]

Management Framework Plans; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: High Desert Management Framework Proposed Plan Amendment and Final Environmental Impact Statement for Lake Abert Area of Critical Environmental Concern, Notice of Availability.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act, section 202(f) of the Federal Land Policy and Management Act, and 43 CFR Part 1610, the Lakeview District has completed a proposed plan amendment and final environmental impact statement (PA/FEIS) covering a proposal to designate the Lake Abert and the surrounding vicinity as an area of critical environmental concern (ACEC).

The proposed PA/FEIS addresses the management of resources within approximately 123,000 acres of public land and 101,700 acres of reserved mineral estate administered by the BLM located approximately 30 miles north of the town of Lakeview in central Lake County, Oregon. The proposed ACEC includes approximately 49,900 acres of public lands administered by the BLM.

DATES: The public review/protest period for the proposed PA/FEIS will officially begin when the U.S. Environmental Protection Agency publishes its Notice of Availability of the proposed PA/FEIS in the **Federal Register**, which is expected on or about March 29, 1996.

FOR FURTHER INFORMATION CONTACT: Paul Whitman, BLM, Lakeview District Office, P.O. Box 151, Lakeview, Oregon 97630 (Telephone: 541–947–6110). Those wishing to provide comments should submit them in writing to Scott Florence at the above address.

SUPPLEMENTARY INFORMATION: The document presents management goals, objectives, and seven management alternatives for BLM-administered lands within the planning area. The alternatives range from no action (no change in present management), to designating portions of the planning area as an ACEC with somewhat restrictive management, to designating the entire planning area as an ACEC with very restrictive management. Alternative 7 is the agency preferred plan and involves designating about 49,900 acres of public lands as an ACEC. The area was evaluated and found to meet the ACEC designation criteria and require special management for four resource values: wildlife, visual, cultural, and ecological processes. Off-highway vehicle (OHV) use, mining location, and rights-of-way location would be restricted within the ACEC. Livestock grazing would be restricted within that portion of Abert Rim wilderness study area (WSA) falling within the ACEC, as well as within most riparian zones, and ecologically sensitive areas. Mineral leasing would be closed within approximately 18,000 acres of the ACEC with the remainder of the area being restricted.

A draft plan amendment and environmental impact statement was issued for a 90-day review period in May 1995. The review period ended on August 16, 1995. A total of 37 comment letters were received during the review period. An interdisciplinary planning team assessed these comments and utilized them in making changes in the proposed PA/FEIS. The final document has been prepared in an abbreviated format. Major sections of the draft are not repeated in the final. Copies of the draft are available for reference by contacting the point of contact listed above.

Those individuals, organizations, native American tribes, and agencies with a known interest in the plan have been sent a copy of the proposed PA/FEIS. Persons desiring a copy of the document should contact the point of contact listed above. Reading copies of the document are available at the Lake, Klamath, and Harney County, Oregon, libraries and at the following BLM locations: Office of External Affairs, Main Interior Building, Room 5600, 18th and C Streets, NW, Washington DC 20240, and Public Room, Oregon State Office, 1515 SW 5th, Portland, Oregon 97201.

Administrative Remedies

Approval of this plan amendment constitutes official ACEC designation and will be documented in a public Record of Decision (ROD) which will be made available to all parties who received a copy of the proposed PA/FEIS. The BLM planning process provides an opportunity for an administrative review via a plan protest to the BLM Director, if you believe the approval of the proposed plan amendment would be in error under 43 CFR 1610.5–2. Careful adherence to the following guidelines will assist in preparing such a protest that will assure the greatest consideration to your point of view:

(1) A protesting party may raise only those issues which he/she submitted for the record during the planning process.

(2) There is no provision within BLM's regulations allowing for an extension of time to file a protest, nor will one be granted. To be considered timely, a protest must be postmarked no later than the closing date of the comment/protest period. It is recommended that your protest be sent certified mail, return receipt requested.

(3) Protests must be submitted in writing to: Director (480), Bureau of Land Management, Resource Planning Team, 1849 C Street, NW, Washington, DC 20240.

(4) To be considered complete, a protest must contain, at a minimum, the following information:

(a) The name, address, telephone number, and interest of the person filing the protest.

(b) A statement of the issue(s) being protested.

(c) A statement of the part(s) of the proposed plan amendment being protested, referencing specific pages, paragraphs, sections, tables, maps, etc. * * * within the document.

(d) A copy of all documents addressing the issue(s) that you submitted during the planning process or a reference to the date the issue(s) were discussed by you for the record.

(e) A concise statement explaining why the BLM State Director's decision is believed to be incorrect. A protest which merely expresses disagreement with the State Director's decision, without presenting support data/ information, will be dismissed.

Dated: March 15, 1996.

Edwin J. Singleton,

District Manager.

[FR Doc. 96–7510 Filed 3–27–96; 8:45 am]

BILLING CODE 4310–33–P

[OR–050–1020–00: GP6–0101]

Notice of Meeting of John Day-Snake Resource Advisory Council

AGENCY: Bureau of Land Management, Prineville District.

ACTION: Meeting of John Day-Snake Resource Advisory Council; LaGrande, Oregon; May 1–3, 1996.

SUMMARY: A meeting of the John Day-Snake Resource Advisory Council and Council Subgroups will be held on May 1, 1996 from 1:00 pm to 5:00 pm, on May 2, 1996 from 8:00 am to 5:00 pm and on May 3, 1996 from 8:00 am to 12 noon at the La Grande Ranger District, 3502 Highway 30, La Grande, Oregon. Public comments will be received by the Council from 4:00 pm to 5:00 pm on Wednesday, May 1, 1996. Topics to be discussed include the Interior Columbia Basin Ecosystem Management Project, standards for rangeland health and guidelines for livestock grazing, and proposed land exchanges in the John Day-Snake Region. A field trip to discuss riparian and watershed management will be held on May 2, 1996. Transportation will not be provided for the public to the field training site on May 2, 1996.

FOR FURTHER INFORMATION CONTACT: James L. Hancock, Bureau of Land Management, Prineville District Office, 3050 N.E. Third Street, Prineville, Oregon 97754, or call 541–416–6700.

Dated: March 20, 1996.

James L. Hancock,

District Manager.

[FR Doc. 96–7511 Filed 3–27–96; 8:45 am]

BILLING CODE 4310–33–M

[CO–030–06–1610–00–1784]

Southwest Colorado Resource Advisory Council Meetings

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice; Resource Advisory Council Meetings.

SUMMARY: In accordance with the Federal Advisory Committee Act (5 U.S.C.), notice is hereby given that the Southwest Colorado Resource Advisory Council (SW RAC) will meet on Thursday, April 11, 1996, at the Delta County Courthouse in Delta, Colorado, and on Thursday, May 9, 1996, at the Log Cabin in Norwood, Colorado.

DATES: The meetings will be held on Thursday, April 11, 1996, and on Thursday, May 9, 1996. Both meetings will begin at 9:00 a.m. and end at 4:30 p.m.

ADDRESSES: For further information, contact Roger Alexander, Bureau of Land Management, Montrose District Office, 2465 South Townsend Avenue, Montrose, Colorado 81401; Telephone 970–249–7791; TDD 970–249–4639.

SUPPLEMENTARY INFORMATION: The April 11, 1996, meeting is scheduled to begin at 9:00 a.m. in Room 234, Delta County Courthouse, 5th & Palmer, Delta, Colorado. The agenda for the morning will include an update on the development of standards for rangeland health and guidelines for livestock grazing (S&Gs), a presentation on the environmental analysis, land use planning, and public participation components of the S&G process, and time will be provided to address additional issues identified by advisory council members or members of the public attending the meeting. The afternoon session will consist of a field trip to demonstrate how the S&Gs will be used in the management of the public lands. The public is invited to attend both the morning session and the field trip. Field trip participants must provide their own lunch, water, and transportation (four wheel drive or high clearance vehicles are necessary).

The May 9, 1996, meeting is scheduled to begin at 9:00 a.m. in the Log Cabin, 1120 Lucerne, Norwood, Colorado. The morning agenda will focus on collaborative planning efforts, and time will be provided to address additional issues identified by advisory council members or members of the public attending the meeting. The afternoon session will consist of a field trip to key locations within the San Miguel River Area of Critical Environmental Concern/Special Recreation Management Area. The public is invited to attend both the morning session and the field trip. Field trip participants must provide their own lunch, water, and transportation.

All Resource Advisory Council meetings are open to the public. Interested persons may make oral statements to the Council, or written statements may be submitted for the Council's consideration. Depending on the number of persons wishing to make oral statements, a per-person time limit may be established by the Montrose District Manager.

Summary minutes for the Council meeting will be maintained in the Montrose District Office and will be available for public inspection and reproduction during regular business hours within thirty (30) days following the meeting.

Dated: March 25, 1996.

Mark W. Stiles,

District Manager.

[FR Doc. 96–7735 Filed 3–27–96; 8:45 am]

BILLING CODE 4310–JB–P

[CA–017–1920–4686; CACA 36507]

Notice of Intent To Amend Bishop Resource Management Plan, Bakersfield District, California; Notice of Exchange Proposal: Manzanar Exchange, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent to amend the Bishop Resource Management Plan's list of public land disposal parcels, adding a 275 acre parcel and a Notice of Exchange Proposal for the Manzanar Exchange involving public and private lands in Inyo County, CA.

SUMMARY: On March 3, 1992, the President signed the Manzanar Natural Historic Site Act which authorized the acquisition of 500 acres of land at the historic site only by donation or exchange. The site is owned by the City of Los Angeles Department of Water and Power (LADWP). In April 1995 the National Park Service (NPS), Bureau of Land Management (BLM) and the LADWP entered into a Memorandum of Understanding (MOU) regarding an exchange of public land for the Manzanar Site. The General Management Plan for Manzanar identified 585 acres for inclusion in the site and an additional 215 acres having historic value is desired to expand the site to a total of 800 acres more or less. As per the MOU, LADWP would select and receive public land identified in the Bishop Resource Management Plan (RMP) for disposal. The Notice of Intent to amend the Bishop RMP resulted from the selection process by LADWP. A portion of the public land selected by LADWP for the Manzanar exchange is 275 acres having a portion of the dry Owens River. This river portion is also part of the Owens River rewatering project, a project agreed to by LADWP and the County of Inyo. Both LADWP and the County have indicated that ownership of this river portion should be by LADWP which would simplify administering the rewatering project. It is in the public interest to amend the Bishop RMP and identify this 275 acres parcel for disposal thereby facilitating the Manzanar exchange. The Notice of Exchange Proposal is for the Manzanar exchange. In the exchange LADWP would transfer up to 800 acres more or less of the Manzanar site to the NPS and the BLM would exchange public land to the LADWP. LADWP has agreed that the long-term intent is to release the identified exchange land in the Independence area or more suitable land into private ownership for community development. It is in the public interest to proceed with the exchange thereby acquiring the Manzanar Site for the NPS and implementing a portion of the Bishop RMP (Land Disposal). The exchange involves the following lands located in the County of Inyo, California: Offered Non-Federal Lands, to be Conveyed to the United States. These lands are known as the Manzanar Historic Site and are located within the following general description:

Mount Diablo Meridian, California

T. 14 S., R. 35 E.,
Sec. 9, E½E½SE¼;
Sec. 10, All;
Sec. 11, W½SW¼;
Sec. 14, NW¼;
Sec. 15, N½, N½S½;
Sec. 16, E½E½NE¼, E½NE¼SE¼.
Containing 800 acres more or less.

Selected Federal Lands, to be Patented to the City of Los Angeles:

Mount Diablo Meridian, California

T. 11S., R. 35 E.,
Sec. 30, Lots 1 and 2, E½NW¼, E½SW¼, W½SW¼SE¼;
Sec. 31, Lot 8, W½W½NE¼, E½NW¼, W½SE¼.
Containing 275 acres more or less. Known as the Owens River parcel.
T. 13 S., R. 35 E.,
Sec. 18, S½ of Lot 2 of NW¼, Lot 1 and 2 of SW¼, SW¼NE¼, NW¼SE¼.
Containing 282.81 acres. Known as the Independence parcel.

Additional Federal Lands which could be selected for equal value adjustment. These lands are identified in the Bishop RMP for disposal and are located in:

Mount Diablo Meridian, California

T. 7 S., R. 33 E.,
Sec. 30,
Sec. 31.
T. 13 S., R. 35 E.,
Sec. 29.
T. 14 S., R. 36 E.,
Sec. 31.

SUPPLEMENTAL INFORMATION: Final determination on the exchange and the RMP amendment will made using public comments and an environmental assessment. Public land within any Wilderness Study Area will not be involved in this exchange. The value of the lands to be exchanged will be approximately equal. The conveyance document (patent) for the Federal public lands will include the following reservations to the United States:

1. "A right-of-way thereon for ditches or canals constructed by the authority of the United States. Act of August 30, 1890 (43 U.S.C. 945)."

2. "Authorized rights-of-way and other valid third party rights will be recognized. The Proponent will negotiate new easement/permit agreements with third party rights. Patents to selected public lands will be issued subject to any third party rights not successfully negotiated and replaced by a Proponent easement or permit."

Upon publication of this Notice in the **Federal Register**, the public lands described above are segregated from all forms of appropriation under the public land laws, including the mineral laws for a period of five years from the date of publication. The segregative effect shall terminate as provided by 43 CFR 2201.1(c).

Detailed information concerning the RMP amendment or the Manzanar exchange is available at the Bishop Resource Area Office, 785 N. Main St. Suite E, Bishop, Ca 93514 or by contacting Larry Primosch at (619) 872–4881.

COMMENTS: On or before March 13, 1996, interested parties may submit valid comments on the Bishop RMP amendment or the Manzanar Exchange to the Bishop Resource Area Manager, 785 N. Main St. Suite E, Bishop, CA 93514.

Dated: March 21, 1996.

Genivieve D. Rasmussen,

Area Manager, Bishop Resource Area.

[FR Doc. 96–7390 Filed 3–27–96; 8:45 am]

BILLING CODE 4310–40–P

[OR–014–96–6350–00; G6–0087]

Notice of Availability

AGENCY: Bureau of Land Management, Klamath Falls Resource Area, Interior.

ACTION: Notice of Availability of the Record of Decision, Resource Management Plan, for the Upper Klamath Basin and Wood River Wetland on the Klamath Falls Resource Area of the Lakeview District, Oregon.

SUMMARY: In accordance with the National Environmental Policy Act of 1969 (40 CFR 150.2), and the Federal Land Policy and Management Act of 1976, (43 CFR part 1610 [g]), the Department of the Interior, Bureau of Land Management, Klamath Falls Resource Area of the Lakeview District provides notice of availability of the Record of Decision (ROD), Approved Resource Management Plan (ARMP), for the Upper Klamath Basin and Wood River Wetland on the Klamath Falls Resource Area of the Lakeview District. The ARMP will provide the framework to guide land and resource allocations and management direction for the next 10 to 20 years on the Wood River property in the Klamath Falls Resource Area of the Lakeview District, including designation of the property as an Area of Critical Environmental Concern. This ARMP supersedes any applicable portions of the existing Lost River and Jackson-Klamath Management Framework Plans and other related documents for managing BLM-administered lands and resources in the subject area. The Klamath Falls Resource Area of the Lakeview District is responsible for management of approximately 3,220 acres of public land located approximately 25 miles north of Klamath Falls. It is bounded on the south by Agency Lake, on the east by the Wood River and associated marsh, on the north-northwest by a dike, and on the west by Sevenmile Creek. It is located in Klamath County, just east of the Cascade Range in southern Oregon.

ADDRESSES: Copies of the ARMP/ROD are available upon request by contacting the Klamath Falls Resource Area of the Lakeview District, Bureau of Land Management, 2795 Anderson Ave., Bldg 25, Klamath Falls, Oregon, 97603. The telephone number is (541) 883–6916. This document has been sent to all those individuals and groups who were on the mailing list for the Upper Klamath Basin and Wood River Wetland Proposed Resource Management Plan/ Final Environmental Impact Statement. The full supporting record for the approved Upper Klamath Basin and Wood River Wetland RMP is also available for inspection in the Klamath Falls Resource Area office during normal operating hours, at the office given above. Copies of the draft and final EISs are also available for inspection in the public room at the BLM Oregon/Washington State Office, 1515 S.W. 5th St., Portland, Oregon 97201; and Klamath County library, at 126 S. 3rd St., Klamath Falls, Oregon during normal operating hours.

FOR FURTHER INFORMATION CONTACT: A. Barron Bail, Area Manager, Klamath Falls Resource Area office, Phone (503) 883–6916.

SUPPLEMENTARY INFORMATION: The Upper Klamath Basin and Wood River Wetland ARMP/ROD is essentially the same as the proposed action in the Upper Klamath Basin and Wood River Wetland Resource Management Plan/Final Environmental Impact Statement (PRMP/FEIS). Virtually no changes to the proposed decisions have been made, however some clarifying language has been made in response to several comment letters, and as a result of ongoing staff review. Four alternatives that encompass a spectrum of realistic management options were considered in the planning process. The final plan is a mixture of the management objectives and actions that, in the opinion of the BLM, best resolve the issues and concerns that originally drove the preparation of the plan.

The overall goal of the plan is to restore the Wood River property to its previous function as a wetland community, within the unalterable constraints (such as water rights, land ownership patterns, and funds). Within that goal, the primary objectives would be to improve water quality and quantity entering Agency Lake from the property; and to restore and enhance wetland habitat, primarily for Lost River and shortnose suckers, and secondarily for other species.

Stream Channel Restoration

To provide a wider riparian area and floodplain along Wood River and Sevenmile Creek that would allow for meandering flow patterns to develop. To encourage channel sinuosity and complexity within BLM administered lands and consistant with Oregon water laws. To not adversely affect water use or rights of other landowners.

Wetland Restoration

To restore the majority of the property to a wetland in proper functioning condition, dominated by a native plant community. Vegetation management could occur using several methods, including but not limited to water level fluctuations, livestock grazing, haying, planting and seeding, prescribed fire, and mechanical or chemical methods.

Special Status Species Habitat

To manage for a diversity of habitats for special status species. Maintain a viable population of spotted frogs on the property. To protect habitats of federally listed or proposed threatened or endangered species; to avoid contributing to the need to list category 1 and 2 federal candidate, state listed, and Bureau sensitive species.

Fish and Wildlife Habitat

To improve habitat conditions for suckers and salmonids; to improve habitat for raptors and neotropical migratory birds; and to optimize waterfowl habitat within the constraints of other resource objectives.

Recreation

To provide opportunities for roaded and semi-primitive recreation experiences (opportunities to have a high degree of interaction with the natural environment, to have moderate challenge and risk and to use outdoor skills). To manage the area for day use only.

Day use is defined as two hours before sunrise and one half-hour after sunset. To manage the area for low to moderate recreation use levels. Recreation use and facilities would be secondary to the overall objectives of wetland restoration and water quality improvement. The area will be closed to off-highway vehicles, except for designated roads and trails and administrative or emergency vehicles, as authorized by the Area Manager. In addition, other parties with right-of-way agreements or easements will have limited access rights.

In addition to the above mentioned day use only restrictions, the following rules apply to the Wood River property: No fires of any kind are permitted. No personal property such as hunting decoys, tents, etc. can remain on the Wood River property during the overnight hours. Pit hunting blinds may not be dug on the property. Jet boats and air boats are prohibited from the existing Wood River marsh and in other wetland areas as they are constructed. Small motorized boats are allowed into the wetland areas between October 1 and January 31.

Any person who fails to comply with this closure restriction order is subject to the penalties provided in 8360.0–7. Violoations are punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months. This **Federal Register** notice supercedes any previous notices regarding off-highway vehicle restrictions and other rules applying to the Wood River property.

The ARMP/ROD designates the Wood River property as a new Area of Critical Environmental Concern (ACEC) with the restrictions noted below:

Area name	Acres	Vegetation harvest	ORV use	Mining location	Mineral leasing	Rights-of-way
Wood River	3,220	R	P	R	R	R

NC = No Change from existing situation.
R = Use is allowed but with restrictions.
P = Use is prohibited.

The Wood River property is designated an area of critical environmental concern to protect and restore the areas relevant and important values, which are cultural, fish and wildlife values and natural processes and systems. Livestock grazing is restricted to meet management objectives, as noted above. Mineral leasing is subject to no surface occupancy. The area is closed to off-highway vehicle use .

Special Recreation Management Areas: The plan identifies the Wood River property as a new Special Recreation Management Area.

To ensure that mineral activities do not conflict with other management goals, the lands will be withdrawn from (closed to) settlement, sale, location and entry under the general land laws, including the United States Mining Laws (30 U.S.C. Ch.2,1988), but not the mineral leasing laws, subject to valid and existing rights.

Dated: March 15, 1996.

Edwin J. Singleton,

Lakeview District Manager.

[FR Doc. 96–7509 Filed 3–27–96; 8:45 am]

BILLING CODE 4310–33–P

[CO–956–96–1420–00]

Colorado: Filing of Plats of Survey

March 20, 1996.

The plats of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10:00 am., March 20, 1996. All inquiries should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215.

The plat, in 9 sheets, representing the dependent resurvey of a portion of the west boundary, a portion of the subdivisional lines, and certain mineral claims and portions thereof, and the subdivision of section 7 in Township 1 North, Range 72 W., Sixth Principal Meridian, Group 875, Colorado, was accepted March 1, 1996.

The plat, in two sheets, representing the dependent resurvey of a portion of the subdivisional lines and metes-and-bounds surveys in sections 9 and 17, Township 46 North, Range 10 West, New Mexico Principal Meridian, Group 1125, Colorado, was accepted February 27, 1996.

The plat representing the dependent resurvey of portions of the south boundary and subdivisional lines, the subdivision of section 34, and a metes-and-bounds survey in section 34, Township 46 North, Range 11 West, New Mexico Principal Meridian, Group 1125, Colorado, was accepted February 27, 1996:

The supplemental plat showing amended lottings in section 9, Township 14 South, Range 100 West, Sixth Principal Meridian, Colorado, was accepted March 6, 1996.

The plat representing the dependent resurvey of portions of the south boundary, Township 8 South, Range 85 West, portions of the subdivisional lines and certain lot lines in sections 4, 5, 6, and 10 and the subdivision of certain sections, a metes-and-bounds survey between certain lots in section 6, and an informative traverse along the Little Woody Creek Road in section 10, Township 9 South, Range 85 West, Sixth Principal Meridian, Group 988, Colorado, was accepted October 6, 1994.

These surveys were executed to meet certain administrative needs of this Bureau.

The plat representing the dependent resurvey of portions of the east boundary and subdivisional lines, and the subdivision of certain sections in Township 8 North, Range 64 W., Sixth Principal Meridian, Group 997, Colorado, was accepted March 4, 1996.

This survey was executed to meet certain administrative needs of the U.S. Forest Service, Rocky Mountain Region.

Darryl A. Wilson,

Chief Cadastral Surveyor for Colorado.

[FR Doc. 96–7582 Filed 3–27–96; 8:45 am]

BILLING CODE 4310–JB–P

[NV–930–1430–01; NV–59007]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Nevada; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of correction.

SUMMARY: This notice corrects an error in the land description published in the **Federal Register**, 59 FR 60998, November 29, 1994, for a proposed withdrawal.

FOR FURTHER INFORMATION CONTACT: Dennis J. Samuelson, BLM Nevada State Office, 850 Harvard Way, P.O. Box 12000, Reno, Nevada 89520, 702–785–6507.

SUPPLEMENTARY INFORMATION: The land description in the Notice of Proposed Withdrawal and Opportunity for Public Meeting; Nevada, 59 FR 60998–60999, November 29, 1994, is corrected as follows:

On page 60999, column 1, line 9 from the bottom of the column, which reads "S½NE¼NW¼, W½NW¼SW¼," is hereby corrected to read "S½NE¼SW¼, W½NW¼SW¼,".

Dated: March 19, 1996.

William K. Stowers,

Lands Team Lead.

[FR Doc. 96–7496 Filed 3–27–96; 8:45 am]

BILLING CODE 4310–HC–P

Minerals Management Service

Minerals Management Advisory Board; Outer Continental Shelf (OCS); Scientific Committee (SC); Announcement of Plenary Session

This Notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. 92–463, 5 U.S.C., Appendix I, and the Office of Management and Budget Circular A–63, Revised.

The Minerals Management Advisory Board OCS SC will meet in plenary sessions on Wednesday, June 12, and Thursday, June 13, 1996, at the Pontchartrain Hotel, 2031 St. Charles Avenue, New Orleans, Louisiana 70140, telephone (504) 524–0581.

The OCS SC is an outside group of scientists which advises the Director, MMS, on the feasibility, appropriateness, and scientific value of the MMS' OCS Environmental Studies Program (ESP).

Below is a schedule of meetings that will occur.

The SC will meet in plenary session on Wednesday, June 12, and on Thursday, June 13, from 8:30 a.m. to 5 p.m. Discussion will focus on:

- Committee Business and Resolutions.
- Environmental Studies Program Status Review.
- MMS Goals and Objectives.

The meetings are open to the public. Approximately 30 visitors can be accommodated on a first-come-first-served basis at the plenary session.

A copy of the agenda may be requested from the MMS by writing Ms. Phyllis Clark at the address below.

Other inquiries concerning the OCS SC meeting should be addressed to Dr. Ken Turgeon, Executive Secretary to the OCS Scientific Committee, Minerals Management Service, 381 Elden Street, Mail Stop 4310, Herndon, Virginia 22070. He may be reached by telephone on (703) 787–1717.

Dated: March 21, 1996.

Thomas Gernhofer,

Associate Director for Offshore Minerals Management.

[FR Doc. 96–7572 Filed 3–27–96; 8:45 am]

BILLING CODE 4310–MR–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA–201–66]

Fresh Tomatoes and Bell Peppers

AGENCY: International Trade Commission.

ACTION: Institution and scheduling of an investigation under section 202 of the Trade Act of 1974 (19 U.S.C. § 2252) (the Act).

SUMMARY: Following receipt of a petition filed on March 11, 1996, on behalf of the Florida Fruit & Vegetable Association, Orlando, FL, the Florida Bell Pepper Growers Exchange, Inc., Orlando, FL, the Florida Commissioner of Agriculture, Tallahassee, FL, the Ad Hoc Group of Florida Tomato Growers and Packers, and individual Florida bell pepper growers, the U.S. International Trade Commission instituted Investigation No. TA–201–66 under section 202 of the Act to determine whether fresh tomatoes and bell peppers, provided for in subheadings 0702.00.20, 0702.00.40, 0702.00.60, and 0709.60.40 of the Harmonized Tariff Schedule of the United States, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.[1]

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 206, subparts A and B (19 CFR part 206).

EFFECTIVE DATE: March 11, 1996.

FOR FURTHER INFORMATION CONTACT: Jonathan Seiger (202–205–3183), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov or ftp://ftp.usitc.gov).

SUPPLEMENTARY INFORMATION:

Participation in the investigation and service list.—Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, not later than 21 days after publication of this notice in the **Federal Register**. The Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited disclosure of confidential business information (CBI) under an administrative protective order (APO) and CBI service list.—Pursuant to section 206.17 of the Commission's rules, the Secretary will make CBI gathered in this investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive CBI under the APO.

Hearings on injury and remedy.—The Commission has scheduled separate hearings in connection with the injury and remedy phases of this investigation. The hearing on injury will be held beginning at 9:30 a.m. on June 3, 1996, at the U.S. International Trade Commission Building. In the event that the Commission makes an affirmative injury determination or is equally divided on the question of injury in this investigation, a hearing on the question of remedy will be held beginning at 9:30 a.m. on August 1, 1996. Requests to appear at the hearings should be filed in writing with the Secretary to the Commission on or before May 17, 1996, and July 15, 1996, respectively. All persons desiring to appear at the hearings and make oral presentations should attend prehearing conferences to be held at 9:30 a.m. on May 21, 1996, and July 18, 1996, respectively, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the hearing are governed by sections 201.6(b)(2) and 201.13(f) of the Commission's rules. Parties are strongly encouraged to submit as early in the investigation as possible any requests to present a portion of their hearing testimony *in camera*.

Written submissions.—Each party is encouraged to submit a prehearing brief to the Commission. The deadline for filing prehearing briefs on injury is May 28, 1996; that for filing prehearing briefs on remedy, including any commitments pursuant to 19 U.S.C. § 2252(a)(6)(B), is July 25, 1996. Parties may also file posthearing briefs. The deadline for filing posthearing briefs on injury is June 10, 1996; that for filing posthearing briefs on remedy is August 8, 1996. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the consideration of injury on or before June 10, 1996, and pertinent to the consideration of remedy on or before August 8, 1996. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain confidential business information must also conform with the requirements of section 201.6 of the Commission's rules.

In accordance with section 201.16(c) of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under the authority of section 202 of the Trade Act of 1974; this notice is

[1] For purposes of this investigation, "fresh tomatoes" are defined as fresh or chilled tomatoes, including but not limited to the varieties known scientifically as *Lycopersicon esculentum, Lycopersicon cerasiforme,* and *Lycopersicon pyriforme,* but excluding tomatoes grown for processing. "Bell peppers," also called sweet peppers, are defined as fresh or chilled peppers belonging to the species *Capsicum annuum var. annuum,* but excluding peppers grown for processing.

published pursuant to section 206.3 of the Commission's rules.

Issued: March 22, 1996.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–7492 Filed 3–27–96; 8:45 am]

BILLING CODE 7020–02–P

[Inv. No. 337–TA–386]

Notice of Investigation

In the Matter of Certain Global Positioning System Coarse Acquisition Code Receivers and Products Containing Same.

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on February 21, 1996, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Trimble Navigation, 645 North Mary Avenue, P.O. Box 3642, Sunnyvale, California 94088–3642. Letters supplementing the complaint were filed on March 5 and March 12, 1996. The complaint, as supplemented, alleges violations of section 337 based on the importation into the United States, the sale for importation, and the sale within the United States after importation of certain global positioning system coarse acquisition code receivers and products containing same by reason of infringement of claims 1 and 7 of U.S. Letters Patent 4,754,465. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a permanent exclusion order and a permanent cease and desist order.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Room 112, Washington, D.C. 20436, telephone 202–205–1802. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

FOR FURTHER INFORMATION CONTACT: Kent Stevens, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2579.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.10.

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on March 22, 1996, Ordered That—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain global positioning system coarse acquisition code receivers or products containing same by reason of infringement of claims 1 or 7 of U.S. Letters Patent 4,754,465, and whether there exists an industry in the United States as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Trimble Navigation, 645 North Mary Avenue, P.O. Box 3642, Sunnyvale, California 94088–3642.

(b) The respondent is the following company alleged to be in violation of section 337, and is the party upon which the complaint is to be served: NovAtel Communications Ltd., 1020 64th Avenue N.E., Calgary, Alberta, Canada T3J 1S1.

(c) Kent Stevens, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Room 401–L, Washington, DC 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, the Honorable Sidney Harris is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondent in accordance with section 210.13 of the Commission's Rules of Practice and Procedure. 19 C.F.R. § 210.13. Pursuant to sections 201.16(d) and 210.13(a) of the Commission's Rules, 19 C.F.R. §§ 201.16(d) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and notice will not be granted unless good cause therefore is shown.

Failure of the respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against the respondent.

Issued: March 25, 1996.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–7570 Filed 3–27–96; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 95–7]

Stanley Karpo, D.P.M.; Revocation of Registration

On September 19, 1994, the Deputy Assistant Administrator, Office of Diversion Control, (then titled Director, Office of Diversion Control), Drug Enforcement Administration (DEA), issued an Order to Show Cause to Stanley Karpo, D.P.M., (Respondent) of Norristown, Pennsylvania, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, AK5172515, under 21 U.S.C. 824(a), and deny any pending applications for renewal of such registration as a practitioner under 21 U.S.C. 823(f), as being inconsistent with the public interest. Specifically, in relevant part, the Order to Show Cause alleged that the Respondent had been excluded from participation in a program pursuant to 42 U.S.C. 1320a–7(a), as evidenced by, but not limited to, the following:

(a) Between 1986 and 1989, [the Respondent] submitted 219 fraudulent claims for $32,317.00, to Medicare for medical services not provided.

(b) On July 22, 1991, in the Court of Common Pleas for Montgomery County, Pennsylvania, [the Respondent] pled guilty to 23 counts of Medicaid fraud, and two counts of theft by deception. On October 15, 1991, [the Respondent was] sentenced to a period of incarceration of between 8–23 months; court costs and fines; two years supervised probation; and ordered to pay restitution to the Pennsylvania Department of Public Welfare.

(c) On March 6, 1992, [the Respondent was] notified by the Department of Health and Human Services of [his] eight-year mandatory exclusion from participation in the Medicare program pursuant to 42 U.S.C. 1320a–7(a).

While this matter was pending, the Respondent filed a request for modification of his DEA Certificate of Registration to reflect his change of address from Norristown, Pennsylvania, to Hollywood, Florida. On November 3, 1994, the Deputy Assistant Administrator, Office of Diversion Control, issued another Order to Show Cause to the Respondent at his Hollywood, Florida address, notifying him of an opportunity to show cause as to why DEA should not only revoke his DEA Certificate of Registration as stated in the earlier show cause order, but also to deny his request for modification under 21 U.S.C. 823(f), for the same reasons as stated in the earlier show cause order.

By letter dated November 25, 1994, the Respondent, representing himself, requested a hearing, and following prehearing procedures, a hearing was scheduled before Judge Paul A. Tenney, for October 11, 1995. However, by letter dated October 5, 1995, the Respondent notified Judge Tenney that he had elected not to contest this matter. By order dated October 10, 1995, Judge Tenney determined that the Respondent's letter was a withdrawal of his request for a hearing, and he cancelled the hearing scheduled for October 11. Judge Tenney also recommended that this case "be disposed of by a decision based upon the investigative record." By letter dated October 18, 1995, Judge Tenney transmitted the record of these proceedings to the Deputy Administrator.

The Deputy Administrator agrees with Judge Tenney's determination that the Respondent's letter dated October 5, 1995, was a withdrawal of his request for a hearing. Accordingly, the Deputy Administrator now enters his final order in this matter without a hearing and based on the investigative file and the prehearing matters submitted by the parties pursuant to 21 CFR 1301.54(e) and 1301.57.

The Deputy Administrator finds that the parties have stipulated before Judge Tenney, and nothing filed by the Respondent indicates his intention to withdraw from this stipulation, as follows:

(1) On July 22, 1991, in the Court of Common Pleas for Montgomery County, Pennsylvania, [the] Respondent pled guilty to twenty-three counts of Medicaid fraud and two counts of theft by deception. On October 15, 1991, [the] Respondent was sentenced to a period of incarceration between 8–23 months; court costs and fines; two years supervised probation; and ordered to pay restitution to the Pennsylvania Department of Public Welfare.

(2) On [March 6, 1992, the] Respondent was notified by the Department of Health and Human Services of his eight-year exclusion from participation in the Medicare Program pursuant to 42 U.S.C. [1320]a–7a. This action is currently under appeal.

Although the parties stipulated that the Respondent appealed the Medicare exclusion determination, neither party has submitted any evidence demonstrating that the Medicare exclusion has been revoked or otherwise altered from the original determination.

The investigate file contains a report indicating that during the Medicare fraud investigation, investigators from the Pennsylvania Attorney General's Medicaid Fraud Section interviewed a number of the Respondent's ex-employees, who had related that the Respondent had treated patients while under the influence of drugs. One of the ex-employees stated that she had seen the Respondent take excessive amounts of Valium during office hours. Valium is a brand name for a product containing diazepam, a Schedule IV controlled substance. Another ex-employee related that the Respondent had inhaled cocaine at his office desk. A number of the Respondent's patients also indicated that they believed he was under the influence of some drug when he treated them.

On April 16, 1993, pursuant to a consent agreement between the Respondent and the State's prosecuting attorney, the Commonwealth of Pennsylvania Department of State Bureau of Professional and Occupational Affairs (Bureau) ordered the Respondent's license to practice podiatry suspended for a period of one year. However, this suspension was stayed in favor of a period of active suspension for twenty-one days, and a three-year period of probation, with specified terms and conditions. One of the terms of probation was that the Respondent remain enrolled in, and successfully participate in, "the Impaired Professional Program for the duration of his probation, unless earlier released from participation by the Impaired Professional Program Consultant." In his prehearing statement, the Respondent indicated that he was participating in such a program, which included weekly meetings, random monthly substance abuse laboratory screenings, and psychological evaluations.

Pursuant to 21 U.S.C. 823(f) and 824(a)(4), the Deputy Administrator may revoke a DEA Certificate of Registration and deny any pending application for such registration, if he determines that the continued registration would be inconsistent with the public interest. Section 823(f) requires that the following factors be considered:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to contolled substances.

(5) Such other conduct which may threaten the public health or safety.

These factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or a pending application for registration denied. See Henry J. Schwarz, Jr., M.D., Docket No. 88–42, 54 FR 16422 (1989).

In addition, 21 U.S.C. 824(a)(5) specifies that a DEA registration may be revoked or suspended if the registrant "has been excluded * * * from participation in a program pursuant to [42 U.S.C. 1320a–7(a)]." Here, the record demonstrates that the Respondent has been so excluded. Although the Respondent asserted that this decision was under appeal, nothing was presented reversing or otherwise altering his Medicare program exclusion. The DEA has previously determined that such an exclusion constitutes grounds for revoking a Respondent's DEA Certificate of Registration. See Richard M. Koenig, M.D., Docket No. 94–32, 60 FR 65069 (1995); Joseph A. Zadrozny, M.D., 60 FR 14304 (1995).

Next, as to the public interest issue, factors one and five are relevant in determining whether the Respondent's continued registration would be inconsistent with the public interest. Specifically, as to factor one, "[t]he recommendation of the appropriate state licensing board," in April of 1993, the Bureau, pursuant to a consent agreement, actively suspended the Respondent's license to practice podiatry for twenty-one days and placed

it on probation for three years. The Bureau ordered the Respondent to participate in an Impaired Professional Program for the duration of his probation. Although the facts concerning the Respondent's alleged acts of substance abuse are not adequately developed for specific findings based upon the record before the Deputy Administrator, it is significant that the Bureau, after reviewing the investigative record before it, ordered the Respondent to participate in an Impaired Professional Program for the duration of the Respondent's three-year probation.

Further, as to factor five, "[s]uch other conduct which may threaten the public health or safety," the Respondent's conduct of submitting false invoices placed into question his trustworthiness and credibility. Such lack of trustworthiness causes concern as to the Respondent's future conduct if entrusted with protecting the public interest in administering controlled substances.

Except for the Respondent's general statement in his prehearing submission that he continues to participate in the Impaired Professional Program, the Respondent has not submitted any other information of his rehabilitative efforts. Given the egregious nature of the Respondent's conduct in intentionally filing false documents with the State and his resulting exclusion from the Medicare Program, the Deputy Administrator finds that the public interest is best served by revoking the Respondent's DEA Certificate of Registration and denying any pending registration application at the present time. *See Sokoloff v. Saxbe*, 501 F.2d 571, 576 (2d Cir. 1974) (stating that "permanent revocation" of a DEA Certificate of Registration may be "unduly harsh").

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824, and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration AK5172515, issued to Stanley Karpo, D.P.M., be, and it hereby is, revoked, and any pending application, or request for modification of this registration, submitted by the Respondent is denied. This order is effective April 29, 1996.

Dated March 22, 1996.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 96–7498 Filed 3–27–96; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 95–2]

John Porter Richards, D.O.; Grant of Application

On October 4, 1994, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to John Porter Richards, D.O., (Respondent) of Elkview, West Virginia, notifying him of an opportunity to show cause as to why DEA should not deny his application for registration as a practitioner under 21 U.S.C. 823(f), as being inconsistent with the public interest. Specifically, the Order to Show Cause alleged that:

(1) In 1984, the Virginia State Police conducted a raid on a sailing vessel docked in Lancaster County, Virginia, and seized six tons of marijuana, a Schedule I controlled substance. The Respondent was subsequently indicted for conspiracy to distribute, and with distribution of marijuana, with respect to this seizure.

(2) On or about July 18, 1985, in the Circuit Court for Lancaster County, Virginia, the Respondent was convicted of conspiracy to distribute marijuana and possession with intent to distribute more than five pounds of marijuana, both felony offenses related to controlled substances. Upon conviction, the Respondent was sentenced to 30 years imprisonment, 20 years of which were suspended.

(3) As a result of the criminal conviction, the Ohio State Board of Medicine revoked the Respondent's license to practice osteopathic medicine in the state, on or about April 9 1986.

On October 21, 1994, the Respondent, through counsel, filed a timely request for a hearing, and following prehearing procedures, a hearing was held in Arlington, Virginia, on February 16, 1995, before Administrative Law Judge Mary Ellen Bittner. At the hearing, both parties called witnesses to testify and introduced documentary evidence, and after the hearing, counsel for both sides submitted proposed findings of fact, conclusions of law and argument. On September 6, 1995, Judge Bittner issued her Opinion and Recommended Ruling, recommending that the Respondent's application for registration be granted. Neither party filed exceptions to her decision, and on October 6, 1995, Judge Bittner transmitted the record of these proceedings to the Deputy Administrator.

The Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts, in full, the Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law, and Decision of the Administrative Law Judge, and his adoption is in no manner diminished by any recitation of facts, issues and conclusions herein, or of any failure to mention a matter of fact or law.

The Deputy Administrator finds that, on May 23, 1993, the Respondent completed an application for a DEA Certificate of Registration as a practitioner to handle controlled substances. On the application, the Respondent disclosed that in 1985 he had received a felony conviction related to marijuana, that in 1986, his medical license in the State of Ohio had been revoked due to that conviction, and that his prior DEA registration had had no action taken against it. The Respondent testified before Judge Bittner that he had let his prior DEA registration expire.

A DEA inquiry disclosed that on July 18, 1985, the Respondent was convicted, after a jury trial, of one count of possession with intent to distribute approximately 12,000 pounds of marijuana, and one count of conspiracy to distribute the same quantity of marijuana. The Respondent was sentenced to (1) thirty years confinement, with twenty years suspended; (20 supervised probation for three years after his release from confinement; and (3) payment of a $5,000.00 fine. Further, by order dated April 16, 1986, the State Medical Board of Ohio revoked the Respondent's license to practice osteopathic medicine and surgery in that state as a result of this felony conviction.

On April 15, 1988, the State of West Virginia Board of Osteopathy (Board) granted the Respondent a probationary license, with stipulations to include serving a five-year period of probation and a required reporting provision. By letter dated March 19, 1993, the Board removed the restrictions from the Respondent's license to practice and issued him an unrestricted license, effective April 15, 1993. Further, the Respondent submitted a letter from the Board dated December 12, 1994, recommending that the Respondent be granted a DEA Certificate of Registration.

The Respondent testified before Judge Bittner, stating that he had graduated from the Philadelphia College of Osteopathic Medicine, is a diplomat of the National Board of Examiners, and is Board certified in family practice. He stated that he maintains a solo practice in Elkview, West Virginia, a rural community approximately fifteen miles from Charleston, that there are more than 6,000 patients in his practice, and that he treats a large number of poor patients, about forty percent of which receive Medicare and/or Medicaid benefits. The Respondent testified that he did not have hospital privileges, for he had been told that he needed a DEA Certificate of Registration to qualify for such privileges in his local hospitals.

When asked on cross-examination whether, consistent with his not guilty plea, he continued to maintain that he had not committed the crimes for which he had been convicted, the Respondent testified, "I accept my conviction," and when asked to what extent he did so, he replied, "In its completeness." He also stated that this conviction was his first, that he had no subsequent convictions, and that he did not believe that he would ever again commit any crime "involving the drug laws." The Respondent testified that in October of 1990, he had satisfactorily completed his court-ordered probation.

The Respondent submitted an affidavit from Robert R. Merhige, Jr. The parties stipulated that "Robert R. Merhige, Jr.[,] is a Senior U.S. District Judge for the Eastern District of Virginia, at Richmond." Judge Merhige wrote that he was aware of the Respondent's prior conviction that he had been told it was his first conviction, and that he had had contact with the Respondent over the years since his conviction. Judge Merhige also wrote that, based upon his association with the Respondent, "I am of the option that he is unlikely to violate the law, and has the capacity and intention to conduct himself as a worthy citizen," that he was "of the sincere belief that [the Respondent would] conduct himself appropriately and [would] not be a threat to the public health and safety," and "I believe him to be a person worthy of the privilege of prescribing controlled substances pursuant to a valid DEA license."

The Respondent also submitted documents detailing the barriers he faced as a result of his lack of a DEA Certificate of Registration. Specifically, he submitted documents disclosing his inability to participate in managed health care programs, difficulties in obtaining liability insurance, as well as evidence of the economic decline of his practice.

Pursuant to 21 U.S.C. 823(f), the Deputy Administrator may deny an application for registration as practitioner, if he determines that granting the registration would be inconsistent with the public interest. Section 823(f) requires that the following factors be considered:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health or safety.

These factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration denies. See Henry J. Schwarz, Jr., M.D., Docket No. 88–42, 54 FR 16422 (1989).

In this case, the Deputy Administrator agrees with Judge Bittner, finding that factors one, three, four, and five are relevant in determining whether the Respondent's registration would be inconsistent with the public interest. As to factor one, "recommendation of the appropriate State licensing board," it is significant that, as a result of his felony conviction related to controlled substances, the Respondent's medical license was revoked by the Ohio State Board of Medicine in 1986. Further, in 1988, when the State of West Virginia Board of Osteopathy granted the Respondent a license, it chose to grant a probationary license with reporting requirements. However, also significant is the fact that in 1993, the Board issued the Respondent an unrestricted license to practice medicine. Further, the Board also supports the Respondent's application for a DEA Certificate of Registration, as evidenced by its letter of December 12, 1994.

As to factor three, the Respondent's "conviction record under Federal or State laws relating to the * * * distribution * * * of controlled substances" and factor four, the Respondent's "[c]ompliance with applicable State, Federal, or local laws relating to controlled substances," It is undisputed that the Respondent received a felony conviction for the unlawful possession with intent to distribute, and for conspiracy to distribute, 12,000 pounds of marijuana, a Schedule I controlled substance, in violation of State law. As for factor five, "[s]uch other conduct which may threaten the public health or safety," there is no dispute that on the night of the incident which resulted in the Respondent's conviction, he fled the scene of the crime, thereby avoiding law enforcement officials. Thus, the Deputy Administrator agrees with Judge Bittner's conclusion that the "Respondent's past misconduct constitutes sufficient grounds to deny his application for DEA registration."

However, the Deputy Administrator also agrees that factors exist which support granting the Respondent's application. First, the Respondent's criminal conduct occurred more than ten years ago. As the Deputy Administrator has previously determined, "[t]he paramount issue is not how much time has elapsed since [the Respondent's] unlawful conduct, but rather, whether during that time [the] Respondent has learned from past mistakes and has demonstrated that he would handle controlled substances properly if entrusted with DEA registration." *Leonardo V. Lopez, M.D.*, 54 FR 36915 (1989). Even though it has been previously found that time, alone, is not dispositive in such situations, it is certainly an appropriate factor to be considered. See *Norman Alpert, M.D.*, 58 FR 67420, 67421 (1993), citing *Thomas H. McCarthy, D.O.*, 54 FR 20936 (DEA 1989), affirmed, *Thomas H. McCarthy, D.O.* v. *Drug Enforcement Administration*, No. 89–3496 (6th Cir. Apr. 5, 1990) (unpublished opinion).

Next, there is no evidence or contention that the Respondent has ever been involved in any other criminal activity. Also, Judge Bittner noted that the Respondent had expressed remorse for his prior misconduct and that "there is no indication that those expressions of remorse are not genuine." The Respondent also testified before Judge Bittner that he certainly did not intend to commit any crime "involving the drug laws" in the future. His convictions were corroborated by Judge Merhige's affidavit containing his opinion that the Respondent was "unlikely to violate the law." Further, since the Respondent's release from confinement, he had taken positive steps to improve his professional credentials by becoming Board certified in family practice.

The Deputy Administrator strongly endorses Judge Bittner's observation, that the "Respondent's involvement in smuggling marijuana was egregious criminal behavior." Without condoning such behavior, however, the Deputy Administrator also agrees that granting the Respondent's application for a DEA Certificate of Registration would be consistent with the public's interest at this time and in this case. The Deputy Administrator also finds that the public's interest, as well as the interest

of the Respondent, will be served better by making this order effective upon the date of publication in the **Federal Register**, rather than thirty days thereafter.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823, and 28 CFR 0.100(b) and 0.104, hereby orders that the pending application for a DEA Certificate of Registration of John Porter Richards, D.O., be, and it hereby is, approved. This order is effective upon publication in the **Federal Register**.

Dated: March 22, 1996.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 96–7499 Filed 3–27–96; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Women's Bureau; Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Women's Bureau is soliciting comments concerning the proposed new collection of information on the fair pay issue for implementation of the Fair Pay Information Clearinghouse. A copy of the ICR can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before May 28, 1996. The Department of Labor is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarify of the information to be collected; and

* Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Josephine Gomez on (202) 219–6631; fax number (202) 219–5529; Internet address Jgomez@WB.gov or Arline Easley on (202) 219–6601; fax number (202) 219–5529; Internet address Aeasley@WB.gov; Women's Bureau, U.S. Department of Labor, Room S–3317, 200 Constitution Avenue, NW, Washington, DC 20210.

SUPPLEMENTARY INFORMATION:

I. Background

This information is needed because the Administration has made implementation of the Fair Pay Information Clearinghouse a priority for the Women's Bureau for Fiscal Year 1996. The Clearinghouse is a direct response to working women's views, solicited by the Working Women Count! initiative begun in 1994, starting with a voluntary customer satisfaction survey and a scientific random sample. In both the popular survey and the scientific sample, working women clearly conveyed that they do not receive the level of pay and benefits needed to support themselves and their families. Respondents said that "improving pay scales * * *" was one of their highest priorities for workplace change. The Fair Pay Information Clearinghouse will assist employees and employers who want to improve wage-setting practices. The Clearinghouse will provide technical assistance to employees, employers and organizations on successful efforts to identify and remove sex and race discrimination in wage setting policies. In addition to providing wage and occupational data, which will be obtained from resources such as the Department's Bureau of Labor Statistics (BLS), the Clearinghouse will also offer profiles of employers that have implemented pay adjustments based on pay equity studies, as well as offering organizational resources to contact for a variety of information on fair pay. Those who contact the Clearinghouse will learn about existing approaches to paying workers for the valuable work they do, regardless of whether or not that work has traditionally been performed by women and by people of color. Since the majority of women still work in traditionally female jobs, the Clearinghouse will provide these workers and their employers helpful tools to secure equal access to fair pay.

II. Current Actions

Solicitors and/or Commissions on Women of 50 states, including local jurisdictions and school districts will be asked to respond to the items appearing on OMB approved form "Organizations Working on Fair Pay Issues". Information on the methodology used to implement fair pay adjustments will be gathered over the telephone utilizing OMB approved dialogue.

Approximately 20 state entities that have made fair pay adjustments will be asked to provide descriptions of the methodologies used in distributing fair pay adjustments; these data should already be codified and the agencies simply need to send a copy of the descriptions that have been used. Ten researchers working in the field of fair pay will likely be requested to provide manuscripts and publications on the subject. Respondents have the option of transmitting their information electronically. Internet addresses and facsimile numbers are being provided for every aspect of this information collection.

Type of Review: New.

Agency: Women's Bureau.

Title: The Fair Pay Information Clearinghouse Information Collection.

Affected Public: Likely respondents are solicitors and/or Commissions on Women of 50 states, including local jurisdictions and school districts; Approximately 20 state entities that have made fair pay adjustments, and ten researchers working in the field of fair pay will likely be requested to provide manuscripts and publications on the subject.

Total Respondents: Approximately 180 respondents.

Frequency: Annual.

Total Responses: 180.

Average Time per Response: 9 hours.

Estimated Total Burden Hours: 1,600.

Total Burden Cost: (capital/startup): $19,160 (startup only).

Total Burden Cost: (operating/maintaining): $19,160 for each subsequent year (maintenance only).

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: March 22, 1996.

Ida L. Castro,

Acting Director.

[FR Doc. 96–7569 Filed 3–27–96; 8:45 am]

BILLING CODE 4510–23–M

Office of the Secretary

Submission for OMB Emergency Review; Comment Request

March 22, 1996.

The Department of Labor has submitted the following (see below) information collection request (ICR), utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). OMB approval has been requested by April 5, 1996. A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor Acting Departmental Clearance Officer, Theresa M. O'Malley (202) 219–5095).

Comments and questions about the ICR listed below should be forwarded to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Women's Bureau, Office of Management and Budget, Room 10235, Washington, DC 20503, (202) 395–7316.

The Office of Management and Budget is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Agency: Women's Bureau.

Title: The Fair Pay Information Clearinghouse Information Collection.

Frequency of Response: Annually.

Affected Public: Solicitors and/or Commissions on Women of 50 states, including local jurisdictions and school districts; approximately 20 state entities that have made fair pay adjustments, and ten researchers working in the field of fair pay.

Number of Respondents: Approximately 180 respondents.

Estimated Time Per Respondent: 9 hours.

Total Burden Hours: 1,600.

Total Burden Cost (Startup): $19,160.

Total Burden Cost (Maintenance): $19,160 for each subsequent year.

Description: In May 1994, the United States Department of Labor's Women's Bureau launched an unprecedented nationwide initiative—Working Women Count! The Working Women Count! questionnaire asked working women what they liked and disliked about their jobs, and what they would like to change. More than a quarter of a million women from all 50 states answered: "Improving pay scales * * *" was one of their highest priorities for workplace change, along with the way women's work is valued and recognized. They clearly conveyed that they do not receive the level of pay and benefits needed to support themselves and their families. When 75% of working women are paid $25,000 a year or less and a majority of women workers still work in traditionally female, and often low-paid jobs, women have a difficult time providing adequately for their own and their families' needs.

At a White House event in October 1994 to highlight the results of the Working Women Count! survey, President Clinton directed Secretary Robert Reich and the Director of the Women's Bureau to develop a set of proposals to address the concerns expressed in Working Women Count! On April 10, 1995, President Clinton accepted the Women's Bureau recommendations on the Federal government's role in making work better for women. The Fair Pay Information Clearinghouse is an integral component of the Bureau's recommendations to assist employees and employers who want to improve wage-setting practices by valuing the work done by a majority of women workers in the United States.

The Clearinghouse's computerized database information will provide technical assistance on successful efforts to identify and remove sex and race discrimination in wage setting policies. Clearinghouse customers will include employees, employers, and organizations. Technical assistance will be available to customers contacting the Clearinghouse during normal business hours and access to the Clearinghouse database will be available on a 24-hour basis by means of the Internet.

Theresa M. O'Malley,

Acting Departmental Clearance Officer.

[FR Doc. 96–7568 Filed 3–27–96; 8:45 am]

BILLING CODE 4510–23–M

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of mandatory safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Energy West Mining Company

[Docket No. M–96–01–C]

Energy West Mining Company, 15 North Main Street, P.O. Box 310, Huntington, Utah 84528 has filed a petition to modify the application of 30 CFR 75.326 (now 75.350) (air courses and belt haulage entries) to its Deer Creek Mine (I.D. No. 42–00121) located in Emery County, Utah. The petitioner requests amendments to MSHA's Proposed Decision and Order (PDO) regarding its Petition for Modification, Case No. 86–MSA–3, docket number M–85–127–C, proposal to modify application of the existing standards to conduct longwall mining with two entries in longwall panels under deep cover. The petitioner requests changes to two requirements of the previous decision and order due to changes in circumstances at its Deer Creek Mine. The petitioner requests that paragraph III.(c)(4) be amended to strike the first two clauses of the paragraph, so that the paragraph begins with the phrase "All diesel powered equipment operated on any two-entry longwall development or two-entry longwall panel," and to replace the period at the end of the paragraph with a comma and add at the end of the paragraph the phrase: "with the exception of the following diesel-powered equipment approved under 30 CFR part 32 (Schedule 24): ambulances used in emergency situations, mantrips, and other vehicles used to transport personnel to and from work areas." The petitioner asserts that this amendment would provide a more reliable and safer means of transporting personnel to and from work areas. In paragraph III.(o) of the PDO, the petitioner requests that the word "on" be removed from the sentence "Also, during longwall retreat mining in the two-entry panel, a rock dusting unit shall be installed on the last tailgate shield", and substitute in the words "at or near." The petitioner asserts that this change would permit the use of other rock dusting systems,

such a bulk dusters, installed in the tailgate return entries which were not in use (or available) when the decision and order was issued. In addition, the petitioner asserts that the granting of this petition to amend would provide alternate means of ensuring the safety of the miners based on developments in mining technology at the Deer Creek Mine since the previous decision and order was issued.

2. Ohio County Coal Company, Inc.

[Docket No. M–96–02–C]

Ohio County Coal Company, Inc., 19050 Highway 1078 South, Henderson, Kentucky 42420 has filed a petition to modify the application of 30 CFR 75.901(a) (protection of low- and medium-voltage three-phase circuits used underground) to its Freedom Mine (I.D. No. 15–17587) located in Hopkins County, Kentucky. The petitioner proposes to operate the Diesel Powered Generator without an earth referenced ground. The petitioner states that attaching a grounding conductor to the earth reference ground system reduces the mobility and effectiveness of the unit. The petitioner has listed specific stipulations in its petition to support its alternative method for operating the generator. In addition, the petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

3. D.R. Price Engineering and Land Surveying, Inc., PC

[Docket No. M–96–03–C]

D. R. Price Engineering and Land Surveying, Inc., PC, an MSHA Contractor (I.D. No. NAW), P.O. Box 270, Swords Creek, Virginia 24649 has filed a petition to modify the application of 30 CFR 75.501–2(a)(2) (permissible electric face equipment) for Dominion Coal Corporation, P.O. Box 70, Vansant, Virginia 24656 for its Dominion No. 7 Mine (I.D. No. 44–06499) VA MI No. 13963AA; its Dominion No. 8 Mine (I.D. No. 44–06555) VA MI No. 14024AA; its Dominion No. 16 Mine (I.D. No. 44–06643) VA MI No. 14160AA; its Dominion No. 18 Mine (I.D. No. 44–06577) VA MI No. 14045AA; its Dominion No. 21 Mine (I.D. No. 44–06644) VA MI No. 14161AA; and its Dominion No. 22 Mine (I.D. No. 44–06645) VA MI 14162AA; the Chad Coal Corporation, P.O. Box 890, Oakwood, Virginia 24631 for its Mine No. 4 (I.D. No. 44–06592) VA MI No. 14061AB; and its Mine No. 6 (I.D. No 44–06709) VA MI No. 14247AC all located in Buchanan County, Virginia; the Mackie J. Coal Company, Inc., Rt. 2, Box 530, Grundy, Virginia 24614 for its Mine No. 4 (I.D. No. 44–06051) VA MI No. 12681AD; the Classic Coal Corporation, P.O. Box 1025, Grundy, Virginia for its Mine No. 1 (I.D. No. 44–06195) VA MI No. 13256AB; the Blake Coal Company, Rt. 1, Box 566, Swords Creek, Virginia 24649 for its Mine No. 2 (I.D. No. 44–06486) VA MI No. 04940AB; and its Mine No. 3 (I.D. No. 44–06748) VA MI 14293AC; the Red Baron, Inc., P.O. Box 295, Swords Creek, Virginia 24649 for its Mine No. 1 (I.D. No. 44–06719) VA MI No. 14259AD; and its Mine No. 2 (I.D. No. 44–06779) VA MI No. 14301AC; the Nufac Mining, Inc., for its Mine No. 2 (I.D. No. 44–06758) VA MI No. 14313AB; the East Star Mining, Inc., P.O. Box 189, Swords Creek, Virginia 24649 for its Mine No. 2 (I.D. No. 44–06613) VA MI No. 14100AB; the Rat Contractors, Inc., P.O. Box 768, Grundy, Virginia 24614 for its Mine No. 2 (I.D. No. 44–06793) VA MI No. 14353AB; the Lick Branch Mining, Inc., Rt. 2, Box 50, Oakwood, Virginia 24631 for its Mine No. 4 (I.D. No. 44–06702) VA MI No. 14236AB all located in Buchanan County, Virginia; the C. J. & L Mining, Inc., 315 Railroad Avenue, Box 388, Richlands, Virginia 24641 for its Mine No. 1 (I.D. No. 44–08445); its Mine No. 2 (I.D. No. 44–08518); and its Mine No. 3 (I.D. No. 44–08444) located in McDowell County, West Virginia; the Sea B Mining, Inc., P.O. Box 26, Jewell Ridge, Virginia 24622 for its Seaboard Mine No. 2 (I.D. No. 44–03479) VA MI No. 07168AA; the C & O Mining Company, Inc., P.O. Box 249, Richlands, Virginia 24641 for its Mine No. 1 (I.D. No. 44–06606) VA MI No. 14110AC: the Donna Jean Mining, 126 West Main Street, Tazewell, Virginia 24651 for its Mine No. 1 (I.D. No. 44–06649) VA MI 14176AD; the Westfork No. 3, P.O. Box 309, Cedar Bluff, Virginia 24609 for its Mine No. 3 (I.D. No. 44–06708) VA MI No. 14092AF; the Canada Coal, P.O. Box 1697, Richlands, Virginia 24641 for its Mine No. 1 (I.D. No. 44–06713) VA MI No. 14251AB; and the Middle Creek Energy, P.O. Box 1174, Cedar Bluff, Virginia 24609 for its Mine No. 1 (I.D. No. 44–05772) VA MI No. 12308AA located in Tazewell County, Virginia. The petitioner proposes to use a low-voltage (14.4 V DC maximum), low-amperage (5.65 amps maximum), and low-wattage (81.36 watts maximum) hand-held battery powered drill inby the last open crosscut for drilling holes in the mine roof to install survey spads, instead of using a permissible hand-held battery powered drill. The petitioner states that permissible hand-held battery powered drills are not commercially available and that application of the standard would result in a diminution of safety to the miners.

4. Copperas Coal Corporation

[Docket No. M–96–04–C]

Copperas Coal Corporation, P.O. Box 679, Texas, West Virginia 25569 has filed a petition to modify the application of 30 CFR 75.503 (18.41)(f) (permissible electric face equipment; maintenance) to its Jacks Branch Mine (I.D. No. 46–08513) located in Boone County, West Virginia. The petitioner proposes to replace a padlock on battery plug connectors on mobile battery-powered machines used inby the last open cross-cut with a threaded ring and a spring loaded device to prevent the plug connector from accidently disengaging while under load. The petitioner states that application of the standard would result in a diminution of safety to the miners. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

5. Buck Creek Coal Company

[Docket No. M–96–05–C]

Buck Creek Coal Company, R.R. 5, Box 203, Sullivan, Indiana 47882 has filed a petition to modify the application of 30 CFR 75.364(b)(4) (weekly examination) to its Buck Creek Mine (I.D. No. 12–02033) located in Sullivan County, Indiana. Due to deteriorating roof conditions in the intersection outby the approach to the #4 Seal in the northwest Sub Main off the Main North, the area cannot be examined because access to the #4 Seal is blocked. The petitioner proposes to establish a monitoring point to continuously monitor the air quality outby (return side) of the seal; and to examine the monitoring point weekly for air quality and direction. The petitioner states that application of the standard would result in a diminution of safety to the miners.

6. Amax Coal Company

[Docket No. M–96–06–C]

Amax Coal Company has filed a petition to modify the application of 30 CFR 75.364(b)(2) (weekly examination) to its Wabash Mine (I.D. No. 11–00877) located in Wabash County, Illinois. Due to deteriorating roof conditions in certain parts of the 5 West area of the mine and certain areas of the return air course, traveling these areas in its entirety would be unsafe. The petitioner proposes to establish evaluation points at crosscuts No. 24–25 to measure for methane and the quantity of air, and at crosscuts No. 11–12 to measure the quantity of air; to have a certified person evaluate the air course at each evaluation point once each day where coal production occurs and place their initial, date, and time at each evaluation point and record the results of the examination in a record book kept on the surface and made available for inspection by interested persons. The petitioner states that application of the standard would result in a diminution of safety to the miners. In addition, the petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

7. Consolidation Coal Company

[Docket No. M–96–07–C]

Consolidation Coal Company, Consol Plaza, 1800 Washington Road, Pittsburgh, Pennsylvania 15241–1421 has filed a petition to modify the application of 30 CFR 75.364(b)(4) (weekly examination) to its Shoemaker Mine (I.D. No. 46–01436) located in Marshall County, West Virginia. Due to deteriorating roof conditions in the No. 3 Seal in 1 North of the air course, the area would be unsafe to travel in its entirety. The petitioner proposes to establish a checkpoint and make a weekly examination where an extended probe would be used to examine the No. 3 Seal for methane and a smoke tube would be used to verify the direction of air flow; to have the person making the examination and tests record their initials, date and time in a record book which would be kept on the surface and made available for inspection by interested parties; and to maintain the checkpoint and all approaches to the checkpoint in safe condition at all times. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

8. Pehem Industries, Inc.

[Docket No. M–96–08–C]

Pehem Industries, Inc., Route 2, Box 294–C, Delbarton, West Virginia 25670 has filed a petition to modify the application of 30 CFR 75.388(a)(3) (boreholes in advance of mining) to its Pehem No. 1 Mine (I.D. No. 46–08530) located in Nicholas County, West Virginia. The petitioner proposes to mine within 50 feet of the highwall mining holes without drilling boreholes. The petitioner states that this mine would be driven into the Winifrede Seam from a location adjacent to the High Power Energy highwall miner workings; and that the purpose for this request for modification is to avoid the dangers presented by abandoned mine openings and adjacent mines known or suspected of dangerous quantities of water or noxious or explosive gases. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

9. Peabody Coal Company

[Docket No. M–96–09–C]

Peabody Coal Company, 1951 Barrett Court, P.O. Box 1990, Henderson, Kentucky 42420–1990 has filed a petition to modify the application of 30 CFR 75.1100–2(b) (quantity and location of firefighting equipment) to its Camp No. 11 Mine (I.D. No. 15–08357) located in Union County, Kentucky. The petitioner proposes to install firehouse outlets with valves in the longwall gate entries every fourth cross-cut at intervals of approximately 440 feet instead of at intervals of 300 feet. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

10. Monterey Coal Company

[Docket No. M–96–10–C]

Monterey Coal Company, R. Rt. 4, Box 235, Carlinville, Illinois 62626 has filed a petition to modify the application of 30 CFR 75.1100–2(i)(1) (quantity and location of firefighting equipment) to its No. 1 Mine (I.D. No. 11–00726) located in Macoupin County, Illinois. The petitioner proposes to use the following emergency materials instead of emergency materials required by the mandatory safety standard: 112 Kennedy Metal Shopping Panels with associated head sills and twist clamps; 24 Kennedy Stopping Rib Angles; 3 rolls of tape; 3 twist tools; 2 rolls of brattice cloth; 3 stopping jacks; 3 picks; 3 shovels; 9 buckets of Celtite 10–12 (or equivalent material for stopping; and 5 tons of rock dust. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

11. Peabody Coal Company

[Docket No. M–96–11–C]

Peabody Coal Company, R.R. 2, Box 56B2, Carlisle, Indiana 47838 has filed a petition to modify the application of 30 CFR 77.1304(a) (blasting agents; special provisions) to its Hawthorn Mine (I.D. No. 12–00326) located in Greene County, Indiana. The petitioner proposes to used waste petroleum-based lubrication oil recycled from equipment at its mine, blended with diesel fuel oil to create an ANFO blasting agent. The petitioner has outlined in this petition for modification specific procedures for implementing its alternative method of creating the ANFO blasting agent. The petitioner states that Material Safety Data Sheets for the used oil and diesel fuel oil would be maintained on its mine property and made available to the Mine Safety and Health Administration (MSHA) upon request; that records would be maintained for a period of three years and made available to MSHA and the miners' representative when requested; that within 60 days after this petition becomes final, proposed revisions to its training plan would be submitted to the District Manager which would include initial and refresher training and emergency procedures for compliance with the conditions stated in this petition; and that this modification follows MSHA's guidelines for combining used oil and ANFO with a few variations.

12. Torie Mining, Inc.

[Docket No. M–96–12–C]

Torie Mining, Inc., P.O. Box 490, Virgie, Kentucky 41572 has filed a petition to modify the application of 30 CFR 75.342 to its Torie No. 1 Mine (I.D. No. 15–17163) located in Pike County, Kentucky. The petitioner proposes to use a hand-held continuous-duty methane detector on its permissible DC-powered S&S Model 482 scoop machines. The petitioner states that each operator working underground would be certified in the proper use of the hand-held detector. The petitioner asserts that the proposed alternative method would not diminish the level of safety provided by the mandatory standard.

Request for Comments

Persons interested in these petitions may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 29, 1996. Copies of these petitions are available for inspection at that address.

Dated: March 21, 1996.

Patricia W. Silvey,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 96–7497 Filed 3–27–96; 8:45 am]

BILLING CODE 4510–43–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (96–034)]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Prospective Patent License.

NASA hereby gives notice that the SR Technology, Inc., of Houston, Texas 77064, has applied for an exclusive license to practice the invention protected by U.S. Patent No. 5,449,211 entitled "Grapple Fixture for Use With Electromagnetic Attachment Mechanism," which was issued on September 12, 1995, and is assigned to the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Mr. Hardie R. Barr, Patent Attorney, Johnson Space Center.

DATE: Responses to this notice must be received by May 28, 1996.

FOR FURTHER INFORMATION CONTRACT: Mr. Hardie R. Barr, Patent Attorney, Johnson Space Center, Mail Code HA, Houston, TX 77058–3696; telephone (713) 483–1003.

Dated: March 21, 1996.

Edward A. Frankle,

General Counsel.

[FR Doc. 96–7534 Filed 3–27–96; 8:45 am]

BILLING CODE 7516–01–M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Music Teleconference

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a teleconference of the Music Advisory Panel (Jazz Masters Section) to the National Council on the Arts will be held on April 11, 1996. The teleconference will occur at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506. It will convene at 11 a.m. and end when business is completed.

This meeting is for the purpose of application evaluation, under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman on June 22, 1995, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9 (B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtain from Ms. Kathy Plowitz-Worden, Panel Coordinator, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5691.

Dated: March 22, 1996.

Kathy Plowitz-Worden,

Panel Coordinator, Office of Guidelines and Panel Operations, National Endowment for the Arts.

[FR Doc. 96–7516 Filed 3–27–96; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL LABOR RELATIONS BOARD

Privacy Act of 1974; System of Records

AGENCY: National Labor Relations Board (NLRB).

ACTION: Notice of amended system name and routine uses for NLRB system of records NLRB–20, Agency Disciplinary Case Files.

SUMMARY: This notice amends the system name and the language of four routine uses in the NLRB Privacy Act system of records NLRB–20, Agency Disciplinary Case Files.

EFFECTIVE DATE: These amendments shall become effective without further notice 30 days from the date of this publication, April 29, 1996, unless comments are received on or before that date which results in a contrary determination.

ADDRESSES: Written comments on the amendments may be submitted to the Executive Secretary, National Labor Relations Board, 1099 Fourteenth Street NW., Washington, DC 20570–0001. Copies of comments received will be available for inspection between 8:30 a.m. and 5 p.m. in Room 11600.

FOR FURTHER INFORMATION CONTACT: John J. Toner, Executive Secretary, National Labor Relations Board, 1099 Fourteenth Street NW., Washington, DC 20570–0001.

SUPPLEMENTARY INFORMATION: Pursuant to subsection (e)(11) of the Privacy Act of 1974, 5 U.S.C. 552a, the NLRB is publishing a notice amending the name of its system of records NLRB–20, Agency Disciplinary Case Files and revising existing routine uses Nos. 2, 5, 6, and 9. The system notice of NLRB–20 was last published in its entirety in 58 FR 57633, along with a proposed rule exempting the system from certain provisions of the Privacy Act, on October 26, 1993.

The name of the system is changed by placing the word "Nonemployees" at the end in parenthesis after the existing system name: NLRB–20, Agency Disciplinary Case Files (Nonemployees). This is being done in order to make clear that the system is only applicable to attorneys and other individuals who are not current NLRB employees. The four amended routine uses Nos. 2, 5, 6, and 9 respectively narrow the existing routine uses to specify more exactly the information that may be disclosed to a bar association or similar Federal, state, or local licensing authority; an inquiring Federal, state, or local government authority for hiring or retention of an employee; a court or other adjudicatory body in the course of presenting evidence or argument, including disclosure to opposing counsel or witnesses in the course of civil discovery; and an inquiring congressional office about the subject individual who must be the constituent about whom the records are maintained.

A report of this notice to amend the name of the system and the four routine uses in NLRB–20, Agency Disciplinary Case Files was filed pursuant to 5 U.S.C. 552a(r) with the Office of Management and Budget and with Congress. The specific changes to the notice being amended (58 FR 57633, October 26, 1993) are set forth below.

Dated: Washington, DC., March 14, 1996.

By direction of the Board.

John J. Toner,

Executive Secretary.

NLRB–20

SYSTEM NAME:

Agency Disciplinary Case Files (Nonemployees).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

2. A bar association or similar Federal, State, or local licensing authority, where the record or information, by itself or in connection with other records or information, indicates a violation or potential violation of the standards of professional conduct established or adopted by the licensing authority.

* * * * *

5. A Federal, State, or local government authority, in response to its request, that this system of records contains information relevant to the hiring or retention of an employee, the issuance or retention of a security clearance, the letting of a contract, or the issuance or retention of a license, grant, or other benefit. The other agency or licensing organization may then make a request supported by the written consent of the individual for the entire record if it so chooses. No disclosure will be made unless the information has been determined to be sufficiently reliable to support a referral to another office within the NLRB or to another Federal agency for criminal, civil, administrative, personnel, or regulatory action.

6. A court, magistrate, administrative tribunal, or other adjudicatory body in the course of presenting evidence or argument, including disclosure to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, or in connection with criminal law proceedings, when: (a) The NLRB or any component thereof, or (b) any employee of the NLRB in his or her official capacity; or (c) any employee of the NLRB in his individual capacity where the NLRB has agreed to represent the employee; or (d) the United States Government, is a party to litigation or has interest in such litigation, and determines that such disclosure is relevant and necessary to the litigation and that the use of such records is therefore deemed by the NLRB to be for a purpose that is compatible with the purpose for which the records were collected.

* * * * *

9. A Member of Congress or a Congressional staff member in response to an inquiry of the Congressional office made at the written request of the constituent about whom the records are maintained.

[FR Doc. 96–7370 Filed 3–27–96; 8:45 am]

BILLING CODE 7545–01–M

NATIONAL SCIENCE FOUNDATION

Committee Management; Notice of Establishment

The Director of the National Science Foundation has determined that the establishment of the Advisory Committee for the NSF Science and Technology Centers (STC) Program is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF), by 42 USC 1861 *et seq.* This determination follows consultation with the Office of Management and Budget and with the Committee Management Secretariat, General Services Administration.

Name of Committee: Advisory Committee for the NSF Science and Technology Centers (STC) Program.

Purpose and Objective: The objective of the Advisory Committee is to advise the NSF on the future of its Science and Technology Center Program. Its charge is to: (1) Consider the value of the STC Program in the context of the NSF strategic plan; (2) obtain input from other agencies that are supporting STCs; (3) consider recommendations of other NSF Advisory Committees; (4) the National Academy of Public Administration Management report; and (5) consider the Government Performance and Results Act (GPRA) report and the National Academy of Science (NAS) Review in order to provide recommendations on the future of the STC Program.

Balanced Membership Plans: To attain a balanced point of view, 15 persons will be selected with representation from academia, industry, and Federal and state governments. Membership will be diverse, including women and representation from underrepresented groups in science.

Duration: About 3 months.

Responsible NSF Officials: Dr. Sonja Sperlich, Associate Director, Science & Technology Centers, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230, telephone 202/306–1040.

Dated: March 25, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–7600 Filed 3–27–96; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Biochemistry and Molecular Structure and Function; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Panel for Biochemistry and Molecular Structure and Function—(1134) (Panel A).

Date and Time: Wednesday, Thursday, and Friday, April 17, 18, 19, 1996—8:30 a.m. to 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Room 340, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Persons: Drs. Jack Cohen and Valerie Hu, Program Directors for Molecular Biochemistry, Room 655, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230. (703/306–1443)

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals submitted to the Molecular Biochemistry Program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries: and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 25, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–7558 Filed 3–27–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Biological Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Date: Special Emphasis Panel in Biological Sciences (#1754).

Date and Time: Tuesday, April 16, through Thursday, April 18, 1996, from 8:30 a.m. to 5:00 p.m.

Place: Room 370, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230

Type of Meeting: Closed.

Contact Person: Dr. DeLill Nasser, Program Director for Eukaryotic Genetics, Division of Molecular and Cellular Biosciences, Room 655, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1439.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate CAREER proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 25, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–7551 Filed 3–27–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Chemistry; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name and Committee Code: Special Emphasis Panel in Chemistry (#1191).

Date and Time: April 15–16, 1996, 8:00 a.m. to 5:00 p.m.

Place: Rooms 310, 360, 365, 370, 375, 380, 390, and 253, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Karolyn Eisenstein, Program Director, Office of Special Projects, Chemistry Division, Room 1055, National Science Foundation 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1850.

Purpose of Meeting: To provide advice and recommendations concerning applications submitted to NSF for financial support.

Agenda: To review and evaluate applications for Postdoctoral Fellowships in Chemistry.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: March 25, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–7555 Filed 3–22–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Cross Disciplinary Activities; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announced the following meeting.

Name: Special Emphasis Panel in Cross Disciplinary Activities (#1193).

Date and Time: April 16, 1996; 8:30 a.m.–5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 1150 and 1120, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person(s): Harry G. Hedges, Program Director CISE/CDA, Room 1160, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1980.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate CISE Educational Innovation proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 25, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–7560 Filed 3–27–96; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Developmental Mechanisms; Notice of Meeting

In Accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Panel for Developmental Mechanisms (#1141).

Date and Time: April 17–19, 1996 8:30 am to 5:00 pm.

Place: Room 370, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

Type of Meeting: Part-open.

Contact Person: Dr. Judith Plesset and Dr. Charles Little, Program Directors, Developmental Mechanisms, Room 685, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230. Telephone: (703) 306–1417.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Developmental Mechanism proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 25, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–7553 Filed 3–27–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Design, Manufacture, and Industrial Innovation; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Design, Manufacture, and Industrial Innovation—(1194).

Date and Time: April 15, 1996, 9:00 a.m.–4:00 p.m.

Place: Room 565, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Sara B. Nerlove, Program Manager, SBIR Office, (703) 306–1391 and Dr. Edward H. Bryan, Program Manager, ENG/BES, (703) 306–1318, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the NSF for financial support.

Agenda: To review and evaluate Environmental Engineering Technology Phase II proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: March 25, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–7559 Filed 3–27–96; 8:45 am]

BILLING CODE 7555–01–M

Earth Sciences Proposal Review Panel; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Public Law 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Earth Sciences Proposal Review Panel (#1569).

Date: April 19, 1996.

Time: 8:00 a.m. to 6:00 p.m. each day.

Place: Room 1060, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Thomas O. Wright, Program Director, Tectonics Program, Division of Earth Sciences, Room 785, National Science Foundation, Arlington, VA 22230, (703) 306–1552.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate earth sciences as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 25, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–7552 Filed 3–27–96; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Engineering: Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name and Committee Code: Advisory Committee for Engineering (#1170).

Date and Time: April 18, 1996/9:30 a.m.–5:00 p.m. and April 19, 1996/8:30 a.m.–12 Noon.

Place: Room 1235, (National Science Board Meeting Room) National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.

Type: Open.

Contact Person: M. Christina Gabreil, Advisory Committee for Engineering, National Science Foundation, Room 505, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1302.

Minutes: May be obtained from the contact person listed above.

Purpose: To provide advice, recommendations and counsel on major goals and policies pertaining to Engineering programs and activities.

Agenda: Discussion on issues, opportunities and future directions for the Engineering Directorate; discussion of Engineering Directorate budget situation as well as other items.

Dated: March 25, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–7554 Filed 3–22–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Materials Research (DMR) 1203

Dates and Times: April 15, 1996, 1:00 p.m.–9:00 p.m.; April 16, 1996, 8:00 a.m.–6:00 p.m.; April 17, 1996, 8:00 a.m.–5:00 p.m.

Place: National Science Foundation; 4201 Wilson Boulevard, Arlington, VA 22230; Rooms 320, 330, 360, 365, 380, and 970.

Type of Meetings: Closed.

Contact Person: Dr. W. Lance Haworth, Program Director, Materials Research Science and Engineering Centers, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Blvd., Arlington, VA, 22230. Telephone (703) 306–1815.

Purpose of Meetings: To provide advice and recommendations concerning proposals submitted to NSF for financial support by the Materials Research Science and Engineering Centers Program.

Agenda: Review and evaluate proposals as part of the selection process for NSF support.

Reason for Closing: The proposals being reviewed may include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: March 25, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–7562 Filed 3–27–96; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Neuroscience; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Panel for Neuroscience (1158).

Date and Time: April 15–16, 1996; 9:00 a.m. to 5:00 p.m.

Place: Room 310, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Part-Open.

Contact Person: Dr. Christopher Platt, Program Director, Sensory Systems, Division of Integrative Biology and Neuroscience, Suite 685, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230 Telephone: (703) 306–1424.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Minutes: May be obtained from the contact person listed above.

Agenda: Open Session: April 15; 2:00 p.m. to 3:00 p.m., to discuss goals and assessment procedures. Closed Session: April 15, 9:00 a.m. to 2:00 p.m., and 3:00 p.m. to 5:00 p.m.; April 16, 9:00 a.m. to 5:00 p.m. To review and evaluate Sensory Systems proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: March 25, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–7557 Filed 3–27–96; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Presidential Faculty Fellows; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Panel for Presidential Faculty Fellows (#139).

Date and Time: April 16–17, 1996; 8:30 a.m. to 5:00 p.m. both days.

Place: Clarendon Room, Arlington Holiday Inn, 4610 North Fairfax Drive, Arlington, VA 22203

Type of Meeting: Closed.

Contact Person: Dr. Margaret A. Cavanaugh, Program Director, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1842.

Purpose of Meeting: To provide advice and recommendation concerning nominations submitted to NSF for financial support.

Agenda: To review and evaluate nomination for the Presidential Faculty Fellows Program.

Reason for Closing: The nominations being reviewed include information of a proprietary or confidential nature, including technical information; and personal information concerning associated with the proposals. These matters are exempt under 5 U.S.C. 552 b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: March 25, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–7561 Filed 3–27–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Research, Evaluation and Communication; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Research, Evaluation and Communication (#1210).

Date and Time: April 17, 1996; 8:30 a.m. to 5:00 p.m.; April 18, 1996; 8:30 a.m. to 5:00 p.m.; April 19, 1996, 8:30 a.m. to 4:00 p.m.

Place: Rooms 360, 365, and 855, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Nora Sabelli, Senior Program Director, 4201 Wilson Boulevard, Room 855, Arlington, VA 22230. Telephone (703) 306–1651.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals and provide advice and recommendations as part of the selection process for proposals submitted to the Networking Infrastructure for Education Program.

Reason for Closing: Because the proposals reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meetings are closed to the public. These matters are within exemptions

(4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–7556 Filed 3–27–96; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–302]

Florida Power Corporation; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–72, issued to Florida Power Corporation, et al. (the licensee), for operation of the Crystal River Nuclear Generating Plant, Unit No. 3 (CR3 or the facility) located in Citrus County, Florida.

Currently, the technical specifications (TS) for CR3 relating to the Once Through Steam Generator's (OTSG's) tube inspection acceptance criteria, specify repair limit for removing steam generator tubes from service. This repair limit is based on a structural evaluation of a simplified model of tubes with uniform through wall (T/W) thinning. A recent tube-pull examination at CR3 identified a number of low signal-to-noise (S/N) tube eddy current indications. The licensee indicated that these S/N indications are a substantially different morphology from the model used to develop the current TS inspection and acceptance limit. As a result of the small signal amplitude associated with these S/N indications, they could not be accurately sized by conventional bobbin coil phase angle.

By letter dated May 31, 1995, proposed TS changes which involved a broad and long-term criteria addressing both wear and Inter-Granular-Attack (IGA) degradation mechanisms. The licensee's May 31, 1995 request was noticed in the **Federal Register** on July 5, 1995 (60 FR 35071). By letter dated March 21, 1996, the licensee superseded its May 31, 1995 request and proposed a more focused TS change which would be applicable for one cycle duration, and only to Inter-Granular-Attack (IGA) degradation mechanisms in a limited region of the OTSG. Accordingly, this supersedes that notice in its entirety.

Specifically, the licensee proposed to:

A. Revise TS 3.4.12 item d, to read: "150 gpd primary to secondary LEAKAGE through any one steam generator (OTSG)."

B. Revise TS 5.6.2.10.2, page 5.0–14, "The results of each sample inspection shall be classified into one of the following three categories:" to read: "The results of each bobbin coil sample inspection shall be classified into one of the following three categories:"

C. Revise the Note in TS 5.6.2.10.2, page 5.0–14, "In all inspections, previously degraded tubes whose degradation has not been spanned by a sleeve must exhibit a significant increase in the applicable imperfection size measurement (>+0.3V bobbin coil amplitude increase for first span IGA indications or >10% further wall penetration for all other imperfections) to be included in the below percentage calculations."

D. Revise the second sentence in TS 5.6.2.10.4.a.2, page 5.0–16, "Eddy-current * * * as imperfections" to read: "Any indication below all degraded tube criteria specified in item below may be considered as imperfections."

E. Revise TS 5.6.2.10.4.a.4, page 5.0–16, to read: "Degraded Tube means a tube containing a first span IGA indication with a bobbin coil amplitude [greater than or equal to] 0.65V, an axial extent of [greater than or equal to] 0.13 inch, or a circumferential extent of [greater than or equal to] 0.3 inch or other imperfections [greater than or equal to] 20% of the nominal wall thickness caused by degradation except where all such degradation has been spanned by the installation of a sleeve."

F. Add TS 5.6.2.10.4.a.7 "First span Inter-Granular-Attack (IGA) indication means a bobbin coil indication located between the lower tubesheet secondary face and the first tube support plate confirmed by MRPC to have a volumetric morphology characteristic of IGA."

G. As a result of adding the new TS 5.6.2.10.4.a.7 above, revise applicable TS to reflect the new "first span IGA definition" term. Renumber 5.6.2.10.4.a.8 and 9 to 5.6.2.10.4.a.9 and 10.

H. Renumber TS 5.6.2.10.4.a.7 to TS 5.6.2.10.4.a.8, and revise to read: "Plugging/Sleeving Limit means the extent of degradation beyond which the tube shall be restored to serviceability by the installation of a sleeve or removed from service because it may become unserviceable prior to the next inspection. The limit for first span IGA indications is a bobbin coil amplitude of 1.25V, an axial extent of 0.25 inch, or a circumferential extent of 0.6 inch. The limit for indications other than first span IGA is equal to 40% of the nominal tube or sleeve wall thickness. No more than five thousand sleeves may be installed in each OTSG."

I. Revise TS 5.7.2.c.2, page 5.0–29, to read: "Following each inservice inspection of steam generator (OTSG) tubes, the NRC shall be notified of the following prior to plant ascension into Mode 4.

1. Number of tubes plugged and sleeved
2. Crack like indications in the first span
3. An assessment of growth in the first span indications, and
4. Results of in-situ pressure testing, if performed.

The complete results of the OTSG tube inservice inspection shall be submitted to the NRC within 90 days following the completion of the inspection. The report shall include:

1. Number and extent of tubes inspected,
2. Location and percent of wall-thickness penetration for each indication of an imperfection,
3. Location, bobbin coil amplitude, and axial and circumferential extent (if determined) for each first span IGA indication, and
4. Identification of tubes plugged and tubes sleeved."

The licensee requested that the above proposed license amendment be processed as an emergency or exigent amendment to prevent delay of the restart of the facility which is currently in an refueling outage. The licensee described the circumstances involving the request and stated that its request meets the requirements of 10 CFR 50.91a (5) and (6). The licensee stated that the complexity of the issues involved, differences between the licensee's and the industry's approach, and evolving industry/NRC interactions on the steam generator integrity issues resulted in a longer than anticipated NRC staff review time of the licensee's previous submittal (May 31, 1995). As a result, staff review of the licensee's May 31, 1995 submittal has not been completed. Therefore, the licensee proposed this more limited license amendment as described herein. Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change will not significantly increase the probability or consequences of an accident previously evaluated. The relevant accidents are excessive leakage or steam generator tube rupture (as a consequence of MSLB [Main steam Line Break] or otherwise).

RG [Regulatory Guide] 1.121 establishes a standard method for demonstrating structural integrity under worse-than-DBE [design basis Event] conditions. The existing TS is based on this RG. The first span, IGA disposition strategy continues to rely on this guidance. Current TW [through wall] sizing techniques would allow defects greater than the current TS limit of 40% to remain in service since these techniques do not accurately measure percent wall penetration for small volume indications. The proposed disposition strategy is based on measurable eddy current parameters of voltage, axial extent, and circumferential extent has been shown to provide a higher confidence that unacceptable flaws are removed from service. Therefore, the probability of a Steam Generator Tube Rupture (SGTR) is not increased and may well be decreased by implementation of this S/N disposition strategy.

The probability of OTSG tube leakage during normal operation or accident conditions is not adversely affected by the proposed S/N disposition strategy. Operating history indicates essentially no primary to secondary leakage through the OTSG tubes at CR–3. Growth rate studies imply this trend could be expected to continue. However, for conservatism the OTSG leakage limit has been reduced from 1 gallon per minute through all OTSGs to 150 gallons per day through any one OTSG. This change is consistent with the guidance provided in Generic Letter 95–05. Small volume indications which might leak during worse-case FWLB [Feedwater Line Break] conditions are addressed in the RG 1.121 evaluation. The disposition strategy ensure these indications are removed from service as part of the inservice inspection. Once detected, the proposed criteria is at least as effective in determining those indications which should be removed from service as are the existing TS limits.

The first span IGA disposition strategy is an integral part of an overall effort to better address these and similar phenomena in OTSGs.

2. The proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The key 'new or different' accidents addressed in this and similar proposals is the potential for MSLB-induced multiple SGTR or excessive primary-to-secondary leakage during such events. While these events are addressed in CR–3 Emergency Operating Procedures (EOPs), they are beyond those licensed for the facility.

However, as noted above, the probability of MSLB induced multiple SGTR is reduced by more effective screening and plugging/sleeving criteria. The probability of detection and identification of tubes which should be removed from service is maintained or improved by the S/N disposition strategy. The likelihood of adverse effects from plugging sound tubes is reduced. The operation of the OTSG or related structures, systems or components is otherwise unaffected.

3. The proposed change will not involve a significant reduction to any margin of safety.

The margins of safety defined in RG 1.121, including the required pressure used in the structural analysis, are retained. The probability of detecting degradation is unchanged since bobbin coil methods will continue to be the primary means of initial detection. The probability of leakage remains acceptably small. The proposed S/N disposition strategy is an enhancement to the inservice inspection of OTSG tubing that will provide a higher level of confidence that tubes exceeding the allowable limits are repaired while sound tubes are left in service. Based upon results of the various growth rate studies, the probability of an accident at the end of cycle is essentially the same as the beginning.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 15 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 15-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 15-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By April 29, 1996, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 32629. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the

nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Eugene V. Imbro: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to A. H. Stephens, General Counsel, Florida Power Corporation, MAC—A5D, P. O. Box 14042, St. Petersburg, Florida 33733, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated March 21, 1996, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room, located at the Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 32629.

Dated at Rockville, Maryland, this 25th day of March 1996.

For the Nuclear Regulatory Commission.

Bart C. Buckley,

Acting Director, Project Directorate II–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 96–7674 Filed 3–27–96; 8:45 am]

BILLING CODE 7590–01–P

Revision of the NRC Enforcement Policy; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Policy statement: Correction.

SUMMARY: This document corrects a notice appearing in the **Federal Register** on June 30, 1995 (60 FR 34381), that announced the revision of the Nuclear Regulatory Commission's (NRC's) Enforcement Policy. This action is necessary to correct an inadvertent omission of the Paperwork Reduction Act Statement for the policy statement. Because this notice and a notice announcing the removal of the NRC's Enforcement Policy from the Code of Federal Regulations (60 FR 34380; June 30, 1995) were subsequently issued in their entirety as NUREG–1600, NUREG–1600 also failed to include the Paperwork Reduction Act Statement for the revised policy statement. An errata for NUREG–1600 is being issued to address this issue.

FOR FURTHER INFORMATION CONTACT: James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–2741.

On page 34383, after the first full paragraph in the first column, (i.e., immediately preceding the revised policy statement), insert the following section:

Paperwork Reduction Act Statement

This policy statement does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, approval number 3150–0136. The approved information collection requirements contained in this policy statement appear in Section VII.C.

Dated at Rockville, Maryland, this 22nd day of March 1996.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 96–7531 Filed 3–27–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–244]

Rochester Gas and Electric Corporation; R. E. Ginna Nuclear Power Plant; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering granting an exemption from Facility Operating License No. DRP–18, issued to Rochester Gas and Electric Corporation (RG&E or the licensee), for operation of the R.E. Ginna Nuclear Power Plant (Ginna), located in Wayne County, New York.

Environmental Assessment

Identification of the Proposed Action

The proposed action is the granting of an exemption from Appendix K to Part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR Part 50), Paragraph I.D.3, "Calculation of Reflood Rate for Pressurized Water Reactors," and Paragraph I.D.5, "Refill and Reflood Heat Transfer for Pressurized Water Reactors."

The Ginna design relies on upper plenum injection (UPI) for the emergency core cooling system (ECCS) injection during the reflood phase of a large-break (LB) loss-of-coolant accident (LOCA). UPI is therefore not a lower-flooding design, and the prescriptions in Paragraphs I.D.3 and I.D.5 prescriptions do not apply. The evaluation model (EM) described in WCAP–10924–P, Volume 1, Revision 1, Addendum 4, "Westinghouse UPI Model Improvements," dated August 1990 is an empirically verified model, approved by the staff, and is more directly applicable to top-flooding situations at Ginna that satisfy the intent of Appendix K, Paragraphs I.D.3 and I.D.5.

The proposed action is in accordance with the licensee's exemption request dated November 5, 1992, as supplemented by letter dated June 19, 1995.

The Need for the Proposed Action

The licensee has requested the proposed action to support conversion from a 12-month fuel cycle to an 18-month fuel cycle (Cycle 26), which is scheduled to begin with the startup of the plant from the 1996 refueling outage on May 31, 1996. During Cycle 26, the plant will operate with different thermal-hydraulic characteristics and neutron (power) distribution in the core. Higher power distribution limits and larger peaking factors require an update of an ECCS EM that is acceptable to the staff and includes the effects of UPI. The licensee's submittal of November 5, 1992, as supplemented on June 19, 1995, references the EM used to perform an LB LOCA analysis for plants with UPI are described in WCAP–10924–P, Volume 1, Revision 1, Addendum 4, and gives the technical bases for the requested exemption for Ginna.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that the proposed exemption would allow the licensee to use the EM that is described in WCAP–10924–P, Volume 1, Revision 1, Addendum 4, and has been approved by the staff. The staff has concluded that the empirically verified EM model is more directly applicable to top-flooding situations at Ginna, and thus satisfies the intent of Appendix K, Paragraphs I.D.3 and I.D.5.

The exemption will not result in any changes to the facility or the environment.

The R.E. Ginna Nuclear Plant reactor is designed to withstand the effects caused by a loss-of-coolant accident including the double ended severance of the largest pipe in the reactor coolant system. The reactor core and internals together with the safety injection system are designed so that the reactor can be safely shut down, the essential heat transfer geometry of the core preserved following the accident, and the long-term coolability maintained. The ECCS is designed to meet acceptance criteria which preclude fission product release to the environment in excess of the guideline values of 10 CFR Part 100. The acceptance criteria for the LOCA, as prescribed in 10 CFR 50.46, are

(1) The calculated peak fuel element cladding temperature is below the limit of 2200 °F,

(2) The cladding temperature transient is terminated at a time when the core geometry is still amenable to cooling. The localized cladding oxidation of 17% are not exceeded during or after quenching,

(3) The amount of hydrogen generated by fuel element cladding that reacts chemically with water or steam does not exceed an amount corresponding to interaction of 1% of the total amount of Zircaloy in the reactor,

(4) The core remains amenable to cooling during and after the break, and

(5) The core temperature is reduced and decay heat is removed for an extended period of time, as required by the long-lived radioactivity remaining in the core.

These criteria were established to provide significant margin in ECCS performance following a LOCA. The ECCS is designed to meet acceptance criteria even when operating with the most severe single failure.

The anticipated impact of the plant on the environment was evaluated in the Staff's Final Environmental Statement (FES) dated December 1973. Subsequently, in preparation for the Atomic Safety and Licensing Board's (ASLB) hearing on the conversion of Provisional Operating License No. DPR–18 for the R.E. Ginna Nuclear Power Plant to a Full-Term Operating License, the NRC staff performed an Environmental Evaluation (EE) dated June 17, 1983, of the original FES. The staff EE did not identify any significant new environmental impacts or any significant changes from those identified previously in the FES.

The offsite exposure from releases due to postulated design basis accidents has been analyzed by the licensee in the RG&E Ginna Nuclear Power Plant Updated Final Safety Analyses Report (UFSAR). The results of these analyses were within the bounds of 10 CFR Part 100 and considered (1) various accidents, including loss-of-coolant accidents; (2) the radioactivity release calculated for each accident; (3) the assumed meteorological conditions; and (4) population distribution versus distance from the plant. The staff has concluded that neither the types of accidents nor the calculated radioactivity releases will change due to the proposed action. The site meteorology as defined in the UFSAR is essentially a constant. One parameter that would be dependent on the proposed action is the population size and distribution as it could vary with time; however, the projected increase in population densities, as addressed in the FES and EE, are minimal through the year 2009 and the proposed action will not significantly increase doses to the public. Due to design conservatism, maintenance and surveillance programs, inspection programs and the plant Technical Specifications, operation for the remaining life of the plant consistent with the proposed action will have no significant environmental impact.

The proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the NRC staff concludes that no significant radiological environmental impacts are associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action involves features located entirely within the restricted area as defined in

10 CFR Part 20. It does not, however, affect nonradiological plant effluents and has no other environmental impact. Accordingly, the staff concludes that no significant nonradiological environmental impacts are associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded that no measurable environmental impacts are associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the R.E. Ginna Nuclear Power Plant.

Agencies and Persons Consulted

In accordance with its stated policy, on April 11, 1995, the staff consulted with New York State official F. William Valentino, State Liaison Officer of the New York Energy, Research, and Development Authority, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the staff concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, it has determined that it will not prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated November 5, 1992, as supplemented by letter dated June 19, 1995, both of which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Rochester Public Library, 115 South Avenue, Rochester, New York.

Dated at Rockville, Maryland, this 22th day of March 1996.

For the Nuclear Regulatory Commission.

Susan Frant Shankman,

Acting Director, Project Directorate I–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 96–7530 Filed 3–27–96; 8:45 am]

BILLING CODE 7590–01–P

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Northwest Conservation and Electric Power Plan Draft Amendments

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council, Council).

ACTION: Notice of availability of Draft Fourth Northwest Conservation and Electric Power Plan.

SUMMARY: Following the mandate set out in the Pacific Northwest Electric Power Planning and Conservation Act of 1980 (16 U.S.C. 839 *et seq.*) (the Act), in April 1983 the Council adopted a regional power plan, the Northwest Conservation and Electric Power Plan (the plan). The plan was completely amended in 1986. Although the Act requires the Council to review the plan at least every five years, the council has taken up certain parts of the plan more often, to respond to ongoing changes in the regional energy picture and to incorporate the most recent technology and analysis. The Council amended the plan in 1989 by publishing the 1989 Supplement to the 1986 Power Plan, updating certain technical data. In April 1991, the Council adopted another complete amendment of the plan. In March 1966, the Council released for public comment the Draft Fourth Power Plan. Hearings in each of the four Northwest states will be scheduled during the comment period, as required by the Act.

SUPPLEMENTARY INFORMATION: The electricity industry nationwide is undergoing a radical restructuring. To ensure that the four Northwest states have a say in how this restructuring affects the region, the governors of these states have convened a "Comprehensive Review of the Northwest Energy System." A steering committee has been appointed to study the power system and to make recommendations about its future.

In light of this review, the Council's draft Power Plan has taken a different approach from that of earlier plans. The 1991 Power Plan, for example, had as its theme: "a time for action." In contrast, this draft plan focuses on "Northwest Power in Transition: Issues and Opportunities." The draft has few policy determinations or recommended actions. Instead, it is designed to serve as a guidebook for the regional review. It has background on the industry and analysis of the major issues that must be addressed as the Northwest moves into a new energy future. Its goals reflects that of the governors in convening the regional review: to develop, through a public process, recommendations for changes in the institutional structure of the region's electric utility industry. The resulting system, the governors said, should "protect the region's natural resources and distribute equitably the costs and benefits of a more competitive marketplace" while still ensuring the region of "an adequate, efficient, economical and reliable power system," in the words of the Northwest Power Act.

This draft plan meets the requirements of the Northwest Power Act, which specifies what components the plan is to have. The Act requires the plan to include a number of elements, including, but not limited to, an energy conservation program, a recommendation for research and development; a methodology for determining quantifiable environmental costs and benefits; a twenty year demand forecast; a forecast of power resources that the Bonneville Power Administration will need to meet its obligations, an analysis of reserve and reserve reliability requirements; and a surcharge methodology. The plan also includes the Council's Fish and Wildlife Program, developed pursuant to other procedural requirements under the Act.

Because of exceptional circumstances in the industry and in light of the ongoing comprehensive review of the region's energy system, the Council has adopted an extended public comment period for this draft plan. Close of comment for written comments if 5:00 P.M., Friday, March 14, 1997. The Council may hold consultations through March 28, 1997.

FOR FURTHER INFORMATION CONTACT: If you would like a copy of the Draft Fourth Power Plan, please contact the Council's Central Office and ask for Document Number 96–5. The Council's address is 851 S.W. 6th Avenue, Suite 1100, Portland, Oregon 97204. The Council's telephone numbers are: (503) 222–5161 and (toll free) (800) 222–3355. The Council's FAX number is (503) 795–3370.

If you are submitting comments on the draft plan, please note prominently that you are commenting on Council Document Number 96–5. Comments may be submitted by mail, by facsimile

transmission (FAX), or by electronic mail at comments@nwppc.org.

Stephen L. Crow,

Executive Director.

[FR Doc. 96–7586 Filed 3–27–96; 8:45 am]

BILLING CODE 0000–00–M

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Period

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:

Form F–9—SEC File No. 270–333—OMB Control No. 3235–0377

Form F–10—SEC File No. 270–334—OMB Control No. 3235–0380

Regulation S–T—SEC File No. 270–375—OMB Control No. 3235–0424

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is publishing the following summaries of collections for public comment.

Form F–9 is used to register investment grade debt and preferred securities that are non-convertible or not convertible for at least one year under the Securities Act of 1933, by registrants incorporated or organized under the laws of Canada. This information is needed to provide full and fair disclosure to the investing public. Approximately 210 Forms F–9 will be filed annually by Canadian issuers with an aggregate annual burden hours of 420.

Form F–10 is used to register securities under the Securities Act of 1933, by any substantial issuer incorporated or organized under the laws of Canada. This information is needed to provide full and fair disclosure to the investing public. Approximately 210 Forms F–10 will be filed annually by Canadian issuers with an aggregate annual burden hours of 420.

Regulation S–T sets forth the filing requirements relating to the submission of documents in electronic format through the Electronic Data Gathering and Retrieval (EDGAR) system. While the regulation does not specifically require any information to be disclosed but rather addresses the means by which disclosure required by other forms and regulations must be filed with the Commission. For administrative purposes this Regulation has been assigned 1 burden hour.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: March 21, 1996.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–7539 Filed 3–27–96; 8:45 am]

BILLING CODE 8010–01–M

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Revision:

Regulation S–X—SEC File No. 270–3—OMB Control No. 3235–0009

Regulation S–K—SEC File No. 270–2—OMB Control No. 3235–0071

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget proposed amendments to Rule 4–08 of Regulation S–X (17 CFR 210.4–08) and proposed Item 305 of Regulation S–K (17 CFR 229.305) to clarify certain disclosure requirements related to derivative and other financial and commodity instruments, to include additional instruments within existing disclosure requirements, and to provide alternative quantitative disclosures regarding the market risk inherent in those instruments.

Amendments to Rule 4–08 of Regulation S–X would clarify the current requirements under generally accepted accounting principles ("GAAP") for registrants' disclosures of accounting policies related to derivative and other financial and commodity instruments, and include additional instruments within the existing accounting policy disclosures. This is considered necessary due to the general and uninformative disclosures currently being received by the Commission about such policies. Likely respondents are those registrants filing financial statements under the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, and the Investment Company Act of 1940. Reporting should occur annually, with material modifications to the annual information disclosed in quarterly reports. It is estimated that the proposed amendments, if adopted, may result in an aggregate additional reporting burden of 11,000 hours.

Proposed Item 305 of Regulation S–K would require, to the extent material, quantitative and qualitative disclosures about market risks associated with derivative and other financial and commodity instruments. These disclosures are considered necessary to provide transparency into registrants' use of derivative and other financial and commodity instruments and the market risks inherent in those instruments, in order to reduce the number of instances where losses from such transactions "surprise" the securities markets. Likely respondents are those registrants filing documents under the Securities Act of 1933, the Securities Exchange Act of 1934, and the Public Utility Holding Company Act of 1935, for whom the proposed disclosures would be material to an understanding of their businesses taken as a whole. Reporting should occur annually, with material modifications to the annual information disclosed in quarterly reports. It is estimated that the proposed amendments, if adopted, may result in an aggregate additional reporting burden of 200,000 hours.

The estimated burden hours would remain unchanged for compliance with Regulation S–X [OMB Number 3235–0009] and Regulation S–K [OMB Number 3235–0071]. Instead, the estimated burden hours for Commission forms that require the filing of financial statements prepared in accordance with Regulation S–X and the information required by the standard disclosure items in Regulation S–K, would be amended to note any increase in such burdens. These forms would include Form 10–K [OMB Number 3235–0063] and Form S–1 [OMB Number 3235–0065].

General comments regarding the estimated burden hours should be directed to the Desk Officer for the Securities and Exchange Commission at the address below. Any comments concerning the accuracy of the estimated average burden hours for compliance with Commission rules and forms should be directed to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549 and Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Dated: March 20, 1996.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–7535 Filed 3–27–96; 8:45 am]

BILLING CODE 8010–01–M

[File No. 1–10668]

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (Air-Cure Technologies, Inc., Common Stock, $0.001, Par Value)

March 22, 1996.

Air-Cure Technologies, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security ("Security") from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing the Security from listing and registration include the following:

According to the Company, it has listed the Security with the New York Stock Exchange, Inc. ("NYSE"). In making the decision to withdraw the Security from listing on the Amex, the Company considered the direct and indirect costs and expenses attendant on maintaining the dual listing of the Security on the Nasdaq National Market System and on the Amex. The Company does not see any particular advantage in the dual trading of the Security and believes that dual listing would fragment the market for its Security.

Any interested person may, on or before April 12, 1996, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–7504 Filed 3–27–96; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21841; 812–9952]

Connecticut Mutual Investment Accounts, Inc., et al.; Notice of Application

March 22, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Connecticut Mutual Investment Accounts, Inc. (the "Company"), on behalf of Connecticut Mutual Liquid Account ("CM Liquid Account") and Connecticut Mutual Government Securities Account ("CM Government Account") (the "Acquired Accounts"); Oppenheimer Money Market Fund, Inc. ("Oppenheimer Money Fund") and Oppenheimer U.S. Government Trust ("Oppenheimer Government Trust") (the "Acquiring Funds"); Oppenheimer Funds, Inc. ("Oppenheimer"); and Massachusetts Mutual Life Insurance Company ("Massachusetts Mutual").

RELEVANT ACT SECTIONS: Order requested under section 17(b) of the Act granting an exemption from section 17(a).

SUMMARY OF APPLICATION: Applicants request an order to permit Oppenheimer Money Fund to acquire substantially all of the assets of CM Liquid Account, and Oppenheimer Government Trust to acquire substantially all of the assets of CM Government Account. Because of certain affiliations, each Acquiring Fund and its corresponding Acquired Account may not rely on rule 17a–8 under the Act.

FILING DATES: The application was filed on January 17, 1996 and amended and restated on March 15, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 16, 1996, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants: The Company, CM Liquid Account, and CM Government Securities Account, 140 Garden Street, Hartford, Connecticut 06154; Oppenheimer Money Fund, Oppenheimer Government Trust, and Oppenheimer, Two World Trade Center, New York, New York 10048; and Massachusetts Mutual, 1295 State Street, Springfield, Massachusetts 01111.

FOR FURTHER INFORMATION CONTACT: Mary Kay Frech, Senior Attorney, at (202) 942–0579, or Alison E. Baur, Branch Chief, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Company is a Maryland corporation registered under the Act as an open-end management investment company. The Company currently offers thirteen series of shares, including the Acquired Accounts.

2. Oppenheimer Government Trust is a Massachusetts business trust registered under the Act as an open-end management investment company. Oppenheimer Money Fund is a Maryland corporation registered under the Act as an open-end management investment company. Oppenheimer is the investment adviser to each Acquiring Fund.

3. On March 1, 1996, pursuant to the terms of an Agreement and Plan of Merger, Connecticut Mutual merged with and into Massachusetts Mutual (the "Life Company Merger"). Subsequent to the Life Company Merger and effective March 1, 1996, Oppenheimer became the investment adviser to the Acquired Accounts pursuant to the terms of new investment management agreements, which were approved by the shareholders of each Acquired Account on February 14, 1996. As of March 15, 1996, Massachusetts Mutual owned approximately 50% and 14% of the outstanding voting shares of CM Liquid Account and CM Government Account, respectively.

4. CM Liquid Account and Oppenheimer Money Fund each have outstanding a single class of shares, which shares are offered without any sales charges. CM Government Account and Oppenheimer Government Trust each have outstanding two classes of shares, Class A and Class B shares.[1] CM Government Account's and Oppenheimer Government Trust's Class A shares are offered with a maximum front-end sales charge of 4.00% and 4.75%, respectively, of the offering price, and are subject to a fee imposed in accordance with rule 12b–1 under the Act at an annual rate of up to 0.25% of average net assets. CM Government Account's and Oppenheimer Government Trust's Class B shares are offered subject to a maximum contingent deferred sales charge of 5.00% and a rule 12b–1 fee. CM Government Account's Class B rule 12b–1 fee includes an asset based sales charge of up to 0.75% of average daily net assets and a service fee of up to 0.25% of average daily net assets. Oppenheimer Government Trust's Class B rule 12b–1 fee includes an asset based sales charge at an annual rate equal to 0.75% and a service fee at an annual rate of up to 0.25% of average net assets.

5. Subject to approval by the shareholders of the Acquired Accounts, applicants propose to combine CM Liquid Account with and into Oppenheimer Money Fund and CM Oppenheimer Government Account with and into Oppenheimer Government Trust (the "Reorganizations"). Pursuant to separate Agreements and Plans of Reorganization (the "Reorganization Agreements"), each Acquiring Fund would acquire substantially all of the assets of the corresponding Acquired Account in exchange solely for the assumption by such Acquiring Fund of certain liabilities of the corresponding Acquired Account and the issuance of Class A[2] and, if any, Class B shares of the Acquiring Fund to its corresponding Acquired Account. The Acquired Account would distribute such Class A shares to its Class A shareholders and such Class B shares to its Class B shareholders, if any, in proportion to their respective ownership of Acquired Accounts shares, and on the basis of their relative net asset value per share computed as of the close of business on the New York Stock Exchange on the business day preceding the closing date, in liquidation of the Acquired Account. Thereafter, each Acquired Account would be terminated as a series of the Company.

6. On November 17, 1995 and December 14, 1995, respectively, the board of directors of the Acquired Accounts and the boards of directors or trustees of the Acquiring Funds (collectively, the "Boards"), including the members of the Boards who are not interested persons, found, as required by rule 17a–8 of the Act, that participation in the Reorganization is in the best interests of each Acquired Account and its corresponding Acquiring Fund and that the interests of existing fund shareholders will not be diluted as a result of the Reorganizations.

7. At the same meetings, the Boards unanimously approved the terms and conditions of the Reorganization Agreements. In doing so, the Boards considered (a) the compatibility of the investment objectives and policies of each Acquired Account and its corresponding Acquiring Fund and the disadvantages of operating and marketing each Acquired Account separately from its substantially similar Acquiring Fund; (b) the future cost savings or other advantages that could be achieved by combining an Acquired Account and its corresponding Acquiring Fund; (c) the tax-free nature of the Reorganizations; and (d) the costs associated with the Reorganizations; (e) the investment advisory and rule 12b–1 fees, and the sales charges applicable to an Acquired Account and its corresponding Acquiring Fund; and (f) the potential benefits to Oppenheimer of the transactions contemplated by the Reorganization Agreements.

8. In considering the compatibility of the funds, the respective Boards noted, among other things, that: the investment objectives and policies of each Acquired Account and its corresponding Acquiring Fund generally are similar; the existence of a competing fund within the same fund complex with substantially similar investment characteristics is likely to impede the marketing and asset growth of both funds; each Acquiring Fund has maintained lower expense ratios than the corresponding Acquired Account (before fee or expense limitations); greater diversification of an investment portfolio can be achieved than currently is possible in either the Acquired Accounts or the Acquiring Funds; former shareholders of the Acquired Accounts would remain subject to a class and expenses structure that is similar to, and, in certain respects, more advantageous than the existing expense structure for each class of the Acquired Accounts; and after the Reorganizations, the effective advisory fee rate payable as a percentage of average net assets by the former shareholders of the Acquired Accounts will decrease.

9. On February 15 and 18, 1996, applicants filed with the SEC registration statements on Form N–14 with respect to the respective Reorganizations, each containing a combined prospectus/proxy statement. Applicants intend to submit the Reorganization Agreements to the respective shareholders of the Acquired Accounts for their approval at shareholder meetings expected to be held on April 24, 1996. Massachusetts Mutual intends to vote its interests in the Acquired Accounts in favor of the respective Reorganizations.

10. Applicants agree not to make any material changes to the Reorganization Agreements that affect the application without the prior approval of the SEC. Applicants also will not waive, amend, or modify any provision of the Reorganization Agreements that is required by state or federal law in order to effect the Reorganization. Each Acquired Account's and each Acquiring Fund's Reorganization expenses will be borne by Massachusetts Mutual.

Applicants' Legal Analysis

1. Section 17(a), in pertinent part, prohibits an affiliated person of a registered investment company, or any affiliated person of such a person, acting as principal, from selling to or purchasing from such registered company, or any company controlled by such registered company, any security or other property.

2. Section 2(a)(3) provides, in pertinent part, that any person directly or indirectly owning, controlling, or holding the power to vote, 5% or more of the outstanding voting securities of such other person is an affiliated person of that person. Section 2(a)(3) further provides that the term "affiliated person of another person" shall include

[1] Oppenheimer Government Trust also has outstanding a third class of shares, Class C shares, which shares will not be issued in connection with the Reorganization of CM Government Account and Oppenheimer Government Trust.

[2] For ease of reference, all references to Class A shares herein include the single class of shares of each CM Liquid Account and Oppenheimer Money Fund. No Class B shares will be issued in connection with the Reorganization of CM Liquid Account and Oppenheimer Money Fund.

any investment adviser of such other person if such other person is an investment company. Under section 2(a)(9), it is presumed that an entity that owns 25% or more of the outstanding voting securities of another entity controls such other entity.

3. Rule 17a–8 exempt from the prohibitions of section 17(a) mergers, consolidations, or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons solely by reason of having a common investment adviser, common directors, and/or common officers, provided that certain conditions set forth in the rule are satisfied.

4. Contrary to the requirements of rule 17a–8, each Acquired Account may be deemed "an affiliated person of an affiliated person" of its corresponding Acquiring Fund for a reason other than the fact that it has a common adviser, common directors, and/or common officers. Thus, the Reorganizations may not meet the "solely by reason of" requirement of rule 17a–8.

5. Massachusetts Mutual holds of record more than 25% of CM Liquid Account. Massachusetts Mutual also holds of record more than 25% of the voting securities of Oppenheimer. Therefore, Massachusetts Mutual may be deemed to control both CM Liquid Account and Oppenheimer under section 2(a)(9) of the Act. CM Liquid Account and Oppenheimer may be considered affiliated persons of each other because they are under the common control of Massachusetts Mutual under section 2(a)(3) in addition to their investment advisory relationship. Oppenheimer, in turn, is an affiliated person of Oppenheimer Money Fund. Massachusetts Mutual also holds of record more than 5% of the outstanding voting securities of CM Government Account. Because of this 5% ownership, CM Government Account might be deemed an affiliated person of Massachusetts Mutual under section 2(a)(3). Massachusetts Mutual, in turn, is an affiliated person of Oppenheimer under section 2(a)(3) by virtue of their common ownership and control. Oppenheimer, in turn, is an affiliated person of CM Government Account under section 2(a)(3) by virtue of its investment advisory relationship with CM Government Account. Therefore, each Acquired Account may be deemed "an affiliated person of an affiliated person" of its corresponding Acquiring Fund for a reason other than having common advisers, common directors, and/or common officers.

6. Section 17(b) provides that the SEC may exempt a transaction from the provisions of section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of the registered investment company concerned and with the general purposes of the Act.

7. Applicants believe, consistent with the standards set forth in section 17(b), that the terms of the Reorganizations, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned. The Boards have reviewed the terms of each Reorganization, including the consideration to be paid or received, and have found that participation in the Reorganizations is in the best interest of each Acquired Account and its corresponding Acquiring Fund and that the interests of existing shareholders of such funds will not be diluted as a result of any Reorganization. Applicants further believe that the Reorganizations are consistent with the policies of the Acquired Accounts and the Acquiring Funds and that the Reorganizations, if undertaken in the manner described in the application, are consistent with the purposes of the Act.

8. Applicants believe that the terms and conditions of the Reorganizations are consistent with the provisions, policies, and purposes of the Act in that they are reasonable and fair to all parties, do not involve overreaching, and are consistent with the investment policies of each of the Acquiring Funds and Acquired Accounts.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–7542 Filed 3–27–96; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21839/812–9886]

Dreyfus Massachusetts Municipal Money Market Fund, et al.; Notice of Application

March 21, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Dreyfus Massachusetts Municipal Money Market Fund (the "Acquiring Fund") and The Dreyfus/Laurel Tax-Free Municipal Fund (the "Trust").

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act that would exempt applicants from section 12(d)(1) of the Act, under section 17(b) of the Act for an exemption from section 17(a) of the Act, and under section 17(d) of the Act and rule 17d–1 thereunder permitting certain joint transactions.

SUMMARY OF APPLICATION: Applicants request an order to permit the combination of one class (the "Investor shares") of the Dreyfus/Laurel Massachusetts Tax-Free Money Fund (the "Transferring Fund"), a series of the Trust, and the existing single class of the Acquiring Fund. The Transferring Fund thereafter would operate as a single class fund offering its other existing class of shares (the "Class R shares").

FILING DATE: The application was filed on November 30, 1995 and amended on March 5, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 15, 1996, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 200 Park Avenue, New York, New York 10166.

FOR FURTHER INFORMATION CONTACT: David W. Grim, Staff Attorney, at (202) 942–0571, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Acquiring Fund is a business trust organized under the laws of the Commonwealth of Massachusetts. The Acquiring Fund is registered under the Act as an open-end management investment company and offers a single class of its shares. The Acquiring Fund operates as a money market fund complying with rule 2a–7 under the Act, and seeks to provide a high level of current income exempt from federal and Massachusetts income taxes to the extent consistent with the preservation of capital and the maintenance of liquidity.

2. The Transferring Fund is one of seven series of the Trust, a business trust organized under the laws of Massachusetts and registered under the Act as an open-end management investment company. The Transferring Fund operates as a money market fund complying with rule 2a–7 under the Act, and seeks to provide a high level of current income exempt from federal income taxes and Massachusetts personal income taxes for resident shareholders of Massachusetts. The Transferring Fund issues two classes of shares, Investor shares and Class R shares, and operates as a multiple class fund under a plan adopted pursuant to rule 18f–3 under the Act. Investor shares and Class R shares are identical, except as to the services offered and the expenses borne by each class. Investor shares are sold primarily to retail investors, while Class R shares are sold primarily to bank trust departments and other financial service providers.

3. The Dreyfus Corporation ("Dreyfus") serves as the investment adviser to the Acquiring Fund and the Transferring Fund. Dreyfus is a wholly-owned subsidiary of Mellon Bank, N.A. ("Mellon Bank"), which in turn is a wholly-owned subsidiary of Mellon Bank Corporation ("Mellon").

4. The Acquiring Fund and the Trust, on behalf of the Transferring Fund, have entered into an Agreement and Plan of Reorganization dated as of November 1, 1995 (the "Plan"), to effectuate a proposed reorganization (the "Reorganization"). Under the Plan, the Acquiring Fund will acquire a portion of the Transferring Fund's assets having a value equal to the aggregate net asset value of the Investor shares of the Transferring Fund at noon on the closing date, presently expected to occur on or about May 8, 1996 (the "Closing Date"). The assets will be transferred at 4 p.m. on the Closing Date and will consist of as nearly a *pro rata* portion of each asset of the Transferring Fund as is reasonably practicable. In exchange for such assets, the Transferring Fund will receive shares of the Acquiring Fund having an aggregate value at noon on the Closing Date equal to the value of the assets transferred. As soon after the closing as is conveniently possible, the Transferring Fund will redeem the Investor shares held of a record as of noon on the Closing Date by distributing in kind *pro rata* to holders of such Investor shares the shares of the Acquiring Fund received by the Transferring Fund in the Reorganization.

5. Prior to the Closing Date, the Transferring Fund will endeavor to discharge all of its known liabilities and obligations attributable to Investor shares. In addition, at the closing the Acquiring Fund and the Transferring Fund will enter into an agreement whereby the Acquiring Fund will same that portion of unknown or contingent liabilities, and acquire that portion of unknown or contingent assets, of the Transferring Fund proportionate to the aggregate net asset value of all Investor shares compared to the aggregate net asset value of all shares of the Transferring Fund (the "Supplemental Agreement"). The Supplemental Agreement will cover unknown or contingent assets or liabilities at noon on the Closing Date that are identified within one year of the Closing Date.

6. the Plan was unanimously approved by the Board of trustees of the Acquiring Fund, including the non-interested trustees, on November 1, 1995, and by the board of trustees of the Trust, including the independent trustees, on October 25, 1995.

7. In assessing the Reorganization and the terms of the Plan, the factors considered by the board of the Acquiring Fund included: (a) the future prospects of the Fund, both under circumstances where it does not acquire assets of the Transferring Fund and where it does acquire such assets; (b) the compatibility of the investment objectives, policies and restrictions of the Acquiring Fund and the Transferring Fund; (c) the expected favorable impact of the Reorganization on the expense ratios of the Acquiring Fund, potential future cost savings and economies of sale, and the commitment by Dreyfus to limit total expenses of the Acquiring Fund, for a period of one year following the Reorganization, to .60% of average daily net assets; (d) the fact that, although the Reorganization will constitute a taxable transaction, it will have no adverse tax impact on the Acquiring Fund; and (e) the fact that the expenses associated with the Reorganization would be borne by Dreyfus.

8. In making such an assessment with respect to the Transferring Fund, the board of the Trust considered a number of factors, including the anticipated impact of the Reorganization on both Investor and Class R shareholders of the Transferring Fund. The factors included: (a) the future prospects of both Funds, both under circumstances where the Reorganization occurred and where it did not; (b) the compatibility of the investment objectives, policies and restrictions of the Acquiring Fund and the Transferring Fund; (c) the effect of the Reorganization on the expense ratios borne by holders of Investor shares; (d) the relative performance of the Funds; (e) whether any future efficiencies in operations could be achieved by the Reorganization; (f) the fact that, although the Reorganization will constitute a taxable transaction, it will have no adverse tax impact on the Acquiring Fund; (g) the fact that the expenses associated with the Reorganization would be borne by Dreyfus; and (h) alternatives to the Reorganization.

9. Consummation of the Reorganization is contingent upon receipt of the affirmative vote of the holders of at least a majority of the outstanding shares of the Transferring Fund and of each class of the Transferring Fund. This vote will take place at a meeting of the shareholders of the Transferring Fund, expected to be held on April 16, 1996. In addition to shareholder approval, the consummation of the reorganization is conditioned upon receipt from the SEC of the order requested herein.

Applicants' Legal Analysis

1. Section 12(d)(1)(A) of the Act places limitations on the ability of a registered investment company to acquire the securities of any other investment company and on the ability of any investment company to acquire the securities of a registered investment company. Section 12(d)(1)(B) of the Act similarly limits the ability of a registered open-end investment company or certain other persons to sell its securities to another investment company. The proposed Reorganization may be viewed as technically violating section 12(d)(1) even though the Transferring Fund will own the securities of the Acquiring Fund for only a momentary period of time. At the moment that the Transferring Fund transfers to the Acquiring Fund the portion of the assets of the Transferring Fund having a value equal to the aggregate net asset value of the Investor shares, the Transferring Fund will hold shares of the Acquiring Fund in excess of the limitations of section 12(d)(1).

2. Section 12(d)(1)(D) of the Act excepts from the restrictions otherwise imposed by section 12(d)(1) any securities received as a result of a plan of reorganization of a company. Although the transaction is the type

contemplated by section 12(d)(1)(D), it technically does not qualify as a "reorganization," as that term is defined in section 2(a)(33) of the Act, thereby rendering section 12(d)(1)(D) unavailable.

3. Section 6(c) provides that the SEC may exempt any person or transaction from any provision of the Act or any rule thereunder to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicants submit that the requested exemption from section 12(d)(1) meets the section 6(c) standards. Section 12(d)(1) was intended to mitigate or eliminate actual or potential abuses which might arise when one investment company acquires shares of another investment company. These abuses include the acquiring fund imposing undue influence over the management of the acquired funds through the threat of large-scale redemptions, the acquisition by the acquiring company of voting control of the acquired company, the layering of sales charges, advisory fees, and administrative costs, and the creation of a complex pyramidal structure which may be confusing to investors. The Reorganization implicates none of these concerns. The Transferring Fund's ownership of the Acquiring Fund's shares will exist for only an instant, as the Transferring Fund will only hold such shares in order to use those shares to redeem in kind the Investor shares of the Transferring Fund. The Transferring Fund will not have the opportunity to redeem, to vote, or to take other action with respect to the Acquiring Fund's shares, and will hold the shares for only a brief period during which neither their value nor the layering of fees could be an issue. Furthermore, the Reorganization is similar to the types of transactions that Congress specifically exempted from section 12(d)(1) through the enactment of subsection (D) thereof.

5. Section 17(a) of the Act, in pertinent part, prohibits an affiliated person of a registered investment company, acting as principal, from selling to or purchasing from such registered company, any security or other property. Section 17(b) provides that the SEC may exempt a transaction from section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of the registered investment company concerned and with the general purposes of the Act.

6. Rule 17a–8 under the Act exempts from the prohibitions of section 17(a) mergers, consolidations, or purchases or sales of substantially all the assets involving registered investment companies that may be affiliated persons solely by reason of having a common investment adviser, common directors/trustees and/or common officers provided that certain conditions are satisfied.

7. The proposed reorganization may not be exempt from the prohibitions of section 17(a) by reason of rule 17a–8. Under the proposed Reorganization, the Transferring Fund will transfer to the Acquiring Fund all of that portion of the assets of the Transferring Fund having a value equal to the aggregate net asset value of the Investor shares, but will not transfer that portion of the assets of the Transferring Fund representing the aggregate net asset value of the Class R shares. Therefore, the proposed Reorganization technically may not be a merger, consolidation, or purchase or sale of substantially all of the assets involving registered investment companies under rule 17a–8. In addition, Mellon, directly or through subsidiaries, holds with power to vote approximately 63% of the Class R shares of the Transferring Fund. As a result, the Transferring Fund would be deemed to be an affiliated person of Mellon and, arguably, of Dreyfus as its wholly-owned subsidiary. Therefore, the Transferring Fund may be deemed an affiliated person of an affiliated person of the Acquiring Fund for reasons not based solely on their common adviser.

8. Applicants believe that the terms of the reorganization satisfy the standards of section 17(b). Each Fund's board, including the non-interested trustees, has reviewed the terms of the Reorganization and have found that participation in the Reorganization as contemplated by the Plan is in the best interests of the respective Fund, and that the interests of existing shareholders of each Fund will not be diluted as a result of the Reorganization. Each Fund's board, including its non-interested trustees, also has concluded that any potential benefits to Dreyfus, Mellon, and their affiliates as a result of the Reorganization are on balance not inappropriate in light of the commitments of Dreyfus to bear the expenses of the Reorganization and to limit total fees of the Acquiring fund to .60 of 1% of average daily net assets for a period of one year following the Reorganization,the potential benefits of the Reorganization to each Fund and its shareholders, and all applicable factors. The investment objectives of the Acquiring Fund, moreover, are consistent with those of the Transferring Fund. Accordingly, the Reorganization will be consistent with the policies of each Fund.

9. Section 17(d) prohibits any affiliated person of a registered investment company, acting as principal, from effecting any transaction in which such registered investment company is a joint participant with such person in contravention of SEC rules and regulations. Rule 17d–1 provides that no joint transaction may be consummated unless the SEC approves the transaction after considering whether the participation of the investment company is consistent with the provisions, policies, and purposes of the Act and the extent to which the participation is on a basis different from or less advantageous than that of other participants.

10. The Supplemental Agreement between the Acquiring Fund and the Transferring Fund could be characterized as a joint enterprise or transaction within the meaning of section 17(d) and rule 17d–1 thereunder. The Supplemental Agreement provides that the holders of the respective Class R shares and the Investor shares of the Transferring Fund, and of shares of the Acquiring Fund, are treated equitable by allocating the unknown or contingent assets and liabilities of the Transferring Fund between the parties of the Reorganization. Applicants submit that the Supplemental Agreement thus meets the standards of rule 17d–1.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–7502 Filed 3–27–96; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21840; File No. 812–9942]

GNA Variable Investment Account, et al.

March 22, 1996.

AGENCY: Securities and Exchange Commission (the "SEC" or the "Commission").

ACTION: Notice of Application for an order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: GNA Variable Investment Account (the "Account"), and Great Northern Insured Annuity Corporation ("GNA").

RELEVANT 1940 ACT SECTIONS: Order requested under Section 26(b) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an order permitting the substitution of certain securities held by the Account.

FILING DATE: The application was filed on January 16, 1996, and amended on March 12, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing on this application by writing to the Secretary of the SEC and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on April 16, 1996, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing request should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, J. Neil McMurdie, Esq., Associate Counsel and Assistant Vice-President, Great Northern Insured Annuity Corporation, Two Union Square, Ste. 5600, Seattle, Washington 98111–0490.

FOR FURTHER INFORMATION CONTACT: Patrice M. Pitts, Special Counsel, Office of Insurance Products (Division of Investment Management), at (202) 942–0670.

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from the Commission's Public Reference Branch.

Applicant's Representations

1. GNA is a stock life insurance company organized under Washington law 1980. GNA is a wholly-owned subsidiary of General Electric Capital Assurance Company, a wholly-owned subsidiary of GNA Corporation, which is a wholly-owned subsidiary of General Electric Capital Corporation.

2. GNA established the Account under Washington law in 1981 to fund variable annuity contracts. The Account is registered with the Commission under the 1940 Act as a unit investment trust. The assets of the Account are divided into twelve subaccounts (each a "Subaccount"), each of which invests in shares of one of twelve designated portfolios of three registered open-end investment companies. Under certain prescribed circumstances, and with notice to Participants (defined below) and subject to regulatory approval, GNA may transfer assets held in one Subaccount to another Subaccount.

3. There are two outstanding series of registered variable annuity contracts ("Contracts") participating in the Account. Each Contract is a group allocated contract designed for use in connection with qualified and non-qualified retirement plans. Each person or entity participating under a contract ("Participant") is issued a certificate which states a Participant's rights under the Contract.

4. The Power Portfolio Variable Annuity Contract (the "Power Contract") is designed for a group consisting of clients of a broker-dealer or financial institution, or any other organized group acceptable to GNA. Participants under this contract may allocate certificate values among eight variable investment options: the GNA Growth Portfolio, the GNA Value Portfolio, the GNA Government Portfolio, and the GNA Adjustable Rate Portfolio of GNA Variable Series Trust; and the GE Fixed Income Portfolio, the GE International Equity Portfolio, the GE U.S. Equity Portfolio and the GE Money Market Portfolio of Variable Investment Trust.

5. The Paragon Power Portfolio Variable Annuity Contract ("Paragon Contract") is designed for a group consisting of customers of banks or bank affiliates that are subsidiaries of Premier Bancorp, Inc. ("Premier"). The only outstanding Paragon Contract was issued to GNA Securities, Inc. Participants under the Paragon Contract are entitled to allocate certificate values among nine variable investment options: the GNA Growth Portfolio, the GNA Government Portfolio and the GNA Adjustable Rate Portfolio of GNA Variable Series Trust; the GE International Equity Portfolio and the GE Money Market Portfolio of Variable Investment Trust; and the Paragon Power Intermediate-Term Bond Portfolio, the Paragon Power Value Growth Portfolio, the Paragon Power Value Equity Income Portfolio, and the Paragon Power Gulf South Growth Portfolio (collectively, the "Portfolios") of Paragon Portfolio (the "Trust"), a registered management investment company.

6. Premier Investment advisers, L.L.C., an indirect subsidiary of Premier, served as investment adviser of the Portfolios. On January 1, 1996, Premier merged with and into a subsidy of Banc One Corporation ("Banc One"), an Ohio bank holding company. The merger resulted in the automatic termination of the investment advisory arrangements between Premier Investment Advisers L.L.C. and the Trust. In anticipation of this effect of the merger, the trustees of the Trust approved a new investment advisory agreement with Banc One Investment Advisers Corporation ("BOIA"), an indirect wholly-owned subsidiary of Banc One, on October 31, 1995. The shareholders of each portfolio of the Trust approved the new investment advisory agreement on December 20, 1995, and the agreement took effect on January 2, 1996.

7. BOIA has notified the Trust that it does not intend to provide investment advisory services to the Portfolios over the long term. OIA notified GNA that the trustees of the Trust determined at their October 31, 1995 meeting that, following the merger of premier and Banc One, the Trust would not longer offer shares of the Portfolios as funding options for the Paragon Contract. BOIA advised GNA to take any actions necessary to substitute alternative investment options for the Portfolios.

8. In light of the contemplated termination of the Portfolios, GNA has restricted additional investment in the Portfolios and provided alternative investment options to present Paragon Contract Participants. On December 11, 1995, GNA notified those present Paragon Contract Participants that, on or after that date: (i) The Portfolios would cease to be investment options under the Contracts; (ii) no purchase payments from present or future Paragon Contract Participants could be allocated to the Portfolios; and (iii) present Paragon Contract Participants could not transfer their account value to the Subaccounts corresponding to the Portfolios. The notification stated that GNA was seeking an order from the Commission to permit GNA to substitute shares of the GE Money Market Portfolio of the Variable Investment Trust for shares of the Portfolios. Pending receipt of the order, transfers would be permitted from the Subaccounts corresponding to the Portfolios at any time, without the assessment of a $25 charge that might otherwise apply. GNA advised Paragon Contract Participants that certificate values invested in the Portfolios before December 11, 1995, could remain so invested until the order requested herein has been granted.

9. On December 11, 1995, GNA commenced an offer to Paragon Contract Participants to exchange certificates under the Power Contract for certificates

under the Paragon Contract.[1] This exchange would make available to Paragon Contract Participants three additional investment options: the GNA Value Portfolio of GNA Variable Series Trust; and the GE Fixed Income Portfolio and the GE U.S. Equity Portfolio of the Variable Investment Trust. A description of the new investment options was provided to Paragon Contract Participants by the prospectuses for the applicable portfolios.

10. Following such an exchange, a former Paragon Contract Participant may reallocate his or her certificate value among the Subaccounts available to Power Contract Participants. Any such reallocation will not be subject to any applicable transfer charge, and any such reallocation and any transfers made under the Paragon Contract in the certificate year prior to the exchange will not be counted as a transfer under the Power Contract so as to limit the number of free transfers per certificate year. Moreover, the exchange will be made without the assessment of any withdrawal charge or market value adjustment provided for the Power Contract, and no charge will be made for effecting the exchange.

11. Upon receipt of SEC approval of the proposed substitution, GNA proposes to transfer any certificate values remaining in the Subaccounts investing in the Portfolios to the Subaccount investing in the GE Money Market Portfolio of the Variable Investment Trust. After that transfer by GNA, the Paragon Contract Participants may transfer amounts allocated to the Subaccount holding shares of the GE Money Market Portfolio to other Subaccounts to the extent permitted under the terms of the Paragon Contract. Neither the transfer (by GNA) of certificate value to the Subaccount investing in the GE Money Market Portfolio, nor the first transfer of certificate value made by an affected Participant thereafter will be subject to any applicable transfer charge or be counted as a transfer so as to limit the number of free transfers per certificate year.

12. The investment objective of the GE Money Market Portfolio is to seek a high level of current income consistent with the preservation of capital and maintenance of liquidity, by investing in a defined group of short-term, U.S. dollar denominated money market instruments. GNA contends that, as the most conservative investment option avalable, the GE Money Market Portfolio is an appropriate substitute for Participants' interests in the Portfolios until such time as those Participants make an affirmative investment decision through the exercise of the transfer or exchange rights available to them.

13. The expense levels of an investment in the GE Money Market Portfolio are favorable to Participants. The GE Money Market Portfolio pays an investment advisory fee at an annual rate of 0.25% and an administration fee at an annual rate of 0.05%. Because of an expense reimbursement arrangement, current total annual expenses of the GE Money Market Portfolio amount to 0.50% of the portfolio's average net assets. In contrast, the management fees of the Paragon Power Intermediate-Term Bond Portfolio and the three other Portfolios are 0.50% and 0.65%, respectively, and total annual expenses were estimated to be 0.75% and 1.00%, respectively, as a percent of average net assets.

14. The proposed transfer of certificate values to the Subaccount investing in the GE Money Market Portfolio will be made in the same manner as any other transfer among Subaccounts, except that no transfer charge otherwise applicable will be assessed. On the date of transfer, shares remaining in the relevant Subaccounts will be redeemed and the cash proceeds thereof will be applied to the purchase of shares of the GE Money Market Portfolio, in each case at net asset value determined in accordance with the requirements of Rule 22c–1 under the 1940 Act. No costs of the substitution of shares of the GE Money Market Portfolio for shares of the Portfolios will be borne by Participants. Moreover, GNA opines that there will be no adverse tax consequences to Participants as a result of the proposed transfer of certificate values.

15. Applicants represent that, on February 22, 1996, certificate values allocated to the Paragon Power Intermediate-Term Bond Portfolio, the Paragon Power Value Growth Portfolio, the Paragon Power Value Equity Income Portfolio, and the Paragon Power Gulf South Growth Portfolio constituted 26.1%, 22.1%, and 17.6% of the total assets of those Portfolios. Under the circumstances, Applicants anticipate that the incidental brokerage costs necessary to effect redemptions from the Portfolios will be insignificant.

Applicants' Legal Analysis

1. Section 26(b) of the 1940 Act prohibits the depositor or trustee of a registered unit investment trust holding the security of a single issuer from substituting another security for such security unless the Commission has approved the substitution. Section 26(b) provides that the Commission will approve a substitution if it is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

2. Applicants submit that the proposed substitution is in the best interests of Paragon Contract Participants. Applicants state that the proposal is being made to protect the interests of the Participants in light of actions beyond the control of Applicants. If Applicants do not force Paragon Contract Participants out of the Subaccounts investing in the Portfolios, those Subaccounts, upon the termination of the Portfolios, will end up holding the liquidation proceeds or other consideration that may be received as a result of such termination.

3. Applicants represent that GNA selected the GE Money Market Portfolio as the investment option to which the involuntary transfers should be made because of the relative safety of an investment in that portfolio. Applicants assert that, as the most conservative investment option available, the GE Money Market Portfolio is an appropriate substitute for Paragon Contract Participants' interests in the Portfolios until those Participants make an affirmative investment decision through the exercise of the transfer or exchange rights available to them. Moreover, applicants state that the expense levels of an investment in the GE Money Market Portfolio are favorable to affected Participants.

4. Applicants represent that, in connection with the proposed substitution, GNA is offering Paragon Contract Participants a variety of alternative investment options which are reasonably comparable to each of the Portfolios being eliminated. In this regard, Applicants represent that: the GNA Government Portfolio and the GNA Adjustable Rate Portfolio, presently available to Paragon Contract Participants, each have investment objectives similar to those of the Paragon Power Intermediate-Term Bond Portfolio that is being eliminated; and the GNA Growth Portfolio, presently available to Paragon Contract Participants, has investment objectives similar to those of the Paragon Power Value Growth Portfolio and the Paragon Power Gulf South Growth Portfolio that are being eliminated. Applicants further represent that Participants who opt to exchange a Paragon Contract for a Power Contract will have available as investment options, not only the GNA Government Portfolio, the GNA Adjustable Rate Portfolio, and the GNA Growth noted above, but also the GE Fixed Income Portfolio, the GNA Value Portfolio, and the GE U.S. Equity Portfolio, which have investment objectives similar to the Portfolios being eliminated.

5. Applicants assert that, notwithstanding the availability of investment options with more comparable investment objectives than the GE Money Market Portfolio, GNA takes the position that it is preferable to have Paragon Contract Participants make an affirmative election of the investment options funding their certificate values rather than have GNA make that election for them.

6. Applicants also assert that, even where the investment objectives of alternative investment options are reasonably comparable, differences in the level of portfolio operating expenses may make the choice among available investment options less than clear-cut. Applicants submit that Paragon Contract Participants with certificate values invested in the Paragon Power Value Growth Portfolio, the Paragon Power Value Equity Income Portfolio, or the Paragon Power Gulf South Growth Portfolio could choose among other growth portfolios with either higher (in the case of the GNA Growth Portfolio or the GNA Value Portfolio) or lower (in the case of the GE U.S. Equity Portfolio) estimated operated expenses. Likewise, Paragon Contract Participants with certificate values invested in the Paragon Power Intermediate-Term Bond Portfolio may choose among income portfolios with higher (in the case of GNA Government Portfolio), the same (in the case of GE Fixed Income Portfolio), or lower (in the case of GNA Adjustable Rate Portfolio) estimated operating expenses. Applicants submit that a choice among investment options with varying expense levels is more appropriately made by the affected Paragon Contract Participants than by GNA.

7. Applicants submit that Section 26(b) of the 1940 Act was intended to provide for Commission scrutiny of proposed substitutions which could, in effect, force shareholders dissatisfied with the substituted security to redeem their shares, thereby possibly incurring either a loss of the sales load deducted from initial purchase payments, an additional sales load upon reinvestment of the proceeds of redemption, or both. Applicants further submit that, while a Paragon Contract Participant may be dissatisfied with the proposed forced transfer of his or her certificate value to the GE Money Market Portfolio Subaccount, GNA also is giving each Participant the opportunity: to transfer Paragon Contract certificate value to any of the four remaining investment options under the Paragon Contract; or, by exchanging a Paragon Contract certificate for a Power Contract certificate, to allocate certificate value among the seven investment options available under the Power Contract. Such transfers and allocations may occur at no cost to the Participant.

Conclusion

For the reasons discussed above, Applicants submit that the proposed substitution of shares of the GE Money Market Portfolio of the Variable Investment Trust for shares of the Portfolios is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–7540 Filed 3–27–96; 8:45 am]

BILLING CODE 8010–01–M

[1] Applicants represent that the exchange is being made in compliance with Rule 11a–2 under the 1940 Act.

[Release No. 35–26497]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

March 22, 1996.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by April 15, 1996, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

New Century Energies, Inc., (70–8787)

New Century Energies, Inc. ("NCE"), 1225 17th Street, Denver, Colorado 80202, a Delaware corporation not currently subject to the Act, has filed an application-declaration under sections 5, 6(a), 7, 8, 9(a), 10, 13(b) and rules 43, 45, 81, 83, 87, 88, 90 and 91 thereunder.

As described in more detail below, NCE: (1) proposes to acquire, by means of the mergers described below ("Transaction"), all of the issued and outstanding common stock of Public Service Company of Colorado ("PSCo"), Southwestern Public Service Company ("SPS") and Cheyenne Light, Fuel and Power Company ("Cheyenne"), a Wyoming public utility company and currently a wholly owned subsidiary of PSCo; (2) proposes to form a new service company subsidiary through the acquisition by NCE of all of the outstanding voting securities of New Century Services, Inc. ("NC Services"); (3) requests that NC Services and Utility Engineering Corporation ("UE")[1] be approved as subsidiary service companies in accordance with the provisions of rule 88 of the Act; (4) requests that the terms of (a) a service agreement among NC Services and the utility subsidiaries of NCE and (b) a nonutility service agreement among NC Services and the nonutility subsidiaries of NCE be approved; (5) requests that the terms of (a) the UE service agreement among UE and the utility subsidiaries of NCE and (b) the UE nonutility service agreement among UE and the nonutility subsidiaries of NCE be approved; (6) proposes to form a new holding company subsidiary to hold NCE's interests in its nonutility subsidiaries through the acquisition by NCE of all of the outstanding voting securities of New Century Hold Co. ("NC Hold"); (7) proposes to acquire all of the outstanding voting securities of West Gas Interstate, Inc. ("WGI");[2] (8) proposes that UE create two additional subsidiaries—(a) Utility Services,[3] and (b) Key Resource Management

[1] UE is currently a subsidiary of SPS. Following the consummation of the Transaction, UE will be an indirect subsidiary of NCE.

[2] WGI is currently a nonutility subsidiary of PSCo operating in Colorado and Wyoming which is engaged in the natural gas transmission business.

[3] NCE proposes that Utility Services would provide services related to the engineering, design and construction of cooling towers for power plants.

("KRM");[4] (9) seeks an exemption from the at-cost provisions of section 13(b) and rules 90 and 91 thereunder for (a) services provided to certain affiliated qualifying facilities ("QFs"), independent power projects ("IPPs"), exempt wholesale generators ("EWGs"), and foreign utility companies ("FUCOs") by the following entities—(i) e prime, inc.,[5] (ii) KRM, (iii) NC Services, (iv) Quixx Corporation ("Quixx"),[6] (v) Quixx Power Services, Inc. ("QPS"),[7] (vi) UE, (vii) UE Carolina,[8] and (viii) Utility Services, (b) services provided by e prime to Young Gas Storage Co., Ltd.,[9] and (c) goods and services provided by PSCo which are used as components of the products and services marketed by e prime; (10) proposes that NC Hold acquire all of the issued and outstanding common stock of e prime, Natural Fuels Corporation ("Natural Fuels"),[10] and Young Gas Storage Company, Inc. ("Young Gas") through a transfer of their common stock to NC Hold pursuant to a declaration of a dividend of their common stock to NCE and subsequent capital contribution of their common stock to NC Hold; (11) proposes that NC Hold acquire, in exchange for notes issued to SPS, all of the issued and outstanding common stock of Quixx and UE; (12) proposes that SPS acquire such notes; and (13) proposes to register with the Commission, pursuant to section 5 of the Act, as a new public-utility holding company.

PSCo is an exempt holding company, pursuant to rule 2 under section 3(a)(2) of the Act.[11] PSCo and Cheyenne are primarily engaged in providing electric and gas service in Colorado and Cheyenne, Wyoming. As of December 31, 1994, PSCo provided electric utility service to 1.1 million customers, and Cheyenne provided service to 33,000 customers in the Cheyenne area. In addition, PSCo and Cheyenne provided gas utility service to approximately 920,000 and 26,000 customers, respectively. As of December 12, 1995, there were 63,150,357 shares of PSCo common stock, par value $5.00 per share, and 2,888,652 shares of PSCo preferred stock outstanding.

On a consolidated basis, for the year ended December 31, 1994, PSCo's operating revenues were approximately $2.06 billion of which approximately $1.4 billion were derived from electric operations, $625 million from gas operations and $33 million from other operations. Consolidated assets of PSCo were approximately $4.2 billion, consisting of $2.5 billion in identifiable electric utility property, plant, and equipment and $675 million in identifiable gas utility property, plant, and equipment, and $990 million in other corporate assets.

PSCo has nine direct and indirect nonutility subsidiaries, eight of which are wholly-owned, and controlling interests in several small water and ditch companies. PSCo's nonutility companies are: e prime; Fuel Resources Development Co. which is engaged in the exploration for, and the development and production of, natural gas and oil, principally in Colorado; Green and Clear Lakes Company, which owns water rights and storage facilities for water used at PSCo's Georgetown Hydroelectric Station; Natural Fuels; PS Colorado Credit Corporation, a company that finances (factors) certain of PSCo's current assets; P.S.R. Investments, Inc., which owns and manages company owned life insurance policies on certain past and present employees, the benefits from which are to provide future funding for general corporate purposes; Young Gas; WGI; and 1480 Welton, Inc., a real estate company which own certain of PSCo's real estate interests for use in its utility business.

SPS, a New Mexico corporation, is a public utility company engaged in the generation, transmission, distribution and sale of electric energy.[12] It serves a population of approximately one million in a 52,000 square-mile area of the panhandle and south plains of Texas, eastern and southeastern New Mexico, the Oklahoma panhandle and southwestern Kansas. As of December 12, 1995 there were 40,917,908 shares of SPS common stock, par value $1.00 per share, outstanding. All shares of SPS preferred stock outstanding on that date have been redeemed or repurchased. On a consolidated basis, for the year ended August 31, 1995, SPS's operating revenues were approximately $834 million, and its total assets were approximately $1.9 billion.

SPS has two nonutility subsidiaries, UE and Quixx. Both UE and Quixx hold interests in subsidiaries and affiliates as part of their business operations.

NCE was incorporated in Delaware on August 21, 1995 to become a holding company over PSCo and SPS following the proposed merger. At present, the 200 issued and outstanding shares of NCE common stock are owned in equal parts by PSCo and SPS.

Pursuant to an Agreement and Plan of Reorganization, dated as of August 22, 1995, as amended on December 8, 1995 ("Merger Agreement"), PSCo Merger Corp.[13] will be merged with and into PSCo with PSCo continuing as the surviving corporation and SPS Merger Corp.[14] will be merged with and into SPS, with SPS as the surviving corporation. As a result of these mergers, and the declaration of a dividend by PSCo to NCE of all of the stock of Cheyenne, PSCo, SPS and Cheyenne will become operating subsidiaries of NCE, and NCE will be a holding company within the meaning of the Act.

Upon consummation of the proposed transaction: (1) each issued and outstanding share of PSCo common stock, together with the appurtenant rights (other than treasury and certain other shares which will be cancelled, fractional shares and shares held by holders who dissent in compliance with Colorado law) will be converted into the right to receive one share of NCE common stock, par value $1.00 per share ("PSCo Conversion Ratio"); (2) each issued and outstanding share of SPS common stock, together with the appurtenant rights, (other than treasury and certain other shares which will be canceled, fractional shares and shares held by holders who dissent in compliance with New Mexico law) will be converted into the right to receive 0.95 of one share of NCE common stock ("SPS Conversion Ratio"); (3) each share of PSCo Merger Corp. common stock issued and outstanding prior to the transaction will be converted into the right to receive one share of common stock of PSCo as the surviving corporation; (4) each share of SPS Merger Corp. common stock issued and outstanding prior to the transaction will be converted into the right to receive one share of common stock of SPS as the surviving corporation and (5) all shares of capital stock of NCE issued and outstanding immediately prior to the transaction will be canceled. The shares of preferred stock of PSCo and SPS outstanding at the time of the consummation of the Transaction will remain preferred stock of PSCo and SPS, respectively. NCE states that the transaction is expected to be tax-free to PSCo and SPS shareholders (except as to dissenters' rights and fractional shares). Based on the capitalization of PSCo and SPS on December 1, 1995, the shareholders of PSCo and SPS would own securities representing approximately 62.0% and 38.0%, respectively, of the outstanding voting power of NCE. NCE states that the proposed merger qualifies for treatment as a pooling of interests.

Following the merger, PSCo, SPS and Cheyenne will become direct public utility subsidiaries of NCE and the nonutility subsidiaries of PSCo and SPS will become either direct or indirect nonutility subsidiaries of NCE. The Merger Agreement provides that NCE's principal corporate office will be in Denver, Colorado, with significant operating offices in Ararillo, Texas. NCE's board of directors will consist of a total of 14 directors, 8 of whom will be designated by PSCo and 6 of whom will be designated by SPS.

NCE proposes that the Commission authorize two system service companies; NC Services and UE. NC Services will be a direct subsidiary of NCE and will be incorporated in Delaware. NC Services will provide companies in the NCE system with a variety of administrative, management and support services. It is anticipated that NC Services will be staffed by a transfer of personnel from PSCo, SPS and their subsidiaries. In contrast, UE will be a subsidiary of an intermediate holding company, NC Hold (discussed below), which will hold the system's nonutility interests. UE will provide a variety of engineering, design, construction, management and other miscellaneous services to NCE system companies.

NCE states that the accounting and cost allocation methods of both NC Services and UE will comply with the Commission's standards for service companies in registered holding-company systems and that NC Services' and UE's billing system will use the Commission's "Uniform System of Accounts for Mutual Service Companies and Subsidiary Service Companies."[15] Except as permitted by the Act or the Commission, and except as summarized below, all services provided by NC Services and UE to affiliated companies will be "at-cost" pursuant to rules 90 and 91.

NCE requests an exemption from the at-cost provisions of rules 90 and 91 in connection with the provision of services to affiliated QFs, IPPs, EWGs and FUCOs by the following companies: (1) NC Services, (2) UE, (3) KRM, (4) Utility Services, (5) UE Carolina, (6) Quixx, (7) QPS, and (8) e prime. In addition, NCE requests an exemption from rules 90 and 91 in connection with the provision of services by e prime to Young Gas Storage Co., Ltd. Finally, to facilitate e prime's marketing of certain products and services to nonaffiliates, NCE requests that PSCo be exempted from rules 90 and 91 for the sale of certain products and services to e prime.

NCE further requests authority to form a new subsidiary, NC Hold Co., which will be incorporated in Delaware, to hold certain of the NCE system's nonutility interests. At the consummation of the Transaction, all outstanding shares of NC Hold common stock will be held by NCE. NC Hold will acquire the common stock of certain of PSCo's nonutility subsidiaries via a capital contribution from NCE and will purchase the common stock of SPS's nonutility subsidiaries by issuing debt to SPS.

The debt issued by NC Hold will have a twenty-year maturity and bear interest at a fixed rate, with interest payments to be made semi-annually. The interest rate will be determined at the time of issuance based on the then prevailing rate which would be charged by an unaffiliated third party. The principal will be repaid in twenty equal annual installments. NC Hold will have the option to prepay the entire obligation, including accrued and unpaid interest, at any time without any prepayment premium.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–7541 Filed 3–27–96; 8:45 am]

BILLING CODE 8015–01–M

[4] NCE proposes that KRM would provide a resource database service consisting of names of people who can be dispatched to provide temporary services to various projects.

[5] e prime, inc. is a nonutility subsidiary company of PSCo described as a company which offers energy related products and services to energy-using customers and to selected segments of the utility industry.

[6] Quixx is currently a subsidiary of SPS. Quixx's primary business is investing in and developing cogeneration and energy-related projects. Quixx also holds water rights and certain other non-utility assets.

[7] QPS is a wholly owned subsidiary of Quixx which will operate and maintain generation facilities in various locations, including two cogeneration facilities in which Quixx holds an equity interest: (1) BCH Energy Limited Partnership ("BCH"), which is constructing a waste-to-energy cogeneration facility located near Fayetteville, North Carolina to provide steam to a Du Pont De Nemours & Company ("Du Pont") plant near Fayetteville and electric power to Carolina Power & Light; and (2) Carolina Energy Limited Partnership ("Carolina Energy"), which is developing, and will own and operate solid waste fueled cogeneration facilities in Wilson and Lenoir Counties, North Carolina, which will provide steam to a Du Pont plant and will sell electric power to Carolina Power & Light.

[8] UE Carolina is currently a wholly owned nonutility subsidiary of UE which provides engineering, design and construction related services to the Carolina Energy project.

[9] Young Gas Storage Co., Ltd. is a partnership which owns and underground gas storage facility. Young Gas Storage Company, Inc., currently a subsidiary of PSCo, holds a 47.5% general partnership interest in Young Gas Storage Co., Ltd.

[10] PSCo currently owns 80% of the capital stock of Natural Fuels, a nonutility company which: sells compressed natural gas as a transportation fuel to retail markets; converts vehicles for natural gas usage; constructs fueling facilities; and sells miscellaneous fueling facility equipment.

[11] PSCo's principal executive office is located in Denver, Colorado.

[12] SPS's principal corporate office is located in Amarillo, Texas.

[13] PSCo's Merger Corp. will be incorporated under the laws of the State of Colorado prior to the consummation of the Transaction. The only authorized capital stock of PSCo Merger Corp. will be common stock, no par value and all outstanding shares will be held by NCE. PSCo Merger Corp. has not had, and prior to the closing of the Transaction will not have, any operations other than the activities contemplated by the Merger Agreement necessary to accomplish the combination of PSCo Merger Corp. and PSCo.

[14] SPS Merger Corp. will be incorporated under the laws of the State of New Mexico prior to the consummation of the Transaction. The only authorized capital stock of SPS Merger Corp. will be common stock, no par value, and all outstanding shares will be held by NCE. SPS Merger Corp. has not had, and prior to the closing of the Transaction will not have, any operations other than the activities contemplated by the Merger Agreement necessary to accomplish the combination of SPS Merger Corp. and SPS.

[15] 17 CFR Part 256 (1995).

[Investment Company Act Release No. 21851; 812–9924]

U.S. Trust Corporation, et al.; Notice of Application

March 22, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (the "Act").

APPLICANTS: U.S. Trust Corporation, United States Trust Company of New York ("U.S. Trust"), the Excelsior Institutional Trust ("Excelsior Trust"), the Excelsior Funds, Inc. ("Excelsior Funds"), the Excelsior Funds, Inc. ("Excelsior Funds"),[1] and any registered open-end management investment company that may be advised by U.S. Trust or any entity controlling, controlled by, or under common control with U.S. Trust (together, with Excelsior Trust and Excelsior Funds, the "Funds"), the United States Trust Company of New York Pooled Pension and Profit Sharing Trust ("CIF"), and other collective investment funds that may be sponsored by U.S. Trust which U.S. Trust in the future may decide to convert into registered open-end investment companies in the manner described below, and in which, at that time, pension plans established and maintained for the benefit of employees of U.S. Trust and its subsidiaries have invested assets.

RELEVANT ACT SECTIONS: Order requested under sections 6(c) and 17(b) of the Act exempting applicants from section 17(a)

[1] The Excelsior Funds formerly were known as the UST Master Funds, Inc. The name was changed, effective January 2, 1996, primarily for marketing purposes.

of the Act and pursuant to section 17(d) of the Act and rule 17d–1 thereunder.

SUMMARY OF APPLICATION: The requested order would permit the CIF to transfer securities to certain portfolios of the Funds in exchange for portfolio shares.

FILING DATES: The application was filed on December 29, 1995. Applicant's counsel has stated in a letter dated March 18, 1996 that an amendment, the substance of which is incorporated herein, will be filed during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 16, 1996 and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants: c/o U.S. Trust Corporation, 114 West 47th Street, New York, New York 10043.

FOR FURTHER INFORMATION CONTACT: David W. Grim, Staff Attorney, at (202) 942–0571, or Alison E. Baur, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. U.S. Trust is a state-chartered bank and trust company and wholly-owned subsidiary of U.S. Trust Corporation. U.S. Trust serves as trustee, investment manager, and custodian for numerous pension plan clients. The assets of some of those pension plans are invested in the CIF, which was established by U.S. Trust as an investment vehicle for employee retirement plans qualified under section 401 of the Internal Revenue Code or similar governmental plans. The CIF includes assets of pension plans for the benefit of employees of entities unaffiliated with U.S. Trust ("Other Plans") as well as assets of pension plans for the benefit of employees of U.S. Trust and its affiliates ("Affiliated Plans") (Other Plans and Affiliated Plans collectively referred to as "Plans"). Each of the Affiliated Plans has a five percent or greater beneficial interest in the CIF. The assets of the CIF are invested in one or more investment funds ("CIF Portfolios") with varying investment objectives.

2. The Excelsior Trust is a Delaware business trust registered under the Act as an open-end management investment company. The Excelsior Trust currently consists of 10 portfolios. The Excelsior Trust is establishing two new portfolios, the Excelsior Trust Institutional Optimum Growth Fund and the Excelsior Trust Institutional Equity Value Fund, which will be the only portfolios of the Excelsior Trust to which Affiliated Plan assets in the CIF will be transferred. Excelsior Funds is a Maryland corporation registered under the Act as an open-end management investment company. Excelsior Funds is currently divided into 20 portfolios. The following portfolios are the only portfolios of Excelsior Funds to which Affiliated Plan assets in the CIF will be transferred: Excelsior Funds Equity Fund, Excelsior Funds International Fund, Excelsior Funds Short-Term Government Securities Fund, Excelsior Funds Managed Income Fund, Excelsior Funds Early Life Cycle Fund, and Excelsior Funds Money Fund (together with the Excelsior Trust Institutional Optimum Growth Fund and the Excelsior Trust Institutional Equity Value Fund, the "Portfolios"). U.S. Trust serves as investment adviser to the Portfolios.

3. U.S. Trust is terminating the CIF and proposes to transfer the Affiliated Plans' assets of the CIF in-kind to the Portfolios. Under this proposal, each Portfolio will accept a transfer of securities from a corresponding CIF Portfolio with substantially similar investment objectives, in exchange for Portfolio shares. The conversion may occur in stages, with certain transfers occurring before others.

4. The assets of the CIF representing Other Plans may be converted into Funds in accordance with a series of no-action letters in which the SEC staff has permitted similar conversions of collective trust funds into mutual funds.[2] The Affiliated Plans are unable to rely on the no-action letters, however, because each Affiliated plan has a five percent or greater beneficial interest in CIF.[3] As a result, applicants are seeking exemptive relief for the transfer of CIF assets into the Funds on behalf of the Affiliated Plans.

5. Affiliated Plan assets of the CIF will be transferred as follows: the Short-Term Fixed Income CIF Portfolio into the Excelsior Funds Money Fund, the Fixed Income CIF Portfolio into the Excelsior Funds Managed Income Fund, the U.S. Government Short/Intermediate Term CIF Portfolio into the Excelsior Funds Short-Term Government Securities Fund, the International CIF Portfolio into the Excelsior Funds International Fund, the Equity CIF Portfolio into the Excelsior Funds Equity Fund, the Early Life Cycle CIF Portfolio into the Excelsior Funds Early Life Cycle Fund, the Optimum Growth CIF Portfolio into the Excelsior Trust Institutional Optimum Growth Fund, and the Equity Value CIF Portfolio into the Excelsior Trust Institutional Equity Value Fund.

6. Applicants will institute the following procedures to ensure the protection of Plan participants in the proposed transactions. Each Affiliated Plan will have an employee benefit review committee (the "Committee") that serves as fiduciary for the Plan. Also, each Affiliated Plan and Other Plan will have a fiduciary, independent of U.S. Trust and its affiliates, that will supervise the investment of that Plan's assets. This independent fiduciary generally will be the Plan's named. fiduciary, trustee or sponsoring employee (in the case of the Other Plans), and will be subject, as will the Committee, to fiduciary responsibilities under the Employee Retirement Income Security Act of 1974 ("ERISA"). Under section 404(a) of ERISA, such fiduciaries must ensure that the investment of the Affiliated Plans' assets is prudent and operates exclusively for the benefit of participating employees of U.S. Trust and/or its affiliates and of their beneficiaries.

7. Before transferring the Affiliated Plans' CIF assets to the Portfolios, U.S. Trust will seek and obtain the approval of the Committee and each Affiliated Plan's independent fiduciary. U.S. Trust will provide the Committee and the independent fiduciaries with a current prospectus for the relevant Portfolios and a written statement giving full disclosure of the fees to be received by U.S. Trust and/or its affiliates and the terms of the proposed transactions. The disclosure will explain why U.S. Trust believes that the investment of assets of the Affiliated Plans in the Portfolios is appropriate.

8. On the basis of such information, the Committee and the independent fiduciary will decide whether to authorize U.S. Trust to invest the relevant Affiliated Plan's assets in the Fund and to receive fees from the Fund. U.S. Trust does not charge Plan level fees to Affiliated Plans and, therefore, will not collect fees at both the Plan level and the Fund level for managing the same assets. However, the fees charged to the Affiliated Plans may increase as a result of the greater costs of Fund administration as compared to the administration of the CIF. Because U.S. Trust does charge Plan level fees to the Other Plans, it will credit all Fund level fees back to those Plans.

9. Because of the need to obtain approval from various fiduciaries, and the need to obtain effectiveness of the registration statement describing the two new equity Portfolios of the Excelsior Trust, the proposed transactions may occur in more than one stage. Only those Plans that have received the required approval from the Committee and the independent fiduciary will participate at any stage. As of the date of each transfer, U.S. Trust, on behalf of the CIF Portfolios, will deliver to the corresponding Portfolio securities equal in value to the interest of each participating Plan, in exchange for Fund shares with total net asset value equal to the market value of the transferred assets as of the date of the transfer. All securities transferred to a Portfolio in any stage will be securities capable of being priced pursuant to rule 17a–7(b) (1) through (4) under the Act, and will be consistent with the investment objectives and fundamental policies of the corresponding Portfolio. The Fund shares received by the CIF Portfolios then will be distributed, *pro rata*, to all Plans whose interests were converted as of that date.

10. U.S. Trust is terminating the CIF and transferring its assets into the Funds because it believes investment of those assets in mutual fund will better serve the interests of its employee retirement benefit plan clients. Investment of Plan assets in mutual funds will allow the sponsors of and participants in the Plans to monitor more easily the performance of their investments on a daily basis, as information concerning the investment performance of the Portfolios generally will be available in daily newspapers. Additionally, the mutual fund vehicle will provide other advantages, such as daily pricing, and will afford U.S. Trust a better opportunity to market its investment management services. Assuming those marketing efforts result in greater assets under management, this investment also will allow for greater diversification. Also, Plan participants will have the benefit of the heightened disclosure applicable to mutual funds under the federal securities laws.

Applicants' Legal Analysis

1. Section 17(a) of the Act, in relevant part, prohibits an affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, from selling to or purchasing from such investment company any security or other property. Section 2(a)(3) of the Act, in relevant part, defines "affiliated person" to include: (a) any person directly or indirectly owning, controlling, or holding with the power to vote, 5% or more of the outstanding voting securities of such other person; (b) any person directly or indirectly controlling, controlled by, or under common control with, such other person; and (c) if such other person is an investment company, any investment adviser thereof.

2. Section 6(c) provides that the SEC may exempt any person or transaction from any provision of the Act or any rule thereunder to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

3. Section 17(b) provides that the SEC shall exempt a proposed transaction from section 17(a) if evidence establishes that: (a) the terms of the proposed transaction are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policies of the registered investment company involved; and (c) the proposed transaction is consistent with the general provisions of the Act.

4. Section 17(d) prohibits an affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, from effecting any transaction in which such investment company is a joint, or joint and several, participant with such person in contravention of SEC rules and regulations. Rule 17d–1 under the Act provides that no joint transaction covered by the rule may be consummated unless the SEC issues an order upon application. In passing upon such applications, the SEC considers whether participation by a registered investment company is consistent with the provisions, policies, and purposes of the Act, and is not on a basis less advantageous than that of other participants.

5. Because the CIF may be viewed as acting as principal in the proposed transactions and because the CIF and the Funds may be viewed as being under the common control of U.S. Trust within the meaning of section 2(a)(3)(C) of the Act, the proposed transactions may be subject to the prohibitions contained in section 17(a). For the same reasons, the proposed transactions might be deemed to be a joint enterprise or other joint arrangement prohibited by section 17(d) and rule 17d–1.

6. Applicants request an order under sections 6(c) and 17(b) granting an exemption from section 17(a), and pursuant to section 17(d) and rule 17d–1. Applicants submit that the terms of the proposed transactions, as set forth above, satisfy the standards for an exemption set forth in sections 6(c) and 17(b) and rule 17d–1.

7. Applicants believe that the proposed transactions will be on terms that are reasonable and fair, and do not involve overreaching on the part of any person. The proposed transactions will comply with rule 17a–7 (b)–(f) under the Act, and also will comply with the policy behind the conditions set forth in rule 17a–8. Applicants assert that the fact that the proposed transactions are designed as in-kind transfers does not negatively affect their fairness. Indeed, if the proposed transactions were effected in cash, the Plans would have to sell their securities, thereby incurring brokerage commissions or the adverse effects of mark-downs. Similarly, following the Plans' investment in the Fund, the Fund would purchase similar securities in the market, causing a second round of brokerage commissions and the adverse effects of mark-ups. In addition, because time could elapse between the sale of Plan securities and the repurchase of similar securities, no assurance could be given that the Funds would be able to purchase those securities at the price for which Plan securities had been sold. In contrast, the proposed transactions would not expose the Plans' assets to transaction costs or timing risk.

8. Applicants contend that the requested exemptive relief also would be consistent with the purposes intended by the policies and provisions of the Act. Applicants believe that the proposed transactions do not give rise to the abuses that sections 17 (a) and (d) and rule 17d–1 were designed to prevent. A primary purpose underlying sections 17 (a) and (d) and rule 17d–1 is to prevent a person with a pecuniary interest in a transaction from using his or her position with a registered

[2] *See, e.g.*, The DFA Investment Trust Company (pub. avail. Oct. 17, 1995); Federated Investors (pub. avail. Apr. 21, 1994); and Lincoln National Investment Management Company (pub. avail. Apr. 25, 1976).

[3] *See* The DFA Investment Trust Company (pub. avail. Mar. 21, 1996) (clarifying the staff's position that a less than five percent beneficial interest in a collective trust fund conversion by an affiliated person of a fund, or an affiliated person of such affiliated person, is not, in and of itself, a disqualifying affiliation for purposes of rule 17a–7).

investment company to benefit himself or herself to the detriment of the company's shareholders. After the proposed transactions, each Affiliated Plan will be a shareholder in a Portfolio with substantially similar investment objectives to the CIF Portfolio from which their assets were transferred. In this sense, the proposed transactions can be viewed as a change in the form in which assets are held, rather than as a disposition giving rise to section 17 concerns. Moreover, any transfer will be subject to extensive review and evaluation by independent fiduciaries whose actions are governed by ERISA and by the disinterested members of the board of directors (trustees) of the Funds. For these reasons, the participation will not be on a basis different from or less advantageous than that of other participants for purposes of rule 17d–1.

9. Applicants submit that the proposed transactions meet the section 6(c) standards for relief as necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act. Shares of the Funds issued as part of the proposed transactions will be issued at prices equal to their net asset values. In addition, the assets of the Affiliated Plans will be valued pursuant to objective standards and are the type that the Portfolios otherwise would purchase through market transactions. Furthermore, the proposed transactions are subject to independent fiduciary approval. Therefore, the transfers will afford no opportunity for affiliated persons of the Funds to effect a transaction detrimental to the Affiliated Plans or to the other shareholders of the Funds.

Applicants' Conditions

Applicants agree that the order granting the requested relief shall be subject to the following conditions:

1. The purchase transactions will comply with the provisions of rules 17a–7(b)–(f).

2. The purchase transactions will not occur unless and until: (a) the boards of directors (trustees) of the Funds (including a majority of their disinterested members) and the Committee and the Affiliated Plans' independent fiduciaries find that the proposed transactions are in the best interest of the Funds and the Affiliated Plans, respectively; and (b) the boards of directors (trustees) of the Funds (including a majority of their disinterested members) find that the interests of the existing shareholders of the Funds will not be diluted as a result of the proposed transactions. These determinations and the basis on which they are made will be recorded fully in the records of the Funds and the Plans, respectively.

3. In order to comply with the policies underlying rule 17a–8, any conversion will have to be approved by the board of directors (trustees) of the Funds and any Affiliated Plan's independent fiduciaries who would be required to find that the interests of beneficial owners would not be diluted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–7543 Filed 3–27–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37009; File No. S7–8–96]

Study and Report on Protections for Senior Citizens and Qualified Retirement Plans

AGENCY: Securities and Exchange Commission.

ACTION: Request for comments.

SUMMARY: The Private Securities Litigation Reform Act of 1995 directs the Securities and Exchange Commission (the "Commission") to determine whether investors that are senior citizens or qualified retirement plans require greater protection against securities fraud than is currently provided under the federal securities laws; and whether investors that are senior citizens or qualified retirement plans have been adversely impacted by abusive or unnecessary securities fraud litigation, and whether the current provisions of the federal securities laws are sufficient to protect them from such litigation. The Commission is soliciting comment on these questions and on the more general question of the role of senior citizens and qualified retirement plans in our securities markets.

DATES: Comments must be received no later than April 30, 1996.

ADDRESSES: Persons wishing to respond should file three copies of their written comments with Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments may also be submitted electronically at the following E-mail address: rule-commentssec.gov. All written comments should refer to File No. S7–8–96; this file number should be included on the subject line if E-mail is used. The comments will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Electronically submitted comments will be posted on the Commission's Internet web site (http://www.sec.gov).

FOR FURTHER INFORMATION CONTACT: John W. Avery, Office of the General Counsel, at (202) 942–0816; or Ann M. Gerg, Office of the General Counsel, at (202) 942–0857.

SUPPLEMENTARY INFORMATION:

I. Introduction

On December 22, 1995, Congress overrode the President's veto and enacted the Private Securities Litigation Reform Act of 1995 (the "Act"). Section 106 of the Act requires the Commission to:

(1) Determine whether investors that are senior citizens or qualified retirement plans require greater protection against securities fraud than is provided in the Act and the amendments made by the Act; and

(2) Determine whether investors that are senior citizens or qualified retirement plans have been adversely impacted by abusive or unnecessary securities fraud litigation, and whether the provisions in the Act or amendments made by the Act are sufficient to protect their investments from such litigation.

If the Commission determines that greater protections are necessary, it must submit a report to the Congress by June 19, 1996.

For purposes of section 106 of the Act, the term "senior citizen" means an individual who is 62 years of age or older, and the term "qualified retirement plan" has the same meaning as in section 4974(c) of the Internal Revenue Code of 1986.

II. Background

Senior citizens and qualified retirement plans are substantial participants in our financial markets and play a vital role in capital formation. As the population ages, the importance of seniors and qualified retirement plans to our markets will increase. Many employers are moving away from traditional pension plans in which the plan participants have little, if any, investment discretion, to defined contribution plans in which the participants have significant investment discretion. Thus, seniors and qualified retirements plans may be more vulnerable to securities fraud and to the effects of abusive securities fraud litigation.

The Commission believes that it would be valuable to examine generally

the role of senior citizens and qualified retirement plans as investors and their importance to our markets and to capital formation, and to consider whether the federal securities laws provide adequate protections to senior citizens and qualified retirement plans against securities fraud and abusive securities litigation. The Commission also believes that it would be appropriate to consider the special needs of senior citizens and qualified retirement plans and whether changes to the federal securities laws or to the commission's rules or regulations are necessary or desirable to address those needs.

III. Solicitation of Public Comment

The Commission seeks comment on the issues and questions described above and, more particularly, on the following questions with respect to investors that are senior citizens or qualified retirement plans:

1. What is the rule and importance of senior citizens and qualified retirement plans as investors in our financial markets, and how is that role and importance changing?

2. What are their special needs as investors, and what changes to the federal securities laws or to the Commission's rules or regulations may be necessary or desirable to address those needs?

3. Do they require greater protection against securities fraud than is provided in the Act and the amendments made by the Act, or than is provided under the federal securities laws?

4. Have they been adversely impacted by abusive or unnecessary securities fraud litigation? Are the provisions in the Act or amendments made by the Act sufficient to protect their investments from such litigation, or, more generally, are the provisions of the federal securities laws sufficient to protect their investments from such litigation?

5. What changes to the federal securities laws or to the Commission's rules or regulations may be necessary or desirable to thoroughly protect senior citizens and qualified retirement plans against securities fraud and abusive or unnecessary securities fraud litigation?

Commenters are requested to direct their comments to the special needs and circumstances of senior citizens and qualified retirement plans. Comments should not simply voice support for, or criticism of, the Act generally.

By the Commission.

Dated: March 21, 1996.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–7538 Filed 3–27–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36996; File No. SR–CBOE–96–10]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Multiple Representation

March 20, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 6, 1996, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Currently, CBOE Rule 6.55, "Multiple Orders Prohibited," provides that no CBOE member, for any account in which he has an interest or on behalf of a customer, shall maintain with more than one broker orders for the purchase or sale of the same option contract or other security, or the same combination of option contracts or other securities, with knowledge that such orders are for the account of the same principal. The CBOE proposes to amend CBOE Rule 6.55 by adding paragraph (b), which will provide that, except in accordance with procedures established by the appropriate Floor Procedure Committee, or with such Floor Procedure Committee's permission in individual cases, no market maker shall enter or be present in a trading crowd while a floor broker present in the trading crowd is holding an order on behalf of the market maker's individual account or an order initiated by the market maker for an account in which the market maker has an interest. The proposal will also add Interpretation and Policy .01, which will provide three procedures under which a market maker may enter a trading crowd in which a floor broker is present who holds an order on behalf of the market marker's individual account or an order initiated by the market maker for an account in which the market maker has an interest, and Interpretation and Policy .02, which will advise CBOE members to consult Exchange regulatory circulars concerning joint accounts for procedures government the simultaneous presence in a trading crowd of participants in and orders for the same joint account.

The text of the proposal is available at the Office of the Secretary, CBOE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

According to the CBOE, the purpose of CBOE Rule 6.55 is to prevent a person from being disproportionately represented in a trading crowd. In furtherance of this purpose, CBOE Rule 6.55 currently provides that no Exchange member, for a customer or for any account in which the member has an interest, shall maintain with more than one broker orders for the purchase or sale of the same option contract or other security, or the same combination of option contracts or other securities, with the knowledge that such orders are for the account of the same principal.

The CBOE states that, in addition to this prohibition and in furtherance of the same purpose, the Exchange also has had a long-standing policy of prohibiting market makers, except in accordance with procedures established by the appropriate Floor Procedure Committee or with such Floor Procedure Committee's permission in individual cases, from entering or being present in a trading crowd while a floor broker present in the trading crowd is holding an order on behalf of the market maker's individual account or an order initiated by the market maker for an account in which the market maker has an interest.[1] This policy, which is

[1] Exceptions to this policy which have been approved by a Floor Procedure Committee are contained in Exchange Regulatory Circular RG95–84 which concerns the trading activities of joint account participants in the Standard & Poor's ("S&P") 100 ("OEX") and S&P 500 ("SPX") index option classes. *See also* Securities Exchange Act

Continued

reflected in Exchange Floor Report Number 21, dated May 15, 1975, and in educational materials which are provided to Exchange members, prevents a market maker from avoiding CBOE Rule 6.55 by placing an order with a floor broker for a particular option contract or other security and also representing himself or herself in the trading crowd for such option contract or other security. The purpose of the proposed rule change is to specifically delineate this policy in the Exchange's rules by including it in a new paragraph (b) to CBOE Rule 6.55.[2]

In addition, the CBOE proposes to add Interpretation and Policy .01 to CBOE Rule 6.55 to specify three alternative procedures that govern how a market maker may permissibly enter a trading crowd in which a floor broker is present who holds an order on behalf of the market maker's individual account or an order initiated by the market maker for an account in which the market maker has an interest.

Under the first alternative, the market maker must make the floor broker aware of the market maker's intention to enter the trading crowd and the floor broker must time-stamp the order ticket for the market maker order and write the notation "Cancel" or "CXL" next to the time stamp. If the market maker wishes to re-enter the order upon the market maker's exit from the trading crowd, the floor broker must at that time again time stamp the order ticket and write the notation "Reentry" or "RNTRY" next to such subsequent time stamp.

Under the second alternative, the market maker must cancel the market maker order by giving the floor broker a written cancellation of the order which is time-stamped by the market maker immediately prior to its transmission to the floor broker. If the market maker wishes to re-enter the order upon the market maker's exit from the trading crowd, a new order ticket must be used.

Under the third alternative, the market maker must cancel the market maker order by taking the order ticket for the order back from the floor broker, provided that the market maker allows the floor broker to retain a copy of the order ticket (which copy the floor broker must time-stamp at the time of cancellation and retain for the floor broker's records). If the market maker wishes to re-enter the order upon the market maker's exit from the trading crowd, a new order ticket must be used.

The CBOE states that the proposed amendment to CBOE Rule 6.55 also codifies past practice by providing that the appropriate Floor Procedure Committee may adopt other procedures which, if followed, would permit a market maker to be exempt from the requirements of paragraph (b) of CBOE Rule 6.55, or may grant permission for a market maker to enter a trading crowd in a particular instance notwithstanding the requirements of that paragraph.

Finally, the proposed amendment makes certain editorial changes to CBOE Rule 6.55 that do not affect its substance, such as changing the title of CBOE Rule 6.55 from "Multiple Orders Prohibited" to "Multiple Representation Prohibited" in order to more accurately reflect the scope of the amended rule.

The CBOE believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(5), in particular, in that it prohibits the multiple representation of an order in a trading crowd, thereby promoting just and equitable principles of trade, removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days after the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) by order approve such proposed rule change, or

(b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by April 18, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

Jonathan G. Katz,

Secretary.

[FR Doc. 96–7507 Filed 3–27–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37000; International Release No. 955; File No. SR–ISCC–96–02]

Self-Regulatory Organizations; International Securities Clearing Corporation; Notice of Filing of a Proposed Rule Change To Permit ISCC To Charge and To Collect From Members Charges Imposed by Certain Third Parties

March 21, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on March 19, 1996, the International Securities Clearing Corporation ("ISCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR–ISCC–96–02) as described in Items I, II, and III below, which items have been prepared primarily by ISCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to expand ISCC's authority to charge and to collect from members fees imposed by third parties.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ISCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ISCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

ISCC proposes to expand its authority to charge and to collect from its members fees imposed by certain third parties. ISCC's current rules permit ISCC to charge members for fees imposed by banks and trust companies in conjunction with the Global Clearance Network Service. The proposed modifications to ISCC's rules will permit ISCC to include on members' settlement statements charges imposed by entitles or organizations with which ISCC has entered into agreements and which provide services or equipment to ISCC members which are integral to the services provided by ISCC.

From time to time, third parties which have entered into agreements with ISCC and which provide ISCC members with certain services or equipment which facilitate access to an ISCC service request that ISCC directly bill its members for the services such third parties provide to members.[3] The proposed rule change will permit such third parties to aggregate individual member charges in one invoice to ISCC and will allow ISCC in turn to include the third parties' charges to individual members on such ISCC members' settlement statements. The proposed rule will thereby enable ISCC members to consolidate their payment obligations. If a member does not consent to such charges or otherwise disputes such charges, ISCC will not fine the member for not paying to ISCC the third party's charges. In addition, ISCC will have no liability to any third party vendors for such charges.

ISCC believes the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder because the rule proposal provides for the equitable allocation of dues, fees, and other charges among ISCC's participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

ISCC does not believe that the proposed rule change will impact or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments relating to the proposed rule change have been solicited or received. ISCC will notify the Commission of any written comments received by ISCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which ISCC consents, the Commission will:

(a) by order approve such proposed rule change or

(b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of ISCC. All submissions should refer to the file number SR–ISCC–96–02 and should be submitted by April 18, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[4]

Jonathan G. Katz,

Secretary.

[FR Doc. 96–7501 Filed 3–27–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37010; File No. SR–NASD–96–09]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to the Distribution of Interim Reports to Beneficial Owners and the Use of New Technology To Communicate Such Information to Shareholders

March 21, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 13, 1996, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

Release No. 36977 (March 15, 1996) (order approving File No. SR-CBOE–95–65) (approving regulatory circular which provides that a joint account trading in equity options may be represented simultaneously in a trading crowd by participants trading in person).

[2] The proposal also adds Interpretation and Policy .02 to CBOE Rule 6.55, which states that members should consult Exchange regulatory circulars concerning joint accounts in connection with procedures governing the simultaneous presence in a trading crowd of participants in and orders for the same joint account, since such circulars have in the past granted certain exemptions to the policy proposed to be delineated in CBOE Rule 6.55 with respect to the trading of joint accounts.

[3] 17 CFR 200.30–3(a)(12) (1995).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] The Commission has modified the text of the statements prepared by ISCC.

[3] For example, ISCC members may want to obtain computer hardware and/or software to access certain ISCC services. To facilitate such access, ISCC would make arrangements with a third party vendor to supply members with the appropriate hardware and/or software. The third party vendor would send a detailed monthly invoice directly to ISCC reflecting the individual member charge and aggregate charges for the month. ISCC would then include the appropriate charge on each member's monthly statement. ISCC would remit to the vendor within the agreed upon time period the amount that ISCC actually collected from members in connection with the vendor's charges.

[4] 17 CFR 200.30–3(a)(12) (1994).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is filing a proposed rule change to Part II of Schedule D to the NASD By-Laws[1] recommending the distribution of interim reports to all beneficial shareholders if sent to any registered shareholders and encouraging the use of communications technology to make timely communications to shareholders. Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

Schedule D[2]—Part II; Qualification Requirements for NASDAQ Stock Market Securities

Sec. 1 Qualification Requirements for Domestic and Canadian Securities

* * * * *

(d) Nasdaq issuers which distribute interim reports to shareholders shold distribute such reports to both registered and beneficial shareholders. Nasdaq issuers are also encouraged to consider additional technological methods to communicate such information to shareholders in a timely and less costly manner as such technology becomes available.

Sec. 2 Qualification Requirements for non-Canadian Foreign Securities and American Depository Receipts

* * * * *

(f) Nasdaq issuers which distribute interim reports to shareholders should distribute such reports to both registered and beneficial shareholders. Nasdaq issuers are also encouraged to consider additional technological methods to communicate such information to shareholders in a timely and less costly manner as such technology becomes available.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The NASD is proposing to add new Section 1(d) to Part II of Schedule D of the By-Laws ("Schedule D") to recommend that Nasdaq issuers which distribute interim reports[3] to shareholders distribute such reports to both registered and beneficial shareholders.[4] The NASD also is proposing to add the same provision as new section 2(f) of Part II to Schedule D regarding the qualification requirements for issuers of non-Canadian foreign securities and ADRs that are included in The Nasdaq Stock Market.

The NASD proposal is the product of a review by various industry groups, including the American Society of Corporate Secretaries and the Securities Industry Association, of listed[5] companies' dissemination of interim earnings reports to shareholders. The industry groups have been attempting to achieve some uniformity among listed companies in the handling of interim earnings reports. Presently, some listed companies distribute interim reports to both record and beneficial shareholders, some listed companies only send interim reports to record shareholders, and some do not send interim reports to any shareholders. The portion of the proposed rule change recommending that Nasdaq issuers which distribute interim reports to shareholders distribute such reports to both registered and beneficial shareholders is consistent with voluntary provisions adopted by the New York Stock Exchange and the American Stock Exchange and, therefore, would provide the uniformity among these markets regarding the handling of listed company interim earnings reports that was sought by the above noted industry groups.

The NASD also proposes to add language to new Sections 1(d) and (2)(f) to Part II of Schedule D that would encourage Nasdaq issuers to consider additional technological methods to communicate such information to shareholders in a timely and less costly manner as such technology becomes available. This provision is intended to encourage further Nasdaq issuers to utilize the new technological communications available to many but not all beneficial shareholders. This provision of the proposal rule change, therefore, is intended to be considered by Nasdaq issuers as a supplement to the first provision of the proposed rule change recommending that Nasdaq issuers which distribute interim reports to shareholders should distribute such reports to both registered and beneficial shareholders.

The proposed rule change is a recommendation to Nasdaq issuers and is voluntary in nature. Non-compliance with the provisions of the proposed rule change, therefore, would not subject Nasdaq issuers to Nasdaq actions for non-compliance with Nasdaq listing requirements. The proposed rule change would apply to both the Nasdaq National Market and The Nasdaq SmallCap Market tiers of The Nasdaq Stock Market.

The NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act in that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest by, among other things, encouraging Nasdaq issuers which distribute interim reports to shareholders to distribute such reports to both registered and beneficial shareholders. This provision of the proposed rule change is consistent with provisions adopted by the New York Stock Exchange and the American Stock Exchange and, therefore, would provide the uniformity among these markets regarding the handling of listed company interim earnings reports that was sought by the above-noted industry groups. The proposed rule change, in addition, would encourage Nasdaq issuers to consider additional technological methods to communicate the information contained in their interim reports to shareholders in a timely and less costly manner, as such technology becomes available. The NASD believes that the proposed rule change will enhance shareholder communications in The Nasdaq Stock Market.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to which the self-regulatory organizations consents, the Commission will:

A. by order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to SR–NASD–96–09 and should be submitted by April 18, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Jonathan G. Katz,

Secretary.

[FR Doc. 96–7503 Filed 3–27–96; 8:45 am]

BILLING CODE 8010–01–M

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[1] *NASD Manual*, Schedules to the By-Laws, Schedule D, Part II (CCH) ¶¶ 1803–06A.

[2] Pursuant to a new rule numbering system for the NASD Manual anticipated to be effective no later than May 1, 1996, Sections 1 and 2 of Part II to Schedule D that are the subject of this proposed rule change will become Rules 4310 (regarding qualification requirements for Nasdaq domestic and Canadian securities and Rule 4320 (regarding qualification requirements for Nasdaq Non-Canadian foreign securities and American Depositary Receipts ("ADRs")), respectively. *See* Securities Exchange Act Release No. 36698 (January 11, 1996), 61 FR 1419 (January 19, 1996) (order approving SR–NASD–95–51).

[3] Interim reports are reports that are voluntarily distributed by an issuer as part of its shareholder relations activities and do not include quarterly financial reports required to be filed with the Commission pursuant to Sections 13(a) and 15(d) of the Act, 15 U.S.C. §§78m(a), 78o(d).

[4] The substance of this portion of the proposed rule change has been adopted by the New York Stock Exchange and American Stock Exchange. *See* NYSE Company Manual Rule 203.02 and American Stock Exchange Company Guide Section 623.

[5] The securities of Nasdaq issuers are "included in" The Nasdaq Stock Market, they are not "listed on" the Nasdaq Stock Market. However, for purposes of this filing, the term "listed" will apply to Nasdaq, as well as an exchange-listed securities.

[Release No. 34–37006; File No. SR–NASD–96–10]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to the OTC Bulletin Board® Service

March 21, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 13, 1996, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The NASD has designated this proposal as one constituting a change to a due, fee, or other charge under § 19(b)(3)(A)(ii) of the Act, which renders the rule effective upon the Commission's receipt of this filing. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change amends Part VIII of Schedule D to the NASD By-Laws.[1] The text of the proposed rule change is as follows. (Additions are italicized; deletions are bracketed.)

Part VIII—Schedule of NASD Charges for Services and Equipment

A. System Services

* * * * *

14. OTC Bulletin Board Service

The following charge shall apply to a broker-dealer that displays quotations or trading interest in the OTC Bulletin Board service:

Position charge—*$6.00* [$5.00]/security/month

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The OTC Bulletin Board Service ("OTCBB" or "Service") is an electronic quotation medium operated by the Nasdaq Stock market, Inc. that allows eligible members to enter, update, and retrieve quote information and unpriced indications of interest for non-Nasdaq securities. The purpose of this proposed rule change is to increase the OTCBB position charge from $5 to $6 per market maker position per month. The fee increase will be effective as of the beginning of 1996. This fee increase is intended to recover a portion of the costs of a number of enhancements to the Service since it was first launched in 1990, as well as to recognize an increase in costs associated with the operation and regulation of the OTCBB.

Specifically, several enhancements have been in place for over two years without any increase in fees to offset development, implementation, and maintenance costs. These include ACT trade reporting; real time display of high, low, close, previous close, and volume; OTCBB symbols programmable in the Nasdaq Workstation ticker; size requirements for priced issues; the admission of certain regional exchange-listed issues; nightly removal of stale foreign equity quotes; and expedited admission of delisted Nasdaq, NYSE and Amex issues, as well as qualifying issues from other quotation mediums.

In addition, the NASD has submitted a filing with the Commission to permit the quotation of Direct Participation Program securities ("DPPs") in the OTCBB, and to require transaction reporting for these securities. This will allow for a more centralized and transparent system for the quotation of DPPs, and will provide more efficient price discovery. Costs associated with

[1] Pursuant to a new rule numbering system for the NASD Manual anticipated to be effective no later than May 1, 1996, the rule that is the subject of this proposed rule change will become Rule 7010(m). *See* Exchange Act Release No. 36698 (January 11, 1996) 61 FR 1419 (January 19, 1996) (order approving new rule numbering system).

this initiative that already have been incurred include the creation and maintenance of a DPP ticker symbol database and directory for several thousand identifiable DPP issues.

The NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5)[2] of the Act. Section 15A(b)(5) specifies that the rules of a national securities association shall provide for the equitable allocations of reasonable dues, fees, and other charges among members, issuers, and other persons using any facility or system that the association operates or controls. The fee increase is the first since inception of the Service almost six years ago, and remains competitive with rates of the primary competitor.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective immediately pursuant to Section 19(b)(3)(A)(ii) of the Act and subparagraph (e) of Rule 19b–4 thereunder in that it constitutes a change to a due, fee, or other charge.

At any time within sixty (60) days of the filing of a proposed rule change pursuant to Section 19(b)(3)(A) of the Act, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by April 18, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Jonathan G. Katz,

Secretary.

[FR Doc. 96–7505 Filed 3–27–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37001; File No. SR–NSCC–96–07]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of a Proposed Rule Change To Permit NSCC To Charge and To Collect From Members Charges Imposed by Certain Third Parties

March 21, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on March 19, 1996, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR–NSCC–96–07) as described in Items I, II, and III below, which items have been prepared primarily by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to expand NSCC's authority to charge and to collect from members fees imposed by third parties.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

NSCC proposes to expand its authority to charge and to collect from its members fees imposed by certain third parties. NSCC's current rules permit NSCC to charge members for fees imposed by self-regulatory organizations or other security industry organizations or entities with which NSCC has entered into agreements. The proposed modifications to NSCC's rules will permit NSCC to include on members' settlement statements charges imposed by other entities or organizations with which NSCC has entered into agreements and which provide services or equipment to members which are integral to the services provided by NSCC.

From time to time, third parties which have entered into agreements with NSCC and which provide NSCC members with certain services or equipment that facilitate access to NSCC services, request that NSCC directly bill its members for the services or equipment such third parties provide to members.[3] The proposed rule change will permit such third parties to aggregate individual member charges in one invoice to NSCC and will allow NSCC in turn to include the third parties' charges to individual members on such NSCC members' settlement statements. The proposed rule will thereby enable NSCC members to consolidate their payment obligations. If a member does not consent to such charges or otherwise disputes such charges, NSCC will not fine the member for not paying to NSCC the third party's charges. In addition, NSCC will have no liability to any third party vendors for such charges.

NSCC believes the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder because the rule proposal provides for the equitable allocation of dues, fees, and other charges among NSCC's participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will impact or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments relating to the proposed rule change have been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which NSCC consents, the Commission will:

(a) by order approve such proposed rule change or

(b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of NSCC. All submissions should refer to the file number SR–NSCC–96–07 and should be submitted by April 18, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[4]

Jonathan G. Katz,

Secretary.

[FR Doc. 96–7500 Filed 3–27–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37003; File No. SR–PHLX–95–68]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating To Exercise Price Intervals for Index Options

March 21, 1996.

I. Introduction

On January 2, 1996, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend PHLX Rule 1101A, "Terms of Option Contracts," to provide that the exercise (strike) price interval for near-term index options generally will be $5, except: (1) where the exercise price exceeds $500, the exercise price interval may be $10; and (2) where the exercise price exceeds $1,000, the exercise price interval may be $20. For out-of-the-money, far-term (fifth month),[3] or long-term index option series (long-term options or "LEAPS"),[4] the proposal provides that the exercise price interval generally will be $25, except: (1) where the exercise price exceeds $500, the exercise price interval may be $50; and (2) where the exercise price exceeds $1,000, the exercise price interval may be $100. In addition, where the exercise price interval is greater than $5, the PHLX may list exercise prices at $5 intervals in response to demonstrated customer interest or a specialist request. The proposal also allows the PHLX to list exercise prices at wider intervals.

Notice of the proposal appeared in the **Federal Register** on February 7, 1996.[5] No comments were received on the proposed rule change.

II. Description of the Proposal

The PHLX proposes to amend PHLX Rule 1101A to incorporate new exercise price intervals for index options. Currently, PHLX Rule 1101A(a) states that the Exchange shall determine fixed point intervals of exercise prices for index options. According to the PHLX, the interval for index options generally is $5,[6] except in the far-term series of broad-based index options.[7] The PHLX proposes to widen the exercise price interval for all index options in accordance with a formula which takes into consideration the index value and time until expiration. Specifically, the PHLX proposes to list the following exercise price intervals for index options:

Index value	Near-term strikes	5th month/ LEAPS
500 or less	$5	$25
500 to 999	10	50
1,000 or more	20	100

Where the exercise price interval is wider than $5, the Exchange proposes to list (fill-in) exercise prices at $5 intervals in response to demonstrated customer interest or a specialist request.

The purpose of the proposal is to list index options with exercise prices at wider intervals, which should reduce the number of index option exercise prices listed on the Exchange.

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[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] The Commission has modified the text of the statements submitted by NSCC.

[3] For example, NSCC members may want to obtain computer hardware and/or software to access certain NSCC services. To facilitate such access, NSCC would make arrangements with a third party vendor to supply members with the appropriate hardware and/or software. The third party vendor would send a detailed monthly invoice directly to NSCC reflecting the individual member charge and aggregate charges for the month. NSCC would then include the appropriate charge on each member's monthly statement. NSCC would remit to the vendor within the agreed upon time period the amount that NSCC actually collected from members in connection with the vendor's charges.

[4] 17 CFR 200.30–3(a)(12) (1995).

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1955).

[3] Under PHLX Rule 1101A(b), the Exchange may list index option series of up to four cycle months and up to three consecutive months. According to the PHLX, most index options currently have five months trading at a given time, consisting of three cycle/quarterly series and two consecutive month series. For example, as of September 1995, the National Over-the-Counter Index ("XOC") had the following months listed: October, November, December, March, and June.

[4] Under PHLX Rule 1101A(b)(iii), the Exchange may list long-term options with up to 60 months until expiration. *See* Securities Exchange Act Release No. 35616 (April 17, 1995), 60 FR 20135 (April 24, 1995) (order approving File No. SR–PHLX–95–11).

[5] *See* Securities Exchange Act Release No. 36796 (January 31, 1996), 61 FR 46599.

[6] *See e.g.*, Securities Exchange Act Release No. 35591 (April 11, 1995), 60 FR 19423 (April 18, 1995) (order approving File No. SR–PHLX–95–07) (listing of USTOP 100 Index ("TPX") options). The PHLX notes that, generally, the strike price interval of an index option is listed in the contract specifications for the option.

[7] *See* PHLX Rule 1101A, Commentary .02. Commentary .02 provides that exercise prices for index options shall be $5.00, except exercise prices in the far-term series of XOC options, Value Line Composite Index ("VLE") options, Big Cap Index options and TPX options shall be $25.00 unless there is demonstrated customer interest at $5.00 intervals. Commentary .02 states that, for purposes of the commentary, demonstrated customer interest includes institutional (firm), corporate or customer interest expressed directly to the Exchange or through the customer's floor brokerage unit, but not interest expressed by a Registered Options Trader ("ROT") with respect to trading for the ROT's own account.

Specifically, the Exchange proposes to list higher-priced index options (above 500), as well as out-of-the money series, far-term (fifth month) series and long-term options, at wider intervals in order to reduce the number of exercise prices. Although most Exchange index options currently are listed at 5-point intervals the PHLX has observed that $5 exercise price intervals are unnecessary for higher-priced index options, far-term series, and long-term options. According to the PHLX, narrower exercise price intervals generally are most useful where there is little volatility and in lower-priced series. In addition, the PHLX notes that limited trading volume occurs in the far-term series of index options. Thus, the proposed reduction in exercise prices will be concentrated in the series with the least trading interest.

For high-priced, out-of-the money and far-term series, where the PHLX proposes to list exercise prices, generally, at intervals of $25 (or at intervals of $50 where the exercise price exceeds $500 or intervals of $100 where the exercise price exceeds $1,000), the PHLX proposes to list series at intervals as narrow as $5 in response to demonstrated customer interest or specialist request. This proposal is similar to existing PHLX Rule 1101A, Commentary .02, which permits the far-term series of broad-based index options to be listed at $25 intervals, unless there is customer interest for a $5 interval. For purposes of the proposal, demonstrated customer interest includes institutional (firm), corporate or customer interest expressed directly to the Exchange or through the customer's floor brokerage unit, but not interest expressed by an ROT with respect to trading for the ROT's own account. This limitation and definition of customer interest is intended to ensure that only legitimate customer requests lead to the listing of exercise prices at narrower intervals.

The Exchange believes that the ability to add $5 intervals in response to customer interest is important because it will allow the Exchange to respond to the needs of the marketplace and because it will prevent the loss of specific trading opportunities. In addition, the $25 interval preserves key trading strategies because it often represents a 2½ point index movement, which is similar to a stock trading at $25 with the option traded at 2½ point exercise price intervals.

The PHLX states that the proposal will provide $25 intervals in the fifth month and long-term options for most Exchange index options. In addition, the proposal provides for wider exercise price intervals in extraordinary circumstances to permit the PHLX to read to market conditions.

In implementing the wider intervals, the PHLX will begin listing exercise prices at the wider interval following the expiration after Commission approval, listing only the exercise prices required by the proposal. At the subsequent quarterly expiration, when the PHLX lists new five-month and long-term options, the PHLX will list new series at the wider intervals. For example, if the proposal were approved and implemented in January, the PHLX would delist the far-term series (*i.e.*, September) if there was no open interest in the series. Complete implementation of the proposal would begin at the next quarterly expiration in March, when the PHLX lists the December series. Upon implementation of the proposal, the Exchange will list far-term series at wider intervals until there are less than six months remaining until expiration, when intervening exercise prices will be listed at narrower intervals.[8]

The Exchange believes that listing higher-priced index options, far-term series and long-term options at wider intervals should improve the efficiency of quotation dissemination and speedy pricing by reducing the number of listed exercise prices. At the same time, the effect on Exchange systems is likewise notable, with a reduction in system usage and operational burdens. In this regard, the PHLX notes that exercise prices occupy trading floor screen space and line traffic to outside vendors for dissemination. Further, the role of the specialist in monitoring multitudes of exercise prices should be simplified.

With respect to operational burdens, the Exchange expects that reducing the number of exercise prices should also reduce the instances of wrap-around symbols.[9] The use of wrap-around symbols, although common, increases operational burdens, complicates screen displays and potentially confuses investors viewing vendor screens.

The Exchange believes that the proposal is an important contribution to the effort to limit the number of operation exercise prices. In recently approving 2½ point exercise prices on a pilot basis for equity options, the Commission cited the need to balance an exchange's desire to accommodate market participation by offering a wide array of investment opportunities and the need to avoid proliferation of option series.[10] The PHLX believes that the current proposal achieves such a balance by reducing the number of exercise prices and, thus, the associated systems and operational burdens, yet retains trading strategies and investment opportunities by listing wider intervals and providing the flexibility to widen or narrow such intervals in response to investor requests or market conditions.

For these reasons, the Exchange believes that the proposal is consistent with Section 6 of the Act, in general, and, in particular, with Section 6(b)(5), in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market, and protect investors and the public interest by eliminating excessive strike prices, thereby improving quotation dissemination capabilities, while maintaining investors' flexibility to better tailor index option trading to meet their investment objectives.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5) in that the proposal is designed to protect investors and the public interest and to remove impediments to and perfect the mechanism of a free and open market.[11] Specifically, the proposal will codify the Exchange's rules regarding the exercise price interval for all index options and will allow the PHLX to reduce the number of outstanding series listed for higher-priced index options, far-term index options, out-of-the money index options, and long-term index options by providing a wider exercise price interval for those series.

Because exercise prices for index options must be displayed on the Exchange's trading floor, disseminated to outside vendors and monitored by specialists, the Commission believes that the proposal should reduce the operational burden associated with the listing of exercise prices in inactive series of certain index options. By reducing the number of listed exercise prices, the proposal may improve the efficiency of quotation dissemination and speedy pricing of index options, thereby helping the PHLX to maintain fair and orderly options markets. The Commission also believes that the proposal should help to eliminate the potential investor confusion associated with wrap-around symbols.[12] The Commission believes that the proposal strikes a reasonable balance between the PHLX's interest in limiting the number of outstanding exercise prices in inactive series and its interest in accommodating the needs of investors. According to the PHLX, market participants generally do not require $5 exercise price intervals for higher-priced index options, far-term series, and long-term options. In addition, the PHLX notes that there is limited trading volume in far-term series of index options. Thus, the proposed reduction in exercise prices will be concentrated in the series with the least trading interest.

At the same time, the proposal provides the PHLX with the flexibility to accommodate the needs of investors by allowing the Exchange to list exercise prices at $5 intervals in response to demonstrated customer interest or specialist request.[13] This flexibility will allow the Exchange to respond to the needs of the marketplace and, in turn, will allow investors to establish options positions that are tailored to meet their investment objectives. The Commission believes that the customer request provision should help to ensure the availability of options series that will provide investors with a means to adequately hedge their portfolios and implement their trading strategies. In addition, the PHLX has stated that the listing of $25 intervals for far-term series will preserve key trading strategies. The provision of the proposal allowing the PHLX to list exercise prices at wider intervals will provide the Exchange with additional flexibility in the listing of exercise prices.

Finally, the Commission believes that the PHLX will implement the proposal in an orderly manner. Specifically, the PHLX will begin listing exercise prices at the wider interval following the expiration after Commission approval of the proposed rule change. The PHLX will also delist the far-term series if there is no open interest in the series. In addition, after implementing the proposal, the Exchange will list far-term series at wider intervals until there are less than six months remaining until expiration, when intervening exercise prices will be listed at narrower intervals.

IV. Conclusion

For the foregoing reasons, the Commission finds that the PHLX's proposal is consistent with the requirements of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[14] that the proposed rule change (File No. SR–PHLX–95–68) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Jonathan G. Katz,

Secretary.

[FR Doc. 96–7506 Filed 3–27–96; 8:45 am]

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[8] For example, because each quarter a far-term series with nine months until expiration is listed, after December expiration, a Séptember option is listed. After March expiration, the September option is no longer the far-term series, as a December option is added, so that the intervening strike prices would be added to the December series.

[9] A wrap-around occurs when the strike price codes A–T indicating the strike price of an option (from 5 to 100) have been used and additional strike prices require listing the option with a different root symbol. For example, KBW October 310 calls use that symbol "B" to denote 310, but the 410 calls would also have used the symbol. Thus, the October 410 calls are traded under the symbol BKV JB.

[10] *See* Security Exchange Act Release No. 35993 (July 19, 1995), 60 FR 38073 (July 25, 1995) (order approving File Nos. SR–PHLX–95–06, SR–Amex–95–12, SR–PSE–95–07, SR–CBOE–95–19, and SR–PSE–95–12).

[11] 15 U.S.C. § 78f(b)(5) (1988).

[12] *See* note 9, *supra.*

[13] For purposes of the proposal, demonstrated customer interest includes institutional (firm), corporate or customer interest expressed directly to the Exchange or through the customer's floor brokerage unit, but not interest expressed by an ROT with respect to trading for the ROT's own account. The Commission expects the PHLX to monitor the listing of additional strikes in order to ensure that new strikes are added only in response to "customer" requests, as defined in the proposal, or in response to a specialist's request.

[14] 15 U.S.C. § 78s(b)(2).

[15] 17 CFR 200.30–3(a)(12) (1995).

[Release No. 34–37002; File No. SR–Phlx–96–02]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to the Adoption of Listing and Listing Maintenance Standards for Unit Investment Trusts

March 21, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 29, 1996, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. On March 7, 1996, the Exchange submitted to the Commission Amendment No. 1 to the proposed rule change,[1] and on March 18, 1996 the Exchange submitted Amendment No. 2 to the proposed rule change.[2] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange, pursuant to Rule 19b–4 under the Act,[3] proposes to amend Phlx Rule 803 regarding Tier I listing standards in order to add new section (i), which will set forth listing standards for unit investment trusts ("UITs") and amend Phlx Rule 810 to add new subsections (a)(5) and (a)(6), which will set forth listing maintenance standards for UITs.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to add new section (i) to Phlx Rule 803, the Tier I listing criteria, to adopt listing standards applicable to UITs, which are distinct trading components representing discrete interests in the income, capital appreciation potential or other economic characteristics of the securities deposited in a trust. Such a trust may be based upon the securities of individual issuers, upon a portfolio of stocks included in a domestic, broad-based stock market index, or upon a portfolio or domestic money market instruments or other debt securities. A UIT would be defined as any share, unit or other interest in or relating to a unit investment trust, including any component resulting from the

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[1] *See* Letter from Michele R. Weisbaum, Assistant General Counsel, Phlx, to Jon Kroeper, Staff Attorney, SEC, dated March 5, 1996. *See infra* note 4 and text accompanying note 5 for a description of Amendment No. 1.

[2] *See* Letter from Michele R. Weisbaum, Associate General Counsel, Phlx, to Jon Kroeper, Staff Attorney, SEC, dated March 15, 1996. Amendment No. 2 added UIT listing maintenance standards to the proposed rule change. *See infra* text accompanying notes 6 and 7 for a description of Amendment No. 2.

[3] 17 CFR 240.19b–4.

subdivision or separation of such an interest.[4]

Pursuant to proposed subsection 803(i)A, UITs based upon securities of individual issuers may be listed on the Exchange under the following requirements. First, the issuer(s) of the security (or securities) held by the trust must have total assets in excess of $100 million and a net worth in excess of $10 million. Second, there must be at least one million units held beneficially or of record by 800 round lot holders and the UIT cannot hold in excess of 5% of the outstanding common or capital stock of any single issuer. Third, the stated term of the trust may not be less than three years and the units may not be subject to redemption at the election of the trustees prior to the end of the stated term of the trust.[5] Fourth, the trustee of the UIT must be a trust company or banking institution and its executive officer cannot be an officer of the issuing sponsor. Fifth, any voting rights conferred by the UIT interests may be divided between the separate components of the units and must be passed through to beneficial holders of the UIT interests and shareholder communications must be forwarded by the trust to the holders of the voting rights, to the extent that the UIT is reimbursed by the issuer for reasonable expenses. Finally, the UIT must sign a listing agreement with the Exchange which requires compliance with all other provisions of the 800 Series of Phlx Rules applicable to listed companies.

Pursuant to proposed subsection 803(i)B, UITs based on stock indexes or debt instruments may be listed on the Exchange under the following requirements. First, the trust must have total assets of at least $60 million at the time of formation and at least one million shares, units or components that are publicly distributed to at least 400 beneficial or record holders. Second, such UITs cannot have a stated term of less than two years; however, they may be subject to earlier termination if the circumstances under which this may occur are set forth in the trust's governing documents. Third, any voting rights conferred by the UIT interests may be divided between separate components of the units but must be passed through to the beneficial holders of the UIT interests. Fourth, the trustee must be a trust company or banking institution. Finally, the UIT must sign a listing agreement with the Exchange which requires compliance with all other provisions of the 800 Series of Rules applicable to listed companies.[6]

The Exchange also is proposing to adopt listing maintenance standards for UITs under new subsection (a)(5) and (a)(6) to Phlx Rule 810. Proposed Rule 810(a)(5) will permit the Exchange to suspend trading in, or remove from listing, a UIT listed under Rule 803(i)A if the financial condition and/or operating results of the issuer of the securities held by the trust appear to be unsatisfactory, as determined by the existence of one or more of the following criteria: (i) the net tangible assets of the issuer of the securities held by the UIT are not at least $2 million if the issuer has sustained losses from continuing operations and/or net losses in two of its three most recent fiscal years, or $4 million if it has such losses in three of its four most recent fiscal years; (ii) the total assets and net worth of the issuer of the securities held by the UIT are less than $25 million and $4 million, respectively; (iii) there are less than 400 record and/or beneficial holders of the trust units (or trading components thereof); (iv) less than 300,000 trust units (or trading components thereof) remain outstanding; (v) the issuer of the securities held by the UIT has sold or otherwise disposed of its principal operating assets, or has ceased to be an operating company; (vi) the UIT and/or trustee has failed to comply with the Phlx's listing policies or agreements; or (vii) such other event shall occur or conditions exist which, in the Exchange's opinion, makes further dealings on the Exchange inadvisable.[7]

Proposed Rule 810(a)(6) will permit the Exchange to suspend trading in, or remove from listing, a UIT listed pursuant to Rule 803(i)B if one of the following criteria is met: (i) more than 60 days remain until the termination of the UIT and there are less than 50 record and/or beneficial holders of shares, units or trading components thereof for 20 or more consecutive trading days; (ii) the UIT and/or trustee has failed to comply with the Phlx's listing policies or agreements; or (iii) such other event has occurred or condition exists which, in the Exchange's opinion, makes further dealings on the Exchange inadvisable.[8]

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act[9] in general, and in particular, with Section 6(b)(5) in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, as well as to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the

[4] The Commission notes that prior to listing and trading a UIT based on an index, money market instrument, or debt securities that the Commission has not previously reviewed, the Exchange would have to file a proposed rule change pursuant to Rule 19b–4 under the Act. Such a filing should, among other relevant issues, address any issues arising under the Investment Company Act of 1940 with regard to the listing and trading of a UIT under proposed Rule 803A(i). In addition, the Phlx would be required to adopt appropriate suitability standards for both the trading of any UIT which may be separated into component parts and the component parts themselves.

[5] Amendment No. 1 amends proposed subsection 803(i)A(3), which deals with the stated term of a UIT, to add the following provisions: (1) a listed trust may have only one termination date; (2) individual trading components of the trust units may have only one termination claim; and, (3) only one UIT may have only one termination claim; and, (3) only one UIT on the securities of a single issuer may be listed at a time.

[6] *See* Amendment No. 1, *supra* note 1.

[7] *See* Amendment No. 2, *supra* note 2.

[8] *See* Amendment No. 2, *supra* note 2.

[9] 15 U.S.C. 78f(b).

Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Phlx–96–02 and should be submitted by April 18, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–7508 Filed 3–27–96; 8:45 am]

BILLING CODE 8010–01–M

SELECTIVE SERVICE SYSTEM

Forms Submitted to the Office of Management and Budget for Extension of Clearance

The following forms have been submitted to the Office of Management and Budget (OMB) for extension of clearance in compliance with the Paperwork Reduction Act (44 U.S. Chapter 35):

SSS–2, 3B, 3C

Title: The Selective Service System Change of Information, Correction/ Change Form and Registration Status Forms.

Purpose: To insure the accuracy and completeness of the Selective Service System registration data.

Respondents: Registrants are required to report changes or corrections in data submitted on SSS Form 1.

Frequency: When changes in a registrant's name or address occur.

Burden: The reporting burden is two minutes or less per report.

Copies of the above identified forms can be obtained upon written request to: Selective Service System, Reports Clearance Officer, 1515 Wilson Boulevard, Arlington, Virginia, 22209–2425.

Written comments and recommendations for the proposed extension of clearance of the forms should be sent within 30 days of publication of this notice, to: Selective Service System, Reports Clearance Officer, 1515 Wilson Boulevard, Arlington, Virginia, 22209–2425.

A copy of the comments should be sent to: Office of Information and Regulatory Affairs, Attention: Desk Officer, Selective Service System, Office of Management and Budget, New Executive Office Building, Room 3235, Washington, DC 20503.

Dated: March 20, 1996.

Gil Coronado,

Director.

[FR Doc. 96–7512 Filed 3–27–96; 8:45 am]

BILLING CODE 8015–01–M

SMALL BUSINESS ADMINISTRATION

Salt Lake City Advisory Council Meeting Public Meeting

The U.S. Small Business Administration, Salt Lake City, Utah District Advisory Council will hold a public meeting on Tuesday, April 23, 1996 at 9:00 a.m. at the Executive Board Room of First Interstate Bank, at 180 South Main Street, Salt Lake City, to discuss matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. Stan Nakano, District Director, U.S. Small Business Administration, 125 South State Street, Salt Lake City, Utah 84138, (801) 524–5804.

Dated: March 22, 1996.

Bill Combs,

Associate Administrator for Office of Communication and Public Liaison.

[FR Doc. 96–7533 Filed 3–27–96; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Hellenikon International Airport, Athens, Greece; Notification of Ineffective Security Measures

Pursuant to 49 U.S.C. 44907d(1), on November 22, 1995, I notified the government of the Republic of Greece that I had determined that Hellenikon International Airport, Athens, Greece, did not maintain and carry out effective security measures. Ninety days have elapsed since my determination, and I have found that Hellenikon International Airport still does not maintain and carry out effective security measures. My determination is based on Federal Aviation Administration assessments which reveal that security measures used at the airport do not meet the standards established by the International Civil Aviation Organization.

Pursuant to 49 U.S.C. 44907d(1), I have directed that a copy of this notice be published in the **Federal Register**, that my determination be displayed prominently in all U.S. airports regularly being served by scheduled air carrier operations, and that the news media be notified of my determination. in addition, as a result of this determination, all U.S. air carriers and foreign air carriers (and their agents) providing service between the United States and Hellenikon International Airport must provide notice of my determination to any passenger purchasing a ticket for transportation between the United States and Hellenikon International Airport, with such notice to be made by written material included on or with such ticket.

Dated: March 21, 1996.

Federico Peña,

Secretary of Transportation.

[FR Doc. 96–7564 Filed 3–27–96; 8:45 am]

BILLING CODE 4910–62–P

Federal Highway Administration

Environmental Impact Statement; Pitkin County, CO

AGENCY: Federal Highway Administration, (FHWA), Colorado State Department of Transportation (CDOT).

ACTION: Revised notice of intent.

SUMMARY: The FHWA is issuing this revised notice to advise the public that the CDOT is preparing a supplement to the August 1995, Draft Environmental Impact Statement/4(f) Evaluation (DEIS/ 4(f)) for State Highway 82 Entrance to Aspen Project in Pitkin County, Colorado.

FOR FURTHER INFORMATION CONTACT:

Mr. Ron Speral, Environmental/Right-of-Way Engineer, Colorado Division, Federal Highway Administration, 555 Zang Street, Lakewood, Colorado 80228, (303) 969–6737, ext. 368

Mr. Ralph Trapani, Project Manager, Colorado Department of Transportation, 202 Centennial Drive, Glenwood Springs, Colorado 81601, (970) 945–7629

SUPPLEMENTARY INFORMATION: On February 23, 1994, a Notice of Intent was published in the **Federal Register**

advising the public that an Environmental Impact Statement (EIS) would be prepared for the above-mentioned project. The Draft EIS/4(f) (DEIS/4(f)) was made available to the public on August 4, 1995. On August 4, 1995, A Notice of Availability of the DEIS/4(f) was published in the **Federal Register**. As a result of public comments additional alternatives have been proposed, including new termini, which may change the proposed action, and which may result in significant environmental impacts that were not as set out in the DEIS. Pursuant to 23 CFR 771.130(a) a Supplemental DEIS/4(f) (SDEIS/4(f)) is considered necessary.

A public hearing will be held in the vicinity of the project following the release of the SDEIS/4(f). Public notice will be given of the time and place of the public hearing. The SDEIS/4(f) will be available for public and agency review and comment at the time of the hearing.

Issued on March 19, 1996.

Charmaine Farrar,

Program Development Engineer, FHWA, Lakewood, Colorado.

[FR Doc. 96–7581 Filed 3–27–96; 8:45 am]

BILLING CODE 4910–22–M

Federal Railroad Administration

[BS–AP–No. 3381 and BS–AP–No. 3382]

Central Oregon and Pacific Railroad; Public Hearing

The Central Oregon and Pacific Railroad has petitioned the Federal Railroad Administration (FRA) seeking approval of the proposed discontinuance and removal of the automatic block signal system, on the single main track, between Ashland, Oregon, milepost 429.1 and Glendale, Oregon, milepost 510.0, on the Siskiyou Line, a distance of approximately 81 miles, and between Cornutt, Oregon, milepost 538.8 and Springfield Junction, Oregon, milepost 644.3, on the Siskiyou Line, a distance of approximately 105.5 miles.

These proceedings are identified as FRA Block Signal Application Numbers 3381 and 3382 respectively.

FRA has issued a public notice seeking comments of interested parties and is conducting a field investigation in this matter. After examining the proposal FRA has determined that a public hearing is necessary before a final decision is made on this proposal.

Accordingly, a public hearing is hereby set for 9:00 a.m. on Thursday, April 25, 1996, in the Roseburg City Hall, City Council Chambers, located at 900 South East Douglas, Roseburg, Oregon. Interested parties are invited to present oral statements at the hearing.

The hearing will be an informal one and will be conducted in accordance with Rule 25 of the FRA Rules of Practice (Title 49 CFR Part 211.25), by a representative designated by the FRA.

The hearing will be a nonadversary proceeding and, therefore, there will be no cross-examination of persons presenting statements. The FRA representative will make an opening statement outlining the scope of the hearing. After all initial statements have been completed, those persons wishing to make brief rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures, if necessary for the conduct of the hearing, will be announced at the hearing.

Issued in Washington, D.C. on March 21, 1996.

Phil Olekszyk,

Deputy Associate Administratot for Safety Compliance and Program Implementation.

[FR Doc. 96–7426 Filed 3–27–96; 8:45 am]

BILLING CODE 4910–06–M

Research and Special Programs Administration

[Docket PS–148]

Notice of Proposed Collection; Comment Request

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Research and Special Programs Administration's (RSPA) intention to request extension of an existing information collection in support of the Office of Pipeline Safety (OPS) for Management Information System (MIS) Standardized Data Collection and Reporting of Drug Testing Materials.

DATES: Comments on this notice must be received on or before May 28, 1996 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Marvin Fell, Office of Pipeline Safety, Research and Special Programs Administration, Department of Transportation, 400 Seventh Street, S.W. Washington, D.C. 20950, (202) 366–1640.

SUPPLEMENTARY INFORMATION:

Title: Management Information System (MIS) Standardized Data Collection and Reporting of Drug Testing Materials.

OMB Number: 2137–0579.

Expiration Date of Approval: 12/31/96.

Type of Request: Extension of an existing information collection.

Abstract: This rule requiring information and recordkeeping procedures on drug testing is found in 49 CFR sections 199.1–199.25. This annual data collection is the basis for monitoring implementation and addressing compliance and enforcement issues and evaluating the overall effectiveness of the operator's drug testing programs.

Estimate of Burden: The average burden hours per response is 5.96 hours.

Respondents: Pipeline operators.

Estimated Number of Respondents: 2,419.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 12,809 hours.

Copies of this information collection can be reviewed at the Dockets Unit, Room 8421, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh St., S.W. Washington, D.C.

Comments are invited on: (a) The need for the proposed collection of information for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques. Send written comments to the Dockets Unit, Room 8421, Research and Special Programs Administration, U.S. Department of Transportation, 400 7th Street, S.W., Washington, DC 20590–0001.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also be a matter of public record.

Issued in Washington, DC on March 22, 1996.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 96–7563 Filed 3–27–96; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1078

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1078, Certificate of Alien Claiming Residence in the United States.

DATES: Written comments should be received on or before May 28, 1996, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Certificate of Alien Claiming Residence in the United States.

OMB Number: 1545–1482.

Form Number: Form 1078.

Abstract: Form 1078 is used by an alien to claim residence in the United States for income tax purposes.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households and business or other for-profit organizations.

Estimated Number of Respondents: 10,000.

Estimated Time per Respondent: 49 min.

Estimated Total Annual Burden Hours: 8,200.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Approved: March 18, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–7610 Filed 3–27–96; 8:45 am]

BILLING CODE 4830–01–U

Nonconventional Source Fuel Credit; Publication of Reference Price for Calendar Year 1995

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Publication of reference price for calendar year 1995 as required by section 29 of the Internal Revenue Code (26 U.S.C. section 29).

SUMMARY: The inflation adjustment factor, nonconventional source fuel credit, and reference price are used in determining the availability of the tax credit for production of fuel from nonconventional sources under section 29.

DATES: The 1995 inflation adjustment factor, nonconventional source fuel credit, and reference price apply to qualified fuels sold during calendar year 1995.

PRICE: The reference price for calendar year 1995 is $14.62. Because the above reference price will not exceed $23.50 multiplied by the inflation adjustment factor, the phaseout of credit provided for in section 29(b)(1) will not occur for any qualified fuel based on the above reference price.

INFLATION FACTOR AND CREDIT: The inflation adjustment factor for calendar year 1995 is not yet available. The inflation adjustment factor and the nonconventional source fuel credit for 1995 will be published as soon as they are known.

FOR FURTHER INFORMATION CONTACT: David McMunn, CC:DOM:P&SI:6, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, Telephone Number (202) 622–3110 (not a toll-free number).

Judith C. Dunn,

Associate Chief Counsel (Domestic).

[FR Doc. 96–7609 Filed 3–27–96; 8:45 am]

BILLING CODE 4830–01–U

Tax on Certain Imported Substances (Butyl Benzyl Phthalate); Notice of Determination

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This notice announces a determination, under Notice 89–61, that the list of taxable substances in section 4672(a)(3) will be modified to include butyl benzyl phthalate.

EFFECTIVE DATE: This modification is effective April 1, 1991.

FOR FURTHER INFORMATION CONTACT: Ruth Hoffman, Office of Assistant Chief Counsel (Passthroughs and Special Industries), (202) 622–3130 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Under section 4672(a), an importer or exporter of any substance may request that the Secretary determine whether that substance should be listed as a taxable substance. The Secretary shall add the substance to the list of taxable substances in section 4672(a)(3) if the Secretary determines that taxable chemicals constitute more than 50 percent of the weight, or more than 50 percent of the value, of the materials used to produce the substance. This determination is to be made on the basis of the predominant method of production. Notice 89–61, 1989–1 C.B. 717, sets forth the rules relating to the determination process.

Determination

On March 22, 1996, the Secretary determined that butyl benzyl phthalate should be added to the list of taxable substances in section 4672(a)(3), effective April 1, 1991.

The rate of tax prescribed for butyl benzyl phthalate, under section 4671(b)(3), is $5.54 per ton. This is based upon a conversion factor for methane of 0.05, a conversion factor for propylene of 0.17, a conversion factor for xylene of 0.47, a conversion factor for toluene of 0.32, and a conversion factor for chlorine of 0.26.

The petitioner is Monsanto Company, a manufacturer and exporter of this substance. No material comments were received on this petition. The following

information is the basis for the determination.

HTS number: 2917.39.2000
CAS number: 85–68–7

Butyl benzyl phthalate is derived from the taxable chemicals methane, propylene, xylene, toluene, and chlorine and is a liquid produced predominantly by the reaction of n-butanol and phthalic anhydride, followed by a reaction with benzyl chloride in the presence of a catalyst. n-butanol is manufactured by the hydrogenation of n-butyraldehyde, which is derived from propylene and synthesis gas (hydrogen and synthesis gas are derived from natural gas). Benzyl chloride is produced by direct photochemical chlorination of toluene. Phthalic anhydride is produced by the reaction of o-xylene with air in the presence of a catalyst.

The stoichiometric material consumption formula for this substance is:

CH_4 (methane)+C_3H_6 (propylene)+C_8H_{10} (xylene)+3 O_2 (oxygen)+C_7H_8 (toluene)+Cl_2 (chlorine) ——————>$C_{19}H_{20}O^4$ (butyl benzyl phthalate)+2 HCl (hydrochloric acid)+H_2 (hydrogen)+2 H_2O (water).

Butyl benzyl phthalate has been determined to be a taxable substance because a review of its stoichiometric material consumption formula shows that, based on the predominant method of production, taxable chemicals constitute 77.25 percent by weight of the materials used in its production.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 96–7608 Filed 3–27–96; 8:45 am]

BILLING CODE 4830–01–U

UNITED STATES INFORMATION AGENCY

Community Connections

ACTION: Notice—Request for Proposals.

SUMMARY: The Office of Citizen Exchanges, Russia/Eurasia Division of the United States Information Agency's Bureau of Educational and Cultural Affairs announces an open competition for an assistance award. Public and private non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501 (c)(3)–1 may apply to organize and implement community-based, professional programs for entrepreneurs, legal professionals and government officials from Ukraine and Moldova. The objective of Community Connections is to enhance the participants' skills in business and entrepreneurship, law, and local governance upon returning to Ukraine and Moldova. USIA is interested in proposals that provide both professional experience and exposure to American life and culture through internships hosted by U.S. businesses and local governmental and legal institutions, and homestays with local community members. This program is not academic in nature; rather, it is designed to provide practical, hands-on training in American business and in legal and public sector environments which can be transferred to the individual's professional career at home. The Agency welcomes innovative proposals which combine elements of professional enrichment, job shadowing and internships appropriate to the language ability and interests of the participants.

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world." The funding authority for the program cited above is provided through the *FREEDOM* Support Act. Programs and projects must conform with Agency requirements and guidelines outlined in the Solicitation Package. USIA projects and programs are subject to the availability of funds.

ANNOUNCEMENT TITLE AND NUMBER: All communications with SLUA concerning this announcement should refer to the above title and reference number E/PN–96–32.

DEADLINE FOR PROPOSALS: All copies must be received at the U.S. Information Agency by 5 p.m. Washington, D.C. time on Tuesday, April 30, 1996. Faxed documents will not be accepted, nor will documents postmarked April 30, 1996 but received at later date. It is the responsibility of each applicant to ensure that proposals are received by the above deadline.

FOR FURTHER INFORMATION CONTACT: The Office of Citizen Exchanges, Russia/Eurasia Division, E/PN Room 216, U.S. Information Agency, 301 4th Street SW., Washington, D.C. 20547, Phone: (202) 619–5326, fax: (202) 619–4350, internet: jdelgiud@usia.gov to request a Solicitation Package containing more detailed award criteria, required application forms, and standard guidelines for preparing proposals, including specific criteria for preparation of the proposal budget.

TO DOWNLOAD A SOLICITATION PACKAGE VIA INTERNET: The Solicitation Package may be downloaded from USIA'S website at http://www.usia.gov/ or from the Internet Gopher at gopher://gopher.usia.gov. Select "Education and Cultural Exchanges", then select "Current Request for Proposals (RFPs)." Please read "About the following RFPs before beginning to download.

Please specify USIA Program Assistant James Del Giudice on all inquiries and correspondences. Interested applicants should read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFP deadline has passed, Agency staff may not discuss this competition in any way with applicants until the Bureau proposal review process has been completed.

SUBMISSIONS: Applicants must follow all instructions given in the Solicitation Package. The original and 12 copies of the application should be sent to: U.S. Information Agency, Ref.: E/PN–96–32, Office of Grants Management, E/XE, Room 326, 301 4th Street, SW., Washington, DC 20547.

DIVERSITY GUIDELINES: Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into the total proposal.

SUPPLEMENTARY INFORMATION:

Overview

Community Connections seeks to establish and strengthen links between American communities and communities in Ukraine and Moldova.

Community Connections will focus on business (particularly entrepreneurship), the legal profession and its relationship to the administration of justice, and issue of concern for local government. Pending the availability of funds, approximately 325 Ukrainian business people, 160 Ukrainian legal professionals, 160 Ukrainian local government officials, 50 Moldovan business people, 25 Moldovan legal professionals, and 25 Moldovan local government officials will be recruited from selected regions of Ukraine and Moldova by experienced U.S. organizations with offices in Ukraine and Moldova. The program will recruit both English-speaking participants and participants with little or no English-language skills in order to expand the reach and impact of Community Connections.

Guidelines

In order to make the most effective use of the limited financial resources available while, at the same time, maintaining a maximum degree of program flexibility, the Office of Citizen Exchanges asks that interested organizations submit proposals to host no fewer than 30 participants in total. Organizations must host at least one group of participants each from two of the three subject components of the program. Groups of legal professionals and local government officials may not be smaller than 10 participants. Programs for business people will be from four to five weeks in length; programs for legal professionals will be from three to four weeks in length; and programs for government officials will be from two to three weeks in length. Programs are to be conducted between October 1, 1996, and December 31, 1997. Care must be taken to allow sufficient time between programs to adequately prepare for the following group. Organizations proposing to develop programs for additional groups of interns beyond the minimum must demonstrate that they have either allowed for sufficient preparatory time between programs or have the necessary human, physical and financial resources to adequately handle any overlap. The Agency strongly prefers that all programs be completed by December 31, 1997.

Recruitment for the "Community Connections" program will be conducted by experienced American organizations with offices in Ukraine and Moldova. All candidates for placement in the U.S. will be selected no later than December 1996. The first group of participants will be selected by August 1996 for arrival in the United States no earlier than October 1, 1996. Participants will be assigned to U.S. host communities by the Office of Citizen Exchanges based on the following factors: Existing ties between the regions of origin of the participants, the locations of the U.S. grantee organizations (e.g. Sister City ties), the professional interests of the participants, and the areas of strength of U.S. grantee organizations.

A proposal's cost-effectiveness, including in-kind contributions and ability to keep administrative costs low, is a major consideration in the review process. Cost-sharing may be in the form of allowable direct or indirect costs. The Recipient must maintain written records to support all allowable costs which are claimed as being its contribution to cost participation, as well as costs to be paid by the Federal Government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, Attachment E, "Cost-Sharing and Matching" and should be described in the proposal. In the event that the Recipient does not provide the minimum amount of cost-sharing as stipulated in the Recipient's budget, the Agency's contribution.

Proposed Budget

Organizations must submit a comprehensive line item budget based on the specific guidance in the Solicitation Package. Average per capita cost for participants hosted should not exceed $6,300.

Grants awarded to eligible organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. Eligible proposals will be forwarded to panels of USIA officers for advisory review. All eligible proposals will be reviewed by the program office, as well as the USIA Office of Eastern European and NIS Affairs and the USIA posts in Ukraine and Moldova. Proposals may be reviewed by the Office of the General Counsel or by other Agency elements. Funding decisions are at the discretion of the USIA Associate Director for Educational and Cultural Affairs. Final technical authority for assistance awards (grants or cooperative agreements) resides with the USIA grants officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below:

1. Program planning and ability to achieve objectives: Detailed agenda and relevant work plan should demonstrate careful and thorough preparation to carry out substantive programs which have a high likelihood of achieving program objectives. Agenda and plan should adhere to the program overview and guidelines described above. Objectives should be reasonable, feasible, and flexible.

2. Institutional capability: Organization should demonstrate sufficient skills and experience in hosting visitors from other countries and ability to utilize local business, legal and governmental resources and voluntary support. Thematic expertise in project subject areas should be demonstrated.

3. Cost-effectiveness: The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate. Proposals should also maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

4. Support of Diversity: Proposals should demonstrate the recipient's commitment to promoting the awareness and understanding of diversity.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The Agency reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal USIA procedures.

Dated: March 21, 1996.

Dell Pendergrast,

Deputy Associate Director for Educational and Cultural Affairs.

[FR Doc. 96–7467 Filed 3–27–96; 8:45 am]

BILLING CODE 8230–01–M

federal register

Thursday
March 28, 1996

Part II

Department of Transportation

Coast Guard

33 CFR Part 175, et al.
46 CFR Part 2, et al.
Approval of Inflatable Personal Flotation Devices (PFDs) for Recreational Boaters and Standards; Final Rules

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 175, 179 and 181

46 CFR Parts 2, 159, and 160

[CGD 93–055]

RIN 2115–AE50

Approval of Inflatable Personal Flotation Devices (PFDs) for Recreational Boaters

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: As part of the Presidential Regulatory Reform Initiative, the Coast Guard is establishing approval procedures for recreational inflatable personal flotation devices (PFDs), designating recreational inflatable PFDs as "associated equipment" for purposes of defect notification, revising the approval procedures for other kinds of recreational PFDs, and making editorial changes. These procedures are intended to establish an efficient approval procedure for PFDs. The Coast Guard anticipates that recreational boaters will be more likely to wear inflatable PFDs than currently approved devices, thereby increasing use of PFDs by the boating public and saving lives.

DATES: This rule is effective on April 29, 1996. The Director of the Federal Register approves as of April 29, 1996 the incorporation by reference of certain publications listed in the regulations.

FOR FURTHER INFORMATION CONTACT: Mr. Kurt J. Heinz, Marine Safety and Environmental Protection Directorate, Lifesaving and Fire Safety Standards Branch (G–MMS–4), telephone (202) 267–1444, facsimile (202) 267–1069, or electronic mail "Kurt___Heinz/G–M@cgsmtp.uscg.mil".

SUPPLEMENTARY INFORMATION:

Regulatory History

On November 9, 1993, the Coast Guard published an Advance Notice of Proposed Rulemaking (ANPRM) entitled "Inflatable Personal Flotation Devices" in the **Federal Register** (58 FR 59428). The ANPRM addressed structural and performance standards for inflatable PFDs, and procedures for approval and carriage requirements. On June 23, 1995, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled "Approval of Inflatable Personal Flotation Devices (PFDs) for Recreational Boaters" in the **Federal Register** (60 FR 32861). The Coast Guard received 3 letters commenting on the NPRM. No public hearing was requested and none was held.

Background and Purpose

In the same **Federal Register** as the NPRM for this rulemaking, the Coast Guard published an interim rule (IR) containing structural and performance standards for recreational inflatable personal flotation devices (60 FR 32836). Limited procedures to allow for approval of these devices were included in the IR. The NPRM for this rulemaking proposed, as part of the Presidential Regulatory Reform Initiative, a reinvention of the process for approval of inflatable and other PFDs for recreational boats. The proposed rules would remove duplicative requirements from multiple subparts dealing with various types of PFDs, and allow for wider participation of independent laboratories in the approval process. These proposed rules were not published as part of the IR because they may affect the approval of other types of PFDs to a limited extent and the public had not yet had a chance to fully participate in their development.

Discussion of Comments and Changes

The NPRM proposed to designate inflatable PFDs as "associated equipment" in 33 CFR Part 179 in accordance with 46 U.S.C. 4310. The effect of this designation would be to require manufacturers to establish and maintain a list of first purchasers of inflatable PFDs, and to notify those purchasers of any defects which have been discovered after the PFDs have been produced and sold.

Comments on this proposed provision were received from two PFD manufacturers and from the association representing PFD manufacturers. All three comments opposed the proposal. The association's comment suggested that designation of inflatable PFDs as "associated equipment" would place an inappropriate and inconsistent burden on inflatable PFDs in relation to requirements for other items of personal protection equipment. The two manufacturers' comments noted that the designation of inflatable PFDs as "associated equipment" did not appear to be consistent with the items which are currently so designated, i.e., inboard and outboard engines and stern drive units.

The Coast Guard does not agree with the comments which opposed designation of inflatable PFDs as "associated equipment" based solely on perceived similarity, or lack of similarity, to existing equipment. In the recreational boating arena, approved inflatable PFDs are an entirely new class of equipment with which the Coast Guard and the boating public have had little practical experience. The Coast Guard is concerned that as manufacturers begin producing approved inflatable PFDs for the recreational boating market for the first time, there may be latent defects in manufacturing or materials introduced into the product which would become apparent only after extended use and exposure in the marine environment. The provisions in 46 U.S.C. 4310(c)(1)(A) for notification of first purchasers of "associated equipment" in the event of known defects or failures of compliance would facilitate the widespread introduction of inflatable PFDs into this unfamiliar market with a minimum of risk to both users and manufacturers. The designation of inflatable PFDs for recreational boats as "associated equipment" complements the "Recreational Inflatable Personal Flotation Device Standards" final rule published elsewhere in today's **Federal Register**, which allows for approval of these devices with a minimum of restrictions or conditions. Consequently, 33 CFR 179.03, paragraph (d) under "Associated equipment" is retained as proposed in the NPRM. Because this provision is intended only to manage the risk involved in the introduction of a new product to a generally inexperienced market, the Coast Guard will re-evaluate it five years from the effective date of these regulations and remove it if it determines it is no longer necessary. As was discussed in the NPRM, these regulations (like all regulations affecting recreational boats) are reviewed periodically at public meetings of the National Boating Safety Advisory Council (NBSAC).

The NPRM proposed that as a means of developing and maintaining a list of first purchasers, PFD manufacturers be required to provide a postage-paid product registration card with each inflatable PFD, and to retain the returned cards on file for five years. Two comments from PFD manufacturers opposed the requirement, in proposed new Subpart H of 33 CFR Part 181, for PFD manufacturers to provide a postage-paid registration card with each inflatable PFD sold. The comments cited the burden and expense associated with the provision of such cards.

In response to the comments, the Coast Guard has decided not to include the proposed 33 CFR Part 181, Subpart H in this final rule. With the designation of inflatable PFDs as "Associated equipment" in the new 33 CFR 179.05, PFD manufacturers will be expected to "exercise reasonable diligence in establishing and maintaining a list of (first) purchasers and their current addresses." The Coast Guard acknowledges that there are other suitable means of accomplishing this end than by a mandated postage-paid card to be filled in by the first retail purchaser. PFD manufacturers may arrange for assistance of dealers and distributors in obtaining information concerning first purchasers, or provide for toll-free telephone or on-line registration by first purchasers. The removal of the postage-paid postcard requirement gives manufacturers flexibility to adopt the means best suited to their individual situations.

There are no comments on any of the other proposals in the NPRM. Those proposals were discussed in detail in the preamble to the NPRM, and are being adopted in this final rule with only minor editorial refinements and corrections, such as updating of Coast Guard staff symbols to reflect a recent Coast Guard reorganization.

The only substantive addition not specifically proposed in the NPRM is to redesignated 46 CFR 159.010–19, which specifies procedures for termination of acceptance or recognition of laboratories. Since termination of acceptance or recognition of a laboratory by the Commandant constitutes a final agency action, procedural measures have been added to ensure that such action cannot be taken by the Commandant without due process.

Incorporation by Reference

The Director of the Federal Register has approved the material in 33 CFR 181.4 and 46 CFR 159.001–4 for incorporation by reference under 5 U.S.C. 552 and 1 CFR part 51. The material is available as indicated in those sections.

Regulatory Evaluation

This rulemaking is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this rulemaking to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. These rules are generally procedural, enabling boaters to purchase and use inflatable PFDs on their boats if they wish to do so. The only rule that will require affected parties to do something they are not already doing is the designation of inflatable PFDs as "associated equipment", which will require that manufacturers "exercise due diligence in establishing and maintaining a list of (first) purchasers and their current addresses." Compliance with this requirement can be as simple as maintenance of returned postage-prepaid registration cards, as was proposed in the NPRM. Since that specific requirement is not included in this final rule, manufacturers will have flexibility to comply with the statutory requirement in the least burdensome manner for their particular circumstances. The total cost for this requirement, including overhead, is expected to be no more than 50¢ per device, resulting in a total cost to the industry of only $25,000 annually if 50,000 units per year are produced.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rulemaking will have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

These rules are generally procedural, enabling boaters to purchase and use inflatable PFDs on their boats if they wish to do so. As discussed above, the economic impact of the new requirements is expected to be minimal, and no comments were received concerning the impact of this rulemaking on small entities. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains collection-of-information requirements. The Coast Guard has submitted the requirements to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). The Coast Guard will publish a notice in the **Federal Register** when they have been approved. The section number is 46 CFR 159.010–7.

Federalism

The Coast Guard has analyzed this rulemaking under the principles and criteria contained in Executive Order 12612 and has determined that it does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This rulemaking establishes and revises procedures for Coast Guard approval of inflatable and other PFDs. The authority to establish these requirements is committed to the Coast Guard by Federal statutes. Furthermore, since PFDs are manufactured and used in the national marketplace, safety standards for PFDs should be national in scope to avoid burdensome variances. Therefore, this rule preempts State action on the same subject matter.

Environment

The Coast Guard considered the environmental impact of this rulemaking and concluded that, under paragraph 2.B.2 of Commandant Instruction M16475.1B, this rulemaking is categorically excluded from further environmental documentation. This rulemaking is procedural in nature, and contains nothing that would affect the environment.

List of Subjects

33 CFR Part 175

Marine safety.

33 CFR Part 179

Marine safety, Reporting and recordkeeping requirements.

33 CFR Part 181

Incorporation by Reference, Labeling, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 2

Marine safety, Reporting and recordkeeping requirements, vessels.

46 CFR Part 159

Business and industry, Incorporation by Reference, Laboratories, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 160

Marine safety, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR parts 175, 179 and 181; and 46 CFR parts 2, 159, and 160 as follows:

Title 33—[Amended]

PART 175—EQUIPMENT REQUIREMENTS

1. The authority citation for part 175 continues to read as follows:

Authority: 46 U.S.C. 4302; 49 CFR 1.46.

2. In § 175.21, paragraph (a) is revised to read as follows:

§ 175.21 Condition; size and fit; approval marking.

* * * * *

(a) In serviceable condition as provided in § 175.23;

* * * * *

3. Section 175.23 is added to read as follows:

§ 175.23 Serviceable condition.

A PFD is considered to be in serviceable condition for purposes of § 175.21(a) only if the following conditions are met:

(a) No PFD may exhibit deterioration that could diminish the performance of the PFD, including—

(1) Metal or plastic hardware used to secure the PFD on the wearer that is broken, deformed, or weakened by corrosion;

(2) Webbings or straps used to secure the PFD on the wearer that are ripped, torn, or which have become separated from an attachment point on the PFD; or

(3) Any other rotted or deteriorated structural component that fails when tugged.

(b) In addition to meeting the requirements of paragraph (a) of this section, no inherently buoyant PFD, including the inherently buoyant components of a hybrid inflatable PFD, may exhibit—

(1) Rips, tears, or open seams in fabric or coatings, that are large enough to allow the loss of buoyant material;

(2) Buoyant material that has become hardened, non-resilient, permanently compressed, waterlogged, oil-soaked, or which shows evidence of fungus or mildew; or

(3) Loss of buoyant material or buoyant material that is not securely held in position.

(c) In addition to meeting the requirements of paragraph (a) of this section, an inflatable PFD, including the inflatable components of a hybrid inflatable PFD, must be equipped with—

(1) Except as provided in paragraph (d) of this section, a properly armed inflation mechanism, complete with a full inflation medium cartridge and all status indicators showing that the inflation mechanism is properly armed;

(2) Inflatable chambers that are all capable of holding air;

(3) Oral inflation tubes that are not blocked, detached, or broken;

(4) A manual inflation lanyard or lever that is not inaccessible, broken, or missing; and

(5) Inflator status indicators that are not broken or otherwise non-functional.

(d) The inflation system of an inflatable PFD need not be armed when the PFD is worn inflated and otherwise meets the requirements of paragraphs (a) and (c) of this section.

PART 179—DEFECT NOTIFICATION

4. The authority citation for Part 179 is revised to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 4302, 4307, 4310, and 4311; 49 CFR 1.46.

5. Section 179.01 is revised to read as follows:

§ 179.01 Purpose.

This part prescribes rules to implement 46 U.S.C. 4310, governing the notification of defects in boats and associated equipment.

6. Section 179.03 is revised to read as follows:

§ 179.03 Definitions.

Associated equipment means the following equipment as shipped, transferred, or sold from the place of manufacture and includes all attached parts and accessories:

(1) An inboard engine.

(2) An outboard engine.

(3) A stern drive unit.

(4) An inflatable personal flotation device approved under 46 CFR 160.076.

Boat means any vessel—

(1) Manufactured or used primarily for noncommercial use;

(2) Leased, rented, or chartered to another for the latter's noncommercial use; or

(3) Engaged in the carrying of six or fewer passengers.

Manufacturer means any person engaged in—

(1) The manufacture, construction, or assembly of boats or associated equipment;

(2) The manufacture or construction of components for boats and associated equipment to be sold for subsequent assembly; or

(3) The importation into the United States for sale of boats, associated equipment, or components thereof.

7. Section 179.05 is revised to read as follows:

§ 179.05 Manufacturer discovered defects.

Each manufacturer who is required to furnish a notice of a defect or failure to comply with a standard or regulation under 46 U.S.C. 4310(b), shall furnish that notice within 30 days after the manufacturer discovers or acquires information of the defect or failure to comply.

8. Section 179.07 is revised to read as follows:

§ 179.07 Notice given by "more expeditious means".

Each manufacturer who gives notice by more expeditious means as provided for in 46 U.S.C. 4310(c)(1)(C), must give such notice in writing.

9. In § 179.09 the introductory paragraph is revised to read as follows:

§ 179.09 Contents of notification.

Each notice required under 46 U.S.C. 4310(b) must include the following additional information:

* * * * *

10. Section 179.11 is revised to read as follows:

§ 179.11 Defects determined by the Commandant.

A manufacturer who is informed by the Commandant under 46 U.S.C. 4310(f) that a boat or associated equipment contains a defect relating to safety or failure to comply with a standard or regulation issued under the authority of 46 U.S.C. 4302, shall within 30 days of receipt of the information—

(a) Furnish the notification described in 46 U.S.C. 4310(d) to the persons designated in 46 U.S.C. 4310(c), or

(b) Provide information to the Commandant by certified mail stating why the manufacturer believes there is no defect relating to safety or failure of compliance.

10a. In § 179.13, paragraphs (a) introductory text, (a)(1), and (a)(2) are revised to read as follows:

§ 179.13 Initial report to the Commandant.

(a) When a manufacturer gives a notification required under 46 U.S.C. 4310, the manufacturer shall concurrently send to the Commandant by certified mail—

(1) A true or representative copy of each notice, bulletin, and other communication given to persons required to be notified under 46 U.S.C. 4310(c);

(2) The manufacturer's best estimate of the total number of boats or items of associated equipment potentially affected by the defect or failure to comply with a standard or regulation prescribed under 46 U.S.C. 4302; and

* * * * *

11. Section 179.17 is revised to read as follows:

§ 179.17 Penalties.

Each manufacturer who fails to comply with a provision of 46 U.S.C. 4310 or the regulations in this part, is subject to the penalties as prescribed in 46 U.S.C. 4311.

12. Section 179.19 is revised to read as follows:

§ 179.19 Address of the Commandant.

(a) Each report and communication sent to the Coast Guard and required by this part concerning boats and associated equipment other than inflatable personal flotation devices, must be submitted to Commandant (G–OPB–3), U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593–0001.

(b) Each report and communication sent to the Coast Guard and required by this part concerning inflatable personal flotation devices, must be submitted to Commandant (G–MMS–4), U.S. Coast Guard, 2100 Second St. SW., Washington, DC 20593–0001.

PART 181—MANUFACTURER REQUIREMENTS

13. The authority citation for part 181 is revised to read as follows:

Authority: 46 U.S.C. 4302 and 4310; 49 CFR 1.46.

Subpart A—General

14. In § 181.4, paragraph (b) is revised to read as follows:

§ 181.4 Incorporation by reference.

* * * * *

(b) The materials approved for incorporation by reference in this part, and the sections affected are:

Underwriters Laboratories, Inc.

333 Pfingsten Road, Northbrook, IL 60062.

UL 1123, Marine Buoyant Devices, 181.703.

February 17, 1995.

Subpart G—Instruction Pamphlet For Personal Flotation Devices

15. Section 181.702 is revised to read as follows:

§ 181.702 Information pamphlet: requirement to furnish.

(a) Each manufacturer of a Type I, II, III, IV, or V personal flotation device (PFD) must furnish with each PFD that is sold or offered for sale for use on a recreational boat, an information pamphlet meeting the requirements of § 181.703, § 181.704, or § 181.705 of this subpart, as appropriate.

(b) No person may sell or offer for sale for use on a recreational boat, a Type I, II, III, IV, or V PFD unless an information pamphlet required by this section is attached in such a way that it can be read prior to purchase.

16. Section 181.703 is revised to read as follows:

§ 181.703 Information pamphlet: Contents.

Unless otherwise specified in this subpart, each information pamphlet must contain the information specified in sections 33, 34 and 35 of UL 1123.

17. Section 181.704 is added to read as follows:

§ 181.704 contents of information pamphlet: Recreational hybrid PFD.

Each information pamphlet for a recreational hybrid PFD approved under 46 CFR 160.077 must contain the information specified in 46 CFR 160.077–27.

18. Section 181.705 is added to read as follows:

§ 181.705 Contents of information pamphlet: Recreational inflatable PFD.

Each information pamphlet for a recreational inflatable PFD approved under 46 CFR 160.076 must contain the information required by 46 CFR 160.076–35.

Title 46—[Amended]

PART 2—VESSEL INSPECTIONS

19. The authority citation for part 2 is revised to read as follows:

Authority: 33 U.S.C. 1903; 43 U.S.C. 1333; 46 U.S.C. 3306, 3703; E.O. 12334, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46; subpart 2.45 also issued under the authority of Act Dec. 27, 1950, Ch. 1155, secs. 1, 2, 64 Stat. 1120 (see 46 U.S.C. App. note prec. 1).

20. In § 2.75–1, paragraph (f) is revised to read as follows:

§ 2.75–1 Approvals.

* * * * *

(f) A listing of current and formerly approved equipment and materials is published by the Coast Guard from time to time in "Equipment Lists" (COMDTINST M16714.3 series), which is available for sale from the Superintendent of Documents, Government Printing Office.

§ 2.75–17 [Removed]

21. Section 2.75–17 is removed.

§ 2.75–18 [Removed]

22. Section 2.75–18 is removed.

§ 2.75–19 [Removed]

23. Section 2.75–19 is removed.

§ 2.75–20 [Removed]

24. Section 2.75–20 is removed.

§ 2.75–30 [Removed]

25. Section 2.75–30 is removed.

26. In § 2.75–50, the section heading and paragraph (a) are revised and a new paragraph (c) is added to read as follows:

§ 2.75–50 Withdrawals or terminations of approvals and appeals.

(a) The Commandant may withdraw approval for any item which is found not to be in compliance with the conditions of approval, found to be unsuitable for its intended purpose, or does not meet the requirements of applicable regulations.

* * * * *

(c) Any person directly affected by a decision to deny, withdraw, or terminate an approval may appeal the decision to the Director of Marine Safety and Environmental Protection (Commandant (G–M)) as provided in § 1.03–15 of this chapter.

PART 159—APPROVAL OF EQUIPMENT AND MATERIALS

27. The authority citation for part 159 is revised to read as follows:

Authority: 46 U.S.C. 3306, 3703; 49 CFR 1.45, 1.46; Section 159.001–9 also issued under the authority of 44 U.S.C. 3507.

28. Section 159.001–2 is revised to read as follows:

§ 159.001–2 Right of appeal.

Any person directly affected by a decision or action taken under this subchapter, by or on behalf of the Coast Guard, may appeal to the Director of Marine Safety and Environmental Protection (Commandant (G–M)) as provided in § 1.03–15 of this chapter.

29. Section 159.001–3 is revised to read as follows:

§ 159.001–3 Definitions.

As used in this part:

Classification society means an organization involved in the inspection of ships and ship equipment, and which, as determined by the Commandant, meets the standards in IMO Resolution A.739(18).

Independent laboratory means an organization which meets the standards for acceptance in § 159.010–3 of this part, and which is accepted by the Coast Guard for performing certain tests and inspections. In addition to commercial testing laboratories, the Commandant may also accept classification societies and agencies of governments that are involved in the inspection and testing of marine safety equipment that meet the requirements of § 159.010–3.

Memorandum of Understanding (MOU) is an agreement between the Coast Guard and a laboratory that specifies the approval functions a recognized independent laboratory performs for the Coast Guard and the recognized independent laboratory's working arrangements with the Coast Guard.

Recognized independent laboratory means an independent laboratory which meets the standards of § 159.010–3, and is accepted by the Coast Guard to

perform certain equipment approval functions on behalf of the Coast Guard, as described in a Memorandum of Understanding signed by the laboratory and the Coast Guard in accordance with § 159.010–7(b).

30. Section 159.001–4 is added to read as follows:

§ 159.001–4 Incorporation by reference.

(a) Certain materials is incorporated by reference into this part with the approval of the Director of the **Federal Register** under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of change in the **Federal Register**; and the material must be available to the public. All approved material is available for inspection at the Office of the Federal Register, 800 North Capitol Street NW, suite 700, Washington, DC, and at the U.S. Coast Guard, Lifesaving and Fire Safety Standards Branch (G–MMS–4), 2100 Second Street SW, Washington, DC 20593–0001, and is available from the sources indicated in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this part (subchapter) and the sections affected are as follows:

International Maritime Organization (IMO)

Publications Section, 4 Albert Embankment, London SE1 7SR, England.

Resolution A.739(18), Guidelines for the Authorization of Organizations Acting on Behalf of the Administration, November 22, 1993—159.001–3.

31. Section 159.001–5 is revised to read as follows:

§ 159.001–5 Correspondence and applications.

Unless otherwise specified, all correspondence and applications in connection with approval and testing of equipment and materials must be addressed to: Commandant (G–MMS–4), U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593–0001, Telephone: (202) 267–1444, Facsimile: (202) 267–1069, Electronic mail: MVI–3/G–M@cgsmtp.uscg.mil.

Subpart 159.005—Approval Procedures

32. In § 159.005–13, paragraph (a)(4) is revised to read as follows:

§ 159.005–13 Equipment or material: approval.

(a) * * *

(4) Publishes a record of the approval in "Equipment Lists." The most recent edition of "Equipment Lists" U.S. Coast Guard Publication M16714.3 (series) is available from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250–7954.

* * * * *

33. The title of subpart 159.010 is revised to read as follows:

Subpart 159.010—Independent Laboratory: Acceptance, Recognition, and Termination

34. Section 159.010–1 is revised to read as follows:

§ 159.010–1 Purpose.

This subpart contains the following:

(a) The standards and procedures under which the Coast Guard accepts an independent laboratory that a manufacturer proposes to use.

(b) The standards and procedures under which a laboratory is accepted as a recognized laboratory under applicable subparts.

(c) The circumstances under which the acceptance or recognition of a laboratory is terminated.

35. Section 159.010–5 is revised to read as follows:

§ 159.010–5 Independent laboratory: application for acceptance.

(a) Each application for acceptance of an organization as an independent laboratory must contain the following:

(1) The name and address of the organization.

(2) A list of the equipment or material that the organization would inspect, or test, or both, under this subchapter.

(3) A description of the organization's experience and its qualifications for conducting the inspections and tests required in the applicable subpart.

(4) A description of the apparatus and facilities available to the organization for conducting those inspections and tests.

(5) If instruments are used in the required tests and inspections, a description of the instrument calibration program applying to those instruments.

(6) The position titles of personnel who are to perform, supervise, or witness those inspections or tests, along with the training and experience required for personnel in those positions.

(7) A statement signed by the chief officer of the organization or the chief officer's representative, that an official representative of the Coast Guard is allowed access upon request to the place where tests and inspections take place, to verify the information submitted in the application, or to witness tests and inspections.

(b) Each application for acceptance as an independent laboratory that is not submitted by an agency of a state or another national government, or by a classification society, must also contain the following:

(1) The name and address of each subsidiary and division of the organization, or a statement that none are involved in the testing or manufacturing of equipment approved under this subchapter.

(3) The name, title, address, and principal business activity of each of the organization's officers and directors, and the name, address, and principal business activity of each person, company, or corporation that owns at least three-percent interest in the organization or in a company or corporation that controls the organization.

§ 159.010–7 [Removed]

36. Section 159.010–7 is removed.

§ 159.010–9 [Redesignated as § 159.010–7]

37. Section 159.010–9 is redesignated 159.010–7, and revised to read as follows:

§ 159.010–7 Recognized independent laboratory: Memorandum of Understanding.

(a) Only laboratories that have entered into an MOU with the Coast Guard may perform the functions of a recognized laboratory under this chapter.

(b) An independent laboratory seeking to become a recognized independent laboratory must submit a signed MOU to the Commandant that includes—

(1) A statement of purpose;

(2) An identification and description of the parties involved;

(3) A description of the problem resolution and appeals processes;

(4) A description of the process for measuring effectiveness and efficiency of the program under the MOU;

(5) The effective date of the MOU and terms for its termination;

(6) A statement to the effect that the MOU is not an exclusive agreement between the recognized independent laboratory and the Coast Guard;

(7) An agreement to conduct comparison testing with other recognized laboratories as directed by the Coast Guard, no more often than twice each year, with the laboratory bearing the cost of sample acquisition and testing;

(8) A statement as to how the costs of implementing the MOU will be borne; and

(9) A description of each party's responsibilities for—

(i) Equipment review and approval;

(ii) Coast Guard oversight of the recognized independent laboratory's procedures and processes;

(iii) Coordination between the parties;

(iv) Developing and maintaining regulations and standards;

(v) Handling review and approval of new and novel items not anticipated by existing regulations and standards;

(vi) Testing and inspection facilities and procedures;

(vii) Production quality control; and

(vii) Maintenance of records.

(c) The signature on the MOU required by paragraph (b) of this section must be that of the chief officer of the independent laboratory or the chief officer's representative. The Commandant or an authorized representative of the Commandant will review the MOU to ensure that it contains the information required by paragraph (b) of this section, and that the substantive provisions submitted in compliance with that paragraph are equivalent to those contained in other MOUs signed by the Commandant. If the Commandant determines that the MOU is acceptable and the independent laboratory is capable of carrying out the equipment approval functions identified in the MOU in accordance with all appropriate requirements, the Commandant or authorized representative may at his discretion sign the MOU. Where qualitative tests or determinations are required for approval or follow-up, provision must be made for conducting comparison tests with other recognized laboratories.

(d) Copies of MOUs signed by the Commandant in accordance with this part and of lists of independent laboratories which have been accepted as recognized laboratories but which have not yet been added to the lists included in this subchapter may be obtained at the address listed in § 159.001–5.

§ 159.010–11 [Removed]

38. Section 159.010–11 is removed.

§ 159.010–17 [Redesignated as § 159.010–11]

39. Section 159.010–17 is redesignated 159.010–11, and revised to read as follows:

§ 159.010–11 Changes in the laboratory's qualifications.

(a) If any of the information submitted under § 159.010–5(a) changes, the laboratory shall notify the Commandant in writing of each change within 30 days after the change has occurred.

(b) If any change in the independent laboratory occurs which affects its performance under the MOU required under § 159.010–7, the laboratory shall notify the Commandant in writing within 30 days after the change occurs. The Commandant may terminate the MOU, or may require amendments or revisions.

§ 159.010–19 [Redesignated § 159.010–17]

40. Section 159.010–19 is redesignated 159.010–17, and revised to read as follows:

§ 159.010–17 Termination of acceptance or recognition of an independent laboratory.

The acceptance or recognition of a laboratory terminates if the laboratory—

(a) Requests termination;

(b) Is no longer in business;

(c) Knowingly fails to perform or supervise an inspection or test, or both, as required in an applicable subpart;

(d) Knowingly attests to the lack of errors, omissions, or false statement of an approval test report that contains errors omissions, or false statements;

(e) Does not meet the requirements of § 159.010–3(a);

(f) Does not comply with § 159.010–11;

(g) Contracts or transfers the performance or supervision of required inspections or tests to another laboratory or person without the approval of the Commandant; or

(h) Fails to, or in the opinion of the Commandant is unable to, carry out its responsibilities under an MOU required by § 159.010–7.

§ 159.010–21 [Redesignated as § 159.010–19]

41. Section 159.010–21 is redesignated 159.010–19, and revised to read as follows:

§ 159.010–19 Termination of acceptance or recognition: Procedure.

(a) If the Coast Guard receives evidence of grounds for termination of acceptance or recognition of an independent laboratory under § 159.010–17, the Commandant will notify the laboratory that termination is under consideration. The laboratory may submit written comments to the Commandant within 21 days of receipt of the notification. The Commandant will take all timely written comments into account before taking final action in the matter, and in no case will the Commandant take final action until at least 30 days after the laboratory has received the notification. Any final action taken by the Commandant is final agency action on the matter.

(b) If a deficiency could materially affect the validity of an approval issued under an applicable subpart, the Commandant may temporarily suspend the acceptance of the laboratory and may direct the holder of the certificate of approval to cease claiming that the items tested or inspected by the laboratory are Coast Guard approved, pending a final decision in the matter.

PART 160—LIFESAVING EQUIPMENT

42. The authority citation for Part 160 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3703, and 4302; E.O. 12234, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

Subpart 160.021—Hand Red Flare Distress Signals

§ 160.021–9 [Removed]

44. Section 160.021–9 is removed.

Subpart 160.022—Floating Orange Smoke Distress Signals (5 Minutes)

§ 160.022–9 [Removed]

43. Section 160.022–9 is removed.

Subpart 160.023—Hand Combination Flare and Smoke Distress Signals

§ 160.023–9 [Removed]

44. Section 160.023–9 is removed.

Subpart 160.024—Pistol-Projected Parachute Red Flare Distress Signals

§ 160.024–9 [Removed]

45. Section 160.024–9 is removed.

Subpart 160.028—Signal Pistols For Red Flare Distress Signals

§ 160.028–9 [Removed]

46. Section 160.028–9 is removed.

Subpart 160.031—Line-Throwing Appliance, Shoulder Gun Type (And Equipment)

§ 160.031–9 [Removed]

47. Section 160.031–9 is removed.

Subpart 160.036—Hand-Held Rocket-Propelled Parachute Red Flare Distress Signals

§ 160.036–9 [Removed]

48. Section 160.036–9 is removed.

Subpart 160.037—Hand Orange Smoke Distress Signals

§ 160.037–9 [Removed]

49. Section 160.037–9 is removed.

Subpart 160.040—Line-Throwing Appliance, Impulse-Projected Rocket Type (And Equipment)

§ 160.040–9 [Removed]

50. Section 160.040–9 is removed.

Subpart 160.047—Specifications for a Buoyant Vest, Kapok, or Fibrous Glass, Adult and Child

§ 160.047–6a [Removed]

51. Section 160.047–6a is removed.

§ 160.047–6b [Removed]

52. Section 160.047–6b is removed.

§ 160.047–6c [Removed]

53. Section 160.047–6c is removed.

54. Section 160.047—7 is revised to read as follows:

§ 160.047–7 Recognized Laboratory

(a) A manufacturer seeking Coast Guard approval of a product under this subpart shall follow the approval procedures of subpart 159.005 of this chapter, and shall apply for approval directly to a recognized independent laboratory. The following laboratories are recognized under § 159.010–7 of this part, to perform testing and approval functions under this subpart:

Underwriters Laboratories, 12 Laboratory Drive, P.O. Box 13995, Research Triangle Park, NC 27709–3995, (919) 549–1400.

(b) Production oversight must be performed by the same laboratory that performs the approval tests unless, as determined by the Commandant, the employees of the laboratory performing production oversight receive training and support equal to that of the laboratory that performed the approval testing.

§ 160.047–9 [Removed]

55. Section 160.047–9 is removed.

§ 160.047–10 [Removed]

56. Section 160.047—10 is removed.

Subpart 160.048—Specification for a Buoyant Cushion, Fibrous Glass

§ 160.048–7 [Amended]

57. Section 160.048–7, removed paragraphs (a) and (b) and redesignate paragraphs (b), (c), and (e) as (a), (b), and (c) respectively.

§ 160.048–7a [Removed]

58. Section 160.048–7a is removed.

59. Section 160.048–8 is revised to read as follows:

§ 160.048–8 Recognized Laboratory.

(a) A manufacturer seeking Coast Guard approval of a product under this subpart shall follow the approval procedures of subpart 159.005 of this chapter, and shall apply for approval directly to a recognized independent laboratory. The following laboratories are recognized under § 159.010–7 of this part, to perform testing and approval functions under this subpart:

Underwriters Laboratories, 12 Laboratory Drive, P.O. Box 13995, Research Triangle Park, NC 27709–3995, (919) 549–1400.

(b) Production oversight must be performed by the same laboratory that performs the approval tests unless, as determined by the Commandant, the employees of the laboratory performed production oversight receive training and support equal to that of the laboratory that performed the approval testing.

§ 160.048–9 [Removed]

60. Section 160.048–9 is removed.

§ 160.048–10 [Removed]

61. Section 160.048–10 is removed.

Subpart 160.049—Specification for a Buoyant Cushion, Plastic Foam

62. In § 160.049–7, revise the heading, remove paragraphs (a) and (d) and redesignate paragraphs (b), (c), and (e) as (a), (b), and (c) respectively, to read as follows:

§ 160.049–7 Procedure for approval

§ 160.049–7a [Removed]

63. Section 160.049–7a is removed.

63. Section 160.049–8 is revised to read a follows:

§ 160.049–8 Recognized laboratory.

(a) A manufacturer seeking Coast Guard approval of a product under this subpart shall follow the approval procedures of subpart 159.005 of this chapter, and shall apply for approval directly to a recognized independent laboratory. The following laboratories are recognized under § 159.010–7 of this part, to perform testing and approval functions under this subpart:

Underwriters Laboratories, 12 Laboratory Drive, P.O. Box 13995, Research Triangle Park, NC 27709–3995, (919) 549–1400.

(b) Production oversight must be performed by the same laboratory that performs the approval tests unless, as determined by the Commandant, the employees of the laboratory performed production oversight receive training and support equal to that of the laboratory that performed the approval testing.

§ 160.049–9 [Removed]

65. Section 160.049–9 is removed.

§ 160.049–10 [Removed]

66. Section 160.049–10 is removed.

Subpart 160.052—Specification For a Buoyant Vest, Unicelluler Plastic Foam, Adult and Child

§ 160.052–8a [Removed]

67. Section 160.052–8a is removed.

§ 160.052–8b [Removed]

68. Section 160.052–8b is removed.

§ 160.052–8c [Removed]

69. Section 160.052–8c is removed.

70. Section 160.052–9 is revised to read as follows:

§ 160.052–9 Recognized Laboratory.

(a) A manufacturer seeking Coast Guard approval of a product under this subpart shall follow the approval procedures of subpart 159.005 of this chapter, and shall apply for approval directly to a recognized independent laboratory. The following laboratories are recognized under § 159.010–7 of this part, to perform testing and approval functions under this subpart:

Underwriters Laboratories, 12 Laboratory Drive, P.O. Box 13995, Research Triangle Park, NC 27709–3995, (919) 549–1400.

(b) Production oversight must be performed by the same laboratory that performs the approval tests unless, as determined by the Commandant, the employees of the laboratory performing production oversight receive training and support equal to that of the laboratory that performed the approval testing.

§ 160.052–11 [Removed]

71. Section 160.052–11 is removed.

§ 160.052–12 [Removed]

72. Section 160.052–12 is removed.

Subpart 160.057—Floating Orange Smoke Distress Signals (15 Minutes)

§ 160.057–9 [Removed]

73. Section 160.057–9 is removed.

Subpart 160.060—Specification For a Buoyant Vest, Unicellular Polyethylene Foam, Adult and Child

§ 160.060–8a [Removed]

74. Section 160.060–8a is removed.

§ 160.060–8b [Removed]

77. Section 160.060–8b is removed.

§ 160.060–8c [Removed]

75. Section 160.060–8c is removed.

76. Section 160.060–9 is revised to read as follows:

§ 160.060–9 Recognized Laboratory.

(a) A manufacturer seeking Coast Guard approval of a product under this subpart shall follow the approval procedures of subpart 159.005 of this chapter, and shall apply for approval directly to a recognized independent laboratory. The following laboratories are recognized under § 159.010–7 of this part, to perform testing and approval functions under this subpart:

Underwriters Laboratories, 12 Laboratory Drive, P.O. Box 13995, Research Triangle Park, NC 27709–3995, (919) 549–1400.

(b) Production oversight must be performed by the same laboratory that performs the approval tests unless, as determined by the Commandant, the employees of the laboratory performing production oversight receive training and support equal to that of the laboratory that performed the approval testing.

§ 160.060–11 [Removed]

77. Section 160.060–11 is removed.

§ 160.060–12 [Removed]

78. Section 160.060–12 is removed.

Subpart 160.064—Marine Buoyant Devices

§ 160.064–5 [Removed]

79. Section 160.064–5 is removed.

§ 160.064–5a [Removed]

80. Section 160.064–5a is removed.

§ 160.064–5b [Removed]

81. Section 160.064–5b is removed.

82. Section 160.064–7 is revised to read as follows:

§ 160.064–7 Recognized Laboratory.

(a) A manufacturer seeking Coast Guard approval of a product under this subpart shall follow the approval procedures of subpart 159.005 of this chapter, and shall apply for approval directly to a recognized independent laboratory. The following laboratories are recognized under § 159.010–7 of this part, to perform testing and approval functions under this subpart:

Underwriters Laboratories, 12 Laboratory Drive, P.O. Box 13995, Research Triangle Park, NC 27709–3995, (919) 549–1400.

(b) Production oversight must be performed by the same laboratory that performs the approval tests unless, as determined by the Commandant, the employees of the laboratory performing production oversight receive training and support equal to that of the laboratory that performed the approval testing.

§ 160.064–8 [Removed]

83. Section 160.064–8 is removed.

§ 160.064–9 [Removed]

84. Section 160.064–9 is removed.

Subpart 160.066—Distress Signal for Boats, Red Aerial Pyrotechnic Flare

85. In § 160.066–11, paragraph (c) is revised to read as follows:

§ 160.066–11 Approval procedures.

* * * * *

(c) The approval tests must be performed by an independent laboratory accepted by the Commandant under Subpart 159.010 of this chapter.

§ 160.066–18 [Removed]

86. Section 160.066–18 is removed.

Subpart 160.077—Hybrid Inflatable Personal Flotation Devices

87. Section 160.077–9 is revised to read as follows:

§ 160.077–9 Recognized Laboratory.

(a) A manufacturer seeking Coast Guard approval of a product under this subpart shall follow the approval procedures of subpart 159.055 of this chapter, and shall apply for approval directly to a recognized independent laboratory. The following laboratories are recognized under § 159.010–7 of this part, to perform testing and approval functions under this subpart:

Underwriters Laboratories, 12 Laboratory Drive, P.O. Box 13995, Research Triangle Park, NC 27709–3995, (919) 549–1400.

(b) Production oversight must be performed by the same laboratory that performs the approval tests unless, as determined by the Commandant, the employees of the laboratory performing production oversight receive training and support equal to that of the laboratory that performed the approval testing.

Dated: March 20, 1996.

J.C. Card,

Rear Admiral, U.S. Coast Guard Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 96–7302 Filed 3–27–96; 8:45 am]

BILLING CODE 4910–14–M

46 CFR Part 160

[CGD 94–110]

RIN 2115–AE96

Recreational Inflatable Personal Flotation Device Standards

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is adopting a final rule that establishes structural and performance standards for inflatable personal flotation devices (PFDs) for recreational boaters, as well as the procedures for Coast Guard approval of inflatable PFDs. These standards allow for approval of inflatable PFDs which are more amendable to continuous wear by recreational boaters than inherently buoyant PFDs, thereby encouraging use of PFDs by the boating public and saving lives.

DATES: This rule is effective on September 24, 1996.

ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G–LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., room 3406, Washington, DC 20593–0001, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert L. Markle, U.S. Coast Guard, Marine Safety and Environmental Protection Directorate, telephone (202) 267–6446, facsimile (202) 267–1069, or electronic mail "mvi–3/G-M18@cgsmtp.uscg.mil". A copy of this final rule may be obtained by calling the Coast Guard's toll-free Customer Infoline, 1–800–368–5647. In Washington, DC, call (202) 267–0780.

SUPPLEMENTARY INFORMATION:

Regulatory History

On November 9, 1993, the Coast Guard published an Advance Notice of Proposed Rulemaking (ANPRM) entitled "Inflatable Personal Flotation Devices" in the **Federal Register** (58 FR 59428). On June 23, 1995, the Coast Guard published an interim rule (IR) entitled "Inflatable Personal Flotation Device Standards" in the **Federal Register** (60 FR 32836). This IR became effective on July 24, 1995. Due to requests, a public meeting, announced in the August 2, 1995, **Federal Register** (60 FR 39268), was held at Coast Guard Headquarters on August 28, 1995. On October 10, 1995, the Coast guard published a notice in the **Federal Register** (60 FR 52631, October 10, 1995) extending the comment period on the IR from October 23, 1995, to November 6, 1995, to allow discussion of the rule at the National Boating Safety Advisory Council (NBSAC) meeting on October 30–31, 1995. Additionally, minor editorial changes reflecting Coast Guard organizational changes were made to the regulations established by the IR by a final rule published September 29, 1995, in the **Federal Register** (60 FR 50455).

In addition to this rulemaking project, a separate rulemaking project (CGD 93–055) resulted in the publication of a Notice of Proposed Rulemaking (NPRM) which proposed complementary rules governing the carriage, use, registration, and defect notification for inflatable PFDs for recreational boats (June 23, 1995), **Federal Register** (60 FR 32861)). Additional procedures for approval of inflatable PFDs, and other types of PFDs, were included in the NPRM. These provisions were proposed separately because they affect other types of PFDs besides inflatables. The Final Rule for this project (CGD 93–055) is being published elsewhere in today's **Federal Register**.

This rule, establishing minimum safety standards for inflatable PFDs, is being made effective 180 days after publication in the **Federal Register** pursuant to 46 U.S.C. 4302(b). Although the IR was effective 30 days after its publication, it provided a new category for approval of PFDs, and did not change any existing approval procedures. Since this Final Rule changes regulations now in effect, it could affect persons who relied upon regulations in the IR which are now being changed. For this reason, the 180 day delay in the effective date under 46 U.S.C. 4302(b) applies. This should not affect the progress of manufacturers' design and testing, and therefore should not result in delay in getting approved devices to market. Manufacturers can proceed with design and testing during this period.

Public Meeting

A number of initial comments to the IR expressed confusion about the basis and applicability of the "Life-Saving Index" (LSI) used in the IR as an alternative path for approval. The LSI is a probability based risk assessment tool designed to evaluate a PFD design's overall lifesaving potential. Based on comments, the Coast Guard held a public meeting and training seminar to aid interested persons in understanding and applying the LSI analysis process. The meeting was attended by six PFD manufacturers, two inflation system manufacturers, an official from a boat owners association, a member of the public from the National Boating Safety Advisory Council (NBSAC), and representatives from Underwriters Laboratories (UL), the only laboratory currently recognized to perform the approval tests for inflatable PFD devices. A summary and video tape of the meeting are available as part of the public docket for inspection and copying where indicated under **ADDRESSES.** During the meeting, Coast Guard personnel discussed the history of this rulemaking, with emphasis on the development of the LSI and its role and usefulness in evaluating the overall lifesaving potential of various PFD designs. There was also a discussion of the PFD information pamphlet which accompanies the sale of inflatable PFDs and provides important information to the potential consumer before a PFD is purchased. Specific details of the meeting are discussed below in the appropriate sections.

Approval History

Under the IR, Coast Guard approval of inflatable PFDs and component materials has been possible since July 24, 1995. To this date, four manufacturers have started the approval process for at least 6 models of inflatable PFDs, but no device has yet received final approval. Additionally, no inflator or inflation chamber material has been completely tested to be accepted by the Coast Guard as meeting the requirements of the UL 1191 consensus standard for component materials incorporated by reference into the Coast Guard regulations. Although a number of manufacturers have completed preliminary testing of prototype designs of PFDs, sample PFDs for final testing have not been constructed. This is due to a lack of accepted component materials since a sample PFD undergoing final testing for Coast Guard approval must be constructed of the same or equivalent materials that will be used in commercially available manufactured products to ensure that the final products meet the approval standards.

Regulatory Information

The two main standards adopted by the IR and retained in this rulemaking are Underwriters Laboratories (UL) standards for inflatable PFDs and PFD components (UL 1180 and 1191, respectively). These standards were developed in accordance with the American National Standards Institute (ANSI) procedure for voluntary industry standards. In accordance with the ANSI procedures, interested parties were provided with an opportunity to participate in the development of the standards. The public was also given an opportunity to comment on the adoption of approval standards for inflatable PFDs in the ANPRM published on November 9, 1993 (58 FR 59428), and the IR published on June 23, 1995 (60 FR 32836). The ANPRM advised of the intention to use an industry consensus standard and encouraged interested, knowledgeable persons to participate in the ANSI standards making process. On February 24, 1994, notice was published in the **Federal Register** (59 FR 9015) of the Coast Guard's participation in the first consensus standards meeting with UL. This notice again invited interested technical experts knowledgeable in the field to participate in the meeting and process. Comments received in response to the ANPRM and IR were generally in favor of development of structural and performance standards for inflatable personal flotation devices and procedures for Coast Guard approval of inflatable PFDs. The UL standard (UL 1180) is complete, with the exception of several reserved sections.

Background and Purpose

The regulations in this final rule are intended to allow approval of PFDs which may be more appealing to recreational boaters than currently approved PFDs, thereby increasing the percentage of PFDs actually used by the boating public and saving lives. However, the Coast Guard notes that the currently approved inherently buoyant PFDs have an excellent lifesaving record. The Coast Guard boating statistics show that while boating activity was increased several fold, the number of fatalities has dropped from about 1,800 to 800 per year over the past 25 years, and this decrease is in part due to use of these inherently buoyant PFDs. The Coast Guard also notes that inherently buoyant PFDs are more appropriate for non-swimmers than inflatable PFDs. Non-swimmers may panic when they enter the water, and may therefore not be able to manually or orally inflate an inflatable PFD. Moreover, there are a number of boating applications for which inflatable PFDs are not suitable, as listed in the PFD information pamphlet. Therefore, inherently buoyant PFDs will continue to play a vital role in boating safety programs for the public.

Advisory Committee and Other Consultations

In developing these regulations the Coast Guard consulted with the National Boating Safety Advisory Council (NBSAC) and the National Association of State Boating Law Administrators (NASBLA). In May 1994, NBSAC passed a resolution recommending approval for Type I, II, III, IV, and V inflatable PFDs. PFDs differ in Type based on the environment in which they are designed to perform and their intended use. The various Types of PFDs are described in more detail in the IR. In 1988, 1993 and 1994, NASBLA also passed resolutions urging that approvals for inflatable PFDs be granted as soon as possible. Additionally, the National Transportation Safety Board has recommended that the Coast Guard approve inflatable PFDs.

NBSAC formed a subcommittee to study the implementation of the various types of approvals that might be granted by the Coast Guard and developed an "inflatable PFD objectives statement" and "performance goals". Copies of these documents are included in the docket file for this rulemaking. The documents identified a number of goals that NBSAC determined to be appropriate in the effort to set standards for the manufacture and approval of inflatable PFDs. In November 1994, the full council passed a resolution supporting the objectives statement and goals.

After publication of the IR, NBSAC and NASBLA again considered the issue of inflatable PFD approval and passed resolutions recommending approval of inflatable PFDs. Both resolutions, though, objected to the modifications to the UL 1180 standard that the Coast Guard included in the IR. The details of the most recent deliberations and the resolutions are discussed with the appropriate comments below and the resolutions are included in the docket file for this rulemaking.

Inflatable PFD Studies

As discussed in the IR, the Coast Guard has sponsored two studies on the suitability of inflatable PFDs in the recreational boating environment: a 1981 Inflatable PFD Field Test, Report No. CG–M–84–1 and a 1993 study conducted by the BOAT/U.S. Foundation for Boating Safety. Each study involved the use of about 500 inflatable PFDs in a recreational boating environment. Copies of these studies are included in the docket file for this rulemaking. Initial review of these studies indicated that inflatable PFDs could not be approved without extensive servicing requirements or conditions on approval. However, as discussed below, developments in inflatable PFDs have allowed the Coast Guard to establish the approval standards for inflatable PFDs adopted in this final rule.

New Developments in Inflatable PFDs and UL Standards

New developments in the manufacture of inflatable PFDs, along with work done by UL in this area since the testing was conducted in the above studies, have improved the chances that inflatable PFDs will work when used and maintained by the average boater. The problems revealed by the two studies discussed above have been addressed in the UL standard. Consequently, PFDs meeting the requirements of the new UL standard, along with certain additional requirements included in this final rule, should not have the problems that prevented the Coast Guard from approving recreational inflatable PFDs in the past.

The Coast Guard is issuing a final rule for approval of inflatable PFDs at this time based on the need for more wearable PFDs, boater demand for alternatives and the development of more "user serviceable" inflatable PFDs. With these user serviceable PFDs there is a good chance that the user of the PFD will (1) recognize when the PFD needs servicing and (2) be able to perform the servicing correctly. These improved PFDs are equipped with inflation mechanisms (inflators) that are more user-friendly than previous models. User-friendly features are often referred to as mechanisms that are designed with "good human factors". Good human factors relate to the ease with which boaters can determine when their inflatable PFD needs rearming and the ease with which they can correctly rearm the PFD. Good human factors design will decrease the incidence of unarmed inflatable PFDs that were evident in the studies discussed above.

The UL standard defines two different performance levels for inflators. For an inflator to meet the requirements of the UL standard, a high percentage of test subjects must be able to correctly identify whether an inflator is properly armed and to be able to rearm the device with no training other than use of the owner's manual provided by the manufacturer and toll-free calls to a manufacturer's help line, if one is available. The performance level assigned is based on the percentage of passing test results. At this time, an inflator capable of being accepted at the highest level is not available at a reasonable cost, but at least one such inflator is under development. The characteristics of the higher performing inflators (use code 1F) are described in item 1 of the discussion of specific comments below. If properly maintained, inflatable PFDs with the lower level performing inflation mechanisms provide high reliability, though the probability of proper maintenance (maintainability) remains a key component of ensuring their effectiveness. The information pamphlet and owner's manual required to accompany the sale of inflatable PFDs will emphasize the need for proper maintenance of these devices. Additionally, the inflatable PFD label will include warnings to check that the unit is fully armed before donning and to perform a service test at least once each year.

Discussion of Comments and Changes

Seventy comments were received from fifty-seven individuals and organizations in response to the interim final rule (IR) published June 23, 1995. Thirty-eight of those commenting were boaters, nine were PFD and component manufacturers or PFD consultants, and seven were from organizations or associations representing manufacturers, boaters, cities or state boating law enforcement. The remaining three groups commenting were laboratories or dealers. A number of manufacturers and organizations commented more than once. The Coast Guard has reviewed all of the comments and revised the rule as appropriate. The comments have been grouped by general and specific issues, and are discussed below:

General Comments

None of the comments opposed Coast Guard approval of inflatable PFDs; 49 comments urged the Coast Guard to approve inflatable PFDs as soon as possible.

Boaters submitted the largest number of comments. Nearly all of their comments supported Coast Guard approval of inflatable PFDs as soon as possible, and many of them indicated that boaters would be inclined to wear an inflatable PFD more frequently than a currently approved PFD. Many of these comments either explicitly or implicitly cited the published views of a boating organization, which opposed many of the IR provisions. Two comments also specifically favored the use of inflatables for Coast Guard Auxiliary patrols because of their increased wearability. Additionally, one comment pointed out the potential increased safety benefit of greater flotation of inflatable PFDs when compared to presently approved inherently buoyant PFDs.

Wear Rates and Wearability: Ten comments noted that they favored the use of inflatable PFDs because of their comfort (i.e., easy to wear, not as hot, less bulky, and greater maneuverability when performing operations aboard a boat). Six commenters indicated that they currently owned yoke style inflatable PFDs that they were pleased with. Eight commenters, including all but one of the above owners, indicated they currently wear a PFD continuously. Eight more comments indicated that the writer would wear an inflatable if approved and available. In addition,

several comments from boaters indicated that they were not opposed to a requirement that inflatables be worn to be considered as approved devices. Approval of a PFD signifies that the PFD can be counted towards the "carriage requirements" (33 CFR 175, Subpart B) which requires boats to have on board specified quantities and Types of approved PFDs. This totals 21 comments whose writers either presently wear or would wear inflatable PFDs if they were approved. Three comments from boaters indicated that they opposed any condition that required PFDs to be worn to meet the carriage requirements.

Four comments indicated the belief that inflatable PFDs would save lives because people would be more apt to wear them. This view was bolstered by two comments which noted that 80 percent of drownings occur as a result of people not wearing PFDs, as opposed to wearing the wrong kind of PFD, and that these accidents were usually sudden events that precluded the donning of a PFD after recognizing the event was about to happen. Five other comments indicated that if an impact on boating accident drownings is expected, there needs to be an incentive to increase wear rate of PFDs, such as requiring that PFDs be worn to count as meeting the carriage requirements, particularly on small boats. The Coast Guard recognizes that increased wear of PFDs is essential to increase the number of lives saved.

Maintainability: Two comments noted that inflatable PFDs have been in military use since the beginning of World War II. One of these comments noted using Navy-issue inflatables in World War II and questioned why the Coast Guard would delay the approval of inflatables for the boating community, when a perfectly satisfactory inflatable PFD was available 50 years ago. The Coast Guard notes that inflatables used by the military both in the past and currently are not maintained by the individual user, but rather by trained professionals. As discussed in the ANPRM and IR, ensuring that inflatable PFDs are maintainable by the user has been one of the key concerns for introduction of inflatables to recreational boating. As previously mentioned, lack of proper maintenance adversely affects reliability due to the probability that some PFDs will not be rearmed or will be rearmed improperly. Due to the importance of this aspect of inflatable PFD use, the Coast Guard emphasizes that users should check their inflation mechanisms frequently.

Non-swimmers and Children: Six comments from boaters expressing support for approval of inflatable PFDs indicated that their support was based on concerns about the safety of family members who were either children or poor swimmers. These comments suggested that children and poor swimmers would be more likely to wear an inflatable PFD than other types of currently approved PFDs due to an inflatable PFD's increased comfort and more desirable appearance. These comments concern the Coast Guard because they suggest that the desire for a more comfortable device may lure people to use inflatable PFDs inappropriately. The Coast Guard notes that the consensus committee preparing the UL 1180 Standard, incorporated into this rule, specifically pointed out that PFDs approved under the standard are not suitable for non-swimmers or children. Additionally, this issue was specifically raised in the ANPRM and IR of this rulemaking. The Coast Guard emphasizes that under this rule, inflatable PFDs cannot be approved for children and that non-swimmers should be strongly discouraged from choosing this type of lifesaving device.

Approval of inflatable PFDs for children is not now considered appropriate by the Coast Guard and UL consensus standard committee due to concerns about a child's ability to take the necessary steps to initiate inflation in an emergency or perform backup inflation in case the primary system fails. The Coast Guard notes that the issue of inflatable devices for children may be revisited after more experience is gained with approval of inflatable PFDs for adults.

As for the use of inflatable PFDs by non-swimmers, as noted in the IR, the Coast Guard acknowledges that there is no practical way that law enforcement officials can conduct a field assessment of swimming abilities, and thus there are no regulations restricting the use of inflatable PFDs by non-swimmers. However, because of the unique risks associated with these devices, the labeling and information pamphlet for these PFDs are required to explicitly state that the devices are not recommended for use by non-swimmers.

Terminology: One comment suggested that the barrier between wearable inflatables and many potential consumers is that the use of the word "approved" by the Coast Guard to denote devices which have met the stated requirements, and that the term "approved" is not the most accurate or effective term. The comment suggested substituting "recognized as a required device" or "meets Coast Guard minimum carriage requirements" for the term "approved". The Coast Guard has not adopted this suggestion. As previously discussed in the IR, the Coast Guard acknowledges that the term "approved" may cause some confusion and misperceptions to the public. However, both the terms suggested by the comment may cause even more confusion. The term "approved" is well recognized by the public and has been used by the Coast Guard for over 50 years to denote that a lifesaving device meets Coast Guard minimum safety standards. The term "recognized as a required device" may confuse the boating public as to the implications of a device being "recognized" versus "approved". As for the phrase "meets the Coast Guard minimum carriage requirements", in addition to possible confusion over the implications of a new term, the phrase is not being adopted because it may cause boaters to mistakenly believe that the carriage requirements are met by merely having that one device. In almost all cases, this is not true and to meet the carriage requirements, boaters may have to have several devices aboard their vessel.

Inflatable PFD Costs/Affordability: Thirteen comments from eleven boaters, one dealer, and a boat club addressed the issue of ensuring the approval of reasonably-priced inflatable PFDs. Comments on this issue were solicited in the initial ANPRM and were discussed in the IR. One comment acknowledged that Coast Guard approval of inflatable PFDs may bring costs down by increasing sales and competition. On the other hand, several of these comments indicated the belief that the Coast Guard's modifications to the UL 1180 standard would substantially increase the cost of approved inflatable PFDs without saving significantly more lives. Five of these comments specifically indicated the view that increased testing costs due to Coast Guard additions to the UL standard would keep manufacturers from seeking approval while another comment was concerned that Coast Guard approval would merely lead to the availability of limited products at high prices. Four comments thought that boaters would be less able to afford the PFDs made under the Coast Guard modifications than inflatable PFDs that only met the UL standard. Several others were simply concerned that the cost of inflatables would deter many boaters from buying an inflatable PFD. Two commenters specifically noted that they have been wearing the yoke style PFD with harness and found that

although many boaters inquired about the devices, the high cost seemed to be a deterrent to most boaters. One of these comments noted also that the rearming kits are fairly expensive.

Four comments urged the Coast Guard to make the regulations for inflatables stringent for safety purposes, but not to the point so as to drive the prices "out of sight". One of these comments expressed concern that the manufacturers would pass on the expense of additional approval requirements to the consumer, making the resultant PFDs unaffordable. The comment stated that safety of the boating public should be a high priority for the government and that the Coast Guard's requirements should result in an easy-to-wear, affordable, and comfortable inflatable lifejacket that meets the carriage requirements.

A number of PFD and component material manufacturers' comments also addressed cost. These comments objected to the IR's required use of use code 1F inflators, in place of the LSI evaluation. The objections centered on the fact that currently, the only use code 1F inflator which could be accepted would be disposable, and therefore prohibitively expensive to maintain. At the time the IR was published, the Coast Guard believed that use code 1F inflators would be available at a reasonable cost. Unfortunately, since that time, no affordable use code 1F inflator has been produced. However, while the IR did encourage use of 1F inflators, it did not require them for approval.

Additionally, several manufacturers objected to some of the costs of testing associated with the requirements added by the Coast Guard to the UL requirements. These objections are discussed further with the specific comments below.

The Coast Guard notes that the lowest priced PFDs permitted by the UL standard are eligible for approval under the IR and this final rule. Less expensive PFDs that differ from UL 1180 may also be approved under the equivalency provisions contained in the IR and which are being retained in the final rule. The additional testing costs imposed by the Coast Guard modifications to the UL standard requirements under the IR are minimal and will decrease under this final rule. In addition, the lifesaving benefits of the additional provisions retained in this final rule outweigh the associated costs as discussed under "Regulatory Evaluation."

Comments on specific requirements are discussed below under "Specific Comments and Major Areas of Revision".

IR Consistency with UL Standards: Nine comments from manufacturers, manufacturing organizations, and boating organizations and various comments from boaters requested that the Coast Guard amend the requirements for approval of inflatable PFDs contained in the IR so as to make them more consistent or, in the case of a few comments, identical with the requirements of UL 1180 and UL 1191 standards.

A number of comments objected to the perceived delay in making Coast Guard-approved inflatable PFDs available to recreational boaters. These comments expressed the opinion that these delays were caused by the Coast Guard requirements contained in the two UL standards adopted, UL 1180 and 1191. The general consensus of these comments was that the increased safety benefits of having approved inflatables available and worn by boaters would outweigh any potential increase in safety benefits resulting from the manufacture of inflatable PFDs that met the IR's additional requirements. One comment suggested that the IR places too much emphasis on ensuring that the vests are 100 percent perfect, and other comments cited overregulation as the major obstacle to having the vests approved.

The Coast Guard notes that though a number of manufacturers have completed preliminary testing of designs, no inflatable PFD has yet been submitted for final testing and approval. This delay has been caused by the lack of accepted component materials (inflators of any use code and inflation chamber material) which are needed to produce any device submitted to the Coast Guard for final approval. The interim rule did not impose any additional requirements to the UL 1191 consensus standard, which sets the acceptance standards for component materials.

Several comments indicated that changes to the UL standard embodied in the IR were not consistent with the promises the Coast Guard made to the industry. The Coast Guard notes the statements in the ANPRM and meeting notice for the first consensus committee meeting which clearly define the Coast Guard's intentions and commitments in entering into the rulemaking process with the aim of using an industry consensus standard. These documents show that the Coast Guard anticipated the possible need for additions or modifications to the consensus standard to meet the minimum level of safety deemed necessary and clearly stated that such modification or additions would be incorporated into the final approval standards if necessary.

Two of the comments discussed above requested that the final rule base Coast Guard approval on the requirements of UL 1180 with additional requirements limited to product marking and point-of-sale consumer information. UL commented that they expected the rule to contain a limited number of requirements supplemental to the UL 1180 and UL 1191 such as a USCG information pamphlet and PFD production quality control related requirements. UL also recommended that the Coast Guard make additional modifications and additions to the first edition of the 1180 standard, such as making trade-offs between requirements for donning and secureness of fit, revising the added visibility looking to the side test, and adding warning markings. The individual changes suggested are discussed below.

Two comments included resolutions requesting that the Coast Guard rescind those portions of the interim rule that impose additional requirements for Coast Guard approval beyond those imposed by UL 1180. As noted above, one of these resolutions was passed by the National Association of State Boating Law Administrators (NASBLA) which noted that its membership is deeply concerned that additional requirements beyond the UL 1180 standard may jeopardize the development and approval of fully inflatable PFDs. NASBLA recommended that the Coast Guard amend the IR to reflect only those standards currently in the incorporated UL standards.

The second resolution was submitted by the PFD Manufacturers Association (PFDMA), which represents manufacturers of PFDs and component materials. PFDMA and supporters commented that the Coast Guard should rescind almost all portions of the IR which impose additional requirements to the UL standards. However, the comments did note that the Coast Guard approval regulations do need to address labeling and information pamphlet requirements, areas which UL 1180 either does not address or does not do so adequately. The Coast Guard notes that two sections of the UL standard are "Reserved", those dealing with production quality control requirements and with the information pamphlet. As a result, the Coast Guard's requirements in these areas are the only requirements for those items.

NBSAC, an advisory committee charged with advising the Coast Guard on boating safety issues, approved a resolution, by a vote of 10 to 8, that

recommended that the Coast Guard requirements for approval of inflatable PFDs congruent with the consensus standard embodied in UL 1180 without exception or additional requirements. However, in a written survey of the NBSAC members, immediately following the meeting which adopted the resolution, many of the members indicated support for the Coast Guard's modifications to the UL standards. The Coast Guard therefore intends to raise some of these issues in the consensus committee when UL reopens UL 1180 and UL 1191 for revision.

Several comments from individuals favored the Coast Guard's modifications to the UL standards. One comment opposed the idea of merely adopting the UL standard by stating that it is not desirable to set a rigid pass/fail criteria for approval of any device in the form of an adopted consensus standard that fixes for a long period requirements based on currently available technology and designs. The comment continued by explaining that the Coast Guard's approval process should encourage and reward improvements in reliability and effectiveness above the level of what is feasible today at a reasonable cost. According to the comment, this approach would lead manufacturers into entering a desirable, continuing race to produce more comfortable and affordable PFDs, and that an industry consensus standard alone cannot provide such an incentive. Additionally, one comment from a PFD design consultant expressed the view that by having a clearly defined alternative to strict compliance with UL 1180, innovative and consumer responsive products would be more likely to make it to market. The Coast Guard notes that both the IR and this final rule allow for the possibility of approval of alternative designs that do not conform to the promulgated standards. As a result, manufacturers have had, and continue to have, the option of receiving approval for innovative inflatable PFD designs. The Coast Guard recognizes that trade-offs must be made between absolute safety and making inflatable PFDs both affordable and available to recreational boaters who would not typically wear currently approved devices and who are prepared to accept the increased care and servicing requirements needed to maintain reliability.

UL Standard Conflicts and Shortcomings: Comments from UL and manufacturers indicated that there were areas in the UL standard that need revisions or improvement as discussed below. Most of these changes are in areas addressed by the IR but some deal with conflicting requirements or requirements that are believed by some manufactures to be set unintentionally too high within the UL standard.

One comment stated that even without the most objectionable provisions of the IR, that is the LSI and "Approved Only When Worn" provisions, the standard as recommended by the consensus standard committee was problematic in many areas. The comment expressed the view that the UL standards were difficult and unrealistic in many areas, but might be "fixable". The commenter also expressed the belief that as large and complex as the UL documents were, they would likely have contradictions or deficiencies requiring correction consistent with the specification's stated goals. The commenter expected that, for example, the sections of the UL standard that conflicted with the use of disposable inflation mechanisms would be modified, and that the goal of having disposable inflators as an option would not be abandoned.

Missing Standards for Wearability and Approval Type: The Coast Guard notes that the UL standard calls for the USCG to set approval type for inflatable PFDs based on a PFD's performance, serviceability, and status indicators, but does not establish how these characteristics are to be used. As discussed at the first consensus standards meeting in March 1994, the Coast Guard indicated that its approval type would be determined after the characteristics of the PFDs were identified by the standards. As stated in the ANPRM "[t]he consensus standard may not address all the issues and characteristics essential to the Coast Guard," and alternatives "remaining unresolved will presented * * * for comment."

As initially drafted, the UL standard had a test for the projected wear rate that a PFD design would provide. This provision, which was referred to as "wearability", was deleted from the standard at the final standards committee meeting. The consensus committee was informed by the Coast Guard that the lack of a wearability standard would have to be justified or otherwise addressed. The committee failed to do so. Therefore, in the IR the Coast Guard provided conditional approval, requiring a device to be worn to meet carriage requirements, in addition to the UL standard as one way to address the lack of a wearability standard. One comment indicated that unconditional approval based on what is available today is undesirable and others supported the IR's conditional approval as discussed above. The lack of a wearability standard within the consensus standard will require the Coast Guard to closely monitor accident statistics and revise the rules if necessary. Conditional approval is discussed further below.

Based on the above comments and on internal discussions within the Coast Guard detailed below, the Coast Guard is minimizing the additions and modifications to UL 1180 required for Coast Guard approval but retaining those which in the Coast Guard's judgment are essential to safety. The Coast Guard is retaining the two provisions of the IR for which the UL standard had reserved sections. These two areas, the PFD information pamphlet and production quality control, as mentioned above, were discussed by several commenters.

Nearly all the provisions being deleted from the IR may, in the future, further the lifesaving goals adopted by NBSAC and the Coast Guard as discussed in the IR. Therefore, those provisions will be proposed by the Coast Guard for inclusion in UL 11180. This will allow the Coast Guard to pursue the incorporation of these changes in concert with the industry and other interested parties, as many comments indicated the desire to proceed.

The Coast Guard notes that the PFDMA had expressed an interest in working with the Coast Guard, Underwriters Laboratories (UL), and others to revise the interim rule based on comments and resolutions which have been forwarded. As mentioned above, the Coast Guard does intend to continue to work with the consensus standards committee with the goal of incorporating as many of the provisions being deleted from the IR by this rulemaking as possible into UL 1180.

The comments on specific provisions of the regulation and the revisions made by this rulemaking are discussed below.

Timeline for approval: Two comments discussed the validity of the stated goal of the Coast Guard in the IR to have significant numbers of approved inflatable PFDs available to the public for the 1996 boating season. One comment noted that for approved inflatables to be available for the 1996 boating season, achievable and well defined requirements needed to be in place well in advance of the October 23, 1995, comment deadline for the IR. Another comment stated that it is highly unlikely that manufacturers will be able to make significant number of inflatable PFDs available to the public in 1996. The comment explained that because of the many unanticipated problems associated with meeting the requirements of the IR, manufacturers would have to return to the design phase to re-engineer their products before submitting them for approval. According to the comment, when this process is completed, 1996 will probably be over. The comment projected that unless requirements are substantially changed, the regulation established by the IR would not result in inflatable PFDs becoming more than 3 percent of the total PFDs sold by the year 2007. The comment also stated that the Coast Guard and NBSAC goal of saving 210 lives by increasing the wear rate to 66 percent is desirable but not a rational projection resulting from the IR.

The Coast Guard shares the concerns regarding making approved inflatable PFDs available as soon as possible, however, it must balance that concern with the need to ensure that Coast Guard standards for approved inflatable PFDs will achieve a reasonable balance between safety and cost. The Coast Guard notes that nothing currently prevents the sale of non-approved inflatable PFDs to the public.

Specific Comments and Major Areas of Revision

The major areas of comment and revision to the IR standard are separated into categories and discussed below. For those areas in which the Coast Guard is deleting requirements from the IR, the Coast Guard intends to suggest that most of the deleted requirements be considered for inclusion in a revised version of the UL 1180 standard. Additionally, the Coast Guard intends to suggest the requirements from the IR which are being retained be considered for inclusion in a revised version of the UL 1180 standard. If the UL 1180 standard is revised to include the changes, the rules will be revised to delete these provisions from the subpart and update the incorporation by reference to cite the revised standard.

1. Lifesaving Index (LSI) and Use Code 1F Inflator [Sections 160.076–5, –7, –9, –13(c)(10), –21(e), –23(a)(1), –27, and –37(b)(4 & 5)]

As the IR's approval requirements concerning use code 1F inflators and the LSI are interdependent, they are being discussed as one category.

IR Requirement: Under the requirements for inflatable PFDs in the IR, the Coast Guard requires that, except for inflatable PFDs equipped with inflators with 1F use codes, an LSI analysis be performed to evaluate the overall lifesaving potential of an inflatable PFD submitted for approval. A use code 1F inflator, which has a cylinder seal indicator, provides a visible indication to the user of the cylinder status. The same readily visible indication of inflation cylinder status is not available with use code 2F and 3F inflators. The LSI analysis, therefore, was provided as an alternative to allow other reliability and wearability factors to compensate for the lack of visible cylinder status indication. Under the IR, the Approval Type (I, II, III, or V) given to any particular PFD design, except for those with 1F inflators, would depend on the results of the LSI analysis. If, as a result of the LSI analysis, it was determined that a conditional approval would be appropriate for a particular PFD, the most likely condition for approval would be the requirement that a PFD would be required to be worn to count toward the PFD carriage requirement.

Comments on Use Code 1F Inflator Requirement: Thirteen commenters specifically discussed the requirements related to inflation system indicators with a 1F use code. Of these, four comments favored the IR's requirements regarding the use of a 1F inflator. One cylinder manufacturer described the IR as a great step towards saving lives and commended the Coast Guard and UL for properly addressing the gas cylinder issue by including indicators within the inflator mechanism. Another comment favoring use code 1F inflator requirements did so by reasoning that the Coast Guard's approval process should encourage and reward improvements in reliability and effectiveness beyond what is feasible today at reasonable cost and therefore should have a built in mechanism, such as the requirement for the LSI analysis and 1F inflators to encourage technological advances. Three comments, including one of the above, expressed hope that the Coast Guard's regulations would require approved PFDs to have an easy way to check the CO_2 cartridge to ensure it was charged, such as fire extinguisher gauges or push-and-release pop-out pins. Use code 1F inflators include indicators that satisfy this need.

The remaining nine commenters that discussed inflators disagreed with the IR's emphasis on cylinder indication to increase operational reliability of inflatable PFDs. Seven comments suggested that the Coast Guard withdraw the requirement to either have a use code 1F inflator or utilize the LSI analysis, for all but Type I inflatable PFDs. Four of these comments indicated that there is lack of current technology to provide full cylinder indication at a reasonable cost. These comments reasoned either that use code 1F inflators remain beyond state-of-the-art and therefore their use should not be required or that the use code 1F requirement may possibly delay the production of Coast Guard approved inflatable PFDs. One comment added that the highest level of cylinder indicator was not necessary because the requirements for redundant inflation systems and for swimming ability, adequately compensates for the remote possibility of primary inflation system failure. The Coast Guard notes that a "recommendation" against use by non-swimmers is not equivalent to a "requirement" and that, as discussed above, any swimming requirement would be unenforceable.

One comment cautioned the Coast guard with regard to drawing conclusions from the informal study at NASBLA's annual meeting discussed in the IR, where only 2 out of 18 participants were able to correctly identify the serviceability of 4 older style inflation mechanisms. The comment remainded the Coast Guard that the newer styles of inflators are designed so that it is easier to determine when an inflator has already been fired. The comment also cautioned the Coast Guard not to presume that all systems were represented in the field study, and that no mechanism is completely foolproof, including one with a cylinder seal indicator.

The Coast Guard remains concerned with the inflation systems used on inflatable PFDs. The design of the inflation mechanism is important because proper maintenance plays a crucial role in ensuring the reliability of an inflatable PFD. If the status of the inflator mechanism is easy to check, then it is more likely that a boater will check the status often and correctly. A recent Coast Guard study of the causes of marine casualties indicated that 80% or more of all marine casualties are caused by human error and that these were often induced by inadequate attention to human factors in the design and performance standards for equipment. The Coast Guard's findings on this subject are reported in the "Prevention Through People" quality action team report, the Notice of Availability of which was published in the February 16, 1996, **Federal Register** (61 FR 6283).

Comments on PFD Life-Saving Index Evaluation: Twelve commenters specifically noted reservations about the "Life-Saving Index" (LSI), while three comments expressed unqualified support of this alternative approval path, generally because of the flexibility and encouragement of improvements thought to be fostered by the LSI requirement. Additionally, the October 30, 1995, NBSAC resolution discussed

above favored continued development of the LSI for possible future use.

The three comments which supported the LSI concept thought that the LSI might be the most potentially beneficial portion of the IR, with one stating that it would "allow approval of unique and novel designs that offer lifesaving potential equal to or greater than that of approved devices * * * these designs may prove to be very comfortable, affordable and popular with the boating public." The comment continued that promoting innovation in design actually allows the end user to have a voice in what can be used to meet Coast Guard requirements.

Another comment which supported the LSI expressed pleasure with the results of the NBSAC member survey for retaining the LSI, in which 9 out of 14 respondents indicated that they favored retaining the LSI as a clearly defined alternative to strict compliance to UL 1180. The comment continued that through the LSI, innovative and consumer responsive products will be able to make it to market, and that without the LSI, inflatable PFDs will be static in design. Also the comment indicated that if the LSI were eliminated, the Coast Guard would be limiting the ability of manufacturers of innovative PFDs to fairly compete with current products. As mentioned above, the Coast Guard notes that both the IR and this final rule allow for the possibility of approval of alternative designs that do not conform to the promulgated standards. As a result, manufacturers have had, and continue to have, the option of receiving approval for innovative inflatable PFD designs.

One comment which supported the overall concept of the LSI objected to the LSI scheme if inflatable PFDs of low reliability or effectiveness receive the same Coast Guard approval status as other PFDs. If this were to occur, the comment continued, the boating public should be notified of the reduced reliability of the device at the point of sale.

On the other hand, most comments received by the Coast Guard expressed reservations about the LSI analysis as presented in the IR. Six of these comments expressing concerns noted that LSI concepts have merit in a broad application, but indicated apprehension about its application to individual items.

Five comments specifically requested that the Coast Guard delete the LSI from the IR. One of these comments also stated that, as opposed to the LSI, what the industry needs is a realistic standard of performance, keyed to individual product types. Another comment stated that the LSI and conditional approval provisions added by the IR to the UL standard will hamper the Coast Guard's desire for a flow of innovative, new products.

Two comments and a number of participants in the public meeting stated that mandating the use of the LSI as an alternative to having the use code 1F inflation mechanism, is unacceptable. These comments criticized the LSI saying the validity of the LSI elements chosen and weights which have been applied, do not appear statistically valid, uniformly applied, or adequately defined. Another comment noted that adequate development of the LSI process would likely require an *ad hoc* committee effort.

A concern expressed at the public meeting on the LSI and in several comments, related to the IR's provisions for an annual review of the LSI. This concern focused on the fear that an annual review could potentially subject manufacturers to revocation of approval and the resulting possible liability. In addition, several other comments and meeting participants cautioned that the LSI factors will become moving targets that will unnecessarily invite litigation against manufacturers as factors and weights are changed.

Two comments noted that approval classification, i.e., the USCG Type designation for a PFD, should coincide directly with UL 1180 "performance type" without requiring an LSI evaluation for approval of any specific PFD model. These comments reasoned that because the performance required by UL 1180 is significantly higher than required for any other recreational use PFD, there is no need to ensure the lifesaving potential of a device through the LSI. The Coast Guard notes that while the UL standard requires in-water performance and other increases, it also permits a decrease in reliability compared to inherently buoyant PFDs. The Coast Guard believes that the increase in wearability expected by many commenters will be needed in addition to the UL performance increases for the lifesaving potential of most inflatable PFDs to equal that of inherently buoyant PFDs.

Final rule requirements: The requirement that a device either have a use code 1F inflator or be subjected to the LSI evaluation for approval was based on two studies, one conducted by BOAT/U.S. from 1990 to 1993 and one conducted by the Coast Guard with the USCG Auxiliary from 1979 to 1981. Both of these studies concluded that inflatable PFDs without visible indicators of the state of inflation cylinder charge would not be properly maintained by a substantial percentage of typical users. The maintenance deficiencies reported in the studies were of such a nature that the devices would not operate as intended. The Coast Guard was concerned that if a substantial percentage of lower-performing inflatables were not properly maintained, as the studies suggest, the widespread use of these types of devices could actually lead to an increase in drowning fatalities. In addition, the Coast Guard was concerned that as the lower-performing devices would be the least expensive, and therefore most accessible to boaters, the risk of improper maintenance would be compounded. The use of the LSI as an approval evaluation tool was intended to ensure that the inherent lesser reliability of inflatable PFDs, coupled with the lower in-water effectiveness and the additional reduction in reliability for lower-performing devices due to human error as observed in the studies, would be offset by other features or approval conditions on the PFD.

Most of the comments received on the IR, as discussed above, opposed the use of the LSI as an approval evaluation tool. The comments cited the untested, and potentially subjective, nature of the LSI. As discussed above, these comments strongly urged the adoption of the UL 1180 consensus standard for approval of inflatable PFDs without any additions or modifications except to address those areas in which UL 1180 is incomplete or inadequate. This view was supported by resolutions of NBSAC, NASBLA, and PFDMA.

After careful review of all of the comments, the Coast Guard has reconsidered its previous interpretation of the study results the NBSAC recommendation, and of the improvements to PFD inflation hardware which occurred as a result of the development of UL 1180 and 1191. Upon reconsideration, the Coast Guard noted that the correlation of the study results to actual use patterns in the market may not be entirely conclusive. In particular, the different methodologies of the Coast Guard Auxiliary and BOAT/U.S. Foundation studies yielded somewhat different results, calling into question the relative validity of those methodologies in assessing the behaviors of the overall boating population. The Coast Guard notes that many comments received from boaters, as discussed below under "Approval Type", suggest that wear rates for approved inflatables would be higher than was observed in the studies. Additionally, the inflators on the PFDs used in the studies did not incorporate

the performance improvements mentioned above. Furthermore, the comments from PFD manufacturers indicated that the IR requirement for conducting an LSI analysis for devices with 2F and 3F inflators, which was based upon the Coast Guard's initial interpretation of the studies, would severely hamper the efforts of PFD manufacturers to bring inflatable PFDs to market thereby delaying the safety gains considered possible as a result of introducing approved inflatable PFDs.

In the absence of conclusive evidence that the use of the LSI to evaluate inflatable PFDs with use code 2F and 3F inflators is necessary to avoid undesirable outcomes as the result of approval of inflatable PFDs for recreational use, the Coast Guard has removed the LSI from this final rule as a required evaluation tool for approval of all PFDs not having a use code 1F inflator. As suggested in many comments, this final rule provides for approval of inflatable PFDs with use code 1F, 2F, or 3F inflators in accordance with the requirements of the UL 1180 consensus standard, supplemented only as needed to address the portions of UL 1180 which are acknowledged as being incomplete or having significant safety implications. The Coast Guard believes that the potential benefit of increased PFD wear as the result of approval of inflatable PFDs for recreational boaters, in conjunction with the inflatable PFD performance improvements established in UL 1180, outweigh the potential risk of PFD failures due to human error. Nevertheless, the Coast Guard is strongly encouraging PFD manufacturers to emphasize the need for proper maintenance in their marketing and instructional materials. As inflatable PFDs are introduced to the recreational boating market, the Coast Guard will carefully monitor casualty data to ensure that appropriate adjustments are made to the UL standards or requirements in the event of negative outcomes.

The Coast Guard notes that it has used the LSI to aid its evaluation and analysis of PFD rulemaking projects since 1985, but this is the first regulatory project in which it was to be used as an approval evaluation tool. The Coast Guard's intent in inserting this requirement was to provide more flexibility for design approval. Although it is no longer required as an approval evaluation tool, the Coast Guard anticipates that the LSI will be used in the future as an evaluation tool for novel designs not specifically covered by UL 1180 and to evaluate rule changes, establish policy, and make equivalency interpretations. Additionally, the Coast Guard will continue development of the LSI as was suggested by a number of the comments discussed above, and the October 30, 1995, NBSAC resolution which favored continued development of the LSI for possible future use. Therefore the following sections are revised or deleted accordingly: §§ 160.076–5, –7(a)(1), –9(b), –13(c)(10), –21(e), –23(a)(1), –27, and –37(b)(4 & 5).

Future action: The uncertainty the LSI caused for manufacturers needs to be addressed in order for the probabilistic risk based assessment embodied in the LSI to be a truly viable alternate approval path. The Coast Guard will propose to develop the LSI as a consensus standard with participation of industry. If the LSI can be developed adequately to be a viable alternative path, it may be proposed as part of the approval process for PFDs in the future. As noted above, the Coast Guard will carefully monitor the effect of deleting the LSI and approving PFDs with either use code 1F, 2F or 3F inflators.

2. Approval Type [Sections 160.076–7, –9, and –39(c)]

IR Requirement: Under the approval requirements for inflatable PFDs in the IR, the Coast Guard provided the option of approving inflatable PFDs as Type V PFDs, which either would require that the PFD be worn to count towards the carriage requirement, or would have other conditions appropriate to their intended use. In the latter case, conditional approvals would be allowed for special PFDs designed for special circumstances, such as those for diving with recreational submersibles. Approval of this special category of devices is not addressed by the UL standard.

Comments on Conditional Approval and Approved Only When Worn:

Five comments indicated the need for an incentive, such as a condition that a PFD only be approved as meeting the carriage requirements if it is worn, to increase PFD wear rates. After noting that 80% of drownings occur because the victim is not wearing a PFD, one of these comments concluded that any regulation relating to PFDs should require that PFDs be worn, particularly on small boats, if the Coast Guard expects to have an impact on boating accident drownings. Several comments from boaters indicated that they were not opposed to a requirement for inflatables to be worn, and as discussed above, there were 21 comments that either favor required wear, presently wear, or would wear inflatable PFDs.

One of the comments requested that approval of all inflatable PFDs be conditional on the PFD being worn and noted that approvals that are contingent on the device being worn may increase use, grant boaters access to approved devices, allow the industry to sell approved devices, and allow price and comfort to drive the market. Another comment from a manufacturer that also favored conditional approval for all inflatable PFDs, not just Type V, noted that the condition would benefit and promote: wear among those who purchase an inflatable PFD, better care and maintenance of the inflation among those who wear it, and redundancy in personal lifesaving equipment aboard vessels where space is not limited.

One comment suggested adding the condition "in presence of perceived danger" to the "approved only when worn" provision to make the conditional approval more acceptable and reasonable. It is the Coast Guard's view that for most accidents danger is often unperceived, and that such a requirement would, instead of encouraging increased wear, result in boaters wearing PFDs less often under the mistaken belief that the need for them was limited to situations when imminent danger is apparent. Additionally, as with a swimming ability requirement, it would not be feasible for law enforcement personnel to enforce such a condition.

Two comments that favored required wear, noted that to get more comfortable PFDs on the market and achieve wider use than currently approved PFDs, it may be necessary for the Coast Guard to relax the standards of reliability and effectiveness. One of these comments indicated that reduced "reliability or effectiveness" in combination with the condition that a PFD is "approved only when worn" should be an available approval option to permit manufacturers to reduce the cost of a device.

On the other hand, several comments from manufacturers and from boaters indicated that they were opposed to any requirement for inflatables to be worn. Three comments from boaters indicated that they opposed any condition that required PFDs to be worn to meet the carriage requirements. One stated that the introduction of the "Approved Only When Worn" concept is curious in light of the results of another Coast Guard interim rule which set approval standards for hybrid inflatable life jackets (50 FR 33923; August 22, 1985) which had adopted the same requirement. A hybrid PFD uses a mixture of inherently buoyant material and inflation to provide flotation. In the commenter's opinion the effect of the action was the "kiss of death" for hybrid

PFDs. In addition, the comment noted that if this requirement was truly justified for inflatables, then it is equally justified for inherently buoyant vests. The Coast Guard notes that there are two significant differences between the hybrid PFDs and inflatables: comfort and price. Hybrid PFDs do not provide as much improvement in comfort, and hence increased wearability, as inflatables because of their greater bulk and body coverage. Additionally, inflatables only have one means of buoyancy, and therefore will be less expensive than hybrids and represent a much smaller incremental increase above the cost of an inherently buoyant PFD. The Coast Guard also notes that the option of approving hybrid PFDs without the requirement that they be worn to be considered approved has been available since February 1995. Since that time only one manufacturer has sought approval without this condition. This fact appears to confirm that the approval condition is not the sole reason for the lack of retail success of hybrid PFDs.

Final rule requirements: The Coast Guard adopted the option of conditional approval in the IR for inflatable PFDs without use code 1F inflators but, as discussed above in the discussion of the use code 1F inflators and the LSI, the Coast Guard is deleting the use code 1F inflator provision as imposing conditional approval from the final rule for PFDs meeting UL 1180 because of the potential impediment that the conditions may have on the sales of devices to recreational boaters.

In this final rule, conditional approval is being used only for PFDs which do not comply with the UL standards and which are intended to be used in some special application or manner, such as diving with a "wet" submersible vessel, i.e., a vessel designed to propel a person using SCUBA, or partially wet submersible vessel. The Coast Guard believes that such designs can provide boaters with an effective lifesaving alternative only if the user understands the PFD's limitations and is used accordingly. Conditional approval serves these ends and may make more affordable alternatives available to users who wish to have an approved supplemental PFD on board for occasional use or who are willing to comply with the approval conditions to have the device count as a replacement PFD to meet the carriage requirements. The lack of a wearability standard within the consensus standard or conditional approval in the regulations will require the Coast Guard to closely monitor accident statistics and revise the rules if necessary. Therefore, the following sections are revised or deleted accordingly: §§ 160.076–7, –9, and –39(c).

3. Repack Evaluation (Section 160.076–25(c)(2))

IR Requirement: UL 1180 does not address repacking. Under the IR, however, an inflatable PFD being tested for approval must pass an evaluation in which test subjects demonstrate that they can repack the PFD, or refold the yoke-style design so that it will function properly when donned and used again. After being repacked the PFD must be ready for donning and manual inflation in or out of the water, and for oral inflation in the water. There is no time limit associated with the test. The test is not required for devices the manufacturer requires to be professionally serviced.

Comments: One manufacturer commented that the requirement for a repack evaluation test is a good improvement, because most designs currently available are very difficult to repack. However, a second comment stated that the requirement that each test subject perform three repack evaluations is excessive and adds expense. The comment noted that a single repack evaluation would adequately address the necessary safety considerations. The Coast Guard notes that as the requirement is written in the IR, the PFD's suitibility for use in the specific test conditions noted above must be assessed after the repacking. The Coast Guard believes that all of these conditions can be properly evaluated after the test subject performs only one repack. Therefore, only one repack evaluation is needed for approval, but a follow-up assessment must be conducted by the test laboratory to ensure that all of the cited UL 1180 conditions are evaluated.

Final rule requirements: The Coast Guard is retaining the repack evaluation requirement in § 160.076–25(c)(2), but is making editorial revisions to clarify that only one repack evaluation is required. Inflatable PFDs that pass this test will have a higher in-service operational reliability than designs not meeting the requirement because they will be less likely to be repacked or refolded such that inflation lanyards and the like are inaccessible for emergency use or unusable without disassembly.

4. 45-Sec. Average Donning Time, Donning Relaxation, and Reporting Subject Disqualification [Section 160.076–25(c)(1)]

IR Requirements: A 45-second average donning time requirement was included in the IR in addition to the UL 1180 imposed 60-second maximum limit for each subject. Additionally, unusual problems with the reference vest used for the donning time test are required to be reported to the Coast Guard, as this is a new reference vest that has not been previously used for testing purposes. A longer donning time is permitted for designs requesting approval with conditions which are not yet addressed in UL 1180.

Comments: Except for the NBSAC survey discussed above, comments on the average donning time test were not favorable and advocated elimination of this requirement. One comment noted that in administering a donning time test, consideration should be given to the trade-off that exists between the simplicity of donning a PFD and the secureness of the device during water entry. The comment suggested that the Coast Guard eliminate the 45-second average donning time requirement and only require the 60-second maximum in UL 1180. Another comment indicated that the average time requirement has reduced the time limit from 60 to 45 seconds, and did not understand why an inflatable PFD should be donned faster than an inherently buoyant PFD. The Coast Guard notes that the 45-second average donning time requirement is actually a second requirement in addition to the UL 1180 60-second maximum donning time requirement. The requirement is not a significant reduction in donning time but a change in the method of evaluating the test results.

Final rule requirements: The average donning requirement was added in the IR as a supplement to the 60-second maximum time requirement contained in the UL 1180 standard, in order to effectively measure donning-time performance of PFDs. Historically, nearly all designs of inherently buoyant and hybrid PFDs that pass a 60-second maximum requirement, have been shown to pass a 45-second average requirement as well. The Coast Guard inserted the average requirement in the IR because, overall it is a better tool for assessing whether designs are improving or whether they are getting more difficult to don. No reasonable PFD design would be denied approval solely as a result of the average requirement. Unless PFDs are required to be worn, donning is a critical part of the survival process.

However, the average donning time test provides limited additional safety and may slow the availability of inflatable PFDs to boaters. Therefore, the Coast Guard is deleting the average donning time test requirements contained in the IR at § 160.076–25(c)(1)

but retaining the requirement that a PFD meet the 60-second maximum donning time requirement in UL 1180.

5. Average Freeboard for Type II and Freeboard Reporting (Section 160.076–25(c)(3)(i) and – 25(c)(4)(i))

IR Requirement: UL 1180 contains both an average and minimum freeboard requirement for performance types I and III PFDs, but only contains a minimum freeboard requirement for performance type II PFDs. To make the requirements consistent for all types of PFDs, the IR contained an average freeboard requirement for approval Type II PFDs. As part of the IR, freeboard is required to be measured and reported in order that PFD performance trends can be effectively monitored by the Coast Guard.

Comments: One comment stated that the 4.25 inch average freeboard requirements for Type II PFDs contained in the IR is excessive based on the 3.25 inch per subject minimum freeboard requirement, contained in UL 1180. The commenter informed the Coast Guard that they had never seen an average freeboard requirement applied and were not aware of any body of data to support its use. As mentioned above, the Coast Guard notes that the UL 1180 standard has both minimum and average freeboard requirements already in place for performance type I and III PFDs and that the performance type II requirements are the exception.

Final rule requirements: Although UL 1180 contains both average and minimum freeboard requirements for type I and II PFDs, the UL standards committee could not come to an agreement on the average requirement for performance type II PFDs and therefore omitted the average requirement for type IIs only. As a result, UL 1180 only contains a minimum freeboard requirement for Type II PFDs and no average requirement. Although adequate for safety, a minimum requirement is not conducive to monitoring trends, comparing performance, or promoting continuous improvement.

The Coast Guard is deleting the average freeboard requirement for Type II PFDs as well as the freeboard reporting requirement, and will ask UL to voluntarily measure and calculate average freeboard and report the results to the Coast Guard. As a result, although the safety of any individual PFD will not be effected, until the UL standard can be updated, an inconsistency will remain between the freeboard evaluation method of performance type II PFDs versus types I and III.

6. Wearer's View from PFD (Section 160.076–25(c)(3)(ii) and –25(c)(4)(ii))

IR Requirement: The IR requirements ensure that the inflated PFD does not unduly interfere with the wearer's ability to see in front and to the sides ("side mark view") without having to tread water. The UL standard does not address these issues.

Comments: Three comments addressed these provisions. One comment suggested that the side mark view evaluation be performed at 20 feet, rather than the 3 m (10 ft) requirement in the IR, to make it consistent with other standards and regulations which use this type of PFD performance requirement. The Coast Guard notes that the approval requirements for hybrid and commercial inflatable PFDs require that this evaluation occur at 3 m rather than 20 feet (46 CFR Part 160.077 and 160.176). In addition, the comment indicated that the in-water performance evaluation relating to front and side views should only be conducted with the device positioned in its intended wear condition. The comment indicated that if the PFD shifts during water entry it should not be judged a failure for inadequacy of vision; it does not matter if unconscious people have their vision restricted. However, the comment agreed that the remaining in-water requirements (e.g., turns, freeboard, etc.) are applicable to both conscious and unconscious users. In addition, the comment requested that the front mark view requirement not apply to Type III PFDs.

The second comment also discussed the IR requirement that the water surface be visible to the subject when looking to the side. The comment suggested that this only apply to Type I devices and even then not rigidly. The comment added that a relaxed head position without constant visibility of the lowest point on the horizon is not an unsafe condition. Another comment stated that the IR requirement for static measurements of the side mark view, freeboard, and retroreflective material location creates an excessive amount of testing and continues to increase the cost of approval.

Final rule requirements: The Coast Guard is deleting both of the wearer view requirements contained in § 160.076–25(c)(3)(ii) and –25(c)(4)(ii) as these provisions add limited additional safety and may slow inflatable PFDs from being available to boaters.

7. Retroreflective Tape and Light Visibility (Section 160.076–25(c)(3)(iii))

IR Requirement: Any retroreflective tape or light provided on the PFD is required to be visible while worn in the water. The Coast Guard instituted these requirements to ensure that the retroreflective material is effective for search and rescue purposes. The Coast Guard believes that it would be an unnecessary expense and misleading to the user to provide these materials at locations that do not aid search and rescue. The UL 1180 standard does not address these provisions.

Comments: One comment opposed the requirement in § 160.076–25(e)(3)(iii) that requires 75 percent of the reflective material to be above the water line. The comment noted that this type of requirement, and others like it, do not encourage improved performance. Instead, a minimum surface area of reflective material above the water line should be required. The comment added that manufacturers should be encouraged, not discouraged to provide more reflective material.

Final rule requirements. The Coast Guard is deleting the additional requirements relating to retroreflective material above those required in UL 1180. UL practice is to require manufacturers to ensure that the minimum area needed for effective search and rescue is covered with retroreflective material if the device is sold as one that will aid in search and rescue, or if sold for use on commercial vessels. Therefore, the Coat Guard expects that most PFDs with such material tested by UL will meet this requirement.

8. Chamber Material Physical Properties, Production Oversight, Production Tests, and Manufacturer's Records Sections 160.076(b) & (c), -25(d)(2), -29, -31, and -33]

IR Requirement: To set a baseline, the IR requires that tests be conducted on materials taken from prototypes of PFDs tested for approval. There are no pass/fail criteria associated with these tests during approval, but they provide baseline data essential for production quality control limits and for use at a later date if the manufacturer proposes changes in materials. The production oversight and tests established by the IR also cover all the usual elements of a quality control program including the division of production units into lots, running various tests on each lot, establishing and retaining certain records, and establishing criteria for product acceptance and resolution of problems.

Comments on inflation chamber properties: One comment indicated that § 160.076–25(d)(2), which requires testing of inflation chamber properties from the tested prototype PFD, should

be revised to permit PFD manufacturers to bypass the inflation chamber properties tests by using material from the same lot, or equivalent, as that evaluated for the compartment material manufacturer. The comment did not define equivalent, and the Coast Guard knows of no way to determine equivalence other than by testing these physical properties. However, other methods of demonstrating equivalence can be considered.

Another comment opposed this requirement because of the difficulty and questionable value of remaining within close limits of minimum design on all components and assembly parameters in an inflatable PFD used for approval testing. The comment went on to say that production lots of components occasionally dip below the assumed safe level, and that both wide deviations within relatively small lots as well as testing errors on a specific sample are possible. This comment points out the competing demands of economical production and assurance that a produced product is adequately represented by the samples which have been tested for safety during the approval process.

Comments on Lot numbering: One comment indicated that the § 160.076–29(d) requirement to change PFD lot numbers whenever an incoming component lot number changes, would create a hardship for manufacturers. Another comment indicated that changes in lot numbers for component lot changes should only be required for changing lots of fabric and inflation mechanisms. Additionally, one comment noted that the suggestion that PFDs be manufactured in batches and given sequential serial numbers is burdensome and unnecessary. The comment suggested that this method of numbering be an available option, but not a requirement. The Coast Guard notes that the lot numbering requirements in the IR are the same as for other kinds of PFDs and that in the IR providing sequential serial numbers is an option, not a requirement.

Comments on production tests: One comment questioned why § 160.76–29(e)(2) requires two sets of samples for every fifth lot, and indicated that the tests conducted by the inspectors should replace the tests conducted by manufacturers for these lots. The Coast Guard notes that these provisions are the same as for other PFDs and are based on the quality assurance concept of counter checking the primary quality control provider's results.

One comment indicated that § 160.076–29(e)(4) (vi) and (5)(iii) requires testing without regard to production schedules. The Coast Guard notes that these paragraphs are notes to the manufacturer's and inspector's sampling plan tables and thus only apply to testing when there is production in process, as the comment indicated should be the case.

One comment indicated that the seam strength test in § 160.076–31(c)(2) is redundant with the over-pressure and air retention tests. The Coast Guard notes that in fact the latter tests provide no meaningful measure against which production control limits for the material or process can be set because they are simply pass/fail tests and thus cannot be used to monitor or predict developing problems. Seam strength offers a measure that can show trends and thereby indicate when to intervene to prevent problems.

Comments on supervision: One comment indicated that § 160.076–31(d)(3) which requires that the examiner not be supervised by someone who is responsible for meeting production schedules would sometimes initially cause problems in production start-up. The Coast Guard notes that such start-up conflicts are expected and are handled on a case by case basis, by waiving the requirement until the product line is established.

Comments on records retention: One comment questioned why § 160.076–33(a) requires the records for inflatable PFDs to be retained longer than for inherently buoyant PFDs. Another comment questioned why § 160.076–33(b)(4)(ii) requires dates of purchase and receipt of components to be recorded in addition to the component lot number. The comment indicated the lot number provides the necessary tracking information.

Final rule requirements: Performance of approval tests on production inflation chamber materials as required by the IR, avoids the necessity and cost for manufacturers to retest a PFD design in the event of a material change. The results of these types of material tests indicate the level of quality that the materials used in production must achieve to ensure production PFDs are capable of passing the UL 1180 approval tests. The production requirements section of UL 1180 is "Reserved". Production oversight is a fundamental component for all approval processes. The IR provisions require essentially the same production oversight as for other kinds of PFDs. Therefore, the Coast Guard is retaining the baseline material and production tests to establish the quality of the fundamental element of an inflatable PFD's ability to provide durable flotation. Under the IR and the final rule, manufacturers are provided the option of qualifying several alternate inflation chamber materials, while still being prevented from unwittingly submitting a "lab queen" for initial approval. Inflation chamber material properties as well as production oversight and tests, as with all PFDs, are essential quality control provisions that ensure production units comply with specifications of the tested prototypes.

As to the lot numbering requirements, though the IR requirements are being retained in this final rule the Coast Guard will work with UL and the PFD industry to establish equivalent numbering systems, and if such a requirement is adopted into the UL standard the Coast Guard will delete the requirement for the Coast Guard regulations.

The Coast Guard is retaining the records and recordkeeping provisions in the final rule as published in the IR, because records are an essential element to its oversight responsibilities. The UL standard does not address these provisions. As the Coast Guard gains experience with regulated use and user servicing of inflatables, the Coast Guard believes that long-term records are necessary to allow for tracking of defects during the initial period of approval. Additionally, a more extensive record retention will benefit manufacturers by limiting the scope of any necessary defect notification solely to affected units. Inherently buoyant PFDs have a shorter records retention period than those for inflatables because of their "self inspecting" qualities of the PFDs as discussed in the ANPRM. The Coast Guard interprets the subpart lot recordkeeping requirement as being complied with if the component lot number provides the manufacturer with the other required information.

9. Waterproof Marking Durability [Section 160.076–31(c)(8)]

IR Requirement: The IR requires a waterproof marking test that is moderately more stringent than the test required for other kinds of PFDs.

Comments: One comment indicated that § 160.076–31(c)(8), waterproof marking test, should not require elevated temperature and mild detergent since the same is not required for other PFDs.

Final rule requirements: The Coast Guard agrees that all PFD marking should be tested in the same manner, but had established the test in the IR because the impermanence of markings is a common complaint on presently approved PFDs, and because the modified test is no challenge to current technology. However, to avoid excessive differences between this and other Coast Guard regulations and UL requirements, the waterproof marking requirement in the IR is beign revised in this final rule to make the test consistent with that applicable to other PFDs.

10. Inflator Marking [Sections 160.076–21(f) and – 39(d)(1)(ii)]

IR Requirement: The IR requires that both inflators and PFDs be marked with the model number of the inflator used for approval testing.

Comments: PFDMA, the industry association, and one manufacturer acknowledged in comments the need for the Coast Guard to address PFD marking issues as the UL standard does not completely address these concerns.

Final rule requirements: The Coast Guard is retaining the marking requirements in the final rule to aid in enforcement of the serviceability requirements in Title 33 Part 175. Additionally, these provisions are to discourage boaters from switching to less reliable and less capable after-market inflators after purchasing a PFD, and to minimize the possibility of a boater being harmed as a result of an unauthorized modification to an approved PFD. The provision will also help to prevent inadvertent voiding of approval.

11. Adhesive Requirements [Section 160.076–21(d)]

IR Requirement: The IR requires that any adhesive used in the PFD must meet a simple performance standard. The UL standard is not specific in this area.

Final rule requirements: The Coast Guard has decided to drop this restriction from the final rule. Currently, adhesives are not extensively used in most inflatable PFDs produced. The Coast Guard included the requirement in the IR because adhesives have been used in the past and may possibly come into use again. Even without the Coast Guard requirement, if adhesives are used in a PFD submitted for approval, the adhesive will still need to be evaluated for suitability in the intended application according to section 1.4 of UL 1180, which provides general testing standards for components and materials different from the standard.

12. Inflation Discomfort [Section 160.076–23(a)(2)]

IR Requirement: PFDs must not be so uncomfortable during inflation or after inflation so as to cause distress or panic to the user.

Final rule requirements: The Coast Guard is removing this requirement from the final rule. The UL 1180 Standard partially covers this area in section 6.11.4, which requires the PFD to have acceptable comfort up to 90% of the maximum inflation pressure. If after a design is approved, the Coast Guard determines that some boaters are experiencing distress upon inflation, the need for additional requirements in this area will be reevaluated.

13. Textile Cut Edges [Section 160.076–239b)]

IR Requirement: Textilo cut edges must be finished to minimize premature unraveling failures. This is a durability and product value issue and not a safety issue.

Final rule requirements: The Coast Guard is removing this requirement from the final rule. As a result, some products will need to be removed from service sooner than if the requirement were in effect; however, a shortened life span should not be catastrophic or life threatening.

14. Pamphlet Requirements [Section 160.076–35]

IR Requirement: An information pamphlet must be provided which is similar in format to that required for inherently buoyant and hybrid PFDs, but which covers the features of inflatable PFDs.

Comments: In comments, PFDMA and three manufacturers acknowledged the need for this information pamphlet section. They provided no specific comments or suggested improvements to the requirements. The UL comments indicate that they expected the Coast Guard to fill in these requirements until the UL standard could be completed. The general consensus of the attendees at the public meeting, discussed above, was support of the approach to the pamphlet published in the IR.

Final rule requirements: All Coast Guard-approved PFDs are required by 33 CFR 181 to be provided with a PFD pamphlet. The UL standard has a section reserved for this item. Without requirements specific to inflatable PFDs in this section, the pamphlet for inherently buoyant PFDs specified in 33 CFR 181 would be required. This result would add no benefit to the public as that pamphlet fails to address inflatable PFDs. Therefore, the Coast Guard is retaining the requirement regarding the information pamphlet in the final rule as published in the IR. Proper selection guidance is critical for a potential inflatable PFD consumer to make an informed purchase decision.

15. Owner's manual [Section 160.076–37 (b)(1), (b)(2), (b)(3), (b)(4), and (b)(5)]

IR Requirement: In addition to the UL 1180 requirements for the type of information to be provided in an owner's manual, the IR requires five additional issues to be addressed: (1) instructions to inform users to partially deflate a PFD to ease climbing out of the water; (2) service life disclosure; (3) warning against misuse that could be hazardous; (4) explanation of the meaning of any approval conditions; and (5) estimate of user's chances of survival if approval conditions are or are not met.

Comments: Several comments addressed this issue. One manufacturer acknowledged the need for the IR's owner's manual section. Two comments indicated that the requirement is § 160.076–37(b)(2), to state the expected service life in owners manual, was not prudent due to enormous diversity of usage conditions. One of these comments went on to say that the components which will be used in the first inflatable PFDs are newly developed to meet the new standard and have no historical data to justify any claims of expected service life. Additionally, a comment from UL indicated that the example in § 160.076–37(b)(3), which requires a warning against wearing a PFD with automatic inflation under restrictive clothing, should be revised to indicate that such a warning be provided with all inflatable PFDs since any inflatable PFD worn under clothing is hazardous.

Final rule requirements: During the development of UL 1180, PFD manufacturers were divided on the service life disclosure issue, and the UL committee could not reach a consensus on the issue. Because the IR provisions requiring additional information to be included in owner's manual add limited additional safety benefits and may delay designs being available to boaters, those provisions are being deleted in the final rule. The UL standard still requires an owner's manual to be included and manufacturers who choose to, can include the material which would have been required by the IR.

16. PFD Markings [Section 160.076–39 (c), (d), and (f)]

IR Requirement: In addition to the UL 1180 marking requirements for PFDs and component materials, the IR requires several additional marking items including information about use on commercial vessels, the approved inflator model, and warnings of foreseeable hazards. Additionally, conditional approval markings are permitted for manufacturers seeking such approval.

Comments; General: The PFDMA acknowledged that, in general, the Coast Guard's marking provisions in the IR

were necessary. The Association provided no specific comments.

Comments; Marking size: There were two comments on the size of the marking required on the inflation handle of a manual inflator. Both comments indicated that smaller marking would be adequate.

Comments; Use on Commercial Vessels: There were two comments on the requirements in § 160.076–39(d)(1)(i) which require markings on an approved PFD to state that the PFDs are "NOT APPROVED FOR USE ON COMMERCIAL VESSELS." Both comments believed that there was a high likelihood that the marking would be misinterpreted as prohibiting use of these recreational inflatable PFDs on commercial vessels. One comment noted that the marking would create the misperception in the minds of many crew members of commercial vessels, that they are not allowed to wear inflatable PFDs. The comment stated that as a result, the marking will be a disservice to thousands of men and women on board commercial vessels. Further, the comment noted, it will greatly diminish the stated objective of getting people to take the preventive measure of actually wearing a PFD and advocated that all inflatable PFDs be marked "Meets USCG Carriage Requirements Only When Worn."

The other comment also favored use of the devices on uninspected vessels with certain conditions. This comment stated that for uninspected passenger vessels for hire, there appears to be no basis for allowing inflatable PFDs in lieu of inherently buoyant PFDs unless they are worn by the passengers during the voyage.

Comments; Reliability Disclosure: One of the comments discussed above also requested that inflatable PFDs be marked with their reliability (after five years of typical service), for the consumer's information at the point of sale. The comment indicated that comparative figures for inherently buoyant PFDs should be allowed. The comment also suggested that the inflatable PFD should be marked with an indication of its reliability and effectiveness when worn.

Final rule requirements: Based on the comments the Coast Guard is revising the marking requirements in the final rule to require the PFDs to be marked "NOT APPROVED TO MEET CARRIAGE REQUIREMENTS ON COMMERCIAL VESSELS." This will make it clear that Type I, II, or III inflatable PFDs may be used as additional equipment on uninspected commercial vessels, in the same fashion as most other recreational PFDs. This would allow crew members to use these inflatables in addition to Type V PFDs permitted to be used on these vessels in accordance with their labels. In a future rulemaking the Coast Guard intends to consider revising 46 CFR part 25 to address use of these PFDs to meet certain commercial vessel carriage requirements and to address the associated maintenance responsibilities and perhaps wear requirements as suggested in the comments.

The Coast Guard has decided not to require markings concerning reliability of the PFD on the PFD label as requested because, among other things, it cannot be adequately explained in a brief statement. This information may be addressed in the information pamphlet or the owner's manual. The pamphlet is intended for point of sale information. In this final rule, the Coast Guard is not requiring this information to be provided either on the label or in the owner's manual because the rating would depend on how the PFD is used and cared for or would require the development of a standardized typical service life which is not available at this time.

As to the other comments on marking requirements in § 160.076–39, the Coast Guard is deleting paragraphs (d)(2) and (f) regarding foreseeable misuse and manual inflation handle marking, as these provisions add limited additional safety and may delay designs being available to boaters.

Editorial Corrections

In addition to the above changes, a number of editorial changes are being made in the final rule to conform the text of the rule to the new organization of the Coast Guard. Additionally, the production test and inspection sampling plan tables in § 160.076–29 are corrected in two areas. The lot size headings are relocated to not confuse them with the number of samples per lot. Also, in the notes to the tables the symbols "/@" are replaced with "§".

Incorporation by Reference

The following material is incorporated by reference in § 160.076–11: Fully Inflatable Recreational Personal Flotation Devices (UL 1180), first edition, May 15, 1995; Components for Personal Flotation Devices (UL 1191), May 16, 1995; Marine Buoyant Devices (UL 1123), February 17, 1995; American Society for Testing and Materials, ASTM D 751–79, Standard Methods of Testing Coated Fabrics, 1979; ASTM D 1434–75, Gas Transmission Rate of Plastic Film and Sheeting, 1975; and Federal Standards, Federal Test Method Standard No. 191A, July 20, 1978. Copies of the material are available for inspection where indicated under "ADDRESSES." Copies of the material are available from the sources listed in § 160.076–11.

The Director of the Federal Register has approved the material in § 160.076–11 for incorporation by reference under 5 U.S.C. 552 and 1 CFR part 51. The material is available as indicated in that section.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

A Regulatory Evaluation under paragraph 10e of the DOT regulatory policies and procedures has been prepared and is available in the docket for inspection or copying where indicated under **ADDRESSES.** The Evaluation is summarized as follows.

The requirements of this final rule open up a new marketing opportunity for inflatable PFD manufacturers by allowing them to obtain Coast Guard approval of recreational inflatable PFDs, if they so choose. The final rule will also allow boaters to purchase and use inflatable PFDs on their boats, if they wish to do so. Manufacturers may still make and sell unapproved inflatable PFDs, and boaters may continue to use such PFDs as additional equipment. Manufacturers who wish to obtain approval will have to pay for the approval testing at the recognized laboratory, pay the cost of the required quality control and oversight, and provide the information pamphlet and manuals required by this rule.

The estimated total initial approval cost per inflatable PFD design is expected to be approximately $18,500, excluding the cost of inflation system acceptance which could be amortized over several designs of PFDs. This cost is almost entirely due to tests required by the industry consensus standard, which are not included in the cost imposed by this rule. Costs to approve other types of PFDs are approximately $6,000, excluding component acceptance costs. The additional cost to approve inflatable PFDs could easily be absorbed in the cost of the units produced. The cost increase per device would be small considering the number of devices which could be produced under authorization of each approval certificate. The Coast Guard anticipates that it will approve 36 inflatable PFD designs within the first 10 years after issuing this rule.

Production inspection costs imposed by these regulations will be approximately $1,000 for the largest size lot of inflatable PFDs permitted. This cost is similar to that incurred for other types of approved PFDs.

The retail cost, per device, is expected to be between $50 and $200 for inflatable PFDs. Currently approved PFDs range in price from $7–$200.

If 500,000 units per year are produced, costs for the requirements imposed over those imposed by the industry consensus standard is estimated to be $618,000 annually to the industry.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider the economic impact on small entities of a rule for which a general notice of proposed rulemaking is required. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

As the requirements of this final rule open up a new marketing opportunity for inflatable PFD manufacturers by allowing them to obtain Coast Guard approval of recreational inflatable PFDs, a general notice of proposed rulemaking was not required. The Coast Guard has nevertheless reviewed this rule for its potential impact on small entities. The final rule will also allow boaters to purchase and use inflatable PFDs on their boats. As discussed above, the economic impact of the new requirements is expected to be minimal.

Therefore, the Coast Guard certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains collection-of-information requirements. The Coast Guard has submitted the requirements to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), and OMB has approved them. The section numbers are §§ 160.076–13, 160.076–21, 160.076–29, 160.076–31, 160.076–33, 160.076–35, and 160.076–39 and the OMB approval number is OMB Control Number 2115–0619.

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This rulemaking establishes procedures for Coast Guard approval of inflatable PFDs. The authority to establish these requirements are committed to the Coast Guard by Federal statutes. Furthermore, since PFDs are manufactured and used in the national marketplace, safety standards for PFDs should be national in scope to avoid burdensome variances. Therefore, the Coast Guard intends this rule to preempt State action on the same subject matter.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under paragraph 2.B.2 of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. This rule has no environmental impact other than reducing the volume of unicellular plastic foam being used in inherently buoyant PFDs. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 46 CFR Part 160

Marine safety, Reporting and recordkeeping requirements, Incorporation by reference.

Accordingly, the interim rule amending 46 CFR part 160, which was published at 60 FR 32836 on June 23, 1995, is adopted as final with the following changes:

PART 160—LIFESAVING EQUIPMENT

1. The authority citation for part 160 is revised to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3703 and 4302; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

2. Section 160.076–5 is amended by revising the definition of "Commandant", and removing the definition of "LSI" to read as follows:

§ 160.076–5 Definitions.

* * * * *

Commandant means the Chief of the Lifesaving and Fire Safety Standards Branch, U.S. Coast Guard Marine Safety and Environmental Protection Directorate. Address: Commandant (G–MMS–4), U.S. Coast Guard Headquarters, 2100 Second St. SW., Washington, DC 20593–0001; phone: 202–267–1444; facsimile: 202–267–1069; electronic mail: "mvi-3/G-M18@cgsmtp.uscg.mil".

* * * * *

3. In § 160.076–7, paragraph (a) is revised to read as follows:

§ 160.076–7 PFD approval Type.

(a) An inflatable PFD may be approved without conditions as a Type I, II, or III PFD for persons over 36 kg (80 lb) if it meets the requirements of this subpart.

* * * * *

4. In § 160.076–9, paragraph (b) is revised to read as follows:

§ 160.076–9 Conditional approval.

* * * * *

(b) PFDs not meeting the performance specifications for type I, II, or III PFDs in UL 1180 may be classified as Type V, conditionally approved PFDs, when the Commandant determines that the performance or design characteristics of the PFD make such classification appropriate.

5. In § 160.076–11, paragraph (b) is revised to read as follows:

§ 160.076–11 Incorporation by reference.

* * * * *

(b) The materials approved for incorporation by reference in this subpart, and the sections affected are as follows:

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.
ASTM D 751–79 Standard Methods of Testing Coated Fabrics, 1979, 160.076–25;
ASTM D 1434–75 Gas Transmission Rate of Plastic Film and Sheeting, 1975, 160.076–25.

Federal Standards

Naval Publishing and Printing Center, Customer Service, 700 Robbins Avenue, Philadelphia, PA 19120.
In Federal Test Method Standard No. 191A (dated July 20, 1978) the following methods:
(1) Method 5100, Strength and Elongation, Breaking of Woven Cloth; Grab Method, 160.076–25;
(2) Method 5132, Strength of Cloth, Tearing; Falling-Pendulum Method, 160.076–25;
(3) Method 5134, Strength of Cloth, Tearing; Tongue Method, 160.076–25.

Underwriters Laboratories (UL)

Underwriters Laboratories, Inc., P.O. Box 13995, Research Triangle Park, NC 27709–3995 (Phone (919) 549–1400; Facsimile: (919) 549–1842)

UL 1123, "Marine Buoyant Devices", February 17, 1995, 160.076–35;
UL 1180, "Fully Inflatable Recreational Personal Flotation Devices", May 15, 1995, 160.076–7; 160.076–21; 160.076–23; 160.076–25; 160.076–29; 160.076–31; 160.076–37; 160.076–39.
UL 1191, "Components for Personal Flotation Devices", May 16, 1995, 160.076–21; 160.076–25; 160.076–39.

§ 160.076–13 [Amended]

6. In § 160.076–13 paragraph (c)(10) is removed.

§ 160.076–21 [Amended]

7. In § 160.076–21 paragraphs (d) and (e) are removed and paragraph (f) is redesignated as paragraph (d).

8. In § 160.076–23, paragraphs (a)(2) and (b) are removed, paragraph (a)(3) is redesignated as (a)(2), and paragraph (a)(1) is revised to read as follows:

§ 160.076–23 Construction and performance requirements.

(a) * * *

(1) Meet the requirements in UL 1180 applicable to the PFD performance type for which approval is sought; and

* * * * *

9. In § 160.076–25, paragraph (c) is revised to read as follows:

§ 160.076–25 Approval testing.

* * * * *

(c) Each test subject participating in the tests in UL 1180, section 6 shall in addition, demonstrate that the test subject can repack the PFD such that it can be used in the donning tests and manual activation tests required by—

(1) Section 6.2.3 of UL 1180; and

(2) Sections 6.4.1, and 6.4.2 of UL 1180, if the test engineer cannot verify that the manual and oral inflators are properly stowed.

* * * * *

§ 160.076–27 [Removed and reserved]

10. § 160.076–27 is removed and reserved.

§ 160.076–29 [Amended]

11. In § 160.076–29, Tables 160.076–29A and 160.076–29B are revised to read as follows:

* * * * *

TABLE 160.076–29A—MANUFACTURER'S SAMPLING PLAN

	Number of Samples Per Lot (Lot size)					
	1–100	101–200	201–300	301–500	501–750	751–1000
Tests:						
Inflation Chamber Materials	See Note (a)					
Seam Strength	1	1	2	2	3	4
Over-pressure (b)(c)	1	2	3	4	6	8
Air Retention	EVERY DEVICE IN THE LOT					
Buoyancy and Inflation Medium Retention	1	2	3	4	6	8
Tensile Strength	See Note (d)					
Detailed Product Examination	2	2	3	4	6	8
Retest Sample Size (b)			13	13	20	20
Final Lot Inspection	EVERY DEVICE IN THE LOT					

Notes to Table.
(a) See § 160.076–29(e)(4)(i).
(b) See § 160.076–29(e)(4)(ii).
(c) See § 160.076–29(e)(4)(iii).
(d) See § 160.076–29(e)(4)(iv).

TABLE 160.076–29B—INSPECTOR'S SAMPLING PLAN

	Number of Samples Per Lot (Lot size)					
	1–100	101–200	201–300	301–500	501–750	751–1000
Tests:						
Over-pressure (a)	1	1	2	2	3	4
Air Retention	1	1	2	2	3	4
Buoyancy & Inflation Medium Retention	1	1	2	2	3	4
Tensile Strength	See Note (b)					
Waterproof marking	See Note (c)					
Detailed Project Examination	1	1	1	2	2	3
Retest Sample Size (a)	10	10	13	13	20	20
Final Lot Inspection	10	15	20	25	27	30

Notes to Table:
(a) See § 160.076–29(e)(5)(i).
(b) See § 160.076–29(e)(5)(ii).
(c) See § 160.076–29(e)(5)(iii).

* * * * *

12. In § 160.076–31, paragraph (c)(8) is revised to read as follows:

§ 160.076–31 Production tests and examinations.

* * * * *

(c) * * *

(8) *Waterproof Marking Test.* Each sample must be completely submerged in fresh water for at least 30 minutes. The sample must then be removed, immediately placed on a hard surface, and the markings vigorously rubbed with the fingers for 15 seconds. If the printing becomes illegible, the sample must be rejected.

* * * * *

13. In § 160.076–37, paragraph (b) is revised to read as follows:

§ 160.076–37 Owner's manual.

* * * * *

(b) *Manual contents.* Each owner's manual must contain the information specified in section 11 of UL 1180, and, if the PFD is conditionally approved, an explanation of the meaning of, and reasons for, the approval conditions.

14. In § 160.076–39, paragraph (d)(2) is removed and reserved, paragraphs (c) and (d)(1)(i) are revised and paragraph (f) is removed to read as follows:

§ 160.076–39 Marking.

* * * * *

(c) A Type V, conditionally approved, inflatable PFD must be marked with the approval conditions specified on the approval certificate.

(d) * * *

(1) * * *

(i) "NOT APPROVED TO MEET CARRIAGE REQUIREMENTS ON COMMERCIAL VESSELS."

* * * * *

Dated: March 20, 1996.

J.C. Card,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 96–7301 Filed 3–27–96; 8:45 am]

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March 28, 1996

Part III

Department of Housing and Urban Development

Office of Community Planning and Development; Fiscal Year 1995 Funding Availability for the Early Childhood Development Program; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-3961-N-01]

Office of Community Planning and Development; Fiscal Year 1995 Notice of Funding Availability for the Early Childhood Development Program

AGENCY: Office of Community Planning and Development, HUD.

ACTION: Notice of Funding Availability (NOFA) for Fiscal Year (FY) 1995.

SUMMARY: This NOFA announces the availability of $21 million to assist non-profit organizations in providing early childhood development services for lower-income families who reside in public housing, and for homeless families or those at risk of becoming homeless. In keeping with the Clinton Administration's commitment to create communities of opportunity by providing a coordinated package of programs to highly distressed areas, this competition is limited to non-profit organizations that will provide early childhood development services in or near public housing located in urban and rural Federally-designated Empowerment Zones and Enterprise Communities (EZ/ECs). Funded programs will be linked to and build upon the self-sufficiency activities outlined in EZ/EC communities' strategic plans.

DATES: An original and three copies of the completed application for grant funds must be received in HUD Headquarters prior to 5 p.m. Eastern Time on June 26, 1996.

ADDRESSES: Applications will be accepted at the following address: Processing and Control Unit, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 7251, Washington, DC 20410. ATTN: Childhood Development Program. By 5 p.m. Eastern Time on the deadline date applications will be received at either room 7251 or the South Lobby of the Department of Housing and Urban Development at the above address.

Late applications will be deemed to have been received by the deadline date if postmarked by the United States Postal Service no later than three days prior to the deadline date. Late express delivery items will be deemed to have been received by the deadline date upon submission of documentary evidence that they were placed in transit with the express delivery service no later than the day before the deadline.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Butler, Office of Economic Development, Office of Community Planning and Development, Department of Housing and Urban Development, Room 7134, 451 Seventh Street, SW, Washington, DC 20410, fax (202) 708-7543. A telecommunications device for hearing or speech impaired persons (TTY) is available at 1-800-877-8339 (Federal Information Relay Service TTY). (Except for the "800" number, these are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act Statement

The information collection requirements contained in this notice have been submitted to the Office of Management and Budget (OMB) for review under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number. The OMB control number, when assigned, will be announced in the **Federal Register**.

II. Purpose and Substantive Description

(a) Background

This announcement solicits applications from nonprofit organizations serving Federally-designated urban and rural Enterprise Zones/Empowerment Communities (EZ/ECs). To ensure that grants are provided to the largest number of nonprofit organizations practicable, all applicants are limited to $500,000 per project. The average award per project is expected to be approximately $200,000. These funds are intended to establish childhood development services to facilitate the employability of the parents or guardians of children who are residing in public housing, and to provide early childhood development services to families who are homeless or at risk of becoming homeless.

(b) Program Purpose

This program is designed to determine the extent to which the availability of early childhood development services in or near lower-income housing projects facilitates the employability of the parents or guardians of children who are residing in public housing, and to provide early childhood development services in or near lower-income housing projects to families who are homeless or at risk of becoming homeless. These funds may be used for the operating expenses and/or for minor renovations of child care facilities located in or near public housing developments.

All of these funds will be awarded through a competitive process to nonprofit agencies establishing or expanding child care services in Federally-designated urban and rural EZ/ECs. Any grants awarded must be expended for their appropriate activities within eighteen (18) months of the date of award. This announcement anticipates that a likely use of the grant funds will be to create child care facilities in or near public housing developments or to develop "wrap-around" child care services in or near housing developments currently offering programs.

Wrap-around child care services means added hours and days of service will be provided to allow parents the opportunity to retain, train for or seek employment. Proposed wrap-around services must be substantially different from services already provided. Funds from grants awarded under this announcement may only be used to finance the additional hours or days of services.

To the extent the program is designed to serve children who are homeless or at risk of becoming homeless, the services should be coordinated with the community's Continuum of Care system or approach for assisting homeless persons and preventing homelessness.

(c) Definitions

(1) *A person at risk of becoming homeless* means an individual or family who is precariously housed and lacks the resources and support network needed for stable housing.

(2) *Continuum of Care* means a system or approach designed to assist homeless families and individuals and prevent homelessness, involving a community process for coordinating resources and consisting of four basic components:

(i) A system of outreach and assessment for determining the needs and conditions of an individual or family who is homeless, or whether assistance is necessary to prevent an individual from becoming homeless;

(ii) Emergency shelters with appropriate supportive services to help ensure that homeless individuals and families receive adequate emergency shelter and referral to necessary service providers or housing finders;

(iii) Transitional housing with appropriate supportive services to help those homeless individuals and families who are not prepared to make the transition to permanent housing and independent living; and

(iv) Permanent housing, or permanent supportive housing, to help meet the long-term needs of homeless individuals and families.

(3) *Empowerment Zone/Enterprise Community (EZ/EC)* means an urban or rural area so designated by the Secretary of HUD or the Secretary of Agriculture pursuant to sections 1391-1393 of the Omnibus Budget Reconciliation Act of 1993. For purposes of this NOFA, this term shall include Supplemental Empowerment Zones and Enhanced Enterprise Communities, as defined below.

(4) *Supplemental Empowerment Zone/Enhanced Enterprise Community (SEZ/EEC)* means an urban area which was designated by the Secretary of HUD as either a Supplemental Empowerment Zone (SEZ) or an Enhanced Enterprise Community (EEC) and announced as such in the Notice of Designation printed in the **Federal Register** on February 23, 1995 (60 FR 10018).

(5) *Full-day child care* means provision of child care that permits parents or guardians to work at full-time employment.

(6) *Homeless family* means:

(i) An individual or family who lacks a fixed, regular, and adequate nighttime residence; and

(ii) An individual or family who has a primary nighttime residence that is:

(A) A supervised publicly- or privately-operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);

(B) An institution that provides a temporary residence for individuals intended to be institutionalized; or

(C) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(7) *Lower-income families* has the meaning given such term in section 3(b)(2) of the U.S. Housing Act of 1937.

(8) *Lower-income or public housing* has the meanings given such terms in section 3(b)(1) of the U.S. Housing Act of 1937.

(9) *Non-profit organization* means an organization:

(i) That no part of the net earnings of which inures to the benefit of any member, founder, contributor or individual;

(ii) That, in the case of a private nonprofit organization, has a voluntary board;

(iii) That has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

(iv) That practices nondiscrimination in the provision of assistance.

(10) *Public Housing Agency* has the meaning given such term in section 3(b)(2) of the United States Housing Act of 1937.

(d) Available Funds

(1) This announcement solicits applications from non-profit organizations that wish to apply for a portion of the $21 million in grant funds that are available under HUD's Early Childhood Development program. Up to 20 percent of available funds can be awarded to rural EZ/ECs.

(2) The average award per project is expected to be approximately $200,000. Individual grants awarded under this announcement shall not exceed $500,000, in order to ensure that funds are provided to as large a number of EZ/EC communities as possible. An EZ/EC cannot receive more than $1 million. It should be noted that while an applicant may apply for funds to establish or expand services for more than one project, no single project will be funded for more than $500,000. The grants are intended to cover operating expenses or one-time renovation costs and will be funded for a period of eighteen (18) months. HUD reserves the right to fund less than the full amount requested in any application.

(e) Eligible Applicants

Applicants must be non-profit organizations, whose service areas include an EZ/EC, that wish to locate child care facilities in or near public housing developments by:

(1) Establishing one or more full-day child care centers or family day care homes, or

(2) Expanding current part-day centers for EZ/EC residents. Family-based facilities may be in the homes of one or more residents of a public housing development.

(f) Eligible Activities

Awarded funds may only be used for operating expenses and minor renovations of facilities necessary for the provision of childhood development services in or near public housing developments located in EZ/ECS. Funds may not be used for new construction of a facility.

(1) Operating expenses include such expenses as planning and development costs, administration, leasing and/or the purchase of equipment and/or leasing vehicles, maintenance, minor or routine repairs, security, utilities, furnishings, equipment and supplies (including curriculum), insurance, and staff salaries.

(2) Minor renovations include the reconfiguration of space; installation of bathrooms or kitchens; renovations necessary to achieve compliance with physical accessibility standards for persons with disabilities or required to meet State or local licensing and building code standards; landscaping; painting; and lighting. Minor renovations does not include the cost associated with lead-based paint abatement since removal of lead-based paint is funded through another HUD program.

III. Special Requirements

Interested applicants must adhere to the following requirements when developing a proposal:

(a) The program should not propose to serve children of the same ages as those currently being served by existing child care programs in or near the targeted public housing development. This prohibition does not apply to those applicants who propose to extend the hours of child care services provided by a center already located in or near the development.

(b) The appropriate public housing authority must agree to provide, at nominal or no cost, suitable facilities to the grantee for provision of full-day child care services.

(c) The full-day child care services program must serve pre-school and school children to permit parents or guardians to obtain, retain or train for employment.

(d) The full-day child care center must hire qualified staff who have received appropriate training specific to age groups served to carry out activities that support early childhood development.

(e) The full-day child care services program must involve the parents of children benefiting from such program, to the extent practicable, in the classroom.

(f) To the extent practicable, the full-day child care services program must provide opportunities for the employment of residents from the public housing development area, especially elderly residents.

(g) The full-day child care services and facilities must comply with all applicable state and local laws, regulations and ordinances.

IV. Criteria for Review and Evaluation of the Grant Application

The following are the criteria for the review and evaluation of grant applications which HUD will use in selecting grantees:

(a) *Program Quality:* comprehensiveness and effectiveness of

the proposed program. (Maximum: 25 points). The application should describe:

(1) The process by which the full-day child care center or family day care home will become operational within a reasonable period of time. Applicants should include items such as a timetable covering the projected beginning and ending dates of the minor renovations, projected date by which staff will be hired, and projected date for beginning operations.

(2) How families and children who are in need of full-day child care services and who are residents of public housing or are homeless or at risk of becoming homeless will be identified and recruited.

(3) The range of ages and number of children that will be cared for, the adult/child ratios and group sizes by age, the operating hours of the full-day child care, and the cost per child of providing services.

(4) What measures will be taken to ensure the health and safety of children and staff participating in the program.

(5) How quality full-day child care services will continue to be provided at a reasonable cost at the end of the grant period, including an adequate plan for monitoring the quality of programs and services.

(6) The consistency of care delivered to each child by a particular caregiver or caregiver team.

(b) *Capability:* the qualifications, experience, or potential capabilities of the applicant and participating parties (Maximum: 25 points). The application should describe:

(1) The ability and experience of applicant, co-applicants and/or subcontractors to perform functions.

(2) The qualifications of proposed staff, such as a Child Development Associate Credential or similar standard.

(c) *Objectives:* the extent to which the application reflects the purpose of the program. (Maximum: 25 points). The application should describe:

(1) The extent to which the child care services will serve and assist the parents or guardians to seek, retain or train for employment.

(2) The community benefit added by the service.

(3) The public housing development the services will be in or near, including street address and the number of resident children in need of proposed services.

(4) How opportunities for employment will be provided, to the extent practicable, by the program to public housing development residents.

(d) *Coordination and Resources:* partnerships formed with and participation of the community stakeholders. (Maximum: 25 points). The application should describe:

(1) How community stakeholders, including parents and the public housing authority, have worked in partnership in preparing program design and implementation.

(2) The extent to which the services will be coordinated with current supportive services, such as Americorps' VISTA and Foster Grandparent programs or similar initiatives.

(3) If the program will serve children who are homeless or at risk of becoming homeless, how the services will be coordinated with the community's Continuum of Care system or approach.

(4) Other resources; funds, staff, in-kind or other, committed to support the proposed program, including letters of commitment.

(5) Assurances or firm commitments from community sources to continue the project funding beyond the initial funding period.

(e) *EZ/EC Performance:* Progress made by the EZ/EC in the implementation of its strategic plan and benchmark activities. (Maximum: 15 points and two pages). Application should describe achievements made in:

(1) Job creation and business expansion.

(2) Job training and retention.

(3) Advancing self-sufficiency.

(4) Human services delivery.

(5) Youth development.

(6) Other activities supportive of the purpose of this NOFA.

V. Application Process

(a) Nonprofit organizations seeking Childhood Development Program assistance must make a specific request for that assistance, in accordance with this NOFA.

(b) *Timing of Submission.* One original and three copies of applications for assistance are due in HUD Headquarters on or before 5 p.m. Eastern Time on the deadline date. HUD will treat as ineligible applications that are received after that deadline. *Applications may not be sent by facsimile (FAX).*

(c) *Other Submission Requirements.* All pages of the application shall be numbered sequentially. Applications of no more than 22 pages should be submitted on 8.5" x 11" paper. In addition to the materials requested in Section IV of this notice, the nonprofit organization shall submit the following:

(1) SF–424, Application for Federal Assistance;

(2) The certification regarding lobbying required under 24 CFR part 87;

(3) Certification of a Drug-Free Workplace, in accordance with the Drug-Free Workplace Act of 1988, and HUD's regulations at 24 CFR part 24, subpart F;

(4) A copy of the organization's IRS ruling providing tax-exempt status under section 501(c) of the IRS Code of 1986, as amended;

(5) Line-item budget;

(6) A written certification stating the project will operate within EZ/EC area; and

(7) A signed statement from the local PHA committing space and/or renovation funds to the establishment/expansion of child care facility.

(d) Each grantee will be required to submit to HUD a progress report, in a form prescribed by HUD, within 90 days after the completion of the project. Each report shall describe the use of the grant funds and include a description and an analysis of the project, the approaches taken, and the level of cooperation among participating parties.

VI. Technical Deficiencies

To the extent permitted by law, HUD may advise the applicant of technical deficiencies in the applications and permit them to be corrected. Due to the requirements of the HUD Reform Act, HUD staff is limited in the assistance it is permitted to provide regarding applications for grants. The assistance and advice that can be provided includes such activities as explaining and responding to questions about program requirements, identification of those parts of an application that need substantive improvement, the dates by which decisions will be made and procedures that are required to be performed to process an application. This term, however, does not include advising the applicant how to make those improvements.

In addition, any information published in the **Federal Register** and in this NOFA and any information that has been made public through a means other than the **Federal Register** or NOFA may be discussed.

VII. Other Matters

(a) *Environmental Impact.* A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulation at 24 CFR part 50, implementing section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection and copying between 7:30 am and 5:30 pm weekdays at the Office of the Rules Docket Clerk, 451 7th St. SW Room 10276, Washington, DC 20410.

(b) *Environmental Review.* Any selected application containing funding for minor renovations is subject to environmental review by HUD and selection of such an application does not imply HUD approval of any particular property for use in the project. HUD will complete an environmental review with respect to particular properties, to the extent required under 24 CFR part 50, prior to execution of the grant agreement. The recipient may not commit HUD or other funds for minor renovations until it receives HUD approval of the property. If an application is funded only for operating expenses, environmental approval by HUD is not required.

(c) *Federalism.* The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that this NOFA will not have substantial, direct effects on States, on their political subdivisions, or on their relationship with the Federal Governments, or on the distribution of power and responsibilities between them and other levels of governments.

(d) *Family.* The General Counsel, as the Designated Official for Executive Order 12606, The Family, has determined that the policies announced in the NOFA do not have the potential for significant impact on family formation, maintenance and general well-being within the meaning of the Order. No significant change in existing HUD policies and programs will result from issuance of this NOFA, as those policies and programs relate to family concerns.

(e) *Prohibition Against Lobbying.* The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of Interior and Related Agencies Appropriation Act for Fiscal Year 1990 (31 U.S.C. 1351) and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients, and subrecipients of assistance exceeding $100,000 must certify that no Federal funds have been or will be spent on lobbying activities in connection with the assistance.

(f) *Prohibition Against Advance Disclosure of Funding Decisions.* HUD's regulations implementing section 103 of the HUD Reform Act are codified at 24 CFR part 4 and apply to the funding competition announced today. The requirements of part 4 continue to apply until the announcement of the selection of successful applicants.

HUD employees involved in the review of applications and in the making of funding decisions are restrained by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted by 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Office of Ethics (202) 708–3815. (This is not a toll-free number.) For HUD employees who have specific program questions, such as whether subject matter can be discussed with persons outside HUD, the employee should contact the appropriate Field Office Counsel, or Headquarters counsel for the program to which the question pertains.

(g) *Accountability in the Provision of HUD Assistance.* HUD's regulation implementing section 102 of the HUD Reform Act is codified at 24 CFR part 12. Section 102 contains a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 16, 1992 (57 FR 1942), following publication of the final rule, HUD published additional information that gave the public (including applicants for, and recipients of, HUD assistance) further information on the implementation, public access, and disclosure requirements of section 102. The requirements of section 102 are applicable to assistance awarded under this NOFA.

(1) *Documentation and Public Access Requirements.* HUD will ensure documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14 (a) and 12.6 (b), and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942) for further information on these requirements.)

(2) *Disclosures.* HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period of less than three years.

Authority: Section 222 of the Housing and Urban-Rural Recovery Act of 1983 and the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Acts of 1994 and 1995 (P.L. 103–327 and P.L. 103–327, respectively).

Applicant Certifications

To be Signed By The Authorized Representative of the Applicant and Submitted with the Application.

The Applicant hereby assures and certifies that:

A. It meets the criteria for eligible applications defined in the Early Childhood Development NOFA and has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability to ensure proper planning, management and completion of the project described in this application and it shall comply with all applicable Federal and state civil rights and housing laws and implementing regulations as those requirements now exist, or as they may be enacted, promulgated or amended from time to time.

B. It will comply with the requirements of the Fair Housing Act (42 U.S.C. 3601–19) and implementing 24 CFR Part 100, Part 109 and Part 110; Executive Order 11063, as amended (Equal Opportunity in Housing) and implementing 24 CFR 107; Titles II and V of the Americans with Disabilities Act, 42 U.S.C. §§ 12101 et seq.; and Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (Nondiscrimination in Federally Assisted Programs) and implementing at 24 CFR Part 1, or, for applicants which are Indian Tribes or Indian Housing Authorities, the Indian Civil Rights Act (25 U.S.C. 1201 et seq.).

C. It will comply with the requirements of the Age Discrimination Act of 1975 (42 U.S.C. 6101–07) and implementing 24 CFR 146, and Section 504 of the Rehabilitation Act of 19973

(29 U.S.C. 794) and implementing 24 CFR 8.

D. It will comply with the requirements of Executive Order 11426, as amended (Equal Employment Opportunity) and implementing 41 CFR Part 60 and the requirements of Executive Orders 11625, 12432, and 12138, which state that recipients must make efforts to encourage the use of minority-and women-owned business enterprises in connection with funded activities.

E. It will comply with the requirements of Section 3 of the Housing and Urban Development Act of 1968, (U.S.C. 1701u) (Employment Opportunities for Lower Income Persons in Connection with Assisted Projects); and Section 109 of the Housing and Community Development Act of 1974, 42 U.S.C. 5309.

F. It will comply with the requirements of section 1352, Title 31, U.S.C. and the implementing 24 CFR Part 87, and, if this application is requesting more than $100,000, it certifies that:

(1) No Federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding or modification of this grant.

(2) If any funds other than Federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence any person defined in (1) above in connection with this Federal grant, the undersigned shall complete and submit Standard Form-LLL, "Disclosure form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants and contracts under this grant) and that all subrecipients shall certify and disclose accordingly.

Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and of not more than $100,000 for each such failure. Indian Housing Authorities (IHAs) established by an Indian tribe as a result of the exercise of its sovereign power are excluded from coverage, but IHAs established under state law are not excluded from coverage.

G. It and its principals: (1) are not presently debarred suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions (see 24 CFR 24,.110) by any Federal department or agency; (2) have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; (3) are not presently indicated for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with the commission of any of the offenses enumerated in (2) above; and (4) have not within a three-year period preceding this application had one or more public transactions terminated for cause or default. Where the applicant is unable to certify any of the statements in this certification, such applicant shall attach an explanation behind this page.

Signature of Authorized Certifying Official and Date

Title

Organization

Certification Regarding Drug-Free Workplace Requirements

Instruction for Certification

1. By submitting this application, the applicant is providing certification set out below.

2. The certification set out below is a material representation of fact upon which reliance will be placed if HUD determines to award a grant to the applicant. If it is later determined that the applicant knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HUD, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

Certification Regarding Drug-Free Workplace Requirements

A. The applicant certifies that it will provide drug-free workplace by:

(a) publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) establishing an ongoing drug-free awareness program to inform employees about:

(1) the dangers of drug abuse in the workplace;

(2) the grantee's policy of maintaining a drug-free workplace;

(3) any available drug counseling, rehabilitation, and employee assistance programs; and

(4) the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) abide by the terms of the statement; and

(2) notify the employer of any criminal drug statute conviction for the violation occurring in the workplace no later than five days after such conviction:

(e) notifying HUD within ten days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction.

(f) taking one of the following actions, within 30 days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) taking appropriate personnel action against such an employee, up to an including termination; or

(2) requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement or other appropriate agency;

(g) making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a) through (f) above.

B. The applicant shall insert in the space provided below the site(s) for the performance of work done in connection with the specific grant.

Place of Performance (street address, city, state and zip code)

Signature of Authorized Certifying Official and Date

Title

Organization

Dated: March 12, 1996.

Andrew Cuomo,

Assistant Secretary for Community Planning and Development.

[FR Doc. 96–7490 Filed 3–27–96; 8:45 am]

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Part IV

Securities and Exchange Commission

17 CFR Part 230, et al.

Revisions to Rules Regulating Money Market Funds; Final Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230, 239, 270, and 274

[Release Nos. 33–7275; IC–21837; S7–34–93]

RIN 3235–AE17

Revisions to Rules Regulating Money Market Funds

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting amendments to rules and forms under the Securities Act of 1933 and the Investment Company Act of 1940 that govern money market funds. The amendments tighten the risk-limiting conditions imposed on tax exempt money market funds by rule 2a–7 under the Investment Company Act of 1940; impose additional disclosure requirements on tax exempt funds; and make certain other changes applicable to all money market funds. The amendments are designed to reduce the likelihood that a tax exempt fund will not be able to maintain a stable net asset value.

EFFECTIVE DATE: June 3, 1996. Several different compliance dates apply to the amendments. For specific compliance dates for particular amendments, see Section V. of this Release.

FOR FURTHER INFORMATION CONTACT: Martha H. Platt, Senior Attorney, (202) 942–0725, or Kenneth J. Berman, Assistant Director, Office of Regulatory Policy, (202) 942–0690, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Requests for formal interpretive advice should be directed to the Office of Chief Counsel (202) 942–0659, Division of Investment Management, 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission") is adopting amendments to rule 2a–7 [17 CFR 270.2a–7] ("rule 2a–7" or the "rule") under the Investment Company Act of 1940 [15 U.S.C. 80a–1 *et seq.*] ("1940 Act"), the rule governing the operations of money market funds ("money funds" or "funds").[1] The Commission is also adopting a new rule, rule 17a–9 under the 1940 Act [17 CFR 270.17a–9], and amendments to the following rules and forms: rule 134 under the Securities Act of 1933 [17 CFR 230.134]; rules 2a41–1, 12d–3 and 31a–1 under the 1940 Act [17 CFR 270.2a–41–1, 270.12d3–1, and 270.31a–1]; Form N–1A [17 CFR 239.15A and 274.11A]; Form N–3 [17 CFR 239.17a and 274.11b]; and Form N–SAR [17 CFR 274.101]. The Commission is also publishing three new or revised staff guides to Forms N–1A and N–3 that do not appear in the Code of Federal Regulations.

[1] Unless otherwise noted, all references to rule 2a–7; as amended, or any paragraph of the rule, will be to 17 CFR 270.2a–7 as amended by this Release.

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Executive Summary

The Commission is adopting amendments to rule 2a–7 under the 1940 Act, the rule that governs the operations of money funds. The primary purpose of the amendments is to tighten the risk-limiting conditions of the rule applicable to tax exempt money funds and thereby reduce the likelihood that a tax exempt fund will not be able to maintain a stable net asset value. The amendments also affect taxable money funds in certain respects. In addition, the Commission is adopting revisions to the prospectus disclosure requirements for tax exempt money funds and a new rule exempting certain transactions from the 1940 Act's limitations on affiliated transactions.

In considering these amendments, the Commission has made changes from the proposal designed to simplify compliance with the rule while retaining the degree of flexibility necessary for money funds to operate in accordance with their investment objectives. A brief summary of the rule amendments is provided below.

Issuer Diversification and Quality Standards

The amendments extend the rule's diversification requirements to tax exempt funds. A "national" tax exempt fund is limited to investing no more than five percent of its assets in securities of a single issuer (other than Government securities) (the "Five Percent Diversification Test"). A "single state" tax exempt fund is subject to the same limitation but only with respect to seventy-five percent of its assets; the remaining twenty-five percent of a single state fund's assets ("twenty-five percent basket") may be invested in securities of one or more issuers, provided that they are "first tier securities," as the term is defined in the rule. A tax exempt fund is limited to investing five percent of its assets in "second tier securities" that are "conduit securities," as these terms are defined in the rule, with investment in the conduit securities of any one issuer limited to one percent of fund assets. To provide an additional element of flexibility, a security subject to an "unconditional demand feature issued by a non-controlled person," as defined in the rule, will be subject only to the rule's put diversification requirements.

Diversification and Quality Standards Applicable to Providers of Puts and Demand Features

The amendments provide that a fund cannot, with respect to seventy-five percent of its assets, invest more than ten percent of its assets in securities subject to puts from, or directly issued by, the same institution. The remaining twenty-five percent of a fund's assets ("twenty-five percent put basket") may be subject to puts from, or directly issued by, one or more institutions, provided that the puts are first tier securities. A fund may not invest more than five percent of its assets in securities subject to puts that are second tier securities.

As proposed, a demand feature is an "eligible security" (as defined in the rule) only if the demand feature (or its issuer) has received a short-term rating from a nationally recognized statistical rating organization ("NRSRO"). A conditional demand feature is an eligible security if the limitations on its exercise can be readily monitored by the fund's board of directors (or its delegate). The amendments as adopted, however, do not specify the conditions that may be included in a conditional demand feature.

Asset Backed Securities and "Synthetic" Securities

The amendments clarify the credit quality, diversification and maturity determination standards applicable to synthetic and asset backed securities ("ABSs"). Among other things, an ABS must have a rating from a NRSRO to be eligible for fund investment.

Interest Rate Risk Analysis

The amendments also clarify that floating rate and variable rate securities ("adjustable rate securities") must reasonably be expected to have market values that approximate their amortized cost values on each interest rate adjustment date through their final maturity dates. The amendments require funds to review periodically whether such securities can reasonably be expected to have market values that approximate their amortized cost values upon readjustment of their interest rates.

Exemptive Rule

The Commission is adopting rule 17a–9 under the 1940 Act to permit (but not require) an affiliate of a fund to purchase from the fund securities that are no longer eligible securities at the higher of their amortized cost values (including accrued interest) or market values, without having to obtain a Commission order.

I. Background

Money funds are open-end management investment companies registered under the 1940 Act that have as their investment objective generation of income and preservation of capital and liquidity through investment in short-term, high quality securities. More than $775 billion in assets is currently invested in approximately 25 million money fund shareholder accounts.[2] Approximately sixteen percent of money fund assets ($127 billion) are held by funds that have as their principal objective distribution of income exempt from federal income taxes ("tax exempt funds").[3] Approximately one third of the assets held by tax exempt funds ($43 billion) are held by funds that seek to distribute income that is also exempt from the income taxes of a specific state or locality ("single state funds").[4] The balance is held by funds that do not limit their investments to securities exempt from the income taxes of a specific state ("national funds").

Unlike other investment companies, money funds seek to maintain a stable share price, typically $1.00 per share. This stable share price of $1.00 has encouraged investors to view investments in money funds as an alternative to either bank deposits or checking accounts, even though money funds lack federal deposit insurance, and there is no guarantee that money funds will maintain a stable share price.[5]

To maintain a stable share price, most money funds use the amortized cost method of valuation ("amortized cost method")[6] or the penny-rounding method of pricing ("penny-rounding method")[7] permitted by rule 2a–7. The 1940 Act and applicable rules generally require investment companies to calculate current net asset value per share by valuing portfolio instruments at market value or, if market quotations are not readily available, at fair value as determined in good faith by, or under the direction of, the board of directors.[8] Rule 2a–7 exempts money funds from these provisions, but contains conditions designed to minimize the deviation between a fund's stabilized share price and the market value of its portfolio.[9] If the deviation does become significant, the fund may be required to take certain steps to address the

[2] *IBC's Money Fund Report* at 2, Dec. 29, 1995 (*"Money Fund Report"*); *Investment Company Institute Mutual Fund Fact Book* at 58–59 (35th ed. 1995). For a summary of the development of money funds, which were first introduced in the early 1970s, *see* Investment Company Act Rel. No. 17589 (July 17, 1990) [55 FR 30239 (July 25, 1990)] ("Release 17589") at nn.3–7 and 15–18 and accompanying text.

[3] *Money Fund Report*, *supra* note 2, at 2.

[4] Single state funds are currently available for sixteen states: Alabama, Arizona, California, Connecticut, Florida, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Texas and Virginia. *Id.*

[5] A money fund is required to disclose prominently on the cover page of its prospectus that: (1) the shares of the fund are neither insured nor guaranteed by the U.S. Government; and (2) there can be no assurance that the fund will be able to maintain a stable net asset value of $1.00 per share. *See*, *e.g.*, Item 1(vi) of Form N–1A. The prescribed legend must appear in money fund sales literature and advertisements as well. *See* paragraph (a) of rule 34b–1 under the 1940 Act, and paragraph (a)(7) of rule 482 under the Securities Act of 1933 ("1933 Act").

[6] Under the amortized cost method, portfolio securities are valued by reference to their acquisition cost as adjusted for amortization of premium or accretion of discount. Paragraph (a)(1) of rule 2a–7, as amended.

[7] Share price is determined under the penny-rounding method by valuing securities at market value, fair value or amortized cost and rounding the per share net asset value to the nearest cent on a share value of a dollar, as opposed to the nearest one tenth of one cent. Paragraph (a)(15) of rule 2a–7, as amended. *See also* Investment Company Act Rel. No. 13380 (July 11, 1983) [48 FR 32555 (July 18, 1983)] ("Release 13380") (adopting rule 2a–7) at n.6, and Investment Company Act Rel. No. 12206 (Feb. 1, 1982) [47 FR 5428 (Feb. 5, 1982)] ("Release 12206") (proposing rule 2a–7) at n.5.

[8] *See* section 2(a)(41) of the 1940 Act [15 U.S.C. 80a–2(a)(41)], together with rules 2a–4 and 22c–1 [17 CFR 270.2a–4 and 270–22c–1]. *See also* Accounting Series Release No. 118 (Dec. 23, 1970 [35 FR 19986 (Dec. 31, 1970)] (board may appoint persons to assist in determination of securities' values).

[9] If shares are sold or redeemed based on a net asset value which has been either understated or overstated in comparison to the amount at which portfolio instruments could have been sold, the interests of either existing shareholders or new investors will be diluted. *See* Investment Trusts and Investment Companies: Hearings on S. 3580 Before a Subcomm. of the Sen. Comm. on Banking and Commerce, 76th Cong., 3d Sess. 136–138, 288 (1940), Report of the Staff of the Division of Investment Management of the Securities and Exchange Commission on the Regulation of Money Market Funds Before the Subcommittee on Financial Institutions of the Senate Committee on Banking, Housing, and Urban Affairs at 9 (Jan. 24, 1980), and Release 17589, *supra* note 2, at n.7.

deviation, including selling and redeeming its shares at less than $1.00 ("breaking a dollar").[10]

In February 1991, the Commission amended rule 2a–7 (the "1991 Amendments")[11] to respond to developments in the commercial paper market since the rule was adopted in 1983.[12] Among other things, the 1991 Amendments permit funds to invest only in "eligible securities," defined generally as securities that are rated in one of the highest two short-term rating categories by the "requisite NRSROs,"[13] or comparable unrated securities. Taxable funds must further limit their investments in the securities of any one issuer (other than Government securities)[14] to five percent of fund assets ("Five Percent Diversification Test"),[15] and limit fund investment in second tier securities[16] to no more than five percent of fund assets, with investment in the second tier securities of any one issuer being limited to the greater of one percent of fund assets or one million dollars ("Second Tier Securities Tests").[17]

The 1991 Amendments did not apply the Five Percent Diversification Test and the Second Tier Securities Tests to tax exempt funds.[18] At that time, the Commission concluded that most tax exempt funds could not satisfy these tests without substantially restructuring their portfolios and, perhaps, losing some of their tax advantages.[19] Single state funds were thought to present particular problems because they concentrate their investments in debt securities issued by a single state (or issuers located within that state), making diversification more difficult to achieve. After the adoption of the 1991 Amendments, the Commission closely examined the characteristics of short-term tax exempt securities, the markets in which they trade, and tax exempt fund portfolios to determine what, if any, revisions to rule 2a–7 should be proposed to provide tax exempt fund investors with protections similar to those afforded taxable fund investors by the 1991 Amendments.

The results of the Commission's examination of the tax exempt markets were reflected in amendments to rule 2a–7 that were proposed for comment on December 17, 1993 ("Proposing Release").[20] A primary objective of the proposed amendments was to tighten the diversification and portfolio quality standards applicable to tax exempt funds to make them more similar to the standards applicable to taxable funds. The proposed diversification and quality standards for tax exempt funds took into account the different investment objectives and portfolio compositions of national funds and single state funds, and would have established different requirements for each type of tax exempt fund.

The Commission received comments on the proposed amendments from seventy-one commenters, including twelve municipal issuers, twenty-two mutual fund complexes, and nine professional and trade associations.[21] The comment letters reflect a wide variety of views on almost every topic discussed in the Proposing Release. A number of commenters, expressing a general concern over the complexity of the rule, urged that the rule's diversification and quality standards for taxable and tax exempt funds be as consistent with each other as practicable so that the rule would not become too complicated.

As part of its evaluation of the proposal, the Commission considered recent events in the markets for municipal securities that had a significant effect on money funds. One such event was the bankruptcy of Orange County, California, a large municipal issuer of short-term taxable and tax exempt notes.[22] At the time of

[10] Paragraphs (c)(6) and (c)(7) of rule 2a–7, as amended.

[11] Investment Company Act Rel. No. 18005 (Feb. 20, 1991) [56 FR 8113 (Feb. 27, 1991)] ("Release 18005"). The 1991 Amendments were proposed in Release 17589, *supra* note 2, and became effective on June 1, 1991.

[12] Before the 1991 Amendments, rule 2a–7 permitted funds to invest in "high quality" securities, that is, securities that had received at least the second highest rating from one NRSRO. *See* Release 13380, *supra* note 7, at n.34. In the summer of 1989 and the spring of 1990, several taxable funds held approximately $125 million in defaulted commercial paper issued by Mortgage and Realty Trust or Integrated Resources Inc.; in the fall of 1990 several funds held commercial paper issued by MNC Financial Corp. that was downgraded to below high quality, resulting in a significant decline in its market price. In all three cases, the commercial paper had the second highest rating from one NRSRO when purchased by the funds and thus was eligible for fund investment under rule 2a–7 as then in effect. Shareholders of funds that held these commercial paper issues were not adversely affected, however, because each fund's investment adviser purchased the paper from the funds at amortized cost or principal amount or otherwise agreed to indemnify the fund. *See* Release 17589, *supra* note 2, at n.18 and accompanying text.

[13] "Requisite NRSROs" are defined as: (1) any two NRSROs that have issued a rating with respect to an instrument or class of debt obligations of an issuer, or (2) if only one NRSRO has issued a rating with respect to such instrument or issuer at the time the fund purchases or rolls over the security, that NRSRO. Paragraph (a)(19) of rule 2a–7, as amended.

The term "NRSRO" is defined in paragraph (a)(14) of rule 2a–7 to have the same meaning as in the Commission's uniform net capital rule [17 CFR 240.15c3–1(c)(2)(vi)(E), (F) and (H)]. The Commission's Division of Market Regulation responds to requests for NRSRO designation through no-action letters. Currently, the Division of Market Regulation has designated six NRSROs: Duff and Phelps, Inc., Fitch Investors Services, Inc., Moody's Investors Service Inc., Standard & Poor's Corp., and two specialized NRSRO's: IBCA Limited and its subsidiary, IBCA Inc., which is recognized as a NRSRO only with respect to its ratings of debt issued by banks, bank holding companies, United Kingdom building societies, broker-dealers and broker-dealers' parent companies, and bank-supported debt, and Thomson BankWatch, Inc., which is recognized as a NRSRO only with respect to ratings for debt issued by banks, bank holding companies, non-bank banks, thrifts, broker-dealers, and broker-dealers' parent companies. In recognition of the expanded use of credit ratings in Commission rules, the Commission solicited comment on the process employed to designate rating agencies as NRSROs and the nature of the Commission's oversight role with respect to NRSROs in a concept release issued in 1994. Exchange Act Rel. No. 34616 (Aug. 31, 1994) [59 FR 46314 (Sept. 7, 1994)].

[14] Under paragraph (a)(13) of rule 2a–7, as amended, the term "Government Security" means those securities issued or guaranteed by the United States or its instrumentalities—the definition of that term given in section 2(a)(16) of the 1940 Act [15 U.S.C. 80a–2(a)(16)]. It does not include securities issued or guaranteed by the state governments or instrumentalities. For a discussion of securities issued by government-sponsored enterprises ("GSEs"), *see Joint Report on the Government Securities Market* (Jan. 1992) at p. D–1.

[15] Paragraph (c)(4)(i) of rule 2a–7, as amended. A limited exception is provided for certain securities held for not more than three business days. *See infra* Section II.D.4. of this Release.

[16] A "second tier security" is an eligible security that is not a "first tier security." Paragraph (a)(20) of rule 2a–7, as amended. A first tier security is generally a security that is rated by the requisite NRSROs in the highest rating category for short-term debt obligations, and comparable unrated securities. Paragraph (a)(11) of rule 2a–7, as amended.

[17] Paragraph (c)(4)(iv)(A) of rule 2a–7, as amended. The 1991 Amendments also shortened the maximum dollar-weighted portfolio maturity that a fund may maintain from 120 to ninety days, and codified the actions that a fund must take when certain events occur, including defaults and rating downgrades. *See* paragraphs (c)(2) and (c)(5) of rule 2a–7, as amended. The 1991 Amendments also require that the cover page of fund prospectuses and certain fund advertisements and sales literature state prominently that investment in a fund is not guaranteed or insured by the U.S. Government and that there can be no assurance that a fund can maintain a stable net asset value per share. *See* Form N–1A, item 1(a)(vi); Form N–3, item 1(a)(ix); rule 482(a)(7) under the 1933 Act [17 CFR 230.482(a)(7)]; and rule 34b–1 under the 1940 Act [17 CFR 270.34b–1].

[18] Tax exempt funds continue to be subject to a diversification test with respect to puts, as they had been prior to the adoption of the 1991 Amendments. Paragraphs (c)(4)(v) and (c)(4)(vi)(B) of rule 2a–7, as amended.

[19] Release 17589, *supra* note 2, at Section II.6.

[20] Investment Company Act Rel. No. 19959 (Dec. 17, 1993) [58 FR 68585 (Dec. 28, 1993)] at Section I.A.

[21] The comment period for the Proposing Release was extended from April 6, 1994 to May 6, 1994. *See* Investment Company Act Rel. No. 20184 (Mar. 31, 1994) [59 FR 16576 (Apr. 7, 1994)]. The comment letters and a summary of the comments prepared by the Commission staff are included in File No. S7–34–93.

[22] On December 6, 1994, Orange County and investment pools managed by the Orange County treasurer ("Orange County Pools") filed for protection under chapter 9 of the Federal Bankruptcy Code [11 U.S.C. 901 *et seq.*]. The U.S. Bankruptcy Court for the Central District of California subsequently determined that the Orange County Investment Pools were not eligible to seek protection under chapter 9. *See* "Orange County, Mired in Investment Mess, Files for Bankruptcy," *Wall St. J.*, Dec. 7, 1994 at A1, A6; Michael Utley, "Judge Rules Pool's Bankruptcy Filing Invalid, But Impact is Mostly Academic," *Bond Buyer*, May 26, 1995 at 1, 36.

Orange County's bankruptcy, a number of taxable and tax exempt funds held notes issued by either Orange County or municipalities that invested in investment pools managed by the Orange County treasurer ("Orange County notes"). While no fund holding Orange County notes has broken a dollar to date (in large part because of actions taken by their advisers to support the funds' share prices) the Orange County bankruptcy reinforced the need to amend rule 2a–7 to address issues unique to tax exempt funds.[23]

II. Amendments to Rule 2a–7

A. Preliminary Matters

The Commission is today adopting the second of two sets of amendments to rule 2a–7 under the 1940 Act designed to tighten the risk-limiting conditions of the rule. These amendments primarily deal with tax exempt funds; they are intended to provide investors in tax exempt money market funds with protections similar to those provided to investors in taxable funds by the 1991 Amendments. The Commission believes that these amendments are necessary to provide greater assurance that tax exempt money market funds meet investors' expectations for safety and convenience by reducing the likelihood that these funds will not be able to maintain a stable net asset value using pricing procedures permitted by rule 2a–7.

The amendments to rule 2a–7 adopted in 1991, while not insulating funds from all events that could threaten their net asset values, appear to have reduced the riskiness of money market funds at a modest cost to money fund investors in terms of reduced yield.[24] The Commission acknowledges that none of its rules can eliminate completely the risk that a money market fund will break a dollar as a result of a decrease in value of one or more of its portfolio securities. Thus, in adopting these amendments, the Commission is prescribing minimum standards designed not to ensure that a fund will not break a dollar, but rather to require the management of funds in a manner consistent with the investment objective of maintaining a stable net asset value.

A money fund's board of directors has oversight responsibility for the sound management of the fund.[25] The fund's adviser is typically delegated responsibility for selecting appropriate investments for the fund. Rule 2a–7 requires that fund investments should be made in accordance with procedures "reasonably designed" to maintain a stable net asset value or share price.[26] In addition, investments made in accordance with such procedures should be consistent with maintaining a stable net asset value or share price. Rule 2a–7 provides an analytical framework for fund advisers to follow when making such investment decisions, including decisions regarding new types of securities not specifically addressed by the rule, Commission releases, or staff interpretive letters. As the Commission stated in 1991, that a particular security is technically eligible for fund investment under rule 2a–7 is not itself an adequate basis for an investment in the security.[27] For example, a number of money funds recently invested in certain structured notes that were Government securities on the asserted belief that the provisions of rule 2a–7 dealing with adjustable rate Government securities would permit such an investment. When short-term interest rates increased in early 1994, the values of these securities decreased and many became illiquid.[28] These and other types of losses are more likely to be avoided if a fund has in place, and operates in accordance with, procedures designed to determine whether investment in the security is consistent not only with the technical requirements of rule 2a–7, but with the rule's analytical framework and with the fund's investment objective of maintaining a stable net asset value.

In preparing these rules for adoption, the Commission has weighed carefully the need to provide a similar level of safety for investors in tax exempt and taxable money funds and the need, frequently expressed by fund commenters, to allow tax exempt funds sufficient flexibility to cope with a limited supply of high quality municipal securities. For example, while the amendments adopted today limit all funds to investing not more than five percent of assets in the securities of any one issuer, the amendments limit the application of this standard to only seventy-five percent of single state fund assets and exclude from the diversification requirements for all funds securities subject to certain types of demand features, refunding agreements, and issuer-provided puts.[29]

In response to comment letters, the Commission has simplified the operation of the rule in several respects. Where possible, the same provisions are applied to all types of funds, separate diversification tests for issuers of conditional and unconditional puts have been eliminated, and fund board involvement is no longer required regarding matters with which directors can be expected to have little expertise. Wherever possible, headings and cross-references have been added to the rule to assist a reader in understanding how its provisions interrelate.

B. Portfolio Quality and Diversification

1. Five Percent Diversification Test

a. *Application to Tax Exempt Funds.* As discussed above, taxable funds are subject to the Five Percent Diversification Test, that is, no more than five percent of the total assets of a taxable money fund may be invested in securities of a single issuer. In proposing to extend diversification standards to tax exempt funds, the Commission took into account the differences between national and single state funds. Most national funds elect to meet the diversification requirements of section 5(b)(1) of the 1940 Act,[30] and

[23] The Division of Investment Management addressed analogous issues raised by the Orange County bankruptcy in July 1991, when New Jersey regulators seized Mutual Benefit Life Insurance Company ("MBLI"). A number of securities held by tax exempt funds were subject to demand features provided by MBLI. After its seizure by the New Jersey insurance regulators, MBLI could no longer honor its obligations under the terms of the demand features it provided. Advisers to funds holding MBLI-backed securities took various actions to prevent shareholder losses that would have occurred had the funds been required to break a dollar. The advisers either repurchased the MBLI-backed instruments from the funds at their amortized cost or obtained a replacement guarantor.

[24] *See* "Has the SEC Reduced the Riskiness of Money Market Funds? An Assessment of the Recent Changes to Rule 2a–7," S. Collins and P. Mack (Nov. 1993)(study by economists for the Board of Governors of the Federal Reserve System of money fund data indicated decrease in risk and 20 basis point reduction in yields due to 1991 Amendments).

[25] *See* Investment Company Act Rel. No. 13380, *supra* note 7, at nn. 40–42 and accompanying text.

[26] Paragraphs (c)(6)(i) and (c)(7) of rule 2a–7, as amended.

[27] Release 18005, *supra* note 11, at Section II.A.

[28] *See infra* Section II.F.4.a. of this Release.

[29] *See infra* Sections II.B.1.b., II.C.1.c. and II.D.2. of this Release, and paragraphs (c)(4) (i) and (ii), (c)(4)(vi)(A)(*2*) and (c)(4)(vi)(B)(*1*) of rule 2a–7, as amended.

[30] Section 5(b)(1) provides that a diversified investment company may not, with respect to seventy-five percent of its assets, invest more than five percent of its assets in instruments of any one issuer, other than cash, cash items, Government securities (as defined in section 2(a)(16) of the 1940 Act [15 U.S.C. 80a–2(a)(16)]) and securities of other investment companies. The remaining twenty-five percent of its assets (the "twenty-five percent

choose not to use the "twenty-five percent basket" (the portion of a diversified fund's assets that is not required to be diversified) to invest more than five percent of their assets in a single issuer. Most commenters, including most mutual fund commenters, supported the extension of the Five Percent Diversification Test to national funds, which the Commission is adopting as proposed.[31]

Unlike national funds, many single state funds are not diversified under section 5(b)(1), and could not satisfy the Five Percent Diversification Test because their investment objectives provide them with a much narrower range of high quality investment alternatives.[32] Although the Commission expressed concern about the risks involved in a non-diversified portfolio of a money fund, it was unclear to the Commission that it would be possible for single state funds to satisfy the Five Percent Diversification Test. Accordingly, the proposed amendments would not have required single state funds to comply with any issuer diversification test under the rule. To reduce the risks associated with a non-diversified portfolio, the Commission proposed to limit single state funds to investing in first tier securities, and proposed additional disclosure requirements to inform investors of the risks of an undiversified single state fund.[33] The Commission also asked commenters to consider whether single state funds should be required to satisfy a diversification standard under the rule.[34]

Most commenters supported the exception from the Five Percent Diversification Test for single state funds. Many of these commenters, however, opposed the proposed first tier securities restriction, and asserted that this requirement would exacerbate the supply problem without making funds more safe by forcing single state funds to be less diversified. Other commenters maintained that the rule should mandate some diversification with respect to single state funds, which they asserted present greater risks than other types of money funds. One commenter suggested that single state funds offering securities from "large" states should be subject to the same diversification standards as national funds. Another commenter went even further, stating that the rule should impose the diversification standards applicable to national funds to all single state funds. The views of these commenters, as well as the Commission's experience in administering rule 2a–7 since the amendments were proposed, have led the Commission to reconsider its proposal to exempt single state funds entirely from a diversification test.

In proposing the 1991 Amendments, the Commission noted that a fund's ability to maintain a stable net asset value under the rule may be impaired to the extent it invests heavily in one or more issuers that subsequently experience credit problems or default on their securities.[35] The validity of that observation has been proven by many of the incidents of the past two years in which advisers to funds have taken steps to prevent the fund from breaking a dollar as a result of holding a distressed security.[36] In each case, the smaller the position, the less of an effect the distressed security had on the fund.

In the case of the bankruptcy of Orange County, most of the funds holding the notes held a fairly small portion of their assets in Orange County notes.[37] As a result, in some cases, the fund could maintain its share price without any assistance from the fund's adviser; in other cases, the adviser was in a position to take steps to prevent the fund from breaking a dollar only because the fund's Orange County Note position was relatively small. While, as the Commission has stated several times, no adviser is required to guarantee its fund against the possibility of breaking a dollar,[38] experience has demonstrated that diversification may not only limit investment risk, but also may place the fund in a better position to address (or avoid) significant deviation between a fund's market-based and amortized cost values.

The Commission recognizes that single state funds face a limited choice of very high quality issuers in which to invest, and that the number of first tier issuers in several states is especially limited. Application of the Five Percent Diversification Test to one hundred percent of the assets of these funds could force some funds to invest in lower quality issuers than those in which they would otherwise invest. While greater diversification provides an additional measure of safety for investors where there are many issuers to choose from, the Commission is concerned that too stringent a diversification standard could result in a net reduction in safety for certain single state funds. As a result, the Commission has decided to require single state funds to be diversified at the five percent level only as to seventy-five percent of their assets; the remaining twenty-five percent basket may be invested only in the first tier securities of one or more issuers. The availability of the twenty-five percent basket will provide single state funds with the flexibility to retain several positions of over five percent in very high quality investments.[39]

The Commission has decided to exclude from the application of the

basket") may be invested in any manner. If an investment company invests more than five percent of its assets in a single issuer, the entire investment is placed in the twenty-five percent basket, and then aggregated with other investments that are greater than five percent to determine whether the fund is in compliance with section 5(b)(1). The investment company may not invest more than twenty-five percent of its assets in a single issuer by splitting its investment into two lots between the twenty-five percent basket and the diversified portion of its portfolio. *See* Lybrand, Ross Bros. & Montgomery (Oct. 24, 1941) (pub. avail. Nov. 22, 1991). Section 5(b)(1) also prohibits a diversified fund, with respect to seventy-five percent of its assets, from investing in securities that comprise more than ten percent of the outstanding voting securities of an issuer.

[31] Paragraph (c)(4)(i) of rule 2a–7, as amended.

[32] Proposing Release, *supra* note 20, at Sections II.A. and II.A.2.

[33] Proposed amendments to Form N–1A would have required a single state fund to disclose in its prospectus risks related to lack of diversification. Proposing Release, *supra* note 20, at Section III.A.

[34] Proposing Release, *supra* note 20, at Section II.A.2.

[35] Release 17589, *supra* note 2, at Section II.1.

[36] Transactions of this type occurred within the last two years because funds held either long-term adjustable rate securities whose market values declined when short-term interest rates were increased, or notes issued by Orange County. Twenty-five advisers or related persons purchased adjustable rate securities from their funds at the securities' amortized cost values to avoid any fund shareholder losses. Thirty-eight advisers or related persons either purchased Orange County notes from, or entered into credit support arrangements with their affiliated funds in order to maintain the funds' stable share price of $1.00. These transactions are prohibited by section 17 of the 1940 Act [15 U.S.C. 80a–17] in the absence of a Commission exemption. *See infra* Section IV. of this Release.

[37] The thirty-eight funds that sought and were granted "no-action" relief from the Division of Investment Management either to sell the Orange County notes to affiliated persons, or to arrange for affiliated persons to provide some type of credit support for the benefit of the funds, are illustrative. Most of these funds had no more than five percent of their assets invested in notes issued by Orange County, or one of the participants in the Orange County Investment Pools. Within this group, the fund (a single state fund) that had the greatest concentration of its assets in securities issued by a single issuer had 8.7 percent of its assets invested in that issuer.

[38] *See, e.g.*, Release 18005, *supra* note 11, at Section II.H.; Testimony of Arthur Levitt, Chairman, U.S. Securities and Exchange Commission, Concerning Issues Affecting the Mutual Fund Industry Before the Subcommittee on Telecommunications and Finance, Committee on Energy and Commerce, U.S. House of Representatives, 23–25 (Sept. 27, 1994); Testimony of Arthur Levitt, Chairman, U.S. Securities and Exchange Commission, Concerning Municipal Bond and Government Securities Markets Before the Committee on Banking, Housing and Urban Affairs, U.S. Senate, 10–11 (Jan. 5, 1995).

[39] Application of the non-diversified basket will track the comparable provision of section 5(b)(1) of the 1940 Act [15 U.S.C. 80a–5(b)(1)]. *See supra* note 30.

diversification requirement securities that are subject to an unconditional demand feature from a non-controlled person, as defined in the rule.[40] This approach will be applicable to all money funds, not only single state funds. The Commission believes that this approach, described in more detail below, will provide the advantages of diversification while permitting funds sufficient flexibility to respond to the available supply of eligible securities.

b. *Scope of the Diversification Standards.* A large percentage (sixty to seventy percent) of the securities currently held in tax exempt fund portfolios consist of long-term adjustable rate securities that are subject to unconditional demand features.[41] The provider of an unconditional demand feature assumes the credit risks presented by a particular issuer by agreeing to provide principal and interest payments in the event the issuer of the underlying security is unable to do so. Funds generally rely on the credit quality of the issuer of an unconditional demand feature to satisfy the rule's quality standards.[42] In light of this reliance, two commenters questioned the necessity of requiring a fund to satisfy the rule's issuer diversification and quality standards with respect to the issuer of the underlying security.[43]

If a security subject to an unconditional demand feature was in default or otherwise became distressed, a money fund normally would be expected to exercise the demand feature and receive the entire principal amount of the security and any interest payments due or accrued.[44] Thus, lack of diversification in the underlying security may be less important to a money fund's ability to maintain a stable net asset value than the ability to exercise the demand feature. Demand features are subject to a separate diversification requirement under the rule and, thus, excessive reliance on the credit of a single issuer is already addressed by the rule.[45]

Based on these considerations, and in light of the greater flexibility that would be afforded to single state funds, the Commission has decided to amend the rule so that the issuer diversification requirement—for all money funds—excludes securities subject to an "unconditional demand feature issued by a non-controlled person," as defined in the rule.[46] The Commission is limiting this exclusion to securities whose unconditional demand features are issued by non-controlled persons to reduce a fund's exposure to the credit risks presented by a single economic enterprise.[47] Securities subject to other types of puts, including conditional demand features, would continue to be subject to the rule's issuer diversification standard.

2. Quality Limitations on Portfolio Securities

Rule 2a–7 limits both taxable and tax exempt funds to investing only in eligible securities—securities receiving at least the second highest rating from the requisite NRSROs (as defined in the rule) or comparable unrated securities.[48] Taxable funds must comply with the Second Tier Securities Tests—investment in second tier securities is limited to five percent of fund assets, and investment in the second tier securities of any one issuer is limited to the greater of one percent of fund assets or one million dollars. The proposed amendments to the rule would have established different quality standards for national and single state funds.

a. *Proposed Limitations for Single State Funds.* The proposed amendments would have limited single state fund investment to first tier securities. The Commission stated in the Proposing Release that the first tier securities restriction was designed to reduce the additional risks that may accompany lower levels of diversification as a result of the Commission's proposal not to extend the Five Percent Diversification Test to single state funds. As noted above, most fund commenters objected to this limitation. In light of the requirement that single state funds be diversified as to seventy-five percent of their assets,[49] the Commission has decided not to adopt the proposed first tier securities restriction.

b. *Application of the Second Tier Securities Tests to Conduit Securities.* The proposed amendments to the rule would have extended the Second Tier Securities Tests only to national fund investment in "conduit securities." The Proposing Release explained that, in contrast to traditional state and municipal securities, conduit securities are issued to finance non-governmental private projects, such as retirement homes, private hospitals, local housing projects, and industrial development projects, with respect to which the ultimate obligor is not a governmental entity. Conduit securities are not backed by a revenue source from any essential public facility or by the taxing authority of any state or municipality. As a result, the risk of default for conduit securities is significantly higher than it is for traditional state or municipal securities.[50] Therefore, the Commission proposed to treat a national fund's investment in conduit securities no differently than a taxable fund's investment in securities typically issued by a private concern.

Most commenters supported the application of the Second Tier Securities Tests to national fund investment in conduit securities. These commenters generally agreed that this limited application of the Second Tier Securities Tests would allow national funds maximum flexibility to invest in the type of tax exempt securities that present the least risk of default. A smaller group of commenters, however, asserted that the proposed limitation would further limit the supply of eligible securities.[51] Many conduit securities in which money funds invest are subject to unconditional demand features. Because the Second Tier

[40] Paragraphs (c)(4)(i) and (ii) of rule 2a–7, as amended.

[41] Proposing Release, *supra* note 20, at Section I.B.

[42] Paragraph (c)(3)(ii) of rule 2a–7, as amended, permits a fund to rely on the credit quality of the unconditional demand feature in determining whether the underlying security is an eligible security or a first tier security.

[43] The commenters discussed this issue within the context of the rule's put diversification standards. *See infra* Section II.C.2. of this Release.

[44] Paragraph (c)(5)(ii) of rule 2a–7, as amended, requires a money fund to dispose of a defaulted or distressed security (e.g., one that no longer presents minimal credit risks) "as soon as practicable," absent a finding by the board of directors that disposal would not be in the best interests of the fund.

[45] Demand features and other types of puts that enhance underlying securities continue to be subject to the rule's put diversification requirements. *See infra* Section II.C.1. of this Release.

[46] An "unconditional demand feature issued by a non-controlled person" is defined in the rule to mean an "unconditional put" that is also a "demand feature issued by a non-controlled person." Paragraph (a)(26) of rule 2a–7, as amended. A "demand feature issued by a non-controlled person" is defined to mean "a demand feature issued by a person that, directly or indirectly, does *not* control, and is not controlled by or under common control with the issuer of the security subject to the Demand Feature. *Control* shall mean 'control' as defined in section 2(a)(9) of the Act." Paragraph (a)(8) of rule 2a–7, as amended.

[47] Similarly, the twenty-five percent put basket will not be available for puts that do not meet the definition of a put issued by a non-controlled person. *See infra* Section II.C.1.b. of this Release.

[48] *See supra* nn. 12 and 13 and accompanying text and paragraph (a)(19) of rule 2a–7, as amended.

[49] *See supra* Section II.B.1.a. of this Release and paragraph (c)(4)(iii) of rule 2a–7, as amended.

[50] *See Municipal Bond Defaults—The 1980's: A Decade in Review* (J.J. Kenny & Co., Inc. 1993). Bankruptcies and defaults by major municipal issuers, such as Orange County, California, are rare events. Of the approximately 120 municipal bankruptcies since 1979, most have involved small, local governments or special tax districts. *See* "Banging a Tin Cup With a Silver Spoon," *N.Y. Times*, June 4, 1995 at F1.

[51] *See supra* note 29 and accompanying text.

Securities Tests will not be applied to conduit securities with unconditional demand features issued by non-controlled persons, the application of the Second Tier Securities Tests to these securities should have a limited effect on the supply of tax exempt securities.[52]

The Commission has decided to extend the Second Tier Securities Tests to national and single state fund investment in conduit securities. Under amendments to the rule being adopted, the non-governmental entity ultimately responsible for the payment of principal and interest is treated as the issuer of the conduit security for purposes of the rule's issuer diversification requirements.[53] Credit quality determinations for a conduit security must be made by reference to the underlying corporate or project issuer, unless the conduit security is subject to an unconditional demand feature, in which case the conduit security will not be subject to the Second Tier Securities Tests.[54] Credit quality determinations for conduit securities subject to conditional demand features must be made by reference to the provider of the demand feature and the long-term rating of the underlying corporate or project issuer.[55] In addition, for purposes of calculating compliance with the one percent limit on second tier securities of a single issuer, the issuer of the conduit is the corporation or project.[56]

c. *Definition of the Term "Conduit Security".* The proposed amendments would have defined the term "conduit security" to mean a security issued through a state or territory of the United States, or any political subdivision or instrumentality thereof, which is *not:* (1) payable from the revenues of such governmental unit ("Revenue Clause"); (2) unconditionally guaranteed by such governmental unit; (3) related to a project or facility owned and operated by such governmental unit; or (4) related to a facility leased to and under the control of an industrial or commercial enterprise that is part of a public project owned and under the control of such governmental unit. The definition was intended to exclude securities for which the ultimate obligor is a governmental unit.

Several commenters advised the Commission that portfolio managers would be able to identify conduit securities more readily and without obtaining legal and other expert opinions if the rule affirmatively stated what a conduit security is, instead of what it is not. Several commenters also urged that the Revenue Clause be deleted because it might result in excluding from the Second Tier Securities Tests a security for which the ultimate obligor is a private entity.[57] The Commission has modified the definition of the term "conduit security" to reflect some of these concerns.[58]

The term "conduit security" is defined as a security issued by a municipal issuer involving an arrangement or agreement entered into, directly or indirectly, with an issuer other than a municipal issuer, which arrangement or agreement provides for or secures repayment of the security.[59] The term "conduit security" does not include a security that is: (1) unconditionally guaranteed by a municipal issuer; (2) payable from the general revenues of the municipal issuer (other than revenues derived from an agreement or arrangement with a person who is not a municipal issuer that provides for or secures repayment of the security); (3) related to a project owned and operated by a municipal issuer; or (4) related to a facility leased to and under the control of an industrial or commercial enterprise that is part of a public project which, as a whole, is owned and under the control of a municipal issuer.[60]

C. Diversification and Quality Standards for Put Providers

A substantial portion of securities held by tax exempt funds are subject to puts and demand features.[61] A "put" is the right to sell a specified underlying security within a specified period of time and at a specified exercise price that may be sold, transferred, or assigned only with the underlying security.[62] A demand feature is a put that may be exercised at specified intervals not exceeding 397 calendar days and upon no more than thirty days' notice.[63] Demand features can serve three different purposes: (1) to shorten the maturity of a variable or floating rate security;[64] (2) to enhance the security's credit quality; and (3) to provide liquidity support for the security. If the demand feature can be exercised on seven days' notice, then the security will be treated as a liquid security under the appropriate guidelines.[65]

Demand features may be conditional or unconditional.[66] Under rule 2a–7, a demand feature used as a substitute for the credit quality of the underlying security must be an "unconditional put," defined to include any guarantee, letter of credit ("LOC") or similar unconditional credit enhancement that by its terms would be readily exercisable in the event of a default in payment of principal or interest on the underlying security.[67] A demand feature that is not an "unconditional put" may serve as the basis for determining whether a security is an eligible security and categorizing it as a first or second tier security; however, the long-term credit quality of the security subject to a conditional demand feature must also be analyzed.[68]

The Commission is adopting several amendments to the provisions of the rule relating to puts and demand features.

1. Put Diversification Standards

Under rule 2a–7, a taxable money fund may not invest more than five percent of its assets in securities subject to conditional puts from, or securities directly issued by, the same institution. The percentage limitation applicable to unconditional puts is ten percent. A tax exempt fund is required to comply with these two requirements with respect to seventy-five percent of its assets; there is no diversification requirement with respect to the remaining twenty-five percent ("twenty-five percent put basket"). The Commission proposed to apply a uniform ten percent limitation on all puts issued by the same institution and to eliminate the twenty-five percent put basket for tax exempt funds.[69]

a. *Uniform Diversification Standards for Conditional and Unconditional Puts.* Under the proposed amendments, a fund could not have invested more than ten percent of its assets in securities subject to conditional and unconditional puts, and securities directly issued by, the same issuer. A fund would have been required to aggregate conditional and unconditional puts issued by the same issuer in applying the ten percent restriction. Most of the commenters who addressed these aspects of the proposal supported the aggregation of conditional and unconditional puts in applying a uniform percentage restriction. Other commenters disagreed, either urging that the ten percent limit be raised or that the rule's put diversification standards continue to distinguish between puts that provide liquidity support (conditional puts) and puts that provide credit support (unconditional puts).

The Commission has decided to adopt the uniform ten percent limitation as proposed, and eliminate the current distinction between conditional and unconditional puts under the rule's put diversification standards.[70] Although there are differences between the risks incurred by the put provider and the nature of the reliance by the investor in each case, the Commission does not believe that these differences are significant enough to warrant continued disparate treatment under the rule. Moreover, aggregating conditional and unconditional puts and applying a single put diversification standard to the aggregate number should simplify compliance with the rule.

b. *The Twenty-Five Percent Put Basket.* The proposed amendments to the rule would have eliminated the twenty-five percent put basket so that a tax exempt fund would have been required to meet the rule's put diversification standards with respect to one hundred percent of its assets. The Commission explained that extensive reliance on a single put provider or a few providers could present considerable risks, particularly for a single state fund which, under the amendments as proposed, would not have been required to be diversified with respect to underlying securities.[71]

Most commenters urged the Commission to retain the twenty-five percent put basket in some form. Many concluded that eliminating the twenty-five percent put basket would increase reliance by funds on less creditworthy put providers and decrease the flexibility currently afforded funds in enhancing the credit quality and liquidity of securities. The commenters disagreed with the Commission's assumption that one probable effect of the elimination of the twenty-five percent put basket would be new entrants to the market as put providers.

A number of commenters suggested that, in light of the Commission's proposal to require that when a fund invests more than five percent of its assets in securities subject to puts from a single put provider, the puts be first tier securities,[72] it would be appropriate to retain the twenty-five percent put basket. The Commission has decided to incorporate this approach in amendments to the rule's put diversification standards.

The amendments provide that the twenty-five percent put basket is available to all money funds for first tier puts, but only if the put is a "put issued by a non-controlled person"—a put issued by a person that does not directly or indirectly control, and is not controlled by or under common control with the issuer of the security subject to the put.[73] The Commission is restricting fund use of the twenty-five percent put basket to non-controlled persons to minimize a fund's concentration of assets in a single economic enterprise.

c. *Issuer-Provided Demand Features.* The put diversification standards under rule 2a–7 apply to "securities issued by or subject to Puts from the institution that issued the Put."[74] In the Proposing Release, the Commission requested comment on the treatment of puts by the issuer of the underlying securities ("issuer-provided demand features").[75] Some commenters asserted that funds should be permitted to exclude issuer-provided demand features from the put diversification requirements because issuer-provided demand features can be viewed as the functional equivalent of short-term securities that are "rolled over" periodically. The commenters also suggested that including issuer-provided demand features as puts in determining compliance with the rule's put diversification standards amounts to "double counting." The Commission agrees and has added language to the rule to clarify that a fund is not required to aggregate an issuer-provided put with the security subject to the put for purpose of determining compliance with the put diversification requirement of the rule.[76]

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[52] As adopted, the rule exempts from the Second Tier Securities Tests any conduit security subject to an unconditional demand feature issued by a non-controlled person, whether the demand feature is first or second tier. Paragraph (c)(4)(iv)(B) of rule 2a–7, as amended.

[53] Paragraph (c)(4)(vi)(A)(3) of rule 2a–7, as amended.

[54] Paragraph (c)(4)(iv)(B) of rule 2a–7, as amended.

[55] *See infra* Section II.B.2.b. of this Release and paragraph (c)(3)(iii) of rule 2a–7, as amended.

[56] *See* paragraph (c)(4)(vi)(A)(3) of rule 2a–7, as amended. For example, a municipal security issued to finance a private hospital that meets the definition of a conduit security would be considered—for diversification purposes—to have been issued by the hospital, not the municipality.

[57] For example, a governmental unit could issue bonds on behalf of a private firm for the purpose of raising funds to construct facilities for a company, such as a plant or a residential real estate project. The payment of principal or interest on the bonds would be secured through a lease arrangement under which the private firm makes periodic payments to the governmental unit. If these payments were characterized as "revenue," then the bonds issued by the governmental unit would not be treated as conduit securities under the proposed definition.

[58] In the Proposing Release, the Commission asked commenters whether the rule's definition of a conduit security should reference the provisions of the Internal Revenue Code ("IRC") governing the treatment of private activity bonds, IRC sections 141–174 [26 U.S.C. 141–147]. Most commenters discussing the definition of a conduit security strongly opposed this approach, generally observing that it would have the effect of treating certain general obligation bonds, and bonds issued to finance property owned by a governmental unit, as conduit securities that are subject to the Second Tier Securities Tests, which would be inconsistent with the Commission's objective of subjecting only obligations of non-governmental issuers to the Second Tier Securities Tests. The Commission has decided not to reference the IRC's private activity bond rules in defining the term "conduit security."

[59] Paragraph (a)(6) of rule 2a–7, as amended. The rule amendments, as adopted, define the term "municipal issuer" to mean a state or territory of the United States, or any political subdivision or instrumentality thereof. The term "state" is defined in the 1940 Act to mean any state, the District of Columbia, Puerto Rico, the Virgin Islands, or any other possession of the United States [15 U.S.C. 80a–2(a)(39)].

[60] Paragraph (a)(6) of rule 2a–7, as amended.

[61] Proposing Release, *supra* note 20, at Section I.B.

[62] Paragraph (a)(16) of rule 2a–7, as amended.

[63] Paragraph (a)(7) of rule 2a–7, as amended.

[64] Paragraphs (d)(3) and (d)(5) of rule 2a–7, as amended. Initially, rule 2a–7 provided that only demand features that ran to the issuer of the security could be used to shorten maturities. *See* Release 13380, *supra* note 7, at n.9. This was changed by the amendments to rule 2a–7 adopted in 1986. Investment Company Act Rel. No. 14983 (Mar. 12, 1986) [51 FR 9773 (Mar. 21, 1986)] ("Release 14983").

[65] A money fund is limited to investing no more than ten percent of its assets in illiquid securities. *See* Release 13380, *supra* note 7, at nn.37–38 and accompanying text. *See also* Investment Company Institute (pub. avail. Dec. 9, 1992). The Division of Investment Management has provided guidance concerning the implementation of three business days as the standard settlement period for trades effected by brokers and dealers, and a fund's determination of whether securities it holds should be deemed liquid for purposes of complying with the ten percent restriction. Letter from Jack W. Murphy, Associate Director and Chief Counsel, Division of Investment Management, to Paul Schott Stevens, General Counsel, Investment Company Institute (May 26, 1995) ("T+3 Letter").

[66] Both conditional and unconditional puts may operate as demand features to shorten the maturities of adjustable rate securities. As discussed in Section II.C.3. of this Release, *infra*, amendments to rule 2a–7 limit the types of conditions to which exercise of a demand feature can be subject. Paragraph (c)(3)(iii)(B) of rule 2a–7, as amended.

[67] Paragraph (a)(27) of rule 2a–7, as amended.

[68] Paragraph (c)(3)(iii)(B) of rule 2a–7, as amended.

[69] *See* Proposing Release, *supra* note 20, at Section II.C.2.

[70] Paragraph (c)(4)(v)(B) of rule 2a–7, as amended.

[71] Proposing Release, *supra* note 20, at Section II.C.2.b.

[72] *See infra* Section II.C.2.b. of this Release.

[73] Paragraphs (a)(17) (definition of "put issued by a non-controlled person") and (c)(4)(v) of rule 2a–7, as amended. The Commission is adopting amendments that limit fund investment in puts that are second tier securities to five percent of fund assets. *See infra* Section II.C.2.b. of this Release and paragraph (c)(4)(v)(B) of rule 2a–7, as amended. Further, a fund that has invested more than ten percent of its assets in securities subject to puts and in securities directly issued by a single issuer must count the total amount invested towards the twenty-five percent undiversified put basket. In other words, a fund may not use all or a portion of its twenty-five percent put basket and an additional amount of its diversified assets to invest more than twenty-five percent of its assets in a single issuer. *See supra*, note 30.

[74] Paragraph (c)(4)(v)(A) of rule 2a–7, as amended.

[75] *See* Proposing Release, *supra* note 20, at Section II.C.2.d.(3). The Commission noted that rule 2a–7, as originally adopted, provided that only issuer-provided demand features could be used to shorten the maturity of a security. *See* Release 13380, *supra* note 7, at n.10 and accompanying text.

[76] Paragraph (c)(4)(vi)(B)(*1*) of rule 2a–7, as amended. Under this paragraph, a put issued by the same institution that issued the underlying security

Continued

d. *Multiple Puts and Guarantees.* The proposed amendments would have amended rule 2a–7's put diversification standards to address how put diversification calculations should be made when a security is subject to several puts ("multiple puts"). Under the proposed amendments, different calculation methods would have been applied when: (i) each multiple put provider had contractually agreed to guarantee only a portion of the total principal value of the underlying security ("fractional puts"), and (ii) each multiple put provider had an obligation that was not limited contractually ("layered puts"). The proposed amendments would have clarified that an institution that provides a fractional put would be treated as guaranteeing only that portion of the principal value of the security that it contractually agreed to provide.[77] An institution providing a layered put would have been deemed to cover the entire principal amount of the security, notwithstanding that the security is subject to puts from other institutions.

Most commenters who discussed these issues supported the proposed treatment of fractional puts. These commenters stated that it was appropriate to allocate exposure among put providers for diversification purposes in accordance with the put providers' contractual obligations. The Commission has decided to adopt these amendments to the rule as proposed.[78]

Most commenters opposed treating each put provider in a layered put structure as the guarantor of the entire amount guaranteed because, they argued, the approach ignored the fact that the fund may be relying only on the guarantee of one of the put providers. The Commission has decided to adopt amendments to the rule that reflect these comments. For a security subject to layered puts, the rule permits a fund that is not relying on a particular put for satisfaction of the rule's credit quality[79] or maturity standards,[80] or for liquidity, to exclude that put when determining its compliance with the rule's put diversification standards.[81] The fund must document this determination in its records.[82]

In the context of describing the proposed amendments regarding treatment of multiple puts under the rule's diversification standards, the Commission indicated that bond insurance was a type of put under rule 2a–7.[83] A number of commenters disagreed with this analysis of bond insurance, arguing that bond insurance does not provide liquidity and is not viewed by the market as a substitute for the credit of the underlying issuer. Because bond insurance guarantees the timely payment of principal and interest by the insured issuer,[84] it meets the rule's definition of an unconditional put, permitting credit substitution in the eligibility determination. The Commission has amended the rule to clarify this matter.[85]

The Commission recognizes, however, that bond insurance may not be relied upon by a fund when determining a security's eligibility under the rule. One commenter argued that, in the case of a security subject to a guarantee, such as bond insurance, and a demand feature, the fund is very likely to look only to the issuer of the demand feature if it needs to sell the security and thus, as a practical matter, to the issuer of the demand feature for credit support. Therefore, this commenter concluded, the guarantee should not be counted for purposes of rule 2a–7's diversification requirements. The Commission agrees, and has amended the rule to permit a fund holding a security subject to a put (including bond insurance) and an unconditional demand feature to count only the demand feature for purposes of the put diversification calculation.[86] A fund relying on this provision of the rule is not required to maintain contemporaneous records of its determination that the fund is not relying on the guarantee to determine credit quality.

2. Quality Standards

a. *Rating Requirement for Demand Features.* The proposed amendments to the rule would have limited funds to investing in demand features (other than standby commitments) that are rated, or provided by institutions that are rated, by NRSROs. Most commenters discussing this issue opposed the proposed rating requirement for demand features and suggested that the rule should permit a fund to purchase a security subject to an unrated demand feature if it can make a comparability determination similar to the determination permitted under the rule in connection with the purchase of unrated securities.[87] Other commenters asserted that the fund manager's obligation under the rule to determine that all portfolio securities present minimal credit risk obviated the need for the proposed rating requirement.[88]

The Commission explained in the Proposing Release that NRSRO ratings assigned to demand features or the issuer of demand features may provide additional protection by ensuring input into the minimal credit risk determination by an outside source. This extra source of protection may be particularly important in light of the

would not be subject to the rule's put diversification requirements, and would be subject only to the rule's issuer diversification requirements. For example, a security representing four percent of a fund's total assets that had an issuer-provided demand feature would be treated as a four percent position in "securities issued by or subject to Puts from the institution that issued the Put," not eight percent [quoting paragraph (c)(4)(iv)(A) of rule 2a–7, as amended].

[77] For example, if two banks issued puts on the same VRDN and each agreed to absorb fifty percent of the losses, then each would be deemed to guarantee no more than fifty percent of the VRDN under the rule's put diversification standards.

[78] Paragraph (c)(4)(vi)(B)(*2*) of rule 2a–7, as amended.

[79] Under the rule, a fund holding a security that is subject to an unconditional demand feature may satisfy the rule's credit quality standards with respect to the underlying security based solely on the short-term rating of the demand feature provider. Paragraph (c)(3)(ii) of rule 2a–7, as amended.

[80] Rule 2a–7 generally permits a fund to measure the maturity of an adjustable rate security subject to a demand feature by reference to the date on which principal can be recovered through demand. *See infra* Sections II.F.1. and II.F.2. of this Release and paragraphs (d)(3) and (d)(5) of rule 2a–7, as amended.

[81] Paragraph (c)(4)(vi)(B)(*4*) of rule 2a–7, as amended. This paragraph of the rule also permits a fund holding a security subject to a single put that it is not relying on to satisfy the rule's credit quality or maturity standards, or for liquidity, to disregard that put in determining its compliance with the rule's put diversification standards. If a fund is relying on separate puts for each of these purposes (*e.g.*, a conditional demand feature for purposes of liquidity and maturity, and an unconditional put for purposes of credit quality), then each put would have to satisfy the rule's put diversification standards.

[82] Paragraphs (c)(8)(ii) and (c)(9)(vi) of rule 2a–7, as amended. A fund would document this determination when it acquires the security. The fund may subsequently determine that it is or is not relying on a particular put, but must reflect the change in its written records.

[83] Proposing Release, *supra* note 20, at note 81.

[84] Eli Nathans, *Municipal Bond Insurance—The Economics of the Market*, 13 Mun. Fin. J., No.2 (Summer 1992) 1, 2.

[85] Paragraph (a)(27) of rule 2a–7, as amended. A bond insurance policy that permits the holder of the security to receive all principal and interest payments at the time of the default of the insured obligation would also be an unconditional demand feature. By contrast, a policy under which the fund would only receive periodic payments of principal and interest as those payments came due under the terms of the insured obligation would be an unconditional put, but not an unconditional demand feature.

[86] Paragraph (c)(4)(vi)(B)(*3*) of rule 2a–7, as amended.

[87] Paragraph (a)(9)(iii) of rule 2a–7, as amended, permits a fund to treat an unrated security as an eligible security if the fund's board of directors determines that the unrated security is of comparable quality to a rated security.

[88] Paragraph (c)(3) of rule 2a–7, as amended, limits fund investment to securities that its "board of directors determines present minimal credit risks." This determination must be based on factors pertaining to credit quality "in addition to any rating assigned to such securities by an NRSRO" (emphasis added).

Commission's decision to preserve the twenty-five percent diversification basket for put providers, and to eliminate the applicability of rule 2a–7's diversification requirements to securities subject to certain unconditional demand features.[89] In addition, funds may have limited ability to monitor the credit quality of some demand feature providers, such as foreign banks.[90] The Commission is adopting the rating requirement for demand features as proposed.[91]

b. *Providers of Puts in Excess of Five Percent of Fund Assets.* The proposed amendments would have prohibited a money fund from investing more than five percent of its assets in securities subject to a put from a single put provider that is not a first tier put. Compliance with this provision would be measured at the time the put was acquired by the fund. All the commenters discussing this aspect of the proposal agreed that it is appropriate to limit fund investment in puts that are not first tier securities ("second tier puts"), and the Commission is adopting the limit as proposed.[92]

If more than five percent of a fund's assets were subject to a demand feature from a single institution that was no longer a first tier put, the proposed amendments also would have required the fund to reduce the amount of the securities subject to the demand feature to not more than five percent of the fund's assets by exercising the demand feature at the next succeeding exercise date. Most commenters were critical of this proposed requirement and suggested that it might be in the best interests of fund shareholders for the fund either to retain the securities subject to the demand features or dispose of the securities in an orderly manner. Because there may be some circumstances during which it may be in the best interest of the fund to continue to hold the securities subject to the put, the Commission is adopting the amendment with the express provision that a fund's board of directors may determine that disposal of the securities is not in the best interest of the fund, and determine to permit the fund to continue to hold the securities.[93]

c. *Certain Unrated Securities.* Rule 2a–7 currently provides that an unrated security that, when issued, was a long-term security but when purchased by the fund has a remaining maturity of less than 397 calendar days may be considered to be an eligible security based on whether the security is comparable in quality to a rated security, unless the security has received a long-term rating from any NRSRO that is not within the two highest categories of long-term ratings. Under this provision, a long-term rating from an NRSRO below the top two rating categories results in the security becoming ineligible for investment by a money market fund. One commenter stated that, because many issuers with long-term ratings in the third highest ratings categories have first tier short-term ratings, the rule was unnecessarily restrictive. The Commission agrees, and has expanded this provision to accommodate long-term ratings within the top three ratings categories.[94] Funds will continue to be required to determine that such a security is of "comparable quality" to rated eligible securities.[95]

3. Conditional Demand Features

Rule 2a–7 does not currently restrict the types of conditions to which a demand feature may be subject. The inability of a fund to exercise a demand feature because of the occurrence of a condition precluding exercise would likely result in violations of the maturity limitations of rule 2a–7, the liquidity requirements of the 1940 Act,[96] and a loss of value of the underlying security, when, for example, a short-term security paying interest at short-term rates is transformed into a long-term security. Therefore, the proposed amendments would have limited the permissible conditions with respect to conditional puts to the following: (1) default in the payment of principal or interest on the underlying security; (2) the bankruptcy, insolvency, or receivership of the issuer or a guarantor of the underlying security; (3) the downgrading of either the underlying security or a guarantor by more than two full rating categories; and (4) in the case of a tax exempt security, a determination by the Internal Revenue Service of taxability with respect to the interest on the security.[97] These conditions were designed to permit the fund to monitor the continued availability of a demand feature and to take steps to sell the security or replace the demand feature if it appears that conditions are likely to occur that would limit the ability of the fund to exercise the demand feature.[98]

Many commenters objected to the proposed definition of the term "conditional put." These commenters stated that the current market has few, if any, variable rate demand notes ("VRDNs") with conditional puts that would satisfy the proposed definition. Even the commenters who recommended the proposed conditions conceded that although most put providers have conditions similar to those included in the proposed amendments, every provider uses somewhat different, often broader, language.[99] As a result, modifying the scope of one or more of the four conditions would not address this concern.

The Commission has decided to adopt an alternative approach suggested by several commenters by revising the rule to provide general guidance concerning the types of conditions that are appropriate for money fund investment. Rule 2a–7, as amended, provides that a security subject to a conditional demand feature is an eligible security only if the fund's board of directors (or its delegate) determines that there is "minimal risk" of occurrence of the conditions that

[89] *See supra* Section II.B.1.b. of this Release.

[90] Proposing Release, *supra* note 20, at Section II.C.2.d.(*2*).

[91] Paragraph (a)(9)(iii)(D)(*1*) of rule 2a–7, as amended. The amendments remove from the definition of eligible security unrated securities that are subject to demand features. Thus, in order for a security subject to a demand feature to be eligible for fund investment, the demand feature must be rated.

[92] Paragraph (c)(4)(v)(B) of rule 2a–7, as amended.

[93] Paragraph (c)(5)(i)(C) of rule 2a–7, as amended. This determination may not be delegated. Paragraph (e) of rule 2a–7, as amended. If the demand feature is no longer an eligible security, paragraph (c)(5)(ii) of rule 2a–7 requires the fund to obtain a new demand feature or dispose of the underlying security (unless the board of directors finds that it would be in the best interest of the fund not to dispose of the security). *See* Release 18005, *supra* note 11 at Section II.E.1. for a discussion of securities held by a money fund that are in default, are no longer eligible securities, or no longer present minimal credit risks.

[94] Paragraph (a)(9)(iii)(B) of rule 2a–7, as amended.

[95] Paragraph (a)(9)(iii) of rule 2a–7, as amended.

[96] The money fund could lose liquidity at a time when it is most necessary. A money fund is limited to investing no more than ten percent of its assets in illiquid securities. *See supra* note 65 and accompanying text and *infra* Section II.C.4.c. of this Release.

[97] The proposed amendments to the rule incorporated recommendations of Fidelity Management & Research Company ("Fidelity") and the Investment Company Institute ("ICI"). *See* Letter from Matthew Fink, Senior Vice President and General Counsel, ICI, to Marianne Smythe, Director, Division of Investment Management (Mar. 25, 1991); Letter from Thomas D. Maher, Associate General Counsel, Fidelity, to Jonathan G. Katz, Secretary, U.S. Securities and Exchange Commission (Sept. 24, 1990), in File No. S7–13–90.

[98] Proposing Release, *supra* note 20, at Section II.C.3.

[99] *See* Letter from Thomas D. Maher, Associate General Counsel, Fidelity, to Jonathan G. Katz, Secretary, U.S. Securities and Exchange Commission (May 5, 1994); Letter from Thomas D. Maher, Associate General Counsel, Fidelity, to Kenneth J. Berman, Deputy Office Chief, Office of Disclosure and Investment Adviser Regulation, Division of Investment Management, U.S. Securities and Exchange Commission (June 17, 1994); Letter from Paul Schott Stevens, General Counsel, ICI, to Jonathan G. Katz, Secretary, U.S. Securities and Exchange Commission (May 5, 1994), in File No. S7–34–93.

would result in the demand feature not being exercisable.[100] The fund's board of directors (or its delegate) also must determine that: (1) the conditions limiting exercise can be monitored readily by the fund, or relate to the taxability, under federal, state or local law, of the interest payments on the security; or (2) the terms of the demand feature require that the fund receive notice of the occurrence of the condition and the opportunity to exercise the demand feature.[101]

Rule 2a–7 currently provides that a security subject to a conditional demand feature ("underlying security") is an eligible security only if the demand feature is an eligible security and the underlying security has received a long-term rating from the Requisite NRSROs in one of the two highest long-term ratings categories or, if unrated, is determined to be of comparable quality. The rule thus assumes securities subject to conditional demand features are always long-term securities. The Commission is amending rule 2a–7 to provide that, in the case of an underlying security that has a remaining maturity of 397 days or less, the underlying security is an eligible security only if the demand feature is an eligible security and the underlying security has received a short-term rating from the requisite NRSROs in one of the two highest short-term ratings categories or, if unrated, is determined to be of comparable quality.[102]

4. Other Issues Applicable to Put Providers

a. *Accrued Interest.* The Commission proposed amendments to the definition of the term "put" and also requested comment whether additional amendments to the rule were necessary to restrict fund investment to certain types of credit and liquidity enhancements. The proposed amendments would have amended the definition of a "put" to specify that the put must enable the holder to receive not only the amortized cost of the securities, but also accrued interest. The Commission is adopting these amendments as proposed.[103]

b. *Notice of Substitution of Put Provider.* The Commission stated in the Proposing Release that it is aware of several instances in which a money fund had invested in a security backed by a LOC or other credit or liquidity enhancement that was replaced during the life of the underlying security without notice to the fund.[104] A fund must know the identity of the put provider for a number of reasons, which include a determination of whether the fund is in compliance with the rule's put diversification and credit quality provisions. The Proposing Release asked commenters to consider whether the rule should be amended to limit fund investment in puts that obligate the issuer of the underlying security (or the trustee under any applicable indenture) to inform investors of the substitution of the put provider. All the commenters responding to this question agreed with the Commission that it is essential for the control of credit risk and for compliance with the rule that funds be aware of the identity of their put providers at all times, and that rule amendments would be appropriate.[105]

The Commission is adopting amendments to address these concerns. Under the amendments, a security subject to a demand feature is not eligible for fund investment unless arrangements are in place to notify the fund holding the security in the event that there is a change in the identity of the issuer of a demand feature.[106]

c. *Liquidity Requirements for Money Funds and the Three Business Day Settlement Cycle.* Section 22(e) of the 1940 Act provides, with certain exceptions, that no registered investment company may postpone the date of payment upon redemption of a redeemable security for more than seven days after the security is tendered for redemption. The Commission has stated that all mutual funds should limit their holdings of illiquid securities to ensure that they can satisfy all redemption requests within the seven day period. The Commission considers a security to be illiquid if it cannot be disposed of within seven days in the ordinary course of business at approximately the price at which the fund has valued it.[107] The limit on money fund holdings of illiquid securities is ten percent of fund assets.[108]

Rule 15c6–1 under the Securities Exchange Act of 1934, which recently became effective, established three business days ("T+3") as the standard settlement period for securities trades effected by a broker or dealer.[109] The Division of Investment Management provided advice regarding the implications of the T+3 standard in determining whether a security held by a fund should be deemed liquid for purposes of the restrictions described above.[110] This issue is significant for money funds, because a large percentage of money fund assets consist of securities with a seven day demand feature.[111]

The Division noted that, because rule 15c6–1 applies to brokers and dealers and does not apply directly to funds, its implementation does not change the standard for determining liquidity, which is based on the requirements of section 22(e) of the 1940 Act. As a practical matter, however, many funds (including money funds) will have to meet redemption requests within three days because a broker or dealer will be involved in the redemption process. Many of these funds hold portfolio securities that do not settle within three days. In light of the T+3 standard, the Division recommended that funds should assess the mix of their portfolio holdings to determine whether, under normal circumstances, they will be able to facilitate compliance with the T+3 standard by brokers or dealers. Factors the funds should consider include the percentage of the portfolio that would settle in three days or less, the level of cash reserves, and the availability of lines of credit or interfund lending facilities. The Commission shares the Division's concerns and urges money funds to monitor carefully their liquidity needs in light of the shorter settlement period.

5. Short-Term Ratings

Rule 2a–7 currently distinguishes between short-term and long-term securities based on whether the security has a remaining maturity of 366 days—primarily for the purpose of distinguishing between securities that have short-term and long-term ratings. NRSROs do not always draw such a line when assigning ratings.[112] Therefore, the Commission has revised the rule to replace references to "short-term securities" and "long-term securities" in various sections of the rule with references to securities that have received short-term and long-term ratings from a NRSRO.[113] Whether a security has received a long- or a short-term rating from a NRSRO will depend upon how the NRSRO has characterized its rating.

D. Other Diversification and Quality Standards

1. Repurchase Agreements

Rule 2a–7 allows a fund to "look through" a repurchase agreement ("repo") to the underlying collateral for diversification purposes when the obligation of the counterparty is "collateralized fully."[114] Under the current rule, a repo is collateralized fully if, among other things, the collateral consists entirely of Government securities or securities that, at the time the repo is entered into, are rated in the highest rating category by the requisite NRSROs.[115] The Commission is adopting, as proposed, amendments to permit a fund to treat the repo as collateralized fully only if it is collateralized by securities that would qualify the repo for preferential treatment under the Federal Deposit Insurance Act[116] or the Federal Bankruptcy Code.[117] The Proposing Release noted that if the collateral does not qualify for special treatment under either of these statutes, a fund could encounter significant liquidity problems if a large percentage of its assets were invested in a repo with a bankrupt counterparty.[118] Although some commenters argued that the rule should encompass types of collateral that fall outside the repo specific provisions of the Bankruptcy Code, the Commission believes that the "look through" provisions of the rule would be inappropriate in these circumstances because the credit and liquidity risks assumed by the fund would be tied directly to the counterparty rather than the issuers of the underlying collateral.[119]

2. Pre-Refunded Bonds

The Proposing Release noted that a significant portion of tax exempt fund assets consist of pre-refunded bonds—bonds the payment of which are funded by and secured by escrowed Government securities.[120] The proposed amendments to the rule would have allowed funds to "look through" the pre-refunded bonds to the escrowed securities for diversification purposes if the underlying securities are Government securities and the escrow arrangement satisfies certain conditions designed to assure that the bankruptcy of the issuer of the pre-refunded bonds would not affect payments on the bonds from the escrow account. The proposed amendments would have limited fund investment in pre-refunded bonds issued by the same issuer to twenty-five percent of its assets. Because these securities would, in effect, be treated as Government securities, they would not be subject to a diversification limitation.

Most commenters supported the proposed treatment of pre-refunded bonds. A few of these commenters suggested that the twenty-five percent limitation per issuer was not necessary since the issuer's credit typically does not secure such bonds.[121] The Commission agrees, and has eliminated this limitation.[122] The Commission has decided to make additional technical modifications to the conditions applicable to the escrow arrangements that were suggested by the commenters.[123] The Commission is also amending the rule to include within the definition of an "unrated security" a rated security that subsequently was made subject to a refunding agreement.[124] This amendment clarifies that a fund must disregard ratings given to a security before the security became a "refunded security" (as that term is defined in the rule) in determining whether the security is an eligible security (as that term is also defined in the rule).

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[100] Paragraph (c)(3)(iii)(B) of rule 2a–7, as amended.

[101] *Id.*

[102] Paragraph (c)(3)(iii)(C)(*1*) of rule 2a–7, as amended.

[103] Paragraph (a)(16) of rule 2a–7, as amended.

[104] Proposing Release, *supra* note 20, at Section II.D.1.c.

[105] A number of these commenters discussed the problems a fund may encounter in obtaining notice of the substitution of a put provider when the securities are held by an intermediary, such as a securities depository. The Commission was advised that intermediaries employ methods to transmit notice of this type to their participants.

[106] Paragraph (a)(9)(iii)(D)(*2*) of rule 2a–7, as amended. The obligation to provide notice may be the obligation of the issuer of the underlying security, the issuer of the demand feature, or a third party, such as the dealer from which the fund wishes to purchase the security.

[107] Release 14983, *supra* note 64; Securities Act Rel. No. 6862 (Apr. 23, 1990) [55 FR 17933 (Apr. 30, 1990)] (adopting Rule 144A under the Securities Act of 1933 (discussing the definition of "liquid" and citing Release 14983).

[108] Release 14983, *supra* note 64 at Section A.4.; Investment Company Institute (pub. avail. Dec. 9, 1992).

[109] Rule 15c6–1 [17 CFR 240.15c6–1] generally provides that "a broker or dealer shall not effect or enter into a contract for the purchase or sale of a security (other than an exempted security, government security, municipal security, commercial paper, bankers' acceptances, or commercial bills) that provides for payment of funds and delivery of securities later than the third business day after the date of the contract unless otherwise expressly agreed to by the parties at the time of the transaction." Securities Exchange Act Rel. No. 33023 (Oct. 6, 1993) [58 FR 52891 (Oct. 13, 1993)].

[110] *See* T+3 Letter, *supra* note 65.

[111] *Id.*

[112] *See, e.g.*, Fitch Ratings Book (May 1995) (short-term ratings apply to debt payable on demand or to securities with original maturities of up to three years), and Orrick, Herrington & Sutcliffe (pub. avail. July 20, 1994) (synthetic warrants maturing in twenty-two months given short-term ratings by NRSROs).

[113] Paragraphs (a)(9) (definition of "eligible security"), (a)(11) (definition of "first tier security"), (a)(29) (definition of "unrated security"), and (c)(3)(iii)(C) (requirements for security subject to conditional demand feature) of rule 2a–7, as amended. In addition, the Commission has eliminated the definitions of "short-term" and "long-term" from the rule.

[114] Paragraph (c)(4)(vi)(A)(*1*) of rule 2a–7, as amended. A money fund investing in a repurchase agreement that does not meet the requirements of this paragraph may not "look through" and must instead treat the counterparty to the agreement as the issuer.

[115] *See* Proposing Release, *supra* note 20, at Section II.D.3.

[116] *See also* 12 U.S.C. 1821(e)(8) (A) and (C) (affording preferential treatment to "qualified financial contracts"), 12 U.S.C. 1821(e)(8)(D)(i) (defining qualified financial contract to include repurchase agreements) and 12 U.S.C. 1821(e)(8)(D)(v) (defining repurchase agreement).

Not all collateral that would qualify a repo for preferential treatment under the Federal Deposit Insurance Act would be permitted. Of the mortgage-related securities referred to in 12 U.S.C. 1821(e)(8)(D)(c), only "mortgage related securit[ies]" as defined in Section 3(a)(41) of the 1934 Act [15 U.S.C. 78c(a)(41)] would be permitted.

See sections 101(47) of the Federal Bankruptcy Code ("Bankruptcy Code") (defining "repurchase agreement"), and 559 (protecting repo participants from the Bankruptcy Code's automatic stay provisions) [11 U.S.C. 101(47), 559]. The Bankruptcy Code defines a repurchase agreement as follows:

An agreement, including related terms which provides for the transfer of certificates of deposit, eligible bankers' acceptances, or securities that are direct obligations of, or that are fully guaranteed as to principal and interest by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, or securities with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, or securities as described above, at a date certain no later than one year after such transfer or on demand, against the transfer of funds.

[117] Paragraph (a)(4) of rule 2a–7, as amended. Depository institutions are not eligible for protection under the Bankruptcy Code. Section 109 of the Bankruptcy Code [11 U.S.C. 109]. Instead, the bank regulatory laws provide for the establishment of conservatorship and receiverships of depository institutions in default. *See, e.g.*, section 11 of the Federal Deposit Insurance Act [12 U.S.C. 1821].

[118] Proposing Release, *supra* note 20, at n. 172.

[119] *Id.*

[120] *Id.*

[121] The twenty-five percent limitation was a condition specified in a "no-action" position taken by the Division of Investment Management in T. Rowe Price Tax-Free Funds (pub. avail. June 24, 1993) regarding the treatment of these securities for purposes of section 5(b)(1) of the 1940 Act. *See* Proposing Release, *supra* note 20, at n. 38 and accompanying text.

[122] The Commission is also eliminating the limitation for funds other than money funds that otherwise rely on the staff no-action position set forth in T. Rowe Price Tax-Free Funds.

[123] Paragraphs (a)(18) and (c)(4)(vi)(A)(*2*) of rule 2a–7, as amended. The proposed amendments would have permitted a fund to "look through" the pre-refunded bonds to the escrowed securities for diversification purposes if: (1) the escrowed securities were Government securities; (2) the escrowed securities were pledged only with respect to the payment of principal, interest and premiums on the pre-refunded bonds; and (3) either an independent certified public accountant or a NRSRO certified that the escrowed securities would satisfy all scheduled payments of principal, interest and premiums on the pre-refunded bonds. Commenters urged the Commission to clarify condition (2) by stating that excess proceeds could be remitted to the issuer or a third party. Commenters also noted that NRSROs rarely provide the certification described in condition (3), and requested that the reference to a NRSRO be deleted from the text. The rule reflects these comments; only independent certified public accountants may provide the certification.

[124] Paragraph (a)(29)(iii) of rule 2a–7, as amended. If the security has a NRSRO rating that does reflect the existence of the refunding agreement, then the security would not be considered unrated. *Id.*

3. Diversification Safe Harbor

A money fund that elects to be diversified must comply with the requirements of section 5(b)(1) of the 1940 Act and the rules under that section.[125] These requirements are applicable to most taxable and many tax exempt money funds, since most elect to be diversified. Although rule 2a–7's diversification requirements are more strict, under certain circumstances a money fund may be in compliance with rule 2a–7, but not in compliance with section 5(b)(1).[126] The proposed amendments would have provided that money funds complying with rule 2a–7's diversification requirements are deemed to be diversified under section 5(b)(1) ("diversification safe harbor"). Commenters discussing this aspect of the proposal supported the diversification safe harbor, and the Commission is adopting the amendments as proposed.[127]

4. Three-Day Safe Harbor

Rule 2a–7 currently permits a fund to invest more than five percent of its assets in the first tier securities of a single issuer for up to three business days (the "three-day safe harbor") and does not contain any limitation on the percentage of fund assets that can be invested in accordance with this provision. Since the provision is primarily applicable to taxable funds, which typically are diversified companies within the meaning of section 5(b)(1), funds could not use this provision to invest more than twenty-five percent of their assets in the securities of a single issuer. The Commission proposed to extend the availability of the three-day safe harbor to national funds. To assure that the three-day safe harbor could not have the effect of allowing funds that are not diversified to invest an inordinate portion of their assets in a single issuer at any time, the proposed amendments would have limited to twenty-five percent the percentage of fund assets that may be invested under the safe harbor at any one time. The Commission is adopting this amendment substantially as proposed.[128]

E. Asset Backed Securities and Synthetic Securities

1. Background

The proposed amendments would have amended rule 2a–7 to clarify the application of the rule to "synthetic" tax exempt securities and ABSs. Both types of securities rely on demand features and complex liquidity arrangements that are designed to meet the risk-limiting conditions of the rule.

An ABS represents an interest in a pool of financial assets, such as credit card or automobile loan receivables. Typically, an ABS is sponsored by a bank or other financial institution to pool financial assets and convert them into capital market instruments, thereby enabling the sponsor to transform illiquid assets into cash and increase balance sheet liquidity.[129] The ABS is structured to assure that the issuer of the ABS will not be affected by the bankruptcy of the sponsor. In addition, the structure of the ABS affects the nature and amount of the credit enhancement. While structural issues affect the risks associated with many types of securities, they are particularly important in evaluating ABSs.[130]

Synthetic securities are another form of ABSs that have been developed to address the shortage in the supply of short-term tax exempt securities.[131] While a variety of synthetic structures exist, all involve trusts and partnerships that, in effect, convert long-term fixed-rate bonds into variable or floating rate demand securities. Typically, one or two long-term, high quality, fixed-rate bonds of a single state or municipal issuer (the "core securities") are deposited in a trust by the sponsor. Interests in the trust may be distributed through an offering of securities to the public registered under the 1933 Act, or through an offering exempt from the Act's registration requirements, such as a "private placement." Holders of interests in the trust receive interest at the current short-term market rate and the sponsor receives the difference (after administrative expenses) between the current market interest rate and the long-term rate paid by the core securities. An affiliate of the sponsor or a third party (usually a bank) issues a conditional demand feature permitting holders to recover principal at par within a specified period. The demand features are conditional to address tax-related concerns.

The proposed amendments to the rule would have established specific criteria for fund investment in ABSs, and would have addressed issues concerning the diversification, maturity and quality standards applicable to these types of securities. Most commenters argued that it was not necessary to amend the rule in order to provide for the treatment of ABSs because the diversification, quality, and maturity standards applicable to ABSs could be addressed within the existing framework of the rule. Questions were raised, however, concerning the applicability of the rule to ABSs both prior to and after the publication of the Proposing Release,[132] and commenters presented widely divergent and, sometimes, conflicting views on how ABSs should be treated. The Commission therefore has concluded that amendments are necessary to reduce uncertainty concerning the application of the rule to these securities.

2. Definitions

The Commission is adopting, substantially as proposed, certain definitions used in the rule. The term "asset backed security" is defined as a fixed-income security issued by a "special purpose entity," substantially all the assets of which consist of

[125] *See supra* note 30; Proposing Release, *supra* note 20, at n. 29 and accompanying text.

[126] One difference that may cause this to occur is the timing of the measurement of diversification. Compliance with section 5(b)(1) of the 1940 Act is measured at the time of a purchase based on the value of the fund's total assets as of the end of the preceding fiscal quarter. *See* rule 5b–1 [17 CFR 270.5b–1]). For purposes of rule 2a–7, both the fund's total assets (as defined in the rule) and compliance with the rule's diversification requirements are measured at the time a purchase is made. *See* paragraph (c)(4)(i) of rule 2a–7, as amended.

[127] Paragraph (c)(4)(vii) of rule 2a–7, as amended.

[128] Paragraph (c)(4)(iii) of rule 2a–7, as amended. Because single state funds are required to be diversified only as to seventy-five percent of their assets, they have available a twenty-five percent basket to accommodate purchases in excess of five percent. Paragraph (c)(4)(i) of rule 2a–7, as amended. As a result, the three-day safe harbor of paragraph (c)(4)(ii) of the amended rule is not extended to them.

[129] For a detailed discussion of ABSs, *see* U.S. Securities and Exchange Commission Division of Investment Management, *Protecting Investors: A Half Century of Investment Company Regulation*, May 1992, at 1–103 and Investment Company Act Rel. No. 18736 (May 29, 1992) [57 FR 23980 (June 5, 1992)] and Investment Company Act Rel. No. 19105 (Nov. 19, 1992) [57 FR 56248 (Nov. 27, 1992)] respectively proposing and adopting rule 3a–7 under the 1940 Act [17 CFR 270.3a–7], the rule excluding the issuers of certain ABSs from the definition of investment company.

[130] While the structure of ABSs vary, the ABSs that have been marketed to money funds have generally involved: (i) the trust, which issues the ABSs; (ii) the sponsor, which contributes the assets to the trust; (iii) the servicer, which is responsible for administering the assets in the pool; (iv) the trustee, which monitors the activities of the servicer, and (v) the bank, which provides some form of liquidity and/or credit enhancement to assure that the trust will have sufficient funds to meet interest and amortization payments in the event that cash flow from the underlying assets is insufficient to meet the payment schedule of the ABSs.

[131] *See, e.g.*, Peter Heap, "Inside Derivatives Price and Demand Are Guide in Building Secondary Market Derivatives," *Bond Buyer*, Mar. 14, 1995 at 4; "Portfolio Manager Paints Derivatives with a Broad Brush," *The Guarantor*, Oct. 10, 1994 at 3.

[132] *See, e.g.*, Donaldson, Lufkin & Jenrette Securities Corporation (pub. avail. Sept. 23, 1994); Orrick, Herrington & Sutcliffe (pub. avail. July 27, 1994).

"qualifying assets."[133] The term "special purpose entity" is defined as a trust, corporation, partnership or other entity organized for the sole purpose of issuing fixed-income securities, which securities entitle their holders to receive payments that depend primarily on the cash flow from qualifying assets.[134] Finally, the term "qualifying assets" is defined as financial assets, either fixed or revolving, that by their terms convert to cash within a finite time period, plus any rights or other assets designed to assure the servicing or timely distribution of proceeds to security holders.[135]

3. Diversification Standards

a. *Diversification: General.* The proposed diversification standards would have distinguished between qualifying assets that consist of the securities of ten or fewer issuers, and qualifying assets that consist of the securities of more than ten issuers. In the case of qualifying assets that consist of securities issued by ten or fewer issuers (*e.g.*, most tax exempt tender option bond structures),[136] the issuer of each core security would have been treated as the issuer for issuer diversification purposes. The sponsor of the ABS would have been treated as the issuer when the ten issuer limit was exceeded.

(1) *Special Purpose Entity as Issuer.* In proposing to treat the sponsor of the special purpose entity as the issuer of the ABS, the Commission assumed that the credit quality of the ABS reflects the asset origination practices of the sponsor.[137] While some commenters agreed with the Commission's analysis, most commenters addressing the subject strongly opposed treating the sponsor of the ABS as the issuer for diversification purposes. They argued that the special purpose entity is protected in the event of the sponsor's bankruptcy so that an investment in an ABS does not reflect the credit risks associated with an investment in the sponsor. The commenters pointed out that the NRSRO ratings assigned to ABSs are premised on the integrity of the structure of the special purpose entity. These commenters urged that the rule treat the special purpose entity as the issuer of the ABS. Commenters also pointed out that the proposed treatment of the sponsor as the issuer of the ABS was inconsistent with the approach of the Commission elsewhere in the securities laws.[138]

The Commission has decided to modify the proposal to conform with its treatment of the special purpose entity as the sponsor of the ABS in other contexts. The diversification standards adopted treat the special purpose entity as the issuer of the ABS, subject to the exception described below.[139]

(2) *Looking through the Special Purpose Entity.* Several commenters agreed that in some circumstances it would be appropriate to "look through" the special purpose entity and treat the obligor of the qualifying assets as the issuer of a portion of the ABS. These commenters asserted that whether to look through the special purpose entity should not turn on the number of qualifying assets, as the Commission proposed, but the extent to which the special purpose entity is concentrated in the assets of a single obligor.

The Commission believes that the approach recommended by the commenters has advantages over that included in the proposal. The proposed approach was designed primarily to require a fund to look through the special purpose entity in the case of a tender option bond or other synthetic security that tends to have few underlying securities. These structures may have more underlying securities, but it would be appropriate to continue to look to the ultimate obligor of the underlying security if the security constitutes a sufficiently large portion of the obligations underlying the ABS. Moreover, it would be appropriate to treat an obligor in a more traditional ABS as the issuer of a proportionate portion of the ABS when the security represents a sufficiently large portion of the ABS.

Based on these considerations, the Commission has revised the rule to provide that the special purpose entity generally is treated as the issuer of the ABS; however, any entity whose obligations constitute ten percent or more of the principal amount of the qualifying assets backing the ABS is deemed to be the issuer of that portion of the ABS equal to the percentage of the qualifying assets represented by all of the obligations of the entity included in the pool.[140] As amended, the rule provides that a special purpose entity whose qualifying assets are themselves ABSs ("secondary ABSs") will be treated as the issuer of the secondary ABSs.[141] A fund holding ABSs is required to make the calculations necessary to determine the issuer of the ABSs for diversification purposes on a periodic basis.[142]

b. *Diversification: First Loss Guarantees.* The Proposing Release noted that some ABSs are issued with guarantees as to first losses, in which an institution guarantees all losses up to a specified percentage (*e.g.*, ten percent of the assets of the pool).[143] Because the loss coverage is usually a multiple of the likely losses to be experienced, the possibility of the losses exceeding the coverage generally is considered to be remote. Because a first loss guarantee exposes the guarantor to essentially the same risk as a guarantor of the entire value of the security, the Commission proposed that a first loss guarantor be treated as guarantor of the entire principal amount of the security for purposes of the put diversification standards.

Only one commenter supported this aspect of the Commission's proposal. The remaining commenters opposed the proposed amendment, and generally argued that the proposed treatment of first loss guarantors was inconsistent with the proposed treatment of put providers whose obligations are limited

[133] Paragraph (a)(2) of rule 2a–7, as amended.

[134] This term excludes investment companies. *Id.*

[135] *Id.* The Division of Investment Management has received requests for interpretive guidance under rules 2a–7 and 3a–7 under the 1940 Act regarding trusts that hold assets that may not be redeemed or mature within a "finite time period." *See, e.g.*, Donaldson, Lufkin & Jenrette Securities Corp. (pub. avail. Sept. 23, 1994) (auction rate preferred stock issued by closed-end fund that remains outstanding after sale at auction); Brown & Wood (pub. avail. Feb. 24, 1994) (cumulative preferred stock with no determinable liquidation date). The Commission welcomes requests for interpretive guidance or exemptive relief concerning such instruments. Rule 2a–7, as amended, should not be interpreted to permit investments in ABSs that hold assets that are not "qualifying assets" if the rule's conditions applicable to investment in ABSs (*e.g.*, the rating requirement) are not complied with.

[136] *See* Proposing Release, *supra* note 20, at Section II.C.4.d.

[137] *Id.*

[138] One commenter stated that a test different from the one proposed—that is, one based on asset concentration, would be consistent with certain positions taken by the Division of Corporation Finance. An asset concentration in excess of ten percent may elicit staff comments requesting disclosure of financial information regarding the obligor of the assets. *See* Staff Accounting Bulletins 71 and 71A ("SAB 71/71A").

[139] Paragraph (c)(4)(vi)(A)(*4*) of rule 2a–7, as amended.

[140] *Id.* A diversification test of this type is consistent with a no-action position taken by the Division of Investment Management under section 5(b)(1) of the 1940 Act (Hyperion Capital Management, Inc. (pub. avail. Aug. 1, 1994)) and accounting positions taken by the Division of Corporation Finance (SAB 71/71A, *supra* note 136). *See also* Securities Exchange Act Release No. 34961 (Nov. 10, 1994) [59 FR 59590 (Nov. 17, 1994)] at n.80 and accompanying text.

[141] Paragraph (c)(4)(vi)(A)(*4*) of rule 2a–7, as amended.

[142] Paragraphs (c)(8)(iv) and (c)(9)(v) of rule 2a–7, as amended. The calculations are required to be made periodically because of the revolving nature of many ABSs' assets.

[143] Proposing Release, *supra* note 20, at Section II.C.4.e.

by contract.[144] One commenter objected because the amendment appeared to be addressing the guarantor's exposure to losses, rather than the fund's. Another commenter noted that, because of the contractual limit on the first loss guarantor's obligations, that guarantor is only required to make payment for losses experienced by the pool to the extent of its guarantee, and additional losses would have to be borne by the holder of the ABS.

Rule 2a–7 diversification requirements are designed to limit the exposure of the fund to any single issuer or credit enhancer.[145] Because the exposure of a first loss guarantor to losses the pool may incur is substantially greater than the exposure of a fractional guarantor, the exposure of the fund to the first loss guarantor is also substantially greater.[146] Therefore, the Commission believes that it is appropriate to treat first loss guarantees differently from fractional guarantees. Because first loss guarantees typically are designed to cover likely losses to be experienced, a statement made in the Proposing Release no commenter contradicted, it seems appropriate to treat the first loss guarantor as guaranteeing the entire value of the security. The Commission is adopting this amendment as proposed.[147]

[144] Under proposed amendments to the rule's put diversification provisions, the issuer of a fractional put would have been treated as guaranteeing only that portion of the value of the security which it contractually agreed to provide. *See* Proposing Release, *supra* note 20, at Section II.C.2.c. The Commission is adopting these amendments as proposed. *See supra* Section II.C.1.d. of this Release and paragraph (c)(4)(vi)(B)(*2*) of rule 2a–7, as amended.

[145] *See* Proposing Release, *supra* note 20, at Section II.A.

[146] For example, if a fractional put provider guarantees ten percent of the losses experienced by a $1 million pool, and the pool has losses of seven percent, the put provider's exposure is $7,000. By contrast, if a first loss guarantor guarantees the first ten percent of losses experienced by a $1 million pool, and the pool has losses of seven percent, the guarantor's exposure is $70,000—an amount ten times greater than the fractional put provider's exposure.

[147] Paragraph (c)(4)(vi)(B)(*2*) of rule 2a–7, as amended. The Commission also notes that the proposed treatment of first loss guarantees under rule 2a–7 is consistent with a notice of proposed rulemaking issued by the Department of the Treasury, the Federal Reserve System, and the Federal Deposit Insurance Corporation. "Risk-Based Capital Requirements—Recourse and Direct Credit Substitutes; Proposed Rule," 59 FR 27115 (May 25, 1994). As described in that release, the Office of the Comptroller of the Currency, Department of the Treasury, The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation and the Office of Thrift Supervision, Department of the Treasury proposed revisions to their risk-based capital standards that would treat certain first loss guarantees as a guarantee of the entire principal amount of the assets enhanced.

4. Quality Standards

The proposed amendments to rule 2a–7 would have limited funds to investing only in an ABS that has a short-term rating from a NRSRO and, when the final maturity of the ABS exceeds 397 days, a long-term debt rating from a NRSRO. Many commenters opposed this proposed requirement, arguing that it would be redundant because the rule currently requires fund managers to perform a thorough legal, structural and credit analysis with respect to all securities. The Commission notes that the legal, structural and credit analysis required by rule 2a–7 is to be conducted independently of any determination of a security's credit quality made by a NRSRO.[148] In addition, the Commission continues to believe that, in view of the role NRSROs have played in the development of the structured finance markets, a rating requirement should not be burdensome.[149] Because both short- and long-term debt ratings from NRSROs reflect the NRSROs' legal, structural, and credit analyses, the rule requires that an ABS be rated in order to be eligible for fund investment, but does not specify whether the rating received must be short- or long-term.[150]

5. Maturity Standards

The proposed maturity standards for ABSs would have taken into account the difference between "pay-through" ABSs and "pass-through" ABSs. A pay-through ABS has a maturity and payment schedule different from that of its underlying assets. A pass-through ABS is one in which the cash generated by the underlying assets passes through directly to the ABS holders. Pass-through ABSs held by funds generally are not scheduled to return a holder's principal for three to five years. They typically provide for periodic interest rate resets and for principal to be returned after some period (not exceeding thirteen months) after a demand for payment has been made.

The proposed amendments would have provided that the final maturity of an ABS is the date on which principal is scheduled to be returned to the holder, regardless of whether demand has been made. The proposed amendments also would have permitted a fund to measure the maturity of an ABS with an adjustable rate of interest subject to a demand feature by reference to the time principal is scheduled to be repaid once demand is made, but only if the holder is entitled to receive principal and interest within thirteen months of making demand.

Several commenters expressed concern regarding the treatment of a pass-through ABS with a "scheduled" maturity. The commenters noted that the effect of the proposed amendments would be to allow funds to determine the maturity of an ABS by relying on the date on which principal is scheduled, but not necessarily required, to be repaid. These commenters concluded that the proposed amendments' reference to a scheduled principal repayment is troublesome because on that date there is no binding obligation under which the fund would receive payment. In light of the comments, the Commission has decided to modify the ABS maturity determination by amending the definition of "demand feature" to include a feature of an ABS permitting the fund unconditionally to receive principal and interest within thirteen months of making demand.[151]

[148] Paragraph (c)(3)(i) of rule 2a–7, as amended; Release 18005, *supra* note 11, at Section II.A. (adopting amendments to paragraph (c)(2) of rule 2a–7); Letter to Registrants (pub. avail. May 8, 1990). For a discussion of the limitations of NRSRO ratings for evaluating certain aspects of ABSs, *see* Investment Company Act Rel. No. 20509 at § I.B.1 (Aug. 31, 1994) [59 FR 46304 (Sept. 7, 1994)].

[149] Proposing Release, *supra* note 20, at Section II.C.4.b.

[150] Paragraph (a)(9)(iii)(C) of rule 2a–7, as amended.

[151] Paragraph (a)(7)(ii) of rule 2a–7, as amended. For example, prior to the fund's election to receive principal payments, the maturity of an adjustable rate ABS with a five year final maturity and a demand feature permitting the fund to obtain principal and interest within thirteen months would be considered a thirteen month instrument at all times (*i.e.*, on a rolling basis). After the election is made, a fund could treat such an instrument as having a maturity equal to the date when principal will be returned (*i.e.*, each day that the fund holds the instrument after election, the fund could reduce the security's maturity by one day).

This amendment supersedes an interpretive position taken by the Division of Investment Management in Merrill, Lynch, Pierce, Fenner & Smith (pub. avail. Apr. 6, 1987). In Merrill, Lynch, the Division addressed the maturity determination for a type of variable rate coupon note. A holder of the notes was required to satisfy certain conditions in order to receive principal on "the date noted on the face of the instrument" (quoting paragraph (d)(1) of rule 2a–7, prior to amendment), and, so long as the notes continued to be held, their maturity was automatically extended at the end of each interest rate reset period by one additional such period. The Division concluded that, subject to certain conditions, a money fund could treat such a security as having a maturity equal to the date specified on the face of the instrument, as automatically extended by an additional interest payment period. The Merrill, Lynch position is inconsistent with paragraph (d) of rule 2a–7, as amended, which provides that an instrument's maturity is the date on which "the principal amount must unconditionally be paid" and with the maturity determination requirements for ABS discussed in the text of this release. Money funds may, however, continue to treat a "mandatory tender" feature as an unconditional right to receive principal, provided that the issuer's obligation to pay is not dependent on the fund taking any action (such as giving notice to the issuer of the intent to redeem), other than physically delivering the notes or bonds for redemption.

[152] Paragraphs (d)(3) and (d)(5) of rule 2a–7, as amended. The maturity of a floating or variable rate ABS may also be determined by reference to a demand feature meeting the requirements of paragraph (a)(7)(i) of the amended rule.

[153] *See* Release 13380, supra note 7, at n.14 and accompanying text; State of Wisconsin (pub. avail. Mar. 3, 1983).

The maturity of an ABS with a final maturity in excess of 397 days may be determined by reference to a demand feature only if the ABS also meets the definition of a floating or variable rate security.[152]

F. Variable and Floating Rate Securities

Rule 2a–7 generally prohibits a money fund from acquiring a security with a remaining maturity of more than 397 calendar days. The purpose of this requirement and the other maturity provisions of the rule is to limit a fund's exposure to interest rate risk.[153] The rule generally requires a fund to measure the maturity of a portfolio security by reference to the security's final maturity date. A fund, however, may measure the maturity of a "variable rate security" or a "floating rate security" (collectively, "adjustable rate securities") by reference to a date that is earlier than the final maturity date.

Rule 2a–7 defines a "variable rate security" as an instrument the terms of which provide for the adjustment of the interest rate on specified dates and that, upon adjustment, can reasonably be expected to have a market value that approximates par value. A "floating rate" security is defined as an instrument the terms of which provide for the adjustment of its interest rate whenever a specified benchmark changes and that, at any time, can reasonably be expected to have a market value that approximates par value. Rule 2a–7 allows certain adjustable rate securities to be treated as having maturities shorter than their final maturities; however, the manner in which an adjustable rate instrument is treated depends upon whether it has a demand feature, the final maturity of the instrument and whether the instrument is a Government security.

1. Maturity Determinations: Floating Rate Securities

Under the current rule, the maturity of a floating rate security subject to a demand feature is the period remaining until principal can be recovered through demand. The same test is generally applicable in determining the maturity of a variable rate security subject to a demand feature, the principal amount of which is scheduled on the instrument's face to be paid in more than 397 days. In contrast, a variable rate security (without a demand feature) scheduled to be paid in 397 days or less may be treated as having a maturity equal to the period remaining until the next readjustment of the interest rate. There is no parallel provision for floating rate securities with final maturities of 397 days or less.

Because variable and floating rate securities expose funds to similar types of interest rate risk, the Commission proposed to amend the rule to permit funds to determine the maturity of floating rate securities with final maturities of 397 days or less by referring to the interest rate reset. Commenters supported the proposed amendment, which the Commission is adopting substantially as proposed.[154] The interest rate of a floating rate security moves in tandem with changes in the interest rate to which it is linked, and the amendments will permit funds to treat these instruments as having one-day maturities.

2. Maturity Determinations: Variable Rate Securities

Under the current rule, when the period remaining until the final maturity of a variable rate demand instrument (*i.e.*, its maturity without reference to the demand feature) is less than 397 days, its maturity under rule 2a–7 is the longer of the period remaining until the next interest rate readjustment or the date on which principal can be recovered on demand. A variable rate security with the same final maturity that does not have a demand feature is treated as having a remaining maturity equal to the period remaining until the next readjustment in the interest rate. The effect of these provisions is that a variable rate security with a final maturity of less than 397 days will have a *longer* maturity when a demand feature is added to it.

To correct this anomaly, the Commission proposed that only a variable rate demand security with a final maturity in excess of 397 days would have its maturity measured by the longer of the period remaining until its next interest rate adjustment or the date on which principal can be recovered on demand; the maturities of securities with final maturities of 397 days or less would be measured by reference to the earlier of the date on which the interest rate next readjusts or the date on which principal can be recovered on demand. Commenters supported the proposed amendment, which the Commission is adopting as proposed.[155]

3. Adjustable Rate Government Securities

Rule 2a–7 provides that "an instrument that is issued or guaranteed by the United States government or any agency thereof which has a variable rate of interest adjusted no less frequently than every 762 days" is deemed to have a maturity equal to the period remaining until the next readjustment of the interest rate.[156] The Commission is adopting two amendments to clarify the scope of this provision.

First, the amendments clarify that the maturity of the security may only be determined by reference to the interest readjustment date if, upon readjustment, the security can reasonably be expected to have a market value that approximates par value.[157] This change makes explicit that Government securities are treated the same way as other adjustable rate securities under the rule.[158]

Second, the reference to Government securities in paragraph (d)(1) of rule 2a–7 is being conformed to other provisions of the rule relating to Government securities. As amended, the provision applies to all Government securities, including securities issued by persons controlled or supervised by and acting as instrumentalities of the U.S. Government.[159]

4. Other Issues Concerning Adjustable Rate Securities

a. *Background.* Rule 2a–7 allows the maturity of adjustable rate securities to be determined by reference to interest rate adjustment dates if the security "can reasonably be expected to have a market value that approximates its par value" upon adjustment of the interest

[154] Floating rate securities with final maturities of more than 397 days that are subject to demand features are deemed to having maturities equal to the period remaining until principal can be recovered through demand. Paragraph (d)(5) of rule 2a–7, as amended.

[155] Paragraph (d)(2) of rule 2a–7, as amended.

[156] Paragraph (d)(1) of rule 2a–7, as amended. Generally, the readjustment must occur every 397 days to reflect the rule's maturity requirements. For certain funds that mark-to-market, however, readjustment may occur every 762 days. Paragraph (c)(2)(ii) of rule 2a–7, as amended.

[157] This codifies the interpretation of the current rule. *See* Investment Company Institute (pub. avail. June 16, 1993); Morgan Keegan & Company, Inc. (pub. avail. July 24, 1992) at n.7.

[158] The amendments also make clear that this provision applies to floating rate Government securities. Paragraph (d)(1) of rule 2a–7, as amended.

[159] The amendment reflects a no-action position taken by the Division of Investment Management with respect to securities issued by instrumentalities of the U.S. government. *See* Student Loan Marketing Association (pub. avail. Jan. 18, 1989).

rate.[160] The Commission proposed to clarify that the board of directors or its delegate must have a reasonable expectation that, upon each adjustment of the interest rate until the final maturity of the security or until the principal amount can be recovered through demand, the security will have a market value approximating its amortized cost.[161]

Several commenters discussed the proposed amendments to the maturity determination provisions of the rule as they relate to adjustable rate Government securities. Commenters opposing this aspect of the proposed amendments emphasized that the amendments should exclude adjustable rate Government securities "based on the lack of credit risk" inherent in these instruments. The maturity determination provisions of the rule, however, are designed to limit a fund's exposure to interest rate, rather than credit, risk and recent history demonstrates that an investment in a Government security can expose the fund to substantial interest rate risk.[162]

[160] Paragraphs (a)(7) and (a)(21) of rule 2a–7 [17 CFR 270.2a–7(a)(7) and (a)(21)], prior to amendment. Adjustable rate securities may be priced at a premium to par value when the security pays interest above market rates. A fund may treat the security as an adjustable rate security for purposes of rule 2a–7's maturity provisions if the fund reasonably expects that upon readjustment of the interest rate, the market value of the security will approximate its amortized cost. The premium generally would be amortized over the life of the security. It is critical that the fund carefully consider all factors involved in the valuation of the security, particularly the likelihood of prepayment before the premium is fully amortized. An accelerated return of principal will require the fund to write off the premium before it is amortized, and could result in a significant deviation between the amortized cost and market value of the security.

[161] Paragraphs (a)(12) and (a)(30) of rule 2a–7, as amended.

[162] In the Proposing Release, the Commission noted that a number of adjustable rate securities developed specifically for money market funds had interest rate readjustment formulas that could not be expected to reflect short-term interest rates under certain conditions. At that time, the Commission expressed the concern that changes in interest rates or other conditions that could reasonably be foreseen to occur during the life of the securities could result in their market values not returning to par at the time of an interest rate readjustment. The Commission identified securities that displayed this characteristic, and concluded that such securities presented risks that were not appropriate for money market funds to assume. *See* Proposing Release, *supra* note 20, at nn.161–164 and accompanying text.

In June 1994, the Division of Investment Management provided money market funds and their advisers with additional guidance concerning investments in adjustable rate securities. The Division reminded fund managers of their general obligations under rule 2a–7 to ensure that money market funds invest only in securities that are consistent with maintaining stable net asset values, and directed money market funds that held these securities to work with their advisers in developing plans for their orderly disposition. *See* Letter from Barry P. Barbash, Director, Division of Investment Management, to Paul Schott Stevens, General Counsel, Investment Company Institute (June 30, 1994). Money market funds holding adjustable rate securities of the type described in the Proposing Release experienced problems when short-term interest rates increased last year. To maintain their funds' stable net asset values, a number of fund advisers took actions which included purchasing certain adjustable rate securities from their money market funds at their amortized cost value (plus accrued interest), or contributing capital to the funds. One fund holding notes of this type, the U.S. Government Money Market Fund, a series of Community Bankers Mutual Fund, Inc., announced in September 1994 that it would liquidate and distribute less than $1.00 per share to its shareholders. Press reports generally treated this liquidation as the first instance in which a money market fund had "broken a dollar." *See* Brett D. Fromson, "Losses on Derivatives Lead Money Fund to Liquidate," *Washington Post*, Sept. 28, 1994 at F1; Leslie Wayne, "For Money Market Fund Investors, New Cautions," *N.Y. Times*, Sept. 29, 1994 at D1, D8.

The Commission is, therefore, adopting the amendment as proposed.

The effect of the new provision is to prohibit funds from purchasing an adjustable rate Government security with a remaining maturity of more than 397 days unless the interest rate readjustment mechanism can reasonably be expected to return the instrument to par upon all interest rate adjustment dates during the life of the instrument. A fund could purchase an adjustable rate Government security with a remaining maturity of 397 days or less, the value of which the fund does not expect to return to par on all interest rate adjustment dates, but would have to treat the security as a fixed rate security and measure its maturity by reference to its final maturity. Adjustable rate securities with demand features generally would not be affected by the proposed changes because if a discount develops or is likely to develop a fund could exercise the demand feature and receive the amortized cost value of the instrument.

b. *Recordkeeping Requirement.* The Commission proposed to require a money market fund to maintain a written record of its determination that an adjustable rate security, the maturity of which is determined by reference to its interest rate readjustment date, will either maintain a value of par or return to par on each interest rate readjustment date through the life of the security. A number of commenters who opposed this requirement stated that further guidance regarding the definition of the term "approximates par" was necessary or that the rule should specifically state the amount of deviation that would be permissible. The Commission believes that this approach would be rigid and unnecessary, absent an indication that decisions reached in this area by funds are inconsistent with the purposes of the rule.

Other commenters asserted that the paperwork burden this requirement could entail might outweigh benefits to shareholders, and might have the effect of forcing funds to purchase higher proportions of fixed rate securities that may have a higher degree of price volatility than adjustable rate securities. The Commission is not persuaded by this argument. One of these commenters suggested that if the determination regarding the return to par would be common to a group of securities, a single documentation of the analysis should be sufficient. The Commission agrees. The amendments do not require a fund's board of directors to maintain a written determination for each individual adjustable rate security in the fund's portfolio—it is sufficient for the fund to maintain the required record for each type of security (*e.g.*, one record could be maintained for several different adjustable rate securities of similar credit quality whose interest rate readjustment mechanisms are tied to LIBOR plus or minus a number of basis points that make the securities similarly sensitive to interest rate changes). The Commission has decided to adopt the amendments as proposed.[163]

G. Other Amendments to Rule 2a–7

1. U.S. Dollar Denominated Instruments

To avoid exposure to foreign currency risk, rule 2a–7 limits fund investment to "United States dollar-denominated securities."[164] The proposed amendments would have defined the term "United States dollar-denominated" to clarify that it means: (a) the payment of interest and principal must be made in U.S. dollars at all times; and (b) an eligible security's interest rate may not vary or float with a rate tied to foreign currencies, foreign interest rates, or any index expressed in a currency other than U.S. dollars.

Several commenters were critical of the proposed definition and recommended that the rule permit fund investment in securities on which the amount of interest payable is based on changes in the value of a foreign currency as long as principal and interest are payable in full in U.S. dollars. The Commission believes that amending the rule in this manner would have the effect of exposing the fund to currency fluctuations. The Commission has decided to adopt the definition of "United States dollar-denominated" as proposed.[165]

[163] Paragraphs (c)(8)(iii) and (c)(9)(iv) of rule 2a–7, as amended.

[164] Paragraph (c)(3)(i) of rule 2a–7, as amended.

2. Investment in Other Money Funds

The Commission is adopting, as proposed, amendments to rule 2a–7 to clarify that shares in other money funds that comply with the rule: (a) are first tier securities;[166] and (b) should be treated as having a rolling maturity equal to the period of time within which the acquired fund is required to make payment upon redemption under applicable law.[167] A shorter maturity may be used if the fund making the investment has a contractual arrangement with the other money fund for more rapid receipt of redemption proceeds.[168]

For diversification purposes, an investment in another money fund generally may be treated as an investment in any other issuer (and therefore generally cannot exceed five percent of a fund's assets).[169] An exception to this treatment is made for funds that invest substantially all of their assets in shares of another money fund (the "underlying fund") in which case the fund is permitted to "look through" the shares to the assets of the underlying fund.[170] These include funds in "master-feeder" arrangements and certain separate accounts offering variable insurance products. Such a fund will be deemed to be in compliance with rule 2a–7 for diversification and other purposes if the board of directors reasonably believes that the underlying money fund is in compliance with the rule.[171] The board of directors of the fund is not required to monitor every investment decision made by the underlying fund. Rather, the board could review the underlying fund's procedures and obtain regular reports concerning the underlying fund's compliance with the rule.[172]

3. Board Approval and Reassessment of Certain Securities

Rule 2a–7 currently requires the board of directors of a taxable fund to approve or ratify purchases of unrated securities and securities that are rated by only one NRSRO. The amendments eliminate this requirement.[173]

Rule 2a–7 also requires funds to limit portfolio investments to securities determined to present minimal credit risks. In compliance with this requirement, the fund's board of directors must reassess promptly whether a security presents minimal credit risks when the fund's investment adviser becomes aware that an unrated security or a second tier security has been given a rating by any NRSRO below the NRSRO's second highest rating category. The Proposing Release requested comment on whether to permit delegation of the reassessment requirement.[174] All the commenters who responded to this request suggested that the rule should permit delegation of the reassessment requirement to the fund's investment adviser. These commenters stated that the investment adviser is in a better position to make credit determinations given its staff and analytical and information resources. The Commission agrees, and is amending the rule as suggested.[175]

4. Recordkeeping

Amendments to rule 2a–7 require a fund to maintain a written record of the determination that a portfolio security presents minimal credit risks and to maintain a record of NRSRO ratings (if any) used to determine the status of a security under the rule.[176] The Commission is also adopting, as proposed, amendments to rule 31a–1 under the 1940 Act that require money funds to maintain in their portfolio investment records information identifying: (a) each security by its legal name; (b) any liquidity or credit enhancements associated with each security; and (c) any coupons, accruals, maturities, puts, calls or any other information necessary to identify, value and account for each security.

5. Defaulted Securities

Rule 2a–7 imposes certain obligations regarding defaulted securities.[177] The Commission proposed amending the rule to include "events of insolvency" as events that would trigger these obligations, and is adopting those amendments substantially as they were proposed.[178] The Commission is adopting as proposed an amendment to the rule that would require a fund to notify the Commission of the default of a security subject to a credit enhancement or demand feature only in the event that the provider of the enhancement or demand feature failed to fulfill its obligations to the fund.[179]

6. Technical Amendments

The Commission is adopting technical amendments to rule 2a–7 to clarify its terminology. References to "instruments" are being changed to "securities." In addition, references to the requirement that the market value of an adjustable rate security must reasonably approximate its par value are being changed to clarify that the security's market value must reasonably approximate its amortized cost.[180] The definition of "unrated security" also is being revised to clarify that if an unrated security becomes rated while held by the fund, the fund may continue to treat it as an unrated security, in the same manner as a fund may continue to determine whether a security rated by a single NRSRO is first or second tier if a second NRSRO rates the security after it is acquired by the fund.[181] The definition of "first tier security" is also being amended to include government securities.[182]

III. Amendments to Disclosure Rules

The Commission is adopting amendments to the forms and advertising rules used by tax exempt

[165] Paragraph (a)(28) of rule 2a–7, as amended.

[166] Paragraph (a)(11)(iv) of rule 2a–7, as amended.

[167] Paragraph (d)(8) of rule 2a–7, as amended. *See also* Proposing Release, *supra* note 20, at n.182 and accompanying text; T+3 Letter, *supra* note 65.

[168] *Id.*

[169] Investment by one fund in another is limited by section 12(d)(1)(A) of the 1940 Act [15 U.S.C. 80a–12(d)(1)(A)]. Section 12(d)(1)(A) provides that a fund may not invest more than ten percent of its assets in securities issued by other investment companies, invest more than five percent of its assets in any single investment company, or acquire more than three percent of the voting securities of another investment company.

[170] Paragraph (c)(4)(vi)(A)(5) of rule 2a–7, as amended. The restrictions of section 12(d)(1)(A) do not apply if the fund making the investment invests all of its assets in shares of another fund, subject to certain conditions. Section 12(d)(1)(E) [15 U.S.C. 80a–12(d)(1)(E)].

[171] Paragraph (c)(4)(vi)(A)(5) of rule 2a–7, as amended. The responsibility for making this determination may be delegated by the board to the fund's adviser. Paragraph (e) of rule 2a–7, as amended.

[172] In addition, the investment objectives and policies of the two funds should not be inconsistent. *See* Guide 34 to Form N–1A and Guide 38 to Form N–3.

[173] Paragraph (c)(3) of rule 2a–7, as amended.

[174] Proposing Release, *supra* note 20, at Section II.D.6.

[175] Paragraphs (c)(5)(i)(A) and (e) of rule 2a–7, as amended.

[176] Paragraph (c)(9)(iii) of rule 2a–7, as amended.

[177] *See* Proposing Release, *supra* note 20, at Section II.D.8.

[178] Paragraphs (a)(10) and (c)(5)(ii) of rule 2a–7, as amended.

[179] Paragraph (c)(5)(iv) of rule 2a–7, as amended.

[180] Paragraphs (a)(12), (a)(30), and (c)(8)(iii) of rule 2a–7, as amended. *See supra* Section II.F.4.a. (discussion of determination that par will be approximated).

[181] Paragraph (a)(29) of rule 2a–7, as amended.

[182] Paragraphs (a)(11)(v) and (a)(13) of rule 2a–7, as amended. Prior to the adoption of today's amendments, a fund purchasing a government security would have been required to treat the security as an unrated first tier security (paragraph (a)(11)(iii) of rule 2a–7, as amended), because NRSROs do not rate government securities. As a result, the fund would have been required to perform a comparability analysis. Under the amended definition of "first tier security," a fund may treat a government security as first tier without conducting a comparability analysis, even though the security has not received a rating from an NRSRO.

funds and is publishing a Staff Guide designed to elicit disclosures concerning the specific risks of investing in tax exempt funds.

A. Single State Funds

To alert investors to the greater risks of investing in single state funds, proposed amendments to Form N–1A would have a required a single state fund to disclose in its prospectus that: (1) its investments are concentrated geographically; (2) for a single state fund that does not meet the Five Percent Diversification Test, that the fund may invest a significant percentage of its assets in the securities of a single issuer; and (3) that an investment in the fund therefore may be riskier than an investment in other types of money funds.

Several commenters, while generally supporting additional disclosure, expressed concern that the proposed disclosure for single state funds might exaggerate the risk of investing in these funds, leading to investor confusion. These commenters urged the Commission not to require a single state fund to disclose that an investment in it may be riskier than an investment in another type of money fund. The amendments to rule 2a–7 require single state funds to be diversified at the five percent level as to seventy-five percent of their assets, but these funds are less diversified than other types of money market funds and are still dependent on the financial health of a particular state.[183] Because of the importance of diversification in protecting a fund from exposure to a particular issuer, the Commission has decided to require a single state fund that is not diversified as to 100% of assets to disclose on the cover page of the prospectus that it may invest a significant percentage of its assets in the securities of a single issuer, and that an investment in the fund may therefore be riskier than investment in other types of money funds. The Commission has also decided to adopt the disclosure requirement regarding geographic concentration, which may be placed in the text of the prospectus, substantially as proposed.[184]

B. Disclosure Concerning Exposure to Put Providers

The Commission is publishing an amendment to Staff Guide 21 to Form N–1A. The amendment interprets the form as requiring a money fund having more than forty percent of its portfolio subject to third party credit enhancements to disclose that the safety of its portfolio (and the ability of the fund to maintain a stable share price) is largely dependent upon guarantees from foreign and domestic banks and that these arrangements are not subject to federal deposit insurance. The wording of the guide has been changed somewhat from the draft published in the Proposing Release[185] to reflect the approach taken by the Commission in proposing to simplify money market fund prospectuses.[186]

Under the proposed amendments, money fund portfolio schedules would have been required to include information regarding put providers.[187] Those amendments are not being adopted at this time. The Commission is currently examining portfolio schedule requirements for investment companies generally and will continue to consider the proposed amendments in connection with that project.

C. Risk Disclosure in Certain Communications

Money funds are required to include in certain advertisements and sales literature a statement that an investment in a money fund is not insured or guaranteed by the U.S. Government and there can be no assurance that the fund will maintain a stable net asset value.[188] The amendments extend this requirement to "tombstone" advertisements under rule 134 of the 1933 Act.[189]

IV. Exemptive Rule Governing Purchases of Certain Portfolio Securities by Affiliated Persons

The Proposing Release noted that when money funds have held a security that is no longer eligible for fund investment, fund advisers or related persons frequently have repurchased the security from the fund at the security's amortized cost value to avoid any fund shareholder loss.[190] These transactions came within section 17(a)(2) of the 1940 Act [15 U.S.C. 80a–17(a)(2)], which prohibits an affiliated person of a fund, or an affiliated person of such a person, from knowingly purchasing a security from the fund in the absence of a Commission exemption. Nevertheless, the transactions appeared to be reasonable, fair, in the best interests of fund shareholders, and consistent with the actions that a fund should take in the event of a default of a portfolio security.[191] Thus, the staff of the Division of Investment Management advised parties to these transactions that the staff would not recommend enforcement action to the Commission if these transactions were consummated.

Based upon the Commission's experience with actions taken by funds and their affiliates to dispose of portfolio securities that were no longer eligible under rule 2a–7,[192] the Commission proposed new rule 17a–9 to exempt from section 17(a) of the 1940 Act the purchase of a security that is no longer an eligible security. Several commenters, including the ICI, opposed the adoption of rule 17a–9, asserting that its mere existence would cause investors to expect a fund's adviser to purchase ineligible securities from the fund, and guarantee that the fund will maintain a stable net asset value.

The Commission believes that existing rules applicable to money funds already address this concern by requiring money fund prospectuses and sales literature to disclose prominently that there is no assurance or guarantee that a fund will be able to maintain a stable net asset value of $1.00 per share.[193] Moreover, the Commission believes it unlikely that the existence of an exemptive rule alone will create any investor expectations.

The Commission has decided to adopt the rule as proposed. In doing so, the Commission is not suggesting that affiliated persons of funds have any legal obligation to enter into transactions covered by the new rule. The exemption applies to transactions where: (a) the purchase price is paid in cash; and (b) the purchase price is equal to the greater of the amortized cost of the security or its market price (in each case, including accrued interest).[194] The rule, as adopted, is available for transactions involving securities that are no longer eligible securities because they no longer satisfy either the credit quality or maturity limiting provisions of the rule (*e.g.*, the securities are long-term adjustable rate securities whose market values no longer approximate their par values on the interest rate readjustment dates).

V. Compliance Dates

A. General Compliance Date

Money funds may comply with any of the amendments or rules adopted today upon publication of this release in the **Federal Register**. Beginning October 3, 1996, money funds must comply with all amendments and rules adopted today not specifically addressed below in paragraphs B. and C.[195] The Commission is delegating to the Division Director the authority to address issues regarding compliance dates that are not addressed in this section, unless the Director believes that it is necessary in the public interest or in the interest of investors that the Commission consider the issue.

Rule 2a–7 requires funds to meet the rule's diversification requirements with respect to a particular issuer on the date the fund acquires a security of that issuer.[196] Therefore, phase-in rules for the new diversification requirements for tax exempt funds are unnecessary. A tax exempt fund holding a greater percentage of its total assets in the securities of an issuer than the applicable diversification requirement permits as of October 3, 1996 may not purchase additional securities or "roll over" current holdings until such securities purchased or rolled over will not cause the fund to exceed the applicable diversification requirements immediately after the purchase or rollover. Funds are not required to exercise puts or otherwise dispose of portfolio holdings to meet the new diversification requirements.

B. Grandfathered Securities

To minimize disruption to funds and markets as a result of adoption of these amendments, the Commission is "grandfathering" certain securities first issued on or before June 3, 1996 that do not meet the following requirements of the amended rule:

(1) requirement that demand features be rated;[197]

(2) requirement that, in order for a security subject to a demand feature to be an eligible security, the fund must receive notice from the demand feature's issuer or another institution if there is a substitution of the provider of the demand feature;[198]

(3) new requirements for ABSs regarding maturity determinations and ratings;[199]

(4) revised definition of "put" to include ability to recover principal *and* any accrued interest;[200] and

(5) requirement that security subject to conditional demand feature is an eligible security only if board of directors or its delegate makes certain determinations regarding the demand feature's exercisability.[201]

A money fund may continue to hold these "grandfathered" securities or acquire such securities provided that they satisfy the other provisions of the rule, as amended, and are issued on or before June 3, 1996.

C. Disclosure and Reporting

The following amendments pertaining to disclosure and advertising will become effective as follows:

(1) amendments to Form N–1A will be effective: (1) for investment companies whose registration statements become effective on or after June 3, 1996 upon use of any prospectus on or after June 3, 1996; and (2) for all other investment companies, upon use of any prospectus contained in any post-effective amendment filed on or after June 3, 1996;

(2) amendments to Form N–SAR will be effective for any report required by rules 30a–1 and 30b1–1 [17 CFR 270.30a–1 and 270.30b1–1] filed on or after July 3, 1996; and

(3) the amendment to rule 134 under the Securities Act of 1933 will be effective for "tombstone" advertisements used after June 3, 1996.

VI. Regulatory Flexibility Analysis

A summary of the Initial Regulatory Flexibility Analysis regarding the proposed rule and form amendments was published in the Proposing Release. No comments were received. The Commission has prepared a Final Regulatory Flexibility Analysis in accordance with 5 U.S.C. 604, a copy of which may be obtained by contacting Martha H. Platt, Senior Attorney, Mail Stop 10–6, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

VII. Statutory Authority

The Commission is amending rule 2a–7 under the exemptive and rulemaking authority set forth in sections 6(c) [15 U.S.C. 80a–6(c)], 8(b) [15 U.S.C. 80a–8(b)], 22(c) [15 U.S.C. 80a–22(c)], 34(b) [15 U.S.C. 80a–34(b)], and 38(a) [15 U.S.C. 80a–37(a)] of the Investment Company Act of 1940. The Commission is adopting rule 17a–9 under the exemptive and rulemaking authority set forth in sections 6(c) [15 U.S.C. 80a–6(c)] and 38(a) [15 U.S.C. 80a–37(a)] of the Investment Company Act of 1940. The authority citations for the amendments to the rules and forms precede the text of the amendments.

VIII. Text of Rule and Form Amendments

List of Subjects in 17 CFR Parts 230, 239, 270 and 274

Investment companies, Reporting and recordkeeping requirements, Securities.

For the reasons set out in the preamble, the Commission is amending chapter II, title 17 of the Code of Federal Regulations as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. The authority citation for Part 230 continues to read in part as follows:

Authority: 15 U.S.C. 77b, 77f, 77g, 77h, 77j, 77s, 77sss, 78c, 78d, 78*l*, 78m, 78n, 78o, 78w, 79*l*l(d), 79t, 80a–8, 80a–29, 80a–30, and 80a–37, unless otherwise noted.

* * * * *

2. Section 230.134 is amended by adding paragraph (e) to read as follows:

§ 230.134 Communications not deemed a prospectus.

* * * * *

(e) In the case of an investment company registered under the Investment Company Act of 1940 that holds itself out as a "money market fund," a communication used under

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[183] *See supra* Section II.B.1.a. of this Release and paragraph (c)(4)(ii) of rule 2a–7, as amended.

[184] Item 4(c) of Form N–1A, as amended.

[185] Guide 21 to Form N–1A, as amended.

[186] Investment Company Act Rel. No. 21216 (July 19, 1995) [60 FR 38454 (July 26, 1995)].

[187] Proposing Release, *supra* note 20, at Section III.C.

[188] *See* paragraph (a)(7) of rule 482 [17 CFR 230.482(a)(7)] and introductory paragraph of rule 34b–1 [17 CFR 270.34b–1].

[189] Paragraph (e) or rule 134, as amended [17 CFR 230.134(e)].

[190] Proposing Release, *supra* note 20, at nn.12 and 28 and accompanying text.

[191] Paragraph (c)(5)(ii) of rule 2a–7, as amended, requires a fund holding a defaulted security to dispose of the security as soon as practicable consistent with achieving an orderly disposition of the security, unless the fund's board of directors concludes that disposal would not be in the best interests of the fund.

[192] *See* Testimony of Arthur Levitt, Chairman, U.S. Securities and Exchange Commission, Concerning Issues Affecting the Mutual Fund Industry Before the Subcommittee on Telecommunications and Finance, Committee on Energy and Commerce, U.S. House of Representatives, 23–25 (Sept. 27, 1994); Testimony of Arthur Levitt, Chairman, U.S. Securities and Exchange Commission, Concerning Municipal Bond and Government Securities Markets Before the Committee on Banking, Housing and Urban Affairs, U.S. Senate, 10–11 (Jan. 5, 1995).

[193] *See* Release 18005, *supra* note 11, at Section II.H. (adopting amendments to Item 1(a)(ix) of Form N–1A).

[194] *See* rule 17a–9, as adopted. A fund must notify the Commission in the event of default with respect to portfolio securities that account for one half of one percent or more of a fund's assets immediately before the occurrence of default. *See* paragraph (c)(5)(iii) of rule 2a–7, as amended.

[195] To the extent these amendments involve clarification of Commission or staff interpretations of the current provisions of rule 2a–7, these compliance dates are not intended to suggest that non-compliance prior thereto does not involve a violation of rule 2a–7.

[196] Paragraphs (c)(4) (i) and (ii) (with respect to diversification generally) and (c)(4)(v) (with respect to diversification of puts) of rule 2a–7, as amended.

[197] Paragraph (a)(9)(iii)(D)(*1*) of rule 2a–7, as amended.

[198] Paragraph (a)(9)(iii)(D)(*2*) of rule 2a–7, as amended.

[199] Paragraphs (a)(7)(ii) (definition of demand feature for ABS) and (a)(9)(iii)(C) (rating requirements) of rule 2a–7, as amended. Note, however, that funds are required to apply the diversification requirements for ABS in accordance with Section V.A., *supra*, of this Release. *See also* paragraph (c)(4)(vi)(A)(*4*) of rule 2a–7, as amended (diversification calculation for ABSs).

[200] Paragraph (a)(16) of rule 2a–7, as amended.

[201] Paragraph (c)(3)(iii)(B) of rule 2a–7, as amended.

this section shall contain the disclosure required by § 230.482(a)(7).

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

3. The authority citation for Part 270 is amended by removing the third paragraph in the sub-authority to read as follows:

Authority: 15 U.S.C. 80a–1 *et seq.*, 80a–37, 80a–39 unless otherwise noted;

* * * * *

4. Section 270.2a–7 is revised to read as follows:

§ 270.2a–7 Money market funds.

(a) *Definitions.*

(1) *Amortized Cost Method* of valuation shall mean the method of calculating an investment company's net asset value whereby portfolio securities are valued at the fund's acquisition cost as adjusted for amortization of premium or accretion of discount rather than at their value based on current market factors.

(2) *Asset Backed Security* shall mean a fixed income security (other than a Government security) issued by a Special Purpose Entity (as hereinafter defined), substantially all of the assets of which consist of Qualifying Assets (as hereinafter defined). *Special Purpose Entity* shall mean a trust, corporation, partnership or other entity organized for the sole purpose of issuing fixed income securities which entitle their holders to receive payments that depend primarily on the cash flow from *Qualifying Assets*, but does not include a registered investment company. Qualifying Assets shall mean financial assets, either fixed or revolving, that by their terms convert into cash within a finite time period, plus any rights or other assets designed to assure the servicing or timely distribution of proceeds to security holders.

(3) *Business Day* shall mean any day, other than Saturday, Sunday, or any customary business holiday.

(4) *Collateralized Fully* in the case of a repurchase agreement shall mean that:

(i) The value of the securities collateralizing the repurchase agreement (reduced by the transaction costs (including loss of interest) that the money market fund reasonably could expect to incur if the seller defaults) is, and during the entire term of the repurchase agreement remains, at least equal to the Resale Price (as defined hereinafter) provided in the agreement; and

(ii) The money market fund or its custodian either has actual physical possession of the collateral or, in the case of a security registered on a book entry system, the book entry is maintained in the name of the money market fund or its custodian; and

(iii) The money market fund retains an unqualified right to possess and sell the collateral in the event of a default by the seller; and

(iv) The collateral consists entirely of securities that are direct obligations of, or that are fully guaranteed as to principal and interest by, the United States or any agency thereof, and/or certificates of deposit, bankers' acceptances which are eligible for acceptance by a Federal Reserve Bank, and, if the seller is a depositary institution as defined in 12 U.S.C. 1813(c), mortgage related securities (as such term is defined in section 3(a)(41) of the Securities Exchange Act of 1934 [15 U.S.C. 78c(a)(41)]) that, at the time the repurchase agreement is entered into, are rated in the highest rating category by the Requisite NRSROs.

(v) *Resale Price* shall mean the purchase price paid to the seller of the securities plus the accrued resale premium on such purchase price. The accrued resale premium shall be the amount specified in the repurchase agreement or the daily amortization of the difference between the purchase price and the resale price specified in the repurchase agreement.

(5) *Conditional Demand Feature* shall mean a Demand Feature that is not an Unconditional Demand Feature.

(6) *Conduit Security* shall mean a security issued by a Municipal Issuer (as hereinafter defined) involving an arrangement or agreement entered into, directly or indirectly, with a person other than a Municipal Issuer, which arrangement or agreement provides for or secures repayment of the security. *Municipal Issuer* shall mean a state or territory of the United States (including the District of Columbia), or any political subdivision or public instrumentality of a state or territory of the United States. A Conduit Security *does not* include a security that is:

(i) Fully and unconditionally guaranteed by a Municipal Issuer; or

(ii) Payable from the general revenues of the Municipal Issuer or other Municipal Issuers (other than those revenues derived from an agreement or arrangement with a person who is not a Municipal Issuer that provides for or secures repayment of the security issued by the Municipal Issuer); or

(iii) Related to a project owned and operated by a Municipal Issuer; or

(iv) Related to a facility leased to and under the control of an industrial or commercial enterprise that is part of a public project which, as a whole, is owned and under the control of a Municipal Issuer.

(7) *Demand Feature* shall mean:

(i) A Put that may be exercised either:

(A) At any time on no more than 30 days' notice; or

(B) At specified intervals not exceeding 397 calendar days and upon no more than 30 days' notice; or

(ii) A feature permitting the holder of an Asset Backed Security unconditionally to receive principal and interest within thirteen months of making demand.

(8) *Demand Feature Issued By A Non-Controlled Person* shall mean a Demand Feature issued by a person that, directly or indirectly, does *not* control, and is not controlled by or under common control with the issuer of the security subject to the Demand Feature. *Control* shall mean "control" as defined in section 2(a)(9) of the Act [15 U.S.C. 80a–2(a)(9)].

(9) *Eligible Security* shall mean:

(i) A security with a remaining maturity of 397 calendar days or less that has received a short-term rating (or that has been issued by an issuer that has received a short-term rating with respect to a class of debt obligations, or any debt obligation within that class, that is comparable in priority and security with the security) by the Requisite NRSROs in one of the two highest short-term rating categories (within which there may be sub-categories or gradations indicating relative standing); or

(ii) A security:

(A) That at the time of issuance had a remaining maturity of more than 397 calendar days but that has a remaining maturity of 397 calendar days or less; and

(B) Whose issuer has received from the Requisite NRSROs a rating with respect to a class of debt obligations (or any debt obligation within that class) that is now comparable in priority and security with the security, in one of the two highest short-term rating categories (within which there may be sub-categories or gradations indicating relative standing); or

(iii) An Unrated Security that is of comparable quality to a security meeting the requirements of paragraphs (a)(9)(i) or (ii) of this section, as determined by the money market fund's board of directors; *Provided, however*, that:

(A) The board of directors may base its determination that a Standby Commitment that is not a Demand Feature is an Eligible Security upon a finding that the issuer of the commitment presents a minimal risk of default;

(B) A security that at the time of issuance had a remaining maturity of more than 397 calendar days but that has a remaining maturity of 397 or less and that is an Unrated Security is not an Eligible Security if the security has received a long-term rating from any NRSRO that is not within the NRSRO's three highest long-term ratings categories (within which there may be sub-categories or gradations indicating relative standing);

(C) An Asset Backed Security shall not be an Eligible Security unless it has a debt rating from an NRSRO; and

(D) A security that is subject to a Demand Feature shall not be an Eligible Security unless:

(*1*) The Demand Feature has received a short-term rating from an NRSRO (or the issuer of the Demand Feature has received from an NRSRO a short-term rating with respect to a class of debt obligations or any debt obligation within that class that is comparable in priority and security to the Demand Feature); and

(*2*) The issuer of the Demand Feature, or another institution, undertakes to notify promptly the holder of the security in the event that the Demand Feature is substituted with a Demand Feature provided by another issuer.

(10) *Event of Insolvency* shall mean, with respect to an issuer or guarantor:

(i) An admission of insolvency, the application by the issuer or guarantor for the appointment of a trustee, receiver, rehabilitator, or similar officer for all or substantially all of its assets, a general assignment for the benefit of creditors, the filing by the issuer of a voluntary petition in bankruptcy or application for reorganization or an arrangement with creditors; or

(ii) The institution of similar proceedings by another person which proceedings are not contested by the issuer or guarantor; or

(iii) The institution of similar proceedings by a government agency responsible for regulating the activities of the issuer or guarantor, whether or not contested by the issuer or guarantor.

(11) *First Tier Security* shall mean any Eligible Security that:

(i) Has received a short-term rating (or that has been issued by an issuer that has received a short-term rating with respect to a class of debt obligations, or any debt obligation within that class, that is comparable in priority and security with the security) by the Requisite NRSROs in the highest short-term rating category for debt obligations (within which there may be sub-categories or gradations indicating relative standing); or

(ii) Is a security described in paragraph (a)(9)(ii) of this section whose issuer has received from the Requisite NRSROs a short-term rating with respect to a class of debt obligations (or any debt obligation within that class) that now is comparable in priority and security with the security, in the highest short-term rating category for debt obligations (within which there may be sub-categories or gradations indicating relative standing); or

(iii) Is an Unrated Security that is of comparable quality to a security meeting the requirements of paragraphs (a)(11)(i) and (ii) of this section, as determined by the fund's board of directors; or

(iv) Is a security issued by a registered investment company that is a money market fund; or

(v) Is a Government Security.

(12) *Floating Rate Security* shall mean a security the terms of which provide for the adjustment of its interest rate whenever a specified interest rate changes and which, at any time until the final maturity of the instrument or the period remaining until the principal amount can be recovered through demand, can reasonably be expected to have a market value that approximates its amortized cost.

(13) *Government Security* shall mean any Government Security as defined in section 2(a)(16) of the Act [15 U.S.C. 80a–2(a)(16)].

(14) *NRSRO* shall mean any nationally recognized statistical rating organization, as that term is used in paragraphs (c)(2)(vi)(E), (F) and (H) of § 240.15c3–1 of this Chapter that is not an affiliated person, as defined in section 2(a)(3)(C) of the Act [15 U.S.C. 80a–2(a)(3)(C)], of the issuer of, or any insurer, guarantor or provider of credit support for, the security.

(15) *Penny-Rounding Method* of pricing shall mean the method of computing an investment company's price per share for purposes of distribution, redemption and repurchase whereby the current net asset value per share is rounded to the nearest one percent.

(16) *Put* shall mean a right to sell a specified underlying security or securities within a specified period of time and at an exercise price equal to the amortized cost of the underlying security or securities plus accrued interest, if any, at the time of exercise, that may be sold, transferred or assigned only with the underlying security or securities. A Put will be considered to be from the party to whom the money market fund will look for payment of the exercise price.

(17) *Put Issued by a Non-Controlled Person* shall mean a Put issued by a person that, directly or indirectly, does not control, and is not controlled by or under common control with the issuer of the security subject to the Put. *Control* shall mean "control" as defined in section 2(a)(9) of the Act [15 U.S.C 80a–2(a)(9)].

(18) *Refunded Security* shall mean a debt security the principal and interest payments of which are to be paid by Government Securities ("deposited securities") that have been irrevocably placed in an escrow account pursuant to agreement between the issuer of the debt security and an escrow agent that is not an affiliated person, as defined in section 2(a)(3)(C) of the Act [15 U.S.C. 80a–2(a)(3)(C)], of the issuer of the debt security, and, in accordance with such escrow agreement, are pledged only to the payment of the debt security and, to the extent that excess proceeds are available after all payments of principal, interest, and applicable premiums on the Refunded Securities, the expenses of the escrow agent and, thereafter, to the issuer or another party; *provided* that:

(i) The deposited securities shall not be redeemable prior to their final maturity;

(ii) At the time the deposited securities are placed in the escrow account, an independent certified public accountant shall have certified to the escrow agent that the deposited securities will satisfy all scheduled payments of principal, interest and applicable premiums on the Refunded Securities; and

(iii) The escrow agreement shall prohibit the substitution of the deposited securities unless the substituted securities are Government Securities and, at the time of such substitution, the escrow agent shall have received a certification from an independent certified public accountant substantially the same as that required by paragraph (a)(18)(ii) of this section which certification shall give effect to the substitution.

(19) *Requisite NRSROs* shall mean:

(i) Any two NRSROs that have issued a rating with respect to a security or class of debt obligations of an issuer; or

(ii) If only one NRSRO has issued a rating with respect to such security or class of debt obligations of an issuer at the time the fund purchases or rolls over the security, that NRSRO.

(20) *Second Tier Security* shall mean any Eligible Security that is not a First Tier Security. *Second Tier Conduit Security* shall mean any Conduit Security that is an Eligible Security that is not a First Tier Security.

(21) *Single State Fund* shall mean a Tax Exempt Fund that holds itself out as primarily distributing income exempt

from the income taxes of a specified state or locality.

(22) *Standby Commitment* shall mean a Put that entitles the holder to achieve same day settlement.

(23) *Tax Exempt Fund* shall mean any money market fund that holds itself out as distributing income exempt from regular federal income tax.

(24) *Total Assets* shall mean, with respect to a money market fund using the Amortized Cost Method, the total amortized cost of its assets and, with respect to any other money market fund, the total market-based value of its assets.

(25) *Unconditional Demand Feature* shall mean an Unconditional Put that is also a Demand Feature.

(26) *Unconditional Demand Feature Issued By A Non-Controlled Person* shall mean an Unconditional Put that is also a Demand Feature Issued By A Non-Controlled Person.

(27) *Unconditional Put* shall mean a Put (including any guarantee, financial guarantee (bond) insurance, letter of credit or similar unconditional credit enhancement) that by its terms would be readily exercisable in the event of a default in payment of principal or interest on the underlying security or securities.

(28) *United States Dollar-Denominated* shall mean, with reference to a security, that all principal and interest payments on such security are payable to security holders in United States dollars under all circumstances and that the interest rate of, the principal amount to be repaid, and the timing of payments related to such security do not vary or float with the value of a foreign currency, the rate of interest payable on foreign currency borrowings, or with any other interest rate or index expressed in a currency other than United States dollars.

(29) *Unrated Security* shall mean:

(i) A security with a remaining maturity of 397 calendar days or less issued by an issuer that did not, at the time the security was acquired or rolled over by the fund, have a current short-term rating assigned by any NRSRO:

(A) To the security; or

(B) To the issuer of the security with respect to a class of debt obligations (or any debt obligation within that class) that is comparable in priority and security with the security, or a Demand Feature with respect to the security; and

(ii) A security:

(A) That at the time of issuance had a remaining maturity of more than 397 calendar days but that has a remaining maturity of 397 calendar days or less; and

(B) Whose issuer had not at the time it was acquired or rolled over by the fund received from any NRSRO a short-term rating with respect to a class of debt obligations (or any debt obligation within that class) that now is comparable in priority and security with the security; and

(iii) A security that is a rated security and is the subject of an external credit support agreement (including an arrangement by which the security has become a Refunded Security) that was not in effect when the security (or the issuer) was assigned its rating unless the security has a rating from an NRSRO reflecting the existence of the credit support agreement.

(iv) A security is not an Unrated Security if any debt obligation (*reference security*) that is issued by the same issuer and is comparable in priority and security with that security has a short-term rating by an NRSRO. The status of such security as an Eligible Security or First Tier Security shall be the same as that of the reference security.

(30) *Variable Rate Security* shall mean a security the terms of which provide for the adjustment of its interest rate on set dates (such as the last day of a month or calendar quarter) and which, upon each adjustment until the final maturity of the instrument or the period remaining until the principal amount can be recovered through demand, can reasonably be expected to have a market value that approximates its amortized cost.

(b) *Holding Out.* It shall be an untrue statement of material fact within the meaning of section 34(b) of the Act [15 U.S.C. 80a–33(b)] for a registered investment company, in any registration statement, application, report, account, record, or other document filed or transmitted pursuant to the Act, including any advertisement, pamphlet, circular, form letter, or other sales literature addressed to or intended for distribution to prospective investors that is required to be filed with the Commission by section 24(b) of the Act [15 U.S.C. 80a–24(b)] to:

(1) Adopt the term "money market" as part of its name or title or the name or title of any redeemable securities of which it is the issuer; or

(2) Hold itself out to investors as, or adopt a name which suggests that it is, a money market fund or the equivalent of a money market fund, unless such registered investment company meets the conditions of paragraphs (c)(2), (c)(3), and (c)(4) of this section. For purposes of this paragraph, a name which suggests that a registered investment company is a money market fund or the equivalent thereof shall include one which uses such terms as "cash," "liquid," "money," "ready assets" or similar terms.

(c) *Share Price Calculations.* The current price per share, for purposes of distribution, redemption and repurchase, of any redeemable security issued by any registered investment company ("money market fund"), notwithstanding the requirements of section 2(a)(41) of the Act [15 U.S.C. 80a–2(a)(41)] and of §§ 270.2a–4 and 270.22c–1 thereunder, may be computed by use of the Amortized Cost Method or the Penny-Rounding Method; *Provided, however,* That:

(1) *Board Findings.* The board of directors of the money market fund shall determine, in good faith, that it is in the best interests of the fund and its shareholders to maintain a stable net asset value per share or stable price per share, by virtue of either the Amortized Cost Method or the Penny-Rounding Method, and that the money market fund will continue to use such method only so long as the board of directors believes that it fairly reflects the market-based net asset value per share.

(2) *Portfolio Maturity.* The money market fund shall maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share or price per share; *Provided, however,* That the money market fund will not:

(i) Except as provided in paragraph (c)(2)(ii) of this section, purchase any instrument with a remaining maturity of greater than 397 calendar days; or

(ii) In the case of a money market fund not using the Amortized Cost Method, purchase a Government Security with a remaining maturity of greater than 762 calendar days; or

(iii) Maintain a dollar-weighted average portfolio maturity that exceeds ninety days.

(3) *Portfolio Quality.*

(i) *General.* The money market fund shall limit its portfolio investments, including Puts and repurchase agreements, to those United States Dollar-Denominated securities that the fund's board of directors determines present minimal credit risks (which determination must be based on factors pertaining to credit quality in addition to any rating assigned to such securities by an NRSRO) and which are at the time of acquisition Eligible Securities.

(ii) *Securities Subject to Unconditional Demand Features.* A security that is subject to an Unconditional Demand Feature may be determined to be an Eligible Security or a First Tier Security based solely on whether the Unconditional Demand Feature is an Eligible Security or First Tier Security, as the case may be.

(iii) *Securities Subject to Conditional Demand Features.* A security that is subject to a Conditional Demand Feature ("Underlying Security") may be determined to be an Eligible Security or a First Tier Security only if:

(A) The Conditional Demand Feature is an Eligible Security or First Tier Security, as the case may be; and

(B) At the time of the purchase of the Underlying Security, the money market fund's board of directors has determined that there is minimal risk that the circumstances that would result in the Conditional Demand Feature not being exercisable will occur; and

(*1*) The conditions limiting exercise either can be monitored readily by the fund, or relate to the taxability, under federal, state or local law, of the interest payments on the security; or

(*2*) The terms of the Conditional Demand Feature require that the fund will receive notice of the occurrence of the condition and the opportunity to exercise the Demand Feature in accordance with its terms; and

(C) (*1*) If the Underlying Security has a remaining maturity of 397 days or less, the Underlying Security (or the debt securities of issuer of the Underlying Security) has received a short-term rating by the Requisite NRSROs within the NRSROs' two highest short-term ratings categories (within which there may be sub-categories or gradations indicating relative standing) or, if unrated, is determined to be of comparable quality by the money market fund's board of directors; or

(*2*) If the Underlying Security has a remaining maturity of more than 397 calendar days, the Underlying Security (or the debt securities of the issuer of the Underlying Security) has received a long-term rating by the Requisite NRSROs within the NRSROs' two highest long-term rating categories (within which there may be sub-categories or gradations indicating relative standing) or, if unrated, is determined to be of comparable quality by the money market fund's board of directors.

(4) *Portfolio Diversification.*

(i) *Taxable and National Funds.* Immediately after the acquisition of any security (other than a Government Security or a security subject to an Unconditional Demand Feature Issued By a Non-Controlled Person), a money market fund other than a Single State Fund shall not have invested more than five percent of its Total Assets in securities issued by the issuer of the security.

(ii) *Single State Funds.* With respect to 75 percent of its Total Assets, immediately after the acquisition of any security (other than a Government Security or a security subject to an Unconditional Demand Feature Issued By a Non-Controlled Person), a Single State Fund shall not have invested more than five percent of its Total Assets in securities issued by the issuer of the security; *Provided, however,* That a Single State Fund shall not invest more than five percent of its Total Assets in securities issued by the issuer of the security unless the securities are First Tier Securities.

(iii) *Safe Harbor.* Notwithstanding paragraph (c)(4)(i) of this section, a money market fund other than a Single State Fund may invest up to twenty-five percent of its Total Assets in the First Tier Securities of a single issuer for a period of up to three Business days after the purchase thereof.

(iv) *Second Tier Securities.*

(A) *Taxable Funds.* Immediately after the acquisition of any Second Tier Security, a money market fund that is not a Tax Exempt Fund shall not have invested more than:

(*1*) The greater of one percent of its Total Assets or one million dollars in securities issued by that issuer which, when acquired by the money market fund (either initially or upon any subsequent roll over) were Second Tier Securities; and

(*2*) Five percent of its Total Assets in securities which, when acquired by the money market fund (either initially or upon any subsequent roll over) were Second Tier Securities.

(B) *Tax Exempt Funds.* Immediately after the acquisition of any Second Tier Conduit Security that is not subject to an Unconditional Demand Feature Issued By a Non-Controlled Person, a money market fund that is a Tax Exempt Fund shall not have invested more than:

(*1*) The greater of one percent of its Total Assets or one million dollars in securities issued by that issuer which, when acquired by the money market fund (either initially or upon any subsequent roll over) were Second Tier Conduit Securities not subject to an Unconditional Demand Feature Issued By a Non-Controlled Person; and

(*2*) Five percent of its Total Assets in Conduit Securities which, when acquired by the money market fund (either initially or upon any subsequent roll over) were Second Tier Conduit Securities not subject to an Unconditional Demand Feature Issued By a Non-Controlled Person.

(v) *Puts.*

(A) *General.* Immediately after the acquisition of any Put or security subject to a Put, with respect to seventy-five percent of the assets of a money market fund, no more than ten percent of the fund's Total Assets may be invested in securities issued by or subject to Puts from the institution that issued the Put, subject to sections (c)(4)(v)(B) and (C) of this section.

(B) *Second Tier Puts.* Immediately after the acquisition of any Put (or a security after giving effect to the Put) that is a Second Tier Security, a money market fund shall not have invested more than five percent of its Total Assets in securities issued by or subject to Puts from the institution that issued the Put.

(C) *Puts Issued by Non-Controlled Persons.* Immediately after the acquisition of any security subject to a Put, a money market fund shall not have invested more than ten percent of its Total Assets in securities issued by, or subject to Puts from the institution that issued the Put, unless, with respect to any security subject to Puts from that institution, the Put is a Put Issued By a Non-Controlled Person.

(iv) *Diversification Calculations.*

(A) *General.* For purposes of making calculations under paragraphs (c)(4)(i) through (iv) of this section:

(*1*) *Repurchase Agreements.* The acquisition of a repurchase agreement may be deemed to be an acquisition of the underlying securities, provided that the obligation of the seller to repurchase the securities from the money market fund is Collateralized Fully.

(*2*) *Refunded Securities.* The acquisition of a Refunded Security shall be deemed to be an acquisition of a Government Security.

(*3*) *Conduit Securities.* A Conduit Security shall be deemed to be issued by the issuer (other than the Municipal Issuer) ultimately responsible for payments of interest and principal on the security.

(*4*) *Asset Backed Securities.* An Asset Backed Security shall be deemed to be issued by the Special Purpose Entity that issued the Asset Backed Security, *Provided, however,* any person whose obligations constitute ten percent or more of the principal amount of the Qualifying Assets shall be deemed to be an issuer of the portion of the Asset Backed Security such obligations represent. For purposes of the foregoing, if the Qualifying Assets held by the Special Purpose Entity are themselves Asset Backed Securities ("Secondary Asset Backed Securities"), then the Special Purpose Entity shall be treated as holding directly the Secondary Asset Backed Securities.

(*5*) *Shares in Master Funds.* A money market fund substantially all of the

assets of which consist of shares of another money market fund acquired in reliance on section 12(d)(1)(E) of the Act [15 U.S.C. 80a–12(d)(1)(E)] shall be deemed to be in compliance with this section if the board of directors reasonably believes that the money market fund in which it has invested is in compliance with this section.

(B) *Put Diversification Calculations.* In making calculations under the Put diversification requirements of paragraph (c)(4)(v) of this section, the following rules apply:

(*1*) *Issuer-Provided Puts.* In the case of a security subject to a Put from the same institution that issued the underlying security, the value of the securities subject to the Put may be excluded from the Put diversification requirements of paragraph (c)(4)(v) of this section.

(*2*) *Fractional Puts.* In the case of a security subject to a Put from an institution by which the institution guarantees a specified portion of the value of the security, the institution shall be deemed to guarantee the specified portion thereof, *Provided, however,* if the security is an Asset Backed Security and the Put is a guarantee of all or a portion of the first losses with respect to the security, the institution providing the Put shall be deemed to have guaranteed the entire principal amount of the security.

(*3*) *Layered Puts.* In the case of a security subject to Puts from multiple institutions that have not limited the extent of their obligations as described in paragraph (c)(4)(vi)(B)(*2*) of this section, each institution shall be deemed to have guaranteed the entire principal amount of the security, *Provided, however,* in the case of a security subject to an Unconditional Demand Feature and a Put (or Puts) that is not a Demand Feature, the Put diversification requirements of paragraph (c)(4)(v) of this section need only be satisfied as to the institution issuing the Unconditional Demand Feature.

(*4*) *Puts Not Relied Upon.* If the fund's board of directors determines that the fund is not relying on a Put to determine the quality (pursuant to paragraphs (c)(3)(ii) or (c)(3)(iii) of this section), or maturity (pursuant to paragraph (d) of this section), or liquidity of the portfolio security and maintains a record of this determination (pursuant to paragraphs (c)(8)(ii) and (c)(9)(vi) of this section), the Put diversification requirements of paragraph (c)(4)(v) of this section need not be satisfied as with respect to such put.

(vii) *Diversification Safe Harbor.* A money market fund that satisfies the applicable diversification requirements of paragraph (c)(4) of this section shall be deemed to have satisfied the diversification requirements of section 5(b)(1) of the Act [15 U.S.C. 80a–5(b)(1)] and the rules adopted thereunder.

(5) *Downgrades, Defaults and Other Events.*

(i) *Downgrades.*

(A) *General.* Upon the occurrence of either of the events specified in paragraphs (c)(5)(i)(A)(*1*) and (*2*) of this section with respect to a portfolio security, the board of directors of the money market fund shall reassess promptly whether such security continues to present minimal credit risks and shall cause the fund to take such action as the board of directors determines is in the best interests of the money market fund and its shareholders:

(*1*) A portfolio security of a money market fund ceases to be a First Tier Security (either because it no longer has the highest rating from the Requisite NRSROs or, in the case of an Unrated Security, the board of directors of the money market fund determines that it is no longer of comparable quality to a First Tier Security); and

(*2*) The money market fund's investment adviser (or any person to whom the fund's board of directors has delegated portfolio management responsibilities) becomes aware that any Unrated Security or Second Tier Security held by the money market fund has, since the security was acquired by the fund, been given a rating by any NRSRO below the NRSRO's second highest rating category.

(B) *Securities To Be Disposed Of.* The reassessments required by paragraph (c)(5)(i)(A) of this section shall not be required if, in accordance with the procedures adopted by the board of directors, the security is disposed of (or matures) within five Business days of the specified event and, in the case of events specified in paragraph (c)(5)(i)(A)(*2*) of this section, the board is subsequently notified of the adviser's actions.

(C) *Special Rule for Certain Securities Subject to Demand Features.* In the event that after giving effect to a rating downgrade, more than five percent of the fund's Total Assets are invested in securities issued by or subject to Demand Features from a single institution that are Second Tier Securities, the board of directors (or its delegate) shall cause the fund to reduce its investment in securities issued by or subject to Demand Features from that institution to no more than five percent of its Total Assets by exercising the Demand Features at the next succeeding exercise date(s), absent a finding by the board of directors that disposal of the portfolio security would not be in the best interests of the money market fund.

(ii) *Defaults and Other Events.* Upon the occurrence of any of the events specified in paragraphs (c)(5)(ii)(A) through (D) of this section with respect to a portfolio security, the money market fund shall dispose of such security as soon as practicable consistent with achieving an orderly disposition of the security, by sale, exercise of any Demand Feature or otherwise, absent a finding by the board of directors that disposal of the portfolio security would not be in the best interests of the money market fund (which determination may take into account, among other factors, market conditions that could affect the orderly disposition of the portfolio security):

(A) The default with respect to a portfolio security (other than an immaterial default unrelated to the financial condition of the issuer);

(B) A portfolio security ceases to be an Eligible Security;

(C) A portfolio security has been determined to no longer present minimal credit risks; or

(D) An Event of Insolvency occurs with respect to the issuer of or the provider of any Put with respect to a portfolio security other than a Put with respect to which a non-reliance determination has been made pursuant to paragraph (c)(4)(vi)(B)(*4*) of this section.

(iii) *Notice to the Commission.* In the event of a default with respect to one or more portfolio securities (other than an immaterial default unrelated to the financial condition of the issuer) or an Event of Insolvency with respect to the issuer of the security or any Put to which it is subject, where immediately before default the securities (or the securities subject to the Put) accounted for ½ of 1 percent or more of a money market fund's Total Assets, the money market fund shall promptly notify the Commission of such fact and the actions the money market fund intends to take in response to such situation. Notification under this paragraph shall be made telephonically or by means of a facsimile transmission, followed by letter sent by first class mail, directed to the attention of the Director of the Division of Investment Management.

(iv) *Defaults for Purposes of Paragraphs (c)(5)(ii) and (iii).* For purposes of paragraphs (c)(5)(ii) and (iii) of this section, an instrument subject to a Demand Feature or unconditional credit enhancement shall not be deemed to be in default (and an Event of Insolvency with respect to the security shall not be deemed to have occurred) if:

(A) In the case of an instrument subject to a Demand Feature, the Demand Feature has been exercised and the fund has recovered either the principal amount or the amortized cost of the instrument, plus accrued interest; or

(B) The provider of the credit enhancement is continuing, without protest, to make payments as due on the instrument.

(6) *Required Procedures: Amortized Cost Method.* In the case of a money market fund using the Amortized Cost Method:

(i) *General.* In supervising the money market fund's operations and delegating special responsibilities involving portfolio management to the money market fund's investment adviser, the money market fund's board of directors, as a particular responsibility within the overall duty of care owed to its shareholders, shall establish written procedures reasonably designed, taking into account current market conditions and the money market fund's investment objectives, to stabilize the money market fund's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at a single value.

(ii) *Specific Procedures.* Included within the procedures adopted by the board of directors shall be the following:

(A) *Shadow Pricing.* Written procedures shall provide:

(*1*) That the extent of deviation, if any, of the current net asset value per share calculated using available market quotations (or an appropriate substitute which reflects current market conditions) from the money market fund's amortized cost price per share, shall be calculated at such intervals as the board of directors determines appropriate and reasonable in light of current market conditions;

(*2*) For the periodic review by the board of directors of the amount of the deviation as well as the methods used to calculate the deviation; and

(*3*) For the maintenance of records of the determination of deviation and the board's review thereof.

(B) *Prompt Consideration of Deviation.* In the event such deviation from the money market fund's amortized cost price per share exceeds ½ of 1 percent, the board of directors shall promptly consider what action, if any, should be initiated by the board of directors.

(C) *Material Dilution or Unfair Results.* Where the board of directors believes the extent of any deviation from the money market fund's amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall cause the fund to take such action as it deems appropriate to eliminate or reduce to the extent reasonably practicable such dilution or unfair results.

(7) *Required Procedures: Penny-Rounding Method.* In the case of a money market fund using the Penny-Rounding Method, in supervising the money market fund's operations and delegating special responsibilities involving portfolio management to the money market fund's investment adviser, the money market fund's board of directors undertakes, as a particular responsibility within the overall duty of care owed to its shareholders, to assure to the extent reasonably practicable, taking into account current market conditions affecting the money market fund's investment objectives, that the money market fund's price per share as computed for the purpose of distribution, redemption and repurchase, rounded to the nearest one percent, will not deviate from the single price established by the board of directors.

(8) *Specific Procedures: Amortized Cost and Penny-Rounding Methods.* Included within the procedures adopted by the board of directors for money market funds using either the amortized cost or penny-rounding methods shall be the following:

(i) *Securities for Which Maturity is Determined by Reference to Demand Features.* In the case of a security for which maturity is determined by reference to a Demand Feature, written procedures shall require ongoing review of the security's continued minimal credit risks, which review must be based on, among other things, financial data for the most recent fiscal year of the issuer of the Demand Feature and, in the case of a security subject to a Conditional Demand Feature, the issuer of the security, whether such data is publicly available or provided under the terms of the security's governing documentation.

(ii) *Securities Subject to Puts.* In the case of a security subject to one or more Puts, written procedures shall require periodic evaluation of the determination described in paragraph (c)(4)(vi)(B)(*4*)(puts not relied upon) of this section.

(iii) *Adjustable Rate Securities Without Demand Features.* In the case of a Variable Rate or Floating Rate Security that does not have a Demand Feature and for which maturity is determined pursuant to paragraphs (d)(1), (d)(2) or (d)(4) of this section, written procedures shall require periodic review of whether the security, upon readjustment of its interest rate, can reasonably be expected to have a market value that approximates its amortized cost.

(iv) *Asset Backed Securities.* In the case of an Asset Backed Security, written procedures shall require the fund to periodically determine whether a person other than the Special Purpose Entity is the issuer of all or a portion of the Asset Backed Security for purposes of paragraph (c)(4)(vi)(A)(*4*) of this section.

(9) *Record Keeping and Reporting.*

(i) *Written Procedures.* For a period of not less than six years following the replacement of such procedures with new procedures (the first two years in an easily accessible place), a written copy of the procedures (and any modifications thereto) described in paragraphs (c)(5) through (c)(8) and (e) of this section shall be maintained and preserved.

(ii) *Board Considerations and Actions.* For a period of not less than six years (the first two years in an easily accessible place), a written record shall be maintained and preserved of the board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth in this section, to be included in the minutes of the board of directors' meetings.

(iii) *Credit Risk Analysis.* For a period of not less than three years from the date that the credit risks of a portfolio security were most recently reviewed in accordance with paragraph (c)(8)(i) of this section, a written record of the determination that a portfolio security presents minimal credit risks and the NRSRO ratings (if any) used to determine the status of the security as an Eligible Security, First Tier Security or Second Tier Security shall be maintained and preserved in an easily accessible place.

(iv) *Determinations With Respect to Adjustable Rate Securities.* For a period of not less than three years from the date when the determination was most recently made, a written record shall be preserved and maintained, in an easily accessible place, of the determination required by paragraph (c)(8)(iii) of this section (that a Variable Rate or Floating Rate Security that does not have a Demand Feature and for which maturity is determined pursuant to paragraphs (d)(1), (d)(2) or (d)(4) of this section can reasonably be expected, upon readjustment of its interest rate at all times during the life of the instrument, to have a market value that approximates its amortized cost).

(v) *Determinations with Respect to Asset Backed Securities.* For a period of not less than three years from the date when the determination was most recently made, a written record shall be preserved and maintained, in an easily accessible place, of the determination required by paragraph (c)(8)(iv) of this section (whether a person other than the Special Purpose Entity is the issuer of all or a portion of an Asset Backed Security pursuant to paragraph (c)(vi)(4) of this section). The written record shall include the identities of the issuers of the Qualifying Assets whose obligations constitute ten percent or more of the principal value of the Qualifying Assets, the percentage of the Qualifying Assets constituted by the securities of each such issuer and the percentage of the fund's Total Assets that are invested in securities of each such issuer.

(vi) *Evaluations with Respect to Securities Subject to Puts.* For a period of not less than three years from the date when the evaluation was most recently made, a written record shall be preserved and maintained, in an easily accessible place, of the evaluation required by paragraph (c)(8)(ii) (regarding securities subject to one or more Puts) of this section.

(vii) Inspection of Records. The documents preserved pursuant to this paragraph (c)(9) shall be subject to inspection by the Commission in accordance with section 31(b) of the Act [15 U.S.C. 80a–30(b)] as if such documents were records required to be maintained pursuant to rules adopted under section 31(a) of the Act [15 U.S.C. 80a–30(a)]. If any action was taken under paragraphs (c)(5)(ii) (with respect to defaulted securities and events of insolvency) or (c)(6)(ii) (with respect to a deviation from the fund's share price of more than ½ of 1 percent) of this section, the money market fund will file an exhibit to the Form N–SAR [17 CFR 274.101] filed for the period in which the action was taken describing with specificity the nature and circumstances of such action. The money market fund will report in an exhibit to such Form any securities it holds on the final day of the reporting period that are not Eligible Securities.

(d) *Maturity of Portfolio Securities.* For purposes of this section, the maturity of a portfolio security shall be deemed to be the period remaining (calculated from the trade date or such other date on which the fund's interest in the security is subject to market action) until the date on which, in accordance with the terms of the security, the principal amount must unconditionally be paid, or in the case of a security called for redemption, the date on which the redemption payment must be made, except as provided in paragraphs (d)(1) through (8) of this section:

(1) *Adjustable Rate Government Securities.* A Government Security which is a Variable Rate Security where the variable rate of interest is readjusted no less frequently than every 762 days shall be deemed to have a maturity equal to the period remaining until the next readjustment of the interest rate. A Government Security which is a Floating Rate Security shall be deemed to have a remaining maturity of one day.

(2) *Short-Term Variable Rate Securities.* A Variable Rate Security, the principal amount of which, in accordance with the terms of the security, must unconditionally be paid in 397 calendar days or less shall be deemed to have a maturity equal to the earlier of the period remaining until the next readjustment of the interest rate or the period remaining until the principal amount can be recovered through demand.

(3) *Long-Term Variable Rate Securities.* A Variable Rate Security, the principal amount of which is scheduled to be paid in more than 397 days, that is subject to a Demand Feature shall be deemed to have a maturity equal to the longer of the period remaining until the next readjustment of the interest rate or the period remaining until the principal amount can be recovered through demand.

(4) *Short-Term Floating Rate Securities.* A Floating Rate Security, the principal amount of which, in accordance with the terms of the security, must unconditionally be paid in 397 calendar days or less shall be deemed to have a maturity of one day.

(5) *Long-Term Floating Rate Securities.* A Floating Rate Security, the principal amount of which is scheduled to be paid in more than 397 days, that is subject to a Demand Feature, shall be deemed to have a maturity equal to the period remaining until the principal amount can be recovered through demand.

(6) *Repurchase Agreements.* A repurchase agreement shall be deemed to have a maturity equal to the period remaining until the date on which the repurchase of the underlying securities is scheduled to occur, or, where the agreement is subject to demand, the notice period applicable to a demand for the repurchase of the securities.

(7) *Portfolio Lending Agreements.* A portfolio lending agreement shall be treated as having a maturity equal to the period remaining until the date on which the loaned securities are scheduled to be returned, or where the agreement is subject to demand, the notice period applicable to a demand for the return of the loaned securities.

(8) *Money Market Fund Securities.* An investment in a money market fund shall be treated as having a maturity equal to the period of time within which the acquired money market fund is required to make payment upon redemption, unless the acquired money market fund has agreed in writing to provide redemption proceeds to the investing money market fund within a shorter time period, in which case the maturity of such investment shall be deemed to be the shorter period.

(e) *Delegation.* The money market fund's board of directors may delegate to the fund's investment adviser or officers the responsibility to make any determination required to be made by the board of directors under this section (other than the determinations required by paragraphs (c)(1), (c)(5)(i)(C), (c)(5)(ii), (c)(6)(i), (c)(6)(ii)(A), (B), and (C), and (c)(7) of this section) provided:

(1) *Written Guidelines.* The Board shall establish and periodically review written guidelines (including guidelines for determining whether securities present minimal credit risks as required in paragraph (c)(3) of this section) and procedures under which the delegate makes such determinations:

(2) *Oversight.* The Board shall exercise adequate oversight (through periodic reviews of fund investments and the delegate's procedures in connection with investment decisions and prompt review of the adviser's actions in the event of the default of a security or Event of Insolvency with respect to the issuer of the security or any Put to which it is subject that requires notification of the Commission under paragraph (c)(5)(iii) of this section) to assure that the guidelines and procedures are being followed.

5. Section 270.2a41–1 is amended by revising paragraph (a) introductory text to read as follows:

§ 270.2a41–1 Valuation of standby commitments by registered investment companies.

(a) A standby commitment as defined in § 270.2a–7(a)(22) may be assigned a fair value of zero, Provided, That:

* * * * * *

6. Section 270.12d3–1 is amended by revising paragraph (d)(7)(v) to read as follows:

§ 270.12d3–1 Exemption of acquisitions of securities issued by persons engaged in securities related businesses.

* * * * *

(d) * * *

(7) * * *

(v) Acquisition of Puts, as defined in § 270.2a–7(a)(16), provided that, immediately after the acquisition of any Put, the company will not, with respect to 75 percent of the total value of its assets, have invested more than ten percent of the total value of its assets in securities underlying Puts from the same institution. For the purposes of this section, a Put will be considered to be from the party to whom the company will look for payment of the exercise price.

* * * * *

7. Section 270.17a–9 is added to read as follows:

§ 270.17a–9 Purchase of certain securities from a money market fund by an affiliate, or an affiliate of an affiliate.

The purchase of a security that is no longer an Eligible Security (as defined in paragraph (a)(9) of § 270.2a–7) from an open-end investment company holding itself out as a "money market" fund shall be exempt from section 17(a) of the Act [15 U.S.C. 80a–17(a)], provided that:

(a) The purchase price is paid in cash; and

(b) The purchase price is equal to the greater of the amortized cost of the security or its market price (in each case, including accrued interest).

8. Section 270.31a–1 is amended by adding a sentence to the end of paragraph (b)(1) to read as follows:

§ 270.31a–1 Records to be maintained by registered investment companies, certain majority-owned subsidiaries thereof, and other persons having transactions with registered investment companies.

* * * * *

(b) * * *

(1) * * * In the case of a money market fund, also identify the provider of any put (as defined in § 270.2a–7(a)(16)) or guarantee with respect to a portfolio security and give a brief description of the nature of the put (*e.g.,* unconditional demand feature, conditional demand feature, guarantee, letter of credit, or bond insurance) and, in a subsidiary portfolio investment record, provide the complete legal name and accounting and other information (including sufficient information to calculate coupons, accruals, maturities, puts, and calls) necessary to identify, value, and account for each investment.

* * * * *

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

9. The authority citation for part 239 continues to read, in part, as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77sss, 78c, 78*l*, 78m, 78n, 78o(d), 78w(a), 78*ll*(d), 79e, 79f, 79g, 79j, 79*l*, 79m, 79n, 79q, 79t, 80a–8, 80a–29, 80a–30 and 80a–37, unless otherwise noted.

* * * * *

10. The authority citation for Part 274 continues to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 78c(b), 78*l*, 78m, 78n, 78o(d), 80a–8, 80a–24, and 80a–29, unless otherwise noted.

Note: Form N–1A does not and the amendments will not appear in the Code of Federal Regulations.

§§ 239.15A and 274.11A [Amended]

11. Form N–1A (referenced in 17 CFR 239.15A and 274.11A) is amended by redesignating paragraph (a)(vii) as paragraph (a)(viii) and by adding paragraph (a)(vii) and an instruction to the end of paragraph (a)(vii) of Part A, Item 1 to read as follows:

FORM N–1A

* * * * *

PART A—INFORMATION REQUIRED IN A PROSPECTUS

* * * * *

Item 1. Cover Page

* * * * *

(vii) In the case of a Registrant that holds itself out as a money market fund primarily distributing income exempt from the income taxes of a specified state or locality ("single state fund"), a prominent statement that the registrant may invest a significant percentage of its assets in a single issuer, and that therefore investment in the Registrant may be riskier than an investment in other types of money market funds.

Instruction: The disclosure required for money market funds by Item 1(a)(vii) may be omitted if the registrant limits investment in a single issuer to five percent of fund assets as to 100 percent of assets.

* * * * *

§§ 239.15A and 274.11A [Amended]

12. Form N–1A (referenced in 17 CFR 239.15A and 274.11A) is amended by adding a sentence and an Instruction to the end of paragraph (c) of Part A, Item 4 to read as follows:

FORM N–1A

* * * * *

PART A—INFORMATION REQUIRED IN A PROSPECTUS

* * * * *

Item 4. General Description of Registrant

* * * * *

(c) * * * In the case of a Registrant that holds itself out as a money market fund primarily distributing income exempt from the income taxes of a specified state or locality ("single state fund"), a prominent statement that the registrant is concentrated in securities issued by the state or entities within the state and that therefore investment in the Registrant may be riskier than an investment in other types of money market funds.

* * * * *

Note: Form N–3 does not and the amendments will not appear in the Code of Federal Regulations.

§§ 239.17a and 274.11b [Amended]

13. Form N–3 (referenced in 17 CFR 239.17a and 274.11b) is amended by adding Instruction 11.e. to Part A, paragraph (a) of Item 4 to read as follows:

FORM N–3

* * * * *

PART A—INFORMATION REQUIRED IN A PROSPECTUS

* * * * *

Item 4. Condensed Financial Information

(a) * * *

Instructions

11. The portfolio turnover rate to be shown at caption 10 shall be calculated as follows:

* * * * *

e. A registrant that holds itself out as a money market fund is not required to provide a portfolio turnover rate in response to this Item.

* * * * *

Note: Form N–SAR does not and the amendments will not appear in the Code of Federal Regulations.

§ 274.101 [Amended]

14. Form N–SAR (referenced in 17 CFR 274.101) is amended by revising the definition of "Money Market Fund" in General Instruction G to read as follows:

FORM N–SAR

* * * * *

GENERAL INSTRUCTIONS

* * * * *

G. Definitions

* * * * *

Money Market Fund: The term "money market fund" shall mean any open-end fund that meets the maturity, quality and diversification conditions of paragraphs (c)(2), (c)(3), and (c)(4) of rule 2a–7 [17 CFR 270.2a–7].

* * * * *

15. Form N–SAR (referenced in 17 CFR 274.101) is amended by revising the last sentence of the Instruction to Item 63 to read as follows:

FORM N–SAR

* * * * *

Instructions to Specific Items

* * * * *

ITEM 63: Dollar weighted average maturity

* * * A money market fund shall determine the weighted average portfolio maturity in the same manner as it would in monitoring compliance with the average portfolio maturity provisions of rule 2a–7.

16. Form N–SAR (referenced in 17 CFR 274.101) is amended by adding a sentence at the end of the first paragraph of the Instruction to Item 71 to read as follows:

FORM N–SAR

* * * * *

Instructions to Specific Items

* * * * *

ITEM 71: Portfolio turnover rate

* * * A money market fund should enter a portfolio turnover rate of "0" even if it owns securities that have maturities in excess of one year.

* * * * *

17. Guide 21 (Disclosure of Risk Factors) to Form N–1A (referenced in 17 CFR 239.15A and 274.11A) is amended by adding a paragraph to the end of the Guide to read as follows:

Guide 21. Disclosure of Risk Factors

* * * * *

In many cases, a substantial portion of the portfolio securities held by tax exempt money market funds is supported by credit and liquidity enhancements from third parties, generally letters of credit from foreign or domestic banks. These securities include variable rate demand notes, tender or "put" bonds and similar securities. Where more than forty percent of a money market fund registrant's portfolio consists, or is likely to consist, of securities subject to these features, the registrant should, in response to Item 4, state that, because the fund invests in securities backed by banks and other financial institutions, changes in the credit quality of these institutions could cause losses to the fund and effect its share price.

§§ 239.15A and 274.11A [Amended]

18. Guide 35 is added to Form N–1A (referenced in 17 CFR 239.15A and 274.11A) to read as follows:

Guide 35. Money Market Fund Investments in Other Money Market Funds.

Money market funds are permitted to invest in the securities of other money market funds in accordance with the provisions of rule 2a–7 and section 12(d)(1) of the 1940 Act. Except when a fund has invested substantially all of its assets in the other money market fund, the investing fund does not need to "look through" the shares of the fund(s) in which it is investing in order to determine compliance with the diversification or Second Tier Security limitations of rule 2a–7.[45] However, the investment objectives and policies of the money market fund making the investment and the money market fund(s) in which it is investing should not be inconsistent. Paragraph (c)(4)(iv)(A)(*5*) of rule 2a–7 describes the obligations of a fund that invests substantially all of its asset in another money market fund.

§§ 239.17a and 274.11b [Amended]

19. Guide 38 is added to Form N–3 (referenced in 17 CFR 239.17a and 274.11b) to read as follows:

Guide 38. Money Market Fund Investments in Other Money Market Funds

Money market funds are permitted to invest in the securities of other money market funds in accordance with the provisions of rule 2a–7 and section 12(d)(1) of the 1940 Act. Except when a fund has invested substantially all of its assets in the other money market fund, the investing fund does not need to "look through" the shares of the fund(s) in which it is investing in order to determine compliance with the diversification or Second Tier Security limitations of rule 2a–7.[45] However, the investment objectives and policies of the money market fund making the investment and the money market fund(s) in which it is investing should not be inconsistent. Paragraph (c)(4)(iv)(A)(*5*) of rule 2a–7 describes the obligations of a fund that invests substantially all of its assets in another money market fund.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

Dated: March 21, 1996.

[FR Doc. 96–7334 Filed 3–27–96; 8:45 am]

BILLING CODE 8010–01–P

[45] See Investment Company Act Rel. No. 21837 (March 21, 1996) at Section II.G.2.

[45] See Investment Company Act Rel. No. 21837 (March 21, 1996) at Section II.G.2.

federal register

Thursday
March 28, 1996

Part V

Department of Housing and Urban Development

24 CFR Part 261, et al.

Consolidated Drug Elimination Program Requirements for Assisted Housing and Public Housing; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 261, 761, and 961

[Docket No. FR–3997–F–01]

RIN 2501–AC18

Consolidated Drug Elimination Program Requirements for Assisted Housing and Public Housing

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This final rule consolidates and streamlines HUD's regulations for the Assisted Housing Drug Elimination Program and the Public Housing Drug Elimination Program. This rule is part of HUD's efforts to comply with the President's regulatory reform initiatives. Since the requirements for the two programs are very similar, this consolidation will eliminate redundant and unnecessary provisions in HUD's regulations.

EFFECTIVE DATE: April 29, 1996.

FOR FURTHER INFORMATION CONTACT: *For questions concerning the Assisted Housing Drug Elimination Program (AHDEP), contact:* Michael E. Diggs, Office of Multifamily Housing Programs, Office of Housing, Room 6130, telephone number (202) 708–0614, ext. 2514.

For questions concerning the Public Housing Drug Elimination Program (PHDEP), contact: Malcolm E. (Mike) Main, Crime Prevention and Security Division, Office of Community Relations and Involvement, Office of Public and Indian Housing, Room 4116, telephone (202) 708–1197, ext. 4232.

The address for the above persons is: Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Hearing- or speech-impaired persons may call (800) 877–8339 (Federal Information Relay Service TDD). (Except for the "800" number, these telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

I. Background

The Public Housing Drug Elimination Program was first authorized by chapter 2, subtitle C, title V of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901–11908). The purpose of the Drug Elimination Program is to make grants for use in eliminating drug-related crime and the problems associated with it. HUD first issued implementing regulations for this program in 24 CFR part 961 on July 3, 1990 (55 FR 27598). Under this original authorization, public housing agencies (PHAs) and Indian housing authorities (IHAs) were eligible to apply for and receive grants under the program. (IHAs and PHAs will be collectively referred to as HAs.)

Section 581 of the National Affordable Housing Act (NAHA) (Pub. L. 101–625, approved November 28, 1990) amended the Public Housing Drug Elimination Program in a number of ways, and HUD implemented these amendments through a final rule published on January 7, 1993 (58 FR 3160). As described in the preamble to the January 7, 1993 final rule, that rule also implemented two amendments to the program from the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992).

In addition to enhancing the Public Housing Drug Elimination Program, the National Affordable Housing Act included the authorization for the Assisted Housing Drug Elimination Program. Under the Assisted Housing Program, HUD can provide grants to private for-profit and nonprofit owners of Federally assisted low-income housing. For purposes of the Assisted Housing Drug Elimination Program, NAHA also permits HUD to establish other criteria, in addition to those applicable to the Public Housing Drug Elimination Program, for the evaluation of funding applications submitted by owners of Federally assisted low-income housing. HUD issued a final rule implementing the Assisted Housing Drug Elimination Program on January 26, 1995 (60 FR 5280). The January 26, 1995 final rule followed the regulations for the Public Housing Drug Elimination Program very closely. The main difference from the Public Housing Program's regulations reflected the flexibility in the submission requirements and eligible activities provided by NAHA for the Assisted Housing Program.

II. Regulatory Reinvention

In response to Executive Order 12866 and President Clinton's memorandum of March 4, 1995 to all Federal departments and agencies on the subject of regulatory reinvention, HUD has reviewed all its regulations to determine whether certain regulations can be eliminated, streamlined, or consolidated with other regulations. As part of this review, HUD determined that the regulations for the Assisted Housing Drug Elimination Program and the Public Housing Drug Elimination Program are very similar, and HUD can consolidate them into one part.

Therefore, this final rule will consolidate the regulations in parts 261 (Assisted Housing Drug Elimination Program) and 961 (Public Housing Drug Elimination Program), into one set of regulations in part 761 (in chapter VII of title 24 of the Code of Federal Regulations (CFR)). Chapter VII of HUD's regulations is an appropriate place for the Drug Elimination Program regulations, since that chapter has historically contained those regulations common to programs under the authority of the Assistant Secretary for Housing—Federal Housing Commissioner (such as the Assisted Housing Drug Elimination Program) and to programs under the authority of the Assistant Secretary for Public and Indian Housing (such as the Public Housing Drug Elimination Program).

This final rule also streamlines the Drug Elimination Program regulations to the extent possible. For example, some of the provisions merely repeat language in the authorizing statute (42 U.S.C. 11901–11908). It is unnecessary to maintain statutory requirements in the CFR, since those requirements are otherwise fully accessible and binding. Furthermore, if regulations contain statutory language, HUD must amend the regulations whenever Congress amends the statute. Therefore, this final rule will remove repetitious statutory language and replace it with a citation to the specific statutory section for easy reference.

This rule also removes information in the regulations that is nonregulatory and would more appropriately appear in the separate Notices of Funding Availability (NOFAs) for the two programs, such as details about the selection criteria and examples of eligible activities. This final rule streamlines the regulations to provide that specific information on these topics will be included in the annual NOFAs.

Specifically, this final rule accomplishes the following:

1. Consolidates the regulations from parts 261 and 961 into part 761;

2. Removes the definitions of terms that are either not used in the regulations or are defined in the statute;

3. Removes the nonregulatory examples from the definition of *"program income"* and from the new § 761.15—Applicants and activities; and

4. Removes statutory language from the new § 761.15—Applicants and activities.

As a result of the streamlining efforts in this rule, HUD will eliminate approximately 7 pages of unnecessary regulations from the CFR.

II. Justification for Final Rulemaking

HUD generally publishes a rule for public comment before issuing a rule for effect, in accordance with HUD's regulations on rulemaking found in 24 CFR part 10. However, part 10 provides for exceptions from the general rule if the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is "impracticable, unnecessary, or contrary to the public interest" (24 CFR 10.1). HUD finds that good cause exists to publish this rule for effect without first soliciting public comment, in that prior public procedure is unnecessary. This final rule merely consolidates and streamlines two sets of similar regulations; it does not change HUD's policies or substantive requirements.

III. Other Matters

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this final rule, and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule merely streamlines regulations by removing unnecessary provisions. The rule will have no adverse or disproportionate economic impact on small businesses.

Environmental Impact

This rulemaking does not have an environmental impact. This rulemaking simply amends existing regulations by consolidating and streamlining provisions and does not alter the environmental effect of the regulations being amended. Separate Findings of No Significant Impact with respect to the environment were made in accordance with HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) at the time of initial development of the regulations for the Drug Elimination Programs. The findings remain applicable to this rule, and are available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that this rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. No programmatic or policy changes will result from this rule that would affect the relationship between the Federal Government and State and local governments.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that this rule will not have the potential for significant impact on family formation, maintenance, or general well-being, and thus is not subject to review under the Order. No significant change in existing HUD policies or programs will result from promulgation of this rule.

List of Subjects

24 CFR Part 261

Drug abuse, Drug traffic control, Grant programs—housing and community development, Grant programs—low and moderate income housing, Reporting and recordkeeping requirements.

24 CFR Part 761

Drug abuse, Drug traffic control, Grant programs—housing and community development, Grant programs—Indians, Grant programs—low and moderate income housing, Indians, Public housing, Reporting and recordkeeping requirements.

24 CFR Part 961

Drug abuse, Drug traffic control, Grant programs—housing and community development, Grant programs—Indians, Grant programs—low and moderate income housing, Indians, Public housing, Reporting and recordkeeping requirements.

Accordingly, under the authority of 42 U.S.C. 3535(d), for the reasons stated in the preamble, in title 24 of the Code of Federal Regulations, parts 261 and 961 are removed, and part 761 is added as follows:

PART 261—[REMOVED]

1. Part 261 is removed.

2. In chapter VII, the heading is revised to read as follows:

CHAPTER VII—OFFICE OF THE SECRETARY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HOUSING ASSISTANCE PROGRAMS AND PUBLIC AND INDIAN HOUSING PROGRAMS)

3. A new part 761 is added to read as follows:

PART 761—DRUG ELIMINATION PROGRAMS

Subpart A—General

Sec.
761.1 Purpose and scope.
761.5 Public and Indian housing; encouragement of resident participation.
761.10 Definitions.

Subpart B—Use of Grant Funds

761.15 Applicants and activities.

Subpart C—Application and Selection

761.20 Application selection and requirements.
761.25 Resident comments on grant application.

Subpart D—Grant Administration

761.30 Grant administration.
761.35 Periodic grantee reports.
761.40 Other Federal requirements.

Authority: 42 U.S.C. 3535(d) and 11901 *et seq.*

Subpart A—General

§ 761.1 Purpose and scope.

This part 761 contains the regulatory requirements for the Assisted Housing Drug Elimination Program and the Public Housing Drug Elimination Program. The purposes of these programs are to:

(a) Eliminate drug-related crime and problems associated with it in and around the premises of Federally assisted low-income housing, and public and Indian housing developments;

(b) Encourage owners of Federally assisted low-income housing, public housing agencies and Indian housing authorities (collectively referred to as HAs), and resident management corporations to develop a plan that includes initiatives that can be sustained over a period of several years for addressing drug-related crime and problems associated with it in and around the premises of housing proposed for funding under this part; and

(c) Make available Federal grants to help owners of Federally assisted low-income housing, HAs, and RMCs carry out their plans.

§ 761.5 Public and Indian housing; encouragement of resident participation.

For the purposes of the Public Housing Drug Elimination Program, the elimination of drug-related crime and problems associated with it within public housing developments requires the active involvement and commitment of public housing residents and their organizations. To enhance the ability of HAs to combat drug-related crime and problems associated with it within their developments, Resident Councils (RCs),

Resident Management Corporations (RMCs), and Resident Organizations (ROs) will be permitted to undertake management functions specified in this part, notwithstanding the otherwise applicable requirements of 24 CFR parts 950 and 964.

§ 761.10 Definitions.

The definitions "*Department*", "HUD", "*Indian*", "*Indian Housing Authority (IHA)*", and "*Public Housing Agency (PHA)*" are defined in 24 CFR part 5.

Controlled substance shall have the meaning provided in section 102 of the Controlled Substance Act (21 U.S.C. 802).

Drug intervention means a process to identify assisted housing or public housing resident drug users, to assist them in modifying their behavior, and/or to refer them to drug treatment to reduce or eliminate drug abuse.

Drug prevention means a process to provide goods and services designed to alter factors, including activities, environmental influences, risks, and expectations, that lead to drug abuse.

Drug-related crime shall have the meaning provided in 42 U.S.C. 11905(2).

Drug treatment means a program for the residents of an applicant's development that strives to end drug abuse and to eliminate its negative effects through rehabilitation and relapse prevention.

Federally assisted low-income housing, or *assisted housing*, shall have the meaning provided in 42 U.S.C. 11905(4). However, sections 221(d)(3) and 221(d)(4) market rate projects with tenant-based assistance contracts and section 8 projects with tenant-based assistance are not considered federally assisted low-income housing and are not eligible for funding under this part 761.

Governmental jurisdiction means the unit of general local government, State, or area of operation of an Indian tribe in which the housing development administered by the applicant is located.

In and around means within, or adjacent to, the physical boundaries of a housing development.

Indian tribe means any tribe, band, pueblo, group, community, or nation of Indians, or Alaska Natives.

Local law enforcement agency means a police department, sheriff's office, or other entity of the governmental jurisdiction that has law enforcement responsibilities for the community at large, including the housing developments owned or administered by the applicant. In Indian jurisdictions, this includes tribal prosecutors that assume law enforcement functions analogous to a police department or the Bureau of Indian Affairs (BIA). More than one law enforcement agency may have these responsibilities for the jurisdiction that includes the applicant's developments.

Problems associated with drug-related crime means the negative physical, social, educational, and economic impact of drug-related crime on assisted housing residents or public and Indian housing residents, and the deterioration of the assisted housing or public and Indian housing environment because of drug-related crime.

Program income means gross income received by a grantee and directly generated from the use of program funds. When program income is generated by an activity only partially assisted with program funds, the income shall be prorated to reflect the percentage of program funds used.

Resident council (RC), for purposes of the Public Housing Program, means an incorporated or unincorporated nonprofit organization or association that meets each of the following requirements:

(1) It must be representative of the residents it purports to represent;

(2) It may represent residents in more than one development or in all of the developments of a HA, but it must fairly represent residents from each development that it represents;

(3) It must adopt written procedures providing for the election of specific officers on a regular basis (but at least once every three years); and

(4) It must have a democratically elected governing board. The voting membership of the board must consist of residents of the development or developments that the resident organization or resident council represents.

Resident Management Corporation (RMC), for purposes of the Public Housing Program, means the entity that proposes to enter into, or that enters into, a management contract with a PHA under 24 CFR part 964 in accordance with the requirements of that part, or with an IHA under 24 CFR part 950, or with an IHA in accordance with the requirements of this part 761. The corporation must have each of the following characteristics:

(1) It must be a nonprofit organization that is incorporated under the laws of the State or the Indian tribe in which it is located;

(2) It may be established by more than one resident organization or resident council, so long as each such organization or council:

(i) Approves the establishment of the corporation, and;

(ii) Has representation on the Board of Directors of the corporation;

(3) It must have an elected Board of Directors;

(4) Its by-laws must require the Board of Directors to include representatives of each resident organization or resident council involved in establishing the corporation;

(5) Its voting members must be residents of the development or developments it manages;

(6) It must be approved by the resident council or resident organization. If there is no council or organization, a majority of the households of the development must approve the establishment of such an organization to determine the feasibility of establishing a corporation to manage the development; and

(7) It may serve as both the resident management corporation and the resident council or the resident organization, so long as the corporation meets the requirements of part 964 of this chapter for a resident council or the requirements of this part for a resident organization.

Resident organization (RO) shall have the same meaning as *Resident council (RC)*, as defined in this § 761.10.

State means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of local governments. The term does not include any public or Indian housing agency under the United States Housing Act of 1937 (42 U.S.C. 1437 *note*).

Unit of general local government means any city, county, town, municipality, township, parish, village, local public authority (including any public or Indian housing agency under the United States Housing Act of 1937) or other general purpose political subdivision of a State.

Subpart B—Use of Grant Funds

§ 761.15 Applicants and activities.

In any particular funding round, the separate Notices of Funding Availability (NOFAs) published in the **Federal Register** will contain specific information concerning eligible and ineligible applicants and activities.

(a) *Eligible applicants.* (1) Under the Public Housing Drug Elimination Program (PHDEP), specific information with regard to eligible applicants will appear in the NOFA for each funding round.

(2) Under the Assisted Housing Program (AHDEP), eligible applicants are owners of federally assisted low-income housing, as the term "*Federally assisted low-income housing*" is defined in § 761.10.

(b) *Eligible activities.* An application for funding under the Assisted Housing Program or the Public Housing Program may be for one or more of the eligible activities described in 42 U.S.C. 11903, as further explained or limited in paragraph (b) of this section and in the separate annual Notices of Funding Availability (NOFAs) for each program. All personnel funded by these programs in accordance with an eligible activity must meet, and demonstrate compliance with, all relevant Federal, State, tribal, or local government insurance, licensing, certification, training, bonding, or other similar law enforcement requirements.

(1) *Employment of security personnel*, as provided in 42 U.S.C. 11903(a)(1). For purposes of the Public Housing Program, the following provisions in paragraphs (b)(1)(i) and (b)(1)(ii) of this section apply:

(i) *Security guard personnel.* (A) Contract security personnel funded by this program must perform services not usually performed by local law enforcement agencies on a routine basis.

(B) The applicant, the cooperating local law enforcement agency, and the provider (contractor) of the security personnel are required, as a part of the security personnel contract, to enter into and execute a written agreement that describes the following:

(*1*) The activities to be performed by the security personnel, their scope of authority, and how they will coordinate their activities with the local law enforcement agency;

(*2*) The types of activities that the security personnel are expressly prohibited from undertaking.

(ii) *Employment of HA police.* (A) If additional HA police are to be employed for a service that is also provided by a local law enforcement agency, the applicant must provide a cost analysis that demonstrates the employment of HA police is more cost efficient than obtaining the service from the local law enforcement agency.

(B) Additional HA police services to be funded under this program must be over and above those that the existing HA police, if any, provides, and the tribal, State or local government is contractually obligated to provide under its Cooperation Agreement with the applying HA (as required by the HA's Annual Contributions Contract). An applicant seeking funding for this activity must first establish a baseline by describing the current level of services provided by both the local law enforcement agency and the HA police, if any (in terms of the kinds of services provided, the number of officers and equipment and the actual percent of their time assigned to the developments proposed for funding), and then demonstrate to what extent the funded activity will represent an increase over this baseline.

(C) The applicant and the cooperating local law enforcement agency are required to enter into and execute a written agreement that describes the following:

(*1*) The activities to be performed by the HA police, their scope of authority, and how they will coordinate their activities with the local law enforcement agency;

(*2*) The types of activities that the HA police are expressly prohibited from undertaking.

(2) *Reimbursement of local law enforcement agencies for additional security and protective services*, as provided in 42 U.S.C. 11903(a)(2). For purposes of the Public Housing Program, the following provisions in paragraphs (b)(2)(i) and (b)(2)(ii) of this section apply:

(i) Additional security and protective services to be funded must be over and above those that the tribal, State, or local government is contractually obligated to provide under its Cooperation Agreement with the applying HA (as required by the HA's Annual Contributions Contract). An application seeking funding for this activity must first establish a baseline by describing the current level of services (in terms of the kinds of services provided, the number of officers and equipment, and the actual percent of their time assigned to the developments proposed for funding) and then demonstrate to what extent the funded activity will represent an increase over this baseline.

(ii) Communications and security equipment to improve the collection, analysis, and use of information about drug-related criminal activities in a public housing community may be eligible items if used exclusively in connection with the establishment of a law enforcement substation on the funded premises or scattered site developments of the applicant. Funds for activities under this section may not be drawn until the grantee has executed a contract for the additional law enforcement services.

(3) *Physical improvements to enhance security*, as provided in 42 U.S.C. 11903(a)(3). For purposes of the Public Housing Program, the following provisions in paragraphs (b)(3)(i) through (b)(3)(iv) of this section apply:

(i) An activity that is funded under any other HUD program shall not also be funded by this program.

(ii) Funding is not permitted for physical improvements that involve the demolition of any units in a development.

(iii) Funding is not permitted for any physical improvements that would result in the displacement of persons.

(iv) Funding is not permitted for the acquisition of real property.

(4) *Employment of investigating individuals*, as provided in 42 U.S.C. 11903(a)(4). For purposes of the Public Housing Program, the following provisions in paragraphs (b)(4)(i) and (b)(4)(ii) of this section apply:

(i) If one or more investigators are to be employed for a service that is also provided by a local law enforcement agency, the applicant must provide a cost analysis that demonstrates the employment of investigators is more cost efficient than obtaining the service from the local law enforcement agency.

(ii) The applicant, the cooperating local law enforcement agency, and the investigator(s) are required, before any investigators are employed, to enter into and execute a written agreement that describes the following:

(A) The nature of the activities to be performed by the investigators, their scope of authority, and how they will coordinate their activities with the local law enforcement agency;

(B) The types of activities that the investigators are expressly prohibited from undertaking.

(5) *Voluntary tenant patrols*, as provided in 42 U.S.C. 11903(a)(5). For purposes of the Public Housing Program, the following provisions in paragraphs (b)(5)(i) through (b)(5)(iv) of this section apply:

(i) The provision of training, communications equipment, and other related equipment (including uniforms), for use by voluntary tenant patrols acting in cooperation with officials of local law enforcement agencies is permitted. Grantees are required to obtain liability insurance to protect themselves and the members of the voluntary tenant patrol against potential liability for the activities of the patrol. The cost of this insurance will be considered an eligible program expense.

(ii) The applicant, the cooperating local law enforcement agency, and the members of the tenant patrol are required, before putting the tenant patrol into effect, to enter into and execute a written agreement that describes the following:

(A) The nature of the activities to be performed by the tenant patrol, the patrol's scope of authority, and how the

patrol will coordinate its activities with the local law enforcement agency;

(B) The types of activities that a tenant patrol is expressly prohibited from undertaking, to include but not limited to, the carrying or use of firearms or other weapons, nightsticks, clubs, handcuffs, or mace in the course of their duties under this program;

(C) The type of initial tenant patrol training and continuing training the members receive from the local law enforcement agency (training by the local law enforcement agency is required before putting the tenant patrol into effect);

(iii) Tenant patrol members must be advised that they may be subject to individual or collective liability for any actions undertaken outside the scope of their authority and that such acts are not covered under a HA's or RMC's liability insurance.

(iv) Grant funds may not be used for any type of financial compensation for voluntary tenant patrol participants. However, the use of program funds for a grant coordinator for volunteer tenant foot patrols is permitted.

(6) *Drug prevention, intervention, and treatment programs,* as provided in 42 U.S.C. 11903(a)(6).

(7) *Funding resident management corporations (RMCs), resident councils (RCs), and resident organizations (ROs).* For purposes of the Public Housing Program, funding may be provided for HAs that receive grants to contract with RMCs and incorporated RCs and ROs to develop security and drug abuse prevention programs involving site residents, as provided in 42 U.S.C. 11903(a)(7).

(8) *Eliminating drug-related crime in HA-owned housing,* under the Public Housing Program, as provided in 42 U.S.C. 11903(b).

(c) *Continuation of current program activities.* For purposes of both drug elimination programs, the Department will evaluate an applicant's performance under any previous Drug Elimination Program grants within the past five years. Subject to evaluation and review are the applicant's financial and program performance; reporting and special condition compliance; accomplishment of stated goals and objectives under the previous grant; and program adjustments made in response to previous ineffective performance. If the evaluation discloses a pattern under past grants of ineffective performance with no corrective measures attempted, it will result in a deduction of points from the current application.

(d) *Ineligible activities.* For purposes of the Public Housing Program, the following provisions in paragraph (d) of this section apply:

(1) Joint applications are not eligible for funding under this program.

(2) Funding is not permitted for costs incurred before the effective date of the grant agreement, including, but not limited to, consultant fees for surveys related to the application or the actual writing of the application.

(3) Funding is not permitted for the costs related to screening or evicting residents for drug-related crime. However, investigators funded under this program may participate in judicial and administrative proceedings.

Subpart C—Application and Selection

§ 761.20 Application selection and requirements.

(a) *Selection criteria.* HUD will review each application that it determines meets the requirements of this part 761 and evaluate it by assigning points in accordance with the selection criteria in 42 U.S.C. 11904 and in the separate NOFAs published for each program.

(b) *Plan requirement.* Each application must include a plan for addressing the problem of drug-related crime and/or the problems associated with it on the premises of the housing for which the application is being submitted. For applications that cover more than one development, the plan does not have to address each development separately if the same activities will apply to each development. The plan must address each development separately only where program activities will differ from one development to another.

(c) *Notices of Funding Availability.* HUD will publish specific Notices of Funding Availability (NOFAs) in the **Federal Register** as appropriate for each program to inform the public of the availability of grant amounts under this part 761. The NOFAs will provide specific guidance with respect to the grant process, including the deadlines for the submission of grant applications; the limits (if any) on maximum grant amounts; the information that must be submitted to permit HUD to score each of the selection criteria; the maximum number of points to be awarded for each selection criterion; the contents of the plan for addressing drug-related crime and problems associated with it that must be included with the application; the listing of any certifications and assurances that must be submitted with the application; and the process for ranking and selecting applicants. NOFAs will also include any additional information, factors, and requirements that HUD has determined to be necessary and appropriate to provide for the implementation and administration of the program under this part 761.

(d) *Environmental review.* Grants under this part 761 are categorically excluded from review under the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321), in accordance with 24 CFR 50.20(p). However, prior to an award of grant funds under this part, HUD will perform an environmental review to the extent required by HUD's environmental regulations in 24 CFR part 50, including the applicable related authorities in 24 CFR 50.4.

§ 761.25 Resident comments on grant application.

The applicant must provide the residents of developments proposed for funding under this part 761, as well as any RMCs, RCs, or ROs that represent those residents (including any HA-wide RMC, RC, or RO), if applicable, with a reasonable opportunity to comment on its application for funding under these programs. The applicant must give these comments careful consideration in developing its plan and application, as well as in the implementation of funded programs. Grantees must maintain copies of all written comments submitted for three years.

Subpart D—Grant Administration

§ 761.30 Grant administration.

(a) *General.* Each grantee is responsible for ensuring that grant funds are administered in accordance with the requirements of this part 761, any specific Notices of Funding Availability (NOFAs) issued for these programs, 24 CFR part 85 (as applicable), applicable laws and regulations, applicable OMB circulars, HUD fiscal and audit controls, grant agreements, grant special conditions, the grantee's approved budget (SF–424A), budget narrative, plan, and activity timetable.

(b) *Grant term extensions.* (1) *Grant term.* Terms of the grant agreement may not exceed 12 months for the Assisted Housing Program, and 24 months for the Public Housing Program, unless an extension is approved by the local HUD Office or local HUD Office of Native American Programs. Any funds not expended at the end of the grant term shall be remitted to HUD.

(2) *Extension.* HUD may grant an extension of the grant term in response to a written request for an extension stating the need for the extension and indicating the additional time required. HUD will not consider requests for retroactive extension of program periods. HUD will permit only one extension. HUD will only consider extensions if the grantee meets the extension criteria of paragraph (b)(5) of this section at the time the grantee submits for approval the request for the extension.

(3) *Receipt.* The request must be received by the local HUD Office or local HUD Office of Native American Programs prior to the termination of the grant, and requires approval by the local HUD Office or local HUD Office of Native American Programs with jurisdiction over the grantee.

(4) *Term.* The maximum extension allowable for any program period is 6 months.

(5) *Extension criteria.* The following criteria must be met by the grantee when submitting a request to extend the expenditure deadline for a program or set of programs.

(i) *Financial status reports.* There must be on file with the local HUD Office or local HUD Office of Native American Programs current and acceptable Financial Status Reports, SF–269As.

(ii) *Grant agreement special conditions.* The grantee must have satisfied all grant agreement special conditions except those conditions that the grantee must fulfill in the remaining period of the grant. This also includes the performance and resolution of audit findings in a timely manner.

(iii) *Justification.* The grantee must submit a narrative justification with the program extension request. The justification must provide complete details, including the circumstances that require the proposed extension, and an explanation of the impact of denying the request.

(6) *HUD action.* The local HUD Office or local HUD Office of Native American Programs will attempt to take action on any proposed extension request within 15 days after receipt of the request.

(c) *Duplication of funds.* To prevent duplicate funding of any activity, the grantee must establish controls to assure that an activity or program that is funded by other HUD programs, or programs of other Federal agencies, shall not also be funded by the Drug Elimination Program. The grantee must establish an auditable system to provide adequate accountability for funds that it has been awarded. The grantee is responsible for ensuring that there is no duplication of funds.

(d) *Insurance.* Each grantee shall obtain adequate insurance coverage to protect itself against any potential liability arising out of the eligible activities under this part. In particular, applicants shall assess their potential liability arising out of the employment or contracting of security personnel, law enforcement personnel, investigators, and drug treatment providers, and the establishment of voluntary tenant patrols; evaluate the qualifications and training of the individuals or firms undertaking these functions; and consider any limitations on liability under tribal, State, or local law. Grantees shall obtain liability insurance to protect the members of the voluntary tenant patrol against potential liability as a result of the patrol's activities under § 761.15(b)(5). Voluntary tenant patrol liability insurance costs are eligible program expenses. Subgrantees shall obtain their own liability insurance.

(e) *Failure to implement program.* If the grant plan, approved budget, and timetable, as described in the approved application, are not operational within 60 days of the grant agreement date, the grantee must report by letter to the local HUD Office or the local HUD Office of Native American Programs the steps being taken to initiate the plan and timetable, the reason for the delay, and the expected starting date. Any timetable revisions that resulted from the delay must be included. The local HUD Office or local HUD Office of Native American Programs will determine if the delay is acceptable, approve/disapprove the revised plan and timetable, and take any additional appropriate action.

(f) *Sanctions.* (1) HUD may impose sanctions if the grantee:

(i) Is not complying with the requirements of this part 761, or of other applicable Federal law;

(ii) Fails to make satisfactory progress toward its drug elimination goals, as specified in its plan and as reflected in its performance and financial status reports;

(iii) Does not establish procedures that will minimize the time elapsing between drawdowns and disbursements;

(iv) Does not adhere to grant agreement requirements or special conditions;

(v) Proposes substantial plan changes to the extent that, if originally submitted, the applications would not have been selected for funding;

(vi) Engages in the improper award or administration of grant subcontracts;

(vii) Does not submit reports; or

(viii) Files a false certification.

(2) HUD may impose the following sanctions:

(i) Temporarily withhold cash payments pending correction of the deficiency by the grantee or subgrantee;

(ii) Disallow all or part of the cost of the activity or action not in compliance;

(iii) Wholly or partly suspend or terminate the current award for the grantee's or subgrantee's program;

(iv) Require that some or all of the grant amounts be remitted to HUD;

(v) Condition a future grant and elect not to provide future grant funds to the grantee until appropriate actions are taken to ensure compliance;

(vi) Withhold further awards for the program; or

(vii) Take other remedies that may be legally available.

§ 761.35 Periodic grantee reports.

Grantees are responsible for managing the day-to-day operations of grant and subgrant supported activities. Grantees must monitor grant and subgrant supported activities to assure compliance with applicable Federal requirements and that performance goals are being achieved. Grantee monitoring must cover each program, function or activity of the grant.

(a) *Semi-annual (nonconstruction) performance reports.* For purposes of the Public Housing Program only, the following provisions in paragraph (a) of this section apply:

(1) In accordance with 24 CFR 85.40(b)(1)(2) and 85.50(b), grantees are required to provide the local HUD Office or the local HUD Office of Native American Programs with a semi-annual performance report that evaluates the grantee's performance against its plan. These reports shall include (but are not limited to) the following in summary form:

(i) Any change or lack of change in crime statistics or other indicators drawn from the applicant's plan assessment and an explanation of any difference;

(ii) Successful completion of any of the strategy components identified in the applicant's plan;

(iii) A discussion of any problems encountered in implementing the plan and how they were addressed;

(iv) An evaluation of whether the rate of progress meets expectations;

(v) A discussion of the grantee's efforts in encouraging resident participation; and

(vi) A description of any other programs that may have been initiated, expanded, or deleted as a result of the plan, with an identification of the resources and the number of people involved in the programs and their relation to the plan.

(2) *Reporting period.* Semi-annual performance reports (for periods ending June 30 and December 31) are due to the local HUD Office or the local HUD Office of Native American Programs on July 30 and January 31 of each year. If

the reports are not received by the local HUD Office or the local HUD Office of Native American Programs on or before the due date, grant funds will not be advanced until the reports are received.

(b) *Final performance report.* For purposes of both the Assisted Housing Program and the Public Housing Program, the following provisions in paragraph (b) of this section apply:

(1) *Evaluation.* Grantees are required to provide the local HUD Office or the local HUD Office of Native American Programs, as applicable, with a final cumulative performance report that evaluates the grantee's overall performance against its plan. This report shall include (but is not limited to) the information listed in paragraphs (a)(1)(i) through (a)(1)(vi) of this section, in summary form.

(2) *Reporting period.* The final performance report shall cover the period from the date of the grant agreement to the termination date of the grant agreement. The report is due to the local HUD Office or the local HUD Office of Native American Programs, as applicable, within 90 days after termination of the grant agreement.

(c) *Semi-annual financial status reporting requirements.* For purposes of both the Assisted Housing Program and the Public Housing Program, the following provisions in paragraph (c) of this section apply, as specified below:

(1) *Forms.* The grantee shall provide a semi-annual financial status report. For purposes of the Public Housing Program, this report shall be in accordance with 24 CFR 85.41 (b) and (c). For both the Assisted Housing and Public Housing Programs, the grantee shall use the form SF–269A, Financial Status Report-Long Form, to report the status of funds for nonconstruction programs. The grantee shall use SF–269A, block 12, "Remarks," to report on the status of programs, functions, or activities within the program.

(2) *Reporting period.* Semi-annual financial status reports (SF–269A) must be submitted as follows:

(i) For purposes of the Assisted Housing Program, semi-annual financial status reports covering the first 180 days of funded activities must be submitted to the local HUD Office between 190 and 210 days after the date of the grant agreement. If the SF–269A is not received on or before the due date (210 days after the date of the grant agreement) by the local HUD Office, grant funds will not be advanced until the reports are received.

(ii) For purposes of the Public Housing Program, semi-annual financial status reports (for periods ending June 30 and December 31) must be submitted to the local HUD Office or the local Office of Indian Programs, as applicable, by July 30 and January 31 of each year. If the local HUD Office or the local HUD Office of Native American Programs, as applicable, does not receive the SF–269A on or before the due date, the grant funds will not be advanced until the reports are received.

(d) *Final financial status report (SF–269A).* For purposes of both the Assisted Housing Program and the Public Housing Program, the following provisions in paragraph (d) of this section apply:

(1) *Cumulative summary.* The final report will be a cumulative summary of expenditures to date and must indicate the exact balance of unexpended funds. The grantee shall remit all Drug Elimination Program funds owed to HUD, including any unexpended funds, as follows:

(i) For purposes of the Assisted Housing Program, the grantee must remit such funds to HUD within 90 days after the termination of the grant agreement.

(ii) For purposes of the Public Housing Program, the local HUD Office or the local HUD Office of Native American Programs shall notify the grantee, in writing, of the requirement to remit such funds to HUD. The grantee shall remit such funds prior to or upon receipt of the notice.

(2) *Reporting period.* The final financial status report shall cover the period from the date of the grant agreement to the termination date of the grant agreement. The report is due to the local HUD Office or the local HUD Office of Native American Programs, as applicable, within 90 days after the termination of the grant agreement.

§ 761.40 Other Federal requirements.

In addition to the nondiscrimination and equal opportunity requirements set forth in 24 CFR part 5, subpart A, use of grant funds requires compliance with the following Federal requirements:

(a) *Labor standards.* (1) When grant funds are used to undertake physical improvements to increase security under § 761.15(b)(3), the following labor standards apply:

(i) The grantee and its contractors and subcontractors must pay the following prevailing wage rates, and must comply with all related rules, regulations and requirements:

(A) For laborers and mechanics employed in the program, the wage rate determined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a et seq.) to be prevailing in the locality with respect to such trades;

(B) For laborers and mechanics employed in carrying out nonroutine maintenance in the program, the HUD-determined prevailing wage rate. As used in paragraph (a) of this section, nonroutine maintenance means work items that ordinarily would be performed on a regular basis in the course of upkeep of a property, but have become substantial in scope because they have been put off, and that involve expenditures that would otherwise materially distort the level trend of maintenance expenses. Nonroutine maintenance may include replacement of equipment and materials rendered unsatisfactory because of normal wear and tear by items of substantially the same kind. Work that constitutes reconstruction, a substantial improvement in the quality or kind of original equipment and materials, or remodeling that alters the nature or type of housing units is not nonroutine maintenance.

(ii) The employment of laborers and mechanics is subject to the provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333).

(2) The provisions of paragraph (a)(1) of this section shall not apply to labor contributed under the following circumstances:

(i) Upon the request of any resident management corporation, HUD may, subject to applicable collective bargaining agreements, permit residents (for purposes of the Public Housing Program, residents of a program managed by the resident management corporation) to volunteer a portion of their labor.

(ii) An individual may volunteer to perform services if:

(A) The individual does not receive compensation for the voluntary services, or is paid expenses, reasonable benefits, or a nominal fee for voluntary services; and

(B) Is not otherwise employed at any time in the work subject to paragraphs (a)(1)(i)(A) or (a)(1)(i)(B) of this section.

(b) *Flood insurance.* Grants will not be awarded for proposed activities that involve acquisition, construction, reconstruction, repair or improvement of a building or mobile home located in an area that has been identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards unless:

(1) The community in which the area is situated is participating in the National Flood Insurance Program in accordance with 44 CFR parts 59 through 79; or

(2) Less than a year has passed since FEMA notification to the community regarding such hazards; and

(3) Flood insurance on the structure is obtained in accordance with section 102(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001).

(c) *Lead-based paint.* The provisions of section 302 of the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4821–4846, and implementing regulations in 24 CFR part 965, subpart H apply to activities under these programs as set out in this paragraph (c). Paragraph (c) of this section is promulgated pursuant to the authority granted in 24 CFR 35.24(b)(4) and supersedes, with respect to all housing to which it applies, the requirements (not including definitions) prescribed by subpart C of 24 CFR part 35.

(1) *Applicability.* The provisions of paragraph (c) of this section shall apply to all developments constructed or substantially rehabilitated before January 1, 1978, and for which assistance under this part is being used for physical improvements to enhance security under § 761.15(b)(3).

(2) *Definitions.* The term "*applicable surfaces*" means all intact and nonintact interior and exterior painted surfaces of a residential structure.

(3) *Exceptions.* The following activities are not covered by this section:

(i) Installation of security devices;

(ii) Other similar types of single-purpose programs that do not involve physical repairs or remodeling of applicable surfaces of residential structures; or

(iii) Any non-single-purpose rehabilitation that does not involve applicable surfaces and that does not exceed $3,000 per unit.

(d) *Conflicts of interest.* In addition to the conflict of interest requirements in 24 CFR part 85 for the Public Housing Program, no person, as described in paragraphs (d)(1) and (d)(2) of this section, may obtain a personal or financial interest or benefit from an activity funded under these drug elimination programs, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for him or herself or for those with whom he or she has family or business ties, during his or her tenure, or for one year thereafter:

(1) Who is an employee, agent, consultant, officer, or elected or appointed official of the grantee, that receives assistance under the program and who exercises or has exercised any functions or responsibilities with respect to assisted activities; or

(2) Who is in a position to participate in a decisionmaking process or gain inside information with regard to such activities.

(e) *For IHAs,* § 950.115 of this title, "Applicability of civil rights requirements," and § 950.120 of this title, "Compliance with other Federal requirements," apply and control to the extent they may differ from other requirements of this section;

(f) *Indian preference.* For purposes of the Public Housing Program, applicants are subject to the Indian Civil Rights Act (24 U.S.C. 1301), the provisions of section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)), and the Indian preference rules in the IHA procurement regulations at 24 CFR 950, subpart B. These provisions require that, to the greatest extent feasible, preference and opportunities for training and employment be given to Indians, and that preference in the award of subcontracts and subgrants be given to Indian Organizations and Indian Owned Economic Enterprises.

(g) *Intergovernmental Review.* The requirements of Executive Order 12372 (3 CFR, 1982 Comp., p. 197) and the regulations issued under the Order in 24 CFR part 52, to the extent provided by **Federal Register** notice in accordance with 24 CFR 52.3, apply to these programs.

PART 961—[REMOVED]

4. Part 961 is removed.

Dated: March 15, 1996.

Henry G. Cisneros,

Secretary.

[FR Doc. 96–7272 Filed 3–27–96; 8:45 am]

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Part VI

Department of Education

34 CFR Part 656

Higher Education Programs in Modern Foreign Language Training and Area Studies—National Resource Centers Program for Foreign Language and International Studies; Proposed Rule

DEPARTMENT OF EDUCATION

34 CFR Part 656

RIN 1840–AC27

Higher Education Programs in Modern Foreign Language Training and Area Studies—National Resource Centers Program for Foreign Language and Area Studies or Foreign Language and International Studies

AGENCY: Department of Education.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Secretary proposes to amend the regulations governing the Higher Education Programs in Modern Foreign Language Training and Area Studies—National Resource Centers Program for Foreign Language and Area Studies or Foreign Language and International Studies (National Resource Centers Program). These amendments are needed in order to improve the application review process and to update the regulations in light of developments in the field of foreign language, area, and international studies. In the spirit of reinventing government, the goal of the proposed changes is to markedly reduce the burden associated with the application process. These proposed regulations would (a) reduce the burden on applicants and readers by clarifying and redesigning selection criteria to remove ambiguity and eliminate repetition of information presented in applications, (b) facilitate grantee selection by providing a larger point spread for greater differentiation of rankings, and (c) improve program quality, efficiency, and flexibility by adopting changes program management experience shows to be appropriate.

DATES: Comments must be received on or before April 29, 1996.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Sara West, U.S. Department of Education, 600 Independence Avenue, S.W., Suite 600B, Portals Building, Washington, D.C. 20202–5331. Comments may also be sent through the Internet to "National_Resource@ed.gov".

Comments that concern information collection requirements must be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble. A copy of those comments may also be sent to the Department representative named in the preceding paragraph.

FOR FURTHER INFORMATION CONTACT: Sara West. Telephone: (202) 401–9782. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

The National Resource Centers Program is one of several international education programs authorized under Part A of Title VI of the Higher Education Act of 1965, as amended. The main provisions of the regulations govern the awarding of grants designed to assist eligible institutions of higher education in improving and developing their programs in modern foreign languages and area or international studies.

In the spirit of reinventing government, it is the Secretary's goal to simplify the application process and management of the National Resource Centers Program. The Secretary proposes changes to add clarity to the review process, to decrease the current burden on applicants and peer reviewers, to facilitate the application of uniform standards among peer reviewers, and to increase flexibility in program management for funded grantees and for the Secretary.

The Secretary proposes to amend the regulations for the National Resource Centers Program by modifying the selection criteria for applications and by adding activities to the list of definitions and to the list of priorities.

Selection Criteria. The selection criteria currently used are very general, leading to some misinterpretation of questions asked, frequent repetition of information, and the inclusion of information that is not pertinent to the purpose of the National Resource Centers Program. The proposed changes seek to retain much of the sense of the current criteria while removing ambiguity regarding requested information. The purpose of the changes is to clarify what information should be presented so that (a) all applicants will provide more focused information necessary for evaluation of a proposal under this program, (b) applicants will be able to present all relevant information within fewer pages of proposal narrative, and (c) peer reviewers will be able to more easily and accurately evaluate and rank proposals based on comparative strengths.

A reorganized, broader point scale and clearly identified point allocations for individual paragraphs of the selection criteria are proposed in order to (a) enable peer reviewers to score more carefully and accurately differentiate between proposals of high caliber, (b) discourage peer reviewers from overlooking any individual question to be scored, and (c) clarify for peer reviewers and applicants exactly what requested information corresponds to each point value.

Expanded Definitions. The Secretary proposes to amend the regulations in keeping with current standards in the field of area, language, and international studies by (a) expanding the definition of a comprehensive center to include curriculum development and community outreach and (b) expanding the activities that define a comprehensive center to include "training" as well as research. These activities have long been standard at successful comprehensive National Resource Centers.

Expanded Possible Priorities. The Secretary proposes to increase flexibility in program management by expanding the list of possible funding priorities to include course development. Course development has long been a standard activity at National Resource Centers because it is a primary means by which training programs are strengthened. Including it in the list of possible priorities is, therefore, in keeping with the purpose of the National Resource Centers Program.

Explanation of Changes

The proposed changes include the following:

Section 656.3. What activities define a comprehensive or undergraduate National Resource Center?

Section 656.3(e)(2). The Secretary proposes to expand the list of activities defining a comprehensive center to include training. The current list does not accurately reflect the fact that National Resource Centers train specialists in area, language, and international studies.

Section 656.7. What definitions apply?

Section 656.7(d)(5). The Secretary proposes to expand the list of activities under the comprehensive center definition to reflect two activities commonly engaged in by successful grantees: curriculum development and community outreach. Curriculum development is very important for strengthening language and area centers and programs, while community outreach is necessary in order for centers to function as national resources. These activities are, therefore, integral to the purpose of the National Resource Centers Program. Including curriculum development and community outreach in the list of activities would further clarify to the public the purpose of the grants and activities commonly engaged in by grantees.

Section 656.20. How does the Secretary evaluate an application?

Section 656.20(b). The Secretary proposes to expand the range of possible points for applications in order to enable peer reviewers to more carefully and accurately differentiate among proposals of high caliber in scoring. It has been the Secretary's experience that competition for grants under the National Resource Centers Program is strong. Recent winning applicants have scored in the 80's and low 90's on the current 100-point scale. As a result, there has been narrow point differentiation between successful applicants and high-ranking unsuccessful applicants. The Secretary believes that expanding the possible point range would facilitate funding decisions by providing peer reviewers with a larger scale on which to rank applications, allowing for greater differentiation of scores for applications of similar but different merit. The changed point scale, reflecting changes in the technical review criteria and their point allocations, would add 50 possible points for competitions for which there are no announced competitive priorities and 60 possible points for competitions for which competitive priorities have been announced.

Section 656.21. What selection criteria does the Secretary use to evaluate an application for a comprehensive center?

The Secretary proposes extensive changes in the sections dealing with selection criteria for comprehensive and undergraduate centers in order to improve the program's application review process and to reflect current standards in the field of foreign language, area and international studies. Modifications to the criteria are meant to more clearly identify the information that is relevant to the competition and to allow applicants to streamline their applications, thereby facilitating proposal writing for applicants and evaluation for peer reviewers. The proposed criteria incorporate most aspects of the current criteria, and applicants would, therefore, be expected to provide much of the same information as in the past. By more specifically identifying information to be provided in an application, the proposed criteria would allow applicants to exclude less helpful, generalized, and sometimes repetitious information and provide a concise justification for proposed activities in light of the purpose of the National Resource Centers Program.

Section 656.21(a). The Secretary proposes to replace the Plan of operation criterion with a criterion called Program planning and budget. The Program planning and budget criterion incorporates related elements of the current Plan of operation, Budget and cost effectiveness, and the Need and potential impact criteria. It has been the Secretary's experience that the language of these current criteria requires modification in order to avoid confusion among applicants and peer reviewers regarding the meaning of the questions asked. For example, one question under the Plan of operation criterion asks to what extent the objectives of the project relate to the purpose of the program. Applicants and evaluators are frequently uncertain whether "program" refers to the National Resource Centers grant program or to the applicant's training program. Additionally, the separation of these related elements under the present criteria frequently causes applicants to repeat the same information under several criteria. The Secretary proposes to clarify information to be presented and eliminate repetition by asking very explicit questions regarding the administration, cost-effectiveness, quality, and long-term impact of proposed activities in one criterion.

Section 656.21(b). The Secretary proposes to replace the Quality of key personnel criterion with a criterion called Quality of staff resources. The staff resources criterion would ask for the same kind of information as the current key personnel criterion but would also require more explicit information to be presented regarding faculty and staff involvement in center activities and oversight and professional development opportunities.

Section 656.21(c). The Secretary proposes to eliminate the current Budget and cost effectiveness criterion due to relocating questions on this subject matter under the proposed Program planning and budget criterion. The Secretary proposes a new Impact and evaluation criterion that would combine related aspects of the current Need and potential impact, Evaluation plan, and Plan of operation criteria. The combination of these questions in one criterion is logical due to the interrelatedness of questions about past performance and evaluating future performance.

Section 656.21(d). The Secretary proposes to eliminate the current Evaluation plan criterion due to the inclusion of similar questions under the proposed Impact and evaluation criterion. The Secretary proposes to redesignate the criterion Commitment to the subject area on which the center focuses, with a minor modification of language in order to identify the information to be presented.

Section 656.21(e). The Secretary proposes to modify and redesignate the Strength of library criterion. Due to the changes in information technologies and the rising costs of maintaining traditional collections, a library's book and periodical holdings are no longer the only factor that should be considered in evaluating the strength of a National Resource Center's library. The proposed regulations would clarify information to be presented and take into account that library resources can be provided in print and non-print media, through cooperative collection and access arrangements with other library collections, and through on-line, electronic data bases.

Section *656.21(f).* The Secretary proposes to insert a new criterion called Quality of the center's non-language instructional program. The proposed criterion would incorporate related elements of the current Quality of the center's instructional program and Quality of the center's relationships within the institution criteria. The Secretary believes that including all questions related to non-language course offerings in one section would allow grantees to streamline their proposals and avoid repetition. It has been the Secretary's experience that combining questions about non-language and language courses in the same criterion can lead to applicants' neglecting to provide full information about both non-language and language training. Further, the comprehensive nature of a resource center is reflected by the extent to which it incorporates non-language training in addition to training in language, literature, and linguistics. For these reasons, the Secretary proposes to ask parallel questions regarding the quality of language and non-language training under two separate criteria. It is the opinion of the Secretary that separate criteria would emphasize the importance to the National Resource Centers Program of both language and area or international studies training.

Section 656.21(g). The Secretary proposes to address under this criterion the Quality of the center's language instructional program. Questions asked under this criterion are similar to questions currently asked under Quality of the center's instructional program criterion but more specifically identify information to be provided.

Section 656.21(h). The Secretary proposes to eliminate the current Quality of the center's relationships within the institution criterion due to the inclusion of similar questions under the proposed Quality of the center's non-language instructional program criterion. The Secretary proposes a new Quality of curriculum design criterion that would combine elements of the current Quality of the center's relationships within the institution and Overseas activities criteria. The new criterion would allow applicants to focus on the issue of training options for students within the context of a single criterion.

Section 656.21(i). The Secretary proposes to eliminate the current Overseas activities criterion due to the inclusion of related questions under the proposed Quality of curriculum design, Commitment to the subject area on which the center focuses, and Quality of staff resources criteria. It has been the Secretary's experience in this program that overseas opportunities and activities have been critical to providing successful training options for students and professional development opportunities for faculty. Therefore, the Secretary believes that it is more appropriate and more clearly related to the purpose of the National Resource Centers Program to ask questions regarding overseas activities in the context of curriculum design and staff resources. The Secretary proposes to insert in this section a modified Outreach activities criterion. Proposed changes to this criterion reflect the Secretary's experience that outreach to postsecondary institutions, business, the media, and the general public is frequently overlooked in favor of elementary and secondary school outreach. By specifying separate point allocations for different kinds of outreach, the Secretary hopes to emphasize the importance to the National Resource Centers Program of outreach to all communities.

Section 656.21(j). The Secretary proposes to eliminate the current Need and potential impact criterion due to the inclusion of related questions under the proposed Program planning and budget and Impact and evaluation criteria. The Secretary proposes to replace this criterion with the current Degree to which priorities are served criterion, decreasing the point value from 20 points to 10. It has been the Secretary's experience that most proposals submitted for competitions under this program succeed in securing almost all of the points assigned to the competitive priority. A 20-point allocation to the competitive priority can result in applications with weaker scores on the mandatory criteria outscoring more fundamentally sound applications that do not meet the priority. A 10-point competitive priority allocation would continue to ensure that quality proposals that meet the competitive priority are funded before quality proposals that do not meet the priority. The Secretary proposes to decrease the total possible points allocated for priorities in order to maintain proportion in the competition and to ensure that only high quality proposals are funded.

Section 656.21(k). The Secretary proposes to delete this paragraph since the Outreach activities criterion would be included as previously noted.

Section 656.21(l). The Secretary proposes to delete this paragraph since the Degree to which priorities are served criterion would be included as previously noted.

Section 656.22. What selection criteria does the Secretary use to evaluate an application for an undergraduate center?

Like the criteria for comprehensive centers, the proposed undergraduate center selection criteria incorporate most aspects of the current criteria but are restructured to enable applicants to present the appropriate information more succinctly and with less repetition. The same selection criteria proposed for comprehensive centers are proposed for undergraduate centers, with small variances in point values and questions. The primary difference is that, for undergraduate centers, only questions related to undergraduate training programs are asked, while the comprehensive center selection criteria encompass undergraduate, graduate, and professional training programs.

Section 656.22(a). As in the comprehensive centers selection criteria, the Secretary proposes to replace the Plan of operation criterion with a criterion called Program planning and budget. The Program planning and budget criterion incorporates related elements of the current Plan of operation, Budget and cost effectiveness, and Need and potential impact criteria. It has been the Secretary's experience that the language of these current criteria requires modification in order to avoid confusion among applicants and peer reviewers regarding the meaning of the questions asked. Additionally, the separation of these related elements into individual criteria frequently causes applicants to repeat the same information under several guises. The Secretary proposes to clarify information to be presented and eliminate the need for repetition by asking very explicit questions regarding the administration, cost-effectiveness, quality, and long-term impact of proposed activities in one criterion.

Section 656.22(b). As in the comprehensive centers selection criteria, the Secretary proposes to replace the Quality of key personnel criterion with a criterion called Quality of staff resources. The staff resources criterion would ask for the same kind of information as the current key personnel criterion, but would also require more explicit information to be presented regarding faculty and staff involvement in center activities and oversight and professional development opportunities.

Section 656.22(c). As in the comprehensive center selection criteria, the Secretary proposes to eliminate the current Budget and cost effectiveness criterion due to relocating similar questions under the proposed Program planning and budget criterion. The Secretary proposes a new Impact and evaluation criterion that would combine related aspects of the current Need and potential impact, Evaluation plan, and Plan of operation criteria. The combination of these questions in one criterion is logical due to the interrelatedness of questions about past performance and evaluating future performance.

Section 656.22(d). The Secretary proposes to eliminate the current Evaluation plan criterion due to the inclusion of similar questions under the proposed Impact and evaluation criterion and to redesignate the current criterion Commitment to the subject area on which the center focuses, with a minor modification of language in order to identify the information to be presented.

Section 656.22(e). As in the comprehensive center selection criteria, the Secretary proposes to modify and redesignate the Strength of library criterion. Due to the changes in information technology and the rising costs of maintaining traditional collections, a library's book and periodical holdings are no longer the only factor that should be considered in evaluating the strength of a National Resource Center's library. The proposed regulations would clarify information to be presented and take into account that library resources can be provided in print and non-print media, through cooperative collections and access arrangements with other library collections, and through on-line, electronic data bases.

Section 656.22(f). As in the comprehensive center selection criteria, the Secretary proposes to add a new criterion called Quality of the center's non-language instructional program. The proposed criterion would incorporate related elements of the current Quality of the center's instructional program and Quality of the center's relationships within the institution criteria. The Secretary believes that including all questions related to non-language course offerings in one section would allow grantees to streamline their proposals and avoid repetition. It has been the Secretary's experience that combining questions about non-language and language courses in the same criterion can lead to applicants neglecting to provide full information about both non-language and language training. For that reason, the Secretary proposes to ask parallel questions regarding the quality of language and non-language training under two separate criteria. It is the opinion of the Secretary that separate criteria would emphasize the importance to the National Resource Centers Program of both language and area or international studies training.

Section 656.22(g). The Secretary proposes to address under this criterion the Quality of the center's language instructional program. Questions asked under this criterion are similar to questions currently asked under Quality of the center's instructional program criterion but more specifically identify information to be provided.

Section 656.22(h). As in the comprehensive center selection criteria, the Secretary proposes to eliminate the current Quality of the center's relationships within the institution criterion due to the inclusion of similar questions under the proposed Quality of the center's non-language instructional program criterion. The Secretary proposes a new Quality of curriculum design criterion that would combine elements of the current Quality of the center's relationships within the institution and Overseas activities criteria. The new criterion would allow applicants to focus on the issue of training options for undergraduate students within the context of a single criterion.

Section 656.22(i). The Secretary proposes to eliminate the current Overseas activities criterion due to the inclusion of related questions under the proposed Quality of curriculum design, Commitment to the subject area on which the center focuses, and Quality of staff resources criteria. It has been the Secretary's experience in this program that overseas activities have been critical to providing successful training options for students and professional development opportunities for faculty. Therefore, the Secretary believes that it is more appropriate and more clearly related to the purpose of the National Resource Centers Program to ask questions regarding overseas activities in the context of curriculum design and staff resources. The Secretary proposes to add under this section a modified Outreach activities criterion. Proposed changes to this criterion reflect the Secretary's experience that outreach to postsecondary institutions, business, the media, and the general public is frequently overlooked in favor of elementary and secondary school outreach. By specifying separate point allocations for different kinds of outreach, the Secretary hopes to emphasize the importance to the National Resource Centers Program of outreach to all communities.

Section 656.22(j). As in the comprehensive center selection criteria, the Secretary proposes to eliminate the current Need and potential impact criterion due to the inclusion of related questions under the proposed Program planning and budget and Impact and evaluation criteria. The Secretary proposes to replace this criterion with the current Degree to which priorities are served criterion, decreasing the point value from 20 points to 10. It has been the Secretary's experience that most proposals submitted for competitions under this program succeed in securing almost all of the points assigned to the competitive priority. A 20-point allocation to the competitive priority can result in applications with weaker scores on the mandatory criteria outscoring more fundamentally sound applications that do not meet the priority. A 10-point competitive priority allocation would continue to ensure that quality proposals that meet the competitive priority are funded before quality proposals that do not meet the priority. The Secretary proposes to decrease the total possible points allocated for priorities in order to maintain proportion in the competition and to ensure that only high quality proposals are funded.

Section 656.22(k). The Secretary proposes to delete this paragraph since the Outreach activities criterion would be included as previously noted.

Section 656.22(l). The Secretary proposes to delete this paragraph since the Degree to which priorities are served criterion would be included as previously noted.

Section 656.23. What priorities may the Secretary establish?

The Secretary proposes two modifications to this section that would help to clarify and expand possible funding priorities.

Section 656.23(a)(3). The Secretary proposes to clarify that intensive language instruction is not limited to 10 contact hours per week by adding the phrase "or more." Ten contact hours of instruction per week is normally considered the minimum for what constitutes intensive language training rather than the standard.

Section 656.23(a)(4). The Secretary proposes to expand the list of types of activities to be carried out by adding "course development." Course development is an important tool for strengthening training programs and, therefore, is in keeping with the purpose of the National Resource Centers Program.

Executive Order 12866

Clarity of the Regulations

Executive Order 12866 requires each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make these proposed regulations easier to understand, including answers to questions such as the following: (1) Are the requirements in the regulations clearly stated? (2) Do the regulations contain technical terms or other wording that interfere with their clarity? (3) Does the format of the regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity? Would the regulations be easier to understand if they were divided into more (but shorter) sections? (A "section" is preceded by the symbol "§" and a numbered heading; for example, § 656.20 *How does the Secretary evaluate an application?*) (4) Is the description of the proposed regulations in the "Supplementary Information" section of this preamble helpful in understanding the proposed regulations? How could this description be more helpful in making the proposed regulations easier to understand? (5) What else could the Department do to make the regulations easier to understand?

A copy of any comments that concern how the Department could make these proposed regulations easier to understand should also be sent to Stanley M. Cohen, Regulations Quality Officer, U.S. Department of Education, 600 Independence Avenue, SW. (Room 5100 FB–10B), Washington, DC 20202–2241.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a

significant economic impact on a substantial number of small entities.

These proposed regulations merely correct or simplify and clarify provisions contained in previous regulations and would impose minimal requirements to ensure the proper expenditure of program funds. The small entities that would be affected by these proposed regulations are small institutions of higher education receiving Federal funds under this program. However, the regulations would not have a significant economic impact on the institutions affected because the regulations would not impose excessive regulatory burdens or require unnecessary Federal supervision.

Paperwork Reduction Act of 1995

Sections 656.21 and 656.22 contain information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C 3507(d)), the Department of Education has submitted a copy of these sections to the Office of Management and Budget (OMB) for its review.

Collection of Information: National Resource Centers Program for Foreign Language and Area Studies or Foreign Language and International Studies.

Institutions of higher education and consortia of institutions of higher education are eligible to apply for grants under these regulations. The information to be collected is specified by the proposed selection criteria and includes information currently collected under regulations for this program. This information is needed and used by the Department to make grants.

The Secretary estimates that this information collection will decrease the current estimated burden of 155 hours per response to 100 hours per response. The estimated burden includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the application to be submitted. Competitions for the National Resource Centers Program are held every three years, with approximately 150 respondents per competition.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10235, New Executive Office Building, Washington, DC 20503; Attention: Wendy Taylor.

The Department considers comments by the public on these proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;
- Evaluating the accuracy of the Department's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning the collections of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Department on the proposed regulations.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Suite 600B, Portals Building, 1280 Maryland Avenue, SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 656

Colleges and universities, Education, International education, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Number 84.015)

Dated: March 25, 1996.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

The Secretary proposes to amend Title 34 of the Code of Federal Regulations by revising Part 656 as follows:

PART 656—NATIONAL RESOURCE CENTERS FOR FOREIGN LANGUAGE AND AREA STUDIES OR FOREIGN LANGUAGE AND INTERNATIONAL STUDIES

1. The authority citation for Part 656 continues to read as follows:

Authority: 20 U.S.C. 1122, unless otherwise noted.

§ 656.3 [Amended]

2. Section 656.3 is amended by adding "training and" before "research" in paragraph (e)(2).

3. Section 656.7 is amended by removing the word "and" at the end of paragraph (d)(3), removing the period at the end of paragraph (d)(4) and adding, in its place, "; and", and adding paragraph (d)(5) to read as follows:

§ 656.7 What definitions apply?

* * * * *

(d) * * *

(5) Engages in curriculum development and community outreach.

* * * * *

4. Section 656.20 is amended by revising paragraph (b) to read as follows:

§ 656.20 How does the Secretary evaluate an application?

* * * * *

(b) In general, the Secretary awards up to 150 possible points for these criteria. However, if the criterion in §§ 656.21(l) or 656.22(l) is used, the Secretary awards up to 160 possible points. The maximum possible points for each criterion are shown in parentheses.

5. Section 656.21 is revised to read as follows:

§ 656.21 What selection criteria does the Secretary use to evaluate an application for a comprehensive center?

The Secretary uses the following criteria in evaluating an application for a comprehensive center:

(a) *Program planning and budget.* (20 points) The Secretary reviews each application to determine—

(1) The extent to which the activities for which the applicant seeks funding are of high quality and directly related to the purpose of the National Resource Centers Program (5 points);

(2) The extent to which the applicant provides a development plan or timeline demonstrating how the proposed activities will contribute to a strengthened program and whether the applicant uses its resources and personnel effectively to achieve the proposed objectives (5 points);

(3) The extent to which the costs of the proposed activities are reasonable in relation to the objectives of the program (5 points); and

(4) The long-term impact of the proposed activities on the institution's undergraduate, graduate, and professional training programs (5 points).

(b) *Quality of staff resources.* (20 points) The Secretary reviews each application to determine—

(1) The extent to which teaching faculty and other staff are qualified for the current and proposed center activities and training programs, are provided professional development opportunities (including overseas experience), and participate in teaching, supervising, and advising students (10 points);

(2) The adequacy of center staffing and oversight arrangements, including outreach and administration and the extent to which faculty from a variety of departments, professional schools, and the library are involved (5 points); and

(3) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as members of racial or ethnic minority groups, women, persons with disabilities, and the elderly (5 points).

(c) *Impact and evaluation.* (20 points) The Secretary reviews each application to determine—

(1) The extent to which the center's activities and training programs have a significant impact on the university, community, region, and the Nation as shown through indices such as enrollments, graduate placement data, participation rates for events, and usage of center resources; and the extent to which the applicant supplies a clear description of how the applicant will provide equal access and treatment of eligible project participants who are members of groups that have been traditionally underrepresented, such as members of racial or ethnic minority groups, women, persons with disabilities, and the elderly (10 points); and

(2) The extent to which the applicant provides an evaluation plan that will be comprehensive and objective and that will produce quantifiable, outcome-measure-oriented data; and the extent to which recent evaluations have been used to improve the applicant's program (10 points).

(d) *Commitment to the subject area on which the center focuses.* (10 points) The Secretary reviews each application to determine the extent to which the institution provides financial and other support to the operation of the center, teaching staff for the center's subject area, library resources, linkages with institutions abroad, outreach activities, and qualified students in fields related to the center.

(e) *Strength of library.* (10 points) The Secretary reviews each application to determine—

(1) The strength of the institution's library holdings (both print and non-print, English and foreign language) in the subject area and at the educational levels (graduate, professional, undergraduate) on which the center focuses; and the extent to which the institution provides financial support for the acquisition of library materials and for library staff in the subject area of the center (5 points); and

(2) The extent to which research materials at other institutions are available to students through cooperative arrangements with other libraries or on-line databases and the extent to which teachers, students, and faculty from other institutions are able to access the library's holdings (5 points).

(f) *Quality of the center's non-language instructional program.* (20 points) The Secretary reviews each application to determine—

(1) The quality and extent of the center's course offerings in a variety of disciplines, including the extent to which courses in the center's subject matter are available in the institution's professional schools (5 points);

(2) The extent to which the center offers depth of specialized course coverage in one or more disciplines of the center's subject area (5 points);

(3) The extent to which the institution employs a sufficient number of teaching faculty to enable the center to carry out its purposes and the extent to which teaching assistants are provided with pedagogy training (5 points); and

(4) The extent to which interdisciplinary courses are offered for undergraduate and graduate students (5 points).

(g) *Quality of the center's language instructional program.* (20 points) The Secretary reviews each application to determine—

(1) The extent to which the center provides instruction in the languages of the center's subject area and the extent to which students enroll in those language courses (5 points);

(2) The extent to which the center provides three or more levels of language training and the extent to which courses in disciplines other than language, linguistics, and literature are offered in appropriate foreign languages (5 points);

(3) Whether sufficient numbers of language faculty are available to teach the languages and levels of instruction described in the application and the extent to which language teaching staff (including faculty and teaching assistants) have been exposed to current language pedagogy training appropriate for performance-based teaching (5 points); and

(4) The quality of the language program as measured by the performance-based instruction being used or developed, the adequacy of resources for language teaching and practice, and language proficiency requirements (5 points).

(h) *Quality of curriculum design.* (15 points) The Secretary reviews each application to determine—

(1) The extent to which the center's curriculum has incorporated undergraduate instruction in the applicant's area or topic of specialization into baccalaureate degree programs (for example, major, minor, or certificate programs) and the extent to which these programs and their requirements (including language requirements) are appropriate for a center in this subject area and will result in an undergraduate training program of high quality (5 points);

(2) The extent to which the center's curriculum provides training options for graduate students from a variety of disciplines and professional fields and the extent to which these programs and their requirements (including language requirements) are appropriate for a center in this subject area and result in graduate training programs of high quality (5 points); and

(3) The extent to which the center provides academic and career advising

services for students; the extent to which the center has established formal arrangements for students to conduct research or study abroad and the extent to which these arrangements are used; and the extent to which the institution facilitates student access to other institutions' study abroad and summer language programs (5 points).

(i) *Outreach activities.* (15 points) The Secretary reviews each application to determine the extent to which the center demonstrates a significant and measurable regional and national impact of, and faculty and professional school involvement in, outreach activities that involve—

(1) Elementary and secondary schools (5 points);

(2) Postsecondary institutions (5 points); and

(3) Business, media, and the general public (5 points).

(j) *Degree to which priorities are served.* (10 points) If, under the provisions of § 656.23, the Secretary establishes specific priorities for Centers, the Secretary considers the degree to which those priorities are being served.

(Authority: 20 U.S.C. 1122)

6. Section 656.22 is revised to read as follows:

§ 656.22 What selection criteria does the Secretary use to evaluate an application for an undergraduate center?

The Secretary uses the following criteria in evaluating an application for an undergraduate center:

(a) *Program planning and budget.* (20 points) The Secretary reviews each application to determine—

(1) The extent to which the activities for which the applicant seeks funding are of high quality and directly related to the purpose of the National Resource Centers Program (5 points);

(2) The extent to which the applicant provides a development plan or timeline demonstrating how the proposed activities will contribute to a strengthened program and whether the applicant uses its resources and personnel effectively to achieve the proposed objectives (5 points);

(3) The extent to which the costs of the proposed activities are reasonable in relation to the objectives of the program (5 points); and

(4) The long-term impact of the proposed activities on the institution's undergraduate training program (5 points).

(b) *Quality of staff resources.* (20 points) The Secretary reviews each application to determine—

(1) The extent to which teaching faculty and other staff are qualified for the current and proposed center activities and training programs, are provided professional development opportunities (including overseas experience), and participate in teaching, supervising, and advising students (10 points);

(2) The adequacy of center staffing and oversight arrangements, including outreach and administration and the extent to which faculty from a variety of departments, professional schools, and the library are involved (5 points); and

(3) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as members of racial or ethnic minority groups, women, persons with disabilities, and the elderly (5 points).

(c) *Impact and evaluation.* (20 points) The Secretary reviews each application to determine—

(1) The extent to which the center's activities and training programs have a significant impact on the university, community, region, and the Nation as shown through indices such as enrollments, graduate placement data, participation rates for events, and usage of center resources; the extent to which students matriculate into advanced language and area or international studies programs or related professional programs; and the extent to which the applicant supplies a clear description of how the applicant will provide equal access and treatment of eligible project participants who are members of groups that have been traditionally underrepresented, such as members of racial or ethnic minority groups, women, persons with disabilities, and the elderly (10 points); and

(2) The extent to which the applicant provides an evaluation plan that will be comprehensive and objective and produce quantifiable, outcome-measure-oriented data; and the extent to which recent evaluations have been used to improve the applicant's program (10 points).

(d) *Commitment to the subject area on which the center focuses.* (10 points) The Secretary reviews each application to determine the extent to which the institution provides financial and other support to the operation of the center, teaching staff for the center's subject area, library resources, linkages with institutions abroad, outreach activities, and qualified students in fields related to the center.

(e) *Strength of library.* (10 points) The Secretary reviews each application to determine—

(1) The strength of the institution's library holdings (both print and non-print, English and foreign language) in the subject area and at the educational levels (graduate, professional, undergraduate) on which the center focuses; and the extent to which the institution provides financial support for the acquisition of library materials and for library staff in the subject area of the center (5 points); and

(2) The extent to which research materials at other institutions are available to students through cooperative arrangements with other libraries or on-line databases and the extent to which teachers, students, and faculty from other institutions are able to access the library's holdings (5 points).

(f) *Quality of the center's non-language instructional program.* (20 points) The Secretary reviews each application to determine—

(1) The quality and extent of the center's course offerings in a variety of disciplines (5 points);

(2) The extent to which the center offers depth of specialized course coverage in one or more disciplines of the center's subject area (5 points);

(3) The extent to which the institution employs a sufficient number of teaching faculty to enable the center to carry out its purposes and the extent to which teaching assistants are provided with pedagogy training (5 points); and

(4) The extent to which interdisciplinary courses are offered for undergraduate students (5 points).

(g) *Quality of the center's language instructional program.* (20 points) The Secretary reviews each application to determine—

(1) The extent to which the center provides instruction in the languages of the center's subject area and the extent to which students enroll in those language courses (5 points);

(2) The extent to which the center provides three or more levels of language training and the extent to which courses in disciplines other than language, linguistics, and literature are offered in appropriate foreign languages (5 points);

(3) Whether sufficient numbers of language faculty are available to teach the languages and levels of instruction described in the application and the extent to which language teaching staff (including faculty and teaching assistants) have been exposed to current language pedagogy training appropriate for performance-based teaching (5 points); and

(4) The quality of the language program as measured by the performance-based instruction being used or developed, the adequacy of resources for language teaching and practice, and language proficiency requirements (5 points).

(h) *Quality of curriculum design.* (15 points) The Secretary reviews each application to determine—

(1) The extent to which the center's curriculum has incorporated undergraduate instruction in the applicant's area or topic of specialization into baccalaureate degree programs (for example, major, minor, or certificate programs) and the extent to which these programs and their requirements (including language requirements) are appropriate for a center in this subject area and will result in an undergraduate training program of high quality (10 points); and

(2) The extent to which the center provides academic and career advising services for students; the extent to which the center has established formal arrangements for students to conduct research or study abroad and the extent to which these arrangements are used; and the extent to which the institution facilitates student access to other institutions' study abroad and summer language programs (5 points).

(i) *Outreach activities.* (15 points) The Secretary reviews each application to determine the extent to which the center demonstrates a significant and measurable regional and national impact of, and faculty and professional school involvement in, outreach activities that involve—

(1) Elementary and secondary schools (5 points);

(2) Postsecondary institutions (5 points); and

(3) Business, media and the general public (5 points).

(j) *Degree to which priorities are served.* (10 points) If, under the provisions of § 656.23, the Secretary establishes specific priorities for centers, the Secretary considers the degree to which those priorities are being served.

(Authority: 20 U.S.C. 1122)

7. Section 656.23 is amended by revising paragraphs (a)(3) and (a)(4) to read as follows:

§ 656.23 What priorities may the Secretary establish?

(a) * * *

(3) Level or intensiveness of language instruction, such as intermediate or advanced language instruction, or instruction at an intensity of 10 contact hours or more per week.

(4) Types of activities to be carried out, for example, cooperative summer intensive language programs, course development, or teacher training activities.

* * * * * *

[FR Doc. 96–7595 Filed 3–27–96; 8:45 am]
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March 28, 1996

Part VII

Department of Education

34 CFR Part 657

Higher Education Programs in Modern Foreign Language Training and Area Studies—Foreign Language and Area Studies Fellowships Program; Proposed Rule

DEPARTMENT OF EDUCATION

34 CFR Part 657

RIN 1840–AC29

Higher Education Programs in Modern Foreign Language Training and Area Studies—Foreign Language and Area Studies Fellowships Program

AGENCY: Department of Education.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Secretary proposes to amend the regulations governing the Higher Education Programs in Modern Foreign Language Training and Area Studies—Foreign Language and Area Studies (FLAS) Fellowships Program. These amendments are needed in order to improve the application review process and to update the regulations in light of developments in the field of foreign language, area, and international studies. In the spirit of reinventing government, the goal of the proposed changes is to markedly reduce the burden associated with the application review process. These regulations are intended to (a) reduce the burden on applicants and readers by clarifying and restructuring selection criteria to remove ambiguity and eliminate repetition of information presented in applications, (b) facilitate funding decisions by providing a larger possible point spread for greater differentiation of rankings, (c) simplify the application process for applicants, improve the cost-effectiveness of the program, and standardize program management by adopting the fellowship award allocation system currently used to administer other Federal fellowship programs, and (d) improve program quality, efficiency, and flexibility by adopting changes program management experience shows to be appropriate.

DATES: Comments must be received on or before April 29, 1996.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Sara West, U.S. Department of Education, 600 Independence Avenue, S.W., Suite 600B, Portals Building, Washington, D.C. 20202–5331. Comments may also be sent through the Internet to "FLAS—Fellowship@ed.gov".

Comments that concern information collection requirements must be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble. A copy of those comments may also be sent to the Department representative named in the preceding paragraph.

FOR FURTHER INFORMATION CONTACT: Sara West. Telephone: (202) 401–9782. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

The Foreign Language and Area Studies Fellowships Program is one of several international education programs authorized under Part A of Title VI of the Higher Education Act of 1965, as amended (HEA). The main provisions of the regulations govern the awarding of grants designed to provide fellowship assistance to students enrolled in advanced programs of modern foreign language and area or international studies.

In the spirit of reinventing government, it is the Secretary's goal to simplify the application process and management of the Foreign Language and Area Studies Fellowships Program to benefit the public. The Secretary intends the proposed changes to add clarity to the review process, to decrease the current burden on applicants and peer reviewers, to facilitate the application of uniform standards among peer reviewers and in Federal fellowship program management, to increase cost-effectiveness of the program, and to increase flexibility in program management for funded grantees and for the Secretary.

The Secretary proposes to amend the regulations for the Foreign Language and Area Studies Fellowships Program by modifying the selection criteria for applications, by eliminating references to undergraduate programs and fellowship recipients in keeping with statutory requirements, by adopting a new system of allocating fellowship awards, and by easing restrictions on the use of fellowship awards abroad and clarifying that only academic year awards may be used for research abroad.

Selection Criteria. The selection criteria currently used are very general, leading to some misinterpretation of questions asked, frequent repetition of information, and inclusion of information that is not pertinent to the purpose of the Foreign Language and Area Studies Fellowships Program. The proposed changes seek to retain much of the sense of the current criteria while removing ambiguity regarding requested information. The purpose of the changes is to clarify what information should be presented so that (a) all applicants will provide more focused information necessary for evaluation of a proposal under this program, (b) applicants will be able to present all relevant information within fewer pages of the proposal narrative, and (c) peer reviewers will be able to more easily and accurately evaluate and rank proposals based on comparative strengths.

A reorganized, broader point scale and clearly identified point allocations for individual paragraphs of the technical review criteria are proposed in order to (a) enable peer reviewers to score more carefully and accurately differentiate between proposals of high caliber, (b) discourage peer reviewers from overlooking any individual question to be scored, and (c) clarify for peer reviewers and applicants exactly what requested information corresponds to each point value.

Undergraduate References. The Higher Education Amendments of 1992, Pub. L. 102–325, amended section 603 of the HEA to limit the awarding of FLAS fellowships to graduate students. For that reason, the Secretary eliminates references to undergraduate students or programs and use of ambiguous terms such as "advanced." The purpose of these changes is to bring the regulations in line with the authorizing statute and to clarify program requirements for applicants and grantees.

System of Allocation. The Secretary proposes to increase cost-effectiveness, simplify the application process and program management for grantees, and bring the Foreign Language and Area Studies Fellowships Program more in line with other government fellowship programs by amending the system of allocation. Under the system of allocation currently used to administer this program, a FLAS fellowship consists of a student subsistence allowance and tuition plus all required fees. Grantees are expected to submit in their proposal budgets a variety of tuition rates for graduate students at differing levels of study and enrolled in different academic programs; for example, public institutions provide different rates based upon residency requirements, while both public and private institutions often have varying tuition rates for graduate students enrolled in arts and sciences or professional degree programs or at the dissertation level. Grant monies are then allocated based on a combination of awards at a variety of tuition rates for an individual grantee institution. Because the rates supplied are projections based on rates in effect at the time of application and not actual prospective tuition rates, and because the grantee institutions do not know at the time of the grant competition which students will compete successfully for awards, the current system of allocation is imprecise. While the Secretary might allocate funds for five awards to an institution, there is no guarantee that the institution will make five awards in the amounts assumed. Depending on the students selected, it might actually make two awards at a high tuition rate or seven awards at a low tuition rate.

Under the proposed system of allocation, a FLAS fellowship consists of a student subsistence allowance and a standard institutional payment (rather than full tuition plus fees) to be established by the Secretary and announced in the application notice. This system of allocation is commonly referred to as the "cost-of-education allowance" system. By applying for an allocation of fellowship awards, the institution agrees to accept the institutional payment published in the application notice in lieu of any additional costs of tuition and fees. In cases in which the institutional payment is greater than the actual cost of tuition and fees at the institution, the excess institutional payment funds must be applied toward additional fellowship awards. The purpose of this amendment is to (a) simplify the budget portion of the application process for applicants; (b) make the Foreign Language and Area Studies Fellowships Program more "user-friendly" for the public by adopting a system of allocation currently used for a variety of Federal fellowship programs administered by the U.S. Department of Education and other agencies; (c) simplify grantee institutions' own competitions for fellowship candidates by treating each applicant equally, regardless of tuition rate; (d) eliminate imprecision in how funds will actually be used by grantees and increase the accountability of grantee institutions by requiring them to make a minimum number of awards with their grant allocations; and (e) increase the cost-effectiveness of the program by requiring institutions with high tuition rates to accept a standard institutional payment in lieu of full tuition and fees.

Easing Limits on Overseas Use of Fellowships. Proposed changes to the limitations on the use of funds for overseas fellowships seek to expand grantees' program management options and clarify the appropriate use of awards. The requirement that students using awards at overseas language programs be at the advanced level of language study is expanded to include intermediate-level study for all eligible languages as well as beginning-level study of languages for which appropriate instruction is not available in the United States. Additional modifications are intended to clarify that only academic year awards may be used abroad for research, and summer fellowships are to be used for intensive language training rather than for short-term dissertation research.

Explanation of Changes

The Secretary proposes to make the following changes:

Section 657.1 What is the Foreign Language and Area Studies Fellowships Program?

Section 657.1(a). The Secretary proposes to modify this section to clarify that only graduate-level students are eligible to receive awards since the 1992 reauthorization of the HEA. The current language indicates that students who receive fellowships must be enrolled in "advanced" training. The Secretary believes that substituting the word "graduate" for "advanced" more clearly states the statutory requirement.

Section 657.2 Who is eligible to receive an allocation of fellowships?

Section 657.2(d). The Secretary proposes to eliminate the reference to the Undergraduate International Studies and Foreign Language Program because undergraduate students are no longer eligible to receive awards since the 1992 reauthorization of the HEA.

Section 657.3 Who is eligible to receive a fellowship?

Section 657.3(a)(3). The Secretary proposes to eliminate the entire paragraph referring to students who are permanent residents of the Trust Territory of the Pacific Islands, because there is no longer a Trust Territory of the Pacific Islands.

Section 657.20 How does the Secretary evaluate an institutional application for an allocation of fellowships?

Section 657.20(b). The Secretary proposes to expand the range of possible points for applications in order to enable peer reviewers in scoring to more carefully and accurately differentiate between proposals of high caliber. It has been the Secretary's experience that competition for grants under the Foreign Language and Area Studies Fellowships Program is strong; recent winning applicants have scored within a 15-point range on the current scale. As a result, there has been narrow point differentiation among winning applicants and the highest scoring unsuccessful applicants. The Secretary believes that expanding the possible point range would facilitate funding decisions by providing peer reviewers with a larger scale on which to rank applications, allowing for greater differentiation of scores for applications of similar but different merit. The changed point scale, reflecting changes in the selection criteria and their point allocations, would add 40 possible points for competitions for which there are no announced competitive priorities and 50 possible points for competitions for which competitive priorities have been announced.

Section 657.21 What criteria does the Secretary use in selecting institutions for an allocation of fellowships?

The Secretary proposes extensive changes in this section in order to improve the program's application review process and to reflect current standards in the field of foreign language, area and international studies. The proposed selection criteria identify specific information to be provided in an application, thereby facilitating proposal writing for applicants and evaluation for peer reviewers. The proposed criteria incorporate most aspects of the current criteria but are restructured to enable applicants to present information in a more succinct and less repetitious manner.

Section 657.21(a). The Secretary proposes to eliminate the current Plan of operation criterion and substitute a Foreign language and area studies awardee selection procedures criterion that incorporates elements of the current Plan of operation and Need and potential impact criteria. It has been the Secretary's experience that the language of the current criterion has led to some confusion among grantees and peer reviewers regarding what information should be presented. For example, one question in the Plan of operation criterion asks about the extent to which the objectives of the project relate to the purpose of the program. Applicants and peer reviewers are often uncertain whether "program" refers to the Foreign Language and Area Studies Fellowships Program or to the applicant's training program. The Secretary believes that the proposed language would eliminate uncertainty and assist applicants in writing, and peer reviewers in evaluating, proposals for fellowship awards.

Section 657.21(b). The Secretary proposes to replace the Quality of key personnel criterion with a criterion called Quality of staff resources. The staff resources criterion would ask the same kind of questions as the current key personnel criterion, but would also require explicit information to be

presented regarding faculty and staff involvement in fellowship program activities and oversight and professional development opportunities.

Section 657.21(c). The Secretary proposes to eliminate the current Evaluation plan criterion. The Secretary proposes an Impact and evaluation criterion that would combine related aspects of the current Need and potential impact, Evaluation plan, and Plan of operation criteria. Combining elements of these criteria is logical due to the interrelatedness of questions about past performance and evaluating future performance.

Section 657.21(d). The Secretary proposes to modify the language of the Commitment to the subject area on which the center or program focuses criterion by clarifying those areas for which institutional support should be identified. In the past, some applicant institutions have shown support for the applicant's students by offering matching funds or tuition waivers for fellowship grants received. Although the Foreign Language and Area Studies Fellowships Program does not have a cost-matching requirement, the Secretary would like to encourage institutional efforts to promote the cost-effectiveness of the program as well as institutional commitment to the applicant's training program. For this reason, this criterion also asks applicants to provide information about the extent to which the institution provides financial support to graduate students in fields related to the applicant's teaching program.

Section 657.21(e). The Secretary proposes to modify and redesignate the Strength of library criterion. Due to the changes in information technology and the rising costs of maintaining traditional collections, a library's book and periodical holdings are no longer the only factor that should be considered in evaluating the strength of an applicant institution's library. The proposed regulations would clarify information to be presented and take into account that library resources can be provided in print and non-print media, through cooperative collections and access arrangements with other library collections, and through on-line, electronic data bases.

Section 657.21(f). The Secretary proposes to add a new criterion called Quality of the applicant's non-language instructional program. The proposed criterion would incorporate related elements of the current Quality of the applicant's instructional program and Quality of the applicant's relationships within the institution criteria. The Secretary believes that including all questions related to non-language course offerings in one section would allow grantees to streamline their proposals and avoid repetition. It has been the Secretary's experience that combining questions about non-language and language courses in the same criterion can lead to applicants neglecting to provide full information about both non-language and language training. For that reason, the Secretary proposes to ask parallel questions regarding the quality of language and non-language training under two separate criteria. It is the opinion of the Secretary that separate criteria would emphasize the importance to the Foreign Language and Area Studies Fellowships Program of both language and area or international studies training.

Section 657.21(g). The Secretary proposes to address under this criterion the Quality of the applicant's language instructional program. Questions asked under this criterion are similar to questions currently asked under Quality of the applicant's instructional program criterion but more specifically identify information to be provided.

Section 657.21(h). The Secretary proposes to replace the current Overseas activities criterion with a criterion called Quality of curriculum design. Relevant questions about overseas activities would be asked under the proposed Quality of curriculum design, Commitment to the subject area on which the applicant focuses, and Quality of staff resources criteria. It has been the Secretary's experience in this program that overseas activities have been critical to providing successful training options for students and professional development opportunities for faculty. Therefore, the Secretary believes that it is more appropriate and more clearly related to the purpose of the Foreign Language and Area Studies Fellowships Program to ask questions regarding overseas activities in the context of curriculum design and staff resources. The proposed Quality of curriculum design criterion would combine elements of the current Overseas activities and Quality of the applicant's relationships within the institution criteria. The new criterion would allow applicants to focus on the issue of training options for students within the context of a single criterion.

Section 657.21(i). The Secretary proposes to eliminate the current Need and potential impact criterion because related questions would be asked under the proposed Foreign language and area studies fellowships awardee selection procedures and Impact and evaluation criteria. The Secretary proposes to redesignate the current Priorities criterion as § 657.21(i) and to decrease the point value from 20 points to 10. It has been the Secretary's experience that most proposals submitted for competitions under this program succeed in securing almost all of the points allocated to the competitive priority. A 20-point allocation to the competitive priority can result in applications with weaker scores on the mandatory criteria ranking higher than quality proposals that do not meet the priority. A 10-point competitive priority allocation would continue to ensure that quality proposals that meet the competitive priority are funded before quality proposals that do not meet the priority. The Secretary proposes to decrease the total possible points allocated for priorities in order to maintain proportion in the competition and to ensure that only high quality proposals are funded.

Section 657.21(j). The Secretary proposes to eliminate this paragraph because the Priorities criterion would be included under § 657.21(i).

Section 657.31 What is the amount of a fellowship?

The Secretary proposes to change the system of allocation of fellowship award monies in order to simplify the administration of awards for grantees, increase cost-effectiveness of the program, and increase uniformity of procedures among federally funded fellowship programs. The Secretary proposes to specify that each fellowship awarded would consist of a standard institutional payment and a subsistence allowance to be announced in the application notice published in the **Federal Register**. The Secretary also proposes to delete references to education levels of recipients since all recipients must be at the graduate level.

Section 657.32 What is the payment procedure for fellowships?

Section 657.32(d). The Secretary proposes to limit the use of fellowship funds by stating that funds not used by one fellowship recipient for reasons of withdrawal are to be used for alternate recipients to the extent that funds are available for a full subsistence allowance. In addition, if actual tuition rates are less than the institutional payment, excess funds must be used to fund additional fellowships to the extent that funds are available for a full subsistence allowance. This provision would maximize the cost-efficiency of the fellowship funds by ensuring that low-tuition institutions use excess funds to support additional fellows.

Section 657.33 What are the limitations on the use of funds for overseas fellowships?

The Secretary proposes changes to this section that would ease restrictions on and clarify appropriate use of overseas awards. It has been the Secretary's experience that students at an intermediate level of language study can benefit as much from an overseas study experience as advanced students if enrolled in a high-quality language program. Furthermore, appropriate instruction (particularly for less-commonly-taught languages) is not always available in the United States.

Section 657.33(b)(1). The Secretary proposes to allow students at the intermediate level of language study to enroll in overseas language programs. Currently, only advanced students may use awards abroad. Additionally, the Secretary proposes to allow the use of fellowship awards for overseas study at the beginning level of languages for which instruction is frequently not available in the United States.

Section 657.33(b)(2). In order to clarify for grantees that summer fellowships are to be used for intensive language training rather than short-term dissertation research, the Secretary proposes to specify that awards may be approved for dissertation research during the academic year only.

Executive Order 12866

Clarity of the Regulations

Executive Order 12866 requires each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make these proposed regulations easier to understand, including answers to questions such as the following: (1) Are the requirements in the regulations clearly stated? (2) Do the regulations contain technical terms or other wording that interferes with their clarity? (3) Does the format of the regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity? Would the regulations be easier to understand if they were divided into more (but shorter) sections? (A "section" is preceded by the symbol "§" and a numbered heading; for example, § 657.2 *Who is eligible to receive an allocation of fellowships?*) (4) Is the description of the proposed regulations in the "Supplementary Information" section of this preamble helpful in understanding the proposed regulations? How could this description be more helpful in making the proposed regulations easier to understand? (5) What else could the Department do to make the regulations easier to understand?

A copy of any comments that concern how the Department could make these proposed regulations easier to understand should also be sent to Stanley M. Cohen, Regulations Quality Officer, U.S. Department of Education, 600 Independence Avenue, S.W. (Room 5100 FB–10B), Washington, D.C. 20202–2241.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities.

These proposed regulations merely correct or simplify and clarify provisions contained in previous regulations and would impose minimal requirements to ensure the proper expenditure of program funds. The small entities that would be affected by these proposed regulations are institutions of higher education receiving Federal funds under this program. However, the regulations would not have a significant economic impact on the institutions affected because the regulations would not impose excessive regulatory burdens or require unnecessary Federal supervision.

Paperwork Reduction Act of 1995

Section 657.21 contains information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department of Education has submitted a copy of this section to the Office of Management and Budget (OMB) for its review.

Collection of Information: Foreign Language and Area Studies Fellowships Program.

Institutions of higher education and consortia of institutions of higher education are eligible to apply for grants under these regulations. The information to be collected is specified by the proposed technical review criteria and includes information currently collected under regulations for this program. This information is needed and used by the Department to make grants.

The Secretary estimates that this information collection will decrease the current estimated burden of 155 hours per response to 100 hours per response. The estimated burden includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the application to be submitted. Competitions for the Foreign Language and Area Studies Fellowships Program are held every three years, with approximately 160 respondents per competition.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10235, New Executive Office Building, Washington, D.C. 20503; Attention: Wendy Taylor.

The Department considers comments by the public on this proposed collection of information in—

- Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;
- Evaluating the accuracy of the Department's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Department on the proposed regulations.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations. All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Suite 600B, Portals Building, 1280 Maryland Avenue, S.W., Washington, D.C. between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week, except Federal holidays.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 657

Colleges and universities, Education, International education, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Number 84.015)

Dated: March 25, 1996.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

The Secretary proposes to amend Title 34 of the Code of Federal Regulations by revising Part 657 as follows:

PART 657—FOREIGN LANGUAGE AND AREA STUDIES FELLOWSHIPS PROGRAM

1. The authority citation for Part 657 continues to read as follows:

Authority: 20 U.S.C. 1122, unless otherwise noted.

§ 657.1 [Amended]

2. Section 657.1 is amended by revising the heading by removing the word "Fellowship" and adding, in its place, the word "Fellowships" and by removing the word "advanced" and adding, in its place, "graduate" in paragraph (a).

§ 657.2 [Amended]

3. Section 657.2 is amended by removing "or the Undergraduate International Studies and Foreign Language Program, 34 CFR part 658," in paragraph (d).

§ 657.3 [Amended]

4. Section 657.3 is amended by removing paragraph (a)(3), adding the word "or" at the end of paragraph (a)(1), and removing the word "or" at the end of paragraph (a)(2).

5. Section 657.20 is amended by revising paragraph (b) to read as follows:

§ 657.20 How does the Secretary evaluate an institutional application for an allocation of fellowships?

* * * * *

(b) In general, the Secretary awards up to 140 possible points for these criteria. However, if priority criteria are used, the Secretary awards up to 150 possible points. The maximum possible points for each criterion are shown in parentheses.

6. Section 657.21 is revised to read as follows:

§ 657.21 What criteria does the Secretary use in selecting institutions for an allocation of fellowships?

(a) *Foreign language and area studies fellowships awardee selection procedures.* (15 points) The Secretary reviews each application to determine—

(1) Whether the selection plan is of high quality, showing how awards will be advertised, how students apply, what selection criteria are used, who selects the fellows, when each step will take place, and how the process will result in awards being made to correspond to any announced priorities; and

(2) Whether the applicant provides information about current and prospective applicant/award ratios.

(b) *Quality of staff resources.* (15 points) The Secretary reviews each application to determine—

(1) The extent to which teaching faculty and other staff are qualified for the current and proposed activities and training programs, are provided professional development opportunities (including overseas experience), and participate in teaching, supervising, and advising students (5 points);

(2) The adequacy of applicant staffing and oversight arrangements and the extent to which faculty from a variety of departments, professional schools, and the library are involved (5 points); and

(3) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as members of racial or ethnic minority groups, women, persons with disabilities, and the elderly (5 points).

(c) *Impact and evaluation.* (20 points) The Secretary reviews each application to determine—

(1) The extent to which the applicant's activities and training programs have contributed to an improved supply of specialists on the program's subject as shown through indices such as graduate enrollments and placement data; and the extent to which the applicant supplies a clear description of how the applicant will provide equal access and treatment of eligible project participants who are members of groups that have been traditionally underrepresented, such as members of racial or ethnic minority groups, women, persons with disabilities, and the elderly (15 points); and

(2) The extent to which the applicant provides an evaluation plan that will be comprehensive and objective and that will produce quantifiable, outcome-measure-oriented data; and the extent to which recent evaluations have been used to improve the applicant's program (5 points).

(d) *Commitment to the subject area on which the applicant or program focuses.* (10 points) The Secretary reviews each application to determine—

(1) The extent to which the institution provides financial and other support to the operation of the applicant, teaching staff for the applicant's subject area, library resources, and linkages with institutions abroad (5 points); and

(2) The extent to which the institution provides financial support to graduate students in fields related to the applicant's teaching program (5 points).

(e) *Strength of library.* (15 points) The Secretary reviews each application to determine—

(1) The strength of the institution's library holdings (both print and non-print, English and foreign language) for graduate students; and the extent to which the institution provides financial support for the acquisition of library materials and for library staff in the subject area of the applicant (10 points); and

(2) The extent to which research materials at other institutions are available to students through cooperative arrangements with other libraries or on-line databases (5 points).

(f) *Quality of the applicant's non-language instructional program.* (25 points) The Secretary reviews each application to determine—

(1) The quality and extent of the applicant's course offerings in a variety of disciplines, including the extent to which courses in the applicant's subject matter are available in the institution's professional schools (10 points);

(2) The extent to which the applicant offers depth of specialized course coverage in one or more disciplines on the applicant's subject area (5 points);

(3) The extent to which the institution employs a sufficient number of teaching faculty to enable the applicant to carry out its purposes and the extent to which teaching assistants are provided with pedagogy training (5 points); and

(4) The extent to which interdisciplinary courses are offered for graduate students (5 points).

(g) *Quality of the applicant's language instructional program.* (20 points) The Secretary reviews each application to determine—

(1) The extent to which the applicant provides instruction in the languages of the applicant's subject area and the extent to which students enroll in those language courses (5 points);

(2) The extent to which the applicant provides three or more levels of language training and the extent to which courses in disciplines other than language, linguistics, and literature are offered in appropriate foreign languages (5 points);

(3) Whether sufficient numbers of language faculty are available to teach the languages and levels of instruction described in the application and the extent to which language teaching staff (including faculty and teaching assistants) have been exposed to current language pedagogy training appropriate for performance-based teaching (5 points); and

(4) The quality of the language program as measured by the performance-based instruction being used or developed, the adequacy of resources for language teaching and practice, and language proficiency requirements (5 points).

(h) *Quality of curriculum design.* (20 points) The Secretary reviews each application to determine—

(1) The extent to which the applicant's curriculum provides training options for graduate students from a variety of disciplines and professional fields and the extent to which these programs and their requirements (including language requirements) are appropriate for an applicant in this subject area and result in graduate training programs of high quality (10 points);

(2) The extent to which the applicant provides academic and career advising services for students (5 points); and

(3) The extent to which the applicant has established formal arrangements for students to conduct research or study abroad and the extent to which these arrangements are used; and the extent to which the institution facilitates student access to other institutions' study abroad and summer language programs (5 points).

(i) *Priorities.* (10 points) If one or more priorities have been established under § 657.22, the Secretary reviews each application for information that shows the extent to which the center or program meets these priorities.

(Authority: 20 U.S.C. 1122)

7. Section 657.31 is amended by revising paragraphs (a)(2) and (b)(1), and adding new paragraph (a)(3) to read as follows:

§ 657.31 What is the amount of a fellowship?

(a) * * *

(2) Each fellowship includes an institutional payment and a subsistence allowance to be determined by the Secretary.

(3) If the institutional payment determined by the Secretary is greater than the tuition and fees charged by the institution, the institutional payment portion of the fellowship is limited to actual tuition and fees. The difference between actual tuition and fees and the Secretary's institutional payment shall be used to fund additional fellowships to the extent that funds are available for a full subsistence allowance.

(4) If permitted by the Secretary, the fellowship may include an allowance for travel and an allowance for dependents.

(b) The Secretary announces in an application notice published in the **Federal Register**—

(1) The amounts of the subsistence allowance and the institutional payment for an academic year and the subsistence allowance and the institutional payment for a summer session;

* * * * *

8. Section 657.32 is amended by adding a new paragraph (d) to read as follows:

§ 657.32 What is the payment procedure for fellowships?

* * * * *

(d) Funds not used by one recipient for reasons of withdrawal are to be used for alternate recipients to the extent that funds are available for a full subsistence allowance.

9. Section 657.33 is amended by revising paragraph (b) to read as follows:

§ 657.33 What are the limitations on the use of funds for overseas fellowships?

* * * * *

(b) The Secretary may approve the use of a fellowship outside the United States if the student is—

(1) Enrolled in an overseas program approved by the institution at which the student is enrolled in the United States for study at an intermediate or advanced level or at the beginning level if appropriate equivalent instruction is not available in the United States; or

(2) Engaged during the academic year in research that cannot be done effectively in the United States and is affiliated with an institution of higher education or other appropriate organization in the host country.

[FR Doc. 96–7593 Filed 3–27–96; 8:45 am]

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Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

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Vol. 61, No. 62
Friday, March 29, 1996

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 925

[Docket No. FV95–925–1C]

Grapes Grown in a Designated Area of Southeastern California; Interim Final Rule To Revise Container Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Correction to interim final rule.

SUMMARY: This document contains a correction to the interim final rule published on March 19, 1996 [61 FR 11127] concerning grapes grown in Southeastern California.

EFFECTIVE DATE: March 19, 1996.

FOR FURTHER INFORMATION CONTACT: Charles L. Rush, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2526–S, Washington, DC 20090–6456, telephone (202) 690–3670; or Rose M. Aguayo, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone (209) 487–5901.

SUPPLEMENTARY INFORMATION:

Background

This rule adds two new containers to the list of containers authorized for use by table grape handlers regulated under the marketing order. This rule also reduces the minimum net weight of containers of California table grapes from 22 pounds to 20 pounds and for grapes packed in poly bags from 20 pounds to 18 pounds.

Need for Correction

The interim final rule as published contains an error in the amendatory language affecting 7 CFR part 925.

Correction of Publication

Accordingly, in FR Doc. 96–6348, published March 19, 1996, page 11129, amendatory language number 2, is corrected to read as follows:

§ 925.304 [Corrected]

2. In § 925.304, paragraph (b)(2) is revised and paragraphs (b)(1)(vi) and (b)(1)(vii) are redesignated as paragraphs (b)(1)(viii) and (b)(1)(ix) and new paragraphs (b)(1)(vi) and (b)(1)(vii) are added to read as follows:

Dated: March 25, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 96–7653 Filed 3–28–96; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–70–AD; Amendment 39–9553; AD 96–07–04]

Airworthiness Directives; Fokker Model F27 Mark 050 and Model F28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Fokker Model F27 Mark 050 and Model F28 Mark 0100 series airplanes, that requires an inspection to verify that adequate clearance exists between the insulation screen and the two adjacent terminal bolts, and replacement of the circuit breaker terminal bolts with new bolts, if necessary. This amendment is prompted by a report that circuit breaker terminal bolts that were too long were discovered installed in the circuit breaker panels. The actions specified by this AD are intended to prevent damage to the insulation screen between adjacent rows of circuit breakers, as the result of a circuit breaker terminal bolt being too long; this condition could lead to electrical arcing and loss of the associated electrical system, which could result in the potential for an electrical fire.

DATES: Effective April 29, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 29, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2141; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Fokker Model F27 Mark 050 and Model F28 Mark 0100 series airplanes was published in the **Federal Register** on November 28, 1995 (60 FR 58584). That action proposed to require a one-time inspection to verify that adequate clearance exists between the insulation screen and the two adjacent terminal bolts, and replacement of the circuit breaker terminal bolts with new bolts, if necessary.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supports the proposed rule.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 44 Model F28 Mark 0100 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators of Model F28 Mark 0100

series airplanes is estimated to be $2,640, or $60 per airplane.

Should an operator of Model F28 Mark 0100 series airplanes be required to accomplish the necessary bolt replacement, it will take approximately 7 work hours per airplane to accomplish the replacement, at an average labor rate of $60 per work hour. Required parts will cost approximately $100 per airplane. Based on these figures, the cost impact of any necessary replacement action is estimated to be $520 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Currently there are no Fokker Model F27 Mark 050 series airplanes on the U.S. Register. However, should an affected airplane be imported and placed on the U.S. Register in the future, it will take approximately 1 work hour per airplane to accomplish the required inspection, at an average labor rate of $60 per work hour. Based on these figures, the impact of the required inspection on operators of Model F27 Mark 050 series airplanes will be $60 per airplane.

Should an operator of Model F27 Mark 050 series airplanes be required to accomplish the necessary bolt replacement, it will take approximately 17 work hours per airplane to accomplish the replacement, at an average labor rate of $60 per work hour. Required parts will cost approximately $150 per airplane. Based on these figures, the cost impact of any necessary replacement action is estimated to be $1,170 per airplane.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–07–04 Fokker: Amendment 39–9553. Docket 95–NM–70–AD.

Applicability: Model F27 Mark 050 series airplanes having serial numbers 20247 through 20292 inclusive, and 20294 through 20297 inclusive; and Model F28 Mark 0100 series airplanes having serial numbers 11390 through 11479 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent electrical arcing and subsequent loss of the associated electrical system, which could result in the potential for an electrical fire, accomplish the following:

(a) Within 12 months after the effective date of this AD, perform an inspection to verify if adequate clearance exists between the insulation screen and the two adjacent terminal bolts in accordance with Fokker Service Bulletin SBF100–20–001, dated January 15, 1994 (for Model F28 Mark 0100 series airplanes), or Fokker Service Bulletin SBF50–20–003, dated January 11, 1994 (for Model F27 Mark 050 series airplanes), as applicable.

(1) If adequate clearance is found, no further action is required by this AD.

(2) If inadequate clearance is found, prior to further flight, replace the circuit breaker terminal bolts with new bolts in accordance with the applicable service bulletin.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The inspection and replacement shall be done in accordance with Fokker Service Bulletin SBF100–20–001, dated January 15, 1994, or Fokker Service Bulletin SBF50–20–003, dated January 11, 1994, as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on April 29, 1996.

Issued in Renton, Washington, on March 21, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–7400 Filed 3–28–96; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 39

[Docket No. 95–NM–86–AD; Amendment 39–9555; AD 96–07–06]

Airworthiness Directives; Fokker Model F28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Fokker Model F28 Mark 0100 series airplanes, that requires inspection(s) to verify that the position indicator of the fuel balance transfer valve (FBTV) is in the closed position, and closing the FBTV, if necessary; and deactivation of the fuel balance transfer system (FBTS). This amendment is prompted by a report that, under certain failure conditions, the actuator of the FBTV could remain in the open position without a flight deck indication. The actions specified by this AD are intended to ensure that the FBTV is not in the open position during flight, which could lead to the reduction of fuel supply to the engines during cross-feed operation and consequent engine fuel starvation.

DATES: Effective April 29, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 29, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2141; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Fokker Model F28 Mark 0100 series airplanes was published in the **Federal Register** on December 11, 1995 (60 FR 63470). That action proposed to require inspection(s) to verify that the position indicator of the fuel balance transfer valve (FBTV) is in the closed position, and closing the FBTV, if necessary; and deactivation of the fuel balance transfer system (FBTS).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supports the proposed rule.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 4 airplanes of U.S. registry will be affected by this AD, that it will take approximately 4 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $250 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $1,950, or $490 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–07–06 Fokker: Amendment 39–9555. Docket 95–NM–86–AD.

Applicability: Model F28 Mark 0100 series airplanes, as listed in Fokker Service Bulletin SBF100–28–030, Revision 1, dated December 5, 1994; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent the reduction of fuel supply to the engines during cross-feed operation which could lead to engine fuel starvation, accomplish the following:

(a) After the effective date of this AD, whenever the fuel balance transfer system (FBTS) is used during maintenance, prior to further flight, perform an inspection to verify that the position indicator of the fuel balance transfer valve (FBTV) is in the closed position, in accordance with Fokker Service Bulletin SBF100–28–030, Revision 1, dated December 5, 1994. The inspection requirements of this paragraph must be accomplished until the deactivation required by paragraph (b) of this AD is accomplished.

(1) If the position indicator is in the closed position, no further action is required by this paragraph.

(2) If the position indicator is in the open position, close the FBTV in accordance with the service bulletin.

(b) Within 90 days after the effective date of this AD, deactivate the FBTS in accordance with either Part 2 or Part 3 of the Accomplishment Instructions of Fokker Service Bulletin SBF100–28–030, Revision 1, dated December 5, 1994, as applicable. Accomplishment of the deactivation constitutes terminating action for the repetitive inspection requirements of paragraph (a) of this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of

compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The actions shall be done in accordance with Fokker Service Bulletin SBF100–28–030, Revision 1, dated December 5, 1994, which contains the following list of effective pages:

Page No.	Revision level shown on page	Date shown on page
1–3, 5, 8, 10 .	1	December 5, 1994.
4, 6, 7, 9	Original	August 28, 1994.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(f) This amendment becomes effective on April 29, 1996.

Issued in Renton, Washington, on March 21, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–7399 Filed 3–28–96; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 39

[Docket No. 95–NM–136–AD; Amendment 39–9554; AD 96–07–05]

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Dornier Model 328–100 series airplanes, that requires installation of a reinforcement doubler on the rudder skin. This amendment is prompted by the results of a design review of this airplane model that revealed inadequate structural strength of the attachment fitting of the rudder damper and of the adjacent structure. The actions specified by this AD are intended to prevent failure of the attachment structure of the rudder damper in the event of aerodynamic gust loads, as the result of inadequate structural strength of the subject structure.

DATES: Effective April 29, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 29, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from Dornier Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Gary Lium, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–1112; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Dornier Model 328–100 series airplanes was published in the **Federal Register** on January 3, 1996 (61 FR 133). That action proposed to require installation of a reinforcement doubler on the rudder skin.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supports the proposed rule.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 12 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will be supplied by the manufacturer at no cost to operators. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $1,440, or $120 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–07–05 Dornier: Amendment 39–9554. Docket 95–NM–136–AD.

Applicability: Model 328–100 series airplanes, serial numbers 3005 through 3024 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the attachment structure of the rudder damper in the event of aerodynamic gust loads, accomplish the following:

(a) Within 6 months after the effective date of this AD, install a reinforcement doubler on the rudder skin in accordance with Dornier Service Bulletin SB–328–27–063, Revision 1, dated January 26, 1995.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The installation shall be done in accordance with Dornier Service Bulletin SB–328–27–063, Revision 1, dated January 26, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Dornier Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(e) This amendment becomes effective on April 29, 1996.

Issued in Renton, Washington, on March 21, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–7398 Filed 3–28–96; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 97

[Docket No. 28508; Amdt. No. 1718]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and

safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on March 22, 1996.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective April 25, 1996*

Athens, GA, Athens Muni, LOC RWY 27, Orig, CANCELLED
Athens, GA, Athens Muni, ILS RWY 27, Orig
Independence, KS, Independence Muni, NDB RWY 17, Amdt 1, CANCELLED
Minneapolis, MN, Airlake, VOR or GPS RWY 11, Amdt 1
Hettinger, ND, Hettinger Municipal, GPS RWY 30, Orig
Chillicothe, OH, Ross County, GPS RWY 23, Orig
Portland, OR, Portland Intl, LOC BC RWY 10L, Amdt 14, CANCELLED
Rice Lake, WI, Rice Lake Rgnl-Carl's Field, VOR/DME RWY 19, Orig

** * * Effective May 23, 1996*

Arlington, TX, Arlington Muni, GPS RWY 34, Orig

** * * Effective June 20, 1996*

Harrison, AR, Boone County, GPS RWY 18, Orig
Mountain Home, AR, Baxter County Regional, GPS RWY 5, Orig
Mountain Home, AR, Baxter County Regional, GPS RWY 23, Orig
Pine Bluff, AR, Grider Field, GPS RWY 35, Orig
Warren, AR, Warren Muni, GPS RWY 21, Orig
Muscatine, IA, Muscatine Muni, GPS RWY 23, Orig
Scott City, KS, Scott City Muni, NDB RWY 35, Orig
Alice, TX, Alice Intl, GPS RWY 31, Orig
Alpine, TX, Alpine-Casparis Municipal, GPS RWY 19, Orig
Bay City, TX, Bay City Muni, GPS RWY 13, Orig
Summersville, WV, Summersville, GPS RWY 4, Orig

** * * Effective Upon Publication*

Sioux Falls, SD, Joe Foss Field, ILS RWY 21, Amdt 8

Note: The FAA published procedures in Docket No. 28475, Amdt. No. 1712 to Part 97 to the Federal Aviation Regulations (VOL. 61, FR No. 41, Page 7699, dated Thursday, February 29, 1996) under Section 97.27 which are hereby amended as follows:

Santa Fe, NM, Santa Fe County Muni, VOR/DME or GPS–A, Amdt 1
Santa Fe, NM, Santa Fe County Muni, NDB or GPS RWY 2, Amdt 4

Note: The FAA published a procedure in Docket No. 28447, Amdt. No. 1707 to Part 97 to the Federal Aviation Regulations (VOL. 61, FR No. 23, Page 3796, dated Friday, February 2, 1996) under Section 97.33 which is hereby amended as follows:

Kaiser/Lake Ozark, MO, Lee C. Fine Memorial, GPS RWY 21, Orig

[FR Doc. 96–7763 Filed 3–28–96; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 28509; Amdt. No. 1719]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviations Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been cancelled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC, on March 22, 1996.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective Upon Publication*

FDC date	State	City	Airport	FDC No.	SIAP
02/06/96	FL	Orlando	Orlando Intl	FDC 6/0901	VOR/DME or GPS RWY 36L AMDT 4.
02/23/96	IL	Sterling Rockfalls	Whiteside County-Joseph H. Bittorf Field.	FDC 6/1172	NDB or GPS RWY 7 AMDT 4. This Corrects Notam in TL96–07.
03/07/96	WI	Rhinelander	Rhinelander-Oneida County	FDC 6/1472	VOR/DME or GPS RWY 5 ORIG, VOR/DME or GPS RWY 23 AMDT 10, VOR/DME or GPS RWY 27 ORIG.
03/08/96	MN	Rushford	Rushford Muni	FDC 6/1484	VOR/DME–A ORIG.
03/08/96	WI	Rhinelander	Rhinelander-Oneida County	FDC 6/1473	ILS RWY 9 AMDT 5, VOR or GPS RWY 9 AMDT 4.
03/11/96	FL	Melbourne	Melbourne Intl	FDC 6/1519	LOC BC RWY 27L, AMDT 8A.
03/13/96	GA	Marietta	Cobb County-McCollum Field	FDC 6/1574	VOR/DME or GPS RWY 9 ORIG.
03/15/96	TX	Lancaster	Lancaster	FDC 6/1621	NDB or GPS RWY 31, ORIG.
03/16/96	IA	Newton	Newton Muni	FDC 6/1634	ILS RWY 32, AMDT 1A.
03/18/96	GA	Winder	Winder	FDC 6/1681	BOR/DME or GPS–A, AMDT 9.
03/18/96	GA	Winder	Winder	FDC 6/1982	LOC RWY 31, AMDT 8.
03/18/96	IL	Peoria	Greater Peoria Regional	FDC 6/1678	ILS/DME RWY 4 ORIG.
03/19/96	OH	Wilmington	Airborne Airpark	FDC 6/1710	ILS/DME RWY 4R AMDT 1.
03/19/96	TS	Pecos	Pecos muni	FDC 6/1709	VOR or GPS RWY 14, AMDT 7.

FDC date	State	City	Airport	FDC No.	SIAP
03/20/96	FL	Fort Myers	Southwest Florida Intl	FDC 6/1749	NDB or GPS RWY 6, AMDT 4.
03/20/96	FL	Fort Myers	Southwest Florida Intl	FDC 6/1750	ILS RWY 6, AMDT 4.
03/20/96	KY	Louisville	Louisville Intl-Standiford Field	FDC 6/1737	ILS RWY 35, ORIG–A.
03/20/96	KY	Louisville	Louisville Intl-Standiford Field	FDC 6/1739	NDB or GPS RWY 29, AMDT 19.
03/20/96	KY	Louisville	Louisville Intl-Standiford Field	FDC 6/1740	ILS RWY 29, AMDT 22.
03/20/96	KY	Louisville	Louisville Intl-Standiford	FDC 6/1741	ILS RWY 1, AMDT 11.
03/20/96	KY	Louisville	Louisville Intl-Standiford Field	FDC 6/1742	ILS RWY 17, ORIG–A.
03/20/96	KY	Louisville	Louisville Intl-Standiford Field	FDC 6/1743	RADAR–1, AMDT 25.
03/20/96	KY	Louisville	Louisville Intl-Standiford Field	FDC 6/1744	NDB or GPS RWY 1, AMDT 8.
03/20/96	KY	Louisville	Louisville Intl-Standiford Field	FDC 6/1746	VOR or TACAN RWY 29, AMDT 22.
03/21/96	GA	Winder	Winder	FDC 6/1782	NDB or GPS RWY 31, AMDT. 8
03/21/96	KY	Louisville	Louisville Intl-Standiford Field	FDC 6/1771	ILS RWY 19, AMDT 9A.

[FR Doc. 96–7764 Filed 3–28–96; 8:45 am]
BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 28510; Amdt. No. 1720]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Form 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. The SIAPs contained in this amendment are based on the criteria contained in the United States Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports.

The FAA has determined through testing that current non-localizer type, non-precision instrument approaches developed using the TERPS criteria can be flown by aircraft equipped with Global Positioning System (GPS) equipment. In consideration of the above, the applicable Standard Instrument Approach procedures (SIAPs) will be altered to include "or GPS" in the title without otherwise reviewing or modifying the procedure. (Once a stand alone GPS procedure is developed, the procedure title will be altered to remove "or GPS" from these non-localizer, non-precision instrument approach procedure titles.) Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are, impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC, on March 22, 1996.

Thomas C. Accardi,

Director, Flight Standard Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.27, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.27 NDB, NDB/DME; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective April 25, 1996*

Alturas, CA, Alturas Muni, NDB or GPS RWY 31, Amdt 1 CANCELLED

Alturas, CA, Alturas Muni, NDB RWY 31, Amdt 1

[FR Doc. 96–7765 Filed 3–28–96; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Nicarbazin; Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations regarding the use of nicarbazin in Type C broiler feeds. Because of incorrect amendatory instructions in a final rule that appeared in the **Federal Register** of June 5, 1995 (60 FR 29483), certain uses of nicarbazin combination Type C broiler feeds were removed from the regulations. This document corrects those errors.

EFFECTIVE DATE: March 29, 1996

FOR FURTHER INFORMATION CONTACT: David L. Gordon, Center For Veterinary Medicine (HFV–238), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1739.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 5, 1995 (60 FR 29483), the animal drug regulations were amended to codify Merck Research Laboratories, Division of Merck & Co.'s NADA 98–378 for use of single ingredient nicarbazin and bacitracin methylene disalicylate Type A articles to make combination drug Type C medicated broiler feeds. The document published with incorrect amendatory language resulting in the removal of certain approved uses of the drug from the regulation. FDA is correcting these errors.

Publication of this document constitutes final action on these changes under the Administrative Procedures Act (5 U.S.C. 553). Notice and public procedures on these corrections is unnecessary because FDA is merely republishing previously approved regulations.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

2. Section 558.366 is amended in the table in paragraph (c) by alphabetically adding two new entries to read as follows:

§ 558.366 Nicarbazin.

* * * * *

(c) * * *

Nicarbazin in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
*	*	* * *	*	*
	Roxarsone 22.7 (0.0025).	do	Feed continuously as sole ration from time chicks are placed on litter until past the time when coccidiosis is ordinarily a hazard; as sole source of organic arsenic; do not use a treatment for coccidiosis; do not use in flushing mashes; do not feed to laying hens; withdraw 5 days before slaughter.	000006
	Rosarsone 22.7 (0.0025) plus lincomycin 2 (0.0004).	do	do	000005

Dated: March 14, 1996.
Stephen F. Sundlof,
Director, Center for Veterinary Medicine.
[FR Doc. 96–7679 Filed 3–28–96; 8:45 am]
BILLING CODE 4160–01–F

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1310

[DEA–135F]

RIN 1117–AA30

Manufacturer Reporting

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Final Rule.

SUMMARY: This rule is issued by the Deputy Administrator of the Drug Enforcement Administration (DEA) to implement provisions of the Domestic Chemical Diversion Control Act of 1993 (Pub. 103–200) (DCDCA) to specify certain reporting requirements for manufacturers of listed chemicals. This rule requires bulk manufacturers of listed chemicals to provide annual reports containing certain production data to the DEA.

EFFECTIVE DATE: April 29, 1996. The first annual reports which detail data for calendar year 1995, shall be submitted on or before June 27, 1996.

FOR FURTHER INFORMATION CONTACT: Howard McClain Jr., Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Drug Enforcement Administration, Washington, D.C. 20537 Telephone (202) 307–7183.

SUPPLEMENTARY INFORMATION: The Domestic Chemical Diversion Control Act 1993 (Pub. 103–200) (DCDCA) amended 21 U.S.C. 830(b) to require that regulated persons who manufacture listed chemicals (other than a drug product that is exempted under 21 U.S.C. 802(39)(A)(iv)) report annually to DEA information detailing the specific quantities manufactured. This rule specifies certain reporting requirements for manufacturers of listed chemicals and finalizes a proposed rule published in the **Federal Register** on September 26, 1995 (60 FR 49529). Interested parties were given 60 days to submit written comments regarding the proposed rule.

Comments

Five organizations submitted comments in response to the proposed regulations. One comment suggested that Section 1310.03(b) be modified in order to clarify that the reporting requirements pertain to both List I and List II chemicals. Therefore Section 1310.01(b) has been amended to clarify that "Each regulated person who manufactures a List I or List II chemical shall file reports regarding such manufacture as specified in Section 1310.05."

Another comment stated that DEA had not clearly established its basis for needing information requested under the reporting requirement. This requirement, which was established by the Domestic Chemical Diversion Control Act of 1993, will provide the DEA with information on the amounts of listed chemicals available in the U.S. and provide specific strategic information and parameters on the size and direction of the legitimate listed chemical market and the availability of such chemicals for diversion. It will also enable the DEA to provide the International Narcotics Control Board (INCB) with aggregate data regarding the production and availability of chemicals controlled under provisions of the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

Two comments requested that hydrochloric acid be exempted and one comment suggested that sulfuric acid be exempted since only exports of these chemicals to certain countries are currently regulated. However, both these chemicals are controlled in Table II of the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. This reporting provision will enable the DEA to provide the INCB with aggregate manufacturing data on hydrochloric and sulfuric acid.

The DEA recognizes that bulk manufacturers must file other similar reports to other government agencies. For example, one of the comments stated that the requested information is provided to the U.S. Environmental Protection Agency (EPA) four times per year. Therefore, as stated in the Notice of Proposed Rulemaking, if an existing standard industry report contains the information required in Section 1310.06(h) and such information is separate or readily retrievable from the report, that report may be submitted in satisfaction of this requirement. Each report shall be submitted to the DEA under company letterhead and signed by an appropriate, responsible official.

One comment stated that even though the DEA has specified that an existing standard industry report may satisfy the reporting requirements, the reporting obligation would end up as a special report for each listed material at each location and therefore would be extremely burdensome. In addition, two comments dealt with the issue of whether data must be reported by individual facility, as opposed to submitting one corporate report which includes data for all facilities.

In response to these concerns, the DEA has determined that either reporting method is acceptable. Therefore, each business entity which manufactures a listed chemical may elect to (1) report separately by individual location or (2) report as an aggregate amount for the entire business entity. These manufacturers, however, must inform the DEA of which method they will use.

One commentor asked whether inventories should be reported for listed chemicals stored in foreign locations. The DEA has determined that such foreign inventories are not subject to the inventory reporting requirements since such material would have already been reported to the DEA under existing export notification requirements if it were manufactured in the U.S. and shipped to a foreign location.

One commentor requested clarification of the term year-end inventory as used in Section 1310.06(h)(3). For purposes of this annual reporting requirement, inventory shall reflect the quantity of listed chemicals, whether in bulk or non-exempt product form, held in storage for later distribution. Inventory does not include waste material for destruction, material stored as an in-process intermediate or other in-process material. The DEA recognizes that bulk manufacturers may have specific situations which will affect the complexity of inventory reporting. Therefore, the Drug and Chemical Evaluation Section, Office of Diversion Control, Drug Enforcement Administration is available to provide guidance in response to questions bulk manufacturers may have regarding what material should be included as inventory.

One commentor requested clarification of the terms "product" and "converted" as used in Section 1310.06(h)(5). The term product refers to all pharmaceutical preparations and chemical mixtures exempted under Sections 1310.01(f)(1)(iv) or 1310.01(f)(1)(v) intended for later distribution. In order to provide clarification of Section 1310.06(h)(5), the term "converted" is being removed. This section will now specify that each annual report required by Section 1310.05(d) shall provide "[t]he aggregate quantity of each listed chemical manufactured which becomes a component of a product exempted under Section 1310.01(f)(1)(iv) or 1310.01(f)(1)(v) during the preceding calendar year."

One commentor requested clarification that the reporting requirements do not apply to formulators of chemical mixtures. In response to this comment, a bulk manufacturer is defined under the proposed rule, as a person who produces a listed chemical by means of chemical synthesis or by extraction from other substances. Unless a formulator of chemical mixtures produces a listed chemical by means of chemical synthesis or by extraction from other substances, that formulator is not considered a bulk manufacturer and therefore is not subject to these reporting requirements.

One firm noted that the proposed rule stated that quantities be reported to the nearest kilogram. The comment further stated that this was not feasible due to the large volumes of some of the listed chemicals. In response to this inquiry, be advised that the reference to reporting "to the nearest kilogram" was intended to mean that quantities should be reported in kilogram units of measure and was not intended to specify the precision with which data should be supplied. The DEA is therefore modifying the regulatory language to read that information should be reported "in kilogram units of measure".

One firm commented that an exemption should be provided for bulk manufacturers that produce listed chemicals solely for internal consumption. The DEA has determined that bulk manufacturers that produce a listed chemical solely for internal consumption shall not be required to report for that listed chemical. For purposes of these reporting requirements, internal consumption shall consist of any quantity of a listed chemical otherwise not available for further resale or distribution. Internal consumption shall include (but not be limited to) quantities used for quality control testing, quantities consumed in-house or production losses. Internal consumption does not include the quantities of a listed chemical consumed in the production of exempted products. (These quantities used in the production of exempted products shall be reported separately.) Section 1310.05 has been modified to reflect this reporting exemption.

One firm commented that the proposed rule establishes a DEA code number for each listed chemical and made a suggestion regarding the use of an alternate numbering system. However, the proposed rule only clarifies and implements manufacturer reporting requirements and does not deal with the issue of DEA code numbers. This issue was previously addressed under the regulations which implemented the Chemical Diversion and Trafficking Act (60 FR 32447). In that notice, DEA responded that it had considered the use of other numbering systems such as the Chemical Abstract Services (CAS) and Harmonized Tariff System (HTS). However, in reviewing these systems DEA determined that they were designed for other purposes and that their use could lead to confusion and jeopardize the accuracy of information reported to DEA. In the HTS numbering system there are multiple chemicals that are assigned the same number and in the CAS numbering system there are chemicals that are assigned multiple codes. The DEA has produced and made available a chemical reference guide that provides a cross reference to the CAS and HTS numbers.

Conclusion

These reporting requirements will apply only to bulk manufacturers of listed chemicals. The term bulk manufacturer as used in this regulation means a person who manufactures a listed chemical by means of chemical synthesis or by extraction from other substances. It does not include persons whose sole activity consists of repackaging or relabeling listed chemical products or the manufacture of drug dosage form products which contain a listed chemical. For each listed chemical, each manufacturer is required to report annually to DEA (1) the year-end inventory, (2) the aggregate quantity manufactured, (3) the aggregate quantity used for internal consumption and (4) the aggregate quantity of each listed chemical manufactured which becomes a component of a product exempted under Section 1310.01(f)(1)(iv) or 1310.01(f)(1)(v) during the preceding calendar year. While manufacturers are required to report the quantities of listed chemicals used in the production of exempted products (e.g. exempted drug products and chemical mixtures), the manufacturer is not required to report data regarding the aggregate quantity of the exempted products produced.

Data provided under these reporting requirements shall be submitted annually to the Drug and Chemical Evaluation Section, Drug Enforcement Administration, Washington D.C. 20537, on or before the 15th day of March of the year immediately following the calendar year for which submitted. However, in order to provide sufficient time for preparation of the initial annual reports which detail manufacturing data for calendar year 1995, these initial reports shall not be due until June 27, 1996.

The Attorney General has delegated authority under the CSA and all subsequent amendments to the CSA to the Administrator of the DEA (28 CFR 0.100). The Administrator, in turn, has redelegated this authority to the Deputy Administrator pursuant to 28 CFR 0.104. The Deputy Administrator hereby certifies that this rulemaking will have no significant impact upon entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The DEA estimates that only approximately 210 manufacturers of listed chemicals will be impacted by these reporting requirements. The impact is minimal since the requested information is frequently maintained in the normal course of business operation. In an effort to further minimize the impact of these reporting requirements and avoid duplicate reporting, the DEA will accept existing reports which contain the required data, provided the data is separate or readily retrievable from other data in the report.

This final rule is not a significant regulatory action and therefore has not been reviewed by the Office of Management and Budget pursuant to Executive Order 12866.

This action has been analyzed in accordance with the principles and criteria in E.O. 12612, and it has been determined that the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 21 CFR Part 1310

Drug traffic control, Reporting and recordkeeping requirements, List I and List II Chemicals.

For reasons as set out above, 21 CFR Part 1310 is amended as follows:

PART 1310—[AMENDED]

1. The authority citation for Part 1310 continues to read as follows:

Authority: 21 U.S.C. 801, 830, 871(b).

2. Section 1310.03 is amended by redesignating the existing text as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 1310.03 Persons required to keep records and file reports.

(a) * * *

(b) Each regulated person who manufactures a List I or List II chemical shall file reports regarding such

manufacture as specified in Section 1310.05.

3. Section 1310.05 is amended by adding a new paragraph (d) to read as follows:

§ 1310.05 Reports.

* * * * *

(d) Each regulated bulk manufacturer of a listed chemical shall submit manufacturing, inventory and use data on an annual basis as set forth in § 1310.06(h). This data shall be submitted annually to the Drug and Chemical Evaluation Section, Drug Enforcement Administration (DEA), Washington, D.C. 20537, on or before the 15th day of March of the year immediately following the calendar year for which submitted. A business entity which manufactures a listed chemical may elect to report separately by individual location or report as an aggregate amount for the entire business entity provided that they inform the DEA of which method they will use. This reporting requirement does not apply to drug or other products which are exempted under §§ 1310.01(f)(1)(iv) or 1310.01(f)(1)(v) except as set forth in § 1310.06(h)(5). Bulk manufacturers that produce a listed chemical solely for internal consumption shall not be required to report for that listed chemical. For purposes of these reporting requirements, internal consumption shall consist of any quantity of a listed chemical otherwise not available for further resale or distribution. Internal consumption shall include (but not be limited to) quantities used for quality control testing, quantities consumed in-house or production losses. Internal consumption does not include the quantities of a listed chemical consumed in the production of exempted products. If an existing standard industry report contains the information required in § 1310.06(h) and such information is separate or readily retrievable from the report, that report may be submitted in satisfaction of this requirement. Each report shall be submitted to the DEA under company letterhead and signed by an appropriate, responsible official. For purposes of this paragraph only, the term regulated bulk manufacturer of a listed chemical means a person who manufactures a listed chemical by means of chemical synthesis or by extraction from other substances. The term bulk manufacturer does not include persons whose sole activity consists of the repackaging or relabeling of listed chemical products or the manufacture of drug dosage from products which contain a listed chemical.

4. Section 1310.06 is amended by adding a new paragraph (h) to read as follows:

§ 1310.06 Content of records and reports.

* * * * *

(h) Each annual report required by Section 1310.05(d) shall provide the following information for each listed chemical manufactured:

(1) The name, address and chemical registration number (if any) of the manufacturer and person to contact for information.

(2) The aggregate quantity of each listed chemical that the company manufactured during the preceding calendar year.

(3) The year-end inventory of each listed chemical as of the close of business on the 31st day of December of each year. (For each listed chemical, if the prior period's ending inventory has not previously been reported to DEA, this report should also detail the beginning inventory for the period.) For purposes of this requirement, inventory shall reflect the quantity of listed chemicals, whether in bulk or non-exempt product form, held in storage for later distribution. Inventory does not include waste material for destruction, material stored as an in-process intermediate or other in-process material.

(4) The aggregate quantity of each listed chemical used for internal consumption during the preceding calendar year, unless the chemical is produced solely for internal consumption.

(5) The aggregate quantity of each listed chemical manufactured which becomes a component of a product exempted from Section 1310.01(f)(1)(iv) or 1310.01(f)(1)(v) during the preceding calendar year.

(6) Data shall identify the specific isomer, salt or ester when applicable but quantitative data shall be reported as anhydrous base or acid in kilogram units of measure.

Dated: March 19, 1996.

Stephen H. Greene,

Deputy Administrator, Drug Enforcement Administration.

[FR Doc. 96–7739 Filed 3–28–96; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Occupational Safety and Health Review Commission

29 CFR Part 2201

Revisions to Rules Implementing the Freedom of Information Act

AGENCY: Occupational Safety and Health Review Commission.

ACTION: Final rule.

SUMMARY: This document makes certain technical and nomenclature changes. In addition, the Commission is revising its fee structure for documents sought under the Freedom of Information Act to compensate for rising costs.

EFFECTIVE DATE: These amendments are effective March 29, 1996.

FOR FURTHER INFORMATION CONTACT: Linda A. Whitsett, Freedom of Information Act Officer, Occupational Safety and Health Review Commission, Room 903, 1120 20th St. N.W., Washington, DC 20036. Phone (202) 606–5398.

SUPPLEMENTARY INFORMATION: Part 1921 is being amended to reflect certain technical changes in the Commission's implementation of the Freedom of Information Act. Primarily, the Commission has changed the title of the "Public Information Specialist" to the "Freedom of Information Act Officer." Part 1921 is revised to reflect that change. In addition, decisions will no longer be available at the Commission's regional offices. Accordingly, references to the field offices are eliminated. Finally, the Commission is increasing several fees associated with Freedom of Information Act requests to compensate for rising costs incurred since the fees were set in 1988.

List of Subjects in 29 CFR Part 2201

Freedom of information, Records.

For the reasons set forth in the preamble, title 29, chapter XX, part 2201 is amended as set forth below:

PART 2201—REGULATIONS IMPLEMENTING THE FREEDOM OF INFORMATION ACT

1. The authority for part 2201 continues to read as follows:

Authority: 29 U.S.C. 661(g); 5 U.S.C. 552.

2. In part 2201 all references to "Public Information Specialist" are removed and "Freedom of Information Act Officer" added in their places.

3. Section 2201.3 is revised to read as follows:

§ 2201.3 Delegation of authority.

The Freedom of Information Act Officer is delegated the authority to act upon all requests for public records. In the absence of the Freedom of Information Act Officer, the Chairman or the Executive Director may designate another Commission officer or employee, such as the General Counsel or the Executive Secretary, to respond to requests. Copies of individual Commission decisions may be obtained directly from the Freedom of Information Act Officer at the Commission's national office. See § 2201.5(a). All other information requests shall be directed to the Freedom of Information Act Officer. See § 2201.6(b).

4. Section 2201.5 is amended by revising paragraphs (a) and (b)(1) to read as follows:

§ 2201.5 Copies of Commission decisions.

(a) *Single decisions.* One copy of a Commission decision or decision by an Administrative Law Judge may be obtained free of copying fees by calling, writing or visiting the Freedom of Information Act Officer at the Commission's national office. A search fee may be charged, however, if the decision is not identified by name and date, or by docket number, or if it is not otherwise easily identifiable. See § 2201.8 (b)(2)(i). Copying fees will be charged if more than one decision is requested and the copying cost exceeds $10. See § 2201.8 (a)(1) and (b)(1). The address and telephone number of the office at which decisions are available is OSHRC, Freedom of Information Act Officer, One Lafayette Centre, 1120–20th St. NW., room 900, Washington, DC 20036–3419. Telephone 202–606–5398.

(b)(1) *OSAHRC Reports.* All final Commission decisions from 1971 through 1992 (including decisions of the Commission and its Administrative Law Judges) of general applicability, and concurring and dissenting opinions, are published in a series of microfiche entitled OSAHRC Reports. OSAHRC Reports may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. Persons wishing to obtain copies of numerous decisions and avoid large copying charges may purchase OSAHRC Reports or subscribe to a private reporting service. Decisions issued after 1992 are available by calling, writing or visiting the national office.

* * * * *

5. Section 2201.8 is amended by revising the first sentence of paragraph (b)(2) introductory text to read as follows:

§ 2201.8 Fees for copying, searching, and review.

* * * * *

(b) *Types of fees.* * * *

(2) *Search fee.* The fee for searching for information and records shall be $19 per hour of clerical time and $46 per hour of professional time. * * *

* * * * *

Dated: March 25, 1996.

Earl R. Ohman, Jr.,

General Counsel.

[FR Doc. 96–7659 Filed 3–28–96; 8:45 am]

BILLING CODE 7600–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–96–014]

Special Local Regulations for Marine Events; 17th Annual Safety at Sea Seminar, Severn River, Annapolis, MD

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation of 33 CFR 100.511.

SUMMARY: This notice implements 33 CFR 100.511 for the 17th Annual Safety at Sea Seminar, an annual event to be held March 30, 1996, on the Severn River at Annapolis, Maryland. These special local regulations are necessary to control vessel traffic within the immediate vicinity of the U.S. Naval Academy during the Pyrotechnic Display, Helicopter Rescue Demonstration, and Sail Training Craft Maneuver Demonstration. The effect will be to restrict general navigation in this area for the safety of the spectators and the participants in these events.

EFFECTIVE DATES: The regulations in 33 CFR 100.511 are effective from 11 a.m. to 3:30 p.m. on March 30, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Phillips, Chief, Boating Affairs Branch, Boating Safety Division, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004 (804) 398–6204, or Commander, Coast Guard Group Baltimore (410) 576–2516.

SUPPLEMENTARY INFORMATION: The U.S. Naval Academy, Annapolis, Maryland, submitted an application to hold the 17th Annual Safety at Sea Seminar on the Severn River just off the Robert Crown Sailing Center, U.S. Academy, Annapolis, Maryland. The event includes demonstrations of life rafts, pyrotechnics, use of anti-exposure suits, man overboard procedures, and a helicopter rescue. Since this event is of the type contemplated by these regulations, the safety of the participants will be enhanced by the implementation of the special local regulations. Commercial traffic should not be severely disrupted.

Dated: March 21, 1996.

W.J. Ecker,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 96–7715 Filed 3–28–96; 8:45 am]

BILLING CODE 4910–14–M

POSTAL SERVICE

39 CFR Part 20

Expansion of Global Priority Mail

AGENCY: Postal Service.

ACTION: Interim rule with request for comments.

SUMMARY: The Postal Service is expanding Global Priority Mail service by increasing the number of acceptance points, countries (annotated in bold in the text) and adding weight variable rates for items up to four pounds.

DATES: The interim regulations take effect March 25, 1996. Comments must be received on or before May 28, 1996.

ADDRESSES: Written comments should be mailed or delivered to the Manager, Commercial Products, International Business Unit, US Postal Service, Room 370–IBU, 475 L'Enfant Plaza SW, Washington, DC 20260–4261. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, at the above address.

FOR FURTHER INFORMATION CONTACT: Jay Thabet, (202) 268–2269.

SUPPLEMENTARY INFORMATION: On March 17, 1995, the Postal Service published in the **Federal Register** (60 FR 14370) interim regulations implementing WORLDPOST Priority Letter and requested comments. A final rule adopting the interim rules as final was filed at the Office of the Federal Register March 25, 1996. In the final rule the name of the service was changed to Global Priority Mail service and additional acceptance points were added.

Global Priority Mail is an expedited airmail service providing fast reliable, and economical delivery of all items mailable as letters. Although a Global Priority Mail item will travel in the normal airmail stream between the United States and the destination country, the item will receive priority

handling in the United States and, typically, in the destination country. In the United States, after the item is deposited, the Postal Service will transport it in a dedicated stream to the appropriate gateway for dispatch. Upon arrival in the destination country, the item will also receive priority handling. Service is available only in certain ZIP Code areas in the United States and only to certain countries.

The Postal Service is now expanding the number of acceptance points to make the service more widely available. The new acceptance points are set forth below. The Postal Service is also adding weight variable rates. With the new rates, customers may use their own packaging for items weighing up to 4 pounds. Each variable weight item must bear a Global Priority Mail sticker provided by the Postal Service. These changes will make Global Priority Mail available to more customers and should make the service more useful, by making it easier to mail items other than documents or letters.

Although 39 U.S.C. 407 does not require advance notice and opportunity for submission of comments, and the Postal Service is exempted by 39 U.S.C. 410 (a) from the advance notice requirements of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C 553), the Postal Service invites interested persons to submit written data, views, or comments,concerning the interim rule.

The Postal Service adopts the following interim amendments to the International Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 20.1.

List of Subjects in 39 CFR Part 20

International postal service, Foreign relations.

PART 20—[AMENDED]

1. The authority citation for 39 CFR part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 401, 404, 407, 408.

2. Chapter 2 of the International Mail Manual is amended by revising part 226 to read as follows:

2 CONDITIONS FOR MAILING

* * * * *

226 Global Priority Mail

226.1 General

226.11 Definition

Global Priority Mail is an expedited airmail letter service providing fast, reliable, and economical delivery of all items mailable as letters or merchandise up to 4 pounds. Global Priority Mail items receive priority handling in the United States and in destination countries. Service is available only to destination countries identified in 226.2, from post offices identified in 226.3.

226.12 Permissible Items

All items sent as letter cláss mail (see 221.1) are accepted in Global Priority Mail provided the contents are mailable and fit securely in the envelope. Global Priority Mail items may contain dutiable merchandise unless the country of destination specifically prohibits dutiable merchandise in letters (see 224.51). Any item that is prohibited in international mail is prohibited in Global Priority Mail. Refer to the "Country Conditions of Mailing" in the individual country listings for individual country prohibitions.

226.13 Packaging

Items must fit comfortably within the flat-rate envelope without distorting or bursting the container. No excessive use of tape to keep the envelopes from bursting, only one piece of tape may be used to secure the flap.

226.2 Availability

Global Priority Mail is available to the following additional countries:

Western Europe	Pacific Rim	North America
Austria	Australia	Canada.
Belgium	Hong Kong.	
Denmark	Japan.	
Finland	Korea, Republic of.	
France	New Zealand.	
Germany	Philippines.	
Iceland	Singapore.	
Ireland	Taiwan.	
Luxembourg	Thailand.	
Netherlands, The.	Vietnam.	
Norway.		
Portugal.		
Spain.		
Sweden.		
Switzerland.		
United Kingdom.*		

*Includes all points in England, Scotland, Wales, Northern Ireland, Guernsey, Jersey, and the Isle of Man.

226.3 Mailing Locations

226.31 Acceptance Offices and Pickup Service Locations

Global Priority Mail service is available only through the designated post offices and the additional post offices listed in 226.32. Pickup Service is available for an additional fee. (See 226.83.)

226.32 Service Areas

Service is available only from the metropolitan areas as defined by the ZIP Code ranges shown below. If Global Priority Mail is presented at a non-participating retail unit, advise the customer that the item cannot be accepted as Global Priority Mail. Refer customer to the nearest Global Priority Mail retail acceptance unit. Within these service areas, prepaid items may be given to carriers, deposited in Express Mail collection boxes, or mailed at post offices, stations, and branches.

Global Priority Mail Acceptance Cities and Three-Digit ZIP Codes

ALABAMA

Anniston: 362
Birmingham: 352
Huntsville: 356, 357, 358
Mobile: 366
Montgomery: 361, 368

ARIZONA

Phoenix: 850, 852, 853
Tucson: 857

ARKANSAS

Little Rock: 722
West Memphis: 723

CALIFORNIA

Industry: 917, 918
Inglewood: 902, 903, 904, 905
Long Beach: 906, 907, 908
Los Angeles: 900, 901
North Bay: 949
Oakland: 945, 946, 947, 948,
Pasadena: 910, 911, 912
Salinas: 939
San Diego: 919, 920, 921
San Francisco: 940, 941, 943, 944
San Jose: 950, 951
Santa Ana: 926, 927, 928
Van Nuys: 913, 914, 915, 916

COLORADO

Brighton: 806
Colorado Springs: 808, 809
Denver: 800, 801, 802, 803
Longmont: 805
Pueblo: 810

CONNECTICUT

Hartford: 060, 061, 062
New Haven: 063, 064, 065, 066
Stamford: 068, 069
Waterbury: 067

DELAWARE

Wilmington: 197, 198, 199

DISTRICT OF COLUMBIA (Washington, DC)

Washington: 200, 202, 203, 204, 205

FLORIDA

Daytona Beach: 321
Fort Myers: 339
Ft. Lauderdale: 333
Gainesville: 326, 344
Jacksonville: 320, 322
Lakeland: 338
Manasota: 342
Miami: 331, 332
Mid-Florida: 327

Orlando: 328, 329, 347
South Florida: 330
St. Petersburg: 337
Tallahassee: 323
Tampa: 335, 336, 346
West Palm Beach: 334, 349

GEORGIA

Albany: 317
Athens: 306
Atlanta: 303, 311
Augusta: 298, 308, 309
Columbus: 318, 319
Macon: 310, 312
North Metro: 300, 301, 302, 305
Savannah: 299, 313, 314
Swainsboro: 304
Valdosta: 316
Waycross: 315

INDIANA

Bloomington: 474
Columbus: 472
Evansville: 424, 476, 477
Fort Wayne: 467, 468
Gary: 463, 464
Indianapolis: 460, 461, 462
Kokomo: 469
Lafayette: 479
Muncie: 473
South Bend: 465, 466
Terre Haute: 478
Washington: 475

ILLINOIS

Bloomington: 617
Carbondale: 629
Carol Stream: 601, 603
Centralia: 628
Chicago: 606, 607, 608
Effingham: 624
Champaign: 618, 619
Fox Valley: 605
Galesburg: 614
Kankakee: 609
La Salle: 613
Palatine: 600, 602
Peoria: 615, 616
Quincy: 623, 634, 635
Rockford: 610, 611
Rock Island: 612
Springfield: 625, 626, 627
South Suburban: 604

IOWA

Burlington: 526
Cedar Rapids: 522, 523, 524
Davenport: 527, 528
Des Moines: 500, 501, 502, 503, 509
Dubuque: 520
Mason City: 504
Ottumwa: 525
Sioux City: 510, 511
Waterloo: 506, 507

KANSAS

Fort Scott: 667
Kansas City: 660, 661, 662
Hays: 676
Salina: 674
Topeka: 664, 665, 666, 668
Wichita: 672

KENTUCKY

Ashland: 411, 412
Bowling Green: 421, 422
Campton: 413, 414
Elizabeth: 427
Evansville: 424, 476
Louisville: 400, 401, 402, 471
Lexington: 403, 404, 405, 406
Owensboro: 423
Pikeville: 415, 416

LOUISIANA

Baton Rouge: 707, 708
New Orleans: 700, 701
Hammond: 704
Thibodaux: 703

MAINE

Bangor: 044, 046, 047
Portland: 040, 041, 042, 043, 045, 048, 049

MARYLAND

Baltimore: 210, 211, 212, 214, 219
Cumberland: 215, 267
Easton: 216
Frederick: 217
Salisbury: 218
Southern: 206, 207
Suburban: 208, 209

MASSACHUSETTS

Boston: 021, 022
Brockton: 020, 023, 024
Buzzard Bay: 025, 026
Middlesex-Essex: 018, 019
Pittsfield: 012
Springfield: 013, 010, 011
Worchester: 014, 015, 016, 017

MICHIGAN

Detroit: 481, 482
Flint: 484, 485
Gaylord: 497
Grand Rapids: 493, 494, 495
Jackson: 492
Kalamazoo: 490, 491
Lansing: 488, 489
Royal Oak: 480, 483
Saginaw: 486, 487
Traverse City: 496

MINNESOTA

Detroit Lakes: 565
Duluth: 558
Mankato: 560
Minneapolis: 553, 554f
Rochester: 559
Saint Cloud: 563
St. Paul: 550, 551, 540
Thief River Falls: 567
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226.4 Postage

226.41 Flat Rate Envelopes Postage

Each Global Priority Mail flat rate envelope is charged at a flat rate. The rate is based on the geographic rate zone regardless of its actual weight. Postage is required for each piece.

EXHIBIT 226.41

Destination	Small envelope	Large envelope
Western Europe*	$3.75	$5.95

EXHIBIT 226.41—Continued

Destination	Small envelope	Large envelope
Canada*	3.75	5.95
Pacific Rim*	4.95	8.95

*See 226.2 for listing.

226.42 Variable Weight Option Postage—Single Piece Rates

Global Priority Mail variable weight rates are calculated in half (or fraction thereof) increments based on the weight of each piece the destination geographic rate zone up to four pounds. (See Exhibit 226.42.)

EXHIBIT 226.42.—VARIABLE WEIGHT RATE STICKER POSTAGE

Weight level (lbs.)	Western Europe	Pacific Rim	Canada
0.5	$7.00	$8.00	$5.95
1.0	10.50	12.50	10.00
1.5	12.50	16.95	13.50
2.0	15.00	21.00	16.50
2.5	17.50	23.95	18.00
3.0	19.95	27.25	19.50
3.5	22.00	31.50	21.00
4.0	24.75	34.50	22.50

226.43 Global Priority Mail Sticker—Volume Rates

226.431 Minimum Quantity Requirement

The mailer must have a minimum of 5 or more pieces to one or more Global Priority Mail countries. The minimum does not apply to each geographic zone rate.

226.432 Mailing Statement

Postage for volume rate mail and permit imprint must be computed on Form 3653, Global Priority Mail Statement of Mailings.

EXHIBIT 226.43.—VARIABLE WEIGHT STICKER OPTION—VOLUME RATES

Weight level	Western Europe	Pacific Rim	Canada
0.5	$5.95	$6.95	$5.00
1.0	8.50	10.00	7.50
1.5	10.00	13.50	10.00
2.0	12.00	16.95	12.50
2.5	14.00	19.25	13.50
3.0	15.95	21.95	14.50
3.5	19.95	25.50	15.50
4.0	22.50	27.75	16.50

226.5 Payment Methods

226.51 Postage Payment Methods

Nonidentical weight piece mailings must have the applicable postage affixed by adhesive stamps, meter stamps or if presented at a post office, postal validation imprinter (PVI labels). Identical weight piece mailings may be paid by meter stamps, adhesive stamps, PVI labels or permit imprint subject to certain standards. To use permit imprint, the mailing must consist of 200 or more pieces and be of identical weight. The 200 pieces criteria for permit imprint applies to both volume rate and flat rate mail. Mailers may use permit imprint with nonidentical weight items only if authorized by the USPS under a Manifest Mailing System (MMS), in Domestic Mail Manual (DMM) P710.

226.52 Postal Marking Related to Volume Rate Postage

When pieces are paid at the volume rate and paid by stamps or meter impression, each piece must be legibly marked with the words "Volume Rate Global Priority Mail." If stamps are used the endorsement must appear on the address side of each piece and must be applied by a printing press, hand stamp or other similar printing device. If meter impression is used the endorsement must be in the ad plate or the slug area. If part of the slug, the abbreviation GPM Vol. Rate may be used. See DMM P030.4.14 for specification of size requirements.

226.53 Permit Imprint Content and Format

All permit imprints on Global Priority Mail must show city and state, "Global Priority Mail," U.S. Postage Paid, and permit number. They may show the mailing date, amount of postage paid or the number of ounces for each postage.

226.54 Meter Stamps Content

At a minimum, a meter stamp must show the month, day and year in the postmark, city and state designation of the licensing post office, the number, and the amount of postage. See DMM P030.4.6.

226.6 Preparation Requirements

226.61 Addressing

All items must bear the complete delivery address of the addressee and the full name (no abbreviations) of the destination country. See 122.

226.62 Marking

Global Priority Mail items must be mailed in special envelopes (EP–15A, EP–15B) or with the Global Priority Mail sticker (DEC–10) provided by the Postal Service. (These supplies may be obtained by calling 800–222–1811.) Unmarked pieces are subject to the applicable LC/AO airmail regular rates and treatment. Pieces paid at the Global Priority Mail sticker rate must be affixed to the address side of the package.

226.63 Customs

A green customs label must be affixed if the package is 1 pound or more, regardless of its contents. Only documents and correspondence under 1 pound do not require a customs form.

226.7 Size and Weight Limits

226.71 Size Limits

226.72 Flat-Rate Envelope Sizes

a. Small Size: 6×10 inches.
b. Large Size: 9½×12½ inches.

226.73 Package Sizes for Variable Weight Option

a. Minimum length and height: 5½×3½ inches.
b. Minimum depth (thickness): .007 inches.
c. Maximum length: 24 inches.
d. Maximum length, height, depth (thickness) combined: 36 inches.

226.74 Rolls

a. Minimum length: 4 inches.
b. Minimum length plus twice the diameter combined: 6¾ inches.
c. Maximum length: 36 inches.
d. Maximum length plus twice the diameter combined: 42 inches.

226.75 Weight Limits

Items sent as Global Priority Mail in envelopes and the variable weight option must not exceed 4 pounds.

226.76 Special Services

Mailers may obtain certificates of mailing (see 310). No other special services such as registry, insurance, restricted delivery, return receipt, or recorded delivery are available.

226.8 Mailer Preparation

226.81 Mailer Requirement

Global Priority Mail claimed at the volume rate must be separated by geographic rate zone (Western Europe, Pacific Rim, and Canada) when presented to the business mail entry unit unless otherwise authorized by the USPS. All pieces in a permit imprint mailing and metered mail must be facing the same direction.

226.82 Deposit Of Mail

Global Priority Mail pieces paid by permit imprint and pieces claimed at the Global Priority Mail volume rates must be deposited at a business mail acceptance unit as authorized by the postmaster in the designated Global Priority Mail sites for weighing. Flat rate envelopes with postage affixed may be deposited in any Express Mail Street collection or other such place where Express Mail is accepted. Metered mail must be deposited in locations under the jurisdiction of the licensing post office except as permitted under DMM P030.

226.83 Pickup Service

On call and scheduled pickup service are available for Global Priority Mail from the designated Global Priority Mail acceptance cities. There is a charge of $4.95 for each pickup stop, regardless of the number of pieces picked up. (See DMM D010 for standards of pickup service.) Pickup is not available for Global Priority Mail pieces if paid by permit imprint or claimed at the volume rate.

* * * * *

A transmittal letter making the changes in the pages of the International Mail Manual will be published and transmitted automatically to subscribers. Notice of issuance of the transmittal letter will be published in the **Federal Register** as provided by 39 CFR 20.3.

Stanley F. Mires,
Chief Counsel, Legislative.

[FR Doc. 96–7587 Filed 3–26–96; 10:30 am]
BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD–FRL–5449–8]

Standards of Performance for New Stationary Sources: Industrial-Commercial-Institutional Steam Generating Units; Louisiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final revision of rule.

SUMMARY: New source performance standards (NSPS) limiting emissions of nitrogen oxides (NO_X) from industrial-commercial-institutional steam generating units capable of combusting more than 100 million Btu per hour were proposed on June 19, 1984 and were promulgated on November 25, 1986. These standards limit NO_X emissions from the combustion of fossil fuels, as well as the combustion of fossil fuels with other fuels or wastes. The standards include provisions for facility-specific NO_X standards for steam generating units which simultaneously combust fossil fuel and chemical byproduct waste(s) under certain conditions. This document approves a facility-specific NO_X

standard that was proposed on December 28, 1994 for a steam generating unit which simultaneously combusts fossil fuel and chemical by-product waste (vent gas) at the Cytec Industries Fortier Plant located in Westwego, Louisiana.

EFFECTIVE DATE: March 29, 1996.

ADDRESSES: Docket. Docket Number A–94–48, containing supporting information used in developing the proposed revision, is available for public inspection and copying between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday (except for government holidays) at the EPA's Air and Radiation Docket and Information Center, Room M1500, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. George Smith at telephone number (919) 541–1549, Emission Standards Division, Combustion Group (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION:

Background

The objective of the NSPS, promulgated on November 25, 1986 is to limit NO_x emissions from the combustion of fossil fuel. For steam generating units combusting by-product waste, the requirements of the NSPS vary depending on the operation of the steam generating units.

During periods when only fossil fuel is combusted, the steam generating unit must comply with the NO_x emission limits in the NSPS for fossil fuel. During periods when only by-product waste is combusted, the steam generating unit may be subject to other requirements or regulations which limit NO_x emissions, but it is not subject to NO_x emission limits under the NSPS. In addition, if the steam generating unit is subject to Federally enforceable permit conditions limiting the amount of fossil fuel combusted in the steam generating unit to an annual capacity factor of 10 percent or less, the steam generating unit is not subject to NO_x emission limits under the NSPS when it simultaneously combusts fossil fuel and by-product waste.

With the exception noted above, during periods when fossil fuel and by-product waste are simultaneously combusted in a steam generating unit, the unit must generally comply with NO_x emission limits under § 60.44b(e) of the NSPS. Under § 60.44b(e) the applicable NO_x emission limit depends on the nature of the by-product waste combusted. In some situations, however, "facility-specific" NO_x emission limits developed under § 60.44b(f) may apply. The order for determining which NO_x emission limit applies is as follows.

A steam generating unit simultaneously combusting fossil fuel and by-product waste is expected to comply with the NO_x emission limit under § 60.44b(e); only in a few situations may NO_x emission limits developed under § 60.44b(f) apply. Section 60.44b(e) includes an equation to determine the NO_x emission limit applicable to a steam generating unit when it simultaneously combusts fossil fuel and by-product waste.

Only where a steam generating unit which simultaneously combusts fossil fuel and by-product waste is unable to comply with the NO_x emission limit determined under § 60.44b(e), might a facility-specific NO_x emission limit under § 60.44b(f) apply. This section permits a steam generating unit to petition the Administrator for a facility-specific NO_x emission limit. A facility-specific NO_x emission limit will be proposed and promulgated by the Administrator for the steam generating unit, however, only where the petition is judged to be complete.

To be considered complete, a petition for a facility-specific NO_x standard under § 60.44b(f) consists of three components. The first component is a demonstration that the steam generating unit is able to comply with the NO_x emission limit for fossil fuel when combusting fossil fuel alone. The purposes of this provision are to ensure that the steam generating unit has installed best demonstrated NO_x control technology, to identify the NO_x control technology installed, and to identify the manner in which this technology is operated to achieve compliance with the NO_x emission limit for fossil fuel.

The second component of a complete petition is a demonstration that this NO_x control technology does not enable compliance with the NO_x emission limit for fossil fuel when the steam generating unit simultaneously combusts fossil fuel with chemical by-product waste under the same conditions used to demonstrate compliance on fossil fuel alone. In addition, this component of the petition must identify what unique and specific properties of the chemical by-product waste(s) are responsible for preventing the steam generating unit from complying with the NO_x emission limit for fossil fuel.

The third component of a complete petition consists of data and/or analysis to support a facility-specific NO_x standard for the steam generating unit when it simultaneously combusts fossil fuel and chemical by-product waste and operates the NO_x control technology in the same manner in which it would be operated to demonstrate and maintain compliance with the NO_x emission limit for fossil fuel, if only fossil fuel were combusted. This component of the petition must identify the NO_x emission limit(s) and/or operating parameter limits, and appropriate testing, monitoring, reporting and recordkeeping requirements which will ensure operation of the NO_x control technology and minimize NO_x emissions at all times.

Upon receipt of a complete petition, the Administrator will propose a facility-specific NO_x standard for the steam generating unit when it simultaneously combusts chemical by-product waste with fossil fuel. The NO_x standard will include the NO_x emission limit(s) and/or operating parameter limit(s) to ensure operation of the NO_x control technology at all times, as well as appropriate testing, monitoring, reporting and recordkeeping requirements.

Comments on the Proposed Standards

After completing construction of its C.AOG incinerator, Cytec Industries conducted tests of NO_x emissions under actual operating conditions. Cytec Industries has provided the emissions data from these tests to the EPA (Agency). The actual emissions data comes very close to what was predicted by the calculations made by Cytec Industries, and thus demonstrates the actual need for the facility-specific NO_x standard.

Aside from the emissions data supplied to the Agency by Cytec Industries, no other comments were received on the proposed standard. Consequently, the Administrator has decided not to change the proposed standard, and to promulgate it, as proposed.

Administrative Requirements

Executive Order 12866

Under Executive Order 12866 (58 FR 51735, (October 4, 1993)), the Agency must determine whether the regulatory action is "significant" and, therefore, subject to OMB review and the requirements of the Executive Order. The Order defines a "significant regulatory action" as one that is likely to result in a rule that may:

1. Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

2. Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

3. Materially alter the budgetary impact of entitlements, grants, user fees, or land programs or the rights and obligations of recipients thereof; or

4. Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This rule was classified "non-significant" under Executive Order 12866 and, therefore, was not reviewed by the Office of Management and Budget.

Paperwork Reduction Act

The information collection requirements of the previously promulgated NSPS under 40 CFR Part 60, Subpart Db were submitted to and approved by the Office of Management and Budget. A copy of this Information Collection Request (ICR) document (OMB control number 2060–0135) may be obtained from Sandy Farmer, Information Policy Branch (PM–223Y); U.S. Environmental Protection Agency; 401 M Street, SW; Washington, DC 20460 or by calling (202) 260–2740. Today's changes to the NSPS do not affect the information collection burden estimates made previously. The information that is required to be collected for this facility specific NO_x standard is the same as for all other affected facilities subject to these NSPS. Therefore, the ICR has not been revised.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980 requires the identification of potentially adverse impacts of Federal regulations upon small business entities. The RFA specifically requires the completion of a Regulatory Flexibility Analysis in those instances where small business impacts are possible. Because this rulemaking imposes no adverse economic impacts, a Regulatory Flexibility Analysis has not been prepared.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small business entities.

List of Subjects in 40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control.

Dated: March 22, 1996.

Carol M. Browner,

Administrator.

Title 40, chapter I, part 60, of the Code of Federal Regulations is amended to read as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Subpart Db—Standards of Performance for Industrial Commercial-Institutional Steam Generating Units

1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401, 7411, 7414, 7416, 7429, and 7601.

2. Section 60.49b is amended by adding paragraph (s) as follows:

§ 60.49b Reporting and recordkeeping requirements.

* * * * *

(s) Facility specific nitrogen oxides standard for Cytec Industries Fortier Plant's C.AOG incinerator located in Westwego, Louisiana:

(1) Definitions.

Oxidation zone is defined as the portion of the C.AOG incinerator that extends from the inlet of the oxidizing zone combustion air to the outlet gas stack.

Reducing zone is defined as the portion of the C.AOG incinerator that extends from the burner section to the inlet of the oxidizing zone combustion air.

Total inlet air is defined as the total amount of air introduced into the C.AOG incinerator for combustion of natural gas and chemical by-product waste and is equal to the sum of the air flow into the reducing zone and the air flow into the oxidation zone.

(2) Standard for nitrogen oxides.

(i) When fossil fuel alone is combusted, the nitrogen oxides emission limit for fossil fuel in § 60.44b(a) applies.

(ii) When natural gas and chemical by-product waste are simultaneously combusted, the nitrogen oxides emission limit is 289 ng/J (0.67 lb/million Btu) and a maximum of 81 percent of the total inlet air provided for combustion shall be provided to the reducing zone of the C.AOG incinerator.

(3) Emission monitoring.

(i) The percent of total inlet air provided to the reducing zone shall be determined at least every 15 minutes by measuring the air flow of all the air entering the reducing zone and the air flow of all the air entering the oxidation zone, and compliance with the percentage of total inlet air that is provided to the reducing zone shall be determined on a 3-hour average basis.

(ii) The nitrogen oxides emission limit shall be determined by the compliance and performance test methods and procedures for nitrogen oxides in § 60.46b.

(iii) The monitoring of the nitrogen oxides emission limit shall be performed in accordance with § 60.48b.

(4) Reporting and recordkeeping requirements.

(i) The owner or operator of the C.AOG incinerator shall submit a report on any excursions from the limits required by paragraph (a)(2) of this section to the Administrator with the quarterly report required by § 60.49b(i).

(ii) The owner or operator of the C.AOG incinerator shall keep records of the monitoring required by paragraph (a)(3) of this section for a period of 2 years following the date of such record.

(iii) The owner of operator of the C.AOG incinerator shall perform all the applicable reporting and recordkeeping requirements of § 60.49b.

* * * * *

[FR Doc. 96–7746 Filed 3–28–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 110

[FRL–5449–6]

Oil Discharge Program; Editorial Revision of Rules; Correction

AGENCY: Environmental Protection Agency.

ACTION: Correction to final regulations.

SUMMARY: This document contains a correction to the final regulations which were published Wednesday, February 28, 1996 (61 FR 7419). The regulations contained nonsubstantive, editorial revisions to 40 CFR part 110.

EFFECTIVE DATE: March 29, 1996.

FOR FURTHER INFORMATION CONTACT: Hugo Paul Fleischman, Office of Emergency and Remedial Response, U.S. Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, mail code 5203G, phone (703)603–8769; or the RCRA/Superfund Hotline, phone (800)424–9346 or (703)603–9232 in the Washington, DC, metropolitan area.

SUPPLEMENTARY INFORMATION

Background

In the rulemaking, EPA reviewed 40 CFR part 110, and removed text which unnecessarily repeats section 311 of the Act. EPA also revised regulatory text: to make it more concise, to conform more

closely to statutory language, or to eliminate text which is legally obsolete. All of these changes were editorial. None effected any changes to the substance of the revised rules. EPA also redesignated affected sections as necessary.

Need for Correction

As published, the final rule contained an incorrect phone number, which could mislead the public and is therefore in need of correction.

Correction of Publication

Accordingly, the publication on February 28, 1996, of the final rule described above, is corrected as follows:

§ 110.6 [Corrected]

Paragraph 1. On page 7421, in the third column, in § 110.6 Notice, in the last line (line nine) of the indented paragraph, the phone number, "202–462–2675," is corrected to read "202–426–2675."

Dated: March 22, 1996.

Stephen D. Luftig,

Director, Office of Emergency and Remedial Response.

[FR Doc. 96–7751 Filed 3–28–96; 8:45 am]

BILLING CODE 6560–50–C

FEDERAL MARITIME COMMISSION

46 CFR Part 501

The Federal Maritime Commission—General

AGENCY: Federal Maritime Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Maritime Commission is correcting its recent document which amended its statement of delegations of authorities to add new authority delegated to the Director of the Bureau of Economics and Agreement Analysis to grant or deny applications for waivers of certain regulations in 46 CFR Part 572.

EFFECTIVE DATE: March 29, 1996.

FOR FURTHER INFORMATION CONTACT: Joseph C. Polking, Secretary, Federal Maritime Commission, 800 North Capitol Street, N.W., Washington, DC 20573–0001, (202) 523–5725.

SUPPLEMENTARY INFORMATION: In the Commission's Final Rule in this matter, published March 12, 1996 (61 FR 9944), amendatory instruction 2 is corrected to read:

"In section 501.26, paragraph (f) is amended by changing the reference to "572.404" to "572.406," and by changing the references to "572.501 and 572.502" to "572.404 and 572.405"'

paragraphs (g) through (n) are redesignated (i) through (p); newly redesignated (i)(6) is removed; the references to "paragraph (g) of this section" in newly redesignated paragraphs (j) and (k) are revised to read "paragraph (i) of this section;" and new paragraphs (g) and (h) are added, as follows:"

Joseph C. Polking,

Secretary.

[FR Doc. 96–7692 Filed 3–28–96; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 95–78; RM–8619, RM–8678]

Radio Broadcasting Services; Stonewall, MS, and Lisman, AL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Stonewall Broadcasters, allots Channel 295A to Stonewall, Mississippi, as the community's first local FM service. *See* 60 FR 31277, June 14, 1995. At the request of Lisman Community Broadcasting Company, Inc., the Commission allots Channel 299A to Lisman, Alabama, as the community's first local FM service. Channels 295A and 299A can be allotted to Stonewall and Lisman, respectively, in compliance with the Commission's minimum distance separation requirements. Channel 295A can be allotted to Stonewall with a site restriction of 14.1 kilometers (8.7 miles) northeast to avoid a short-spacing with Station WSTZ(FM), Channel 294C, Vicksburg, Mississippi. Channel 299A can be allotted to Lisman without the imposition of a site restriction. The coordinates for Channel 295A at Stonewall, Mississippi, are 32–11–37 and 88–39–48. The coordinates for Lisman, Alabama, are 32–10–07 and 88–16–57. With this action, this proceeding is terminated.

DATES: Effective May 10, 1996. The window period for filing applications will open on May 10, 1996, and close on June 10, 1996.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 95–78, adopted March 15, 1996, and released March 26, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Mississippi and Alabama, is amended by adding Stonewall, Channel 295A and by adding Lisman, Channel 299A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–7623 Filed 3–28–96; 8:45 am]

BILLING CODE 6712–01–F

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 501, 504, 511, 512, 515 and 552

[APD 2800.12A CHGE 70]

RIN 3090–AF86

General Services Administration Acquisition Regulation; Acquisition of Commercial Items

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Interim rule with request for comments; correction.

SUMMARY: This document corrects editorial errors in the interim rule, published in the **Federal Register** on February 16, 1996 (61 FR 6164).

EFFECTIVE DATE: March 4, 1996.

FOR FURTHER INFORMATION CONTACT: Les Davison, GSA Acquisition Policy Division, (202) 501–1224.

SUPPLEMENTARY INFORMATION: In FR document 96–3593, beginning on page 6164, in the issue of February 16, 1996, make the following corrections:

1. **Authority:** 40 U.S.C. 486(c).

501.105 [Corrected]

2. On page 6164, item No. 2 at the bottom of column 3 is corrected to read as follows:

2. Section 501.105 is amended by revising the following GSAR references to read as follows:

510.004–70 is redesignated as 511.170(b)(3), 510.011(i) is redesignated as 511.204(g), 512.104(a)(2) is redesignated as 511.404(a)(2) and 512.104(a)(4) is redesignated as 511.404(a)(5).

3. On page 6165, item No. 3 at the top of column 1 is corrected to read as follows:

3. Section 504.803 is amended in the first sentence of paragraph (a) by removing "(28)" and inserting "(27)" and by revising paragraphs (a)(12) and (a)(25) to read as follows:

4. On page 6165, column 1, "PART 10—MARKET RESEARCH" is corrected to read "PART 510—MARKET RESEARCH."

511.404 [Corrected]

5. On page 6166, column 2, in section 511.404(a)(3) is corrected by removing the last sentence and inserting in its place two sentences to read as follows:

* * * For items having a limited shelf-life, Alternate I to 48 CFR 552.211–79 must be substituted for the basic clause when required by the director of the FSS commodity center concerned. The Age on Delivery clause at 48 CFR 552.211–80 should be used when the required shelf life period is more than 12 months, or when source inspection can be performed within a short time period.

515.804–6 [Corrected]

6. On page 6168, column 2, the second line in paragraph (b)(5) of the "Commercial Sales Practices" format, "paragraph (b) (1) through (4)" is corrected to read "paragraphs (1) through (4)".

7. On page 6170, in item 48, "52.211–82" is corrected to "552.211–82."

Dated: March 20, 1996.

Ida M. Ustad,

Deputy Associate Administrator for Acquisition Policy.

[FR Doc. 96–7515 Filed 3–28–96; 8:45 am]

BILLING CODE 6820–61–M

Proposed Rules

Federal Register
Vol. 61, No. 62
Friday, March 29, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–31–AD]

Airworthiness Directives; Boeing Model 727 and Model 737 Series Airplanes Equipped With J.C. Carter Company Fuel Valve Actuators

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 727 and Model 737 series airplanes. This proposal would require replacement of the actuator of the engine fuel shutoff valve and the fuel system crossfeed valve with an improved actuator. This proposal is prompted by a report indicating that, during laboratory tests, the actuator clutch on the engine shutoff and crossfeed valves slipped at cold temperatures due to improper functioning. The actions specified by the proposed AD are intended to prevent improper functioning of these actuators, which could result in a fuel imbalance due to the inability of the flightcrew to crossfeed fuel; improperly functioning actuators could also prevent the pilot from shutting off the fuel to the engine following an engine failure and/or fire.

DATES: Comments must be received by May 6, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–31–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from J.C. Carter Company Inc., Aerospace Components and Repair Service, 673 W. 17th Street, Costa Mesa, California 92627–3605. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Stephen S. Bray, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office; 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2681; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 96–NM–31–AD." The postcard will be date stamped and returned to the commenter. Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–31–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On July 7, 1995, the FAA issued AD 95–15–06, amendment 39–9309 (60 FR 37811, July 24, 1995), applicable to certain Boeing Model 727 and Model 737 series airplanes, to require replacement of the actuator of the engine fuel shutoff valve and the fuel system crossfeed valve with an improved actuator. That action was prompted by reports indicating that, during laboratory tests on Model 737 series airplanes, the actuator clutch on the engine shutoff and crossfeed valves slipped at cold temperatures due to improper functioning. The requirements of that AD are intended to prevent improper functioning of these actuators, which could result in a fuel imbalance due to the inability of the flightcrew to crossfeed fuel; improperly functioning actuators could also prevent the pilot from shutting off the fuel to the engine following an engine failure and/or fire.

Since issuance of that AD, the FAA has received a report indicating that an additional fuel valve actuator having part number (P/N) 40574–5 (Kearfott Model 3715–9) installed on certain Model 727 and Model 737 series airplanes is also subject to the same failure. Therefore, the FAA has determined that this additional actuator is subject to the same unsafe condition addressed in AD 95–15–06.

The FAA has reviewed and approved J.C. Carter Company Service Bulletin 61163–28–09, dated September 28, 1995. The service bulletin describes procedures for replacement of actuators having P/N 40574–5 (Kearfott Model 3715–9) and P/N 40574–2 (Kearfott Model 3715–7 and 3715–8) on the fuel system crossfeed valve and the engine shutoff valves. These actuators are replaced with new actuators having P/N 40574–4; or with actuators having P/N 40574–2 (Kearfott Model 3715–7) with nameplates indicating that they were manufactured by General Design, Midland Ross, Janitrol Aero Division, or FL Aerospace/General Design (except FL Aerospace/General Design serial numbers 0001 through 0200, inclusive).

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require replacement of the actuator having P/N 40574–5 (Kearfott Model 3715–9) on the fuel system crossfeed valve and the engine shutoff valves either with a new actuator having P/N 40574–4, or with an actuator having P/N 40574–2 and an appropriate nameplate. The actions would be required to be accomplished in accordance with the service bulletin described previously.

Operators should note that, although the service bulletin specifies replacement of actuators having P/N 40574–5 (Kearfott Model 3715–9) and P/N 40574–2 (Kearfott Model 3715–7 and 3715–8), this proposed AD would require replacement of only P/N 40574–5. Actuators having P/N 40574–2 currently are required to be replaced in accordance with AD 95–15–06.

[Note: The FAA's normal policy is that when an AD requires a substantive change, such as a change (expansion) in its applicability, the "old" AD is superseded by removing it from the system and a new AD is added. In the case of this AD action, the FAA normally would have proposed superseding AD 95–15–06 to expand its applicability to include the J.C. Carter Company fuel valve actuator having P/N 40574–5 as an additional affected actuator. However, in reconsideration of the entire fleet size that would be affected by a supersedure action, and the consequent workload associated with revising maintenance record entries, the FAA has determined that a less burdensome approach is to issue a separate AD applicable only to the additional actuator. This AD does not supersede AD 95–15–06; airplanes listed in the applicability of AD 95–15–06 are required to continue to comply with the requirements of that AD. This proposed AD is a separate AD action, and is applicable only to airplanes equipped with J.C. Carter Company fuel valve actuator having P/N 40574–5.]

There are approximately 4,137 Boeing Model 727 and Model 737 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 2,190 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 3 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would be supplied by J.C. Carter Company at no cost to operators. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $394,200, or $180 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 96–NM–31–AD.

Applicability: All Model 727 and Model 737 series airplanes; equipped with J.C. Carter Company fuel valve actuator having part number (P/N) 40574–5; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent improper functioning of a certain actuator, which could result in a fuel imbalance due to the inability of the flightcrew to crossfeed fuel, or which could prevent the pilot from shutting off the fuel to the engine following an engine failure and/or fire, accomplish the following:

(a) Within 36 months after the effective date of this AD, replace the actuator having P/N 40574–5 (Kearfott Model 3715–9) on the fuel system crossfeed valve and the engine shutoff valves with either a new actuator having P/N 40574–4, or an actuator having P/N 40574–2 with a nameplate identified in paragraph III, Material of J.C. Carter Company Service Bulletin 61163–28–09, dated September 28, 1995. The replacement shall be done in accordance with J.C. Carter Company Service Bulletin 61163–28–09, dated September 28, 1995.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on March 25, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–7663 Filed 3–28–96; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF LABOR

Employment Standards Administration; Wage and Hour Division

29 CFR Part 500

RIN 1215–AA93

Migrant and Seasonal Agricultural Worker Protection Act

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Notice of proposed rulemaking, request for comments.

SUMMARY: This document proposes regulations to amend the definition of

"employ" under the Migrant and Seasonal Agricultural Worker Protection Act (MSPA). Consistent with Executive Order 12866, which concerns regulatory planning and review (see 58 Fed. Reg. 51735 (Oct. 4, 1993)), this document proposes to amend MSPA regulations to clarify and make easier to understand the definition of "independent contractor" and "joint employment" under MSPA, with the goal of minimizing the potential for uncertainty and litigation arising from such uncertainty and to better guide the Department's enforcement activities.

DATES: Comments on the proposed rule are due on or before June 12, 1996.

ADDRESSES: Submit written comments to Maria Echaveste, Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue, NW., Washington, DC 20210. Commenters who wish to receive notification of receipt of comments are requested to include a self-addressed, stamped post card or to submit them by certified mail, return receipt requested. As a convenience to commenters, comments may be transmitted by facsimile ("FAX") machine to (202) 219–5122. This is not a toll-free number. If transmitted by FAX and a hard copy is also submitted by mail, please indicate on the hard copy that it is a duplicate copy of the FAX transmission.

FOR FURTHER INFORMATION CONTACT: Michael Hancock, Office of Enforcement Policy, Farm Labor Team, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3510, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 219–7605. This is not a toll-free number. Copies of this NPRM in alternative formats may be obtained by calling (202) 219–7605, (202) 219–4634 (TDD). The alternative formats available are large print, electronic file on computer disk and audio-tape.

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act of 1995

This proposed rule contains no reporting or recordkeeping requirements subject to the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

II. Background

The MSPA definition of "joint employment," 29 CFR 500.20(h)(4), is proposed to be amended to clarify and provide more accurate and complete information to the regulated community, thereby making the MSPA regulations more "user-friendly." The proposed regulation comports more fully with (1) the Fair Labor Standards Act (FLSA) regulations at 29 CFR 791; (2) seminal court decisions regarding the employment relationship; and (3) the MSPA legislative history.

The MSPA statutory definition of "employ", 29 U.S.C. 1803(3)(5), from which the concept of "joint employment" is drawn, is the FLSA statutory definition of "employ", 29 U.S.C. 203(g), incorporated by reference. In keeping with the President's executive order directive to Federal agencies to identify rules that could be clarified to provide more complete and understandable guidance to the regulated community, the Department proposes to amend the MSPA "joint employment" regulation. The Department has notified the public and the regulated community of its intention, through the regulatory agenda and regulatory planning process, to amend this regulation. See 60 Fed. Reg. 23546 (May 8, 1995) and 60 Fed. Reg. 59614 (Nov. 28, 1995).

III. Summary and Discussion

Joint Employment Standard Under MSPA

The Department proposes to amend the MSPA regulation defining the employment and joint-employment relationship in agriculture. Having reviewed this regulation in the normal course of DOL operations, the Department recognizes the need for a clearer and more complete regulation setting forth the applicable criteria, thereby making the regulation more "user-friendly." The purpose of the amendment is to clarify the regulation and, thus, to avoid confusion and misapplication of the standards to be considered in determining the existence of the employment and joint-employment relationship. A further purpose is to update the regulation to reflect more completely the Congressional intent in the enactment of MSPA, the state of the law, and the Department's understanding of the employment and joint employment standard.

The Department has intended for some time to up-date and clarify this MSPA regulation. The matter has been included in the DOL regulatory agendas published in the **Federal Register** (60 FR 23546 (May 8, 1995); 60 FR 59614 (November 28, 1995)). The present proposed rulemaking undertakes the previously announced revision of the employment and joint employment definition.

The current MSPA "joint employment" regulation identifies particular factors which should be considered in determining the existence of such relationships in the agricultural context. This Departmental guidance appears to be subject to some misunderstanding in the regulated community and the courts with regard to the applicability of the legal standards under MSPA and the Fair Labor Standards Act, which contain the identical statutory standard.[1] It is the Department's view that the MSPA "joint employment" regulation should be modified to focus more closely on the ultimate test for employment and joint employment as established by the federal courts, i.e., "economic dependence," and to further clarify the multi-factor analysis to be used to determine the existence of "economic dependence" in the agricultural context. Such a clarified regulation will ensure more consistent application of the FLSA principles of employment and "joint employment" under MSPA, and will also ensure the full implementation of the Congressional intent in adopting those principles in MSPA.

Legislative and Judicial Basis for "Joint Employment"

The FLSA defines the term *employ* as meaning "to suffer or permit to work" (29 U.S.C. 203(g)), and the courts have given an expansive interpretation to the statutory definition of *employ* under the FLSA in order to accomplish the remedial purposes of the Act.[2] In accordance with the FLSA's broad definitions and remedial purposes, the traditional common law "right to control" test has been rejected in interpreting the FLSA definition of *employ*. Instead, the test of an employment relationship under the FLSA is "economic dependence," which requires an examination of the relationships among the employee and the putative employer(s) to determine upon whom the employee is economically dependent.[3] The determination of economic dependence is based upon the "economic reality" of all the circumstances and not upon isolated factors or contractual labels.[4] Since the "economic reality" test first delineated by the Supreme Court in *Rutherford Food*, the courts have uniformly considered a number of factors, no one of which is

[1] *Compare: Hodgson v. Griffin & Brand of McAllen, Inc.*, 471 F.2d 235 (5th Cir.), *cert. denied*, 414 U.S. 819 (1973), *with Aimable v. Long and Scott Farms*, 20 F.3d 434 (11th Cir.), *cert. denied*, 115 S.Ct. 351 (1994).

[2] *See Rutherford Food Corp. v. McComb*, 331 U.S. 722, 729 (1947).

[3] *See Real v. Driscoll Strawberry Assoc., Inc.*, 603 F.2d 748 (9th Cir. 1979); *Griffin & Brand, supra.*

[4] *Rutherford Food; Griffin & Brand, supra.*

determinative. Instead, the multi-factor analysis is a means of gauging whether the worker is economically dependent on the business(es) for which the worker is "suffered or permitted to work" and whether the nature and degree of that dependence constitutes an employment relationship within the intended protections of the FLSA.

The joint employment doctrine, which has long been recognized under the FLSA case law,[5] is defined by the FLSA regulation to mean a condition in which "[a] single individual stands in the relation of an employee to two or more persons at the same time" (29 CFR 791.2(a)). A joint employment relation is found when "employment by one employer is not completely disassociated from employment by the other employer," such a determination depending upon "all the facts in the particular case." *Id.*

Under MSPA, the term *employ* has the same meaning as that term under the FLSA. 29 U.S.C. 1802(5). Congress enacted this express incorporation of the FLSA definition of *employ* with the deliberate intention of adopting the FLSA case law defining employment and joint employment. Congress specifically stated that the "joint employer doctrine" articulated under the FLSA was to serve as the "central foundation" of the MSPA and "the best means by which to ensure that the purposes of this Act would be fulfilled."[6] Congress intended the joint employer doctrine to serve as a vehicle for protecting agricultural employees "by fixing the responsibility on those who ultimately benefit from their labors—the agricultural employer."[7] In declaring this purpose, Congress cited with approval the joint employment analysis utilized by the Court of Appeals in *Griffin & Brand;* thus, that decision should be the benchmark for the analysis in the agricultural setting.[8] The multi-factor test, as stated in *Griffin & Brand*, is largely the same as the Supreme Court's seminal decision in *Rutherford Food*, although the Court of Appeals restated some factors to comport more fully and realistically with the unique characteristics of an agricultural operation.

The current MSPA regulation, promulgated in 1983, sets out a non-exclusive list of factors which could appropriately be considered in the joint employment analysis. 29 CFR 500.20(h)(4)(ii). The regulation states that the ". . . determination of whether the employment is to be considered joint employment depends upon all the facts in the particular case." 29 CFR 500.20(h)(4)(i). The factors identified in the regulation were not intended by the Department to be a checklist for determining a joint employment relationship; nor were the factors intended to be given greater weight than other relevant factors presented in a particular case or developed in the case law. To the extent that courts and the regulated community may have strayed from the "economic reality"/"economic dependence" analysis by applying the regulation as a rigid checklist, or treating the regulation as an exclusive list which precludes consideration of additional factors (*e.g.*, whether workers' activities are an integral part of the putative employer's operation), or distorting or placing undue emphasis on particular factors (*e.g.*, "control" misconstrued as being direct supervision of workers' activities), the regulation is not only misinterpreted but is also being applied so as to frustrate the express intention of Congress in enacting MSPA.

Proposed "Joint Employer" Rule

In order to resolve any confusion or misunderstanding of the current MSPA regulation and to provide clearer and more complete guidance to the regulated community, the regulation is proposed to be amended to better delineate the appropriate analysis of the employment and joint employment relationships using "economic dependence" as the touchstone, as contemplated by Congress when MSPA was enacted. The proposed regulation also addresses the crucial, initial issue of whether a farm labor contractor (FLC) is a bona fide independent contractor or an employee of the agricultural association or agricultural employer; where an FLC is actually an employee of the agricultural employer or association, any worker employed by the FLC is necessarily also an employee of the FLC's employer. The proposed regulation more clearly enunciates the proper test for joint employment, as prescribed in the legislative history and set forth in the case law that has properly focused on economic reality and economic dependence. Further, the regulation will provide needed guidance on "control," clarifying that the inquiry is as to the putative employer's power or right to exercise authority in the workplace, either directly or indirectly; the actual exercise of such power or authority is not necessary. The regulation would be further clarified, in that the illustrative list of factors eliminates redundancy (*e.g.*, items in the current regulation dealing with aspects of control are consolidated) and provides more complete guidance as to appropriate consideration of factors. Comments are requested concerning the factors listed, in particular whether or not additional factors should be included in the illustrative list of factors.

[5] *Griffin & Brand, supra.*

[6] H. Rep. No. 97–885, 97th Cong. 2d sess. pp. 6–7 ["Rept."].

[7] 128 Cong. Rec. H26008 (Sept. 1982).

[8] Rept. 7.

Executive Order 12866/Section 202 of the Unfunded Mandates Reform Act of 1995

This proposed rule is not "economically significant" within the meaning of Executive Order 12866, nor does it require a § 202 statement under the Unfunded Mandates Reform Act of 1995. However, because the rule may raise novel legal or policy issues arising out of legal mandates, it has been determined by OMB to be a "significant regulatory action" within the meaning of § 3(f)(4) of Executive Order 12866. The proposed rule proposes to amend the MSPA regulations to clarify the concepts of *employ, employer, employee,* and *joint employment*. No economic analysis is required because the rule will not have a significant economic impact.

Regulatory Flexibility Analysis

This proposed rule will not have a significant economic impact on a substantial number of small entities. The Department has certified to this effect to the Chief Counsel for Advocacy of the Small Business Administration. The proposed rule contains language which is intended to clarify what is meant by the terms *employ, employer, employment,* and *joint employment* under MSPA.

Document Preparation

This document was prepared under the direction and control of Maria Echaveste, Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

List of Subjects in 29 CFR Part 500

Agricultural employers, Agricultural associations, Agricultural worker, Employ, Employee, Employer, Farm labor contractor, Independent Contractor, Joint Employment, Migrant agricultural workers, Migrant labor, Seasonal agricultural workers.

Signed at Washington, D.C., on this 26th day of March, 1996.

John R. Fraser,

Deputy Administrator, Wage and Hour Division.

For the reasons set forth above, 29 CFR part 500 is proposed to be amended as set forth below:

PART 500—MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION

1. The authority citation for Part 500 is revised to read as follows:

Authority: Pub. L. 97–470, 96 Stat. 2583 (29 U.S.C. 1801–1872); Secretary's Order No. 6–84, 49 FR 32473.

2. In § 500.20, paragraph (h)(4) is revised and paragraph (h)(5) is added to read as follows:

§ 500.20 Definitions.

* * * * *

(h) * * *

(4) The definition of the term *employ* may include consideration of whether or not an *independent contractor* or *employment* relationship exists under the Fair Labor Standards Act. Under MSPA, questions will arise whether or not the farm labor contractor engaged by the agricultural employer/association is a bona fide independent contractor or an employee. Questions also arise whether or not the worker is a bona fide independent contractor or an employee of the farm labor contractor and/or the agricultural employer/association. These questions should be resolved in accordance with the factors set out below and the principles articulated by the federal courts in *Rutherford Food Corp.v. McComb*, 331 U.S. 722 (1947), *Real v. Driscoll Strawberry Assoc., Inc.*, 603 F.2d 748 (9th Cir. 1979), and *Sec'y of Labor, U.S. Dept. of Labor v. Lauritzen*, 835 F.2d 1529 (7th Cir. 1987). If it is determined that the farm labor contractor is an *employee* of the agricultural employer/association, the agricultural workers in the farm labor contractor's crew who perform work for the agricultural employer/association are deemed to be employees of the agricultural employer/association and an inquiry into joint employment is not necessary or appropriate. In determining if the worker or farm labor contractor is an employee or an independent contractor, the ultimate question is the economic reality of the relationship—whether there is economic dependence upon the farm labor contractor or agricultural employer/association, as appropriate. This determination is based upon an evaluation of all of the circumstances, including the following:

(i) The nature and degree of the putative employer's control as to the manner in which the work is performed;

(ii) The putative employee's opportunity for profit or loss depending upon his managerial skill;

(iii) The putative employee's investment in equipment or materials required for the task, or the putative employee's employment of other workers;

(iv) Whether the services rendered by the putative employee requires special skill;

(v) The degree of permanency and duration of the working relationship;

(vi) The extent to which the services rendered by the putative employee are an integral part of the putative employer's business.

(5) The definition of the term *employ* includes the *joint employment* principles applicable under the Fair Labor Standards Act. The term *joint employment* means a condition in which a single individual stands in the relation of an employee to two or more persons at the same time. A determination of whether the employment is to be considered joint employment depends upon all the facts in the particular case. If the facts establish that two or more persons are completely disassociated with respect to the employment of a particular employee, a joint employment situation does not exist.

(i) If it is determined that the farm labor contractor is an independent contractor, it still must be determined whether or not the employees of the farm labor contractor are also jointly employed by the agricultural employer/association. *Joint employment* under the Fair Labor Standards Act is joint employment under the MSPA. Such joint employment relationships, which are common in agriculture, have been addressed both in the legislative history and by the courts.

(ii) The legislative history of the Act (H. Rep. No. 97–885, 97th Cong., 2d Sess., 1982) states that the legislative purpose in enacting MSPA was "to reverse the historical pattern of abuse and exploitation of migrant and seasonal farm workers . . .," which would only be accomplished by "advanc[ing] . . . a completely new approach" (Rept. at 3). Congress's incorporation of the FLSA term *employ* was undertaken with the deliberate intent of adopting the FLSA *joint employer* doctrine as the "central foundation" of MSPA and "the best means by which to insure that the purposes of this MSPA would be fulfilled" (Rept. at 6). Further, Congress intended that the *joint employer* test under MSPA be the formulation as set forth in *Hodgson v. Griffin & Brand of McAllen, Inc.* 471 F.2d 235 (5th Cir.), *cert. denied*, 414 U.S. 819 (1973) (Rept. at 7). In endorsing *Griffin & Brand*, Congress stated that this formulation should be controlling in situations "where an agricultural employer . . . asserts that the agricultural workers in question are the *sole* employees of an independent contractor/crewleader," and that the "decision makes clear that even if a farm labor contractor is found to be a bona fide independent contractor, . . . this status does not as a matter of law negate the possibility that an agricultural employer may be a joint employer . . . of the harvest workers" together with the farm labor contractor. Further, regarding the joint employer doctrine and the *Griffin & Brand* formulation, Congress stated that "the absence of evidence on any of the criteria listed does not preclude a finding that an agricultural association or agricultural employer was a joint employer along with the crewleader", and that "it is expected that the special aspects of agricultural employment be kept in mind" when applying the tests and criteria set forth in the case law and legislative history (Rept. at 8).

(iii) In determining whether or not an employment relationship exists between the agricultural employer/association and the agricultural worker, the ultimate question to be determined is the economic reality—whether the worker is so economically dependent upon the agricultural employer/association as to be considered its employee, subject to MSPA protections.

(iv) The factors set forth below are analytical tools to be used in determining the ultimate question of economic dependency. The factors are not to be applied as a checklist. They are illustrative only and are not intended to be exhaustive; other factors may be considered, depending upon the specific circumstances of the relationship among the parties. No one factor is critical to the analysis; nor must a majority of the factors be found for an employment relationship to exist. Rather, how the factors are weighed depends upon all of the facts and circumstances. Among the factors to be considered in determining whether or not an employment relationship exists are:

(A) Whether the agricultural employer/association has the power, either alone or through control of the farm labor contractor to direct, control, or supervise the worker(s) or the work performed (such control may be either direct or indirect, and may be either exercised or unexercised, taking into account the nature of the work performed);

(B) Whether the agricultural employer/association has the power, either alone or in addition to another employer, directly or indirectly, to hire or fire, modify the employment conditions, or determine the pay rates or the methods of wage payment for the worker(s);

(C) Whether the agricultural employer/association supplies housing, transportation, tools and equipment or materials required for the job;

(D) The degree of permanency and duration of the relationship of the parties, in the context of the agricultural activity at issue;

(E) The extent to which the services rendered by the workers are repetitive, rote tasks requiring skills which are acquired with relatively little training;

(F) Whether the activities performed by the worker are an integral part of the overall business operation of the agricultural employer/association;

(G) Whether the work is performed on the agricultural employer/association's premises or on the premises owned or controlled by another business entity;

(H) Whether the agricultural employer/association undertakes responsibilities in relation to the worker which are normally performed by employers, such as maintaining payroll records, preparing and/or issuing pay checks, paying FICA taxes, providing workers' compensation insurance, or providing field sanitation facilities; and

(I) Other facts bearing on economic dependency.

* * * * *

[FR Doc. 96–7818 Filed 3–28–96; 8:45 am]

BILLING CODE 4510–27–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

[SPATS No. IL–092–FOR]

Illinois Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Illinois regulatory program (hereinafter the "Illinois program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of the revision of four sections and the addition of one section to Title 62 of the Illinois Administrative Code (IAC) regulations pertaining to self-bonding. The amendment is intended to revise the Illinois program to be consistent with the corresponding Federal regulations.

DATES: Written comments must be received by 4 p.m., e.s.t., April 29, 1996. If requested, a public hearing on the proposed amendment will be held on April 25, 1996. Requests to speak at the hearing must be received by 4 p.m., e.s.t. on April 15, 1995.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to Roger W. Calhoun, Director, Indianapolis Field Office, at the address listed below.

Copies of the Illinois program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Indianapolis Field Office.

Roger W. Calhoun, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, IN 46204, Telephone: (317) 226–6700.

Illinois Department of Natural Resources, Office of Mines and Minerals, 524 South Second Street, Springfield, IL 62701–1787, Telephone (217) 782–4970.

FOR FURTHER INFORMATION CONTACT:

Roger W. Calhoun, Director, Indianapolis Field Office, Telephone: (317) 226–6700.

SUPPLEMENTARY INFORMATION:

I. Background on the Illinois Program

On June 1, 1982, the Secretary of the Interior conditionally approved the Illinois program. Background information on the Illinois program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the June 1, 1982, **Federal Register** (47 FR 23883). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 913.15, 913.16, and 913.17.

II. Description of the Proposed Amendment

By letter dated March 4, 1996 (Administrative Record No. IL–1800), Illinois submitted a proposed amendment to its program pursuant to SMCRA. Illinois submitted the proposed amendment at its own initiative. Illinois proposed to revise 62 IAC 1800.4, Department responsibilities; 62 IAC 1800.5, Definitions; 62 IAC 1800.11, Requirement to file a bond; and 62 IAC 1800.12, Form of the performance bond. Illinois also proposed to add 62 IAC 1800.23, Self-bonding.

1. 62 IAC 1800.4 Department Responsibilities

Illinois proposes to revise § 1800.4 by adding new subsection (c) that authorizes the acceptance of a self-bond if the permittee meets the requirements of 62 IAC 1800.23. Existing subsections (c) through (e) are proposed to be redesignated (d) through (f).

2. 62 IAC 1800.5 Definitions

Illinois proposes to revise § 1800.5 by adding a definition for the term "self-bonding" at new subsection (c) that reads as follows:

Self-bonding means an indemnity agreement in a sum certain executed by the applicant or by the applicant and any corporate guarantor and made payable to the Department, with or without separate surety.

3. 62 IAC 1800.11 Requirement to File a Bond

Illinois proposes to revise § 1800.11 by adding new subsection (e) that requires self-bonding for eligible permittees be administered consistent with all applicable provisions of 62 IAC 1800.1 through 1800.50.

4. 62 1800.12 Form of the Performance Bond

Illinois proposes to revise § 1800.12 by adding new subsection (c) that identifies a self-bond as form of performance bond allowed by the Illinois program. Existing subsection (c) is proposed to be redesignated subsection (d)..

5. 62 IAC 1800.23 Self-Bonding

Illinois proposes to add new § 1800.23 concerning its conditions for acceptance of a self-bond. At subsection (a), Illinois defines the terms to be used in the section: "current assets"; "current liabilities"; "fixed assets"; "liabilities"; "net worth"; "parent corporation"; and "tangible net worth." At subsection (b), Illinois specifies the conditions that must be met before a self-bond would be accepted from the applicant. At

subsection (c), Illinois specifies the conditions that must be met for acceptance of a written guarantee for an applicant's self-bond from a parent corporation guarantor or non-parent corporation guarantor. At subsection (d), Illinois specifies that the total amount of the outstanding and proposed self-bonds for either an applicant, parent corporation guarantor, or nonparent corporate guarantor shall not exceed 25 percent of the their tangible net worth in the United States. At subsection (e), Illinois is requiring an indemnity agreement be submitted with specified requirements. At subsection (f), Illinois is requiring submittal of an update of specified information within 90 days after the close of each fiscal year following issuance of the self-bond or corporate guarantee. At subsection (g), Illinois is requiring that if the financial conditions of the applicant, parent or nonparent corporate guarantor change so that specified criteria are not satisfied, the permittee shall notify Illinois immediately and post an alternate form of bond within 90 days.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Illinois program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Indianapolis Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., e.s.t on April 15, 1996. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**.

The public hearing will continue on the specified date until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Public Meeting

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11; 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 913

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 21, 1996.

Deborah Watford,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 96–7691 Filed 3–28–96; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 170

[OPP–250115; FRL–5359–1]

Pesticide Worker Protection Standard, Decontamination Requirements; Notification to the Secretary of Agriculture

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification to the Secretary of Agriculture.

SUMMARY: Notice is given that the Administrator of EPA has forwarded to the Secretary of Agriculture a final regulation under section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The rule reduces the duration that decontamination supplies must be maintained for low toxicity pesticides. This action is required by FIFRA section 25(a)(2).

FOR FURTHER INFORMATION CONTACT: By mail: Linda H. Strauss, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 1121F, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-308-3240), e-mail: strauss.linda@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Section 25(a)(2) of FIFRA provides that the Administrator shall provide the Secretary of Agriculture with a copy of any final regulation at least 30 days before signing it for publication in the **Federal Register**. If the Secretary comments in writing regarding the final regulation within 15 days after receiving it, the Administrator shall issue for publication in the **Federal Register**, with the final regulation, the comments of the Secretary, if requested by the Secretary, and the response of the Administrator concerning the Secretary's comments. If the Secretary does not comment in writing within 15 days after receiving the final regulation, the Administrator may sign the regulation for publication in the **Federal Register** anytime thereafter. As required by FIFRA section 25(a)(3), a copy of the final regulation has been forwarded to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

List of Subjects in 40 CFR Part 170

Environmental protection, Administrative practice and procedure, Labeling, Occupational safety and health, Pesticides and pests.

Authority: 7 U.S.C. 136 *et seq.*

Dated: March 21, 1996.

Penelope A. Fenner-Crisp

Acting Director, Office of Pesticide Programs.

[FR Doc. 96–7742 Filed 3–28–96; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 170

[OPP–250116; FRL–5358–9]

Pesticide Worker Protection, Standard Language and Size Requirement for Warning Sign; Notification to the Secretary of Agriculture

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification to the Secretary of Agriculture.

SUMMARY: Notice is given that the Administrator of EPA has forwarded to the Secretary of Agriculture a final regulation under section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The rule amends the requirements in the worker protection standards for the posting of a warning sign at pesticide use sites. This action is required by FIFRA section 25(a)(2).

FOR FURTHER INFORMATION CONTACT: By mail: John R. MacDonald, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1121F, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-305-7370).

SUPPLEMENTARY INFORMATION: Section 25(a)(2) of FIFRA provides that the Administrator shall provide the Secretary of Agriculture with a copy of any final regulation at least 30 days before signing it for publication in the **Federal Register**. If the Secretary comments in writing regarding the final regulation within 15 days after receiving it, the Administrator shall issue for publication in the **Federal Register**, with the final regulation, the comments of the Secretary, if requested by the Secretary, and the response of the Administrator concerning the Secretary's comments. If the Secretary does not comment in writing within 15 days after receiving the final regulation, the Administrator may sign the regulation for publication in the **Federal Register** anytime thereafter. As required by FIFRA section 25(a)(3), a copy of the final regulation has been forwarded to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

List of Subjects in 40 CFR Part 170

Environmental protection, Administrative practice and procedure, Labeling, Occupational safety and health, Pesticides and pests.

Authority: 7 U.S.C. 136 *et seq.*

Dated: March 21, 1996.

Penelope A. Fenner-Crisp,

Acting Director, Office of Pesticide Programs.

[FR Doc. 96–7744 Filed 3–28–96; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 15 and 97

[Docket No. 94–124; RM–8308; FCC 95–499]

Operation Above 40 GHz

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: By this *Second Notice of Proposed Rule Making, ("2nd NPRM")*, the Commission addresses proposals: to restrict amateur usage of the 76–77 GHz band in order to protect vehicle radar systems from interference while also giving amateur operators coprimary status in the 77.5–78 GHz band; to develop a spectrum etiquette technical standard for the 59–64 GHz band to minimize interference within that band; and to further restrict emissions above 200 GHz to protect radio astronomy operations from interference.

DATES: Comments must be submitted on or before May 28, 1996. Reply comments must be submitted on or before June 27, 1996.

ADDRESSES: Comments and reply comments should be sent to the Office of Secretary, Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: John Reed, Office of Engineering and Technology, (202) 418–2455, Richard Engelman, Office of Engineering and Technology, (202) 418–2445, or Michael Marcus, Office of Engineering and Technology, (202) 418–2470, or send an electronic mail message via the Internet to mmwaves@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *2nd NPRM*, ET Docket 94–124, FCC 95–499, adopted December 15, 1995, and released December 15, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1919 M Street, NW., Room 246 or 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of 2nd NPRM

1. *2nd NPRM* addresses several issues relating to use of the 46.7–46.9 GHz, 59–64 GHz, and 76–77 GHz bands. First, we are proposing to amend Part 97 of our rules to restrict temporarily amateur use of the 76–77 GHz band in order to ensure that vehicle radar systems will not receive interference from amateur operations. To balance any perceived harm by amateur operators, we are proposing to upgrade the status of amateur operators in the 77.5–78 GHz band to co-primary with the radiolocation service. We are also proposing limits for emissions in the 200–231 GHz band to protect radio astronomy operations from potential interference. In addition, we are proposing to initiate the development of a spectrum etiquette standard to prevent interference among unlicensed 59–64 GHz devices, analogous to the standards used for unlicensed PCS under Part 15 of our rules, and request specific proposals for such standards. *See* 47 CFR 15.321 and 15.323.

2. The Initial Regulatory Flexibility Analysis ("IRFA") is contained in the text of the 2nd NPRM. The Commission requests written public comment on the foregoing IRFA. Comments must have a separate and distinct heading designating them as responses to the IRFA and must be filed by the deadlines specified in the summary above.

List of Subjects

47 CFR Part 2

Communications equipment, Radio.

47 CFR Part 15

Communications equipment, Highway safety, Radio.

47 CFR Part 97

Communications equipment, Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–7688 Filed 3–28–96; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 96–54; RM–8769]

Radio Broadcasting Services; Ruidoso, NM

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Kellie K. Brown seeking the allotment of Channel 268A to Ruidoso, NM, as the community's third aural and second local FM service. Channel 268A can be allotted to Ruidoso in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 33–20–00 NL; 105–40–54 WL. Mexican concurrence is required since Ruidoso is located within 320 kilometers (199 miles) of the U.S.-Mexican border.

DATES: Comments must be filed on or before May 13, 1996, and reply comments on or before May 28, 1996.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Kellie K. Brown, P.O. Box 4396, Ruidoso, NM 88345 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 96–54, adopted March 1, 1996, and released March 21, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–7622 Filed 3–28–96; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 73

[MM Docket No. 96–50; RM–8768]

Radio Broadcasting Services; Nikiski, AK

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by William J. Glynn, Jr., requesting the allotment of FM Channel 227C2 to Nikiski, Alaska, as that community's first local aural transmission service. Coordinates used for this proposal are 60–35–40 and 151–20–00.

DATES: Comments must be filed on or before May 13, 1996, and reply comments on or before May 28, 1996.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: William J. Glynn, Jr., P.O. Box 79, Kasilof, AK 99610.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 96–50, adopted March 5, 1996, and released March 21, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–7621 Filed 3–28–96; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 73

[MM Docket No. 96–52; RM–8755]

Radio Broadcasting Services; Princeville, HI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of John Moore dba Moore Broadcasting Company, one of two mutually-exclusive applicants for Channel 255C1 at Princeville, Hawaii, proposing the allotment of Channel 260C1 to Princeville, to resolve the mutual exclusivity while providing a second local FM service to that community. If the channel is allotted with cut-off protection, petitioner also seeks to amend its pending application for Channel 255C1 at Princeville to reflect operation on Channel 260C1. Coordinates used for Channel 260C1 at Princeville are 22–00–00 and 159–22–50.

DATES: Comments must be filed on or before May 13, 1996, and reply comments on or before May 28, 1996.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Cary S. Tepper, Esq., Booth, Freret & Imlay, P.C., 1233 - 20th Street, NW., Suite 204, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 96–52, adopted March 6, 1996, and released March 21, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–7620 Filed 3–28–96; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 73

[MM Docket No. 96–51; RM–8764]

Radio Broadcasting Services; Wellington, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Victor A. Michael, Jr., requesting the allotment of FM Channel 232C3 to the incorporated community of Wellington, Colorado, as its first local aural tramsission service. Coordinates used for this proposal are 40–53–57 and 105–01–53.

DATES: Comments must be filed on or before May 13, 1996, and reply comments on or before May 28, 1996.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Victor A. Michael, Jr., 7901 Stoneridge Drive, Cheyenne, WY 82001.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 96–51, adopted March 6, 1996, and released March 21, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–7618 Filed 3–28–96; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 73

[MM Docket No. 96–53; RM–8767]

Television Broadcasting Services; Marinette, WI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Douglas A. Maszka d/b/a Tri-City Television Company proposing the allotment of UHF Television Channel 25+ to Marinette, Wisconsin. There is a site restriction 18.6 kilometers (11.6 miles) north of the community at coordinates 45–15–54 and 87–36–51. The proposed allotment of Channel 25+ will require a plus offset. Canadian concurrence will be requested for this allotment.

DATES: Comments must be filed on or before May 13, 1996, and reply comments on or before May 28, 1996.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Douglas A. Maszka, d/b/a Tri-City Television Company, 600 Vroman Street, Green Bay, Wisconsin 54303.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 96–53, adopted March 6, 1996, and released March 21, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–7619 Filed 3–28–96; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Denial of Petition for Rulemaking; Federal Motor Vehicle Safety Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Denial of petition for rulemaking.

SUMMARY: This document denies Mr. John Chevedden's petition for rulemaking to require only amber bulbs be sold in the aftermarket for replacement of the front amber turn signal bulbs. NHTSA's analysis of the petition concludes that this action would have a negligible effect on reducing crashes or fatalities, and would have significant cost effects for the redesign of turn signal and stop lamps.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Van Iderstine, Office of Safety Performance Standards, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Mr. Van Iderstine's telephone number is: (202) 366–5275. His facsimile number is (202) 366–4329.

SUPPLEMENTARY INFORMATION: By letter dated November 14, 1995, Mr. John Chevedden of Redondo Beach, California, petitioned the agency to issue a rule that would "require only amber light bulbs to be sold in the aftermarket for replacement of factory amber front turn signal bulbs." Mr. Chevedden stated that this is necessary "to prevent the aftermarket from nullifying the requirement (since 1963) that front turn signal lamps be amber." He states that the use of clear bulbs on vehicles with clear lenses on front turn signal lamps nullifies the amber requirement.

While it is true that front turn signal lamps are required to be amber on new motor vehicles at the time of their delivery to the first user, the requirement may be met by either an amber bulb behind a clear lens, or a clear bulb behind an amber lens. In service, the correct maintenance of that safety equipment is the responsibility of vehicle owners. The installation of incorrect bulbs or replacement lenses represents the failure of the owner to fulfill that responsibility. The responsibility for inspection of and enforcement for properly operating safety equipment belongs to the states, and in the petitioner's case, existing laws in most states require that front turn signal lamps emit amber light.

The clear bulbs, about which the petitioner is concerned, that may be used to replace burned-out amber bulbs in front turn signal lamps with clear lenses, are also used for all existing backup, stop, and rear red turn signal lamps, as well as for other purposes. These bulbs would be banned under the Mr. Chevedden's petition. Ultimately, this would necessitate that new bulbs be designed and marketed that are not interchangeable between lamp functions. This would have cost impacts on new and replacement bulbs as well as on the design of new signal lamps. This also could have significant adverse consequences to safety, because of the inability of vehicle owners to obtain clear replacement bulbs for the ones that will burn out on the 150 million vehicles already in the fleet. Thus, the fleet could have fewer and fewer functional lamps over time, leading to increases in accidents.

Mr. Chevedden did not provide any support for his petition, such as the argument that accidents are occurring as a result of the use of clear turn signal bulbs in lamps with clear lenses. In the absence such support and in light of the adverse consequences that the agency foresees for his solution, the agency sees no basis for rulemaking.

In accordance with 49 CFR part 552, this completes the agency's technical review of the petition. The agency has concluded that there is no reasonable possibility that the amendment requested by the petitioner would be issued at the conclusion of a rulemaking proceeding. After considering all relevant factors, including the need to allocate and prioritize limited agency resources to best accomplish the agency's safety mission, the agency has decided to deny the petition.

Authority: 49 U.S.C. 30103, 30162; delegation of authority at 49 CFR 1.50 and 501.8.

Issued on: March 25, 1996.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96–7706 Filed 3–28–96; 8:45 am]

BILLING CODE 4910–59–P

49 CFR Part 571

Denial of Petition for Rulemaking; Federal Motor Vehicle Safety Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Denial of petition for rulemaking.

SUMMARY: This document denies a petition from the Society of Automotive Engineers (SAE) for rulemaking to incorporate the latest version of SAE Standard J594—*Reflex Reflectors*, into Federal Motor Vehicle Safety Standard (FMVSS) No. 108. NHTSA's analysis of the petition concludes that there is minimal benefit to the public in updating the reference to this SAE standard. While incorporation would make reflex reflector requirements more readily available to lighting and vehicle design engineers as a current reference, it would require considerable expenditures of agency resources to implement it and all the other SAE standards whose references in FMVSS No. 108 are not the most recent. The agency's commitment of its resources to identify its safety priorities precludes granting this petition. However, the agency will compile a reference document of materials incorporated into Standard No. 108 to improve availability of these materials.

FOR FURTHER INFORMATION CONTACT: Mr. Jere Medlin, Office of Crash Avoidance Standards, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Mr. Medlin's telephone number is: (202) 366–5276. His facsimile number is (202) 366–4329.

SUPPLEMENTARY INFORMATION: By letter dated October 4, 1995, William A. McKinney, Chairman of the Lighting Coordinating Committee of the Society of Automotive Engineers, Inc. (Petitioner) petitioned the agency to incorporate the latest version of SAE J594—*Reflex Reflectors*, into 49 CFR 571.108 (Federal Motor Vehicle Safety Standard No. 108, Lamps, reflective devices and associated equipment). The petitioner claimed the changes in the latest version (J594 JUL95) provide significant improvements in format consistent with the current SAE practice, incorporate information on other SAE publications referenced in the document, include definitions of photometry observation and entrance angles, and provide additional explanations and guidelines for photometry and installation requirements. Petitioner further claimed that these revisions make this new version easier to apply, as well as easier to find because it is located in current SAE Handbooks. Petitioner also claimed that the changes would not adversely affect the costs of any lighting or vehicle manufacturer. No claims about safety or performance were made.

The agency has reviewed what would be required to implement the Petitioner's desired solution. It has found that the tests and many requirements of the new J594 are from or referenced to SAE Recommended Practice J575 JUN92—*Test Methods and Equipment for Lighting Devices and Components for Use on Vehicles Less than 2032 mm in Overall Width*. However, the version of J575 to which FMVSS No. 108 refers is J575e August 1970. It is not found in the current SAE Handbook. The same issue occurs for SAE J578, *Color Specification*. The new SAE J594 refers to the "current version(s)", rather than the version required by FMVSS No. 108, which is SAE J578a October 1966.

Therefore, the advantage claimed by Petitioner by referencing to a standard in current SAE handbooks appears to be very small because this action would update only J594, and none of the subreferenced documents. Additionally, because NHTSA reference to SAE standards is not always absolute, in that parts of standards are referenced or exceptions are made to specific requirements in SAE standards where different or more stringent performance is necessary for safety purposes, the value of having the latest version of an SAE document is lessened. Thus, without a careful reading of FMVSS No. 108, a reader of the newest J594 could continue to be misled as to the pertinent requirements, just as with the currently referenced version.

An example of this issue is seen in the Installation Requirements paragraph of J594 JUL95. NHTSA is currently proposing in another rulemaking (60 FR 54833) to amend geometric visibility requirements of signal lamps (installed visibility requirements) that are substantially different from those in J594 JUL95. Should this geometric visibility proposal be adopted, the text of any referenced version of J594 will be superseded. It is unlikely that J594 JUL95, or any version of a referenced industry standard would be wholly usable for more than just a short period of time and probably would be out of print after just five years because of SAE's schedule of periodic updating of its standards. At that time, the value of the rulemaking efforts requested by this petition would be negated by another SAE update.

Allocation of agency resources and agency priorities must be considered in processing what may be the first of many petitions from the SAE to update each of the SAE standards directly referenced in FMVSS No. 108, and potentially more petitions to update the additional SAE standards that are subreferenced in those SAE standards. All of these mentioned standards have specific dated versions referenced in FMVSS No. 108. Because the SAE endeavors to update its standards on a regular five year schedule, the federal regulatory workload from such a course of updating would be continuous and drain resources from other activities. This is not a desirable course given the agency's shrinking resources. Nonetheless, NHTSA recognizes that the technical expertise found on SAE Committees is invaluable to NHTSA's mission, particularly when performance requirements must be developed to accommodate new technologies. Consequently, NHTSA plans to consider how best to cooperate with the SAE. NHTSA will still be favorably inclined to consider any future SAE request that has significant safety benefits or when such action would remove impediments to the use of new technologies.

To respond to the need expressed by SAE, the agency will compile and provide on request to interested persons, a document containing the desired SAE and other organizations' standards which are referenced and subreferenced in FMVSS No. 108. The immediate effect is to make it easier for all interested persons, especially lighting and vehicle personnel, to have available in one document all the requirements in the Federal lighting standard. The agency recognizes the problem of finding older SAE Standards, and takes this action to solve that problem. It will be updated as required.

In accordance with 49 CFR part 552, this completes the agency's review of the petition. The agency has concluded that there is no reasonable possibility that the specific action requested by the petitioner would be issued at the conclusion of a rulemaking proceeding. Accordingly, it denies the SAE's petition.

Authority: 49 U.S.C. 30103, 30162; delegation of authority at 49 CFR 1.50 and 501.8.

Issued on March 25, 1996.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96–7707 Filed 3–28–96; 8:45 am]

BILLING CODE 4910–59–P

Notices

Federal Register
Vol. 61, No. 62
Friday, March 29, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

[Docket No. 96–016–2]

Declaration of Emergency Because of Karnal Bunt

An exotic fungal disease, Karnal bunt, has been detected in the United States. The disease was detected in Arizona, and potentially contaminated seed was sent to New Mexico and Texas. The disease had not previously been detected in the United States.

Karnal bunt (*Tilletia indica*) is a serious disease of wheat, durum wheat, and triticale, a hybrid of wheat and rye. The disease affects both yield and grain quality. It adversely affects the color, odor, and palatability of flour and other foodstuffs made from wheat. It does not present a risk to human health.

If Karnal bunt is allowed to spread, the overall crop loss and impact on quality may be significant. The disease could affect United States grain exports. The United States is the world's leading wheat exporter, accounting for one-third of the world wheat exports. Wheat exports from the United States were valued at $4.9 billion in Fiscal Year 1995. At least 21 countries are known to regulate or prohibit grain movement on the basis of Karnal bunt.

Control and eradication of Karnal bunt is difficult. Management of the disease is through quarantine and containment of regulated articles. Initial emergency action was taken by the Arizona Department of Agriculture (ADA) and the Animal and Plant Health Inspection Service (APHIS). APHIS and ADA have instituted emergency quarantines on the infected premises and are regulating the movement of seed, farm equipment, and soil associated with the infected wheat.

To conduct a management and eradication program, funds are needed to conduct surveys, and establish regulatory controls and other activities deemed necessary to protect wheat production areas and export markets. APHIS has insufficient funds to meet the needs of the proposed program. Once funded, APHIS can continue management programs in Arizona, New Mexico, and Texas, and regulate areas that have received infected seed, soil, and equipment to prevent further spread. Delimiting surveys are planned to determine the extent of the infection. A national survey of grain elevators and a survey of grain export elevators is planned to verify Karnal bunt-free areas and to ensure continuation of exports.

Therefore, in accordance with the provisions of the Act of September 25, 1981, 95 Stat. 953 (7 U.S.C. 147b), I declare that there is an emergency which threatens the wheat, durum wheat, and triticale crops of this country, and I authorize the transfer and use of such sums as may be necessary from appropriations or other funds available to agencies or corporations of the Department of Agriculture for the conduct of a program to detect and identify Karnal bunt infested areas, and to control and prevent the spread of Karnal bunt to noninfested areas in the United States, and to eradicate Karnal bunt wherever it may be found in the United States.

Effective Date: This declaration of emergency shall become effective March 26, 1996.

Dan Glickman,
Secretary of Agriculture.
[FR Doc. 96–7737 Filed 3–28–96; 8:45 am]
BILLING CODE 3410–34–P

Agricultural Research Service

Notice of Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the United States Department of Agriculture, Agricultural Research Service, intends to grant to Peterson Seed Company, Inc., of Savage, Minnesota, an exclusive license for ARS–2620, a new plant variety entitled "Rhizomatous Birdsfoot Trefoil." Notice of Availability for this new plant variety, for which Plant Variety Protection is pending, was published in the Federal Register on October 17, 1995.

DATES: Comments must be received on or before May 28, 1996.

ADDRESSES: Send comments to: USDA–ARS–Office of Technology Transfer, Beltsville Agricultural Research Center, Baltimore Boulevard, Building 005, Room 416, BARC–W, Beltsville, Maryland 20705–2350.

FOR FURTHER INFORMATION CONTACT: Andrew Watkins of the Office of Technology Transfer at the Beltsville address given above; telephone: 301/504–6786.

SUPPLEMENTARY INFORMATION: The Federal Government's plant variety protection rights to this variety are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention, for the Peterson Seed Company, Inc., has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 USC 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty days from the date of this published Notice, ARS receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

R.M. Parry, Jr.,
Assistant Administrator.
[FR Doc. 96–7651 Filed 3–28–96; 8:45 am]
BILLING CODE 3410–03–M

Animal and Plant Health Inspection Service

[Docket No. 92–110–4]

Veterinary Services Draft Programmatic Environmental Impact Statement

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared a draft programmatic environmental impact statement for the Veterinary Services Program, which is responsible for the protection of the Nation's livestock and poultry. As part of this mission, Veterinary Services conducts ongoing programs designed to detect, prevent, control, and eradicate endemic and foreign animal diseases and pests that threaten these resources. The draft programmatic environmental impact statement addresses environmental impacts associated with these ongoing programs. We are requesting public comments on the draft programmatic environmental impact statement.

DATES: Consideration will be given only to comments received on or before May 28, 1996.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 92–110–4, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 92–110–4. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, Between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

Interested persons may obtain a copy of the draft environmental impact statement by writing to the addresses listed below under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Sweeney, Project Leader, Environmental Analysis and Documentation, BBEP, APHIS, Suite 5B05, 4700 River Road Unit 149, Riverdale, MD 20737–1237, (301) 734–8565; or Dr. William E. Ketter, Assistant to Director, Operational Support, VS, APHIS, Suite 3B08, 4700 River Road Unit 33, Riverdale, MD 20737–1231, (301) 734–4357.

SUPPLEMENTARY INFORMATION:

Background

The Animal and Plant Health Inspection Service (APHIS) has prepared a draft programmatic environmental impact statement (EIS) for our Veterinary Services Program, which is responsible for the protection of the Nation's livestock and poultry. As part of this mission, (VS) conducts ongoing programs designed to detect, prevent, control, and eradicate endemic and foreign animal diseases and pests that threaten these resources. The draft programmatic EIS addresses environmental impacts associated with these ongoing programs.

We published a notice of intent to prepare a programmatic EIS in the

Federal Register on July 23, 1992 (57 FR 32771–32772, Docket No. 92–110–1). This notice advised the public that we intended to use in-house resources to study the disease prevention, surveillance, control, and eradication activities of the VS Program to identify any potential environmental effects. We published a notice of the proposed scope of study for the programmatic EIS in the **Federal Register** on October 9, 1992 (57 FR 46532–46534, Docket No. 92–110–2). This notice identified potential issues to be analyzed in the programmatic EIS, and requested public comment on these and other issues. Comments were to be received on or before November 23, 1992. We published a notice of the final scope of study for the programmatic EIS in the **Federal Register** on March 29, 1993 (58 FR 16520–16521, Docket No. 92–110–3).

Major Issues

The comments received from the public helped us to determine the principal focus of the draft programmatic EIS. The draft programmatic EIS identifies the following VS programs and activities as having the potential to affect the quality of the human environment: (1) Methods of animal carcass disposal; (2) disease eradication efforts of an emergency nature; (3) the use of disinfectants and pesticides; (4) the import-export program; (5) the vaccination program; (6) the construction, use, and expansion of facilities; and (7) methods of animal identification. The document analyzes these VS programs and activities and examines the potential impacts of the programs as currently implemented along with the alternative of taking no Federal action.

The draft programmatic EIS is now available for review and comment. We are seeking comments from the public; industry; environmental groups; and Federal, State, and local agencies, including Federal and State agencies that have either jurisdiction by law or special expertise regarding any program issue or environmental impact that is discussed in the draft programmatic EIS.

We will consider all comments received by the close of the comment period in the development of the final programmatic EIS. The availability of the final programmatic EIS will be announced in a subsequent **Federal Register** notice.

This notice is issued in accordance with: (1) The National Environmental Policy Act (NEPA) (42 U.S.C. 4231 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 22nd day of March 1996.

Terry L. Medley,
Acting Administrator, Animal and Plant Health Inspection Service.
[FR Doc. 96–7652 Filed 3–28–96; 8:45 am]
BILLING CODE 3410–34–P

Forest Service

Intergovernmental Advisory Committee Meeting; Change of Meeting Location

AGENCY: Forest Service, USDA.

ACTION: Notice of Meeting; Change of Meeting Location.

SUMMARY: Notice of the April 4, 1996, Intergovernmental Advisory Committee (IAC) was published in the Federal Register on March 21, 1996, 61 FR 11605. The purpose of this notice is announce a change in the location of the meeting to 350 of the State Capitol Building in Salem, Oregon. The meeting will begin at 9:30 a.m. on April 4 and continue until 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Questions regarding this meeting may be directed to Don Knowles, Executive Director, Regional Ecosystem Office, 333 SW 1st Avenue, P.O. Box 3623, Portland, OR 97208 (Phone: 503–326–6265).

Dated: March 22, 1996.

Donald R. Knowles,
Designated Federal Official.
[FR Doc. 96–7627 Filed 3–28–96; 8:45 am]
BILLING CODE 3410–11–M

Oregon Coast Provincial Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Oregon Coast Provincial Advisory Committee (PAC) will meet on April 19, 1996, in Newport, Oregon, at the Hotel Newport, 3019 N. Coast Highway. The meeting will begin at 9:00 a.m. and continue until 3:30 p.m. Agenda items to be covered include: (1) Current events, (2) Flood update, (3) Northern Coast Range AMA Update, and (4) open public forums. All Oregon Coast Provincial Advisory Committee meetings are open to the public. Two "open forums" are scheduled; one at 9:45 a.m. and another near the conclusion of the meeting. Interested citizens are encouraged to attend. The

committee welcomes the public's written comments on committee business at any time.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Rick Alexander, Public Affairs Officer, at (541) 750–7075, or write to Forest Supervisor, Siuslaw National Forest, P.O. Box 1148, Corvallis, Oregon 97339.

Dated: March 22, 1996.

James R. Furnish,

Forest Supervisor.

[FR Doc. 96–7628 Filed 3–28–96; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Producing Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: To give firms an opportunity to comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD 02/21/96—03/16/96

Firm name	Address	Date petition accepted	Product
Boston Precision Parts Co., Inc	46 Sprague St., Hyde Park, MA 02136	02/22/96	Stamped sheet metal parts.
Apex Machine Tool Company, Inc	21 Spring Lane, Farmington, CT 06032	03/01/96	Fixtures, gages and injection molds.
Caruso International, Inc	40 Ash Circle, Warminster, PA 18974	03/05/96	Steamsetter, hot rollers and accessories.
Gordon B. Hamilton Company	P.O. Box 11746, Tucson, AZ 85734	03/11/96	Modification and rebuilding of aircraft.
Karen Anne Mfg., Inc	599–657 Quarry Street, Fall River, MA 02723.	03/07/96	Nylon luggage and computer cases.
Colloid Chemical, Inc	225 Cedar Knolls Road, Cedar Knolls, NJ 07927.	03/11/96	Cured resin friction particle powders and Novolac-type viscous liquid resin binders.
Bibco, Inc	326 E. Main St., Benton Harbor, MI 49022.	03/07/96	Custom electronic assemblies, including flat ribbon cable, round cable and printed circuit boards.
Van Stee Corporation	200 Crescent Street, Jamestown, NY 14701.	03/07/96	Solid wooden (maple and cherry) bedroom furniture.
Cover Stitch, Inc	1629 4th Ave. SE, Dacatur, AL 35601	03/06/96	Fabric car covers.
Burton Golf, Inc	2700 25th Ave. SE, Jasper, AL 35501	03/07/96	Golf bags of leather and man-made materials.
Lestage Manufacturing Company	31 Larsen Way, North Attleboro, MA 02763.	03/13/96	Jewelry.
Detroit Steel Products Co., Inc	P.O. Box 285, Range Line Road; Morristown, IN 46161.	03/14/96	Multi-leaf springs, parabolic leaf springs and air springs for vehicles.
Great Exportations Hawaii	P.O. Box 788, Mountain View, HI 96771	03/14/96	Palms.
W.J. Dennis & Company	1111Davis Road, Elgin, IL 60123	03/14/96	Weather stripping, of plastic, felt, and adhesive.

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Trade Adjustment Assistance Division, Room 7023, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: March 19, 1996.

Lewis R. Podolske,

Director, Trade Adjustment Assistance Division.

[FR Doc. 96–7616 Filed 3–28–96; 8:45 am]

BILLING CODE 3510–24–M

Bureau of Export Administration

Materials Processing Equipment Technical Advisory Committee; Notice of Partially Closed Meeting

A meeting of the Materials Processing Equipment Technical Advisory Committee will be held April 18, 1996, 9:00 a.m., in the Herbert C. Hoover Building, Room 1617M(2), 14th Street between Pennsylvania and Constitution Avenues, N.W., Washington, D.C. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to materials processing and related technology.

Agenda

General Session

1. Opening remarks by the Chairman.

2. Presentation of papers or comments by the public.
3. Report on status of Control List Category 2 items.
4. Discussion of membership issues.
5. Status report on implementation of Executive Order on license processing.

Closed Session

6. Discussion of matters properly classified under Executive Order 12958, dealing with the U.S. export control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials two weeks prior to the meeting date to the following address: Ms. Lee Ann Carpenter, TAC Staff/OAS–EA/Room 3886C, Bureau of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on December 13, 1995, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C., 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, D.C. 20230. For further information or copies of the minutes, contact Lee Ann Carpenter on (202) 482–2583.

Dated: March 22, 1996.

Lee Ann Carpenter,

Director, Technical Advisory Committee Unit.

[FR Doc. 96–7617 Filed 3–28–96; 8:45 am]

BILLING CODE 3510–DT–M

International Trade Administration

[A–602–803]

Certain Corrosion-Resistant Carbon Steel Flat Products From Australia; Final Results of Antidumping Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Antidumping Duty Administrative Review.

SUMMARY: On August 16, 1995, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on certain corrosion-resistant carbon steel flat products from Australia. The review covers one manufacturer/exporter of the subject merchandise to the United States and the period February 4, 1993, through July 31, 1994. We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments received, we have changed the results from those presented in the preliminary results of review.

EFFECTIVE DATE: March 29, 1996.

FOR FURTHER INFORMATION CONTACT: Bob Bolling or Jean Kemp, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–3793.

SUPPLEMENTARY INFORMATION:

Background

On August 16, 1995, the Department published in the **Federal Register** (60 FR 42507) the preliminary results of the administrative review of the antidumping duty order on certain corrosion-resistant carbon steel flat products from Australia (58 FR 44161, August 19, 1993). The Department has now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Applicable Statute and Regulations

Unless otherwise stated, all citations to the statute and to the Department's regulations are references to the provisions as they existed on December 31, 1994.

Scope of this Review

The products covered by this administrative review constitute one "class or kind" of merchandise: certain corrosion-resistant carbon steel flat products. These products include flat-rolled carbon steel products, of rectangular shape, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the HTS under item numbers 7210.31.0000, 7210.39.0000, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.60.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.1000, 7210.90.6000, 7210.90.9000, 7212.21.0000, 7212.29.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7212.60.0000, 7215.90.1000, 7215.90.5000, 7217.12.1000, 7217.13.1000, 7217.19.1000, 7217.19.5000, 7217.22.5000, 7217.23.5000, 7217.29.1000, 7217.29.5000, 7217.32.5000, 7217.33.5000, 7217.39.1000, and 7217.39.5000. Included are flat-rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been "worked after rolling")—for example, products which have been beveled or rounded at the edges. Excluded are flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead ("terne plate"), or both chromium and chromium oxides ("tin-free steel"), whether or not painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating. Also excluded are clad products in straight lengths of 0.1875 inch or more in composite thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness. Also excluded are certain clad stainless flat-rolled products, which are three-layered corrosion-resistant carbon steel flat-rolled products less than 4.75 millimeters in composite thickness that consist of a carbon steel flat-rolled

product clad on both sides with stainless steel in a 20%–60%–20% ratio. These HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive. The period of review (POR) is February 4, 1993 through July 31, 1994.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received comments and rebuttal comments from both parties, The Broken Hill Proprietary Company Ltd. (BHP) and petitioners. At the request of BHP and petitioners a hearing was held on October 5, 1995.

Comment 1: Respondent states that the Department erred in preliminarily denying BHP its "constructive" quantity discount. Respondent argues that, because the Department verified that BHP granted quantity discounts on more than 20 percent of its home market sales, under section 353.55(b)(1) of the Department's regulations it follows inescapably that "the discounts granted were of at least the same magnitude."

Respondent illustrated how this result must follow. Assuming respondent granted discounts of 10 percent, 15 percent, 20 percent and 25 percent on 4 out of 10 sales, then discounts were granted on 40% of the total sales, and respondent asserts that the discounts granted were of at least the same magnitude as the minimum discount because each discount was of at least 10 percent. Respondent argues further that even though it only provided the average quantity discount, as opposed to the actual quantity discount given on each sale at issue, this so-called "constructive" quantity discount was arrived at by using actual figures, *i.e.*, by dividing the total value of discounts by the number of tonnage that received an actual discount. For any sale which received less than the average discount, or no discount, a value up to the "constructive" discount was reported. Moreover, the respondent contends that because the Department verified each of the "constructive" quantity discounts associated with the pre-selected and surprise sales at verification by using the actual public and internal price lists and checking actual quantity discounts granted, this is sufficient to justify the reliability of the average discount constructed by BHP.

Respondent states that granting the "constructive" quantity discount need not establish a wholesale-type precedent since BHP's factual information is unique. Therefore, based upon the facts of record, it is entitled to its "constructive" quantity discount adjustment pursuant to section 353.55(b)(1) of the Department's regulations.

Petitioners argue that BHP has not demonstrated a basis for granting the quantity discount under the Department's regulations. Petitioners take issue with BHP's assertion that discounts are of at least the same magnitude as the smallest discount amount granted on any sale because the smallest discount amount is not the amount reported as the constructive quantity discount. Petitioners state that the actual discounts given, or extras charged by, respondent were not of the same magnitude as the reported "constructive" quantity discount. Moreover, petitioners point out that at verification BHP made no attempt to demonstrate that its actual quantity discounts were of the same magnitude as the reported "constructive" quantity discount. In addition, petitioners state that a respondent must also establish that it granted discounts to home market customers on a uniform basis, and that the evidence confirms that quantity discounts were not charged on a uniform basis, rather they varied based on quantity purchased, product type, and whether the product was painted.

Department's Position: We disagree with respondent. To be eligible for a quantity-based discount, a respondent must demonstrate a clear and direct correlation between price differences and quantities sold. (*See e.g., Brass Sheet and Strip From the Netherlands*, 53 FR 23,431, 33 (1988). Pursuant to 353.55(b)(1) of the Department's regulations, in order to receive this adjustment a respondent must establish that it gave quantity discounts of at least the same magnitude on 20 percent or more of its home market sales of such or similar merchandise. That is to say that the discount amounts submitted must be at least as large as the discounts granted on 20 percent or more of all home market sales of such or similar merchandise. If this test is met the Department applies a discount adjustment equal to the minimum discount given.

Regardless of the fact that the Department verified that BHP had granted quantity discounts on more than 20 percent of its home market sales, because BHP only provided the Department with an average discount amount, which it applied across the board to all home market sales it claimed received a quantity-based discount, the Department has no way of determining which of the actual discounts granted were at least as large as the average discount claimed by BHP.

The hypothetical example proffered by BHP illustrates its misreading of 353.55(b)(1). BHP points to the smallest discount of 10 percent in the hypothetical example and concludes that because the other discounts in the example were all higher, it *must* follow that its average "constructed" discount amount will always be of at least the same magnitude as the minimum discount. However, it is not the minimum discount that we are concerned with. In BHP's example the average discount, which is 17.5 percent, while at least as large as 10 and 15 percent, is not of the same magnitude as 20 and 25 percent. By definition, the *average* discount can never be at least as large as those discounts which are higher than the average.

While the Department can agree with BHP's argument that quantity discounts granted on more than 20 percent of its home market sales must be of at least the same magnitude as the minimum discount granted, we cannot determine what that minimum discount was from the "constructed" average submitted by BHP. Therefore, we cannot establish the proper amount of the claimed adjustment. Lastly, as petitioners correctly point out, the Department also requires that a respondent establish that it gave discounts on a uniform basis which were available to substantially all home market customers, which BHP failed to demonstrate. Therefore, the Department will disallow the adjustment for the purposes of the final results.

Comment 2: Respondent argues that for its preliminary results, the Department omitted certain home market sales of its prime merchandise. Respondent explains that it reported all of its prime sales (by PRIMEH='1' and by PRIMEH='3'), as well as its non-prime sales, which included seconds and downgraded merchandise (by PRIMEH='2').

However, the respondent notes that the Department included in the home market database only prime 1 sales ("WHERE PRIMEH='1'") and omitted prime 3 sales ("WHERE PRIMEH='3'"). Respondent claims that the reason it reported some of its prime as PRIMEH='3' was in response to a Department request that overruns be separately reported, but respondent asserts that in its normal course of business it does not distinguish between its prime product and prime overruns. Respondent claims that prime overruns are sold in the home market as prime surplus stock, and that standard customer agreements grant an option to buy both prime and prime surplus. Consequently, respondent argues that

the record establishes that products designated as PRIMEH='1' and PRIMEH='3' are prime products, and that the Department should correct the program to include sales of the latter even though they are overruns.

Petitioners argue that the Department correctly excluded overrun sales from the foreign market value calculation. Petitioners assert that it is Department practice to exclude overrun sales that are outside the ordinary course of trade. Petitioners contend that looking at the factors that the Department uses to determine whether overruns are sold in the ordinary course of business, sales of BHP's overruns are outside the ordinary course of trade. Petitioners argue that record evidence of differences in prices, profit margins, sales quantities, and sales practices between prime and overruns, all support their claim that these sales are outside the ordinary course of trade.

Department's Position: We agree with respondent. It is the Department's established practice to include home market sales of such or similar merchandise unless it can be established that such sales were not made in the ordinary course of trade. (*See e.g., Final Determination of Stainless Steel Angle From Japan*, 60 FR 16608, 16614–15 (1995)). Section 773(a)(1)(A) of the Act and section 353.46(a) of the Department's regulations provide that foreign market value shall be based on the price at which or similar merchandise is sold in the exporting country in the ordinary course of trade for home consumption. Section 771(15) of the Act defines ordinary course of trade as conditions and practices which, for a reasonable time prior to the exportation of the subject merchandise, have been normal in the trade with respect to merchandise of the same class or kind. (See, also section 353.46(b))

In looking at overruns in making this determination the Department typically examines several factors taken together, with no one factor dispositive. (*See e.g., Certain Welded Carbon Steel Standard Pipes and Tubes From India*, 56 FR 64753, 64755 (1991)). In this case, we examined: (a) whether the home market sales in question did, if fact, consist of production overruns; (b) whether differences in physical characteristics or different product uses existed between overruns and ordinary production; (c) whether the number of buyers of overruns in the home market and the sales volume and quantity (tonnage) of overruns were similar or dissimilar as compared to prime merchandise; and (d) whether the price and profit differentials between sales of overruns and ordinary production were dissimilar. In considering these factors as a whole, we found that sales of overrun corrosion-resistant steel were made in the ordinary course of trade.

Evidence indicates that home market sales of Prime3 were sales of overruns. There is no evidence on the record to indicate that there were any differences in product characteristics between prime merchandise and overruns. BHP's standard customer agreements provided an option to purchase either prime merchandise or overruns, which BHP label's as prime surplus, as they arise on their surplus stock list. (See Verification Exhibit BHP–9(b)) There is nothing in the record to indicate that overruns have different physical characteristics than prime merchandise or are used for different purposes. Record evidence establishes that the cost of producing prime and the cost of producing overruns is the same, and standard customer agreements do not distinguish between physical characteristics or product uses.

Also, the record reflects that there was a high number of buyers of overruns in relation to the number of buyers of prime merchandise sales and, in most instances, they were the same purchasers. In addition, in relation to the total quantity and volume of home market sales of prime merchandise, overruns accounted for a not insignificant percentage. With regard to pricing differences between prime merchandise and overruns, the record demonstrates that there were a variety of pricing differences. Several sales of overruns were at prices many times higher than prices for prime merchandise, several were sold at a substantial percentage of the price of prime merchandise, and some were sold at a small percentage of the price of prime. Record evidence indicates that the average profit margin on overruns was not insignificant, although the average profit margin on prime merchandise was much greater. All these factors when looked at in totality lead us to conclude that sales of 'PRIMEH=3' were sold in the ordinary course of trade, and we will for the final results include home market sales of overruns.

Comment 3: Respondent asserts that notwithstanding the paucity of sales found to be below cost, it provided the Department with information that demonstrates that it will recover costs on these few below cost sales within a reasonable period of time.

Respondent asserts that under the law and the Department's practice it is entitled to a finding of cost recovery. Respondent notes that the Court of International Trade (CIT) has stated that "[t]he issue * * * is not whether the record supports the conclusion that [the respondent] would be able to recover its costs at the prices charged during the investigatory period within a reasonable period of time in the normal course of trade, but whether there is substantial evidence on the record supporting Commerce's determination that [the respondent] could not recover its costs at these prices in such time period." *NSK Ltd.* v. *United States*, 809 F. Supp. 115 (CIT 1992) (quoting *Toho Titanium Co.* v. *United States*, 670 F. Supp. 1019, 1022 (CIT 1987)). Respondent further asserts that the CIT has stated that the Department must support its cost recovery conclusion with supporting calculations or analytical explanations, "using either the data already collected or, if necessary, by collecting further data" that cost recovery will not occur within a reasonable period time. *See Toho*, 670 F. Supp. at 1022.

Respondent states that it is aware that, in past cases, parties alleging cost recovery have not provided the Department with adequate data, but respondent argues that it provided detailed evidence of declining production costs and efficiency gains when it submitted information about APEX, a cost reduction program it undertook with the assistance of McKinsey Consultants and charts demonstrating cost reductions achieved over successive six month periods during the POR. This, coupled with the fact that so few sales were found by the Department to be below cost, respondent asserts is sufficient to shift the burden on the Department to demonstrate with substantial evidence that cost recovery did not occur.

Petitioners argue that respondent has the burden of proof to demonstrate that it will recover the costs of below cost sales within a reasonable period of time, a burden respondent has failed to meet. Petitioners argue that respondent failed to demonstrate that it could recover its costs at the model-specific below cost prices. Petitioners assert that respondent is required to demonstrate how any reduction in the future cost of production for the products sold below cost would translate into recovery of costs on those products for prior periods. (*NSK Ltd.* v. *United States* Slip-OP. 95–138 (CIT 1995)) Petitioners assert that while the determination of what constitutes a reasonable period of time is the Department's, respondent was also unable to identify and justify the period of time within which costs could be recovered and demonstrate that this was a reasonable period of time for cost recovery.

Department's Position: Section 773(b) of the Act provides that the Department will determine whether sales are made at less than the cost of producing the subject merchandise. If sales made below cost are not at prices which permit recovery of all costs within a reasonable period of time in the normal course of trade, such sales shall be disregarded in determining FMV. What must be demonstrated is that the prices which are below cost during the POR are at a level such that those prices would permit not only sufficient revenue to cover future costs, but also exceed future costs to a degree which permits recovery of past losses. (*See, e.g., Granular Polyethelrafluoroethylene Resin From Japan*, 58 FR 50343, 50346 (1993); *Timken Co.* v. *United States*, 673 F. Supp. 495, 516–17 (CIT 1987)) (Court holding that the term "prices" in section 773(b) refers only to prices of below cost sales and not to prices of above cost sales).

One situation recognized by Congress which might permit recovery of losses on below cost sales within a reasonable period of time is an industry, such as the airline industry, which incurs large research and development costs that cannot be immediately recovered by sales. (*See* S. Rep. No. 1298, 93rd Cong., 2d Sess. 173 (1974), reprinted in 1974 U.S. Code Cong. & Admin. News 7188, 7310; *Toho Tinanium Co.* v. *United States*, 670 F. Supp. 1091, 1021 (CIT 1987). The Department's practice also recognizes that extremely high production costs associated with an extraordinary event not required for the continuous production of the merchandise may be recoverable by future sales at the same prices within a reasonable period of time. (*See Porcelain-on-Steel Cooking Ware From Mexico*, 58 FR 32095, 32102 (1993)). The evidence placed on the record by respondent does not support any such finding.

BHP did submit evidence of the results of certain cost-cutting measures undertaken by the company during the POR which demonstrates that total operating costs did decline in that period. BHP points to this cost reduction as proof that it would be able to offset losses from below cost sales made during the POR using revenues from profitable, lower-cost sales made within a reasonable period of time thereafter. That is, if the company's cost of production declines in the future below the prices of below cost sales made during the POR, then those same sales prices may, in the future, allow recoupment of all costs and past losses.

Much of the information we relied on in analyzing respondent's claims is proprietary. (*See* Memo to the File, Cost Recovery (proprietary version) (February 28, 1996)). Although we found a general reduction in BHP's total operating costs, as well as a general increase in productivity and production volume, during the POR, the cost reductions and productivity/ production increases were not sustained and, in several instances, actually began to reverse direction during the POR. This, together with our finding that the prices of the below-cost sales during the POR were below *average* POR costs, leads us to conclude that the information provided by respondent regarding its cost reduction programs during the POR does not support it contention that the company's below-cost sales were at prices that would allow recovery of all costs within a reasonable period of time. Therefore, from a review of the record evidence, we conclude that BHP's below cost sales must be disregarded in calculating FMV.

Comment 4: Respondent argues that the Department should use BHP's reported interest rate to calculate inventory carrying costs and credit expenses. Respondent asserts that the intra-corporate interest rate it provided at verification is the Australian equivalent of the U.S. prime rate, and that the Federal Reserve Bank of Australia Bulletin (Bulletin) provided at verification reflects the short-term commercial interest rates (Large Business), which correspond to respondent's internal interest rates. Respondent notes that the Department in its analysis memorandum found "[t]hese rates were not substantially different from the related-party rates reported by BHP, however, it is not clear whether these rates represent short- or long-term rates." Respondent asserts that the rates listed under the Large Business column of the Bulletin are a set of rates "offered by four major Australian banks," and that rate is the Australian equivalent of the U.S. prime rate, which is a short-term rate by definition. Therefore, respondent contends that the Department should use the intra-corporate rate reported by BHP because this interest rate was not substantially different from the Large Business rate and these rates are short-term and market-driven.

Petitioners assert that there is no evidence on the record that the "Large Business" rate is the Australian equivalent of the U.S. prime rate, and that from this evidence the Department could not tell whether or not these rates represent long- or short-term rates. Furthermore, petitioners argue that it is Department practice not to accept an intra-corporate rate, since such a lending rate need not reflect commercial reality in the marketplace. Petitioners contend that the commercial bill rate selected by the Department is a permissible and reasonable Best Information Available (BIA) because it represents the interest rate for 90-day commercial lending in the home market.

Department's Position: We agree with petitioners . It is not the Department's practice to rely upon intra-corporate lending rates that are merely intra-company transfers of funds. (*See, e.g., Tapered Roller Bearing and Parts, Thereof, Finished and Unfinished from Japan*, 57 FR 4960, 71 (1992) (Comm. 32)). Additionally, even though BHP's intra-corporate rate was comparable to the Australian "Large Business" rate, BHP failed to provide evidence on the record to support its contention that the Australian "Large Business" rate is a short-term rate. Therefore, for the final results we will continue to use information on the record regarding the Australian quarterly rates for commercial bills (90 days) in effect during the POR as quoted in the OECD's "Main Economic Indicators" for May 1995.

Comment 5: Petitioners contend that respondent failed to report an unknown quantity of U.S. sales by its subsidiary BHP Steel Building Products (Building Products) of further manufactured merchandise made from Australian coils subject to review, and that BHP impermissibly reported only Building Products sales that Building Products could link to Australian coil tonnage entered during the POR. Petitioners assert that the Department requires that all ESP sales during the POR be reported, regardless of whether or not the subject merchandise (Australian coils) entered before suspension of liquidation.

In addition, petitioners contend that the Department verified that Building Products did not report all of its sales of subject merchandise sold during the POR, and that the Department's verification of the total sales *reported* did not address the (1) unreported sales of accessories, (2) intra-company transfers of coil tonnage, and (3) unaccounted for coil tonnage.

Petitioners claim that all sales made during the POR must be reported and point to *Industrial Belts from Italy*, 57 FR 8295, 8296 (1992 1st Review) and *Canned Pineapple Fruit from Thailand*, 60 FR 29553 (June 5, 1995) to support their position. In *Industrial Belts From Italy* petitioners assert that all sales, including sales from merchandise entered before the POR, were reported and used to ensure that there was no manipulation of the dumping margin.

However, petitioners argue that Building Products unilaterally decided which sales to report. Therefore, the Department should apply a BIA rate to all of Building Products unreported sales by applying the higher of (1) the "second-tier" margin under its AFBs 1992 partial BIA methodology, or (2) the highest non-aberrant margin in a given case.

Respondent asserts that petitioners incorrectly contend that respondent did not report sales made during the POR from tonnage sourced from Australia which was in Building Products inventory prior to the suspension of liquidation, *i.e.*, from coils entered before the POR. Respondent denies that it decided unilaterally not to report sales made during the POR which could not be linked to tonnage entered during the POR. In fact, respondent asserts that sales made from coils in beginning inventory (i.e., coils in inventory at the beginning of suspension of liquidation) constituted the bulk of Building Products reported sales during the POR. Respondent further asserts that all sales emanating from coils in beginning inventory were reported because respondent was unable to establish that these coils had, in fact, entered prior to the suspension of liquidation.

Respondent claims that it identified sales of subject merchandise (in coil form) in 2 ways; it made a list of all coils in Building Products inventory at the time of suspension of liquidation, which were termed beginning inventory, and a list of all coils shipped from Australia that entered during the POR, which were identified as liability coils. Respondent asserts that from both of these lists Building Products then tracked all coils as they moved through inventory and production and into a particular line item on an invoice, representing a sale of subject merchandise. Respondent argues that the Department verified the completeness of Building Products response, including its reporting of sales made from beginning inventory. Therefore, respondent argues that petitioner is completely wrong in claiming that respondent did not report all sales made from Australian coils, whether or not they entered prior to, or after, suspension of liquidation.

Additionally, respondent contends that Building Products not being able to account for all of the weight of the liability coils is not the result of respondent failing to report all sales from liability coil, as petitioners argue. Rather, this missing percentage merely reflects scrap and accessory sales made during the POR, as demonstrated by verification exhibits, and therefore no sales from liability coils were missing and not reported.

Moreover, respondent asserts that Building Products had no sales of accessories which could be identified as being of Australian origin. Respondent claims that accessory sales are, like scrap, a percentage of coil used, and that verification exhibits demonstrate that the percentage of coil weight for accessories approximates that attributable to scrap. Respondent asserts that when a coil is roll-formed, portions are lost in the process. This scrap is then collected and placed in a bin and from this point on the scrap's origin cannot be identified. Respondent contends that, as with scrap, when a small portion of a coil is subsequently converted into an accessory item, the origin of the accessory can no longer be identified. Therefore, Building Products was unable to identify accessory sales made from Australian coil.

Department's Position: Except with regard to accessories, we agree with the respondent that it properly reported all sales made during the POR. At verification, we confirmed Building Products total sales universe of its reported sales to the first unrelated party during the POR. Our review established that Building Products properly linked all the ESP sales of further-manufactured goods to coils of subject merchandise from both beginning inventory and from liability coils, which included inter-company transfers of Australian tonnage. Additionally, we verified respondents method for ascertaining how further manufactured goods were produced from Australian subject coil and how respondents accounted for and sold the merchandise to the first unrelated party. We found this methodology accurately tracked all further manufactured sales (*See Building Products Verification Report*, May 19, 1995 and Sales Trace Exhibits BP53–BP61). We traced the subject coil from each sourced point to Building Products records (*See* verification Exhibits BP–22 through BP30(a)). In addition, we traced the linkage establishing total tonnage shipped from Sheet and Coil Products Division (SCPD) to Building Products (*See* verification Exhibits BHP–27 through BHP28), and found that Building Products has reported all of its sales from Australian sourced tonnage.

In *Industrial Belts From Italy* the Department indicated that it would presume that all ESP sales of subject merchandise made during the POR were from subject merchandise entered after the date of suspension of liquidation and thus subject to antidumping duties, unless the respondent could affirmatively demonstrate that particular subject merchandise sold during the POR was entered prior to the POR. As in *Industrial Belts from Italy*, because Building Products was unable to link any sales with subject merchandise (coil tonnage) that entered the U.S. prior to the date of suspension of liquidation (February 4, 1993), all sales during the POR of merchandise made from Australian coils were reported by respondent. Therefore, we have included all sales made during the POR in our margin calculation. The Department accepts that it was impossible for Building Products to link sales of accessories, which only account for an insignificant portion of total sales, to particular coils of Australian origin. However, sales of accessories cannot properly be excluded. Therefore, the Department has treated all accessories as sales made from Australian-origin coil and has assigned to those sales the weighted-average margin based on all other sales made during the POR. (*See e.g., AFBs From Germany*, 54 FR 18,992, 19,033 (1989); *National Steel* v. *United States*, 870 F. Supp. 857 (1994)).

Comment 6: Respondent states that while, in the preliminary results, the Department denied BHP's claim for a cash (settlement) discount in the home market, the Department requested updated information for payment and shipment dates from BHP after the preliminary results were issued. Pursuant to the Department's instructions, on September 7, 1995, BHP submitted a computer tape containing updated payment and shipment dates. Therefore, respondent asserts that the Department should allow the cash (settlement) discounts adjustment reported for those sales in the final results.

Petitioners argue that the Department correctly denied the reported cash discounts for sales for which respondent had not originally reported a date of payment. Although respondent has since provided shipment and payment dates for these sales, petitioners argue that the Department has not verified these dates and the estimated cash discount amounts reported by respondent. Additionally, petitioners assert that some of these sales with a certain term of payment were found at verification by the Department to have been misreported and thus unverified. Therefore, the Department should not deduct the estimated cash discounts amounts on any of these sales.

Petitioners also contend that in the preliminary results, the Department deducted a cash discount with regard to a particular customer on certain home market sales even though the

Department verified that no discount was given. Therefore, the Department must deny cash discounts claimed on these particular home market sales to this customer.

In rebuttal respondent notes that while it originally reported cash discounts on certain sales to this particular customer even though it did not actually grant the discounts, it deleted these cash discounts from the revised data BHP submitted after the preliminary results were published. Respondent also notes that this customer failed the arms-length test so the sales were excluded from the calculation of BHP's fair market value in any event.

Department's Position: We agree with respondent. In the Department's preliminary results, we stated that we would request the updated shipment and payment date information from BHP after the preliminary results were issued. The Department has analyzed the information BHP submitted on September 7, 1995, and found the information to be consistent with the verified information (See, BHP's Verification Report dated May 23, 1995, p. 17). Therefore, for the final results the Department will use the updated shipment and payment date information.

With regard to a cash discount granted at the preliminary results to a customer who was not eligible to receive a discount, we agree with respondent that this customer, which did not actually receive the discount, failed the arms-length test. Therefore, the Department is excluding its sales from the Department's margin calculation program.

Comment 7: Petitioners allege that because BHP failed to use a proper U.S. interest rate in the calculation of credit expenses and inventory carrying costs, in the preliminary results the Department was forced to use a BIA rate of 3.44 percent, which was the average of the *Federal Reserve Statistical Release* one month commercial paper rates. However, petitioners state that the Department should use the home market short-term interest as a BIA rate because respondent had no U.S. borrowings and did not show it had access to U.S. borrowing. Therefore, in keeping with the Department's practice and the holdings of review courts, the use of a U.S. interest rate to calculate U.S. credit expense and inventory carrying costs is not appropriate. (*See, Gray Portland Cement and Clinker From Japan,* 60 FR 43761, 67 (1995)) Additionally, petitioners argue that the BIA rate applied by the Department in the preliminary results was not sufficiently adverse. Therefore, the Department should use the short-term interest rate BHP obtained when borrowing in the home market when calculating U.S. credit expense and inventory carrying costs.

Respondent asserts that it has not advocated use of its home market interest rate as a surrogate for the U.S. interest rate, as claimed by petitioners. Respondent contends that the petitioners are incorrect in claiming that it is the Department's practice to rely upon actual home market interest rates when a respondent has no U.S. dollar borrowings and provides no proof that it had access to U.S. borrowings. Rather, respondent asserts that the Department will now look to external information to determine an appropriate interest rate even in the absence of proof of access. (*See, Brass Sheet and Strip From Germany,* 60 FR 38542, 38545 (1995)) Moreover, respondent argues that, in any event, it provided evidence that it had access to U.S. borrowings.

Department's Position: When a respondent has no U.S. borrowings, it is no longer the Department's practice to substitute home market interest rates when calculating U.S. credit expense and U.S. inventory carrying costs. Rather, the Department will now match the interest rate used for credit expenses to the currency in which the sales are denominated. The Department will use the actual borrowing rates obtained by a respondent, either directly, or through related affiliates. Where there is no borrowing in a particular currency, the Department may use external information about the cost of borrowing in that currency. (*See Brass Sheet and Strip From Germany* 60 FR at 38545,46 (1995)) Because respondent did not supply the Department with an actual U.S. borrowing rate, for the preliminary results, we turned to external information and applied the average of the *Federal Reserve Statistical Release* one-month commercial paper rates in effect during the POR to calculate U.S. credit expenses and inventory carrying costs.

For the final results, we have reconsidered our use of the commercial paper rate. BHP provided no evidence that it would have had access to commercial paper rates in the United States during the POR. To show access to a U.S. rate, BHP provided the Department a letter from a U.S. bank stating the prime and LIBOR rates in effect during the POR. (*See* Verification Exhibit BT–32) However, this document does not state that this bank would have lent funds at/above/below these rates had BHP sought to borrow funds during the POR. This document also does not speak to the availability of commercial paper rates.

In the absence of U.S. dollar borrowings, we need to arrive at a reasonable surrogate for imputing U.S. credit expense. There are many and varied factors that determine at what rate a firm can borrow funds, such as the size of the firm, its creditworthiness, and its relationship with the lending bank. Without actual U.S. dollar borrowings and without substantial evidence on the record indicating what rates a firm is likely to have received if it had borrowed dollars, it is impossible to predict the rate at which a company would have borrowed dollars. Therefore, we chose the average short-term lending rate as calculated by the Federal Reserve. Each quarter the Federal Reserve collects data on loans made during the first full week of the mid-month of each quarter by sampling 340 commercial banks of all sizes. The sample data are used to estimate the terms of loans extended during that week at all insured commercial banks. This rate represents a reasonable surrogate for an actual dollar interest rate because it is calculated based on actual loans to a variety of actual customers.

For these reasons, we have recalculated BHP's imputed U.S. credit expense based on the average lending rate during the POR, as published by the Federal Reserve. (*See* the Final Analysis Memorandum for this review, which is on file in room B–099 of the main building of the Commerce Department)

Comment 8: Petitioners state that in the preliminary results the Department erred when it used gross unit price in calculating home market inventory carrying costs, but used average cost of manufacture (TCOMU) when it calculated U.S. inventory carrying costs. Petitioners state it is not the Department's practice to calculate inventory carrying cost based on cost in the U.S. market and price in the home market. Petitioners state inventory carrying costs should be compared on a fair apples-to-apples basis based on cost of the merchandise in both markets. In addition, petitioners note that the Department erred in calculating U.S. inventory carrying costs by averaging the cost of the merchandise rather than using the actual product-specific costs, because it is the Department's practice to use actual product-specific costs. Therefore, petitioners argue that the Department should recalculate inventory carrying cost based on total cost of manufacture in both markets.

Respondent states that the Department did not calculate U.S. inventory carrying costs based on prices, but based on average costs. Respondent notes that BHP submitted data in its responses pursuant to that methodology and the data was verified by the Department. Respondent also states that while gross price does appear in the Department's program with respect to inventory carrying cost, it is used (to no effect) only to "convert" BHP's inventory carrying expense, not to calculate it. Respondent argues that no change is required in the program because the Department did not calculate inventory carrying cost based upon home market gross unit price.

Department's Position: We agree with petitioners. Contrary to the respondent's claim, in the preliminary results the Department erred in relying upon home market prices in calculating home market carrying costs, while calculating U.S. inventory carrying costs based on the cost of manufacture. It is the Department's practice to calculate inventory carrying costs based on costs of the merchandise in both markets (*See Canned Pineapple Fruit from Thailand,* 60 Fed. Reg. 29553 (June 5, 1995)). Moreover, it is our practice to base the calculation on product-specific rather than average costs (*See, Television Receivers, Monochrome and Color From Japan,* 56 FR 38417, 423 (1991)). Therefore, for the final results the Department will calculate inventory carrying costs based on the product-specific costs of the merchandise in both markets.

Comment 9: Petitioners state that in the preliminary results the Department incorrectly included pre-sale transportation expenses from the U.S. port to the warehousing and manufacturing operations of BHP Coated Steel Corporation (Coated) and Building Products as indirect selling expenses. Petitioners state that on those ESP sales that are further manufactured, the questionnaire and Department practice require that these transportation costs be included in the cost of further manufacture. On ESP sales that are not further manufactured, Section 772(d)(2)(A) of the Act clearly instructs the Department to treat theses expenses as direct expenses. Accordingly, petitioners argue that on these sales by Coated and Building Products the pre-sale freight should be deducted as a cost of manufacture or direct expense.

Department's Position: Section 772(d)(2)(A) requires that the Department deduct from USP all movement expenses incurred in bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States, regardless of whether sales of the merchandise are purchase price or ESP transactions. The Department does not treat these movement expenses as selling expenses, either direct or indirect, such as are incurred pursuant to section 772(e)(2). (*See e.g. Television Receivers, Monochrome and Color, From Japan,* 56 FR 37,078 (1991)); and *Sharp Corporation* v. *United States,* 63 F. 3d 1092 (August 1995)(upholding the Department's practice of distinguishing U.S. movement expenses from U.S. selling expenses and of limiting the ESP offset cap in adjusting FMV to the indirect selling expenses incurred in the U.S. that are deducted under 772(e)(2).) Therefore, for the final results, the Department will deduct pre-sale transportation expenses from these ESP sales that were not further manufactured. We note that for expenses for the movement of the imported product to the place of further manufacture prior to sale will be deducted as part of the cost of further manufacture (*See e.g., Stainless Steel Hollow Products From Sweden,* 59 FR 43810, 43813 (1994)).

Comment 10: Petitioners state that in the preliminary results the Department incorrectly included as indirect selling expenses slitting and painting costs that BHP Trading, Inc. (Trading) paid to unrelated parties for certain sales. Petitioners state that because these costs are directly identified with specific sales these expenses must be deducted from USP under section 772(d)(2)(A).

Department's Position: Section 772 (e)(3), which states that the exporter's sales price will be reduced by "any increased value, including additional material and labor, resulting from a process of manufacture or assembly performed on the imported merchandise after the importation of the merchandise and before its sale to a person who is not the exporter of the merchandise," applies here. Pursuant to that provision, for the final results, the Department will correct the margin calculation program and will deduct from ESP Trading's further processing expenses including slitting and painting costs. For a full discussion of how we arrived at the total cost of manufacturing of these further manufactured sales, see the Final Analysis Memorandum for this review, which is on file in room B–099 of the main building of the Commerce Department.

Comment 11: For the preliminary results, petitioners state that the Department had to recalculate U.S. credit expenses because BHP's inaccurate reporting of payment and shipment dates caused the Department's margin computer program to calculate incorrect credit amounts on thousands of sales. Petitioners state that the miscalculation was caused by BHP reporting a zero in the payment date field for sales by Building Products, and the reporting of obviously incorrect shipment dates between June 1995 and December 1999 on sales by Building Products. Petitioners argue that for the final results the Department should follow its standard practice of using as BIA the highest credit cost calculated on any U.S. sale by Building Products which has a zero entered as the payment date, or an incorrect shipment date (*See, Calcium Aluminate Cement and Cement Clinker From France,* 58 FR 58683, 58684 (1993)).

Respondent agrees that certain missing Building Products payment dates or incorrect shipping dates on its computer tape should be corrected. However, respondent contends that standard Department practice is to replace the missing or incorrect data with the weighted-average credit cost for U.S. sales and cites to *Stainless Steel Threaded Pipe Fittings From Taiwan,* 59 FR 10784, 10786 (1994) in support. Respondent argues that a large number of Building Products transactions had correctly reported credit expenses which BHP states supports the accuracy and reliability of a weighted average. Respondent argues that using the highest credit expense as petitioners call for would result in a credit expense that will go beyond the highest non-aberrant rate and, therefore, would not be appropriate. Respondent argues that if the Department chooses to use BIA, it should use the partial BIA practice outlined in *Anti-Friction Roller Bearings From France,* 57 FR 28360, 28379 (1992).

Department's Position: Before the Department may find non-compliance on the part of a respondent, there must be a clear and adequate communication requesting information. *See e.g., Daewoo Elecs. Col* v. *United States,* 712 F. Supp 931, 945 (1985). BHP failed to provide credit expense data for certain sales in Building Products database even though the Department provided numerous opportunities to Building Products to correct its credit expense (*See* Supplemental Questionnaires dated December 27, 1994 and February 10, 1995).

The Department applies two types of BIA, partial BIA, which is used when a respondent's submission is deficient in limited respects, but is otherwise complete and reliable; and total BIA, which is used for a respondent who fails to timely respond or whose submission contains fundamental errors that render the entire submission unreliable. The

use of partial rather than total BIA reflects the fact that, in general, the respondent has been cooperative. Thus, it is the nature of the deficiency, rather than the level of cooperation that the Department considers in exercising its discretion to select partial BIA. *See e.g., Steel Flat Products From France,* 58 FR at 37,129 (1993) (applying highest margin to certain sales of cooperative respondent); *Ad Hoc Committee* v. *United States,* 865 F. Supp. 857 (1994). In this review, because respondent failed to provide a substantial portion of the total credit expense data in its possession, we have used the highest credit cost calculated on any U.S. sales (*See e.g., Antifriction Bearings (other Than Tapered Roller Bearings) and Parts Thereof From France,* 60 FR 10900, 10907 (1995) "*AFBs*") (*See e.g., Calcium Aluminate Cement and Cement Clinker From France,* 58 FR 58683, 58684 (1993)).

Comment 12: Petitioners contend that the Department must deduct antidumping duties paid by the respondent or related party importers. Section 1677a(d)(1994) states that the purchase price and exporter's sales price shall be reduced by United States import duties. According to the petitioners antidumping duties are "incident to bringing the subject merchandise from the place of shipment in the country of exportation to the place of delivery in the United States" and are therefore properly classified as import duties. Furthermore, petitioners claim "duties" or "import duties" in trade laws are to be read as antidumping or countervailing duties unless the provision specifically indicates otherwise.

Petitioners claim that the CIT has never explicitly held that section 1677 (c)(2)(A) covers actual antidumping duties in addition to normal import duties, but argue that the court implicitly so held in *Federal-Mogul* v. *United States,* 813 F. Supp. 856,872 (1993). Petitioners claim that the court distinguished actual antidumping duties from estimated antidumping duties, which they point to as support for the notion the actual antidumping duties are part of the normal import duties to be deducted under section 1677a(d)(2)(A). Lastly, petitioners claim that language in the legislative history of the newly enacted Uruguay Round Agreements Act (URAA) which states that duty absorption is not intended to provide for the treatment of antidumping duties as cost does not mean that under the new law antidumping duties cannot be treated as normal duties, that is, as cost.

Respondent argues that the Department's well-established practice of not deducting duty as a cost is not only required by law but this issue is also pending on appeal at the Court of International Trade. Therefore, respondent asserts it would be inappropriate for the Department to reverse its practice in this investigation without prior notice or comment.

Department's Position: While section 772(d)(2)(A) requires the deduction of normal "import duties," cash deposits of estimated antidumping duties are not normal import duties, and do not qualify for deduction under section 772. Contrary to petitioners" argument, the CIT in *Federal-Mogul* v. *United States* 813 F. Supp. 856, 872 (CIT 1993), recognized that the actual amounts of normal duties to be assessed upon liquidation are known because they are based upon rates published in the Harmonized Tariff Schedule and the actual entered value of the merchandise. In contrast, deposits of estimated antidumping duties are based upon past dumping margins and may bear little relation to the actual current dumping margin. Thus, the CIT recognized the distinction between estimated antidumping duties and "normal" import duties for purposes of section 772(d)(2(A).

Petitioners' methodology also conflicts with the holding of the CIT in *PQ Corp.* v. *United States,* 652 F. Supp 724 (CIT 1987), in which the court addressed the issue of deduction of estimated antidumping duties under section 772(d)(2)(A). The court cited with approval the Department's policy of not allowing estimated antidumping duties, based upon past margins, to alter the calculation of present margins. The court explained "[i]f deposits of estimated antidumping duties entered into the calculation of present dumping margins, then those deposits would work to open up a margin where none otherwise exists." *Id.* At 737.

Petitioners argue at length that the Department should not distinguish between purchase price and ESP transactions in deducting antidumping duties. However, because the Department does not deduct estimated antidumping duties from any transaction, this argument is inapposite.

The Department agrees with petitioners that statements made in the URAA are not relevant in this review, which is being conducted under pre-URAA law.

Comment 13: Petitioners state that the Department's calculation of Total Cost of Manufacture (TOTCOM) and Total Cost of Production (TOTCOP) is incorrect as a result of a clerical error and affects the cost test and the allocation of profit.

Respondent agrees with petitioners that certain clerical errors were made regarding TOTCOM. Respondent also claims that the Department made an error in calculating BHP's general and administrative expense.

Department's Position: We agree with petitioners. For the final results, the Department will correct the calculation of TOTCOM, thereby correcting the calculation of TOTCOP in section 1 of the margin calculation program. In addition, we agree with respondent and the Department will correct its error in calculating BHP's general and administrative expense.

Comment 14: Petitioners state that the definition of TOTCOP inadvertently omits the packing costs incurred at SCPD on sales shipped to BHP's steel service centers throughout Australia. Respondent agrees with petitioners.

Department's Position: We agree. For the final results, the Department will incorporate packing costs incurred at SCPD into its calculation of TOTCOP in section 1 of the margin calculation program.

Comment 15: Petitioners note that Building Products and Trading reported the quantities of their sales in terms of short tons, while Coated claimed that it reported its sales in pounds. Petitioners state that the Department attempted to place all U.S. sales on the same weight basis by dividing Coated's reported weight by 2000 (lbs/ton). However, petitioners allege the Department mistakenly applied the computer code to Trading's sales instead of Coated's sales. In addition, petitioners state that Coated appears to have actually reported its quantities in short tons, not in pounds.

Department's Position: We agree. Coated did report its sales on a short ton basis. Therefore, we will correct our error in the margin calculation program because there is no need to adjust Coated's sales to place all U.S. sales on the same weight basis.

Comment 16: Petitioners state that the Department must put the home market COP and the U.S. further manufacturing costs on the same weight basis in order to arrive at an accurate allocation of profit on further manufactured sales. Petitioners note that BHP reported home market cost on a metric ton basis, while U.S. further manufacturing costs were reported on a per short ton basis.

Department's Position: We agree. For the final results, the Department will convert U.S. further manufacturing costs to a metric ton basis when calculating further manufacturing costs.

Comment 17: Petitioners state that the Department incorrectly multiplied the U.S. warranty expenses by the exchange rate on Trading's U.S. sales twice.

Department's Position: We agree. For the final results, the Department will correct the margin calculation program.

Comment 18: Petitioners state that the Department mistakenly added three incorrect programming lines to its standard margin calculation program which is simply a ministerial error. However, petitioners note that the middle line should be kept and inserted at different places in the program.

Respondent asserts that the Department's apportionment of U.S. selling expenses to U.S. sales in the computer lines in question are correct. However, to avoid double-counting U.S. selling expenses, direct and indirect, it is necessary to apply a ratio which counts only the expenses which have not already been deducted as U.S. further manufacturing G&A costs.

Department's Position: We agree with petitioners that the Department in its preliminary results inadvertently included this language in its computer program. However, we disagree with the petitioners that the Department should keep the middle line in order to properly calculate the home market indirect selling expense cap. For the final results, the Department will drop these three lines from its computer program. The program as written applies a ratio of U.S. selling (direct and indirect) expenses, where appropriate, to the ESP cap and offset section of our programming. The program will not be double-counting thoses U.S. selling expenses which BHP reported for ESP transactions with further manufacturing costs. For a full discussion of how we treated these specific programming changes in this review, see the Final Analysis Memorandum for this review, which is on file in room B–099 of the main building of the Commerce Department.

Comment 19: Petitioners state that the U.S. packing costs for all further manufactured sales are reported in U.S. dollars per short ton. However, the program incorrectly multiplies these U.S. dollar amounts by the exchange rate in calculating Foreign Unit Price in Dollars (FUPDOL).

Department's Position: We agree. For the final results, the Department will correct section 2 of the margin calculation program and will not multiply the U.S. packing costs by the exchange rate when calculating FUPDOL.

Comment 20: Petitioners state that in the preliminary results the Department applied BIA to sales from Building Products that had missing customer codes and customer level of trade information. Petitioners argue that the Department should apply the higher of either the margin from the investigation, or highest non-aberrant margin to these sales.

Department's Position: For certain sales, Building Products did not report customer level of trade and customer code in its database. Therefore, we were unable to match these sales to the home market database in the preliminary results, and we applied the final weighted-average margin from the less than fair value (LTFV) investigation as BIA. However, for the final results, in accordance with *AFBs* and Department practice we are using the highest weighted-average margin from this review for these sales.

Final Results of Review

As a result of this review, we have determined that the following margin exists for the period February 2, 1993, through July 31, 1994:

Manufacturer/Exporter	Margin (percent)
BHP	39.11

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. The Department shall issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements shall be effective, upon publication of this notice of final results of administrative review, for all shipments of the subject merchandise from Australia that are entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Tariff Act: (1) the cash deposit rate for BHP will be the rate established above; (2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 24.96 percent, the all others rate established in the final results of the less than fair value investigation (58 FR 44161, August 19, 1993).

The deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 353.34(d) of the Department's regulations. Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulation and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: March 20, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–7615 Filed 3–28–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–570–842]

Notice of Final Determination of Sales at Less Than Fair Value; Polyvinyl Alcohol From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Commerce.

EFFECTIVE DATE: March 29, 1996.

FOR FURTHER INFORMATION CONTACT: Everett Kelly or David J. Goldberger, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4194 or (202) 482–4136, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act)

by the Uruguay Rounds Agreements Act (URAA).

Final Determination

As explained in the memoranda from the Assistant Secretary for Import Administration dated November 22, 1995, and January 11, 1996, the Department of Commerce (the Department) has exercised its discretion to toll all deadlines for the duration of the partial shutdowns of the Federal Government from November 15 through November 21, 1995, and December 16, 1995, through January 6, 1996. Thus, the deadline for the final determination in this investigation has been extended by 28 days, i.e., one day for each day (or partial day) the Department was closed. As such, the deadline for this final determination is no later than March 21, 1996.

We determine that polyvinyl alcohol (PVA) from the People's Republic of China (PRC) is being sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the preliminary determination on October 2, 1995 (60 FR 52647, October 10, 1995), the following events have occurred:

On October 13 and 17, 1995, Guangxi GITIC Import and Export Corporation (Guangxi), Guangxi Vinylon Plant (Guangxi Vinylon) and Sinopec Sichuan Vinylon Works (Sichuan), respectively, requested a postponement of the final determination pursuant to 19 CFR 353.20. The Department has determined that such requests contain an implied request to extend the provisional measures period, during which liquidation is suspended, to six months (*see Extension of Provisional Measures* memorandum dated February 7, 1996). Accordingly, on October 19, 1995, the Department postponed the final determination until February 22, 1996. (*Postponement of Final Antidumping Duty Determinations: Polyvinyl Alcohol from Japan, Taiwan, and the People's Republic of China* 60 FR 54667, October 25, 1995).

On November 3, 1995, Isolyser Co., Inc. (Isolyser), an importer of the subject merchandise, entered an appearance in this investigation, and submitted a request for clarification to the scope of this investigation, to exclude PVA fiber.

On November 20, 1995, in response to concerns of Isolyser, petitioner clarified that the scope does not include polyvinyl alcohol fiber.

In October and November, we verified the respondents' questionnaire responses. Additional publicly available published information (PAPI) on surrogate values was submitted by petitioner and respondents on January 19, 1996. Petitioner, respondents, and Isolyser submitted case briefs on January 30, 1996. Petitioner and respondents filed rebuttal briefs on February 6, 1996. A public hearing was held on February 14, 1996.

Scope of Investigation

The merchandise under investigation is polyvinyl alcohol. Polyvinyl alcohol is a dry, white to cream-colored, water-soluble synthetic polymer. Excluded from this investigation are polyvinyl alcohols covalently bonded with acetoacetylate, carboxylic acid, or sulfonic acid uniformly present on all polymer chains in a concentration equal to or greater than two mole percent, and polyvinyl alcohols covalently bonded with silane uniformly present on all polymer chains in a concentration equal to or greater than one-tenth of one mole percent. Polyvinyl alcohol in fiber form is not included in the scope of this investigation.

The merchandise under investigation is currently classifiable under subheading 3905.30.00 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period of investigation is October 1, 1994, through March 31, 1995.

Separate Rates

As stated in our preliminary determination, the PRC is a non-market economy (NME). Each of the responding PRC exporters, Sichuan and Guangxi, has requested a separate, company-specific rate. According to both respondents' business licenses, each is "owned by all the people". As stated in the *Final Determination of Sales at Less than Fair Value: Silicon Carbide from the People's Republic of China* 59 FR 22585, (May 2, 1994) (*Silicon Carbide*), and the *Final Determination of Sales at Less than Fair Value: Furfuryl Alcohol from the People's Republic of China* 60 FR 22545 (May 8, 1995) (*Furfuryl Alcohol*), ownership of a company by all the people does not, in itself, require the application of a single PRC-wide rate. Accordingly, both respondents are eligible for consideration for a separate rate.

To establish whether a firm is sufficiently independent from government control to be entitled to a separate rate, the Department analyzes each exporting entity under a test arising out of the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China* 56 FR 20588 (May 6, 1991) (*Sparklers*) and amplified in *Silicon Carbide*. Under the separate rates criteria, the Department assigns separate rates in nonmarket economy cases only if respondents can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

1. Absence of De Jure Control

The respondents have placed on the administrative record a number of documents to demonstrate absence of *de jure* control, including laws, regulations and provisions enacted by the State Council of the central government of the PRC. Respondents have also submitted documents which establish that PVA is not included on the list of products that may be subject to central government export constraints (*Export Provisions*). The Department has reviewed these and other enactments in prior cases and has previously determined that these laws indicate that the responsibility for managing state-owned enterprises has been shifted from the government to the enterprise itself (See *Silicon Carbide* and *Furfuryl Alcohol*).

However, as stated in previous cases, there is some evidence that the PRC central government enactments have not been implemented uniformly among different sectors and/or jurisdictions in the PRC (See *Silicon Carbide* and *Furfuryl Alcohol*). Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

2. Absence of De Facto Control

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) whether the export prices are set by or subject to the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding

disposition of profits or financing of losses (*see Silicon Carbide* and *Furfuryl Alcohol*).

Each respondent has asserted the following: (1) it establishes its own export prices; (2) it negotiates contracts, without guidance from any governmental entities or organizations; (3) it makes its own personnel decisions; and (4) it retains the proceeds of its export sales, uses profits according to its business needs and has the authority to sell its assets and to obtain loans. In addition, respondents' questionnaire responses indicate that company-specific pricing during the POI does not suggest coordination among exporters. During verification proceedings, Department officials viewed such evidence as sales documents, company correspondence, and bank statements. This information supports a finding that there is a *de facto* absence of governmental control of export functions. Consequently, we have determined that Sichuan and Guangxi have met the criteria for the application of separate rates (*see*, also Comment 1 under *Interested Party Comments* section below).

Fair Value Comparisons

To determine whether sales of PVA from the PRC to the United States by Guangxi and Sichuan were made at less than fair value, we compared Export Price (EP) to the Normal Value (NV), as specified in the "Export Price" and "Normal Value" sections of this notice.

Export Price

For both Guangxi and Sichuan, we calculated EP in accordance with section 772(a) of the Act, because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and because constructed export price under section 772(b) is not otherwise warranted on the basis of the facts of this investigation.

Petitioner has claimed that certain U.S. customers of the respondents are affiliated with respondents, pursuant to section 771(33) of the Act, through common PRC government control. However, there is no information on the record that supports the claim that the U.S. customers are affiliated with the PRC government. Further, respondents have been deemed free of government control. Therefore, we find no basis to consider these customers as affiliated with respondents.

We calculated EP based on packed, FOB PRC port or CIF U.S. port prices to unaffiliated purchasers in the United States, as appropriate, based on the same methodologies in the preliminary determination with the following exceptions:

We excluded all U.S. sales by Sichuan and Guangxi that were reported as having been made through third country resellers, as we determined that, at the time of sale, respondents were unaware of the final destination of the subject merchandise (*see* Comment 6). For Guangxi, we valued ocean freight based on the actual price paid for this expense, as we determined at verification that Guangxi used market economy carriers and paid with market economy currencies. We also included in the final determination a sale by Guangxi that was excluded from our preliminary determination, because we verified that this sale was, in fact, made during the POI.

Normal Value

As in our preliminary determination, we are relying on India as the surrogate country in accordance with section 773(c)(4) of the Act. Accordingly, we have continued to calculate normal value (NV) using Indian prices for the PRC producers' factors of production. We have obtained and relied on published, publicly-available information wherever possible.

In accordance with section 773(c) of the Act, we calculated NV based on factors of production reported by Sichuan, and by Guangxi Vinylon, which produced the PVA for Guangxi. To calculate NV, the reported unit factor quantities were multiplied by Indian values. Except as noted below, we applied surrogate values to the factors of production in the same manner as in our preliminary determination. For a complete discussion of surrogate values, *see Valuation Memorandum*, dated March 21, 1996. We then added amounts for overhead, general expenses (including interest) and profit, based on the experience of two Indian PVA producers (*see* also Comment 3), and packing expenses.

For both Sichuan and Guangxi, we have corrected the affected factors of consumption to reflect verification results. For Sichuan, these revisions include changes to PVA production stage based on actual PVA production levels, rather than the standards of the industry, (*see* Comment 8), and changes to the acetic acid consumption factors to net out regained acetic acid. For Guangxi, we revised calcium carbide factors to reflect actual rather than standard consumption (*see* Comment 7).

All-Others Rate

The Department requested the PRC Ministry of Foreign Trade and Economic Corporation (MOFTEC) to identify all exporters of subject merchandise. MOFTEC identified two PRC companies as the only known PRC exporters of PVA to the United States during the POI. Both of these identified exporters have responded in this investigation, and both were found to meet the criteria for application of separate rates. We compared the respondents' sales data with U.S. import statistics for time periods including the POI, and found no indication of unreported sales, with the possible exception of re-sales made by a third country reseller. This reseller was not investigated as a respondent in this proceeding because it was not identified as a potential respondent until after the preliminary determination. All known PRC exporters responded to our questionnaires and qualified for separate rates. We have no evidence that there are any other PRC exporters that may be subject to common government control. Therefore, we have not calculated a PRC-Wide rate in this investigation. We have calculated an all-others rate in accordance with section 735 (c)(5) of the Act.

Verification

As provided in section 776(b) of the Act, we verified the information submitted by respondents for use in our final determination. We used standard verification procedures, including examination of relevant accounting and production records and original source documents provided by respondents.

Interested Party Comments

Comment 1: Separate Rate for Sichuan Vinylon

Petitioner states that Sichuan did not demonstrate the absence of *de jure* or *de facto* governmental control and thus should not be granted a separate rate. Petitioner claims the Department found evidence at verification to indicate a relationship between Sichuan and China National Petrochemical Corporation (Sinopec), which petitioner identifies as a state-owned petroleum company. According to the petitioner, as Sichuan is a subsidiary of Sinopec, the Department's analysis of *de jure* and *de facto* governmental control should have been at the Sinopec level. Further, petitioner contends that Sichuan's questionnaire response should be considered incomplete and incorrect, since it did not disclose its business relationship with Sinopec. Therefore, petitioner asserts that the Department should rely on the facts available for calculating a margin for Sichuan, Sinopec and all other PRC entities except Guangxi.

Sichuan argues that, at the outset of this investigation, it fully disclosed its past relationship with Sinopec. Sichuan argues that, under recent PRC law, Sichuan is an independent legal person with its own management and is not related to any level of government or to Sinopec. Additionally, Sichuan states that, in past cases, the Department recognized the 1988 laws and the 1992 regulations as sufficient evidence of the absence of *de jure* government control. Further, Sichuan asserts that verification revealed no evidence of affiliation with Sinopec or *de facto* governmental control. Additionally, Sichuan contends that the name Sinopec is attached to Sichuan Vinylon Works only as a trademark used for international business recognition, a practice used by other PRC companies, and not as an indication of a continued business relationship.

DOC Position

We have calculated a separate margin rate for Sichuan. All evidence on the record supports Sichuan's assertion that there is no current relationship between Sichuan and Sinopec. Accordingly, examination of whether Sinopec was subject to government control was not necessary in considering whether to give Sichuan a separate rate. At verification, we reviewed a wide variety of sales documents including contracts, invoices, records of payments, and correspondence and found that Sichuan acted independently from Sinopec and any other entities in its day to day business activities. We found that Sichuan officials made all decisions regarding sales pricing and contracting, appointment of management personnel, and disposition of profits, and that these decisions were neither reviewed nor approved by Sinopec or any other entity. Accordingly, we determine that Sichuan has satisfactorily met the Department's criteria for showing an absence of *de jure* and *de facto* governmental control.

Comment 2: Separate Like Product for Certain PVA Grades

Isolyser, an importer of the subject merchandise, asserts that PVA hydrolyzed at a level of 98% should be considered a separate domestic like product. Thus, Isolyser contends that the Department should calculate a separate antidumping margin for PVA with a hydrolysis level of at least 98% in order for the International Trade Commission (ITC) to analyze the magnitude of the domestic margin on the domestic producers for each specific like product.

DOC Position

There is no evidence on the record to show that PVA hydrolyzed at a 98% level has physical characteristics and uses different from the subject merchandise for separate consideration as a domestic like product pursuant to section 771(10) of the Act. Therefore, we are rejecting Isolyser's request.

Comment 3: Application of Factory Overhead

Petitioner claims that the Department understated NV for both Sichuan and Guangxi in the preliminary determination by applying factory overhead only at the final stage of production, rather than to the upstream stages of the vertically integrated production processes. Petitioner argues that both respondents incur overhead costs throughout the production process, rather than simply at the final stage, because both are involved in processing and producing many of the inputs used in PVA production. Petitioner contends that the Indian PVA manufacturers are not as vertically integrated as the PRC respondents and thus the factory overhead percentage derived from the Indian companies' financial statements does not fully capture the factory overhead incurred by the PRC producers. In order to fully account for the overhead incurred, petitioners claim that an appropriate surrogate factory overhead percentage must be applied to both respondents at each upstream stage of production.

Sichuan and Guangxi argue that if factory overhead were applied to each stage of production, the Department would engage in "double counting." Each respondent states that its production processes are continuous and although overhead costs are incurred throughout, by applying the overhead percentage to the factors of production at the final stage, the Department captures the total overhead cost for the entire production process.

DOC Position

We disagree with the petitioner. Our analysis of the information on the record, including the financial statements of the Indian PVA producers, does not support the assumptions made by petitioner regarding the level of vertical integration of the Indian surrogate PVA producers. There is no evidence on the record to indicate that the Indian producers are any less vertically integrated than the PRC PVA producers.

To support its claim, petitioner states that the Indian producers must purchase such inputs as acetylene gas, oxygen, nitrogen, and treated water, while the PRC producers manufacture or process these materials themselves. However, the Indian financial statements state only that the Indian producers consume such inputs, but contain no information as to whether or not such consumption is derived from internal manufacture or outside manufacture. Further analysis of these documents indicates that the Indian producers have considerable investment in PVA production facilities. Such investment may, in fact, represent vertical integration at the same level or close to that of the PRC producers.

There is no basis to assume that applying factory overhead percentage once, at the final stage of production of the PRC producers, undervalues factory overhead. By applying the factory overhead to the final stage of production we have captured all appropriate factory overhead expenses incurred in the manufacture of PVA. Therefore, we have continued our preliminary determination methodology for calculating overhead expenses.

Comment 4: Surrogate Value Source for Factory Overhead, General Expenses and Profit

Petitioner contends that the Department should continue to rely on the Annual Report of VAM Organic Chemicals Ltd. (VAM Organic), an Indian producer of VAM and PVA, as the sole source to calculate factory overhead, general expenses, and profit. Petitioner argues that VAM Organic produces mostly VAM and PVA, and its experience is the most comparable among available sources to that of the PRC producers. Petitioner argues further that the VAM Organic report is more representative of the PRC industry experience than the financial statement of a second Indian producer, Polychem Limited (Polychem), because PVA related production is a relatively smaller part of Polychem's business. If, however, the Department were to consider using both VAM Organic and Polychem data, petitioner contends that the data should be weight-averaged based on the production of VAM and PVA at each company.

Sichuan contends that the surrogate value used for factory overhead, general expenses and profit should be based on the experience of India's chemical industry as a whole, using aggregate data compiled by the Reserve Bank of India (RBI), as applied in past Department cases (*see, e.g., Saccharin*). Sichuan contends that this data is more representative than the data from VAM Organic, which Sichuan claims is aberrational. Sichuan's next preferred methodology is to base these surrogate values on Polychem's experience as Polychem's total PVA sales and VAM sales are greater than the total sales of VAM Organic's PVA and VAM sales, and thus Polychem's experience is more representative of the Indian experience. Finally, Sichuan contends that if the Department chooses to use both VAM Organic and Polychem data, the data should be weight-averaged based on each company's total sales volume of PVA.

DOC Position

For valuing such factors as factory overhead, general and administrative expenses and profit, the Department seeks to base surrogate values on industry experience closest to the product under investigation. In this case, we have information from two producers of the subject merchandise. Thus, there is no need to rely on the experience of the chemical industry as a whole. Between the two Indian producers, we found no significant difference in the quality and representativeness of the data contained in the financial statements. Thus we find both Polychem and VAM Organic to be equally representative of the PVA industry in India. Because there is nothing in this case to indicate that one factor (*i.e.* sales volume or production volume) is more important than the other in valuing factory overhead, general and administrative expenses and profit, we determine that weight-averaging the data from both companies on the basis of either factor is inappropriate. Accordingly, we have weighted the data equally between each company and calculated factory overhead, general and administrative expenses and profit percentages using a simple average of the percentages derived from each producer, and applied these percentages to the factors of production.

Comment 5: Classification of Certain Labor and Overhead Expenses

Petitioner states that the Department should follow the methodology outlined in *Final Determination of Sales at Less than Fair Value: Manganese Metal from the People's Republic of China* (60 FR 56045, November 6, 1995) (*Manganese Metal*), where the Department determined that the surrogate value for labor did not include contributions to the provident fund and employee welfare expenses and thus these contributions and expenses were added to the factory overhead calculation. Petitioner also contends that the data used to derive the value for overhead should be re-allocated to properly include research and development expenses.

Sichuan and Guangxi argue that the Department's past practice has been to include provident fund and employee welfare expenses as components of total labor cost (*see, e.g. Saccharin*) and not as part of overhead expenses. Sichuan states that the example in *Manganese Metal* was an aberration and should not be a precedent for this investigation. Sichuan asserts that the International Labor Organization (ILO) data, used by the Department in the preliminary determination, is fully loaded to include employee benefits such as provident fund contributions and employee welfare expenses. In addition, Sichuan argues that there is insufficient evidence to support petitioner's re-allocation of research and development in the factory overhead calculation. Sichuan maintains that if VAM Organic data is used, no adjustment for research and development is warranted.

DOC Position

We agree with Sichuan. As in the cases cited by Sichuan, we consider the ILO statistics to be fully loaded with respect to all labor expenses, incorporating such costs as contributions to the provident fund and employee welfare expenses. In contrast, the labor value used in *Manganese Metal* was from a different source, and did not include these expenses. We also agree there is insufficient evidence to support petitioner's assumptions for basing re-allocation of research and development expenses.

Comment 6: Sales to Non-PRC Trading Company

Petitioner contends that at the time of sale, Sichuan and Guangxi were unaware of the final destination for sales made to a third country trading company. Petitioner states these sales should be excluded from the calculation of the PRC producer's export price and assigned an antidumping rate separate from that of the respondents.

While Sichuan states the exclusion of these sales would have minimal effect on the final margin calculations, Sichuan states it knew at the time of sale that the sales to the trading company were destined to the United States. Sichuan contends that it had numerous sales documents that would have supported its claim that it knew at the time of sale the final destination of the sales made to trading companies. Guangxi agrees that it did not know the final destination of the sales made through the trading companies.

DOC Position

We reviewed numerous sales documents at the verification of Sichuan and in no instance did we find that *at the time of sale,* Sichuan knew or had any reason to believe the destination of the subject merchandise was the United States. There is no further information on the record that supports Sichuan's claim that, at the time of sale, it knew the destination of the subject merchandise. Although each respondent may have had some indication of the destination prior to the time of shipment, all of the sales documents reviewed at each company showed no information identifying the United States as the ultimate destination of the subject merchandise. We have therefore excluded the trading company sales from each company's margin calculation.

Comment 7: Guangxi Vinylon Reporting of Calcium Carbide Factor

Petitioner argues the Department should revise Guangxi's reported calcium carbide factors based on information discovered at verification, which revealed that Guangxi Vinylon had reported this factor based on an industrial standard, rather than the actual consumption of calcium carbide for PVA production.

Guangxi argues that it reported its calcium carbide factor consumption consistent with the legally required PRC industry standard for production of PVA and its production accounting system.

DOC Position

We agree with the petitioner. We have revised the calcium carbide consumption factors to reflect actual consumption, based on information discovered at verification. Actual consumption in a production process is more accurate than a standard figure.

Comment 8: Sichuan Reporting of PVA Production

Petitioner claims that the Department should reject as new information verification findings that Sichuan's reported concentration percentage of PVA used to calculate consumption factors of inputs used at the PVA production stage was inaccurate. Additionally, petitioner argues that Sichuan has not demonstrated that such an adjustment is appropriate.

Sichuan argues it provided numerous submissions and complete accurate and timely responses to the Department. Further, Sichuan states the Department was able to verify, within the time specified, the completeness of this factual information. Therefore, Sichuan argues that the Department should use

the verified evidence on record to calculate an antidumping margin for Sichuan.

DOC Position

The information discovered at verification, regarding the concentration percentages of PVA production, represents a relatively minor correction of data already provided by Sichuan, rather than new information not previously provided. Moreover, we find that using the actual concentration percentages of PVA production will yield more accurate results. Therefore, we have revised affected input factors based on the actual PVA production data.

Comment 9: Surrogate Value for Electricity

Petitioner argues that the Department should use data on electricity prices issued by the Centre for Monitoring the Indian Economy (CMIE), from March 1, 1995, for the electricity surrogate value. In applying the rates, petitioner suggests the surrogate value should be calculated as the weighted-average of rates from the Indian states where the Indian chemical industry is located.

Sichuan and Guangxi argue that the electricity prices submitted by the petitioner are effective beginning with the last month of the POI, while all of their PVA production during the POI occurred earlier. Therefore, they claim that the petitioners proposed value is inappropriate for use as a surrogate value because it reflects prices in effect subsequent to their PVA production. Sichuan suggests that the Department use either data on an electricity rate for India issued by the International Energy Agency (IEA), or the CMIE value from June 1994 used in the preliminary determination. Sichuan contends that the IEA figure, when adjusted to the POI, is an appropriate measure of the cost of electricity.

DOC Position

We agree in part with the petitioner that the March 1995 CMIE data is the most contemporaneous value relative to the POI and is the appropriate source for deriving the electricity surrogate value. Petitioners and respondents are both incorrect in stating that these rates are "effective" on March 1, 1995. Rather, the source shows that these were the rates "as of" March 1, 1995, and thus represent Indian price levels contemporaneous with the POI. However, we disagree with the petitioner's weighted average methodology. There is insufficient basis to assume that the electricity rates from the Indian states selected by petitioner are more appropriate for surrogate value than electricity rates in other states. Other factors beside chemical production levels, such as methods of generation and transmission as well as overall demand, are determinants of price. Since there is not sufficient information on the record to weigh the appropriateness of using one Indian state's electricity rates over those in another, we have based the surrogate value on the simple average of all Indian state rates found in the 1995 CMIE source.

Comment 10: Surrogate Value for Natural Gas

Petitioner contends that the Department should use the data on natural gas costs derived from 1994–1995 Gujarat Narmada Valley Fertilizer Co. Ltd (Gujarat) Annual Report as a surrogate for valuing natural gas because this value reflects the actual POI cost to an Indian chemical producer of this input.

Sichuan maintains that the value submitted by petitioner is not sufficiently representative of Indian prices as it is taken from a single Indian company's experience. Sichuan supports the use of an India-wide price rate obtained for 1994–1995 from *Hydrocarbon Perspective: 2010*, as used in the preliminary determination.

DOC Position

We agree with Sichuan and have used a rate obtained from *Hydrocarbon Perspective: 2010* as the surrogate value for natural gas. In determining the most appropriate surrogate value to apply to an input factor, the Department considers such elements as the specificity of the value as compared to the factor used, the contemporaneity of the value with respect to the POI, and the representativeness of the value for the industry in the surrogate country. In this instance, both values are equally specific with respect to the natural gas input, and equally contemporaneous with respect to the POI. For this factor, we consider the *Hydrocarbon Perspective: 2010* value to be more representative than a value from an annual report of a single company.

Comment 11: Surrogate Value for Coal

Petitioner states that the Department should use a surrogate value for steam coal derived from the annual report of Sukhjit Starch & Chemical Ltd (Sukhjit), an Indian chemical manufacturer. Petitioner contends that this value is specifically for steam coal, an input used by the respondents, and the value is contemporaneous with the POI.

Sichuan contends that the Department should derive a surrogate value for steam coal using average numbers for the Indian chemical industry as a whole rather than use a price quote from specific companies whose primary production is not PVA.

DOC Position

We valued steam coal inputs using an average price derived from the Sukhjit annual report and the 1994–95 annual report for Gujarat report, identified in Comment 10, which also is on the record. Both of these sources are equally contemporaneous with the POI and are publicly available. Although the fertilizer company's annual report does not specifically classify the coal consumed as "steam coal", it is clear from its inclusion in a table relating to power and fuel consumption that the coal consumed is for generating steam, and thus can be considered steam coal. Therefore both values are equally specific with regard to the input. As we have no basis to determine that one of these sources is superior to the other, we have weighted them equally in calculating a surrogate value.

We agree with Sichuan that where surrogate values cannot be based on the experiences of Indian producers of subject merchandise, a surrogate value based on a broader sample of Indian experience would be preferable, where all other relevant factors are equal. However, we consider the contemporaneity to the POI of the two annual reports to be more important for valuing this factor. While Sukjhit and Gujarat are not producers of PVA, we do not consider that fact to be relevant for considering surrogate values of commodity inputs such as coal, where the prices from PAPI typically represent the overall price level for that input in the surrogate country. Further, in comparing the average of the two companies to other, non-contemporaneous values on the record, we find that our average is reasonably comparable with respect to the other inflation-adjusted coal values, including those derived from the annual reports of the Indian PVA producers.

Comment 12: Sichuan Indirect Labor Factors

Petitioner claims that Sichuan significantly underreported its indirect labor cost by reporting indirect labor only for the final stage of the production process. Petitioner contends that the Department must apply a value for indirect labor to all upstream production stages, as in *Manganese Metal*.

Sichuan contends that it reported, and the Department verified, all of its indirect labor factors and no further adjustment is warranted.

DOC Position

We agree with Sichuan. We verified Sichuan's indirect labor reporting and found no basis to add additional factors for this input. Petitioner's reliance on the *Manganese Metal* case is misplaced. In *Manganese Metal*, the respondent did not report any separate factors for indirect labor, and the factory overhead value did not include indirect labor factors. Thus, an adjustment was warranted. In this case, both Sichuan and Guangxi reported all indirect labor factors and no further accounting for this input is needed.

Comment 13: Valuation of Guangxi Vinylon's Water Consumption

Petitioner argues that Guangxi Vinylon's water factor should be considered as a direct manufacturing cost. Petitioner states that Guangxi's water factor is distinguishable from the Department's treatment of water in past cases. Petitioner argues that, in past cases, water was considered an overhead item, since there was no information in the Reserve Bank of India Bulletin data to indicate otherwise. In this case, petitioner contends that water is a direct manufacturing cost of producing PVA. Further, Petitioner argues that the Indian producers of PVA treat water as a component of power and fuel, thus identifying water as a direct manufacturing cost. Therefore, water should be calculated separately from factory overhead.

Guangxi Vinylon states that the Department's treatment of water as a factory overhead item is consistent with past practice (*see, e.g. Saccharin*) and should continue in this investigation.

DOC Position

We agree with Guangxi Vinylon. There is no information on the record that supports petitioners claim that water must be treated as a direct manufacturing cost. Consistent with our practice in such cases as *Saccharin*, which involved a chemical product and relied on a similar type of factory overhead data, we have considered Guangxi's Vinylon's water consumption factor to be part of factory overhead.

Continuation of Suspension of Liquidation

For Sichuan, we calculated a zero margin. Consistent the with *Notice of Final Determination of Sales at Less Then Fair Value: Certain Cased Pencils from the People's Republic of China* (59 FR 55625, November 8, 1994), merchandise that is sold by Sichuan but manufactured by other producers will not receive the zero margin. Instead, such entries will be subject to the "All-Others" rate.

In accordance with section 733(d)(1) and 735(c)(4)(B) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of polyvinyl alcohol (except those entries that represent U.S. sales by Sichuan of PVA that Sichuan has manufactured) from the PRC, that are entered, or withdrawn from warehouse for consumption, on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the export price as shown below. These suspension of liquidation instructions will remain in effect until April 7, 1996.

The weighted-average dumping margins are as follows:

Manufacturer/Producer/Exporter	Weighted-average margin percentage
Guangxi GITIC Import and Export Corp	116.75
Sichuan Vinylon Works	0.00
All-Others Rate	116.75

The All-Others rate applies to all entries of subject merchandise except for entries from Guangxi and entries of merchandise manufactured by Sichuan.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered for consumption on or after the effective date of the suspension of liquidation.

This determination is published pursuant to section 735(d) of the Act.

Dated: March 21, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–7634 Filed 3–28–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–588–836]

Notice of Final Determination of Sales at Less Than Fair Value; Polyvinyl Alcohol From Japan

AGENCY: Import Administration, International Trade Administration, Commerce.

EFFECTIVE DATE: March 29, 1996.

FOR FURTHER INFORMATION CONTACT: Ellen Grebasch or Erik Warga, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone: (202) 482–3773 or (202) 482–0922, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA).

Final Determination

As explained in the memoranda from the Assistant Secretary for Import Administration dated November 22, 1995, and January 11, 1996, the Department of Commerce (the Department) has exercised its discretion to toll all deadlines for the duration of the partial shutdowns of the Federal Government from November 15 through November 21, 1995, and December 16, 1995, through January 6, 1996. Thus, the deadline for the final determination in this investigation has been extended by 28 days, *i.e.*, one day for each day (or partial day) the Department was closed. As such, the deadline for this final determination is no later than March 21, 1996.

We determine that polyvinyl alcohol (PVA) from Japan is being sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the preliminary determination of sales at less than fair value in this investigation on October 2, 1995, (60 FR

52651, October 10, 1995), the following events have occurred:

On October 17, 1995, respondent, Kuraray Co., Ltd. requested that the final determination be postponed until March 21, 1996. The Department has determined that such requests contain an implied request to extend the provisional measures period, during which liquidation is suspended, to six months (see, *Extension of Provisional Measures* memorandum dated February 7, 1996).

On November 20, 1995, the petitioner, Air Products and Chemicals, Inc., clarified its position that polyvinyl alcohol fiber was not intended to be within the scope of this investigation.

On February 2, 1996, respondent, Kuraray Co., expressly requested extension of the four month provisional measures period.

No hearing was requested or held, and no party filed a case brief.

Scope of Investigation

The merchandise under investigation is polyvinyl alcohol. Polyvinyl alcohol is a dry, white to cream-colored, water-soluble synthetic polymer. This product consists of polyvinyl alcohols hydrolyzed in excess of 85 percent, whether or not mixed or diluted with defoamer or boric acid. Excluded from this investigation are polyvinyl alcohols covalently bonded with acetoacetylate, carboxylic acid, or sulfonic acid uniformly present on all polymer chains in a concentration equal to or greater than two mole percent, or polyvinyl alcohols covalently bonded with silane uniformly present on all polymer chains in a concentration equal to or greater than one-tenth of one mole percent. Polyvinyl alcohol in fiber form is not included in the scope of this investigation.

The merchandise under investigation is currently classifiable under subheading 3905.30.00 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period of investigation (POI) is April 1, 1994, through March 31, 1995.

Facts Available

For reasons discussed in the preliminary determination, the Department has, pursuant to section 776 of the Act, used the facts available. As discussed in the preliminary determination, the Department used as the facts available the margin in the petition. For a discussion of the reasons for application of the facts available, and the selection of the petition margin as the facts available, see *Notice of Preliminary Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from Japan*, 60 FR 52649, 52650 (October 10, 1995). The Department has not received any comments since the preliminary determination on its application of facts available.

Fair Value Comparisons

As noted above, as in our preliminary determination, this final determination has been made using the margin in the petition as the facts available.

All-Others Rate

Under section 735(c)(5) of the Act, the "all-others rate" will normally be a weighted average of the weighted-average dumping margins established for all exporters and producers, but excluding any zero or *de minimis* margins, or any margins based entirely on the facts available. However, this provision also states that if all weighted-average margins are zero, *de minimis*, or based on the facts available, the Department may use other reasonable methods to calculate the all-others rate, including a weighted-average of such margins. In this case, as discussed above, the margin assigned to all companies is 77.49 percent, based on the facts available, the Department determines the all-others rate to be 77.49 percent.

Continuation of Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of polyvinyl alcohol from Japan, that are entered, or withdrawn from warehouse for consumption, on or after October 10, 1995, the date of publication of our preliminary determination in the **Federal Register**. The Customs Service shall require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the export price as shown below. These suspension of liquidation instructions will remain in effect until April 7, 1996, in accordance with section 733(d) of the Act.

The dumping margins are as follows:

Exporter/Manufacturer	Margin percentage
Kuraray	77.49
Nippon Goshei	77.49
Unitika	77.49
Shin-Etsu	77.49
All others	77.49

The all others rate applies to all entries of subject merchandise except for entries from exporters that are identified above.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will within 45 days determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, for consumption on or after the effective date of the suspension of liquidation.

This determination is published pursuant to section 735(d) of the Act and 19 CFR 353.20(a)(4).

Dated: March 21, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–7635 Filed 3–28–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–583–824]

Notice of Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol From Taiwan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 29, 1996.

FOR FURTHER INFORMATION CONTACT: Barbara Wojcik-Betancourt or David J. Goldberger, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone: (202) 482–0629 or (202) 482–4136, respectively.

THE APPLICABLE STATUTE: Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA).

FINAL DETERMINATION: As explained in the memoranda from the Assistant Secretary for Import Administration dated November 22, 1995, and January 11, 1996, the Department of Commerce (the Department) has exercised its discretion to toll all deadlines for the duration of the partial shutdowns of the Federal Government from November 15 through November 21, 1995, and December 16, 1995, through January 6, 1996. Thus, the deadline for the final determination in this investigation has been extended by 28 days, *i.e.*, one day for each day (or partial day) the Department was closed. As such, the deadline for this final determination is no later than March 21, 1996.

We determine that polyvinyl alcohol (PVA) from Taiwan is being sold in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the preliminary determination of sales at less than fair value in this investigation on October 2, 1995, (60 FR 52651, October 10, 1995), the following events have occurred:

On October 10, 1995, Chang Chun Petrochemical Co., Ltd. (Chang Chun), the sole Taiwan producer of the subject merchandise, and the respondent in this investigation, timely requested a postponement of the final determination until not later than 135 days after publication of the preliminary determination in the **Federal Register**. The notice postponing the final determination was published on October 25, 1995 (60 FR 54667). The Department has determined that such requests contain an implied request to extend the provisional measures period, during which liquidation is suspended, to six months (*see Extension of Provisional Measures* memorandum dated February 7, 1996.).

We conducted verification of Chang Chun's sales and cost questionnaire responses in Taiwan during October.

On November 20, 1995, the petitioner, Air Products and Chemicals, Inc., stated that polyvinyl alcohol fiber was not intended to be within the scope of this investigation.

Monsanto Company (Monsanto), a party to the proceeding in this investigation, submitted comments on the cost of production verification report on December 18, 1995. National Starch and Chemical Company, Perry Chemical Corp., and Rhône-Poulenc, importers of the subject merchandise, submitted comments on the sales verification report on January 11, 1996.

Chang Chun and the petitioner, Air Products and Chemicals, Inc., submitted case briefs on January 16, 1996, and rebuttal briefs on January 24, 1996. Monsanto also submitted a rebuttal brief on January 24, 1996. At the request of both the petitioner and Chang Chun, a public hearing was held on February 26, 1996.

Scope of Investigation

The merchandise under investigation is polyvinyl alcohol. Polyvinyl alcohol is a dry, white to cream-colored, water-soluble synthetic polymer. This product consists of polyvinyl alcohols hydrolyzed in excess of 85 percent, whether or not mixed or diluted with defoamer or boric acid. Excluded from this investigation are polyvinyl alcohols covalently bonded with acetoacetylate, carboxylic acid, or sulfonic acid uniformly present on all polymer chains in a concentration equal to or greater than two mole percent, and polyvinyl alcohols covalently bonded with silane uniformly present on all polymer chains in a concentration equal to or greater than one-tenth of one mole percent. Polyvinyl alcohol in fiber form is not included in the scope of this investigation.

The merchandise under investigation is currently classifiable under subheading 3905.30.00 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period of investigation (POI) is April 1, 1994, through March 31, 1995.

Product Comparisons

For purposes of determining appropriate product comparisons to U.S. sales, we compared identical merchandise, or where there were no sales of identical merchandise in the home market to compare to U.S. sales, we made comparisons based on the characteristics listed in the Department's antidumping questionnaire, as had been applied in the preliminary determination, and in accordance with section 771(16) of the Act.

In its case brief, petitioner claimed that the Department should determine that "targeted dumping" exists under section 777A(d)(1)(B) because of a pattern of export prices, which petitioner alleged differed significantly across time. Pursuant to section 777A(d)(1)(B), the Department may compare weighted-average normal values (NV) to transaction-specific export prices, if there is a pattern of *export prices* (EP) for comparable merchandise that differ significantly among purchases, regions, or periods of time (*see* section 777A(d)(1)(B)(i)) (emphasis added) when these differences cannot be taken into account by using an average to average or transaction to transaction comparison (*see* section 777A(d)(1)(B)(ii)). Petitioner requested that the Department compare monthly average NV to monthly EP averages to alleviate the significant price distortions occurring in the *home market* at the end of the POI. Petitioner, however, failed to provide any evidence or argument as to why the alleged pattern of *export prices* constitute targeted dumping. Consequently, we have rejected petitioner's allegation of targeted dumping. However, the Department has found significant differences over time in home market pricing. Those differences have been taken into account in price averaging. For discussion of the price averaging issue, *see* Comment 3 in the *Interested Party Comments* section of this notice below.

Level of Trade

As set forth in section 773(a)(1)(B)(i) of the Act and in the Statement of Administrative Action (SAA) accompanying the URAA, to the extent practicable, the Department will calculate normal values based on sales at the same level of trade as U.S. sales.

Pursuant to 773(a)(7)(A)(i), level of trade involves the performance of different selling activities by the producer/exporter. On September 22, 1995, we sent Chang Chun supplemental questions requesting that Chang Chun establish any claimed levels of trade based on selling functions performed and services offered by Chang Chun to each customer or customer class, and to document and explain any claims for a level of trade adjustment. Chang Chun provided no additional information regarding its selling functions and continued to claim that, pursuant to section 773(a)(7) (A) and (B), levels of trade are based on customer classification.

We examined the record evidence on the selling functions performed by Chang Chun on sales in each market and found that Chang Chun provides nearly all of the same or very similar selling functions to all customers including: packing and freight services, warranty claims, advertising, technical services, and inventory maintenance. As a result,

we rejected the level of trade claim because, pursuant to section 773(a)(7)(A)(i), differences in level of trade must involve the performance of different selling activities by the seller (*i.e.* the respondent producer/exporter) (*see* Comment 4). Therefore, we determine that the selling functions performed among home market sales are sufficiently similar for us to consider the home market to be one level of trade.

For the U.S. market, Chang Chun reported payment of commissions on certain U.S. sales. It reported, and we verified, that the commissions paid did not reflect payments for any services provided by the commissionaire. Apart from tolled sales, which are not used in our final determination (*see* Comment 7), we also found that the selling functions performed by the respondent in the U.S. are sufficiently similar for all sales for us to consider the U.S. market to be one level of trade.

Fair Value Comparisons

In accordance with section 772(a) of the Act, to determine whether Chang Chun's sales of PVA to the United States were made at less than fair value, we used EP because the subject merchandise was sold to the first unaffiliated purchaser in the United States prior to importation and because constructed export price (CEP) under section 772(b) is not otherwise warranted based on the facts of this investigation.

Export Price

We calculated EP based on the same methodology used in the preliminary determination. Furthermore, as in the preliminary determination, we did not include tolled sales.

Normal Value

In accordance with section 773(a)(1)(B) of the Act, we have based NV on sales in Taiwan, or, where appropriate, on constructed value (CV). We compared all home market sales to the cost of production (COP), as described below. Where home market prices were above COP, we calculated NV based on the same methodology used in the preliminary determination, with the following exceptions: (1) we recalculated reported quantity discounts and special discounts on certain sales (*see* Comment 5); and (2) we made an additional circumstance of sale adjustment for bank charges made on certain U.S.sales, based on information obtained at verification.

Cost of Production Analysis

As discussed in the preliminary determination notice, the Department conducted an investigation to determine whether Chang Chun made home market sales during the POI at prices below COP within the meaning of section 773(b) of the Act. Before making any fair value comparisons, we conducted the COP analysis described below.

A. Calculation of COP

We calculated the COP based on the sum of Chang Chun's cost of materials and fabrication for the foreign like product, plus amounts for home market general, and administrative expenses (G&A) and packing costs in accordance with section 773(b)(3) of the Act. We relied on the reported COP amounts with the following exceptions: (1) we allocated joint production costs to PVA and acetic acid (AA) based upon relative sales values (*see* comment 8); (2) we adjusted the reported cost of manufacturing (COM) to account for the difference in the COM per Chang Chun's internal records examined at the verification; (3) we adjusted the COM to include PVA's share of the difference between Chang Chun's depreciation expense for tax purposes (the amount that Chang Chun reported in its response to section D of our questionnaire), and its depreciation expense for financial statement purposes; and (4) we recalculated general and administrative expenses based on the revised COM.

B. Test of Home Market Prices

We compared the adjusted weighted-average COP figures to home market sales of the foreign like product on a product-specific basis, in order to determine whether these sales had been made at below-cost prices within an extended period of time in substantial quantities, and at prices that did not permit recovery of all costs within a reasonable period of time. The home market prices compared were exclusive of any applicable movement charges, discounts, rebates, packing, and direct and indirect selling expenses.

C. Results of COP Test

Pursuant to section 773(b)(2)(c), where less than 20 percent of sales during the POI of a given product are at prices less than the COP, we do not disregard any below-cost sales of that product because the below-cost sales are not made in substantial quantities within an extended period of time. Where 20 percent or more of sales of a given product are at prices less than the COP, we disregard only the below-cost sales because such sales are found to be made within an extended period of time, in accordance with section 773(b)(2)(B) of the Act, and at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Where all sales of a specific product are at prices below the COP, we disregard all sales of that product, and calculate NV based on CV, in accordance with section 773(a)(4) of the Act.

We found that, for certain PVA products, more than 20 percent of Chang Chun's home market sales were sold at below COP prices within the POI. Further, no evidence was presented indicating that these sales provided for the recovery of costs within a reasonable period of time. We therefore determined that these below cost sales were made in substantial quantities within an extended period of time and we excluded these sales and considered the remaining above-cost sales in determining NV, if such sales existed, in accordance with section 773(b). For those U.S. sales of PVA products for which there were no above-cost sales, we compared export prices to CV.

D. Calculation of CV

In accordance with section 773(e)(1) of the Act, we calculated CV based on the sum of Chang Chun's cost of materials, fabrication, selling, general and administrative expenses (SG&A) and U.S. packing costs as reported in the U.S. sales database. In accordance with sections 773(e)(2)(A), we based SG&A and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country. Where appropriate, we calculated CV based on the methodology described above in the calculation of COP and added an amount for profit. For selling expenses, we used the weighted-average home market selling expenses.

Comparison Methodology

In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs for comparison to weighted average NVs or, as discussed above, to CV, where appropriate. The weighted averages were calculated and compared by the time period of the sale, product characteristics, and the class of the customer involved.

Chang Chun classified one of its U.S. customers as both an end-user and a distributor. Based on information in the questionnaire response, we considered this customer as an end-user for purposes of price averaging because Chang Chun reported that it sold the majority of its PVA sales to this customer for the customer's internal consumption.

The bases for establishing averaging groups according to time period and class of customer are discussed in detail below under Comments 3 and 4, respectively.

Currency Conversion

We made currency conversions into U.S. dollars based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. Section 773A(a) of the Act directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars. Further, section 773A(b) directs the Department to allow a 60-day adjustment period when a currency has undergone a sustained movement. A sustained movement has occurred when the weekly average of actual daily rates exceeds the weekly average of benchmark rates by more than five percent for eight consecutive weeks. The benchmark is defined as the moving average of rates for the past 40 business days. (For an explanation of this method, *see Policy Bulletin 96–1: Currency Conversions*, 61 FR 9434, March 8, 1996). Such an adjustment period is required only when a foreign currency is appreciating against the U.S. dollar. The use of an adjustment period was not warranted in this case because the Taiwan dollar did not undergo a sustained movement, nor were there currency fluctuations during the POI.

Verification

As provided in section 788(i) of the Act, we verified information provided by Chang Chun using standard verification procedures, including the examination of relevant sales and financial records, and selection of original source documentation containing relevant information.

Interested Party Comments

Comment: Date of Sale for Home Market Long-Term Purchase Orders.

Petitioner argues that the date of sale for home market sales made according to long-term purchase orders should not be the purchase order date, but rather the purchase order log date as used for other home market sales. Petitioner claims that the verification demonstrated that the long-term purchase orders did not constitute a binding agreement on quantity. Thus, petitioner contends, these purchase orders failed to satisfy the requirement that both price and quantity be agreed upon by the buyer and the seller for purposes of establishing date of sale. Petitioner alleges that: (1) significant amounts of purchase order quantities were unfulfilled as of the time of the Department's verification; (2) the purchase orders resemble "blanket purchase orders", which set sales terms and conditions over a time period for a maximum quantity of merchandise, but involve no commitment to purchase a fixed quantity and still require further communication to specify the quantity to be delivered; and (3) the purchase orders did not set quantities because Chang Chun did not meet the specified delivery period.

Chang Chun argues that the long-term purchase orders set the key terms of sale—price and quantity—and, therefore, the date of sale for these transactions should be the purchase order date. Chang Chun states that delivery terms are material only if the parties treat them as such—which the parties did not in this case. Further, Chang Chun maintains that even if purchase order quantities were not fully shipped in accordance with the delivery schedule, it does not mean that the terms of the purchase order were not met. Chang Chun cites *Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from India* (59 FR 66915, December 28, 1994), where the purchase order date was used as the date of sale even though part of the purchase order quantity was canceled; and *Final Determination of Sales at Less Than Fair Value: Crankshafts from Germany* (52 FR 28170, July 28, 1987) (*Crankshafts*), where price and quantity changes after the POI did not affect the sale date for those sales shipped under the original terms.

Monsanto and U.S. importers Rhône-Poulenc, Perry Chemical, and National Starch also contend that the delivery date is not an essential term of sale, and that delays in meeting delivery date do not affect the establishment of price and quantity as of the purchase order date.

DOC Position: We agree with respondent Chang Chun that the sales made under what Chang Chun describes as "long term purchase orders" were made pursuant to valid contracts, and thus we are treating the date of the purchase order as the date of sale.

Neither the statute nor the Department's regulations detail how the Department is to determine the date of sale of a transaction. Therefore, under principles of administrative law, the agency is obliged to fill in the statutory gaps, either by regulation or through developing a practice. In determining the date of sale, the Department has a well-established and long-standing practice that a sale is completed within the meaning of the Act when the essential terms, *i.e.*, usually price and quantity, are definite and firm (*see, e.g., Final Results of Antidumping Administrative Review: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany*, (56 FR 31692, July 11, 1991) (Department's established practice to use date when price and quantity terms are set as the date of sale); *see* also *Mitsubishi Elec. Corp.* v. *United States*, 700 F. Supp. 538, 561 (CIT 1988), aff'd. 898 F.2d 1577 (Fed. Cir. 1990)). The essential terms of price and quantity are firm when they are no longer within the control of the parties to alter (*see, e.g., Final Determination of Sales at Less Than Fair Value: Brass Sheet and Strip From France*, (52 FR 812, January 9, 1987) (price term pegged to publicly quoted metal prices considered definite and fixed); *Voss International* v. *United States*, 628 F.2d 1328 (CCPA 1980) (price set in dollars was definite despite provision for adjustment for currency fluctuations because the parties had nothing more to negotiate regarding price); *Final Results of Antidumping Administrative Review: Titanium Sponge From Japan*, (54 FR 13403, April 3, 1989) (absolute quantity was fixed and definite because contract required customer to purchase all that customer required)). Additionally, the Department often looks to the course of conduct between the parties in evaluating whether a written document represents a binding agreement (*see, e.g., Final Determination of Sales at Less Than Fair Value: Grey Portland Cement and Clinker from Mexico*, 55 FR 29244, July 18, 1990) (parties had begun performance pursuant to a letter agreement that Department found established a definite price and quantity); *Crankshafts*, at 28175 (the parties clearly acted in a manner consistent with a meeting of the minds that there was a binding agreement because production, acceptance of delivery and payment were in accord with the price and quantity of the written purchase order)).

Evidence on the record demonstrates that each of the contracts Chang Chun entered into during mid-February 1995 were binding agreements for purposes of establishing date of sale. Each of these written agreements, referred to by respondent as long-term purchase orders, set definite price and quantity terms and were signed by the seller Chang Chun and by each purchaser.

Moreover, for each agreement, the parties' later course of conduct evidenced that there was a meeting of the minds as to the essential terms, the price and quantity, because neither price nor quantity were altered in the course of performance.

Petitioner argues that Chang Chun had not fully delivered all of the quantity to any of the purchasers within the stated delivery period, and points to this fact as evidence that none of the long-term contracts had set firm quantities, hence, none were binding agreements. However, each long-term contract merely set out a delivery schedule wherein deliveries were to be made in installments which Chang Chun was to deliver when inventory was sufficient and its capacity to transport was available. Such language demonstrates that delivery was not intended by either party to be an essential term in the agreement. Unlike a circumstance where the parties intentionally make time of the essence, these long-term contracts did not provide that delivery within a date certain was material (*see, e.g., Final Determination of Sales at Less Than Fair Value: Oil Country Tubular Goods From Argentina*, 60 FR 33539, June 28, 1995)(*OCTG from Argentina*) (where the Department found that a change in delivery terms did not alter the date of sale because the parties themselves did not treat the delivery terms as material to the long-term contract)). The fact that at the end of the delivery time period Chang Chun sent out written extensions of delivery to each purchaser, and that each purchaser accepted deliveries of PVA pursuant to the delivery extension, is consistent with the conclusion that delivery terms were not essential to the contract. The Department has often found that changes in non-essential terms do not alter the date of sale. *See Final Determination of Sales at Less Than Fair Value: Aramid Fiber Formed of Poly-Phenylene Terephthalamide From the Netherlands*, (59 FR 23684, May 6, 1994); *see* also *General Electric Co.* v. *United States*, Slip. Op. 93–55 (CIT 1993)).

Moreover, record evidence demonstrates that Chang Chun had substantially performed on each long-term contract within the time set out in the delivery schedule and that every purchaser had accepted late delivery of remaining quantities at the price set out in the contracts. This course of conduct indicates that the parties acted in a manner consistent with their respective obligations under these agreements, even though all quantities were not delivered in strict accordance with the delivery schedule.

Lastly, we do not view the fact that respondent continued to record shipments made pursuant to the long-term contracts as it had recorded shipments made pursuant to spot sales as evidence that the long-term contracts were not binding agreements. The record-keeping was not inconsistent with the long-term contracts. For these reasons, we find that the purchase orders at issue are binding contracts. Therefore, we have used the date of the purchase orders as the date of sale.

Comment 2: Long-term Purchase Orders in the Ordinary Course of Trade.

Petitioner argues that, if the Department accepts the home market long-term purchase orders as POI sales, shipments made pursuant to these orders should be considered outside the ordinary course of trade. According to petitioner, these sales represent a significant deviation from Chang Chun's prior sales practice in terms of the manner in which sales are negotiated, and in the large volume covered. In addition, petitioner notes that these long-term orders are the first and only ones in the home market during the POI.

Chang Chun, supported by Monsanto, contends that the sales are in the ordinary course of trade because: (1) the purchase orders covered all standard grades of PVA and involved a large percentage of POI sales; (2) additional purchase orders were issued subsequent to the original ones; (3) the products were sold through Chang Chun's major channel of distribution; and (4) the sales were not unrepresentative or aberrational in nature. Furthermore, Chang Chun states that, although these purchase orders were part of a new sales and marketing strategy in response to growing competition, they are not uncommon in this industry.

DOC Position: We disagree with petitioner. It is the Department's established practice to include home market sales of such or similar merchandise unless it can be established that such sales were not made in the ordinary course of trade (*see Final Determination of Sales at Less Than Fair Value: Stainless Steel Angles from Japan*, 60 FR 16608, March 31, 1995). Section 773(a)(1)(B)(i) of the Act provides that NV shall be based on the price at which the foreign like product is sold in the exporting country in the ordinary course of trade for home market consumption. Section 771(15) of the Act states that "* * * 'ordinary course of trade' means the conditions and practices which, for a reasonable time prior to the exportation of the subject merchandise, have been normal in the trade under consideration with respect to the merchandise of the same class or kind * * *".

In determining whether sales are made outside the ordinary course of trade, the Department typically examines several factors taken together with no one factor dispositive. Further, the SAA at 842–843 states that sales are outside the ordinary course of trade when the "* * * sales or transactions have characteristics that are not ordinary as compared to sales or transactions generally made in the same market." This statement also provides guidance to the Department in considering unusual product specifications, aberrational prices, unusual terms of sale, or other factors that may make sales extraordinary for the market in question. None of these sales involved unusual product specifications, rather, the contracts covered all standard grades of PVA. The purchasers were established PVA customers that Chang Chun had dealt with in the past. Although the prices under these contracts differed from spot-sale prices offered previously, we do not consider such prices to be unusual given the nature of a long-term contract.

Although the long-term purchase orders may have been new to Chang Chun, there is no evidence that such long-term contracts are unusual or extraordinary for the Taiwan PVA market. Further, we found that, following the institution of the purchase order system, Chang Chun consistently conducted business according to this system.

While the volume of these long-term contract sales was much greater than what Chang Chun had been selling previously on a spot sale basis, there is no evidence on the record that indicates that high volume sales were not part of the normal course of trade in the Taiwan market for a reasonble time prior to the exportation of the subject merchandise. In the past, the Department has said that the number of sales or the volume sold are not, in and of themselves, dispositive (*see Final Results of Antidumping Administrative Review: Certain Welded Carbon Steel Standard Pipes and Tubes From India*, 56 FR 64753, December 12, 1991). Therefore, we have determined that these sales were made in the ordinary course of trade and included these sales in our normal value calculation.

Comment 3: Price Averaging and Time Periods.

Petitioner argues that calculating a single POI weighted- average price for each product results in distortive comparisons between EP and NV due to the high volume of home market sales

at the end of the POI pursuant to the long-term purchase orders. Petitioner submitted a number of statistical analyses to demonstrate the relationship between time and U.S. prices. Based on these analyses, petitioner contends that the price changes over the POI are significant and warrant the use of monthly, rather than POI, weighted-averages for price comparisions. In support of its position, petitioner argues that there is no statutory preference for using POI price averages, and that the monthly average methodology will satisfy the requirement of the URAA regarding contemporaneous sales comparisons.

Chang Chun, supported by Monsanto, responds that POI averages should be used in this case. Both parties contend that the Department was correct in the preliminary determination by establishing POI averages as the normal methodology for investigations. Based on its own statistical analyses, Monsanto asserts that the petitioner's analyses are faulty and that the relationship between time and price is relatively weak. Monsanto also contends that the petitioner's application of a statistical analysis methodology used in adminstrative reviews is inappropriate for this investigation, because petitioner limited the analysis to certain sales and based its results on criteria applicable to administrative reviews, but not investigations. Based on all of these factors, Monsanto contends that there is no basis to conclude that the price changes over the POI are significant, and thus no reason for the Department to abandon POI averages in favor of monthly averages.

DOC Position: Section 777A(d)(1)(A) gives the Department the explicit authority to use certain methods for comparing prices in determining whether sales at less than fair value exist. The Department may employ an average-to-average comparison of U.S. sales to the relevant home market or third country sales or rely on individual sales transactions for comparisons in both markets (*see* section 777A(d)(1)(A)(i) & (ii)). In applying an averaging approach, the SAA states that, in determining sales comparability for purposes of inclusion in a particular average, time is a factor which may affect the comparability of sales (SAA at 842–843).

As stated in our *Notice of Proposed Rulemaking and Requests for Public Comment*, 61 FR 7308, 7349 (February 27, 1996) (*Proposed Regulations*), the Department proposes that normally we will calculate an average to average comparison by weight-averaging sales during the entire POI. However, the Deparment may resort to shorter time periods where the normal values, export prices, or constructed export prices for sales included in an averaging group differ significantly over the course of the POI.

We agree with petitioner that time significantly influences price comparability in this case. An analysis of the record evidence indicates that price trends in the United States and Taiwan were essentially moving in tandem, *i.e.*, steadily rising over the POI, as were cost trends (*see Price Analysis Memorandum* dated March 20, 1996). This data tends to support the fact that prices of PVA and costs for its main input, vinyl acetate monomer (VAM), were influenced to a significant extent by world market prices. Notwithstanding this fact, and in the face of an upwardly moving cost trend during the POI, in the last six weeks of the POI Chang Chun departed from its normal spot sale selling practice and entered into several long-term contracts at prices which diverged significantly from the price trends in the first ten and a half months, and for considerably different quantities than what respondent had been selling previously through spot sales over a comparable time period.

The record evidence shows a distinct dividing line between price trends in the home market prior to February 15, 1995, when the first of the long-term contracts was entered into. While the price trend in the United States did not significantly differ in the last month and a half from the price trend evident throughout the first ten and a half months of the POI, the price trend in Taiwan in the last month and a half of the POI changed significantly from that of the first ten and a half months. Therefore, we find that price trends for NV differed significantly over time. This approach is consistent with the Department's past practice in such cases as *Final Determination of Sales at Less Than Fair Value: Nitrocellulose From Brazil*, 55 FR 23120 (June 6, 1990) (influence of time on home market sales in hyperinflationary economy), and *Final Determination of Sales at Less Than Fair Value: Fresh Kiwi Fruit From New Zealand*, 57 FR 13695 (April 17, 1992) (influence of time on home market sales of perishable agricultural products).

Moreover, the change in the home market price trends was accompanied by a change in selling practice from selling PVA on a spot sale basis to entering into long-term contracts for quantities to be delivered over a substantially longer time period. Thus, the change in selling practice enhanced the effect of time on price comparability. Because time affects price comparability, we have used two averaging periods: period 1, encompassing sales from April 1, 1994 to February 14, 1995, and period 2, covering sales from February 15, 1995 to March 31, 1995. These averages calculated by the Department effectively take into account the effect of time on price comparability.

The monthly averaging proposed by petitioner is unnecessary. Because price trends in both markets closely tracked each other except in the last 6 weeks of the POI, as described above, the evidence indicates that price comparability is unaffected by time in the first ten and half months of the POI. We reviewed the data submitted by petitioner and found insufficient information concerning the assumptions petitiioner relied upon to perform its statistical tests. As a result, we have concluded that the monthly averages proposed by petitioner are unwarranted (*see Price Analysis Memorandum*).

Comment 4: Level of Trade.

Chang Chun and Monsanto argue that comparisons should be made at the same level of trade, which they define as the position of the customer within the channels of distribution. Both parties contend that, pursuant to section 773(a)(7)(A), the "functions of the seller" analysis is only relevant when examining whether a level of trade adjustment should be applied. Accordingly, these parties contend that comparisons should be made at the same level of trade, defining "distributors", "end-users", and "retailers" as distinct levels of trade. These parties further assert that a "retailer" level of trade exists as a separate level of trade in the home market. In support of this argument, Monsanto adds that a pattern of consistent price differences supports consideration of customer groups as a separate level of trade and, in this regard, sales to retailers qualify as a distinct level of trade.

Petitioner claims that a "retail" level of trade does not exist for this industry and therefore sales to such customers should not be considered to be at a separate level of trade.

DOC Position: Levels of trade are defined by the functions of the seller, not the class of customer. Level of trade is defined as the ". . . difference between the actual functions performed by the sellers at the different levels of trade in the two markets" (section 773(a)(7)(A)(i) of the Act; *see* also *Preliminary Determination of Sales at Less Than Fair Value: Certain Pasta from Italy* (61 FR 7472, February 28,

1996) and *Preliminary Results of Antidumping Administrative Review: Stainless Steel Wire Rod from France* (61 FR 8915, March 6, 1996). As discussed above, we found no differences in selling functions between the customer categories defined by Chang Chun, nor did Chang Chun claim any differences in selling functions between these categories.

Accordingly, we find no basis for considering any of these categories to be separate levels of trade.

Although we have rejected the contention that the class of the customer forms the basis for level of trade, in composing an averaging group, customer classification is a factor the Department may take into account (*see SAA*). The record establishes that there are distinct customer classifications in both markets, and that Chang Chun offered significantly different prices, depending on the customer category (including different prices to home market retailers). Therefore, we have made comparisons of average prices within the same customer class wherever possible. Where such comparisons were not possible, we made comparisons without regard to customer class.

Comment 5: Discounts and Rebates on Home Market Sales.

Petitioner contends that, because the Department was unable to verify reported per-unit amounts of "quantity discounts" and "special discounts" on home market sales, all such discount claims should be rejected. Further, petitioner notes that some of these "discounts", which we considered as rebates in the preliminary determination, were granted after the filing of the petition and therefore should be rejected in accordance with Department practice (*see Final Determination of Sales at Less Than Fair Value: Color Negative Photographic Paper and Chemical Components Thereof from Japan*, 59 FR 16177, April 6, 1994).

Chang Chun responds that, although the classification of a discount as a "quantity" or "special" discount may have been incorrect, the Department was able to verify that the customer received discounts equal to the amount claimed on each transaction. Chang Chun adds that its discount policy was consistent between the period prior to the filing of the petition, and the period subsequent to it. Thus, Chang Chun contends that there is no relationship between its discount programs and the filing of the petition and, therefore, Chang Chun's discount claims should be accepted as claimed.

DOC Position: We were unable to verify the specific discount amounts claimed for individual home market transactions. Therefore, we cannot accept the transaction-specific amounts claimed for these transactions. We were able to verify, however, that certain customers received credits after sales that equalled the total amounts of "quantity" or "special" discounts claimed for sales to that customer. Further, we verified that Chang Chun's normal practice was to grant its customers periodic discounts in the form of credits, or rebates, based on the volume of PVA purchases (*see* Chang Chun Sales Verification Report at pages 10 and 11).

While Chang Chun may have granted some of these discounts after the filing of the petition, in most cases, the discounts were granted for sales made prior to the petition filing on the same basis, and in the same manner as such payments had been made, and credits had been granted prior to the filing of the petition. We found no evidence to conclude that post-petition discounts were granted for programs established after the filing of the petition. Thus, we find no basis to reject these discount claims solely because the customer received them after the petition was filed.

Because Chang Chun's revenues from PVA sales were reduced by these discounts amounts, we have revised the "quantity" and "special" discount amounts in the calculation of normal value by allocating the total of these discounts equally among eligible sales to each eligible customer on the basis of the respective total discount amounts and sales value to that customer.

Comment 6: Quantity Discount Claim.

Chang Chun argues that, because it granted quantity discounts on at least 20% of its sales, NV should be calculated based on sales with quantity discounts, as provided for under 19 CFR 353.55(b)(1) of the Department's pre-URAA regulations. Accordingly, Chang Chun states that EP should be adjusted to reflect the quantity discount granted to comparable sales in the home market.

Petitioner contends that the quantity discounts claimed on home market sales should be rejected because the Department was unable to verify that quantity discounts were actually granted on a unified basis to substantially all of Chang Chun's home market customers. Petitioner also argues that the Department was unable to verify that such discounts actually applied to 20% of home market sales.

DOC Position: We agree with petitioner. To be eligible for a quantity-based discount, a respondent must demonstrate that the discounts reflect savings specifically attributable to the production of the different quantities, or that the respondent granted quantity discounts of at least the same magnitude on 20% or more of sales of such or similar merchandise (*see* 19 CFR 353.55(b)). If either of these tests is met, the Department applies a discount adjustment equal to the minimum discount given.

As discussed in Comment 5, Chang Chun could not demonstrate that the specific amounts claimed as "quantity discounts" on specific transactions had any connection to the quantity sold, but rather, as described above, these discounts were in the nature of volume rebates. Moreover, the Department also requires a respondent to establish that it gave discounts on a uniform basis, which were made available to substantially all home market customers (*see, e.g., Final Determination of Sales at Less Than Fair Value: Brass Sheet and Strip from the Netherlands*, 53 FR 23431, June 22, 1988). This requirement was expressed in the Department's antidumping questionnaire at pages B–15 and B–16. However, Chang Chun made no attempt to demonstrate this; indeed, Chang Chun specifically stated that only customers classified as "distributors" were eligible for the "home market quantity discount program" (*see, e.g.*, letter from Ablondi, Foster, Sobin & Davidow to Ronald Brown of September 19, 1995, at page 3). Accordingly, we have disallowed this claimed adjustment.

Comment 7: Treatment of U.S. Tolled Sales.

Chang Chun argues that the Department should follow its "long established past practice" and estimate a separate dumping margin for its tolled sales (*i.e.*, vinyl acetate monomer owned by a U.S. customer but further processed into PVA by Chang Chun) by comparing Chang Chun's price for tolling to Chang Chun's tolling cost.

Petitioner states that the Department should not analyze these tolled transactions because the U.S. customer withdrew its request that a separate margin be calculated for these sales, and the Department has already determined not to analyze these sales (*See* Memorandum to Barbara Stafford dated August 8, 1995).

DOC Position: We agree with petitioner. As stated in the memorandum cited by the petitioner, as a result of the customer's withdrawal of its request for a separate rate in the investigation, and that the customer's participation is not otherwise essential to this investigation, we have not included tolled transactions in our

investigation. We note that our past practice of analyzing tolling transactions has changed. The party contracting for the tolling, rather than the processor, will be considered the producer/exporter of the merchandise (*see Proposed Regulations*, section 353.401(h) at 7381, as well as discussion at 7330).

Comment 8: Allocation of Acetic Acid Costs for COP Analysis.

Petitioner does not object to Chang Chun's treatment of PVA and acetic acid as coproducts of a joint production process. Petitioner does, however, object to the respondent's allocation of the joint production costs on the basis of the two product's relative production volumes. Petitioner asserts that because PVA has a significantly higher per-unit value than acetic acid, production costs should be allocated to the coproducts based upon their relative sales values. Petitioner adds, however, that if the Department determines not to apply a value-based allocation methodology in computing the costs of PVA and acetic acid, then it should treat acetic acid as a byproduct by allocating all costs to PVA and offsetting such costs by revenues earned from acetic acid sales.

Chang Chun defends its treatment of acetic acid as a coproduct as well as its volume-based cost allocation methodology and urges the Department to rely on these methodologies in order to compute PVA costs for the final determination. According to Chang Chun, acetic acid is a coproduct of PVA because it meets each of the Department's criteria for identifying and accounting for jointly-produced merchandise as either byproducts or coproducts. Chang Chun also maintains that the production volume allocation methodology it used to compute PVA costs for COP and CV is the same method used by the company to compute both PVA and acetic acid costs in its normal books and records. Chang Chun adds that its volume-based cost allocation method is acceptable under Taiwan's generally accepted accounting principles (GAAP), and it was in place at the company for several months prior to the filing of the petition.

Monsanto supports Chang Chun's accounting treatment of PVA and acetic acid as coproducts, and agrees with the respondent that its volume-based allocation methodology is appropriate in this case.

DOC Position: We agree with both petitioner and Chang Chun that acetic acid should be treated as a coproduct of PVA production. As discussed in our preliminary determination, we analyzed four of the five specific factors that the Department relies on in determining whether a product should be treated as a coproduct (*see* Memorandum from Art Stein to Chris Marsh, September 29, 1995). Based on our analysis and our verification findings, we have now examined all of these factors and have concluded that acetic acid is a coproduct in the production process of polyvinyl alcohol (*see*, also, *Elemental Sulphur from Canada; Final Results of Antidumping Finding Administrative Review*, 61 FR 8239, March 4, 1996). Having made that determination, however, we disagree with Chang Chun's contention that its volume-based cost allocation methodology is appropriate in this instance.

Like other joint production processes, PVA production is characterized by certain joint costs which cannot readily be identified or traced to the individual products resulting from the joint processing performed in the manufacture of PVA. In PVA production, chemical inputs are mixed together in a process that results in two distinct products: PVA and acetic acid. These products are produced simultaneously up to a point, the split-off point, after which they become physically separated from one another. This situation presents a unique cost allocation issue because prior to the physical split-off point, the production costs, like the joint products themselves, are commingled. We note that this situation differs from cost allocations found in a batch production process which yields two or more grades of a single product (*e.g.*, steel bar). In such situations, the individual units of production can be identified, apart from one another, throughout the production process, thus presenting a readily identifiable basis upon which to allocate costs. In contrast, where a single process commingles inputs up to a split-off point, allocating joint costs to the distinct products becomes more difficult.

While there are several acceptable methods of allocating joint costs among simultaneously produced coproducts, in general, each of these acceptable methods is based on either some measure of relative value or on the physical units produced (*e.g.*, number of units, weight, etc.) (*See Cost Accounting: A Managerial Emphasis*, Charles T. Horngren, 5th edition, Prentice-Hall Inc., pp. 531–539). The choice of allocation method can have a profound impact on the outcome of relative costs, depending on the significance of the joint costs involved and the nature of the products resulting from the process.

This case presents an additional complication because of the involvement of Dairen, an affiliated supplier, which produces VAM and sells it to Chang Chun. VAM is the major raw material input in PVA production. Chang Chun, in turn, uses the VAM (from Dairen) to produce PVA and acetic acid. Chang Chun then sells much of its acetic acid production back to Dairen which, in turn, uses it as a major input in its production of VAM. Because of the nature of this cycle and the affiliation between Chang Chun and Dairen, it is important that the method used to allocate joint costs not distort the cost of PVA and acetic acid.

Section 773(f)(1)(A) of the Act provides that the Department will calculate costs based on the records of the producer of the merchandise, if such records are kept in accordance with the GAAP of the exporting country and reasonably reflect the costs associated with the production and sale of the merchandise (*see* also *Final Determination of Sales at Less Than Fair Value: Canned Pineapple Fruit From Thailand, (Canned Pineapple)*, 60 FR 29559, June 5, 1995, where we stated that the Department's practice is to adhere to an individual firm's recording of costs in accordance with GAAP of its home country if the Department is satisfied that such principles reasonably reflect the costs of producing the subject merchandise). The Department's practice has been sustained by the Court of International Trade (CIT) (*see, e.g., Laclede Steel Co.* v. *United States, Slip Op.* 94–160 at 21–25 (CIT October 12, 1994), where the CIT upheld the Department's decision to reject respondent's reported depreciation expenses in favor of verified information obtained directly from the company's financial statements that was consistent with Korean GAAP). In addition, pursuant to section 773(f)(1)(A), the Department may only consider evidence from an exporter or producer regarding the proper allocation of costs if such allocations have been used historically by the exporter or producer (emphasis added).

Under its current accounting system, Chang Chun allocates joint production costs based on the relative production volumes of PVA and acetic acid. According to the company's financial statements, the current allocation methodology is accepted under Taiwan's GAAP. Although the company's financial statements indicate that this allocation methodology is in accordance with its home country GAAP, we note that Taiwan's GAAP does not endorse this methodology as the only acceptable cost allocation methodology. In fact, during verification, company officials stated

that they did not know how costs had been allocated under the earlier method (see Cost Verification Report at page 2), however, they stated that the company's previous allocation methodology was also in accordance with Taiwan's GAAP.

Chang Chun's current cost allocation methodology was adopted in 1994. Prior to 1994, the company relied upon a different methodology to allocate costs between PVA and acetic acid. As noted above, company officials could not explain the basis for the earlier methodology. Accordingly, based on our verification findings, we cannot conclude that a volume-based allocation has been used historically by Chang Chun.

Moreover, we find that in this case, the allocation of costs equally to each kilogram produced results in an unreasonable division of joint production costs between PVA and acetic acid. Basing the allocation of costs solely on production volume ignores the vastly different revenue-producing powers of the joint products at issue in this case. Specifically, while the relative volumes of Chang Chun's PVA and acetic acid output are almost equal, the price commanded by PVA is much greater than that of acetic acid. Thus, the company's volume-based cost allocation results in large profits accruing to PVA, while significant losses result from the sale of acetic acid. The Department, therefore, has determined that it is appropriate to reject Chang Chun's volume-based allocation methodology because it does not reasonably reflect the costs associated with the production and sale of PVA, as required by statute (*see* also *Canned Pineapple*, where the Department rejected respondent's argument for a weight-based joint cost allocation for pineapple and used a value-based cost allocation, citing as one of its reasons the relationship of the revenue-producing powers of the joint products that resulted from the pineapple production process).

As noted above, the need for an appropriate allocation method for joint costs is made all the more important in this case because of the unique nature of the transactions between Chang Chun and its affiliated supplier, Dairen. Because costs are over-allocated to acetic acid as a result of Chang Chun's volume-based methodology, such costs may not be fully recovered when the acetic acid is sold to Dairen. In turn, the cost of VAM produced from acetic acid may be understated when it is resold to Chang Chun for PVA production.

Given the fact that we cannot rely upon Chang Chun's own allocation methodology, the vastly different revenue-producing powers of the two joint products, and the fact that the affiliation between Chang Chun and Dairen has the potential to result in understatement of certain PVA costs, we believe a value-based allocation methodology produces a more reasonable and accurate reflection of costs in this case.

Therefore, we are allocating joint production costs between PVA and acetic acid using the relative value of each product calculated on the basis of a two-year period prior to the POI (*see Canned Pineapple*). We believe that by using sales of both products over an extended period prior to this investigation, prices can reasonably be relied upon to form the basis for allocating joint production costs, particularly in this case where acetic acid and PVA are commodity products, and their selling prices are influenced by world market forces of supply and demand.

Comment 9: Chang Chun's VAM Cost.

Petitioner claims that Chang Chun incorrectly valued VAM that it purchased from Dairen, an affiliated supplier of VAM, at the transfer price for those months in which the transfer price was less than Dairen's COP. Accordingly, petitioner contends that the Department should adjust Chang Chun's VAM cost for the specific purchases of VAM that were made at less than Dairen's monthly COP.

DOC Position: We disagree with petitioner. We verified that, for each month of the POI, the transfer price paid by Chang Chun for its VAM purchases from Dairen exceeded Dairen's COP. We therefore relied on the transfer price between the two affiliated companies as the basis for valuing VAM in our calculation of Chang Chun's COP.

Comment 10: Unreconciled Differences Between Chang Chun's Records and Questionnaire Response.

Petitioner notes that during verification, the Department found unreconciled differences in PVA costs between Chang Chun's internal books and the costs as submitted to the Department in its questionnaire response. Most of these discrepancies related to the cost of material inputs for PVA production. Petitioner maintains that the Department should increase Chang Chun's reported PVA costs to reflect the additional costs that result from these discrepancies.

DOC Position: We agree with petitioner. At verification, Chang Chun informed the Department that it had detected a clerical error in its submission which underreported its material costs. For the final determination, we increased material costs to account for this error. Our correction of this error resolves the discrepancies noted by petitioner.

Comment 11: Depreciation.

Petitioner claims that the Department should adjust depreciation expense incurred for PVA production to reflect the amount reported in Chang Chun's financial statements, rather than the amount reported for tax purposes (which Chang Chun reported in its questionnaire response). Petitioner contends that the Department's normal methodology is to rely on costs recorded for financial statement purposes unless there is reason to believe that such costs are distortive.

Chang Chun claims that petitioner's suggested depreciation adjustment relates to the boiler department's cogeneration equipment, which produces power and steam used by not only the PVA/acetic acid cost center, but also by non-subject product cost centers. Therefore, Chang Chun asserts that any depreciation adjustment should be limited to PVA/acetic acid's percentage share of the costs of the boiler department.

DOC Position: We agree with petitioner that Chang Chun underreported its submitted depreciation expense. The Department normally requires that a respondent report depreciation expense calculated based on the methods it normally uses for financial statement purposes, unless such methods distort production costs. We also agree with Chang Chun that PVA/acetic acid production should only be allocated with its share of the costs associated with the co-generation equipment. Based on our review of Chang Chun's fixed asset and depreciation records during verification, we found no reason to believe that Chang Chun's method of computing depreciation expense for financial statement purposes distorts the company's PVA production costs. We therefore adjusted the company's submitted tax basis depreciation expense to reflect depreciation computed for PVA/acetic acid production assets based on Chang Chun's normal financial statement depreciation method.

Comment 12: Over-packing.

Petitioner asserts that because Chang Chun systematically over-packs PVA above the nominal weight and the customer pays for only the nominal weight, PVA's COP should be adjusted in order to equate the cost of the product as packed with the price of the product as sold.

Chang Chun claims that because sales are recorded on the basis of nominal quantities rather than the over-packed quantities, in order to be consistent, Chang Chun records production based on nominal quantities. Thus, Chang Chun asserts that there is no need for the Department to adjust the company's costs to reflect the over-packed quantities.

DOC Position: We verified that both production and sales were reported based on nominal weight, therefore, no further adjustment is necessary.

Comment 13: Dairen's VAM Costing Issues.

Petitioner notes that Dairen shut down its plant in January 1994 and asserts that the costs of the shutdown should be included as part of Dairen's 1994 VAM production costs. Petitioner also claims that Dairen's VAM COP should be increased to account for the cost of purchased liquid nitrogen. Furthermore, petitioner contends that the Department should reject Dairen's allocation of engineering and indirect labor costs to non-subject merchandise because it represents a deviation from Dairen's 1994 audited financial statements and is merely an internal management estimate founded upon no verifiable, objective criteria.

Chang Chun maintains that, since Dairen's plant maintenance shutdown occurred prior to the POI, no adjustment to include any portion of these costs is necessary. Chang Chun also claims that Dairen's purchased nitrogen was sold at a profit and that the cost of the nitrogen should not be charged to VAM production because the sales revenue was not deducted from the production costs. Furthermore, Chang Chun asserts that, because both its engineering and indirect labor costs benefit VAM and PVA emulsions production, its allocation of these costs to both products is appropriate.

DOC Position: We agree with petitioner that a portion of Dairen's plant shutdown costs should be added to Dairen's reported cost of producing VAM because we consider the shutdown costs a form of major maintenance which benefits production over the entire POI. Accordingly, a *pro rata* share of the shutdown costs incurred in the one month of 1994 that is part of the POI should be allocated to the cost of producing VAM during the POI.

Because the cost of VAM used in the production of PVA is based upon the transfer price, no adjustment is required. Dairen's transfer price to Chang Chun exceeds its COP for VAM (including the cost of purchased liquid nitrogen). Therefore there would be no impact on Chang Chun's COP for PVA.

Lastly, we disagree with petitioner that Dairen's allocation of engineering and indirect labor costs to non-subject merchandise should be rejected. During verification, we found that these engineering and indirect labor costs do benefit certain non-subject products. Accordingly, we consider it reasonable to allocate these costs to non-subject merchandise.

Continuation of Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of PVA from Taiwan, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse for consumption, on or after October 10, 1995, the date of publication of our preliminary determination in the **Federal Register**. The Customs Service shall require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the export price, as shown below. This suspension of liquidation will remain in effect until April 7, 1996 (i.e., six months after the effective date of these instructions), in accordance with section 733(d) of the Act.

The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
Chang Chun Petrochemical Co., Ltd	19.21
All others	19.21

The all others rate applies to all entries of subject merchandise except for entries of merchandise produced by Chang Chun.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will determine whether these imports are causing material injury, or threat of material injury, to the industry within 45 days. If the ITC determines that material injury, or threat of material injury, does not exist, the proceeding will be terminated and all securities posted will be refunded or cancelled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This determination is published pursuant to section 735(d) of the Act.

Dated: March 21, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–7636 Filed 3–28–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–533–809]

Certain Forged Stainless Steel Flanges From India; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review.

SUMMARY: In response to a request from one respondent, the Department of Commerce (the Department) has conducted an administrative review of the antidumping duty order on certain forged stainless steel flanges (flanges) from India. The review covers one manufacturer/exporter of the subject merchandise to the United States for the period February 9, 1994 through January 31, 1995.

We have preliminarily determined that U.S. sales have been made below the normal value (NV). If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs to assess antidumping duties equal to the difference between the United States price (USP) and the NV. Interested parties are invited to comment on these preliminary results. Parties who submit arguments in this proceeding are requested to submit with the argument (1) a statement of the issue, and (2) a brief summary of the argument.

EFFECTIVE DATE: March 29, 1996.

FOR FURTHER INFORMATION CONTACT: John Kugelman, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–5253.

SUPPLEMENTARY INFORMATION:

Background

On February 9, 1994, the Department published in the **Federal Register** (59

FR 5994) the antidumping duty order on certain forged stainless steel flanges from India. On January 12, 1995, the Department published in the **Federal Register** a notice of "Opportunity to Request an Administrative Review" of this antidumping duty order for the period of February 9, 1994 through January 31, 1995 (60 FR 6524). We received a timely request for review from the respondent, Akai Impex, Ltd. (Akai). On February 15, 1995, the Department initiated a review of Akai (60 FR 8629). The period of review (POR) is February 9, 1994 through January 31, 1995.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act.

Scope of the Review

The products covered by this order are certain forged stainless steel flanges both finished and not-finished, generally manufactured to specification ASTM A–182, and made in alloys such as 304, 304L, 316, and 316L. The scope includes five general types of flanges. They are weld neck, used for butt-weld line connection, threaded, used for threaded line connections, slip-on and lap joint, used with stub-ends/butt-weld line connections, socket weld, used to fit pipe into a machined recession, and blind, used to seal off a line. The sizes of the flanges with the scope range generally from one to six inches; however, all sizes of the above described merchandise are included in the scope. Specifically excluded from the scope of this order are cast stainless steel flanges. Cast stainless steel flanges generally are manufactured to specification ASTM–A–351. The flanges subject to this order are currently classifiable under subheading 7307.21.1000 and 7307.21.5000 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this order remains dispositive.

The review covers one Indian manufacturer/exporter, Akai, and the period February 9, 1994 through January 31, 1995.

United States Price (USP)

In calculating USP for Akai, the Department treated respondent's sales as export price (EP), as defined in section 772(a) of the Act, because the subject merchandise was sold to unaffiliated U.S. purchasers prior to the date of importation.

We calculated EP based on packed, delivered, duty-paid prices to unaffiliated customers in the United States. We made deductions from the gross unit price, where appropriate, for inland freight-plant/warehouse to port of exit, brokerage and handling, international freight, and U.S. customs duty, in accordance with section 772(c)(2)(A) of the Act. We added to the gross unit price packing costs for shipment to the United States, where applicable, pursuant to section 772(c)(1)(A) of the Act.

No other adjustments to USP were claimed or allowed.

Normal Value (NV)

A. Viability

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared Akai's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Because Akai's aggregate volume of home market sales was less than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the aggregate quantity of the foreign like product sold in the exporting country is insufficient to permit a proper comparison with the sales of the subject merchandise to the United States. Therefore, in accordance with section 773(a)(1)(B), we chose Canada as the most appropriate third country market for comparison.

B. Model Match

We first searched for the third country model which is identical in characteristics with each U.S. model. When there were no contemporaneous sales of identical merchandise, we searched for the third country model which is most like or most similar in characteristics with each U.S. model. To perform the model match, we first searched for the most similar third country model with regard to alloy. If there were several third country models with identical alloy, we then searched among the models with identical alloy for the most similar third country model with regard to size. We continued this process with regard to type and standard. If, as a result of this analysis, several third country models were deemed equally similar, we chose the third country model which, when compared to the U.S. model, had the lowest difference in variable cost of manufacturing (difmer), provided the difmer did not exceed 20 percent of the total cost of manufacturing of the U.S. model.

For those U.S. models where no foreign like product was found with a difmer of less than 20 percent, we resorted to CV as the basis of NV, in accordance with section 773(a)(4) of the Act.

C. Constructed Value

In accordance with section 773(e) of the Act, we calculated CV based on Akai's cost of materials and fabrication employed in producing the subject merchandise, selling, general and administrative expense (SG&A) and profit incurred and realized in connection with the production and sale of the foreign like product, and U.S. packing costs. We used the costs of materials, fabrication, and G&A as reported in the CV portion of Akai's questionnaire response.

We used the U.S. packing costs as reported in the U.S. sales portion of Akai's questionnaire response. We based selling expenses and profit on the information reported in the third country sales portion of Akai's questionnaire response. See Certain Pasta from Italy; Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 61 FR 1344, 1349 (January 19, 1996). For SG&A expenses and actual profit, we used the average of actual amounts incurred and realized by Akai, in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country, in accordance with section 773(e)(2)(B)(ii) of the Act.

D. Price-to-Price Comparisons

For those price-to-price comparisons where we did not resort to CV, we based NV on the prices at which the foreign like products were first sold for consumption in the third country market to an unrelated party, in the usual commercial quantities and in the ordinary course of trade and, to the extent practicable, at the same level of trade as the EP, in accordance with section 773(a)(1)(B)(ii) of the Act. Akai made all third country and EP sales of subject merchandise to the same level of trade. Pursuant to section 777A(d)(2) of the Act, we compared the EPs of individual transactions to the monthly weighted-average price of sales of the foreign like product. We made adjustments, where applicable, for expenses incident to placing the foreign like product in condition packed ready for shipment to the place of delivery to the purchaser, and for third country credit expenses, in accordance with section 773(a)(6)(B)(ii) of the Act. We increased third country price by U.S. packing costs in accordance with section 773(a)(6)(A) of the Act and reduced it by third country packing costs in accordance with section 773(a)(6)(B) of the Act. Prices were reported net of value-added taxes (VAT) and, therefore, no adjustment for VAT was necessary. In accordance with section 773(a)(6)(C) of the Act, we increased NV by adding U.S. credit expense. No other adjustments were claimed or allowed.

Preliminary Results of the Review.

As a result of this review, we preliminary determine that the following weighted-average dumping margin exists:

Manufacturer/ exporter	Period	Margin (percent)
Akai Impex, Ltd.	2/09/94–1/31/95	11.04

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first workday thereafter. Case briefs and/or written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed not later than 37 days after the date of publication. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument. The Department will issue the final results of the administrative review, including the results of its analysis of issues in any such written comments or at hearing, within 180 days of issuance of these preliminary results.

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. Individual differences between USP and NV may vary from the percentages stated above. The Department will issue appraisement instructions directly to Customs. The final results of this review shall be the basis for the assessment of antidumping dumping duties on entries of merchandise covered by the determination and for future deposits of estimated duties.

Furthermore, the following deposit requirements will be effective upon completion of the final results of these administrative reviews for all shipments of Flanges from India entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rate for Akai will be the rate established in the final results of administrative review; (2) for merchandise exported by manufacturers or exporters not covered in these reviews but covered in the original less-than-fair-value (LTFV) investigation or a previous review, the cash deposit will continue to be the most recent rate published in the final determination or final results for which the manufacturer or exporter received a company-specific rate; (3) if the exporter is not a firm covered in these reviews, or the original investigation, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in the final results of these reviews, or the LTFV investigation; and (4) if neither the exporter nor the manufacturer is a firm covered in these or any previous reviews, the cash deposit rate will be 162.14 percent, the "all others" rate established in the LTFV investigation (59 FR 5994, February 9, 1994).

This notice serves as a preliminary reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This notice serves as a preliminary reminder to importers of their responsibility to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)).

Dated: March 21, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–7632 Filed 3–28–96; 8:45 am]

BILLING CODE 3510–DS–M

[A–570–801]

Court Decision and Continuation of Suspension of Liquidation: 1989–1990 Administrative Review of Tapered Roller Bearings and Parts Thereof From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 29, 1996.

FOR FURTHER INFORMATION CONTACT: John Beck, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–3464.

SUMMARY: On February 27, 1996, in the case of *UCF America Inc. and Universal Automotive Co., Ltd.* v. *United States and the Timken Company*, Cons. Ct. No. 92–01–00049, Slip Op. 96–42 (UCF), the United States Court of International Trade (the Court) affirmed in part the Department of Commerce's (the Department's) results of redetermination on remand of the *Final Results of Sales at Less Than Fair Value: 1989–1990 Administrative Review of Tapered Roller Bearings and Parts Thereof from the People's Republic of China*. Consistent with the decision of the United States Court of Appeals for the Federal Circuit (Federal Circuit) in *Timken Co.* v. *United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), the Department will not order the liquidation of the subject merchandise entered or withdrawn from warehouse for consumption prior to a "conclusive" decision in this case.

SUPPLEMENTARY INFORMATION:

Background

During 1987, the Department completed its investigation of tapered roller bearings from the People's Republic of China (*Final Determination of Sales at Less Than Fair Value: Tapered Roller Bearings From the People's Republic of China* (52 FR 19748, May 27, 1987)). In addition to setting a rate for Premier Bearing (a Hong Kong trading company), the Department issued an "all others" rate of 0.97 percent.

Subsequently, interested parties challenged the final determination. The

Court remanded the case and, on February 26, 1990, the Department issued an amendment to the final determination (*Amendment to Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order in Accordance With Decision Upon Remand: Tapered Roller Bearings From the People's Republic of China* (55 FR 6669, Feb. 26, 1990)). In its amendment, the Department issued a new "all others" rate of 2.96 percent.

On July 26, 1990, the Department initiated the third administrative review of tapered roller bearings from the People's Republic of China, covering the period June 1, 1989 through May 31, 1990 (*Initiation of Antidumping Duty Administrative Reviews* (55 FR 30490, July 26, 1990)). The Department initiated on CMEC (a state trading company) and Premier.

In 1991, the Department established a new policy concerning non-market economies. Under this policy, all non-market economy exporters are presumed to be a single enterprise controlled by the central government, which receives a single rate (the "PRC rate") (*see* the *Final Determination of Sales At Less Than Fair Value: Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China* (56 FR 241, Jan. 3, 1991); and *Final Results of Antidumping Duty Administrative Review: Iron Construction Castings from the People's Republic of China* (56 FR 2742, Jan. 24, 1991)). A company is entitled to a separate rate only if it establishes that it is not subject to de jure or de facto control by the central government (*see* the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China* (59 FR 22585, May 2, 1994)).

The Department issued its preliminary results for the third administrative review of TRB's from the PRC on October 4, 1991 (*Preliminary Results of Antidumping Duty Administrative Review: Tapered Roller Bearings and Parts Thereof From the People's Republic of China* (56 FR 50309, Oct. 4, 1991)). The Department preliminarily issued separate rates to all reviewed companies. *Id.* at 50310.

On December 31, 1991, the Department issued its final results (*Final Results of Antidumping Duty Administrative Review: Tapered Roller Bearings and Parts Thereof From the People's Republic of China* (56 FR 67590, Dec. 31, 1991)). The Department issued separate rates for all companies participating in the review. For non-reviewed companies, the Department issued "an 'all others' rate equal to the highest rate for any company in this administrative review." *Id.* at 67597.

Interested parties challenged the results of the third administrative review. On December 5, 1994, the CIT issued its opinion in *UCF America* v. *United States*, 870 F. Supp. 1120 (CIT 1994), remanding the results to the Department. The CIT instructed the Department to: 1) reinstate the "all others" cash deposit rate to unreviewed companies which was applicable prior to the final results for entries which have not become subject to assessment pursuant to a subsequent administrative review; and 2) eliminate the arithmetic error with regard to Jilin's foreign inland freight costs.

The Department filed its remand results on March 6, 1995. In the remand results, the Department: 1) reinstated the PRC rate for the third review at 2.96 percent and 2) corrected the error in the foreign inland freight calculation for Jilin. However, the Department stated that while it agreed that it incorrectly established an "all others" rate of 8.83 percent in the final results of the review, its reasoning differed from that of the Court.

On February 27, 1996, the Court sustained the Department's remand results (*see UCF America Inc. and Universal Automotive Co., Ltd.* v. *United States and the Timken Company*, Cons. Ct. No. 92–01–00049, Slip Op. 96–42. The Court stated that it "sees no basis for a "PRC rate" but finds that Commerce properly 1) reinstated the "all others" cash deposit rate of 2.96% to unreviewed companies for entries which have not become subject to assessment pursuant to a subsequent administrative review; and 2) corrected the arithmetic error related to foreign inland freight costs for Jilin Machinery Import and Export Corporation." Thus, the Court sustained the rate applied by the Department but rejected the "PRC rate" terminology. .

Continuation of Suspension of Liquidation

In its decision in *Timken*, the Federal Circuit held that, pursuant to 19 U.S.C. 1516a(e), the Department must publish notice of a decision of the Court or Federal Circuit which is "not in harmony" with the Department's determination. Publication of this notice fulfills this obligation. The Federal Circuit also held that in such a case, the Department must suspend liquidation until there is a "conclusive" decision in the action. A "conclusive" decision cannot be reached until the opportunity to appeal expires or any appeal is decided by the Federal Circuit. Therefore, the Department will continue to suspend liquidation at the current rates pending the expiration of the period to appeal or pending a final decision of the Federal Circuit if *UCF* is appealed.

Dated: March 21, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–7626 Filed 3–28–96; 8:45 am]

BILLING CODE 3510–DS–P

[C–201–001]

Leather Wearing Apparel From Mexico; Notice of Intent To Terminate the Countervailing Duty Administrative Review and Notice of Intent To Amend the Revocation of the Countervailing Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Intent to Terminate the Countervailing Duty Administrative Review and Notice of Intent to Amend the Revocation of the Countervailing Duty Order.

SUMMARY: On September 6, 1995, the Court of Appeals for the Federal Circuit (CAFC) ruled that, absent an injury determination by the International Trade Commission, the Department of Commerce (the Department) may not assess countervailing duties under section 1303(a)(1) on entries of dutiable merchandise which occurred on or after April 23, 1985, the effective date of Mexico's Bilateral Agreement with the U.S. *Ceramica Regiomontana* v. *U.S.*, Court No. 95–1026 (Fed. Cir., Sept. 6, 1995) (*Ceramica*). As a result, we intend to terminate this administrative review, which covers the period January 1, 1994 through December 31, 1994, and amend the effective date of the revocation of the countervailing duty order on Mexican leather wearing apparel. The amended revocation would apply to all unliquidated entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after April 23, 1985. We invite interested parties to comment on our intent to terminate this administrative review and to amend the revocation of the order.

EFFECTIVE DATE: March 29, 1996.

FOR FURTHER INFORMATION CONTACT: Brian Albright or Cameron Cardozo, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

The countervailing duty order on leather wearing apparel from Mexico was issued on April 10, 1981 pursuant to section 303 of the Tariff Act of 1930, as amended (the Act). No injury determination was required for cases conducted pursuant to section 303. In the Uruguay Round Agreements Act of 1994 (URAA), which amended the Act, section 303 was repealed because the new Agreement on Subsidies and Countervailing measures (SCM Agreement) prohibits the assessment of countervailing duties on imports from a member of the WTO without an affirmative injury determination. The URAA added section 753 to the Act which provided domestic interested parties an opportunity to request an injury investigation for orders that had been issued pursuant to section 303.

Because no domestic interested parties exercised their right under section 753(a) of the Act to request an injury investigation on Mexican leather wearing apparel, the International Trade Commission made a negative injury determination with respect to this order, pursuant to section 753(b)(4) of the Act. As a result, the Department revoked this countervailing duty order, effective January 1, 1995, pursuant to section 753(b)(3)(B) of the Act. *Revocation of Countervailing Duty Orders*, 60 FR 40,568 (August 9, 1995). Administrative reviews of periods prior to January 1, 1995 could still be conducted, and on April 28, 1995 an administrative review of this order was requested for the period January 1, 1994 through December 31, 1994. 60 FR 25885 (May 15, 1995).

On September 6, 1995, in a case involving the countervailing duty order on ceramic tile from Mexico, the CAFC ruled that, absent an injury determination by the International Trade Commission (ITC), the Department may not assess countervailing duties under section 1303(a)(1) on entries from Mexico of dutiable merchandise which occurred on or after April 23, 1985, the effective date of Mexico's Bilateral Agreement with the U.S. (*Ceramica* at 8). On February 21, 1996, the Department implemented the CAFC's ruling in the case of Mexican ceramic tile. 61 FR 6630. Because the order on leather wearing apparel is a Mexican order and involves the same set of pertinent facts (i.e., the ITC did not make an injury determination), the CAFC's decision applies to the order on leather wearing apparel from Mexico.

As a result, we intend to terminate the instant review of this countervailing duty order. Also, we intend to amend the previous revocation of this order to make the revocation for all unliquidated entries effective April 23, 1985, rather than January 1, 1995, in recognition of the *Ceramica* decision.

Scope of the Review

Imports covered by this review are shipments of Mexican leather wearing apparel. These products include leather coats and jackets for men, boys, women, girls, and infants, and other leather apparel products including leather vests, pants, and shorts. Also included are outer leather shells and parts and pieces of leather wearing apparel. This merchandise is currently classifiable under *Harmonized Tariff Schedule* (HTS) item numbers 4203.10.4030, 4203.10.4060, 4203.10.4085 and 4203.10.4095. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Notice of Intent To Terminate the Countervailing Duty Administrative Review and Notice of Intent To Amend the Revocation of the Countervailing Duty Order

This notice serves as notification to the public of our intent to terminate the instant administrative review and amend the revocation of the countervailing duty order on Mexican leather wearing apparel to be effective April 23, 1985. If our final determination remains unchanged from this notice of intent, the revocation will apply to all unliquidated entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after April 23, 1985.

Therefore, we intend to instruct the U.S. Customs Service to terminate the suspension of liquidation and liquidate all unliquidated entries of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after April 23, 1985, without regard to countervailing duties. We intend to instruct the U.S. Customs Service to refund with interest any estimated countervailing duties collected with respect to those entries. We note that the requirements for a cash deposit of estimated countervailing duties were previously terminated in conjunction with the section 753 determination.

Interested parties may request a hearing not later than 10 days after the date of publication of this notice. Interested parties may submit written arguments in case briefs on this notice of intent within 21 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted five days after the time limit for filing the case brief. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue, and (2) a brief summary of the argument. Any hearing, if requested, will be held two days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 355.38(e).

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under section 355.38(c), are due. The Department will publish its final determination with respect to this intended termination and revocation, including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

This notice is published in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: March 21, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–7637 Filed 3–28–96; 8:45 am]

BILLING CODE 3510–DS–P

Export Trade Certificate of Review

ACTION: Notice of Application.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: W. Dawn Busby, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal

government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination of whether a Secretary of Commerce should issue a Certificate to the applicant. An original and five (5) copies of such comments should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1800H, Washington, D.C. 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 96–00002."

Summary of the Application

Applicant: U.S. Leaf Tobacco Exporter, L.L.C., c/o Henry Babb, Jr., Esq., Narron, Holdford, Babb, Harrison & Rhodes, PA, Wilson, North Carolina 27894–0279, Contact: Laurence T. Sorkin, Esq., Telephone: (212) 701–3209.

Application No.: 96–00006

Date Deemed Submitted: March 18, 1996.

Members (in addition to applicant): Universal Leaf Tobacco Company, Incorporated, Richmond, Virginia; DIMON International, Inc., Farmville, North Carolina; Unitob Inc., Greenville, North Carolina; Standard Commercial Corporation, Wilson, North Carolina; G.F. Vaughan Tobacco, Co., Inc., Lexington, Kentucky.

Note: This application is made on behalf of the Members listed above, as well as any U.S. tobacco dealer which is a wholly owned or majority owned subsidiary of a Member or of its controlling entity. A list of the subsidiaries of each Member or its controlling entity is attached hereto as Attachment I.

U.S. Leaf Tobacco Exporters, L.L.C. seek a Certificate to cover the following specific Export Trade, Export Markets, and Export Trade Activities and Methods of Operations.

Export Trade

Products

Green leaf tobacco (SIC 5159)

Services

Processing and shipment of green leaf tobacco (SIC 2141)

Export Trade Facilitation Services (as they relate to the Export of Products and Services.)

Consulting, market research, advertising, marketing, insurance, product research and design, legal assistance, transportation (including trade documentation and freight forwarding), communication and processing of orders, warehousing, foreign exchange, financing, and taking title to goods.

Export Markets

The Export Markets are foreign government-owned purchasers known as State Trading Entities ("STEs") and are limited to the following: Algeria, China, Egypt, Korea, Lebanon, Morocco, Thailand, Taiwan, Turkey, Tunisia, and Vietnam.

Export Trade Activities and Methods of Operation

1. In connection with the promotion and sale of Members' Products and Services into the Export Markets, U.S. Leaf Tobacco Exporters, L.L.C. and/or one or more of its Members may:

a. Solicit orders or bids from STEs in Export Markets.

b. Design and execute foreign marketing strategies for sales in Export Markets.

c. Quote charges to STEs for processing, shipping and handling services relating to the sale of U.S. grown tobacco to such buyers. Such quotes may be made by one or more Members individually or by Applicant on behalf of such Members as may be interested in participating in such transactions or opportunities.

d. Collect and exchange information about Applicant's or Members' export operations and prior export sales by Members, including export price information with respect to STEs.

e. Collaborate in the preparation and submission of individual or joint bids for processing, shipping and handling charges relating to the sale of tobacco to STEs in Export Markets.

f. Collect and exchange information and conduct joint negotiations with STEs concerning estimated yields for the processing of green leaf tobacco into redried tobacco.

g. Allocate export sales and/or export markets among Members to STEs.

h. Engage in joint promotional activities aimed at increasing sales in existing Export Markets and identifying new Export Markets, such as: arranging trade shows and marketing trips; providing advertising services; providing brochures, industry newsletters and other forms of product, service and industry information; conducting international market and product research; procuring international marketing, advertising and promotional services; and sharing the cost of these joint promotional activities among the Members.

i. Collect and exchange information with respect to transportation services utilized by the Members in the export of U.S. grown tobacco, including overseas freight transportation, inland freight transportation from the Members' processing plants to the U.S. port of embarkment, storage and warehousing, stevedoring, wharfage and handling, insurance, forwarder services, trade documentation and services, customer clearance, financial instruments and foreign exchange.

j. Collect and exchange information and conduct joint negotiations with STEs regarding contractual terms for export sales.

Definitions

1. "Member" means a person who has membership in U.S. Leaf Tobacco Exporters, L.L.C. and who has been certified as a "Member" within the meaning of Section 325.2(1) of the Regulations.

Dated: March 25, 1996.

W. Dawn Busby,

Director, Office of Export Trading Company Affairs.

Attachment I

Universal Leaf Subsidiaries

Universal Leaf Tobacco Company, Incorporated, Richmond, VA
Virginia Tobacco Company, Incorporated, Richmond, VA
Virsa Incorporated, Richmond, VA
Winston Leaf Tobacco Company, Incorporated, Richmond, VA
Southern States Tobacco Company, Incorporated, Richmond, VA
Thorpe & Ricks, Inc., Richmond, VA
Thorpe-Greenville Export Tobacco Company, Rocky Mount, NC
Thorpe-Ricks, Inc., Rocky Mount, NC
Southern Processors, Inc., Danville, VA
Danville Leaf Tobacco Company, Inc., Danville, VA
J.P. Taylor Company, Inc., Henderson, NC
Eastern Leaf Tobacco Company, Richmond, VA
K.R. Edwards Leaf Tobacco Company, Incorporated, Smithfield, NC
Southwestern Tobacco Company, Incorporated, Lexington, KY
W.H. Winstead Company, Inc., Richmond, VA

Tobacco Processors, Inc., Wilson, NC
R.P. Watson Company, Richmond, VA
Dunnington-Beach Tobacco, Incorporated, Farmville, VA

Standard Subsidiaries

Standard Commercial Tobacco Co. Inc., Wilson, NC
W A Adams Company, Wilson, NC

Dimon Subsidiaries

A.C. Monk & Company, Inc., Farmville, NC
The Austin Company, Incorporated, Kinston, NC
T.S. Ragsdale Company, Inc., Lake City, NC
Dibrell Brothers Tobacco USA, Inc., Danville, Va
Carolina Leaf Tobacco Company, Inc., Greenville, NC
Dimon International, A.G., Basel, Switzerland
Dibrell Carolina Far Eastern Corp., Greenville, NC
Dimon Asia on behalf of Dimon International, Inc., Farmville, NC

Intabex Subsidiaries (Parent Company of Unitob Inc.)

China American Tobacco Co., Greenville, NC
Intabex-Hail & Cotton International Co., Greenville, NC

[FR Doc. 96–7514 Filed 3–28–96; 8:45 am]

BILLING CODE 3510–DR–P

National Oceanic and Atmospheric Administration

Evaluation of Coastal Zone Management Program and National Estuarine Research Reserves

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), DOC.

ACTION: Notice of intent to evaluate.

SUMMARY: The NOAA Office of Ocean and Coastal Resource Management (OCRM) announces its intent to evaluate the performance of the Narragansett Bay (RI) and Delaware National Estuarine Research Reserve Programs.

These evaluations will be conducted pursuant to sections 312 and 315 of the Coastal Zone Management Act of 1972 (CZMA), as amended. The CZMA requires a continuing review of the performance of states with respect to coastal program implementation and reserve management. Evaluation of Coastal Zone Management Programs and National Estuarine Research Reserves requires findings concerning the extent to which a state has met the national objectives, adhered to its coastal program document or reserve Management Plan approved by the Secretary of Commerce, and adhered to the terms of financial assistance awards funded under the CZMA. The evaluations will include a site visit, consideration of public comments, and consultations with interested Federal, State, and local agencies and members of the public. Public meetings are held as part of the site visits.

Notice is hereby given of the dates of the site visits for the listed evaluations, and the dates, local times, and locations of public meetings during the site visits.

The Narragansett Bay National Estuarine Research Reserve, Rhode Island, site visit will be from May 13–17, 1996. A public meeting will be held on Wednesday, May 15, 1996, at 9:00 A.M., at the Reserve Field Station, 55 South Reserve Drive, South Prudence, Rhode Island 02872.

The Delaware National Estuarine Research Reserve site visit will be from May 20–24, 1996. A public meeting will be held on Wednesday, May 22, 1996, at 7:00 P.M., at the Department of Natural Resources and Environmental Control Auditorium, Richardson and Robins Building, 89 Kings Highway, Dover, Delaware.

The States will issue notice of the public meeting(s) in a local newspaper(s) at least 45 days prior to the public meeting(s), and will issue other timely notices as appropriate.

Copies of the State's most recent performance reports, as well as OCRM's notifications and supplemental request letters to the States, are available upon request from OCRM. Written comments from interested parties regarding these Programs are encouraged and will be accepted until 15 days after the public meeting. Please direct written comments to Vickie A. Allin, Chief, Policy Coordination Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910. When the evaluation is completed, OCRM will place a notice in the **Federal Register** announcing the availability of the Final Evaluation Findings.

FOR FURTHER INFORMATION CONTACT: Vickie A. Allin, Chief, Policy Coordination Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, (301) 713–3090, ext. 126.

Federal Domestic Assistance Catalog 11.419, Coastal Zone Management Program Administration.

Dated: March 18, 1996.

W. Stanley Wilson,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 96–7633 Filed 3–28–96; 8:45 am]

BILLING CODE 3510–08–M

[I.D. 032196C]

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Pacific Whiting Allocation Committee will hold a public meeting.

DATES: The meeting will be held on April 2, beginning at 1 p.m. and may go into the evening until business for the day is completed, and on April 3 from 8 a.m. until 5 p.m.

ADDRESSES: The meeting will be held at the Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Jim Glock, Groundfish Fishery Management Coordinator; telephone: (503) 326–6352.

SUPPLEMENTARY INFORMATION: The Council appointed this committee to negotiate an agreement for management of the Pacific whiting fishery beginning in 1997. This is expected to be the final meeting of this committee. The committee will continue to work towards narrowing the alternatives and achieving consensus on a single proposal.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Eric W. Greene at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: March 22, 1996.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–7658 Filed 3–28–96; 8:45 am]

BILLING CODE 3510–22–F

National Weather Service Modernization and Associated Restructuring

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice and Opportunity for Public Comment.

SUMMARY: The National Weather Service (NWS) is publishing proposed certifications for the proposed consolidations of:

(1) Residual Indianapolis Weather Service Office (RWSO) into the future Indianapolis WFO;

(2) Dubuque Weather Service Office (WSO) into the future Quad Cities and Milwaukee Weather Forecast Offices (WFOs);

(3) Allentown WSO into the future Philadelphia, Central Pennsylvania and Binghamton WFOs;

(4) Beckley WSO into the future Charleston and Roanoke WFOs;

(5) Bridgeport WSO into the future New York City WFO;

(6) Residual Charleston, WV WSO into the future Charleston, WV WFO;

(7) Elkins WSO into the future Charleston, WV, Pittsburgh and Baltimore, MD/Washington, DC WFOs;

(8) Huntington WSO into the future Charleston, WV and Cincinnati WFOs;

(9) Wilkes-Barre WSO into the future Binghamton and Central Pennsylvania WFOs;

(10) Residual Atlanta WSO into the future Atlanta WFO;

(11) Bakersfield WSO into the future San Joaquin Valley WFO; and

(12) Residual Las Vegas WSO into the future Las Vegas WFO.

In accordance with Public Law 102–567, the public will have 60-days in which to comment on these proposed consolidation certifications.

DATES: Comments are requested by May 28, 1996.

ADDRESSES: Requests for copies of the proposed consolidation packages should be sent to Janet Gilmer, Room 12316, 1325 East-West Highway, Silver Spring, MD 20910, telephone 301–713–0276. All comments should be sent to Janet Gilmer at the above address.

FOR FURTHER INFORMATION CONTACT: Julie Scanlon at 301–713–1413.

SUPPLEMENTARY INFORMATION: NWS anticipates consolidating:

(1) the Residual Indianapolis Weather Service Office (RWSO) with the future Indianapolis WFO;

(2) the Dubuque Weather Service Office (WSO) with the future Quad Cities and Milwaukee Weather Forecast Offices (WFOs);

(3) the Allentown WSO with the future Philadelphia, Central Pennsylvania and Binghamton WFOs;

(4) the Beckley WSO with the future Charleston and Roanoke WFOs;

(5) the Bridgeport WSO with the future New York City WFO;

(6) the Residual Charleston, WV WSO with the future Charleston, WV WFO;

(7) the Elkins WSO with the future Charleston, WV, Pittsburgh and Baltimore, MD/Washington, DC WFOs;

(8) the Huntington WSO with the future Charleston, WV and Cincinnati WFOs;

(9) the Wilkes-Barre WSO with the future Binghamton and Central Pennsylvania WFOs;

(10) the Residual Atlanta WSO with the future Atlanta WFO;

(11) the Bakersfield WSO with the future San Joaquin Valley WFO; and

(12) the Residual Las Vegas WSO with the future Las Vegas WFO.

In accordance with section 706 of Pub. Law 102–567, the Secretary of Commerce must certify that these consolidations will not result in any degradation of service to the affected areas of responsibility and must publish the proposed consolidation certifications in the FR. The documentation supporting each proposed certification includes the following:

(1) a draft memorandum by the meteorologist-in-charge recommending the certification, the final of which will be endorsed by the Regional Director and the Assistant Administrator of the NWS if appropriate, after consideration of public comments and completion of consultation with the Modernization Transition Committee (the Committee);

(2) a description of local weather characteristics and weather-related concerns which affect the weather services provided within the service area;

(3) a comparison of the services provided within the service area and the services to be provided after such action;

(4) a description of any recent or expected modernization of NWS operation which will enhance services in the service area;

(5) an identification of any area within the affected service area which would not receive coverage (at an elevation of 10,000 feet) by the next generation weather radar network;

(6) evidence, based upon operational demonstration of modernized NWS operations, which was considered in reaching the conclusion that no degradation in service will result from such action including the WSR–88D Radar Commissioning Report(s), User Confirmation of Services Report(s), and the Decommissioning Readiness Report (as applicable); and

(7) a letter appointing the liaison officer.

These proposed certifications do not include any report of the Committee which could be submitted in accordance with sections 706(b)(6) and 707(c) of Pub. Law 102–567. At their December 14, 1995 meeting the members "* * * resolved that the MTC modify its procedure to eliminate proposed certification consultations of noncontroversial closings, consolidations, relocations, and automation certifications but will provide final consultation on certifications after public comment and before final submission to the Secretary of Commerce."

Documentation supporting the proposed certifications is too voluminous to publish in its entirety. Copies of the supporting documentation can be obtained through the contact listed above.

Attached to this Notice are draft memoranda by the respective meteorologists-in-charge recommending the certifications.

Once all public comments have been received and considered, the NWS will complete consultation with the Committee and determine whether to proceed with the final certifications. If decisions to certify are made, the Secretary of Commerce must publish the final certifications in the FR and transmit the certifications to the appropriate Congressional committees prior to consolidating the offices.

Dated: March 22, 1996.

Elbert W. Friday, Jr.,

Assistant Administrator for Weather Services.

6900 West Hanna Avenue
Indianapolis, IN 46241–9526
February 12, 1996.

Memorandum For: Richard P. Augulis, Director, Central Region

From: John T. Curran, MIC NWSFO Indianapolis

Subject: Recommendation for Consolidation Certification

In August 1993 a change of operations occurred when most personnel and most services provided by the WSFO at Indianapolis International Airport were transferred 1.5 miles southwest to the future WFO site in Indianapolis, Indiana. At that time a Residual Weather Service Office (RWSO) was left at the airport to continue the surface and radar observational programs. Since that time the Indianapolis International Airport ASOS has been commissioned and the WSR–74C radar has been decommissioned.

After reviewing the attached documentation, I have determined, in my professional judgement, that consolidation of the Indianapolis Residual Weather Service Office (RWSO) with the future Indianapolis Weather Forecast Office (WFO) in Indianapolis will not result in any degradation in weather services to the Indianapolis service area. This proposed certification is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, I am recommending you approve this action in accordance with section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward the certification to the Secretary of Commerce for approval and transmittal to Congress.

My recommendation is based on my review of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns affecting the weather services provided in the pre-modernized Indianapolis service area is included as attachment A. As discussed below, I find that providing the service which addresses these characteristics and concerns from the future Indianapolis WFO will not degrade these services.

2. A list of services currently provided from the Indianapolis RWSO and a list of comparable services to be provided from the future Indianapolis WFO location after consolidation is included as attachment B. Comparison of these lists shows that all services currently provided will continue to be provided after the proposed consolidation. Also, the enclosed map shows the pre-modernized WSFO Indianapolis area of responsibility (i.e. "affected service area") and the future WFO Indianapolis area of responsibility. As discussed below, I find that there will be no degradation in the quality of these services as a result of the consolidation.

3. A description of the recent or expected modernization of National Weather Service (NWS) operations which will enhance services in the WSFO Indianapolis service area is included as attachment C. The new technology (i.e. ASOS, WSR–88D, and AWIPS) has or will be installed and will enhance services.

4. A map showing the planned NEXRAD coverage at an elevation of 10,000 feet for Indiana is included as attachment D. NWS operational radar coverage for the Indianapolis service area will be increased, and no area will be missed in coverage.

5. The following evidence, based upon operational demonstration of modernized NWS operations, played a key role in concluding there will be no degradation of services:

A. The WSR–88D Radar Commissioning Report, attachment E, validates that the WSR–88D meets technical specifications (acceptance test); is fully operational (satisfactory operation of system interfaces and satisfactory support of associated NWS forecasting and warning services); service backup capabilities are functioning properly; a full set of operations and maintenance documentation is available; and spare parts and test equipment and trained operations and maintenance personnel are available on site. Training was completed but two national work-arounds remain in effect.

B. The User Confirmation of Services, attachment F, documents that all comments have been answered to the satisfaction of the commentors as stated in the Service Confirmation Report. One of the commentors was concerned about inaccurate radar observations (ROBs) and substantial false echo returns. We have discussed these concerns with those people and they are satisfied the NWS is working toward a solution. An emergency management agency responded negatively regarding the availability of an 800 phone line. An 800 phone line is available to all emergency management in the Indianapolis service area. Another emergency management official responded negatively regarding the wording of our products and specifically mentioning his county seat. We informed him we would specifically mention his county seat whenever we can, if appropriate. Two other responses were for informational purposes. We provided these individuals the information they desired.

C. The Decommissioning Readiness Report, attachment G, verifies that the existing WSR–74C radar is no longer needed to support services or products for local office operations.

6. A memorandum assigning the liaison officer for the Indianapolis service area is included as attachment H.

I have considered recommendations of the Modernization Transition Committee (attachment I) and the _____ public comments received during the comment period (attachment J). On _____, the Committee voted to endorse the proposed consolidation (attachment K). I believe all negative comments have been addressed to the satisfaction of our customers and I continue to recommend this certification.

Endorsement

I, Richard P. Augulis, Director, Central Region, endorse this consolidation certification.

Richard P. Augulis

Date

Memorandum For: Richard P. Augulis, Director, Central Region

From: Charles T. Fenley, MIC, NWSO Quad Cities, IA; Kenneth R. Rizzo, MIC, NWSFO Milwaukee, WI

Subject: Recommendation for Consolidation Certification

After reviewing the attached documentation, we have determined, in our professional judgment, consolidation of the Dubuque, Iowa Weather Service Office (WSO) with the future Quad Cities (Davenport, Iowa) and Milwaukee (Dousman, Wisconsin) Weather Forecast Offices (WFOs) will not result in any degradation in weather services to the Dubuque, Iowa, service area. This proposed certification is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, we are recommending you approve this action in accordance with section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward certification to the Secretary for approval and transmittal to Congress.

Our recommendation is based on our review of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns affecting the weather services provided to the pre-modernized Dubuque, Iowa, service area is included as Attachment A. As discussed below, we find that providing the services which address these characteristics and concerns from the future Quad Cities (Davenport, Iowa) and Milwaukee (Dousman, Wisconsin) WFOs will not degrade these services.

2. A detailed list of the services currently provided within the Dubuque, Iowa, service area from the Dubuque, Iowa WSO location and a list of services to be provided from the future Quad Cities (Davenport, Iowa) and Milwaukee (Dousman, Wisconsin) WFOs locations after the proposed consolidation is included as Attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed consolidation. Also, the enclosed map shows the WSO Dubuque, Iowa Area of Responsibility (i.e. "Affected Service Area") and the future Quad Cities (Davenport, Iowa) WFO Area of Responsibility. As discussed below, we find that there will be no degradation in the quality of those services as a result of consolidation.

3. A description of the recent or expected modernization of National Weather Service (NWS) operations which will enhance services in the WSO Dubuque, Iowa, service area is included as Attachment C. The new technology (i.e. ASOS, WSR–88D, and AWIPS) has or will be installed, and will enhance services.

4. A map showing planned NEXARD coverage at an elevation of 10,000 feet for northeast Iowa, southwest Wisconsin and northwest Illinois is included as Attachment D. NWS operation radar coverage for the WSO Dubuque, Iowa, service area will be increased and no area will be missed in coverate.

5. The following evidence, based upon operational demonstration of modernized NWS operations, played a key role in concluding there will be no degradation of service:

A. The WSR–88D Radar Commissioning Reports from the Quad Cities (Davenport, Iowa) and Milwaukee (Dousman, Wisconsin) future WFOs, Attachment E, validates that the WSR–88Ds meet technical specifications (acceptance test); are fully operational (satisfactory operation of system interfaces and satisfactory support of associated NWS forecasting and warning services); service backup capabilities are functioning properly; a full set of operations and maintenance documentation is available; and spare parts and test equipment and trained operations and maintenance personnel are available on site. Training was completed but two national work-arounds remain in effect.

B. The User Confirmation of Services from the Quad Cities (Davenport, Iowa) and

Milwaukee, Wisconsin (Dousman, Wisconsin, Attachment F, document that no negative comments were received from the Quad Cities service area. Only one negative comment was received from the Milwaukee service area and it was answered to the satisfaction of the commentor.

C. The Decommissioning Readiness Report, Attachment G, verifies that the old WSR–74C radar at Moline, Illinois is no longer needed to support services or products for local operations.

6. A memorandum assigning the liaison officer for the Dubuque, Iowa service area is included as Attachment H.

We have considered recommendations of the Modernization Transition Committee (Attachment I) and the _____ public comments received during the comment period (Attachment J). On _____, the Committee voted to endorse the proposed consolidation (Attachment K). We believe all negative comments have been addressed to the satisfaction of our customers and we continue to recommend certification.

Endorsement

I, Richard P. Augulis, Director, Central Region, endorse this consolidation certification.

Richard P. Augulis

Date

Attachments

Memorandum For: W/ER—John T. Forsing
From: G.C. Henricksen, AM/MIC NWSFO Philadelphia, PA; Bruce Budd, MIC NWSO Central Pennsylvania, PA; Peter R. Ahnert, MIC NWSO Binghamton, NY
Subject: Recommendation for Consolidation Certification

After reviewing the attached documentation, we have determined, in our professional judgment, consolidation of the Allentown Weather Service Office (WSO ABE) with the future Philadelphia, Central Pennsylvania and Binghamton Weather Forecast Offices (WFOs) will not result in any degradation in weather services to the Allentown service area. This proposed certification is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, we are recommending you approve this action in accordance with section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward the certification to the Secretary for approval and transmittal to Congress.

Our recommendation is based on our review of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns affecting the weather services provided in the Allentown service area is included as attachment A. As discussed below, we find that providing the services which address these characteristics and concerns from the future Philadelphia, Central Pennsylvania, and Binghamton WFOs, will not degrade these services.

2. A detailed list of the services currently provided within the Allentown service area from the WSO ABE location and list of services to be provided from the future Philadelphia, Central Pennsylvania, and Binghamton WFO locations after the proposed consolidation is included as attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed consolidation. Also, the enclosed map shows the WSO ABE Area of Responsibility (i.e. "Affected Service Area") and the future WFO Philadelphia Area of Responsibility. As discussed below, we find that there will be no degradation in the quality of these services as a result of the consolidation.

3. A description of the recent or expected modernization of National Weather Service (NWS) operations which will enhance services in the WSO ABE service area is included as attachment C. The new technology (i.e. ASOS, WSR–88D, and AWIPS) has or will be installed and will enhance services.

4. A map showing planned NEXRAD coverage at an elevation of 10,000 feet for Pennsylvania and portions of surrounding areas is included as attachment D. NWS operational radar coverage for the Allentown service area will be increased and no area will be missed in coverage.

5. The following evidence, based upon operational demonstration of modernized NWS operations, played a key role in concluding there will be no degradation of service:

A. the WSR–88D RADAR Commissioning Reports from the Philadelphia, Central Pennsylvania, and Binghamton areas, attachment E, validate that the WSR–88Ds meet technical specifications (acceptance test); are fully operational (satisfactory operation of system interfaces and satisfactory support of associated NWS forecasting and warning services); service backup capabilities are functioning properly; a full set of operations and maintenance documentation is available; and spare parts and test equipment and trained operations and maintenance personnel are available on site. Training was completed but two national work-arounds remain in effect.

B. The User Confirmation of Services from the future Philadelphia, Central Pennsylvania, and Binghamton WFO areas, attachment F, document that a total of five comments required follow-up. All negative comments have been answered to the satisfaction of the users as reflected in the report.

C. The Decommissionary Readiness Report, attachment G, is not necessary as WSO ABE does not have a radar.

6. A memorandum assigning the liaison officer for the Allentown service area is included at attachment H.

We have considered recommendations of the Modernization Transition Committee (attachment I) and the _____ public comments received during the comment period (attachment J). On _____, the Committee voted to endorse the proposed consolidation (attachment K). We believe all negative comments have been addressed to the satisfaction of our customers and we continue to recommend this certification.

Endorsement

I, John T. Forsing, Director, Eastern Region, endorse this consolidation certification.

John T. Forsing

Date

Attachments

Memorandum For: W/ER—John T. Forsing
From: Alan Rezek, AM/MIC NWSFO Charleston, WV; John Wright, MIC MWSO Roanoke, VA
Subject: Recommendation for Consolidation Certification

After reviewing the attached documentation, we have determined, in our professional judgment, consolidation of the Beckley Weather Service Office (WSO BKW) with the future Charleston and Roanoke Weather Forecast Offices (WFOs) will not result in any degradation in weather services to the Beckley service area. This proposed certification is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, we are recommending you approve this action in accordance with section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward the certification to the Secretary for approval and transmittal to Congress.

Our recommendation is based on our review of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns affecting the weather services provided in the Beckley service area is included as attachment A. As discussed below, we find that providing the services which address these characteristics and concerns from the future Charleston and Roanoke WFOs, will not degrade these services.

2. A detailed list of the services currently provided within the Beckley service area from the WSO BKW location and list of services to be provided from the future Charleston and Roanoke WFO locations after the proposed consolidation is included as attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed consolidation. Also, the enclosed map shows the WSO BKW Area of Responsibility (i.e. "Affected Service Area") and the future WFO Charleston Area of Responsibility. As discussed below, we find that there will be no degradation in the quality of these services as a result of the consolidation.

3. A description of the recent or expected modernization of National Weather Service (NWS) operations which will enhance services in the WSO BKW service area is included as attachment C. The new technology (i.e. ASOS, WSR–88D, and AWIPS) has or will be installed and will enhance services.

4. A map showing planned NEXRAD coverage at an elevation of 10,000 feet for West Virginia and portions of surrounding areas is included as attachment D. NWS operational radar coverage for the Beckley service area will be increased and no area will be missed in coverage.

5. The following evidence, based upon operational demonstration of modernized NWS operations, played a key role in concluding there will be no degradation of service:

A. The WSR–88D RADAR Commissioning Reports from the Charleston and Roanoke areas, attachment E, validate that the WSR–88Ds meet technical specifications (acceptance test); area fully operational (satisfactory operation of system interfaces and satisfactory support of associated NWS forecasting and warning services); service backup capabilities are functioning properly; a full set of operations and maintenance documentation is available; and spare parts and test equipment and trained operations and maintenance personnel are available on site. Training was completed but two national work-arounds remain in effect.

B. The User Confirmation of Services from the future Charleston and Roanoke WFO areas, attachment F, document that a total of eleven comments required follow-up. All negative comments have been answered to the satisfaction of the users as reflected in the report.

C. The Decommissioning Readiness Report, attachment G, verifies that the existing Beckley local warning radar, WSR–74C, is no longer needed to support services or products for local office operations.

6. A memorandum assigned the liaison officer for the Beckley service area is included at attachment H.

We have considered recommendations of the Modernization Transition Committee (attachment I) and the _____ public comments received during the comment period (attachment J). On _____, the Committee voted to endorse the proposed consolidation (attachment K). We believe all negative comments have been addressed to the satisfaction of our customers and we continue to recommend this certification.

Endorsement

I, John T. Forsing, Director, Eastern Region, endorse this consolidation certification.

John T. Forsing

Date

Attachments

Memorandum For: W/ER—John T. Forsing
From: Michael E. Wyllie, AM/MIC NWSFO New York City
Subject: Recommendation for Consolidation Certification

After reviewing the attached documentation, I have determined, in my professional judgment, consolidation of the Bridgeport Weather Service Office (WSO BDR) with the future New York City Weather Forecast Office (WFO) will not result in any degradation in weather services to the Bridgeport service area. This proposed certification is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, I am recommending you approve this action in accordance with section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward the certification to the Secretary for approval and transmittal to Congress.

My recommendation is based on my review of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns affecting the weather services provided in the Bridgeport service area is included as attachment A. As discussed below, I find that providing the services which address these characteristics and concerns from the future New York City WFO will not degrade these services.

2. A detailed list of the services currently provided within the Bridgeport service area from the WSO BDR location and a list of services to be provided from the future New York City WFO locations after the proposed consolidation is included as attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed consolidation. Also, the enclosed map shows the WSO BDR Area of Responsibility (i.e. "Affected Service Area") and the future WFO New York city Area of Responsibility. As discussed below, I find that there will be no degradation in the quality of these services as a result of the consolidation.

3. A description of the recent or expected modernization of National Weather Service (NWS) operations which will enhance services in the WSO BDR service area is included as attachment C. The new technology (i.e. ASOS, WSR–88D, and AWIPS) has or will be installed and will enhance services.

4. A map showing planned NEXRAD coverage at an elevation of 10,000 feet for Connecticut and portions of surrounding areas is included as attachment D. NWS operational radar coverage for the Bridgeport service area will be increased and no area will be missed in coverage.

5. The following evidence, based upon operational demonstration of modernized NWS operations, played a key role in concluding there will be no degradation of service:

A. The WSR–88D RADAR Commissioning Report from New York City, attachment E validate that the WSR–88Ds meet technical specifications (acceptance test); are fully operational (satisfactory operation of system interfaces and satisfactory support of associated NWS forecasting and warning services); service backup capabilities are functioning properly; a full set of operations and maintenance documentation is available; and spare parts and test equipment and trained operations and maintenance personnel are available on site. Training was completed but two national work-arounds remain in effect.

B. The User Confirmation of Services from New York City, attachment F, document that three negative comments were received. All negative comments have been answered to the satisfaction of the users as reflected in the reports.

C. The Decommissioning Readiness Report, attachment G, is not necessary as WSO BDR does not have a radar.

6. A memorandum assigning the liaison officer for the Bridgeport service area is included at attachment H.

I have considered recommendations of the Modernization Transition Committee (attachment I) and the _____ public comments received during the comment period (attachment J). On _____, the Committee voted to endorse the proposed consolidation (attachment K). I believe all negative comments have been addressed to the satisfaction of our customers and I continue to recommend this certification.

Endorsement

I, John T. Forsing, Director, Eastern Region, endorse this consolidation certification.

John T. Forsing

Date

Attachments

Memorandum for: W/ER—John T. Forsing
From: Alan Rezek, AM/MIC NWSFO Charleston, WV; Kenneth Haydu, MIC NWSO Cincinnati, OH
Subject: Recommendation for Consolidation Certification

After reviewing the attached documentation, we have determined, in our professional judgement, consolidation of the Huntington Weather Service Office (WSO HTS) with the future Charleston and Cincinnati Weather Forecast Offices (WFOs) will not result in any degradation in weather services to the Huntington service area. This proposed certification is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, we are recommending you approve this action in accordance with section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward the certification to the Secretary for approval and transmittal to Congress.

Our recommendation is based on our review of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns affecting the weather services provided in the Huntington service area is included as attachment A. As discussed below, we find that providing the services which address these characteristics and concerns from the future Charleston and Cincinnati WFOs, will not degrade these services.

2. A detailed list of the services currently provided within the Huntington service area

from the WSO HTS location and list of services to be provided from the future Charleston and Cincinnati WFO locations after the proposed consolidation is included as attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed consolidation. Also, the enclosed map shows the WSO HTS Area of Responsibility (i.e. "Affected Service Area") and the future WFO Charleston Area of Responsibility. As discussed below, we find that there will be no degradation in the quality of these services as a result of the consolidation.

3. A description of the recent or expected modernization of National Weather Service (NWS) operations which will enhance services in the WSO HTS service area is included as attachment C. The new technology (i.e. ASOS, WSR–88D, and AWIPS) has or will be installed and will enhance services.

4. A map showing planned NEXRAD coverage at an elevation of 10,000 feet for West Virginia and portions of surrounding areas is included as attachment D. NWS operational radar coverage for the Huntington service area will be increased and no area will be missed in coverage.

5. The following evidence, based upon operational demonstration of modernized NWS operations, played a key role in concluding there will be no degradation of service:

A. The WSR–88D RADAR Commissioning Reports from the Charleston and Cincinnati areas, attachment E, validate that the WSR–88Ds meet technical specifications (acceptance test); are fully operational (satisfactory operation of system interfaces and satisfactory support of associated NWS forecasting and warning services); service backup capabilities are functioning properly; a full set of operations and maintenance documentation is available; and spare parts and test equipment and trained operations and maintenance personnel are available on site. Training was completed but two national work-arounds remain in effect.

B. The User Confirmation of Services from the future Charleston and Cincinnati WFO areas, attachment F, document that a total of eight comments required follow-up. All negative comments have been answered to the satisfaction of the users as reflected in the report.

C. The Decommissioning Readiness Report, attachment G, is not necessary as WSO HTS does not have a radar.

6. A memorandum assigning the liaison officer for the Huntington service area is included at attachment H.

We have considered recommendations of the Modernization Transition Committee (attachment I) and the _____ public comments received during the comment period (attachment J). On _____, the Committee voted to endorse the proposed consolidation (attachment K). We believe all negative comments have been addressed to the satisfaction of our customers and we continue to recommend this certification.

Endorsement

I, John T. Forsing, Director, Eastern Region, endorse this consolidation certification.

_____

John T. Forsing

_____

Date

Attachments

Memorandum For: W/ER—John T. Forsing
From: Alan Rezek, AM/MIC NWSFO Charleston, WV; Theresa Rossi, AM/MIC NWSFO Pittsburgh, PA; James Travers, AM/MIC NWSFO Baltimore, MD/Washington DC
Subject: Recommendation for Consolidation Certification

After reviewing the attached documentation, we have determined, in our professional judgment, consolidation of the Elkins Weather Service Office (WSO EKN) with the future Charleston, Baltimore, MD/Washington DC and Pittsburgh Weather Forecast Offices (WFOs) will not result in any degradation in weather services to the Elkins service area. This proposed certification is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, we are recommending you approve this action in accordance with section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward the certification to the Secretary for approval and transmittal to Congress.

Our recommendation is based on our review of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns affecting the weather services provided in the Elkins service area is included as attachment A. As discussed below, we find that providing the services which address these characteristics and concerns from the future Charleston, Baltimore, MD/Washington DC and Pittsburgh WFOs, will not degrade these services.

2. A detailed list of the services currently provided within the Elkins service area from the WSO BKW location and list of services to be provided from the future Charleston, Baltimore, MD/Washington DC and Pittsburgh WFO locations after the proposed consolidation is included as attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed consolidation. Also, the enclosed map shows the WSO EKN Area of Responsibility (i.e. "Affected Service Area") and the future WFO Charleston Area of Responsibility. As discussed below, we find that there will be no degradation in the quality of these services as a result of the consolidation.

3. A description of the recent or expected modernization of National Weather Service (NWS) operations which will enhance services in the WSO EKN service area is included as attachment C. The new technology (i.e. ASOS, WSR–88D, and AWIPS) has or will be installed and will enhance services.

4. A map showing planned NEXRAD coverage at an elevation of 10,000 feet for West Virginia and portions of surrounding areas is included as attachment D. NWS operational radar coverage for the Elkins service area will be increased and no area will be missed in coverage.

5. The following evidence, based upon operational demonstration of modernized NWS operations, played a key role in concluding there will be no degradation of service:

A. The WSR–88D RADAR Commissioning Reports from the Charleston, Baltimore, MD/Washington DC and Pittsburgh areas, attachment E, validate that the WSR–88Ds meet technical specifications (acceptance test); area fully operational (satisfactory operation of system interfaces and satisfactory support of associated NWS forecasting and warning services); service backup capabilities are functioning properly; a full set of operations and maintenance documentation is available; and spare parts and test equipment and trained operations and maintenance personnel are available on site. Training was completed but two national work-arounds remain in effect.

B. The User Confirmation of Services from the future Charleston, Baltimore, MD/Washington DC and Pittsburgh WFO areas, attachment F, document that a total of ten comments required follow-up. All negative comments have been answered to the satisfaction of the users as reflected in the report.

C. The Decommissioning Readiness Report, attachment G, is not necessary since WSO EKN does not have a radar.

6. A memorandum assigned the liaison officer for the Elkins service area is included at attachment H.

We have considered recommendations of the Modernization Transition Committee (attachment I) and the _____ public comments received during the comment period (attachment J). On _____, the Committee voted to endorse the proposed consolidation (attachment K). We believe all negative comments have been addressed to the satisfaction of our customers and we continue to recommend this certification.

Endorsement

I, John T. Forsing, Director, Eastern Region, endorse this consolidation certification.

_____

John T. Forsing

_____

Date

Attachments

Memorandum For: W/ER—John T. Forsing
From: Alan Rezek, AM/MIC NWSFO Charleston, WV
Subject: Recommendation for Consolidation Certification

A change of operations occurred at the Charleston Weather Service Forecast Office (WSFO), located at Yeager Airport, in May 1995 when most personnel were transferred to the facility of the future Charleston Area Weather Forecast Office (WFO) in Ruthdale, WV to operate the WSR–88D and assume forecast and warning responsibility for the Charleston service area. At the same time the Yeager Airport (CRW) location was designated a Residual Weather Service Office (RWSO) to continue operating the existing WSR–74S radar and taking surface airways observations.

After reviewing the attached documentation, I have determined, in my professional judgment, consolidation of the RWSO CRW with the future Charleston Area Weather Forecast Offices (WFO) will not result in any degradation in weather services to the Charleston service area. This proposed certification is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, I am recommending you approve this action in accordance with section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward the certification to the Secretary for approval and transmittal to Congress.

My recommendation is based on my review of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns affecting the weather services provided in the Charleston service area is included as attachment A. As discussed below, we find that providing the services which address these characteristics and concerns from the future Charleston Area WFO will not degrade these services.

2. A detailed list of the services currently provided within the Charleston service area from the RWSO CRW location and a list of services to be provided from the future Charleston WFO location after the proposed consolidation is included as attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed consolidation. Also, the enclosed map shows the RWSO CRW Area of Responsibility (i.e., "Affected Service Area") and the future WFO Charleston Area of Responsibility. As discussed below, I find that there will be no degradation in the quality of these services as a result of the consolidation.

3. A description of the recent or expected modernization of National Weather Service (NWS) operations which will enhance services in the RSWO CRW service area is included as attachment C. The new technology (i.e., ASOS, WSR–88D, and AWIPS) has or will be installed and will enhance services.

4. A map showing planned NEXRAD coverage at an elevation of 10,000 feet for West Virginia and portions of surrounding areas is included as attachment D. NWS operational radar coverage for the Charleston service area will be increased and no area will be missed in coverage.

5. The following evidence, based upon operational demonstration of modernized NWS operations, played a key role in concluding there will be no degradation of service:

A. The WSR–88D RADAR Commissioning Reports from the Charleston area, attachment E, validate that the WSR–88Ds meet technical specifications (acceptance test); are fully operational (satisfactory operation of system interfaces and satisfactory support of associated NWS forecasting and warning services); service backup capabilities are functioning properly; a full set of operations and maintenance documentation is available; and spare parts and test equipment and trained operations and maintenance personnel are available on site. Training was completed but two national work-arounds remain in effect.

B. The User Confirmation of Services from Charleston, attachment F, document that four negative comments were received. All negative comments have been answered to the satisfaction of the users as reflected in the report.

C. The Decommissioning Readiness Report, attachment G, verifies that the existing Charleston WSR–74S radar is no longer needed to support services or products for local office operations.

6. A memorandum assigned the liaison officer for the Charleston service area is included at attachment H.

I have considered recommendations of the Modernization Transition Committee (attachment I) and the _____ public comments received during the comment period (attachment J). On _____, the Committee voted to endorse the proposed consolidation (attachment K). I believe all negative comments have been addressed to the satisfaction of our customers and I continue to recommend this certification.

Endorsement

I, John T. Forsing, Director, Eastern Region, endorse this consolidation certification.

_____

John T. Forsing

_____

Date

Attachments

Memorandum For: W/ER—John T. Forsing
From: Peter Ahnert, MIC NWSO Binghamton, NY; Bruce Budd, MIC NWSO Centrai Pennsylvania, PA
Subject: Recommendation for Consolidation Certification

After reviewing the attached documentation, we have determined, in our professional judgment, consolidation of the Wilkes-Barre Weather Service Office (WSO BKW) with the future Binghamton and Central Pennsylvania Weather Forecast Offices (WFOs) will not result in any degradation in weather services to the Wilkes-Barre service area. This proposed certification is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, we are recommending you approve this action in accordance with section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward the certification to the Secretary for approval and transmittal to Congress.

Our recommendation is based on our review of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns affecting the weather services provided in the Wilkes-Barre service area is included as attachment A. As discussed below, we find that providing the services which address these characteristics and concerns from the future Binghamton and Central Pennsylvania WFOs, will not degrade these services.

2. A detailed list of the services currently provided within the Wilkes-Barre service area from the WSO BKW location and list of services to be provided from the future Binghamton and Central Pennsylvania WFO locations after the proposed consolidation is included as attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed consolidation. Also, the enclosed map shows the WSO AVP Area of Responsibility (i.e. "Affected Service Area") and the future WFO Binghamton Area of Responsibility. As discussed below, we find that there will be no degradation in the quality of these services as a result of the consolidation.

3. A description of the recent or expected modernization of National Weather Service (NWS) operations which will enhance services in the WSO AVP service area is included as attachment C. The new technology (i.e. ASOS, WSR–88D, and AWIPS) has or will be installed and will enhance services.

4. A map showing planned NEXRAD coverage at an elevation of 10,000 feet for Pennsylvania and portions of surrounding areas is included as attachment D. NWS operational radar coverage for the Wilkes-Barre service area will be increased and no area will be missed in coverage.

5. The following evidence, based upon operational demonstration of modernized NWS operations, played a key role in concluding there will be no degradation of service:

A. The WSR–88D RADAR Commissioning Reports from the Binghamton and Central Pennsylvania areas, attachment E, validate that the WSR–88Ds meet technical specifications (acceptance test); are fully operational (satisfactory operation of system interfaces and satisfactory support of associated NWS forecasting and warning services); service backup capabilities are functioning properly; a full set of operations and maintenance documentation is available; and spare parts and test equipment and trained operations and maintenance personnel are available on site. Training was completed but two national work-arounds remain in effect.

B. The User Confirmation of Services from the future Binghamton and Central Pennsylvania WFO areas, attachment F, document that a total of eleven comments required follow-up. All negative comments have been answered to the satisfaction of the users as reflected in the report.

C. The Decommissioning Readiness Report, attachment G, is not necessary as WSO AVP does not have a radar.

6. A memorandum assigning the liaison officer for the Wilkes-Barre service area is included at attachment H.

We have considered recommendations of the Modernization Transition Committee (attachment I) and the _____ public comments received during the comment period (attachment J). On _____, the Committee voted to endorse the proposed consolidation (attachment K). We believe all negative comments have been addressed to the satisfaction of our customers and we continue to recommend this certification.

Endorsement

I, John T. Forsing, Director, Eastern Region, endorse this consolidation certification.

John T. Forsing

Date

Attachments

Four Falcon Drive
Peachtree City, GA 30269
(date)

Memorandum For: Harry S. Hassel, Director, Southern Region
From: Carlos Garza, Jr., AM/MIC NWSFO Atlanta, GA
Subject: Recommendation for Consolidation Certification

A change of operations occurred at the Atlanta Weather Service Forecast Office (WSFO) in April 1994, when most personnel were transferred to the facility of the future Atlanta Weather Forecast Office (WFO) in Peachtree City, Georgia, to operate the WSR–88D and assume forecast and warning responsibility for the Atlanta service area. The office at the original WSFO location was designated a Residual Weather Service Office (RWSO) and continued to be the site for recording surface observations and operating the WSR–74C.

Based on the attached documentation and my professional judgment, I have determined that consolidation of the RWSO Altanta with the future WFO Atlanta will not result in any degradation in weather services to the Atlanta service area. This proposed certification is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, I am recommending that you approve this action in accordance with Section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward the certification to the Secretary of Commerce for approval and transmittal to Congress.

My recommendation is based on my review of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns affecting the weather services provided in the Atlanta service area is included as Attachment A. As discussed below, I find that providing the services from WFO Atlanta which address these characteristics and concerns will not degrade these services.

2. A detailed list of services currently provided within the Atlanta service area from the RWSO Atlanta location and a list of services to be provided from the WFO Atlanta location after consolidation is included in Attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed consolidation. The enclosed map shows the old Atlanta area of responsibility (i.e., "affected service area") and the new future WFO Atlanta area of responsibility. As discussed below, I find that there will be no degradation in the quality of these services as a result of the consolidation.

3. A description of the recent or expected modernization of National Weather Service (NWS) operations which will enhance services in the Atlanta service area is included as Attachment C. The new technology (i.e., ASOS, WSR–88D, and AWIPS) has or will be installed and will enhance services.

4. A map showing planned WSR–88D radar coverage at an elevation of 10,000 feet over Georgia is included as Attachment D. NWS operational radar coverage for the specific service area will be increased and no area will be missed in coverage.

5. The following evidence, based upon operational demonstration of modernized NWS operations, played a key role in concluding there will be no degradation of service.

a. The WSR–88D Radar Commissioning Report, Attachment E, validates that the WSR–88D meets technical specifications (acceptance test) and is fully operational (satisfactory operation of system interfaces and satisfactory support of associated NWS forecasting and warning services), service back-up capabilities are functioning properly, and a full set of operations and maintenance documentation is available, and spare parts and test equipment and trained operations and maintenance personnel are available on site. Two national work-arounds remain in effect.

b. The User Confirmation of Services, Attachment F, documents that no negative comments were received. Additional calls were made to weathercasters in the Atlanta metropolitan area to make sure that services continue to conform to national guidelines. All comments expressed satisfaction with our services as stated in the Service Confirmation Report.

c. The Decommissioning Readiness Report, Attachment G, verifies that the existing Atlanta WSR–74C radar is no longer needed to support services or products for local office operations.

6. A memorandum assigning the liaison officer for the Atlanta service area is included as Attachment H.

I have considered recommendations of the Modernization Transition Committee (Attachment I) and the _____, public comments received during the comment period (Attachment J). On _____, the Committee voted to endorse the proposed consolidation (Attachment K). I believe all negative comments have been addressed to the satisfaction of our customers and I continue to recommend this certification.

Endorsement

I, Harry S. Hassel, Director, Southern Region, endorse this consolidation certification.

Harry S. Hassel

Date

Attachments

900 Foggy Bottom Road, Hanford, CA 93230–5236
February 7, 1996.

Memorandum for: W/WR—Thomas D. Potter, Director, Western Region
From: Steven W. Mendenhall, MIC, NWSO San Joaquin Valley, CA
Subject: Recommendation for Consolidation Certification

After reviewing the attached documentation, I have determined, in my professional judgement, consolidation of the Bakersfield Weather Service Office (WSO) with the future San Joaquin Valley Weather Forecast Office (WFO) will not result in any degradation in weather services to the Bakersfield service area. This proposed certification is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, I am recommending you approve this action in accordance with section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward the certification to the Secretary for approval and transmittal to Congress.

My recommendation is based on my review of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns affecting the weather services provided in the Bakersfield service area is included as attachment A. As discussed below, I find that providing the services which address these characteristics and concerns from the future San Joaquin Valley WFO will not degrade these services.

2. A detailed list of the services currently provided within the Bakersfield service area from the Bakersfield WSO location and a list of services to be provided from the future San Joaquin Valley WFO after consolidation is included as attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed consolidation. Also, the enclosed map shows the WSO Bakersfield Area of Responsibility (i.e. "Affected Service Area"), and the future WFO San Joaquin Valley Area of Responsibility. As discussed below, I find that there will be no degradation in the quality of these services as a result of the consolidation.

3. A description of the recent or expected modernization of National Weather Service (NWS) operations which will enhance services in the WSO Bakersfield service area is included as attachment C. The new technology (i.e. ASOS, WSR–88D, and AWIPS) has or will be installed and will enhance services.

4. A map showing planned NEXRAD coverage at an elevation of 10,000 feet for California is included as attachment D. NWS operational radar coverage for the Bakersfield service area will be increased and no area will be missed in coverage.

5. The following evidence, based upon operational demonstration of modernized NWS operations, played a key role in concluding there will be no degradation of service.

A. The WSR–88D RADAR Commissioning Report, attachment E, validates that the WSR–88D meets technical specifications (acceptance test); is fully operational (satisfactory operation of system interfaces and satisfactory support of associated NWS forecasting and warning services); service backup capabilities are functioning properly; a full set of operations and maintenance documentation is available; and spare parts and test equipment and trained operations and maintenance personnel are available on site. Training was completed, but one national workaround remains in effect.

B. The User Confirmation of Services, attachment F, documents that one negative comment was received, but did not impact the WSO Bakersfield service area. This negative comment was answered to the satisfaction of the commentor, as stated in the User Confirmation of Services Report.

C. The Decommissioning Readiness Report, attachment G, is not needed as there is no radar to decommission at Bakersfield.

6. A memorandum assigning the liaison officer for the Bakersfield service area is included as attachment H.

I have considered recommendations of the Modernization Transition Committee (Committee) (attachment I) and the _____ public comments received during the comment period (attachment J). On _____ the Committee voted to endorse the proposed consolidation (attachment K). I believe all negative comments have been addressed to the satisfaction of our customers and I continue to recommend this certification.

Endorsement

I, Thomas D. Potter, Director, Western Region, endorse this consolidation certification.

Thomas D. Potter

Date

Attachments

Memorandum For: Thomas D. Potter, Director, Western Region
From: Larry Jensen, MIC, NWSO Las Vegas, NV
Subject: Recommendation for Consolidation Certification

A change of operations occurred at the Las Vegas Weather Service Office (WSO) in March 1995. During this month, most personnel were transferred to the new facility of the future Las Vegas Weather Forecast Office (WFO) in Las Vegas, Nevada to operate the WSR–88D, and assume forecast and warning responsibility for the Las Vegas service area. At that same time, the original WSO office was designated a Residual Weather Service Office (RWSO) to continue operating the WSR–74C.

After reviewing the attached documentation, I have determined, in my professional judgment, consolidation of the Las Vegas Residual Weather Service Office (RWSO) with the future Las Vegas Weather Forecast Office (WFO) will not result in any degradation in weather services to the Las Vegas service area. This proposed certification is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, I am recommending you approve this action in accordance with section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward the certification to the Secretary for approval and transmittal to Congress.

My recommendation is based on my review of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns affecting the weather services provided in the Las Vegas service area is included as attachment A. As discussed below, I find that providing the services which address these characteristics and concerns from the future Las Vegas WFO will not degrade these services.

2. A detailed list of the services currently provided within the Las Vegas service area from the Las Vegas WSO location and a list of services to be provided from the future Las Vegas WFO after consolidation is included as attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed consolidation. Also, the enclose map shows the WSO Las Vegas Area of Responsibility (i.e. "Affected Service Area") and the future WFO Las Vegas Area of Responsibility.

Endorsement

I, Thomas D. Potter, Director, Western Region, endorse this consolidation certification.

Thomas D. Potter

Date

Attachments

[FR Doc. 96–7657 Filed 3–28–96; 8:45 am]

BILLING CODE 3510–12–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: April 29, 1996.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodities and services have been proposed for addition to Procurement List for

production by the nonprofit agencies listed:

Commodities

Pad, Energy Dissipating
1670–00–753–3928
NPA: Tarrant County Association for the Blind, Fort Worth, Texas
Strap, Shoring Assembly
5340–03–000–9382
5340–03–000–9383
5340–03–000–9384
5340–03–000–9385
NPA: Mississippi Industries for the Blind, Jackson, Mississippi
Tape, Pressure-Sensitive Adhesive
7510–00–680–2395
7510–00–680–2450
7510–00–680–2470
7510–00–680–2471
7510–00–680–8784
7510–00–680–4963
NPA: Cincinnati Association for the Blind, Cincinnati, Ohio

Services

Janitorial/Custodial, Basewide (excluding Sijan Hall, Vandenberg Hall, Fairchild Hall, Harmon Hall and the Cadet Chapel), U.S. Air Force Academy, Colorado
NPA: Goodwill Industrial Services Corporation, Colorado Springs, Colorado
Janitorial/Custodial, Federal Bureau of Investigation Headquarters Building, 10th & Pennsylvania Avenue, NW., Washington, DC
NPA: Melwood Horticultural Training Center, Upper Marlboro, Maryland
Janitorial/Custodial, Defense National Stockpile Depot, Amsterdam Avenue, Scotia, New York
NPA: Schenectady County Chapter, NYSARC, Scotia, New York
Janitorial/Grounds Maintenance, Department of Energy, Western Area Power Administration, 114 Parkshore Drive, Folsom, California
NPA: PRIDE Industries, Roseville, California

E.R. Alley, Jr.,

Deputy Executive Director.

[FR Doc. 96–7752 Filed 3–28–96; 8:45 am]

BILLING CODE 6353–01–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Proposed Collection; Comment Request

AGENCY: Department of the Air Force, Department of Defense Medical Examination Review Board.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Department of Defense Medical Examination Review Board announces the proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on; (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by May 28, 1996.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to Department of Defense Medical Examination Review Board (DoDMERB), 8034 Edgerton Drive, Suite 132, USAF Academy CO 80840–2200, ATTN: CMSgt Darrell W. Cornett.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call DoDMERB at (719) 472–3560.

Title and Associated Forms: Medical Examination Review Board (DoDMERB) Report of Medical Examination, DD Forms 2351, 2370, 2372, 2374, 2375, 2378, 2379, 2380, 2381, 2382, 2383, 2480, 2489, and 2492.

Needs and Uses: The information collection requirement is necessary to determine the medical qualification of applicants to the five Service academies, the Four Year Reserve Officer Training Corps Scholarship Program, Uniformed Services University of the Health Sciences, and the Army, Navy, and Air Force Scholarship Program. The collection of medical history of each candidate is used to determine if applicants meet medical standards outlined in Department of Defense Directive 6130.3, Physical Standards for Appointment, Enlistment and Induction.

Affected Public: Individuals or Households.

Annual Burden Hours: 19,500.

Number of Respondents: 19,500.

Responses Per Respondent: 1.

Average Burden Per Response: 60 Minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Respondents are individuals who are interested in applying to attend one of the five Service academies, the Four year Reserve Officer Training Corps Scholarship Program, Uniformed Services University of the Health Sciences or Army, Navy, and Air Force Scholarship Programs. The completed form(s) is processed through medical reviewers representing their respective services to determine a medical qualification status. Associated forms may or may not be required depending on the medical information contained in the medical examination. If the medical examination and necessary associated forms are not accomplished, individuals reviewing the medical qualification status cannot be readily assured of the medical qualifications of the individual. Without this process the individual applying to any of these programs could not have the medical qualification determination essential to ensure compliance with the physical standards established for the respective military service program.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 96–7711 Filed 3–28–96; 8:45 am]

BILLING CODE 3910–01–M

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Department of Energy/Los Alamos National Laboratory

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Los Alamos National Laboratory.

DATES: Tuesday, April 9, 1996: 6:30 p.m.–9:30 p.m.; 9:00 p.m. to 9:30 p.m. (public comment session).

ADDRESSES: Pojoaque Pueblo Tribal Office Council Chambers, Rt. 11, Box 71, Santa Fe, New Mexico 87501, 505–455–2278.

FOR FURTHER INFORMATION CONTACT: Ms. Kimberly Roybal, Los Alamos National Laboratory Citizens' Advisory Board Support, Northern New Mexico Community College, 1002 Onate Street, Espanola, NM 87352, (800) 753–8970, or (505) 753–8970.

SUPPLEMENTARY INFORMATION: Purpose of the Board: The purpose of the Advisory Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

Tuesday, April 9, 1996

6:30 p.m.—Call to Order and Welcome
7:00 p.m.—Work Plan Discussion
9:00 p.m.—Public Comment
9:30 p.m.—Adjourn

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ms. Lisa Roybal, at the telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available by writing to Herman Le-Doux, Department of Energy, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87185–5400.

Issued at Washington, DC on March 25, 1996.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 96–7740 Filed 3–28–96; 8:45 am]

BILLING CODE 6450–01–P

Eclipse Energy Systems Inc.

AGENCY: Department of Energy, Office of the General Counsel.

ACTION: Notice of Intent to Grant Exclusive Patent License.

SUMMARY: Notice is hereby given of an intent to grant to Eclipse Energy Systems Inc., of Tampa, FL, an exclusive license to practice the invention described in U.S. Patent No. 4,687,560, entitled "Method of Synthesizing a Plurality of Reactants and Producing Thin Films of Electro-Optically Active Transition Metal Oxides." The invention is owned by the United States of America, as represented by the Department of Energy (DOE).

DATES: Written comments or nonexclusive license applications are to be received at the address listed below no later than May 28, 1996.

ADDRESSES: Office of Assistant General Counsel for Technology Transfer and Intellectual Property, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION: Robert J. Marchick, Office of the Assistant General Counsel for Technology Transfer and Intellectual Property, U.S. Department of Energy, Forrestal Building, Room 6F–067, 1000 Independence Avenue, 20585; Telephone (202) 586–4792.

SUPPLEMENTARY INFORMATION: 35 U.S.C. 209(c) provides the Department with authority to grant exclusive licenses in Department-owned inventions, where a determination can be made, among other things, that the desired practical application of the invention has not been achieved, or is not likely expeditiously to be achieved, under a nonexclusive license. The statute and implementing regulations (37 C.F.R. 404) require that the necessary determinations be made after public notice and opportunity for filing written objections.

Eclipse Energy Systems Inc., of Tampa, FL, has applied for an exclusive license to practice the invention embodied in U.S. Patent No. 4,687,560, and has a plan for commercialization of the invention.

The exclusive license will be subject to a license and other rights retained by the U.S. Government, and other terms and conditions to be negotiated. DOE intends to grant the license, upon a final determination in accordance with 35 U.S.C. 209(c), unless, within 60 days of this notice, the Assistant General Counsel for Technology Transfer and Intellectual Property, Department of Energy, Washington, DC 20585, receives in writing any of the following, together with supporting documents:

(i) A statement from any person setting forth reasons why it would not be in the best interests of the United States to grant the proposed license; or

(ii) An application for a nonexclusive license to the invention, in which applicant states that he already has brought the invention to practical application or is likely to bring the invention to practical application expeditiously.

The Department will review all timely written responses to this notice, and will grant the license if, after consideration of written responses to this notice, a determination is made, that the license grant is in the public interest.

Issued in Washington, DC, on March 22, 1996.

Agnes P. Dover,

Deputy General Counsel.

March 21, 1996.

Action: Publication in **Federal Register** of Notice of Intent to Grant Exclusive Patent License (Re: U.S. Patent No. 4,687,560

Agnes P. Dover,

Deputy General Counsel for Technology Transfer and Procurement

Background and Discussion

35 U.S.C. 209(c) provides the Department with authority to grant exclusive or partially exclusive licenses in Department-owned inventions, where a determination can be made, among other things, that the desired practical application of the invention has not been achieved, or is not likely expeditiously to be achieved, under a nonexclusive license. The statute and implementing regulations require that the necessary determinations to be made after public notice and opportunity for filing written objections.

Eclipse Energy Systems, Inc., of Tampa, Florida, has applied for an exclusive license form commercial practice of U.S. Patent No. 4,687,560, entitled "Method of Synthesizing a Plurality of Reactants and Producing Thin Films of Electro-Optically Active Transition Metal Oxides." A memorandum which more fully discusses the present license application is attached.

This Action Memorandum transmits for signature of the Deputy General Counsel and Publication in the **Federal Register** a notice of intent to grant an exclusive license to the named applicant. The notice provides for a 60-day period during which the public may bring forth information as to why the proposed exclusive license would not be in the public interest.

Recommendation

We recommend that the Deputy General Counsel sign and forward for publication the attached **Federal Register** notice of intent to grant an exclusive patent license.

Paul A. Gottlieb,

Assistant General Counsel for Technology Transfer and Intellectual Property.

[FR Doc. 96–7736 Filed 3–28–96; 8:45 am]

BILLING CODE 6450–01–P

Bonneville Power Administration

Policy on Excess Federal Power

AGENCY: Bonneville Power Administration (Bonneville), Department of Energy (DOE).

ACTION: Proposed policy and request for comment.

SUMMARY: As part of the 1996 Energy and Water Development Appropriations Act (Public Law 104–46 or P.L. 104–46), Congress passed legislation that provides new marketing authority to Bonneville. Section 508 (a) and (b) of

P.L. 104–46, provides the Administrator of Bonneville (the Administrator) new authority to market a category of surplus federal power called "excess federal power" without certain statutory restrictions. The Administrator's policy implementing this new marketing authority could potentially impact regional and out-of-region customers and other utilities. In the interests of a fair and workable policy, and to ensure the success of the new legislation, Bonneville seeks public comment on its proposed implementation policy.

DATES: Comments must be received by May 28, 1996.

ADDRESSES: Comments should be addressed to David J. Armstrong—MPF, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208–3621, phone number 503–230–3658, fax number 503–230–7568.

SUPPLEMENTARY INFORMATION:

Background and Purpose

Section 508(a)(3) of P.L. 104–46 provides in general that the term "excess federal power" means such electric power that has become surplus to the firm contractual obligations of the Administrator under section 5(f) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839c(f)) due to either: any reduction in the quantity of electric power that the Administrator is contractually required to supply under subsections (b) and (d) of section 5 of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839c), due to the election by customers of the Bonneville Power Administration to purchase electric power from other suppliers, as compared to the quantity of electric power that the Administrator was contractually required to supply as of January 1, 1995; or those operations of the Federal Columbia River Power System that are primarily for the benefit of fish and wildlife affected by the development, operation, or management of the system.

Section 508(b) provides in general that notwithstanding section 2, subsections (a), (b), and (c) of section 3, and section 7 of P.L. 88–552 (16 U.S.C. 837a, 837b, and 837f), and section 9(c) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839f(c)), the Administrator may, as permitted by otherwise applicable law, sell or otherwise dispose of excess federal power: outside the Pacific Northwest on a firm basis for a contract term not to exceed 7 years, if the excess federal power is first offered for a reasonable period of time and under the same essential rate, terms and conditions to those Pacific Northwest public body, cooperative and investor-owned utilities and those direct service industrial customers identified in subsection (b) or (d)(1)(A) of section 5 of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839c); and in any region without the prohibition on resale established by the second sentence of section 5(a) of the Act entitled "An Act to Authorize the Completion, Maintenance, and Operation of the Bonneville Project for Navigation, and for Other Purposes," approved August 20, 1937 (commonly known as the "Bonneville Project Act of 1937") (16 U.S.C. 832d(a)).

In the conference report accompanying this new legislation,[1] Congress recognized that current Bonneville authorizing legislation severely limits the agency's flexibility to market federal power placing it at a marketing disadvantage and restricting potential revenues. In order to increase Bonneville's revenues and its competitiveness, Congress enacted this new legislation which removes some of those marketing restrictions from sales of excess federal power. Excess federal power is any power generated by routine power operations, or fish and wildlife operations of either the Federal Columbia River Power System or other electric power plants from which Bonneville is contractually obligated to acquire electric power and that is made surplus to the Administrator's firm requirements contractual obligations in two instances: (1) By requirements customers decisions to remove load from Bonneville; or (2) because of hydrosystem operations primarily for the benefit of fish and wildlife affected by the development, operation, or management of the system.

This excess federal power can be sold or otherwise disposed of outside the region for up to 7 years without the Regional Preference Act call back provisions upon 60-days notice for energy sales and 60-months notice for capacity sales.[2] This power also can be sold in any region without the Bonneville Project Act restriction on the resale of federal power by private entities not in the business of selling power in the retail market.[3] In addition, the existing requirement that Bonneville provide notice to existing regional customers is made more flexible for sales of excess federal power to reflect the current competitive market and the type of transaction. In all cases, however, Bonneville must first offer the excess federal power to regional customers for a reasonable period of time and under the same essential rate, terms and conditions as the proposed out-of-region sales.

It is Bonneville's preliminary view as a matter of policy that Bonneville should make retail sales outside the Pacific Northwest region to purchasers, other than preference customers and federal agencies, only where such sales are consistent with the state law that would apply if Bonneville were not a federal agency. Bonneville specifically seeks comment on this policy.

Process

This notice announces Bonneville's initiation of a procedure to establish policy on the implementation of the new marketing authority in P.L. 104–46. Bonneville is interested in and will take public comment on the attached proposed implementation policy. All comments should be submitted before May 28, 1996 to be considered prior to issuance of a final policy. Submit written comments to David J. Armstrong—MPF, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208–3621. Bonneville will conduct two public meetings, one in the Pacific Northwest region and one outside the region.[4] After close of the public comment period, Bonneville will evaluate all comments and issue a final implementation policy.

General Approach

Bonneville intends the scope of this policy making to be limited to the development of a policy necessary to implement the relevant provisions of P.L. 104–46; including processes and specific determinations required to be made of the amount of excess federal power as defined by this law, and how notice will be provided to Pacific Northwest customers of extraregional sales of excess federal power.

Bonneville believes that this proposal is fully consistent with the letter and intent of P.L. 104–46. In proposing interpretations of and processes for implementing P.L. 104–46, Bonneville is proposing those that result in the most efficient, simple, straight-forward, and administratively least-burdensome implementation of the law.

Determination of Excess Federal Power

Section 508(a)(3) of P.L. 104–46 defines excess federal power as federal power made surplus to the Administrator's firm contractual obligations under section 5(f) of the Northwest Power Act[5] in two instances. First, excess federal power includes reductions in the quantity of power the Administrator is contractually required to supply under sections 5(b) and 5(d) of the Northwest Power Act (5(b) and 5(d) obligations) because of elections by the Administrator's firm requirements customers, that is, Pacific Northwest public agency, federal agency, investor-owned utility, and direct service industry customers, to purchase power from other suppliers, as compared to the Administrator's 5(b) and 5(d) obligations as of January 1, 1995. Second, excess federal power is that power made excess due to operation of the federal hydrosystem, whether generated or purchased, primarily for the benefit of fish and wildlife affected by that system.

In order to implement this new marketing authority, Bonneville must make three determinations: (1) the amount of reductions in the Administrator's 5(b) and 5(d) obligations relative to those obligations as of January 1, 1995, which can further be broken into two findings: (a) The actual amount of the Administrator's 5(b) and 5(d) obligations as of January 1, 1995, and (b) a yearly forecast of the Administrator's current 5(b) and 5(d) obligations to serve Pacific Northwest firm requirements power loads; (2) the amount of excess power that results from operating the hydrosystem primarily for fish and wildlife; and (3) a process for making annual determinations of excess federal power.

1. Reductions in the Administrator's Firm Contractual Obligations Under 5(b) and 5(d) of the Northwest Power Act

(a) *5(b) and 5(d) Obligations as of January 1, 1995:* Bonneville's contractual obligations under sections 5(b) and 5(d) of the Northwest Power Act are comprised of and limited to the Administrator's sale of firm requirements power for consumer loads of public body, cooperative, federal agency customers, investor-owned utilities,[6] and for direct consumption by existing direct service industrial customers in the Pacific Northwest.[7] All other remaining firm contractual obligations are not sales of power for the general requirements of utility customers or direct service industrial customers and are not governed by sections 5(b) and 5(d) of the Northwest Power Act. Therefore these other sales are not included in this determination of the Administrator's contractual obligations as of January 1, 1995.

The Administrator's 5(b) and 5(d) obligations as of January 1, 1995, are the amounts based on the sum of the following calculations:

- *Actual and Planned Computed Requirements Customers:* Obligations for the actual and planned computed requirements customers[8] are the annual average of the customers' monthly energy requirements in average megawatts for calendar year 1994 submitted to Bonneville for the Pacific Northwest Coordination Agreement for operating years 1993–94 and 1994–95.
- *Metered Requirements Customers:* Obligations for the metered requirements customers[9] are the calendar year 1994 annual average firm energy sales in average megawatts to this customer class as reported in Bonneville's Generation and Power Sales Report.
- *Direct Service Industrial Customers:* Obligations for the direct service industrial customers are the annual average of the customers' monthly Operating Demands for calendar year 1994 submitted to and approved by Bonneville for contract years 1993–94 and 1994–95.
- *Regional Investor-Owned Utilities:* Obligations for the investor-owned utilities are the calendar year 1994 annual average sales under the New Resource Firm Power Rate in average megawatts to this customer class as reported in Bonneville's Generation and Power Sales Report.

Based on the above calculations, the Administrator's total 5(b) and 5(d) obligations as of January 1, 1995, were 8309 average megawatts. Consistent with P.L. 104–46, this amount will be the baseline for all annual calculations of excess federal power. This is a fixed determination and will not change once the final implementation policy is issued.

(b) *Current Contractual Obligations:* Each year Bonneville will determine the Administrator's current 5(b) and 5(d) contractual obligations based upon executed contracts. In order to accommodate power deliveries of up to 7 years, Bonneville will produce a 10-year annual average energy forecast of its current 5(b) and 5(d) obligations.

(c) *Reductions in Contractual Obligations:* Reductions in the Administrator's 5(b) and 5(d) obligations will be calculated in each annual determination of excess federal power. On an average annual energy (average megawatts) basis for each year of the 10-year forecast period, the reductions in 5(b) and 5(d) obligations will be the difference between the forecasted current obligation in that year and the Administrator's contractual obligation as of January 1, 1995, or 8309 average megawatts. In order to determine the amount of excess capacity available for marketing, Bonneville will calculate an average annual load factor based on its remaining 5(b) and 5(d) obligations. This load factor will be applied to the difference between the forecasted current obligations and the obligations as of January 1, 1995, to determine the amount of capacity in average megawatts which the Administrator may market as excess federal power.

2. Fish and Wildlife Operations: Bonneville has run two 50-year continuous water year studies to determine the amount of excess generation in average megawatts caused by hydrosystem operations primarily for fish and wildlife. The first study removes all fish and wildlife requirements. This study shows the firm energy production capability of the federal system in each month. The second study includes all fish and wildlife restrictions and also provides monthly firm energy production. Each study was run with the rule curves and resource operations which simulate the most efficient operation for their specific conditions and limitations. The difference in monthly energy production between the two studies was

[1] H.R. 1905, Conf. Rep. No. 293, 104th Cong., 1st Sess. 94 (1995).

[2] The Act of August 31, 1964, Pub. L. No. 88–552, § 3 (a), (b), and (c), 78 Stat. 756 (1964).

[3] The Bonneville Project Act of 1937, Pub. L. No. 75–329, § 5(a), 50 Stat. 731 (1937).

[4] Additional public meetings may be held, if necessary.

[5] Pacific Northwest Electric Power Planning and Conservation Act, Pub. L. No. 96–501, § 5(f), 94 Stat. 2697 (1980). Section 5(f) of the Northwest Power Act provides: The Administrator is authorized to sell, or otherwise dispose of, electric power, including power acquired pursuant to this and other Acts, that is surplus to his obligations incurred pursuant to subsections (b), (c), and (d) of this section in accordance with this and other Acts applicable to the Administrator, including the Bonneville Project Act of 1937 (16 U.S.C. 832 and following), the Federal Columbia River Transmission System Act (16 U.S.C. 836 and following), and the Act of August 31, 1964 (16 U.S.C. 837–837h).

[6] All of the investor-owned utilities in the region have signed long-term firm power sales contracts that obligate Bonneville, upon compliance with certain notice requirements, to deliver power in amounts requested by the investor-owned utilities to meet a portion of their loads in the region. These utilities have not elected to place loads on Bonneville under these agreements, with the exception of a relatively small amount of electric power loads placed on Bonneville under the New Resource Firm Power Rate schedule(s). These obligations will be included in the determination of excess federal power due to load reductions.

[7] "Pacific Northwest" as defined in the Regional Preference Act, 1(b), 78 Stat. 756, as amended by Pacific Northwest Electric Power Planning and Conservation Act, 8(e), 94 Stat. 2729.

[8] As of January 1,1995, Grant County PUD No. 2, Chelan County PUD No. 1, Cowlitz County PUD, Douglas County PUD No. 1, Eugene Water and Electric Board, Pend Oreille PUD No. 1, Seattle City Light, Snohomish County PUD No. 1, Tacoma Public Utilities.

[9] Small and Non-Generating Public Utilities, including Federal Agencies.

averaged over the 50-year period for each month. The positive monthly averages, representing the increased generation due to fish and wildlife operations, were summed to determine the annual average energy amount in average megawatts of excess federal power due to fish and wildlife operations. A 100 percent load factor was assumed for determining the capacity amount of excess federal power due to fish and wildlife operations. BPA relied on two studies that were developed in support of the implementation of the BPA fish spending limitation. The results from those two studies established an amount of excess federal power due to hydrosystem operations primarily for the benefit of fish and wildlife of 129 average megawatts annually. Unless further changes in the future are required in the scope and magnitude of hydrosystem operations for the benefit of fish and wildlife, this amount of excess federal power due to such operations will not be revisited in each annual determination of excess federal power. If future changes impact hydrosystem operations Bonneville may revise the amount of excess federal power by reopening this policy.

3. *Process:* Each year Bonneville will determine the total amount of excess federal power on its system. Each annual determination will be based on a revised 10-year forecast of Bonneville's then-current section 5(b) and 5(d) contractual obligations. The net of each year's forecast and 8309 average megawatts will be the amount of excess federal power due to forecasted reductions in those contractual obligations. This amount will be added to the amount of excess federal power due to fish and wildlife obligations in order to determine the total amount of excess federal power that may be marketed in any year of the forecast. This total amount of excess federal power will be reduced by the amount of any current sales of excess federal power to determine the total amount available to the Administrator for marketing. The results of this determination will be included in an annual notification to Bonneville's then existing Pacific Northwest customers of Bonneville's intent to market excess federal power or surplus power outside the region. Bonneville's date of issuance of the notification may vary from year to year.

Sales of Excess Federal Power

1. *Sales Outside the Region:* In section 508(b) of P.L. 104–46, excess federal power may be sold or otherwise disposed of outside the Pacific Northwest region without the marketing restrictions contained in sections 3(a), (b) and (c) of the Regional Preference Act and section 9(c) of the Northwest Power Act.[10] The Administrator is authorized to sell excess federal power without the requirement that energy or capacity deliveries to an out-of-region customer be subject to termination of deliveries (recall) upon 60-days notice for energy and 60-months notice for capacity if the Administrator determines it is needed to meet the requirements of the Administrator's regional customers.

In addition, the notice required for out-of-region sales in section 2 of the Regional Preference Act is made inapplicable to sales of excess federal power.[11] The new law conditions the sale of excess federal power outside the region upon the requirement that the Administrator first offer the power to Pacific Northwest public body, cooperative, and investor-owned utilities and direct service industrial customers for a reasonable period of time and under the same essential rate, terms, and conditions. This notice requirement provides the Administrator with considerable flexibility in providing Bonneville's existing regional customers with notice of sales to out-of-region customers.[12]

P.L. 104–46 provides the Administrator with the authority to sell excess federal power outside the region for a period of up to 7 years. In all sales of excess federal power Bonneville will limit the actual delivery of excess federal power to 7 years. Such contracts may contain a provision for renewal and be renewed, subject to the availability of excess federal power at the time the purchaser must provide a renewal notice.

An annual notification of the availability of excess federal power will be given to existing regional customers. This notification will specify a range of rates, and basic terms and conditions for a sale of excess federal power on which Bonneville will enter into bilateral discussions with out-of-region customers.

For contracts having a term of one year or greater, regional customers interested in purchasing excess federal power will have 30 days from the date of the annual notice to contact Bonneville. If a subsequent agreement for the sale of excess federal power to an out-of-region customer is negotiated under a rate or under terms and conditions different from the range of rates, terms, and conditions specified in the annual notice, Bonneville will provide interested regional customers notice of the pending sale. Regional customers interested in purchasing excess federal power under the same rate, terms and conditions in the pending out-of-region sale will have 5 days from the date of this subsequent notice to contact Bonneville. In order to enter into such an agreement, regional customers must agree to the identical terms and conditions in the agreement for pending out-of-region sale, except those which clearly do not apply to the particular utility (such as points of delivery).

For contracts having a duration of less than 1 year, the annual notification of the availability of excess federal power will serve as the only notification of the availability of excess federal power. Any interested regional customers may contact Bonneville to purchase such short-term excess federal power based on the general rate, terms and conditions proposed by Bonneville in the annual notification after bilateral negotiations with Bonneville. If a subsequent agreement for a short term sale of excess federal power to an out-of-region customer is negotiated under a rate or under terms and conditions different from the range of rates, terms and conditions specified in the annual notice, Bonneville will provide interested regional customers notice of the pending sale. Regional customers interested in purchasing excess federal power under the same rate, terms and conditions in the pending out-of-region sale will have up to 5 days, depending on the effective delivery date and the duration of the short-term sale, from the date of this subsequent notice of contact Bonneville.

2. *Sales in Any Region:* Section 508(b)(2) authorizes the sale of excess federal power in any region without the restriction on resale established in the second sentence of section 5(a) of the Bonneville Project Act which provides that contracts for the sale of electric energy to any private person or agency other than a privately owned public utility engaged in selling electric energy to the general public, shall contain a provision forbidding such private purchaser to resell any such electric energy so purchased to any private utility or agency engaged in the sale of electric energy to the general public, and requiring the immediate canceling of such contract of sale in the event of violation of such provision.

This provision requires that contracts for the sale of power by the Administrator to private entities or agencies thereof, other than investor-owned utilities, contain a provision that prohibits the resale of that power to investor owned utilities or other private entities or their agents engaged in the sale of electricity to the general public. Consistent with the removal of this requirement in P.L. 104–46, contracts for the sale of excess federal power will not contain any provision prohibiting the resale of such power to investor-owned utilities or other private entities or their agents.

Issued in Washington, D.C. on March 22, 1996.

Stephen Wright,

Assistant Administrator, Bonneville Power Administration.

[FR Doc. 96–7734 Filed 3–28–96; 8:45 am]

BILLING CODE 6450–01–P

[10] The Pacific Northwest Electric Power Planning and Conservation Act, Pub. L. No. 96–501, 9(c), 94 Stat. 2697 (1980).

[11] Section 2 of the Regional Preference Act provides that at least 30 days prior to the execution of any contract for the sale, delivery, or exchange of surplus energy or surplus peaking capacity for use outside the Pacific Northwest, the Secretary shall give the then customers of the Bonneville Power Administration written notice that negotiations for such a contract are pending, and thereafter, at any customer's request, make available for its inspection current drafts of the proposed contract.

[12] In the conference report, Congress states that "this flexibility may include shorter notice periods and less detailed information on in-program negotiations. Notice periods may be very short for short-term sales (for example, notice to accommodate hourly sales) and for transactions that must be negotiated quickly. BPA may also provide seasonal notice with price ranges requesting interested parties to contact BPA to purchase power." H.R. 1905, Conf. Rep. No. 293, 104th Cong., 1st Sess. 94 (1995).

Kalispel Tribe Resident Fish Project

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of Floodplain and Wetlands Involvement.

SUMMARY: This notice announces BPA's proposal to construct a warm water bass hatchery and create two bass nurseries on the "Flying Goose Ranch" in northeastern Washington State. The action is being undertaken to mitigate partially for salmon and steelhead losses incurred as a result of the construction and operation of Chief Joseph and Grand Coulee dams. The action proposed within the floodplain of the Pend Oreille River is to construct, operate, and maintain water control structures to create two bass nursery sloughs adjacent to the Pend Oreille River in Pend Oreille County in northeastern Washington. In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements (10 CFR Part 1022), BPA will prepare a floodplain and wetlands assessment and will perform this proposed action in a manner so as to avoid or minimize potential harm to or within the affected floodplain and wetlands. The assessment will be included in the environmental assessment being prepared for the proposed project in accordance with the requirements of the National Environmental Policy Act. A floodplain statement of findings will be included in any finding of no significant impact that may be issued following the completion of the environmental assessment.

DATES: Comments are due to the address below no later than April 15, 1996.

ADDRESSES: Submit comments to the Public Involvement and Information Manager, Bonneville Power Administration—CKP, P.O. Box 12999, Portland, Oregon 97212. Internet address: comment@bpa.gov.

FOR FURTHER INFORMATION, CONTACT: Gene Lynard—ECN, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon, 97208–3621, phone 503–230–3790, fax 503–230–3212.

SUPPLEMENTARY INFORMATION: The wetlands and floodplain involved are located in sections 17, 18, 19 and 20, T34N, R44E, Willamette Meridian.

Maps and further information are available from BPA at the address above.

Issued in Portland, Oregon, on March 21, 1996.

Nancy H. Weintraub,

Fish and Wildlife Team Lead, Environment, Fish and Wildlife Group.

[FR Doc. 96–7741 Filed 3–28–96; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Project No. 1417; Project No. 1835]

Central Nebraska Public Power and Irrigation District and Nebraska Public Power District; Notice of Public Conference

March 25, 1996.

In response to a request by the U.S. Department of the Interior (Interior), FERC staff will host a technical conference on the questions raised by Interior economists regarding the economic analysis in the Biological Assessment. The conference is scheduled for April 3, 1996, from 9:00 a.m. until 5:00 p.m. in Room No. 3M–2A, located on the third floor of 888 First Street NE., Washington, D.C. If necessary, the conference will reconvene at 9:00 a.m. on April 4, 1996.

This conference is neither a hearing nor a settlement conference. It will provide an opportunity for representatives of Interior and the Commission staff to raise questions and exchange information concerning the Commission's economic analysis. Interested parties are welcome to attend and observe the conference, but participation will be limited to the Commission and Interior.

Anyone wishing to comment in writing on the conference must do so no later than April 17, 1996. Comments should be addressed to: Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, D.C. 20426.

Reference should be clearly made to: the Kingsley Dam (Project No. 1417) and North Platte/Keystone Diversion Dam (Project No. 1835).

For further information, please contact Frankie Green at (202) 501–7704.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7669 Filed 3–28–96; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 3913–001]

Puget Sound Power & Light Company; Notice of Effective Date of Withdrawal of License Application

March 25, 1996.

On July 19, 1983, Puget Sound Power & Light Company (Puget Power) filed a license application for the proposed Thunder Creek Project No. 3913, to be located on Thunder Creek in Skagit County, Washington. On March 4, 1996, Puget Power filed a letter withdrawing its license application. No motion in opposition to the withdrawal was filed, and the Commission took no action to disallow the withdrawal. Accordingly, pursuant to Rule 216 of the Commission's Rules of Practice and Procedure,[1] the withdrawal became effective on March 19, 1996.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7668 Filed 3–28–96; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 2514–021]

City of Hamilton; Ohio and Kentucky; Notice of Availability of Final Environmental Assessment

March 25, 1996.

A final environmental assessment (FEA) is available for public review. The FEA is for a license amendment application to relocate a portion of a transmission line for the Greenup

[1] 18 CFR 385.216.

Project. The FEA finds that approval of the application would not constitute a major federal action significantly affecting the human environment. The Greenup Project is located on the Ohio River in Greenup County, Kentucky and Scioto County, Ohio.

The FEA was written by staff in the Office of Hydropower Licensing, Federal Energy Regulatory Commission. Copies of the FEA are available for review at the Commission's Public Reference and Information Center, Room 2–A, 888 First Street NE., Washington, DC 20426. Copies can also be obtained by calling the project manager, Jon Cofrancesco at (202) 219–0079.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7671 Filed 3–28–96; 8:45 am]

BILLING CODE 6717–01–M

Notice of Application Filed With the Commission

March 25, 1996.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Type of Application: Non-project Use of Project Lands and Waters.

b. Project No.: 184–050.

c. Date filed: March 13, 1996.

d. Applicant: Pacific Gas and Electric Company.

e. Name of Project: El Dorado Project.

f. Location: The project is located on the South Fork American River in El Dorado and Alpine Counties in California..

g. Filed pursuant to: Federal Power Act, 16 U.S.C. § 791(a)–825(r).

h. Applicant Contact: Ms. Rhonda Shiffman, Pacific Gas and Electric Company, P.O. Box 770000, P10A, San Francisco, CA 94177, (415) 973–5852.

i. FERC Contact: Jon E. Confrancesco, (202) 219–0079.

j. Comment Date: April 29, 1996.

k. Description of Amendment: Pacific Gas and Electric Company (licensee), proposes to grant permission to Kirkwood Associates, Inc. to divert water from a project reservoir (Caples Lake) for snow making purposes at the Kirkwood Ski Resort. The proposal involves the construction and operation of a water intake facility at Caples Lake and the withdrawal of up to 500 acre-feet of water during the ski season. The proposal is part of the Kirkwood Water Rights and Snowmaking Project previously reviewed by the U.S. Forest Service, Alpine County, and other federal, state, and local agencies. During the review process, a final environmental impact report and environmental assessment was prepared for the project. On September 18, 1995, the U.S. Forest Service issued a Decision Notice approving the project.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7667 Filed 3–28–96; 8:45 am]

BILLING CODE 6717–01–M

Notice of Application Filed With the Commission

March 25, 1996.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Type of Application: Request for Commission Approval to Grant a Permit for the Construction and Operation of a Marina Facility.

b. Project No.: 1494–116.

c. Dated Filed: February 12, 1996.

d. Applicant: Grand River Dam Authority (licensee).

e. Name of Project: Pensacola Project.

f. Location: The Duck Creek arm of Grand Lake O' The Cherokees, Delaware County, Afton Oklahoma.

g. Filed Pursuant to Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Robert W. Sullivan, Jr., Grand River Dam Authority, P.O. Box 409, Drawer G, Vinita, OK 74301, (918) 256–5545.

i. FERC Contact: Joseph C. Adamson, (202) 219–1040.

j. Comment Date: April 30, 1996.

k. Description of Proposed Action: The licensee requests Commission approval to grant a permit to Mr. John Mullen, d/b/a Thunder Bay Marina for the construction and operation of a marina facility. The proposed facility includes the addition of 151 boat slips to an existing facility with 3 floating docks containing 58 boat slips, for a total of 209 boat slips.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7670 Filed 3–28–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–254–000, et al.]

Distrigas of Massachusetts Corporation, et al.; Natural Gas Certificate Filings

March 22, 1996.

Take notice that the following filings have been made with the Commission:

1. Distrigas of Massachusetts Corporation

[Docket No. CP96–254–000]

Take notice that on March 15, 1996, Distrigas of Massachusetts Corporation (DOMAC), 75 State Street, Boston, Massachusetts 02109, filed in Docket No. CP96–254–000, an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7 and Part 157 of the Commission's Regulations for a certificate of public convenience and necessity to install additional vaporization capacity and to install and construct additional facilities appurtenant thereto at DOMAC's liquefied natural gas (LNG) terminal in Everett, Massachusetts, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

DOMAC seeks authorization to construct and install additional LNG vaporization facilities wholly within the existing boundary of DOMAC's Everett Marine Terminal. DOMAC states that the new LNG vaporization system will be located in the same general area of the plant as the existing vaporization facilities. There will be two vaporization trains, each with a nominal capacity rating of 75,000 Mcf/d to be delivered through a new 750 psig send-out system. In addition to providing new vaporization capacity of 150,000 Mcf/d, the new system can serve as a back-up to existing vaporizer facilities. DOMAC states that it anticipates the project will have an approximate cost of $15.5 million and will be financed by DOMAC using cash on hand. DOMAC further states that the proposed facilities will be installed to meet the anticipated need for increased vaporization capacity in the fall of 1998. DOMAC states that it will assume 100 percent of the cost recovery risk related to the project and that the project will have no impact on the rates charged for DOMAC's sales services.

DOMAC also states that it anticipates the construction of a pipeline interconnection between its facilities and those of Tennessee Gas Pipeline Company (Tennessee) which is the subject of a pending certificate application, Docket No. CP96–164–000, that is before the Commission. DOMAC states that Tennessee's proposed 7.5-mile, 20-inch pipeline will directly connect Tennessee's existing Revere Lateral line in Saugus, Massachusetts with DOMAC's facilities in Everett. DOMAC further states that although DOMAC's proposed vaporization facilities are necessary to deliver vaporized LNG into Tennessee's new pipeline at 750 psig, DOMAC's need for additional vaporization capacity is independent of Tennessee's proposal to directly connect to the facilities. DOMAC states that it intends to proceed with the expansion of its vaporization capacity even in the absence of the Tennessee interconnection.

Comment date: April 12, 1996, in accordance with Standard Paragraph F at the end of this notice.

2. Northwest Pipeline Corporation

[Docket No. CP96–258–000]

Take notice that on March 18, 1996, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP96–258–000 a request pursuant to Sections 157.205, 157.211 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211 and 157.216) for authorization to abandon certain facilities and to construct and operate upgraded replacement facilities at an existing delivery point in Benton County, Washington, to accommodate deliveries of natural gas to Cascade Natural Gas Company (Cascade), under Northwest's blanket certificate issued in Docket No. CP82–433–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northwest requests authorization to abandon facilities at the Kennewick Meter Station consisting of 2 2-inch regulators, 2 4-inch orifice meters and appurtenant piping and valves and a 2-inch tap. Northwest proposes to abandon the regulators and meters by removal and to abandon the tap in place. It is stated that Northwest proposes to replace these facilities because they are undersized for the existing maximum daily delivery obligation to Cascade of 12,092 dt equivalent of natural gas per day.

To replace the facilities proposed for abandonment, Northwest proposes to install 2 3-inch regulators, 2 6-inch turbine meters and appurtenant piping and valves and a 4-inch tap. These proposed facilities would increase the maximum design capacity of the meter station from 8,900 dt equivalent per day to approximately 21,830 dt equivalent per day. It is estimated that the cost to remove the old facilities would be $13,000, and the cost to install the replacement facilities would be $371,800. It is asserted that Northwest makes deliveries to Cascade under its Rate Schedules TF–1 and TF–2.

It is stated that no customers would lose service as a result of the proposed abandonment and replacement. It is further stated that Northwest's tariff does not prohibit the upgrade of delivery point facilities and that there would be no impact on Northwest's peak day and annual deliveries. It is explained that deliveries at the Kennewick delivery point would be within authorized entitlements of Cascade or other shippers.

Comment date: May 6, 1996, in accordance with Standard Paragraph G at the end of this notice.

3. Williams Natural Gas Company

[Docket No. CP96–260–000]

Take notice that on March 18, 1996, Williams Natural Gas Company (Williams), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP96–260–000 a request pursuant to Sections 157.205, 157.208 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.208 and 157.216) for authorization to abandon certain pipeline facilities and to construct and operate replacement facilities located in Cowley County, Kansas, under Williams' blanket certificate issued in Docket No. CP82–479–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Williams requests authorization to abandon partly by reclaim and partly in place approximately 7.5 miles of Williams' Dilworth-Cambridge 16-inch pipeline and to construct and operate

7.5 miles of replacement 6-inch pipeline. It is stated that this proposal is a continuation of the replacement of the Dilworth-Cambridge Line begun in Docket No. CP95–682–000. It is asserted that the replacement of the line by 6-inch pipe will allow for more efficient use of Williams' facilities. Williams proposes to uprate the line on completion of its replacement from its present maximum allowable operating pressure (MAOP) of 315 to 265 psig to a proposed MAOP of 720 psig. It is stated that the uprating of the line will eliminate the need for pressure regulation and reduce related maintenance costs. It is estimated that the cost to reclaim facilities would be $1,000, the cost to construct the replacement facilities would be $1,644,000, and the estimated salvage value would be $3,000. It is asserted that Williams has sufficient capacity to make the changes without detriment or disadvantage to its customers. It is stated that the present volume of gas transported on the Dilworth-Cambridge pipeline is 13,400 Mcf of gas per day.

Comment date: May 6, 1996, in accordance with Standard Paragraph G at the end of this notice.

4. Texas Gas Transmission Corporation

[Docket No. CP96–262–000]

Take notice that on March 19, 1996, Texas Gas Transmission Company (Texas Gas), P.O. Box 20008, Owensboro, Kentucky 42304, filed in Docket No. CP96–262–000 a request pursuant Sections 157.205(b) and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205(b) and 157.212) for authorization to add a new delivery point in Henderson County, Kentucky, to serve Western Kentucky Gas Company (Western), a local distribution company, under Texas Gas' blanket certificate issued in Docket No. CP82–407–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Texas Gas states that it has received a request from Western for a new delivery point on Texas Gas' Slaughters-Evansville 10-inch Line in Henderson County, Kentucky, to enable Western to render natural gas service to a new customer, Hudson Foods, Inc. It is also stated that the natural gas delivered to the proposed delivery point would be used for service to Hudson's new chicken processing plant. Texas Gas states that Western would reimburse Texas Gas for the cost of this delivery point, which cost is estimated to be $81,100.

Texas Gas further states that Western would not require any increase in existing firm contract quantities to accommodate service to the new delivery point. Since no increase in contract quantities has been requested by Western, Texas Gas states that the service to the proposed delivery point could be accomplished without detriment to Texas Gas' other customers.

It is further asserted that the natural gas volumes that would be delivered at the proposed delivery point would be a maximum daily quantity of 4,500 MMBtu, with a maximum annual quantity of 1,200,000 MMBtu.

Comment date: May 6, 1996, in accordance with Standard Paragraph G at the end of this notice.

5. Michigan Gas Storage Company

[Docket No. CP96–263–000]

Take notice that on March 20, 1996, Michigan Gas Storage Company (MGSCo), 212 West Michigan Avenue, Jackson, Michigan 49201, filed in Docket No. CP96–263–000 an application pursuant to Section 7(c) of the Natural Gas Act to construct and operate certain pipeline facilities in the Cranberry Lake Storage Field in Clare County, Michigan and pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon the pipeline facilities being replaced, all as more fully set forth in the application on file with the Commission and open to public inspection.

MGSCo requests authorization to construct and operate 5.2 miles of 20-inch pipeline to replace 1.3 miles of 10-inch, 3.9 miles of 16-inch and 5.2 miles of 8-inch pipeline in the Cranberry Lake Storage Field from Station 60 to the Muskegon River Compressor Station, all located in Clare County, Michigan. MGSCo states that the purpose of the proposed project is to replace deteriorating pipeline and to allow for efficient cleaning/inspection of the header pipeline for the storage field.

MGSCo estimates the cost of the proposed project to be $3,550,000. MGSCo states that it proposes to recover the construction and operation costs of the 20-inch piping replacement in a future Section 4 rate filing with the Commission, on a rolled-in basis.

Comment date: April 12, 1996, in accordance with Standard Paragraph F at the end of this notice.

6. Sea Robin Pipeline Company

[Docket No. CP96–266–000]

Take notice that on March 20, 1996, Sea Robin Pipeline Company (Sea Robin), Post Office Box 2563, Birmingham, Alabama 35202–2563, filed a request with the Commission in Docket No. CP96–266–000 pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to construct and operate a new delivery point, to enable Sea Robin to deliver gas to Equitable Storage Company (Equitable), authorized in blanket certificate issued in Docket No. CP82–429–000, all as more fully set forth in the request on file with the Commission and open to public inspection.

Sea Robin proposes to construct, install and operate a new delivery point at its existing Erath Compressor Station site. The delivery point would be located in Sea Robin's Erath Compressor Station yard in Section 41, Township 13 South, Range 4 East, in Vermillion Parish, Louisiana. The delivery point would be used to deliver gas to Equitable. Sea Robin states that the estimated cost of the construction and installation of the delivery point facilities would be approximately $434,148. Equitable has agreed to reimburse Sea Robin for the total actual cost of the facilities.

Comment date: May 6, 1996, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7672 Filed 3–28–96; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5414–8]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 OR (202) 564–7153.

Weekly receipt of Environmental Impact Statements Filed March 18, 1996 Through March 22, 1996 Pursuant to 40 CFR 1506.9.

EIS No. 960130, FINAL EIS, SFW, TX, Balcones Canyonlands Conservation Plan, Issuance of a Permit to Allow Incidental Take of Golden-cheeked Warbler, Black-capped Vireo and Six Karst Invertebrates, Travis County, TX, Due: April 29, 1996, Contact: Joseph E. Johnston (512) 490–0063.

EIS No. 960131, FINAL EIS, BLM, OR, Lake Abert Area Designation as an Area of Critical Environmental Concerns (ACEC), High Desert Management Framework Amendment Plan, Right-of-Way Grant and Drilling Permit, Valley Falls, Lake County, OR, Due: April 29, 1996, Contact: Paul Whitman (503) 947–6110.

EIS No. 960132, FINAL EIS, FHW, NC, Winston-Salem Northern Beltway (Western Section), Construction, from US 158 Northward to US 52, Funding and COE Section 404 Permit, Forsyth County, NC, Due: April 29, 1996, Contact: Nicholas L. Graf (919) 856–4346.

EIS No. 960133, FINAL EIS, IBR, MT, Tongue River Basin Project, Implementation, Tongue River Dam and Reservior, COE Section 404 Permit, Bighorn County, MT, Due: April 29, 1996, Contact: John Boehmke (406) 247–7715.

EIS No. 960134, DRAFT EIS, UAF, CO, NM, KS, NB, WY, Colorado Airspace Initiative, Modifications to the National Airspace System, such as the F–16 Aircraft and Aircrews of the 140th Wing of the Colorado Air National Guard, Also modifying existing Military Operations Areas (MOAs) and Military Training Routes (MTRs), CO, NM, KS, NB and WY, Due: June 05, 1996, Contact: Harry A. Knudsen (301) 836–8143.

EIS No. 960135, DRAFT EIS, APH, Programmatic EIS—Veterinary Services (VS) Programs, Implementation, to Detect, Prevent, Control, and Eradicate Domestic and Foreign Animal Diseases and Pests, All 50 States and the United States Territories, Due: May 28, 1996, Contact: Dr. William E. Ketter (301) 734–8565.

EIS No. 960136, REVISED DRAFT EIS, NPS, AK, Denali (South Slope) National Park and Preserve Development Concept Plan, Implementation, Additional Information, Mantanuska-Susitna Borough, AK, Due: May 13, 1996, Contact: Nancy Swanton (907) 257–2651.

Dated: March 26, 1996.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 96–7753 Filed 3–28–96; 8:45 am]

BILLING CODE 6560–50–U

[ER–FRL–5414–9]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared March 11, 1996 Through March 15, 1996 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in the **Federal Register** dated April 14, 1996 (60 FR 19047).

Draft EIS's

ERP No. D–AFS–J02033–UT Rating LO, Dixie National Forest Oil and Gas Leasing on Federal Lands, Implementation, Garfield, Kane, Iron, Washington, Piute and Wayne Counties, UT.

Summary: EPA provided no formal written comments. EPA has no objection to the preferred alternative as described in the EIS.

ERP No. D–AFS–L65254–AK Rating LO, 1995 Mendenhall Glacier Recreation Area Management Plan, Implementation, Tongass National Forest, Juneau Ranger District, Chatham Area, AK.

Summary: EPA expressed a lack of objections for the proposed action.

ERP No. D–BLM–G65064–TX Rating LO, Texas Land and Resource Management Plan (RMP), Implementation, Split Estates Federal Mineral Ownership (FMO), Several Counties, TX.

Summary: EPA had no objection to the selection of the preferred alternative described in the draft EIS.

ERP No. D–FHW–E40763–NC Rating EC2, Winston-Salem Northern Beltway, (Eastern Section) from US 52 North of Winston-Salem to US 421/I–40 Business east of Winston-Salem, Construction, Funding and COE Section 404 Permit, Forsyth County, NC.

Summary: EPA had environmental concerns that the 12 mile long Bypass evaluated in the draft EIS is only one of two segments of a planned Northern Bypass. The NEPA review should have been comprehensive. EPA is also concerned about secondary impacts to a water supply.

ERP No. D–FHW–E40765–FL Rating EC2, East-West Multimodal Corridor Transportation Improvements, Beginning at the Tamiami Campus of Florida International University (FIU) extending the length of FL 836, Port of Miami, Dade County, FL.

Summary: EPA's review found that all of the proposed alternatives will have relatively minor impact to the natural environment, but did express concerns for impacts to the urban human environment in the form of noise and relocations.

ERP No. D–FHW–K40215–CA Rating EC2, East Sonora Bypass/CA–108 Construction, CA–108 from Post Mile

M1.8 to Post Mile R6.9, Funding and COE Section 404 Permit Issuance, Tuolumne County, CA.

Summary: EPA expressed environmental concerns regarding cumulative impacts of the project on the environment and development plans along the alignment, water quality, and hazardous waste found at sites within the corridor.

ERP No. D–FRC–A08030–00 Rating EU2, Promoting Wholesale Competition through Open Access Non-Discriminatory Transmission Service by Public Utilities (RM95–8–000) and Recovery of Strandred Costs by Public Utilities and Transmitting Utilities (Docket No. RM–94–7–001), Proposed Rulemaking.

Summary: EPA raised environmental concerns over the potential for the proposed rule to significantly increase air pollution, the need for additional information to better assess the potential impacts, the need for further analysis and consideration of mitigation options, and the absence of an appropriate mitigation mechanism to prevent the pollution increases. EPA believed that by working with FERC, the Department of Energy and other agencies, practical mitigation steps can be developed.

ERP No. D–USA–K11065–CA Rating EC2, Miramar Naval Air Station (NAS) Realignment or Conversion to Miramar Marine Corps Air Station, Implementation, San Diego, CA.

Summary: EPA expressed environmental concerns regarding the loss of vernal pools and endangered species habitat, as well as noise analysis.

ERP No. DA–FTA–K51035–CA Rating EC2, Bay Area Rapid Transit District (BART) Transportation Improvements, San Francisco to San Francisco International Airport Extension, Alternative VI Aerial Design Option, Approval, Funding, COE Section 404 and Possible FHWA Encroachment Permits Issuance, San Mateo County, CA.

Summary: EPA expressed environmental concerns with the project's possible impacts to wetland, endangered species, and minority neighborhoods.

Final EIS's

ERP No. F–AFS–K65154–CA Mendocine National Forest Land and Resource Management Plan, Implementation, Colusa, Glenn, Lake, Mendocino, Tehama and Trinity Counties, CA.

Summary: Review of the final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F–AFS–K65157–CA Paper Reforestation and Resource Recovery Project, Implementation, Stanislaus National Forest, Mi-Wok Ranger District, Tuolumne County, CA.

Summary: EPA expressed environmental concerns regarding level of aerial spraying of hexazinone.

ERP No. F–AFS–L65172–ID Idaho Panhandle National Forests Noxious Weed Management Projects, Implementation, Bonners Ferry Ranger District, Boundary County, ID.

Summary: EPA had no objection to the action as proposed. ERP No. F–FHW–E40740–NC US 1 Improvements, Secondary Road 1853 at Lakeview to Secondary Road 1180 south of Sanford, Funding and COE Section 404 Permit Issuance, Lee and Moore Counties, NC.

Summary: EPA expressed environmental concerns with the US 1 Highway Improvement Project primarily because of insufficient commitment to wetlands mitigation.

ERP No. F–FHW–K40134–CA CA–180 Transportation Project, Construction, between Temperance Avenue and Cove Road, Funding and COE Section 404 Permit, Fresno County, CA.

Summary: EPA's environmental concerns with the draft EIS were adequately addressed in the FEIS. Also, EPA recommended that FHWA continue their coordination with the other interesed state and local agencies.

ERP No. F–MMS–G02005–00 1996 Central and Western Gulf of Mexico Outer Continental Shelf (OSC) Oil and Gas Lease Sales No. 157 (March 1996) and No. 161 (August 1996), Lease Offerings, Offshore coastal counties and parishes of AL, MS, LA and TX.

Summary: EPA had no objections to the selection of the preferred alternative.

ERP No. F–NOA–A29004–00 Programmatic EIS—Coastal Nonpoint Pollution Control Program, Implementation, Approval for 29 States and Territories Coastal Nonpoint Program.

Summary: Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F–NOA–A91061–00 Atlantic Mackerel, Squid and Butterfish Fisheries, Fishery Management Plan, Amendment No. 5, Implementation, Exclusive Economic Zone (EEZ) off the US Atlantic Coast.

Summary: EPA had no objections to the proposed program.

ERP No. F–UAF–K11061–GU Andersen Air Force Base (AFB) Solid Waste Management Facility, Construction, Island of Guam, GU.

Summary: EPA continued to express environmental concerns regarding stability and monitorability of the landfill site and reiterated the need for additional information regarding monitoring, air emissions, pretreatment and runoff controls before the Air Force signs a ROD.

ERP No. F–USN–G11028–TX Mine Warfare Center of Excellance (MWCE) Establishment, Construction and Operations, Magnitic Silencing Facility (MSF), Aviation Mine Count Measures (AMCM) and Sled Facility, Possible NPDES Permit, COE Section 10 and 404 Permits, Corpus Christi Bay Area, TX.

Summary: EPA had no objection to the selection of the preferred alternative described in the Final EIS.

ERP No. F–USN–K11062–CA San Diego Homeporting Facilities Construction and Operation to Support Berthing One NIMITZ Class Aircraft Carrier, Implementation, San Diego County, CA.

Summary: EPA had no objection to the final EIS.

ERP No. FR–UAF–B11015–ME Loring Air Force Base (AFB) Disposal and Reuse, Implementation, Aroostook County, ME.

Summary: EPA environmental concerns have been resolved satisfactorily in the 1995 revised documents.

Other

ERP No. LF–NPS–L61204–OR.

Adoption: Wallowa River Wild and Scenic River Study from the Confluence of the Minam and Wallowa Rivers to the Confluence of the Wallowa River and the Wild and Scenic Grande Ronde River for Designation or Nondesignation into the National Wild and Scenic River System, Union and Wallowa Counties, OR.

Summary: Review of the final EIS has been completed and the project found to be satisfactory. EPA provided no formal written comments. EPA had no objection to the preferred alternative as described in the EIS.

Dated: March 26, 1996.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 96–7754 Filed 3–28–96; 8:45 am]

BILLING CODE 6560–50–U

[PP 6F4650/PF646; FRL–5357–3]

Trichoderma harzianum Rifai Strain KRL-AG2; Notice of filing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of filing.

SUMMARY: EPA has received a petition (PP 6F4650) for a revision of the current exemption from the requirement of tolerances for *Trichoderma harzianum* Rifai strain KRL-AG2 (40 CFR 180.1102) to include all raw agricultural commodities. The request was filed by TGT Inc., 122 North Genesee Street, Geneva, N.Y. 14456.

DATES: Written comments, identified by the docket control number [PP 6F4650/PF646], must be submitted to EPA by April 29, 1996.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by docket number [PP 6F4650/PF646]. No CBI should be submitted through e-mail. Electronic comments on this notice of filing may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in the SUPPLEMENTARY INFORMATION section of this document.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Shanaz Bacchus, Biopesticides and Pollution Prevention Division (7501W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington DC 20460. Office location and telephone number: 5th Floor, CS #1, 2805 Jefferson Davis Hwy., Arlington, VA, 703–308–8097; e-mail address: bacchus.shanaz@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

PP 6F4650. This notice announces that EPA has received from TGT Inc., 122 North Genesee Street, Geneva, N.Y. 14456, a notice of filing under section 408 of the Federal Food, Drug, and Cosmetic Act (21 (U.S.C. 346a) for pesticide petition (PP) 6F4650 to amend 40 CFR part 180 to revise the current exemption from the requirement of tolerances for the microbial pesticide *Trichoderma harzianum Rifai strain* KRL-AG2. The current exemption from the requirement of a tolerance (40 CFR 180.1102) is established for residues of this biofungicide in or on beans (green and dry), cabbage, corn (field and sweet), cotton, cucumbers, peanuts, potatoes, sorghum, soybeans, sugar beets, and tomatoes when used as a fungicide for the treatment of seeds of these crops in accordance with good agricultural practices.

This petition requests that the current exemption from tolerances be revised to include all raw agricultural commodities which have been sprayed or otherwise treated with *Trichoderma harzianum* Rifai strain KRL-AG2. The pesticide is to be applied as seed treatment, for pot filling, as a dip for cuttings and transplants, as an in-furrow spray, and as a sprayable formulation. Rates of application vary from 4 to 8 ounces per hundredweight of seed; and up to 10 pounds per acre (in furrow) for row crops at planting. Field and greenhouse crops may be sprayed at rates of 1 pound per acre and up to 5 applications per year.

A record has been established for this notice of filing under docket number [PP 6F4650/PF646] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Electronic comments can be sent directly to EPA at:
opp-Docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this notice of filing, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

List of Subjects

Environmental Protection, Agricultural commodities, Pesticides and Pests, Reporting and recordkeeping requirements.

Dated: March 19, 1996.

Janet L. Anderson

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 96–7743 Filed 3–28–96; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections being Reviewed by the Federal Communications Commission; Comments Requested

March 25, 1996.

SUMMARY: The Federal Communications, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commissions burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before May 28, 1996. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESS: Direct all comments to Dorothy Conway, Federal Communications, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to dconway@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0003.

Title: Application for Amateur Operator/Primary Station License.

Form No.: FCC 610.

Type of Review: Extension of a currently approved collection.

Resopondents: Individuals or households.

Number of Respondents: 93,000.

Estimated Time Per Response: 10 minutes.

Total Annual Burden: 15,438 hours.

Needs and Uses: FCC Rules require that applicants file the FCC 610 to apply for a new,renewed or modified license. The form is required by the Communications Act of 1934, as amended; International Treaties and FCC Rules - 47 CFR 97.17, 97.19, 97.511, and 97.519.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–7810 Filed 3–28–96; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair con petition, conflicts of interests, or unsound banking practices" (12 U.S.C. 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 22, 1996.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Pennwood Bancorp, Inc., Pittsburgh, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of Pennwood Savings Bank, Pittsburgh, Pennsylvania.

B. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. The Colonial BancGroup, Inc., Montgomery, Alabama; to merge with Commercial Bancorp of Georgia, Inc., Lawrenceville, Georgia, and thereby indirectly acquire Commercial Bank of Georgia, Lawrenceville, Georgia.

C. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Marlin Holdings, Ltd., Marlin, Texas; to become a bank holding company by retaining 67.93 percent of the voting shares of Central Financial Bancorp, Inc., Lorena, Texas; and thereby indirectly retain shares of Central Delaware Financial Bancorp, Dover, Delaware; Lorena State Bank, Lorena, Texas; and Bank of Troy, Troy, Texas.

D. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Central Coast Bancorp, Salinas, California; to acquire 100 percent of the voting shares of Cypress Coast Bank, Seaside, California.

Board of Governors of the Federal Reserve System, March 25, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–7660 Filed 3–28–96; 8:45 am]

BILLING CODE 6210–01–F

Sunshine Meeting

TIME AND DATE: 10:00 a.m., Wednesday, April 3, 1996.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: March 27, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–7826 Filed 3–27–96; 11:18 am]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

Placement of Commercial Antennas on Federal Property

AGENCY: General Services Administration.

ACTION: Notice.

SUMMARY: On August 10, 1995, President Clinton signed an Executive Memorandum directing the heads of all departments and agencies to facilitate access to Federal property for the purpose of siting mobile services antennas. The General Services Administration, in coordination with other Government departments and agencies as well as wireless telecommunications industry representatives, has developed the following procedures in Attachment A. The President's memorandum and these procedures implement the requirements of section 704(c) of the Telecommunications Act of 1996, P.L. 104–104.

FOR FURTHER INFORMATION CONTACT: James Herbert, Office of Property Acquisition and Realty Services, Public Buildings Service, General Services Administration, 18th & F Streets, NW., Washington, DC 20405, telephone 202–501–0376.

Dated: March 25, 1996.

David J. Barram,

Acting Administrator of General Services.

Attachment A—Government-Wide Procedures for Placing Commercial Antennas on Federal Properties

In accordance with section 704(c) of the Telecommunications Act of 1996, Public Law 104–104, and President Clinton's August 10, 1995, memorandum entitled "Facilitating Access to Federal Property for the Siting of Mobile Services Antennas" the following procedures shall be followed by Executive departments and agencies:

Guiding Principles

1. Requests for the use of property, rights-of-way, and easements by duly authorized providers should be granted absent unavoidable direct conflict with the department's or agency's mission, or the current or planned use of the property, rights-of-way, and easements in question.

2. Upon request, and to the extent permitted by law and where practicable, executive departments and agencies shall make available Federal Government buildings and lands for the siting of mobile services antennas. This should be done in accordance with Federal, State and local laws and regulations, and consistent with national security concerns (including minimizing mutual electromagnetic interactions), public health and safety concerns, environmental and aesthetic concerns, preservation of historic buildings and monuments, protection of natural and cultural resources, protection of national park and wilderness values, protection of National Wildlife Refuge systems, and subject to any Federal requirements promulgated by the agency managing the facility and the Federal Communications Commission, the Federal Aviation Administration, National Telecommunications and Information Administration, and other relevant departments and agencies.

3. Antennas on Federal buildings or land may not contain any advertising.

4. Federal property does not include lands held by the United States in trust for individual or Native American tribal governments.

5. Agencies shall retain discretion to reject inappropriate siting requests, and assure adequate protection of public property and timely removal of equipment and structures at the end of service.

6. All procedures and mechanisms adopted regarding access to Federal property shall be clear and simple so as to facilitate the efficient and rapid build out of the national wireless communications infrastructure.

7. Unless otherwise prohibited by or inconsistent with Federal law, agencies shall charge fees based on market value for siting antennas on Federal property and may use competitive procedures if not all applicants can be accommodated.

8. The siting of mobile services antennas should not be given priority over other authorized uses of Federal buildings or land.

9. All independent regulatory commissions and agencies are requested to comply with these procedures.

Implementing Actions

1. Each Executive department and agency which operates and controls real property under specific statutory authority is responsible individually for determining the programmatic impact of placing commercially owned antennas on their properties.

2. Each department and agency should review their rules, policies, and procedures for allowing commercial use of their properties and modify them as necessary to assure they fully support the siting of commercial antennas as provided in these procedures.

3. Each department and agency should assure that appropriate officials within local, regional, and national offices who are responsible for the siting of commercial mobile services antennas are aware of and support the President's directives on facilitating access to Federal property.

4. Preliminary decisions on the acceptability of proposed sitings should be rendered as soon as possible but no later than 60 days after receipt of a request. Denials of requests should provide the applicant with an explanation of the reasons for denial. Preliminary approvals should cite all conditions which must be met to render final approval. Final decisions should be rendered in a timely manner consistent with the degree of complexity of the case.

5. Firms and individuals interested in placing commercial mobile services antennas on Federal properties should contact the department or agency which has custody and control of the property. (Generally, Federal buildings and courthouses are controlled by the General Services Administration; military posts and bases, by the Department of Defense; Veterans' hospitals and clinics, by the Department of Veteran's Affairs; and, National Parks, by the Department of Interior.)

Below is a comprehensive listing of the offices in the headquarters of each property holding department and agency. Individuals and firms interested in placing antennas on specific Federally-owned properties should contact the appropriate office in writing indicating their interests, identify the property, and providing specific information on their proposal. These offices will advise applicants on specific application procedures/criteria, as well as appeals processes and refer them to local site managers to make determinations on suitability and other arrangements for leases, licenses, permits or other legal instruments for the siting of commercial antennas.

In the instances where the identity of the department or agency which has custody and control of a property is unknown, individuals and firms may contact the General Services Administration's Office of Real Property. This office maintains a listing of all properties owned by the Federal Government world-wide and will refer inquirers to the appropriate department or agency. Contact can be made by writing the Office of Real Property (MP), Room 1300, General Services Administration, 18th & F Streets, NW., Washington, DC 20405 or by telephone at (202) 501–0176. To assist in identifying the appropriate department or agency inquirers should provide the state, city/county, building/property name and mailing address of the property in question.

Agency Point of Contact for the Placement of Antennas on Federal Buildings

Federal Communications Commission, Operations Management and Services Division—1110B, Room 404, 1919 M Street, NW., Washington, DC 20554, (202) 418–1950

National Aeronautics & Space Administration, Facilities Engineering Division, NASA Headquarters, Code JX, 300 E Street, SW., Washington, DC 20546–0001, (202) 358–1090

National Archives & Records Administration, Management Services Division, Room 2320, 8601 Adelphi Road, College Park, MD 20740–6001, (301) 713–6470
National Science Foundation, Property Administrator, Room 295, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306–1123
Tennessee Valley Authority, Facilities Services—Asset Management, 1101 Market Street, Chattanooga, TN 37402–2801, (423) 751–2127
U.S. Army Corps of Engineers, Management and Disposal Division in the Real Estate Directorate, Room 4224, 20 Massachusetts Avenue, NW., Washington, DC 20314–1000, (202) 761–0511
U.S. Department of Agriculture, Property Management Division, Ag Box 9840, Washington, DC 20250, (202) 720–5225
U.S. Department of Commerce, Real Estate and Management Support Division, Room 1323, 14th and Constitution Avenue, NW., Washington, DC 20230, (202) 482–3580
U.S. Department of Defense, (Commercial companies who wish to place antennas on DOD property should first contact that property's Installation Commander. If unknown, please contact the following office.) Deputy Assistant Secretary of Defense (Installations), Attention: Director, Installations Management, 3300 Defense Pentagon, Washington, DC 20301–3340, (703) 604–4616
U.S. Department of Education, Office of the Assistant Secretary for Management, Room 216, 600 Independence Ave., SW., Washington, DC 20202
U.S. Department of Energy, Office of Field Management—FM20, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–1191
U.S. Department of Health and Human Services, Division of Special Programs Coordination, Room 4700, 300 Independence Avenue, SW., Washington, DC 20201, (202) 619–0426
U.S. Department of Interior, Bureau of Land Management, Room 1000–L.S., 1849 C Street, NW., Washington, DC 20240–9998, (202) 452–7777
U.S. Department of Interior, National Park Service, Radio Frequency Manager, Denver Service Center, 12795 W. Alameda Parkway, P.O. Box 25287, Denver, CO 80225–0287, (303) 969–2084
U.S. Department of Justice, Justice Buildings Services, Suite 1060, 1331 Pennsylvania Avenue, NW., National Place Building, Washington, DC 20004, (202) 514–2318
U.S. Department of Labor, Office of Facility Management, Room S 1521/OFM, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 219–5434
U.S. Department of State, Office of Real Property, Room 1878, 2201 C Street, NW., Washington, DC 20520, (202) 647–2810
U.S. Department of Transportation, Office of the Secretary, Headquarters Space Management Staff, 400 7th Street, SW., Washington, DC 20590, (202) 366–2472
U.S. Department of Treasury, Office of Real and Personal Property Management, Office of the Deputy Assistant Secretary for Departmental Financial and Management, Room 6140—ANX, 1500 Pennsylvania Avenue, NW., Washington, DC 20220, (202) 622–0910
U.S. Department of Veterans Affairs, Land Management Service—084C, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 565–5026
U.S. Environmental Protection Agency, Architecture, Engineering and Real Estate Branch, Facilities Management and Services Division (3204), 401 M Street, SW., Washington, DC 20460, (202) 260–2160
U.S. General Services Administration, Office of Property Acquisition and Realty Services—PE, Room 2340, 18th & F Streets, NW., Washington, DC 20405, (202) 501–1025
U.S. Government Printing Office, Office of Administrative Support, Stop OA, Washington, DC 20401–0501, (202) 512–1650
U.S. Information Agency, The Office of Administration—(B/A), Cohen Building, 330 Independence Avenue, SW., Washington, DC 20547, (202) 619–3988
U.S. Postal Service, Realty Asset Management, 475 L'Enfant Plaza West, SW., Washington, DC 20260–6433 (202) 268–5765

[FR Doc. 96–7666 Filed 3–28–96; 8:45 am]
BILLING CODE 6820–23–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Dietary Supplement Labels Commission; Meetings

AGENCY: Office of Disease Prevention and Health Promotion, HHS.

ACTION: Commission on Dietary Supplement Labels: Notice of Meeting #3; Opportunity to Provide Comments.

SUMMARY: The Department of Health and Human Services (HHS) is (a) providing notice of the second meeting of the Commission on Dietary Supplement Labels, and (b) soliciting oral and written comments.

DATES: (1) The Commission will meet April 26, 1996, from 8:30 a.m. to 4:30 p.m. Pacific Standard Time at the Holiday Inn Fisherman's Wharf, 1300 Columbus Avenue, San Francisco, California 94133; (2) Written comments on the scope and intent of the Commission's objectives may be submitted up to 5:00 p.m. E.S.T. on June 30, 1996.

FOR FURTHER INFORMATION CONTACT: Kenneth D. Fisher, Ph.D., Executive Director, Commission on Dietary Supplement Labels, Office of Disease Prevention and Health Promotion, Room 738G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, D.C. 20201, (202) 205–5988.

SUPPLEMENTARY INFORMATION:

Commission's Task

Public Law 103–417, Section 12, authorized the establishment of a Commission on Dietary Supplement Labels whose seven members have been appointed by the President. The appointments to the Commission by the President and the establishment of the Commission by the Secretary of Health and Human Services reflect the commitment of the President and the Secretary to the development of a sound and consistent regulatory policy on labeling of dietary supplements.

The Commission is charged with conducting a study and providing recommendations for regulation of label claims and statements for dietary supplements, including the use of supplemental literature in connection with their sale and, in addition, procedures for evaluation of label claims. The Commission is expected to evaluate how best to provide truthful, scientifically valid, and non-misleading information to consumers in order that they may make informed health care choices for themselves and their families. The Commission's study report may include recommendations on legislation, if appropriate and necessary.

Announcement of Meeting

The Commission's second meeting will be March 8, 1996, 8:30 a.m. to 4:30 p.m. Central Time. The meeting will be held at the Radisson Hotel Salt Lake City Airport Coventary Room (Utah). The agenda will include (a) oral comments from interested parties and the general public, (b) identification of additional information needs, and (c) discussion of dietary supplement label information.

Public Participation at Meeting

The meeting is open to the public. However, space is limited. Both oral and written comments from the public will be accepted, but oral comments at the meeting will be limited to a maximum of five minutes per presenter; thus, organizations and persons that wish to make their views known to the Commission should use the time for oral presentation to summarize their written comments. Members of the Commission may wish to question the presenters following each oral presentation. Please request the opportunity to present oral comments in writing and provide nine (9) copies of the written comments from which the oral presentation is abstracted to the address above by March 4, 1996. If you will require a sign language interpreter, please call Sandra Saunders (202) 260–0375 by 4:30 E.S.T. on March 4, 1996.

Written Comments

By this notice, the Commission is soliciting submission of written comments, views, information and data pertinent to Commission's task. Comments should be sent to Kenneth D. Fisher, Executive Director of the Commission at the Office of Disease Prevention and Health Promotion, Room 738G, Hubert Humphrey Building, 200 Independence Ave., SW., Washington D.C. 20201, by 5:00 p.m. E.S.T. on June 30, 1996.

Dated: March 26, 1996.

Claude Earl Fox,

Deputy Assistant Secretary for Health (Disease Prevention and Health Promotion), Department of Health and Human Services.

[FR Doc. 96–7639 Filed 3–28–96; 8:45 am]
BILLING CODE 4160–17–M

Centers for Disease Control and Prevention

Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Savannah River Site Health Effects Subcommittee and Savannah River Site Environmental Dose Reconstruction Project—Phase II Public Workshop: Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) and the Centers for Disease Control and Prevention (CDC), announce the following meetings.

Name: Citizens Advisory Committee on Public Health Service Activities and Research at DOE Sites: Savannah River Site Health Effects Subcommittee (SRS).

Times and Dates: 9 a.m.–5 p.m., April 15, 1996; 9 a.m.–12 noon, April 16, 1996.

Place: Holiday Inn Oceanfront, One South Forest Beach Drive, Hilton Head Island, South Carolina 29928, telephone 803/842–4402, fax 803/842–3323.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Background: Under a Memorandum of Understanding (MOU) signed in December 1990 with DOE, the Department of Health and Human Services (HHS) has been given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other person potentially exposed to radiation or to potential hazards from non-nuclear energy production use. HHS delegated program responsibility to CDC.

In addition, an MOU was signed in October 1990 and renewed in November 1992 between ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or "Superfund"). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

Purpose: This subcommittee is charged with providing advice and recommendations to the Director, CDC, and the Administrator, ATSDR, regarding community, American Indian Tribes, and labor concerns pertaining to CDC's and ATSDR's public health activities and research at respective DOE sites. Activities shall focus on providing a forum for community, American Indian, and labor interaction and serve as a vehicle for community concern to be expressed as advice and recommendations to CDC and ATSDR.

Matters To Be Discussed: Agenda items include: presentations from the National Center for Environmental Health (NCEH), the National Institute for Occupational Safety and Health, and the Agency for Toxic Substances and Disease Registry on the progress of current studies; an update on the workgroup selection criteria process; an update from the Radiological Assessments Corporation, and public involvement activities.

Agenda items are subject to change as priorities dictate.

Name: Savannah River Site Environmental Dose Reconstruction Project—Phase II: Public Workshop.

Time and Date: 7 p.m.–9 p.m, April 15, 1996.

Place: Holiday Inn Oceanfront, One South Forest Beach Drive, Hilton Head Island, South Carolina 29928, telephone 803/842–4402, fax 803/842–3323.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Purpose: The Savannah River Site (SRS) Dose Reconstruction Project supports research which evaluates past releases of radioactive materials and chemicals from the SRS to the surrounding environment. The Project has already undergone a first phase. Phase I involved searching the site to identify and retrieve important documents to be used for dose reconstruction. Phase II will use this information to calculate chemical and radiological source terms and identify possible intake pathways (eating, drinking, and inhalation) for people who have lived in the SRS area. This workshop will focus on the information being collected to support the reconstruction of SRS-related historical doses to members of the public. Individuals with information of possible value to the study are encouraged to attend.

Agenda items are subject to change as priorities dictate.

Contact Persons for More Information: Paul G. Renard or Nadine Dickerson, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 4770 Buford Highway, NE, (F–35), Atlanta, Georgia 30341–3724, telephone 770/488–7040, FAX 770/488–7044.

Dated: March 23, 1996.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 96–7819 Filed 3–28–96; 8:45 am]
BILLING CODE 4163–18–M

Food and Drug Administration

[Docket No. 91F–0002]

Milliken & Co.; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of a food additive petition (FAP 1B4241), filed by Milliken & Co. proposing that the food additive regulations be amended to provide for the safe expanded use of dibenzylidene sorbitol (DBS) as a clarifying agent for olefin polymers intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Ellen M. Waldron, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–606–0202.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of February 4, 1991 (56 FR 4295), FDA announced that a food additive petition (FAP 1B4241) had been filed on behalf of Milliken & Co., P.O. Box 1927 M–400, Spartanburg, SC 29304 (currently c/o Keller and Heckman, 1001 G St. NW., suite 500 West, Washington, DC 20001). The petition proposed to amend the food additive regulations in § 178.3295 *Clarifying agents for polymers* (21 CFR 178.3295) to provide for the safe expanded use of DBS as a clarifying agent for olefin polymers intended for use in contact with food. Milliken & Co. has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: March 18, 1996.

George H. Pauli,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 96–7677 Filed 3–28–96; 8:45 am]

BILLING CODE 4160–01–F

National Institutes of Health

National Cancer Institute; Notice of Meeting

Notice is hereby given of the meeting of the National Cancer Institute Board of Scientific Advisors Prevention Program Working Group, April 17, 1996 at The Bethesda Ramada, 8400 Wisconsin Avenue, Bethesda, Maryland.

This meeting will be open to the public on April 17, from 8 a.m. to 3:30 p.m. for overview and discussion of the Institute's Prevention Program.

The meeting will be closed to the public on April 17, from 3:45 p.m. to adjournment for discussion of confidential issues relating to the review, discussion and evaluation of individual programs and projects conducted by the Clinical Trials Extramural Program. These discussions will reveal confidential trade secrets or commercial property such as patentable material, and personal information including consideration of personnel qualifications and performance, the competence of individual investigators and similar matters, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Information pertaining to the meeting may be obtained from Dr. Jack Gruber, Executive Secretary, National Cancer Institute Prevention Program Working Group, National Cancer Institute, 6130 Executive Blvd., EPN, Rm. 540, Bethesda, MD 20892, (301–496–9740). Individuals who plan to attend and need special assistance such as sign language interpretation or other reasonable accommodations should contact Dr. Jack Gruber in advance of the meeting.

Dated: March 25, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–7725 Filed 3–28–96; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting of the National Cancer Institute Initial Review Group:

Agenda/Purpose: To review and evaluate grant applications.

Committee Name: NCI Initial Review Group, Subcommittee D (Clinical Studies).

Date: April 12, 1996.

Time: 8:00 a.m.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: John W. Abrell, Ph.D., 6130 Executive Blvd., Room 635B, Bethesda, Md 20892. Telephone: 301–496–9767.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control.)

Dated: March 25, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–7726 Filed 3–28–96; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Heart, Lung, and Blood Special Emphasis Panel (SEP) meetings:

Name of SEP: Refinement of New Assays for Direct Detection of Viral Nucleic Acids in Donated Blood.

Date: April 11, 1996.

Time: 7:30 p.m.

Place: Ramada Inn, 1775 Rockville Pike, Rockville, Maryland.

Contact Person: Ivan Baines, Ph.D., Two Rockledge Center, Room 7184, 6701 Rockledge Drive, Bethesda, MD 20892–7924, (301) 435–0277.

Purpose/Agenda: To review and evaluate contract proposals.

Name of SEP: Refinement of New Assays for Direct Detection of Viral Nucleic Acids in Donated Organs.

Date: April 12, 1996.

Time: 8:00 a.m.

Place: Ramada Inn, 1775 Rockville Pike, Rockville, Maryland.

Contact Person: Ivan Baines, Ph.D., Two Rockledge Center, Room 7184, 6701 Rockledge Drive, Bethesda, MD 20892–7924, (301) 435–0277.

Purpose/Agenda: To review and evaluate contract proposals.

These meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to the above meetings due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health.)

Dated: March 25, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–7723 Filed 3–28–96; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Heart, Lung, and Blood Special Emphasis Panel (SEP) meetings:

Name of SEP: Strong Heart Study Renewal Application.

Date: April 18, 1996.

Time: 1:00 p.m.

Place: Residence Inn by Marriott, Bethesda, Maryland.

Contact Person: David M. Monsees, Ph.D., Rockledge II, Room 7178, 6701 Rockledge Drive, Bethesda, Maryland 20892–7924, (301) 435–0270.

Purpose/Agenda: To review and evaluate grant applications.

Name of SEP: Pathways—Full Scale Study.

Date: April 18, 1996.

Time: 3:00 p.m.

Place: Residence Inn by Marriott, Bethesda, Maryland.

Contact Person: David M. Monsees, Ph.D., Rockledge II, Room 7178, 6701 Rockledge Drive, Bethesda, Maryland 20892–7924, (301) 435–0270.

Purpose/Agenda: To review and evaluate grant applications.

These meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health.)

Dated March 25, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–7728 Filed 3–28–96; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the following Heart, Lung, and Blood Special Emphasis Panel.

This meeting will be open to the public to provide concept review of proposed contract or grant solicitations.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should inform the Contact Person listed below in advance of the meeting.

Name of Panel: Substitute Heart Valve Working Group.

Dates of Meeting: April 30–May 1, 1996.

Time of Meeting: 8 p.m.

Place of Meeting: Washington Hilton Hotel, 1900 Connecticut Avenue NW., Washington, DC.

Agenda: To discuss topics in bioengineering, biomaterials, fabrication, cardiology, cardiac surgery, hematology, pathology and tissue engineering related to substitute heart valves and develop recommendations for future NHLBI-supported research.

Contact Person: Paul Didisheim, M.D., NIH/NHLBI/DHVD, Rockledge II Building, Rm. 9180, 6701 Rockledge Drive, Bethesda, Maryland 20892–7940, (301) 435–0513.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.836, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health.)

Dated: March 25, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–7729 Filed 3–28–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Environmental Health Sciences; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Environmental Health Sciences (NIEHS) Special Emphasis Panel on Chromosome-Specific Probes for Non-Human Mammals (SBIR Phase I Topic 47) and Automated Scoring of Sperm with FISH Biomarkers (Topic 48), April 10, 1996, 1:00 p.m., NIEHS North Campus, Building 17, Conference Room 1713, Research Triangle Park, NC, which was published in the **Federal Register** on March 18, 1996 (61 FR 11085).

The meeting is changed to a telephone conference call on the same date, time, and place. As previously advertised, the meeting is closed to the public.

Dated: March 25, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–7721 Filed 3–28–96; 8:45 am]

BILLING CODE 4141–01–M

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting of the National Institute of Mental Health Special Emphasis Panel:

Agenda/Purpose: To review and evaluate grant applications.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: April 10, 1996.

Time: 2 p.m.

Place: Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Sheri L. Schwartzback, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857. Telephone: (301) 443–4843.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: March 25, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–7722 Filed 3–28–96; 8:45 am]

BILLING CODE 4140–01–M

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 United States Code Appendix 2), notice is hereby given of the following meeting:

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel.

Date: April 22, 1996.

Time: 10:00 a.m. to 2:00 p.m.

Place: Executive Plaza South, Room 400C, Bethesda, MD, (telephone conference call).

Contact Person: Marilyn Semmes, Ph.D., Acting Chief, Scientific Review Administrator, NIDCD/DEA/SRB, EPS Room 400C, 6120 Executive Boulevard, MSC 7180, Bethesda, MD 20892–7180, 301–496–8683.

Purpose/Agenda: To review and evaluate contract proposals. The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title, 5, United States Code. The applications and/or proposals and the discussion could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which could constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related to Deafness and Communication Disorders)

Dated: March 25, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–7722 Filed 3–28–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Meeting of the Board of Scientific Counselors

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK), May 1–3, 1996, National Institutes of

Health, Building 5, Room 127, Bethesda, Maryland 20892.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S.C and section 10(d) of Public Law 92–463, the meeting will be closed to the public for the review, discussion and evaluation of individual intramural programs and projects conducted by the NIDDK, including consideration of personnel qualifications and performance, the competence of individual investigations, and similar items, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

A summary of the meeting and roster of members will be provided, upon request, by the Committee Management Office, National Institute of Diabetes and Digestive and Kidney Diseases, Building 31, Room 9A07, Bethesda, Maryland 20892.

For any further information, and for individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, please contact Dr. Allen Spiegel, Scientific Review Administrator, Board of Scientific Counselors, National Institutes of Health, Building 10, Room 9N–222, Bethesda, Maryland 20892, (301) 496–4128, prior to the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.847–849, Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health.)

Dated: March 25, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–7730 Filed 3–28–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Neurological Disorders and Stroke; Notice of Meeting, Board of Scientific Counselors

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Neurological Disorders and Stroke, Division of Intramural Research on May 19–21, 1996, at the National Institutes of Health, Building 36, Rm. 1B07–13, 36 Convent Drive, Bethesda, Maryland, 20892.

This meeting will be open to the public from 8:30 a.m. to 12:30 p.m. and from 1:30 p.m. to 5:00 p.m. on May 20th, and from 8:15 a.m. to 12:30 p.m. on May 21st, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public from 8:00 p.m. to 10:00 p.m. on May 19th, and from 1:30 p.m. until adjournment on May 21st, for the review, discussion and evaluation of individual programs and projects conducted by the NINDS. The programs and discussions include consideration of personnel qualifications and performances, the competence of individual investigators and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Freedom of Information Coordinator, Ms. Mary Whitehead, Federal Building, Room 1012, 7550 Wisconsin Avenue, Bethesda, MD 20892, telephone (301) 496–9231 or the Executive Secretary, Dr. Story Landis, Director, Division of Intramural Research, NINDS, Building 36, Room 5A05, National Institutes of Health, Bethesda, MD 20892, telephone (301) 435–2232, will furnish a summary of the meeting and a roster of committee members upon request. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Secretary in advance of the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.853, Clinical Basis Research; No. 13.854, Biological Basis Research)

Dated: March 25, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–7732 Filed 3–28–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Diabetes and Digestive and Kidney Diseases; Meeting of the National Diabetes and Digestive and Kidney Diseases Advisory Council and its Subcommittees

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the National Diabetes and Digestive and Kidney Diseases Advisory Council and its subcommittees, National Institute of Diabetes and Digestive and Kidney Diseases, on May 29–30, 1996. The meeting of the full Council will be open to the public on May 29, from 8:30 a.m. to 12 p.m. in Conference Room 6, Building 31C, National Institutes of Health, Bethesda, Maryland, to discuss administrative issues relating to Council business and special reports. The following subcommittee meetings will be open to the public May 29 from 1 p.m. to 2 p.m.: Diabetes, Endocrine and Metabolic Diseases Subcommittee meeting will be held in Conference Room 6, Building 31C; Digestive Diseases and Nutrition Subcommittee meeting will be held in Conference Room 7, Building 31C; and Kidney, Urologic and Hematologic Diseases Subcommittee meeting will be held in Conference Room 8, Building 31C. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Public Law 92–463, the meetings of the subcommittees and full Council will be closed to the public for the review, discussion and evaluation of individual grant applications. The following subcommittees will be closed to the public on May 29, from 2 p.m. to 5 p.m.: Diabetes, Endocrine and Metabolic Diseases Subcommittee; Digestive Diseases and Nutrition Subcommittee; and Kidney, Urologic and Hematologic Diseases Subcommittee. The full Council will meet in closed session on May 30 from 8:30 a.m. to 10 a.m. in Conference Room 6, Building 31C. These deliberations, whether held in a subcommittee or in the full council, could reveal confidential trade secrets or commercial property, such as patentable materials, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

A final open session of the full Council will be held from 10 a.m. to 12 p.m. to hear reports from the Division Directors.

For any further information, and for individuals who plan to attend and need special assistance such as sign language interpretation or other reasonable accommodations, please contact Dr. Walter Stolz, Executive Secretary, National Diabetes and Digestive and Kidney Diseases Advisory Council, NIDDK, Natcher Building, Room 6AS–25C, Bethesda, Maryland 20892, (301) 594–8834, in advance of the meeting.

In addition, upon request, a summary of the meeting and roster of the members may be obtained from the Committee Management Office, NIDDK, Building 31, Room 9A07, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–6623.

(Catalog of Federal Domestic Assistance Program No. 93.847–849, Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health.)

Dated: March 25, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–7733 Filed 3–28–96; 8:45 am]

BILLING CODE 4140–01–M

National Library of Medicine; Notice of Meetings of the Board of Regents and the Extramural Programs Subcommittee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Regents of the National Library of Medicine on May 21–22, 1996, in the Board Room of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland. The Extramural Programs Subcommittee will meet on May 20 in Conference Room B, Building 38A, from 2 p.m. to approximately 3:30 p.m., and will be closed to the public.

The meeting of the Board will be open to the public from 9 a.m. to approximately 4:30 p.m. on May 21 and from 9 a.m. to adjournment on May 22 for administrative reports and program discussions. Attendance by the public will be limited to space available. Individuals who plan to attend and need special assistance, such as sign-language interpretation or other reasonable accommodations, should contact Mrs. Kimberly Caraballo at 301–496–4621 two weeks before the meeting.

In accordance with provisions set forth in sections 552b(c)(4), 552b(c)(6), Title 5, U.S.C. and section 10(d) of Public Law 92–463, the entire meeting of the Extramural Programs Subcommittee on May 20 will be closed to the public from 2 p.m. to approximately 3:30 p.m., and the regular Board meeting on May 21 will be closed from approximately 4:30 p.m. to 5 p.m. for the review, discussion, and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert B. Mehnert, Chief, Office of Inquiries and Publications Management, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, Telephone Number: 301–496–6308, will furnish a summary of the meeting, rosters of Board members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.879—Medical Library Assistance, National Institutes of Health.)

Dated: March 25, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–7731 Filed 3–28–96; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Clinical Sciences.
Date: April 11, 1996.
Time: 1:00 p.m.
Place: NIH, Rockledge 2, Room 4216, Telephone Conference.
Contact Person: Dr. Harold Davidson, Scientific Review Administrator, 6701 Rockledge Drive, Room 4216, Bethesda, Maryland 20892, (301) 435–1776.

Name of SEP: Biological and Physiological Sciences.
Date: April 12, 1996.
Time: 2:00 p.m.
Place: NIH, Rockledge 2, Room 6168, Telephone Conference.
Contact Person: Dr. Syed Amir, Scientific Review Administrator, 6701 Rockledge Drive, Room 6168, Bethesda, Maryland 20892, (301) 435–1043.

Name of SEP: Microbiological and Immunological Sciences.
Date: April 12, 1996.
Time: 1:00 p.m.
Place: NIH, Rockledge 2, Room 4210, Telephone Conference.
Contact Person: Dr. Bruce A. Maurer, Scientific Review Administrator, 6701 Rockledge Drive, Room 4210, Bethesda, Maryland 20892, (301) 435–1225.

Name of SEP: Microbiological and Immunological Sciences.
Date: April 12, 1996.
Time: 3:00 p.m.
Place: NIH, Rockledge 2, Room 4210, Telephone Conference.
Contact Person: Dr. Bruce A. Maurer, Scientific Review Administrator, 6701 Rockledge Drive, Room 4210, Bethesda, Maryland 20892, (301) 435–1225.

This notice is being published less than 15 days prior to the above meetings due to the urgent need to meet timing limitations imposed by the grant review and funding cycle.

Name of SEP: Microbiological and Immunological Sciences.
Date: April 16, 1996.
Time: 1:00 p.m.
Place: NIH, Rockledge 2, Room 4194, Telephone Conference.
Contact Person: Dr. Sami Mayyasi, Scientific Review Administrator, 6701 Rockledge Drive, Room 4194, Bethesda, Maryland 20892, (301) 435–1216.

Name of SEP: Biological and Physiological Sciences.
Date: April 23, 1996.
Time: 1:00 p.m.
Place: NIH, Rockledge 2, Room 4148, Telephone Conference.
Contact Person: Dr. Philip Perkins, Scientific Review Administrator, 6701 Rockledge Drive, Room 4148, Bethesda, Maryland 20892, (301) 435–1718.

Name of SEP: Chemistry and Related Sciences.
Date: April 24, 1996.
Time: 8:30 a.m.
Place: Ramada Inn, Bethesda, MD.
Contact Person: Dr. Asher Hyatt, Scientific Review Administrator, 6701 Rockledge Drive, Room 4160, Bethesda, Maryland 20892, (301) 435–1724.

Name of SEP: Clinical Sciences.
Date: April 25, 1996.
Time: 2:00 p.m.
Place: NIH, Rockledge 2, Room 4106, Telephone Conference.
Contact Person: Ms. Josephine Pelham, Scientific Review Administrator, 6701 Rockledge Drive, Room 4106, Bethesda, Maryland 20892, (301) 435–1786.

Name of SEP: Clinical Sciences.
Date: April 30, 1996.
Time: 10:00 a.m.
Place: NIH, Rockledge 2, Room 4138, Telephone Conference.
Contact Person: Dr. Anthony Chung, Scientific Review Administrator, 6701 Rockledge Drive, Room 4138, Bethesda, Maryland 20892, (301) 435–1213.

Purpose/Agenda: To review Small Business Innovation Research.

Name of SEP: Behavioral and Neurosciences.
Date: April 20, 1996.
Time: 8:30 a.m.
Place: Embassy Suites, Ft. Lauderdale, FL.
Contact Person: Dr. Samuel C. Rawlings, Scientific Review Administrator, 6701 Rockledge Drive, Room 5160, Bethesda, Maryland 20892, (301) 435–1243.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 25, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–7724 Filed 3–28–96; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. FR–3774–N–05]

Announcement of Funding Awards for the Comprehensive Improvement Assistance Program, FY 1995

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the Notice of Funding Availability (NOFA) for the Comprehensive Improvement Assistance Program (CIAP) for Fiscal Year 1995. The announcement contains the names and addresses of the competition awardees and the amount of the awards.

FOR FURTHER INFORMATION CONTACT: William Flood, Director, Office of Capital Improvements, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4134, Washington, DC 20410, telephone (202) 708–1640. [This is not a toll-free number].

IHAs may contact Dom Nessi, Director, Office of Native American Programs, Department of Housing and Urban Development, 451 Seventh Street, SW., Room B–133, Washington, DC 20410, telephone (202) 755–0032. [This is not a toll-free number]. Hearing or speech impaired persons may use the Telecommunications Devices for the Deaf (TDD) by contacting the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Comprehensive Improvement Assistance Program is authorized by sec. 14, United States Housing Act of 1937 (42 U.S.C. 14371); sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

The objective of the Comprehensive Improvement Assistance Program (CIAP) is to provide funds to improve the physical condition and upgrade the management and operation of existing Public and Indian Housing projects to assure that they continue to be available to serve low-income families.

On January 20, 1995 (60 FR 4352), the Department published a NOFA in the **Federal Register** informing Public Housing Agencies and Indian Housing Authorities that own or operate fewer than 250 units of the availability of FY 1995 CIAP funding. The FY 1995 awards announced in this Notice were selected for funding consistent with the provisions of the NOFA.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, the Department is hereby publishing, in this notice, the names and addresses of the PHAs and IHAs that received funding awards under the FY 1995 CIAP NOFA, and the amount of the awards. This information is set forth in Appendix A to this notice.

Dated: March 25, 1996.

Michael B. Janis,

General Deputy Assistant, Secretary for Public and Indian Housing.

APPENDIX A.—STATE OFFICES COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM AWARDEES FISCAL YEAR 1995

Alabama State Office

Abbeville	$355,450
Altoona	521,470
Ashford	899,900
Ashland	61,450
Berry	420,374
Bridgeport	42,000
Childersburg	850,625
Clanton	457,295
Columbiana	550,000
Dadeville	490,885
Demopolis	400,000
Fayette	1,239,036
Guin	504,375
Leeds	1,028,950
Livingston	284,600
Millport	491,233
Piedmont	716,373
Ragland	588,922
Samson	403,061
Stevenson	292,408
Sulligent	1,019,657
Tuscumbia	165,000
Uniontown	732,961
Vernon	120,450
Vincent	345,700
Total	12,982,175

Arizona State Office

Glendale	$1,205,774
Peoria	351,666
South Tucson	936,632
Williams	223,100
Yuma City	719,480
Total	3,438,652

Arkansas State Office

Alma	$235,257
Atkins	344,155
Brinkley	78,685
Carthage	132,067
Dover	115,293
Earle	99,303
Gurdon	243,630
Hoxie	108,357
Judsonia	71,597
Leachville	143,427
Little River	550,687
Mena	1,340,716
Morrilton	674,554
Mt Ida	324,636
Ola	536,968
Polk County	1,069,594
Prescott	85,500
Stephens	360,823
Waldron	255,065
Warren	1,277,818
Wilson	131,526
Total	8,179,658

Buffalo Area Office

Dunkirk	$1,110,036
Herkimer	104,354
Hudson	940,600
Jamestown	1,806,450
Malone	438,471
Norwich	421,500
Tupper Lake	856,220
Wilna	188,000
Total	5,865,631

California State Office

Benecia	$990,922
Eureka	1,000,000
Mendocino	455,000
Pleasanton	260,000
Riverbank	99,000
San Mateo County	95,000
Santa Cruz	675,000
South San Francisco	760,000
Total	4,334,922

Cincinnati Area Office

Adams Metropolitan	$223,537
Clermont Metropolitan	269,156
Clinton Metropolitan	27,000
Miami Metropolitan	650,798
Total	1,190,491

Cleveland Area Office

Geauga Metropolitan	$610,625
Harrison Metropolitan	297,888
Sandusky Metropolitan	479,032
Total	1,387,545

APPENDIX A.—STATE OFFICES COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM AWARDEES FISCAL YEAR 1995—Continued

Colorado State Office

Colorado:	
Alamosa	$229,468
Antonito	292,042
Boulder County	163,065
Cheyenne Wells	54,524
Conejos County	36,050
Englewood	197,186
Fort Lupton	328,848
Fountain	301,239
Grand Junction	76,111
Greeley	10,000
Haxtun	36,600
Jefferson County	760,542
Julesburg	10,500
Lakewood	836,325
Littleton	81,770
Sterling	113,485
Walsenburg	482,218
Wray	21,260
Yuma	9,724
Colorado total	4,042,957
Montana:	
Glasgow	$869,178
Richland County	$63,869
Whitefish	227,688
Montana total	1,160,735
North Dakota:	
Cass County	$1,977,540
Mercer County	1,381,891
North Dakota total	3,359,431
South Dakota:	
Meade County	$73,745
Wessington Springs	324,431
South Dakota total	398,176
Wyoming:	
Casper	$2158,912
Evanston	325,808
Lusk	202,020
Wyoming total	686,740
Grand total	9,648,039

Connecticut State Office

Glastonbury	$1,055,000
Nangatuck	230,757
Norwich	195,000
Putnam	350,000
Seymour	226,636
Vernon	174,000
West Hartford	5,000
Winchester	285,575
Total	2,521,968

APPENDIX A.—STATE OFFICES COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM AWARDEES FISCAL YEAR 1995—Continued

District of Columbia Office

Rockville	$458,886

Georgia State Office

Adairsville	$8,000
Adel	20,000
Baxley	1,562,600
Blakely	25,000
Blue Ridge	160,500
Butler	895,000
Canton	1,140,092
Cave Springs	222,300
Chatsworth	131,000
Clayton	450,424
Cornelia	1,004,250
Franklin	21,250
Glennville	421,300
Greensboro	307,430
Hahira	15,000
Homerville	20,000
Jesup	886,950
Lakeland	18,000
Lavonia	388,028
Lawrenceville	782,300
Lee Co.	112,000
Lincolnton	562,725
Loganville	983,597
Louisville	227,900
Manchester	80,000
Metter	90,900
Nashville	263,300
Reynolds	35,000
Ringgold	183,800
Royston	442,750
Senoia	295,975
Statesboro	142,200
Summerville	1,517,663
Tallapoosa	149,300
Thomson	93,500
Unadilla	32,000
Union Point	210,000
Vidalia	453,900
Vienna	35,000
Washington	197,000
Total	14,577,934

Grand Rapids Area Office

Alma	$950,000
Bronson	638,041
Cadilla	472,000
Coldwater	1,448,970
Dowagiac	54,000
Elk Rapid	6,000
Hillsdale	661,309
Iron County	433,562
Mackinac County	150,000
Menominee	819,700
Mount Pleasant	100,000
Paw Paw	478,000
South Haven	1,990,000
Total	8,261,582

APPENDIX A.—STATE OFFICES COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM AWARDEES FISCAL YEAR 1995—Continued

Houston Area Office

Bay City	$265,562
Baytown	1,000,000
Bellville	45,000
Calvert	70,000
Center	31,900
Cleveland	300,000
Corrigan	144,618
El Campo	150,000
Garrison	160,000
Grapeland	415,000
Jasper	150,000
Livingston	140,000
Newton	400,000
Orange County	625,410
San Augustine	90,000
Texas City	276,437
Woodville	115,000
Total	4,578,927

Illinois State Office

Bond	$131,910
Calhoun	196,075
Cass	338,150
Clark	195,500
Clay	861,250
Cumberland	308,125
Edwards	163,500
Grundy	151,250
Hamilton	33,750
Jersey	36,400
JoDaviess	18,750
Lawrence	58,875
Lee	606,250
Mason	1,648,300
Menard	1,395,900
Pekin	330,500
Pope	554,700
Randolph	1,371,000
Scott	477,725
Vermilion	32,100
Wabash	289,755
Wayne	583,000
Total	9,782,765

Indiana State Office

Delaware County	$1,205,609
Greendale	177,347
Kendallville	795,250
Linton	95,065
New Castle	587,532
Peru	258,600
Rome City	30,000
Tell City	188,000
Total	3,337,403

Iowa State Office

Afton	$216,222
Area 15	245,570
Avenport	296,400
Central Iowa	172,218

APPENDIX A.—STATE OFFICES COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM AWARDEES FISCAL YEAR 1995—Continued

Clarinda	300,154
Clinton	112,905
Corning	215,163
Eastern Iowa	152,329
Farragut	91,455
Ft. Dodge	558,364
Hamburg	56,082
Iowa City	133,287
Keokuk	169,962
Lone Tree	113,100
Manning	62,400
Mt Ayr	33,891
Muscatine	70,902
North Iowa	58,890
Red Oak	139,504
Shenandoah	389,454
Sioux Center	144,358
Waverly	78,390
Winterset	56,871
Total	3,867,871

Jacksonville Area Office

Arcadia	$212,000
Avon Park	407,098
Bartow	149,400
Boca Raton	51,576
Brooksville	282,248
Chipley	105,600
Deerfield Beach	50,478
Defuniak Springs	85,000
Deland	851,331
Delray Beach	153,629
Dunedin	354,739
Fernandina Beach	284,000
Fort Walton Beach	237,351
Lee County	218,213
Live Oak	497,163
Macclenny	320,417
Marianna	232,186
Niceville	234,630
Ormond Beach	14,814
Pasco County	181,395
Plant City	262,227
Punta Gorda	468,525
Riviera Beach	111,815
Springfield	137,151
Stuart	165,151
Suwannee County	362,247
Tarpon Springs	330,612
Union County	355,313
Venice	43,483
Winter Haven	833,042
Winter Park	74,143
Total	8,066,977

Kansas/Missouri State Office

Anderson, MO	$127,100
Atchison, KS	700,000
Atwood, KS	30,000
Belleville, KS	85,000
Bethany, MO	237,500
Bird City, KS	86,700
Blue Rapids, KS	65,500
Brookfield, MO	162,700
Burrton, KS	90,000

APPENDIX A.—STATE OFFICES COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM AWARDEES FISCAL YEAR 1995—Coptinued

Cawker City, KS	30,000
Chanute, KS	227,800
Clinton, MO	473,000
Colby, KS	375,000
Columbus, KS	6,261
Excelsior Spgs, MO	800,000
Fort Scott, KS	445,000
Goodland, KS	263,600
Great Bend, KS	400,000
Greenleaf, KS	55,000
Higginsville, MO	460,000
Hill City, KS	40,500
Howard, KS	35,000
Kinsley, KS	51,000
Lanagan, MO	77,300
Lawson, MO	260,000
Lebanon, MO	385,000
Lee's Summit, MO	157,000
Luray, KS	86,800
Marceline, MO	120,850
Marionville, MO	170,000
Marshall, MO	110,000
Maryville, MO	400,000
Medicine Lodge, KS	25,000
Mound City, MO	160,000
Neodesha, KS	220,000
Neosho, MO	400,000
Nevada, MO	450,000
Nicodemus, KS	60,000
Noel, MO	439,430
Norton, KS	98,000
Princeton, MO	130,100
Richmond, MO	260,300
St. Joseph, MO	292,800
Salina, KS	50,000
Seneca, KS	76,600
Slater, MO	95,000
Smithville, MO	60,000
Solomon, KS	60,000
Southwest City, MO	98,900
Stafford, KS	160,000
Tarkio, MO	260,000
Waterville, KS	78,500
Total	10,488,241

Kentucky State Office

Barbourville	$320,000
Bardstown	500,000
Beattyville	440,000
Cadiz	200,000
Catlettsburg	450,000
Cumberland	548,000
Eminence	50,000
Floyd County	336,000
Franklin	964,000
Fulton	500,000
Harlan	275,000
Harrodsburg	230,000
Horse Cave	614,000
Irvine	300,000
Jefferson County	500,000
Knott County	184,000
Lancaster	245,000
Lawrence County	250,000
Lebanon	603,000
Lyon County	300,000
Madisonville	440,000
Mayfield	200,000

APPENDIX A.—STATE OFFICES COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM AWARDEES FISCAL YEAR 1995—Continued

Monticello	172,000
Morehead	500,000
Mt. Sterling	552,500
Mt. Vernon	210,000
Murray	370,000
Paris	500,000
Pineville	120,000
Prestonsburg	30,000
Princeton	226,670
Providence	170,000
Radcliff	100,000
Russellville	80,000
Shelbyville	150,000
Stanford	396,000
Vanceburg	352,100
Whitesburg	600,000
Total	12,980,270

Knoxville Area Office

Erwin	$735,275
Grundy County	142,265
Jefferson City	191,878
Jellico	197,000
Knox County	1,229,694
Total	2,469,112

Los Angeles Area Office

Baldwin Park	$281,500
Needles	248,598
Paso Robles	299,607
Port Hueneme	526,020
San Luis Obispo	1,361,450
Upland	357,130
Wasco	207,300
Total	3,281,605

Louisiana State Office

Arcadia	$150,000
Basile	22,500
Berwick	3,000
Breaux Bridge	22,500
Bunkie	200,000
Caldwell Parish	3,000
Church Point	410,000
Colfax	325,000
Denham Springs	175,000
DeQuincy	316,900
DeRidder	362,000
East Carroll Parish	1,500
Eunice	275,000
Ferriday	1,500
Gibsland	1,500
Grambling	25,000
Grant Parish	1,500
Gueydan	75,000
Homwer	315,000
Jefferson Parish	180,000
Jennings	150,000
Kaplan	450,000
Kenner	300,000
Lake Arthur	286,000
Leesville	207,500
Mamou	275,000

APPENDIX A.—STATE OFFICES COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM AWARDEES FISCAL YEAR 1995—Continued

Mansfield	204,820
Marksville	400,000
Merryville	306,600
Minden	165,000
Natchitoches Parish	750,000
New Iberia	200,000
New Roads	1,500
Oil City	325,000
Parks	1,500
Patterson	125,000
Pineville	356,000
Ponchatoula	228,000
Rapides Parish	350,000
Rayville	797,421
Simmesport	387,000
Slidell	165,000
South Landry	45,000
St. Charles Parish	322,000
St. Landry	55,000
St. Martinville	3,000
Sulphur	190,000
S.W. Acadia	250,000
Vinton	306,000
Welsh	108,940
White Castle	3,000
Winnfield	241,000
Total	10,831,181

Maryland State Office

Allegany County	$96,426
Calvert County	108,400
Cambridge	200,000
Easton	160,000
Frostburg	150,000
Havre De Grace	84,000
St. Michaels	88,000
Queen Anne's County	176,000
Washington County	64,520
Total	1,127,346

Massachusetts State Office

Amherst	$166,000
Barnstable	89,000
Beverly	1,030,000
Clinton	485,000
Falmouth	237,000
Fitchburg	416,000
Lexington	345,000
Maynard	374,000
Medway	33,000
Needham	246,431
Newburyport	235,000
Newton	715,000
Northampton	722,000
North Andover	44,000
Pembroke	267,000
Plymouth	202,000
Rockland	75,000
Salem	225,000
Saugus	168,000
Wakefield	391,000
Weymouth	131,000
Winchendon	324,000
Woburn	207,000
Total	7,127,431

Michigan State Office

Algonac	$246,000
Alpena	601,500
Eastpointe	825,000
East tawas	220,500
Ferndale	204,000
Highland park	1,363,000
Marysville	551,500
Romulus	293,953
Royal oak township	555,000
Wayne	303,000
Ypsilanti	387,000
Total	5,550,453

Minnesota State Office

Aitkin County	$476,000
Barnesville	247,000
Blue Earth	493,000
Braham	100,000
Cass Lake	518,810
Chisholm	417,906
Gilbert	300,000
Hutchinson	210,000
International Falls	21,500
Marshall	316,000
Montevideo	150,000
Moorhead	187,000
Moose Lake	753,900
Mountain Lake	96,000
North Mankato	127,000
Olmsted County	154,000
Red Wing	237,000
Sleepy Eye	500,000
SE MN Multi-County	450,000
St. James	190,000
Staples	500,000
Thief River Falls	875,000
Tracy	207,000
Willmar	460,000
Total	8,087,118

Mississippi State Office

Amory	$1,534,799
Bay St. Louis	917,850
Hattiesburg	1,376,800
Summit	828,000
Total	4,657,449

North Carolina State Office

Ahoskie	$160,000
Albemarle	160,000
Andrews	172,824
Ashevoro	240,000
Ayden	160,000
Belmont	160,000
Benson	166,368
Bladenboro	160,000
Brevard	160,000
Clarkton	161,780
Concord	195,580
Dunn	160,000

APPENDIX A.—STATE OFFICES COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM AWARDEES FISCAL YEAR 1995—Continued

Edenton	160,000
Fairmont	160,000
Farmville	168,000
Forest City	160,000
Hamlet	158,980
Hertford	160,000
Lincolnton	160,000
Lenoir	160,000
Madison	80,800
Mars Hill	180,000
Marshall	160,520
Maxton	70,500
Monroe	113,380
Mooresville	160,000
Mount Holly	104,680
Murphy	172,824
North Wilkesboro	173,760
Oxford	191,392
Pembroke	222,471
Plymouth	160,000
Princeville	160,000
Randleman	160,000
Reidsville	275,000
Rockingham	160,000
Roxboro	232,000
Selma	143,372
Smithfield	600,000
Southern Pines	180,000
Spruce Pine	200,000
Tarboro	160,000
Troy	164,992
Valdese	160,000
Vance County	134,720
Wadesboro	187,500
Whiteville	160,000
Total	8,231,643

Nebraska State Office

Ainsworth	$46,000
Albion	62,000
Alma	34,500
Aurora	74,000
Byard	60,000
Beemer	32,900
Bellevue	82,000
Bertelman	49,900
Blair	105,000
Burwell	25,000
Cambridge	65,000
Clarkson	36,474
Creighton	71,706
Coleridge	26,500
Crete	110,000
Curtis	33,500
Deshler	57,000
Douglas County	100,000
Friend	52,500
Gothenburg	54,000
Hay Springs	46,500
Hemingford	55,000
Humboldt	52,500
Indianola	64,000
Kearney	111,000
Lexington	116,000
Loup city	60,000
Lyons	64,000
Minden	59,500
Nebraska city	56,000

APPENDIX A.—STATE OFFICES COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM AWARDEES FISCAL YEAR 1995—Continued

Neligh	180,500
Newman grove	63,000
Niobrara	75,000
Oakland	107,500
Ord	98,000
Pawnee city	87,000
Plattsmouth	91,000
Ravenna	21,500
Red cloud	125,000
Schuyler	49,200
Shelton	35,000
St. Edward	60,000
St. Paul	34,500
Stanton	52,600
Stromsburg	61,000
Sutherland	66,000
Tilden	27,000
Verdigre	58,000
Wayne	75,000
Wilber	4,500
Wood river	29,500
Wymore	45,000
Total	3,308,280

New Hampshire State Office

Auburn	$230,000
Bar Harbor	171,500
Bath	57,600
Bennington	150,000
Brewer	285,000
Brunswick	130,000
Claremont	165,000
Ellsworth	45,000
Exeter	115,000
Keene	257,000
Laconia	150,000
Mount Desert	55,500
Newmarket	175,000
Old town	260,000
Presque Isle	130,000
Rochester	245,000
Sanford	269,000
Somersworth	210,000
Southwest Harbor	82,000
Tremont	105,000
Van Buren	248,680
Waterville	293,000
Westbrook	165,000
Winooski	106,300
Total	4,100,580

New Jersey State Office

Belmar	$40,000
Boonton	80,000
Buena	69,000
Burlington	105,000
Cape may	1,410,520
Clementon	57,000
Collingswood	125,000
Dover	479,000
Edison	261,661
Freehold	201,060
Glassboro	504,440
Highlands	467,750
Linden	220,000
Lodi	179,500
Madison	300,000
Middletown	197,500
Morris county	254,232
Newton	129,615
Ocean city	110,000
Penns grove	563,355
Pleasantville	140,800
Princeton	345,930
Red bank	132,000
Secaucus	420,000
South amboy	180,000
Weehawken	175,000
Wildwood	274,104
Total	7,422,468

New Mexico State Office

Village of Maxwell	$41,500
City of Artesia	625,000
Village of Pecos	100,000
City of Bayard	190,000
Rio Arriba County	54,000
Santa fe County	365,135
City of Espanola	523,700
Town of Springer	126,500
Town of Taos	445,000
Taos County	444,000
Village of Central	264,000
Truth or Consequences	483,000
Total	3,661,835

New York State Office

Beacon	$355,000
Ellenville	83,900
Great Neck	157,200
Greenburgh	528,000
Huntington	104,300
Kingston	200,900
Monticello	360,150
Mount Kisco	129,995
Newburgh	11,000
North Hempstead	106,000
North Tarrytown	57,050
Port Jervis	182,825
Ramapo	421,921
Rockville Centre	69,950
Spring Valley	76,500
Tarrytown	125,000
Tuckahoe	60,500
Woodridge	110,500
Total	3,150,691

Ohio State Office

Allen Metropolitan	$219,402
Athen Metropolitan	321,770
Cambridge Metropolitan	288,650
Coshocton Metropolitan	242,990
Fairfield Metropolitan	98,020
Hocking Metropolitan	153,689
Jackson Metropolitan	452,080
Logan Metropolitan	158,100
London Metropolitan	236,000
Morgan Metropolitan	444,000
Noble Metropolitan	68,500
Perry Metropolitan	151,845
Pike Metropolitan	226,100
Total	3,061,146

Oklahoma State Office

Atoka	$100,000
Coalgate	380,000
Del City	250,000
Ft. Gibson	400,000
Grandfield	245,000
Haileyville	151,300
Hartshorne	265,000
Idabel	567,000
Indiahoma	151,015
Miami	500,000
Mountain Park	188,000
Norman	100,000
Picher	350,000
Ponca City	450,000
Seminole	100,000
Stigler	68,000
Stroud	500,000
Terral	250,000
Valliant	45,000
Weleetka	200,000
Total	5,260,315

Offices of Native American Programs (ONAP)

Eastern/Woodlands ONAP:	
Akwesasne	$89,030
Bad River	733,165
Grand Portage	225,195
Ho Chunk	632,300
Mille Lacs	126,837
Mohican	368,150
Penobscot	80,000
Pleasant Point	212,710
Poarch Creek	37,686
Red Cliff	788,315
Sac And Fox	170,273
Saginaw Chippewa	23,925
St. Croix	70,278
Sokaogon Chippewa	63,100
Total	3,620,964
Northern Plains ONAP:	
Santee Sioux	$496,327
Utah Paiute	505,185
Trenton	365,902
Winnebago	463,786
Flandreau	439,122
Southern Ute	460,026
Lower Brule	518,138
Total	3,248,486
Southwest ONAP:	
Campo	$461,700
Central Cal	96,000
Chemehuevi	549,600
Cocopah	486,000
Duck Valley	919,160

APPENDIX A.—STATE OFFICES COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM AWARDEES FISCAL YEAR 1995—Continued

Fallon	522,000
Hoopa	370,000
Modoc Lassen	450,000
Reno Sparks	487,300
Round Valley	200,000
Shoshone Joint	698,000
Walker River	535,200
Washoe	294,500
Yavapai	315,000
Yerington	20,000
Yerington	181,600
Ysleta Del Sur	610,800
Total	7,299,860
Southern Plains ONAP:	
Kaw Tribal	$453,885
Otoe-Missouria	747,500
Pawnee Tribal	320,032
Tonkawa Tribal	1,486,800
Total	3,008,217
Northwest ONAP:	
Cascade Intertribal	$1,335,265
Coeur d'Alene	515,602
Lower Elwha	249,800
Lummi	243,000
Puyallup	50,000
Quileute	571,980
Stillliquamish Tribal	383,052
Swinomish	1,511,593
Umatilla reservation	1,112,702
Total	5,973,014
Alaska ONAP:	
Copper River Basin Regional	$363,430
Metlakatla	609,270
North Pacific Rim	269,552
Total	1,242,252
Oregon State Office:	
Ada County	$61,900
Boise City	337,725
Idaho Housing Agency	55,000
Nampa	595,700
Sicha	155,200
Idaho total	1,205,525
Douglas	$1,056,224
Lincoln County	316,000
Northeast Oregon	359,600
Umatilla	516,000
Oregon total	2,247,824
Total	3,453,349

Pennsylvania State Office

Carbon County	$199,076
Columbia County	88,326
Cumberland County	170,151
Montour County	155,051
Northampton County	356,076
Northumberland County	451,983
Shamokin	430,006
Snyder County	74,576
Susquehanna County	188,448
Williamsport	731,071
Wyoming County	270,000
Total	3,114,764

Pittsburgh Area Office

Connellsville	$606,900
Elk County	65,757
Franklin	1,000,000
Somerset	1,606,500
Total	3,279,157

Rhode Island State Office

Bristol	$158,400
Burrilville	121,200
Coventry	169,700
Cumberland	363,965
Jamestown	72,700
Johnston	149,500
North Providence	618,700
Portsmouth	67,500
South Kingstown	202,100
Tiverton	80,600
Total	2,004,565

Sacramento Area Office

Plumas County	$747,663

San Antonio Area Office

Alamo	$128,800
Alice	120,389
Aransas Pass	47,264
Bastrop	179,000
Beeville	73,696
Brackettville	86,016
Carrizo Springs	541,655
Devine	92,960
Edcouch	250,880
Edna	70,231
Elsa	33,264
Falfurrias	141,627
Goliad	206,696
Gonzales	107,476
Gregory	161,728
Ingleside	120,736
Johnson City	95,480
Karnes City	101,581
Kenedy	207,200
Kingville	55,776
La Grange	72,016
La Joya	72,000
Lockhart	73,584
Los Fresnos	95,920
Luling	154,000
Marble Falls	130,000
Mathis	200,852
McAllen	483,672
Mission	76,634
Nixon	168,683
Pleasanton	59,752
Poteet	25,000
Port Isabel	111,093
Poth	61,013
Round Rock	84,000
Roma	297,000
Runge	89,000
Schertz	205,796
Seguin	745,590
Sinton	160,161
Smiley	55,000
Starr County	84,000
Taft	53,000
Three Rivers	97,557
Travis County	327,438
Uvalde	145,000
Waelder	297,582
Weslaco	56,000
Total	7,303,800

South Carolina State Office

Abbeville	$141,680
Anderson	202,400
Atlantic Beach	96,909
Chester	101,604
Darlington	178,112
Fort Mill	180,419
Greenwood	202,400
Greer	141,680
Hartsville	207,096
Kingstree	192,685
Lancaster	101,200
Laurens	228,404
Marlboro County	113,344
Mullins	123,707
Woodruff	162,730
York	133,989
Total	2,506,359

St. Louis Area Office

Bernie	131,500
Bloomfield	187,300
Cabool	54,200
Campbell	68,700
Chaffee	163,629
Clarkton	107,000
Dexter	250,800
East Praire	743,600
Fulton	731,800
Gideon	264,800
Hayti	124,000
Hillsdale	31,800
Holcomb	30,600
Kirksville	688,000
Lancaster	18,800
Macon	355,400
Mountain Grove	109,000
New Madrid	253,600
Olivette	9,700
Pagedale	219,300
Portageville	587,900
Rolla	94,800
Senath	255,700
St. Charles	429,600
Ste. Genevieve	84,700

APPENDIX A.—STATE OFFICES COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM AWARDEES FISCAL YEAR 1995—Continued

West Plains	165,800
Total	6,162,029

Tennessee State Office

Lafayette	$1,377,982
Millington	1,671,605
Parsons-Decaturville	202,788
Pulaski	351,662
Sparta	1,469,294
Total	5,073,331

Texas State Office

Alto	$498,832
Archer City	358,910
Bangs	709,985
Beckville	123,174
Bowie County	202,873
Clifton	728,544
Coleman	476,287
Commerce	464,795
Como	157,102
Daingerfield	763,023
DeKalb	526,932
Eden	392,680
Electra	207,235
El Paso County	250,360
Gorman	71,780
Grand Saline	1,495,619
Junction	345,054
Killeen	772,212
Knox City	545,115
Levelland	481,178
Lometa	129,760
Malakoff	438,825
Mason	768,743
McGregor	776,795
McKinney	1,711,520
Memphis	755,875
Munday	60,539
New Boston	933,142
Pittsburg	364,160
Princeton	469,606
Robert Lee	484,720
Santa Anna	777,734
Tatum	321,524
Total	17,564,633

Virginia State Office

Franklin	$583,331
Harrisonburg	23,200
Lee County	112,000
Marion	53,082
Norton	133,000
Scott County	210,271
Staunton	156,500
Waynesboro	22,566
Williamsburg	21,236
Wise County	125,500
Wytheville	125,950
Total	1,566,636

APPENDIX A.—STATE OFFICES COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM AWARDEES FISCAL YEAR 1995—Continued

Washington State Office

Asotin County	$230,000
Grant County	500,000
Kennewick	1,670,000
Renton	101,000
Sedro Woolley	129,215
Snohomish County	216,000
Spokane	250,000
Sunnyside	521,000
Walla Walla	86,000
Whatcom County	440,000
Yakima	450,000
Total	4,593,215

West Virginia State Office

Benwood	$71,415
Bluefield	88,307
Buckhannon	204,456
Dunbar	165,359
Elkins	176,500
Grafton	252,707
Jackson County	146,000
Kanawha County	172,850
McMecken	40,443
Mingo County	152,414
Parkersburg	73,980
Pt. Pleasant	504,000
Romney	116,496
St. Albans	652,500
South Charleston	243,000
Weirton	189,000
Williamson	658,726
Total	3,908,152

Wisconsin State Office

Appleton	$624,500
Ashland	429,022
Beloit	221,525
Boscobel	35,872
Bruce	67,650
Burnett County	93,800
Clintonville	107,950
Dane County	591,488
Depere	319,750
Grantsburg	143,941
Green Bay	385,295
Kaukauna	51,600
Ladysmith	559,560
Luck	71,450
Manitowoc	423,500
Marshfield	151,000
Menomonie	244,500
Merrill	175,500
Monroe	612,500
New London	146,500
Racine County	173,700
Richland Center	45,200
River Falls	152,000
Slinger	491,900
Spooner	364,320
Thorp	271,692
Trempeleau County	84,200
Washburn	165,940
Winnebago County	264,800
Wisconsin Rapids	218,000
Total	7,688,655

[FR Doc. 96–7646 Filed 3–28–96; 8:45 am]

BILLING CODE 4210–33–P

[Docket No. FR–3778–N–78]

Office of the Assistant Secretary for Community Planning and Development; Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, room 7256, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1226; TDD number for the hearing- and speech-impaired, (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies,

and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the day of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll-free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including ZIP CODE), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following address: U.S. Army: Mr. Derrick Mitchell, CECPW–FP, U.S. Army Center for Public Works, 7701 Telegraph Road, Alexandria, VA 22310–3862; (703) 428–6083 (these are not toll-free numbers).

Dated: March 22, 1996.

Mark C. Gordon,

General Deputy Assistant Secretary for Community Planning and Development.

Title V. Federal Surplus Property Program, Federal Register Report for 03/29/96

Suitable/Available Properties

Buildings (by State)

Alabama

Bldg. 8913
Fort Rucker
7th Avenue
Ft. Rucker Co: Dale AL 36362–
Landholding Agency: Army
Property Number: 219140025
Status: Unutilized
Comment: 3100 sq. ft., 1 story wood, most recent use—chaplain's conference room, off-site use only.

Bldg. 8914
Fort Rucker
7th Avenue
Ft. Rucker Co: Dale AL 36362–
Landholding Agency: Army
Property Number: 219140026
Status: Unutilized
Comment: 2250 sq. ft., 1 story wood, most recent use—chaplain headquarters, off-site use only.

Bldg. TO3203, Fort Rucker
Cowboy & Crusader St.
Fort Rucker Co: Dale AL 36362–
Landholding Agency: Army
Property Number: 219210002
Status: Unutilized
Comment: 5310 sq. ft., two story wood structure, most recent use—barracks, presence of asbestos, off-site use only.

Bldg. TO3206, Fort Rucker
Cowboy & Crusader St.
Fort Rucker Co: Dale AL 36362–
Landholding Agency: Army
Property Number: 219210003
Status: Unutilized
Comment: 5310 sq. ft., two story wood structure, most recent use—barracks, presence of asbestos, off-site use only.

Bldg. TO3207, Fort Rucker
Cowboy & Crusader St.
Fort Rucker Co: Dale AL 36362–
Landholding Agency: Army
Property Number: 219210004
Status: Unutilized
Comment: 5310 sq. ft., two story wood structure, most recent use—barracks, presence of asbestos, off-site use only.

Bldg. TO3208, Fort Rucker
Cowboy & Crusader St.
Fort Rucker Co: Dale AL 36362–
Landholding Agency: Army
Property Number: 219210005
Status: Unutilized
Comment: 5310 sq. ft., two story wood structure, most recent use—barracks, presence of asbestos, off-site use only.

Bldg. TO3213, Fort Rucker
Cowboy & Crusader St.
Fort Rucker Co: Dale AL 36362–
Landholding Agency: Army
Property Number: 219210007
Status: Unutilized
Comment: 5310 sq. ft., two story wood structure, most recent use—barracks, presence of asbestos, off-site use only.

Bldg. TO3216, Fort Rucker
Cowboy & Crusader St.
Fort Rucker Co: Dale AL 36362–
Landholding Agency: Army
Property Number: 219210008
Status: Unutilized
Comment: 5310 sq. ft., two story wood structure, most recent use—barracks, presence of asbestos, off-site use only.

Bldg. 3502, Fort Rucker
Ft. Rucker Co: Dale AL 36362–5138
Landholding Agency: Army
Property Number: 219340161
Status: Unutilized
Comment: 5310 sq. ft., 2-story wood, needs rehab, presence of asbestos, most recent use—instruction bldg., off-site use only.

Bldg. 3702, Fort Rucker
Ft. Rucker Co: Dale AL 36362–5138
Landholding Agency: Army
Property Number: 219340163
Status: Unutilized
Comment: 5310 sq. ft., 2-story wood, needs rehab, most recent use—barracks, off-site use only.

Bldg. 3703, Fort Rucker
Ft. Rucker Co: Dale AL 36362–5138
Landholding Agency: Army
Property Number: 219340164
Status: Unutilized
Comment: 5310 sq. ft., 2-story wood, needs rehab, most recent use—barracks, off-site use only.

Bldg. 3704, Fort Rucker
Ft. Rucker Co: Dale AL 36362–5138
Landholding Agency: Army
Property Number: 219340184
Status: Unutilized
Comment: 5310 sq. ft., 2-story wood, needs rehab, most recent use—barracks, off-site use only.

Bldg. 3705, Fort Rucker
Ft. Rucker Co: Dale AL 36362–5138
Landholding Agency: Army
Property Number: 219340185
Status: Unutilized
Comment: 2975 sq. ft., 1-story wood, needs rehab, most recent use—general purpose, off-site use only.

Bldg. 3706, Fort Rucker
Ft. Rucker Co: Dale AL 36362–5138
Landholding Agency: Army
Property Number: 219340187
Status: Unutilized
Comment: 2975 sq. ft., 1-story wood, needs rehab, most recent use—general purpose, off-site use only.

Bldg. 3707, Fort Rucker
Ft. Rucker Co: Dale AL 36362–5138
Landholding Agency: Army
Property Number: 219340188
Status: Unutilized

Comment: 5310 sq. ft., 2-story wood, needs rehab, presence of asbestos, most recent use—barracks, off-site use only.
Bldg. 3708, Fort Rucker
Ft. Rucker Co: Dale AL 36362–5138
Landholding Agency: Army
Property Number: 219340189
Status: Unutilized
Comment: 5310 sq. ft., 2-story wood, needs rehab, presence of asbestos, most recent use—barracks, off-site use only.
Bldg. 3714, Fort Rucker
Ft. Rucker Co: Dale AL 36362–5138
Landholding Agency: Army
Property Number: 219340190
Status: Unutilized
Comment: 5310 sq. ft., 2-story wood, needs rehab, presence of asbestos, most recent use—general purpose, off-site use only.
Bldg. T274, Fort McClellan
Ft. McClellan Co: Calhoun AL 36205–5000
Landholding Agency: Army
Property Number: 219440389
Status: Unutilized
Comment: 3967 sq. ft., 1-story, most recent use—clinic, needs rehab, off-site use only.
Bldg. T421, Fort McClellan
Ft. McClellan Co: Calhoun AL 36205–5000
Landholding Agency: Army
Property Number: 219440393
Status: Unutilized
Comment: 1602 sq. ft., 1-story, most recent use—support activity, needs rehab, off-site use only.
Bldgs. T614, T692
Fort McClellan
Ft. McClellan Co: Calhoun AL 36205–5000
Landholding Agency: Army
Property Number: 219440394
Status: Unutilized
Comment: 2314 sq. ft. & 2685 sq. ft., 1-story bldgs., most recent use—admin., off-site use only.
7 Bldgs.
Fort McClellan
#829–831, 833, 835–836, 844
Ft. McClellan Co: Calhoun AL 36205–5000
Landholding Agency: Army
Property Number: 219440395
Status: Unutilized
Comment: 4425 sq. ft. each, 2-story, most recent use—barracks, off-site use only.
Bldg. T00893
Fort McClellan
Ft. McClellan Co: Calhoun AL 36205–5000
Landholding Agency: Army
Property Number: 219440396
Status: Unutilized
Comment: 2369 sq. ft., 1-story, most recent use—chapel, off-site use only.
Bldgs. T903, T909
Fort McClellan
Ft. McClellan Co: Calhoun AL 36205–5000
Landholding Agency: Army
Property Number: 219440397
Status: Unutilized
Comment: 1677 sq. ft. and 1166 sq. ft. bldgs., most recent use—classroom, off-site use only.
Bldgs. T916–T917, T925
Fort McClellan
Ft. McClellan Co: Calhoun AL 36205–5000
Landholding Agency: Army
Property Number: 219440398
Status: Unutilized
Comment: 3075–4500 sq. ft., 1-story, most recent use—barracks, off-site use only.
Bldg. T1398
Fort McClellan
Ft. McClellan Co: Calhoun AL 36205–5000
Landholding Agency: Army
Property Number: 219440399
Status: Unutilized
Comment: 3108 sq. ft., 1-story, most recent use—classroom, needs rehab, off-site use only.
Bldg. 60101
Shell Army Heliport
Ft. Rucker Co: Dale AL 36362–5000
Landholding Agency: Army
Property Number: 219520152
Status: Unutilized
Comment: 6082 sq. ft., 1-story, most recent use—airfield fire station, off-site use only.
Bldg. 60100
Shell Army Heliport
Ft. Rucker Co: Dale AL 36362–5000
Landholding Agency: Army
Property Number: 219520153
Status: Unutilized
Comment: 64 sq. ft., metal structure, most recent use—sentry station, off-site use only.
Bldg. 60103
Shell Army Heliport
Ft. Rucker Co: Dale AL 36362–5000
Landholding Agency: Army
Property Number: 219520154
Status: Unutilized
Comment: 12516 sq. ft., most recent use—admin., off-site use only.
Bldg. 60110
Shell Army Heliport
Ft. Rucker Co: Dale AL 36362–5000
Landholding Agency: Army
Property Number: 219520155
Status: Unutilized
Comment: 8319 sq. ft., 1-story, most recent use—admin., off-site use only.
Bldg. 60113
Shell Army Heliport
Ft. Rucker Co: Dale AL 36362–5000
Landholding Agency: Army
Property Number: 219520156
Status: Unutilized
Comment: 4000 sq. ft., 1-story, most recent use—admin., off-site use only.
Bldgs. 832, 834
Fort McClellan
Ft. McClellan Co: Calhoun AL 36205–5000
Landholding Agency: Army
Property Number: 219540010
Status: Unutilized
Comment: 4425 sq. ft. each, most recent use—barracks w/o mess, off-site use only.

Alaska

Bldg. 400
Fort Richardson
Ft. Richardson AK 99505–
Landholding Agency: Army
Property Number: 219440400
Status: Unutilized
Comment: 13056 sq. ft., 2-story wood frame, presence of lead paint and asbestos, off-site use only.
Bldg. 402
Fort Richardson
Ft. Richardson AK 99505–
Landholding Agency: Army
Property Number: 219440401
Status: Unutilized
Comment: 13056 sq. ft., 2-story wood frame, presence of lead paint and asbestos, off-site use only.
Bldg. 407
Fort Richardson
Ft. Richardson AK 99505–
Landholding Agency: Army
Property Number: 219440402
Status: Unutilized
Comment: 13056 sq. ft., 2-story wood frame, presence of lead paint and asbestos, off-site use only.

Arizona

Bldg. 70117—Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219120306
Status: Excess
Comment: 3434 sq. ft., 1 story wood structure, presence of asbestos, most recent use—general instructional, off-site use only.
Bldg. 70118—Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219120307
Status: Excess
Comment: 3434 sq. ft., 1 story wood structure, presence of asbestos, most recent use—general instructional, off-site use only.
Bldg. 70119—Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219120308
Status: Excess
Comment: 3434 sq. ft., 1 story wood structure, presence of asbestos, most recent use—general instructional, off-site use only.
Bldg. 70120—Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219120309
Status: Excess
Comment: 3434 sq. ft., 1 story wood structure, presence of asbestos, most recent use—admin. gen. purpose, off-site use only.
Bldg. 70225—Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219120310
Status: Excess
Comment: 3813 sq. ft., 1 story wood structure, presence of asbestos, most recent use—admin. gen. purpose, off-site use only.
Bldg. 83006—Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219120311
Status: Excess
Comment: 2062 sq. ft., 1 story wood structure, presence of asbestos, most recent use—admin. gen. purpose, off-site use only.
Bldg. 83007—Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219120312
Status: Excess
Comment: 2000 sq. ft., 2 story wood structure, presence of asbestos, most recent use—admin, gen. purpose, off-site use only.
Bldg. 83008—Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219120313
Status: Excess
Comment: 2192 sq. ft., 2 story wood structure, presence of asbestos, most recent use—admin. gen. purpose, off-site use only.
Bldg. 83015—Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219120314
Status: Excess
Comment: 2325 sq. ft., 1 story wood structure, presence of asbestos, most recent use—admin. gen. purpose, off-site use only.
Bldg. 81001
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219240720
Status: Unutilized
Comment: 4386 sq. ft., 2 story wood frame, possible asbestos, most recent use—administrative, scheduled to become vacant in 6 months, off-site use only.
Bldg. 81020
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219240722
Status: Unutilized
Comment: 4386 sq. ft., 2 story wood frame, possible asbestos, most recent use—administrative, scheduled to become vacant in 6 months, off-site use only.
Bldg. 67204
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219240723
Status: Unutilized
Comment: 4332 sq. ft., 2 story wood frame, possible asbestos, most recent use—administrative, scheduled to become vacant in 6 months, off-site use only.
Bldg. 66151
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219240728
Status: Unutilized
Comment: 4194 sq. ft., 2 story wood frame, possible asbestos, most recent use—barracks, scheduled to become vacant in 6 months, off-site use only.
Bldg. 72219
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219240729
Status: Unutilized
Comment: 2730 sq. ft., 1 story wood frame, possible asbestos, most recent use—barracks, scheduled to become vacant in 6 months, off-site use only.
Bldg. 72220
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219240730
Status: Unutilized
Comment: 2879 sq. ft., 1 story wood frame, possible asbestos, most recent use—barracks, scheduled to become vacant in 6 months, off-site use only.
Bldg. 72221
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219240731
Status: Unutilized
Comment: 3736 sq. ft., 1 story wood frame, possible asbestos, most recent use—barracks, scheduled to become vacant in 6 months, off-site use only.
Bldg. 67108
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219240733
Status: Unutilized
Comment: 2403 sq. ft., 1 story wood frame, possible asbestos, most recent use—classrooms, scheduled to become vacant in 6 months, off-site use only.
Bldg. 70226
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219240734
Status: Unutilized
Comment: 1868 sq. ft., 1 story wood frame, possible asbestos, most recent use—classrooms, scheduled to become vacant in 6 months, offsite use only.
Bldg. 71116
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219240735
Status: Unutilized
Comment: 3470 sq. ft., 1 story wood frame, possible asbestos, most recent use—classrooms, scheduled to become vacant in 6 months, off-site use only.
Bldg. 71215
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219240736
Status: Unutilized
Comment: 4854 sq. ft., 1 story wood frame, possible asbestos, most recent use—classrooms, scheduled to become vacant in 6 months, off-site use only.
Bldg. 70110
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219240739
Status: Unutilized
Comment: 2675 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only.
Bldg. 70111
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219240740
Status: Unutilized
Comment: 2800 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only.
Bldg. 70113
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219240741
Status: Unutilized
Comment: 2800 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only.
Bldg. 70114
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219240742
Status: Unutilized
Comment: 2544 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only.
Bldg. 70115
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219240743
Status: Unutilized
Comment: 2544 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only.
Bldg. 70123
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219240744
Status: Unutilized
Comment: 3298 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only.
Bldg. 70124
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219240745
Status: Unutilized
Comment: 3298 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only.
Bldg. 70126
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219240746
Status: Unutilized
Comment: 3343 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only.
Bldg. 70210
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219240747
Status: Unutilized
Comment: 3258 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only.
Bldg. 70211

Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219240748
Status: Unutilized
Comment: 2966 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only.

Bldg. 70221
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219240749
Status: Unutilized
Comment: 2526 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only.

Bldg. 70222
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219240750
Status: Unutilized
Comment: 1627 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only.

Bldg. 71214
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219240751
Status: Unutilized
Comment: 3779 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only.

Bldg. 82013
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219240752
Status: Unutilized
Comment: 2193 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only.

Bldg. 90327
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219240753
Status: Unutilized
Comment: 279 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only.

Bldg. 71213
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219240754
Status: Unutilized
Comment: 3779 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—storehouse, off-site use only.

Bldg. 82007
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219240755
Status: Unutilized
Comment: 4386 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—storehouse, off-site use only.

Bldg. 82009
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219240756
Status: Unutilized
Comment: 2444 sq. ft., 2 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—storehouse, off-site use only.

Bldg. 70216, Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219310287
Status: Excess
Comment: 3725 sq. ft., 1-story wood, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 70215, Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219310288
Status: Excess
Comment: 3706 sq. ft., 1-story wood, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 70214, Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219310289
Status: Excess
Comment: 3142 sq. ft., 1-story wood structure, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 70212, Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219310290
Status: Excess
Comment: 3534 sq. ft., 1-story wood, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 70220, Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219310291
Status: Excess
Comment: 1249 sq. ft., 1-story wood, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 70218, Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219310292
Status: Excess
Comment: 3475 sq. ft., 1-story wood, presence of asbestos, most recent use—classroom, off-site use only.

Bldg. 70217, Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219310293
Status: Excess
Comment: 304 sq. ft., 1-story concrete block, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 80010, Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219310294
Status: Excess
Comment: 2318 sq. ft., 1-story wood, presence of asbestos, most recent use—admin.

Bldg. 84103, Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219310296
Status: Excess
Comment: 984 sq. ft., 1-story, presence of asbestos and lead paint, most recent use—admin.

Bldg. 67101, Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219310297
Status: Excess
Comment: 2216 sq. ft., 1-story wood, presence of asbestos and lead paint, most recent use—classroom.

Bldg. 30012, Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219310298
Status: Excess
Comment: 237 sq. ft., 1-story block, most recent use—storage.

Bldg. S–120
Yuma Proving Ground
Yuma Co: Yuma/LaPaz AZ 85365–9104
Landholding Agency: Army
Property Number: 219320202
Status: Underutilized
Comment: 6845 sq. ft., 1-story, wood frame, presence of asbestos, most recent use—bowling center, scheduled to be vacated 11/15/93.

Bldg. 67221
U.S. Army Intelligence Center, Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219330235
Status: Unutilized
Comment: 1068 sq. ft., 1-story wood, presence of asbestos, most recent use—office, off-site use only.

Bldg. 83102
U.S. Army Intelligence Center, Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219330236
Status: Unutilized
Comment: 984 sq. ft., 1-story wood, presence of asbestos, most recent use—office, off-site use only.

Bldg. 84010
U.S. Army Intelligence Center, Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219330237
Status: Unutilized
Comment: 2147 sq. ft., 1-story wood, presence of asbestos, most recent use—office, off-site use only.

Bldg. S–1005
Yuma Proving Ground
Yuma Co: Yuma/LaPaz AZ 85365–9104
Landholding Agency: Army
Property Number: 219340196
Status: Unutilized
Comment: 176 sq. ft., 1-story, cold storage bldg., needs repair, off-site use only.

Bldg. 67116
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219410243
Status: Unutilized
Comment: 1784 sq. ft.; 1-story; wood; most recent use—admin.; off-site use only.

Bldg. 67205
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219410244
Status: Unutilized
Comment: 2166 sq. ft.; 2-story; wood; most recent use—admin.; off-site use only.

Bldg. 67207
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219410245
Status: Unutilized
Comment: 2166 sq. ft.; 2-story; wood; most recent use—admin.; off-site use only.

Bldg. 67213
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219410246
Status: Unutilized
Comment: 2594 sq. ft.; 1-story; wood; most recent use—admin.; off-site use only.

Bldg. 73913
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219410247
Status: Unutilized
Comment: 910 sq. ft.; 1 story; wood; most recent use—admin.; off-site use only.

Bldg. 80001
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219410248
Status: Unutilized
Comment: 1958 sq. ft.; 1 story; wood; most recent use—admin.; off-site use only.

Bldg. 83027
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219410249
Status: Unutilized
Comment: 1993 sq. ft.; 1 story; wood; most recent use—admin.; off-site use only.

Bldg. 84007
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219410250
Status: Unutilized
Comment: 2000 sq. ft.; 1 story; wood; most recent use—admin.; off-site use only.

Bldg. 68320
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219410251
Status: Unutilized
Comment: 1531 sq. ft.; 1 story; wood; most recent use—recreation center; off-site use only.

Bldg. 30128
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219410252
Status: Unutilized
Comment: 9324 sq. ft.; 1 story; wood; most recent use—maintenance; off-site use only.

Bldg. 84014
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219410253
Status: Unutilized
Comment: 2260 sq. ft.; 1 story; wood; most recent use—admin.; off-site use only.

Bldg. S–106
Yuma Proving Ground
Yuma Co: Yuma/La Paz AZ 85365–9104
Landholding Agency: Army
Property Number: 219420345
Status: Unutilized
Comment: 1101 sq. ft., 1-story, cold storage bldg., needs repair.

Bldgs. 67210, 67217
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219420347
Status: Unutilized
Comment: 1165 sq. ft.; 1 story; wood; presence of asbestos, most recent use—office, off-site use only.

Bldg. 80006
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219430245
Status: Unutilized
Comment: 1718 sq. ft.; 1 story; wood; most recent use—instructional bldg., needs repair, off-site use only.

Bldg. 80006
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219430246
Status: Unutilized
Comment: 1628 sq. ft.; 1 story; wood frame; most recent use—instructional bldg.; needs repair, off-site use only.

Bldg. 83023
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219430247
Status: Unutilized
Comment: 1648 sq. ft.; 1 story; wood frame; most recent use—instructional bldg.; needs repair, off-site use only.

Bldg. 81027
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219430248
Status: Unutilized
Comment: 2193 sq. ft.; 1 story; wood frame; most recent use—admin.; needs repairs, off-site use only.

Bldg. 81028
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219430249
Status: Unutilized
Comment: 2193 sq. ft.; 2 story; wood frame; most recent use—admin.; needs repair, off-site use only.

Bldg. 80111
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219430250
Status: Unutilized
Comment: 2032 sq. ft.; 1 story; wood frame; most recent use—instructional bldg., needs repair, off-site use only.

Bldg. 503, Yuma Proving Ground
Yuma Co: Yuma AZ 85365–9104
Landholding Agency: Army
Property Number: 219520073
Status: Underutilized
Comment: 3769 sq. ft., 2-story, major structural changes required to meet floor loading & fire code requirements, presence of asbestos.

Bldgs. 63001, 80112
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219520157
Status: Excess
Comment: 1898–2000 sq. ft., 1-story, presence of asbestos and lead base paint, off-site use only.

9 Classroom Facilities
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Location: Bldgs. 67111, 67118, 67124, 67209, 81005, 81006, 81008, 83024, 84003
Landholding Agency: Army
Property Number: 219520158
Status: Excess
Comment: 1044–2602 sq. ft., 1–2 story, presence of asbestos and lead base paint, off-site use only.

Bldg. 67214
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219520159
Status: Excess
Comment: 955 sq. ft., 1 story, most recent use—rec. bldg., presence of asbestos and lead base paint, off-site use only.

2 Storage Facilities
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Location: Bldgs. 72320, 80017
Landholding Agency: Army
Property Number: 219520160
Status: Excess
Comment: 2340 sq. ft.; 1–2 story; presence of asbestos and lead base paint, off-site use only.

10 Admin. Facilities
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Location: Bldgs. 80025, 80027, 80028, 80102, 81002, 81009, 81102, 83025, 83026, 84008
Landholding Agency: Army
Property Number: 219520161
Status: Excess
Comment: 996–2193 sq. ft.; 1–2 story; presence of asbestos and lead base point, off-site use only.

12 Admin. Facilities
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–

Location: Bldgs. 67110, 67114, 67115, 67121, 67122, 67226, 67228, 70122, 80008, 80009, 80013, 80024
Landholding Agency: Army
Property Number: 219520162
Status: Excess
Comment: 1041–3298 sq. ft.; 1–2 story; presence of asbestos and lead base paint, off-site use only.

10 Barracks
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Location: Bldgs. 67102–67106, 67125–67129
Landholding Agency: Army
Property Number: 219520163
Status: Excess
Comment: 1352–2291 sq. ft.; 2-story; presence of asbestos and lead base paint, off-site use only.

Bldgs. 51449, 73903, 73904
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219520164
Status: Excess
Comment: 40–5300 sq. ft., 1-story, most recent use—maint. shops, presence of asbestos & lead base paint, off-site use only.

Georgia

Bldg. 5390
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219010137
Status: Unutilized
Comment: 2432 sq. ft.; most recent use—dining room; needs rehab.

Bldg. 5362
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219010147
Status: Unutilized
Comment: 5559 sq. ft.; most recent use—service club; needs rehab.

Bldg. 5392
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219010151
Status: Unutilized
Comment: 2432 sq. ft.; most recent use—dining room; needs rehab.

Bldg. 5391
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219010152
Status: Unutilized
Comment: 2432 sq. ft.; most recent use—dining room; needs rehab.

Bldg. 4605
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219011493
Status: Unutilized
Comment: 915 sq. ft., buildings in poor condition, major construction needed to be made habitable.

Bldg. 4487
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219011681
Status: Unutilized
Comment: 1868 sq. ft.; most recent use—telephone exchange bldg.; needs substantial rehabilitation; 1 floor.

Bldg. 4319
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219011683
Status: Unutilized
Comment: 2584 sq. ft.; most recent use—vehicle maintenance shop; needs substantial rehabilitation; 1 floor.

Bldg. 3400
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219011694
Status: Unutilized
Comment: 2570 sq. ft.; most recent use—fire station; needs substantial rehabilitation; 1 floor.

Bldg. 2285
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219011704
Status: Unutilized
Comment: 4574 sq. ft.; most recent use—clinic; needs substantial rehabilitation; 1 floor.

Bldg. 4002
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219011709
Status: Unutilized
Comment: 336 sq. ft.; most recent use—inflamable materials storage; needs substantial rehabilitation; 1 floor.

Bldg. 4089
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219011710
Status: Unutilized
Comment: 176 sq. ft.; most recent use—gas station; needs substantial rehabilitation; 1 floor.

Bldg. 1235
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219014887
Status: Unutilized
Comment: 9367 sq. ft.; 1 story building; needs rehab; most recent use—General Storehouse.

Bldg. 1236
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219014888
Status: Unutilized
Comment: 9367 sq. ft.; 1 story building; needs rehab; most recent use—General Storehouse.

Bldg. 1251
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219014889
Status: Unutilized
Comment: 18385 sq. ft.; 1 story building; needs rehab; most recent use—Arms Repair Shop.

Bldg. 4491
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219014916
Status: Unutilized
Comment: 18240 sq. ft.; 1 story building; needs rehab; most recent use—Vehicle maintenance shop.

Bldg. 4633
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219014919
Status: Unutilized
Comment: 5069 sq. ft.; 1 story building; needs rehab; most recent use—Training Building.

Bldg. 4649
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219014922
Status: Unutilized
Comment: 2250 sq. ft.; 1 story building; needs rehab; most recent use—Headquarters Building.

Bldg. 2150
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219120258
Status: Unutilized
Comment: 3909 sq. ft. 1 story, needs rehab, most recent use—general inst. bldg.

Bldg. 2409
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219120263
Status: Unutilized
Comment: 9348 sq. ft. 1 story, needs rehab, most recent use—general purpose warehouse.

Bldg. 2590
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219120265
Status: Unutilized
Comment: 3132 sq. ft. 1 story, needs rehab, most recent use—vehicle maintenance shop.

Bldg. 3828
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219120266
Status: Unutilized
Comment: 628 sq. ft. 1 story, needs rehab, most recent use—general storehouse.

Bldg. 3086, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220688
Status: Unutilized
Comment: 4720 sq. ft. 2 story, recent use—barracks, needs major rehab, off-site removal only.

Bldg. 3089, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220689
Status: Unutilized
Comment: 4720 sq. ft. 2 story, recent use—barracks, needs major rehab, off-site removal only.

Bldg. 3092, Fort Benning
Ft. Benning Co: Muscogee GA 31905–

Landholding Agency: Army
Property Number: 219220690
Status: Unutilized
Comment: 4720 sq. ft. 2 story, recent use—barracks, needs major rehab, off-site removal only.

Bldg. 1252, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220694
Status: Unutilized
Comment: 583 sq. ft., 1 story, most recent use—storehouse, needs major rehab, off-site removal only.

Bldg. 1678, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220697
Status: Unutilized
Comment: 9342 sq. ft., 1 story, most recent use—storehouse, needs major rehab, off-site removal only.

Bldg. 1733, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220698
Status: Unutilized
Comment: 9375 sq. ft., 1 story, most recent use—storehouse, needs major rehab, off-site removal only.

Bldg. 3083, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220699
Status: Unutilized
Comment: 1372 sq. ft., 1 story, most recent use—storehouse, needs major rehab, off-site removal only.

Bldg. 3856, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220703
Status: Unutilized
Comment: 4111 sq. ft., 1 story, most recent use—storehouse, needs major rehab, off-site removal only.

Bldg. 4881, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220707
Status: Unutilized
Comment: 2449 sq. ft., 1 story, most recent use—storehouse, need repairs, off-site removal only.

Bldg. 4963, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220710
Status: Unutilized
Comment: 6077 sq. ft., 1 story, most recent use—storehouse, need repairs, off-site removal only.

Bldg. 2396, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220712
Status: Unutilized
Comment: 9786 sq. ft., 1 story, most recent use—dining facility, need major rehab, off-site removal only.

Bldg. 3085, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220715
Status: Unutilized
Comment: 2253 sq. ft., 1 story, most recent use—dining facility, need major rehab, off-site removal only.

Bldg. 2537, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220726
Status: Unutilized
Comment: 820 sq. ft., 1 story, most recent use—storage, needs major rehab, off-site removal only.

Bldg. 4882, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220727
Status: Unutilized
Comment: 6077 sq. ft., 1 story, most recent use—storage, need repairs, off-site removal only.

Bldg. 4967, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220728
Status: Unutilized
Comment: 6077 sq. ft., 1 story, most recent use—storage, need repairs, off-site removal only.

Bldg. 5396, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220734
Status: Unutilized
Comment: 10944 sq. ft., 1 story, most recent use—general instruction bldg., needs major rehab, off-site removal only.

Bldg. 247, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220735
Status: Unutilized
Comment: 1144 sq. ft., 1 story, most recent use—offices, needs major rehab, off-site removal only.

Bldg. 4977, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220736
Status: Unutilized
Comment: 192 sq. ft., 1 story, most recent use—offices, need repairs, off-site removal only.

Bldg. 4978, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220737
Status: Unutilized
Comment: 192 sq. ft., 1 story, most recent use—offices, need repairs, off-site removal only.

Bldg. 4944, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220747
Status: Unutilized
Comment: 6400 sq. ft., 1 story, most recent use—vehicle maintenance shop, need repairs, off-site removal only.

Bldg. 4960, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220752
Status: Unutilized
Comment: 3335 sq. ft., 1 story, most recent use—vehicle maintenance shop, off-site removal only.

Bldg. 4969, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220753
Status: Unutilized
Comment: 8416 sq. ft., 1 story, most recent use—vehicle maintenance shop, off-site removal only.

Bldg. 1758, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220755
Status: Unutilized
Comment: 7817 sq. ft., 1 story, most recent use—warehouse, needs major rehab, off-site removal only.

Bldg. 1680, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220756
Status: Unutilized
Comment: 9243 sq. ft., 1 story, most recent use—warehouse, needs major rehab, off-site removal only.

Bldg. 3817, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220758
Status: Unutilized
Comment: 4000 sq. ft., 1 story, most recent use—warehouse, needs major rehab, off-site removal only.

Bldg. 4884, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220762
Status: Unutilized
Comment: 2000 sq. ft., 1 story, most recent use—headquarters bldg., need repairs, off-site removal only.

Bldg. 4964, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220763
Status: Unutilized
Comment: 2000 sq. ft., 1 story, most recent use—headquarters bldg., need repairs, off-site removal only.

Bldg. 4966, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220764
Status: Unutilized
Comment: 2000 sq. ft., 1 story, most recent use—headquarters bldg., need repairs, off-site removal only.

Bldg. 4679, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220767
Status: Unutilized
Comment: 8657 sq. ft., 1 story, most recent use—supply bldg., needs major rehab, off-site removal only.

Bldg. 4883, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220768
Status: Unutilized
Comment: 2600 sq. ft., 1 story, most recent use—supply bldg., needs repairs, off-site removal only.

Bldg. 4965, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220769
Status: Unutilized
Comment: 7713 sq. ft., 1 story, most recent use—supply bldg., needs repairs, off-site removal only.

Bldg. 2513, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220770
Status: Unutilized
Comment: 9483 sq. ft., 1 story, most recent use—training center, needs major rehab, off-site removal only.

Bldg. 2526, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220771
Status: Unutilized
Comment: 11855 sq. ft., 1 story, most recent use—training center, needs major rehab, off-site removal only.

Bldg. 2589, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220772
Status: Unutilized
Comment: 146 sq. ft., 1 story, most recent use—training bldg., needs major rehab, off-site removal only.

Bldg. 4976, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220778
Status: Unutilized
Comment: 192 sq. ft., 1 story, most recent use—gas station, needs repairs, off-site removal only.

Bldg. 4945, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220779
Status: Unutilized
Comment: 220 sq. ft., 1 story, most recent use—gas station, needs major rehab, off-site removal only.

Bldg. 4979, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220780
Status: Unutilized
Comment: 400 sq. ft., 1 story, most recent use—oil house, needs repairs, off-site removal only.

Bldg. 4627, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220786
Status: Unutilized
Comment: 1676 sq. ft., 1 story, most recent use—sentry station, needs major rehab, off-site removal only.

Bldg. 4114, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310407
Status: Unutilized
Comment: 4425 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4117, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310408
Status: Unutilized
Comment: 4425 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4118, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310409
Status: Unutilized
Comment: 4425 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4125, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310410
Status: Unutilized
Comment: 4425 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4126, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310411
Status: Unutilized
Comment: 4425 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4129, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310412
Status: Unutilized
Comment: 4425 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4130, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310413
Status: Unutilized
Comment: 4425 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4137, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310414
Status: Unutilized
Comment: 4425 sq. ft., 2-story, needs rehab, most recent use—barrcks, off-site use only.

Bldg. 4138, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310415
Status: Unutilized
Comment: 4425 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4140, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310416
Status: Unutilized
Comment: 4425 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4002, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310417
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4004, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310418
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4008, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310419
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4009, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310420
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4010, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310421
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4012, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310422
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4015, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310423
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4020, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310424
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4106, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310425
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4115, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310426
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4116, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310427
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4127, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310428
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4128, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310429
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4139, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310430
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4149, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310431
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4150, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310432
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4017, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310435
Status: Unutilized
Comment: 7700 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4112, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310436
Status: Unutilized
Comment: 1144 sq. ft., 1-story, needs rehab, most recent use—day room, off-site use only.

Bldg. 4119, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310437
Status: Unutilized
Comment: 1144 sq. ft., 1-story, needs rehab, most recent use—day room, off-site use only.

Bldg. 4124, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310438
Status: Unutilized
Comment: 1144 sq. ft., 1-story, needs rehab, most recent use—day room, off-site use only.

Bldg. 4141, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310439
Status: Unutilized
Comment: 1144 sq. ft., 1-story, needs rehab, most recent use—day room, off-site use only.

Bldg. 4136, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310440
Status: Unutilized
Comment: 1144 sq. ft., 1-story, needs rehab, most recent use—day room, off-site use only.

Bldg. 4131, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310441
Status: Unutilized
Comment: 1144 sq. ft., 1-story, needs rehab, most recent use—day room, off-site use only.

Bldg. 4108, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310442
Status: Unutilized
Comment: 1171 sq. ft., 1-story, needs rehab, most recent use—day room, off-site use only.

Bldg. 1835, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310443
Status: Unutilized
Comment: 1712 sq. ft., 1-story, needs rehab, most recent use—day room, off-site use only.

Bldg. 4013, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310444
Status: Unutilized
Comment: 1884 sq. ft., 1-story, needs rehab, most recent use—day room, off-site use only.

Bldg. 4007, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310445
Status: Unutilized
Comment: 1884 sq. ft., 1-story, needs rehab, most recent use—day room, off-site use only.

Bldg. 4107, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310446
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—day room, off-site use only.

Bldg. 3072, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310447
Status: Unutilized
Comment: 479 sq. ft., 1-story, needs rehab, most recent use—hdqtrs. bldg., off-site use only.

Bldg. 4001, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310448
Status: Unutilized
Comment: 1635 sq. ft., 1-story, needs rehab, most recent use—hdqtrs bldg., off-site use only.

Bldg. 4103, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310449
Status: Unutilized
Comment: 1635 sq. ft., 1-story, needs rehab, most recent use—hdqtrs bldg., off-site use only.

Bldg. 4019, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310451
Status: Unutilized
Comment: 3270 sq. ft., 2-story, needs rehab, most recent use—hdqtrs bldg., off-site use only.

Bldg. 4018, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310452
Status: Unutilized
Comment: 3270 sq. ft., 2-story, needs rehab, most recent use—hdqtrs bldg., off-site use only.

Bldg. 4109, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310455
Status: Unutilized
Comment: 2253 sq. ft., 1-story, needs rehab, most recent use—dining facility, off-site use only.

Bldg. 4014, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310456
Status: Unutilized
Comment: 2794 sq. ft., 1-story, needs rehab, most recent use—dining facility, off-site use only.

Bldg. 4006, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310457
Status: Unutilized
Comment: 3023 sq. ft., 1-story, needs rehab, most recent use—dining facility, off-site use only.

Bldg. 4135, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310458
Status: Unutilized
Comment: 3755 sq. ft., 1-story, needs rehab, most recent use—dining facility, off-site use only.

Bldg. 4123, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310459
Status: Unutilized

Comment: 3755 sq. ft., 1-story, needs rehab, most recent use—dining facility, off-site use only.
Bldg. 4111, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310460
Status: Unutilized
Comment: 3755 sq. ft., 1-story, needs rehab, most recent use—dining facility, off-site use only.
Bldg. 4023, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310461
Status: Unutilized
Comment: 2269 sq. ft., 1-story, needs rehab, most recent use—maintenance shop, off-site use only.
Bldg. 4024, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310462
Status: Unutilized
Comment: 3281 sq. ft., 1-story, needs rehab, most recent use—maintenance shop, off-site use only.
Bldg. 4040, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310463
Status: Unutilized
Comment: 1815 sq. ft., 1-story, needs rehab, most recent use—admin. off-site use only.
Bldg. 4026, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310464
Status: Unutilized
Comment: 2330 sq. ft., 1-story, needs rehab, most recent use—admin. off-site use only.
Bldg. 4067, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310465
Status: Unutilized
Comment: 4406 sq. ft., 1-story, needs rehab, most recent use—admin. off-site use only.
Bldg. 4025, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310466
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—admin. off-site use only.
Bldg. 4110, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310467
Status: Unutilized
Comment: 1017 sq. ft., 1-story, needs rehab, most recent use—storehouse, off-site use only.
Bldg. 4122, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310468
Status: Unutilized
Comment: 1017 sq. ft., 1-story, needs rehab, most recent use—storehouse, off-site use only.
Bldg. 4134, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310469
Status: Unutilized
Comment: 1017 sq. ft., 1-story, needs rehab, most recent use—storehouse, off-site use only.
Bldg. 4021, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310470
Status: Unutilized
Comment: 1416 sq. ft., 1-story, needs rehab, most recent use—storehouse, off-site use only.
Bldg. 4113, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310473
Status: Unutilized
Comment: 4425 sq. ft., 2-story, needs rehab, most recent use—storage, off-site use only.
Bldg. 10304, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310475
Status: Unutilized
Comment: 1040 sq. ft., 1-story, needs rehab, most recent use—scout bldg., off-site use only.
Bldg. 10847, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310476
Status: Unutilized
Comment: 1056 sq. ft., 1-story, needs rehab, most recent use—scout bldg., off-site use only.
Bldg. 10768, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310477
Status: Unutilized
Comment: 1230 sq. ft., 1-story, needs rehab, most recent use—scout bldg., off-site use only.
Bldg. 2683, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310478
Status: Unutilized
Comment: 1816 sq. ft., 1-story, needs rehab, most recent use—scout bldg., off-site use only.
Bldg. 2504, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310479
Status: Unutilized
Comment: 729 sq. ft., 1-story, needs rehab, most recent use—snack bar, off-site use only.
Bldg. 4121, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310487
Status: Unutilized
Comment: 1017 sq. ft., 1-story, needs rehab, most recent use—arms bldg., off-site use only.
Bldg. 4133, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310488
Status: Unutilized
Comment: 1017 sq. ft., 1-story, needs rehab, most recent use—arms bldg., off-site use only.
Bldg. 4143, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310489
Status: Unutilized
Comment: 1017 sq. ft., 1-story, needs rehab, most recent use—arms bldg., off-site use only.
Bldg. 4105, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310490
Status: Unutilized
Comment: 1416 sq. ft., 1-story, needs rehab, most recent use—arms bldg., off-site use only.
Bldg. 4005, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310491
Status: Unutilized
Comment: 1416 sq. ft., 1-story, needs rehab, most recent use—arms bldg., off-site use only.
Bldg. 26306
Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219320225
Status: Unutilized
Comment: 1272 sq. ft., 1 story wood frame, possible asbestos, need repairs, off-site use only, most recent use—storage.
Bldg. 33436
Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219320228
Status: Unutilized
Comment: 2632 sq. ft., 1 story wood frame, presence of asbestos, need repairs, off-site use only, most recent use—offices.
Bldg. 33438
Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219320229
Status: Unutilized
Comment: 2668 sq. ft., 1 story wood frame, presence of asbestos, needs rehab, off-site use only, most recent use—storage.
Bldg. 26301
Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219320234
Status: Unutilized
Comment: 2788 sq. ft., 1 story wood frame, presence of asbestos, needs roof repairs, off-site use only, most recent use—storage.
Bldg. 354, Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219330259
Status: Unutilized
Comment: 4237 sq. ft., 1-story wood, possible termite damage, needs repair, presence of asbestos, most recent use—offices, off-site use only.
Bldg. 355, Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219330260
Status: Unutilized
Comment: 4237 sq. ft., 1-story wood, needs repair, presence of asbestos, most recent use—offices, off-site use only.
Bldg. 356, Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219330261
Status: Unutilized
Comment: 4237 sq. ft., 1-story wood, possible termite damage, needs repair, most recent use—offices, off-site use only.
Bldg. 376, Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219330262
Status: Unutilized
Comment: 4237 sq. ft., 1-story wood, possible termite damage, needs repair, most recent use—offices, off-site use only.
Bldg. 377, Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219330263
Status: Unutilized
Comment: 4768 sq. ft., 1-story wood, needs repair, presence of asbestos, most recent use—offices, off-site use only.
Bldg. 18704, Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219330265
Status: Unutilized
Comment: 4524 sq. ft., 2-story wood, presence of asbestos, most recent use—offices, off-site use only.
Bldg. 19601, Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219330268
Status: Unutilized
Comment: 2132 sq. ft., 1-story wood, possible termite damage, presence of asbestos, most recent use—offices, off-site use only.
Bldg. 19602, Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219330269
Status: Unutilized
Comment: 1555 sq. ft., 1-story wood, presence of asbestos, most recent use—offices, off-site use only.
Bldg. 25103, Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219330271
Status: Unutilized
Comment: 2100 sq. ft., 1-story wood, needs rehab, most recent use—offices, off-site use only.
Bldg. 25105, Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219330272
Status: Unutilized
Comment: 1025 sq. ft., 1-story wood, needs rehab, most recent use—offices, off-site use only.
Bldg. 25503, Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219330273
Status: Unutilized
Comment: 6816 sq. ft., 1-story wood, presence of asbestos, most recent use—offices, off-site use only.
Bldg. 34502, Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219330276
Status: Unutilized
Comment: 7036 sq. ft., 2-story wood, needs rehab, most recent use—offices, off-site use only.
Bldg. 35503, Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219330277
Status: Unutilized
Comment: 2500 sq. ft., 1-story wood, needs rehab, most recent use—offices, off-site use only.
Bldg. 37505, Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219330278
Status: Unutilized
Comment: 17370 sq. ft., 2-story wood, needs rehab, possible asbestos, most recent use—offices, off-site use only.
Bldg. 18718, Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219330282
Status: Unutilized
Comment: 2468 sq. ft., 1-story wood, presence of asbestos, most recent use—classrooms, off-site use only.
Bldg. 18720, Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219330283
Status: Unutilized
Comment: 2632 sq. ft., 1-story wood, presence of asbestos, most recent use—classrooms, off-site use only.
Bldg. 332, Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219330289
Status: Unutilized
Comment: 5340 sq. ft., 1-story wood, needs repair, presence of asbestos, most recent use—laboratory, off-site use only.
Bldg. 333, Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219330290
Status: Unutilized
Comment: 5340 sq. ft., 1-story wood, possible termite damage, needs repair, presence of asbestos, most recent use—laboratory, off-site use only.
Bldg. 334, Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219330291
Status: Unutilized
Comment: 4279 sq. ft., 1-story wood, possible termite damage, presence of asbestos, most recent use—medical admin., off-site use only.
Bldg. 335, Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219330292
Status: Unutilized
Comment: 4300 sq. ft., 1-story wood, possible termite damage, needs repair, presence of asbestos, most recent use—laboratory, off-site use only.
Bldg. 353, Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219330293
Status: Unutilized
Comment: 5157 sq. ft., 1-story wood, presence of asbestos, most recent use—laboratory, off-site use only.
Bldg. 352, Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219330294
Status: Unutilized
Comment: 560 sq. ft., 1-story metal, presence of asbestos, most recent use—equip. storage, off-site use only.
Bldg. 10501
Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219410264
Status: Unutilized
Comment: 2516 sq. ft., 1-story wood; needs rehab.; most recent use—office; off-site use only.
Bldg. 10601
Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219410265
Status: Unutilized
Comment: 1334 sq. ft.; 1-story; wood; most recent use—office; off-site use only.
Bldg. 20303
Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219410266
Status: Unutilized
Comment: 2376 sq. ft.; 1-story; wood; needs rehab.; most recent use—office; off-site use only.
Bldg. 41504
Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219410267
Status: Unutilized
Comment: 2516 sq. ft.; 1-story; wood; needs rehab.; most recent use—store; off-site use only.
Bldg. 11813
Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219410269
Status: Unutilized
Comment: 70 sq. ft.; 1-story; metal; needs rehab.; most recent use—storage; off-site use only.
Bldg. 21314
Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219410270
Status: Unutilized
Comment: 85 sq. ft.; 1-story; needs rehab.; most recent use—storage; off-site use only.
Bldg. 951

Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219410271
Status: Unutilized
Comment: 17,825 sq. ft.; 1-story; wood; needs rehab.; most recent use—workshop; off-site use only.

Bldg. 12809
Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219410272
Status: Unutilized
Comment: 2788 sq. ft.; 1-story; wood; needs rehab.; most recent use—maintenance shop; off-site use only.

Bldg. 10306
Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219410273
Status: Unutilized
Comment: 195 sq. ft.; 1-story; wood; most recent use—oil storage shed; off-site use only.

Bldg. P–8582
Hunter Army Airfield
Savannah Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 219420355
Status: Unutilized
Comment: 5892 sq. ft., 2-story, steel, needs major repairs, most recent use—radar tower, off-site use only.

Bldg. T–305, Fort Stewart
Hinesville Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 219510103
Status: Excess
Comment: 2340 sq. ft., 1-story, most recent use—hosp. clinic, needs rehab, off-site use only.

Bldg. T–1414
Hunter Army Airfield
Savannah Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 219510106
Status: Excess
Comment: 2000 sq. ft., 1-story, most recent use—office, needs rehab, off-site use only.

Bldg. 2813, Ft. Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219520074
Status: Unutilized
Comment: 40536 sq. ft., 4-story, most recent use—admin., needs major repair, off-site use only.

Bldg. 5982, Ft. Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219520075
Status: Unutilized
Comment: 535 sq. ft., 1-story, most recent use—admin., needs major repair, off-site use only.

Bldg. 401
Hunter Army Airfield
Savannah Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 219520076
Status: Unutilized
Comment: 5167 sq. ft., 1-story, needs major repair, most recent use—office, off-site use only.

Bldg. T–901
Hunter Army Airfield
Savannah Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 219520077
Status: Unutilized
Comment: 1828 sq. ft., 1-story, needs major repair, most recent use—admin., off-site use only.

Bldg. T–902
Hunter Army Airfield
Savannah Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 219520078
Status: Unutilized
Comment: 1828 sq. ft., 1-story, needs major repair, most recent use—admin., off-site use only.

Bldg. 33605, Fort Gordon
Fort Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219520079
Status: Unutilized
Comment: 10864 sq. ft., 2-story, needs repair, presence of asbestos & lead paint, most recent use—office, off-site use only.

Bldg. 51202, Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219520080
Status: Unutilized
Comment: 1555 sq. ft., 1-story, needs repair, presence of lead paint, most recent use—office, off-site use only.

Bldg. 91401, Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219520081
Status: Unutilized
Comment: 2132 sq. ft., 1-story, needs repair, presence of asbestos & lead paint, most recent use—office, off-site use only.

Bldgs. 61401 and 91501
Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219520132
Status: Unutilized
Comment: 7036 sq. ft. each, 2-story, needs rehab, presence of asbestos & lead base paint, most recent use—barracks, off-site use only.

Bldg. 2814, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219520133
Status: Unutilized
Comment: 40536 sq. ft., 4-story, most recent use—barracks w/dining, needs major repair, off-site use only.

Bldg. 5002, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219520134
Status: Unutilized
Comment: 5310 sq. ft., 2-story, most recent use—barracks, needs major repair, off-site use only.

Bldg. 5007, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219520135
Status: Unutilized
Comment: 5310 sq. ft., 2-story, most recent use—barracks, needs major repair, off-site use only.

Bldg. 90, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219520165
Status: Unutilized
Comment: 25065 sq. ft., 1-story, needs rehab, most recent use—theater, off-site use only.

Bldg. 227, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219520166
Status: Unutilized
Comment: 14019 sq. ft., 2-story, needs rehab, most recent use—NCO club, off-site use only.

Bldg. 1690, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219520167
Status: Unutilized
Comment: 13601 sq. ft., 1-story, needs rehab, most recent use—warehouse, off-site use only.

Bldg. 1692, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219520168
Status: Unutilized
Comment: 13601 sq. ft., 1-story, needs rehab, most recent use—warehouse, off-site use only.

Bldg. 1693, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219520169
Status: Unutilized
Comment: 13195 sq. ft., 1-story, needs rehab, most recent use—warehouse, off-site use only.

Bldg. 1755, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219520170
Status: Unutilized
Comment: 3142 sq. ft., needs rehab, most recent use—maint. shop, off-site use only.

Bldg. 2398, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219520171
Status: Unutilized
Comment: 6077 sq. ft., needs rehab, most recent use—maint. shop, off-site use only.

Bldg. 2399, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219520172
Status: Unutilized
Comment: 3936 sq. ft., needs rehab, most recent use—maint. shop, off-site use only.

Bldg. 3802, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219520173
Status: Unutilized
Comment: 3362 sq. ft., 1-story, needs rehab, most recent use—chapel, off-site use only.

Bldg. 4011, Fort Benning
Ft. Benning Co: Muscogee GA 31905–

Landholding Agency: Army
Property Number: 219520174
Status: Unutilized
Comment: 1030 sq. ft., 1-story, needs rehab, most recent use—warehouse, off-site use only.

Bldg. 4051, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219520175
Status: Unutilized
Comment: 967 sq. ft., 1-story, needs rehab, most recent use—storage, off-site use only.

Bldg. 4495, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219520176
Status: Unutilized
Comment: 4367 sq. ft., 1-story, needs rehab, most recent use—training, off-site use only.

Bldg. 4496, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219520177
Status: Unutilized
Comment: 4367 sq. ft., 1-story, needs rehab, most recent use—training, off-site use only.

Bldg. 4635, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219520178
Status: Unutilized
Comment: 2284 sq. ft., 1-story, needs rehab, off-site use only.

Bldg. 4762, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219520179
Status: Unutilized
Comment: 3148 sq. ft., needs rehab, most recent use—maint. shop, off-site use only.

Bldg. 5075, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219520180
Status: Unutilized
Comment: 3148 sq. ft., needs rehab, most recent use—maint. shop, off-site use only.

Bldg. 5076, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219520181
Status: Unutilized
Comment: 3148 sq. ft., needs rehab, most recent use—maint. shop, off-site use only.

Bldg. 11301, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219520182
Status: Unutilized
Comment: 1068 sq. ft., 1-story, needs rehab, most recent use—scout bldg., off-site use only.

Bldg. A1401, Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219520183
Status: Unutilized
Comment: 3428 sq. ft., 1-story, needs rehab, presence of asbestos & lead base paint, off-site use only.

Bldg. A1616, Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219520184
Status: Unutilized
Comment: 2800 sq. ft., 1-story, needs rehab, most recent use—storage, presence of asbestos & lead base paint, off-site use only.

Bldg. 61404, Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219520185
Status: Unutilized
Comment: 3428 sq. ft., 1-story, most recent use—maint. shop, needs rehab, presence of asbestos & lead base paint, off-site use only.

Bldg. 91704, Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219520186
Status: Unutilized
Comment: 2788 sq. ft., 1-story, most recent use—vehicle maint., needs rehab, presence of asbestos & lead base paint, off-site use only.

Hawaii

P–88
Aliamanu Military Reservation
Honolulu Co: Honolulu HI 96818–
Location: Approximately 600 feet from Main Gate on Aliamanu Drive
Landholding Agency: Army
Property Number: 219030324
Status: Unutilized
Comment: 45,216 sq. ft. underground tunnel complex, pres. of asbestos clean-up required of contamination, use of respirator required by those entering property, use limitations.

Bldg. 302
Fort Shafter
Honolulu Co: Honolulu HI 96818–
Landholding Agency: Army
Property Number: 219320236
Status: Unutilized
Comment: 39 sq. ft., most recent use—sentry station, off-site use only.

Bldg. T–119
Fort Shafter
Honolulu HI 96819–
Landholding Agency: Army
Property Number: 219430252
Status: Unutilized
Comment: 10205 sq. ft., wood structure, some termite damage, most recent use—above ground swimming pool, off-site use only.

Bldg. S–108
Helemano Military Reservation
Wahiawa HI 96786–
Landholding Agency: Army
Property Number: 219510101
Status: Excess
Comment: 2400 sq. ft., 1-story, needs rehab, most recent use—fire station, off-site use only.

Bldg. S–107
Helemano Military Reservation
Wahiawa HI 96786–
Landholding Agency: Army
Property Number: 219510102
Status: Excess
Comment: 2000 sq. ft., 1-story, most recent use—office, off-site use only.

Bldg. S–823
Wheeler Army Airfield
Wahiawa HI 96786–
Landholding Agency: Army
Property Number: 219520062
Status: Unutilized
Comment: 3150 sq. ft., 2-story wood frame, most recent use—office, off-site use only.

Bldg. 198, Fort DeRussy
Honolulu HI 96815–
Landholding Agency: Army
Property Number: 219520063
Status: Unutilized
Comment: 19087 sq. ft., 1-story concrete, most recent use—office, off-site use only.

Bldg. 199, Fort DeRussy
Honolulu HI 96815–
Landholding Agency: Army
Property Number: 219520187
Status: Unutilized
Comment: 2400 sq. ft., 1-story, most recent use—training, off-site use only.

Bldg. P–125
Tripler Army Medical Center
Honolulu Co: Honolulu HI 96859–5000
Landholding Agency: Army
Property Number: 219540013
Status: Excess
Comment: 7987 sq. ft., need major repairs, most recent use—boiler plant, off-site use only.

Illinois

WARD Army Reserve Center
1429 Northmoor Road
Peoria Co: Peoria IL 61614–3498
Landholding Agency: Army
Property Number: 219430254
Status: Unutilized
Comment: 2 bldgs. on 3.15 acres, 36451 sq. ft., reserve center & warehouse, presence of asbestos, most recent use—office/storage/training.

Stonafich Army Reserve Center
1600 E. Willow Road
Kankakee Co: Kankakee IL 60901–2631
Landholding Agency: Army
Property Number: 219430255
Status: Unutilized
Comment: 2 bldgs.—reserve center & vehicle maint. shop on 3.68 acres, 5641 sq. ft., most recent use—office/storage/training, presence of asbestos.

Indiana

Bldg. 703–1C
Indiana Army Ammunition Plant
Charlestown Co: Clark IN
Location: Gate 22 off Highway 22
Landholding Agency: Army
Property Number: 219013761
Status: Underutilized
Comment: 4000 sq. ft.; 2 story brick frame; possible asbestos; most recent use—exercise area.

Bldg. 1011 (Portion of)
Indiana Army Ammunition Plant
End of 3rd Street
Charlestown Co: Clark IN
Location: East of State Highway 62 at Gate 3
Landholding Agency: Army
Property Number: 219013762
Status: Underutilized
Comment: 4040 sq. ft.; 1 story concrete block frame; possible asbestos; secured area with alternate access; most recent use—office.

Bldg. 1001 (Portion of)
Indiana Army Ammunition Plant

Charlestown Co: Clark IN
Location: South end of 3rd Streeet, East of Highway 62 at entrance gate.
Landholding Agency: Army
Property Number: 219013763
Status: Underutilized
Comment: 55630 sq. ft.; 1 story concrete block; possible asbestos; secured area with alternate access; most recent use—cloth bag manufacturing.

Bldg. 2542
Indiana Army Ammunition Plant
Charlestown Co: Clark IN 47111–
Landholding Agency: Army
Property Number: 219240717
Status: Unutilized
Comment: 1954 sq. ft., 1 story concrete block, secured area w/alternate access, asbestos, most recent use—heating facility.

Bldg. 2531
Indiana Army Ammunition Plant
Charlestown Co: Clark IN 47111–
Landholding Agency: Army
Property Number: 219240718
Status: Unutilized
Comment: 119746 sq. ft., 1 story concrete block, secured area w/alternate access, asbestos, most recent use—storage.

Bldgs. 7215, 7216
Indiana Army Ammunition Plant
Charlestown Co: Clark IN 47111–
Landholding Agency: Army
Property Number: 219330297
Status: Unutilized
Comment: roadside shelters, no utilities, located on Indiana State Highway Right of Way.

Iowa

U.S. Army Reserve Center
705 E. Taylor Street
Creston Co: Adams IA 50801–4040
Landholding Agency: Army
Property Number: 219430253
Status: Unutilized
Comment: 6500 sq. ft., 1-story structure on 2 acres, most recent use—office/storage/training.

Kansas

Bldg. T–2549, Fort Riley
Ft. Riley Co: Geary KS 66442–
Landholding Agency: Army
Property Number: 219310252
Status: Unutilized
Comment: 3082 sq. ft., 1-story wood frame, needs rehab, presence of asbestos, most recent use—storage.

Bldg. 166, Fort Riley
Ft. Riley Co: Geary KS 66442–
Landholding Agency: Army
Property Number: 219410325
Status: Unutilized
Comment: 3803 sq. ft., 3-story brick residence, needs rehab, presence of asbestos, located within National Registered Historic District.

Bldg. 184, Fort Riley
Ft. Riley KS 66442–
Landholding Agency: Army
Property Number: 219430146
Status: Unutilized
Comment: 1959 sq. ft., 1-story, needs rehab, presence of asbestos, most recent use—boiler plant, historic district.

Bldg. 1362
Fort Leavenworth
Ft. Leavenworth Co: Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 219440415
Status: Unutilized
Comment: 863 sq. ft., wood frame, asbestos cement shingles, most recent use—office, off-site use only.

Bldg. 1457
Fort Leavenworth
Ft. Leavenworth Co: Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 219440416
Status: Unutilized
Comment: 863 sq. ft., 1-story wood frame, asbestos cement shingles, most recent use—office, off-site use only.

Bldg. 1458
Fort Leavenworth
Ft. Leavenworth Co: Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 219440417
Status: Unutilized
Comment: 863 sq. ft., wood frame, asbestos cement shingles, most recent use—office, off-site use only.

Bldg. 1462
Fort Leavenworth
Ft. Leavenworth Co: Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 219440418
Status: Unutilized
Comment: 863 sq. ft., 1-story wood frame, asbestos cement shingles, most recent use—office, off-site use only.

Bldg. 1464
Fort Leavenworth
Ft. Leavenworth Co: Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 219440419
Status: Unutilized
Comment: 863 sq. ft., 1-story wood frame, asbestos cement shingles, most recent use—office, off-site use only.

Bldg. 1358
Fort Leavenworth
Ft. Leavenworth Co: Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 219440420
Status: Unutilized
Comment: 1075 sq. ft., 1-story wood frame, asbestos cement shingles, most recent use—office, off-site use only.

Bldg. 1359
Fort Leavenworth
Ft. Leavenworth Co: Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 219440421
Status: Unutilized
Comment: 1075 sq. ft., 1-story wood frame, asbestos cement shingles, most recent use—office, off-site use only.

Bldg. 1454
Fort Leavenworth
Ft. Leavenworth Co: Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 219440422
Status: Unutilized
Comment: 1075 sq. ft., 1-story wood frame, asbestos cement shingles, most recent use—office, off-site use only.

Bldg. 1455
Fort Leavenworth
Ft. Leavenworth Co: Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 219440423
Status: Unutilized
Comment: 1075 sq. ft., 1-story wood frame, asbestos cement shingles, most recent use—office, off-site use only.

Bldg. 1461
Fort Leavenworth
Ft. Leavenworth Co: Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 219440424
Status: Unutilized
Comment: 1075 sq. ft., 1-story wood frame, asbestos cement shingles, most recent use—office, off-site use only.

Bldg. T–2038, Fort Riley
Ft. Riley Co: Geary KS 66442–
Landholding Agency: Army
Property Number: 219440443
Status: Unutilized
Comment: 1324 sq. ft., 1 story wood frame, needs rehab, presence of asbestos, most recent use—storage.

Bldg. T–2049, Fort Riley
Ft. Riley Co: Geary KS 66442–
Landholding Agency: Army
Property Number: 219440444
Status: Unutilized
Comment: 3255 sq. ft., 1 story wood frame, needs rehab, presence of asbestos, most recent use—storage.

Bldg. T–2449, Fort Riley
Ft. Riley Co: Geary KS 66442–
Landholding Agency: Army
Property Number: 219440445
Status: Unutilized
Comment: 3057 sq. ft., 1 story wood frame, needs rehab, presence of asbestos, most recent use—storage.

Bldgs. T–2018, T–2120, T–2338
Fort Riley
Ft. Riley, KS 66442–
Landholding Agency: Army
Property Number: 219510099
Status: Unutilized
Comment: 3059–3278 sq. ft., 1–2 story, needs rehab, presence of asbestos, most recent use—office/storage.

Bldgs. S–403, S–401
Fort Leavenworth
Leavenworth, KS 66027–
Landholding Agency: Army
Property Number: 219510100
Status: Excess
Comment: 2978 sq. ft., 1-story, presence of asbestos, most recent use—hosp. clinic, off-site use only.

Kentucky

Bldg. 7162
Fort Campbell
Fort Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219410301
Status: Unutilized
Comment: 1256 sq. ft.; most recent use—storage; off-site use only.

Bldg. 234
Fort Campbell
Fort Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219430152
Status: Unutilized
Comment: 8042 sq. ft., 2-story, needs repair, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 236
Fort Campbell
Fort Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219430153
Status: Unutilized
Comment: 7020 sq. ft., 2-story, needs repair, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 238
Fort Campbell
Fort Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219430154
Status: Unutilized
Comment: 7020 sq. ft., 2-story, needs repair, presence of asbestos, most recent use—Educ. center, off-site use only.

Bldg. 240
Fort Campbell
Fort Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219430155
Status: Unutilized
Comment: 7020 sq. ft., 2-story, needs repair, presence of asbestos, most recent use—educ. center, off-site use only.

Bldgs. 242, 244
Fort Campbell
Fort Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219430156
Status: Unutilized
Comment: 7020 sq. ft., 2-story, needs repair, presence of asbestos, most recent use—educ. center, off-site use only.

Bldg. 2104
Fort Campbell
Fort Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219430158
Status: Unutilized
Comment: 2000 sq. ft., 1-story, needs repair, presence of asbestos, most recent use—classroom, off-site only.

Bldg. 2108
Fort Campbell
Fort Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219430161
Status: Unutilized
Comment: 3823 sq. ft., 1-story, needs repair, presence of asbestos, most recent use—classroom, off-site use only.

Bldg. 2788
Fort Campbell
Ft. Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219430167
Status: Unutilized
Comment: 1813 sq. ft., 1-story, needs repair, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 3170
Fort Campbell
Ft. Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219430172
Status: Unutilized
Comment: 2750 sq. ft., 1-story needs repair, presence of asbestos, most recent use—maint. shop, off-site use only.

Maryland

Bldg. E5878
Aberdeen Proving Ground
Edgewood Area
Aberdeen City Co: Harford MD 21010–5425
Landholding Agency: Army
Property Number: 219012652
Status: Unutilized
Comment: 213 sq. ft.; structural deficiencies; possible asbestos; and contamination.

Bldg. E5879
Aberdeen Proving Ground
Edgewood Area
Aberdeen City Co: Harford MD 21010–55425
Landholding Agency: Army
Property Number: 219012653
Status: Unutilized
Comment: 213 sq. ft.; possible asbestos and contamination; no utilities; most recent use—igloo storage.

Bldg. 10302
Aberdeen Proving Ground
Edgewood Area
Aberdeen City Co: Harford MD 21010–5425
Landholding Agency: Army
Property Number: 219012666
Status: Unutilized
Comment: 42 sq. ft., possible asbestos; most recent use—pumping station only.

Bldg. E5975
Aberdeen Proving Ground
Edgewood Area
Aberdeen City Co: Harford Md 21010–5425
Landholding Agency: Army
Property Number: 219012677
Status: Unutilized
Comment: 650 sq. ft.; possible contamination; structural deficiencies most recent use—training exercises/chemicals and explosives; potential use—storage.

Bldg. 6687
Fort George G. Meade
Mapes and Zimbroski Roads
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219220446
Status: Unutilized
Comment: 1150 sq. ft., presence of asbestos, wood frame, most recent use—veterinarian clinic, off-site removal only, sched. to be vacated 10/1/92.

Bldgs. 303–308, 323–328, 333–337
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219320293
Status: Unutilized
Comment: 4720 sq. ft. each, 2-story wood frame, possible asbestos, most recent use—barracks/classrooms, fair to good condition off-site use only.

Bldg. 309
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219320294
Status: Unutilized
Comment: 2324 sq. ft., 1-story wood frame, possible asbestos, fair to good condition, off-site use only.

Bldgs. 312, 319
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219320295
Status: Unutilized
Comment: 2594 sq. ft., 1-story wood frame, possible asbestos, most recent use—storage, fair condition, off-site use only.

Bldgs. 313–314, 317–318
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219320296
Status: Unutilized
Comment: 1144 sq. ft., 1-story wood frame, possible asbestos, most recent use—storage, fair to good condition, off-site use only.

Bldgs. 302, 329, 332, 339
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219320297
Status: Unutilized
Comment: 2208 sq. ft., 1-story wood frame, possible asbestos, most recent use—storage, fair condition, off-site use only.

Bldg. E4890
Aberdeen Proving Ground Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219330434
Status: Unutilized
Comment: 6250 sq. ft., 1-story, needs rehab, presence of asbestos.

Bldgs. 2251, 2252
Fort Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219430160
Status: Unutilized
Comment: 648 & 3594 sq. ft., 1-story concrete/metal structure, needs rehab, presence of asbestos, most recent use—heating plant & admin.

Bldg. E4144
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219540001
Status: Unutilized
Comment: 1632 sq. ft., concrete frame bath house, 1 story, presence of asbestos and lead paint.

Michigan

Bldg. 300, Arsenal Acres
24140 Mound Road
Warren MI 48091–
Landholding Agency: Army
Property Number: 219220448
Status: Unutilized
Comment: 52 sq.. ft. sentry station, secured area with alternate access.

Bldg. 301, Arsenal Acres
24140 Mound Road
Warren MI 48091–
Landholding Agency: Army
Property Number: 219220449
Status: Unutilized
Comment: 3125 sq. ft., 2-story colonial style home, secured area with alternate access.

Bldg. 302, Arsenal Acres
24140 Mound Road
Warren MI 48091–
Landholding Agency: Army
Property Number: 219220450
Status: Unutilized
Comment: 2619 sq. ft., 2-story colonial style home, secured area with alternate access.

Bldg. 303, Arsenal Acres
24140 Mound Road
Warren MI 48091–
Landholding Agency: Army
Property Number: 219220451
Status: Unutilized
Comment: 2619 sq. ft., 2-story colonial style home, secured area with alternate access.

Bldg. 304, Arsenal Acres
24140 Mound Road
Warren MI 48091–
Landholding Agency: Army
Property Number: 219220452
Status: Unutilized
Comment: 2443 sq. ft., 2-story colonial style home, secured area with alternate access.

Bldg. 305, Arsenal Acres
24140 Mound Road
Warren MI 48091–
Landholding Agency: Army
Property Number: 219220787
Status: Unutilized
Comment: 2443 sq. ft., 2-story Colonial style home, secured area with alternate access.

Bldg. 306
Arsenal Acres
24140 Mound Rd.
Warren MI 48091–
Landholding Agency: Army
Property Number: 219410326
Status: Unutilized
Comment: 2443 sq. ft., 2-story colonial style home, secured area w/alternate access.

Bldg. 307
Arsenal Acres
24140 Mound Rd.
Warren MI 48091–
Landholding Agency: Army
Property Number: 219410327
Status: Unutilized
Comment: 2443 sq. ft., 2-story colonial style home, secured area w/alternate access.

Bldg. 308
Arsenal Acres
24140 Mound Rd.
Warren MI 48091–
Landholding Agency: Army
Property Number: 219410328
Status: Unutilized
Comment: 205 sq. ft., 1-story brick, secured area w/alternate access.

Missouri

Bldg. T2383
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219230228
Status: Underutilized
Comment: 9267 sq. ft., 1-story, presence of asbestos, most recent use—general purpose facility, off-site use only.

Bldg. T599
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 2192330260
Status: Underutilized
Comment: 18270 sq. ft., 1-story, presence of asbestos, most recent use—storehouse, off-site use only.

Bldg. T1311
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219230261
Status: Underutilized
Comment: 2740 sq. ft., 1-story, presence of asbestos, most recent use—storehouse, off-site use only.

Bldg. T427
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219330299
Status: Underutilized
Comment: 10245 sq. ft., 1-story, presence of asbestos, most recent use—post office, off-site use only.

Bldg. T2368
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219330306
Status: Underutilized
Comment: 3663 sq. ft., 1-story, presence of asbestos, off-site use only.

Bldg. T3005
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219330307
Status: Underutilized
Comment: 2220 sq. ft., 1-story, presence of asbestos, most recent use—motor repair shop, off-site use only.

Bldg. T2171
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219340212
Status: Unutilized
Comment: 1296 sq. ft., 1-story wood frame, most recent use—administrative, no handicap fixtures, lead base paint, off-site use only.

Bldg. T1258
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219340213
Status: Underutilized
Comment: 2360 sq. ft., 1-story wood frame, most recent use—warehouse, no handicap fixtures, possible asbestos, lead base paint, off-site use only.

Bldg. T2312
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219340217
Status: Underutilized
Comment: 1403 sq. ft., 1-story wood frame, most recent use—paint shop, no handicap fixtures, lead base paint, off-site use only.

Bldg. T6822
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219340219
Status: Underutilized
Comment: 4000 sq. ft., 1-story wood frame, most recent use—storage, no handicap fixtures, off-site use only.

Bldg. T1363
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219420392
Status: Underutilized
Comment: 1296 sq. ft., 1-story, presence of lead base paint, most recent use—storage, off-site use only.

Bldg. T1364
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219420393
Status: Underutilized
Comment: 1144 sq. ft., 1-story, presence of lead base paint, most recent use—storage, off-site use only.

Bldg. T281
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219420397
Status: Underutilized
Comment: 4230 sq. ft., 1-story, presence of lead base paint, most recent use—admin/gen.purpose, off-site use only.

Bldg. T282
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219420398
Status: Underutilized
Comment: 2295 sq. ft., 2-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only.

Bldg. T283
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219420431
Status: Underutilized
Comment: 6163 sq. ft., 2-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only.

Bldg. T407
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219420432
Status: Underutilized
Comment: 2265 sq. ft., 1-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only.

Bldg. T408
Fort Leonard Wood
Ft. leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219420433
Status: Underutilized
Comment: 10296 sq. ft., 1-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only.

Bldg. T409

Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219420434
Status: Underutilized
Comment: 2450 sq. ft., 1-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only.

Bldg. T410
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219420435
Status: Underutilized
Comment: 2664 sq. ft., 1-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only.

Bldg. T411
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219420436
Status: Underutilized
Comment: 4720 sq. ft., 2-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only.

Bldg. T412
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219420437
Status: Underutilized
Comment: 1296 sq. ft., 1-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only.

Bldg. T415
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219420438
Status: Underutilized
Comment: 1144 sq. ft., 1-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only.

Bldg. T429
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219420439
Status: Underutilized
Comment: 2475 sq. ft., 1-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only.

Bldg. T1100
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219420440
Status: Underutilized
Comment: 3236 sq. ft., 2-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only.

Bldg. T1497
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219420441
Status: Underutilized
Comment: 4720 sq. ft., 2-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only.

Bldg. T2138
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219420445
Status: Underutilized
Comment: 1676 sq. ft., 1-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only.

Bldg. T2139
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219420446
Status: Underutilized
Comment: 3663 sq. ft., 1-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only.

Bldg. T–2143
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219440324
Status: Excess
Comment: 4720 sq. ft., 2 story wood frame, off-site removal only, to be vacated 8/95, lead based paint, most recent use—barracks.

Bldg. T–2144
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219440325
Status: Excess
Comment: 4720 sq. ft., 2 story wood frame, off-site removal only, to be vacated 8/95, lead based paint, most recent use—barracks.

Bldg. T–2158
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219440326
Status: Excess
Comment: 4720 sq. ft., 2 story wood frame, off-site removal only, to be vacated 8/95, lead based paint, most recent use—barracks.

Bldg. T–2173
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219440330
Status: Excess
Comment: 4720 sq. ft., 2 story wood frame, off-site removal only, to be vacated 8/95, lead based paint, most recent use—barracks.

Bldg. T–2189
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219440332
Status: Excess
Comment: 4720 sq. ft., 2 story wood frame, off-site removal only, to be vacated 8/95, lead based paint, most recent use—barracks.

Bldg. T–2191
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219440334
Status: Excess
Comment: 4720 sq. ft., 2 story wood frame, off-site removal only, to be vacated 8/95, lead based paint, most recent use—barracks.

Bldg. T–2197
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219440335
Status: Excess
Comment: 4720 sq. ft., 2 story wood frame, off-site removal only, to be vacated 8/95, lead based paint, most recent use—barracks.

Bldg. T403
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–
Landholding Agency: Army
Property Number: 219510107
Status: Excess
Comment: 5818 sq. ft., 1-story, wood frame, most recent use—admin., to be vacated 8/95, off-site use only.

Bldg. T460
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–
Landholding Agency: Army
Property Number: 219510108
Status: Excess
Comment: 5428 sq. ft., 1-story, wood frame, most recent use—admin., to be vacated 8/95, off-site use only.

Bldg. T464
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–
Landholding Agency: Army
Property Number: 219510109
Status: Excess
Comment: 5310 sq. ft., 1-story, wood frame, most recent use—admin., to be vacated 8/95, off-site use only.

Bldg. T590
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–
Landholding Agency: Army
Property Number: 219510110
Status: Excess
Comment: 3263 sq. ft., 1-story, wood frame, most recent use—admin., to be vacated 8/95, off-site use only.

Bldg. T1246
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–
Landholding Agency: Army
Property Number: 219510111
Status: Excess
Comment: 1144 sq. ft., 1-story, wood frame, most recent use—admin., to be vacated 8/95, off-site use only.

Bldg. T1362
Fort Leonard Wood

Ft. Leonard Wood Co: Pulaski MO 65473–
Landholding Agency: Army
Property Number: 219510112
Status: Excess
Comment: 2360 sq. ft., 1-story, wood frame, most recent use—admin., to be vacated 8/95, off-site use only.

Bldg. T1907
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–
Landholding Agency: Army
Property Number: 219510113
Status: Excess
Comment: 7670 sq. ft., 1-story, wood frame, most recent use—admin., to be vacated 8/95, off-site use only.

Bldg. T1908
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–
Landholding Agency: Army
Property Number: 219510114
Status: Excess
Comment: 2284 sq. ft., 1-story, wood frame, most recent use—admin., to be vacated 8/95, off-site use only.

Bldg. T2385
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–
Landholding Agency: Army
Property Number: 219510115
Status: Excess
Comment: 3158 sq. ft., 1-story, wood frame, most recent use—admin., to be vacated 8/95, off-site use only.

Bldg. T3007
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–
Landholding Agency: Army
Property Number: 219510116
Status: Excess
Comment: 4687 sq. ft., 1-story, wood frame, most recent use—admin., to be vacated 8/95, off-site use only.

Bldg. T3008
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–
Landholding Agency: Army
Property Number: 219510117
Status: Excess
Comment: 4687 sq. ft., 1-story, wood frame, most recent use—admin., to be vacated 8/95, off-site use only.

Bldg. T3010
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–
Landholding Agency: Army
Property Number: 219510118
Status: Excess
Comment: 4687 sq. ft., 1-story, wood frame, most recent use—admin., to be vacated 8/95, off-site use only.

Bldg. T3011
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–
Landholding Agency: Army
Property Number: 219510119
Status: Excess
Comment: 4687 sq. ft., 1-story, wood frame, most recent use—admin., to be vacated 8/95, off-site use only.

Montana

USARC Bozeman Reserve Center
Bozeman Co: Gallatin MT
Landholding Agency: Army
Property Number: 219420391
Status: Unutilized
Comment: 15236 sq. ft., 3-story reserve center on .54 acres, bldg. on National Register of Historic Places, secured with alternate access.

Nevada

Bldgs. 00425–00449
Hawthorne Army Ammunition Plant
Schweer Drive Housing Area
Hawthorne Co: Mineral NV 89415–
Landholding Agency: Army
Property Number: 219011946
Status: Unutilized
Comment: 1310–1640 sq. ft., one floor residential, semi/wood construction, good condition.

New Jersey

Bldg. 421, Fort Monmouth
Ft. Monmouth Co: Monmouth NJ 07703–
Landholding Agency: Army
Property Number: 219330435
Status: Unutilized
Comment: 4720 sq. ft., 2-story, most recent use—office.

Bldg. 2529, Fort Monmouth
Charles Wood Area
Ft. Monmouth Co: Monmouth NJ 07703–
Landholding Agency: Army
Property Number: 219330436
Status: Unutilized
Comment: 4413 sq. ft., 2-story, needs rehab, most recent use—admin.

Bldg. 197
Fort Monmouth
Fort Monmouth Co: Monmouth NJ 07703–
Landholding Agency: Army
Property Number: 219440442
Status: Unutilized
Comment: 1240 sq. ft., 1 story, most recent use—motor repair shop.

New Mexico

Bldg. 108
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330327
Status: Unutilized
Comment: 3561 sq. ft., 2-story, presence of asbestos, most recent use—admin., off-site use only

Bldg. 109
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330328
Status: Unutilized
Comment: 3561 sq. ft., 2-story, presence of asbestos, most recent use—admin., off-site use only

Bldg. 117
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330329
Status: Unutilized
Comment: 1688 sq. ft., 1-story, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 118
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330330
Status: Unutilized
Comment: 3561 sq. ft., 2-story, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 119
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330331
Status: Unutilized
Comment: 3561 sq. ft., 2-story, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 148
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330332
Status: Unutilized
Comment: 3570 sq. ft., 2-story, needs rehab, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 149
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330333
Status: Unutilized
Comment: 3570 sq. ft., 2-story, needs rehab, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 150
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330334
Status: Unutilized
Comment: 3750 sq. ft., 2-story, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 357
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330335
Status: Unutilized
Comment: 3600 sq. ft., 2-story, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 1758
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330336
Status: Unutilized
Comment: 1620 sq. ft., 1-story, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 1768
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330337
Status: Unutilized
Comment: 15,333 sq. ft., 1-story, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 28281
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330338
Status: Unutilized

Comment: 1858 sq. ft., 1-story, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 28282
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330339
Status: Unutilized
Comment: 1850 sq. ft., 3-story, needs rehab, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 32980
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330340
Status: Unutilized
Comment: 451 sq. ft., 1-story, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 34252
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330341
Status: Unutilized
Comment: 720 sq. ft., 1-story, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 418
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330342
Status: Unutilized
Comment: 3690 sq. ft., 1-story, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 420
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330343
Status: Unutilized
Comment: 2407 sq. ft., 1-story, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 890
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330344
Status: Unutilized
Comment: 9011 sq. ft., 1-story, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 1348
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330345
Status: Unutilized
Comment: 720 sq. ft., 1-story, needs rehab, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 1738
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330346
Status: Unutilized
Comment: 1500 sq. ft., 1-story, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 1765
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330347
Status: Unutilized
Comment: 600 sq. ft., 1-story, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 21542
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330348
Status: Unutilized
Comment: 945 sq. ft., 1-story, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 22118
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330349
Status: Unutilized
Comment: 1341 sq. ft., 1-story, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 22253
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330350
Status: Unutilized
Comment: 216 sq. ft., 1-story, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 28267
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330351
Status: Unutilized
Comment: 617 sq. ft., 1-story, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 29195
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330352
Status: Unutilized
Comment: 56 sq. ft., 1-story, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 34219
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330353
Status: Unutilized
Comment: 720 sq. ft., 1-story, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 34221
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330354
Status: Unutilized
Comment: 720 sq. ft., 1-story, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 145
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330355
Status: Unutilized
Comment: 2954 sq. ft., 1-story, presence of asbestos, most recent use—chapel, off-site use only.

Bldg. 1754
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330356
Status: Unutilized
Comment: 6974 sq. ft., 1-story, presence of asbestos, most recent use—maintenance shop, off-site use only.

Bldg. 19242
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330357
Status: Unutilized
Comment: 450 sq. ft., 1-story, presence of asbestos, most recent use—maintenance shop, off-site use only.

Bldg. 34227
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330358
Status: Unutilized
Comment: 675 sq. ft., 1-story, presence of asbestos, most recent use—maintenance shop, off-site use only.

Bldg. 34244
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330359
Status: Unutilized
Comment: 720 sq. ft., 1-story, presence of asbestos, most recent use—maintenance shop, off-site use only.

Bldg. 21105
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330360
Status: Unutilized
Comment: 239 sq. ft., 1-story, presence of asbestos, most recent use—veterinarian facility, off-site use only.

Bldg. 21106
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330361
Status: Unutilized
Comment: 405 sq. ft., 1-story, presence of asbestos, most recent use—veterinarian facility, off-site use only.

Bldg. 21310
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330362
Status: Unutilized
Comment: 1006 sq. ft., 1-story, presence of asbestos, most recent use—transmitter bldg., off-site use only.

Bldg. 29890
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army

Property Number: 219330363
Status: Unutilized
Comment: 450 sq. ft., 1-story, presence of asbestos, most recent use—frequency monitoring station, off-site use only.
Bldg. 1868
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330364
Status: Unutilized
Comment: 41 sq. ft., 1-story, presence of asbestos, most recent use—scale house, off-site use only.
Bldg. 528
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330365
Status: Unutilized
Comment: 225 sq. ft., 1-story, presence of asbestos, most recent use—decontamination shelter, off-site use only.
Bldg. 1834
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330366
Status: Unutilized
Comment: 150 sq. ft., 1-story, presence of asbestos, most recent use—animal kennel, off-site use only.
Bldg. 1300
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330367
Status: Unutilized
Comment: 1500 sq. ft., 1-story, presence of asbestos, most recent use—indoor small arms range, off-site use only.
Bldg. 23100
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330368
Status: Unutilized
Comment: 40 sq. ft., 1-story, presence of asbestos, most recent use—sentry station, off-site use only.
Bldg. 29196
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330369
Status: Unutilized
Comment: 38 sq. ft., 1-story, presence of asbestos, most recent use—power plant bldg., off-site use only.
Bldg. 30774
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330370
Status: Unutilized
Comment: 176 sq. ft., 1-story, presence of asbestos, off-site use only.
Bldg. 33136
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330371
Status: Unutilized
Comment: 18 sq. ft., off-site use only.

New York
Bldg. 323
Fort Totten
Story Avenue
Bayside Co: Queens NY 11359–
Landholding Agency: Army
Property Number: 219012567
Status: Underutilized
Comment: 30000 sq. ft., 3 floors, most recent use—barracks & mess facility, needs major rehab.
Bldg. 304
Fort Totten
Shore Road
Bayside Co: Queens NY 11359–
Landholding Agency: Army
Property Number: 219012570
Status: Underutilized
Comment: 9610 sq. ft., 3 floors, most recent use—hospital, needs major rehab/utilities disconnected.
Bldg. 211
Fort Totten
211 Totten Avenue
Bayside Co: Queens NY 11359–
Landholding Agency: Army
Property Number: 219012573
Status: Underutilized
Comment: 6329 sq. ft., 3 floors, most recent use—family housing, needs major rehab, utilities disconnected.
Bldg. 332
Fort Totten
Theater Road
Bayside Co: Queens NY 11359–
Landholding Agency: Army
Property Number: 219012578
Status: Underutilized
Comment: 6288 sq. ft., 1 floor, most recent use—theater w/stage, needs major rehab, utilities disconnected.
Bldg. 322
Fort Totten
322 Story Avenue
Bayside Co: Queens NY 11359–
Landholding Agency: Army
Property Number: 219012583
Status: Underutilized
Comment: 30000 sq. ft., 3 floors, most recent use—barracks, mess & administration, utilities disconnected, needs rehab.
Bldg. 326
Fort Totten
326 Pratt Avenue
Bayside Co: Queens NY 11359–
Landholding Agency: Army
Property Number: 219012586
Status: Underutilized
Comment: 6000 sq. ft., 2 floors, most recent use—storage, offices & residential, utilities disconnected/needs rehab.
Bldg. 100, Fort Hamilton
Bellmore Co: Nassau NY 11710–
Landholding Agency: Army
Property Number: 219340254
Status: Unutilized
Comment: 155 sq. ft., 1-story, most recent use—storage.
Bldg. 200, Fort Hamilton
Bellmore Co: Nassau NY 11710–
Landholding Agency: Army
Property Number: 219340255
Status: Unutilized
Comment: 12000 sq. ft., 1-story, most recent use—office.
Bldg. 300, Fort Hamilton
Bellmore Co: Nassau NY 11710–
Landholding Agency: Army
Property Number: 219340256
Status: Underutilized
Comment: 11000 sq. ft., 1-story, most recent use—reserve center.
Bldg. 900, Fort Hamilton
Bellmore Co: Nassau NY 11710–
Landholding Agency: Army
Property Number: 219430259
Status: Underutilized
Comment: 400 sq. ft., 1-story, needs rehab, most recent use—material storage.
Bldg. P–2012, Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 219440429
Status: Unutilized
Comment: 450 sq. ft., most recent use—water distribution bldg., off-site use only.
Bldg. T–2420, Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 219440431
Status: Unutilized
Comment: 4340 sq. ft., 1-story, most recent use—warehouse, needs rehab, off-site use only.
Bldg. 134
West Point Army Family Housing
West Point Co: Orange NY 10996–
Landholding Agency: Army
Property Number: 219520122
Status: Excess
Comment: 8280 GSF, 2-story, 4-family dwelling unit, presence of asbestos, off-site use only.
Bldg. 136
West Point Army Family Housing
West Point Co: Orange NY 10996–
Landholding Agency: Army
Property Number: 219520123
Status: Excess
Comment: 9340 GSF, 3-story, 4-family dwelling unit, presence of asbestos, off-site use only.
Bldg. 138
West Point Army Family Housing
West Point Co: Orange NY 10996–
Landholding Agency: Army
Property Number: 219520124
Status: Excess
Comment: 2762 GSF, 2-story, single family dwelling unit, presence of asbestos, off-site use only.
Bldg. 139
West Point Army Family Housing
West Point Co: Orange NY 10996–
Landholding Agency: Army
Property Number: 219520125
Status: Excess
Comment: 6260 GSF, 1-story, 3-family dwelling unit, presence of asbestos, off-site use only.
Bldg. 142
West Point Army Family Housing
West Point Co: Orange NY 10996–
Landholding Agency: Army
Property Number: 219520126
Status: Excess
Comment: 6708 GSF, 3-story, 2-family dwelling unit, presence of asbestos, off-site use only.

Bldg. 1266
West Point Army Family Housing
West Point Co: Orange NY 10996–
Landholding Agency: Army
Property Number: 219520127
Status: Excess
Comment: 3504 GSF, 2-story, single family dwelling unit, presence of asbestos, off-site use only.
Bldg. 1404
West Point Army Family Housing
West Point Co: Orange NY 10996–
Landholding Agency: Army
Property Number: 219520128
Status: Excess
Comment: 1986 GSF, 3-story, single family dwelling unit, presence of asbestos, off-site use only.
Bldg. 1656
West Point Army Family Housing
West Point Co: Orange NY 10996–
Landholding Agency: Army
Property Number: 219520129
Status: Excess
Comment: 1736 GSF, 2-story, single family dwelling unit, presence of asbestos, off-site use only.
Bldg. 1666
West Point Army Family Housing
West Point Co: Orange NY 10996–
Landholding Agency: Army
Property Number: 219520130
Status: Excess
Comment: 1752 GSF, 1-story, single family dwelling unit, presence of asbestos, off-site use only
Bldg. 1970
West Point Army Family Housing
West Point Co: Orange NY 10996–
Landholding Agency: Army
Property Number: 219520131
Status: Excess
Comment: 2939 GSF, 2-story, single family dwelling unit, presence of asbestos, off-site use only
Bldg. T–601, Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 219520193
Status: Unutilized
Comment: 2305 sq. ft., 1-story, needs rehab, most recent use—NCO club, off-site use only
Bldg. P–1
Glenn Falls Reserve Center
Glen Falls Co: Warren NY 12801–
Location: 67–73 Warren Street
Landholding Agency: Army
Property Number: 219540015
Status: Unutilized
Comment: 19613 sq. ft., 2 story w/basement, concrete block/brick frame on .475 acres
Bldgs. P–1 & P–2
Elizabethtown Reserve Center
Corner of Water and Cross Streets
Elizabethtown Co: Essex NY 12932–
Landholding Agency: Army
Property Number: 219540016
Status: Unutilized
Comment: 4316 sq. ft. reserve center/1325 sq. ft. motor repair shop, 1 story each, concrete block/brick frame, on 5.05 acres
Bldgs. P–1 & P–2
Olean Reserve Center
423 Riverside Drive
Olean Co: Cattaraugus NY 14760–
Landholding Agency: Army
Property Number: 219540017
Status: Unutilized
Comment: 4464 sq. ft. reserve center/1325 sq. ft. motor repair shop, 1 story each, concrete block/brick frame, on 3.9 acres.

Ohio
15 Units
Military Family Housing
Ravenna Army Ammunition Plant
Ravenna Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 219230354
Status: Excess
Comment: 3 bedroom (7 units)—1,624 sq. ft. each, 4 bedroom 8 units)—2,430 sq. ft. each, 2-story wood frame, presence of asbestos, off-site use only.
7 Units
Military Family Housing Garages
Ravenna Army Ammunition Plant
Ravenna Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 219230355
Status: Excess
Comment: 1–4 stall garage and 6–3 stall garages, presence of asbestos, off-site use only.
Bldg. P–3
Doan U.S. Army Reserve Center
Portmonth Co: Scioto OH 45662–
Landholding Agency: Army
Property Number: 219320311
Status: Unutilized
Comment: 10752 sq. ft., 1-story brick, most recent use—office, possible asbestos.
Bldg. P–4
Doan U.S. Army Reserve Center
Portmonth Co: Scioto OH 45662–
Landholding Agency: Army
Property Number: 219320312
Status: Unutilized
Comment: 2506 sq. ft., 1-story brick, most recent use—vehicle maint. shop.
Bldg. P–2
Hayes U.S. Army Reserve Center
Fremont Co: Sandusky OH 43430–
Landholding Agency: Army
Property Number: 219320314
Status: Unutilized
Comment: 3956 sq. ft., 1-story brick, most recent use—office, possible asbestos.
Bldg. P–3
Hayes U.S. Army Reserve Center
Fremont Co: Sandusky OH 43420–
Landholding Agency: Army
Property Number: 219320315
Status: Unutilized
Comment: 1259 sq. ft., 1-story brick, most recent use—vehicle maint. shop, possible asbestos.

Oklahoma
Bldg. T–2545
Fort Sill
2545 Sheridan Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219011255
Status: Unutilized
Comment: 1994 sq. ft.; asbestos; wood frame; 2 floors; No operating sanitary facilities; most recent use—enl. barracks basic.
Bldg. T–2606
Fort Sill
2606 Currie Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219011273
Status: Unutilized
Comment: 2722 sq. ft.; possible asbestos, one floor wood frame; most recent use—Headquarters Bldg
Bldg. T–3507
Fort Sill
3507 Sheridan Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219011315
Status: Unutilized
Comment: 2904 sq. ft.; possible asbestos; potential heavy metal contamination; wood frame; most recent use—chapel.
Bldg. T–4919
Fort Sill
4919 Post Road
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219014842
Status: Unutilized
Comment: 603 sq. ft.; 1 story mobile home trailer; possible asbestos; needs rehab.
Bldg. T–4523
Fort Sill
4523 Wilson Rd
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219014933
Status: Unutilized
Comment: 1639 sq. ft.; 1 story wood frame; needs rehab; possible asbestos; most recent use—storage.
Bldg. T–838, Fort Sill
838 Macomb Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219220609
Status: Unutilized
Comment: 151 sq. ft., wood frame, 1 story, off-site removal only, most recent use—vet facility (quarantine stable).
Bldg. T–2702, Fort Sill
2702 Thomas Street
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219240655
Status: Unutilized
Comment: 5520 sq. ft., 1 story wood frame, needs rehabs, off-site use only, most recent use—admin.
Bldg. T–3311, Fort Sill
3311 Naylor Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219240656
Status: Unutilized
Comment: 1468 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—admin.
Bldg. T–954, Fort Sill
954 Quinette Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219240659
Status: Unutilized
Comment: 3571 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—motor repair shop.

Bldg. T–1050, Fort Sill
1050 Quinette Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219240660
Status: Unutilized
Comment: 6240 sq. ft., 2 story wood frame, needs rehab, off-site use only, most recent use—barracks.

Bldg. T–1051, Fort Sill
1051 Quinette Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219240661
Status: Unutilized
Comment: 6240 sq. ft., 2 story wood frame, needs rehab, off-site use only, most recent use—barracks.

Bldg. T–2703, Fort Sill
2703 Thomas Street
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219240667
Status: Unutilized
Comment: 5520 sq. ft., 2 story wood frame, needs rehab, off-site use only, most recent use—enlisted barracks.

Bldg. T–2704, Fort Sill
2704 Thomas Street
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219240668
Status: Unutilized
Comment: 4420 sq. ft., 2 story wood frame, needs rehab, off-site use only, most recent use—enlisted barracks.

Bldg. T–2740, Fort Sill
2740 Miner Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219240669
Status: Unutilized
Comment: 8210 sq. ft., 2 story wood frame, needs rehab, off-site use only, most recent use—enlisted barracks.

Bldg. T–2745, Fort Sill
2745 Miner Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219240670
Status: Unutilized
Comment: 8288 sq. ft., 2 story wood frame, needs rehab, off-site use only, most recent use—enlisted barracks.

Bldg. T–2633, Fort Sill
2633 Miner Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219240672
Status: Unutilized
Comment: 19455 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—enlisted mess.

Bldg. T–2701, Fort Sill
2701 Thomas Street
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219240673
Status: Unutilized
Comment: 5520 sq. ft., 2 story wood frame, needs rehab, off-site use only, most recent use—storage.

Bldg. T–2907, Fort Sill
2907 Marcy Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219240674
Status: Unutilized
Comment: 3861 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—barracks.

Bldg. T–2928, Fort Sill
2928 Custer Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219240675
Status: Unutilized
Comment: 2315 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—storage.

Bldg. T–4050, Fort Sill
4050 Pitman Street
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219240676
Status: Unutilized
Comment: 3177 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—storage.

Bldg. P–3032, Fort Sill
3032 Haskins Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219240678
Status: Unutilized
Comment: 101 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—general storehouse.

Bldg. T–3325, Fort Sill
3325 Naylor Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219240681
Status: Unutilized
Comment: 8832 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—warehouse.

Bldg. T–260, Fort Sill
260 Corral Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219240776
Status: Unutilized
Comment: 4838 sq. ft., 2 story wood frame, off-site use only, possible asbestos, most recent use—admin.

Bldg. T–5122, Fort Sill
Lawton Co: Comanche OK 73501–5100
Landholding Agency: Army
Property Number: 219320334
Status: Unutilized
Comment: 1-story metal frame, possible asbestos, off-site use only.

Bldg. P–6220, Fort Sill
Lawton Co: Comanche OK 73501–5100
Landholding Agency: Army
Property Number: 219320335
Status: Unutilized
Comment: 848 sq. ft., 1-story metal frame, possible asbestos, most recent use—construction bldg., off-site use only.

Bldg. S–6226, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219320336
Status: Unutilized
Comment: 352 sq. ft., 1-story wood frame, possible asbestos, most recent use—range house, off-site use only.

Bldg. P–2610, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219330372
Status: Unutilized
Comment: 512 sq. ft., 1-story, possible asbestos, most recent use—classroom, off-site use only.

Bldg. T–4722, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219330373
Status: Unutilized
Comment: 3375 sq. ft., 2-story possible asbestos, most recent use—admin., off-site use only.

Bldg. T–232, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219330377
Status: Unutilized
Comment: 2868 sq. ft., 1-story wood, possible asbestos, most recent use—storage, off-site use only.

Bldg. T312, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219330379
Status: Unutilized
Comment: 1970 sq. ft., 2-story wood, possible asbestos, most recent use—storage, off-site use only.

Bldg. T–1652, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219330380
Status: Unutilized
Comment: 1505 sq. ft., 1-story wood, possible asbestos, most recent use—storage, off-site use only.

Bldg. T–1665, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219330381
Status: Unutilized
Comment: 1305 sq. ft., 1-story wood, possible asbestos, most recent use—storage, off-site use only.

Bldg. T–2034, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219330383
Status: Unutilized
Comment: 401 sq. ft., 1-story wood, possible asbestos, most recent use—storage, off-site use only.

Bldg. T–2705, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219330384
Status: Unutilized
Comment: 1601 sq. ft., 2-story wood, possible asbestos, most recent use—storage, off-site use only.

Bldg. T–2706, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219330385
Status: Unutilized
Comment: 2156 sq. ft., 2-story wood, possible asbestos, most recent use—storage, off-site use only.

Bldg. T2709, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219330388
Status: Unutilized
Comment: 2112 sq. ft., 2-story wood, possible asbestos, most recent use—storage, off-site use only.

Bldg. T2756, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219330390
Status: Unutilized
Comment: 5172 sq. ft., 1-story wood, possible asbestos, most recent use—storage, off-site use only.

Bldg. T2757, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219330391
Status: Unutilized
Comment: 5172 sq. ft., 1-story wood, possible asbestos, most recent use—storage, off-site use only.

Bldg. T3026, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219330392
Status: Unutilized
Comment: 2454 sq. ft., 1-story, possible asbestos, most recent use—storage, off-site use only.

Bldg. T3710, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219330396
Status: Unutilized
Comment: 1176 sq. ft., 1-story, possible asbestos, most recent use—storage, off-site use only.

Bldg. T4035, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219330401
Status: Unutilized
Comment: 867 sq. ft., 1-story, possible asbestos, most recent use—storage, off-site use only.

Bldg. T4474, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219330402
Status: Unutilized
Comment: 1159 sq. ft., 1-story, possible asbestos, most recent use—storage, off-site use only.

Bldg. T5011, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219330403
Status: Unutilized
Comment: 1556 sq. ft., 1-story, possible asbestos, most recent use—storage, off-site use only.

Bldg. T5120, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219330405
Status: Unutilized
Comment: 1471 sq. ft., 1-story, possible asbestos, most recent use—storage, off-site use only.

Bldg. T5124, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219330407
Status: Unutilized
Comment: 1287 sq. ft., 1-story, possible asbestos, most recent use—storage, off-site use only.

Bldg. T5245, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219330410
Status: Unutilized
Comment: 3081 sq. ft., 1-story, possible asbestos, most recent use—storage, off-site use only.

Bldg. T5246, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219330411
Status: Unutilized
Comment: 3081 sq. ft., 1-story, possible asbestos, most recent use—storage, off-site use only.

Bldg. T5247, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219330412
Status: Unutilized
Comment: 3081 sq. ft., possible asbestos, most recent use—storage, off-site use only.

Bldg. T5248, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219330413
Status: Unutilized
Comment: 3081 sq. ft., 1-story, possible asbestos, most recent use—storage, off-site use only.

Bldg. T5249, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219330414
Status: Unutilized
Comment: 2920 sq. ft., 1-story, possible asbestos, most recent use—storage, off-site use only.

Bldg. T5250, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219330415
Status: Unutilized
Comment: 3257 sq. ft., 1-story, possible asbestos, most recent use—storage, off-site use only.

Bldg. T5251, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219330416
Status: Unutilized
Comment: 3257 sq. ft., 1-story, possible asbestos, most recent use—storage, off-site use only.

Bldg. T5252, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219330417
Status: Unutilized
Comment: 3081 sq. ft., 1-story, possible asbestos, most recent use—storage, off-site use only.

Bldg. T5628, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219330418
Status: Unutilized
Comment: 2016 sq. ft., 1-story, possible asbestos, most recent use—storage, off-site use only.

Bldg. T5637, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219330419
Status: Unutilized
Comment: 1606 sq. ft., 1-story, possible asbestos, most recent use—storage, off-site use only.

Bldg. T–262
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219410236
Status: Unutilized
Comment: 2420 sq. ft.; 2 story; wood frame; most recent use—admin.; off-site use only.

Bldg. T–268, Fort Sill
268 Corral Road
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219440338
Status: Excess
Comment: 4836 sq. ft., 2 story wood frame, possible asbestos and lead paint, off-site removal only, most recent use—barracks.

Bldg. T–269, Fort Sill
268 Corral Road
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219440339
Status: Excess
Comment: 7840 sq. ft., 2 story wood frame, possible asbestos and lead paint, off-site removal only, most recent use—barracks.

Bldg. T–281, Fort Sill
281 Corral Road
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219440340
Status: Excess
Comment: 4836 sq. ft., 2 story wood frame, possible asbestos and lead paint, off-site removal only, most recent use—barracks.

Bldg. T–3720, Fort Sill
3720 Webster Street
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219440346
Status: Excess
Comment: 4525 sq. ft., 2 story wood frame, possible asbestos and lead paint, off-site removal only, most recent use—barracks.

Bldg. T–3723, Fort Sill
3723 Webster Street
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219440347
Status: Excess
Comment: 4525 sq. ft., 2 story wood frame, possible asbestos and lead paint, off-site removal only, most recent use—barracks.

Bldg. T–3724, Fort Sill
3724 Webster Street
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219440348
Status: Excess
Comment: 4525 sq. ft., 2 story wood frame, possible asbestos and lead paint, off-site removal only, most recent use—barracks.

Bldg. T–3725, Fort Sill
3725 Webster Street
Lawton Co: Comanche OK 73503–
Landholding Agency: Army

Property Number: 219440349
Status: Excess
Comment: 4525 sq. ft., 2 story wood frame, possible asbestos and lead paint, off-site removal only, most recent use—barracks.
Bldg. T–3726, Fort Sill
3726 Webster Street
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219440350
Status: Excess
Comment: 4525 sq. ft., 2 story wood frame, possible asbestos and lead paint, off-site removal only, most recent use—barracks.
Bldg. T–3732, Fort Sill
3732 Webster Street
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219440352
Status: Excess
Comment: 4525 sq. ft., 2 story wood frame, possible asbestos and lead paint, off-site removal only, most recent use—barracks.
Bldg. T–3733, Fort Sill
3733 Webster Street
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219440353
Status: Excess
Comment: 4525 sq. ft., 2 story wood frame, possible asbestos and lead paint, off-site removal only, most recent use—barracks.
Bldg. T–3734, Fort Sill
3734 Webster Street
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219440354
Status: Excess
Comment: 4525 sq. ft., 2 story wood frame, possible asbestos and lead paint, off-site removal only, most recent use—barracks.
Bldg. T–3735, Fort Sill
3735 Webster Street
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219440355
Status: Excess
Comment: 4525 sq. ft., 2 story wood frame, possible asbestos and lead paint, off-site removal only, most recent use—barracks.
Bldg. T–3736, Fort Sill
3736 Webster Street
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219440356
Status: Excess
Comment: 4525 sq. ft., 2 story wood frame, possible asbestos and lead paint, off-site removal only, most recent use—barracks.
Bldg. T–3750, Fort Sill
3750 Wilson Street
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219440358
Status: Excess
Comment: 4525 sq. ft., 2 story wood frame, possible asbestos and lead paint, off-site removal only, most recent use—barracks.
Bldg. T–3752, Fort Sill
3752 Wilson Street
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219440359
Status: Excess
Comment: 4525 sq. ft., 2 story wood frame, possible asbestos and lead paint, off-site removal only, most recent use—barracks.
Bldg. T–3753, Fort Sill
3753 Wilson Street
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219440360
Status: Excess
Comment: 4525 sq. ft., 2 story wood frame, possible asbestos and lead paint, off-site removal only, most recent use—barracks.
Bldg. T–3754, Fort Sill
3754 Wilson Street
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219440361
Status: Excess
Comment: 4525 sq. ft., 2 story wood frame, possible asbestos and lead paint, off-site removal only, most recent use—barracks.
Bldg. T–3755, Fort Sill
3755 Wilson Street
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219440362
Status: Excess
Comment: 4525 sq. ft., 2 story wood frame, possible asbestos and lead paint, off-site removal only, most recent use—barracks.
Bldg. T–3756, Fort Sill
3756 Wilson Street
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219440363
Status: Excess
Comment: 4525 sq. ft., 2 story wood frame, possible asbestos and lead paint, off-site removal only, most recent use—barracks.
Bldg. T–3738, Fort Sill
3738 Webster Street
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219440367
Status: Excess
Comment: 4525 sq. ft., 2 story wood frame, possible asbestos and lead paint, off-site removal only, most recent use—barracks.
Bldg. T–5215
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219440376
Status: Unutilized
Comment: 2797 sq. ft., 1-story wood frame, possible asbestos and lead paint, most recent use—admin., off-site use only.
Bldg. T–3721
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219440377
Status: Unutilized
Comment: 3042 sq. ft., 1-story wood frame, possible asbestos and lead paint, most recent use—mess hall, off-site use only.
Bldg. T–3737
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219440378
Status: Unutilized
Comment: 2964 sq. ft., 1-story wood frame, possible asbestos and lead paint, most recent use—mess hall, off-site use only.
Bldg. T–3758
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219440379
Status: Unutilized
Comment: 3132 sq. ft., 1-story wood frame, possible asbestos and lead paint, most recent use—mess hall, off-site use only.
Bldg. T–5219
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219440381
Status: Unutilized
Comment: 2662 sq. ft., 1-story wood frame, possible asbestos and lead paint, most recent use—classroom, off-site use only.
Bldg. T–4226
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219440384
Status: Unutilized
Comment: 114 sq. ft., 1-story wood frame, possible asbestos and lead paint, most recent use—storage, off-site use only.
Bldg. T–280
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219440387
Status: Unutilized
Comment: 7834 sq. ft., 2-story wood frame, possible asbestos and lead paint, most recent use—storage, off-site use only.
Bldg. P–1815
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219440388
Status: Unutilized
Comment: 14392 sq. ft., 2-story wood frame, possible asbestos and lead paint, most recent use—storage off-site use only.
Bldg. P–1015, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219520197
Status: Unutilized
Comment: 15402 sq. ft., 1-story, most recent use—storage, off-site use only.
Bldg. T–2405, Fort Sill
2405 Darby Loop
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219540019
Status: Excess
Comment: 114 sq. ft., 1 story steel frame, possible asbestos/lead paint, off-site removal only, most recent use—flammable material storage.
Bldg. T–2645, Fort Sill
2645 Tacy Street
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219540020
Status: Excess
Comment: 3135 sq. ft., 1 story, wood frame, possible/asbestos/lead paint, off-site removal only, most recent use—vehicle maintenance shop.
Bldg. T–2646, Fort Sill
2646 Tacy Street
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219540021
Status: Excess
Comment: 3213 sq. ft., 1 story wood frame, possible asbestos/lead paint, off-site removal only, most recent use—vehicle maintenance shop.
Bldg. T–2648, Fort Sill
2648 Tacy Street
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219540022
Status: Excess
Comment: 9407 sq. ft., 1 story wood frame, possible asbestos/lead paint, off-site removal only, most recent use—general purpose warehouse.
Bldg. T–3150, Fort Sill
3150 Hoskins Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219540023
Status: Excess
Comment: 9359 sq. ft., 1 story wood frame, possible asbestos/lead paint, off-site removal only, most recent use—warehouse.
Bldg. T–2649, Fort Sill
2649 Tacy Street
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219540024
Status: Excess
Comment: 9374 sq. ft., 1 story wood frame, possible asbestos/lead paint, off-site removal only, most recent use—general storehouse.
Bldg. T–2741, Fort Sill
2741 Miner Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219540025
Status: Excess
Comment: 6288 sq. ft., 2 story wood frame, possible asbestos/lead paint, off-site removal only, most recent use—enlisted barracks.
Bldg. T–3727, Fort Sill
3727 Webster Street
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219540026
Status: Excess
Comment: 4524 sq. ft., 2 story wood frame, possible asbestos/lead paint, off-site removal only, most recent use—enlisted barracks.
Bldg. T–2742, Fort Sill
2742 Miner Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219540027
Status: Excess
Comment: 8116 sq. ft., 2 story wood frame, possible asbestos/lead paint, off-site removal only, most recent use—transient barracks.
Bldg. T–2744, Fort Sill
2744 Miner Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219540028
Status: Excess
Comment: 8116 sq. ft., 2 story wood frame, possible asbestos/lead paint, off-site removal only, most recent use—transient barracks.
Bldg. T–2747, Fort Sill
2747 Miner Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219540029
Status: Excess
Comment: 8192 sq. ft., 2 story wood frame, possible asbestos/lead paint, off-site removal only, most recent use—transient barracks.
Bldg. T–2748, Fort Sill
2748 Miner Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219540030
Status: Excess
Comment: 8116 sq. ft., 2 story wood frame, possible asbestos/lead paint, off-site removal only, most recent use—transient barracks.
Bldg. T–2749, Fort Sill
2749 Miner Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219540031
Status: Excess
Comment: 8116 sq. ft., 2 story wood frame, possible asbestos/lead paint, off-site removal only, most recent use—transient barracks.
Bldg. T–2754, Fort Sill
2754 Miner Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219540032
Status: Excess
Comment: 4992 sq. ft., 2 story wood frame, possible asbestos/lead paint, off-site removal only, most recent use—transient barracks.
Bldg. T–2940, Fort Sill
2940 Currie Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219540033
Status: Excess
Comment: 4397 sq. ft., 1 story wood frame, possible asbestos/lead paint, off-site removal only, most recent use—recreation building.
Bldg. T–4036, Fort Sill
4036 Currie Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219540034
Status: Excess
Comment: 4532 sq. ft., 1 story wood frame, possible asbestos/lead paint, off-site removal only, most recent use—classroom.
Bldg. T–5043, Fort Sill
5043 Coune Road
Lawton Co: Comanche OK 73593–5100
Landholding Agency: Army
Property Number: 219540035
Status: Excess
Comment: 1563 sq. ft., 1 story wood frame, possible asbestos/lead paint, off-site removal only, most recent use—PX Branch.
Bldg. T–5050, Fort Sill
5050 Rumple Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219540036
Status: Excess
Comment: 2470 sq. ft., 1 story wood frame, possible asbestos/lead paint, off-site removal only, most recent use—PX Branch.

South Carolina

Bldg. 9608
Fort Jackson
Fort Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219410200
Status: Unutilized
Comment: 4720 sq. ft.; wood frame; 2 story; needs rehab; off-site use only; utilities upgrade; most recent use—enlisted quarters.
Bldg. 5492
Fort Jackson
Fort Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219410207
Status: Unutilized
Comment: 2379 sq. ft.; wood frame; 1 story; off-site use only; utilities upgrade; most recent use—information management office
Bldg. 10–436
Fort Jackson
Fort Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219410217
Status: Unutilized
Comment: 100 sq. ft.; wood frame; 1 story; off-site use only; limited utilities; needs rehab.; most recent use—shed.
Bldg. 2516
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219510138
Status: Excess
Comment: 520 sq. ft., 1-story, wood frame, most recent use—admin., off-site use only.
Bldg. 5412
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219510139
Status: Excess
Comment: 3900 sq. ft., 1-story, wood frame, needs rehab, most recent use—admin., off-site use only.
Bldg. 10–714
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219510143
Status: Excess
Comment: 2500 sq. ft., 1-story, wood frame, needs rehab, most recent use—enlisted dining, off-site use only.
Bldg. 10–721
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219510144
Status: Excess
Comment: 2512 sq. ft., 1-story, wood frame, needs rehab, most recent use—enlisted dining, off-site use only.
Bldg. 10–708, Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219510148

Status: Excess
Comment: 1170 sq. ft., 1-story, wood frame, needs rehab, most recent use—detached day room, off-site use only.
Bldg. 10–715, Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219510149
Status: Excess
Comment: 1170 sq. ft., 1-story, wood frame, needs rehab, most recent use—detached day room, off-site use only.
Bldg. 10–722, Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219510150
Status: Excess
Comment: 1170 sq. ft., 1-story, wood frame, needs rehab, most recent use—detached day room, off-site use only.
Bldg. 10–762, Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219510156
Status: Excess
Comment: 1108 sq. ft., 1-story, wood frame, needs rehab, most recent use—detached day room, off-site use only.
Bldg. 10–716, Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219510160
Status: Excess
Comment: 1040 sq. ft., 2-story, wood frame, needs rehab, most recent use—hdqtrs. bldg., off-site use only.
Bldg. 10–723, Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219510161
Status: Excess
Comment: 1008 sq. ft., 2-story, wood frame, needs rehab, most recent use—hdqtrs. bldg., off-site use only.
Bldg. 9606, Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219510168
Status: Excess
Comment: 1144 sq. ft., 1-story, wood frame, needs rehab, most recent use—criminal investigation bldg., off-site use only.
Bldg. 9607, Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219510169
Status: Excess
Comment: 4720 sq. ft., 2-story, wood frame, needs rehab, most recent use—enlisted billets, off-site use only.
Bldg. 10–712, Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219510176
Status: Unutilized
Comment: 4800 sq. ft., 2-story, wood frame, needs rehab, most recent use—enlisted billets, off-site use only.
Bldg. 10–713, Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219510177
Status: Unutilized
Comment: 4800 sq. ft., 2-story, wood frame, needs rehab, most recent use—enlisted billets, off-site use only.
Bldg. 10–719, Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219510179
Status: Unutilized
Comment: 4800 sq. ft. 2-story, wood frame, needs rehab, most recent use—enlisted billets, off-site use only.
Bldg. 10–720, Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219510180
Status: Unutilized
Comment: 4800 sq. ft. 2-story, wood frame, needs rehab, most recent use—enlisted billets, off-site use only.
Bldg. 10–726, Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219510183
Status: Unutilized
Comment: 4720 sq. ft. 2-story, wood frame, needs rehab, most recent use—enlisted billets, off-site use only.
Bldg. 10–727, Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219510184
Status: Unutilized
Comment: 4800 sq. ft. 2-story, wood frame, needs rehab, most recent use—enlisted billets, off-site use only.
Bldg. 10–733, Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219510187
Status: Unutilized
Comment: 4800 sq. ft. 2-story, wood frame, needs rehab, most recent use—enlisted billets, off-site use only.
Bldg. 10–740, Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219510191
Status: Unutilized
Comment: 2257 sq. ft., 2-story, wood frame, needs rehab, most recent use—enlisted billets, off-site use only.
Bldg. 10–741, Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219510192
Status: Unutilized
Comment: 4800 sq. ft., 2-story, wood frame, needs rehab, most recent use—enlisted billets, off-site use only.
Bldg. 10–747, Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219510195
Status: Unutilized
Comment: 4800 sq. ft., 2-story, wood frame, needs rehab, most recent use—enlisted billets, off-site use only.
Bldg. 10–748, Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219510196
Status: Unutilized
Comment: 4800 sq. ft., 2-story, wood frame, needs rehab, most recent use—enlisted billets, off-site use only.
Bldg. 10–754, Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219510199
Status: Unutilized
Comment: 4800 sq. ft., 2-story, wood frame, needs rehab, most recent use—enlisted billets, off-site use only.
Bldg. 10–755, Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219510200
Status: Unutilized
Comment: 4800 sq. ft., 2-story, wood frame, needs rehab, most recent use—enlisted billets, off-site use only.
Bldg. 10–761, Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219510203
Status: Unutilized
Comment: 4800 sq. ft., 2-story, wood frame, needs rehab, most recent use—enlisted billets, off-site use only.
Bldg. 10–767, Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219510205
Status: Unutilized
Comment: 4800 sq. ft., 2-story, wood frame, needs rehab, most recent use—enlisted billets, off-site use only.
Bldg. 10–768, Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219510206
Status: Unutilized
Comment: 4800 sq. ft., 2-story, wood frame, needs rehab, most recent use—enlisted billets, off-site use only.

Texas

Harlingen USARC
1920 East Washington
Harlingen Co: Cameron TX 78550-
Landholding Agency: Army
Property Number: 219120304
Status: Excess
Comment: 19440 sq. ft., 1-story brick, needs rehab, with approx. 6 acres including parking areas, most recent use—Army Reserve Training Center.
Bldg. P–3824, Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219220396
Status: Unutilized
Comment: 2232 sq. ft., 1-story concrete structure, within National Landmark Historic District, off-site removal only.
Bldg. 440, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219320355
Status: Unutilized
Comment: 1651 sq. ft., 1-story brick, most recent use—education facility, off-site use only.
Bldg. 1164, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219330420
Status: Unutilized

Comment: 2054 net sq. ft., 1 story wood, most recent use—admin. bldg., needs rehab, off-site use only.
Bldg. 512, Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 219330421
Status: Unutilized
Comment: 6733 sq. ft., 1 story wood, most recent use—commissary, off-site use only.
Bldg. P–293, Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330441
Status: Unutilized
Comment: 442 sq. ft., 1-story brick, needs rehab, within National Landmark Historic District, off-site use only.
Bldg. P–298, Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330442
Status: Unutilized
Comment: 3200 sq. ft., 1-story hollow tile, needs rehab, within National Landmark Historic District, off-site use only.
Bldg. P–377, Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330444
Status: Unutilized
Comment: 74 sq. ft., 1-story brick, needs rehab, most recent use—scale house, located in National Historic District, off-site use only.
Bldg. T–1492
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330483
Status: Unutilized
Comment: 2284 sq. ft., 1-story wood frame, needs rehab, most recent use—admin., off-site use only.
Bldg. T–2066
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330484
Status: Unutilized
Comment: 4720 sq. ft., 2-story wood frame, needs rehab, most recent use—admin., off-site use only.
Bldg. T–5901
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330486
Status: Unutilized
Comment: 742 sq. ft., 1-story wood frame, most recent use—admin., off-site use only.
Bldg. T–1464
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330487
Status: Unutilized
Comment: 3778 sq. ft., 1-story wood frame, needs rehab, most recent use—t-shirts and frame shop, off-site use only.
Bldg. T–1674
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330488
Status: Unutilized
Comment: 3108 sq. ft., 1-story wood frame, needs rehab, off-site use only.
Bldg. T-2193
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330490
Status: Unutilized
Comment: 1800 sq. ft., 1-story wood frame, needs rehab, most recent use—storage shed, off-site use only.
Bldg. T-2510
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330492
Status: Unutilized
Comment: 3210 sq. ft., 1-story wood frame, needs rehab, most recent use—storage, off-site use only.
Bldg. T-2512
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330495
Status: Unutilized
Comment: 18,260 sq. ft., 1-story wood frame, needs rehab, most recent use—vehicle maintenance shop, off-site use only.
Bldg. T–2520
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330498
Status: Unutilized
Comment: 31,296 sq. ft., 1-story wood frame, needs rehab, most recent use—physical fitness, off-site use only.
Bldg. T–2183
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330499
Status: Unutilized
Comment: 3000 sq. ft., 1-story wood frame, needs rehab, most recent use—stable, off-site use only.
Bldg. T–6231
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330500
Status: Unutilized
Comment: 600 sq. ft., 1-story wood frame, most recent use—firing range, off-site use only.
Bldg. T–6232
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330501
Status: Unutilized
Comment: 401 sq. ft., 1-story wood frame, most recent use—firing range, off-site use only.
Bldg. T–6236
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330502
Status: Unutilized
Comment: 401 sq. ft., 1-story wood frame, needs rehab, most recent use—firing range, off-site use only.
Bldg. T–211
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219340194
Status: Unutilized
Comment: 2284 sq. ft., 1-story wood frame, most recent use—instruction bldg., off-site use only.
Bldg. P–5902
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219340197
Status: Unutilized
Comment: 1157 sq. ft., 1-story wood, most recent use—warehouse, off-site use only.
Bldg. 315, Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 219410315
Status: Unutilized
Comment: 2400 sq. ft., 1-story, needs rehab, most recent use—storage, off-site use only.
Bldg. 316, Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 219410316
Status: Unutilized
Comment: 1500 sq. ft., 1-story, needs rehab, most recent use—storage, off-site use only.
Bldg. 317, Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 219410317
Status: Unutilized
Comment: 2000 sq. ft., 1-story, needs rehab, most recent use—storage, off-site use only.
Bldg. 4480, Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 219410322
Status: Unutilized
Comment: 2160 sq. ft., 1-story, most recent use—storage, off-site use only.
Bldg. 871, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219420455
Status: Unutilized
Comment: 3540 sq. ft., 1-story wood, needs repair, most recent use—storage, off-site use only.
Bldg. 1165, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219420456
Status: Unutilized
Comment: 5263 sq. ft., 1-story wood, needs repair, most recent use—office, off-site use only.
Bldg. 4718, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219420459
Status: Unutilized
Comment: 899 sq. ft., 1-story wood, needs repair, most recent use—storage, off-site use only.
Bldg. 4719, Fort Bliss
El Paso Co: El Paso TX 79916–

Landholding Agency: Army
Property Number: 219420460
Status: Unutilized
Comment: 519 sq. ft., 1-story wood, needs repair, most recent use—storage, off-site use only.

Bldg. 4105, Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 219420463
Status: Unutilized
Comment: 2535 sq. ft., 1-story, needs rehab, most recent use—storage, off-site use only.

Bldgs. 7050, 7058
Fort Bliss
Ft. Bliss TX 79916–
Landholding Agency: Army
Property Number: 219430181
Status: Unutilized
Comment: 1809–8584 sq. ft., 1-story wood frame, needs rehab, most recent use—office/club, off-site use only.

Bldg. 1, Fort Hood
Lubbock Co: Lubbock TX 79408–
Landholding Agency: Army
Property Number: 219440336
Status: Unutilized
Comment: 11440 sq. ft., 1-story, fair condition, to be vacated 6/30/95, off-site removal only, most recent use—army reserve center.

Bldg. 2, Fort Hood
Lubbock Co: Lubbock TX 79408–
Landholding Agency: Army
Property Number: 219440337
Status: Unutilized
Comment: 2818 sq. ft., 1-story, fair condition, to be vacated 6/30/95, off-site removal only, most recent use—army reserve center maintenance shop.

Bldg. P–452
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219440449
Status: Excess
Comment: 600 sq. ft., 1-story stucco frame, lead paint, off-site removal only, most recent use—bath house.

Bldg. P–2009
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219440450
Status: Excess
Comment: 144 sq. ft., 1-story brick frame, lead paint, off-site removal only, no utilities, most recent use—flammable material storage.

Bldg. T–5016
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219440451
Status: Excess
Comment: 3146 sq. ft., 1-story wood frame, asbestos & lead paint, limited utilities, off-site removal only, most recent use—fire station vehicle storage.

Bldg. T–5017
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219440452
Status: Excess
Comment: 3146 sq. ft., 1-story wood frame, asbestos & lead paint, off-site removal only, most recent use—admin/storage.

Bldg. T–5018
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219440453
Status: Excess
Comment: 1140 sq. ft., 1-story wood frame, asbestos & lead paint, off-site removal only, most recent use—fire station.

Bldg. P–6615
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219440454
Status: Excess
Comment: 400 sq. ft., 1-story concrete frame, off-site removal only, most recent use—detached garage.

Bldg. S–1111, Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219520117
Status: Unutilized
Comment: 8629 gr. sq. ft., 1-story, presence of lead base paint and asbestos, most recent use—admin., off-site use only.

Bldg. T–300, Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219520118
Status: Unutilized
Comment: 8352 gr. sq. ft., 1-story, presence of lead base paint and asbestos, most recent use—admin., off-site use only.

Bldg. T–1028, Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219520119
Status: Unutilized
Comment: 6302 gr. sq. ft., 1-story, presence of lead base paint and asbestos, most recent use—admin., off-site use only.

Bldg. T–1051, Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219520120
Status: Unutilized
Comment: 6617 gr. sq. ft., 1-story, presence of lead base paint and asbestos, most recent use—admin., off-site use only.

Bldg. P–1059, Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219520121
Status: Unutilized
Comment: 700 gr. sq. ft., presence of lead base paint and asbestos, most recent use—admin., off-site use only.

Bldg. P–250
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219520136
Status: Excess
Comment: 42955 sq. ft., 4-story, presence of lead base paint & asbestos, most recent use—barracks, classrooms, offices, located in Historic District.

Bldg. 307, Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 219520198
Status: Excess
Comment: 1600 sq. ft., 1-story, most recent use—med. clinic, off-site use only.

Bldg. 507, Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 219520199
Status: Unutilized
Comment: 1600 sq. ft., 1-story, presence of asbestos, off-site use only.

Bldg. 831, Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 219520200
Status: Unutilized
Comment: 4780 sq. ft., 2-story, most recent use—training, needs rehab, off-site use only.

Bldg. 4201, Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 219520201
Status: Unutilized
Comment: 9000 sq. ft., 1-story, off-site use only.

Bldg. 4202, Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 219520202
Status: Unutilized
Comment: 5400 sq. ft., 1-story, most recent use—storage, off-site use only.

Bldg. P–1030
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219520203
Status: Excess
Comment: 8212 sq. ft., 1-story, most recent use—storage, presence of asbestos & lead base paint, located in Historic District, off-site use only.

Bldg. T–1053
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219520204
Status: Excess
Comment: 6452 sq. ft., 1-story, presence of asbestos & lead base paint, most recent use—med. clinic, located in Historic District, off-site use only.

Bldg. P–2004
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219520205
Status: Excess
Comment: 5991 sq. ft., 1-story, most recent use—med. clinic, needs rehab, presence of lead base paint, located in Historic District.

Bldg. T–2235
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219520206
Status: Excess
Comment: 2100 sq. ft., 1-story, most recent use—med. research lab, presence of asbestos & lead base paint, located in Historic District, off-site use only.

Bldg. T–2289
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219520207
Status: Excess
Comment: 4720 sq. ft., 2-story, most recent use—training facility, needs rehab, presence of asbestos & lead base paint, located in Historic District, off-site use only.

Bldg. T–2290
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219520208
Status: Excess
Comment: 4720 sq. ft., 2-story, most recent use—training facility, needs rehab, presence of asbestos & lead base paint, located in Historic District, off-site use only.

Bldg. T–2291
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219520209
Status: Excess
Comment: 4720 sq. ft., 2-story, most recent use—training facility, needs rehab, presence of asbestos & lead base paint, located in Historic District, off-site use only.

Bldg. T–2293
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219520210
Status: Excess
Comment: 4720 sq. ft., 2-story, most recent use—training facility, needs rehab, presence of asbestos & lead base paint, located in Historic District, off-site use only.

Bldg. T–2295
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219520211
Status: Excess
Comment: 4720 sq. ft., 2-story, most recent use—training facility, needs rehab, presence of asbestos & lead base paint, located in Historic District, off-site use only.

Bldg. T–2296
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219520212
Status: Excess
Comment: 4720 sq. ft., 2-story, most recent use—training facility, needs rehab, presence of asbestos & lead base paint, located in Historic District, off-site use only.

Bldg. T–2297
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219520213
Status: Excess
Comment: 4720 sq. ft., 2-story, most recent use—training facility, needs rehab, presence of asbestos & lead base paint, located in Historic District, off-site use only.

Bldg. T–2298
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219520214
Status: Excess
Comment: 4720 sq. ft., 2-story, most recent use—training facility, needs rehab, presence of asbestos & lead base paint, located in Historic District, off-site use only.

Bldg. T–2299
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219520215
Status: Excess
Comment: 4720 sq. ft., 2-story, most recent use—training facility, needs rehab, presence of asbestos & lead base paint, located in Historic District, off-site use only.

Bldg. T–5101
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219520216
Status: Excess
Comment: 18792 sq. ft., 1-story, most recent use—storage, presence of asbestos & lead base paint, off-site use only.

Bldg. 832, Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 219540068
Status: Excess
Comment: 3983 sq. ft., 2 story, off-site removal only, most recent use—admin.

Land, Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 219540069
Status: Excess
Comment: 4.808 acres of unimproved land, potential utilities.

Bldg. T–2654, Fort Sam Houston
2334 Harney Road
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219540070
Status: Excess
Comment: 992 sq. ft., 1 story concrete frame, off-site removal only, need repairs, most recent use—machine shop.

Virginia

Bldg. T3003
Fort Picket
W. 33rd Street
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219440446
Status: Underutilized
Comment: 1750 sq. ft., 1 story wood frame, most recent use—confinement facility, need repairs.

Bldg. T2800
Fort Picket
Off Armistead Road
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219440447
Status: Underutilized
Comment: 2056 sq. ft., 1 story wood frame, most recent use—clinic, need repairs.

Bldg. T2857
Fort Picket
Off Armistead Road
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219440448
Status: Underutilized
Comment: 2987 sq. ft., 1 story wood frame, most recent use—admin.

Bldg. T–87
Fort Monroe
Ft. Monroe VA 23651–
Landholding Agency: Army
Property Number: 219510130
Status: Unutilized
Comment: 395 sq. ft., 1-story, needs repair, most recent use—general storage.

Bldg. TT0104
Fort A.P. Hill
Bowling Green Co: Caroline VA 22427–5000
Landholding Agency: Army
Property Number: 219520217
Status: Unutilized
Comment: 1464 sq. ft., 1-story, most recent use—training, needs rehab, off-site use only.

Bldg. TT0105
Fort A.P. Hill
Bowling Green Co: Caroline VA 22427–5000
Landholding Agency: Army
Property Number: 219520218
Status: Unutilized
Comment: 2273 sq. ft., 1-story, most recent use—storage, off-site use only.

Washington

Reserve Center, Longview
14 Port Way
Longview Co: Cowlitz WA 98632–
Landholding Agency: Army
Property Number: 219320368
Status: Unutilized
Comment: 17,304 sq. ft., 1-story training facility, scheduled to be vacated 9/93.

Bldg. 9771, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219510133
Status: Unutilized
Comment: 3965–5220 sq. ft., 2-story, needs rehab, most recent use—family housing used as storage, off-site use only.

Bldg. 9772, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219510134
Status: Unutilized
Comment: 3965–5220 sq. ft., 2-story, needs rehab, most recent use—family housing used as storage, off-site use only.

Bldg. 9773, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219510135
Status: Unutilized
Comment: 3965–5220 sq. ft., 2-story, needs rehab, most recent use—family housing used as storage, off-site use only.

Bldg. 9774, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219510136
Status: Unutilized
Comment: 3965–5220 sq. ft., 2-story, needs rehab, most recent use—family housing used as storage, off-site use only.

Wisconsin

Bldg. 7174, Fort McCoy
Ft. McCoy Co: Monroe WI 54656–
Landholding Agency: Army
Property Number: 219320372
Status: Underutilized
Comment: 8466 sq. ft., 1-story, presence of asbestos, needs rehab, used intermittently by Army, most recent use—gen. purpose warehouse.

Bldg. 7176, Fort McCoy
Ft. McCoy Co: Monroe WI 54656–
Landholding Agency: Army
Property Number: 219320373
Status: Underutilized
Comment: 5415 sq. ft., 1-story, presence of asbestos, needs rehab, used intermittently by Army, most recent use—gen. purpose warehouse.

Bldg. 7261, Fort McCoy
Ft. McCoy Co: Monroe WI 54656–
Landholding Agency: Army
Property Number: 219320374
Status: Unutilized
Comment: 4800 sq. ft., 1-story, presence of asbestos, needs rehab, used intermittently by Army, most recent use—gen. purpose warehouse.

Bldg. 2321
Fort McCoy
Ft. McCoy Co: Monroe WI 54656–
Landholding Agency: Army
Property Number: 219430225
Status: Unutilized
Comment: 682 sq. ft., 1-story, needs rehab, most recent use—heat plant.

Bldg. 2673
Fort McCoy
Ft. McCoy Co: Monroe WI 54656–
Landholding Agency: Army
Property Number: 219430226
Status: Unutilized
Comment: 13515 sq. ft., 1-story, needs rehab, most recent use—theater.

Bldg. 2110
Fort McCoy
Ft. McCoy Co: Monroe WI 54656–
Landholding Agency: Army
Property Number: 219430232
Status: Unutilized
Comment: 18270 sq. ft., 1-story, needs rehab, most recent use—vehicle maint.

Bldg. 2320
Fort McCoy
Ft. McCoy Co: Monroe WI 54656–
Landholding Agency: Army
Property Number: 219430233
Status: Unutilized
Comment: 33345 sq. ft., 1-story, needs rehab, most recent use—vehicle maint.

Bldg. 2763
Fort McCoy
Ft. McCoy Co: Monroe WI 54656–
Landholding Agency: Army
Property Number: 219430236
Status: Unutilized
Comment: 3250 sq. ft., 1-story, needs rehab, most recent use—admin.

Bldg. 2755
Fort McCoy
Ft. McCoy Co: Monroe WI 54656–
Landholding Agency: Army
Property Number: 219430239
Status: Unutilized
Comment: 168 sq. ft., 1-story, needs rehab, most recent use—dispatch bldg.

Bldg. 850
Fort McCoy
Ft. McCoy Co: Monroe WI 54656–
Landholding Agency: Army
Property Number: 219430243
Status: Unutilized
Comment: 2350 sq. ft., 1-story, needs rehab, most recent use—dining facility.

Bldg. 240
Fort McCoy
Ft. McCoy Co: Monroe WI 54656–5162
Landholding Agency: Army
Property Number: 219520219
Status: Unutilized
Comment: 1750 sq. ft., 1-story, needs rehab, most recent use—admin.

Land (by State)

Alaska

Harding Lake Recreation Area
Fort Richardson
Anchorage AK
Landholding Agency: Army
Property Number: 219540009
Status: Underutilized
Comment: 25.5 acres, most recent use—recreation.

Georgia

Land (Railbed)
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219440440
Status: Unutilized
Comment: 17.3 acres extending 1.24 miles, no known utilities potential.

Kansas

Parcel 1
Fort Leavenworth
Combined Arms Center
Fort Leavenworth Co: Leavenworth KS 66027–5020
Landholding Agency: Army
Property Number: 219012333
Status: Underutilized
Comment: 14.4+ acres.

Parcel 3
Fort Leavenworth
Combined Arms Center
Fort Leavenworth Co: Leavenworth KS 66027–5020
Landholding Agency: Army
Property Number: 219012336
Status: Underutilized
Comment: 261+ acres; heavily forrested; no access to a public right-of-way; selected periods are reserved for military/training exercises.

Parcel 4
Fort Leavenworth
Combined Arms Center
Fort Leavenworth Co: Leavenworth KS 66027–5020
Landholding Agency: Army
Property Number: 219012339
Status: Underutilized
Comment: 24.1+ acres; selected periods are reserved for military/training exercises; steep/wooded area.

Parcel 6
Fort Leavenworth
Combined Arms Center
Fort Leavenworth Co: Leavenworth KS 66027–5020
Location: Extreme north east corner of installation in Flood Plain of the Missouri River.
Landholding Agency: Army
Property Number: 219012340
Status: Underutilized
Comment: 1280 acres; selected periods are reserved for military/training exercises.

Parcel F
Fort Leavenworth
Combined Arms Center
Fort Leavenworth Co: Leavenworth KS 66027–5020
Landholding Agency: Army
Property Number: 219012552
Status: Unutilized
Comment: 33.4 acres; area is land locked; heavily wooded; periodic flooding.

Louisiana

Land—Louisiana AAP
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219430133
Status: Underutilized
Comment: 3 acres, most recent use—excess vehicle storage, secure area with alternate access.

Minnesota

Land
Twin Cities Army Ammunition Plant
New Brighton Co: Ramsey MN 55112–
Landholding Agency: Army
Property Number: 219120269
Status: Underutilized
Comment: Approx. 25 acres, possible contamination, secured area with alternate access.

Montana

U.S. Army Reserve Center
Marcella Avenue
Lewistown Co: Fergus MT
Landholding Agency: Army
Property Number: 219420009
Status: Unutilized
Comment: 4.16 acres of bare land.

Nevada

Parcel A
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Location: At Foot of Eastern slope of Mount Grant in Wassuk Range & S.W. edge of Walker Lane
Landholding Agency: Army
Property Number: 219012049
Status: Unutilized
Comment: 160 acres, road and utility easements, no utility hookup, possible flooding problem.

Parcel B
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Location: At foot of Eastern slope of Mount Grant in Wassuk Range & S.W. edge of Walker Lane
Landholding Agency: Army
Property Number: 219012056
Status: Unutilized
Comment: 1920 acres; road and utility easements; no utility hookup; possible flooding problem.

Parcel C
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Location: South-southwest of Hawthorne along HWAAP's South Magazine Area at Western edge of State Route 359
Landholding Agency: Army
Property Number: 219012057
Status: Unutilized
Comment: 85 acres; road & utility easements; no utility hookup.

Parcel D
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Location: South-southwest of Hawthorne along HWAAP'S South Magazine Area at western edge of State Route 359.
Landholding Agency: Army
Property Number: 219012058
Status: Unutilized
Comment: 955 acres; road & utility easements; no utility hookup.

New York

Galeville Army Training Site
Shawangunk Co: Ulster NY 12589–
Landholding Agency: Army
Property Number: 219510128
Status: Underutilized
Comment: 621.05 acres, improved w/inactive runway, airfield & taxiway, potential utilities, 234 acres is wetlands and habitat for threatened species.

Land—6.965 Acres
Dix Avenue
Queensbury Co: Warren NY 12801–
Landholding Agency: Army
Property Number: 219540018
Status: Unutilized
Comment: 6.96 acres of vacant land, located in industrial area, potential utilities.

Ohio

5 acres
Doan U.S. Army Reserve Center
Portmonth Co: Scioto OH 45662–
Landholding Agency: Army
Property Number: 219320313
Status: Unutilized
Comment: 5 acres including paved roads, parking, sidewalks, etc.

3 acres
Hayes U.S. Army Reserve Center
Fremont Co: Sandusky OH 43420–
Landholding Agency: Army
Property Number: 219320316
Status: Unutilized
Comment: 3 acres including paved roads, parking, sidewalks, etc.

Tennessee

Milan Army Ammunition Plant
Milan Co: Carroll TN 38358–
Location: Plant boundary in the northeast corner of the plant & housing area
Landholding Agency: Army
Property Number: 219010547
Status: Excess
Comment: 17.2 acres; right of entry legal constraint.

Holston Army Ammunition Plant
Kingsport Co: Hawkins TN 61299–6000
Landholding Agency: Army
Property Number: 219012338
Status: Unutilized
Comment: 8 acres; unimproved; could provide access; 2 acres unusable; near explosives.

Land
Milan Army Ammunition Plant
NE corner of plant & housing area
Milan Co: Carroll TN 38358–
Landholding Agency: Army
Property Number: 219240780
Status: Unutilized
Comment: 17.2 acres, secured area w/ alternate access, most recent use—buffer zone.

Texas

Vacant Land, Fort Sam Houston
All of Block 1800, Portions of Blocks 1900, 3100 and 3200
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219220438
Status: Unutilized
Comment: 244.47 acres, 85% located in floodplain, possibility of unexploded ordance.

Old Camp Bullis Road
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219420461
Status: Unutilized
Comment: 7.16 acres, rural gravel road.

Camp Bullis, Tract 9
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219420462
Status: Unutilized
Comment: 1.07 acres of undeveloped land.

Suitable/Unavailable Properties

Buildings (by State)

Arizona

Bldg. S–306
Yuma Proving Ground
Yuma Co: Yuma/La Paz AZ 85365–9104
Landholding Agency: Army
Property Number: 219420346
Status: Unutilized
Comment: 4103 sq. ft., 2-story, needs major rehab, scheduled to be vacated on or about 2/95.

Colorado

Bldg. P–1388
Fort Carson
Colorado Springs Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 219430134
Status: Unutilized
Comment: 240 sq. ft., 1-story steel structure, needs rehab, secure area with alternate access, off-site use only.

Georgia

Bldg. T201, Fort Stewart
Hinesville Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 219420357
Status: Unutilized
Comment: 2929 sq. ft., 1-story wood frame, needs repair, most recent use—offices, off-site use only.

Bldg. T–902, Fort Stewart
Hinesville Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 219420360
Status: Unutilized
Comment: 2990 sq. ft., 1-story wood frame, needs repair, most recent use—offices, off-site use only.

Bldg. 704, Fort Stewart
Hinesville Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 219420364
Status: Unutilized
Comment: 2028 sq. ft., 1-story, needs major repair, most recent use—admin.

Bldg. TT0791
Fort Stewart
Hinesville Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 219440408
Status: Unutilized
Comment: 1440 sq. ft., 1-story aluminum frame, needs rehab, most recent use—acss. facility, off-site use only.

Bldg. TT0792
Fort Stewart
Hinesville Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 219440409
Status: Unutilized
Comment: 1440 sq. ft., 1-story aluminum frame, needs rehab, most recent use—acss. facility, off-site use only.

Bldg. TT0793
Fort Stewart
Hinesville Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 219440410
Status: Unutilized
Comment: 1440 sq. ft., 1-story aluminum frame, needs rehab, most recent use—acss. facility, off-site use only.

Hawaii

Bldg. S–275
Fort DeRussy
Honolulu HI 96815–
Landholding Agency: Army
Property Number: 219540014
Status: Unutilized
Comment: 26047 gross sq. ft., some termite damage, most recent use—office/workshop, limitations on use (PL90–110, Sec. 809).

Kansas

Bldg. T–2014, Fort Riley
Ft. Riley KS 66442–
Landholding Agency: Army
Property Number: 219520112
Status: Unutilized
Comment: 4856 sq. ft., 2-story wood frame, most recent use—admin., presence of asbestos, poor condition.

Bldg. T–2017, Fort Riley
Ft. Riley KS 66442–
Landholding Agency: Army
Property Number: 219520113
Status: Unutilized
Comment: 3292 sq. ft., 2-story wood frame, most recent use—admin., presence of asbestos, poor condition.

Bldg. T–2019, Fort Riley
Ft. Riley KS 66442–
Landholding Agency: Army
Property Number: 219520114
Status: Unutilized
Comment: 2353 sq. ft., 1-story wood frame, most recent use—admin., presence of asbestos, poor condition.

Bldg. T–2033, Fort Riley

Ft. Riley KS 66442–
Landholding Agency: Army
Property Number: 219520115
Status: Unutilized
Comment: 1327 sq. ft., 1-story wood frame, most recent use—admin., presence of asbestos, poor condition.

Bldg. T–2040, Fort Riley
Ft. Riley KS 66442–
Landholding Agency: Army
Property Number: 219520191
Status: Unutilized
Comment: 3255 sq. ft., 1-story wood frame, most recent use—warehouse, needs rehab, presence of asbestos.

Bldg. 3210, Fort Riley
Ft. Riley KS 66442–
Landholding Agency: Army
Property Number: 219520192
Status: Unutilized
Comment: 190 sq. ft., 1-story, needs rehab, presence of asbestos.

Kentucky

Bldg. 05711, Fort Campbell
Ft. Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219410340
Status: Unutilized
Comment: 10,944 sq. ft., 1-story, needs rehab, presence of asbestos, most recent use—maintenance shop.

Bldg. 05713, Fort Campbell
Ft. Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219410341
Status: Unutilized
Comment: 10,944 sq. ft., 1-story, needs rehab, presence of asbestos, most recent use—maintenance shop.

Bldg. 5715
Fort Campbell
Fort Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219410355
Status: Unutilized
Comment: 10,944 sq. ft.; 1 story, needs rehab, presence of asbestos, most recent use—vehicle maintenance shop; off-site use only.

Bldg. 5717
Fort Campbell
Fort Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219410357
Status: Unutilized
Comment: 10,944 sq. ft.; 1 story, needs rehab, presence of asbestos, most recent use—vehicle maintenance shop; off-site use only.

Bldg. 5723
Fort Campbell
Fort Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219410359
Status: Unutilized
Comment: 10,944 sq. ft.; 1 story, needs rehab, presence of asbestos, most recent use—vehicle maintenance shop; off-site use only.

Bldg. 5725
Fort Campbell
Fort Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219410361
Status: Unutilized
Comment: 10,944 sq. ft.; 1 story, needs rehab, presence of asbestos, most recent use—vehicle maintenance shop; off-site use only.

Bldg. 2941
Fort Campbell
Fort Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219420369
Status: Unutilized
Comment: 2950 sq. ft., 1-story, presence of asbestos, most recent use—admin. and supply, off-site use only.

Bldg. 232
Fort Campbell
Ft. Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219430147
Status: Unutilized
Comment: 8042 sq. ft., 2-story, needs repair, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 230
Fort Campbell
Ft. Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219430148
Status: Unutilized
Comment: 8042 sq. ft., 2-story, needs repair, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 30
Fort Campbell
Ft. Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219430151
Status: Unutilized
Comment: 5310 sq. ft., 2-story, needs rehab, presence of asbestos, most recent use—admin., off-site use only.

Bldgs. 250, 252
Fort Campbell
Ft. Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219430157
Status: Unutilized
Comment: 5310 sq. ft., 2-story, needs repair, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 2905
Fort Campbell
Fort Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219430162
Status: Unutilized
Comment: 2000 sq. ft., 1-story, needs repair, presence of asbestos, most recent use—classroom, off-site use only.

Bldg. 5343
Fort Campbell
Fort Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219430173
Status: Unutilized
Comment: 3376 sq. ft., 1-story, needs repair, presence of asbestos, most recent use—maint. shop., off-site use only.

Louisiana

Bldg. 3322, Fort Polk
Texas Avenue
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219440441
Status: Underutilized
Comment: 480 sq. ft., 1 story, need repairs, most recent use—offices.

Maryland

Bldgs. TMA4, TMA5, TMA8, TMA9
Fort George G. Meade
Ft. Meade Co: Ann Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219320292
Status: Unutilized
Comment: approx. 800 sq. ft. steel plate, gravel base ammunition storage area, fair condition.

Nevada

U.S. Army Reserve Center
685 East Plumb Lane
Reno Co: Washoe NV 89502–
Landholding Agency: Army
Property Number: 219340180
Status: Unutilized
Comment: 11457 sq. ft. Reserve Center & 2611 sq. ft. vehicle repair shop on 4.29 acres, presence of asbestos, 1-story each, perpetual easement for road right of way 50 ft. from prop.

New Jersey

Bldg. 3305
Armament Research, Dev. & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219540002
Status: Underutilized
Comment: 12000 sq. ft., 1 story, most recent use—admin and R&D activities.

Bldg. 1104
Armament Research, Dev. & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219540003
Status: Unutilized
Comment: 1320 sq. ft., 2 story, fire/electrical/safety code violations, need repairs, most recent use—family housing.

Bldg. 1105
Armament Research, Dev. & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219540004
Status: Unutilized
Comment: 2806 sq. ft., 3 story, fire/electrical/safety code violations, need repairs, most recent use—family housing.

Bldg. 1113
Armament Research, Dev. & Eng. Center
Fort Campbell
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219540005
Status: Unutilized
Comment: 1580 sq. ft., 2 story, fire/electrical/safety code violations, need repairs, most recent use—family housing.

Bldg. 1117
Armament Research, Dev. & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219540006
Status: Unutilized
Comment: 1784 sq. ft., 2 story, fire/electrical/safety code violations, need repairs, most recent use—family housing.

Bldg. 1118
Armament Research, Dev. & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219540007
Status: Unutilized
Comment: 648 sq. ft., 1 story, fire/electrical/safety code violations, need repairs, most recent use—family housing.

Bldg. 1392
Armament Research, Dev. & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219540008
Status: Unutilized
Comment: 1128 sq. ft., 1 story, fire/electrical/safety code violations, need repairs, most recent use—family housing.

Texas

Bldg. P–2000, Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219220389
Status: Underutilized
Comment: 49,542 sq. ft., 3-story brick structure, within National Landmark Historic District.

Bldg. P–2001, Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219220390
Status: Underutilized
Comment: 16,539 sq. ft., 4-story brick structure, within National Landmark Historic District.

Bldg. P–2007, Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219220391
Status: Underutilized
Comment: 13,058 sq. ft., 3-story brick structure, within National Landmark Historic District.

Bldg. T189, Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219220402
Status: Underutilized
Comment: 11,949 sq. ft., 4-story brick structure, within National Landmark Historic District, possible lead contamination.

Bldg. P–8249
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219440455
Status: Excess
Comment: 2775 sq. ft., 1-story wood frame, lead paint, off-site removal only, most recent use—family housing.

Bldg. P–151, Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219520116
Status: Unutilized
Comment: 1860 sq. ft., 1-story, presence of lead base paint and asbestos, most recent use—admin., located in Natl Hist. Landmark Dist. and Natl Cons. Dist.

Bldg. T–2656, Fort Sam Houston
2326 Harney Road
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219540071
Status: Excess
Comment: 2040 sq. ft., 1-story concrete frame, off-site removal only, need repairs, most recent use—supply warehouse.

Bldg. T–2732, Fort Sam Houston
2061 Schofield Road
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219540072
Status: Excess
Comment: 8478 sq. ft., 1-story wood/concrete frame, off-site removal only, most recent use—fire station.

Virginia

Bldg. T3004, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310317
Status: Unutilized
Comment: 2350 sq. ft., 1-story wood frame, needs repair, most recent use—clinic.

Bldg. T3022, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310318
Status: Underutilized
Comment: 5310 sq. ft., 2-story wood frame, needs repair, most recent use—barracks.

Bldg. T3023, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310319
Status: Underutilized
Comment: 5310 sq. ft., 2-story wood frame, needs repair, most recent use—barracks.

Bldg. T3024, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310320
Status: Underutilized
Comment: 5310 sq. ft., 2-story wood frame, needs repair, most recent use—barracks.

Bldg. T3026, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310321
Status: Underutilized
Comment: 3550 sq. ft., 1-story wood frame, needs repair, most recent use—dining room.

Bldg. T3025, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310322
Status: Underutilized
Comment: 2950 sq. ft., 1-story wood frame, needs repair, most recent use—dining room.

Bldg. T3040, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310323
Status: Underutilized
Comment: 2950 sq. ft., 1-story wood frame, needs repair, most recent use—dining room.

Bldg. T3041, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310324
Status: Underutilized
Comment: 2950 sq. ft., 1-story wood frame, needs repair, most recent use—dining room.

Bldg. T3049, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310325
Status: Underutilized
Comment: 2950 sq. ft., 1-story wood frame, needs repair, most recent use—dining room.

Bldg. T3050, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310326
Status: Unutilized
Comment: 2950 sq. ft., 1-story wood frame, needs repair, most recent use—dining room.

Bldg. T3029, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310327
Status: Underutilized
Comment: 5310 sq. ft., 1-story wood frame, needs repair, most recent use—barracks.

Bldg. T3030, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310328
Status: Underutilized
Comment: 5310 sq. ft., 2-story wood frame, needs repair, most recent use—barracks.

Bldg. T3037, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310329
Status: Underutilized
Comment: 5310 sq. ft., 2-story wood frame, needs repair, most recent use—barracks.

Bldg. T3038, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310330
Status: Underutilized
Comment: 5310 sq. ft., 2-story wood frame, needs repair, most recent use—barracks.

Bldg. T3039, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310331
Status: Underutilized
Comment: 5310 sq. ft., 2-story wood frame, needs repair, most recent use—barracks.

Bldg. T3042, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310332
Status: Underutilized
Comment: 5310 sq. ft., 2-story wood frame, needs repair, most recent use—barracks.

Bldg. T3043, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310333
Status: Underutilized
Comment: 5310 sq. ft., 2-story wood frame, needs repair, most recent use—barracks.

Bldg. T3044, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310334
Status: Underutilized
Comment: 5310 sq. ft., 2-story wood frame, needs repair, most recent use—barracks.

Bldg. T3045, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army

Property Number: 219310335
Status: Underutilized
Comment: 5310 sq. ft., 2-story wood frame, needs repair, most recent use—barracks.
Bldg. T3046, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310336
Status: Underutilized
Comment: 5310 sq. ft., 2-story wood frame, needs repair, most recent use—barracks.
Bldg. T3047, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310337
Status: Underutilized
Comment: 5310 sq. ft., 2-story wood frame, needs repair, most recent use—barracks.
Bldg. T3048, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310338
Status: Underutilized
Comment: 5310 sq. ft., 2-story wood frame, needs repair, most recent use—barracks.
Bldg. T3051, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310339
Status: Underutilized
Comment: 5310 sq. ft., 2-story wood frame, needs repair, most recent use—barracks.
Bldg. T3052, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310340
Status: Underutilized
Comment: 5310 sq. ft., 2-story wood frame, needs repair, most recent use—barracks.
Bldg. T3053, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310341
Status: Underutilized
Comment: 5310 sq. ft., 2-story wood frame, needs repair, most recent use—barracks.
Bldg. T3054, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310342
Status: Underutilized
Comment: 5310 sq. ft., 2-story wood frame, needs repair, most recent use—barracks.
Bldg. T3027, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310343
Status: Underutilized
Comment: 5310 sq. ft., 2-story wood frame, needs repair, most recent use—barracks.
Bldg. T3028, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310344
Status: Underutilized
Comment: 5310 sq. ft., 2-story wood frame, needs repair, most recent use—barracks.
Bldg. T3031, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310345
Status: Underutilized
Comment: 2987 sq. ft., 1-story wood frame, needs repair, most recent use—admin./supply.
Bldg. T3032, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310346
Status: Underutilized
Comment: 2987 sq. ft., 1-story wood frame, needs repair, most recent use—admin./supply.
Bldg. T3033, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310347
Status: Underutilized
Comment: 2987 sq. ft., 1-story wood frame, needs repair, most recent use—admin./supply.
Bldg. T3034, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310348
Status: Underutilized
Comment: 2987 sq. ft., 1-story wood frame, needs repair, most recent use—admin./supply.
Bldg. T3035, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310349
Status: Underutilized
Comment: 2987 sq. ft., 1-story wood frame, needs repair, most recent use—admin./supply.
Bldg. T3036, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310350
Status: Underutilized
Comment: 2987 sq. ft., 1-story wood frame, needs repair, most recent use—admin./supply.
Bldg. T3057, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310351
Status: Underutilized
Comment: 2987 sq. ft., 1-story wood frame, needs repair, most recent use—admin./supply.
Bldg. T3055, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310352
Status: Underutilized
Comment: 2488 sq. ft., 1-story wood frame, needs repair, most recent use—admin./supply.
Bldg. TT3001, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310353
Status: Underutilized
Comment: 3302 sq. ft., 1-story wood frame, most recent use—chapel.
Quarters 19201 & 19209
Fort Lee
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219410365
Status: Unutilized
Comment: 8370 sq. ft. each; 2 story family quarters with 6 units each; off-site use only.
Quarters 19202, 19204, 19206, 19208, 19211 & 19213
Fort Lee
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219410366
Status: Unutilized
Comment: 8404 sq. ft. each; 2 story family quarters with 6 units each; off-site use only.
Quarters 19203, 19205, 19207
Fort Lee
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219410367
Status: Unutilized
Comment: 9416 sq. ft. each; 2 story family quarters with 8 units each; off-site use only.
Quarters 19210, 19214
Fort Lee
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219410368
Status: Unutilized
Comment: 7084 sq. ft. each; 2 story family quarters with 6 units each; off-site use only.
Quarter 19212
Fort Lee
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219410369
Status: Unutilized
Comment: 14,098 sq. ft.; 2 story family quarters with 12 units; offsite use only.

Land (by State)

New Jersey
Land—Camp Kilmer
Plainfield Avenue
Edison Co: Middlesex NJ 08817–2487
Landholding Agency: Army
Property Number: 219230358
Status: Underutilized
Comment: approx. 10 acres in the southwest corner of site, most recent use—reserve training, wooded area.

Suitable/To Be Excessed

Buildings (by State)

Maryland
Bldg. 101
Walter Reed Army Medical Center
Forest Glen Section
Silver Spring Co: Montgomery MD 20910–
Landholding Agency: Army
Property Number: 219012678
Status: Underutilized
Comment: 18438 sq. ft.; needs rehab; possible asbestos; building listed on National Historic Register.
Bldg. 104
Walter Reed Army Medical Center
Forest Glen Section
Silver Spring Co: Montgomery MD 20910–
Landholding Agency: Army
Property Number: 219012679
Status: Underutilized
Comment: 12495 sq. ft.; needs rehab; possible asbestos; building listed on National Historic Register.
Bldg. 107
Walter Reed Army Medical Center
Forest Glen Section
Silver Spring Co: Montgomery MD 20910–

Landholding Agency: Army
Property Number: 219012680
Status: Unutilized
Comment: 4107 sq. ft.; possible structural deficiencies; possible asbestos; historic property.
Bldg. 120
Walter Reed Army Medical Center
Forest Glen Section
Silver Spring Co: Montgomery MD 20910–
Landholding Agency: Army
Property Number: 219012681
Status: Underutilized
Comment: 2442 sq. ft.; possible structural deficiencies; possible asbestos; historic property.

Land (by State)

Texas
Land Saginaw Army Aircraft Plt
Saginaw Co: Tarrant TX 76070–
Landholding Agency: Army
Property Number: 219014814
Status: Unutilized
Comment: 43.08 acres; includes buildings/structures/parking and air strip.

Unsuitable Properties

Buildings (by State)

Alabama
122 Bldgs.
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–
Landholding Agency: Army
Property Number: 219014000, 219014009, 219014012, 219014015–219014051, 219014057, 219014060, 219014292, 219110109, 219120247–219120250, 219230190, 219330001–219330002, 219430266–219430290, 219440078–219440082, 219520032, 219530009–219530040
Status: Unutilized
Reason: Secured Area (Some are extensively deteriorated.)
51 Bldgs., Fort Rucker
Ft. Rucker Co: Dale AL 36362
Landholding Agency: Army
Property Number: 219220343–219220344, 219310016, 219320001, 219330003–219330010, 219340116, 219340118, 219340120, 219340122–219340125, 219410016, 219410022–219410023, 219430260–219430264, 219440083–219440084, 219440088, 219440094–219440095, 219440097, 219510095–219510096, 219520050, 219520057–219520058, 219530006–219530008
Status: Unutilized
Reason: Extensive deterioration.
Bldgs. 25203, 25205–25207, 25209, 25501, 25503, 25505, 25507, 25510, 29101, 29103–29109
Fort Rucker
Stagefield Areas
Ft. Rucker Co: Dale AL 36362–5138
Landholding Agency: Army
Property Number: 219410020–219410021, 219410024
Status: Unutilized
Reason: Secured area.
27 Bldgs.
Phosphate Development Works
Muscle Shoals Co: Colbert AL 35660–1010
Landholding Agency: Army
Property Number: 219220769–219220815
Status: Unutilized
Reason: Extensive deterioration.
10 Bldgs., Fort McClellan
Ft. McClellan Co: Calhoun AL 36205–5000
Landholding Agency: Army
Property Number: 219130019, 219440098–219440099, 219440102–219440103, 219440105–219440108, 219440111
Status: Unutilized
Reason: Extensive deterioration.
Bldg. 402–C
Alabama Army Ammunition Plant
Childersburg Co: Talladega AL 35044
Landholding Agency: Army
Property Number: 219420124
Status: Unutilized
Reason: Secured Area.

Alaska
17 Bldgs.
Fort Greely
Ft. Greely AK 99790–
Landholding Agency: Army
Property Number: 219210124–219210125, 219220320–219220332, 219520064
Status: Unutilized
Reason: Extensive deterioration.
6 Bldgs., Fort Wainwright
Ft. Wainwright Co: Fairbanks AK 99505
Landholding Agency: Army
Property Number: 219230183–219230184, 219410027, 219530001–219530003
Status: Unutilized
Reason: Extensive deterioration (Some are in a secured area.)
Bldg. 1144, Fort Wainwright
Ft. Wainwright Co: Fairbanks/North AK 99703
Landholding Agency: Army
Property Number: 219240273
Status: Unutilized
Reason: Secured Area Within airport runway clear zone.
Bldgs. 5001, 5002, Fort Wainwright
Ft. Wainwright Co: Fairbanks/North AK 99703
Landholding Agency: Army
Property Number: 219240274–219240275
Status: Unutilized
Reason: Secured area Floodway.
Bldg. 1501, Fort Greely
Ft. Greely AK 99505
Landholding Agency: Army
Property Number: 219240327
Status: Unutilized
Reason: Secured Area.
Sullivan Roadhouse, Ft Greely
Ft. Greely AK
Landholding Agency: Army
Property Number: 219430291
Status: Unutilized
Reason: Extensive deterioration.

Arizona
32 Bldgs.
Navajo Depot Activity
Bellemont Co: Coconino AZ 86015–
Location: 12 miles west of Flagstaff, Arizona on I–40
Landholding Agency: Army
Property Number: 219014560–219014591
Status: Underutilized
Reason: Secured Area.
10 properties: 753 earth covered igloos; above ground standards magazines
Navajo Depot Activity
Bellemont Co: Coconino AZ 86015–
Location: 12 miles west of Flagstaff, Arizona on I–40.
Landholding Agency: Army
Property Number: 219014592–219014601
Status: Underutilized
Reason: Secured Area.
9 Bldgs.
Navajo Depot Activity
Bellemont Co: Coconino AZ 86015–5000
Location: 12 miles west of Flagstaff on I–40
Landholding Agency: Army
Property Number: 219030273–219030274, 219120175–219120181
Status: Unutilized
Reason: Secured Area.
Bldgs. 84001, 68054
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219210017, 219430315
Status: Excess
Reason: Extensive deterioration.
Bldgs. S–2085, S–6078
Yuma Proving Ground
Yuma Co: Yuma/LaPaz AZ 85365–9104
Landholding Agency: Army
Property Number: 219330020–219330021
Status: Unutilized
Reason: Secured area.
Bldg. T–231
Yuma Proving Ground
Yuma Co: LaPaz AZ 85365–9104
Landholding Agency: Army
Property Number: 219510093
Status: Unutilized
Reason: Extensive deterioration.
Bldg. 3007
Yuma Proving Ground
Laguana Army Airfield
Yuma Co: LaPaz AZ 85365–9104
Landholding Agency: Army
Property Number: 219510094
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material.

Arkansas
Fort Smith USAR Center
Fort Smith
1218 South A Street
Fort Smith Co: Sebastian AR 72901–
Landholding Agency: Army
Property Number: 219014928
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material.
Army Reserve Center
Hwy 79 North
Camden Co: Calhoun AR 71701–3415
Landholding Agency: Army
Property Number: 219220345
Status: Unutilized
Reason: Extensive deterioration.
6 Bldgs.
Pine Bluff Arsenal
Pine Bluff Co: Jefferson AR 71602–9500
Landholding Agency: Army
Property Number: 219420136–219420142, 219440077
Status: Unutilized
Reason: Secured Area Extensive deterioration.

California

Bldgs. P–177, P–178, 325, S–308, S–308A, T–308B
Fort Hunter Liggett
Jolon Co: Monterey CA 93928–
Landholding Agency: Army
Property Number: 219012414–219012415, 219012600, 219240284–219240285, 219240287
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material (Some are in a secured area.)

Bldg. 18
Riverbank Army Ammunition Plant
5300 Claus Road
Riverbank Co: Stanislaus CA 95367–
Landholding Agency: Army
Property Number: 219012554
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area.

11 Bldgs, Nos. 2–8, 156, 1, 120, 181
Riverbank Army Ammunition Plant
Riverbank Co: Stanislaus CA 95367–
Landholding Agency: Army
Property Number: 219013582–219013588, 219013590, 219240444–219240446
Status: Underutilized
Reason: Secured Area.

9 Bldgs.
Oakland Army Base
Oakland Co: Alameda CA 94626–5000
Landholding Agency: Army
Property Number: 219013903–219013906, 219120051, 219340008–219340011
Status: Unutilized
Reason: Secured Area (Some are extensively deteriorated.)

Bldgs. S–106, S–290
Sharpe Army Depot
Lathrop Co: San Joaquin CA 95331–
Landholding Agency: Army
Property Number: 219014290, 219230179
Status: Underutilized
Reason: Secured Area.

Bldg. S–184
Fort Hunter Liggett
Ft. Hunter Liggett Co: Monterey CA 93928–
Landholding Agency: Army
Property Number: 219014602
Status: Underutilized
Reason: Secured Area.

12 Bldgs.
Sierra Army Depot
Herlong Co: Lassen CA 96113–
Landholding Agency: Army
Property Number: 219014713–219014717, 219014719–219014721, 219230181, 219320012
Status: Unutilized
Reason: Secured Area.

Bldg. P–88
Sierra Army Depot
Road Oil Storage
Herlong Co: Lassen CA 96113–
Landholding Agency: Army
Property Number: 219014707
Status: Unutilized
Reason: Oil Storage Tank.

Bldgs. 173, 177
Roth Road—Sharpe Army Depot
Lathrop Co: San Joaquin CA
Landholding Agency: Army
Property Number: 219014940–219014941
Status: Unutilized
Reason: Secured Area.

Bldgs. 13, 171, 178 Riverbank Ammun Plant
5300 Claus Road
Riverbank Co: Stanislaus CA 95367–
Landholding Agency: Army
Property Number: 219120162–219120164
Status: Underutilized
Reason: Secured Area.

Bldg. S–521, Sharpe Site
Lathrop Co: San Joaquin CA 95331–
Landholding Agency: Army
Property Number: 219240155
Status: Unutilized
Reason: Secured Area.

Bldgs. T–187, 403 Fort Hunter Liggett
Ft. Hunter Liggett Co: Monterey CA 93928
Landholding Agency: Army
Property Number: 219240321, 219440184
Status: Unutilized
Reason: Secured Area Extensive deterioration.

Bldgs. 36, 257, Tracy Facility
Tracy Co: San Joaquin CA 95376
Landholding Agency: Army
Property Number: 219330023, 219330025
Status: Unutilized
Reason: Secured Area.

10 Bldgs., Fort Irwin
Ft. Irwin Co: San Bernardino CA 92310
Landholding Agency: Army
Property Number: 219330026–219330035
Status: Unutilized
Reason: Secured Area Extensive Deterioration.

22 Bldgs.
DDDRW Sharpe Facility
Tracy Co: San Joaquin CA 95331
Landholding Agency: Army
Property Number: 219430017–219430039, 219430317
Status: Unutilized
Reason: Secured Area.

US Army Reserve Center
Rio Vista Co: Sonoma CA 94571
Landholding Agency: Army
Property Number: 219430316
Status: Unutilized
Reason: Floodway.

6 Buildings
Oakland Army Base
Oakland Co: Alameda CA 94626
Location: Include: 90, 790, 792, 807, 829, 916
Landholding Agency: Army
Property Number: 219510097
Status: Unutilized
Reason: Secured Area Within 2000 ft. of flammable or explosive material.

Bldg. 43; Bunkers 41, 42, 45, 46, 47
Santa Rosa High Frequency Radio Station
Santa Rosa CA
Landholding Agency: Army
Property Number: 219520036
Status: Excess
Reason: Secured Area.

Bldgs. 29, 39, 73, 154, 155, 193, 204, 257
Los Alamitos Co: Orange CA 90720–5001
Landholding Agency: Army
Property Number: 219520040
Status: Unutilized
Reason: Extensive deterioration.

Bldgs. 1103 1131
Parks Reserve Forces Training Area
Dublin Co: Alameda CA 94568–5201
Landholding Agency: Army
Property Number: 219520056
Status: Unutilized
Reason: Extensive deterioration.

Bldgs. 144, 429–430
National Training Center, Fort Irwin
Ft. Irwin Co: San Bernardino CA 92310
Landholding Agency: Army
Property Number: 219530066
Status: Unutilized
Reason: Secured Area, Extensive deterioration.

19 Bldgs.
National Training Center, Fort Irwin
Ft. Irwin Co: San Bernardino CA 92310
Location: #556, 558, 562, 564, 578, 581, 584, 586, 609, 474, 600, 410, 427, 485, 483, 579, 583, 570, 568
Landholding Agency: Army
Property Number: 219530067
Status: Unutilized
Reason: Secured Area, Extensive deterioration.

Colorado

Bldgs. T–317, T–412, 431, 433
Rocky Mountain Arsenal
Commerce Co: Adams CO 80022–2180
Landholding Agency: Army
Property Number: 219320013–219320016
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration.

Georgia

Fort Stewart
Sewage Treatment Plant
Ft. Stewart Co: Hinesville GA 31314–
Landholding Agency: Army
Property Number: 219013922
Status: Unutilized
Reason: Sewage treatment.

Facility 12304
Fort Gordon
Augusta Co. Richmond GA 30905–
Location: Located off Lane Avenue
Landholding Agency: Army
Property Number: 219014787
Status: Unutilized
Reason: Wheeled vehicle grease/inspection rack.

114 Bldgs
Fort Gordon
Augusta Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219220269, 219220279, 219220281, 219220293, 219320020, 219320026, 219330050–219330057, 219330060, 219410038–219410131, 219420144–219420145, 219440199, 219520044, 219520067
Status: Unutilized
Reason: Extensive deterioration.

Bldgs. 11726–11727
Fort Gordon
Augusta Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219210138–219210139
Status: Unutilized
Reason: Secured Area.

4 Bldgs., Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219220334–219220337

Status: Unutilized
Reason: Detached lavatory.

38 Bldgs., Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219220742, 219420150, 219530058–219530069
Status: Unutilized
Reason: Extensive deterioration.

7 Bldgs.
Fort Gillem
Forest Park Co: Clayton GA 30050
Landholding Agency: Army
Property Number: 219310091, 219310093–219310094, 219310099, 219310107, 219320030, 219320033
Status: Unutilized
Reason: Extensive deterioration.

4 Bldgs., Fort Stewart
Hinesville Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 219420155, 219420162, 219420188, 219520045
Status: Unutilized
Reason: Extensive deterioration.

14 Bldgs., Hunter Army Airfield
Savanna Co: Chatham GA 31409
Landholding Agency: Army
Property Number: 219420152–219420153, 219430318–219430319, 219530070–219530071
Status: Unutilized
Reason: Extensive deterioration.

Bldg. P–8063, Hunter Army Airfield
Savannah Co: Chatham GA 31409
Landholding Agency: Army
Property Number: 219520027
Status: Excess
Reason: Latrine.

Bldgs. T–707, T–709, T–713, T–714, T–715, T–716, T–717, T–914, T–922
Hunter Army Airfield
Savannah Co: Chatham GA 31409
Landholding Agency: Army
Property Number: 219520041
Status: Excess
Reason: Extensive deterioration.

Hawaii

PU–01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11
Schofield Barracks
Kolekole Pass Road
Wahiawa Co: Wahiawa HI 96786–
Landholding Agency: Army
Property Number: 219014836–219014837
Status: Unutilized
Reason: Secured Area.

8 Bldgs.
Schofield Barracks
Wahiawa Co: Wahiawa HI 96786–
Landholding Agency: Army
Property Number: 219030361, 219510090, 219520035
Status: Unutilized
Reason: Secured Area.

11 Bldgs., Fort Shafter
Honolulu Co: Honolulu HI 96819
Landholding Agency: Army
Property Number: 219320035, 219510087, 219520046, 219530072–219530073
Status: Unutilized
Reason: Extensive deterioration.

Bldgs. 754–C, P–1519 A/B, T–3002 Schofield Barracks
Wahiawa Co: Wahiawa HI 96786
Landholding Agency: Army
Property Number: 219320034, 219420154, 219520053
Status: Unutilized
Reason: Extensive deterioration.

Bldgs. 572, S–822
Wheeler Army Airfield
Wahiawa HI 96857
Landholding Agency: Army
Property Number: 219510088, 219520039
Status: Unutilized
Reason: Secured Area.

Bldgs. P–01506, S01507, P–01508
Wheeler Army Airfield
Wahiawa HI 96786
Landholding Agency: Army
Property Number: 219520003
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material.

Bldg. T–2232
Schofield Barracks, 8th Street
Wahiawa HI 96786
Landholding Agency: Army
Property Number: 219520065
Status: Unutilized
Reason: Not accessible by road.

Illinois

609 Bldgs. and Groups
Joliet Army Ammunition Plant
Joliet Co: Will IL 60436–
Landholding Agency: Army
Property Number: 219010153–219010317, 219010319–219010407, 219010409–219010413, 219010415–219010439, 219011750–219011879, 219011881–219011908, 219012331, 219013076–219013138, 219014722–219014781, 219030277–219030278, 219040354, 219140441–219140446, 219210146, 219240457–219240465, 219330062–219330094
Status: Unutilized
Reason: Secured Area; many within 2000 ft. of flammable or explosive materials; some within floodway.

Bldgs. 58, 59 and 72, 69, 64, 105
Rock Island Arsenal
Rock Island Co: Rock Island IL 61299–5000
Landholding Agency: Army
Property Number: 219110104–219110108
Status: Unutilized
Reason: Secured Area.

Bldgs. 133, Rock Island Arsenal
Gillospie Avenue
Rock Island Co: Rock Island IL 61299–
Landholding Agency: Army
Property Number: 219210100
Status: Underutilized
Reason: Extensive deterioration.

13 Bldgs. Savanna Army Depot Activity
Savanna Co: Carroll IL 61074
Landholding Agency: Army
Property Number: 219230126–219230127, 219430326–219430335, 219430397
Status: Unutilized
Reason: Extensive deterioration.

Bldgs. 103, 114, 417, 110
Charles Melvin Price Support Center
Granite City Co: Madison IL 62040
Landholding Agency: Army
Property Number: 219420182–219420184, 219510008
Status: Unutilized
Reason: Secured Area; Extensive deterioration.

Indiana

263 Bldgs.
Indiana Army Ammunition Plant (INAAP)
Charlestown Co: Clark IN 47111–
Landholding Agency: Army
Property Number: 219010913–219010920, 219010924–219010936,219010952, 219010955, 219010957, 219010959, 219010960, 219010962–219010964, 219010966–219010967, 219010969–219010970, 219011449, 219011454, 219011456–219011457, 219011459–219011464, 219013764, 219013848, 219014808–219014853, 219014655–219014661, 219014663–219014683, 219030315, 219120168–219120171, 219140425–219140440, 219210152–219210155, 219230034–219230037, 219320036–219320111, 219420170–219420181, 219440159–219440163
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material (Most are within a secured area.)

172 Bldgs.
Newport Army Ammunition Plant
Newport Co: Vermillion IN 47966–
Landholding Agency: Army
Property Number: 219011584, 219011586–219011587, 219011589–219011590, 219011592–219011627, 219011629–219011636, 219011638–219011641, 219210149–219210151, 219220220, 219230032–219230033, 219430336–219430338, 219520033, 219520042, 219530075–219530097
Status: Unutilized
Reason: Secured Area (Some are extensively deteriorated).

2 Bldgs.
Atterbury Reserve Forces Training Area
Edinburgh Co: Johnson IN 46124–1096
Landholding Agency: Army
Property Number: 219230030–219230031
Status: Unutilized
Reason: Extensive deterioration.

Bldgs. 2635, Indiana Army Ammunition Plant
Charlestown Co: Clark IN 47111
Landholding Agency: Army
Property Number: 219240322
Status: Unutilized
Reason: Secured Area; Extensive deterioration.

Iowa

95 Bldgs.
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219012605–219012607, 219012609, 219012611, 219012613, 219012615, 219012620, 219012622, 219012624, 219013706–219013738, 219120172–219120174, 219440112–219440158, 219510089, 219520002, 219520070
Status: Unutilized
Reason: (Many are in a Secured Area) (Most are within 2000 ft. of flammable or explosive material).

30 Bldgs., Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638

Landholding Agency: Army
Property Number: 219230005–219230039, 219310017, 219330061, 219340091, 219520053, 219520151
Status: Unutilized
Reason: Extensive deterioration.

Kansas

37 Bldgs.
Kansas Army Ammunition Plant
Production Area
Parsons Co: Labette KS 67357–
Landholding Agency: Army
Property Number: 219011909–219011945
Status: Unutilized
Reason: Secured Area (Most are within 2000 ft. of flammable or explosive material).

222 Bldgs.
Sunflower Army Ammunition Plant
35425 W. 103rd Street
DeSoto Co: Johnson KS 66018–
Landholding Agency: Army
Property Number: 219040039, 219040045, 219040048–219040051, 219040053, 219040055, 219040063–219040067, 219040072–219040080, 219040086–219040099, 219040102, 219040111–219040112, 219040118–219040119, 219040121–219040124, 219040126, 219040128–219040133, 219040136–219040137, 219040139–219040140, 219040143, 219040149–219040154, 219040156, 219040160–219040165, 219040168–219040170, 219040180, 219040182–219040185, 219040190–219040191, 219040202, 219040205–219040207, 219040208, 219040210–219040221, 219040234–219040239, 219040241–219040254, 219040256–219040257, 219040260, 219040262–219040267, 219040270–219040279, 219040282–219040319, 219040321–219040323, 219040325–219040327, 219040330–219040335, 219040349, 219040353, 219110073, 219140569–219140577, 219140580–219140591, 219140594, 219140599–219140601, 219140606–219140612, 219420185–219420187
Status: Unutilized
Reason: Within 2000 ft of flammable or explosive material Floodway; Secured Area.

21 Bldgs.
Sunflower Army Ammunition Plant
35425 W. 103rd Street
DeSoto Co: Johnson KS 66018–
Landholding Agency: Army
Property Number: 219040007–219040008, 219040010–219040012, 219040014–219040027, 219040030–219040031
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Floodway.

64 Bldgs.
Fort Riley
Ft. Riley Co: Geary KS 66442–
Landholding Agency: Army
Property Number: 219240080, 219430040, 219440164–219440183, 219520043, 219530098–219530125
Status: Unutilized
Reason: Extensive deterioration.

11 Latrines
Sunflower Army Ammunition Plant
35425 West 103rd
DeSoto Co: Johnson KS 66018–
Landholding Agency: Army
Property Number: 219140578–219140579, 219140593, 219140595–219140598, 219140602–219140605
Status: Unutilized
Reason: Detached Latrine.

75 Bldgs., Sunflower Army Ammunition Plant
DeSoto Co: Johnson KS 66018–
Landholding Agency: Army
Property Number: 219240333–219240394, 219240402, 219240410–219240416, 219240420, 219240434–219240437
Status: Unutilized
Reason: Secured Area; Within 2000 ft. of flammable or explosive material. Extensive deterioration.

Kentucky

Bldg. 126
Lexington-Blue Grass Army Depot
Lexington Co: Fayette KY 40511–
Location: 12 miles northeast of Lexington, Kentucky.
Landholding Agency: Army
Property Number: 219011661
Status: Unutilized
Reason: Secured Area; Sewage treatment facility.

Bldg. 12
Lexington-Blue Grass Army Depot
Lexington Co: Fayette KY 40511–
Location: 12 miles Northeast of Lexington Kentucky.
Landholding Agency: Army
Property Number: 219011663
Status: Unutilized
Reason: Industrial waste treatment plant.

5 Bldgs., Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219320113–219320115, 219320132, 219410146
Status: Unutilized
Reason: Extensive deterioration.

45 Bldgs., Fort Campbell
Ft. Campbell Co: Christian KY 42223
Landholding Agency: Army
Property Number: 219340247, 219430047–219430058, 219440264, 219440273, 219530126
Status: Unutilized
Reason: Extensive deterioration (Some are in a secured area).

22 Buildings, Fort Knox
Ft. Knox Co: Hardin KY 40121
Location: Include: 9253, 9255, 9257, 9262, 9330, 9345, 9365, 9366, 9458, 9459, 9471, 9472, 9601, 9602, 9609, 9610, 9612, 9613, 9621–9642
Landholding Agency: Army
Property Number: 219510078
Status: Unutilized
Reason: Extensive deterioration (Some are detached latrines).

77 Bldgs.
Fort Knox
Ft. Knox Co: Hardin KY 40121
Landholding Agency: Army
Property Number: 219510079–219410084
Status: Unutilized
Reason: Extensive deterioration.

Louisiana

42 Bldgs.
Louisiana Army Ammunition Plant
Doylin Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219011668–219011670, 219011700, 219011714–219011716, 219011735–219011737, 219012112, 219013571–219013572, 219013863–219013869, 219110124, 219110127, 219110131, 219110135–219110136, 219120290, 219240137–219240150, 219420330–219420332
Status: Unutilized
Reason: Secured Area (Most are within 2000 ft. of flammable or explosive material) (Some are extensively deteriorated).

Staff Residences
Louisiana Army Ammunition Plant
Doylin Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219120284–219120286
Status: Excess
Reason: Secured Area.

6 Bldgs., Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–7100
Landholding Agency: Army
Property Number: 219320282, 219340107–219340108, 219430339–219430340, 219520059
Status: Unutilized
Reason: Extensive deterioration.

Maryland

77 Bldgs.
Aberdeen Proving Ground
Averdeen City Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219011406–219011417, 219012608, 219012610, 219012612, 219012614, 219012616–219012617, 219012619, 219012623, 219012625–219012629, 219012631, 219012633–219012635, 219012637–219012642, 219012645–219012651, 219012655–219012664, 219013773, 219014711–219014712, 219030316, 219110140, 219240329, 219520060, 219530127–219530133
Status: Unutilized
Reason: Most are in a secured area. (Some are within 2000 ft. of flammable or explosive material) (Some are in a floodway) (Some are extensively deteriorated).

Bldg. 1958
Fort George G. Meade
Fort Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 219014789
Status: Unutilized
Reason: Secured Area.

Bldg. 10401
Aberdeen Proving Ground
Aberdeen Area
Harford Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219110138
Status: Unutilized
Reason: Sewage treatment plant.

Bldg. 10402
Aberdeen Proving Ground
Aberdeen Area
Aberdeen City Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219110139
Status: Unutilized
Reason: Sewage pumping station.

39 Bldgs. Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 219130059, 219140458, 21914060–219140641, 219140465, 219140467, 219140510, 219210123, 219220142, 219220146–219220147, 219220153, 219220171–219220173, 219220190–219220192, 219220195–219220197, 219240121, 219310022, 219310026–219310027, 219310031–219310033, 219320144, 219330114–219330118, 219340013, 219420333–219420334, 219530167–219530168
Status: Unutilized
Reason: Extensive deterioration.

Bldgs. 132, 135 Fort Ritchie
Ft. Ritchie Co: Washington MD 21719–5010
Landholding Agency: Army
Property Number: 219330109–219330110
Status: Underutilized
Reason: Secured Area.

Bldg. T–116, Fort Detrick
Frederick Co: Frederick MD 21762–5000
Landholding Agency: Army
Property Number: 219340012
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 4900, Aberdeen Proving Ground
Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219230089
Status: Unutilized
Reason: Within airport runway clear zone.

Massachusetts

Material Technology Lab
405 Arsenal Street
Watertown Co: Middlesex MA 02132–
Landholding Agency: Army
Property Number: 219120161
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material Floodway; Secured Area.

Bldgs. T–102, T–110, T–111, Hudson Family Hsg
Natick RD&E Center
Bruen Road
Hudson Co: Middlesex MA 01749
Landholding Agency: Army
Property Number: 219220105–219220107
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 3462, Camp Edwards
Massachusetts Military Reservation
Bourne Co: Barnstable MA 024620–5003
Landholding Agency: Army
Property Number: 219230095
Status: Unutilized
Reason: Secured Area; Extensive deterioration.

Bldgs. 3596, 1209–1211 Camp Edwards
Massachusetts Military Reservation
Bourne Co: Barnstable MA 02462–5003
Landholding Agency: Army
Property Number: 219230096, 219310018–219310020
Status: Unutilized
Reason: Secured Area.

Michigan

Bldgs. 602, 604
US Army Garrison Selfridge
Mt. Clemens Co: Macomb MI 48043–
Landholding Agency: Army
Property Number 219012355–219012356
Status: Unutilized
Reason: Within airport runway clear zone Floodway; Secured Area.

Detroit Arsenal Tank Plant
28251 Van Dyke Avenue
Warren Co: Macomb MI 48090–
Landholding Agency: Army
Property Number: 219014605
Status: Underutilized
Reason: Secured Area.

Bldgs. 5755–5756
Newport Weekend Training Site
Carleton Co: Monroe MI 48166
Landholding Agency: Army
Property Number: 219310060–219310061
Status: Unutilized
Reason: Secured Area; Extensive deterioration.

25 Bldgs.
Fort Custer Training Center
2501 26th Street
Augusta Co: Kalamazoo MI 49102–9205
Landholding Agency: Army
Property Number: 219014947–219014963, 219140447–219140454
Status: Unutilized
Reason: Secured Area.

Minnesota

169 Bldgs.
Twin Cities Army Ammunition Plant
New Brighton Co: Ramsey MN 55112–
Landholding Agency: Army
Property Number: 219120165–219120166, 219210014–219210015, 219220227–219220235, 219240328, 219310055–219310056, 219320145–219320156, 219330096–219330108, 219340015, 219410159–219410189, 219420195–219420284, 219430059–219430064
Status: Unutilized
Reason: Secured Area (Most are within 2000 ft. of flammable or explosive material.) (Some are extensively deteriorated).

Mississippi

Bldgs. 8301, 8303–8305, 9158
Mississippi Army Ammunition Plant
Stennis Space Center Co: Hancock MS 39529–7000
Landholding Agency: Army
Property Number: 219040438, 219040442
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Missouri

Lake City Army Ammo. Plant
59, 59A, 59C, 59B, 18, 94, 149, T201, 6A, 6C, 6D, 6E, 6F
Independence Co: Jackson MO 64050–
Landholding Agency: Army
Property Number: 219013666–219013669, 219530134–219530138
Status: Unutilized
Reason: Secured Area (Some are with 2000 ft. of flammable or explosive material).

Bldg #1, 2, 3
St. Louis Army Ammunition Plant
4800 Goodfellow Blvd.
St. Louis Co: St. Louis MO 63120–1798
Landholding Agency: Army
Property Number: 219120067–219120069
Status: Unutilized
Reason: Secured Area.

13 Bldgs.
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219140422–219140423, 219430066, 219430069–219430078
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material.

Nevada

7 Bldgs.
Hawthorne Army Ammunition Plant
Hawthorne CO: Mineral NV 89415–
Landholding Agency: Army
Property Number: 219011953, 219011955, 219012061–219012062, 219012106, 219013614, 219230090
Status: Unutilized
Reason: Secured Area.

Bldgs. 396
Hawthorne Army Ammunition Plant
Bachelor Enlisted Qtrs W/Dining Facilities
Hawthorne Co: Mineral NV 89415–
Location: East side of Decatur Street-North of Maine Avenue
Landholding Agency: Army
Property Number: 219011997
Status: Unutilized
Reason: Within airport runway clear zone; Secured Area.

51 Bldgs.
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Landholding Agency: Army
Property Number: 219012009, 219012013, 219012021, 219012044, 219013615–219013651, 219013653–219013656, 219013658–219013661, 219013663, 219013665
Status: Underutilized
Reason: Secured Area (Some within airport runway clear zone; many within 2000 ft. of flammable or explosive material).

62 Concrete Explo. Mag. Stor.
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Location: North Mag. Area
Landholding Agency: Army
Property Number: 219120150
Status: Unutilized
Reason: Secured Area.

259 Concrete Explo. Mag. Stor.
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Location: South & Central Mag. Areas
Landholding Agency: Army
Property Number: 219120151
Status: Unutilized
Reason: Secured Area.

Facility No. 00A38
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Landholding Agency: Army
Property Number: 219330119
Status: Unutilized
Reason: Extensive deterioration.

New Jersey

216 Bldgs.
Armament Res. Dev. & Eng. Ctr.
Picatinny Arsenal Co: Morris NJ 07806–5000
Location: Route 15 north
Landholding Agency: Army

Property Number: 219010440–219010474, 219010476, 219010478, 219010639–219010667, 219010669–219010721, 219012423–219012424, 219012426–219012428, 219012430–219012431, 219012433–219012466, 219012469–219012472, 219012474–219012475, 219012756–219012760, 219012763–219012767, 219013787, 219014306–219014307, 219014311, 219014313–219014321, 219030269, 219140617, 219230118–219230125, 219240315, 219420001–219420008, 219510002–219510007
Status: Excess
Reason: Secured Area (Most are within 2000 ft. of flammable or explosive material). (Some are extensively deteriorated) (Some are in a floodway).
51 Bldgs.
Fort Monmouth
Wall Co: Monmouth NJ 07719–
Landholding Agency: Army
Property Number: 219012829–219012833, 219012837, 219012841–219012842, 219013786, 219230177, 219320157, 219330129–219330140, 219420335, 219440201–219440211, 219530139–219530141
Status: Unutilized
Reason: Secured Area (Some are extensively deteriorated) (Some are in a floodway).
13 Bldgs., Military Ocean Terminal
Bayonne Co: Hudson NJ 07002–
Landholding Agency: Army
Property Number: 219013890–219013896, 219330141–219330143, 219430001, 219440200, 219520149
Status: Unutilized
Reason: Floodway; Secured Area.
Structure 403B
Armament Research, Dev. & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219510001
Status: Unutilized
Reason: Drop Tower.
9 Bldgs.
Armament Rsch., Dev., & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219530142–219530151
Status: Unutilized
Reason: Extensive deterioration (Most are in a secured area).

New Mexico

8 Bldgs.
White Sands Missile Range
White Sands Co: Dona Ana NM 88802–
Landholding Agency: Army
Property Number: 219330144–219330147, 219430126–219430127, 219530153–219530154
Status: Unutilized
Reason: Extensive deterioration.

New York

7 Bldgs., Fort Totten
Bayside Co: Queens NY 11357–
Landholding Agency: Army
Property Number: 219210130–219210131, 219430082–219430086
Status: Unutilized
Reason: Extensive deterioration.
Bldgs. 110, 143, 2084, 2105, 2110
Seneca Army Depot
Romulus Co: Seneca NY 14541–5001
Landholding Agency: Army
Property Number: 219240439, 219240440–219240443
Status: Unutilized
Reason: Secured Area; Extensive deterioration.
Bldg. 124
U.S. Military Academy
West Point Co: Orange NY 10996–
Landholding Agency: Army
Property Number: 219330148
Status: Unutilized
Reason: Extensive deterioration.
Bldg. 3008, Stewart Gardens
Stewart Army Subpost
New Windsor Co: Orange NY 12553–
Landholding Agency: Army
Property Number: 219420285
Status: Unutilized
Reason: Extensive deterioration.
Bldg. P–4370, Fort Drum
Ft. Drum Co: Jefferson NY 13602
Landholding Agency: Army
Property Number: 219430004
Status: Unutilized
Reason: Sewage pumping station.
10 Bldgs., Fort Drum
Ft. Drum Co: Jefferson NY 13602
Landholding Agency: Army
Property Number: 219430005–219430012, 219430014, 219510016
Status: Unutilized
Reason: (Some are within airport runway clear zone) (Some are extensively deteriorated).
5 Field Range Latrines
Fort Drum
Ft. Drum Co: Jefferson NY 13602
Location: Bldgs. S–2565, S–2703, S–2714, S–2802, S–2822
Landholding Agency: Army
Property Number: 219430013
Status: Unutilized
Reason: Detached latrines.

North Carolina

35 Bldgs. Fort Bragg
Ft. Bragg Co: Cumberland NC 28307
Landholding Agency: Army
Property Number: 219440295, 219530156–219530165
Status: Unutilized
Reason: Extensive deterioration.
Bldgs. 12, 16
Military Ocean Terminal
Southport Co: Brunswick NC 28461–5000
Landholding Agency: Army
Property Number: 219510015, 219530155
Status: Unutilized
Reason: Secured Area.

Ohio

63 Bldgs.
Ravenna Army Ammunition Plan
Ravenna Co: Portgage OH 44266–9297
Landholding Agency: Army
Property Number: 219012476–219012507, 219012509–219012513, 219012515, 219012517–219012518, 219012520, 219012522–219012523, 219012525–219012528, 219012530–219012532, 219012534–219012535, 219012537, 219013670–219013677, 219013781, 219210148
Status: Unutilized
Reason: Secured Area.
12 Bldgs., Ravenna Army Ammunition Plan
Ravenna Co: Portgage OH 44266–9297
Landholding Agency: Army
Property Number: 219320399–219320410
Status: Unutilized
Reason: Extensive deterioration.

Oklahoma

546 Bldgs.
McAlester Army Ammunition Plant
McAlester Co: Pittsburg OK 74501–5000
Landholding Agency: Army
Property Number: 219011674, 219011680, 219011684, 219011687, 219012113, 219013981–219013991, 219013994, 219014081–219014102, 219014104, 219014107–219014137, 219014141–219014159, 219014162, 219014165–219014216, 219014218–219014274, 219014336–219014559, 219030007–219030127, 219040004
Status: Underutilized
Reason: Secured Area (Some are within 2000 ft. of flammable or explosive material).
12 Bldgs.
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219130060, 219140528–219140529, 219140545–219140548, 219140550–219140551, 219320337, 219440309, 219510023
Status: Unutilized
Reason: Extensive deterioration.
22 Bldgs.
McAlester Army Ammunition Plant
McAlester Co: Pittsburg OK 74501
Landholding Agency: Army
Property Number: 219310050–219310053, 219320170–219320171, 219330149–219330160, 219430122–219430125
Status: Unutilized
Reason: Secured Area (Some are extensively deteriorated).

Oregon

11 Bldgs.
Tooele Army Depot
Umatilla Depot Activity
Hermiston Co: Morrow/Umatilla OR 97838–
Landholding Agency: Army
Property Number: 219012174–219012176, 219012178–219012179, 219012190–219012191, 219012197–21901298, 219012217, 219012229
Status: Underutilized
Reason: Secured Area.
24 Bldgs.
Tooele Army Depot
Umatilla Depot Activity
Hermiston Co: Morrow/Umatilla OR 97838–
Landholding Agency: Army
Property Number: 219012177, 219012185–219012186, 218012189, 219012195–219012196, 219012199–219012205, 219012207–219012208, 219012225, 219012279, 219014304–219014305, 219014782, 219030362–219030363, 219120032, 219320201
Status: Unutilized
Reason: Secured Area.

Pennsylvania

Hays Army Ammunition Plan
300 Miffin Road
Pittsburgh Co: Allegheny PA 15207–
Landholding Agency: Army
Property Number: 219011666
Status: Excess
Reason: Secured Area.
Bldg. 82001, Reading USARC
Reading Co: Berks PA 19604–1528
Landholding Agency: Army
Property Number: 219320173
Status: Unutilized
Reason: Extensive deterioration.
18 Bldgs.
Letterkenny Army Depot
Chambersburg Co: Franklin PA 17201
Landholding Agency: Army
Property Number: 219420399–219420405, 219420415, 219420418–219420423, 219420427–219420430, 219430098
Status: Unutilized
Reason: Secured Area; Extensive deterioration.
10 Bldgs., Letterkenny Army Depot
Chambersburg Co: Franklin PA 17201
Landholding Agency: Army
Property Number: 219530169, 219530172–219530174
Status: Unutilized
Reason: Secured Area, Structural deficiencies.

South Carolina

23 Bldgs., Fort Jackson
Ft. Jackson Co: Richland SC 29207
Landholding Agency: Army
Property Number: 219410157–219410158, 219440237–219440239, 219510017–219510022, 219530175
Status: Unutilized
Reason: Extensive deterioration.

Tennessee

48 Bldgs.
Volunteer Army Ammo. Plant
Chattanooga Co: Hamilton TN 37422–
Landholding Agency: Army
Property Number: 219010475, 219010477, 219010479–219010500, 219240127–219240136, 219420304–219420307, 219430099–219430105, 219520031
Status: Unutilized/Underutilized
Reason: Secured Area (Some are within 2000 ft. of flammable or explosive material) (Some are extensively deteriorated).
32 Bldgs.
Holston Army Ammunition Plant
Kingsport Co: Hawkins TN 61299–6000
Landholding Agency: Army
Property Number: 219012304–219012309, 219012311–219012312, 219012314, 219012316–219012317, 219012319, 219012325, 219012328, 219012330, 219012332, 219012334–219012335, 219012337, 219013789–219013790, 219030266, 219140613, 219330178, 219440212–219440216, 219510025–219510028
Status: Unutilized
Reason: Secured Area (Some are within 2000 ft. of flammable or explosive material).
9 Bldgs.
Milan Army Ammunition Plant
Milan Co: Gibson TN 38358
Landholding Agency: Army
Property Number: 219240447–219240449, 219320182–219320184, 219330176–219330177, 219520034
Status: Unutilized
Reason: Secured Area.
Bldg. Z–183A
Milan Army Ammunition Plant
Milan Co: Gibson TN 38358
Landholding Agency: Army
Property Number: 219240783
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material.

Texas

Saginaw Army Aircraft Plan
Saginaw Co: Tarrant TX 76079–
Landholding Agency: Army
Property Number: 219011665
Status: Unutilized
Reason: Easement to city of Saginaw for sewer pipeline ending 5/15/2023.
18 Bldgs.
Lone Star Army Ammunition Plant
Highway 82 West
Texarkana Co: Bowie TX 75505–9100
Landholding Agency: Army
Property Number: 219012524, 219012529, 219012533, 219012536, 219012539–219012540, 219012542, 219012544–219012545, 219030337–219030345
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.
Bldgs. 0021A, 0027A
Longhorn Army Ammunition Plant
Karnack Co: Harrison TX 75661–
Location: State highway 43 north
Landholding Agency: Army
Property Number: 219012546, 219012548
Status: Underutilized
Reason: Secured Area.
33 Bldgs., Red River Army Depot
Texarkana Co: Bowie TX 75507–5000
Landholding Agency: Army
Property Number: 219120064, 219130002, 219140255, 219230109–219230115, 219320193–219320194, 219330163, 219420314–219420327, 219430093–219430097, 219440217
Status: Unutilized
Reason: Secured Area (Some are extensively deteriorated).
Bldg. T–5000
Camp Bullis
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219220100–
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material.
Swimming Pools
Fort Bliss
El Paso Co: El Paso TX 79916
Landholding Agency: Army
Property Number: 219230108
Status: Unutilized
Reason: Extensive deterioration.
2 Bldgs., Fort Hood
Ft. Hood Co: Bell TX 76544
Landholding Agency: Army
Property Number: 219340238, 219520061
Status: Unutilized
Reason: Extensive deterioration.
31 Bldgs., Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330161–219330162, 219330473–219330474, 219340095–219340098, 219420309–219420313, 219440439, 219520054, 219530176–219530183
Status: Unutilized
Reason: Extensive Deterioration.
Bldg. T–2514
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330475
Status: Unutilized
Reason: Pump house.
Bldgs. T–2516, T–3180, T–3192, T–3398
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330476–219330479
Status: Unutilized
Reason: Detached latrines.

Utah

3 Bldgs.
Tooele Army Depot
Tooele Co: Tooele UT 84074–5008
Landholding Agency: Army
Property Number: 219012153, 219012166, 219030365,
Status: Unutilized
Reason: Secured Area.
11 Bldgs.
Tooele Army Depot
Tooele Co: Tooele UT 84074–5008
Landholding Agency: Army
Property Number: 219012143–219012144, 219012148–219012149, 219012152, 219012155, 219012156, 219012158, 219012742, 219012751, 219240267
Status: Underutilized
Reason: Secured Area.
12 Bldgs.
Dugway Proving Ground
Dugway Co: Toole UT 84022–
Landholding Agency: Army
Property Number: 219013996–219013999, 219130008, 219130011–219130013, 219130015–219130018
Status: Underutilized
Reason: Secured Area.
18 Bldgs.
Dugway Proving Ground
Dugway Co: Toole UT 84022–
Landholding Agency: Army
Property Number: 219014693, 219130009–219130010, 219130014, 219220204–219220207, 219330179–219330185, 219420328–219420329, 219440218
Status: Unutilized
Reason: Secured Area.
Bldg. 4520
Tooele Army Depot, South Area
Tooele Co: Tooele UT 84074–5008
Landholding Agency: Army
Property Number: 219240268
Status: Unutilized
Reason: Extensive deterioration.

Virginia

173 Bldgs.
Radford Army Ammunition Plant
Radford Co: Montgomery VA 24141–
Location: State Highway 114
Landholding Agency: Army
Property Number: 219010833, 219010836, 219010839, 219010842, 219010844,

219010847–219010890, 219010892–219010912, 219011521–219011577, 219011581–219011583, 219011585, 219011588, 219011591, 219013559–219013570, 219110142–219110143, 219120071, 219140618–219140633, 219440219–219440225, 219510031–219510033
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area.

13 Bldgs.
Radford Army Ammunition Plant
Radford Co: Montgomery VA 24141–
Location: State Highway 114
Landholding Agency: Army
Property Number: 219010834–219010835, 219010837–219010838, 219010840–219010841, 219010843, 219010845–219010846, 219010891, 219011578–219011580
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area; Latrine, detached structure.

56 Bldgs.
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219240096, 219240105, 219240107–219240118, 219330191–219330228, 219340092–219340094, 219420341, 219510034, 219520062
Status: Unutilized
Reason: Extensive deterioration (Some are in a secured area).

16 Bldgs.
Radford Army Ammunition Plant
Radford VA 24141
Landholding Agency: Army
Property Number: 219220210–219220218, 219230100–219230103, 219520037
Status: Unutilized
Reason: Secured Area.

2 Bldgs.
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801
Landholding Agency: Army
Property Number: 219220312, 219220314
Status: Underutilized
Reason: Extensive deterioration.

2 Bldgs., Fort A.P. Hill
Bowlling Co: Caroline VA 22427
Landholding Agency: Army
Property Number: 219240313–219240314
Status: Underutliized
Reason: Detached latrines.

Bldg. B7103–01, Motor House
Radford Army Ammunition Plant
Radford VA 24141
Landholding Agency: Army
Property Number: 219240324
Status: Unutilized
Reason: Secured Area; Within 200 ft. of flammable or explosive material; Extensive deterioration.

Bldg. TT0868, Fort Pickett
Blackstone Co: Nottoway VA 23824
Landholding Agency: Army
Property Number: 219310143
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 171 Fort Monroe
Ft. Monroe VA 23651
Landholding Agency: Army
Property Number: 219520051
Status: Unutilized
Reason: Extensive Deterioration.

1 Bldg., Fort Story
Ft. Story Co: Princess Ann VA 23459
Landholding Agency: Army
Property Number: 219430016
Status: Unutilized
Reason: Extensive deterioration.

56 Bldgs.
Red Water Field Office
Radford Army Ammunition Plant
Radford VA 24141
Landholding Agency: Army
Property Number: 219430341–219430396
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Bldg. SS1238
Fort A.P. Hill
Bowling Green Co: Caroline VA 22427
Landholding Agency: Army
Property Number: 219510030
Status: Underutilized
Reason: Secured Area; Extensive deterioration.

Bldgs. S0001, S0002, S0003, S0005
Hampton USAR Center
Hampton VA 23666
Landholding Agency: Army
Property Number: 219520029
Status: Unutilized
Reason: Secured Area.

Bldgs. S0006, S0007, S0008, S0009
Butler Farms USAR Center
Hampton Farms USAR Center
Hampton VA 23666
Landholding Agency: Army
Property Number: 219520030
Status: Unutilized
Reason: Secured Area.

Bldgs. 2013–00, B2013–00, A1601–00
Radford Army Ammunition Plan
Radford VA 24141
Landholding Agency: Army
Property Number: 219520052, 219530194
Status: Unutilized
Reason: Extensive deterioration.

Washington

24 Training Facilities
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–5000
Landholding Agency: Army
Property Number: 219430128
Status: Unutilized
Reason: Secured Area; Extensive deterioration.

68 Bldgs., Fort Lewis
Ft. Lewis Co: Pierce WA 98433–5000
Landholding Agency: Army
Property Number: 219430129, 219440226–219440229, 219440231–219440235
Status: Unutilized
Reason: Secured Area; Extensive deterioration.

Bldgs. 524, 538, 539
Ft. Lawton
Seattle Co: King WA 98199
Landholding Agency: Army
Property Number: 219430130
Status: Unutilized
Reason: Secured Area; Extensive deterioration.

98 Bldgs. (Barracks)
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 219440230
Status: Unutilized
Reason: Secured Area; Extensive deterioration.

152 Bldgs., Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 219510035–219510056
Status: Unutilized
Reason: Secured Area.

Wisconsin

6 Bldgs.
Badger Army Ammunition Plan
Baraboo Co: Sauk, MI 53913–
Landholding Agency: Army
Property Number: 219011094, 219011209–219011212, 219011217
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material; Other environmental; Secured Area.
Comment: Friable asbestos.

154 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI 53913–
Landholding Agency: Army
Property Number: 219011104, 219011106, 219011108–219011113, 219011115–219011117, 219011119–219011120, 219011122–219011139, 219011141–219011142, 219011144, 219011148–219011208, 219011213–219011216, 219011218–219011234, 219011236, 219011238, 219011240, 219011242, 219011244, 219011247, 219011249, 219011251, 219011254, 219011256, 219011259, 219011263, 219011265, 219011268, 219011270, 219011275, 219011277, 219011280, 219011282, 219011284, 219011286, 219011290, 219011293, 219011295, 219011297, 219011300, 219011302, 219011304–219011311, 219011317, 219011319–219011321, 219011323
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Other environmental; Secured Area
Comment: Friable asbestos.

4 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI
Landholding Agency: Army
Property Number: 219013871–219013873, 219013875
Status: Underutilized
Reason: Secured Area.

31 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI
Landholding Agency: Army
Property Number: 219013876–219013878, 219220295–219220311, 219510058–219510068
Status: Unutilized
Reason: Secured Area.

Bldgs. 6513–27, 6823–2, 6861–4
Badger Army Ammunition Plant
Baraboo Co: Sauk WI 53913–
Landholding Agency: Army
Property Number: 219210097–219210099

Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

63 Bldgs., Fort McCoy
US Hwy. 21
Ft. McCoy Co: Monroe WI 54656–
Landholding Agency: Army
Property Number: 219210115, 219240206–219240243, 219240256, 219240258–219240262, 219310208–219310225
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 6513–3
Badger Army Ammunition Plant
Baraboo Co: Sauk WI 53913
Landholding Agency: Army
Property Number: 219510057
Status: Unutilized
Reason: Detached Latrine.

124 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI 53913
Landholding Agency: Army
Property Number: 219510069–219510077
Status: Unutilized
Reason: Secured Area; Extensive deterioration.

Land (by State)

Alabama

23 acres and 2284 acres
Alabama Army Ammunition Plant
110 Hwy. 235
Childersburg Co: Talladega AL 35044–
Landholding Agency: Army
Property Number: 219210095–219210096
Status: Excess
Reason: Secured Area.

3.152 acres
Anniston Army Depot
Anniston Co: Calhoun AL 36201
Landholding Agency: Army
Property Number: 219530004
Status: Unutilized
Reason: Secured Area.

Alaska

Campbell Creek Range
Fort Richardson
Anchorage Co: Greater Anchorage AK 99507
Landholding Agency: Army
Property Number: 219230188
Status: Unutilized
Reason: Inaccessible.

Illinois

Group 66A
Joliet Army Ammunition Plant
Joliet Co: Will IL 60436–
Landholding Agency: Army
Property Number: 219010414
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Parcel 1
Joliet Army Ammunition Plant
Joliet Co: Will IL 60436–
Location: South of the 811 Magazine Area, adjacent to the River Road.
Landholding Agency: Army
Property Number: 219012810
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material; Floodway.

Parcel No. 2, 3
Joliet Army Ammunition Plant
Joliet Co: Will IL 60436–
Landholding Agency: Army
Property Number: 219013796–219013797
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material; Floodway.

Parcel No. 4, 5, 6
Joliet Army Ammunition Plant
Joliet Co: Will IL 60436–
Landholding Agency: Army
Property Number: 219013798–219013800
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Floodway.

Homewood USAR Center
18760 S. Halsted Street
Homewood Co: Cook IL 60430–
Landholding Agency: Army
Property Number: 219014067
Status: Underutilized
Reason: Secured Area.

38,000 sq. ft. & 4,000 sq. ft. of Land
Rock Island Arsenal
South Shore Moline Pool Miss. River
Moline Co: Rock Island IL 61299–5000
Landholding Agency: Army
Property Number: 219240317–219240318
Status: Unutilized
Reason: Floodway.

Indiana

Newport Army Ammunition Plant
East of 14th St. & North of S. Blvd.
Newport Co: Vermillion IN 47966–
Landholding Agency: Army
Property Number: 219012360
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Land—Plant 2
Indiana Army Ammunition Plant
Charlestown Co: Clark IN 47111
Landholding Agency: Army
Property Number: 219330095
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material.

Maryland

Carroll Island, Graces Quarters
Aberdeen Proving Ground
Edgewood Area
Aberdeen City Co: Harford Md 21010–5425
Landholding Agency: Army
Property Number: 219012630, 219012632
Status: Underutilized
Reason: Floodway; Secured Area.

New Jersey

Land
Armament Research Development & Eng. Center
Route 15 North
Picatinny Arsenal Co: Morris NJ 07806–
Landholding Agency: Army
Property Number: 219013788
Status: Unutilized
Reason: Secured Area.

Spur Line/Right of Way
Armament Rsch., Dev., & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219530143
Status: Unutilized
Reason: Floodway.

Oklahoma

McAlester Army Ammo. Plant
McAlester Army Ammunition Plant
McAlester Co: Pittsburg OK 74501–
Landholding Agency: Army
Property Number: 219014603
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material.

Tennessee

Land
Volunteer Army Ammunition Plant
Chattanooga Co: Hamilton TN
Landholding Agency: Army
Property Number: 219013791
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Volunteer Army Ammo. Plant
Chattanooga Co: Hamilton TN
Location: Area around VAAP—outside fence in buffer zone.
Landholding Agency: Army
Property Number: 219013880
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Texas

Land—Approx. 50 acres
Lone Star Army Ammunition Plant
Texarkana Co: Bowie TX 75505–9100
Landholding Agency: Army
Property Number: 219420308
Status: Unutilized
Reason: Secured Area.

Land—all of block 1800
Fort Sam Houston
Portions of 1900, 3100, 3200
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219530184
Status: Excess
Reason: Floodway.

Virginia

Fort Belvoir Military Reservation-5.6 Acres
South Post located West of Pohick Road
Fort Belvoir Co: Fairfax VA 22060–
Location: Rightside of King Road
Landholding Agency: Army
Property Number: 219012550
Status: Unutilized
Reason: Within airport runway clear zone.; Secured Area.

Wisconsin

Land
Badger Army Ammunition Plant
Baraboo Co: Sauk WI 53913–
Location: Vacant land within plant boundaries.
Landholding Agency: Army
Property Number: 219013783
Status: Unutilized
Reason: Secured Area.

[FR Doc. 96–7489 Filed 3–28–96; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Central Utah Project Completion Act; Uintah Unit, Central Utah Project; Irrigation Water Contract Negotiation

AGENCY: Office of the Assistant Secretary—Water and Science, Department of the Interior.

ACTION: Notice of intent to negotiate a contract among the Central Utah Water Conservancy District (CUWCD), Dry Gulch Irrigation Company, and the Department of the Interior (DOI) for transferring storage rights of irrigation water held in high mountain lakes in a Wilderness Area in the Uinta Mountains to storage facilities being planned for the Uintah Unit of the Central Utah Project.

SUMMARY: Public Law 102–575 Section 201(c) extended the authorization of the Uintah Unit of the Central Utah Project for 5 years from time of enactment. This contract is intended to provide replacement storage for irrigation water presently held in the upper drainage areas of the Uinta Mountains in the proposed Lower Uintah Reservoir that is being planned as part of the Uintah Unit of the Central Utah Project. The reservoirs being vacated in the Wilderness Areas will be stabilized at near natural sizes and will be managed by the U.S. Forest Service for environmental utilization. A negotiated contract among CUWCD, Dry Gulch Irrigation Company, and DOI will establish the operating criteria and assure that the water rights of Dry Gulch Irrigation Company are maintained in quantity and priority.

DATES: Dates for public negotiation sessions will be announced in local newspapers.

FOR FURTHER INFORMATION: Additional information on matters related to this **Federal Register** notice can be obtained at the address and telephone number set forth below: Mr. Michael Hansen, Program Coordinator, CUP Completion Act Office, Department of the Interior, 302 East 1860 South, Provo, UT 84606–6154, Telephone: (801) 379–1194

Dated: March 25, 1996.

Ralph Swanson,

Acting CUP Program Director, Department of the Interior.

[FR Doc. 96–7849 Filed 3–28–96; 8:45 am]

BILLING CODE 4310–RK–P

Central Utah Project Completion Act; Upalco Unit, Central Utah Project; Irrigation Water Contract Negotiation

AGENCY: Office of the Assistant Secretary—Water and Science, Department of the Interior.

ACTION: Notice of intent to negotiate a contract among the Central Utah Water Conservancy District (CUWCD), Moon Lake Water Users Association, and Department of the Interior (DOI) for transferring storage of irrigation water from high mountain lakes in the Wilderness Area in the Uinta Mountains to storage facilities being planned for the Upalco Unit of the Central Utah Project.

SUMMARY: Public Law 102–575, Section 201(c) extended the authorization of the Upalco Unit of the Central Utah Project for 5 years from time of enactment. This contract is intended to provide replacement storage for irrigation water presently held in the upper drainage areas of the Uinta Mountains in the proposed Crystal Ranch Reservoir that is being planned as part of the Upalco Unit of the Central Utah Project. The reservoirs being vacated in the Wilderness Areas will be stabilized at near natural sizes and will be managed by the U. S. Forest Service for environmental utilization. A negotiated contract among CUWCD, Moon Lake Water Users Association, and DOI will establish the operating criteria and assure that the water rights of the Moon Lake Water Users Association are maintained in quantity and priority.

DATES: Dates for public negotiation sessions will be announced in local newspapers.

FOR FURTHER INFORMATION: Additional information on matters related to this **Federal Register** notice can be obtained at the address and telephone number set forth below:

Mr. Michael Hansen, Program Coordinator, CUP Completion Act Office, Department of the Interior, 302 East 1860 South, Provo UT 84606–6154, Telephone: (801) 379–1194.

Dated: March 25, 1996.

Ralph Swanson,

Acting CUP Program Director, Department of the Interior.

[FR Doc. 96–7850 Filed 3–28–96; 8:45 am]

BILLING CODE 4310–RK–P

Bureau of Land Management

[OR–050–1110–00:G6–0104]

Closure of Public Lands; (Prineville District) Oregon.

March 22, 1996.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice is hereby given that all roads and trails as legally described below are closed to all motorized vehicle use.

LEGAL DESCRIPTION: This closure order applies to all roads and trails located in township 15 South, Range 11 East, Section 16, SE of the SW and SW of the SE; and Section 21 NE of the NW and NW of the NE, with the exception of Jordan Road. Jordan Road originates where it intersects Fryrear Road at Township 15 South, Range 11 East, Section 16 NW of the SW.

All roads and trails as described above, except for Jordan Road, are closed to all motorized vehicle use. The purpose of this closure is to protect wildlife resources. More specifically, this closure is ordered to reduce negative impacts to a nesting pair of golden eagles. Golden eagles are extremely sensitive to motorized disturbance within the sensitive habitat area surrounding the nest site during the nest season. Current uses at the site jeopardize the persistence and nesting success of golden eagles at this location. Exemptions to this closure order apply to administrative personnel of the Central Oregon Co-op for access along and maintenance of the existing powerline right-of-way (Serial #OR–012676). Other exemptions to this closure order may be made on a case-by-case basis by the authorized officer. This emergency order will be evaluated in the Urban Interface Plan Amendment to the 1989 Brothers/La Pine Resource Management Plan. The authority for this closure is 43 CFR 8364.1: Closure and restriction orders.

FOR FURTHER INFORMATION CONTACT: Sarah Nichols, Wildlife Biologist, BLM Prineville District, P.O. Box 550, Prineville Oregon 97754, telephone (541) 416–6725.

SUPPLEMENTARY INFORMATION: Violation of this closure order is punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months as provided in 43 CFR 8360.0–7.

Dated: March 22, 1996.

James G. Kenna,

Deschutes Resource Area Manager, Prineville District Office.

[FR Doc. 96–7629 Filed 3–28–96; 8:45 am]

BILLING CODE 4310–33–M

[WY–010–1220–00]

Emergency Seasonal Closure of Public Land in the Bald Ridge Area, Park County, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Emergency Seasonal Closure of Public Land in the Bald Ridge Area, Park County, Wyoming.

SUMMARY: Notice is hereby given that effective March 18, 1996, the Bald Ridge area located south of the Clarks Fork of the Yellowstone River and west and north of Hogan Reservoir of Park County, Wyoming on public land administered by the Bureau of Land Management (BLM), Worland District, Cody Resource Area, was closed from December 15 through April 30 to all use (such as hiking, horseback riding, mountain bike riding, crosscountry skiing, and all motorized use) except permitted activities. This action is being taken for resource protection of essential wintering habitat of elk and mule deer. No access into this area will be allowed unless permitted by the Authorized Officer (BLM Cody Resource Area Manager).

EFFECTIVE DATE: This emergency seasonal closure was effective March 18, 1996 and will remain in effect until modified or rescinded by the Authorized Officer.

FOR FURTHER INFORMATION CONTACT: Bob Dieli, Recreation Planner or Duane Whitmer, Area Manager, Cody Resource Area, P.O. Box 518, 1002 Blackburn Avenue, Cody, Wyoming 82414–0518. Telephone (307) 587–2216.

SUPPLEMENTARY INFORMATION: The Cody Resource Area is responsible for the management of essential wildlife habitat in the Bald Ridge area of the Absaroka Front and other crucial habitat areas located throughout the Bighorn Basin. These essential habitat areas and management thereof are covered under the Cody Resource Management Plan (RMP), which was signed on November 8, 1990. "Seasonal restrictions will be applied as appropriate to surface-disturbing and disruptive activities and land uses on big game crucial habitat, including winter ranges and elk calving areas." (Cody RMP, p. 40)

The Bald Ridge area is crucial wintering habitat for big game. Increasing visitor activity, such as horseback riding, hiking, and antler hunters are causing unacceptable impacts to the wintering elk and deer herds. These activities are causing anxiety during a period when the animals are most susceptible to stress-related health affects that could cause death. These activities also force the herds to be displaced from their winter habitat. The Cody Resource Area will analyze a proposal for facility development at Hogan Reservoir as well as travel management of the Bald Ridge area to be investigated in the near future. This emergency seasonal closure is needed to address an immediate concern.

The following described BLM-administered lands south of the Clarks Fork of the Yellowstone River and west of Hogan Reservoir are included in this seasonal closure: T. 56 N., R. 103 W., sections 7, 8, 15, 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, and 33 from the west end of Hogan Reservoir. Hogan Reservoir remains open for fishing and nonmotorized travel within 100 yards of the reservoir's high-water line. Authority for closure and restriction orders is provided under 43 CFR subpart 8341.2 (a and b), 8364.1, 8372.0–7, 8372.1–2. Violations of this closure are punishable by a fine not to exceed $1,000 and (or) imprisonment not to exceed 12 months.

Dated: March 15, 1996.

Duane Whitmer,

Cody Resource Area Manager, Worland District.

[FR Doc. 96–7712 Filed 3–28–96; 8:45 am]

BILLING CODE 4310–22–P

[MT–060–05–1990–01]

Availability of the Final Environmental Impact Statement for the Zortman and Landusky Mines Reclamation Plan Modifications and Mine Life Extensions, Phillips County, Montana

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of availability of the final environmental impact statement (EIS) for the Zortman and Landusky mines reclamation plan modifications and mine life extensions.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4327), and the Montana Environmental Policy Act, the Bureau of Land Management (BLM) and the Montana Department of Environmental Quality (DEQ), as lead agencies, have prepared, through a third party contractor, a Final EIS on the impacts of the Zortman Mining, Inc. proposal to expand mining and processing of ore reserves at the Zortman and Landusky mines. The Zortman and Landusky mines are located in southwestern Phillips County about 50 miles south of Malta, Montana, near the southern boundary of the Fort Belknap Indian Reservation. The Final EIS presents a preferred alternative and six other alternatives including the company proposed action. The Final EIS discloses the possible environmental consequences associated with each alternative.

A number of changes have been made to the preferred alternative between the Draft EIS and Final EIS, largely in response to public comments. Major changes include: removal of the Peregrine Falcon reintroduction study for the pit highwalls, relocation of the limestone quarries to avoid impacts to northern drainages, routing of all post-reclamation pit runoff to the south, updating of the water quality improvement plan, completion of a Programmatic Agreement for mitigation of impacts to cultural resources, and the inclusion of an aquatic ecosystem mitigation plan.

DATES: A record of decision will be prepared no earlier than 30 days after the Notice of Receipt of the Final EIS is published in the **Federal Register**.

ADDRESSES: Copies of the Final EIS are available from the Bureau of Land Management, Phillips Resource Area, HC 65 Box 5000, Malta, Montana, 59538 or the State of Montana, Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620–0901. Public reading copies will be available for review at the following locations: Bureau of Land Management, Office of External Affairs, Main Interior Building, Room 5600, 18th and C Streets NW, Washington, DC; Bureau of Land Management, External Affairs Office, Montana State Office, 222 North 32nd Street, Billings, Montana; Bureau of Land Management, Phillips Resource Area, 501 South 2nd Street East, Malta, Montana; and the State of Montana, Department of Environmental Quality, Helena, Montana.

FOR FURTHER INFORMATION CONTACT: Jim Robinson, Team Leader, Montana Department of Environmental Quality, Hard Rock Bureau, P.O. Box 200901, Helena, Montana, 59620–1601 (406–444–2544) or Scott Haight, Team Leader, Bureau of Land Management, Lewistown District Office, P.O. Box 1160, Lewistown, Montana 59457–1160 (406–538–7461).

SUPPLEMENTARY INFORMATION: On May 11, 1992, Zortman Mining, Inc. (ZMI) filed an application with the Bureau of Land Management, Lewistown District Office, and the Montana Department of State Lands (part of the Montana Department of Environmental Quality as of July 1, 1995), to expand mining operations at the Zortman Mine in the Little Rocky Mountains, Montana. The

proposal includes: expansion of existing mine pits to access sulfide ore; a 150-acre, 60-million ton waste rock disposal area; crushing facilities; a 2.5-mile conveyor system; a 200-acre, 80-million ton capacity leach pad; a new processing plant and ponds; a limestone quarry; and other associated facilities. Total disturbance would increase from the existing 401 acres to about 1,292 acres. The operation is located on private and public land. Issues include Native American religious concerns, acid rock drainage, reclamation, and socioeconomic.

In a March 9, 1994, Decision Record, the BLM and DEQ included the analysis of acid rock drainage corrective measures for the nearby Landusky Mine within the scope of the EIS for Zortman Mine expansion, since acid rock drainage has been a problem at both mines. The Final EIS addresses additional mining at the Landusky and Zortman mines, as well as modified reclamation plans for both facilities to address acid rock drainage.

Public participation has occurred throughout the EIS process. A Notice of Intent was published in the **Federal Register** in November 1992 followed by a supplemental notice in April 1994 expanding the scope of the EIS for the Landusky Mine. Public meetings, informational mailings, and briefings were conducted to solicit comments for the scope of the EIS. About 400 copies of the Draft EIS were distributed to the public and other federal and state agencies. A Notice of Availability of the Draft EIS was published in the **Federal Register** on August 14, 1995. This was followed by a Notice of Receipt by the Environmental Protection Agency published in the **Federal Register** on August 18, 1995. The public comment period extended from August 18, 1995 through November 1, 1995 (75 days). During the public comment period the BLM and DEQ held five open houses/public hearings to receive oral and written comments. These meetings were also the forum for the U.S. Army Corps of Engineers to collect public comments on the Zortman Mining, Inc. 404 permit application for the Zortman and Landusky Mine expansions. In addition to oral comments, about 368 letters were received on the Draft EIS. All comments, written and oral, were reviewed and considered in preparation of the Final EIS.

Dated: March 19, 1996.

David L. Mari,

District Manager.

[FR Doc. 96–7713 Filed 3–28–96; 8:45 am]

BILLING CODE 4310–DN–M

[WO–400–06–1310–00]

Green River Basin Advisory Committee Meeting, Colorado and Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting of the Green River Basin Advisory Committee.

SUMMARY: This notice sets forth the schedule and agenda for a meeting of the Green River Basin Advisory Committee (GRBAC).

DATES: April 16, 1996, from 8:00 a.m. until 7 p.m. and April 17, 1996, from 8:00 a.m. until 4 p.m.

ADDRESSES: Sweetwater County Events Complex, 3320 Yellowstone, Rock Springs, WY 82902.

FOR FURTHER INFORMATION CONTACT: Terri Trevino, GRBAC Coordinator, Wyoming Bureau of Land Management, P.O. Box 1828, Cheyenne, WY 82003, (307) 775–6020.

SUPPLEMENTARY INFORMATION: The topics for the meeting will include:

1. Discussion, categorizing, and prioritizing of identified issues.
2. Dissemination of GRBAC information requests.
3. Public comment

This meeting is open to the public. Interested persons may make oral statements to the Committee or file written statements for the committee's consideration. The Committee will hear public comments on Tuesday afternoon, April 16, 1996. Anyone wishing to make an oral statement should notify the GRBAC Coordinator, at the above address by April 9, 1996. The committee may establish a time for oral statements.

Alan R. Pierson,

State Director.

[FR Doc. 96–7748 Filed 3–28–96; 8:45 am]

BILLING CODE 4310–25–M

[CA–010–1220–00]

Meeting of the Bakersfield Resource Advisory Council

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Meeting of the Bakersfield Resource Advisory Council.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and the Federal land Policy and Management Act of 1976 (sec. 309), the Bureau of Land Management Bakersfield District Resource Advisory Council will meet in Bakersfield, with a field trip to the Carrizo Plain Natural Area.

DATES: April 11–12–13–14, 1996.

ADDRESSES: Washburn Ranch, Carrizo Plain Natural Area, April 11–12; Ramada Inn, 3535 Rosedale Highway, Bakersfield, California, April 13; BLM Bakersfield District Office, 3801 Pegasus Drive, Bakersfield, April 14.

SUPPLEMENTARY INFORMATION: The Bakersfield Resource Advisory Council is a 12 member council appointed by the Secretary of the Interior to give counsel and advice regarding planning and management of public land resources to the District Manager of the Bureau of Land Management Bakersfield District Office, 3801 Pegasus Drive, and then proceed by government vehicle to the Carrizo Plain Natural Area in eastern San Luis Obispo County.

On the way, the Council will visit the oil fields of western kern county, and be briefed on the Bureau's oil and gas program. After a tour of the Carrizo Plain and a discussion of the native plants of the area, the council will have dinner and spend the night at the Washburn Ranch, the administrative headquarters for BLM at Carrizo Plain. Friday, April 12, at the Washburn Ranch, the Council will receive training in rangeland management from BLM staff. The training will consist of 4 hours of classroom study, followed by a field discussion of standards and guidelines for grazing on federal land.

The council will return to Bakersfield Friday evening,a nd will meet at the Ramada Inn beginning at 8 a.m. Saturday, April 13. The Council will hear testimony about Caliente Resource Area issues such as the impact of threatened and endangered species issues on land management decisions. A public comment period is scheduled for 11 a.m. The Council will spend Saturday afternoon discussing its role and responsibilities concerning grazing and land management issues. If necessary, the Council will continue its discussion beginning at 8 a.m. Sunday, April 14, at the BLM Bakersfield District Office.

The entire meeting of the council is open to the public. Please make arrangements in advance by calling the number below if you wish to attend any part of the meeting at the Carrizo Plain. Anyone wishing to address the Council about any public land issue may do so during the public comment period at 11 a.m. Saturday, April 13, 1996 or at any time during the meeting at the discretion of the Council Chairman. Written comments may be submitted at the meeting, or to the address below.

FOR FURTHER INFORMATION CONTACT: Larry Mercer, Public Affairs Officer, Bureau of Land Management, Bakersfield District, 3801 Pegasus Drive, Bakersfield, CA 93308, telephone 805–391–6010.

Dated: March 21, 1996.

Ron Fellows,

District Manager.

[FR Doc. 96–7714 Filed 3–28–96; 8:45 am]

BILLING CODE 4310–40–M

[NV–030–96–1020–00–24–1 A]

Sierra Front/Northwest Great Basin Resource Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting of the Sierra Front/Northwest Great Basin Resource Advisory Council Meeting Location and Time.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA, 5 U.S.C.), the Department of the Interior, Bureau of Land Management (BLM) Council meetings will be held as indicated below. The agenda for each meeting includes approval of minutes of the previous meeting, discussion and development of Guidelines for management of the public lands within the jurisdiction of the Council and determination of the subject matter for future meetings.

There will be a public scoping meeting to comment on the proposal to modify the affected Resource Management Plans. Public comment is sought on the issues to be analyzed, the alternatives that may be considered, the standards and guidelines to be addressed, as well as the level of analysis which would be appropriate under the National Environmental Policy Act (NEPA). Implementation of Standards and Guidelines may require some form of planning modification, ranging from simple plan maintenance to plan amendment. It is uncertain what level of plan modification will be needed, if any.

The public may also present written comments to the Council. The Council meeting, public comment period and scoping meeting are listed below.

DATES: Sierra Front/Northwest Great Basin Resource Advisory Council, BLM Nevada State Office, 835 Harvard Way, Reno, NV 89520: April 22, beginning at 8:00 a.m.; public comment will be at 1:30 p.m. The scoping meeting will be held at 7:00 p.m. The working meeting will continue on April 23 beginning at 8:00 a.m. At the discretion of the Chairman, additional public comments may be made at the conclusion of business April 23rd .

FOR FURTHER INFORMATION CONTACT: Joan Sweetland, BLM Public Affairs Officer, 1535 Hot Springs Road, Carson City, NV 89706–0638. (Phone: 702–885–6000.)

(Dated this 13th day of March, 1996.

John O. Singlaub,

District Manager, Carson City District.

[FR Doc. 96–7631 Filed 3–28–96; 8:45 am]

BILLING CODE 4310–HC–M

[AZ–020–06–5440–A136; AZA–29530]

Notice of Realty Action, Sale of Public Land in Maricopa County, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Sale of public land in Maricopa County.

SUMMARY: The following described public land has been examined and through the land use planning process have been determined to be suitable for disposal by direct sale pursuant to Section 203 of the Federal Land Policy and Management Act of 1976 at no less than the appraised fair market value. The land will not be offered for sale until at least 60 days after the date of publication of this notice in the **Federal Register**.

Gila and Salt River Meridian

T. 3 S., R. 4 W.,
Sec. 2, S½NW¼,SW¼.

The area described contains 240 acres in Maricopa County.

The patent, when issued, will be subject to the following terms, conditions and reservations:

1. A right-of-way for ditches and canals constructed by the authority of the United States.

2. Those rights for transmission line purposes granted to U.S. West Communications by Right-of-Way Numbers AZA–011068 and AZAR–0032095.

3. Those rights for the use of highways purposes granted to Arizona State Highways Department by Right-of-Way Number AZA–0005251.

4. Those rights the grazing permittee, John F. and Cecilia Siebert, may have to continue his current grazing use for two years from receipt of a cancellation notice. (Grazing Record No.022346).

DATES: Upon publication of this Notice in the **Federal Register**, the land described above will be segregated from appropriation under the public land laws, including the mining laws, except the sale provisions of the Federal Land Policy and Management Act. The segregative effect will end upon issuance of patent or 270 days from the date of publication, whichever occurs first.

ADDRESS: Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

FOR FURTHER INFORMATION CONTACT: Bob Hale, Realty Specialist, at the address shown above or (602) 780–8090.

SUPPLEMENTARY INFORMATION: The land is being offered by direct sale to State of Arizona; Arizona Department of Administration, Phoenix, Arizona. Failure or refusal of the State of Arizona to submit the required amount, will result in cancellation of the sale.

A mineral value determination will be made and if there are known mineral values the mineral interest will be conveyed simultaneously under Section 209 of the Federal Land Policy and Management Act. A separate nonrefundable filing fee of $50 is required from the purchasers for conveyance of the mineral interests.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, who may vacate or modify this realty action to accommodate the protest. If the protest is not accommodated, the comments are subject to review of the State Director who may sustain, vacate,or modify this realty action. This realty action will become the final determination of the Department of the Interior.

Dated: March 22, 1996.

David J. Miller,

Associate District Manager.

[FR Doc. 96–7665 Filed 3–28–96; 8:45 am]

BILLING CODE 4310–32–P

[CO–930–1430–01; COC 58796]

Notice of Realty Action; Non-Competitive Sale of Lands; Colorado

AGENCY: Department of the Interior, Bureau of Land Management.

Amendment

In notice document 96–6813 appearing on pages 11864–11865 in the issue of Friday, March 22, 1996, the legal description is amended to read:

New Mexico Principal Meridian, Colorado,

T. 32 N., R. 1 E.
Sec. 2, lot 7.

Dated: March 22, 1996.

Jenny L. Saunders,

Realty Officer, Division of Resource Services, Colorado State Office.

[FR Doc. 96–7611 Filed 3–28–96; 8:45 am]

BILLING CODE 4310–JB–M

Minerals Management Service

Modification to the Bid Adequacy Procedures

AGENCY: Minerals Management Service, Interior.

ACTION: Notification of procedural changes.

SUMMARY: The Minerals Management Service (MMS) has modified its existing bid adequacy procedures for ensuring receipt of fair market value on Outer Continental Shelf (OCS) oil and gas leases. This procedure eliminates in Phase 1 the number of bids rule, which effectively allowed for immediate acceptance of high bids on confirmed or wildcat tracts receiving three or more bids.

DATES: This modification is effective March 29, 1996.

FOR FURTHER INFORMATION CONTACT: Dr. Marshall Rose, Chief, Economic Evaluation Branch; Minerals Management Service; Mail Stop 4220, 381 Elden Street, Herndon, Virginia 22070–4817; telephone: (703) 787–1536.

SUPPLEMENTARY INFORMATION: Previous changes in the February 1983 bid adequacy procedures were made in February, March, and July 1984, May 1985, and May 24, 1991 (56 FR 23978). The following complete set of bid adequacy procedures incorporates those earlier changes and this most recent change.

The MMS uses a two-phase process to determine bid adequacy. In Phase 1, we classify tracts into two groups: drainage and development or wildcat and confirmed. The MMS also identifies nonprospective tracts, i.e., those tracts judged not to be located on a viable prospect. All legal high bids [1] on such nonprospective tracts are accepted. The MMS passes the high bids on all other tracts directly to Phase 2 for further evaluation. Phase 1 is conducted tract-by-tract and is generally completed within 2 weeks of the bid opening.

Phase 2 applies criteria designed to further determine bid adequacy on a tract-specific basis. Prospective wildcat and confirmed tracts that are not accepted in Phase 1 may receive further mapping and/or analysis in Phase 2. Subsequently, MMS reviews the viability determinations of these tracts. Those wildcat and confirmed tracts later determined to be nonviable can be eliminated from the set of tracts undergoing a full-scale MONTCAR evaluation and the high bids on them accepted. The remaining tracts, including all drainage and development tracts, receive further evaluation by comparing the high bids with the Mean Range of Values (MROV) and the Adjusted Delay Value (ADV). In addition, if in the judgment of the Regional Director a tract is or may be subject to drainage, the relevant costs due to delays associated with bid rejection are considered in computing the ADV.

All drainage and development tracts which received three or more adjusted bids [2] and prospective wildcat and confirmed tracts which received two or more adjusted bids will be compared with the Geometric Average Evaluation of Tract (GAEOT). For drainage and development tracts, the GAEOT will not be used when the high bid is equal to or less than one-sixth of the MROV.

The MMS conducts most evaluations based upon data and analysis available at the time of the sale. However, we may gather additional data and perform further analyses after the sale at the discretion of the Regional Director to ensure a fair return to the Government.

The MMS normally completes the bid adequacy recommendations for acceptance/rejection developed in Phase 2 sequentially over a period ranging between 14 and 90 days after the sale. Upon acceptance, the high bidders must pay the balance of the bonus bid (80 percent) along with the first year's annual rental within 15 days. The MMS returns the deposits, with interest, on all rejected high bids.

Dated: March 22, 1996.

Thomas Gernhofer,

Associate Director for Offshore Minerals Management.

[FR Doc. 96–7645 Filed 3–28–96; 8:45 am]

BILLING CODE 4310–MR–M

[1] "Legal high bids" mens those high bids which comply with MMS regulations and the Notice of Sale.

[2] Anomalous bids are not included in the bid number in Phase 2. Anomalous bids include all but the highest bid submitted for a tract by the same company, bidding alone or jointly, and the lowest bid on a tract when it is less than one-eight of the next lowest bid. The "one-eighth rule" can exclude no more than one bid for a given tract.

National Park Service

Jean Lafitte National Historical Park and Preserve; Meeting

ACTION: Public meeting for Draft Barataria Boundary Study and the availability for public review of the study.

SUMMARY: Notice is hereby given that the Draft Barataria Boundary Study has been completed by the National Park Service and will be available for public review from April 1, 1996 through May 1, 1996. Copies of the draft study can be obtained from the National Park Service at the following address: National Park Service, Denver Service Center, Attn. Ann Van Huizen, 12795 West Alameda Parkway, Denver, Colorado 80227–0287. Telephone: (303) 969–2451. All written comments on the draft study should be addressed to the National Park Service, attention Ann Van Huizen, at the above address and must be postmarked no later than May 1, 1996. Additional notice is hereby given that three public meetings will be held in Louisiana, on the dates and at the locations and times provided in this Notice, to receive public comment on the draft study. The draft study will also be available for public review at the Preserve headquarters between the hours of 8:30 a.m. to 4:30 p.m. Central Standard time.

DATES:

April 9, 1996, From 6 p.m. to 9 p.m. at the University Center, Room 211B, University of New Orleans, New Orleans, Louisiana

April 10, 1996, From 2 p.m. to 5 p.m., West Bank Regional Library, 2751 Manhattan Blvd., Harvey, Louisiana

April 10, 1996, From 6:30 p.m. to 9:30 p.m., Environmental Education Center, Barataria Preserve Unit, Jean Lafitte National Historical Park, and Preserve, Highway 45, Marrero, Louisiana.

FOR FURTHER INFORMATION CONTACT:

Mr. Roberts Belous, Superintendent, Jean Lafitte National Historical Park and Preserve, 365 Canal Street, Suite 3080, New Orleans, Louisiana 70130–1142, (504 589–3882, extension 128).

SUPPLEMENTARY INFORMATION: The boundary for the Barataria Preserve Unit of Jean Lafitte National Historical Park and Preserve was established through congressional legislative action in 1978. During the intervening years there have been significant changes in land uses along this area not currently part of the park that could merit inclusion. The analysis in the Draft Barataria Boundary Study will provide objective information for consideration in any future action by the Department of Interior or the U.S. Congress to revise the park's original legislative boundary.

Dated: March 21, 1996.

Frank Catroppa,

Superintendent, Gulf Coast System Support Office.

[FR Doc. 96–7676 Filed 3–28–96; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF LABOR

Employment Standards Administration Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis–Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing fro delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register** or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue NW., Room S–3014, Washington, DC 20210.

New General Wage Determination Decisions

The number of the decisions added to the Government Printing Office document entitled "General Wage Determinatin Issued Under the Davis-Bacon and related Acts" are listed by Volume and State:

Volume III

Florida
FL960077 (Mar. 29, 1996)

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis—Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses followign the decisions being modified.

Volume I

Massachusetts
MA960001 (Mar. 15, 1996)
MA960002 (Mar. 15, 1996)
MA960003 (Mar. 15, 1996)
MA960004 (Mar. 15, 1996)
MA960005 (Mar. 15, 1996)
MA960006 (Mar. 15, 1996)
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None

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WA960013 (Mar. 15, 1996)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the county.

The general wage determinations issued under the Davis-Bacon and

related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at (703) 487–4630.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, DC this 22nd day of March 1996.

Philip J. Gloss,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 96–7374 Filed 3–29–96; 8:45 am]

BILLING CODE 4510–27–M

NUCLEAR REGULATORY COMMISSION

Atomic Safety and Licensing Board

[No. 50–160–Ren; ASLBP No. 95–704–01–Ren]

Georgia Institute of Technology, Atlanta, Georgia; Georgia Tech Research Reactor; Renewal of Facility License R–97

March 25, 1996.

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference will be held in this proceeding on Wednesday, April 24, 1996, beginning at 2:00 p.m., at the United States Court of Appeals, Courtroom 338, 56 Forsyth Street, Atlanta, Georgia 30303.

As outlined in the Atomic Safety and Licensing Board's Memorandum and Order dated March 21, 1996, the conference will concern matters bearing upon the preparation for the hearing commencing on May 20, 1996, as set forth in 10 CFR 2.752(a), including a final list of witnesses and the order and scheduling of those witnesses, the obtaining of stipulations and admissions of fact and of the contents and authenticity of documents to avoid unnecessary proof, the numbers of copies of documents to be distributed to the Board, parties and the reporter, the marking of those documents, and such other matters as may aid in the orderly disposition of the proceeding.

Members of the public are invited to attend the conference but may not otherwise participate in the proceeding.

Dated: March 25, 1996.

For the Atomic Safety and Licensing Board.

Charles Bechhoefer,

Chairman, Administrative Judge.

[FR Doc. 96–7675 Filed 3–28–96; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Customer Satisfaction Surveys and Focus Groups

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of submission for OMB review; comment request.

SUMMARY: The Pension Benefit Guaranty Corporation has requested that the Office of Management and Budget approve a series of new collections of information under the Paperwork Reduction Act. The purpose of the information collections, which will be conducted through focus groups and surveys over a three-year period, is to help the PBGC assess the efficiency and effectiveness with which it serves its customers and to design actions to address identified problems.

DATES: All comments must be submitted to OMB by April 29, 1996.

ADDRESSES: All written comments should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Pension Benefit Guaranty Corporation, 725 17th Street NW., Room 10235, Washington, DC 20503. The request for approval will be available for public inspection at the PBGC Communications and Public Affairs Department, suite 240, 1200 K Street NW., Washington, DC 20005, between the hours of 9 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Marc L. Jordan, Attorney, Office of the General Counsel, Suite 340, 1200 K Street NW., Washington, DC 20005, 202–326–4026 (202–326–4179 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) establishes policies and procedures for controlling the paperwork burdens imposed by Federal agencies on the public. The Act vests the Office of Management and Budget (OMB) with regulatory responsibility over these burdens, and OMB has promulgated rules on the clearance of collections of information by Federal agencies.

Executive Order 12862, Setting Customer Service Standards, states that, in order to carry out the principles of the National Performance Review, the Federal Government must be customer-driven. It directs all executive departments and agencies that provide significant services directly to the public to provide those services in a manner that seeks to meet the customer service standards established in the Executive Order.

The PBGC intends to establish a mechanism through which it will be able to explore issues of mutual concern (*e.g.*, kind and quality of desired services) with its major outside client groups, *i.e.*, participants and beneficiaries, plan sponsors and their affiliates, plan administrators, pension practitioners and others involved in the establishment, operation and termination of plans covered by the PBGC's insurance program.

The areas of concern to the PBGC and its client groups will change over time, and it is important that the PBGC have the ability to evaluate customer concerns quickly. Accordingly, the PBGC is requesting that OMB grant "generic" approval, for a three-year period, of focus groups and surveys of the PBGC's outside client groups. Participation in the focus groups and surveys will be voluntary. The PBGC will consult with OMB regarding each specific information collection during the approval period.

On December 29, 1995, the PBGC published in the **Federal Register** a notice of intention to request OMB approval of these collections. No comments were received in response to the notice.

This voluntary collection of information will put a slight burden on a very small percentage of the public. The PBGC expects to conduct focus groups involving a total of approximately 225 persons each year, with a total annual burden of approximately 675 hours, including travel time. (Some portion of this time may be spent completing surveys at focus group meetings.) In addition, the PBGC expects to distribute written surveys to approximately 1,600 persons each year (in most cases as an adjunct to a focus group), with a total annual burden of approximately 200 hours.

Issued at Washington, D.C., this 26th day of March 1996.

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 96–7673 Filed 3–28–96; 8:45 am]

BILLING CODE 7708–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of April 1, 1996.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Johnson, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Wednesday, April 3, 1996, at 10:00 a.m., will be:

Institution and settlement of administrative proceedings of an enforcement nature.
Institution of injunctive actions.
Formal orders of investigation.
Opinions.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942–7070.

Dated: March 27, 1996.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–7910 Filed 3–27–96; 3:54 pm]

BILLING CODE 8010–01–M

[Release No. 34–37007; File No. SR–Amex–95–39, SR–CBOE–95–67, and SR–Phlx–95–76]

Self-Regulatory Organizations; Order Approving Proposed Rule Changes and Notice of Filing and Order Granting Accelerated Approval of Amendments Thereto by the American Stock Exchange, Inc., Chicago Board Options Exchange, Inc., and Philadelphia Stock Exchange, Inc., Relating to the Establishment of Uniform Listing and Trading Guidelines for Narrow-Based Stock Index Warrants

March 21, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] the American Stock Exchange, Inc. ("Amex"), Chicago Board Options Exchange, Inc. ("CBOE"), and Philadelphia Stock Exchange, Inc. ("Phlx") (collectively "Exchanges") submitted to the Securities and Exchange Commission ("Commission" or "SEC") proposed rule changes ("proposals") to establish uniform listing and trading guidelines for narrow-based stock index warrants.[3]

Notice of the proposals, and Amendment No. 1 thereto, were published for comment and appeared in the **Federal Register**.[4] No comment letters were received.

The Amex subsequently submitted Amendments No. 2, 3, and 4 to the proposal on January 22, 1996 ("Amex Amendment No. 2"), January 30, 1996 ("Amex Amendment No. 3"), and January 31, 1996 ("Amex Amendment No. 4").[5] The CBOE subsequently submitted Amendments No. 2, 3, and 4 to the proposal on December 27, 1995 ("CBOE Amendment No. 2"), February 2, 1996 ("CBOE Amendment No. 3"), and February 27, 1996 ("CBOE Amendment No. 4").[6] The Phlx subsequently submitted Amendment No. 2 ("Phlx Amendment No. 2") (collectively with all of the Exchange's Amendments that have not been noticed to date "Amendments") to the proposal on January 31, 1996.[7]

CBOE Amendment No. 2 addresses index maintenance standards. Amex Amendment No. 2 was superseded by Amex Amendment No. 3. Amex and CBOE Amendments No. 3 and Phlx Amendment No. 2 address position limit related issues. Amex Amendment No. 4 reduces the originally proposed position limit applicable to certain narrow-based index warrants and CBOE Amendment No. 4 clarifies an example contained in CBOE Amendment No. 3 with respect to position limit aggregation. This order approves the proposals, as amended, and solicits comments on the Amendments.

I. Description of the Proposal

On August 29, 1995, the Commission approved rule changes for the Exchanges which established uniform listing and trading guidelines for broad-based stock index, currency, and currency index warrants ("broad-based regulatory framework").[8] Those standards govern all aspects of the listing and trading of index warrants, including issuer eligibility, customer suitability and account approval procedures, position and exercise limits, reportable positions, automatic exercise, settlement, margin, and trading halts and suspensions.

The purpose of this proposal is to allow for the listing and trading of warrants on narrow-based stock index groups. With the exceptions of separate higher margin requirements and reduced position limits, the broad-based regulatory framework will fully apply to the listing, trading, and surveillance of narrow-based index warrants. This includes a heightened suitability standard for recommendations in index warrants as well as requiring all

[1] 15 U.S.C. § 78s(b)(1) (1988 & Supp. V 1993).

[2] 17 CFR 240.19b–4 (1994).

[3] The Amex, CBOE, and Phlx rule filings were submitted on September 9, 1995, November 9, 1995, and October 27, 1995, respectively. On November 1, 1995, November 20, 1995, and November 22, 1995, Amex, CBOE, and Phlx, respectively, each submitted Amendment No. 1 ("Amendment No. 1") to their proposals to address issues relating to settlement value for warrants. *See* Letters from William Floyd-Jones, Amex, to Michael Walinskas, SEC, dated October 30, 1995 ("Amex Amendment No. 1"), Timothy Thompson, CBOE, to Stephen M. Youhn, SEC, dated November 15, 1995 ("CBOE Amendment No. 1"), and Shelle Weisbaum, Phlx, to Michael Walinskas, SEC, dated November 22, 1995 ("Phlx Amendment No. 1"). Amex and Phlx Amendment No. 1 also address issues relating to index maintenance standards.

[4] *See* Securities Exchange Act Release Nos. 36448 (Nov. 1, 1995), 60 FR 56180 (Nov. 7, 1995) (Amex); 36525 (Nov. 29, 1995), 60 FR 62512 (Dec. 6, 1995) (CBOE); and 36524 (Nov. 29, 1995), 60 FR 62521 (Dec. 6, 1995) (Phlx).

[5] *See* Letters from William Floyd-Jones, Amex, to Stephen M. Youhn, SEC, dated January 19, 1996, January 29, 1996, and January 30, 1996, respectively.

[6] *See* Letters from Timothy Thompson, CBOE, to Stephen M. Youhn, SEC, dated December 21, 1995, February 1, 1996, and February 27, 1996, respectively.

[7] *See* Letter from Shelle Weisbaum, Phlx, to Michael Walinskas, SEC, dated January 30, 1996.

[8] On August 29, 1995, the Commission approved uniform listing and trading guidelines for stock index, currency and currency index warrants for the New York Stock Exchange ("NYSE"), Pacific Stock Exchange ("PSE"), Phlx, Amex, and CBOE. *See* Securities Exchange Act Release Nos. 36165, 36166, 36167, 36168, and 36169 (Aug. 29, 1995), respectively. The PSE, to date, has not submitted a narrow-based index warrant filing and the NYSE is not being approved in this order.

purchasers of index warrants to be options approved. The proposed changes from the broad-based regulatory framework are outlined as follows:

(a) *Position Limits.* The Exchanges note that position limits for broad-based index warrants were set at levels approximately equal to 75 percent the then applicable corresponding limits applicable to options on the same index. In turn, the Exchanges propose to establish narrow-based index warrant position limits at a level equal to 75 percent of those recently approved for narrow-based index options.[9] As a result, narrow-based position limits would be governed by three tiers, using the same qualifications criteria as used for narrow-based index option position limits:

(i) 4,500,000 warrants where one stock in the group accounts, on average, for 30% or more of the numerical index value during the 30-day period immediately preceding the review.

(ii) 6,750,000 warrants where either a single stock in the group accounts for 20 percent or more of the group's numerical index value, or any five stocks in the group together account for 50 percent or more of the group's numerical index value, during the immediately preceding 30 days.

(iii) 9,000,000 warrants if the underlying group does not fall within the criteria set forth in either of the other two tiers.

The Exchanges propose to make the determinations described above when a particular issuance first commences trading the twice a year thereafter. An Exchange may establish uniform dates on which to make those semi-annual determinations in order to make them for all of its Exchange-listed narrow-based index warrants at the same time. After an issuance of warrants commences trading, an Exchange would begin to make the subsequent semi-annual determinations on the first of the uniform dates thereafter.

If the subsequent semi-annual determinations indicate that an index qualifies for a larger position limit, an Exchange may increase the limit to the new number immediately. Once a position limit is established for a particular warrant issuance, however, it will not be reduced. As a result, position limits for issuances of warrants overlying the same index may be different. In the event there is more than one issuance overlying an index, the Exchanges have proposed that there be an additional position limit applicable to all those warrant issuances on the same narrow-based index in the aggregate ("overall position limit"). This overall position limit for warrants on a narrow-based index shall be equal to the largest individual position limit then applicable to any warrant issuance of that same narrow-based index.[10]

(b) *Margin Requirements.* Margin will be similar to that required for narrow-based index options. Accordingly, all purchases of narrow-based index warrants must be paid in full. Additionally, the minimum margin required for each narrow-based index warrant carried short in a customer's account would be 100% of the current market value of each warrant plus 20% of the current index group value. Narrow-based index warrants would also be subject to the same spread margin treatment recently approved for broad-based index warrants.[11]

Listing Warrants on Approved Indexes

The proposed narrow-based index warrant regulatory framework would also allow the Exchanges to list a warrant on a narrow-based stock index without prior Commission approval if the Commission has already approved the underlying stock index for warrant or options trading. Furthermore, the Exchanges propose to incorporate certain generic initial listing and maintenance criteria which, when satisfied, provide for the expedited approval of warrants based on narrow-based indexes. The expedited approval process is nearly identical to that approved for narrow-based index options[12] except as provided below:

(i) the index must contain a minimum of nine stocks at all times; [13] and

(ii) allow for the use of closing ("p.m.") prices in determining the value of an index warrant except that, where 25 percent or more of the value of an index underlying a warrant consists of stocks that trade primarily in the United States, opening price ("a.m. settlement") must be used at (1) the warrant's expiration, and (2) on any date in which the warrant's settlement value will be based on prices on either of the two business days preceding expiration.[14]

II. Findings and Conclusions

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5).[15] Specifically, the Commission finds that the Exchanges' proposals to establish uniform listing and trading standards for narrow-based stock index warrants strike a reasonable balance between the Commission's mandates under Section 6(b)(5) to remove impediments to and perfect the mechanism of a free and open market and a national market system, while protecting investors and the public interest. In addition, the proposed listing standards for warrants for warrants are consistent with the Section 6(b)(5) requirements that rules of an exchange be designed to prevent fraudulent and manipulative acts, to promote just and equitable principles of trade, and are not designed to permit unfair discrimination among issuers.

The Exchanges' proposed generic listing standards for narrow-based stock index warrants set forth a regulatory framework for the listing of such products. Generally, listing standards serve as a means for an exchange to screen issuers and to provide listed status only to *bona fide* issuances that will have sufficient public float, investor based, and trading interest to ensure that the market has the depth and liquidity necessary to maintain fair and orderly markets. Adequate standards are especially important for warrant issuances given the leveraged and contingent liability they represent.

The Commission notes that, with certain exceptions listed below, the Exchanges will apply to narrow-based index warrants the same regulatory framework which recently was approved for broad-based index warrants. In approving the broad-based index warrant regulatory framework, the Commission found that the framework provides an adequate regulatory structure for the trading of such warrants, including appropriate trading rules, sales practice requirements, margin requirements, position and exercise limits and surveillance procedures. The Commission also found that the applicable framework is designed to minimize the potential for manipulation, thereby helping to ensure that such index warrants do not have a negative market impact. Finally, the Commission also indicated that the framework adequately addressed the special risks to customers arising from the trading of such warrants.[16]

The Commission believes it is reasonable for the Exchanges to apply a nearly identical regulatory structure to narrow-based index warrants as broad-based index warrants, particularly given the substantial similarities that exist between them.[17] Both broad and narrow-based stock index warrants represent a leveraged investment in a portfolio or group of equity securities. However, broad-based index products generally have a large number of component securities and represent a certain overall equities market or a substantial segment thereof. Narrow-based index products, on the other hand, generally are comprised of fewer component securities that often are concentrated in a particular industry group. These differences heighten concerns with leveraged narrow-based index products regarding market impact, manipulation and volatility, dictating that narrow-based indexes be subject to lower position limits and more restrictive margin treatment.[18]

Accordingly, the Exchanges have proposed separate margin and position limit treatment for narrow-based index warrants. The proposed margin levels are analogous to those currently in place for narrow-based stock index options. The Commission believes these requirements will provide adequate customer margin levels sufficient to account for the potential volatility of these products. In addition, the Commission believes that it is appropriate to apply options margin treatment given the options-like market risk posed by warrants.[19]

The proposed position limits are also similar to those in place for narrow-based index options.[20] In addition, the Exchanges have proposed aggregation requirements to address multiple issuances of warrants on the same narrow-based index.[21] The Commission believes that the position limits and aggregation requirements are reasonable and will serve to minimize potential manipulation and other market impact concerns while not unduly restricting liquidity in warrant issuances.

The Commission believes the Exchanges' existing surveillance procedures applicable to broad-based index warrants are adequate to surveil the trading of narrow-based index warrants. The Commission found that the Exchanges' broad-based surveillance procedures were adequate to surveil for manipulation and other abuses involving the warrant market and the underlying component securities. Given the functional similarities between narrow and broad-based index warrants, the Commission believes it is reasonable to apply the same surveillance procedures to both.

Similarly, for the same reasons noted in our order approving broad-based index warrants, the Commission believes that heightened customer suitability standards, options account approval requirements, and sales practice procedures which are modelled after index options should be extended to narrow-based index warrants. The Commission notes that, upon approval of this filing, the Exchanges may list a warrant upon any narrow-based index that the Commission has previously approved for options or warrant trading. Additionally, in order to expedite SEC review of a particular warrant issuance, the Exchanges have proposed employing accelerated listing procedures similar to those adopted for listing options on narrow-based indexes.[22]

The Commission notes that these proposed accelerated listing standards for index warrants differ from the standards applicable to narrow-based index options in that there is a minimum nine stock requirement for index warrants (*i.e.*, an index must initially and at all times thereafter be comprised of at least nine stocks) and that index warrants may, at certain times, utilize a p.m. settlement methodology, as discussed above. The Commission believes the proposed differences are reasonable in the warrant context for several reasons.

With respect to p.m. settlement, index warrants are issuer-based products whose terms are individually set by the issuer, with the number of warrants on a given index being fixed at the time of issuance. Accordingly, it is not certain that there will be a significant number of warrants in indexes with similar components expiring on the same day. This may reduce pressure from liquidation of warrant hedges at settlement. Second, the Commission authorized the same settlement methodology for broad-based index warrants and believes it is reasonable that narrow-based index warrants operate in the same manner. With respect to the nine stock requirement, the Commission does not believe that this difference is such that it will subject narrow-based index warrants to increased manipulation. In fact, narrow-based index options impose the same maintenance requirement of nine stocks. The Commission does not believe that the creation of a nine stock index, as opposed to a ten stock index, will lead to increased manipulation, per se, provided the other listing criteria are satisfied. The Commission notes that this requirement precludes the issuance of index warrants pursuant to the accelerated listing procedures upon any index comprised of less than nine stocks.

The Commission believes that the accelerated listing procedures will provide a sufficient opportunity for it to examine narrow-based index warrant

[9] Currently, depending on the characteristics of the index, position limits for narrow-based index options are either 12,000, 9,000, or 6,000 contracts on the same side of the market.

[10] For example, assume a firm issues warrants on a narrow-based index in July 1996 ("Issuance 1") and, at the time, the applicable position limit for that issuance is 9 million warrants. The following year, in July 1997, the same firm completes a new issuance of warrants on the same index ("Issuance 2"). At the time of the second issuance, however, the composition of the index has changed such that it now qualifies for a position limit of 6.75 million warrants. An investor would still be permitted to hold 9 million warrants of Issuance 1. Any aggregate position including warrants from Issuance 1 and 2 would be subject to an overall 9 million warrant position limit, with no more than 6.75 million of those warrants coming from Issuance 2. Under no circumstances could an investor hold more than 6.75 million warrants from Issuance 2.

[11] *See, e.g.*, Amex Rule 462(d)(2)(F) and (G).

[12] *See* Securities Exchange Act Release No. 34157 (June 3, 1994).

[13] The generic narrow-based index option standard requires ten stocks initially and nine stocks thereafter.

[14] The generic index option standard requires the use of opening ("a.m.") price settlement.

[15] 15 U.S.C. § 78f(b)(5) (1988).

[16] Pursuant to Section 6(b)(5) of the Act, the Commission is required to find, among other things, that trading in warrants will serve to protect investors and contribute to the maintenance of fair and orderly markets. In this regard, the Commission must predicate approval of any new derivative product upon a finding that the introduction of such derivative instrument is in the public interest. Such a finding would be difficult for a derivative instrument that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns. As discussed below, the Commission believes narrow-based index warrants will serve an economic purpose by providing an alternative product that will allow investors to participate in the price movements of the underlying securities in addition to allowing investors holding positions in some or all of such securities to hedge the risks associated with their portfolios.

[17] The regulatory framework for broad-based index warrants is similar to the approach used in regulating index options. Because the same risks exist in trading of narrow-based index options, the Commission believes it is appropriate to utilize the same approach.

[18] This is similar to the approach taken in regulating narrow-based and broad-based index options.

[19] The customer spread margin rules applicable to broad-based stock index and currency warrants were approved subject to a one year pilot program. The Commission notes that narrow-based index warrants will be subject to the same pilot program and, upon expiration of that program, it will determine whether to revise or approve on a permanent basis the proposed spread margin rules.

[20] The Commission notes that position limits for broad-based stock index warrants were set at a level roughly equivalent to 75% of broad-based index options. In the absence of trading experience with U.S. equities market based index warrants, the Commission believes it would be imprudent to establish position limits for positions greater than those currently applicable (on an equivalent basis) to stock index options on the same index.

[21] Because each individual warrant issuance is assigned a separate identification symbol, the Exchanges have the ability to monitor the aggregation of separate issuances of warrants on the same underlying index.

[22] Accelerated listing procedures allow the Exchange to permit issuances of warrants on a particular narrow-based index pursuant to a filing submitted to the Commission for effectiveness immediately upon filing under Section 19(b)(3)(A) of the Act. In the event that a proposed index does not qualify for expedited approval under these standards, the Exchanges are not precluded from filing a proposed rule change for Commission review pursuant to Section 19(b)(2).

products based on new indexes (which require that a filing be made pursuant to Section 19(b)(3)(A) of the Act). Specifically, the Commission believes that the seven day prefiling requirement gives the Commission staff an opportunity to discuss with an Exchange whether its proposal to list and trade particular narrow-based index warrants properly qualifies for effectiveness upon filing. In addition, the Commission finds that the 30 day delay in the commencement of trading of proposed narrow-based index warrants will provide a meaningful opportunity for public comment prior to the commencement of trading, while also providing an Exchange with the opportunity to inform market participants in advance of the proposed trade date for new index warrants. In accordance with Section 19(b)(3)(C) of the Act, if the Commission determines that the rule change proposal is inconsistent with the requirements of the Act and the rules and regulations thereunder, the 30 day delay would allow the Commission to abrogate the rule change before trading commences, which will minimize disruption on market participants. This authority could be utilized if, for example, it is determined that the proposed narrow-based index warrant does not satisfy the applicable accelerated listing standards.

III. Conclusion

The Commission believes that the adoption of these proposed uniform listing and trading standards for narrow-based index warrants will provide an appropriate regulatory framework. These standards will also benefit the Exchanges by providing them with greater flexibility in structuring narrow-based index warrant issuances and a more expedient process for listing narrow-based index warrants without further Commission review pursuant to Section 19(b) of the Act. As noted above, additional Commission review of specific warrant issuances will generally only be required for warrants overlying any non-approved narrow-based index that has not been previously approved by the Commission for narrow-based index warrant or options trading. If Commission review of a particular warrant issuance is required, the Commission expects that, to the extent that the warrant issuance complies with the uniform criteria adopted herein, its review should generally be limited to issues concerning the newly proposed index. This should help ensure that such additional Commission review could be completed in a prompt manner without causing any unnecessary delay in listing new narrow-based index warrant products.

The Commission finds good cause for approving the Exchanges' Amendments to the proposals prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Commission notes that the Amendments primarily relate to position limits and aggregation of multiple issuances of warrants on the same index. The Commission notes that the Amendments ensure that multiple issuances of index warrants on the same narrow-based index will be aggregated together and subject to an overall limit. The Commission believes it is appropriate to aggregate holdings in multiple issuances together since, despite the difference in expiration dates, warrants which overlie the same index are fundamentally the same instrument. Furthermore, aggregation provisions will ensure that an investor (or group) may not circumvent the applicable position limits by merely purchasing warrants from different issuances.

The Amendments also provide that once a position limit is established for a particular warrant issuance, it will not be reduced for the duration of that particular issuance. Given the limited duration of warrants (one to five years), and that any new index warrants on the same index could not exceed the lowered position limits, the Commission believes it is appropriate for position limits to not be reduced during their duration.

CBOE Amendment No. 2 imposes a minimum nine stock requirement for all narrow-based indexes which underlie a warrant issuance. This provision brings CBOE into conformity with the other exchanges. The Amex and Phlx provisions regarding this requirement have already been noticed and no comments were received. Accordingly, this provision does not raise any new or unique regulatory issues. Finally, Amex Amendment No. 4 reduces the lowest position limit tier to 4.5 million warrants from 4.875 million. The Commission notes that this brings the Amex into conformity with the other Exchanges. Finally, CBOE Amendment No. 4 clarifies an example contained in CBOE Amendment No. 3 with respect to position limit aggregation. Because this example is explanatory in nature and does not alter any of its rules, the provision does not raise any new or unique issues. For these reasons, the Commission believes there is good cause, consistent with Section 19(b)(2)[23] of the Act, to approve the Exchanges' Amendments to the proposals on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the Exchanges' Amendments. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal offices of the above-mentioned self-regulatory organizations. All submissions should refer to the file number in the caption above and should be submitted by April 19, 1996.

It therefore is ordered, pursuant to Section 19(b)(2) of the Act,[24] that the proposed rule changes (SR–Amex–95–39, SR–CBOE–95–67, and SR–Phlx–95–76) are approved, as amended.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[25]

Jonathan G. Katz,

Secretary.

[FR Doc. 96–7699 Filed 3–28–96; 8:45 am]

BILLING CODE 8010–01–M

[23] 15 U.S.C. § 78s(b)(2) (1988).

[24] 15 U.S.C. § 78s(b)(2) (1988).

[25] 17 CFR § 200.30–3(a)(12) (1994).

[Release No. 34–37017; File No. SR–Amex–96–03]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Approving Proposed Rule Change by the American Stock Exchange, Inc. Relating to the Listing and Trading of Options and Long-Term Options on the Networking Index and Long-Term Options on a Reduced-Value Networking Index

March 22, 1996.

I. Introduction

On January 23, 1996, the American Stock Exchange, Inc. ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to provide for the listing and trading of index options on The Networking Index ("Index"). Notice of the proposed rule change appeared in the **Federal Register** on February 13, 1996.[3] No comment letters were received on the proposed rule change. This order approves the Exchange's proposal.

II. Description of Proposal

A. General

The Amex proposes to trade options on The Networking Index, a modified equal-dollar weighted index developed by the Amex comprised of 15 computer and telecommunication networking stocks which are traded on the Amex, the New York Stock Exchange, Inc. ("NYSE"), or through the facilities of the National Association of Securities Dealers Automated Quotation system and are reported national market system securities ("NASDAQ/NMS"). In addition, the Amex proposes to amend rule 901C, Commentary .01, to reflect that 90% of the Index's numerical value will be accounted for by stocks that meet the current criteria and guidelines set forth in Rule 915.

B. Eligibility Standards for Index Components

The Networking Index currently conforms with Exchange Rule 901C, which specifies criteria for inclusion of stocks in an index on which standardized options will be traded. In addition, the Index also currently conforms to all the criteria set forth in Rule 901C, Commentary .02, which provides for the commencement of trading of options on an index thirty days after the date of filing, with the exception that the Index is calculated using a modified version of the equal-dollar weighting method. Therefore, the component securities all meet the following eligibility standards: (1) They are traded on the Amex or NYSE, or are NASDAQ/NMS securities; (2) component stocks comprising the top 90% of the Index by weight have a minimum market capitalization of $75 million, and those component stocks constituting the botton 10% of the Index by weight have a market capitalization of at least $50 million; and (3) stocks constituting the top 90% of the Index by weight have minimum monthly volume of 1,000,000 shares over the six months preceding this filing, and stocks constituting the bottom 10% of the Index by weight have a minimum monthly volume of at least 500,000 shares over the six months preceding this filing.

C. Index Calculation

The Index is calculated using a "modified equal-dollar weighting" methodology. Four of the fifteen component securities are given higher weightings to reflect their higher market capitalizations relative to the rest of the group, while not allowing their weightings to dominate the Index to the extent they would in a straight market capitalization weighted Index. According to the Amex, this method of cacluation is important given the great disparity in market value of a few of the Index's components. It has been the Exchange's experience that options on market value weighted indexes dominated by relatively few component stocks are less useful to investors, since the index will tend to represent these few components and not the industry as a whole. At the same time, the increase in Index weight for the smaller, less liquid stocks is lower than if the index had been straight equal-dollar weighted; and the decrease in Index weight of the larger, more liquid stocks also is less dramatic than using straight equal-dollar weighting.

The following is a description of how the modified equal-dollar weighting calculation method works. As of the market close on October 20, 1995, a portfolio of networking stocks was established representing an investment of $12,000 in each of the four most highly capitalized securities in the Index and $4,727.27 in each of the 11 remaining stocks (rounded to the nearest whole share). The value of the Index equals the current market value (i.e., based on U.S. primary market prices) of the sum of the assigned number of shares of each of the stocks in the Index portfolio divided by the Index divisor. The Index divisor was initially determined to yield the benchmark value of 200.00 at the close of trading on October 20, 1995. Each quarter thereafter, following the close of trading on the third Friday of January, April, July and October, the Index portfolio will be ranked in descending market capitalization order and the Index portfolio adjusted by changing the number of whole shares of each component stock so that the four largest capitalized stocks in the Index each represents 12% of the Index value for a total of 48%, and the remaining 52% of the Index value is evenly distributed over the remaining securities. At the inception of the Index, each of the remaining 11 components had a weight of approximately 4.73%. The Exchange has chosen to rebalance following the close of trading on the quarterly expiration cycle because it allows an option contract to be held for up to three months without a change in the Index portfolio being effected, while at the same time maintaining the equal-dollar weighting feature of the Index. If necessary, a divisor adjustment is made at the rebalancing to ensure continuity of the Index's value. The newly adjusted portfolio becomes the basis for the Index's value on the first trading day following the quarterly adjustment.

As noted above, the number of shares of each component stock in the Index portfolio remain fixed between quarterly reviews except in the event of certain types of corporate actions such as the payment of a dividend other than an ordinary cash dividend, stock distribution, stock split, reverse stock split, rights offering, distribution, reorganization, recapitalization, or similar event with respect to the component stocks.[4] In a merger or consolidation of an issuer of a component stock, if the stock remains in the Index, the number of shares of that security in the portfolio may be adjusted, to the nearest whole share, to maintain the component's relative weight in the Index at the level immediately prior to the corporate action. In the event of a stock replacement, the average dollar value of the remaining portfolio components in the same weighting tier of the stock being replaced (*i.e.*, either the top four stocks by market capitalization as of the last rebalance, or the remaining stocks) will be calculated and that amount invested in the stock of the new component, to the nearest whole share. In all cases, the divisor will be adjusted, if necessary, to ensure Index continuity.

Similar to other stock index values published by the Exchange, the value of the Index will be calculated continuously and disseminated every 15 seconds over the Consolidated Tape Association's Network B.

D. Maintenance of the Index

The Exchange will review the Index quarterly,[5] and maintain it so that: (1) The total number of component securities will not increase or decrease by more than 33⅓% from the number

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] *See* Securities Exchange Act Release No. 36812 (February 6, 1996), 61 FR 5390.

[4] Telephone conversation between Claire McGrath, Managing Director and Special Counsel, Amex, and Francois Mazur, Attorney, Office of Market Supervision, Division of Market Regulation, Commission, on February 2, 1996.

[5] *Id.*

of components in the Index at the time of its initial listing, and in no event will the Index have fewer than nine components; (2) component stocks constituting the top 90% of the Index by weight will have a minimum market capitalization of $75 million and the component stocks constituting the bottom 10% of the Index by weight will have a minimum market capitalization of $50 million; (3) the monthly trading volume for each of the past six months[6] for each component security shall be at least 500,000 shares, or, for each of the lowest weighted components in the Index that in the aggregate account for no more than 10% of the weight of the Index, the monthly trading volume shall be at least 400,000 shares; (4) no single component will represent more than 25% of the weight of the Index and the five highest weighted components will represent no more than 60% of the Index at each quarterly rebalancing; and (5) at least 90% of the index's numerical index value and at least 80% of the total number of component securities individually will meet the then current criteria for standardized option trading set forth in Exchange rule 915;[7]

The Exchange will notify promptly Commission staff at any time it determines that the Index fails to satisfy any of the foregoing maintenance critera. Moreover, in such an event, the Exchange shall not open for trading any additional option series, unless such failure is determined by the Exchange not to be significant and Commission staff concurs in that determination.

E. Expiration and Settlement

The proposed options on the Index will be European style (i.e., exercises permitted at expiration only), and cash settled. Standard option trading hours (9:30 a.m. to 4:10 p.m. New York time) will apply. Networking Index options will expire on the Saturday following the third Friday of the expiration month ("Expiration Friday"). The last trading day in an expiring option series normally will be the second to last business day preceding the Saturday following the third Friday of the expiration month (normally a Thursday). Trading in expiring options will cease at the close of trading on the last trading day.

The Exchange plans to list options series with expirations in the three near-term calendar months and in the two additional calendar months in the January cycle. In addition, longer term option series having up to thirty-six months to expiration may be traded. In lieu of such long-term options on a full-value Index level, the Exchange may instead list long-term, reduced-value put and call options based on one-tenth (1/10th) the Index's full value. In either event, the interval between expiration months for either a full-value or reduced-value long-term option will be not less than six months. The trading of any long-term options would be subject to the same rules which goven the trading of all the Exchange's index options, including sales practice rules, margin requirements and floor trading procedures, and all options will have European style exercise. Position limits on reduced-value long-term Networking Index options will be equivalent to the position limits for regular (full-value) Index options and would be aggregated with such options (for example, if the position limit for the full-value options is 9,000 contracts on the same side of the market, then the position limit for the reduced-value options will be 90,000 contracts on the same side of the market).

The exercise settlement value for all of the Index's expiring options will be calculated based upon the primary exchange regular way opening sale prices for the component stocks. In the case of securities traded through the NASDAQ/NMS, the first reported regular way sale price will be used. If any component stock does not open for trading on its primary market on the last trading day before expiration, then the prior day's last sale price will be used in the calculation.

F. Exchange Rules Applicable to Stock Index Options

The Index is deemed to be a Stock Index Option under Rule 901C(a) and a Stock Index Industry Group under Rule 900C(b)(1). Exchange rules governing margin requirements, position and exercise limits, and trading halt procedures applicable to the trading of narrow-based index options will apply to options traded on the Index. For example, the Exchange expects that the review required by Rule 904C(c) will result in a position limit of 9,000 contracts with respect to options on the Index. Surveillance procedures currently used to monitor trading in each of the Exchange's other index options also will be used to monitor trading in options on The Networking Index. With respect to Rule 903C(b), the Exchange proposes to list near-the-money option series on the Index at 2½ point strike (exercise) price intervals when the value of the Index is below 200 points.

G. Surveillance

Surveillance procedures currently used to monitor trading in each of the Exchange's other index options also will be used to monitor trading in Index options and full-value and reduced-value Index long-term options. Further, the Intermarket Surveillance Group ("ISG") Agreement, dated July 14, 1983, as amended on January 29, 1990, will be applicable to the trading of options on the Index.[8]

III. Findings and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5).[9] Specifically, the Commission finds that the trading of Networking Index options, including full-value and reduced-value long-term Index options, will serve to promote the public interest and help to remove impediments to a free and open securities market by providing investors with an additional means to hedge exposure to market risk associated with stocks in the networking industry.[10]

[6] *Id.*

[7] Currently, all Index component securities are the subject of standardized options trading.

[8] ISG was formed on July 14, 1983 to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. *See* Intermarket Surveillance Group Agreement, July 14, 1983, the most recent amendment to the ISG Agreement, which incorporates the original agreement and all amendments made thereafter, was signed by ISG members on January 29, 1990. *See* Second Amendment to the Intermarket Surveillance Group Agreement, January 29, 1990. The members of the ISG are: the Amex; the Boston Stock Exchange, Inc.; the Chicago Board Options Exchange, Inc.; the Chicago Stock Exchange, Inc.; the National Association of Securities Dealers, Inc. ("NASD"); the NYSE; the Pacific Stock Exchange, Inc.; and the Philadelphia Stock Exchange, Inc. Because of potential opportunities for trading abuses involving stock index futures, stock options, and the underlying stock; and the need for greater sharing of surveillance information for these potential intermarket trading abuses, the major stock index futures exchanges (e.g., the Chicago Mercantile Exchange and the Chicago Board of Trade) joined the ISG as affiliate members in 1990.

[9] 15 U.S.C. § 78f(b)(5) (1988).

[10] Pursuant to Section 6(b)(5) of the Act, the Commission must predicate approval of any new option proposal upon a finding that the introduction of such new derivative instrument is in the public interest. Such a finding would be difficult for a derivative instrument that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns. In this regard, the trading of listed options on the Index will provide investors with a hedging vehicle that should reflect the overall movement of the stocks representing companies in the networking sector in the U.S. stock markets.

The trading of options on The Networking Index and on a reduced-value Index, however, raises several issues relating to index design, customer protection, surveillance, and market impact. The Commission believes, for the reasons discussed below, that the Amex has addressed these issues adequately.

A. Index Design and Structure

The Commission believes it is appropriate for the Exchange to designate the Index as a narrow-based index for purposes of index options trading. The Index is comprised of 15 stocks intended to track the networking sector of the stock market. The Commission also finds that the reduced-value Index is a narrow-based index because it is composed of the same component securities as the Index, and merely dividing the Index value by ten will not alter its basic character. Accordingly, the Commission believes that it is appropriate for the Amex to apply its rules governing narrow-based index options to trading in the Index options and long-term full-value and reduced-value Index options.[11]

The Commission also believes that the large capitalizations, liquid markets, and relative weightings of the Index's component stocks significantly minimize the potential for manipulation of the Index. First, the stocks that comprise the Index are actively traded, with a mean and median average monthly trading volume for the period between July 1995 and December 1995 of 22.9 million and 10.0 million shares, respectively. Second, the market capitalizations of the stocks in the Index are very large, ranging from a high of $20.9 billion to a low of $1.3 billion as of January 2, 1996, with the mean and median being $5.5 billion and $3.6 billion, respectively. Third, because the index is modified equal dollar-weighted, as described above, no one particular stock or group of stocks dominates the Index. Specifically, as of January 2, 1996, no one stock accounted for more than 13.94% of the Index's total value and the percentage weighting of the five highest weighted stocks in the Index accounted for 50.63% of the Index's value.

Fourth, the proposed maintenance criteria will serve to ensure that: (1) The Index remains composed substantially of liquid highly capitalized securities; and (2) the Index is not dominated by one or several securities that do not satisfy the Exchange's options listing criteria. Specifically, in considering changes to the composition of the Index, 90% of the weight of the Index and 80% of the number of components in the Index must at all times comply with the listing criteria for standardized options trading set forth in Amex Rule 915.

The Amex will notify Commission staff promptly at any time the Amex determines that the Index fails to satisfy any of the foregoing maintenance criteria.[12] Further, in such an event, the Exchange will not open for trading any additional series of Index options or Index long-term options unless the Exchange determines that such failure is not significant, and Commission staff concurs in the determination.

Finally, the Commission believes that the existing mechanisms to monitor trading activity in the component stocks of the Index, or options on those stocks, will help deter as well as detect any illegal activity.

B. Customer Protection

The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as Index options (including full-value and reduced-value long-term Index options), can commence on a national securities exchange. The Commission notes that the trading of standardized exchange-traded options occurs in an environment that is designed to ensure, among other things, that: (1) The special risks of options are disclosed to public customers; (2) only investors capable of evaluating and bearing the risks of options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. Accordingly, because the Index options and Index long-term full-value and reduced-value options will be subject to the same regulatory regime as the other standardized index options currently traded on the Amex, the Commission believes that adequate safeguards are in place to ensure the protection of investors in Index options and full-value or reduced-value Index long-term options.

C. Surveillance

The Commission believes that a surveillance sharing agreement between an exchange proposing to list a stock index derivative product and the exchange(s) trading the stocks underlying the derivative product is an important measure for surveillance of the derivative and underlying securities markets. Such agreements ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the stock index product less readily susceptible to manipulation.[13] In this regard, the Commission notes that the Amex, NYSE, and NASD are all members of the ISG.[14] The Commission believes that this arrangement ensures the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the Index options and full-value and reduced-value long-term Index options less readily susceptible to manipulation.[15]

D. Market Impact

The Commission believes that the listing and trading of Index options, including full-value and reduced-value Index LEAPS on the Amex, will not adversely affect the underlying securities markets. First, because of the "modified equal dollar-weighting" method that will be used, as described above, no one security or group of securities represented in the Index will dominate the weight of the Index immediately following a quarterly rebalancing. Second, the Index maintenance criteria ensure that the Index will be substantially comprised of securities that satisfy the Exchange's listing standards for standardized options trading, and that one or a few stocks do not dominate the Index. Third, the currently applicable 9,000 contract position and exercise limits will serve to minimize potential manipulation and market impact concerns. Fourth, the risk to investors of contra-party non-performance will be minimized because the Index options and Index long-term options will be issued and guaranteed by the Options Clearing Corporation just like any other standardized option traded in the United States.

Lastly, the Commission believes that settling expiring Networking Index options (including full-value and reduced-value long-term Index options) based on the opening prices of component securities is reasonable and consistent with the Act. As has been noted previously, valuing index options for exercise settlement on expiration based on opening rather than closing

[11] *See supra* Section II.F.

[12] Telephone Conversation between Howard A. Baker, Senior Vice President, Derivative Securities, Administration & Research, Amex, and Francois Mazur, Attorney, Office of Market Supervision, Division of Market Regulation, on March 20, 1996.

[13] *See* Securities Exchange Act Release No. 31243 (September 28, 1992), 57 FR 45849.

[14] *See supra* note 8.

[15] *See, e.g.*, Securities Exchange Act Release No. 31243 (September 28, 1992), 57 FR 45849 (order approving the listing of index options and index LEAPS on the Chicago Board Options Exchange Biotech Index).

prices of index component securities may help to reduce adverse effects on markets for such securities.[16]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[17] that the proposed rule change (SR–Amex–96–03), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Jonathan G. Katz,

Secretary.

[FR Doc. 96–7704 Filed 3–28–96; 8:45 am]

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[Release No. 34–37008; File No. SR–Amex–95–53]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 2 Thereto by the American Stock Exchange, Inc., Relating to Options on the Morgan Stanley Healthcare Product Companies Index, the Morgan Stanley Healthcare Providers Index and the Morgan Stanley Healthcare Payors Index

March 21, 1996.

I. Introduction

On December 19, 1995, the American Stock Exchange, Inc. ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to provide for the listing and trading of index options on three new indexes developed by Morgan Stanley & Co. Incorporated ("Morgan Stanley") relating to three different subsectors within the healthcare sector: the Morgan Stanley Healthcare Providers Index ("Providers Index"); the Morgan Stanley Healthcare Payors Index ("Payors Index"); and the Morgan Stanley Healthcare Product Companies Index ("Product Companies Index") (collectively the "Indexes"). On January 2, 1996, the Amex filed Amendment No. 1 to its proposal.[3] Notice of the proposed rule change and Amendment No. 1 appeared in the **Federal Register** on January 23, 1996.[4] No comment letters were received on the proposed rule change. On March 20, 1996, the Exchange filed Amendment No. 2.[5] This order approves the Amex's proposal as amended.

II. Description of Proposal

A. General

The Amex proposes to trade standardized options on the Indexes, each of which is comprised of stocks that are traded on the Amex, the New York Stock Exchange, Inc. ("NYSE"), or are National Market securities traded through Nasdaq. In addition, the Amex proposes to amend Amex Rule 902C(d) to include the Amex proposes to amend Amex Rule 902C(d) to include the Indexes in the disclaimer provisions of that rule.[6] The Amex also proposes to list long-term options on the Indexes having up to 36 months to expiration. In lieu of such long-term options on the full value of the Indexes, the Amex may instead list long-term options based on one-tenth of the value of each of the Indexes. These long-term options on either the full or reduced-value of the Indexes are referred to as "LEAPS." LEAPS on the Indexes will trade independent of and in addition to regular Index options traded on the Exchange. However, as discussed below, position and exercise limits of LEAPS on the Indexes (both full and reduced-value) and regular options on the Indexes will be aggregated.

B. Composition of the Indexes

The Indexes have been developed by Morgan Stanley to represent a portfolio of large, actively traded, healthcare sector stocks. As of December 1, 1995, the Providers Index was comprised of 15 stocks of companies engaged in the hospital management and medical/nursing services industries, with market capitalizations ranging from $494 million to $23 billion, and six month average daily trading volumes ranging from 95,000 to 995,000 shares. The market capitalization of all of the stocks in the Providers Index on that date was approximately $45.2 billion. The total number of shares outstanding for the stocks in the Providers Index ranged from 19 million shares to 445 million shares.

The Payor's Index, as of December 1, 1995, was comprised of 12 stocks of companies conducting business in the managed health care and health industry services industries, with market capitalizations ranging from $622 million to $10 billion and six month average daily trading volumes ranging from 170,000 to 1,700,000 shares. The market capitalization of all of the stocks in the Payor's Index on that date was approximately $36.3 billion. The total number of shares outstanding for the stocks in the Payor's Index ranged from 18 million shares to 174 million shares.

Finally, as of this same date, the Product Companies Index was comprised of 25 equity issues of companies engaged in the major pharmaceuticals, biotechnology, medical specialities, medical electronics, and medical/dental distributors industries. The market capitalizations of these 25 companies range from $1.6 billion to $56.1 billion and the six month average daily trading volumes range from 124,000 to 2,800,000 shares. The market capitalization of all the stocks in the Product Companies Index on that date was approximately $475 billion. The total number of shares outstanding for the stocks in the Product Companies Index ranged from 29 million shares to 1.5 billion shares.

The Exchange will use an "equal dollar-weighted" method to calculate the value of each of the Indexes.[7] The Indexes were each initialized at a level of 200 as of the close of trading on December 16, 1994. As of the close of trading on February 27, 1996, the Providers Index, the Payors Index, and the Product Companies Index were valued at 306.66, 260.46, and 357.07, respectively.[8]

C. Eligibility Standards for the Inclusion of Component Stocks in the Indexes

The Amex represents that the Indexes conform with Exchange Rule 901C, which specifies criteria for the inclusion of stocks in an index on which standardized options will be traded on the Exchange. In addition, for each of the Indexes, Morgan Stanley has included, and will include, only those stocks that initially meet the following standards: (1) a minimum price of $7.50 at the time of announcement of entry into the Index; (2) a minimum market capitalization of $75 million; (3) average monthly trading volume in the component security of at least one million shares during the preceding six months; (4) each component security must be traded on the Amex, NYSE or must be a National Market security traded through the facility of Nasdaq; and (5) upon annual rebalancing, at least 90% of the Index numerical value and at least 80% of the total number of component securities must meet the then current criteria for standardized option trading set forth in Exchange Rule 915 for component securities not currently the subject of standardized options trading and Rule 916 for components which currently are the subject of standardized options trading.[9] Also, because the Indexes are equal-dollar weighted, no component security will represent more than 25% of the weight of any of the Indexes, nor will the five highest weighted component securities in any of the Indexes, in the aggregate, account for more than 60% of the weight of that Index upon annual rebalancing. The criteria set forth above are the same as or exceed many of the criteria established for the expedited listing of options on stock industry indexes pursuant to Exchange Rule 901C Commentary .02.

D. Calculation of the Indexes

The Indexes will be calculated using an "equal dollar-weighted" methodology designed to ensure that each of the component stocks are represented in approximately "equal" dollar amounts in each Index. In calculating the initial "equal dollar-weighting" of component stocks, the Amex, using closing prices on December 16, 1994, calculated the number of shares that would represent an investment of $300,000 in each of the stocks contained in the Indexes (to the nearest whole share). The value of each Index equals the current market value (*i.e.*, based on U.S. primary market prices) of the sum of the assigned number of shares of each of the stocks in the Index portfolio divided by the current Index divisor. Each Index divisor was initially calculated to yield a benchmark value of 200.00 at the close of trading on December 16, 1994. Annually thereafter, following the close of trading on the third Friday of December, each Index portfolio will be adjusted by changing the number of whole shares of each component stock so that each company is again represented in "equal" dollar amounts.[10] If necessary, a divisor adjustment is made at the rebalancing to ensure continuity of an Index's value. The newly adjusted portfolio becomes the basis for the Index's value on the first trading day following the annual adjustment.

Subject to the maintenance criteria discussed below, for each Index the number of shares of each component stock in such Index will remain fixed between annual reviews except in the event of certain types of corporate actions, such as the payment of a dividend (other than an ordinary cash dividend), stock distribution, stock split, reverse stock split, rights offering, distribution, reorganization, recapitalization, or similar event with respect to an Index component stock. In a merger or consolidation of an issuer of a component security, if the security remains in the Index, the number of shares of that security will be adjusted, if necessary, to the nearest whole share, to maintain the component's relative weight in the Index at the level immediately prior to the corporate action. In the event of a stock replacement, the dollar value of the security being replaced will be calculated and that amount invested in the stock of the new component, to the nearest whole share. In all cases, the divisor will be adjusted, if necessary, to ensure Index continuity.

Additionally, for each of the Indexes, if at any time between annual rebalancings, the top five stocks in the Index by weight represent in the aggregate more than 60% of the Index's value, the Exchange will rebalance the Index after the close of trading on Expiration Friday in the next month in the March cycle. For example, if in July it is determined that the top five components in the Morgan Stanley Healthcare Product Companies Index account for more than 60% of the Index's weight, then the Index will be rebalanced after the close of trading on expiration Friday in September.[11]

Similar to other stock index values published by the Exchange, the value of each Index will be calculated continuously and disseminated every 15 seconds over the Consolidated Tape Association's Network B and to the Options Price Reporting Authority ("OPRA").

E. Maintenance of the Indexes

The Indexes will be calculated and maintained by the Amex in consultation with Morgan Stanley which may, from time to time, suggest changes in the industry categories represented in any or all of the Indexes or changes in the number of component stocks in an industry category to properly reflect the changing conditions in the healthcare sector. In addition, the Amex will replace component securities in each Index that fail to meet the following maintenance criteria on quarterly review: (1) a minimum market capitalization of $75 million; (2) average monthly trading volume in the component security of at least 500,000 shares during the preceding six months; (3) at least 90% of the Index's numerical value and at least 80% of the total number of component securities meet the then current criteria for standardized option trading set forth in Exchange Rule 915 for securities not currently the subject of standardized options trading and Rule 916 for securities which are currently the subject of standardized options trading;[12] and (4) a share price of $5.00 or greater for a majority of business days during the preceding quarter for those limited number of component securities that do not meet Rule 915 or 916.[13]

At the beginning of each calendar quarter, Morgan Stanley will provide the Amex with a current list of replacement stocks for each Index from which to draw in the event that a component in an Index must be replaced due to merger, takeover, failure to satisfy the above maintenance

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[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 200.30–3(a)(12) (1994).

[3] In Amendment No. 1, the Amex states that for each of the Indexes, if at any time between annual rebalancings, the top five stocks in an Index by weight represent in the aggregate more than 60 percent of the Index's value, the Exchange will rebalance the Index after the close of trading on Expiration Friday in the next month in the March cycle. *See* Letter from Claire P. McGrath, Managing Director and Special Counsel, Derivatives Securities, Amex, to Michael Walinskas, Branch Chief, Office of Market Supervision ("OMS"), Division of Market Regulation ("Division"), Commission, dated January 2, 1996 ("Amendment No. 1").

[4] *See* Securities Exchange Act Release No. 36715 (January 16, 1996), 61 FR 1796 (January 23, 1996).

[5] In Amendment No. 2 the Exchange clarifies that for each of the Indexes, both eligibility standards and maintenance criteria require that upon annual rebalancing, at least 90 percent of each Index's numerical value and 80 percent of the total number of component securities must meet the then current criteria for standardized options trading set forth in either Exchange Rule 915 for component securities not currently the subject of standardized options trading or Exchange Rule 916 for components currently the subject to standardized options trading. In addition, stocks on each quarterly replacement list will be selected and ranked by Morgan Stanley based on a number of criteria, including conformity to Exchange Rule 915 for securities not currently the subject of standardized options trading and conformity to Rule 916 for securities currently the subject of standardized options trading. *See* Letter from Clifford J. Weber, Managing Director, New Products Development, Amex, to Michael Walinskas, Branch Chief, OMS, Division, Commission, dated March 20, 1996 ("Amendment No. 2").

[6] Amex Rule 902C(d) provides, among other things, that Morgan Stanley does not guarantee the accuracy or completeness of the Indexes or any data included therein, nor does Morgan Stanley make any warranty, either express or implied, as to the results to be obtained by any person or entity from the use of the Indexes or any data included therein.

[7] *See infra* Section II.D entitled "Calculation of the Indexes" for a description of this calculation method.

[8] *See* Letter from Claire P. McGrath, Managing Director and Special Counsel, Derivative Securities, to Michael Walinskas, Branch Chief, OMS, Division, Commission, dated February 28, 1996.

[9] *See* Amendment No. 2, *supra* note 5.

[10] In certain circumstances, each Index will be rebalanced prior to the end of a calendar year. *See infra* Section II.E. (Maintenance of the Indexes).

[11] *See* Amendment No. 1, *supra* note 3.

[12] *See* Amendment No. 2, *supra* Note 5.

[13] Telephone conversation between Clifford J. Weber, Managing Director, New Products Development, Amex, and James T. McHale, Attorney, OMS, Division, Commission, on March 19, 1996.

criteria, or other similar event (each a "Replacement List").[14] The Amex will publicly distribute the Replacement Lists as soon as practicable following receipt from Morgan Stanley.

Stocks on each Replacement List will be selected and ranked by Morgan Stanley based on a number of criteria, including conformity to the eligibility requirements described above [15] and to Exchange Rule 915 for component securities not currently the subject of standardized options trading and Rule 916 for components which are currently the subject of standardized options trading.[16] Rules 915 and 916, respectively, set forth the criteria for the initial and continued listing of standardized options on equity securities. The replacement stocks will be categorized by Morgan Stanley by industry within the healthcare sector and ranked within their category based on the aforementioned criteria. The replacement stock for a security being removed from an Index will be selected solely by the Amex from the Replacement List based on industry category and liquidity.[17] In the event no replacement stocks are available that meet the eligibility criteria and pass Morgan Stanley's selection process, then the security leaving the Index will be removed without replacement and the divisor adjusted to ensure Index continuity. It is expected that each Index will remain at the current number of components; however, if the number of components in an Index shall increase or decrease by more than one third, the Exchange must obtain additional approval from the Commission pursuant to Section 19(b) of the Act.

In addition, Morgan Stanley will advise the Exchange regarding the handling of unusual corporate actions which may arise from time to time. Routine corporate actions (*e.g.*, stock splits, routine spinoffs, etc.) which require straightforward index divisor adjustments will be handled by the Exchange's staff without consultation with Morgan Stanley. All stock replacements and unusual divisor adjustments caused by the occurrence of extraordinary events such as dissolution, merger, bankruptcy, non-routine spinoffs, or extraordinary dividends will be made by Exchange staff in consultation with Morgan Stanley, although the Amex ultimately will select the actual replacement stock from the Replacement List without Morgan Stanley's assistance. All stock replacements and the handling of non-routine corporate actions will be announced at least ten business days in advance of such effective change, whenever practicable. As with all options currently trading on the Amex, the Exchange will make this information available to the public through the dissemination of an information circular.

F. Expiration and Settlement

The Index value for purposes of settling outstanding Index options and Index LEAPS contracts upon expiration will be calculated based upon the regular way opening sale prices for each of an Index's component stocks in their primary market on the last trading day prior to expiration. In the case of National Market securities traded through Nasdaq, the first reported sale price will be used. Once all of the component stocks have opened for trading, the value of each Index will be determined and that value will be used as the final settlement value for expiring Index options contracts. If any of the component stocks do not open for trading on the last trading day before expiration, then the prior trading day's (*i.e.*, Thursday's) last sale price will be used to calculate each Index. In this regard, before deciding to use Thursday's closing value of a component stock for purposes of determining the settlement value of an Index, the Amex will wait until the end of the trading day on expiration Friday.[18]

G. Contract Specifications

The proposed options on the Indexes will be cash-settled, European-style options.[19] Standard options trading hours for narrow-based index options (9:30 a.m. to 4:10 p.m. New York time) will apply to the contracts. The options on the Index will expire on the Saturday following the third Friday of the expiration month. The last trading day for an expiring option series will normally be the second to the last business day before expiration (normally a Thursday). The Exchange intends to list option series with expirations in the three near-term calendar months and the two additional calendar months in three month intervals in the March cycle. The Exchange also intends to list longer term option series having up to 36 months to expiration. The Exchange proposes to list near-the-money (i.e. strike prices within ten points above or below the current index value) option series on any of the Indexes at 2½ point strike price intervals when the value of that Index is below 200 points.

H. Listing of Long-Term Options on the Full Value or the Reduced Value of the Indexes

The proposal provides that the Exchange may list longer term index options series having up to 36 months to expiration on the full value of the Indexes. Alternatively, the Exchange may list long-term reduced-value put and call options based on 1/10th of the full value of the Indexes. In either event, the interval between expiration months for either a full value or reduced value long-term option will not be less than six months. The reduced-value Index LEAPS will also have a European-style exercise and will be subject to the same rules that govern the trading of all the Exchange's index options, including sales practice rules, margin requirements and floor trading procedures.

I. Position and Exercise Limits, Margin Requirements, and Trading Halts

Because the Indexes are Stock Index Options under Amex Rule 901C(a) and Stock Index Industry Groups under Rule 900C(b)(1), the proposal provides that Exchange rules that are applicable to the trading of narrow-based index options will apply to the trading of options on the Indexes. Specifically, Exchange rules governing margin requirements,[20] position and exercise limits,[21] and trading halt procedures [22] that are applicable to the trading of narrow-based index options will apply to options traded on the Indexes. Position limits on long-term reduced-value Index options will be equivalent to the position limits for regular (full value) Index options and would be aggregated with such options. For aggregation purposes, ten reduced value contracts will equal one full value contract (for example, if the position limit for the full value options is 12,000 contracts on the same side of the market, then the position limit for the reduced value options will be 120,000 contracts on the same aside of the market).

J. Surveillance

Surveillance procedures currently used to monitor trading in each of the Exchange's other index options will also be used to monitor trading in options on the Indexes. These procedures include complete access to trading activity in the underlying securities. Further, the Intermarket Surveillance Group ("ISG") Agreement, dated July 14, 1983, as amended on January 29, 1990, will be applicable to the trading of options on the Indexes.[23]

Morgan Stanley has also adopted special procedures to prevent the potential misuse of material, non-public information by the research, sales, and trading divisions of the firm in connection with the maintenance of the Indexes.[24] As discussed above, the Amex will publicly disseminate each Replacement List by issuing information circulars so that investors will know in advance which securities will be considered as replacements for the Index.[25]

In additional, Morgan Stanley will have a limited role in the stock replacement selection and substitution process. First, when a stock in an Index no longer meets the published criteria as determined following a quarterly review of the components by the Exchange, the Amex will determine, without consultation with Morgan Stanley, which security from the applicable Replacement List will be selected for addition to the Index. Second, The Amex will also make adjustments as a result of stock splits, routine spin-offs, and otherwise, without consultation with Morgan Stanley. Finally, even in those situations where the Amex consults with Morgan Stanley, upon the occurrence of certain events, the actual replacement sock will be selected solely by Amex from the stocks on the replacement list.

III. Findings and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5).[26] Specifically, the Commission finds that the trading of options on the Indexes, including full-value and reduced-value Index LEAPS, will serve to promote the public interest and help to remove impediments to a free and open securities market by providing investors with an additional means to hedge exposure to market risk associated with stocks in the various healthcare subsectors.[27]

The trading of options on the Indexes and reduced-value Indexes, however, raises several issues relating to index design, customer protection, surveillance, and market impact. The Commission believes, for the reasons discussed below, that the Amex adequately has assessed these issues.

A. Index Design and Structure

The Commission believes it is appropriate for the Exchange to designate each of the Indexes as narrow-based for purposes of index options training. The indexes are each comprised of a limited number of stocks intended to track discrete subsectors of the healthcare sector of the stock market. Accordingly, the Commission believes it is appropriate for the Amex to apply its rules governing narrow-based index options to trading in the proposed Index options.[28]

The Commission also believes that the liquid markets, large capitalizations, and relative weighings of the Indexes' component stocks significantly minimize the potential for manipulation of the Index. First, the stocks that comprise each index are actively traded. Average month trading volume in the component stocks of the Indexes for the period between June 1, 1995 and December 1, 1995 ranged from 95,000 to 995,000 shares for the Providers Index, 170,000 to 1,700,000 shares for the Payors Index, and 124,000 to 2,800,000 shares for the Product Companies Index. Second, the market capitalizations of the stocks in the Indexes are very large, ranging from $494 million to $23 billion in the Providers Index, $622 million to $10 billion in the Payors Index, and $1.6 billion to $56 billion in the Product Companies Index. Third, because the indexes are equal dollar-weighted, no one particular stock or group of stocks dominates the index. Specifically, as of December 1, 1995, no one stock accounted for more than 12.13% of the total value of the Providers Index, 12.47% of the total value of the Payors Index, and 6.38% of the total value of the Product Companies Index. Fourth, the Indexes will be maintained so that in addition to the other maintenance criteria discussed above, at each quarterly review and rebalancing (annual or otherwise), at least 90% of the Indexes numerical value and at least 80% of the total number of component securities will be composed of securities eligible for standardized options trading. Fifth, Morgan Stanley and the Amex will be required to ensure that each component of each Index is subject to last sale reporting requirements in the U.S. pursuant to Rule 11aA3–1 of the Act. This will further reduce the potential for manipulation of the value of the Indexes. Finally, the Commission believes that the existing mechanisms to monitor trading activity in the component stocks of the Indexes, or options on those stocks or the Indexes will help deter as well as detect any illegal activity.

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[14] *See* Letter from Carol Shahmoon, Counsel, Morgan Stanley, to Michael Walinskas, Branch Chief, OMS, Division, Commission, dated March 20, 1996 ("Morgan Stanley Letter").

[15] *See supra* Section II.C entitled "Eligibility Standards for the Inclusion of Component Stocks in the Indexes."

[16] *See* Amendment No. 2, *supra* Note 5.

[17] The Amex will ensure that at the time of selection it will only select securities that continue to meet the eligibility requirements discussed above.

[18] For purposes of the daily dissemination of the Indexes value, if a stock included in an Index has not opened for trading, the Amex will use the closing value of that stock in its primary market on the prior trading day when calculating the value of the Index, until the stock opens for trading.

[19] A European-style option can be exercised only during a specified period before the option expires.

[20] Pursuant to Amex Rule 462(d)(2)(D)(iv), the margin requirements for each of the proposed Index options will be: (1) for each short options position, 100% of the current market value of the options contract plus 20% of the underlying aggregate Index value, less any out-of-the-money amount, with a minimum requirement of the options premium plus 10% of the underlying Index value; and (2) for long options positions, 100% of the options premium paid.

[21] Pursuant to Amex Rules 904C and 905C, respectively, the position and exercise limits for each of the proposed Index options will be 12,000 contracts, unless the Exchange determines, pursuant to Rules 904C and 905C, that a lower limit is warranted.

[22] Pursuant to Amex Rule 918C, the trading of options on each of the Indexes will be halted or suspended whenever trading in underlying securities whose weighted value represents more than 20% of an Index's value are halted or suspended.

[23] ISG was formed on July 14, 1983 to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. *See* Intermarket Surveillance Group Agreement, July 14, 1983. The most recent amendment to the ISG Agreement, which incorporates the original agreement and all amendments made thereafter, was signed by ISG members on January 29, 1990. *See* Second Amendment to the Intermarket Surveillance Group Agreement, January 29, 1990. The members of the ISG are: the Amex; the Boston Stock Exchange, Inc.; the Chicago Board Options Exchange, Inc.; the Chicago Stock Exchange, Inc.; the National Association of Securities Dealers, Inc.; the NYSE; the Pacific Stock Exchange, Inc.; and the Philadelphia Stock Exchange, Inc. Because of potential opportunities for trading abuses involving stock index futures, stock options, and the underlying stock, and the need for greater sharing of surveillance information for these potential intermarket trading abuses, the major stock index futures exchanges (*e.g.*, the Chicago Mercantile Exchange and the Chicago Board of Trade) joined the ISG as affiliate members in 1990.

[24] *See* Morgan Stanley Letter, *supra* note 14.

[25] *Id.*

[26] 15 U.S.C. § 78f(b)(5).

[27] Pursuant to Section 6(b)(5) of the Act, the Commission must predicate approval of any new option proposal upon a finding that the introduction of such new derivative instrument is in the public interest. Such a finding would be difficult for a derivate instrument that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be out weighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns. In this regard, the trading of listed options on the index will provide investors with a hedging vehicle that should reflect the overall movement of the stocks representing companies in the healthcare sector in the U.S. stock markets.

[28] *See supra* Section II.I (Position and Exercise Limits, Margin Requirements, and Trading Halts).

In addition, even though the Indexes are only scheduled to be rebalanced annually, the Commission believes that the Amex and Morgan Stanley have developed several composition and maintenance criteria for the Indexes that will minimize the possibility that the Indexes could be manipulated through trading in less actively traded securities or securities with smaller prices or floats. First, if at any time during the year the top five components in an Index, by weight, account for more than sixty percent of the weight of the Index, the Exchange will rebalance the Index following the close of trading on Expiration Friday in the next month in the March cycle. These rebalancing requirements will serve to ensure that any "overweight" stock [29] will be brought back into line with the other stocks, thus ensuring that less capitalized stocks do not become excessively weighted in the Index.

Second, after each quarterly review and each rebalancing (annual or otherwise), at least 90% of an Index's numerical value and at least 80% of the total number of component securities will be comprised of stocks that are eligible for standardized options trading. The Commission believes that this requirement will ensure that the Indexes will be almost entirely made up of stocks with large public floats that are actively traded, thus reducing the likelihood that the Indexes could be easily manipulated by abusive trading in the smaller stocks contained in the Indexes.

Third, at each quarterly review of the Indexes, a component may only remain in an Index if it satisfies the remaining maintenance requirements which include market capitalization and minimum trading volume requirements.[30] These requirements are similar to the continued listing requirements for options on individual equity securities and should ensure the Indexes are comprised of active and liquid securities.[31]

Fourth, because the Indexes are narrow-based, the applicable position and exercise limits (currently 12,000) and margin requirements will further reduce the susceptibility of the Indexes to manipulation. Lastly, Morgan Stanley will only add stocks to a Replacement List that are representative of the healthcare sector and, as discussed above,[32] satisfy the inclusion criteria.

The Commission notes that certain concerns are raised when a broker-dealer, such as Morgan Stanley, is involved in the development and maintenance of a stock index that underlies an exchange-traded derivative product. For several reasons, however, the Commission believes that the Amex has adequately addressed this concern with respect to options on the Indexes.

First, the values of the Indexes are to be calculated and disseminated by the Amex so that unless a party independently calculates the Indexes' values, neither Morgan Stanley nor any other party will be in receipt of the values prior to the public dissemination of the Indexes' values. Second, routine corporate actions (*e.g.*, stock splits, routine spinoffs, etc.) will be handled by the Amex without consultation with Morgan Stanley. Third, although stock replacements and unusual divisor adjustments caused by the occurrence of extraordinary events, such as dissolution, merger, bankruptcy, non-routine spinoffs, or extraordinary dividends, will be made by Exchange staff in consultation with Morgan Stanley, Amex alone ultimately will select the actual replacement stock from the Replacement List without Morgan Stanley's assistance. Such replacement will be announced publicly at least 10 business days in advance of the effective change by the Amex through the dissemination of an information circular, whenever practicable. Fourth, the Commission believes that the procedures Morgan Stanley has established to detect and prevent material non-public information concerning the Indexes from being improperly used by the person or persons responsible for compiling the Replacement Lists, as well as other persons within Morgan Stanley, as discussed above,[33] adequately serve to minimize the susceptibility to manipulation of the Indexes, the securities in the Indexes, and securities added to and deleted from any Replacement List. In summary, the Commission believes that the procedures outlined above help to ensure that Morgan Stanley will not have any informational advantages concerning modifications to the composition of the Indexes due to its limited role in consulting with Amex on the maintenance of the Indexes under certain circumstances.

B. Customer Protection

The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as options on the Indexes (including full-value and reduced value LEAPS), can commence on a national securities exchange. The Commission notes that the trading of standardized exchange-traded options occurs in an environment that is designed to ensure, among other things that: (1) the special risks of options are disclosed to public customers; (2) only investors capable of evaluating and bearing the risks of options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. Accordingly, because LEAPS and regular options on the Indexes will be subject to the same regulatory regime as the other standardized options currently traded on the Amex, the Commission believes that adequate safeguards are in place to ensure the protection of investors in options on the Indexes. Finally, the Amex has stated that it will distribute information circulars to members following rebalancings and prior to component changes to notify members of changes in the composition of the Indexes. Additionally, the Amex will publicly disseminate each Replacement List by means of information circulars. The Commission believes this should help to protect investors and avoid investor confusion.

C. Surveillance

The Commission believes that a surveillance sharing agreement between an exchange proposing to list a stock index derivative product and the exchange(s) trading the stocks underlying the derivative product is an important measure for surveillance of the derivative and underlying securities markets. Such agreements ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the stock index product less readily susceptible to manipulation.[34] In this regard, the Amex, NYSE, and National Association of Securities Dealers, Inc. are all members of the ISG, which provides for the exchange of all necessary surveillance information.[35]

[29] A stock would be "overweight" if its weight in the Index were greater than the average weight of all of the stocks in the Index. This would occur, for example, if the price of a component stock significantly increased relative to the other stocks in the Index during a particular quarter and prior to the rebalancing.

[30] *See supra* Section II.E (Maintenance of the Indexes).

[31] *See* Amex Rule 916.

[32] *See supra* Section II.C (Eligibility Standards for the Inclusion of Component Stocks in the Indexes).

[33] *See* Morgan Stanley Letter, *supra* note 14.

[34] *See* Securities Exchange Act Release No. 31243 (September 28, 1992), 57 FR 45849 (October 5, 1992).

[35] *See supra* note 23.

D. Market Impact

The Commission believes that the listing and trading of options on the Indexes, including full-value and reduced-value Index LEAPS, on the Amex will not adversely impact the underlying securities markets.[36] First, as described above, due to the "equal dollar-weighting" methodology, no one stock or group of stocks dominates the Indexes. Second, because at each quarterly review and each rebalancing of the Indexes, at least 90% of an Index's numerical value and at least 80% of the total number of component securities must be accounted for by stocks that are eligible for standardized options trading, the component stocks generally will be actively-traded, highly-capitalized stocks. Third, the currently applicable 12,000 contract position and exercise limits will serve to minimize potential manipulation and market impact concerns. Fourth, the risk to investors of contra-party non-performance will be minimized because the options on the Indexes will be issued and guaranteed by the Options Clearing Corporation just like any other standardized option traded in the United States.

Lastly, the Commission believes that settling expiring options on the Indexes (including full-value and reduced-value Index LEAPS) based on the opening prices of component securities is reasonable and consistent with the Act. As noted in other contexts, valuing options for exercise settlement on expiration based on opening prices rather than closing prices may help reduce adverse effects on markets for stocks underlying options on the Index.[37]

The Commission finds good cause for approving Amendment No. 2 to the proposal prior to the thirtieth day after the date of publication of the notice of filing thereof in the **Federal Register**. Specifically, Amendment No. 2 merely clarifies that for each of the Indexes, both eligibility standards and maintenance criteria require that upon annual rebalancing, at least 90% of each Index's numerical value and 80% of the total number of component securities must meet the then current criteria for standardized options trading set forth in either Rule 915 for component securities not currently the subject of standardized options trading or Rule 916 components which are currently the subject of standardized options trading. Moreover, Amendment No. 2 provides that Morgan Stanley will select and rank any stocks to be included in each Replacement List based on a number of criteria, including conformity to the same eligibility standards and maintenance criteria set forth in Rules 915 and 916. The Commission believes that clarifying the applicable eligibility standards and maintenance criteria for the Indexes' component securities is consistent with maintaining a fair and orderly market and reduces the likelihood of investor confusion.

Based on the above, the Commission finds good cause for approving Amendment No. 2 to the proposed rule change on an accelerated basis and believes that the proposal, as amended, is consistent with Sections 6(b)(5) and 19(b)(2) of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 2. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to the File No. SR–Amex–95–53 and should be submitted by April 19, 1996.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[38] that the proposed rule change (SR–Amex–95–53), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[39]

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[36] In addition, the Amex and the OPRA have represented that the Amex and the OPRA have the necessary systems capacity to support those new series of index options that would result from the introduction of options on the Indexes. *See* Letter from Charles Faurot, Managing Director, Market Data Services, Amex, to Michael Walinskas, Branch Chief, OMS, Division, Commission, dated January 22, 1996; letter from Edward Cook, Jr., Managing Director, Information Technology, Amex, to Michael Walinskas, Branch Chief, OMS, Division, Commission, dated February 8, 1996; and letter from Joe Corrigan, Executive Director, OPRA, to Michael Walinskas, Branch Chief, OMS, Division, Commission, dated January 22, 1996.

[37] Securities Exchange Act Release No. 30944 (July 21, 1992), 57 FR 33376 (July 28, 1992).

[38] 15 U.S.C. § 78s(b)(2).

[39] 17 CFR 200.30–3(a)(12).

[Release No. 34–37011; File Nos. SR–CBOE–95–58; SR–Amex–95–47; Phlx–95–90; SR–PSE–95–05; SR–NYSE–95–03]

Self-Regulatory Organizations; Order Approving Proposed Rule Changes and Notice of Filing and Order Granting Accelerated Approval of Related Amendments by the Chicago Board Options Exchange, Inc., the American Stock Exchange, Inc. and the Philadelphia Stock Exchange, Inc., and Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Changes by the Pacific Stock Exchange, Inc., and the New York Stock Exchange, Inc., Relating to Listing Standards for Options on Securities Issued in a Reorganization Transaction Pursuant to a Public Offering or a Rights Distribution

March 22, 1996.

I. Introduction

On October 19, November 29, December 19, 1995, February 16, and March 1, 1996 the Chicago Board Options Exchange, Inc. ("CBOE"), the American Stock Exchange, Inc. ("Amex"), the Philadelphia Stock Exchange, Inc. ("Phlx"), the Pacific Stock Exchange, Inc. ("PSE") and the New York Stock Exchange, Inc. ("NYSE") (collectively the "Exchanges"), respectively, submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] proposed rule changes to adopt listing standards for options on securities issued in a reorganization transaction pursuant to a public offering or a rights distribution.

Notices of the CBOE, Amex, and Phlx proposals were published for comment in the **Federal Register** on December 6, 1995, December 11, 1995, and December 29, 1995, respectively.[3] No comments were received on the proposals. The CBOE submitted to the Commission Amendment Nos. 1 and 2 to its proposal

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release Nos. 36528 (November 29, 1995), 60 FR 62523 (File No. SR–CBOE–95–58); 36550 (December 4, 1995), 60 FR 63550 (File No. SR–Amex–95–47); and 36625 (December 21, 1995), 60 FR 67378 (File No. SR–Phlx–95–90).

on January 30, and February 5, 1996, respectively.[4] The Phlx and Amex submitted to the Commission Amendment No. 1 to their proposals on February 21, and March 21, 1996, respectively.[5] This order approves the proposed rule changes, as amended, by the CBOE, Amex, and Phlx, and the proposed rule changes by the NYSE, and PSE, on an accelerated basis.

II. Background

The Exchanges currently maintain uniform standards regarding the approval for listing of underlying securities for options trading.[6] Specifically, to be the subject of options trading, the underlying security must meet the following guidelines: (1) Trading volume in all markets of at least 2.4 million shares in the preceding twelve months ("Volume Test"); (2) market price per share of at least $7.50 for the majority of business days during the three calendar month period preceding the date of selection ("Price Test"); (3) a minimum public ownership of 7 million shares ("Public Ownership Requirement");[7] and (4) a minimum of 2,000 holders ("Holder Requirement").[8]

An exchange must determine that a security satisfies the above requirements, as of the date it is selected for options trading ("selection date"), which is the date the exchange files for certification of the listing of the option with The Options Clearing Corporation ("OCC"). Depending upon the interest and response from other options exchanges, the exchange may generally begin options trading from three to five business days after the selection date.

The Exchanges have adopted maintenance criteria for withdrawal of approval of an underlying security subject to options trading.[9] A security previously approved for options transactions shall be deemed not to meet the guidelines for continued listing if (1) trading volume in all markets is less than 1.8 million shares in the preceding twelve months ("Maintenance Volume Test"); (2) market price per share closes below $5.00 on a majority of business days during the preceding six calendar months ("Maintenance Price Test");[10] (3) public ownership amounts to fewer than 6.3 million shares ("Maintenance Public Ownership Requirement"); or (4) there are fewer than 1,600 holders ("Maintenance Holders Requirement").[11]

Both the initial and maintenance listing criteria are intended to ensure, among other things, that options are only traded on stocks with adequate depth and liquidity so that the options and their underlying components are not readily susceptible to manipulation.

The five options exchanges recently amended their rules to facilitate the earlier listing of options on securities issued in certain corporate restructuring transactions.[12] The amended rules apply to securities ("Restructure Security") issued by a public company to existing shareholders, with existing publicly traded shares subject to options trading, in connection with certain "restructuring transactions."[13]

The amended rules facilitates the earlier listing of options on a Restructure Security by permitting an exchange to determine whether a Restructure Security satisfies the Volume Test and Price Test by reference to the trading volume and market price history of an outstanding equity security ("Original Security") previously issued by the issuer of the Restructure Security, or affiliate thereof.

In addition, the amended rules provide specific criteria for evaluating the distribution of shares of a Restructure Security for purposes of meeting the Public Ownership and Holder Requirements. To the extent that the initial options listing requirements are satisfied based upon these "lookback" provisions to the Original Security and the other provisions of the proposal, then an exchange will permit options trading to begin on the ex-date for the restructuring transaction.[14]

In order to utilize the amended rules, the Restructure Security must first satisfy one of four alternate conditions. The first three alternate conditions are intended to ensure that the trading volume and market price history of the Original Security represent a reasonable surrogate for determining the likely future trading volume and price data of the Restructure Security. Under these conditions either, (a) the aggregate market value of the Restructure Security, (b) the aggregate book value of the assets attributed to the business represented by the Restructure Security (minimum $50 million) or (c) the revenues attributed to the business represented by the Restructure Security (minimum $50 million) must exceed one of two stated percentages of the same measure for the Original Security.[15] The threshold percentages will be 25% if the applicable measure determined with respect of the Original Security represents an interest in the combined enterprise prior to the restructuring transaction, and 33⅓% if the applicable measure determined with respect of the Original Security represents an interest in the remainder of the enterprise after the restructuring transaction ("Percentage Tests"). The fourth alternate condition is that the aggregate market value represented by the Restructure Security be at least $500 million ("Aggreate Market Value Test"). This condition is based on the Exchanges' view that even if a Restructure Security does not meet the comparative tests outlined above, a Restructure Security with an aggregate market value of $500 million, by virtue of its absolute size, represents a substantial portion of the Original Security, and thus should qualify for the "lookback" provision.

If any one of the four conditions set forth above is satisfied, a Restructure Security will qualify for the "lookback" provision. Under the "lookback" provision, a Restructure Security may be eligible for options trading immediately upon its issuance provided the following requirements are satisifed. First, the Restructure Security must satisfy the Volume and Price Tests. An exchange may be permitted to determine whether a Restructure Security satisfies the Volume and Price Tests by reference to the trading volume and market price history of the Original Security. The trading volume and market price history of the Original Security that occurs *prior to the restructuring ex-date* can be used for these calculations (emphasis added). Volume and price data may be derived from "when issued" trading in the Restructure Security. However, once an exchange uses "when issued" volume or prices for the Restructure Security to satisfy the relevant guidelines, it may not use the Original Security for that purpose on any subsequent trading day. In addition, both the trading volume and market price history of the Original Security must be used, if either is so used.

Additionally, an exchange must determine whether a Restructure Security will satisfy the Public Ownership and Holder Requirements. This determination will either be based on facts and circumstances that will exist on the intended date for listing the option, or based on assumptions that are permitted under the proposal. Because the shares of the Restructure Security are to be issued or distributed to the shareholders of the issuer of the Original Security, these requirements may be satisfied based upon the exchange's knowledge of the existing number of outstanding shares and holders of the Original Security.

Moreover if a Restructure Security is to be listed on an exchange or in an automatic quotation system that subjects it to an initial listing requirement of no less than 2,000 holders, then the options exchange may assume that the Holder Requirement will be satisfied. Similarly, if a Restructure Security is to be listed on an exchange or in an automatic quotation system subject to an initial listing requirement of no less than public ownership of 7 million shares, then the options exchange may assume that Public Ownership Requirement will be satisfied. Additionally, if an exchange determines that at least 40 million shares of a Restructure Security will be issued and outstanding in a restructuring transaction, then it may assume that the Restructure Security will satisfy both the Public Ownership, and Holder Requirements.

An exchange, however, shall not rely on the above assumptions if, after reasonable investigation, it determines that either the public ownership of shares or the holder requirement, in fact, will not be satisfied on the intended date for listing the option. Additionally, other exchanges will have the opportunity to challenge the certification by demonstrating, among other things, that the Restructure Security will not meet the initial listing criteria with respect to public ownership and holders.

Finally, the Exchanges adopted a similar "lookback" provision for the Maintenance Volume Test and the Maintenance Price Test. Specifically, for purposes of satisfying these requirements, the trading volume and market price history of the Original Security, as well as any "when issued" trading in the Restructure Security, can be used for such calculations, provided that they are only used for determining price and volume history for the period prior to commencement of trading in the Restructure Security.

III. Description of the Proposals

The purpose of the proposed rule changes is to amend the Exchanges' special listing standards[16] that apply to options on equity securities issued in certain restructuring transactions to include securities issued pursuant to a public offering or a rights distribution that is part of a restructuring transaction.

As recently approved by the Commission, the Exchanges' accelerated listing criteria for options on Restructure Securities does not extend to restructuring transactions involving the issuance of shares of a Restructure Security in a public offering or a rights distribution.[17]

The Exchanges note that when shares of a Restructure Security are issued in a public offering or pursuant to a rights distribution, it cannot automatically be assumed that the shareholder population of the Restructure Security and the Original Security will be the same. Instead, the shareholders of a Restructure Security issued in a public offering will be those persons who subscribed for and purchased the security in the offering, and the shareholders of a Restructure Security issued in a rights distribution will be those persons who received rights via such an offering, or purchased such rights and elected to exercise them. Even in the case of a distribution of nontransferable rights to shareholders of the Original Security, not all such shareholders may choose to exercise their rights. As a result, it cannot be assumed that the Restructure Security will necessarily satisfy listing criteria pertaining to minimum number of holders, minimum public ownership of shares, and trading volume simply because the Original Security satisfied these criteria.

The Exchanges believe, however, that it is appropriate and desirable to be able to list options overlying securities issued in reorganizations involving public offerings or rights distributions without significant delay, provided there are reasonable assurances that the Restructure Securities satisfy applicable options listing standards. That is, shareholders of an Original Security who utilize options to manage the risks of their stock positions may well find themselves to be shareholders of both the Original Security and the Restructure Security following a reorganization because they chose to purchase the Restructure Security in a public offering or to exercise rights in order to maintain the same investment

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[4] The CBOE submitted Amendment Nos. 1 and 2 to clarify the initial market price requirements, and the maintenance trading volume requirements for shares of a Restructure Security issued pursuant to a public offering or rights distribution, as described more fully herein. *See* Letters from Michael Meyer, Attorney, Schiff Hardin & Waite, to Sharon Lawson, Senior Special Counsel, Office of Market Supervision ("OMS"), Division of Market Regulation ("Market Regulation"), Commission, dated January 30, 1996 ("CBOE Amendment No. 1"); and to John Ayanian, Attorney, OMS, Market Regulation, Commission, dated February 5, 1996 ("CBOE Amendment No. 2").

[5] The Phlx and Amex submitted identical amendments to reflect the changes set forth in CBOE's Amendment Nos. 1 and 2. As indicated above, these amendments clarify the initial market price requirements, and the maintenance trading volume requirements for shares of a Restructure Security issued pursuant to a public offering or rights distribution, as described more fully herein. *See* Letter from Michele Weisbaum, Associate General Counsel, Phlx, to Michael Walinskas, Branch Chief, OMS, Market Regulation, Commission, dated February 21, 1996 ("Phlx Amendment No. 1"), and Letter from Howard A. Baker, Senior Vice President, Derivative Securities, Amex, to John Ayanian, Attorney, OMS, Market Regulation, Commission, dated March 21, 1996 ("Amex Amendment No. 1").

[6] *See* Amex rule 915; CBOE Rule 5.3; PSE Rule 3.6; Phlx Rule 1009; and NYSE Rule 715.

[7] Shares that are owned by persons required to report their stock holdings under Section 16(a) of the Act (*i.e.*, directors, officers, and 10% beneficial owners) are excluded from this calculation.

[8] In addition to satisfying price, volume, public ownership, and holder requirements, for a Restructure Security to meet initial listing requirements, it must also comply with all requirements set forth by the Exchanges in their options eligibility rules. For example, the security must be registered, and listed on a national securities exchange, or traded through the facilities of a national securities association and reported as a "national market system" ("NMS") security as set forth in Rule 11Aa3–1 under the Act, and the issuer must be in compliance with any applicable requirements of the Act.

[9] *See* Amex Rule 916; CBOE Rule 5.4; PSE Rule 3.7; Phlx Rule 1010; and NYSE Rule 716.

[10] Additional criteria permits the underlying security under certain circumstances to trade as low as $3.00 for a temporary period of time. *See* Id.

[11] In addition to satisfying the maintenance criteria for market price and trading volume, for a Restructure Security to meet maintenance requirements for an underlying security subject to options trading, it must also comply with all other requirements set forth by the Exchanges in their options eligibility rules.

[12] *See* Securities Exchange Act Release No. 36020 (July 24, 1995), 60 FR 39029 (July 31, 1995) (order approving SR–CBOE–95–11; SR–Amex–95–07; SR–Phlx–95–12; and SR–PSE–95–04); *See also* Securities Exchange Act Release No. 36029 (July 27, 1995), 60 FR 40637 (August 9, 1995) (order approving SR–NYSE–95–07) ("Restructuring Transactions Approval Orders").

[13] A "restructuring transaction" is defined as a spin-off, reorganization, recapitalization, restructuring or similar corporate transaction.

[14] Option contracts may not be initially listed for trading in respect of a Restructure Security, whose shares are issued by the Original Security to its existing shareholders, until the ex-date. The ex-date occurs at such time when shares of the Restructure Security become issued and outstanding and are the subject of trading that are not on a "when issued" basis or in any other way contingent on the issuance or distribution of the shares.

[15] Aggregate market values will be based on share prices that are either (a) all closing prices in the primary market on the last business day preceding the selection date or (b) all opening prices in the primary market on the selection date. The aggregate market value of the Restructure Security may be determined from "when issued" prices, if available.

Asset values and revenues will be derived from the later of (a) the most recent annual financial statements or (b) the most recent interim financial statements of the respective issuers covering a period of not less than three months. Such financial statements may be audited or unaudited and may be pro forma.

[16] *See* CBOE Rule 5.3, Interpretation and Policy .05; Amex Rule 915, Commentary .05; Phlx Rule 1010, Commentary .05; PSE Rule 3.6, Commentary .05; and NYSE Rule 715, Supplementary Material .50.

[17] As stated above, the special listing standards adopted by the Exchanges currently apply to a Restructure Security, whose shares are issued by a public company to its existing shareholders, with existing public traded shares subject to options trading on an exchange, in connection with certain restructuring transactions. *See* Restructuring Transactions Approved Orders, *supra* note 10.

position they had prior to the reorganization. Such holders may want to continue to use options to manage the risks of their combined stock position after the reorganization, but they can do so only if options on the Restructure Security are available. The Exchanges believe that it is important to avoid any undue delay in the introduction of options trading in such a Restructure Security in circumstances where there is sound reason to believe that the Restructure Security will in fact satisfy options listing standards.

Accordingly, the Exchanges have proposed certain special listing criteria to address the attendant concerns. As with the options listing standards for shares of a Restructure Security issue to shareholders of the Original Security in certain restructuring transactions, an exchange will be able to assume the satisfaction of the Public Ownership and Holder Requirements in public offerings and rights distributions, if the Restructure Security is listed on an exchange or an automatic quotation system subject to equivalent listing requirements or at least 40,000,000 shares of the Restructure Security are issued and outstanding. Moreover, after due diligence, an exchange must have no reason to believe that the Restructure Security does not satisfy these requirements.

Additionally, the closing prices of the Restructure Security on each of the five or more consecutive "regular way" trading days prior to the selection date must be at least $7.50 per share.[18] In addition to this requirement, the Price Test must also be separately met. Satisfaction of the Price Test may be based on the market price history of the Restructure Security from the ex-date for the restructuring transaction to the selection date, and the market price history of the Original Security prior to the ex-date for restructuring transaction.[19] In the event the Restructure Security has a closing price that is less than $7.50 on any of the trading days preceding its selection date, or an opening price that is less than $7.50 on its selection date, the Restructure Security itself will have to satisfy the Price Test. This would require the Restructure Security to close at or above $7.50 on a majority of trading days over a period of three months before it can be certified as eligible for options trading. In order to rely, in part, on the market price history of the Original Security to satisfy the Price Test, the Restructure Security must still meet the Percentage Tests or the Aggregate Market Value Test as outlined above in Section II. Finally, trading volume in the Restructure Security itself, without reliance on the Original Security, must be at least 2,400,000 shares during a period of twelve months or less up to the time the security is so selected.

For any Restructure Security issued in a public offering or a rights distribution that satisfies these requirements, the effect of the proposed rule changes will be to permit its certification for options trading to take place as early as on the sixth day after trading in the Restructure Security commences.

Finally, the Maintenance Volume Test approved in the Restructuring Transactions Approval Orders is proposed to be amended to provide that in the case of a Restructure Security issued in a public offering or pursuant to a rights offering and approved for options trading on an accelerated basis, the Maintenance Volume Test may not be satisfied on the basis of the trading volume history of the Original Security, but instead it must be satisfied solely on the basis of the trading volume history of the Restructure Security.[20]

IV. Commission Findings and Conclusions

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular with the requirements of Section 6(b)(5),[21] in that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest.

The Commission believes that it is necessary for securities to meet certain minimum standards regarding both the quality of the issuer and the quality of the market for a particular security to become options eligible. These standards are imposed to ensure that those issuers upon whose securities options are to be traded are financially sound companies whose trading volume, market price, number of holders, and public ownership of shares are substantial enough to ensure adequate depth and liquidity to sustain options trading that is not readily susceptible to manipulation. The Commission also recognizes that under current equity options listing criteria, investors may be precluded for a significant period from employing an adequate hedging strategy involving options on any newly acquired Restructure Security acquired pursuant to a public offering or rights distribution in connection with a restructuring transaction.

Accordingly, to determine whether the earlier listing of options overlying a Restructure Security issued pursuant to a public offering or rights distribution is reasonable, the Commission must balance the benefits of providing adequate hedging strategies to shareholders of the Restructure Security, and the risks of approving certain securities for options trading before such securities can conclusively be determined to satisfy the options eligibility criteria.[22] The Commission believes that the proposed limited exception to established equity options listing procedures where a public offering or rights distribution is solely related to a restructuring of an Original Security, and the Original Security is already the subject of options trading, strikes such a reasonable balance.

As discussed in more detail below, the Commission believes that the conditions of the new rule will help to ensure that only those securities that are most likely to have adequate depth and liquidity will be eligible for options trading prior to the establishment of a recognized trading history. Additionally, by facilitating the earlier listing of options on a Restructure Security issued pursuant to a public offering or rights distribution, the Commission believes that investors should be able to better hedge the risk of their newly acquired stock position in the Restructure Security.[23]

Despite the benefits of the proposal, the Commission believes that the proposal should only apply to restructuring transactions that involve financially sound and sufficiently large companies. The Commission believes that the Exchanges have adequately addressed this concern by requiring the Restructure Security to either satisfy certain comparative tests (comparing the Restructure Security, or its related business with that of the Original Security, or its related business,[24] or meet a very high aggregate market value standard ($500 million).[25]

The Commission believes that if one of the comparative tests or the aggregate market value standard is satisfied, the Restructure Security should qualify for the "lookback" provision. Under the "lookback" provision, a Restructure Security will be able to satisfy the Price Test if the market price history of the Restructure Security, together with the market price history of the Original Security occurring prior to the ex-date, meet the initial listing requirements for market price of the Restructure Security. The Commission believes that the additional requirement under the Exchanges' proposed rules that the closing price of the Restructure Security on each of the five or more consecutive "regular way" trading days prior to the selection date must be at least $7.50 per share provides an exchange with a reasonable sample price history of the Restructure Security before selection is permitted.

The Commission also believes that it is appropriate for an exchange to count "when issued" trading in the Restructure Security when determining if the Restructure Security will satisfy the Price Test set forth in the initial options listing requirements. However, once an exchange begins to use "when issued" volume or price history for the Restructure Security to satisfy the Price Test, it may not use the Original Security for such purposes on any subsequent trading day. For example, if in order to satisfy the Price Test for a Restructure Security for which the ex-date is April 1, 1996, and the selection date for the Restructure Security is April 8, 1996, an exchange may elect to base its determination on the market price of the Original Security from October 9, 1995 through March 1, 1996, the market price is the when-issued market for the Restructure Security from March 7, 1996 through March 31, 1996, and the "regular way" trading market price of the Restructure Security from April 1 through April 8, 1996, in determining whether options covering the Restructure Security may be certified for options trading on the April 8, 1996 selection date. An exchange, however, would be permitted to use the price history of the Original Security throughout the period from October 9, 1995 through March 31, 1996, provided that it did not rely on any when-issued market price history during that period.

The Commission notes that an exchange will not use trading history relating to the Original Security after the ex-date to meet the initial options listing requirements for the option contracts overlying the Restructure Security. Additionally, the condition that option contracts overlying a Restructure Security will not be initially listed for trading until such time as shares of the Restructure Security are issued and outstanding and are the subject of "regular way" trading for at least 5 trading days will serve to (1) ensure that options will only be traded on a Restructure Security when it is certain the security is actually issued and outstanding, and (2) provide an opportunity to better determine if the Holder and Public Ownership Requirements have been met.

The Commission notes that the Exchanges may not apply the "lookback" provision to satisfy the Volume Test for a Restructure Security issued pursuant to a public offering or rights distribution. The trading volume in the Restructure Security must be at least 2,400,000 shares during a period of twelve months or less up to the time the security is so selected. The Commission believes that this requirement will ensure that there is adequate liquidity in the Restructure Security, issued pursuant to a public offering or rights distribution, to qualify for options trading.

In addition to satisfying the Volume and Price Tests, a Restructure Security must also meet certain distribution requirements before an exchange can deem such security to be options eligible. Specifically, the Restructure Security must have 2,000 holders, and 7 million shares must be owned by persons not required to report their stock holdings under Section 16(a) of the Act to be options eligible. The proposal provides that an exchange may make certain limited assumptions to determine the Public Ownership and Holder Requirements. First, if a Restructure Security is to be listed on an exchange or in an automatic quotation system that has, and applies to the Restructure Security, an initial listing requirement that the issuer have no less than 2,000 holders, the Commission believes that it is reasonable for an exchange to assume that its comparable option listing requirement will be satisfied. Second, if a Restructure Security is to be listed on an exchange or in an automatic quotation system that has, and applies to the Restructure Security, an initial listing requirement of no less than public ownership of 7 million shares, the Commission believes that it is reasonable for an exchange to assume that its comparable option listing requirement will be satisfied.

The Commission notes that currently no exchange or automatic quotation system has a public ownership initial stock listing standard that is as stringent as those required under the options eligibility requirements. Moreover, a stock exchange may now be able to list stocks pursuant to alternate listing standards. For example, the Commission has recently approved alternate listing standards for companies listed on the New York Stock Exchange ("NYSE"), including, among other things, the distribution of shares.[26] Under these alternate listing standards, the NYSE is currently allowed to list certain companies with 500 shareholders that meet heightened requirements in other areas in lieu of its 2,200 total shareholder requirements. Therefore, the Exchanges should be careful to precisely determine which listing standards are being applied to the listing of the Restructure Security prior to making a determination as to whether the Restructure Security meets the corresponding options listing criteria.

Additionally, current options listing criteria for securities issued pursuant to restructuring transactions provide that if at least 40 million shares of a Restructure Security will be issued and outstanding in a restructuring transaction, an exchange may assume that the Restructure Security will satisfy both the public ownership of shares and holder requirements. The Commission believes this is appropriate because it appears unlikely that a Restructure Security with at least 40 million issued and outstanding shares, will have fewer than 2,000 holders or less than 7 million shares owned by persons not required to report their stock holdings under Section 16(a) of the Act.

The Commission believes that concerns associated with the ability of an exchange to make important listing decisions based on assumptions rather than confirmed facts are alleviated by the crucial provision that an exchange shall not rely on the above assumptions if, after a reasonable investigation, it determines that either the public ownership of shares or the holder requirement, in fact, will not be satisfied on the intended date for listing the option. At the very least, an exchange

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[18] This requires that the Restructure Security must have actually been issued and traded for at least 5 consecutive trading days before it can be selected for options trading.

[19] *See* CBOE Amendment No. 1, *supra* note 4; *see also* Amex Amendment No. 1, and Phlx Amendment No. 1, *supra* note 5.

[20] *See* CBOE Amendment No. 1, *supra* note 4; *see also* Amex Amendment No. 1, and Phlx Amendment No. 1, *supra* note 5.

[21] 15 U.S.C. 78f(b)(5).

[22] *See supra* Section II.

[23] Although the proposals do not specifically address it, the Commission understands that the application of the proposals is limited solely to those instances where options are listed on the Original Security.

[24] The Commission notes that the comparative asset values and revenues, when used to determine whether the above-mentioned conditions are satisfied, shall be derived "from the later of the most recent annual or most recently available comparable interim *(not less than three months)* financial statements." This provision means that the interim financial statements must cover a period of not less than three months.

[25] *See* Restructuring Transactions Approval Orders, *supra* note 12.

[26] *See* Paragraph 102.01 of the NYSE's Listed Company Manual. *See also* Securities Exchange Act Release No. 35571 (April 5, 1995), 60 FR 18649 (April 12, 1995) (order approving proposed rule change relating to domestic listing standards).

should investigate the basis for its assumptions regarding the public ownership of shares and number of shareholders just prior to selecting the option and just prior to trading the option, utilizing a worst case analysis in making its assumptions that the Restructure Security will meet these listing standards.

In addition, other exchanges will continue to have the opportunity to challenge the certification by demonstrating that the Restructure Security will not meet the initial listing criteria with respect to public ownership and holders. The Commission believes that this provision provides an important check and should help to ensure that no unqualified securities are listed for options trading.

The Commission also believes that it is appropriate for an exchange to apply the "lookback" provision, to determine if a Restructure Security will satisfy the Maintenance Price Test. The Commission believes that it is appropriate to use the market price history of the Original Security, as well as any "when issued" trading in the Restructure Security for such calculations, provided that they are only used for determining price history for the period prior to commencement of trading in the Restructure Security.

The Commission notes that because the Maintenance Price Test is calculated on a rolling forward basis, "when issued" trading history for the Restructure Security or trading history for the Original Security prior to the ex-date may be used for maintenance calculations for no more than six months after the ex-date for the Restructure Security. For example, in order to satisfy the Maintenance Price Test for a Restructure Security on April 1, 1996, with an ex-date of February 1, 1996, an exchange may elect to base its determination on the trading price of the Original Security from October 1, 1995 through January 15, 1996, the trading price in the when-issued market for the Restructure Security from January 16, 1996 through January 31, 1996, but must use the "regular way" trading price in the Restructure Security from February 1, 1996 through April 1, 1996.

The Commission believes that it is appropriate not to rely on the trading volume of the Original Security in satisfying the Maintenance Volume Test, because the trading volume of the Restructure Security must solely satisfy the initial listing requirements for trading volume before it is eligible for options trading.

The Commission finds good cause for approving the proposed rule change by the PSE and the NYSE prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Specifically, the Commission notes that the PSE's and NYSE's proposed rule changes are substantively similar to those proposed by the CBOE, Amex, and Phlx. The PSE and NYSE rule change proposals raises no issues that are not raised by the other exchanges. Additionally, the Commission notes that the CBOE, Amex, and Phlx proposals were subject to a full notice and comment period, and no comments were received. Accordingly, the Commission believes that it is consistent with Section 6(b)(5) of the Act to approve PSE's and NYSE's proposed rule changes on an accelerated basis.

The Commission also finds good cause for approving CBOE Amendment Nos. 1 and 2, Amex Amendment No. 1, and Phlx Amendment No. 1, all comprising the same substantive changes to their respective proposals, prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Specifically, the amendments clarify the initial market price requirements,[27] and the maintenance trading volume requirements[28] for shares of a Restructure Security issued pursuant to a public offering or rights distribution. Because the amendments accurately reflect the intent of the rule as originally proposed, and merely provide clarifying language, the Commission does not believe that the amendments raise any new or unique regulatory issues. Accordingly, the Commission believes that it is consistent with Sections 6(b)(5) and 19(b)(2) of the Act to approve the foregoing amendments to CBOE's, Amex's, and Phlx's proposed rule changes on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning the PSE and NYSE proposals; CBOE Amendment Nos. 1 and 2; Amex Amendment No. 1; and Phlx Amendment No. 1. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal offices of the Exchanges. All submissions should refer to SR–CBOE–95–58; SR–Amex–95–47; SR–Phlx–95–90; SR–PSE–96–05; and SR–NYSE–96–03 and should be submitted by April 19, 1996.

[27] *See supra* note 19 and accompanying text.

[28] *See supra* note 20 and accompanying text.

V. Conclusion

Based on the above findings, the Commission believes the proposals are consistent with Section 6(b)(5) of the Act by facilitating transactions in securities while at the same time ensuring continued protection of investors. The new accelerated listing procedures only apply where a public offering or rights distribution is solely related to a restructuring of the Original Security, and the Original Security is already subject to options trading. This fact, along with the other strict conditions of the rule should help to identify for accelerated options eligibility only those Restructure Securities that will have adequate depth and liquidity to support options trading. At the same time it will provide investors with a better opportunity to hedge their positions in both the Original and the Restructure Security.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[29] that the proposed rule changes (SR–CBOE–95–58; SR–Amex–95–47; Phlx–95–90; SR–PSE–96–05; and SR–NYSE–96–03), as amended, are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[30]

Jonathan G. Katz,

Secretary.

[FR Doc. 96–7701 Filed 3–28–96; 8:45 am]

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[29] 15 U.S.C. 78s(b)(2).

[30] 17 CFR 200.30–3(a)(12).

[Release No. 34–37014; File No. SR–NASD–96–05]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to the Mutual Fund Quotation Service

March 22, 1996.

On February 5, 1996, the National Association of Securities Dealers, Inc. ("SEC" or "Commission") the proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder.[2] The proposed rule change revises the fee structure for the Mutual Fund Quotation Service ("MFQS" or "Service") and updates the name of the Service in the NASD Rules. Notice of the propose the rule change, together with the substance of the proposal, was issued by Commission release (Securities Exchange Act Release No. 36840, February 13, 1996) and by publication in the **Federal Register** (61 FR 6674, February 21, 1996). No comment letters were received. The Commission is approving the proposed rule change.

I. Background

The purpose of the proposed rule change is to revise the fee structure for the Service to account for significant enhancements and to reflect more accurately the value of the Service in today's market. The Service facilitates the public dissemination of daily price information for mutual funds and money market funds through the broadcast media and the newspapers. After the market close each day, mutual fund companies or their agents calculate the net asset value ("NAV"), and in some cases the dividend, capital gain, and other pertinent information for each fund. This information is submitted to the NASD by computer, which in turn disseminates it out to the media in a static batch transmission at approximately 5:40 p.m. Depending on the size and number of shareholders, funds may quality for inclusion in either the News Media List or the Supplemental List.

II. The terms of Substance of the Proposed Rule Change

The proposed rule change amends Part VIII and Part XIV of Schedule D to the NASD B-Laws.[3] Under the proposed rule change, new mutual funds will be assessed a one-time application processing fee of $250 per fund. In addition, the fee to include a fund in the News Media List will increase from $150 to $275 per year. The fee to include a fund in the Supplemental List will increase from $100 to $200 per year.

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4.

[3] Pursuant to a new rule numbering system for the NASD Manual anticipated to be effective no later than May 1, 1996, the rules that are the subject of this proposed rule change will become Rule 7090 (regarding fee structure), and Rule 6800 (regarding description of the Service). See Exchange Act Release No. 36698 (January 11, 1996), 61 FR 1419 (January 19, 1996) (order approving new rule numbering system).

III. Discussion

The Commission believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act, which requires that the rules of a national securities association provide for the equitable allocation of reasonable dues, fees, and other charges among members and issues and other persons using any facility or system which the association operates or controls. The current fees have remained unchanged over a ten year period since inception of the Service, although the number of funds and shareholder accounts have increased more than three-fold. In addition, the one-time application fee for new funds is intended to defray the costs incurred in processing applications.

The fee increases are necessary to provide benefits to mutual funds, their agents, and the media. Several enhancements to the Service, including the establishment of a system of rolling dissemination of prices, will improve the distribution to the media of price information in a timely fashion. Rolling dissemination of prices will allow mutual funds and their agents to enter real-time updates throughout the day which will decrease rushed end-of-day transmissions of price information. The media will have more time to prepare its daily fund tables for inclusion in newspapers because the media will be receiving fund NAVs when they are available. Furthermore, the public that has increased its reliance on daily price information will benefit from real-time updates of price information which reduce the risk that the media will not receive any price information for publication. If a transmission problem occurs between 4:00 p.m. and 5:40 p.m., the media already will have received some fund information for publication, instead of relying on a single batch transmission at 5:40 p.m., as in the case today.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change SR–NASD–96–05 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Jonathan G. Katz,

Secretary.

[FR Doc. 96–7642 Filed 3–28–96; 8:45 am]

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[Release No. 34–37015; File No. SR–NYSE–96–02]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 Relating to Voting of Proxies by Member Firms for Holders of Auction Rate Preferred Securities

March 22, 1996.

I. Introduction

On February 1, 1996, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change that would allow the Exchange's member firms, under certain conditions, to vote the shares of auction rate preferred securities[3] that they hold on behalf of their customers, notwithstanding the failure of the beneficial holders to provide instructions regarding the voting of such shares.

The proposed rule change was published for comment in Securities Exchange Act Release No. 36813 (February 6, 1996), 61 FR 5592 (February 13, 1996). One comment letter was received on the proposal.[4] The NYSE filed Amendment No. 1 with the Commission on March 18, 1996.[5] This order approves the proposal, including Amendment No. 1 on an accelerated basis.

II. Description

Auction rate preferred securities are preferred securities with dividend rates that are established periodically by auction or remarketing at specified reset periods. At the auction date, which typically runs every seven days but in some instances can be one to five years, the investors receive their entire investment along with accrued dividends, and may, if they so chose, participate in the repurchase of shares at

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The proposed rule change defines an auction rate preferred security as a preferred security pursuant to which the dividend rate is established periodically by auction or remarketing at specified reset periods.

[4] See Letter from Dorothy M. Donohue, Assistant Counsel, Investment Company Institute, to Jonathan G. Katz, Secretary, SEC, dated March 5, 1996.

[5] Amendment No. 1 made clarifying changes to the text of the rule proposal. See Letter dated March 13, 1996, from James E. Buck, Senior Vice President and Secretary, NYSE, to Glen Barrentine, Team Leader, SEC.

the new dividend rate for the ensuing rate period.

Because of the short-term nature of these securities, auction rate preferred shareholders generally have little economic interest in the performance of the issuer and its governance structure. As a result, the Exchange has represented that corporate issuers of these securities often find it difficult to obtain a quorum of auction rate preferred shareholders when such a requirement exists. Such failure blocks the approval of matters that require such a quorum.

The proposed rule change would allow member firms to vote the shares of auction rate preferred securities with auction reset periods of less than one year, on non-routine items,[6] in proportion to those votes cast by beneficial holders of each class of such securities (or of each series where an item must be voted upon separately by each series), as long as:

(i) The issuer has transmitted proxy soliciting material to the beneficial owner or its designee;[7]

(ii) It has not received voting instructions from the beneficial owner or its designee within the time period specified in the proxy material;

(iii) At least 30% of the outstanding shares of the same class or series (where a series vote is required) has been voted by preferred security holders;

(iv) Less than 10% of the outstanding shares of the same class or series (where a series vote is required) has been voted by preferred security holders against the proposal;[8]

(v) For any proposal as to which both the common and the preferred holders vote as a single class, proportional voting would not be allowed unless common shareholders have also approved the item;

(vi) A majority of the independent directors of the issuer's board of directors have approved the item; and

(vii) Adequate disclosure of proportional voting has been provided.

The proposed rule change will insert a new Rule 452.12 into the Exchange's Rules of the Board of Governors as well as an identical Paragraph 402.08(C) into the Exchange's Listed Company Manual.[9]

III. Summary of Comments

The Commission received one comment letter from the Investment Company Institute (the "Comment Letter").[10] The Comment Letter supported the proposed amendment and urged the Commission to approve it promptly. It did note its belief, however, that the term "issue," as used in conditions (3) and (4) of the proposed rule, was ambiguous.[11] The Comment Letter stated its understanding that the term "issue" was intended to refer to all of the outstanding preferred shares of an issuer rather than the separate series of the issuer's preferred shares and recommended that it be defined in the proposed rules in such manner or that such understanding be reflected in the Commission's release adopting the proposed amendment.

In response, the NYSE submitted Amendment No. 1 amending conditions (3) and (4) of the proposed rules. These provisions set forth conditions that must be satisfied before a member organization may vote auction rate preferred securities. As proposed to be amended by Amendment No. 1, these provisions would prohibit a member firm from voting the shares of auction rate preferred securities that it held on behalf of its customers unless at lest 30% of the outstanding shares of each class or each series, where a series vote is required, vote and less than 10% of each such class or series vote against the proposal.

IV. Discussion

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a Commission believes the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public.

The Commission has reviewed carefully the Exchange's proposal to amend its rules to allow member firms, under very limited conditions, to vote on non-routine matters the auction rate preferred securities that they hold on behalf of their customers, notwithstanding the failure of the beneficial holders to provide instructions regarding the voting of such shares. The Commission believes that such proposal adequately addresses the particular needs of issuers of such securities to be able to obtain a quorum of preferred shareholders, while, at the same time, protecting the rights of the holders of such shares.

Under the Exchange's proposal, member firms would be allowed to vote auction rate preferred securities that are held on behalf of their customers in proportion to the voting instructions received from holders of the same class (or of the same series where the item must be voted upon separately by each series) only under very limited circumstances. These circumstances would include a condition that the securities must have reset periods of one year or less, which serves to limit this provision to those securities that, because of their short-term nature, leave shareholders with little economic interest in the performance of the issuer. Further, the issuer must have transmitted proxy those securities that, because of their short-term nature, leave shareholders with little economic interest in the performance of the issuer. Further, the issuer must have transmitted proxy soliciting material to the beneficial owner or its designee in accordance with NYSE Rule 451. This condition ensures that beneficial holders will continue to have the choice of voting their shares if they so desire and the information necessary to allow them to make an informed voting decision.[13] The shareholder also must receive adequate disclosure of the member firm's ability to vote such shares in the absence of the beneficial holder exercising such right.

Moreover, under the proposal a member firm's right to vote such shares would be limited to proposals that have received the vote of at least 30% of the outstanding shares of each class or series (where a series vote is required) of the auction rate preferred shares. This will ensure that the member firm's proportional vote mirrors the vote of a significant portion of the total outstanding auction rate preferred shares. In addition, the member firm would be prohibited from voting where 10% or more of the outstanding shares of the same class or series (where a series vote is required) voted against the proposal and, in the case of a proposal that requires both the common and the preferred holders to vote as a single class, where the proposal does not receive the separate approval of the common shareholders.[14] These provisions effectively limit the member firm's proportional vote to matters that are strongly supported by those auction rate preferred holders who do vote and, where necessary, approved by the common shareholders. Finally, to further ensure fairness, the member firm may only vote on matters that have been approved by a majority of an issuer's independent directors.

The Commission believes that these conditions protect the rights of the holders of auction rate preferred securities by sufficiently limiting the right of member firms to vote, on non-routine items, the shares of such securities that they hold on behalf of their customers. At the same time, the Exchange's proposal should meet its objective of assisting issuers in obtaining approval of matters that are overwhelmingly supported by auction rate preferred shareholders who do vote.

Moreover, the Commission believes that the amended language adopted by the Exchange with regard to subsections (iii) and (iv) of the proposed rule change is preferable to the alternative offered in the Comment Letter. The Exchange's approach, which applies the 30% and 10% thresholds to the same class or series (where a series vote is required) instead of to all of the outstanding preferred shares, offers greater protection to the voting interests of holders of each class or series, as applicable.

The Commission finds good cause for approving Amendment No. 1 prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. Amendment No. 1 made clarifying, technical changes to the text of the rule, and did not propose new substantive provisions to the proposed rule change. Accordingly, the Commission believes that consistent with Section 19(b)(2), good cause exists to accelerate approval of Amendment No. 1.

V. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 1 to the proposed rule change. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rules change that are filed with the Commission, and all written communications relating to Amendment No. 1 between the Commission and any persons, other than those that may be withheld from the public in for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–96–02 and should be submitted by April 19, 1996.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[15] that the proposed rule change (SR–NYSE–96–02), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Jonathan G. Katz,

Secretary.

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[6] Voting by member firms on routine items is governed by NYSE Rule 452.10, which allows member firms to vote without customer instructions on routine items, provided that the member has transmitted proxy soliciting material to the beneficial owner in accordance with NYSE Rule 451 and the member has not received voting instructions from the beneficial owner by the date specified in the statement accompanying such material.

[7] The transmittal of proxy soliciting material to the beneficial owner must be undertaken in accordance with NYSE Rule 451.

[8] Because the 10% threshold is based upon the outstanding shares of a class or series rather than the shares actually voted, the proportion of negative votes among the shares actually voted is likely to be significantly higher than the 10% threshold. For example, where only 30% of the outstanding shares of a class vote, a negative vote of at least 33% of the shares of such class that actually vote would be necessary to exceed the 10% threshold. However, even a situation where the proportion of negative votes approached the 10% threshold, the measure will have been approved by a substantial majority of the outstanding shares voting.

[9] The proposed rule change also renumbers existing Exchange Rules 452.12 through 452.16 without change to Rules 452.13 through 452.17 and Listed Company Manual Paragraphs 402.08 (C) through (G) without change to 402.08 (D) through (H).

[10] *See* letter from Dorothy M. Donohue, Assistant Counsel, Investment Company Institute, to Jonathan G. Katz, Secretary, SEC, dated March 5, 1996 ("Comment Letter").

[11] These provisions set forth conditions that must be satisfied before a member organization may vote auction rate preferred securities and, as originally proposed, required that at least 30% of the outstanding issue be voted by beneficial holders and that less than 10% of the issue voted against the proposal.

[13] Of course, where the beneficial shareholder actually does vote his or her shares, the proposed rules would prohibit the member firm from proportionally voting such shares.

[14] As to any proposal that requires the common and preferred holders to vote as a single class, the above provisions, if read in combination, could be understood as conditioning the member firm's right to vote on the requirement that less than 10% of the outstanding shares of such combined class not vote against the proposal. The Exchange has informed the Commission, however, that it would interpret the 10% threshold as applying only to the outstanding preferred shares such that a member would not be prohibited from voting if 10% or more of the outstanding shares of a combined class of common and preferred voted against the proposal so long as less than 10% of the preferred shares did not vote against the proposal. The Exchange has further represented that it intends to notify its members of this interpretation though an Interpretation Memo. Telephone conversation between John Longobardi, Managing Director, NYSE, and Glen Barrentine, SEC, dated March 21, 1996.

[15] 15 U.S.C. 78s(b)(2).

[16] 17 CFR 200.30–3(a)(12).

[Release No. 34–37016; International Series Release No. 956; File No. SR–NYSE–96–04]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change by the New York Stock Exchange, Inc. Relating to an Amendment of NYSE

March 22, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on March 11, 1996, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the NYSE. The Commission is approving the proposal on an accelerated basis, in addition to publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of an amendment to NYSE Rule 104 to facilitate trading in Investment Company Units ("Units"),[2] including CountryBaskets.[3]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specificed in Item IV below. The self-regualtory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Exchange proposes to amend its Rule 104 to facilitate specialist market

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] NYSE Listed Company Manual Section 703.16 defines a Unit as a security that represents an interest in a registered investment company that could be organized as a unit investment trust, an open-end management investment company, or a similar entity.

[3] "CountryBasket," "CountryBaskets" and "CB" are trademarks of Deutsche Bank Securities Corporation).

making in Units, including CountryBaskets. Trading in CountryBaskets is expected to begin on March 25, 1996.[4]

Currently, Rule 104 requires that specialists obtain the approval of an Exchange Floor Official when effecting a destabilizing transaction on a direct plus or direct minus tick. The Exchange proposes to amend Rule 104 by adding new Supplementary Material .10(7) to provide that the requirement to obtain Floor Official approval for transactions on a direct plus tick or a direct minus tick for a specialist's own account contained in Rule 104 Supplementary Material .10(5)(i)(A), (B), (C) and (6)(i)(A) will not apply to transactions that are effected for the purpose of bringing the price of a Unit into parity with the value of the portfolio on which it is based, or the net asset value of the Unit.

Direct destabilizing transactions that are leading, rather than following, the underlying component portfolio would continue to require Floor Official approval. Specialists would remain subject to all other requirements of Rule 104 with respect to their affirmative and negative obligations to maintain a fair and orderly market.

The Exchange believes that its proposal is consistent with the Act in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The NYSE has requested that the proposed rule change be given accelerated effectiveness pursuant to Section 19(b)(2) of the Act because trading in CountryBaskets is expected to begin on March 25, 1996. The Exchange believes that approval of the proposal should enhance the ability of specialists to make markets in such securities.

(B) Self-Regulatory Organization's Statement on Burdeon on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[4] CountryBasket securities represent an interest in a registered investment company that will hold securities that are component stocks of nine different indices. The nine CountryBaskets are Australia, France, Germany, Hong Kong, Italy, Japan, South Africa, the United Kingdom and the United States.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments on the proposed rule change were neither solicited or received.

III. Findings and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5)[5] that the rules of an exchange be designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts, and, in general, protect investors and the public interest.

The Commission believes that the Exchange's proposal to add Supplemental Material .10(7) to its Rule 104 to facilitate specialist market making in Units, including CountryBaskets, is consistent with the Act. The Exchange's proposal is limited to "parity" transactions on direct destabilizing ticks to bring Units, including CountryBaskets, into line with the value of their corresponding underlying component portfolio. Moreover, the only change being effected by the proposals is that such transactions would not require the Floor Official approval currently mandated by Rule 104. As discussed below, such transactions must still comply with all of the other requirements of NYSE Rule 104.

The Commission believes that it is appropriate to allow such transactions without Floor Official approval, given that the derivatives nature of Units in effect renders them equity securities that have a pricing and trading relationship linked to the portfolio upon which they are based. Hence, upon change in the underlying portfolio, a Units specialist may determine that it needs to engage in a "parity" transactions to bring Units into line with the value of the corresponding underlying portfolio. The requirement to secure Floor Official approval could delay the specialist from effecting such transactions, during which time the value of the portfolio could continue to move. The Commission believes, therefore, that it is reasonable for the Exchange to remove the need for Floor Official approval to address this situation. Direct destabilizing transactions that are leading, rather than following,the underlying portfolio would continue to require Floor Official approval.

The Commission notes that the Exchange's proposal does not relieve Units specialists from the general requirement of NYSE Rule 104 that they effect transactions that are reasonably necessary for them to maintain a fair and orderly market in Units. Units specialists also will remain subject to the specific obligations imp;imposed on them by rule 104. Thus, consistent wit the maintenance of a fair and orderly market, transactions for a specialists own account should be such that they maintain rice continuity with reasonable depth,and minimize the effects of temporary disparities between supply and demand.[6] Similarly, a specialist's quotation made for transactions on his own account should bear a proper relation to preceding transactions and anticipated succeeding transactions.[7] Finally, Unit specialist transactions will be subject to the Exchange's rules governing the auction market principles of priority. Parity, and precedence of orders.[8]

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. As discussed above, the Exchange's proposal is narrowly circumscribed to address certain situations that may arise in connection with specialist market making in Units, specifically CountryBaskets. Moreover, accelerated approval will allow specialists to avail themselves of the proposed provision from the inception of trading, expected to be March 25, 1996. Accordingly, the Commission believes that it is consistent with Section 6(b)(5) and 19(b)(2) of the Act to approve the proposed rule change on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR–NYSE–96–04 and should be submitted by April 19, 1996.

[5] 15 U.S.C. 78f(b)(5) (1988).

[6] NYSE Rule 104, Supplementary material .10 (1)–(3).

[7] NYSE Rule 104, Supplementary Material .10(4).

[8] NYSE Rule 72.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change (SR–NYSE–96–04) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Jonathan G. Katz,

Secretary.

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[9] 15 U.S.C. 78s(b)(2) (1988).

[10] 17 CFR 200.30–3(a)(12) (1993).

[Release No. 34–37005; File No. SR–Phlx–95–69]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving and Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to the Bid Test Exemption

March 21, 1996.

I. Introduction

On January 2, 1996, the Philadelphia Stock Exchange, Inc. "Phlx" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposal to extend its market maker bid test exemption. The proposed rule change was published for comment in the **Federal Register** on February 7, 1996.[3] On March 20, 1996, the Phlx filed Amendment No. 1 to its proposal.[4] No comments were received on the proposed rule change. This order approves the proposal.

II. Description of the Proposal

The Phlx proposes to amend its Rule 1072, Reporting Requirements Applicable to Short Sales in NASD/NM Securities, which establishes specific criteria exempting Phlx specialists and Registered Option Traders ("ROTs") from the National Association of Securities Dealers, Inc. ("NASD") "bid test" applicable to Nasdaq National Market ("NM") securities.[5] Specifically, the Phlx proposes to extend its market maker exemption to: (1) permit a ROT to facilitate an off-floor options or combination order hedged contemporaneously with a short sale in a designated NM security, with prior Floor Official approval and the filing of a written report; and (2) allow the exemption to apply to a company that is involved in a publicly announced merger or acquisition ("M&A") with an NM security. The Exchange has represented that its proposed exemptions are similar to rule provisions of other options exchanges.[6]

In 1994, the NASD adopted a bid test rule applicable to NM securities traded through Nasdaq prohibiting short sales of NM securities at or below the current inside bid when that bid is below the previous inside bid.[7] An exemption from this rule exists for option market makers hedging positions with the underlying securites of that option; qualifying short sales are referred to as "exempt hedge transactions." Pursuant to this market maker exemption, the Phlx adopted Rule 1072 establishing specific criteria for a short sale to qualify as an "exempt hedge transaction" in "designated" NM issues.[8] Generally, option specialists may designate as exempt short sales in NM securites underlying their specialist equity options, and index options if at least 10% of the value of the index is comprised of NM securites. A ROT only may designate as exempt short sales in NM securites underlying no more than 20 of the options or index options to which the ROT has been assignod.

Facilitating Orders

Proposed Phlx Rule 1072(c)(2)(ii)(A) would permit a ROT to facilitate an off-floor options order and contemporaneously hedge the resulting option position with a short sale in applicable NM securites as if such securities were designated securities pursuant to the Rule.[9] To ensure that the transaction qualifies for the proposed provision, a ROT must file a written report with the Market Surveillance Department of the Exchange, indicating Floor Official approval. Such ROT also must retain a copy of the report to demonstrate that the transaction was bid test exempt.

M&A Transactions

Proposed Phlx Rule 1072(c)(2)(ii)(B) would extend the bid test exemption to include a short sale in an M&A security effected by a qualified Exchange options market maker to hedge, and which in fact serves to hedge, an existing or prospective position in an Exchange-listed option overlying a designated NM security of another company that is a party to the M&A.[10] The M&A exemption only would be available to securities involved in an M&A that is publicly announced.

As applied to the Phlx specialist, the proposed exemption would apply to short sales of a company that is party to an M&A with a company whose NM security underlies a specialty stock option (or qualified index option). As applied to a Phlx ROT, the exemption would extend to a company that is party to an M&A with a company whose NM security underlies an option designated by such ROT.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] *See* Securities Exchange Act Release No. 36785 (January 29, 1996), 61 FR 4697.

[4] In Amendment No. 1, the Phlx clarifies that proposed Phlx Rule 1072(c)(ii)(2) applies only to option orders that do not have a stock component. Letter from Gerald D. O'Connell, First Vice President, Market Regulation and Trading Operations, Phlx, to Michael Walinskas, Branch Chief, Office of Market Supervision, Division of Market Regulation, Commission, dated March 20, 1996 ("Amendment No. 1").

[5] "Bid test" or "short sale" rule.

[6] Respecting facilitation orders, *see* Securities Exchange Act Release No. 35281 (January 26, 1995), 60 FR 6575 (Chicago Board Options Exchange ("CBOE")); and respecting M&A securities, *see* Securities Exchange Act Release Nos. 35211 (January 10, 1995), 60 FR 3867 (American Stock Exchange ("Amex")), CBOE, and Pacific Stock Exchange ("PSE") as well as 36019 (July 24, 1995), 60 FR 39035 (New York Stock Exchange ("NYSE")).

[7] Securities Exchange Act Release No. 34277 (June 6, 1994), 59 FR 34885 (granting temporary approval). NASD Rules of Fair Practice, Art. III, Section 46.

[8] Securities Exchange Act Release No. 34032 (September 2, 1994), 59 FR 46999. In general, an "exempt hedge transaction" is a short sale in an NM security that is effected to hedge, and in fact serves to hedge, an existing offsetting options position or an offsetting options position that was created in one or more transactions contemporaneous with the short sale. Phlx Rule 1072(c)(2)(i).

The other options exchanges adopted rules similar to Phlx Rule 1072. *See* CBOE Rule 15.10, NYSE Rule 759A, Amex Rule 957, and PSE Rule 4.19. Securities Exchange Act Release No. 34632.

[9] The exemption would apply to option-only orders. Thus, the exemption would not apply to combination orders that contain a stock component. Amendment No. 1, *supra* note 4.

[10] M&A securities are securities of a company that is a party or prospective party to a publicly announced merger or acquisition with an issuer of an NM security that underlies an Exchange listed option.

requirements of Section 6(b)(5)[11] that the rules of an exchange be designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts, and, in general, protect investors and the public interest. The Commission approved the NASD's short sale rule proposal on June 29, 1994,[12] and in so doing stated that the short sale rule, together with the market maker exemption, is a reasonable approach to regulating short sales of Nasdaq/NM securities. The Commission believes that the Exchange's proposal is consistent with the NASD's bid test rule and addresses the limitations established by the NASD concerning the applicability of the market maker exemption.

Proposed Phlx Rule 1072(c)(2)(ii)(A) will allow a ROT, with prior Floor Official approval, to facilitate an off-floor options order, and contemporaneously hedge the resulting options position with a short sale in an applicable Nasdaq/NM security as if such security were a designated Nasdaq/NM security. The exemption would not apply to orders that contain a stock component.[13] The ROT must file a report describing the transaction with the Exchange's Market Surveillance Department and must retain a copy of the report to demonstrate the transaction was bid test exempt. The Commission believes that this provision is consistent with the NASD's interpretation regarding hedging activities associated with the facilitation of customer transactions in options and that the procedures for reporting a transaction under the provision will ensure adequate monitoring.[14]

Proposed Phlx Rule 1072(c)(2)(ii)(B) would extend the market maker exemption to the stock of a company that is involved in a publicly announced M&A with a company whose stock is a designated Nasdaq/NM security. The Commission believes that when a designated Nasdaq/NM security becomes involved in an M&A, options specialists and ROTs may need to hedge positions in options overlying the designated Nasdaq/NM security by buying or selling the securities of the other company involved in the M&A, whether or not the other company's stock has listed overlying options. Indeed, where there are no options on the other company's stock, buying or selling that company's stock at times may be the only feasible way for an options specialist or ROT to hedge positions in options on the designated Nasdaq/NM security, given the risk arbitrage relationship that is likely to exist between the two stocks. Therefore, the Commission believes that by allowing options specialists and ROTs to sell short, for hedging purposes, shares of a company that is involved in an M&A with a company whose stock is a designated Nasdaq/NM security, and to designate such sales as bid test exempt, the Exchange's proposal will enhance the ability of its specialists and ROTs to perform their functions, thereby contributing to the liquidity of the market for options, as well as to the liquidity of the market for the stocks of both companies.

The Commission notes that the proposed extension of the market maker exemption from the short sale rule is limited to publicly announced M&As. Moreover, options specialists and ROTs may avail themselves of the M&A extension to the exemption only when the short sales are made to hedge existing or prospective positions in options on a security of another company involved in the M&A, the options positions are or will be in a class of options for which the options specialist or ROT is registered, and the short sales are or will be "exempt hedge transactions" as defined in the Exchange's rules.

The Commission finds good cause for approving Amendment No. 1 prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Amendment No. 1 clarifies that the Exchange's proposed exemption for facilitating off-floor options orders does not extend to orders with a stock component. The Commission believes that this change does not raise new or unique regulatory issues, as it is consistent with a similar provision previously approved by the Commission.[15] Therefore, the Commission believes it is consistent with Sections 6(b)(5) and 19(b)(2) of the Act[16] to approve Amendment No. 1 to the proposal on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–Phlx–95–69 and should be submitted by April 19, 1996.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[17] that the proposed rule change (SR–Phx–95–69), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Jonathan G. Katz,

Secretary.

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BILLING CODE 8010–01–M

[11] 15 U.S.C. 78f(b)(5) (1988).

[12] Securities Exchange Act Release No. 34277, *supra* note 7.

[13] Amendment No. 1, *supra* note 4.

[14] *See* letter from Richard G. Ketchum, Chief Operating Officer and Executive Vice President, NASD, to David A. Dami, First Vice President & Associate General Counsel, Global Derivatives, Paine Webber, Inc., dated September 13, 1994.

[15] *See* Securities Exchange Act Release No. 35281, *Supra* note 6.

[16] 15 U.S.C. § § 78f(b)(5) and 78s(b)(2) (1988).

[17] 15 U.S.C. 78s(b)(2) (1988).

[18] 17 CFR 200.30–3(a)(12) (1993).

[Release No. 34–37004; File No. SR–Phlx–95–79]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to the Bid Test Exemption

March 21, 1996.

I. Introduction

On January 2, 1996, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposal to extend its market maker bid test exemption. The proposed rule change was published for comment in the **Federal Register** on February 7, 1996.[3] No comments were received on the proposed rule change. This order approves the proposal.

II. Description of the Proposal

The Phlx proposes to amend its Rule 1072, Reporting Requirements Applicable to Short Sales in NASD/NM Securities, to permit affiliated Registered Option Traders ("ROTs") to trade for each other's accounts pursuant to the market maker exemption contained therein. Rule 1072 establishes specific criteria exempting Phlx specialists and ROTs from the National Association of Securities Dealers, Inc.'s ("NASD") "bid test" applicable to Nasdaq/National Market ("NM") securities.[4]

In 1994, the NASD adopted a bid test rule applicable to NM securities traded through Nasdaq prohibiting short sales of NM securities at or below the current inside bid when that bid is below the previous inside bid.[5] An exemption from this rule exists for option market makers hedging positions with the underlying securities of that option; qualifying short sales are referred to as "exempt hedge transactions." Pursuant to this market maker exemption, the Phlx adopted Rule 1072 establishing specific criteria for a short sale to qualify as an "exempt hedge transaction" in "designated" NM issues.[6] Generally, option specialists may designate as exempt short sales in NM securities underlying their specialist equity options, and index options if at least 10% of the value of the index is comprised of NM securities. A ROT only may designate as exempt short sales in NM securities underlying no more than 20 of the options or index options to which the ROT has been assigned.

Proposed Phlx Rule 1072(c)(2)(iii)(A) would allow a ROT to effect bid test exempt short sales in a Nasdaq/NM security which that ROT has not designated as qualifying for the exemption, provided that the security is a designated Nasdaq/NM security of another ROT of the same member organization, and further provided that such other ROT is not also present or represented by a Floor Broker in the same trading crowd at the time of the bid test exempt sale. The Exchange notes that this amendment is similar to a CBOE provision that permits nominees of a market maker organization to qualify for the exemption.[7]

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5)[8] that the rules of an exchange be designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts, and, in general, protect investors and the public interest. The Commission approved the NASD's short sale rule on June 29, 1994,[9] and in so doing stated that the short sale rule, together with the market maker exemption, is a reasonable approach to regulating short sales of Nasdaq/NM securities. The Commission believes that the Exchange's proposal is consistent with the NASD's bid test rule and addresses the limitations established by the NASD concerning the applicability of the market maker exemption.

Proposed Phlx Rule 1072(c)(2)(iii)(A) will give a member organization more flexibility to manage its market making obligations by allowing a ROT of such organization to effect short sales of securities as bid test exempt even though the ROT has not designated such securities as bid test exemption eligible, Provided that the securities have been designated bid test exempt eligible by another nominee of the same member organization, and further provided that the bid test exempt eligible ROT is not present on the trading floor. The Commission believes this is a reasonable provision designed to address instances where a ROT is absent from the trading floor due to illness, or personal or other business. The Commission further believes that this provision is consistent with the intent of the market maker exemption to the short sale rule, in that the exemption continues to be limited to those Nasdaq/NM securities which are used to hedge options transactions in the primary classes in which the member organization makes markets.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (SR–Phlx–95–79) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Jonathan G. Katz,

Secretary.

[FR Doc. 96–7702 Filed 3–28–96; 8:45 am]

BILLING CODE 8010–01–M

[1] "Bid test" or "short sale" rule.

[2] Securities Exchange Act Release No. 34277 (June 6, 1994), 59 FR 34885 (granting temporary approval). NASD Rules of Fair Practice, Art. III, Section 48.

[3] Securities Exchange Act Release No. 34632 (September 2, 1994), 59 FR 46999. In general, an "exempt hedge transaction" is a short sale in an NM security that is effected to hedge, and in fact serves to hedge, an existing offsetting options position or an offsetting options position that was created in one or more transactions contemporaneous with the short sale. Phlx Rule 1072(c)(2)(i). The other options exchanges adopted rules similar to Phlx Rule 1072. *See* CBOE Rule 15.10, NYSE Rule 759A, Amex Rule 957, and PSE Rule 4.19. Securities Exchange Act Release No. 34632.

[4] Securities Exchange Act Release No. 35281 (January 26, 1995), 60 FR 6575.

[5] 15 U.S.C. 78f(b)(5) (1988).

[6] Securities Exchange Act Release No. 34277, *supra* note 5.

[7] 15 U.S.C. 78s(b)(2) (1988).

[8] 17 CFR 200.30-3(a)(12) (1993).

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Collection Request

Normally on Fridays, the Social Security Administration publishes a list of information collection packages that will require submission to the Office of Management and Budget (OMB) for clearance in compliance with Pub. L. 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995. Since the last list was published in the **Federal Register** on March 15, 1996, the information collections listed below have been proposed or will require extension of the current OMB approvals:

(Call the SSA Reports Clearance Officer on (410) 965–4142 for a copy of the form(s) or package(s), or write to her at the address listed below the information collections)

1. Application for a Social Security Card—0960–0066. The information collected on form SS–5 is used by the Social Security Administration to assign Social Security Numbers so that individuals may obtain employment, report earnings, open bank accounts, pay taxes, apply for benefits and for other purposes. The affected public consists of individuals who apply for Social Security Numbers.

Number of Respondents: 20,000,000.

Frequency of Response: 1.

Average Burden Per Response: 8 minute.

Estimated Annual Burden: 2,666,667 hours.

2. Statement Regarding Date of Birth and Citizenship—0960–0016. The information collected on form SSA–702 is used by the Social Security Administration in conjunction with other evidence to establish a claimant's age or citizenship when better proofs are not available. The affected public consists of individuals who have

[10] 15 U.S.C. 78s(b)(2) (1988).

[11] 17 CFR 200.30-3(a)(12) (1993).

knowledge of the birth and citizenship of an applicant.

Number of Respondents: 18,000.
Frequency of Response: 1.
Average Burden Per Response: 10 minutes.
Estimated Annual Burden: 3,000.

3. Application for Mother's or Father's Insurance Benefits—0960–0003. The information collected on form SSA–5 is used by the Social Security Administration to determine an applicant's eligibility to mother's or father's insurance benefits. The affected public comprises individuals who wish to file an application for such benefits.

Number of Respondents: 180,000.
Frequency of Response: 1.
Average Burden Per Response: 15 minutes.
Estimated Annual Burden: 45,000 hours.

4. Marriage Certification—0960–0009. The information collected on form SSA–3 is needed to provide evidence of an alleged marriage. Social Security uses the information to update records of marital status of an individual. The affected public comprises persons who apply for Social Security benefits and allege a current marriage.

Number of Respondents: 20,000.
Frequency of Response: 1.
Average Burden Per Response: 5 minutes.
Estimated Annual Burden: 16,667 hours.

5. Report on Individual with Childhood Impairment—0960–0084. The information collected by SSA–1323 is used to determine the dates and results of psychometric testing and how the impairment affects the individual's progress in school. The affected public comprises public and private school officials and agencies which provide medical treatment to the applicant or claimant for benefits.

Number of Respondents: 7,000.
Average Burden Per Response: 20 minutes.
Estimated Annual Burden: 2,333.

6. Report on Individual with Mental Impairment—0960–0058. The information collected on form SSA–824 is used to determine a claimant's physical and mental status prior to making a disability determination. The affected public consists of treating physicians, medical directors, medical record libraries, and other health professionals.

Number of Respondents: 50,000.
Average Burden Per Response: 36 minutes.
Estimated Annual Burden: 30,000.

7. Claimant's Recent Medical Treatment—0960–0292. The information collected on form HA–4631 is used by the Social Security Administration to provide an updated medical history for a disability claimant who requests a hearing. The respondents are claimants for disability benefits who have requested a hearing and do not have updated medical evidence in file.

Number of Respondents: 211,006.
Frequency of Response: 1.
Average Burden Per Response: 10 minutes.
Estimated Annual Burden: 35,168.

8. Request for Review of Hearing Decision/Order—0960–0277. The information collected on form HA–520 is needed in order to afford claimants their statutory right under the Social Security Act to request review of a hearing decision. The data will be used to determine the course of action appropriate to resolve each issue. The affected public are claimants denied or dissatisfied with a decision made regarding their claim.

Number of Respondents: 87,632.
Frequency of Response: 1.
Average Burden Per Response: 10 minutes.
Estimated Annual Burden: 14,605.

9. Claimant's Work Background—0960–0300. The information collected on form HA–4633 is used by the Social Security Administration in cases in which claimants for disability benefits have requested a hearing on the decision regarding their claim. A completed form provides an updated summary of a claimant's past relevant work and helps the Administrative Law Judge to better decide whether or not the claimant is disabled. The respondents are claimants who have requested a hearing and whose relevant work background is not in file.

Number of Respondents: 200,958.
Frequency of Response: 1.
Average Burden Per Response: 15 minutes.
Estimated Annual Burden: 50,240.

10. Medical Use Report, 20 CFR 416.268–0960–0552. The information required by this regulation is used by the Social Security Administration to determine if an individual is entitled to special Supplemental Security Income (SSI) payments. The respondents are SSI recipients whose payments were stopped based on earnings.

Number of Respondents: 25,000.
Frequency of Response: 1.
Average Burden Per Response: 3 minutes.
Estimated Annual Burden: 1,250.

Written comments and recommendations regarding these information collections should be sent within 60 days from the date of this publication, directly to the SSA Reports Clearance Officer at the following address: Social Security Administration, DCFAM, Attn: Charlotte S. Whitenight, 6401 Security Blvd., 1–A–21 Operations Bldg., Baltimore, MD 21235.

In addition to your comments on the accuracy of the agency's burden estimate, we are soliciting comments on the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

Dated: March 21, 1996.

Charlotte Whitenight,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 96–7376 Filed 3–28–96; 8:45 am]

BILLING CODE 4190–29–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Intent To Prepare Environmental Impact Statement, Ft. Lauderdale-Hollywood International Airport, Ft. Lauderdale, FL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Intent.

SUMMARY: The Federal Aviation Administration (FAA) is issuing this notice to advertise to the public that an Environmental Impact Statement (EIS) will be prepared and considered for the proposed extension of Runway 9R–27L to 9,000 feet and widening to 150 feet at Ft. Lauderdale-Hollywood International Airport.

FOR FURTHER INFORMATION CONTACT: Mr. Bart Vernace, Federal Aviation Administration, Orlando Airports district Office, 9677 tradeport Drive, Suite 130, Orlando, Florida 32827–5397, (407) 648–6583, extension 27.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA, in cooperation with Broward County, Florida, will prepare an Environmental Impact Statement (EIS) for a proposed project to lengthen and widen Runway 9R–27L at the Ft. Lauderdale-Hollywood International Airport (FLL) to 9,000 feet x 150 feet for air carrier aircraft use. The existing runway (5,276 feet x 100 feet) accommodates general aviation and commuter aircraft, but the Airport Master Plan (AMP) accepted on April 19, 1995, indicated that significant future airfield congestion and aircraft delay could be anticipated without some modification to the existing airfield facilities.

Extension of the existing parallel and connecting taxiways is also proposed. The proposed project would entail construction activity on airport property (i.e., site preparation, drainage, paving, marking, lighting, fencing, NAVAIDS, obstruction clearing, environmental mitigation, and other associated work required for the runway extension).

The extended runway is planned as a precision instrument runway (PIR) with a CAT I approach to both Runway 27L and Runway 9R. The runway will have approach slopes of 50:1 to Runway 27L and 50:1 to Runway 9R with a primary surface width of 1,000 feet.

The EIS will include evaluation of a no-build alternative and other reasonable alternatives that may be identified during the agency and public scoping meetings. The proposed runway extension would provide sufficient airfield capacity and flexibility at FLL to accommodate expected aircraft demand through the year 2012. The increased capacity provided by the proposed project would result in a significant decrease in average aircraft delay times from the projected no-build conditions.

Increased use of the extended runway by air carrier aircraft will result in changes in runway use. The EIS will determine any noise impacts associated with changes in runway use. In addition to noise impacts, the EIS will determine any impacts on air and water quality, wetlands, ecological resources, floodplains, historic resources, hazardous wastes, coastal zone management, socioeconomics and economic factors.

PUBLIC SCOPING: To ensure that the full range of issues related to the proposed project are addressed and that all significant issues are identified, comments and suggestions are invited from all interested parties. An agency scoping meeting and a general public scoping meeting to identify significant issues will be held on May 1, 1996, in Ft. Lauderdale, Florida.

The agency scoping meeting will be held at 10:00 a.m. at Terminal 2 Conference Room, Fort Lauderdale-Hollywood International Airport, 200 Terminal Drive, Fort Lauderdale, Florida 33315. The Public scoping meeting will be conducted between 6:00 p.m. and 8:00 p.m. at Saint Jerome Activity Center, 2601 Southwest 9th Avenue, Fort Lauderdale, Florida 33315.

Written comments may be mailed to the Informational contact listed above within 30 days following the scoping meeting.

Questions may be directed to the individual names above under the heading, **FOR FURTHER INFORMATION CONTACT:**

Issued in Orlando, Florida, March 22, 1996.

Charles E. Blair, Manager,

Orlando Airports District Office.

[FR Doc. 96–7762 Filed 3–28–96; 8:45 am]

BILLING CODE 4910–13–M

[Summary Notice No. PE–96–14]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of the FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before April 18, 1996.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address: nprmcmts@mail.hq.faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. D. Michael Smith, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7470.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 28439.
Petitioner: USA Jet Airlines, Inc.
Sections of the FAR Affected: 14 CFR 121.139(a)
Description of Relief Sought: To permit USA Jet Airlines, Inc., (USA Jet) to carry facsimile machines abroad its aircraft in lieu of appropriate parts of its maintenance manual. These facsimile machines would enable USA Jet employees to receive aircraft maintenance technical data via facsimile from Maintenance Control, which is located at the air carrier's main base, when the aircraft is away from that base.

Docket No.: 28485.
Petitioner: Polar Air Cargo.
Sections of the FAR Affected: 14 CFR 121.583(a)(8).
Description of Relief Sought: To permit Polar Cargo to transport employee dependents to any destination without complying with certain passenger-carrying requirements of part 121, without the dependent being accompanied by an employee, and without regard as to whether the employee is traveling on company business.

Dispositions of Petitions

Docket No.: 127CE.
Petitioner: Beech Aircraft Corporation.
Sections of the FAR Affected: 14 CFR 23.807(d)(1)(i).
Description of Relief Sought/Disposition: To permit type certification of the Beech Model B300 and B300C airplanes with one emergency exit in the cabin opposite the main entrance door, which will not comply with § 23.807(d)(1)(i). The Beech Model B300 and B300C are twin turbopropeller engine, fifteen passenger airplanes, certificated in the commuter category. *GRANT, March 5, 1996, Exemption No. 6405.*

Docket No.: 13199.
Petitioner: American Airlines.
Sections of the FAR Affected: 14 CFR 61.55(b)(2); 61.56(c)(1); 61.57 (c) and (d); 61.63 (c)(2) and (d)(2) and (3); 61.65 (c), (e)(2) and (3), and (g); 61.67(d)(2); 61.157 (d)(1) and (2) and (e)(1) and (2); 61.191(c); and appendix A, part 61.
Description of Relief Sought/Disposition: To extend Exemption No. 4652, as amended, which permits American Airlines to use FAA-approved simulators to meet certain flight

experience requirements of part 61. *GRANT, February 27, 1996, Exemption No. 4652E.*

Docket No.: 23921.
Petitioner: FlightSafety International.
Sections of the FAR Affected: 14 CFR 61.55(b)(2); 61.56(c)(1); 61.57 (c) and (d); 61.58 (c)(1) and (d); 61.63 (c)(2) and (d)(2) and (3); 61.65 (c), (e)(2) and (3), and (g); 61.67(d)(2); 61.157 (d)(1) and (2) and (e)(1) and (2); 61.191(c); and appendix A, part 61.
Description of Relief Sought/ Disposition: To extend Exemption No. 5317, as amended, which permits FlightSafety International to use FAA-approved simulators to meet certain flight experience requirements of part 61. *GRANT, February 27, 1996, Exemption No. 5317E.*

Docket No.: 25483.
Petitioner: Air Transport Association of America.
*Sections of the FAR Affected:*14 CFR part 43, 45.11 (a) and (d), and 91.417(d).
Description of Relief Sought/ Disposition: To extend Exemption No. 4902, as amended, which allows all aircraft operating under parts 121 and 127 and all aircraft operating in commuter air carrier operations (as defined in part 135 and SFAR 38–4) under an FAA-approved continuous airworthiness maintenance program, to be operated without complying with the requirements pertaining to (1) the location of aircraft identification plates and (2) the carriage of FAA Form 337 as evidence of installation approval for fuel tank installation in the passenger or baggage compartment. *GRANT, February 28, 1996, Exemption No. 4902E.*

Docket No.: 25940.
Petitioner: Air Transportation.
Sections of the FAR Affected: 14 CFR 43.3(g).
Description of Relief Sought/ Disposition: To extend and amend Exemption No. 5149, as amended, which permits Mr. Charles N. Saulisberry, as pilot and owner of Air Transportation, to remove and reinstall the passenger seats in your Cessna 182–C aircraft, which is used in operations conducted under part 135. The amendment shows the replacement of the Cessna 182–C with a Cessna 182–Q. *GRANT, February 28, 1996, Exemption No. 5149C.*

Docket No.: 28374.
Petitioner: Gulf Air Taxi, Inc.
Sections of the FAR Affected: 14 CFR 43.3(g).
Description of Relief Sought/ Disposition: To permit appropriately trained pilots employed by Gulf Air Taxi, Inc., (Gulf Air) to remove and reinstall the passenger seats in its aircraft that are type certificated for nine of fewer passenger seats and used in operations conducted by Gulf Air under part 135. *GRANT, March 1, 1996, Exemption No. 6404.*

Docket No.: 28428.
Petitioner: Mr. Nellis C. Dye.
Sections of the FAR Affected: 14 CFR 121.383(c).
Description of Relief Sought/ Disposition: To permit Mr. Nellis to act as a pilot in operations conducted under part 121 after reaching his 60th birthday. *DENIAL, February 27, 1996, Exemption No. 6403.*

Docket No.: 28433.
Petitioner: Premair Airlines, Inc.
Sections of the FAR Affected: 14 CFR 119.2(b).
Description of Relief Sought/ Disposition: To permit Premair Airlines, Inc., (PAI) to complete its initial certification process and be issued an air carrier certificate and operations specifications that would permit PAI to conduct its operations in accordance with part 135 rather than in accordance with part 121. *DENIAL, February 27, 1996, Exemption No. 6402.*

[FR Doc. 96–7766 Filed 3–28–96; 8:45 am]
BILLING CODE 4910–13–M

RTCA, Inc., Special Committee 185; Aeronautical Spectrum Planning Issues

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 185 meeting to be held on April 16–18, starting at 9:00 a.m. The meeting will be held at RTCA, 1140 Connecticut Avenue NW., Suite 1020, Washington, DC 20036.

The agenda will be as follows: (1) Administrative Remarks; (2) Introductions; (3) Approval of the Agenda; (4) Review and Approval of the Summary of the Previous Meeting; (5) Review Draft Version 7 of SC–185 Report; (6) Develop Conclusions and Recommendations; (7) Other Business; (8) Date and Place of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, N.W., Suite 1020, Washington, DC 20036; (202) 833–9339 (phone) or (202)–833–9434 (fax). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on March 25, 1996.

Janice L. Peters,
Designated Official.
[FR Doc. 96–7760 Filed 3–28–96; 8:45 am]
BILLING CODE 4910–13–M

RTCA, Inc., Special Committee 182; Minimum Operational Performance Standards (MOPS) for an Avionics Computer Resource (ACR)

Pursuant to section 10(a)(2) of the Federal Advisory Committee (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for Special Committee 182 meeting to be held April 17–19, 1996, starting at 9:00 a.m. The meeting will be held at RTCA, Inc., 1140 Connecticut Avenue, N.W., Suite 1020, Washington, DC, 20036.

The agenda will include: (1) Chairman's Introductory Remarks; (2) Review and Approval of Meeting Agenda; (3) Review and Approval of Minutes from the Previous Meeting; (4) MOPS Draft 0.2: Section 2.1.2, General Requirements, Intended Functions (Characteristics of Relocatable Object Code; Characteristics of Aircraft Interface; Characteristics of Portable Application Software); (5) MOPS Draft 0.2, Section 3.2, Installed Equipment Performance Requirements (Considerations for Initial Appliance Approval; Considerations for Subsequent Approvals); (6) Update Glossary (Confirm January Definitions; Hierarchy Definition of Failure, Fault, and Error); (7) Propose DO–178B Objectives Satisfied Independent of Target; (8) Other Business; (9) Date and Place of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting.

Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue NW., Suite 1020, Washington, D.C. 20036; (202) 833–9339 (phone) or (202) 833–9434 (fax). Members of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on March 25, 1996.

Janice L. Peters,
Designated Official.
[FR Doc. 96–7761 Filed 3–28–96; 8:45 am]
BILLING CODE 4910–13–M

Federal Highway Administration

[FHWA Docket No. MC–96–13]

Commercial Driver's License Program; Temporary Waiver For Trekking International Overland Expedition

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of petition; request for comments.

SUMMARY: The FHWA is requesting public comment on a petition submitted by Trekking International on January 24, 1996, for relief from the requirements of the commercial driver's license (CDL) regulations (49 CFR Part 383). The FHWA is considering whether it should grant a waiver from the CDL testing and licensing standards to drivers participating in the Overland Expedition. The Overland Expedition consists of four Iveco 330.30 ANW 6x6 trucks which are being driven from Rome, Italy, to New York City, by foreign licensed employees of the Petitioner. The requested waiver would be temporary, ending with the shipment of the four vehicles to Italy on or before June 1, 1996. The FHWA requests public comment on whether, if granted, the requested waiver would be contrary to the public interest or diminish the safe operation of commercial motor vehicles.

DATES: Comments must be received on or before April 8, 1996.

ADDRESSES: All signed, written comments should refer to the docket number that appears at the top of this document and should be submitted to the Federal Highway Administration, Room 4232, Office of Chief Counsel, HCC–10, 400 Seventh Street SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m., e.t., Monday through Friday, except Federal holidays. Commenters who want to be notified that the FHWA received their comments should include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Redmond, Office of Motor Carrier Research and Standards, (202) 366–4001, or Mr. Raymond W. Cuprill, Office of the Chief Counsel, HCC–20, (202) 366–0834, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

The Commercial Driver's License (CDL) regulations, issued pursuant to the Commercial Motor Vehicle Safety Act of 1986 (Title XII, Pub. L. 99–570, 100 Stat. 3207) (49 U.S.C. 31301 *et seq.*), are found at 49 CFR Part 383 (1995). Section 383.23 of the regulations sets forth the general rule that no person shall operate a commercial motor vehicle (CMV) unless such person: (1) has taken and passed a knowledge test and, if applicable, a driving test, which meets Federal standards, and (2) possesses a CDL, which is evidence of having passed the required tests. These Federal standards ensure that drivers of a CMV: (1) have a single driver's license and a single driving record, (2) are tested for the knowledge and skills needed to drive a vehicle representative of the vehicle that they will be licensed to drive, and (3) are disqualified from driving a CMV when convicted of certain criminal or traffic violations.

The term "commercial motor vehicle" is defined to include, a motor vehicle:

(1) With a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating (GVWR) of more than 10,000 pounds; or

(2) With a GVWR of 26,001 or more pounds; or

(3) Designed to transport 16 or more passengers, including the driver; or

(4) Used in the transportation of quantities of hazardous materials which require the vehicle to be placarded under the Hazardous Materials Transportation Regulations (49 CFR part 172, subpart F). 49 CFR 383.5 (1995).

CDL Waivers

Section 12012 of the Commercial Motor Vehicle Safety Act of 1985 (49 U.S.C. 31315) authorizes the Secretary of Transportation to waive any class of drivers or vehicles from any or all of the provisions of the Act or the implementing regulations if the Secretary determines that the waiver is not contrary to the public interest and does not diminish the safe operation of commercial motor vehicles. The regulatory procedures governing the issuance of waivers are found at 49 CFR 383.7 (1995).

The FHWA has granted a CDL waiver to military personnel operating military vehicles and has authorized the States to waive certain farmers, firefighters and operators of emergency equipment in implementing the CDL regulations. See 53 FR 37313, September 26, 1988. The agency also authorized the States to waive, at their option, employees of farm-related service industries (custom harvesters, retail outlets and suppliers, agri-chemical businesses, and livestock feeders) from the CDL knowledge and skill testing requirements, and issue these employees restricted CDLs for a seasonal period or periods not to exceed a total of 180 days in any 12-month period, subject to certain conditions. See 57 FR 13650, April 17, 1992. More recently, the FHWA authorized the States to, at their option, waive part-time drivers for the pyrotechnics industry from the CDL endorsement tests for hazardous materials, when the drivers are transporting less than 500 pounds of fireworks, classified as DOT Class 1.3G explosives, during the period from June 30 through July 6 of each year. See 60 FR 34188, June 30, 1995.

Petition

Trekking International of Milan, Italy, through its North American coordinator, Circumpolar Expeditions of Anchorage, Alaska, has petitioned the FHWA to grant a CDL waiver to drivers involved in the Overland Expedition. The goal of the Overland Expedition is to drive four (4) Iveco 330.30 ANW 6x6 trucks 15,000 miles from Rome, Italy, to New York City, New York, over land via the Russian Far East, the Bering Strait and Alaska, a feat never before accomplished. In addition to being the first trucks driven from Europe to North America, the Expedition will demonstrate the quality of Iveco trucks and serve to mark the 20th Anniversary of the Iveco Truck Division of the Fiat Group. The Expedition will be entering the United States shortly and will be operating the vehicles in North America through April of 1996. Once the Expedition is completed, the trucks will be shipped back to Italy. The Petitioner expects the vehicles to be shipped on or before June 1, 1996. None of these vehicles are being imported into the United States.

The Petitioner asserts that the requested waiver would be temporary and only be applicable to those foreign employees driving the four vehicles that are participating in the Expedition. These employees are professional operators of commercial motor vehicles licensed in Italy and have from 15 to 20 years of driving experience. The Petitioner has submitted a copy of the Roadway Code of Italy, Law No. 285 dated April 30, 1992, which provides the requirements applicable to these commercial operators. A copy of this law and a provided translated summary is available in the docket for examination by the public. The following Italian licensed commercial

drivers will be participating in the expedition:

Name	License No.	Issued	Classification
Gregorio Camevale	1300267	8/7/95	ABCDE.
Carlo Marocco	1291175	9/4/95	ABCDE.
Erhard Mayer	A26995	8/28/95	ABCDE.
Vicenzo Leone	1291174	9/11/95	ABCDE.
Emilio Altamore	1247556	9/4/95	ABCDE.
Francesco Miranda	1247557	9/4/95	ABCDE.

The Petitioner has agreed to comply with other applicable Federal Motor Carrier Safety Regulations (FMCSRs), including financial responsibility, vehicle marking, driver physical qualification, vehicle inspection and hours of service requirements.

Request for Public Comment and Proposed Waiver

The FHWA is requesting public comment as to whether the grant of the requested temporary waiver from the CDL requirements would be contrary to the public interest or would diminish the safe operation of CMVs. Commenters are invited to address whether the waivers should be subject to conditions, such as the following conditions being considered by the FHWA.

Waiver Conditions

(1) Drivers covered—the waiver would cover foreign drivers employed by the Petitioner, listed above, while participating in the Overland Expedition. The drivers would be required to hold a valid Italian commercial driver's license to operate the vehicles listed in condition #3.

(2) Duration—the waiver from the CDL requirements would only be valid through June 1, 1996.

(3) Vehicles—the waiver would be limited to the operation of the four vehicles participating in the Overland Expedition and identified with the following vehicle identification numbers and license plates:

a. WJMH3GMSM09015805 (plate no. A658095)
b. WJMH3GMSM09015766 (plate no. A658096)
c. WJMH3GMSM09015814 (plate no. A658097)
d. WJMH3GMSM09015669 (plate no. A658098)

(4) Compliance with FMCSRs—Drivers covered by the waiver would be required to comply with other applicable requirements of the Federal Motor Carrier Safety Regulations, including financial responsibility, vehicle marking, driver physical qualification, vehicle inspection and hours of service requirements.

Commenters are strongly encouraged to provide any facts or views pertaining to the requested waiver.

Authority: Title XII of Pub. L. 99–570, 100 Stat. 3207; 49 U.S.C. 31301 *et seq.*; 49 U.S.C. 31315; 49 CFR 1.48; 49 CFR 383.7; 23 U.S.C. 315.

Issued on: March 25, 1996.

Rodney E. Slater,

Federal Highway Administrator.

[FR Doc. 96–7759 Filed 3–28–96; 8:45 am]

BILLING CODE 4910–22–P

National Highway Traffic Safety Administration

[Docket No. 95–20; Notice 3]

Child Safety Seats; Agreement Between General Motors and U.S. Department of Transportation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice; Request for Certifications.

SUMMARY: This notice, the third of its kind, describes an agreement between General Motors (GM) and the U.S. Department of Transportation (DOT), under which GM has agreed to donate funds to one or more qualified national organizations for the purchase and distribution of child safety seats. Organizations that wish to receive such funds are required to certify in writing that they are qualified, in accordance with criteria established in the agreement. To qualify, organizations must demonstrate that they are national in scope, and they must submit a plan showing they are prepared to purchase and distribute child safety seats within 120 days of their receipt of the funds. They must also meet other requirements. Organizations are strongly encouraged to form partnerships and work collaboratively for the purpose of applying for funds. If organizations plan to work collaboratively, they should submit a single combined certification.

This notice requests that organizations submit certifications and it describes the criteria they must meet and the information they must submit with their certifications to be eligible to receive these funds. Similar notices were published in the **Federal Register** on March 31 and June 29, 1995. As a result of the March 31 notice, six organizations were determined by NHTSA to be qualified and were selected by GM to receive a total of $2 million for the purchase and distribution of child safety seats. As a result of the June 29 notice, six organizations were determined by NHTSA to be qualified and three were selected by GM to receive a total of $2 million for the purchase and distribution of child safety seats.

As a result of today's notice, one or more organizations will be determined by NHTSA to be qualified and will be selected by GM to receive additional donations for the purchase and distribution of child safety seats under the settlement agreement. It is expected that these organizations will receive a total of $2 million.

DATES: Certifications must be received no later than June 27, 1996.

ADDRESSES: Certifications should be submitted to: Office of Occupant Protection, NTS–11, Room 5118, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Ms. Cheryl Neverman, National Organizations Division, NTS–11, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone (202) 366–2683.

SUPPLEMENTARY INFORMATION:

DOT/GM Settlement Agreement

On December 2, 1994, Secretary of Transportation Federico Peña announced that DOT and GM had agreed in principle to a resolution of the investigation by the National Highway Traffic Safety Administration (NHTSA) into an alleged defect related to motor vehicle safety in certain 1970–1991 GM C/K pickup trucks. The terms of the resolution were finalized in a separate agreement that was executed between GM and DOT on March 7, 1995.

Under the terms of the agreement, GM agreed to provide funds over a period of five years to support highway safety research and programs that will prevent motor vehicle deaths and injuries.

In the area of child safety, GM agreed to donate $8,000,000 to qualified organizations for the purchase and distribution of child safety seats. The agreement provided that, of this amount, $4,000,000 will be donated during the first year after the date of the agreement (approximately $1,000,000 each quarter) and $4,000,000 will be donated over the next four years (at approximately the rate at which DOT expends funds for the development and support of child safety seat loaner and give-away programs during that period). The seats will be directed to underserved low income and special needs populations.

The agreement between GM and DOT provides:

> DOT shall identify, on an ongoing basis so as to facilitate timely GM donations, qualified organizations which DOT in its sole discretion deems appropriate to receive donations from GM for the purchase and distribution of child safety seats. GM, in its sole discretion, shall select from the list of qualified organizations provided by DOT, the organization(s) to which it will donate funds, and shall decide the exact amount of funds that each such organization will receive.

The agreement provides further that any organization that is interested in being identified as a "qualified organization" must certify to DOT in writing that it will meet a number of criteria set forth in the agreement.

NHTSA estimates that these funds will allow for the purchase and distribution of between 125,000 and 200,000 child safety seats for needy families which, in turn, will save at least 50 lives and prevent approximately 6,000 injuries.

Child Safety

There are approximately 25 million young children under the age of eight years old who need the protection of child safety seats. One-fourth of these children come from families that are below the poverty level.

As many as 3 million children in low-income families do not have access to adequate child safety seats. An additional 3 million children or more have access to child safety seats but, for a variety of reasons, are not being secured in these seats properly. Additionally, children with special transportation needs, such as children with disabilities, often require uniquely designed child safety seats that are too expensive for most families of low or average income to afford.

For these and other reasons, millions of children ride each day either unprotected or inadequately protected by child safety seats. A disproportionate number of these children are from low income or rural families or from culturally diverse populations.

To increase child safety seat usage, child safety seats must be made more readily available, particularly to underserved low income and special needs families. These families must also be motivated to use child safety seats and educated about their proper usage.

An effective child safety seat program can reach, and have a major positive impact on, large numbers of children as well as their families. To be most effective, however, the program must ensure that seats are distributed primarily to the populations most at risk, including underserved low income and special needs families. If programs do not target these populations, the seats could be provided instead to families that could otherwise afford to purchase them, with little net benefit.

Previous Notices

On March 31 and June 29, 1995, NHTSA published notices in the **Federal Register** describing the agreement between GM and DOT and requesting that organizations interested in receiving funds certify in writing that they are qualified. NHTSA received over 20 certifications in response to the March 31 notice and 8 certifications in response to the June 29 notice.

Copies of the March 31 and June 29 notices and the certifications received in response have been placed in NHTSA's Technical Reference Division (TRD), Docket Section, under Docket Number 95–20; Notices 1 and 2. Individuals that wish to order a copy of these materials may do so by calling or writing to the TRD at Room 5108, 400 Seventh St., SW, Washington, DC 20590 (telephone number 202–366–2768) and referencing this docket number(s). A fee may be charged, based on the volume of material that is requested.

The certifications that NHTSA received in response to the notices were reviewed by evaluation panels of experienced NHTSA personnel, who determined whether the certifications met each of the required criteria and evaluated the certifications based on the evaluation factors specified in the notice.

The panel that reviewed the certifications responsive to the March 31 notice determined that six organizations were qualified to receive donations from GM: National SAFE KIDS Campaign, National Safety Council (NSC), International Association of Chiefs of Police (IACP), National Easter Seal Society, Safe America Foundation/Operation Baby Buckle, and the State and Territorial Injury Prevention Directors Association (STIPDA).

GM decided that each of these organizations would receive donations for the purchase and distribution of child safety seats under the settlement agreement. GM donated $1.5 million to SAFE KIDS to coordinate a major child safety seat program with three other qualified organizations (NSC, IACP and STIPDA), and specified that half of the child safety seats purchased by SAFE KIDS will be divided equally among NSC, IACP and STIPDA, to be distributed through their channels. GM also donated $400,000 to the National Easter Seal Society for its unique program that reaches "special needs" infants and children and $100,000 to Operation Baby Buckle for the distribution of seats and its active public education and car safety seat awareness programs.

The panel that reviewed the certifications responsive to the June 29 notice determined that six organizations were qualified to receive donations from GM.

GM decided that three of these organizations would receive donations for the purchase and distribution of child safety seats under the settlement agreement. GM donated $800,000 to National SAFE KIDS Campaign, which formed a coalition with National Head Start Association and the National Association of Community Health Centers, to reach a group even more diverse than during the first phase of the program. GM donated $800,000 to SAFE TEAM, USA, which forged an alliance that includes the Safe America Foundation, the National Safety Council, the Native American Injury Prevention Network, the National Association of Community Action Agencies, the National Coalition of Hispanic Health and Human Services Organizations and the International Association of Chiefs of Police. GM stated that it expected this alliance to reach deep into many communities. The alliance also proposed a unique fund-raising activity to provide even more child safety seats than could ordinarily be purchased with these funds. GM also donated $400,000 to the National Easter Seal Society, which added the National Shriners Hospitals to its distribution plan for a greater distribution program during the second phase. GM stated that

this organization has demonstrated its capability to deliver child safety seats in a timely manner to "special needs" infants and children.

Today's Notice

Today's notice describes the criteria that an organization must meet, and the information it must submit with its certification, to be identified by DOT as a "qualified organization." Certifications must be received no later than 90 days after the date of publication of today's notice in the **Federal Register**.

NHTSA will convene a panel of experienced agency personnel to evaluate the certifications submitted. The members of the panel will determine whether the certifications meet each of the required criteria and will evaluate the certifications based on the evaluation factors specified in this notice. When the panel completes its review of the certifications, it will prepare a list of organizations it has determined to be qualified to receive donations for the purchase and distribution of child safety seats. NHTSA will provide the list to GM and place the list in the public docket.

This list of organizations will be used by GM during the second year of the agreement. As explained earlier, the settlement agreement provided that GM would donate $4,000,000 during the first year after the date of the agreement and $4,000,000 over the next four years (at approximately the rate at which DOT expends funds for the development and support of child safety seat loaner and give-away programs during that period). Based on NHTSA's projected expenditures for FY 1996, it is expected that GM will donate approximately $2 million for the purchase and distribution of child safety seats during the second year of the agreement.

Next (and Final) Notice

Within approximately one year from the date of publication of today's notice, NHTSA plans to publish a fourth (and final) notice in the **Federal Register** requesting certifications from organizations that wish to receive donations after the second year. Any organization that wishes to be included on the fourth (and final) list, whether or not the organization was included on a previous list, will be required to submit a certification. NHTSA reserves the right to request in the fourth notice the submission of additional information, not identified in today's **Federal Register** notice, from organizations seeking to be included on that list.

Based on its review of the certifications received in response to the fourth **Federal Register** notice, NHTSA will prepare a revised list of organizations that have been determined to be qualified and appropriate to receive remaining donations from GM. It is expected that the fourth list will be used for the final $2 million of the total $8 million GM agreed to donate for the purchase and distribution of child safety seats under the settlement agreement.

Certification Criteria Established in Settlement Agreement

As explained earlier in this notice, the settlement agreement between GM and DOT provided that DOT would identify, on an ongoing basis, qualified organizations to be considered to receive GM donations, and GM would select recipients of donations from DOT's list of qualified organizations. In order to be considered for inclusion on the list as a "qualified organization," the agreement provided that an organization must certify in writing that it shall meet eleven separate criteria. Listed below are descriptions of these criteria and the information that organizations must submit in their certifications to demonstrate compliance with them. (Following this section of the notice, in a section entitled "Certification Procedure," this notice describes the procedure organizations must follow to be considered for inclusion on the list as a "qualified organization" and includes a summary of the documents and additional information organizations must submit.)

(1) Work Through Affiliates

The organization must certify in writing that it shall:

work, through its state or local affiliates, with agencies such as children's hospitals and health agencies to identify families who could not otherwise afford seats or who have special needs

Organizations must be national in scope and have established and effective affiliate relationships at the state or local level capable of carrying out the effort. Organizations can satisfy this criterion by showing that they will work through their own state or local affiliates (e.g., units or chapters specifically organized to carry out the organization's mission) or with other affiliates (e.g., state or locally-based child safety-related agencies or organizations, such as children's hospitals or fire and rescue agencies), and by showing that they have commitments from these state or local affiliates.

Organizations that wish to participate in this program, and are state or locally-based rather than national in scope, are encouraged to affiliate with a national organization that plans to submit a certification or to encourage a national organization with which they are already affiliated to submit a certification.

Through these affiliates, organizations must have a network that will enable them to identify families of target populations who have not been reached through traditional channels, including families who could not otherwise afford seats or who have special needs, and to distribute seats and provide education to these families.

Organizations must submit information regarding their structure and a designation of geographic locations of state and local affiliates that are expected to be involved in the effort. Organizations must also submit information regarding the organizations and agencies with which they will be affiliated for purposes of this program. In addition, organizations must describe their relationships with affiliates, including the role that affiliates will play, and they must demonstrate that they have commitments from affiliates (such as by submitting letters of commitment).

(2) Existing Program or Trained Staff

The organization must certify in writing that it shall:

have an existing loaner or give-away child safety seat program or have staff trained in child passenger safety issues

Organizations must have experience, either directly or through their affiliates, with a loaner or give-away program or staff trained in child passenger safety issues. Alternatively, organizations may collaborate with organizations that have such experience or trained staff, either directly or through their affiliates. National organizations that have the ability to reach underserved populations, but do not have experience with a child safety seat program or trained staff, for example, are strongly encouraged to collaborate with one or more national organizations that do. The experience or training is necessary to ensure that organizations, and their affiliates, are able to operate child safety seat programs, and to meet the deadlines and requirements established in the agreement for distributing seats and providing education to the recipients of the seats.

Organizations must describe their existing loaner or give-away child safety seat programs and their experience in providing education on the use of child safety seats. They must also describe existing loaner or give-away programs and experience in providing education of agencies or organizations that are affiliated with them or with which they have collaborative relationships.

Organizations must identify the number of current trained staff (of the organization, its affiliates and its collaborators) and provide a description of training conducted or taken by the staff and the dates of last training. If organizations have staff who have not been trained, but who are capable of being trained in child passenger safety issues, the organizations should describe their plans for training the staff.

If organizations plan to work collaboratively, they should submit a single combined certification. The certification must include letters of commitment from all collaborators.

Organizations are advised that NHTSA has trained hundreds of individuals throughout the country in child passenger safety issues. If organizations are interested in receiving assistance from individuals who have received NHTSA training, they should contact one of NHTSA's ten regional offices, or the Governor's Highway Safety Representative in their State. Organizations must keep in mind, however, that they must be prepared to purchase and distribute child safety seats within 120 days of their receipt of the funds. Accordingly, their staff must be trained within the 120-day period.

(3) Low-income or Special Needs Across Broad Geographic Area

The organization must certify in writing that it shall:

distribute the seats to low-income families and/or families with special needs across a broad geographical area throughout the United States

The intent of this provision is to assure that underserved children from culturally diverse populations throughout the United States receive the benefits of the program. Qualified organizations need not distribute seats in every state. However, as stated previously, they must have a program that is national in scope and reaches their target populations throughout the United States.

Organizations must submit their mission statements, a description of the method they will use to identify underserved low income or special needs families, and a list of the geographic locations that would be targeted for receipt of the seats. They must demonstrate the ability to identify underserved low income and special needs families, and the ability to distribute seats to these families at the community level throughout the United States.

(4) Mix of Child Safety Seats

The organization must certify in writing that it shall:

comply with NHTSA guidelines with respect to the approximate mix of child safety seats (e.g., infant, toddler, booster, special needs)

Children of differing ages and transportation needs require different types of child safety seats. The intent of this provision is to assure that the children who are recipients under this program receive seats that meet their needs. The provision is also intended to assure that organizations purchase the correct mix of seats for their target population.

Organizations will need to identify the ages and transportation needs of the intended recipients and the types of seats needed to properly fit the target group. For example, an organization targeting special needs children may need very specialized seats, while a program targeting older children may need convertible toddler and booster child restraint devices.

Organizations must specify the maximum number of seats they are capable of distributing to local agencies (their affiliates) within 120 days of their receipt of the funds and the amount of funding they are requesting from GM to purchase and distribute this number of seats. Organizations must specify the proposed mix and types of seats needed to serve the age and needs of the populations to be targeted (i.e., 25% booster seats, 50% toddler seats, 20% infant seats and 5% special needs seats), and must describe the method used to derive the mix. They should indicate whether the mix would change if they receive less funding than the full amount requested.

Organizations should also indicate whether they plan to operate a loaner or a give-away program and what fees, if any, they intend to charge. Both types of programs are acceptable. Any fees charged to recipients must be nominal, and any income from these fees must be used for the purchase and distribution of additional child safety seats under the agreement.

(5) Within 120 Days

The organization must certify in writing that it shall:

distribute all of the seats purchased with the funds provided by GM to the local agencies within 120 days of the receipt of the funds

Organizations are required, under the agreement, to purchase and distribute all of the seats to local agencies (their affiliates) within 120 days of receipt of the funds. To satisfy this criterion, organizations must clearly demonstrate the ability to meet this requirement.

As stated previously, organizations must submit a plan describing how they will accomplish the purchase and distribution of seats to local agencies (their affiliates) within the 120-day period. The plan must describe how the organization will reach a broad geographical area, how it will identify the low income and special needs families to be served by this program, and it must include a proposed schedule for the purchase and distribution of seats. The plan must clearly demonstrate that the organization is able and prepared to purchase and distribute child safety seats to local agencies (their affiliates) within 120 days of their receipt of the funds and that, if their staff is not already experienced or trained, that they will be trained within the 120-day period.

Organizations that were selected by GM to receive donations for the purchase and distribution of child safety seats under the settlement agreement as a result of the **Federal Register** notices published on March 31 or June 29, 1995, must also describe the progress they have made, including the schedule they have followed, the number of seats they have distributed to local agencies (their affiliates) and the number of seats that have been provided to recipients, by geographic location.

Organizations must also demonstrate that the distribution and education efforts funded under this program will either create new initiatives or complement (rather than duplicate) existing initiatives, in the geographic areas to be served. In other words, these distribution and education efforts should take place in communities that have either been underserved or not been reached. In addition, organizations must ensure that their efforts do not conflict with activities already planned or underway. This may be demonstrated by including in the plan, a description of new or complementary initiatives that are planned and either letters of support from the organizations that are (or would be) responsible for child safety seat programs in the geographic areas to be served (such as state highway safety offices and state public health agencies) or a description of the organization's plans to coordinate with these responsible organizations.

(6) Educate Recipients

The organization must certify in writing that it shall:

educate recipients of the seats as to methods of proper installation and use

While the distribution of child safety seats is vitally important, and can save

many children's lives, the effectiveness of those seats in preventing injury and death increases significantly when recipients are trained in and follow proper use and installation instructions. Organizations are required, under the agreement, to provide education to the recipients of the seats regarding the proper installation and use of child safety seats. Education is most effective if it is provided at the time that the seats are being distributed to recipients, and if it includes a number of components, such as conducting a hands-on demonstration, showing a video and having recipients demonstrate that they understand how to properly install and use their child safety seats.

Organizations must describe the specific means they, their affiliates or their collaborators will use to educate families about the proper installation and use of child safety seats.

To assist in this effort, NHTSA will make resources, including materials and technical assistance, available to the selected organizations.

(7) Administrative Expenses

The organization must certify in writing that it shall:

not use more than 10 percent of the funds provided by GM for administrative expenses related to distribution of the seats

Organizations shall use no more than 10 percent of the funds provided by GM for administrative expenses related to the distribution of the seats. Examples of administrative expenses include operational overhead such as secretarial support, telephone expenses, and time of paid staff to help develop the plans for these efforts.

As stated previously, organizations are strongly encouraged to work collaboratively for the purpose of applying for funds. If organizations plan to work collaboratively, they should submit a single combined certification. Any such certification submitted for a group of organizations working collaboratively, must include a statement that provides that the organizations have reached agreement regarding the manner in which funds that may be used for administrative expenses will be allocated among the organizations. The actual agreement need not be provided. No additional information is required to be submitted at this time in support of this element of the certification.

(8) Added to Existing Funds and No Diversions

The organization must certify in writing that it shall:

add the GM-provided funds to the total of its existing funds spent on the distribution of child safety seats to low-income families and not divert any funds currently budgeted to such activities to other activities

Organizations shall add the GM-provided funds to the total of their existing funds, if any, spent on the distribution of child safety seats to low income and special needs families and not divert any funds currently budgeted to such activities, if any, to other activities. In other words, the funds provided by GM must represent new and additional resources, and may not be used to replace other funds, if any, that otherwise would have been used for the distribution of child safety seats to low-income families and their related education activities. No additional information is required to be submitted at this time in support of this element of the certification.

(9) Third-party Audit

The organization must certify in writing that it shall:

allow the activities conducted pursuant to this program to be audited by such third party as selected by DOT

Organizations shall allow the activities conducted pursuant to this program to be audited by such third party as may be selected by DOT. Organizations shall also maintain adequate records to allow an audit to be conducted. No additional information is required to be submitted at this time in support of this element of the certification.

(10) Enforceable Commitments and Promises

The organization must certify in writing that it shall:

acknowledge and agree that such commitments and promises shall be enforceable

Organizations shall acknowledge and agree that the commitments and promises they make shall be enforceable through legal process or other appropriate means. No additional information is required to be submitted at this time in support of this element of the certification.

(11) No Assumption of Responsibility

The organization must certify in writing that it shall:

acknowledge and agree that GM does not assume or bear any responsibility for the organization's commitments, the selection of the safety seats actually purchased or distributed, or the education of recipients of the seats as to proper use

Organizations shall acknowledge and agree that GM does not assume or bear any responsibility for the organization's commitments, the selection of the safety seats actually purchased or distributed, or the education of recipients of the seats as to proper use. No additional information is required to be submitted at this time in support of this element of the certification.

Certification Procedures

To be considered, certifications must be received no later than 90 days after the date on which today's notice is published in the **Federal Register**. Certifications should be submitted to Office of Occupant Protection, NTS–11, Room 5118, 400 Seventh Street, S.W., Washington, D.C. 20590.

Organizations are strongly encouraged to work collaboratively for the purpose of applying for funds. If organizations plan to work collaboratively, they should submit a single combined certification.

Certifications must address each of the criteria described in detail above, in the section of this notice entitled "Certification Criteria Established in Settlement Agreement," and must include each of the following:

(1) Certification Statement

A written statement, signed by an authorized official of the organization, certifying that the organization shall:

(i) work, through its state or local affiliates, with agencies such as children's hospitals and health agencies to identify families who could not otherwise afford seats or who have special needs; (ii) have an existing loaner or give-away child safety seat program or have staff trained in child passenger safety issues; (iii) distribute the seats to low-income families and/or families with special needs across a broad geographical area throughout the United States; (iv) comply with NHTSA guidelines with respect to the approximate mix of child safety seats (e.g., infant, toddler, booster, special needs); (v) distribute all of the seats purchased with the funds provided by GM to the local agencies within 120 days of the receipt of the funds; (vi) educate recipients of the seats as to methods of proper installation and use; (vii) not use more than 10 percent of the funds provided by GM for administrative expenses related to distribution of the seats; (viii) add the GM-provided funds to the total of its existing funds spent on the distribution of child safety seats to low-income families and not divert any funds currently budgeted to such activities to other activities; (ix) allow the activities conducted pursuant to this program to be audited by such third party as selected by DOT; (x) acknowledge and agree that such commitments and promises shall be enforceable; and (xi) acknowledge and agree that GM does not assume or bear any responsibility for the organization's commitments, the selection of the safety seats actually purchased or distributed, or the education of recipients of the seats as to proper use.

(2) Plan

A plan describing how the organization will accomplish the purchase and distribution of seats to local agencies (their affiliates) within 120 days of receipt of the funds, how the organization will reach a broad geographical area, and how it will identify the low income and special needs families to be served by this program. It must include a proposed schedule for the purchase and distribution of seats, a description of new or complementary initiatives that are planned and either letters of support from the organizations that are (or would be) responsible for child safety seat programs in the geographic areas to be served (such as state highway safety offices and state public health agencies) or a description of the organization's plans to coordinate with these responsible organizations.

The plan must clearly demonstrate that the organization is able and prepared to purchase and distribute child safety seats to local agencies (their affiliates) within 120 days of their receipt of the funds and that, if their staff is not already experienced or trained, that they will be trained within the 120-day period.

Organizations that were selected by GM to receive donations for the purchase and distribution of child safety seats under the settlement agreement as a result of the **Federal Register** notices published on March 31 or June 29, 1995, must also describe the progress they have made since they received their donations, including the schedule they have followed, the number of seats they have distributed to local agencies (their affiliates) and the number of seats that have been provided to recipients, by geographic location.

(3) Additional Information

The following additional information to ensure that the organization is capable of meeting the objectives of the agreement:

- Information regarding the organization's structure and a designation of geographic locations of state and local affiliates to be involved in the effort;
- Information regarding the organizations and agencies with which the organization will be affiliated for purposes of this program;
- A description of their relationships with affiliates, including the role that affiliates will play, and either letters or some other demonstration of commitment from their affiliates;
- A description of the organization's, its affiliates' or its collaborators': existing loaner or give-away programs; experience in providing education on the use of child safety seats; the number of trained staff; a description of training conducted or taken; and the dates of last training;
- If organizations have staff who have not been trained, but who are capable of being trained in child passenger safety issues, a description of their plans for training the staff and an indication that the training will be completed within 120 days of receipt of the funds;
- If organizations plan to work collaboratively, letters of commitment from all collaborators and a statement that provides that the organizations have reached agreement regarding the manner in which funds that may be used for administrative expenses will be allocated among the organizations (the actual agreement need not be provided);
- A mission statement of the organization;
- The method to be used to identify underserved low income or special needs families;
- A list of the geographic locations that would be targeted for receipt of the seats;
- The maximum number of seats the organization is capable of distributing to local agencies (their affiliates) within 120 days of its receipt of the funds; the amount of funding the organization is requesting from GM to purchase and distribute this number of seats; the proposed mix and types of seats needed to serve the age and needs of the populations to be targeted (i.e., 25% booster seats, 50% toddler seats, 20% infant seats and 5% special needs seats); the method used to derive the mix; and, if applicable, any change in mix if the organization receives less funding than the full amount requested;
- An indication of whether the organization plans to operate a loaner or a give-away program; an identification of the fees, if any, they intend to charge; and a statement that any income from these fees will be used for the purchase and distribution of additional child safety seats under the agreement; and
- A description of the specific means to be used by the organization, its affiliates or its collaborators to educate families about the proper installation and use of child safety seats.

Organizations must submit one original and two copies of their certifications. Certifications shall be subject to 18 U.S.C. § 1001, which prohibits the making of false statements. Organizations are requested to submit four additional copies to facilitate the review process, but there is no requirement or obligation to do so.

Organizations that would like to be notified upon receipt of their certifications should enclose a self-addressed stamped postcard in the envelope with their certifications. Upon receiving the certifications, the postcard will be returned by mail.

Evaluation Factors

Certifications will be reviewed by an evaluation panel of experienced agency personnel. The panel will determine whether the certifications meet each of the required criteria and will evaluate the certifications based on the following factors:

1. Understanding of the requirements of the agreement and soundness of approach as shown by the organization's plan and certification.

2. The ability to purchase and distribute child safety seats to local agencies (their affiliates) within 120 days of their receipt of the funds as shown by the organization's plan and certification.

3. The ability to identify underserved low income and special needs families.

4. The ability to distribute child safety seats to these target populations at the community level throughout the United States.

- The experience of the organization, its affiliates or its collaborators, in distributing child safety seats
- The breadth and diversity of the underserved population the organization, its affiliates or its collaborators can effectively reach

5. The ability to provide education to recipients.

- The experience of the organization, its affiliates or its collaborators, in providing education on the use of child safety seats
- The level of training of the staff of the organization, its affiliates or its collaborators

6. The ability to conduct a distribution and education program that either creates new initiatives, or complements (rather than duplicates) existing initiatives, in the geographic areas to be served.

Issued on: March 25, 1996.

James Hedlund,

Associate Administrator for Traffic Safety Programs.

[FR Doc. 96–7841 Filed 3–28–96; 8:45 am]

BILLING CODE 4910–59–P

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of Applications for modification of exemptions or application to become a party to an exemption; Correction.

SUMMARY: Notice of Application No. 11588–P Med Compliance Service, Inc. of Texas that appeared at page 11678 of the Federal Register for March 21, 1996, should have appeared 11588–P Med Compliance Services, Inc. of New Mexico.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials, Exemptions and Approvals.

[FR Doc. 96–7644 Filed 3–28–96; 8:45 am]

BILLING CODE 4910–60–M

Surface Transportation Board [1]

[Ex Parte No. 482]

Exemption of Demurrage From Regulation

AGENCY: Surface Transportation Board.

ACTION: Withdrawal of antitrust immunity.

SUMMARY: Pursuant to a notice of proposed rulemaking, served April 21, 1992, the Board is withdrawing antitrust immunity for the collective consideration of demurrage charges. The Board concludes that this action constitutes the best means to achieve the goals of the ICC Termination Act of 1995 and the Staggers Rail Act of 1980 (Pub. L. No. 96–448, 94 Stat. 1895) as they concern demurrage, while safeguarding the interests of shippers and receivers subject to market dominant carriers. Two alternative proposals suggested by the ICC are not being adopted.

DATES: This decision is effective on April 28, 1996.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927–5660. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC News & Data, Inc., Room 2229, 1201 Constitution Avenue, N.W., Washington, DC 20423. Telephone: (202) 289–4357. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

Authority: 49 U.S.C. 10706.

Decided: March 20, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 96–7709 Filed 3–28–96; 8:45 am]

BILLING CODE 4915–00–P

Surface Transportation Board [1]

[Finance Docket No. 32813]

H. Peter Claussen and Linda C. Claussen—Continuance in Control Exemption—Live Oak, Perry & Georgia Railroad Company, Inc.

AGENCY: Surface Transportation Board.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 10505, the Board exempts from the prior approval requirements of 49 U.S.C. 11343, *et seq.*, the continuance in control by H. Peter Claussen and Linda C. Claussen of the Live Oak, Perry & Georgia Railroad Company, Inc., subject to standard labor protective conditions.

DATES: This exemption will be effective on April 28, 1996. Petitions to stay must be filed April 8, 1996. Petitions to reopen must be filed by April 18, 1996.

ADDRESSES: Send pleadings, referring to Finance Docket No. 32813 to: (1) Office of the Secretary, Case Control Branch, Surface Transportation Board, 1201 Constitution Avenue, N.W., Washington, DC 20423; and (2) Mark H. Sidman, 1350 New York Avenue, N.W., Suite 800, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927–5660. [TDD for the hearing impaired: (202) 927–5721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC News & Data, Inc., Room 2229, 1201 Constitution Avenue, N.W., Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services at (202) 927–5721].

Decided: March 13, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 96–7708 Filed 3–28–96; 8:45 am]

BILLING CODE 4915–00–P

Surface Transportation Board [1]

[Docket No. AB–33 (Sub-No. 90X)]

Union Pacific Railroad Company—Abandonment Exemption—in Sutter County, CA (Yuba City Branch)

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of exemption and Interim Trail Use or Abandonment.

SUMMARY: The Board, under 49 U.S.C. 10505, exempts from the prior approval requirements of 49 U.S.C. 10903–04 the abandonment by Union Pacific Railroad Company (UP) of a 5.20-mile portion of its Yuba City Branch extending from milepost 0.00 near Colusa Jct. to the end of the line at milepost 5.20 near Sutter, in Sutter County, CA, subject to trail use, public use, environmental, and standard labor protective conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on April 28, 1996. Formal expressions of intent to file an offer of financial assistance [2] under 49 CFR 1152.27(c)(2) must be filed by April 8, 1996; petitions to stay must be filed by April 15, 1996; and petitions to reopen must be filed by April 23, 1996.

ADDRESSES: An original and 10 copies of all pleadings, referring to Docket No. AB–33 (Sub-No. 90X), must be filed with the Office of the Secretary, Case Control Branch, Surface Transportation Board, 1201 Constitution Avenue, N.W., Washington, DC 20423. In addition, a copy of all pleadings must be served on Joseph D. Anthofer, 1416 Dodge Street, Room 830, Omaha, NE 68179–0830.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927–5660. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC News & Data, Inc., Room 2229, 1201 Constitution Avenue, N.W., Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

Decided: March 13, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 96–7710 Filed 3–28–96; 8:45 am]

BILLING CODE 4915–00–P

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (the Act), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the Surface Transportation Board (Board). Section 204(b)(1) of the Act provides, in general, that proceedings pending before the ICC on the effective date of that legislation shall be decided under the law in effect prior to January 1, 1996, insofar as they involve functions retained by the Act. This decision relates to a proceeding that was pending with the ICC prior to January 1, 1996, and to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10702 and 10746. Therefore, this decision generally applies the law in effect prior to the Act, and citations are to the former sections of the statute, unless otherwise indicated.

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (the Act), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the Surface Transportation Board (Board). Section 204(b)(1) of the Act provides, in general, that proceedings pending before the ICC on the effective date of that legislation shall be decided under the law in effect prior to January 1, 1996, insofar as they involve functions retained by the Act. This notice relates to a proceeding that was pending with the ICC prior to January 1, 1996, and to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10903. Therefore, this notice applies the law in effect prior to the Act, and citations are to the former sections of the statute, unless otherwise indicated.

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (the Act), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the Surface Transportation Board (Board). Section 204(b)(1) of the Act provides, in general, that proceedings pending before the ICC on the effective date of that legislation shall be decided under the law in effect prior to January 1, 1996, insofar as they involve functions retained by the Act. This notice relates to a proceeding that was pending with the ICC prior to January 1, 1996, and to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10903. Therefore, this notice applies the law in effect prior to the Act, and citations are to the former sections of the statute, unless otherwise indicated.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

March 18, 1996

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Special Request: In order to conduct the survey described below in April 1996, the Department of Treasury is requesting Office of Management and Budget (OMB) review and approve this information collection by March 22, 1996. To obtain a copy of this survey, please contact the IRS Clearance Officer at the address listed below.

Internal Revenue Service (IRS)

OMB Number: 1545–1432.

Project Number: PC:V 96–004–G.

Type of Review: Revision.

Title: Customer Satisfaction Survey for Librarians.

Description: The Bank, Post Office, and Library (BPOL) Program is one area that must continue to provide quality service to taxpayers while cutting operating costs. This program uses banks, post offices and libraries as distribution sites for tax forms and related materials. Since BPOL locations provide materials for so many people, thoughtful consideration should be used to identify which areas of the program will be impacted by these budget cuts. Any decisions made should take into account our customers' (the taxpayers') needs and opinions as to which areas of the program are most important and provide the best service. IRS feels that this information can be obtained by surveying librarians.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 2,000.

Estimated Burden Hours Per Respondent: 6 minutes.

Frequency of Response: Other.

Estimated Total Reporting Burden: 200 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, N.W., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 96–7649 Filed 3–28–96; 8:45 am]

BILLING CODE 4830–01–P

Submission to OMB for Review; Comment Request

March 22, 1996.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: New.

Form Number: IRS Form W–7.

Type of Review: New collection.

Title: Application for IRS Individual Taxpayer Identification Number.

Description: Proposed regulations under Internal Revenue Code (IRC) section 6109 introduce a new type of taxpayer identifying number called the "IRS individual taxpayer identification number" (ITIN). Individuals who currently do not have, and are not eligible to obtain, social security numbers can apply for this number on Form W–7. Taxpayers may use this number when required to furnish a taxpayer identifying number under regulations. An ITIN is intended for tax use only.

Respondents: Individuals or households.

Estimated Number of Respondents: 500,000.

Estimated Burden Hours Per Respondent:

Learning about the law or the form—11 minutes.

Preparing the form—28 minutes.

Copying, assembling, sending the form to the IRS—20 minutes.

Frequency of Response: Other (individuals file once to get an ITIN).

Estimated Total Reporting Burden: 495,000 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 96–7650 Filed 3–28–96; 8:45 am]

BILLING CODE 4830–01–P

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Requisition For Forms or Publications and Requisition For Firearms/ Explosives Forms.

DATES: Written comments should be received on or before May 28, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Linda Barnes, Document Services Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

SUPPLEMENTARY INFORMATION:

Title: Requisition For Forms or Publications and Requisition For Firearms/Explosives Forms.

OMB Number: 1512–0001.

Form Number: ATF F 1600.1 and ATF F 1600.8.

Abstract: These forms are used by the general public to request or order forms or publications from the ATF Distribution Center. These forms notify ATF of the quantity required by the respondent and provide a guide as to annual usage of ATF forms or publications by the general public.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit, individuals or households.

Estimated Number of Respondents: 30,000.

Estimated Time Per Respondent: 3 minutes.

Estimated Total Annual Burden Hours: 1725.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Also, ATF requests information regarding any monetary expenses you may incur while completing these forms.

Dated: March 22, 1996.

Bradley A. Buckles,

Acting Director.

[FR Doc. 96–7693 Filed 3–28–96; 8:45 am]

BILLING CODE 4815–31–P

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Transportation In Bond, and Notice of Puerto Rican Cigars, Cigarettes, Cigarette Papers, or Cigarette Tubes.

DATES: Written comments should be received on or before May 28, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Cliff Mullen, Wine, Beer & Spirits Regulations Branch, 650 Massachusetts Avenue, NW., (202) 927–8181.

SUPPLEMENTARY INFORMATION:

Title: Transportation In Bond, and Notice of Release of Puerto Rican Cigars, Cigarettes, Cigarette Papers, or Cigarette Tubes.

OMB Number: 1512–0167.

Form Number: ATF F 3072 (5210.14).

Abstract: ATF F 3072 (5210.14) is used to document the shipment of taxable tobacco products brought into the United States in bond from Puerto Rico. The form documents certification by ATF to account for the tax liability as well as any adjustments assessed to the bonded licensee. The form also describes the shipment and identification of the licensee who receives the products.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 50.

Estimated Time Per Respondent: 12 minutes.

Estimated Total Annual Burden Hours: 200.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Also, ATF requests information regarding any monetary expenses you may incur while completing this form.

Dated: March 22, 1996.

Bradley A. Buckles,

Acting Director.

[FR Doc. 96–7694 Filed 3–28–96; 8:45 am]

BILLING CODE 4810–31–P

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Application and Permit to Ship Liquors and Articles of Puerto Rican Manufacture Taxpaid to the United States.

DATES: Written comments should be received on or before May 28, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to J. Barry Fields, Wine, Beer & Spirits Regulations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8522.

SUPPLEMENTARY INFORMATION:

Title: Application and Permit to Ship Liquors and Articles of Puerto Rican Manufacture Taxpaid to the United States.

OMB Number: 1512–0057.

Form Number: ATF F 487–B (5170.7).

Abstract: ATF F 487–B (5170.7) is used to document the shipment of taxpaid Puerto Rican articles into the U.S. The form is vertified by Puerto Rican and U.S. Treasury officials to certify that products are either taxpaid or deferred under the appropriate bond and serves as a method of protection of the revenue.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 20.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 100.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of infomation on respondents, including through the use of automated collection techniques or other forms of information technology. Also, ATF requests information regarding any monetary expenses you may incur while completing this form.

Dated: March 22, 1996.

Bradley A. Buckles,

Acting Director.

[FR Doc. 96–7695 Filed 3–28–96; 8:45 am]

BILLING CODE 4810–31–P

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Special Tax Registration and Return (Alcohol & Tobacco) and the Special Tax Registration and Return (National Firearms Act).

DATES: Written comments should be received on or before May 28, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Wanda Williams Burggraff, Tax Compliance Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8220.

SUPPLEMENTARY INFORMATION:

Title: Special Tax Registration and Return (Alcohol & Tobacco) and Special Tax Registration and Return (National Firearms Act).

OMB Number: 1512–0472.

Form Number: ATF F 5630.5 and ATF F 5630.7.

Abstract: ATF F 5630.5 and ATF F 5630.7 are completed by persons engaged in certain alcohol, tobacco and firearms related businesses, respectively. Both forms are used to register and/or pay a special occupational tax, as required by statute. Upon receipt of the tax, a special tax stamp is issued..

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit, individuals or households, and not-for-profit institutions.

Estimated Number of Respondents: 90,700.

Estimated Time Per Respondent: 48 minutes.

Estimated Total Annual Burden Hours: 72,778.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the infomation shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Also, ATF requests information regarding any monetary expenses you may incur while completing these forms.

Dated: March 22, 1996.

Bradley A. Buckles,

Acting Director.

[FR Doc. 96–7696 Filed 3–28–96; 8:45 am]

BILLING CODE 4810–31–P

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Letterhead Request For Information In Regard To Federal Firearms Dealer's Records (Dealer's Records of Aquisition, Disposition and Supporting Data).

DATES: Written comments should be received on or before May 28, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Dottie Morales, Firearms & Explosives Operations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8310.

SUPPLEMENTARY INFORMATION:

Title: Letterhead Request For Information In Regard To Federal Firearms Dealer's Records (Dealer's Records of Aquisition, Disposition and Supporting Data).

OMB Number: 1512–0493.

Form Number: ATF F 5300.3.

Abstract: ATF F 5300.3 gives the user a simplified format to list the required information ATF needs to perform its functions in regard to the law. The respondent saves time because the questions are simple and a return address is supplied. The form is used to maintain a current status of firearms licensees.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit, Individuals or households.

Estimated Number of Respondents: 28,000.

Estimated Time Per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 2,380.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Also, ATF requests information regarding any monetary expenses you may incur while completing this form.

Dated: March 22, 1996.

Bradley A. Buckles,

Acting Director.

[FR Doc. 96–7697 Filed 3–28–96; 8:45 am]

BILLING CODE 4810–31–P

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Inventory—Export Warehouse Proprietor.

DATES: Written comments should be received on or before May 28, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Mary Lou Blake, Wine, Beer & Spirits Regulations Branch, 650 Massachusetts Avenue, NW., Washington, DC, (202) 927–8210.

SUPPLEMENTARY INFORMATION:

Title: Inventory—Export Warehouse Proprietor.

OMB Number: 1512–0171.

Form Number: ATF F 5220.3.

Abstract: ATF F 5220.3 is used by export warehouse proprietors to record inventories that are required by law and regulations. The form provides a uniform format for recording inventories and establishes a contingent tax liability on tobacco products.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 10.

Estimated Time Per Respondent: 5 hours.

Estimated Total Annual Burden Hours: 50.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Also, ATF requests information regarding any monetary expenses you may incur while completing this form.

Dated: March 22, 1996.

Bradley A. Buckles,

Acting Director.

[FR Doc. 96–7698 Filed 3–28–96; 8:45 am]

BILLING CODE 4810–31–P

Customs Service

List of Foreign Entities Violating Textile Transshipment and Country of Origin Rules

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General Notice.

SUMMARY: This document notifies the public of foreign entities which have been issued a penalty claim under section 592 of the Tariff Act, for certain violations of the customs laws. This list is authorized to be published by section 333 of the Uruguay Round Agreements Act.

FOR FURTHER INFORMATION CONTACT: For information regarding any of the operational aspects, contact Michael Compeau, Branch Chief, Seizures and Penalties Division, at 202–927–0762. For information regarding any of the legal aspects, contact Lars-Erik Hjelm, Office of Chief Counsel, at 202–927–6900.

SUPPLEMENTARY INFORMATION:

Background

Section 333 of the Uruguay Round Agreements Act (URAA)(Public Law 103–465, 108 Stat. 4809)(signed December 12, 1994), entitled Textile Transshipments, amended Part V of title IV of the Tariff Act of 1930 by creating a section 592A (19 U.S.C. 1592A), which authorizes the Secretary of the Treasury to publish in the **Federal Register**, on a biannual basis, a list of the names of any producers, manufacturers, suppliers, sellers, exporters, or other persons located outside the Customs territory of the United States, when these entities have been issued a penalty claim under section 592 of the Tariff Act, for certain violations of the customs laws, provided that certain conditions are satisfied.

The violations of the Customs laws referred to above are the following: (1) Using documentation, or providing documentation subsequently used by the importer of record, which indicates a false or fraudulent country of origin or source of textile or apparel products; (2) Using counterfeit visas, licenses, permits, bills of lading, or similar documentation, or providing counterfeit visas, licenses, permits, bills of lading, or similar documentation that is subsequently used by the importer of record, with respect to the entry into the customs territory of the United States of textile or apparel products; (3) Manufacturing, producing, supplying, or selling textile or apparel products which are falsely or fraudulently labeled as to country of origin or source; and (4) Engaging in practices which aid or abet the transshipment, through a country other than the country of origin, of textile or apparel products in a manner which conceals the true origin of the textile or apparel products or permits the evasion of quotas on, or voluntary restraint agreements with respect to, imports of textile or apparel products.

If a penalty claim has been issued with respect to any of the above violations, and no petition in response to the claim has been filed, the name of the party to whom the penalty claim was issued will appear on the list. If a petition, supplemental petition or second supplemental petition for relief from the penalty claim is submitted under 19 U.S.C. 1618, in accord with the time periods established by §§ 171.32 and 171.33, Customs Regulations (19 CFR 171.32, 171.33) and the petition is subsequently denied or the penalty is mitigated, and no further petition, if allowed, is received within 30 days of the denial or allowance of mitigation, then the administrative action shall be deemed to be final and administrative remedies will be deemed to be exhausted. Consequently, the name of the party to whom the penalty claim was issued will appear on the list. However, provision is made for an appeal to the Secretary of the Treasury by the person named on the list, for the removal of its name from the list. If the Secretary finds that such person or entity has not committed any of the enumerated violations for a period of not less than 3 years after the date on which the person or entity's name was published, the name will be removed from the list as of the next publication of the list.

Reasonable Care Required

Section 592A also requires any importer of record entering, introducing, or attempting to introduce into the commerce of the United States textile or apparel products that were either directly or indirectly produced, manufactured, supplied, sold, exported, or transported by such named person to show, to the satisfaction of the Secretary, that such importer has exercised reasonable care to ensure that the textile or apparel products are accompanied by documentation, packaging, and labeling that are accurate as to its origin. Reliance solely upon information regarding the imported product from a person named on the list is clearly not the exercise of reasonable care. Thus, the textile and apparel importers who have some commercial relationship with one or more of the listed parties must exercise a degree of reasonable care in ensuring that the documentation covering the imported merchandise, as well as its packaging and labeling, is accurate as to the country of origin of the merchandise. This degree of reasonable care must rely on more than information supplied by the named party.

In meeting the reasonable care standard when importing textile or apparel products and when dealing with a party named on the list published pursuant to section 592A of the Tariff Act of 1930, an importer should consider the following questions in attempting to ensure that the documentation, packaging, and labeling is accurate as to the country of origin of the imported merchandise. The list of questions is not exhaustive but is illustrative.

(1) Has the importer had a prior relationship with the named party?

(2) Has the importer had any detentions and/or seizures of textile or apparel products that were directly or indirectly produced, supplied, or transported by the named party?

(3) Has the importer visited the company's premises and ascertained that the company has the capacity to produce the merchandise?

(4) Where a claim of substantial transformation is made, has the importer ascertained that the named party actually substantially transforms the merchandise?

(5) Is the named party operating from the same country as is represented by that party on the documentation, packaging or labeling?

(6) Have quotas for the imported merchandise closed or are they nearing closing from the main producer countries for this commodity?

(7) What is the history of this country regarding this commodity?

(8) Have you asked questions of your supplier regarding the origin of the product?

(9) Where the importation is accompanied by a visa, permit, or license, has the importer verified with the supplier or manufacturer that the visa, permit, and/or license is both valid and accurate as to its origin? Has the importer scrutinized the visa, permit or license as to any irregularities that would call its authenticity into question?

The law authorizes a biannual publication of the names of the foreign entities. On September 28, 1995, Customs published a Notice in the **Federal Register** (60 FR 50239) which identified 9 entities which fell within the purview of section 592A of the Tariff Act of 1930.

592A List

For the period ending March 31, 1996, Customs has identified 8 (eight) foreign entities that fall within the purview of section 592A of the Tariff Act of 1930. This list reflects the removal of 5 names from the list published in September 1995, and the addition of 4 new entities. The parties on the current list were assessed a penalty claim under 19 U.S.C. 1592, for one or more of the four above-described violations. The

administrative penalty action was concluded against the parties by one of the actions noted above as having terminated the administrative process.

The names and addresses of the 8 foreign parties which have been assessed penalties by Customs for violations of section 592 are listed below pursuant to section 592A. This list supersedes any previously published list.

Bestraight Limited, Room 5K, World Tech Centre, 95 How Ming Street, Kwun Tong, Kowloon, Hong Kong.
Cotton Breeze International, 13/1578 Govindpuri, New Delhi, India.
Hangzhou Tongda Textile Group, Room 918, Hangzhou Mansion, No. 1 Wulin Square, Hangzhou, China.
Hanin Garment Factory, 31 Tai Yau Street, Kowloon, Hong Kong.
Hip Hing Thread Company, No. 10, 6/F Building A, 221 Texaco Road, Waikai Industtrial Centre, Tsuen Wan, N.T. Hong Kong.
Poshak International, H–83 South Extension, Part-I (Back Side), New Delhi, India.
United Fashions, C–7 Rajouri Garden, New Delhi, India.
Yunnan Provincial Textiles Import & Export, 576 Beijing Road Kunming, Yun Nan, China.

Any of the above parties may petition to have its name removed from the list. Such petitions, to include any documentation that the petitioner deems pertinent to the petition, should be forwarded to the Assistant Commissioner, Office of Field Operations, United States Customs Service, 1301 Constitution Avenue, Washington, D.C. 20229.

Additional Foreign Entities

In the September, 1995 **Federal Register** notice, Customs also solicited information regarding the whereabouts of 40 foreign entities, which were identified by name and known address, concerning alleged violations of section 592. Persons with knowledge of the whereabouts of those 40 entities were requested to contact the Assistant Commissioner, Office of Field Operations, United States Customs Service, 1301 Constitution Avenue, Washington, D.C. 20229.

As a result of information received in response to the solicitation, 6 names were removed from the list. In this document, a new list is being published which contains the names and last known address of 37 entities. This reflects the removal of 6 names from the previous list and the addition of 3 new entities to the list.

Customs is soliciting information regarding the whereabouts of the following 37 foreign entities concerning alleged violations of section 592. Their name and last known address are listed below:

Bahadur International, 250 Naraw Industrial Area, New Delhi, India.
Madan Exports, E–106 Krishna Nagar, New Delhi, India.
Gulnar Fashion Export, 14 Hari Nagar, Ashram, New Delhi, India.
Janardhan Exports, E–106 Krishna Nagar, New Delhi, India.
Morrin International, E–106 Krishna Nagar, New Delhi, India.
Jai Arjun Mfg., Co., B 4/40 Paschim Vihar, New Delhi, India.
Eroz Fashions, 535 Tuglakabad Extension, New Delhi, India.
China Artex Corp. Beijing Arts, 132–16 Changan Avenue, Beijing, China.
Shenzhen Long Gang Ji Chuen, Shenzhen, Long Gang Zhen, China.
Traffic, D1/180 Lajpat Nagar, New Delhi, India.
Raj Connections, E–106 Krishna Nagar, Delhi, India.
Bao An Wing Shing Garment Factory, Ado Shi Qu, Bao An Shen Zhen, China.
Guidetex Garment Factory, 12 Qian Jin Dong Jie, Yao Tai Xian Yuan Li, Canton, China.
Dachang Garment Factory, Shantou S.E.Z., Cheng Hai, Cheng Shing, China.
Guangdong Provincial Improved, 60 Ren Min Road, Guangdong, China.
Kin Cheong Garment Factory, No. 13 Shantan Street, Sikou Country, Taishan, Kwangtong, China.
Gold Tube Ltd., No. 55 Hung To Road, Kwun Tong, Kowloon, Hong Kong.
Sam Hing Bags Factory, Ltd., #35 Tai Ping West Road, Jiu Jaing, Ghangdong, China.
Luen Kong Handbag Factory, 33 Nanyuan Road, Shenzhen, Guangdong, China.
Changping High Stage Knitting, Yuan Jing Yuan, Chau Li Qu Chang, Guangdong, China.
Arsian Company Ltd, XII Khorcolo, Waanbaatar, Mongolia.
Kin Fung Knitting Factory, Block A&B, 4th Flr Por Mee Bldg., 500 Casle Peak Rd., Kowloon, Hong Kong.
Cahaya Suria Sdn Bhd, Lot 5, Jalan 3, Kedah, Malaysia.
Crown Garments Factory Sdn Bhd, Lot 112, Jalan Kencana, Bagan Ajam, Malaysia.
Glee Dragon Garment Mfg., Ltd., 328 Castle Peak Rd., Room G 10Fl, Tsuen Kam Centre, Kowloon, Hong Kong.
Richman Garment Manufacturing Co., Ltd., 7th Fl, Singapore Industrial Bldg., 338 Kwun Tong Road, Kowloon, Hong Kong.
Herrel Company , 64 Rowell Road, Suva, Fiji.
Belwear Co., Ltd., Flat C, 3rd Floor, Yuk Yat Street, Kowloon, Hong Kong.
Hambridge Ltd., 9 Fl., Lladro Building 72–80, Hoi Yuen Road, Kwun Tong, Kowloon, Hong Kong.
Kingston Garment Ltd., Lot 42–44 Caracas Dr., Kingston, Jamaica.
Moderntex International Inc., 3941, Kowloon, Hong Kong.
Poltex Sdn, 8 Jalan Serdang, Kedah, Malaysia.
Sam Hing International Enterprise, 5 Guernsey St., Guilford NSW, Australia.
Societe Prospere De Vetements S.A., Lome, Togo.
Confecciones Kalinda S.A., Zona Franca, Los Alcarrizos, Santo Domingo, Dominican Republic.
Royal Mandarin Knitworks Co., Flat C 21/F, So Tau Centre, 11–15 Sau Road, Kwai Chung, N.T., Hong Kong.
Wong's International, Nairamdliyn 26, Ulaanbaatar 11, Naaun, Mongolia.

If you have any information as to a correct mailing address for any of the above 37 firms, please send that information to the Assistant Commissioner, Office of Field Operations, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Dated: March 26, 1996.

Samuel H. Banks,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 96–7717 Filed 3–28–96; 8:45 am]

BILLING CODE 4820–02–P

Internal Revenue Service

Proposed Collection; Comment Request for Forms 8804, 8805, and 8813

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8804, Annual Return for Partnership Withholding Tax (Section 1446), Form 8805, Foreign Partner's Information Statement of Section 1446 Withholding Tax, and Form 8813, Partnership Withholding Tax Payment (Section 1446).

DATES: Written comments should be received on or before May 28, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Form 8804, Annual Return for Partnership Withholding Tax (Section 1446), Form 8805, Foreign Partner's Information Statement of Section 1446 Withholding Tax, and Form 8813, Partnership Withholding Tax Payment (Section 1446).

OMB Number: 1545–1119.

Form Number: Forms 8804, 8805, and 8813.

Abstract: Internal Revenue Code section 1446 requires U.S. partnerships to pay a withholding tax if they have effectively connected taxable income that is allocable to foreign partners. The partnerships use Form 8813 to make payments of withholding tax to the IRS. They use Forms 8804 and 8805 to make annual reports to provide the IRS and affected partners with information to assure proper withholding, crediting to partners' accounts, and compliance.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals or households.

Estimated Number of Respondents: 5,000.

Estimated Time per Respondent: 24 hr., 14 min.

Estimated Total Annual Burden Hours: 121,150.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Approved: March 22, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–7767 Filed 3–28–96; 8:45 am]

BILLING CODE 4830–01–P

Proposed Collection; Comment Request for Form 8815

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8815, Exclusion of Interest From Series EE U.S. Savings Bonds Issued After 1989.

DATES: Written comments should be received on or before May 28, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Exclusion of Interest From Series EE U.S. Savings Bonds Issued After 1989.

OMB Number: 1545–1173.

Form Number: Form 8815.

Abstract: If an individual redeems series EE U.S. savings bonds issued after 1989 and pays qualified higher education expenses during the year, the interest on the bonds may be excludable from income. Form 8815 is used by the individual to figure the amount of savings bond interest that is excludable.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 25,000.

Estimated Time per Respondent: 2 hr., 1 min.

Estimated Total Annual Burden Hours: 50,420.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Approved: March 22, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–7768 Filed 3–28–96; 8:45 am]

BILLING CODE 4830–01–P

Proposed Collection; Comment Request for Form 2441

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 2441, Child and Dependent Care Expenses.

DATES: Written comments should be received on or before May 26, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Child and Dependent Care Expenses.

OMB Number: 1545–0068.

Form Number: Form 2441.

Abstract: Internal Revenue Code section 21 allows a credit for certain child and dependent care expenses to be claimed on Form 1040 (reduced by employer-provided day care excluded under Code section 129). Form 2441 is used to verify that the credit and exclusion are properly figured, and that day care provider information is reported.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 4,421,940.

Estimated Time per Respondent: 2 hr. 30 min.

Estimated Total Annual Burden Hours: 11,054,850.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Approved: March 21, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–7769 Filed 3–28–96; 8:45 am]

BILLING CODE 4830–01–P

Renewable Electricity Production Credit, Publication of Inflation Adjustment Factor and Reference Prices for Calendar Year 1996

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Publication of inflation adjustment factor and reference prices for calendar year 1996 as required by section 45(d)(2)(A) (26 U.S.C. 45(d)(2)(A)).

SUMMARY: The 1996 inflation adjustment factor and reference prices are used in determining the availability of the renewable electricity production credit under section 45(a).

DATES: The 1996 inflation adjustment factor and reference prices apply to calendar year 1996 sales of kilowatt hours of electricity produced in the United States or a possession thereof from qualified energy resources.

INFLATION ADJUSTMENT FACTOR: The inflation adjustment factor for calendar year 1996 is 1.0750.

REFERENCE PRICES: The reference prices for calendar year 1996 are 5.5¢ per kilowatt hour for facilities producing electricity from wind and 0¢ per kilowatt hour for facilities producing electricity from closed-loop biomass. The reference price for electricity produced from closed-loop biomass, as defined in section 45(c)(2), is based on a determination under section 45(d)(2)(C) that in calendar year 1995 there were no sales of electricity generated from closed-loop biomass energy resources under contracts entered into after December 31, 1989.

Because the 1996 reference prices for electricity produced from wind and closed-loop biomass energy resources do not exceed 8¢ multiplied by the inflation adjustment factor, the phaseout of the credit provided in section 45(b)(1) does not apply to electricity sold during calendar year 1996.

CREDIT AMOUNT: As required by section 45(b)(2), the 1.5¢ amount in section 45(a)(1) is adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the sale occurs. If any amount as increased under the preceding sentence is not a multiple of 0.1¢, such amount is rounded to the nearest multiple of 0.1¢. Under the calculation required by section 45(b)(2), the renewable electricity production credit for calendar year 1996 under section 45(a) is 1.6¢ per kilowatt hour on the sale of electricity produced from closed-loop biomass and wind energy resources.

FOR FURTHER INFORMATION CONTACT: David A. Selig, IRS, CC:DOM:P&SI:5, 1111 Constitution Ave., NW., Washington, D.C. 20224, (202) 622–3040 (not a toll-free call).

Judith C. Dunn,

Associate Chief Counsel (Domestic).

[FR Doc. 96–7656 Filed 3–28–96; 8:45 am]

BILLING CODE 4830–01–P

Office of Thrift Supervision

[AC–22; OTS No. 05338]

First Federal Savings and Loan Association of Herrin, Herrin, Illinois; Approval of Conversion Application

Notice is hereby given that on March 22, 1996, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of First Federal Savings and Loan Association of Herrin, Herrin, Illinois, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Central Regional Office, Office of Thrift Supervision, 200 West Madison Street, Suite 1300, Chicago, Illinois 60606.

Dated: March 26, 1996.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 96–7758 Filed 3–28–96; 8:45 am]

BILLING CODE 6720–01–P

[AC–21; OTS No. 5755]

The Lexington Building and Loan Association, F.A., Lexington, Missouri; Approval of Conversion Application

Notice is hereby given that on March 25, 1996, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of The Lexington Building and Loan Association, F.A., Lexington, Missouri, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Midwest Regional Office, Office of Thrift Supervision, 122 W. John Carpenter Freeway, Suite 600, Dallas, Texas 75039–2010.

Dated: March 26, 1996.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 96–7757 Filed 3–28–96; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF VETERANS AFFAIRS

Medical Research Service Cooperative Studies Evaluation Committee; Notice of Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 (Federal Advisory Committee Act), as amended, by section 5(c) of Public Law 94–409, that a meeting of the Medical Research Service Cooperative Studies Evaluation Committee will be held at the Ramada Hotel (Old Town) Alexandria, VA 22314, April 23–24, 1996. The session on April 23 is scheduled to begin at 7:30 a.m. and end at 5 p.m. and on April 24 from 7:30 a.m. to 3 p.m. The meeting will be for the purpose of reviewing five new protocols for multi-hospital clinical trial: one on treatment of seizures in the elderly, one on treatment of cirrhosis in patients with alcoholic liver disease; one on comparison of three procedures for bleeding esophageal varices; one on naltrexone treatment of alcoholism; and one on specialized medication and revascularization therapy and progress of two on-going cooperative studies, one on risk factors for colon cancer and one on genetic study on schizophrenia.

The Committee advises the Director, Medical Research Service, through the Chief of Cooperative Studies Program on the relevance and feasibility of the studies, the adequacy of the protocols, and the scientific validity and propriety of technical details, including protection of human subjects.

The meeting will be open to the public up to the seating capacity of the room from 7:30 a.m. to 8 a.m. on both days to discuss the general status of the program. To assure adequate accommodations, those who plan to attend should contact Dr. Ping Huang, Coordinator, Medical Research Service, Cooperative Studies Evaluation Committee, Department of Veterans Affairs, Washington, DC, (202) 565–7154, prior to the meeting.

The meeting will be closed from 8 a.m. to 5 p.m. on April 23, 1996, and from 8 a.m. to 3 p.m. on April 24, 1996, for consideration of specific proposal in accordance with provisions set forth in section 10(d) of Public Law 92–463, as amended by section 5(c) of Public Law 94–409, and 5 U.S.C. 552b (c)(6). During this portion of the meeting, discussions and recommendations will deal with qualifications of personnel conducting the studies, staff and consultant critiques of research protocols, and similar documents, and the medical records of patients who are study subjects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dated: March 22, 1996.

By direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 96–7648 Filed 3–28–96; 8:45 am]

BILLING CODE 8320–01–M

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federal register

Friday
March 29, 1996

Part II

Department of Health and Human Services

Public Health Service

Announcement of Availability of Grants for General Family Planning Training Projects; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Announcement of Availability of Grants for General Family Planning Training Projects

AGENCY: Office of Family Planning, OPA, PHS.

ACTION: Notice.

SUMMARY: The Office of Family Planning (OFP) of the Office of Population Affairs requests applications for grants under the Family Planning Service Training Program authorized under section 1003 of the Public Health Service (PHS) Act (42 U.S.C. 300a–1(a)). Funds are available to train family planning personnel in order to maintain the high level of performance of family planning services projects funded under Title X of the PHS Act. Training will be provided under this announcement at general training centers in three of the Department of Health and Human Services' (DHHS) regions.

DATES: To receive consideration, applications must be received by the Grants Management Office no later than May 28, 1996. Applications will be considered as meeting the deadline if they are either (1) received on or before the deadline date, or (2) postmarked on or before the deadline date and received in time for submission to the review committee. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks will not be accepted as proof of timely mailing. Applications which are postmarked or delivered to the Grants Management Office later than May 28, 1996 will be judged late and will not be accepted for review. Applications which do not conform to the requirements of the program announcement or meet the applicable requirements of 42 CFR part 59, subpart C, will not be accepted for review. Applicants will be notified, and applications will be returned.

ADDRESSES: Requests for application kits may be faxed to (301) 594–5980. Application kits may also be obtained from and applications must be submitted to the Office of Population Affairs, Grants Management Office, 4350 East-West Highway, Suite 200, West Tower, Bethesda, MD 20814.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Moskosky, Office of Family Planning at (301) 594–4008 is available for assistance on scientific, technical and program aspects, or Ms. Diane J. Osterhus, Grants Management Officer at (301) 594–4012 is available for business management issues. Staff are available to answer questions and provide limited technical assistance in the preparation of grant applications.

SUPPLEMENTARY INFORMATION: Title X of the PHS Act, 42 U.S.C. 300, *et seq.*, authorizes the Secretary of Health and Human Services to award grants for projects to provide training for family planning service personnel. (Catalog of Federal Domestic Assistance Number 93.260). This notice announces the availability of approximately $700,000 in funding and solicits applications for three general training projects to assist in the establishment and operation of regional training centers for Regions I, V, and VII. Grants will be funded within certain ranges, as set out below. The funding ranges for the regions are determined based on the assessment of the Deputy Assistant Secretary for Population Affairs (DASPA) of the regions' relative need for training funds; funding of individual grants within each funding range will be based on the DASPA's assessment of such factors as the training needs within the region and the cost and availability of personnel for training.

The training projects are as follows:

One general training grant for DHHS Region I (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont). A funding range of $181,500–$200,600 is available for this grant.

One general training grant for DHHS Region V (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin). A funding range of $315,400–$348,600 is available for this grant.

One general training grant for DHHS Region VII (Iowa, Kansas, Missouri, Nebraska). A funding range of $168,400–$186,100 is available for this grant.

Statutory and Regulatory Background

Title X of the PHS Act, enacted by Public Law 91–572, authorizes grants for projects to provide family planning services to persons from low-income families and others. Section 1001 of the Act, as amended, authorizes grants "to assist in the establishment and operation of voluntary family planning projects which shall offer a broad range of acceptable and effective family planning methods and services (including natural family planning methods, infertility services and services for adolescents)." Section 1003 of the Act, as amended, authorizes the Secretary to make grants to entities to provide the training for personnel to carry out the family planning services programs.

The regulations set out at 42 CFR part 59, subpart C, govern grants for family planning services training. Prospective applicants should refer to the regulations in their entirety.

Role and Operation of the Training Program

Under the regulations, "training" means job-specific skill development. Continuing education activities that are innovative or non-traditional are encouraged. The development or use of self-paced, self-instructional or other training materials which utilize technological advancements in the learning field are also acceptable.

The purpose of the general training program is to provide short-term training, continuing education, inservice education and staff development for personnel in order to improve or maintain at a high level the performance of Title X family planning services providers.

Successful applicants will be required to work closely with a network of other PHS agencies, including the central and regional office staffs, Title X service delivery providers, and regional training advisory committees which provide representation from all service grantees. Successful applicants will be required to review and consider policy and program goals of the Title X family planning program, solicit advice from the regional training advisory committee, and consult with Title X service delivery providers about training priorities, course content, and curriculum. Because of outcomes from the community planning process and emphasis on community involvement, successful applicants should also stress mechanisms that solicit input from the "customer," both clinician and client.

In developing curricula and training programs, general training programs supported under this announcement should be sensitive to the importance of supporting the program priorities of the Title X services program, which include:

- Increased outreach to individuals not likely to seek services, including homeless persons, disabled persons, substance abusers and adolescents;
- Expansion of comprehensiveness of reproductive health services, including STD and cancer screening and prevention, increased involvement of male partners, HIV prevention, education and counseling, and substance abuse screening and referral;
- Increased emphasis on services to adolescents, including more community education, emphasis on postponement of sexual activity, and more accessible provision of contraceptive counseling and contraception;
- Elimination of disincentives to providing long-acting, highly effective contraceptives, serving high risk (and high-unit cost) clients, and providing nonrevenue-generating services, such as community education and prevention services; and
- Increased emphasis on training and retention of Women's Health nurse practitioners, particularly minority nurse practitioners and nurse practitioners serving disadvantaged and medically underserved communities.

Applicants must be prepared to focus training on emerging issues, such as managed care, new concepts in communication and increased emphasis on public information and education. The DHHS project officer or designee may periodically direct the training grantee to make adjustments in the training agenda. The applicant must demonstrate the ability to be flexible in terms of scheduling training that responds to emerging issues as directed by the DHHS project officer or designee. All training events shall be approved (in advance) by the DHHS project officer or designee.

Successful applicants will be responsible for the overall management of a general training program within the geographic area for which the grant is made. This responsibility includes:

- Developing an annual training plan which demonstrates flexibility in responding to emerging focus areas, and which reflects national and regional goals and the training needs of local Title X service providers;
- Developing criteria for selection of staff or consultants who will conduct training, including prerequisite qualifications. Such criteria should reflect a sensitivity to the unique types of training that will be needed to address emerging issues;
- Developing a process to identify the appropriateness of training offerings for the various levels of Title X services grantee personnel;
- Maintaining data on the regional training program sufficient to allow evaluation by central and regional offices, and self-evaluation by the training grantees;
- Developing and implementing an annual training schedule which includes measurable objectives for sessions, and which confers continuing education units to participants where appropriate;
- Making available at cost all materials developed with Title X funds to other federally-funded projects upon request;
- Attending at least one training meeting called by Central Office annually.

Application Requirements

Applications must be submitted on the forms supplied (PHS–5161–1) (OMB Approval No. 0937–0189) and in the manner prescribed in the application kits available from the Office of Grants Management. Applicants are required to submit an application signed by an individual authorized to act for the applicant agency or organization and to assume for the organization the obligations imposed by the terms and conditions of the grant award. Applicants are required to submit an original application and two copies.

Accepted applications will be subjected to a competitive review process. The results of this review will assist the DASPA in considering competing applications and in making the final funding decisions.

Any public or private nonprofit organizations or agency is eligible to apply for a grant. It is not required that an entity applying for a grant be physically located in the region to be served by the proposed project. Awards will be made only to those organization or agencies which have demonstrated the capability of providing the proposed services, and which have met all applicable requirements.

A copy of the legislation and regulations governing this program will be sent to applicants as part of the application kit package. Applicants should use the legislation, regulations and information included in this announcement to guide them in developing their applications. Applications should be limited to 50 doubled-spaced pages, not including appendices providing curriculum vitae or statements of organizational capabilities.

Application Consideration and Assessment

Eligible competing grant applications will be reviewed by a multidisciplinary panel of independent reviewers and assessed according to the following criteria:

1. The extent to which the proposed training program will enhance the delivery of services to Title X clients, particularly persons from low-income families. (15 points)

2. The extent to which the proposed training program has the potential to fulfill the training needs of the family planning services grantees in the areas to be served, which may include among other things:

a. Development of a capability within family planning services projects to provide pre- and in-service training to their own staffs;

b. Improvement of the family planning service delivery skills of family planning and health services personnel; and

c. Improvement in the utilization and career development of paraprofessional and paramedical manpower in family planning services.

Total consideration for a, b, and c. (15 points)

3. The extent to which the training program proposes appropriate strategies to improve the provision of family planning services in rural areas and Health Professional Shortage Areas (HPSAs). (10 points)

4. The capacity of the applicant to make rapid and effective use of the training grant. (10 points)

5. The administrative and management capability and competence of the project staff and applicant organization. (15 points)

6. The ability of the applicant to be flexible in making timely adjustments to the training agenda in order to meet emerging family planning needs, as directed by the DHHS project officer or designee. (20 points)

7. The degree to which the project plan adequately provides for the requirements set forth in 42 CFR 59.205, including the applicant's presentation of the project's objectives, the methods for achieving project objectives, the ability to involve providers and the regional office, and the results or benefits expected. (15 points)

In making grant award decisions, the DASPA will fund those projects which will, in her judgment, best promote the purposes of section 1003 of the Act, within the limits of funds available for such projects.

Grants will be approved for project periods of up to 3 years. Grants are funded in annual increments (budget periods). Funding for all approved budget periods beyond the first year of the grant is contingent upon satisfactory progress of the project, efficient and effective use of grant funds provided, and availability of funds.

Review Under Executive Order 12372

Applicants under this announcement are subject to the review requirements of Executive Order 12372, Intergovernmental Review of Department of Health and Human Services Programs and Activities, as implemented by 45 CFR part 100. As soon as possible, the applicant should discuss the project with the State Single point of Contact (SPOC) for each state in

the area to be served. The application kit contains the currently available listing of the SPOCs which have elected to be informed of the submission of applications. For those States not represented on the listing, further inquiries should be made by the applicant regarding the submission of the relevant SPOC. The SPOC's comment(s) should be forwarded to the Office of Population Affairs, Grants Management Office, 4350 East-West Highway, Suite 200, West Tower, Bethesda, MD 20814. Such comments must be received by the Office of Population Affairs by May 28, 1996 to be considered.

When final funding decisions have been made, each applicant will be notified by letter of the outcome. The official document notifying an applicant that a project application has been approved for funding is the Notice of Grant Award, which specifies to the grantee the amount of money awarded, the purposes of the grant, and terms and conditions of the grant award.

Dated: March 20, 1996.

Felicia H. Stewart,

Deputy Assistant Secretary for Population Affairs.

[FR Doc. 96–7638 Filed 3–28–96; 8:45 am]

BILLING CODE 4160–17–M

federal register

Friday
March 29, 1996

Part III

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Part 31
Federal Acquisition Regulation;
Contractor Overhead Certification;
Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 31

[FAR Case 92–613]

RIN 9000–AG85

Federal Acquisition Regulation; Contractor Overhead Certification

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council (CAAC) and the Defense Acquisition Regulations Council (DARC) are considering revisions to the Federal Acquisition Regulation to clarify the allowability of certain costs. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

DATES: Comments should be submitted on or before May 28, 1996, to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat, (VRS), 18th & F Streets NW., Room 4037, Washington, DC 20405.

Please cite FAR case 92–613 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy F. Olson at (202) 501–3221 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405; telephone: (202) 501–4755. Please cite FAR case 92–613.

SUPPLEMENTARY INFORMATION:

A. Background

The General Accounting Office (GAO), in its report GAO/NSIAD–93–79, "CONTRACT PRICING: Unallowable Costs Charged to Defense Contracts," dated November 20, 1992, reported many instances where contractors had proposed costs for gifts and entertainment that appeared to be questionable. Some of those costs appeared to be unallowable under the existing cost principles and others, while not specifically unallowable, appeared to be unreasonable. GAO recommended that FAR 31.205–1, 31–205–13, and 31.205–14 be revised to eliminate confusion as to which cost principle was controlling. The December 1992 OMB SWAT summary report on civilian agency contracting practices also recommended these cost principles be made more explicit.

This proposed rule removes from paragraph (f)(5) of the cost principle at FAR 31.205–1, Public relations and advertising costs, the parenthetical reference to other cost principles to eliminate any confusion as to which cost principle governs. Other recommendations made by GAO and the OMB SWAT concerning further revisions to the cost principles have now been overtaken by the implementation of the Federal Acquisition Streamlining Act of 1994 (FASA), Public Law 103–355. These include revisions to FAR 31.205–13 and 31.205–14, which were published as final in the **Federal Register** at 60 FR 42648, August 16, 1995, under FAR Case 94–750, Entertainment, Gift, and Recreation Costs for Contractor Employees. FAR Case 94–750 implements section 2192 of FASA. Revisions to FAR Parts 42 and 52, requiring contractors to certify that indirect cost rate proposals do not contain unallowable costs, were published as a final rule in the **Federal Register** at 60 FR 42663, August 16, 1995, under FAR Case 94–752, Contractor Overhead Certification, which implements section 2151 of FASA.

B. Regulatory Flexibility Act

This proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because most contracts awarded to small businesses are awarded through sealed bidding on a firm fixed-price basis. The cost principles apply only where contracts are based on cost or pricing data. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments from small entities concerning the affected FAR subpart will be considered in accordance with section 610 of the Act. Such comments must be submitted separately and should cite 5 U.S.C. 601, et seq., (FAR case 92–613), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, et seq. 5 CFR 1320.7(j)(1) provides an exclusion for certifications when they entail no burden other than necessary to identify the respondent, the date, the respondent's address and the nature of the instrument.

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: March 25, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, it is proposed that 48 CFR part 31 be amended as set forth below:

1. The authority citation for 48 CFR part 31 continues to read as follows:

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

31.205–1 [Amended]

2. Section 31.205–1(f)(5) is amended by removing the parenthetical.

[FR Doc. 96–7687 Filed 3–28–96; 8:45 am]

BILLING CODE 6820–EP–P

Friday
March 29, 1996

Part IV

Department of Housing and Urban Development

NOFA for the Traditional Indian Housing Development Program for Fiscal Year 1996; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4001–N–01]

Office of the Assistant Secretary for Public and Indian Housing; NOFA for the Traditional Indian Housing Development Program for Fiscal Year 1996

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of funding availability (NOFA) for Fiscal Year 1996.

SUMMARY: This notice announces the availability of approximately $160,000,000 in Fiscal Year (FY) 1996 funding for the development of new Indian Housing (IH) units and provides the applicable criteria, processing requirements and action timetable. All Indian housing authorities (IHAs) which have not been determined to be administratively incapable, in accordance with 24 CFR 950.135, are invited to submit applications for Indian Housing developments in accordance with the requirements of this NOFA.

Note: The Congress has not yet enacted a U.S. Department of Housing and Urban Development and Independent Agencies Appropriations Act for Fiscal Year 1996. However, HUD is publishing this notice in order to give potential applicants adequate time to prepare applications. The estimate of the amount of funds available for this program is based on the anticipated level of funding for FY 1996. HUD is not bound by the estimate set forth in this notice.

DATES: Applications must be physically received by the area Office of Native American Programs (ONAP), within whose jurisdiction the applicant is located, on or before 3:00 p.m., ONAP local time, April 13, 1996. The applicant shall submit its application(s) for new housing units on Form HUD–52730 with all supporting documentation required by Appendix 2, and for demolition or disposition in accordance with 24 CFR part 950, subpart M.

FOR FURTHER INFORMATION CONTACT: Applicants may contact the appropriate area ONAP for further information. Refer to Appendix 1, for a complete list of ONAPs and telephone numbers.

SUPPLEMENTARY INFORMATION:

Background Information

Paperwork Reduction Act Statement

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the information collection requirements contained in these application procedures for development funds were reviewed by the Office of Management and Budget and assigned OMB control number 2577–0130. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Changes from FY 1995 NOFA

The Indian Housing Development NOFA for FY 1996 is essentially the same document published for the FY 1995 funding cycle with the following substantive changes:

A. Funding for replacement units. In prior year NOFAs, funding to replace units approved for demolition/disposition was set aside from the national allocation of new Indian Housing Development funds. Under this NOFA, funds are being withheld sufficient to fund replacement of units approved for demolition/disposition prior to FY 1996. For units approved for demolition/disposition in FY 1996, replacement housing may be funded by each area ONAP utilizing funds assigned to the area ONAP for new Indian Housing units.

B. IHAs impacted by the rescission of new Indian Housing Development funds in FY 1995. IHAs that lost units/funds due to the rescission of new Indian Housing Development funds in FY 1995 who are eligible to submit applications for funding in FY 1996 may submit an additional application(s) to replace the lost units/funds. An additional rating factor has been added which is applicable for those IHA's which lost funds/units due to the rescission.

C. Special provisions for state created IHAs for non-Federally recognized tribes. Application requirements applicable to state created IHAs for non-Federally recognized tribes have been included to highlight the corresponding regulatory requirement at 24 CFR 950.225(a)(3).

D. Treatment of minor technical deficiencies. To reduce workload requirements for IHAs, ONAPs will not request correction of minor technical deficiencies in applications until after completion of the rating and ranking. Only IHAs within a reasonable funding range will be requested to correct minor technical deficiencies.

E. Rating criterion for length of time since the last new Indian Housing Development grant award. This rating criterion has been simplified to provide each application with two points per year for each year since the last grant award through FY 1994.

F. Limit on awards to new IHAs. To assist new IHAs in establishing administration without overtaxing the organization, new IHAs are limited to submitting one application, either for mutual help or low rent units for a maximum of 15 units.

G. Submission of cooperation agreements. To avoid unnecessary work for IHAs that do not rank within the funding range, the timing of the submission of cooperation agreements is changed to after funding decisions are made. Where required, valid cooperation agreement(s) must be submitted to the area ONAP before an Annual Contributions Contract is executed and a Development Cost Budget is approved which exceed the requirements for planning funds as specified at 24 CFR 950.229(a)(1).

I. New Development

A. Authority. 1. Statutory Authority. Sections 5 and 6, U.S. Housing Act of 1937 (42 U.S.C. 1437c, 1437d), as amended; Section 23 U.S. Housing Act of 1937, as amended by section 554, Cranston-Gonzalez National Affordable Housing Act; section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d).

2. Indian Housing Regulations. Indian Housing Development regulations are published at 24 CFR part 950.

3. 24 CFR Part 135. Economic Opportunities for Low and Very Low Income Persons. All applicants are herein notified that the provisions of section 3 of the Housing and Urban Development Act of 1968, as amended, and the regulations in 24 CFR part 135 are applicable to funding awards made under this NOFA. One of the purposes of the assistance is to give, to the greatest extent feasible, and consistent with existing Federal, state, and local laws and regulations, job training, employment, contracting and other economic opportunities to section 3 residents and section 3 business concerns. IHAs and tribes that receive HUD assistance described in this part shall comply with the procedures and requirements of this part to the maximum extent consistent with, but not in derogation of, compliance with section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b).

B. Development Allocation Amount. The Indian Housing Development funds for FY 1996 total approximately $160,000,000.

Note: The Congress has not yet enacted a U.S. Department of Housing and Urban Development and Independent Agencies Appropriations Act for Fiscal Year 1996. However, HUD is publishing this notice in order to give potential applicants adequate time to prepare applications. The estimate of the amount of funds available for this program is based on the anticipated level of funding for FY 1996. HUD is not bound by the estimate set forth in this notice.

Each of the ONAP jurisdictions has been designated as the smallest practical area for the allocation of assistance. Funds available for new units will be assigned to the ONAPs consistent with 24 CFR 791.403.

Up to $2,971,674 of the available Indian Housing Development funds will be made available by the Department in order to provide funds needed to replace units approved for demolition/disposition in FY 1995 or prior years. Any portion of the $2,971,674 withheld for pre-FY 1996 replacement units that is not designated for demolition/disposition replacements by July 1, 1996, as well as any amounts of actual recaptures that are realized and reallotted to the program, will be made available to the six ONAPs on the same basis as the amounts allocated for new units.

Replacement units for demolition/disposition approved in FY 1996 may be funded from assignments for new Indian Housing units provided to the area ONAP within whose jurisdiction such Indian housing authority resides. Funding of replacement units is not subject to the competition announced by this NOFA.

The competitive process described in this NOFA will be used to select IHA applications to be funded for new Indian Housing units. Departmental compliance with the metropolitan/non-metropolitan provisions of section 213(d) of the Housing and Community Development Act of 1974 may require the selection of lower rated metropolitan applications over higher rated non-metropolitan applications. Based upon an assumed appropriation of $160,000,000, the table below indicates the grant authority available for new units in FY 1996 for the six ONAPs, inclusive of funds needed to meet off-site sewer and water requirements.

ONAP location	Funds assigned
Eastern/Woodlands	$22,069,860
Southern Plains	23,164,348
Northern Plains	18,051,820
Southwest	48,802,519
Northwest	14,248,750
Alaska	30,691,029
Total	157,028,326

C. Eligibility for New Housing Units. 1. Eligible applicants. All IHAs which meet the eligibility criteria specified at 24 CFR 950.207 are invited to submit applications for new Indian Housing units. All IHAs that have developments assisted under the U. S. Housing Act of 1937, as amended, and meet the requirements of 24 CFR part 950 subpart M, may apply for funds for demolition or disposition, whether eligible for new units or not. Such applications are not limited to the application due date specified in this NOFA.

2. Applications. IHAs may submit one application per program type (mutual help and low rent). Umbrella IHAs may submit one application per program type for each member tribe. An umbrella IHA is one that serves two or more Federally recognized tribes or Alaska native villages. New IHAs or existing umbrella IHAs with new, previously unserviced member tribes may submit one application for a maximum of 15 units (either mutual help or low rent).

3. Impact of funds rescinded in FY 1995. IHAs which lost funds/units as a result of the *Emergency Supplemental Appropriations for Additional Disaster Assistance, Anti-Terrorism Initiatives, for Assistance in the Recovery From the Tragedy That Occurred at Oklahoma City, and Rescissions Act, 1995,* (Pub. L. 104–19, approved July 27, 1995) may submit an application (or one per program type, if appropriate) in addition to the applications allowed under paragraph 2 above if the funds rescinded were equal to or greater than 80 percent of the cost of a typical 3 bedroom unit as specified in Notice PIH 95–46 (HUD) for the IHA's total development cost area(s). Umbrella IHAs may submit an application (or one per program type, if appropriate) for each member tribe impacted by the FY 1995 rescission. Project terminations and funding reductions in FY 1995 for projects that failed to reach construction start within 30 months after initial grant approval (see 24 CFR 950.210(c)) will not be considered for funding under the provisions of this paragraph. Funds requested for applications under this category will be adjusted to the amount required to fund the number of units nearest the amount rescinded.

4. State created IHAs for non-Federally recognized tribes. To be considered responsive to this NOFA and to be included in the rating and ranking of applications, state created IHAs for non-Federally recognized tribes must identify the general locality where the proposed units will be developed and certify that the proposed area of development is within the area of operation of the IHA. Area of operation is defined as a land area with defined geographical boundaries, which has a significant concentration of Indian families who are:

(i) Not eligible to be served by a public housing authority or other tribally created IHA; and

(ii) Have a bona fide historic presence or connection with the land, as recognized by the Federal Government or a state.

D. Development Award Application Process. 1. Application Due Date. An IHA may submit an application(s) for a project at any time after the publication date of this NOFA, to the ONAP having jurisdiction over the IHA applicant on or before 3:00 p.m., ONAP local time, May 13, 1996, for new Indian Housing units. The application(s) shall be submitted on Form HUD–52730 and shall be accompanied by all the legal and administrative attachments required by the form and the items specified in Appendix 2. A facsimile of the application will NOT constitute physical delivery.

The application deadline is firm as to date and hour. HUD will treat as ineligible for consideration any application that is received after the application deadline. Applicants should make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery related problems.

2. Application Kit. An application kit and applicable forms may be obtained from any ONAP listed in Appendix 1.

3. Submittal of Complete Application. Completed applications must be submitted to the ONAP, within whose jurisdiction the IHA applicant is located, at the address/location listed in Appendix 1.

4. Action on Application. When the application is received by HUD, a written notification will be provided to the IHA showing the date and time the application was received in the ONAP. The ONAP will review each application for completeness and legal sufficiency. Applications that contain insufficient information to allow the ONAP to rate and rank the application will be considered non-responsive and will be returned to the IHA. After completion of this review, the ONAP will rate and rank all remaining applications received from eligible applicants. The ranking will result in an ordered listing of applicants (see E.2. below). After completion of the rating and ranking, the ONAP may request, in writing, items missing from responsive applications from applicants who appear to be within 110 percent of the funding range. IHAs notified to provide information missing from the application have 14 days from the date of such notification to submit such information to the ONAP before the application is considered non-responsive and is removed from funding consideration.

E. Rating Factors and Selection Criteria. 1. Rating and Ranking. Rating

and ranking of applications from IHAs for new Indian Housing units will be done in accordance with 24 CFR 950.225. Applications from new IHAs, or, in the case of an umbrella IHA that has added a new tribe, the application from the new tribe, will receive 100 points. If an IHA that serves more than one tribal government, or, in the case of Alaska, more than one village, submits applications for housing units in several of the communities, each application will be treated separately, for purposes of the number of points awarded. Newly created IHAs for tribes which have previously received housing units under an umbrella IHA shall not be awarded 100 points but scored as an established IHA utilizing the best available data relevant to the tribe's housing program. For each ONAP jurisdiction, the rankings will be based on awarding points to each application for the following categories in accordance with the table of maximum points available per category by ONAP jurisdictional area (see h. below):

a. *The relative unmet IHA need* for housing units compared to the other eligible applications for that program type [i.e., low rent (LR) or mutual help (MH)], based on IHA waiting lists and the total number of units in management and in the development pipeline. There should be a separate waiting list for each program type. This need will be measured for each program type by dividing the number of families on the waiting list, by the IHA's total number of units in management and under development. If the result of this division is greater than 1.00, the maximum points for this category shall be awarded. Otherwise, the result of this division shall be multiplied by the maximum possible points available. If the IHA has 500 or more families on the waiting list, it is awarded the maximum points available for the category. If questions arise regarding the veracity of information on a waiting list, an ONAP may request an applicant to submit documentation supporting waiting list numbers, or may visit the IHA and review documentation maintained by the IHA.

b. *The relative IHA occupancy rate compared to the occupancy rates of other eligible IHA applications for that program type.* The occupancy rate for an IHA shall be derived from the most recent data entered in the HUD Management Information Retrieval System (MIRS) national data base, which reports total units available and total units occupied based on information supplied by IHAs on forms submitted periodically to HUD. For all IHA projects in management, the total number of units occupied is divided by the total number of units available, multiplied by 100. This occupancy rate for an IHA will then be divided by the highest occupancy rate of any IHA (never to exceed 97%, in any event), and this ratio shall be multiplied by the maximum points available for the category to calculate an IHA's points for this category. An existing IHA that is applying for a previously unfunded program type will be awarded a score equal to the highest rated score for this factor in the ONAP jurisdiction competition. A newly created IHA for a tribe which previously received housing units under an umbrella IHA shall be awarded a score based on the units within such tribe's jurisdiction whether or not such units have been transferred to the newly created IHA.

c. *Length of time since the last new Indian Housing Development grant was approved.* Two points will be awarded for each year since the last grant award up to and including FY 1994, up to the maximum points available under this category. A newly created IHA for a tribe which previously received housing units under an umbrella IHA shall be awarded a score based on the last new Indian Housing Development grant approved within such tribe's jurisdiction. Units received for demolition or disposition purposes will not be counted for rating and ranking purposes for new Indian Housing units in FY 1996.

d. *Current IHA development and physical improvements activity.* This factor evaluates the IHA's performance during the past 24 months in developing new housing or maintaining/improving current housing. The ONAP will evaluate the IHA's performance in these areas and will award points based upon but not limited to:

(1) Compliance with the requirements specified under 24 CFR 950.207(b);

(2) Compliance with CompGrant/ modernization implementation schedules;

(3) Effectiveness of maintenance policies and procedures in protecting physical assets of the IHA;

(4) Effectiveness of the IHA's development and physical improvements contract administration.

The ONAP will prepare written support for the number of points awarded which will be available to the IHA upon request. The ONAP shall take into consideration any unforeseen events such as natural disasters or other factors that may have precluded the IHA from meeting the criteria for this factor. The maximum points available for this category are listed in the table under h. below. A newly created IHA for a tribe which previously received housing units under an umbrella IHA shall be awarded a score based on the IHA's plan for developing and maintaining the units.

e. *IHAs impacted by the FY 1995 rescission.* Each application submitted under the provisions of I.C.3. of this part shall be awarded 35 points.

f. *A bonus* of up to 5 points will be awarded to any application where the applicant clearly demonstrates:

(1) Pre-planning of site selection and coordination with other funding agencies, utility companies, and tribal departments, or

(2) That the applicant has identified and selected sites for the development which result in savings of not less than 5 percent of the proposed development cost from using existing utility systems, pre-developed subdivision sites, or other items documented by the applicant.

(3) Innovative approaches to development or financing which will significantly reduce the delivery time of housing or expand the number of houses developed without reducing quality.

g. *Computation.* Scores for ranking shall be carried out to two decimal places (xx.xx).

h. *Points available for each rating category.* The following table reflects the maximum points available for each category for each of the ONAP jurisdictional areas:

	Points awarded for rating factors			
	(a) Need	(b) Occupancy	(c) Time	(d) Workload
Eastern/Woodlands	30	30	20	20
Southern Plains	35	10	25	30
Northern Plains	30	20	20	30
Southwest	40	20	20	20
Northwest	10	10	20	60
Alaska	40	20	20	20

2. Selection Criteria. a. *The ranking process will produce an ordered list* of IHA applications by ONAP jurisdiction that may receive funding. The order is established by the total number of points the application received in the rating process. If any funds remain after the initial funding cycle within the ONAP jurisdiction, the funds will be provided to more fully fund applications that were reduced due to the Maximum Units Award table shown in paragraph b below.

b. *The number of units awarded* shall be based upon the following table to ensure a more equitable distribution and meaningful competition based on need. Exceptions to the maximum number of units awarded based on the table shall be made and approved by the ONAP Administrator upon proper justification. Examples of justifications for varying from the table include equalization of units awarded to IHAs with similar scores or adjustments to assure the award of reasonably sized projects to all IHAs above a minimum score determined by the ONAP.

Waiting list by program type	Eastern/ Woodlands	Southern Plains	Northern Plains	Southwest	Northwest	Alaska
1,000 and above	200	300	20	240	35	300
750 to 999	150	200	20	160	30	200
500 to 749	100	150	20	120	25	150
400 to 499	60	100	20	80	20	100
300 to 399	50	80	20	60	15	80
200 to 299	40	50	20	40	10	60
199 and fewer	25	40	20	25	5	20

c. *Tie breaker.* In the case of ties, priority will be given to the application that has the highest scoring under the *Current IHA development and physical improvements activity* rating criterion (I.E.1.d.).

3. Replacement Housing. IHA applications for demolition or disposition may require a commitment for replacement housing units on a one for one replacement to comply with requirements of Section 18 of the U.S. Housing Act, as amended. IHAs are to process requests for demolition or disposition in accordance with 24 CFR part 905, subpart M.

II. Other Matters

A. HUD Reform Act. 1. Required Disclosures by Applicants.

a. *Disclosures.* All applicants are required to disclose information with respect to any additional funds that can reasonably be expected to be received by them as assistance in excess of $200,000 (in the aggregate) during the Fiscal Year that will be related to the project. Disclosure must be made relative to any related assistance from the Federal instrumentalities (other than HUD), a state, or a unit of general local government that is expected to be made available with respect to the project for which the applicant is seeking assistance. The assistance shall include but not be limited to any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance.

b. *Updates.* The IHA applicant shall update this disclosure within 30 days of any substantial change. This update is required during the period when an application is pending or assistance is being provided.

2. Prohibited Disclosures by HUD Employees. HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989, codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are limited by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Office of Ethics (202) 708–3815. (This is not a toll-free number.) For HUD employees who have specific program questions, such as whether particular subject matter can be discussed with persons outside HUD, the employee should contact the appropriate Field Office Counsel, or Headquarters counsel for the program to which the question pertains.

B. Lobbying. Section 319 of the Department of the Interior and Related Agencies Appropriations Act hereafter referred to as the "Byrd Amendment," prohibits grantees from using any federally appropriated funds to influence federal employees, members of Congress, and congressional staff regarding specific grants or contracts. The Department has determined that the requirements of the Byrd Amendment do not apply to IHAs established by a tribal government exercising its sovereign powers with respect to expenditures specifically permitted by other Federal law. The Byrd Amendment requires all IHAs established under state law to submit the following documents for applications for grants exceeding $100,000.

1. Certification. A certification that no federally appropriated funds will be used for lobbying purposes. The certification shall be submitted on the Form entitled "Certification for

Contracts, Grants, Loans and Cooperative Agreements."

2. Disclosure Document. A document disclosing any lobbying activities (on Standard Form—LLL, "Disclosure of Lobbying Activities") where any funds other than federally appropriated funds will be or have been used to influence federal employees, members of Congress, and congressional staff regarding specific grants or contracts.

C. Conversions. During the first 24 months after Program Reservation, project conversion between program type (LR or MH) may only be considered where:

1. An IHA submitted projects for mutual help (MH) and low rent (LR), each scored high enough to be funded, and the IHA has the waiting list to support the conversion, or

2. If only one application was submitted and approved, the application upon re-ranking in the other program has to score at least 0.01 higher than the number of points achieved by the highest rated application from any IHA which was not funded. If neither circumstance exists, the request to convert will not be approved.

D. Errors in Ranking and Rating Fiscal Year 1995. 1. Errors made by an ONAP during the 1995 fiscal year rating and ranking that resulted in a change of rank order detrimental to an IHA may be corrected as follows:

a. The ONAP will construct a hypothetical distribution that would have existed if the error had not been made, and

b. The ONAP will determine what the unit award/funding would have been for the IHA subject to the funds that were available at the time.

2. Remedial action will be taken for errors made by an ONAP as follows:

a. The ONAP will deduct any funds needed from the FY 1996 fair share assigned to that ONAP before any FY 1996 rating and rankings are completed.

b. A correction of an error for an IHA will not adversely affect the IHA participation in the FY 1996 rating and ranking process. The IHA's application will be rated and ranked on the same basis as other applications and as if no error was made.

E. Environment. A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection during business hours in the Office of the Rules Docket Clerk, Office of General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, S.W. Washington, D.C. 20410. For individual development projects, the IHA must comply with the environmental review procedures in 24 CFR part 58, including the limitation in section 58.22 on committing or expending funds before environmental clearance, in accordance with 24 CFR 950.247.

F. Other Federal requirements. In order to be eligible for funding, activities must be in compliance with Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR 8 and the Americans with Disabilities Act of 1990 (ADA) and implementing regulations for Title II of the ADA issued by the Department of Justice at 28 CFR part 35.

Dated: March 22, 1996.

Michael B. Janis,

General Deputy Assistant Secretary for Public and Indian Housing.

APPENDIX 1

Tribes & IHAs location	ONAP addresses
East of the Mississippi River (including all of Minnesota) and Iowa: Mohammed Rahmah	Eastern/Woodlands Office of Native American Programs, 5P, Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, Illinois 60604–3507, (312) 353–1282 or (800) 735–3239, TDD Numbers: 1–800–927–9275 or 312–886–3741.
Louisiana, Missouri, Kansas, Oklahoma, and Texas except for Isleta del Sur: Sherri Hunt.	Southern Plains Office of Native American Programs, 6.IPI 500 W. Main, Suite 400, Oklahoma City, Oklahoma 73102, (405) 553–7428, TDD Numbers: (405) 231–4181 or (405) 231–4891.
Colorado, Montana, Nebraska, North Dakota, South Dakota and Wyoming: Ann Roman.	Northern Plains Office of Native American Programs, 8P, First Interstate Tower North, 633 17th Street, Denver, Co 80202–3607, (303) 672–5462, TDD Number: (303) 672–5248.
Arizona, California, and Nevada: John Cata	Southwest Office of Native American Programs, 9EPID, Two Arizona Center, 400 North Fifth Street, Suite 1650, Phoenix, Arizona 85004–2361, (602) 379–4156, TDD Number: (602) 379–4461 or
New Mexico and Isleta del Sur in Texas: Sharon Booth	Albuquerque Division of Native American Programs, 9EPIDI, Albuquerque Plaza, 201 3rd Street, N.W. Suite 1830, Albuquerque, New Mexico 87102–3368, (505) 766–1372, TDD Number: None.
Idaho, Oregon and Washington: Dan Gough	Northwest Office of Native American Programs, 10PI, 909 First Avenue, Suite 300, Seattle, Washington 98104–1000, (206) 220–5270, TDD Number: (206) 220–5185.
Alaska: Donna Hartley	Alaska Office of Native American Programs, 10.1PI, 949 East 36th Avenue, Suite 401, Anchorage, Alaska 99508–4399, (907) 271–4633, TDD Number: (907) 271–4328.

Appendix 2—New Indian Housing Development Application Submission Checklist

Note: Certain submission requirements listed on the following checklist are included on the application form HUD–52730. It is the responsibility of the IHA to assure that all submission requirements of the checklist are met whether through the application form or by separate submittal:

1. Application Form HUD–52730:
—Complete application on Form HUD–52730 (5/94).
—Attach all exhibits and tables as required.

2. IHA Resolution(s): each application must be accompanied by an IHA Resolution which contains the following:
—A statement that authorizes the submission of the application for units.
—A statement explaining how solid waste disposal for the proposed development will be addressed.
—A statement regarding the planned access to public utility services and a listing of any official commitment(s) for these utility services for the development.
—The IHA Resolution must advise HUD of any persons with a pecuniary interest in the proposed development. Persons with a pecuniary interest in the development shall include but not be limited to any developers, contractors, and consultants involved in the application, planning, construction, or implementation of the development. (During the period when an application is pending or assistance is being provided, the applicant shall update the disclosure required within thirty days of any substantial change.)

3. Certifications: Each application must contain the following certifications provided by the Executive Director on IHA letterhead, in addition to the certifications included on Form HUD–52730 (5/94):
—Certification Regarding Drug-Free Workplace Requirements as directed by 24 CFR 24.630(b).
—Certification that the IHA has complied with all requirements of 24 CFR Part 135, which implements Section 3 of the HUD Act of 1968, as amended.

4. Letters: Each IHA application must be accompanied by a letter of support signed by the CEO of the general local government indicating:
—Support for the proposed application and development.
—Support for the IHA's intent to apply for planning funds for the development.
—Where applicable, assurance to HUD that access road needs will be identified by Tribal Resolution (with BIA concurrence) and entered on the BIA Indian Reservation Roads prioritization schedule used by BIA for resource allocation (25 CFR part 170: 57 BIAM 4 and Supplement 4).
—Acknowledgement that there is a need for the housing assistance applied for that is not being met by private enterprise.
—Assurance that there are, or will be available, public facilities and services adequate to serve the proposed housing. (If available, Tribal support is evidenced by attached letters from various organizations that will provide utilities and services to the proposed housing units.)

5. Supporting Documentation: Each application must be accompanied by the following supporting documentation:
—Disclosure of additional assistance from other sources that will be used in association with the project for which the applicant is seeking assistance.
—Statement specifying the number of eligible applicant families by program type (LR or MH). The statement must be supported by a sufficient number of current applications from eligible families maintained by the IHA.

6. Items That Should be Submitted, If Not Previously Submitted:
—Certified Copy of the Transcript of Proceedings containing the IHA Resolution pursuant to which the Application is being made.
—IHA Organization Transcript or General Certificate.
—Tribal Ordinance.

7. Optional Items:
—Cooperation Agreements. Where the provisions of the necessary local government cooperation are not contained in the ordinance or other enactment creating the IHA, the IHA is required to execute a cooperation agreement(s) for the location involved, which is sufficient to cover the number of units in the application. The cooperation agreement may be submitted with the application but shall be submitted before HUD may enter into an Annual Contributions Contract (or amendment thereto) for funds in excess of planning needs of the project.

8. Force Account. To enable the Field Office of Native American Programs to make an initial determination of the viability of the proposal, there are additional submission requirements for the application, including:
—IHA justification for HUD approval of the force account method, pursuant to 24 CFR 950.215(b).
—IHA or Tribal resolution agreeing to cover any costs in excess of the HUD-approved estimated construction cost.
—Evidence that either the IHA or Tribe has the resources to cover such excess costs.
—An action plan as outlined in HUD Handbook 7450.01 REV–1, Chapter 14, paragraph 14–5. (The Handbook has been rescinded; however, it continues to be used as guidance.)

9. Special submittal requirements for state created IHAs for non-Federally recognized tribes:
—Certification, signed by the Chairman of the IHA Board of Commissioners stating that sites selected or to be selected are within the IHA's area of operation.
—Supporting documentation including maps, state laws and local ordinances, and other relevant information which documents the IHA's area of operation, i.e., defined geographic boundaries which have a significant concentration of Indian families who are not eligible to be served by a public housing authority or tribally created IHA and have a bona fide historic presence or connection with the land, as recognized by the Federal Government or a state.

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March 29, 1996

Part V

Department of Housing and Urban Development

Office of the Secretary

24 CFR Part 7
Equal Employment Opportunity, Policies and Procedures; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary; Equal Employment Opportunity; Policies and Procedures

24 CFR Part 7

[Docket No. FR 3323–F–01]

RIN 2529–AA61

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This final rule streamlines HUD's regulations in 24 CFR part 7 pertaining to equal opportunity policies and procedures, and updates these regulations to reflect current practices. Additionally, this rule makes HUD's equal employment complaint processing consistent with the Equal Employment Opportunity Commission's (EEOC) regulations at 29 CFR part 1614.

EFFECTIVE DATE: April 29, 1996.

FOR FURTHER INFORMATION CONTACT: Mari R. Barr, Director for Equal Employment Opportunity, Office of Departmental Equal Employment Opportunity, Room 4300 L'Enfant Plaza, (202) 708–3633, Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. (This telephone number is not toll-free.) For hearing- or speech-impaired persons this number may be accessed via TDD by contacting the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

This final rule streamlines and updates HUD's regulations in 24 CFR part 7 pertaining to equal opportunity policies and procedures. With the exception of two sections (§§ 7.2, 7.3) these regulations have not been amended since 1971. The rule is revised to reflect the new organization of HUD's Equal Employment Opportunity (EEO) office. Additionally, this rule revises the regulations to parallel EEOC's regulations at 29 CFR part 1614, relating to Federal sector equal employment. It will enable quicker, more efficient processing of complaints and promotes impartial, fair and early resolution of complaints.

The revisions are as follows:

Section 7.1 Policy

This section has been revised by the adding of age and disability as additional bases of discrimination.

Section 7.2 Definition

The definition of a person with a disability, which means the same as handicap under EEOC's regulations at 29 CFR part 1614, has been added.

Section 7.3 Designation

This section replaces the Assistant Secretary for Fair Housing and Equal Opportunity as the Director of Equal Employment Opportunity. The Director of the Office of Departmental Equal Employment Opportunity is designated the Director of Equal Employment Opportunity (EEO).

The Deputy Director of the Office of Departmental Equal Employment Opportunity is designated as the Deputy Director of Equal Employment Opportunity.

This section also states that Equal Employment Opportunity officers shall be designated by the Director of EEO for their respective organizational units.

Section 7.4 Affirmative Employment Programs

The final rule adds a new section which states that the Office of the Secretary, the Assistant to the Deputy Secretary for Field Management, each Assistant Secretary, the General Counsel, the Inspector General, the President of Government National Mortgage Association, the Chief Financial Officer, the Director of Lead-Based Paint Abatement and Poisoning Prevention, and the Director, Office of Federal Housing Enterprise Oversight shall establish, maintain and carry out a plan of affirmative employment to promote equal employment opportunity in every aspect of employment policy and practice. Each plan shall identify instances of under-representation of minorities, women and persons with disabilities, recognize situations or barriers that impede equality of opportunity, and include objectives and action items targeted to eliminate any employment, training, advancement, and retention issues which adversely affect minorities, women and persons with disabilities.

Section 7.10 Responsibilities of the Director and Deputy Director of EEO

The function of selecting equal employment counselors has been added to the functions of the Director and Deputy Director of EEO.

Equal employment counselors previously were designated by EEO officers. The Director or the Deputy Director of EEO only concurred on the designations.

Section 7.11 Responsibilities of EEO Officers.

Each EEO officer has the additional responsibilities of

(1) advising the Director of EEO on all matters pertaining to the implementation of the Department's Equal Employment and Affirmative Employment policies and programs in the respective organizational units;

(2) Publicize to all employees of the organizational unit the name and address of the Director of EEO, the EEO Officer, and the EEO Counselor(s), the EEO Discrimination Complaint Manager, the Affirmative Employment Program (AEP) Manager, the Diversity Program Manager, and the EEO complaint procedures;

(3) Evaluate the performance by the managers and supervisors in the organization unit in carrying out their responsibilities;

(4) Seek a resolution of EEO matters alleging discrimination within their organization brought to their attention;

(5) Designate a high level Affirmative Employment Program (AEP) Manager in Headquarters responsible for the preparation of the AEP plan; the management of the plan; providing advice and guidance to managers and supervisors in removing barriers to Equal Employment Opportunity/ Affirmative Employment (EEO/AE) and in implementing all their EEO/AE responsibilities.

(6) Designate a senior level EEO Discrimination Complaint Manager in Headquarters to manage and direct the organization's EEO responsibilities;

(7) Designate a senior level Diversity Program Manager in Headquarters to manage and direct the organization's Diversity Program and provide resources for Diversity activities for its employees.

Section 7.12 Responsibilities of EEO Counselors

Age and disability discrimination have been added as additional reasons for counseling by EEO counselors.

Section 7.13 Responsibilities of the Assistant Secretary for Administration

This section was revised by adding three new responsibilities. They are as follows:

(1) Prepare and implement plans for recruitment and reports in accordance with the Federal Equal Opportunity Recruitment Program and the Disabled Veterans Affirmative Action Program;

(2) Make reasonable accommodation to the known physical or mental limitations of qualified applicants and employees with disabilities unless the accommodation would impose an undue hardship on the operation of the agency's program; and

(3) Designate a senior level Disability Program Manager to promote EEO/AE

for persons with disabilities; to assure the accessibility of all HUD facilities and programs; and to manage the resources for providing reasonable accommodation.

Section 7.14 Responsibilities of Human Resources Officers

The title of Director of Personnel has been replaced with the new title called Human Resources Officer. Certain responsibilities have been given Human Resources Officers in addition to those of the former Directors of Personnel. They are as follows:

(1) In coordination with the Director of the Training Academy, develop an on-going training program for various levels of administration and supervision, to insure understanding of the Departmental EEO/AE programs, policy and requirements which fosters effective teamwork and high morale, and provide communication with employees on any matter related to equal employment opportunity;

(2) Decide all personnel actions on merit principles in a manner which will demonstrative affirmative equal employment opportunity for the organization;

(3) Ensure the greatest possible utilization and development of the skills and potential ability of all employees;

(4) Track applicant flow and promptly take or recommend appropriate action to overcome any impediment to the achievement of the objectives of the EEO/AE programs; and

(5) Provide recognition to employees, supervisors, managers and units demonstrating superior accomplishment in equal employment opportunity.

Section 7.15 Responsibilities of the Assistant Regional Administrators for Equal Opportunity

This title has been removed from the table of contents.

Section 7.16 Responsibilities of Supervisors.

This title has been removed from the table of contents.

Section 7.17 Responsibilities of Managers and Supervisors

This new section states that responsibilities of managers and supervisors include the following:

(1) Removing barriers to EEO and ensuring that Affirmative Employment objectives are accomplished in their areas of responsibility;

(2) Evaluating subordinate managers and supervisors on their performance of EEO/AE responsibilities;

(3) Encouraging and taking positive steps to ensure respect for and acceptance of minorities, women and persons with disabilities, veterans and other diverse characteristics in the work force;

(4) Providing for the non-discriminatory treatment of all employees and for providing full and fair opportunity for all employees in obtaining employment and career advancement, including support for F.A.I.R., the Upward Mobility Program, the Mentoring Program and the Individual Development Plan;

(5) Encouraging and authorizing staff participation in the various Diversity Program observances;

(6) Being proactive in addressing EEO/AE issues, and for work environments that encourage and support complaint avoidance through sound management and personnel practices;

(7) Resolving complaints of discrimination early in the EEO process either independently, or through the use of alternate dispute resolution techniques, when it is the right thing to do and when it represents a sound business decision; and

(8) Making reasonable accommodation to the religious and disability needs of applicants and employees when those accommodations can be made without undue hardship on the business of the agency.

Section 7.25 Precomplaint Processing

EEOC's regulations, 24 CFR part 1614.105, shall apply concerning precomplaint processing.

Sections 7.30, 7.31, 7.32, 7.33 and 7.34—These sections have been revised to provide more efficient measures of handling EEO complaints.

The following titles have been removed from the table of contents:

§ 7.35—Adjustment of complaints.
§ 7.36—Hearing.
§ 7.38—Avoidance of delay.
§ 7.40—Complaint file.

The following sections have been removed:

§ 7.45—Entitlement.
§ 7.46—Where to appeal.
§ 7.47—Time limit.
§ 7.48—Appellate procedures.
§ 7.49—Appellate review by the Commissioners.

Other Matters

Environmental Impact. The subject matter of this final rule is categorically excluded from HUD's environmental clearance procedures under 24 CFR 50.20(k). It relates to internal administrative procedures whose content does not constitute a development decision or affect the physical condition of project areas or building sites.

Impact on Small Entities. The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) has reviewed and approved this rule, and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule only streamlines and simplifies 24 CFR part 7.

Federalism. The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism,* has determined that the policies contained in this rule will not have substantial direct effects on states or their political subdivisions, or the relationship between the federal government and the states, or on the distribution of power and responsibilities among the various levels of government. The rule's coverage is limited to federal employees.

Family. The General Counsel, as the Designated Official under Executive Order 12606, *The Family,* has determined that this rule does not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the order. This final rule will make HUD's processing of employment discrimination complaints more efficient.

Justification for Final Rulemaking. The Department has determined that it is unnecessary to subject this rule to public comment. Since this rule is limited to removing obsolete provisions and updating provisions in part 7 to reflect current practices, prior public comment was determined to be unnecessary. Section 10.1 of 24 CFR part 10 states that notice and public procedure can be omitted if the Department determines in a particular case or class of cases that notice and public procedure are impracticable, unnecessary, or contrary to the public interest.

List of Subjects in 24 CFR Part 7

Administrative practice and procedure, Equal employment opportunity, Organization and functions (Government agencies).

Accordingly, 24 CFR part 7 is revised as follows:

PART 7—EQUAL EMPLOYMENT OPPORTUNITY; POLICY AND PROCEDURES

Subpart A—Equal Employment Opportunity Without Regard to Race, Color, Religion, Sex, National Origin, Age, or Disability

General Provisions

Sec.
7.1 Policy.
7.2 Definitions.
7.3 Designations.
7.4 Affirmative employment programs.

Responsibilities

7.10 Responsibilities of the Director and Deputy Director of EEO.
7.11 Responsibilities of the EEO Officers.
7.12 Responsibilities of the EEO Counselors.
7.13 Responsibilities of the Assistant Secretary for Administration.
7.14 Responsibilities of Human Resources Officers.
7.15 Responsibilities of managers and supervisors.
7.16 Responsibilities of employees.

Precomplaint Processing

7.25 Precomplaint processing.

Complaints

7.30 Presentation of complaint.
7.31 Who may file a complaint, with whom filed, and time limits.
7.32 Contents.
7.33 Acceptability.
7.34 Processing.
7.35 Hearing.
7.36 Decision by Director of EEO.
7.37 Rights of appeals.
7.38 Relationship to other HUD appellate procedures.

Subpart B—[Reserved]

Authority: 42 U.S.C. 3535(d); E.O. 11478, 3 CFR, 1969 Comp. p. 306; 42 U.S.C. 2000e note.

Subpart A—Equal Employment Opportunity Without Regard to Race, Color, Religion, Sex, National Origin, Age, or Disability

General Provisions

§7.1 Policy.

In conformity with the policy expressed in Executive Order 11478 (34 FR 12985, 3 CFR, 1966–1970 Comp., p. 803) and with implementing regulations of the Equal Employment Opportunity Commission, codified under 29 CFR part 1614, it is the policy and the intent of the Department of Housing and Urban Development to provide equality of opportunity in employment in the Department for all persons; to prohibit discrimination because of race, color, religion, sex, national origin, age or disability in all aspects of its personnel policies, program, practices, and operations and in all its working conditions and relationships with employees and applicants for employment; and to promote the full realization of equal opportunity in employment through continuing programs of affirmative employment at every management level within the Department.

§7.2 Definitions.

For purposes of this subpart A—

AE means Affirmative Employment.

EEO means Equal Employment Opportunity.

Organizational unit means the jurisdictional area of the Office of the Secretary, the Assistant to the Deputy Secretary for Field Management, each Assistant Secretary, the General Counsel, the Inspector General, the President of the Government National Mortgage Association, the Chief Financial Officer, the Director of Lead-Based Paint Abatement and Poisoning Prevention, and the Office of Federal Housing Enterprise Oversight.

Person with a disability means the same as handicap under EEOC's regulations at 29 CFR part 1614.

§7.3 Designations.

(a) *Director of Equal Employment Opportunity.* The Director of the Office of Departmental Equal Employment Opportunity is designated the Director of EEO, except that with respect to complaints naming the Director and/or Deputy Director of Departmental EEO as the alleged discriminating official(s) and complaints arising in the Office of Departmental EEO, the Chief of Staff shall be Director of EEO.

(b) *Deputy Director of Equal Employment Opportunity.* The Deputy Director of the Office of Departmental Equal Employment Opportunity is designated as the Deputy Director of Equal Employment Opportunity and acts for the Director of EEO.

(c) *Equal Employment Opportunity Officers.* The Director of Equal Employment Opportunity shall designate appropriate HUD officials to be Equal Employment Opportunity Officers for their respective organizational units.

§7.4 Affirmative employment programs.

The Office of the Secretary, the Assistant to the Deputy Secretary for Field Management, each Assistant Secretary, the General Counsel, the Inspector General, the President of the Government National Mortgage Association, the Chief Financial Officer, the Director of Lead-Based Paint Abatement and Poisoning Prevention, and the Director, Office of Federal Housing Enterprise Oversight shall establish, maintain and carry out a plan of affirmative employment to promote equal opportunity in every aspect of employment policy and practice. Each plan shall identify instances of under-representation of minorities, women and persons with disabilities, recognize situations or barriers that impede equality of opportunity, and include objectives and action items targeted to eliminate any employment, training, advancement, and retention issues which adversely affect minorities, women and persons with disabilities. Each plan must be consistent with 29 CFR part 1614 and the governing Management Directive issued by the Equal Employment Opportunity Commission, and is subject to approval by the Director of Equal Employment Opportunity and shall be developed within the framework of Departmentwide guidelines published by the Director of EEO.

Responsibilities

§7.10 Responsibilities of the Director and Deputy Director of EEO.

The Director and Deputy Director of EEO are assigned the functions of:

(a) Advising the Secretary with respect to the preparation of plans, procedures, regulations, reports, and other matters pertaining to the Government's equal employment opportunity policy and the Department's EEO/AE programs;

(b) In coordination with other officials, developing and maintaining plans, procedures, and regulations necessary to carry out the Department's EEO programs, including a Departmentwide program of affirmative employment developed in coordination with other officials; approving programs of affirmative employment established throughout the Department;

(c) Evaluating from time to time the sufficiency of the Department's EEO/AE programs and reporting thereon to the Secretary with recommendations as to any improvement or correction needed, including remedial or disciplinary action with respect to managerial or supervisory employees who have failed in their responsibility;

(d) Appraising the Department's personnel operations at regular intervals to insure their conformity with the policy of the Government and the Department's equal employment opportunity program;

(e) Making changes in programs and procedures designed to eliminate discriminatory practices and improve the Department's EEO/AE programs;

(f) Selecting EEO Counselors;

(g) Providing for counseling by an EEO Counselor of an aggrieved employee or applicant for employment who believes that he or she has been discriminated against because of race, color, religion, sex, national origin, age or disability and for attempting to resolve on an informal basis or through a formal alternative dispute resolution process, the matter raised by the employee or applicant before a complaint of discrimination may be filed under §7.31;

(h) Providing for the prompt, fair and impartial processing of individual complaints involving issues of discrimination within the Department subject to 29 CFR part 1614;

(i) Making the final decision on discrimination complaints and ordering such corrective measures as may be necessary, including disciplinary action as is warranted by the circumstances when an employee has been found to have engaged in a discriminatory practice; and

(j) Executing settlement agreements to resolve EEO complaints.

§7.11 Responsibilities of the EEO Officers.

Each EEO Officer shall:

(a) Advise the Director of EEO on all matters affecting the implementation of the Department's EEO/AE policies and programs in the organizational unit;

(b) Develop and maintain a program of affirmative employment for the organizational unit and insure that it is carried out in an exemplary manner;

(c) Publicize to all employees of the organizational unit the name and address of the Director of EEO, the EEO Officer, and the EEO Counselor(s), the EEO Discrimination Complaint Manager, the Affirmative Employment Program (AEP) Manager, the Diversity Program Manager, and the EEO complaint procedures;

(d) Inform all supervisors in the organizational unit of the responsibilities and objectives of the EEO Counselors and the EEO complaint process and the importance of cooperating with the Counselors to informally find solutions to problems brought to the officer's attention by employees and applicants;

(e) Evaluate the performance by the managers and supervisors in the organizational unit in carrying out their responsibilities under this subpart and taking appropriate action;

(f) Seek a resolution of EEO matters alleging discrimination within their organization brought to their attention;

(g) Designate a high level Affirmative Employment Program (AEP) Manager in Headquarters responsible for the preparation of the AEP plan; the management of the plan; providing advice and guidance to managers and supervisors in removing barriers to EEO/AE and in implementing all their EEO/AE responsibilities; and reviewing all recruitment and personnel actions taken by managers and supervisors to ensure the achievement of AEP objectives;

(h) Designate a senior level EEO Discrimination Complaint Manager in Headquarters to manage and direct the organization's EEO responsibilities; and

(i) Designate a senior level Diversity Program Manager in Headquarters to manage and direct the organization's Diversity Program and provide resources for Diversity activities for its employees.

§7.12 Responsibilities of the EEO Counselors.

The EEO Counselors are responsible for counseling and attempting resolution of matters brought to the counselor's attention pursuant to §7.26 and 29 CFR part 1614 by any employee or applicant for employment who believes that he or she has been discriminated against because of race, color, religion, sex, national origin, age, or disability.

§7.13 Responsibilities of the Assistant Secretary for Administration.

The Assistant Secretary for Administration shall:

(a) Provide leadership in developing and maintaining personnel management policies, programs, automated systems and procedures which will promote continuing affirmative employment to insure equal opportunity in the recruitment, selection, placement, training, awards, recognition and promotion of employees, including an applicant flow tracking system;

(b) Provide positive assistance and guidance to organizational units and personnel offices to insure the effective implementation of the personnel management policies, programs, automated systems, and procedures on equal employment opportunity;

(c) Participate at the national level with other Government departments and agencies, other employers, and other public and private groups, in cooperative action to improve employment opportunities and community conditions which effect employability;

(d) Prepare and implement plans for recruitment and reports in accordance with the Federal Equal Opportunity Recruitment Program and the Disabled Veterans Affirmative Action Program;

(e) Make reasonable accommodation to the known physical or mental limitations of qualified applicants and employees with disabilities unless the accommodation would impose an undue hardship on the operation of the agency's program; and

(f) Designate a senior level Disability Program Manager to promote EEO/AE for persons with disabilities; to assure the accessibility of all HUD facilities and programs; and to manage the resources for providing reasonable accommodation.

§7.14 Responsibilities of Human Resources Officers.

In conformity with guidelines issued by the Assistant Secretary for Administration, Human Resources Officers shall:

(a) Appraise job structure and employment practices to insure genuine equality of opportunity for all employees to participate fully on the basis of merit in all occupations and levels of responsibility;

(b) Communicate the Department's equal employment opportunity policy and program and its employment needs to all sources of job candidates without regard to race, color, religion, sex, national origin, disability or age and solicit their recruitment assistance on a continuing basis;

(c) As appropriate, provide personnel information to EEO counselors and others who are involved in the decision on a discrimination complaint;

(d) Evaluate hiring methods and practices to insure impartial consideration for all job applicants;

(e) Ensure that new employee orientation programs contain appropriate references to the Department's EEO/AE policies and programs;

(f) Participate in the preparation and distribution of such educational materials as may be necessary to inform adequately all employees of their rights and responsibilities as described in this part, including the Department's directives issued to carry out the Equal Employment Opportunity Program;

(g) In coordination with the Director of the Training Academy, develop an on-going training program for various levels of administration and supervision, to ensure understanding of the Departmental EEO/AE programs, policy and requirements which fosters effective teamwork and high morale, and provide communication with employees on any matter related to equal employment opportunity;

(h) Decide all personnel actions on merit principles in a manner which will demonstrative affirmative equal employment opportunity for the organization;

(i) Ensure the greatest possible utilization and development of the skills and potential ability of all employees;
(j) Track applicant flow and promptly take or recommend appropriate action to overcome any impediment to the achievement of the objectives of the EEO/AE programs; and
(k) Provide recognition to employees, supervisors, managers and units demonstrating superior accomplishment in equal employment opportunity.

§ 7.15 Responsibilities of managers and supervisors.

All managers and supervisors of the Department are responsible for:
(a) Removing barriers to EEO and ensuring that Affirmative Employment objectives are accomplished in their areas of responsibility;
(b) Evaluating subordinate managers and supervisors on their performance of EEO/AE responsibilities;
(c) Encouraging and taking positive steps to ensure respect for and acceptance of minorities, women and persons with disabilities, veterans and others of diverse characteristics in the work force;
(d) Providing for the non-discriminatory treatment of all employees and for providing full and fair opportunity for all employees in obtaining employment and career advancement, including support for F.A.I.R., the Upward Mobility Program, the Mentoring Program and the Individual Development Plan;
(e) Encouraging and authorizing staff participation in the various Diversity Program observances;
(f) Being proactive in addressing EEO/AE issues, and for work environments that encourage and support complaint avoidance through sound management and personnel practices;
(g) Resolving complaints of discrimination early in the EEO process either independently, or through the use of alternate dispute resolution techniques, when it is the right thing to do and when it represents a sound business decision; and
(h) Making reasonable accommodation to the religious and disability needs of applicants and employees when those accommodations can be made without undue hardship on the business of the agency.

§ 7.16 Responsibilities of employees.

All employees of the Department are responsible for:
(a) Being informed as to the Department's EEO/AE programs;
(b) Adopting an attitude of full acceptance of minority, female and disabled group associates, and support of F.A.I.R.;
(c) Providing equality of treatment of, and service to, all citizens with whom they come in contact in carrying out their job responsibilities; and
(d) Providing assistance to supervisors and managers in carrying out their responsibilities in the EEO/AE programs.

Precomplaint Processing

§ 7.25 Precomplaint processing.

The regulations in 29 CFR 1614.105, concerning precomplaint processing shall apply.

Complaints

§ 7.30 Presentation of complaint.

At any stage in the presentation of a complaint, including the counseling stage, the Complainant shall be free from restraint, interference, coercion, discrimination, or reprisal and shall have the right to be accompanied, represented, and advised by a representative of the Complainant's own choosing, except as limited by 29 CFR 1614.605. If the Complainant is an employee of the Department, the employee shall have a reasonable amount of official time to present the complaint if the employee is otherwise in an active duty status. If the Complainant is an employee of the Department and designates another employee of the Department as Complainant's representative, the representative shall be free from restraint, interference, coercion, discrimination, or reprisal, and shall have a reasonable amount of official time, if the representative is otherwise in an active duty status, to present the complaint.

§ 7.31 Who may file a complaint, with whom filed, and time limits.

Any aggrieved person (hereafter referred to as the Complainant) who has observed the provisions of § 7.25 may file a complaint if the matter of discrimination was not resolved to the complainant's satisfaction. The complaint must be filed with the Director of EEO within fifteen (15) days of receipt of the Notice of Right to File a Complaint issued by the EEO Counselor. The Department may accept a complaint only if the Complainant has met the appropriate requirements contained in 29 CFR 1614.605.

§ 7.32 Contents.

(a) The complaint filed should include the following information:
(1) The specific action or personnel matter which is alleged to be discriminatory;
(2) The date the act or matter occurred;
(3) The protected basis or bases on which the alleged discrimination occurred;
(4) Facts and other pertinent information to support the allegation of discrimination; and
(5) The relief desired.
(b) To expedite the processing of complaints of discrimination, the Complainant should use HUD EEO–1 form to file the complaint.

§ 7.33 Acceptability.

The Director of EEO shall determine whether the complaint comes within the purview of the EEO regulations at 29 CFR part 1614 and shall advise the Complainant and Complainant's representative in writing of the acceptance or dismissal of the allegation(s) of the complaint. Should the Director of EEO dismiss the complaint or any allegations contained in the complaint, the written decision to the Complainant shall inform Complainant of the complainant's right to appeal the decision and of the time limit applicable to the right of appeal, if Complainant believes the dismissal improper.

§ 7.34 Processing.

(a) The Director of EEO will process complaints filed under 29 CFR part 1614 for the Department. The Director or the Director's designee has jurisdiction of any case.
(b) The Director of EEO shall provide for the development of a complete and impartial record on which to decide the merits of the allegations accepted for investigation.
(1) The person assigned to develop the factual record for the complaint shall occupy a position in the Department which is not, directly or indirectly, under the jurisdiction of the head of the part of the Department in which the complaint arose, or the person shall develop the record under a contract with the Department.
(2) The Department will develop a complete and impartial factual record, subject to the requirements of 29 CFR part 1614, upon which to make findings on the matters raised in the complaint and accepted for processing.
(3) The Director of EEO will provide the Complainant and the EEO Officer a copy of the record developed.

§ 7.35 Hearing.

(a) The Director of EEO will notify the Complainant of the Complainant's right to request an administrative hearing before the Equal Employment Opportunity Commission or a Final Agency Decision from the Department and the timeframes for executing the right to request an administrative hearing.
(b) The Director of EEO will notify the appropriate EEOC office of Complainant's timely request for a hearing and request the appointment of an administrative judge to conduct the hearing pursuant to 29 CFR 1614.109.

§ 7.36 Decision by Director of EEO.

Following consultation with the General Counsel and the Assistant Secretary for Administration, the Director of EEO shall make the final agency decision for the Department based on the record developed through the processing of the complaint. The decision shall require the remedial and corrective action necessary to ensure that the Department is in compliance with the EEO statutes and to promote the Department's policy of equal employment opportunity.

§ 7.37 Rights of appeal.

The provisions of 29 CFR part 1614, subpart D, shall govern rights of appeal.

§ 7.38 Relationship to other HUD appellate procedures.

(a) An aggrieved individual covered by a collective bargaining agreement that permits allegations of discrimination to be raised in a negotiated grievance procedure can file a complaint under these procedures or a negotiated grievance, but not both. An election to proceed under this part is indicated only by filing of a written complaint. An election to proceed under a negotiated grievance procedure is indicated by the filing of a timely grievance.
(b) An aggrieved individual alleging discrimination on the basis of race, color, religion, sex, national origin, age or disability related to or stemming from an action that can be appealed to the Merit Systems Protection Board (MSPB) can file a complaint under these procedures, or an appeal with the MSPB, but not both. Whichever is filed first, the complaint or the appeal, is considered an election to proceed in that forum.

Subpart B—[Reserved]

Dated: March 20, 1996.

Henry G. Cisneros,

Secretary.

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S. 1494/P.L. 104–120

Housing Opportunity Program Extension Act of 1996 (Mar. 28, 1996; 110 Stat. 834)

Last List March 28, 1996

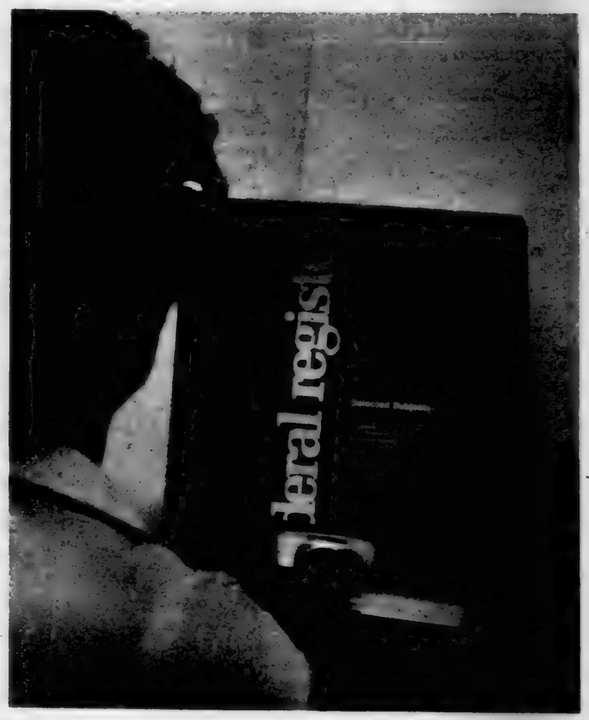
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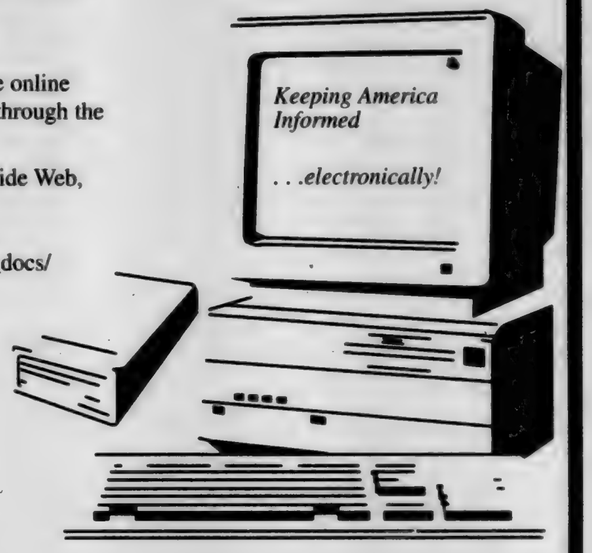
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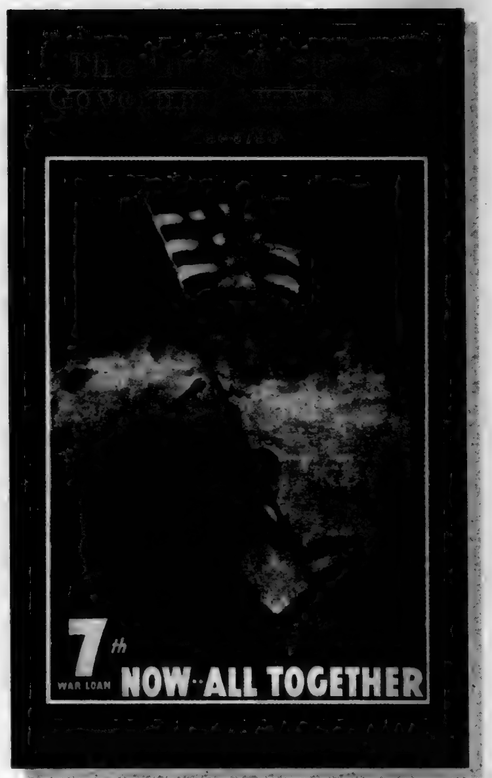
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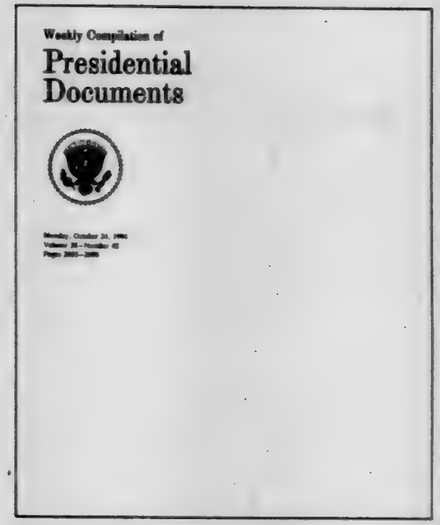
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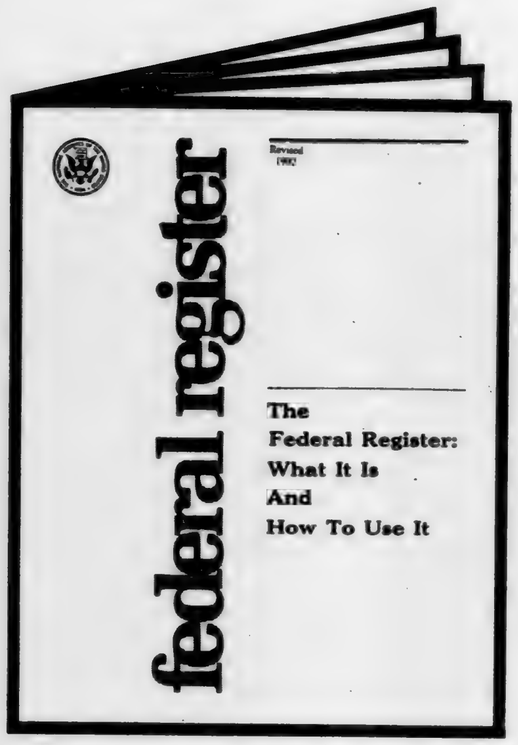
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LSA

List of CFR Sections Affected

JANUARY 1996

Editor's Note: The revisions for the 1996 editions of titles 1 and 13 will be delayed until February 1, 1996 and March 1, 1996, respectively. The 1996 revision of title 1 will include amendments promulgated during the period of January 1, 1995 through February 1, 1996. The 1996 revision of title 13 will include amendments promulgated during the period of January 1, 1995 through March 1, 1996. For the convenience of the user, this LSA contains all amendments to titles 1 and 13 promulgated since January 1, 1995.

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LSA

List of CFR Sections Affected

January 1996

Title 1–16
Changes January 2, 1996
through January 31, 1996

Title 17–27
Changes April 3, 1995
through January 31, 1996

Title 28–41
Changes July 3, 1995
through January 31, 1996

Title 42–50
Changes October 2, 1995
through January 31, 1996

LSA—LIST OF CFR SECTIONS AFFECTED

The LSA (List of CFR Sections Affected) is a monthly publication designed to lead users of the Code of Federal Regulations (CFR) to amendatory actions published in the Federal Register (FR). It should be shelved with current CFR volumes. Entries are by CFR title, chapter, part, and section. Proposed rules are listed at the end of appropriate titles.

HOW TO USE THIS FINDING AID

The CFR is revised annually according to the following schedule:

Titles 1–16—as of Jan. 1
17–27—as of April 1
28–41—as of July 1
42–50—as of Oct. 1

To bring these regulations up to date, consult the most recent LSA for any changes, additions, or removals published after the revision date of the volume you are using. Then check the CUMULATIVE LIST OF PARTS AFFECTED appearing in the Reader Aids of the latest Federal Register for less detailed but timely changes published after the final date included in this publication.

The page numbers listed to the right of each LSA entry indicate where the specific amendments begin in the Federal Register. **Boldface** page numbers under a particular title indicate that the page numbers span 2 years. **Boldface** is used to distinguish the previous year from the current year.

Cite a page reference from this publication using the volume number (60 FR for 1995 or 61 FR for 1996) and the page number. Example: 24727 cite as 61 FR 24727. For your convenience, the volume number has been included in the Table of Federal Register Issue Pages and Dates.

ISSUES TO BE SAVED

There is no single annual issue of the LSA. Four ANNUAL ISSUES must be saved; the DECEMBER issue is the ANNUAL for Titles 1–16; the MARCH issue is the ANNUAL for Titles 17–27; the JUNE issue is the ANNUAL for Titles 28–41; the SEPTEMBER issue is the ANNUAL for Titles 42–50. ANNUAL ISSUES to be saved are clearly designated on the cover.

PARALLEL TABLE OF AUTHORITIES AND RULES

Following Title 50 is an update to Parallel Table of Authorities and Rules found in the CFR Index and Finding Aids. This table contains authority citations added to or removed from the Parallel Table of Authority and Rules as a result of documents published in the Federal Register since January 1, 1996.

TABLE OF FEDERAL REGISTER ISSUE PAGES AND DATES

A table is included at the end of this publication which identifies the volume number, the inclusive page numbers, and the corresponding Federal Register issue dates for the period covered.

INDEXES

An INDEX to the daily Federal Register is published monthly and is cumulated for 12 months. A separate volume, the CFR Index and Finding Aids to the entire Code of Federal Regulations, is revised as of January 1 each year.

INQUIRIES AND SUGGESTIONS

Rob Sheehan was Chief Editor of the LSA, assisted by Brad Brooks. The LSA was prepared under the direction of Richard L. Claypoole, assisted by Maxine L. Hill. INQUIRIES, telephone 202–523–5227.

SUGGESTIONS concerning this and other publications of the Office are welcomed. Please send your suggestions to Richard L. Claypoole, Director, Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408.

CHECKLIST OF CFR VOLUMES FOR THIS MONTH

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–026–00001–8)	$5.00	Jan. 1, 1995
3 (1994 Compilation and Parts 100 and 101)	(869–026–00002–6)	40.00	[1]Jan. 1, 1995
4	(869–026–00003–4)	5.50	Jan. 1, 1995
5 Parts:			
1–699	(869–026–00004–2)	23.00	Jan. 1, 1995
700–1199	(869–026–00005–1)	20.00	Jan. 1, 1995
1200–End, 6 (6 Reserved)	(869–026–00006–9)	23.00	Jan. 1, 1995
7 Parts:			
0–26	(869–026–00007–7)	21.00	Jan. 1, 1995
27–45	(869–026–00008–5)	14.00	Jan. 1, 1995
46–51	(869–026–00009–3)	21.00	Jan. 1, 1995
52	(869–026–00010–7)	30.00	Jan. 1, 1995
53–209	(869–026–00011–5)	25.00	Jan. 1, 1995
210–299	(869–026–00012–3)	34.00	Jan. 1, 1995
300–399	(869–026–00013–1)	16.00	Jan. 1, 1995
400–699	(869–026–00014–0)	21.00	Jan. 1, 1995
700–899	(869–026–00015–8)	23.00	Jan. 1, 1995
900–999	(869–026–00016–6)	32.00	Jan. 1, 1995
1000–1059	(869–026–00017–4)	23.00	Jan. 1, 1995
1060–1119	(869–026–00018–2)	15.00	Jan. 1, 1995
1120–1199	(869–026–00019–1)	12.00	Jan. 1, 1995
1200–1499	(869–026–00020–4)	32.00	Jan. 1, 1995
1500–1899	(869–026–00021–2)	35.00	Jan. 1, 1995
1900–1939	(869–026–00022–1)	16.00	Jan. 1, 1995
1940–1949	(869–026–00023–9)	30.00	Jan. 1, 1995
1950–1999	(869–026–00024–7)	40.00	Jan. 1, 1995
2000–End	(869–026–00025–5)	14.00	Jan. 1, 1995
8	(869–026–00026–3)	23.00	Jan. 1, 1995
9 Parts:			
1–199	(869–026–00027–1)	30.00	Jan. 1, 1995
200–End	(869–026–00028–0)	23.00	Jan. 1, 1995
10 Parts:			
0–50	(869–026–00029–8)	30.00	Jan. 1, 1995
51–199	(869–026–00030–1)	23.00	Jan. 1, 1995
200–399	(869–026–00031–0)	15.00	[6]Jan. 1, 1993
400–499	(869–026–00032–8)	21.00	Jan. 1, 1995
500–End	(869–026–00033–6)	39.00	Jan. 1, 1995
11	(869–026–00034–4)	14.00	Jan. 1, 1995
12 Parts:			
1–199	(869–026–00035–2)	12.00	Jan. 1, 1995
200–219	(869–026–00036–1)	16.00	Jan. 1, 1995
220–299	(869–026–00037–9)	28.00	Jan. 1, 1995
300–499	(869–026–00038–7)	23.00	Jan. 1, 1995
500–599	(869–026–00039–5)	19.00	Jan. 1, 1995
600–End	(869–026–00040–9)	35.00	Jan. 1, 1995
13	(869–026–00041–7)	32.00	Jan. 1, 1995
14 Parts:			
1–59	(869–026–00042–5)	33.00	Jan. 1, 1995
60–139	(869–026–00043–3)	27.00	Jan. 1, 1995

See footnotes at end of table.

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
140–199	(869–026–00044–1)	13.00	Jan. 1, 1995
200–1199	(869–026–00045–0)	23.00	Jan. 1, 1995
1200–End	(869–026–00046–8)	16.00	Jan. 1, 1995
15 Parts:			
0–299	(869–026–00047–6)	15.00	Jan. 1, 1995
300–799	(869–026–00048–4)	26.00	Jan. 1, 1995
800–End	(869–026–00049–2)	21.00	Jan. 1, 1995
16 Parts:			
0–149	(869–026–00050–6)	7.00	Jan. 1, 1995
150–999	(869–026–00051–4)	19.00	Jan. 1, 1995
1000–End	(869–026–00052–2)	25.00	Jan. 1, 1995
17 Parts:			
1–199	(869–026–00054–9)	20.00	Apr. 1, 1995
200–239	(869–026–00055–7)	24.00	Apr. 1, 1995
240–End	(869–026–00056–5)	30.00	Apr. 1, 1995
18 Parts:			
1–149	(869–026–00057–3)	16.00	Apr. 1, 1995
150–279	(869–026–00058–1)	13.00	Apr. 1, 1995
280–399	(869–026–00059–0)	13.00	Apr. 1, 1995
400–End	(869–026–00060–3)	11.00	Apr. 1, 1995
19 Parts:			
1–140	(869–026–00061–1)	25.00	Apr. 1, 1995
141–199	(869–026–00062–0)	21.00	Apr. 1, 1995
200–End	(869–026–00063–8)	12.00	Apr. 1, 1995
20 Parts:			
1–399	(869–026–00064–6)	20.00	Apr. 1, 1995
400–499	(869–026–00065–4)	34.00	Apr. 1, 1995
500–End	(869–026–00066–2)	34.00	Apr. 1, 1995
21 Parts:			
1–99	(869–026–00067–1)	16.00	Apr. 1, 1995
100–169	(869–026–00068–9)	21.00	Apr. 1, 1995
170–199	(869–026–00069–7)	22.00	Apr. 1, 1995
200–299	(869–026–00070–1)	7.00	Apr. 1, 1995
300–499	(869–026–00071–9)	39.00	Apr. 1, 1995
500–599	(869–026–00072–7)	22.00	Apr. 1, 1995
600–799	(869–026–00073–5)	9.50	Apr. 1, 1995
800–1299	(869–026–00074–3)	23.00	Apr. 1, 1995
1300–End	(869–026–00075–1)	13.00	Apr. 1, 1995
22 Parts:			
1–299	(869–026–00076–0)	33.00	Apr. 1, 1995
300–End	(869–026–00077–8)	24.00	Apr. 1, 1995
23	(869–026–00078–6)	22.00	Apr. 1, 1995
24 Parts:			
0–199	(869–026–00079–4)	40.00	Apr. 1, 1995
200–219	(869–026–00080–8)	19.00	Apr. 1, 1995
220–499	(869–026–00081–6)	23.00	Apr. 1, 1995
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700–899	(869–026–00083–2)	24.00	Apr. 1, 1995
900–1699	(869–026–00084–1)	24.00	Apr. 1, 1995
1700–End	(869–026–00085–9)	17.00	Apr. 1, 1995
25	(869–026–00086–7)	32.00	Apr. 1, 1995

See footnotes at end of table.

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(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
26 Parts:			
§§ 1.0-1–1.60	(869–026–00087–5)	21.00	Apr. 1, 1995
§§ 1.61–1.169	(869–026–00088–3)	34.00	Apr. 1, 1995
§§ 1.170–1.300	(869–026–00089–1)	24.00	Apr. 1, 1995
§§ 1.301–1.400	(869–026–00090–5)	17.00	Apr. 1, 1995
§§ 1.401–1.440	(869–026–00091–3)	30.00	Apr. 1, 1995
§§ 1.441–1.500	(869–026–00092–1)	22.00	Apr. 1, 1995
§§ 1.501–1.640	(869–026–00093–0)	21.00	Apr. 1, 1995
§§ 1.641–1.850	(869–026–00094–8)	25.00	Apr. 1, 1995
§§ 1.851–1.907	(869–026–00095–6)	26.00	Apr. 1, 1995
§§ 1.908–1.1000	(869–026–00096–4)	27.00	Apr. 1, 1995
§§ 1.1001–1.1400	(869–026–00097–2)	25.00	Apr. 1, 1995
§§ 1.1401–End	(869–026–00098–1)	33.00	Apr. 1, 1995
2–29	(869–026–00099–9)	25.00	Apr. 1, 1995
30–39	(869–026–00100–6)	18.00	Apr. 1, 1995
40–49	(869–026–00101–4)	14.00	Apr. 1, 1995
50–299	(869–026–00102–2)	14.00	Apr. 1, 1995
300–499	(869–026–00103–1)	24.00	Apr. 1, 1995
500–599	(869–026–00104–9)	6.00	[4] Apr. 1, 1990
600–End	(869–026–00105–7)	8.00	Apr. 1, 1995
27 Parts:			
1–199	(869–026–00106–5)	37.00	Apr. 1, 1995
200–End	(869–026–00107–3)	13.00	[7] Apr. 1, 1994
28 Parts:			
1–42	(869–026–00108–1)	27.00	July 1, 1995
43–end	(869–026–00109–0)	22.00	July 1, 1995
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1927–End	(869–026–00118–9)	36.00	July 1, 1995
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200–End	(869–026–00123–5)	25.00	July 1, 1995
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–026–00124–3)	32.00	July 1, 1995
191–399	(869–026–00125–1)	38.00	July 1, 1995
400–629	(869–026–00126–0)	26.00	July 1, 1995
630–699	(869–026–00127–8)	14.00	[5] July 1, 1991

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(Comprising a Complete CFR Set)

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700–799	(869–026–00128–6)	21.00	July 1, 1995
800–End	(869–026–00129–4)	22.00	July 1, 1995
33 Parts:			
1–124	(869–026–00130–8)	20.00	July 1, 1995
125–199	(869–026–00131–6)	27.00	July 1, 1995
200–End	(869–026–00132–4)	24.00	July 1, 1995
34 Parts:			
1–299	(869–026–00133–2)	25.00	July 1, 1995
300–399	(869–026–00134–1)	21.00	July 1, 1995
400–End	(869–026–00135–9)	37.00	July 5, 1995
35	(869–026–00136–7)	12.00	July 1, 1995
36 Parts			
1–199	(869–026–00137–5)	15.00	July 1, 1995
200–End	(869–026–00138–3)	27.00	July 1, 1995
37	(869–026–00139–1)	20.00	July 1, 1995
38 Parts:			
0–17	(869–026–00140–5)	30.00	July 1, 1995
18–End	(869–026–00141–3)	30.00	July 1, 1995
39	(869–026–00142–1)	17.00	July 1, 1995
40 Parts:			
1–51	(869–026–00143–0)	40.00	July 1, 1995
52	(869–026–00144–8)	39.00	July 1, 1995
53–59	(869–026–00145–6)	11.00	July 1, 1995
60	(869–026–00146–4)	36.00	July 1, 1995
61–71	(869–026–00147–2)	36.00	July 1, 1995
72–85	(869–026–00148–1)	41.00	July 1, 1995
86	(869–026–00149–9)	40.00	July 1, 1995
87–149	(869–026–00150–2)	41.00	July 1, 1995
150–189	(869–026–00151–1)	25.00	July 1, 1995
190–259	(869–026–00152–9)	17.00	July 1, 1995
260–299	(869–026–00153–7)	40.00	July 1, 1995
300–399	(869–026–00154–5)	21.00	July 1, 1995
400–424	(869–026–00155–3)	26.00	July 1, 1995
425–699	(869–026–00156–1)	30.00	July 1, 1995
700–789	(869–026–00157–0)	25.00	July 1, 1995
790–End	(869–026–00158–8)	15.00	July 1, 1995
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–026–00159–6)	9.50	July 1, 1995
101	(869–026–00160–0)	29.00	July 1, 1995
102–200	(869–026–00161–8)	15.00	July 1, 1995

See footnotes at end of table.

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
201–End	(869–026–00162–6)	13.00	July 1, 1995
42 Parts:			
1–399	(869–026–00163–4)	26.00	Oct. 1, 1995
400–429	(869–026–00164–2)	26.00	Oct. 1, 1995
430–End	(869–022–00162–1)	36.00	Oct. 1, 1994
43 Parts:			
1–999	(869–026–00166–9)	23.00	Oct. 1, 1995
1000–3999	(869–026–00167–7)	31.00	Oct. 1, 1995
4000–End	(869–026–00168–5)	15.00	Oct. 1, 1995
44	(869–026–00169–3)	24.00	Oct. 1, 1995
45 Parts:			
1–199	(869–022–00170–7)	22.00	Oct. 1, 1995
200–499	(869–026–00171–5)	14.00	Oct. 1, 1995
500–1199	(869–026–00172–3)	23.00	Oct. 1, 1995
1200–End	(869–026–00173–1)	26.00	Oct. 1, 1995
46 Parts:			
1–40	(869–022–00171–0)	20.00	Oct. 1, 1994
41–69	(869–026–00175–8)	17.00	Oct. 1, 1995
70–89	(869–026–00176–6)	8.50	Oct. 1, 1995
90–139	(869–026–00177–4)	15.00	Oct. 1, 1995
140–155	(869–026–00178–2)	12.00	Oct. 1, 1995
156–165	(869–026–00179–1)	17.00	Oct. 1, 1995
166–199	(869–022–00177–9)	17.00	Oct. 1, 1994
200–499	(869–026–00181–2)	19.00	Oct. 1, 1995
500–End	(869–026–00182–1)	13.00	Oct. 1, 1995
47 Parts:			
0–19	(869–026–00183–9)	25.00	Oct. 1, 1995
20–39	(869–026–00184–7)	21.00	Oct. 1, 1995
40–69	(869–022–00182–5)	14.00	Oct. 1, 1994
70–79	(869–026–00186–3)	24.00	Oct. 1, 1995
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CFR Index and Findings Aids	(869–026–00053–1)	36.00	Jan. 1, 1995
Complete 1996 CFR set		883.00	1996
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Subscription (mailed as issued)		264.00	1996
Individual copies		1.00	1996
Complete set (one-time mailing)		264.00	1995
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Complete set (one-time mailing)		223.00	1993

[1]Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2]The July 1, 1985 edition of 32 CFR Parts 1 to 189 contains a note only for Parts 1 to 39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1 to 39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3]The July 1, 1985 edition of 41 CFR Chapters 1 to 100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the 11 CFR volumes issued as of July 1, 1984, containing those chapters.

[4]No amendments to this volume were promulgated during the period April 1, 1990 through March 31, 1994. The CFR volume issued as of April 1, 1990 should be retained.

[5]No amendments to this volume were promulgated during the period July 1, 1991 through June 30, 1994. The CFR volume issued as of July 1, 1991 should be retained.

[6]No amendments to this volume were promulgated during the period January 1, 1993 to December 31, 1993. The CFR volume issued as of January 1, 1993 should be retained.

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Individual copies	8.00	daily
Federal Register Document Drafting Handbook	5.50	1991
Guide to Record Retention Requirements in the Code of Federal Regulations	20.00	Jan. 1, 1994
List of CFR Sections Affected, 1973-1985		
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(Titles 42 through 50) Vol. IV	25.00	1990
LSA (List of CFR Sections Affected):		
Yearly subscription	26.00	
Federal Register Index:		
Yearly subscription	24.00	
CFR Index and Finding Aids	38.00	1994

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330.1001 (Subpart J) Correctly designated 691
532.201—532.283 (Subpart B) Appendixes B and D amended; interim 3175

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1201.3 (a)(7), (8)(ii), (10), (12) and (13) amended 1

Chapter VI—Federal Retirement Thrift Investment Board (Parts 1600—1699)

1620 Authority citation revised 2873
1620.110—1620.119 (Subpart I) Added; interim 2873

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Chapter XIV Appendix A amended 1607

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1d Removed 2659
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53.203 (b)(3) revised 2895
53.204 (c)(1) revised 2895
54.104 (n) and (o) amended 2895
54.106 (b)(3) amended; (c)(1) and (2) revised; (c)(3) removed 2898
97 Authority citation revised 248
97.1 Regulation at 60 FR 17189 confirmed 248
97.2 Regulation at 60 FR 17189 confirmed; amended 248
97.3 (c) amended 248
97.5 Regulation at 60 FR 17189 confirmed; (b)(4) and (c) amended 248
97.6 Regulation at 60 FR 17189 confirmed; (d) revised 248
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97.19 Regulation at 60 FR 17189 confirmed; introductory text amended 248
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301.50 Regulation at 58 FR 6347 confirmed 3177
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301.50-2 Regulation at 58 FR 28335 confirmed 3177
301.50-3 Regulations at 58 FR 6348, 28335, 34682, 63027, 59 FR 39939, 52892 and 60 FR 2322 confirmed 3177
301.50-4 Regulation at 58 FR 28335 confirmed 3177
301.50-5 Regulation at 58 FR 6348, 28335 and 34683 confirmed 3177
301.50-6 Regulation at 58 FR 34683 confirmed 3177
301.50-7 Regulation at 58 FR 34683 confirmed 3177
301.50-8 Regulation at 58 FR 34683 confirmed 3177
301.50-10 Regulation at 58 FR 6348, 28335 and 63027 confirmed 3177
301.52-2a Regulation at 60 FR 44416 confirmed 1521
301.64 (a) amended 2392
301.64-3 (c) amended 2392
301.75-1 Amended; interim 1521
301.75-4 (a) and (d)(1) revised; interim 1521
354.3 (b)(2)(vi) revised; (e)(1), (g)(5)(i)(A), (B), (ii), (iii)(B), (iv), (v) and (h)(2) amended; OMB number 2664

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1005.7 (d) redesignated as (e); introductory text, (b) and new (e) revised; new (d) added 1148
1005.32 (a) amended 1148
1005.53 (a)(6) redesignated as (a)(7); new (a)(6) added 1148
1005.61 (a) introductory text, (5) and (b) introductory text amended 1148
1005.90 Amended 1148
1005.91 Amended 1148
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1005.94 Amended 1148
1011.7 Introductory text amended; (d) redesignated as (e); (b) and new (e) revised; new (d) added 1148
1011.13 (e)(3) amended 1149
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1773.6 (a) revised; interim 108
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1773.31 Revised; interim 108
1773.32 (a) revised; interim 108
1773.33 Revised; interim 108
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211.24 (a)(2)(i) and (ii) revised; (d)(3) redesignated as (d)(4); new (d)(3) added 2901
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505.1 Regulation at 60 FR 66715 eff. date corrected to 12-26-95 575
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506.1 Regulation at 60 FR 66716 eff. date corrected to 12-26-95 575
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1805.701 (d)(2)(iii) revised; (e)(3) introductory text amended; interim 1702
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EDITORIAL NOTE: The revision for the 1996 edition of title 13 will be delayed until March 1, 1996. The 1996 revision will include amendments promulgated during the period of January 3, 1995 through March 1, 1996. For the convience of the user, this LSA contains all amendments to title 13 promulgated since January 3, 1995.

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105 Revised 2399
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107 Revised 3189
107 Appendix I revised; interim 7393
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108 Removed 3266
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108.503–8 (b)(2) revised 4074
108.508–1 Undesignated center heading added 20392
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108.508–2 Added 20392
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108.509–1 Undesignated center heading added; interim 20393
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109 Removed 54590
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122.61–1 (a) amended 55654
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122.61–3 (a) amended 55654
122.61–6 (e) revised 55654
122.61–9 (a) and (b)(2) amended; (b)(1) revised 55655
122.61–11 (a) amended 42781
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123 Authority citation revised 22496
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124 Authority citation revised 29974
124.7 (b)(1) removed; (b)(2) redesignated as (b) 29974
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124.208 (c)(2) removed; (c)(3), through (6) redesignated as (c)(2) through (5); new (c)(2) amended 29975
124.209 (b)(2) removed; (b)(3) through (6) redesignated as (b)(2) through (5); (a)(6)(i)

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and new (b)(3) amended; new (b)(2) revised 29975
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124.303 (c)(3) and (4) removed; (c)(5), (6) and (7) redesignated as (c)(3), (4) and (5); (d)(1) amended 29976
124.304 Removed 29976
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71 Authority citation revised 121, 122
71.1 ..... 4, 121, 122, 256, 513, 514, 693, 694, 695, 696, 697, 1150, 1705, 1706, 2711, 2712, 2713, 2714, 2715
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91 SFAR 66-2 stayed 631
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97 Authority citation revised 700, 2905, 2907
97.21—97.35 ..... 700, 701, 702, 2716, 2904, 2905, 2907
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121.2 (d)(1)(i) introductory text, (2)(i) introductory text, (e)(1)(ii) and (i) revised 2609
121.6 Removed 2610
121.91—121.107 (Subpart E) Heading revised 2610
121.91 Revised 2610
121.93 (a) and (b) amended 2610
121.95 (a) and (b) amended 2610
121.97 (a), (b) and (c) amended 2610
121.99 Revised 2610
121.101 (a) through (d) amended; (e) removed 2610
121.103 (a) and (b) amended 2610
121.105 Revised 2610
121.107 Revised 2610
121.111—121.127 (Subpart F) Heading revised 2610
121.111 Revised 2610
121.113 (a) and (b) amended 2610
121.115 (b) amended 2610
121.117 (a), (b) and (c) amended 2610
121.119 (a) and (b) amended 2611
121.121 (a) and (c) amended 2611
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121.125 (a), (b) and (d) amended 2611
121.127 (a) and (b) amended 2611
121.139 Heading, (a) and (b) amended 2611
121.207 Revised 2611
121.303 (d)(2) revised; (d)(3) removed 2611
121.314 (a) amended 2611
121.319 (a) and (b)(1) amended 2611
121.351 (b) amended 2611
121.373 (c) amended 2611
121.385 (c) revised 2611
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121.404 Removed 2611
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121.419 (a)(1)(vii) correctly designated 2869
121.437 (a) and (c) amended 2612
121.440 (b) and (c) amended 2612
121.461—121.467 (Subpart P) Heading revised 2612
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121.470—121.471 (Subpart Q) Heading revised 2612
121.471 (a) through (g) amended 2612
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121.503 (a) through (f) amended 2613
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121.521 (a) and (b) amended 2613
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121.555 Heading and (a) amended 2614
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121.583 (d) amended 2614
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121.586 (b) and (c) amended 2614
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121.615 Heading, (b), (c) and (d) amended 2614
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121.635 Heading amended 2615
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121.657 (a) and (b) amended 2615
121.659 Heading amended 2615
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121.667 Heading amended 2615
121.683 (a)(1) and (2) amended; (b) revised 2615
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771 Authority citation revised 2102
771.14 (d)(2) amended; interim 2102
771.22 (c)(2)(i) removed; interim 2102
771.26 (b) revised; interim 2102
771.28 Added; interim 2102
772.11 (k)(1)(i), (ii), (l)(1)(i) and (ii) amended; interim 2103
773 Supplement No. 1 amended; interim 2103
774 Authority citation revised 2102
774.2 (a)(1), (k)(1)(i) and (m) revised 2103
774.3 (b)(3)(i) amended; interim 2103
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775.1 (a) amended; interim 2104
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775.3 (a)(1) amended; interim 2104
775.7 (a)(2)(iii) removed; interim 2104
775.10 (f)(1) removed; (g)(1)(i), (ii), (2)(i)(A) and (B) revised; interim 2104
776.10 (a)(1) amended; (d) through (m) added; interim 2104
776.11 Removed; interim 2108
776.12 (b) introductory text revised; interim 2108
785.4 (d)(1)(xxxiii) amended; interim 2109
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787 Authority citation revised 2102
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799 Authority citation revised 2102
799.1 Supplement No. 1, Category 4 amended; interim (ECCN 4A01A, 4A02A, 4A94F, 4D01A, 4D02A, 4D94F, 4E01A, 4E94F and FA03A) 2109

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TITLE 16—COMMERCIAL PRACTICES

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1000.26 Revised 1707
1000.27 Revised 1708
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1615.5 (b) removed 1116
1615.31 (b)(3), (c) and (d) removed 1116
1616.6 (b) removed 1117
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TITLE 17—COMMODITY AND SECURITIES EXCHANGES

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1 Fee schedule 25988
Technical correction 50244
1.55 (a)(1)(iii) added 38182
1.62 (b) amended 49334
1.65 (d) amemded 49334
1.66 (b)(2), (3) and (5)(ii) amended 54801
1.70 (a), (b) and (d) amended; (c) revised 49334
1 Appendix B amended 49334
3.33 (e) amended 49334
3.34 (b)(3) and (4) revised; (b)(5) added 63912
3.50 (c) amended 49334
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3.55 (b), (c) and (e)(2) amended 54801
3.56 (b)(3), (c) and (e)(2) amended 54801
3.60 (b) introductory text, (2)(ii), (c) introductory text, (d)(3), (h)(4) and (5)(i) amended 54801
3.64 (a), (b)(1), (2) and (d) amended 54801
3.70 (a) amended 49334
4 Technical correction 50244
4.2 (a) amended 49334
4.7 (a)(2)(i)(A), (4), (b)(2)(i)(A) and (4) amended 38182
4.8 Heading, (a) and (b) amended 38182
4.10 (d) redesignated as (d)(1); (d)(2) through (5), (h) through (l) added; (e) revised 38182
4.12 (b)(2)(i) and (5)(i) revised 38183
4.21 Revised 38183
4.23 (a)(3) revised 38183
4.24 Added 38183
4.25 Added 38186
4.26 Added 38188
4.31 Revised 38189
4.32 Redesignated as 4.33 38189
4.33 Redesignated from 4.32; (a)(2) revised 38189
4.34 Added 38189
4.35 Added 38191
4.36 Added 38192
4.41 (b)(1) revised 38192
5 Fee schedule 25988
5 Appendixes B and C amended 49334
9.4 (a) amended 49334
9.9 (b)(1) introductory text, (3) and (4) amended 54801
9.11 (c) amended 49334
10.2 (i) revised 54801
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10.10 (a)(1)(iii) and (iv) revised 54801
10.12 (a)(3), (b), (e)(1), (2), (5), (6) and (f)(1) amended; (d) and (g) removed 54802
10.22 (b) amended 54802
10.23 (a) amended 54802
10.26 (a) introductory text amended 54802
10.42 (c)(1) amended 54802
10.44 (d)(2)(ii) and (f)(1) amended 54802
10.65 (b) amended 54802
10.68 (a)(1) and (b)(3) amended 54802
10.81 Amended 54802
10.83 Amended 54802
10.84 (b) and (c) concluding text amended 54802
10.92 (a), (b)(2) and (3) amended 54802
10.102 (a) and (c) amended 54802
10.103 (a) amended 54802
10.105 Amended 54802
10.106 (d) amended 54802
10.109 Introductory text, (a)(2)(ii), (b) and (c) amended 54802
11.2 (a) amended 54802
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11.7 (a) amended 1709
11 Appendix A amended 49334
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12.3 Amended 49335
12.10 (a)(2) amended 49335
12.13 (b)(3) amended 49335
12.18 (e) amended 49335
13.2 Amended 49335
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15.05 (d) amended 49335
21.02a (c) amended 54802
30 Technical correction 50244
30.6 (b)(1) and (2) revised 38193
30 Appendix B amended 19494, 34459, 41803, 65237
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31 Fee schedule 25988
31 Appendix A amended 49335
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140.72 (a) amended 1709
140.73 Heading revised; (a) introductory text and (3) amended 1709
144.1 (b) amended 49335
145.6 (a) amended 49335
145 Appendixes A and D amended; Appendix C removed 49335
146.3 (a) amended 49335
146.4 (b) amended 49335
146.5 (f) amended 49335
146.6 (d) amended 49335
146.8 (a) and (d) amended 49335
146.9 (c) amended 49336
146.11 (b) amended 49336
146 Appendix A amended 49336
147.4 (d)(1) revised 49336
147.5 (h) and (l) amended 49336
147.6 (c) amended 49336
147.8 (a) amended 49336
147.9 (b) amended 49336
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149.170 (c) amended 49336
150 Technical correction 50244
150.3 (a)(4)(i)(D) revised 38193
155.5 (d)(1) amended 49336
170.11 (a) amended 49336
171.3 Amended 49336
171.8 (a) and (b) amended 49336
190.10 (a) amended 49336

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200.19c Added 39644
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200.30–4 (a)(5) amended 32794
200.30–7 (a)(1) through (5) and (9) amended; (a)(10) added 32794
200.30–9 Revised 32794
200.30–10 (a)(6) removed; (a)(7) and (8) redesignated as (a)(6) and (7); (a)(1) through (5) and new (6) amended 32794
200.30–14 (g)(1) introductory text, (2) and (4) through (7) revised; (g)(1)(x) through (xiv) added 32794
200.30–18 Added 39644
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200.40 Revised 17202
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200.42 Redesignated as 200.43; new 200.42 redesignated from 200.41; (a) and (b) amended 17202
200.43 Redesignated from 200.42; (c)(1) amended 17202
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200.80—200.83 (Subpart D) Authority citation revised 50091
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200.110—200.114 (Subpart F) Authority citation revised 32795
200.111 (d)(1)(i) and (2) amended 32795
200.301—200.313 (Subpart H) Authority citation amended 32795
200.312 (a)(8) amended 32795
200.401 (a) amended 17202
200.550—200.554 (Subpart K) Authority citation revised 32795
200.554 (a) amended 32795
200.735–5 (k) revised 52626
200.735–13 (c) amended 32795
201 Authority citation removed 32795
201.1—201.29 (Subpart A) Removed 32795
201.31—201.60 (Subpart B) Authority citation revised 32795
201.42 (b) amended 32795
201.54 Amended 32795
201.57 Amended 32795
201.60 Removed 32795
201.61—201.68 (Subpart C) Authority citation revised 32795
201.100—201.900 (Subpart D) Added 32796
201.100 (b)(2) corrected 46499
201.230 (a)(1)(vi) correctly revised 46499
201.430 (a) and (c) corrected 46500
201.431 (a) corrected 46500
202.3a Introductory text amended 26613
202.8 Removed 32823
203.3 Amended 32823
203.7 (b) amended 32823
203.8 Amended 32823
209 Added 32823
210.6–07 Amended 38923

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211 Staff Accounting Bulletin No. 94 added 20022
Staff Accounting Bulletin No. 94 corrected 24968
Staff Accounting Bulletin No. 95 added 66072
228.10 (f) added 32824
228.501 (a)(4) revised 26613
228.502 Introductory text and (f) revised; (a)(1) heading removed; (a)(1), (b) and (c) amended 26613
228.503 (b) and (c) revised 26613
228.512 (a)(1)(ii) amended 26614
228.601 (b)(24) amended 26614
229.10 (d) added 32824
229.501 (c)(4) revised 26614
229.502 Introductory text, (a) introductory text and (g) revised; (b), (c) and (f) introductory text amended 26614
229.503 (b) and (c) revised; authority citation removed 26614
229.512 (a)(1)(ii) revised 26615
229.601 (b)(24) amended 26615
229.801 (d) amended 26615
230 Authority citation amended 26615
230.110 (a) amended; (d) added 26615
230.111 Existing text designated as (a); (b) added 26615
230.402 (d) and (e) added 26615
230.406 (e), (g), (h)(1) and (2) amended 32824
(b)(1) and (3) revised 47692
230.411 (b)(4) and (c) amended 32824
230.424 (b)(7) amended 26615
230.429 Authority citation removed 26615
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230.430A (a)(3) and Instruction amended 26616
230.434 Added 26616
230.439 Authority citation removed 26615
Existing text designated as (a); (b) added 26617
230.455 Amended 26617
230.457 (o) revised 26617
230.461 Authority citation removed 26615
(a) amended 26617
230.462 Heading revised; existing text designated as (a); (b) and (c) added 26617
230.472 (e) added 26618
230.483 (b) amended; (c) redesignated as (c)(1); (c)(2) added 26618
230.497 (h) redesignated as (h)(1); (h)(2) added 26618
231 Table amended 35666
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232.13 (a)(3) added 26618
232.101 (c)(13) amended 32824
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232.102 (a) amended 32824
232.301 Revised 27692, 57684
239.9 Form SB–1 amended 26618
239.10 Form SB–2 amended 26618
239.11 Form S–1 amended 26619
239.12 Form S–2 amended 26619
239.13 Form S–3 amended 26620
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239.17a Form N–3 amended 38924
239.17b Form N–4 amended 38925
239.18 Form S–11 amended 26620
239.31 Form F–1 amended 26620
239.32 Form F–2 amended 26621
239.33 Form F–3 amended 26621
240 Phase-in period extension 40994
240.3a12–8 (a)(1)(xiv), (xv) and (xvi) amended 62326
240.8b–11 (e) added 26622
240.12b–11 (d) added 26622
240.12b–23 (b) amended 32825
240.12b–32 (a) amended 32825
240.12f–1 (a)(5) and (6) redesignated as (a)(6) and (7); heading, (a) introductory text and new (6) revised; new (a)(5) added 20896
240.12f–2 Revised 20896
240.12f–3 (b) revised 20896
240.12f–5 Added 20896
240.12f–6 Removed 20896
240.14a–101 Note D1 amended 32825
240.14d–1 (d) added 26622
240.15c2–8 (b), (c) and (d) amended; (j) added; authority citation removed 26622
240.15c6–1 (a) and (b) amended; (b)(2) removed; (b)(3) redesig-

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nated as (b)(2); (c) and (d) added 26622
240.16a-3 (i) added 26622
240.17a-23 Regulation at 59 FR 66702 eff. date delayed to 7-1-95 28717
240.19d-2 Revised 32825
240.19d-3 Revised 32825
240.24b-2 (d)(2), (e)(1) and (2) amended 32825
(b)(2) redesignated in part as (b)(3); (b)(1) and new (3) revised 47692
241 Interpretive releases 53467
249.27 Removed 20896
249.28 Removed 20896
250.22 (b)(1) amended 32825
250.45 (b)(4) revised 33639
250.52 Revised 33639
260.7a-29 (a) amended 32825
270.0-4 (a) amended 32825
270.0-6 (a) and note amended 32825
270.8b-32 (a) amended 32825
270.24e-2 (a)(1) amended 47045
270.24f-1 (a) and (c)(1) amended 47045
270.24f-2 (b)(1), (3) and (c) revised; (e) and (f) added 47045
271 Interpretive releases 53467
274.11A Form N-1A amended 38923, 38924
274.11a-1 Form N-2 amended 26623, 38924
274.11b Form N-3 amended 38924
274.11c Form N-4 amended 38925
274.24 Added 47046

Chapter IV—Department of the Treasury (Parts 400—499)

400.6 OMB number 18734
403.4 OMB number 18734
404 Authority citation revised 20399
404.2 (b) and (c) redesignated as (c) and (d); new (b) amended; new (c) added 20399
405 Authority citation revised 20400
405.3 OMB number 18734
405.5 Added (OMB number) 20401
449 Authority ciation revised 18735
449.3 Form G-FIN-4 amended 18736
449.5 Form G-405 amended 18734

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404 20065
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420 65214

TITLE 18—CONSERVATION OF POWER AND WATER RESOURCES

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2 Order 22503
Clarification 27878
2.25 Regulation at 59 FR 65938 confirmed 22260
(e) revised 22261
2.104 (a) amended 53064
11.1 (c)(3)(i), (iii) and (i) revised 57925
11 Appendix A revised 55993
34 Order 22503
34.4 (e) ammended 27882
35 Order 22503, 39251

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35.23 Regulation at 59 FR 65938 confirmed 22260
35.32—35.33 (Subpart E) Added 34123
35.32 (a)(1), (4) and (f) stayed in part 39252
41 Order 22503
131 Order 22503
154 Revised 52996
157.53 Heading, (a) and (b) amended 53065
158.10 Revised 53065
158.11 Revised 53065
158.12 Amended 53065
201 Amended 53065, 53066, 53067, 53068, 53069, 53070
250.2 Revised 53070
250.3 Revised 53070
250.4 Revised 53071
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250.8 Removed 53071
250.9 Removed 53071
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250.12 Removed 53071
250.14 Removed 53071
250.16 (c)(3) and (d)(2) amended; (d)(1) revised 53071
260.1 (a) amended; (b) revised 53071
260.2 (a) amended; (b) revised 53071
260.3 Revised 53071
260.4 Removed 53071
260.9 (b) introductory text, (c) and (e) revised 53071
260.11 Removed 53072
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260.15 Removed 53072
284 Order 39253
284.2 (b) revised 53072
284.3 (a) amended 53072
284.4 Revised 53072
284.6 (b) revised 53072
284.7 (b) removed; (c) and (d) redesignated as (b) and (c); new (c)(5)(iv) removed; (c)(6) added 53072
284.8 (b)(4)(iii) and (5)(i) amended 53072
284.10 Removed 53072
284.11 (d)(1), (2) heading and designation removed 53072
284.13 Removed 53072
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284.102 (e) revised 53072
284.105 Removed 53072
284.106 (b) through (f) removed; (g) redesignated as (b); (a) and new (b) introductory text revised; new (c) added 53072
284.122 (e) removed 53073
284.123 (e) revised 53073
284.125 Removed 53073
284.126 (b), (e) and (f) removed; (c) and (g) redesignated as (b) and (c); (a) and new (b) revised 53073
284.142 Revised 53073
284.143 Removed 53073
284.144 Removed 53073
284.145 Removed 53073
284.146 Removed 53073
284.147 Removed 53073
284.148 Removed 53073
284.161—284.165 (Subpart E) Removed 53073
284.221 (b)(1) introductory text revised; (d)(1) and (f)(2) amended 53073
284.222 Removed 53074
284.223 Heading revised; (b) through (f) removed; new (b) added 53074
284.224 Heading, (b)(3), (c) introductory text, (d)(1), (e)(1) and (g) revised; (e)(5)(i) redesignated as (e)(5); (e)(5)(ii) removed 53074
284.225 Removed 53074
284.226 Removed 53074
284.227 (d) removed; (e), (f) and (g) redesignated as (d), (e) and (f) 53074
284.243 (h) revised 16983
(h)(1) revised 30187
284.266 (b) and (c) removed; (d) redesignated as (b) 53074
284.269 Amended 53074
284.284 (b) amended 53074
284.285 (e) revised 53074
284.287 Revised 53074
284.402 (c)(1) revised; (c)(2) amended 53074
292 Order 22503
294 Order 22503
343 Authority citation revised 19505
343.1 (a), (b) and (d) through (h) removed; (c) and (i) redesignated as (a) and (b) 19505
343.5 Revised 19505
357 Authority citation revised 53117
357.2 Revised 53117
375.302 (v) and (w) added 62328

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375.308 (a)(4) added 62328
375.309 (g) added 62329
381.302 (a) amended 31390
381.303 (a) amended 31390
381.304 (a) amended 31390
381.305 (a) amended 31390
381.403 Amended 31391
381.404 Removed 53074
381.505 (a) amended 31391
381.801 Amended 31391
382 Order 22503
382.102 (c) revised 53117
385 Order 22503
385.503 (a) revised 19505
385.504 (b)(7) revised 19505
385.601 (a) revised 19505
385.602 (b)(3) and (f)(4) added; (h)(1)(ii) introductory text, (iii), (2)(iii) and (iv) revised 19505
385.604—385.606 (Subpart F) Added 19506
385.710 (d) added 19508
385.2011 (b), (c)(4) and (d) revised 53074

Chapter VIII—Susquehanna River Basin Commission (Parts 800—899)

803 Revised 31394
804 Added 31401
805 Added 31401

Chapter XIII—Tennessee Valley Authority (Parts 1300—1399)

1301.1 (b) introductory text, (c)(1)(i), (2)(i), (ii) and (3)(ii) revised; (c)(2)(iii) added 38479
1301.24 (d) revised 2111

Proposed Rules:

1—399 (Ch. I) 56278, 63476 705
35 ..... 17662, 36752, 38289, 43997, 52874, 54317, 57844, 58304 ..... 705, 2733
37 66182
141 ..... 17726, 31428, 33375, 43998
284 ..... 35522, 39895, 55504
357 31262
382 31262
388 ..... 17726, 31428, 33375, 43998
400—499 (Ch. III) 38288

TITLE 19—CUSTOMS DUTIES

Chapter I—United States Customs Service, Department of the Treasury (Parts 1—199)

4 Footnotes 2, 21, 29, 63, 64, 66, 68, 69, 73, 90, 93, 94 and 100 removed; interim 50010
Authority citation amended 2414
4.1 (c)(2) amended; interim 50010
(b), (c)(1), (2), (d) and (g) amended; interim 50021
4.2 (a) amended; interim 50021
4.5 (a) amended; interim 50021
4.6 (a) and (b) amended; interim 50021
4.7 (b) and (d)(2) amended; interim 50021
4.8 Revised 2414
4.9 (c) amended; interim 50010
(a), (b) and (c) amended; interim 50021
4.12 (a)(1) through (5) and (b) amended; interim 50021
4.13 (c) amended; interim 50021
4.14 (c)(1) and (2) revised; interim 50010
(b)(1), (2)(ii) introductory text, (A), (d)(1)(v), (2)(iii) and (iv) amended; interim 50021
(b)(2)(ii)(A) amended; interim 50022
4.15 (a) and (c) amended; interim 50022
4.16 (a) and (b) amended; interim 50022
4.20 (c) table amended 48028
(c) table amended; interim 50022
4.22 Amended 54939
4.23 Amended; interim 50022
4.24 (f) revised; interim 50010
(a) and (b) amended; interim 50022
4.30 (a), (f) through (i), (3), (k), (l) and (m) amended; interim 50022
(a) and (b) amended 2414
4.31 (a) amended; interim 50010
Amended; interim 50022
4.32 (b) amended; interim 50022
4.33 (a)(1), (2), (c)(1), (2), (3) and (d) amended; interim 50022
4.34 (a), (b), (d) and (g) amended; interim 50022
4.35 Amended; interim 50022
4.36 (d) amended; interim 50022

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4.37 (a), (c), (d) and (f) amended; interim 50022
4.38 Amended; interim 50022
4.39 (e) amended; interim 50022
4.41 (b), (c) and (d) amended; interim 50022
4.60 (d) amended; interim 50022
4.61 (b)(6) and (19) amended; interim 50010
(b) introductory text amended; interim 50022
4.65a Amended; interim 50022
4.66 (a) introductory text amended; interim 50022
4.66a Amended; interim 50022
4.66b Amended; interim 50022
4.66c Amended; interim 50022
4.68 (a) amended; interim 50022
4.72 (a) amended 35838
Amended; interim 50022
4.73 Amended; interim 50022
4.74 Amended; interim 50022
4.75 (a), (b) and (c) amended; interim 50022
4.80 (b) amended; interim 50022
4.80a (d) amended; interim 50022
4.80b (b) amended; interim 50022
4.81 (d) and (e) amended; interim 50022
4.82 (b) and (d) amended; interim 50022
4.85 (a) through (e) amended; interim 50022
4.87 (b), (c), (d) and (g) amended 50022
4.88 (a) and (b) amended; interim 50022
4.89 (b) and (d) amended; interim 50022
4.91 Amended; interim 50022
4.93 (c) amended; interim 50022
4.94 (c) and (d) form amended; interim 50022
4.96 (f) and (h) amended; interim 50022
4.97 (c) and (d) amended; interim 50022
4.98 (a)(1) and (d) amended; interim 50022
(e) amended; interim 50023
4.99 (c) amended; interim 50023
4.100 (a), (c) and (e) amended; interim 50023
7 Authority citation revised 18348
7.6 (b)(1) and (2) amended; interim 50023
10 Authority citation amended 18543, 18990, 46196, 46361
10.1 (b) and (d) amended; interim 50023
10.3 (a) introductory text and (c)(3) amended; interim 50023
10.5 (d), (e), (g) and (h) amended; interim 50023
10.6 Amended; interim 50023
10.7 (c) and (d) amended; interim 50023
10.8 Regulation at 58 FR 69470 confirmed; (a) introductory text revised 46361
(b), (c) and (d) amended; interim 50023
10.8a (c) amended; interim 50023
10.9 (b), (c) and (d) amended; interim 50023
10.21 Amended; interim 50023
10.24 (b) through (e) amended; interim 50023
10.25 Added 46196
(a) corrected 55995
10.26 Added 46197
10.31 Regulation at 58 FR 69470 confirmed 46361
(a)(3)(ii), (b) and (f) amended; interim 50023
(h) amended; interim 2910
10.36 (a) amended; interim 50023
10.36a Regulation at 58 FR 69470 confirmed 46361
10.37 Amended; interim 50023
10.38 (a) and (g) amended; interim 50023
10.39 (a), (b), (d)(1), (2), (e) introductory text, (1), (2), (3), (f) and (h) amended; interim 50023
10.40 (b) amended; interim 50023
10.41a (a)(2) and (e) amended; interim 50023
10.41b (h) amended; interim 50023
10.43 (a) amended; interim 50023
10.48 (c) and (d) amended; interim 50023
10.49 (b) and (d) amended; interim 50023
10.52 Amended; interim 50023
10.53 (e)(5) and (g) amended; interim 50023
10.56 (e) amended; interim 50023
10.59 (f) table amended 28040
(a)(3) and (e) amended; interim 50023
(e) amended 52294

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10.60 (f) and (h) amended; interim 50023
(a) and (d) amended 52295
10.61 Amended; interim 50023
Amended 52295
10.62 (c)(1), (e) and (f) amended; interim 50023
(a) introductory text and (b) amended 52295
10.62a (b) amended; interim 50023
(a) and (b) amended 52295
10.64 (a) introductory text and (b) amended; interim 50023
10.65 (c)(2) amended; interim 50023
10.66 Regulation at 58 FR 69470 confirmed 46361
(a)(3), (b) and (c)(1) amended; interim 50023
10.67 Regulation at 58 FR 69470 confirmed 46361
(a)(3), (b) and (c) amended; interim 50023
10.68 (a) amended; interim 50023
10.70 (a) amended; interim 50023
10.71 (c) and (e) amended; interim 50023
10.75 Amended; interim 50023
10.80 Amended 52295
10.81 (a) amended; interim 50023
(b) amended; interim 50024
(b) amended 52295
10.83 (a) amended; interim 50024
10.84 (d) and (e) amended; interim 50024
10.101 (c) and (d) amended; interim 50024
10.102 (a) and (d) amended; interim 50024
(b) introductory text amended 52295
10.104 Amended; interim 50024
10.107 (b) and (c) amended; interim 50024
10.108 Amended; interim 50024
10.121 (b) amended; interim 50024
10.134 Amended; interim 50024
10.151—10.153 Regulation at 59 FR 30293 confirmed 18990
10.151 Regulation at 59 FR 30293 confirmed and amended 18990
Corrected 37825
Amended; interim 50024
10.152 Regulation at 59 FR 30293 confirmed 18990
Amended; interim 50024
10.153 Regulation at 59 FR 30293 confirmed 18990
10.172 Amended; interim 50024
10.173 Amended; interim 50024
10.174 Amended; interim 50024
10.175 (e)(2) amended 18543
(d)(2) amended; interim 50024
10.177 (b) amended; interim 50024
10.179 (b)(1) amended; interim 50024
10.183 (c)(1), (2), (d)(2) and (e); interim 50024
10.192 Amended; interim 50024
10.193 (c)(2) amended; interim 50024
10.194 Amended; interim 50024
10.195 (d) and (e) redesignated as (e) and (f); new (d) added 46197
(d) corrected 55995
10.196 (b) amended; interim 50024
10.198 (a)(1)(i), (ii), (b) and (c) amended; interim 50024
10.307 (c), (e) introductory text and (2) amended; interim 50024
10.309 Amended; interim 50024
11 Authority citation revised 18348
11.1 (a) and (c) amended; interim 50024
11.2 (a) amended; interim 50024
11.6 Amended; interim 50024
11.12 (b) through (f) amended; interim 50024
11.12a (b) through (f) amended; interim 50024
11.12b (b) through (f) amended; interim 50024
11.13 (c) amended; interim 50024
12 Authority citation amended 18348
12.8 (b) amended; interim 50024
12.9 Amended; interim 50024
12.11 (a) and (b) amended; interim 50024
12.12 Amended; interim 50024
12.14 Amended; interim 50024
12.16 (b) and (c) amended; interim 50024
12.17 Amended; interim 50024
12.19 Amended; interim 50024
12.20 Amended; interim 50024
12.22 Amended; interim 50024
12.23 (a) through (d) amended; interim 50024
12.24 (c) amended; interim 50024
12.26 (e), (f), (h) and (l) amended; interim 50024
12.28 Amended; interim 50024
12.29 (d) amended; interim 50024

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12.33 (d) amended; interim 50024
12.37 (a) amended; interim 50024
12.39 (b)(3) and (d)(2) amended; interim 50024
(b) heading revised; (c) and (d) redesignated as (d) and (e); (b)(4) and new (c) added 54941
12.42 (a), (b), (c) and (e) amended; interim 50024
12.43 (c) amended; interim 50024
12.44 ended; interim 50025
12.45 Amended; interim 50025
12.48 (d) amended; interim 50025
12.61 (b) amended; interim 50025
12.73 (c)(2), (j) and (k) amended; interim 50025
12.80 (b)(1) introductory text, (iii), (d), (e), (f) and (h) amended; interim 50025
12.85 (c)(1), (6), (d)(7), (e)(1), (2) and (f) amended; interim 50025
12.91 (c), (d) and (f) amended; interim 50025
12.99 (c)(2) amended; interim 50025
12.103 Amended; interim 50025
12.104b (a) revised 47467
12.104c (a), (b) and (c) amended; interim 50025
12.104d Amended; interim 50025
12.104e (a) introductory text amended; interim 50025
12.107 Amended; interim 50025
12.108 Amended; interim 50025
12.109 (a) amended; interim 50025
12.113 Amended; interim 50025
12.114 Amended; interim 50025
12.115 Amended; interim 50025
12.116 Amended; interim 50025
12.117 (a) and (b) amended; interim 50025
12.121 (a) introductory text amended; interim 50025
12.122 (a) introductory text, (b) introductory text, (1), (2), (c) and (d) amended; interim 50025
12.123 (a), (b), (c) introductory text and (2) amended; interim 50025
12.124 (b) introductory text amended; interim 50025
12.125 Introductory text amended; interim 50025
12.126 Amended; interim 50025
12.130 (b), (d) introductory text and (e)(1) introductory text amended 46197
(g) and (h) amended; interim 50025
12.131 Amended; interim 50025
12.132 Regulations at 58 FR 69470 and 59 FR 31520 confirmed 46361
(a)(3) amended; interim 50025
(b) amended 58518
18 Authority citation amended 18348
18.1 (b) amended; interim 50025
18.2 (b) and (d) amended; interim 50025
18.3 (a) and (b) amended; interim 50025
18.4 (a)(2) and (f) amended; interim 50025
18.4a (c) and (d) amended; interim 50025
18.5 (b), (c), (d) and (f) amended; interim 50025
18.6 (b) amended; interim 50025
18.7 (a), (b) and (c) amended; interim 50025
18.8 (d), (e)(2) and (3) amended; interim 50025
18.10 (b) amended; interim 50025
18.10a Amended; interim 50025
18.11 (b), (c), (e) and (h) amended; interim 50025
18.12 (d) and (e) amended; interim 50025
18.13 (a) and (b) amended; interim 50025
18.20 (a) and (b) amended; interim 50025
18.21 (c) amended; interim 50026
18.22 (b) amended; interim 50026
18.23 (a) amended; interim 50026
18.24 (a) amended; interim 50026
18.25 (a) and (e) amended; interim 50026
18.26 (a) and (d) amended; interim 50026
18.27 Amended; interim 50026
18.42 Amended; interim 50026
18.43 (b) and (c) amended; interim 50026
18.45 Amended; interim 50026
19 Authority citation amended 18348, 50010
19.1 (a)(1) and (4) amended; interim 50026
19.2 (a), (e), (f) and (g) amended; interim 50026
(a) amended 62733

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19.3 (a) through (g) amended; interim 50026
(a) amended 62733
19.4 Amended; interim 50026
19.5 Correctly removed; CFR correction 42431
19.6 (a), (b)(1), (d)(1)(iv), (2) and (e) amended; interim 50026
(d)(2) and (4) amended 52295
19.7 (b) amended; interim 50026
19.8 Amended; interim 50026
19.9 (a) and (c) amended; interim 50026
19.10 Amended; interim 50026
19.11 (c), (d), (f) and (h) amended; interim 50026
(g) amended 52295
19.12 (a)(3), (5), (6), (8) and (b)(6) amended; interim 50026
19.13 (a), (b) and (d) amended; interim 50026
19.14 (c) and (e) amended; interim 50026
19.15 (f) and (j) amended; interim 50026
(b) and (d) amended 52295
19.17 (a), (c), (e) and (g) amended; interim 50026
(a) amended 62733
19.19 (a) and (b) amended; interim 50026
19.23 Amended; interim 50026
19.32 (b) amended; interim 50026
19.34 Amended; interim 50026
19.35 (d), (f) and (g) amended; interim 50026
19.36 (a) through (d) and (g) amended; interim 50026
19.37 (a), (b) and (d) amended; interim 50026
19.39 (a)(2), (b)(2), (c)(2), (5), (d) and (e) amended; interim 50026
19.40 (a) and (b) amended; interim 50026
19.43 Amended; interim 50026
19.44 (g) amended; interim 50010
19.45 Amended; interim 50026
19.46 Amended; interim 50026
19.47 Amended; interim 50026
19.48 (a) introductory text, (b) and (c) amended; interim 50026
24 Authority citation amended 18348, 46361
Authority citation revised 50010
24.1 (a)(3)(i) amended; interim 50011
(a)(3)(i) and (ii) amended; interim 50026
24.2 Amended; interim 50026
24.3a (c) amended; interim 50026
24.4 (a), (c)(1) and (d)(1) amended; interim 50011
(a) through (d), (1) and (h)(3)(i) amended; interim 50026
(c)(2), (h)(2) and (3) introductory text amended; interim 50027
24.5 (f) amended; interim 50027
24.11 (b) amended; interim 50027
24.12 (c) amended; interim 50027
24.13 (c), (d) and (f) amended; interim 50027
24.13a (g) amended; interim 50027
24.14 (c) amended; interim 50027
24.16 (a), (c)(1) and (2) amended; interim 50027
24.17 (a) introductory text and (d)(4) amended; interim 50027
24.21 (b)(2) removed 62733
24.22 Regulation at 58 FR 69470 confirmed 46361
(b)(3), (c)(3), (d)(3) and (i)(2) amended; interim 50027
24.23 (c)(1)(v) amended 18348
Regulation at 58 FR 69470 confirmed 46361
(a)(1) and (3) amended; interim 50027
24.24 (b)(1) table, (c)(8)(i) and (g) amended; interim 50027
24.36 (c), (d) introductory text, (9), (e)(1) and (2) amended; interim 50027
24.70 (c) amended; interim 50027
24.72 Amended; interim 50027
54 Authority citation revised 18348
54.5 (b) amended; interim 50027
54.6 (c) introductory text and (4) amended; interim 50027
(b) amended 52295
101 Authority citation revised 18348, 18990, 50011
101.0 Amended; interim 50027
101.1 Regulation at 59 FR 30293 confirmed 18990
Amended; (a), (b) and (c) removed; interim 50011
101.3 (b) amended 41804, 52628
Revised; interim 50011
(b)(1) table amended 67056, 67057
101.4 Regulation at 59 FR 30293 confirmed 18990

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(c) table revised; interim 50018
(a), (b) introductory text and (d) amended; interim 50027
(c) amended 52628
101.5 Table amended; interim 50027
101.6 (e) amended; interim 50019
(c) amended; interim 50027
102 Authority citation revised 18348, 46197
102.0 Amended 46197
102.11 Introductory text amended 46197
102.21 Added 46197
103.0 Amended; interim 50027
103.1 Amended; interim 50019
103.5 (b)(1), (2), (d)(1) and (2) amended; interim 50027
103.6 (a)(1) and (2) amended; interim 50028
103.7 (a), (b)(6) and (c) amended; interim 50028
103.8 (a) introductory text and (3) amended; interim 50028
103.10 (d)(3) amended; interim 50028
103.14 (d)(1)(iii), (2)(iii) and (e)(2) amended; interim 50028
103.16 Amended; interim 50028
111 Authority citation amended 18348, 50019
User fee due date 56117
111.1 Amended; interim 50019
111.3 Regulation at 59 FR 30294 confirmed 18990
(b)(1) and (2) amended; interim 50028
111.11 (b)(2) and (c)(3) amended; interim 50028
111.12 Amended; interim 50028
111.13 (f) removed; interim 50019
111.15 Amended; interim 50028
111.16 (a) amended; interim 50028
111.19 (d) amended; interim 50019
(b) and (d) amended; interim 50028
111.22 (b) introductory text, (2), (c) and (e) amended; interim 50028
111.23 (e)(3) removed; interim 50019
(a)(1), (b) introductory text, (d)(1), (5), (e)(2) and (f) amended; interim 50028
111.24 Amended; interim 50028
111.27 Amended; interim 50028
111.28 (b)(1), (2), (3) and (c) amended; interim 50028
111.30 (a), (b) and (d) amended; interim 50028
111.45 (c) amended; interim 50019
111.54 Amended; interim 50028
111.55 Amended; interim 50028
111.56 Amended; interim 50028
111.57 Amended; interim 50028
111.59 (a) and (b) introductory text amended; interim 50028
111.60 Amended; interim 50028
111.61 Amended; interim 50028
111.62 (e) amended; interim 50028
111.63 (a) introductory text, (3), (4), (b) introductory text, (3) and (4) amended; interim 50028
111.64 (a) amended; interim 50028
111.67 (d) amended; interim 50029
111.72 Amended; interim 50029
111.78 Amended; interim 50029
111.91 Amended; interim 50029
111.92 Amended; interim 50029
111.94 Amended; interim 50029
111.95 Amended; interim 50029
111.96 (a) and (c) amended; interim 50029
112.1 Amended; interim 50019
112.2 Amended; interim 50020
112.11 (a) amended; interim 50029
112.12 (a), (b) introductory text, (3) and (4)(ii) amended; interim 50029
112.13 Introductory text amended; interim 50029
112.14 Amended; interim 50029
112.21 Amended; interim 50029
112.22 (a) introductory text, (1), (b)(1), (2) and (c) amended; interim 50029
112.23 Amended; interim 50029
112.24 Introductory text amended; interim 50029
112.27 (c) amended; interim 50029
112.29 Amended; interim 50029
112.30 (a) introductory text, (7), (8), (10), (b), (c), (d)(2) and (e) amended; interim 50029
112.41 Amended; interim 50029
112.42 Amended; interim 50029
112.44 Amended; interim 50029
112.45 Introductory text amended; interim 50029
112.46 Amended; interim 50029
112.48 (a) introductory text, (b), (c), (d)(2) amd (e) amended; interim 50029
112.49 Amended; interim 50029

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113.1 Amended; interim 50029
113.11 Amended; interim 50029
113.12 (a), (b) introductory text and (2) amended; interim 50029
113.13 (b), (c) and (d) amended; interim 50029
113.14 Amended; interim 50029
113.15 Amended; interim 50029
113.23 (d) amended; interim 50029
113.24 (a) introductory text and (b) amended; interim 50029
113.26 (e) amended; interim 50029
113.27 (a) and (b) amended; interim 50029
113.32 (a)(1) amended; interim 50029
113.33 (c) and (d) amended; interim 50029
113.35 (a), (c)(2), (d) and (e) amended; interim 50029
(b)(4) and (c)(1)(ii) amended; interim 50030
113.37 (a) amended; (g)(2) revised; interim 50020
(a), (f), (g)(1)(iii), (4) and (5) amended; interim 50030
113.38 (c)(2) removed; (c)(3) through (7) redesignated as (c)(2) through (6); interim 50020
(c)(1), (2), (4) and (6) amended; interim 50030
113.39 (a) introductory text amended; interim 50020
Introductory text, (a) introductory text and (5) amended; interim 50030
113.40 (a), (b) and (c) amended; interim 50030
113.43 (a) and (b) amended; interim 50030
113.53 (b) amended; interim 50030
113.55 (a)(1), (c)(2), (3) and (d) amended; interim 50030
113.62 (a)(3) amended; interim 50030
(a)(1) introductory text and (b) introductory text revised; interim 2911
114 Authority citation revised 18348
114.25 Amended; interim 50030
114.26 (a) and (b) amended; interim 50030
114.34 (a) and (b) amended; interim 50030
118.1 Amended; interim 50030
118.2 Amended; interim 50030
118.4 (g) and (l) amended; interim 50020
(f), (g) and (k) amended; interim 50030
118.5 Amended; interim 50030
118.11 (b) and (h) amended; interim 50030
118.12 Amended; interim 50030
118.13 Amended; interim 50030
118.21 (a) introductory text and (b) introductory text amended; interim 50030
118.22 Amended; interim 50030
118.23 Amended; interim 50030
118.24 Removed; interim 50020
122.1 (c)(2) amended; interim 50030
122.3 Amended; interim 50030
122.5 (b) amended; interim 50030
122.11 (a) amended; interim 50030
122.12 (d) amended; interim 50030
122.14 (e) amended; interim 50020
(a)(1), (2), (3) introductory text, (ii) and (e) amended; interim 50030
122.15 (b) amended 41804
122.25 (a), (b) and (d)(4)(iv) amended; interim 50030
122.31 (b) amended; interim 50020
(b), (c) and (f) amended; interim 50030
122.35 (b)(1) amended; interim 50030
122.37 (c) amended; interim 50030
122.38 (d), (e) and (f) amended; interim 50030
122.49 (a)(1), (b)(1), (d) and (e)(1) amended; interim 50030
122.54 (f) and (g) amended; interim 50030
122.63 (b) amended; interim 50030
122.64 Amended; interim 50030
122.65 Amended; interim 50030
122.71 (a)(1) amended; interim 50031
122.73 (a)(2) and (b)(2) amended; interim 50031
122.74 (a)(1) and (b)(2) amended; interim 50031
122.76 (a)(1) and (2) amended; interim 50031
122.77 (a) and (b) amended; interim 50031
122.79 (b) amended; interim 50031
122.82 Amended; interim 50031
122.92 (a)(3) introductory text and (iv) amended; interim 50031
122.93 (a) amended; interim 50031
122.102 (a) amended; interim 50031
122.114 (d) amended; interim 50031
122.118 (a) amended; interim 50031

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122.119 (a), (d)(1) introductory text, (ii) and (2) amended; interim 50031
122.120 (b)(1) and (k) amended; interim 50031
122.132 (b)(2) and (c) amended; interim 50031
122.134 (a) and (c) amended; interim 50031
122.135 (b), (c) and (e) amended; interim 50031
122.143 (b) amended; interim 50031
122.144 (b) amended; interim 50031
122.153 Amended; interim 50031
122.162 (a)(2) and (4) amended; interim 50031
122.163 (c) introductory text and (2) amended; interim 50031
122.165 (b) amended; interim 50031
122.173 (a) and (b) amended; interim 50031
122.175 Amended; interim 50031
122.176 (a) and (b) amended; interim 50031
122.181 Amended; interim 50031
122.182 (b) through (g) amended; interim 50031
122.183 Amended; interim 50031
122.184 Amended; interim 50031
122.185 Amended; interim 50031
122.186 Amended; interim 50031
122.187 (a) introductory text, (4), (b), (c), (d) and (f) amended; interim 50031
122.188 (a), (b) and (d) amended; interim 50031
123 Authority citation amended 18348, 18991
123.0 Regulation at 58 FR 69471 confirmed 46361
123.1 (a)(1), (2), (3), (b) and (d) amended; interim 50031
123.4 (b) amended; interim 50031
123.8 (a), (b)(1) and (2) amended; interim 50031
123.9 (b)(1), (2), (d)(1)(iv) and (v) amended; interim 50031
123.12 Regulation at 59 FR 30294 confirmed 18990
123.14 (b) amended; interim 50031
123.24 (c) amended; interim 50031
123.25 (a) amended; interim 50031
123.34 Amended; interim 50031
123.63 Revised 54188
123.72 Amended; interim 50031
125.11 (b) and (c) amended; interim 50031
125.12 Amended; interim 50031
125.13 Amended; interim 50031
125.14 Amended; interim 50031
125.23 Amended; interim 50031
125.31 (c) and (d) removed; (e) redesignated as (c) 52295
125.33 (c) amended; interim 50031
125.35 Amended; interim 50031
125.36 Amended; interim 50031
125.42 Amended; interim 50031
127.1 Introductory text, (c), (d) and (e) amended; interim 50031
127.12 (b)(1) amended; interim 50031
127.13 (a) amended; interim 50031
127.21 Amended; interim 50031
127.22 Revised; interim 50020
127.25 Amended; interim 50032
127.27 Amended; interim 50032
127.28 (c), (d), (g) and (h) amended; interim 50032
127.29 Amended; interim 50032
127.35 Amended; interim 50032
127.36 (a) and (c) amended; interim 50032
128 Authority citation revised 18348
128.1 (d) and (e) amended; interim 50032
128.11 (a), (b)(7)(iv) and (c) amended; interim 50032
128.12 (a) and (c) amended; interim 50032
128.21 Regulation at 59 FR 30294 confirmed 18990
128.23 Regulation at 59 FR 30294 confirmed 18990
(b)(3) amended; interim 50032
128.24 Regulation at 59 FR 30294 confirmed 18990
(e) amended 18991
(c) amended; interim 50032
128.25 Regulation at 59 FR 30295 confirmed 18990
128.26 Regulation at 59 FR 30295 confirmed 18990
132 Authority citation revised 18348
Authority citation amended 39109
132.11a (c) amended; interim 50032
132.12 (a) amended; interim 50032
132.13 (a)(1) amended; interim 50032
132.14 (a)(4)(i) introductory text, (D), (ii) introductory text and (C) amended; interim 50032
132.15 Added; interim 39109

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132.23 (a), (b) and (d) amended; interim 50032
132.25 Amended; interim 50032
133.23 (b)(2) and (c)(2) amended; interim 50032
133.24 Amended; interim 50032
133.42 (c) amended; interim 50032
133.43 (a), (b) introductory text, (2), (c) introductory text, (1) introductory text, (i), (ii) and (2) amended; interim 50032
133.44 Amended; interim 50032
133.46 Amended; interim 50032
133.47 Amended; interim 50032
134 Authority citation revised 18348
Authority citation amended 46362
134.0 Regulation at 58 FR 69471 confirmed 46361
134.1 Regulation at 58 FR 69471 confirmed 46361
(k) added 46362
134.3 (b) introductory text and (2) amended; interim 50032
134.22 Regulation at 58 FR 69471 confirmed 46361
134.23 Regulation at 58 FR 69471 confirmed 46361
134.24 Regulation at 58 FR 69471 confirmed 46361
134.25 (a) and (c) amended; interim 50032
134.26 (a) and (c) amended; interim 50032
134.32 Regulation at 58 FR 69472 confirmed 46361
134.33 Amended 49752
134.34 (a) introductory text and (b) amended; interim 50032
134.35 Regulation at 58 FR 69472 confirmed 46361
134.43 Regulation at 58 FR 69472 confirmed 46361
134.44 Regulation at 58 FR 69472 confirmed 46361
134.45 Regulation at 58 FR 69472 confirmed 46361
134.51 Amended; interim 50032
134.52 (a) through (e) amended; interim 50032
134.53 (a)(2) amended; interim 50032
134.54 (a), (b) and (c) amended; interim 50032
141.0a (a) and (f) amended; interim 2911
141.4 (a) amended 18348
Regulation at 59 FR 30295 confirmed 18990
(b)(1) corrected 21043
141.5 Amended; interim 50032
141.11 (a)(2) and (5) amended; interim 50032
141.13 Amended; interim 50032
141.15 (a) amended; interim 50032
141.16 Amended; interim 50032
141.20 (a)(1) and (2) amended; interim 50032
141.35 Amended; interim 50032
141.38 Amended; interim 50032
141.44 Amended; interim 50032
141.45 Revised; interim 50020
141.46 Amended; interim 50032
141.52 Introductory text and (i) amended; interim 50032
141.54 (a) and (c) amended; interim 50032
141.55 Amended; interim 50032
141.56 Amended; interim 50032
141.61 (e)(2) introductory text, (ii) and (4) amended; interim 50032
(a)(2), (e)(1)(i)(A), (ii)(B), (C) and (f)(2)(i) amended 52295
141.62 (a) amended; interim 50032
141.63 (a) introductory text, (b) and (c) amended; interim 50032
141.68 (g)(1) and concluding text amended 52295
(i) added; interim 2911
141.69 (b) and (c) amended; interim 50032
141.83 (c)(2) amended; interim 50032
141.84 (c) amended; interim 50032
141.85 Amended; interim 50032
141.86 (a)(11) amended; interim 50032
141.88 Amended; interim 50032
141.90 (a) amended; interim 50032
141.91 (a) and (d) amended; interim 50032
141.92 (a) introductory text and (b)(4) amended; interim 50033
141.103 Amended; interim 50033
141.105 Amended; interim 50033
141.112 (b), (c), (d), (g) and (h) amended; interim 50033
141.113 (a) through (d), (f) and (h) amended; interim 50033
142.2 (a) amended; interim 50033
142.3 (c) amended; interim 50033
142.4 (c)(1) and (2) amended; interim 50033
142.6 (a)(4) amended; interim 50033

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142.7 Amended; interim 50033
142.11 (b) amended; interim 50033
142.13 (a)(4) added; (b) removed; (c) redesignated as (b); interim 50020
(a) heading and introductory text amended; interim 50033
142.14 (a), (b) heading and (c) amended; interim 50033
142.15 Amended; interim 50033
142.17 (a) introductory text amended; interim 50033
142.18 (a) introductory text amended; interim 50033
142.19 (b)(2) amended; interim 50033
142.21 (a), (e)(1), (2), (f)(1) introductory text and (ii) amended; interim 50033
142.24 (a) amended; interim 50033
142.25 (a)(4) added; (b) removed; (c) redesignated as (b); interim 50020
(a) heading and introductory text amended; interim 50033
142.26 (a), (b) heading and (c) amended; interim 50033
142.27 Amended; interim 50033
142.28 (a) introductory text amended; interim 50033
142.42 Introductory text, (a) and (c) amended; interim 50033
142.43 Amended; interim 50033
142.44 Amended; interim 50033
142.45 (a) and (c) amended; interim 50033
142.48 (c) amended; interim 50033
142.49 Amended; interim 50033
142.50 Amended; interim 50033
142.51 Amended; interim 50033
142.52 Heading, (a) and (b) amended; interim 50033
143.2 Introductory text amended; interim 50033
143.3 (a) introductory text and (b) amended; interim 50033
143.3a (c) and (d) amended; interim 50033
143.5 Amended; interim 50033
143.6 Amended; interim 50033
143.7 (a), (b) and (c) amended; interim 50033
143.8 Amended; interim 50034
143.11 (a) introductory text and (b) amended; interim 50034
143.17a (a) introductory text amended; interim 50033
143.21 Regulation at 59 FR 30295 confirmed 18990
143.22 Amended; interim 50034
143.23 Regulation at 59 FR 30295 confirmed 18990
(j)(5) amended; (j)(6) redesignated as (j)(7); new (j)(6) added 18991
Introductory text amended; interim 50034
143.26 Regulation at 59 FR 30296 confirmed 18990
(a) and (b) amended 18991
143.37 (c) and (d) amended; interim 50034
144 Authority citation amended 52295
144.11 (b) amended; interim 50034
144.12 Amended; interim 50034
144.13 Amended; interim 50034
144.22 (c) removed; (a) revised 52295
144.34 (a) amended; interim 50034
144.36 (c) and (h) amended; interim 50034
144.37 (a), (b)(3), (d), (e), (f), (h)(2) introductory text, (ii) and (v) amended; interim 50034
(a) amended 52295, 52296
144.38 (d) amended; interim 50034
(a) and (e) amended 52296
(b) added; interim 2911
144.41 (b) and (h) amended; interim 50034
144.42 (b)(3) amended; interim 50034
145 Authority citation amended 18348
145.4 (b), (c) and (d) amended; interim 50034
145.12 (a)(1) and (c) amended; interim 50034
145.14 (b) amended; interim 50034
145.22 (a) and (b) amended; interim 50034
145.23 Amended; interim 50034
145.24 Amended; interim 50034
145.25 Amended; interim 50034
145.31 Regulation at 59 FR 30296 confirmed 18990
Amended; interim 50034
145.32 Regulation at 59 FR 30296 confirmed 18990
Amended; interim 50034
145.35 Amended; interim 50034
145.36 Amended; interim 50034
145.41 Amended; interim 50034
145.42 Amended; interim 50034

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145.54 (c) introductory text and (3) amended; interim 50034
146 Authority citation amended 18348, 20632, 50020
Authority citation revised 62733
146.1 (b)(2) amended; interim 50034
146.2 Amended; interim 50034
146.3 (b) amended; interim 50034
146.4 (h) amended; interim 50020
(g) and (h) amended; interim 50034
146.5 Removed 62733
146.6 (a), (c), (d) and (e) amended; interim 50034
(b)(1) removed 62733
146.7 Amended; interim 50034
(a) and (b) amended 62733
146.8 Amended; interim 50034
146.9 Amended; interim 50034
146.10 Amended; interim 50034
146.13 Amended; interim 50034
146.21 (b) amended; interim 50034
146.22 (b) amended; interim 50034
146.23 (c) amended; interim 50034
146.25 (a) and (c) amended; interim 50034
146.26 Amended; interim 50034
146.31 (a) amended; interim 50034
146.32 (a), (b)(5), (c) introductory text, (3) and (d)(2)(i) amended; interim 50034
146.34 (a) and (b) amended; interim 50034
146.35 (b), (d) and (e) amended; interim 50034
146.36 Amended; interim 50034
146.37 (b), (c)(1) and (d) amended; interim 50034
146.38 Amended; interim 50034
146.39 (b), (c) introductory text, (d) and (e) amended; interim 50034
146.40 (b) amended; interim 50020
(a)(2), (5), (7), (c)(1), (2), (3)(1) and (4) amended; interim 50034
146.41 (a), (c) and (d) amended; interim 50034
146.42 (c) amended; interim 50034
146.44 (c)(2) amended; interim 50035
146.51 Amended; interim 50035
146.52 (a) through (d) and (e) amended; interim 50035
146.53 (a) introductory text, (3), (b), (c) and (d) amended; interim 50035
146.61 Amended; interim 50035
146.62 (c) amended; interim 50035
146.63 (c)(1) amended; interim 50035
146.64 (c) amended; interim 50035
146.65 (a)(1) amended 20632
(b)(3) and (c) amended; interim 50035
146.66 (a) amended; interim 50035
146.67 (d) amended; interim 50035
146.68 Amended; interim 50035
146.69 (b) and (c) amended; interim 50035
146.70 (b) and (c) amended; interim 50035
146.71 Amended; interim 50035
146.81 (b) amended; interim 50035
146.82 (a) introductory text, (b)(1), (2) and (3) amended; interim 50035
(a)(6) removed 62733
146.83 (a) amended; interim 50035
146.91—146.96 (Subpart H) Added 20632
146.95 (a)(3)(i) amended; interim 50035
147.1 (d) amended; interim 50035
147.3 Amended; interim 50035
147.13 (b) amended; interim 50035
147.14 (a) amended; interim 50035
147.32 Amended; interim 50035
147.33 Amended; interim 50035
147.41 Amended; interim 50035
148 Authority citation amended 18349, 54188
148.6 (b) amended; interim 50035
148.8 (d) amended; interim 50035
148.12 Regulation at 59 FR 30296 confirmed 18990
148.21 Revised 54188
148.25 (b) amended; interim 50035
148.32 (b) amended; interim 50035
148.37 (a) amended; interim 50035
148.39 (b) amended; interim 50035
148.46 (b) amended; interim 50035
148.51 Regulation at 59 FR 30296 confirmed 18990
148.52 (b) and (d) amended; interim 50035
148.54 (c) amended; interim 50035
148.63 (a) introductory text amended; interim 50035
148.64 Regulation at 59 FR 30296 confirmed 18990
148.66 (b)(2) amended; interim 50035
148.77 (a), (c)(1) and (2) amended; interim 50035
148.84 (a)(2) amended; interim 50035

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148.90 (a), (b), (c), (d)(1)(ii), (2)(i) and (iii) amended; interim 50036
148.105 (a) amended; interim 50035
148.115 (e) amended; interim 50035
151 Authority citation amended 18349
151.1 Amended; interim 50035
151.2 (a)(1) and (2) amended; interim 50035
151.4 (b) introductory text, (c)(1) and (2) amended; interim 50035
(c)(2) amended 62733
151.5 (c) amended 62733
151.6 Amended; interim 50035
151.7 Introductory text and (a) through (d) amended; interim 50035
151.8 (b) and (c) amended; interim 50035
151.9 Amended; interim 50035
151.10 Amended; interim 50035
151.11 Amended; interim 50035
151.13 (a) introductory text, (2), (b) introductory text, (9), (d), (e), (f), (g)(2), (h), (j), (k) and (l)(2) amended; interim 50035
151.15 (a), (b) introductory text and (d) amended; interim 50035
(c) and (d) amended; interim 50036
151.26 Amended; interim 50036
151.28 Amended; interim 50036
151.42 (a)(1), (2), (3) and (c) amended; interim 50036
151.44 (a) and (c) amended; interim 50036
151.51 (b) amended; interim 50036
151.52 (c) amended; interim 50036
151.54 Introductory text amended; interim 50036
151.55 Amended; interim 50036
151.65 Amended; interim 50036
151.68 (c) amended; interim 50036
151.69 (b) amended; interim 50036
151.70 Amended; interim 50036
151.71 (a), (b) and (c) amended; interim 50036
151.73 (b) and (c) amended; interim 50036
151.74 Amended; interim 50036
151.75 Amended; interim 50036
151.76 (a), (b) and (c) amended; interim 50036
151.84 Amended; interim 50036
151.85 Amended; interim 50036
152 Authority citation amended 18349
152.1 (c) amended; interim 50036
152.2 Amended; interim 50036
152.13 (b)(1), (2), (c) introductory text, (1), (2), (3) and (d) amended 18349
(a), (c)(1), (3) and (d) amended; interim 50036
152.16 (c) amended; interim 50036
152.26 Introductory text, (b), (d) and (e) amended; interim 50036
152.101 (c) and (d) amended; interim 50036
152.103 (a)(5)(iii), (d), (l)(1), (2)(iii) and (m) amended; interim 50036
152.105 (l)(2) amended; interim 50036
152.106 (f)(2) amended; interim 50036
158.1 (b) introductory text amended; interim 50036
158.3 Amended; interim 50036
158.5 (a) amended; interim 50036
158.6 Amended; interim 50036
158.11 (a), (b)(1) and (3) amended; interim 50036
158.12 (a) amended; interim 50036
158.13 (a) and (b) amended; interim 50036
158.14 Amended; interim 50036
158.24 Amended; interim 50036
158.25 Amended; interim 50036
158.27 (b) amended; interim 50036
158.28 Amended; interim 50036
158.29 Amended; interim 50036
158.30 Amended; interim 50036
158.42 (b), (c) and (d) amended; interim 50036
158.43 (a), (c) and (e) amended; interim 50036
158.44 (a) and (c) amended; interim 50036
159 Authority citation amended 18991
159.6 Regulation at 59 FR 30296 confirmed 18990
159.7 (a) introductory text, (b) and (c) amended; interim 50036
159.12 (a)(1) introductory text, (ii) and (b) through (e) amended; interim 50036
159.22 (d)(2) amended; interim 50036
159.36 (b), (c) and (d) amended; interim 50036
159.38 Amended; interim 50036
159.44 Amended; interim 50036
159.58 Amended; interim 50036
161.3 Amended; interim 50036
161.16 Amended; interim 50036

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162 Authority citation amended 67058
162.0 Regulation at 58 FR 69472 confirmed 46361
162.1d (b) amended; interim 50036
162.3 (b) amended; interim 50036
162.14 Removed 258
162.21 (b) amended; interim 50036
162.23 Added 67058
162.32 (a) and (c) amended; interim 50037
162.42 Amended; interim 50037
162.44 (a), (b) and (c) amended; interim 50037
162.45 (a)(3), (4) and (c) amended; interim 50037
162.45a Amended; interim 50037
162.46 (c) introductory text, (2) heading, introductory text, (ii) and (d) amended; interim 50037
162.47 (a), (d) and (e) amended; interim 50037
162.48 (a) amended; interim 50037
162.49 (a) amended; interim 50037
162.50 (a) amended; interim 50037
162.52 (b)(2) and (4) amended; interim 50037
162.64 Amended; interim 50037
162.65 (c), (d), (e) introductory text and (1) amended; interim 50037
162.71 (e)(4) amended; interim 50037
162.72 (a) amended; interim 50037
162.74 (a), (b)(4), (c), (d)(3), (4)(i), (e)(1), (h) and (j) amended; interim 50037
162.75 (c), (d)(1), (2) introductory text, (i) and (3) amended; interim 50037
162.76 (a) amended; interim 50037
162.77 (a) amended; interim 50037
162.78 (a), (b) and (d) amended; interim 50037
162.79 (a) and (b)(1) amended; interim 50037
162.79b Amended; interim 50037
162.80 (a)(1), (2)(i) and (iii) amended; interim 50037
171.12 (a) and (e) amended; interim 50037
171.15 (a) introductory text, (4) and (7) amended; interim 50037
171.21 Amended; interim 50037
171.22 Amended; interim 50037
171.31 Amended; interim 50037
171.33 (a) introductory text, (b)(1), (2) and (c) amended; interim 50037
171.52 (d) amended; interim 50037
171 Appendixes A, B and C amended; interim 50037
172.2 Amended; interim 50037
172.12 (a) and (b)(1) amended; interim 50037
172.21 Amended; interim 50037
172.22 Heading, (a), (b)(3) introductory text, (ii), (c), (d)(1), (2), (4) and (e) amended; interim 50037
172.31 (a) amended; interim 50037
172.33 (a) introductory text, (b)(1) introductory text, (i), (ii), (2) and (c)(1) amended; interim 50038
173.1 Amended; interim 50038
173.2 Introductory text amended; interim 50038
173.3 (a) amended; interim 50038
173.4 (a) and (c) amended; interim 50038
173.4a Amended; interim 50038
173.5 Amended; interim 50038
173.6 Amended; interim 50038
174.0 Regulation at 58 FR 69472 confirmed 46361
Amended; interim 50038
174.1 Amended; interim 50020, 50038
174.3 (b)(1), (c) and (d) amended; interim 50038
174.11 Introductory text amended; interim 50038
174.12 Regulation at 58 FR 69472 confirmed 46361
(e)(2) revised 46363
(b) and (d) amended; interim 50038
174.13 (b) amended; interim 50038
174.14 (e) amended; interim 50038
174.15 Regulation at 58 FR 69472 confirmed 46361
(b)(2) amended; interim 50038
174.16 Amended; interim 50038
174.21 Amended; interim 50038
174.22 (a), (c) and (d) amended; interim 50038
174.23 Amended; interim 50038
174.24 Introductory text and (a) amended; interim 50038
174.26 (a), (b) introductory text and (2) amended; interim 50038
174.27 Amended; interim 50038

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174.29 Regulation at 58 FR 69472 confirmed 46361
Amended; interim 50038
174.30 (b) and (c) amended; interim 50038
175.25 (a) and (b) amended; interim 50038
176.1 Amended; interim 50038
177 Authority citation amended 18349
177.0 Regulation at 58 FR 69473 confirmed 46361
177.1 Regulation at 58 FR 69473 confirmed 46361
(d)(3) amended; interim 50038
177.2 (a), (b)(2)(ii)(A), (B) and (C) amended; interim 50038
177.22 (c) amended; interim 50038
178 Authority citation revised 46363
178.2 Table amended (OMB number) 18991
Table amended 46204
Regulation at 58 FR 69473 confirmed 46361
Table amended (OMB numbers) 46364
181 Authority citation amended 18349
Regulation at 58 FR 69473 confirmed 46361
Revised 46364
Technical correction 48645
181.53 Revised; interim 2911
181.76 (e) corrected 1829
181 Appendix corrected; CFR correction 35122
191 Authority citation amended 18349, 46463
Interpretation 40995
191.0 Regulation at 58 FR 69565 confirmed 46361
191.2 (d) and (f) amended; interim 50038
191.10 (a), (b) and (d) amended; interim 50038
(e)(1)(i), (ii), (iii) and (2) amended; interim 50039
191.21 (c), (d) and (e) amended; interim 50039
191.22 (d) amended; interim 50039
191.23 (a) and (b) amended; interim 50039
191.24 Amended; interim 50039
191.25 (b)(1) and (2) introductory text amended; interim 50039
191.26 Amended; interim 50039
191.42 (b) introductory text amended; interim 50039
191.43 Amended; interim 50039
191.44 Amended; interim 50039
191.53 (b), (c), (d) and (e)(3) amended; interim 50039
191.56 Amended; interim 50039
191.57 Amended; interim 50039
191.62 (a)(1), (2) introductory text and (3) amended; interim 50039
191.64 Amended; interim 50039
191.65 (a) amended; interim 50039
191.66 (e) amended; interim 50039
191.67 (a)(1), (e)(1) and (2) amended; interim 50039
191.71 (d) and (f) amended; interim 50039
191.72 (b) and (c) amended; interim 50039
191.82 (d)(2) amended; interim 50039
191.83 (b)(2)(vi) and (3) amended; interim 50039
191.84 (a), (b)(9) and (d) amended; interim 50039
191.85 Amended; interim 50039
191.93 (a), (c)(5), (d), (e)(2), (4), (g), (h), (i), (j) introductory text and (4) amended; interim 50039
191.133 (a), (c) and (d)(2) amended; interim 50039
191.134 Amended; interim 50039
191.136 (d) and (e) amended; interim 50040
191.138 Amended; interim 50040
191.141 (b)(1), (2)(i), (ii), (d), (f)(1), (2) and (g)(1) amended; interim 50040
191.142 (b)(1), (3), (4) and (5) amended; interim 50040
191.153 (b) amended; interim 50040
191.156 (b) amended; interim 50040
191.158 Amended; interim 50040
191.163 (b)(2) and (c) amended; interim 50040
191.164 (b) and (c) amended; interim 50040
191.165 (b) and (c) amended; interim 50040

Chapter II—United States International Trade Commission (Parts 200—299)

201.2 (b) through (i) redesignated as (c) through (j); new (b) added 37336

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201.18 (a) revised 37336
201.24 (d) revised 37336
201.28 (b) revised 37336
201.29 Revised 37336
201.30 (b) revised 37336
206.2—206.8 (Subpart A) Regulation at 60 FR 10 confirmed 46500
206.11—206.19 (Subpart B) Regulation at 60 FR 12 confirmed 46500
206.34 Regulation at 60 FR 16 confirmed 46500
206.35 Regulation at 60 FR 17 confirmed 46500
206.51—206.55 (Subpart F) Regulation at 60 FR 17 confirmed 46500
210.4 (f)(3) revised 32443
210.5 (a) revised 32444
210.7 Revised 53119
210.8 (a) revised 32444
210.11 (a) revised 53119
210.21 (b)(2), (c)(2)(i), (ii) and (d) revised 53120
210.41 Revised 53120
210.42 (e) and (i) revised 53120
210.43 (d)(3) revised 53120
210.45 (c) revised 53120
210.52 (e) revised 32444
210.66 (d) and (f) revised 53121
210.74 (b) revised 53121

Chapter III—International Trade Administration, Department of Commerce (Parts 300—399)

353 Authority citation revised 25133
353.1 Revised 25133
353.12 (b)(2) revised 25134
353.13 (a) revised 25134
353.15 (a)(1), (b) and (c) revised 25134
353.22 (c)(4) and (7) revised; (h) added 25134
353.31 (a)(1) and (c) revised 25135
353.38 (i) added 25136
355 Authority citation revised 25136
355.1 Revised 25136
355.12 (b)(2) revised 25136
355.13 (a) revised 25136
355.15 (a)(1), (2)(ii), (4), (b) and (c) revised 25136
355.20 (a)(2)(ii), (4) and (e) revised; (d) removed 25136
355.22 (a), (c), (i)(5)(ii), (6), (9)(ii) and (10) revised; (d) and (f) removed; (j) added 25137
355.31 (a)(1) and (c) revised 25139
355.38 (i) added 25139
355.40 Added 25139

Proposed Rules:

1—199 (Ch. I) 18783
10 ..... 22312, 27378, 29520
12 ..... 22312, 27378, 29520
101 ..... 25176, 47504, 47505, 52347
102 ..... 22312, 27378, 29520, 35878, 38982
118 1877
133 36249
134 ..... 22312, 29520, 57559, 66952
162 ..... 21778, 35881, 37856
177 ..... 22312, 29520
201 ..... 26851, 51748
207 51748
210 20463

TITLE 20—EMPLOYEES' BENEFITS

Chapter II—Railroad Retirement Board (Parts 200—399)

200.4 (o) and (p) added 29984
217.8 (t) and (u) added 21982
226 Revised 22262
232 Removed 22268
320.6 (b) and (d) revised; interim 29534
335.3 (a)(6) and (7) amended; (a)(8) and (9) added 40073
335.4 (d)(5) amended 40073
344 Removed 21982
366.1 Amended 66073
366.2 Introductory text, (a), (b), (e) and (f) revised; (j) and (k) amended 66073
366.6 (c) amended 66073
367.2 Introductory text, (a), (b), (e) and (f) revised; (i) and (j) amended 66073
367.7 (c) amended 66073

Chapter III—Social Security Administration (Parts 400—499)

Chapter III Heading revised 18992
404.213 (a)(3) amended 17444
(a)(3) and (f) introductory text revised; (e)(7), (8) and (9) added 56513
404.408a (b)(5) added 56513

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404.452 (f)(1) amended 56513
404.460 (c)(3) amended 17444
404.503 (b)(3) and (6) revised 17445
404.510 (l) revised 17445
404.721 (b) revised 19164
404.722 Added 19165
404.900—404.999d (Subpart J) Authority citation revised 34131
404.906 Revised 20026
404.942 Added 34131
404.943 Added 47475
404.988 (c)(4) introductory text and (i) revised 19165
404.1220 (a) and (e) revised 42433
404.1501—404.1599 (Subpart P) Authority citation revised 43710
404.1501—404.1599 (Subpart P) Appendix 1 amended 43710, 62330
Appendix 1 corrected 53267
416.200—416.269 (Subpart B) Authority citation revised 1712
416.210 (b) revised 1712
416.1100—416.1182 (Subpart K) Authority citation revised 1712
416.1124 (c)(9), (15) and (16) amended; (c)(17) and (18) added 1712
416.1161 (a)(20) amended; (a)(21) and (22) added 1712
416.1201—416.1266 (Subpart L) Authority citation revised 1712
416.1204 (a) revised 1712
416.1210 (n) and (o) amended; (p) and (q) added 1712
416.1229 Added 1712
416.1239 Added 1712
416.1400—416.1499 (Subpart N) Authority citation revised 34132
416.1406 Revised 20028
416.1442 Added 34132
416.1443 Added 47476
422.101—422.140 (Subpart B) Authority citation revised 32446, 42433
422.107 (c) amended; interim 32446
422.112 Revised 42433
422.114 Added 42433
422.115 Removed 42434
422.120 Revised 42434
422.122 Added 42434
423 Added 18992
498 Added 58226

Chapter IV—Employees' Compensation Appeals Board, Department of Labor (Parts 500—599)

507 Enforcement position 49505

Chapter V—Employment and Training Administration, Department of Labor (Parts 600—699)

625.6 Revised; interim 25568
626 Authority citation revised 58229
626.4 Amended; interim 58229
632 Authority citation revised 58229
632.70 Added; interim 58229
638.524 (b) and (c) revised 18993
641 Redesignated from Title 29, Part 89 and revised 26581
655 Enforcement position 49505
655.104 Regulation at 59 FR 41875 confirmed 26970
655.112 Regulation at 59 FR 41876 confirmed 26970
655.204 Regulation at 59 FR 41876 confirmed 26970
655.206 Regulation at 59 FR 41876 confirmed 26970
655.212 Regulation at 59 FR 41876 confirmed 26970
655.900 (b)(2)(i) and (d) amended; (e) revised 34133, 34134, 38958, 38959, 61210, 61211
(b)(2)(i), (d) and (e) amended; interim 49753, 49754
655.910 (b)(2)(i) and (e) amended; interim 34133, 34134, 38958, 38959, 49754
(b)(2)(i) and (e) amended 61210, 61211
655.940 (d)(1)(i)(B), (h)(1) and (3) amended; interim 34133, 34134, 38959, 49754
(d)(1)(i)(B) amended; interim 38958
(d)(1)(i)(B), (h)(1) and (2) amended 61210, 61211

Chapter VI—Employment Standards Administration, Department of Labor (Parts 700—799)

702 Authority citation revised 51348
702.101 Removed 51348
702.102 Heading revised; (a) and (b) redesignated as (b) and (c); new (a) added 51348
702.224 Amended 51348

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702.243 (b) amended 51348
702.316 Amended 51348
702.413 Revised 51348
702.414 (a) and (c) revised 51348
703 Authority citation revised 51348
703.121 Removed 51348

Proposed Rules:

200 1252
211 66770
220 47122
230 ..... 42482, 43999
255 67108
261 66203
345 43300
366 42818
367 42818
400—499 (Ch. III) 17731
404 ..... 19008, 28767, 30482, 47126, 62354, 62783, 65093
..... 2654
410 28767
416 ..... 19008, 26387, 30482, 40542, 45110, 47126, 62356
498 58305
655 55339
702 22537
703 ..... 22537, 58305

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health and Human Services (Parts 1—1299)

1 Appendix A removed 47262
5.10 (a)(37) added 24767
5.20 (f)(1) revised 2414
5.22 (a)(1) through (13), (b)(1) and (2) revised; (a)(14) and (b)(3) added 26826
5.61 (h) added 36594
5.80 (a)(1)(iii) revised; (a)(1)(iv) removed 57338
5.81 Added 54424
5.85 Revised 47268
5.98 Added 63607
5.99 Removed 38626
10.50 (c)(21) removed 38626
16 Workshop 27406
17 Added 38626
19.21 (a), (b) and (c) amended 47478
20 Authority citation revised 63381
20.63 (f) added 16968
20.86 Amended 38633
20.88 (d) and (e) added 63381
20.89 (d) added 63382
25.22 (a)(10) revised 36594
25.31a (a) introductory text, (b)(1) introductory text and (2) introductory text revised 36594
73.35 Added 18738
(b) and (d)(3) stayed 41805
(b) and (d)(3) stay at 60 FR 41805 rescinded; eff. 11–1–95 55446
73.250 (a)(1) amended 52629
73.260 (a)(1) amended 52629
73.3106 Regulation at 60 FR 10497 confirmed as 3–30–95 32264
101 Authority citation revised 67174
101.2 (d)(1) revised 17205
101.3 (e)(4)(ii) revised; eff. 1–1–97 67174
101.9 (i) revised; (j)(17) revised 17205
(j)(17) corrected 30788
(c)(8)(iv) revised; eff. 1–1–97 67174
101.13 (j)(2)(iv)(B) revised 17205
101.36 (b)(3) introductory text, (i), (ii), (4) introductory text and (vi) revised; eff. 1–1–97 67175
101.54 (e)(1)(iii)(B) and (2)(iii)(B) revised 17206
101.56 (b)(3)(ii), (c)(1)(ii)(B), (2)(ii)(B) and (g) amended 17206
101.60 (b)(4)(ii)(B), (5)(ii)(B), (c)(4)(ii)(B) and (5)(ii)(B) revised 17206
101.61 (b)(6)(ii)(B), (7)(ii)(B) and (c)(2)(iii) revised 17206
101.62 (b)(4)(ii)(B), (5)(ii)(B), (c)(4)(ii)(B), (5)(ii)(B), (d)(1)(ii)(F)(*2*), (2)(iii)(E)(*2*), (iv)(E)(*2*), (4)(i)(C)(*2*), (ii)(D)(*2*), (5)(i)(C)(*2*) and (ii)(D)(*2*) revised 17207
102.50 Table amended 34460
103.35 Removed; eff. 5–13–96 57123
123 Added; eff. 12–17–97 65197
129.35 (a)(3)(ii) and (iii) revised; (a)(4) added; eff. 5–13–96 57123
129.80 (g) introductory text revised; eff. 5–13–96 57124
146.113 Removed 56513
165 Added; eff. 5–13–96 57124
165.110 (a)(2)(v) and (b)(4)(i)(C)(*4*) corrected; eff. 5–13–96 66495
170.3 (e) redesignated as (e)(1); (e)(2) added 36595
170.39 Added 36595

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171.8 Added 36596
172.120 (b)(1) table amended 33710
172.723 Added 32903
172.800 (c)(12) added 21702
172.841 (a)(1) revised 54425
172.859 (c)(1) and (2) revised 44756
172.867 Added 3171
173.45 (a) and (c) revised 386
173.340 (a)(3) table amended 54036
(a)(4) table amended 631
174.6 Added 36596
175.105 (c)(5) table amended 47480, 49337
(c)(5) table amended 2113
175.250 (a), (b)(1) and (2) amended 39645
175.300 (b)(3)(viii)(*b*) and (xxxiii) amended 48646
(b)(3)(xi) amended 49337
(b)(3)(xxxiii) amended 57339
176.170 (b)(2) table amended 18350
(a)(5) table amended 34135, 39646, 44757, 62207
Regulation at 60 FR 34135 eff. date corrected to 7–31–95 47205
176.180 (b)(2) table amended 18350
177.1315 (b) table amended 57926
177.1520 (a)(3)(i)(*a*) redesignated as (a)(3)(i)(*a*)(*1*); (a)(3)(i)(*a*)(*2*) added; (c) table amended 40074
(a)(6) added; (c) table amended 54189
177.1630 (a), (b) and (j) introductory text revised; (e)(4)(ii) amended 57927
(e)(4) amended 61654
177.2440 (a) and (b) revised 49649
177.2600 (c)(4)(ii)(*a*) and (*b*) amended 39648
177.2910 Introductory text revised; (e) and (f) redesignated as (f) and (g); (a)(4) and new (e) added 54426
178.1010 (b)(44) and (c)(38) added 18740
178.2010 (b) table amended 18353, 22269, 33711, 43371, 49338, 49507, 54428
(b) table amended 1831
178.3130 (b) table amended 18351, 54430
178.3297 (e) table amended 31244, 39649
(e) table amended 2116
178.3400 (c) table amended 18351
178.3570 (a)(3) table amended 44758
(a)(3) table amended 1713, 1830
182.70 Amended 62208
184.1012 Added 55789
184.1024 Added 32910
184.1034 Added 32910
184.1316 Added 32910
184.1329 Added 63621
184.1415 Added 32911
184.1443a Added 32911
184.1444 (a) amended; (b) revised 48893
184.1563 (c) revised; eff. 5–13–96 57130
184.1583 Added 32911
184.1595 Added 32911
184.1914 Added 32911
184.1985 Added 54193
186.1555 Added 62208
189.240 Added 33109
202.1 (e)(4)(i)(*b*)(*3*) amended 38480
206.10 (a) amended 19846
210 Compliance date extension 20897
211 Compliance date extension 20897
310 Technical correction 17611, 57927
310.201 (a)(10) and (15) removed; eff. 10–7–96 52507
310.543 Added 20165
310.545 (a)(9) removed; (d)(1) revised 20166
(d)(1) corrected 20898
(a)(6)(iv), (d)(19) and (20) added 38642
(a)(15)(ii) stayed in part 42436
(a)(2) redesignated as (a)(2)(i); (a)(2)(i) heading, (ii) and (d)(24) added; (d) introductory text and (1) revised; eff. 10–7–96 52507
355 Added; eff. 10–7–96 52507
355.50 (a) corrected 57927
369 Technical correction 57927
369.21 Amended; eff. 10–7–96 52510
429.55 (b) revised; interim 56516
430.4 (a)(70) added 58230
430.5 (a)(105) and (b)(107) added 58230
430.6 (b)(107) added 58230
436.105 Table corrected; CFR correction 66898
436.106 Table corrected; CFR correction 66898
436.215 (b) table amended; (c)(9) revised 27221
(b) table amended; (c)(19) added 58230
442.52 (b)(1)(iv) and (3) revised 33712
442.54 Added 58231
442.119 Redesignated as 442.119a; new 442.119 added 27222
442.119a Redesignated from 442.119 27222

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442.119b Added 27222
442.154 Added 58232
442.154a Added 58232
442.154b Added 58233
453.522d Added 49508
500.26 (a) amended 38480
500.27 (a)(3) amended 38480
501.4 (b)(13) amended 38480
510.413 (b) amended 38480
510.600 (c)(1) table and (2) table amended 29755, 32447, 33110, 33342, 34135, 35122, 35838, 39846, 40454, 40455, 47052, 47480, 54193, 55658, 63622
(c)(1) table and (2) table amended 259, 515
520.45a (b) amended 55658
520.45b (b) amended 55658
520.88a (b) amended 55658
520.88b (b) amended 55658
520.88c (b) amended 55658
520.88d (b) amended 55658
520.88e (b) amended 55659
520.88g (b) amended 55659
520.88h (b) amended 55659
520.90b (b) amended 55659
520.90f (b) amended 55659
520.445b (d)(4) introductory text amended 26827
(b) and (d)(4)(iii)(C) amended 47052
520.540c (b) amended 55659
520.550 (b) amended 55659
520.622c (b)(2) amended 55659
(b)(3) amended 57832
520.623 (b) amended 55659
520.704 Amended 63622
520.816 (b) amended 55659
520.1284 (b) amended 55659
520.1289 Added 20402
520.1445 (c)(2) and (3) amended 50097
520.1560 Removed 39847
520.1560a Removed 39847
520.1560b Removed 39847
520.1638 (b) amended 55659
520.1640 (b) amended 55659
520.1660d (b)(2) amended; (c) removed 40455
(a)(7) and (b)(5) added 2915
520.1696b (b) revised 26359
520.1801 Removed 39847
520.1801a Removed 39847
520.1840 (c)(1) and (2) amended 55659
520.1880 (b) amended 57832
520.1920 (b) amended 55659
520.1921 (b) amended 55659
520.2095 Added 50097
520.2260a (b)(1) amended 55659
520.2260b (b)(1) amended 55659
520.2260c (a) amended 55659
520.2604 (b) amended 55659
520.2605 (b) amended 55659
522.88 (b) amended 55659
522.90a (b)(1) amended 55659
522.90c (b) amended 55659
522.313 (d)(1)(ii) amended 51719
522.514 Amended 63622
522.540 (a)(2) revised 29985
(d)(2)(i) amended 55659
(d)(2)(ii) removed; (d)(2)(iii) redesignated as (d)(2)(ii) 63622
522.723 (c) amended 39847
522.883 (c) amended 39847
(c) amended 260
522.970 (b) revised 48650, 54942
522.1044 (a) and (b)(1) revised; (b)(4) added 29985
522.1060 Removed 27223
522.1060a Removed 27223
522.1060b Removed 27223
522.1065 (b) amended 27223
522.1066 Added 27223
522.1192 Heading and (a)(3) heading revised; (d)(5) added 45041
522.1222a (a) and (d) removed; (c) revised 49339
522.1290 (b) amended 55659
522.1362 Added 49340
522.1563 Removed 39847
522.1660 (b) and (c)(2)(iii) amended 29755
522.1662a (h)(2) revised 48651
522.1720 (c) and (d) amended; (b)(2) revised 53509
(b)(1) amended 63622
522.1880 Removed 63622
522.1920 (b) amended 55659
522.2095 Added 57833
522.2100 (d)(2) revised 57833
522.2662 (b) amended 33110, 35122, 35123
522.2670 (b) amended 57832
522.2680 (d)(3) added 26360
524.575 Added 48651
524.1005 (b)(1) amended 55659
524.1465 (b) amended 55659
524.1580a Removed 39847
524.1580b (b) amended 55659
524.1580c (b) amended 55659
524.1600a (b) amended 55660
526.88 (b) amended 55660
526.464a (d) amended 55660
526.464b (d) amended 55660
526.464c (b) amended 55660

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526.464d (b) amended 55660
529.1044a (b) amended 45042, 48894
529.1186 (b) revised 40456
529.2464 (b) amended 55660
556.594 Added 50098
558.4 (d) table amended 39848, 57928, 66495
558.55 (d)(2) table amended 515
558.62 (c)(2)(v) removed; (c)(2)(vi) redesignated as (c)(2)(v) 39847
558.76 (d)(3)(v) added 29483
558.95 (b)(1)(x)(*b*) and (xi)(*b*) amended 18741
(a)(4) amended 47052
(b)(3)(iv)(*b*) amended 515
558.105 Removed 39847
558.120 (a)(1) and (2) amended 515
558.128 (c)(5)(iii) removed 39847
558.155 Heading, (2) and (3) revised 2415
558.195 (c)(2) removed; (d) table amended 34461
(d) table amended 53702
558.274 (a)(7), (c)(1)(i) table and (ii) table amended 47052
558.300 (c)(1)(i) and (iii) revised 39848
558.305 (a) amended 53509
558.311 (e)(1) table amended 18741
(b)(6) and (e)(1) table amended; (b)(7) added 29481
(b)(7) revised; (e)(1) table amended 29482, 57929
(b)(3) and (e)(1) table amended 54194
558.325 (c)(3)(iv) removed 39847
558.355 (f)(1)(xii)(*b*) and (xx)(*b*) amended 18741
(f)(3)(x) added 63623
558.366 (c) table amended 29483
(a) amended 33343
(a) revised; (c) table amended 1832
558.460 (c)(2)(v) removed 39847
558.464 (a)(1) and (2) amended 55660
558.465 (a) amended 55660
558.485 (a)(11) amended 47052
558.530 (d)(3)(vii) removed 39847
558.550 (b)(1)(ii)(c) amended 18741
558.555 (b)(1)(iii) amended 57928
558.625 (b)(52) amended 47053
(b)(83) amended 66496
558.630 (b)(3), (8) and (10) amended 47053
(b)(10) amended 66496
558.635 (b)(1) amended 55660
573.625 Added 5
573.920 Introductory text and (a) through (f) redesignated as (a) through (g); new (a) revised; interim 53703
579.40 Added 50099
803 Revised; eff. 4-11-96 63597
807.3 (r) added; eff. 4-11-96 63606
807.20 (a)(6) added; eff. 4-11-96 63606
807.22 (a) revised; eff. 4-11-96 63606
807.40 (a) revised; eff. 4-11-96 63606
862.2230 (b) revised 1119
862.2310 (b) revised 38899
862.2320 (b) revised 38900
862.2465 (b) revised 38900
862.2720 (b) revised 38900
862.2800 (b) revised 38900
862.2920 (b) revised 38900
866.2160 (b) revised 1119
866.2560 (b) revised 38482
866.3720 (b) revised 1119
866.5520 (b) revised 1119
866.5530 (b) revised 1119
866.5860 (b) revised 1119
868.1100 (b) revised 1119
868.1575 (b) revised 1119
868.1870 (b) revised 1119
868.1975 (b) revised 1119
868.2300 (b) revised 1119
868.2320 (b) revised 1119
868.2340 (b) revised 1119
868.2350 (b) revised 1119
868.2610 (b) revised 1119
868.2620 (b) revised 1119
868.2700 (b) revised 1119
868.2875 (b) revised 1119
868.2885 (b) revised 1119
868.2900 (b) revised 1120
868.5100 (b) revised 1120
868.5110 (b) revised 1120
868.5240 (b) revised 1120
868.5300 (b) revised 1120
868.5310 (b) revised 1120
868.5320 (b) revised 1120
868.5375 (b) revised 1120
868.5460 (b) revised 1120
868.5530 (b) revised 1120
868.5540 (b) revised 1120
868.5550 (b) revised 1120
868.5570 (b) revised 1120
868.5580 (b) revised 1120
868.5590 (b) revised 1120
868.5600 (b) revised 1120
868.5770 (b) revised 1120
868.5780 (b) revised 1120
868.5790 (b) revised 1120

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868.5810 (b) revised 1120
868.5820 (b) revised 1120
868.5860 (b) revised 1120
868.5975 (b) revised 1120
868.5995 (b) revised 1120
868.6400 (b) revised 1121
868.6820 (b) revised 1121
868.6885 (b) revised 1121
870.2390 (b) revised 1121
870.2600 (b) revised 1121
870.2620 (b) revised 1121
870.2640 (b) revised 1121
870.2810 (b) revised 1121
870.3650 (b) revised 1121
870.3670 (b) revised 1121
870.3690 (b) revised 1121
870.3935 (b) revised 1121
870.3945 (b) revised 1121
872.1840 (b) revised 1121
872.1850 (b) revised 1121
872.3740 (b) revised 38900
872.3810 (b) revised 38900
872.4630 (b) revised 1121
872.6100 (b) revised 38900
872.6390 (b) revised 1121
874.1060 (b) revised 1121
874.1080 (b) revised 1121
874.4140 (b) revised 1122
874.4175 (b) revised 1122
874.4350 (b) revised 1122
874.4770 (b) revised 1122
876 Authority citation revised 17216
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876.1075 (b) revised 1122
876.1400 (b) revised 1122
876.1500 (b) revised 1122
876.1800 (b) revised 1122
876.3750 (c) revised 17216
876.4590 (b) revised 1122
876.4890 (b) revised 1122
876.5090 (b) revised 1122
876.5130 (b) revised 1122
876.5450 (b) revised 1122
876.5520 (b) revised 1122
876.5540 (b)(3) revised; (b)(4) added 1122
878.4450 (b) revised 1123
878.4810 (b) revised 1123
878.5350 (b) revised 1123
878.5910 (b) revised 1123
880.2720 (b) revised 1123
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880.5560 (b) revised 1123
880.6320 (b) revised 1123
882.1410 (b) revised 1123
882.4325 (b) revised 1123
882.5800 (c) revised 43969
884.1550 Revised 1123
884.1640 (b) revised 1123
884.1690 (b) revised 1123
884.1700 (b) revised 1124
884.1720 (b) revised 1124
884.1730 (b) revised 1124
884.4530 (b) revised 1124
884.5150 (b) revised 1124
884.5900 (b) revised 1124
886 Compliance date extension 54942
886.1405 (b) revised 1124
886.1750 (b) revised 1124
886.1760 (b) revised 1124
886.3200 (b) revised 1124
888.1100 (b) revised 1124
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888.5960 (b) revised 1125
890.1575 (b) revised 1125
890.1600 (b) revised 1125
890.1615 (b) revised 1125
890.3175 (b) revised 1125
890.3760 (b) revised 1125
890.5380 (b) revised 1125
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890.5950 (b) revised 1125
890.5975 (b) revised 1125
892.1700 (b) revised 1125
892.1760 (b) revised 1125
892.1770 (b) revised 1125
892.1830 (b) revised 1125
892.1880 (b) revised 1125
892.1990 Added 36639
892.5780 (b) revised 1125
892.6500 (b) revised 1125
1000 Authority citation revised 48380
1000.3 Revised 48380
1002 Authority citation revised 48382
1002.1 Revised 48382
1002.2 Removed 48385
1002.3 Revised 48385
1002.7 Introductory text and (b) amended; (c) added 48385
1002.10—1002.13 (Subpart B) Revised 48386
1002.20 (c) amended 48386
1002.30 (a) introductory text amended; (a)(5) added 48386
1002.31 (c) amended 48386
1002.40 (a) revised 48386
1002.50 Revised 48387

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1002.61 (Subpart G) Removed 48387
1220.40 (a) revised 29987
1240.3 (r) revised; (s), (t) and (u) added; eff. 12–17–97 65201
1240.60 Heading revised; existing text designated as (a) and amended; (b), (c) and (d) added; eff. 12–17–97 65202
1270 Workshop 27406

Chapter II—Drug Enforcement Administration, Department of Justice (Parts 1300—1399)

1301 Policy statement 55310
1301.24 (b), (c) introductory text and (5) revised 36621
1301.37 (a) revised 32101
1301.43 (a) revised 32101
1301.44 (b) redesignated as (c); new (b) added 32101
1301.54 (a) through (d) revised 32101
1301.55 (a) revised 32102
1306.05 (b) revised 36621
1307.03 Revised 32454
1308.11 (d)(3) through (30) redesignated as (d)(4) through (31); new (d)(3) added; (g)(3) removed 28719
1309 Added 32454
1309.02 (f), (g) and (h) correctly redesignated as (e), (f) and (g) 42436
1309.04 (f)(1)(xxii) and (xxiii) corectly redesignated as (f)(1)(xxi) and (xxii) 42436
1309.12 (b) corrected 35264, 36334
1310 Technical correction 54409
1310.01 (b) through (e), (f)(1) and (g) revised; (k) redesignated as (m); new (k) and (l) added 32459
1310.02 (b)(10) added 19510
Introductory text, (a) and (b) revised 32460
1310.04 (f)(2)(v) added 19510
(a), (b), (f)(1) and (2) introductory text revised; (f)(1)(xiv), (xx) and (xxii) removed; (f)(1)(xv) through (xix), (xxi), and (xxiii) redesignated as (f)(1)(xiv) through (xviii), (xix) and (xx); new (f)(1)(xxi) and (xxii) added 32460
1310.06 Regulation at 59 FR 51364 confirmed 17628
(a) introductory text, (1), (c) and (d) revised 32461
1310.07 (a) and (b) revised 32461
1310.08 (c), (d) and (e) added 19510
(b) introductory text revised 32461
1310.09 Revised; interim 53122
1310.10 Added 32461
1310.11 Added 32462
1310.14 Added 32462
1310.15 Added 32463
1313.01 Amended 32465
1313.02 (c), (d) introductory text, (1), (h) and (i) revised; (m) redesignated as (o); new (m) and (n) added 32463
1313.12—1313.15 Undesignated center heading amended 32465
1313.12 (c) revised; (d), (e) and (f) added 32464
1313.13 (a) amended 32465
1313.14 Introductory text and (a) amended 32465
1313.15 Revised 32464
1313.21—1313.25 Undesignated center heading amended 32465
1313.21 (d) redesignated as (g); (c) and new (g) revised; new (d), (e) and (f) added 32464
1313.22 (a) amended 32465
1313.23 Introductory text and (a) amended 32465
1313.31 Undesignated center heading added 32465
1313.32 Added 32465
1313.33 Added 32465
1313.34 Added 32465
(a) corrected 35264, 36334
1316 Authority citation revised 32465
1316.02 (c)(2) revised 32465
(c)(2) corrected 35264, 36334
1316.03 (b) through (e) revised 32465
1316.09 (a)(3) revised 32466

Chapter III—Office of National Drug Control Policy (Parts 1400—1499)

1403.36 (d), (g), (h) and (i) revised 19639, 19642
1404.100 Revised 33040, 33045
1404.105 Amended 33041, 33045
1404.110 (c) revised 33041, 33045
1404.200 Revised 33041, 33045
1404.215 Revised 33041, 33045
1404.220 Revised 33041, 33045
1404.225 Revised 33041, 33045

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TITLE 21 Chapter III—Con.

1404 Appendixes A and B revised 33042, 33045

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TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State (Parts 1—199)

21 Added 29988
31 Removed 2915
40.1 (h)(2), (3) and (m) revised; (h)(4) added 1835
40.9 Removed 1835
40.51 (a) and (d) revised 1835
40.52 Revised 1835
40.62 Revised 1833
40.63 (b) revised 1835
40.93 Revised 1833
40.101 (a)(5) revised 1835
41 Authority citation revised 1838
41.1 Introductory text and (a) revised 1835
41.3 (e) revised 30188
(d) revised 1835
41.11 (a) and (b)(1) revised 1835
41.12 Table amended 1836
41.42 (b)(1) revised 1836
41.53 (a) revised 1833
41.54 (a) revised 1833
41.55 (a) introductory text, (1) and (2) revised 1833
41.56 (a) introductory text, (1) and (2) revised 1833
41.57 (a)(2) and (c) revised; (a)(3) removed 1833
41.58 Added 42036
41.81 (Subpart I) Heading revised 1838
41.82 Added 1838
41.83 Added 1838
41.101 (c) added 1522
41.104 (e) added 1522
41.105 (a)(3)(iii) revised; (a)(3)(iv) added 1522
41.113 (k)(2)(ii) amended; (k)(3) added 1523
(k)(2) introductory text revised 1836
42 Authority citation revised 35839
42.31 (c) removed 1836
42.32 (d)(1)(ii) revised 35839
42.33 (b)(1) revised; (i) added 1524
42.52 (a) revised 1836
42.54 (b) removed 1836
42.55 (a) revised 1836
42.63 (a)(2) revised 1836
42.72 (e) introductory text revised 1836
42.74 (b) revised 1836
43 Removed 1837
44 Removed 1837
45.5 (e) revised 1837
47 Removed 1837
92 Authority citation revised 51721
92.1 (d) added 51721
92.2 Revised 51721
92.3 Amended 51723
92.4 Heading, (a), (b) and (c) revised 51721
92.5 Revised 51721
92.6 Introductory text and (b) revised 51721
92.7 Heading and (b) revised 51721
92.8 Amended 51723
92.9 (a) and (b) amended 51723
92.10 Amended 51723
92.11 (a) and (b) amended 51723
92.12 Amended 51723
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92.17 Amended 51723
92.23 Amended 51723
92.24 Amended 51723
92.27 (a) and (b) amended 51723
92.29 Amended 51723
92.31 (a) amended 51722
Amended 51723
92.32 (b) amended 51723
92.33 Amended 51723
92.35 Amended 51723
92.51 Revised 51722
92.52 Revised 51722
92.55 Revised 51722
92.56 Introductory text amended 51723
92.57 Amended 51723
92.59 Concluding text amended 51723
92.60 Amended 51723
92.61 Amended 51723
92.62 Amended 51723
92.63 Concluding text amended 51723
92.64 (b) amended 51723
92.66 (a) and (d) revised 51722
94.2 Revised 25843
94.6 Introductory text and (1) revised; (k) removed; (a) through (j) redesignated as

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TITLE 22 Chapter I—Con.

(b) through (k); new (a) added 66074
135.36 (d), (g), (h) and (i) revised 19639, 19642
137.100 Revised 33040, 33045
137.105 Amended 33041, 33045
137.110 (c) revised 33041, 33045
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137 Appendixes A and B revised 33042, 33045

Chapter II—Agency for International Development, International Development Cooperation Agency (Parts 200—299)

208.100 Revised 33040, 33045
208.105 Amended 33041, 33045
208.110 (c) revised 33041, 33045
208.200 Revised 33041, 33045
208.215 Revised 33041, 33045
208.220 Revised 33041, 33045
208.225 Revised 33041, 33045
208 Appendixes A and B revised 33042, 33045
211.4 (e)(3) added 36991
213 Authority citation revised 40456
213.21—213.27 (Subpart C) Added 40456

Chapter III—Peace Corps (Parts 300—399)

310.100 Revised 33040, 33045
310.105 Amended 33041, 33045
310.110 (c) revised 33041, 33045
310.200 Revised 33041, 33045
310.215 Revised 33041, 33045
310.220 Revised 33041, 33045
310.225 Revised 33041, 33045
310 Appendixes A and B revised 33042, 33045

Chapter V—United States Information Agency (Parts 500—599)

502.2 Amended 29989
502.3 (d) and (e) added 29989
513 Authority citation revised 33045
513.100 Revised 33040, 33045
513.105 Amended 33041, 33045
513.110 (c) revised 33041, 33045
513.200 Revised 33041, 33045
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513.220 Revised 33041, 33045
513.225 Revised 33041, 33045
513 Appendixes A and B revised 33042, 33045
514 Authority citation revised 16787
514.44 (a)(2) and (3) amended; interim 16787
(e), (f) and (g) redesignated as (f), (g) and (h); new (e) added; (d)(3) and new (g)(4)(i) amended; interim 16788
Regulations at 60 FR 16787 and 16788 confirmed; (e) revised 53124

Chapter VII—Overseas Private Investment Corporation, International Development Cooperation Agency (Parts 700—799)

705 Regulation at 58 FR 33320 confirmed 37556

Chapter X—Inter-American Foundation (Parts 1000—1099)

1006.100 Revised 33040, 33046
1006.105 Amended 33041, 33046
1006.110 (c) revised 33041, 33046
1006.200 Revised 33041, 33046
1006.215 Revised 33041, 33046
1006.220 Revised 33041, 33046
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1006 Appendixes A and B revised 33042, 33046

Chapter XV—African Development Foundation (Parts 1500—1599)

1508 Authority citation revised 33046
1508.100 Revised 33040, 33046
1508.105 Amended 33041, 33046
1508.110 (c) revised 33041, 33046
1508.200 Revised 33041, 33046
1508.215 Revised 33041, 33046
1508.220 Revised 33041, 33046
1508.225 Revised 33041, 33046
1508 Appendixes A and B revised 33042, 33046

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TITLE 23—HIGHWAYS

Chapter I—Federal Highway Administration, Department of Transportation (Parts 1—999)

192 Redesignated from Part 1212 50100
192.5 (d) revised 50100
192.10 (a), (b), (c) amended 50100
630 Authority citation revised 36992
630.102—630.114 (Subpart A) Authority citation removed; interim 36992
630.110 Authority citation removed; interim 36992
630.112 Authority citation removed; interim 36992
630.201—630.206 (Subpart B) Authority citation removed; interim 36992
630.701—630.711 (Subpart G) Revised; interim 36993
630.1002—630.1010 (Subpart J) Authority citation removed; interim 36992
635 Authority citation revised 44273
635.101—635.126 (Subpart A) Authority citation removed 44273
635.410 Authority citation removed 44273
635.413 Revised; interim 44274
635.501—635.509 (Subpart E) Authority citation removed 44273
637 Revised 33717
640 Revised; interim 47483
645.109 (b) amended 34850
645.113 (f) and (g)(1) amended 34850
645.117 (d)(1) and (i)(2) revised; (i)(4) removed 34850
645.207 Amended 34850
645.209 (a) and (b) amended 34851
645.215 (a) amended 34851
655.601 (a) revised 18521

Chapter II—National Highway Traffic Safety Administration and Federal Highway Administration, Department of Transportation (Parts 1200—1299)

1204 Removed 36654
1208.4 Revised 66076
1208.5 Revised 66076
1208.6 Removed; new 1208.6 redesignated from 1208.9 66076
1208.7 Removed 66076
1208.8 Removed 66076
1208.9 Redesignated as 1208.6 66076
1212 Redesignated as Part 192 50100

Chapter III—National Highway Traffic Safety Administration, Department of Transportation (Parts 1300—1399)

1317 Removed 57929

Proposed Rules:

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TITLE 24—HOUSING AND URBAN DEVELOPMENT

Subtitle A—Office of the Secretary, Department of Housing and Urban Development (Parts 0—99)

3 Removed 47262
8 Appendixes A and B removed 47262
11 Removed 47262
15.31—15.33 (Subpart D) Removed 47262
15.71 Amended 58456
15.81 (b) revised 58457
16 Appendix A removed 47262
24 Authority citation revised 33048
24.100 Revised 33040

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TITLE 24 Subtitle A—Con.

Revised; (e) and (f) added 33048
24.105 Amended 33041
Amended; (1) and (2) removed 33048
24.110 (c) revised 33041
Amended; (a)(1)(i)(A)(3) and (3) added; (c) revised; (d) amended 33048
24.115 (d) removed 33048
24.200 Revised 33041
Revised; (c)(8), (9) and (d) added 33048
24.215 Revised 33041, 33048
24.220 Revised 33041, 33048
24.225 Revised 33041, 33048
24.305 (d) revised 33049
24.313 Revised 33049
24.314 Revised 33049
24.400 (d) removed 33050
24.410 (c) removed 33050
24.411 Revised 33050
24.412 Revised 33050
24.413 Revised 33050
24.415 (d) removed 33051
24.705 (c) amended 33051
24.710 (a)(3) amended 33051
24.711 Revised 33051
24.712 Revised 33051
24.713 Revised 33051
24.714 Added 33051
24 Appendixes A and B revised 33042, 33048
Appendixes A, B and C removed 47262
25 Authority citation revised 39237
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Amended 685
25.5 (c)(1), (2) and (d)(4)(iii) revised 39237
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25.7 Revised 39237
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25.9 (i), (w), (x) and (bb) revised; (ee) added 39238
(l) and (p) revised 685
25.12 (a) amended 39238
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25.13 Redesignated as 25.12; new 25.13 redesignated from 25.14 and revised (OMB numbers) 685
25.14 Redesignated as 25.13; new 25.14 redesignated from 25.16 685
25.15 Removed; new 25.15 redesignated from 25.18 685
25.16 Revised 39238
Redesignated as 25.14 685
25.17 Removed 39238
25.18 Redesignated as 25.15 685
26 Authority citation revised 39238
26.1 Amended 39239
29 Added 57489
39 Removed 47262
40 Appendix A removed 47262
49 Removed 47262
58.2 (a)(7)(ii) introductory text and (D) revised; (a)(7)(ii)(E) added; interim 48611
58.10 Amended; interim 48611
58.77 (d) heading revised; (d)(2) amended; interim 48611
81 Revised 61888
84 Regulation at 59 FR 47011 confirmed 32104
85.36 (d), (g), (h) and (i) revised 19639, 19642
86 Regulation status notification 67325
86 Appendixes A and B removed 47262
90 Removed 47262
91.15 (a)(2) amended 45043
91.500 (b) introductory text revised 56909
91.600 Added 50802
92.2 Regulations at 59 FR 18631 and 44261 eff. date extended to 6-30-96 34136
Amended; interim 36023
92.4 Regulations at 59 FR 18631 and 44261 eff. date extended to 6-30-96 34136
92.5 Regulation at 59 FR 44261 eff. date extended to 6-30-96 34136
Revised; interim 36024
92.50 Regulation at 59 FR 19631 eff. date extended to 6-30-96 34136
(d)(3) revised 1824
92.61 Regulations at 59 FR 18631 and 44261 eff. date extended to 6-30-96 34136
92.64 Regulation at 59 FR 18632 eff. date extended to 6-30-96 34136
92.150 Regulations at 59 FR 18632 and 44261 eff. date extended to 6-30-96 34136

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92.204 Regulation at 59 FR 18632 eff. date extended to 6-30-96 34136
92.205 Regulations at 59 FR 18632 and 44261 eff. date extended to 6-30-96 34136
(b) revised; interim 36024
92.206 Regulations at 59 FR 18632 and 44261 eff. date extended to 6-30-96 34136
92.207 Regulation at 59 FR 18633 eff. date extended to 6-30-96 34136
92.208 Regulation at 59 FR 18633 eff. date extended to 6-30-96 34136
92.209 Regulation at 59 FR 18633 eff. date extended to 6-30-96 34136
92.210 (f) revised; interim 36024
92.211 Regulations at 59 FR 18633 and 44261 eff. date extended to 6-30-96 34136
Revised; interim 36024
92.214 Regulations at 59 FR 18634 and 44262 eff. date extended to 6-30-96 34136
92.216 Regulation at 59 FR 44262 eff. date extended to 6-30-96 34136
92.218 Regulations at 59 FR 18634 and 44262 eff. date extended to 6-30-96 34136
(f) added; interim 36025
92.219 Regulation at 59 FR 18634 eff. date extended to 6-30-96 34136
92.220 Regulation at 59 FR 18634 eff. date extended to 6-30-96 34136
(a)(1)(ii)(A), (2) and (5) introductory text revised; interim 36025
92.221 Regulation at 59 FR 18635 eff. date extended to 6-30-96 34136
92.222 Regulation at 59 FR 18635 eff. date extended to 6-30-96 34136
92.252 Regulations at 59 FR 18635 and 44262 eff. date extended to 6-30-96 34136
(a)(2) revised; interim 36025
92.254 Regulations at 59 FR 18636 and 44262 eff. date extended to 6-30-96 34136
(a)(4)(ii) revised; interim 36026
92.255 Regulation at 59 FR 18636 eff. date extended to 6-30-96 34136
92.256 Regulation at 59 FR 18636 eff. date extended to 6-30-96 34136
92.257 Regulation at 59 FR 44262 eff. date extended to 6-30-96 34136
92.259 Regulation at 59 FR 18636 eff. date extended to 6-30-96 34136
92.300 Regulation at 59 FR 18637 eff. date extended to 6-30-96 34136
92.352 Regulation at 59 FR 44262 eff. date extended to 6-30-96 34136
92.353 Regulation at 59 FR 44262 eff. date extended to 6-30-96 34136
92.354 Regulations at 59 FR 18637 and 44263 eff. date extended to 6-30-96 34136
92.356 (a)(1) and (2) revised; interim 36026
92.502 Regulation at 59 FR 18637 eff. date extended to 6-30-96 34136
92.504 Regulation at 59 FR 18637 eff. date extended to 6-30-96 34136
92.505 Revised; interim 36026
92.508 Regulation at 59 FR 18637 eff. date extended to 6-30-96 34136
92.625 Regulation at 59 FR 18638 eff. date extended to 6-30-96 34136
92.633 Regulation at 59 FR 44263 eff. date extended to 6-30-96 34136
0—99 (Subtitle A) Appendix D removed 47262

Chapter I—Office of Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development (Parts 100—199)

100 Authority citation revised 43327
100.304 Revised 43327
100.305 Added 43327
100.306 Added 43328

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TITLE 24 Chapter I—Con.

100.307 Added 43329
100.310 Added 43330
100.315 Added 43330
100.316 Added 43330
103.405 (b)(3) revised 58452
103 Appendix removed 47262
106 Removed 47262
120 Removed 47262
125 Revised 58452
130 Removed 47262
135.2 Revised 28326

Chapter II—Office of Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development (Parts 200—299)

200.5—200.39 (Subpart B) Removed 47262
200.93 Regulation at 59 FR 31522 confirmed 35692
200.155 Regulation at 59 FR 50143 confirmed 21937
200.213 Regulation at 59 FR 31522 confirmed 35692
200.217 Regulation at 59 FR 31522 confirmed 35692
200.517—200.533 (Subpart L) Removed 47262
200.700—200.710 (Subpart N) Removed 42762
200.946 Revised 47841
200.1301 (Subpart W) Added 42762
202.9 (a) revised; (c) and (d) removed 39239
202.11 (a)(5) revised; interim 2651
202.12 (m) revised; interim 2651
202.13 (e) removed; interim 2651
202.15 (c)(1) amended; (c)(5) revised; interim 2651
202.17 (d) removed; interim 2651
203 Authority citation revised 42758
203.3 (b)(4) revised; interim 42758
Regulation at 60 FR 42758 confirmed 66476
(b)(2) revised; (b)(3) and (c) removed; interim 2651
203.5 (b) revised; interim 42759
Regulation at 60 FR 42759 confirmed 66476
203.55 (a) introductory text and (c) revised; (h) added 57678
203.255 (b)(11) amended; (b)(12) redesignated as (b)(13); new (b)(12) added; (c) introductory text and (3) revised; interim 42759
Regulation at 60 FR 42759 confirmed 66476
203.259a (b) amended 34138
203.269 Added 34138
203.284 (f) revised 34138
203.285 (c) revised 34138
203.355 Regulation at 59 FR 50143 confirmed 21937
203.356 Regulation at 59 FR 50144 confirmed 21937
203.360 Regulation at 59 FR 50144 confirmed 21937
203.365 Regulation at 59 FR 50144 confirmed 21937
203.370 Regulation at 59 FR 50144 confirmed 21937
203.401 Regulation at 59 FR 50144 confirmed 21937
203.402 Regulation at 59 FR 50145 confirmed 21937
203.402a Revised 57678
203.403 Regulation at 59 FR 50145 confirmed 21937
203.410 Regulation at 59 FR 50145 confirmed 21937
(a) heading and (3) revised 57678
203.501 Regulation at 59 FR 50145 confirmed 21937
203.614 (c) added 57678
205 Removed 47263
206 Authority citation revised 42759
206.3 Amended; interim 42759
Regulation at 60 FR 42759 confirmed 66476
206.5 Amended; interim 42759
Regulation at 60 FR 42759 confirmed 66476
206.7 Revised; interim 42759
Regulation at 60 FR 42759 confirmed 66476
206.9—206.51 (Subpart B) Heading revised; interim 42759
206.9 (b) heading revised; interim 42759
Regulation at 60 FR 42759 confirmed 66476
206.13 Removed; interim 42759
Regulation at 60 FR 42759 confirmed 66476
206.15 Revised; interim 42759
Regulation at 60 FR 42759 confirmed 66476
206.19 (f) added; interim 42760

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Regulation at 60 FR 42760 confirmed 66476
206.21 (c)(2) and (d) revised; interim 42760
Regulation at 60 FR 42760 confirmed 66476
206.25 (b)(1) revised; interim 42760
Regulation at 60 FR 42760 confirmed 66476
206.26 (b)(1) and (2) revised; interim 42760
Regulation at 60 FR 42760 confirmed 66476
206.27 (b)(3) revised; interim 42760
Regulation at 60 FR 42760 confirmed 66476
206.40 Added; interim 42760
Regulation at 60 FR 42760 confirmed 66476
206.43 (a) revised; (c) added; interim 42760
Regulation at 60 FR 42760 confirmed 66476
206.45 (a), (b) and (d) revised; interim 42760
(b) revised 66476
206.47 (a) revised; interim 42760
Regulation at 60 FR 42760 confirmed 66476
206.102 Added; interim 42761
Regulation at 60 FR 42761 confirmed 66476
206.107 (a)(1) introductory text revised; (a)(1)(v) added; interim 42761
Regulation at 60 FR 42761 confirmed 66476
206.113 (b) revised; interim 42761
Regulation at 60 FR 42761 confirmed 66476
206.116 Added; interim 42761
Regulation at 60 FR 42761 confirmed 66476
206.121 (c) amended; interim 42761
Regulation at 60 FR 42761 confirmed 66476
206.123 (a)(4) revised; interim 42761
Regulation at 60 FR 42761 confirmed 66476
206.125 (a)(2) amended; (b), (d)(1), (2), (g)(1) and (3) revised; interim 42761
Regulation at 60 FR 42761 confirmed 66476
206.129 (d)(2)(i), (ii), (iv), (3)(ii), (e)(1) and (2) revised; (d)(2)(v) and (vi) added; interim 42761
Regulation at 60 FR 42761 confirmed 66476
206.203 (b) revised; interim 42762
Regulation at 60 FR 42762 confirmed 66476
206.205 (a) revised; interim 42762
Regulation at 60 FR 42762 confirmed 66476
206.207 (a) revised; interim 42762
Regulation at 60 FR 42762 confirmed 66476
209 Removed 47263
210 Removed 47263
211 Removed 47263
215 Policy statement 20356
215.2 Added; interim 17391
215.21 (b)(4), (5) and (c) revised; interim; eff. in part 5-5-95 through 5-6-96 17391
224 Removed 47263
225 Removed 47263
226 Removed 47263
227 Removed 47263
228 Removed 47263
229 Removed 47263
235 Policy statement 20356
Authority citation revised 56499
235.1 Redesignated as 235.1202 56499
Added 56500
235.2 Removed 56500
235.3 Redesignated as 235.1204 56500
235.5 Redesignated as 235.1206 56500
235.9 Removed 56500
235.10 Redesignated as 235.1208 56500
235.11 Removed 56500
235.12 Redesignated as 235.1210 56500
235.13 Removed 56500
235.15 Removed 56500
235.16 Removed 56500
235.18 Removed 56500
235.20 Removed 56500
235.22 Redesignated as 235.1212 56500
235.25 Removed 56500
235.30 Removed 56500
235.31 Removed 56500
235.32 Removed 56500
235.33 Redesignated as 235.1214 56500
235.35 Removed 56500
235.37 Removed 56500
235.38 Removed 56500
235.39 Removed 56500
235.40 Redesignated as 235.1216 56500
235.45 Removed 56500

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TITLE 24 Chapter II—Con.

235.501 (Subpart D) Revised 56500
235.701—235.715 (Subpart E) Removed 56500
235.801—235.999 (Subpart F) Removed 56500
235.1200 Amended 56500
235.1202 Redesignated as 235.1218; new 235.1202 redesignated from 235.1; (a) introductory text revised 56499
235.1204 Redesignated as 235.1220 56499
Redesignated from 235.3 56500
235.1206 Redesignated as 235.1222 56499
Redesignated from 235.5 56500
235.1208 Redesignated as 235.1224 56499
Redesignated from 235.10; (a) and (b) removed; (c), (d) and (e) redesignated as (a), (b) and (c); new (c) amended 56500
235.1210 Redesignated as 235.1226 56499
Redesignated from 235.12 56500
235.1212 Redesignated as 235.1228 56499
Redesignated from 235.22 56500
235.1214 Redesignated as 235.1230 56499
Redesignated from 235.33 56500
235.1216 Redesignated as 235.1232 56499
Redesignated from 235.40 56500
235.1218 Redesignated as 235.1234; new 235.1218 redesignated from 235.1202 56499
Revised 56500
235.1220 Redesignated as 235.1236; new 235.1218 redesignated from 235.1204 56499
(c) introductory text revised 56501
235.1222 Redesignated as 235.1238; new 235.1218 redesignated from 235.1206 56499
236 Policy statement 20356
236.3 (b)(4), (5) and (c) revised; interim; eff. in part 5–5–95 through 5–6–96 17392
236.6 Added; interim 17392
236.72 (a) revised; (b) introductory text amended; interim 17392
238 Removed 47263
240 Removed 47263
250 Removed 47263
251.3 Added; interim; eff. 10–19–95 through 4–21–97 48598
251.4 Added; interim; eff. 10–19–95 through 4–21–97 48598
251.5 Added; interim; eff. 10–19–95 through 4–21–97 48599
252.3 Added; interim; eff. 10–19–95 through 4–21–97 48599
252.4 Added; interim; eff. 10–19–95 through 4–21–97 48599
252.5 Added; interim; eff. 10–19–95 through 4–21–97 48600
255.3 Added; interim; eff. 10–19–95 through 4–21–97 48600
255.4 Added; interim; eff. 10–19–95 through 4–21–97 48600
255.5 Added; interim; eff. 10–19–95 through 4–21–97 48601
270 Removed 47263
271 Removed 47263
277 Removed 47263
278 Removed 47263
280 Policy statement 20356
291.300—291.307 (Subpart D) Added; eff. 10–2–95 through 9–30–96; interim 45333
291.303 Correctly revised 52296

Chapter III—Government National Mortgage Association, Department of Housing and Urban Development (Parts 300—399)

300—310 (Subchapter A) Designation and heading removed 42015
300 Revised 42015
310 Revised 42015
320—350 (Subchapter B) Designation and heading removed 42015
320 Revised 42015
330 Revised 42018
340 Revised 42019
350 Removed 42020
360—380 (Subchapter C) Designation and heading removed 42015
360 Removed 42020
370 Removed 42020
380 Removed 42020
390—395 (Subchapter D) Designation and heading removed 42015
390 Removed 42020
395 Removed 42020

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Chapter V—Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 500—599)

500 Removed 47263
511.20—511.21 (Subpart C) Removed 47263
511.40 (Subpart E) Removed 47263
511.65 (Subpart G) Removed 47263
570.2 Amended 56909
570.3 Amended 56909
570.5 Revised 56910
570.200 (f)(2) amended 17445
Regulation at 57 FR 27119 confirmed 56909
(a)(3), (5), (d)(1) and (e) amended; (g) and (h) revised 56910
570.201 Regulation at 57 FR 27119 confirmed 56909
(c) and (e) introductory text amended; (k), (n) introductory text, (o)(4), (p) and (q) revised 56911
570.202 (a)(3), (b)(9) and (10) amended; (a)(4) redesignated as (a)(5); new (a)(4), (b)(11) and (f) added; (c) revised 56911
570.206 (i) added 56912
570.207 (a)(1) and (b)(2)(i) amended; (b)(4) revised 56912
570.208 (a)(1)(v) revised; (a)(4)(vi)(B) and (F)(*2*) amended 17445
(a)(1)(iii), (iv) and (v) redesignated as (a)(1)(v), (vi) and (vii); new (a)(1)(iii), new (iv) and (3)(iii) added; (a)(2)(i)(A), (3) introductory text, (4)(vi)(F)(*2*), (d)(5)(i), (6)(i) and (7) amended; (a)(2)(ii) revised 56912
570.209 (b) introductory text amended 17445
570.301 Added 56913
570.304 (a) revised; (d) removed 56913
570.309 Added 56914
570.405 (e)(2) revised; (e)(3) redesignated as (e)(4); new (e)(3) added 56914
570.423 (a) revised 56914
570.429 (g) revised 56914
570.483 (b)(4)(vi)(B)(*2*) and (F)(*2*) amended 17445
570.500 (a)(4)(ii) and (c) amended 17445
Regulation at 57 FR 27120 confirmed 56909
(a)(1)(viii) removed; (a)(2), (3) and (c) revised; (a)(5) added; (b) amended 56914
570.501 Regulation at 57 FR 27120 confirmed 56909
570.502 (a) introductory text and (b) revised 56915
570.503 Regulation at 57 FR 27120 confirmed 56909
(b)(3) revised 56915
570.504 (b)(2) introductory text revised; (b)(2)(iii) added 56915
570.506 (b)(3)(i) and (c) revised; (b)(4)(v) and (vi) amended; (b)(4)(vii) and (viii) added 56915
570.600 (a) amended 56916
570.602 (a), (b)(1), (2), (3), (4)(i) and (ii) amended 56916
570.606 (b)(2)(i)(A) and (c)(3)(ii)(A)(*1*) revised; (c)(1)(iii)(G) and (iv)(A) amended 56916
570.610 Revised 56916
570.611 Regulation at 57 FR 27120 confirmed 56909
Revised 56916
570.614 Added 56917
570.900 (b)(3), (5) and (6) revised 56917
570.901 (a) amended; (e) revised 56917
570.902 (a) revised 56917
570.903 Revised 56918
572.5 Amended; interim 36018
572.120 (a)(1) revised; interim 36018
572.135 (c) revised; interim 36018
572.210 (e)(1) and (f) amended; (g) added; interim 36018
572.220 (a)(1) and (b)(2)(ii) amended; interim 36018
572.400 Revised; interim 36018
575 Removed 47263
577 Removed 47263
578 Removed 47263
579 Removed 47263
580 Removed 47263
586 Added; interim 42975
586.1 Eff. 9–18–95 through 9–17–96 42975
586.5 Eff. 9–18–95 through 9–17–96 42975

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586.10 Eff. 9–18–95 through 9–17–96 42976
586.15 Eff. 9–18–95 through 9–17–96 42976
586.20 Eff. 9–18–95 through 9–17–96 42977
586.25 Eff. 9–18–95 through 9–17–96 42978
586.30 Eff. 9–18–95 through 9–17–96 42978
586.35 Eff. 9–18–95 through 9–17–96 42979
586.40 Eff. 9–18–95 through 9–17–96 42979
586.45 Eff. 9–18–95 through 9–17–96 42980
595 Removed 47263
596 Removed 47263
598 Removed 47263
599 Removed 47263

Chapter VI—Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 600—699)

600 Removed 47263

Chapter VII—Office of the Secretary, Department of Housing and Urban Development (Section 8 Housing Assistance Programs and Public and Indian Housing Programs) (Parts 700—799)

791 Authority citation revised 35126
791.401 Revised 35126
791.403 (a), (b)(1)(ii) and (2) revised 35126
791.405 Revised 35126
791.407 (a) introductory text revised 35126

Chapter VIII—Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Section 8 Housing Assistance Programs and Section 202 Direct Loan Program) (Parts 800—899)

811.201—811.211 (Subpart B) Removed 47263
813 Authority citation revised 17393
Policy statement 20356
813.1 Added; interim 17393
813.106 (b)(4), (5) and (c) revised; interim; eff. in part 5–5–95 through 5–6–96 17393
882 Heading revised (effective date pending) 34694
Authority citation revised 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.101 (b) revised; (c) and (d) added (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.103 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.104 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.105 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.107 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.116 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.117 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.119 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.121 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.123 (a) through (d), (f) and (i) removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.201 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.202 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.203 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.204 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.205 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.206 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.207 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.208 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.209 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.210 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.211 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.213 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.215 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.216 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.212—882.219 (Subpart B) Appendix I removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.701 Revised (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.702 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.703 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.704 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.705 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.706 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.707 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.708 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.709 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.710 Removed (effective date pending) 34694

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Regulation at 60 FR 34694 eff. 10–2–95 45661
882.711 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.712 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.713 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.716 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.720 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.721 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.722 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.723 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.724 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.725 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.730 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.731 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.732 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.733 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.740 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.741 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.750 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.751 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.752 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.753 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.754 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.755 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.756 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.757 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.758 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.759 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
887 Authority citation revised 34694
887.3 Revised (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661

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887.5 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
887.51—887.65 (Subpart B) Removed (effective date pending) 34695
Regulation at 60 FR 34694 eff. 10–2–95 45661
887.101—887.111 (Subpart C) Removed (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
887.151—887.167 (Subpart D) Removed (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
887.201—887.215 (Subpart E) Removed (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
887.251—887.261 (Subpart F) Removed (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
887.301—887.305 (Subpart G) Removed (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
887.401—887.405 (Subpart I) Removed (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
887.551—887.567 (Subpart L) Removed (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
888 Authority citation revised 42226
Fair market rent schedules 42230, 48278, 55934
888.101 Removed 42226
888.105 Removed 42226
888.111 Revised 42226
888.113 Revised 42226
888.115 Revised 42227

Chapter IX—Office of Assistant Secretary for Public and Indian Housing, Department of Housing and Urban Development (Parts 900—999)

900 Removed 47263
905 Removed 18186
905.102 Amended; interim; eff. in part 5–5–95 through 5–6–96 17393
905.103 Added; interim 17394
905.160 Regulation at 59 FR 31522 confirmed 35692
905.642 Regulation at 59 FR 31523 confirmed 35692
905.681 Regulation at 59 FR 31523 confirmed 35692
907 Removed 47263
913 Policy statement 20356
913.1 Added; interim 17394
913.106 (b)(4), (5) and (c) revised; interim; eff. in part 5–5–95 through 5–6–96 17394
941.502 Regulation at 59 FR 31523 confirmed 35692
950 Added 18186
Policy statement 20356
950.102 Corrected 36667
Amended 57304
950.103 Correctly added 36668
950.126 (d)(2) correctly revised 36668
950.175 (d)(1)(iii) correctly revised 36668
950.437 (c)(1) correctly redesignated as (c) 36668
950.455 (c) corrected 36668
950.458 (c) corrected 36668
950.503 (c) corrected 36668
950.553 (c) correctly revised 36668
950.555 OMB number 18236
950.570 OMB number 18237
(c) correctly revised 36669
950.575 OMB number 18238
950.705 Existing text redesignated as (a); (b) added 57305
950.1008 OMB number 18281
950.1017 OMB number 18285
950.1018 OMB number 18285
950.1019 OMB number 18285
950.1020 OMB number 18285
950.1021 OMB number 18285
955 Regulation at 59 FR 42734 eff. date extended 37337
965.501—965.504 (Subpart F) Removed 47263
967 Removed 47263

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968.235 Regulation at 59 FR 31523 confirmed 35692
968.335 Regulation at 59 FR 31523 confirmed 35692
982 Authority citation revised 34695
982.1—982.5 (Subpart A) Added (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
982.3 Amended (effective date pending) 34717
Regulation at 60 FR 34717 eff. 10–2–95 45661
982.51—982.54 (Subpart B) Added (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
982.52 OMB number 45661
982.53 OMB number 45661
982.54 OMB number 45661
982.101—982.103 (Subpart C) Added (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
982.102 OMB number 45661
982.151—982.163 (Subpart D) Added (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
982.151 OMB number 45661
982.153 OMB number 45661
982.155 OMB number 45661
982.156 OMB number 45661
982.157 OMB number 45661
982.158 OMB number 45661
982.159 OMB number 45661
982.160 OMB number 45661
982.163 Corrected 43840
982.201 (f)(2) revised (effective date pending) 34717
Regulation at 60 FR 34717 eff. 10–2–95 45661
982.202 (b)(1) and (d) amended (effective date pending) 34717
Regulation at 60 FR 34717 eff. 10–2–95 45661
982.204 (a) amended (effective date pending) 34717
Regulation at 60 FR 34717 eff. 10–2–95 45661
982.206 (a)(2) and (b)(2) revised (effective date pending) 34717
OMB number 45661
Regulation at 60 FR 34717 eff. 10–2–95 45661
982.301—982.315 (Subpart G) Added (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
982.301 OMB number 45661
982.302 OMB number 45661
982.303 OMB number 45661
982.304 OMB number 45661
982.305 OMB number 45661
982.307 OMB number 45661
982.310 OMB number 45661
982.351—982.355 (Subpart H) Added (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
982.352 OMB number 45661
982.401—982.406 (Subpart I) Added (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
982.403 OMB number 45661
982.404 OMB number 45661
982.406 OMB number 45661
982.451—982.457 (Subpart J) Added (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
982.452 OMB number 45661
982.455 OMB number 45661
982.551—982.555 (Subpart L) Added (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
982.551 OMB number 45661
982.552 OMB number 45661
982.554 OMB number 45661
982.555 OMB number 45661
983 Added (effective date pending) 34717
Regulation at 60 FR 34717 eff. 10–2–95 45661
983.3 OMB number 45661
983.12 OMB number 45661
983.51 OMB number 45661
983.52 OMB number 45661
983.54 OMB number 45661
983.55 OMB number 45661
983.57 OMB number 45661
983.103 OMB number 45661
983.104 OMB number 45661
983.151 OMB number 45661
983.202 OMB number 45661
983.203 OMB number 45661
983.205 OMB number 45661
983.207 OMB number 45661
990.102 Amended 57305
990.104 (b) revised 57305

Chapter X—Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Interstate Land Sales Registration Program) (Parts 1700—1799)

1710 Order 42436
1730 Removed 47263

Chapter XI—Solar Energy and Energy Conservation Bank, Department of Housing and Urban Development (Parts 1800—1899)

1800 Removed 42763
1895 Removed 42763

Chapter XV—Mortgage Insurance and Loan Programs under the Emergency Homeowners' Relief Act, Department of Housing and Urban Development (Parts 2700—2799)

2700 Removed 42763

Chapter XX—Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Parts 3200—3699)

3500 Announcement 16985
3500.8 (c)(1) amended 24735
3500.17 (o) added 24735
3500 Appendixes A and G–2 amended; Appendixes G–1, I–1, I–2, I–5 and I–6 revised; 24735

Proposed Rules:

0 34420
10 27058
29 17968
58 49466
92 36012
120 19191
203 2644
206 32630
221 2644
234 32630
570 56104
811 19695
882 ..... 51658, 54979
888 42290
900—999 (Ch. IX) 21058
950 ..... 24597, 37294
965 49480
966 27058
990 ..... 24597, 37294
3500 ..... 47650, 54794, 63008

TITLE 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior (Parts 1—299)

151 Authority citation revised 32878
Technical correction 45528
151.2 (a) revised 32879
151.10 Heading and introductory text revised; (h) added 32879
151.11 Redesignated as 151.12; new 151.11 added 32879
Heading, (b) and (d) corrected 48894
151.12 Redesignated as 151.13; new 151.12 redesignated from 151.11 32879
151.13 Redesignated as 151.14; new 151.13 redesignated from 151.12 32879
151.14 Redesignated as 151.15; new 151.14 redesignated from 151.13 32879
151.15 Redesignated from 151.14; new 151.15 revised 32879
163 Revised 52260
164 Removed 51723
165 Removed 51724
261 Removed 32896

Proposed Rules:

1—299 (Ch. I) 20250, 34488, 38928, 47131
1 37621
63 45982
161 55506
301 37621
900 19387

NOTE: Boldface page numbers indicate 1995 changes.

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NOTE: Boldface page numbers indicate 1995 changes.

TITLE 25 *Proposed Rules:—Con.*

900 (Ch. V) 2038
1000—1099 (Ch. VI) 37416

TITLE 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury (Parts 1—799)

1 Authority citation amended 17218, 18743, 20898, 36679, 37581, 39649, 40078, 41004, 42787, 44275, 46507, 53128, 56119, 64322, 65548, 65557, 66094, 66136, 66498, 66730
Technical correction 52077, 66083
Authority citation amended 7, 267, 519
1.30–1 Added 39649
1.32–1 Removed 515
1.61–2 (a)(1) amended; (b) revised 40076
1.61–22T Removed 40077
1.83–6 (a)(1) and (2) revised; (a)(5) added 36997
1.103–12 Removed 515
1.108–3 Added 36680
1.110–1 Removed 515
1.114–1 Removed 515
1.115–1 Removed 515
1.116–1 Removed 515
1.116–2 Removed 515
1.162–20 (c)(5) and (d) added 37573
1.162–20T Removed 37573
1.162–27 Added 65537
1.162–28 Added 37573
1.162–29 Added 37575
1.167(a)–11 (d)(3)(v)(*b*) amended 36679
(d)(3)(v)(*e*) *Example 3* amended 36680
1.167(c)–1 (a)(5) amended 36679
1.170A–13 (f) added 53128
1.170A–13T Removed 53128
1.179A–1 Added 39651
1.217–2 (g)(6) added 40077
1.217–2T Removed 40077
1.263A–1 (j)(1)(ii)(B) amended 36680
1.263A–1T (b)(2)(vi)(B), (e)(1)(ii) and (iii)(A) *Example* amended 36679
1.263A–9 (f)(3) *Example 3* amended 47053
1.267(f)–1 Revised 36680
1.267(f)–1T Removed 36683
1.267(f)–2T Removed 36683
1.267(f)–3 Removed 36683
1.274–2 (a)(2)(ii), (3)(iii), (e) heading, (1) and (3)(ii) revised; (a)(2)(iii) added 36994
1.274–5T (c)(6)(iii) amended 36995
1.305–3 (e) *Examples 1* through *15* amended; *Example 15* revised 66136
1.305–5 (d) *Examples 1* through *9* amended; (b) and (d) *Examples 4, 5* and *7* revised; (d) *Examples 8* and *9* redesignated as (d) *Examples 9* and *10*; new (d) *Example 8* and (e) added 66136
1.305–7 (a) amended 66138
1.337(d)–1 (a)(5) *Example 8* amended 36679
1.337(d)–2 (g)(1) amended 36679
1.338–0 Amended 54944
1.338–2 (c)(3) added 54944
1.338–4 (f)(4) *Example 2* amended 36679
1.341–7 (e)(10) amended 36679
1.358–2(d) Removed 66079
1.358–6 Added 66079
1.367(a)–7T Removed 515
1.367(a)3–T (a), (c) through (f), (g)(1) and (h)(1) revised; eff. 4–17–96 66743
1.383–1A Undesignated center heading and section removed 515
1.383–2A Removed 515
1.383–3A Removed 515
1.401–12 (n) redesignated as 1.408(e); authority citation removed 65549
1.401–12T Removed 65549
1.401(e)–5 (a) amended 21435
1.401(f)–1 (b)(1)(ii) and (d)(1) amended 65549
1.401(k)–1 (h)(4)(ii) revised 25140
1.401(a)(31)–1 Added 49204
1.401(a)(31)–1T Removed 49204
1.402(c)–2 Added 49208
1.402(c)–2T Removed 49204
1.402(f)–1 Revised 49213
1.402(f)–2T Removed 49204
1.403(b)–2 Added 49214
1.403(b)–2T Removed 49204
1.406–2 1(e) redesignated from 1.401–12(n); (b)(2)(ii), new (e)(1) and new (9) removed; (b)(2)(iii) and new (e)(2) through (8) redesignated as (b)(2)(ii) and (e)(1) through (7); new (e)(5)(ii)(A) redesignated as (e)(5)(ii)(E); new (e)(1), (2)(iv), (5)(ii)(C)(*2*), (iii)(B), (v)(A), (vi), (viii), (6)(i)(A), (iii)(C), (9)(iv) and (v)(B) amended; new (e)(5)(ii)(A) revised; (e)(5)(ii)(D) added 65549
1.411(a)–11 (c)(2)(ii) revised; (c)(2)(iii) removed 49221
1.411(a)–11T Added 49221
1.411(d)–6T Added 64322
1.417(e)–1 (d) revised 17219
(b)(3) revised 49221
1.417(e)–1T Added 17219
(b) added 49221
1.446–1 (e)(3) revised 40078
1.446–4 (e)(9) added 519
1.460–0 Amended 36683
1.460–4 Heading revised; (j) added 36684
1.461–0 Removed 18743
1.461–4 (k)(1), (m)(1)(i), (ii), (iii) and (2)(ii) revised 18743
1.461–5 (d)(1), (2)(i) and (ii) revised 18743
1.461–7T Removed 18744
1.469–0 Amended 36684, 66498
1.469–1 (c)(8), (h)(1), (2) and (6) added 36684
1.469–1T (c)(8), (h)(1), (2) and (6) removed 36685
1.469–4 (e)(1), (2) and (h) revised 66499
1.469–9 Revised 66499
1.469–11 (a)(2) amended; (b)(2)(i) heading and (ii) removed; (a)(3), (b)(2)(i) and (3) redesignated as (a)(4), (b)(2) and (4); (b)(2) heading revised; new (a)(3) and new (b)(3) added 66501
1.481–1 (a)(2) and (c)(1) amended; (c)(2), (3), (4) and (d) revised; (c)(6), (7) and (e) removed 40078
1.481–2 (a), (b) introductory text, (c)(1), (2), (3) introductory text, (6) and (d) amended; (c)(4) revised 40078
1.481–3 Amended 40079
1.481–4 Removed; new 1.481–4 redesignated from 1.481–5 and revised 40079
1.481–5 Redesignated as 1.481–4; new 1.481–5 added 40079
1.481–6 Removed 40079
1.482–0 Amended 65557
1.482–7 Added 65557
1.482–7T Removed 65566
1.508–1 (a)(3)(i) introductory text and (*a*) revised 65552
1.597–1 Added 66094
1.597–2 Added 66095
1.597–3 Added 66097
1.597–4 Added 66098
1.597–5 Added 66101
1.597–6 Added 66103
1.597–7 Added 66104
1.671–4 Revised 66087
1.701–2 (a)(3) and (f) introductory text amended; (d) *Examples 5* and *6* removed; (d) *Examples 7* through *13* and (h) redesignated as (d) *Examples 5* through *11* and (i); new (h) added 18741
1.704–4 Added 66730
1.737–1 Added 66733
1.737–2 Added 66735
1.737–3 Added 66736
1.737–4 Added 66738
1.737–5 Added 66739
1.804–1 Removed 516
1.804–2 Removed 516
1.805–1 Removed 516
1.805–2 Removed 516
1.805–3 Removed 516
1.805–4 Removed 516
1.805–5 Removed 516
1.805–6 Removed 516
1.805–7 Removed 516
1.805–8 Removed 516
1.820–1 Removed 516
1.820–2 Removed 516
1.820–3 Removed 516
1.824–1 Removed 516
1.824–2 Removed 516
1.824–3 Removed 516
1.860A–0 Amended 42787
1.860A–1 (b)(4) added 42787
1.860G–1 (a)(2)(v) redesignated as (a)(2)(vi); new (a)(2)(v) added; (a)(3)(i) revised 42787
1.860G–1T Removed 42787
1.861–8 (e)(2) correctly revised; CFR correction 36669
(e)(3) revised; (g) *Examples 3* through *16* and *23* removed 66503
1.861–8T (d)(2)(i) concluding text amended 36679
1.861–9T (g)(2)(iv) heading amended 36679

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1.861–17 Added 66503
1.863–1 (d) added 44275
1.871–1 (b)(7) added 41004
1.881–0 Added 41004
1.881–3 Added 41005
(e) *Example 25* corrected 55312
1.881–4 Added 41014
1.904–0 Amended 56119
1.904(i)–1 Added 56119
1.907–0 Introductory text revised; amended 516
1.907(a)–0A Undesignated center heading and section removed 516
1.907(a)–1A Removed 516
1.907(b)–1A Removed 516
1.907(b)–2A Removed 516
1.907(c)–1A Removed 516
1.907(c)–2A Removed 516
1.907(c)–3A Removed 516
1.907(d)–1A Removed 516
1.907(e)–1 Removed 516
1.907(e)–1A Removed 516
1.907(f)–1A Removed 516
1.952–3 Removed 46508
1.954–0 Added 46508
Corrected 62024
1.954–0T Redesignated as 4.954–0 46530
1.954–1 Added 46509
(d)(7)(i) *Example 1* corrected 62024
(d)(7)(i) *Examples 1* through *4*, (ii) *Examples 1* and *2* and (f)(2)(iv) corrected 62025
1.954–1T Redesignated as 4.954–1 46530
1.954–2 Added 46517
(g)(3)(ii) corrected 58731
(b)(4)(x) correctly revised; (d)(1)(i), (3) *Example 1*, (e)(2)(ii) introductory text, (f)(2)(iii)(A), (B), (C), (E), (g)(2)(ii)(A), (3)(iv) *Example*, (h)(2)(i)(A), (G) and (4)(iv) *Examples 1* and *2* corrected 62025
(h)(4)(iv) *Examples 5* and *6* and (6) *Examples 3* and *4* corrected; (h)(6) *Example 1* correctly revised 62026
1.954–2T Redesignated as 4.954–2 46530
1.954A–1 Removed 46530
1.954A–2 Removed 46530
1.957–1 (a), (c) *Examples 8* through *10* and (d) added 46529
(a)(2) corrected 62026
1.957–1T Removed 46530
1.995–7 Removed 516
1.1015–5 (a) heading and (b) heading revised; (c) redesignated as (d); new (c) added 43537
1.1032–2 Added 66081
1.1221–2 (d), (e)(5), (f)(3), (g)(4), (5) and (6) added 519
1.1244(e)–1 Heading and (b) revised; (a)(1) amended 20898
1.1258–1 Added 66084
1.1301–0 Undesignated center heading and section removed 516
1.1301–1 Removed 516
1.1302–1 Removed 516
1.1302–2 Removed 516
1.1302–3 Removed 516
1.1303–1 Removed 516
1.1304–1 Removed 516
1.1304–2 Removed 516
1.1304–3 Removed 516
1.1304–4 Removed 516
1.1304–5 Removed 516
1.1304–6 Removed 516
1.1361–0 Revised 37581
1.1361–1 (a) and (c) through (k) added 37581
Heading, (j)(2)(ii), (4) and (k)(1) corrected 49976
(k)(1) *Example* corrected 58234
(k)(1) corrected 2869
1.1441–3 (j) added; OMB number 41014
1.1441–7 (d) added; OMB number 41014
(d)(2)(ii) *Example 4* corrected 55312
1.1445–1 Heading and (g)(10) revised 66076
1.1445–5 (c)(1)(iii)(A) and (d)(1) amended; (c)(1)(iii)(B) removed; (c)(1)(iii)(C) redesignated as (c)(1)(iii)(B); (c)(1)(ii), new (iii)(B), (iv) and (3)(ii) revised 66076
1.1445–8 (c)(2)(i) revised 66077
1.1502–3 (a)(2) amended 36679
1.1502–4 (j) *Example 1* amended 36679
1.1502–9 (f) *Example 6* amended 36679
1.1502–12 (a) and (g)(2) amended 36679
1.1502–13 Revised 36685
1.1502–13T Added (temporary) 36670
Removed 36708
1.1502–14 Removed 36708
1.1502–14T Removed 36708

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1.1502–17 (c) redesignated as (d); new (d) *Example* redesignated as (d) *Example 1*; (b), new (a) heading and introductory text revised; new (c), (d) *Examples 2, 3* and (e) added; new (d) *Example 1* amended 36708
1.1502–18 (f) heading revised; (g) added 36709
1.1502–20 (a)(5) *Example 6*, (b)(6) *Examples 5, 7*, (c)(4) *Example 3* and (h)(1) amended; (c)(4) *Example 9* added; (e)(3) *Examples 2* and *8* removed; (e)(3) *Examples 3* through *7* redesignated as (e)(3) *Example* 36709
1.1502–22 (a)(3) and (5) *Example* amended 36679
1.1502–26 (b) amended 36679
(b) revised 36710
1.1502–30 Added 66082
1.1502–33 (c)(2) revised 36710
1.1502–47 (e)(4)(iii) and (iv) *Example 4* amended 36679
(e)(4) *Example 4*, (f)(3) and (r) amended 36680
1.1502–79 (f) removed 36710
1.1502–80 (e) and (f) added 36710
1.1503–2 (d)(4) *Example 1* amended 36680
1.1552–1 (a)(2)(ii)(c) amended 36680
1.6012–3 (a)(9) revised 66090
1.6033–2 (g)(1)(i) and (vii) revised; (g)(5) removed; (h), (i) and (j) redesignated as (i), (j) and (k); new (h) added 65552
1.6038A–7 (b)(5) and (c)(2)(vii) added 41015
1.6042–4 Revised 66110
1.6044–5 Revised 66111
1.6049–6 Heading revised; (a), (b)(1)(ii) and (2)(ii) amended; (e) added; authority citation removed 66111
1.6050I–0 Added 7
1.6050I–0T Removed 7
1.6050I–2 Added 7
1.6050I–2T Removed 7
1.6050N–1 Added 66111
1.6050P–0 Added; eff. 12–26–96 268
1.6050P–0T Removed; eff. 12–26–96 271
1.6050P–1 Added; eff. 12–26–96 268
1.6050P–1T Removed; eff. 12–26–96 271
1.6081–4 (a) revised 261
1.6081–4T Added 261
1.6091–2 (g) added 62210
1.6662–0 Amended 45663
1.6662–1 Amended 45664
1.6662–2 (d) heading revised; (d) redesignated as (d)(1); new (d)(1) amended; (d)(2) and (3) added 45664
1.6662–3 (a) amended; (b)(3), (c)(1) and (2) revised 45664
1.6662–4 (d)(2) removed; (e)(2), (g)(1), (4) and (5) revised 45665
1.6662–7 Added 45665
1.6662–7T Removed 45666
1.6664–0 Amended 45666
1.6664–1 (b) revised 45666
1.6664–4 (c), (d) and (e) redesignated as (d), (f) and (g); (a), (b)(1), (2) introductory text, *Example* 1 and new (d) revised; new (c) and new (e) added 45666
1.6695–1T Added (temporary) 37589
1.7520–3 (b) revised; (c) amended 63915
1.7701(l)–1 Added 41015
1.7704–1 Added 62029
4 Added 46530
4.954–0 Redesignated from 1.954–0T; heading, (a)(1) and (b) amended 46530
4.954–1 Redesignated from 1.954–1T and heading amended 46530
4.954–2 Redesignated from 1.954–2T and heading amended 46530
18 Authority citation revised 37588
18.0 Revised 37588
18.1361–1 Removed 37588
18.1366–5 Removed 37588
18.1378–1 (b)(2)(i) and (ii) amended; (b)(3), (c) and (e) removed 37589
20.2035–1 Removed 516
20.2056–0 Amended 43538
20.2056(d)–1 Redesignated as 20.2056(d)–2; new 20.2056(d)–1 added 43538
20.2056(d)–2 Redesignated as 20.2056(d)–3; new 20.2056(d)–2 redesignated from 20.2056(d)–1 43538
20.2056(d)–3 Redesignated from 20.2056(d)–2 43538
20.2056A–0 Added 43538
Amended 43538
20.2056A–1 Added 43539

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20.2056A–2 Added 43540
20.2056A–2T Added (temporary) 43557
20.2056A–3 Added 43540
20.2056A–4 Added 43541
20.2056A–5 Added 43546
20.2056A–6 Added 43547
20.2056A–7 Added 43549
20.2056A–8 Added 43549
20.2056A–9 Added 43550
20.2056A–10 Added 43550
20.2056A–11 Added 43551
20.2056A–12 Added 43551
20.2056A–13 Added 43551
20.2101–1 Revised 43551
20.2102–1 (c) added 43552
20.2106–1 (a)(3) revised; (b) amended; (c) removed 43552
20.2106–2 (c) removed 43552
20.7520–3 (b) revised; (c) amended 63916
23 Removed 516
24 Removed 516
25 Authority citation revised 43552
25.2503–2 (a) amended; (f) added 43552
25.2517–1 Removed 516
25.2522(c)–3 (c)(2)(i), (vi)(*a*), (vii)(*a*), (d)(2) introductory text and (iv) *Examples 1* through *4* amended 63919
25.2523(i)–1 Added 43552
25.2523(i)–2 Added 43553
25.2523(i)–3 Added 43554
25.2702–1 (c)(8) added 43554
25.2702–3 (b)(1)(i) and (c)(1)(i) amended 66090
25.7520–3 (b) revised; (c) amended 63919
26 Revised 66903
27 Removed 516
31 Authority citation amended 53510, 65238, 66112, 66141
31.3402(p)–1 (a) amended 49215
31.3402(r)–1 Added 65238
31.3402(r)–1T Removed 65238
31.3405(c)–1 Added 49215
31.3405(c)–1T Removed 49218
31.3406–0 Revised 66112
31.3406(a)–1 Added 66114
31.3406(a)–2 Added 66114
31.3406(a)–3 Added 66114
31.3406(a)–4 Added 66115
31.3406(c)–1 Added 66119
31.3406(d)–1 Added 66123
31.3406(d)–2 Added 66125
31.3406(d)–3 Added 66125
31.3406(d)–4 Added 66125
31.3406(e)–1 Added 66127
31.3406(f)–1 Added 66127
31.3406(g)–1 Added 66128
31.3406(g)–2 Added 66128
31.3406(g)–3 Added 66129
31.3406(h)–1 Added 66130
31.3406(h)–2 Added 66130
31.3406(h)–3 Added 66131
31.3406(i)–1 Added 66133
31.3406(b)(2)–1 Added 66115
31.3406(b)(2)–2 Added 66115
31.3406(b)(2)–3 Added 66116
31.3406(b)(2)–4 Added 66117
31.3406(b)(2)–5 Added 66117
31.3406(b)(3)–1 Added 66117
31.3406(b)(3)–2 Added 66118
31.3406(b)(3)–3 Added 66119
31.3406(b)(3)–4 Added 66119
31.3406(b)(4)–1 Added 66119
31.3505–1 (b)(1), (2) *Examples 1* and *2*, (d)(1) and (2)(iii) amended; (d)(3) and (g) added 39110
31.6011(a)–4 (b) revised 53510
31.6011(a)–4T Added 53511
31.6011(a)–5 (a)(1) amended; authority citation removed 66133
31.6011(a)–6 (a)(1) amended 66133
31.6051–1 (d)(1) redesignated as (d)(1)(i); new (d)(1)(ii) added; (d)(2) revised; eff. 1–1–97 66141
31.6051–2 (c) amended; eff. 1–1–97 66141
31.6051–4 Added 66133
31.6071(a)–1 (a)(3)(i) removed; (a)(3)(ii) redesignated as (a)(3)(i); new (a)(3)(ii) added; eff. 1–1–97 66141
31.6081(a)–1 (a)(3) revised; eff. 1–1–97 66142
31.6413(a)–3 Added 66133
33 Removed 516
35a Authority citation amended 66134
35a.3406–2 Removed 66134
35a.9999–0T Added 66134
38 Removed 516
40 Technical correction 54803
40.6302(c)–0 Removed 40081
40.6302(c)–1 (e)(4) added 40081
40.6302(c)–5T Added 44759
48 Authority citation amended 40081
48.4041–8 (f)(1) introductory text and (i) revised; (f)(1)(ii) redesignated as (f)(1)(iii); new (f)(1)(ii) added; (f)(2) amended 40081
48.4041–21 Revised 40082
(c)(4) corrected 50245
48.4081–0 Removed 40082
48.4081–3 (b)(1) revised 40082
48.4081–6 Revised 40082
48.4081–7 Heading, (b)(4), (c)(1), (3), (d) and (g) revised; (a), (b), (c)(2), (4)(i)(A), (B), (ii)(A), (B), (iii), (iv)(A), (B) and (f) *Example 1* amended; (c)(5) removed 40085
48.4101–3 Added 40086
52 Authority citation amended 52849
52.4681–0 Removed 52849
52.4681–1 (a)(3)(ii), (c)(7)(iii)(A) and (d)(3) revised 52849
52.4682–1 (a), (b)(2)(ii) introductory text, (f) and (g) revised; (b)(2)(iv), (v), (h) and (j) added 52849
52.4682–2 (a)(1)(iii), (iv), (b)(3), (4), (d)(4) and (5) added; (a)(2), (b)(1)(i) and (2)(i) amended; (d) heading and (1)(i) revised 52850
52.4682–4 (b)(2) introductory text removed; (b)(2)(i)(B)(*1*) and (d)(1)(i) amended; (e)(5) redesignated as (e)(6); (b)(2)(vi), (vii), (viii), (d)(4) and new (e)(5) added; (d)(1)(iv)(A)(*1*), (e)(4)(i) and new (6) *Example 5* revised 52852
52.4682–5 Added 52853
53.4941(d)–2 (f)(1) amended; (f)(3) revised; (f)(4) redesignated as (f)(9); new (f)(4) through (8) added 65568
53.4955–1 Added 62210
53.4963–1 (a), (b) and (c) amended 62212
53.6011–1 (b) amended 62212
53.6071–1 (e) added 62212
53.6091–1 Heading revised; (d) added 62212
301 Authority citation amended 37589, 40087, 66105
301.6011–2 (c)(4)(i) revised; eff. 1–1–97 66142
301.6061–1T Added (temporary) 37589
301.6109–1 (a)(2) revised 66090
(a)(1) and (h) amended 66134
301.6109–2 (c) through (g) revised; (h) added 51725
(f)(2) corrected 1035
301.6211–1 (b) amended 62212
301.6212–1 (c) amended 62212
301.6213–1 (a)(2) and (e) amended 62212
301.6311–1 (a)(1)(i) amended; (a)(2) and (b) revised; (a)(3) removed; (d) and (e) added 20899
301.6651–1 (c)(3) revised 262
301.6651–1T Added 262
301.6676–1 Removed 516
301.6852–1 Added 62212
301.6861–1 Amended 62212, 62213
301.6863–1 (a)(1), (3), (4) and (b) amended 62213
301.6863–2 (a) introductory text amended 62213
301.6867–1 Added 39653
301.6867–1T Removed 39654
301.7409–1 Added 62213
301.7422–1 (a) introductory text, (c) introductory text and (d) amended 62213
301.7424–1 Removed 517
301.7425–4 (b)(3)(ii) amended 28720
301.7507–1 (b)(4) added 66105
301.7507–9 (d) amended 66105
301.7514–1 (a)(2) through (7) redesignated as (a)(3) through (8); new (a)(2) added 54945
301.7611–1 Amended 62213
301.7701–3 (e) added 65566
301.7701(i)–0 Added 40088
301.7701(i)–1 Added 40088
(c)(4)(ii) and (g)(3) corrected 49754
301.7701(i)–2 Added 40091
301.7701(i)–3 Added 40092
301.7701(i)–4 Added 40092
301.9100–7T (a)(1) table and (4)(i) table amended; (a)(4)(iii) revised 66926
602 Technical correction 66083
602.101 (c) table amended (OMB numbers) 18744, 20899, 36710, 36998, 37589, 40086, 41016, 43554, 43563, 46530, 49218, 49221, 52856, 53128, 53511, 64324, 65547, 65566, 66085, 66091, 66105, 66134, 66139, 66926
(c) table amended (OMB numbers); eff. 4–17–96 66746
(c) table amended (OMB numbers) 8, 262, 517, 522

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TITLE 26 Chapter I—Con.

(c) table amended (OMB numbers); eff. 12–26–96 271

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18 35882

20 43574

31 ..... 50508, 53561, 66243 ..... 2194, 2214

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301 ..... 24811, 24813, 30211, 30487, 36756, 37621, 39903, 43091, 49356, 55228, 64402 338

TITLE 27—ALCOHOL, TOBACCO PRODUCTS AND FIREARMS

Chapter I—Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury (Parts 1—299)

4.23 Revised 538

4.23a Removed 539

4.28 Added 539

4.34 (a) amended; (b)(1) revised; (b)(2), (3) and (4) redesignated as (b)(3), (4) and (5); new (b)(2) added 539

4.91—4.93 (Subpart J) Added 539

5.23 (a)(3)(iii) revised; (c)(2) removed 67327

6 Authority citation revised 20421

6.1 Revised 20421

6.4 (b) amended 20421

6.5 Added (OMB number) 20421

6.11 Amended 20421

6.25 Revised 20421

6.27 (a) revised 20421

6.31 Revised 20421

6.33 (a) revised 20421

6.41 Revised 20421

6.42 Revised 20421

6.43 Amended 20422

6.46 Removed 20422

6.47 Removed 20422

6.51 Revised 20422

6.61 Revised 20422

6.65 Revised 20422

6.67 Added 20422

6.71 Revised 20422

6.72 Revised 20422

6.81 Revised (OMB number) 20422

6.82 Removed 20422

6.83 Revised 20422

6.84 Revised 20423

6.85 Revised 20423

6.86 Removed 20423

6.87 Removed 20423

6.88 Revised 20423

6.89 Removed 20423

6.90 Removed 20423

6.91 Revised 20423

6.92 Revised 20423

6.93 Revised 20423

6.94 Amended 20423

6.96 (a) revised 20423

6.97 Removed 20423

6.98 Revised 20423

6.99 Revised 20424

6.100 Revised 20424

6.101 Revised 20424

6.102 Added 20424

6.151—6.153 (Subpart E) Added 20424

8 Authority citation revised 20425

8.1 Revised 20425

8.5 Added (OMB number) 20425

8.11 Amended 20425

8.23 Revised 20425

8.51—8.54 (Subpart D) Added 20425

9.149 Added 47061

9.151 Added 51899

10 Authority citation revised 20426

10.1 Revised 20426

10.4 (a)(1) amended 20426

10.5 Added (OMB number) 20426

10.11 Amended 20426

10.51—10.54 (Subpart D) Added 20427

11 Authority citation revised 20427

11.1 Revised 20427

11.5 Added 20427

11.11 Amended 20427

11.24 Added 20427

11.32 Revised 20427

11.34 Revised 20428

11.35 Revised 20428

19 Authority citation revised 33668

19.522 (a) amended 33668

19.523 (a) revised; (c) added 33668

24.246 Table corrected; CFR correction 38959

24.271 (b) revised; (c) added 33669

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25.163 Amended 33669

25.164 (c) and (d) revised 33669

25.164a Added 33669

47.52 (c) removed; (d) and (e) redesignated as (c) and (d); (a) and new (d) revised 47866

53 Authority citation revised 33670

53.11 Amended 33670

53.21 (d) redesignated from 53.152(c) 33670

53.22 (a)(1) amended; (a)(3) added 33670

53.23 Added 33670

53.24 Added 33670

53.142 Heading, (a) introductory text, (4) and (b) revised 33671

53.151 (a)(2) amended; (a)(5) added; (b)(1) revised 33671

53.152 (c) redesignated as 53.21(d) 33670

53.157 Heading revised; note added 33671

53.158 (b)(2) and (3) amended 33671

53.159 Added 33671

55.1 (a) revised 17449

55.26 Heading and (b) revised; (c) added 17449

55.166 Amended 17449

70.306 (a) amended 33674

72.21 (c) revised 17449

72.27 Added 17449

178 Technical correction 19117

178.1 (a) revised 17450

178.11 Amended 17450

178.23 (b)(2) revised 17450

178.25a Added 17451

178.29a Added 17451

178.32 (a)(6), (7), (d)(6) and (7) revised; (a)(8) and (d)(8) added 17451

178.33 Revised 17451

178.39a Added (OMB number) 17451

178.40 Added (OMB number) 17451

178.40a Added (OMB number) 17452

178.44 Revised 17452

178.45 Revised 17453

178.47 (a), (b) introductory text, (c) and (d) amended; (b)(6) added; OMB number 17453

178.52 Revised (OMB number) 17453

178.57 Existing text designated as (a); (b) and (c) added 17453

178.92 Heading and (a) revised; (c) added 17454

178.99 (c)(6) and (7) amended; (c)(8) added 17454

178.119 Added (OMB number) 17454

178.127 Amended 17455

178.129 (b) revised; (e) added; OMB number 17455

178.132 Added (OMB number) 17455

178.133 Added (OMB number) 17455

178.152 (a) revised 17455

178.153 Added 17456

178.171 Amended 17456

179.34 Amended; (e) added 17456

179.36 Amended 17456

179.42 Amended 17456

179.47 Amended 17456

179.50 Amended 17456

250.112 (b) and (d) revised; (c)(1) amended 33674

270.163 Revised 33675

270.164 Added 33675

270.165 (a) revised; (b) removed; (c) redesignated as (b) 33675

275.113 Revised 33675

275.114 (b) and (d) revised 33675

285.25 (c) revised; (f) amended; (g) added 33676

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TITLE 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice (Parts 0—199)

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0 Authority citation revised **35335**, 36711
0.77 (j) revised **36711**
0.116 Amended **53268**
0.137 Revised **35335**
0.138 Revised **35335**
0.157 Heading, (c) and (d) revised; (e) added **35335**
0.100—0.104 (Subpart R) Appendix amended **46019**
2.1 (h) revised **51350**
2.12 (a) amended **51350**
2.14 (a)(1)(ii), (2)(iv) and (b)(3) amended **51350**
2.20 Paroling policy guidelines amended **40093**, 40271
2.23 Amended **51349**
2.29 (b) amended **51350**
2.40 (g) revised **51349**
2.59 Revised **40094**
2.60 (g) and (h) added; interim **40095**
49 Revised; interim **44277**
Regulation at 60 FR 44277 confirmed 2117
49.2 (a) corrected **61290**
49.3 Introductory text corrected **61290**
60 Authority citation revised **62734**
60.2 (p) and (q) added **62734**
60.3 (a)(18) added **62734**
70 Added **38242**
70.2 (ff) corrected **57931**
70.22 (h)(2) corrected **57931**
70.25 (e), (f) and (j) corrected **57931**
70.33 (b) correctly revised **57932**
70.36 (c) corrected **57932**
70.44 (c) corrected **57932**
70.51 (e) corrected **57932**
70.52 (a)(1)(iii) corrected **57932**
70.59 (b)(3) corrected **57932**
70.62 (d) corrected **57932**
70 Appendix A corrected **57932**

Chapter V—Bureau of Prisons, Department of Justice (Parts 500—599)

501 Authority citation revised **53490**
501.2 Added; interim **53490**
540 Authority citation revised **65204**
540.17 Introductory text and (b) revised **65204**
540.100 (a) amended **90**
540.105 (c) removed **90**
541.46 (c) amended; (g) revised **46484**
541.48 (b) revised **46484**
541.49 (a) amended **46484**
541.50 (b)(2) revised **46485**
542 Revised **88**
545.11 (b) introductory text amended; (d)(3) removed 91
545.20 (a) revised 379
545.21 (d) through (g) redesignated as (e) through (h); (a), (c) and new (f) revised; new (d) added 379
545.23 (a) and (b) revised 379
545.24 (d) amended 379
545.25 (a)(2) revised; (d) added 379
545.26 (d), (e) introductory text and (1) revised 379
545.28 Revised 379
548 Authority citation revised **46486**
548.10—548.20 (Subpart B) Revised; interim **46486**
549.10—549.18 (Subpart A) Revised; interim **52279**
549.40—549.43 (Subpart C) Regulation at 57 FR 53820 confirmed **49444**
549.41 (b) revised **49444**
549.43 (b) revised **49444**

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TITLE 29—LABOR

Subtitle A—Office of the Secretary of Labor (Parts 0—99)

1.1361–1 (k)(1) *Example 1* corrected **58234**
4.7 Removed **51727**
20 Regulation at 59 FR 47250 confirmed **41016**

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TITLE 29 Subtitle A—Con.

20.101—20.111 (Subpart E) Regulation at 59 FR 47250 confirmed 41016
20.105 Revised 41017
20.106 (b) revised 41017

Chapter I—National Labor Relations Board (Parts 100—199)

102 Comment and experimental periods extension 1281
102.11 Revised 56234
102.14 Revised 56235
102.60 (a) revised 56235
102.69 (a) revised 56235
102.112 Revised 56235
102.113 Revised 56236
102.114 Revised 56236

Chapter II—Office of Labor-Management Programs, Department of Labor (Parts 200—299)

215 Revised 62969
Regulation at 60 FR 62969 eff. date stayed 386
Regulation at 60 FR 62969 eff. date delayed to 1-29-96 2117

Chapter IV—Office of Labor-Management Standards, Department of Labor (Parts 400—499)

452.38 (a) amended 57178

Chapter V—Wage and Hour Division, Department of Labor (Parts 500—899)

502 Removed 54804
503 Removed 54804
508.900 (b)(2)(i) and (d) amended; (e) revised 38958, 38959, 61210, 61211
(b)(2)(i), (d) and (e) amended; interim 49573, 49574
508.910 (b)(2)(i) and (e) amended; interim 38958, 38959, 49754
(b)(2)(i) and (e) amended 61210, 61211
508.940 (d)(1)(i)(B) amended; interim 38958
(d)(1)(i)(B), (h)(1) and (3) amended; interim 38959, 49754
(d)(1)(i)(B), (h)(1) and (2) amended 61210, 61211
517 Removed 54805
526 Removed 54805
552 Authority citation revised 46766
552.2 (b)(1) revised 46766
552.100 (a)(1), (c) and (d) revised 46768
552.101 (a) amended 46768
552.104 (b) revised 46768
552.105 (a) amended 46768
697.1 (a)(1), (b)(1), (2)(ii), (iii), (c)(1), (d)(1), (e)(1), (f)(1), (g)(1), (h)(1), (i)(1), (j)(1), (k)(1), (l)(1), (m)(1) and (n)(1) revised 47485
697.3 Revised 47485
801.53 (a) revised 46531

Chapter XIV—Equal Employment Opportunity Commission (Parts 1600—1699)

1601.70 (b) and (e) amended 46220
1601.71 (a), (b) and (c) amended 46220
1602 Deadline extension 51350
1613 Removed 43372
1614.501 (a) amended 43372

Chapter XVII—Occupational Safety and Health Administration, Department of Labor (Parts 1900—1999)

1910.266 Note revised 40458
(c), (d)(1)(iv), (v) and (2)(i) amended; (d)(1)(iii), (vii), (5), (6)(iii), (9)(iii) and (iv) revised 47035
(e)(2)(iv), (vi), (xiii), (f)(2)(iv), (x), (xi), (3)(vii), (viii), (7)(i) and (ii), (h)(1)(iii), (1)(ix), (2)(i), (vi), (vii), (3) heading, (i), (5)(v), (viii) and (6)(ii) revised; (f)(3)(i) and (ii) amended; (f)(3)(ii) redesignated as (f)(3)(ii)(C); (f)(3)(ii)(A) and (B) added 47036
(i)(7)(ii) removed; (i)(7)(iii) redesignated as (i)(7)(ii); appendix A amended 47037
1910.1025 (e)(1)(ii) Table I, (f)(1)(i), (j)(2)(ii) and (k)(1)(i) revised; (e)(4), (k)(1)(i)(A), (B), (iii)(A)(*1*) and (*2*) removed; (e)(5), (6), (k)(1)(i)(C), (D), (iii)(A)(*3*) and (*4*) redesignated as (e)(4), (5), (k)(1)(i)(A), (B), (iii)(A)(*1*) and (*2*); Appendixes B and C amended 52859
1915.1001 (b) corrected 36044
(g)(7)(iii) redesignated as (g)(7)(ii)(C); new (g)(7)(iii) and (12)(vi) added; (g)(8)(iv)(B) removed; (g)(8)(iv)(C), (12) introductory text, (h)(2)(v) and (o)(4)(i) revised 50412
1926.104 Regulation at 59 FR 40729 withdrawn 39255
1926.105 Regulation at 59 FR 40729 withdrawn 39255
1926.107 Regulation at 59 FR 40729 withdrawn 39255
1926.500 (a)(2)(iii), (3)(iv) and (4) revised 39255
1926.753 Regulation at 59 FR 40729 withdrawn 39255
1926.1001 (b) corrected 36044
1926.1101 (g)(7)(iii) redesignated as (g)(7)(ii)(C); new (g)(7)(iii) and (11)(vi) added; (g)(8)(iv)(B) removed; (g)(8)(iv)(C), (11) introductory text and (h)(2)(v) revised 50412
(o)(4)(i) revised 50413
1952.253 (a) and (b) amended; (d) added 56951
1952.254 Revised 56951
1952.297 (b) through (h) added 43972
1960.1 (f) revised 34852
1960.66 (f) added 34852

Chapter XX—Occupational Safety and Health Review Commission (Parts 2200—2499)

2200.200—2200.211 (Subpart M) Revised 41809
2200.203 Eff. in part 10-1-95 through 9-30-96 41809

Chapter XXVI—Pension Benefit Guaranty Corporation (Parts 2600—2699)

2606.1 (b)(8) and (9) amended; (b)(10) added 61747
2606.33 Regulation at 59 FR 62573 confirmed 39848
2606.51 Amended 61747
2606.53 Regulation at 59 FR 62573 confirmed 39848
2607.1 (a) amended 67328

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2607.2 Amended 67328
2607.3 (a), (b) and (c) amended 67328
2607.4 (a), (b), (c) and (d) amended 67328
2607.5 (a) and (b) amended 67328
2607.6 (b) and (c) amended 67328
2607.7 (b) and (c) amended 67328
2607.8 (b), (c) and (d) amended 67328
2607.9 Introductory text and (a) amended 67328
2607.10 Amended 67328
2609 Regulation at 59 FR 62574 confirmed 39846
2609.1 Regulation at 59 FR 62573 confirmed 39848
2609.31—2609.34 (Subpart C) Regulation at 59 FR 62573 confirmed 39848
2610 Appendixes A and B amended 53269
Appendixes A and B amended 1126
2616 Authority citation revised 61747
2616.2 Amended 61747
2616.6 (a) amended 61747
2616.7 (b) amended 61747
2616.29 (a)(1) and (b) amended 61747
2617 Authority citation revised 61747
2617.2 Amended 61747
2617.3 (b)(5) amended 61747
2617.6 (a) amended 61747
2617.8 (b) amended 61747
2617.25 (b)(2)(i) amended 61747
2617.28 (a)(1), (c) and (h) amended 61747
2619 Appendix B amended 36211, 42038, 47868, 53270, 57340, 64328
Appendix D amended 64326
Appendix B amended 1128
2621 Appendix A amended 64325
2622 Appendix A amended 36210, 53269
Appendix A amended 1127
2627.3 (a) correctly revised 36998
2627.11 Added (OMB number) 50413
2627 Appendix B amended 64325
2628 Added 66055
2629 Added 61741
2644 Appendix A amended 36213, 53272
Appendix A amended 1130
2645.5 Added (OMB number) 50413
2674.5 OMB number 50413
2674.6 OMB number 50413
2676 Appendix B amended 36212, 42039, 47868, 53271, 57340, 64329, 36209

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2510 ..... 39208, 50508, 57845, 66036
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2606 44158
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2616 44158
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TITLE 30—MINERAL RESOURCES

Chapter I—Mine Safety and Health Administration, Department of Labor (Parts 1—199)

5 Fee schedule 1686
18.6 (a) amended 35693
18.81 (a) amended 35693
18.82 (a) and (c) amended 35693
19.3 (a) revised 35693
19.4 (a) amended 35693
20.3 Amended 35693
20.5 (a) amended 35693
20.14 Introductory text and (a) revised 35693
22.4 Amended 35694
22.5 (a) revised 35694
22.11 Introductory text and (a) revised 35694
27.3 Amended 35694
27.4 (a) amended 35694
28.10 (a) revised; (c) amended 35694
28.31 (b) amended 35694
28.40 (d) amended 35694
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35.6 (a) and (g) amended 35694
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36.6 (a) amended 35695
50 Authority citation revised 35695
50.20 (a) amended 35695
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56.1000 Amended 35695
56.5001 (a) amended 35695
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57.5001 (a) amended 35695
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57.5040 (b)(4) amended 35695
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70.209 (a) amended 35695
71 Authority citation revised 35695
71.209 (a) amended 35695
74.6 (a) amended 35695
77.403b Amended 35695
90 Authority citation revised 35696
90.209 (a) amended 35696

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Chapter VII—Office of Surface Mining Reclamation and Enforcement, Department of the Interior (Parts 700—999)

701 Authority citation revised 58491
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773 Authority citation revised 58491
773.15 (b)(4) and (c)(13) added 58491
785 Authority citation revised 58491
785.25 Added 58491
816 Authority citation revised 58492
816.116 (c)(2) and (3) revised 58492
817 Authority citation revised 58492
817.116 (c)(2) and (3) revised 58492

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901 Decision 38675
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902 Decision 38482
902.10 (b) revised 54592
902.20 (b) revised 54593
904 Decision 38487
906 Decision 38491
906.10 (b) revised 54593
906.15 (s) added 64122
906.16 (g) removed; (h) added 64122
906.20 Revised 54593
906.25 Added 54593
913 Decision 38677
913.15 (r) added 35697
913.25 (f) added 35699
914 Decision 38680
914.15 (kkk) added 47695
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914.16 (bb) removed 56521
915 Decision 38496
916 Decision 38496
916.15 (p) added 58236
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117.317 (f) revised 66747
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76.235 Authority citation revised 46494
76.261 Authority citation revised 46494
76.300 Authority citation revised 46494
76.301 Amended; authority citation revised 46493
76.302 Authority citation revised 46494
76.303 Authority citation revised 46494
76.304 Authority citation revised 46494
76.400 Authority citation revised 46494
76.401 (d)(8) and authority citation revised 46493
76.500 Authority citation revised 46494
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76.677 Authority citation revised 46494
76.681 Authority citation revised 46494

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76.683 Authority citation revised 46494
76.700 Authority citation revised 46494
76.701 Authority citation revised 46494
76.702 Authority citation revised 46494
76.703 (a) and (b) removed; (c) redesignated as (h); new (a), new (b) and (c) through (g) added 41294
Authority citation revised 46494
76.704 Redesignated as 76.708 41295
Added 41296
Authority citation revised 46494
76.705 Redesignated as 76.709 41295
Authority citation revised 46494
76.706 Redesignated as 76.710 41295
76.707 Authority citation revised 46494
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76.709 Redesignated from 76.705 41295
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76.711 Added 41296
76.720 Authority citation revised 46494
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76.740 Authority citation revised 46494
76.760 Authority citation revised 46494
76.761 Authority citation revised 46494
76.770 Authority citation revised 46494
76.902 Authority citation revised 46494
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81 Authority citation revised 46494
81.1 Authority citation revised 46494
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81.24 (b)(1) and authority citation revised 46494
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81.31 Authority citation revised 46494
81.32 Authority citation revised 46495
81.33 Authority citation revised 46495
81.34 Authority citation revised 46495
81.37 (b) amended; authority citation revised 46494
81.43 (a) redesignated as (a)(1); (a)(2) added; authority citation revised 46494
81 Appendix amended 46495

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200 Revised 34802
201 Removed 34802
203 Removed 34802
205 Removed 34802
212 Removed 34802
218 Removed 50778
219 Removed 50778
221 Removed 50778
222 Revised 50778
223 Removed 50778
263 Technical correction 35111

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366 Authority citation revised 39221
366.5 Redesignated as 366.6; new 366.5 added 39221
366.6 Redesignated from 366.5 39221
366.60—366.63 (Subpart G) Added 39221
370 Revised 55766
371.1 Revised 58137
371.5 Added (OMB number) 58137

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667.1 (d)(1)(iii) revised 41296
668 Authority citation revised 61433
668.2 (b) amended 61809
668.3 OMB number 42408
668.7 Removed 61809
668.8 OMB number 42408
668.15 OMB number 42408
668.16 OMB number 42408
668.17 OMB number 42408
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668.19 Revised (OMB number pending) 61809
668.21 Heading revised 61810
668.22 OMB number 42408
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668.23 OMB number 42408
668.31—668.39 (Subpart C) Revised 61810
668.41 Heading and authority citation revised; (e) added (OMB numbers pending) 61433
(b) redesignated as (c); (a)(3) and new (b) added; new (c) revised (OMB number pending) 61787
668.46 Added (OMB number pending) 61787
668.48 Added (OMB numbers pending) 61434
668.49 Added (OMB number pending) 61788
668.85 (b)(1)(ii) and (3) revised 61773
668.86 (b)(1)(ii) and (3) revised 61773
668.90 (a)(1)(iii)(D) added; (a)(3)(iv) revised 61774
668.133 (b) revised (OMB number pending) 61813
668.141—668.156 (Subpart J) Added 61838
668.161 (b) revised 61813
668.163 (a)(2)(iii) added; (a)(3)(i)(A) revised 61813
668.164 (a)(2)(iii) revised (OMB number pending) 61814
668.165 (b)(1) revised; (e) added (OMB number pending) 61814
674.2 (a) and (b) amended 61814
674.5 (e) redesignated as (f) and revised; new (e) added 61814
674.16 (d) revised 61814
674.17 (a) removed; (b)(1)(i), (ii), (iii), (2), (3), (4) introductory text, (i), (ii) and (5) redesignated as (a) introductory text, (1), (2), (3), (b), (c), (d) introductory text, (1), (2) and (e) 61814
674.19 (e)(4)(v) revised (OMB number pending) 61814
674.31 (a)(1) revised (OMB number pending) 61814
674.33 Second (d)(3) and second (4) redesignated as (d)(6) and (7); (a)(2) and new (d)(6) amended 61814

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674.34 (e)(4), (6) introductory text, (ii) and (7) amended; (e)(5) revised 61815
674.47 (g) revised; (h) added (OMB number pending) 61815
675.2 (a) and (b) amended 61815
675.17 Removed 61815
675.19 (c)(3) revised (OMB number pending) 61815
675 Appendix B removed 61815
676.2 (a) and (b) amended 61815
676.17 Removed 61815
676.19 (c)(3) revised (OMB number pending) 61815
682.200 Amended 61756
682.201 (c)(1)(iii)(C) revised 61756
(b) introductory text, (1) through (6), (7)(i) through (vi), (iii)(A), (B) and (8) redesignated as (b)(1) introductory text, (i) through (vi), (vii)(A) through (F), (C)(*1*), (*2*) and (viii); new (b)(2) added; (b)(1)(viii) and (6) amended 61815
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682.209 (b) revised (OMB number pending) 61756
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682.402 (c)(3), (l)(1) and (2) revised; (l)(3) amended 61757
682.412 (c) revised (OMB number pending) 61757
682.600 Removed 61816
682.602 Removed 61816
682.603 (f)(4) added; (g) revised (OMB number pending) 61757
682.604 (e)(3) removed; (e)(4) redesignated as (e)(3); introductory text amended (OMB number pending) 61757
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682.607 (c) revised 61757
682.611 Added 61816
685.102 (b) amended 61793
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685.201 (a)(2) introductory text and (b) revised 61794
685.209 (a) and (b) revised; (c) removed; (d) redesignated as (c); new (c)(2) through (5) redesignated as (c)(4) through (7); new (c)(2) and new (3) added (OMB number pending) 61823
685.301 (a)(5) and (6) redesignated as (a)(6) and (7); new (a)(5) and (d) added (OMB number pending) 61794
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686.153 OMB number pending 61843
686.155 OMB number pending 61843
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690.73 Removed 61816
690.74 Removed 61816
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700 Added 47810

Chapter XI—National Institute for Literacy (Part 1100—1199)

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7.32 (c) added.....47703
7.33 (c) added; interim.....39258
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9.82 (d) amended.....55791
14.2 (c) removed; (d) through (i) redesignated as (c) through (h).....55791
20.1 (c) amended.....55791
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68 Revised.....35843

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242.25 (k)(15)(iii)(D) table amended; eff. 8-10-95 through 6-30-96.....40464
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251.56 (e) revised.....45294
251.57 (d) through (h) redesignated as (e) through (i); new (d) added.....45294
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291 Authority citation revised.....1716
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1220.42 Revised.....44639
1222 Heading revised.....44639
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1222.30 (b) revised.....44640
1222.32 Introductory text revised.....44640
1222.34 (d) redesignated as (f); new (d), (e) and (g) added.....44640
1222.50 (b)(3) through (8) redesignated as (b)(4) through (9); (a), (b)(2), new (4), new (6) and new (8) revised; new (b)(3) added.....44640
1228 Authority citation revised.....44640
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1234.26 Redesignated as 1234.28; new 1234.26 redesignated from 1234.24.....44641
1234.28 Redesignated as 1234.30; new 1234.28 redesignated from 1234.26.....44641
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1253.4 Revised; interim.....40417
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1253.5 Revised; interim.....40417
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1253.6 Revised; interim.....40417
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1410 Added.....45339
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1 Technical correction 36462, 44120
1.16 (a), (b), (d) and (f) through (i) revised 41022
1.17 (b) through (g), (j), (m) through (p), (r) and (s) revised 41022
1.18 Revised 41022
1.19 (a)(1)(ii), (iii), (b)(1)(i) and (ii) revised 41022
1.20 (c), (e), (f), (g), (i)(1), (2) and (j) revised 41022
1.21 (a)(1) revised 41022
1.445 (a) revised 41023
1.462 (a)(1) and (2)(ii) revised 41023
1.492 (a), (b) and (d) revised 41023
2 Technical correction 44120
2.6 (b)(1)(ii), (iii), (2)(i) and (ii) revised 41023
3 Technical correction 36462
7 Technical correction 44120
7.1 Revised 41023
10.155 (a) revised 64126

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201 Authority citation revised 50420, 57937
201.11 (c)(4) added; (g)(3)(i) amended; (g)(3)(iii) introductory text revised 57937
201.17 (c)(4) added; (j)(3)(i) amended; (j)(3)(iii) introductory text revised 57938
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201.33 Added 50420
202 Authority citation revised 50422
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401.16 Redesignated as 401.17; new 401.16 added; interim 41812
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1 Authority citation revised 48387, 63929
Authority citation amended 53276
1.460 Added 63929
1.460—1.469 Undesignated center heading added 63929
1.461 Added 63931
1.462 Added 63932
1.463 Added 63932
1.464 Added 63932
1.465 Added 63932
1.466 Added 63933
1.467 Added 63933
1.468 Added 63933
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1.475 Added 63933
1.475—1.479 Undesignated center heading added 63933
1.476 Added 63934
1.477 Added 63934
1.478 Added 63934
1.479 Added 63934
1.485 Added 63935
1.485—1.489 Undesignated center heading added 63935
1.486 Added 63935

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1.487 Added 63935
1.488 Added 63935
1.489 Added 63936
1.490 Added 63936
1.490—1.496 Undesignated center heading added 63936
1.491 Added 63936
1.492 Added 63936
1.493 Added 63936
1.494 Added 63937
1.495 Added 63937
1.496 Added 63938
1.513 (b)(2) amended 63938
1.513a Removed 63938
1.564a Reinstated; CFR correction 57684
1.555 Reinstated; CFR correction 57684
1.556 Reinstated; CFR correction 57684
1.557 Reinstated; CFR correction 57684
1.558 Reinstated; CFR correction 57684
1.559 Reinstated; CFR correction 57684
1.575 Reinstated; CFR correction 57684
1.576 Reinstated; CFR correction 57684
1.577 Reinstated; CFR correction 57684
1.578 Reinstated; CFR correction 57684
1.579 Reinstated; CFR correction 57684
1.580 Reinstated; CFR correction 57684
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1.582 Reinstated; CFR correction 57684
1.583 Reinstated; CFR correction 57684
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1.601 Reinstated; CFR correction 57684
1.602 Reinstated; CFR correction 57684
1.700 Revised 48387
1.701 Revised 48388
1.702 (b), (c), (d) and (h) amended 48388
1.703 Revised 48388
1.705 (a), (c) and (e) amended 48388
1.770—1.776 Undesignated center heading removed 48029
1.770 Removed 48029
1.771 Removed 48029
1.772 Removed 48029
1.773 Removed 48029
1.774 Removed 48029
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1.776 Removed 48029
1.783 (l)(1)(i) and (ii) amended 48029
1.955—1.970 Authority citation revised 53276
1.955 (a)(1) amended 53276
1.956 (a)(3) revised 53276
1.957 (a)(1)(iv) removed 53276
1.963a Revised 53276
1.967 (c) revised 53276
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2.5 (b) amended 48029
2.62 Removed 48029
2.63 Removed 48029
2.63a Removed 48029
2.64 Removed 48029
2.65 Removed 48029
2.65a Removed 48029
2.100 Regulation at 60 FR 5852 confirmed 55996
2.101 Regulation at 60 FR 5852 confirmed 55996
3.6 (a) amended; (b)(5), (6) and (c)(5) redesignated as (b)(6), (7) and (c)(6); new (b)(5) and new (c)(5) added 57179
3.55 (a)(2) introductory text amended 52863
3.202 Regulation at 59 FR 46338 confirmed 46533
3.204 Regulation at 59 FR 46338 confirmed 46533
3.205 Regulation at 59 FR 46338 confirmed 46533
3.207 Regulation at 59 FR 46338 confirmed 46533
3.209 Regulation at 59 FR 46338 confirmed 46533
3.210 Regulation at 59 FR 46338 confirmed 46533
3.211 Regulation at 59 FR 46338 confirmed 46533
3.256 Revised 51922
3.277 Heading, (b) and (c) revised; (d) added 51922

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TITLE 38 Chapter I—Con.

3.311 (b)(2)(xix) and (xx) amended; (b)(2)(xxi) and (xxii) added 53277
3.326 Revised; interim 52864
3.353 (b) revised 55792
3.400 (u)(3), (4), (v) heading, (3), (4) and (w) amended 52863
4 Authority citation revised 49227
4.88a Regulation at 59 FR 60902 confirmed 37013
4.88b Regulation at 59 FR 60902 confirmed 37013
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20.900 (c) amended; authority citation revised 51923
21.4800—21.4856 (Subpart F-3) Regulation at 60 FR 5852 confirmed 55996
21.4832 Second (b)(1) redesignated as (c)(1); (c) introductory text added 55996
21.5001—21.5300 (Subpart G) Authority citation revised 1526
21.5021 (d) revised; (y) added 1526
21.5150 Introductory text revised 1526
21.5200 (a) revised 1526
21.5250 (a) introductory text and (b) revised 1526
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(b)(2)(ii)(B) corrected 54435
21.5822 (b)(1)(i), (ii), (2)(i) and (ii) revised 46535
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36.4212 Revised 38257
36.4223 (a)(4) revised 38258
36.4231 (b) revised 38259
36.4232 (a)(2), (5), (6) and (7) amended; (a)(8) added; (e)(1) revised 38259
36.4254 (a)(7) redesignated as (a)(8); new (a)(7) and (8) authority citation added; (d)(1) revised 38259
36.4300—36.4375 Authority citation revised 38259
36.4302 (c) through (j) redesignated as (d) through (j) and (l); (a)(4), (b), new (e), new (j)(2), new (3) and(4) revised; new (c) and (k) added 38259
36.4306a (a) introductory text and (3) revised 38260
36.4311 Revised 38260
36.4312 (d)(1)(viii) redesignated as (d)(1)(ix); new (d)(1)(viii) and (e) introductory text added; (d)(7)(iv) authority citation revised; (e)(1) revised; (e)(3) amended 38261
36.4320 (a)(1)(ii)(B) revised 38262
36.4336 (a)(2)(i) revised; (a)(4) added 38262

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TITLE 39—POSTAL SERVICE

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111 DMM amended; incorporation by reference 34854, 43005, 49758
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224.1 (a) and (f) amended 57344
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261.2 (b) amended 57344
261.4 (a) revised 57344
262.2 (b) and (c) amended 57344
262.4 (a) and (b) amended 57344
262.5 (d)(2) amended 57344
263.3 (a) amended 57344
263.5 Amended 57344
263.6 Added 57344
264.3 (a) and (b) revised 57344
264.4 Amended 57344
265.3 (b) revised 57344
265.4 Revised 57345
265.6 (a)(2), (b) introductory text and (d)(3)(i) amended 57345
265.7 (a)(2), (b)(1) and (4) amended 57345
265.9 (b)(2)(ii) and (g)(4) amended 57345
265.10 Amended 57345
265.11 Heading revised; (b) and (c) removed 36712

NOTE: Boldface page numbers indicate 1995 changes.

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(a)(4)(ii) amended 57345
265.12 (b)(7) amended 57345
265.13 Added 36712
266.3 (a) and (c) revised 57345
266.5 (d) amended 57345
266.6 (a)(1) and (d) amended 57345
266.7 (a)(4) amended; (c) removed 57345
266.10 (a), (b), (c), (d) introductory text and (2) amended 57345
267.3 (a) revised 57345
267.5 (c)(1) introductory text, (i), (ii) and (vi) revised 57345
(c)(2)(i), (3)(v) and (e)(3)(i) amended 57346
268 Authority citation revised 57346
268.1 (b) amended 57346
447 Authority citation revised 47243
Heading revised 47243
447.11—447.12 (Subpart A) Revised 47243
447.21 Removed; new 447.21 redesignated from 447.23; introductory text and (a) through (i) removed; (j) and (k) redesignated as (a) and (b); heading and new (a) revised; new (c) and new (d) through (g) redesignated from 447.25(a) and 447.25(c) through (f) 47244
447.22 Removed 47244
447.23 Redesignated as 447.21 47244
447.25 (b) removed; (a) and (c) through (f) redesignated as 447.21(c) and 447.21(d) through 447.21(g) 47244
447.26 Removed 47244
447.27 Removed 47244
447.31—447.34 (Subpart C) Heading revised 47244
447.31 Revised 47244
447.32 Removed; new 447.32 redesignated from 447.33 and revised 47244
447.33 Redesignated as 447.32 47244
447.34 Removed 47245
447.41 Removed; new 447.41 redesignated from 447.51 47245
447.42 Removed; new 447.42 redesignated from 447.52 47245
447.43 Redesignated from 447.53 and revised 47245
447.51—447.52 (Subpart E) Heading redesignated as 447.41—447.43 (Subpart D) heading 47245
Heading redesignated from 447.61—447.62 (Subpart F) heading 47245
447.51 Redesignated as 447.41; new 447.51 redesignated from 447.51 47245
447.52 Redesignated as 447.42; new 447.52 redesignated from 447.62; (d)(2) revised 47245
447.53 Redesignated as 447.43 47245
447.61—447.62 (Subpart F) Heading redesignated as 447.51—447.52 (Subpart E) heading 47245
447.61 (Subpart F) Redesignated as 447.51; new 447.61 redesignated from 447.71 47245
Heading redesignated from 447.71 (Subpart G) heading 47245
447.62 Redesignated as 447.52 47245
447.71 Redesignated as 447.61 47245
447.81 (Subpart H) Removed 47245
447.91 (Subpart I) Removed 47245
955 Authority citation revised 57938
955.1 (a) and (b)(2) amended; (b)(1) and (d)(5) revised 57938
955.9 Amended 57938
955.13 Removed 57938
Redesignated from 955.36; (b)(1), (2), (c)(2)(ii), (4) and (d)(3) amended; (c)(1), (d)(1) and (e) revised; (f) added 57939
955.18 Amended 57938
955.35 Removed 57938
Redesignated from 955.37; (a) introductory text revised 57939
955.36 Redesignated as 955.13; new 955.36 added 57939
955.37 Redesignated as 955.35 57939

Proposed Rules:

111 ..... 36179, 36376, 39080, 45298, 49357, 66582
955 47514
3001 ..... 54981, 65051

TITLE 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency (Parts 1—799)

9 Technical correction 35452
9.1 Table amended (OMB numbers) 34598, 40496, 42792, 43258, 43886, 48399, 62935, 63431

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Table amended 45956
Regulation at 59 FR 62923 eff. date delayed to 6-6-96 56952
51 Authority citation revised 40100
51.112 (a)(1) and (2) amended 40468
51.160 (f)(1) and (2) amended 40468
51.166 (l)(1) and (2) amended 40468
51.350 (a)(4), (6), (7), (8), (9) and (b)(4) revised; (a)(5) removed 48034
51.351 (a) introductory text and (b) revised; (e) removed; (f) and (g) added 48035
51.360 Introductory text, (a)(1), (5), (6), (7) introductory text, (9) and (b) revised 48036
51.372 (c) introductory text, (3), (4) and (e) revised 48036
51.392 Amended 57184
51.394 (b)(3)(i) revised; interim 44763
(b)(3)(i) revised; (d) added 57184
51.396 (a) amended 57184
51.420 Revised 57185
51.422 (a) amended; (d) added 57185
51.428 (b)(1)(ii) revised 57185
51.448 (a)(3), (b)(1) introductory text and (d)(3) revised; (g)(1) and (2) removed; (b)(2), (c)(2) and (g)(3) redesignated as (b)(3), (c)(3) and (g)(1); new (b)(2) and (c)(2) added 40100
(g) removed; (h) and (i) redesignated as (g) and (h); (a) through (d) and new (g) revised 57185
51.452 (b)(5) redesignated (a)(6); (c)(1) amended 57186
51 Appendix W amended 40468, 40469, 40470, 40471
52 State implementation plan determinations; interim 34866, 36225, 55314, 55459, 63940
State implementation plan determinations 1718, 1720
52.21 (l)(1) and (2) amended 40474
52.70 (c)(20) added 46024
(c)(24) added 49767
(c)(22) added 54439
52.82 Added 47280
52.120 (c)(70) and (78) added 46025
52.220 (c)(217)(i)(B) added 36069
(c)(215)(i)(A)(*3*), (219), (220) and (222) added 36230
(c)(214)(i)(B), (215)(i)(A)(*2*) and (B) added 40286
(c)(223) added 43017
(c)(204) added 43383
(c)(207)(i)(B) and (C) added 43386
(c)(194)(i)(A)(*3*), (196)(i)(B) and (202)(i)(E) added 43714
(c)(198)(i)(H)(*1*) added 46222
(c)(188)(i)(D)(*3*), (198)(i)(C)(*3*), (202)(i)(C)(*2*), (206)(i)(A)(*2*) and (210)(i)(B) added 46536
(c)(198)(ii) removed 47076
(c)(222)(i)(B) added 47275
(c)(183)(i)(A)(*13*) added 49512
(c)(193)(i)(B), (199)(i)(B), (202)(i)(D) and (207)(i)(D) added 49775
(c)(198)(i)(F) added 54597
(c)(225) added 55314
(c)(204)(i)(A)(*5*) added 64127
(c)(224)(i)(A)(*1*) added 1718
52.222 Added 47076
52.322 Added 52315
52.326 Added 40291
52.370 (c)(68) added 47081
(c)(69) added 55320
52.376 Added 55320
52.420 (c)(53) added 38712
(c)(54) added 2422
52.423 Added 1841
52.430 Added 47084
52.470 (c)(34) added 44434
(c)(36) added 2936
52.472 (e) removed 2936
52.474 Added 2936
52.480 Added 47084
52.520 (c)(89) added 62753
52.570 (c)(46) added 45051
(c)(48) added 66150
52.720 (c)(111) added 36063
(c)(112) added 36065
(c)(114) added 49772
(c)(113) added 49780
(c)(116) added 54806
(c)(115) added 54806
(c)(117) added 56240
(c)(102) added 2427
52.726 (j) added 48899
(k) added 2437
52.741 (u)(8) added; (z)(1) removed 43387
(e)(10) added; (z)(4) removed 43393
(x)(14) added 43395
(a)(2) revised 2428
52.770 (c)(96) added 34859
(c)(97) and (98) added 43012
52.777 (h) added 38722
(i) added 2437
52.788 Added 43012

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52.820 (c)(61) removed 45055
(c)(62) added 55199
52.870 (c)(30) added 36364
52.872 Added 36364
52.920 (c)(72) added 38707
(c)(76) added 47094
(c)(81) added 49778
52.930 Regulation at 60 FR 32469 withdrawn 40101
52.970 (c)(66) added 54308
52.975 Added 43025
Existing text redesignated as (a); (b) added 47285
(c) added 51360
52.992 (b) added 2438
52.1020 (c)(40) added 45059
(c)(38) added 47288
(c)(41) added 66755
52.1023 (c) added 66755
52.1031 Table amended 45059, 66755
52.1070 (c)(117) added 55326
(c)(118) added 2936
52.1075 Added 55326
Existing text designated as (a); (b) added 2937
52.1080 Added 47084
52.1120 (c)(108) added 65242
(c)(107) added 2923
52.1132 Added 2923
52.1167 Table amended 65242
52.1170 (c)(99) added 54310
52.1174 (k) removed 37013
(k) added 37370
(l) added 2438
52.1320 (c)(89) added 39855
(c)(88) added 49342
(c)(42) added 55798
52.1323 (i) added 49343
52.1370 (c)(39) added 36721
(c)(41) added 45054
52.1384 (a) removed; (c) added 36722
52.1386 Removed 36722
52.1519 (c)(3) added 47290
52.1570 (c)(57) added 62746
52.1582 (d) added 51354
(d) redesignated as (d)(1); (d)(2) added 62746
52.1620 (c)(59) added 56244
52.1770 (c)(83) added 34866
(c)(74) added 38710
(c)(70) added 38718
(c)(82) added 39262
(c)(81) added 46021
(c)(86) added 51924
52.1782 Regulation at 60 FR 32469 withdrawn 40101
52.1820 (c)(26) added 43401
(c)(27) added 55798
52.1834 Added 43401
52.1870 (c)(105) added 39122
(c)(106) added 54949
(c)(98) added 55201
52.1879 (e) added 36060
52.1885 (x) added 36060
(b)(5) added 39122
(w) removed 44278
(v) added 62741
(b)(7) and (8) added 3326
52.1888 Revised 55202
52.1889 Added 42045
52.1919 (a)(2) removed 55202
52.1970 (c)(111) added 37015
(c)(112) added 46029
52.2020 (c)(98) added 40294
(c)(101) added 40760
(c)(99) added 43015
(c)(102) added 46770
(c)(102)(i)(B)(*8*) removed 55792
(c)(106) added 63939
(c)(105) added 2930
52.2023 (j) added 47085
52.2026 Removed 47085
52.2035 Added 47084
52.2036 Added 2931
52.2037 (b) added 37018
52.2120 (c)(40) added 63437
52.2170 (c)(16) added 46227
52.2184 Added 46228
52.2220 (c)(126) added 38700
(c)(130) added 38715
(c)(131) added 47087
(c)(132) added 66748
(c)(127) added 3319
52.2235 (b) added 38700, 47290
Regulation at 60 FR 32469 withdrawn 40101
Added 40292
52.2236 Added 43020
52.2270 (c)(97) added 49788
(c)(96) added 56246
52.2320 (c)(31) added 55798
52.2332 Regulation at 60 FR 30192 withdrawn 36722
Added 36729
52.2420 (c)(105) added 43717
(c)(106) added 49769
(c)(104) added 50105
(c)(106) removed 62990
(c)(107) added 2937
52.2423 (m) and (n) added 43717
52.2425 Added 2937
52.2426 Added 47084

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52.2450 Added 45056
52.2470 (c)(55) added 43713
(c)(56) added 54441
(c)(57) added 54604
(c)(58) added 54814
52.2472 Added 47280
52.2520 (c)(34) added 39857
(c)(36) added 39861
(c)(37) added 46030
52.2531 Added 39862
52.2570 (c)(82) added 38724
52.2585 (h) added 47089
(i) added 2438
52.2620 (c)(22) added 47292
(c)(26) added 55798
55.14 (e)(3)(ii)(F), (G) and (H) revised 47293
(e)(6)(i)(A) revised 55327
55 Appendix A amended 47293, 55328
58.1 (aa) through (ii) added 52319
58 Appendix A amended 52320
Appendix B amended 52321
Appendix D amended 52323
Appendix E amended 52324
60 Technical correction 35452
Authority delegation notices 52329, 52331
Notice 64329
Authority citation revised 65384
60.17 (a)(63) added 47096
(h)(1), (2) and (3) revised 65384, 65414
60.23 (a)(1) revised 65414
60.24 (f) introductory text revised 65414
60.30 Revised 65414
60.30a—60.39a (Subpart Ca) Removed 65414
60.30b—60.32b (Subpart Cb) Redesignated as 60.30d—60.32d (Subpart Cd); new 60.30b—60.39b (Subpart Cb) added 65414
60.30d—60.32d (Subpart Cd) Redesignated from 60.30b—60.32b (Subpart Cb) and revised 65414
60.50a (a) and (c) through (f) revised; (g) removed; (h) and (i) redesignated as (l) and (m); new (g), new (h), new (i), (j) and (k) added 65384
60.50a—60.59a (Subpart Ea) Heading revised 65384
60.50b—60.59b (Subpart Eb) Added 65419
60.51a Amended 65384
60.56a (a) Table 1 amended; (d) revised; (f)(9) removed 65386
60.58a (h)(1), (2), (6)(i), (ii), (10) and (j)(4) revised; (h)(6)(iii) redesignated as (h)(6)(v); new (h)(6)(iii) and new (iv) added; (j)(3) removed 65387
60.59a (a)(1), (b)(14), (15) and (m) removed; (e) amended 65387
60.481 Amended 43258
60.482–5 Revised 43258
60.482–10 (f) and (g) revised; (h) through (l) added 43258
60.665 (l)(5) and (6) amended 58238
60.667 Table amended 58237
60.691 Amended 43259
60.692–3 (d) revised 43259
60.693–2 (a)(1)(i) introductory text and (A) revised 43259
60.695 (a)(3)(i) and (ii) added 43259
60.697 (f)(3)(i) and (ii) revised; (f)(3)(x)(A) and (B) added 43259
60.698 (d)(3)(i) and (ii) added 43260
60.700 (c)(2), (3) and (4) amended 58238
60.704 (e)(1) introductory text, (f)(1) and (h)(3) amended 58238
60.705 (l)(1), (4), (5) and (8) amended 58238
60.707 Table amended 58238
60 Appendix A amended 47096
Regulation at 59 FR 62926 eff. date delayed to 6–6–96 56952
61 Clarification 38725, 65243
Authority delegation notices 39264, 52329, 52331
61.04 (c) table revised 43401
Corrected 50244
61.100 Revised 46212
61.107 (c)(1) removed; (c)(2) and (3) redesignated as (c)(1) and (2) 46212
61.109 Removed 46212
62.11601 (c) removed; (g) added 50105
62.11602 Removed 50105
63 State operating permit program approvals 37825, 57834
63.14 (b)(7) added 45980
(b)(4) through (14) added 64336
63.100 (f)(1) revised; (k)(3) introductory text amended 63626
63.101 (b) amemded 63626
63.102 (c)(1) revised 63626
63.104 (b)(1)(i)(C) revised 63626
63.105 (a) amended 63626
63.111 Amended 63626

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63.138 (h) introductory text amended 63627
63.144 (b)(3) amended; (b)(5)(i)(B), (D) and (E) revised 63627
63.145 (c)(2)(ii)(E), (f) introductory text and (g) introductory text revised 63627
63.147 (b) revised 63628
63.148 (j) introductory text revised 63628
63.150 (g)(5)(i) introductory text, (k) introductory text and (l) introductory text revised 63628
63.151 (a)(2) and (6)(ii) revised; (c) introductory text, (1)(i) and (ii) amended 63628
63.152 (c)(4) introductory text revised 63629
63.110—63.152 (Subpart G) Appendix amended 63629, 63630
63.175 (d)(4) introductory text revised 63631
63.182 (a)(6)(ii) and (d)(2)(vii) revised 63631
63.420 (i) added 43260
(j) added 62992
63.560—63.567 (Subpart Y) Added 48399
63.640—63.654 (Subpart CC) Added 43260
63.652 (g)(4)(vi)(B) corrected 49976
63.740—63.759 (Subpart GG) Added 45956
63.780—63.788 (Subpart II) Added 64336
63.800—63.819 (Subpart JJ) Added 62935
63 Appendix A amended 62952
69.11 (c) added 48038
70 State operating permit approvals 57186
70 Appendix A amended 35338, 36069, 36072, 39864, 40104, 42046, 45673, 46774, 47297, 49347, 50108, 52336, 53875, 55466, 57191, 57352, 57357, 57361, 57837, 62034, 62758, 62762, 62998, 63634
Appendix A amended 2722, 2939
75.18 (b)(2) revised; (b)(3) removed 40296
75.20 (f) revised 40296
75.41 (a)(1), (b)(1)(i), (2)(iv)(A), (C), (c)(1)(i), (ii) and (2)(ii) revised 40296
75.47 Revised 40297
75.48 Revised 40297
80.70 (j) introductory text revised 35491
80.75 (b)(2) heading and (ii)(D) through (G) revised; (b)(2)(ii)(H), (I) and (J) added 65574
80.91 (e)(7)(iv) added 40008
80.93 (b)(6) revised 65575
80.101 (b)(1)(v) added 40008
80.105 (a)(4) revised 65575
81 Attainment status determinations 47097
81.302 Amended 55798
81.303 Amended 55798
81.305 Amended 55798
81.306 Amended 55798
81.307 Table revised 55320
Amended 55798
81.309 Table amended 2937
81.310 Table amended 62753
81.313 Amended 55798
81.314 Amended 55798
81.315 Amended 55798
81.318 Table amended 47094, 48654
81.319 Table amended 43026, 47285, 51360
81.320 Table amended 45060
Amended 55798
81.321 Table amended 55326
Table amended 2937
81.322 Table amended 2923
81.323 Table amended 40300
Regulation at 60 FR 40300 withdrawn 51360
Amended 55798
81.324 Table corrected 34461
81.327 Amended 55798
81.329 Amended 55798
81.331 Table amended 62747
Table removed 2939
81.332 Table amended 52336
Amended 55798
81.333 Table removed 2939
81.334 Table amended 34867, 39262
81.335 Amended 55799
81.336 Table amended 39122
Amended 55798
Table amended 3326
81.338 Table amended 50425
Amended 55798
81.339 Amended 55798
Table amended 2931
81.342 Amended 55800
81.343 Table amended 43020
81.344 Amended 55798
81.345 Table amended 38729

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Amended 55798, 55800
81.347 Table amended 54311
Table amended 2937
81.348 Table amended 50425
Amended 55798
81.349 Table amended 39862
Amended 55798
81.350 Amended 47487
81.351 Table amended 47299
Amended 55798, 55800
81.355 Amended 55798
Table removed 2939
81.356 Table removed 2939
82 Acceptable substitutes listing 38729
82.13 (g)(2)(viii) stayed; eff. 1-31-96 to 4-30-96 3318
82.1—82.13 (Subpart A) Appendix I added 1285
82.152 Amended 40439
82.156 (a)(2)(i)(A), (B) and (i) revised; (a)(2)(i)(C) added 40440
82.166 (n) through (q) added 40443
86.1 (b)(4) added 43887
86.078-7 Removed 43886
86.081-8 Removed 43886
86.082-8 Removed 43886
86.082-14 Removed 43886
86.083-30 Removed 43886
86.084-5 Removed 43886
86.084-14 Removed 43886
86.084-15 Removed 43886
86.084-26 Removed 43886
86.085-8 Removed 43886
86.085-9 Removed 43886
86.085-10 Removed 43886
86.085-11 Removed 43886
86.085-21 Removed 43886
86.085-22 Removed 43886
86.085-23 Removed 43886
86.085-24 Removed 43886
86.085-25 Removed 43886
86.085-27 Removed 43886
86.085-28 Removed 43886
86.085-29 Removed 43886
86.085-30 Removed 43886
86.085-35 Removed 43886
86.085-38 Removed 43886
86.087-8 Removed 43886
86.087-9 Removed 43886
86.087-10 Removed 43886
86.087-21 Removed 43886
86.087-23 Removed 43886
86.087-25 Removed 43886
86.087-28 Removed 43886
86.087-29 Removed 43886
86.087-30 Removed 43886
86.087-35 Removed 43886
86.088-9 Removed 43886
86.088-11 Removed 43886
86.088-21 Removed 43886
86.088-23 Removed 43886
86.088-25 Removed 43886
86.088-28 Removed 43886
86.088-29 Removed 43886
86.088-30 Removed 43886
86.088-35 Removed 43886
86.090-7 Removed 43886
86.090-10 Removed 43886
86.090-11 Removed 43886
86.090-15 Removed 43886
86.090-23 Removed 43886
86.090-28 Removed 43886
86.090-29 Removed 43886
86.090-30 Removed 43886
86.090-35 Removed 43886
86.094-2 Amended 40496
86.094-14 (a) redesignated as (a)(1); (a)(2) added 127
86.094-17 (j) revised 37945
(d) revised 39266
86.094-38 Added 40496
86.096-7 OMB number 43880
86.096-8 OMB number 43880
(b) introductory text revised; (b)(5)(iv) added 43887
86.096-9 OMB number 43880
(b) introductory text and (c) through (k) revised; (b)(5)(iv) added 43887
86.096-10 OMB number 43880
(b) introductory text revised; (b)(5)(iv) added 43887
86.096-11 (b)(5)(i) revised 43887
86.096-14 OMB number 43880
86.096-21 OMB number 43880
86.096-23 OMB number 43880
86.096-26 OMB number 43880
86.096-30 OMB number 43880
86.096-35 OMB number 43880
86.097-9 OMB number 43880
86.098-7 (h)(1) through (5) added 43888
86.098-11 (b)(3)(iii)(A) revised 43888
86.098-23 OMB number 43880
86.098-26 (a)(3)(i)(B) through (ii)(B) removed; (a)(3)(i)(D) through (ii)(B) added 43888
86.099-8 OMB number 43880
(b) introductory text revised 43888
86.099-9 OMB number 43880
(b) introductory text revised 43888

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86.099-10 OMB number 43880
(b) introductory text revised 43888
86.099-11 (b)(3)(iii)(A) revised 43888
86.106-82 Removed 43886
86.106-96 (a) introductory text revised 43888
86.107-96 (a)(1) introductory text, (ii)(A), (B), (2), (3)(i), (ii), (c)(1), (d), (e) and (f) revised 43888
86.107-98 (e)(1) revised 43890
86.109-82 Removed 43886
86.110-82 Removed 43886
86.111-82 Removed 43886
86.112-82 Removed 43886
86.116-82 Removed 43886
86.117-96 Introductory text, (a)(1)(ii), (iii), (7), (b), (c) heading, (1) introductory text, (iv), (v), (vii), (d)(1) introductory text and equation, (v) and (e)(1)(iii) revised; (d)(1)(iii) and (iv) removed; (d)(3) added 43890
86.119-78 Removed 43886
86.126-78 Removed 43886
86.129-94 (d)(1), (2)(iii), (3)(ii), (4)(i), (ii), (iii), (7)(iii) and (iv) revised; (d)(7)(v) added 43891
86.130-96 (e) added; figure revised 43893
86.131-96 (d) revised 43895
86.132-96 (c), (f), (h) introductory text, (1)(i), (2), (j) introductory text, (j)(1) introductory text, (i) and (vi) revised 43895
86.133-96 (c), (h) and (i)(5) revised 43896
86.134-96 (a), (f), (g)(1)(v), (vii), (viii), (xii) introductory text, (A), (xiv), (xv), (xvi), (2)(v), (vii), (x) and (xii) revised; (g)(1)(xx)(C) and (2)(xv) added 43896
86.138-90 (b) revised 43897
86.138-96 (a)(2), (b)(2)(v)(A) and (viii) revised 43897
86.139-82 Removed 43886
86.142-82 Removed 43886
86.143-96 (b)(1)(i) introductory text and equation, (D), (2)(i)(B) and (ii)(B) revised; (b)(1)(iii) added; (b)(1)(i)(C) and (E) removed 43897
86.144-78 Removed 43886
86.146-96 (f), (i)(1) and (2) revised 43898
86.152-98 (a) revised 43898
86.153-98 (a) and (c)(2) revised 43898
86.154-98 (e)(3) revised 43898
86.401-78 Removed 43886
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86.513-82 Removed 43887
86.516-78 Removed 43887
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86.526-78 Removed 43887
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86.540-78 Removed 43887
86.542-78 Removed 43887
86.544-78 Removed 43887
86.606-90 (a)(2)(ii) revised 43898
86.606-96 (a)(2)(ii) revised 43898
86.1207-96 (a)(1) introductory text, (ii)(A), (B), (2), (3)(i), (ii), (c)(1), (d), (e) and (f) revised 43898
86.1217-96 Introductory text, (a)(1)(ii), (iii), (7), (b), (c) heading, (1) introductory text, (v), (vii), (d)(1) introductory text and equation, (v) and (e)(1)(iii) revised; (c)(1)(iv), (d)(1)(iii) and (iv) removed; (d)(1)(xiii), (xiv) and (3) added 43900
86.1229-85 (d)(1), (2)(iii), (3)(ii), (iii), (4)(i), (ii), (iii), (7)(iii) and (iv) revised; (d)(7)(v) added 43901
86.1230-96 (e) added; figure revised 43902
86.1231-96 (d) revised 43904
86.1232-96 (c), (f), (h) introductory text, (1)(i), (2), (j) introductory text, (1) introductory text, (i) and (vi) revised 43904
86.1233-96 (c), (h) and (i)(5) revised 43905
86.1234-96 (a), (f), (g)(1)(v), (vii), (viii), (xii) introductory text, (A), (xiv), (xv), (xvi), (2)(v), (vii), (x) and (xii) revised; (g)(1)(xx)(C) and (2)(xv) added 43905
86.1238-90 (i) revised 43906

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86.1238–96 (a)(2), (b)(2)(v)(A) and (viii) revised 43906
86.1243–96 (b)(1)(i) introductory text and equation, (D), (2)(i)(B) and (ii)(B) revised; (b)(1)(iii) added; (b)(1)(i)(C) and (E) removed 43906
86.1246–96 (f), (i)(1) and (2) revised 43906
86.1309–84 Removed 43887
86.1310–84 Removed 43887
86.1310–88 Removed 43887
86.1311–84 Removed 43887
86.1311–94 (b)(2)(iii) redesignated as (b)(3) 127
86.1335–84 Removed 43887
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86.1342–84 Removed 43887
86.1344–84 Removed 43887
86.1344–88 Removed 43887
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86.1506–84 Removed 43887
86.1513–84 Removed 43887
86.1513–87 Removed 43887
88.104–94 (l) removed; undesignated center heading added 127
88.204–94 (c)(2) introductory text and (ii) revised 127
88.205–94 (d)(1), (3)(iii) and (g) revised 127
88.301–93—88.313–93 (Subpart C) Table C94–1.1 revised 128
88.306–94 (b)(3) revised 129
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88.312–93 (a)(1) and (c)(2)(ii) revised 128
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93 Authority citation revised 40100
93.101 Amended 57184
93.102 (b)(3)(i) revised; interim 44763
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93.114 Revised 57185
93.115 (a) amended; (d) added 57185
93.118 (b)(1)(ii) revised 57185
93.128 (a)(3), (b)(1) introductory text and (d)(3) revised; (g)(1) and (2) removed; (b)(2), (c)(2) and (g)(3) redesignated as (b)(3), (c)(3) and (g)(1); new (b)(2) and (c)(2) added 40100
(g) removed; (h) and (i) redesignated as (g) and (h); (a) through (d) and new (g) revised 57186
93.130 (b)(5) redesignated (a)(6); (c)(1) amended 57186
122.21 Regulation at 60 FR 17956 withdrawn 40230
(c)(1) amended 40235
122.26 Regulation at 60 FR 17956 withdrawn 40230
(a)(1) introductory text and (e)(1)(ii) amended; (a)(9) and (g) added; (e) heading revised 40235
124.31 Added 63431
124.32 Added 63432
124.33 Added 63432
124.52 Regulation at 60 FR 17957 withdrawn 40230
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125.104 (b)(4)(iii) amended 53875
131.36 (b)(1) table corrected 44120
136.3 (a) Tables IC and ID amended 39588
(b) amended 39590
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(a) Table IA revised; (b) amended 53542
(e) Table II amended 53543
140.4 (b)(1) introductory text redesignated as (b)(1)(i); (b)(1)(ii) added 63945
156 Policy statement 64282
180 Technical correction 52248
180.1 (h) table amended 42448
180.2 Revised 42460
180.184 (a) table amended 63950
180.186 Removed 49799
180.203 Removed 49799
180.204 (a) table amended 42447
(b) table amended 45065
180.232 Revised 34870
180.233 Removed 49799
180.247 Removed 49799
180.254 (c) introductory text amended 63438
180.260 Removed 49799
180.268 Revised 49799
180.280 Removed 49799
180.302 Removed 49799
180.308 Removed 49799
180.310 Removed 49799
180.319 Removed 49799
180.322 Removed 49799
180.327 Removed 49799
180.329 Removed 49800
180.336 Removed 49800
180.337 Revised 34871
180.342 (e) revised 3330

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180.351 Removed 49800
180.352 (b) revised 63954
180.361 (a) table amended 48660
180.364 (d) table amended 45064
180.376 Removed 34869
180.381 (a) introductory text and (b) revised 62331
180.400 Removed 49800
180.407 (b) introductory text and (c) introductory text amended 65577
180.408 (a) table amended 57364
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180.422 Table revised 49798
180.425 Table amended 54605
180.431 (a) table amended 63958
180.434 (a) table and (b) table amended 3328
180.435 Revised 42455
180.436 Existing text designated as (a); (b) added 34876
180.438 Table revised 34878
180.441 (c) revised 49790
180.443 (a) table, (b) table and (c) table revised 40503
180.449 (b) table amended 57365, 65578
180.458 Table amended 40505
180.459 Revised 36731
180.466 Table amended 49795
180.472 (a) table amended; (d) removed 45067
(e) added 45069
(e) existing text designated as (e)(1); new (e)(1) table revised; (e)(2) added 63956
180.473 (a) revised 63962
180.474 Table revised 40500
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180.482 Corrected 34874
180.483 Added 34873
180.484 Added 42458
180.485 Added 49796
180.486 Added 49792
180.487 Added 54610
180.900 Heading revised; (d) added 45069
180.1001 (d) table amended 35846, 38263, 54607, 63949
180.1015 Removed 42460
180.1027 Revised 42460
180.1033 Revised 42460
180.1068 Revised 34871
180.1082 Removed 35846
180.1100 Revised 48659
180.1115 Revised 37021
180.1117 Added 43719
180.1148 Added 42450
180.1149 Added 37020
180.1150 Added 34869
180.1151 Added 42453
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180.1153 Added 45062
180.1154 Added 47489
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180.1160 Added 2121
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185.1075 Added 40505
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185.1580 Revised 42455
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185.3765 Redesignated from 185.1310; heading revised; (c) added 34878
185.4150 Revised 42460
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185.5450 Revised 38265
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185.5900 Removed 2449
186.3300 Removed 49800
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186.3765 Revised 34878
186.5450 Added 38266
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195.20 Revised 41816
228.14 (h)(6) removed 2946
228.15 (h)(4) removed; (h)(5)(v) and (vi) revised 49230
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(h)(19) added 2946
258.1 (d)(3) and (e)(4) revised 52342
258.2 Amended 52342
258.50 (e) revised 52342
258.70 (b) revised 52342
258.74 (a)(3), (4), (6), (c)(3) and (d)(3) revised 40105
(a)(5) revised; (b)(1), (c)(1) and (d)(1) amended 52342
260 Technical correction 35452
260.11 Regulation at 59 FR 62924 eff. date delayed to 6–6–96 56952
261 Interpretation 41817
261 Appendix IX amended 54312, 54313
262 Technical correction 35452
262.34 Regulation at 59 FR 62926 eff. date delayed to 6–6–96 56952

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264 Technical correction 35452
264.13 Regulation at 59 FR 62926 eff. date delayed to 6–6–96 56952
264.15 Regulation at 59 FR 62926 eff. date delayed to 6–6–96 56952
264.73 Regulation at 59 FR 62926 eff. date delayed to 6–6–96 56952
264.77 Regulation at 59 FR 62926 eff. date delayed to 6–6–96 56952
264.179 Regulation at 59 FR 62926 eff. date delayed to 6–6–96 56952
264.200 Regulation at 59 FR 62926 eff. date delayed to 6–6–96 56952
264.232 Regulation at 59 FR 62926 eff. date delayed to 6–6–96 56952
264.314 (e)(2)(ii) amended; (e)(2)(iii) added 35705
264.601 Regulation at 59 FR 62927 eff. date delayed to 6–6–96 56952
264.1033 Regulation at 59 FR 62927 eff. date delayed to 6–6–96 56952
264.1080 (d) added 50428
(b)(1) and (c) revised 56953
264.1080—264.1091 (Subpart CC) Regulation at 59 FR 62927 eff. date delayed to 6–6–96 56952
264.1089 (i) added 50429
265 Technical correction 35452
265.1 Regulation at 59 FR 62934 eff. date delayed to 6–6–96 56952
265.13 Regulation at 59 FR 62934 eff. date delayed to 6–6–96 56952
265.15 Regulation at 59 FR 62934 eff. date delayed to 6–6–96 56952
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265.202 Regulation at 59 FR 62934 eff. date delayed to 6–6–96 56952
265.231 Regulation at 59 FR 62934 eff. date delayed to 6–6–96 56952
265.314 (f)(2)(ii) amended; (f)(2)(iii) added 35705
265.1033 Regulation at 59 FR 62934 eff. date delayed to 6–6–96 56952
265.1080 (d) added 50429
(b)(1) and (c) introductory text revised 56953
265.1080—265.1091 (Subpart CC) Regulation at 59 FR 62934 eff. date delayed to 6–6–96 56952
265.1082 (a) introductory text, (1), (2) introductory text, (iii) and (iv) revised 56954
265.1090 (i) added 50429
270 Technical correction 35452
270.2 Amended 63433
270.4 Regulation at 59 FR 62952 eff. date delayed to 6–6–96 56952
270.14 Regulation at 59 FR 62952 eff. date delayed to 6–6–96 56952
(b)(22) added 63433
270.15 Regulation at 59 FR 62952 eff. date delayed to 6–6–96 56952
270.16 Regulation at 59 FR 62952 eff. date delayed to 6–6–96 56952
270.17 Regulation at 59 FR 62952 eff. date delayed to 6–6–96 56952
270.27 Regulation at 59 FR 62952 eff. date delayed to 6–6–96 56952
270.30 (m) added 63433
270.61 (b)(5) introductory text amended 63433
270.62 (b)(6) through (10) redesignated as (b)(7) through (11); new (b)(6) added; (d) revised 63433
270.66 (d)(3), (4) and (5) redesignated as (d)(4), (5) and (6); new (d)(3) added 63433
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271 Technical correction 35452
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271.1 (j) table amended 35705
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(j) Tables 1 and 2 amended 56954
272.151 Revised 44279
272 Appendix A amended 44280
279.10 (b)(2) amended 55206
280 Authority citation revised 46711
280.200—280.230 (Subpart I) Added 46711
281 State underground storage tank program authorizations 34879
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281.39 Added 46715
282.53 Added 1214

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282.68 Added 1212
282.81 Added 1217
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282.93 Added 1212
282.94 Added 52344
282.95 Added 47301
282 Appendix A amended 47301, 52344
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300 Authority citation revised 58239
300 Appendix B amended 37828, 47490, 49231, 49347, 50115, 50430, 50431, 50439, 51927, 55466, 58239
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355 Appendixes A and B corrected 35998
372 Comment period extension 2722
372.65 (c) table amended 49804
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436.22 (a) corrected 35796
436.32 (a) corrected 35796
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436.122 (a) corrected 35796
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704.25 (g) revised 34463
704.30 (e) revised 34463
704.104 (g) revised 34463
707.20 (c)(3) revised 34463
707.65 (c) revised 34463
712.28 (c) revised 34463
712.30 (c) amended 34463
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716.30 (c) revised 34463
716.35 (c) revised 34463
716.60 (c) amended 34464
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716.120 (d) amended 34884
(a) table and (d) table amended 48662
717.17 (c) revised 34464
720.75 (b)(2) and (e)(1) amended 34464
720.95 Amended 34464
720.102 (d) revised 34464
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721.30 (b) introductory text revised 34464
721.185 (b)(1) amended 34464
721.562 Added 45080
721.639 Added 45080
721.1193 Added 45081
721.1643 Added 45081
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721.3760 Added 45082
721.4300 (a)(2)(iv)(A)(7) revised 34464
721.4463 Added 45082
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723.50 (n) revised 34465
723.175 (i)(3) revised 34465
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761.130 (e) amended 34465
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763.90 (i)(5) amended 34465
763.92 (a)(2)(ii) revised 34465
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790.50 (b)(1) revised 34466
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795.232 (c)(2)(i) amended 34466
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796.3500 (b)(2)(ii) amended 34467
799.5 Revised 34467
799.436 (d)(7)(i)(B) amended 34467
799.1285 (e)(1)(i) and (2)(i) amended 34467
799.1575 (c)(1)(ii)(C) and (2)(ii)(C) revised; (c)(3)(ii) and (d)(2) amended 34467
799.2155 (a)(1) amended 34467
799.2325 (c)(8)(ii)(A) and (d) revised 50434, 56956
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TITLE 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

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51-5.2 (b) and (c) revised; (d) and (e) removed; (f) redesignated as (d) 54200

Chapter 101—Federal Property Management Regulations (Parts 101-1—101-99)

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101-20.2 (d) added 2122
101-20.204 (c)(3) revised 2122
101-20.309 Revised 2122
101-37—101-41 (Subchapter G) Appendix amended 56248
101-41.203-1 Heading and (a) revised 56247
101-41.203-2 Revised 56247
101-47 Authority citation revised 35706
101-47.203-5 (b) and (c) revised 35706
101-47.204-1 (a) and (b) revised 35706
101-47.303-2 (d), (f) and (g) revised 35707
101-47.308-2 (a) revised 35707
101-47.308-10 Added 35707
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114-43 Removed 39864
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114-51.100 (Subpart 114-51.1) Appendix I removed 39864
114-60 Removed 39865

Chapter 132—Department of the Air Force (Parts 132-1—132-99)

Chapter 132 Removed; interim 57939

Chapter 201—Federal Information Resources Management Regulation (Parts 201-1—201-99)

201-1.003 (a) amended; (d) removed 13
201-2.001 Revised 13
201-2.002 (a), (b) and (c) redesignated as (c), (a) and (b) 13
201-2.003 (a) amended 13
201-3 Heading revised 13
201-3.000 Revised 13
201-3.001 Revised 13
201-3.101 Amended 13
201-3.201 (d) revised 13
201-3.203 (c) revised 13
201-3.204 (a) amended 14
201-3.300—201-3.302 (Subpart 201-3.3) Removed 14
201-4 Heading revised 14
201-4.000 Revised 14
201-4.001 Amended 14
201-4.002 Amended 14
201-4.003 Added 14
201-6.001 (a)(3) and (5) revised; (a)(6) added 14
201-6.002 (g) through (m) redesignated as (h) through (n); new (g) added 14
201-7.001 (b) amended 14
201-7.002 (c) revised 15
201-9.202-1 Revised 55661
201-17.001 (j) revised 15
201-18.001 (e) revised 15
201-18.002 (c) revised 15
201-20.001 (d) removed 15
201-20.102 Revised 15
201-20.103 Revised 15
201-20.103-7 (a) revised 15
201-20.202 Revised 15
201-20.203-2 Revised 15
201-20.303 (d)(2) revised 15
201-20.304 (a) revised; (b)(1) removed; (b)(2) redesignated as (b)(1); new (b)(2) added 15
201-20.305 (b)(5) added 16
(a)(3) and (5) revised 2724
201-20.305-1 (a)(1) introductory text and (3) introductory text revised 2724
201-20.305-3 Revised 16
201-21.201 (b) amended 16
201-21.301 (a) amended 16
201-21.303 (d) amended 16
201-21.401 (c) revised 16
201-21.403 (a)(2)(ii) amended 16
201-21.601 (c)(3) introductory text amended 16
201-21.603 (d)(1) and (2) revised; (d)(3) and (6) removed; (d)(4) and (5) redesignated as (d)(3) and (4) 16
201-21.604 Removed 16
201-22.303 Revised 16
201-24.001 (g) removed 16
201-24.102 (c)(2) revised 2724
201-39.001 Revised 16
201-39.100—201-39.106-4 (Subpart 201-39.1) Heading amended 16
201-39.201 Amended 17
201-39.1001-1 (i) amended 17
201-39.1402-2 (b) and (c) amended 17
201-39.1501-2 (b) and (c) amended 17
201-39.1700 Revised 56249
201-39.1702 Added 56249
201-39.1702-1 Added 56249
201-39.1702-2 Added 56249
201-39.4600—201-39.4601 (Subpart 201-39.46) Removed 17
201-39.5202-6 Removed 17

Chapter 301—Travel Allowances (Parts 301-1—301-99)

301-11.3 (c) amended 62333

Chapter 302—Relocation Allowances (Parts 302-1—302-99)

302-6.2 (g)(1) and (2) amended 49348

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50-201 46553
50-206 46553
51-5 38784
201-2 50516
201-3 50516

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201-9 50516
201-18 50516
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TITLE 42—PUBLIC HEALTH

Chapter IV—Health Care Financing Administration, Department of Health and Human Services (Parts 400—499)

Page

400.202 Amended 63175
400.310 Table amended (OMB numbers) 63188
405.465—405.482 (Subpart D) Removed 63175
405.500—405.535 (Subpart E) Authority citation revised 63175
Heading revised 63175
405.500 Added 63175
405.501 (c) and (d) removed; (e) and (f) redesignated as (c) and (d); new (c) and new (d) amended 63176
405.502 (a)(10) amended 63188
405.520 Removed 63176
405.521 Removed 63176
405.522 Removed 63176
405.523 Removed 63176
405.524 Removed 63176
405.525 Removed 63176
405.550—405.580 (Subpart F) Removed 63176
405.2400—405.2472 (Subpart X) Authority citation revised 63176
405.2400 Added 63176
405.2401 (b) amended 63176
405.2468 (b)(1) revised 63176
410.34 (a)(1), (2) and (d) revised 63176
411.15 (m)(2)(i) amended 63188
411.108 (a)(8) revised 53876
411.163 (b)(2) and (3) revised 53876
411.172 (b) revised 53877
411.360 (e) revised 63440
412.50 (a) and (b) amended 63188
412.71 (c)(1)(i) amended 63188
412.105 (g)(1)(i)(A) amended 63188
(d) correctly added 2725
413.5 (c)(9) amended 63189
413.13 (g)(1)(i) amended 63189
413.40 (g)(1) corrected 2725
413.80 (h) amended 63189
413.86 (b)(1) and (g)(1)(ii) amended 63189
413.174 (b)(4)(iv) amended 63189
414.2 Amended 63177
414.28 Amended 53877
(b) revised 63177
414.30 (b)(2) revised; (c) added 63177
414.32 (d)(2) revised 63177
414.46 (a)(1), (e) and (g) amended; (b), (c) and (d) revised 63177
414.58 (a) and (b) amended 63189
414.60 (a) amended 53877
Revised 63178
414.450—414.453 (Subpart H) Removed 63178
415 Added 63178
417.554 Amended 63189
424.57 (c) revised 63444
440.10 (a)(2) and (3)(iii) revised 61486
440.20 (a)(2) and (3)(ii) revised 61486
440.90 (c) removed 61486
440.165 (a)(1) and (c) removed; (a)(2) and (3) redesignated as (a)(1) and (2); (b)(4)(i) and (ii) revised 61486
486.304 (c)(1) amended 53877
489 Technical correction 52731
489.20 (d)(1) amended 63189
489.21 (f) amended 63189
489.53 Corrected 53456
498 Technical correction 52731

Chapter V—Office of Inspector General–Health Care, Department of Health and Human Services (Parts 1000—1999)

1001 Authority citation revised 2135
1001.952 (k)(1)(iii), (l) and (m) revised 2135
1003.100 (b)(1)(v) revised 58241
1003.102 (b)(7) revised 58241
1003.103 (d) revised 58241
1003.106 (a)(3) revised 58241
1004 Revised 63640
1004.110 (f) correctly revised 1841

Proposed Rules:

100 56289
413 62237
493 61509

TITLE 43—PUBLIC LANDS: INTERIOR

Subtitle A—Office of the Secretary of the Interior (Parts 1—199)

4.413 (c)(1) and (2) introductory text revised; (c)(2)(i), (ii), (iv), (v), (vi), (vii), (ix), (xi)

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TITLE 43 Subtitle A—Con.

and (xii) amended; (c)(2)(v)(A) and (B) added 58242
4.1109 (a) revised 58243
10 Added 62158
12 Clarification 57543

Chapter II—Bureau of Land Management, Department of the Interior (Parts 1000—9999)

2800 Note removed 57070
2800.0–5 (j) revised; (aa), (bb) and (cc) added 57070
2800.0–9 Added 57070
2801.1–1 (b) and (f) amended 57070
2803.1–2 (c)(3)(i), (ii), (4), (5) and (d) redesignated as (e)(1), (2), (f), (g) and (h); (b)(1)(i), (c)(1)(iv), (v) introductory text, (2) and new (e) revised; new (d) added 57070
2812.0–9 Added 57072
2880.0–9 Added 57072
6220 (Subchapter F) Removed 61487
Chapter II Appendix removed 2137

Public Land Orders

1703 Revoked in part by PLO 7173 57939
3398 Revoked in part by PLO 7164 52864
7155 Corrected 52731
7161 52631
7162 52631
7163 51734
7164 52864
7165 52864
7166 53131
7167 53131
7168 53131
7169 54814
7170 57192
7171 57192
7172 57192
7173 57939
7174 58521
7175 58521
7176 65582
7177 66150
7178 66151
7179 2137
7180 2138
7181 2138

Proposed Rules:

2810 ..... 57561, 66246
3160 58590
3170 56970
10010 2219

TITLE 44—EMERGENCY MANAGEMENT AND ASSISTANCE

Chapter I—Federal Emergency Management Agency (Parts 0—399)

64.6 Table amended 51361, 54613, 55330, 65583
65 Authority citation revised 62218
65.4 Table amended; interim 54036, 55468, 56250, 56252, 62336
Table amended 54039, 55470, 56253, 62333
65.17 Added 62218
67 Flood elevation determinations 54040, 55471, 56254, 62337

Proposed Rules:

61 56552
67 ..... 54051, 55525, 56300, 56307, 62369

TITLE 45—PUBLIC WELFARE

Subtitle A—Department of Health and Human Services, General Administration (Parts 1—199)

96.122 (g)(21) and (22) redesignated as (g)(22) and (23); (f)(6) and new (g)(21) added 1508
Corrected 2335
96.123 (a)(5) added 1508
96.130 Added 1508

Chapter XI—National Foundation on the Arts and the Humanities (Parts 1100—1199)

1180.5 (f) added 63964
1180.17 Revised 63964
1180.20 (f)(1) revised 63964
1180.35 Heading, (a) and (b) revised 63964
1180.40 Removed 63964
1180.41 Revised 63964
1180.45 (a) revised 63964
1180.48 Revised 63964
1180.49 Revised 63964
1180.50 Revised 63964
1180.58 Revised 63965

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1180.59 Revised 63965
1180.75 (d) revised 63965

Proposed Rules:

301 2774
302 2774
303 2774
304 2774
306 2774
307 2774
1305 54648

TITLE 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation (Parts 1—199)

1.01–10 (b)(1) introductory text, (ii)(B) and (C) corrected 54106
10 Authority citation revised 65483
10.103 Amended 65483
10.201 (b) revised; (h), (i) and (j) added 65484
10.205 (f)(2) revised; (d) added 65486
10.207 (h) and (i) added 65486
10.209 (i) and (j) added 65486
12 Authority citation revised 65487
12.01–6 Amended 65487
12.02–4 (a) revised; (b) removed; (c) redesignated as (b); new (c), (d) and (e) added 65487
12.02–9 (g) and (h) added 65489
16.205 Corrected 54106
16.207 (b) revised 67063
16.500 Corrected 54106
25.01–3 Corrected 54106
28.40 (b) revised 54444
28.50 Amended 54444
28.200—28.270 (Subpart C) Heading revised 54444
28.200 Revised 54444
28.800—28.905 (Subpart G) Added 54444
31.10–21 Corrected 54106
57.021–1 Corrected 54106
69.9 Corrected 54106
71.65–15 (a)(2) corrected 54106
90.05–20 Revised; interim 57640
90.10–40 (b) and (c) revised; interim 57640
90.30–10 Removed; interim 57640
90.35–5 Corrected 54106
98.31–5—98.31–15 (Subpart 98.31) Removed; interim 57640
110.10–1 Corrected 54106
114—122 (Subchapter K) Added; interim 885
125—134 (Subchapter L) Added; interim 57640
126.220 Corrected 1035
128.410 Correctly designated 1035
131.550 (a) corrected 1035
131.575 (a) corrected 1035
132.220 Table corrected 1035
153.7 (b)(4)(iii) corrected 54106
153.809 Corrected 54106
153.902 Corrected 54106
154.22 Corrected 54106
154.151 Corrected 54106
154.1803 Corrected 54106
160 Comment period extension 52631
160.010–4 Corrected 54106
160.060–1 Corrected 54106
161.010–1 Corrected 54106
170 Authority citation amended 943
170.001 (a) introductory text and (b) amended 943
170.055 (g) revised; interim 57671
(i)(1) amended; (w) added 943
170.105 (b)(1) removed; (b)(2) through (5) redesignated as (b)(1) through (4) 944
170.160—170.173 (Subpart E) Heading revised 944
170.160 (b)(1) removed; (b)(2), (3) and (4) redesignated as (b)(1), (2) and (3) 944
170.170 (a) amended; (d) revised 944
170.173 (b)(2) amended 944
170.200 (a)(2) amended 944
170.265 (c) amended; (d) introductory text and (2) revised 944
170.270 (e) revised 944
171 Authority citation revised 53713
Authority citation revised 944
171.15 (a) designation and (b) removed 945
171.001 (a) revised 944
171.010 (a), (d)(1) and (3) revised; (e) through (k), (l), (m) and (n) redesignated as (f) through (l), (n), (p) and (q); new (e), new (m) and (o) added 944
171.020—171.043 (Subpart B) Removed 944
171.057 (a) and (b) amended 944
171.080 (d), (e) and (f) redesignated as (f), (e) and (h); new

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TITLE 46 Chapter I—Con.

(d) and (g) added; new (e) and new (f) introductory text revised 53713
171.085 (a), (h)(1) and (j)(2) revised 945
171.110 (a) designation and (b) removed 945
171.114 Removed 945
171.119 Removed 945
171.120 Revised 945
171.122 (f)(1) revised; Table 171.122 redesignated from Table 171.124 945
171.124 Table redesignated as Table 171.122; section removed 945
171.130 (a) designation and (b) removed 945
171.140 Removed 945
171.145 Removed 945
171.150 Removed 945
171.155 Removed 945
173.005 (b) revised 945
173.020 (c) introductory text revised 945
173.025 (b), (c) and Graph 173.025 revised 945
173.054 (a)(1) and (b)(1) amended 946
173.059 Amended 946
173.060 (a) amended 946
173.061 Amended 946
173.062 Amended 946
173.063 (a) and (d) amended 946
174.05–2 (b) corrected 1035
174.005 (g) and (h) added; interim 57671
174.180—174.225 (Subpart G) Added; interim 57671
174.205 (b) corrected 1035
174.240—174.260 (Subpart H) Added; interim 57673
175—185 (Subchapter T) Revised 946
175.05–2 Revised; interim 57674
175.10–40 Revised; interim 57674
175.35–1 (Subpart 175.35) Removed; interim 57674
175.075 (b) amended 944
189.55–15 Corrected 54106

Chapter II—Maritime Administration, Department of Transportation (Parts 200—399)

308 Revised 1131

Chapter IV—Federal Maritime Commission (Parts 500—599)

501.3 (k) removed; (l) revised 57940
501.4 (b) amended; (c) revised 57941
501.5 (j) heading removed; (j)(1) and (2) redesignated as (i)(5) and (6); (f)(1)(i), (i) introductory text, (3), (4), new (5) and new (6) introductory text revised; (l)(2) amended 57941
501.28 Revised 57941
501.31 Removed 57941
501.41 (c)(6) and (d) revised; (c)(9) removed 57941
501 Appendix A revised 57942
514.8 (f) revised 56123
514.20 (d) revised 56123
514.21 (j) revised 56124

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TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission (Parts 0—199)

0.81 Undesignated center heading and section added 2727
0.311 (g) revised 55998
(f) amended 61662
0.391 Undesignated center heading and section added 2728
1 Report 64348
1.24 (d) added 53277
1.2110 (b)(4)(x)(C), (D) and (E) redesignated as (c), (d) and (e) 52865
11.11 (a) and (b) revised 55998
11.12 Revised 55999
11.21 Introductory text revised 55999
11.31 (a)(1), (b) and (c) revised 55999
11.33 (a)(3)(i), (ii), (5) introductory text, (ii), (9), (11) and (b)(2) revised 55999
11.34 (c) revised 56000
11.47 Added 56000
11.51 (a) and (b) amended; (c) revised; (f) and (i) removed; (g), (h) and (j) through (n) redesignated as (f), (g) and (h) through (l) 56000
11.52 (a) revised 56000
11.61 (a)(1)(i), (2)(i) and (ii)(A) revised 56000
21 Order 2452
21.2 Amended 57366
21.15 (g) revised 57366
21.42 (d) revised 57366
21.902 (g)(1) revised 57367
21.904 (c)(2) redesignated as (c)(3); new (c)(2) added 57367
21.924 (c) revised 57367
21.925 (a)(2) revised 57367
21.929 Existing text designated as (b); (a) added 57367
21.933 Revised 57367
21.938 (c) through (g) redesignated as (d) through (h); new (c) added; new (d) and new (f) revised 57367
21.960 (b)(5)(i) and (d)(1)(i) revised 57367
21.961 (b)(2) introductory text revised 57368
32 Memorandum opinion and order 53544
36 Memorandum opinion and order 53544
Recommendation 65010
36.601 (c) revised 65011
36.622 (a) amended; (c) revised 65012
43.51 (a) introductory text and (b) revised 52866
43.82 Added 51368
61.22 (b) amended 52866
61.42 (d)(5) added 52346
61.45 (b) introductory text and (h) revised; (b)(3) added 52346
61.47 (g)(6) added 52346
61.48 (j) added 52346
63 Authority citation revised 57196
63.01 (k)(5) and (r) revised; (k)(6) redesignated as (k)(7); new (k)(6) and (s) added 67335
63.12 (c)(1) revised 67338
63.13 (a)(3) and (5) amended; (a)(4) revised 67338
63.14 Revised 67338
63.15 (b) revised 51368
63.17 Added 67339
63.100 (a)(3), (4) and (6) revised; (b) through (e) amended; (h) added 57196
64 Declaration 56124
Reconsideration petition 52105
64.1601 Corrected 54449
64.1603 Corrected 54449
64.1604 Regulation at 60 FR 29490 eff. 4–12–95 54449
65.11 Revised 67338
68 Reconsideration petition 52105
68.306 (a)(4) amended 54814
(a)(5) amended 54815
73 Memorandum opinion and order 53877
Reconsideration petition 53878, 56531
Petition denied 55206, 55661
Authority citation revised 55480
Application review 56125
Reconsideration petition 2454
73.53 (b)(9) revised 55480
73.57 (d) revised 55480
73.62 (b) and (c) revised 55480
73.69 (a)(1) and (2) revised 55480
73.202 (b) table amended 52105, 52106, 53278, 54313, 54617, 54953, 54954, 55206, 55332, 55801, 56001, 56255, 56532, 57368, 57369, 62218, 62219, 62220, 62221, 63645, 64349, 65021, 65022, 65244, 65587
(b) table amended 2453, 2454

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TITLE 47 Chapter I—Con.

73.606 (b) table amended 62220
73.691 Revised 55480
73.757 (b) removed 55480
73.764 Removed 55480
73.900 Amended 56000
73.1010 (c) removed 55480
73.1230 Revised 55480
73.1250 (h) amended 56000
73.1300 Added 55481
73.1350 Added 55481
73.1400 Revised 55481
73.1410 Removed 55482
73.1500 Removed 55482
73.1550 Removed 55482
73.1580 Revised 55482
73.1635 (a)(5) revised 55482
73.1820 (b)(4), (5) and (6) removed; (b)(7) and (8) redesignated as (b)(4) and (5); (a) introductory text, (2)(iii) and new (b)(4) revised 55482
73.1860 Removed 55482
73.1870 (a) and (b)(3) revised 55482
74.5 (c) removed 55482
74.18 Revised 55482
74.165 Revised 55482
74.432 (e)(1) revised 55482
74.434 (b) revised 55482
74.436 (a) revised 55483
74.533 (a)(2) revised 55483
74.564 Heading and (a) revised 55483
74.634 (a)(1) revised 55483
74.703 (c) revised 55483
74.734 (a) introductory text revised; (a)(6) removed 55483
74.750 (g) revised 55483
74.765 (b) removed; (c) redesignated as (b) 55483
74.769 Revised 55483
74.901 Amended 55483
74.903 (b)(5) revised; (d) amended 57368
74.939 (i) revised 55483
74.969 Revised 55483
74.1203 (e) revised 55483
74.1234 (a) introductory text revised; (c) removed 55484
76.51 (a)(32) revised 51928
76.922 (e) through (k) redesignated as (g) through (m); (c), (d) and new (g) through new (m) revised; new (e) and new (f) added 52113
(e)(3)(ii) revised 54817
76.923 (n) and (o) added 52118
76.925 (a) and (b) redesignated as (b) and (c); new (a) added; new (c) revised 52119
76.933 (a), (b), (e) and (f) revised; (g) and (h) added 52119
76.934 (f) revised 52120
76.942 (f) revised 52120
76.944 (c) added 52121
76.957 Revised 52121
76.960 Revised 52121
80.836 Heading, (a) and (c) revised 58244
80.933 Heading and (b) revised; (c) redesignated as (e); new (c) and (d) added 58245
80.1065 (b)(5)(iii) revised 58245
(b)(5)(iii) corrected 62927
90 Authority citation revised 55484
Petition denied 61662
90.665 (c) corrected 61487
90.816 Added 55485
94 Order 2452
95.831 Revised 1288
95.833 Revised 1288
97.17 (g) removed; (h) redesignated as (g) 53132
97.19 (d) introductory text revised; (d)(4) added 53132
97.21 (a)(3)(ii) revised 53133
(a)(3)(u) corrected 54409
97.309 (a)(4) added 55486
100 Authority citation revised 65595
100.17 Revised 65595
100.19 Revised 65595
100.53 Added 65595
100.71—100.80 (Subpart E) Added 65595

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TITLE 48—FEDERAL ACQUISITION REGULATIONS SYSTEM

Chapter 1—Federal Acquisition Regulation (Parts 1—99)

Chapter I Federal Acquisition Circular 90-37 2626
7.000 (b) and (c) amended; (d) removed 2628
7.103 (p) added 2628
7.105 (b)(9) through (19) redesignated as (b)(10) through (20); new (b)(9) added 2628
7.500—7.503 (Subpart 7.5) Added 2628
8.001 (a)(2)(ii) and (iii) revised; (c) added 2630
8.003 Added 2631
9.403 Regulation at 59 FR 11372 confirmed 2632
9.406-2 Regulation at 59 FR 11372 confirmed 2632
(a)(3) amended 2633
9.407-2 Regulation at 59 FR 11373 confirmed 2632
(a)(3) amended 2633
11 Authority citation correctly added 54817
11.105 Added 2629
12.303 (b)(2) through (5) corrected 54817
15.106-1 (b) correctly revised 54045
15.804-8 (e) and (f) revised; (g) amended 2633
15.805-5 (c)(1) amended 2634
15.806-3 (a)(3) and (4) amended; (a)(5) and (6) added 2635
15.810 Revised 2635
19.602-2 (a) designation and (b) removed; (a)(1), (2), (3) and (c) redesignated as (a) through (d); new (d) revised 2637
19.702 (d) added; interim 2638
19.705-2 (d) revised 2638
19-708 (b)(1)(iii) amended 2639
23.901—23.907 (Subpart 23.9) Added; interim 55307
25.101 Amended; interim 67514
25.104 (a) revised; interim 67515
25.109 (e) and (f) removed; (g) redesignated as (e); (d) and new (e)(2) introductory text revised; new (e)(1) amended; interim 67515
25.202 (c) amended; interim 67515
25.205 (b) revised; interim 67515
25.400 Revised; interim 67515
25.401 Introductory text, (a) and (b) amended; interim 67515
25.402 (a)(1), (2), (3) and (c) revised; (a)(4) removed; (a)(5) and (6) redesignated as (a)(4) and (5); interim 67516
25.403 Revised; interim 67516
25.406 Removed; interim 67517
25.407 Removed; interim 67517
25.408 Heading, (a)(2) and (4) revised; interim 67517
25.1000 Amended; interim 67517
25.1001 Revised; interim 67517
25.1002 (a)(3)(i) removed; (a)(3)(ii) and (iii) redesignated as (a)(3)(i) and (ii); (a)(1), (2), (3) introductory text and new (i) revised; (c)(1) introductory text amended; interim 67517
25.1003 Revised; interim 67517
28.311-1 Removed; new 28.311-1 redesignated from 28.311-2 and amended 2639
28.311-2 Redesignated as 28.311-1; new 28.311-2 redesignated from 28.311-3 2639
28.311-3 Redesignated as 28.311-2 2639
31 Inflation rates notice 64255
31.002 Added 2640
31.205-11 (e) amended; (o) added; interim 64255
31.205-16 Heading revised; (g) added; interim 64256
31.205-41 (b)(6) revised 2641
37.102 Revised 2630
37.114 Added 2630
44.201-2 (a)(1) amended 2642
44.302 (a) amended 2642
51.101 (c) added 2631
51.102 (a) introductory text amended; (c)(3) revised 2631
52.206-9 Added 2631
52.209-5 Amended 2633

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52.212–3 Corrected 54818
Amended 2633
52.212–5 Amended; interim 67517
52.215–27 Amended 2634
52.215–39 Amended 2634
52.219–9 Amended 2639
52.223–13 Added; interim 55308
52.223–14 Added; interim 55308
52.225–2 Amended; introductory text revised; interim 67517
52.225–9 Amended; interim 67517
52.225–15 Amended; heading revised; interim 67518
Corrected 2454
52.225–16 Removed; interim 67518
52.225–17 Removed; interim 67518
52.225–18 Amended; heading revised; interim 67518
52.225–19 Amended; heading revised; interim 67518
52.225–21 Amended; interim 67518
52.228–6 Removed 2639
52.228–7 Amended 2640
52.244–2 Amended 2642
52.244–5 Amended; interim 2638
52.245–7 Amended 2640
52.245–10 Amended 2640

Chapter 2—Department of Defense (Parts 200—299)

201.201–1 (d)(1) introductory text and (V) amended 61591
201.301 (b) amended 61591
201.304 (1) through (5) amended 61591
201.402 (1) amended 61591
202.101 Amended 61591
203.170–1 (a) amended 61591
203.170–4 Revised 61591
203.570–5 Revised 61592
203.730 Amended 61592
203.7100—203.7108 (Subpart 203.71) Removed 61592
204.602–70 Added 61592
204.603 Removed 61592
204.670–1 (c)(3) amended 61592
204.670–2 (c) and (d) revised 61592
204.670–6 (b) revised 61592
204.7003 (a)(1)(i) revised 61592
206.001 Added 61592
206.102 (Subpart 206.1) Regulation at 60 FR 2888 confirmed 61591
Removed 61592
206.302–5 206.303–1 (c) added 61592
207.102 Added 61592
207.105 (b)(5), (6) and (17)(A)(*8*) revised 61593
207.470 208.7003–1 Revised 61593
208.7003–2 (c) revised 61593
209.103–70 Revised 61593
209.106–1 Revised 61593
209.202 Revised 61593
209.403 Amended 61593
209.405–1 (a) and (b) redesignated as (b) and (c) 61593
209.470–3 Amended 61593
210 Removed 61593
211 Revised 61594
212 Revised 61595
214.406–3 (e)(i) amended 61596
215.804–6 Revised 61596
215.805–5 (a)(1)(A)(*3*) amended 61596
215.871 215.971–4 (d)(3)(A) amended 61596
217.103–1 (b)(v), (vi)(A)(*2*) and (viii)(C) amended 61596
217.7302 (b) revised 61596
217.7406 Amended 61596
219.501 S–70 stayed 54955
219.502–2–70 Stayed 54955
219.502–4 (b)(i) stayed 54955
219.506 Stayed 54955
219.508 (e) stayed 54955
219.508–70 Stayed 54955
219.602–1 219.602–70 Regulation at 60 FR 40107 confirmed 61591
219.703 Regulation at 60 FR 13075 confirmed 61591
(a) amended 61596
219.704 Revised 61596
219.1006 (b)(2) amended 61596
223.104 Revised 61596
223.404 (Subpart 223.4) Added 61596
223.570–4 (b)(1) revised 61597
223.7101 Revised 61597
223.7102 Regulation at 60 FR 13076 confirmed 61591
(a)(7), (8) and (9)(ii) amended 61597
223.7103 Regulation at 60 FR 13076 confirmed 61591
225.102 Regulation at 60 FR 34470 confirmed 61591
225.302 (b)(i) amended 61597
225.402 (c) revised 130
225.403 (d)(1)(A), (B) introductory text and (*2*) amended 61597
225.770–4 Amended 61597
225.871–7 (a)(1) amended 61597
225.872–1 (a) and (b) amended 61597
225.872–2 (a)(2)(ii) amended 61597

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225.872–3 (f)(4) amended 61597
225.7002–2 (j) added 61597
225.7004 Regulation at 60 FR 19532 confirmed 61591
225.7004–1 Regulation at 60 FR 19532 confirmed 61591
225.7004–2 Regulation at 60 FR 19532 confirmed 61591
225.7004–3 Regulation at 60 FR 19532 confirmed 61591
225.7004–4 Regulation at 60 FR 19532 confirmed 61591
(b) revised 61597
225.7004–5 Regulation at 60 FR 19532 confirmed 61591
225.7004–6 Regulation at 60 FR 19532 confirmed 61591
225.7007 Regulation at 60 FR 19532 confirmed 61591
225.7007–1 Regulation at 60 FR 19533 confirmed 61591
225.7007–2 Regulation at 60 FR 19533 confirmed 61591
225.7007–3 Regulation at 60 FR 19533 confirmed 61591
225.7007–4 Regulation at 60 FR 19533 confirmed 61591
Revised 61597
225.7010 Regulation at 60 FR 19533 confirmed 61591
225.7010–2 Regulation at 60 FR 19533 confirmed 61591
225.7010–3 Regulation at 60 FR 19533 confirmed 61591
Revised 61597
225.7016–1 Regulation at 60 FR 19533 confirmed 61591
225.7016–2 Regulation at 60 FR 19533 confirmed 61591
225.7016–3 Regulation at 60 FR 19533 confirmed 61591
Revised 61597
225.7016–4 Regulation at 60 FR 19534 confirmed 61591
225.7016–5 Regulation at 60 FR 19534 confirmed 61591
225.7018–2 Amended 61597
225.7019–1 Regulation at 60 FR 19534 confirmed 61591
225.7019–2 Regulation at 60 FR 19534 confirmed 61591
(b) amended 61597
225.7019–3 Regulation at 60 FR 19534 confirmed 61591
225.7019–4 Regulation at 60 FR 19534 confirmed 61591
225.7023 Regulation at 60 FR 34471 confirmed 61591
225.7023–1 Regulation at 60 FR 34471 confirmed 61591
Amended 61597
225.7023–2 Regulation at 60 FR 34471 confirmed 61591
225.7023–3 Regulation at 60 FR 34471 confirmed 61591
Amended 61597
225.7103 (a) and (c) introductory text amended 61597
225.7201 Revised 61597
225.7307–1 (f) amended 61597
225.7307–2 (b) amended 61597
226.103 (Subpart 226.1) Added 61597
226.7100 Regulation at 60 FR 5870 confirmed 61591
226.7104 Regulation at 60 FR 5870 confirmed 61591
Revised 61598
227.7101 (b) removed; (c) redesignated as (b) 61598
227.7102–3 (a), (b) and (c) amended 61598
227.7103–6 (a) amended 61598
227.7103–15 (c) introductory text revised 61598
227.7104 Heading and (a) amended 61598
227.7202–2 Removed 61598
228.171–1 (e) amended 61598
231.205–6 Regulation at 60 FR 2331 confirmed 61591
(g)(2)(i) removed 61598
231.301 Regulation at 60 FR 2331 confirmed 61591
231.603 Regulation at 60 FR 2331 confirmed 61591
Revised 61598
231.703 Regulation at 60 FR 2331 confirmed 61591
Revised 61598
231.7000—231.7002–6 (Subpart 231.70) Removed 61598
232.170 (a) and (b) amended 61598
232.171 (a)(1), (b)(1) and (3) amended 61598
232.173–1 (b) amended 61598
232.173–5 Introductory text amended 61598
232.501–2 (a) amended 61598
232.617 Amended 61598
234.001 Added 61598
235.006 Regulation at 60 FR 4570 confirmed 61591

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235.015–71 (i)(2) amended 61598
235.017–1 Regulation at 60 FR 13077 confirmed 61591
Revised 61598
235.7002 (a)(1) and (2) amended 61598
235.7003 (b)(1) revised 61599
235.7006 Amended 61599
237.102–70 Added 61599
237.104 Regulation at 60 FR 2888 confirmed 61591
(b)(ii) introductory text and (B) 61599
237.109 Added 61599
237.171 Removed 61599
237.171–1 Removed 61599
237.171–2 Removed 61599
237.270 Removed 61599
237.270–1 Removed 61599
237.270–2 Removed 61599
237.270–3 Removed 61599
237.270–4 Removed 61599
237.7204 Amended 61599
239.7303 (b) revised 61599
242.705–1 (b)(3) and (4) removed 61599
242.705–2 (b)(2)(ii) and (iv) amended 61599
242.770 Removed 61599
242.770–1 Removed 61599
242.770–2 Removed 61599
242.770–3 Removed 61599
242.770–4 Removed 61599
242.770–5 Removed 61599
242.770–6 Removed 61599
242.771–3 (b)(2) and (c) amended 61599
242.7003–1 Revised 61599
242.7206 Introductory text revised 61599
246.101 Regulation at 60 FR 33145 confirmed 61591
246.102 Regulation at 60 FR 33145 confirmed 61591
246.202–3 Regulation at 60 FR 33145 confirmed 61591
Redesignated as 246.202–4 61599
246.202–4 Redesignated from 246.202–3; (i) and (ii) redesignated as (1) and (2) 61599
246.204 Regulation at 60 FR 33145 confirmed 61591
Removed 61599
246.704 Regulation at 60 FR 33145 confirmed 61591
(2) and (4) amended 61599
246.770–1 (f)(2)(i) revised 61599
247.572–1 (a) revised 61599
247.572–2 (a)(4) and (5) amended; (a)(6) added 61600
249.7002 (b) introductory text and (2) amended 61600
250.201–70 (b)(1) and (2) amended 61600
252.203–7000 Amended 61600
252.203–7001 Amended 61600
252.203–7003 Removed 61600
252.204–7001 Introductory text amended 61600
252.209–7000 Amended 61600
252.209–7005 Redesignated from 252.209–7007 and amended 61600
252.209–7007 Redesignated as 252.209–7005 61600
252.210–7000 Redesignated as 252.211–7003 61600
252.210–7001 Redesignated as 252.211–7001 61600
252.210–7002 Redesignated as 252.211–7002 61600
252.210–7003 Redesignated as 252.211–7000 61600
252.210–7004 Redesignated as 252.211–7004 61600
252.211–7000 Removed 61600
Redesignated from 252.210–7003; introductory text revised 61600
252.211–7001 Removed 61600
Redesignated from 252.210–7001; introductory text revised 61600
252.211–7002 Removed 61600
Redesignated from 252.210–7002; introductory text revised 61600
252.211–7003 Removed; new 252.211–7003 redesignated from 252.210–7000; introductory text revised 61600
252.211–7004 Removed 61600
Redesignated from 252.210–7004; introductory text revised 61600
252.211–7006 Removed 61600
252.211–7007 Removed 61600
252.211–7008 Removed 61600
252.211–7009 Removed 61600
252.211–7010 Removed 61600
252.211–7011 Removed 61600
252.211–7012 Removed 61600
252.211–7013 Removed 61600
252.211–7014 Removed 61600
252.211–7015 Removed 61600
252.211–7016 Removed 61600
252.211–7017 Removed 61600
252.211–7018 Removed 61600

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252.211–7019 Removed 61600
252.211–7020 Removed 61600
252.211–7021 Removed 61600
252.212–7000 Added 61600
252.212–7001 Added 61600
252.215–7001 Removed 61601
252.217–7026 Amended 61601
252.219–7003 Amended; heading revised 61601
252.219–7005 Amended 61601
252.219–7009 Regulation at 60 FR 40107 confirmed 61591
252.223–7006 Regulation at 60 FR 13076 confirmed 61591
Amended 61601
252.225–7007 Amended 130
252.225–7011 Regulation at 60 FR 34471 confirmed 61591
252.225–7012 Amended 61601
252.225–7014 Amended 61602
252.225–7016 Amended 61602
252.225–7017 Regulation at 60 FR 19534 confirmed 61591
252.225–7026 Amended 61602
252.225–7029 Regulation at 60 FR 19534 confirmed 61591
252.225–7040 Introductory text amended 61602
252.227–7013 Amended 61602
252.227–7015 Amended 61602
252.227–7018 Amended 61602
252.227–7037 Amended 61602
252.231–7001 Removed 61602
252.231–7020 Removed 61602
252.231–7021 Removed 61602
252.237–7020 Removed 61602
252.237–7021 Removed 61602
252.239–7010 Amended 61602
252.242–7001 Removed 61602
252.247–7023 Amended 61602
252.247–7024 Amended 61603
253.204–70 Revised 61603
253.204–71 Revised 61612
Chapter II Appendixes C, F and G amended 61615
Appendix G amended 61620, 61623, 61626, 61627
Regulation at 60 FR 40107 confirmed 61591

Chapter 5—General Services Administration (Parts 500—599)

501.700 Removed 54955
501.704 Removed 54955
501.704–70 Removed 54955
501.707 Revised 54955
502.101 Amended 54957
504.7001–2 (c) revised; (f) amended 54955
505.303–70 (a)(1), (b)(1), (2) and (3)(ii) revised 1150
507.104 (c), (d) and (e) revised 54955
508.301—508.370 (Subpart 508.3) Removed 54956
508.705–70 Heading revised 54956
(b) and (d) revised 54956
509.106–70 Removed 54956
514.408–1 (a) revised 54957
515.501 Revised 54956
516.301—516.306 (Subpart 516.3) Removed 54956
516.403 Removed 54956
516.502–1 Removed 54956
519 Heading revised 1150
519.001 Revised 1150
519.201 Revised 1150
519.202–2 Revised 1151
519.202–5 Removed 1151
519.502–1 Removed 54956
519.502–70 (a) and (d) revised 1151
519.503 (b) amended 1151
519.602–3 (a) and (b) amended 1151
519.705—519.708 (Subpart 519.7) Heading revised 1151
519.708 Revised 1151
519.803–70 Revised 1151
520 Removed 1151
525.901 (Subpart 525.9) Added 54957
528.103–2 (a) revised 54956
528.106–1 Removed 54956
532.112 Added 1151
532.112–1 Added 1151
532.705–1 Revised 1151
533.104 (a) heading, (c) and (d) revised; (a)(1), (3)(v), (5) and (b) introductory text and (5) introductory text amended 1151
533.105 (a)(1) introductory text amended 1152
536.302–70 Removed 54956
541 Added 54956
542.703 (Subpart 542.7) Added 54957
549.111 Revised 54956
552.219–9 Removed 1152
552.219–16 Removed 1152
552.219–72 Revised 1152
552.219–73 Amended 1152
552.219–74 Amended 1152

Chapter 8—Department of Veterans Affairs (Parts 800—899)

801 Authority citation revised 1527

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TITLE 48 Chapter 8—Con.

801.602 Revised 1526
802 Authority citation revised 1527
802.100 (b) revised; (c) added 1527
803 Authority citation revised 1527
803.203 (b) amended 1527
803.303 Amended 1527
806 Authority citation revised 1527
806.501 (a) amended 1527

Chapter 9—Department of Energy (Parts 900—999)

915.804–70 Regulation at 60 FR 18032 confirmed 52632
916.301–3 Regulation at 60 FR 18032 confirmed 52632
970.5204–17 Amended 63648
970.5204–24 Regulation at 60 FR 18032 confirmed 52632
970.5204–40 Added 66512
970.7104–11 Regulation at 60 FR 18032 confirmed 52632
970.7310—970.7330 (Subpart 970.73) Added 66515

Chapter 12—Department of Transportation (Parts 1200—1299)

1213.7100—1213.7101 (Subpart 1213.71) Added 391
1215.413–2 (f) revised; interim 55802
Regulation at 60 FR 55802 confirmed 274
1237.700—1237.7003 (Subpart 1237.70) Added 392
1252.217–81 Amended; interim 55802
Regulation at 60 FR 55802 confirmed 274
1252.237–71 Added 392
1252.237–72 Added 392
1253.303 (Subpart 1253.3) Regulation at 60 FR 55802 confirmed 274
Appendix amended 393
1253.303 (Subpart 1253.3) Appendix amended 55802

Chapter 14—Department of the Interior (Parts 1400—1499)

1415.413—1415.413–70 (Subpart 1415.4) Removed 53279
1415.506 (Subpart 1415.5) Removed 53279
1415.607—1415.608 (Subpart 1415.6) Removed 53279
1415.803—1415.804–3 (Subpart 1415.8) Removed 53279
1415.902—1415.905–70 (Subpart 1415.9) Removed 53279
1426 Added 53279
1428 Revised 53280
1452.204–71 Redesignated as 1452.226–70 53280
1452.204–72 Redesignated as 1452.226–71 53280
1452.226–70 Redesignated from 1452.204–71 53280
1452.226–71 Redesignated from 1452.204–72 53280
1452.228–70 Revised 53280
1452.228–73 Introductory text revised 53280

Chapter 18—National Aeronautics and Space Administration (Parts 1800—1899)

1815.804 Heading revised 53879
Heading correctly revised 56125
1815.804–1 Redesignated from 1815.804–3; heading, (a)(1), (2), (b), (c), (d) and (e)(3) revised; (a)(3)(i) amended 53879
Heading, (a), (b) and (c) correctly revised 56125
1815.804–2 Added 53879
(b) correctly added 56126
1815.804–3 Redesignated as 1815.804–1 53879
1815.807–70 (d)(1) and (2) amended 53879
1815.807–71 Amended 53880
1815.807–72 (a) revised 53880
1815.870–1 (a) revised; (b) amended 53880
1815.970–2 (f)(1) heading removed 53880
1815.970–3 (a) amended; (b) revised; (c) removed 53880
1816.203–4 (c) amended 53880
1819.708–70 (b) amended 53881
1822.103–4 Revised 52121
1852.215–70 Amended 53880
1852.219–75 Amended 53881
1852.243–70 Amended 53880
1870.102 Appendix A amended 53880
1871.000 Revised; eff. 10–1–95 through 6–30–97 51368
1871.101 Amended; eff. 10–1–95 through 6–30–97 51368
1871.103 Revised; eff. 10–1–95 through 6–30–97 51368

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1871.104 (a) revised; (g) and (h) added; eff. 10–1–95 through 6–30–97 51369
1871.105 (d), (e) and (f) revised; eff. 10–1–95 through 6–30–97 51369
1871.301 Amended; eff. 10–1–95 through 6–30–97 51369
1871.302 Revised; eff. 10–1–95 through 6–30–97 51369
1871.401 Amended; eff. 10–1–95 through 6–30–97 51369
1871.401–1 (b)(2) amended; eff. 10–1–95 through 6–30–97 51369
1871.401–5 (b)(1) revised; eff. 10–1–95 through 6–30–97 51369
1871.401–6 Added; eff. 10–1–95 through 6–30–97 51369
1871.406 Heading revised; eff. 10–1–95 through 6–30–97 51369
1871.406–1 Revised; eff. 10–1–95 through 6–30–97 51370
1871.406–3 Revised; eff. 10–1–95 through 6–30–97 51370
1871.406–4 Revised; eff. 10–1–95 through 6–30–97 51370
1871.505 Revised; eff. 10–1–95 through 6–30–97 51370
1871.506 Revised; eff. 10–1–95 through 6–30–97 51370
1871.605 (a)(1) amended; eff. 10–1–95 through 6–30–97 51370

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1552 ..... 51964, 64408
1553 51964
1816 54208
1845 54651
1852 ..... 54208, 54651

TITLE 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation (Parts 1—99)

1.4 (c)(6) and (7) amended; (c)(8) added 62762
1.22 (a) amended 62762
1.23 (n) removed 62762
1.46 (a) added 56532
(a) removed 63450
(zz) added 3332
1.47 (u), (v) and (w) added 62762
1.52 (d) and (e) stayed 56532
(d) and (e) added 63450
1.66 (p) added 63648
1.68 Removed 62762

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TITLE 49

Chapter I—Research and Special Programs Administration, Department of Transportation (Parts 100—199)

173 Petition denied 56957
178.350 Corrected 54409
192.16 (a) revised 63451

Chapter II—Federal Railroad Administration, Department of Transportation (Parts 200—299)

209 Authority citation revised 53136
209.321 (a) revised; interim 53136
219 Appendix B revised 61665
240 Authority citation revised 53136
240.7 Amended; interim 53136
240.119 (d)(4)(ii) amended; interim 53136
240.203 (a)(1) revised; interim 53136
240.205 Heading revised; interim 53136
240.217 (c)(1) revised; interim 53137
240.307 (a) revised; interim 53137
240.407 Revised; interim 53137
240.409 Revised; interim 53137
240.411 (a) revised; interim 53138
240 Appendix A amended; interim 53138

Chapter III—Federal Highway Administration, Department of Transportation (Parts 300—399)

382.107 Introductory text amended 1843
384 Authority citation revised 57545
384.231 (b)(2) revised 57545
385.17 (a) amended 1843
391.49 (b) amended 1843
393.25 (b) amended 1843
393.42 (b)(2) amended 1843
397.1—397.19 (Subpart A) Heading added 1843
350—399 (Subchapter B) Appendix B amended 1843

Chapter V—National Highway Traffic Safety Administration, Department of Transportation (Parts 500—599)

553 Revised 62222
Authority citation revised 63651
553.39 Revised 63651
564.5 (a) and (c) revised 58523
571 Workshop 53280
Authority citation revised 58524
Reconsideration petition 63651
Reconsideration petition 1152
571.101 Table 2 revised 63977
571.105 Amended 63979
571.108 Amended 57952, 58524
571.121 Amended 63979
571.214 Amended 57839
571.223 Added; 1–26–98 2030
571.224 Added; 1–26–98 2035
571.303 Amended 57948
571.304 Amended 57948
572 Workshop 53280
573.5 (c)(8)(ii), (iii) and (iv) removed; (c)(8)(v) and (vi) redesignated as (c)(8)(iii) and (iv) and revised; new (c)(8)(ii) added 278
573.7 (d) removed; (e) redesignated as (d) and revised 278
575 Reconsideration petition 2946
576.5 Revised 278
576.6 Revised 278
577.5 (h) removed; (i) redesignated as (h) 279
586 Authority citation revised 57839
586.1 Revised 57839
586.3 Revised 57839
586.4 (a) revised 57839
586.7 Removed 57839
586.8 Revised 57839
591 Authority citation revised 57954
591.4 Introductory text revised 57954
591.6 (c) revised 57954
591 Appendixes A and B revised 57954

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659 Added 67046
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There is no single annual issue of the LSA. Four ANNUAL ISSUES must be saved; the DECEMBER issue is the ANNUAL for Titles 1–16; the MARCH issue is the ANNUAL for Titles 17–27; the JUNE issue is the ANNUAL for Titles 28–41; the SEPTEMBER issue is the ANNUAL for Titles 42–50. ANNUAL ISSUES to be saved are clearly designated on the cover.

PARALLEL TABLE OF AUTHORITIES AND RULES

Following Title 50 is an update to Parallel Table of Authorities and Rules found in the CFR Index and Finding Aids. This table contains authority citations added to or removed from the Parallel Table of Authority and Rules as a result of documents published in the Federal Register since January 1, 1996.

TABLE OF FEDERAL REGISTER ISSUE PAGES AND DATES

A table is included at the end of this publication which identifies the volume number, the inclusive page numbers, and the corresponding Federal Register issue dates for the period covered.

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An INDEX to the daily Federal Register is published monthly and is cumulated for 12 months. A separate volume, the CFR Index and Finding Aids to the entire Code of Federal Regulations, is revised as of January 1 each year.

INQUIRIES AND SUGGESTIONS

Rob Sheehan was Chief Editor of the LSA, assisted by Brad Brooks. The LSA was prepared under the direction of Richard L. Claypoole, assisted by Maxine L. Hill. INQUIRIES, telephone 202–523–5227.

SUGGESTIONS concerning this and other publications of the Office are welcomed. Please send your suggestions to Richard L. Claypoole, Director, Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408.

CHECKLIST OF CFR VOLUMES FOR THIS MONTH

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869-026-00001-8)	55.00	Jan. 1, 1995
3 (1994 Compilation and Parts 100 and 101)	(869-026-00002-6)	40.00	[1] Jan. 1, 1995
4	(869-026-00003-4)	5.50	Jan. 1, 1995
5 Parts:			
1-699	(869-026-00004-2)	23.00	Jan. 1, 1995
700-1199	(869-026-00005-1)	20.00	Jan. 1, 1995
1200-End, 6 (6 Reserved)	(869-026-00006-9)	23.00	Jan. 1, 1995
7 Parts:			
0-26	(869-026-00007-7)	21.00	Jan. 1, 1995
27-45	(869-026-00008-5)	14.00	Jan. 1, 1995
46-51	(869-026-00009-3)	21.00	Jan. 1, 1995
52	(869-026-00010-7)	30.00	Jan. 1, 1995
53-209	(869-026-00011-5)	25.00	Jan. 1, 1995
210-299	(869-026-00012-3)	34.00	Jan. 1, 1995
300-399	(869-026-00013-1)	16.00	Jan. 1, 1995
400-699	(869-026-00014-0)	21.00	Jan. 1, 1995
700-899	(869-026-00015-8)	23.00	Jan. 1, 1995
900-999	(869-026-00016-6)	32.00	Jan. 1, 1995
1000-1059	(869-026-00017-4)	23.00	Jan. 1, 1995
1060-1119	(869-026-00018-2)	15.00	Jan. 1, 1995
1120-1199	(869-026-00019-1)	12.00	Jan. 1, 1995
1200-1499	(869-026-00020-4)	32.00	Jan. 1, 1995
1500-1899	(869-026-00021-2)	35.00	Jan. 1, 1995
1900-1939	(869-026-00022-1)	16.00	Jan. 1, 1995
1940-1949	(869-026-00023-9)	30.00	Jan. 1, 1995
1950-1999	(869-026-00024-7)	40.00	Jan. 1, 1995
2000-End	(869-026-00025-5)	14.00	Jan. 1, 1995
8	(869-026-00026-3)	23.00	Jan. 1, 1995
9 Parts:			
1-199	(869-026-00027-1)	30.00	Jan. 1, 1995
200-End	(869-026-00028-0)	23.00	Jan. 1, 1995
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0-50	(869-026-00029-8)	30.00	Jan. 1, 1995
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200-399	(869-026-00031-0)	15.00	[6] Jan. 1, 1993
400-499	(869-026-00032-8)	21.00	Jan. 1, 1995
500-End	(869-026-00033-6)	39.00	Jan. 1, 1995
11	(869-026-00034-4)	14.00	Jan. 1, 1995
12 Parts:			
1-199	(869-026-00035-2)	12.00	Jan. 1, 1995
200-219	(869-026-00036-1)	16.00	Jan. 1, 1995
220-299	(869-026-00037-9)	28.00	Jan. 1, 1995
300-499	(869-026-00038-7)	23.00	Jan. 1, 1995
500-599	(869-026-00039-5)	19.00	Jan. 1, 1995
600-End	(869-026-00040-9)	35.00	Jan. 1, 1995
13	(869-026-00041-7)	32.00	Jan. 1, 1995
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60-139	(869-026-00043-3)	27.00	Jan. 1, 1995

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1200-End	(869-026-00046-8)	16.00	Jan. 1, 1995
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300-799	(869-026-00048-4)	26.00	Jan. 1, 1995
800-End	(869-026-00049-2)	21.00	Jan. 1, 1995
16 Parts:			
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150-999	(869-026-00051-4)	19.00	Jan. 1, 1995
1000-End	(869-026-00052-2)	25.00	Jan. 1, 1995
17 Parts:			
1-199	(869-026-00054-9)	20.00	Apr. 1, 1995
200-239	(869-026-00055-7)	24.00	Apr. 1, 1995
240-End	(869-026-00056-5)	30.00	Apr. 1, 1995
18 Parts:			
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200-End	(869-026-00063-8)	12.00	Apr. 1, 1995
20 Parts:			
1-399	(869-026-00064-6)	20.00	Apr. 1, 1995
400-499	(869-026-00065-4)	34.00	Apr. 1, 1995
500-End	(869-026-00066-2)	34.00	Apr. 1, 1995
21 Parts:			
1-99	(869-026-00067-1)	16.00	Apr. 1, 1995
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22 Parts:			
1-299	(869-026-00076-0)	33.00	Apr. 1, 1995
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26 Parts:			
§§ 1.0-1-1.60	(869-026-00087-5)	21.00	Apr. 1, 1995
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§§ 1.170-1.300	(869-026-00089-1)	24.00	Apr. 1, 1995
§§ 1.301-1.400	(869-026-00090-5)	17.00	Apr. 1, 1995
§§ 1.401-1.440	(869-026-00091-3)	30.00	Apr. 1, 1995
§§ 1.441-1.500	(869-026-00092-1)	22.00	Apr. 1, 1995
§§ 1.501-1.640	(869-026-00093-0)	21.00	Apr. 1, 1995
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2-29	(869-026-00099-9)	25.00	Apr. 1, 1995
30-39	(869-026-00100-6)	18.00	Apr. 1, 1995
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50-299	(869-026-00102-2)	14.00	Apr. 1, 1995
300-499	(869-026-00103-1)	24.00	Apr. 1, 1995
500-599	(869-026-00104-9)	6.00	[4] Apr. 1, 1990
600-End	(869-026-00105-7)	8.00	Apr. 1, 1995
27 Parts:			
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900-1899	(869-026-00113-8)	17.00	July 1, 1995
1900-1910 (§§ 1901.1 to 1910.999)	(869-026-00114-6)	33.00	July 1, 1995
1910 (§§ 1910.1000 to end)	(869-026-00115-4)	22.00	July 1, 1995
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30 Parts:			
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400-629	(869-026-00126-0)	25.00	July 1, 1995
630-699	(869-026-00127-8)	14.00	[5] July 1, 1991

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33 Parts:			
1-124	(869-026-00130-8)	20.00	July 1, 1995
125-199	(869-026-00131-6)	27.00	July 1, 1995
200-End	(869-026-00132-4)	24.00	July 1, 1995
34 Parts:			
1-299	(869-026-00133-2)	25.00	July 1, 1995
300-399	(869-026-00134-1)	21.00	July 1, 1995
400-End	(869-026-00135-9)	37.00	July 5, 1995
35	(869-026-00136-7)	12.00	July 1, 1995
36 Parts			
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200-End	(869-026-00138-3)	37.00	July 1, 1995
37	(869-026-00139-1)	20.00	July 1, 1995
38 Parts:			
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18-End	(869-026-00141-3)	30.00	July 1, 1995
39	(869-026-00142-1)	17.00	July 1, 1995
40 Parts:			
1-51	(869-026-00143-0)	40.00	July 1, 1995
52	(869-026-00144-8)	39.00	July 1, 1995
53-59	(869-026-00145-6)	11.00	July 1, 1995
60	(869-026-00146-4)	36.00	July 1, 1995
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72-85	(869-026-00148-1)	41.00	July 1, 1995
86	(869-026-00149-9)	40.00	July 1, 1995
87-149	(869-026-00150-2)	41.00	July 1, 1995
150-189	(869-026-00151-1)	25.00	July 1, 1995
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300-399	(869-026-00154-5)	21.00	July 1, 1995
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43 Parts:			
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1000–3999	(869–026–00167–7)	31.00	Oct. 1, 1995
4000–End	(869–026–00168–5)	15.00	Oct. 1, 1995
44	(869–026–00169–3)	24.00	Oct. 1, 1995
45 Parts:			
1–199	(869–022–00170–7)	22.00	Oct. 1, 1995
200–499	(869–026–00171–5)	14.00	Oct. 1, 1995
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1200–End	(869–026–00173–1)	26.00	Oct. 1, 1995
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48 Chapters:			
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2 (Parts 252–299)	(869–026–00191–0)	13.00	Oct. 1, 1995
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CFR Index and Findings Aids	(869–026–00053–1)	36.00	Jan. 1, 1995
Complete 1996 CFR set		883.00	1996
Microfiche CFR Edition:			
Subscription (mailed as issued)		264.00	1996
Individual copies		1.00	1996
Complete set (one-time mailing)		264.00	1995
Complete set (one-time mailing)		244.00	1994
Complete set (one-time mailing)		223.00	1993

[1]Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2]The July 1, 1985 edition of 32 CFR Parts 1 to 189 contains a note only for Parts 1 to 39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1 to 39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3]The July 1, 1985 edition of 41 CFR Chapters 1 to 100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the 11 CFR volumes issued as of July 1, 1984, containing those chapters.

[4]No amendments to this volume were promulgated during the period April 1, 1990 through March 31, 1994. The CFR volume issued as of April 1, 1990 should be retained.

[5]No amendments to this volume were promulgated during the period July 1, 1991 through June 30, 1994. The CFR volume issued as of July 1, 1991 should be retained.

[6]No amendments to this volume were promulgated during the period January 1, 1993 to December 31, 1993. The CFR volume issued as of January 1, 1993 should be retained.

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Individual copies	8.00		daily
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Guide to Record Retention Requirements in the Code of Federal Regulations	20.00		Jan. 1, 1994
List of CFR Sections Affected, 1973-1985			
(Titles 28 through 41) Vol. III	28.00		1990
(Titles 42 through 50) Vol. IV	25.00		1990
LSA (List of CFR Sections Affected):			
Yearly subscription	26.00		
Federal Register Index:			
Yearly subscription	24.00		
CFR Index and Finding Aids	38.00		1994

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330.1001 (Subpart J) Correctly designated....691
530 Authority citation revised....3540
530.202 Amended; interim....3540
531 Authority citation revised....3540
531.101—531.106 (Subpart A) Removed; interim....3540
531.301 Amended; interim....3540
531.304 (a)(2) and (k) revised; interim....3540
531.306 Revised; interim....3540
531.602 Amended; interim....3540
531.606 (a)(2) revised; interim....3541
531.701—531.705 (Subpart G) Added; interim....3541
532.201—532.283 (Subpart B) Appendixes B and D amended; interim....3175, 5921
Regulations at 60 FR 55175, 55181 and 55423 confirmed....5922
534.401 (b)(3) revised; interim....3542
550.103 Amended; interim....3542
550.105 (a)(1) revised; interim....3542
550.106 (c)(1) revised; interim....3542

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TITLE 5 Chapter I—Con.

550.107 (a) revised; interim 3542
550.111 (d)(2) amended; interim 3542
550.113 (a) revised; interim 3542
550.114 (c) revised; interim 3542
550.141 Amended; interim 3542
550.144 (a) introductory text revised; interim 3543
550.151 Amended; interim 3543
550.154 (a) revised; interim 3543
550.201—550.206 (Subpart B) Authority citation revised 3543
550.202 Amended; interim 3543
550.701—550.713 (Subpart G) Authority citation revised 3543
550.703 Amended; interim 3543
575 Authority citation revised 3543
575.103 Amended; interim 3543
575.203 Amended; interim 3543
575.303 Amended; interim 3543
575.402 (b) revised; interim 3543
575.403 Amended; interim 3543
575.405 (c)(2) and (d)(2) revised; interim 3544
581.103 (a)(24) revised; interim 3544
582.102 Amended; interim 3544
630.1204 (d)(1) revised; interim 3544
630.1206 (b)(2) revised; interim 3544
950.203 (a)(10) revised 4585
950.501 (b) amended 4585

Chapter II—Merit Systems Protection Board (Parts 1200—1299)

1201.3 (a)(7), (8)(ii), (10), (12) and (13) amended 1
1201 Appendixes II and III revised 4586

Chapter VI—Federal Retirement Thrift Investment Board (Parts 1600—1699)

1620 Authority citation revised 2873
1620.110—1620.119 (Subpart I) Added; interim 2873

Chapter XIV—Federal Labor Relations Authority, General Counsel of the Federal Labor Relations Authority and Federal Service Impasses Panel (Parts 2400—2499)

Chapter XIV Appendix A amended 1697

Chapter XXX—Farm Credit System Insurance Corporation (Part 4001)

Chapter XXX Regulation at 60 FR 30776 confirmed 4349

Chapter LXII—United States Postal Service (Part 7201)

Chapter LXII Established; interim 7066

Proposed Rules:

316 6324
330 546
333 546
335 ..... 546, 6324
338 6324
532 4940
731 394
732 394
736 394

TITLE 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture (Parts 0—26)

1d Removed 2659
1e Removed 2660
6.20—6.34 (Subpart) Appendix 3 amended 6305

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture (Parts 27—209)

53.203 (b)(3) revised 2895
53.204 (c)(1) revised 2895
54.104 (n) and (o) amended 2895
54.106 (b)(3) amended; (c)(1) and (2) revised; (c)(3) removed 2896
97 Authority citation revised 248
97.1 Regulation at 60 FR 17189 confirmed 248
97.2 Regulation at 60 FR 17189 confirmed; amended 248
97.3 (c) amended 248
97.5 Regulation at 60 FR 17189 confirmed; (b)(4) and (c) amended 248
97.6 Regulation at 60 FR 17189 confirmed; (d) revised 248

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97.7 Regulation at 60 FR 17189 confirmed 248
97.11 Regulation at 60 FR 17189 confirmed 248
97.15 Regulation at 60 FR 17189 confirmed 248
97.19 Regulation at 60 FR 17189 confirmed; introductory text amended 248
97.20 Regulation at 60 FR 17189 confirmed 248
97.23 Regulation at 60 FR 17189 confirmed 248
97.100 Regulation at 60 FR 17189 confirmed 248
97.104 Regulation at 60 FR 17189 confirmed 248
97.105 Regulation at 60 FR 17189 confirmed 248
97.106 Regulation at 60 FR 17190 confirmed 248
97.130 Regulation at 60 FR 17190 confirmed 248
97.140 Regulation at 60 FR 17190 confirmed; amended 248
97.141 Regulation at 60 FR 17190 confirmed; amended 248
97.142 Regulation at 60 FR 17190 confirmed 248
97.175 Regulation at 60 FR 17190 confirmed 248
97.201 Regulation at 60 FR 17190 confirmed 248
97.205—97.222 Regulation at 60 FR 17190 confirmed 248
97.303 Regulation at 60 FR 17190 confirmed 248
97.500 Regulation at 60 FR 17190 confirmed 248
97.800 Regulation at 60 FR 17190 confirmed 248

Chapter II—Food and Consumer Service, Department of Agriculture (Parts 210—299)

250.30 (t) added 5272

Chapter III—Animal and Plant Health Inspection Service, Department of Agriculture (Parts 300—399)

300.1 (a) introductory text revised 5924
301.50—301.50-10 (Subpart) Regulation at 57 FR 54496 confirmed 3177
301.50-1 Regulation at 58 FR 6347 confirmed 3177
301.50-2 Regulation at 58 FR 28335 confirmed 3177
301.50-3 Regulations at 58 FR 6348, 28335, 34682, 63027, 59 FR 39939, 52892 and 60 FR 2322 confirmed 3177
301.50-4 Regulation at 58 FR 28335 confirmed 3177
301.50-5 Regulation at 58 FR 6348, 28335 and 34683 confirmed 3177
301.50-6 Regulation at 58 FR 34683 confirmed 3177
301.50-7 Regulation at 58 FR 34683 confirmed 3177
301.50-8 Regulation at 58 FR 34683 confirmed 3177
301.50-10 Regulation at 58 FR 6348, 28335 and 63027 confirmed 3177
301.50 Regulation at 58 FR 6347 confirmed 3177
301.52-2a Regulation at 60 FR 44416 confirmed 1521
301.64 (a) amended 2392
301.64-3 (c) amended 2392
301.75-1 Amended; interim 1521
301.75-4 (a) and (d)(1) revised; interim 1521
318.13-1 Amended 5924
318.13-4d Revised 5924
318.13-4e Removed 5924
354.3 (b)(2)(vi) revised; (e)(1), (g)(5)(i)(A), (B), (ii), (iii)(B), (iv), (v) and (h)(2) amended; OMB number 2664

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture (Parts 400—499)

404 Revised 7200

Chapter VIII—Grain Inspection, Packers and Stockyard Administration (Federal Grain Inspection Service), Department of Agriculture (Parts 800—899)

868.101—868.142 (Subpart B) Removed; interim 7688
868.401—868.410 (Subpart F) Removed; interim 7688

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TITLE 7 Chapter VIII—Con.

868.501—868.510 (Subpart G) Removed; interim 7688
868.601—868.611 (Subpart H) Removed; interim 7688

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture (Parts 900—999)

905.306 Regulation at 60 FR 58499 confirmed 3546
928 Budget of expenses 100
932 Budget of expenses 6307
944.106 Regulation at 60 FR 58499 confirmed 3546
945.341 Regulation at 60 FR 57905 confirmed 3547
959 Budget of expenses 7408
966.323 Regulation at 60 FR 57907 confirmed 5926
979 Budget of expenses 250
Budget of expenses 7689
979.304 (b)(1) amended; (c)(4) and (5) revised; interim 7409
982 Budget of expenses 2667
989 Marketing percentages 7069
989.156 (t) added; interim 102
Regulation at 61 FR 102 confirmed 6309
997.20 Regulation at 60 FR 50086 confirmed 104
997.30 Regulation at 60 FR 50086 confirmed 104
Regulation at 60 FR 50087 confirmed 104
997.40 Regulation at 60 FR 50087 confirmed 104
999.200 Regulation at 60 FR 57910 confirmed 2394

Chapter X—Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture (Parts 1000—1199)

1005.7 (d) redesignated as (e); introductory text, (b) and new (e) revised; new (d) added 1148
1005.32 (a) amended 1148
1005.53 (a)(6) redesignated as (a)(7); new (a)(6) added 1148
1005.61 (a) introductory text, (5) and (b) introductory text amended 1148
1005.90 Amended 1148
1005.91 Amended 1148
1005.93 (b) and (e) introductory text amended 1148
1005.94 Amended 1148
1011.7 Introductory text amended; (d) redesignated as (e); (b) and new (e) revised; new (d) added 1148
1011.13 (e)(3) amended 1149
1011.52 (a)(3) revised 1149
1046.2 Amended 1149
1101.2 (b) revised 1148

Chapter XIV—Commodity Credit Corporation, Department of Agriculture (Parts 1400—1499)

1485.16 (c)(24) revised; interim 3546
1485.23 (c)(2)(v) revised; (c)(2)(vi) removed; interim 3546

Chapter XV—Foreign Agricultural Service, Department of Agriculture (Parts 1500—1599)

1520.3 Revised 2898
1520.4 Revised 2898
1520.5 Revised 2898
1520.6 (a) and (b) amended 2898

Chapter XVII—Rural Utilities Service, Department of Agriculture (Parts 1700—1799)

1773.1 (c) revised; interim 107
1773.5 (c) revised; interim 107
1773.6 (a) revised; interim 106
1773.9 (a) and (b) revised; interim 106
1773.31 Revised; interim 106
1773.32 (a) revised; interim 106
1773.33 Revised; interim 106
1773.34 (d)(1), (2) and (3) removed; (e)(1)(iii), (2)(iii) and (g) revised; interim 106
1773 Appendix A amended; interim 109
Appendix B amended; interim 111
Appendix C revised; interim 113

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Chapter XVIII—Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, Department of Agriculture (Parts 1800—2099)

Chapter XVIII Heading revised; nomenclature change 1109, 2899
1901.201—1901.205 (Subpart E) Authority citation amended 3781
1901.204 (a)(27) revised 3781
1901.351—1901.360 (Subpart H) Removed 6309
1940 Authority citation revised 3781
1940.590 Removed 3781
1942 Authority citation revised 6309
1942.2 (a)(1) introductory text amended 6309
1942.106 (a) and (b) amended 6309
1948.103 (c)(4) revised; interim 6762
1951 Authority citation revised 3781
1951.201 Revised 3781
2003 Authority citation revised 3781
2003.1—2003.5 (Subpart A) Exhibit A amended 3782

Chapter XXI—Foreign Economic Development Service, Department of Agriculture (Parts 2100—2199)

Chapter XXI Removed 2898

Chapter XXII—Office of International Cooperation and Development, Department of Agriculture (Parts 2200—2299)

Chapter XXII Removed 2898

Chapter XXV—Office of the General Sales Manager, Department of Agriculture (Parts 2500—2599)

Chapter XXV Removed 2898

Chapter XXIX—Office of Energy, Department of Agriculture (Parts 2900—2999)

2903 Removed 4209

Chapter XXX—Office of Finance and Management, Department of Agriculture (Parts 3000—3099)

3017 Authority citation revised 250
3017.110 (a)(3) revised 250
3017.115 (d) added 251
3017.200 (d) added 251

Chapter XXXVII—Economic Research Service, Department of Agriculture (Parts 3700—3799)

3700 Revised 1627

Chapter XL—Economics Management Staff, Department of Agriculture (Parts 4000—4099)

4001 Removed 3788

Chapter XLII—Rural Business-Cooperative Service and Rural Utilities Service, Department of Agriculture (Part 4200—4299)

Chapter XLII Heading revised; nomenclature change 3782
4284 Authority citation revised 3782
4284.501—4284.600 (Subpart F) Revised 3782

Proposed Rules:

6 1233
28 7756
271 1849
272 1849
282 1849
284 1849
285 1849
723 5316
868 1013
920 3604
930 21
959 6328
980 4941
985 ..... 1855, 6329

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TITLE 7 *Proposed Rules:—Con.*

989 3605
1464 5317
1485 704
1755 4754
1789 21
1944 ..... 1153, 4814
1980 3853
4279 3853
4287 3853

TITLE 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice (Parts 1—499)

204.2 Regulation at 60 FR 38948 confirmed 7207

Proposed Rules:

212 4374
264 4374
274a 4378

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture (Parts 1—199)

91.5 (a) and (b) revised; (c) amended; interim 6918
91.8 Footnote 4 redesignated as Footnote 3; interim 6918
92.304 (a)(4)(ii) and (7)(ii) amended 1699

Chapter III—Food Safety and Inspection Service, Meat and Poultry Inspection, Department of Agriculture (Parts 300—399)

310.21 Regulation at 60 FR 66482 eff. date confirmed 4843
318.7 (c)(4) table amended 7208

Proposed Rules:

1 5524
2 5524
3 5524
92 7079
94 6955
319 7227
381 7227

TITLE 10—ENERGY

Chapter I—Nuclear Regulatory Commission (Parts 0—199)

19.11 (c) note removed; (c) revised 6764
19.20 Revised 6764
30.7 (e)(2) note redesignated as (e)(3) and revised 6764
30.36 (a) revised 1113
30.37 (b) added 1114
40.7 (e)(2) note redesignated as (e)(3) and revised 6765
40.42 (a) revised 1114
40.43 (b) added 1114
50 Technical correction 232
50.7 (e) and note redesignated as (e)(1) and (2); new (e)(2) revised 6765
60.9 (e) and note redesignated as (e)(1) and (2); new (e)(2) revised 6765
61.9 (e) and note redesignated as (e)(1) and (2); new (e)(2) revised 6765
70.7 (e)(2) note redesignated as (e)(3) and revised 6765
70.33 (b) added 1115
70.38 (a) revised 1115
72.10 (e)(2) revised 6766

Chapter II—Department of Energy (Parts 200—699)

600.1—600.30 (Subpart A) Revised 7166
600.112 (c) amended 7165
600.136 Revised 7165
600.204 Amended 7165
600.221 (g)(2) amended 7165
600.224 (b)(4) and (e)(2)(ii) amended 7165
600.225 (e) amended 7165
(f) amended 7166
600.226 (c) amended 7166
600.230 (b), (d)(4) and (f)(2) amended 7166
600.232 (c)(3) and (d)(2) amended 7166
600.236 (c) introductory text and (g)(2) amended 7166
600.237 (a)(3) and (c) amended 7166

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600.241 (b), (e)(1)(i), (ii), (2)(ii), (iii) and (3) amended 7166
600.243 (d) amended 7166
600.244 (b) amended 7166
600.250 (b)(5) amended 7166
600.251 (c), (d) and (e) amended 7166
600.300—600.307 (Subpart D) Removed 7165
600.402 (d) amended 7166
600.403 (c) amended 7166
600.405 (b)(2)(ii)(C) amended 7166

Chapter III—Department of Energy (Parts 700—999)

830 Ruling 4209
835 Ruling 4209

Proposed Rules:

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2 ..... 1857, 4378
19 6796
20 ..... 3334, 7431
26 ..... 27, 1528
30 ..... 295, 6796
31 295
32 295
35 4754
40 ..... 295, 6796
50 ..... 5318, 6796
60 6796
61 ..... 633, 6796
70 ..... 295, 6796
72 ..... 3619, 6796
150 1857
170 ..... 2948, 5064
171 ..... 2948, 5064
430 ..... 6796, 7431
834 6799
1021 6414
1035 3877
1036 3877

TITLE 11—FEDERAL ELECTIONS

Chapter I—Federal Election Commission (Parts 1—9099)

100 Technical correction 4302
100.5 (e)(3)(i) amended 3549
100.19 (a) amended 6095
102 Technical correction 4302
104.3 (e)(5) amended 3549
104.4 (c)(3) amended 3549
104.5 (f) amended 3549
104.14 (c) amended 3549
104.15 (a) amended 3549
105.1 Revised 3550
105.4 Amended 3550
105.5 Revised 3550
106 Technical correction 4302
108.8 Amended 6095
109 Technical correction 4302
109.2 (a) amended 3550
110 Technical correction 4302
110.6 (c)(1)(i) and (ii) amended 3550
114 Technical correction 4302
114.6 (d)(3)(i) and (5) amended 3550
9034.4 Regulation at 60 FR 57538 eff. 2-9-96 4849
9038.2 Regulation at 60 FR 57539 eff. 2-9-96 4849

Proposed Rules:

100 3621
110 3621
114 3621

TITLE 12—BANKS AND BANKING

Chapter I—Comptroller of the Currency, Department of the Treasury (Parts 1—199)

3 Appendix A corrected 1273
7 Revised 4662
21 Heading revised 4337
Authority citation revised 4337
21.11 (Subpart B) Revised 4337
31 Authority citation revised 4870
31.100—31.102 Undesignated center heading added 4870
31.100 Added 4870
31.101 Added 4870
31.102 Added 4870

Chapter II—Federal Reserve System (Parts 200—299)

201.51 Revised 5926
207 OTC margin stock lists 2667
208.20 Revised 4343
211.8 Amended 4344
211.24 (a)(2)(i) and (ii) revised; (d)(3) redesignated as (d)(4); new (d)(3) added 2901
(f) amended 4344
211.30 Added 6921
220 OTC margin stock lists 2667
221 OTC margin stock lists 2667
224 OTC margin stock lists 2667

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TITLE 12 Chapter II—Con.

225.4 (f) amended 4344
226 Adjustment notice 3177
231.3 (a) introductory text revised 1274
268.207 (e) revised 252
268.304 (a)(3)(i)(A) amended 252

Chapter III—Federal Deposit Insurance Corporation (Parts 300—399)

303.7 (g) added 5930
346.1 (a) amended; (o) revised; (s) through (v) added 5674
346.6 Revised 5674
353 Revised 6099
359 Added 5930
363.1 (b) revised 6493
363.4 (b) revised 6493
363.5 (b) revised 6493
363 Appendix A amended 6494

Chapter V—Office of Thrift Supervision, Department of the Treasury (Parts 500—599)

500—517 (Subchapter A) Regulation at 60 FR 66715 eff. date corrected to 12–26–95 575
505.1 Regulation at 60 FR 66715 eff. date corrected to 12–26–95 575
505.2 Regulation at 60 FR 66716 eff. date corrected to 12–26–95 575
505.3 Regulation at 60 FR 66716 eff. date corrected to 12–26–95 575
505.4 Regulation at 60 FR 66716 eff. date corrected to 12–26–95 575
506.1 Regulation at 60 FR 66716 eff. date corrected to 12–26–95 575
510.2 Regulation at 60 FR 66716 eff. date corrected to 12–26–95 575
512.4 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
512.5 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
516.1 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
516.3 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
528—535 (Subchapter B) Regulation at 60 FR 66715 eff. date corrected to 12–26–95 575
541—558 (Subchapter C) Regulation at 60 FR 66715 eff. date corrected to 12–26–95 575
543.8 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
543.11 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
544.3 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
545.74 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
545.82 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
545.121 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
545.131 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
550.2 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
550.3 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
550.10 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
550.13 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
550.14 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
550.15 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
552.5 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
552 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
556.5 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575

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561—575 (Subchapter D) Regulation at 60 FR 66715 eff. date corrected to 12–26–95 575
563 Authority citation revised 6105
563.9 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
563.93 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
563.134 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
563.160 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
563.170 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
563.177 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
563.180 Heading and (d) revised 6105
563b.2 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
563b.3 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
563b.4 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
563b.8 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
563b.29 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
563c.3 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
563d.1 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
563d.2 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
565.9 Regulation at 60 FR 66719 eff. date corrected to 12–26–95 575
566.2 Regulation at 60 FR 66719 eff. date corrected to 12–26–95 575
567.3 Regulation at 60 FR 66719 eff. date corrected to 12–26–95 575
567.4 Regulation at 60 FR 66719 eff. date corrected to 12–26–95 575
567.10 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
567.13 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
571.6 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
571.13 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
571.20 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
574.2 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
574.3 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
574.4 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
574.6 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
574.7 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
575.2 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
575.10 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
575.11 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
583—584 (Subchapter F) Regulation at 60 FR 66715 eff. date corrected to 12–26–95 575
583.10 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
584.1 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575

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TITLE 12 Chapter V—Con.

584.2–2 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
590—591 (Subchapter G) Regulation at 60 FR 66715 eff. date corrected to 12–26–95 575

Chapter VI—Farm Credit Administration (Parts 600—699)

615.5230 Regulation at 60 FR 57921 eff. 1–2–96 1274
620.21 Regulation at 60 FR 57922 eff. 1–2–96 1274

Chapter VII—National Credit Union Administration (Parts 700—799)

701 Authority citation revised 4214
701.21 (c)(7)(ii)(C) revised 4214
701.32 Heading, (a) and (b)(1) revised; (d) redesignated as 701.34(a); interim 3790
701.34 (a) redesignated from 701.32(d); new (a)(1) amended; (b), (c) and appendix added; interim 3790
707 Reporting and recordkeeping requirements 114
709.5 (b)(6) and (7) revised; (b)(8) added; (e) amended; interim 3791
741.204 (b) amended; (c) added; interim 3792

Chapter XIV—Farm Credit System Insurance Corporation (Parts 1400—1499)

1401.1 Regulation at 60 FR 30778 confirmed 4349

Chapter XVIII—Community Development Financial Institutions Fund, Department of the Treasury (Part 1800—1899)

1805.104 (n) revised; interim 1701
1805.201 Amended; interim 1701
1805.600 Amended; interim 1701
Corrected 7690
1805.604 Added; interim 1701
1805.701 (d)(2)(iii) revised; (e)(3) introductory text amended; interim 1702
1806.103 (dd) added; interim 1702
1806.200 (b)(2)(ii) revised; interim 1702
1806.201 (b)(2) revised; (b)(4)(xii) and (xiii)(B) amended; (b)(4)(xiv) added; interim 1702
1806.202 (a) revised; (b)(2) and (3) amended; (b)(4) and (d) added 1702
Corrected 7690
1806.206 (b)(1) and (4) revised; interim 1702

Proposed Rules:

211 6956
226 2968
261 7436
336 5956
545 1162
556 1162
560 1162
563 1162
571 1162
701 4238
705 4238
741 4236

TITLE 13—BUSINESS CREDIT AND ASSISTANCE

EDITORIAL NOTE: The revision for the 1996 edition of title 13 will be delayed until March 1, 1996. The 1996 revision will include amendments promulgated during the period of January 3, 1995 through March 1, 1996. For the convience of the user, this LSA contains all amendments to title 13 promulgated since January 3, 1995.

Chapter I—Small Business Administration (Parts 1—199)

101 Authority delegation 15864
Revised 2394
101.3–2 Amended 5564
102 Revised 2673
103 Revised 2681
105 Revised 2399
106 Removed 54590
107 Revised 3189
Comment period reopening 17438
107 Appendix I revised; interim 7393
Appendix II removed; Appendix III redesignated as Appendix II; interim 7402

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108 Removed 3266
108.2 Amended 20392
Amended; interim 20393
108.503–8 (b)(2) revised 4074
108.508–1 Undesignated center heading added 20392
Added 20392
108.508–2 Added 20392
108.508–3 Added 20392
108.508–4 Added 20392
108.508–5 Added 20392
108.509–1 Undesignated center heading added; interim 20393
Added; interim 20393
108.509–2 Added; interim 20393
108.509–3 Added; interim 20394
108.509–4 Added; interim 20394
108.509–5 Added; interim 20394
109 Removed 54590
110 Removed 54590
111 Removed 54590
112.11 (b) and (c) amended 2691
113.7 (b) and (c) amended 2691
114 Revised 2401
115 Revised 3271
116 Removed 3266
116.42—116.44 (Subpart F) Added 27871
120 Revised 3235
120.202–5 Introductory text revised 42780
121 Technical correction 18981
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121.201 Table corrected 7306
121.401 (b) revised 29974
121.2001 Revised 15478
121.2004 (c)(1) and (5) revised 15478
121.2005 (c)(1) revised 15478
122 Removed 3266
122.5–6 Added 42781
122.54–1 Revised 4373
122.57–3 Revised 4373
122.61–1 (a) amended 55654
122.61–2 (d)(3) and (4) amended; (d)(5) and (h) added 55654
122.61–3 (a) amended 55654
122.61–6 (e) revised 55654
122.61–9 (a) and (b)(2) amended; (b)(1) revised 55655
122.61–11 (a) amended 42781
122.61–13 Added 55655
123 Authority citation revised 22496
Revised 3304
123.2 Amended 22496
124 Authority citation revised 29974
124.7 (b)(1) removed; (b)(2) redesignated as (b) 29974
124.100 Amended 29974
124.101 (a) and (b) amended 29974
124.102 (a) revised 29974
124.103 Introductory text revised; (h) amended 29975
124.104 Introductory text revised 29975
124.109 (d) revised 29975
124.111 (a)(2) revised 29975
124.114 Added 29975
124.208 (c)(2) removed; (c)(3), through (6) redesignated as (c)(2) through (5); new (c)(2) amended 29975
124.209 (b)(2) removed; (b)(3) through (6) redesignated as (b)(2) through (5); (a)(6)(i) and new (b)(3) amended; new (b)(2) revised 29975
124.210 (b) and (d)(2) amended 2691
124.211 (g) amended 2691
124.302 (c)(1)(i)(A) and (2) revised 29976
124.303 (c)(3) and (4) removed; (c)(5), (6) and (7) redesignated as (c)(3), (4) and (5); (d)(1) amended 29976
124.304 Removed 29976
124.306 Removed 29976
124.307 (d) and (e) redesignated as (e) and (f); new (d) added 29976
124.308 (d) and (f)(2) revised; (e)((1)(iii) and (f)(1) amended 29976
124.311 (b) removed; (c) through (i) redesignated as (b) through (h); (a)(2), new (g)(3) and new (4) revised; new (d) introductory text amended; new (d)(1) and new (2) removed 29976
(e)(4)(iii), (5)(iii) and (7) amended; (e)(5)(iv) removed; (e)(5)(v) redesignated as (e)(5)(iv); new (e)(5)(iv) revised 29977
124.312 (b)(4), (5), (6), (c)(2), (3) and (9) removed; (b)(7), (c)(4) through (8), (10), (11) and (12) redesignated as (b)(4) and (c)(2) through (9); new (b)(4), (c)(1), (7), (8) and (9) amended 29977
124.321 (i) added 29977
124.501 (c) redesignated as (d); new (c) added 29977

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130 Added 31056
131 Removed 3266
132 Removed 2691
133 Removed 2397
134 Revised 2683
135 Removed 2397
136.170 (j)(2) amended 2691
137 Removed 2679
140 Revised; eff. 1-4-96 62191
142 Revised 2691
143.36 (d), (g), (h) and (i) revised 19639, 19642
144 Removed 54590
145.100 Revised 33040, 33044
145.105 Amended 33041, 33044
145.110 (c) revised 33041, 33044
145.200 Revised 33041, 33044
145.215 Revised 33041, 33044
145.220 Revised 33041, 33044
145.225 Revised 33041, 33044
145 Appendixes A and B revised 33042, 33044
121.201 Table corrected 6412

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1 Authority citation revised 7190
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21 Special FAA conditions 6921
23 Special FAA conditions 3
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23.3 (b)(2), (d) and (e) revised 5183
23.25 (a) introductory text, (1) introductory text, (i) and (iii) revised 5183
23.33 (b)(1) and (2) revised 5183
23.45 Revised 5184
23.49 Revised 5184
23.51 Revised 5184
23.53 Revised 5185
23.55 (a) and (b) introductory text revised 5185
23.57 (a) introductory text, (b), (c)(1), (3) introductory text, (4) and (d) revised; (e) added 5185
23.59 Introductory text, (a)(2) and (b) revised 5185
23.63 Added 5186
23.65 Revised 5186
23.66 Added 5186
23.67 Revised 5186
23.69 Added 5187
23.71 Added 5187
23.73 Added 5187
23.75 Heading, introductory text, (a) introductory text, (b), (d), (e) and (f) revised; (h) removed 5187
23.77 Revised 5187
23.143 (a) and (c) revised 5188
23.145 (b) introductory text, (2) through (5), (c) and (d) revised; (b)(6) added 5188
23.147 Revised 5188
23.149 Revised 5189
23.153 Revised 5189
23.155 (b) introductory text and (1) revised; (c) added 5189
23.157 (d) revised 5189
23.161 (a), (b)(1), (2), (c), (d) introductory text and (4) revised; (e) added 5189
23.175 Revised 5190

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23.177 Revised 5190
23.201 Revised 5191
23.203 Heading, introductory text, (a), (b) introductory text, (4), (5), (c) introductory text, (1) and (4) revised; (b)(6) and (c)(6) added 5191
23.205 Removed 5191
23.207 (c) and (d) revised; (e) and (f) added 5191
23.221 Revised 5191
23.233 (a) revised 5192
23.235 Revised 5192
23.237 Added 5192
23.253 (b)(1) removed; (b)(2) and (3) redesignated as (b)(1) and (2) 5192
23.301 (d) revised 5143
23.335 (a)(1), (b)(4)(ii) and (d)(1) introductory text revised; (b)(4)(i) amended; (b)(4)(iii) added 5143
23.337 (a)(1) revised 5144
23.341 (a) and (b) redesignated as (b) and (c); new (a) added; new (b) revised; new (c) introductory text amended 5144
23.343 Added 5144
23.345 Revised 5144
23.347 Existing text designated as (a); (b) added 5144
23.349 (a)(2) revised 5144
23.369 (a) revised 5145
23.371 Revised 5145
23.391 (a) designation and (b) removed 5145
23.393 Added 5145
23.399 Revised 5145
23.415 (a)(2) and (c) revised 5145
23.441 (a)(2) revised; (b) added 5145
23.443 (c) revised 5147
23.455 Undesignated center heading revised 5147
23.457 Removed 5147
23.473 (c)(1) and (f) revised 5147
23.497 (c) added 5147
23.499 (d) and (e) added 5147
23.521 (c) removed 5147
23.561 (b) introductory text and (d)(1) revised; (e) added 5147
23.562 (d) introductory text revised 5192
23.571 Heading, introductory text and (a) revised 5147
23.572 Heading, (a) introductory text and (1) revised 5147
23.573 (a)(5) introductory text revised; (b) amended; (c) removed 5147
23.574 Added 5148
23.575 Added 5148
23.607 Revised 5148
23.611 Revised 5148
23.629 (b) and (c) redesignated as (c) and (b); (a) introductory text, new (b) introductory text, new (c) introductory text, (d)(3)(i), (g) and (h) revised; (i) added 5148
23.657 (c) removed 5148
23.673 (a) designation and (b) removed 5148
23.677 (a) revised 5165
23.691 Added 5165
23.697 (c) added 5165
23.701 (a)(1) and (2) revised 5165
23.703 Added 5166
23.723 (b) amended 5166
23.725 (b) amended 5148
23.729 (e) revised; (g) added 5166
23.735 (a) introductory text revised; (c) redesignated as (d); new (c) and (e) added 5166
23.745 Added 5166
23.755 (b) removed; (c) redesignated as (b) 5148
23.775 (d) and (e) redesignated as (e) and (d); (a), (c) and new (e) revised; (h) added 5166
23.777 (c)(2) amended 5136
23.779 (b)(1) table amended 5136
23.783 (b) revised; (g) added 5166
23.785 Introductory text added; (b) and (c) revised 5167
23.787 Revised 5167
23.791 Added 5167
23.807 (a)(4) and (b)(6) added; (b) introductory text and (5) revised 5167
23.841 (a) amended 5167
23.853 Heading revised 5167
23.855 Added 5167
23.865 Revised 5148
23.867 Undesignated center heading and section heading revised 5168
23.901 (d)(1) and (2) revised 5136
23.903 (c) heading and (g) heading added; (f) heading revised 5136
23.907 (a) introductory text amended 5136

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23.925 Introductory text revised 5136
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23.929 Amended 5136
23.933 (a)(1) revised; (a)(3) and (b)(2) amended 5136
23.955 (a)(1) through (4) revised 5136
23.959 Existing text designated as (a); (b) added 5136
23.963 (b) revised; (e) amended 5136
23.965 (b)(4) and (5) added 253
(b)(3)(i) revised 5136
23.973 (f) revised 5136
23.975 (a)(5) revised 5136
23.979 (b) revised 5137
23.1001 (b)(2) revised 5137
23.1013 (d)(1) amended 5137
23.1041 Amended 5137
23.1043 (a), (c) and (d) revised 5137
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23.1047 Revised 5137
23.1091 (c)(2) revised 5137
23.1093 (c) heading added 5137
23.1105 (a) revised 5137
23.1107 Introductory text revised 5137
23.1121 (g) revised 5137
23.1141 (b) revised 5137
23.1143 (f) introductory text revised 5137
23.1153 Revised 5138
23.1181 (b)(3) added 5138
23.1183 (a) amended 5138
23.1191 (b) revised 5138
23.1203 (e) revised 5138
23.1303 Introductory text revised; (d) and (e) amended; (f) and (g) added 5168
23.1305 (b)(3)(ii) removed 5138
23.1307 (a), (b) and (c) designation removed 5168
23.1309 (a)(4) added 5168
23.1311 Revised 5168
23.1321 (d) introductory text amended 5168
23.1323 (d) removed; (e) and (c) redesignated as (d) and (e); new (c) and (f) added; new (e) amended 5168
23.1325 (g) amended 5169
(e) revised; (f) removed 5192
23.1326 Added 5169
23.1329 (b) amended 5169
23.1337 (b)(1) amended 5138
Heading and (b) introductory text revised; (b)(4) and (5) redesignated as (b)(5) and (6); new (b)(4) added 5169
23.1351 (b)(2), (3) and (c)(3) revised; (b)(4) removed; (b)(5) redesignated as (b)(4); (f) amended 5169
23.1353 (h) added 5169
23.1359 Added 5169
23.1361 (c) amended 5169
23.1365 (b) revised; (d), (e) and (f) added 5169
23.1383 Revised 5169
23.1401 (a) introductory text revised 5169
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23.1431 (c), (d) and (e) added 5169
23.1435 (c) revised 5170
23.1447 (a)(4) added; (d) and (e) revised 5170
23.1451 Added 5170
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23.1461 (a) revised 5170
23.1511 (a)(1) and (2) revised 5192
23.1521 (b)(5) and (e) revised 5192
23.1543 (c) added 5192
23.1545 (b)(5) and (6) revised 5193
23.1553 Revised 5193
23.1555 (e)(2) revised 5193
23.1559 Revised 5193
23.1563 (c) added 5193
23.1567 (d) added 5193
23.1581 (a)(3) and (c) added; (b)(2) introductory text and (d) revised 5193
23.1583 (k), (l) and (m) redesignated as (i), (j) and (k); introductory text, (a)(3) introductory text, (i), (c)(3), (4), (d) through (g), new (i), new (j) and new (k) revised; (c)(5), (6), new (l), new (m), (n), (o) and (p) added 5193
23.1585 Revised 5194
23.1587 Revised 5194
23.1589 (b) revised 5195
23 Appendix A amended 5149
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25 Authority citation revised 5220
25.305 (d) removed 5220
25.321 (c) and (d) added 5220
25.331 (a)(1), (2) and (d) removed; (a)(3) and (4) redesignated as (a)(1) and (2); heading, (a) introductory text, new (1) and new (2) revised 5220
25.333 Heading and (a) revised; (c) removed 5220
25.335 (d) revised 5220
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25.343 (b)(1)(ii) revised 5221
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25.351 Introductory text revised; (b) removed 5222
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91 SFAR 66-2 stayed 631
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91.205 (b)(11) through (16) redesignated as (b)(12) through (17); new (b)(11) added 5171
91.209 Revised 5171
91.511 (a) introductory text amended; (f) added 7190
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97 Authority citation revised ...700, 2905, 2907, 3796, 3797, 3798, 6107, 6109, 7698, 7700, 7701
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119.3 Amended 2609
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121.2 (d)(1)(i) introductory text, (2)(i) introductory text, (e)(1)(ii) and (i) revised 2609
121.6 Removed 2610
121.91—121.107 (Subpart E) Heading revised 2610
121.91 Revised 2610
121.93 (a) and (b) amended 2610
121.95 (a) and (b) amended 2610
121.97 (a), (b) and (c) amended 2610
121.99 Revised 2610
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121.101 (a) through (d) amended; (e) removed 2610
121.103 (a) and (b) amended 2610
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121.111—121.127 (Subpart F) Heading revised 2610
121.111 Revised 2610
121.113 (a) and (b) amended 2610
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121.125 (a), (b) and (d) amended 2611
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121.303 (d)(2) revised; (d)(3) removed 2611
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121.404 Removed 2611
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121.419 (a)(1)(vii) correctly designated 2869
121.437 (a) and (c) amended 2612

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121.440 (b) and (c) amended 2612
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121.471 (a) through (g) amended 2612
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121.500—121.525 (Subpart S) Heading revised 2613
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121.503 (a) through (f) amended 2613
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121.509 (a) amended 2613
121.513 Introductory text amended 2613
121.517 Revised 2613
121.521 (a) and (b) amended 2613
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121.555 Heading and (a) amended 2614
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121.627 (a) amended 2615
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121.629 (a) amended 2615
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125.203 (c) introductory text amended; (e) added 7191
135 Authority citation revised 2616
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135.127 (d) amended 2616
135.129 (n)(2) revised 2616
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135.273 (c)(2) amended 2616
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770 Authority citation revised 2102
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771 Authority citation revised 2102
771.14 (d)(2) amended; interim 2102
771.22 (c)(2)(i) removed; interim 2102
771.24 (b) and (c) revised; interim 3558
771.26 (b) revised; interim 2102
771.28 Added; interim 2102
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772.11 (k)(1)(i), (ii), (l)(1)(i) and (ii) amended; interim 2103
773 Supplement No. 1 amended; interim 2103
774 Authority citation revised 2102
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775.1 (a) amended; interim 2104
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775.3 (a)(1) amended; interim 2104
775.7 (a)(2)(iii) removed; interim 2104
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776.10 (a)(1) amended; (d) through (m) added; interim 2104
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776.11 Removed; interim 2108
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785.4 (d)(1)(xxxiii) amended; interim 2109
786 Authority citation revised 2102
786.6 (a)(2) and (c)(2) revised; interim 2109
787 Authority citation revised 2102
787.13 (c) amended; interim 2109
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11 Appendix A revised 55993
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284.226 Removed 53074
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284.266 (b) and (c) removed; (d) redesignated as (b) 53074
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381.403 Amended 31391
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385.604—385.606 (Subpart F) Added 19506
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385.2011 (b), (c)(4) and (d) revised 53074

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4.2 (a) amended; interim 50021
4.5 (a) amended; interim 50021
4.6 (a) and (b) amended; interim 50021
4.7 (b) and (d)(2) amended; interim 50021
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4.12 (a)(1) through (5) and (b) amended; interim 50021
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(b)(2)(ii)(A) amended; interim 50022
4.15 (a) and (c) amended; interim 50022
4.16 (a) and (b) amended; interim 50022
4.20 (c) table amended 48028
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4.22 Amended 54939
4.23 Amended; interim 50022
4.24 (f) revised; interim 50010
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4.30 (a), (f) through (l), (3), (k), (l) and (m) amended; interim 50022
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4.68 (a) amended; interim 50022
4.72 (a) amended 35838
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4.80 (b) amended; interim 50022
4.80a (d) amended; interim 50022
4.80b (b) amended; interim 50022
4.81 (d) and (e) amended; interim 50022
4.82 (b) and (d) amended; interim 50022
4.85 (a) through (e) amended; interim 50022
4.87 (b), (c), (d) and (g) amended 50022
4.88 (a) and (b) amended; interim 50022
4.89 (b) and (d) amended; interim 50022
4.91 Amended; interim 50022
4.93 (c) amended; interim 50022
4.94 (c) and (d) form amended; interim 50022
4.96 (f) and (h) amended; interim 50022
4.97 (c) and (d) amended; interim 50022
4.98 (a)(1) and (d) amended; interim 50022
(e) amended; interim 50023
4.99 (c) amended; interim 50023
4.100 (a), (c) and (e) amended; interim 50023
7 Authority citation revised 18348
7.8 (b)(1) and (2) amended; interim 50023
10 Authority citation amended 18543, 18990, 46196, 46361
Technical correction 6110
Authority citation amended 6777
10.1 (b) and (d) amended; interim 50023
10.3 (a) introductory text and (c)(3) amended; interim 50023
10.5 (d), (e), (g) and (h) amended; interim 50023
10.6 Amended; interim 50023
10.7 (c) and (d) amended; interim 50023
10.8 Regulation at 58 FR 69470 confirmed; (a) introductory text revised 46361
(b), (c) and (d) amended; interim 50023
10.8a (c) amended; interim 50023
10.9 (b), (c) and (d) amended; interim 50023
10.21 Amended; interim 50023
10.24 (b) through (e) amended; interim 50023
10.25 Added 46196
(a) corrected 55995
10.26 Added 46197
10.31 Regulation at 58 FR 69470 confirmed 46361
(a)(3)(ii), (b) and (f) amended; interim 50023
(h) amended; interim 2910
10.36 (a) amended; interim 50023
10.36a Regulation at 58 FR 69470 confirmed 46361
10.37 Amended; interim 50023
10.38 (a) and (g) amended; interim 50023
10.39 (a), (b), (d)(1), (2), (e) introductory text, (1), (2), (3), (f) and (h) amended; interim 50023
10.40 (b) amended; interim 50023

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10.41a (a)(2) and (e) amended; interim 50023
10.41b (h) amended; interim 50023
10.43 (a) amended; interim 50023
10.48 (c) and (d) amended; interim 50023
10.49 (b) and (d) amended; interim 50023
10.52 Amended; interim 50023
10.53 (e)(5) and (g) amended; interim 50023
10.56 (e) amended; interim 50023
10.59 (f) table amended 28040
(a)(3) and (e) amended; interim 50023
(e) amended 52294
10.60 (f) and (h) amended; interim 50023
(a) and (d) amended 52295
(d) amended; interim; eff. 4–8–96 6777
10.61 Amended; interim 50023
Amended 52295
10.62 (c)(1), (e) and (f) amended; interim 50023
(a) introductory text and (b) amended 52295
(a) amended; interim; eff. 4–8–96 6777
10.62a (b) amended; interim 50023
(a) and (b) amended 52295
10.62b Added; interim; eff. 4–8–96 6778
10.64 (a) introductory text and (b) amended; interim 50023
10.65 (c)(2) amended; interim 50023
10.66 Regulation at 58 FR 69470 confirmed 46361
(a)(3), (b) and (c)(1) amended; interim 50023
10.67 Regulation at 58 FR 69470 confirmed 46361
(a)(3), (b) and (c) amended; interim 50023
10.68 (a) amended; interim 50023
10.70 (a) amended; interim 50023
10.71 (c) and (e) amended; interim 50023
10.75 Amended; interim 50023
10.80 Amended 52295
10.81 (a) amended; interim 50023
(b) amended; interim 50024
(b) amended 52295
10.83 (a) amended; interim 50024
10.84 (d) and (e) amended; interim 50024
10.101 (c) and (d) amended; interim 50024
10.102 (a) and (d) amended; interim 50024
(b) introductory text amended 52295
10.104 Amended; interim 50024
10.107 (b) and (c) amended; interim 50024
10.108 Amended; interim 50024
10.121 (b) amended; interim 50024
10.134 Amended; interim 50024
10.151—10.153 Regulation at 59 FR 30293 confirmed 18990
10.151 Regulation at 59 FR 30293 confirmed and amended 18990
Corrected 37825
Amended; interim 50024
10.152 Regulation at 59 FR 30293 confirmed 18990
Amended; interim 50024
10.153 Regulation at 59 FR 30293 confirmed 18990
10.172 Amended; interim 50024
10.173 Amended; interim 50024
10.174 Amended; interim 50024
10.175 (e)(2) amended 18543
(d)(2) amended; interim 50024
10.177 (b) amended; interim 50024
10.179 (b)(1) amended; interim 50024
10.183 (c)(1), (2), (d)(2) and (e); interim 50024
10.192 Amended; interim 50024
10.193 (c)(2) amended; interim 50024
10.194 Amended; interim 50024
10.195 (d) and (e) redesignated as (e) and (f); new (d) added 46197
(d) corrected 55995
10.196 (b) amended; interim 50024
10.198 (a)(1)(i), (ii), (b) and (c) amended; interim 50024
10.307 (c), (e) introductory text and (2) amended; interim 50024
10.309 Amended; interim 50024
11 Authority citation revised 18348
11.1 (a) and (c) amended; interim 50024
11.2 (a) amended; interim 50024
11.6 Amended; interim 50024
11.12 (b) through (f) amended; interim 50024
11.12a (b) through (f) amended; interim 50024
11.12b (b) through (f) amended; interim 50024
11.13 (c) amended; interim 50024

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12 Authority citation amended 18348
12.8 (b) amended; interim 50024
12.9 Amended; interim 50024
12.11 (a) and (b) amended; interim 50024
12.12 Amended; interim 50024
12.14 Amended; interim 50024
12.16 (b) and (c) amended; interim 50024
12.17 Amended; interim 50024
12.19 Amended; interim 50024
12.20 Amended; interim 50024
12.22 Amended; interim 50024
12.23 (a) through (d) amended; interim 50024
12.24 (c) amended; interim 50024
12.26 (e), (f), (h) and (l) amended; interim 50024
12.28 Amended; interim 50024
12.29 (d) amended; interim 50024
12.33 (d) amended; interim 50024
12.37 (a) amended; interim 50024
12.39 (b)(3) and (d)(2) amended; interim 50024
(b) heading revised; (c) and (d) redesignated as (d) and (e); (b)(4) and new (c) added 54941
12.42 (a), (b), (c) and (e) amended; interim 50024
12.43 (c) amended; interim 50024
12.44 ended; interim 50025
12.45 Amended; interim 50025
12.48 (d) amended; interim 50025
12.61 (b) amended; interim 50025
12.73 (c)(2), (j) and (k) amended; interim 50025
12.80 (b)(1) introductory text, (iii), (d), (e), (f) and (h) amended; interim 50025
12.85 (c)(1), (6), (d)(7), (e)(1), (2) and (f) amended; interim 50025
12.91 (c), (d) and (f) amended; interim 50025
12.99 (c)(2) amended; interim 50025
12.103 Amended; interim 50025
12.104b (a) revised 47467
12.104c (a), (b) and (c) amended; interim 50025
12.104d Amended; interim 50025
12.104e (a) introductory text amended; interim 50025
12.107 Amended; interim 50025
12.108 Amended; interim 50025
12.109 (a) amended; interim 50025
12.113 Amended; interim 50025
12.114 Amended; interim 50025
12.115 Amended; interim 50025
12.116 Amended; interim 50025
12.117 (a) and (b) amended; interim 50025
12.121 (a) introductory text amended; interim 50025
12.122 (a) introductory text, (b) introductory text, (1), (2), (c) and (d) amended; interim 50025
12.123 (a), (b), (c) introductory text and (2) amended; interim 50025
12.124 (b) introductory text amended; interim 50025
12.125 Introductory text amended; interim 50025
12.126 Amended; interim 50025
12.130 (b), (d) introductory text and (e)(1) introductory text amended 46197
(g) and (h) amended; interim 50025
12.131 Amended; interim 50025
12.132 Regulations at 58 FR 69470 and 59 FR 31520 confirmed 46361
(a)(3) amended; interim 50025
(b) amended 58518
18 Authority citation amended 18348
Authority citation amended 6779
18.1 (b) amended; interim 50025
(a)(1) amended; interim; eff. 4–8–96 6779
18.2 (b) and (d) amended; interim 50025
18.3 (a) and (b) amended; interim 50025
18.4 (a)(2) and (f) amended; interim 50025
18.4a (c) and (d) amended; interim 50025
18.5 (b), (c), (d) and (f) amended; interim 50025
18.6 (b) amended; interim 50025
18.7 (a), (b) and (c) amended; interim 50025
18.8 (d), (e)(2) and (3) amended; interim 50025
18.10 (b) amended; interim 50025
18.10a Amended; interim 50025
18.11 (b), (c), (e) and (h) amended; interim 50025
18.12 (d) and (e) amended; interim 50025

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18.13 (a) and (b) amended; interim 50025
18.20 (a) and (b) amended; interim 50025
18.21 (c) amended; interim 50026
18.22 (b) amended; interim 50026
18.23 (a) amended; interim 50026
18.24 (a) amended; interim 50026
18.25 (a) and (e) amended; interim 50026
18.26 (a) and (d) amended; interim 50026
18.27 Amended; interim 50026
18.31 Undesignated centerheading and section added; interim; eff. 4-8-96 6779
18.42 Amended; interim 50026
18.43 (b) and (c) amended; interim 50026
18.45 Amended; interim 50026
19 Authority citation amended 18348, 50010
19.1 (a)(1) and (4) amended; interim 50026
19.2 (a), (e), (f) and (g) amended; interim 50026
(a) amended 62733
19.3 (a) through (g) amended; interim 50026
(a) amended 62733
19.4 Amended; interim 50026
19.5 Correctly removed; CFR correction 42431
19.6 (a), (b)(1), (d)(1)(iv), (2) and (e) amended; interim 50026
(d)(2) and (4) amended 52295
19.7 (b) amended; interim 50026
19.8 Amended; interim 50026
19.9 (a) and (c) amended; interim 50026
19.10 Amended; interim 50026
19.11 (c), (d), (f) and (h) amended; interim 50026
(g) amended 52295
19.12 (a)(3), (5), (6), (8) and (b)(6) amended; interim 50026
19.13 (a), (b) and (d) amended; interim 50026
19.14 (c) and (e) amended; interim 50026
19.15 (f) and (j) amended; interim 50026
(b) and (d) amended 52295
19.17 (a), (c), (e) and (g) amended; interim 50026
(a) amended 62733
19.19 (a) and (b) amended; interim 50026
19.23 Amended; interim 50026
19.32 (b) amended; interim 50026
19.34 Amended; interim 50026
19.35 (d), (f) and (g) amended; interim 50026
19.36 (a) through (d) and (g) amended; interim 50026
19.37 (a), (b) and (d) amended; interim 50026
19.39 (a)(2), (b)(2), (c)(2), (5), (d) and (e) amended; interim 50026
19.40 (a) and (b) amended; interim 50026
19.43 Amended; interim 50026
19.44 (g) amended; interim 50010
19.45 Amended; interim 50026
19.46 Amended; interim 50026
19.47 Amended; interim 50026
19.48 (a) introductory text, (b) and (c) amended; interim 50026
24 Authority citation amended 18348, 46361
Authority citation revised 50010
24.1 (a)(3)(i) amended; interim 50011
(a)(3)(i) and (ii) amended; interim 50026
24.2 Amended; interim 50026
24.3a (c) amended; interim 50026
24.4 (a), (c)(1) and (d)(1) amended; interim 50011
(a) through (d), (1) and (h)(3)(i) amended; interim 50026
(c)(2), (h)(2) and (3) introductory text amended; interim 50027
24.5 (f) amended; interim 50027
24.11 (b) amended; interim 50027
24.12 (c) amended; interim 50027
24.13 (c), (d) and (f) amended; interim 50027
24.13a (g) amended; interim 50027
24.14 (c) amended; interim 50027
24.16 (a), (c)(1) and (2) amended; interim 50027
24.17 (a) introductory text and (d)(4) amended; interim 50027
24.21 (b)(2) removed 62733
24.22 Regulation at 58 FR 69470 confirmed 46361
(b)(3), (c)(3), (d)(3) and (i)(2) amended; interim 50027
24.23 (c)(1)(v) amended 18348
Regulation at 58 FR 69470 confirmed 46361

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(a)(1) and (3) amended; interim 50027
24.24 (b)(1) table, (c)(8)(i) and (g) amended; interim 50027
24.36 (c), (d) introductory text, (9), (e)(1) and (2) amended; interim 50027
24.70 (c) amended; interim 50027
24.72 Amended; interim 50027
54 Authority citation revised 18348
54.5 (b) amended; interim 50027
54.6 (c) introductory text and (4) amended; interim 50027
(b) amended 52295
101 Authority citation revised 18348, 18990, 50011
101.0 Amended; interim 50027
101.1 Regulation at 59 FR 30293 confirmed 18990
Amended; (a), (b) and (c) removed; interim 50011
101.3 (b) amended 41804, 52628
Revised; interim 50011
(b)(1) table amended 67056, 67057
101.4 Regulation at 59 FR 30293 confirmed 18990
(c) table revised; interim 50018
(a), (b) introductory text and (d) amended; interim 50027
(c) amended 52628
101.5 Table amended; interim 50027
101.6 (e) amended; interim 50019
(c) amended; interim 50027
102 Authority citation revised 18348, 46197
102.0 Amended 46197
102.11 Introductory text amended 46197
102.21 Added 46197
103.0 Amended; interim 50027
103.1 Amended; interim 50019
103.5 (b)(1), (2), (d)(1) and (2) amended; interim 50027
103.6 (a)(1) and (2) amended; interim 50028
103.7 (a), (b)(6) and (c) amended; interim 50028
103.8 (a) introductory text and (3) amended; interim 50028
103.10 (d)(3) amended; interim 50028
103.14 (d)(1)(iii), (2)(iii) and (e)(2) amended; interim 50028
103.16 Amended; interim 50028
111 Authority citation amended 18348, 50019
User fee due date 56117
111.1 Amended; interim 50019
111.3 Regulation at 59 FR 30294 confirmed 18990
(b)(1) and (2) amended; interim 50028
111.11 (b)(2) and (c)(3) amended; interim 50028
111.12 Amended; interim 50028
111.13 (f) removed; interim 50019
111.15 Amended; interim 50028
111.16 (a) amended; interim 50028
111.19 (d) amended; interim 50019
(b) and (d) amended; interim 50028
111.22 (b) introductory text, (2), (c) and (e) amended; interim 50028
111.23 (e)(3) removed; interim 50019
(a)(1), (b) introductory text, (d)(1), (5), (e)(2) and (f) amended; interim 50028
111.24 Amended; interim 50028
111.27 Amended; interim 50028
111.28 (b)(1), (2), (3) and (c) amended; interim 50028
111.30 (a), (b) and (d) amended; interim 50028
111.45 (c) amended; interim 50019
111.54 Amended; interim 50028
111.55 Amended; interim 50028
111.56 Amended; interim 50028
111.57 Amended; interim 50028
111.59 (a) and (b) introductory text amended; interim 50028
111.60 Amended; interim 50028
111.61 Amended; interim 50028
111.62 (e) amended; interim 50028
111.63 (a) introductory text, (3), (4), (b) introductory text, (3) and (4) amended; interim 50028
111.64 (a) amended; interim 50028
111.67 (d) amended; interim 50029
111.72 Amended; interim 50029
111.78 Amended; interim 50029
111.91 Amended; interim 50029
111.92 Amended; interim 50029
111.94 Amended; interim 50029
111.95 Amended; interim 50029
111.96 (a) and (c) amended; interim 50029
112.1 Amended; interim 50019
112.2 Amended; interim 50020
112.11 (a) amended; interim 50029
112.12 (a), (b) introductory text, (3) and (4)(ii) amended; interim 50029

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112.13 Introductory text amended; interim 50029
112.14 Amended; interim 50029
112.21 Amended; interim 50029
112.22 (a) introductory text, (1), (b)(1), (2) and (c) amended; interim 50029
112.23 Amended; interim 50029
112.24 Introductory text amended; interim 50029
112.27 (c) amended; interim 50029
112.29 Amended; interim 50029
112.30 (a) introductory text, (7), (8), (10), (b), (c), (d)(2) and (e) amended; interim 50029
112.41 Amended; interim 50029
112.42 Amended; interim 50029
112.44 Amended; interim 50029
112.45 Introductory text amended; interim 50029
112.46 Amended; interim 50029
112.48 (a) introductory text, (b), (c), (d)(2) amd (e) amended; interim 50029
112.49 Amended; interim 50029
113 Technical correction 6110
113.1 Amended; interim 50029
113.11 Amended; interim 50029
113.12 (a), (b) introductory text and (2) amended; interim 50029
113.13 (b), (c) and (d) amended; interim 50029
113.14 Amended; interim 50029
113.15 Amended; interim 50029
113.23 (d) amended; interim 50029
113.24 (a) introductory text and (b) amended; interim 50029
113.26 (e) amended; interim 50029
113.27 (a) and (b) amended; interim 50029
113.32 (a)(1) amended; interim 50029
113.33 (c) and (d) amended; interim 50029
113.35 (a), (c)(2), (d) and (e) amended; interim 50029
(b)(4) and (c)(1)(ii) amended; interim 50030
113.37 (a) amended; (g)(2) revised; interim 50020
(a), (f), (g)(1)(iii), (4) and (5) amended; interim 50030
113.38 (c)(2) removed; (c)(3) through (7) redesignated as (c)(2) through (6); interim 50020
(c)(1), (2), (4) and (6) amended; interim 50030
113.39 (a) introductory text amended; interim 50020
Introductory text, (a) introductory text and (5) amended; interim 50030
113.40 (a), (b) and (c) amended; interim 50030
113.43 (a) and (b) amended; interim 50030
113.53 (b) amended; interim 50030
113.55 (a)(1), (c)(2), (3) and (d) amended; interim 50030
113.62 (a)(3) amended; interim 50030
(a)(1) introductory text and (b) introductory text revised; interim 2911
(b) introductory text revised; interim; eff. 4-8-96 6780
114 Authority citation revised 18348
114.25 Amended; interim 50030
114.26 (a) and (b) amended; interim 50030
114.34 (a) and (b) amended; interim 50030
118.1 Amended; interim 50030
118.2 Amended; interim 50030
118.4 (g) and (l) amended; interim 50020
(f), (g) and (k) amended; interim 50030
118.5 Amended; interim 50030
118.11 (b) and (h) amended; interim 50030
118.12 Amended; interim 50030
118.13 Amended; interim 50030
118.21 (a) introductory text and (b) introductory text amended; interim 50030
118.22 Amended; interim 50030
118.23 Amended; interim 50030
118.24 Removed; interim 50020
122.1 (c)(2) amended; interim 50030
122.3 Amended; interim 50030
122.5 (b) amended; interim 50030
122.11 (a) amended; interim 50030
122.12 (d) amended; interim 50030
122.14 (e) amended; interim 50020
(a)(1), (2), (3) introductory text, (ii) and (e) amended; interim 50030
122.15 (b) amended 41804
122.25 (a), (b) and (d)(4)(iv) amended; interim 50030
122.31 (b) amended; interim 50020
(b), (c) and (f) amended; interim 50030

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122.35 (b)(1) amended; interim 50030
122.37 (c) amended; interim 50030
122.38 (d), (e) and (f) amended; interim 50030
122.49 (a)(1), (b)(1), (d) and (e)(1) amended; interim 50030
122.54 (f) and (g) amended; interim 50030
122.63 (b) amended; interim 50030
122.64 Amended; interim 50030
122.65 Amended; interim 50030
122.71 (a)(1) amended; interim 50031
122.73 (a)(2) and (b)(2) amended; interim 50031
122.74 (a)(1) and (b)(2) amended; interim 50031
122.76 (a)(1) and (2) amended; interim 50031
122.77 (a) and (b) amended; interim 50031
122.79 (b) amended; interim 50031
122.82 Amended; interim 50031
122.92 (a)(3) introductory text and (iv) amended; interim 50031
122.93 (a) amended; interim 50031
122.102 (a) amended; interim 50031
122.114 (d) amended; interim 50031
122.118 (a) amended; interim 50031
122.119 (a), (d)(1) introductory text, (ii) and (2) amended; interim 50031
122.120 (b)(1) and (k) amended; interim 50031
122.132 (b)(2) and (c) amended; interim 50031
122.134 (a) and (c) amended; interim 50031
122.135 (b), (c) and (e) amended; interim 50031
122.143 (b) amended; interim 50031
122.144 (b) amended; interim 50031
122.153 Amended; interim 50031
122.162 (a)(2) and (4) amended; interim 50031
122.163 (c) introductory text and (2) amended; interim 50031
122.165 (b) amended; interim 50031
122.173 (a) and (b) amended; interim 50031
122.175 Amended; interim 50031
122.176 (a) and (b) amended; interim 50031
122.181 Amended; interim 50031
122.182 (b) through (g) amended; interim 50031
122.183 Amended; interim 50031
122.184 Amended; interim 50031
122.185 Amended; interim 50031
122.186 Amended; interim 50031
122.187 (a) introductory text, (4), (b), (c), (d) and (f) amended; interim 50031
122.188 (a), (b) and (d) amended; interim 50031
123 Authority citation amended 18348, 18991
123.0 Regulation at 58 FR 69471 confirmed 46361
123.1 (a)(1), (2), (3), (b) and (d) amended; interim 50031
123.4 (b) amended; interim 50031
123.8 (a), (b)(1) and (2) amended; interim 50031
123.9 (b)(1), (2), (d)(1)(iv) and (v) amended; interim 50031
123.12 Regulation at 59 FR 30294 confirmed 18990
123.14 (b) amended; interim 50031
123.24 (c) amended; interim 50031
123.25 (a) amended; interim 50031
123.34 Amended; interim 50031
123.63 Revised 54188
123.72 Amended; interim 50031
125.11 (b) and (c) amended; interim 50031
125.12 Amended; interim 50031
125.13 Amended; interim 50031
125.14 Amended; interim 50031
125.23 Amended; interim 50031
125.31 (c) and (d) removed; (e) redesignated as (c) 52295
125.33 (c) amended; interim 50031
125.35 Amended; interim 50031
125.36 Amended; interim 50031
125.42 Amended; interim 50031
127.1 Introductory text, (c), (d) and (e) amended; interim 50031
127.12 (b)(1) amended; interim 50031
127.13 (a) amended; interim 50031
127.21 Amended; interim 50031
127.22 Revised; interim 50020
127.25 Amended; interim 50032
127.27 Amended; interim 50032
127.28 (c), (d), (g) and (h) amended; interim 50032
127.29 Amended; interim 50032
127.35 Amended; interim 50032
127.36 (a) and (c) amended; interim 50032
128 Authority citation revised 18348
128.1 (d) and (e) amended; interim 50032

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128.11 (a), (b)(7)(iv) and (c) amended; interim 50032
128.12 (a) and (c) amended; interim 50032
128.21 Regulation at 59 FR 30294 confirmed 18990
128.23 Regulation at 59 FR 30294 confirmed 18990
(b)(3) amended; interim 50032
128.24 Regulation at 59 FR 30294 confirmed 18990
(e) amended 18991
(c) amended; interim 50032
128.25 Regulation at 59 FR 30295 confirmed 18990
128.26 Regulation at 59 FR 30295 confirmed 18990
132 Authority citation revised 18348
Authority citation amended 39109
132.11a (c) amended; interim 50032
132.12 (a) amended; interim 50032
132.13 (a)(1) amended; interim 50032
132.14 (a)(4)(i) introductory text, (D), (ii) introductory text and (C) amended; interim 50032
132.15 Added; interim 39109
Regulation at 60 FR 39109 confirmed 3569
132.23 (a), (b) and (d) amended; interim 50032
132.25 Amended; interim 50032
133.23 (b)(2) and (c)(2) amended; interim 50032
133.24 Amended; interim 50032
133.42 (c) amended; interim 50032
133.43 (a), (b) introductory text, (2), (c) introductory text, (1) introductory text, (i), (ii) and (2) amended; interim 50032
133.44 Amended; interim 50032
133.46 Amended; interim 50032
133.47 Amended; interim 50032
134 Authority citation revised 18348
Authority citation amended 46362
134.0 Regulation at 58 FR 69471 confirmed 46361
134.1 Regulation at 58 FR 69471 confirmed 46361
(k) added 46362
134.3 (b) introductory text and (2) amended; interim 50032
134.22 Regulation at 58 FR 69471 confirmed 46361
134.23 Regulation at 58 FR 69471 confirmed 46361
134.24 Regulation at 58 FR 69471 confirmed 46361
134.25 (a) and (c) amended; interim 50032
134.26 (a) and (c) amended; interim 50032
134.32 Regulation at 58 FR 69472 confirmed 46361
134.33 Amended 49752
134.34 (a) introductory text and (b) amended; interim 50032
134.35 Regulation at 58 FR 69472 confirmed 46361
134.43 Regulation at 58 FR 69472 confirmed 46361
134.44 Regulation at 58 FR 69472 confirmed 46361
134.45 Regulation at 58 FR 69472 confirmed 46361
134.51 Amended; interim 50032
134.52 (a) through (e) amended; interim 50032
134.53 (a)(2) amended; interim 50032
134.54 (a), (b) and (c) amended; interim 50032
141 Technical correction 6110
141.0a (a) and (f) amended; interim 2911
141.4 (a) amended 18348
Regulation at 59 FR 30295 confirmed 18990
(b)(1) corrected 21043
141.5 Amended; interim 50032
141.11 (a)(2) and (5) amended; interim 50032
141.13 Amended; interim 50032
141.15 (a) amended; interim 50032
141.16 Amended; interim 50032
141.20 (a)(1) and (2) amended; interim 50032
141.35 Amended; interim 50032
141.38 Amended; interim 50032
141.44 Amended; interim 50032
141.45 Revised; interim 50020
141.46 Amended; interim 50032
141.52 Introductory text and (i) amended; interim 50032
141.54 (a) and (c) amended; interim 50032
141.55 Amended; interim 50032
141.56 Amended; interim 50032
141.61 (e)(2) introductory text, (ii) and (4) amended; interim 50032
(a)(2), (e)(1)(i)(A), (ii)(B), (C) and (f)(2)(i) amended 52295

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141.62 (a) amended; interim 50032
141.63 (a) introductory text, (b) and (c) amended; interim 50032
141.68 (g)(1) and concluding text amended 52295
(i) added; interim 2911
141.69 (b) and (c) amended; interim 50032
141.83 (c)(2) amended; interim 50032
141.84 (c) amended; interim 50032
141.85 Amended; interim 50032
141.86 (a)(11) amended; interim 50032
141.88 Amended; interim 50032
141.90 (a) amended; interim 50032
141.91 (a) and (d) amended; interim 50032
141.92 (a) introductory text and (b)(4) amended; interim 50033
141.103 Amended; interim 50033
141.105 Amended; interim 50033
141.112 (b), (c), (d), (g) and (h) amended; interim 50033
141.113 (a) through (d), (f) and (h) amended; interim 50033
142.2 (a) amended; interim 50033
142.3 (c) amended; interim 50033
142.4 (c)(1) and (2) amended; interim 50033
142.6 (a)(4) amended; interim 50033
142.7 Amended; interim 50033
142.11 (b) amended; interim 50033
142.13 (a)(4) added; (b) removed; (c) redesignated as (b); interim 50020
(a) heading and introductory text amended; interim 50033
142.14 (a), (b) heading and (c) amended; interim 50033
142.15 Amended; interim 50033
142.17 (a) introductory text amended; interim 50033
142.18 (a) introductory text amended; interim 50033
142.19 (b)(2) amended; interim 50033
142.21 (a), (e)(1), (2), (f)(1) introductory text and (ii) amended; interim 50033
142.24 (a) amended; interim 50033
142.25 (a)(4) added; (b) removed; (c) redesignated as (b); interim 50020
(a) heading and introductory text amended; interim 50033
142.26 (a), (b) heading and (c) amended; interim 50033
142.27 Amended; interim 50033
142.28 (a) introductory text amended; interim 50033
142.42 Introductory text, (a) and (c) amended; interim 50033
142.43 Amended; interim 50033
142.44 Amended; interim 50033
142.45 (a) and (c) amended; interim 50033
142.48 (c) amended; interim 50033
142.49 Amended; interim 50033
142.50 Amended; interim 50033
142.51 Amended; interim 50033
142.52 Heading, (a) and (b) amended; interim 50033
143.2 Introductory text amended; interim 50033
143.3 (a) introductory text and (b) amended; interim 50033
143.3a (c) and (d) amended; interim 50033
143.5 Amended; interim 50033
143.6 Amended; interim 50033
143.7 (a), (b) and (c) amended; interim 50033
143.8 Amended; interim 50034
143.11 (a) introductory text and (b) amended; interim 50034
143.17a (a) introductory text amended; interim 50033
143.21 Regulation at 59 FR 30295 confirmed 18990
143.22 Amended; interim 50034
143.23 Regulation at 59 FR 30295 confirmed 18990
(j)(5) amended; (j)(6) redesignated as (j)(7); new (j)(6) added 18991
Introductory text amended; interim 50034
143.26 Regulation at 59 FR 30296 confirmed 18990
(a) and (b) amended 18991
143.37 (c) and (d) amended; interim 50034
144 Authority citation amended 52295
Technical correction 6110
144.11 (b) amended; interim 50034
144.12 Amended; interim 50034
144.13 Amended; interim 50034
144.22 (c) removed; (a) revised 52295
144.34 (a) amended; interim 50034
144.36 (c) and (h) amended; interim 50034

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144.37 (a), (b)(3), (d), (e), (f), (h)(2) introductory text, (ii) and (v) amended; interim 50034
(a) amended 52295, 52296
144.38 (d) amended; interim 50034
(a) and (e) amended 52296
(b) added; interim 2911
144.41 (b) and (h) amended; interim 50034
144.42 (b)(3) amended; interim 50034
145 Authority citation amended 18348
145.4 (b), (c) and (d) amended; interim 50034
145.12 (a)(1) and (c) amended; interim 50034
145.14 (b) amended; interim 50034
145.22 (a) and (b) amended; interim 50034
145.23 Amended; interim 50034
145.24 Amended; interim 50034
145.25 Amended; interim 50034
145.31 Regulation at 59 FR 30296 confirmed 18990
Amended; interim 50034
145.32 Regulation at 59 FR 30296 confirmed 18990
Amended; interim 50034
145.35 Amended; interim 50034
145.36 Amended; interim 50034
145.41 Amended; interim 50034
145.42 Amended; interim 50034
145.54 (c) introductory text and (3) amended; interim 50034
146 Authority citation amended 18348, 20632, 50020
Authority citation revised 62733
146.1 (b)(2) amended; interim 50034
146.2 Amended; interim 50034
146.3 (b) amended; interim 50034
146.4 (h) amended; interim 50020
(g) and (h) amended; interim 50034
146.5 Removed 62733
146.6 (a), (c), (d) and (e) amended; interim 50034
(b)(1) removed 62733
146.7 Amended; interim 50034
(a) and (b) amended 62733
146.8 Amended; interim 50034
146.9 Amended; interim 50034
146.10 Amended; interim 50034
146.13 Amended; interim 50034
146.21 (b) amended; interim 50034
146.22 (b) amended; interim 50034
146.23 (c) amended; interim 50034
146.25 (a) and (c) amended; interim 50034
146.26 Amended; interim 50034
146.31 (a) amended; interim 50034
146.32 (a), (b)(5), (c) introductory text, (3) and (d)(2)(i) amended; interim 50034
146.34 (a) and (b) amended; interim 50034
146.35 (b), (d) and (e) amended; interim 50034
146.36 Amended; interim 50034
146.37 (b), (c)(1) and (d) amended; interim 50034
146.38 Amended; interim 50034
146.39 (b), (c) introductory text, (d) and (e) amended; interim 50034
146.40 (b) amended; interim 50020
(a)(2), (5), (7), (c)(1), (2), (3)(i) and (4) amended; interim 50034
146.41 (a), (c) and (d) amended; interim 50034
146.42 (c) amended; interim 50034
146.44 (c)(2) amended; interim 50035
146.51 Amended; interim 50035
146.52 (a) through (d) and (e) amended; interim 50035
146.53 (a) introductory text, (3), (b), (c) and (d) amended; interim 50035
146.61 Amended; interim 50035
146.62 (c) amended; interim 50035
146.63 (c)(1) amended; interim 50035
146.64 (c) amended; interim 50035
146.65 (a)(1) amended 20632
(b)(3) and (c) amended; interim 50035
146.66 (a) amended; interim 50035
146.67 (d) amended; interim 50035
146.68 Amended; interim 50035
146.69 (b) and (c) amended; interim 50035
146.70 (b) and (c) amended; interim 50035
146.71 Amended; interim 50035
146.81 (b) amended; interim 50035
146.82 (a) introductory text, (b)(1), (2) and (3) amended; interim 50035
(a)(6) removed 62733
146.83 (a) amended; interim 50035
146.91—146.96 (Subpart H) Added 20632
146.95 (a)(3)(1) amended; interim 50035

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147.1 (d) amended; interim 50035
147.3 Amended; interim 50035
147.13 (b) amended; interim 50035
147.14 (a) amended; interim 50035
147.32 Amended; interim 50035
147.33 Amended; interim 50035
147.41 Amended; interim 50035
148 Authority citation amended 18349, 54188
Authority citation amended 3570
148.6 (b) amended; interim 50035
148.8 (d) amended; interim 50035
148.12 Regulation at 59 FR 30296 confirmed 18990
148.21 Revised 54188
148.25 (b) amended; interim 50035
148.32 (b) amended; interim 50035
148.37 (a) amended; interim 50035
148.39 (b) amended; interim 50035
148.46 (b) amended; interim 50035
148.51 Regulation at 59 FR 30296 confirmed 18990
148.52 (b) and (d) amended; interim 50035
148.54 (c) amended; interim 50035
148.63 (a) introductory text amended; interim 50035
148.64 Regulation at 59 FR 30296 confirmed 18990
148.66 (b)(2) amended; interim 50035
148.77 (a), (c)(1) and (2) amended; interim 50035
148.84 (a)(2) amended; interim 50035
148.87 (b) table amended 3570
148.90 (a), (b), (c), (d)(1)(ii), (2)(i) and (iii) amended; interim 50035
148.105 (a) amended; interim 50035
148.115 (e) amended; interim 50035
151 Authority citation amended 18349
151.1 Amended; interim 50035
151.2 (a)(1) and (2) amended; interim 50035
151.4 (b) introductory text, (c)(1) and (2) amended; interim 50035
(c)(2) amended 62733
151.5 (c) amended 62733
151.6 Amended; interim 50035
151.7 Introductory text and (a) through (d) amended; interim 50035
151.8 (b) and (c) amended; interim 50035
151.9 Amended; interim 50035
151.10 Amended; interim 50035
151.11 Amended; interim 50035
151.13 (a) introductory text, (2), (b) introductory text, (9), (d), (e), (f), (g)(2), (h), (j), (k) and (l)(2) amended; interim 50035
151.15 (a), (b) introductory text and (d) amended; interim 50035
(c) and (d) amended; interim 50036
151.26 Amended; interim 50036
151.28 Amended; interim 50036
151.42 (a)(1), (2), (3) and (c) amended; interim 50036
151.44 (a) and (c) amended; interim 50036
151.51 (b) amended; interim 50036
151.52 (c) amended; interim 50036
151.54 Introductory text amended; interim 50036
151.56 Amended; interim 50036
151.65 Amended; interim 50036
151.68 (c) amended; interim 50036
151.69 (b) amended; interim 50036
151.70 Amended; interim 50036
151.71 (a), (b) and (c) amended; interim 50036
151.73 (b) and (c) amended; interim 50036
151.74 Amended; interim 50036
151.75 Amended; interim 50036
151.76 (a), (b) and (c) amended; interim 50036
151.84 Amended; interim 50036
151.85 Amended; interim 50036
152 Authority citation amended 18349
152.1 (c) amended; interim 50036
152.2 Amended; interim 50036
152.13 (b)(1), (2), (c) introductory text, (1), (2), (3) and (d) amended 18349
(a), (c)(1), (3) and (d) amended; interim 50036
152.16 (c) amended; interim 50036
152.26 Introductory text, (b), (d) and (e) amended; interim 50036
152.101 (c) and (d) amended; interim 50036
152.103 (a)(5)(iii), (d), (l)(1), (2)(iii) and (m) amended; interim 50036
152.105 (i)(2) amended; interim 50036
152.106 (f)(2) amended; interim 50036
158.1 (b) introductory text amended; interim 50036
158.3 Amended; interim 50036
158.5 (a) amended; interim 50036
158.6 Amended; interim 50036

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158.11 (a), (b)(1) and (3) amended; interim 50036
158.12 (a) amended; interim 50036
158.13 (a) and (b) amended; interim 50036
158.14 Amended; interim 50036
158.24 Amended; interim 50036
158.25 Amended; interim 50036
158.27 (b) amended; interim 50036
158.28 Amended; interim 50036
158.29 Amended; interim 50036
158.30 Amended; interim 50036
158.42 (b), (c) and (d) amended; interim 50036
158.43 (a), (c) and (e) amended; interim 50036
158.44 (a) and (c) amended; interim 50036
159 Authority citation amended 18991
159.6 Regulation at 59 FR 30296 confirmed 18990
159.7 (a) introductory text, (b) and (c) amended; interim 50036
159.12 (a)(1) introductory text, (ii) and (b) through (e) amended; interim 50036
159.22 (d)(2) amended; interim 50036
159.36 (b), (c) and (d) amended; interim 50036
159.38 Amended; interim 50036
159.44 Amended; interim 50036
159.58 Amended; interim 50036
161.3 Amended; interim 50036
161.16 Amended; interim 50036
162 Authority citation amended 67058
162.0 Regulation at 58 FR 69472 confirmed 46361
162.1d (b) amended; interim 50036
162.3 (b) amended; interim 50036
162.14 Removed 258
162.21 (b) amended; interim 50036
162.23 Added 67058
162.32 (a) and (c) amended; interim 50037
162.42 Amended; interim 50037
162.44 (a), (b) and (c) amended; interim 50037
162.45 (a)(3), (4) and (c) amended; interim 50037
162.45a Amended; interim 50037
162.46 (c) introductory text, (2) heading, introductory text, (ii) and (d) amended; interim 50037
162.47 (a), (d) and (e) amended; interim 50037
162.48 (a) amended; interim 50037
162.49 (a) amended; interim 50037
162.50 (a) amended; interim 50037
162.52 (b)(2) and (4) amended; interim 50037
162.64 Amended; interim 50037
162.65 (c), (d), (e) introductory text and (1) amended; interim 50037
162.71 (e)(4) amended; interim 50037
162.72 (a) amended; interim 50037
162.74 (a), (b)(4), (c), (d)(3), (4)(i), (e)(1), (h) and (j) amended; interim 50037
162.75 (c), (d)(1), (2) introductory text, (i) and (3) amended; interim 50037
162.76 (a) amended; interim 50037
162.77 (a) amended; interim 50037
162.78 (a), (b) and (d) amended; interim 50037
162.79 (a) and (b)(1) amended; interim 50037
162.79b Amended; interim 50037
162.80 (a)(1), (2)(i) and (iii) amended; interim 50037
171.12 (a) and (e) amended; interim 50037
171.15 (a) introductory text, (4) and (7) amended; interim 50037
171.21 Amended; interim 50037
171.22 Amended; interim 50037
171.31 Amended; interim 50037
171.33 (a) introductory text, (b)(1), (2) and (c) amended; interim 50037
171.52 (d) amended; interim 50037
171 Appendixes A, B and C amended; interim 50037
172.2 Amended; interim 50037
172.12 (a) and (b)(1) amended; interim 50037
172.21 Amended; interim 50037
172.22 Heading, (a), (b)(3) introductory text, (ii), (c), (d)(1), (2), (4) and (e) amended; interim 50037
172.31 (a) amended; interim 50037
172.33 (a) introductory text, (b)(1) introductory text, (i), (ii), (2) and (c)(1) amended; interim 50038
173.1 Amended; interim 50038

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173.2 Introductory text amended; interim 50038
173.3 (a) amended; interim 50038
173.4 (a) and (c) amended; interim 50038
173.4a Amended; interim 50038
173.5 Amended; interim 50038
173.6 Amended; interim 50038
174.0 Regulation at 58 FR 69472 confirmed 46361
Amended; interim 50038
174.1 Amended; interim 50020, 50038
174.3 (b)(1), (c) and (d) amended; interim 50038
174.11 Introductory text amended; interim 50038
174.12 Regulation at 58 FR 69472 confirmed 46361
(e)(2) revised 46363
(b) and (d) amended; interim 50038
174.13 (b) amended; interim 50038
174.14 (e) amended; interim 50038
174.15 Regulation at 58 FR 69472 confirmed 46361
(b)(2) amended; interim 50038
174.16 Amended; interim 50038
174.21 Amended; interim 50038
174.22 (a), (c) and (d) amended; interim 50038
174.23 Amended; interim 50038
174.24 Introductory text and (a) amended; interim 50038
174.26 (a), (b) introductory text and (2) amended; interim 50038
174.27 Amended; interim 50038
174.29 Regulation at 58 FR 69472 confirmed 46361
Amended; interim 50038
174.30 (b) and (c) amended; interim 50038
175.25 (a) and (b) amended; interim 50038
176.1 Amended; interim 50038
177 Authority citation amended 18349
177.0 Regulation at 58 FR 69473 confirmed 46361
177.1 Regulation at 58 FR 69473 confirmed 46361
(d)(3) amended; interim 50038
177.2 (a), (b)(2)(ii)(A), (B) and (C) amended; interim 50038
177.22 (c) amended; interim 50038
178 Authority citation revised 46363
178.2 Table amended (OMB number) 18991
Table amended 46204
Regulation at 58 FR 69473 confirmed 46361
Table amended (OMB numbers) 46364
181 Authority citation amended 18349
Regulation at 58 FR 69473 confirmed 46361
Revised 46364
Technical correction 48645
181.53 Revised; interim 2911
(b)(4) corrected 6111
181.76 (e) corrected 1829
181 Appendix corrected; CFR correction 35122
191 Authority citation amended 18349, 46463
Interpretation 40995
191.0 Regulation at 58 FR 69565 confirmed 46361
191.2 (d) and (f) amended; interim 50038
191.10 (a), (b) and (d) amended; interim 50038
(e)(1)(i), (ii), (iii) and (2) amended; interim 50039
191.21 (c), (d) and (e) amended; interim 50039
191.22 (d) amended; interim 50039
191.23 (a) and (b) amended; interim 50039
191.24 Amended; interim 50039
191.25 (b)(1) and (2) introductory text amended; interim 50039
191.26 Amended; interim 50039
191.42 (b) introductory text amended; interim 50039
191.43 Amended; interim 50039
191.44 Amended; interim 50039
191.53 (b), (c), (d) and (e)(3) amended; interim 50039
191.56 Amended; interim 50039
191.57 Amended; interim 50039
191.62 (a)(1), (2) introductory text and (3) amended; interim 50039
191.64 Amended; interim 50039
191.65 (a) amended; interim 50039
191.66 (e) amended; interim 50039
191.67 (a)(1), (e)(1) and (2) amended; interim 50039
191.71 (d) and (f) amended; interim 50039

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191.72 (b) and (c) amended; interim 50039
191.82 (d)(2) amended; interim 50039
191.83 (b)(2)(vi) and (3) amended; interim 50039
191.84 (a), (b)(9) and (d) amended; interim 50039
191.85 Amended; interim 50039
191.93 (a), (c)(5), (d), (e)(2), (4), (g), (h), (i), (j) introductory text and (4) amended; interim 50039
191.133 (a), (c) and (d)(2) amended; interim 50039
191.134 Amended; interim 50039
191.136 (d) and (e) amended; interim 50040
191.138 Amended; interim 50040
191.141 (b)(1), (2)(i), (ii), (d), (f)(1), (2) and (g)(1) amended; interim 50040
191.142 (b)(1), (3), (4) and (5) amended; interim 50040
191.153 (b) amended; interim 50040
191.156 (b) amended; interim 50040
191.158 Amended; interim 50040
191.163 (b)(2) and (c) amended; interim 50040
191.164 (b) and (c) amended; interim 50040
191.165 (b) and (c) amended; interim 50040

Chapter II—United States International Trade Commission (Parts 200—299)

201.2 (b) through (i) redesignated as (c) through (j); new (b) added 37336
201.18 (a) revised 37336
201.24 (d) revised 37336
201.28 (b) revised 37336
201.29 Revised 37336
201.30 (b) revised 37336
206.2—206.8 (Subpart A) Regulation at 60 FR 10 confirmed 46500
206.11—206.19 (Subpart B) Regulation at 60 FR 12 confirmed 46500
206.34 Regulation at 60 FR 16 confirmed 46500
206.35 Regulation at 60 FR 17 confirmed 46500
206.51—206.55 (Subpart F) Regulation at 60 FR 17 confirmed 46500
210.4 (f)(3) revised 32443
210.5 (a) revised 32444
210.7 Revised 53119
210.8 (a) revised 32444
210.11 (a) revised 53119
210.21 (b)(2), (c)(2)(i), (ii) and (d) revised 53120
210.41 Revised 53120
210.42 (e) and (i) revised 53120
210.43 (d)(3) revised 53120
210.45 (c) revised 53120
210.52 (e) revised 32444
210.66 (d) and (f) revised 53121
210.74 (b) revised 53121

Chapter III—International Trade Administration, Department of Commerce (Parts 300—399)

353 Authority citation revised 25133
353.1 Revised 25133
353.12 (b)(2) revised 25134
353.13 (a) revised 25134
353.15 (a)(1), (b) and (c) revised 25134
353.22 (c)(4) and (7) revised; (h) added 25134
353.31 (a)(1) and (c) revised 25135
353.38 (i) added 25136
355 Authority citation revised 25136
355.1 Revised 25136
355.12 (b)(2) revised 25136
355.13 (a) revised 25136
355.15 (a)(1), (2)(ii), (4), (b) and (c) revised 25136
355.20 (a)(2)(ii), (4) and (e) revised; (d) removed 25136
355.22 (a), (c), (i)(5)(ii), (6), (9)(ii) and (10) revised; (d) and (f) removed; (j) added 25137
355.31 (a)(1) and (c) revised 25139
355.38 (i) added 25139
355.40 Added 25139

Proposed Rules:

1—199 (Ch. I) 18783
10 ..... 22312, 27378, 29520
12 ..... 22312, 27378, 29520
101 ..... 25176, 47504, 47505, 52347
102 ..... 22312, 27378, 29520, 35878, 38982
118 1877
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133 36249

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134 ..... 22312, 29520, 57559, 66952
162 ..... 21778, 35881, 37856
177 ..... 22312, 29520
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207 51748
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351 ..... 4826, 7230
353 ..... 4826, 7230
354 4826
355 ..... 4826, 7230

TITLE 20—EMPLOYEES' BENEFITS

Chapter II—Railroad Retirement Board (Parts 200—399)

200.4 (o) and (p) added 29984
217.8 (t) and (u) added 21982
226 Revised 22262
232 Removed 22268
320.6 (b) and (d) revised; interim 29534
335.3 (a)(6) and (7) amended; (a)(8) and (9) added 40073
335.4 (d)(5) amended 40073
344 Removed 21982
366.1 Amended 66073
366.2 Introductory text, (a), (b), (e) and (f) revised; (j) and (k) amended 66073
366.6 (c) amended 66073
367.2 Introductory text, (a), (b), (e) and (f) revised; (i) and (j) amended 66073
367.7 (c) amended 66073

Chapter III—Social Security Administration (Parts 400—499)

Chapter III Heading revised 18992
401 Authority citation revised 5940
401.100—401.125 (Subpart A) Authority citation removed 5940
401.200—401.220 (Subpart B) Authority citation removed 5940
401.300—401.350 (Subpart C) Authority citation removed 5940
401.400—401.420 (Subpart D) Authority citation removed 5940
401.500—401.510 (Subpart E) Authority citation removed 5940
401.600 (Subpart F) Authority citation removed 5940
404.1—404.3 (Subpart A) Authority citation revised 5940
404.101—404.146 (Subpart B) Authority citation revised 5940
404.201—404.290 (Subpart C) Authority citation revised 5940
404.213 (a)(3) amended 17444
(a)(3) and (f) introductory text revised; (e)(7), (8) and (9) added 56513
404.301—404.395 (Subpart D) Authority citation revised 5941
404.401—404.480 (Subpart E) Authority citation revised 5941
404.408a (b)(5) added 56513
404.452 (f)(1) amended 56513
404.460 (c)(3) amended 17444
404.501—404.526 (Subpart F) Authority citation revised 5941
404.503 (b)(3) and (6) revised 17445
404.510 (l) revised 17445
404.601—404.641 (Subpart G) Authority citation revised 5941
404.701—404.780 (Subpart H) Authority citation revised 5941
404.721 (b) revised 19164
404.722 Added 19165
404.801—404.831 (Subpart I) Authority citation revised 5941
404.900—404.999d (Subpart J) Authority citation revised 34131
Authority citation revised 5941
404.906 Revised 20026
404.942 Added 34131
404.943 Added 47475
404.988 (c)(4) introductory text and (i) revised 19165
404.1001—404.1096 (Subpart K) Authority citation revised 5941
404.1200—404.1299 (Subpart M) Authority citation revised 5941
404.1220 (a) and (e) revised 42433
404.1301—404.1371 (Subpart N) Authority citation revised 5941
404.1401—404.1413 (Subpart O) Authority citation revised 5941
404.1501—404.1599 (Subpart P) Authority citation revised 43710
Authority citation revised 5941
404.1501—404.1599 (Subpart P) Appendix 1 amended 43710, 62330
Appendix 1 corrected 53267
404.1601—404.1694 (Subpart Q) Authority citation revised 5941
404.1700—404.1799 (Subpart R) Authority citation revised 5941
404.1800—404.1825 (Subpart S) Authority citation revised 5941

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404.1901—404.1930 (Subpart T) Authority citation revised 5941
404.2001—404.2065 (Subpart U) Authority citation revised 5941
404.2101—404.2127 (Subpart V) Authority citation revised 5941
416.101—416.121 (Subpart A) Authority citation revised 5941
416.200—416.269 (Subpart B) Authority citation revised 1712, 5941
416.210 (b) revised 1712
416.301—416.360 (Subpart C) Authority citation revised 5941
416.401—416.435 (Subpart D) Authority citation revised 5942
416.501—416.571 (Subpart E) Authority citation revised 5942
416.601—416.665 (Subpart F) Authority citation revised 5942
416.701—416.732 (Subpart G) Authority citation revised 5942
416.801—416.806 (Subpart H) Authority citation revised 5942
416.901—416.998 (Subpart I) Authority citation revised 5942
416.1001—416.1094 (Subpart J) Authority citation revised 5942
416.1100—416.1182 (Subpart K) Authority citation revised 1712, 5942
416.1124 (c)(9), (15) and (16) amended; (c)(17) and (18) added 1712
416.1161 (a)(20) amended; (a)(21) and (22) added 1712
416.1201—416.1266 (Subpart L) Authority citation revised 1712, 5942, 5944
416.1204 (a) revised 1712
416.1210 (n) and (o) amended; (p) and (q) added 1712
416.1229 Added 1712
416.1232 (b) revised; (c) redesignated as (d); new (c) added 5944
416.1239 Added 1712
416.1321—404.1338 (Subpart M) Authority citation revised 5942
416.1400—416.1499 (Subpart N) Authority citation revised 34132
416.1406 Revised 20028
416.1442 Added 34132
416.1443 Added 47476
416.1500—416.1599 (Subpart O) Authority citation revised 5942
416.1600—416.1619 (Subpart P) Authority citation revised 5942
416.1701—416.1725 (Subpart Q) Authority citation revised 5942
416.1801—416.1881 (Subpart R) Authority citation revised 5942
416.1901—416.1922 (Subpart S) Authority citation revised 5942
416.2001—416.2098 (Subpart T) Authority citation revised 5942
416.2101—416.2176 (Subpart U) Authority citation revised 5942
416.2201—416.2227 (Subpart V) Authority citation revised 5942
422 Authority citation removed 5942
422.1—422.5 (Subpart A) Authority citation revised 5942
422.101—422.140 (Subpart B) Authority citation revised 32446, 42433
Authority citation revised 5942
422.107 (c) amended; interim 32446
422.112 Revised 42433
422.114 Added 42433
422.115 Removed 42434
422.120 Revised 42434
422.122 Added 42434
422.201—422.210 (Subpart C) Authority citation revised 5942
422.401—422.449 (Subpart E) Authority citation revised 5943
422.501—422.527 (Subpart F) Authority citation revised 5943
422.601—422.607 (Subpart G) Authority citation revised 5943
423 Added 18992
Authority citation revised 5943
498 Added 58226

Chapter IV—Employees' Compensation Appeals Board, Department of Labor (Parts 500—599)

507 Enforcement position 49505

Chapter V—Employment and Training Administration, Department of Labor (Parts 600—699)

625.6 Revised; interim 25568
626 Authority citation revised 58229
626.4 Amended; interim 58229
632 Authority citation revised 58229
632.70 Added; interim 58229
638.524 (b) and (c) revised 18993
641 Redesignated from Title 29, Part 89 and revised 26581

NOTE: Boldface page numbers indicate 1995 changes.

655 Enforcement position 49505
655.104 Regulation at 59 FR 41875 confirmed 26970
655.112 Regulation at 59 FR 41876 confirmed 26970
655.204 Regulation at 59 FR 41876 confirmed 26970
655.206 Regulation at 59 FR 41876 confirmed 26970
655.212 Regulation at 59 FR 41876 confirmed 26970
655.900 (b)(2)(i) and (d) amended; (e) revised 34133, 34134, 38958, 38959, 61210, 61211
(b)(2)(i), (d) and (e) amended; interim 49753, 49754
655.910 (b)(2)(i) and (e) amended; interim 34133, 34134, 38958, 38959, 49754
(b)(2)(i) and (e) amended 61210, 61211
655.940 (d)(1)(i)(B), (h)(1) and (3) amended; interim 34133, 34134, 38959, 49754
(d)(1)(i)(B) amended; interim 38958
(d)(1)(i)(B), (h)(1) and (2) amended 61210, 61211

Chapter VI—Employment Standards Administration, Department of Labor (Parts 700—799)

702 Authority citation revised 51348
702.101 Removed 51348
702.102 Heading revised; (a) and (b) redesignated as (b) and (c); new (a) added 51348
702.224 Amended 51348
702.243 (b) amended 51348
702.316 Amended 51348
702.413 Revised 51348
702.414 (a) and (c) revised 51348
703 Authority citation revised 51348
703.121 Removed 51348

Proposed Rules:

200 1252
209 5970
211 66770
220 47122
230 ..... 42482, 43999
255 67108
261 66203
345 43300
366 42818
367 42818
400—499 (Ch. III) 17731
404 ..... 19008, 28767, 30482, 47126, 62354, 62783, 65093
2654, 4389
410 28767
416 ..... 19008, 26387, 30482, 40542, 45110, 47126, 62356
498 58305
655 55339
702 22537
703 ..... 22537, 58305

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health and Human Services (Parts 1—1299)

1 Appendix A removed 47262
5.10 (a)(37) added 24767
5.20 (f)(1) revised 2414
5.22 (a)(1) through (13), (b)(1) and (2) revised; (a)(14) and (b)(3) added 26826
5.61 (h) added 36594
5.80 (a)(1)(iii) revised; (a)(1)(iv) removed 57338
5.81 Added 54424
5.85 Revised 47268
5.98 Added 63607
5.99 Removed 38626
10.50 (c)(21) removed 38626
16 Workshop 27406
17 Added 38626
19.21 (a), (b) and (c) amended 47478
20 Authority citation revised 63381
20.63 (f) added 16968
20.86 Amended 38633
20.88 (d) and (e) added 63381
20.89 (d) added 63382
25.22 (a)(10) revised 36594
25.31a (a) introductory text, (b)(1) introductory text and (2) introductory text revised 36594
73.35 Added 18738
(b) and (d)(3) stayed 41805
(b) and (d)(3) stay at 60 FR 41805 rescinded; eff. 11-1-95 55446
73.250 (a)(1) amended 52629
73.260 (a)(1) amended 52629
73.3106 Regulation at 60 FR 10497 confirmed as 3-30-95 32264
80.10 (c) removed; (d), (e) and (f) redesignated as (c), (d) and (e) 3572

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101 Authority citation revised 67174
Request denial 37502
101.2 (d)(1) revised 17205
101.3 (e)(4)(ii) revised; eff. 1–1–97 67174
101.9 (i) revised; (j)(17) revised 17205
(j)(17) corrected 30788
(c)(8)(iv) revised; eff. 1–1–97 67174
101.13 (j)(2)(iv)(B) revised 17205
101.36 (b)(3) introductory text, (i), (ii), (4) introductory text and (vi) revised; eff. 1–1–97 67175
101.54 (e)(1)(iii)(B) and (2)(iii)(B) revised 17206
101.56 (b)(3)(ii), (c)(1)(ii)(B), (2)(ii)(B) and (g) amended 17206
101.60 (b)(4)(ii)(B), (5)(ii)(B), (c)(4)(ii)(B) and (5)(ii)(B) revised 17206
101.61 (b)(6)(ii)(B), (7)(ii)(B) and (c)(2)(iii) revised 17206
101.62 (b)(4)(ii)(B), (5)(ii)(B), (c)(4)(ii)(B), (5)(ii)(B), (d)(1)(ii)(F)(*2*), (2)(iii)(E)(*2*), (iv)(E)(*2*), (4)(i)(C)(*2*), (ii)(D)(*2*), (5)(i)(C)(*2*) and (ii)(D)(*2*) revised 17207
102.50 Table amended 34460
103.35 Removed; eff. 5–13–96 57123
123 Added; eff. 12–18–97 65197
129.35 (a)(3)(ii) and (iii) revised; (a)(4) added; eff. 5–13–96 57123
129.80 (g) introductory text revised; eff. 5–13–96 57124
146.113 Removed 56513
165 Added; eff. 5–13–96 57124
165.110 (a)(2)(v) and (b)(4)(i)(C)(*4*) corrected; eff. 5–13–96 66495
170.3 (e) redesignated as (e)(1); (e)(2) added 36595
170.39 Added 36595
171.8 Added 36596
172.120 (b)(1) table amended 33710
172.723 Added 32903
172.800 (c)(12) added 21702
172.841 (a)(1) revised 54425
172.859 (c)(1) and (2) revised 44756
172.867 Added 3171
173.45 (a) and (c) revised 386
173.340 (a)(3) table amended 54036
(a)(4) table amended 631
173.357 (a)(2) table amended 4873
174.6 Added 36596
175.105 (c)(5) table amended 47480, 49337
(c)(5) table amended 2113
(c)(5) table amended 6940
175.250 (a), (b)(1) and (2) amended 39645
175.300 (b)(3)(viii)(*b*) and (xxxiii) amended 48646
(b)(3)(xi) amended 49337
(b)(3)(xxxiii) amended 57339
176.170 (b)(2) table amended 18350
(a)(5) table amended 34135, 39646, 44757, 62207
Regulation at 60 FR 34135 eff. date corrected to 7–31–95 47205
176.180 (b)(2) table amended 18350
177.1315 (b) table amended 57926
177.1520 (a)(3)(i)(*a*) redesignated as (a)(3)(i)(*a*)(*1*); (a)(3)(i)(*a*)(*2*) added; (c) table amended 40074
(a)(6) added; (c) table amended 54189
177.1630 (a), (b) and (j) introductory text revised; (e)(4)(ii) amended 57927
(e)(4) amended 61654
177.2440 (a) and (b) revised 48649
177.2600 (c)(4)(ii)(*a*) and (*b*) amended 39648
177.2910 Introductory text revised; (e) and (f) redesignated as (f) and (g); (a)(4) and new (e) added 54426
178.1010 (b)(44) and (c)(38) added 18740
178.2010 (b) table amended 18353, 22269, 33711, 43371, 49338, 49507, 54428
(b) table amended 1831
178.3130 (b) table amended 18351, 54430
178.3297 (e) table amended 31244, 39649
(e) table amended 2116
178.3400 (c) table amended 18351
178.3570 (a)(3) table amended 44758
(a)(3) table amended 1713, 1830
182.70 Amended 62208
184.1012 Added 55789
184.1024 Added 32910
184.1034 Added 32910
184.1316 Added 32910
184.1329 Added 63621
184.1387 Added 7704
184.1415 Added 32911
184.1443a Added 32911
184.1444 (a) amended; (b) revised 48893
184.1563 (c) revised; eff. 5–13–96 57130
184.1583 Added 32911
184.1595 Added 32911
184.1914 Added 32911

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184.1985 Added 54193
186.1555 Added 62208
189.240 Added 33109
189.301 Added 4820
202.1 (e)(4)(i)(*b*)(*3*) amended 38480
206.10 (a) amended 19846
210 Compliance date extension 20897
211 Compliance date extension 20897
310 Technical correction 17611, 57927
310.201 (a)(10) and (15) removed; eff. 10–7–96 52507
310.543 Added 20165
310.545 (a)(9) removed; (d)(1) revised 20165
(d)(1) corrected 20898
(a)(6)(iv), (d)(19) and (20) added 38642
(a)(15)(ii) stayed in part 42436
(a)(2) redesignated as (a)(2)(i); (a)(2)(i) heading, (ii) and (d)(24) added; (d) introductory text and (1) revised; eff. 10–7–96 52507
331.20 Amended; eff. 2–10–97 4823
Redesignated from 331.21 and revised; eff. 2–10–97 4823
331.21 Redesignated as 331.20; new 331.21 redesignated from 331.29 and revised; eff. 2–10–97 4823
331.22 Removed; eff. 2–10–97 4823
331.23 Removed; eff. 2–10–97 4823
331.24 Removed; eff. 2–10–97 4823
331.25 Removed; eff. 2–10–97 4823
331.26 Removed; eff. 2–10–97 4823
331.29 Redesignated as 331.21; eff. 2–10–97 4823
331.80 (a)(1) revised; eff. 2–10–97 4823
355 Added; eff. 10–7–96 52507
355.50 (a) corrected 57927
369 Technical correction 57927
369.21 Amended; eff. 10–7–96 52510
429.55 (b) revised; interim 56516
430.4 (a)(70) added 58230
430.5 (a)(105) and (b)(107) added 58230
430.6 (b)(107) added 58230
436.105 Table corrected; CFR correction 66898
436.106 Table corrected; CFR correction 66898
436.215 (b) table amended; (c)(9) revised 27221
(b) table amended; (c)(19) added 58230
442.52 (b)(1)(iv) and (3) revised 33712
442.54 Added 58231
442.119 Redesignated as 442.119a; new 442.119 added 27222
442.119a Redesignated from 442.119 27222
442.119b Added 27222
442.154 Added 58232
442.154a Added 58232
442.154b Added 58233
453.522d Added 49508
500.26 (a) amended 38480
500.27 (a)(3) amended 38480
501.4 (b)(13) amended 38480
510.413 (b) amended 38480
510.600 (c)(1) table and (2) table amended 29755, 32447, 33110, 33342, 34135, 35122, 35838, 39846, 40454, 40456, 47052, 47480, 54193, 55658, 63622
(c)(1) table and (2) table amended 259, 515, 4735, 5506
520.45a (b) amended 55658
(a)(2) amended 4875
520.45b (b) amended 55658
520.88a (b) amended 55658
520.88b (b) amended 55658
520.88c (b) amended 55658
520.88d (b) amended 55658
520.88e (b) amended 55659
520.88g (b) amended 55659
520.88h (b) amended 55659
520.90b (b) amended 55659
520.90f (b) amended 55659
520.445b (d)(4) introductory text amended 26827
(b) and (d)(4)(iii)(C) amended 47052
520.540c (b) amended 55659
520.550 (b) amended 55659
520.622c (b)(2) amended 55659
(b)(3) amended 57832
520.623 (b) amended 55659
520.704 Removed 63622
520.816 (b) amended 55659
520.960 (b) amended 5506
520.1284 (b) amended 55659
520.1289 Added 20402
520.1445 (c)(2) and (3) amended 50097
520.1468 (b) amended 5506
520.1560 Removed 39847
520.1560a Removed 39847
520.1560b Removed 39847
520.1628 (b) amended 5506
520.1629 (a)(2) and (b)(2) amended 5506
520.1630 (b) amended 5506
520.1631 (b) amended 5506

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520.1638 (b) amended 55659
520.1640 (b) amended 55659
520.1660d (b)(2) amended; (c) removed 40455
(a)(7) and (b)(5) added 2915
520.1696b (b) revised 26359
520.1801 Removed 39847
520.1801a Removed 39847
520.1840 (c)(1) and (2) amended 55659
520.1880 (b) amended 57832
520.1920 (b) amended 55659
520.1921 (b) amended 55659
520.2002 (c) amended 5506
520.2095 Added 50097
520.2122 (b)(2) amended 5506
520.2220a (b) amended 4875
520.2220b (b)(1) amended 4875
520.2220c (c) amended 4875
520.2220d (b) amended 4875
520.2260a (b)(1) amended 55659
(b)(1) amended 4875
520.2260b (b)(1) amended 55659
(b)(1) amended 4875
520.2260c (a) amended 55659
(a) amended 4875
520.2604 (b) amended 55659
520.2605 (b) amended 55659
520.2610 (b) amended 5506
520.2611 (b) amended 5506
522.88 (b) amended 55659
522.90a (b)(1) amended 55659
522.90c (b) amended 55659
522.313 (d)(1)(ii) amended 51719
522.514 Removed 63622
522.540 (a)(2) revised 29985
(d)(2)(i) amended 55659
(d)(2)(ii) removed; (d)(2)(iii) redesignated as (d)(2)(ii) 63622
522.660a (b) amended 5507
522.660b (b) amended 5507
522.723 (c) amended 39847
522.842 (b) amended 5506
522.883 (c) amended 39847
(c) amended 260
522.914 (b) amended 5506
522.960a (c) amended 5506
522.960b (c) amended 5507
522.960c (b) amended 5507
522.970 (b) revised 48660, 54942
522.1044 (a) and (b)(1) revised; (b)(4) added 29985
522.1060 Removed 27223
522.1060a Removed 27223
522.1060b Removed 27223
522.1085 (b) amended 27223
522.1086 Added 27223
522.1192 Heading and (a)(3) heading revised; (d)(5) added 45041
522.1222a (a) and (d) removed; (c) revised 49339
522.1290 (b) amended 55659
522.1362 Added 49340
522.1468 (b) amended 5507
522.1563 Removed 39847
522.1660 (b) and (c)(2)(iii) amended 29755
522.1662a (h)(2) revised 48651
522.1720 (c) and (d) amended; (b)(2) revised 53509
(b)(1) amended 63622
522.1880 Removed 63622
522.1920 (b) amended 55659
522.1940 (b) and (d)(1)(iii) amended 5507
522.2002 (c) amended 5507
522.2012 (b) amended 5507
522.2095 Added 57833
522.2100 (d)(2) revised 57833
522.2120 (b) amended 5507
522.2220 (a)(2)(i) amended 4875
522.2610 (a)(2) and (b)(2) amended 5507
522.2662 (b) amended 33110, 35122, 35123
522.2670 (b) amended 57832
522.2680 (d)(3) added 26360
524.575 Added 48651
524.960 (b) amended 5507
524.981d (b) amended 5507
524.1005 (b)(1) amended 55659
524.1465 (b) amended 55659
524.1484e (b) amended 5507
524.1580a Removed 39847
524.1580b (b) amended 55659
524.1580c (b) amended 55659
524.1600a (b) amended 55660
526.88 (b) amended 55660
526.464a (d) amended 55660
526.464b (d) amended 55660
526.464c (b) amended 55660
526.464d (b) amended 55660
529.1044a (b) amended 45042, 48894
529.1186 (b) revised 40456
529.2464 (b) amended 55660
556.594 Added 50098
558.4 (d) table amended 39848, 57928, 66495
558.55 (d)(2) table amended 515
558.58 (d)(1) table amended 4875
558.62 (c)(2)(v) removed; (c)(2)(vi) redesignated as (c)(2)(v) 39847
558.76 (d)(3)(v) added 29483
558.95 (b)(1)(x)(*b*) and (xi)(*b*) amended 18741

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(a)(4) amended 47052
(b)(3)(iv)(*b*) amended 515
558.105 Removed 39847
558.120 (a)(1) and (2) amended 515
558.128 (c)(5)(iii) removed 39847
558.155 Heading, (2) and (3) revised 2415
558.195 (c)(2) removed; (d) table amended 34461
(d) table amended 53702
558.274 (a)(7), (c)(1)(i) table and (ii) table amended 47052
558.300 (c)(1)(i) and (iii) revised 39848
558.305 (a) amended 53509
558.311 (e)(1) table amended 18741
(b)(6) and (e)(1) table amended; (b)(7) added 29481
(b)(7) revised; (e)(1) table amended 29482, 57929
(b)(3) and (e)(1) table amended 54194
(b)(7)(iii) and (e)(1) table corrected 4349
(b)(2) amended 4875
558.325 (c)(3)(iv) removed 39847
558.355 (f)(1)(xii)(*b*) and (xx)(*b*) amended 18741
(f)(3)(x) added 63623
(b)(5) amended 4875
558.366 (c) table amended 29483
(a) amended 33343
(a) revised; (c) table amended 1832
558.460 (c)(2)(v) removed 39847
558.464 (a)(1) and (2) amended 55660
558.465 (a) amended 55660
558.485 (a)(11) amended 47052
558.530 (d)(3)(vii) removed 39847
558.550 (b)(1)(ii)(*c*) amended 18741
558.555 (b)(1)(iii) amended 57928
558.625 (b)(52) amended 47053
(b)(83) amended 66496
(b)(25) amended 4875
558.630 (b)(3), (8) and (10) amended 47053
(b)(10) amended 66496
558.635 (b)(1) amended 55660
573.625 Added 5
573.920 Introductory text and (a) through (f) redesignated as (a) through (g); new (a) revised; interim 53703
579.40 Added 50099
803 Revised; eff. 4-11-96 63597
807.3 (r) added; eff. 4-11-96 63606
807.20 (a)(6) added; eff. 4-11-96 63606
807.22 (a) revised; eff. 4-11-96 63606
807.40 Revised; eff. 4-11-96 63606
862.2230 (b) revised 1119
862.2310 (b) revised 38899
862.2320 (b) revised 38900
862.2485 (b) revised 38900
862.2720 (b) revised 38900
862.2800 (b) revised 38900
862.2920 (b) revised 38900
866.2160 (b) revised 1119
866.2560 (b) revised 38482
866.3720 (b) revised 1119
866.5520 (b) revised 1119
866.5530 (b) revised 1119
866.5860 (b) revised 1119
868.1100 (b) revised 1119
868.1575 (b) revised 1119
868.1870 (b) revised 1119
868.1975 (b) revised 1119
868.2300 (b) revised 1119
868.2320 (b) revised 1119
868.2340 (b) revised 1119
868.2350 (b) revised 1119
868.2610 (b) revised 1119
868.2620 (b) revised 1119
868.2700 (b) revised 1119
868.2875 (b) revised 1119
868.2885 (b) revised 1119
868.2900 (b) revised 1120
868.5100 (b) revised 1120
868.5110 (b) revised 1120
868.5240 (b) revised 1120
868.5300 (b) revised 1120
868.5310 (b) revised 1120
868.5320 (b) revised 1120
868.5375 (b) revised 1120
868.5460 (b) revised 1120
868.5530 (b) revised 1120
868.5540 (b) revised 1120
868.5550 (b) revised 1120
868.5570 (b) revised 1120
868.5580 (b) revised 1120
868.5590 (b) revised 1120
868.5600 (b) revised 1120
868.5770 (b) revised 1120
868.5780 (b) revised 1120
868.5790 (b) revised 1120
868.5810 (b) revised 1120
868.5820 (b) revised 1120
868.5860 (b) revised 1120
868.5975 (b) revised 1120
868.5995 (b) revised 1120
868.6400 (b) revised 1121
868.6820 (b) revised 1121
868.6885 (b) revised 1121

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870.2390 (b) revised 1121
870.2600 (b) revised 1121
870.2620 (b) revised 1121
870.2640 (b) revised 1121
870.2810 (b) revised 1121
870.3650 (b) revised 1121
870.3670 (b) revised 1121
870.3690 (b) revised 1121
870.3935 (b) revised 1121
870.3945 (b) revised 1121
872.1840 (b) revised 1121
872.1850 (b) revised 1121
872.3740 (b) revised 38900
872.3810 (b) revised 38900
872.4630 (b) revised 1121
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874.1060 (b) revised 1121
874.1080 (b) revised 1121
874.4140 (b) revised 1122
874.4175 (b) revised 1122
874.4350 (b) revised 1122
874.4770 (b) revised 1122
876 Authority citation revised 17216
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876.1075 (b) revised 1122
876.1400 (b) revised 1122
876.1500 (b) revised 1122
876.1800 (b) revised 1122
876.3750 (c) revised 17216
876.4590 (b) revised 1122
876.4890 (b) revised 1122
876.5090 (b) revised 1122
876.5130 (b) revised 1122
876.5450 (b) revised 1122
876.5520 (b) revised 1122
876.5540 (b)(3) revised; (b)(4) added 1122
878.4450 (b) revised 1123
878.4810 (b) revised 1123
878.5350 (b) revised 1123
878.5910 (b) revised 1123
880.2720 (b) revised 1123
880.2900 (b) revised 1123
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880.6320 (b) revised 1123
882.1410 (b) revised 1123
882.4325 (b) revised 1123
882.5800 (c) revised 43969
884.1550 Revised 1123
884.1640 (b) revised 1123
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884.1700 (b) revised 1124
884.1720 (b) revised 1124
884.1730 (b) revised 1124
884.4530 (b) revised 1124
884.5150 (b) revised 1124
884.5900 (b) revised 1124
886 Compliance date extension 54942
886.1405 (b) revised 1124
886.1750 (b) revised 1124
886.1760 (b) revised 1124
886.3200 (b) revised 1124
888.1100 (b) revised 1124
888.3000 (b) revised 1124
888.5960 (b) revised 1125
890.1575 (b) revised 1125
890.1600 (b) revised 1125
890.1615 (b) revised 1125
890.3175 (b) revised 1125
890.3760 (b) revised 1125
890.5380 (b) revised 1125
890.5410 (b) revised 1125
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890.5940 (b) revised 1125
890.5950 (b) revised 1125
890.5975 (b) revised 1125
892.1700 (b) revised 1125
892.1760 (b) revised 1125
892.1770 (b) revised 1125
892.1830 (b) revised 1125
892.1880 (b) revised 1125
892.1990 Added 36639
892.5780 (b) revised 1125
892.6500 (b) revised 1125
1000 Authority citation revised 48380
1000.3 Revised 48380
1002 Authority citation revised 48382
1002.1 Revised 48382
1002.2 Removed 48385
1002.3 Revised 48385
1002.7 Introductory text and (b) amended; (c) added 48385
1002.10—1002.13 (Subpart B) Revised 48386
1002.20 (c) amended 48386
1002.30 (a) introductory text amended; (a)(5) added 48386
1002.31 (c) amended 48386
1002.40 (a) revised 48386
1002.50 Revised 48387
1002.61 (Subpart G) Removed 48387
1220.40 (a) revised 29987
1240.3 (r) revised; (s), (t) and (u) added; eff. 12-18-97 65201
1240.60 Heading revised; existing text designated as (a) and amended; (b), (c) and (d) added; eff. 12-18-97 65202

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Chapter II—Drug Enforcement Administration, Department of Justice (Parts 1300—1399)

1301 Policy statement 55310
1301.24 (b), (c) introductory text and (5) revised 36621
1301.37 (a) revised 32101
1301.43 (a) revised 32101
1301.44 (b) redesignated as (c); new (b) added 32101
1301.54 (a) through (d) revised 32101
1301.55 (a) revised 32102
1306.05 (b) revised 36621
1307.03 Revised 32454
1308.11 (d)(3) through (30) redesignated as (d)(4) through (31); new (d)(3) added; (g)(3) removed 28719
1309 Added 32454
1309.02 (f), (g) and (h) correctly redesignated as (e), (f) and (g) 42436
1309.04 (f)(1)(xxii) and (xxiii) corectly redesignated as (f)(1)(xxi) and (xxii) 42436
1309.12 (b) corrected 35264, 36334
1310 Technical correction 54409
1310.01 (b) through (e), (f)(1) and (g) revised; (k) redesignated as (m); new (k) and (l) added 32459
1310.02 (b)(10) added 19510
Introductory text, (a) and (b) revised 32460
1310.04 (f)(2)(v) added 19510
(a), (b), (f)(1) and (2) introductory text revised; (f)(1)(xiv), (xx) and (xxii) removed; (f)(1)(xv) through (xix), (xxi), and (xxiii) redesignated as (f)(1)(xiv) through (xviii), (xix) and (xx); new (f)(1)(xxi) and (xxii) added 32460
1310.06 Regulation at 59 FR 51364 confirmed 17628
(a) introductory text, (1), (c) and (d) revised 32461
1310.07 (a) and (b) revised 32461
1310.08 (c), (d) and (e) added 19510
(b) introductory text revised 32461
1310.09 Revised; interim 53122
1310.10 Added 32461
1310.11 Added 32462
1310.14 Added 32462
1310.15 Added 32463
1313.01 Amended 32465
1313.02 (c), (d) introductory text, (1), (h) and (i) revised; (m) redesignated as (o); new (m) and (n) added 32463
1313.12—1313.15 Undesignated center heading amended 32465
1313.12 (c) revised; (d), (e) and (f) added 32464
1313.13 (a) amended 32465
1313.14 Introductory text and (a) amended 32465
1313.15 Revised 32464
1313.21—1313.25 Undesignated center heading amended 32465
1313.21 (d) redesignated as (g); (c) and new (g) revised; new (d), (e) and (f) added 32464
1313.22 (a) amended 32465
1313.23 Introductory text and (a) amended 32465
1313.31 Undesignated center heading added 32465
1313.32 Added 32465
1313.33 Added 32465
1313.34 Added 32465
(a) corrected 35264, 36334
1316 Authority citation revised 32465
1316.02 (c)(2) revised 32465
(c)(2) corrected 35264, 36334
1316.03 (b) through (e) revised 32465
1316.09 (a)(3) revised 32466

Chapter III—Office of National Drug Control Policy (Parts 1400—1499)

1403.36 (d), (g), (h) and (i) revised 19639, 19642
1404.100 Revised 33040, 33045
1404.105 Amended 33041, 33045
1404.110 (c) revised 33041, 33045
1404.200 Revised 33041, 33045
1404.215 Revised 33041, 33045
1404.220 Revised 33041, 33045
1404.225 Revised 33041, 33045
1404 Appendixes A and B revised 33042, 33045

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1304 ..... 43732, 50244
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TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State (Parts 1—199)

9b.8 Revised; eff. 4-2-96 3800
21 Added 29988
31 Removed 2915
40.1 (h)(2), (3) and (m) revised; (h)(4) added 1835
40.9 Removed 1835
40.51 (a) and (c) revised 1835
40.52 Revised 1835
40.62 Revised 1833
40.63 (b) revised 1835
40.93 Revised 1833
40.101 (a)(5) revised 1835
41 Authority citation revised 1838
41.1 Introductory text and (a) revised 1835
41.3 (e) revised 30188
(d) revised 1835
41.11 (a) and (b)(1) revised 1835
41.12 Table amended 1836
41.42 (b)(1) revised 1836
41.53 (a) revised 1833
41.54 (a) revised 1833
41.55 (a) introductory text, (1) and (2) revised 1833
41.56 (a) introductory text, (1) and (2) revised 1833
41.57 (a)(2) and (c) revised; (a)(3) removed 1833
41.58 Added 42036
41.81—41.83 (Subpart I) Heading revised 1838
41.82 Added 1838
41.83 Added 1838
41.101 (c) added 1522
41.104 (e) added 1522
41.105 (a)(3)(iii) revised; (a)(3)(iv) added 1522
41.113 (k)(2)(ii) amended; (k)(3) added 1523
(k)(2) introductory text revised 1836
42 Authority citation revised 35839
42.31 (c) removed 1836
42.32 (d)(1)(ii) revised 35839
42.33 (b)(1) revised; (i) added 1524
Regulation at 61 FR 1524 eff. date corrected 1-22-96 6111
42.52 (a) revised 1836
42.54 (b) removed 1836
42.55 (a) revised 1836
42.63 (a)(2) revised 1836
42.72 (e) introductory text revised 1836
42.74 (b) revised 1836
43 Removed 1837
44 Removed 1837
45.5 (e) revised 1837
47 Removed 1837
51.27 (b), (c) and (d) revised 6505
92 Authority citation revised 51721
92.1 (d) added 51721
92.2 Revised 51721
92.3 Amended 51723
92.4 Heading, (a), (b) and (c) revised 51721
92.5 Revised 51721
92.6 Introductory text and (b) revised 51721
92.7 Heading and (b) revised 51721
92.8 Amended 51723
92.9 (a) and (b) amended 51723
92.10 Amended 51723
92.11 (a) and (b) amended 51723
92.12 Amended 51723
92.15 Amended 51723
92.17 Amended 51723
92.23 Amended 51723
92.24 Amended 51723
92.27 (a) and (b) amended 51723
92.29 Amended 51723
92.31 (a) amended 51722
Amended 51723
92.32 (b) amended 51723
92.33 Amended 51723
92.35 Amended 51723
92.51 Revised 51722
92.52 Revised 51722
92.55 Revised 51722
92.56 Introductory text amended 51723
92.57 Amended 51723
92.59 Concluding text amended 51723
92.60 Amended 51723
92.61 Amended 51723
92.62 Amended 51723
92.63 Concluding text amended 51723
92.64 (b) amended 51723
92.66 (a) and (d) revised 51722
94.2 Revised 25843
94.6 Introductory text and (1) revised; (k) removed; (a)

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TITLE 22 Chapter I—Con.

through (j) redesignated as (b) through (k); new (a) added 66074
Regulation at 60 FR 66074 confirmed 7070
111 Removed 6506
112 Removed 6506
123.27 Added 6112
126.1 Undesignated text designated as (a) in part; new (a) amended 6113
133 Removed 6506
135.36 (d), (g), (h) and (i) revised 19639, 19642
137.100 Revised 33040, 33045
137.105 Amended 33041, 33045
137.110 (c) revised 33041, 33045
137.200 Revised 33041, 33045
137.215 Revised 33041, 33045
137.220 Revised 33041, 33045
137.225 Revised 33041, 33045
137 Appendixes A and B revised 33042, 33045
181 Authority citation revised 7071
181.1 (a) amended 7071
181.8 Added 7071

Chapter II—Agency for International Development, International Development Cooperation Agency (Parts 200—299)

208.100 Revised 33040, 33045
208.105 Amended 33041, 33045
208.110 (c) revised 33041, 33045
208.200 Revised 33041, 33045
208.215 Revised 33041, 33045
208.220 Revised 33041, 33045
208.225 Revised 33041, 33045
208 Appendixes A and B revised 33042, 33045
211.4 (e)(3) added 36991
213 Authority citation revised 40456
213.21—213.27 (Subpart C) Added 40456

Chapter III—Peace Corps (Parts 300—399)

310.100 Revised 33040, 33045
310.105 Amended 33041, 33045
310.110 (c) revised 33041, 33045
310.200 Revised 33041, 33045
310.215 Revised 33041, 33045
310.220 Revised 33041, 33045
310.225 Revised 33041, 33045
310 Appendixes A and B revised 33042, 33045

Chapter V—United States Information Agency (Parts 500—599)

502.2 Amended 29989
502.3 (d) and (e) added 29989
513 Authority citation revised 33045
513.100 Revised 33040, 33045
513.105 Amended 33041, 33045
513.110 (c) revised 33041, 33045
513.200 Revised 33041, 33045
513.215 Revised 33041, 33045
513.220 Revised 33041, 33045
513.225 Revised 33041, 33045
513 Appendixes A and B revised 33042, 33045
514 Authority citation revised 16787
514.44 (a)(2) and (3) amended; interim 16787
(e), (f) and (g) redesignated as (f), (g) and (h); new (e) added; (d)(3) and new (g)(4)(i) amended; interim 16788
Regulations at 60 FR 16787 and 16788 confirmed; (e) revised 53124

Chapter VII—Overseas Private Investment Corporation, International Development Cooperation Agency (Parts 700—799)

705 Regulation at 58 FR 33320 confirmed 37556

Chapter X—Inter-American Foundation (Parts 1000—1099)

1006.100 Revised 33040, 33046
1006.105 Amended 33041, 33046
1006.110 (c) revised 33041, 33046
1006.200 Revised 33041, 33046
1006.215 Revised 33041, 33046
1006.220 Revised 33041, 33046
1006.225 Revised 33041, 33046
1006 Appendixes A and B revised 33042, 33046

Chapter XV—African Development Foundation (Parts 1500—1599)

1504 Revised 6507

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1508 Authority citation revised 33046
1508.100 Revised 33040, 33046
1508.105 Amended 33041, 33046
1508.110 (c) revised 33041, 33046
1508.200 Revised 33041, 33046
1508.215 Revised 33041, 33046
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1508.225 Revised 33041, 33046
1508 Appendixes A and B revised 33042, 33046

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TITLE 23—HIGHWAYS

Chapter I—Federal Highway Administration, Department of Transportation (Parts 1—999)

192 Redesignated from Part 1212 50100
192.5 (d) revised 50100
192.10 (a), (b) and (c) amended 50100
630 Authority citation revised 36992
630.110 Authority citation removed; interim 36992
630.112 Authority citation removed; interim 36992
630.201—630.205 (Subpart B) Authority citation removed; interim 36992
630.701—630.711 (Subpart G) Revised; interim 36993
630.1002—630.1010 (Subpart J) Authority citation removed; interim 36992
635 Authority citation revised 44273
635.101—635.126 (Subpart A) Authority citation removed; interim 44273
635.410 Authority citation removed; interim 44273
635.413 Revised; interim 44274
635.501—635.509 (Subpart E) Authority citation removed; interim 44273
637 Revised 33717
640 Revised; interim 47483
645.109 (b) amended 34850
645.113 (f) and (g)(1) amended 34850
645.117 (d)(1) and (i)(2) revised; (i)(4) removed 34850
645.207 Amended 34850
645.209 (a) and (b) amended 34851
645.215 (a) amended 34851
655.601 (a) revised 16521

Chapter II—National Highway Traffic Safety Administration and Federal Highway Administration, Department of Transportation (Parts 1200—1299)

1204 Removed 36654
1208.4 Revised 66076
1208.5 Revised 66076
1208.6 Removed; new 1208.6 redesignated from 1208.9 66076
1208.7 Removed 66076
1208.8 Removed 66076
1208.9 Redesignated as 1208.6 66076
1212 Redesignated as Part 192 50100

Chapter III—National Highway Traffic Safety Administration, Department of Transportation (Parts 1300—1399)

1317 Removed 57930

Proposed Rules:

630 2973
635 2973
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720 56004
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TITLE 24—HOUSING AND URBAN DEVELOPMENT

Subtitle A—Office of the Secretary, Department of Housing and Urban Development (Parts 0—99)

0 Authority citation revised 5202
0.735-102 Amended 5202

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TITLE 24 Subtitle A—Con.

0.735–106 Removed 5202
3 Removed 47262
4.5 Amended 5202
5 Added 5202
5.400—5.405 (Subpart D) Added 5665
8 Authority citation revised 5203
8.32 (a) revised 5203
8 Appendixes A and B removed 47262
11 Removed 47262
12 Authority citation revised 5203
12.3 Amended; introductory text added 5203
15 Authority citation revised 5203
15.1 Amended; introductory text added 5203
15.31—15.33 (Subpart D) Removed 47262
15.71 Amended 58456
15.81 (b) revised 58457
15.86 Removed 5204
16.2 (b)(4) removed; (b)(5) through (b)(8) redesignated as (b)(4) through (b)(7) 5204
16 Appendix A removed 47262
17.1—17.12 (Subpart A) Authority citation revised 5204
17.1 (c) revised 5204
24 Authority citation revised 33048
24.100 Revised 33040
Revised; (e) and (f) added 33048
24.105 Amended 33041
Amended; (1) and (2) removed 33048
24.110 (c) revised 33041
Amended; (a)(1)(i)(A)(3) and (3) added; (c) revised; (d) amended 33048
24.115 (d) removed 33048
24.200 Revised 33041
Revised; (c)(8), (9) and (d) added 33048
24.215 Revised 33041, 33048
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24.225 Revised 33041, 33048
24.305 (d) revised 33049
24.313 Revised 33049
24.314 Revised 33049
24.400 (d) removed 33050
24.410 (c) removed 33050
24.411 Revised 33050
24.412 Revised 33050
24.413 Revised 33050
24.415 (d) removed 33051
24.705 (c) amended 33051
24.710 (a)(3) amended 33051
24.711 Revised 33051
24.712 Revised 33051
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24.714 Added 33051
24 Appendixes A and B revised 33042, 33048
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25 Authority citation revised 39237
25.2 Revised 39237
25.3 Amended 39237
Amended 685
25.5 (c)(1), (2) and (d)(4)(iii) revised 39237
Revised 685
25.7 Revised 39237
25.8 Revised 39238
25.9 (i), (w), (x) and (bb) revised; (ee) added 39238
(l) and (p) revised 685
25.12 (a) amended 39238
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25.13 Redesignated as 25.12; new 25.13 redesignated from 25.14 and revised (OMB numbers) 685
25.14 Redesignated as 25.13; new 25.14 redesignated from 25.16 685
25.15 Removed; new 25.15 redesignated from 25.18 685
25.16 Revised 39238
Redesignated as 25.14 685
25.17 Removed 39238
25.18 Redesignated as 25.15 685
26 Authority citation revised 39238
26.1 Amended 39239
27 Authority citation revised 5204
27.3 Amended; introductory text revised 5204
28 Authority citation revised 5204
28.3 Amended; introductory text added 5204
29 Added 57489
30 Authority citation revised 5204
30.10 Amended; introductory text revised 5204
35 Authority citation revised 5204
35.3 Amended 5204
35.70 (Subpart G) Removed 5204
39 Removed 47262
40 Authority citation revised 5204
40.5 Removed 5204
40.7 Added 5204
40 Appendix A removed 47262

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49 Removed 47262
51.200—51.208 (Subpart C) Authority citation revsied 5204
51.201 Amended; introductory text added 5204
52 Authority citation revised 5204
52.2 Amended 5205
52.13 Removed 5205
58.2 (a)(7)(ii) introductory text and (D) revised; (a)(7)(ii)(E) added; interim 48611
58.10 Amended; interim 48611
58.77 (d) heading revised; (d)(2) amended; interim 48611
81 Revised 61888
84 Regulation at 59 FR 47011 confirmed 32104
85.36 (d), (g), (h) and (i) revised 19639, 19642
86 Regulation status notification 67325
Removed 4876
86 Appendixes A and B removed 47262
90 Removed 47262
91.5 Amended; introductory text added 5205
91.15 (a)(2) amended 45043
91.500 (b) introductory text revised 56909
91.600 Added 50802
92 Authority citation revised 5205
92.2 Regulations at 59 FR 18631 and 44261 eff. date extended to 6–30–96 34136
Amended; interim 36023
Amended; introductory text added 5205
92.3 Removed 5205
92.4 Regulations at 59 FR 18631 and 44261 eff. date extended to 6–30–96 34136
92.5 Regulation at 59 FR 44261 eff. date extended to 6–30–96 34136
Revised; interim 36024
92.50 Regulation at 59 FR 19631 eff. date extended to 6–30–96 34136
(d)(3) revised 1824
92.61 Regulations at 59 FR 18631 and 44261 eff. date extended to 6–30–96 34136
92.64 Regulation at 59 FR 18632 eff. date extended to 6–30–96 34136
92.150 Regulations at 59 FR 18632 and 44261 eff. date extended to 6–30–96 34136
92.204 Regulation at 59 FR 18632 eff. date extended to 6–30–96 34136
92.205 Regulations at 59 FR 18632 and 44261 eff. date extended to 6–30–96 34136
(b) revised; interim 36024
92.206 Regulations at 59 FR 18632 and 44261 eff. date extended to 6–30–96 34136
92.207 Regulation at 59 FR 18633 eff. date extended to 6–30–96 34136
92.208 Regulation at 59 FR 18633 eff. date extended to 6–30–96 34136
92.209 Regulation at 59 FR 18633 eff. date extended to 6–30–96 34136
92.210 (f) revised; interim 36024
92.211 Regulations at 59 FR 18633 and 44261 eff. date extended to 6–30–96 34136
Revised; interim 36024
92.214 Regulations at 59 FR 18634 and 44262 eff. date extended to 6–30–96 34136
92.216 Regulation at 59 FR 44262 eff. date extended to 6–30–96 34136
92.218 Regulations at 59 FR 18634 and 44262 eff. date extended to 6–30–96 34136
(f) added; interim 36025
92.219 Regulation at 59 FR 18634 eff. date extended to 6–30–96 34136
92.220 Regulation at 59 FR 18634 eff. date extended to 6–30–96 34136
(a)(1)(ii)(A). (2) and (5) introductory text revised; interim 36025
92.221 Regulation at 59 FR 18635 eff. date extended to 6–30–96 34136
92.222 Regulation at 59 FR 18635 eff. date extended to 6–30–96 34136
92.252 Regulations at 59 FR 18635 and 44262 eff. date extended to 6–30–96 34136
(a)(2) revised; interim 36025

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92.254 Regulations at 59 FR 18636 and 44262 eff. date extended to 6-30-96 34136
(a)(4)(ii) revised; interim 36026
92.255 Regulation at 59 FR 18636 eff. date extended to 6-30-96 34136
92.256 Regulation at 59 FR 18636 eff. date extended to 6-30-96 34136
92.257 Regulation at 59 FR 44262 eff. date extended to 6-30-96 34136
92.259 Regulation at 59 FR 18636 eff. date extended to 6-30-96 34136
92.300 Regulation at 59 FR 18637 eff. date extended to 6-30-96 34136
92.350 (a) revised 5205
92.352 Regulation at 59 FR 44262 eff. date extended to 6-30-96 34136
92.353 Regulation at 59 FR 44262 eff. date extended to 6-30-96 34136
92.354 Regulations at 59 FR 18637 and 44263 eff. date extended to 6-30-96 34136
92.356 (a)(1) and (2) revised; interim 36026
92.357 Removed 5205
92.502 Regulation at 59 FR 18637 eff. date extended to 6-30-96 34136
92.504 Regulation at 59 FR 18637 eff. date extended to 6-30-96 34136
92.505 Revised; interim 36026
92.508 Regulation at 59 FR 18637 eff. date extended to 6-30-96 34136
92.625 Regulation at 59 FR 18638 eff. date extended to 6-30-96 34136
92.633 Regulation at 59 FR 44263 eff. date extended to 6-30-96 34136
0—99 (Subtitle A) Appendix D removed 47262
Appendixes A and B removed 7943

Chapter I—Office of Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development (Parts 100—199)

100 Authority citation revised 43327
Authority citation revised 5205
100.20 Amended 5205
100.304 Revised 43327
100.305 Added 43327
100.306 Added 43328
100.307 Added 43329
100.310 Added 43330
100.315 Added 43330
100.316 Added 43330
103 Authority citation revised 5205
103.9 Amended; introductory text revised 5205
103.405 (b)(3) revised 58452
103 Appendix removed 47262
104 Authority citation revised 5205
104.20 Amended; introductory text added 5205
106 Removed 47262
107 Authority citation revised 5205
107.15 (a) revised; (b) removed; (c) through (g) redesignated as (b) through (f) 5205
109 Authority citation revised 5205
109.15 (b) revised 5205
110 Authority citation revised 5205
110.5 (a) revised; (f) removed; (g), (h) and (i) redesignated as (f), (g) and (h) 5205
111 Authority citation revised 5205
Removed; interim 7675
111.101 Amended; introductory text revised 5205
115 Revised; interim 7675
120 Removed 47262
125 Revised 58452
Authority citation revised 5206
125.103 Amended 5206
130 Removed 47262
135 Authority citation revised 5206
135.2 Revised 28326
135.5 Amended; introductory text revised 5206
146 Authority citation revised 5206
146.7 Amended; introductory text revised 5206
Chapter I Appendixes II, III and IV removed 7943

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Chapter II—Office of Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development (Parts 200—299)

200.1—200.4 (Subpart A) Removed 7943
200.5—200.39 (Subpart B) Removed 47262
200.40—200.44 (Subpart C) Removed 7943
200.50—200.129 (Subpart D) Removed 7943
200.93 Regulation at 59 FR 31522 confirmed 35692
Redesignated as 200.227 7943
200.155 Regulation at 59 FR 50143 confirmed 21937
200.213 Regulation at 59 FR 31522 confirmed 35692
200.217 Regulation at 59 FR 31522 confirmed 35692
200.224 Amended 7944
200.227 Redesignated from 200.93 7943
200.300 Revised 5206
200.517—200.533 (Subpart L) Removed 47262
200.700—200.710 (Subpart N) Removed 42762
200.946 Revised 47841
200.1005 Amended; introductory text revised 5206
200.1205 Amended 5206
200.1301 (Subpart W) Added 42762
201 Authority citation revised 5206
201.2 (ff) removed; (gg) through (mm) redesignated as (ff) through (ll) 5206
201.5 (a) and (b) designation removed 5206
202.9 (a) revised; (c) and (d) removed 39239
202.11 (a)(5) revised; interim 2651
202.12 (m) revised; interim 2651
202.13 (e) removed; interim 2651
202.15 (c)(1) amended; (c)(5) revised; interim 2651
202.17 (d) removed; interim 2651
202a Removed 7944
203 Authority citation revised 42758
203.3 (b)(4) revised; interim 42758
Regulation at 60 FR 42758 confirmed 66476
(b)(2) revised; (b)(3) and (c) removed; interim 2651
203.5 (b) revised; interim 42759
Regulation at 60 FR 42759 confirmed 66476
203.55 (a) introductory text and (c) revised; (h) added 57678
203.248 Undesignated centerheading and section removed 5206
203.255 (b)(11) amended; (b)(12) redesignated as (b)(13); new (b)(12) added; (c) introductory text and (3) revised; interim 42759
Regulation at 60 FR 42759 confirmed 66476
203.259a (b) amended 34138
203.269 Added 34138
203.284 (f) revised 34138
203.285 (c) revised 34138
203.355 Regulation at 59 FR 50143 confirmed 21937
203.356 Regulation at 59 FR 50144 confirmed 21937
203.360 Regulation at 59 FR 50144 confirmed 21937
203.365 Regulation at 59 FR 50144 confirmed 21937
203.370 Regulation at 59 FR 50144 confirmed 21937
203.401 Regulation at 59 FR 50144 confirmed 21937
203.402 Regulation at 59 FR 50145 confirmed 21937
203.402a Revised 57678
203.403 Regulation at 59 FR 50145 confirmed 21937
203.410 Regulation at 59 FR 50145 confirmed 21937
(a) heading and (3) revised 57678
203.501 Regulation at 59 FR 50145 confirmed 21937
203.614 (c) added 57678
205 Removed 47263
206 Authority citation revised 42759
Authority citation revised 5206
206.3 Amended; interim 42759
Regulation at 60 FR 42759 confirmed 66476
206.5 Amended; interim 42759
Regulation at 60 FR 42759 confirmed 66476
Removed 5206
206.7 Revised; interim 42759

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Regulation at 60 FR 42759 confirmed 66476
206.9—206.51 (Subpart B) Heading revised; interim 42759
206.9 Regulation at 60 FR 42759 confirmed 66476
206.9 (b) heading revised; interim 42759
206.13 Removed; interim 42759
Regulation at 60 FR 42759 confirmed 66476
206.15 Revised; interim 42759
Regulation at 60 FR 42759 confirmed 66476
206.19 (f) added; interim 42760
Regulation at 60 FR 42760 confirmed 66476
206.21 (c)(2) and (d) revised; interim 42760
Regulation at 60 FR 42760 confirmed 66476
206.25 (b)(1) revised; interim 42760
Regulation at 60 FR 42760 confirmed 66476
206.26 (b)(1) and (2) revised; interim 42760
Regulation at 60 FR 42760 confirmed 66476
206.27 (b)(3) revised; interim 42760
Regulation at 60 FR 42760 confirmed 66476
206.40 Added; interim 42760
Regulation at 60 FR 42760 confirmed 66476
206.43 (a) revised; (c) added; interim 42760
Regulation at 60 FR 42760 confirmed 66476
206.45 (a), (b) and (d) revised; interim 42760
(b) revisd 66476
206.47 (a) revised; interim 42760
Regulation at 60 FR 42760 confirmed 66476
206.102 Added; interim 42761
Regulation at 60 FR 42761 confirmed 66476
206.107 (a)(1) introductory text revised; (a)(1)(v) added; interim 42761
Regulation at 60 FR 42761 confirmed 66476
206.113 (b) revised; interim 42761
Regulation at 60 FR 42761 confirmed 66476
206.116 Added; interim 42761
Regulation at 60 FR 42761 confirmed 66476
206.121 (c) amended; interim 42761
Regulation at 60 FR 42761 confirmed 66476
206.123 (a)(4) revised; interim 42761
Regulation at 60 FR 42761 confirmed 66476
206.125 (a)(2) amended; (b), (d)(1), (2), (g)(1) and (3) revised; interim 42761
Regulation at 60 FR 42761 confirmed 66476
206.129 (d)(2)(i), (ii), (iv), (3)(ii), (e)(1) and (2) revised; (d)(2)(v) and (vi) added; interim 42761
Regulation at 60 FR 42761 confirmed 66476
206.203 (b) revised; interim 42762
Regulation at 60 FR 42762 confirmed 66476
206.205 (a) revised; interim 42762
Regulation at 60 FR 42762 confirmed 66476
206.207 (a) revised; interim 42762
Regulation at 60 FR 42762 confirmed 66476
209 Removed 47263
210 Removed 47263
211 Removed 47263
213.748 Removed 5206
215 Policy statement 20356
215.1 Amended 5206
215.2 Added; interim 17391
215.21 (b)(4), (5) and (c) revised; interim; eff. in part 5–5–95 through 5–6–96 17391
219.130 Removed 5207
220.248 Undesignated centerheading and section removed 5207
221 Authority citation revised 5207
221.248 Undesignated centerheading and section removed 5207
222.248 Removed 7944
224 Removed 47263
225 Removed 47263
226 Removed 47263
227 Removed 47263
228 Removed 47263
229 Removed 47263
231.2 (c) revised 5207
232.1 (n) revised 5207

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233.248 Undesignated center heading and section removed 7944
234 Authority citation revised 5207
234.248 Removed 5207
235 Policy statement 20356
Authority citation revised 56499
Authority citation revised 5207
235.1 Redesignated as 235.1202 56499
Added 56500
235.2 Removed 56500
235.3 Redesignated as 235.1204 56500
235.5 Redesignated as 235.1206 56500
235.9 Removed 56500
235.10 Redesignated as 235.1208 56500
235.11 Removed 56500
235.12 Redesignated as 235.1210 56500
235.13 Removed 56500
235.15 Removed 56500
235.16 Removed 56500
235.18 Removed 56500
235.20 Removed 56500
235.22 Redesignated as 235.1212 56500
235.25 Removed 56500
235.30 Removed 56500
235.31 Removed 56500
235.32 Removed 56500
235.33 Redesignated as 235.1214 56500
235.35 Removed 56500
235.37 Removed 56500
235.38 Removed 56500
235.39 Removed 56500
235.40 Redesignated as 235.1216 56500
235.45 Removed 56500
235.501 (Subpart D) Revised 56500
235.701—235.715 (Subpart E) Removed 56500
235.801—235.999 (Subpart F) Removed 56500
235.1200 Amended 56500
235.1202 Redesignated as 235.1218; new 235.1202 redesignated from 235.1; (a) introductory text revised 56499
235.1204 Redesignated as 235.1220 56499
Redesignated from 235.3 56500
Removed 5207
235.1206 Redesignated as 235.1222 56499
Redesignated from 235.5 56500
235.1208 Redesignated as 235.1224 56499
Redesignated from 235.10; (a) and (b) removed; (c), (d) and (e) redesignated as (a), (b) and (c); new (c) amended 56500
235.1210 Redesignated as 235.1226 56499
Redesignated from 235.12 56500
235.1212 Redesignated as 235.1228 56499
Redesignated from 235.22 56500
235.1214 Redesignated as 235.1230 56499
Redesignated from 235.33 56500
235.1216 Redesignated as 235.1232 56499
Redesignated from 235.40 56500
235.1218 Redesignated as 235.1234; new 235.1218 redesignated from 235.1202 56499
Revised 56500
235.1220 Redesignated as 235.1236; new 235.1218 redesignated from 235.1204 56499
(c) introductory text revised 56501
235.1222 Redesignated as 235.1238; new 235.1218 redesignated from 235.1206 56499
236 Policy statement 20356
236.2 Amended 5207
236.3 (b)(4), (5) and (c) revised; interim; eff. in part 5–5–95 through 5–6–96 17392
236.6 Added; interim 17392
236.72 (a) revised; (b) introductory text amended; interim 17392
237.248 Undesignated centerheading and section removed 5207
238 Removed 47263
240 Removed 47263
241.1 (j) removed; (k) and (l) redesignated as (j) and (k) 7944
248.201 Amended; introductory text added 5207
250 Removed 47263
251.3 Added; interim; eff. 10–19–95 through 4–21–97 48598
251.4 Added; interim; eff. 10–19–95 through 4–21–97 48598
251.5 Added; interim; eff. 10–19–95 through 4–21–97 48599
252.3 Added; interim; eff. 10–19–95 through 4–21–97 48599
252.4 Added; interim; eff. 10–19–95 through 4–21–97 48599
252.5 Added; interim; eff. 10–19–95 through 4–21–97 48600

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255.3 Added; interim; eff. 10–19–95 through 4–21–97 48600
255.4 Added; interim; eff. 10–19–95 through 4–21–97 48600
255.5 Added; interim; eff. 10–19–95 through 4–21–97 48601
260 Authority citation revised 5207
Removed 7944
260.2 (d) removed 5207
261.5 Amended; introductory text added 5207
265 Authority citation revised 5208
265.4 Removed 5208
266.15 Revised 7947
266.35 Removed 7944
266.105 Revised 7947
267.4 Removed 7944
270 Removed 47263
271 Removed 47263
277 Removed 47263
278 Removed 47263
280 Policy statement 20356
280.5 Amended 5208
280.10 Removed 5208
280.207 Introductory text and (a) revised; (g) and (k) removed; (h), (i) and (j) redesignated as (g), (h) and (i) 5208
290 Authority citation revised 4584
290.5 Amended; introductory text revised 5208
290.7 Removed 5208
290.112 Added; interim 4584
290.114 Added; interim 4584
291.5 Amended; introductory text revised 5208
291.300—291.307 (Subpart D) Added; eff. 10–2–95 through 9–30–96; interim 45333
291.303 Correctly revised 52296
291.405 Amended 5208
291.435 Introductory text and (a)(1) revised; (c) and (e) removed; (d) redesignated as (c) 5208
291.500 (Subpart F) Removed 5208
Correctly revised 52296

Chapter III—Government National Mortgage Association, Department of Housing and Urban Development (Parts 300—399)

300—310 (Subchapter A) Designation and heading removed 42015
300 Revised 42015
310 Revised 42015
320—350 (Subchapter B) Designation and heading removed 42015
320 Revised 42015
330 Revised 42018
340 Revised 42019
350 Removed 42020
360—380 (Subchapter C) Designation and heading removed 42015
360 Removed 42020
370 Removed 42020
380 Removed 42020
390—395 (Subchapter D) Designation and heading removed 42015
390 Removed 42020
395 Removed 42020

Chapter V—Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 500—599)

500 Removed 47263
510 Authority citation revised 7061
510.1 Heading added; (a), (b) and (c) redesignated from 510.105(h)(1), (2) and (3) 7061
510.51 Removed 7061
510.52 Removed 7061
510.101 Removed 7061
510.102 Removed 7061
510.103 Removed 7061
510.104 Removed 7061
510.105 (h)(1), (2) and (3) redesignated as 510.1(a), (b) and (c); removed 7061
510.106 Removed 7061
510.107 Removed 7061
510.109 Removed 7061
510.111 Removed 7061
510.120 Removed 7061
510.409 Removed 7061
510.410 Removed 7061
511.2 Amended; introductory text added 5208
511.3 Removed 7061
511.5 Removed 5208, 7061
511.10 (d) removed 7061
511.11 (a) revised; (c)(2)(iii) amended; (g) removed 7061
511.13 Heading and introductory revised; (a) and (c) removed; (b) redesignated as (a) 5208
511.16 Introductory text revised; (c), (d) and (f) removed; (e) and (g) redesignated (c) and (d) 5208
511.20—511.21 (Subpart C) Removed 47263
511.30 Removed 7062
511.31 Removed 7062
511.33 Revised 7062
511.34 Removed 7062
511.40 (Subpart E) Removed 47263
511.50 (a) amended 7062
511.51 (a) amended; (d) removed 7062
511.52 Removed 7062
511.65 (Subpart G) Removed 47263
511.76 (h)(2) revised 7062
511.77 Introductory text removed; (a) revised 7062
511.80 (a) amended 7062
511.81 (b) removed 7062
511.82 (c)(2) removed; (d) amended 7062
570 Authority citation revised 5209
570.2 Amended 56909
570.3 Amended 56909
Amended; introductory text added 5209
570.5 Revised 56910
Removed 5209
570.200 (f)(2) amended 17445
Regulation at 57 FR 27119 confirmed 56909
(a)(3), (5), (d)(1) and (e) amended; (g) and (h) revised 56910
570.201 Regulation at 57 FR 27119 confirmed 56909
(c) and (e) introductory text amended; (k), (n) introductory text, (o)(4), (p) and (q) revised 56911
570.202 (a)(3), (b)(9) and (10) amended; (a)(4) redesignated as (a)(5); new (a)(4), (b)(11) and (f) added; (c) revised 56911
570.206 (i) added 56912
570.207 (a)(1) and (b)(2)(i) amended; (b)(4) revised 56912
570.208 (a)(1)(v) revised; (a)(4)(vi)(B) and (F)(2) amended 17445
(a)(1)(iii), (iv) and (v) redesignated as (a)(1)(v), (vi) and (vii); new (a)(1)(iii), new (iv) and (3)(iii) added; (a)(2)(i)(A), (3) introductory text, (4)(vi)(F)(2), (d)(5)(i), (6)(i) and (7) amended; (a)(2)(ii) revised 56912
570.209 (b) introductory text amended 17445
570.301 Added 56913
570.304 (a) revised; (d) removed 56913
570.309 Added 56914
570.405 (e)(2) revised; (e)(3) redesignated as (e)(4); new (e)(3) added 56914
570.423 (a) revised 56914
570.429 (g) revised 56914
570.481 (a)(3) removed 5209
570.483 (b)(4)(vi)(B)(*2*) and (F)(*2*) amended 17445
570.500 (a)(4)(ii) and (c) amended 17445
Regulation at 57 FR 27120 confirmed 56909
(a)(1)(viii) removed; (a)(2), (3) and (c) revised; (a)(5) added; (b) amended 56914
570.501 Regulation at 57 FR 27120 confirmed 56909
570.502 (a) introductory text and (b) revised 56915
570.503 Regulation at 57 FR 27120 confirmed 56909
(b)(3) revised 56915
570.504 (b)(2) introductory text revised; (b)(2)(iii) added 56915
570.506 (b)(3)(i) and (c) revised; (b)(4)(v) and (vi) amended; (b)(4)(vii) and (viii) added 56915
570.600 (a) amended 56916
570.602 (a), (b)(1), (2), (3), (4)(i) and (ii) amended 56916
570.606 (b)(2)(i)(A) and (c)(3)(ii)(A)(*1*) revised; (c)(1)(iii)(G) and (iv)(A) amended 56916
570.607 Revised 5209
570.609 Revised 5209
570.610 Revised 56916
570.611 Regulation at 57 FR 27120 confirmed 56909
Revised 56916
570.614 Added 56917
570.900 (b)(3), (5) and (6) revised 56917
570.901 (a) amended; (e) revised 56917
570.902 (a) revised 56917
570.903 Revised 56918
572.5 Amended; interim 36018

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Amended; introductory text revised 5209
572.15 Removed 5209
572.120 (a)(1) revised; interim 36018
572.135 (c) revised; interim 36018
572.210 (e)(1) and (f) amended; (g) added; interim 36018
572.220 (a)(1) and (b)(2)(ii) amended; interim 36018
572.400 Revised; interim 36018
572.405 (b), (c) and (d) removed; (e), (f) and (g) redesignated as (b), (c) and (d); introductory text, (a) and new (b) revised 5209
574.1 Removed 7963
574.2 Removed 7963
574.3 Amended; introductory text added 5209
Amended 7963
574.4 Removed 7963
574.110 Added 7963
574.150 Removed 7963
574.200 (c) and (d) added 7963
574.230 Removed 7963
574.240 Revised 7963
574.250 Removed 7963
574.310 (d) introductory text amended 7963
574.320 (b) revised 7963
574.510 Revised 7963
574.540 Revised 7963
574.600 Redesignated as 574.603; new 574.600 added 5209
574.603 Redesignated from 574.600; introductory text and (a) revised; (b), (c), (d) and (f) removed; (e) redesignated as (b) 5209
Introductory text revised 7964
574.610 Removed 5210
574.615 Removed 5210
574.620 Removed 5210
575 Removed 47263
576.3 Amended; introductory text added 5210
576.5 Removed 5210
576.79 Introductory text and (a) revised; (e) and (h) removed; (f), (g), (i) and (j) redesignated as (e), (f), (g) and (h) 5210
577 Removed 47263
578 Removed 47263
579 Removed 47263
580 Removed 47263
582 Authority citation revised 5210
582.5 Amended; introductory text revised 5210
582.10 Removed 5210
582.330 (b) revised 5210
582.340 Introductory text added; (b), (c) and (d) removed; (e) redesignated as (b) 5210
583.5 Amended 5210
583.10 Removed 5210
583.325 (b) introductory text and (1) revised 5210
583.330 Introductory text revised; (f) and (i) removed; (g) and (h) redesignated as (f) and (g) 5211
585.4 Amended; introductory text revised 5211
586 Added; interim 42975
586.1 Eff. 9–18–95 through 9–17–96 42975
586.5 Eff. 9–18–95 through 9–17–96 42975
586.10 Eff. 9–18–95 through 9–17–96 42976
586.15 Eff. 9–18–95 through 9–17–96 42976
586.20 Eff. 9–18–95 through 9–17–96 42977
586.25 Eff. 9–18–95 through 9–17–96 42978
586.30 Eff. 9–18–95 through 9–17–96 42978
586.35 Eff. 9–18–95 through 9–17–96 42979
586.40 Eff. 9–18–95 through 9–17–96 42979
586.45 Eff. 9–18–95 through 9–17–96 42980
590 Authority citation revised 5211
590.1 Revised 7062
590.3 Removed 5211, 7062
590.5 Amended 5211, 7062
590.7 (a), (c)(3) and (4) removed; (b)(6), (8), (c)(1) and (2)(i) amended; (c)(2)(iii) revised 7062
590.9 Removed 7062
590.11 Removed 7062
590.13 Removed 7062
590.15 Removed 7062
590.17 Removed 7062
590.18 Removed 7062
590.21 Removed 7062
590.23 (a) revised; (c) amended; (d) removed 7062

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590.29 (a) introductory text, (4) and (c) revised 7063
590.31 (c) removed 7063
594.3 Amended 5211
594.30 Introductory text and (a) revised; (b), (c) and (d) removed; (e) through (h) redesignated as (b) through (e) 5211
595 Removed 47263
596 Removed 47263
597.3 Amended; introductory text added 5211
597.5 Removed 5211
598 Removed 47263
599 Removed 47263

Chapter VI—Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 600—699)

600 Removed 47263

Chapter VII—Office of the Secretary, Department of Housing and Urban Development (Section 8 Housing Assistance Programs and Public and Indian Housing Programs) (Parts 700—799)

700 Authority citation revised 5211
700.105 Amended; introductory text revised 5211
750 Authority citation revised 5211
750.5 Amended; introductory text revised 5211
760.5 Amended; introductory text revised 5211
791 Authority citation revised 35126
Authority citation revised 5211
791.102 Amended; introductory text added 5211
791.401 Revised 35126
791.403 (a), (b)(1)(ii) and (2) revised 35126
791.405 Revised 35126
791.407 (a) introductory text revised 35126
792 Authority citation revised 5212
792.103 Amended 5212
799 Removed 5212

Chapter VIII—Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Section 8 Housing Assistance Programs and Section 202 Direct Loan Program) (Parts 800—899)

811.102 Introductory text added; (l) and (q) removed; (m) through (p) and (r) through (u) redesignated as (l) through (o) and (q) through (t) 5212
811.201—811.211 (Subpart B) Removed 47263
812.1—812.4 (Subpart A) Removed 5665
812.5 (a) and (b) redesignated as (b) and (c); new (a) added 5665
813 Authority citation revised 17393
Policy statement 20356
813.1 Added; interim 17393
813.102 Amended; introductory text added 5212
813.106 (b)(4), (5) and (c) revised; interim; eff. in part 5–5–95 through 5–6–96 17393
850.1 Revised 7944
850.3 Amended; introductory text added 5212
Removed 7944
850.11—850.17 (Subpart B) Removed 7944
850.31—850.39 (Subpart C) Removed 7944
850.35 Introductory text revised; (a), (b), (d) and (l) removed; (c), (e) through (k) and (m) redesignated as (a), (b) through (h) and (i) 5212
850.61—850.79 (Subpart D) Removed 7944
850.100—850.107 (Subpart E) Removed 7944
880 Authority citation revised 5212
880.201 Amended; introductory text added 5212
881.201 Amended; introductory text added 5212
882 Heading revised (effective date pending) 34694
Authority citation revised 34694

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TITLE 24 Chapter VIII—Con.

Regulation at 60 FR 34694 eff. 10–2–95 45661
882.101 (b) revised; (c) and (d) added (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.102 Amended; introductory text added 5212
882.103 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.104 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.105 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.107 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.116 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.117 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.119 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.121 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.123 (a) through (d), (f) and (i) removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.201 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.202 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.203 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.204 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.205 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.206 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.207 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.208 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.209 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.210 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.211 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.213 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.215 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.216 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.212—882.219 (Subpart B) Appendix I removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.701 Revised (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661

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882.702 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.703 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.704 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.705 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.706 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.707 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.708 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.709 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.710 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.711 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.712 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.713 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.716 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.720 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.721 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.722 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.723 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.724 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.725 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.730 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.731 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.732 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.733 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.740 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.741 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.750 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.751 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.752 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661

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882.753 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.754 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.755 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.756 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.757 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.758 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.759 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.802 Amended; interim 5851
882.803 (a)(2) and (d) revised; interim 5851
882.804 (d) revised; interim 5851
882.805 (d) removed; (g)(1)(ii)(A) revised; interim 5851
882.808 (a)(3), (b)(2) and (4) removed; (a)(4), (b)(3), (5), (6) and (7) redesignated as (a)(3), (b)(2), (3), (4) and (5); (a)(1) and new (3) revised; (q) added 5851
883.302 Amended; introductory text added 5213
884.102 Amended; introductory text added 5213
885.740 Introductory text added; (a) revised 5213
886.102 Amended; Introductory text added 5213
886.132 (f)(1) revised 5213
886.302 Amended; introductory text added 5213
887 Authority citation revised 34694
887.3 Revised (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
887.5 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
887.7 Amended; introductory text added 5213
887.51—887.65 (Subpart B) Removed (effective date pending) 34695
Regulation at 60 FR 34694 eff. 10–2–95 45661
887.101—887.111 (Subpart C) Removed (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
887.151—887.167 (Subpart D) Removed (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
887.201—887.215 (Subpart E) Removed (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
887.251—887.261 (Subpart F) Removed (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
887.301—887.305 (Subpart G) Removed (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
887.401—887.405 (Subpart I) Removed (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
887.551—887.567 (Subpart L) Removed (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
888 Authority citation revised 42226
Fair market rent schedules 42230, 48278, 55934
Fair market rent schedules 6690, 7157
888.101 Removed 42226
888.105 Removed 42226
888.111 Revised 42226
888.113 Revised 42226
888.115 Revised 42227

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889.105 Amended 5213
889.265 Introductory text added; (a) revised 5213
890.105 Amended 5214
890.260 Introductory text added; (a) revised 5214
899 Removed 5214

Chapter IX—Office of Assistant Secretary for Public and Indian Housing, Department of Housing and Urban Development (Parts 900—999)

900 Removed 47263
901 Authority citation revised 5214
901.05 Introductory text added; (m) and (t) removed; (n) through (s) and (u) through (y) redesignated as (m) through (r) and (s) through (w) 5214
904.102 (h) removed; (i) through (k) redesignated as (h) through (j) 5214
905 Removed 18186
905.102 Amended; interim; eff. in part 5–5–95 through 5–6–96 17393
905.103 Added; interim 17394
905.160 Regulation at 59 FR 31522 confirmed 35692
905.642 Regulation at 59 FR 31523 confirmed 35692
905.681 Regulation at 59 FR 31523 confirmed 35692
907 Removed 47263
912.1—912.4 (Subpart A) Removed 5666
912.5 (a) and (b) redesignated (b) and (c); new (a) added 5666
913 Policy statement 20356
913.1 Added; interim 17394
913.102 Amended; introductory text added 5214
913.106 (b)(4), (5) and (c) revised; interim; eff. in part 5–5–95 through 5–6–96 17394
941.103 Amended; introductory text added 5214
941.206 Introductory text added; (a), (e) and (f) removed; (b), (c), (d), (g), (h) and (i) redesignated (a) through (f); new (b) revised 5214
941.502 Regulation at 59 FR 31523 confirmed 35692
942 Authority citation revised 5214
942.3 (c) revised 5214
945 Authority citation revised 5214
945.105 Amended; introductory text revised 5214
950 Added 18186
Policy statement 20356
950.102 Corrected 36667
Amended 57304
Amended 5666, 7588
950.103 Correctly added 36668
950.126 (d)(2) correctly revised 36668
950.175 (d)(1)(iii) correctly revised 36668
950.301 (d) revised; (g) added 5666
950.303 (b)(1)(ii) revised 5666
950.437 (c)(1) correctly redesignated as (c) 36668
950.455 (c) corrected 36668
950.458 (c) corrected 36668
950.503 (c) corrected 36668
950.553 (c) correctly revised 36668
950.555 OMB number 18236
950.570 OMB number 18237
(c) correctly revised 36669
950.575 OMB number 18238
950.705 Existing text redesignated as (a); (b) added 57305
(b) amended 7588
950.720 (b) revised 7588
950.725 (b)(3) revised; OMB number 7589
950.760 Revised (OMB number) 7589
950.770 Removed 7590
950.775 Added 7590
950.777 Added 7590
950.1008 OMB number 18281
950.1017 OMB number 18285
950.1018 OMB number 18285
950.1019 OMB number 18285
950.1020 OMB number 18285
950.1021 OMB number 18285
953 Regulation at 59 FR 38329 eff. date extended 7410
953.1 Existing text designated in part as (a) and (b); new (b) revised 7411
955 Regulation at 59 FR 42734 eff. date extended 37337
960.203 Revised 5215
960.503 Amended 5215
961.5 Amended; introductory text added 5215
961.29 (b), (c), (g) and (h) removed; (d), (e), (f), (i), (j) and (k) redesignated as (b)

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through (f); introductory text, new (e) and new (f) revised 5215
962 Authority citation revised 5215
962.103 Amended; introductory text revised 5215
963 Authority citation revised 5215
963.5 Amended; introductory text added 5215
964.7 Amended 5215
964.30 Revised 5215
965 Authority citation revised 5216
965.205 Amended 7969
965.301—965.308 (Subpart C) Revised 7969
965.401—965.407 (Subpart D) Revised 7970
965.472 Amended 5216
965.501—965.504 (Subpart F) Removed **47263**
Revised 7971
967 Removed **47263**
968 Authority citation revised 5216
968.105 Amended; introductory text revised 5216
968.110 Introductory text and (a) revised; (b) and (h) removed 5216
968.235 Regulation at 59 FR 31523 confirmed **35692**
968.335 Regulation at 59 FR 31523 confirmed **35692**
968.405 Amended; introductory text revised 5216
982 Authority citation revised **34695**
982.1—982.5 (Subpart A) Added (effective date pending) **34695**
Regulation at 60 FR 34695 eff. 10–2–95 ..... **45661**
982.3 Amended (effective date pending) **34717**
Regulation at 60 FR 34717 eff. 10–2–95 ..... **45661**
982.51—982.54 (Subpart B) Added (effective date pending) **34695**
Regulation at 60 FR 34695 eff. 10–2–95 ..... **45661**
982.52 OMB number **45661**
982.53 OMB number **45661**
982.54 OMB number **45661**
982.101—982.103 (Subpart C) Added (effective date pending) **34695**
Regulation at 60 FR 34695 eff. 10–2–95 ..... **45661**
982.102 OMB number **45661**
982.151—982.163 (Subpart D) Added (effective date pending) **34695**
Regulation at 60 FR 34695 eff. 10–2–95 ..... **45661**
982.151 OMB number **45661**
982.153 OMB number **45661**
982.155 OMB number **45661**
982.156 OMB number **45661**
982.157 OMB number **45661**
982.158 OMB number **45661**
982.159 OMB number **45661**
982.160 OMB number **45661**
982.163 Corrected **43840**
982.201 (f)(2) revised (effective date pending) **34717**
Regulation at 60 FR 34717 eff. 10–2–95 ..... **45661**
982.202 (b)(1) and (d) amended (effective date pending) **34717**
Regulation at 60 FR 34717 eff. 10–2–95 ..... **45661**
982.204 (a) amended (effective date pending) **34717**
Regulation at 60 FR 34717 eff. 10–2–95 ..... **45661**
982.206 (a)(2) and (b)(2) revised (effective date pending) **34717**
OMB number **45661**
Regulation at 60 FR 34717 eff. 10–2–95 ..... **45661**
982.207 (d) revised 5667
982.301—982.315 (Subpart G) Added (effective date pending) **34695**
Regulation at 60 FR 34695 eff. 10–2–95 ..... **45661**
982.301 OMB number **45661**
982.302 OMB number **45661**
982.303 OMB number **45661**
982.304 OMB number **45661**
982.305 OMB number **45661**
982.307 OMB number **45661**
982.310 OMB number **45661**
982.351—982.355 (Subpart H) Added (effective date pending) **34695**
Regulation at 60 FR 34695 eff. 10–2–95 ..... **45661**
982.352 OMB number **45661**
982.401—982.406 (Subpart I) Added (effective date pending) **34695**
Regulation at 60 FR 34695 eff. 10–2–95 ..... **45661**
982.403 OMB number **45661**
982.404 OMB number **45661**

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982.406 OMB number **45661**
982.451—982.457 (Subpart J) Added (effective date pending) **34695**
Regulation at 60 FR 34695 eff. 10–2–95 ..... **45661**
982.452 OMB number **45661**
982.455 OMB number **45661**
982.551—982.555 (Subpart L) Added (effective date pending) **34695**
Regulation at 60 FR 34695 eff. 10–2–95 ..... **45661**
982.551 OMB number **45661**
982.552 OMB number **45661**
982.554 OMB number **45661**
982.555 OMB number **45661**
983 Added (effective date pending) **34717**
Regulation at 60 FR 34717 eff. 10–2–95 ..... **45661**
983.3 OMB number **45661**
983.12 OMB number **45661**
983.51 OMB number **45661**
983.52 OMB number **45661**
983.54 OMB number **45661**
983.55 OMB number **45661**
983.57 OMB number **45661**
983.103 OMB number **45661**
983.104 OMB number **45661**
983.151 OMB number **45661**
983.202 OMB number **45661**
983.203 OMB number **45661**
983.205 OMB number **45661**
983.207 OMB number **45661**
990.102 Amended **57305**
Amended 7590
990.104 (b) revised **57305**
(b) amended 7591
990.108 (b) revised 7591
990.109 (b)(8) revised; OMB number 7591
990.117 Revised (OMB number) 7592
990.118 Removed 7592
990.119 Revised 7592
990.121 Added 7592
999 Removed 5216

Chapter X—Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Interstate Land Sales Registration Program) (Parts 1700—1799)

1710 Order **42436**
1730 Removed **47263**

Chapter XI—Solar Energy and Energy Conservation Bank, Department of Housing and Urban Development (Parts 1800—1899)

Chapter XI Removed 5216
1800 Removed **42763**
1895 Removed **42763**

Chapter XV—Mortgage Insurance and Loan Programs under the Emergency Homeowners' Relief Act, Department of Housing and Urban Development (Parts 2700—2799)

Chapter XV Removed 5216
2700 Removed **42763**

Chapter XX—Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Parts 3200—3699)

3280 Authority citation revised 5216
3280.2 Amended 5216
3282 Authority citation revised 5216
3282.7 Introductory text revised; (k), (p) and (ee) removed; (l) through (o), (q) through (dd) and (ff) through (oo) redesignated as (k) through (n), (p) through (cc) and (ee) through (nn) 5216

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3500 Announcement 16985
3500.8 (c)(1) amended 24735
3500.17 (o) added 24735
3500 Appendixes A and G–2 amended; Appendixes G–1, I–1, I–2, I–5 and I–6 revised; 24735

Proposed Rules:

0 34420
10 27058
29 17968
58 49466
92 36012
120 19191
203 2644
206 32630
221 2644
234 32630
570 56104
811 19695
882 ..... 51658, 54979
888 42290
900—999 (Ch. IX) 21058
950 ..... 24597, 37294
965 49480
966 27058
990 ..... 24597, 37294
3500 ..... 47650, 54794, 63008
..... 6334

TITLE 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior (Parts 1—299)

151 Authority citation revised 32878
Technical correction 45528
151.2 (a) revised 32879
151.10 Heading and introductory text revised; (h) added 32879
151.11 Redesignated as 151.12; new 151.11 added 32879
Heading, (b) and (d) corrected 48894
151.12 Redesignated as 151.13; new 151.12 redesignated from 151.11 32879
151.13 Redesignated as 151.14; new 151.13 redesignated from 151.12 32879
151.14 Redesignated as 151.15; new 151.14 redesignated from 151.13 32879
151.15 Redesignated from 151.14; new 151.15 revised 32879
163 Revised 52260
164 Removed 51723
165 Removed 51724
261 Removed 32896

Proposed Rules:

1—299 (Ch. I) 20250, 34488, 38928, 47131
1 37621
63 45982
161 55506
301 37621
900 (Ch. V) 2038
900 19387
1000—1099 (Ch. VI) 37416
..... 3623

TITLE 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury (Parts 1—799)

1 Authority citation amended 17218, 18743, 20898, 36679, 37581, 39649, 40078, 41004, 42787, 44275, 46507, 53128, 56119, 64322, 65548, 65557, 66094, 66136, 66498, 66730
Technical correction 52077, 66083
Authority citation amended 7, 267, 519, 4879
1.30–1 Added 39649
1.32–1 Removed 515
1.61–2 (a)(1) amended; (b) revised 40076
1.61–22T Removed 40077
1.83–6 (a)(1) and (2) revised; (a)(5) added 36997
1.103–12 Removed 515
1.108–3 Added 36680
1.110–1 Removed 515
1.114–1 Removed 515
1.115–1 Removed 515
1.116–1 Removed 515
1.116–2 Removed 515
1.162–20 (c)(5) and (d) added 37573
1.162–20T Removed 37573
1.162–27 Added 65537
(c)(3)(ii)(A), (e)(4)(i) and (5) corrected 4350
1.162–28 Added 37573
1.162–29 Added 37575
1.167(a)–11 (d)(3)(v)(*b*) amended 36679
(d)(3)(v)(*e*) *Example 3* amended 36680
1.167(c)–1 (a)(5) amended 36679
1.170A–13 (f) added 53128

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1.170A–13T Removed 53128
1.179A–1 Added 39651
1.217–2 (g)(6) added 40077
1.217–2T Removed 40077
1.263A–1 (j)(1)(ii)(B) amended 36680
1.263A–1T (b)(2)(vi)(B), (e)(1)(ii) and (iii)(A) *Example* amended 36679
1.263A–9 (f)(3) *Example 3* amended 47053
1.267(f)–1 Revised 36680
1.267(f)–1T Removed 36683
1.267(f)–2T Removed 36683
1.267(f)–3 Removed 36683
1.274–2 (a)(2)(ii), (3)(iii), (e) heading, (1) and (3)(ii) revised; (a)(2)(iii) added 36994
1.274–5T (c)(6)(iii) amended 36995
1.305–3 (e) *Examples 1* through *15* amended; *Example 15* revised 66136
1.305–5 (d) *Examples 1* through *9* amended; (b) and (d) *Examples 4, 5* and *7* revised; (d) *Examples 8* and *9* redesignated as (d) *Examples 9* and *10*; new (d) *Example 8* and (e) added 66136
1.305–7 (a) amended 66138
1.337(d)–1 (a)(5) *Example 8* amended 36679
1.337(d)–2 (g)(1) amended 36679
1.338–0 Amended 54944
1.338–2 (c)(3) added 54944
1.338–4 (f)(4) *Example 2* amended 36679
1.341–7 (e)(10) amended 36679
1.358–2(d) Removed 66079
1.358–6 Added 66079
1.367(a)–7T Removed 515
1.367(a)3–T (a), (c) through (f), (g)(1) and (h)(1) revised; eff. 4–17–96 66743
1.383–1A Undesignated center heading and section removed 515
1.383–2A Removed 515
1.383–3A Removed 515
1.401–12 (n) redesignated as 1.408(e); authority citation removed 65549
1.401–12T Removed 65549
1.401(e)–5 (a) amended 21435
1.401(f)–1 (b)(1)(ii) and (d)(1) amended 65549
1.401(k)–1 (h)(4)(ii) revised 25140
1.401(a)(31)–1 Added 49204
1.401(a)(31)–1T Removed 49204
1.402(c)–2 Added 49208
1.402(c)–2T Removed 49204
1.402(f)–1 Revised 49213
1.402(f)–2T Removed 49204
1.403(b)–2 Added 49214
1.403(b)–2T Removed 49204
1.408–2 (e) redesignated from 1.401–12(n); (b)(2)(ii), new (e)(1) and new (9) removed; (b)(2)(iii) and new (e)(2) through (8) redesignated as (b)(2)(ii) and (e)(1) through (7); new (e)(5)(ii)(A) redesignated as (e)(5)(ii)(E); (b)(2)(i), new (e)(1), (2)(iv), (5)(ii)(C)(*2*), (iii)(B), (v)(A), (vi), (viii), (6)(i)(A), (iii)(C), (9)(iv) and (v)(B) amended; new (e)(5)(ii)(A) revised; (e)(5)(ii)(D) added 65549
1.411(a)–11 (c)(2)(ii) revised; (c)(2)(iii) removed 49221
1.411(a)–11T Added 49221
1.411(d)–6T Added 64322
1.417(e)–1 (d) revised 17219
(b)(3) revised 49221
1.417(e)–1T Added 17219
(b) added 49221
1.446–1 (e)(3) revised 40078
1.446–4 (e)(9) added 519
1.460–0 Amended 36683
1.460–4 Heading revised; (j) added 36684
1.461–0 Amended 18743
1.461–4 (k)(1), (m)(1)(i), (ii), (iii) and (2)(ii) revised 18743
1.461–5 (d)(1), (2)(i) and (ii) revised 18743
1.461–7T Removed 18744
1.469–0 Amended 36684, 66498
1.469–1 (c)(8), (h)(1), (2) and (6) added 36684
1.469–1T (c)(8), (h)(1), (2) and (6) removed 36685
1.469–4 (e)(1), (2) and (h) revised 66499
1.469–9 Revised 66499
1.469–11 (a)(2) amended; (b)(2)(i) heading and (ii) removed; (a)(3), (b)(2)(i) and (3) redesignated as (a)(4), (b)(2) and (4); (b)(2) heading revised; new (a)(3) and new (b)(3) added 66501

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1.481–1 (a)(2) and (c)(1) amended; (c)(2), (3), (4) and (d) revised; (c)(6), (7) and (e) removed **40078**
1.481–2 (a), (b) introductory text, (c)(1), (2), (3) introductory text, (6) and (d) amended; (c)(4) revised **40078**
1.481–3 Amended **40079**
1.481–4 Removed; new 1.481–4 redesignated from 1.481–5 and revised **40079**
1.481–5 Redesignated as 1.481–4; new 1.481–5 added **40079**
1.481–6 Removed **40079**
1.482–0 Amended **65557**
Corrected 7157
1.482–7 Added **65557**
1.482–7T Removed **65566**
1.508–1 (a)(3)(i) introductory text and (*a*) revised **65552**
1.597–1 Added **66094**
1.597–2 Added **66095**
1.597–3 Added **66097**
1.597–4 Added **66098**
1.597–5 Added **66101**
1.597–6 Added **66103**
1.597–7 Added **66104**
1.662–0 Amended 4879
1.671–4 Revised **66087**
1.701–2 (a)(3) and (f) introductory text amended; (d) *Examples 5* and *6* removed; (d) *Examples 7* through *13* and (h) redesignated as (d) *Examples 5* through *11* and (i); new (h) added **18741**
1.704–4 Added **66730**
1.737–1 Added **66733**
1.737–2 Added **66735**
1.737–3 Added **66736**
(e) corrected 7214
1.737–4 Added **66738**
1.737–5 Added **66739**
1.804–1 Removed 516
1.804–2 Removed 516
1.805–1 Removed 516
1.805–2 Removed 516
1.805–3 Removed 516
1.805–4 Removed 516
1.805–5 Removed 516
1.805–6 Removed 516
1.805–7 Removed 516
1.805–8 Removed 516
1.820–1 Removed 516
1.820–2 Removed 516
1.820–3 Removed 516
1.824–1 Removed 516
1.824–2 Removed 516
1.824–3 Removed 516
1.860A–0 Amended **42787**
1.860A–1 (b)(4) added **42787**
1.860G–1 (a)(2)(v) redesignated as (a)(2)(vi); new (a)(2)(v) added; (a)(3)(i) revised **42787**
1.860G–1T Removed **42787**
1.861–8 (e)(2) correctly revised; CFR correction **36669**
(e)(3) revised; (g) *Examples 3* through *16* and *23* removed **66503**
1.861–8T (d)(2)(i) concluding text amended **36679**
1.861–9T (g)(2)(iv) heading amended **36679**
1.861–17 Added **66503**
1.863–1 (d) added **44275**
1.871–1 (b)(7) added **41004**
1.881–0 Added **41004**
1.881–3 Added **41005**
(e) *Example 25* corrected **55312**
1.881–4 Added **41014**
1.904–0 Amended **56119**
1.904(i)–1 Added **56119**
1.907–0 Introductory text revised; amended 516
1.907(a)–0A Undesignated center heading and section removed 516
1.907(a)–1A Removed 516
1.907(b)–1A Removed 516
1.907(b)–2A Removed 516
1.907(c)–1A Removed 516
1.907(c)–2A Removed 516
1.907(c)–3A Removed 516
1.907(d)–1A Removed 516
1.907(e)–1 Removed 516
1.907(e)–1A Removed 516
1.907(f)–1A Removed 516
1.952–3 Removed **46508**
1.954–0 Added **46508**
Corrected **62024**
1.954–0T Redesignated as 4.954–0 ..... **46530**
1.954–1 Added **46509**
(d)(7)(i) *Example 1* corrected **62024**
(d)(7)(i) *Examples 1* through *4*, (ii) *Examples 1* and *2* and (f)(2)(iv) corrected **62025**
1.954–1T Redesignated as 4.954–1 ..... **46530**
1.954–2 Added **46517**
(g)(3)(ii) corrected **58731**

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(b)(4)(x) correctly revised; (d)(1)(i), (3) *Example 1*, (e)(2)(ii) introductory text, (f)(2)(iii)(A), (B), (C), (E), (g)(2)(ii)(A), (3)(iv) *Example*, (h)(2)(i)(A), (G) and (4)(iv) *Examples 1* and *2* corrected **62025**
(h)(4)(iv) *Examples 5* and *6* and (6) *Examples 3* and *4* corrected; (h)(6) *Example 1* correctly revised **62026**
1.954–2T Redesignated as 4.954–2 ..... **46530**
1.954A–1 Removed **46530**
1.954A–2 Removed **46530**
1.957–1 (a), (c) *Examples 8* through *10* and (d) added **46529**
(a)(2) corrected **62026**
1.957–1T Removed **46530**
1.995–7 Removed 516
1.1015–6 (a) heading and (b) heading revised; (c) redesignated as (d); new (c) added **43537**
1.1032–2 Added **66081**
1.1221–2 (d), (e)(5), (f)(3), (g)(4), (5) and (6) added 519
1.1244(e)–1 Heading and (b) revised; (a)(1) amended **20898**
1.1258–1 Added **66084**
1.1301–0 Undesignated center heading and section removed 516
1.1301–1 Removed 516
1.1302–1 Removed 516
1.1302–2 Removed 516
1.1302–3 Removed 516
1.1303–1 Removed 516
1.1304–1 Removed 516
1.1304–2 Removed 516
1.1304–3 Removed 516
1.1304–4 Removed 516
1.1304–5 Removed 516
1.1304–6 Removed 516
1.1361–0 Revised **37581**
1.1361–1 (a) and (c) through (k) added **37581**
Heading, (j)(2)(ii), (4) and (k)(1) corrected **49976**
(k)(1) *Example* corrected **58234**
(k)(1) corrected 2869
1.1441–3 (j) added; OMB number **41014**
1.1441–7 (d) added; OMB number **41014**
(d)(2)(ii) *Example 4* corrected **55312**
1.1445–1 Heading and (g)(10) revised **66076**
1.1445–5 (c)(1)(iii)(A) and (d)(1) amended; (c)(1)(iii)(B) removed; (c)(1)(iii)(C) redesignated as (c)(1)(iii)(B); (c)(1)(ii), new (iii)(B), (iv) and (3)(ii) revised **66076**
(c)(1)(iii)(B) table corrected 7157
1.1445–8 (c)(2)(i) revised **66077**
1.1502–3 (a)(2) amended **36679**
1.1502–4 (j) *Example 1* amended **36679**
1.1502–9 (f) *Example 6* amended **36679**
1.1502–12 (a) and (g)(2) amended **36679**
1.1502–13 Revised **36685**
1.1502–13T Added (temporary) **36670**
Removed **36708**
1.1502–14 Removed **36708**
1.1502–14T Removed **36708**
1.1502–17 (c) redesignated as (d); new (d) *Example* redesignated as (d) *Example 1*; (b), new (a) heading and introductory text revised; new (c), (d) *Examples 2*, *3* and (e) added; new (d) *Example 1* amended **36708**
1.1502–18 (f) heading revised; (g) added **36709**
1.1502–20 (a)(5) *Example 6*, (b)(6) *Examples 5*, *7*, (c)(4) *Example 3* and (h)(1) amended; (c)(4) *Example 9* added; (e)(3) *Examples 2* and *8* removed; (e)(3) *Examples 3* through *7* redesignated as (e)(3) *Example 2* through *Example 6* **36709**
1.1502–22 (a)(3) and (5) *Example* amended **36679**
1.1502–26 (b) amended **36679**
(b) revised **36710**
1.1502–30 Added **66082**
1.1502–33 (c)(2) revised **36710**
1.1502–47 (e)(4)(iii) and (iv) *Example 4* amended **36679**
(e)(4) *Example 4*, (f)(3) and (r) amended **36680**
1.1502–79 (f) removed **36710**
1.1502–80 (e) and (f) added **36710**
1.1503–2 (d)(4) *Example 1* amended **36680**
1.1552–1 (a)(2)(ii)(c) amended **36680**
1.6012–3 (a)(9) revised **66090**
1.6033–2 (g)(1)(i) and (vii) revised; (g)(5) removed; (h), (i) and (j)

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redesignated as (i), (j) and (k); new (h) added 65552
1.6038A–7 (b)(5) and (c)(2)(vii) added 41015
1.6042–4 Revised 66110
1.6044–5 Revised 66111
1.6049–6 Heading revised; (a), (b)(1)(ii) and (2)(ii) amended; (e) added; authority citation removed 66111
1.6050I–0 Added 7
1.6050I–0T Removed 7
1.6050I–2 Added 7
1.6050I–2T Removed 7
1.6050N–1 Added 66111
1.6050P–0 Added; eff. 12–26–96 268
1.6050P–0T Removed; eff. 12–26–96 271
1.6050P–1 Added; eff. 12–26–96 268
1.6050P–1T Removed; eff. 12–26–96 271
1.6081–4 (a) revised 261
1.6081–4T Added 261
1.6091–2 (g) added 62210
1.6662–0 Amended 45663
1.6662–1 Amended 45664
1.6662–2 (d) heading revised; (d) redesignated as (d)(1); new (d)(1) amended; (d)(2) and (3) added 45664
1.6662–3 (a) amended; (b)(3), (c)(1) and (2) revised 45664
1.6662–4 (d)(2) removed; (e)(2), (g)(1), (4) and (5) revised 45665
1.6662–5T Revised 4879
1.6662–6 Added 4880
1.6662–6T Removed 4885
1.6662–7 Added 45665
1.6662–7T Removed 45666
1.6664–0 Amended 45666
Introductory text amended 4885
1.6664–1 (b) revised 45666
1.6664–4 (c), (d) and (e) redesignated as (d), (f) and (g); (a), (b)(1), (2) introductory text, *Example* 1 and new (d) revised; new (c) and new (e) added 45666
1.6664–4T Revised 4885
1.6695–1T Added (temporary) 37589
1.7520–3 (b) revised; (c) amended 63915
1.7701(l)–1 Added 41015
1.7704–1 Added 62029
4 Added 46530
4.954–0 Redesignated from 1.954–0T; heading, (a)(1) and (b) amended 46530
4.954–1 Redesignated from 1.954–1T and heading amended 46530
4.954–2 Redesignated from 1.954–2T and heading amended 46530
18 Authority citation revised 37588
18.0 Revised 37588
18.1361–1 Removed 37588
18.1366–5 Removed 37588
18.1378–1 (b)(2)(i) and (ii) amended; (b)(3), (c) and (e) removed 37589
20.2035–1 Removed 516
20.2056–0 Amended 43538
20.2056(d)–1 Redesignated as 20.2056(d)–2; new 20.2056(d)–1 added 43538
20.2056(d)–2 Redesignated as 20.2056(d)–3; new 20.2056(d)–2 redesignated from 20.2056(d)–1 43538
20.2056(d)–3 Redesignated from 20.2056(d)–2 43538
20.2056A–0 Added 43538
Amended 43538
20.2056A–1 Added 43539
20.2056A–2 Added 43540
20.2056A–2T Added (temporary) 43557
20.2056A–3 Added 43540
20.2056A–4 Added 43541
20.2056A–5 Added 43546
20.2056A–6 Added 43547
20.2056A–7 Added 43549
20.2056A–8 Added 43549
20.2056A–9 Added 43550
20.2056A–10 Added 43550
20.2056A–11 Added 43551
20.2056A–12 Added 43551
20.2056A–13 Added 43551
20.2101–1 Revised 43551
20.2102–1 (c) added 43552
20.2106–1 (a)(3) revised; (b) amended; (c) removed 43552
20.2106–2 (c) removed 43552
20.7520–3 (b) revised; (c) amended 63916
23 Removed 516
24 Removed 516
25 Authority citation revised 43552
25.2503–2 (a) amended; (f) added 43552
25.2517–1 Removed 516
25.2522(c)–3 (c)(2)(i), (vi)(*a*), (vii)(*a*), (d)(2) introductory text and (iv) *Examples 1* through *4* amended 63919
25.2523(i)–1 Added 43552
25.2523(i)–2 Added 43553
25.2523(i)–3 Added 43554
25.2702–1 (c)(8) added 43554
25.2702–3 (b)(1)(i) and (c)(1)(i) amended 66090
25.7520–3 (b) revised; (c) amended 63919
26 Revised 66903
27 Removed 516
31 Authority citation amended 53510, 65238, 66112, 66141
Technical correction 7214
31.3402(p)–1 (a) amended 49215
31.3402(r)–1 Added 65238
31.3402(r)–1T Removed 65238
31.3405(c)–1 Added 49215
31.3405(c)–1T Removed 49218
31.3406–0 Revised 66112
31.3406(a)–1 Added 66114
31.3406(a)–2 Added 66114
31.3406(a)–3 Added 66114
31.3406(a)–4 Added 66115
31.3406(c)–1 Added 66119
31.3406(d)–1 Added 66123
31.3406(d)–2 Added 66125
31.3406(d)–3 Added 66125
31.3406(d)–4 Added 66125
31.3406(e)–1 Added 66127
31.3406(f)–1 Added 66127
31.3406(g)–1 Added 66128
31.3406(g)–2 Added 66128
31.3406(g)–3 Added 66129
31.3406(h)–1 Added 66130
31.3406(h)–2 Added 66130
31.3406(h)–3 Added 66131
31.3406(i)–1 Added 66133
31.3406(b)(2)–1 Added 66115
31.3406(b)(2)–2 Added 66115
31.3406(b)(2)–3 Added 66116
31.3406(b)(2)–4 Added 66117
31.3406(b)(2)–5 Added 66117
31.3406(b)(3)–1 Added 66117
31.3406(b)(3)–2 Added 66118
31.3406(b)(3)–3 Added 66119
31.3406(b)(3)–4 Added 66119
31.3406(b)(4)–1 Added 66119
31.3505–1 (b)(1), (2) *Examples 1* and *2*, (d)(1) and (2)(iii) amended; (d)(3) and (g) added 39110
31.6011(a)–4 (b) revised 53510
31.6011(a)–4T Added 53511
31.6011(a)–5 (a)(1) amended; authority citation removed 66133
31.6011(a)–6 (a)(1) amended 66133
31.6051–1 (d)(1) redesignated as (d)(1)(i); new (d)(1)(ii) added; (d)(2) revised; eff. 1–1–97 66141
31.6051–2 (c) amended; eff. 1–1–97 66141
31.6051–4 Added 66133
31.6071(a)–1 (a)(3)(i) removed; (a)(3)(ii) redesignated as (a)(3)(i); new (a)(3)(ii) added; eff. 1–1–97 66141
31.6081(a)–1 (a)(3) revised; eff. 1–1–97 66142
31.6413(a)–3 Added 66133
33 Removed 516
35a Authority citation amended 66134
35a.3406–2 Removed 66134
35a.9999–0T Added 66134
38 Removed 516
40 Technical correction 54803
40.6302(c)–0 Removed 40081
40.6302(c)–1 (e)(4) added 40081
40.6302(c)–5T Added 44759
48 Authority citation amended 40081
48.4041–8 (f)(1) introductory text and (i) revised; (f)(1)(ii) redesignated as (f)(1)(iii); new (f)(1)(ii) added; (f)(2) amended 40081
48.4041–21 Revised 40082
(c)(4) corrected 50245
48.4081–0 Removed 40082
48.4081–3 (b)(1) revised 40082
48.4081–6 Revised 40082
48.4081–7 Heading, (b)(4), (c)(1), (3), (d) and (g) revised; (a), (b), (c)(2), (4)(i)(A), (B), (ii)(A), (B), (iii), (iv)(A), (B) and (f) *Example 1* amended; (c)(5) removed 40085
48.4101–3 Added 40086
52 Authority citation amended 52849
52.4681–0 Removed 52849
52.4681–1 (a)(3)(ii), (c)(7)(iii)(A) and (d)(3) revised 52849
52.4682–1 (a), (b)(2)(ii) introductory text, (f) and (g) revised; (b)(2)(iv), (v), (h) and (j) added 52849
52.4682–2 (a)(1)(iii), (iv), (b)(3), (4), (d)(4) and (5) added; (a)(2),

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(b)(1)(i) and (2)(i) amended; (d) heading and (1)(i) revised 52850
52.4682–4 (b)(2) introductory text removed; (b)(2)(i)(B)(*1*) and (d)(1)(i) amended; (e)(5) redesignated as (e)(6); (b)(2)(vi), (vii), (viii), (d)(4) and new (e)(5) added; (d)(1)(iv)(A)(*1*), (e)(4)(i) and new (6) *Example 5* revised 52852
52.4682–5 Added 52853
53.4941(d)–2 (f)(1) amended; (f)(3) revised; (f)(4) redesignated as (f)(9); new (f)(4) through (8) added 65568
53.4955–1 Added 62210
53.4963–1 (a), (b) and (c) amended 62212
53.6011–1 (b) amended 62212
53.6071–1 (e) added 62212
53.6091–1 Heading revised; (d) added 62212
301 Authority citation amended 37589, 40087, 66105
Technical correction 7214
301.6011–2 (c)(4)(i) revised; eff. 1–1–97 66142
301.6061–1T Added (temporary) 37589
301.6109–1 (a)(2) revised 66090
(a)(1) and (h) amended 66134
301.6109–2 (c) through (g) revised; (h) added 51725
(f)(2) corrected 1035
301.6211–1 (b) amended 62212
301.6212–1 (c) amended 62212
301.6213–1 (a)(2) and (e) amended 62212
301.6311–1 (a)(1)(i) amended; (a)(2) and (b) revised; (a)(3) removed; (d) and (e) added 20899
301.6651–1 (c)(3) revised 262
301.6651–1T Added 262
301.6676–1 Removed 516
301.6852–1 Added 62212
301.6861–1 Amended 62212, 62213
301.6863–1 (a)(1), (3), (4) and (b) amended 62213
301.6863–2 (a) introductory text amended 62213
301.6867–1 Added 39653
301.6867–1T Removed 39654
301.7409–1 Added 62213
301.7422–1 (a) introductory text, (c) introductory text and (d) amended 62213
301.7424–1 Removed 517
301.7425–4 (b)(3)(ii) amended 28720
301.7507–1 (b)(4) added 66105
301.7507–9 (d) amended 66105
301.7514–1 (a)(2) through (7) redesignated as (a)(3) through (8); new (a)(2) added 54945
301.7611–1 Amended 62213
301.7701–3 (e) added 65566
301.7701(i)–0 Added 40088
301.7701(i)–1 Added 40088
(c)(4)(ii) and (g)(3) corrected 49754
301.7701(i)–2 Added 40091
301.7701(i)–3 Added 40092
301.7701(i)–4 Added 40092
301.9100–7T (a)(1) table and (4)(i) table amended; (a)(4)(iii) revised 66926
602 Technical correction 66083
602.101 (c) table amended (OMB numbers) 18744, 20899, 36710, 36998, 37589, 40086, 41016, 43554, 43563, 46530, 49218, 49221, 52856, 53128, 53511, 64324, 65547, 65566, 66085, 66091, 66105, 66134, 66139, 66926
(c) table amended (OMB numbers); eff. 4–17–96 66746
(c) table amended (OMB numbers) 8, 262, 517, 522, 4885
(c) table amended (OMB numbers); eff. 12–26–96 271

Proposed Rules:

1 ..... 17286, 17731, 18377, 18378, 19387, 19868, 20922, 21475, 21482, 21779, 26854, 27453, 30487, 31660, 35882, 36755, 37621, 38291, 39896, 39902, 40792, 40794, 40796, 42819, 43091, 46548, 47723, 49236, 62229, 63009, 63478, 64401, 66227, 66228, 66229, 66233, 66238, 66532, 66771
..... 28, 338, 552, 1545
18 35882
20 43574
31 ..... 50508, 53561, 66243
..... 2194, 2214
40 44788
301 ..... 24811, 24813, 30211, 30487, 36756, 37621, 39903, 43091, 49356, 55228, 64402
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TITLE 27—ALCOHOL, TOBACCO PRODUCTS AND FIREARMS

Chapter I—Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury (Parts 1—299)

4.23 Revised 538
4.23a Removed 539
4.28 Added 539
4.34 (a) amended; (b)(1) revised; (b)(2), (3) and (4) redesignated as (b)(3), (4) and (5); new (b)(2) added 539
4.91—4.93 (Subpart J) Added 539
5.23 (a)(3)(iii) revised; (c)(2) removed 67327
6 Authority citation revised 20421
6.1 Revised 20421
6.4 (b) amended 20421
6.5 Added (OMB number) 20421
6.11 Amended 20421
6.25 Revised 20421
6.27 (a) revised 20421
6.31 Revised 20421
6.33 (a) revised 20421
6.41 Revised 20421
6.42 Revised 20421
6.43 Amended 20422
6.46 Removed 20422
6.47 Removed 20422
6.51 Revised 20422
6.61 Revised 20422
6.65 Revised 20422
6.67 Added 20422
6.71 Revised 20422
6.72 Revised 20422
6.81 Revised (OMB number) 20422
6.82 Removed 20422
6.83 Revised 20422
6.84 Revised 20423
6.85 Revised 20423
6.86 Removed 20423
6.87 Removed 20423
6.88 Revised 20423
6.89 Removed 20423
6.90 Removed 20423
6.91 Revised 20423
6.92 Revised 20423
6.93 Revised 20423
6.94 Amended 20423
6.96 (a) revised 20423
6.97 Removed 20423
6.98 Revised 20423
6.99 Revised 20424
6.100 Revised 20424
6.101 Revised 20424
6.102 Added 20424
6.151—6.153 (Subpart E) Added 20424
8 Authority citation revised 20425
8.1 Revised 20425
8.5 Added (OMB number) 20425
8.11 Amended 20425
8.23 Revised 20425
8.51—8.54 (Subpart D) Added 20425
9.149 Added 47061
9.151 Added 51899
10 Authority citation revised 20426
10.1 Revised 20426
10.4 (a)(1) amended 20426
10.5 Added (OMB number) 20426
10.11 Amended 20426
10.51—10.54 (Subpart D) Added 20427
11 Authority citation revised 20427
11.1 Revised 20427
11.5 Added 20427
11.11 Amended 20427
11.24 Added 20427
11.32 Revised 20427
11.34 Revised 20428
11.35 Revised 20428
19 Authority citation revised 33668
19.522 (a) amended 33668
19.523 (a) revised; (c) added 33668
24.246 Table corrected; CFR correction 38959
24.271 (b) revised; (c) added 33669
25.163 Amended 33669
25.164 (c) and (d) revised 33669
25.164a Added 33669
47.52 (c) removed; (d) and (e) redesignated as (c) and (d); (a) and new (d) revised 47866
53 Authority citation revised 33670
53.11 Amended 33670
53.21 (d) redesignated from 53.152(c) 33670
53.22 (a)(1) amended; (a)(3) added 33670
53.23 Added 33670
53.24 Added 33670
53.142 Heading, (a) introductory text, (4) and (b) revised 33671
53.151 (a)(2) amended; (a)(5) added; (b)(1) revised 33671
53.152 (c) redesignated as 53.21(d) 33670
53.157 Heading revised; note added 33671
53.158 (b)(2) and (3) amended 33671
53.159 Added 33671

NOTE: Boldface page numbers indicate 1995 changes.

CHANGES APRIL 3, 1995 THROUGH FEBRUARY 29, 1996

TITLE 27 Chapter I—Con.

55.1 (a) revised 17449
55.26 Heading and (b) revised; (c) added 17449
55.166 Amended 17449
70.306 (a) amended 33674
72.21 (c) revised 17449
72.27 Added 17449
178 Technical correction 19117
178.1 (a) revised 17450
178.11 Amended 17450
178.23 (b)(2) revised 17450
178.25a Added 17451
178.29a Added 17451
178.32 (a)(6), (7), (d)(6) and (7) revised; (a)(8) and (d)(8) added 17451
178.33 Revised 17451
178.39a Added (OMB number) 17451
178.40 Added (OMB number) 17451
178.40a Added (OMB number) 17452
178.44 Revised 17452
178.45 Revised 17453
178.47 (a), (b) introductory text, (c) and (d) amended; (b)(6) added; OMB number 17453
178.52 Revised (OMB number) 17453
178.57 Existing text designated as (a); (b) and (c) added 17453
178.92 Heading and (a) revised; (c) added 17454
178.99 (c)(6) and (7) amended; (c)(8) added 17454
178.119 Added (OMB number) 17454
178.127 Amended 17455
178.129 (b) revised; (e) added; OMB number 17455
178.132 Added (OMB number) 17455
178.133 Added (OMB number) 17455
178.152 (a) revised 17455
178.153 Added 17456
178.171 Amended 17456
179.34 Amended; (e) added 17456
179.36 Amended 17456
179.42 Amended 17456
179.47 Amended 17456
179.50 Amended 17456
250.112 (b) and (d) revised; (c)(1) amended 33674
270.163 Revised 33675
270.164 Added 33675
270.165 (a) revised; (b) removed; (c) redesignated as (b) 33675
275.113 Revised 33675
275.114 (b) and (d) revised 33675
285.25 (c) revised; (f) amended; (g) added 33676

Proposed Rules:

1—299 (Ch. I) 18783
4 47506
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5 ..... 47506, 58311
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7 47506
..... 1545
9 ..... 27060, 66535
..... 706
13 47506
..... 1545
19 ..... 33664, 47506, 58311
..... 1545, 2459
24 ..... 33664, 58311
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25 ..... 33664, 58311
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53 ..... 18039, 33664
55 17494
70 ..... 33664, 58311
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250 ..... 33664, 58311
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285 33664

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TITLE 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice (Parts 0—199)

Page
0 Authority citation revised 35335, 36711
0.77 (j) revised 36711
0.100—0.194 (Subpart R) Appendix amended 46019
0.116 Amended 53268
0.137 Revised 35335
0.138 Revised 35335
0.157 Heading, (c) and (d) revised; (e) added 35335
2.1 (h) revised 51350
2.12 (a) amended 51350
2.14 (a)(1)(ii), (2)(iv) and (b)(3) amended 51350
2.20 Paroling policy guidelines amended 40093, 40271
2.23 Amended 51349
2.29 (b) amended 51350
2.40 (g) revised 51349
2.59 Revised 40094
2.60 (g) and (h) added; interim 40095
(b) amended; (g) and (h) removed 4351
16.97 (e) and (f) added 6316
(g) and (h) added 6317
(c) redesignated as (i); (i) amended; new (c) and (d) added 6319
49 Revised; interim 44277
Regulation at 60 FR 44277 confirmed 2117
49.2 (a) corrected 61290
49.3 Introductory text corrected 61290
60 Authority citation revised 62734
60.2 (p) and (q) added 62734
60.3 (a)(18) added 62734
70 Added 38242
70.2 (ff) corrected 57931
70.22 (h)(2) corrected 57931
70.25 (e), (f) and (j) corrected 57931
70.33 (b) correctly revised 57932
70.36 (c) corrected 57932
70.44 (c) corrected 57932
70.51 (e) corrected 57932
70.52 (a)(1)(iii) corrected 57932
70.59 (b)(3) corrected 57932
70.62 (d) corrected 57932
70 Appendix A corrected 57932
81 Added 7706

Chapter V—Bureau of Prisons, Department of Justice (Parts 500—599)

501 Authority citation revised 53490
501.2 Added; interim 53490
540 Authority citation revised 65204
540.17 Introductory text and (b) revised 65204
540.100 (a) amended 90
540.105 (c) removed 90
541.46 (c) amended; (g) revised 46484
541.48 (b) revised 46484
541.49 (a) amended 46484
541.50 (b)(2) revised 46485
542 Revised 88
545.11 (b) introductory text amended; (d)(3) removed 91
545.20 (a) revised 379
545.21 (d) through (g) redesignated as (e) through (h); (a), (c) and new (f) revised; new (d) added 379
545.23 (a) and (b) revised 379
545.24 (d) amended 379
545.25 (a)(2) revised; (d) added 379
545.26 (d), (e) introductory text and (1) revised 379
545.28 Revised 379
548 Authority citation revised 46486
548.10—548.20 (Subpart B) Revised; interim 46486
549.10—549.18 (Subpart A) Revised; interim 52279
549.40—549.43 (Subpart C) Regulation at 57 FR 53820 confirmed 49444
549.41 (b) revised 49444
549.43 (b) revised 49444

Proposed Rules:

16 ..... 44788, 51962
29 54459
35 58462
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540 ..... 92, 5846
541 54922
545 92
547 47648
549 54288
551 54289

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CHANGES JULY 3, 1995 THROUGH FEBRUARY 29, 1996

TITLE 29—LABOR

Subtitle A—Office of the Secretary of Labor (Parts 0—99)

1.1361–1 (k)(1) *Example 1* corrected **58234**
4.7 Removed **51727**
20 Regulation at 59 FR 47250 confirmed **41016**
20.101—20.111 (Subpart E) Regulation at 59 FR 47250 confirmed **41016**
20.105 Revised **41017**
20.106 (b) revised **41017**

Chapter I—National Labor Relations Board (Parts 100—199)

102 Comment and experimental periods extension 1281
102.11 Revised **56234**
102.14 Revised **56235**
102.35 Revised 6941
102.42 Revised 6942
102.45 (a) revised 6942
102.60 (a) revised **56235**
102.69 (a) revised **56235**
102.112 Revised **56235**
102.113 Revised **56236**
102.114 Revised **56236**

Chapter II—Office of Labor-Management Programs, Department of Labor (Parts 200—299)

215 Revised **62969**
Regulation at 60 FR 62969 eff. date stayed 386
Regulation at 60 FR 62969 eff. date delayed to 1–29–96 2117

Chapter IV—Office of Labor-Management Standards, Department of Labor (Parts 400—499)

452.38 (a) amended **57178**

Chapter V—Wage and Hour Division, Department of Labor (Parts 500—899)

502 Removed **54804**
503 Removed **54804**
508.900 (b)(2)(i) and (d) amended; (e) revised **38958, 38959, 61210, 61211**
(b)(2)(i), (d) and (e) amended; interim **49753, 49754**
508.910 (b)(2)(i) and (e) amended; interim **38958, 38959, 49754**
(b)(2)(i) and (e) amended **61210, 61211**
508.940 (d)(1)(i)(B) amended; interim **38958**
(d)(1)(i)(B), (h)(1) and (3) amended; interim **38959, 49754**
(d)(1)(i)(B), (h)(1) and (2) amended **61210, 61211**
517 Removed **54805**
526 Removed **54805**
552 Authority citation revised **46766**
552.2 (b)(1) revised **46766**
552.100 (a)(1), (c) and (d) revised **46768**
552.101 (a) amended **46768**
552.104 (b) revised **46768**
552.105 (a) amended **46768**
697.1 (a)(1), (b)(1), (2)(ii), (iii), (c)(1), (d)(1), (e)(1), (f)(1), (g)(1), (h)(1), (i)(1), (j)(1), (k)(1), (l)(1), (m)(1) and (n)(1) revised **47485**
697.3 Revised **47485**
801.53 (a) revised **46531**

Chapter XII—Federal Mediation and Conciliation Service (Parts 1400—1499)

2619 Appendix B amended 5946
2676 Appendix B amended 5946

Chapter XIV—Equal Employment Opportunity Commission (Parts 1600—1699)

1600 Authority citation revised 7067
1600.101 Added; interim 7067
1600.735–101—1600.735–106 (Subpart A) Removed; interim 7067
1600.735–201—1600.735–206 (Subpart B) Removed; interim 7067
1600.735–301 (Subpart C) Removed; interim 7067
1600.735–401—1600.735–406 (Subpart D) Removed; interim 7067
1600.735–501 Redesignated as 1650.101; interim 7067
1600.735–502 Redesignated as 1650.102; interim 7067
1600.735–503 Redesignated as 1650.103; interim 7067
1600.735–504 Redesignated as 1650.104; interim 7067
1600.735–505 Redesignated as 1650.105; interim 7067
1600.735–506 Redesignated as 1650.106; interim 7067
1600.735–507 Redesignated as 1650.107; interim 7067
1600.735–508 Redesignated as 1650.108; interim 7067
1600.735–509 Redesignated as 1650.109; interim 7067
1600.735–510 Redesignated as 1650.110; interim 7067
1600.735–511 Redesignated as 1650.111; interim 7067
1600.735–512 Redesignated as 1650.112; interim 7067
1600.735–513 Redesignated as 1650.113; interim 7067
1600.735–514 Redesignated as 1650.114; interim 7067
1600.735–515 Redesignated as 1650.115; interim 7067
1600.735–516 Redesignated as 1650.116; interim 7067
1600.735–517 Redesignated as 1650.117; interim 7067
1600.735–518 Redesignated as 1650.118; interim 7067
1600.735–519 Redesignated as 1650.119; interim 7067
1601.70 (b) and (e) amended **46220**
1601.71 (a), (b) and (c) amended **46220**
1602 Deadline extension **51350**
1613 Removed **43372**
1614.501 (a) amended **43372**
1650 Authority citation revised 7067
1650.101 Redesignated from 1600.735–501; interim 7067
1650.102 Redesignated from 1600.735–502; interim 7067
1650.103 Redesignated from 1600.735–503; interim 7067
1650.104 Redesignated from 1600.735–504; interim 7067
1650.105 Redesignated from 1600.735–505; interim 7067
1650.106 Redesignated from 1600.735–506; interim 7067
1650.107 Redesignated from 1600.735–507; interim 7067
1650.108 Redesignated from 1600.735–508; interim 7067
1650.109 Redesignated from 1600.735–509; interim 7067
1650.110 Redesignated from 1600.735–510; interim 7067
1650.111 Redesignated from 1600.735–511; interim 7067
1650.112 Redesignated from 1600.735–512; interim 7067
1650.113 Redesignated from 1600.735–513; interim 7067
1650.114 Redesignated from 1600.735–514; interim 7067
1650.115 Redesignated from 1600.735–515; interim 7067
1650.116 Redesignated from 1600.735–516; interim 7067
1650.117 Redesignated from 1600.735–517; interim 7067
1650.118 Redesignated from 1600.735–518; interim 7067
1650.119 Redesignated from 1600.735–519; interim 7067

Chapter XVII—Occupational Safety and Health Administration, Department of Labor (Parts 1900—1999)

1910.1—1910.7 (Subpart A) Authority citation revised 5508
1910.7 OMB number 5508
1910.8 Added (OMB numbers) 5508
1910.20 OMB number 5508
1910.66 OMB number 5508
1910.95 OMB number 5508
1910.96 OMB number 5508
1910.134 OMB number 5508
1910.142 OMB number 5508
1910.145 OMB number 5508
1910.147 OMB number 5508
1910.156 OMB number 5508
1910.217 OMB number 5508
1910.266 Note revised **40458**
(c), (d)(1)(iv), (v) and (2)(i) amended; (d)(1)(iii), (vii), (5), (6)(iii), (9)(iii) and (iv) revised **47035**
(e)(2)(iv), (vi), (xiii), (f)(2)(iv), (x), (xi), (3)(vii), (viii), (7)(i), (ii), (h)(1)(iii), (1)(ix), (2)(i), (vi), (vii), (3) heading, (i), (5)(v), (viii) and (6)(ii) revised; (f)(3)(i) and (ii) amended; (f)(3)(ii) redesignated as (f)(3)(ii)(C); (f)(3)(ii)(A) and (B) added **47036**

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TITLE 29 Chapter XVII—Con.

(i)(7)(ii) removed; (i)(7)(iii) redesignated as (i)(7)(ii); appendix A amended 47037
1910.272 OMB number 5508
1910.420 OMB number 5508
1910.421 OMB number 5508
1910.423 OMB number 5508
1910.430 OMB number 5508
1910.440 OMB number 5508
1910.1001 OMB number 5508
1910.1003 OMB number 5508
1910.1004 OMB number 5508
1910.1006 OMB number 5508
1910.1007 OMB number 5508
1910.1008 OMB number 5508
1910.1009 OMB number 5508
1910.1010 OMB number 5508
1910.1011 OMB number 5508
1910.1012 OMB number 5508
1910.1013 OMB number 5508
1910.1014 OMB number 5508
1910.1015 OMB number 5508
1910.1016 OMB number 5508
1910.1017 OMB number 5508
1910.1018 OMB number 5508
1910.1025 (e)(1)(ii) Table I, (f)(1)(i), (j)(2)(ii) and (k)(1)(i) revised; (e)(4), (k)(1)(i)(A), (B), (iii)(A)(*1*) and (*2*) removed; (e)(5), (6), (k)(1)(i)(C), (D), (iii)(A)(*3*) and (*4*) redesignated as (e)(4), (5), (k)(1)(i)(A), (B), (iii)(A)(*1*) and (*2*); Appendixes B and C amended 52859
OMB number 5508
1910.1027 OMB number 5508
1910.1028 OMB number 5508
1910.1029 OMB number 5508
1910.1030 OMB number 5508
1910.1043 OMB number 5508
1910.1044 OMB number 5508
1910.1045 OMB number 5508
1910.1047 OMB number 5508
1910.1048 OMB number 5508
1910.1050 OMB number 5508
1910.1200 OMB number 5508
1910.1450 OMB number 5508
1915.8 Added (OMB numbers) 5509
1915.1001 (b) corrected 36044
(g)(7)(iii) redesignated as (g)(7)(ii)(C); new (g)(7)(iii) and (12)(vi) added; (g)(8)(iv)(B) removed; (g)(8)(iv)(C), (12) introductory text, (h)(2)(v) and (o)(4)(i) revised 50412
OMB number 5509
1915.1003 OMB number 5509
1915.1004 OMB number 5509
1915.1006 OMB number 5509
1915.1007 OMB number 5509
1915.1008 OMB number 5509
1915.1009 OMB number 5509
1915.1010 OMB number 5509
1915.1011 OMB number 5509
1915.1012 OMB number 5509
1915.1013 OMB number 5509
1915.1014 OMB number 5509
1915.1015 OMB number 5509
1915.1016 OMB number 5509
1915.1017 OMB number 5509
1915.1018 OMB number 5509
1915.1025 OMB number 5509
1915.1028 OMB number 5509
1915.1030 OMB number 5509
1915.1044 OMB number 5509
1915.1045 OMB number 5509
1915.1047 OMB number 5509
1915.1048 OMB number 5509
1915.1050 OMB number 5509
1915.1120 OMB number 5509
1915.1450 OMB number 5509
1917.23 OMB number 5509
1917.24 OMB number 5509
1917.25 OMB number 5509
1917.28 OMB number 5509
1917.50 OMB number 5509
1917.116 OMB number 5509
1918 Authority citation amended 5509
1918.90 OMB number 5509
1919 Authority citation revised 5509
1919.3 OMB number 5509
1919.51 OMB number 5509
1919.90 OMB number 5509
1926.1—1926.4 (Subpart A) Authority citation revised 5509
1926.5 Added (OMB number) 5509
1926.33 OMB number 5510
1926.50 OMB number 5510
1926.53 OMB number 5510
1926.60 OMB number 5510
1926.62 OMB number 5510
1926.65 OMB number 5510
1926.98 OMB number 5510
1926.103 OMB number 5510
1926.104 Regulation at 59 FR 40729 withdrawn 39255
1926.105 Regulation at 59 FR 40729 withdrawn 39255

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1926.107 Regulation at 59 FR 40729 withdrawn 39255
1926.250 OMB number 5510
1926.403 OMB number 5510
1926.404 OMB number 5510
1926.405 OMB number 5510
1926.407 OMB number 5510
1926.408 OMB number 5510
1926.500 (a)(2)(iii), (3)(iv) and (4) revised 39255
1926.550 OMB number 5510
1926.703 OMB number 5510
1926.753 Regulation at 59 FR 40729 withdrawn 39255
1926.800 OMB number 5510
1926.803 OMB number 5510
1926.1001 (b) corrected 36044
1926.1080 OMB number 5510
1926.1081 OMB number 5510
1926.1083 OMB number 5510
1926.1090 OMB number 5510
1926.1091 OMB number 5510
1926.1101 (g)(7)(iii) redesignated as (g)(7)(ii)(C); new (g)(7)(iii) and (11)(vi) added; (g)(8)(iv)(B) removed; (g)(8)(iv)(C), (11) introductory text and (h)(2)(v) revised 50412
(o)(4)(i) revised 50413
OMB number 5510
1926.1103 OMB number 5510
1926.1104 OMB number 5510
1926.1106 OMB number 5510
1926.1107 OMB number 5510
1926.1108 OMB number 5510
1926.1109 OMB number 5510
1926.1110 OMB number 5510
1926.1111 OMB number 5510
1926.1112 OMB number 5510
1926.1113 OMB number 5510
1926.1114 OMB number 5510
1926.1115 OMB number 5510
1926.1116 OMB number 5510
1926.1117 OMB number 5510
1926.1118 OMB number 5510
1926.1127 OMB number 5510
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1926.1144 OMB number 5510
1926.1145 OMB number 5510
1926.1147 OMB number 5510
1926.1148 OMB number 5510
1928.21 OMB number 5510
1952.253 (a) and (b) amended; (d) added 56951
1952.254 Revised 56951
1952.297 (b) through (h) added 43972
1960.1 (f) revised 34852
1960.66 (f) added 34852

Chapter XX—Occupational Safety and Health Review Commission (Parts 2200—2499)

2200.200—2200.211 (Subpart M) Revised 41809
2200.203 Eff. in part 10–1–95 through 9–30–96 41809

Chapter XXVI—Pension Benefit Guaranty Corporation (Parts 2600—2699)

2606.1 (b)(8) and (9) amended; (b)(10) added 61747
2606.33 Regulation at 59 FR 62573 confirmed 39848
2606.51 Amended 61747
2606.53 Regulation at 59 FR 62573 confirmed 39848
2607.1 (a) amended 67328
2607.2 Amended 67328
2607.3 (a), (b) and (c) amended 67328
2607.4 (a), (b), (c) and (d) amended 67328
2607.5 (a) and (b) amended 67328
2607.6 (b) and (c) amended 67328
2607.7 (b) and (c) amended 67328
2607.8 (b), (c) and (d) amended 67328
2607.9 Introductory text and (a) amended 67328
2607.10 Amended 67328
2609 Regulation at 59 FR 62574 confirmed 39846
2609.1 Regulation at 59 FR 62573 confirmed 39848
2609.31—2609.34 (Subpart C) Regulation at 59 FR 62573 confirmed 39848
2610 Appendixes A and B amended 53269
Appendixes A and B amended 1126
2616 Authority citation revised 61747
2616.2 Amended 61747
2616.6 (a) amended 61747
2616.7 (b) amended 61747
2616.29 (a)(1) and (b) amended 61747
2617 Authority citation revised 61747
2617.2 Amended 61747

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TITLE 29 Chapter XXVI—Con.

2617.3 (b)(5) amended 61747
2617.6 (a) amended 61747
2617.8 (b) amended 61747
2617.25 (b)(2)(i) amended 61747
2617.28 (a)(1), (c) and (h) amended 61747
2619 Appendix B amended 36211, 42038, 47868, 53270, 57340, 64328
Appendix D amended 64326
Appendix B amended 1128
2621 Appendix A amended 64325
2622 Appendix A amended 36210, 53269
Appendix A amended 1127
2627.3 (a) correctly revised 36998
2627.11 Added (OMB number) 50413
2627 Appendix B amended 64325
2628 Added 66055
2629 Added 61741
2644 Appendix A amended 36213, 53272
Appendix A amended 1130
2645.5 Added (OMB number) 50413
2674.5 OMB number 50413
2674.6 OMB number 50413
2676 Appendix B amended 36212, 42039, 47868, 53271, 57340, 64329, 36209

Proposed Rules:

4 46553
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9 36756
102 ..... 61679, 1314
103 ..... 50146, 58319, 1546, 4246
507 55339
552 46797
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1602 63010
1625 51762
1904 ..... 4030, 7758
1910 ..... 39281, 54047, 54462, 56127, 62360, 1725, 3092
1915 ..... 54462, 56127, 62360, 1725, 3092
1917 3092
1918 3092
1926 ..... 45111, 47512, 54462, 56127, 56279, 62360, 1725, 3094
1952 ..... 47131, 4030, 7758
2510 ..... 39208, 50508, 57845, 66036, 1879
2606 44158
2607 57372
2615 ..... 41033, 49531, 52135, 54619
2616 44158
2617 44158
2628 35308
2629 44158

TITLE 30—MINERAL RESOURCES

Chapter I—Mine Safety and Health Administration, Department of Labor (Parts 1—199)

5 Fee schedule 1686
18.6 (a) amended 35693
18.81 (a) amended 35693
18.82 (a) and (c) amended 35693
19.3 (a) revised 35693
19.4 (a) amended 35693
20.3 Amended 35693
20.5 (a) amended 35693
20.14 Introductory text and (a) revised 35693
22.4 Amended 35694
22.5 (a) revised 35694
22.11 Introductory text and (a) revised 35694
27.3 Amended 35694
27.4 (a) amended 35694
28.10 (a) revised; (c) amended 35694
28.31 (b) amended 35694
28.40 (d) amended 35694
35.3 Amended 35694
35.6 (a) and (g) amended 35694
36.3 Amended 35695
36.6 (a) amended 35695
50 Authority citation revised 35695
50.20 (a) amended 35695
50.20–1 Amended 35695
50.30 Amended 35695
56.2 Amended 35695
56.1000 Amended 35695
56.5001 (a) amended 35695
56.5005 (b) amended 35695
56.5050 (a) amended 35695
56.12407 Amended 35695
57.2 Amended 35695
57.1000 Amended 35695
57.5001 (a) amended 35695
57.5005 (b) amended 35695
57.5040 (b)(4) amended 35695
57.5047 (b) amended 35695
57.5050 Amended 35695
57.12407 Amended 35695
70.209 (a) amended 35695
71 Authority citation revised 35695

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71.209 (a) amended 35695
74.6 (a) amended 35695
77.403b Amended 35695
90 Authority citation revised 35696
90.209 (a) amended 35696

Chapter II—Minerals Management Service, Department of the Interior (Parts 200—299)

Chapter II Guidance availability 36711
202 Authority citation revised 5490
202.151 (a) revised 5490
206 Authority citation revised 3804, 5455
206.50—206.55 (Subpart B) Added 5455
206.100—206.105 (Subpart C) Heading revised 5462
206.100 (a), (b) and (c) revised 5462
206.101 Amended 5462
206.102 (a)(2) removed; (a)(1) redesignated as (a); (d), (i), (k) and (l) revised 5462
206.104 (b)(2) and (d) revised 5462
206.105 (c)(1)(ii), (iii), (v), (vi), (2)(ii), (iii), (v), (vii), (3) and (4) removed; (c)(1)(iv), (2)(iv), (vi) and (viii) redesignated as (c)(1)(ii), (2)(ii), (iii) and (iv); (a)(1)(i), (3), (b)(1), (2)(v), (4), (c)(1)(i), (2)(i), new (ii), new (iii), (d) and (e) revised 5463
206.106 Added 3804
206.150—206.159 (Subpart D) Heading revised 5464
206.150 Revised 5464
206.151 Amended 5464
206.152 (a)(2), (e)(2), (h), (i), (k) and (l) revised; (a)(3) removed 5464
206.153 (a)(3) removed; (e)(2), (i), (k) and (l) revised 5465
206.154 (c)(4) revised 5465
206.155 (b) revised 5465
206.156 (c)(3) and (d) revised 5465
206.157 (c)(1)(ii), (iii), (v), (vi), (2)(ii), (iii), (v), (vii), (3) and (4) removed; (c)(1)(iv), (2)(iv), (vi) and (viii) redesignated as (c)(1)(ii), (2)(ii), (iii) and (iv); (a)(1)(i), (3), (b)(1), (2)(v), (4), (c)(1)(i), (2)(i), new (ii), new (iii), (d), (e)(1) and (2) revised 5465
206.158 (c)(3) and (e) revised 5466
206.159 (c)(1)(ii), (iii), (v), (vi), (2)(ii), (iii), (v), (vii), (3) and (4) removed; (c)(1)(iv), (2)(iv), (vi) and (viii) redesignated as (c)(1)(ii), (2)(ii), (iii) and (iv); (a)(1)(i), (3), (b)(1), (2)(v), (c)(1)(i), (2)(i), new (ii), new (iii), (d), (e)(1) and 2 revised 5466
206.160 Added 3804
206.170—206.179 (Subpart E) Added 5467
206.250—206.265 (Subpart F) Heading revised 5479
206.250 (d) removed; (a) and (b) revised 5479
206.251 Amended 5479
206.253 (a) and (c) revised 5479
206.255 (a) and (b) revised 5480
206.256 (a) revised 5480
206.257 (a), (d)(2), (h), (j) and (k) revised 5480
206.258 (c) revised 5480
206.259 (c)(1)(ii), (iii), (v), (vi), (2)(ii), (iii), (v), (vii), (3) and (4) removed; (c)(1)(iv), (2)(iv) and (vi) redesignated as (c)(1)(ii), (2)(ii) and (iii); (a)(1), (b)(1), (2)(v), (c)(1)(i), (2)(i), new (ii), new (iii), (d) and (e)(1) revised 5480
206.261 (a)(1), (2) and (e) revised 5481
206.262 (c)(1)(ii), (iii), (v), (vi), (2)(ii), (iii), (v), (vii), (3) and (4) removed; (c)(1)(iv), (2)(iv), (vi) and (viii) redesignated as (c)(1)(ii), (2)(ii), (iii) and (v); (a)(1), (b)(1), (2)(v), (c)(1)(i), (2)(i), new (ii), new (iii), (d) and (e) revised 5481
206.450—206.464 (Subpart J) Added 5481
260 Authority citation revised 3804
260.001 Revised 3804
260.002 Amended 3804
260.110 (a)(1)(iii), (2)(iii), (3)(i)(C)(4) and (3)(iii) revised; (a)(5), (6) and (7) added 3804

NOTE: Boldface page numbers indicate 1995 changes.

TITLE 30

Chapter VII—Office of Surface Mining Reclamation and Enforcement, Department of the Interior (Parts 700—999)

701 Authority citation revised 58491
701.5 Amended 58491
756.13 (b) revised 6508
756.15 Revised 6508
756.16 Revised 6508
756.17 Revised 6508
756.18 Added 6508
756.19 Added 6508
756.20 Added 6509
756.21 Added 6509
773 Authority citation revised 58491
773.15 (b)(4) and (c)(13) added 58491
785 Authority citation revised 58491
785.25 Added 58491
816 Authority citation revised 58492
816.116 (c)(2) and (3) revised 58492
817 Authority citation revised 58492
817.116 (c)(2) and (3) revised 58492
901 Decision 38675
901.25 (e) added 42042
902 Decision 38482
902.10 (b) revised 54592
902.20 (b) revised 54593
904 Decision 38487
906 Decision 38491
906.10 (b) revised 54593
906.11 Removed 6511
906.15 (s) added 64122
(t) added 6511
906.16 (g) removed; (h) added 64122
906.20 Revised 54593
906.25 Added 54593
913 Decision 38677
913.15 (r) added 35697
913.25 (f) added 35699
914 Decision 38680
914.15 (kkk) added 47695
(lll) added 53513
(nnn) added 54595
(lll) corrected 55649
(mmm) added 56520
914.16 (bb) removed 56521
915 Decision 38496
916 Decision 38496
916.15 (p) added 58236
917 Decision 38682
917.15 (zz) added 62737
918 Decision 38487
920 Decision 38685
920.15 (bb) added 56523
924 Decision 38675
925 Decision 38496
925.15 (s) added 36050
925.16 (b)(4), (q)(1), (3), (4) and (5) removed; (q)(2) revised; (u) added 36050
925.20 Revised 43976
925.25 (c) added 43976
926 Decision 38482
926.20 Revised 37002
926.25 Added 37002
931 Decision 38491
934 Decision 38482
934.15 (u) added 36223
934.16 Introductory text revised; (b) through (i), (w) and (x) removed; (aa) and (bb) added 36223
935 Decision 38500
935.15 (xxx) added 36355
(yyy) added 37940
(zzz) added 56528
(aaaa) added 7412
936 Decision 38487
936.15 (q) added 56529
938 Decision 38685
943 Decision 38487
943.15 (k) added 56531
(l) added 63926
944 Decision 38491
944.10 (b) revised 54593
944.15 (ff) added 37011
(gg) added 47699
944.16 (b) removed; (e) through (i) added 37012
944.20 (b) revised 54593
944.25 (c) added 37012
946 Decision 38689
946.15 (ii) added 40276
946.16 (a) added 40276
948 Decision 38691
948.12 (a), (c), (d), (g) and (h) removed 6535
948.13 (a), (b), (e) and (f) removed 6535
948.15 (n) added 42443
(o) added 51917
(p) added 6535
948.16 (c), (f), (i), (j), (l), (n), (q), (s), (t), (v), (w), (x), (aa), (cc), (hh), (ii), (jj), (kk), (mm), (nn), (pp), (qq), (rr), (ss), (uu), (vv) and (yy) through (iii) removed; (xx) revised; (mmm) through (uuu) added 6536

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(ww) removed; (jjj), (kkk) and (lll) added 51918
948.26 Text removed 6537
950 Decision 38482
950.15 (w) added 47700
950.35 (c) added 6540
950.36 Added 6540

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57 55150
75 ..... 53891, 55353, 57203, 65609
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203 ..... 6958, 7089
206 ..... 40120, 40127, 43735, 51963, 56007, 57204, 64000, 65610
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936 ..... 38533, 66244
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943 ..... 47316, 48675, 48677, 53567, 53569, 54620
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946 58320
948 34934
950 ..... 48678, 65048

TITLE 31—MONEY AND FINANCE: TREASURY

Subtitle A—Office of the Secretary of the Treasury (Parts 0—50)

0 Regulation at 60 FR 28535 confirmed 42042
1.1—1.7 (Subpart A) Appendix J amended 57333
1.36 Amended 387

Chapter I—Monetary Offices, Department of the Treasury (Parts 51—199)

103 Authority citation revised 4331
103.11 Regulation at 60 FR 228 eff. date delayed to 4–1–96 44144
(ii) revised; (qq) added 4331
(n)(7)(i), (z) and (nn) revised; (rr), (ss) and (tt) added; eff. 8–1–96 7055
103.20 Redesignated from 103.21 4331
103.21 Redesignated as 103.20; new 103.21 added 4331
103.25 Regulation at 60 FR 229 eff. date delayed to 4–1–96 44144
103.33 Regulation at 60 FR 229 eff. date delayed to 4–1–96 44144
Regulation at 60 FR 238 eff. date delayed to 4–1–96 44145
103.36 (b)(7) amended; eff. 8–1–96 7056

Chapter II—Fiscal Service, Department of the Treasury (Parts 200—399)

321 Appendix corrected; CFR correction 35126
351.2 (g)(3)(i) correctly revised; CFR correction 5510
357.26 (b)(3) revised 6113

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TITLE 31 Chapter II—Con.

370.0 Revised 6114
390 Removed 65569

Chapter V—Office of Foreign Assets Control, Department of the Treasury (Parts 500—599)

515.206 Heading and (a) revised; (b) removed; (c), (d) and (e) redesignated as (b), (c) and (d); new (b) amended 39256
515.322 (a) revised 54195
515.332 Revised 39256
515.413 Removed 54195
515.416 (a) introductory text and (1) revised 54195
515.417 Added 54195
515.419 Added 54196
515.527 Revised 54196
515.528 Heading and (a) introductory text revised 54196
515.542 Heading, (b) and (c) revised 39256
515.545 Heading and (a) revised 39257
515.560 (a), (b) and (g) revised 54196
515.561 Removed 54196
515.563 Revised 54196
515.565 (c) added 54197
515.570 Removed 39257
515.572 Added 54197
515.573 Added 54197
515.574 Added 54197
550 Appendix A amended 37941
560 Revised 47063
585.525 Added 1284
585.526 Added 1284
595 Added 3806

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1 40797
103 ..... 39665, 44146, 44151, 46556, 53316
224 56551
240 48940
256 552
281 2750
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TITLE 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense (Parts 1—399)

40b Removed; interim 541
67 Added; interim 54302
69 Added; interim 271
90 Revised 37341
91 Revised 37341
92 Added; interim 40280
Removed 46020
169a.19 Added 67328
169a.21 (a), (b), (c)(2), (3) and (5) amended; (c) introductory text revised 67329
169a Appendixes B, C and D amended 67329
199.1 (r) added 52094
199.2 (b) amended 52094
199.4 (a)(1) redesignated as (a)(1)(i); (a)(1)(ii) and (9)(vi) added; (a)(9)(i)(C) revised 52094
199.13 (b) amended; (c)(1), (3), (4), (5)(iv), (v), (e)(1)(i), (2), (3), (f)(1)(ii), (vi), (vii), (6)(i), (ii), (g)(2) and (3) introductory text revised; (c)(5)(vi) removed; (c)(2)(ii)(G) and (5)(vii) redesignated as (c)(2)(ii)(H) and (5)(vi); (a)(3)(i)(C), (c)(2)(ii)(G) and (8) added 55451
199.14 (h)(1)(i)(C) removed; (h)(1)(i)(D) redesignated as (h)(1)(i)(C) 52094
199.15 (n) added 52095
199.17 Added 52095
199.18 Added 52101
220.8 (h) and (k) revised 6542
234 Added; interim 542
247 Revised 38960
290.4 Footnote 3 revised 35699
290.7 (e) and (f)(7)(iii) amended 35699
290 Appendixes A, B and C amended 35699
Appendix B amended 4885, 5510
311.7 (c)(1) added 36051
(c)(8) added 54198
(c)(9) added 3814
312.12 (a) amended 2916
317.133 (b) amended 2916
318.5 (a) amended 2916
320.11 Amended 2916
321.14 (b) amended 2916
(g) redesignated as (h); new (g) added 3814
323 Appendix H amended 2916
341 Removed 35839
356 Removed 44277
358 Removed 44277
372 Removed 44277
393 Removed 44277

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Chapter V—Department of the Army (Parts 400—699)

505.5 (e) amended 48652, 51919
(e) amended; (c)(1) revised 2916

Chapter VI—Department of the Navy (Parts 700—799)

701.113 (d) and (g)(1) amended 2917
701.117 Amended 2917
701.118 (a), (m) and (p) amended 2917
701.119 (b) amended 2917
706.2 Tables Four and Five amended 50101, 57933, 58236
Table Three amended 50102
Tables Two and Five amended 52860
Table One amended 53273
Table Five amended 54198, 56237, 57934, 65570, 67059
Table Four amended 54199, 56121, 57932, 65569

Chapter VII—Department of the Air Force (Parts 800—1099)

806b Appendix C amended 36224
Appendix C amended 2917
818a Removed 57934
835 Removed 4351
838 Removed 4351
843 Removed 4352
848 Removed 4352
855 Revised 37349
892 Removed 57935

Chapter XX—Information Security Oversight Office (Parts 2000—2099)

2001 Revised 53492

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57 36081
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311 ..... 47905, 49812
321 51764
339 6588
552 55816
723 53153
838 4390

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation (Parts 1—199)

1.05–55 Added 49224
1.30–1—1.30–40 (Subpart 1.30) Removed 6543
3.25–05 (b) revised 67061
3.25–10 (b) revised 67061
3.25–15 (b) revised 67061
3.40–25 Removed 67062
3.40–28 Added 67062
3.40–30 Removed 67062
80—82 (Subchapter D) Note amended 9
81 Appendix A removed 9
100 Temporary regulations lists 44428, 55456
Temporary regulations list 7071
100.T0535–537 Added (temporary) 36357
100.35–T02–046 Added (temporary) 45044
100.35–T02–061 Added (temporary) 45045
100.35–T02–062 Added (temporary) 53274
100.35–T07–028 Added (temporary) 45668
100.35–T09–015 Added (temporary) 35700
100.35–T09–016 Added (temporary) 40096
100.35–T09–024 Added (temporary) 43979
100.35–T09–025 Added (temporary) 45046
100.35–07–060 Added (temporary) 52297
100.35–07–061 Added (temporary) 52298
100.35T07–008 Added (temporary) 36356
100.109 Added 50103
100.111 Added 43977
100.501 Implementation (temporary) 67330
100.502 Implementation (temporary) 43978
100.506 Implementation (temporary) 47269
100.509 Implementation (temporary) 67330

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100.901 Table 1 revised 44425
Table 1 revised 5681
100.1101 Implementation (temporary) 4885
100.1105 Implementation (temporary) 47269
100.1303 Implementation (temporary) 36355
110.72aa Implementation (temporary) 67330
110.157 (b)(2) stayed; (d) added; eff. 9–20–95 through 10–31–95 52104
110.159 (a)(5) corrected 45776
110.168 (a)(3)(i)(A), (B) and (ii)(D) stayed; eff. 8–18–95 through 8–21–95 43373
117 Temporary drawbridge operations regulations 1524
117.261 (n) removed 47270
(e) and (f) redesignated as (f) and (g); new (e) added 53275
117.317 (f) revised 66747
117.391 Revised 52311
117.465 (a) through (e) redesignated as (b) through (f); new (a) added 43374
117.491 (a)(2) removed; (a)(3) and (4) redesignated as (a)(2) and (3) 4886
117.493 Revised 4887
117.595 (a)(4), (b)(1) and (c) revised; (d) added 51728
117.600 Added 51729
117.603 Stayed; eff. 7–17–95 through 9–30–95 36359
117.604 Added; eff. 7–17–95 through 9–30–95 36359
117.605 (a) revised 58518
117.611 Revised 54432
117.615 Revised 54431
117.618 (c) added 51730
117.622 Added 51731
117.731a (a) revised 51732
117.733 (b) stayed; (k) added; eff. 7–17–95 through 9–4–95 36361
(e) revised 53130
117.821 Regulation at 59 FR 67630 confirmed 37366
117.833 Revised 40098
117.997 (g) redesignated as (h); new (g) added 37365
(e) revised 1715
117.1007 Implementation (temporary) 67330
117.1025 Regulation at 60 FR 31247 confirmed 54806
117.1049 (a) and (c) revised; (d) removed 54434
117 Appendix A amended 51729, 53130
126 Technical correction 49509
126.05 (a) amended 39794
126.10 (d) removed 39794
126.15 (o) removed 39794
127 Heading revised 39794
127.001 Revised 39794
127.003 Revised 39794
Corrected 49509
127.005 Amended 39795
127.007 (c), (d)(5), (6) and (e)(2) amended 39795
127.009 Introductory text amended 39795
127.011 Heading revised 39795
127.013 (a) introductory text amended 39795
127.019 (b) and (c) amended 39795
127.101—127.711 (Subpart B) Heading revised 39795
127.101 Introductory text amended 39795
127.103 (a) amended 39796
127.105 Heading revised; (a) amended 39796
127.109 (a) amended 39795
127.111 (a) amended 39795
127.113 (a) introductory text amended 39796
127.201—127.207 (Subpart C) Designation removed; transferred to subpart B 39795
127.203 Amended 39796
127.207 (a) and (b) amended 39796
127.301—127.321 (Subpart D) Designation removed; transferred to subpart B 39795
127.301 (a) introductory text and (b) amended 39796
127.303 Amended 39796
127.305 (d) and (e) amended 39796
127.307 (f) amended 39796
127.309 (a) amended 39796
127.313 (a) introductory text amended 39796
127.315 (g) amended 39796
127.317 (b) and (c)(1) amended 39796
127.319 (a) introductory text, (1) and (b)(3)(i) amended 39796
127.321 (a) introductory text amended 39796

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127.401—127.409 (Subpart E) Designation removed; transferred to subpart B 39795
127.401 Amended 39796
127.405 (a)(1) amended 39796
127.501—127.503 (Subpart F) Designation removed; transferred to subpart B 39795
127.601—127.617 (Subpart G) Designation removed; transferred to subpart B 39795
127.601 Undesignated heading removed 39795
127.603 Introductory text amended 39796
127.607 (a) amended 39796
127.609 (a) amended 39796
127.611 Amended 39796
127.613 Undesignated heading removed 39795
Amended 39796
127.615 Amended 39796
127.701—127.711 (Subpart H) Designation removed; transferred to subpart B 39795
127.703 Heading, (a) introductory text, (1) and (b) amended 39796
127.705 Introductory text amended 39796
127.711 Amended 39796
127.1101—127.1605 (Subpart C) Added 39796
127.1203 (a) corrected 49509
127.1205 (b)(4) corrected 49509
127.1207 (b) corrected 49509
127.1301 (a)(2) corrected 49509
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137 Authority citation revised 39851
137.601—137.603 (Subpart G) Added 39851
150.129 Regulation at 58 FR 7352 confirmed 7917
151.01—151.77 (Subpart A) Authority citation revised 43377
151.05 Amended 43377
151.06 Added 43377
151.13 (a), (b)(1), (2) and (3) revised; (h) added 43377
151.32 Added 43378
151.53 Revised 43378
151.71 Revised 43378
154.100 Regulation at 58 FR 7352 confirmed 7917
154.106 Regulation at 58 FR 7352 confirmed 7917
154.1010—154.1075 (Subpart F) Regulation at 58 FR 7352 confirmed; revised 7917
154.1110—154.1140 (Subpart G) Regulation at 58 FR 7365 confirmed 7917
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154.1210—154.1228 (Subpart H) Added 7931
154.1310—154.1325 (Subpart I) Added 7932
154 Appendix C revised 7933
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155 Authority citation revised 43378
Authority citation revised 1061
155.400 (b)(2) revised 43378
155.1010—155.1070 (Subpart D) Revised 1061
155.1110—155.1150 (Subpart E) Revised 1097
155.1210—155.1230 (Subpart F) Added 1098
155.2210—155.2230 (Subpart G) Added 1099
155 Appendix B revised 1100
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156 Authority citation revised 45017
156.110 (a) introductory text revised 45017
156.111 Added 45017
156.200 Revised 45017
156.205 (a) and (b) introductory text revised; (b) amended 45017
156.210 (d) added 45017
156.215 (d) added 45017
156.300—156.330 (Subpart C) Added 45017
162.134 (f) added 35701
162.138 Revised 35702
162.255 (e)(2) revised 63624
164.03 (b) revised 51734
165 Temporary regulations lists 44428, 55456
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165.T01–064 Added (temporary) 40459
165.T01–096 Added (temporary) 42788
165.T01–129 Added (temporary) 45048
165.T01–137 Added (temporary) 45671
165.T01–138 Added (temporary) 47871
165.T01–147 Added (temporary) 49510
165.T01–156 Added (temporary) 54304
165.T01–162 Added (temporary) 57342
165.T02–003 Added (temporary) 47273
165.T02–015 Added (temporary) 41018
165.T02–047 Added (temporary) 35703
165.T02–049 Added (temporary) 54434

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165.T02–056 Added (temporary).....47870
165.T02–064 Added (temporary).....47271
165.T02–071 Added (temporary).....2418
165.T02–076 Added (temporary).....7414
165.T02–077 Added (temporary).....7413
165.T02–200 Added (temporary).....41017
165.T02–201 Added (temporary).....42790
165.T02–202 Added (temporary).....42791
165.T05–004 Added (temporary).....2418
165.T05–051 Added (temporary).....43373
165.T05–066 Added (temporary).....52104
165.T05–067 Added (temporary).....67331
165.T07–073 Added (temporary).....545
165.T09–009 Added (temporary).....45670
165.T1103 Correctly removed; CFR correction.....62330
165.T13–036 Added (temporary).....48895
165.T14–002 Added (temporary).....44430
165.T14–003 Added (temporary).....44430
165.T5068 Added (temporary).....54807
165.167 Added.....42789
165.174 Added.....57343
165.205 Added.....2415
165.503 Implementation (temporary).....3316
165.710 Removed.....65571
165.714 Added.....45047
165.722 Added.....65571
165.753 Added.....58519
165.803 Regulation at 59 FR 21935 confirmed; introductory text, (e)(1) and (2) revised.....37944
165.905 Added.....52862
165.1304 Added.....61480
165.1305 Added.....61481
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187.301—187.331 (Subpart D) Suspended; eff. 2–23–96 through 4–23–96.....6943

Chapter II—Corps of Engineers, Department of the Army (Parts 200—399)

322.5 (l)(1)(i) through (l)(1)(vi) redesignated as (l)(1)(ii) through (l)(1)(vii); new (l)(1)(i) added; (l)(1) introductory text and new (ii) revised.....44761
334.410 (d)(4) revised.....7215
334.412 Added.....7215
334.1240 Revised; interim.....43379
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Chapter IV—Saint Lawrence Seaway Development Corporation, Department of Transportation (Parts 400—499)

402.9 (a) revised; (c) introductory text amended.....56121
402.11 (a) amended; (b), (c) and (d) revised.....56121

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TITLE 34—EDUCATION

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74.5 Authority citation revised.....46493
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74.11 Authority citation revised.....46493
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75.2 Authority citation revised.....46493
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75.102 Authority citation revised.....46493
75.103 Authority citation revised.....46493

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75.104 Authority citation revised 46493
75.105 Authority citation revised 46493
(b)(2)(ii), (iii) and (c)(2)(i) amended; (b)(2)(iv) and (v) added 63873
75.109 Authority citation revised 46493
75.112 Authority citation revised 46493
75.117 Authority citation revised 46493
75.119 Authority citation revised 46493
75.125 Heading and authority citation revised 46493
Authority citation revised 46493
75.126 Authority citation revised 46493
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75.190 Authority citation revised 46493
75.191 Authority citation revised 46493
75.192 Authority citation revised 46493
75.200 Authority citation revised 46493
(b)(3) revised 63873
75.201 Authority citation revised 46493
Revised 63873
75.209 Added 63873
75.210 Authority citation revised 46493
Heading revised; (a) and (c) removed; (b) introductory text and (1) through (7) amended; (b)(1) introductory text, (i), (ii), (2) introductory text, (i) through (iv), (3) introductory text, (i) through (vi), (4) introductory text, (i) through (iv), (5) introductory text, (i)(A), (B), (C), (D), (ii)(A), (B), (5)(i), (ii), (6)(i), (ii) and (7) redesignated as (a) introductory text, (1), (2), (b) introductory text, (1) through (4), (c), (1) through (6), (d) introductory text, (1)(i), (ii), (iii), (iv), (2)(i), (ii), (e) introductory text, (1), (2), (f) introductory text, (1), (2) and (g) 63873
75.215 Authority citation revised 46493
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75.515 Authority citation revised 46493
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75.622 Authority citation revised 46493
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75.650 Authority citation revised 46493
75.681 Authority citation revised 46493
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75.683 Authority citation revised 46493
75.700 Authority citation revised 46493
75.701 Authority citation revised 46493
75.702 Authority citation revised 46493
75.703 Authority citation revised 46493
75.707 Authority citation revised 46493
75.708 Authority citation revised 46493
75.720 Authority citation revised 46493
75.730 Authority citation revised 46493
75.731 Authority citation revised 46493

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75.732 Authority citation revised 46493
75.734 Removed 46493
75.740 (a) and (b) amended; authority citation revised 46493
75.900 Authority citation revised 46493
75.901 Authority citation revised 46493
75.903 Authority citation revised 46493
75.910 Authority citation revised 46493
76.1 Authority citation revised 46494
76.2 Authority citation revised 46494
76.50 Authority citation revised 46494
76.51 Authority citation revised 46494
76.100 Authority citation revised 46494
76.101 Amended; authority citation revised 46493
76.102 Authority citation revised 46494
76.103 Heading and (a) revised; (b) amended 46493
76.104 Authority citation revised 46494
76.106 Authority citation revised 46494
76.125 Authority citation revised 46494
76.140 Authority citation revised 46494
76.141 Authority citation revised 46494
76.142 Authority citation revised 46494
76.201 Authority citation revised 46494
76.202 Authority citation revised 46494
76.235 Authority citation revised 46494
76.261 Authority citation revised 46494
76.300 Authority citation revised 46494
76.301 Amended; authority citation revised 46493
76.302 Authority citation revised 46494
76.303 Authority citation revised 46494
76.304 Authority citation revised 46494
76.400 Authority citation revised 46494
76.401 (d)(8) and authority citation revised 46493
76.500 Authority citation revised 46494
76.530 Authority citation revised 46494
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76.560 Authority citation revised 46494
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76.658 Authority citation revised 46494
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76.660 Authority citation revised 46494
76.661 Authority citation revised 46494
76.662 Authority citation revised 46494
76.677 Authority citation revised 46494

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76.681 Authority citation revised 46494
76.683 Authority citation revised 46494
76.700 Authority citation revised 46494
76.701 Authority citation revised 46494
76.702 Authority citation revised 46494
76.703 (a) and (b) removed; (c) redesignated as (h); new (a), new (b) and (c) through (g) added 41294
Authority citation revised 46494
76.704 Redesignated as 76.708 41295
Added 41296
Authority citation revised 46494
76.705 Redesignated as 76.709 41295
Authority citation revised 46494
76.706 Redesignated as 76.710 41295
76.707 Authority citation revised 46494
76.708 Redesignated from 76.704 41295
76.709 Redesignated from 76.705 41295
76.710 Redesignated from 76.706 41295
76.711 Added 41296
76.720 Authority citation revised 46494
76.722 Authority citation revised 46494
76.731 Authority citation revised 46494
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76.740 Authority citation revised 46494
76.760 Authority citation revised 46494
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76.902 Authority citation revised 46494
80 Announcement 50413
81 Authority citation revised 46494
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81.24 (b)(1) and authority citation revised 46494
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81.31 Authority citation revised 46494
81.32 Authority citation revised 46495
81.33 Authority citation revised 46495
81.34 Authority citation revised 46495
81.37 (b) amended; authority citation revised 46494
81.43 (a) redesignated as (a)(1); (a)(2) added; authority citation revised 46494
81 Appendix amended 46495

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TITLE 34

Chapter II—Office of Elementary and Secondary Education, Department of Education (Parts 200—299)

200 Revised 34802
201 Removed 34802
203 Removed 34802
205 Removed 34802
212 Removed 34802
218 Removed 50778
219 Removed 50778
221 Removed 50778
222 Revised 50778
223 Removed 50778
263 Technical correction 35111

Chapter III—Office of Special Education and Rehabilitative Services, Department of Education (Parts 300—399)

366 Authority citation revised 39221
366.5 Redesignated as 366.6; new 366.5 added 39221
366.6 Redesignated from 366.5 39221
366.60—366.63 (Subpart G) Added 39221
370 Revised 55766
371.1 Revised 58137
371.5 Added (OMB number) 58137

Chapter VI—Office of Postsecondary Education, Department of Education (Parts 600—699)

667.1 (d)(1)(iii) revised 41296
668 Authority citation revised 61433
668.2 (b) amended 61809
668.3 OMB number 42408
668.7 Removed 61809
668.8 OMB number 42408
668.15 OMB number 42408
668.16 OMB number 42408
668.17 OMB number 42408
(a) through (e) revised; (f), (g) and (h) redesignated as (h), (i) and (j); new (f) and new (g) added (OMB number pending) 61769
668.19 Revised (OMB number pending) 61809
668.21 Heading revised 61810
668.22 OMB number 42408
(d)(1)(i) revised; (h)(1)(i) removed; (h)(1)(ii) through (xiii) redesignated as (h)(1)(i) through (xii) 61810
668.23 OMB number 42408
668.31—668.39 (Subpart C) Revised 61810
668.37 (a)(2)(iii) corrected 3776
668.41 Heading and authority citation revised; (e) added (OMB numbers pending) 61433
(b) redesignated as (c); (a)(3) and new (b) added; new (c) revised (OMB number pending) 61787
668.46 Added (OMB number pending) 61787
668.48 Added (OMB numbers pending) 61434
668.49 Added (OMB number pending) 61788
668.85 (b)(1)(ii) and (3) revised 61773
668.86 (b)(1)(ii) and (3) revised 61773
668.90 (a)(1)(iii)(D) added; (a)(3)(iv) revised 61774
668.133 (b) revised (OMB number pending) 61813
668.141—668.156 (Subpart J) Added 61838
668.161 (b) revised 61813
668.163 (a)(2)(iii) added; (a)(3)(i)(A) revised 61813
668.164 (a)(2)(iii) revised (OMB number pending) 61814
(a) correctly revised 3776
668.165 (b)(1) revised; (e) added (OMB number pending) 61814
(e)(3) and (4) correctly redesignated as (e)(3)(i) and (ii) 3776
674.2 (a) and (b) amended 61814
674.5 (e) redesignated as (f) and revised; new (e) added 61814
674.16 (d) revised 61814
674.17 (a) removed; (b)(1)(i), (ii), (iii), (2), (3), (4) introductory text, (i), (ii) and (5) redesignated as (a) introductory text, (1), (2), (3), (b), (c), (d) introductory text, (1), (2) and (e) 61814
674.19 (e)(4)(v) revised (OMB number pending) 61814
674.31 (a)(1) revised (OMB number pending) 61814
674.33 Second (d)(3) and second (4) redesignated as (d)(6) and (7); (a)(2) and new (d)(6) amended 61814
674.34 (e)(4), (6) introductory text, (ii) and (7) amended; (e)(5) revised 61815
674.47 (g) revised; (h) added (OMB number pending) 61815
675.2 (a) and (b) amended 61815
675.17 Removed 61815
675.19 (c)(3) revised (OMB number pending) 61815
675 Appendix B removed 61815
676.2 (a) and (b) amended 61815
676.17 Removed 61815
676.19 (c)(3) revised (OMB number pending) 61815
682.200 Amended 61756
682.201 (c)(1)(iii)(C) revised 61756
(b) introductory text, (1) through (6), (7)(i) through (vi), (iii)(A), (B) and (8) redesignated as (b)(1) introductory text, (i) through (vi), (vii)(A) through (F), (C)(*1*), (*2*) and (viii); new (b)(1)(viii) and (6) amended; new (b)(2) added 61815
(a)(8) corectly designated as (b)(8); CFR correction 65021
682.207 (c) introductory text, (d)(1) and (2)(iii) revised; (c)(4) added (OMB number pending) 61756
682.209 (b) revised (OMB number pending) 61756
682.210 (a)(8) revised (OMB number pending) 61756
682.211 (f)(9) added (OMB number pending) 61756
682.401 (b)(10)(vi)(B) revised (OMB number pending) 61757
682.402 (c)(3), (l)(1) and (2) revised; (l)(3) amended 61757
682.412 (c) revised (OMB number pending) 61757
682.600 Removed 61816
682.602 Removed 61816
682.603 (f)(4) added; (g) revised (OMB number pending) 61757
682.604 (e)(3) removed; (e)(4) redesignated as (e)(3); introductory text amended (OMB number pending) 61757
682.605 Revised (OMB number pending) 61757
682.607 (c) revised 61757

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682.611 Added 61816
685.102 (b) amended 61793
685.200 (b) introductory text, (1) through (6), (7), (i), (ii), (iii), (i)(A), (B), (C), (ii)(A) and (B) redesignated as (b)(1) introductory text, (i) through (vi), (vii), (A), (B), (C), (A)(*1*), (*2*), (*3*), (B)(*1*) and (*2*); new (b)(1), (vii)(B) and (C) amended; (b)(2) added 61816
685.201 (a)(2) introductory text and (b) revised 61794
685.209 (a) and (b) revised; (c) removed; (d) redesignated as (c); new (c)(2) through (5) redesignated as (c)(4) through (7); new (c)(2) and new (3) added (OMB number pending) 61823
685.301 (a)(5) and (6) redesignated as (a)(6) and (7); new (a)(5) and (d) added (OMB number pending) 61794
685 Appendix A revised 61824
686.143 OMB number pending 61839
686.144 OMB number pending 61839
686.145 OMB number pending 61840
686.146 OMB number pending 61840
686.147 OMB number pending 61841
686.148 OMB number pending 61841
686.149 OMB number pending 61841
686.150 OMB number pending 61842
686.151 OMB number pending 61842
686.152 OMB number pending 61843
686.153 OMB number pending 61843
686.155 OMB number pending 61843
690.2 Amended 61816
690.7 (a)(1) removed; (a)(2) redesignated as (a) 61816
690.71 Amended 61816
690.72 Removed 61816
690.73 Removed 61816
690.74 Removed 61816
690.83 (a) through (d) revised (OMB number pending) 61816
Corrected 3776

Chapter VII—Office of Educational Research and Improvement, Department of Education (Parts 700—799)

700 Added 47810

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TITLE 34

Chapter XI—National Institute for Literacy (Part 1100—1199)

Chapter XI Established 35798

Proposed Rules:

75 48844
96 44696
201 3772
345 40688
361 4390
361 64476
371 ..... 38608, 42490
379 1672
535 56920
600—699 (Ch. VI) 4198
646 64108
..... 4758
668 ..... 49114, 49156, 49178
674 49114
675 49114
676 49114
682 ..... 49114, 49130
685 ..... 48848, 48858, 49114
690 ..... 49114, 46004

TITLE 36—PARKS, FORESTS, AND PUBLIC PROPERTY

Chapter I—National Park Service, Department of the Interior (Parts 1—199)

Chapter I Nomenclature change 55790
1.3 Revised 2918
1.4 (a) amended 55790
5.4 (a) amended 35841
7.3 (b) and (c) removed; (d) through (g) redesignated as (b) through (e); (a) and new (d) revised; new (e) heading and new (f) added 35841
(b)(6) amended 55791
7.16 (h)(5) and (j)(4) amended 55791
7.22 (c)(10) amended 55791
7.32 (c) added 47703
7.33 (c) added; interim 39258
7.63 (b)(10) amended 55791
7.96 Amended 55790
Heading, (a), (g)(1)(iii), (viii), (ix), (3) introductory text, (5)(vi)(A), (D) and (xiv) amended 55791
7.100 (c) added; interim 36225
9.2 (l) amended 55791
9.31 (j) amended 55791
9.82 (d) amended 55791
13.63 (f) revised 6944
14.2 (c) removed; (d) through (i) redesignated as (c) through (h) 55791
20.1 (c) amended 55791
64.7 (c) amended 55791
68 Revised 35843

Chapter II—Forest Service, Department of Agriculture (Parts 200—299)

223 Authority citation revised 46920
Compliance date suspension and comment period reopening 53704
Authority citation revised 5685
223.60 Revised 5685
223.87 Revised 46920
223.130 (a) revised 46921
223.131 Revised 46921
223.133 Amended 46921
223.135 Revised 46921
223.136 (b) revised 46921
223.137 (g) added 46921
223.139 (a) and (b) amended 46921
223.159 Revised 46922
223.161 Removed 46922
223.163 Removed 46922
223.185—223.203 (Subpart F) Revised 46922
242 Policy statement 40459
242.24 (a)(1) table amended 40464
242.25 (k)(15)(iii)(D) table amended; eff. 8-10-95 through 6-30-96 40464
(k)(11) table, (12) table, (13)(iii) table, (17)(iii) table, (20)(iii)(C) table, (22)(ii)(C) table amended 5688
(k)(25)(iii)(B) table amended 5689
251.50 Heading, (a), (c) introductory text and (3) revised 45293
251.51 Amended 45293
Corrected 54409
251.54 (a) introductory text, (e)(1) and (h) revised; (e) introductory text removed; (e)(2) through (5), (f) introductory text in part, (1) and (2) redesignated as (e)(3) through (6), (f)(1), (2) and (3); new (e)(2), (f)(4) and (5) added 45293

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251.56 (e) revised 45294
251.57 (d) through (h) redesignated as (e) through (i); new (d) added 45294
251.60 (a) and (b) revised 45295
261 Authority citation revised 45295, 46934
Technical correction 54409
261.2 Amended 45295
261.6 (i) added 46934
261.10 (g) revised; (h) through (n) redesignated as (i) through (o); new (h) added 45295
261.14 (p) removed; (q) redesignated as (p) 45295
291 Authority citation revised 1716
291.1 Added 1716
291.2 Redesignated from 291.9; (a) revised 1716
291.3 Redesignated from 291.10 1716
291.9 Redesignated as 291.2 1716
291.10 Redesignated as 291.3 1716

Chapter VII—Library of Congress (Parts 700—799)

701.5 Existing text designated as (b); new (a) added 34853
701.6 Existing text designated as (a); new (a) amended; (b), (c) and (d) added 34853

Chapter XII—National Archives and Records Administration (Parts 1200—1299)

1206.1 Revised 5656
1206.2 (e), (f) and (g) revised 5656
1206.6 Revised 5657
1206.7 Added 5657
1206.10 Revised 5657
1206.12 Revised 5657
1206.14 Removed 5657
1206.16 Revised 5657
1206.18 (a) and (c) revised 5657
1206.20 Revised 5657
1206.30 Revised 5657
1206.32 Revised 5657
1206.34 Removed 5657
1206.36 Revised 5657
1206.38 Revised 5658
1206.50 (c) revised 5658
1206.52 Revised 5658
1206.54 Revised 5658
1206.56 Revised 5658
1206.58 (b), (c) and (d) revised 5658
1206.66 (b) and (c) revised 5659
1206.68 Revised 5659
1206.78 Revised 5659
1206.79 Added 5660
1206.94 Revised 5660
1210 Added; interim 53515
Regulation at 60 FR 53515 confirmed 5660
1220.14 Amended 44639
1220.42 Revised 44639
1222 Heading revised 44639
1222.20 (b)(1) and (5) revised 44640
1222.30 (b) revised 44640
1222.32 Introductory text revised 44640
1222.34 (d) redesignated as (f); new (d), (e) and (g) added 44640
1222.50 (b)(3) through (8) redesignated as (b)(4) through (9); (a), (b)(2), new (4), new (6) and new (8) revised; new (b)(3) added 44640
1228 Authority citation revised 44640
1228.1 (e) added 44640
1234.1 Revised 44640
1234.2 Amended 44641
1234.10 (e) through (l) redesignated as (f) through (m); (d), new (f), new (g), new (h) and new (m) amended; new (e) added 44641
1234.20 (a) and (b) amended 44641
1234.22 (a) and (b) amended 44641
1234.24 Redesignated as 1234.26; new 1234.24 added 44641
1234.26 Redesignated as 1234.28; new 1234.26 redesignated from 1234.24 44641
1234.28 Redesignated as 1234.30; new 1234.28 redesignated from 1234.26 44641
1234.30 Redesignated as 1234.32; new 1234.30 redesignated from 1234.28 44641
1234.32 Redesignated as 1234.34; new 1234.32 redesignated from 1234.30 44641
Heading revised; (a) amended; (d) added 44642
1234.34 Redesignated from 1234.32 44641
(c) added 44642
1253.3 Introductory text added; (a) through (f), (h), (i) and (j) revised; interim 40416

NOTE: Boldface page numbers indicate 1995 changes.

TITLE 36 Chapter XII—Con.

Regulation at 60 FR 40416 confirmed; (d) revised 390
1253.4 Revised; interim 40417
Regulation at 60 FR 40417 confirmed 390
1253.5 Revised; interim 40417
Regulation at 60 FR 40417 confirmed 390
1253.6 Revised; interim 40417
Regulation at 60 FR 40417 confirmed; (h), (i) and (m) revised 390
1253.7 Revised; interim 40417
Regulation at 60 FR 40417 confirmed; (g), (h), (l) and (m) revised 390

Chapter XIV—Assassination Records Review Board (Parts 1400—1499)

1405 Added 45336
1410 Added 45339
1415 Added 64123

Proposed Rules:

1 62233
7 ..... 35887, 46562, 50509, 54633, 56034, 3358, 5354
13 ..... 36082, 40798, 47513, 62233
17 5356
215 36767
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1191 ..... 66538, 5723
1206 46798
1228 ..... 49532, 50158
1232 50158
1415 39905

TITLE 37—PATENTS, TRADEMARKS, AND COPYRIGHTS

Chapter I—Patent and Trademark Office, Department of Commerce (Parts 1—199)

1 Technical correction 36462, 44120
1.16 (a), (b), (d) and (f) through (i) revised 41022
1.17 (b) through (g), (j), (m) through (p), (r) and (s) revised 41022
1.18 Revised 41022
1.19 (a)(1)(ii), (iii), (b)(1)(i) and (ii) revised 41022
1.20 (c), (e), (f), (g), (i)(1), (2) and (j) revised 41022
1.21 (a)(1) revised 41022
1.445 (a) revised 41023
1.482 (a)(1) and (2)(ii) revised 41023
1.492 (a), (b) and (d) revised 41023
2 Technical correction 44120
2.6 (b)(1)(ii), (iii), (2)(i) and (ii) revised 41023
3 Technical correction 36462
7 Technical correction 44120
7.1 Revised 41023
10.155 (a) revised 64126

Chapter II—Copyright Office, Library of Congress (Parts 200—299)

201 Authority citation revised 50420, 57937
201.11 (c)(4) added; (g)(3)(i) amended; (g)(3)(iii) introductory text revised 57937
201.17 (c)(4) added; (j)(3)(i) amended; (j)(3)(iii) introductory text revised 57938
201.31 (a) amended 50420
201.33 Added 50420
202 Authority citation revised 50422
202.12 Added 50422
253.5 (c)(1), (2) and (3) amended 61655
255.1 Revised 61657
255.3 Revised 55459
255.4 Added 61657
255.5 Added 61657
259.3 Revised 61660

Chapter IV—Assistant Secretary for Technology Policy, Department of Commerce (Parts 400—499)

401.2 (j) revised; (k) through (m) added; interim 41812
401.5 (f)(2) revised; interim 41812
401.13 (c)(2) revised; interim 41812
401.16 Redesignated as 401.17; new 401.16 added; interim 41812
401.17 Redesignated from 401.16 and revised; interim 41812

NOTE: Boldface page numbers indicate 1995 changes.

Proposed Rules:

1 ..... 41035, 42352, 55691
3 42352
5 ..... 42352, 55691
10 55691
201 35522
202 ..... 35522, 62057, 2463

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Department of Veterans Affairs (Parts 0—99)

0 Nomenclature change 7216
1 Authority citation revised 48387, 63929
Authority citation amended 53276
Nomenclature change 7216
1.460—1.469 Undesignated center heading added 63929
1.460 Added 63929
1.461 Added 63931
1.462 Added 63932
1.463 Added 63932
1.464 Added 63932
1.465 Added 63932
1.466 Added 63933
1.467 Added 63933
1.468 Added 63933
1.469 Added 63933
1.475—1.479 Undesignated center heading added 63933
1.475 Added 63933
1.476 Added 63934
1.477 Added 63934
1.478 Added 63934
1.479 Added 63934
1.485—1.489 Undesignated center heading added 63935
1.485 Added 63935
1.486 Added 63935
1.487 Added 63935
1.488 Added 63935
1.489 Added 63936
1.490—1.496 Undesignated center heading added 63936
1.490 Added 63936
1.491 Added 63936
1.492 Added 63936
1.493 Added 63936
1.494 Added 63937
1.495 Added 63937
1.496 Added 63938
1.513 (b)(2) amended 63938
1.513a Removed 63938
1.554a Reinstated; CFR correction 57684
1.555 Reinstated; CFR correction 57684
1.556 Reinstated; CFR correction 57684
1.557 Reinstated; CFR correction 57684
1.558 Reinstated; CFR correction 57684
1.559 Reinstated; CFR correction 57684
1.575 Reinstated; CFR correction 57684
1.576 Reinstated; CFR correction 57684
1.577 Reinstated; CFR correction 57684
1.578 Reinstated; CFR correction 57684
1.579 Reinstated; CFR correction 57684
1.580 Reinstated; CFR correction 57684
1.581 Reinstated; CFR correction 57684
1.582 Reinstated; CFR correction 57684
1.583 Reinstated; CFR correction 57684
1.584 Reinstated; CFR correction 57684
1.600 Reinstated; CFR correction 57684
1.601 Reinstated; CFR correction 57684
1.602 Reinstated; CFR correction 57684
1.700 Revised 48387
1.701 Revised 48388
1.702 (b), (c), (d) and (h) amended 48388
1.703 Revised 48388
1.705 (a), (c) and (e) amended 48388
1.770—1.776 Undesignated center heading removed 48029
1.770 Removed 48029
1.771 Removed 48029
1.772 Removed 48029
1.773 Removed 48029
1.774 Removed 48029
1.775 Removed 48029
1.776 Removed 48029
1.783 (l)(1)(i) and (ii) amended 48029

NOTE: Boldface page numbers indicate 1995 changes.

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TITLE 38 Chapter I—Con.

1.955—1.970 Authority citation revised **53276**
1.955 (a)(1) amended **53276**
1.956 (a)(3) revised **53276**
1.957 (a)(1)(iv) removed **53276**
1.963a Revised **53276**
1.967 (c) revised **53276**
2 Nomenclature change 7216
2.1 Revised; interim **40757**
2.5 (b) amended **48029**
2.62 Removed **48029**
2.63 Removed **48029**
2.63a Removed **48029**
2.64 Removed **48029**
2.65 Removed **48029**
2.65a Removed **48029**
2.100 Regulation at 60 FR 5852 confirmed **55996**
2.101 Regulation at 60 FR 5852 confirmed **55996**
3 Nomenclature change 7216
3.6 (a) amended; (b)(5), (6) and (c)(5) redesignated as (b)(6), (7) and (c)(6); new (b)(5) and new (c)(5) added **57179**
3.55 (a)(2) introductory text amended **52863**
3.202 Regulation at 59 FR 46338 confirmed **46533**
3.204 Regulation at 59 FR 46338 confirmed **46533**
3.205 Regulation at 59 FR 46338 confirmed **46533**
3.207 Regulation at 59 FR 46338 confirmed **46533**
3.209 Regulation at 59 FR 46338 confirmed **46533**
3.210 Regulation at 59 FR 46338 confirmed **46533**
3.211 Regulation at 59 FR 46338 confirmed **46533**
3.256 Revised **51922**
3.277 Heading, (b) and (c) revised; (d) added **51922**
3.311 (b)(2)(xix) and (xx) amended; (b)(2)(xxi) and (xxii) added **53277**
3.326 Revised; interim **52864**
3.353 (b) revised **55792**
3.400 (u)(3), (4), (v) heading, (3), (4) and (w) amended **52863**
4 Authority citation revised **49227**
4.88a Regulation at 59 FR 60902 confirmed **37013**
4.88b Regulation at 59 FR 60902 confirmed **37013**
4.88c Regulation at 59 FR 60902 confirmed **37013**
4.117 Revised **49227**
13 Nomenclature change 7216
14 Nomenclature change 7216
14.501 (f) added 7216
14.518 (a) amended 7216
17 Nomenclature change 7216
20.900 (c) amended; authority citation revised **51923**
21.3020—21.3333 (Subpart C) Authority citation revised 6782
21.3145 (e) revised 6782
21.4001—21.4280 (Subpart D) Authority citation revised 6782
21.4131 (i) added 6782
21.4135 (a) revised; (x) and (aa) added 6782
21.4233 (b)(1), (2), (3) and (4) redesignated as (b)(2), (3), (4) and (1); new (b)(1) and (2) revised; (b)(5) amended 6782
21.4234 (a)(2)(ii) and (iii) revised; (a)(2)(iv) added 6783
21.4252 (g) added 6783
21.4253 (a)(3) revised; (a)(5) and authority citation added 6783
21.4254 (d) added 6783
21.4265 (b)(3) revised 6783
21.4267 Added 6783
21.4270 (a) and (b) revised; (c) table amended 6784
21.4271 Removed 6784
21.4272 Introductory text and (g)(3) revised; (e), (f), (h) and (i) removed 6784
21.4280 Removed 6785
21.4800—21.4856 (Subpart F-3) Regulation at 60 FR 5852 confirmed **55996**
21.4832 Second (b)(1) redesignated as (c)(1); (c) introductory text added **55996**
21.5001—21.5300 (Subpart G) Authority citation revised 1526
Authority citation revised 7217
21.5021 (d) revised; (y) added 1526
21.5023 (b) amended 7217
21.5058 (a) amended 7217
(b) and (c) revised 7218
21.5145 (e) revised 7218
21.5150 Introductory text revised 1526
21.5200 (a) revised 1526
21.5231 Amended 7218

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21.5250 (a) introductory text and (b) revised 1526
(a) introductory text and (3) revised; (a)(16) added 7218
21.5270 Introductory text and (c) revised; (b) and (j) removed 7218
21.5820 (b) revised **46533**
(b)(2)(ii)(B) corrected **54435**
21.5822 (b)(1)(i), (ii), (2)(i) and (ii) revised **46535**
21.7000—21.7320 (Subpart K) Authority citation revised 6785
21.7020 (b)(5) and (6) revised; (b)(42) added 6785
21.7032 (a) revised; (f) added 6785
21.7042 (a)(3) introductory text, (c)(3) introductory text, (i), (iii)(A) and (B); (a)(6), (b)(7)(iii) and (c)(3)(iii)(C) added; (b)(7)(i) introductory text, (c)(8)(ii) introductory text and (f)(1) amended 6785
21.7044 Heading, (a)(6), authority citation and (b)(8)(ii)(B) revised; (a)(3)(ii), (4)(i)(E), (F) and (5)(iv) amended; (a)(4)(i)(F) authority citation removed; (b)(8)(iii) and (12) added 6786
21.7045 Revised 6786
21.7050 (b)(1) amended 6787
21.7072 (b) heading, (1) introductory text and authority citation revised 6787
21.7120 (d) added 6787
21.7122 (e)(5), (6) and authority citation revised; (e)(7) added 6788
21.7131 (j) added 6788
21.7135 (a) revised; (z) redesignated as (bb); new (z) and (aa) added 6788
21.7136 (a) through (e) redesignated as (b) through (f); new (a) added; new (b) and new (c) revised; new (f) introductory text amended 6788
21.7137 Heading, (a)(1), (2) and (c) revised 6789
21.7145 (e) revised 6790
21.7152 (b)(3)(i) revised; (b)(3)(ii) removed; (b)(3)(iii) redesignated as (b)(3)(ii) 6790
21.7170 Introductory text and (a) revised; (b) and (g) removed; (c) through (f) redesignated as (b) through (e) 6790
21.7172 (a)(1), (2) and (d) revised 6790
21.7220 (b) introductory text, (9), (10) and authority citation revised; (b)(11) added 6790
21.7222 (e) revised 6791
21.7280 (b)(1) revised 6791
36 Nomenclature change 7217
36.4201—36.4287 Authority citation revised **38257**
Authority citation revised 7415
36.4203 (a)(2) and (3) amended; (a)(4) added **38257**
36.4212 Revised **38257**
36.4223 (a)(4) revised **38258**
(a)(3) revised 7415
36.4231 (b) revised **38259**
36.4232 (a)(2), (5), (6) and (7) amended; (a)(8) added; (e)(1) revised **38259**
36.4254 (a)(7) redesignated as (a)(8); new (a)(7) and (8) authority citation added; (d)(1) revised **38259**
36.4300—36.4375 Authority citation revised **38259**
Authority citation revised 7415
36.4302 (c) through (j) redesignated as (d) through (j) and (l); (a)(4), (b), new (e), new (j)(2), new (3) and(4) revised; new (c) and (k) added **38259**
36.4306a (a) introductory text and (3) revised **38260**
36.4311 Revised **38260**
36.4312 (d)(1)(viii) redesignated as (d)(1)(ix); new (d)(1)(viii) and (e) introductory text added; (d)(7)(iv) authority citation revised; (e)(1) revised; (e)(3) amended **38261**
36.4320 (a)(1)(ii)(B) revised **38262**
36.4336 (a)(2)(i) revised; (a)(4) added **38262**
36.4606a (a)(3)(i) revised 7415

Proposed Rules:

4 ..... **54825**
17 ..... **47133**
21 5357

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TITLE 39—POSTAL SERVICE

Chapter I—United States Postal Service (Parts 1—999)

20 IMM amended; incorporation by reference; interim 49756, 65239
IMM amended; interim; incorporation by reference 61661
111 DMM amended; incorporation by reference 34854, 43005, 49758
Corrected 39112
DMM amended; incorporatin by reference 66146
224.1 (a) and (f) amended 57344
224.2 Added 57344
233.2 (b)(2) note amended 54305
261.2 (b) amended 57344
261.4 (a) revised 57344
262.2 (b) and (c) amended 57344
262.4 (a) and (b) amended 57344
262.5 (d)(2) amended 57344
263.3 (a) amended 57344
263.5 Amended 57344
263.6 Added 57344
264.3 (a) and (b) revised 57344
264.4 Amended 57344
265.3 (b) revised 57344
265.4 Revised 57345
265.6 (a)(2), (b) introductory text and (d)(3)(i) amended 57345
265.7 (a)(2), (b)(1) and (4) amended 57345
265.9 (b)(2)(ii) and (g)(4) amended 57345
265.10 Amended 57345
265.11 Heading revised; (b) and (c) removed 36712
(a)(4)(ii) amended 57345
265.12 (b)(7) amended 57345
265.13 Added 36712
266.3 (a) and (c) revised 57345
266.5 (d) amended 57345
266.6 (a)(1) and (d) amended 57345
266.7 (a)(4) amended; (c) removed 57345
266.10 (a), (b), (c), (d) introductory text and (2) amended 57345
267.3 (a) revised 57345
267.5 (c)(1) introductory text, (i), (ii) and (vi) revised 57345
(c)(2)(i), (3)(v) and (e)(3)(i) amended 57346
268 Authority citation revised 57346
268.1 (b) amended 57346
447 Authority citation revised 47243
Heading revised 47243
447.11—447.12 (Subpart A) Revised 47243
447.21 Removed; new 447.21 redesignated from 447.23; introductory text and (a) through (i) removed; (j) and (k) redesignated as (a) and (b); heading and new (a) revised; new (c) and new (d) through (g) redesignated from 447.25(a) and 447.25(c) through (f) 47244
447.22 Removed 47244
447.23 Redesignated as 447.21 47244
447.25 (b) removed; (a) and (c) through (f) redesignated as 447.21(c) and 447.21(d) through 447.21(g) 47244
447.26 Removed 47244
447.27 Removed 47244
447.31—447.34 (Subpart C) Heading revised 47244
447.31 Revised 47244
447.32 Removed; new 447.32 redesignated from 447.33 and revised 47244
447.33 Redesignated as 447.32 47244
447.34 Removed 47245
447.41 Removed; new 447.41 redesignated from 447.51 47245
447.42 Removed; new 447.42 redesignated from 447.52 47245
447.43 Redesignated from 447.53 and revised 47245
447.51—447.52 (Subpart E) Heading redesignated as 447.41—447.43 (Subpart D) heading 47245
Heading redesignated from 447.61—447.62 (Subpart F) heading 47245
447.51 Redesignated as 447.41; new 447.51 redesignated from 447.51 47245
447.52 Redesignated as 447.42; new 447.52 redesignated from 447.62; (d)(2) revised 47245
447.53 Redesignated as 447.43 47245
447.61—447.62 (Subpart F) Heading redesignated as 447.51—447.52 (Subpart E) heading 47245
447.61 (Subpart F) Redesignated as 447.51; new 447.61 redesignated from 447.71 47245

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Heading redesignated from 447.71 (Subpart G) heading 47245
447.62 Redesignated as 447.52 47245
447.71 Redesignated as 447.61 47245
447.81 (Subpart H) Removed 47245
447.91 (Subpart I) Removed 47245
955 Authority citation revised 57938
955.1 (a) and (b)(2) amended; (b)(1) and (d)(5) revised 57938
955.9 Amended 57938
955.13 Removed 57938
Redesignated from 955.36; (b)(1), (2), (c)(2)(ii), (4) and (d)(3) amended; (c)(1), (d)(1) and (e) revised; (f) added 57939
955.18 Amended 57938
955.35 Removed 57938
Redesignated from 955.37; (a) introductory text revised 57939
955.36 Redesignated as 955.13; new 955.36 added 57939
955.37 Redesignated as 955.35 57939

Proposed Rules:

111 ....36179, 36376, 39080, 45298, 49357, 66552
233 7452
955 47514
3001 ....54981, 65051

TITLE 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency (Parts 1—799)

9 Technical correction 35452
9.1 Table amended (OMB numbers) 34598, 40496, 42792, 43258, 43886, 48399, 62935, 63431
Table amended 45956
Regulation at 59 FR 62923 eff. date delayed to 6-6-96 56952
30 Revised; interim 6067
33 Removed; interim 6066
51 Authority citation revised 40100
51.100 (s)(1) introductory text revised 4590
51.112 (a)(1) and (2) amended 40468
51.160 (f)(1) and (2) amended 40468
51.166 (l)(1) and (2) amended 40468
51.350 (a)(4), (6), (7), (8), (9) and (b)(4) revised; (a)(5) removed 48034
51.351 (a) introductory text and (b) revised; (e) removed; (f) and (g) added 48035
51.360 Introductory text, (a)(1), (5), (6), (7) introductory text, (9) and (b) revised 48036
51.372 (c) introductory text, (3), (4) and (e) revised 48036
51.392 Amended 57184
51.394 (b)(3)(i) revised; interim 44763
(b)(3)(i) revised; (d) added 57184
51.396 (a) amended 57184
51.420 Revised 57185
51.422 (a) amended; (d) added 57185
51.428 (b)(1)(ii) revised 57185
51.448 (a)(3), (b)(1) introductory text and (d)(3) revised; (g)(1) and (2) removed; (b)(2), (c)(2) and (g)(3) redesignated as (b)(3), (c)(3) and (g)(1); new (b)(2) and (c)(2) added 40100
(g) removed; (h) and (i) redesignated as (g) and (h); (a) through (d) and new (g) revised 57185
51.452 (b)(5) redesignated (a)(6); (c)(1) amended 57186
51 Appendix W amended 40468, 40469, 40470, 40471
52 State implementation plan determinations; interim 34866, 36225, 55314, 55459, 63940
State implementation plan determinations 1718, 1720, 4216
Technical correction 7221
52.21 (l)(1) and (2) amended 40474
52.50 (c)(68) added 5286
52.70 (c)(20) added 46024
(c)(24) added 49767
(c)(22) added 54439
(c)(26) added 5705
52.82 Added 47280
52.120 (c)(70) and (78) added 46025
(c)(72) revised; (c)(79) and (80) added 3579
(c)(77) revised; (c)(81) added 5286
52.220 (c)(217)(i)(B) added 36069
(c)(215)(i)(A)(*3*), (219), (220) and (222) added 36230
(c)(214)(i)(B), (215)(i)(A)(*2*) and (B) added 40286
(c)(223) added 43017
(c)(204) added 43383
(c)(207)(i)(B) and (C) added 43386
(c)(194)(i)(A)(*3*), (196)(i)(B) and (202)(i)(E) added 43714

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TITLE 40 Chapter I—Con.

(c)(196)(i)(H)(*1*) added 46222
(c)(188)(i)(D)(*3*), (198)(i)(C)(*3*), (202)(i)(C)(*2*), (208)(i)(A)(*2*) and (210)(i)(B) added 46536
(c)(198)(ii) removed 47076
(c)(222)(i)(B) added 47275
(c)(183)(i)(A)(*13*) added 49512
(c)(193)(i)(B), (199)(i)(B), (202)(i)(D) and (207)(i)(D) added 49775
(c)(198)(i)(F) added 54597
(c)(225) added 55314
(c)(204)(i)(A)(*5*) added 64127
(c)(224)(i)(A)(*1*) added 1718
(c)(215)(i)(A)(*4*) and (C) added 3580
(c)(188)(i)(A)(*4*), (193)(i)(C)(*1*), (194)(i)(F)(*2*), (207)(i)(C)(*2*) and (210)(i)(C)(*1*) added 4216
(c)(216)(i)(A)(*2*) added; interim 4219
(c)(199)(i)(D), (202)(i)(C)(*3*), (214)(i)(D) and (222)(i)(C) added 4890
(c)(194)(i)(F)(*3*) and (*4*) added 4892
(c)(196)(i)(C), (210)(i)(D) and (222)(i)(D) added 4894
(c)(183)(B)(*3*), (198)(F)(*2*), (199)(C), (207)(C)(*3*), (214)(C) and (225)(B) added 5290
(c)(214)(i)(C)(*2*) and (221) 5517
(c)(198)(i)(I) added 5704
(c)(194)(i)(A)(*4*), (198)(i)(J), (210)(i)(C)(*2*), (215)(i)(B)(*2*) added 7709
52.222 Added 47076
52.322 Added 52315
52.326 Added 40291
52.370 (c)(68) added 47081
(c)(69) added 55320
52.376 Added 55320
52.420 (c)(53) added 38712
(c)(54) added 2422
(c)(52) added 7418
52.423 Added 1841
52.430 Added 47084
52.470 (c)(34) added 44434
(c)(36) added 2936
52.472 (e) removed 2936
52.474 Added 2936
52.480 Added 47084
52.520 (c)(89) added 62753
(c)(90) added 3575
(c)(92) added 6545
52.570 (c)(46) added 45051
(c)(48) added 66150
(c)(47) added 3819
(c)(44) added 3821
(c)(43) added 3824
52.720 (c)(111) added 36063
(c)(112) added 36065
(c)(114) added 49772
(c)(113) added 49780
(c)(116) added 54806
(c)(115) added 54806
(c)(117) added 56240
(c)(102) added 2427
(c)(118) added 3578
(c)(119) added 5513
52.726 (j) added 48899
(k) added 2437
(l) added 5295
52.741 (u)(8) added; (z)(1) removed 43387
(e)(10) added; (z)(4) removed 43393
(x)(14) added 43395
(a)(2) revised 2428
52.770 (c)(96) added 34859
(c)(97) and (98) added 43012
(c)(100) added 3582
(c)(101) added 4897
(c)(103) added 4899
52.777 (h) added 38722
(i) added 2437
52.788 Added 43012
52.820 (c)(61) removed 45055
(c)(62) added 55199
52.870 (c)(30) added 36364
52.872 Added 36364
52.920 (c)(72) added 38707
(c)(76) added 47094
(c)(81) added 49778
52.930 Regulation at 60 FR 32469 withdrawn 40101
52.970 (c)(66) added 54308
52.975 Added 43025
Existing text redesignated as (a); (b) added 47285
(c) added 51360
52.992 (b) added 2438
(c) added 7221
52.1020 (c)(40) added 45059
(c)(38) added 47288
(c)(41) added 66755
(c)(37) added 5693
52.1023 (c) added 66755
52.1026 Amended 5694
52.1031 Table amended 45059, 66755
Table amended 5693
52.1070 (c)(117) added 55326
(c)(118) added 2936
(c)(119) added 3584

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(c)(106) added 7419
52.1075 Added 55326
Existing text designated as (a); (b) added 2937
52.1080 Added 47084
52.1120 (c)(108) added 65242
(c)(107) added 2923
(c)(109) added 5698
52.1132 Added 2923
52.1167 Table amended 65242
Table amended 5698
52.1170 (c)(99) added 54310
(c)(103) added 6547
52.1173 (e) added 3817
52.1174 (k) removed 37013
(k) added 37370
(l) added 2438
(n) added 3817
(m) added 5696
52.1185 Added 3817, 5696
52.1220 (c)(43) added 6549
52.1270 (c)(27) added 5295
52.1320 (c)(89) added 39855
(c)(88) added 49342
(c)(42) added 55798
(c)(91) added 4353
(c)(92) added 7714
(c)(86) added 7716
52.1323 (i) added 49343
52.1370 (c)(39) added 36721
(c)(41) added 45054
52.1384 (a) removed; (c) added 36722
52.1386 Removed 36722
52.1420 (c)(43) added 4901
(c)(42) added 5295
(c)(44) added 5701
52.1424 Added 4901
52.1427 Added 5701
52.1470 (c)(34) and (35) added 4902
52.1519 (c)(3) added 47290
52.1570 (c)(57) added 62746
(c)(58) added 5302
52.1582 (d) added 51354
(d) redesignated as (d)(1); (d)(2) added 62746
52.1605 Table amended 5302
52.1620 (c)(59) added 56244
52.1770 (c)(83) added 34866
(c)(74) added 38710
(c)(70) added 38718
(c)(82) added 39262
(c)(81) added 46021
(c)(86) added 51924
(c)(84) added 3586
(c)(87) added 3587
(c)(85) added 3589
(c)(88) added 3591
(c)(78) added 5690
52.1782 Regulation at 60 FR 32469 withdrawn 40101
52.1820 (c)(26) added 43401
(c)(27) added 55798
52.1834 Added 43401
52.1870 (c)(105) added 39122
(c)(106) added 54949
(c)(98) added 55201
52.1879 (e) added 36060
52.1885 (x) added 36060
(b)(5) added 39122
(w) removed 44278
(v) added 62741
(b)(7) and (8) added 3326
(b)(6) and (u) added 3598
52.1888 Revised 55202
52.1889 Added 42045
52.1919 (a)(2) removed 55202
52.1920 (c)(46) added 7711
52.1970 (c)(111) added 37015
(c)(112) added 46029
52.2020 (c)(98) added 40294
(c)(101) added 40760
(c)(99) added 43015
(c)(102) added 46770
(c)(102)(i)(B)(*5*) removed 55792
(c)(106) added 63939
(c)(105) added 2930
(c)(104) added 5302
(c)(93) correctly removed; CFR correction 5515
52.2023 (j) added 47085
52.2026 Removed 47085
52.2035 Added 47084
52.2036 Added 2931
52.2037 (b) added 37018
52.2070 (c)(44) added 3826
(c)(41) added 4356
52.2081 Table amended 3826
52.2120 (c)(40) added 63437
(c)(39) added 6115
52.2170 (c)(16) added 46227
52.2184 Added 46228
52.2220 (c)(126) added 38700
(c)(130) added 38715
(c)(131) added 47087
(c)(132) added 66748
(c)(127) added 3319
52.2235 (b) added 38700, 47290
Regulation at 60 FR 32469 withdrawn 40101
Added 40292
52.2236 Added 43020
52.2270 (c)(97) added 49788

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(c)(96) added 56246
52.2320 (c)(31) added 55798
52.2332 Regulation at 60 FR 30192 withdrawn 36722
Added 36729
52.2420 (c)(105) added 43717
(c)(106) added 49769
(c)(104) added 50105
(c)(106) removed 62990
(c)(107) added 2937
52.2423 (m) and (n) added 43717
52.2425 Added 2937
52.2426 Added 47084
52.2450 Added 45056
52.2470 (c)(55) added 43713
(c)(56) added 54441
(c)(57) added 54604
(c)(58) added 54814
(c)(59) added 5705
52.2472 Added 47280
52.2520 (c)(34) added 39857
(c)(36) added 39861
(c)(37) added 46030
52.2531 Added 39862
52.2570 (c)(82) added 38724
(c)(83) added 5302
(c)(82)(i)(D) correctly revised 5303
(c)(88) added 5515
52.2585 (h) added 47089
(i) added 2438
52.2620 (c)(22) added 47292
(c)(26) added 55798
55.14 (e)(3)(ii)(F), (G) and (H) revised 47293
(e)(6)(i)(A) revised 55327
55 Appendix A amended 47293, 55328
58.1 (aa) through (ii) added 52319
58 Appendix A amended 52320
Appendix B amended 52321
Appendix D amended 52323
Appendix E amended 52324
60 Technical correction 35452
Authority delegation notices 52329, 52331
Notice 64329
Authority citation revised 65384
60.17 (a)(63) added 47096
(h)(1), (2) and (3) revised 65384, 65414
60.23 (a)(1) revised 65414
60.24 (f) introductory text revised 65414
60.30 Revised 65414
60.30a—60.39a (Subpart Ca) Removed 65414
60.30b—60.32b (Subpart Cb) Redesignated as 60.30d—60.32d (Subpart Cd); new 60.30b—60.39b (Subpart Cb) added 65414
60.30d—60.32d (Subpart Cd) Redesignated from 60.30b—60.32b (Subpart Cb) and revised 65414
60.50a—60.59a (Subpart Ea) Heading revised 65384
60.50a (a) and (c) through (f) revised; (g) removed; (h) and (i) redesignated as (l) and (m); new (g), new (h), new (i), (j) and (k) added 65384
60.50b—60.59b (Subpart Eb) Added 65419
60.51a Amended 65384
60.56a (a) Table 1 amended; (d) revised; (f)(9) removed 65386
60.58a (h)(1), (2), (6)(i), (ii), (10) and (j)(4) revised; (h)(6)(iii) redesignated as (h)(6)(v); new (h)(6)(iii) and new (iv) added; (j)(3) removed 65387
60.59a (a)(1), (b)(14), (15) and (m) removed; (e) amended 65387
60.481 Amended 43258
60.482–5 Revised 43258
60.482–10 (f) and (g) revised; (h) through (l) added 43258
60.665 (l)(5) and (6) amended 58238
60.667 Table amended 58237
60.691 Amended 43259
60.692–3 (d) revised 43259
60.693–2 (a)(1)(i) introductory text and (A) revised 43259
60.695 (a)(3)(i) and (ii) added 43259
60.697 (f)(3)(i) and (ii) revised; (f)(3)(x)(A) and (B) added 43259
60.698 (d)(3)(i) and (ii) added 43260
60.700 (c)(2), (3) and (4) amended 58238
60.704 (e)(1) introductory text, (f)(1) and (h)(3) amended 58238
60.705 (l)(1), (4), (5) and (8) amended 58238
60.707 Table amended 58238
60 Appendix A amended 47096
Regulation at 59 FR 62926 eff. date delayed to 6–6–96 56952
61 Clarification 38725, 66243
Authority delegation notices 39264, 52329, 52331
61.04 (c) table revised 43401

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Corrected 50244
61.100 Revised 46212
61.107 (c)(1) removed; (c)(2) and (3) redesignated as (c)(1) and (2) 46212
61.109 Removed 46212
62.11601 (c) removed; (g) added 50105
62.11602 Removed 50105
63 State operating permit program approvals 37825, 57834
63.14 (b)(7) added 45980
(b)(4) through (14) added 64336
63.100 (f)(1) revised; (k)(3) introductory text amended 63626
(b)(4) introductory text revised; (b)(4)(i)(B) amended 7718
63.101 (b) amemded 63626
63.102 (c)(1) revised 63626
63.104 (b)(1)(i)(C) revised 63626
63.105 (a) amended 63626
63.111 Amended 63626
63.138 (h) introductory text amended 63627
63.144 (b)(3) amended; (b)(5)(i)(B), (D) and (E) revised 63627
63.145 (c)(2)(ii)(E), (f) introductory text and (g) introductory text revised 63627
63.147 (b) revised 63628
63.148 (j) introductory text revised 63628
63.150 (g)(5)(i) introductory text, (k) introductory text and (l) introductory text revised 63628
63.151 (a)(2) and (6)(ii) revised; (c) introductory text, (1)(i) and (ii) amended 63628
(c)(1)(ii) revised 7718
63.152 (c)(4) introductory text revised 63629
63.110—63.152 (Subpart G) Appendix amended 63629, 63630
63.175 (d)(4) introductory text revised 63631
63.182 (a)(6)(ii) and (d)(2)(vii) revised 63631
63.190 (b)(7) introductory text revised; (b)(7)(i)(B) amended 7718
63.420 (i) added 43260
(j) added 62992
63.424 (e) revised 7723
63.428 (a), (i)(1) and (j)(1) revised; (f)(1) amended 7723
63.420—63.429 (Subpart R) Table 1 amended 7723
63.560—63.567 (Subpart Y) Added 48399
63.640—63.654 (Subpart CC) Added 43260
63.640 (h)(5)(iii) corrected 7051
63.642 (g) corrected 7051
63.652 (g)(4)(vi)(B) corrected 49976
(j)(1)(ii) corrected 7051
63.740—63.759 (Subpart GG) Added 45956
63.753 (a)(1) correctly revised 4903
63.780—63.788 (Subpart II) Added 64336
63.800—63.819 (Subpart JJ) Added 62935
63 Appendix A amended 62952
69.11 (c) added 48038
70 State operating permit approvals 57186
70 Appendix A amended 35338, 36069, 36072, 39864, 40104, 42046, 45673, 46774, 47297, 49347, 50108, 52336, 53875, 55466, 57191, 57352, 57357, 57361, 57837, 62034, 62758, 62762, 62998, 63634
Appendix A amended ... 2722, 2939, 3832, 4220, 4224, 5707, 7076
Appendix A corrected 7073
75.18 (b)(2) revised; (b)(3) removed 40296
75.20 (f) revised 40296
75.41 (a)(1), (b)(1)(i), (2)(iv)(A), (C), (c)(1)(i), (ii) and (2)(ii) revised 40296
75.47 Revised 40297
75.48 Revised 40297
80.2 (f) removed 3837
80.7 (a) introductory text revised; (c) amended 3837
80.20 Removed 3837
80.21 Removed 3837
80.22 Heading, (a), (f) introductory text and (2) introductory text revised; (b) added; (d), (e), (f)(1), (g), (h) and (i) removed 3837
80.23 Introductory text, (b)(2)(ii) and (e)(1) revised; (e)(2) removed 3837
80.24 Introductory text, (a) and (c) removed; (b) revised 3838
80.25 Removed 3838
80.70 (j) introductory text revised 35491

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80.75 (b)(2) heading and (ii)(D) through (G) revised; (b)(2)(ii)(H), (I) and (J) added 65574
80.91 (e)(7)(iv) added 40008
80.93 (b)(6) revised 65575
80.101 (b)(1)(v) added 40008
80.105 (a)(4) revised 65575
81 Attainment status determinations 47097
81.302 Amended 55798
81.303 Amended 55798
81.305 Amended 55798
81.306 Amended 55798
81.307 Table revised 55320
Amended 55798
81.309 Table amended 2937
81.310 Table amended 62753
81.313 Amended 55798
81.314 Amended 55798
81.315 Amended 55798
81.318 Table amended 47094, 48654
81.319 Table amended 43026, 47285, 51360
81.320 Table amended 45060
Amended 55798
81.321 Table amended 55326
Table amended 2937
81.322 Table amended 2923
81.323 Table amended 40300
Regulation at 60 FR 40300 withdrawn 51360
Amended 55798
Table amended 5710
81.324 Table corrected 34461
81.327 Amended 55798
81.329 Amended 55798
81.331 Table amended 62747
Table removed 2939
81.332 Table amended 52336
Amended 55798
81.333 Table removed 2939
81.334 Table amended 34867, 39262
81.335 Amended 55799
81.336 Table amended 39122
Amended 55798
Table amended 3326
Table amended 3598
81.338 Table amended 50425
Amended 55798
81.339 Amended 55798
Table amended 2931
81.342 Amended 55800
Table amended 4359
81.343 Table amended 43020
81.344 Amended 55798
81.345 Table amended 38729
Amended 55798, 55800
81.347 Table amended 54311
Table amended 2937
81.348 Table amended 50425
Amended 55798
81.349 Table amended 39862
Amended 55798
81.350 Amended 47487
81.351 Table amended 47299
Amended 55798, 55800
81.355 Amended 55798
Table removed 2939
81.356 Table removed 2939
82 Acceptable substitutes listing 38729
Acceptable substitutes listing 4736
82.13 (g)(2)(viii) stayed; eff. 1-31-96 to 4-30-96 3318
82.1—82.13 (Subpart A) Appendix I added 1285
82.152 Amended 40439
82.154 (g) and (h) revised 7726
82.156 (a)(2)(i)(A), (B) and (i) revised; (a)(2)(i)(C) added 40440
82.166 (n) through (q) added 40443
85.1501—85.1515 (Subpart P) Authority citation revised 5842
85.1502 Introductory text and (a)(5) through (15) redesignated as (a) introductory text and (6) through (16); new (a)(5) added 5842
85.1515 Revised 5842
86.1 (b)(4) added 43887
86.078-7 Removed 43886
86.081-8 Removed 43886
86.082-8 Removed 43886
86.082-14 Removed 43886
86.083-30 Removed 43886
86.084-5 Removed 43886
86.084-14 Removed 43886
86.084-15 Removed 43886
86.084-26 Removed 43886
86.085-8 Removed 43886
86.085-9 Removed 43886
86.085-10 Removed 43886
86.085-11 Removed 43886
86.085-21 Removed 43886
86.085-22 Removed 43886
86.085-23 Removed 43886
86.085-24 Removed 43886
86.085-25 Removed 43886
86.085-27 Removed 43886
86.085-28 Removed 43886

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86.085-29 Removed 43886
86.085-30 Removed 43886
86.085-35 Removed 43886
86.085-38 Removed 43886
86.087-8 Removed 43886
86.087-9 Removed 43886
86.087-10 Removed 43886
86.087-21 Removed 43886
86.087-23 Removed 43886
86.087-25 Removed 43886
86.087-28 Removed 43886
86.087-29 Removed 43886
86.087-30 Removed 43886
86.087-35 Removed 43886
86.088-9 Removed 43886
86.088-11 Removed 43886
86.088-21 Removed 43886
86.088-23 Removed 43886
86.088-25 Removed 43886
86.088-28 Removed 43886
86.088-29 Removed 43886
86.088-30 Removed 43886
86.088-35 Removed 43886
86.090-7 Removed 43886
86.090-10 Removed 43886
86.090-11 Removed 43886
86.090-15 Removed 43886
86.090-23 Removed 43886
86.090-28 Removed 43886
86.090-29 Removed 43886
86.090-30 Removed 43886
86.090-35 Removed 43886
86.094-2 Amended 40496
86.094-14 (a) redesignated as (a)(1); (a)(2) added 127
86.094-17 (j) revised 37945
(d) revised 39266
86.094-38 Added 40496
86.096-7 OMB number 43880
86.096-8 OMB number 43880
(b) introductory text revised; (b)(5)(iv) added 43887
86.096-9 OMB number 43880
(b) introductory text and (c) through (k) revised; (b)(5)(iv) added 43887
86.096-10 OMB number 43880
(b) introductory text revised; (b)(5)(iv) added 43887
86.096-11 (b)(5)(i) revised 43887
86.096-14 OMB number 43880
86.096-21 OMB number 43880
86.096-23 OMB number 43880
86.096-26 OMB number 43880
86.096-30 OMB number 43880
86.096-35 OMB number 43880
86.097-9 OMB number 43880
86.098-7 (h)(1) through (5) added 43888
86.098-11 (b)(3)(iii)(A) revised 43888
86.098-23 OMB number 43880
86.098-26 (a)(3)(i)(B) through (ii)(B) removed; (a)(3)(i)(D) through (ii)(B) added 43888
86.099-8 OMB number 43880
(b) introductory text revised 43888
86.099-9 OMB number 43880
(b) introductory text revised 43888
86.099-10 OMB number 43880
(b) introductory text revised 43888
86.099-11 (b)(3)(iii)(A) revised 43888
86.106-82 Removed 43886
86.106-96 (a) introductory text revised 43888
86.107-96 (a)(1) introductory text, (ii)(A), (B), (2), (3)(i), (ii), (c)(1), (d), (e) and (f) revised 43888
86.107-98 (e)(1) revised 43890
86.109-82 Removed 43886
86.110-82 Removed 43886
86.111-82 Removed 43886
86.112-82 Removed 43886
86.116-82 Removed 43886
86.117-96 Introductory text, (a)(1)(ii), (iii), (7), (b), (c) heading, (1) introductory text, (iv), (v), (vii), (d)(1) introductory text and equation, (v) and (e)(1)(iii) revised; (d)(1)(iii) and (iv) removed; (d)(3) added 43890
86.119-78 Removed 43886
86.126-78 Removed 43886
86.129-94 (d)(1), (2)(iii), (3)(ii), (4)(i), (ii), (iii), (7)(iii) and (iv) revised; (d)(7)(v) added 43891
86.130-96 (e) added; figure revised 43893
86.131-96 (d) revised 43895
86.132-96 (c), (f), (h) introductory text, (1)(i), (2), (j) introductory text, (j)(1) introductory text, (i) and (vi) revised 43895
86.133-96 (c), (h) and (i)(5) revised 43896
86.134-96 (a), (f), (g)(1)(v), (vii), (viii), (xii) introductory text, (A), (xiv), (xv), (xvi), (2)(v), (vii), (x) and (xii) revised; (g)(1)(xx)(C) and (2)(xv) added 43896

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86.138–90 (b) revised 43897
86.138–96 (a)(2), (b)(2)(v)(A) and (viii) revised 43897
86.139–82 Removed 43886
86.142–82 Removed 43886
86.143–96 (b)(1)(i) introductory text and equation, (D), (2)(i)(B) and (ii)(B) revised; (b)(1)(iii) added; (b)(1)(i)(C) and (E) removed 43897
86.144–78 Removed 43886
86.146–96 (f), (i)(1) and (2) revised 43898
86.152–98 (a) revised 43898
86.153–98 (a) and (c)(2) revised 43898
86.154–98 (e)(3) revised 43898
86.401–78 Removed 43886
86.410–78 Removed 43886
86.509–78 Removed 43886
86.511–78 Removed 43886
86.513–82 Removed 43887
86.516–78 Removed 43887
86.521–78 Removed 43887
86.526–78 Removed 43887
86.527–78 Removed 43887
86.535–78 Removed 43887
86.537–78 Removed 43887
86.540–78 Removed 43887
86.542–78 Removed 43887
86.544–78 Removed 43887
86.608–90 (a)(2)(ii) revised 43898
86.608–98 (a)(2)(ii) revised 43898
86.1105–87 (e) revised; (g) added 6949
(g)(2), (3) and (h) added 6953
86.1207–96 (a)(1) introductory text, (ii)(A), (B), (2), (3)(i), (ii), (c)(1), (d), (e) and (f) revised 43898
86.1217–96 Introductory text, (a)(1)(ii), (iii), (7), (b), (c) heading, (1) introductory text, (v), (vii), (d)(1) introductory text and equation, (v) and (e)(1)(iii) revised; (c)(1)(iv), (d)(1)(iii) and (iv) removed; (d)(1)(xiii), (xiv) and (3) added 43900
86.1229–85 (d)(1), (2)(iii), (3)(ii), (iii), (4)(i), (ii), (iii), (7)(iii) and (iv) revised; (d)(7)(v) added 43901
86.1230–96 (e) added; figure revised 43902
86.1231–96 (d) revised 43904
86.1232–96 (c), (f), (h) introductory text, (1)(i), (2), (j) introductory text, (1) introductory text, (i) and (vi) revised 43904
86.1233–96 (c), (h) and (i)(5) revised 43905
86.1234–96 (a), (f), (g)(1)(v), (vii), (viii), (xii) introductory text, (A), (xiv), (xv), (xvi), (2)(v), (vii), (x) and (xii) revised; (g)(1)(xx)(C) and (2)(xv) added 43905
86.1238–90 (i) revised 43906
86.1238–96 (a)(2), (b)(2)(v)(A) and (viii) revised 43906
86.1243–96 (b)(1)(i) introductory text and equation, (D), (2)(i)(B) and (ii)(B) revised; (b)(1)(iii) added; (b)(1)(i)(C) and (E) removed 43906
86.1246–96 (f), (i)(1) and (2) revised 43906
86.1309–84 Removed 43887
86.1310–84 Removed 43887
86.1310–88 Removed 43887
86.1311–84 Removed 43887
86.1311–94 (b)(2)(iii) redesignated as (b)(3) 127
86.1335–84 Removed 43887
86.1341–84 Removed 43887
86.1342–84 Removed 43887
86.1344–84 Removed 43887
86.1344–88 Removed 43887
86.1501–84 Removed 43887
86.1504–84 Removed 43887
86.1506–84 Removed 43887
86.1513–84 Removed 43887
86.1513–87 Removed 43887
88.104–94 (l) removed; undesignated center heading added 127
88.204–94 (c)(2) introductory text and (ii) revised 127
88.205–94 (d)(1), (3)(iii) and (g) revised 127
88.301–93—88.313–93 (Subpart C) Table C94–1.1 revised 128
88.306–94 (b)(3) revised 129
88.311–93 (c) and (d) revised 127
88.312–93 (a)(1) and (c)(2)(ii) revised 128
90 Added 34598
93 Authority citation revised 40100
93.101 Amended 57184
93.102 (b)(3)(i) revised; interim 44763

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(b)(3)(i) revised; (d) added 57184
93.114 Revised 57185
93.115 (a) amended; (d) added 57185
93.118 (b)(1)(ii) revised 57185
93.128 (a)(3), (b)(1) introductory text and (d)(3) revised; (g)(1) and (2) removed; (b)(2), (c)(2) and (g)(3) redesignated as (b)(3), (c)(3) and (g)(1); new (b)(2) and (c)(2) added 40100
(g) removed; (h) and (i) redesignated as (g) and (h); (a) through (d) and new (g) revised 57186
93.130 (b)(5) redesignated (a)(6); (c)(1) amended 57186
110.1 Amended; introductory text revised 7421
110.2 Revised 7421
110.3 Revised 7421
110.4 Removed; new 110.4 redesignated from 110.8 7421
110.5 Revised 7421
110.6 Redesignated from 110.10 and amended 7421
110.7 Removed 7421
110.8 Redesignated as 110.4 7421
110.9 First and second section removed 7421
110.10 Redesignated as 110.6 7421
122.21 Regulation at 60 FR 17956 withdrawn 40230
(c)(1) amended 40235
122.26 Regulation at 60 FR 17956 withdrawn 40230
(a)(1) introductory text and (e)(1)(ii) amended; (a)(9) and (g) added; (e) heading revised 40235
124.31 Added 63431
124.32 Added 63432
124.33 Added 63432
124.52 Regulation at 60 FR 17957 withdrawn 40230
(c) amended 40235
125.104 (b)(4)(iii) amended 53875
131.36 (b)(1) table corrected 44120
136.3 (a) Tables IC and ID amended 39588
(b) amended 39590
(a) table and (b) amended 44672
(a) Table IA revised; (b) amended 53542
(e) Table II amended 53543
140.4 (b)(1) introductory text redesignated as (b)(1)(i); (b)(1)(ii) added 63945
156 Policy statement 64282
180 Technical correction 52248
Technical correction 4592
180.1 (h) table amended 42448
180.2 Revised 42460
180.184 (a) table amended 63950
180.186 Removed 49799
180.203 Removed 49799
180.204 (a) table amended 42447
(b) table amended 45065
180.232 Revised 34870
180.233 Removed 49799
180.247 Removed 49799
180.254 (c) introductory text amended 63438
180.260 Removed 49799
180.268 Revised 49799
180.280 Removed 49799
180.302 Removed 49799
180.308 Removed 49799
180.310 Removed 49799
180.319 Removed 49799
180.322 Removed 49799
180.327 Removed 49799
180.329 Removed 49800
180.336 Removed 49800
180.337 Revised 34871
180.342 (e) revised 3330
180.351 Removed 49800
180.352 (b) revised 63954
180.361 (a) table amended 48660
180.364 (d) table amended 45064
(d) table amended 7732
180.376 Removed 34869
180.381 (a) introductory text and (b) revised 62331
180.400 Removed 49800
180.407 (b) introductory text and (c) introductory text amended 65577
180.408 (a) table amended 57364
(a) introductory text revised; (a) table amended 63960, 65581
180.412 (a) table amended 7729
180.422 Table revised 49798
180.425 Table amended 54605
180.431 (a) table amended 63958
180.434 (a) table and (b) table amended 3328
180.435 Revised 42455
180.436 Existing text designated as (a); (b) added 34876
180.438 Table revised 34878

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180.441 (c) revised 49790
180.443 (a) table, (b) table and (c) table revised 40503
180.448 Table amended 6551
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260 Technical correction 35452
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261 Interpretation 41817
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264 Technical correction 35452
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264.200 Regulation at 59 FR 62926 eff. date delayed to 6–6–96 56952
264.232 Regulation at 59 FR 62926 eff. date delayed to 6–6–96 56952
264.314 (e)(2)(ii) amended; (e)(2)(iii) added 35705
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264.1084 (b)(4) and (e) introductory text amended; (c) revised 4912
264.1085 (d) introductory text and (f) introductory text amended 4912
264.1086 (b)(1) amended; (b)(2)(ii)(B), (3) and (c) introductory text revised; (b)(2)(ii)(C) added 4912
264.1087 (c)(3)(ii) revised 4913
264.1088 (d) revised 4913
264.1089 (i) added 50429
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265.1088 (c)(3)(ii) revised 4915
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270.61 (b)(5) introductory text amended 63433
270.62 (b)(6) through (10) redesignated as (b)(7) through (11); new (b)(6) added; (d) revised 63433
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57.203 (c) amended 6123
57.205 (a)(1)(i) amended; OMB number 6123
57.206 (a)(1)(i) revised; (a)(2) removed; (a)(3) redesignated as (a)(2) 6123
57.210 (b)(2)(i) and (ii) amended; OMB number 6123
57.211 (a) and (b) amended 6123
57.212 Removed 6123
57.213 (a)(2) amended 6123
57.214 Introductory text amended 6123
57.215 (a)(3) amended 6123
57.216 Amended 6123
57.301—57.318 (Subpart D) Authority citation revised 6123
57.302 Amended 6123
57.305 OMB number 6123
57.306 (a)(1)(i) revised 6123
57.310 OMB number 6123
57.312 (a)(1) amended 6123
57.313 (b) amended 6123
57.314 Introductory text amended 6123
57.316 Amended 6123
57.501—57.514 (Subpart F) Authority citation revised 6124
57.502 Amended 6124
57.509 (a) revised 6124
57.513 Amended 6124
57.701—57.712 (Subpart H) Authority citation revised 6124
57.701 Amended 6124
57.702 Amended 6124
57.704 (c)(1) amended 6124
57.706 (a) introductory text and (2) amended 6124
57.707 (a)(1) amended 6124
57.709 (a) amended 6124
57.710 Amended 6124
57.711 Revised 6124
57.801—57.803 (Subpart I) Authority citation revised 6124
57.801 (a) amended 6124
57.1101—57.1112 (Subpart L) Authority citation revised 6124
57.1101 Introductory text amended 6124
57.1102 Amended 6124
57.1106 Introductory text amended 6125
57.1107 (a)(1) amended 6125
57.1110 Amended 6125
57.1111 Revised 6125
57.1601—57.1610 (Subpart Q) Authority citation revised 6125
57.1601 Introductory text amended 6125
57.1602 Amended 6125
57.1605 (a) introductory text revised 6125
57.1608 Amended 6125
57.1609 Revised 6125
57.1702 Amended 6125
57.1708 Amended 6125
57.1801—57.1811 (Subpart S) Authority citation revised 6125
57.1801 Amended 6125
57.1802 Amended 6125
57.1804 (a) and (b) revised 6126
57.1806 (a) introductory text revised; (b) amended 6126
57.1809 Amended 6126
57.1810 Revised 6126
57.1901—57.1910 (Subpart T) Removed 6126
57.2101—57.2110 (Subpart V) Authority citation revised 6126
57.2101 Amended 6126
57.2102 Amended 6126
57.2103 Amended 6126
57.2105 (a) introductory text revised 6126
57.2108 Amended 6126
57.2109 Revised 6126
57.2402 (c) and (k) revised 6126
57.2409 Amended 6126
57.2501—57.2510 (Subpart Z) Authority citation revised 6127
57.2501 Revised 6127
57.2502 Amended 6127
57.2503 (b)(2) introductory text revised; (b)(3) removed 6127
57.2504 (c)(1) and (d) revised 6127
57.2506 (b) revised 6127
57.2509 Amended 6127
57.2601—57.2617 (Subpart AA) Removed 6127
57.2801—57.2810 (Subpart CC) Authority citation revised 6127

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57.2801 Amended 6127
57.2802 Amended 6127
57.2804 (a)(1) revised 6127
57.2805 (c) amended 6127
57.2808 Amended 6127
57.2809 (a) revised 6127
57.2901—57.2910 (Subpart DD) Authority citation revised 6128
57.2901 Amended 6128
57.2902 Amended 6128
57.2904 (a)(1) revised; OMB number 6128
57.2908 Amended 6128
57.2909 (a) revised; OMB number 6128
57.3001—57.3011 (Subpart EE) Authority citation revised 6128
57.3001 Amended 6128
57.3002 Amended 6128
57.3005 (a) introductory text and (1) revised 6128
57.3009 Amended 6128
57.3010 Revised 6128
57.3101—57.3112 (Subpart FF) Authority citation revised 6128
57.3101 Introductory text amended 6128
57.3102 Amended 6128
57.3106 (a) introductory text revised 6128
57.3110 Amended 6129
57.3111 Revised 6129
57.3301—57.3303 (Subpart HH) Removed 6129
57.3901—57.3910 (Subpart NN) Removed 6129
57.4002 Amended 6129
57.4008 Amended 6129
57.4009 Revised 6129
57.4102 Amended 6129
57.4109 (a) revised 6129
57.4113 Amended 6129
58.1—58.11 (Subpart A) Removed 6129
58.20—58.29 (Subpart B) Removed 6129
58.201—58.215 (Subpart C) Authority citation revised 6129
58.201 Amended 6129
58.202 Amended 6129
58.203 (b) amended 6129
58.204 (b) amended 6130
58.205 (a) revised 6130
58.208 (a) through (e) removed; (f) through (i) redesignated as (a) through (d); heading revised; OMB number 6130
58.209 Revised 6130
58.213 Amended 6130
58.214 Revised 6130
58.221—58.235 (Subpart D) Authority citation revised 6130
58.222 Amended 6130
58.223 Amended 6130
58.224 Revised (OMB number) 6130
58.225 Amended 6131
58.228 Removed; new 58.228 redesignated from 58.229; new (a) revised 6131
58.229 Redesignated as 58.228; new 58.229 redesignated from 58.230 6131
58.230 Redesignated as 58.229; new 58.230 redesignated from 58.231 6131
58.231 Redesignated as 58.230; new 58.231 redesignated from 58.232 6131
58.232 Redesignated as 58.231; new 58.232 redesignated from 58.233 and amended 6131
58.233 Redesignated as 58.232; new 58.233 redesignated from 58.234 and revised 6131
58.234 Redesignated as 58.233; new 58.234 redesignated from 58.235 6131
58.235 Redesignated as 58.234 6131
58.401—58.414 (Subpart E) Removed 6131
58.501—58.515 (Subpart F) Removed 6131

Chapter IV—Health Care Financing Administration, Department of Health and Human Services (Parts 400—499)

400.202 Amended 63175
400.310 Table amended (OMB numbers) 63188
405.465—405.482 (Subpart D) Removed 63175
405.500—405.535 (Subpart E) Authority citation revised 63175
Heading revised 63175
405.500 Added 63175
405.501 (c) and (d) removed; (e) and (f) redesignated as (c) and (d); new (c) and new (d) amended 63176

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405.502 (a)(10) amended 63188
405.520 Removed 63176
405.521 Removed 63176
405.522 Removed 63176
405.523 Removed 63176
405.524 Removed 63176
405.525 Removed 63176
405.550—405.580 (Subpart F) Removed 63176
405.2400—405.2472 (Subpart X) Authority citation revised 63176
405.2400 Added 63176
405.2401 (b) amended 63176
405.2468 (b)(1) revised 63176
410.34 (a)(1), (2) and (d) revised 63176
411.15 (m)(2)(i) amended 63188
411.108 (a)(8) revised 53876
411.163 (b)(2) and (3) revised 53876
411.172 (b) revised 53877
411.360 (e) revised 63440
412.50 (a) and (b) amended 63188
412.71 (c)(1)(i) amended 63188
412.105 (g)(1)(i)(A) amended 63188
(d) correctly added 2725
413.5 (c)(9) amended 63189
413.13 (g)(1)(i) amended 63189
413.40 (g)(1) corrected 2725
413.80 (h) amended 63189
413.86 (b)(1) and (g)(1)(ii) amended 63189
413.174 (b)(4)(iv) amended 63189
414.2 Amended 63177
414.28 Amended 53877
(b) revised 63177
414.30 (b)(2) revised; (c) added 63177
414.32 (d)(2) revised 63177
414.46 (a)(1), (e) and (g) amended; (b), (c) and (d) revised 63177
414.58 (a) and (b) amended 63189
414.60 (a) amended 53877
Revised 63178
414.450—414.453 (Subpart H) Removed 63178
415 Added 63178
417.554 Amended 63189
424.57 (c) revised 63444
440.10 (a)(2) and (3)(iii) revised 61486
440.20 (a)(2) and (3)(ii) revised 61486
440.90 (c) removed 61486
440.165 (a)(1) and (c) removed; (a)(2) and (3) redesignated as (a)(1) and (2); (b)(4)(i) and (ii) revised 61486
486.304 (c)(1) amended 53877
489 Technical correction 52731
489.20 (d)(1) amended 63189
489.21 (f) amended 63189
489.53 Corrected 53456
498 Technical correction 52731

Chapter V—Office of Inspector General-Health Care, Department of Health and Human Services (Parts 1000—1999)

1001 Authority citation revised 2135
1001.952 (k)(1)(iii), (l) and (m) revised 2135
1003.100 (b)(1)(v) revised 58241
1003.102 (b)(7) revised 58241
1003.103 (d) revised 58241
1003.106 (a)(3) revised 58241
1004 Revised 63640
1004.110 (f) correctly revised 1841

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100 56289
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413 62237
493 61509

TITLE 43—PUBLIC LANDS: INTERIOR

Subtitle A—Office of the Secretary of the Interior (Parts 1—199)

4.413 (c)(1) and (2) introductory text revised; (c)(2)(i), (ii), (iv), (v), (vi), (vii), (ix), (xi) and (xii) amended; (c)(2)(v)(A) and (B) added 58242
4.1109 (a) revised 58243
10 Added 62158
12 Clarification 57543

Chapter II—Bureau of Land Management, Department of the Interior (Parts 1000—9999)

2800 Note removed 57070
2800.0-5 (j) revised; (aa), (bb) and (cc) added 57070
2800.0-9 Added 57070
2801.1-1 (b) and (f) amended 57070
2803.1-2 (c)(3)(i), (ii), (4), (5) and (d) redesignated as (e)(1), (2), (f), (g) and (h); (b)(1)(i), (c)(1)(iv), (v) introductory text, (2) and new (e) revised; new (d) added 57070

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TITLE 43 Chapter II—Con.

2812.0–9 Added 57072
2880.0–9 Added 57072
3103.2–2 Introductory text amended 4750
3103.4 Heading revised 4750
3103.4–1 Heading and (b)(1) revised; (c) and (d) redesignated as 3103.4–2(a) and (b); (e) redesignated as (c) 4750
3103.4–2 Redesignated as 3103.4–4; (a) and (b) redesignated from 3103.4–1(c) and (d); new heading added 4750
3103.4–3 Added 4750
3103.4–4 Redesignated as 3103.4–2 4750
3140.1–4 (c)(3) amended 4752
3165.1 (b) amended 4752
4100.0–3 (g) removed 4227
4110.2–2 (b) amended 4227
4110.2–3 (a)(2) amended 4227
4120.2 (e) amended 4227
4120.3–1 (c) amended 4227
4120.3–2 (a), (b) and (d) amended 4227
4120.3–4 Amended 4227
4120.3–6 (d) amended 4227
4120.3–8 (b) amended 4227
4130.1–2 (a) amended 4227
4130.2 (g) introductory text, (1) and (i) amended 4227
4130.4 (a) amended 4227
4130.8 (d) amended 4227
4130.8–1 (c) amended 4227
4140.1 (a)(4), (b) introductory text, (1)(vi) and (8) amended 4227
4150.3 (e) amended 4227
4160.2 Amended 4227
4160.3 (b) amended 4227
4160.4 Amended 4227
6220 (Subchapter F) Removed 61487
8364 Public land closures 7077
Chapter II Appendix removed 2137

Public Land Orders

1374 Revoked in part by PLO 7186 7223
1703 Revoked in part by PLO 7173 57939
1992 Revoked in part by PLO 7185 7223
2588 Revoked in part by PLO 7185 7223
3398 Revoked in part by PLO 7164 52864
3689 Revoked in part by PLO 7182 4359
7155 Corrected 52731
7157 Corrected by PLO 7185 7223
7161 52631
7162 52631
7163 51734
7164 52864
7165 52864
7166 53131
7167 53131
7168 53131
7169 54814
7170 57192
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7172 57192
7173 57939
7174 58521
7175 58521
7176 65582
7177 66150
7178 66151
7179 2137
7180 2138
7181 2138
7182 4359
7183 4752
7184 5719
7185 7223
7186 7223

Proposed Rules:

2810 ..... 57561, 66246
3160 58590
3170 56970
10010 2219

TITLE 44—EMERGENCY MANAGEMENT AND ASSISTANCE

Chapter I—Federal Emergency Management Agency (Parts 0—399)

10 Authority citation revised 4230
10.8 (c), (d) and (e) revised 4230
64.6 Table amended 51361, 54613, 55330, 65583
Table amended 5948
65 Authority citation revised 62218
65.4 Table amended; interim 54036, 55468, 56250, 56252, 62336
Table amended 54039, 55470, 56253, 62333
Table amended 6559, 6560, 6567
Table amended; interim 6562, 6565, 6566
65.17 Added 62218
67 Flood elevation determinations 54040, 55471, 56254, 62337
Flood elevation deteriminations 6568, 6569, 6572
206 Authority citation revised 7224
206.101 (g) introductory text added 7224

Proposed Rules:

61 56552
62 3635
67 ..... 54051, 55525, 56300, 56307, 62369 ..... 6593, 6598, 6601

TITLE 45—PUBLIC WELFARE

Subtitle A—Department of Health and Human Services, General Administration (Parts 1—199)

96.122 (g)(21) and (22) redesignated as (g)(22) and (23); (f)(6) and new (g)(21) added 1508
Corrected 2335
96.123 (a)(5) added 1508
96.130 Added 1508

Chapter XI—National Foundation on the Arts and the Humanities (Parts 1100—1199)

1180.5 (f) added 63964
1180.17 Revised 63964
1180.20 (f)(1) revised 63964
1180.35 Heading, (a) and (b) revised 63964
1180.40 Removed 63964
1180.41 Revised 63964
1180.45 (a) revised 63964
1180.48 Revised 63964
1180.49 Revised 63964
1180.50 Revised 63964
1180.58 Revised 63965
1180.59 Revised 63965
1180.75 (d) revised 63965

Chapter XIII—Office of Human Development Services, Department of Health and Human Services (Parts 1300—1399)

1370 (Subchapter H) Added 6793

Proposed Rules:

301 2774
302 2774
303 2774
304 2774
306 2774
307 2774
1305 54048

TITLE 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation (Parts 1—199)

1.01–10 (b)(1) introductory text, (ii)(B) and (C) corrected 54106
10 Authority citation revised 65483
10.103 Amended 65483
10.201 (b) revised; (h), (i) and (j) added 65484
10.205 (f)(2) revised; (d) added 65486
10.207 (h) and (i) added 65486
10.209 (i) and (j) added 65486
12 Authority citation revised 65487
12.01–6 Amended 65487
12.02–4 (a) revised; (b) removed; (c) redesignated as (b); new (c), (d) and (e) added 65487
12.02–9 (g) and (h) added 65489
16.205 Corrected 54106
16.207 (b) revised 67063
16.500 Corrected 54106
25.01–3 Corrected 54106
28.40 (b) revised 54444
28.50 Amended 54444
28.200—28.270 (Subpart C) Heading revised 54444
28.200 Revised 54444
28.800—28.905 (Subpart G) Added 54444
31.10–21 Corrected 54106
57.021–1 Corrected 54106
69.9 Corrected 54106
71.65–15 (a)(2) corrected 54106
90 Comment period reopening 7425
90.05–20 Revised; interim 57640
90.10–40 (b) and (c) revised; interim 57640
90.30–10 Removed; interim 57640
90.35–5 Corrected 54106
98 Comment period reopening 7425
98.31–5—98.31–15 (Subpart 98.31) Removed; interim 57640
110.10–1 Corrected 54106

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114—122 (Subchapter K) Added; interim 885
125—134 (Subchapter L) Added; interim 57640
125 Comment period reopening 7425
126 Comment period reopening 7425
126.220 Corrected 1035
127 Comment period reopening 7425
128 Comment period reopening 7425
128.410 Correctly designated 1035
129 Comment period reopening 7425
130 Comment period reopening 7425
131 Comment period reopening 7425
131.550 (a) corrected 1035
131.575 (a) corrected 1035
132 Comment period reopening 7425
132.220 Table corrected 1035
133 Comment period reopening 7425
134 Comment period reopening 7425
135 Comment period reopening 7425
136 Comment period reopening 7425
150.170 Table correctly revised; CFR correction 5518
153.7 (b)(4)(iii) corrected 54106
153.809 Corrected 54106
153.902 Corrected 54106
154.22 Corrected 54106
154.151 Corrected 54106
154.1803 Corrected 54106
160 Comment period extension 52631
160.010–4 Corrected 54106
160.060–1 Corrected 54106
161.010–1 Corrected 54106
170 Authority citation amended 943
Comment period reopening 7425
170.001 (a) introductory text and (b) amended 943
170.055 (g) revised; interim 57671
(i)(1) amended; (w) added 943
170.105 (b)(1) removed; (b)(2) through (5) redesignated as (b)(1) through (4) 944
170.160—170.173 (Subpart E) Heading revised 944
170.160 (b)(1) removed; (b)(2), (3) and (4) redesignated as (b)(1), (2) and (3) 944
170.170 (a) amended; (d) revised 944
170.173 (b)(2) amended 944
170.200 (a)(2) amended 944
170.265 (c) amended; (d) introductory text and (2) revised 944
170.270 (e) revised 944
171 Authority citation revised 53713
Authority citation revised 944
171.15 (a) designation and (b) removed 945
171.001 (a) revised 944
171.010 (a), (d)(1) and (3) revised; (e) through (k), (l), (m) and (n) redesignated as (f) through (l), (n), (p) and (q); new (e), new (m) and (o) added 944
171.020—171.043 (Subpart B) Removed 944
171.057 (a) and (b) amended 944
171.060 (d), (e) and (f) redesignated as (f), (e) and (h); new (d) and (g) added; new (e) and new (f) introductory text revised 53713
171.065 (a), (h)(1) and (j)(2) revised 945
171.110 (a) designation and (b) removed 945
171.114 Removed 945
171.119 Removed 945
171.120 Revised 945
171.122 (f)(1) revised; Table 171.122 redesignated from Table 171.124 945
171.124 Table redesignated as Table 171.122; section removed 945
171.130 (a) designation and (b) removed 945
171.140 Removed 945
171.145 Removed 945
171.150 Removed 945
171.155 Removed 945
173.005 (b) revised 945
173.020 (c) introductory text revised 945
173.025 (b), (c) and Graph 173.025 revised 945

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173.054 (a)(1) and (b)(1) amended 946
173.059 Amended 946
173.060 (a) amended 946
173.061 Amended 946
173.062 Amended 946
173.063 (a) and (d) amended 946
174 Comment period reopening 7425
174.05–2 (b) corrected 1035
174.005 (g) and (h) added; interim 57671
174.180—174.225 (Subpart G) Added; interim 57671
174.205 (b) corrected 1035
174.240—174.260 (Subpart H) Added; interim 57673
175 Comment period reopening 7425
175—185 (Subchapter T) Revised 946
175.05–2 Revised; interim 57674
175.10–40 Revised; interim 57674
175.35–1 (Subpart 175.35) Removed; interim 57674
175.075 (b) amended 944
189.55–15 Corrected 54106

Chapter II—Maritime Administration, Department of Transportation (Parts 200—399)

306 Revised 1131

Chapter III—Saint Lawrence Seaway Development Corporation (Great Lakes Pilotage), Department of Transportation (Parts 400—499)

Chapter III Heading revised 5721
401.110 (a)(2) and (9) revised 5721
401.210 (a)(4) and (7) amended 5721
401.211 (e) amended 5721
401.220 (b) amended 5721
401.230 (b), (c) and (d) amended 5721
401.240 (a) and (d) amended 5721
401.250 (c) amended; (d) revised 5721
401.320 (d)(2), (3) and (4) amended 5721
(d)(4) amended 5721
401.425 Amended 5721
401.431 (e) amended 5721
401.510 (b)(2), (3) introductory text and (5) amended 5721
401.600 (a) amended 5721
401.615 (b) amended 5721
401.620 (a) amended 5721
401.650 Amended 5721
401.710 (g) amended 5721
402.100 Amended 5721

Chapter IV—Federal Maritime Commission (Parts 500—599)

501.3 (k) removed; (l) revised 57940
501.4 (b) amended; (c) revised 57941
501.5 (j) heading removed; (j)(1) and (2) redesignated as (i)(5) and (6); (f)(1)(i), (i) introductory text, (3), (4), new (5) and new (6) introductory text revised; (l)(2) amended 57941
501.28 Revised 57941
501.31 Removed 57941
501.41 (c)(6) and (d) revised; (c)(9) removed 57941
501 Appendix A revised 57942
514.7 (h)(1)(v) revised; (h)(2)(i)(C) added 5309
514.8 (f) revised 56123
514.20 (d) revised 56123
514.21 (j) revised 56124
514 Exhibit II added 5310

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10 ..... 54466, 56970
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TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission (Parts 0—199)

0.81 Undesignated center heading and section added 2727
0.131 (j) revised 4361
0.241 (f) revised 4918
0.311 (g) revised 55998
(f) amended 61662
0.391 Undesignated center heading and section added 2728
1 Report 64348
1.24 (d) added 53277
1.61 (c), (d), (e) and (f) removed; (g) redesignated as (c); (a), (b) and new (c) introductory text revised 4361
1.402 (h) and (i) revised 4918
1.2110 (b)(4)(x)(C), (D) and (E) redesignated as (c), (d) and (e) 52865
11.11 (a) and (b) revised 55998
11.12 Revised 55999
11.21 Introductory text revised 55999
11.31 (a)(1), (b) and (c) revised 55999
11.33 (a)(3)(i), (ii), (5) introductory text, (ii), (9), (11) and (b)(2) revised 55999
11.34 (c) revised 56000
11.47 Added 56000
11.51 (a) and (b) amended; (c) revised; (f) and (i) removed; (g), (h) and (j) through (n) redesignated as (f), (g) and (h) through (l) 56000
11.52 (a) revised 56000
11.61 (a)(1)(i), (2)(i) and (ii)(A) revised 56000
15 Reconsideration petition 3600
17.1 Revised 4362
17.2 (a) revised; (c) and (d) added 4362
17.4 Revised 4362
17.5 Added 4362
17.6 Added 4363
17.7—17.17 (Subpart B) Heading revised 4363
17.10 Intrductory text revised 4363
17.14 (a) amended 4363
17.17 (a) revised 4363
17.22 Amended 4363
17.23 Revised 4363
17.24 Removed 4363
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17.41 Removed 4363
17.42 Removed 4363
17.43 Removed 4363
17.47 Revised 4363
17.48 Introductory text revised; (a) amended 4364
17.49 Heading, introductory text and (c) revised; (d) added 4364
17.50 Revised 4364
17.51 (b) revised 4364
17.57 Revised 4364
21 Order 2452
21.2 Amended 57366
21.11 (g) added 4364
21.15 (g) revised 57366
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74.634 (a)(1) revised 55483
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74.750 (g) revised 55483
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Removed 61599
246.704 Regulation at 60 FR 33145 confirmed 61591
(2) and (4) amended 61599

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246.770–1 (f)(2)(i) revised 61599
246.770–2 (b) and (c) redesignated as (c) and (d); new (b) added; new (c) revised 7749
246.770–3 (a) introductory text, (c) introductory text and (2) revised; (b)(2) removed; (b)(3) redesignated as (b)(2) 7750
247.572–1 (a) revised 61599
247.572–2 (a)(4) and (5) amended; (a)(6) added 61600
249.7002 (b) introductory text and (2) amended 61600
250.201–70 (b)(1) and (2) amended 61600
252.203–7000 Amended 61600
252.203–7001 Amended 61600
252.203–7003 Removed 61600
252.204–7001 Introductory text amended 61600
252.209–7000 Amended 61600
252.209–7005 Redesignated from 252.209–7007 and amended 61600
Amended 7750
252.209–7007 Redesignated as 252.209–7005 61600
Regulations at 60 FR 13074 and 61600 confirmed 7741
252.210–7000 Redesignated as 252.211–7003 61600
252.210–7001 Redesignated as 252.211–7001 61600
252.210–7002 Redesignated as 252.211–7002 61600
252.210–7003 Redesignated as 252.211–7000 61600
252.210–7004 Redesignated as 252.211–7004 61600
252.211–7000 Removed 61600
Redesignated from 252.210–7003; introductory text revised 61600
252.211–7001 Removed 61600
Redesignated from 252.210–7001; introductory text revised 61600
252.211–7002 Removed 61600
Redesignated from 252.210–7002; introductory text revised 61600
252.211–7003 Removed; new 252.211–7003 redesignated from 252.210–7000; introductory text revised 61600
252.211–7004 Removed 61600
Redesignated from 252.210–7004; introductory text revised 61600
252.211–7006 Removed 61600
252.211–7007 Removed 61600
252.211–7008 Removed 61600
252.211–7009 Removed 61600
252.211–7010 Removed 61600
252.211–7011 Removed 61600
252.211–7012 Removed 61600
252.211–7013 Removed 61600
252.211–7014 Removed 61600
252.211–7015 Removed 61600
252.211–7016 Removed 61600
252.211–7017 Removed 61600
252.211–7018 Removed 61600
252.211–7019 Removed 61600
252.211–7020 Removed 61600
252.211–7021 Removed 61600
252.212–7000 Added 61600
252.212–7001 Added 61600
252.215–7001 Removed 61601
252.217–7026 Amended 61601
252.217–7027 Revised 7750
252.219–7003 Amended; heading revised 61601
252.219–7005 Amended 61601
252.219–7009 Regulation at 60 FR 40107 confirmed 61591
252.223–7006 Regulation at 60 FR 13076 confirmed 61591
Amended 61601
252.223–7007 Added 7750
252.225–7007 Amended 130
252.225–7011 Regulation at 60 FR 34471 confirmed 61591
252.225–7012 Amended 61601
252.225–7014 Amended 61602
252.225–7016 Amended 61602
252.225–7017 Regulation at 60 FR 19534 confirmed 61591
252.225–7026 Amended 61602
252.225–7029 Regulation at 60 FR 19534 confirmed 61591
252.225–7040 Introductory text amended 61602
252.227–7013 Amended 61602
252.227–7015 Amended 61602
252.227–7018 Amended 61602
252.227–7037 Amended 61602
252.228–7006 Removed 7750
252.228–7007 Amended; interim 3601
252.231–7001 Removed 61602
252.231–7020 Removed 61602
252.231–7021 Removed 61602
252.232–7004 Regulation at 58 FR 62046 confirmed 7741
Amended 7750
252.237–7020 Removed 61602
252.237–7021 Removed 61602
252.239–7010 Amended 61602

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252.242–7001 Removed 61602
252.247–7023 Amended 61602
252.247–7024 Amended 61603
253.204–70 Revised 61603
253.204–71 Revised 61612
253.213–70 (e)(14) revised 7750
253.215–70 Note amended 7751
Chapter 2 Appendix G amended 7751
Chapter II Appendixes C, F and G amended 61615
Appendix G amended 61620, 61623, 61626, 61627
Regulation at 60 FR 40107 confirmed 61591

Chapter 5—General Services Administration (Parts 500—599)

501.105 Amended; interim (OMB numbers) 6164
501.700 Removed 54955
501.704 Removed 54955
501.704–70 Removed 54955
501.707 Revised 54955
502.101 Amended 54957
504.803 (a)(12) and (25) revised; interim 6165
504.7001–2 (c) revised; (f) amended 54955
505.303–70 (a)(1), (b)(1), (2) and (3)(ii) revised 1150
507.103 Amended; interim 6165
507.104 (c), (d) and (e) revised 54955
508.301—508.370 (Subpart 508.3) Removed 54956
508.705–70 Heading revised 54956
(b) and (d) revised 54956
509.106–70 Removed 54956
510 Heading revised; interim 6165
510.001 Redesignated as 511.001; interim 6165
510.002 Redesignated as 511.002; interim 6165
510.004 Removed; interim 6165
510.004–70 Removed; interim 6165
510.004–71 Removed; interim 6165
510.007 Removed; interim 6165
510.007–70 Removed; interim 6165
510.011 Redesignated as 511.204; interim 6165
510.070 Removed; interim 6165
510.070–1 Removed; interim 6165
510.070–2 Removed; interim 6165
510.070–3 Removed; interim 6165
510.070–4 Removed; interim 6165
510.071 Removed; interim 6165
511 Heading revised; interim 6165
511.2 (Subpart 511.2) Added; interim 6166
511.001 Redesignated from 510.001; interim 6165
511.002 Redesignated from 510.002 and amended; interim 6165
511.003 Removed; interim 6165
511.070 Removed; interim 6165
511.103—511.170 (Subpart 511.1) Added; interim 6165
511.204 Redesignated from 510.011; (c) and (d) removed; (e) through (i) redesignated as (c) through (g); (a), (b) and new (c) through new (g) amended; interim 6165
512 Heading revised; interim 6166
512.101 Redesignated as 512.401; interim 6166
512.101—512.104 (Subpart 512.1) Redesignated as 512.401—512.404 (Subpart 512.4); interim 6166
512.104 Redesignated as 512.404; interim 6166
512.203—512.209 (Subpart 512.2) Added; interim 6166
512.301—512.302 (Subpart 512.3) Added; interim 6166
512.401 Redesignated from 512.101; interim 6166
512.404 Redesignated from 512.104; (a)(2) revised; (a)(3), (4) and (5) redesignated as (a)(4), (5) and (6); (a)(1), new (4), new (5), new (6) and (b) amended; new (a)(3) added; interim 6166
514.201–70 Revised; interim 6167
514.408–1 (a) revised 54957
515.106–70 Revised; interim 6167
515.412 Removed; interim 6167
515.414–70 Revised; interim 6167
515.501 Revised 54956
515.804 Heading revised; interim 6167
515.804–3 Removed; interim 6167
515.804–6 Revised; interim 6167
516.301—516.306 (Subpart 516.3) Removed 54956
516.403 Removed 54956
516.502–1 Removed 54956
519 Heading revised 1150
519.001 Revised 1150
519.201 Revised 1150

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519.202–2 Revised 1151
519.202–5 Removed 1151
519.502–1 Removed **54956**
519.502–70 (a) and (d) revised 1151
519.503 (b) amended 1151
519.602–3 (a) and (b) amended 1151
519.705—519.708 (Subpart 519.7) Heading revised 1151
519.708 Revised 1151
519.803–70 Revised 1151
520 Removed 1151
525.901 (Subpart 525.9) Added **54957**
528.103–2 (a) revised **54956**
528.106–1 Removed **54956**
532.112 Added 1151
532.112–1 Added 1151
532.705–1 Revised 1151
533.104 (a) heading, (c) and (d) revised; (a)(1), (3)(v), (5) and (b) introductory text and (5) introductory text amended 1151
533.105 (a)(1) introductory text amended 1152
536.302–70 Removed **54956**
538 Heading revised; interim 6168
538.000 Removed; interim 6169
538.270 Added; interim 6169
538.271 Added; interim 6169
539.000 Removed; interim 6169
541 Added **54956**
542.703 (Subpart 542.7) Added **54957**
543.205 (c) added; interim 6169
546.710 (a)(2) revised; interim 6169
549.111 Revised **54956**
552.209–73 Amended; interim 6169
552.210–70 Redesignated as 552.211–71; interim 6169
552.210–71 Redesignated as 552.211–72; interim 6169
552.210–72 Redesignated as 552.211–79; interim 6169
552.210–73 Redesignated as 552.211–80; interim 6169
552.210–74 Redesignated as 552.211–70; interim 6169
552.210–75 Redesignated as 552.211–73; interim 6169
552.210–76 Redesignated as 552.211–74; interim 6170
552.210–77 Redesignated as 552.211–75; interim 6170
552.210–78 Redesignated as 552.211–76; interim 6170
552.210–79 Redesignated as 552.211–77; interim 6170
552.211–1 Redesignated from 552.212–1 and amended; interim 6170
552.211–70 Removed; new 552.211–70 redesignated from 552.210–74 and amended; interim 6169
552.211–71 Redesignated from 552.210–70 and amended; interim 6169
552.211–72 Redesignated from 552.210–71 and amended; interim 6169
552.211–73 Redesignated from 552.210–75 and amended; interim 6169
552.211–74 Redesignated from 552.210–76 and amended; interim 6170
552.211–75 Redesignated from 552.210–77 and amended; interim 6170
552.211–76 Redesignated from 552.210–78 and amended; interim 6170
552.211–77 Redesignated from 552.210–79 and amended; interim 6170
552.211–78 Added; interim 6170
552.211–79 Redesignated from 552.210–72 and amended; interim 6169
552.211–80 Redesignated from 552.210–73 and amended; interim 6169
552.211–81 Redesignated from 552.212–70 and amended; interim 6170
552.211–82 Redesignated from 552.212–71 and amended; interim 6170
552.211–83 Redesignated from 552.212–72 and amended; interim 6170
552.211–84 Redesignated from 552.212–74 and amended; interim 6170
552.212–1 Redesignated as 552.211–1; interim 6170
552.212–70 Redesignated as 552.211–81; interim 6170
Added; interim 6170
552.212–71 Redesignated as 552.211–82; interim 6170
Added; interim 6171
552.212–72 Redesignated as 552.211–83; interim 6170
Added; interim 6171
552.212–73 Added; interim 6171
552.212–74 Redesignated as 552.211–84; interim 6170
552.215–70 Amended; interim 6172
552.215–71 Added; interim 6172
552.215–72 Added; interim 6172
552.216–71 Amended; interim 6172
552.219–9 Removed 1152
552.219–16 Removed 1152
552.219–72 Revised 1152
552.219–73 Amended 1152
552.219–74 Amended 1152
552.238–74 Amended; interim 6172
552.243–72 Added; interim 6172
552.246–73 Amended; interim 6173
552.253–70 Removed; interim 6173
570.308–2 (c) amended; interim 6173
570.602–2 (c)(3) and (d) amended; interim 6173

Chapter 8—Department of Veterans Affairs (Parts 800—899)

801 Authority citation revised 1527
801.602 Revised 1526
802 Authority citation revised 1527
802.100 (b) revised; (c) added 1527
803 Authority citation revised 1527
803.203 (b) amended 1527
803.303 Amended 1527
806 Authority citation revised 1527
806.501 (a) amended 1527

Chapter 9—Department of Energy (Parts 900—999)

915.804–70 Regulation at 60 FR 18032 confirmed **52632**
916.301–3 Regulation at 60 FR 18032 confirmed **52632**
970.5204–17 Amended **63648**
970.5204–24 Regulation at 60 FR 18032 confirmed **52632**
970.5204–40 Added **66512**
970.7104–11 Regulation at 60 FR 18032 confirmed **52632**
970.7310—970.7330 (Subpart 970.73) Added **66515**

Chapter 12—Department of Transportation (Parts 1200—1299)

1213.7100—1213.7101 (Subpart 1213.71) Added 391
1215.413–2 (f) revised; interim **55802**
Regulation at 60 FR 55802 confirmed 274
1237.700—1237.7003 (Subpart 1237.70) Added 392
1252.217–81 Amended; interim **55802**
Regulation at 60 FR 55802 confirmed 274
1252.237–71 Added 392
1252.237–72 Added 392
1253.303 (Subpart 1253.3) Regulation at 60 FR 55802 confirmed 274
Appendix amended 393
1253.303 (Subpart 1253.3) Appendix amended **55802**

Chapter 14—Department of the Interior (Parts 1400—1499)

1403.101—1403.101–3 (Subpart 1403.1) Removed 5519
1403.203—1403.203–70 (Subpart 1403.2) Removed 5519
1403.570—1403.570–3 (Subpart 1403.5) Added 5519
1415.413—1415.413–70 (Subpart 1415.4) Removed **53279**
1415.506 (Subpart 1415.5) Removed **53279**
1415.607—1415.608 (Subpart 1415.6) Removed **53279**
1415.803—1415.804–3 (Subpart 1415.8) Removed **53279**
1415.902—1415.905–70 (Subpart 1415.9) Removed **53279**
1425.202 Removed 5520
1425.204 Removed 5520
1426 Added **53279**
1428 Revised **53280**
1452.203–70 Added 5520
1452.204–71 Redesignated as 1452.226–70 ..... **53280**
1452.204–72 Redesignated as 1452.226–71 ..... **53280**
1452.226–70 Redesignated from 1452.204–71 ..... **53280**
1452.226–71 Redesignated from 1452.204–72 ..... **53280**
1452.228–70 Revised **53280**
1452.228–73 Introductory text revised **53280**

Chapter 18—National Aeronautics and Space Administration (Parts 1800—1899)

1815.413–2 Revised 5313
1815.804 Heading revised **53879**
Heading correctly revised **56125**

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1815.804–1 Redesignated from 1815.804–3; heading, (a)(1), (2), (b), (c), (d) and (e)(3) revised; (a)(3)(i) amended 53879
Heading, (a), (b) and (c) correctly revised 56125
1815.804–2 Added 53879
(b) correctly added 56126
1815.804–3 Redesignated as 1815.804–1 53879
1815.807–70 (d)(1) and (2) amended 53879
1815.807–71 Amended 53880
1815.807–72 (a) revised 53880
1815.870–1 (a) revised; (b) amended 53880
1815.970 (b) amended 5314
1815.970–2 (f)(1) heading removed 53880
1815.970–3 (a) amended; (b) revised; (c) removed 53880
1815.7002 Amended 5314
1816.203–4 (c) amended 53880
1816.505 Added 5314
1819 Heading revised 5314
1819.705–4—1819.706–70 (Subpart 1819.7) Heading revised 5314
1819.706–70 (b) amended 53881
1822.103–4 Revised 52121
1823.570—1823.570–4 (Subpart 1823.5) Added 7225
1823.7004 (c)(2), (3) and (4) revised 5314
1825.401 Added 6577
1827.405 (c) revised 5314
1835.003 Revised 5314
1837.204 Added 5314
1852.215–70 Amended 53880
1852.219–75 Amended 53881
1852.223–70 Amended 5315
1852.223–74 Added 7226
1852.227–15 Redesignated as 1852.227–17 5315
1852.227–17 Redesignated from 1852.227–15 5315
1852.243–70 Amended 53880
1870.102 Appendix A amended 53880
1871.000 Revised; eff. 10–1–95 through 6–30–97 51368
1871.101 Amended; eff. 10–1–95 through 6–30–97 51368
1871.103 Revised; eff. 10–1–95 through 6–30–97 51368
1871.104 (a) revised; (g) and (h) added; eff. 10–1–95 through 6–30–97 51369
1871.105 (d), (e) and (f) revised; eff. 10–1–95 through 6–30–97 51369
1871.301 Amended; eff. 10–1–95 through 6–30–97 51369
1871.302 Revised; eff. 10–1–95 through 6–30–97 51369
1871.401 Amended; eff. 10–1–95 through 6–30–97 51369
1871.401–1 (b)(2) amended; eff. 10–1–95 through 6–30–97 51369
1871.401–5 (b)(1) revised; eff. 10–1–95 through 6–30–97 51369
1871.401–6 Added; eff. 10–1–95 through 6–30–97 51369
1871.406 Heading revised; eff. 10–1–95 through 6–30–97 51369
1871.406–1 Revised; eff. 10–1–95 through 6–30–97 51370
1871.406–3 Revised; eff. 10–1–95 through 6–30–97 51370
1871.406–4 Revised; eff. 10–1–95 through 6–30–97 51370
1871.505 Revised; eff. 10–1–95 through 6–30–97 51370
1871.506 Revised; eff. 10–1–95 through 6–30–97 51370
1871.605 (a)(1) amended; eff. 10–1–95 through 6–30–97 51370

Chapter 35—Panama Canal Commission (Parts 3500—3599)

3509.400—3509.471 (Subpart 3509.4) Revised; interim 3846

Chapter 99—Cost Accounting Standards Board, Office of Federal Procurement Policy, Office of Management and Budget (Parts 9900—9999)

9903.202 Illustration revised 7620
9904.404–40 (b)(1) revised 5522
9904.404–50 (d) revised 5523
(j)(5) added 5523
9904.404–63 Revised 5523
9904.409–63 Revised 5523

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TITLE 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation (Parts 1—99)

1.4 (c)(6) and (7) amended; (c)(8) added 62762
1.22 (a) amended 62762
1.23 (n) removed 62762
1.46 (a) added 56532
(a) removed 63450
(zz) added 3332
1.47 (u), (v) and (w) added 62762
1.52 (d) and (e) stayed 56532
(d) and (e) added 63450
1.66 (p) added 63648
1.68 Removed 62762

Chapter I—Research and Special Programs Administration, Department of Transportation (Parts 100—199)

107.307 (a) revised; (b) amended 7183
107.309 (a) amended 7183
107.310 Added 7183
107.311 (a) revised 7184
171.14 (a)(2)(iii) added 7959
173 Petition denied 56957
178.350 Corrected 54409
192.16 (a) revised 63451
199 Guidelines and interpretations availability notice 5722

Chapter II—Federal Railroad Administration, Department of Transportation (Parts 200—299)

209 Authority citation revised 53136
209.321 (a) revised; interim 53136
219 Appendix B revised 61665
240 Authority citation revised 53136
240.7 Amended; interim 53136
240.119 (d)(4)(ii) amended; interim 53136
240.203 (a)(1) revised; interim 53136
240.205 Heading revised; interim 53136
240.217 (c)(1) revised; interim 53137
240.307 (a) revised; interim 53137

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TITLE 49 Chapter II—Con.

240.407 Revised; interim 53137
240.409 Revised; interim 53137
240.411 (a) revised; interim 53138
240 Appendix A amended; interim 53138
251 Removed 4938
258 Removed 4938

Chapter III—Federal Highway Administration, Department of Transportation (Parts 300—399)

382.107 Introductory text amended 1843
384 Authority citation revised 57545
384.231 (b)(2) revised 57545
385.17 (a) amended 1843
391.49 (b) amended 1843
393.25 (b) amended 1843
393.42 (b)(2) amended 1843
397.1—397.19 (Subpart A) Heading added 1843
350—399 (Subchapter B) Appendix B amended 1843

Chapter V—National Highway Traffic Safety Administration, Department of Transportation (Parts 500—599)

531.5 (b) introductory text added; (b)(2) revised 4370
553 Revised 62222
Authority citation revised 63651
553.39 Revised 63651
564.5 (a) and (c) revised 58523
571 Workshop 53280
Authority citation revised 58524
Reconsideration petition 63651
Reconsideration petition 1152
Petition denied 4370
Clarification 4938
571.101 Table 2 revised 63977
571.105 Amended 63979
571.108 Amended 57952, 58524
571.121 Amended 63979
Amended; eff. 3-1-97 5954
Amended 6175
571.214 Amended 57839
571.223 Added; 1-26-98 2030
571.224 Added; 1-26-98 2035
571.303 Amended 57948
571.304 Amended 57948
572 Workshop 53280
573.5 (c)(8)(ii), (iii) and (iv) removed; (c)(8)(v) and (vi) redesignated as (c)(8)(iii) and (iv) and revised; new (c)(8)(ii) added 278
573.7 (d) removed; (e) redesignated as (d) and revised 278
575 Reconsideration petition 2946
576.5 Revised 278
576.6 Revised 278
577.5 (h) removed; (i) redesignated as (h) 279
586 Authority citation revised 57839
586.1 Revised 57839
586.3 Revised 57839
586.4 (a) revised 57839
586.7 Removed 57839
586.8 Revised 57839
591 Authority citation revised 57954
591.4 Introductory text revised 57954
591.6 (c) revised 57954
591 Appendixes A and B revised 57954

Chapter VI—Federal Transit Administration, Department of Transportation (Parts 600—699)

659 Added 67046
660 Removed 65597
661 Authority citation revised 6302
661.3 Amended 6302
661.5 Revised 6302
661.7 (h) added 6302
661.10 Removed 6302
661.11 Revised 6302
661.18 Added 6302

Chapter VIII—National Transportation Safety Board (Parts 800—899)

800.2 Revised 61488
800.3 Revised 61488
800.4 (a) revised 61489
800.5 Revised 61489
800.21 Revised 61489
800.22 Revised 61489
800.23 Revised 61489
800.24 Revised 61489
800.25 Revised 61489
800.26 Revised 61490
800.27 Revised 61490
800.28 Removed 61490

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Chapter X—Surface Transportation Board, Department of Transportation (Parts 1000—1399)

Chapter X Heading revised 1842
1039 Authority citation revised 7426, 7427
1039.11 (a) amended 7426
1039.18 Removed 7427
1043.1 (a)(1) and (b) amended 63981
1134 Removed 7427
1135 Authority citation revised 7427
1135.1 (h) removed 7427
1138 Removed 7427
1140 Removed 7427
1145 Removed 7427
1153 Removed 7428
1160.1 (h) added 63982
1160.3 (a) amended 63982
1160.4 (a)(1), (d) and note amended 63982
1160.5 (a)(8) added 63982
1175 Removed 7428
1314 Removed 7429

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14 Authority citation revised 3851
14.12 (k) and (l) amended; (m) added 3851
15.3 Amended 2091
15.32 Added 2091
15.33 (b) revised 2093
17 Notice 56533
17.12 (h) amended 4373
23 Authority citation revised 2456
23.23 Correctly revised 52450
(d) introductory text revised; (f) table amended 6795
23.53 Revised 2456
25.12 (a) amended 62040
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32.51 Amended 62045
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100.25 (k)(11) table, (12) table, (13)(iii) table, (17)(iii) table, (20)(iii)(C) table, (22)(ii)(C) table amended 5688
(k)(25)(iii)(B) table amended 5689

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216.3 Amended 7429
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217 Technical correction 6064
217.12 Amended 1848
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228.41—228.48 (Subpart E) Added; eff. 11–13–95 through 11–13–00 53145
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296.2 Amended 6322
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296.5 (a)(2) amended; (a)(3) removed; (a)(4) redesignated as (a)(3); (e)(6)(ii) amended 6322
296.6 (b)(1) amended 6322
296.13 Revised 6322
296.14 (a) introductory text revised 6323

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301 Inseason adjustments 51735, 54818
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611 Specifications and fishery management measures 61492
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620.7 (i) added; interim 3602
625 Quotas 53281, 57685, 57686, 64349, 67339
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625.20 (a) introductory text revised 57957
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630 Inseason adjustments 58245
630.24 (d)(5) corrected 51934
638 Temporary regulation 62762
Heading revised 66927
638.1 (a) amended 66927
638.2 Amended 56536
638.4 (a)(1)(v) amended 66927
638.7 (m), (n) and (p) revised 56536
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638.21 Revised 66927
638.23 (a)(1) and (b)(1) amended; (c) revised 66927
638.26 Revised 56536
638.27 (a) and (c) amended; (b)(2) revised 66927
641 Temporary regulations 55805
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Regulation at 60 FR 61206 eff. date delayed 7753
641.2 Amended 61206, 64355
641.4 (a)(2) and (i) amended; (q) added 61207
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641.5 (d)(2) revised; (d)(3) redesignated as (d)(4); new (d)(3) added 61207
(c) amended 64354
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641.7 (ee) through (kk) added; (g), (r), (s) and (bb) revised 61207
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(nn) through (qq) added; interim 19
Regulations at 60 FR 61207 and 64354 eff. date delayed; (nn), (oo) and (pp) revised; eff. 2–23–96 through 5–29–96; (qq) removed 7754
641.10 Added 61207
(b)(4), (6) and (7) amended 64355
Regulation at 60 FR 61207 eff. date delayed 7754
641.23 (d)(2)(iii) amended 64355
641.24 (a)(2) and (3) redesignated as (a)(3) and (4); new (a)(2) added; new (a)(4) amended; (g) revised 61209
(g) removed 64354
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641.25 Introductory text amended 64355
641.27 (a) amended 64355
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642.24 (a)(1)(ii)(A) revised 57689
642.25 (a)(2) and (b)(2) amended 57689
642.27 (b) amended 57689
642.28 (a)(2) and (c) amended; (b)(1), (2) and (e) introductory text revised 57689
649.4 (b)(6) added 62225
650.4 Introductory text revised; (a)(10) added 62225
651 Figure 4 amended 55210
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651.4 (a) introductory text revised; (a)(10) added 62226
651.9 (e)(40) correctly added 51370
651.32 (b)(4) and (5) revised 55207
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652 Temporary regulations 62226
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672.7 (h) heading and (2) revised 63657
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672.20 (a)(1), (c)(1) heading, (2)(i) heading, (ii) heading, (e)(1), (h)(2), (i)(4) and (j) revised; (c)(1)(i)(A) heading, (i)(1) heading, (2) heading, (3) heading and (6) heading added; (g)(1) and (3) amended 5622
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672.22 (d) removed 5623
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675.7 (i) heading, (2) and (j) heading revised 63658
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675.24 (e) removed; (f), (g) and (h) redesignated as (e), (f) and (g); (a)(4), (c)(1) heading, (2) heading, (3) heading, (d)(1) heading, (2) heading, new (f)(2) heading and new (3) heading added; (b), new (e) and new (f) heading and new (4) revised 5642
675.25 (b) heading revised; interim 20
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676.20 (a)(1) and (2) added 57546
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676.21 (h) added 1845
676.22 (a) revised 1845
676.24 (i)(3) revised 1845
676.25 Regulation at FR 6450 confirmed 61498
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677.6 (d)(3)(ii)(C) removed; (b)(2) and (d)(3)(ii)(D) redesignated as (b)(3) and (d)(3)(ii)(C); new (b)(2) added; new (b)(3) heading revised 66757
677.10 (a) heading, (1)(ii)(A) through (F), (b) heading and (g) introductory text revised; (a)(1)(i)(C) through (F) redesignated as (a)(1)(i)(D) through (G); new (a)(1)(i)(C) and (2)(iii) added 66758
677.11 (a)(4) revised 66758
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The Parallel Table of Authorities and Rules is in the CFR Index and Finding Aids revised as of January 1, 1995. Additions during 1995 are in the December 1995 LSA (List of CFR Sections Affected).

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The Parallel Table of Authorities and Rules is in the CFR Index and Finding Aids revised as of January 1, 1995. Removals during 1995 are in the December 1995 LSA (List of CFR Sections Affected).

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INQUIRIES AND SUGGESTIONS

Rob Sheehan was Chief Editor of the LSA. The LSA was prepared under the direction of Richard L. Claypoole, assisted by Maxine L. Hill. INQUIRIES, telephone 202–523–5227.

SUGGESTIONS concerning this and other publications of the Office are welcomed. Please send your suggestions to Richard L. Claypoole, Director, Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408.

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[1]Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2]The July 1, 1985 edition of 32 CFR Parts 1 to 189 contains a note only for Parts 1 to 39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1 to 39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3]The July 1, 1985 edition of 41 CFR Chapters 1 to 100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the 11 CFR volumes issued as of July 1, 1984, containing those chapters.

[4]No amendments to this volume were promulgated during the period April 1, 1990 through March 31, 1994. The CFR volume issued as of April 1, 1990 should be retained.

[5]No amendments to this volume were promulgated during the period July 1, 1991 through June 30, 1994. The CFR volume issued as of July 1, 1991 should be retained.

[6]No amendments to this volume were promulgated during the period January 1, 1993 to December 31, 1993. The CFR volume issued as of January 1, 1993 should be retained.

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List of CFR Sections Affected, 1973-1985		
(Titles 28 through 41) Vol. III	28.00	1990
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LSA (List of CFR Sections Affected):		
Yearly subscription	26.00	
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Yearly subscription	24.00	
CFR Index and Finding Aids	38.00	1994

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1201 Appendixes II and III revised 4586

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1.132 Amended 11503
1.133 (b) heading revised; (b)(2) redesignated as (b)(3); new (b)(2) added 11503
1.135 Heading revised; existing text designated as (a); new (a) heading and (b) added 11503
1.136 (a) amended 11504
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1.141 (a) amended; (e) redesignated as (e)(1); (e)(2) added 11504
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550.2 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
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(a)(9) and (10) amended; (a)(11) added 5939
(a)(3) and (4) corrected 13689
200.30–9 Revised 32794
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201.431 (a) corrected 46500
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203.3 Amended 32823
203.7 (b) amended 32823
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210.6–07 Amended 38923
211 Staff Accounting Bulletin No. 94 added 20022
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228.10 (f) added 32824
228.501 (a)(4) revised 26613
228.502 Introductory text and (f) revised; (a)(1) heading removed; (a)(1), (b) and (c) amended 26613
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229.503 (b) and (c) revised; authority citation removed 26614
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229.601 (b)(24) amended 26615
229.801 Guide amended 26615
230 Authority citation amended 26615
230.110 (a) amended; (d) added 26615
230.111 Existing text designated as (a); (b) added 26615
230.134 (e) added; eff. 6–3–96 13975
230.402 (d) and (e) added 26615
230.406 (e), (g), (h)(1) and (2) amended 32824
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230.411 (b)(4) and (c) amended 32824
230.424 (b)(7) amended 26615
230.429 Authority citation removed 26615
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239.11 Form S–1 amended 26619
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239.12 Form S–2 amended 26619
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239.15A Form N–1A amended 38923, 38924
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239.17b Form N–4 amended 38925
239.18 Form S–11 amended 26620
239.31 Form F–1 amended 26620
239.32 Form F–2 amended 26621
239.33 Form F–3 amended 26621
240 Phase–in period extension 40994
240.3a12–8 (a)(1)(xiv) and (xv) amended; (a)(1)(xvi) added 62326

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(a)(1)(xv) and (xvi) amended; (a)(1)(xvii), (xviii) and (xix) added 10274
240.12b–11 (d) added 26622
240.12b–23 (b) amended 32825
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240.12f–1 (a)(5) and (6) redesignated as (a)(6) and (7); heading, (a) introductory text and new (6) revised; new (a)(5) added 20896
240.12f–2 Revised 20896
240.12f–3 (b) revised 20896
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240.14a–101 Note D1 amended 32825
240.14d–1 (d) added 26622
240.15c2–8 (b), (c) and (d) amended; (j) added; authority citation removed 26622
240.15c6–1 (a) and (b) amended; (b)(2) removed; (b)(3) redesignated as (b)(2); (c) and (d) added 26622
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260.7a–29 (a) amended 32825
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270.24e–2 (a)(1) amended 47045
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270.31a–1 (b)(1) amended; eff. 6–3–96 13983
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404.2 (b) and (c) redesignated as (c) and (d); new (b) added; new (c) revised; 20399
405 Authority citation revised 20400
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449 Authority citation revised 18735
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449.5 Form G–405 amended 18734

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2.64 Removed; eff. 4–26–96 13420
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11.1 (c)(3)(i), (iii) and (i) revised 57925
11 Appendix A revised 55993
34 Order 22503
34.4 (e) ammended 27882
35 Order 22503, 39251
35.23 Regulation at 59 FR 65938 confirmed 22260
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154.208 (c) revised; (d) added; eff. 4–10–96 9628
154.301 (c) revised; eff. 4–10–96 9628
154.303 (c)(2) revised; eff. 4–10–96 9629
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154.312 (d)(1), (k)(1), (15)(iv) and (o)(1)(iv) revised; eff. 4–10–96 9629
154.501 (a)(1) revised; eff. 4–10–96 9629
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157.103 (d)(8) revised; eff. 4–26–96 13421
157.208 (d) table revised 8213
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157.301 Removed; eff. 4–26–96 13421
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284.2 (b) revised 53072
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284.7 (b) removed; (c) and (d) redesignated as (b) and (c); new (c)(5)(iv) removed; (c)(6) added 53072
284.8 (b)(4)(iii) and (5)(i) amended 53072
284.10 Removed 53072
284.11 (d)(1), (2) heading and designation removed 53072
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284.102 (e) revised 53072
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284.106 (b) through (f) removed; (g) redesignated as (b); (a) and new (b) introductory text revised; new (c) added 53072
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284.122 (e) removed 53073
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284.126 (b), (e) and (f) removed; (c) and (g) redesignated as (b) and (c); (a) and new (b) revised 53073
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284.161—284.165 (Subpart E) Removed 53073
284.221 (b)(1) introductory text revised; (d)(1) and (f)(2) amended 53073
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284.223 Heading revised; (b) through (f) removed; new (b) added 53074
284.224 Heading, (b)(3), (c) introductory text, (d)(1), (e)(1) and (g) revised; (e)(5)(i) redesignated as (e)(5); (e)(5)(ii) removed 53074
284.225 Removed 53074
284.226 Removed 53074
284.227 (d) removed; (e), (f) and (g) redesignated as (d), (e) and (f) 53074
284.243 (h) revised 16983
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284.266 (b) and (c) removed; (d) redesignated as (b) 53074
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343 Authority citation revised 19505
343.1 (a), (b) and (d) through (h) removed; (c) and (i) redesignated as (a) and (b) 19505
343.5 Revised 19505
357 Authority citation revised 53117
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375.302 (v) and (w) added 62328
375.307 Heading, (b)(1), (5), (f)(3) and (5) revised; eff. 4-26-96 13421
375.308 (a)(4) added 62328
375.309 (g) added 62329
381.302 (a) amended 31390
381.303 (a) amended 31390
381.304 (a) amended 31390
381.305 (a) amended 31390
381.403 Amended 31391
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381.505 (a) amended 31391
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382 Order 22503
382.102 (c) revised 53117
382.103 (c) amended; eff. 4-26-96 13421
385 Order 22503
385.503 (a) revised 19505
385.504 (b)(7) revised 19505
385.601 (a) revised 19505
385.602 (b)(3) and (f)(4) added; (h)(1)(ii) introductory text, (iii), (2)(iii) and (iv) revised 19505
385.604—385.606 (Subpart F) Added 19506
385.710 (d) added 19508
385.2011 (b), (c)(4) and (d) revised 53074

Chapter VIII—Susquehanna River Basin Commission (Parts 800—899)

803 Revised 31394
804 Added 31401
805 Added 31401

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Chapter XIII—Tennessee Valley Authority (Parts 1300—1399)

1301.1 (b) introductory text, (c)(1)(i), (2)(i), (ii) and (3)(ii) revised; (c)(2)(iii) added 38479
1301.24 (d) revised 2111
1303 Added 6110

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4 Footnotes 2, 21, 29, 63, 64, 66, 68, 69, 73, 90, 93, 94 and 100 removed; interim 50010
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4.1 (c)(2) amended; interim 50010
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4.2 (a) amended; interim 50021
4.5 (a) amended; interim 50021
4.6 (a) and (b) amended; interim 50021
4.7 (b) and (d)(2) amended; interim 50021
4.8 Revised 2414
4.9 (c) amended; interim 50010
(a), (b) and (c) amended; interim 50021
4.12 (a)(1) through (5) and (b) amended; interim 50021
4.13 (c) amended; interim 50021
4.14 (c)(1) and (2) revised; interim 50010
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(b)(2)(ii)(A) amended; interim 50022
4.15 (a) and (c) amended; interim 50022
4.16 (a) and (b) amended; interim 50022
4.20 (c) table amended 48028
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4.38 Amended; interim 50022
4.39 (e) amended; interim 50022
4.41 (b), (c) and (d) amended; interim 50022
4.60 (d) amended; interim 50022
4.61 (b)(6) and (19) amended; interim 50010
(b) introductory text amended; interim 50022
4.65a Amended; interim 50022
4.66 (a) introductory text amended; interim 50022
4.66a Amended; interim 50022
4.66b Amended; interim 50022
4.66c Amended; interim 50022
4.68 (a) amended; interim 50022
4.72 (a) amended 35838
Amended; interim 50022
4.73 Amended; interim 50022
4.74 Amended; interim 50022
4.75 (a), (b) and (c) amended; interim 50022
4.80 (b) amended; interim 50022
4.80a (d) amended; interim 50022
4.80b (b) amended; interim 50022
4.81 (d) and (e) amended; interim 50022
4.82 (b) and (d) amended; interim 50022

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4.85 (a) through (e) amended; interim 50022
4.87 (b), (c), (d) and (g) amended 50022
4.88 (a) and (b) amended; interim 50022
4.89 (b) and (d) amended; interim 50022
4.91 Amended; interim 50022
4.93 (c) amended; interim 50022
4.94 (c) and (d) form amended; interim 50022
4.96 (f) and (h) amended; interim 50022
4.97 (c) and (d) amended; interim 50022
4.98 (a)(1) and (d) amended; interim 50022
(e) amended; interim 50023
4.99 (c) amended; interim 50023
4.100 (a), (c) and (e) amended; interim 50023
7 Authority citation revised 18348
7.8 (b)(1) and (2) amended; interim 50023
10 Authority citation amended 18543, 18990, 46196, 46361
Technical correction 6110
Authority citation amended 6777, 7989
10.1 (b) and (d) amended; interim 50023
10.3 (a) introductory text and (c)(3) amended; interim 50023
10.5 (d), (e), (g) and (h) amended; interim 50023
10.6 Amended; interim 50023
10.7 (c) and (d) amended; interim 50023
10.8 Regulation at 58 FR 69470 confirmed; (a) introductory text revised 46361
(b), (c) and (d) amended; interim 50023
10.8a (c) amended; interim 50023
10.9 (b), (c) and (d) amended; interim 50023
10.21 Amended; interim 50023
10.24 (b) through (e) amended; interim 50023
10.25 Added 46196
(a) corrected 55995
10.26 Added 46197
10.31 Regulation at 58 FR 69470 confirmed 46361
(a)(3)(ii), (b) and (f) amended; interim 50023
(h) amended; interim 2910
10.36 (a) amended; interim 50023
10.36a Regulation at 58 FR 69470 confirmed 46361
10.37 Amended; interim 50023
10.38 (a) and (g) amended; interim 50023
10.39 (a), (b), (d)(1), (2), (e) introductory text, (1), (2), (3), (f) and (h) amended; interim 50023
10.40 (b) amended; interim 50023
10.41a (a)(2) and (e) amended; interim 50023
10.41b (h) amended; interim 50023
(b) through (h) redesignated as (c) through (i); new (b) added 7989
10.43 (a) amended; interim 50023
10.48 (c) and (d) amended; interim 50023
10.49 (b) and (d) amended; interim 50023
10.52 Amended; interim 50023
10.53 (e)(5) and (g) amended; interim 50023
10.56 (e) amended; interim 50023
10.59 (f) table amended 28040
(a)(3) and (e) amended; interim 50023
(e) amended 52294
10.60 (f) and (h) amended; interim 50023
(a) and (d) amended 52295
(d) amended; interim; eff. 4-8-96 6777
10.61 Amended; interim 50023
Amended 52295
10.62 (c)(1), (e) and (f) amended; interim 50023
(a) introductory text and (b) amended 52295
(a) amended; interim; eff. 4-8-96 6777
10.62a (b) amended; interim 50023
(a) and (b) amended 52295
10.62b Added; interim; eff. 4-8-96 6778
10.64 (a) introductory text and (b) amended; interim 50023
10.65 (c)(2) amended; interim 50023
10.66 Regulation at 58 FR 69470 confirmed 46361
(a)(3), (b) and (c)(1) amended; interim 50023

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10.67 Regulation at 58 FR 69470 confirmed 46361
(a)(3), (b) and (c) amended; interim 50023
10.68 (a) amended; interim 50023
10.70 (a) amended; interim 50023
10.71 (c) and (e) amended; interim 50023
10.75 Amended; interim 50023
10.80 Amended 52295
10.81 (a) amended; interim 50023
(b) amended; interim 50024
(b) amended 52295
10.83 (a) amended; interim 50024
10.84 (d) and (e) amended; interim 50024
10.101 (c) and (d) amended; interim 50024
10.102 (a) and (d) amended; interim 50024
(b) introductory text amended 52295
10.104 Amended; interim 50024
10.107 (b) and (c) amended; interim 50024
10.108 Amended; interim 50024
10.121 (b) amended; interim 50024
10.134 Amended; interim 50024
10.151—10.153 Regulation at 59 FR 30293 confirmed 18990
10.151 Regulation at 59 FR 30293 confirmed and amended 18990
Corrected 37825
Amended; interim 50024
10.152 Regulation at 59 FR 30293 confirmed 18990
Amended; interim 50024
10.153 Regulation at 59 FR 30293 confirmed 18990
10.172 Amended; interim 50024
10.173 Amended; interim 50024
10.174 Amended; interim 50024
10.175 (e)(2) amended 18543
(d)(2) amended; interim 50024
10.177 (b) amended; interim 50024
10.179 (b)(1) amended; interim 50024
10.183 (c)(1), (2), (d)(2) and (e); interim 50024
10.192 Amended; interim 50024
10.193 (c)(2) amended; interim 50024
10.194 Amended; interim 50024
10.195 (d) and (e) redesignated as (e) and (f); new (d) added 46197
(d) corrected 55995
10.196 (b) amended; interim 50024
10.198 (a)(1)(i), (ii), (b) and (c) amended; interim 50024
10.307 (c), (e) introductory text and (2) amended; interim 50024
10.309 Amended; interim 50024
11 Authority citation revised 18348
11.1 (a) and (c) amended; interim 50024
11.2 (a) amended; interim 50024
11.6 Amended; interim 50024
11.12 (b) through (f) amended; interim 50024
11.12a (b) through (f) amended; interim 50024
11.12b (b) through (f) amended; interim 50024
11.13 (c) amended; interim 50024
12 Authority citation amended 18348
12.8 (b) amended; interim 50024
12.9 Amended; interim 50024
12.11 (a) and (b) amended; interim 50024
12.12 Amended; interim 50024
12.14 Amended; interim 50024
12.16 (b) and (c) amended; interim 50024
12.17 Amended; interim 50024
12.19 Amended; interim 50024
12.20 Amended; interim 50024
12.22 Amended; interim 50024
12.23 (a) through (d) amended; interim 50024
12.24 (c) amended; interim 50024
12.26 (e), (f), (h) and (l) amended; interim 50024
12.28 Amended; interim 50024
12.29 (d) amended; interim 50024
12.33 (d) amended; interim 50024
12.37 (a) amended; interim 50024
12.39 (b)(3) and (d)(2) amended; interim 50024
(b) heading revised; (c) and (d) redesignated as (d) and (e); (b)(4) and new (c) added 54941
12.42 (a), (b), (c) and (e) amended; interim 50024
12.43 (c) amended; interim 50024
12.44 ended; interim 50025
12.45 Amended; interim 50025
12.48 (d) amended; interim 50025
12.61 (b) amended; interim 50025
12.73 (c)(2), (j) and (k) amended; interim 50025

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12.80 (b)(1) introductory text, (iii), (d), (e), (f) and (h) amended; interim 50025
12.85 (c)(1), (6), (d)(7), (e)(1), (2) and (f) amended; interim 50025
12.91 (c), (d) and (f) amended; interim 50025
12.99 (c)(2) amended; interim 50025
12.103 Amended; interim 50025
12.104b (a) revised 47467
12.104c (a), (b) and (c) amended; interim 50025
12.104d Amended; interim 50025
12.104e (a) introductory text amended; interim 50025
12.107 Amended; interim 50025
12.108 Amended; interim 50025
12.109 (a) amended; interim 50025
12.113 Amended; interim 50025
12.114 Amended; interim 50025
12.115 Amended; interim 50025
12.116 Amended; interim 50025
12.117 (a) and (b) amended; interim 50025
12.121 (a) introductory text amended; interim 50025
12.122 (a) introductory text, (b) introductory text, (1), (2), (c) and (d) amended; interim 50025
12.123 (a), (b), (c) introductory text and (2) amended; interim 50025
12.124 (b) introductory text amended; interim 50025
12.125 Introductory text amended; interim 50025
12.126 Amended; interim 50025
12.130 (b), (d) introductory text and (e)(1) introductory text amended 46197
(g) and (h) amended; interim 50025
12.131 Amended; interim 50025
12.132 Regulations at 58 FR 69470 and 59 FR 31520 confirmed 46361
(a)(3) amended; interim 50025
(b) amended 58518
18 Authority citation amended 18348
Authority citation amended 6779
18.1 (b) amended; interim 50025
(a)(1) amended; interim; eff. 4–8–96 6779
18.2 (b) and (d) amended; interim 50025
18.3 (a) and (b) amended; interim 50025
18.4 (a)(2) and (f) amended; interim 50025
18.4a (c) and (d) amended; interim 50025
18.5 (b), (c), (d) and (f) amended; interim 50025
18.6 (b) amended; interim 50025
18.7 (a), (b) and (c) amended; interim 50025
18.8 (d), (e)(2) and (3) amended; interim 50025
18.10 (b) amended; interim 50025
18.10a Amended; interim 50025
18.11 (b), (c), (e) and (h) amended; interim 50025
18.12 (d) and (e) amended; interim 50025
18.13 (a) and (b) amended; interim 50025
18.20 (a) and (b) amended; interim 50025
18.21 (c) amended; interim 50026
18.22 (b) amended; interim 50026
18.23 (a) amended; interim 50026
18.24 (a) amended; interim 50026
18.25 (a) and (e) amended; interim 50026
18.26 (a) and (d) amended; interim 50026
18.27 Amended; interim 50026
18.31 Undesignated centerheading and section added; interim; eff. 4–8–96 6779
18.42 Amended; interim 50026
18.43 (b) and (c) amended; interim 50026
18.45 Amended; interim 50026
19 Authority citation amended 18348, 50010
19.1 (a)(1) and (4) amended; interim 50026
19.2 (a), (e), (f) and (g) amended; interim 50026
(a) amended 62733
19.3 (a) through (g) amended; interim 50026
(a) amended 62733
19.4 Amended; interim 50026
19.5 Correctly removed; CFR correction 42431
19.6 (a), (b)(1), (d)(1)(iv), (2) and (e) amended; interim 50026
(d)(2) and (4) amended 52295
19.7 (b) amended; interim 50026

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19.8 Amended; interim 50026
19.9 (a) and (c) amended; interim 50026
19.10 Amended; interim 50026
19.11 (c), (d), (f) and (h) amended; interim 50026
(g) amended 52295
19.12 (a)(3), (5), (6), (8) and (b)(6) amended; interim 50026
19.13 (a), (b) and (d) amended; interim 50026
19.14 (c) and (e) amended; interim 50026
19.15 (f) and (j) amended; interim 50026
(b) and (d) amended 52295
19.17 (a), (c), (e) and (g) amended; interim 50026
(a) amended 62733
19.19 (a) and (b) amended; interim 50026
19.23 Amended; interim 50026
19.32 (b) amended; interim 50026
19.34 Amended; interim 50026
19.35 (d), (f) and (g) amended; interim 50026
19.36 (a) through (d) and (g) amended; interim 50026
19.37 (a), (b) and (d) amended; interim 50026
19.39 (a)(2), (b)(2), (c)(2), (5), (d) and (e) amended; interim 50026
19.40 (a) and (b) amended; interim 50026
19.43 Amended; interim 50026
19.44 (g) amended; interim 50010
19.45 Amended; interim 50026
19.46 Amended; interim 50026
19.47 Amended; interim 50026
19.48 (a) introductory text, (b) and (c) amended; interim 50026
24 Authority citation amended 18348, 46361
Authority citation revised 50010
24.1 (a)(3)(i) amended; interim 50011
(a)(3)(i) and (ii) amended; interim 50026
24.2 Amended; interim 50026
24.3a (c) amended; interim 50026
24.4 (a), (c)(1) and (d)(1) amended; interim 50011
(a) through (d), (1) and (h)(3)(i) amended; interim 50026
(c)(2), (h)(2) and (3) introductory text amended; interim 50027
24.5 (f) amended; interim 50027
24.11 (b) amended; interim 50027
24.12 (c) amended; interim 50027
24.13 (c), (d) and (f) amended; interim 50027
24.13a (g) amended; interim 50027
24.14 (c) amended; interim 50027
24.16 (a), (c)(1) and (2) amended; interim 50027
24.17 (a) introductory text and (d)(4) amended; interim 50027
24.21 (b)(2) removed 62733
24.22 Regulation at 58 FR 69470 confirmed 46361
(b)(3), (c)(3), (d)(3) and (i)(2) amended; interim 50027
24.23 (c)(1)(v) amended 18348
Regulation at 58 FR 69470 confirmed 46361
(a)(1) and (3) amended; interim 50027
24.24 (b)(1) table, (c)(8)(i) and (g) amended; interim 50027
24.36 (c), (d) introductory text, (9), (e)(1) and (2) amended; interim 50027
24.70 (c) amended; interim 50027
24.72 Amended; interim 50027
54 Authority citation revised 18348
54.5 (b) amended; interim 50027
54.6 (c) introductory text and (4) amended; interim 50027
(b) amended 52295
101 Authority citation revised 18348, 18990, 50011
101.0 Amended; interim 50027
101.1 Regulation at 59 FR 30293 confirmed 18990
Amended; (a), (b) and (c) removed; interim 50011
101.3 (b) amended 41804, 52628
Revised; interim 50011
(b)(1) table amended 67056, 67057
101.4 Regulation at 59 FR 30293 confirmed 18990
(c) table revised; interim 50018
(a), (b) introductory text and (d) amended; interim 50027
(c) amended 52628
101.5 Table amended; interim 50027
101.6 (e) amended; interim 50019
(c) amended; interim 50027
102 Authority citation revised 18348, 46197
102.0 Amended 46197

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102.11 Introductory text amended 46197
102.21 Added 46197
103.0 Amended; interim 50027
103.1 Amended; interim 50019
103.5 (b)(1), (2), (d)(1) and (2) amended; interim 50027
103.6 (a)(1) and (2) amended; interim 50028
103.7 (a), (b)(6) and (c) amended; interim 50028
103.8 (a) introductory text and (3) amended; interim 50028
103.10 (d)(3) amended; interim 50028
103.14 (d)(1)(iii), (2)(iii) and (e)(2) amended; interim 50028
103.16 Amended; interim 50028
111 Authority citation amended 18348, 50019
User fee due date 56117
111.1 Amended; interim 50019
111.3 Regulation at 59 FR 30294 confirmed 18990
(b)(1) and (2) amended; interim 50028
111.11 (b)(2) and (c)(3) amended; interim 50028
111.12 Amended; interim 50028
111.13 (f) removed; interim 50019
111.15 Amended; interim 50028
111.16 (a) amended; interim 50028
111.19 (d) amended; interim 50019
(b) and (d) amended; interim 50028
111.22 (b) introductory text, (2), (c) and (e) amended; interim 50028
111.23 (e)(3) removed; interim 50019
(a)(1), (b) introductory text, (d)(1), (5), (e)(2) and (f) amended; interim 50028
111.24 Amended; interim 50028
111.27 Amended; interim 50028
111.28 (b)(1), (2), (3) and (c) amended; interim 50028
111.30 (a), (b) and (d) amended; interim 50028
111.45 (c) amended; interim 50019
111.54 Amended; interim 50028
111.55 Amended; interim 50028
111.56 Amended; interim 50028
111.57 Amended; interim 50028
111.59 (a) and (b) introductory text amended; interim 50028
111.60 Amended; interim 50028
111.61 Amended; interim 50028
111.62 (e) amended; interim 50028
111.63 (a) introductory text, (3), (4), (b) introductory text, (3) and (4) amended; interim 50028
111.64 (a) amended; interim 50028
111.67 (d) amended; interim 50029
111.72 Amended; interim 50029
111.78 Amended; interim 50029
111.91 Amended; interim 50029
111.92 Amended; interim 50029
111.94 Amended; interim 50029
111.95 Amended; interim 50029
111.96 (a) and (c) amended; interim 50029
112.1 Amended; interim 50019
112.2 Amended; interim 50020
112.11 (a) amended; interim 50029
112.12 (a), (b) introductory text, (3) and (4)(ii) amended; interim 50029
112.13 Introductory text amended; interim 50029
112.14 Amended; interim 50029
112.21 Amended; interim 50029
112.22 (a) introductory text, (1), (b)(1), (2) and (c) amended; interim 50029
112.23 Amended; interim 50029
112.24 Introductory text amended; interim 50029
112.27 (c) amended; interim 50029
112.29 Amended; interim 50029
112.30 (a) introductory text, (7), (8), (10), (b), (c), (d)(2) and (e) amended; interim 50029
112.41 Amended; interim 50029
112.42 Amended; interim 50029
112.44 Amended; interim 50029
112.45 Introductory text amended; interim 50029
112.46 Amended; interim 50029
112.48 (a) introductory text, (b), (c), (d)(2) amd (e) amended; interim 50029
112.49 Amended; interim 50029
113 Technical correction 6110
113.1 Amended; interim 50029
113.11 Amended; interim 50029
113.12 (a), (b) introductory text and (2) amended; interim 50029
113.13 (b), (c) and (d) amended; interim 50029
113.14 Amended; interim 50029
113.15 Amended; interim 50029
113.23 (d) amended; interim 50029

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113.24 (a) introductory text and (b) amended; interim 50029
113.26 (e) amended; interim 50029
113.27 (a) and (b) amended; interim 50029
113.32 (a)(1) amended; interim 50029
113.33 (c) and (d) amended; interim 50029
113.35 (a), (c)(2), (d) and (e) amended; interim 50029
(b)(4) and (c)(1)(ii) amended; interim 50030
113.37 (a) amended; (g)(2) revised; interim 50020
(a), (f), (g)(1)(iii), (4) and (5) amended; interim 50030
113.38 (c)(2) removed; (c)(3) through (7) redesignated as (c)(2) through (6); interim 50020
(c)(1), (2), (4) and (6) amended; interim 50030
113.39 (a) introductory text amended; interim 50020
Introductory text, (a) introductory text and (5) amended; interim 50030
113.40 (a), (b) and (c) amended; interim 50030
113.43 (a) and (b) amended; interim 50030
113.53 (b) amended; interim 50030
113.55 (a)(1), (c)(2), (3) and (d) amended; interim 50030
113.62 (a)(3) amended; interim 50030
(a)(1) introductory text and (b) introductory text revised; interim 2911
(b) introductory text revised; interim; eff. 4-8-96 6780
113.66 (c) redesignated as (d); new (c) added 7990
114 Authority citation revised 18348
114.25 Amended; interim 50030
114.26 (a) and (b) amended; interim 50030
114.34 (a) and (b) amended; interim 50030
118.1 Amended; interim 50030
118.2 Amended; interim 50030
118.4 (g) and (l) amended; interim 50020
(f), (g) and (k) amended; interim 50030
118.5 Amended; interim 50030
118.11 (b) and (h) amended; interim 50030
118.12 Amended; interim 50030
118.13 Amended; interim 50030
118.21 (a) introductory text and (b) introductory text amended; interim 50030
118.22 Amended; interim 50030
118.23 Amended; interim 50030
118.24 Removed; interim 50020
122.1 (c)(2) amended; interim 50030
122.3 Amended; interim 50030
122.5 (b) amended; interim 50030
122.11 (a) amended; interim 50030
122.12 (d) amended; interim 50030
122.14 (e) amended; interim 50020
(a)(1), (2), (3) introductory text, (ii) and (e) amended; interim 50030
122.15 (b) amended 41804
122.25 (a), (b) and (d)(4)(iv) amended; interim 50030
122.31 (b) amended; interim 50020
(b), (c) and (f) amended; interim 50030
122.35 (b)(1) amended; interim 50030
122.37 (c) amended; interim 50030
122.38 (d), (e) and (f) amended; interim 50030
122.49 (a)(1), (b)(1), (d) and (e)(1) amended; interim 50030
122.54 (f) and (g) amended; interim 50030
122.63 (b) amended; interim 50030
122.64 Amended; interim 50030
122.65 Amended; interim 50030
122.71 (a)(1) amended; interim 50031
122.73 (a)(2) and (b)(2) amended; interim 50031
122.74 (a)(1) and (b)(2) amended; interim 50031
122.76 (a)(1) and (2) amended; interim 50031
122.77 (a) and (b) amended; interim 50031
122.79 (b) amended; interim 50031
122.82 Amended; interim 50031
122.92 (a)(3) introductory text and (iv) amended; interim 50031
122.93 (a) amended; interim 50031
122.102 (a) amended; interim 50031
122.114 (d) amended; interim 50031
122.118 (a) amended; interim 50031
122.119 (a), (d)(1) introductory text, (ii) and (2) amended; interim 50031
122.120 (b)(1) and (k) amended; interim 50031

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122.132 (b)(2) and (c) amended; interim 50031
122.134 (a) and (c) amended; interim 50031
122.135 (b), (c) and (e) amended; interim 50031
122.143 (b) amended; interim 50031
122.144 (b) amended; interim 50031
122.153 Amended; interim 50031
122.162 (a)(2) and (4) amended; interim 50031
122.163 (c) introductory text and (2) amended; interim 50031
122.165 (b) amended; interim 50031
122.173 (a) and (b) amended; interim 50031
122.175 Amended; interim 50031
122.176 (a) and (b) amended; interim 50031
122.181 Amended; interim 50031
122.182 (b) through (g) amended; interim 50031
122.183 Amended; interim 50031
122.184 Amended; interim 50031
122.185 Amended; interim 50031
122.186 Amended; interim 50031
122.187 (a) introductory text, (4), (b), (c), (d) and (f) amended; interim 50031
122.188 (a), (b) and (d) amended; interim 50031
123 Authority citation amended 18348, 18991
123.0 Regulation at 58 FR 69471 confirmed 46361
123.1 (a)(1), (2), (3), (b) and (d) amended; interim 50031
123.4 (b) amended; interim 50031
123.8 (a), (b)(1) and (2) amended; interim 50031
123.9 (b)(1), (2), (d)(1)(iv) and (v) amended; interim 50031
123.12 Regulation at 59 FR 30294 confirmed 18990
123.14 (b) amended; interim 50031
123.24 (c) amended; interim 50031
123.25 (a) amended; interim 50031
123.34 Amended; interim 50031
123.63 Revised 54188
123.72 Amended; interim 50031
125.11 (b) and (c) amended; interim 50031
125.12 Amended; interim 50031
125.13 Amended; interim 50031
125.14 Amended; interim 50031
125.23 Amended; interim 50031
125.31 (c) and (d) removed; (e) redesignated as (c) 52295
125.33 (c) amended; interim 50031
125.35 Amended; interim 50031
125.36 Amended; interim 50031
125.42 Amended; interim 50031
127.1 Introductory text, (c), (d) and (e) amended; interim 50031
127.12 (b)(1) amended; interim 50031
127.13 (a) amended; interim 50031
127.21 Amended; interim 50031
127.22 Revised; interim 50020
127.25 Amended; interim 50032
127.27 Amended; interim 50032
127.28 (c), (d), (g) and (h) amended; interim 50032
127.29 Amended; interim 50032
127.35 Amended; interim 50032
127.36 (a) and (c) amended; interim 50032
128 Authority citation revised 18348
128.1 (d) and (e) amended; interim 50032
128.11 (a), (b)(7)(iv) and (c) amended; interim 50032
128.12 (a) and (c) amended; interim 50032
128.21 Regulation at 59 FR 30294 confirmed 18990
128.23 Regulation at 59 FR 30294 confirmed 18990
(b)(3) amended; interim 50032
128.24 Regulation at 59 FR 30294 confirmed 18990
(e) amended 18991
(c) amended; interim 50032
128.25 Regulation at 59 FR 30295 confirmed 18990
128.26 Regulation at 59 FR 30295 confirmed 18990
132 Authority citation revised 18348
Authority citation amended 39109
132.11a (c) amended; interim 50032
132.12 (a) amended; interim 50032
132.13 (a)(1) amended; interim 50032
132.14 (a)(4)(i) introductory text, (D), (ii) introductory text and (C) amended; interim 50032
132.15 Added; interim 39109
Regulation at 60 FR 39109 confirmed 3569
132.23 (a), (b) and (d) amended; interim 50032
132.25 Amended; interim 50032
133.23 (b)(2) and (c)(2) amended; interim 50032

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133.24 Amended; interim 50032
133.42 (c) amended; interim 50032
133.43 (a), (b) introductory text, (2), (c) introductory text, (1) introductory text, (i), (ii) and (2) amended; interim 50032
133.44 Amended; interim 50032
133.46 Amended; interim 50032
133.47 Amended; interim 50032
134 Authority citation revised 18348
Authority citation amended 46362
134.0 Regulation at 58 FR 69471 confirmed 46361
134.1 Regulation at 58 FR 69471 confirmed 46361
(k) added 46362
134.3 (b) introductory text and (2) amended; interim 50032
134.22 Regulation at 58 FR 69471 confirmed 46361
134.23 Regulation at 58 FR 69471 confirmed 46361
134.24 Regulation at 58 FR 69471 confirmed 46361
134.25 (a) and (c) amended; interim 50032
134.26 (a) and (c) amended; interim 50032
134.32 Regulation at 58 FR 69472 confirmed 46361
134.33 Amended 49752
134.34 (a) introductory text and (b) amended; interim 50032
134.35 Regulation at 58 FR 69472 confirmed 46361
134.43 Regulation at 58 FR 69472 confirmed 46361
134.44 Regulation at 58 FR 69472 confirmed 46361
134.45 Regulation at 58 FR 69472 confirmed 46361
134.51 Amended; interim 50032
134.52 (a) through (e) amended; interim 50032
134.53 (a)(2) amended; interim 50032
134.54 (a), (b) and (c) amended; interim 50032
141 Technical correction 6110
141.0a (a) and (f) amended; interim 2911
141.4 (a) amended 18348
Regulation at 59 FR 30295 confirmed 18990
(b)(1) corrected 21043
141.5 Amended; interim 50032
141.11 (a)(2) and (5) amended; interim 50032
141.13 Amended; interim 50032
141.15 (a) amended; interim 50032
141.16 Amended; interim 50032
141.20 (a)(1) and (2) amended; interim 50032
141.35 Amended; interim 50032
141.38 Amended; interim 50032
141.44 Amended; interim 50032
141.45 Revised; interim 50020
141.46 Amended; interim 50032
141.52 Introductory text and (i) amended; interim 50032
141.54 (a) and (c) amended; interim 50032
141.55 Amended; interim 50032
141.56 Amended; interim 50032
141.61 (e)(2) introductory text, (ii) and (4) amended; interim 50032
(a)(2), (e)(1)(i)(A), (ii)(B), (C) and (f)(2)(i) amended 52295
141.62 (a) amended; interim 50032
141.63 (a) introductory text, (b) and (c) amended; interim 50032
141.68 (g)(1) and concluding text amended 52295
(i) added; interim 2911
141.69 (b) and (c) amended; interim 50032
141.83 (c)(2) amended; interim 50032
141.84 (c) amended; interim 50032
141.85 Amended; interim 50032
141.86 (a)(11) amended; interim 50032
141.88 Amended; interim 50032
141.90 (a) amended; interim 50032
141.91 (a) and (d) amended; interim 50032
141.92 (a) introductory text and (b)(4) amended; interim 50033
141.103 Amended; interim 50033
141.105 Amended; interim 50033
141.112 (b), (c), (d), (g) and (h) amended; interim 50033
141.113 (a) through (d), (f) and (h) amended; interim 50033
142.2 (a) amended; interim 50033
142.3 (c) amended; interim 50033
142.4 (c)(1) and (2) amended; interim 50033
142.6 (a)(4) amended; interim 50033
142.7 Amended; interim 50033
142.11 (b) amended; interim 50033

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142.13 (a)(4) added; (b) removed; (c) redesignated as (b); interim 50020
(a) heading and introductory text amended; interim 50033
142.14 (a), (b) heading and (c) amended; interim 50033
142.15 Amended; interim 50033
142.17 (a) introductory text amended; interim 50033
142.18 (a) introductory text amended; interim 50033
142.19 (b)(2) amended; interim 50033
142.21 (a), (e)(1), (2), (f)(1) introductory text and (ii) amended; interim 50033
142.24 (a) amended; interim 50033
142.25 (a)(4) added; (b) removed; (c) redesignated as (b); interim 50020
(a) heading and introductory text amended; interim 50033
142.26 (a), (b) heading and (c) amended; interim 50033
142.27 Amended; interim 50033
142.28 (a) introductory text amended; interim 50033
142.42 Introductory text, (a) and (c) amended; interim 50033
142.43 Amended; interim 50033
142.44 Amended; interim 50033
142.45 (a) and (c) amended; interim 50033
142.48 (c) amended; interim 50033
142.49 Amended; interim 50033
142.50 Amended; interim 50033
142.51 Amended; interim 50033
142.52 Heading, (a) and (b) amended; interim 50033
143.2 Introductory text amended; interim 50033
143.3 (a) introductory text and (b) amended; interim 50033
143.3a (c) and (d) amended; interim 50033
143.5 Amended; interim 50033
143.6 Amended; interim 50033
143.7 (a), (b) and (c) amended; interim 50033
143.8 Amended; interim 50034
143.11 (a) introductory text and (b) amended; interim 50034
143.17a (a) introductory text amended; interim 50033
143.21 Regulation at 59 FR 30295 confirmed 18990
143.22 Amended; interim 50034
143.23 Regulation at 59 FR 30295 confirmed 18990
(j)(5) amended; (j)(6) redesignated as (j)(7); new (j)(6) added 18991
Introductory text amended; interim 50034
143.26 Regulation at 59 FR 30296 confirmed 18990
(a) and (b) amended 18991
143.37 (c) and (d) amended; interim 50034
144 Authority citation amended 52295
Technical correction 6110
144.11 (b) amended; interim 50034
144.12 Amended; interim 50034
144.13 Amended; interim 50034
144.22 (c) removed; (a) revised 52295
144.34 (a) amended; interim 50034
144.36 (c) and (h) amended; interim 50034
144.37 (a), (b)(3), (d), (e), (f), (h)(2) introductory text, (ii) and (v) amended; interim 50034
(a) amended 52295, 52296
144.38 (d) amended; interim 50034
(a) and (e) amended 52296
(b) added; interim 2911
144.41 (b) and (h) amended; interim 50034
144.42 (b)(3) amended; interim 50034
145 Authority citation amended 18348
145.4 (b), (c) and (d) amended; interim 50034
145.12 (a)(1) and (c) amended; interim 50034
145.14 (b) amended; interim 50034
145.22 (a) and (b) amended; interim 50034
145.23 Amended; interim 50034
145.24 Amended; interim 50034
145.25 Amended; interim 50034
145.31 Regulation at 59 FR 30296 confirmed 18990
Amended; interim 50034
145.32 Regulation at 59 FR 30296 confirmed 18990
Amended; interim 50034
145.35 Amended; interim 50034
145.36 Amended; interim 50034
145.41 Amended; interim 50034
145.42 Amended; interim 50034

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145.54 (c) introductory text and (3) amended; interim 50034
146 Authority citation amended 18348, 20632, 50020
Authority citation revised 62733
146.1 (b)(2) amended; interim 50034
146.2 Amended; interim 50034
146.3 (b) amended; interim 50034
146.4 (h) amended; interim 50020
(g) and (h) amended; interim 50034
146.5 Removed 62733
146.6 (a), (c), (d) and (e) amended; interim 50034
(b)(1) removed 62733
146.7 Amended; interim 50034
(a) and (b) amended 62733
146.8 Amended; interim 50034
146.9 Amended; interim 50034
146.10 Amended; interim 50034
146.13 Amended; interim 50034
146.21 (b) amended; interim 50034
146.22 (b) amended; interim 50034
146.23 (c) amended; interim 50034
146.25 (a) and (c) amended; interim 50034
146.26 Amended; interim 50034
146.31 (a) amended; interim 50034
146.32 (a), (b)(5), (c) introductory text, (3) and (d)(2)(i) amended; interim 50034
146.34 (a) and (b) amended; interim 50034
146.35 (b), (d) and (e) amended; interim 50034
146.36 Amended; interim 50034
146.37 (b), (c)(1) and (d) amended; interim 50034
146.38 Amended; interim 50034
146.39 (b), (c) introductory text, (d) and (e) amended; interim 50034
146.40 (b) amended; interim 50020
(a)(2), (5), (7), (c)(1), (2), (3)(i) and (4) amended; interim 50034
146.41 (a), (c) and (d) amended; interim 50034
146.42 (c) amended; interim 50034
146.44 (c)(2) amended; interim 50035
146.51 Amended; interim 50035
146.52 (a) through (d) and (e) amended; interim 50035
146.53 (a) introductory text, (3), (b), (c) and (d) amended; interim 50035
146.61 Amended; interim 50035
146.62 (c) amended; interim 50035
146.63 (c)(1) amended; interim 50035
146.64 (c) amended; interim 50035
146.65 (a)(1) amended 20632
(b)(3) and (c) amended; interim 50035
146.66 (a) amended; interim 50035
146.67 (d) amended; interim 50035
146.68 Amended; interim 50035
146.69 (b) and (c) amended; interim 50035
146.70 (b) and (c) amended; interim 50035
146.71 Amended; interim 50035
146.81 (b) amended; interim 50035
146.82 (a) introductory text, (b)(1), (2) and (3) amended; interim 50035
(a)(6) removed 62733
146.83 (a) amended; interim 50035
146.91—146.96 (Subpart H) Added 20632
146.95 (a)(3)(i) amended; interim 50035
147.1 (d) amended; interim 50035
147.3 Amended; interim 50035
147.13 (b) amended; interim 50035
147.14 (a) amended; interim 50035
147.32 Amended; interim 50035
147.33 Amended; interim 50035
147.41 Amended; interim 50035
148 Authority citation amended 18349, 54188
Authority citation amended 3570
148.6 (b) amended; interim 50035
148.8 (d) amended; interim 50035
148.12 Regulation at 59 FR 30296 confirmed 18990
148.21 Revised 54188
148.25 (b) amended; interim 50035
148.32 (b) amended; interim 50035
148.37 (a) amended; interim 50035
148.39 (b) amended; interim 50035
148.46 (b) amended; interim 50035
148.51 Regulation at 59 FR 30296 confirmed 18990
148.52 (b) and (d) amended; interim 50035
148.54 (c) amended; interim 50035
148.63 (a) introductory text amended; interim 50035
148.64 Regulation at 59 FR 30296 confirmed 18990
148.66 (b)(2) amended; interim 50035
148.77 (a), (c)(1) and (2) amended; interim 50035

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148.84 (a)(2) amended; interim 50035
148.87 (b) table amended 3570, 9638
148.90 (a), (b), (c), (d)(1)(ii), (2)(i) and (iii) amended; interim 50035
148.105 (a) amended; interim 50035
148.115 (e) amended; interim 50035
151 Authority citation amended 18349
151.1 Amended; interim 50035
151.2 (a)(1) and (2) amended; interim 50035
151.4 (b) introductory text, (c)(1) and (2) amended; interim 50035
(c)(2) amended 62733
151.5 (c) amended 62733
151.6 Amended; interim 50035
151.7 Introductory text and (a) through (d) amended; interim 50035
151.8 (b) and (c) amended; interim 50035
151.9 Amended; interim 50035
151.10 Amended; interim 50035
151.11 Amended; interim 50035
151.13 (a) introductory text, (2), (b) introductory text, (9), (d), (e), (f), (g)(2), (h), (j), (k) and (l)(2) amended; interim 50035
151.15 (a), (b) introductory text and (d) amended; interim 50035
(c) and (d) amended; interim 50036
151.26 Amended; interim 50036
151.28 Amended; interim 50036
151.42 (a)(1), (2), (3) and (c) amended; interim 50036
151.44 (a) and (c) amended; interim 50036
151.51 (b) amended; interim 50036
151.52 (c) amended; interim 50036
151.54 Introductory text amended; interim 50036
151.55 Amended; interim 50036
151.65 Amended; interim 50036
151.68 (c) amended; interim 50036
151.69 (b) amended; interim 50036
151.70 Amended; interim 50036
151.71 (a), (b) and (c) amended; interim 50036
151.73 (b) and (c) amended; interim 50036
151.74 Amended; interim 50036
151.75 Amended; interim 50036
151.76 (a), (b) and (c) amended; interim 50036
151.84 Amended; interim 50036
151.85 Amended; interim 50036
152 Authority citation amended 18349
152.1 (c) amended; interim 50036
152.2 Amended; interim 50036
152.13 (b)(1), (2), (c) introductory text, (1), (2), (3) and (d) amended 18349
(a), (c)(1), (3) and (d) amended; interim 50036
152.16 (c) amended; interim 50036
152.26 Introductory text, (b), (d) and (e) amended; interim 50036
152.101 (c) and (d) amended; interim 50036
152.103 (a)(5)(iii), (d), (l)(1), (2)(iii) and (m) amended; interim 50036
152.105 (i)(2) amended; interim 50036
152.106 (f)(2) amended; interim 50036
158.1 (b) introductory text amended; interim 50036
158.3 Amended; interim 50036
158.5 (a) amended; interim 50036
158.6 Amended; interim 50036
158.11 (a), (b)(1) and (3) amended; interim 50036
158.12 (a) amended; interim 50036
158.13 (a) and (b) amended; interim 50036
158.14 Amended; interim 50036
158.24 Amended; interim 50036
158.25 Amended; interim 50036
158.27 (b) amended; interim 50036
158.28 Amended; interim 50036
158.29 Amended; interim 50036
158.30 Amended; interim 50036
158.42 (b), (c) and (d) amended; interim 50036
158.43 (a), (c) and (e) amended; interim 50036
158.44 (a) and (c) amended; interim 50036
159 Authority citation amended 18991
159.6 Regulation at 59 FR 30296 confirmed 18990
159.7 (a) introductory text, (b) and (c) amended; interim 50036
159.12 (a)(1) introductory text, (ii) and (b) through (e) amended; interim 50036
159.22 (d)(2) amended; interim 50036
159.36 (b), (c) and (d) amended; interim 50036
159.38 Amended; interim 50036
159.44 Amended; interim 50036
159.58 Amended; interim 50036

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161.3 Amended; interim 50036
161.16 Amended; interim 50036
162 Authority citation amended 67058
162.0 Regulation at 58 FR 69472 confirmed 46361
162.1d (b) amended; interim 50036
162.3 (b) amended; interim 50036
162.14 Removed 258
162.21 (b) amended; interim 50036
162.23 Added 67058
162.32 (a) and (c) amended; interim 50037
162.42 Amended; interim 50037
162.44 (a), (b) and (c) amended; interim 50037
162.45 (a)(3), (4) and (c) amended; interim 50037
162.45a Amended; interim 50037
162.46 (c) introductory text, (2) heading, introductory text, (ii) and (d) amended; interim 50037
162.47 (a), (d) and (e) amended; interim 50037
162.48 (a) amended; interim 50037
162.49 (a) amended; interim 50037
162.50 (a) amended; interim 50037
162.52 (b)(2) and (4) amended; interim 50037
162.64 Amended; interim 50037
162.65 (c), (d), (e) introductory text and (1) amended; interim 50037
162.71 (e)(4) amended; interim 50037
162.72 (a) amended; interim 50037
162.74 (a), (b)(4), (c), (d)(3), (4)(i), (e)(1), (h) and (j) amended; interim 50037
162.75 (c), (d)(1), (2) introductory text, (i) and (3) amended; interim 50037
162.76 (a) amended; interim 50037
162.77 (a) amended; interim 50037
162.78 (a), (b) and (d) amended; interim 50037
162.79 (a) and (b)(1) amended; interim 50037
162.79b Amended; interim 50037
162.80 (a)(1), (2)(i) and (iii) amended; interim 50037
171.12 (a) and (e) amended; interim 50037
171.15 (a) introductory text, (4) and (7) amended; interim 50037
171.21 Amended; interim 50037
171.22 Amended; interim 50037
171.31 Amended; interim 50037
171.33 (a) introductory text, (b)(1), (2) and (c) amended; interim 50037
171.52 (d) amended; interim 50037
171 Appendixes A, B and C amended; interim 50037
172.2 Amended; interim 50037
172.12 (a) and (b)(1) amended; interim 50037
172.21 Amended; interim 50037
172.22 Heading, (a), (b)(3) introductory text, (ii), (c), (d)(1), (2), (4) and (e) amended; interim 50037
172.31 (a) amended; interim 50037
172.33 (a) introductory text, (b)(1) introductory text, (i), (ii), (2) and (c)(1) amended; interim 50038
173.1 Amended; interim 50038
173.2 Introductory text amended; interim 50038
173.3 (a) amended; interim 50038
173.4 (a) and (c) amended; interim 50038
173.4a Amended; interim 50038
173.5 Amended; interim 50038
173.6 Amended; interim 50038
174.0 Regulation at 58 FR 69472 confirmed 46361
Amended; interim 50038
174.1 Amended; interim 50020, 50038
174.3 (b)(1), (c) and (d) amended; interim 50038
174.11 Introductory text amended; interim 50038
174.12 Regulation at 58 FR 69472 confirmed 46361
(e)(2) revised 46363
(b) and (d) amended; interim 50038
174.13 (b) amended; interim 50038
174.14 (e) amended; interim 50038
174.15 Regulation at 58 FR 69472 confirmed 46361
(b)(2) amended; interim 50038
174.16 Amended; interim 50038
174.21 Amended; interim 50038
174.22 (a), (c) and (d) amended; interim 50038
174.23 Amended; interim 50038
174.24 Introductory text and (a) amended; interim 50038

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174.26 (a), (b) introductory text and (2) amended; interim 50038
174.27 Amended; interim 50038
174.29 Regulation at 58 FR 69472 confirmed 46361
Amended; interim 50038
174.30 (b) and (c) amended; interim 50038
175.25 (a) and (b) amended; interim 50038
176.1 Amended; interim 50038
177 Authority citation amended 18349
177.0 Regulation at 58 FR 69473 confirmed 46361
177.1 Regulation at 58 FR 69473 confirmed 46361
(d)(3) amended; interim 50038
177.2 (a), (b)(2)(ii)(A), (B) and (C) amended; interim 50038
177.22 (c) amended; interim 50038
178 Authority citation revised 46363
178.2 Table amended (OMB numbers) 18991, 46204, 46364
Regulation at 58 FR 69473 confirmed 46361
181 Authority citation amended 18349
Regulation at 58 FR 69473 confirmed 46361
Revised 46364
Technical correction 48645
181.53 Revised; interim 2911
(b)(4) corrected 6111
181.76 (e) corrected 1829
181 Appendix corrected; CFR correction 35122
191 Authority citation amended 18349, 46463
Interpretation 40995
191.0 Regulation at 58 FR 69565 confirmed 46361
191.2 (d) and (f) amended; interim 50038
191.10 (a), (b) and (d) amended; interim 50038
(e)(1)(i), (ii), (iii) and (2) amended; interim 50039
191.21 (c), (d) and (e) amended; interim 50039
191.22 (d) amended; interim 50039
191.23 (a) and (b) amended; interim 50039
191.24 Amended; interim 50039
191.25 (b)(1) and (2) introductory text amended; interim 50039
191.26 Amended; interim 50039
191.42 (b) introductory text amended; interim 50039
191.43 Amended; interim 50039
191.44 Amended; interim 50039
191.53 (b), (c), (d) and (e)(3) amended; interim 50039
191.56 Amended; interim 50039
191.57 Amended; interim 50039
191.62 (a)(1), (2) introductory text and (3) amended; interim 50039
191.64 Amended; interim 50039
191.65 (a) amended; interim 50039
191.66 (e) amended; interim 50039
191.67 (a)(1), (e)(1) and (2) amended; interim 50039
191.71 (d) and (f) amended; interim 50039
191.72 (b) and (c) amended; interim 50039
191.82 (d)(2) amended; interim 50039
191.83 (b)(2)(vi) and (3) amended; interim 50039
191.84 (a), (b)(9) and (d) amended; interim 50039
191.85 Amended; interim 50039
191.93 (a), (c)(5), (d), (e)(2), (4), (g), (h), (i), (j) introductory text and (4) amended; interim 50039
191.133 (a), (c) and (d)(2) amended; interim 50039
191.134 Amended; interim 50039
191.136 (d) and (e) amended; interim 50040
191.138 Amended; interim 50040
191.141 (b)(1), (2)(i), (ii), (d), (f)(1), (2) and (g)(1) amended; interim 50040
191.142 (b)(1), (3), (4) and (5) amended; interim 50040
191.153 (b) amended; interim 50040
191.156 (b) amended; interim 50040
191.158 Amended; interim 50040
191.163 (b)(2) and (c) amended; interim 50040
191.164 (b) and (c) amended; interim 50040
191.165 (b) and (c) amended; interim 50040

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Chapter II—United States International Trade Commission (Parts 200—299)

201.2 (b) through (i) redesignated as (c) through (j); new (b) added 37336
201.18 (a) revised 37336
201.24 (d) revised 37336
201.28 (b) revised 37336
201.29 Revised 37336
201.30 (b) revised 37336
206.2—206.8 (Subpart A) Regulation at 60 FR 10 confirmed 46500
206.11—206.19 (Subpart B) Regulation at 60 FR 12 confirmed 46500
206.34 Regulation at 60 FR 16 confirmed 46500
206.35 Regulation at 60 FR 17 confirmed 46500
206.51—206.55 (Subpart F) Regulation at 60 FR 17 confirmed 46500
210.4 (f)(3) revised 32443
210.5 (a) revised 32444
210.7 Revised 53119
210.8 (a) revised 32444
210.11 (a) revised 53119
210.21 (b)(2), (c)(2)(i), (ii) and (d) revised 53120
210.41 Revised 53120
210.42 (e) and (i) revised 53120
210.43 (d)(3) revised 53120
210.45 (c) revised 53120
210.52 (e) revised 32444
210.66 (d) and (f) revised 53121
210.74 (b) revised 53121

Chapter III—International Trade Administration, Department of Commerce (Parts 300—399)

353 Authority citation revised; interim 25133
353.1 Revised; interim 25133
353.12 (b)(2) revised; interim 25134
353.13 (a) revised; interim 25134
353.15 (a)(1), (b) and (c) revised; interim 25134
353.22 (c)(4) and (7) revised; (h) added; interim 25134
353.31 (a)(1) and (c) revised; interim 25135
353.38 (i) added; interim 25136
355 Authority citation revised; interim 25136
355.1 Revised; interim 25136
355.12 (b)(2) revised; interim 25136
355.13 (a) revised; interim 25136
355.15 (a)(1), (2)(ii), (4), (b) and (c) revised; interim 25136
355.20 (a)(2)(ii), (4) and (e) revised; (d) removed; interim 25136
355.22 (a), (c), (i)(5)(ii), (6), (9)(ii) and (10) revised; (d) and (f) removed; (j) added; interim 25137
355.31 (a)(1) and (c) revised; interim 25139
355.38 (i) added; interim 25139
355.40 Added; interim 25139

Proposed Rules:

1—199 (Ch. I) 18783
10 ..... 22312, 27378, 29520
12 ..... 22312, 27378, 29520
101 ..... 25176, 47504, 47505, 52347
..... 8001
102 ..... 22312, 27378, 29520, 35878, 38982
118 1877
132 6333
133 36249
134 ..... 22312, 29520, 57559, 66952
162 ..... 21778, 35881, 37856
177 ..... 22312, 29520
201 ..... 26851, 51748
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210 20463
..... 7230
351 ..... 4826, 7230
353 ..... 4826, 7230
354 4826
355 ..... 4826, 7230

TITLE 20—EMPLOYEES' BENEFITS

Chapter II—Railroad Retirement Board (Parts 200—399)

200.4 (o) and (p) added 29984
217.8 (t) and (u) added 21982
226 Revised 22262
232 Removed 22268
320.6 (b) and (d) revised; interim 29534
335.3 (a)(6) and (7) amended; (a)(8) and (9) added 40073
335.4 (d)(5) amended 40073
344 Removed 21982

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TITLE 20 Chapter II—Con.

366.1 Amended 66073
366.2 Introductory text, (a), (b), (e) and (f) revised; (j) and (k) amended 66073
366.6 (c) amended 66073
367.2 Introductory text, (a), (b), (e) and (f) revised; (i) and (j) amended 66073
367.7 (c) amended 66073
368 Added; interim 8214

Chapter III—Social Security Administration (Parts 400—499)

Chapter III Heading revised 18992
401 Authority citation revised 5940
401.100—401.125 (Subpart A) Authority citation removed 5940
401.200—401.220 (Subpart B) Authority citation removed 5940
401.300—401.350 (Subpart C) Authority citation removed 5940
401.400—401.420 (Subpart D) Authority citation removed 5940
401.500—401.510 (Subpart E) Authority citation removed 5940
401.600 (Subpart F) Authority citation removed 5940
404.1—404.3 (Subpart A) Authority citation revised 5940
404.101—404.146 (Subpart B) Authority citation revised 5940
404.201—404.290 (Subpart C) Authority citation revised 5940
404.213 (a)(3) amended 17444
(a)(3) and (f) introductory text revised; (e)(7), (8) and (9) added 56513
404.301—404.395 (Subpart D) Authority citation revised 5941
404.401—404.480 (Subpart E) Authority citation revised 5941
404.408a (b)(5) added 56513
404.452 (f)(1) amended 56513
404.460 (c)(3) amended 17444
404.501—404.526 (Subpart F) Authority citation revised 5941
404.503 (b)(3) and (6) revised 17445
404.510 (l) revised 17445
404.601—404.641 (Subpart G) Authority citation revised 5941
404.701—404.780 (Subpart H) Authority citation revised 5941
404.721 (b) revised 19164
404.722 Added 19165
404.801—404.831 (Subpart I) Authority citation revised 5941
404.900—404.999d (Subpart J) Authority citation revised 34131
Authority citation revised 5941
404.906 Revised 20026
404.942 Added 34131
404.943 Added 47475
404.988 (c)(4) introductory text and (i) revised 19165
404.1001—404.1096 (Subpart K) Authority citation revised 5941
404.1200—404.1299 (Subpart M) Authority citation revised 5941
404.1220 (a) and (e) revised 42433
404.1301—404.1371 (Subpart N) Authority citation revised 5941
404.1401—404.1413 (Subpart O) Authority citation revised 5941
404.1501—404.1599 (Subpart P) Authority citation revised 43710
Authority citation revised 5941
404.1501—404.1599 (Subpart P) Appendix 1 amended 43710, 62330
Appendix 1 corrected 53267
404.1601—404.1694 (Subpart Q) Authority citation revised 5941
404.1615 (c)(1) amended; (c)(2) redesignated as (c)(3); new (c)(2) added; 4-18-96 11135
404.1700—404.1799 (Subpart R) Authority citation revised 5941
404.1800—404.1825 (Subpart S) Authority citation revised 5941
404.1901—404.1930 (Subpart T) Authority citation revised 5941
404.2001—404.2065 (Subpart U) Authority citation revised 5941
404.2101—404.2127 (Subpart V) Authority citation revised 5941
415.202 (b)(4) revised; eff. 5-13-96 10277
416.101—416.121 (Subpart A) Authority citation revised 5941
416.200—416.269 (Subpart B) Authority citation revised 1712, 5941
416.210 (b) revised 1712
416.211 (a)(1) and (b) revised; eff. 5-13-96 10277
416.212 Redesignated as 416.213; new 416.212 added; eff. 5-13-96 10277
416.213 Redesignated as 416.214; new 416.213 redesignated from 416.212; eff. 5-13-96 10277
416.214 Redesignated as 416.215; new 416.214 redesignated from 416.213; eff. 5-13-96 10277

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416.215 Redesignated as 416.216; new 416.215 redesignated from 416.214; eff. 5-13-96 10277
416.216 Redesignated from 416.215; eff. 5-13-96 10277
416.301—416.360 (Subpart C) Authority citation revised 5941
416.401—416.435 (Subpart D) Authority citation revised 5942
416.410 Revised; eff. 5-13-96 10278
416.412 Revised; eff. 5-13-96 10278
416.413 Revised; eff. 5-13-96 10278
416.414 (a) introductory text revised; eff. 5-13-96 10278
416.501—416.571 (Subpart E) Authority citation revised 5942
416.601—416.665 (Subpart F) Authority citation revised 5942
416.640 (b) and (c) revised; eff. 5-13-96 10278
416.701—416.732 (Subpart G) Authority citation revised 5942
416.801—416.806 (Subpart H) Authority citation revised 5942
416.901—416.998 (Subpart I) Authority citation revised 5942
416.1001—416.1094 (Subpart J) Authority citation revised 5942
416.1015 (c)(1) amended; (c)(2) redesignated as (c)(3); new (c)(2) added; 4-18-96 11136
416.1100—416.1182 (Subpart K) Authority citation revised 1712, 5942
416.1124 (c)(9), (15) and (16) amended; (c)(17) and (18) added 1712
416.1147 (b) and (d) revised; eff. 5-13-96 10279
416.1149 (a) and (c)(1) revised; eff. 5-13-96 10279
416.1161 (a)(20) amended; (a)(21) and (22) added 1712
416.1167 (a) revised; eff. 5-13-96 10280
416.1201—416.1266 (Subpart L) Authority citation revised 1712
Authority citation revised 5942, 5944
416.1204 (a) revised 1712
416.1210 (n) and (o) amended; (p) and (q) added 1712
416.1229 Added 1712
416.1232 (b) revised; (c) redesignated as (d); new (c) added 5944
416.1239 Added 1712
416.1321—416.1338 (Subpart M) Authority citation revised 5942
416.1400—416.1499 (Subpart N) Authority citation revised 34132
416.1406 Revised 20028
416.1442 Added 34132
416.1443 Added 47476
416.1500—416.1599 (Subpart O) Authority citation revised 5942
416.1600—416.1619 (Subpart P) Authority citation revised 5942
416.1701—416.1725 (Subpart Q) Authority citation revised 5942
416.1801—416.1881 (Subpart R) Authority citation revised 5942
416.1901—416.1922 (Subpart S) Authority citation revised 5942
416.2001—416.2098 (Subpart T) Authority citation revised 5942
416.2040 (a) revised; (c) added; eff. 5-13-96 10280
416.2101—416.2176 (Subpart U) Authority citation revised 5942
416.2201—416.2227 (Subpart V) Authority citation revised 5942
422 Authority citation removed 5942
422.1—422.5 (Subpart A) Authority citation revised 5942
422.101—422.140 (Subpart B) Authority citation revised 32446, 42433
Authority citation revised 5942
422.107 (c) amended; interim 32446
422.112 Revised 42433
422.114 Added 42433
422.115 Removed 42434
422.120 Revised 42434
422.122 Added 42434
422.201—422.210 (Subpart C) Authority citation revised 5942
422.401—422.449 (Subpart E) Authority citation revised 5943
422.501—422.527 (Subpart F) Authority citation revised 5943
422.601—422.607 (Subpart G) Authority citation revised 5943
423 Added 18992
Authority citation revised 5943
498 Added 58226

Chapter IV—Employees' Compensation Appeals Board, Department of Labor (Parts 500—599)

507 Enforcement position 49505

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TITLE 20

Chapter V—Employment and Training Administration, Department of Labor (Parts 600—699)

625.6 Revised; interim 25568
626 Authority citation revised 58229
626.4 Amended; interim 58229
632 Authority citation revised 58229
632.70 Added; interim 58229
638.524 (b) and (c) revised 18993
641 Redesignated from Title 29, Part 89 and revised 26581
655 Enforcement position 49505
655.104 Regulation at 59 FR 41875 confirmed 26970
655.112 Regulation at 59 FR 41876 confirmed 26970
655.204 Regulation at 59 FR 41876 confirmed 26970
655.206 Regulation at 59 FR 41876 confirmed 26970
655.212 Regulation at 59 FR 41876 confirmed 26970
655.900 (b)(2)(i) and (d) amended; (e) revised 34133, 34134, 38958, 38959, 61210, 61211
(b)(2)(i), (d) and (e) amended; interim 49753, 49754
655.910 (b)(2)(i) and (e) amended; interim 34133, 34134, 38958, 38959, 49754
(b)(2)(i) and (e) amended 61210, 61211
655.940 (d)(1)(i)(B), (h)(1) and (3) amended; interim 34133, 34134, 38959, 49754
(d)(1)(i)(B) amended; interim 38958
(d)(1)(i)(B), (h)(1) and (2) amended 61210, 61211

Chapter VI—Employment Standards Administration, Department of Labor (Parts 700—799)

702 Authority citation revised 51348
702.101 Removed 51348
702.102 Heading revised; (a) and (b) redesignated as (b) and (c); new (a) added 51348
702.224 Amended 51348
702.243 (b) amended 51348
702.316 Amended 51348
702.413 Revised 51348
702.414 (a) and (c) revised 51348
703 Authority citation revised 51348
703.121 Removed 51348

Proposed Rules:

200 1252
209 5970
211 66770
220 47122
230 ..... 42482, 43999
255 67108
261 66203
345 43300
366 42818
367 42818
400—499 (Ch. III) 17731
404 ..... 19008, 28767, 30482, 47126, 62354, 62783, 65093
2654, 4389
410 28767
416 ..... 19008, 26387, 30482, 40542, 45110, 47126, 62356
498 58305
655 55339
702 22537
703 ..... 22537, 58305

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health and Human Services (Parts 1—1299)

5.10 (a)(37) added 24767
5.20 (f)(1) revised 2414
5.22 (a)(1) through (13), (b)(1) and (2) revised; (a)(14) and (b)(3) added 26826
(a)(9)(xiii) correctly added 9639
5.31 (f)(1)(vi), (2)(x) and (8) added 8215
(f)(1)(vi), (2)(x) and (8) corrected 11545
5.61 (h) added 36594
5.80 (a)(1)(iii) revised; (a)(1)(iv) removed 57338
5.81 Added 54424
5.85 Revised 47268
5.98 Added 63607
Added 8215
Second 5.98 correctly designated as 5.99 11545
5.99 Removed 38626
Correctly designated 11545
5.100 Footnotes 9 and 12 amended; Footnote 17 added 8472
10.50 (c)(21) removed 38626
16 Workshop 27406

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17 Added 38626
19.21 (a), (b) and (c) amended 47478
20 Authority citation revised 63381
20.63 (f) added 16968
20.86 Amended 38633
20.88 (d) and (e) added 63381
20.89 (d) added 63382
25.22 (a)(10) revised 36594
25.31a (a) introductory text, (b)(1) introductory text and (2) introductory text revised 36594
73.35 Added 18738
(b) and (d)(3) stayed 41805
(b) and (d)(3) stay at 60 FR 41805 rescinded; eff. 11-1-95 55446
73.250 (a)(1) amended 52629
Regulation at 60 FR 52629 eff. date confirmed 7990
73.260 (a)(1) amended 52629
Regulation at 60 FR 52629 eff. date confirmed 7990
73.3106 Regulation at 60 FR 10497 confirmed as 3-30-95 32264
80.10 (c) removed; (d), (e) and (f) redesignated as (c), (d) and (e) 3572
101 Authority citation revised 67174
Request denial 37502
101.2 (d)(1) revised 17205
101.3 (e)(4)(ii) revised; eff. 1-1-97 67174
101.9 (i) revised; (j)(17) revised 17205
(j)(17) corrected 30788
(c)(8)(iv) revised; eff. 1-1-97 67174
(c)(8)(v) amended; eff. 4-19-96 8779
101.13 (j)(2)(iv)(B) revised 17205
(j)(1)(i)(B) amended; eff. 4-22-96 11731
101.36 (b)(3) introductory text, (i), (ii), (4) introductory text and (vi) revised; eff. 1-1-97 67175
(b)(3)(v) amended; eff. 4-19-96 8779
(b)(3)(ii) corrected 10280
101.54 (e)(1)(iii)(B) and (2)(iii)(B) revised 17206
(e)(1) introductory text and (2) introductory text amended; eff. 4-22-96 11731
101.56 (b)(3)(ii), (c)(1)(ii)(B), (2)(ii)(B) and (g) amended 17206
101.60 (b)(4)(ii)(B), (5)(ii)(B), (c)(4)(ii)(B) and (5)(ii)(B) revised 17206
101.61 (b)(6)(ii)(B), (7)(ii)(B) and (c)(2)(iii) revised 17206
101.62 (b)(4)(ii)(B), (5)(ii)(B), (c)(4)(ii)(B), (5)(ii)(B), (d)(1)(ii)(F)(*2*), (2)(iii)(E)(*2*), (iv)(E)(*2*), (4)(i)(C)(*2*), (ii)(D)(*2*), (5)(i)(C)(*2*) and (ii)(D)(*2*) revised 17207
101.79 Revised; eff. 4-19-96 8779
102.50 Table amended 34460
103.35 Removed; eff. 5-13-96 57123
123 Added; eff. 12-18-97 65197
Meetings 9100
129.35 (a)(3)(ii) and (iii) revised; (a)(4) added; eff. 5-13-96 57123
129.80 (g) introductory text revised; eff. 5-13-96 57124
136.115 (a)(1) revised; eff. 1-1-98 8796
137.165 (a) revised; eff. 1-1-98 8796
137.185 (a) revised; eff. 1-1-98 8796
137.235 (a)(1) revised; eff. 1-1-98 8796
137.260 (a)(1) revised; eff. 1-1-98 8796
137.305 (a)(1) revised; eff. 1-1-98 8796
137.350 (a)(1) revised; eff. 1-1-98 8796
139.115 (a)(1) revised; eff. 1-1-98 8797
139.122 (a)(3) amended; eff. 1-1-98 8797
139.155 (a)(1) revised; eff. 1-1-98 8797
146.113 Removed 56513
164.150 (c) revised 9325
165 Added; eff. 5-13-96 57124
165.110 (a)(2)(v) and (b)(4)(i)(C)(*4*) corrected; eff. 5-13-96 66495
(b)(4)(i)(A) table and (iii)(A) through (D) amended; (b)(4)(iii)(E), (F) and (G) revised; eff. 9-23-96 13264
170.3 (e) redesignated as (e)(1); (e)(2) added 36595
170.39 Added 36595
171.8 Added 36596
172.120 (b)(1) table amended 33710
172.345 Revised 8807
172.723 Added 32903
172.800 (c)(12) added 21702
172.841 (a)(1) revised 54425
172.859 (c)(1) and (2) revised 44756
172.867 Added 3171

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(d), (e)(1) and (2)(iv) corrected 11546
173.45 (a) and (c) revised 386
173.340 (a)(3) table amended 54036
(a)(4) table amended 631
173.357 (a)(2) table amended 4873
174.6 Added 36596
175.105 (c)(5) table amended 47480, 49337
(c)(5) table amended 2113, 6940, 9904
175.250 (a), (b)(1) and (2) amended 39645
175.300 (b)(3)(viii)(*b*) and (xxxiii) amended 48646
(b)(3)(xi) amended 49337
(b)(3)(xxxiii) amended 57339
176.170 (b)(2) table amended 18350
(a)(5) table amended 34135, 39646, 44757, 62207
Regulation at 60 FR 34135 eff. date corrected to 7–31–95 47205
176.180 (b)(2) table amended 18350
177.1315 (b) table amended 57926
177.1520 (a)(3)(i)(*a*) redesignated as (a)(3)(i)(*a*)(*1*); (a)(3)(i)(*a*)(*2*) added; (c) table amended 40074
(a)(6) added; (c) table amended 54189
177.1630 (a), (b) and (j) introductory text revised; (e)(4)(ii) amended 57927
(e)(4) amended 61654
177.2440 (a) and (b) revised 48649
177.2600 (c)(4)(ii)(*a*) and (*b*) amended 39648
177.2910 Introductory text revised; (e) and (f) redesignated as (f) and (g); (a)(4) and new (e) added 54426
178.1010 (b)(44) and (c)(38) added 18740
178.2010 (b) table amended 18353, 22269, 33711, 43371, 49338, 49507, 54428
(b) table amended 1831
178.3130 (b) table amended 18351, 54430
178.3297 (e) table amended 31244, 39649
(e) table amended 2116
178.3400 (c) table amended 18351
178.3570 (a)(3) table amended 44758
(a)(3) table amended 1713, 1830
180.25 (a) revised 7991
182.70 Amended 62208
184.1012 Added 55789
184.1024 Added 32910
184.1034 Added 32910
184.1316 Added 32910
184.1329 Added 63621
184.1387 Added 7704
184.1415 Added 32911
184.1443a Added 32911
184.1444 (a) amended; (b) revised 48893
184.1563 (c) revised; eff. 5–13–96 57130
184.1583 Added 32911
184.1595 Added 32911
184.1914 Added 32911
184.1985 Added 54193
186.1555 Added 62208
189.240 Added 33109
189.301 Added 4820
202.1 (e)(4)(i)(*b*)(*3*) amended 38480
206.10 (a) amended 19846
210 Compliance date extension 20897
211 Compliance date extension 20897
310 Technical correction 17611, 57927
310.201 (a)(10) and (15) removed; eff. 10–7–96 52507
310.543 Added 20165
310.545 (a)(9) removed; (d)(1) revised 20165
(d)(1) corrected 20898
(a)(6)(iv), (d)(19) and (20) added 38642
(a)(15)(ii) stayed in part 42436
(a)(2) redesignated as (a)(2)(i); (a)(2)(i) heading, (ii) and (d)(24) added; (d) introductory text and (1) revised; eff. 10–7–96 52507
(a)(6)(ii)(B) stay in part 9571
331.20 Amended; eff. 2–10–97 4823
Redesignated from 331.21 and revised; eff. 2–10–97 4823
331.21 Redesignated as 331.20; new 331.21 redesignated from 331.29 and revised; eff. 2–10–97 4823
331.22 Removed; eff. 2–10–97 4823
331.23 Removed; eff. 2–10–97 4823
331.24 Removed; eff. 2–10–97 4823
331.25 Removed; eff. 2–10–97 4823
331.26 Removed; eff. 2–10–97 4823
331.29 Redesignated as 331.21; eff. 2–10–97 4823
331.80 (a)(1) revised; eff. 2–10–97 4823
332 Authority citation revised 8838
332.3 Added; eff. 3–5–97 8838
332.30—332.31 (Subpart D) Redesignated as 332.30—332.31 (Subpart C); eff. 3–5–97 8838

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332.30 (a), (b) and (c) redesignated as (b), (c) and (d); heading and new (b) revised; new (a) added; eff. 3–5–97 8838
355 Added; eff. 10–7–96 52507
355.50 (a) corrected 57927
369 Technical correction 57927
369.21 Amended; eff. 10–7–96 52510
429.55 (b) revised; interim 56516
430.4 (a)(70) added 58230
430.5 (a)(105) and (b)(107) added 58230
430.6 (b)(107) added 58230
436.105 Table corrected; CFR correction 66898
436.106 Table corrected; CFR correction 66898
436.215 (b) table amended; (c)(9) revised 27221
(b) table amended; (c)(19) added 58230
442.52 (b)(1)(iv) and (3) revised 33712
442.54 Added 58231
442.119 Redesignated as 442.119a; new 442.119 added 27222
442.119a Redesignated from 442.119 27222
442.119b Added 27222
442.154 Added 58232
442.154a Added 58232
442.154b Added 58233
453.522d Added 49508
500.26 (a) amended 38480
500.27 (a)(3) amended 38480
501.4 (b)(13) amended 38480
510.413 (b) amended 38480
510.600 (c)(1) table and (2) table amended 29755, 32447, 33110, 33342, 34135, 35122, 35838, 39846, 40454, 40455, 47052, 47480, 54193, 55658, 63622
(c)(1) table and (2) table amended 259, 515, 4735, 5506, 8872
520.45a (b) amended 55658
(a)(2) amended 4875
520.45b (b) amended 55658
520.82a (b) amended 8873
520.82b (b) amended 8873
520.88a (b) amended 55658
520.88b (b) amended 55658
520.88c (b) amended 55658
520.88d (b) amended 55658
520.88e (b) amended 55659
520.88g (b) amended 55659
520.88h (b) amended 55659
520.90b (b) amended 55659
520.90f (b) amended 55659
520.222 (c) amended 8873
520.445b (d)(4) introductory text amended 26827
(b) and (d)(4)(iii)(C) amended 47052
520.540c (b) amended 55659
520.550 (b) amended 55659
520.622c (b)(2) amended 55659
(b)(3) amended 57832
(b)(5) amended 8873
520.623 (b) amended 55659
520.704 Removed 63622
520.784 (b) amended 8873
520.816 (b) amended 55659
520.863 (b) amended 8873
520.960 (b) amended 5506
520.1120a (c) amended 8873
520.1120b (c) amended 8873
520.1284 (b) amended 55659
520.1289 Added 20402
520.1445 (c)(2) and (3) amended 50097
520.1468 (b) amended 5506
520.1560 Removed 39847
520.1560a Removed 39847
520.1560b Removed 39847
520.1628 (b) amended 5506
520.1629 (a)(2) and (b)(2) amended 5506
520.1630 (b) amended 5506
520.1631 (b) amended 5506
520.1638 (b) amended 55659
520.1640 (b) amended 55659
520.1660d (b)(2) amended; (c) removed 40455
(a)(7) and (b)(5) added 2915
520.1696b (b) revised 26359
520.1720a (b)(1) amended 8873
520.1720b (b) amended 8873
520.1720c (b) amended 8873
520.1801 Removed 39847
520.1801a Removed 39847
520.1805 (b) amended 8873
520.1840 (c)(1) and (2) amended 55659
520.1880 (b) amended 57832
520.1920 (b) amended 55659
520.1921 (b) amended 55659
520.2002 (c) amended 5506
520.2095 Added 50097
520.2122 (b)(2) amended 5506
520.2220a (b) amended 4875
520.2220b (b)(1) amended 4875
520.2220c (c) amended 4875
520.2220d (b) amended 4875
520.2260a (b)(1) amended 55659
(b)(1) amended 4875
520.2260b (b)(1) amended 55659
(b)(1) amended 4875

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520.2260c (a) amended **55659**
(a) amended 4875
520.2362 (c) amended 8873
520.2604 (b) amended **55659**
520.2605 (b) amended **55659**
520.2610 (b) amended 5506, 8873
520.2611 (b) amended 5506, 8873
520.2612 (b) amended 8873
522.82 (b) amended 8873
522.88 (b) amended **55659**
522.90a (b)(1) amended **55659**
522.90c (b) amended **55659**
522.313 (d)(1)(ii) amended **51719**
522.514 Removed **63622**
522.540 (a)(2) revised **29985**
(d)(2)(i) amended **55659**
(d)(2)(ii) removed; (d)(2)(iii) redesignated as (d)(2)(ii) **63622**
522.723 (c) amended **39847**
522.784 (b) amended 8873
522.842 (b) amended 5506
522.863 (b) amended 8873
522.883 (c) amended **39847**
(c) amended 260
522.914 (b) amended 5506
522.960a (c) amended 5506
522.960b (c) amended 5507
522.960c (b) amended 5507
522.970 (b) revised **48650, 54942**
522.1044 (a) and (b)(1) revised; (b)(4) added **29985**
522.1060 Removed **27223**
522.1060a Removed **27223**
522.1060b Removed **27223**
522.1085 (b) amended **27223**
522.1086 Added **27223**
522.1155 (b) amended 8873
522.1192 Heading and (a)(3) heading revised; (d)(5) added **45041**
522.1222a (a) and (d) removed; (c) revised **49339**
522.1290 (b) amended **55659**
522.1362 Added **49340**
522.1468 (b) amended 5507
522.1563 Removed **39847**
522.1660 (b) and (c)(2)(iii) amended **29755**
522.1662a (h)(2) revised **48651**
522.1720 (c) and (d) amended; (b)(2) revised **53509**
(b)(1) amended **63622**
(b)(1) amended 8873
522.1880 Removed **63622**
522.1920 (b) amended **55659**
522.1940 (b) and (d)(1)(iii) amended 5507
522.2002 (c) amended 5507
522.2012 (b) amended 5507
522.2095 Added **57833**
522.2100 (d)(2) revised **57833**
522.2120 (b) amended 5507
522.2220 (a)(2)(i) amended 4875
522.2610 (a)(2) and (b)(2) amended 5507, 8873
522.2662 (b) amended **33110, 35122, 35123**
522.2670 (b) amended **57832**
522.2680 (d)(3) added **26360**
524.154 (a)(2) amended 8873
524.155 (a)(1) amended 8873
524.575 Added **48651**
524.660a (b) amended 5507
524.660b (b) amended 5507
524.960 (b) amended 5507
524.981d (b) amended 5507
524.1005 (b)(1) amended **55659**
524.1465 (b) amended **55659**
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558.4 (d) table amended **39848, 57928, 66495**
558.55 (d)(2) table amended 515
558.58 (d)(1) table amended 4875
558.62 (c)(2)(v) removed; (c)(2)(vi) redesignated as (c)(2)(v) **39847**
558.76 (d)(3)(v) added **29483**
558.95 (b)(1)(x)(*b*) and (xi)(*b*) amended **18741**
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558.120 (a)(1) and (2) amended 515
558.128 (c)(5)(iii) removed **39847**
558.155 Heading, (2) and (3) revised 2415
558.195 (c)(2) removed; (d) table amended **34461**
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558.274 (a)(7), (c)(1)(i) table and (ii) table amended **47052**

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558.625 (b)(52) amended **47053**
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558.630 (b)(3), (8) and (10) amended **47053**
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558.635 (b)(1) amended **55660**
573.625 Added 5
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1310.02 (b)(10) added 19510
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1310.04 (f)(2)(v) added 19510
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630.110 Authority citation removed; interim 36992
630.112 Authority citation removed; interim 36992
630.201—630.205 (Subpart B) Authority citation removed; interim 36992
630.701—630.711 (Subpart G) Revised; interim 36993
630.1002—630.1010 (Subpart J) Authority citation removed; interim 36992
635 Authority citation revised 44273
635.410 Authority citation removed; interim 44273
635.413 Revised; interim 44274
635.501—635.509 (Subpart E) Authority citation removed; interim 44273
637 Revised 33717
640 Revised; interim 47483
645.109 (b) amended 34850
645.113 (f) and (g)(1) amended 34850

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TITLE 23 Chapter I—Con.

645.117 (d)(1) and (i)(2) revised; (i)(4) removed 34850
645.207 Amended 34850
Amended 12022
645.209 (a) and (b) amended 34851
645.215 (a) amended 34851
655.601 (a) revised 18521

Chapter II—National Highway Traffic Safety Administration and Federal Highway Administration, Department of Transportation (Parts 1200—1299)

1204 Removed 36654
1208.4 Revised 66076
1208.5 Revised 66076
1208.6 Removed; new 1208.6 redesignated from 1208.9 66076
1208.7 Removed 66076
1208.8 Removed 66076
1208.9 Redesignated as 1208.6 66076
1212 Redesignated as Part 192 50100
1260 Authority citation revised 11306
1260.1 Revised 11306
1260.3 Revised 11306
1260.4 Added 11306
1260.5 Revised 11306
1260.9 Removed 11306
1260.11 Removed 11306
1260.13 Removed 11306
1260.15 Removed 11306
1260.17 Removed 11306
1260.19 Removed 11306
1260.21 Removed 11306
1260 Appendix removed 11306

Chapter III—National Highway Traffic Safety Administration, Department of Transportation (Parts 1300—1399)

1313.5 Introductory text amended; (c)(4) and (g) added; interim 9104
1313.6 (a) removed; (b) through (g) redesignated as (a) through (f); interim 9104
1317 Removed 57930

Proposed Rules:

630 2973
635 2973
655 ..... 31008, 49136
667 62359
668 56962
710 56004
712 56004
713 56004
720 56004
740 56004
771 2973
1206 11794
1210 9121

TITLE 24—HOUSING AND URBAN DEVELOPMENT

Subtitle A—Office of the Secretary, Department of Housing and Urban Development (Parts 0—99)

0 Authority citation revised 5202
0.735–102 Amended 5202
0.735–106 Removed 5202
1 Appendix A removed 47262
3 Removed 47262
4.5 Amended 5202
5 Added 5202
Authority citation revised ... 9041, 9537, 11113, 13616
5.210—5.238 (Subpart B) Added 11113
5.300—5.363 (Subpart C) Added 9538
5.400—5.405 (Subpart D) Added 5665
5.405 (c)(2) revised 13616
5.410 Added (OMB number) 9041
5.415 Added (OMB number) 9043
5.420 Added 9044
5.425 Added 9045
5.430 Added 9045
5.500—5.528 (Subpart E) Added 13616
7 Revised 14228
8 Authority citation revised 5203
8.32 (a) revised 5203
8 Appendixes A and B removed 47262
10 Authority citation revised 13273
10.3 (c) added 13273
11 Removed 47262
12 Authority citation revised 5203
12.3 Amended; introductory text added 5203
15 Authority citation revised 5203
15.1 Amended; introductory text added 5203
15.31—15.33 (Subpart D) Removed 47262
15.71 Amended 58456
15.81 (b) revised 58457
15.86 Removed 5204

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16.2 (b)(4) removed; (b)(5) through (b)(8) redesignated as (b)(4) through (b)(7) 5204
16 Appendix A removed 47262
17.1—17.12 (Subpart A) Authority citation revised 5204
17.1 (c) revised 5204
20 Authority citation revised 13280
20.3 (a) revised 13280
20.10 Introductory text redesignated as (a); (b), (c) and (d) added 13280
Amended 13281
24 Authority citation revised 33048
24.100 Revised 33040
Revised; (e) and (f) added 33048
24.105 Amended 33041
Amended; (1) and (2) removed 33048
24.110 (c) revised 33041
Amended; (a)(1)(i)(A)(3) and (3) added; (c) revised; (d) amended 33048
24.115 (d) removed 33048
24.200 Revised 33041
Revised; (c)(8), (9) and (d) added 33048
24.215 Revised 33041, 33048
24.220 Revised 33041, 33048
24.225 Revised 33041, 33048
24.305 (d) revised 33049
24.313 Revised 33049
24.314 Revised 33049
24.400 (d) removed 33050
24.410 (c) removed 33050
24.411 Revised 33050
24.412 Revised 33050
24.413 Revised 33050
24.415 (d) removed 33051
24.705 (c) amended 33051
24.710 (a)(3) amended 33051
24.711 Revised 33051
24.712 Revised 33051
24.713 Revised 33051
24.714 Added 33051
24 Appendixes A and B revised 33042, 33048
Appendixes A, B and C removed 47262
25 Authority citation revised 39237
25.2 Revised 39237
25.3 Amended 39237
Amended 685
25.5 (c)(1), (2) and (d)(4)(iii) revised 39237
Revised 685
25.7 Revised 39237
25.8 Revised 39238
25.9 (i), (w), (x) and (bb) revised; (ee) added 39238
(l) and (p) revised 685
25.12 (a) amended 39238
Removed; new 25.12 redesignated from 25.13 685
25.13 Redesignated as 25.12; new 25.13 redesignated from 25.14 and revised (OMB numbers) 685
25.14 Redesignated as 25.13; new 25.14 redesignated from 25.16 685
25.15 Removed; new 25.15 redesignated from 25.18 685
25.16 Revised 39238
Redesignated as 25.14 685
25.17 Removed 39238
25.18 Redesignated as 25.15 685
26 Authority citation revised 39238
26.1 Amended 39239
27 Authority citation revised 5204
27.3 Amended; introductory text revised 5204
28 Authority citation revised 5204
28.3 Amended; introductory text added 5204
29 Added 57489
30 Authority citation revised 5204
30.10 Amended; introductory text revised 5204
35 Authority citation revised ... 5204, 9082
35.3 Amended 5204
35.70 (Subpart G) Removed 5204
35.88 OMB number pending 9083
35.90 OMB number pending 9084
35.92 OMB number pending 9084
35.94 OMB number pending 9084
39 Removed 47262
40 Authority citation revised 5204
40.5 Removed 5204
40.7 Added 5204
40 Appendix A removed 47262
49 Removed 47262
51 Authority citation revised 13332
51.2 Revised 13333
51.3 Revised 13333
51.5 Removed 13333
51.100 (a) introductory text and (b) revised 13333
51.101 (a)(1) introductory text, (ii), (2) and (3) revised; (a)(1)(iii) removed 13333

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TITLE 24 Subtitle A—Con.

51.102 (a) and (d) removed; (b), (c) and (e) redesignated as (a), (b) and (c); new (b) introductory text and new (c) revised 13333
51.104 (a)(1) removed; (a) introductory text redesignated as (a)(1); (a)(2), (b) introductory text, (1)(ii) and (2) revised 13333
51.105 (a)(1) revised 13334
51.106 (a)(4) introductory text revised 13334
51.200 Introductory text amended 13334
51.200—51.208 (Subpart C) Authority citation revsied 5204
51.201 Amended; introductory text added 5204
Amended 13334
51.202 (a) amended 13334
51.203 (d) added 13334
51.206 Revised 13334
51.207 Revised 13334
51.300 (a) and (b) designation removed 13334
51.302 (a) amended 13334
51.303 (a)(3) revised 13334
51.304 Revised 13335
52 Authority citation revised 5204
52.2 Amended 5205
52.13 Removed 5205
58.2 (a)(7)(ii) introductory text and (D) revised; (a)(7)(ii)(E) added; interim 48611
58.10 Amended; interim 48611
58.77 (d) heading revised; (d)(2) amended; interim 48611
81 Revised 61888
84 Regulation at 59 FR 47011 confirmed 32104
85.36 (d), (g), (h) and (i) revised 19639, 19642
86 Regulation status notification 67325
Removed 4876
86 Appendixes A and B removed 47262
90 Removed 47262
91.5 Amended; introductory text added 5205
91.15 (a)(2) amended 45043
91.500 (b) introductory text revised 56909
91.600 Added 50802
92 Authority citation revised 5205, 9037
92.1 Revised; interim 9037
92.2 Regulations at 59 FR 18631 and 44261 eff. date extended to 6-30-96 34136
Amended; interim 36023
Amended; introductory text added 5205
Amended; interim 9037
92.3 Removed 5205
92.4 Regulations at 59 FR 18631 and 44261 eff. date extended to 6-30-96 34136
Revised; interim 9037
92.5 Regulation at 59 FR 44261 eff. date extended to 6-30-96 34136
Revised; interim 36024
92.50 Regulation at 59 FR 19631 eff. date extended to 6-30-96 34136
(d)(3) revised 1824
92.52 Removed; interim 9037
92.61 Regulations at 59 FR 18631 and 44261 eff. date extended to 6-30-96 34136
92.64 Regulation at 59 FR 18632 eff. date extended to 6-30-96 34136
92.100 Removed; interim 9037
92.150 Regulations at 59 FR 18632 and 44261 eff. date extended to 6-30-96 34136
92.204 Regulation at 59 FR 18632 eff. date extended to 6-30-96 34136
92.205 Regulations at 59 FR 18632 and 44261 eff. date extended to 6-30-96 34136
(b) revised; interim 36024
92.206 Regulations at 59 FR 18632 and 44261 eff. date extended to 6-30-96 34136
92.207 Regulation at 59 FR 18633 eff. date extended to 6-30-96 34136
92.208 Regulation at 59 FR 18633 eff. date extended to 6-30-96 34136
92.209 Regulation at 59 FR 18633 eff. date extended to 6-30-96 34136
92.210 (f) revised; interim 36024
92.211 Regulations at 59 FR 18633 and 44261 eff. date extended to 6-30-96 34136
Revised; interim 36024
92.212 Removed; interim 9037

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92.213 Revised; interim 9037
92.214 Regulations at 59 FR 18634 and 44262 eff. date extended to 6-30-96 34136
(a)(2) revised; interim 9037
92.215 Revised; interim 9037
92.216 Regulation at 59 FR 44262 eff. date extended to 6-30-96 34136
92.218 Regulations at 59 FR 18634 and 44262 eff. date extended to 6-30-96 34136
(f) added; interim 36025
92.219 Regulation at 59 FR 18634 eff. date extended to 6-30-96 34136
92.220 Regulation at 59 FR 18634 eff. date extended to 6-30-96 34136
(a)(1)(ii)(A), (2) and (5) introductory text revised; interim 36025
92.221 Regulation at 59 FR 18635 eff. date extended to 6-30-96 34136
92.222 Regulation at 59 FR 18635 eff. date extended to 6-30-96 34136
92.251 (a) amended; interim 9037
92.252 Regulations at 59 FR 18635 and 44262 eff. date extended to 6-30-96 34136
(a)(2) revised; interim 36025
92.254 Regulations at 59 FR 18636 and 44262 eff. date extended to 6-30-96 34136
(a)(4)(ii) revised; interim 36026
92.255 Regulation at 59 FR 18636 eff. date extended to 6-30-96 34136
92.256 Regulation at 59 FR 18636 eff. date extended to 6-30-96 34136
92.257 Regulation at 59 FR 44262 eff. date extended to 6-30-96 34136
92.259 Regulation at 59 FR 18636 eff. date extended to 6-30-96 34136
92.300 Regulation at 59 FR 18637 eff. date extended to 6-30-96 34136
92.302 Revised; interim 9037
92.350 (a) revised 5205
92.352 Regulation at 59 FR 44262 eff. date extended to 6-30-96 34136
92.353 Regulation at 59 FR 44262 eff. date extended to 6-30-96 34136
92.354 Regulations at 59 FR 18637 and 44263 eff. date extended to 6-30-96 34136
92.356 (a)(1) and (2) revised; interim 36026
92.357 Removed 5205
92.358 Removed; interim 9037
92.400 Revised; interim 9037
92.502 Regulation at 59 FR 18637 eff. date extended to 6-30-96 34136
92.504 Regulation at 59 FR 18637 eff. date extended to 6-30-96 34136
92.505 Revised; interim 36026
92.508 Regulation at 59 FR 18637 eff. date extended to 6-30-96 34136
92.625 Regulation at 59 FR 18638 eff. date extended to 6-30-96 34136
92.633 Regulation at 59 FR 44263 eff. date extended to 6-30-96 34136
0—99 (Subtitle A) Appendix D removed 47262
Appendixes A and B removed 7943

Chapter I—Office of Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development (Parts 100—199)

100 Authority citation revised 43327
Authority citation revised 5205
100.20 Amended 5205
100.304 Revised 43327
100.305 Added 43327
100.306 Added 43328
100.307 Added 43329
100.310 Added 43330
100.315 Added 43330
100.316 Added 43330
103 Authority citation revised 5205
103.9 Amended; introductory text revised 5205
103.405 (b)(3) revised 58452
103 Appendix removed 47262

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TITLE 24 Chapter I—Con.

104 Authority citation revised 5205
104.20 Amended; introductory text added 5205
106 Removed **47262**
107 Authority citation revised 5205
107.15 (a) revised; (b) removed; (c) through (g) redesignated as (b) through (f) 5205
109 Authority citation revised 5205
109.15 (b) revised 5205
110 Authority citation revised 5205
110.5 (a) revised; (f) removed; (g), (h) and (i) redesignated as (f), (g) and (h) 5205
111 Authority citation revised 5205
Removed; interim 7675
111.101 Amended; introductory text revised 5205
115 Revised; interim 7675
120 Removed **47262**
125 Revised **58452**
Authority citation revised 5206
125.103 Amended 5206
130 Removed **47262**
135 Authority citation revised 5206
135.2 Revised **28326**
135.5 Amended; introductory text revised 5206
146 Authority citation revised 5206
146.7 Amended; introductory text revised 5206
Chapter I Appendixes II, III and IV removed 7943

Chapter II—Office of Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development (Parts 200—299)

200 Authority citation revised 13623
200.1—200.4 (Subpart A) Removed 7943
200.5—200.39 (Subpart B) Removed **47262**
200.40—200.44 (Subpart C) Removed 7943
200.50—200.129 (Subpart D) Removed 7943
200.93 Regulation at 59 FR 31522 confirmed **35692**
Redesignated as 200.227 7943
200.155 Regulation at 59 FR 50143 confirmed **21937**
200.180—200.192 (Subpart G) Removed 13624
200.213 Regulation at 59 FR 31522 confirmed **35692**
200.217 Regulation at 59 FR 31522 confirmed **35692**
200.224 Amended 7944
200.227 Redesignated from 200.93 7943
200.300 Revised 5206
200.517—200.533 (Subpart L) Removed **47262**
200.700—200.710 (Subpart N) Removed **42762**
200.946 Revised **47841**
200.1001 (Subpart T) Revised 11118
200.1005 Amended; introductory text revised 5206
200.1101 (Subpart U) Revised 11118
200.1201 (Subpart V) Revised 11118
200.1205 Amended 5206
200.1301 (Subpart W) Added **42762**
201 Authority citation revised 5206
201.2 (ff) removed; (gg) through (mm) redesignated as (ff) through (ll) 5206
201.5 (a) and (b) designation removed 5206
202.3 (d) removed; (j) revised 8458
202.4 (b) removed 8458
202.5 (b) removed 8458
202.9 (a) revised; (c) and (d) removed **39239**
Revised 8458
202.11 (a)(5) revised; interim 2651
(a)(1) introductory text, (i) and (b) revised; (a)(3) and (c) removed 8459
202.12 (m) revised; interim 2651
(e) removed; (o) redesignated as (n)(5); new (n)(5) revised 8459
202.13 (e) removed; interim 2651
202.15 (c)(1) amended; (c)(5) revised; interim 2651
202.17 (d) removed; interim 2651
202.18 Revised 8459
202.19 Revised 8459
202.20 (i) revised 8459
202a Removed 7944
203 Authority citation revised **42758**
203.3 (b)(4) revised; interim **42758**
Regulation at 60 FR 42758 confirmed **66476**
(b)(2) revised; (b)(3) and (c) removed; interim 2651
203.5 (b) revised; interim **42759**

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Regulation at 60 FR 42759 confirmed **66476**
203.55 (a) introductory text and (c) revised; (h) added **57678**
203.248 Undesignated centerheading and section removed 5206
203.255 (b)(11) amended; (b)(12) redesignated as (b)(13); new (b)(12) added; (c) introductory text and (3) revised; interim **42759**
Regulation at 60 FR 42759 confirmed **66476**
203.259a (b) amended **34138**
203.269 Added **34138**
203.284 (f) revised **34138**
203.285 (c) revised **34138**
203.355 Regulation at 59 FR 50143 confirmed **21937**
203.356 Regulation at 59 FR 50144 confirmed **21937**
203.360 Regulation at 59 FR 50144 confirmed **21937**
203.365 Regulation at 59 FR 50144 confirmed **21937**
203.370 Regulation at 59 FR 50144 confirmed **21937**
203.401 Regulation at 59 FR 50144 confirmed **21937**
203.402 Regulation at 59 FR 50145 confirmed **21937**
203.402a Revised **57678**
203.403 Regulation at 59 FR 50145 confirmed **21937**
203.410 Regulation at 59 FR 50145 confirmed **21937**
(a) heading and (3) revised **57678**
203.501 Regulation at 59 FR 50145 confirmed **21937**
203.614 (c) added **57678**
205 Removed **47263**
206 Authority citation revised **42759**
Authority citation revised 5206
206.3 Amended; interim **42759**
Regulation at 60 FR 42759 confirmed **66476**
206.5 Amended; interim **42759**
Regulation at 60 FR 42759 confirmed **66476**
Removed 5206
206.7 Revised; interim **42759**
Regulation at 60 FR 42759 confirmed **66476**
206.9—206.51 (Subpart B) Heading revised; interim **42759**
206.9 (b) heading revised; interim **42759**
Regulation at 60 FR 42759 confirmed **66476**
206.13 Removed; interim **42759**
Regulation at 60 FR 42759 confirmed **66476**
206.15 Revised; interim **42759**
Regulation at 60 FR 42759 confirmed **66476**
206.19 (f) added; interim **42760**
Regulation at 60 FR 42760 confirmed **66476**
206.21 (c)(2) and (d) revised; interim **42760**
Regulation at 60 FR 42760 confirmed **66476**
206.25 (b)(1) revised; interim **42760**
Regulation at 60 FR 42760 confirmed **66476**
206.26 (b)(1) and (2) revised; interim **42760**
Regulation at 60 FR 42760 confirmed **66476**
206.27 (b)(3) revised; interim **42760**
Regulation at 60 FR 42760 confirmed **66476**
206.40 Added; interim **42760**
Regulation at 60 FR 42760 confirmed **66476**
206.43 (a) revised; (c) added; interim **42760**
Regulation at 60 FR 42760 confirmed **66476**
206.45 (a), (b) and (d) revised; interim **42760**
(b) revisd **66476**
206.47 (a) revised; interim **42760**
Regulation at 60 FR 42760 confirmed **66476**
206.102 Added; interim **42761**
Regulation at 60 FR 42761 confirmed **66476**
206.107 (a)(1) introductory text revised; (a)(1)(v) added; interim **42761**
Regulation at 60 FR 42761 confirmed **66476**
206.113 (b) revised; interim **42761**
Regulation at 60 FR 42761 confirmed **66476**
206.116 Added; interim **42761**
Regulation at 60 FR 42761 confirmed **66476**
206.121 (c) amended; interim **42761**

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Regulation at 60 FR 42761 confirmed 66476
206.123 (a)(4) revised; interim 42761
Regulation at 60 FR 42761 confirmed 66476
206.125 (a)(2) amended; (b), (d)(1), (2), (g)(1) and (3) revised; interim 42761
Regulation at 60 FR 42761 confirmed 66476
206.129 (d)(2)(i), (ii), (iv), (3)(ii), (e)(1) and (2) revised; (d)(2)(v) and (vi) added; interim 42761
Regulation at 60 FR 42761 confirmed 66476
206.203 (b) revised; interim 42762
Regulation at 60 FR 42762 confirmed 66476
206.205 (a) revised; interim 42762
Regulation at 60 FR 42762 confirmed 66476
206.207 (a) revised; interim 42762
Regulation at 60 FR 42762 confirmed 66476
209 Removed 47263
210 Removed 47263
211 Removed 47263
213.748 Removed 5206
215 Policy statement 20356
215.1 Amended 5206
215.2 Added; interim 17391
215.21 (b)(4), (5) and (c) revised; interim; eff. in part 5–5–95 through 5–6–96 17391
219.130 Removed 5207
220.248 Undesignated centerheading and section removed 5207
221 Authority citation revised 5207
221.248 Undesignated centerheading and section removed 5207
222.248 Removed 7944
224 Removed 47263
225 Removed 47263
226 Removed 47263
227 Removed 47263
228 Removed 47263
229 Removed 47263
231.2 (c) revised 5207
232.1 (n) revised 5207
233.248 Undesignated center heading and section removed 7944
234 Authority citation revised 5207
234.248 Removed 5207
235 Policy statement 20356
Authority citation revised 56499
Authority citation revised 5207
235.1 Redesignated as 235.1202 56499
Added 56500
Revised 13624
235.2 Removed 56500
235.3 Redesignated as 235.1204 56500
235.5 Redesignated as 235.1206 56500
235.9 Removed 56500
235.10 Redesignated as 235.1208 56500
235.11 Removed 56500
235.12 Redesignated as 235.1210 56500
235.13 Removed 56500
235.15 Removed 56500
235.16 Removed 56500
235.18 Removed 56500
235.20 Removed 56500
235.22 Redesignated as 235.1212 56500
235.25 Removed 56500
235.30 Removed 56500
235.31 Removed 56500
235.32 Removed 56500
235.33 Redesignated as 235.1214 56500
235.35 Removed 56500
235.37 Removed 56500
235.38 Removed 56500
235.39 Removed 56500
235.40 Redesignated as 235.1216 56500
235.45 Removed 56500
235.375 (b)(6) revised 13624
235.501 (Subpart D) Revised 56500
235.701—235.715 (Subpart E) Removed 56500
235.801—235.999 (Subpart F) Removed 56500
235.1200 Amended 56500
235.1202 Redesignated as 235.1218; new 235.1202 redesignated from 235.1; (a) introductory text revised 56499
235.1204 Redesignated as 235.1220 56499
Redesignated from 235.3 56500
Removed 5207
235.1206 Redesignated as 235.1222 56499
Redesignated from 235.5 56500
235.1208 Redesignated as 235.1224 56499
Redesignated from 235.10; (a) and (b) removed; (c), (d) and (e) redesignated as (a), (b) and (c); new (c) amended 56500
235.1210 Redesignated as 235.1226 56499

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Redesignated from 235.12 56500
235.1212 Redesignated as 235.1228 56499
Redesignated from 235.22 56500
235.1214 Redesignated as 235.1230 56499
Redesignated from 235.33 56500
235.1216 Redesignated as 235.1232 56499
Redesignated from 235.40 56500
235.1218 Redesignated as 235.1234; new 235.1218 redesignated from 235.1202 56499
Revised 56500
235.1220 Redesignated as 235.1236; new 235.1218 redesignated from 235.1204 56499
(c) introductory text revised 56501
235.1222 Redesignated as 235.1238; new 235.1218 redesignated from 235.1206 56499
236 Policy statement 20356
236.2 Amended 5207, 13624
236.3 (b)(4), (5) and (c) revised; interim; eff. in part 5–5–95 through 5–6–96 17392
236.6 Added; interim 17392
236.70 (a)(1) revised 13624
236.72 (a) revised; (b) introductory text amended; interim 17392
236.80 (a), (b) and (c) amended 13624
236.710 Amended 13624
236.715 (a) amended 13624
236.765 Revised 13624
237.248 Undesignated centerheading and section removed 5207
238 Removed 47263
240 Removed 47263
241.1 (j) removed; (k) and (l) redesignated as (j) and (k) 7944
243 Removed 9543
247.3 (c)(3) revised 11118, 13624
248.201 Amended; introductory text added 5207
250 Removed 47263
251.3 Added; interim; eff. 10–19–95 through 4–21–97 48598
251.4 Added; interim; eff. 10–19–95 through 4–21–97 48598
251.5 Added; interim; eff. 10–19–95 through 4–21–97 48599
252.3 Added; interim; eff. 10–19–95 through 4–21–97 48599
252.4 Added; interim; eff. 10–19–95 through 4–21–97 48599
252.5 Added; interim; eff. 10–19–95 through 4–21–97 48600
255.3 Added; interim; eff. 10–19–95 through 4–21–97 48600
255.4 Added; interim; eff. 10–19–95 through 4–21–97 48600
255.5 Added; interim; eff. 10–19–95 through 4–21–97 48601
260 Authority citation revised 5207
Removed 7944
260.2 (d) removed 5207
261 Removed 13987
261.5 Amended; introductory text added 5207
265 Authority citation revised 5208
265.4 Removed 5208
266.15 Revised 7947
266.35 Removed 7944
266.105 Revised 7947
267.4 Removed 7944
270 Removed 47263
271 Removed 47263
277 Removed 47263
278 Removed 47263
280 Policy statement 20356
280.5 Amended 5208
280.10 Removed 5208
280.207 Introductory text and (a) revised; (g) and (k) removed; (h), (i) and (j) redesignated as (g), (h) and (i) 5208
290 Authority citation revised 4584
Regulation at 60 FR 11847 confirmed; revised 11685
290.5 Amended; introductory text revised 5208
290.7 Removed 5208
290.112 Added; interim 4584
290.114 Added; interim 4584
291.5 Amended; introductory text revised 5208
291.300—291.307 (Subpart D) Added; eff. 10–2–95 through 9–30–96; interim 45333
291.303 Correctly revised 52296
291.405 Amended 5208
291.435 Introductory text and (a)(1) revised; (c) and (e) removed; (d) redesignated as (c) 5208
291.500 (Subpart F) Removed 5208
Correctly revised 52296

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Chapter III—Government National Mortgage Association, Department of Housing and Urban Development (Parts 300—399)

300—310 (Subchapter A) Designation and heading removed.....42015
300 Revised.....42015
310 Revised.....42015
320—350 (Subchapter B) Designation and heading removed.....42015
320 Revised.....42015
330 Revised.....42018
340 Revised.....42019
350 Removed.....42020
360—380 (Subchapter C) Designation and heading removed.....42015
360 Removed.....42020
370 Removed.....42020
380 Removed.....42020
390—395 (Subchapter D) Designation and heading removed.....42015
390 Removed.....42020
395 Removed.....42020

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500 Removed.....47263
510 Authority citation revised.....7061
510.1 Heading added; (a), (b) and (c) redesignated from 510.105(h)(1), (2) and (3).....7061
510.51 Removed.....7061
510.52 Removed.....7061
510.101 Removed.....7061
510.102 Removed.....7061
510.103 Removed.....7061
510.104 Removed.....7061
510.105 (h)(1), (2) and (3) redesignated as 510.1(a), (b) and (c); removed.....7061
510.106 Removed.....7061
510.107 Removed.....7061
510.109 Removed.....7061
510.111 Removed.....7061
510.120 Removed.....7061
510.409 Removed.....7061
510.410 Removed.....7061
511.2 Amended; introductory text added.....5208
511.3 Removed.....7061
511.5 Removed.....5208, 7061
511.10 (d) removed.....7061
511.11 (a) revised; (c)(2)(iii) amended; (g) removed.....7061
511.13 Heading and introductory revised; (a) and (c) removed; (b) redesignated as (a).....5208
511.16 Introductory text revised; (c), (d) and (f) removed; (e) and (g) redesignated (c) and (d).....5208
511.20—511.21 (Subpart C) Removed.....47263
511.30 Removed.....7062
511.31 Removed.....7062
511.33 Revised.....7062
511.34 Removed.....7062
511.40 (Subpart E) Removed.....47263
511.50 (a) amended.....7062
511.51 (a) amended; (d) removed.....7062
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511.76 (h)(2) revised.....7062
511.77 Introductory text removed; (a) revised.....7062
511.80 (a) amended.....7062
511.81 (b) removed.....7062
511.82 (c)(2) removed; (d) amended.....7062
570 Authority citation revised.....5209
570.1 Heading and (a)(4) revised; (b) amended; (c) added.....11475
570.2 Amended.....56909
Removed.....11475
570.3 Amended.....56909
Amended; Introductory text added.....5209, 11475
570.5 Revised.....56910
Removed.....5209
Revised.....11476
570.200 (f)(2) amended.....17445
Regulation at 57 FR 27119 confirmed.....56909
(a)(3), (5), (d)(1) and (e) amended; (g) and (h) revised.....56910
(a)(3) introductory text revised.....11476
570.201 Regulation at 57 FR 27119 confirmed.....56909
(c) and (e) introductory text amended; (k), (n) introductory text, (o)(4), (p) and (q) revised.....56911
570.202 (a)(3), (b)(9) and (10) amended; (a)(4) redesignated as (a)(5); new (a)(4), (b)(11) and (f) added; (c) revised.....56911
570.206 (i) added.....56912
Revised.....11481
570.207 (a)(1) and (b)(2)(i) amended; (b)(4) revised.....56912
570.208 (a)(1)(v) revised; (a)(4)(vi)(B) and (F)(2) amended.....17445
(a)(1)(iii), (iv) and (v) redesignated as (a)(1)(v), (vi) and (vii); new (a)(1)(iii), new (iv) and (3)(iii) added; (a)(2)(i)(A), (3) introductory text, (4)(vi)(F)(2), (d)(5)(i), (6)(i) and (7) amended; (a)(2)(ii) revised.....56912
570.209 (b) introductory text amended.....17445
570.301 Added.....56913
570.304 (a) revised; (d) removed.....56913
570.309 Added.....56914
570.403 Revised.....11476
570.405 (e)(2) revised; (e)(3) redesignated as (e)(4); new (e)(3) added.....56914
570.420 (e)(2) amended.....11476
570.423 (a) revised.....56914
570.429 (g) revised.....56914
570.450 Revised.....11476
570.451 Removed.....11476
570.452 Removed.....11476
570.453 Removed.....11476
570.454 Removed.....11476
570.455 Removed.....11476
570.458 Removed.....11476
570.459 Removed.....11476
570.460 Removed.....11476
570.461 Revised.....11476
570.462 Removed.....11476
570.463 (a) amended.....11476
570.466 Revised.....11476
570.467 Removed.....11477
570.480 (a) amended.....11477
570.481 (a)(3) removed.....5209
570.483 (b)(4)(vi)(B)(2) and (F)(2) amended.....17445
570.488 Revised.....11477
570.500 (a)(4)(ii) and (c) amended.....17445
Regulation at 57 FR 27120 confirmed.....56909
(a)(1)(viii) removed; (a)(2), (3) and (c) revised; (a)(5) added; (b) amended.....56914
570.501 Regulation at 57 FR 27120 confirmed.....56909
570.502 (a) introductory text and (b) revised.....56915
570.503 Regulation at 57 FR 27120 confirmed.....56909
(b)(3) revised.....56915
570.504 (b)(2) introductory text revised; (b)(2)(iii) added.....56915
570.506 (b)(3)(i) and (c) revised; (b)(4)(v) and (vi) amended; (b)(4)(vii) and (viii) added.....56915
570.600 (a) amended.....56916
(a) revised.....11477
570.601 Revised.....11477
570.602 (a), (b)(1), (2), (3), (4)(i) and (ii) amended.....56916
570.603 Revised.....11477
570.604 Revised.....11477
570.605 Revised.....11477
570.606 (b)(2)(i)(A) and (c)(3)(ii)(A)(1) revised; (c)(1)(iii)(G) and (iv)(A) amended.....56916
Revised (OMB number).....11477
570.607 Revised.....5209
570.608 (a) revised.....11481
570.609 Revised.....5209
570.610 Revised.....56916
570.611 Regulation at 57 FR 27120 confirmed.....56909
Revised.....56916
570.614 Added.....56917
570.701 Amended.....11481
570.703 (d)(1) and (2) revised.....11481
570.704 (a)(2)(i)(D), (b)(8)(vii) and (e) revised.....11481
570.800 Revised.....11481
570.801 Removed.....11481
570.802 Removed.....11481
570.803 Removed.....11481
570.804 Removed.....11481
570.900 (b)(3), (5) and (6) revised.....56917
570.901 (a) amended; (e) revised.....56917
570.902 (a) revised.....56917
570.903 Revised.....56918
570.904 (b) introductory text and (c) revised.....11482
572.5 Amended; interim.....36018
Amended; introductory text revised.....5209
572.15 Removed.....5209
572.110 (d)(1) and (2) amended.....11118
572.120 (a)(1) revised; interim.....36018

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572.135 (c) revised; interim **36018**
572.210 (e)(1) and (f) amended; (g) added; interim **36018**
572.220 (a)(1) and (b)(2)(ii) amended; interim **36018**
572.400 Revised; interim **36018**
572.405 (b), (c) and (d) removed; (e), (f) and (g) redesignated as (b), (c) and (d); introductory text, (a) and new (b) revised 5209
574.1 Removed 7963
574.2 Removed 7963
574.3 Amended; introductory text added 5209
Amended 7963
574.4 Removed 7963
574.110 Added 7963
574.150 Removed 7963
574.200 (c) and (d) added 7963
574.230 Removed 7963
574.240 Revised 7963
574.250 Removed 7963
574.310 (d) introductory text amended 7963
574.320 (b) revised 7963
574.510 Revised 7963
574.540 Revised 7963
574.600 Redesignated as 574.603; new 574.600 added 5209
574.603 Redesignated from 574.600; introductory text and (a) revised; (b), (c), (d) and (f) removed; (e) redesignated as (b) 5209
Introductory text revised 7964
574.610 Removed 5210
574.615 Removed 5210
574.620 Removed 5210
575 Removed **47263**
576.3 Amended; introductory text added 5210
576.5 Removed 5210
576.79 Introductory text and (a) revised; (e) and (h) removed; (f), (g), (i) and (j) redesignated as (e), (f), (g) and (h) 5210
577 Removed **47263**
578 Removed **47263**
579 Removed **47263**
580 Removed **47263**
582 Authority citation revised 5210
582.5 Amended; introductory text revised 5210
582.10 Removed 5210
582.330 (b) revised 5210
582.340 Introductory text added; (b), (c) and (d) removed; (e) redesignated as (b) 5210
583.5 Amended 5210
583.10 Removed 5210
583.325 (b) introductory text and (1) revised 5210
583.330 Introductory text revised; (f) and (i) removed; (g) and (h) redesignated as (f) and (g) 5211
585.4 Amended; introductory text revised 5211
586 Added; interim **42975**
586.1 Eff. 9-18-95 through 9-17-96 ..... **42975**
586.5 Eff. 9-18-95 through 9-17-96 ..... **42975**
586.10 Eff. 9-18-95 through 9-17-96 ..... **42976**
586.15 Eff. 9-18-95 through 9-17-96 ..... **42976**
586.20 Eff. 9-18-95 through 9-17-96 ..... **42977**
586.25 Eff. 9-18-95 through 9-17-96 ..... **42978**
586.30 Eff. 9-18-95 through 9-17-96 ..... **42978**
586.35 Eff. 9-18-95 through 9-17-96 ..... **42979**
586.40 Eff. 9-18-95 through 9-17-96 ..... **42979**
586.45 Eff. 9-18-95 through 9-17-96 ..... **42980**
590 Authority citation revised 5211
590.1 Revised 7062
590.3 Removed 5211, 7062
590.5 Amended 5211, 7062
590.7 (a), (c)(3) and (4) removed; (b)(6), (8), (c)(1) and (2)(i) amended; (c)(2)(iii) revised 7062
590.9 Removed 7062
590.11 Removed 7062
590.13 Removed 7062
590.15 Removed 7062
590.17 Removed 7062
590.18 Removed 7062
590.21 Removed 7062
590.23 (a) revised; (c) amended; (d) removed 7062
590.29 (a) introductory text, (4) and (c) revised 7063
590.31 (c) removed 7063
594.3 Amended 5211

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594.30 Introductory text and (a) revised; (b), (c) and (d) removed; (e) through (h) redesignated as (b) through (e) 5211
595 Removed **47263**
596 Removed **47263**
597.3 Amended; introductory text added 5211
597.5 Removed 5211
598 Removed **47263**
599 Removed **47263**

Chapter VI—Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 600—699)

600 Removed **47263**

Chapter VII—Office of the Secretary, Department of Housing and Urban Development (Housing Assistance Programs and Public and Indian Housing Programs) (Parts 700—799)

Chapter VII Heading revised 13987
700 Authority citation revised 5211
700.105 Amended; introductory text revised 5211
750 Authority citation revised 5211
Removed 11118
750.5 Amended; introductory text revised 5211
760 Removed 11118
760.5 Amended; introductory text revised 5211
761 Added 13987
791 Authority citation revised **35126**
Authority citation revised 5211
Revised 10849
791.102 Amended; introductory text added 5211
791.401 Revised **35126**
791.403 (a), (b)(1)(ii) and (2) revised **35126**
791.405 Revised **35126**
791.407 (a) introductory text revised **35126**
792 Authority citation revised 5212
792.103 Amended 5212
799 Removed 5212

Chapter VIII—Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Section 8 Housing Assistance Programs and Section 202 Direct Loan Program) (Parts 800—899)

811.102 Introductory text added; (l) and (q) removed; (m) through (p) and (r) through (u) redesignated as (l) through (o) and (q) through (t) 5212
811.201—811.211 (Subpart B) Removed **47263**
812 Removed 13625
812.1—812.4 (Subpart A) Removed 5665
812.5 (a) and (b) redesignated as (b) and (c); new (a) added 5665
813 Authority citation revised 17393
Policy statement 20356
813.1 Added; interim 17393
813.102 Amended; introductory text added 5212
813.106 (b)(4), (5) and (c) revised; interim; eff. in part 5-5-95 through 5-6-96 17393
842 Removed 9543
850.1 Revised 7944
850.3 Amended; introductory text added 5212
Removed 7944
850.11—850.17 (Subpart B) Removed 7944
850.31—850.39 (Subpart C) Removed 7944
850.35 Introductory text revised; (a), (b), (d) and (l) removed; (c), (e) through (k) and (m) redesignated as (a), (b) through (h) and (i) 5212
850.61—850.79 (Subpart D) Removed 7944
850.100—850.107 (Subpart E) Removed 7944
880 Authority citation revised 5212
880.101 Revised 13587
880.102 Removed 13587
880.103 Removed 13587
880.104 Revised 13587

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880.201 Amended; introductory text added 5212
880.201—880.211 (Subpart B) Heading revised 13587
880.201 Amended 13587
880.202 Removed 13587
880.203 Removed 13587
880.204 Removed 13587
880.206 Removed 13587
880.209 Removed 13587
880.210 Removed 13587
880.301—880.311 (Subpart C) Removed 13587
880.401—880.405 (Subpart D) Removed 13587
880.501 (a) revised; (b) removed 13587
880.504 (b), (c) introductory text, (1) and (e) revised 13587
880.601 (a)(4), (b), (c) and (e) revised 13588
880.602 Revised 13588
880.603 (b) introductory text, (1) introductory text and (2) amended 9046
Revised (OMB number) 13589
880.606 (b) revised 13590
880.607 (b)(3)(ii) amended; (c)(4) and (d) revised 13590
880.608 (f) introductory text amended 13591
880.609 (b) revised 13591
880.611 (d)(3) introductory text revised 13591
880.612 (b) revised 13591
880.612a (g) amended 9046
880.613 Removed 9046
880.614 Removed 9046
880.615 Removed 9046
880.616 Removed 9046
880.617 Removed 9046
881.101 Revised 13591
881.102 Removed 13591
881.103 Removed 13591
881.104 Revised 13591
881.201—881.211 (Subpart B) Heading revised 13591
881.201 Amended 13591
Amended; introductory text added 5212
881.202 Removed 13591
881.203 Removed 13591
881.204 Removed 13591
881.206 Removed 13591
881.209 Removed 13591
881.210 Removed 13591
881.301—881.312 (Subpart C) Removed 13591
881.401—881.405 (Subpart D) Removed 13591
881.501 (a) revised; (b) removed 13591
881.503 Revised 13592
881.504 Removed 13592
881.505 Removed 13592
881.506 Removed 13592
881.507 Removed 13592
881.508 Removed 13592
881.601 (Subpart F) Revised 13592
881.603 (b) introductory text, (2) introductory text and (3) amended 9046
881.612a (g) amended 9046
881.613 Removed 9046
881.614 Removed 9046
881.615 Removed 9046
881.616 Removed 9046
881.617 Removed 9046
881.701—881.709 (Subpart G) Removed 13592
882 Heading revised (effective date pending) 34694
Authority citation revised 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
Authority citation revised 9046
882.101 (b) revised; (c) and (d) added (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.102 Amended; introductory text added 5212
882.103 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.104 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.105 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.107 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.116 Removed (effective date pending) 34694

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Regulation at 60 FR 34694 eff. 10–2–95 45661
882.117 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.118 (a)(1) amended 11118
(a)(1) revised 13625
882.119 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.121 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.123 (a) through (d), (f) and (i) removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.201 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.202 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.203 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.204 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.205 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.206 Removed (effective date pending) 34694
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882.207 Removed (effective date pending) 34694
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882.208 Removed (effective date pending) 34694
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882.209 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.210 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.211 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.212 (a), (b) and (c) amended 11118, 13625
882.213 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.215 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.216 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.212—882.219 (Subpart B) Appendix I removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.514 (a)(1) and (b) introductory text amended 9046
(f) amended 13625
882.515 (a), (b) and (c) amended 11118, 13625
882.517 Removed 9046
882.518 Removed 9046
882.519 Removed 9046
882.520 Removed 9046
882.521 Removed 9046
882.701 Revised (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.702 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.703 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.704 Removed (effective date pending) 34694
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882.705 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.706 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.707 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.708 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.709 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.710 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.711 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.712 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.713 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.716 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.720 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.721 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.722 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.723 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.724 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.725 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.730 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.731 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.732 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.733 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.740 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.741 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.750 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.751 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.752 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.753 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.754 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.755 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661

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882.756 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.757 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.758 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.759 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.802 Amended; interim 5851
882.803 (a)(2) and (d) revised; interim 5851
882.804 (d) revised; interim 5851
882.805 (d) removed; (g)(1)(ii)(A) revised; interim 5851
882.808 (a)(3), (b)(2) and (4) removed; (a)(4), (b)(3), (5), (6) and (7) redesignated as (a)(3), (b)(2), (3), (4) and (5); (a)(1) and new (3) revised; (q) added 5851
(i)(1), (2) and (l) amended 13625
883.101 Revised 13592
883.102 Removed 13592
883.103 Removed 13592
883.104 Removed 13592
883.105 Revised 13592
883.106 Added 13592
883.201—883.207 (Subpart B) Removed 13592
883.301—883.313 (Subpart C) Heading revised 13592
883.302 Amended; introductory text added 5213
Amended 13592
883.303 Removed 13592
883.304 Removed 13592
883.305 Removed 13592
883.309 Removed 13592
883.311 Removed 13592
883.312 Removed 13592
883.401—883.412 (Subpart D) Removed 13593
883.501 (Subpart E) Removed 13593
883.602 (b) removed; (c), (d) and (e) redesignated as (b), (c) and (d); new (b)(2), new (c)(2) and new (3) amended 13593
883.604 (b)(2) amended 13593
883.605 Revised 13593
883.608 Revised 13593
883.701 (Subpart G) Revised 13593
883.704 (b) introductory text, (2) and (3) amended 9047
883.704a (g) amended 9047
883.713 Removed 9047
883.714 Removed 9047
883.715 Removed 9047
883.716 Removed 9047
883.717 Removed 9047
884.101 (a) revised 13593
884.102 Amended; introductory text added 5213
Amended 13593
884.103 Removed 13593
884.105 (b)(1) and (2) amended 13593
884.107 Removed 13593
884.108 (a) amended 13593
884.111 Removed 13593
884.112 Removed 13593
884.113 Removed 13593
884.117 Amended 13593
884.118 (a)(3) and (7) revised; (a)(9) amended 13593
884.119 (b) amended 13593
884.120 (b)(3) amended 13593
884.201 Removed 13594
884.202 Removed 13594
884.203 Removed 13594
884.204 Removed 13594
884.205 Removed 13594
884.206 Removed 13594
884.207 Removed 13594
884.208 Removed 13594
884.209 Removed 13594
884.210 Removed 13594
884.211 Removed 13594
884.214 (b)(1) and (2) amended; (b)(7) revised 9047
(b)(1) amended 13594
884.216 Amended 13594
884.218 (a), (b) and (c) amended 13594
884.223 (e) amended 13594
884.223a (g) amended 9047
884.226 Removed 9047
884.227 Removed 9047
884.228 Removed 9047
884.229 Removed 9047
884.230 Removed 9047
885 Removed 11956
885.427 Amended 9047
885.740 Introductory text added; (a) revised 5213
886.102 Amended; Introductory text added 5213

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886.105 (f) amended 11118
886.119 (a)(3) amended 9047
(a)(3) and (7) amended 11119
886.124 (a), (b) and (c) amended 11119
886.132 (f)(1) revised 5213
Revised 9047
886.133 Removed 9047
886.134 Removed 9047
886.135 Removed 9047
886.136 Removed 9047
886.302 Amended; introductory text added 5213
Regulation at 60 FR 11859 confirmed 11685
886.305 Amended 11119
886.310 Regulation at 60 FR 11859 confirmed 11685
886.311 Regulation at 60 FR 11859 confirmed 11685
886.318 (a)(3) and (6) amended 11119
886.319 Regulation at 60 FR 11859 confirmed 11685
886.324 (a), (b) and (c) amended 11119
886.337 Amended 9047
887 Authority citation revised **34694**
887.3 Revised (effective date pending) **34694**
Regulation at 60 FR 34694 eff. 10–2–95 ..... **45661**
887.5 Removed (effective date pending) **34694**
Regulation at 60 FR 34694 eff. 10–2–95 ..... **45661**
887.7 Amended; introductory text added 5213
887.51—887.65 (Subpart B) Removed (effective date pending) **34695**
Regulation at 60 FR 34694 eff. 10–2–95 ..... **45661**
887.101—887.111 (Subpart C) Removed (effective date pending) **34695**
Regulation at 60 FR 34695 eff. 10–2–95 ..... **45661**
887.151—887.167 (Subpart D) Removed (effective date pending) **34695**
Regulation at 60 FR 34695 eff. 10–2–95 ..... **45661**
887.201—887.215 (Subpart E) Removed (effective date pending) **34695**
Regulation at 60 FR 34695 eff. 10–2–95 ..... **45661**
887.251—887.261 (Subpart F) Removed (effective date pending) **34695**
Regulation at 60 FR 34695 eff. 10–2–95 ..... **45661**
887.301—887.305 (Subpart G) Removed (effective date pending) **34695**
Regulation at 60 FR 34695 eff. 10–2–95 ..... **45661**
887.355 (a) amended 11119
(b) revised 13625
887.357 Amended 13625
887.401—887.405 (Subpart I) Removed (effective date pending) **34695**
Regulation at 60 FR 34695 eff. 10–2–95 ..... **45661**
887.551—887.567 (Subpart L) Removed (effective date pending) **34695**
Regulation at 60 FR 34695 eff. 10–2–95 ..... **45661**
888 Authority citation revised **42226**
Fair market rent schedules **42230, 48278, 55934**
Fair market rent schedules 6690, 7157
888.101 Removed **42226**
888.105 Removed **42226**
888.111 Revised **42226**
888.113 Revised **42226**
888.115 Revised **42227**
889 Authority citation revised 9047
Removed 11956
889.105 Amended 5213
889.265 Introductory text added; (a) revised 5213
889.610 (a) revised 9047
889.611 Removed 9047
889.612 Removed 9047
889.613 Removed 9047
889.614 Removed 9047
889.615 Removed 9047
890 Removed 11956
890.105 Amended 5214
890.260 Introductory text added; (a) revised 5214
891 Added 11956
899 Removed 5214

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Chapter IX—Office of Assistant Secretary for Public and Indian Housing, Department of Housing and Urban Development (Parts 900—999)

900 Removed **47263**
901 Authority citation revised 5214
901.05 Introductory text added; (m) and (t) removed; (n) through (s) and (u) through (y) redesignated as (m) through (r) and (s) through (w) 5214
904.102 (h) removed; (i) through (k) redesignated as (h) through (j) 5214
904.104 (b)(1) and (g)(2)(iii) amended 13626
904.107 (j)(2) and (m)(1) revised 13626
904.122 Amended 9048
905 Removed **18186**
905.102 Amended; interim; eff. in part 5–5–95 through 5–6–96 ..... **17393**
905.103 Added; interim **17394**
905.160 Regulation at 59 FR 31522 confirmed **35692**
905.642 Regulation at 59 FR 31523 confirmed **35692**
905.681 Regulation at 59 FR 31523 confirmed **35692**
907 Removed **47263**
912 Removed 13626
912.1—912.4 (Subpart A) Removed 5666
912.5 (a) and (b) redesignated (b) and (c); new (a) added 5666
913 Policy statement **20356**
913.1 Added; interim **17394**
913.102 Amended; introductory text added 5214
913.106 (b)(4), (5) and (c) revised; interim; eff. in part 5–5–95 through 5–6–96 ..... **17394**
913.109 (a) and (b) amended 11119
941.103 Amended; introductory text added 5214
941.206 Introductory text added; (a), (e) and (f) removed; (b), (c), (d), (g), (h) and (i) redesignated (a) through (f); new (b) revised 5214
(c) revised 8720
941.502 Regulation at 59 FR 31523 confirmed **35692**
941.503 (d) revised 8720
942 Authority citation revised 5214
Removed 9543
942.3 (c) revised 5214
945 Authority citation revised 5214
945.105 Amended; introductory text revised 5214
950 Added **18186**
Policy statement **20356**
Authority citation revised 11119
950.102 Corrected **36667**
Amended **57304**
Amended 5666, 7588, 8720
950.103 Correctly added **36668**
950.126 (d)(2) correctly revised **36668**
950.175 (d)(1)(iii) correctly revised **36668**
950.301 (d) revised; (g) added 5666
(a)(3)(v) and (vi) amended 11119
950.303 (b)(1)(ii) revised 5666
950.315 (b) amended 11119
950.416 (d) amended 11119
950.437 (c)(1) correctly redesignated as (c) **36668**
950.455 (c) corrected **36668**
950.458 (c) corrected **36668**
950.503 (c) corrected **36668**
950.553 (c) correctly revised **36668**
950.555 OMB number **18236**
950.570 OMB number **18237**
(c) correctly revised **36669**
950.575 OMB number **18238**
950.600—950.660 (Subpart I) Revised 8720
950.705 Existing text redesignated as (a); (b) added **57305**
(b) amended 7588
950.720 (b) revised 7588
950.725 (b)(3) revised; OMB number 7589
950.760 Revised (OMB number) 7589
950.770 Removed 7590
950.775 Added 7590
950.777 Added 7590
950.1008 OMB number **18281**
950.1017 OMB number **18285**
950.1018 OMB number **18285**
950.1019 OMB number **18285**
950.1020 OMB number **18285**
950.1021 OMB number **18285**
953 Regulation at 59 FR 38329 eff. date extended 7410
953.1 Existing text designated in part as (a) and (b); new (b) revised 7411
955 Regulation at 59 FR 42734 eff. date extended **37337**

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Revised 9054
960.203 Revised 5215
Removed 9048
960.204 (a) amended; (d) removed 9048
(a) revised 13626
960.205 (c) amended 9048
960.206 (a) amended 9048
(a) revised 13627
960.207 (a) amended 9048
960.209 (a) and (b) amended 11119
(a) and (b) amended; (c) revised 13627
960.211 Removed 9048
960.212 Removed 9048
960.213 Removed 9048
960.214 Removed 9048
960.215 Removed 9048
960.503 Amended 5215
961 Removed 13993
961.5 Amended; introductory text added 5215
961.29 (b), (c), (g) and (h) removed; (d), (e), (f), (i), (j) and (k) redesignated as (b) through (f); introductory text, new (e) and new (f) revised 5215
962 Authority citation revised 5215
Removed 8815
962.103 Amended; introductory text revised 5215
963 Authority citation revised 5215
963.5 Amended; introductory text added 5215
964.7 Amended 5215
964.30 Revised 5215
965 Authority citation revised 5216
Heading revised 8736
965.101 (Subpart A) Heading revised 8736
965.101 Heading, (a) introductory text, (2), (b)(1) introductory text, (2) and (3) amended 8736
965.205 Amended 7969
965.301—965.308 (Subpart C) Revised 7969
965.401—965.407 (Subpart D) Revised 7970
965.472 Amended 5216
965.501—965.504 (Subpart F) Removed 47263
Revised 7971
966 Authority citation revised 13273
966.4 (l)(3)(ii) amended; (l)(4) revised 13273
966.51 (a)(2)(ii) redesignated as (a)(2)(iv); new (a)(2)(ii) and (iii) added 13273
967 Removed 47263
968 Authority citation revised 5216
968.101 (a), (b)(1) and (5) revised; (b)(2) amended; (d) added 8737
968.102 (b) amended 8737
968.103 (a), (b), (c), (e)(1)(i), (ii) introductory text, (4) heading, (f)(1), (2) introductory text, (i), (ii)(F), (g) and (h) revised 8737
968.104 Redesignated from 968.313; (a)(1), (3), (b)(1) and (3) amended 8738
968.105 Amended; introductory text revised 5216
Amended 8738
968.108 (f)(2) removed; (f)(3) redesignated as (f)(2) 8738
968.110 Introductory text and (a) revised; (b) and (h) removed 5216
(e)(3) amended; (i), (j) and (l) removed 8738
968.112 Added 8738
968.115 Revised 8740
968.120 Revised 8740
968.125 Added 8741
968.130 Added 8741
968.135 Added 8741
968.140 Redesignated from 968.240 8741
968.145 Added 8741
968.205—968.240 (Subpart B) Revised 8741
968.235 Regulation at 59 FR 31523 confirmed 35692
968.240 Redesignated as 968.140 8741
968.301—968.345 (Subpart C) Heading revised 8744
968.301 Removed 8744
968.305 Amended 8744
968.310 Removed; new 968.310 redesignated from 968.315; new heading revised; new (a)(1), (b)(1) and (c)(5) amended; new (d) removed 8744
968.312 Redesignated as 968.104 8738
968.315 Redesignated as 968.310; new 968.315 added 8744
968.320 Removed; new 968.320 redesignated from 968.325; new (a)(1)(i) and new (c) amended 8747

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(b)(2) revised 8747
968.325 Redesignated from 968.330; new heading and new (e)(4) revised; new (a), (d) introductory text, (e)(8), (f), (g)(2)(ii), (h), (i)(1) and (j) amended 8748
Redesignated as 968.320 8747
968.330 Redesignated as 968.325; new 968.330 redesignated from 968.340; new (a) designated, heading and (b) removed 8748
968.335 Removed; new 968.335 redesignated from 968.345; new (a)(1)(i), (ii), (2)(i), (ii), (3)(i), (ii) and (iii) removed; new (d), (g), (j) and (k) amended 8748
Regulation at 59 FR 31523 confirmed 35692
968.340 Redesignated as 968.330 8748
968.345 Redesignated as 968.335 8748
968.401 Removed 8748
968.403 Removed 8748
968.405 Amended; introductory text revised 5216
Removed 8748
968.407 Removed 8748
968.410 Removed 8748
968.413 Removed 8748
982 Authority citation revised 34695
Authority citation revised 11119
982.1—982.5 (Subpart A) Added (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
982.3 Amended (effective date pending) 34717
Regulation at 60 FR 34717 eff. 10–2–95 45661
Amended 9048
982.51—982.54 (Subpart B) Added (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
982.52 OMB number 45661
982.53 OMB number 45661
982.54 OMB number 45661
982.101—982.103 (Subpart C) Added (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
982.102 OMB number 45661
982.151—982.163 (Subpart D) Added (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
982.151 OMB number 45661
982.153 OMB number 45661
(b)(9) revised 13627
982.155 OMB number 45661
982.156 OMB number 45661
982.157 OMB number 45661
982.158 OMB number 45661
982.159 OMB number 45661
982.160 OMB number 45661
982.163 Corrected 43840
982.201 (f)(2) revised (effective date pending) 34717
Regulation at 60 FR 34717 eff. 10–2–95 45661
(a) amended 13627
982.202 (b)(1) and (d) amended (effective date pending) 34717
Regulation at 60 FR 34717 eff. 10–2–95 45661
(b)(4)(i) introductory text and (A) through (E) redesignated as (b)(4) introductory text and (i) through (v); (b)(4)(ii) removed 9048
982.203 (a)(1) amended; (a)(5) removed; (a)(6) and (7) redesignated as (a)(5) and (6) 9048
982.204 (a) amended (effective date pending) 34717
Regulation at 60 FR 34717 eff. 10–2–95 45661
982.206 (a)(2) and (b)(2) revised (effective date pending) 34717
OMB number 45661
Regulation at 60 FR 34717 eff. 10–2–95 45661
982.207 (d) revised 5667
Revised 9048
982.208 Removed 9048
982.209 Removed 9048
982.210 Removed 9048
982.211 Removed 9048
982.212 Removed 9048
982.213 Removed 9048
982.301—982.315 (Subpart G) Added (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
982.301 OMB number 45661
982.302 OMB number 45661

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982.303 OMB number **45661**
982.304 OMB number **45661**
982.305 OMB number **45661**
982.307 OMB number **45661**
982.310 OMB number **45661**
982.351—982.355 (Subpart H) Added (effective date pending) **34695**
Regulation at 60 FR 34695 eff. 10–2–95 ..... **45661**
982.352 OMB number **45661**
982.401—982.406 (Subpart I) Added (effective date pending) **34695**
Regulation at 60 FR 34695 eff. 10–2–95 ..... **45661**
982.403 OMB number **45661**
982.404 OMB number **45661**
982.406 OMB number **45661**
982.451—982.457 (Subpart J) Added (effective date pending) **34695**
Regulation at 60 FR 34695 eff. 10–2–95 ..... **45661**
982.452 OMB number **45661**
982.455 OMB number **45661**
982.551—982.555 (Subpart L) Added (effective date pending) **34695**
Regulation at 60 FR 34695 eff. 10–2–95 ..... **45661**
982.551 OMB number **45661**
(b)(3) amended 11119
(b)(1) revised 13627
982.552 OMB number **45661**
(e) revised 13627
982.554 OMB number **45661**
(d) revised 13627
982.555 OMB number **45661**
(g) revised 13627
983 Added (effective date pending) **34717**
Regulation at 60 FR 34717 eff. 10–2–95 ..... **45661**
983.3 OMB number **45661**
983.12 OMB number **45661**
983.51 OMB number **45661**
983.52 OMB number **45661**
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983.55 OMB number **45661**
983.57 OMB number **45661**
983.103 OMB number **45661**
983.104 OMB number **45661**
983.151 OMB number **45661**
983.202 OMB number **45661**
983.203 OMB number **45661**
983.205 OMB number **45661**
(b)(3) amended 11119
983.207 OMB number **45661**
984 Revised 8815
990.102 Amended **57305**
Amended 7590
990.104 (b) revised **57305**
(b) amended 7591
990.108 (b) revised 7591
990.109 (b)(3) revised; OMB number 7591
990.117 Revised (OMB number) 7592
990.118 Removed 7592
990.119 Revised 7592
990.121 Added 7592
999 Removed 5216

Chapter X—Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Interstate Land Sales Registration Program) (Parts 1700—1799)

1700 Removed 13597
1710 Order **42436**
Authority citation revised 13597
1710.1 Revised 13597
1710.2 Removed 13597
1710.5 Revised 13597
1710.501 Removed 13597
1710.502 Removed 13597
1710 Appendix A removed 13597
1715 Authority citation revised 13597
1715.1 Revised 13597
1715.2 Revised 13597
1715.3 Removed 13598
1715.4 Revised 13598
1715.5 Revised 13598
1715.15 Revised 13598
1715.27 Revised 13598
1720 Authority citation revised 10442
1720.10 Revised 10442
1720.45—1720.95 (Subpart C) Removed 10442
1730 Removed **47263**

Chapter XI—Solar Energy and Energy Conservation Bank, Department of Housing and Urban Development (Parts 1800—1899)

Chapter XI Removed 5216

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1800 Removed **42763**
1895 Removed **42763**

Chapter XV—Mortgage Insurance and Loan Programs under the Emergency Homeowners' Relief Act, Department of Housing and Urban Development (Parts 2700—2799)

Chapter XV Removed 5216
2700 Removed **42763**

Chapter XX—Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Parts 3200—3899)

3280 Authority citation revised 5216
3280.2 Amended 5216
3282 Authority citation revised 5216
3282.1 (b) added 10442
3282.2 Removed 10859
3282.3 Removed 10859
3282.4 Removed 10859
3282.5 Removed 10859
3282.7 Introductory text revised; (k), (p) and (ee) removed; (l) through (o), (q) through (dd) and (ff) through (oo) redesignated as (k) through (n), (p) through (cc) and (ee) through (nn) 5216
(ll) removed 10859
3282.9 (a) revised 10859
3282.11 (b) revised 10859
3282.53 Revised 10860
3282.54 (d) removed; (e) redesignated as (d) 10860
3282.101 Revised 10860
3282.102 Removed 10860
3282.103 Removed 10860
3282.104 Removed 10860
3282.105 Removed 10860
3282.106 Removed 10860
3282.107 Removed 10860
3282.108 Removed 10860
3282.109 Removed 10860
3282.110 Removed 10860
3282.112 Removed 10860
3282.113 Revised 10860
3282.151 (a) revised; (c) removed; (d) and (e) redesignated as (c) and (d) 10442
3282.155 Revised 10442
3282.205 (a), (c) and (d) revised 10860
3282.206 (b) amended; (c) revised 10860
3282.207 Revised 10860
3282.302 (e) revised 10860
3282.352 (c) revised 10861
3282.353 (a)(6) and (7) amended; (a)(8) and (f) removed 10861
3282.355 (b) removed; (c) and (d) redesignated as (b) and (c) 10861
3282.361 (d) removed; (e) redesignated as (d) 10861
3282.362 (b)(5) removed; (c)(2)(i)(B), (C) and (ii) introductory text revised 10861
3283 Removed 10861
3500 Announcement **16985**
Authority citation revised 10442
3500.1 Revised 13233
3500.2 Revised 13233
3500.3 Revised 13235
3500.4 Revised 13235
3500.5 Revised 13235
3500.6 Revised 13236
3500.7 Revised (OMB number) 13236
3500.8 (c)(1) amended **24735**
Revised (OMB number) 13237
3500.9 Revised (OMB number) 13238
3500.10 Revised (OMB number) 13238
3500.11 Revised 13239
3500.12 Revised 13239
3500.13 Revised 13239
3500.14 Revised 13239
3500.15 Revised 13240
3500.16 Revised 13240
3500.17 (o) added **24735**
Revised (OMB number) 13240
3500.18 Revised 13247
3500.19 (e) added 10442
Revised 13247
3500.20 Removed 10442
3500.21 Revised (OMB number) 13248
3500 Appendixes A and G–2 amended; Appendixes G–1, I–1, I–2, I–5 and I–6 revised; **24735**
Appendixes A and B amended 13251
Appendix MS–2 Revised 13252
3800 Added 10441

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TITLE 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior (Parts 1—299)

11.100 (a) revised.....10674
151 Authority citation revised.....32878
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151.2 (a) revised.....32879
151.10 Heading and introductory text revised; (h) added.....32879
151.11 Redesignated as 151.12; new 151.11 added.....32879
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151.12 Redesignated as 151.13; new, 151.12 redesignated from 151.11.....32879
151.13 Redesignated as 151.14; new 151.13 redesignated from 151.12.....32879
151.14 Redesignated as 151.15; new 151.14 redesignated from 151.13.....32879
151.15 Redesignated from 151.14; new 151.15 revised.....32879
163 Revised.....52260
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165 Removed.....51724
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TITLE 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury (Parts 1—799)

1 Authority citation amended.....17218, 18743, 20898, 36679, 37581, 39649, 40078, 41004, 42787, 44275, 46507, 53128, 56119, 64322, 65548, 65557, 66094, 66136, 66498, 66730
Technical correction.....52077, 66083
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Authority citation removed.....9329
1.30–1 Added.....39649
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1.61–2 (a)(1) amended; (b) revised.....40076
1.61–22T Removed.....40077
1.83–6 (a)(1) and (2) revised; (a)(5) added.....36997
1.103–12 Removed.....515
1.108–3 Added.....36680
1.110–1 Removed.....515
1.114–1 Removed.....515
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1.116–1 Removed.....515
1.116–2 Removed.....515
1.162–20 (c)(5) and (d) added.....37573
1.162–20T Removed.....37573
1.162–27 Added.....65537
(c)(3)(ii)(A), (e)(4)(i) and (5) corrected.....4350
1.162–28 Added.....37573
1.162–29 Added.....37575
1.167(a)–11 (d)(3)(v)(*b*) amended.....36679
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1.167(c)–1 (a)(5) amended.....36679
1.170A–13 (f) added.....53128
1.170A–13T Removed.....53128
1.179A–1 Added.....39651
1.217–2 (g)(6) added.....40077
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1.263A–1 (j)(1)(ii)(B) amended.....36680

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1.263A–1T (b)(2)(vi)(B), (e)(1)(ii) and (iii)(A) *Example* amended.....36679
1.263A–7T Corrected.....13762
1.263A–9 (f)(3) *Example 3* amended.....47053
1.267(f)–1 Revised.....36680
(k) amended.....10449
1.267(f)–1T Removed.....36683
1.267(f)–2T Removed.....36683
1.267(f)–3 Removed.....36683
1.274–2 (a)(2)(ii), (3)(iii), (e) heading, (1) and (3)(ii) revised; (a)(2)(iii) added.....36994
1.274–5T (c)(6)(iii) amended.....36995
1.305–3 (e) *Examples 1* through *15* amended; *Example 15* revised.....66136
1.305–5 (d) *Examples 1* through *9* amended; (b) and (d) *Examples 4*, *5* and *7* revised; (d) *Examples 8* and *9* redesignated as (d) *Examples 9* and *10*; new (d) *Example 8* and (e) added.....66136
1.305–7 (a) amended.....66138
1.337(d)–1 (a)(5) *Example 8* amended.....36679
1.337(d)–2 (g)(1) amended.....36679
1.338–0 Amended.....54944
1.338–2 (c)(3) added.....54944
1.338–4 (f)(4) *Example 2* amended.....36679
1.341–7 (e)(10) amended.....36679
1.358–2(d) Removed.....66079
1.358–6 Added.....66079
(c)(4) *Example 2* corrected.....11547
1.367(a)–7T Removed.....515
1.367(a)3–T (a), (c) through (f), (g)(1) and (h)(1) revised; eff. 4–17–96.....66743
1.383–1A Undesignated center heading and section removed.....515
1.383–2A Removed.....515
1.383–3A Removed.....515
1.401–12 (n) redesignated as 1.408(e); authority citation removed.....65549
1.401–12T Removed.....65549
1.401(e)–5 (a) amended.....21435
1.401(f)–1 (b)(1)(ii) and (d)(1) amended.....65549
(d)(1) corrected.....11307
1.401(k)–1 (h)(4)(ii) revised.....25140
1.401(a)(31)–1 Added.....49204
1.401(a)(31)–1T Removed.....49204
1.402(c)–2 Added.....49208
1.402(c)–2T Removed.....49204
1.402(f)–1 Revised.....49213
1.402(f)–2T Removed.....49204
1.403(b)–2 Added.....49214
1.403(b)–2T Removed.....49204
1.408–2 (e) redesignated from 1.401–12(n); (b)(2)(ii), new (e)(1) and new (9) removed; (b)(2)(iii) and new (e)(2) through (8) redesignated as (b)(2)(ii) and (e)(1) through (7); new (e)(5)(ii)(A) redesignated as (e)(5)(ii)(E); (b)(2)(i), new (e)(1), (2)(iv), (5)(ii)(C)(*2*), (iii)(B), (v)(A), (vi), (viii), (6)(i)(A), (iii)(C), (iv) and (v)(B) amended; (e)(5)(ii)(A) and (D) added.....65549
(e)(1), (5)(ii)(A), (D) introductory text, *Example*, (viii), (6)(i)(A) and (iv) corrected.....11307
1.411(a)–11 (c)(2)(ii) revised; (c)(2)(iii) removed.....49221
1.411(a)–11T Added.....49221
1.411(d)–6T Added.....64322
1.417(e)–1 (d) revised.....17219
(b)(3) revised.....49221
1.417(e)–1T Added.....17219
(b) added.....49221
1.446–1 (e)(3) revised.....40078
1.446–4 (e)(9) added.....519
1.460–0 Amended.....36683
1.460–4 Heading revised; (j) added.....36684
1.461–0 Amended.....18743
1.461–4 (k)(1), (m)(1)(i), (ii), (iii) and (2)(ii) revised.....18743
1.461–5 (d)(1), (2)(i) and (ii) revised.....18743
1.461–7T Removed.....18744
1.469–0 Amended.....36684, 66498
1.469–1 (c)(8), (h)(1), (2) and (6) added.....36684
1.469–1T (c)(8), (h)(1), (2) and (6) removed.....36685
1.469–4 (e)(1), (2) and (h) revised.....66499
1.469–9 Revised.....66499
1.469–11 (a)(2) amended; (b)(2)(i) heading and (ii) removed; (a)(3), (b)(2)(i) and (3) redesignated as (a)(4), (b)(2) and (4); (b)(2) heading revised;

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new (a)(3) and new (b)(3) added 66501
1.481–1 (a)(2) and (c)(1) amended; (c)(2), (3), (4) and (d) revised; (c)(6), (7) and (e) removed 40078
1.481–2 (a), (b) introductory text, (c)(1), (2), (3) introductory text, (6) and (d) amended; (c)(4) revised 40078
1.481–3 Amended 40079
1.481–4 Removed; new 1.481–4 redesignated from 1.481–5 and revised 40079
1.481–5 Redesignated as 1.481–4; new 1.481–5 added 40079
1.481–6 Removed 40079
1.482–0 Amended 65557
Corrected 7157
1.482–7 Added 65557
1.482–7T Removed 65566
1.508–1 (a)(3)(i) introductory text and (*a*) revised 65552
1.597–1 Added 66094
1.597–2 Added 66095
(d)(4)(iv) corrected 12135
1.597–3 Added 66097
1.597–4 Added 66098
1.597–5 Added 66101
1.597–6 Added 66103
1.597–7 Added 66104
1.671–4 Revised 66087
1.701–2 (a)(3) and (f) introductory text amended; (d) *Examples 5* and *6* removed; (d) *Examples 7* through *13* and (h) redesignated as (d) *Examples 5* through *11* and (i); new (h) added 18741
1.704–4 Added 66730
1.737–1 Added 66733
1.737–2 Added 66735
1.737–3 Added 66736
(e) corrected 7214
1.737–4 Added 66738
1.737–5 Added 66739
1.804–1 Removed 516
1.804–2 Removed 516
1.805–1 Removed 516
1.805–2 Removed 516
1.805–3 Removed 516
1.805–4 Removed 516
1.805–5 Removed 516
1.805–6 Removed 516
1.805–7 Removed 516
1.805–8 Removed 516
1.820–1 Removed 516
1.820–2 Removed 516
1.820–3 Removed 516
1.824–1 Removed 516
1.824–2 Removed 516
1.824–3 Removed 516
1.860A–0 Amended 42787
1.860A–1 (b)(4) added 42787
1.860G–1 (a)(2)(v) redesignated as (a)(2)(vi); new (a)(2)(v) added; (a)(3)(i) revised 42787
1.860G–1T Removed 42787
1.861–8 (e)(2) correctly revised; CFR correction 36669
(e)(3) revised; (g) *Examples 3* through *16* and *23* removed 66503
1.861–8T (d)(2)(i) concluding text amended 36679
1.861–9T (g)(2)(iv) heading amended 36679
(e)(7)(i) and (ii) heading removed; (e)(7)(ii) redesignated as (e)(7); eff. 6–6–96 9329
1.861–17 Added 66503
1.863–1 (d) added 44275
1.864–4 (c)(2)(iii) and (iv) redesignated as (c)(2)(iv) and (v); (c)(2)(ii) and new (v) introductory text revised; new (c)(2)(iii) and (7) added; new (c)(2)(v) *Examples 2*, *3* and *4* removed; new (c)(2)(v) *Example 5* redesignated as (c)(2)(v) *Example 2*; (c)(2)(i), new (v) *Example 2* and (6)(i) amended; eff. 6–6–96 9337
1.871–1 (b)(7) added 41004
1.871–12 (d) heading and introductory text revised; (d) *Example 1* removed; (d) *Example 2* redesignated as (d) *Example*; eff. 6–6–96 9338
1.881–0 Added 41004
1.881–3 Added 41005
(e) *Example 25* corrected 55312
1.881–4 Added 41014
1.882–0 Added; eff. 6–6–96 9329
1.882–5 Revised; eff. 6–6–96 9329
1.884–0 Amended; eff. 6–6–96 9338
1.884–1 (c)(2), (d)(2)(xi) *Examples 2*, *3*, *4*, (6)(v) and (e)(2) redesignated as (c)(2)(i), (d)(2)(xi) *Examples 3*, *4*, *5*, (6)(vi) and (e)(2)(i); new (c)(2)(i) heading, new (ii), new (d)(2)(xi)*Example 2*, (4), new (6)(v), new (e)(2) heading, (ii) and (i)(4) added; (d)(3), (5)(iii) and (e)(3)(ii) revised; (d)(6)(iii), new (e)(2)(i), (5) *Examples 1* and *2* amended; eff. 6–6–96 9338
1.884–2 Added; eff. 6–6–96 9341
1.884–2T (a)(2)(ii) and (c)(2)(iii) revised; (a)(5) redesignated as (a)(6); new (a)(5) added; eff. 6–6–96 9341
1.884–4 (a)(2)(iii) revised; (b)(1), (2) and (4) removed; (e) redesignated as (e)(1); (a)(1), (2)(i)(A), (4) *Examples 1*, *2*, (b)(3)(i), (ii) introductory text, (iii) heading, introductory text, (5)(i), (ii) *Example*, (6) heading, (i), (ii), (iv) *Example 1*, (c)(1)(iv) *Examples 1*, *2*, (2)(i), (4) *Example* and new (e)(1) amended; new (e)(1) heading and (2) added; eff. 6–6–96 9341
Corrected 12135
1.884–5 (e)(4)(ii) and (g) revised; eff. 6–6–96 9343
1.897–1 (f)(1)(iii) amended; (f)(2)(i) revised; eff. 6–6–96 9343
1.904–0 Amended 56119
1.904(i)–1 Added 56119
1.907–0 Introductory text revised; amended 516
1.907(a)–0A Undesignated center heading and section removed 516
1.907(a)–1A Removed 516
1.907(b)–1A Removed 516
1.907(b)–2A Removed 516
1.907(c)–1A Removed 516
1.907(c)–2A Removed 516
1.907(c)–3A Removed 516
1.907(d)–1A Removed 516
1.907(e)–1 Removed 516
1.907(e)–1A Removed 516
1.907(f)–1A Removed 516
1.952–3 Removed 46508
1.954–0 Added 46508
Corrected 62024
1.954–0T Redesignated as 4.954–0 46530
1.954–1 Added 46509
(d)(7)(i) *Example 1* corrected 62024
(d)(7)(i) *Examples 1* through *4*, (ii) *Examples 1* and *2* and (f)(2)(iv) corrected 62025
1.954–1T Redesignated as 4.954–1 46530
1.954–2 Added 46517
(g)(3)(ii) corrected 58731
(b)(4)(x) correctly revised; (d)(1)(i), (3) *Example 1*, (e)(2)(ii) introductory text, (f)(2)(iii)(A), (B), (C), (E), (g)(2)(ii)(A), (3)(iv) *Example*, (h)(2)(i)(A), (G) and (4)(iv) *Examples 1* and *2* corrected 62025
(h)(4)(iv) *Examples 5* and *6* and (6) *Examples 3* and *4* corrected; (h)(6) *Example 1* correctly revised 62026
1.954–2T Redesignated as 4.954–2 46530
1.954A–1 Removed 46530
1.954A–2 Removed 46530
1.957–1 (a), (c) *Examples 8* through *10* and (d) added 46529
(a)(2) corrected 62026
1.957–1T Removed 46530
1.995–7 Removed 516
1.1015–5 (a) heading and (b) heading revised; (c) redesignated as (d); new (c) added 43537
1.1032–2 Added 66081
1.1221–2 (d), (e)(5), (f)(3), (g)(4), (5) and (6) added 519
(d)(2)(iv) corrected 11547
1.1244(e)–1 Heading and (b) revised; (a)(1) amended 20898
1.1258–1 Added 66084
1.1301–0 Undesignated center heading and section removed 516
1.1301–1 Removed 516
1.1302–1 Removed 516
1.1302–2 Removed 516
1.1302–3 Removed 516
1.1303–1 Removed 516
1.1304–1 Removed 516
1.1304–2 Removed 516
1.1304–3 Removed 516
1.1304–4 Removed 516
1.1304–5 Removed 516
1.1304–6 Removed 516
1.1361–0 Revised 37581
1.1361–1 (a) and (c) through (k) added 37581
Heading, (j)(2)(ii), (4) and (k)(1) corrected 49976
(k)(1) *Example* corrected 58234
(k)(1) corrected 2869

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1.1441–3 (j) added; OMB number 41014
1.1441–7 (d) added; OMB number 41014
(d)(2)(ii) *Example 4* corrected 55312
1.1445–1 Heading and (g)(10) revised 66076
1.1445–5 (c)(1)(iii)(A) and (d)(1) amended; (c)(1)(iii)(B) removed; (c)(1)(iii)(C) redesignated as (c)(1)(iii)(B); (c)(1)(ii), new (iii)(B), (iv) and (3)(ii) revised 66076
(c)(1)(iii)(B) table corrected 7157
1.1445–8 (c)(2)(i) revised 66077
1.1502–3 (a)(2) amended 36679
1.1502–4 (j) *Example 1* amended 36679
1.1502–9 (f) *Example 6* amended 36679
1.1502–12 (a) and (g)(2) amended 36679
1.1502–13 Revised 36685
(f)(6) added 10449
(g)(2)(i)(B) amended 10450
1.1502–13T Added (temporary) 36670
Removed 36708
1.1502–14 Removed 36708
1.1502–14T Removed 36708
1.1502–17 (c) redesignated as (d); new (d) *Example* redesignated as (d) *Example 1*; (b), new (a) heading and introductory text revised; new (c), (d) *Examples 2, 3* and (e) added; new (d) *Example 1* amended 36708
1.1502–18 (f) heading revised; (g) added 36709
1.1502–20 (a)(5) *Example 6*, (b)(6) *Examples 5, 7*, (c)(4) *Example 3* and (h)(1) amended; (c)(4) *Example 9* added; (e)(3) *Examples 2* and *8* removed; (e)(3) *Examples 3* through *7* redesignated as (e)(3) *Example 2* through *Example 6* 36709
1.1502–22 (a)(3) and (5) *Example* amended 36679
1.1502–26 (b) amended 36679
(b) revised 36710
1.1502–30 Added 66082
1.1502–33 (c)(2) revised 36710
1.1502–47 (e)(4)(iii) and (iv) *Example 4* amended 36679
(e)(4) *Example 4*, (f)(3) and (r) amended 36680
1.1502–79 (f) removed 36710
1.1502–80 (e) and (f) added 36710
1.1503–2 (d)(4) *Example 1* amended 36680
1.1552–1 (a)(2)(ii)(c) amended 36680
1.6012–3 (a)(9) revised 66090
1.6033–2 (g)(1)(i) and (vii) revised; (g)(5) removed; (h), (i) and (j) redesignated as (i), (j) and (k); new (h) added 65652
1.6038A–7 (b)(5) and (c)(2)(vii) added 41015
1.6042–4 Revised 66110
1.6044–5 Revised 66111
1.6049–6 Heading revised; (a), (b)(1)(ii) and (2)(ii) amended; (e) added; authority citation removed 66111
(a) corrected 11307
1.6050I–0 Added 7
1.6050I–0T Removed 7
1.6050I–2 Added 7
1.6050I–2T Removed 7
1.6050N–1 Added 66111
1.6050P–0 Added; eff. 12–26–96 268
1.6050P–0T Removed; eff. 12–26–96 271
1.6050P–1 Added; eff. 12–26–96 268
1.6050P–1T Removed; eff. 12–26–96 271
1.6081–4 (a) revised 261
1.6081–4T Added 261
1.6091–2 (g) added 62210
1.6302–4T Added 11549
1.6662–0 Amended 45663
Amended 4879
1.6662–1 Amended 45664
1.6662–2 (d) heading revised; (d) redesignated as (d)(1); new (d)(1) amended; (d)(2) and (3) added 45664
1.6662–3 (a) amended; (b)(3), (c)(1) and (2) revised 45664
1.6662–4 (d)(2) removed; (e)(2), (g)(1), (4) and (5) revised 45665
1.6662–5T Revised 4879
1.6662–6 Added 4880
1.6662–6T Removed 4885
1.6662–7 Added 45665
1.6662–7T Removed 45666
1.6664–0 Amended 45666
Introductory text amended 4885
1.6664–1 (b) revised 45666
1.6664–4 (c), (d) and (e) redesignated as (d), (f) and (g); (a), (b)(1), (2) introductory text, *Example* 1 and new (d) revised; new (c) and new (e) added 45666
1.6664–4T Revised 4885
1.6695–1T Added (temporary) 37589
1.7520–3 (b) revised; (c) amended 63915
1.7701(l)–1 Added 41015
1.7704–1 Added 62029
4 Added 46530
4.954–0 Redesignated from 1.954–0T; heading, (a)(1) and (b) amended 46530
4.954–1 Redesignated from 1.954–1T and heading amended 46530
4.954–2 Redesignated from 1.954–2T and heading amended 46530
18 Authority citation revised 37588
18.0 Revised 37588
18.1361–1 Removed 37588
18.1366–5 Removed 37588
18.1378–1 (b)(2)(i) and (ii) amended; (b)(3), (c) and (e) removed 37589
20 Technical correction 7991
20.2035–1 Removed 516
20.2056–0 Amended 43538
20.2056(d)–1 Redesignated as 20.2056(d)–2; new 20.2056(d)–1 added 43538
20.2056(d)–2 Redesignated as 20.2056(d)–3; new 20.2056(d)–2 redesignated from 20.2056(d)–1 43538
20.2056(d)–3 Redesignated from 20.2056(d)–2 43538
20.2056A–0 Added 43538
Amended 43538
20.2056A–1 Added 43539
20.2056A–2 Added 43540
20.2056A–2T Added (temporary) 43557
20.2056A–3 Added 43540
20.2056A–4 Added 43541
20.2056A–5 Added 43546
20.2056A–6 Added 43547
20.2056A–7 Added 43549
20.2056A–8 Added 43549
20.2056A–9 Added 43550
20.2056A–10 Added 43550
20.2056A–11 Added 43551
20.2056A–12 Added 43551
20.2056A–13 Added 43551
20.2101–1 Revised 43551
20.2102–1 (c) added 43552
20.2106–1 (a)(3) revised; (b) amended; (c) removed 43552
20.2106–2 (c) removed 43552
20.7520–3 (b) revised; (c) amended 63916
23 Removed 516
24 Removed 516
25 Authority citation revised 43552
Technical correction 7991
25.2503–2 (a) amended; (f) added 43552
25.2517–1 Removed 516
25.2522(c)–3 (c)(2)(i), (vi)(*a*), (vii)(*a*), (d)(2) introductory text and (iv) *Examples 1* through *4* amended 63919
25.2523(i)–1 Added 43552
25.2523(i)–2 Added 43553
25.2523(i)–3 Added 43554
25.2702–1 (c)(8) added 43554
25.2702–3 (b)(1)(i) and (c)(1)(i) amended 66090
25.7520–3 (b) revised; (c) amended 63919
26 Revised 66903
27 Removed 516
31 Authority citation amended 53510, 65238, 66112, 66141
Technical correction 7214, 9639
31.3402(p)–1 (a) amended 49215
31.3402(r)–1 Added 65238
31.3402(r)–1T Removed 65238
31.3405(c)–1 Added 49215
31.3405(c)–1T Removed 49218
31.3406–0 Revised 66112
31.3406(a)–1 Added 66114
31.3406(a)–2 Added 66114
31.3406(a)–3 Added 66114
31.3406(a)–4 Added 66115
31.3406(c)–1 Added 66119
31.3406(d)–1 Added 66123
31.3406(d)–2 Added 66125
31.3406(d)–3 Added 66125
31.3406(d)–4 Added 66125
(a)(3) and (b)(1)(iii) corrected 11307
(a)(4)(i) corrected 12135
31.3406(e)–1 Added 66127
31.3406(f)–1 Added 66127
31.3406(g)–1 Added 66128
31.3406(g)–2 Added 66128
31.3406(g)–3 Added 66129
31.3406(h)–1 Added 66130
(d), (e) and (f) corrected; (d)(1) correctly designated 12135
31.3406(h)–2 Added 66130
(b)(2)(i) corrected 11307
31.3406(h)–3 Added 66131
31.3406(i)–1 Added 66133

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31.3406(b)(2)–1 Added 66115
31.3406(b)(2)–2 Added 66115
(d) corrected 12135
31.3406(b)(2)–3 Added 66116
31.3406(b)(2)–4 Added 66117
31.3406(b)(2)–5 Added 66117
31.3406(b)(3)–1 Added 66117
31.3406(b)(3)–2 Added 66118
31.3406(b)(3)–3 Added 66119
31.3406(b)(3)–4 Added 66119
31.3406(b)(4)–1 Added 66119
31.3505–1 (b)(1), (2) *Examples 1* and *2*; (d)(1) and (2)(iii) amended; (d)(3) and (g) added 39110
31.6011(a)–4 (b) revised 53510
31.6011(a)–4T Added 53511
31.6011(a)–5 (a)(1) amended; authority citation removed 66133
31.6011(a)–6 (a)(1) amended 66133
31.6051–1 (d)(1) redesignated as (d)(1)(i); new (d)(1)(ii) added; (d)(2) revised; eff. 1–1–97 66141
31.6051–2 (c) amended; eff. 1–1–97 66141
31.6051–4 Added 66133
31.6071(a)–1 (a)(3)(i) removed; (a)(3)(ii) redesignated as (a)(3)(i); new (a)(3)(ii) added; eff. 1–1–97 66141
31.6081(a)–1 (a)(3) revised; eff. 1–1–97 66142
31.6302–1T (h)(1)(ii)(A) redesignated as (h)(1)(ii)(A)(*1*); new (h)(1)(ii)(A)(*1*) amended; (h)(1)(ii)(A)(*2*) added; (h)(2), (3), (7) and (8) revised 11549
31.6413(a)–3 Added 66133
33 Removed 516
35a Authority citation amended 66134
Authority citation corrected 11308
35a.3406–2 Removed 66134
Reinstated; (l) correctly added 11308
35a.9999–0T Added 66134
38 Removed 516
40 Technical correction 54803
Authority citation amended 10452
40.6011(a)–1 (b) existing text redesignated as (b)(1); new (b)(1) heading and (2) added 10452
40.6011(a)–3T Removed 10453
40.6302(c)–0 Removed 40081
40.6302(c)–1 (e)(4) added 40081
40.6302(c)–5T Added 44759
42 Removed 10453
48 Authority citation amended 40081
Authority citation amended 10453
48.0–1 Amended 10453
48.4041–0 Added 10453
48.4041–0T Removed 10453
48.4041–1 Removed 10453
48.4041–2 Removed 10453
48.4041–2T Removed 10453
48.4041–8 (f)(1) introductory text and (i) revised; (f)(1)(ii) redesignated as (f)(1)(iii); new (f)(1)(ii) added; (f)(2) amended 40081
48.4041–15 Transfered to Subpart F 10453
48.4041–16 Transfered to Subpart F 10453
48.4041–17 Transfered to Subpart F 10453
48.4041–18 Transfered to Subpart F 10453
48.4041–19 Transfered to Subpart F 10453
48.4041–20 Transfered to Subpart F 10453
48.4041–21 Revised 40082
(c)(4) corrected 50245
Transfered to Subpart F; (c)(1) amended 10453
48.4042–1 Heading revised 10453
(b) and (e) revised; (f)(1) amended; (g)(25) and (26) redesignated as (g)(26) and (27); new (g)(27) added 10453
48.4061(a)–1—48.4102–1 (Subpart H) Heading revised 10453
48.4064–1 (e)(2) amended 10453
48.4081–0 Removed 40082
Undesignated center heading revised 10453
48.4081–1 Revised 10453
48.4081–2 Revised 10455
48.4081–3 (b)(1) revised 40082
Revised 10455
48.4081–4 Heading and (c)(3) revised; (a), (b)(1)(i), (ii), (2)(i), (c)(1), (2), (d), (e)(2), (3) and (f) amended; (c)(4) removed 10457
48.4081–5 Heading revised; (a), (b)(1) introductory text, (2), (3) and (c) amended 10457
48.4081–6 Revised 40082

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Heading revised 10457
48.4081–7 Heading, (b)(4), (c)(1), (3), (d) and (g) revised; (a), (b), (c)(2), (4)(i)(A), (B), (ii)(A), (B), (iii), (iv)(A), (B) and (f) *Example 1* amended; (c)(5) removed 40085
(c)(2) and (4)(i)(A) amended 10457
48.4081–8 Revised 10457
48.4081–10T Removed 10457
48.4081–11T Removed 10457
48.4081–12T Removed 10457
48.4082–1 Revised 10457
48.4082–2 Added 10457
48.4082–2T Removed 10457
48.4082–3 Added 10458
48.4082–3T Removed 10457
48.4082–4 Added 10458
48.4082–4T Removed 10457
48.4083 Removed 10457
48.4083–1 Added 10458
48.4101–1—48.4102–1 Undesignated center heading removed 10459
48.4101–1 Revised 10459
48.4101–2 Revised 10462
48.4101–2T Removed 10462
48.4101–3 Added 40086
Removed 10462
48.4101–3T Removed 10462
48.4101–4T Removed 10462
48.4102–1 (a) revised; (b)(1) and (2) amended 10462
48.4221 Removed 10462
48.4221–1 (a) and (b)(2)(v) revised; (b)(2)(iv) amended; (b)(2)(vi) through (xii) and (3) removed; (b)(4) and (5) redesignated as (b)(3) and (4) 10462
48.4221–2 (a)(1) amended; (a)(2) removed; (a)(3) redesignated as (a)(2); (b) revised 10463
48.4221–5 (c)(1) and (d) amended 10463
48.4221–8 Removed; new 48.4221–8 redesignated from 48.4221–11 10463
48.4221–9 Removed 10463
48.4221–10 Removed 10463
48.4221–11 Redesignated as 48.4221–8 10463
48.4221–12 Removed 10463
48.4222(a)–1 (a) and (b) revised 10463
48.4222(b)–1 (a) revised 10463
48.4222(d)–1 (a), (b), (c), (e) and (f) removed; (d) and (g) redesignated as (a) and (b) 10463
48.6206–1 Removed 10463
48.6416(g)–1 Removed 10463
48.6416(b)(2)–2 (g) through (k) removed 10463
48.6421–3 (d)(2) amended 10463
48.6424–0 Removed 10463
48.6424–1 Removed 10463
48.6424–2 Removed 10463
48.6424–3 Removed 10463
48.6424–4 Removed 10463
48.6424–5 Removed 10463
48.6424–6 Removed 10463
48.6427–3 (d)(2) amended 10464
48.6427–7 (g)(4) amended 10464
48.6427–8 Added 10464
48.6427–8T Removed 10465
48.6427–9 Added 10464
48.6427–9T Removed 10465
48.6675–1 Removed 10465
48.6714–1 Added 10465
52 Authority citation amended 52849
52.4681–0 Removed 52849
52.4681–1 (a)(3)(ii), (c)(7)(iii)(A) and (d)(3) revised 52849
52.4682–1 (a), (b)(2)(ii) introductory text, (f) and (g) revised; (b)(2)(iv), (v), (h) and (j) added 52849
52.4682–2 (a)(1)(iii), (iv), (b)(3), (4), (d)(4) and (5) added; (a)(2), (b)(1)(i) and (2)(i) amended; (d) heading and (1)(i) revised 52850
52.4682–4 (b)(2) introductory text removed; (b)(2)(i)(B)(*1*) and (d)(1)(i) amended; (e)(5) redesignated as (e)(6); (b)(2)(vi), (vii), (viii), (d)(4) and new (e)(5) added; (d)(1)(iv)(A)(*1*), (e)(4)(i) and new (6) *Example 5* revised 52852
52.4682–5 Added 52853
53.4941(d)–2 (f)(1) amended; (f)(3) revised; (f)(4) redesignated as (f)(9); new (f)(4) through (8) added 65568
53.4955–1 Added 62210
53.4963–1 (a), (b) and (c) amended 62212
53.6011–1 (b) amended 62212
53.6071–1 (e) added 62212
53.6091–1 Heading revised; (d) added 62212
301 Authority citation amended 37589, 40087, 66105

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Technical correction 7214
301.6011–2 (c)(4)(i) revised; eff. 1–1–97 66142
301.6061–1T Added (temporary) 37589
301.6109–1 (a)(2) revised 66090
(a)(1) and (h) amended 66134
301.6109–2 (c) through (g) revised; (h) added 51725
(f)(2) corrected 1035
301.6211–1 (b) amended 62212
301.6212–1 (c) amended 62212
301.6213–1 (a)(2) and (e) amended 62212
301.6311–1 (a)(1)(i) amended; (a)(2) and (b) revised; (a)(3) removed; (d) added 20899
Corrected 13763
301.6651–1 (c)(3) revised 262
301.6651–1T Added 262
301.6676–1 Removed 516
301.6852–1 Added 62212
301.6861–1 (g) amended 62212, 62213
301.6863–1 (a)(1), (3), (4) and (b) amended 62213
301.6863–2 (a) introductory text amended 62213
301.6867–1 Added 39653
301.6867–1T Removed 39654
301.7409–1 Added 62213
301.7422–1 (a) introductory text, (c) introductory text and (d) amended 62213
301.7424–1 Removed 517
301.7425–4 (b)(3)(ii) amended 28720
301.7507–1 (b)(4) added 66105
301.7507–9 (d) amended 66105
301.7514–1 (a)(2) through (7) redesignated as (a)(3) through (8); new (a)(2) added 54945
301.7611–1 Amended 62213
301.7701–3 (e) added 65566
301.7701(i)–0 Added 40088
301.7701(i)–1 Added 40088
(c)(4)(ii) and (g)(3) corrected 49754
301.7701(i)–2 Added 40091
301.7701(i)–3 Added 40092
301.7701(i)–4 Added 40092
301.9100–7T (a)(1) table and (4)(i) table amended; (a)(4)(iii) revised 66926
602 Technical correction 66083
Technical correction 11550
602.101 (c) table amended (OMB numbers) 18744, 20899, 36710, 36998, 37589, 40086, 41016, 43554, 43563, 46530, 49218, 49221, 52856, 53128, 53511, 64324, 65547, 65566, 66085, 66091, 66105, 66134, 66139, 66746, 66926
(c) table amended (OMB numbers) 8, 262, 517, 522, 4885, 10466
(c) table amended (OMB numbers); eff. 6–6–96 9343
(c) table amended (OMB numbers); eff. 12–22–96 271
(c) table corrected (OMB number) 12135

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1 ..... 17286, 17731, 18377, 18378, 19387, 19868, 20922, 21475, 21482, 21779, 26854, 27453, 30487, 31660, 35882, 36755, 37621, 38291, 39896, 39902, 40792, 40794, 40796, 42819, 43091, 46548, 47723, 49236, 62229, 63009, 63478, 64401, 66227, 66228, 66229, 66233, 66238, 66532, 66771
..... 28, 338, 552, 1545, 9377, 9659, 9660, 10489, 11083, 11595
18 35882
20 43574
31 ..... 50508, 53561, 66243
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40 44788
48 ..... 10490, 10492
301 ..... 24811, 24813, 30211, 30487, 36756, 37621, 39903, 43091, 49356, 55228, 64402
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602 10492

TITLE 27—ALCOHOL, TOBACCO PRODUCTS AND FIREARMS

Chapter I—Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury (Parts 1—299)

4.23 Revised 538
4.23a Removed 539
4.28 Added 539
4.34 (a) amended; (b)(1) revised; (b)(2), (3) and (4) redesignated as (b)(3), (4) and (5); new (b)(2) added 539
4.91—4.93 (Subpart J) Added 539
5.23 (a)(3)(iii) revised; (c)(2) removed 67327
6 Authority citation revised 20421
6.1 Revised 20421

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6.4 (b) amended 20421
6.5 Added (OMB number) 20421
6.11 Amended 20421
6.25 Revised 20421
6.27 (a) revised 20421
6.31 Revised 20421
6.33 (a) revised 20421
6.41 Revised 20421
6.42 Revised 20421
6.43 Amended 20422
6.46 Removed 20422
6.47 Removed 20422
6.51 Revised 20422
6.61 Revised 20422
6.65 Revised 20422
6.67 Added 20422
6.71 Revised 20422
6.72 Revised 20422
6.81 Revised (OMB number) 20422
6.82 Removed 20422
6.83 Revised 20422
6.84 Revised 20423
6.85 Revised 20423
6.86 Removed 20423
6.87 Removed 20423
6.88 Revised 20423
6.89 Removed 20423
6.90 Removed 20423
6.91 Revised 20423
6.92 Revised 20423
6.93 Revised 20423
6.94 Amended 20423
6.96 (a) revised 20423
6.97 Removed 20423
6.98 Revised 20423
6.99 Revised 20424
6.100 Revised 20424
6.101 Revised 20424
6.102 Added 20424
6.151—6.153 (Subpart E) Added 20424
8 Authority citation revised 20425
8.1 Revised 20425
8.5 Added (OMB number) 20425
8.11 Amended 20425
8.23 Revised 20425
8.51—8.54 (Subpart D) Added 20425
9.149 Added 47061
9.151 Added 51899
10 Authority citation revised 20426
10.1 Revised 20426
10.4 (a)(1) amended 20426
10.5 Added (OMB number) 20426
10.11 Amended 20426
10.51—10.54 (Subpart D) Added 20427
11 Authority citation revised 20427
11.1 Revised 20427
11.5 Added 20427
11.11 Amended 20427
11.24 Added 20427
11.32 Revised 20427
11.34 Revised 20428
11.35 Revised 20428
19 Authority citation revised 33668
19.522 (a) amended 33668
19.523 (a) revised; (c) added 33668
24.246 Table corrected; CFR correction 38959
24.271 (b) revised; (c) added 33669
25.163 Amended 33669
25.164 (c) and (d) revised 33669
25.164a Added 33669
47.52 (c) removed; (d) and (e) redesignated as (c) and (d); (a) and new (d) revised 47866
53 Authority citation revised 33670
53.11 Amended 33670
53.21 (d) redesignated from 53.152(c) 33670
53.22 (a)(1) amended; (a)(3) added 33670
53.23 Added 33670
53.24 Added 33670
53.142 Heading, (a) introductory text, (4) and (b) revised 33671
53.151 (a)(2) amended; (a)(5) added; (b)(1) revised 33671
53.152 (c) redesignated as 53.21(d) 33670
53.157 Heading revised; note added 33671
53.158 (b)(2) and (3) amended 33671
53.159 Added 33671
55.1 (a) revised 17449
55.26 Heading and (b) revised; (c) added 17449
55.166 Amended 17449
70.306 (a) amended 33674
72.21 (c) revised 17449
72.27 Added 17449
178 Technical correction 19117
178.1 (a) revised 17450
178.11 Amended 17450
178.23 (b)(2) revised 17450
178.25a Added 17451
178.29a Added 17451
178.32 (a)(6), (7), (d)(6) and (7) revised; (a)(8) and (d)(8) added 17451
178.33 Revised 17451
178.39a Added (OMB number) 17451
178.40 Added (OMB number) 17451
178.40a Added (OMB number) 17452

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178.44 Revised 17452
178.45 Revised 17453
178.47 (a), (b) introductory text, (c) and (d) amended; (b)(6) added; OMB number 17453
178.52 Revised (OMB number) 17453
178.57 Existing text designated as (a); (b) and (c) added 17453
178.92 Heading and (a) revised; (c) added 17454
178.99 (c)(6) and (7) amended; (c)(8) added 17454
178.119 Added (OMB number) 17454
178.127 Amended 17455
178.129 (b) revised; (e) added; OMB number 17455
178.132 Added (OMB number) 17455
178.133 Added (OMB number) 17455
178.152 (a) revised 17455
178.153 Added 17456
178.171 Amended 17456
179.34 Amended; (e) added 17456
179.36 Amended 17456
179.42 Amended 17456
179.47 Amended 17456
179.50 Amended 17456
250.112 (b) and (d) revised; (c)(1) amended 33674
270.163 Revised 33675
270.164 Added 33675
270.165 (a) revised; (b) removed; (c) redesignated as (b) 33675
275.113 Revised 33675
275.114 (b) and (d) revised 33675
285.25 (c) revised; (f) amended; (g) added 33676

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4 47506
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5 ..... 47506, 58311
..... 1545, 2459
7 47506
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9 ..... 27060, 66535
..... 706
13 47506
..... 1545
19 ..... 33664, 47506, 58311
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25 ..... 33664, 58311
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53 ..... 18039, 33664
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178 17494
179 17494
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270 33664
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TITLE 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice (Parts 0—199)

Page

0 Authority citation revised 35335, 36711
0.77 (j) revised 36711
0.100—0.104 (Subpart R) Appendix amended 46019
0.116 Amended 53268
0.137 Revised 35335
0.138 Revised 35335
0.157 Heading, (c) and (d) revised; (e) added 35335
2.1 (h) revised 51350
2.12 (a) amended 51350
2.14 (a)(1)(ii), (2)(iv) and (b)(3) amended 51350
2.17 (a) and (c)(2) amended 13763
2.20 Paroling policy guidelines amended 40093, 40271
2.23 Amended 51349
2.27 Revised 13763
2.29 (b) amended 51350
2.40 (g) revised 51349
2.59 Revised 40094
2.60 (g) and (h) added; interim 40095
(b) amended; (g) and (h) removed 4351
16.97 (e) and (f) added 6316
(g) and (h) added 6317
(c) redesignated as (i); (i) amended; new (c) and (d) added 6319
49 Revised; interim 44277
Regulation at 60 FR 44277 confirmed 2117
49.2 (a) corrected 61290
49.3 Introductory text corrected 61290
50 Authority citation revised 13764
50.13 Removed 13764
52 Heading revised 8473
52.01 Revised 8473
52.02 Amended 8473
60 Authority citation revised 62734
60.2 (p) and (q) added 62734
60.3 (a)(18) added 62734
70 Added 38242
70.2 (ff) corrected 57931
70.22 (h)(2) corrected 57931
70.25 (e), (f) and (j) corrected 57931
70.33 (b) correctly revised 57932
70.36 (c) corrected 57932
70.44 (c) corrected 57932
70.51 (e) corrected 57932
70.52 (a)(1)(iii) corrected 57932
70.59 (b)(3) corrected 57932
70.62 (d) corrected 57932
70 Appendix A corrected 57932
81 Added 7706

Chapter V—Bureau of Prisons, Department of Justice (Parts 500—599)

501 Authority citation revised 53490
501.2 Added; interim 53490
540 Authority citation revised 65204
540.17 Introductory text and (b) revised 65204
540.100 (a) amended 90
540.105 (c) removed 90
541.46 (c) amended; (g) revised 46484
541.48 (b) revised 46484
541.49 (a) amended 46484
541.50 (b)(2) revised 46485
542 Revised 88
545.11 (b) introductory text amended; (d)(3) removed 91
545.20 (a) revised 379
545.21 (d) through (g) redesignated as (e) through (h); (a), (c) and new (f) revised; new (d) added 379
545.23 (a) and (b) revised 379
545.24 (d) amended 379
545.25 (a)(2) revised; (d) added 379
545.26 (d), (e) introductory text and (1) revised 379
545.28 Revised 379
548 Authority citation revised 46486
548.10—548.20 (Subpart B) Revised; interim 46486
549.10—549.18 (Subpart A) Revised; interim 52279
549.40—549.43 (Subpart C) Regulation at 57 FR 53820 confirmed 49444
549.41 (b) revised 49444
549.43 (b) revised 49444
551.30—551.36 (Subpart D) Revised 11275
551.37 Added; eff. 4-18-96 through 6-30-96 11276
549.50—549.52 (Subpart D) Revised 13322

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16 ..... 44788, 51962

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TITLE 28 *Proposed Rules:—Con.*

29 54459
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540 ..... 92, 5846
541 54922
545 92
547 47648
549 54288
551 54289

TITLE 29—LABOR

Subtitle A—Office of the Secretary of Labor (Parts 0—99)

1.1361-1 (k)(1) *Example 1* corrected 58234
4.7 Removed 51727
20 Regulation at 59 FR 47250 confirmed 41016
20.101—20.111 (Subpart E) Regulation at 59 FR 47250 confirmed 41016
20.105 Revised 41017
20.106 (b) revised 41017

Chapter I—National Labor Relations Board (Parts 100—199)

102 Comment and experimental periods extension 1281
102.11 Revised 56234
102.14 Revised 56235
102.35 Revised 6941
102.42 Revised 6942
102.45 (a) revised 6942
102.60 (a) revised 56235
102.69 (a) revised 56235
102.112 Revised 56235
102.113 Revised 56236
102.114 Revised 56236
102.117 (d)(2)(i) and (iii)(A) revised 13765

Chapter II—Office of Labor-Management Programs, Department of Labor (Parts 200—299)

215 Revised 62969
Regulation at 60 FR 62969 eff. date stayed 386
Regulation at 60 FR 62969 eff. date delayed to 1-29-96 2117

Chapter IV—Office of Labor-Management Standards, Department of Labor (Parts 400—499)

452.38 (a) amended 57178

Chapter V—Wage and Hour Division, Department of Labor (Parts 500—899)

502 Removed 54804
503 Removed 54804
508.900 (b)(2)(i) and (d) amended; (e) revised 38958, 38959, 61210, 61211
(b)(2)(i), (d) and (e) amended; interim 49753, 49754
508.910 (b)(2)(i) and (e) amended; interim 38958, 38959, 49754
(b)(2)(i) and (e) amended 61210, 61211
508.940 (d)(1)(i)(B) amended; interim 38958
(d)(1)(i)(B), (h)(1) and (3) amended; interim 38959, 49754
(d)(1)(i)(B), (h)(1) and (2) amended 61210, 61211
517 Removed 54805
526 Removed 54805
552 Authority citation revised 46766
552.2 (b)(1) revised 46766
552.100 (a)(1), (c) and (d) revised 46768
552.101 (a) amended 46768
552.104 (b) revised 46768
552.105 (a) amended 46768
697.1 (a)(1), (b)(1), (2)(ii), (iii), (c)(1), (d)(1), (e)(1), (f)(1), (g)(1), (h)(1), (i)(1), (j)(1), (k)(1), (l)(1), (m)(1) and (n)(1) revised 47485
697.3 Revised 47485
801.53 (a) revised 46531

Chapter XIV—Equal Employment Opportunity Commission (Parts 1600—1699)

1600 Authority citation revised 7067
1600.101 Added; interim 7067
1600.735-101—1600.735-106 (Subpart A) Removed; interim 7067
1600.735-201—1600.735-206 (Subpart B) Removed; interim 7067
1600.735-301 (Subpart C) Removed; interim 7067

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1600.735-401—1600.735-406 (Subpart D) Removed; interim 7067
1600.735-501 Redesignated as 1650.101; interim 7067
1600.735-502 Redesignated as 1650.102; interim 7067
1600.735-503 Redesignated as 1650.103; interim 7067
1600.735-504 Redesignated as 1650.104; interim 7067
1600.735-505 Redesignated as 1650.105; interim 7067
1600.735-506 Redesignated as 1650.106; interim 7067
1600.735-507 Redesignated as 1650.107; interim 7067
1600.735-508 Redesignated as 1650.108; interim 7067
1600.735-509 Redesignated as 1650.109; interim 7067
1600.735-510 Redesignated as 1650.110; interim 7067
1600.735-511 Redesignated as 1650.111; interim 7067
1600.735-512 Redesignated as 1650.112; interim 7067
1600.735-513 Redesignated as 1650.113; interim 7067
1600.735-514 Redesignated as 1650.114; interim 7067
1600.735-515 Redesignated as 1650.115; interim 7067
1600.735-516 Redesignated as 1650.116; interim 7067
1600.735-517 Redesignated as 1650.117; interim 7067
1600.735-518 Redesignated as 1650.118; interim 7067
1600.735-519 Redesignated as 1650.119; interim 7067
1601.70 (b) and (e) amended 46220
1601.71 (a), (b) and (c) amended 46220
1602 Deadline extension 51350
1613 Removed 43372
1614.501 (a) amended 43372
1650 Authority citation revised 7067
1650.101 Redesignated from 1600.735-501; interim 7067
1650.102 Redesignated from 1600.735-502; interim 7067
1650.103 Redesignated from 1600.735-503; interim 7067
1650.104 Redesignated from 1600.735-504; interim 7067
1650.105 Redesignated from 1600.735-505; interim 7067
1650.106 Redesignated from 1600.735-506; interim 7067
1650.107 Redesignated from 1600.735-507; interim 7067
1650.108 Redesignated from 1600.735-508; interim 7067
1650.109 Redesignated from 1600.735-509; interim 7067
1650.110 Redesignated from 1600.735-510; interim 7067
1650.111 Redesignated from 1600.735-511; interim 7067
1650.112 Redesignated from 1600.735-512; interim 7067
1650.113 Redesignated from 1600.735-513; interim 7067
1650.114 Redesignated from 1600.735-514; interim 7067
1650.115 Redesignated from 1600.735-515; interim 7067
1650.116 Redesignated from 1600.735-516; interim 7067
1650.117 Redesignated from 1600.735-517; interim 7067
1650.118 Redesignated from 1600.735-518; interim 7067
1650.119 Redesignated from 1600.735-519; interim 7067

Chapter XVII—Occupational Safety and Health Administration, Department of Labor (Parts 1900—1999)

1901 Removed 9230
1902.1 (a) revised 9230
1910.1—1910.7 (Subpart A) Authority citation revised 5508, 9231
1910.6 (a), (b) and (c) redesignated as (a)(1), (3) and (2); new (b) and (w) added 9231
1910.7 OMB number 5508
1910.8 Added (OMB numbers) 5508
1910.11—1910.19 (Subpart B) Authority citation revised 9235
1910.17 (a) and (b) removed; (c) amended 9235
1910.20 OMB number 5508
(c)(13)(i) amended 9235
1910.21—1910.32 (Subpart D) Authority citation revised 9235
1910.30 (a)(3) amended 9235
1910.31 Removed 9235
1910.32 Removed 9235

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1910.39 Removed 9235
1910.40 Removed 9235
1910.66 OMB number 5508
(k) removed 9235
1910.66—1910.70 (Subpart F) Authority citation revised 9235
1910.67 (b)(1) and (c)(5) amended 9235
1910.68 (b)(3), (4), (c)(7)(ii)(*b*) and note amended 9235
1910.69 Removed 9235
1910.70 Removed 9236
1910.94—1910.100 (Subpart G) Removed 9236
1910.94 (a)(2)(iii), (4)(i), (5)(v)(*a*), (b)(5)(i)(*a*), (c)(1)(ii), (4)(iii), (5)(i)(*a*), (iii)(*e*), (6)(ii), (iii)(*a*), (7)(iv)(*e*), (d)(2)(iv) and (7)(iv) amended 9236
1910.95 OMB number 5508
(h)(2) and Appendixes G and H amended 9236
1910.96 OMB number 5508
1910.97 (a)(3)(ii) amended 9236
1910.99 Removed 9236
1910.100 Removed 9236
1910.101—1910.120 (Subpart H) Authority citation revised 9236
1910.101 (a), (b) and (c) amended 9236
1910.102 (a), (b) and (c) amended 9236
1910.103 (b)(1)(i)(*a*), (*c*) and (iii)(*b*) amended 9236
(c)(1)(i)(*a*), (iv)(*a*)(*1*), (v)(*b*) and (*d*) amended 9237
1910.104 (b)(4)(i), (5)(ii) and (6)(iii) amended 9237
1910.105 Amended 9237
1910.106 (a)(5), (14)(i), (ii), (17), (30), (b)(1)(i)(*a*), (iii)(*a*) introductory text, (iv)(*b*) introductory text, (2)(ii)(*b*), (iv)(*b*)(*1*), (d)(3)(ii) introductory text, (4)(i) and (j)(6) introductory text amended 9237
1910.107 (d)(1), (e)(5) and (j)(1) amended 9237
1910.108 (b)(1) and (2) amended 9237
1910.109 (i)(1)(ii)(*b*), (2)(iii)(*c*) and (6)(ii) amended 9237
1910.110 (b)(3)(i), (iii), (5)(i) and (iii) amended 9237
(b)(8)(i) introductory text, (*a*), (ii), (20)(iv) and (e)(2)(iv) amended 9238
1910.111 (b)(1)(i), (7)(iii), (iv), (vi), (d)(1)(ii), (4)(ii)(*b*) and (e)(1) amended 9238
1910.114 Removed 9238
1910.115 Removed 9238
1910.116 Removed 9238
1910.119 (b) amended 9238
1910.120 (a)(1)(i) and (3) amended 9238
1910.133 (b)(1) and (2) amended 9238
1910.134 OMB number 5508
1910.135 (b)(1) and (2) amended 9238
1910.136 (b)(1) and (2) amended 9238
1910.139 Removed 9238
1910.140 Removed 9238
1910.142 OMB number 5508
(c)(4) and (i)(1) amended 9238
1910.144 (a)(1)(ii) amended 9239
1910.145 OMB number 5508
(a)(2), (d)(2)(i), (4)(i), (6)(i) and (10) amended 9239
1910.147 OMB number 5508
1910.148 Removed 9239
1910.149 Removed 9239
1910.150 Removed 9239
1910.151—1910.153 (Subpart K) Authority citation revised 9239
1910.153 Removed 9239
1910.156 OMB number 5508
(e)(3)(ii) introductory text, (4)(i) introductory text and (5)(i) amended 9239
1910.157 (c)(5) amended 9239
1910.158 (c)(3)(iii) and (4) amended 9239
1910.155—1910.165 (Subpart L) Appendix D amended 9239
1910.169 (a)(2)(i) amended 9239
1910.170 Removed 9239
1910.171 Removed 9239
1910.176—1910.190 (Subpart N) Authority citation revised 9239
1910.177 Appendix B amended 9239
1910.178 (a)(2), (f)(1) and (2) amended 9239
1910.179 (b)(2), (6)(i) and (c)(2) amended 9239
1910.180 (b)(2), (c)(1)(i), (iii) and (d)(3) introductory text amended 9239
1910.181 (b)(2) amended 9240
1910.182 Removed 9240
1910.184 (e)(4) amended 9240
1910.189 Removed 9240
1910.190 Removed 9240

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1910.211—1910.222 (Subpart O) Authority citation revised 9240
1910.215 (b)(12) amended 9240
1910.216 (a)(1) and (2) removed 9240
1910.217 OMB number 5508
(b)(12), (c)(1)(ii), (3)(v), (5)(i), (d)(1) introductory text, (f)(4) table and (g) amended 9240
1910.218 (d)(4), (e)(1)(iv), (j)(3) and (5) amended 9240
1910.219 (c)(5)(iii) amended 9240
1910.220 Removed 9240
1910.221 Removed 9240
1910.222 Removed 9240
1910.241—1910.247 (Subpart P) Authority citation revised 9240
1910.243 (d)(1)(i) and (e)(1)(i) amended 9240
1910.245 Removed 9240
1910.246 Removed 9240
1910.247 Removed 9240
1910.251 (c) amended 9240
1910.252 (a)(1), (b)(2)(ii)(I), (d)(1)(v), (vi) and (vii) amended 9240
1910.253 (b)(1)(ii), (iii), (4)(iv), (d)(1)(i)(A) introductory text, (*2*), (4)(ii), (e)(4)(iv), (v), (5)(i) and (f)(6)(i)(I) amended 9241
1910.254 (b)(1) and (d)(1) amended 9241
1910.256 Removed 9241
1910.257 Removed 9241
1910.261—1910.277 (Subpart R) Authority citation revised 9241
1910.261 (a)(3) introductory text and (4) introductory text amended; (n) removed 9241
1910.262 (c)(6), (7) and (h)(1)(i) amended 9241
1910.263 (i)(24)(ii) and (k)(2)(i) amended 9241
1910.265 (c)(2), (15), (18)(i), (20)(i), (30)(iv), (31)(i), (d)(2)(i)(*a*) and (iv) introductory text amended; (j) removed 9241
1910.266 Note revised 40458
(c), (d)(1)(iv), (v) and (2)(i) amended; (d)(1)(iii), (vii), (5), (6)(iii), (9)(iii) and (iv) revised 47035
(e)(2)(iv), (vi), (xiii), (f)(2)(iv), (x), (xi), (3)(vii), (viii), (7)(i), (ii), (h)(1)(iii), (1)(ix), (2)(i), (vi), (vii), (3) heading, (i), (5)(v), (viii) and (6)(ii) revised; (f)(3)(i) and (ii) amended; (f)(3)(ii) redesignated as (f)(3)(ii)(C); (f)(3)(ii)(A) and (B) added 47036
(i)(7)(ii) removed; (i)(7)(iii) redesignated as (i)(7)(ii); appendix A amended 47037
(d)(3)(iv) and (e)(2)(i) amended 9241
(f)(3)(ii), (iii), (iv), (4) and (5)(i) amended 9242
1910.268 (f)(1), (g)(2)(i)(A), (h)(3), (i)(1), (j)(4)(iv)(E) and (s)(1)(v) amended 9242
1910.272 (h) through (p) redesignated as (i) through (q); (b)(1), (2), (c), new (m)(3), new (q)(7), new (8) introductory text and Appendix A amended; (e)(2) note, (g)(1)(iv) and new (h) added; (g) introductory text, (1)(ii) and (2) revised; OMB number 9584
OMB number 5508
(k)(1), (o)(1) introductory text, (p)(3), (4) introductory text, (5) and (6) introductory text amended 9242
1910.274 Removed 9242
1910.275 Removed 9242
1910.420 OMB number 5508
1910.421 OMB number 5508
1910.423 OMB number 5508
1910.430 OMB number 5508
1910.440 OMB number 5508
(b)(1) and (5)(ii) amended 9242
1910.1000—1910.1500 (Subpart Z) Authority citation revised 9242
1910.1001 OMB number 5508
1910.1003 OMB number 5508
Revised 9242
1910.1004 OMB number 5508
Revised 9245
1910.1006 OMB number 5508
Revised 9245
1910.1007 OMB number 5508
Revised 9245
1910.1008 OMB number 5508
Revised 9245
1910.1009 OMB number 5508
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1910.1010 OMB number 5508
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1910.1011 OMB number 5508
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1910.1012 OMB number 5508
Revised 9245
1910.1013 OMB number 5508
Revised 9245
1910.1014 OMB number 5508
Revised 9245
1910.1015 OMB number 5508
Revised 9245
1910.1016 OMB number 5508
Revised 9245
1910.1017 OMB number 5508
1910.1018 OMB number 5508
(o)(1)(ii) amended 9245
1910.1025 (e)(1)(ii) Table I, (f)(1)(i), (j)(2)(ii) and (k)(1)(i) revised; (e)(4), (k)(1)(i)(A), (B), (iii)(A)(*1*) and (*2*) removed; (e)(5), (6), (k)(1)(i)(C), (D), (iii)(A)(*3*) and (*4*) redesignated as (e)(4), (5), (k)(1)(i)(A), (B), (iii)(A)(*1*) and (*2*); Appendixes B and C amended **52859**
OMB number 5508
1910.1027 OMB number 5508
1910.1028 OMB number 5508
1910.1029 OMB number 5508
1910.1030 OMB number 5508
1910.1043 OMB number 5508
1910.1044 OMB number 5508
1910.1045 OMB number 5508
1910.1047 OMB number 5508
1910.1048 OMB number 5508
1910.1050 OMB number 5508
1910.1200 OMB number 5508
Appendix C removed 9245
1910.1450 OMB number 5508
1910.1499 Removed 9245
1910.1500 Removed 9245
1915.8 Added (OMB numbers) 5509
1915.1001 (b) corrected **36044**
(g)(7)(iii) redesignated as (g)(7)(ii)(C); new (g)(7)(iii) and (12)(vi) added; (g)(8)(iv)(B) removed; (g)(8)(iv)(C), (12) introductory text, (h)(2)(v) and (o)(4)(i) revised **50412**
OMB number 5509
1915.1003 OMB number 5509
Revised 9246
1915.1004 OMB number 5509
Revised 9248
1915.1006 OMB number 5509
Revised 9248
1915.1007 OMB number 5509
Revised 9248
1915.1008 OMB number 5509
Revised 9248
1915.1009 OMB number 5509
Revised 9248
1915.1010 OMB number 5509
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1915.1011 OMB number 5509
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1915.1012 OMB number 5509
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1915.1013 OMB number 5509
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1915.1014 OMB number 5509
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1915.1030 OMB number 5509
1915.1044 OMB number 5509
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1915.1047 OMB number 5509
1915.1048 OMB number 5509
1915.1050 OMB number 5509
1915.1120 OMB number 5509
1915.1450 OMB number 5509
1917.23 OMB number 5509
1917.24 OMB number 5509
1917.25 OMB number 5509
1917.28 OMB number 5509
1917.50 OMB number 5509
1917.116 OMB number 5509
1918 Authority citation amended 5509
1918.90 OMB number 5509
1919 Authority citation revised 5509
1919.3 OMB number 5509
1919.51 OMB number 5509
1919.90 OMB number 5509
1926.1—1926.4 (Subpart A) Authority citation revised 5509
1926.5 Added (OMB number) 5509
1926.30 (b) revised 9249
1926.31 (a)(1) and (2) amended 9249
1926.33 OMB number 5510
(c)(13)(i) amended 9249
1926.50 OMB number 5510
1926.53 OMB number 5510
1926.55 Appendix A amended 9249, 9250

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1926.57 (f)(8), (g)(5)(vii), (viii), (x), illustrations, (i)(2)(i) and (4)(iii)(A)(*2*) amended 9250
1926.60 OMB number 5510
1926.62 OMB number 5510
1926.65 OMB number 5510
1926.95—1926.107 (Subpart E) Authority citation revised 9250
1926.98 OMB number 5510
1926.103 OMB number 5510
(a)(2) amended 9250
1926.104 Regulation at 59 FR 40729 withdrawn **39255**
1926.105 Regulation at 59 FR 40729 withdrawn **39255**
1926.107 Regulation at 59 FR 40729 withdrawn **39255**
1926.250 OMB number 5510
1926.300 (b)(7) amended; (b)(8) and (9) added 9250
1926.304 (h)(1) amended 9251
1926.400—1926.432 (Subpart K) Authority citation revised 9251
1926.403 OMB number 5510
1926.404 OMB number 5510
1926.405 OMB number 5510
1926.407 OMB number 5510
1926.408 OMB number 5510
1926.416 (f)(6), (g)(2)(iii)(B) and (7) amended 9251
1926.417 (d)(1) amended 9251
1926.500 (a)(2)(iii), (3)(iv) and (4) revised **39255**
1926.550 OMB number 5510
1926.703 OMB number 5510
1926.753 Regulation at 59 FR 40729 withdrawn **39255**
1926.800 OMB number 5510
1926.803 OMB number 5510
1926.1000—1926.1003 (Subpart W) Authority citation revised 9251
1926.1001 (b) corrected **36044**
1926.1002 Heading revised; (c) through (i), (j)(3) and (k) removed; (a)(1) amended 9251
1926.1003 (c) through (g) removed; (a)(1) amended 9251
1926.1071—1926.1091 (Subpart Y) Authority citation added 9252
1926.1080 OMB number 5510
1926.1081 OMB number 5510
1926.1083 OMB number 5510
1926.1090 OMB number 5510
1926.1091 OMB number 5510
1926.1101 (g)(7)(iii) redesignated as (g)(7)(ii)(C); new (g)(7)(iii) and (11)(vi) added; (g)(8)(iv)(B) removed; (g)(8)(iv)(C), (11) introductory text and (h)(2)(v) revised **50412**
(o)(4)(i) revised **50413**
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1926.1101—1926.1148 (Subpart Z) Authority citation revised 9252
1926.1103 OMB number 5510
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1926.1104 OMB number 5510
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1926.1106 OMB number 5510
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1926.1107 OMB number 5510
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1926.1108 OMB number 5510
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1926.1109 OMB number 5510
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1926.1110 OMB number 5510
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1926.1111 OMB number 5510
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1926.1112 OMB number 5510
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1926.1113 OMB number 5510
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1926.1115 OMB number 5510
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1926.1117 OMB number 5510
1926.1118 OMB number 5510
1926.1127 OMB number 5510
1926.1128 OMB number 5510
1926.1129 OMB number 5510
1926.1144 OMB number 5510
1926.1145 OMB number 5510
1926.1147 OMB number 5510
1926.1148 OMB number 5510
1926 Amended 9255
1928.21 OMB number 5510
(a)(6) added 9255
1928.51 (b)(1) revised; (b)(2)(ii) footnote 1 redesignated as (b)(2)(iii) footnote 2 9255
1928.52 Removed 9255
1928.53 Removed 9255
1928.51—1928.53 (Subpart C) Appendix B removed 9255
1928.1027 Revised 9255
1950 Removed 9255

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1951 Removed 9255
1952.253 (a) and (b) amended; (d) added 56951
1952.254 Revised 56951
1952.297 (b) through (h) added 43972
1960.1 (f) revised 34852
1960.66 (f) added 34852

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2200.200—2200.211 (Subpart M) Revised 41809
2200.203 Eff. in part 10-1-95 through 9-30-96 41809
2201 Nomenclature change 14024
2201.3 Revised 14025
2201.5 (a) and (b)(1) revised 14025
2201.8 (b)(2) introductory text amended 14025

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2606.1 (b)(8) and (9) amended; (b)(10) added 61747
2606.33 Regulation at 59 FR 62573 confirmed 39848
2606.51 Amended 61747
2606.53 Regulation at 59 FR 62573 confirmed 39848
2607.1 (a) amended 67328
2607.2 Amended 67328
2607.3 (a), (b) and (c) amended 67328
2607.4 (a), (b), (c) and (d) amended 67328
2607.5 (a) and (b) amended 67328
2607.6 (b) and (c) amended 67328
2607.7 (b) and (c) amended 67328
2607.8 (b), (c) and (d) amended 67328
2607.9 Introductory text and (a) amended 67328
2607.10 Amended 67328
2609 Regulation at 59 FR 62574 confirmed 39846
2609.1 Regulation at 59 FR 62573 confirmed 39848
2609.31—2609.34 (Subpart C) Regulation at 59 FR 62573 confirmed 39848
2610 Appendixes A and B amended 53269
Appendixes A and B amended 1126
2616 Authority citation revised 61747
2616.2 Amended 61747
2616.6 (a) amended 61747
2616.7 (b) amended 61747
2616.29 (a)(1) and (b) amended 61747
2617 Authority citation revised 61747
2617.2 Amended 61747
2617.3 (b)(5) amended 61747
2617.6 (a) amended 61747
2617.8 (b) amended 61747
2617.25 (b)(2)(i) amended 61747
2617.28 (a)(1), (c) and (h) amended 61747
2619 Appendix B amended 36211, 42038, 47868, 53270, 57340, 64328
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2621 Appendix A amended 64325
2622 Appendix A amended 36210, 53269
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2627.3 (a) correctly revised 36998
2627.11 Added (OMB number) 50413
2627 Appendix B amended 64325
2628 Added 66055
2629 Added 61741
2644 Appendix A amended 36213, 53272
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2645.5 Added (OMB number) 50413
2674.5 OMB number 50413
2674.6 OMB number 50413
2676 Appendix B amended 10676
2676 Appendix B amended 36209, 36212, 42039, 47868, 53271, 57340, 64329
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5 Fee schedule 1686
18.6 (a) amended 35693
18.81 (a) amended 35693
18.82 (a) and (c) amended 35693
19.3 (a) revised 35693
19.4 (a) amended 35693
20.3 Amended 35693
20.5 (a) amended 35693
20.14 Introductory text and (a) revised 35693
22.4 Amended 35694
22.5 (a) revised 35694
22.11 Introductory text and (a) revised 35694
27.3 Amended 35694
27.4 (a) amended 35694
28.10 (a) revised; (c) amended 35694
28.31 (b) amended 35694
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35.3 Amended 35694
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50.20 (a) amended 35695
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56.5001 (a) amended 35695
56.5005 (b) amended 35695
56.5050 (a) amended 35695
56.12407 Amended 35695
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71 Authority citation revised 35695
71.209 (a) amended 35695
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75 Authority citation revised 9828
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77.403b Amended 35695
90 Authority citation revised 35696
90.209 (a) amended 35696

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202 Authority citation revised 5490
202.151 (a) revised 5490
206 Authority citation revised 3804, 5455
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206.100—206.105 (Subpart C) Heading revised 5462
206.100 (a), (b) and (c) revised 5462
206.101 Amended 5462
206.102 (a)(2) removed; (a)(1) redesignated as (a); (d), (i), (k) and (l) revised 5462
206.104 (b)(2) and (d) revised 5462
206.105 (c)(1)(ii), (iii), (v), (vi), (2)(ii), (iii), (v), (vii), (3) and (4) removed; (c)(1)(iv), (2)(iv), (vi) and (viii) redesignated as (c)(1)(ii), (2)(ii), (iii) and (iv); (a)(1)(i), (3), (b)(1), (2)(v), (4), (c)(1)(i), (2)(i), new (ii), new (iii), (d) and (e) revised 5463
206.106 Added 3804
206.150—206.159 (Subpart D) Heading revised 5464
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206.152 (a)(2), (e)(2), (h), (i), (k) and (l) revised; (a)(3) removed 5464
206.153 (a)(3) removed; (e)(2), (i), (k) and (l) revised....5465
206.154 (c)(4) revised 5465
206.155 (b) revised 5465
206.156 (c)(3) and (d) revised 5465
206.157 (c)(1)(ii), (iii), (v), (vi), (2)(ii), (iii), (v), (vii), (3) and (4) removed; (c)(1)(iv), (2)(iv), (vi) and (viii) redesignated as (c)(1)(ii), (2)(ii), (iii) and (iv); (a)(1)(i), (3), (b)(1), (2)(v), (4), (c)(1)(i), (2)(i), new (ii), new (iii), (d), (e)(1) and (2) revised 5465
206.158 (c)(3) and (e) revised....5466
206.159 (c)(1)(ii), (iii), (v), (vi), (2)(ii), (iii), (v), (vii), (3) and (4) removed; (c)(1)(iv), (2)(iv), (vi) and (viii) redesignated as (c)(1)(ii), (2)(ii), (iii) and (iv); (a)(1)(i), (3), (b)(1), (2)(v), (c)(1)(i), (2)(i), new (ii), new (iii), (d), (e)(1) and (2) revised 5466
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206.256 (a) revised 5480
206.257 (a), (d)(2), (h), (j) and (k) revised 5480
206.258 (c) revised 5480
206.259 (c)(1)(ii), (iii), (v), (vi), (2)(ii), (iii), (v), (vii), (3) and (4) removed; (c)(1)(iv), (2)(iv) and (vi) redesignated as (c)(1)(ii), (2)(ii) and (iii); (a)(1), (b)(1), (2)(v), (c)(1)(i), (2)(i), new (ii), new (iii), (d) and (e)(1) revised....5480
206.261 (a)(1), (2) and (e) revised 5481
206.262 (c)(1)(ii), (iii), (v), (vi), (2)(ii), (iii), (v), (vii), (3) and (4) removed; (c)(1)(iv), (2)(iv), (vi) and (viii) redesignated as (c)(1)(ii), (2)(ii), (iii) and (v); (a)(1), (b)(1), (2)(v), (c)(1)(i), (2)(i), new (ii), new (iii), (d) and (e) revised....5481
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260.110 (a)(1)(iii), (2)(iii), (3)(i)(C)(4) and (3)(iii) revised; (a)(5), (6) and (7) added 3804
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904 Decision 38487
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906.10 (b) revised....54593
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906.15 (s) added....64122
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906.16 (g) removed; (h) added....64122
906.20 Revised....54593
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913.15 (r) added....35697
913.25 (f) added 35699
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914.15 (kkk) added....47695
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(lll) corrected 55649
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914.16 (bb) removed 56521
915 Decision 38496
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916.15 (p) added....58236
917 Decision 38682
917.15 (zz) added 62737
918 Decision 38487
920 Decision 38685
920.15 (bb) added 56523
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924 Decision 38675
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925.15 (s) added....36050
925.16 (b)(4), (q)(1), (3), (4) and (5) removed; (q)(2) revised; (u) added....36050
925.20 Revised....43976
925.25 (c) added....43976
926 Decision 38482
926.20 Revised....37002
926.25 Added....37002
931 Decision 38491
934 Decision 38482
934.15 (u) added 36223
934.16 Introductory text revised; (b) through (i), (w) and (x) removed; (aa) and (bb) added 36223
935 Decision 38500
935.15 (xxx) added 36355
(yyy) added 37940
(zzz) added 56528
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936.15 (q) added....56529
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944.10 (b) revised....54593
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944.16 (b) removed; (e) through (i) added....37012
944.20 (b) revised....54593
944.25 (c) added....37012
946 Decision 38689
946.15 (ii) added....40276
946.16 (a) added....40276
948 Decision 38691
948.12 (a), (c), (d), (g) and (h) removed 6535
948.13 (a), (b), (e) and (f) removed 6535
948.15 (n) added 42443
(o) added 51917
(p) added 6535
948.16 (c), (f), (i), (j), (l), (n), (q), (s), (t), (v), (w), (x), (aa), (cc), (hh), (ii), (jj), (kk), (mm), (nn), (pp), (qq), (rr), (ss), (uu), (vv) and (yy) through (iii) removed; (xx) revised; (mmm) through (uuu) added 6536
(ww) removed; (jjj), (kkk) and (lll) added....51918
948.26 Text removed 6537
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950.15 (w) added....47700
950.35 (c) added....6540
950.36 Added 6540

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TITLE 30 *Proposed Rules:—Con.*

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TITLE 31—MONEY AND FINANCE: TREASURY

Subtitle A—Office of the Secretary of the Treasury (Parts 0—50)

0 Regulation at 60 FR 28535 confirmed 42042
1.1—1.7 (Subpart A) Appendix J amended 57333
1.36 Amended 387

Chapter I—Monetary Offices, Department of the Treasury (Parts 51—199)

103 Authority citation revised 4331
103.11 Regulation at 60 FR 228 eff. date delayed to 4–1–96 44144
(ii) revised; (qq) added 4331
(n)(7)(i), (z) and (nn) revised; (rr), (ss) and (tt) added; eff. 8–1–96 7055
103.20 Redesignated from 103.21 4331
103.21 Redesignated as 103.20; new 103.21 added 4331
103.25 Regulation at 60 FR 229 eff. date delayed to 4–1–96 44144
103.33 Regulation at 60 FR 229 eff. date delayed to 4–1–96 44144
Regulation at 60 FR 238 eff. date delayed to 4–1–96 44145
103.36 (b)(7) amended; eff. 8–1–96 7056

Chapter II—Fiscal Service, Department of the Treasury (Parts 200—399)

321 Appendix corrected; CFR correction 35126
351.2 (g)(3)(i) correctly revised; CFR correction 5510
357.26 (b)(3) revised 6113
370.0 Revised 6114
390 Removed 65569

Chapter V—Office of Foreign Assets Control, Department of the Treasury (Parts 500—599)

500.573 Revised 9344
515.206 Heading and (a) revised; (b) removed; (c), (d) and (e) redesignated as (b), (c) and (d); new (b) amended 39256
515.322 (a) revised 54195
515.332 Revised 39256
515.413 Removed 54195
515.416 (a) introductory text and (1) revised 54195
515.417 Added 54195
515.419 Added 54196
515.527 Revised 54196
515.528 Heading and (a) introductory text revised 54196
515.542 Heading, (b) and (c) revised 39256
515.545 Heading and (a) revised 39257
515.560 (a), (b) and (g) revised 54196
515.561 Removed 54196
515.563 Revised 54196
515.565 (c) added 54197
515.570 Removed 39257
515.572 Added 54197
515.573 Added 54197
515.574 Added 54197
535.217 (b) revised 8216
550 Appendix A amended 37941

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560 Revised 47063
585.525 Added 1284
585.526 Added 1284
595 Added 3806

Chapter VI—Bureau of Engraving and Printing, Department of the Treasury (Parts 600—699)

601 Revised 10895

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1 40797
103 ..... 39665, 44146, 44151, 46556, 53316
224 56551
240 48940
256 552
281 2750
356 402
357 8420

TITLE 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense (Parts 1—399)

23 Revised 9345
40b Removed; interim 541
67 Added; interim 54302
69 Added; interim 271
90 Revised 37341
91 Revised 37341
92 Added; interim 40280
Removed 46020
169a.19 Added 67328
169a.21 (a), (b), (c)(2), (3) and (5) amended; (c) introductory text revised 67329
169a Appendixes B, C and D amended 67329
199.1 (r) added 52094
199.2 (b) amended 52094
199.4 (a)(1) redesignated as (a)(1)(i); (a)(1)(ii) and (9)(vi) added; (a)(9)(i)(C) revised 52094
199.13 (b) amended; (c)(1), (3), (4), (5)(iv), (v), (e)(1)(i), (2), (3), (f)(1)(ii), (vi), (vii), (6)(i), (ii), (g)(2) and (3) introductory text revised; (c)(5)(vi) removed; (c)(2)(ii)(G) and (5)(vii) redesignated as (c)(2)(ii)(H) and (5)(vi); (a)(3)(i)(C), (c)(2)(ii)(G) and (8) added 55451
199.14 (h)(1)(i)(C) removed; (h)(1)(i)(D) redesignated as (h)(1)(i)(C) 52094
199.15 (n) added 52095
199.17 Added 52095
199.18 Added 52101
216 Revised 9346
220.8 (h) and (k) revised 6542
234 Added; interim 542
247 Revised 38960
290.4 Footnote 3 revised 35699
290.7 (e) and (f)(7)(iii) amended 35699
290 Appendixes A, B and C amended 35699
Appendix B amended 4885, 5510
311.7 (c)(1) added 36051
(c)(8) added 54198
(c)(9) added 3814
312.12 (a) amended 2916
317.133 (b) amended 2916
318.5 (a) amended 2916
320.11 Amended 2916
321.14 (b) amended 2916
(g) redesignated as (h); new (g) added 3814
323 Appendix H amended 2916
341 Removed 35839
356 Removed 44277
358 Removed 44277
372 Removed 44277
393 Removed 44277

Chapter V—Department of the Army (Parts 400—699)

505.5 (e) amended 48662, 51919
(e) amended; (c)(1) revised 2916

Chapter VI—Department of the Navy (Parts 700—799)

701.113 (d) and (g)(1) amended 2917
701.117 Amended 2917
701.118 (a), (m) and (p) amended 2917
701.119 (b) amended 2917
706.2 Tables Four and Five amended 50101, 57933, 58236
Table Three amended 50102
Tables Two and Five amended 52860
Table One amended 53273
Table Five amended 54198, 56237, 57934, 65570, 67059
Table Four amended 54199, 56121, 57932, 65569

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TITLE 32 Chapter VI—Con.

Tables One and Three amended 9105, 9106
Table Two amended 9107
Table Four amended 9108
Table Five amended 9905

Chapter VII—Department of the Air Force (Parts 800—1099)

806b Appendix C amended 36224
Appendix C amended 2917
818a Removed 57934
835 Removed 4351
838 Removed 4351
843 Removed 4352
848 Removed 4352
855 Revised 37349
892 Removed 57935

Chapter XX—Information Security Oversight Office, National Archives and Records Administration (Parts 2000—2099)

Chapter XX Heading revised 10854
2001 Revised 53492
Authority citation revised 10854
2001 Appendix A added 10854

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57 36081
199 339
220 39285
311 ..... 47905, 49812
321 51764
324 8003
339 6588
552 55816
723 53153
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TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation (Parts 1—199)

1.05-55 Added 49224
1.30-1—1.30-40 (Subpart 1.30) Removed 6543
3.25-05 (b) revised 67061
3.25-10 (b) revised 67061
3.25-15 (b) revised 67061
3.40-25 Removed 67062
3.40-28 Added 67062
3.40-30 Removed 67062
4.02 Table amended (OMB numbers) 9274
80—82 (Subchapter D) Note amended 9
Regulation at 61 FR 9 eff. date confirmed 10466
81 Appendix A removed 9
Regulation at 61 FR 9 eff. date confirmed 10466
100 Temporary regulations lists 44428, 55456
Temporary regulations list 7071
100.T0535-537 Added (temporary) 36357
100.35-T02-046 Added (temporary) 45044
100.35-T02-061 Added (temporary) 45045
100.35-T02-062 Added (temporary) 53274
100.35-T07-003 Added (temporary) 8217
100.35-T07-028 Added (temporary) 45668
100.35-T09-015 Added (temporary) 35700
100.35-T09-016 Added (temporary) 40096
100.35-T09-024 Added (temporary) 43979
100.35-T09-025 Added (temporary) 45046
100.35-07-004 Added (temporary) 8218
100.35-07-060 Added (temporary) 52297
100.35-07-061 Added (temporary) 52298
100.35T07-008 Added (temporary) 36356
100.109 Added 50103
100.111 Added 43977
100.501 Implementation (temporary) 67330
100.502 Implementation (temporary) 43978
100.508 Implementation (temporary) 47269
100.509 Implementation (temporary) 67330
100.511 Implementation (temporary) 14025
100.901 Table 1 revised 44425
Table 1 revised 5681

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100.1101 Implementation (temporary) 4885, 10896
100.1102 Implementation (temporary) 8218
100.1105 Implementation (temporary) 47269
100.1303 Implementation (temporary) 36355
110.72aa Implementation (temporary) 67330
110.157 (b)(2) stayed; (d) added; eff. 9-20-95 through 10-31-95 52104
110.159 (a)(5) corrected 45776
110.168 (a)(3)(i)(A), (B) and (ii)(D) stayed; eff. 8-18-95 through 8-21-95 43373
117 Temporary drawbridge operations regulations 1524
Temporary drawbridge operations regulations 13098
117.261 (n) removed 47270
(e) and (f) redesignated as (f) and (g); new (e) added 53275
117.317 (f) revised 66747
117.391 Revised 52311
117.465 (a) through (e) redesignated as (b) through (f); new (a) added 43374
117.491 (a)(2) removed; (a)(3) and (4) redesignated as (a)(2) and (3) 4886
117.493 Revised 4887
117.595 (a)(4), (b)(1) and (c) revised; (d) added 51728
117.600 Added 51729
117.603 Stayed; eff. 7-17-95 through 9-30-95 36359
117.604 Added; eff. 7-17-95 through 9-30-95 36359
117.605 (a) revised 58518
117.611 Revised 54432
117.615 Revised 54431
117.618 (c) added 51730
117.622 Added 51731
117.731a (a) revised 51732
117.733 (b) stayed; (k) added; eff. 7-17-95 through 9-4-95 36361
(e) revised 53130
117.773 Revised 10467
117.821 Regulation at 59 FR 67630 confirmed 37366
117.833 Revised 40098
117.997 (g) redesignated as (h); new (g) added 37365
(e) revised 1715
117.1007 Implementation (temporary) 67330
117.1025 Regulation at 60 FR 31247 confirmed 54806
117.1049 (a) and (c) revised; (d) removed 54434
117 Appendix A amended 51729, 53130
Appendix A amended 10468
126 Technical correction 49509
126.05 (a) amended 39794
126.10 (d) removed 39794
126.15 (o) removed 39794
127 Heading revised 39794
127.001 Revised 39794
127.003 Revised 39794
Corrected 49509
127.005 Amended 39795
127.007 (c), (d)(5), (6) and (e)(2) amended 39795
127.009 Introductory text amended 39795
127.011 Heading revised 39795
127.013 (a) introductory text amended 39795
127.019 (b) and (c) amended 39795
127.101—127.711 (Subpart B) Heading revised 39795
127.101 Introductory text amended 39795
127.103 (a) amended 39796
127.105 Heading revised; (a) amended 39796
127.109 (a) amended 39795
127.111 (a) amended 39795
127.113 (a) introductory text amended 39796
127.201—127.207 (Subpart C) Designation removed; transferred to subpart B 39795
127.203 Amended 39796
127.207 (a) and (b) amended 39796
127.301—127.321 (Subpart D) Designation removed; transferred to subpart B 39795
127.301 (a) introductory text and (b) amended 39796
127.303 Amended 39796
127.305 (d) and (e) amended 39796
127.307 (f) amended 39796
127.309 (a) amended 39796
127.313 (a) introductory text amended 39796
127.315 (g) amended 39796
127.317 (b) and (c)(1) amended 39796
127.319 (a) introductory text, (1) and (b)(3)(i) amended 39796

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127.321 (a) introductory text amended 39796
127.401—127.409 (Subpart E) Designation removed; transferred to subpart B 39795
127.401 Amended 39796
127.405 (a)(1) amended 39796
127.501—127.503 (Subpart F) Designation removed; transferred to subpart B 39795
127.601—127.617 (Subpart G) Designation removed; transferred to subpart B 39795
127.601 Undesignated heading removed 39795
127.603 Introductory text amended 39796
127.607 (a) amended 39796
127.609 (a) amended 39796
127.611 Amended 39796
127.613 Undesignated heading removed 39795
Amended 39796
127.615 Amended 39796
127.701—127.711 (Subpart H) Designation removed; transferred to subpart B 39795
127.703 Heading, (a) introductory text, (1) and (b) amended 39796
127.705 Introductory text amended 39796
127.711 Amended 39796
127.1101—127.1605 (Subpart C) Added 39796
127.1203 (a) corrected 49509
127.1205 (b)(4) corrected 49509
127.1207 (b) corrected 49509
127.1301 (a)(2) corrected 49509
127.1307 (b) corrected 49509
130.0 Regulation at 59 FR 34227 confirmed 9274
131 Removed 9274
131.0 Regulation at 59 FR 34227 confirmed 9274
132 Removed 9274
132.0 Regulation at 59 FR 34227 confirmed 9274
137 Authority citation revised 39851
Removed 9274
137.101—137.107 (Subpart B) Regulation at 59 FR 34227 confirmed 9274
137.201—137.215 (Subpart C) Regulation at 59 FR 34227 confirmed 9274
137.300 Regulation at 59 FR 34227 confirmed 9274
137.401—137.403 (Subpart D) Regulation at 59 FR 34227 confirmed 9274
137.601—137.603 (Subpart G) Added 39851
138 Regulation at 59 FR 34227 confirmed 9274
138.10 (b) amended 9274
138.12 (c) amended 9274
138.20 (b) amended 9274
138.80 (b)(2), (3)(i) introductory text, (B), (c)(1) introductory text and (f)(1)(i) amended; (f)(1)(ii) revised 9274
138.110 (a) and (c)(1) amended 9275
138 Appendix B revised 9276
Appendix C revised 9283
Appendix D revised 9288
Appendix E revised 9296
Appendix F revised 9303
150.129 Regulation at 58 FR 7352 confirmed 7917
151.01—151.77 (Subpart A) Authority citation revised 43377
151.05 Amended 43377
151.06 Added 43377
151.13 (a), (b)(1), (2) and (3) revised; (h) added 43377
151.32 Added 43378
151.53 Revised 43378
151.71 Revised 43378
154 Comment period reopened 13098
154.100 Regulation at 58 FR 7352 confirmed 7917
154.106 Regulation at 58 FR 7352 confirmed 7917
154.1010—154.1075 (Subpart F) Regulation at 58 FR 7352 confirmed; revised 7917
154.1110—154.1140 (Subpart G) Regulation at 58 FR 7365 confirmed 7917
Revised 7930
154.1210—154.1228 (Subpart H) Added 7931
154.1310—154.1325 (Subpart I) Added 7932
154 Appendix C revised 7933
Appendix D revised 7938
155 Authority citation revised 43378
Authority citation revised 1081
Comment period reopened 13098
155.400 (b)(2) revised 43378

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155.1010—155.1070 (Subpart D) Revised 1081
155.1110—155.1150 (Subpart E) Revised 1097
155.1210—155.1230 (Subpart F) Added 1098
155.2210—155.2230 (Subpart G) Added 1099
155 Appendix B revised 1100
Appendix C added 1107
156 Authority citation revised 45017
156.110 (a) introductory text revised 45017
156.111 Added 45017
156.200 Revised 45017
156.205 (a) and (b) introductory text revised; (b) amended 45017
156.210 (d) added 45017
156.215 (d) added 45017
156.300—156.330 (Subpart C) Added 45017
162.134 (f) added 35701
162.138 Revised 35702
162.255 (e)(2) revised 63624
164.03 (b) revised 51734
165 Temporary regulations lists 44428, 55456
Temporary regulations list 7071
165.T01–064 Added (temporary) 40459
165.T01–096 Added (temporary) 42788
165.T01–129 Added (temporary) 45048
165.T01–137 Added (temporary) 45671
165.T01–138 Added (temporary) 47871
165.T01–147 Added (temporary) 49510
165.T01–156 Added (temporary) 54304
165.T01–162 Added (temporary) 57342
165.T02–003 Added (temporary) 47273
165.T02–015 Added (temporary) 41018
165.T02–047 Added (temporary) 35703
165.T02–049 Added (temporary) 54434
165.T02–056 Added (temporary) 47870
165.T02–064 Added (temporary) 47271
165.T02–071 Added (temporary) 2418
165.T02–076 Added (temporary) 7414
165.T02–077 Added (temporary) 7413
165.T02–078 Added (temporary) 13100
165.T02–200 Added (temporary) 41017
165.T02–201 Added (temporary) 42790
165.T02–202 Added (temporary) 42791
165.T05–004 Added (temporary) 2418
165.T05.007 Added (temporary) 8220
165.T05–051 Added (temporary) 43373
165.T05–066 Added (temporary) 52104
165.T05–087 Added (temporary) 67331
165.T07–009 Added (temporary) 8219
165.T07–013 Added (temporary) 9350
165.T07–073 Added (temporary) 545
165.T09–009 Added (temporary) 45670
165.T1103 Correctly removed; CFR correction 62330
165.T13–036 Added (temporary) 48895
165.T14–002 Added (temporary) 44430
165.T14–003 Added (temporary) 44430
165.T5068 Added (temporary) 54807
165.167 Added 42789
165.174 Added 57343
165.205 Added 2415
165.503 Implementation (temporary) 3316
165.710 Removed 65571
165.714 Added 45047
165.722 Added 65571
165.753 Added 58519
165.803 Regulation at 59 FR 21935 confirmed; introductory text, (e)(1) and (2) revised 37944
165.905 Added 52862
165.1304 Added 61480
165.1305 Added 61481
165.1306 Added 61483
165.1307 Added 61482
175.21 (a) revised 13926
175.23 Added 13926
179 Authority citation revised 13926
179.01 Revised 13926
179.03 Revised 13926
179.05 Revised 13926
179.07 Revised 13926
179.09 Introductory text revised 13926
179.11 Revised 13926
179.13 (a) introductory text, (1) and (2) revised 13926
179.17 Revised 13926
179.19 Revised 13927
181 Authority citation revised 13927
181.4 (b) revised 13927
181.702 Revised 13927
181.703 Revised 13927
181.704 Added 13927
181.705 Added 13927
187.301—187.331 (Subpart D) Suspended; eff. 2–23–96 through 4–23–98 6943

Chapter II—Corps of Engineers, Department of the Army (Parts 200—399)

322.5 (l)(1)(i) through (l)(1)(vi) redesignated as (l)(1)(ii) through (l)(1)(vii); new

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(l)(1)(i) added; (l)(1) introductory text and new (ii) revised 44761
334.410 (d)(4) revised 7215
334.412 Added 7215
334.1240 Revised; interim 43379
(a)(3)(ii) corrected 57935
Regulation at 60 FR 43379 confirmed 2120

Chapter IV—Saint Lawrence Seaway Development Corporation, Department of Transportation (Parts 400—499)

402.9 (a) revised; (c) introductory text amended 56121
402.11 (a) amended; (b), (c) and (d) revised 56121

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1 39130
52 63489
62 67345
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84 53726
100 ..... 38291, 55511, 66772, 66773
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110 ..... 53317, 56964
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117 ..... 37417, 39287, 40138, 42826, 42827, 46069, 47317, 54823, 55515, 65613, 66776, 67346
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157 ..... 55904, 67226
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162 ..... 47905, 53318
164 55890
165 ..... 36374, 40543, 47907, 56968
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183 ..... 40545, 49531
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331 37280
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TITLE 34—EDUCATION

Subtitle A—Office of the Secretary, Department of Education (Parts 1—99)

74 Authority citation revised 46493
74.1 Authority citation revised 46493
74.2 Authority citation revised 46493
74.3 Authority citation revised 46493
74.4 Authority citation revised 46493
74.5 Authority citation revised 46493
74.10 Authority citation revised 46493
74.11 Authority citation revised 46493
74.12 Authority citation revised 46493
74.13 Authority citation revised 46493
74.14 Authority citation revised 46493
74.15 Authority citation revised 46493
74.16 Authority citation revised 46493
74.17 Authority citation revised 46493
74.20 Authority citation revised 46493
74.21 Authority citation revised 46493
74.22 Authority citation revised 46493
74.23 Authority citation revised 46493
74.24 Authority citation revised 46493
74.25 Authority citation revised 46493
74.26 Authority citation revised 46493
74.27 Authority citation revised 46493
74.28 Authority citation revised 46493
74.30 Authority citation revised 46493
74.31 Authority citation revised 46493
74.32 Authority citation revised 46493
74.33 Authority citation revised 46493
74.34 Authority citation revised 46493

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74.35 Authority citation revised 46493
74.36 Authority citation revised 46493
74.37 Authority citation revised 46493
74.40 Authority citation revised 46493
74.41 Authority citation revised 46493
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74.47 Authority citation revised 46493
74.48 Authority citation revised 46493
74.50 Authority citation revised 46493
74.51 Authority citation revised 46493
74.52 Authority citation revised 46493
74.53 (b) introductory text, (1), (3), (g)(1) and (2) amended 46493
74.60 Authority citation revised 46493
74.61 Authority citation revised 46493
74.62 Authority citation revised 46493
74.70 Authority citation revised 46493
74.71 Authority citation revised 46493
74.72 Authority citation revised 46493
74.73 Authority citation revised 46493
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75.1 Authority citation revised 46493
Note revised 63873
75.2 Authority citation revised 46493
75.4 Authority citation revised 46493
75.50 Authority citation revised 46493
75.51 Authority citation revised 46493
75.60 Authority citation revised 46493
75.61 Authority citation revised 46493
75.62 Authority citation revised 46493
75.100 Authority citation revised 46493
75.101 Authority citation revised 46493
(c) removed 63873
(a)(2) revised 8455
75.102 Authority citation revised 46493
75.103 Authority citation revised 46493
75.104 Authority citation revised 46493
Revised 8455
75.105 Authority citation revised 46493
(b)(2)(ii), (iii) and (c)(2)(i) amended; (b)(2)(iv) and (v) added 63873
75.109 Authority citation revised 46493
75.112 Authority citation revised 46493
75.117 Authority citation revised 46493
75.119 Authority citation revised 46493
75.125 Heading and authority citation revised 46493
Authority citation revised 46493
75.126 Authority citation revised 46493
75.127 Authority citation revised 46493
75.128 Authority citation revised 46493
75.129 Authority citation revised 46493
75.155 Authority citation revised 46493
75.156 Authority citation revised 46493
75.158 Authority citation revised 46493
75.159 Authority citation revised 46493
75.190 Authority citation revised 46493
75.191 Authority citation revised 46493

NOTE: Boldface page numbers indicate 1995 changes.

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TITLE 34 Subtitle A—Con.

75.192 Authority citation revised 46493
75.200 Authority citation revised 46493
(b)(3) revised 63873
75.201 Authority citation revised 46493
Revised 63873
75.209 Added 63873
75.210 Authority citation revised 46493
Heading revised; (a) and (c) removed; (b) introductory text and (1) through (7) amended; (b)(1) introductory text, (i), (ii), (2) introductory text, (i) through (iv), (3) introductory text, (i) through (vi), (4) introductory text, (i)(A), (B), (C), (D), (ii)(A), (B), (5)(i), (ii), (6)(i), (ii) and (7) redesignated as (a) introductory text, (1), (2), (b) introductory text, (1) through (4), (c), (1) through (6), (d) introductory text, (1)(i), (ii), (iii), (iv), (2)(i), (ii), (e) introductory text, (1), (2), (f) introductory text, (1), (2) and (g) 63873
75.215 Authority citation revised 46493
75.216 Authority citation revised 46493
75.217 Authority citation revised 46493
75.218 Authority citation revised 46493
75.219 Authority citation revised 46493
75.220 Authority citation revised 46493
75.222 Authority citation revised 46493
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75.231 Authority citation revised 46493
75.232 Authority citation revised 46493
75.233 Authority citation revised 46493
75.234 Authority citation revised 46493
75.235 Authority citation revised 46493
75.236 Authority citation revised 46493
75.250 Authority citation revised 46493
75.251 Authority citation revised 46493
75.253 Authority citation revised 46493
75.260 Authority citation revised 46493
75.261 Authority citation revised 46493
75.262 Authority citation revised 46493
75.500 Authority citation revised 46493
75.511 Authority citation revised 46493
75.515 Authority citation revised 46493
75.516 Authority citation revised 46493
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75.519 Authority citation revised 46493
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75.525 Authority citation revised 46493
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75.580 Authority citation revised 46493
75.590 Authority citation revised 46493
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75.592 Authority citation revised 46493
75.600 Authority citation revised 46493
75.601 Authority citation revised 46493
75.602 Authority citation revised 46493
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75.604 Authority citation revised 46493
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75.611 Authority citation revised 46493
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75.616 Authority citation revised 46493
75.617 Authority citation revised 46493
75.618 Authority citation revised 46493
75.620 Authority citation revised 46493
75.621 Authority citation revised 46493
75.622 Authority citation revised 46493
75.626 Authority citation revised 46493
75.650 Authority citation revised 46493
75.681 Authority citation revised 46493
75.682 Authority citation revised 46493
75.683 Authority citation revised 46493
75.700 Authority citation revised 46493
75.701 Authority citation revised 46493
75.702 Authority citation revised 46493
75.703 Authority citation revised 46493
75.707 Authority citation revised 46493
75.708 Authority citation revised 46493
75.720 Authority citation revised 46493
75.730 Authority citation revised 46493
75.731 Authority citation revised 46493
75.732 Authority citation revised 46493
75.734 Removed 46493
75.740 (a) and (b) amended; authority citation revised 46493
75.900 Authority citation revised 46493
75.901 Authority citation revised 46493
75.903 Authority citation revised 46493
75.910 Authority citation revised 46493
76.1 Authority citation revised 46494
76.2 Authority citation revised 46494
76.50 Authority citation revised 46494
76.51 Authority citation revised 46494
76.100 Authority citation revised 46494
76.101 Amended; authority citation revised 46493
76.102 Authority citation revised 46494
76.103 Heading and (a) revised; (b) amended 46493
76.104 Authority citation revised 46494
76.106 Authority citation revised 46494
76.125 Authority citation revised 46494
76.140 Authority citation revised 46494
76.141 Authority citation revised 46494

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76.142 Authority citation revised 46494
76.201 Authority citation revised 46494
76.202 Authority citation revised 46494
76.235 Authority citation revised 46494
76.261 Authority citation revised 46494
76.300 Authority citation revised 46494
76.301 Amended; authority citation revised 46493
76.302 Authority citation revised 46494
76.303 Authority citation revised 46494
76.304 Authority citation revised 46494
76.400 Authority citation revised 46494
76.401 (d)(8) and authority citation revised 46493
76.500 Authority citation revised 46494
76.530 Authority citation revised 46494
76.532 Authority citation revised 46494
76.533 Authority citation revised 46494
76.534 Authority citation revised 46494
76.560 Authority citation revised 46494
76.561 Authority citation revised 46494
76.563 Authority citation revised 46494
76.580 Authority citation revised 46494
76.591 Authority citation revised 46494
76.600 Authority citation revised 46494
76.650 Authority citation revised 46494
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76.652 Authority citation revised 46494
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76.654 Authority citation revised 46494
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76.656 Authority citation revised 46494
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76.662 Authority citation revised 46494
76.677 Authority citation revised 46494
76.681 Authority citation revised 46494
76.683 Authority citation revised 46494
76.700 Authority citation revised 46494
76.701 Authority citation revised 46494
76.702 Authority citation revised 46494
76.703 (a) and (b) removed; (c) redesignated as (h); new (a), new (b) and (c) through (g) added 41294
Authority citation revised 46494
76.704 Redesignated as 76.708 41295
Added 41296
Authority citation revised 46494
76.705 Redesignated as 76.709 41295
Authority citation revised 46494
76.706 Redesignated as 76.710 41295
76.707 Authority citation revised 46494
76.708 Redesignated from 76.704 41295
76.709 Redesignated from 76.705 41295
76.710 Redesignated from 76.706 41295
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76.740 Authority citation revised 46494
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76.761 Authority citation revised 46494
76.770 Authority citation revised 46494
76.902 Authority citation revised 46494
80 Announcement 50413
81 Authority citation revised 46494
81.1 Authority citation revised 46494
81.2 Authority citation revised 46494
81.4 Authority citation revised 46494
81.5 Authority citation revised 46494
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81.17 Authority citation revised 46494
81.19 Authority citation revised 46494
81.21 Authority citation revised 46494
81.22 Authority citation revised 46494
81.23 Authority citation revised 46494
81.24 (b)(1) and authority citation revised 46494
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81.25 Authority citation revised 46494
81.26 Authority citation revised 46494
81.27 Authority citation revised 46494
81.28 Authority citation revised 46494
81.29 Authority citation revised 46494
81.30 Authority citation revised 46494
81.31 Authority citation revised 46494
81.32 Authority citation revised 46495
81.33 Authority citation revised 46495
81.34 Authority citation revised 46495
81.37 (b) amended; authority citation revised 46494
81.43 (a) redesignated as (a)(1); (a)(2) added; authority citation revised 46494
81 Appendix amended 46495

Chapter II—Office of Elementary and Secondary Education, Department of Education (Parts 200—299)

200 Revised 34802
201 Removed 34802
203 Removed 34802
205 Removed 34802
212 Removed 34802
218 Removed 50778
219 Removed 50778
221 Removed 50778
222 Revised 50778
223 Removed 50778
263 Technical correction 35111

Chapter III—Office of Special Education and Rehabilitative Services, Department of Education (Parts 300—399)

345 Revised 8161
345.30 OMB number pending 8166
345.31 OMB number pending 8168
345.42 OMB number pending 8169
345.50 OMB number pending 8170
345.52 OMB number pending 8170
345.53 OMB number pending 8170
366 Authority citation revised 39221
366.5 Redesignated as 366.6; new 366.5 added 39221
366.6 Redesignated from 366.5 39221
366.60—366.63 (Subpart G) Added 39221
370 Revised 55766
371.1 Revised 58137
371.5 Added (OMB number) 58137

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667.1 (d)(1)(iii) revised 41296
668 Authority citation revised 61433
668.2 (b) amended 61809
668.3 OMB number 42408
668.7 Removed 61809
668.8 OMB number 42408
668.15 OMB number 42408
668.16 OMB number 42408
668.17 OMB number 42408
(a) through (e) revised; (f), (g) and (h) redesignated as (h), (i) and (j); new (f) and new (g) added (OMB number pending) 61769
668.19 Revised (OMB number pending) 61809
668.21 Heading revised 61810
668.22 OMB number 42408
(d)(1)(i) revised; (h)(1)(i) removed; (h)(1)(ii) through (xiii) redesignated as (h)(1)(i) through (xii) 61810
668.23 OMB number 42408
668.31—668.39 (Subpart C) Revised 61810
668.37 (a)(2)(iii) corrected 3776
668.41 Heading and authority citation revised; (e) added (OMB numbers pending) 61433
(b) redesignated as (c); (a)(3) and new (b) added; new (c) revised (OMB number pending) 61787
668.46 Added (OMB number pending) 61787
668.48 Added (OMB numbers pending) 61434
668.49 Added (OMB number pending) 61788
668.85 (b)(1)(ii) and (3) revised 61773
668.86 (b)(1)(ii) and (3) revised 61773
668.90 (a)(1)(iii)(D) added; (a)(3)(iv) revised 61774
668.133 (b) revised (OMB number pending) 61813
668.141—668.156 (Subpart J) Added 61838
668.161 (b) revised 61813
668.163 (a)(2)(iii) added; (a)(3)(i)(A) revised 61813
668.164 (a)(2)(iii) revised (OMB number pending) 61814
(a) correctly revised 3776
668.165 (b)(1) revised; (e) added (OMB number pending) 61814
(e)(3) and (4) correctly redesignated as (e)(3)(i) and (ii) 3776
674.2 (a) and (b) amended 61814
674.5 (e) redesignated as (f) and revised; new (e) added 61814
674.16 (d) revised 61814
674.17 (a) removed; (b)(1)(i), (ii), (iii), (2), (3), (4) introductory text, (i), (ii) and (5) redesignated as (a) introductory text, (1), (2), (3), (b), (c), (d) introductory text, (1), (2) and (e) 61814
674.19 (e)(4)(v) revised (OMB number pending) 61814
674.31 (a)(1) revised (OMB number pending) 61814
674.33 Second (d)(3) and second (4) redesignated as (d)(6) and (7); (a)(2) and new (d)(6) amended 61814
674.34 (e)(4), (6) introductory text, (ii) and (7) amended; (e)(5) revised 61815
674.47 (g) revised; (h) added (OMB number pending) 61815
675.2 (a) and (b) amended 61815
675.17 Removed 61815
675.19 (c)(3) revised (OMB number pending) 61815
675 Appendix B removed 61815
676.2 (a) and (b) amended 61815
676.17 Removed 61815
676.19 (c)(3) revised (OMB number pending) 61815
682.200 Amended 61756
682.201 (c)(1)(iii)(C) revised 61756
(b) introductory text, (1) through (6), (7)(i) through (vi), (iii)(A), (B) and (8) redesignated as (b)(1) introductory text, (i) through (vi), (vii)(A) through (F), (C)(*1*), (*2*) and (viii); new (b)(1)(viii) and (6) amended; new (b)(2) added 61815
(a)(8) corectly designated as (b)(8); CFR correction 65021
682.207 (c) introductory text, (d)(1) and (2)(iii) revised; (c)(4) added (OMB number pending) 61756
682.209 (b) revised (OMB number pending) 61756
682.210 (a)(8) revised (OMB number pending) 61756
682.211 (f)(9) added (OMB number pending) 61756
682.401 (b)(10)(vi)(B) revised (OMB number pending) 61757
682.402 (c)(3), (l)(1) and (2) revised; (l)(3) amended 61757
682.412 (c) revised (OMB number pending) 61757
682.600 Removed 61816
682.602 Removed 61816
682.603 (f)(4) added; (g) revised (OMB number pending) 61757
682.604 (e)(3) removed; (e)(4) redesignated as (e)(3); introductory text amended (OMB number pending) 61757
682.605 Revised (OMB number pending) 61757
682.607 (c) revised 61757
682.611 Added 61816
685.102 (b) amended 61793
685.200 (b) introductory text, (1) through (6), (7), (i), (ii), (iii), (i)(A), (B), (C), (ii)(A) and (B) redesignated as (b)(1) introductory text, (i) through (vi), (vii), (A), (B), (C), (A)(*1*), (*2*), (*3*), (B)(*1*) and (*2*); new (b)(1), (vii)(B) and (C) amended; (b)(2) added 61816
685.201 (a)(2) introductory text and (b) revised 61794
685.209 (a) and (b) revised; (c) removed; (d) redesignated as (c); new (c)(2) through (5) redesignated as (c)(4) through (7); new (c)(2) and new (3) added (OMB number pending) 61823
685.301 (a)(5) and (6) redesignated as (a)(6) and (7); new (a)(5) and (d) added (OMB number pending) 61794
685 Appendix A revised 61824
686.143 OMB number pending 61839
686.144 OMB number pending 61839
686.145 OMB number pending 61840
686.146 OMB number pending 61840
686.147 OMB number pending 61841
686.148 OMB number pending 61841
686.149 OMB number pending 61841
686.150 OMB number pending 61842
686.151 OMB number pending 61842
686.152 OMB number pending 61843
686.153 OMB number pending 61843
686.155 OMB number pending 61843
690.2 Amended 61816
690.7 (a)(1) removed; (a)(2) redesignated as (a) 61816
690.71 Amended 61816
690.72 Removed 61816
690.73 Removed 61816
690.74 Removed 61816
690.83 (a) through (d) revised (OMB number pending) 61816
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700 Added 47810

Chapter XI—National Institute for Literacy (Part 1100—1199)

Chapter XI Established 35798

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95 44696
99 10664
201 3772
299 13324
345 40688
361 64476
..... 3490
371 ..... 38608, 42490
379 1672
535 56920
600—699 (Ch. VI) 4198
646 64108
..... 4758
656 13996
657 14006
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674 49114
675 49114
676 49114
682 ..... 49114, 49130
685 ..... 48848, 48858, 49114
690 ..... 49114, 46004

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TITLE 36—PARKS, FORESTS, AND PUBLIC PROPERTY

Chapter I—National Park Service, Department of the Interior (Parts 1—199)

Chapter I Nomenclature change 55790
1.3 Revised 2918
1.4 (a) amended 55790
5.4 (a) amended 35841
7.3 (b) and (c) removed; (d) through (g) redesignated as (b) through (e); (a) and new (d) revised; new (e) heading and new (f) added 35841
(b)(6) amended 55791
7.16 (h)(5) and (j)(4) amended 55791
7.22 (c)(10) amended 55791
7.32 (c) added 47703
7.33 (c) added; interim 39258
7.63 (b)(10) amended 55791
7.96 Amended 55790
Heading, (a), (g)(1)(iii), (viii), (ix), (3) introductory text, (5)(vi)(A), (D) and (xiv) amended 55791
7.100 (c) added; interim 36225
9.2 (l) amended 55791
9.31 (j) amended 55791
9.82 (d) amended 55791
13.63 (f) revised 6944
14.2 (c) removed; (d) through (i) redesignated as (c) through (h) 55791
20.1 (c) amended 55791
64.7 (c) amended 55791
68 Revised 35843

Chapter II—Forest Service, Department of Agriculture (Parts 200—299)

223 Authority citation revised 46920
Compliance date suspension and comment period reopening 53704
Authority citation revised 5685
223.60 Revised 5685
223.87 Revised 46920
223.130 (a) revised 46921
223.131 Revised 46921
223.133 Amended 46921
223.135 Revised 46921
223.136 (b) revised 46921
223.137 (g) added 46921
223.139 (a) and (b) amended 46921
223.159 Revised 46922
223.161 Removed 46922
223.163 Removed 46922
223.185—223.203 (Subpart F) Revised 46922
242 Policy statement 40459
242.24 (a)(1) table amended 40464
242.25 (k)(15)(iii)(D) table amended; eff. 8-10-95 through 6-30-96 40464
(k)(11) table, (12) table, (13)(iii) table, (17)(iii) table, (20)(iii)(C) table, (22)(ii)(C) table amended 5688
(k)(25)(iii)(B) table amended 5689
251.50 Heading, (a), (c) introductory text and (3) revised 45293
251.51 Amended 45293
Corrected 54409
251.54 (a) introductory text, (e)(1) and (h) revised; (e) introductory text removed; (e)(2) through (5), (f) introductory text in part, (1) and (2) redesignated as (e)(3) through (6), (f)(1), (2) and (3); new (e)(2), (f)(4) and (5) added 45293
251.56 (e) revised 45294
251.57 (d) through (h) redesignated as (e) through (i); new (d) added 45294
251.60 (a) and (b) revised 45295
261 Authority citation revised 45295, 46934
Technical correction 54409
261.2 Amended 45295
261.6 (i) added 46934
261.10 (g) revised; (h) through (n) redesignated as (i) through (o); new (h) added 45295
261.14 (p) removed; (q) redesignated as (p) 45295
291 Authority citation revised 1716
291.1 Added 1716
291.2 Redesignated from 291.9; (a) revised 1716
291.3 Redesignated from 291.10 1716
291.9 Redesignated as 291.2 1716
291.10 Redesignated as 291.3 1716

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Chapter VII—Library of Congress (Parts 700—799)

701.5 Existing text designated as (b); new (a) added 34853
701.6 Existing text designated as (a); new (a) amended; (b), (c) and (d) added 34853

Chapter IX—Pennsylvania Avenue Development Corporation (Parts 900—999)

Chapter IX Note added 11308

Chapter XII—National Archives and Records Administration (Parts 1200—1299)

1206.1 Revised 5656
1206.2 (e), (f) and (g) revised 5656
1206.6 Revised 5657
1206.7 Added 5657
1206.10 Revised 5657
1206.12 Revised 5657
1206.14 Removed 5657
1206.16 Revised 5657
1206.18 (a) and (c) revised 5657
1206.20 Revised 5657
1206.30 Revised 5657
1206.32 Revised 5657
1206.34 Removed 5657
1206.36 Revised 5657
1206.38 Revised 5658
1206.50 (c) revised 5658
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1206.54 Revised 5658
1206.56 Revised 5658
1206.58 (b), (c) and (d) revised 5658
1206.66 (b) and (c) revised 5659
1206.68 Revised 5659
1206.78 Revised 5659
1206.79 Added 5660
1206.94 Revised 5660
1210 Added; interim 53515
Regulation at 60 FR 53515 confirmed 5660
1220.14 Amended 44639
1220.42 Revised 44639
1222 Heading revised 44639
1222.20 (b)(1) and (5) revised 44640
1222.30 (b) revised 44640
1222.32 Introductory text revised 44640
1222.34 (d) redesignated as (f); new (d), (e) and (g) added 44640
1222.50 (b)(3) through (8) redesignated as (b)(4) through (9); (a), (b)(2), new (4), new (6) and new (8) revised; new (b)(3) added 44640
1228 Authority citation revised 44640
1228.1 (e) added 44640
1234.1 Revised 44640
1234.2 Amended 44641
1234.10 (e) through (l) redesignated as (f) through (m); (d), new (f), new (g), new (h) and new (m) amended; new (e) added 44641
1234.20 (a) and (b) amended 44641
1234.22 (a) and (b) amended 44641
1234.24 Redesignated as 1234.26; new 1234.24 added 44641
1234.26 Redesignated as 1234.28; new 1234.26 redesignated from 1234.24 44641
1234.28 Redesignated as 1234.30; new 1234.28 redesignated from 1234.26 44641
1234.30 Redesignated as 1234.32; new 1234.30 redesignated from 1234.28 44641
1234.32 Redesignated as 1234.34; new 1234.32 redesignated from 1234.30 44641
Heading revised; (a) amended; (d) added 44642
1234.34 Redesignated from 1234.32 44641
(c) added 44642
1253.3 Introductory text added; (a) through (f), (h), (i) and (j) revised; interim 40416
Regulation at 60 FR 40416 confirmed; (d) revised 390
1253.4 Revised; interim 40417
Regulation at 60 FR 40417 confirmed 390
1253.5 Revised; interim 40417
Regulation at 60 FR 40417 confirmed 390
1253.6 Revised; interim 40417
Regulation at 60 FR 40417 confirmed; (h), (i) and (m) revised 390
1253.7 Revised; interim 40417
Regulation at 60 FR 40417 confirmed; (g), (h), (l) and (m) revised 390

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TITLE 36

Chapter XIV—Assassination Records Review Board (Parts 1400—1499)

1405 Added 45336
1410 Added 45339
1415 Added 64123

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1 62233
7 ..... 35887, 46562, 50509, 54633, 56034
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13 ..... 36082, 40798, 47513, 62233
17 5356
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217 36767
219 36767
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1206 46798
1228 ..... 49532, 50158
1232 50158
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TITLE 37—PATENTS, TRADEMARKS, AND COPYRIGHTS

Chapter I—Patent and Trademark Office, Department of Commerce (Parts 1—199)

1 Technical correction 36462, 44120
1.16 (a), (b), (d) and (f) through (i) revised 41022
1.17 (b) through (g), (j), (m) through (p), (r) and (s) revised 41022
1.18 Revised 41022
1.19 (a)(1)(ii), (iii), (b)(1)(i) and (ii) revised 41022
1.20 (c), (e), (f), (g), (i)(1), (2) and (j) revised 41022
1.21 (a)(1) revised 41022
1.445 (a) revised 41023
1.482 (a)(1) and (2)(ii) revised 41023
1.492 (a), (b) and (d) revised 41023
2 Technical correction 44120
2.6 (b)(1)(ii), (iii), (2)(i) and (ii) revised 41023
3 Technical correction 36462
7 Technical correction 44120
7.1 Revised 41023
10.155 (a) revised 64126

Chapter II—Copyright Office, Library of Congress (Parts 200—299)

201 Authority citation revised 50420, 57937
201.11 (c)(4) added; (g)(3)(i) amended; (g)(3)(iii) introductory text revised 57937
201.17 (c)(4) added; (j)(3)(i) amended; (j)(3)(iii) introductory text revised 57938
201.31 (a) amended 50420
201.33 Added 50420
202 Authority citation revised 50422
202.12 Added 50422
253.5 (c)(1), (2) and (3) amended 61655
255.1 Revised 61657
255.3 Revised 55459
255.4 Added 61657
255.5 Added 61657
259.3 Revised 61660

Chapter IV—Assistant Secretary for Technology Policy, Department of Commerce (Parts 400—499)

401.2 (j) revised; (k) through (m) added; interim 41812
401.5 (f)(2) revised; interim 41812
401.13 (c)(2) revised; interim 41812
401.16 Redesignated as 401.17; new 401.16 added; interim 41812
401.17 Redesignated from 401.16 and revised; interim 41812

Proposed Rules:

1 ..... 41035, 42352, 55691
3 42352
5 ..... 42352, 55691
10 55691
201 35522
202 ..... 35522, 62057
..... 2463

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Department of Veterans Affairs (Parts 0—99)

0 Nomenclature change 7216

NOTE: Boldface page numbers indicate 1995 changes.

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0.735–1 Removed; new 0.735–1 redesignated from 0.735–3 11309
0.735–2 Removed; new 0.735–2 redesignated from 0.735–4 11309
0.735–3 Redesignated as 0.735–1; new 0.735–3 added 11309
0.735–4 Redesignated as 0.735–2 11309
0.735–5 Removed 11309
0.735–6 Removed 11309
0.735–7 Removed 11309
0.735–8 Removed 11309
1 Authority citation revised 48387, 63929
Authority citation amended 53276
Nomenclature change 7216
1.12 Removed 11309
1.460—1.469 Undesignated center heading added 63929
1.460 Added 63929
1.461 Added 63931
1.462 Added 63932
1.463 Added 63932
1.464 Added 63932
1.465 Added 63932
1.466 Added 63933
1.467 Added 63933
1.468 Added 63933
1.469 Added 63933
1.475—1.479 Undesignated center heading added 63933
1.475 Added 63933
1.476 Added 63934
1.477 Added 63934
1.478 Added 63934
1.479 Added 63934
1.485—1.489 Undesignated center heading added 63935
1.485 Added 63935
1.486 Added 63935
1.487 Added 63935
1.488 Added 63935
1.489 Added 63936
1.490—1.496 Undesignated center heading added 63936
1.490 Added 63936
1.491 Added 63936
1.492 Added 63936
1.493 Added 63936
1.494 Added 63937
1.495 Added 63937
1.496 Added 63938
1.513 (b)(2) amended 63938
1.513a Removed 63938
1.551 Removed 11309
1.554a Reinstated; CFR correction 57684
1.555 Reinstated; CFR correction 57684
1.556 Reinstated; CFR correction 57684
1.557 Reinstated; CFR correction 57684
1.558 Reinstated; CFR correction 57684
1.559 Reinstated; CFR correction 57684
1.575 Reinstated; CFR correction 57684
1.576 Reinstated; CFR correction 57684
1.577 Reinstated; CFR correction 57684
1.578 Reinstated; CFR correction 57684
1.579 Reinstated; CFR correction 57684
1.580 Reinstated; CFR correction 57684
1.581 Reinstated; CFR correction 57684
1.582 Reinstated; CFR correction 57684
1.583 Reinstated; CFR correction 57684
1.584 Reinstated; CFR correction 57684
1.600 Reinstated; CFR correction 57684
1.601 Reinstated; CFR correction 57684
1.602 Reinstated; CFR correction 57684
1.700 Revised 48387
1.701 Revised 48388
1.702 (b), (c), (d) and (h) amended 48388
1.703 Revised 48388
1.705 (a), (c) and (e) amended 48388
1.770—1.776 Undesignated center heading removed 48029
1.770 Removed 48029
1.771 Removed 48029
1.772 Removed 48029
1.773 Removed 48029
1.774 Removed 48029
1.775 Removed 48029
1.776 Removed 48029
1.783 (l)(1)(i) and (ii) amended 48029
1.955—1.970 Authority citation revised 53276
1.955 (a)(1) amended 53276
1.956 (a)(3) revised 53276

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1.957 (a)(1)(iv) removed 53276
1.963a Revised 53276
1.967 (c) revised 53276
2 Nomenclature change 7216
2.1 Revised; interim 40757
2.5 (b) amended 48029
2.62 Removed 48029
2.63 Removed 48029
2.63a Removed 48029
2.64 Removed 48029
2.65 Removed 48029
2.65a Removed 48029
2.100 Regulation at 60 FR 5852 confirmed 55996
2.101 Regulation at 60 FR 5852 confirmed 55996
3 Nomenclature change 7216
3.6 (a) amended; (b)(5), (6) and (c)(5) redesignated as (b)(6), (7) and (c)(6); new (b)(5) and new (c)(5) added 57179
(b)(7)(i), (ii) and (iii) removed 11731
3.55 (a)(2) introductory text amended 52863
3.202 Regulation at 59 FR 46338 confirmed 46533
3.204 Regulation at 59 FR 46338 confirmed 46533
3.205 Regulation at 59 FR 46338 confirmed 46533
3.207 Regulation at 59 FR 46338 confirmed 46533
3.209 Regulation at 59 FR 46338 confirmed 46533
3.210 Regulation at 59 FR 46338 confirmed 46533
3.211 Regulation at 59 FR 46338 confirmed 46533
3.256 Revised 51922
3.277 Heading, (b) and (c) revised; (d) added 51922
3.311 (b)(2)(xix) and (xx) amended; (b)(2)(xxi) and (xxii) added 53277
3.326 Revised; interim 52864
Regulation at 60 FR 52864 confirmed 13424
3.353 (b) revised 56792
3.400 (u)(3), (4), (v) heading, (3), (4) and (w) amended 52863
3.811 Removed 11310
4 Authority citation revised 49227
4.88a Regulation at 59 FR 60902 confirmed 37013
4.88b Regulation at 59 FR 60902 confirmed 37013
4.88c Regulation at 59 FR 60902 confirmed 37013
4.117 Revised 49227
13 Nomenclature change 7216
14 Nomenclature change 7216
14.501 (f) added 7216
14.518 (a) amended 7216
17 Nomenclature change 7216
20.900 (c) amended; authority citation revised 51923
21.3020—21.3333 (Subpart C) Authority citation revised 6782
21.3145 (e) revised 6782
21.4001—21.4280 (Subpart D) Authority citation revised 6782
21.4131 (i) added 6782
21.4135 (a) revised; (x) and (aa) added 6782
21.4233 (b)(1), (2), (3) and (4) redesignated as (b)(2), (3), (4) and (1); new (b)(1) and (2) revised; (b)(5) amended 6782
21.4234 (a)(2)(ii) and (iii) revised; (a)(2)(iv) added 6783
21.4252 (g) added 6783
21.4253 (a)(3) revised; (a)(5) and authority citation added 6783
21.4254 (d) added 6783
21.4265 (b)(3) revised 6783
21.4267 Added 6783
21.4270 (a) and (b) revised; (c) table amended 6784
21.4271 Removed 6784
21.4272 Introductory text and (g)(3) revised; (e), (f), (h) and (i) removed 6784
21.4280 Removed 6785
21.4800—21.4856 (Subpart F-3) Regulation at 60 FR 5852 confirmed 55996
21.4832 Second (b)(1) redesignated as (c)(1); (c) introductory text added 55996
21.5001—21.5300 (Subpart G) Authority citation revised 1526
Authority citation revised 7217
21.5021 (d) revised; (y) added 1526
21.5023 (b) amended 7217
21.5058 (a) amended 7217
(b) and (c) revised 7218
21.5145 (e) revised 7218
21.5150 Introductory text revised 1526
21.5200 (a) revised 1526

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21.5231 Amended 7218
21.5250 (a) introductory text and (b) revised 1526
(a) introductory text and (3) revised; (a)(16) added 7218
21.5270 Introductory text and (c) revised; (b) and (j) removed 7218
21.5820 (b) revised 46533
(b)(2)(ii)(B) corrected 54435
21.5822 (b)(1)(i), (ii), (2)(i) and (ii) revised 46535
21.7000—21.7320 (Subpart K) Authority citation revised 6785
21.7020 (b)(5) and (6) revised; (b)(42) added 6785
21.7032 (a) revised; (f) added 6785
21.7042 (a)(3) introductory text, (c)(3) introductory text, (i), (iii)(A) and (B); (a)(6), (b)(7)(iii) and (c)(3)(iii)(C) added; (b)(7)(i) introductory text, (c)(3)(ii) introductory text and (f)(1) amended 6785
21.7044 Heading, (a)(6), authority citation and (b)(8)(ii)(B) revised; (a)(3)(ii), (4)(i)(E), (F) and (5)(iv) amended; (a)(4)(i)(F) authority citation removed; (b)(8)(iii) and (12) added 6786
21.7045 Revised 6786
21.7050 (b)(1) amended 6787
21.7072 (b) heading, (1) introductory text and authority citation revised 6787
21.7120 (d) added 6787
21.7122 (e)(5), (6) and authority citation revised; (e)(7) added 6788
21.7131 (j) added 6788
21.7135 (a) revised; (z) redesignated as (bb); new (z) and (aa) added 6788
21.7136 (a) through (e) redesignated as (b) through (f); new (a) added; new (b) and new (c) revised; new (f) introductory text amended 6788
21.7137 Heading, (a)(1), (2) and (c) revised 6789
21.7145 (e) revised 6790
21.7152 (b)(3)(i) revised; (b)(3)(ii) removed; (b)(3)(iii) redesignated as (b)(3)(ii) 6790
21.7170 Introductory text and (a) revised; (b) and (g) removed; (c) through (f) redesignated as (b) through (e) 6790
21.7172 (a)(1), (2) and (d) revised 6790
21.7220 (b) introductory text, (9), (10) and authority citation revised; (b)(11) added 6790
21.7222 (e) revised 6791
21.7280 (b)(1) revised 6791
21.7500—21.7810 (Subpart L) Authority citation revised 11311
21.7631 (b) and (c) revised 11311
36 Nomenclature change 7217
36.4201—36.4287 Authority citation revised 38257
Authority citation revised 7415
36.4203 (a)(2) and (3) amended; (a)(4) added 38257
36.4212 Revised 38257
36.4223 (a)(4) revised 38258
(a)(3) revised 7415
36.4231 (b) revised 38259
36.4232 (a)(2), (5), (6) and (7) amended; (a)(8) added; (e)(1) revised 38259
36.4254 (a)(7) redesignated as (a)(8); new (a)(7) and (8) authority citation added; (d)(1) revised 38259
36.4300—36.4375 Authority citation revised 38259
Authority citation revised 7415
36.4302 (c) through (j) redesignated as (d) through (j) and (l); (a)(4), (b), new (e), new (j)(2), new (3) and(4) revised; new (c) and (k) added 38259
36.4306a (a) introductory text and (3) revised 38260
36.4311 Revised 38260
36.4312 (d)(1)(viii) redesignated as (d)(1)(ix); new (d)(1)(viii) and (e) introductory text added; (d)(7)(iv) authority citation revised; (e)(1) revised; (e)(3) amended 38261
36.4320 (a)(1)(ii)(B) revised 38262
36.4336 (a)(2)(i) revised; (a)(4) added 38262
36.4606a (a)(3)(i) revised 7415

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4 54825
17 47133

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TITLE 39—POSTAL SERVICE

Chapter I—United States Postal Service (Parts 1—999)

20 IMM amended; incorporation by reference; interim.....49756, 65239
IMM amended; interim; incorporation by reference.....61661
IMM amended; incorporation by reference; interim.....13770, 13776, 14026
111 DMM amended; incorporation by reference.....34854, 43005, 49758
Corrected.....39112
DMM amended; incorporatin by reference.....66146
DMM amended; incorporation by reference.....10115
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224.2 Added.....57344
233.2 (b)(2) note amended.....54305
261.2 (b) amended.....57344
261.4 (a) revised.....57344
262.2 (b) and (c) amended.....57344
262.4 (a) and (b) amended.....57344
262.5 (d)(2) amended.....57344
263.3 (a) amended.....57344
263.5 Amended.....57344
263.6 Added.....57344
264.3 (a) and (b) revised.....57344
264.4 Amended.....57344
265.3 (b) revised.....57344
265.4 Revised.....57345
265.6 (a)(2), (b) introductory text and (d)(3)(i) amended.....57345
265.7 (a)(2), (b)(1) and (4) amended.....57345
265.9 (b)(2)(ii) and (g)(4) amended.....57345
265.10 Amended.....57345
265.11 Heading revised; (b) and (c) removed.....36712
(a)(4)(ii) amended.....57345
265.12 (b)(7) amended.....57345
265.13 Added.....36712
266.3 (a) and (c) revised.....57345
266.5 (d) amended.....57345
266.6 (a)(1) and (d) amended.....57345
266.7 (a)(4) amended; (c) removed.....57345
266.10 (a), (b), (c), (d) introductory text and (2) amended.....57345
267.3 (a) revised.....57345
267.5 (c)(1) introductory text, (i), (ii) and (vi) revised.....57345
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268 Authority citation revised.....57346
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447 Authority citation revised.....47243
Heading revised.....47243
447.11—447.12 (Subpart A) Revised.....47243
447.21 Removed; new 447.21 redesignated from 447.23; introductory text and (a) through (i) removed; (j) and (k) redesignated as (a) and (b); heading and new (a) revised; new (c) and new (d) through (g) redesignated from 447.25(a) and 447.25(c) through (f).....47244
447.22 Removed.....47244
447.23 Redesignated as 447.21.....47244
447.25 (b) removed; (a) and (c) through (f) redesignated as 447.21(c) and 447.21(d) through 447.21(g).....47244
447.26 Removed.....47244
447.27 Removed.....47244
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447.31 Revised.....47244
447.32 Removed; new 447.32 redesignated from 447.33 and revised.....47244
447.33 Redesignated as 447.32.....47244
447.34 Removed.....47245
447.41 Removed; new 447.41 redesignated from 447.51.....47245
447.42 Removed; new 447.42 redesignated from 447.52.....47245
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447.51—447.52 (Subpart E) Heading redesignated as 447.41—447.43 (Subpart D) heading.....47245
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447.51 Redesignated as 447.41; new 447.51 redesignated from 447.51.....47245
447.52 Redesignated as 447.42; new 447.52 redesignated from 447.62; (d)(2) revised.....47245
447.53 Redesignated as 447.43.....47245

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447.61—447.62 (Subpart F) Heading redesignated as 447.51—447.52 (Subpart E) heading.....47245
447.61 (Subpart F) Redesignated as 447.51; new 447.61 redesignated from 447.71.....47245
Heading redesignated from 447.71 (Subpart G) heading.....47245
447.62 Redesignated as 447.52.....47245
447.71 Redesignated as 447.61.....47245
447.81 (Subpart H) Removed.....47245
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955 Authority citation revised.....57938
955.1 (a) and (b)(2) amended; (b)(1) and (d)(5) revised.....57938
955.9 Amended.....57938
955.13 Removed.....57938
Redesignated from 955.36; (b)(1), (2), (c)(2)(ii), (4) and (d)(3) amended; (c)(1), (d)(1) and (e) revised; (f) added.....57939
955.18 Amended.....57938
955.35 Removed.....57938
Redesignated from 955.37; (a) introductory text revised.....57939
955.36 Redesignated as 955.13; new 955.36 added.....57939
955.37 Redesignated as 955.35.....57939

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955.....47514
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TITLE 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency (Parts 1—799)

9 Technical correction.....35452
9.1 Table amended (OMB numbers).....34598, 40496, 42792, 43258, 43586, 45954, 48399, 62935, 63431
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Table amended (OMB numbers).....11106
22.37 (g) added.....11092
30 Revised; interim.....6067
33 Removed; interim.....6066
40.416 (a), (b) and (c) introductory text reinstated; CFR correction.....10468
51 Authority citation revised.....40100
51.100 (s)(1) introductory text revised.....4590
51.112 (a)(1) and (2) amended.....40468
51.160 (f)(1) and (2) amended.....40468
51.166 (l)(1) and (2) amended.....40468
(b)(23)(i) amended.....9918
51.350 (a)(4), (6), (7), (8), (9) and (b)(4) revised; (a)(5) removed.....48034
51.351 (a) introductory text and (b) revised; (e) removed; (f) and (g) added.....48035
51.360 Introductory text, (a)(1), (5), (6), (7) introductory text, (9) and (b) revised.....48036
51.372 (c) introductory text, (3), (4) and (e) revised.....48036
51.392 Amended.....57184
51.394 (b)(3)(i) revised; interim.....44763
(b)(3)(i) revised; (d) added.....57184
51.396 (a) amended.....57184
51.420 Revised.....57185
51.422 (a) amended; (d) added.....57185
51.428 (b)(1)(ii) revised.....57185
51.448 (a)(3), (b)(1) introductory text and (d)(3) revised; (g)(1) and (2) removed; (b)(2), (c)(2) and (g)(3) redesignated as (b)(3), (c)(3) and (g)(1); new (b)(2) and (c)(2) added.....40100
(g) removed; (h) and (i) redesignated as (g) and (h); (a) through (d) and new (g) revised.....57185
51.452 (b)(5) redesignated (a)(6); (c)(1) amended.....57186
51 Appendix W amended.....40468, 40469, 40470, 40471
52 State implementation plan determinations...34866, 36225, 55314, 55459, 63940
State implementation plan determinations....1718, 1720, 4216, 11162
Technical correction.....7221
52.21 (l)(1) and (2) amended.....40474
(b)(23)(i) amended.....9918
52.50 (c)(68) added.....5286
(c)(69) added.....11138
52.70 (c)(20) added.....46024
(c)(24) added.....49767
(c)(22) added.....54439
(c)(26) added.....5705

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52.82 Added 47280
52.120 (c)(70) and (78) added 46025
(c)(72) revised; (c)(79) and (80) added 3579
(c)(77) revised; (c)(81) added 5286
52.220 (c)(217)(i)(B) added 36069
(c)(215)(i)(A)(*3*), (219), (220) and (222) added 36230
(c)(214)(i)(B), (215)(i)(A)(*2*) and (B) added 40286
(c)(223) added 43017
(c)(204) added 43383
(c)(207)(i)(B) and (C) added 43386
(c)(194)(i)(A)(*3*), (196)(i)(B) and (202)(i)(E) added 43714
(c)(196)(i)(H)(*1*) added 46222
(c)(188)(i)(D)(*3*), (198)(i)(C)(*3*), (202)(i)(C)(*2*), (208)(i)(A)(*2*) and (210)(i)(B) added 46536
(c)(198)(ii) removed 47076
(c)(222)(i)(B) added 47275
(c)(183)(i)(A)(*13*) added 49512
(c)(193)(i)(B), (199)(i)(B), (202)(i)(D) and (207)(i)(D) added 49775
(c)(198)(i)(F) added 54597
(c)(225) added 55314
(c)(204)(i)(A)(*5*) added 64127
(c)(224)(i)(A)(*1*) added 1718
(c)(215)(i)(A)(*4*) and (C) added 3580
(c)(188)(i)(A)(*4*), (193)(i)(C)(*1*), (194)(i)(F)(*2*), (207)(i)(C)(*2*) and (210)(i)(C)(*1*) added 4216
(c)(216)(i)(A)(*2*) added; interim 4219
(c)(199)(i)(D), (202)(i)(C)(*3*), (214)(i)(D) and (222)(i)(C) added 4890
(c)(194)(i)(F)(*3*) and (*4*) added 4892
(c)(196)(i)(C), (210)(i)(D) and (222)(i)(D) added 4894
(c)(183)(B)(*3*), (198)(F)(*2*), (199)(C), (207)(C)(*3*), (214)(C) and (225)(B) added 5290
(c)(214)(i)(C)(*2*) and (221) 5517
(c)(198)(i)(I) added 5704
(c)(194)(i)(A)(*4*), (198)(i)(J), (210)(i)(C)(*2*), (215)(i)(B)(*2*) added 7709
(c)(194)(i)(B)(*2*), (*3*) and (222)(i)(C)(*2*) added 7994
52.222 Added 47076
52.320 (c)(73) added 11153
52.322 Added 52315
52.326 Added 40291
52.370 (c)(68) added 47081
(c)(69) added 55320
52.376 Added 55320
52.420 (c)(53) added 38712
(c)(54) added 2422
(c)(52) added 7418
(c)(54)(i)(B) corrected 13101
52.423 Added 1841
52.430 Added 47084
52.470 (c)(34) added 44434
(c)(36) added 2936
52.472 (e) removed 2936
52.474 Added 2936
52.480 Added 47084
52.520 (c)(89) added 62753
(c)(90) added 3575
(c)(92) added 6545
52.570 (c)(46) added 45051
(c)(48) added 66150
(c)(47) added 3819
(c)(44) added 3821
(c)(43) added 3824
52.720 (c)(111) added 36063
(c)(112) added 36065
(c)(114) added 49772
(c)(113) added 49780
(c)(116) added 54806
(c)(115) added 54806
(c)(117) added 56240
(c)(102) added 2427
(c)(118) added 3578
(c)(119) added 5513
(c)(124) added 11142
(c)(125) and (126) added 11551
Regulation at 61 FR 2427 withdrawn 12030
52.726 (j) added 48899
(k) added 2437
(l) added 5295
52.741 (u)(8) added; (z)(1) removed 43387
(e)(10) added; (z)(4) removed 43393
(x)(14) added 43395
(a)(2) revised 2428
Regulation at 61 FR 2428 withdrawn 12030
52.770 (c)(96) added 34859
(c)(97) and (98) added 43012
(c)(100) added 3582
(c)(101) added 4897
(c)(103) added 4899
(c)(102) added 11149
(c)(104) added 11556
52.777 (h) added 38722
(i) added 2437
52.788 Added 43012

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52.820 (c)(61) removed 45055
(c)(62) added 55199
52.870 (c)(30) added 36364
52.872 Added 36364
52.920 (c)(72) added 38707
(c)(76) added 47094
(c)(81) added 49778
(c)(82) added 8875
52.930 Regulation at 60 FR 32469 withdrawn 40101
52.970 (c)(66) added 54308
52.975 Added 43025
Existing text redesignated as (a); (b) added 47285
(c) added 51360
52.992 (b) added 2438
(c) added 7221
52.1020 (c)(40) added 45059
(c)(38) added 47288
(c)(41) added 66755
(c)(37) added 5693
52.1023 (c) added 66755
52.1026 Amended 5694
52.1031 Table amended 45059, 66755
Table amended 5693
52.1070 (c)(117) added 55326
(c)(118) added 2936
(c)(119) added 3584
(c)(106) added 7419
52.1075 Added 55326
Existing text designated as (a); (b) added 2937
52.1080 Added 47084
52.1120 (c)(108) added 65242
(c)(107) added 2923
(c)(109) added 5698
(c)(106) added 11559
52.1132 Added 2923
52.1167 Table amended 65242
Table amended 5698, 11560
52.1170 (c)(99) added 54310
(c)(103) added 6547
(c)(104) added 7996
52.1173 (e) added 3817
Regulation at 61 FR 3817 withdrawn 12030
52.1174 (k) removed 37013
(k) added 37370
(l) added 2438
(n) added 3817
(m) added 5696
Regulation at 61 FR 3817 withdrawn 12030
52.1185 Added 3817, 5696
Regulation at 61 FR 3817 withdrawn 12030
52.1220 (c)(43) added 6549
52.1270 (c)(27) added 5295
52.1320 (c)(89) added 39855
(c)(88) added 49342
(c)(42) added 55798
(c)(91) added 4353
(c)(92) added 7714
(c)(86) added 7716
(c)(93) added 9644
Regulation at 61 FR 4353 withdrawn 13777
52.1323 (i) added 49343
(h) added 9644
52.1370 (c)(39) added 36721
(c)(41) added 45054
(c)(40) added 11162
52.1384 (a) removed; (c) added 36722
52.1386 Removed 36722
52.1420 (c)(43) added 4901
(c)(42) added 5295
(c)(44) added 5701
52.1424 Added 4901
52.1427 Added 5701
52.1470 (c)(34) and (35) added 4902
52.1519 (c)(3) added 47290
52.1570 (c)(57) added 62746
(c)(58) added 5302
52.1582 (d) added 51354
(d) redesignated as (d)(1); (d)(2) added 62746
52.1605 Table amended 5302
52.1620 (c)(59) added 56244
52.1770 (c)(83) added 34866
(c)(74) added 38710
(c)(70) added 38718
(c)(82) added 39262
(c)(81) added 46021
(c)(86) added 51924
(c)(84) added 3586
(c)(87) added 3587
(c)(85) added 3589
(c)(88) added 3591
(c)(78) added 5690
52.1782 Regulation at 60 FR 32469 withdrawn 40101
52.1820 (c)(26) added 43401
(c)(27) added 55798
52.1834 Added 43401
52.1870 (c)(105) added 39122
(c)(106) added 54949
(c)(98) added 55201
(c)(107) added 9646
52.1879 (e) added 36060
52.1885 (x) added 36060
(b)(5) added 39122
(w) removed 44278

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(v) added 62741
(b)(7) and (8) added 3326
(b)(6) and (u) added 3596
(b)(9) and (y) added 11564
52.1888 Revised 55202
52.1889 Added 42045
52.1919 (a)(2) removed 55202
52.1920 (c)(46) added 7711
52.1970 (c)(111) added 37015
(c)(112) added 46029
52.2020 (c)(98) added 40294
(c)(101) added 40760
(c)(99) added 43015
(c)(102) added 46770
(c)(102)(i)(B)(*5*) removed 55792
(c)(106) added 63939
(c)(105) added 2930
(c)(104) added 5302
(c)(93) correctly removed; CFR correction 5515
52.2023 (j) added 47085
52.2026 Removed 47085
52.2035 Added 47084
52.2036 Added 2931
52.2037 (b) added 37018
52.2070 (c)(44) added 3826
(c)(41) added 4356
(c)(45) added 11734
52.2081 Table amended 3826
52.2120 (c)(40) added 63437
(c)(39) added 6115
52.2170 (c)(16) added 46227
52.2184 Added 46228
52.2220 (c)(126) added 38700
(c)(130) added 38715
(c)(131) added 47087
(c)(132) added 66748
(c)(127) added 3319
(c)(134) added 11137
52.2235 (b) added 38700, 47290
Regulation at 60 FR 32469 withdrawn 40101
Added 40292
52.2236 Added 43020
52.2270 (c)(97) added 49788
(c)(96) added 56246
52.2320 (c)(31) added 55798
Second (c)(26) redesignated as (c)(27) 9350
52.2332 Regulation at 60 FR 30192 withdrawn 36722
Added 36729
52.2420 (c)(105) added 43717
(c)(106) added 49769
(c)(104) added 50105
(c)(106) removed 62990
(c)(107) added 2937
52.2423 (m) and (n) added 43717
52.2425 Added 2937
52.2426 Added 47084
52.2450 Added 45056
52.2470 (c)(55) added 43713
(c)(56) added 54441
(c)(57) added 54604
(c)(58) added 54814
(c)(59) added 5705
52.2472 Added 47280
52.2520 (c)(34) added 39857
(c)(36) added 39861
(c)(37) added 46030
52.2531 Added 39862
52.2570 (c)(82) added 38724
(c)(83) added 5302
(c)(82)(i)(D) correctly revised 5303
(c)(88) added 5515
(c)(87) added 9642, 11738
52.2585 (h) added 47089
(i) added 2438
52.2620 (c)(22) added 47292
(c)(26) added 55798
52.8061 Table amended 11735
55.14 (e)(3)(ii)(F), (G) and (H) revised 47293
(e)(6)(i)(A) revised 55327
55 Appendix A amended 47293, 55328
58.1 (aa) through (ii) added 52319
58 Appendix A amended 52320
Appendix B amended 52321
Appendix D amended 52323
Appendix E amended 52324
60 Technical correction 38452
Authority delegation notices 52329, 52331
Notice 64329
Authority citation revised 66384
60.16 Amended 9919
60.17 (a)(63) added 47096
(h)(1), (2) and (3) revised 65384, 65414
60.23 (a)(1) revised 65414
60.24 (f) introductory text revised 65414
60.30 Revised 65414
(c) added 9919
60.30a—60.39a (Subpart Ca) Removed 65414
60.30b—60.32b (Subpart Cb) Redesignated as 60.30d—60.32d (Subpart Cd); new 60.30b—60.39b (Subpart Cb) added 65414
60.30c—60.36c (Subpart Cc) Added 9919

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60.30d—60.32d (Subpart Cd) Redesignated from 60.30b—60.32b (Subpart Cb) and revised 65414
60.49b (s) added 14031
60.50a—60.59a (Subpart Ea) Heading revised 65384
60.50a (a) and (c) through (f) revised; (g) removed; (h) and (i) redesignated as (l) and (m); new (g), new (h), new (i), (j) and (k) added 65384
60.50b—60.59b (Subpart Eb) Added 65419
60.51a Amended 65384
60.56a (a) Table 1 amended; (d) revised; (f)(9) removed 65386
60.58a (h)(1), (2), (6)(i); (ii), (10) and (j)(4) revised; (h)(6)(iii) redesignated as (h)(6)(v); new (h)(6)(iii) and new (iv) added; (j)(3) removed 65387
60.59a (a)(1), (b)(14), (15) and (m) removed; (e) amended 65387
60.481 Amended 43258
60.482–5 Revised 43258
60.482–10 (f) and (g) revised; (h) through (l) added 43258
60.665 (l)(5) and (6) amended 58238
60.667 Table amended 58237
60.691 Amended 43259
60.692–3 (d) revised 43259
60.693–2 (a)(1)(i) introductory text and (A) revised 43259
60.695 (a)(3)(i) and (ii) added 43259
60.697 (f)(3)(i) and (ii) revised; (f)(3)(x)(A) and (B) added 43259
60.698 (d)(3)(i) and (ii) added 43260
60.700 (c)(2), (3) and (4) amended 58238
60.704 (e)(1) introductory text, (f)(1) and (h)(3) amended 58238
60.705 (l)(1), (4), (5) and (8) amended 58238
60.707 Table amended 58238
60.750—60.759 (Subpart WWW) Added 9919
60 Appendix A amended 47096
Regulation at 59 FR 62926 eff. date delayed to 6–6–96 56952
Appendix A amended 9929
61 Clarification 38725, 65243
Authority delegation notices 39264, 52329, 52331
61.04 (c) table revised 43401
Corrected 50244
61.100 Revised 46212
61.107 (c)(1) removed; (c)(2) and (3) redesignated as (c)(1) and (2) 46212
61.109 Removed 46212
62.11601 (c) removed; (g) added 50105
62.11602 Removed 50105
63 State operating permit program approvals 37825, 57834
63.14 (b)(7) added 45980
(b)(4) through (14) added 64336
63.100 (f)(1) revised; (k)(3) introductory text amended 63626
(b)(4) introductory text revised; (b)(4)(i)(B) amended 7718
63.101 (b) amemded 63626
63.102 (c)(1) revised 63626
63.104 (b)(1)(i)(C) revised 63626
63.105 (a) amended 63626
63.111 Amended 63626
63.138 (h) introductory text amended 63627
63.144 (b)(3) amended; (b)(5)(i)(B), (D) and (E) revised 63627
63.145 (c)(2)(ii)(E), (f) introductory text and (g) introductory text revised 63627
63.147 (b) revised 63628
63.148 (j) introductory text revised 63628
63.150 (g)(5)(i) introductory text, (k) introductory text and (l) introductory text revised 63628
63.151 (a)(2) and (6)(ii) revised; (c) introductory text, (1)(i) and (ii) amended 63628
(c)(1)(ii) revised 7718
63.152 (c)(4) introductory text revised 63629
63.110—63.152 (Subpart G) Appendix amended 63629, 63630
63.175 (d)(4) introductory text revised 63631
63.182 (a)(6)(ii) and (d)(2)(vii) revised 63631
63.190 (b)(7) introductory text revised; (b)(7)(i)(B) amended 7718
63.420 (i) added 43260
(j) added 62992
63.424 (e) revised 7723
63.428 (a), (i)(1) and (j)(1) revised; (f)(1) amended 7723
63.420—63.429 (Subpart R) Table 1 amended 7723
63.560—63.567 (Subpart Y) Added 48399

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63.640—63.654 (Subpart CC) Added **43260**
63.640 (h)(5)(iii) corrected 7051
63.642 (g) corrected 7051
63.652 (g)(4)(vi)(B) corrected **49976**
(j)(1)(ii) corrected 7051
63.740—63.759 (Subpart GG) Added **45956**
63.753 (a)(1) correctly revised 4903
63.780—63.788 (Subpart II) Added **64336**
63.800—63.819 (Subpart JJ) Added **62935**
63 Appendix A amended **62952**
69.11 (c) added **48038**
70 State operating permit approvals **57186**
70 Appendix A amended **35338, 36069, 36072, 39864, 40104, 42046, 45673, 46774, 47297, 49347, 50108, 52336, 53875, 55466, 57191, 57352, 57357, 57361, 57837, 62034, 62758, 62762, 62998, 63634**
Appendix A amended ... 2722, 2935, 3832, 4220, 4224, 5707, 7076, 8876, 11739, 13103
Appendix A corrected 7073
75.18 (b)(2) revised; (b)(3) removed **40296**
75.20 (f) revised **40296**
75.41 (a)(1), (b)(1)(i), (2)(iv)(A), (C), (c)(1)(i), (ii) and (2)(ii) revised **40296**
75.47 Revised **40297**
75.48 Revised **40297**
80.2 (f) removed 3837
80.7 (a) introductory text revised; (c) amended 3837
80.20 Removed 3837
80.21 Removed 3837
80.22 Heading, (a), (f) introductory text and (2) introductory text revised; (b) added; (d), (e), (f)(1), (g), (h) and (i) removed 3837
80.23 Introductory text, (b)(2)(ii) and (e)(1) revised; (e)(2) removed 3837
80.24 Introductory text, (a) and (c) removed; (b) revised 3838
Regulation at 61 FR 3838 in part withdrawn 8221
80.25 Removed 3838
80.41 (g) revised 12041
80.70 (j) introductory text revised **35491**
80.75 (b)(2) heading and (ii)(D) through (G) revised; (b)(2)(ii)(H), (I) and (J) added **65574**
80.91 (e)(7)(iv) added **40008**
80.93 (b)(6) revised **65575**
80.101 (b)(1)(v) added **40008**
80.105 (a)(4) revised **65575**
81 Attainment status determinations **47097**
81.302 Amended **55798**
81.303 Amended **55798**
81.305 Amended **55798**
81.306 Amended **55798**
81.307 Table revised **55320**
Amended **55798**
81.309 Table amended 2937
81.310 Table amended **62753**
81.313 Amended **55798**
81.314 Amended **55798**
81.315 Amended **55798**
81.318 Table amended **47094, 48654**
81.319 Table amended **43026, 47285, 51360**
81.320 Table amended **45060**
Amended **55798**
81.321 Table amended **55326**
Table amended 2937
81.322 Table amended 2923
81.323 Table amended **40300**
Regulation at 60 FR 40300 withdrawn **51360**
Amended **55798**
Table amended 5710
81.324 Table corrected **34461**
81.327 Amended **55798**
81.329 Amended **55798**
81.331 Table amended **62747**
Table removed 2939
81.332 Table amended **52336**
Amended **55798**
81.333 Table removed 2939
81.334 Table amended **34867, 39262**
81.335 Amended **55799**
81.336 Table amended **39122**
Amended **55798**
Table amended 3326, 3598, 11564
81.338 Table amended **50425**
Amended **55798**
81.339 Amended **55798**
Table amended 2931
81.342 Amended **55800**
Table amended 4359
81.343 Table amended **43020**
81.344 Amended **55798**
81.345 Table amended **38729**

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Amended **55798, 55800**
81.347 Table amended **54311**
Table amended 2937
81.348 Table amended **50425**
Amended **55798**
81.349 Table amended **39862**
Amended **55798**
81.350 Amended **47487**
81.351 Table amended **47299**
Amended **55798, 55800**
81.355 Amended **55798**
Table removed 2939
81.356 Table removed 2939
82 Acceptable substitutes listing **38729**
Acceptable substitutes listing 4736
82.13 (g)(2)(viii) stayed; eff. 1-31-96 to 4-30-96 3318
82.1—82.13 (Subpart A) Appendix I added 1285
82.152 Amended **40439**
82.154 (g) and (h) revised 7726, 10678
82.156 (a)(2)(i)(A), (B) and (i) revised; (a)(2)(i)(C) added **40440**
82.166 (n) through (q) added **40443**
85.1501—85.1515 (Subpart P) Authority citation revised 5842
85.1502 Introductory text and (a)(5) through (15) redesignated as (a) introductory text and (6) through (16); new (a)(5) added 5842
85.1515 Revised 5842
86.1 (b)(4) added **43887**
86.078-7 Removed **43886**
86.081-8 Removed **43886**
86.082-8 Removed **43886**
86.082-14 Removed **43886**
86.083-30 Removed **43886**
86.084-5 Removed **43886**
86.084-14 Removed **43886**
86.084-15 Removed **43886**
86.084-26 Removed **43886**
86.085-8 Removed **43886**
86.085-9 Removed **43886**
86.085-10 Removed **43886**
86.085-11 Removed **43886**
86.085-21 Removed **43886**
86.085-22 Removed **43886**
86.085-23 Removed **43886**
86.085-24 Removed **43886**
86.085-25 Removed **43886**
86.085-27 Removed **43886**
86.085-28 Removed **43886**
86.085-29 Removed **43886**
86.085-30 Removed **43886**
86.085-35 Removed **43886**
86.085-38 Removed **43886**
86.087-8 Removed **43886**
86.087-9 Removed **43886**
86.087-10 Removed **43886**
86.087-21 Removed **43886**
86.087-23 Removed **43886**
86.087-25 Removed **43886**
86.087-28 Removed **43886**
86.087-29 Removed **43886**
86.087-30 Removed **43886**
86.087-35 Removed **43886**
86.088-9 Removed **43886**
86.088-11 Removed **43886**
86.088-21 Removed **43886**
86.088-23 Removed **43886**
86.088-25 Removed **43886**
86.088-28 Removed **43886**
86.088-29 Removed **43886**
86.088-30 Removed **43886**
86.088-35 Removed **43886**
86.090-7 Removed **43886**
86.090-10 Removed **43886**
86.090-11 Removed **43886**
86.090-15 Removed **43886**
86.090-23 Removed **43886**
86.090-28 Removed **43886**
86.090-29 Removed **43886**
86.090-30 Removed **43886**
86.090-35 Removed **43886**
86.094-2 Amended **40496**
86.094-14 (a) redesignated as (a)(1); (a)(2) added 127
86.094-17 (j) revised **37945**
(d) revised **39266**
86.094-38 Added **40496**
86.096-7 OMB number **43880**
86.096-8 OMB number **43880**
(b) introductory text revised; (b)(5)(iv) added **43887**
86.096-9 OMB number **43880**
(b) introductory text and (c) through (k) revised; (b)(5)(iv) added **43887**
86.096-10 OMB number **43880**
(b) introductory text revised; (b)(5)(iv) added **43887**
86.096-11 (b)(5)(i) revised **43887**
86.096-14 OMB number **43880**
86.096-21 OMB number **43880**
86.096-23 OMB number **43880**
86.096-26 OMB number **43880**
86.096-30 OMB number **43880**
86.096-35 OMB number **43880**
86.097-9 OMB number **43880**

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86.098–7 (h)(1) through (5) added 43888
86.098–11 (b)(3)(iii)(A) revised 43888
86.098–23 OMB number 43880
86.098–26 (a)(3)(i)(B) through (ii)(B) removed; (a)(3)(i)(D) through (ii)(B) added 43888
86.099–8 OMB number 43880
(b) introductory text revised 43888
86.099–9 OMB number 43880
(b) introductory text revised 43888
86.099–10 OMB number 43880
(b) introductory text revised 43888
86.099–11 (b)(3)(iii)(A) revised 43888
86.106–82 Removed 43886
86.106–96 (a) introductory text revised 43888
86.107–96 (a)(1) introductory text, (ii)(A), (B), (2), (3)(i), (ii), (c)(1), (d), (e) and (f) revised 43888
86.107–98 (e)(1) revised 43890
86.109–82 Removed 43886
86.110–82 Removed 43886
86.111–82 Removed 43886
86.112–82 Removed 43886
86.116–82 Removed 43886
86.117–96 Introductory text, (a)(1)(ii), (iii), (7), (b), (c) heading, (1) introductory text, (iv), (v), (vii), (d)(1) introductory text and equation, (v) and (e)(1)(iii) revised; (d)(1)(iii) and (iv) removed; (d)(3) added 43890
86.119–78 Removed 43886
86.126–78 Removed 43886
86.129–94 (d)(1), (2)(iii), (3)(ii), (4)(i), (ii), (iii), (7)(iii) and (iv) revised; (d)(7)(v) added 43891
86.130–96 (e) added; figure revised 43893
86.131–96 (d) revised 43895
86.132–96 (c), (f), (h) introductory text; (1)(i), (2), (j) introductory text, (j)(1) introductory text, (i) and (vi) revised 43895
86.133–96 (c), (h) and (i)(5) revised 43896
86.134–96 (a), (f), (g)(1)(v), (vii), (viii), (xii) introductory text, (A), (xiv), (xv), (xvi), (2)(v), (vii), (x) and (xii) revised; (g)(1)(xx)(C) and (2)(xv) added 43896
86.138–90 (b) revised 43897
86.138–96 (a)(2), (b)(2)(v)(A) and (viii) revised 43897
86.139–82 Removed 43886
86.142–82 Removed 43886
86.143–96 (b)(1)(i) introductory text and equation, (D), (2)(i)(B) and (ii)(B) revised; (b)(1)(iii) added; (b)(1)(i)(C) and (E) removed 43897
86.144–78 Removed 43886
86.146–96 (f), (i)(1) and (2) revised 43898
86.152–98 (a) revised 43898
86.153–98 (a) and (c)(2) revised 43898
86.154–98 (e)(3) revised 43898
86.401–78 Removed 43886
86.410–78 Removed 43886
86.509–78 Removed 43886
86.511–78 Removed 43886
86.513–82 Removed 43887
86.516–78 Removed 43887
86.521–78 Removed 43887
86.526–78 Removed 43887
86.527–78 Removed 43887
86.535–78 Removed 43887
86.537–78 Removed 43887
86.540–78 Removed 43887
86.542–78 Removed 43887
86.544–78 Removed 43887
86.608–90 (a)(2)(ii) revised 43898
86.608–98 (a)(2)(ii) revised 43898
86.1105–87 (e) revised; (g) added 6949
(g)(2), (3) and (h) added 6953
86.1207–96 (a)(1) introductory text, (ii)(A), (B), (2), (3)(i), (ii), (c)(1), (d), (e) and (f) revised 43898
86.1217–96 Introductory text, (a)(1)(ii), (iii), (7), (b), (c) heading, (1) introductory text, (v), (vii), (d)(1) introductory text and equation, (v) and (e)(1)(iii) revised; (c)(1)(iv), (d)(1)(iii) and (iv) removed; (d)(1)(xiii), (xiv) and (3) added 43900
86.1229–85 (d)(1), (2)(iii), (3)(ii), (iii), (4)(i), (ii), (iii), (7)(iii) and (iv) revised; (d)(7)(v) added 43901
86.1230–96 (e) added; figure revised 43902
86.1231–96 (d) revised 43904
86.1232–96 (c), (f), (h) introductory text, (1)(i), (2), (j) introductory text, (1) introductory text, (i) and (vi) revised 43904
86.1233–96 (c), (h) and (i)(5) revised 43905
86.1234–96 (a), (f), (g)(1)(v), (vii), (viii), (xii) introductory text, (A), (xiv), (xv), (xvi), (2)(v), (vii), (x) and (xii) revised; (g)(1)(xx)(C) and (2)(xv) added 43905
86.1238–90 (i) revised 43906
86.1238–96 (a)(2), (b)(2)(v)(A) and (viii) revised 43906
86.1243–96 (b)(1)(i) introductory text and equation, (D), (2)(i)(B) and (ii)(B) revised; (b)(1)(iii) added; (b)(1)(i)(C) and (E) removed 43906
86.1246–96 (f), (i)(1) and (2) revised 43906
86.1309–84 Removed 43887
86.1310–84 Removed 43887
86.1310–88 Removed 43887
86.1311–84 Removed 43887
86.1311–94 (b)(2)(iii) redesignated as (b)(3) 127
86.1335–84 Removed 43887
86.1341–84 Removed 43887
86.1342–84 Removed 43887
86.1344–84 Removed 43887
86.1344–88 Removed 43887
86.1501–84 Removed 43887
86.1504–84 Removed 43887
86.1506–84 Removed 43887
86.1513–84 Removed 43887
86.1513–87 Removed 43887
88.104–94 (l) removed; undesignated center heading added 127
88.204–94 (c)(2) introductory text and (ii) revised 127
88.205–94 (d)(1), (3)(iii) and (g) revised 127
88.301–93—88.313–93 (Subpart C) Table C94–1.1 revised 128
88.306–94 (b)(3) revised 129
88.311–93 (c) and (d) revised 127
88.312–93 (a)(1) and (c)(2)(ii) revised 128
90 Added 34598
93 Authority citation revised 40100
93.101 Amended 57184
93.102 (b)(3)(i) revised; interim 44763
(b)(3)(i) revised; (d) added 57184
93.114 Revised 57185
93.115 (a) amended; (d) added 57185
93.118 (b)(1)(ii) revised 57185
93.128 (a)(3), (b)(1) introductory text and (d)(3) revised; (g)(1) and (2) removed; (b)(2), (c)(2) and (g)(3) redesignated as (b)(3), (c)(3) and (g)(1); new (b)(2) and (c)(2) added 40100
(g) removed; (h) and (i) redesignated as (g) and (h); (a) through (d) and new (g) revised 57186
93.130 (b)(5) redesignated (a)(6); (c)(1) amended 57186
110.1 Amended; introductory text revised 7421
110.2 Revised 7421
110.3 Revised 7421
110.4 Removed; new 110.4 redesignated from 110.8 7421
110.5 Revised 7421
110.6 Redesignated from 110.10 and amended 7421
Corrected 14032
110.7 Removed 7421
110.8 Redesignated as 110.4 7421
110.9 First and second section removed 7421
110.10 Redesignated as 110.6 7421
112.6 Removed 9647
114 Removed 9648
117.22 Removed 9648
122.21 Regulation at 60 FR 17956 withdrawn 40230
(c)(1) amended 40235
122.26 Regulation at 60 FR 17956 withdrawn 40230
(a)(1) introductory text and (e)(1)(ii) amended; (a)(9) and (g) added; (e) heading revised 40235
124.31 Added 63431
124.32 Added 63432
124.33 Added 63432
124.52 Regulation at 60 FR 17957 withdrawn 40230
(c) amended 40235
125.104 (b)(4)(iii) amended 53875
131.36 (b)(1) table corrected 44120
136.3 (a) Tables IC and ID amended 39588
(b) amended 39590
(a) table and (b) amended 44672
(a) Table IA revised; (b) amended 53542
(e) Table II amended 53543

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140.4 (b)(1) introductory text redesignated as (b)(1)(i); (b)(1)(ii) added 63945
152.25 (g) amended 8878
156 Policy statement 64282
167 Time extension for report submission 8221
180 Technical correction 52248
Technical correction 4592
180.1 (h) table amended 42448
180.2 Revised 42460
180.142 (k) revised 13429
180.184 (a) table amended 63950
180.186 Removed 49799
180.203 Removed 49799
180.204 (a) table amended 42447
(b) table amended 45065
180.232 Revised 34870
180.233 Removed 49799
180.247 Removed 49799
180.254 (c) introductory text amended 63438
180.260 Removed 49799
180.268 Revised 49799
180.275 (a) table and (b) table amended 10282
180.280 Removed 49799
180.302 Removed 49799
180.308 Removed 49799
180.310 Removed 49799
180.317 Revised 10284
180.319 Removed 49799
180.322 Removed 49799
180.327 Removed 49799
180.329 Removed 49800
180.336 Removed 49800
180.337 Revised 34871
180.342 (e) revised 3330
180.351 Removed 49800
180.352 (b) revised 63954
180.361 (a) table amended 48660
180.364 (d) table amended 45064
(d) table amended 7732
180.376 Removed 34869
180.381 (a) introductory text and (b) revised 62331
180.400 Removed 49800
180.407 (b) introductory text and (c) introductory text amended 65577
180.408 (a) table amended 57364
(a) introductory text revised; (a) table amended 63960, 65581
180.412 (a) table amended 7729
180.422 Table revised 49798
180.425 Table amended 54606
180.431 (a) table amended 63958
180.434 (a) table and (b) table amended 3328
180.435 Revised 42455
180.436 Existing text designated as (a); (b) added 34876
(a) table and (b) table amended 10681
180.438 Table revised 34878
180.441 (c) revised 49790
180.443 (a) table, (b) table and (c) table revised 40503
180.448 Table amended 6551
180.449 (b) table amended 57365, 65578
(a) and (b) introductory text revised 4594
(b) table amended 9352
180.454 Table amended 7734
180.458 Table amended 40505
180.459 Revised 36731
180.464 Introductory text and table amended 10684
180.466 Table amended 49795
180.472 (a) table amended; (d) removed 45067
(e) added 45069
(e) existing text designated as (e)(1); new (e)(1) table revised; (e)(2) added 63956
(f) added 5712
(a) table amended 5716
(a) table amended; (b) removed 7736
180.473 (a) revised 63962
180.474 Table revised 40500
Table amended 63947
180.482 Corrected 34874
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180.483 Added 34873
180.484 Added 42458
180.485 Added 49796
180.486 Added 49792
180.487 Added 54610
180.489 Added 9355
180.490 Added 11313
180.900 Heading revised; (d) added 45069
180.1001 (d) table amended 35846, 38263, 54607, 63949
(c) table amended 4592, 5714
(c) and (e) amended 9356
180.1015 Removed 42460
180.1027 Revised 42460
180.1033 Revised 42460
180.1068 Revised 34871
180.1082 Removed 35846

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180.1100 Revised 48659
180.1115 Revised 37021
180.1117 Added 43719
180.1148 Added 42450
180.1149 Added 37020
180.1150 Added 34869
180.1151 Added 42453
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180.1154 Added 47489
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180.1164 Added 13426
185.500 Removed 12009
185.1075 Added 40505
185.1310 Redesignated as 185.3765 34878
185.1580 Revised 42455
185.2850 Removed 12009
185.3300 Removed 49800
185.3385 Added 42458
185.3575 Revised 42462
185.3765 Redesignated from 185.1310; heading revised; (c) added 34878
185.4150 Revised 42460
185.4600 Introductory text revised 62332
Removed 12009
185.5000 Table amended 12009
185.5150 Removed 12009
185.5350 Removed 12009
185.5375 Added 9359
185.5450 Revised 38265
(c) added 54612
185.5900 Removed 2449
185.6300 Removed 12009
186 Heading revised 7736
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186.900 (b) revised 7736
186.3300 Removed 49800
186.3575 Revised 42462
186.3765 Revised 34878
186.5450 Added 38266
(b) and (c) redesignated as (a)(1) and (2); new (b) added 54612
194 Added 5235
195.20 Revised 41816
228.14 (h)(6) removed 2946
228.15 (h)(4) removed; (h)(5)(v) and (vi) revised 49230
(l)(10) added 50114
(h)(19) added 2946
258.1 (d)(3) and (e)(4) revised 52342
258.2 Amended 52342
258.50 (e) revised 52342
258.70 (b) revised 52342
258.74 (a)(3), (4), (6), (c)(3) and (d)(3) revised 40105
(a)(5) revised; (b)(1), (c)(1) and (d)(1) amended 52342
260 Technical correction 35452
260.11 Regulation at 59 FR 62924 eff. date delayed to 6-6-96 56952
261 Interpretation 41817
261.4 (a)(12) revised 13106
261 Appendix IX amended 54312, 54313
262 Technical correction 35452
262.34 Regulation at 59 FR 62926 eff. date delayed to 6-6-96 56952
(a)(1)(i) amended 4911
264 Technical correction 35452
264.13 Regulation at 59 FR 62926 eff. date delayed to 6-6-96 56952
(b)(8)(i) and (ii) revised 4911
264.15 Regulation at 59 FR 62926 eff. date delayed to 6-6-96 56952
264.73 Regulation at 59 FR 62926 eff. date delayed to 6-6-96 56952
264.77 Regulation at 59 FR 62926 eff. date delayed to 6-6-96 56952
264.179 Regulation at 59 FR 62926 eff. date delayed to 6-6-96 56952
264.200 Regulation at 59 FR 62926 eff. date delayed to 6-6-96 56952
264.232 Regulation at 59 FR 62926 eff. date delayed to 6-6-96 56952
264.314 (e)(2)(ii) amended; (e)(2)(iii) added 35705
264.601 Regulation at 59 FR 62927 eff. date delayed to 6-6-96 56952
264.1033 Regulation at 59 FR 62927 eff. date delayed to 6-6-96 56952
(a)(2) amended; (k)(2) and (m) revised 4911
264.1080 (d) added 50428
(b)(1) and (c) revised 56953
264.1080—264.1091 (Subpart CC) Regulation at 59 FR 62927 eff. date delayed to 6-6-96 56952
264.1082 (c)(2)(iii) and (d) amended 4911
264.1083 (a)(1) and (b)(1) amended 4911

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264.1084 (b)(4) and (e) introductory text amended; (c) revised 4912
264.1085 (d) introductory text and (f) introductory text amended 4912
264.1086 (b)(1) amended; (b)(2)(ii)(B), (3) and (c) introductory text revised; (b)(2)(ii)(C) added 4912
264.1087 (c)(3)(ii) revised 4913
264.1088 (d) revised 4913
264.1089 (i) added 50429
(a)(1) and (e) amended 4913
264.1090 (a) and (c) amended; (d) revised 4913
264.1091 (a)(3) added 4913
265 Technical correction 35452
265.1 Regulation at 59 FR 62934 eff. date delayed to 6–6–96 56952
265.13 Regulation at 59 FR 62934 eff. date delayed to 6–6–96 56952
(b)(8)(i) and (ii) revised 4913
265.15 Regulation at 59 FR 62934 eff. date delayed to 6–6–96 56952
265.73 Regulation at 59 FR 62934 eff. date delayed to 6–6–96 56952
265.77 Regulation at 59 FR 62934 eff. date delayed to 6–6–96 56952
265.178 Regulation at 59 FR 62934 eff. date delayed to 6–6–96 56952
265.202 Regulation at 59 FR 62934 eff. date delayed to 6–6–96 56952
265.231 Regulation at 59 FR 62934 eff. date delayed to 6–6–96 56952
265.314 (f)(2)(ii) amended; (f)(2)(iii) added 35705
265.1033 Regulation at 59 FR 62934 eff. date delayed to 6–6–96 56952
(a)(2) amended; (j)(2) and (l) revised 4913
265.1080 (d) added 50429
(b)(1) and (c) introductory text revised 56953
265.1080—265.1091 (Subpart CC) Regulation at 59 FR 62934 eff. date delayed to 6–6–96 56952
265.1081 Amended 4914
265.1082 (a) introductory text, (1), (2) introductory text, (iii) and (iv) revised 56954
265.1083 (c)(2)(iii) and (d) amended 4914
265.1084 (a)(2)(iii) and (b)(2)(iii) added; (a)(5)(iv) introductory text and (b)(4)(iv) introductory text revised; (a)(5)(v)(C), (b)(6)(iii)(B), (iv) and (c)(3)(i) amended 4914
265.1085 (b)(4) amended; (c) revised 4914
265.1086 (d) amended 4915
265.1087 (b)(1) amended; (b)(2)(ii)(B), (3) and (c) introductory text revised; (b)(2)(ii)(C) added 4915
265.1088 (c)(3)(ii) revised 4915
265.1089 (d) revised 4915
265.1090 (i) added 50429
(a)(1) and (e) amended 4915
265.1091 (a)(1)(i) revised 4915
270 Technical correction 35452
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270.4 Regulation at 59 FR 62952 eff. date delayed to 6–6–96 56952
270.14 Regulation at 59 FR 62952 eff. date delayed to 6–6–96 56952
(b)(22) added 63433
270.15 Regulation at 59 FR 62952 eff. date delayed to 6–6–96 56952
270.16 Regulation at 59 FR 62952 eff. date delayed to 6–6–96 56952
270.17 Regulation at 59 FR 62952 eff. date delayed to 6–6–96 56952
270.27 Regulation at 59 FR 62952 eff. date delayed to 6–6–96 56952
(a)(1) and (3) amended 4916
270.30 (m) added 63433
270.61 (b)(5) introductory text amended 63433
270.62 (b)(6) through (10) redesignated as (b)(7) through (11); new (b)(6) added; (d) revised 63433
270.66 (d)(3), (4) and (5) redesignated as (d)(4), (5) and (6); new (d)(3) added 63433
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271 Technical correction 35452
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271.1 (j) table amended 35705

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(j) Tables 1 and 2 amended 56954
272.151 Revised 44279
272 Appendix A amended 44280
279.10 (b)(2) amended 55206
280 Authority citation revised 46711
280.200—280.230 (Subpart I) Added 46711
281 State underground storage tank program authorizations 34879
Authority citation revised 46715
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281.39 Added 46715
282.53 Added 1214
282.60 Added 4225
282.68 Added 1212
282.69 Added 6554
282.81 Added 1217
282.86 Added 1221
282.89 Added 6320
282.93 Added 1212
282.94 Added 52344
282.95 Added 47301
282 Appendix A amended 47301, 52344
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300 Authority citation revised 58239
300 Appendix B amended 37828, 47490, 49231, 49347, 50115, 50430, 50431, 50439, 51927, 55466, 58239
Appendix B1 amended 45344
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302.4 Table and appendix A corrected 35492, 35992
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355 Appendixes A and B corrected 35996
372 Comment period extension 2722
372.65 (c) table amended 49804
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403 Appendix G revised 54768
436.22 (a) corrected 35796
436.32 (a) corrected 35796
436.42 (a) corrected 35796
436.122 (a) corrected 35796
436.132 (a) corrected 35796
436.142 (a) corrected 35796
436.152 (a) corrected 35796
436.182 (a) corrected 35796
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503.13 (b) revised 54769
704.9 Revised 34463
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707.20 (c)(3) revised 34463
707.65 (c) revised 34463
712.28 (c) revised 34463
712.30 (c) amended 34463
(e) amended 34882, 39665
(e) corrected 37946
(e) table amended 7424
716.20 (b)(4) added 34884
716.30 (c) revised 34463
716.35 (c) revised 34463
716.60 (c) amended 34464
716.105 (c) amended 34464
716.120 (d) amended 34884
(a) table and (d) table amended 48662
(d) table amended 7425
717.17 (c) revised 34464
720.75 (b)(2) and (e)(1) amended 34464
720.96 Amended 34464
720.102 (d) revised 34464
721.5 (d)(1)(iii) revised 34464
721.11 (b) introductory text revised 34464
721.30 (b) introductory text revised 34464
721.185 (b)(1) amended 34464
721.562 Added 45080
721.639 Added 45080
721.1193 Added 45081
721.1643 Added 45081
721.2089 Added 45081
721.2815 Added 45081
721.3152 Added 45081
721.3486 Added 45082
721.3780 Added 45082
721.4300 (a)(2)(iv)(A)(7) revised 34464
721.4463 Added 45082
721.4466 Added 45082
721.4473 Added 45082
721.5192 Added 45082
721.5278 Added 45083

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721.5282 Added 45083
721.5763 Added 45083
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721.5867 Added 45083
721.6110 Added 45084
721.7046 Added 45084
721.7280 (a) and (b)(1) revised 65582
721.8090 Added 45084
721.9526 Added 45084
721.9656 Added 45084
721.9658 Added 45085
721.9892 Added 45085
723.50 (n) revised 34465
723.175 (i)(3) revised 34465
745 Added 9085
745.107 OMB number pending 9087
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761.3 Amended 11106
761.19 (b) amended 34465
761.20 (c)(3) introductory text and (vii) amended 34465
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761.60 (h) revised 11107
761.91—761.97 (Subpart F) Added 11107
761.130 (e) amended 34465
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790.50 (b)(1) revised 34466
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799.1575 (c)(1)(ii)(C) and (2)(ii)(C) revised; (c)(3)(ii) and (d)(2) amended 34467
799.2155 (a)(1) amended 34467
799.2325 (c)(8)(ii)(A) and (d) revised 50434, 56956
799.5000 Table amended 11742
799.5075 (a)(1), (c)(1)(i)(A), (2)(i)(A) and (d)(1) revised 48904
(a)(2), (c)(1)(ii)(A), (B), (2)(ii)(B) and (d) revised 50434
(a)(2), (c)(1)(ii)(A), (B), (2)(ii)(A) and (d) revised 56956
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TITLE 42—PUBLIC HEALTH

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24 Added; interim 6557
57.201—57.218 (Subpart C) Authority citation revised 6122
57.202 Amended 6123
57.203 (c) amended 6123
57.205 (a)(1)(i) amended; OMB number 6123
57.206 (a)(1)(i) revised; (a)(2) removed; (a)(3) redesignated as (a)(2) 6123
57.210 (b)(2)(i) and (ii) amended; OMB number 6123
57.211 (a) and (b) amended 6123
57.212 Removed 6123
57.213 (a)(2) amended 6123
57.214 Introductory text amended 6123
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57.215 (a)(3) amended 6123
57.216 Amended 6123
57.301—57.318 (Subpart D) Authority citation revised 6123
57.302 Amended 6123
57.305 OMB number 6123
57.306 (a)(1)(i) revised 6123
57.310 OMB number 6123
57.312 (a)(1) amended 6123
57.313 (b) amended 6123
57.314 Introductory text amended 6123
57.316 Amended 6123
57.501—57.514 (Subpart F) Authority citation revised 6124
57.502 Amended 6124
57.509 (a) revised 6124
57.513 Amended 6124
57.701—57.712 (Subpart H) Authority citation revised 6124
57.701 Amended 6124
57.702 Amended 6124
57.704 (c)(1) amended 6124
57.706 (a) introductory text and (2) amended 6124
57.707 (a)(1) amended 6124
57.709 (a) amended 6124
57.710 Amended 6124
57.711 Revised 6124
57.801—57.803 (Subpart I) Authority citation revised 6124
57.801 (a) amended 6124
57.1101—57.1112 (Subpart L) Authority citation revised 6124
57.1101 Introductory text amended 6124
57.1102 Amended 6124
57.1106 Introductory text amended 6125
57.1107 (a)(1) amended 6125
57.1110 Amended 6125
57.1111 Revised 6125
57.1601—57.1610 (Subpart Q) Authority citation revised 6125
57.1601 Introductory text amended 6125
57.1602 Amended 6125
57.1605 (a) introductory text revised 6125
57.1608 Amended 6125
57.1609 Revised 6125
57.1702 Amended 6125
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57.1801—57.1811 (Subpart S) Authority citation revised 6125
57.1801 Amended 6125
57.1802 Amended 6125
57.1804 (a) and (b) revised 6126
57.1806 (a) introductory text revised; (b) amended 6126
57.1809 Amended 6126
57.1810 Revised 6126
57.1901—57.1910 (Subpart T) Removed 6126
57.2101—57.2110 (Subpart V) Authority citation revised 6126
57.2101 Amended 6126
57.2102 Amended 6126
57.2103 Amended 6126
57.2105 (a) introductory text revised 6126
57.2108 Amended 6126
57.2109 Revised 6126
57.2402 (c) and (k) revised 6126
57.2409 Amended 6126
57.2501—57.2510 (Subpart Z) Authority citation revised 6127
57.2501 Revised 6127
57.2502 Amended 6127
57.2503 (b)(2) introductory text revised; (b)(3) removed 6127
57.2504 (c)(1) and (d) revised 6127
57.2506 (b) revised 6127
57.2509 Amended 6127
57.2601—57.2617 (Subpart AA) Removed 6127

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57.2801 Amended 6127
57.2802 Amended 6127
57.2804 (a)(1) revised 6127
57.2805 (c) amended 6127
57.2808 Amended 6127
57.2809 (a) revised 6127
57.2901—57.2910 (Subpart DD) Authority citation revised 6128
57.2901 Amended 6128
57.2902 Amended 6128
57.2904 (a)(1) revised; OMB number 6128
57.2908 Amended 6128
57.2909 (a) revised; OMB number 6128
57.3001—57.3011 (Subpart EE) Authority citation revised 6128
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57.3101 Introductory text amended 6128
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57.3106 (a) introductory text revised 6128
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57.3111 Revised 6129
57.3301—57.3303 (Subpart HH) Removed 6129
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57.4008 Amended 6129
57.4009 Revised 6129
57.4102 Amended 6129
57.4109 (a) revised 6129
57.4113 Amended 6129
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58.1—58.11 (Subpart A) Removed 6129
58.20—58.29 (Subpart B) Removed 6129
58.201—58.215 (Subpart C) Authority citation revised 6129
58.201 Amended 6129
58.202 Amended 6129
58.203 (b) amended 6129
58.204 (b) amended 6130
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58.206 (a) through (e) removed; (f) through (i) redesignated as (a) through (d); heading revised; OMB number 6130
58.209 Revised 6130
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58.214 Revised 6130
58.221—58.235 (Subpart D) Authority citation revised 6130
58.222 Amended 6130
58.223 Amended 6130
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58.225 Amended 6131
58.228 Removed; new 58.228 redesignated from 58.229; new (a) revised 6131
58.229 Redesignated as 58.228; new 58.229 redesignated from 58.230 6131
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58.232 Redesignated as 58.231; new 58.232 redesignated from 58.233 and amended 6131
58.233 Redesignated as 58.232; new 58.233 redesignated from 58.234 and revised 6131
58.234 Redesignated as 58.233; new 58.234 redesignated from 58.235 6131
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Chapter IV—Health Care Financing Administration, Department of Health and Human Services (Parts 400—499)

400.202 Amended 63175
400.310 Table amended (OMB numbers) 63188
405.465—405.482 (Subpart D) Removed 63175
405.500—405.535 (Subpart E) Authority citation revised 63175
Heading revised 63175
405.500 Added 63175
405.501 (c) and (d) removed; (e) and (f) redesignated as (c) and (d); new (c) and new (d) amended 63176
405.502 (a)(10) amended 63188
405.520 Removed 63176
405.521 Removed 63176
405.522 Removed 63176
405.523 Removed 63176
405.524 Removed 63176
405.525 Removed 63176
405.550—405.580 (Subpart F) Removed 63176
405.2400—405.2472 (Subpart X) Authority citation revised 63176
405.2400 Added 63176
405.2401 (b) amended 63176
405.2468 (b)(1) revised 63176
410.34 (a)(1), (2) and (d) revised 63176
411.15 (m)(2)(i) amended 63188
411.108 (a)(8) revised 53876
411.163 (b)(2) and (3) revised 53876
411.172 (b) revised 53877
411.360 (e) revised 63440
412.50 (a) and (b) amended 63188
412.71 (c)(1)(i) amended 63188
412.105 (g)(1)(i)(A) amended 63188
(d) correctly added 2725
413.5 (c)(9) amended 63189
413.13 (g)(1)(i) amended 63189
413.40 (g)(1) corrected 2725
413.80 (h) amended 63189
413.86 (b)(1) and (g)(1)(ii) amended 63189
413.174 (b)(4)(iv) amended 63189
414.2 Amended 63177
414.28 Amended 53877
(b) revised 63177
414.30 (b)(2) revised; (c) added 63177
414.32 (d)(2) revised 63177
414.46 (a)(1), (e) and (g) amended; (b), (c) and (d) revised 63177
414.58 (a) and (b) amended 63189
414.60 (a) amended 53877
Revised 63178
414.450—414.453 (Subpart H) Removed 63178
415 Added 63178
417 Authority citation revised 13446
417.479 Added 13446
417.500 (a)(9) added 13448
417.554 Amended 63189
424.57 (c) revised 63444
434.44 (a)(1) revised 13449
434.67 (a)(5) added 13449
434.70 Revised 13449
440.10 (a)(2) and (3)(iii) revised 61486
440.20 (a)(2) and (3)(ii) revised 61486
440.90 (c) removed 61486
440.165 (a)(1) and (c) removed; (a)(2) and (3) redesignated as (a)(1) and (2); (b)(4)(i) and (ii) revised 61486
486.304 (c)(1) amended 53877
489 Technical correction 52731
489.20 (d)(1) amended 63189
489.21 (f) amended 63189
489.53 Corrected 53456
498 Technical correction 52731

Chapter V—Office of Inspector General-Health Care, Department of Health and Human Services (Parts 1000—1999)

1001 Authority citation revised 2135
1001.952 (k)(1)(iii), (l) and (m) revised 2135
1003.100 (b)(1)(v) revised 58241
(b)(1) introductory text and (vii) revised 13449
1003.101 Amended 13449
1003.102 (b)(7) revised 58241
1003.103 (d) revised 58241
(f)(1)(iv) and (v) revised; (f)(1)(vi) added 13449
1003.106 (a)(3) revised 58241
(a)(5)(vii) and (viii) redesignated (a)(5)(viii) and (ix); new (a)(5)(vii) added 13449
1004 Revised 63640
1004.110 (f) correctly revised 1841

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TITLE 43—PUBLIC LANDS: INTERIOR

Subtitle A—Office of the Secretary of the Interior (Parts 1—199)

4.413 (c)(1) and (2) introductory text revised; (c)(2)(i), (ii), (iv), (v), (vi), (vii), (ix), (xi) and (xii) amended; (c)(2)(v)(A) and (B) added 58242
4.1109 (a) revised 58243

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TITLE 43, Subtitle A—Con.

10 Added 62158
12 Clarification 57543

Chapter II—Bureau of Land Management, Department of the Interior (Parts 1000—9999)

2800 Note removed 57070
2800.0-5 (j) revised; (aa), (bb) and (cc) added 57070
2800.0-9 Added 57070
2801.1-1 (b) and (f) amended 57070
2803.1-2 (c)(3)(i), (ii), (4), (5) and (d) redesignated as (e)(1), (2), (f), (g) and (h); (b)(1)(i), (c)(1)(iv), (v) introductory text, (2) and new (e) revised; new (d) added 57070
2812.0-9 Added 57072
2880.0-9 Added 57072
3103.2-2 Introductory text amended 4750
3103.4 Heading revised 4750
3103.4-1 Heading and (b)(1) revised; (c) and (d) redesignated as 3103.4-2(a) and (b); (e) redesignated as (c) 4750
3103.4-2 Redesignated as 3103.4-4; (a) and (b) redesignated from 3103.4-1(c) and (d); new heading added 4750
3103.4-3 Added 4750
3103.4-4 Redesignated as 3103.4-2 4750
3140.1-4 (c)(3) amended 4752
3165.1 (b) amended 4752
4100.0-3 (g) removed 4227
4110.2-2 (b) amended 4227
4110.2-3 (a)(2) amended 4227
4120.2 (e) amended 4227
4120.3-1 (c) amended 4227
4120.3-2 (a), (b) and (d) amended 4227
4120.3-4 Amended 4227
4120.3-6 (d) amended 4227
4120.3-8 (b) amended 4227
4130.1-2 (a) amended 4227
4130.2 (g) introductory text, (1) and (i) amended 4227
4130.4 (a) amended 4227
4130.8 (d) amended 4227
4130.8-1 (c) amended 4227
4140.1 (a)(4), (b) introductory text, (1)(vi) and (8) amended 4227
4150.3 (e) amended 4227
4160.2 Amended 4227
4160.3 (b) amended 4227
4160.4 Amended 4227
6220 (Subchapter F) Removed 61487
8364 Public land closures 7077
Chapter II Appendix removed 2137

Chapter III—Utah Reclamation Mitigation and Conservation Commission (Parts 10000—10005)

10001 Added 13450

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1374 Revoked in part by PLO 7166 7223
1703 Revoked in part by PLO 7173 57939
1992 Revoked in part by PLO 7185 7223
2588 Revoked in part by PLO 7185 7223
3396 Revoked in part by PLO 7164 52864
3689 Revoked in part by PLO 7182 4359
7155 Corrected 52731
7157 Corrected by PLO 7185 7223
7161 52631
7162 52631
7163 51734
7164 52864
7165 52864
7166 53131
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7169 54814
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7171 57192
7172 57192
7173 57939
7174 58521
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7176 66562
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7178 66151
7179 2137
7180 2138
7181 2138
7182 4359
7183 4752
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TITLE 44—EMERGENCY MANAGEMENT AND ASSISTANCE

Chapter I—Federal Emergency Management Agency (Parts 0—399)

10 Authority citation revised 4230
10.8 (c), (d) and (e) revised 4230
(c)(1) correctly revised 10688
61.9 Revised 8223
64.6 Table amended 51361, 54613, 55330, 65583
Table amended 5948, 7998, 8475
65 Authority citation revised 62218
65.4 Table amended; interim 54036, 55468, 56250, 56252, 62336
Table amended 54039, 55470, 56253, 62333
Table amended 6559, 6560, 6567, 10469, 11316
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65.17 Added 62218
67 Flood elevation determinations 54040, 55471, 56254, 62337
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206 Authority citation revised 7224
206.101 (g) introductory text added 7224

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62 3635
67 ..... 54051, 55525, 56300, 56307, 62369
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TITLE 45—PUBLIC WELFARE

Subtitle A—Department of Health and Human Services, General Administration (Parts 1—199)

74 Regulation at 59 FR 43760 confirmed 11746
Authority citation revised 11746
74.1 (c) added 11746
(a)(3) revised; interim 11747
74.1—74.5 (Subpart A) Regulation at 59 FR 43760 confirmed 11746
74.2 Amended 11746
74.3 Amended 11746
74.4 Existing text designated as (a); (b) added 11746
74.5 (a) introductory text amended; (a)(1) revised 11746
74.10—74.17 (Subpart B) Regulation at 59 FR 43763 confirmed 11746
74.12 (e) added 11746
74.17 Amended 11746
74.20—74.62 (Subpart C) Regulation at 59 FR 43764 confirmed 11746
74.22 (m) amended; (n) added 11746
74.23 (d) amended 11746
74.25 (c)(5) amended; (l) added 11746
74.26 (a) and (d) revised 11746
74.33 (b) amended 11747
74.34 (g)(4) added 11747
74.35 (b)(2) amended 11747
74.44 (a)(2) and (e)(2) amended 11747
74.48 (b) amended 11747
74.50—74.57 (Subpart G) Regulation at 59 FR 43775 confirmed 11746
74.60—74.62 (Subpart H) Regulation at 59 FR 43775 confirmed 11746
74.70—74.76 (Subpart I) Regulation at 59 FR 43774 confirmed 11746
Regulation at 59 FR 43775 confirmed 11746
74.80—74.85 (Subpart J) Regulation at 59 FR 43775 confirmed 11746
74.81 Amended 11747
74.90 (d) amended 11747
74.90—74.97 (Subpart K) Regulation at 59 FR 43775 confirmed 11746
74.100—74.108 (Subpart L) Regulation at 59 FR 43775 confirmed 11746
74.110—74.116 (Subpart M) Regulation at 59 FR 43775 confirmed 11746
74.120—74.127 (Subpart N) Regulation at 59 FR 43775 confirmed 11746

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TITLE 45 Subtitle A—Con.

74.130—74.145 (Subpart O) Regulation at 59 FR 43775 confirmed 11746
74.160—74.164 (Subpart P) Regulation at 59 FR 43775 confirmed 11746
74.170—74.177 (Subpart Q) Regulation at 59 FR 43775 confirmed 11746
74.304 (Subpart T) Regulation at 59 FR 43775 confirmed 11746
74.701—74.720 (Subpart AA) Regulation at 59 FR 43775 confirmed 11746
74 Regulations at 59 FR 43775 and 43776 confirmed 11746
Appendix A amended 11747
96.122 (g)(21) and (22) redesignated as (g)(22) and (23); (f)(6) and new (g)(21) added 1508
Corrected 2335
96.123 (a)(5) added 1508
96.130 Added 1508

Chapter VIII—Office of Personnel Management (Parts 800—899)

801 Appendix A amended 11748

Chapter XI—National Foundation on the Arts and the Humanities (Parts 1100—1199)

1180.5 (f) added 63964
1180.17 Revised 63964
1180.20 (f)(1) revised 63964
1180.35 Heading, (a) and (b) revised 63964
1180.40 Removed 63964
1180.41 Revised 63964
1180.45 (a) revised 63964
1180.48 Revised 63964
1180.49 Revised 63964
1180.50 Revised 63964
1180.58 Revised 63965
1180.59 Revised 63965
1180.75 (d) revised 63965

Chapter XIII—Office of Human Development Services, Department of Health and Human Services (Parts 1300—1399)

1370 (Subchapter H) Added 6793

Chapter XVI—Legal Services Corporation (Parts 1600—1699)

1611 Appendix A revised 12041

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301 2774
302 2774
303 2774
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1305 54648

TITLE 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation (Parts 1—199)

1.01–10 (b)(1) introductory text, (ii)(B) and (C) corrected 54106
2 Authority citation revised 13927
2.75–1 (f) revised 13927
2.75–17 Removed 13927
2.75–18 Removed 13927
2.75–19 Removed 13927
2.75–20 Removed 13927
2.75–30 Removed 13927
2.75–50 Heading and (a) revised; (c) added 13927
10 Authority citation revised 65483
10.103 Amended 65483
10.201 (b) revised; (h), (i) and (j) added 65484
10.205 (f)(2) revised; (d) added 65486
10.207 (h) and (i) added 65486
10.209 (i) and (j) added 65486
12 Authority citation revised 65487
Comment period reopened 13098
12.01–6 Amended 65487
12.02–4 (a) revised; (b) removed; (c) redesignated as (b); new (c), (d) and (e) added 65487
12.02–9 (g) and (h) added 65489
13 Comment period reopened 13098
15 Comment period reopened 13098
16.205 Corrected 54106
16.207 (b) revised 67063
16.500 Corrected 54106
25.01–3 Corrected 54106
28.40 (b) revised 54444
28.50 Amended 54444
28.200—28.270 (Subpart C) Heading revised 54444
28.200 Revised 54444

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28.800—28.905 (Subpart G) Added 54444
30 Comment period reopened 13098
31 Comment period reopened 13098
31.10–21 Corrected 54106
35 Comment period reopened 13098
57.021–1 Corrected 54106
69.9 Corrected 54106
71.65–15 (a)(2) corrected 54106
78 Comment period reopened 13098
90 Comment period reopening 7425
Comment period reopened 13098
90.05–20 Revised; interim 57640
90.10–40 (b) and (c) revised; interim 57640
90.30–10 Removed; interim 57640
90.35–5 Corrected 54106
97 Comment period reopened 13098
98 Comment period reopening 7425
Comment period reopened 13098
98.31–5—98.31–15 (Subpart 98.31) Removed; interim 57640
105 Comment period reopened 13098
110.10–1 Corrected 54106
114—122 (Subchapter K) Added; interim 885
125—134 (Subchapter L) Added; interim 57640
125 Comment period reopening 7425
126 Comment period reopening 7425
126.220 Corrected 1035
127 Comment period reopening 7425
128 Comment period reopening 7425
128.410 Correctly designated 1035
129 Comment period reopening 7425
130 Comment period reopening 7425
131 Comment period reopening 7425
131.550 (a) corrected 1035
131.575 (a) corrected 1035
132 Comment period reopening 7425
132.220 Table corrected 1035
133 Comment period reopening 7425
134 Comment period reopening 7425
135 Comment period reopening 7425
136 Comment period reopening 7425
150.170 Table correctly revised; CFR correction 5518
151 Comment period reopened 13098
153 Comment period reopened 13098
153.7 (b)(4)(iii) corrected 54106
153.809 Corrected 54106
153.902 Corrected 54106
154 Comment period reopened 13098
154.22 Corrected 54106
154.151 Corrected 54106
154.1803 Corrected 54106
159 Authority citation revised 13927
159.001–2 Revised 13927
159.001–3 Revised 13927
159.001–4 Added 13928
159.001–5 Revised 13928
159.005–13 (a)(4) revised 13928
159.010–1—159.010–21 (Subpart 159.010) Heading revised 13928
159.010–1 Revised 13928
159.010–5 Revised 13928
159.010–7 Removed; new 159.010–7 redesignated from 159.010–9 and revised 13928
159.010–9 Redesignated as 159.010–7 13928
159.010–11 Removed; new 159.010–11 redesignated from 159.010–17 and revised 13929
159.010–17 Redesignated as 159.010–11; new 159.010–17 redesignated from 159.010–19 and revised 13929
159.010–19 Redesignated as 159.010–17; new 159.010–19 redesignated from 159.010–21 and revised 13929
159.010–21 Redesignated as 159.010–19 13929
160 Comment period extension 52631
Authority citation revised 13945
160.48–7 (a) and (d) removed; (b), (c) and (e) redesignated as (a), (b) and (c) 13930
160.48–7a Removed 13930
160.48–8 Revised 13930
160.48–9 Removed 13930
160.48–10 Removed 13930
160.49–7 (a) and (d) removed; (b), (c) and (e) redesignated as (a), (b) and (c) 13930
160.49–7a Removed 13930
160.49–8 Revised 13930
160.49–9 Removed 13930

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160.49–10 Removed 13930
160.010–4 Corrected 54106
160.021–9 Removed 13929
160.022–9 Removed 13929
160.023–9 Removed 13929
160.024–9 Removed 13929
160.028–9 Removed 13929
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160.036–9 Removed 13929
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160.052–8c Removed 13930
160.052–9 Revised 13930
160.052–11 Removed 13930
160.052–12 Removed 13930
160.057–9 Removed 13930
160.060–1 Corrected 54106
160.060–8a Removed 13930
160.060–8b Removed 13930
160.060–8c Removed 13930
160.060–9 Revised 13930
160.060–11 Removed 13931
160.060–12 Removed 13931
160.064–5 Removed 13931
160.064–5a Removed 13931
160.064–5b Removed 13931
160.064–7 Revised 13931
160.064–8 Removed 13931
160.064–9 Removed 13931
160.066–11 (c) revised 13931
160.066–18 Removed 13931
160.076—160.076–39 (Subpart 160.076) Regulation at 60 FR 32848 confirmed 13945
160.076–5 Amended 13945
160.076–7 (a) revised 13945
160.076–9 (b) revised 13945
160.076–11 (b) revised 13945
160.076–13 (c)(10) removed 13946
160.076–21 (d) and (e) removed; (f) redesignated as (d) 13946
160.076–23 (a)(1) revised; (a)(2) and (b) removed; (a)(3) redesignated as (a)(2) 13946
160.076–25 (c) revised 13946
160.076–27 Removed 13946
160.076–29 Tables 160.076–29A and 160.076–29B revised 13946
160.076–31 (c)(8) revised 13946
160.076–37 (b) revised 13946
160.076–39 (c) and (d)(1)(i) revised; (d)(2) and (f) removed 13947
160.077–9 Revised 13931
161.010–1 Corrected 54106
170 Authority citation amended 943
Comment period reopening 7425
170.001 (a) introductory text and (b) amended 943
170.055 (g) revised; interim 57671
(i)(1) amended; (w) added 943
170.105 (b)(1) removed; (b)(2) through (5) redesignated as (b)(1) through (4) 944
170.160—170.173 (Subpart E) Heading revised 944
170.160 (b)(1) removed; (b)(2), (3) and (4) redesignated as (b)(1), (2) and (3) 944
170.170 (a) amended; (d) revised 944
170.173 (b)(2) amended 944
170.200 (a)(2) amended 944
170.265 (c) amended; (d) introductory text and (2) revised 944
170.270 (e) revised 944
171 Authority citation revised 53713
Authority citation revised 944
171.15 (a) designation and (b) removed 945
171.001 (a) revised 944
171.010 (a), (d)(1) and (3) revised; (e) through (k), (l), (m) and (n) redesignated as (f) through (l), (n), (p) and (q); new (e), new (m) and (o) added 944
171.020—171.043 (Subpart B) Removed 944
171.057 (a) and (b) amended 944
171.080 (d), (e) and (f) redesignated as (f), (e) and (h); new (d) and (g) added; new (e) and new (f) introductory text revised 53713
171.085 (a), (h)(1) and (j)(2) revised 945
171.110 (a) designation and (b) removed 945
171.114 Removed 945
171.119 Removed 945
171.120 Revised 945

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171.122 (f)(1) revised; Table 171.122 redesignated from Table 171.124 945
171.124 Table redesignated as Table 171.122; section removed 945
171.130 (a) designation and (b) removed 945
171.140 Removed 945
171.145 Removed 945
171.150 Removed 945
171.155 Removed 945
173.005 (b) revised 945
173.020 (c) introductory text revised 945
173.025 (b), (c) and Graph 173.025 revised 945
173.054 (a)(1) and (b)(1) amended 946
173.059 Amended 946
173.060 (a) amended 946
173.061 Amended 946
173.062 Amended 946
173.063 (a) and (d) amended 946
174 Comment period reopening 7425
174.05–2 (b) corrected 1035
174.005 (g) and (h) added; interim 57671
174.180—174.225 (Subpart G) Added; interim 57671
174.205 (b) corrected 1035
174.240—174.260 (Subpart H) Added; interim 57673
175 Comment period reopening 7425
175—185 (Subchapter T) Revised 946
175.05–2 Revised; interim 57674
175.10–40 Revised; interim 57674
175.35–1 (Subpart 175.35) Removed; interim 57674
175.075 (b) amended 944
189.55–15 Corrected 54106

Chapter II—Maritime Administration, Department of Transportation (Parts 200—399)

308 Revised 1131

Chapter III—Saint Lawrence Seaway Development Corporation (Great Lakes Pilotage), Department of Transportation (Parts 400—499)

Chapter III Heading revised 5721
401.110 (a)(2) and (9) revised 5721
401.210 (a)(4) and (7) amended 5721
401.211 (e) amended 5721
401.220 (b) amended 5721
401.230 (b), (c) and (d) amended 5721
401.240 (a) and (d) amended 5721
401.250 (c) amended; (d) revised 5721
401.320 (d)(2), (3) and (4) amended 5721
(d)(4) amended 5721
401.425 Amended 5721
401.431 (e) amended 5721
401.510 (b)(2), (3) introductory text and (5) amended 5721
401.600 (a) amended 5721
401.615 (b) amended 5721
401.620 (a) amended 5721
401.650 Amended 5721
401.710 (g) amended 5721
402.100 Amended 5721

Chapter IV—Federal Maritime Commission (Parts 500—599)

501.3 (k) removed; (l) revised 57940
501.4 (b) amended; (c) revised 57941
501.5 (j) heading removed; (j)(1) and (2) redesignated as (i)(5) and (6); (f)(1)(i), (i) introductory text, (3), (4), new (5) and new (6) introductory text revised; (l)(2) amended 57941
501.6 (j) and (k) corrected 14032
501.26 (f) amended; (g) through (n) redesignated as (i) through (p); new (g) and new (h) added; new (i)(6) removed 9944
501.28 Revised 57941
501.31 Removed 57941
501.41 (c)(6) and (d) revised; (c)(9) removed 57941
501 Appendix A revised 57942
514.7 (h)(1)(v) revised; (h)(2)(i)(C) added 5309

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514.8 (f) revised 56123
514.20 (d) revised 56123
514.21 (j) revised 56124
514 Exhibit II added 5310
572.103 (a) through (e) amended 11573
572.104 (e) through (r), (s) through (x), (y) and (z) through (ff) redesignated as (f) through (s), (u) through (z), (cc) and (dd) through (jj); new (e), new (t), new (aa), new (bb) and (kk) added; new (g), new (j) and new (hh) amended; new (o) heading and new (cc) revised 11574
572.202 Redesignated as 572.404 11575
572.301 (b) amended 11574
572.302 (b) amended 11574
572.303 (b) amended 11574
572.304 (b) amended 11574
572.305 (b) amended 11574
572.306 (b) amended 11574
572.307 (b) amended 11574
572.308 (b) amended 11574
572.309 (a) amended 11574
572.401 Heading, (a)(1), (2), (c), (d) and (e) revised 11574
572.402 (e)(2) and (f) amended; (h) removed 11575
572.403 Redesignated as 572.405; new 572.403 redesignated from 572.501; (a) and (b) amended 11575
572.404 Redesignated as 572.406; new 572.404 redesignated from 572.202; (a) and (b)(1) amended 11575
572.405 Removed; redesignated from 572.403; (a) and (g)(3) revised 11575
572.406 Redesignated as 572.407; new 572.406 redesignated from 572.404 and revised 11575
572.407 Redesignated from 572.406 11575
572.501 Redesignated as 572.403 11575
572.501—572.505 (Subpart E) Added 11575
572.601 (a) revised; (b)(1) amended 11576
572.608 (b)(2) revised 11576
572.701 (b), (c) and (d) removed; (a)(1), (2), (e) and (f) redesignated as (d), (e), (f) and (i); new (a), (b), (g) and (h) added; new (e) amended; new (d), new (f) and new (i) revised 11576
572.702 Redesignated as 572.706; new 572.702 added 11576
572.703 Redesignated as 572.707 11576
Added 11577
572.704 Redesignated as 572.709 11576
Added 11577
572.705 Added 11577
572.706 Redesignated from 572.702; heading revised; (d) added 11576
572.707 Redesignated from 572.703; introductory text amended 11576
572.708 Added 11577
572.709 Redesignated from 572.704 and revised 11576
572.902 Revised 11577
572.991 Amended 11577
572 Appendix A revised 11577
Appendix B added 11579
Appendix C added 11580
Appendix D added 11582
Appendix E added 11584

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TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission (Parts 0—199)

Chapter I Policy statement 11163
0.5 (a)(15) added 8476
0.15 (i) amended 8477
0.81 Undesignated center heading and section added 2727
0.91 (l) amended 8477
0.111 Undesignated center heading and section revised 8476
0.121 (a) amended 8477
0.131 (j) revised 4361
0.151 Revised 10689
0.185 Introductory text, (a) and (b) revised 8476
0.241 (f) revised 4918
0.283 (a)(9)(i) revised 10689
0.284 (a)(3) and (4) revised 8477
0.311 (g) revised 55998
(f) amended 61662
Amended 8477
0.317 Amended 8477
0.332 (h) amended 8477
0.387 (b) amended 8477
0.391 Undesignated center heading and section added 2728
0.401 (a)(4) amended 8477
0.431 Amended 8477
0.443 Amended 8477
0.445 (g) amended 8477
1 Report 64348
1.4 (h) introductory text revised; Examples 12 and 13 redesignated as Examples 13 and 14; new Example 12 added 11749
1.24 (d) added 53277
1.61 (c), (d), (e) and (f) removed; (g) redesignated as (c); (a), (b) and new (c) introductory text revised 4361
1.402 (h) and (i) revised 4918
1.2110 (b)(4)(x)(C), (D) and (E) redesignated as (c), (d) and (e) 52866
2.1204 (a)(4) amended 8477
5.67 (d)(2) amended 8477
11.11 (a) and (b) revised 55998
11.12 Revised 55999
11.21 Introductory text revised 55999
11.31 (a)(1), (b) and (c) revised 55999
11.33 (a)(3)(i), (ii), (5) introductory text, (ii), (9), (11) and (b)(2) revised 55999
11.34 (c) revised 56000
11.47 Added 56000
11.51 (a) and (b) amended; (c) revised; (f) and (i) removed; (g), (h) and (j) through (n) redesignated as (f), (g) and (h) through (l) 56000
11.52 (a) revised 56000
11.61 (a)(1)(i), (2)(i) and (ii)(A) revised 56000
15 Reconsideration petition 3600
17.1 Revised 4362
17.2 (a) revised; (c) and (d) added 4362
17.4 Revised 4362
17.5 Added 4362
17.6 Added 4363
17.7—17.17 (Subpart B) Heading revised 4363
17.10 Intrductory text revised 4363
17.14 (a) amended 4363
17.17 (a) revised 4363
17.22 Amended 4363
17.23 Revised 4363
17.24 Removed 4363
17.25 Removed 4363
17.26 Removed 4363
17.27 Removed 4363
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17.34 Removed 4363
17.35 Removed 4363
17.36 Removed 4363
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17.38 Removed 4363
17.39 Removed 4363
17.40 Removed 4363
17.41 Removed 4363
17.42 Removed 4363
17.43 Removed 4363
17.47 Revised 4363
17.48 Introductory text revised; (a) amended 4364
17.49 Heading, introductory text and (c) revised; (d) added 4364
17.50 Revised 4364
17.51 (b) revised 4364
17.57 Revised 4364
21 Order 2452
21.2 Amended 57366
21.11 (g) added 4364
21.15 (g) revised 57366
(d) revised; (e), (f) and (g) redesignated as (f), (g) and (h); new (e) added 4364
21.41 (c)(3) revised 4364
21.42 (d) revised 57366
(c)(6) revised 4364
21.111 Revised 4365
21.112 Revised 4365
21.113 (c)(2) amended 8477
21.117 (b) revised 4365
21.902 (g)(1) revised 57367
21.904 (c)(2) redesignated as (c)(3); new (c)(2) added 57367
21.924 (c) revised 57367
21.925 (a)(2) revised 57367
21.929 Existing text designated as (b); (a) added 57367
21.933 Revised 57367
21.938 (c) through (g) redesignated as (d) through (h); new (c) added; new (d) and new (f) revised 57367
21.960 (b)(5)(i) and (d)(1)(i) revised 57367
21.961 (b)(2) introductory text revised 57368
22.115 (a)(2) and (3) revised 4365
22.365 Revised 4365
22.369 (c)(3) amended 8477
23.20 (e)(2) amended 8477
23.28 (c) added 4365
23.39 Revised 4366
23.40 Removed 4366
24.55 Added 4366
24.416 Removed 4366
24.816 Removed 4366
25.104 Revised 10696
25.110 (b) revised 9951
25.113 (c) revised; (d) redesignated as (f); new (d) and (e) added 4366
(b) and (d) revised 9951
25.114 (c)(6)(iii) removed 9945
(c)(18) revised; (c)(23) and (24) removed 9952
25.115 (c) introductory text revised 9952
25.117 (a) revised 9952
25.119 (c) added 4367
25.130 (e) added 4367
(d) revised 9952
25.131 (b), (g) and (j) revised 9952
25.136 (b) revised 9945
25.140 Heading, (a) and (b) revised 9952
25.143 (h) added 9945
25.202 (c) revised 9952
25.203 (g)(2) amended 8477
(j) and (k) revised 9945
25.210 (e) introductory text and (j) introductory text revised; (f) removed 9952
25.211 (b) revised 9952
25.213 (c) and (d) removed 9945
25.276 (c) revised 9953
25.300 (h) added 4367
32 Memorandum opinion and order 53544
36 Memorandum opinion and order 53544
Recommendation 65010
36.601 (c) revised 65011
36.622 (a) amended; (c) revised 65012
43 Manual revision 4918
43.51 (a) introductory text and (b) revised 52866
43.82 Added 51368
61 Declaratory ruling 8879
Report and order 7738
61.22 (b) amended 52866
61.42 (d)(5) added 52346
61.45 (b) introductory text and (h) revised; (b)(3) added 52346
61.47 (g)(6) added 52346
61.48 (j) added 52346
63 Authority citation revised 57196
63.01 (k)(5) and (r) revised; (k)(6) redesignated as (k)(7); new (k)(6) and (s) added 67335

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63.08 (a)(1) removed; (a)(ii) and (iii) redesignated as (a)(1) and (2); new (a) introductory text, new (2) and (b) amended; (c) revised; (e) added 10476
63.09 Removed 10476
63.11 Revised 67338
63.12 (c)(1) revised 67338
63.13 (a)(3) and (5) amended; (a)(4) revised 67338
63.14 Revised 67338
63.15 (b) revised 51368
63.16 Removed 10476
63.17 Added 67339
(b) amended 4937
63.52 (b) amended 10476
63.54 Undesignated center heading and section removed 10476
63.55 Removed 10476
63.56 Removed 10476
63.57 Removed 10476
63.58 Removed 10476
63.100 (a)(3), (4) and (6) revised; (b) through (e) amended; (h) added 57196
65 Declaration 56124
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64.1201 (e)(3) revised 8880
64.1601 Corrected 54449
64.1603 Corrected 54449
64.1604 Regulation at 60 FR 29490 eff. 4-12-95 54449
65.11 Revised 67338
68 Reconsideration petition 52105
68.306 (a)(4) amended 54814
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73 Memorandum opinion and order 53877
Reconsideration petition 53878, 56531
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73.53 (b)(9) revised 55480
73.57 (d) revised 55480
73.62 (b) and (c) revised 55480
73.69 (a)(1) and (2) revised 55480
73.202 (b) table amended 52105, 52106, 53278, 54313, 54617, 54953, 54954, 55206, 55332, 55801, 56001, 56255, 56532, 57368, 57369, 62218, 62219, 62220, 62221, 63645, 64349, 65021, 65022, 65244, 65587
(b) table amended 2453, 2454, 4232, 4233, 4234, 5722, 9359, 9360, 9361, 9648, 10284, 10285, 11330, 11584, 14032
73.606 (b) table amended 62220
(b) table amended 4233, 8000, 11585
73.656 (g) revised 10692
73.691 Revised 55480
73.757 (b) removed 55480
73.764 Removed 55480
73.900 Amended 56000
73.1010 (c) removed 55480
73.1030 (c)(2) amended 8477
73.1213 Revised 4367
73.1230 Revised 55480
73.1250 (h) amended 56000
73.1300 Added 55481
73.1350 Added 55481
73.1400 Revised 55481
73.1410 Removed 55482
73.1500 Removed 55482
73.1550 Removed 55482
73.1580 Revised 55482
73.1635 (a)(5) revised 55482
73.1690 (b)(1) revised 4367
73.1820 (b)(4), (5) and (6) removed; (b)(7) and (8) redesignated as (b)(4) and (5); (a) introductory text, (2)(iii) and new (b)(4) revised 55482
73.1860 Removed 55482
73.1870 (a) and (b)(3) revised 55482
73.3533 (c) added 4367
73.3555 (a) revised 10690
(e) revised 10692
74.5 (c) removed 55482
74.18 Revised 55482
74.22 Revised 4368
74.165 Revised 55482
74.432 (e)(1) revised 55482
74.434 (b) revised 55482
74.436 (a) revised 55483
74.533 (a)(2) revised 55483
74.551 (c) added 4368
74.564 Heading and (a) revised 55483
74.634 (a)(1) revised 55483
74.651 (d) added 4368
74.703 (c) revised 55483
74.734 (a) introductory text revised; (a)(6) removed 55483
74.750 (g) revised 55483
74.765 (b) removed; (c) redesignated as (b) 55483
74.769 Revised 55483

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74.901 Amended 55483
74.903 (b)(5) revised; (d) amended 57368
74.939 (i) revised 55483
74.969 Revised 55483
74.1203 (e) revised 55483
74.1234 (a) introductory text revised; (c) removed 55484
74.1251 (d) added 4368
76 Technical correction 11749
76.5 (ll) revised (effective date pending) 6137
76.51 (a)(32) revised 51928
76.227 Added 9650
76.802 Revised (effective date pending) 6137
76.922 (e) through (k) redesignated as (g) through (m); (c), (d) and new (g) through new (m) revised; new (e) and new (f) added 52113
(e)(3)(ii) revised 54817
(i)(6)(i) and (7) revised; (i)(6)(ii) through (vii) redesignated as (i)(6)(iii) through (viii); new (i)(6)(ii) added (OMB number pending) 9367
76.923 (n) and (o) added 52118
76.924 Heading, (e)(1)(iii) and (2)(iii) revised; (e)(1)(iv), (v), (2)(iv) and (v) removed 9367
76.925 (a) and (b) redesignated as (b) and (c); new (a) added; new (c) revised 52119
76.933 (a), (b), (e) and (f) revised; (g) and (h) added 52119
76.934 (f) revised 52120
76.942 (f) revised 52120
76.944 (c) added 52121
76.957 Revised 52121
76.960 Revised 52121
78.19 (e)(2) amended 8478
78.63 Revised 4368
78.109 (a)(3) removed; (a)(4) through (8) redesignated as (a)(3) through (7); (c) added 4368
80.21 (b)(1) amended 8478
80.59 (e) amended 8478
80.110 Revised 4368
80.836 Heading, (a) and (c) revised 58244
80.933 Heading and (b) revised; (c) redesignated as (e); new (c) and (d) added 58245
80.1065 (b)(5)(iii) revised 58245
(b)(5)(iii) corrected 62927
87.75 Revised 4368
90 Authority citation revised 55484
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Authority citation revised 6155
90.7 Amended 6155
90.17 (c)(11) revised 6576
90.19 (d) table amended 4234
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90.21 (c)(8) revised 6576
90.27 (a) and (b) amended 6576
90.75 (b) table amended; (c)(52) added 4234
90.155 (a) revised 6155
90.173 (k) revised; (n) added 6155
90.177 (d)(2) amended 8478
90.210 Introductory text, (d)(4), (e)(4) and (m) amended 4235
Table amended 6155
90.213 (a) table amended 4235
90.238 (h) revised 6576
90.243 (a)(1), (2) and (b)(1) revised 6576
90.267 (a)(3) revised; (a)(7) added 4235
90.273 (b) amended 6576
90.421 (k) redesignated as (l); new (k) added 6576
90.441 Revised 4369
90.443 (c) removed; (d) and (e) redesignated as (c) and (d) 4369
90.477 (d)(3) amended 6576
90.483 (d) amended 6576
90.494 (g) revised 8463
90.609 (c) and (d) introductory text revised 6155
90.611 (a) and (c) revised; (d) removed 6155
90.615 Revised 6156
90.617 (b) introductory text and (c) introductory text and (d) revised 6156
(a) amended 6576
90.619 (a)(3) introductory text, (5) introductory text, table, (b)(8) table, (9) table, (10) table and (11) table revised 6156
(a)(1) and (b)(7)(iii) amended 6577
90.621 (a) introductory text, (1)(iii), (b) introductory text, (c) and (e) introductory text revised; (a)(1)(iv), (e)(2), (3) and (4) removed 6157
90.629 (e) added 6157

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90.631 (b) amended 6157
(g) amended 6577
90.665 (c) corrected 61487
90.681 Undesignated center heading and section added 6158
90.683 Added 6158
90.685 Added 6158
90.687 Added 6158
90.689 Added 6158
90.691 Added 6158
90.693 Added 6159
90.699 Added 6159
90.720 Revised 6577
90.723 (f) revised 3845
90.751 Added 3845
90.753 Added 3845
90.755 Added 3845
90.757 Added 3845
90.816 Added 55485
90.901—90.913 (Subpart V) Added 6159
94 Order 2452
94.25 (i)(2) amended 8478
94.111 Heading and introductory text revised 4369
94.113 Removed 4369
95.39 Amended 8478
95.83 (a)(3) added 4369
95.831 Revised 1288
95.833 Revised 1288
97.15 (d) revised 4369
97.17 (g) removed; (h) redesignated as (g) 53132
97.19 (d) introductory text revised; (d)(4) added 53132
97.21 (a)(3)(ii) revised 53133
(a)(3)(u) corrected 54409
97.309 (a)(4) added 55486
97.509 (b)(5) removed 9953
97.521 (e) removed 9953
97.527 (c) through (f) removed 9953
100 Authority citation revised 65595
100.17 Revised 65595
100.19 Revised 65595
100.53 Added 65595
100.71—100.80 (Subpart E) Added 65595

Proposed Rules:

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2 ..... 2465, 6189, 6809, 8905, 14041
5 10709
15 ..... 3367, 14041
20 ..... 3644, 6963, 13133
21 53891
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22 58593
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36 ..... 52359, 55237
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61 ..... 52362, 52364, 53157
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68 63667
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74 ..... 10709, 11798
76 ..... 63492, 65052
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78 ..... 10709, 11798
80 10709
87 ..... 8905, 10709
90 ..... 52894, 53893
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94 ..... 2465, 6809, 10709
95 10709
97 ..... 10709, 14041
100 55822
101 11798

TITLE 48—FEDERAL ACQUISITION REGULATIONS SYSTEM

Chapter 1—Federal Acquisition Regulation (Parts 1—99)

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7.000 (b) and (c) amended; (d) removed 2628
7.103 (p) added 2628

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7.105 (b)(9) through (19) redesignated as (b)(10) through (20); new (b)(9) added 2628
7.500—7.503 (Subpart 7.5) Added 2628
8.001 (a)(2)(ii) and (iii) revised; (c) added 2630
8.003 Added 2631
9.403 Regulation at 59 FR 11372 confirmed 2632
9.406-2 Regulation at 59 FR 11372 confirmed 2632
(a)(3) amended 2633
9.407-2 Regulation at 59 FR 11373 confirmed 2632
(a)(3) amended 2633
11 Authority citation correctly added 54817
11.106 Added 2629
12.303 (b)(2) through (5) corrected 54817
15.106-1 (b) correctly revised 54045
15.804-6 (e) and (f) revised; (g) amended 2633
15.805-5 (c)(1) amended 2634
15.806-3 (a)(3) and (4) amended; (a)(5) and (6) added 2635
15.810 Revised 2635
19.602-2 (a) designation and (b) removed; (a)(1), (2), (3) and (c) redesignated as (a) through (d); new (d) revised 2637
19.702 (d) added; interim 2638
19.705-2 (d) revised 2638
19-708 (b)(1)(iii) amended 2639
23.901—23.907 (Subpart 23.9) Added; interim 55307
25.101 Amended; interim 67514
25.104 (a) revised; interim 67515
25.109 (e) and (f) removed; (g) redesignated as (e); (d) and new (e)(2) introductory text revised; new (e)(1) amended; interim 67515
25.202 (c) amended; interim 67515
25.205 (b) revised; interim 67515
25.400 Revised; interim 67515
25.401 Introductory text, (a) and (b) amended; interim 67515
25.402 (a)(1), (2), (3) and (c) revised; (a)(4) removed; (a)(5) and (6) redesignated as (a)(4) and (5); interim 67516
25.403 Revised; interim 67516
25.406 Removed; interim 67517
25.407 Removed; interim 67517
25.408 Heading, (a)(2) and (4) revised; interim 67517
25.1000 Amended; interim 67517
25.1001 Revised; interim 67517
25.1002 (a)(3)(i) removed; (a)(3)(ii) and (iii) redesignated as (a)(3)(i) and (ii); (a)(1), (2), (3) introductory text and new (i) revised; (c)(1) introductory text amended; interim 67517
25.1003 Revised; interim 67517
28.311-1 Removed; new 28.311-1 redesignated from 28.311-2 and amended 2639
28.311-2 Redesignated as 28.311-1; new 28.311-2 redesignated from 28.311-3 2639
28.311-3 Redesignated as 28.311-2 2639
31 Inflation rates notice 64255
31.002 Added 2640
31.205-11 (e) amended; (o) added; interim 64255
31.205-16 Heading revised; (g) added; interim 64255
31.205-41 (b)(6) revised 2641
37.102 Revised 2630
37.114 Added 2630
44.201-2 (a)(1) amended 2642
44.302 (a) amended 2642
51.101 (c) added 2631
51.102 (a) introductory text amended; (c)(3) revised 2631
52.208-9 Added 2631
52.209-5 Amended 2633
52.212-3 Corrected 54818
Amended 2633
52.212-5 Amended; interim 67517
52.215-27 Amended 2634
52.215-39 Amended 2634
52.219-9 Amended 2639
52.223-13 Added; interim 55308
52.223-14 Added; interim 55308
52.225-2 Amended; introductory text revised; interim 67517
52.225-9 Amended; interim 67517
52.225-15 Amended; heading revised; interim 67518
Corrected 2454
52.225-16 Removed; interim 67518
52.225-17 Removed; interim 67518
52.225-18 Amended; heading revised; interim 67518
52.225-19 Amended; heading revised; interim 67518

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52.225-21 Amended; interim 67518
52.228-6 Removed 2639
52.228-7 Amended 2640
52.244-2 Amended 2642
52.244-5 Amended; interim 2638
52.245-7 Amended 2640
52.245-10 Amended 2640

Chapter 2—Department of Defense (Parts 200—299)

201.201-1 (d)(i) introductory text and (V) amended 61591
201.301 (b) amended 61591
201.304 (1) through (5) amended 61591
201.402 (1) amended 61591
202.101 Amended 61591
Amended 7741
203.170-1 (a) amended 61591
203.170-4 Revised 61591
203.570-5 Revised 61592
203.730 Amended 61592
203.7100—203.7108 (Subpart 203.71) Removed 61592
204.202 (1)(iii) and (iv) amended; (1)(v) added 7742
204.602-70 Added 61592
204.603 Removed 61592
204.670-1 (c)(3) amended 61592
204.670-2 (c) and (d) revised 61592
204.670-6 (b) revised 61592
204.7003 (a)(1)(i) revised 61592
206.001 Added 61592
206.102 (Subpart 206.1) Regulation at 60 FR 2888 confirmed 61591
Removed 61592
206.302-5 206.303-1 (c) added 61592
206.304 Revised 10285
207.102 Added 61592
207.105 (b)(5), (6) and (17)(A)(*5*) revised 61593
207.470 208.7003-1 Revised 61593
208.7003-2 (c) revised 61593
209.103-70 Revised 61593
209.106-1 Revised 61593
209.202 Revised 61593
209.403 Amended 61593
209.405-1 (a) and (b) redesignated as (b) and (c) 61593
209.470 Regulation at 60 FR 13074 confirmed 7741
209.470-1 Regulations at 60 FR 13074 and 61593 confirmed 7741
Revised 7742
209.470-2 Regulation at 60 FR 13074 confirmed 7741
209.470-3 Amended 61593
Regulations at 60 FR 13074 and 61593 confirmded 7741
210 Removed 61593
211 Revised 61594
212 Revised 61595
213 Heading revised 7742
213.000 Amended 7742
213.101 Amended 7742
213.204 (b) amended 7742
213.401 Redesignated from 213.402 7742
213.402 Redesignated as 213.401; new 213.402 redesignated from 213.403 7742
213.403 Redesignated as 213.402; new 213.403 redesignated from 213.404; (c)(i)(B) and (ii) amended 7742
213.404 Redesignated as 213.403 7742
213.505-1 Redesignated from 213.505-2; heading revised; introductory tex, (b)(i) introductory text and (F)(3) amended 7742
213.505-2 Redesignated as 213.505-1 7742
Corrected 9532
213.505-3 (b)(1) introductory text revised 7742
213.507 Heading and (a)(i) revised 7742
214.406-3 (e)(1) amended 61596
215.804-8 Revised 61596
215.805-5 (a)(1)(A)(*3*) amended 61596
215.810 Revised 7742
215.810-2 Added 7742
215.810-3 Added 7743
215.871 215.971-4 (d)(3)(A) amended 61596
216.306 Added 7743
216.603-4 Revised 7743
216.703 (c) revised 7743
217.103-1 (b)(v), (vi)(A)(*2*) and (viii)(C) amended 61596
217.202 (3) added 7743
217.7302 (b) revised 61596
217.7402 Introductory text amended; (b) revised 7743
217.7404-3 (a) introductory text amended 7743
217.7406 Amended 61596
Revised 7743
219.501 S-70 stayed 54955

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219.502–2–70 Stayed 54955
219.502–4 (b)(i) stayed 54955
219.506 Stayed 54955
219.508 (e) stayed 54955
219.508–70 Stayed 54955
219.602–1 219.602–70 Regulation at 60 FR 40107 confirmed 61591
219.703 Regulation at 60 FR 13075 confirmed 61591
(a) amended 61596
219.704 Revised 61596
219.1006 (b)(2) amended 61596
223.104 Revised 61596
223.404 (Subpart 223.4) Added 61596
223.570–4 (b)(1) revised 61597
223.7101 Revised 61597
223.7102 Regulation at 60 FR 13076 confirmed 61591
(a)(7), (8) and (9)(ii) amended 61597
223.7103 Regulation at 60 FR 13076 confirmed 61591
223.7200—223.7203 (Subpart 223.72) Added 7743
225.102 Regulation at 60 FR 34470 confirmed 61591
225.302 (b)(i) amended 61597
225.402 (c) revised 130
(a) revised 7744
225.403 (d)(1)(A), (B) introductory text and (2) amended 61597
225.770–4 Amended 61597
225.871–7 (a)(1) amended 61597
225.872–1 (a) and (b) amended 61597
225.872–2 (a)(2)(ii) amended 61597
225.872–3 (f)(4) amended 61597
225.7001 Revised; interim 10899
225.7002–2 (j) added 61597
225.7004 Regulation at 60 FR 19532 confirmed 61591
225.7004–1 Regulation at 60 FR 19532 confirmed 61591
225.7004–2 Regulation at 60 FR 19532 confirmed 61591
225.7004–3 Regulation at 60 FR 19532 confirmed 61591
225.7004–4 Regulation at 60 FR 19532 confirmed 61591
(b) revised 61597
225.7004–5 Regulation at 60 FR 19532 confirmed 61591
225.7004–6 Regulation at 60 FR 19532 confirmed 61591
225.7007 Regulation at 60 FR 19532 confirmed 61591
225.7007–1 Regulation at 60 FR 19533 confirmed 61591
225.7007–2 Regulation at 60 FR 19533 confirmed 61591
225.7007–3 Regulation at 60 FR 19533 confirmed 61591
225.7007–4 Regulation at 60 FR 19533 confirmed 61591
Revised 61597
225.7010 Regulation at 60 FR 19533 confirmed 61591
225.7010–2 Regulation at 60 FR 19533 confirmed 61591
225.7010–3 Regulation at 60 FR 19533 confirmed 61591
Revised 61597
225.7012 Revised; interim 13107
225.7012–1 Revised; interim 13107
225.7012–2 Revised; interim 13107
225.7012–3 Revised; interim 13107
225.7012–4 Removed; interim 13107
225.7016–1 Regulation at 60 FR 19533 confirmed 61591
225.7016–2 Regulation at 60 FR 19533 confirmed 61591
225.7016–3 Regulation at 60 FR 19533 confirmed 61591
Revised 61597
225.7016–4 Regulation at 60 FR 19534 confirmed 61591
225.7016–5 Regulation at 60 FR 19534 confirmed 61591
225.7018–2 Amended 61597
225.7019 Revised; interim 10900
225.7019–1 Regulation at 60 FR 19534 confirmed 61591
Revised; interim 10900
225.7019–2 Regulation at 60 FR 19534 confirmed 61591
(b) amended 61597
Revised; interim 10900
225.7019–3 Regulation at 60 FR 19534 confirmed 61591
Revised; interim 10900
225.7019–4 Regulation at 60 FR 19534 confirmed 61591
Revised; interim 10900
225.7022 Revised; interim 13107
225.7022–1 Revised; interim 13107
225.7022–2 Revised; interim 13107
225.7022–3 Added; interim 13107
225.7022–4 Added; interim 13107
225.7023 Regulation at 60 FR 34471 confirmed 61591
225.7023–1 Regulation at 60 FR 34471 confirmed 61591

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Amended 61597
225.7023–2 Regulation at 60 FR 34471 confirmed 61591
225.7023–3 Regulation at 60 FR 34471 confirmed 61591
Amended 61597
225.7102 Introductory text revised 7744
225.7103 (a) and (c) introductory text amended 61597
(e)(1) revised; (e)(2) redesignated as (e)(3); new (e)(2) added 7744
225.7201 Revised 61597
225.7303–2 (a)(3) revised 7744
225.7307–1 (f) amended 61597
225.7307–2 (b) amended 61597
226.103 (Subpart 226.1) Added 61597
226.7100 Regulation at 60 FR 5870 confirmed 61591
226.7104 Regulation at 60 FR 5870 confirmed 61591
Revised 61598
227.7101 (b) removed; (c) redesignated as (b) 61598
227.7102–3 (a), (b) and (c) amended 61598
227.7103–6 (a) amended 61598
227.7103–15 (c) introductory text revised 61598
227.7104 Heading and (a) amended 61598
227.7202–2 Removed 61598
228.106–4 Removed 7744
228.106–4–70 Removed 7744
228.106–6 Removed 7744
228.171–1 (e) amended 61598
Revised; interim 3601
228.171–2 (a) revised; interim 3601
228.171–3 Revised; interim 3601
231.205–6 Regulation at 60 FR 2331 confirmed 61591
(g)(2)(i) removed 61598
(f)(1) added; interim 7077
231.301 Regulation at 60 FR 2331 confirmed 61591
231.603 Regulation at 60 FR 2331 confirmed 61591
Revised 61598
231.703 Regulation at 60 FR 2331 confirmed 61591
Revised 61598
231.7000—231.7002–6 (Subpart 231.70) Removed 61598
232.170 (a) and (b) amended 61598
232.171 (a)(1), (b)(1) and (3) amended 61598
232.173–1 (b) amended 61598
232.173–5 Introductory text amended 61598
232.501–1 Regulation at 58 FR 62046 confirmed 7741
232.501–2 (a) amended 61598
232.502–1–71 Regulation at 58 FR 62046 confirmed 7741
232.617 Amended 61598
232.703–70 Added 7744
234.001 Added 61598
235.006 Regulation at 60 FR 4570 confirmed 61591
235.015–71 (i)(2) amended 61598
235.017–1 Regulation at 60 FR 13077 confirmed 61591
Revised 61598
235.7002 (a)(1) and (2) amended 61598
235.7003 (b)(1) revised 61599
(c)(6) added 7744
235.7004–3 (d) amended 7744
235.7006 Amended 61599
(d) amended 7744
236.201 (a) revised 7749
236.204 Added 7749
236.271 Revised 7749
236.604 (a) introductory text added 7749
237.102–70 Added 61599
237.104 Regulation at 60 FR 2888 confirmed 61591
(b)(ii) introductory text and (B) 61599
237.109 Added 61599
237.171 Removed 61599
237.171–1 Removed 61599
237.171–2 Removed 61599
237.270 Removed 61599
237.270–1 Removed 61599
237.270–2 Removed 61599
237.270–3 Removed 61599
237.270–4 Removed 61599
237.7204 Amended 61599
239.7303 (b) revised 61599
242.203 (a)(i)(P) and (Q) amended; (a)(ii) revised; (a)(iii) removed; (a)(iv) and (v) redesignated as (a)(iii) and (iv) 7749
242.705–1 (b)(3) and (4) removed 61599
242.705–2 (b)(2)(ii) and (iv) amended 61599
242.770 Removed 61599
242.770–1 Removed 61599

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242.770–2 Removed 61599
242.770–3 Removed 61599
242.770–4 Removed 61599
242.770–5 Removed 61599
242.770–6 Removed 61599
242.771–3 (b)(2) and (c) amended 61599
242.7003–1 Revised 61599
242.7206 Introductory text revised 61599
246.101 Regulation at 60 FR 33145 confirmed 61591
246.102 Regulation at 60 FR 33145 confirmed 61591
246.202–3 Regulation at 60 FR 33145 confirmed 61591
Redesignated as 246.202–4 61599
246.202–4 Redesignated from 246.202–3; (i) and (ii) redesignated as (1) and (2) 61599
246.204 Regulation at 60 FR 33145 confirmed 61591
Removed 61599
246.704 Regulation at 60 FR 33145 confirmed 61591
(2) and (4) amended 61599
246.770–1 (f)(2)(i) revised 61599
246.770–2 (b) and (c) redesignated as (c) and (d); new (b) added; new (c) revised 7749
246.770–6 (a) introductory text, (c) introductory text and (2) revised; (b)(2) removed; (b)(3) redesignated as (b)(2) 7750
247.572–1 (a) revised 61599
247.572–2 (a)(4) and (5) amended; (a)(6) added 61600
249.7002 (b) introductory text and (2) amended 61600
250.201–70 (b)(1) and (2) amended 61600
252.203–7000 Amended 61600
252.203–7001 Amended 61600
252.203–7003 Removed 61600
252.204–7001 Introductory text amended 61600
252.209–7000 Amended 61600
252.209–7005 Redesignated from 252.209–7007 and amended 61600
Amended 7750
252.209–7007 Redesignated as 252.209–7005 61600
Regulations at 60 FR 13074 and 61600 confirmed 7741
252.210–7000 Redesignated as 252.211–7003 61600
252.210–7001 Redesignated as 252.211–7001 61600
252.210–7002 Redesignated as 252.211–7002 61600
252.210–7003 Redesignated as 252.211–7000 61600
252.210–7004 Redesignated as 252.211–7004 61600
252.211–7000 Removed 61600
Redesignated from 252.210–7003; introductory text revised 61600
252.211–7001 Removed 61600
Redesignated from 252.210–7001; introductory text revised 61600
252.211–7002 Removed 61600
Redesignated from 252.210–7002; introductory text revised 61600
252.211–7003 Removed; new 252.211–7003 redesignated from 252.210–7000; introductory text revised 61600
252.211–7004 Removed 61600
Redesignated from 252.210–7004; introductory text revised 61600
252.211–7006 Removed 61600
252.211–7007 Removed 61600
252.211–7008 Removed 61600
252.211–7009 Removed 61600
252.211–7010 Removed 61600
252.211–7011 Removed 61600
252.211–7012 Removed 61600
252.211–7013 Removed 61600
252.211–7014 Removed 61600
252.211–7015 Removed 61600
252.211–7016 Removed 61600
252.211–7017 Removed 61600
252.211–7018 Removed 61600
252.211–7019 Removed 61600
252.211–7020 Removed 61600
252.211–7021 Removed 61600
252.212–7000 Added 61600
252.212–7001 Added 61600
252.215–7001 Removed 61601
252.217–7026 Amended 61601
252.217–7027 Revised 7750
252.219–7003 Amended; heading revised 61601
252.219–7005 Amended 61601
252.219–7009 Regulation at 60 FR 40107 confirmed 61591
252.223–7006 Regulation at 60 FR 13076 confirmed 61591
Amended 61601
252.223–7007 Added 7750
252.225–7007 Amended 130

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252.225–7011 Regulation at 60 FR 34471 confirmed 61591
252.225–7012 Amended 61601
252.225–7014 Amended 61602
252.225–7016 Amended 61602
Revised; interim 10900
252.225–7017 Regulation at 60 FR 19534 confirmed 61591
252.225–7019 Introductory text amended; interim 13108
252.225–7020 Removed; interim 13108
252.225–7021 Removed; interim 13108
252.225–7026 Amended 61602
252.225–7029 Regulation at 60 FR 19534 confirmed 61591
252.225–7039 Amended; introductory text revised; interim 13108
252.225–7040 Introductory text amended 61602
252.227–7013 Amended 61602
252.227–7015 Amended 61602
252.227–7018 Amended 61602
252.227–7037 Amended 61602
252.228–7006 Removed 7750
252.228–7007 Amended; interim 3601
252.231–7001 Removed 61602
252.231–7020 Removed 61602
252.231–7021 Removed 61602
252.232–7004 Regulation at 58 FR 62046 confirmed 7741
Amended 7750
252.237–7020 Removed 61602
252.237–7021 Removed 61602
252.239–7010 Amended 61602
252.242–7001 Removed 61602
252.247–7023 Amended 61602
252.247–7024 Amended 61603
253.204–70 Revised 61603
253.204–71 Revised 61612
253.213–70 (e)(14) revised 7750
253.215–70 Note amended 7751
Chapter II Appendixes C, F and G amended 61615
Appendix G amended 61620, 61623, 61626, 61627
Regulation at 60 FR 40107 confirmed 61591
Appendix G amended 7751

Chapter 5—General Services Administration (Parts 500—599)

501.105 Amended; interim (OMB numbers) 6164
Corrected 14033
501.700 Removed 54955
501.704 Removed 54955
501.704–70 Removed 54955
501.707 Revised 54955
502.101 Amended 54957
504.803 (a)(12) and (25) revised; interim 6165
(a) introductory text corrected 14033
504.7001–2 (c) revised; (f) amended 54955
505.303–70 (a)(1), (b)(1), (2) and (3)(ii) revised 1150
507.103 Amended; interim 6165
507.104 (c), (d) and (e) revised 54955
508.301—508.370 (Subpart 508.3) Removed 54956
508.705–70 Heading revised 54956
(b) and (d) revised 54956
509.106–70 Removed 54956
510 Heading revised; interim 6165
510.001 Redesignated as 511.001; interim 6165
510.002 Redesignated as 511.002; interim 6165
510.004 Removed; interim 6165
510.004–70 Removed; interim 6165
510.004–71 Removed; interim 6165
510.007 Removed; interim 6165
510.007–70 Removed; interim 6165
510.011 Redesignated as 511.204; interim 6165
(a) corrected 10846
510.070 Removed; interim 6165
510.070–1 Removed; interim 6165
510.070–2 Removed; interim 6165
510.070–3 Removed; interim 6165
510.070–4 Removed; interim 6165
510.071 Removed; interim 6165
510.804–6 (a) corrected 10846
511 Heading revised; interim 6165
511.2 (Subpart 511.2) Added; interim 6166
511.001 Redesignated from 510.001; interim 6165
511.002 Redesignated from 510.002 and amended; interim 6165
511.003 Removed; interim 6165
511.070 Removed; interim 6165
511.103—511.170 (Subpart 511.1) Added; interim 6165
511.204 Redesignated from 510.011; (c) and (d) removed; (e) through (i) redesignated as (c) through (g); (a), (b) and new (c) through new (g) amended; interim 6165
511.404 (a)(3) corrected 14033

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512 Heading revised; interim 6166
512.101 Redesignated as 512.401; interim 6166
512.101—512.104 (Subpart 512.1) Redesignated as 512.401—512.404 (Subpart 512.4); interim 6166
512.104 Redesignated as 512.404; interim 6166
512.203—512.209 (Subpart 512.2) Added; interim 6166
512.301—512.302 (Subpart 512.3) Added; interim 6166
512.401 Redesignated from 512.101; interim 6166
512.404 Redesignated from 512.104; (a)(2) revised; (a)(3), (4) and (5) redesignated as (a)(4), (5) and (6); (a)(1), new (4), new (5), new (6) and (b) amended; new (a)(3) added; interim 6166
514.201–70 Revised; interim 6167
514.408–1 (a) revised **54957**
515.106–70 Revised; interim 6167
515.412 Removed; interim 6167
515.414–70 Revised; interim 6167
515.501 Revised **54956**
515.804 Heading revised; interim 6167
515.804–3 Removed; interim 6167
515.804–6 Revised; interim 6167
(b)(5) corrected 14033
516.301—516.306 (Subpart 516.3) Removed **54956**
516.403 Removed **54956**
516.502–1 Removed **54956**
519 Heading revised 1150
519.001 Revised 1150
519.201 Revised 1150
519.202–2 Revised 1151
519.202–5 Removed 1151
519.502–1 Removed **54956**
519.502–70 (a) and (d) revised 1151
519.503 (b) amended 1151
519.602–3 (a) and (b) amended 1151
519.705—519.708 (Subpart 519.7) Heading revised 1151
519.708 Revised 1151
519.803–70 Revised 1151
520 Removed 1151
525.901 (Subpart 525.9) Added **54957**
528.103–2 (a) revised **54956**
528.106–1 Removed **54956**
532.112 Added 1151
532.112–1 Added 1151
532.705–1 Revised 1151
533.104 (a) heading, (c) and (d) revised; (a)(1), (3)(v), (5) and (b) introductory text and (5) introductory text amended 1151
533.105 (a)(1) introductory text amended 1152
536.302–70 Removed **54956**
538 Heading revised; interim 6168
538.000 Removed; interim 6169
538.270 Added; interim 6169
(d) corrected 10846
538.271 Added; interim 6169
539.000 Removed; interim 6169
541 Added **54956**
542.703 (Subpart 542.7) Added **54957**
543.205 (c) added; interim 6169
546.710 (a)(2) revised; interim 6169
549.111 Revised **54956**
552.209–73 Amended; interim 6169
552.210–70 Redesignated as 552.211–71; interim 6169
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552.210–72 Redesignated as 552.211–79; interim 6169
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552.210–76 Redesignated as 552.211–74; interim 6170
552.210–77 Redesignated as 552.211–75; interim 6170
552.210–78 Redesignated as 552.211–76; interim 6170
552.210–79 Redesignated as 552.211–77; interim 6170
552.211–1 Redesignated from 552.212–1 and amended; interim 6170
552.211–70 Removed; new 552.211–70 redesignated from 552.210–74 and amended; interim 6169
552.211–71 Redesignated from 552.210–70 and amended; interim 6169
552.211–72 Redesignated from 552.210–71 and amended; interim 6169
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552.211–74 Redesignated from 552.210–76 and amended; interim 6170
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552.211–83 Redesignated from 552.212–72 and amended; interim 6170
552.211–84 Redesignated from 552.212–74 and amended; interim 6170
552.212–1 Redesignated as 552.211–1; interim 6170
552.212–70 Redesignated as 552.211–81; interim 6170
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552.212–71 Redesignated as 552.211–82; interim 6170
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552.212–72 Redesignated as 552.211–83; interim 6170
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552.212–73 Added; interim 6171
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552.215–70 Amended; interim 6172
552.215–71 Added; interim 6172
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552.219–72 Revised 1152
552.219–73 Amended 1152
552.219–74 Amended 1152
552.238–74 Amended; interim 6172
552.243–72 Added; interim 6172
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552.246–73 Amended; interim 6173
552.253–70 Removed; interim 6173
570.308–2 (c) amended; interim 6173
570.602–2 (c)(3) and (d) amended; interim 6173

Chapter 8—Department of Veterans Affairs (Parts 800—899)

801 Authority citation revised 1527
801.602 Revised 1526
801.602–3 (a)(3)(i) and (ii) amended 11585
801.602–70 Amended 11585
801.602–71 Amended 11585
(b) heading revised; (b)(1), (2) and (3) amended 11586
801.602–72 (d)(6)(iv) amended 11586
801.602–73 Amended 11586
801.603–71 Amended 11586
801.670–5 (a)(2) and (b) amended 11586
801.670–6 Amended 11586
801.680 (b) amended 11586
802 Authority citation revised 1527
802.100 (b) revised; (c) added 1527
803 Authority citation revised 1527
803.203 (b) amended 1527
803.303 Amended 1527
806 Authority citation revised 1527
806.501 (a) amended 1527
814.403 Amended 11586
814.404–70 Amended 11586
814.406–3 Amended 11586
814.406–4 Amended 11586
814.407–71 (a) introductory text amended 11586
833.102 (a) amended 11586
833.103 Amended 11586
833.104 Amended 11586
833.105 (b) amended 11586
833.212 Amended 11586
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836.209 Amended 11586
836.211 (b) amended 11586
836.371 Heading amended 11587
836.601 Amended 11587
836.602–2 Amended 11587
836.602–3 Amended 11587
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836.606–72 Amended 11587
852.210–70 Amended 11587

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852.210–76 Amended 11587
852.219–70 Amended 11587
852.236–83 Amended 11587
852.236–88 Amended 11587
852.236–91 Amended 11587

Chapter 9—Department of Energy (Parts 900—999)

915.804–70 Regulation at 60 FR 18032 confirmed 52632
916.301–3 Regulation at 60 FR 18032 confirmed 52632
970.5204–17 Amended 63648
970.5204–24 Regulation at 60 FR 18032 confirmed 52632
970.5204–40 Added 66512
970.7104–11 Regulation at 60 FR 18032 confirmed 52632
970.7310—970.7330 (Subpart 970.73) Added 66515

Chapter 12—Department of Transportation (Parts 1200—1299)

1213.7100—1213.7101 (Subpart 1213.71) Added 391
1215.413–2 (f) revised; interim 55802
Regulation at 60 FR 55802 confirmed 274
1237.700—1237.7003 (Subpart 1237.70) Added 392
1252.217–81 Amended; interim 55802
Regulation at 60 FR 55802 confirmed 274
1252.237–71 Added 392
1252.237–72 Added 392
1253.303 (Subpart 1253.3) Regulation at 60 FR 55802 confirmed 274
Appendix amended 393
1253.303 (Subpart 1253.3) Appendix amended 55802

Chapter 14—Department of the Interior (Parts 1400—1499)

1403.101—1403.101–3 (Subpart 1403.1) Removed 5519
1403.203—1403.203–70 (Subpart 1403.2) Removed 5519
1403.570—1403.570–3 (Subpart 1403.5) Added 5519
1415.413—1415.413–70 (Subpart 1415.4) Removed 53279
1415.506 (Subpart 1415.5) Removed 53279
1415.607—1415.606 (Subpart 1415.6) Removed 53279
1415.803—1415.804–3 (Subpart 1415.8) Removed 53279
1415.902—1415.905–70 (Subpart 1415.9) Removed 53279
1425.202 Removed 5520
1425.204 Removed 5520
1426 Added 53279
1428 Revised 53280
1452.203–70 Added 5520
1452.204–71 Redesignated as 1452.226–70 53280
1452.204–72 Redesignated as 1452.226–71 53280
1452.226–70 Redesignated from 1452.204–71 53280
1452.226–71 Redesignated from 1452.204–72 53280
1452.228–70 Revised 53280
1452.228–73 Introductory text revised 53280

Chapter 18—National Aeronautics and Space Administration (Parts 1800—1899)

1815.413–2 Revised 5313
1815.804 Heading revised 53879
Heading correctly revised 56125
1815.804–1 Redesignated from 1815.804–3; heading, (a)(1), (2), (b), (c), (d) and (e)(3) revised; (a)(3)(i) amended 53879
Heading, (a), (b) and (c) correctly revised 56125
1815.804–2 Added 53879
(b) correctly added 56126
1815.804–3 Redesignated as 1815.804–1 53879
1815.807–70 (d)(1) and (2) amended 53879
1815.807–71 Amended 53880
1815.807–72 (a) revised 53880
1815.870–1 (a) revised; (b) amended 53880
1815.970 (b) amended 5314
1815.970–2 (f)(1) heading removed 53880
1815.970–3 (a) amended; (b) revised; (c) removed 53880
1815.7002 Amended 5314
1816.203–4 (c) amended 53880
1816.505 Added 5314
1819 Heading revised 5314
1819.705–4—1819.708–70 (Subpart 1819.7) Heading revised 5314
1819.708–70 (b) amended 53881
1822.103–4 Revised 52121
1823.570—1823.570–4 (Subpart 1823.5) Added 7225
1823.7004 (c)(2), (3) and (4) revised 5314
1825.401 Added 6577
1827.405 (c) revised 5314
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1852.215–70 Amended 53880
1852.219–75 Amended 53881
1852.223–70 Amended 5315
1852.223–74 Added 7226
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1852.243–70 Amended 53880
1870.102 Appendix A amended 53880
1871.000 Revised; eff. 10–1–95 through 6–30–97 51368
1871.101 Amended; eff. 10–1–95 through 6–30–97 51368
1871.103 Revised; eff. 10–1–95 through 6–30–97 51368
1871.104 (a) revised; (g) and (h) added; eff. 10–1–95 through 6–30–97 51369
1871.105 (d), (e) and (f) revised; eff. 10–1–95 through 6–30–97 51369
1871.301 Amended; eff. 10–1–95 through 6–30–97 51369
1871.302 Revised; eff. 10–1–95 through 6–30–97 51369
1871.401 Amended; eff. 10–1–95 through 6–30–97 51369
1871.401–1 (b)(2) amended; eff. 10–1–95 through 6–30–97 51369
1871.401–5 (b)(1) revised; eff. 10–1–95 through 6–30–97 51369
1871.401–6 Added; eff. 10–1–95 through 6–30–97 51369
1871.406 Heading revised; eff. 10–1–95 through 6–30–97 51369
1871.406–1 Revised; eff. 10–1–95 through 6–30–97 51370
1871.406–3 Revised; eff. 10–1–95 through 6–30–97 51370
1871.406–4 Revised; eff. 10–1–95 through 6–30–97 51370
1871.505 Revised; eff. 10–1–95 through 6–30–97 51370
1871.506 Revised; eff. 10–1–95 through 6–30–97 51370
1871.605 (a)(1) amended; eff. 10–1–95 through 6–30–97 51370

Chapter 35—Panama Canal Commission (Parts 3500—3599)

3509.400—3509.471 (Subpart 3509.4) Revised; interim 3846

Chapter 99—Cost Accounting Standards Board, Office of Federal Procurement Policy, Office of Management and Budget (Parts 9900—9999)

9903.202 Illustration revised 7620
9904.404–40 (b)(1) revised 5522
9904.404–50 (d) revised 5523
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9904.404–63 Revised 5523
9904.409–63 Revised 5523

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TITLE 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation (Parts 1—99)

1.4 (c)(6) and (7) amended; (c)(8) added 62762
1.22 (a) amended 62762
1.23 (n) removed 62762
1.46 (a) added 56532
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1.47 (u), (v) and (w) added 62762
1.52 (d) and (e) stayed 56532
(d) and (e) added 63450
1.66 (p) added 63648
1.68 Removed 62762

Chapter I—Research and Special Programs Administration, Department of Transportation (Parts 100—199)

107.307 (a) revised; (b) amended 7183
107.309 (a) amended 7183
107.310 Added 7183
107.311 (a) revised 7184
171.14 (a)(2)(iii) added 7959
173 Petition denied 56957
178.350 Corrected 54409
192.16 (a) revised 63451
199 Guidelines and interpretations availability notice 5722
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Chapter II—Federal Railroad Administration, Department of Transportation (Parts 200—299)

209 Authority citation revised 53136
209.321 (a) revised; interim 53136
219 Appendix B revised 61665
229 Authority citation revised 8887
229.9 (a) introductory text revised 8887
229.125 Heading and (d) through (h) revised 8887
229.133 (c) revised 8887
229 Appendix B amended 8888
240 Authority citation revised 53136
240.7 Amended; interim 53136
240.119 (d)(4)(ii) amended; interim 53136
240.203 (a)(1) revised; interim 53136
240.205 Heading revised; interim 53136
240.217 (c)(1) revised; interim 53137
240.307 (a) revised; interim 53137
240.407 Revised; interim 53137
240.409 Revised; interim 53137
240.411 (a) revised; interim 53138
240 Appendix A amended; interim 53138
251 Removed 4938
258 Removed 4938

Chapter III—Federal Highway Administration, Department of Transportation (Parts 300—399)

382 Revised 9553
382.107 Introductory text amended 1843

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383 Authority citation revised 9564
383.3 Revised 9564
383.5 Amended 9566
383.91 (a) revised 9566
384 Authority citation revised 57545
384.231 (b)(2) revised 57545
385.17 (a) amended 1843
390.5 Amended 9566
390.27 Revised 9566
391.2 Redesignated as 391.62 13346
391.43 (e), (f) and (g) redesignated as (f), (g) and (h); new (e) added; new (f) introductory text and new (h) amended 13347
391.45 (b)(2) revised 13347
391.49 (b) amended 1843
391.62 Redesignated from 391.2 and revised 13346
391.64 Added 13346
391.85 Amended 9567
391.125 Revised 9567
392.4 Revised 9567
392.5 (a) revised 9567
393.25 (b) amended 1843
393.42 (b)(2) amended 1843
397.1—397.19 (Subpart A) Heading added 1843
350—399 (Subchapter B) Appendix B amended 1843

Chapter V—National Highway Traffic Safety Administration, Department of Transportation (Parts 500—599)

531.5 (b) introductory text added; (b)(2) revised 4370
553 Revised 62222
Authority citation revised 63651
553.39 Revised 63651
564.5 (a) and (c) revised 58523
571 Workshop 53280
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571.101 Table 2 revised 63977
571.105 Amended 63979
571.106 Amended 9954
571.107 Removed 11589
571.108 Amended 57952, 58524
571.121 Amended 63979
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571.208 Amended 13109
571.214 Amended 57839
571.223 Added; 1-26-98 2030
571.224 Added; 1-26-98 2035
571.303 Amended 57948
571.304 Amended 57948
572 Workshop 53280
573.5 (c)(8)(ii), (iii) and (iv) removed; (c)(8)(v) and (vi) redesignated as (c)(8)(iii) and (iv) and revised; new (c)(8)(ii) added 278
573.7 (d) removed; (e) redesignated as (d) and revised 278
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576.5 Revised 278
576.6 Revised 278
577.5 (h) removed; (i) redesignated as (h) 279
586 Authority citation revised 57839
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586.3 Revised 57839
586.4 (a) revised 57839
586.7 Removed 57839
586.8 Revised 57839
591 Authority citation revised 57954
591.4 Introductory text revised 57954
591.6 (c) revised 57954
591 Appendixes A and B revised 57954

Chapter VI—Federal Transit Administration, Department of Transportation (Parts 600—699)

659 Added 67046
660 Removed 65597
661 Authority citation revised 6302
661.3 Araended 6302
661.5 Revised 6302
661.7 (h) added 6302
661.10 Removed 6302
661.11 Revised 6302
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671 Removed 9651

Chapter VIII—National Transportation Safety Board (Parts 800—899)

800.2 Revised 61488
800.3 Revised 61488
800.4 (a) revised 61489
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800.21 Revised 61489
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800.23 Revised 61489
800.24 Revised 61489

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800.25 Revised 61489
800.26 Revised 61490
800.27 Revised 61490
800.28 Removed 61490

Chapter X—Surface Transportation Board, Department of Transportation (Parts 1000—1399)

Chapter X Heading revised 1842
1039 Authority citation revised 7426, 7427
1039.11 (a) amended 7426
1039.18 Removed 7427
1043.1 (a)(1) and (b) amended 63981
1134 Removed 7427
1135 Authority citation revised 7427
1135.1 (h) removed 7427
1138 Removed 7427
1140 Removed 7427
1145 Removed 7427
1153 Removed 7428
1160.1 (h) added 63982
1160.3 (a) amended 63982
1160.4 (a)(1), (d) and note amended 63982
1160.5 (a)(8) added 63982
1175 Removed 7428
1201 Authority citation amended 9113
Amended 9113
1262 Removed 9113
1314 Removed 7429

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TITLE 50—WILDLIFE AND FISHERIES

Chapter I—United States Fish and Wildlife Service, Department of the Interior (Parts 1—199)

14 Authority citation revised 3851
14.12 (k) and (l) amended; (m) added 3851
15.3 Amended 2091
15.32 Added 2091
15.33 (b) revised 2093
17 Notice 56533
Guidance availability 9651
17.11 (h) table amended 11332
17.12 (h) amended 4373
(h) table amended 10697
17.84 (g) revised; illustration added 11332
23 Authority citation revised 2456
23.23 Correctly revised 52450
(d) introductory text revised; (f) table amended 6795
23.53 Revised 2456
25.12 (a) amended 62040
32.7 Amended 52868, 61212, 62040
32.22 Amended 62040
32.23 Amended 62040
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32.64 Amended 62047
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32.66 Amended 62048
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32.69 Amended 62048
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100.25 (k)(11) table, (12) table, (13)(iii) table, (17)(iii) table, (20)(iii)(C) table, (22)(ii)(C) table amended 5688
(k)(25)(iii)(B) table amended 5689

Chapter II—National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 200—299)

215 Removed 11750
215.2 (d), (g) and (h) redesignated to 216.3 11750
215.21—215.27 (Subpart C) Redesignated as 216.81—216.87 (Subpart G) 11750
215.31—215.34 (Subpart D) Redesignated as 216.71—216.74 (Subpart F) 11750
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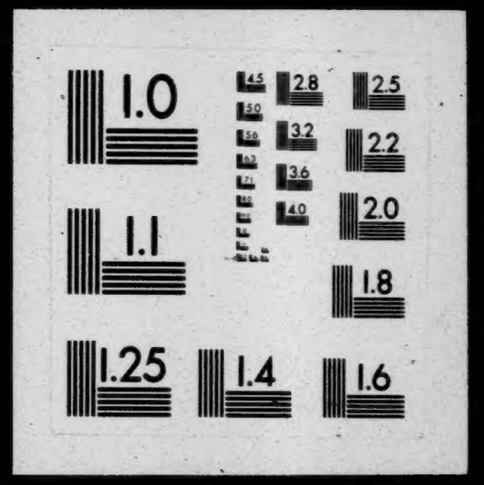
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